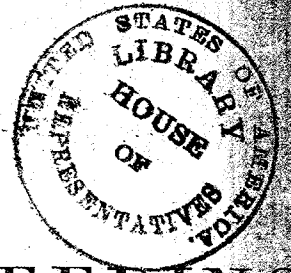


THE CONGRESSIONAL GLOBE:

CONTAINING



THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION OF THE THIRTY-FIFTH CONGRESS:

ALSO, OF THE

SPECIAL SESSION OF THE SENATE.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
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1859.

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THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2D SESSION.

FRIDAY, DECEMBER 10, 1858.

NEW SERIES...No. 1.

THIS is the first number of the CONGRESSIONAL GLOBE for this session—the second of the Thirty-Fifth Congress. It is stereotyped, and, therefore, the back numbers can be supplied at any time. Missing numbers will be sent to subscribers for three cents a number, containing sixteen pages.

The price for the CONGRESSIONAL GLOBE and APPENDIX, which includes all the laws passed during the session, is \$6 00 for a long session, and \$3 00 for a short one. This will be a short one. A long session commences on the first Monday of December in an odd year; and a short session commences on the first Monday of December in an even year.

These works go free by mail to any post office in the United States, by act of Congress.

THIRTY-FIFTH CONGRESS. SECOND SESSION.

IN SENATE.

MONDAY, December 6, 1858.

The first Monday of December being the day fixed by the Constitution for the annual meeting of Congress, the Senate assembled in its Chamber at the Capitol, in the City of Washington, at twelve o'clock, m.

The VICE PRESIDENT (Hon. JOHN C. BRECKINRIDGE) called the Senate to order.

Prayer by the Rev. P. D. GURLEY, D. D.

The following Senators were present. From the State of

Maine—Hon. Hannibal Hamlin and Hon. William Pitt Fessenden.

New Hampshire—Hon. John P. Hale and Hon. Daniel Clark.

Vermont—Hon. Solomon Foot and Hon. Jacob Collamer.

Massachusetts—Hon. Henry Wilson.

Rhode Island—Hon. Philip Allen and Hon. James F. Simmons.

Connecticut—Hon. La Fayette S. Foster and Hon. James Dixon.

New York—Hon. William H. Seward and Hon. Preston King.

New Jersey—Hon. John R. Thomson and Hon. William Wright.

Pennsylvania—Hon. William Bigler and Hon. Simon Cameron.

Maryland—Hon. James A. Pearce and Hon. Anthony Kennedy.

Virginia—Hon. James M. Mason and Hon. Robert M. T. Hunter.

North Carolina—Hon. David S. Ried.

South Carolina—Hon. James H. Hammond.

Georgia—Hon. Alfred Iverson.

Alabama—Hon. Clement C. Clay, jr., and Hon. Benjamin Fitzpatrick.

Mississippi—Hon. Albert G. Brown and Hon. Jefferson Davis.

Louisiana—Hon. John Slidell.

Tennessee—Hon. John Bell.

Kentucky—Hon. John B. Thompson.

Missouri—Hon. James S. Green and Hon. Truman Polk.

Ohio—Hon. Benjamin F. Wade.

Indiana—Hon. Jesse D. Bright and Hon. Graham N. Fitch.

Michigan—Hon. Charles E. Stuart and Hon. Zachariah Chandler.

Illinois—Hon. Lyman Trumbull.

Wisconsin—Hon. Charles Durkee and Hon. James R. Doolittle.

Iowa—Hon. George W. Jones and Hon. James Harlan.

Minnesota—Hon. James Shields and Hon. Henry M. Rice.

California—Hon. William M. Gwin and Hon. David C. Broderick.

The following Senators were absent:

Hon. Charles Sumner, of Massachusetts;

Hon. Judah P. Benjamin, of Louisiana;

Hon. S. R. Mallory, of Florida;

Hon. Sam Houston, of Texas;

Hon. Stephen A. Douglas, of Illinois;

Hon. James A. Bayard, of Delaware;

Hon. Andrew Johnson, of Tennessee;

Hon. Robert W. Johnson, of Arkansas;

Hon. David L. Yulce, of Florida;

Hon. George E. Pugh, of Ohio;
Hon. Robert Toombs, of Georgia;
Hon. John J. Crittenden, of Kentucky; and
Hon. William K. Sebastian, of Arkansas.

NEW SENATORS.

Hon. MARTIN W. BATES, chosen by the Legislature of Delaware a Senator from that State, to fill a vacancy occasioned by the death of Hon. John M. Clayton, for the term ending on the 3d of March, 1859, took his seat after the oath prescribed by law had been administered to him.

Mr. REID presented the credentials of Hon. THOMAS L. CLINGMAN, chosen by the Legislature of North Carolina a Senator from that State, to fill the vacancy occasioned by the resignation of Hon. Asa Biggs, for the term ending on the 3d of March, 1861; which were read, and the oath prescribed by law having been administered to Mr. CLINGMAN, he took his seat in the Senate.

Mr. CLAY presented the credentials of Hon. MATTHIAS WARD, appointed by the Executive of Texas, to fill, until the next meeting of the Legislature, the vacancy occasioned by the death of the Hon. James Pinckney Henderson; which were read. The oath prescribed by law having been administered to Mr. WARD, he took his seat in the Senate.

NOTIFICATION OF ORGANIZATION.

On motion of Mr. GWIN, it was

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

Mr. JAMES C. ALLEN, Clerk of the House of Representatives, soon afterwards appeared, and delivered the following message:

Mr. PRESIDENT: I am directed by the House of Representatives to inform the Senate that a quorum of the House of Representatives have answered to their names, and are ready to proceed to business; also, to inform the Senate that the House has appointed a committee to wait on the President of the United States, and inform him of that fact. The committee on the part of the House consists of Messrs. THOMAS B. FLORENCE, of Pennsylvania, JOHN SHERMAN, of Ohio, and LUCIUS J. GARRETT, of Georgia.

Mr. ALLEN offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee, consisting of three members, be appointed to join such committee as may be appointed by the House of Representatives to wait on the President of the United States, and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT appointed Messrs. ALLEN, SLIDELL, and Foor, the committee on the part of the Senate.

Mr. ALLEN, from the joint committee appointed to wait on the President of the United States, and notify him of the organization of the two Houses, and their readiness to receive any communication he might be pleased to make, reported that they had performed the duty assigned to them, and received for answer that the President would communicate with the two Houses in writing.

HOUR OF MEETING.

On motion of Mr. HALE, it was

Ordered, That the daily hour of meeting of the Senate be twelve o'clock, m., until otherwise ordered.

PACIFIC RAILROAD.

Mr. GWIN. I wish to make an inquiry on a point of order. A motion was made by the Senator from New Hampshire, [Mr. CLARK,] during the last session, to reconsider the vote postponing, until the first Monday of December, the bill authorizing the construction of a Pacific railroad; and I wish to know whether that motion to reconsider, which stands on the Calendar, did not die with the last session, and whether that bill does not now come up in order?

The VICE PRESIDENT. The Chair is informed that at the close of the last session a resolution was passed, continuing all pending business over to this session. The motion to which the Senator from California refers, was a motion

to reconsider a vote by which the Senate postponed a particular bill until to-day, and that time has arrived.

Mr. GWIN. Then it is in order to call up that bill, it having been postponed until to-day.

The VICE PRESIDENT. The Chair thinks so.

Mr. GWIN. As we shall receive the President's message presently, I shall not now press this subject; but I give notice that I shall call up that bill to-morrow.

THE AMISTAD CASE.

Mr. MASON. Mr. President, there is a bill upon the Calendar (S. No. 114) entitled "A bill to indemnify the master and owners of the Spanish schooner Amistad and her cargo." It was reported from the Committee on Foreign Relations at the last session, and I ask that it may be taken up and made the special order of the day for next Monday. It is a bill apparently of a private character, but in truth it is a bill founded upon a claim made by the Government of Spain, upon this Government, and therefore, in my comprehension, not properly of the character of a private claim.

Mr. SLIDELL. Before putting that question, I desire to know whether the special orders of the last session will not have the preference over any special orders that may be made now? With the understanding that the Calendar will remain in the order in which it stood at the last session, I have no objection to this bill taking its place as a special order; otherwise I must object.

The VICE PRESIDENT. The undispensed of special orders of the last session remain on the Calendar as they stood at the adjournment.

Mr. SEWARD. I wish to ask the honorable Senator from Virginia if he will not consent to modify his motion so as to set that subject for consideration on Tuesday of next week? On Monday I expect to be engaged in some other matters, which will prevent me from attending to this subject, if it shall then come up.

Mr. SLIDELL. As I understand the decision of the Chair, although a special order may be made in relation to the business suggested by the Senator from Virginia, the prior special orders will take precedence of that order, unless the Senate choose then to act upon this out of its order. Is not that the case?

The VICE PRESIDENT. The Chair will call the special orders in their order.

Mr. SLIDELL. Then I have no objection.

Mr. MASON. I am aware that the business of the Senate continues from session to session of each Congress, and of course the special orders do, as a part of the business of the Senate. My object in asking that this bill may be made the special order for Monday next, is more to give notice to the Senate that I shall ask leave then to call up that bill. I yield, of course, to the suggestion of the Senator from New York that it be made the special order for Tuesday, instead of Monday. Being up, I will say to the Senate that it seems to me, as a matter of comity between Governments, this claim should be considered and finally passed upon. It has passed the Senate several times, but has not passed the House. I do not know, but my impression is, that it has occasionally passed the House, and not been reached in the Senate; but, be that as it may, I desire to have the subject voted upon as one affecting the honor and faith of the country. I expect, therefore, to be prepared to give my views on the subject, if no other special order for Tuesday shall be ready. It really ought to have precedence, and I hope the Senate will indulge me then in calling up the bill.

Mr. SEWARD. I did not intend to assent that this bill should have precedence over other special orders by my own act. On the other hand, I do not regard the bill as a meritorious one, and I see no reason why it ought to be pressed in preference to other business. If other Senators differ from me, they can have it taken up on Monday next; but, at the same time, I suggest to the

honorable Senator, if it will not answer his purpose quite as well to give this notice to-day and call it up on Tuesday of next week?

Mr. MASON. I would rather that it should take the character of a special order for Tuesday of next week. That will be equivalent to a notice.

Mr. SEWARD. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. I have heard no reason why this, which is a mere private claim, should take precedence of all other private bills on the Calendar. It is an old claim, to be sure, but there are others which are still older. It is a claim of a peculiar character, about which, perhaps, there will be much controversy, and upon which Senators may wish to prepare themselves, in order to discuss it. I do not know how that may be; but I understand what the character of the claim is, and I know of no negotiation between this Government and the Government of Spain that is to be advanced or retarded by any action here in reference to this bill; and the kind of comity that is suggested by the honorable Senator from Virginia is one that we have not been in the habit of exercising in regard to the claims of foreigners upon this Government. I am willing to take that bill up, peculiar as it, whenever we reach it in the common order of business. I have no disposition to delay it; but I have objections to giving it the importance of a precedence over many other private bills which stand upon the Calendar, and which are waiting our action. This certainly can wait as well as any other; and unless some reasons are given, connected with State affairs, to render it more expedient than I am at present able to consider it, why it should be taken up at the present moment, I shall object to it, and vote against the motion. I hope the Senate will not accede to the request of the Senator from Virginia.

Mr. MASON. There is no rule of the Senate, that I am aware of, which defines what is a private claim and what is not; and it has more than once been a mooted question before the Senate, whether a bill represents a private claim or does not. Now, the character of this bill, I presume, is known to most of the Senators present, probably to all. It is a bill founded upon a claim made by the Government of Spain upon the Government of the United States, alleged by Spain to be due to that Government in two rights: first, under the law of nations; and secondly, under an existing treaty with Spain. The claim has been earnestly preferred by the Government of Spain, and has been over and over again pressed upon the consideration of Congress by successive Presidents as a claim due from this country to the Government of Spain. When the money is paid, the character of the demand shows that it will go into the hands of Spanish subjects, and not into the treasury of Spain; but yet it is a claim made by the one Government upon the other.

I wish the honorable Senator from Maine to understand that I am not making this proposition at any suggestion other than my own, from a perfect knowledge of the claim for many years past. It has been the subject of negotiation between the two Governments for many years; but the Executive of the United States cannot pay it; it can do no more than recognize its justice, and recommend its payment to Congress. Whether you call it a private claim, or no, I will not contend; but I differ altogether from that honorable Senator that there is nothing to distinguish this from an ordinary private claim. It is a claim, or, more properly, a demand, made by a foreign Power upon this country, recognized by more than one Executive of this country as a just and valid one, and the payment of it recommended to Congress.

Mr. FESSENDEN. Mr. President, there has been, as I understand, no such recognition on the part of our Government of that claim as places it in the attitude of a necessity to procure an appropriation from Congress to meet an admitted claim. I suppose individuals connected with the Government may have their opinions on the subject. Opinions vary.

Mr. MASON. It has been admitted by the Executive over and over again.

Mr. FESSENDEN. Very well; that may be; but the Executive, as an Executive, cannot admit a claim; he can only express an opinion, and

opinions vary; and we know very well that we are not all of us in the habit of attaching so much consequence to the opinions of any Executive on any subject, one way or the other. All such opinions I am in the habit of looking at for myself, from whoever they may come, without much reference to the individual, but more in reference to the opinion and its foundation. Why, sir, this is nothing in the world but a private claim of individuals, made through a Government. It has occasioned no difficulty that I am aware of. We all know the nature of it; we all know that opinions differ respecting it. There are others, perhaps, in the same condition. There are certainly private claims much older, the justice of which is admitted by a very much larger number of men. That matter will unquestionably occasion very considerable debate. If it is made a special order out of the line of private claims on another separate day, it must take up very considerable time that in this short session ought to be devoted to public business, necessarily, if we would complete the business which we have before us from the last session. I have no desire to postpone it; I have no wish to delay it a single hour, when we reach it in its proper course; but I am unwilling to give precedence to it. Although, as the honorable Senator has said, there has been no very particular definition of what a private claim is, I take it for granted that a claim of individuals upon the Government—neither a State nor a body, but of single individuals—must come within the category of a private claim, whatever does not. Therefore, as I said before, without desiring to detain the Senate in the consideration of this preliminary question, I hope that this importance will not be given to this particular claim, when there is nothing in reality in it which urges upon us a peculiar necessity for immediate action over many others of certainly equal merit, and certainly many others about which there is nothing like the difference of opinion which exists upon this, as is very well known.

Mr. SEWARD. I wish to ask the President to state what the position of that bill now is.

The VICEPRESIDENT. It is number sixty-one upon the general orders.

Mr. HALE. Preceded but by ten bills.

The Secretary proceeded to call the roll.

Mr. COLLAMER. I have paired off with the Senator from Louisiana, [Mr. SLIDELL] who has gone to the President as a member of a committee.

The result was then announced—yeas 24, nays 19; as follows:

YEAS—Messrs. Bates, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Iverson, Jones, Kennedy, Mason, Pearce, Polk, Reid, Rice, Shields, Stuart, Thomson of New Jersey, and Ward—24.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—19.

So the motion was agreed to; and the bill was made the special order for Tuesday, the 14th instant, at one o'clock.

AGRICULTURAL COLLEGES.

Mr. STUART. At the last session there was passed, by the House of Representatives, an act donating public lands to the States and Territories, to provide colleges for the promotion of agriculture and the mechanic arts. That bill was referred to the Committee on Public Lands, and reported back favorably; and it stands now as part of the business of the Senate. I shall not ask the Senate to make it a special order, nor do I design to state any particular day when I shall ask the Senate to take it up and pass it; but I simply desire to give notice that, as soon as the Senate shall be full, I shall ask the Senate to proceed to the consideration of that bill, and in the hope that we may be able to get a decisive vote upon it at a very early day.

PETITION.

Mr. JONES presented the petition of E. B. Boutwell, a commander in the Navy, praying compensation for certain extra services, while in command of the United States steamer Colonel Harney and the United States ship John Adams; which was ordered to lie on the table until the committees shall have been appointed; when, he intimated, he should move its reference to the Committee on Naval Affairs.

THE PRESIDENT'S MESSAGE.

Mr. J. B. HENRY, Private Secretary of the President of the United States, appeared at the bar and announced:

Mr. President, I am directed by the President of the United States to deliver to the Senate a message in writing.

The communication was the President's annual message, which was read by the Clerk. [For the message, see the Appendix.]

Mr. BIGLER. I offer the following orders:

Ordered, That the message and accompanying documents be printed.

Ordered, That twenty thousand additional copies of the message and accompanying documents be printed for the use of the Senate.

Mr. HALE. Mr. President, it has become the custom, a custom which has been introduced within a few years past, for gentlemen in the Senate to express their sentiments upon the message on this motion. I think that was the case two or three years since, when, on a similar occasion, opinions were promulgated in regard to our foreign policy, particularly with reference to Central American affairs. A distinguished Senator from Delaware, not now living, (Mr. Clayton,) and I think several other Senators, availed themselves of that occasion to express their sentiments on those topics. Now, sir, if the President, in this message, had confined himself to what I believe to be his constitutional prerogative, that is, "from time to time to give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient," let the character of those measures be what it might, I should not have felt called upon to say anything on this occasion; but I think the President has abused his constitutional prerogative, and gone out of the way to interpolate a statement of transactions that have long since transpired, and that have nothing to do with any recommendation which he has seen fit to make, and which statement, in my humble judgment, is not consistent with the truth of history; and, as an humble individual, I will not permit it to go to the country unchallenged.

It gives me, however, great pleasure on this occasion to say, that I cordially, entirely, heartily, and enthusiastically agree with the President in his first sentence, and that is this:

"When we compare the condition of the country at the present day with what it was one year ago at the meeting of Congress, we have much reason for gratitude to that Almighty Providence which has never failed to interpose for our relief at the most critical periods of our history."

To that, sir, I most cordially assent; and I should have felt that the President had been derelict in those obligations of piety which he is so fond of displaying in his messages, if he had failed to take notice of the very happy change which has taken place, and which, in its occurrence, has been especially manifested in his own State. I think he has seen the teachings of Providence brought to his own door in such a manner that he cannot fail to contrast with the condition of things that existed a year ago their present condition in his own State and his own county and his own city. I commend him for his "gratitude," carrying out the excellent history of that good man, of whom it is said:

"Job feels the rod
Yet blesses God."

I cannot fail to commend the call which he makes upon us for gratitude at the very different condition which the country presents now from what it did a year ago. I agree with the President heartily in that, and I am not certain that I shall not consent to the printing of a large number of copies of the message, so that the country may see how the President feels under this administration of Providence, as well as of himself.

I am also gratified at the exhibit which the President makes of our foreign affairs generally. True, he says there is a little difficulty with Spain, and some with Great Britain; but with all the rest of the world we are happily at peace. I did expect, sir, that when the President came to comment upon our foreign relations he would condescend to inform us what alarming emergency existed in reference to our diplomatic relations with Austria, that rendered it so imperiously necessary, immediately succeeding the Pennsylvania election, to make a new appointment of Minister to that country; and I waited with a good deal of

impatience to find out; but it seems that there has been nothing there; Austria has been peaceable, whilst some other nations have not done everything they should do; there is no complaint of Austria. It seems to me that the President, by his utter silence in regard to what induced him to act with such hot haste in reference to Austria, leaves a fair inference that it was the change of affairs here instead of in Austria that caused this prompt and energetic administration of the executive functions, in sending a Minister to that country. Well, sir, I sympathize with the President in regard to that matter. I admire the ready zeal with which he stood hovering round the battlefield of old Berks, catching up the wounded. I had read, and the civilized world had read of, and admired the heroism, with which that noble maiden from England, Florence Nightingale, had gone to the Crimean war, and seized upon the wounded, and with the plastic hand of woman's affection, done what she could to relieve their miseries and agonies. But, sir, we have a Florence Nightingale that shall divide the admiration of the world, that has stood around the battlefield, caught up the wounded, and hurried them away to the hospitals of Austria to be nursed; and he has not even let them stay upon the field of their conflict to be met by the reproaches of those who might exult over their fate. I leave that, however. I concur with the President on these two points.

But I ask the country and the Senate—those of them who feel interested in it—to say why, if the President thinks the country is at peace and ought to be—why, if he desires peace, he has dragged up this whole Kansas history and given his version of it, when he knew that the version which he gave of it was not what a very large majority of the people of a majority of these States think and believe to be the truth? The President has undertaken, too, to give a judicial exposition of what the Supreme Court has decided. He says that court has decided "that all American citizens have an equal right to take into the Territories whatever is held as property under the laws of any of the States, and to hold such property there under the guardianship of the Federal Constitution so long as the territorial condition shall remain." I do not know but that the Supreme Court of the United States may thus decide when such a question shall be presented; but it is news to me that they have decided it. I have seen nothing of that sort. The decision to which the President refers is obnoxious to censure enough in my humble judgment, but I think no member of that court will ever say they have made such a decision as the President asserts. Let me say here, once for all—for I had hoped we were done with the Dred Scott decision—that I can tell the President, and whoever sees fit to bring that decision before the Congress of the American people, and to challenge for it the respect which is due to a solemnly adjudicated decision of that high tribunal, that whenever they do it, instead of commanding or eliciting respect for the decision, they will only lessen the hold which the tribunal making it has upon the public confidence and the respect of the community. Such I believe to be the opinion of a very large majority of the people of that portion of the country in which I reside. It is a sentiment to which I am pledged; and I never fail, whenever I have occasion to speak of it before my own constituents, or anybody else who does me the honor to listen to me, to denounce it as a decision which is not entitled to the respect or the confidence of the Republic, and one which will not command the assent of the American people. The President may bring it in as often as he pleases, and make as many asseverations concerning it as he chooses, but he will utterly fail to bring it into such a position as to command the respect of the people.

There is another matter. The President says:

"It was the resistance to rightful authority and the persevering attempts to establish a revolutionary government under the Topeka constitution, which caused the people of Kansas to commit the grave error of refusing to vote for delegates to the convention to frame a constitution, under a law not denied to be fair and just in its provisions. This refusal to vote has been the prolific source of all the evils which have followed."

Now, sir, does not the President of the United States know that the refusal to vote on the part of these people, was not what he says it was; but

it was because they had no opportunity if they did vote, to have their votes fairly counted? Does the President undertake to say that the refusal of these men to vote was a resistance to rightful authority? Does he not know that whenever there was anything approaching a fair opportunity for the people of that Territory to vote, they did so? Why, they improved the first opportunity; and the result of the first attempt of that people, when it could be fairly exercised, was a rebuke of him and of all his measures. And yet he undertakes to arraign the people who refused to vote, as being guilty of resistance to the Government! Well, now, sir, it is very hard; if the people refuse to vote, it is rebellion in one place; and if they do vote, unless they vote as he sees fit to think they ought to vote, they are submitted to a rebuke and a reproach for it. No, sir, it is utterly futile in the President, and will be and must be so forever, to undertake to throw the reproach of that state of things which for so long a time existed in Kansas, upon the party there that contended from the first to the last simply for the right of suffrage, and who, the moment they got the opportunity, exercised it to overthrow him and all his officers he had sent there.

The President says if they had voted, and Congress had admitted Kansas, everything would have been settled, and "popular sovereignty would thus have been vindicated." On this question of what he terms popular sovereignty in Kansas, the President seems to confound a right which I have never heard denied, and which never has been practically denied in this country—that is the right of the people, when they form a State constitution, to come into the Union with just exactly such a constitution as they see fit to form—with the system of measures which he was undertaking to force upon the people of Kansas.

The President again, in his message, undertakes to reiterate what, I venture to say if he does not know is not true, everybody else does, and that is, that the great question of the right to introduce slavery into the Territory was, as he says, fairly submitted to that people; and because those men refused to vote when it was thus fairly submitted to them, they were guilty of the crime of treason, or of opposition to the Government—treason, I think it has been called on many occasions!

Now, sir, it is too late in the day to make any such assertion, because the facts are too palpable for anybody to contend before this country that the people of Kansas ever had, under the submission of the Lecompton constitution, the right to vote for or against slavery. Everybody knows it. Upon the very face of the constitution, when the form of a submission was gone through with, it was so palpable that it could not be contended. No man could have gone and voted for or against that constitution, in the manner in which it was submitted, without voting for the introduction and the perpetuity of slavery; and the President, if he does not, ought to know that fact.

Sir, a great many of us are constantly and continually reproached with an attempt to agitate and to introduce these agitating questions into the discussions of the Senate and House of Representatives. We are represented as men who are continually standing in the way of peace and we are denounced continually as agitators. Sir, what have we seen here at this very session, at this very first meeting of Congress to-day? The very first thing that was asked to be taken up out of its ordinary course, was a question relating to this very subject of slavery. It was not asked by an anti-slavery man; it was not asked by one of those whom the President would denounce as enemies to the Constitution; but it was asked that Congress, at the very commencement of this session, should take up a bill which presents the slavery question in the most offensive form that it has ever been presented in to the American Senate or to the American Congress. We have been asked, and we have agreed to do it to-day, by a vote, to pass by all the other claims, public and private—the French spoliation claims, which have been waiting for justice at your doors, held by your own citizens, for more than half a century, are postponed—that you may take up out of its order a bill which proposes to pay men for slaves as they are called, whom the Supreme Court of your own country have decided were not slaves, but were held against law and against

right by the hand of force. They were liberated by the action of the Executive under the decision of the Supreme Court of the United States; and yet a bill to pay persons for illegally and violently holding those men, is the only one that is deemed worthy of the action of the American Congress at its first sitting, so far as to take it up out of its order. There is nothing of agitation, I suppose, in all this.

As I heard the President's message read, I thought some light flashed upon my mind in regard to that motion; for the President, after going on to recommend the acquisition of Cuba for the very pious purpose of abolishing the slave trade—that is all he wants it for—comes to the Amistad case, and says if we pass that bill, he thinks it will have a favorable influence on our negotiations with Spain; that is, we can put them in good temper by paying them for the illegal seizure and holding of men that our courts have decided were illegally held. If we put our hands into the Federal Treasury, and violate our conscience by paying these men for illegally and unlawfully holding those Africans, it will put the Spanish Government in such good humor that they will be more likely to listen favorably to our proposition for purchasing Cuba. I am opposed to the Amistad bill, from beginning to end, all the way through, and the more opposed to it when the President tells us what he wants it passed for.

It is no pleasure to me, sir, to be obliged to make these comments. They are made in a very imperfect and desultory manner; but I think a custom has grown up here which deserves to be rebuked. I allude to the President undertaking, under the privilege which is conferred upon him by the Constitution to recommend such measures as he may deem proper and to give information of the state of the Union generally, to give a perverted, one-sided, and unfair history of the previous acts of this Government in regard to a matter which has already passed, and upon which, as I understand the message, from the imperfect reading I have been able to give it, he recommends no measure at the present time. There is nothing that he recommends us to do in regard to Kansas. He says it is all very well there; not quite so well however as it would have been if you had let him have his way; but still it is so well that he recommends no measure to be taken in regard to it at all. Why, then, the necessity of devoting two columns of this very long message to a recitation of transactions which have long since passed; a recitation given in a manner and in a spirit which he knows could not, even in its recitals of fact, to say nothing of the deductions and conclusions he draws from it, command the assent of a very large portion of the American people. Sir, if the President wants peace, and if those with whom he labors want peace, why does he not begin himself; and why does he, in this manner, at the very outset of this session of Congress, throw this question before us and challenge us either to speak out, or to be silent and submit to the imputations which he would make, and the misstatements of fact with which, in my humble judgment, the message abounds upon this matter? If he wants peace, why does he do that, and then put us in the alternative of either by silence admitting that they are true, or else protesting that they are not true, and thereby subjecting ourselves to the charge of being agitators?

I have no particular objection to as many of the message and documents being printed as you please, though I am not willing to vote for it myself. I am willing to have it printed; but I shall not vote for printing any extraordinary number of the message, because I desire not only by what I say, but what I do, to withhold any expression of approval from the message as it has been submitted to us. There are very many other things in this message on which I would comment, but I do not wish at this time to weary the patience of the Senate, and I leave it as it is.

The VICE PRESIDENT. The present consideration of this motion requires unanimous consent; but if it be the pleasure of the Senate, the Chair will put the question.

Mr. FESSENDEN. Does the motion include all the documents which accompany the message?

The VICE PRESIDENT. The Chair understood it so.

Mr. GWIN. The latter portion of it—that in

regard to extra numbers—goes to the Committee on Printing, I suppose.

Mr. FESSENDEN. I think that should go to the Committee on Printing.

The VICE PRESIDENT. The whole of it goes to the Committee on Printing under the rule, and it was therefore stated that it required unanimous consent to consider the proposition now.

Mr. FESSENDEN. I think it had better go to the Committee on Printing.

The VICE PRESIDENT. There is no such committee.

Mr. FESSENDEN. Then we can wait until one is appointed.

Mr. BIGLER. I suggest that the first clause of the order be adopted, for printing the ordinary number. If it is desired, the other can lie over. ["No objection."]

The first portion of the order was agreed to, as follows:

Ordered, That the message and accompanying documents be printed.

FINANCE REPORT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting his annual report on the state of the finances.

Mr. HUNTER. I move that it be printed, together with the usual number of extra copies.

Mr. FESSENDEN. What is the usual number of extra copies?

Mr. HUNTER. I forget. Let us adhere to the old form, whatever it is.

The motion was agreed to.

On motion of Mr. BIGLER, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, December 6, 1858.

The members of the House of Representatives of the Thirty-Fifth Congress assembled in their Hall this morning, in pursuance of constitutional provision.

At twelve o'clock, m., the Speaker, Hon. JAMES L. ORR, called the House to order.

Prayer by Rev. D. BALL.

The SPEAKER stated that the members would be called by States.

They were so called; and the following members answered to their names:

MAINE.

John M. Wood, Freeman H. Morse,
Charles J. Gihman, Israel Washburn, jr.,
Nehemiah Abbott, Stephen C. Foster.

NEW HAMPSHIRE.

Mason W. Tappan, Aaron H. Cragin.

VERMONT.

E. P. Walton, Homer E. Royce.

Justin S. Morrill,

MASSACHUSETTS.

Robert B. Hall, Daniel W. Gooch,
James Buffinton, Chauncey L. Knapp,
Linnus B. Comins, Eli Thayer,
Anson Burlingame, Calvin C. Chaffee,
Timothy Davis, Henry L. Dawes.

RHODE ISLAND.

Nathaniel B. Durfee, William D. Brayton.

CONNECTICUT.

Ezra Clark, jr., William D. Bishop.
Sidney Dean,

NEW YORK.

John A. Searing, Henry Bennett,
George Taylor, Henry C. Goodwin,
William B. Maclay, Charles B. Hoard,
John Cochrane, Amos P. Granger,
Horace F. Clark, Edwin B. Morgan,
John B. Haskin, Emory B. Pottle,
Ambrose S. Murray, John M. Parker,
William F. Russell, William H. Kelsey,
Abram B. Olin, Samuel G. Andrews,
Edward Dodd, Judson W. Sherman,
George W. Palmer, Silas M. Burroughs,
Francis E. Spinner, Israel T. Hatch,
Clark B. Cochrane, Reuben E. Fenton.

NEW JERSEY.

Isaiah D. Clawson, John Huyler,
George R. Robbins, Jacob R. Wortendyke,
Garnett B. Adrain,

PENNSYLVANIA.

Thomas B. Florence, Allison White,
Edward Joy Morris, John A. Ahl,
James Landy, Wilson Reilly,
Owen Jones, John R. Edie,
John Hickman, John Covode,
Henry Chapman, William Montgomery,
Anthony E. Roberts, David Ritchie,
John C. Kunkel, Samuel A. Purviance,
William L. Dewart, William Stewart,
Paul Leidy, John Dick,
Galusha A. Grow,

DELAWARE.

William G. Whiteley.

MARYLAND.

James A. Stewart, H. Winter Davis,
James B. Ricard, Jacob M. Kunkel,
J. Morrison Harris, Thomas F. Bowie.

VIRGINIA.

Muscoe R. H. Garnett, William Smith,
John S. Millson, Charles J. Faulkner,
John S. Caskie, Albert G. Jenkins,
William O. Goode, Henry A. Edmundson,
Thomas S. Bocock, George W. Hopkins,
Paulus Powell,

NORTH CAROLINA.

Thomas Ruffin, Alfred M. Seales,
Warren Winslow, Burton Craige,
Lawrence O'B. Branch,

SOUTH CAROLINA.

John McQueen, Milledge L. Bonham,
William P. Miles, James L. Orr,
Lawrence M. Keitt, William W. Boyce.

GEORGIA.

Martin J. Crawford, Augustus R. Wright,
Robert P. Trippe, James Jackson,
Lucius J. Gartrell, Alexander H. Stephens.

ALABAMA.

James A. Stallworth, George S. Houston,
Eli S. Shorter, Williamson R. W. Cobb,
James F. Dowdell, Jabez L. M. Curry,
Sydenham Moore,

MISSISSIPPI.

Lucius Q. C. Lamar, Ohio R. Singleton.
Reuben Davis,

LOUISIANA.

George Eustis, jr., John M. Sandidge.

Thomas G. Davidson,

OHIO.

George H. Pendleton, Valentine B. Horton,
William S. Groesbeck, Samuel S. Cox,
Clement L. Vallandigham, John Sherman,
Matthias H. Nichols, Cydus B. Tompkins,
Richard Mott, William Lawrence,
Joseph R. Cockerill, Benjamin F. Leiter,
Aaron Harlan, Edward Wade,
Benjamin Stanton, Joshua R. Giddings,
Lawrence W. Hall, John A. Bingham,
Joseph Miller,

KENTUCKY.

Henry C. Burnett, Humphrey Marshall,
Warner L. Underwood, James B. Clay,
Albert G. Talbot, John C. Mason,
Joshua H. Jewett, John W. Stevenson.

TENNESSEE.

Albert G. Watkins, George W. Jones,
Horace Maynard, John V. Wright,
Samuel A. Smith, Felix K. Zollicoffer,
John H. Savage, John D. C. Atkins,
Charles Ready,

INDIANA.

William E. Niblack, James M. Gregg,
William H. English, John G. Davis,
James Hughes, James Wilson,
James B. Foley, Schuyler Colfax,
David Kilgore, Charles Case.

ILLINOIS.

Ellihu B. Washburne, Isaac N. Morris,
Owen Lovejoy, Robert Smith,
William Kellogg, Samuel S. Marshall.

MISSOURI.

Francis P. Blair, jr., James Craig,
Thomas L. Anderson, John S. Phelps,
John B. Clark, Samuel Caruthers.

ARKANSAS.

Alfred B. Greenwood, Edward A. Warren.

MICHIGAN.

William A. Howard, David S. Walbridge,
Henry Waldron, De Witt C. Leach.

FLORIDA.

George S. Hawkins.

TEXAS.

John H. Reagan, Guy M. Bryan.

IOWA.

Samuel R. Curtis, Timothy Davis.

WISCONSIN.

John F. Potter, Charles Bingham,
Cadwalader C. Washburn,

CALIFORNIA.

Charles L. Scott.

MINNESOTA.

James M. Cavanaugh, William W. Phelps.

OREGON.

Joseph Lane, Miguel A. Otero.

UTAH.

John M. Bernhisel, Isaac I. Stevens.

KANSAS.

Marcus J. Parrott, Fenner Ferguson.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, notifying the House that a quorum of that body had assembled, and were ready to proceed with the business of the session.

Mr. FLORENCE stated that his colleague, Mr. PHILLIPS, was unavoidably absent from the House.

HOOR OF MEETING.

Mr. PHELPS, of Missouri, moved that, until otherwise ordered, the daily hour of meeting be twelve o'clock, m.

The motion was agreed to.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. FLORENCE moved that a message be sent to the Senate, informing that body that a quorum of the House of Representatives is assembled, and ready to proceed with the business of the session.

The motion was agreed to.

Mr. FLORENCE also moved that a committee of three members be appointed by the Speaker, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communication he may be pleased to make.

The motion was agreed to; and Messrs. FLORENCE, SHERMAN of Ohio, and GARTRELL, were appointed such committee on the part of the House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had appointed a committee, to join such committee as may be appointed by the House, to wait on the President of the United States, and inform him that a quorum of the two Houses had assembled, and were ready to receive any communication he should choose to make.

DRAWING FOR SEATS.

Mr. SMITH, of Tennessee. Mr. Speaker, I understand that the message of the President is ready to be delivered as soon as the committee of the two Houses shall wait on him; and as there must, of necessity, be an interim, I move that it be occupied in drawing for seats. I therefore move the adoption of the following resolution:

Resolved, That the Clerk of the House, immediately after the passage of this resolution, place in a box the name of each Member and Delegate of the House of Representatives, written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: Provided, That before said drawing shall commence, the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order; and that every seat, after having been selected, shall be deemed to be vacant if left unoccupied before the calling of the roll is finished.

Mr. DEWART moved that the resolution be laid upon the table.

Tellers were demanded, but not ordered.

The House being divided, there were—ayes 87, noes 99.

So the motion was disagreed to.

The resolution was then adopted.

Mr. FLORENCE. Mr. Speaker, as the committee appointed to wait on the President must necessarily be absent, I wish that when their names are called one of their colleagues be allowed to select seats for them.

Objection was made.

The members present proceeded, in execution of the resolution just adopted, to draw seats for the session.

RESOLUTIONS AND BILLS.

The SPEAKER announced that resolutions were in order from the States, commencing with Maine.

The States were called in order, when Pennsylvania being called,

Mr. GROW said. I desire to know whether, under this call, bills can be introduced of which previous notice has been given?

The SPEAKER. The Chair has some doubt whether they can, if the notice has not been given at the present session.

Mr. GROW. That is the question I desire to have the Chair decide.

The SPEAKER, (after a moment's consideration.) The Chair is of opinion that it would be in order to introduce such bills.

Mr. GROW then introduced the following bill, of which previous notice had been given:

A bill to amend an act to establish a court for the investigation of claims against the United States, so as to permit creditors of the Government to sue in the district courts of the United States.

The bill was read a first and second time, and referred to the Committee on the Judiciary.

Mr. CURTIS, when Iowa was called, introduced the following bill, of which previous notice was given last session:

A bill for the construction of a central Pacific railroad.

Mr. HOUSTON. I desire to inquire of the Chair if this call authorizes the introduction and reference of bills of which no notice has been given?

The SPEAKER. It does not.

Mr. HOUSTON. I then desire to know whether notice has been given of that bill?

The SPEAKER. The gentleman from Iowa stated, on introducing the bill, that previous notice had been given.

Mr. HOUSTON. Would notice at the last session of Congress authorize the introduction of bills this session?

The SPEAKER. The Chair knows no reason why it should not.

Mr. JONES, of Tennessee. I believe the rule provides that after a certain number of days, the business of the House shall stand as at the close of the last session. The specified number of days has not yet expired.

The SPEAKER. The 22d rule has reference entirely to bills and resolutions already before the House. The rule is as follows:

"After six days from the commencement of a second or subsequent session of any Congress, all bills, resolutions, and reports which originated in the House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

The bill was then read a first and second time, and referred to the select committee on the Pacific railroad.

Mr. JONES, of Tennessee. I would inquire whether there is any committee to which to refer that bill?

The SPEAKER. The reference of a bill to a select committee of the last session would be the reviving of that committee.

Mr. HOUSTON. There cannot be a reference to a committee that existed last session, for no such committee exists under any rule of the House. That committee existed, because the House, at its last session, created it; and the termination of the last session terminated the existence of that committee. There being no such committee in existence, a resolution referring the bill to a committee means another committee; because the former committee is not brought into existence by any such general terms of reference.

Mr. REAGAN. I understand that the authority of that committee was continued by a resolution of last session.

Mr. HOUSTON. I do not so understand it. The SPEAKER. The Chair is of opinion that the reference to the select committee of last session will have the effect to revive that committee. Just as when during the session, a select committee makes a report, and is, by that fact, discharged, it is, of course, revived by a re-reference

of the same subject-matter to it. That has been the uniform practice.

DUTIES ON COAL, IRON, LEAD, WOOL, ETC.

Mr. DEWART. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report a bill increasing the duty on coal and iron.

Mr. JONES, of Tennessee. I object.

Mr. DEWART. I move to suspend the rules so as to enable me to introduce the resolution; and on that motion I call for the yeas and nays.

Mr. STEPHENS, of Georgia. The committees have not yet been appointed by the Chair. I would suggest to the mover of the resolution, and to all others, that there should first be a resolution passed authorizing the Speaker to appoint the committees. Or, if it be in order to amend this resolution, I would suggest an amendment, that the Committee of Ways and Means, when appointed, be so instructed. I suggest to the gentleman from Pennsylvania to make that modification.

Mr. DEWART. I accept the suggestion.

The resolution was so modified; and the yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I ask the gentleman from Pennsylvania, so to modify his resolution as to make it include another great interest—that of lead.

Mr. DEWART. Certainly, sir.

Mr. CRAWFORD. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is not. The resolution is not before the House.

Mr. CRAWFORD. I desire to have the question taken on that motion.

Mr. JONES, of Tennessee. I wish to know whether the resolution directs the committee peremptorily to report such a bill, or only to inquire into the expediency of doing so?

The SPEAKER. It directs the committee to report such a bill.

Mr. NICHOLS. Is it in order to move an amendment to the resolution—that it also include wool?

The SPEAKER. It is not.

Mr. MORRILL. I ask the gentleman from Pennsylvania whether he will not include another item—wool and woolen fabrics?

Mr. DEWART. I will take in wool.

Mr. BURNETT. I ask whether it is in order, at this time, for the gentleman from Pennsylvania to accept amendments—the resolution not being before the House?

The SPEAKER. It is not a question of order addressing itself to the Chair. The suggestions are addressed to the gentleman from Pennsylvania. The resolution is not before the House so as to be acted upon in the shape of adopting amendments.

Mr. GROW. I desire to ask my colleague if he will not modify his resolution so as to read thus: "that the Committee of Ways and Means be instructed to so modify or change the tariff as to raise the necessary revenue to support the Government?"

Mr. DEWART. No, sir.

Mr. MORRIS, of Pennsylvania. I ask my colleague to insert in his resolution the following words: "and such other articles as need protection against foreign competition."

Mr. DEWART. I accept that suggestion.

Mr. DAVIDSON. I desire to ask my friend from Pennsylvania to modify his resolution so as to include sugar.

Mr. DEWART. Certainly.

Mr. DAVIDSON. If the gentleman accepts that suggestion, I am satisfied.

Mr. DEWART. I do accept it.

Mr. KILGORE. I ask the gentleman from Pennsylvania to insert in his resolution the following words: "and all other articles, to a sufficient amount to meet the expenses of the Government and to discharge our national debt."

Mr. COBB. And to carry on the war against Paraguay. [Laughter.]

Several MEMBERS. Read the resolution.

The resolution, as modified, was again read, as follows:

Resolved, That the Committee of Ways and Means, when appointed, be instructed to report a bill increasing the duty

on coal, iron, lead, wool, sugar, and such other articles as need protection against foreign competition.

Mr. DEWART. No, sir; not sugar.

Mr. DAVIDSON. I understood the gentleman to accept my suggestion.

Mr. DEWART. I did not intend to include sugar.

Mr. MARSHALL, of Kentucky. I ask the gentleman from Pennsylvania to include the article of hemp.

Mr. HOUSTON. I understood that the yeas and nays were ordered on the motion to suspend the rules. If the rules be suspended the gentleman from Pennsylvania will then propose his resolution. I do not consider that it is in order now to consume the time of the House in modifying a resolution that is not before the House. The gentleman has a right to change his resolution, and has a right to offer it to the House. I ask for a vote on the suspension of the rules.

Mr. LEITER. I wish to inquire whether the sugar coating has been taken off this thing? [Laughter.]

The SPEAKER. The Chair understands the suggestion of the gentleman from Alabama [Mr. Houston] as amounting to an objection; and at this stage of the matter, debate is not in order.

Mr. MARSHALL, of Kentucky. I would like to know if the gentleman from Pennsylvania accepts my suggestion, to include hemp?

The SPEAKER. The gentleman from Alabama objects.

Mr. MARSHALL, of Kentucky. The gentleman from Alabama has no right to object to the gentleman from Pennsylvania accepting any modification.

The SPEAKER. No debate whatever is in order. The question is on suspending the rules, so as to enable the gentleman from Pennsylvania to introduce the following resolution:

Resolved, That the Committee of Ways and Means, when appointed, be instructed to report a bill increasing the duty on coal, iron, lead, wool, and such other articles as need protection against foreign competition.

The question was taken; and there were—yeas 102, nays 87; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Bennett, Bingham, Bingham, Branch, Bratton, Buffinton, Burlingame, Burroughs, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochran, Coffax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dewart, Dick, Dodd, Durfee, Edie, Fenton, Florence, Foster, Giddings, Gooch, Goodwin, Granger, Grow, Robert H. Hall, Harlan, Harris, Hatch, Hickman, Hoard, Horton, Howard, Huyler, Owen Jones, Kellogg, Kelsey, Kilgore, John C. Kunkel, Landy, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Mason, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Murray, Olin, Palmer, Parker, William W. Phelps, Potter, Pottle, Purviance, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Scott, John Sherman, Judson W. Sherman, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburn, Israel Washburn, White, Whiteley, Wilson, Worendyke, and Zollicoffer—102.

NAYS—Messrs. Anderson, Atkins, Blair, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Catherers, John B. Clark, Clay, Cobb, John C. Cochran, Cockrell, Comins, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, English, Faulkner, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hawkins, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Kett, Knapp, Jacob M. Kunkel, Lamar, Maclay, McQueen, Samuel S. Marshall, Miles, Miller, Millson, Isaac N. Morris, Mout, Niblack, Nichols, Pendleton, John S. Phelps, Powell, Ready, Reagan, Rufin, Sandidge, Savage, Seales, Searing, Shorter, Singleton, Robert Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Trippe, Vallandigham, Warren, Watkins, Winslow, Wood, and Augustus R. Wright—87.

So (two thirds not voting in favor thereof) the rules were not suspended.

Pending the vote, Mr. COMINS said: Mr. Speaker as it is usual, before proceeding to business at a new session, to receive a message from the President of the United States, giving his views on the questions before the country, and as I do not wish to anticipate the President, I vote "No."

Mr. MOORE stated that if he had been in the Hall when his name was called he would have voted "No."

PRINTING THE ESTIMATES.

Mr. MORGAN. I ask the unanimous consent of the House to authorize the Clerk of the House to have the document that was laid before us this morning, the annual estimates, bound. We

will need the use of it, and cannot use it until it is bound.

There being no objection, it was so ordered.

APPOINTMENT OF STANDING COMMITTEES.

Mr. STEPHENS, of Georgia. I move that the Speaker be authorized to appoint the standing committees for the present session.

The motion was agreed to.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. FLORENCE, from the committee appointed on the part of the House, to join with a similar committee on the part of the Senate, to wait upon the President of the United States, and inform him that quorums of both Houses of Congress were in session, reported that the joint committee had performed that duty, and that the President had directed him to inform the House that he would immediately communicate a message in writing.

PRESIDENT'S ANNUAL MESSAGE.

The annual message of the President of the United States, with the accompanying documents, were received through Mr. J. B. HENRY, his Private Secretary.

The message was read. [It will be published in the Appendix.]

Mr. PHELPS, of Missouri. I move that the message and accompanying documents be referred to the Committee of the Whole on the state of the Union, and be printed; and upon that motion I demand the previous question.

Mr. MORGAN. I would suggest to the gentleman from Missouri whether it would not be best to refer it to the Committee on Mileage?

Mr. CRAWFORD. I would suggest to the gentleman from Missouri that he should so modify his motion as to provide that copies should also be printed for the use of each member.

Mr. PHELPS, of Missouri. I will withdraw the demand for the previous question, and submit, in addition to my motion, that one copy of the message and the reports of the Secretaries and Postmaster General, be printed for the use of each member. That corresponds with the order and action we took at the last session. I demand the previous question.

Mr. FLORENCE. I would remind the gentleman from Missouri that at the last session we ordered two hundred additional copies for the heads of the different Departments.

Mr. PHELPS. That properly comes in when we order the printing of extra copies.

The previous question was then seconded, and the main question, ordered to be put; and under the operation thereof, the motion was agreed to.

Mr. HOUSTON. I move that there be printed the usual extra number—twenty thousand, I believe—of the message and accompanying documents, in order that the motion may go to the Committee on Printing.

Mr. JONES, of Tennessee. The rule does not require that it shall go to the Committee on Printing.

The SPEAKER. The law does.

Mr. JONES, of Tennessee. Does it not except such a motion as this?

The SPEAKER. The law, passed subsequently to the adoption of the rule, provides absolutely for the reference of such motions to the Committee on Printing.

The motion was accordingly referred to the Committee on Printing.

Mr. FLORENCE. I offer the following resolution:

Resolved, That two hundred additional copies of the President's message and accompanying documents be printed for the use of each of the Secretaries of State, Treasury, Interior, War, and Navy Departments; the Attorney General, and the Postmaster General.

The resolution was referred to the Committee on Printing.

REPORT ON THE FINANCES.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Secretary of the Treasury on the state of the finances.

Mr. PHELPS, of Missouri. I move that that report be referred to the Committee of Ways and Means, and be printed.

The motion was agreed to.

Mr. PHELPS, of Missouri. I move, also, that

fifteen thousand extra copies be printed; and that one thousand extra copies be printed for the use of the Treasury Department.

The motion was referred to the Committee on Printing, under the rule.

And then, on motion of Mr. WASHBURN, of Illinois, (at four o'clock,) the House adjourned.

IN SENATE.

TUESDAY, December 7, 1858.

Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

Hon. JAMES A. BAYARD, of Delaware, appeared to-day.

COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate reports of the Court of Claims made in pursuance of law, adverse to the claim of Thomas C. Nye; the claim of Mary E. D. Blaney, administratrix of George Blaney, deceased; the claim of Alexander M. Cumming; the claim of Isaac S. Bowman and George Brinker, surviving executors of Isaac Bowman, deceased; and the claim of the State of Alabama for interest on the deferred payment of an amount alleged to be due under the compact for the admission of the State of Alabama into the Union.

Also, reports of the Court of Claims in favor of the claims of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased; and Emilie G. Jones, executrix of Thomas P. Jones, deceased; the claim of Thomas Allen, and the claim of John Peebles; accompanied by the following bills:

A bill for the relief of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased;

A bill for the relief of Emilie G. Jones, executrix of Thomas P. Jones;

A bill for the relief of Thomas Allen; and

A bill for the relief of John Peebles.

ASSISTANT DOORKEEPER.

Mr. ALLEN. I offer the following resolution:

Resolved, That the Senate, on to-morrow at one o'clock, will proceed to the election of an assistant doorkeeper in the place of Mr. Holland, deceased.

Mr. CLAY. I hope that when the Senate adjourns to-day, it will be to meet on the day after to-morrow; and, therefore, I move to amend the resolution by striking out "to-morrow," and inserting "Thursday."

The amendment was agreed to; and the resolution as amended was adopted.

PETITIONS.

Mr. SHIELDS. Mr. President, are petitions in order?

The VICE PRESIDENT. The Chair thinks it has been the habit before the appointment of committees, to receive petitions, and let them lie on the table until the committees are appointed.

Mr. SHIELDS. I beg leave, then, to offer the petition of one of my constituents, George Eitelmann, praying for a pension; and as it is a peculiar case, I would ask leave to call the attention of the honorable chairman of that committee to some of the facts in the petition.

The petitioner states that he was in the employ of the Indian department at a post in Minnesota, used as a station for the Sisseton and Wakpeton Sioux, at the Yellow Medicine river; and while thus in the employ of that department, he was required to proceed, in February, 1857, to an Indian post called the Sioux Agency. He had charge of oxen. On his return with provisions to the post, he was overtaken in one of those terrible snow storms that sometimes occur there, in which he lost his sleigh and his oxen, and he himself came very near losing his life. When a party reached the place where he was found, he was senseless, and upon being carried to the post, the clothing had actually frozen into his body. The unfortunate result of this was, that he has lost the right limb, he has lost the left foot, he has lost part of the fingers and thumb of his right hand, and, though a young man in the prime of life, he is disabled, for the remainder of his days, from gaining a livelihood. I beg leave, sir, as the Senate is not much occupied at present, to state that this is a case which, although it has not occurred in the military service, has occurred in the service of the Government, and is one of those pe-

culiar cases for which there is no remedy provided by law. A young man, in the employ of the Indian department, in the prime of life, is now in the streets of this city, a perfect wreck, and wholly unable to gain a livelihood for the residue of his life. I do not know what disposition to make of a petition of this kind, except to refer it to the Committee on Pensions; and being an exceptional case, it strikes me that it appeals to the sense of justice and humanity of the committee and of the Senate. The facts are all well authenticated. At the suggestion of the former chairman of the Committee on Pensions, [Mr. Jones,] I move that it be referred to the Committee on Indian Affairs.

The VICE PRESIDENT. It will lie on the table for the present.

WITHDRAWAL OF PAPERS.

Mr. WILSON. I ask that the papers of Henry M. Rice, a claimant for duties paid at Eastport, Maine, during the last war, be withdrawn from the files of the Senate for the purpose of being used in the Court of Claims.

The VICE PRESIDENT. The Chair is informed that there was a general resolution at the last session referring all those cases to the Court of Claims.

Mr. WILSON. I do not know how that matter is.

The VICE PRESIDENT. If there be no objection, however, the order will be made as desired by the Senator from Massachusetts.

It was so ordered.

NOTICES OF BILLS.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to appropriate one million acres of public lands for the support of public schools in the District of Columbia.

Mr. CAMERON gave notice of his intention to ask leave to introduce a bill allowing a pension to the widow of General Persifer F. Smith.

Mr. SEWARD gave notice of his intention to ask leave to introduce a bill granting a pension to Mrs. Myra Clark Gaines, widow of General Edmund P. Gaines.

BINDING OF ESTIMATES.

Mr. HALE. I move that the Secretary be directed to procure the binding of the letter of the Secretary of the Treasury, which has been laid on our tables to-day, communicating estimates of appropriations for the next fiscal year. It is a volume which we want to use very much, but we cannot use it in its present form. I propose the same order which was made last year—the binding of one copy for each Senator.

The motion was agreed to.

ADJOURNMENT TO THURSDAY.

On motion of Mr. CLAY, it was

Ordered, That when the Senate adjourns to-day, it beto meet on Thursday next.

PACIFIC RAILROAD.

Mr. GWIN. I gave notice yesterday that I should call up the Pacific railroad bill to-day at one o'clock. I believe there is no business before the Senate now, and, though the morning hour has not yet expired, if no other motion be made, I wish to make that motion.

Mr. PEARCE. Since yesterday it has occurred to me that one of the joint rules of the two Houses of Congress then escaped the attention of the Senate, as it certainly did mine. I allude to the 21st joint rule. You will recollect, sir, that prior to the passage of that rule, all business pending in either House at the close of any session, fell with the session; and to renew such matters, it was necessary to begin *de novo*. By the 21st joint rule, however, it is provided that after the first six days of a second or subsequent session of any Congress, the business pending on the Calendars of the respective Houses at the preceding session of the same Congress, shall be taken up and proceeded with as if the bodies had not adjourned. It seems to me that that rule excludes the idea of taking up business which was pending at the last session, during the first six days of this session. Whether that rule was violated yesterday by taking up, on the motion of the Senator from Virginia, [Mr. Mason,] a bill for the purpose of making it a special order, I do not know. I think, however, that it is well

enough for the Senate to consider whether their action of yesterday was not in violation of that rule, and whether, if so, we should not abandon the new practice about to be set up; or, at all events, correct our decision of yesterday, and apply the rule to this case. At any rate, I think it is advisable that the Senate should determine the force and effect of the joint rule to which I have called attention, and I ask the Secretary to read it for the information of the Senate.

The VICE PRESIDENT. The Secretary will read the 21st joint rule.

The Secretary read it, as follows:

"21. After six days from the commencement of a second or subsequent session of Congress, all bills, resolutions, or reports which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

The VICE PRESIDENT. The Chair will state, on the point of order made by the Senator from Maryland, that, having examined that rule, he does not think it now in order to receive the motion of the Senator from California; and if the question had been made yesterday, and the attention of the Chair called to it, he would have so ruled on the motion of the Senator from Virginia, to take up the Amistad case, in order to make it the special order for next Tuesday. The Chair does not think it in order in the first six days of the session, under this joint rule, to take up the Calendar of the last session.

Mr. GWIN. It is the decision of the Chair, then, that it is not in order to make the motion which I submitted. I suppose it is not in order until after the sixth day of this session.

The VICE PRESIDENT. The Chair thinks so. Mr. GWIN. Well, I give notice that I shall, at the earliest day, move to take up the Pacific railroad bill for consideration.

On motion of Mr. CLAY, the Senate adjourned to Thursday.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 7, 1858.

The House met at twelve o'clock, m. Prayer by Rev. B. F. BITTENGGER.

The Journal of yesterday was read and approved.

NEW MEMBERS SWORN IN.

The following named members, elected since the close of the last session, appeared and qualified by taking the usual oath to support the Constitution of the United States:

Mr. VANCE, elected from the eighth district of North Carolina, to fill the vacancy occasioned by the resignation of Mr. CLINGMAN;

Mr. McRAE, elected from the fifth district of Mississippi, to fill the vacancy occasioned by the death of Mr. Quitman; and

Mr. KEIM, elected from the eighth district of Pennsylvania, to fill the vacancy occasioned by the resignation of Mr. J. Glancy Jones.

SENATE BILLS REFERRED.

By unanimous consent, the following bills and joint resolutions from the Senate were taken from the Speaker's table, severally read a first and second time, and disposed of as indicated below:

An act (No. 279) for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes. Referred to the Committee on Private Land Claims.

An act (No. 84) to provide for the better regulation of "night signals" on board "sail vessels" navigating the northwestern lakes and their tributaries, and for other purposes. Referred to the Committee on Commerce.

An act (No. 10) repealing all laws or parts of laws granting allowances or bounties to vessels employed in the Bank and other cod fisheries. Referred to the Committee on Commerce.

A resolution (No. 20) authorizing the Secretary of the Navy to pay to the officers and seamen of the expedition in search of Dr. Kane the same rate of pay that was allowed the officers and seamen of the expedition under Lieutenant De Haven. Referred to the Committee on Naval Affairs.

An act (No. 394) for the relief of Edson Fessenden, conservator of William Crompton. Referred to the Committee on Patents.

An act (No. 293) for the relief of Miles Devine. Referred to the Committee of Claims.

An act (No. 317) for the relief of Thomas L. Disharoon. Referred to the Committee on Private Land Claims.

An act (No. 375) to create two additional land districts in the Territory of Washington. Referred to the Committee on Public Lands.

An act (No. 308) for the relief of M. C. Gritzner. Referred to the Committee on Patents.

An act (No. 341) making appropriations for repairing and securing the works at the harbor of Chicago, Illinois. Referred to the Committee on Commerce.

An act (No. 342) making appropriations for the preservation and repairs of the piers at the mouth of Milwaukee river, in Wisconsin. Referred to the Committee on Commerce.

A resolution (No. 50) authorizing the President to designate a site for the equestrian statue of Washington, and for other purposes. Referred to the Committee on the Public Buildings and Grounds.

A resolution (No. 48) for the payment of an unexpended balance to the State of Georgia on account of militia services. Referred to the Committee on Military Affairs.

An act (No. 359) for the allotment of lands to certain New York Indians, and for other purposes. Referred to the Committee on Public Lands.

An act (No. 398) for the relief of William Money. Referred to the Committee of Claims.

An act (No. 403) for the relief of George Stealey. Referred to the Committee on Indian Affairs.

An act (No. 400) to surrender the stock of the United States in the Dismal Swamp Canal Company, upon certain conditions, to said company. Referred to the Committee on Commerce.

An act (No. 322) for the relief of the purchasers of public lands within the timber reserve opposite Fort Kearny, and for the settlers within the Winnebago agency and the Fort Atkinson reservation, all in the State of Iowa. Referred to the Committee on Public Lands.

An act (No. 407) for the relief of Mills Judson, surety on the official bond of the late Purser Andrew D. Crosby. Referred to the Committee of Claims.

An act (No. 411) for the relief of Ebenezer Ricker. Referred to the Committee on Invalid Pensions.

An act (No. 417) for the relief of Willis A. Gorman. Referred to the Committee on Indian Affairs.

An act (No. 418) for the relief of Captain J. B. Montgomery. Referred to the Committee of Claims.

An act (No. 54) to revive and extend an act entitled "An act for the relief of the representatives of John Donnelson, Stephen Heard, and others," approved May 24, 1824, and the several acts extending, continuing, and reviving the same. Referred to the Committee on Public Lands.

An act (No. 327) to affirm certain entries of land in the State of Louisiana. Referred to the Committee on Private Land Claims.

An act (No. 414) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge. Referred to the Committee for the District of Columbia.

An act (No. 421) to authorize the Secretary of the Interior to issue a land warrant to Benjamin Ward. Referred to the Committee on Public Lands.

An act (No. 426) to authorize the Secretary of the Interior to issue a land warrant to Russell Fitch, of Ohio. Referred to the Committee on Public Lands.

An act (No. 427) for the relief of Thomas W. Ward, late United States consul at Panama. Referred to the Committee on Foreign Affairs.

An act (No. 428) for the relief of James Myer. Referred to the Committee of Claims.

An act (No. 429) for the relief of Jane J. Wingerd. Referred to the Committee of Claims.

An act (No. 435) for the relief of James T. V. Thompson. Referred to the Committee on Military Affairs.

An act (No. 434) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children. Referred to the Committee on Public Lands.

An act (No. 371) for the relief of Anthony W. Bayard. Referred to the Committee of Claims.

A resolution (No. 51) explanatory of an act for the relief of Dr. Charles D. Maxwell, a surgeon in the United States Navy. Referred to the Committee on Naval Affairs.

A resolution (No. 52) for the relief of William Hazard Wigg.

Mr. KEITT. I ask unanimous consent that the House put that resolution on its passage. It is founded upon a mere clerical error in a bill which was passed some two years ago. An error was made in computing the interest due the claimant. I hope there will be no objection to putting the resolution on its passage.

Mr. GIDDINGS. I object. This is a very irregular way of disposing of a private claim. I move that the resolution be referred to the Committee of Claims.

The motion was agreed to.

An act (No. 120) for the relief of David Myerle. Referred to the Committee of Claims.

An act (No. 263) granting the right of way over, and depot grounds on, the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes.

Mr. COBB. If that bill is to grant right of way through the public lands, it should go to the Committee on Public Lands. I move to refer it to the Committee on Public Lands.

Mr. PHELPS, of Missouri. It proposes to grant right of way through a military reservation, and therefore properly belongs to the Committee on Military Affairs. I move that it be referred to that committee.

DAVID MYERLE.

Mr. FLORENCE. I move to reconsider the vote by which the bill for the relief of David Myerle was referred to the Committee of Claims, with a view of having it referred to the Committee on Naval Affairs.

Mr. HOUSTON. I think that the gentleman from Pennsylvania had better let the matter remain as it has been disposed of.

Mr. FLORENCE. The Committee on Naval Affairs have had this bill before them every session of Congress during my service in this body. Its members are familiar with its details, and can report on it sooner, probably, than any other committee. Let us acquaint the House with the facts involved, and I have no doubt it will agree to pass the bill. We have taken care to investigate the claim, to familiarize ourselves with all the points to be decided on, and, I think that we can much sooner, and I might say, more intelligently report on it than any other committee; at least let me hope that we shall report in such way that the gentleman from Alabama, and the other members of the House will feel themselves persuaded to vote for the bill. It is now in the Committee of the Whole House, with a report in its favor from the Committee on Naval Affairs.

Mr. HOUSTON. I understand, as the gentleman has stated, that the Committee on Naval Affairs have already reported in favor of this claim. Then, of course, there is no use in again reporting it from that committee. If it goes there it will go there as a matter of form; for that committee has already passed its judgment on it, and reported that judgment to the House. By again referring it to that committee, we shall, when it reports, be no better off than we are now. We can get no additional information. By letting the claim go to the Committee of Claims, we shall have the benefit of an investigation by, and a report from, another committee, composed, I must believe, of gentlemen equally as intelligent as those of the Committee on Naval Affairs. If it be a just claim, and one proper to be passed by this House, a report from another committee in its favor will give it additional strength, and thus help to secure for it the indorsement of this House. I prefer that it should go to the Committee of Claims.

Mr. FLORENCE. I have no objection to the bill going to the Committee of the Whole House, if that is in order.

Mr. HOUSTON. I move that the motion to reconsider be laid upon the table.

The motion was agreed to; there being, on a division—ayes 86, noes 33.

RIGHT OF WAY—FORT GRATIOT.

The SPEAKER. The question now recurs on the disposition of Senate bill (No. 263) granting the right of way over, and depot grounds on, the

military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes.

Mr. COBB. I am satisfied that that bill properly belongs to the Committee on Public Lands. I know that it has heretofore had the consideration of that character of bills. But I am careless to what committee it may be referred. Certain it is that the Committee on Public Lands has, and will have, before it as much business as it can possibly take care of. I withdraw my motion.

The question then recurred on the motion to refer to the Committee on Military Affairs; which was agreed to.

SENATE BILLS REFERRED.

The Speaker laid before the House the following Senate bills and resolutions; which were severally read a first and second time, and referred as indicated below:

Resolution (No. 26) for the benefit of the nearest male heir of the late Major General Towson, of the United States Army. Referred to the Committee on Military Affairs.

An act (No. 278) concerning the courts of the United States in the district of Arkansas. Referred to the Committee on the Judiciary.

An act (No. 383) for the relief of Myra Clark Gaines. Referred to the Committee on Invalid Pensions.

An act (No. 412) supplemental to an act for the admission of the State of Minnesota into the Union. Referred to the Committee on the Judiciary.

Resolution (No. 453) directing the printing of certain reports therein mentioned. Referred to the Committee on the Library.

BILLS WITH AMENDMENTS.

The SPEAKER. There are various bills on the Speaker's table—some of them Senate bills, with House amendments in which the Senate non-concurred; and some of them House bills with Senate amendments. If it be the pleasure of the House, these bills will be now disposed of.

There was no objection.

FIRE DEPARTMENT IN THE DISTRICT.

Senate bill (No. 227) authorizing the organization of a fire department in the District of Columbia, with the House amendments thereto, which were non-concurred in by the Senate, was taken from the Speaker's table and read.

Mr. PHELPS, of Missouri. Mr. Speaker, the printed copies of this bill are already exhausted, and perhaps the House is not now prepared to consider it. I am not acquainted with the provisions of this bill, and think that it ought to be referred to the Committee for the District of Columbia.

Mr. UNDERWOOD. I suppose that the bill will necessarily go to the Committee for the District of Columbia; and that the reading of the bill and amendments now would be an unnecessary consumption of the time of the House. I therefore move its reference to the Committee for the District of Columbia.

The motion was agreed to; and the bill was so referred.

PURERS' CLERKS

House bill (No. 336) for the relief of B. W. Palmer, and others, with Senate amendments thereto, was taken from the Speaker's table and read.

The bill confirms and makes legal the excess of salary paid to B. W. Palmer and others, as pursers' clerks, at certain navy-yards, under the estimates made in the naval appropriation bills since 1853; provided, however, that nothing therein contained shall be construed into a repeal of the existing laws regulating the pay of pursers' clerks; and provided further, that the salary of the clerks aforesaid shall not hereafter exceed \$500 per annum.

The amendment of the Senate, which is in the nature of a substitute, directs that the accounting officers of the Treasury shall allow all payments made since the 1st July, 1854, to the clerks or assistants to pursers at the navy-yards of Charlestown, New York, Philadelphia, Washington, Norfolk, and Pensacola, at the rate of \$750 per annum; and to allow all payments made since the same date to first clerks to commandants, and clerks of yards at Kittery and Philadelphia, at the rate of \$1,200 per annum; and that the pay of such

clerks be hereafter \$1,200 per annum, and of the pursers' clerks or assistants \$750 per annum, commencing with the present fiscal year.

Mr. MILLSON. The bill, as amended by the Senate, is substantially in the same shape in which it was originally reported to the House by the Committee on Naval Affairs. On a motion made, I think, by my friend from Ohio, [Mr. SHERMAN,] the bill was amended in the House. The Senate afterwards restored the bill to the shape in which it came from the Committee on Naval Affairs of the House. I think that my friend from Ohio has seen, on subsequent reflection, that his original objection to the bill was not sound or tenable, and believe that he now acquiesces altogether in the bill in its present shape. I hope therefore that the House will concur in the amendment of the Senate, which, with some little alteration, merely restores the bill to the shape in which it was originally reported by the Committee on Naval Affairs of the House. If any gentleman desires an explanation of the character of the amendments I am ready to give it, but otherwise I do not think it necessary to do so.

Mr. MORGAN. I ask whether there is any report accompanying the bill?

The SPEAKER. It is an original House bill which passed the House and was amended by the Senate. The question now is on concurring in the amendment of the Senate.

Mr. MILLSON. Mr. Speaker, I think that a word of explanation will enable the House to see that the amendment of the Senate is altogether just and proper. The pay of the pursers' clerks at navy-yards, of which there are only some five or six, has been heretofore regulated by the pay of pursers' clerks on board of ships; but the pursers' clerks at navy-yards have to perform very laborious duties in keeping the accounts of sometimes more than two thousand men. It was found utterly impossible to get the necessary clerical force at the poor compensation of \$500 a year, and, in the year 1853, the Department estimated for an increase of compensation, asking in the estimates for \$750 instead of \$500. Congress having voted the money called for in that estimate, these gentlemen have, from that time to this, been receiving \$750 a year. But last year the Fourth Auditor, having discovered that this allowance was paid only upon the estimate, and upon the act of Congress appropriating the money on that estimate, decided that that did not repeal the former law, and he has, therefore, called upon these clerks to refund the excess of \$250, which they have been receiving for the last four or five years. The money has been actually paid to them by the Government, upon an estimate sent to Congress, and under an act of Congress appropriating the money called for in that estimate. These men have been employed under the authority of the Secretary of the Navy, at a compensation of \$750 a year, and have received \$750 a year. They did not know, of course, upon what law their claim for that compensation was founded; they did not examine the law, or undertake to decide judicially whether their compensation was rightfully paid to them or not.

Now, the simple question is, whether they shall be compelled, under these circumstances, to refund the money, or whether those payments shall be legalized by act of Congress? To this extent the House provided in the bill as it passed last session. But the amendment of the Senate further provides, that hereafter the compensation of these men shall be \$750 per annum, instead of \$500. Every gentleman must perceive at once that \$500 is entirely inadequate compensation for such services as are exacted from these clerks. It requires clerical skill of a high order to keep the accounts of the workmen employed in the navy-yards. You cannot get clerks of sufficient skill to perform the duties required of them for \$500 a year; and now the House is simply to determine whether they will agree to the amendment of the Senate, raising the salaries of three, four, or five clerks from \$500 to \$750 a year. The amount proposed to be given is a great deal less than is paid to the lowest clerks in the Departments in the city of Washington for performing much less labor than is performed by the clerks in the navy-yards.

Mr. BOCOCK. For the purpose of raising the point distinctly before the House, which I do not

know that my colleague has made, I desire him to state whether the amount fixed by this bill to be paid these clerks hereafter, is not the same amount which has been paid them under the appropriations for the last four or five years?

Mr. MILLSON. It is.

Mr. BOCOCK. I think that explanation, in connection with the explanation in the former part of the speech of my colleague, will place the whole case before the House. It is to legalize the payments which have been already made to these clerks, under appropriations made by Congress in the first place. The money has been paid and received by them; and this is to relieve them from the requirement made upon them to refund it. Furthermore, it is to provide that the same amount which has been paid them for the last four or five years should be paid them in future; and that they should not be cut down to the amount paid to them previous to 1853. That is the whole matter.

Mr. WASHBURN, of Maine. I desire to ask the gentleman from Virginia whether these clerks were not employed by the Government at a salary of \$750 per annum?

Mr. MILLSON. They were.

Mr. WASHBURN, of Maine. So I understand; and that this is simply a proposition to pay them what the Government stipulated they should receive when they were employed.

Mr. MORGAN. What had the Government to do in saying what they should receive?

Mr. WASHBURN, of Maine. I should think the Government had a good deal to do with it.

Mr. MILLSON. The Government stipulated that they should receive this amount, and they have already received it.

Mr. SHERMAN, of Ohio. I think I must have misapprehended the amendment of the Senate. I supposed the Clerk read the amendment of the Senate, but I now understand that he read the original House bill. I think the bill of the House is right. I think they should be relieved from the requirement to refund the money they have already received, under a mistake in construing the law; but this is not the time to raise the salaries of those clerks, or of anybody else. I think the bill, with the Senate amendment, should be referred to the Committee on Naval Affairs, and if they, upon examination, find there is a necessity for raising the salaries of these clerks, it can be done. I move to commit the whole matter to the Committee on Naval Affairs.

The motion was agreed to.

ADJOURNMENT TILL THURSDAY.

Mr. STEPHENS, of Georgia. I move that when the House adjourns to-day, it adjourn to meet day after to-morrow, for the purpose of giving the Speaker time to appoint the standing committees of the House.

Mr. MORGAN demanded the yeas and nays. The yeas and nays were ordered.

Mr. STEPHENS, of Georgia. I withdraw the motion for the present.

JOHN DUNCAN.

The bill of the House (No. 366) for the relief of John Duncan, with an amendment of the Senate, was taken up from the Speaker's table for consideration.

The bill directs the Secretary of the Interior to place upon the list of navy pensioners, at the rate of sixteen dollars per month, the name of John Duncan, who was a landsman in the United States Navy on board the United States ship-of-war Brandywine, and who has become totally blind in consequence of disease contracted and injuries received by him while in the line of his duty in the service of the United States; the pension to commence on the 1st of December, 1855, and continue during his natural life; provided, that the pension shall not be paid if he remains a beneficiary in the United States Naval Asylum.

The Senate proposed to amend by striking out "sixteen dollars," and inserting "eight dollars."

Mr. FLORENCE. I move that the House non-concur in the amendment of the Senate; and I do it for this reason: the Committee on Invalid Pensions in this House reported that bill, and they thought that he should be paid sixteen dollars per month, provided he should not be continued as a beneficiary of the Naval Asylum. He

is totally blind; and eight dollars a month is not sufficient to provide him the means of livelihood. The cost to the Government of maintaining him in the naval asylum is probably twice sixteen dollars a month. He has a wife and four children; and he believed that if we gave him sixteen dollars a month, he could perhaps obtain the means of supporting them, and the asylum be relieved from his maintenance. I therefore hope the House will non-concur in the amendment of the Senate, believing that eight dollars a month, as provided in the Senate amendment, would not be accepted by him.

The question was taken; and the House non-concurred in the amendment of the Senate.

ROSWELL MINARD, ETC.

House bill (No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased, with the amendment of the Senate thereto, was taken from the Speaker's table.

The bill of the House is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office shall issue to Roswell Minard, the father of Theodore Minard, deceased, a warrant of one hundred and sixty acres of land, in lieu of bounty land warrant No. 34,754, heretofore issued to Theodore Minard, deceased, which warrant, when so issued, shall be in all respects of the same effect as the said warrant No. 34,754 would have been had it been issued to said Roswell Minard: *Provided, however,* That the said Commissioner of the General Land Office shall be satisfied that said Roswell Minard is the father of the said Theodore Minard, deceased; that the said Theodore Minard died without leaving a wife or lawful children; and that the said Theodore Minard never assigned or transferred the said bounty land warrant No. 34,754.

Sec. 2. And be it further enacted, That the Commissioner of the General Land Office shall be authorized to institute legal proceedings, in such manner as he may deem proper, to vacate the patent issued upon said last mentioned bounty land warrant, to recover the land embraced in said patent, for the benefit of the United States, or for such other relief as he may deem suited to the case, and to cause the person or persons guilty of forging the assignment of said bounty land warrant, and all persons criminally connected with said forgery, or of uttering or passing said forged assignment, to be prosecuted for such offense; the lawful expense of which legal proceedings and prosecutions shall be paid for by the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated.

The Senate proposed to amend by striking out the second section of the bill.

The amendment of the Senate was concurred in.

LAND CLAIMS IN NEW MEXICO.

An act (H. R. No. 565) to confirm the land claims of certain pueblos and towns in the Territory of New Mexico, was next taken up.

The SPEAKER stated that the bill had been returned from the Senate with certain amendments.

The bill, which was read *in extenso*, provides that the pueblo land claims in the Territory of New Mexico, designated in the corrected lists as—A, pueblo of Jemes, in the county of Santa Ana; B, pueblo of Acoma, in the county of Valencia; C, pueblo of San Juan, in the county of Rio Arriba; D, pueblo of Picuris, in the county of Taos; E, pueblo of San Felipe, in the county of Bernalillo; F, pueblo of Pecos, in the county of San Miguel; G, pueblo of Cochili, in the county of Santa Ana; H, pueblo of Santa Domingo, in the county of Santa Ana; I, pueblo of Taos, in the county of Taos; K, pueblo of Santa Clara, in the county of Rio Arriba; L, pueblo of Tesuque, in the county of Santa Fe; M, pueblo of San Ildefonso, in the county of Santa Fe; N, pueblo of Pojuaque, in the county of Santa Fe; F, reported upon favorably by the surveyor general of New Mexico, in his report of September 30, 1856, to the Department of the Interior; and the claim designated as—O, pueblo of Zia, in the county of Santa Ana; P, pueblo of Sandia, in the county of Bernalillo; Q, pueblo of Isleta, in the county of Bernalillo; R, (supposed,) pueblo of Nambé; reported upon favorably by the said surveyor general, January 30, 1857; also the claim No. 7, of the town of Tecolote, in the county of San Miguel; No. 11, of the town of Chilili, in the county of Bernalillo, and No. 13, of the town of Belen, in the county of Valencia; reported for the favorable action of Congress by the surveyor general, on the 30th of September, 1857, be confirmed; and that the Commissioner of the Land Office should issue the necessary instructions for the survey of all of said claims, as recommended for confirmation by the surveyor general, and cause a patent to issue therefor as in ordinary cases to private individ-

uals; provided, that such confirmation shall only be construed as a relinquishment of all title and claim of the United States to any of the lands, and shall not affect any adverse valid rights, should such exist.

The amendments of the Senate, which were read, are as follows:

Strike from the paragraph in reference to the pueblo of Nambé, the date "30th of January, 1857," and in lieu thereof, insert "30th of November, 1856."

Strike out the word "Tecolote," and in its place insert the correct word "Tecolote."

And add:

"Also the claim No. 2, of the town of Tomé, reported upon favorably by the surveyor general of New Mexico, in his report of 30th of September, 1856, to the Department of the Interior."

"Also the claim No. 29, of the town of Casa Colorado, reported upon favorably by the surveyor general of New Mexico, in his report of 30th December, 1856, to the Department of the Interior."

Mr. SANDIDGE. The reports of the surveyor general of New Mexico in these cases were referred to the Committee on Private Land Claims. They came in such voluminous shape that the two claims provided for by the Senate amendments were accidentally omitted or overlooked.

The House agreed to the insertion of all the other pueblos and towns reported on favorably by the surveyor general of New Mexico, and I presume that there will be no objection to the Senate amendments; which provide for nothing beyond the addition of the two towns stated, and the correction of one or two clerical errors.

The amendments of the Senate were concurred in.

BRITISH BRIG CALEDONIA.

An act (H. R. No. 218) for the benefit of the captors of the British brig Caledonia in the war of 1812, was next taken up.

The SPEAKER stated that the bill had been returned to the House with amendments.

The bill directs the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated, to pay the captors of the British brig Caledonia, captured 8th of October, 1812, the sum of \$25,000.

The amendments of the Senate are:

Strike out the words "or legal representatives," where they first occur; strike out the words "legal representatives," where they next occur, and insert, in lieu thereof, the word "widow;" and strike out the words "legal representatives" where they afterwards occur, and in lieu thereof insert the word "child."

Mr. SHERMAN, of Ohio. The amendments of the Senate discriminate against the soldier and in favor of the officers; and I therefore move that they be non-concurred in.

Mr. GIDDINGS. Is there a report accompanying that bill?

The SPEAKER. The Chair presumes that there is.

Mr. GIDDINGS. I am familiar with that case. I recollect very well that the Caledonia was a rich prize, and that her captors made for themselves fortunes out of it.

The amendments of the Senate were non-concurred in.

LOAN BILL.

The SPEAKER. There is a Senate bill upon the Speaker's table, that might as well be disposed of at this time. It is a bill authorizing a loan not to exceed \$15,000,000. If there be no objection, it will be laid upon the table. It was so ordered.

CLAYTON-BULWER TREATY.

The SPEAKER. There is upon the Speaker's table House joint resolution, No. 28, concerning the Clayton-Bulwer treaty, which has been ordered to be read a third time. The pending question is on its passage; on which the previous question has been demanded. It is as follows:

Resolved, That the President of the United States be requested to take such steps as may be, in his judgment, best calculated to effect a speedy abrogation of said treaty.

Mr. RITCHIE moved to lay the whole subject upon the table.

Mr. MILES demanded the yeas and nays.

Mr. BRANCH. Is it in order to move to reconsider to the Committee on Foreign Affairs?

The SPEAKER. It is not. The state of the question, at the present time, is this: The joint resolution was ordered to be read a third time, and was accordingly read the third time. The question was then on the passage of the joint res-

olution. Pending that proposition, the gentleman from New York [Mr. SICKLES] moved that the joint resolution be recommitted to the Committee of the Whole on the state of the Union. On that the gentleman from New York [Mr. JOHN COCHRANE] demanded the previous question; and that is the first question the House will have to vote upon, after the pending question to lay the resolution on the table shall have been disposed of.

The question was taken; and it was decided in the negative—yeas 90, nays 93; as follows:

YEAS—Messrs. Abbott, Andrews, Aroohi, Bennett, Billingshurst, Bingham, Blair, Brayton, Buffinton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochran, Coffax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Goeh, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hickman, Hoard, Horton, Howard, Hughes, George W. Jones, Keim, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Lester, Lovejoy, Millson, Montgomery, Morgan, Morrill, Freeman H. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Phillips, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Waldron, Walton, Cadwalader C. Washburn, Elinu B. Washburne, Israel Washburn, Wilson, and Wood—90.

NAYS—Messrs. Bockee, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Cavanaugh, John B. Clark, Clay, Cobb, John Cochran, Cox, James Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewar, Dowdell, Edmundson, English, Bustis, Faulkner, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harris, Hatch, Hawkins, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Keitt, Lamar, Lawrence, Leidy, McQueen, McRae, Samuel S. Marshall, Mason, Maynard, Miles, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, John S. Phelps, William W. Phelps, Powell, Ready, Reagan, Ricard, Ruffin, Sandridge, Seales, Searing, Henry M. Shaw, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Tripp, Vallandigham, Vance, Ward, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, and Zolllicoffer—83.

So the House refused to lay the resolution on the table.

Pending the vote,

Mr. CURRY stated that his colleague, Mr. SHORTER, was confined to his room by indisposition.

Mr. BRAYTON made a similar statement in regard to Mr. WADE.

Mr. PHILLIPS made a similar statement in regard to Mr. GILLIS.

Mr. MONTGOMERY stated that his colleague, Mr. REILLY, was detained from the House by illness in his family.

The question recurred on seconding the previous question.

Mr. WASHBURNE, of Illinois. If the previous question be not seconded, what will the next order be?

The SPEAKER. Then debate will be opened.

Mr. PHELPS, of Missouri. The motion to commit to the Committee of the Whole on the state of the Union is pending. It seems to me that that would be the best disposition to make of the matter.

Mr. BARKSDALE. I object to any debate. The SPEAKER. Debate is not in order.

The previous question was seconded; there being, on a division—yeas 90, nays 64.

The main question was ordered.

The question recurred on the motion to commit to the Committee of the Whole on the state of the Union; and it was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was referred to the Committee of the Whole on the state of the Union; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

PACIFIC CENTRAL RAILROAD.

Mr. BILLINGHURST. I rise to a privileged question. I move to reconsider the vote by which the bill introduced yesterday by the gentleman from Iowa, [Mr. CURTIS], on the subject of the Pacific railroad, was referred to the select committee raised on that subject at the last session. I make this motion for the purpose of having action taken on the subject. A committee consisting, I believe, of fifteen members, was appointed at last session of Congress, and I am informed that that committee held various sessions, but came to no conclusion, and have reported no resolution and no action to the House. I do not see that anything has to be gained at this session by reviving that committee. The experience of the past does

not recommend that committee very strongly to the confidence of the House. If it be the purpose of the House to have action on the subject of the Pacific railroad, I think the bill should go to a different committee from that to which it has been referred; and which I believe is so divided in sentiment, or from some other cause, that it will be unable to agree on any measure to be reported to the House. I believe we ought not to send the subject to that committee, but think that if it is to go to a select committee, that committee should be composed of another set of men. In that view I make this motion, and ask the previous question.

Mr. CURTIS. I move to lay the motion to reconsider on the table.

The motion was not agreed to, only thirty-seven members voting in its favor.

Mr. CURTIS. Would it be in order, Mr. Speaker, for me to make some explanation at this time?

The SPEAKER. No; the previous question has been demanded.

Mr. CURTIS. But it has not been seconded.

The SPEAKER. Pending the demand for the previous question, debate is not in order.

Mr. BILLINGHURST called for tellers on seconding the previous question.

Tellers were ordered; and Messrs. CHAFFEE, and CRAIG of Missouri, were appointed.

The House divided; and the tellers reported—ayes fifty-one, noes not counted.

So the previous question was not seconded.

Mr. CURTIS. As a member of the committee to which the honorable gentleman from Wisconsin [Mr. BILLINGHURST] has referred, I wish to make a brief explanation. I presume there was no committee of this House that labored more arduously, or, as I believe, more intelligently, for the purpose of determining the issue presented to them than did the select committee on the Pacific railroad. In my opinion, there is no subject before the House of greater magnitude or importance, and none that will require more deliberation and more argument before a final determination can be arrived at. The committee of course were embarrassed by the magnitude and difficulties surrounding the question. They were obliged to discuss the various routes and various modes proposed, to secure some practical result. There was an almost unanimous concurrence on the part of the committee that something ought to be done by Congress toward the construction of a Pacific railroad; but when we came to determine on the mode of action and the route which should be adopted, we found ourselves embarrassed, as this House will be whenever the question comes fully and fairly before it. The important results that are likely to grow out of such a work, excite extraordinary sensibility in every section of the Union.

I acknowledge that there was a conflict of opinion amongst the members of the committee, but that conflict is an element which your committee desired to reconcile. I do not know that any advantage will be gained from a reconstruction of the committee. Its members were well apportioned amongst the various sections of the Union, representing, therefore, the various conflicting views. And I do not despair of a final success on the part of the committee. If the motion which I made yesterday, submitting a Pacific railroad bill, revives the old committee, I am satisfied that the question should be left to them for consideration. For my own part, I am in favor of a Pacific railroad on the Platte valley and Salt Lake central route, and I believe that ultimately there will be a compromise in favor of that route, because it seems to me that only such a route will accommodate the people of all sections of the Union, North and South. I believe that the other members of the committee, who are in favor of different routes, will concur with me in the opinion that we have not yet exhausted our efforts with a view to the presentation of a report, and are willing to make further efforts to bring about practical results. I think, therefore, that there is no object to be attained by a reconsideration of the vote taken yesterday; and I trust the motion of the honorable gentleman from Wisconsin will not prevail.

The question was taken on Mr. BILLINGHURST's motion; and it was not agreed to—ayes forty-eight, noes not counted.

ANNUAL ESTIMATES.

On motion of Mr. PHELPS, of Missouri, it was

Ordered, That the annual estimates be referred to the Committee of Ways and Means.

BILLS INTRODUCED.

The SPEAKER. The Chair yesterday inadvertently omitted to call the Territories for resolutions; and, with the permission of the House, the Chair will now afford the Delegates an opportunity of submitting resolutions and introducing bills of which notice has been given.

There being no objection, the Speaker proceeded to call the Territories in their order, commencing with Oregon.

Mr. LANE, in pursuance of previous notice, introduced the following bills; which were read a first and second time, and referred to the Committee on Public Lands:

A bill for the relief of Robert B. Metcalf and others; and

A bill for the relief of Mary A. Harris, of Oregon.

Mr. OTERO introduced the following bills; which were severally read a first and second time, and referred as indicated below:

A bill to provide for the completion of the military road from Fort Union to Santa Fe, New Mexico—referred to the Committee on Military Affairs;

A bill providing for the completion of the military road from Taos to Santa Fe, in the Territory of New Mexico—referred to the same committee; and

A bill making a grant of lands to the Territories of New Mexico and Kansas, and the State of Missouri, in alternate sections, to aid in the construction of a railroad in said Territories and State—referred to the Committee on Public Lands.

INDIAN HOSTILITIES IN UTAH.

Mr. BERNHISEL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of refunding to the Territory of Utah the expenses incurred by said Territory in suppressing Indian hostilities in the year 1853; and that said committee report by bill or otherwise.

MILITARY ROADS IN UTAH.

Mr. BERNHISEL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing for the construction of a military road from Bridger's Pass, in the Rocky Mountains, to Great Salt Lake City, in the Territory of Utah; and that said committee report by bill or otherwise.

TERRITORIAL LIBRARIES.

Mr. BERNHISEL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of making a small appropriation to increase the territorial libraries of New Mexico, Utah, Washington, Kansas, and Nebraska; and that said committee report by bill or otherwise.

BILLS INTRODUCED.

Mr. STEVENS, of Washington, introduced the following bills; which were severally read a first and second time, and referred to the Committee on Military Affairs:

A bill for the construction of a road from Abercrombie, on the Red River of the North, to Seattle, on Puget Sound, in the Territory of Washington; and

A bill for the survey of the Upper Missouri and Columbia rivers for military purposes.

REPORT FROM THE COURT OF CLAIMS.

The SPEAKER laid before the House a report from the Court of Claims.

The bills reported by the court were, by unanimous consent, considered as having received their first and second reading, and were referred to the Committee of Claims.

The adverse reports were, under the rule, ordered to be placed upon the Calendar.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the following communications; which were laid on the table, and ordered to be printed:

A report from the Secretary of State, commu-

nicating an abstract and return of registered American seamen;

A communication from the Secretary of State in reference to the incidental expenses of his Department; and

A communication from the Secretary of the Interior, transmitting a statement of the expenditures of the contingent fund of his Department for the year ending June 30, 1858.

MEMORIAL OF NEBRASKA.

The SPEAKER also laid before the House a joint memorial of the Legislature of Nebraska with reference to school lands; which was referred to the Committee on Public Lands.

LAWS OF OREGON AND WASHINGTON.

The SPEAKER also laid before the House copies of the laws of Oregon and Washington; which were referred to the Committee on Territories.

ADJOURNMENT TO THURSDAY.

Mr. STEPHENS, of Georgia. I move that when the House adjourns, it adjourn to meet on Thursday next, in order to give the Speaker time to appoint the standing committees.

Mr. MORGAN. I demand the yeas and nays on that motion. There is no earthly reason why we should adjourn over.

Mr. STANTON. I understood the Speaker to say this morning that the standing committees would be announced to-morrow. I cannot, therefore, see any reason why we should adjourn over for the purpose stated by the gentleman from Georgia.

Mr. MORGAN. It would be a mere squandering of time.

Mr. DEAN demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken on Mr. STEPHENS's motion; and it was agreed to—ayes 85, noes 63.

And then, on motion of Mr. JOHN COCHRANE, (at two o'clock and twenty minutes, p. m.) the House adjourned to Thursday.

IN SENATE.

Thursday, December 9, 1858.

Hon. JOHN J. CRITTENDEN, of Kentucky, Hon. ANDREW JOHNSON, of Tennessee, and Hon. ROBERT TOOMBS, of Georgia, appeared to-day.

Prayer by Rev. P. D. GURLEY, D. D.

The Journal of Tuesday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of State, communicating, in pursuance of law, an abstract of returns of registered American seamen; which was laid on the table until the committees shall be appointed.

He also laid before the Senate a report from the Secretary of State, showing, in obedience to law, the contingent and other disbursements of that Department for the fiscal year ending the 30th of June, 1858, the unexpended balances of appropriations for the same period, and the contingent expenses of foreign intercourse for the year ending 30th November, 1853; which was ordered to lie on the table.

He also laid before the Senate the annual report of the Superintendent of the Public Printing; which was ordered to lie on the table.

THE NEW SENATE CHAMBER.

Mr. BRIGHT submitted the following resolution:

Resolved, That the Committee on Public Buildings and Grounds inquire into the condition of the new Chamber for the Senate, and report at what time it may be permanently occupied, and the ceremony appropriate upon removing thereto.

The resolution lies over, under the rule.

MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives, by Mr. ALLEN, its Clerk:

Mr. PRESIDENT: The House of Representatives agrees to the amendment of the Senate to the bill of the House (No. 535) entitled "An act to confirm the land claim of certain pueblos and towns in the Territory of New Mexico," and to the amendment of the Senate to the bill (H. R. No. 356) "for the relief of Roswell Minard, father of Theodore Minard, deceased;" and disagrees to the amendment of the Senate to the bill (H. R. No. 218) "for the benefit of the

captors of the British brig *Caledonia*, in the war of 1812;" and to the amendment of the Senate to the bill (H. R. No. 366) "for the relief of John Duncan."

Mr. HALE. I wish to make a single suggestion in regard to these bills. It seems that the House have acted under a misapprehension of the 21st joint rule as we have. It was so suggested to me by a member of the House, and it turns out that these bills were improperly before them. I think the better way would be to lay them all on the table for the present, until some further action can be had upon them.

The bills were ordered to lie on the table.

PETITIONS.

Mr. GWIN presented the petition of Charles Abert, an attorney-at-law, praying to be allowed the balance of his fees for professional services in connection with the Washington aqueduct, rejected by Captain Meigs on the settlement of his accounts; which was ordered to lie on the table.

He also presented the petition of D. G. Farragut, a captain in the Navy, praying to be allowed the amount of compensation estimated by the Navy Department for the commandant of the California navy-yard, during the time he was in command; which was ordered to lie on the table.

He also presented the petition of D. G. Farragut, a captain in the Navy, praying to be allowed an amount paid by him to two masters' mates enlisted by him, under authority of the Navy Department, which was rejected on the settlement of his accounts; which was ordered to lie on the table.

Mr. JONES presented three petitions of citizens of Iowa, praying for the establishment of a mail route from McGregor to St. Charles, in Floyd county, in that State; which were ordered to lie on the table.

Mr. RICE presented a memorial of the Legislature of Minnesota, praying for an appropriation for the improvement of the Mississippi river, from the mouth of the Minnesota river to Sauk Rapids; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying for an appropriation for the improvement of the Mississippi river at Beef Slough bar; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying for an appropriation for the improvement of the St. Croix river; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying an amendment of an act granting lands to that State for railroad purposes; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying for a grant of land to aid in the construction of a railroad from Winona via La Crescent and Brownsville, to the point of junction with the Milwaukee and Mississippi road, at the southwestern boundary line of the State; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying a grant of land to aid in the construction of a railroad from the confluence of the southern branch of Root river to Sioux Falls City; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying that grants of land may be made for the establishment of agricultural colleges in that and other States, and that a homestead of one hundred and sixty acres of land may be granted to actual settlers; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying for a grant of land to aid in the construction of the Nininger, St. Peters and Western railroad; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota for an appropriation to complete the Mendota and Big Sioux river military road; also, for an appropriation to aid in the construction of a wagon road from some point on Lake Superior, in Minnesota, to the South Pass in the Rocky Mountains; which were ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying for an appropriation to complete the Point Douglas and St. Louis river military road; which was ordered to lie on the table.

He also presented a memorial of the Legisla-

ture of Minnesota for an appropriation to defray the expenses of expeditions against hostile Indians in the Territory of Minnesota; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, in relation to certain appropriations made by Congress for the Territory of Minnesota; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying that appropriations may be made to indemnify the State of Minnesota for certain expenditures on account of debts incurred in its territorial condition; which was ordered to lie on the table.

He also presented nineteen memorials praying for the establishment of certain mail routes; which were ordered to lie on the table.

He also presented a joint resolution of the Legislature of Minnesota in favor of an overland route from the Mississippi river to the Pacific ocean; which was ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota relative to the Sioux and Winnebago reservations; which was ordered to lie on the table.

He also presented joint resolutions of the Legislature of Minnesota praying for the early establishment of a mail route, and tri-weekly mail from Chatfield, in Fillmore county, to Winnebago city, in Faribault county, via High Forest, Brownsville, Lansing, Moscow, Sumner, and Bancroft. Also, a mail route and weekly mail from Owatonna to Vernon, in Blue Earth county, via Meriden and Wilton; also, for a mail route and weekly mail from Hastings, in Dakota county, to Saint Peters, in Nicollet county, via Lakeville, Wheatland, and Lexington; which were ordered to lie on the table.

He also presented a memorial of the Legislature of Minnesota, praying for a grant of land to aid in the construction of certain railroads therein named; which was ordered to lie on the table.

PAPERS WITHDRAWN.

On motion of Mr. STUART, it was Ordered, That J. M. Gilbert have leave to withdraw his petition and papers.

On motion of Mr. MASON, it was Ordered, That John Good have leave to withdraw his petition and papers.

NOTICES OF BILLS.

Mr. RICE gave notice of his intention to ask leave to introduce the following bills:

A bill for the erection of a building at St. Paul, for a public depository, custom-house, post office, court-rooms, and other United States offices;

A bill for an overland mail from St. Paul to Puget Sound;

A bill for an appropriation for a wagon road from Fort Abercrombie via Fort Union, to the Pacific; and

A bill making an appropriation to defray the expenses of Captain Starkey's company of volunteers, called into service by Governor Medary, Governor of the late Territory of Minnesota.

Mr. IVERSON gave notice of his intention to ask leave to introduce a bill to abolish the franking privilege of members of Congress, and substitute a commutation in money for the franking privilege and for stationery.

ASSISTANT DOORKEEPER.

Pursuant to the resolution adopted on Tuesday last, the Senate proceeded to the election of an assistant doorkeeper, in the place of Mr. Isaac Holland, deceased.

The whole number of votes given was 47; necessary to a choice, 24; of which—

Mr. C. S. Jones received.....	31
Mr. Lewis Clephane.....	12
Mr. Bassett.....	3
Mr. Nelson.....	1

Mr. Jones having received a majority of all the votes given, was declared duly elected.

On motion of Mr. MASON, the Senate then adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 9, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. L. ELLIOTT.

The Journal of Tuesday last was read and approved.

STANDING COMMITTEES.

The SPEAKER announced the following as the

standing committees of the House for the present session:

Committee of Elections—William W. Boyce of South Carolina, John W. Stevenson of Kentucky, Israel Washburn of Maine, Lucius Q. C. Lamar of Mississippi, Ezra Clark, jr., of Connecticut, John A. Gilmer of North Carolina, John V. Wright of Tennessee, James Wilson of Indiana, and James M. Cavanaugh of Minnesota.

Of Ways and Means—John S. Phelps of Missouri, John Letcher of Virginia, H. Winter Davis of Maryland, James F. Dowdell of Alabama, William A. Howard of Michigan, Martin J. Crawford of Georgia, Justin S. Morrill of Vermont, William B. Maclay of New York, and Henry M. Phillips of Pennsylvania.

Of Claims—Samuel S. Marshall of Illinois, Miles Taylor of Louisiana, John C. Kunkel of Pennsylvania, Thomas G. Davidson of Louisiana, Henry C. Goodwin of New York, Sydenham Moore of Alabama, Samuel Arnold of Connecticut, Horace Maynard of Tennessee, and James Jackson of Georgia.

On Commerce—John Cochrane of New York, John S. Millson of Virginia, Elihu B. Washburne of Illinois, W. Porcher Miles of South Carolina, Edward Wade of Ohio, James A. Stallworth of Alabama, George Eustis of Louisiana, James Landy of Pennsylvania, and Linus B. Comins of Massachusetts.

On Public Lands—Williamson R. W. Cobb of Alabama, John McQueen of South Carolina, Henry Bennett of New York, John G. Davis of Indiana, Thomas Ruffin of North Carolina, Joshua Hill of Georgia, William Montgomery of Pennsylvania, Joseph C. McKibbin of California, and Muscoe R. H. Garnett of Virginia.

On the Post Office and Post Roads—William H. English of Indiana, Paulus Powell of Virginia, John M. Wood of Maine, Charles L. Scott of California, Valentine B. Horton of Ohio, Timothy Davis of Iowa, James Craig of Missouri, Reuben Davis of Mississippi, and John D. C. Atkins of Tennessee.

For the District of Columbia—William O. Goode of Virginia, Thomas F. Bowie of Maryland, Edward Dodd of New York, Henry C. Burnett of Kentucky, Edward Joy Morris of Pennsylvania, Augustus R. Wright of Georgia, Sidney Dean of Connecticut, Alfred M. Scales of North Carolina, and Elijah Ward of New York.

On the Judiciary—George S. Houston of Alabama, John S. Caskie of Virginia, Mason W. Tappan of New Hampshire, Burton Craige of North Carolina, Charles Billingshurst of Wisconsin, Miles Taylor of Louisiana, Charles Ready of Tennessee, Henry Chapman of Pennsylvania, and Horace F. Clark of New York.

On Revolutionary Claims—Samuel S. Cox of Ohio, George Taylor of New York, Isaiah D. Clawson of New Jersey, Aaron H. Cragin of New Hampshire, James Jackson of Georgia, Owen Lejoy of Illinois, Abner L. M. Curry of Alabama, Henry L. Dawes of Massachusetts, and Zebulon B. Vance of North Carolina.

On Public Expenditures—John M. Elliott of Kentucky, Henry A. Edmundson of Virginia, John Covode of Pennsylvania, Jacob R. Wortendyke of New Jersey, John M. Parker of New York, Joseph R. Cockerill of Ohio, William Kellogg of Illinois, James M. Gregg of Indiana, and E. P. Walton of Vermont.

On Private Land Claims—John M. Sandidge of Louisiana, Joseph C. McKibbin of California, Aaron Harlan of Ohio, William T. Avery of Tennessee, Cadwalader C. Washburn of Wisconsin, Francis P. Blair of Missouri, George S. Hawkins of Florida, Reuben E. Fenton of New York, and Charles J. Gilman of Maine.

On Manufactures—William D. Bishop of Connecticut, Albert G. Watkins of Tennessee, Philemon Bliss of Ohio, Sherrard Clemens of Virginia, Nathaniel B. Durfee of Rhode Island, John A. Ahl of Pennsylvania, James B. Ricard of Maryland, Henry M. Shaw of North Carolina, and Stephen C. Foster of Maine.

On Agriculture—William G. Whiteley of Delaware, Lawrence W. Hall of Ohio, William H. Kelsey of New York, John Huyler of New Jersey, Richard Mott of Ohio, James B. Foley of Indiana, James L. Gillis of Pennsylvania, Robert P. Trippie of Georgia, and William H. Keim of Pennsylvania.

On Indian Affairs—Alfred B. Greenwood of

Arkansas, Eli S. Shorter of Alabama, Benjamin F. Leiter of Ohio, Samuel H. Woodson of Missouri, Schuyler Colfax of Indiana, William F. Russell of New York, Charles L. Scott of California, Silas M. Burroughs of New York, and Guy M. Bryan of Texas.

On Military Affairs—Charles J. Faulkner of Virginia, John H. Savage of Tennessee, Humphrey Marshall of Kentucky, Benjamin Stanton of Ohio, Milledge L. Bonham of South Carolina, Samuel R. Curtis of Iowa, George H. Pendleton of Ohio, James Buffinton of Massachusetts, and John J. McRae of Mississippi.

On the Militia—Israel T. Hatch of New York, Albert G. Watkins of Tennessee, Anthony E. Roberts of Pennsylvania, Thomas F. Bowie of Maryland, Cyndor B. Tompkins of Ohio, Edward A. Warren of Arkansas, Aaron Shaw of Illinois, Albert G. Jenkins of Virginia, and Eli Thayer of Massachusetts.

On Naval Affairs—Thomas S. Boccock of Virginia, Thomas B. Florence of Pennsylvania, Timothy Davis of Massachusetts, Warren Winslow of North Carolina, James L. Seward of Georgia, John Sherman of Ohio, Erastus Corning of New York, Freeman H. Morse of Maine, and George S. Hawkins of Florida.

On Foreign Affairs—George W. Hopkins of Virginia, James B. Clay of Kentucky, Anson Burlingame of Massachusetts, William Barksdale of Mississippi, Daniel E. Sickles of New York, David Ritchie of Pennsylvania, William S. Groesbeck of Ohio, Homer E. Royce of Vermont, and Lawrence O'B. Branch of North Carolina.

On the Territories—Alexander H. Stephens of Georgia, William Smith of Virginia, Galusha A. Grow of Pennsylvania, James Hughes of Indiana, Felix K. Zollicoffer of Tennessee, Amos P. Granger of New York, John B. Clark of Missouri, Chauncey L. Knapp of Massachusetts, and Clement L. Vallandigham of Ohio.

On Revolutionary Pensions—John Hickman of Pennsylvania, Henry M. Shaw of North Carolina, Robert B. Hall of Massachusetts, Paul Leidy of Pennsylvania, John M. Parker of New York, Sherrard Clemens of Virginia, Nehemiah Abbott of Maine, John F. Potter of Wisconsin, and John F. Farnsworth of Illinois.

On Invalid Pensions—Joshua H. Jewett of Kentucky, Thomas B. Florence of Pennsylvania, George R. Robbins of New Jersey, John H. Savage of Tennessee, Calvin C. Chaffee of Massachusetts, Joseph Burns of Ohio, Thomas L. Anderson of Missouri, Charles Case of Indiana, and George W. Palmer of New York.

On Roads and Canals—George W. Jones of Tennessee, Albert G. Talbot of Kentucky, Samuel G. Andrews of New York, John C. Mason of Kentucky, John Thompson of New York, Edward A. Warren of Arkansas, David S. Walbridge of Michigan, Isaac N. Morris of Illinois, and Daniel W. Gooch of Massachusetts.

On Patents—James A. Stewart of Maryland, Wilson Reilly of Pennsylvania, John R. Edie of Pennsylvania, William E. Niblack of Indiana, and William D. Brayton of Rhode Island.

On Public Buildings and Grounds—Lawrence M. Keitt of South Carolina, Samuel O. Peyton of Kentucky, Edwin B. Morgan of New York, Lawrence W. Hall of Ohio, and Samuel A. Purviance of Pennsylvania.

On Revisal and Unfinished Business—William L. Dewart of Pennsylvania, Joseph Miller of Ohio, Dewitt C. Leach of Michigan, Guy M. Bryan of Texas, and Judson W. Sherman of New York.

On Accounts—John A. Searing of New York, Paulus Powell of Virginia, John Dick of Pennsylvania, Jacob M. Kunkel, of Maryland, and Francis E. Spinner of New York.

On Mileage—Robert Smith of Illinois, Ambrose S. Murray of New York, J. Morrison Harris of Maryland, William W. Phelps of Minnesota, and Henry Waldron of Michigan.

On Engraving—Garnett B. Adrain of New Jersey, Israel T. Hatch of New York, and Warner L. Underwood of Kentucky.

On Expenditures in the State Department—Owen Jones of Pennsylvania, Jabez L. M. Curry of Alabama, John A. Bingham of Ohio, William T. Avery of Tennessee, and Charles B. Hoard of New York.

On Expenditures in the Treasury Department—William Lawrence of Ohio, Allison White of Pennsylvania, David Kilgore of Indiana, Jacob

M. Kunkel of Maryland, and Lucius J. Gartrell of Georgia.

On Expenditures in the War Department—Wilson Reilly of Pennsylvania, Clark B. Cochran of New York, Joseph R. Cockerill of Ohio, William Stewart of Pennsylvania, and John V. Wright of Tennessee.

On Expenditures in the Navy Department—John B. Haskin of New York, Joseph Miller of Ohio, Emory B. Pottle of New York, Paulus Powell of Virginia, and Reuben Davis of Mississippi.

On Expenditures in the Post Office Department—Albert G. Talbot of Kentucky, John H. Reagan of Texas, George W. Palmer of New York, Joseph Burns of Ohio, and James B. Foley of Indiana.

On Expenditures on the Public Buildings—Allison White of Pennsylvania, George Taylor of New York, Cadwalader C. Washburn of Wisconsin, Joseph Miller of Ohio, and Abram B. Olin of New York.

Joint Committee on the Library—William H. Dimmick of Pennsylvania, Warren Winslow of North Carolina, and John U. Pettit, of Indiana.

Joint Committee on Printing—Samuel A. Smith of Tennessee, Otho R. Singleton of Mississippi, and Matthias H. Nichols of Ohio.

Joint Committee on Enrolled Bills—Thomas G. Davidson of Louisiana, and James Pike of New Hampshire.

NOTICES OF BILLS.

Mr. MORRIS, of Illinois. Mr. Speaker, I desire to give notice to the House, that on to-morrow I shall ask leave to introduce a bill for an act authorizing the people of the several organized Territories of the United States to provide through their respective Legislatures for the appointment or election of their Governors, judges, and all other territorial officers, in such mode or manner as said Legislatures may by law determine.

I also desire to give notice that I shall introduce a bill for an act providing for the admission of sugar and salt into all the ports of the United States free of duty.

I also desire to give notice that on Tuesday next I shall introduce a bill for an act to amend the naturalization laws.

CASE OF JUDGE WATROUS.

The SPEAKER stated that the business first in order was the consideration of the report of the Committee on the Judiciary, in reference to the case of Judge John C. Watrous.

[See Appendix for the reports of the committee.]

Mr. HOUSTON. Mr. Speaker, I suppose the usual order in a case of this kind would be first to read the reports of the two branches of the committee. I do not know that the House desires to have those reports read at this time. That is the usual course, however, and unless some gentleman indicates a desire that a different course shall be pursued, I will ask for the reading of those reports.

Mr. READY. By the request of the minority of the committee with which I act, and in behalf of some other gentlemen who, I am advised, desire to be heard in reference to the charges which have been preferred against Judge Watrous, and who have not had an opportunity to look into the reports and into the testimony upon which they are founded, I ask that the consideration of this case may be postponed until an early day—say until Thursday of next week. I am advised by one of the members of the committee that he has never been furnished with a copy of the reports and testimony, or with the record that has been made up in the case, in any form or shape; that he has been wholly unable to procure it, and it is therefore but justice to that member of the committee, as well as other gentlemen who may desire to be heard upon the subject, that they should have an opportunity to look into the reports and testimony, which is very voluminous. I therefore move that the further consideration of the case be postponed until Thursday of next week, and made the special order for that day.

Mr. HOUSTON. I suppose that the consideration of this case will, in all likelihood, occupy quite a number of days, during which the gentlemen who have not had an opportunity to examine the documents in the case, will have an opportunity of doing so. If, however, the House desires further time to examine it before going into its consideration, I do not wish to seem to be desirous of pressing a case of this kind pre-

maturely to a vote in the House. There is one thing, however, which I ask gentlemen to take into consideration before they vote to postpone to any day in advance of this time, which is, that if the case should ultimately go to the Senate for trial, it would consume, necessarily, a large portion of the time of the Senate. If we therefore propose that the Senate shall act upon it during this session of Congress, there is no time to be lost in sending it there, so that they may take the necessary steps to have the witnesses here, and be ready to go into the investigation. I do not like to resist the motion of the gentleman from Tennessee, [Mr. READY,] but it does seem to me that the objects which he has in view may be as well attained during the progress of the debate by commencing to-day and continuing it until some future day.

Mr. CRAIGE, of North Carolina. I hope the suggestion of the gentleman from Tennessee [Mr. READY] will be agreed to by the House. It will be recollected that this report came in at the heel of the last session, probably one or two days before the adjournment. A portion of the testimony had then been printed, and the remainder was printed afterwards; but as a member of the Judiciary Committee, not agreeing in my conclusions in reference to this case with the gentleman who has just taken his seat, I should like to have further time to look into the matter. Although a member of the committee who agreed in the report which was made—if any report was made, for a majority of the committee could not concur in any report—I have not had time to look into all the documents, which I understand amount to some eighteen hundred or two thousand printed pages. I presume but few members of the House have looked into the documents of the case since the adjournment of the first session of this Congress. If the members of this committee have not had the opportunity of refreshing their recollections as to what took place in the committee room, I take it for granted that a great majority of the members of the House have not done it. Inasmuch, therefore, as this decision of the House upon this case in future may be quoted as a precedent—for upon the subject of impeachments, we are now almost wholly without precedent—the House ought not to go into the investigation without giving every member who desires it an opportunity of looking into the important questions involved in the inquiry. I am as anxious as the gentleman who has taken his seat, that this matter should be brought to a termination, but at the same time it is due to the country, it is due to the defendant, it is due to the House, that an inquiry involving so grave and important questions should not be touched lightly. I am perfectly satisfied that there is not a member of this House who is prepared to give the matter that calm, careful, and deliberate investigation which its importance demands. I hope, therefore, that the proposition of the gentleman from Tennessee, to postpone it for one week, will be agreed to by the House.

Mr. JOHN COCHRANE. It is disagreeable to oppose a motion for the postponement of a case so serious, grave, and important as this; but I think the affairs of the country and the affairs of this Congress, both as existing upon our Calendar, and which may come before us in future days, press upon us so heavily as to require us to act with due caution and due investigation with reference to the case now presented to us, and with reference to other cases which are made special orders for other days now hastening upon us. I have no doubt that the House is now as well prepared to go on with the investigation of this case as it ever will be prepared—I do not mean for a decision upon the question of impeachment, but for examination and argument.

Now, sir, those documents have been upon our tables for some weeks; they have been within the reach of members during the recess; they have had ample time to read all that has been said and written upon the case, as it is now presented.

Mr. CRAIGE, of North Carolina. The gentleman says these documents have been on our tables for some weeks, and that members have had abundant opportunity to investigate them. Now, I would ask the gentleman from New York, although he is a remarkably diligent man, whether he has, during the recess, found time to read these documents?

Mr. JOHN COCHRANE. I will answer my

friend with pleasure, that I have not had time to give the case that careful examination which its importance seemed to require; but I have examined it sufficiently, and I believe a majority of the House has examined it sufficiently, to take up the case at once, with the understanding that in the course of the debate, we may be able to come to a comprehensive and proper conclusion. I do not pretend to say that the House is now prepared to decide; but I believe that we may most expeditiously come to that decision by taking up this case at the present time. The point I make is not that I object to the postponement because the parties are in readiness, but that I object to the postponement because the most proper and expeditious method of arriving at a proper conclusion is by taking up the case at this present point. What will be the effect of postponing this case until next week? Gentlemen will come here on the day to which it is postponed in precisely the same state of preparation in which they are now; and they will listen to the arguments with the same information; they will listen to the discussion with the same conviction with which they will listen now, if the argument and discussion are to proceed at this time. If gentlemen, with the documents in their possession, could not and did not examine the case during the recess of several months, I ask what hope there is that during the seven days to intervene between this day and the day of the proposed postponement, when members have before them all the business to be considered and acted upon during this short session, that members will take it up and investigate it more diligently? It seems to me that simple justice towards the party accused and the party most concerned, as well as a due regard for the dignity and interests of the country, which are in some degree involved, even by the mooted of a question of impeachment of a high judicial functionary, requires that we should now proceed to consider the case at the time to which, with due deliberation at the last session, we agreed it should be postponed.

Mr. REAGAN. Mr. Speaker, I do not rise for the purpose of specifically resisting the proposition which has been made to continue this case until Thursday of next week; for I am willing that the House should consult its own disposition on the subject. So far as I am personally concerned, I am ready to proceed with the discussion at once; but if it be deemed necessary to the convenience of members, and a fair and full examination of the case on their part, that there should be a postponement until Thursday next, I have no desire to throw obstacles in the way of such postponement. I rise, Mr. Speaker, particularly for the purpose of invoking the attention of the members of this House to the fullest investigation of this case. It is one of such magnitude and importance as to demand from them, I think, their closest and most serious consideration. It demands their attention as well from a necessity to settle the manner of proceeding in cases of impeachment, as a regard for the interests of, not Texas alone, but of all the States of the Union. What more serious and important subject can attract our attention than the purity and dignity of the national judiciary? Therefore, if it be determined that the case shall not be taken up this morning, but that, on the contrary, it shall be postponed for a few days, I ask members to bestow some attention upon it in the interim; for it is one of a magnitude unequaled by any case of impeachment ever presented for the action of this Congress, or ever presented for the action of the Parliament of England, if we except only the great East India case of Warren Hastings. I trust that the case will not be permitted to be delayed by postponements from day to day; but, on the contrary, that when it is taken up, it will be pushed to a decision one way or the other. Efforts to bring this judge to trial have been made in two preceding Congresses. Memorials were presented at the beginning of this Congress, and an investigation was ordered by the House, and reports are now before us from the Committee on the Judiciary. We are told by the distinguished gentleman from Tennessee, [Mr. READY,] that a volume of evidence and papers in the case have been printed filling some fourteen hundred pages. The facts involved are before the House. I doubt not that the present postponement is asked for in good faith, and not for the purpose of delay, but to af-

ford an opportunity for an examination of the documents in the case, and I do not, I repeat, object to it; but I do ask the House to resist any further delay.

Mr. MAYNARD. Mr. Speaker, I do not propose to consume the time of the House at any great length, but only to give the reasons why I shall vote in favor of the postponement. We are told by gentlemen of the Committee on the Judiciary, honorable gentlemen, and on their personal responsibility, gentlemen to whom we have a right to look, and to whom we shall look, for an exposition of the facts connected with this case, that they desire time to prepare for a proper presentation of the facts to the House. They state that, as a matter of fact, they desire a postponement of the discussion, in order to give themselves, and any others who may wish to participate in the debate, time. Speaking for themselves alone, it is a request that it seems to me it would be entirely ungracious to deny; and when, in that view of the case, without stopping to inquire whether they have been negligent or prompt in preparation; without stopping to inquire whether they might have done things which they say they have not done; without stopping to inquire whether they might, by the use of due diligence, have been prepared or not, they tell us, as a matter of fact, that they are not prepared, I think it is due to them, and due to ourselves, to give them the postponement of one week which they ask; and I shall accordingly vote for it.

Mr. SHORTER. I was not present in the Hall when the motion was made for postponement; but I understand that it was moved by the gentleman from Tennessee [Mr. READY] that the further consideration of this case be postponed until this day week. I hope that Tuesday week will be substituted for next Thursday, for the reason that Friday of next week is assigned for the consideration of a claim in which citizens of Georgia and Alabama are interested, and that, as this case will consume more than one day, that special order will, practically, be superseded. I am in favor of postponement, and will vote for it, but I ask that Tuesday week, instead of Thursday of next week, be fixed as the day.

Mr. READY. I have no special preference for Thursday, or for any other day. My only desire is to give the House sufficient time to look into the testimony, which is very voluminous, and to understand this case. If it be the pleasure of the House to postpone it a few days longer than I have asked, I have no objection; nor am I disposed to say that I would object to even a shorter time. I simply wish the House to have an opportunity to understand this subject, which, I agree with the honorable gentleman from Texas, is one of vast magnitude to the individual against whom the charges are preferred, as well as to the country; and therefore I think the subject ought not to be acted on without a full understanding of it by the House.

By the gentleman's permission, I will say further, by way of explanation, that the testimony in this case perhaps embraces upwards of a thousand pages; and the depositions alone, which were taken by the committee at the last session, cover nearly five hundred pages. There is a large amount of record evidence, besides the depositions that were taken, swelling the whole volume to more than a thousand pages. It would be utterly impossible, in the course of an argument of an hour, to analyze and collate this immense mass of testimony so as to make it intelligible to any gentleman who has not taken the time to read it for himself; and I have understood from various gentlemen, even since I made the motion, that they have never looked into any portion of the testimony, and are therefore totally unprepared to vote in the matter. I think, therefore, that there is great propriety in a postponement of this case; but I beg to assure my friend from Texas, [Mr. REAGAN,] that I make this motion in good faith, and not for the purpose of defeating the speedy action of this House. If it comports with the views of the House to fix any other day than that which I first designated, I have no objection.

Mr. SHORTER. Mr. Speaker, I had occasion, during the last session, to examine this case somewhat, and was then satisfied that it would require several days before the House could dispose of it. For that reason I suggested to the

gentleman from Tennessee that, if this case be postponed for one week from to-day, it would interfere with the special order for Friday of next week. I am not disposed to defeat the investigation of this case, because I think the charge against Judge Watrous is a grave and serious one. But I wish also to do justice to those parties who are interested in the Alabama and Georgia claims; and, if we substitute next Tuesday instead of next Thursday, I think it will be satisfactory to all parties who are in favor of postponement. If next Thursday is to be selected, I prefer to go on now with the investigation of this case, rather than to have it interfere with the special order of next week. I hope the gentleman from Tennessee will accept that amendment, and substitute next Tuesday week instead of next Thursday.

Mr. CHAPMAN. I am surprised that this proposition to postpone the hearing of this case to another day has been made, because any one who is familiar with the case, and has a knowledge of the length of time that it required the Committee on the Judiciary to investigate it, must be satisfied that, if it be postponed in this House from day to day, although it may be finally determined to impeach Judge Watrous, there will be no time for the Senate to make a thorough investigation of the case. It will be recollected that it was on my motion, before the adjournment of last session, that this case was postponed till to-day; and I made that motion then for precisely the same reasons that have now been assigned by the gentleman from Tennessee. I understood him to say that, notwithstanding he was a most diligent and industrious member of that committee, present throughout the whole investigation, he has not had an opportunity fully to investigate it. He has had the same opportunity which the other members of the committee have had. He has had the whole of the last session to consider it, and has had the whole of the interval; and I am sure that if he shall ever be prepared to decide this case, that preparation will be consequent on such discussion as may grow out of the case on its being taken up.

Why should we postpone the consideration of the case for an hour? This time was deliberately assigned at the last session. The notice was then given that the opportunity should be embraced to investigate the case. Who knows whether, on the day proposed to be fixed for the consideration of the case, another proposition might not be made for further postponement; and thus the matter be dragged along in this Hall until it shall be out of the question to have Judge Watrous tried before the Senate, and until thus the same fate which the other investigations have met shall befall this also? It strikes me that there can be no objection to the opening of the discussion in this case, and then, if afterwards there shall be any actual necessity for a postponement for a few days, I may not, perhaps, interpose an objection. But I see an advantage in opening the investigation at this time, and in going into the discussion. Instead of members suffering a disadvantage from it, they will derive an advantage, and be the better prepared to decide the case.

Mr. RITCHIE. I think there is one advantage to be found in going on with this case to-day. To-day, and to-morrow, and next day, it will interfere with nothing else. There is no other business set down for either of these three days; and therefore members of the House will be perfectly free to pay attention to the case. If, at the end of three days, it should be found that further time will be requisite in order to have a defense made on the part of Judge Watrous, then, I presume, the House will be willing to accord further time. But these three days are, perhaps, the best that could be selected in the whole session for the hearing of this case. Members will come quite unprejudiced to the consideration of this case, simply from the fact that it interferes with no other business. None of us have any other pressing business on hand for these three days. I know very little about this case, almost nothing, and am waiting to hear statements of the case from gentlemen on either side of the question. I may say, for myself, that I prefer sitting here and listening during these three days than at any other time that could be fixed, because no other business interferes with it.

Mr. STEWART, of Maryland. Mr. Speaker, I recognize the importance of this case, and the

propriety of the suggestions of the gentleman from Texas. It is a case of great importance to the individual who is involved, and of great importance to Texas, and to the country. But, sir, in a case of such magnitude we should act with some sort of system. The case has been set down for to-day, on a motion made at the last session of Congress, and members have had an opportunity to read and weigh the testimony; but now a proposition is made to postpone it further. We are setting here somewhat as a court, to which a proposition is made to continue a cause that had been set down for trial. Now, sir, I have heard what has been urged by the distinguished gentleman from Tennessee, [Mr. READY,] and I have heard the suggestions of other gentlemen all round the House, but I have not heard sufficient reasons assigned why this case should be continued. If the members of this House, who have to decide upon it, have not had an opportunity during the recess to examine the mass of testimony, can it be believed for a moment that in the short interval of time between this and next Thursday—for that, I believe, is the day to which it is now proposed to postpone the case—members will come up any better prepared to decide upon it? I apprehend not, sir. I say, therefore, it is due to ourselves, sitting as a court, it is due to the committee, and due to the distinguished gentleman who is arraigned, that, for the reasons stated for this motion, the case should not be continued. Members will not be taken by surprise. The case, I suppose, will be argued on both sides of the question by the members of the committee, distinguished gentlemen and learned in the law; they were equally divided, and the House permitted a report or statement to be presented by each branch of the committee.

Well, now, I submit to the House whether, when the case has been so long pending, this being the attitude of the committee, and the case having been set down for to-day, upon what ground we can now vote to continue it? If it be postponed, it may interfere with other business that has been set down for other days. If it be put off till Friday, it will, as was suggested by the gentleman from Alabama, [Mr. SHORTER,] interfere with private bill-day, and besides that there will then be but two days in which to dispose of the case, unless it goes over to the following week. So far, therefore, as my action is concerned, I should not feel justified in voting to continue this case until Thursday.

Mr. CRAIGE, of North Carolina. It strikes me that the gentleman from Maryland is laboring under a slight mistake in comparing this motion for a postponement to a motion for a continuance of a case in court; and I am surprised that a gentleman occupying the position that he does should make such a mistake. We do not propose to put this case off to another term as a continuance would do, but only to postpone it to another day during the present term.

Mr. STEWART, of Maryland. I certainly differ from the gentleman from North Carolina in my appreciation of what the pending motion is. It is a proposition to continue the case, not to the next term, but to another day in the present term; and I hold that there is no sufficient reason for continuing it at all.

Mr. MASON. This is an old case on this record. It has been standing here, sir, ever since I was a member of this House—six or eight years ago. This same Watrous case was here then. It came back here last year. It is here again at the commencement of this session; and I hope the House will either put it off indefinitely, and never try it at all, or try it at once, if we are ever to have a hearing of it. Let us dispose of it in some way or other. If gentlemen have not been able to make up their opinions in one, two, three, four, or five years, they ought to do it in the sixth year. The case has been here a long time, and ought to be disposed of.

Mr. CHAFFEE. I shall object most sincerely and earnestly to the postponement of this case till next Thursday, for the reason that I find already upon the Private Calendar two hundred and thirty-five bills, and it will interfere with private bill day. I shall, therefore, object to the postponement; and I give notice now that I shall vote for no special orders that would interfere with private bill days.

Mr. READY. I accept the amendment sug-

gested by the gentleman from Alabama, [Mr. SHORTER,] and my motion now is, to postpone the matter to next Tuesday week.

Mr. BRYAN. As one of the Representatives of Texas, I would say, that whilst I feel a deep interest in this question; yet this House has confided it to a committee, and I would wish to let that committee and the House take charge of it. If this House is willing to enter into the examination to-day, I shall not object. But grave charges have been preferred against an officer of this Government; and it is due to him, as well as to the State, that a careful investigation should be made.

We all know, sir, that when we go home we do not always carry with us the reports and business of Congress, and that we may neglect looking into questions that may be assigned for the opening of the session. I have been told, sir, that but recently some of the members have received the record, as given by the report of the committee. If such be the fact, it may be important that a few days should be allowed to those who have not looked into the matter, or examined it; but I am willing to leave the question to the House, and to the direction of the Judiciary Committee.

Mr. CLARK, of New York, obtained the floor.

Mr. CRAIGE, of North Carolina. With the permission of the gentleman from New York, I desire to say a word or two. Since the discussion commenced I have had a conversation with a fellow member of the Judiciary Committee, and I ascertain that he has in his possession a book of this case of thirteen hundred and ninety-four pages; and I understand from him that it was all printed before the adjournment of Congress. If so, I had never seen it, and I was, therefore, somewhat surprised to find that such a book was in existence. As a member of the committee, I know nothing of any such book of testimony.

Mr. CLARK, of New York, resumed the floor.

Mr. CHAPMAN. I desire to make a single remark.

Mr. CLARK, of New York. I will yield to the gentleman for the purpose of explanation, if that is what he desires.

Mr. CHAPMAN. It is merely for explanation, in reply to a remark made by the gentleman from North Carolina.

Mr. CLARK, of New York. I desire to say a word upon the question of postponement; but will yield to the gentleman for explanation.

Mr. CRAIGE, of North Carolina. I stated that I had not seen the printed report before to-day, and knew nothing about it.

Mr. CHAPMAN. The explanation I desire to make is in reply to the remark of the gentleman from North Carolina, that he had understood from a fellow member of the Judiciary Committee that all the evidence was printed before the close of the last session of Congress. He misunderstood me. I stated to him, according to my recollection, that all the evidence that was material for the proper understanding of the case was printed before the adjournment.

Mr. CRAIGE, of North Carolina. I was right, then, in my first statement. There has been a book published since the adjournment, and without the authority of the committee. I do not know that the committee ever ordered the printing of any part of the evidence.

Mr. CLARK, of New York. I was on the Judiciary Committee of the House to whom this case of Judge Watrous was committed for investigation, and I desire to say that, in my judgment, a sufficient postponement should be had to enable at least the members of the committee to refresh their recollection, and renew the examination of the very complicated and elaborate case that was presented before them.

For one I am not unwilling to say, that although I gave what I supposed to be faithful attention to the case, such has been the obstruction thrown in the way of further reflection on the subject by the pressing engagements of the canvass in which the northern members have been engaged during the recess of Congress, that this additional time is necessary to enable me to present to the House, as I deem it my duty to do, my own views upon this case.

I was one of those who came to the conclusion that the public interest did not require the impeachment of Judge Watrous; and while I differ from other gentlemen on that committee, whose opinions are entitled to great weight, I think that

injustice would be done to myself and to those other members of the committee who agreed with me, if an opportunity should not be afforded us to re-examine the testimony, free it from complication, and condense it as it needs condensation, in order to present to the House clearly the views which have governed us in coming to the conclusions at which we have arrived. Certain it is, that no harm can result from the postponement which is asked. I think I can safely say that no member of this House, especially among those from the northern States, has had up to this hour, since the full testimony has been before us, a reasonable opportunity to examine it.

It was my intention to have examined this case during the recess, but after arriving at home, I found that the papers I had before me were not complete, and it was not until after the recess had passed, and within the last few hours, that the whole case in its entire form has been laid before me. It seems to me that the suggestions for postponement are reasonable, and that the granting of it would be more conducive than detrimental to the interests of public justice.

The question was taken; and the motion to postpone was not agreed to.

Mr. CHAPMAN. Mr. Speaker, two memorials have been presented to the House, praying for the impeachment of Hon. John C. Watrous, judge of the district court of the United States for the State of Texas, one of them by Eliphas Spencer and the other by Jacob Mussina; each of them contains grave and serious charges, which if true, fully justify his impeachment by this House and his conviction by the Senate.

It is alleged in the memorial of Spencer that Judge Watrous engaged in extensive speculations in real estate in his judicial district, where he knew the titles were in dispute, and that he employed his court as the means of promoting the interests of himself and partners in the speculation and to secure an advantage over others with whom litigation was apprehended. The evidence which was adduced before the Committee on the Judiciary, presents the following points:

In the spring of 1850, Thomas M. League called at the office of Judge Watrous, in Galveston, Texas, and stated to him that he knew of an opportunity to engage in a speculation in lands lying on the Brazos river, which held out very great inducements; and, although he was a man of wealth, he stated that he had not the necessary funds to avail himself of the opportunity. Whereupon Judge Watrous proposed the introduction of some persons residing in the State of Alabama in the enterprise; and he accordingly wrote to them. Shortly after, two of them arrived in Galveston, and, with Thomas M. League, proceeded to the lands, which they viewed to their entire satisfaction. They returned to Galveston, and submitted the title papers to Judge Hughes, a lawyer of that place, for his opinion on the validity of the title, and made arrangements with him to bring suit. Frow and Price then returned to Alabama, and, in July following, Judge Watrous, accompanied by League—carrying with them the title papers—proceeded to Selma, Alabama, where they met John W. Lapsley, Frow and Price, Goldsby and Plattenburg. A conference was held between these parties which lasted for several days, and an arrangement was finally entered into. League held the title to this property, having acquired it from Mrs. St. John, through her trustees, Menard and Williams, and transferred it to Lapsley. It was agreed that between seven and eight thousand dollars should be advanced, in order that League might comply with his contract with Mrs. St. John. The title which he thus held was derived under a Mexican grant or concession made in 1832.

Upon the legal title being vested in Lapsley, he executed a deed of trust, which declared that he held one half of this property for Judge Watrous and League, and the other half for himself, Frow and Price, Goldsby and Plattenburg. This deed has never yet been recorded, and although it contains a stipulation that it may be recorded, it does not contain any stipulation that it shall be recorded, as represented by Judge Watrous in his answer.

Judge Watrous and League gave their joint note for their portion of the purchase money, payable in five years. The parties then separated. In the month of October following, Lapsley wrote to

Judge Hughes, directing him to bring suit in Judge Watrous's court, and, in the same letter, directed him to consult with Judge Watrous and Mr. League in relation to bringing the suits in that court.

Hughes, on the 11th day of January, 1851, brought eleven suits. The writs were served on the defendants, and they appeared by their counsel. Howard and Swett appeared for Spencer, and John W. Taylor for the other defendants. The cases remained on the docket in Galveston until the winter of 1852, when, upon the application of Mr. Taylor, they were removed to Austin, it being within the district where the lands lie, and the defendants reside. Nothing was done with the cases there. They remained upon the docket until December, 1854, when Hughes applied for their transfer to the circuit court of the United States at New Orleans for trial; and it was alleged upon the docket as a reason for their transfer, that Judge Watrous had an interest in the suits, and that he was related by blood or marriage to some of the parties, which latter fact does not appear. Some of these cases have been tried in New Orleans, and others remain to be tried.

It is said that "a judge has as much right to purchase land as anybody else." This is not disputed. The abstract right no one will deny. He may, if he choose, unite with professional jobbers in the purchase of land; and although it is incompatible with the dignity of the bench, and unbecoming the judicial ermine, still it does not follow that his hands will be soiled by official impurity. It is, however, one step beyond his proper orbit. He has placed his foot upon the ice. Were this all that clouds the pathway of Judge Watrous, though in consideration of the high office he holds, we might deplore the step, yet he could not be impeached. But this is not all. He embarked in what may be termed a stupendous speculation—not in the purchase of some beautiful retreat in the vicinity of Galveston, whence he might retire from the turmoil of the city, and in its quiet and repose, trim the lamp at the fountain of that great science which affords such ample scope for the employment of the mind, undisturbed by the apprehension that there would be any to dispute his right, or that he had caused a pang to any human breast, or the reflection that he had driven its occupant from the possession of the premises into the houseless wilderness. No. It was a gigantic speculation, embracing nearly sixty thousand acres, which were estimated by him or his friends, shortly after the purchase, to be worth nearly three hundred thousand dollars; and lands in the possession of those who had cleared and cultivated extensive tracts, who had made valuable improvements, who were in the act of perfecting their titles under the government of Texas, and who conscientiously believed they were in the occupancy of that which had constituted a part of the eminent domain of the State.

And this must have been known to Judge Watrous, because three of his friends, previously to the purchase, had gone on a pilgrimage to spy out this mine of wealth. They had traversed its verdant fields, surveyed its primeval forests, coursed along its refreshing streams, well pleased with all they saw; and they must have beheld buildings, fences, growing crops, and the smoke ascending from many a quiet home, and they must have known, without inquiring, that those who had thus selected this as their abode would not surrender it without a desperate struggle. It was then his duty to pause; he should have remembered that he was the sole judge of the Federal court in Texas; he should have remembered that he was about to vest the legal title in a citizen of another State whereby that jurisdiction of his court might be made available; and he should have remembered that he was about tooust himself of jurisdiction in all the controversies which might arise out of this enormous speculation.

But this is not all the testimony adduced which goes to show that Judge Watrous was well aware that the titles to this property were in dispute. He stated to some of his friends, before the purchase, that he was acquainted with the title, and that the question involved was the same as that in the case of Hancock and McKinney, depending in the State courts, and in which he had a personal interest; but he had no assurance that the decision in that case would be in favor of him-

self and friends. He knew that the judgment of the court would not be of binding authority in his court, or in the Supreme Court of the United States; and if the decision had been against him and his friends, it does not follow that they would have submitted to it.

It has been stated by my learned friend from Tennessee, [Mr. READY,] in his report, that it is not the policy of this Government to grant large salaries to judges, and "that they must live;" but are we to be told that when Congress fixes the salaries of the judges that it does so with the understanding that they shall be permitted to entangle themselves in litigation, and, in consequence, have little or nothing to do? Is that the policy of this Government? If it be, it is very poor economy. What if the judges of the district courts in the new States, and the judges of the supreme courts in the Territories were to embark in this kind of traffic? Could a more effective blow be struck at the administration of justice? What if the judge recently appointed in New Mexico should go about that Territory buying up all the doubtful titles he could lay his hands upon: would he not be peremptorily dismissed from office?

It may be said that this is a solitary case; that it involves only sixty thousand acres of land, valued at only about three hundred thousand dollars by the parties themselves; but where is it to stop? Is Judge Watrous to be permitted to go on and unite with League in all his speculations in Texas until he shall become as frequent a suitor in the courts of that State as the latter is? The mischief or the offense does not consist in the multitude of cases—that is but an aggravation; and it is no reply in his behalf that he did not design to disqualify himself. Where a judge refuses to sit on the trial of a list of cases without assigning a reason, he is guilty of misbehavior; and if he voluntarily disqualifies himself from sitting in a large mass of litigation, as was done here in the prosecution and pursuit of his private speculations, the misbehavior is equal.

But, sir, there are graver charges presented than these. It is alleged in the memorial of Spencer that Judge Watrous *secretly* engaged in this speculation, intending and designing to sit on the trial of the causes which would arise. Whatever may have been the ultimate design of these parties, there was strong ground for suspecting that such was the motive in its inception of the business. It will be remembered that Judge Watrous was the first to suggest the propriety of introducing a citizen of another State into this speculation, whereby the jurisdiction of his court might become available. It will be remembered that the legal title was vested in that citizen alone, who had a far less interest than either League or Judge Watrous. It will be recollected that a deed of trust was made, which concealed the interest of Judge Watrous, and has not been recorded to this day. It will be recollected that a note was given jointly by League and Judge Watrous for their part of the consideration money, not payable till the expiration of five years from its date; and it is to be inferred from this that not a cent was ever expected to be paid out of the pocket of Judge Watrous, but that his liability would be discharged out of the proceeds of sale. Mr. Spencer swears that, although he attended the courts of Galveston and Austin, he never heard of this interest of Judge Watrous until about the time the cases were removed to New Orleans for trial, which was nearly four years after their institution in his court; and Mr. Taylor, counsel for others of the defendants, swears that although he has a faint recollection of something having transpired in relation to the judge's interest before the cases went from Galveston to Austin, still he is satisfied that he could not have known of the existence of that interest, otherwise he would not have applied for their removal to Austin, for Judge Watrous presided there, and the same difficulty would exist.

It would be a superfluous task to cite other evidence to establish the fact; but whatever may have been the original design, it appears by the evidence that the ultimate purpose was that these causes should be instituted in Judge Watrous's court, and transferred to the circuit court at New Orleans, so that trials before Texas juries would be avoided; and that is the point in this part of the case against him. Lapsley, in his letter to

League, written in December, 1852—and this does not depend on the memory of any one—says:

"These considerations induce me to believe, and so I thought we all agreed, that it would be better to try the cases in New Orleans than anywhere else."

And why? Why "better?" He has declared the reason why. On his examination he swears that for the reasons assigned to League in his letter, and because "he understood that there were some prejudices against titles of this kind in Texas, and he was afraid to risk the cases before a local jury." Had Judge Watrous made this confession, I apprehend there is not a member of this House who would not declare that he ought to be impeached; for a deliberate attempt to remove these cases from the courts of Texas, to deprive the people of Texas of trials before juries of the vicinage, to impose upon them the necessity of changing their counsel, and all the inconveniences and disadvantages and increased expenses, which would result from their removal hundreds of miles further from their homes and the same distance nearer the residence of the other party; and that, too, by a judge, and for his own aggrandizement, involves a degree of official misconduct which admits of no excuse. Such engineering, such a wrenching of these causes out of Texas, and out of sight of the defendants, was almost enough to fill them with despair, and induce them to abandon their defense, however honest it might be, or submit to the most ruinous compromises.

The excuse assigned by Judge Watrous in his answer, that the defendants would have the benefit of the eminent legal ability of Judge Campbell of the Supreme Court, does not palliate the wrong. Did Judge Watrous then know that these cases were instituted in his own court for the purpose of being removed to New Orleans for trial, and that trials before Texan juries might be avoided? That is the reason assigned by Lapsley, who held the legal title; that is the reason assigned by the man who became interested in this business at Judge Watrous's suggestion.

Is the charge brought home to the judge? It will be remembered that in a letter which Lapsley wrote to Hughes, instructing him to institute these suits, he specially directed him to consult Judge Watrous and League in respect to their institution. And James Love, the clerk of his court and his friend, (and I must say that neither Love nor Lapsley nor Frow, nor others of the witnesses whom I might name, had any bias against Judge Watrous), testifies that on the 11th of January, 1851, when he was preparing these writs, Judge Watrous came into his office and said to him: "this is my case; you will lose your fees in these cases. They will have to go elsewhere to be tried." And where? They could not go into the State courts. The circuit court of the United States at New Orleans was the nearest judicial district; and they must go there. It is true, they might have gone before a temporary judge, but the defendants were not required to agree to a proposition to substitute a temporary judge, and such a one as would have been named by those parties; for it is not to be presumed they would name any one who was not entirely acceptable to them. To impose upon them such an alternative as that—that the cases must either go to New Orleans or before a temporary judge such as the plaintiffs might indicate—was imposing on them an equal wrong. It was no wonder that Mr. Taylor, as he testifies, when this proposition was made, he peremptorily rejected it. Did not Judge Watrous know that there was a prejudice existing in the minds of certain persons in Texas against these old Mexican grants? Lapsley says he had been informed that there was. Whether there was or not, I do not know; but such an impression was on the mind of Judge Watrous, and it is to be supposed that Lapsley derived his information from him, because in his answer filed to the memorial he refers to the fact, and he does so also in his charge to the jury in the case of Ufford and Dykes, which will be afterwards referred to.

Now, it is contended in behalf of Judge Watrous that the cases came into his court without his knowledge and without his consent; but he made no protest to James Love, the clerk; he made none to Hughes, the lawyer who brought the suits and who was near at hand; nor did he make any to Lapsley that we are advised of.

Everything, so far as we know by the testimony, was entirely acceptable to him. But he says that these cases, having thus come into his court without his knowledge or consent, an overruling necessity compelled their transfer to New Orleans. But this overruling necessity did not exist before he embarked in this speculation. If it became a necessity, it was in subservience to the prime motive, and to carry along the original design conceived at Galveston and matured at Selma. It was not an accident.

It is also charged against Judge Watrous that he sat upon the trial of cases in which he was interested in the questions involved. Prominent among those cases was that of *Ufford vs. Dykes*, tried in his court in 1855. Ufford claimed, under a grant or concession made, or purporting to have been made, by the Government of Coahuila and Texas, in 1832, of thirty-three leagues of land—eleven leagues to each of three parties; and a very material and important link in the chain of the plaintiff's title was an alleged power of attorney to sell, said to have been granted, in the year 1833, by the two Aguirres and De la Vega. This power of attorney was said to have been executed by Raphael de Aguirre, José Maria de Aguirre, and Thomas de la Vega, the alleged grantees of the concession, at Saltillo, in Mexico, and filed among the archives there. It appears that a copy purports to have been afterwards authenticated and acknowledged before Juan Gonzales, *regidor* or *alcalde* of Saltillo, and carried to the land office at Austin, where it was filed.

Now, this power of attorney has since that time, and since the trial of one or two of the Lapsley suits in New Orleans, been impeached as a forgery so far as relates to Raphael de Aguirre and Thomas de la Vega. If it be a forgery as relates to Raphael de Aguirre, then Ufford had no right to recover in his suit. And if it be a forgery as relates to Thomas de la Vega, Lapsley and his friends had no right to recover against Spencer. The power of attorney having been represented to be a forgery, a commission issued from the circuit court in New Orleans, to take the depositions at Saltillo of Thomas de la Vega, and the custodian of the archives at Saltillo. De la Vega swears that he never executed the power of attorney, and never signed the *testimonio*; and the custodian swears that after diligent search among the records or archives he is unable to find any power of attorney signed by the two Aguirres and De la Vega, but he does find a power of attorney signed by José Maria Aguirre alone.

This case came on for trial in the winter of 1855. Previously a judgment by default had been taken; and as Mr. Hartley, one of the counsel for the defendant, was walking in the streets of Galveston, Judge Hughes, the attorney for Lapsley and his partners, came to him and said, "Judge Watrous called at my office last evening, where Mr. League and I were, and said he felt very much perplexed concerning this case; he did not like to see it go off in that way, and that if Mr. Hartley would file an affidavit of a meritorious defense, he would grant a new trial."

This suggestion, made by Judge Hughes, who was not at that time counsel in the case, and coming from Judge Watrous, was adopted, and a new trial was granted. Hughes was then taken into the case by Mr. Hartley; and on a conference between him and Hartley, Hughes represented that the original title was good, and that there could be no exception taken to the concession or grant, and he insisted that this power of sale should not be objected to when the case came on for trial. Mr. Hale, counsel for the plaintiff, stated, when the case came on, that he was unable to proceed in consequence of not having proof of the execution of the power of attorney to sell. Judge Hughes, who carried with him at that time, and had previously done so, a copy of the *testimonio*, which he had obtained at the land office in Austin, kindly furnished Mr. Hale with it; Mr. Hale was relieved from his embarrassment. Judge Hughes having been induced to make no objection to this copy of the power of attorney, which has been impeached as a forgery, it went in evidence without objection, and the plaintiff gained his cause.

Mr. BRYAN. Will the gentleman yield to me for a moment?

Mr. CHAPMAN. I prefer to go on and con-

clude what I have to say without interruption. When I get through I will hear the gentleman from Texas with great pleasure. Did Judge Hughes know that the title in the Lapsley cases, in which he was interested, was involved in this case? He was consulted by League, Frow and Price, and the others, in regard to this title before the purchase was made, and all the title papers were laid before him. He had gone to the land office at Austin and procured this copy of the *testimonio* to serve him in the Lapsley cases before he was counsel in the case of *Ufford vs. Dykes*. It is indisputable, then, that Judge Hughes was fully aware that Judge Watrous was sitting upon the trial of a cause in which a most material question, in which he was interested, was involved. Now, did Judge Watrous himself know it? I will refer to that portion of the report of the committee, which will be found upon page eleven. The judge says, in his charge to the jury in this case:

"The grant to Raphael de Aguirre, introduced by the plaintiff, is, on its face, a valid title, and appropriates the land described on it. The mesne conveyances down to the plaintiff are sufficient to convey the land. In addition, it appears that Samuel M. Williams was examined as a witness in this case, and among other things, says: 'I acted as the attorney of Raphael de Aguirre, José Maria de Aguirre, and Thomas de la Vega, and held their powers of attorney. Stephen F. Austin was interested in the grants—that is, the concessions made by the governor of Coahuila and Texas to them.'"

Here then we have "irrefutable evidence" that Judge Watrous was aware that the question was the same as the one involved in the Lapsley suits; and that he knew what the question was in the Lapsley suits, is evident from the fact that he stated that he knew what the title in that case was, and that the question was the same as in the case of *Hancock vs. McKinney*, depending in the State courts, in which he had a personal interest.

Now, it may be said that the decision in this case settled nothing; that it would not be binding authority, in the State courts, and that it did not confirm his title to the lands which he had purchased in company with Lapsley and others. But what was to be the moral effect? What was the design and purpose? These Lapsley suits were then depending in the circuit court of the United States at New Orleans, or were about to be transferred there. Was it designed to inform the defendants in the Lapsley cases that the question of their title had come before a court in Texas—their highest tribunal—and there had undergone deliberate investigation, and the title affirmed by that court, and by a jury of their own citizens? Was it intended to have an effect upon the minds of these defendants, to induce them to abandon their defense or submit to a ruinous compromise? I do not pretend to say, but certainly it has raised a dark cloud which hangs over this whole transaction. Why was it that Judge Watrous happened to come into the office of Judge Hughes, and to meet League there, a prominent actor in this Lapsley case? Why was it that Judge Hughes happened to have a copy of that *testimonio*? Why was it that this judgment by default, which settled nothing, perplexed Judge Watrous? Why was it that Judge Hughes insisted, with his colleagues, that they should make no objection to this power of attorney or the concessions? And why did Judge Hughes volunteer to relieve Mr. Hale of his embarrassment in going on with the case, by kindly letting him have it?

I shall not denounce Judge Watrous because he has thought proper to resist the efforts that have been made to bring him to a trial at the bar of the Senate. This is his right, and he must decide for himself; but it seems to me that, after he has been called upon by the Legislature of his own State to resign; after this House has been appealed to, again and again to impeach him; and after it is evident that public confidence in his impartial administration of justice is shaken to its foundation, that he owes it to himself and to his good name, that out of respect to the high office that he holds and to the thousands who are interested in the integrity of his court and its wholesome influence, to seek no longer to avoid a trial. He should either demand it or resign; for what avails it that this House dismiss the complaints that ever and anon are presented here? Clamor still exists; public confidence, so essential to the judiciary, is not restored; the public mind is not quieted; and it is evident that it will not be until he leaves the

bench or vindicates his innocence before the only constituted tribunal appointed to decide in such cases. If he is innocent, why not demand a trial? If the spots upon his judicial robe have been scattered there by malice and revenge, why not wash them out; now and forever, by the emphatic verdict of "not guilty," pronounced by the highest legal forum in the land? When that occurs, he may then say, to employ the quotation he has used at the close of his answer:

"These clouds will break, this storm will pass away,
And on the evening of his days, will sweet
Quiet shed its sunset."

But until then, these clouds will lower over his good name. He will be met by, at best, a conflicting public opinion; he will still halt before the world with an unsatisfactory indorsement of his innocence.

But it is for him to decide. I invoke no surrender of his constitutional rights; I do not beg him to yield the title of a hair. He may, if he will, battle every inch of the way this side of the bar of the Senate. Nor do I ask his impeachment to appease popular clamor; for, if I believed that this proceeding had no other and better foundation to rest upon than baseless clamor, I would stand by him with all my firmness, with all my zeal, and all my humble ability; for, while I am fully impressed with the magnitude of the evils and the calamities which a corrupt judiciary may inflict upon a community, I nevertheless entertain an equal abhorrence of the prosecution of an innocent man or an upright judge, whose independent discharge of his duties may excite such clamor.

It has been said by my learned friend from New York, [Mr. CLARK,] that probable cause is not sufficient to justify an impeachment. In this I differ with him entirely; for I hold that as soon as this House has ascertained the existence of probable cause it would be encroaching upon the province of the Senate to go one step beyond it. The Constitution of the United States provides that the Senate shall have the sole power to try, and this House the sole power to impeach. If we advance one step beyond the ascertainment and probable cause, we are plunged into the trial, and we are involved in the inconsistency of trying a man without having power either to convict or acquit him, and besides, we impose upon him the burden of a double trial—a trial here and a trial in the Senate. This House bears the same relation in the premises to the Senate that a grand jury does to a traverse or petit jury. A grand jury is sworn diligently to inquire and true presentment make. This House must diligently inquire and true presentment make. It is true that the body which indicts is not the same which impeaches, and the body which tries an indictment is not the same which tries an impeachment, and the offense may not be the same. It is true that ordinarily grand juries sit with closed doors and only hear the witnesses produced on the part of the Government; while this House, as in the present instance, in the exercise of its discretion, may examine witnesses on both sides; but there must be some boundary line marking the powers of this House and the powers of the Senate, and there is no line to be discerned except the ascertainment of probable cause. The *ground of action*, upon the part of the grand jury and this House must be the same, and that is the ascertainment of probable cause. Such I understand to have been the views entertained in the case of Judge Peck, and the case of Judge Chase, of Macclesfield in 1705, in the case of Warren Hastings in 1778, and of Lord Melville in 1805. Probable cause is such a state of facts and circumstances as would induce a cautious man to believe that the party charged is guilty of the offense.

It is not, Mr. Speaker, a question with this House whether Judge Watrous be guilty or not. That is for the Senate. There may be other evidence adduced than that which has been produced before the committee, which may be exculpatory or criminatory. It is not a question with any member of this House, whether he would convict Judge Watrous upon the evidence produced before the committee; because if there be a rational, well-founded doubt on his trial before the Senate, he will have the benefit of that doubt. If it be established, then it would be the duty of the

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Senate to acquit him, because a rational doubt and guilt are inconsistent; but a rational doubt and probable cause are not inconsistent. We have nothing to do with the doubt. If a doubt exists, that doubt is to be weighed and determined by the Senate. In making this remark, however, I do not wish to be understood as admitting that there is any doubt whatever.

There is one matter, Mr. Speaker, to which I wish to call the attention of the House, and which escaped me in the course of my previous observations. It is a portion of the answer of Judge Watrous. He says, (page 8 of the report:)

"I was anxious, when it became necessary to sue, that the litigation should be had in the courts of the State, and inquired of Judge Hughes how much it would cost to bring the suits and commence the litigation in the State court. He stated to me that \$300 would be enough, and I paid him that amount for that purpose out of my own pocket, to insure the certainty that the litigation I had not anticipated, but which had now become necessary, should be had in the courts of the State. I have been informed by Judge Hughes that he did so bring the suits. But Mr. Lapsley, who had control of the matter by reason of the legal title, was unwilling to trust the decision to the State courts, and wished the decision of the Supreme Court of the United States, and directed the suit to be brought in the district court of the United States at Galveston. About this movement I was not consulted. It was done without my procurement or consent, against my known and expressed wish."

It will be remembered that in the testimony of James Love, which I have already quoted, that Judge Watrous came into his office when he was making out the writs, saw them, and said that they must go to another place to be tried, and made no protest whatever. He goes on:

"The first I had to do with the litigation was when I found the cases on the docket."

There is abundance of evidence to show that this was not the first he had to do with the litigation. Lapsley wrote to Hughes, directing Judge Watrous to be consulted in regard to the institution of the suits. He was aware of the institution of the suits in his court. And he says moreover, after he learned that it became necessary to sue, that he then caused suits to be brought in the State court, at Waco. This was two years after he was aware that the suits were brought in his own court without any objection made by him. He made no protest; and why was it that these suits at Waco were brought at his instance? Why did he assume authority (which he says was vested solely in Lapsley) to bring suits in the State court at Waco? That matter originated here. At that time there was an investigation into his official conduct, before a committee of this House, on the application of Mr. Alexander, a lawyer of Texas, and this matter incidentally came out. Then it was for the first time that Judge Watrous became a prominent actor and took upon himself to institute these suits in the State court at Waco, which have never been tried or urged to a trial. And for what purpose? To remove the impression that he had any hand in the business in his own court.

There is also another matter to which I beg to refer, and that is the charge made against Judge Watrous, of having participated improperly in the procurement of testimony. It will be recollected that testimony was obtained at Saltillo impeaching the power of attorney—that of La Vega and the custodian of the archives at Saltillo. After this testimony was filed in the circuit court at New Orleans, a copy was obtained by League, who submitted it to Judge Watrous, and inquired what he should do. Judge Watrous recommended him to go to the partners in Alabama. He did so, and he returned, and an arrangement was made with John Treanor, a person connected with the Cavazos case, to go on to Saltillo. He went, and after having paid, or agreed to pay, to Juan Gonzales, the regidor, who is said to have authenticated the *testimonio*, the sum of \$1,300, indemnifying him against all loss he might suffer in his business in his tan-yard, and for all his expenses. This man, nearly blind, is brought to New Orleans to testify, and he swears that he only knows his signature by the rubric. He testifies that the signature alone is his, but not the body of the *testimonio*, whereas Dr. Hewitson, of

Saltillo, who Judge Hughes some time before procured to prove the *testimonio*, and who was a suitor in Judge Watrous's court at Galveston, swears that the body of the instrument is in the handwriting of Gonzales, showing that he was better acquainted with Gonzales's handwriting than he was himself.

Now, it may be said that the effort to make this man still blinder than he was is not a matter for which Judge Watrous is answerable here. Perhaps, independently of his connection with the other transactions in this case, it would not be; but is it not a part and parcel of the original business that was concocted at Galveston, that was matured at Selma, thrust through his court? and all the misbehavior, all the misconduct that attended this proceeding from the beginning, follows after Judge Watrous in his judicial capacity, and for which I hold he is answerable here.

I find that I have nearly exhausted my time, and, therefore, will not now go to the other branches of the case, leaving that to be noticed by other gentlemen who are to follow me.

Mr. BRYAN. I wish to add a word or two to what the gentleman from Pennsylvania has said, by way of explanation of the *testimonio*, or power of attorney, to which he has alluded. By the authority of him who went into the wilderness, and there founded a nation, and left to that nation a spotless reputation, he, Stephen F. Austin, was the purchaser of the three eleven-league grants, the sale of which has been here impeached.

Mr. CHAPMAN. I have not expressed any opinion of my own in reference to the validity of that power of attorney. It may be valid, and it may be a forgery. I have spoken to the evidence. I have stated what was the evidence of Thomas de la Vega, one of the alleged parties to it. I have stated what was the testimony of the custodian of archives. I have no personal knowledge on the subject, and consequently cannot pretend to give an opinion, but merely present the evidence. I suppose if there be any testimony on the other side to rebut this, it will be presented.

Mr. BRYAN. As one of the Representatives of Texas, I state here that Stephen F. Austin has stated, under his own hand, that he purchased the three eleven-league grants, and that Samuel M. Williams had full power of attorney to sell them. As to the other conduct of Judge Watrous, I leave that to the House and the country to pass upon. I make the statement I have made, that it may accompany the declaration made by the gentleman from Pennsylvania, that this power of attorney was a forgery.

Mr. TAPPAN. Mr. Speaker, as a member of the Judiciary Committee opposed to the impeachment of Judge Watrous, I desire to present, in reply to the gentleman from Pennsylvania, [Mr. CHAPMAN,] my views of the cases as briefly as possible, and to give the reasons which brought my mind to the conclusions to which it has come. At the outset I desire to say one word personal to myself, especially as my character for consistency has been assailed by at least one press in the State of Texas, because that, as a member of the Judiciary Committee of the Thirty-Fourth Congress, I gave my assent to the impeachment of Judge Watrous, while as a member of the same committee in this Congress I signed a report exonerating him. My explanation of that is, that the proceedings on the subject before the Judiciary Committee of the Thirty-Fourth Congress were entirely *ex parte*. Neither Judge Watrous nor any friend of his was before that committee. There was nobody there but Simon Mussina, the prosecutor in this case, who presented a large mass of papers that were never examined by any member of the committee, except, perhaps, by the gentleman who drew the report. But little attention was given to the case by the committee, (and for the truth of that statement I appeal to members of it who are now present,) while there was a great pressure upon them in favor of the prosecution. There was clamor on all sides against Judge Watrous. The proceedings, as I said, were entirely *ex parte*, and no man lifted his voice to defend the

judge or to say one word in his favor. It was under these circumstances that the report of that committee was made to the House. Perhaps I was wrong in not giving the matter more attention than I did; but I was a new member, and the committee decided that they would not go into any investigation or take any testimony.

But, sir, the Judiciary Committee of this Congress pursued a very different, and, as I think, the proper course. They decided to go fully into the investigation. Testimony was taken on both sides. A long and tedious examination was had. Judge Watrous was permitted to come in and defend his cause, and to produce witnesses. I confess that, from the clamor that was raised at the last Congress, and from what I had heard about this case, I had imbibed a great prejudice against the judge. It was with some difficulty that I could bring my own mind into such a condition as to feel certain that I could weigh the testimony fairly and impartially. But I endeavored to do this; and I must say that, whatever conclusion other gentlemen may have arrived at on the testimony, I can find no evidence of his guilt. I waited day after day, and week after week, and month after month, for the evidence to substantiate the charges that had been made against Judge Watrous, but waited in vain. Other gentlemen may be satisfied that the evidence sustains the charges against him; I am not. I therefore ask the House to give this matter a candid and calm consideration, and not to be carried away by any outside pressure, or any clamor, whether coming from the State of Texas or from other quarters. I believe that this House sits not merely as a grand jury to find a *prima facie* case against the judge, but to examine the evidence adduced before them, and to say whether or not, in their opinion, Judge Watrous is guilty on the evidence. The House has something to do in this matter, as well as the Senate; and it is for the House to say, in the first instance, whether good cause has been shown for an impeachment.

Let me here say another word in regard to the clamor against Judge Watrous, and to the resolutions passed by the Legislature of the State of Texas. I was sorry, Mr. Speaker, to hear the remarks of my friend from Pennsylvania [Mr. CHAPMAN] on that point. Every member of the committee knows that Judge Watrous came before the committee with his witnesses, asking to be allowed to explain the cause of this public sentiment which seemed to be against him, and of the passage of these resolutions by the Legislature of the State of Texas; but a majority of the committee decided that Judge Watrous was not to be affected by any town meeting impeachments—that the committee had nothing whatever to do with that matter, and that therefore Judge Watrous was not to be permitted to explain how these resolutions happened to pass. But yet the gentleman from Pennsylvania [Mr. CHAPMAN] has made a point to-day on the passage of these very resolutions. The clamor is still kept up; and every friend who opens his mouth in behalf of Judge Watrous is hunted from one end of the land to the other. And the fact is, that the judge and his friends say now that they can show that the feeling in Texas is now favorable to the judge; and that these resolutions grew out of the fact of a decision made by him, and which touched the pockets of a good many people in Texas, who had gone there from other States to evade payment of their debts. The decision was in a case involving the construction to be given to the statute of limitation of the State of Texas. Whatever may be the character of the people of Texas now, every one knows it to be a fact that that State was settled, to a considerable extent, by persons from other States, who went there to get rid of the responsibility for their debts. A great many went from the States of Mississippi and Louisiana. Debtors went in there, and their debts followed them; and the question soon arose whether the statute of limitation protected them or not. On the one hand it was contended in behalf of the debtors who were sued in Judge Wat-

rous's court, that the statute of limitation commenced running at the time the debts fell due; and if that view had been maintained by the judge, they would have evaded the payment of their debts. On the other hand, it was contended that the statute ran only from the time when the parties came under the jurisdiction of the court of Texas. And this was the view that Judge Watrous, as an able and sound lawyer, was obliged to take, however much it might run contrary to the public opinion of the State of Texas. This was the decision that he made in the case of *Union Bank vs. Stafford*, a party who had gone into Texas from Louisiana, owing large debts; and it is proper to say that that question was carried to the Supreme Court of the United States, and that the opinion of Judge Watrous was sustained by that tribunal.

Mr. REAGAN. Will the gentleman allow me to interrupt him at this point?

Mr. TAPPAN. I prefer not to yield. I have a great deal to say, and very little time to say it in. Out of this, as I understand from the testimony, grew the resolutions of the State of Texas. Another question arose in reference to his decision as to the titles in the littoral leagues, which I need not go into, but which was against the public prejudice and the public opinion of the State of Texas. That case, too, has been carried to the Supreme Court of the United States, and the decision of Judge Watrous has been sustained.

Mr. REAGAN. I must protest against the use of facts which were not before the committee, and are not before the House.

The SPEAKER. The gentleman from New Hampshire declines to yield the floor. The gentleman from Texas will probably have an opportunity to reply before the debate closes.

Mr. TAPPAN. What did the gentleman from Texas say? I did not hear him.

Mr. REAGAN. I was objecting to the introduction of an argument based upon facts which were not in evidence before the committee.

Mr. TAPPAN. If the gentleman from Texas will examine the testimony of Judge Hughes he will find the decision of Judge Watrous in regard to the statute of limitation there referred to and explained. But whether that be so or not, I am justified in alluding to these matters from the fact that they have been alluded to by the gentleman from Pennsylvania, [Mr. CHAPMAN.]

And now, Mr. Speaker, I propose somewhat in detail to reply to the gentleman from Pennsylvania in reference to the various points that he has made. I find that his speech to-day is but a reiteration, in the main, of the report of that branch of the committee who favor the impeachment of Judge Watrous, and I shall, therefore, confine myself principally to the line of argument which I had proposed to adopt upon that report.

I propose, in the first place, to confine myself to an examination of the charges growing out of the Spencer memorial. Let us see, at the outset, what these charges are.

Mr. Spencer, in his memorial, which was drawn by Simon Mussina, who is the active prosecutor of these proceedings against Judge Watrous, charges that Judge Watrous, while he was the sole presiding judge of the Federal court in the State of Texas, made the purchase of, or acquired an interest in, a certain eleven-league grant of land, with the understanding and intention of litigating and determining the validity of said eleven-league grant in the Federal court of Texas, of which he was the sole presiding judge. That the said John C. Watrous, judge as aforesaid, counseled and procured the entire apparent legal title to be made to a non-resident of the State of Texas, (Mr. Lapsley,) thereby to confer jurisdiction on the Federal court in Texas to hear and determine any suit that might be brought to test the validity of said eleven-league grant. Or, in other words, the charge is that Judge Watrous purchased land, the title to which he knew was in dispute; and so managed and conducted the matter as to bring his own cause, in his own court, before himself as sole presiding judge, for trial and adjudication!

This is the broad charge against Judge Watrous; and, if sustained, ought not merely to subject him to impeachment, but should consign his name and memory to perpetual infamy!

But if there has been an entire failure to make out the charge by proof, it is not the first time that the actual demonstration has fallen far short of the high-sounding manifesto!

There is no pretense from any source, that this charge has been made out by the proof. There is no *scintilla* of evidence even tending to prove that Judge Watrous ever contemplated sitting as judge in his own cause! Even Simon Mussina, who drew the memorial, himself a disappointed litigant in Judge Watrous's court, and who has pursued the judge with indefatigable zeal and pertinacity, not to say bitterness, swears that he has no knowledge of the truth of the charges contained in this memorial. The evidence is all the other way; and, as I shall show hereafter, when, contrary to Judge Watrous's expectations and wishes, a suit did find its way into his court, he took the earliest opportunity to disclose his interest, and made no order or ruling in the case, save only the one he was obliged by law to make, and that was to remove it to the nearest circuit out of the State of Texas for trial.

That portion of the Judiciary Committee who recommend an impeachment, do not pretend that the object of Judge Watrous was to get the question into his own court that he might sit as judge in his own cause, or that there has been any evidence adduced showing that such was his intention.

But the findings of that portion of the committee against Judge Watrous, are as follows:

1. "That while holding the office of district judge of the United States, he engaged with other persons in speculating in immense tracts of land situated within his judicial district, the titles to which he knew were in dispute, and when litigation was inevitable.
2. "That he allowed his court to be used as an agent to aid himself and partners in speculation in lands, and to secure an advantage over other persons with whom litigation was apprehended.
3. "That he sat as judge on the trial of cases where he was personally interested in questions involved, to which may be added a participation in the improper procurement of testimony to advance his own and partners' interest."

Although, as it seems to me, in the process of reasoning adopted by my colleagues on the committee, inferences the most unjust have been drawn from the testimony, and the most unfavorable constructions placed upon every part of it, these are the conclusions to which they arrive—very much modified and softened, as it will be seen from the original charges set forth in Spencer's memorial.

And these propositions of the committee, Mr. Speaker, I propose to examine in the light of the testimony which is now before the House.

Now, as to the first proposition of the committee, that Judge Watrous engaged in a land speculation in his district, the titles to which land he knew were in dispute, and that litigation was inevitable. Taking it for granted that this proposition is true, and proved by the evidence, I deny that it constitutes any such "high crime" or "misdemeanor" as ought to subject a judge to impeachment. The maintenance of any such doctrine would wholly preclude a judge of any court whatever from purchasing land, where by any possibility the title might come in dispute. The committee themselves, in their report say:

"That Judge Watrous had a right to purchase and sell lands none will dispute. By being promoted to the bench, he lost none of his rights as a citizen of Texas."

But say the committee, the "the title was in dispute, and litigation was inevitable," therefore the judge had no right to enter into the purchase, and having done so, is a "criminal" to be punished by impeachment, and his name handed down to posterity as infamous!

But suppose, for the sake of the argument, that Judge Watrous, being perfectly satisfied that the legal title to the land he was about to purchase was good, actually did know that persons had squatted upon it without right, who might occasion litigation in regard to it. Must he be compelled to stand aloof from the purchase for any such reason as this, under penalty of an impeachment? And yet that is all there is in this case. The title to the land was really beyond question. It had been settled by the Texas courts, and Judge Watrous knew it. Spencer and the others were mere squatters upon the land, without right or title; and this point has been so determined by the highest courts in the country—the circuit court at New Orleans, and finally by

the Supreme Court of the United States at Washington.

Will it be contended that a judge in the State of Texas, or in any other State, cannot purchase his neighbor's farm, the title to which he has good reason to believe is perfect, because he happens to know that some persons have wrongfully entered upon it, and litigation may become necessary in order to remove them? And yet, Judge Watrous has done nothing more than this, even admitting that the fact is as the committee state.

But I deny most emphatically that Judge Watrous knew that "litigation was inevitable," or that the proof fairly sustains this charge. On the contrary, the evidence is that the whole subject of the purchase or speculation was brought incidentally to his notice, without any deep-laid plot or scheme to have any questions that might arise tried in one court or another. When first brought to Judge Watrous's notice, it appeared that if the trade could be effected something handsome must inevitably be made out of it; for, in relation to a considerable portion of the tract, there were no adverse claimants, and the original title not only appeared to be undoubted, but there was also a cumulative title, growing out of head-right certificates which had been purchased in, and which, to this large portion of the tract, made the title wholly beyond dispute or question. On looking into it further, Judge Watrous also ascertained that the main question as to the title, if any should by possibility arise, would be settled in the supreme court of Texas in the case of *Hancock and McKinney*, (7 Texas Reports,) in which Judge Watrous's brother was interested. And the whole tenor of the testimony goes to show that Judge Watrous, from the beginning, wished and expected, if any litigation should arise, that it might be had in the Texas courts. And why should he not desire that the litigation should be there? It was most manifestly for his interest that it should be, for it is not controverted that the questions, as to this or similar titles, were before the Texas courts, and would be settled favorably to the title.

Now, Mr. Speaker, let us look at the testimony bearing upon this point. The circumstances attending its purchase, and the bringing of Judge Watrous into it, are detailed by Mr. League. (See his testimony from page 197 to page 200, inclusive.) And here it is proper to remark that there has been no attempt to impeach Mr. League, or to cast a shadow of suspicion upon the truth of his statements. His appearance before the committee was that of an honest, straight-forward, and truthful man.

It appears that Mr. League, in the first place, bargained for the land with Jacob D. Cordover, agent of Mrs. St. John, on his sole account, and had three months to pay for the same in cash. At this time he saw two or three persons who were claiming adversely, by "location under head-right certificates, or soldier's claims." One of these, Mr. Benton, told League, that he intended to "raise his certificate," that is, "take it off the land and locate it elsewhere." And from what he learned from these persons who were upon the land, he says he "did not suppose there would be any difficulty, and did not expect any litigation." At page 199, Mr. League goes on to say:

"I had three months to make the payment of the money in; I was looking round to see where I could raise the money. I went into Judge Watrous's room. He was living close by my dwelling. I spoke at the time about my having a fine opportunity to make some money—that is, to make a speculation if I could raise the money. Mr. Shearer was in the room, I think, at the same time. I said that I knew of a fine tract of land that I believed would become very valuable; that there was a great many certificates located upon it. Under any circumstances, I believed a fortune could be made out of it, and I said that I wanted to raise \$7,000—between six and seven thousand dollars. There were certificates located upon the land belonging to the same party, and were sold with the land; there were some ten or twelve thousand acres. I have the certificates in my pocket. It was cumulative or double title. Between ten and twelve thousand acres of the land could not be lost.

"I was in the room speaking of the matter, and I said further that I was afraid that I could not possibly raise the money. Judge Watrous said, 'What is that you say?' I think I was speaking to Mr. Shearer at the time. I recapitulated what I had said. He said, then, 'Ned, I think those men in Alabama would go into that; your brother talked about making some purchase. From that, one thing led to another.'"

The result was that Mr. Shearer was induced to write to his brother-in-law, Mr. Price; and Mr. Lapsley, Pluttenburg, Frow, and Price, of Ala-

bama, advancing the money, became the owners of one half of the land, and Mr. League and Judge Watrous the other. Mr. League states that he gave Judge Watrous one half of his half for making the negotiation for him and bringing him in contact with the Alabama gentlemen.

This was the way in which Judge Watrous first became interested in the purchase; and it goes strongly to show that there was no purpose or intention of doing anything wrong, or any design to vest the title in persons out of the State, merely that the litigation might be had in his own court.

Nor is there any evidence that goes to prove that either of these parties supposed that the title was so far in "dispute" as to render "litigation inevitable."

The testimony of Mr. Lapsley shows that he went into the purchase of the land anticipating litigation as probable, although he states that he "did not know but that the squatters might give up the land; if not, he intended to sue them," (page 129.) He gave his instruction to his counsel, Judge Hughes, and Judge Watrous had nothing to do with it. All parties seemed to have the utmost confidence in Judge Hughes; for, as a real estate lawyer, he stood deservedly at the head of his profession in Texas. Mr. Lapsley preferred to have the suits brought in the Federal court on account of the prejudice which he understood existed in Texas against claims of this character.

During the negotiations in Selma, Alabama, Judge Watrous was present a part of the time, but took no part in the discussion as to the title. The testimony, as I have said, shows that Lapsley may have contemplated a suit in the Federal court, but there is nothing to show that Watrous had any connection with such a purpose. On the contrary, he always wished the litigation, if any was necessary, to be had in the State courts. (League's testimony, 214.)

The suits were brought in the Federal court against the expressed wish of Judge Watrous, and without his knowledge. On this point, the testimony is abundant and clear.

But, Mr. Speaker, whether Judge Watrous had knowledge of this fact or not, in my judgment, makes no difference. If the original purchase of the land by the judge was right or proper—if he went into it in good faith, in the hope merely that he might by the speculation better his embarrassed circumstances, believing that there would be no protracted litigation in the case, as I think the evidence clearly shows he did believe, and without any design of improperly using his own court to advance his own private interest—then, I say, if subsequently litigation, contrary to his expectation, did arise, he had a right to direct and advise in regard to it, and in so advising has done nothing worthy of death or bonds!

Mr. Speaker, I go further even than this, and I believe the House and the country will sustain me in the position. If, as I think it will, upon a full and impartial examination of the evidence, it should turn out that Judge Watrous, learning incidentally of this opportunity to purchase this tract of land, and thereby legitimately make some money by the operation—having good reason to believe that the case of Hancock and McKinney, and other cases in the Texas courts, would settle the question of title, if any such questions should arise—he would not be compelled to forego the purchase, even though in order to raise the money he might be obliged to apply to friends residing without the State of Texas. He did so apply. Mr. Lapsley, and other gentlemen of Selma, Alabama, where Judge Watrous had formerly resided, and who were his personal friends, were brought into the purchase. There was nothing wrong or improper in all this; there was nothing improper in vesting, for convenience, the legal title in Mr. Lapsley, provided that there was no intention on the part of any of them to use the position of Judge Watrous to advance their own interest. And if Mr. Lapsley afterwards found it necessary, or in any way preferred to institute proceedings in the courts of the United States, he only did what he had a right to do; he only exercised a right which the Constitution and the laws give him.

And here it is proper that I should remark that Mr. Lapsley, and the other gentlemen in Alabama interested in this purchase, are all men of irreproachable character. On this point I appeal to

the chairman of the Judiciary Committee, himself a citizen of that State; and I challenge contradiction from any source. These gentlemen have been examined before the committee, and never, in my judgment, did witnesses, on any stand, in any case, appear to better advantage. It is absurd to suppose that men of ordinary common sense—lawyers, to say nothing of men standing as high in the community as do Mr. Lapsley, and the others—would, in broad daylight, go into this purchase with Judge Watrous—his interest in the land being known to so many—with the view and intention of having him, as judge, sit in the trial of his own cause; or at least make rulings and decisions in the progress of it which would subject him to impeachment, and brand them as villains forever! Mr. Speaker, they have done no such thing. Judge Watrous has done nothing of the kind, and, as I solemnly believe, comes out of this ordeal without even the smell of fire upon his garments. Yet such is the charge, which I think the House will find has been wholly disproved by the testimony.

Mr. Speaker, without imputing improper motives to any one, it has seemed to me, that in certain quarters the worst possible motives have been attributed to the persons interested in this purchase or speculation; and that through the clamor which has been brought to bear more or less in the investigation of this case, the guilt of the judge has been assumed in advance. I confess myself to the influence which this outside pressure at first, before I heard the evidence, had upon my own mind. In the *ex parte* proceedings which took place before the Judiciary Committee of the last Congress, I imbibed a strong prejudice against Judge Watrous, which I found it difficult to rid myself of when the examination commenced in the present Congress. But I have endeavored to weigh the evidence fairly and impartially; and in its application to the charges against the judge, have acted upon the assumption of his innocence until he should be proved guilty. For myself, I have waited in vain for the proof. Other gentlemen may see it—I cannot.

Now, Mr. Speaker, how does the case stand upon these charges of speculating in land where "litigation was inevitable," and of allowing his own court—for this is the second specification of the committee—to be used to aid himself and partners in securing an advantage over other persons with whom litigation was apprehended? A purchase of land is proposed to a judge—I presume it will not be pretended that he had not a right to purchase land, my colleagues on the committee do not pretend it; it is a right which he has in common with every citizen, and I shall not take the trouble to argue a proposition so entirely self-evident—he asks about the title, and is told that Judge Hughes has examined it and pronounced it good; with that the judge is satisfied, and does not examine it himself. He has not been shown by the testimony to have read a single title paper in the cause. He inquired of Mr. League as to the situation of the land, and was told that there would probably be no litigation about it. Judge Watrous remarked:

"If, contrary to expectation, there should be litigation upon the title, we had better go into the State courts, for there is a case pending there in which I am interested by a purchase made before I went upon the bench, which will settle the title to all that class of claims; it will be decided in our favor, and we shall be certain to succeed in the State court."

This conversation, League said, occurred in Galveston, after he returned from examining the land, in June, 1850. And the testimony shows that he repeatedly expressed his desire that the suits, if any were to be brought, should be instituted in the State courts. This conversation was repeated on the steamer, when Mr. League and the judge were on their way to the North; it was repeated at Selma to Mr. League, and there is nothing in the testimony that contradicts this statement.

But it is charged that Judge Watrous "allowed his court to be used" to aid himself and partners in the speculation. But how and in what way did he allow his court to be used for any such purpose? The fact that Judge Watrous was interested in the purchase, was no reason why Mr. Lapsley might not bring his suit there if he desired. If he preferred to bring it in the Federal court, rather than the State courts of Texas, the only way he could do so was to commence pro-

ceedings in the district court, and then have the cause removed for trial agreeably to the provisions of law in such cases made and provided. When the suits were commenced in the Federal court, Judge Watrous was absent at the North, and it was done without any conference with him, and without his knowledge. Upon this point the testimony is distinct and clear. (See Judge Hughes's testimony, page 39.)

Mr. League states that, when the judge learned that the suits were brought in his court, he expressed his dissatisfaction in strong terms. When the cases were reached upon the docket, Judge Watrous refused to have anything to do with them, on account of his interest, which he then disclosed. He did not conceal his interest, as the memorial asserts, but, on the contrary, made it known at the earliest possible opportunity, as is proved not only by the testimony of numerous witnesses, but by the records of the court, which were produced before the committee. An agreement was made by the counsel for the parties to substitute some member of the bar to try the case, in place of Judge Watrous. Why this agreement, if his interest was not well understood by all concerned? The suits were commenced by Lapsley in January, 1851, and this agreement was made at the April or May term, 1851, showing that at that early day Judge Watrous had disclosed his interest. At the January term, 1852, the cases were removed to Austin, by the agreement of counsel, and in 1854 were transferred to New Orleans for trial, by the order of the judge, upon the plaintiff's motion. This was the only order made in the cases by Judge Watrous, and one that he was compelled to make by law. In 1852, finding that his purchase of the land was objected to, Judge Watrous procured the commencement of suits in the State courts, according to his original desire, at the expense of \$200 to himself, in the hope that Mr. Lapsley would consent to try them, instead of those in the Federal courts; but Mr. Lapsley refused to do so, and insisted on his right to have them tried in the Federal courts. (See Hughes's testimony, page 44.)

How, then, does it appear that Judge Watrous allowed his court to be used improperly to advance his own interest, or that anything was done that was not proper and lawful? And how does the case stand at this point upon the testimony? It is the purchase of a part interest in a tract of land by Judge Watrous, in connection with gentlemen of the State of Alabama, of the very highest respectability, and Mr. League, of Texas, of equal respectability and standing. The contract is offered to the Alabama gentlemen on account of their ability to furnish the necessary funds. The contract is fair and *bona fide*, and Mr. Lapsley states that he and his associates would have gone into no other. There was no concealment even spoken of in the case, and there was no need of any. It was executed in a public room, written by Mr. Lapsley's clerk, and witnessed by Mr. Edwin Shearer, who made it a subject of conversation with the clerks, marshals, &c., in Galveston, at the time of the issuance of the writs. It was talked of by Judge Watrous during the summer of 1850, to his friend, Major Holman, in New York and Philadelphia. Where, then, is the evidence of concealment or unfairness in this transaction? The testimony does not show it. Will you visit with the terrors of an impeachment a judge for exercising the right common to every citizen—the right to purchase land?

It comes at last to this, for the testimony discloses nothing else. All that was afterwards done—the bringing of Mr. Lapsley and the others into the purchase, the institution of the suits in the Federal courts, the removal of the same to New Orleans for trial, follows as a necessary incident to the exercise of this right, unless something else has been done which cannot be defended. What are the facts? It is said that Judge Watrous concealed his interest; but, as has been shown, when the judge reached the first of the Lapsley cases, he announced his inability to try them, and refused positively and peremptorily to make any orders in them—upon this point the testimony is abundant and clear. Jones, Hughes, Love, Cleveland, and the records of the court at the January term, 1852, leave no doubt on this important point. By agreement between the counsel, the cases were continued, and by an agreement in open court they were transferred to Austin for trial. There was

no order made by the judge for this purpose. Mr. Taylor does not remember this, and says that he made a motion for the transfer of the Lapsley cases; but he states that he has been sick during the winter, and his memory is defective. This infirmity of memory marks all his testimony. He states that he did hear Judge Watrous disclose the fact of his connection, by blood, when the cases were called at Galveston in 1851; that disability would not be removed by transferring the cases to Austin, but would still remain in full force.

Mr. Taylor states, at page 397 of his testimony, that he went to Austin with the expectation of trying the cases there. How could he indulge such an expectation after having heard Judge Watrous disclose a circumstance which would render him incompetent to try the cases, unless the disability had been removed in some way? The fact that the agreement was made, accounts for the removal of the cases to Austin, and is abundantly proved. They were not, therefore, transferred by any order of the judge; and on this question, whether Judge Watrous disclosed his interest generally when the cases were first called, Mr. Taylor, who was counsel for the defendants, states, at page 380 of his testimony, that although he cannot undertake to be positive on that point, "on reflection" he is "under the impression," that Judge Watrous did "mention something of the kind," and that this was "at Galveston," before even the cases were removed to Austin! True, Mr. Taylor afterwards undertakes to state some circumstances, from which he is inclined to think, after all, that he did not hear the judge disclose his interest; but taken in connection with all the other testimony bearing upon this point, I am inclined to think that his first impression, "upon reflection," was the best, and that he did hear something of the kind said by the judge at Galveston. So, that in addition to all the other evidence in the case, we have also the testimony of the defendants' counsel; that, at the earliest possible moment, Judge Watrous did declare that he was interested in the cases, and would have nothing to do with them. And thus vanishes into "thin air," the charge so much relied upon in the memorial, that Judge Watrous fraudulently concealed his interest.

The cases were transferred to Austin, and were continued by consent. They were afterwards removed to New Orleans for trial, upon the motion of the plaintiff's counsel. This order for their removal was the first and only order made by Judge Watrous in the cases. He could not have made it at an earlier period. The law is, not that a judge shall transfer a case in which he may happen to be interested, when he makes that interest known, or at any other time that may suit his convenience; but it can be done on the motion of either party; and, until that motion is made, he has no power to act. In this case, the judge made the order as soon as the opportunity presented itself, and the cases were not retained in his court by anything that he did a single day.

And to show most clearly that the defendants were not injured by the delay, it is expressly proved that the cases were continued by consent; and Mr. Taylor says that he went to Austin, at the time they were transferred from Austin to New Orleans, with the expectation of making a showing for continuance, because he was not ready for trial. How, then, have the defendants been injured by delay, when they have not asked for a trial at any time; have always continued the cases by consent; and were prepared to make a showing for another continuance when the counsel for the plaintiff, in justice to his clients, would wait no longer, and made the application to the judge to have the cases tried by the court?

I cannot find in the testimony the slightest proof of a desire on the part of any of the defendants to get a trial of these cases. No such application was ever made to Judge Watrous; and to the very last of the cases in Austin, they were about (as Mr. Taylor says) to make an application to the judge for further delay, because they were not ready; and at New Orleans the same efforts for delay were continually repeated, and a trial was had at last, against their strenuous efforts for further delay. What right have they, under these circumstances, to complain that the cases were not disposed of at an earlier day? And the reason for not being ready may have been, and probably was, the knowledge on the

part of themselves and counsel that they be wholly unable to interpose any successful defense to the plaintiff's title. The result of the trial in the highest tribunals of the nation has showed that they were mere occupants of the land, without scarcely a color of title. They are disappointed litigants; and, smarting under a sense of fancied wrongs which they think they have suffered by their defeat, seem bent on wreaking their vengeance on Judge Watrous, whose conduct, one way or the other, could have had no influence on the distinguished tribunals which finally decided the cases against them.

A good deal of stress is laid upon the fact that these cases remained so long in Judge Watrous's court, and all sorts of sinister motives are attributed to him to account for it; but the important fact seems to have been wholly overlooked, that the defendants themselves were never ready for a trial. What possible advantage could accrue to Judge Watrous from delay? Men never act without motive. What motive could have influenced the Judge, and caused a desire on his part to delay the trials? There is nothing in the record to show an unwillingness for trial. The testimony shows that Mr. Lapsley was urging the termination of the litigation. Mr. League was angry at the delay. The proof was all in the possession of the plaintiff, and was entirely documentary; there was no parol proof in the case. Was it his object to wrong the settlers and force them into compromises? It will be borne in mind that there is no proof that any defendant had prepared his case and asked for a trial. All the proof there is upon this point is the other way. They were unprepared at the time of the calling the cases in Galveston, at the return term, 1851, and continued the cases by consent; they were transferred to Austin at the January term, 1852.

At the term of the court in 1853, (the court sat at Austin but once a year,) they were still unprepared, and again continued the cases by consent; no effort being made to call them up for trial. At the term when they were removed by Judge Hughes's motion, they were still unprepared; and Mr. Taylor states that he was about to make a motion for a continuance, as he was not ready with his testimony, when he learned that the cases were to be transferred. At New Orleans, the same desire for delay manifested itself, and a motion for a continuance was vehemently insisted on. So, to the very last, there was no desire to try the cases, but, on the contrary, a continued, persistent, and strenuous effort for further delay. Who is responsible for this? Judge Watrous certainly cannot be. There is not found, in all this testimony, a single fact to show that he desired this delay; and, least of all, that he procured it. If there be, I challenge its production. On the contrary, the strongest motives which govern human conduct are found to influence him to a course directly the reverse. He was opposed to compromises, and at all times resisted them; save on one occasion, when he gave a letter to Mr. Burrell Thompson to carry to Mr. League, in which he expressed his willingness to compromise in his case, because Mr. Thompson was an old Alabama friend. In all other cases he resisted a compromise; he said "there was no use of it, because there was a case which would settle the matter," (referring to the case of Hancock and McKinney,) "and the land was worth a great deal of money."

It will be recollected that Judge Watrous and Mr. League had given their joint note for their part of the purchase money, which was drawing interest. Now, when he needed the money to pay this note, and to relieve him from "embarrassed circumstances," with a title which he never doubted, as Mr. League tells you, with the prospect of getting this large fund under his control, which a trial would accomplish, (as the event proved,) and he opposed to any compromise, did not all the circumstances conspire, with irresistible force, to lead him to wish for a speedy trial to end the litigation and furnish him the means of emancipation from the pressure of debt incurred in the purchase, and from embarrassments which are proved by the record to exist? Accordingly, we do not find upon the record testimony to prove that the slightest obstacle was interposed by Judge Watrous to delay the cases for a single hour. There is as little testimony to show a desire or design to make the trial of the matter in contro-

versy onerous or inconvenient. When apprised for the first time, by that which transpired in the committee room in 1852, that his conduct in the purchase of the land with Mr. Lapsley was objected to, he furnished his attorney with the means of instituting suits in the State courts, in the hope that Mr. Lapsley would substitute them in lieu of those pending in the Federal courts, and thus consult the convenience of the settlers instead of his own.

What motive could have influenced the conduct of the judge in this movement but a desire to afford the defendants the most convenient possible means of trying their cases, if they should not be pleased with the method of trial to which their counsel had agreed, that is, the substitution of some one to take the place of Judge Watrous in the Federal court? What could have moved him to take this course, but the desire of accommodating the settlers and making the settlement of the dispute as little inconvenient as possible? What advantage could be gained by such an arrangement? His interests could not by any possibility be advanced by the proposed substitution of one court instead of another, save the anticipated certainty that the case of McKinney might control the State court with more certainty than it would the Federal court. The bringing these suits with the open and avowed hope of Mr. Lapsley's concurrence, clearly shows a desire on Judge Watrous's part to do anything rather than oppress the defendants. His wishes were defeated by Mr. Lapsley's preferring, as he had a right to do, the Federal to the State courts; for which preference Judge Watrous is not accountable, and certainly ought not to be subjected to punishment or censure. The legal title was, (and I think it has been shown,) properly, in Mr. Lapsley. He had the control, and Judge Watrous could do no more than he did to get the cases tried in the courts of the State.

But it is made a matter of grave comment by my colleagues on the committee, that Judge Watrous "permitted,"—that is the word—these suits to be brought in his court; and for "permitting," them so to be brought, he is not "excusable." Judge Watrous could not help these suits being commenced in his court, if such was the desire of Mr. Lapsley, who held the legal title. But it is said "that the citizens of Texas had by law a right to the trial of their suits in their own courts, unless commenced by citizens of other States." This is conceded; but while the citizens of Texas had this right, Mr. Lapsley, living in Alabama, had an equal right to purchase land in Texas, and to try his cases in the Federal courts.

But it is assumed by the committee, (for what proof there is on the point is the other way,) that the legal title was vested in Mr. Lapsley, for the purpose of enabling the suits to be brought in the Federal courts; not that Judge Watrous might thereby sit as judge in his own cause, (for the committee do not charge that this was the purpose,) but, they contend that the effect would be to deprive the defendants of the "chance of a trial before a jury of the vicinage." But admitting, for the sake of the argument, that this was one of the purposes of vesting the legal title in Lapsley, in case litigation should be found necessary; admitting that Lapsley, from the start, intended that whatever litigation there was should be in the Federal courts—for Mr. Lapsley makes no attempt to conceal that such was his intention—admitting all this to be clear; still, it is equally clear that Judge Watrous, when he first went into the purchase, expected the litigation, if any there should be, would be in the State courts, and, that all along, he had no desire to avoid a trial before a Texan jury. If there is one fact put beyond the shadow of a doubt by the evidence, it is, that both Judge Hughes, the counsel, (on whom many imputations seem to be cast,) and Judge Watrous, after the suits came into the district court, were in favor of substituting some legal gentleman (a course, it seems, not unusual in Texas) to try the cases in place of Judge Watrous! The testimony shows that such an agreement was made by the respective counsel; and the letters of Mr. Lapsley to Judge Hughes show that Judge Watrous and Judge Hughes were in favor of this course, putting at rest conclusively, and forever, as it seems to me, the charge that Judge Watrous ever had the least wish or design to deprive the defendants of a trial before a Texan jury.

But, Mr. Speaker, taking the worst possible view of the case for the judge; admitting when he went into it, that he had reason to suspect that litigation might possibly arise; (for this is all that any of the parties anticipated;) admit further, that when he invited Mr. Lapsley, a citizen of another State, to participate in the purchase, he might have known that Lapsley had it in his power to institute litigation in the Federal, instead of the State courts; still, if Judge Watrous did no more than this, I am utterly unable to perceive what he has done that ought to subject him to impeachment. If this constitutes such a "high crime and misdemeanor" as is intended by the Constitution, then I fancy that there are other judges besides Judge Watrous, and other officials in the Government, who would be liable to have proceedings for impeachment instituted against them for causes more flagrant than this.

It is objected against the judge that he might have applied to persons within the State of Texas to raise the money. But Mr. Lapsley and the others were old Alabama friends of Judge Watrous; they knew him, and had confidence in his integrity; they were men of means, and the very persons to whom the judge, or any one else similarly situated, would be likely in the first instance to apply for assistance. If, as it seems to be admitted, it would not have been wrong for the judge to have procured aid from some persons in Texas, I cannot regard it as a "crime" that he applied to his old friends, who happened to live out of the State!

But the third specification of my colleagues on the committee who favor an impeachment is, that "Judge Watrous sat as judge on the trial of cases where he was personally interested in the questions involved." This refers to the case of Ufford and Dykes, which was tried by Judge Watrous.

Now, Mr. Speaker, let us see from the testimony how the facts are in reference to that case. It appears that three Mexican citizens, Raphael de Aguirre, José Maria de Aguirre, and Thomas de la Vega, jointly applied to the Mexican authorities for a grant of eleven leagues of land. The concession was made, and, upon that concession, there were issued three separate grants of eleven leagues, one to each of the applicants—not one grant of thirty-three leagues to the three in common. The three joined in a power of attorney, making one Samuel M. Williams the agent to sell the land of all the three persons, who signed the power. In making out the grants at the land office, the name of Raphael de Aguirre was inserted in two of the grants by mistake, and the name of José Maria de Aguirre left out altogether. These grants were located a long distance apart. Thomas de la Vega's was located upon the Brazos river, near the Waco village; the grant to Raphael de Aguirre upon Williams' creek; the other grant was located upon the Brazos, at the mouth of the Bosque. It was a part of the La Vega grant, which Judge Watrous bought. Suits were brought upon the title in his court by Mr. John W. Lapsley, of Alabama, as has already appeared, in whose name was taken the deed from Mr. League, the vendor. Judge Watrous had an outstanding equitable title in a part of the lands embraced in the grant. When the suits were reached at the call of the docket, at the term to which they were returnable, the judge revealed his interest and refused to make any order in them. The cases were transferred to Austin, and afterward transferred to New Orleans for trial. A suit was brought upon the grant of Raphael de Aguirre, which had been located upon Williams' creek. This was the case of Ufford and Dykes, which Judge Watrous tried. It will be recollected that the power of attorney under which the land had been sold was the same as that by which the La Vega tract had been sold—the power of attorney was common to the two tracts of land. Now it will be found by examining the bill of exceptions and the testimony in the case taken before the committee, that the power of attorney was admitted by agreement of counsel and was not read at all, as no question was raised upon the genuineness of the power, and no question was raised upon it. It was admitted in evidence by the counsel engaged on either side of the case, and was neither questioned or doubted, and being in Spanish, it was not read. It had been examined beforehand by Mr. Hughes, of Georgetown, Texas, the attorney

of record in the case, and being a copy had been compared by him with the original, and he had satisfied himself of its correctness. Under these circumstances the paper came into the case. (See the testimony of Hughes, Potter, Jones, League, and Hartley.)

When the fact is called to mind and united to this testimony, that Judge Watrous had never read the title papers in the La Vega title, and knew nothing of there being a power of attorney in the case, he might well have proceeded to pass upon the power of attorney without the least suspicion that the paper had any bearing upon his personal interest; but the proof gathered from the testimony of all these witnesses, is amply sufficient to satisfy the most incredulous that the paper was never read to the judge, and to use the words of Mr. Potter, "cut no figure in the case."

But if it were not so, and the judge had known all about the character of the paper, still it would have been his duty to try the case, and if he had refused, he would have been guilty of a neglect of duty. It is indeed a fundamental maxim, that a judge should not try his own cause. It is a maxim which should never be lost sight of or disregarded. The purity of the administration of justice, upon which all that we hold most dear as members of society, depends upon the strict preservation of this vital principle. But what constitutes an interest in a case, such as to disqualify a judge from presiding at the trial? This question was referred for decision by the House of Lords in England to all the judges. The answer was returned, in the name of all the judges, by Baron Parke, and the interest was determined to be the same as that which would disqualify a witness. (See House of Lords cases, vol. 3, page 786, *Dinus vs. Proprietors of the Grand Junction Canal Company*.) This case is entirely conclusive; for no one can pretend for a moment that if a person situated as was Judge Watrous had been offered as a witness, that he could have been excluded. The interest which excludes a witness is a direct interest in the event of the suit. If it is remote, contingent, consequential, it does not affect the competency of the witness.

Now, what interest had the judge in the case before him, either direct, which would have gone to the competency, or remote and contingent, which would have gone to the credibility? None at all; the event of the suit could not by possibility affect his interest in the least conceivable degree. The case in which he was interested had been transferred to New Orleans for trial—the issue of the trial of Ufford vs. Dykes could not be used as evidence in the case of Lapsley vs. Spencer; nor if the decision were ever heard of by Judge Campbell, would he regard a *nisi prius* decision of a district judge as of the least weight as authority? There is no possible aspect of the case of Ufford vs. Dykes, no conceivable contingency in which it can be made to affect in the most remote degree the interest of Judge Watrous.

But it has been urged that Judge Watrous counseled the use of a power of attorney which he knew to be a forgery. That power of attorney is the one by virtue of which the lands of La Vega and Aguirre were sold. Both these assertions are unsupported by the testimony. It is not proved that the power of attorney was false, nor is it true that it was used by the advice of Judge Watrous.

The testimony is that the lands were sold by Mr. Williams by virtue of this power a great many years ago. (See the testimony of Mr. Williams in the book of 900 pages.) From that time to the time of the trial of the case in New Orleans in 1856, Mr. La Vega never asserted any claim whatever to the land; he never, as far as the testimony shows, paid any taxes, made any offer to sell the land, or exercised over it the least act of ownership or dominion for this long space of time. There is no pretense that he ever made any conveyance of the land, but by and through Mr. Samuel M. Williams acting under this power of attorney. Why did he slumber over his rights for so long a time? He was perfectly aware of the value of the land. He might have sued for it. His being an alien constituted no bar to his recovery. That principle has, I understand, been settled by the Supreme Court during their last winter term in the case of *Jones against Mc Masters*.

Will any man in his senses believe that La Vega

would not have done something during this long series of years that intervened between the 5th day of May, 1832—the date of the power of attorney—and the year 1856, when the case of Lapsley vs. Spencer was tried in New Orleans, which would go to assert his claim to this valuable tract of land, if it had been true that he had not executed such a paper as that which he now, under very suspicious circumstances, denies? Why did he, for nearly a quarter of a century, do no act from which it might be inferred even that he still claimed this land? He did nothing of the sort. He slumbered on in the most unbroken and profound repose until after the trial in New Orleans; when, all at once, he is roused to an assertion of his long-neglected rights, and engages in a chameleony contract with Simon Mussina, the prosecutor in this case. La Vega now swears that he never executed the power of attorney by which Williams sold the land. Can any one credit the assertion? He did execute the power, or some one must have forged it. Who? Spencer says it was Samuel M. Williams. Spencer, it must be recollected, swore under the influence of a very strong interest—such a one as even the sternest virtue would do well not to expose itself. The paper was offered upon the trial at New Orleans, Judges Campbell and McCaleb upon the bench, and by those eminent jurists admitted as being sufficiently proved by the testimony that was adduced in its support. I do not know what testimony there was, save the deposition of Doctor Hewitson, who proved the handwriting of the alcalde before whom it purported to have been executed, and also the handwriting of the assisting witnesses. What more could be desired? It is in strict conformity to the rule of law. He is a disinterested witness, and his testimony will prevail against the statements of any number of persons swearing under circumstances such as, by the judgment of the law, are unworthy of credit by reason of the interest which, owing to the weakness of human nature, may lead us astray.

The judge permitted the paper to be sent to the jury as being proved according to the requirements of the law, and also charged the jury that there was no showing of fraud to be taken into consideration in the case. (See the opinion of the Supreme Court in the case of Lapsley vs. Spencer.) The jury found a verdict for the plaintiff; the case was taken to the Supreme Court, and the judgment of the court below affirmed, and the question as to the title, as far as the cases submitted with the Spencer case, settled forever. Since the decision of the case in the court below, by some means, which I am told are well understood, but the proof of which is not now before the committee, and of which I cannot therefore speak, the deposition of La Vega has been taken *ex parte*, and also of the custodian of the archives at Saltillo, who states that the name of La Vega is not found upon the protocol of the power of attorney, which is regarded by at least some of the committee as casting doubt upon the power of attorney. The testimony of Mr. Treanor goes far to negative this testimony.

I do not profess to be acquainted with the forms and methods of business which prevail in civil law countries. I understand, however, that instruments like the one under discussion, are made before a notary, or, in his absence, an alcalde or regidor, the second alcalde in turn who takes the place of the alcalde in case of his disability. The party who wishes to execute any kind of instrument, or celebrate a contract, makes a declaration to the notary, whose duty it is to record that declaration in his book, which he is required by law to keep—sometimes the instrument or contract is written out in full, sometimes only notes are kept of the transaction; when it is written out in full it is called a protocol; at the same time a counterpart of the protocol is written out by the notary, or alcalde, or regidor as the case may happen to be, and given to the other party, and is called a *testimonio*. This instrument is the one which is looked to as an instrument of evidence. It is itself the second original of equal dignity with the protocol; it is itself an authentic act and needs no extrinsic aid, but proves itself. It cannot be attacked by proving the destruction or loss of the protocol—nor by showing that the protocol and *testimonio* do not agree or correspond. It is frequently the case, from carelessness in the officer, the *testimonio* is the only paper which he takes

the trouble to write—he gives that to the party entitled to it “to serve for his title,” and no one acquainted at all with the method of procedure in countries where the civil law prevails would ever doubt the validity of such an authentic act. In this case the *testimonio* is complete and perfect, and more than the law requires has been done by proving the instrument by the method which prevails in common law countries, that is by proving by Doctor Hewitson, the handwriting of the regidor before whom the paper was executed, and also the handwriting of the assisting witnesses.

Since the trial in New Orleans the testimony of Juan Gonzales has been procured. He states, unequivocally, that the paper was executed before him, by La Vega and the two Aguirres, at the time of its date, and according to its tenor. Now, what disinterested, unprejudiced mind would hesitate for a moment as to the proper conclusion in reference to this testimony. The long acquiescence of La Vega; the testimony of the two uninterested witnesses, Doctor Hewitson and Juan Gonzales—one proving positively the handwriting of the assisting witnesses, the other proving his own signature and rubric. If this proof will not satisfy the mind, when it is opposed by the testimony of interested witnesses alone, and by the keeper of the archives at Saltillo, who testifies to an immaterial fact only, I cannot conceive what would. To illustrate the idea of the committee, and the true idea; suppose a party should produce in court the copy of a record, and that copy should be found to differ essentially from the original: the testimony would not be received. But suppose the law made that which claimed to be a copy the main paper—an instrument which proved itself, which required no verification by being compared with anything else: could it be repulsed on account of its want of resemblance to anything else? Most certainly it could not; and here there is abundant proof of the genuineness of this *testimonio*, without a resort to the testimony of Doctor Hewitson, which was quite unnecessary, but which was put in, I doubt not, through abundant caution.

It is imputed to Judge Watrous as a crime that he endeavored to get, and did get, through Mr. League, testimony to show that the title to the La Vega land was a good title. He had been instrumental in getting his friends in Alabama to invest their funds to a very considerable amount in this title. Was it not his duty, to his Alabama friends as well as to himself, to procure, if possible, the testimony necessary to sustain the title? And what testimony can be imagined more perfectly proper than that of the magistrate before whom the contract was completed? He has not been connected with the power of attorney by any testimony except that which shows his advice to League to search the whole ground and ascertain whether the paper was a forged one, after the paper had been attacked by the testimony taken at Saltillo. Before that time he appears never to have had any connection with the paper; and there is no proof to show that he has even seen it to this day.

But, Mr. Speaker, I have a few words to say in answer to the report of my colleagues on the Judiciary Committee, on the charges contained in Mussina's memorial, growing out of the trial of the Cavazos case, so called.

The wrongful acts of the judge in this case, as stated in the summing up of the committee, are as follows:

1. That the judge had no jurisdiction over the case;
2. That Mr. Hale was improperly admitted as a witness;
3. The refusal of the judge to compel Mr. Hord to testify; and,
4. That there was no foundation for the proceeding against him for contempt.

Now, Mr. Speaker, with great deference and respect for the opinions of the committee, I must yet be permitted to say, that these charges, so far as they ought to have any weight upon a question so grave as that of the impeachment of a judge for “high crimes and misdemeanors,” seem to me to be almost frivolous!

It is not pretended that Judge Watrous had any interest in this case. There is no motive even guessed at which could influence or induce the judge to make a wrongful decision upon any of

these points, or in any way to injure or oppress Mr. Mussina. He himself does not undertake to set up any motive. On the contrary, the testimony shows an entire absence of all motive on the part of the judge to do otherwise than right in the case! And that branch of the committee in favor of an impeachment are constrained to state:

“That there was no evidence before the committee to show that Judge Watrous had any interest in the subject-matter of the litigation in the Cavazos case, or that he was to derive any advantage to himself from his various filings in it, or from its final decision in favor of the complainants.”

Then, in the *absence of all motive*, it would be but fair to presume that the errors in the rulings in this case, if errors there be, were errors of judgment upon disputed points, rather than errors proceeding from corrupt intention on the part of the judge; but for reasons satisfactory to the committee, no doubt, no such favorable presumption is allowed to Judge Watrous.

But are these errors? The committee undertake to sit in judgment upon the rulings of Judge Watrous in this case, and pronounce them all wrong.

But upon these points there will, at least, I think, be a difference of opinion among the lawyers in this House and throughout the country. I ought not, Mr. Speaker, perhaps even indulge the hope that I shall be able to show that the judge was right and my colleagues wrong; but that is what I propose to attempt in what I have further to say in reference to this case. And, first, as to the jurisdiction:

The committee say that the court had no jurisdiction, and the exercise of the jurisdiction was wrongful on two grounds:

“1. The case had no one feature which could give rise to the slightest pretense for subjecting it to the chancery jurisdiction of the district court.”

In answer to this it may be said, that although the district court, as such, has no chancery powers, yet the court in Texas where this decree was rendered has circuit powers, and all the chancery jurisdiction which a circuit court has this court could exercise. The committee say that the proceedings were in opposition to the sixteenth section of the judiciary act, which declares that “suits in equity shall not be sustained in either of the courts of the United States in any case where plain, adequate, and complete remedy may be had at law.” Could such a remedy be had in a court of law in this case?

To answer this question, let us examine the bill. The complainants claimed the land by a grant from the Crown of Spain. It was known as the “Espiritu Santo” grant, or as “El Portrero del Espiritu Santo,” made in 1781, and that they and their ancestors had had possession of it for more than sixty years. They charged that the respondents had set up divers pretended titles to large portions of the tract of land; that they had recorded these pretended titles; that they had laid off a town upon the tract, called Brownsville; that they had offered to sell portions of the land and the lots in the town, and to make titles to the purchasers. The complainants stated that they feared that they would continue to make these sales and conveyances unless restrained by injunction; that by such acts a cloud was cast upon the title of complainants, and they prevented from enjoying their rights to the land, or of disposing of it in any way. The complainants prayed for an injunction *pendente lite*, to restrain the defendants from selling or in any way disposing of the land, and for a decree quieting them in their possession and establishing their title, declaring the title, or pretended title, of the defendants void, and ordering them to be given up to be canceled, and enjoining the defendants forever from setting up again this title, thus declared to be illegal and void. Had a court of law jurisdiction over these subjects? Could it grant the injunction prayed for *pendente lite*, or the perpetual injunction against setting up the title? Suppose there had been a verdict at law: could the law court order the pretended title to be given up to be canceled? Could it remove the cloud from the genuine title? These things were prayed for in the bill.

Has a court of law jurisdiction of this character? Can it afford this species of relief? It is perfectly manifest that it cannot. It could not grant the injunction prayed for; it could not clear off the cloud from the title; it could not order the title found to be defective to be given up and canceled.

It therefore could not afford “adequate and complete relief,” and therefore the court of chancery afforded the only means of obtaining the relief sought for by the party, and the jurisdiction was the only one whose interposition would have been effectual for the protection and preservation of the complainants' rights. The jurisdiction was therefore rightfully invoked and exercised, as far as this ground is concerned. Is the judge, then, to be impeached for sustaining the jurisdiction?

The second ground of objection taken on the report is, that after the amendment of the bill by striking out the names of a portion of the complainants and making them defendants, the court was ousted of its jurisdiction. They (that is the court of the United States) have no authority whatever to adjudicate upon questions presented in a case where the plaintiffs and defendants are aliens. With great deference, again, to the positive opinion of the other branch of the committee, I must be permitted to say, that I do not so understand the law and decisions upon this point.

The question was presented to the Supreme Court of the United States at a very early period of our judicial history. In the case of *Mason vs. Ship Blaireau*, (2d Cranch's Reports,) Chief Justice Marshall delivering the opinion of the court, decides the court will exercise jurisdiction in cases where both the plaintiffs and defendants are aliens, where none of them object; and that case has undergone a revision, and its doctrine reiterated by the Supreme Court. It is now the settled law of the court, and of course, of the country. In the case of *Piquignot vs. Pennsylvania Railroad*, (Howard's Reports, volume 16, page 104,) the Hon. Judge Grier, in delivering the opinion of the court, reviews the above quoted case, and approves the doctrine. The time was when the decisions of such men as Marshall had weight and authority upon legal points and questions. Those times, it seems, have passed away. There was no objection on the part of any of the alien parties.

But one word more on this question of jurisdiction. After the bill was amended, it stood before the court with six of the defendants, including Jacob Mussina, not aliens, but citizens of the State of Texas. Now, whatever might be said about the jurisdiction, so far as the alien defendants are concerned, there can be no possible doubt as to the question between the alien plaintiffs and these six defendants; for, as between aliens and the citizens of any State, the court has jurisdiction. Now, admitting, for the sake of the argument, that the court had no jurisdiction over the case, as far as the alien defendants are concerned, still there was a case before the court where the jurisdiction was beyond dispute, and the decree would be good so far as those persons are concerned who were properly before the court.

As to the admission of Mr. Hale's testimony, the facts are that he showed that he had a remotely-contingent interest in the event of the suit. A contingent interest does not disqualify a witness. I have been furnished with a note of the case of *Brigham & McCall vs. John F. Carr*, recently decided in the supreme court of Texas, in which the court say:

“The interest in the event of a suit which disqualifies a witness, must be a legal, fixed, and certain benefit; [they quote 13 Johnson, 21; 16 Johnson, 89; 8 Howard, 249; 1 Cowen & Hill, note 130; 2 Smith's Leading Cases, page 114, edition 1855:] the certainty or magnitude of the interest, in fact, will not procure disqualification if it want the requisites of ‘legal certainty.’”—2 Smith's Cases, page 113.

When these rules are applied to Mr. Hale's testimony it will be found that the decision is not only correct, but one which the judge could not avoid making without ruling against the plain and well-settled principles of law.

Mr. Hord's testimony will also be found in the book of nine hundred pages. The circumstances are these: Mr. Hord's testimony was objected to on account of his interest in the suit. When inquired of as to his interest, he stated that he was interested on both sides, but most on the side opposed to Mr. Hale's client. Mr. Hale was the party calling him, and depending upon his testimony. He was clearly a competent witness for Mr. Hale, if he chose to run the risk of placing him upon the stand. He did choose to risk the consequences, and offered him as his witness. Mr. Hord was then asked whether he had not an interest in opposition to that of Mussina.

He refused to answer the question. The judge took time to consider upon the propriety of the question, and released the witness from the necessity of answering. Hord had purchased an interest; the interest which had belonged to Stillman and Belden. That fact was known to the judge. Hord had stated it in an affidavit. Suppose Stillman had been offered as a witness; no objection could have been taken to his competency which could not have been to Mr. Hord's.

Suppose he had been offered by Mr. Hale; would he not have been a competent witness for Mr. Hale? Mr. Hale's consent removed the objection to his competency; and who could raise it but him? In such a state of things, could Mussina interfere, and deprive Mr. Hale of the benefit of his testimony, to which he was entitled by the rules of law? If such be the law, then a rule established for the protection and benefit of a party may be defeated at any time by a combination between two who may be opposed to him. A construction of the law liable to such abuses, cannot be the true one.

A word, also, as to the matter of contempt. A slight examination of Daniel's Chancery Practice, or any approved work upon chancery pleading, will satisfy any unprejudiced mind that the proceedings in the matter of contempt are in exact accordance with the correct practice. The usual course has been pursued; the necessary affidavit was made, and the writ of attachment sent out. Upon the return of *non est inventus* upon the attachment, the writ of sequestration issues, as a matter of course. This course had been pursued in this case; this, and nothing more, was done. The writ of sequestration was returned "no property found," and thus the matter ended. Mussina was not arrested upon the attachment; he was not within the jurisdiction of the court; he appeared by counsel and answered, and thus subjected himself to the action of the court. With neither his person or his property subjected to the action of the court, it is rather difficult to perceive how he has been oppressed.

It is also said that the rulings of the judge in the case of Cavazos vs. Stillman *et al.*, are so partial, so much on one side, as to evince the existence of corruption in the judge. This is certainly a very strange charge; for the rulings in this case have been counted, and are found to be forty-one in favor of the plaintiff, and thirty-four in favor of the defendants. That is as nearly an equal division as can be found, as it is believed, in any chancery case with such an extended record.

Mr. Speaker, I think I have now alluded to all the important matters embraced in the testimony, and can find nothing inconsistent with fair dealing and uprightness of intention on the part of Judge Watrous. I believe that on a thorough and impartial review of the charges and evidence in this case, he will be found to be "more sinned against than sinning."

Mr. BILLINGHURST obtained the floor.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Treasurer of the United States transmitting a copy of his account with the United States, for the third and fourth quarters of the year 1857; which was laid on the table, and ordered to be printed.

And then, on motion of Mr. BILLINGHURST, (at twelve minutes past three o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, December 10, 1858.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate, a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, of the 25th of May last, statements showing all the expenditures from the Treasury for public and private purposes in the District of Columbia; the number of town lots originally owned by the United States in Washington, the number sold, and the sum for which sold, the number reserved and their value, the estimated value of individual property, and the value of Government property; which was ordered to lie on the table.

He also laid before the Senate a communica-

tion from the Treasurer of the United States, transmitting copies of his accounts for the third and fourth quarters of the year 1857, and the first and second quarters of the year 1858, as adjusted by the accounting officers of the Treasury Department; which was ordered to lie on the table.

ADJOURNMENT TO MONDAY.

On motion of Mr. HALE, it was

Ordered, that when the Senate adjourns, it adjourn to meet on Monday next.

STANDING COMMITTEES.

Mr. ALLEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate, after the reading of the Journal, on Monday morning, December 13, will proceed to the election of the standing committees of the Senate.

GALVESTON CUSTOM-HOUSE.

Mr. WARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas; which was read a first time.

Mr. WARD. The object of that resolution is explained in part by the resolution itself. It proposes to change the plan and dimensions of the building, now in the course of erection, for a custom-house at Galveston, Texas. The law which authorized the construction of that custom-house provided that it should be three stories high. The citizens of Galveston on reflection have concluded to petition (which they have done) for a change in the plan. So that instead of being a three-story it shall be a two-story building. They desire to extend the dimensions, so that the building will furnish a greater amount of room upon the surface, and contain as much room upon the first and second floors as would have been contained upon the three floors. The resolution provides that the alteration shall not cost any more than has already been appropriated. This plan is preferred by the citizens of Galveston, and the Secretary of the Treasury only requires a resolution to authorize him to make the change. It is a matter local in its character, but of importance to the people of that immediate section of the country. If it meets the views of the Senate, I would like to have the resolution passed immediately. The parties are in waiting, and wish to commence work at once if the change can be made.

The VICE PRESIDENT. Will the Senate give unanimous consent to allow this joint resolution to go through its several readings to-day?

Mr. KING. I have no objection to the introduction of the resolution; but I am unwilling that it should pass without some further consideration.

The VICE PRESIDENT. It will then receive its second reading now and take the usual course. The joint resolution was read a second time.

Mr. HAMLIN. If the Senator from Texas will allow me to make a suggestion to him, I will state that all these buildings in their construction have undergone the supervision of the Committee on Commerce in this branch, and in all cases, I think I may say, without a single exception, they have asked an interview with the Secretary of the Treasury, with regard to them, because he has had the superintendence of their erection. I would therefore suggest to the Senator the propriety of committing this resolution to that committee, as the most rapid method of disposing of it. I think he will find less obstruction to its passage by that mode. If there is no real objection to it, it can then be ascertained, and if there is, it can be stated and met.

Mr. COLLAMER. We have no such committee.

Mr. HAMLIN. But we shall have.

Mr. WARD. I have no objection to the resolution taking the usual course, which will submit it to all the examination necessary. The only reason why I have asked that it be passed immediately, is the one I have stated, that the parties are now in waiting and willing to undertake the work, as the plan is proposed to be altered. It is for the Secretary of the Treasury to consider the propriety of that alteration. The resolution provides that if the change shall be made, the building shall not cost any more than has already been appropriated. If it is altered, as proposed, it will give as much room on the two floors,

as it would in three under the original plan. It is merely a matter of choice with the people of Galveston.

The VICE PRESIDENT. The joint resolution will lie on the table for the present, until the committees are formed.

PRINTING OF A DOCUMENT.

On motion of Mr. CAMERON, it was

Ordered, That the usual number of the report of the Superintendent of Public Printing be printed.

PETITION.

Mr. KING presented the petition of Carl Becker, of New York, praying for an increase of pension; which was ordered to lie on the table.

BILLS INTRODUCED.

Mr. RICE, in pursuance of previous notice, asked and obtained leave to introduce the following bills; which were read twice by their titles, and ordered to lie on the table until the committees are formed:

A bill (S. No. 460) to authorize the establishment of a northern Pacific mail route;

A bill (S. No. 461) for the construction of a wagon road from Fort Abercrombie, on the Red River of the North, to Seattle, on Puget Sound, in the Territory of Washington; and

A bill (S. No. 459) authorizing the Secretary of War to pay the expenses of Captain James Starkey's company of volunteers, incurred by order of the Governor of the Territory of Minnesota.

NOTICE OF A BILL.

Mr. RICE gave notice of his intention to ask leave to introduce a bill extending to Minnesota the provisions of the swamp land act.

On motion of Mr. CLAY, the Senate, then adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 10, 1858.

The House met at twelve o'clock, m. Prayer by Rev. T. M. CARSON.

The Journal of yesterday was read and approved.

DELEGATE FROM ARIZONA.

Mr. BOYCE. I ask leave to offer the following resolution:

Resolved, That Hon. Sylvester Mowry, claiming to be a Delegate from Arizona, be admitted to the privileges of the floor.

Mr. JONES, of Tennessee. I believe that Arizona is a part of the Territory of New Mexico, and I do not see why we should admit two Delegates from that Territory. I object.

Mr. BOYCE. It is only intended that he shall have the privilege of the floor—not to receive him as a Delegate.

ELEANOR GARDNER.

Mr. BARKSDALE. I ask the consent of the House to withdraw the papers from the files of the House in the case of Eleanor Gardner, widow of Henry Gardner.

Mr. MORGAN. For what purpose?

Mr. BARKSDALE. I suppose it is to present them in the Senate.

Mr. MORGAN. I have no objection if copies are left.

The SPEAKER. When papers are withdrawn to be presented in the Senate, it is not usual to leave copies.

Mr. MORGAN. Very well. I do not object. The order for leave to withdraw was accordingly made.

IMPEACHMENT OF JUDGE WATROUS.

The SPEAKER stated the regular order of business to be the consideration of the resolutions reported by the Committee on the Judiciary, in the case of Judge Watrous.

Mr. CHAPMAN from that committee had submitted the following resolution:

Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached for high crimes and misdemeanors.

Mr. READY, from the same committee, had submitted the following as a substitute:

Resolved, That the testimony taken before the Committee on the Judiciary in the case of the Hon. John C. Watrous, judge of the district court of the United States for the eastern district of Texas, is insufficient to justify the pre-

ferment of articles of impeachment against him for high crimes and misdemeanors.

Upon which the gentleman from Wisconsin [Mr. BILLINGHURST] was entitled to the floor.

Mr. BILLINGHURST. Mr. Speaker, the House of Representatives is engaged in one of the most important duties which it can be called upon to perform. It is proceeding towards the impeachment of a Federal judge. The tenure of office of the Federal judges, unlike that of either of the other branches of Government, is for life, or during good behavior. If the President of the United States is guilty of crimes or misconduct in office it does not necessarily compel us to resort to this extraordinary power of impeachment, in order to remove him from office. The people can remove him periodically. So with the legislative department of Government. The people can periodically reach the members of that branch of the Government. But with the judiciary, where the tenure of office is for life, or during good behavior, the only method of reaching it is by the method the House is now engaged in. The people regard the office of judge as a higher and more sacred office than that of any other functionary under this Government. They look to it for purity, for integrity, and for ability.

In this case a Federal judge is arraigned for official misconduct, and we are called upon to say whether that conduct is such as in our judgment requires that he should be put upon his trial before the Senate, that we may be rid of an unjust and corrupt officer of the Government. It is not with the *man* we are dealing; it is with the officer. It is not whether Judge Watrous is to be benefited or injured by this proceeding; it is a proceeding in which the public have an interest—to preserve in its purity the administration of the law.

My purpose, Mr. Speaker, will not be so much to discuss the legal and constitutional questions involved in this case, as to present, in as connected and condensed a manner as possible, the testimony which has been taken before the Committee on the Judiciary. From expressions upon the part of gentlemen around me, yesterday, when the special order was reached, I judge that a portion of the House have not made as full preparation to meet the case as its importance demands; not such to enable them to arrive at a just, proper, and sound conclusion. To enable gentlemen as much as is in my power to arrive at such a conclusion, it is my purpose to present as clearly as possible the evidence which has been adduced; and in doing so I shall present first what I consider the points involved in the case, and then apply the evidence to them.

In the first place, in my judgment, the evidence taken in this case charges Judge Watrous with entering into a conspiracy with League, Lapsley, and others, for the unlawful institution of suits in his own court, with intent to remove them to a neighboring State to deprive the defendants of the right of a trial by a jury of the vicinage; with conspiring with League, Lapsley, and others, to deprive citizens of Texas of their lands by the use of false or forged title papers, knowing the same to be false or forged, and with the publication of such false or forged title papers; with having sat in the trial of a case where his interest was such as should have disqualified him; with entering into partnership, in the hope of gain, with leading litigants in his court pending litigation—such partners and judge having the same counsel, and such counsel being in partnership with the same litigants; and with favoritism on the part of the judge towards such counsel; with permitting repeated improper practices on the part of the officers of his court to go unrebuked.

I may be permitted, at the risk of being charged with repeating what was said yesterday, to give very briefly a history of the leading transaction in which misconduct is imputed to the judge. By a law of Mexico, previous to the independence of Texas, citizens of that State could, by depositing in the Treasury \$1,000, receive from the Secretary of State a grant of land of eleven leagues, which amounted to about forty-eight thousand acres. In 1850, two brothers, Raphael de Aguirre and José Maria de Aguirre, and Thomas de la Vega, their brother-in-law, deposited in the Treasury \$3,000, and received from the Secretary of State, in pursuance of the laws of Mexico, a grant in one paper of three eleven-leagues, to those three individuals in severalty. In 1852, the grantees

made a power of attorney to Samuel M. Williams, then a citizen of Texas, to locate and survey these several grants. A few days afterwards the power of attorney to locate and survey was executed. Samuel M. Williams received, it is said on the part of Judge Watrous, a power of attorney from the same parties to sell and convey these same lands.

It is alleged on the part of the memorialists, that Thomas de la Vega and Raphael de Aguirre never executed this last power of attorney; but it is conceded that they executed the first power of attorney. In 1850, in the month of May or June, Thomas M. League, a citizen of Texas, a land speculator and a client of Judge Watrous before the judge went upon the bench, and a confidential and intimate friend afterwards, went to Judge Watrous, and proposed to him to unite in buying the eleven-league tract, which was located by virtue of the grant to Thomas de la Vega. Judge Watrous asked if the title was good. Mr. League said that Judge Hughes had examined it. The contingency of litigation was then and there discussed. Judge Hughes was the confidential and professional adviser of Judge Watrous, and he was the confidential adviser and legal counsel of Thomas M. League. Judge Watrous replied, "I have not the means; but I have friends in Alabama who will invest, if the title be good." He wrote to his friends in Alabama. They consisted of five citizens of Selma, namely, Messrs. Lapsley, Frow, Price, Plattenberg, and Goldsby. After receiving the letter of Judge Watrous, two of these gentlemen, Mr. Frow and Mr. Price, leave Selma and go to Galveston, meet with Judge Watrous and Mr. League and Judge Hughes, and hold a consultation. Then Mr. Frow, Mr. League, and Mr. Price go together to this land on the Brazos, about two hundred and fifty miles from Galveston, examine it, are satisfied with its quality and its value, return to Galveston, and come to an understanding, subject to the approval of their friends remaining in Alabama. Mr. League, up to this time, has paid Judge Watrous for his services for an examination of the title. Thereupon, Frow and Price retain Judge Hughes, and agree to give him a retaining fee of \$500 to conduct the litigation that shall grow out of the purchase. This was in the month of June, 1850.

These gentlemen returned to Alabama. Nobody in Texas knew anything of this transaction but the individuals I have named, and Edwin Shearer, the brother-in-law of Price, who was present when the proposition was made by League to the judge. They reported at Selma, in Alabama, to their confederates, (an expression, in my judgment, fitting this case,) and, in the month of July, as early as the 9th, Judge Watrous, with his friend, Thomas M. League, appeared at that place, and the transaction was there perfected; Thomas M. League, but a few days before, having received a conveyance from Mrs. St. John, who held this land under a conveyance from Samuel M. Williams, the original attorney who, I believe, was the brother of Mrs. St. John. They agreed to pay League nine thousand and odd dollars for the land. The Alabama gentlemen advanced the consideration, and the deed was taken from League in the name of John W. Lapsley alone, Judge Watrous and Thomas M. League retaining one half—that is, one quarter each—and the five Alabama gentlemen the other half, or one tenth each. It is shown by the evidence that it was understood by the parties that litigation was anticipated, and that it should be in the Federal court. I might cite the evidence of Lapsley, of Frow, of League, of Shearer, and the answer of Judge Watrous, all to this point. When the gentlemen I have named visited the land on the Brazos, they found ten or a dozen settlers there, with houses and other improvements. They ascertained that there were head-right certificates located upon it. Litigation was talked about, and Judge Hughes was retained to take care of the litigation and to institute the suits, before the transaction was completed. Mr. League afterwards, in receiving a portion of the money, said that he had received \$500, and paid it over to Judge Hughes as his retainer, pursuant to the agreement of Frow and Price, at Galveston, in June prior.

It is said, Mr. Speaker, that up to this time Judge Watrous knew nothing about the title to this land; and that he took no part in the transaction.

The evidence shows this: That at Selma, Lapsley demanded from League a warranty deed. Lapsley said that he did so for the purpose of testing the faith of League in his title. League hesitated, Lapsley insisted. Judge Watrous, who was in the room at the time, said that Judge Hughes had declared the title to be good; and League thereupon executed the warranty deed. I trust that members will remember this point, because I have to connect it with another, which will stamp this transaction as one of a very black character. Was Judge Watrous ignorant of this matter? Was he a mere idle spectator? My idea is, that Judge Watrous knew as much of this as any party to the transaction. The evidence shows it. A man who designs to commit a crime does not do it in open day light. It is not done in a bold manner. He, on the contrary, goes stealthily to work and seeks to cover up his tracks. Mr. League, in his testimony, said that he did not know who paid the balance of this money, nor how it was paid. On page 227, the question is asked of Mr. League, as to this particular payment to Mrs. St. John, and his answer was, "I cannot tell."

Now, to another point, to show whether Judge Watrous was indifferent in this transaction, a mere idle spectator. I refer to the testimony of G. W. Paschall, at page 434. In the concluding remarks of his testimony he says:

"In justice to all parties, I ought to add that I was prepared to believe it, [something that had been said to him confidentially about Watrous's interest in the La Vega tract,] because I had known that in the purchase of the La Vega tract, Judge Watrous had drawn a draft upon Lapsley, which passed through my hands as attorney for Mrs. St. John."

So it appears that after this transaction was perfected at Selma, Judge Watrous was in fact the paymaster and agent of these parties; and yet he would have the country to understand that he was a silent recipient of the benefits of this transaction for which he paid no consideration. Mr. Speaker, I beg gentlemen of the House to consider whether or not Judge Watrous had any interest in these sixty thousand acres of land, valued at from five to ten dollars per acre by the owners, but at the lowest estimate worth \$300,000. A quarter of this—the amount of Judge Watrous's interest, for which he has not paid a cent to this day—would be \$75,000. The evidence shows that in the litigation and care of this property, these parties have already paid over twenty thousand dollars; and though Judge Watrous is the owner of one fourth of the property, he has not paid a cent.

This transaction looks to me as though League had scented the game, but was not the sportsman to bring it down. He applies to Judge Watrous, and Judge Watrous is not a sportsman either, but has sportsmen in Alabama at his command. He summons them and puts them in pursuit of the game. They bring it down, and get one half of it, while League is to have a quarter and Watrous is also to have a quarter; and at the same time the use of his court is to be permitted to deprive the defendants in Texas of trial by jury in that State. I am asked whether there was any particular understanding that the court was to be used for that purpose; and gentlemen will look at the report made by the honorable gentleman from Pennsylvania from the Judiciary Committee, at the last session, and to his speech of yesterday, they will see what was the evidence on that point. Lapsley, in his letter of instructions to Judge Hughes, in the fall of 1850, before the suits were commenced, said he thought it was understood by all the parties when at Selma, that these suits were to be brought in the Federal court of Texas, to be removed to New Orleans, as they were afraid of a Texan jury.

There is an attempt in part of the evidence to show that Judge Watrous desired to have this litigation in the State courts. I will tell you how much that amounts to. In 1852, when Mr. Alexander and others were here preferring charges of impeachment against Judge Watrous, it here, for the first time, leaked out, so as to be known beyond the circle of the judge's particular friends and dependents, that he was interested in this La Vega tract, and that litigations were going on in his court in the name of Lapsley in regard to it. Thereupon he, here in Washington, immediately borrows of his friend, James S. Holman, \$200, and pays it to Judge Hughes, also here in Washington, to go home to Texas, and bring suits in the State courts. That, however, was

not till a long time after these suits had been instituted in his courts, and were pending there.

What a strange commentary is this upon the answer of Judge Watrous! We are led to suppose from reading his answer, that he knew of no litigation, nor supposed that any would become necessary about the La Vega lands, until after the supreme court of Texas had, in the case of Hancock, vs. McKinney, by a division of the judges, left the law on the case uncertain; which want of unanimity on the part of the judges, alone rendered litigation in this case necessary. Judge Watrous says, that thereupon he applied to Judge Hughes to know the cost of commencing a suit in the State courts, and was answered \$200; which he "paid out of his own pocket to insure the certainty that litigation which he had not anticipated, but which had now become necessary, should be had in the State courts." He then says:

"I have been informed by Judge Hughes, that he did so bring the suit. But Mr. Lapsley, who had control of the matter, by reason of the legal title, was unwilling to trust the decision of the State courts, and wished the decision of the Supreme Court of the United States, and directed the suit to be brought in the district court of the United States at Galveston."

This is a shallow prevarication, and a "most lame and impotent conclusion."

I desire now to trace the litigation commenced by Lapsley to its end. In 1851, these suits were instituted in Judge Watrous's court. Who was the marshal that served the writs? Archibald M. Hughes, the son of the plaintiff's attorney. In March, 1851, after these suits were instituted at Galveston, Congress provided by law for three other courts to be held by Judge Watrous, in Texas, at Brownsville, at Tyler, and at Austin. That law required the judge at Galveston to distribute his causes among districts to which they respectively belonged. The Lapsley cases belonged to the Austin district, as the defendants resided in that vicinity; and it became the duty of Judge Watrous to transfer them there. In the court calendar, which was before the committee, for the April and May terms, these cases are marked "continued," in Judge Watrous's handwriting. No order was ever made for the removal of the Spencer case to Austin. No application was ever made for its removal there. These cases, which were in some way pending in Judge Watrous's court all this time, from 1851 to 1852, were then, it is claimed, by stipulation of the parties in court, on which an order was entered, removed to Austin. They were continued in 1853. In the fall of 1854, they were removed to New Orleans. Throughout all this time Mr. Spencer, the memorialist, never appeared in court, after the May term, 1851, at Galveston, and yet the orders in these cases are entered as by agreement.

In one of the Lapsley cases, under date of 6th January, 1852, I find this order in the minutes of the court:

"John W. Lapsley vs. James Marlin, (erroneously entered.) It appearing to the court that the defendant in this cause resides within the limits assigned to the branch of the district court of the United States for the district of Texas, held at Austin, upon the motion of said defendant, by his attorney, John Taylor, Esq., it is ordered that this cause be transferred to the said branch of the said court at Austin, and that the clerk of this court forward the papers and proceedings therein."

A similar order was entered in the case of Lapsley vs. Mitchell & Warren, and marked "erroneously entered."

A little further on, in the same minute book, is an entry which reads as follows:

"316. John W. Lapsley vs. James Marlin. This day came the parties, by their attorneys, and thereupon the judge presiding having stated that he could not sit in this case by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject-matter in contest, the said parties, by their attorneys, agree that this cause be transferred to the district at Austin. And further, it is agreed that the continuances and all other orders heretofore made, be corrected so as to read as made by consent of parties, and not by order of court."

A similar entry was also made in the case against Mitchell & Warren, and seven other of the Lapsley cases, but not in Spencer's case.

John Taylor, Esq., upon the subject of these orders, says:

"I see there orders made purporting to have been made by consent, and if I did not rely upon my motion for bringing them up, they must of course have gone up under an agreement of that kind. But as to any agreement or consent of the precise import of the one which I see embodied in the minutes, I have not now the most distant or faint recollection. On the contrary, I do not see how I could

have made an agreement of that kind, on the ground there alleged of the interest of Judge Watrous in the subject-matter of controversy, because their removal to Austin did not obviate the difficulty. The same disqualification would have existed in Austin as at Galveston, and the grounds alleged as the cause of transfer would have been nugatory, puerile, and silly on their face.

"Question, (by Mr. BILLINGHURST.) Suppose that you and Judge Hughes were negotiating about a counsel to try the cases?"

"Answer. I was going on to remark, that as to any arrangement at that time at Galveston, which might have superinduced an entry of that kind, I have not now the most faint or distant recollection, nor have I at this time the most faint or distant recollection of having had at that time a knowledge of such a cause or reason for any such agreement or arrangement. Such a proceeding or expectation could not, in fact, have been grounded on that. The moment a proposition to substitute a counsel to try the cases was presented to me, it was repelled, and my consent was peremptorily refused." * * * "They were taken up from Galveston, as I have always understood, by virtue of my motion." * * * "I followed them up; had my consultations, and made my preparations solely with the view to try them in Austin in the ordinary course; which is altogether inconsistent with what appears on the face of the entries."

Why was this done; these entries changed in January, 1852? That court lasted but a few days. But little business was done; I think I can tell you why. Charges were pending here against Judge Watrous, and he was anxious to close up the business of the term and hurry on here to defend himself. When he had found that he had been making orders in cases in which he was himself interested, and that charges were about to be made against him, he changed the orders *nunc pro tunc*, and made them appear as if entered by consent of parties; and that, too, when Mr. Taylor and Mr. Howard both swear that they never gave any such consent. In the Spencer case, neither Spencer or his counsel ever appeared in court after the May term of 1851, while the cases remained in Texas. There were eleven of these cases, and that of Mr. Spencer, the memorialist, was one, and the orders made in the other cases, as by consent and agreement, in no way apply to him, because he was not represented in court.

Now, Mr. Speaker, it is said that Judge Watrous is not to be held responsible for this, because it was the agreement of the parties—the agreement of the counsel. I would ask this intelligent body of lawyers, who was the party in that court? Was it John W. Lapsley, who owned one tenth of the interest, any more than it was John C. Watrous, who owned one fourth of the interest? John C. Watrous invested John W. Lapsley with the title to his lands, and created him his general agent and attorney, and so long as he did not restrict him in the powers given, he invested him with all the powers he had himself. Robert Hughes, the attorney of John W. Lapsley, who conducted the suits, was the attorney of John C. Watrous; thus, the suits, when called on the calendar, so far as Judge Watrous was concerned, stood in this relation: John C. Watrous vs. Eliphas Spencer, and John C. Watrous vs. the other defendants. He knew that. Who agreed to continue these cases? Who agreed to transfer them to Austin? Was it Judge Hughes? Was it Lapsley? It was John C. Watrous. As an individual, speaking through Hughes, he agrees to continue the cases; and then, as a court, sitting upon the bench, he orders them to be continued upon the strength of this agreement. Shall he escape from the charge of misconduct in office by the plea that this was not an official act?

It seems that when the agreement was made at Selma, investing Lapsley with the title to the land he gave these parties a trust deed, one stipulation of which was that it should be recorded in each of the States of Alabama and Texas. It never was so recorded. Why? League gives the true solution of that. He says that he was not going to furnish them with a stick to break his own head with; he was not going to publish to the world that the Federal judge of Texas, in whose court the cases were pending, was interested. No, sir; so shrewd a land speculator as Thomas M. League, the confidential friend, the old client, the partner of John C. Watrous, was not thus going to break his own head, or be deprived of the use of a Federal tribunal. Judge Watrous says, in his answer, that it was stipulated that this deed should be recorded, and he emphasises it; but he follows that, by saying, without emphasis, that he does not know whether it was ever recorded or not; and it is proved by Lapsley that it never was recorded in either of

the States. Was there in this an intention on the part of the judge and his confederates to secrete this interest? He says, in his answer, that his interest was known to his marshal, to his clerk, to his officers, to his counsel, Judge Hughes, and to the counsel of the parties. Is that true as to the defendants and their counsel? Spencer swears that he was in court when the suits were called, and that there was no disclosure. We call Howard, the counsel, and he swears there was no disclosure of interest. We call Taylor, who appeared for some of the defendants, and he swears that in 1852, when he made the motion for these cases to go to New Orleans, Judge Watrous did say something about being related to the parties by blood or marriage, but not such as, in the judgment of Mr. Taylor, would be a disqualification; but never discovered any pecuniary interest. He says the impression was resting on his mind; he is not certain whether he got it there or got it subsequently at Austin; but he had the impression that Judge Watrous disclosed an interest in 1852, but it was not a pecuniary interest. In fact, Judge Hughes, who ought to know, swears there was no disclosure by the Judge, until Taylor moved a change of venue to Austin, which was in January, 1852. Now, Judge Watrous has been able to prove, through the officers of his court, who live through his forbearance, many things; and they prove many things that do not redound to his judicial purity.

After this Spencer case was removed to be tried in New Orleans, the old gray-headed man heard by accident that it had been removed, and, poor man as he was, he started off five or six hundred miles to New Orleans to defend his case. He says that when he arrived there, he went into court and mingled with the crowd of spectators; that Hughes rose and moved for the trial of the Lapsley cases, intimating that there would be no defense; that then he appeared and stated that he was Mr. Spencer, and that he had come to defend his case; that he had just arrived in New Orleans, and desired time to consult counsel. He did consult counsel. The case was tried and the jury hung; on the second trial, the jury rendered a verdict against Spencer. The case passed to the Supreme Court of the United States; and my honorable friend from New Hampshire [Mr. TAPPAN] cites the affirmation of that judgment as a confirmation of the course of Judge Watrous in his own court and in the court held at New Orleans. Now, sir, I will not impugn the court of the United States in New Orleans, but be it understood that the decision of that court was made when the power of attorney was used and was supposed to be genuine.

It was not until after this suit had been tried that the power of attorney was discovered to be a forgery. Subsequent to that trial, circumstances arose which led to the suspicion that it had been forged, and the court caused an inquiry to be instituted with a view of affecting the other cases. A commission was sent from New Orleans to Mexico to take the testimony of Thomas de la Vega and of the custodian of the archives, who had the protocol, as the original of this power of attorney was called. The testimony was taken. La Vega swears he never executed the power of attorney to sell, but executed the one to locate and survey. The custodian testifies that upon an examination of the archives he finds such a power of attorney among the archives, executed by José Maria de Aguirre alone, not by Raphael de Aguirre or Thomas de la Vega, although their names appear in the body of the instrument. But not having been executed by all the parties whose names appear in the body, notwithstanding that it was executed by José Maria de Aguirre, he testified to a conclusion of law that it was null and void. The commission is brought back to New Orleans, and the testimony taken thereon placed on the files of the court, to be used in the causes remaining for trial. A copy of this testimony is sent on to Thomas M. League and to Judge Hughes, in Galveston, Texas. League receives it and hurries off to Judge Watrous for counsel. Watrous advises him to go to Alabama and see the parties interested there. He goes to Alabama, and the first man he meets is Lapsley. He says to Lapsley, "now that your title to the land is questioned, I want you to release me from my warranty." Lapsley, without hesitation, releases him. Does that look like an honest and fair transaction? If it

had been such, would Lapsley, who had invested his means in this enterprise, have been likely to have released the only responsible man connected with it?

After Lapsley had released League, he advances him \$2,500, and authorizes him to incur as much additional expense as may be necessary to go to Mexico and establish their title. League then goes back to Galveston, finds Judge Watrous, and says: "Lapsley has released me from my warranty, and I ask you also to release me." Judge Watrous, without hesitation, releases him, although this man League was worth \$100,000, or more, and although, if the power of attorney proved to be forged, they would have nothing to show for their money; yet they were willing to release him from his warranty. Does it look like an honest transaction? League then starts for Mexico, and proceeds as far as Brownsville, Texas, some two hundred miles, where a court of Judge Watrous was held. He takes Judge Watrous's clerk there, Francis J. Parker, and starts for Saltillo, Mexico, to find that old man, Juan Gonzales, who passed the *testimonio*, or issued the copy of the power of attorney. They took a man by the name of Treanor, an Irishman living at Matamoras, and proceed as far as Monterrey, where League and this clerk, Parker, halt. League then invests Treanor with plenary powers in the enterprise, and directs him to proceed to Saltillo. Treanor found, at Saltillo, Juan Gonzales, an old man nearly blind from a cataract, though his sight had been partially restored. He examines the document presented by Treanor, and recognizes his rubric; but his vision is too much impaired to speak of the handwriting. Now, I do not believe I can enlighten the House in any way better than to present this transaction in Mr. League's own language:

"Question. What was the expense to you of the procurement of Treanor and Gonzales?

"Answer. The whole cost was something between five or six thousand dollars. I speak of this trip to Mexico to get this testimony.

"Question. That is what I speak of—did that cost between five or six thousand dollars?

"Answer. Yes, sir; I paid for expenses to Mexico, \$4,173 72, and charged for my services \$1,250. That makes the total \$5,423 72.

"Question. How much of that \$4,000 was to Treanor for his services?

"Answer. I paid Mr. Treanor something like thirteen hundred dollars.

"Question. How much did you give Gonzales?

"Answer. I found out that there was a difficulty in regard to the power of attorney at New Orleans. I had not the slightest idea in the world that there was anything in the matter but what was perfectly fair and right, and I thought that the power of attorney was perfectly fair. The first intimation we got of it was a copy of some testimony taken *ex parte*, which we knew nothing about, to show that that power of attorney in Saltillo was not signed by Thomas de la Vega, or by Raphael de Aguirre. A copy of the power of attorney was sent to us by Mr. Gurley, the clerk of the court at New Orleans.

"Question, (by the chairman.) Who do you mean by 'us'?

"Answer. Judge Hughes and myself. That was the first I knew of anything of the kind, and I then went to Selma, Alabama, to see Mr. Lapsley. There was still a case which was not tried at New Orleans, and Judge Hughes and I came to the conclusion that a matter of this kind, even after the cases were tried, would be likely to leave a bad impression on the minds of the judges, and that we should do away with any such impression. I went afterwards to Selma, and saw Mr. Lapsley. In conference with Mr. Lapsley, I concluded I had better go to Mexico. Mr. Lapsley then gave me a draft on New Orleans for something like \$2,500, which I took there and had cashed.

"Question. How came you to think that you wanted so much money as that?

"Answer. It was a long distance away up in the mountains, and I always want plenty of money when I go anywhere.

"Question. What did you estimate it would cost there?

"Answer. I could not state.

"Question. How much did you ask Mr. Lapsley for?

"Answer. I wanted more than he gave me.

"Question. How much did you want?

"Answer. I wanted six or seven thousand dollars.

"Question. That was as much as you paid for the land?

"Answer. It was my intention, as I wanted peace and quiet, to buy any outstanding claims that there might be. If there was difficulty about the title, I would have bought the title of La Vega."

"Question. How much did you give Gonzales?

"Answer. We paid Mr. Gonzales, I think, \$1,300.

"Question. In addition to his expenses?

"Answer. Yes, sir.

"Question. Did you bring anybody else from Mexico?

"Answer. He was the only man. First, I took Mr. Gonzales to Rio Grande City; it was the nearest point in Texas. He was an old man, and he had to have a carriage and horses to bring him there. We took his testimony.

"Question. What did you take his testimony to?

"Answer. As to the power of attorney. I took with me when I went there, Mr. F. J. Parker, United States com-

missioner. The clerk of the court at Brownsville went with me as United States commissioner.

"Question. You had not the original power of attorney?

"Answer. I had the *testimonio*. I could not get the original power unless I took all the books with me. The original power remained in the office. After we got Mr. Gonzales to Rio Grande City we took his testimony; but as that kind of testimony which is taken *ex parte* is viewed with suspicion, and this was a matter of considerable importance, I thought that it would be much better if I could prevail on him to go to Louisiana, and give in his testimony before the court there. I got Mr. Treanor to converse with him. While we were there the steamboat came puffing up towards Rio Grande City. We told him that if he would go with us he would see a steamboat and a railroad, things which he had never seen. 'How prettily,' he said, 'we can go on that boat and be taken to New Orleans.' By talking with him in that way we got him to agree to go with us. He said he left some hides in his vats, which he was afraid would be lost. He was a tanner, and one of the old and wealthy men of Saltillo. His honor had been impugned, and he felt as much interest in this as we did. He said if this was perjury, that he was the man who had committed it, or was cognizant of it. He said that he wanted to show his children that he was a man of honor. I asked him what would be the cost of the hides—what he would lose if they were lost in his vats? He said some seven or eight hundred dollars. I said that I would pay for the hides if he would come along. By that means we got him to Louisiana. He went to Louisiana, and gave in his testimony before the court; and he was cross-examined by the defendant's counsel, Mr. Clark. His testimony is now filed in that court."

They took his testimony at an expense of \$7,000, and then John Treanor took him in custody as he would a prisoner, and delivered him safely at his home in Mexico. Was all this necessary in a *bona fide* transaction? Are we to say that all this was fair?

I have said, Mr. Speaker, that this was a conspiracy. Let me read an extract as to "conspiracy" from 1 Greenleaf on Evidence, sec. 11:

"The connection of individuals in the unlawful enterprise being thus shown, every act and declaration of each member of the confederacy, in pursuance of the original concerted plan, and with reference to the common object, is, in contemplation of law, the act and declaration of them all; and is, therefore, original evidence against each of them. It makes no difference at what time any one entered into the conspiracy. Every one who does enter into a common purpose or design, is generally deemed, in law, a party to every act which had before been done by others in furtherance of such common design."

I have read this for the purpose of showing that Judge Watrous himself is responsible for all this; the law fixes it upon him, but we need not resort to legal intendment or to any circumlocution in this case to pin the judge; he is the principal who dictated these movements, and who has been consulted at every step.

I see that my time is fast passing away, and I must hasten on to present and review other points of the case. In the brief hour allotted me, I am sensible that I shall not be able to do either the subject or myself justice.

Judge Watrous, disregarding the proprieties of his judicial position, entered into partnership with two leading litigants in his court during the pendency of their litigation. If the gentlemen from Texas shall conclude to take part in this discussion, they will be able to inform the House better than I can of the tenure by which land was held in Texas. They can explain the various terms of littoral leagues, Spanish grants and Mexican grants, and various other land titles.

When Texas became a part of the Union, much litigation grew out of the unsettled condition of land titles. The heaviest litigants in the Federal court were non-residents, who endeavored to establish their titles under Mexican grants. Among these litigants, Colonel Christie, of New Orleans, Thomas M. League—not then in the Federal court, but in the State court—Dr. Cameron, of Mexico, Powers, and Hewitson, and various others, were extensive land owners. While Cameron was litigating for hundreds of thousands of acres of land, in the Federal court presided over by Judge Watrous, Judge Watrous, on his invitation, went with him to Mexico, and there entered into a speculation in a silver mine. He accompanies this heavy land litigant, whose counsel is Judge Hughes, and engages in a silver mine speculation with him in Mexico, when his cases in the Federal court are yet undetermined.

The Powers and Hewitson colony or grant was an extensive tract of land, and the litigation of the title to it was going on in Judge Watrous's court. Judge Hughes was the plaintiff's counsel. Hewitson lived in Mexico and Powers in Texas. The litigation was carried on in Hewitson's name. Powers bought Hewitson's interest. But Powers and Hewitson had litigation also in the State

courts. Let Mr. League again speak for himself:

"Question, (by Mr. CLARK.) You never knew before that Hewitson could prove the handwriting of Gonzales?

"Answer. Never before.

"Question. At what time did you first become a party plaintiff or defendant in Judge Watrous's court?

"Answer. It must have been after the first Tuesday in July, 1850.

"Question. Do you recollect the occasion?

"Answer. Yes.

"Question. What was the occasion?

"Answer. The occasion was this: after I had changed my residence to the city of Baltimore, I became acquainted with James Power. I changed my residence, if I mistake not, about the last of April or the first of May, 1850. I made up my mind to remove to the city of Baltimore, and sent my family to the North. After they were gone, I became acquainted with James Power, while I was yet in Texas. He was an emissary of Power and Hewitson's colony. I was in Judge Hughes's office one day when Judge Hughes and Power were speaking over the business. Power had come up from his place on the Gulf, and was about changing his residence from Texas to New Orleans, so as to be able to bring suits in the United States courts, because, he said, his interest was large, and he was afraid to trust the courts of that country. Hughes and he talked for some time while I passed in and out. Power said it would be a very great and heavy sacrifice for him to change his residence. One thing led to another, and I became interested with Power, and Judge Hughes interested with me. Judge Hughes was to do all the legal part of the matter, and I was to furnish all the money in Power's business. It was Power and Hewitson's colony, but Hewitson had sold out to Power.

"Question, (by Mr. BILLINGHURST.) Was that Doctor James Hewitson?

"Answer. Yes; it was understood at the time, that Hewitson had sold his interest to Power.

"Question, (by Mr. CLARK.) You became interested in Power's suits?

"Answer. I did.

"Question. And in the suits to be brought?

"Answer. Yes; there was at that time large suits pending in the State courts at Texas, in the name of Power, but I also took on myself to carry on the whole business. Power's title was transferred to me. The only instrument that passed between us was a matter of litigation, and was passed upon by the Supreme Court of the United States. These were the first suits of any description that I ever brought in Judge Watrous's court; whether the Lapsley suits or these were brought first or last, I cannot say.

"Question. What did you do with the suits that were instituted in the State courts in the name of Power before this transfer to you?

"Answer. I pursued them in the State courts. Some one, two, or possibly three, were dismissed by Judge Hughes, my counsel, and I paid costs.

"Question. About how many suits were there in the State courts in Texas, pending in the name of Power, or of Power and Hewitson?

"Answer. I think some seven or eight; three of which were dismissed.

"Question. What disposition was made of the others?

"Answer. They were prosecuted.

"Question. To trial?

"Answer. Yes.

"Question. In the State courts?

"Answer. Yes.

"Question. How many suits were brought in the Federal court by Judge Hughes in your name, as plaintiff, after your arrangement with Mr. Power?

"Answer. I cannot tell; I think not more than seven or eight.

"Question. Were these suits tried?

"Answer. There was but one suit tried in Judge Watrous's court. As well as I recollect, it was the case of Thomas M. League against William H. Jones.

"Question. Do you recollect any other suit than that in which you were plaintiff that was ever tried before Judge Watrous, after May, 1850?

"Answer. There was one other case that came to trial—Thomas M. League vs. Daniel A. Atkinson.

"Question. Did that suit result from your arrangement with Power?

"Answer. It had nothing to do with it; it was totally isolated.

"Question. Who instituted the suits which Mr. Hughes brought in your name as plaintiff, in pursuance of your arrangement with Power?

"Answer. I have just explained that Hughes and I were partners, and he had as much power and authority as I. He did the legal part, and I furnished the money. He was equal with me, and was at liberty to do what he pleased in my name."

In one of the suits thus instituted by League, Judge Watrous decided, when the question was raised, that League was not a citizen of Texas, but a citizen of Maryland. The case went to the Supreme Court of the United States, and the Supreme Court decided that he was not a citizen of Maryland, and he was turned out of court. The case is reported 18 Howard, 76. Mr. League, in his testimony here, swore that he immediately returned to Texas, and reconveyed the land to the original parties, and that they reconveyed it to a man named Williams, in North Carolina, and doubtless the same farce is to be reenacted in the same court, in the name of Williams.

Mr. Love, the clerk of the court, swears that League's litigation in Judge Watrous's court commenced in 1850. Now, at this same time that League is buying from Powers, in order to litigate

in Judge Watrous's court, Judge Watrous goes into partnership with him in the Lapsley purchase. What was Hughes to do in this purchase from Powers? Powers was to have one third interest. The title was to go to League. He was to furnish all the expenses of the litigation. Hughes was to have one third for conducting the litigation, as a professional man. While we find Watrous in partnership with League, we find League, also, in partnership with Hughes, and both in partnership with Power; and Watrous in partnership with Cameron; and we find all these parties litigating in Judge Watrous's court, all speaking through the same man—Judge Hughes; and with the most intimate relations existing between them all. Is it to be said that Judge Watrous could sit on that bench and administer justice through a pure channel? Could he hold the balance fairly? It is not to be believed. Are not these charges sufficient to put him upon his trial?

I proceed from this point to the consideration of another question, which is the action of Judge Watrous in sitting on the trial of the cause of *Ufford vs. Dykes*. I have said there were three grants in one. Watrous is interested in the La Vega grant. The plaintiff in the suit of *Ufford and Dykes* was interested in the Raphael de Aguirre grant—the one in regard to which this power of attorney was forged. Watrous sat on the trial of that cause, and pronounced judgment in it. He charged the jury in so many words that the title was good. That title had to pass in review before him. He was interested in the original grant. He was interested in the power of attorney. If it was not a misdemeanor on his part, it was grossly indelicate to sit on the trial of this cause. It was creating judicial authority—a precedent that might be cited in his case at New Orleans, and in other litigations growing out of this grant—for it would not necessarily appear there that Judge Watrous was interested in the case. This act alone may not be a sufficient ground of impeachment, but when considered in connection with the manner in which Judge Watrous insinuated his favorite counsel, Judge Hughes, into the defense, for covert purposes, and with other facts elicited in the evidence, in my judgment it constitutes an impregnable ground of impeachment.

Another thing, Mr. Speaker. In 1852, the case of *Ufford and Dykes* was removed from Galveston to Austin. After it was removed, and while the order for its removal remained unrevoked, Judge Watrous allow the plaintiff to take a judgment by default at Galveston. Afterwards Thomas P. Hughes wants to have it reopened, and employs Mr. Hartley to aid him. Mr. Hartley files two motions before Judge Watrous at Galveston, the one in arrest of judgment, the other for a new trial. While these motions are pending, the court adjourns. In the evening Judge Hughes meets Mr. Hartley in one of the cross streets, and says, "I have come from Judge Watrous's room, where I left Mr. League. Judge Watrous is in great embarrassment what to do with your motions. He says he cannot entertain the motion for a new trial while the motion for arrest is pending. But if you file an affidavit of merits with your motion for a new trial, you can have it." There was a delicate mode on the part of Judge Watrous to insinuate that his friend Judge Hughes should be employed in the case. As a matter of course, the defendants employed Judge Hughes. Why should not they do so after this intimation, and considering his success with Judge Watrous? Judge Hughes is therefore employed on the part of the defense, and while so employed, he overrules his juniors, and stipulates to allow this *testimonio*, which was a forgery, to come into the case, without raising an objection to it, notwithstanding the junior counsel wanted to fight it all the way through; nay, he goes further—he even furnishes the plaintiff with the evidence, for he had it not—and admits a copy at that. Is it a mere accident that Watrous, League, and Hughes, are found together at this particular time? or are they in consultation concerning their interests involved in *Ufford, vs. Dykes*? Why this solicitude on the part of Judge Watrous to keep this power of attorney out of sight? Why was he afraid to touch it? Can it be said that after this *exposé* the judge was ignorant of the purpose for which Judge Hughes went into this defense? No man who examines this testimony can, for a

moment, believe it. Sir, this judge is a link in a circular chain, made up of himself, of land speculators litigating in his court, and of officers who live on the crumbs of this court, linked together for common gain. In my judgment, he was as well advised of the criminality of his connections as any one could be. It is utterly impossible that he could have been ignorant of it. He was either the dupe of designing men, or he was guilty of corrupt collusion with them.

Nor is Dr. Hewitson a useless plaintiff in the judge's court. The Lapsley cases remained long in court untried. The delay was not, as has been charged, attributable to the defendants. The plaintiff was never ready for trial until after they were sent to New Orleans. Why? Because the *testimonio* would not prove itself; it required substantiating evidence. While Judge Hughes was trying the *Ufford and Dykes* case at Galveston, in 1855, Dr. Hewitson was in attendance upon the court, with causes pending therein. Judge Watrous's case was then pending in New Orleans. Hewitson was from Saitillo, and must have known of Gonzales. He is inquired of, and found to possess the requisite knowledge. His evidence is taken as to the authenticity of this *testimonio*. He swears to the signature of Gonzales, and that he is dead. Yet, in July, 1857, this same Gonzales, whom Hewitson swears is dead in 1855, is taken to New Orleans at great expense, and there testifies. Are there two Gonzales? Dr. Hewitson is examined before A. M. Hughes, the son of Judge Hughes, who certifies that he took the deposition *ex parte*, because neither Spencer nor his counsel resided within one hundred miles. At that same time Robert H. Howard, the attorney of Spencer, resided in Galveston.

I have said the evidence discloses that repeated improper practices on the part of officers of the court have been permitted to go unrebuked.

The marshal has taken jurors from Galveston to make the panel at Brownsville. He has repeatedly summoned Francis J. Parker, the clerk of Judge Watrous's court, at Brownsville, to serve as a juror at Galveston. Edwin Shearer, a deputy clerk at Galveston, and not a freeholder, has more than once been put in the panel. It is a remarkable circumstance, that he should have been foreman of the jury in the case of *Ufford vs. Dykes*!

As to the Cavazos case I could not, if time would permit, add much to what is said in our report upon that branch of this investigation. So without entering upon it, I put it to the serious judgment of this House to say whether the evidence does not show that Judge Watrous ought to be put upon his trial, at the bar of the Senate, for such official misconduct as should, under the constitutional tenure of his office, terminate his official career?

It is said that a judge may buy lands. So he may? But is it compatible with the purity of his position to buy it of a plaintiff, litigating in his court, and pay nothing for it?

A judge may work silver mines; but may he, without reproach, go into such speculation with a party in his court?

Lord Bacon borrowed of Vanlore, a suitor before him, £1,000 at one time and gave his bond, and £1,000 at another time and gave his bill. This was held impeachable. In those days such acts were called bribery. I will not so name the acts of Judge Watrous; but I would create a necessity for the appointment of his successor.

Mr. REAGAN. I find, Mr. Speaker, by the report in to-day's Globe, that my colleague [Mr. BRYAN] made a statement yesterday which I did not hear distinctly at the time, but to which I desire to call his attention. He is reported as having said:

"As one of the Representatives of Texas, I state here that Stephen F. Austin has stated under his own hand, that he purchased the three eleven-league grants, and that Samuel M. Williams had full power of attorney to sell them."

The purpose for which I rise is to ask my colleague whether it is convenient for him to lay before the House the paper on which he made that statement, as such a statement coming from my colleague, who is a relative of General Austin, must have a very important influence on the House.

Mr. BRYAN. I state on the authority of a Representative who has been sworn at your desk

to discharge his duty, that such is the fact; and no member here will question it. I state that Stephen F. Austin has declared, over his own signature, that he made the purchase; and I trust my colleague will not require the paper to be laid before the House.

Mr. REAGAN. That is not an answer to my question. Will the gentleman from whom my colleague derived his information be good enough to place the paper before the House? I repeat, that anything coming from the great Stephen F. Austin, and vouched for by the Representative of an aggrieved and injured people, who are here seeking for the impeachment of one of their judges, must have an important influence in this matter? Will my colleague present the paper, or can a copy of it be had?

Mr. BRYAN. I state that I have the paper, and it is not necessary to present it. At a proper time and in a proper place, however, I will, if called upon, present it.

Mr. READY. It has been my misfortune, Mr. Speaker, as a member of the Judiciary Committee, to differ with some of my honorable colleagues in regard to the charges preferred against Judge Watrous. That difference of opinion has resulted from the different views which gentlemen sometimes necessarily take of the same subject-matter, while, at the same time, they are all anxiously desirous to arrive at a proper conclusion. I have labored with all assiduity to arrive at a correct conclusion in regard to these charges against Judge Watrous. I was as anxious and desirous, perhaps, as any other gentleman to have him, if he were guilty of corruption in office, brought before the proper tribunal to answer for his derelictions. I would not screen any man from punishment if he deserved it. On the other hand, though charges be preferred, clamor be raised, and outside pressure may be brought to bear against him, I could not cast a stain upon his reputation by sending him to the Senate to be tried there, though he were the humblest individual who ever sat upon the bench, unless I was satisfied the result of the trial would establish his guilt.

I have listened with much interest to the arguments which have been presented to the House by my worthy colleagues on the Judiciary Committee who have arrived at a different conclusion from myself on this subject; and I may be permitted to say that I have listened to the honorable gentleman who last addressed the House with some degree of surprise. I had supposed that the report made by the minority of the committee against Judge Watrous would furnish the basis of their arguments and of any impeachment which they might ask this House to vote against the judge; and I was not prepared to hear a gentleman whose name is signed to that report, after it had been prepared with so much care and deliberation, travel outside the report and make new issues against Judge Watrous. Yet my friend from Wisconsin [Mr. BILLINGHURST] will pardon me for saying that I think he has done so.

And now permit me simply for one moment to call the attention of the House to the points upon which that branch of the committee found their report. There are four distinct allegations of corruption or malfeasance in office. The first is that, while holding the office of district judge, he engaged with other persons in speculating in immense tracts of land situated within his judicial district, the title to which he knew was in dispute and where litigation was inevitable.

The second is, that he allowed his court to be used as an agent to aid himself and partners in speculations in land and to secure an advantage over other persons with whom litigation was apprehended.

The third is, that he sat as judge in the trial of causes where he was personally interested in the questions involved.

And the fourth is, that he was guilty of a participation in the improper procurement of testimony to advance his own and his partners' interests.

Now, sir, there is nothing there charging Judge Watrous with entering into a conspiracy or agreement with his associates by which he and they were to procure titles to large tracts of land vested in a non-resident of the State of Texas, so as to give him jurisdiction as judge of the Federal court to preside over and decide the trials of those suits.

It is true such a charge was made in the memorial of Eliphas Spencer, but it is equally true that the gentleman from Wisconsin and his associates who agreed with him in the Judiciary Committee, abandoned the charge. They make no allusion to it in their report. The gentleman from Pennsylvania [Mr. CHAPMAN] made his argument yesterday upon this report, endeavoring to sustain the four propositions which it contains, without traveling out of it to bring up a matter which is not alluded to in that report; and I trust I may be pardoned for saying that it occurred to me that the course pursued by the gentleman from Wisconsin furnished evidence, to say the least of it, that he felt the weakness of the positions assumed in that report.

Mr. Speaker, this investigation is based upon two memorials—one of Jacob Mussina, and the other of Eliphas Spencer. The main burden of the charge, however, seems to rest upon the memorial of Eliphas Spencer. The arguments which have been made by the gentleman from Pennsylvania, and the gentleman from Wisconsin, are in reference to the subject-matter, in some form or other, charged in the memorial of Eliphas Spencer. Whether they intend to abandon entirely the charges contained in the memorial of Jacob Mussina or not, I do not know. Their report, however, has a brief reference to those charges, and in the course of my remarks, if I should have time, though I shall address myself mainly to the memorial of Eliphas Spencer, and the report upon it, yet I shall briefly notice the memorial of Jacob Mussina, and the report in reference thereto.

But before I do this, perhaps it will not be improper that I should, for one moment, refer to the fact that both these memorials were drawn and, in fact, presented by one and the same individual. Simon Mussina stands here as the prosecutor of Judge Watrous upon both of these memorials. This will be found by an examination of the testimony in the case. He admitted, when he was examined as a witness, that he prepared both of the memorials. He is the only man who has appeared here as a prosecutor against Judge Watrous, and hence it becomes important to ascertain who is Simon Mussina.

A reference to the report of the committee and the testimony accompanying it, will show who he is as far as it is necessary to my present purpose. It appears that Simon Mussina, at a somewhat late period—perhaps in 1856—became interested as a partner of Thomas de la Vega, in his grant of eleven leagues of land. He admits that he had entered into a contract with Thomas de la Vega, and that he had received from him a power of attorney authorizing him to prosecute suits and recover possession of the eleven-league tract of land; and that he, Simon Mussina, should have a portion of the land as a compensation for his services. It was a champerty agreement, by which he deliberately contracted to commence and carry on a series of litigations, and to share in the spoils to result from those litigations against the occupants of the land. And poor Eliphas Spencer, who is made to figure here as a memorialist preferring charges against Judge Watrous, is made a mere instrument in the hands of Simon Mussina to carry out his champerty contracts with La Vega, while he himself is not to be benefited one dollar. Ay, sir, Eliphas Spencer figures here as a memorialist against Judge Watrous in order that he may be disgraced and dismissed from the bench, that Simon Mussina may reap the benefits, if any, which shall accrue from the litigations; for, mark you, the interest of Simon Mussina in this La Vega grant is as directly opposed to the interest of Eliphas Spencer and the other squatters upon this land as was the interest of Simon Mussina opposed to the interest of Lapsley and his associates.

But does it not readily occur to every gentleman that a man who is capable of entering into this champerty contract to secure his end—a species of contract which has always been regarded as odious under all well-regulated Governments—I say, does it not readily occur to every gentleman that such a man as that would care very little for the purity of the judicial ermine? And is it not likely that the sterling honesty and unflinching firmness of a judge would be most obnoxious to such a man? Why, sir, an honest judge who would fearlessly discharge his duty regardless of

consequences, without the fear or favor of any one, he would be the very last such a man as Simon Mussina would want to preside at the trial of his champerty law-suits.

Having said this much, with regard to the character of these charges, and of the persons who are prosecuting them, I will proceed as briefly as possible to notice the points which have been made in the reports and in the arguments upon the other side of this question. I shall not now attempt to go into a very elaborate examination of the entire testimony. It would be impossible to do so. An hour's time would hardly suffice to enter upon the threshold of some thousand pages of printed matter which lies upon the tables of members. I shall, therefore, content myself with referring only to the prominent points of evidence which bear directly upon the specifications which are named in the report against Judge Watrous.

Mr. DAVIS, of Maryland. I simply wish to ask my friend from Tennessee, if, in the course of his remarks, he will do me the favor to state whether there is any evidence to show that Judge Watrous was engaged in a series of speculations in lands in Texas with parties who were then litigants in his court; and if so, how many? Because my vote will depend upon the evidence upon that point.

Mr. READY. I will take pleasure in responding to the question of my friend from Maryland; and for fear I may not have time to do it when I have arrived at the proper point in my argument, I will do so instantly.

I assert, Mr. Speaker, that there is not a syllable of testimony in this record, from beginning to end, going to show that Judge Watrous was engaged in the purchase of any tract of land at any time or anywhere, except this single eleven-league tract. With the exception of this one transaction, he never engaged in any contract with any person who was litigating in his court, or persons not litigating in his court, residing within the limits of his judicial district. The proof shows that Judge Watrous had no means of speculating. He is a poor man, in embarrassed circumstances. The facts, which are indisputably proved, in regard to the purchase of this very tract, show conclusively that Judge Watrous had not the means of speculating; for, it has been stated, and stated truly, that to this very hour he has not paid a dollar of his part of the purchase money, because he had not the money to pay it with. He executed his note, bearing interest from the date of the transaction—the 9th or 10th of July, 1850—and he now owes it, principal and interest. Judge Watrous was brought into the connection which he had with this purchase as a mere matter of favor, because, through his suggestion to Thomas M. League, he was brought into communication with the capitalists in Alabama, with whom the contract of purchase was consummated.

But I proceed to notice the first specification in the charges against Judge Watrous. It is that he was engaged in the purchase of large tracts of land situated in his district, when he knew that the titles were in dispute, and when litigation in regard to them was inevitable.

Now, I deny that there is any testimony in this entire record, going to show that Judge Watrous knew that these titles were in dispute, or that there would be litigation. Mr. League testifies that, in the first interview he had with Judge Watrous on the subject, which was an incidental one, he stated to the judge that the title to this land was beyond a doubt; and that he had consulted and advised with Allen and Hale and Judge Hughes, all eminent and distinguished lawyers of the State of Texas, who concurred in opinion that there could not be any doubt in reference to the title. This was at the interview in Judge Watrous's room, when Mr. Shearer was present. Judge Watrous thereupon remarked to Mr. Shearer, that perhaps his brother-in-law in Alabama, Mr. Price, would like to go into the investment. The testimony to which I refer will be found on page 244. On page 231, League is asked:

"Did you make any communication to Judge Watrous, after your return from examining the land, on the question whether there would be probable litigation in consequence of the occupation of the land by claimants?"

It will be remembered that two of the Alabama gentlemen went out to Brazos with Mr. League to look at the land and judge of its value for them-

selves. Mr. League answered to the question in these words:

"No, sir; I did not expect, myself, there would be any litigation."

Then his examination is continued, as follows:

"Question. What did you state to Judge Watrous on that subject?"

"Answer. I stated that Mr. Donohue was a tenant of Mrs. St. John's, holding under lease; that Mr. Pickett claimed three hundred and twenty acres, and a man named Sutton claimed six hundred and forty acres, under titles from Mrs. St. John; that they might possibly have a fence or two running over the line, but that I did not think there would be any litigation about it. There were also two brothers by the name of Barton, who had their certificates located on the land, and they told me they would raise them. I had a conversation with another person there, and he told me that he was going away. Spencer was on the land at the time, but I did not know it. I did not see Mr. Spencer."

He told Judge Watrous that he believed there would be no litigation. At the time the purchase was made in Alabama, Mr. Lapsley himself had reason to believe that there would be no contest about it. He says that he thinks that probably Mr. League gave his opinion that there would be very little, if any, litigation about the lands when the matter came to be tested. He said that although he gave instructions to Hughes to bring the writs, if necessary, yet he did not know that there would be any. He thought that it was likely those who were upon the land would abandon their pretensions. In point of fact several actually did surrender them. At page 147, Mr. Lapsley says that if the matter of bringing the suit was talked of at all when he was negotiating with Mr. League, he does not recollect it. It was not even talked of.

Mr. BILLINGHURST. With the gentleman's permission I will read from Lapsley's testimony, page 121. He was asked whether it was contemplated at that time (at Selma) that suits were to be brought, and he answered yes, that he calculated suits would be necessary.

Mr. READY. But still that was not spoken of during the negotiations. In his testimony, at page 129, he says that he did not know that it would be necessary to bring suits. Mr. Lapsley was examined at great length. Questions were put to him in every conceivable form and shape for the purpose of eliciting something, if possible, upon which to base this charge. But we must look to the whole testimony of Mr. Lapsley. On page 143 he says:

"If the matter of bringing suit was talked of at all when we were negotiating with Mr. League, I do not recollect it; but if it was talked of at all, it was in an incidental manner. It was not a matter which entered into the spirit or consideration of the contract in any form or shape. I feel certain of that fact."

On page 213, Mr. League was asked:

"Was anything said about the court in which the suits were to be brought; was anything said about the court or the mode in which the suits were to be conducted, how they should be transferred, and when they should be transferred, and where they should go?"

To which he answers:

"Nothing of the kind transpired in my hearing while I was at Selma; because when I made the title to Mr. Lapsley, it was thought we should have no litigation. The cause of the title being put into Mr. Lapsley's hands was, that he paid all the money. I never paid a dollar for this land to this day, nor has Judge Watrous either."

The idea that John W. Lapsley was vested with the title for the purpose of bringing suits in the Federal court, he being a citizen of Alabama, is altogether founded in the imaginations of gentlemen; for Mr. Lapsley himself states that he would not have gone into the purchase unless the title was good. So much, then, Mr. Speaker, for the charge that Judge Watrous knew that he was purchasing a doubtful title, and that there would be litigation.

I now propose to notice briefly the second point, that Judge Watrous permitted his court to be used as an agent to aid himself and partners in speculations in land, and to secure an advantage over other persons with whom litigation was apprehended. I see no testimony to sustain that charge. In my judgment, it proves directly the reverse. The whole testimony in the case goes to show that Judge Watrous never contemplated that a suit would be brought. In his earliest interviews with League and with Lapsley on this subject he stated his opinion that the case of Hancock vs. McKinney, that was pending in the State courts of Texas, for the establishment of the Delvalle claim, would be decisive of the title under the La Vega grant; and he desired, if there should

be any litigation springing out of the claim of the La Vega tract, it should be had in the courts of Texas.

Mr. HOUSTON. Will my friend from Tennessee point me to the page of Colonel Lapsley's testimony on which that appears?

Mr. READY. I say it was Judge Watrous that made that statement.

Mr. HOUSTON. I understood the gentleman to say that that was to be found in Colonel Lapsley's testimony. I desire him to refer me to the page where I shall find it.

Mr. READY. It is in the testimony of League, and perhaps I connected Lapsley with it.

Mr. HOUSTON. You certainly did.

Mr. READY. Whether I did or not, it substantially appears, I believe, from the testimony of both.

Mr. HOUSTON. I should like to see it in Mr. Lapsley's testimony.

Mr. READY. I will proceed with some reference to Mr. Lapsley's testimony, and the gentleman from Alabama will see whether I was or was not right in my statement.

At page 132, Mr. Lapsley was asked:

"Was it not one of the reasons why you required the title to be in yourself, that you might avail yourself of the Federal jurisdiction?"

"Answer. No, sir, it was not; because I do not think I would have gone into the purchase at all and have left the title in any one in Texas. I do not think I would have been willing to go into the matter, except either myself or one of my associates (in Alabama) had the control of it."

Page 149:

"Question. I want you to reflect on the subject of everything said and done there, (at Seima,) so as to say whether you do or do not recollect if Judge Watrous said anything in regard to where the suits were to be brought?"

"Answer. My impression is, that that matter was not spoken of till after we got through the signing of the papers. I have some recollection that some time while the parties were at Seima, this matter was spoken of; but I think it probable it was after the contract was concluded or agreed upon, although I will not say that the matter was not alluded to before.

"Question. Was there any agreement as to the bringing of the suits?"

"Answer. No, sir; it never was a matter of agreement that I know of. I had made up my mind, if I bought the land, and if suits became necessary, that I should direct them to be brought in the United States court. I thought it likely, if there was litigation, it would not terminate short of the Supreme Court, and I preferred that the matter should be adjudicated by the Supreme Court of the United States."

And again:

"Question. Did you hear Judge Watrous at any time object to his exercising jurisdiction over these cases?"

"Answer. I have heard Judge Watrous say that he preferred that the suits should be brought in the State courts."

Mr. HOUSTON. Read the next question and show the date of this conversation. It was after the trial of the suits at New Orleans—four or five years after the suits were first brought.

Mr. READY. Very good; but it is in keeping with a series of statements made by Judge Watrous from the first time that he opened his mouth up to the time the charges were preferred. No witness has undertaken to state that Judge Watrous was ever heard to say that he desired to have the suits brought in his court.

Again, Lapsley, at page 152 of his testimony, says:

"The charges of fraud and collusion referred to in this interrogatory, so far as I am concerned and so far as I have any knowledge, are utterly untrue and unfounded; that the purchase was made by me, with my associates, in good faith, for the purpose of obtaining the land fairly and honestly, and not for the purpose of conferring jurisdiction on the Federal court of Texas or any other court in particular."

Page 153:

"Question. Do you know, or have you ever heard, that Judge Watrous counseled and procured the apparent legal title to be made to a non-resident of the State of Texas, thereby to confer jurisdiction on the Federal court of Texas to hear and determine any suit that might be brought to test the validity of said title to the land?"

"Answer. I do not know it, and I have never heard it, except through affidavits and pleas of Eliphas Spencer, and I have no remembrance of having heard it from any other source, except in newspaper articles."

The testimony of Mr. League is, that Judge Watrous uniformly stated to him, if perchance there should be any litigation about the land, he preferred to have it in the State courts, inasmuch as he believed they would sustain the Delvalle title, about which the litigation was then pending. The suits were brought in the Federal court without the knowledge or consent of Judge Watrous, as is abundantly proved by Judge Hughes, who was the lawyer who attended to

them for the plaintiff. On page 39 of the testimony, he says:

"I never consulted Judge Watrous about the commencement of the suits, or the examination of the titles, or anything regarding the matter, because I believed myself to be entirely under the control of John W. Lapsley, who had the legal title and the whole control of the prosecution of the claim. I commenced the suits in the district court of the United States by the direction of Mr. Lapsley."

In answer to a question, he says:

"Judge Watrous had nothing to do with bringing those suits in the Federal court."

Further, he says:

"He brought the suits by the direction of John W. Lapsley. He told me by letter, when the suits were commenced, that if litigation was to be had, they should be brought in the Federal court, as he was a citizen of Alabama, and had the right to bring them there."

I might refer to other testimony on this point, but I fear I shall not have time to do so. Perhaps I have already referred to enough to show that Judge Watrous did not desire or contemplate or intend that his court should be used to litigate the title to these lands. But here I must notice the argument made by my friend from Pennsylvania, [Mr. CHAPMAN,] and repeated by my friend from Wisconsin, [Mr. BILLINGHURST.] That argument was, that Judge Watrous, by going into this speculation, and causing these suits to be brought in the Federal court over which he presided, did thereby defeat the rights of the defendant to have the suits tried before juries of their own State, and that that was a crying injustice. The proof is ample that Judge Watrous afforded every facility in his power to enable these gentlemen to have their cases tried before juries in their own State. If they were deprived of that privilege, it was not the fault of Judge Watrous, or of Judge Hughes, but of the counsel who defended the suits.

It will be remembered that Judge Hughes states that he brought these suits in the Federal court under the direction, and under the control exclusively of League, and that he never conferred or spoke with Judge Watrous on the subject at any time. He was employed by League; he felt himself under his control, and in obedience to the instructions which League gave him, he brought the suits in the Federal court. He may, at the time they were instituted, have contemplated that they must necessarily be transferred from the State of Texas to be tried; but there is ample testimony to show that if Judge Hughes ever entertained such an idea, he changed that purpose afterwards, and anxiously desired to try the cases in the State of Texas.

At the very first term of the court at which those cases were called, Judge Watrous emphatically announced his incompetency to make any order in them, because he was interested, as is proved by the testimony of Judge Hughes, of the two deputy clerks, the principal clerk, and the bailiff of the court, by the chief marshal of the State of Texas, and by League; he emphatically announced that he "would not try those cases, or touch them with a forty-foot pole." At that very term of the court, as is proved by Judge Hughes, he and Mr. Taylor, who was the representative of all the defendants, except Spencer, agreed that they would select some lawyer of known ability and legal information to preside upon the trial of these causes in the State of Texas; and when the causes were removed from Galveston to Austin, Judge Hughes emphatically states that it was upon the express agreement between himself and Mr. Taylor, that they would select a lawyer to try them there. That was the understanding; but Mr. Taylor, the defendants' counsel, at the first and second terms of the court at Austin, interposed some objections, and finally Judge Hughes was driven to the necessity of moving an order transferring the cases to New Orleans.

To show that Judge Hughes was sincere in all this, here is a copy of a letter which he addressed to Lapsley upon that subject, and Lapsley was surprised when he received it, because he had given orders that the suits should be prosecuted in the Federal court. He knew they had been brought there; and, because of the incompetency of Judge Watrous, he expected that they would be transferred to the nearest court in a neighboring State. But Judge Hughes said:

"I do not desire to transfer these cases; they can be tried in Texas; it is inconvenient for me to follow them out of the State; the counsel for the defendants have agreed to substitute a judge for Judge Watrous, to try the cases, and a trial can be had at the next term of the court at Austin."

Judge Watrous was fully cognizant of this arrangement, and of course assented to it. Otherwise it would not have been made. What, then, becomes of the argument that Judge Watrous was acting unfaithfully as a judge by interesting himself in lands about which there was litigation—in which the defendants would be necessarily driven out of their own State to have a trial? What becomes of the argument that these defendants were deprived of a jury of the vicinage to pass upon their rights? It is proved that their own lawyer declined carrying out this agreement, and thereby created the necessity of going into another State for a trial. If any hardship was thereby imposed on them, it does not lie at Judge Watrous's door.

But I proceed, Mr. Speaker, to notice the third point, which is, that Judge Watrous sat as a judge in the trial of causes when he was personally interested in the questions involved. The gentlemen refer, in support of this charge, to the case of *Ufford vs. Dykes*. It is asserted that the plaintiff in that case held the same description of title that was involved in the Lapsley cases; and that, although the judge was not directly interested in that case, he was interested in the question involved, so far as the decision in that case would have an influence—a moral influence, I suppose—upon the De la Vega grant. It is true that the case of *Ufford vs. Dykes* depended upon the grant or concession to Raphael de Aguirre, made at the same time as the grant to Thomas de la Vega; and the power of attorney in the one case, it is true, was involved in the other; but I challenge the gentleman to point to the testimony which shows that Judge Watrous knew that the cases were of the same character, or involved the same question. It is proved throughout this record by everybody, that the papers were never submitted to Judge Watrous, and that he did not even know, up to the time of that trial, of the existence of this power of attorney.

Mr. REAGAN. In the case of *Ufford vs. Dykes* the judge charged the jury that the title was good and conveyed the lands; and he was then adjudicating the same concession which conveyed the La Vega part.

Mr. READY. I am perfectly aware of that, but it does not alter the argument or the position of Judge Watrous in the slightest degree; because it is proved by Judge Hughes, who was engaged upon one side of the case, and by Mr. Potter, who was engaged as the lawyer on the other side, a man of high intelligence, that this power of attorney was never read; it was put into the trial by the consent of counsel; there was no question raised; they agreed beforehand that no question should be raised, and it was upon the faith of that agreement that the trial was gone into at the time, and as a matter of course, where the parties upon the respective sides agreed that the title was all correct, and no question was raised, he would not take up the title to examine it. He simply relied upon what was admitted by the counsel upon the respective sides.

But, if he had read that power of attorney, it does not follow that he would know that the paper was involved in the issue of title in the De la Vega tract. Though he had read it word for word, he would not have known that fact unless he was expressly informed of it, because he had never seen the abstract of title, or any of the title papers of the De la Vega tract, up to that time. He relied upon the information of Judge Hughes, in whose legal opinion he had perhaps more confidence even than he had in his own. The simple truth is that, up to that good hour, no question was raised as to the validity of that power of attorney; no question was raised until after the trial of the Lapsley and Spencer suit in New Orleans. Then it was first suggested that there was a forgery in reference to that paper. The only question before raised was as to whether the proof of its execution before the regidor of the city of Leona Vicario was sufficient to entitle it to be read in evidence; and that was the difficulty which the agreement of counsel tended to meet and obviate.

It is in proof by Potter, by Hughes, and by all who were concerned as counsel in that case, that no question as to the validity of any title was presented; and that the question was simply as to the locality of the land. The suit was to recover a tract of land lying on Williamson's creek. The defense was, that the land was located at a dif-

ferent place—at the mouth of the Bosqua. It seems that there had been a tract of eleven leagues laid off and surveyed there; and there was some memorandum in the land office showing it was surveyed for Raphael de Aguirre, under whom Ufford claimed. But it was believed to be a mistake, and that it was intended for José Maria de Aguirre. If it was not for him, then he never obtained a foot of land under his concession from the States of Coahuila and Texas.

That was the only question involved in that case; and when Judge Watrous proceeded to try it, he was not, and could not be called on to give an opinion upon, or decide any question which might arise in litigating, the title of the De la Vega tract. I say, therefore, that it was simply absurd to allege that Judge Watrous was guilty of corruption and malfeasance of office, because he proceeded to hear the case of Ufford vs. Dykes.

If you establish such a rule as that, you will disqualify a judge from trying any case; because there is scarcely a tribunal in the country in which questions are not constantly arising for decision, in which the judge is interested, especially if he be a property-holder. Questions of a different nature, also, are constantly arising—questions of general rights—in which every judge must be interested. It is not a mere interest in the question which disqualifies the judge; but an interest in the subject-matter, and where a verdict or judgment may be read in evidence in his favor or against him. If it could not be used for such purpose in litigation, in a case in which he may be interested, the judge would not be incompetent. If you establish the rule contended for in this branch of the charge against Judge Watrous, there is not a sensible man in the United States who would dare to accept a seat upon the bench of any court, State or Federal. It would be a total interdict against any man accepting the office of judge.

But I hasten on to the last charge—that Judge Watrous participated in an improper procurement of testimony to defend his own and his partners' interests. This specification is founded upon the facts elicited in the investigation in reference to the procurement of testimony from Mexico—the testimony of one Gonzales, who was brought to the city of New Orleans after this charge of forgery had been made, and whose deposition was taken there.

And it is suggested that League expended an immense sum of money to procure that testimony; that he employed a man by the name of Treanor; and it is intimated that this Treanor used this money for unlawful purposes. And Judge Watrous is to be held accountable for all this. If gentlemen will take the trouble to look into the testimony, they will see that Judge Watrous had no more to do with the procurement of that testimony than you or I had, except that when League informed him that testimony was filed in the last and only remaining suit in New Orleans, attacking that power of attorney, and asked him what should be done, he told League to go to Judge Hughes, who was counsel in the case; to consult with the Alabama gentlemen concerned, and thereby determine on the course to be pursued. He advanced no money, was never called on for any, and never knew how much was advanced, or for what purpose.

[Here the hammer fell.]

The SPEAKER stated that if it was the pleasure of the House the question would be then taken.

Mr. CLARK, of New York. Mr. Speaker, I design to address a few observations to the House on this case, but I prefer to follow some gentleman who advocates the other side of the question. The gentleman from Tennessee [Mr. REEDY] has expressed views which correspond with those I hold. I understand that there are several gentlemen who desire to address the House in favor of the impeachment of Judge Watrous, and I hope, therefore, that one of those gentlemen will avail himself of the opportunity now. If, however, the debate is to be closed at this time, and the motion put, I shall, however unprepared, go on with my remarks now.

Mr. HOUSTON. It was my purpose to ask that a vote should be taken on the pending resolutions to-morrow. I designed to move the previous question at some stage of this discussion agreeable to the House, and then after debate had

been closed, to submit, under the rule, as chairman of the Committee on the Judiciary, some remarks myself. A member of that committee, who, I understand, desires to speak on the question, has just arrived in town, having been detained from his seat by sickness. I allude to the gentleman from Louisiana, [Mr. TAYLOR.] He has not had an opportunity of putting himself in a condition to address the House. He has been traveling night and day, and has lost several nights' sleep. If the gentleman from New York, [Mr. CLARK,] is disinclined to proceed now, I will, under the circumstances, make no objection to the matter going over until to-morrow.

Mr. CLARK, of New York. Having ascertained that three or four speeches are to be made in favor of the impeachment of Judge Watrous, I think it at least just that one against it should come in somewhere among them. I understand that we are to have a speech from the gentleman from Texas, one from the gentleman from Alabama, and one from the gentleman from Louisiana, all in favor of the proposed impeachment. I am willing to come in anywhere. I will speak now, rather than lose the opportunity of speaking at all; but I prefer to follow some gentleman who will present to the House an argument in favor of impeachment.

Mr. HOUSTON. If the gentleman prefers it, I am willing that the case shall go over until to-morrow. At that time my friend from Louisiana, who is certainly in no condition now to address the House, will be ready to go on.

Mr. CLARK, of New York. I am ready at any time.

Mr. REAGAN. I desire to address the House on this subject; but I must say, in justice to myself, that I have been prevented, until my arrival here, from going into a full investigation of the papers in the case, because of the loss of the documents I forwarded to my home in Texas, and which were lost by the sinking of the ship Austin; and that, therefore, I would prefer not to say what I have to say this evening. But I will abide by any arrangement satisfactory to the House.

Mr. STEPHENS, of Georgia. It is due to the gentleman that he should have the courtesy he asks extended to him; and if he will take the floor I will move that when the House adjourns it adjourn to meet on Monday next.

Mr. REAGAN. I take the floor, and yield to the gentleman in order to get the sense of the House.

Mr. STEPHENS, of Georgia. I make the motion I have indicated.

Mr. LOVEJOY demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 81, nays 96; as follows:

YEAS—Messrs. Abbott, Adrain, Atkins, Avery, Barksdale, Bennett, Blair, Bliss, Bonham, Bowie, Boyce, Bryan, Burlingame, Caskie, Chapman, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Cox, Burton Craige, Davis of Maryland, Davis of Indiana, Dick, Dowdell, English, Faulkner, Florence, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Harris, Haskin, Hawkins, Houston, Jackson, Jenkins, George W. Jones, Kellogg, John C. Kunkel, Lamar, MacLay, McKibbin, Humphrey Marshall, Millson, Moore, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Olin, John S. Phelps, Potter, Powell, Ready, Reagan, Ricaud, Rufin, Russell, Savage, Scott, Searing, Aaron Shaw, Shorter, Singleton, William Smith, Stallworth, Stephens, Stevenson, Talbot, Miles Taylor, Underwood, Israel Washburn, Watkins, Wilson, and Woodson—81.

NAYS—Messrs. Andrews, Billingshurst, Bingham, Bock, Branch, Bratton, Bullington, Case, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Cobb, Cockerill, Coffax, Conins, Covode, Cragin, James Craig, Curry, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Durfee, Edie, Farnsworth, Fenton, Foley, Foster, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, Hoard, Hopkins, Horton, Hughes, Huyler, Jewett, Owen Jones, Keim, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, Samuel S. Marshall, Mason, Maynard, Montgomery, Morgan, Morrill, Isaac N. Morris, Murray, Parker, Phillips, Pike, Pottle, Purviance, Ritchie, Robbins, Royce, Sandidge, Seales, Henry M. Shaw, John Sherman, Judson W. Sherman, Robert Smith, Stanton, James A. Stewart, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Trippes, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Wortendyke, and John V. Wright—96.

So the House refused to adjourn over.

The SPEAKER. The Chair understands the gentleman from Texas to move that the House adjourn.

Mr. REAGAN. Yes, sir.

The House divided on the motion; and there were—yeas 85, nays 67.

Mr. DEWART demanded the yeas and nays. Mr. REAGAN thereupon withdrew his motion to adjourn.

Mr. MORRIS, of Illinois, asked leave to introduce certain bills, of which he had given notice yesterday.

Mr. RITCHIE objected.

Mr. REAGAN, Mr. Speaker, I make an apology for not being prepared in full at this time on the pending question, which was that I sent the necessary documents home at the close of the last session to enable me to give this question that investigation which its importance, and especially its importance to the people of Texas, demand of me as their Representative, but unfortunately they never reached me, having been lost by the sinking of the ship Austin. I have had to devote what time I could since I came here to the investigation of this subject. I had not the benefit of hearing all the testimony, and a large portion of it, as detailed in the report of the Committee on the Judiciary, I have not had an opportunity to examine sufficiently to comment on it. If, however, it be the desire of the House to proceed with the discussion without time being afforded for me to examine the evidence, and collect my thoughts, and to arrange my facts, I will, in order to facilitate the business of the House, and to arrive as soon as possible at a vote on this question, proceed with my remarks at this time. Other gentlemen also will follow me; they will, where I fail, present the arguments resting upon the essential facts in the case, and, probably, but little will be lost by my inability to take up the records, and give the connected view of them which I designed.

Mr. UNDERWOOD. With the leave of my friend from Texas, the House having heard from him the state of embarrassment and difficulty under which he labors, disqualifying him to some extent from going on as satisfactorily this evening as he otherwise would, I trust he will give way that I may renew the motion, that the House do now adjourn.

Mr. REAGAN. I thank my friend from Kentucky for his kindness; but the House has shown such a strong disposition that I should proceed this evening, that I do not like to test its patience any further.

Mr. STEPHENS, of Georgia. I suppose that those who voted against the adjournment desire to have another vote for adjourning over. If the gentleman from Texas will yield to me, I will move, therefore, that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. REAGAN. I will yield the floor for that motion.

Mr. MORGAN. I object to the gentleman from Texas yielding the floor. I object to all these arrangements.

Mr. CHAFFEE demanded the yeas and nays on the motion.

Mr. STEPHENS, of Georgia. Let us take the vote by tellers.

Messrs. CHAFFEE, MORGAN, and others, repeated the demand for the yeas and nays.

Mr. STEPHENS, of Georgia. I withdraw the motion.

And then, on motion of Mr. UNDERWOOD, at two o'clock and fifty minutes, p. m., the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, December 11, 1858.

The House met at twelve o'clock, m. Prayer by Rev. A. G. CAROTHERS.

The Journal of yesterday was read and approved.

PRINTING THE PRESIDENT'S MESSAGE.

Mr. SMITH, of Tennessee. I ask leave to report, from the Committee on Printing, the following resolution, which has been unanimously approved by the committee:

Resolved, That there be printed, for the use of the members of the House of Representatives, twenty thousand extra copies of the message of the President of the United States, together with the accompanying documents.

I move the previous question on the adoption of the resolution.

Mr. KELSEY. I believe, Mr. Speaker, that that resolution opens up the President's message to discussion.

The SPEAKER. The previous question has been demanded.

Mr. KELSEY. Then I object to the introduction of the resolution.

The SPEAKER. The Committee on Printing has a right to report at any time.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. SMITH, of Tennessee, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. SMITH, of Tennessee, from the same committee, also reported the following resolution, and moved the previous question thereon:

Resolved, That there be printed, for the use of the members of the House of Representatives, fifteen thousand copies of the letter of the Secretary of the Treasury on the state of the finances, and also one thousand additional copies for the use of the Treasury Department.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. SMITH, of Tennessee, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

CAPTAIN HIRAM L. MEEKER.

Mr. MORGAN asked and obtained leave to have withdrawn from the files of the House the papers in the case of Captain Hiram L. Meeker, of New Jersey, and to have the same referred to the Committee on Commerce.

PAYMENTS FROM THE TREASURY.

Mr. SCALES, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish to the House a statement of the different payments from the Treasury, from the year 1840 to the year 1858 inclusive, placing the said payments under three different heads—ordinary, extraordinary, and the public debt; and specifying the items of each.

Mr. SCALES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

CASE OF HON. JOHN C. WATROUS.

The SPEAKER announced the business first in order to be the consideration of the resolutions reported by the Committee on the Judiciary, in reference to the impeachment of the Hon. John C. Watrous, United States judge for the district of Texas; on which the gentleman from Texas [Mr. REAGAN] was entitled to the floor.

Mr. REAGAN. In the case of Cavazos and others, against Stillman and others, the plaintiffs claimed fifty-nine leagues of land, or about two hundred and sixty-one thousand acres, fronting, as claimed, about sixty miles on the Rio Grande; and on the Gulf of Mexico and Laguna Madre about forty miles, and including the city of Brownsville and Fort Brown, with the Government improvements, and Point Isabel, the site of the custom-house for the Rio Grande country, and a number of Mexican villages or ranches, altogether of the value of millions of dollars.

The charges which Mussina makes against Judge Watrous in this case relate to his rulings and conduct during the progress and trial of the case, and imply a fraudulent conspiracy with certain attorneys and parties to the suit, for the purpose of establishing their claim to this large grant, and of defeating the claim of the memorialist.

The suits brought by Lapsley were for the recovery of the title and possession of an eleven-league grant of land on the Brazos river, which, according to the testimony of Mr. League, who claims one fourth of the land, contains ten or twelve thousand acres more than the deed calls for, which would make the grant contain about sixty thousand acres. And Mr. League testifies that this land is worth five dollars per acre, making the tract worth about three hundred thousand dollars. Judge Watrous's interest in this is one fourth—about fifteen thousand acres; and is worth about seventy-five thousand dollars. But the concession was for three eleven-league grants, of which this is one. And the power of sale, which occupies so much attention in this case, re-

lates also to all three of these grants. These suits were brought by Lapsley against eleven persons who had settled on, and were occupying, cultivating, and improving these lands; and among them was Spencer, the memorialist.

Spencer charges Watrous with obtaining a secret interest in this grant, and aiding to have the legal title vested in Mr. Lapsley, a citizen of Alabama, to give jurisdiction to the United States district court of which he was judge; of allowing suits brought in his own court, and retaining jurisdiction of them until his interest was discovered. He also charges Judge Watrous with adjudicating the title to one of these same three eleven-league grants in the case of Ufford against Dykes, knowing that the questions involved in that case were the same as those involved in the cases in which he was interested.

These charges were presented to the Thirty-Fourth Congress, and, after a very full investigation by the Judiciary Committee, they unanimously recommended the impeachment of Judge Watrous; but the House adjourned without acting on the report of the committee.

At the last session of this Congress these memorials were presented again; and the report of the Judiciary Committee is before us for action.

The great number of questions presented for our consideration, and the facts evolved in the fourteen hundred pages of testimony before us, render it impossible to discuss them all in a speech of an hour. Indeed, the report of the four members of the committee who recommend the impeachment of Judge Watrous is so clear an exposition of the questions involved, that it is hardly desirable to rediscuss them. But I will call attention to some of the more prominent points, and reply to some of the arguments made on the other side.

I shall only have time to refer to a few leading facts in the Cavazos case. And it seems to me only a few need be brought in review to disclose the enormities of this great and extraordinary case.

The original bill was filed in the Cavazos case on the 12th day of January, 1849, by E. Allen and William G. Hale, claiming to represent eight citizens of Mexico, against citizens of Texas; thus giving the United States courts jurisdiction.

On the 28th of June, 1849, the defendants, by their counsel, filed the affidavit of Rice Garland, in which he declares and says:

"He is the solicitor of the defendants, Patrick C. Shannon and Richard Fitzpatrick, in the suit instituted on the equity or chancery side of the district court of the United States in and for the district and State of Texas, by Raphael Cavazos and others, versus Charles Stillman and others; and that he is also attorney in fact for the said Patrick C. Shannon. He further declares that he is well informed and verily believes that Doña Feliciano de Tigrina, Don Manuel Prieto, and Doña Maria Angela Garcia, the next friend of Don Ramon Lafon, her son, the Don Constantino Tarnava, in his lifetime, whose names are inserted in the bill of complaint as plaintiffs, never did authorize the institution of this suit or bill of complaint against the defendants, either by employing the solicitors on record to commence said suit, or otherwise, any other person to institute this suit; and these facts are ready to prove."

And on the same day James Love, the clerk and master in chancery, reported to the court, the matter having been referred to him for that purpose:

"The master therefore reports that the plaintiffs, or either of them, have not, in person, shown or given any answer to the rule. And further reports that the answer of plaintiff's solicitor is insufficient, and is not responsive to the rule. And therefore reports that no authority has been shown by the plaintiffs, or either of them, or by their solicitors, for the institution of the suit."

On the 30th of June, 1849, Judge Watrous, acting on the above report, made the following order:

"Upon consideration of the motion made by Elisha Basse and Robert H. Hord, counsel for Don Constantino Tarnava, Doña Angela Garcia Lafon de Tarnava, his wife, Don Ramon Lafon, Don Manuel Prieto, and Doña Feliciano Gozcascocha de Tigrina, made parties complainant to the bill of complaint in this cause; and upon further consideration of the several affidavits filed in respect to the said motion, and the said bill of complaint, and the argument of counsel, it is now hereby ordered that the said motion be sustained, and that the other parties complainant in the said bill named have leave to answer the said bill by making the above named parties complainant defendants to the said bill; and they, the said parties so to be made defendants, now appearing by R. H. Hord, their attorney in fact, in open court, do agree that, being so made parties defendant, they will place upon the record of this cause, by answer or otherwise, such averments as will recognize the jurisdiction of this court by acknowledging themselves citizens of this State, for the purposes of this action; and the costs already incurred, and the liabilities, to be borne by the parties remaining complainants."

This motion to dismiss was ostensibly sustained, but in effect only so far as to strike the names of five of the complainants, who, in the plaintiffs' bill, were sworn to be citizens of Mexico, from the bill of complaint; and, without any motion, leave was granted to the remaining three complainants to amend the bill by making the five persons thus stricken from the bill defendants in the same cause. And, without any process or notice to them, it is entered of record by the court, in the same entry in which they were stricken from the bill as plaintiffs, that the said parties appearing in open court, by an attorney in fact, did agree to place upon the record, by answer or otherwise, an acknowledgment that they were citizens of Texas, to give the court jurisdiction.

Thus are a married woman, Angela Garcia de Tarnava, who, by the oath of the complainants, was shown to be a citizen of Mexico, and an infant, Ramon Lafon, who, by the oath of the complainants, was shown to be a citizen of Mexico, stricken from the bill as complainants, and ordered by the court to be made defendants by agreement, as well as to acknowledge that they were citizens of Texas, to give the court jurisdiction; though it is a plain principle of law known to every lawyer, and especially to every judge, that neither of them could have made a binding agreement if they had been personally present in open court.

But it may possibly be said that such a thing might have passed without attracting the attention of the judge. If so, the answer is, that on the 18th of January, 1851, the following motion was made in behalf of Mussina, to dismiss the cause, by Alexander and Atchison, his solicitors:

"In the above entitled causes, Jacob Mussina, one of the defendants, moves the court that the complainants' bill, as amended, be dismissed at the hearing, with costs; and he assigns the following grounds in support of his motion, as a part thereof, to wit:

"First. That it is apparent from the pleadings, papers, and record of said cause, that the court has not, and cannot have, jurisdiction thereof, for want of necessary and proper parties.

"Second. That the agreement, or consent order, entered of record before the defendant was in court, whereby part of the complainants were made defendants, &c., &c., is not enforceable for want of jurisdiction.

"Third. That it is apparent that there is no equity in the bill as amended.

"Fourth. That it appears that a guardian *ad litem* cannot be appointed for Ramon Lafon, a non-resident alien infant, who is shown by the bill as amended to be a necessary and proper party defendant, and who is not, and never has been, in court. And this defendant, relying on various other grounds, apparent from the pleadings, paper, and record of said cause, to which, together with such affidavits and other papers as he may deem proper to file on or before the hearing thereof, he refers in support of his motion, files and docks the same for the adjudication of the court."

And on the 2d of April, 1851, the following motion was made by Swett, Howard, Ballenger, and Hord, the counsel for the defendants:

"The defendants in the above-entitled cause, jointly and severally move this honorable court to dismiss the bill of the complainants at the hearing, for the following causes, among others, apparent on the said bill, and in the record and proceedings:

"1. That no jurisdiction in this court is shown or exists as between the complainants and the defendants, Doña Maria Angela Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tigrina, and Manuel Prieto, and that the said defendants are necessary parties to this suit, and the court can make no decree unless the said parties defendant are shown to be within its jurisdiction, and are present before the court.

"2. That it appears by the complainants' bill, and the record and proceedings herein, and the fact is that the complainants are all aliens, and that the said defendants, Maria Angela Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tigrina, and Manuel Prieto, are also aliens; and that the interests of the said defendants are inseparably blended with that of the complainants, and that said defendants are necessary parties in this cause, without whom no decree can be made; and this and the honorable court has no jurisdiction as between the complainants and said defendants, and, in consequence thereof, no jurisdiction over the said complainants' bill, or to grant the relief prayed, or any of it.

"3. That it appears by the said complainants' bill, and by the record and proceedings in this cause, that the complainants do not make such a case as entitles them to any discovery or relief in a court of equity, but that they sue upon a pretended legal title, which must first be established at law, and that their remedy, if any they are entitled to, must be sought in a court of law, and a court of chancery has no jurisdiction over the same."

And on the 14th day of April, 1851, the judge made the following order:

RAPHAEL GARCIA CAVAZOS *et al.*

CHARLES STILLMAN *et al.*
It is ordered that the motion of defendants heretofore filed in this cause, and praying the court to dismiss the com-

plaintains' bill for want of jurisdiction, be reserved by the court for decision until the decree of the court shall be rendered herein.

And on the same day made a decree in behalf of the complainants retaining jurisdiction of this *feme covert* and *minor*, as defendants. These parties and three others, citizens of Mexico, were never brought before the court. No answer was ever filed in their behalf; no judgment, *pro confesso*, was ever entered against them; and yet the decree proceeds to pronounce upon their rights.

Such are some of the means by which the jurisdiction of this great case was obtained, and such, in part, the use made of that jurisdiction.

It was my intention to have given thus fully the facts and record on several leading points in this case, but I find this would consume my hour, and must state briefly what is shown by other parts of the record.

Judge Watrous allowed the testimony of interested witnesses, against the objections of the defendants. He allowed the deposition and affidavits of Mr. Hale, an attorney for the complainants, as evidence against the objection of the defendants, although it was shown by his own testimony that he was prosecuting the suit under a champerty agreement, as the gentleman from Tennessee [Mr. READY] would call it—an agreement by which he was to have part of the land, if he recovered, or rather he was to share the proceeds of the sales of the land when recovered and sold.

I will here say, in reply to what the gentleman from Tennessee [Mr. READY] said about the immorality of Mussina's champerty contract, in relation to the subject-matter of this suit, that the immorality of champerty may depend somewhat on locality. By the common law, the law of champerty is held to rest on sound morals. And so it is in many of our States. And such, I think, ought to be the doctrine of every State. And in a case which went to the supreme court of Texas, I exerted the best powers I possessed to show that champerty contracts were unlawful there; for the common law was the law of our State, where it was not superseded by statute, and we had no statute on the subject; but the court, in an elaborate decision, in the case of Corder against McDermott, held that such contracts were lawful in that State. So there, at least, Mussina's contract was lawful.

But the friends of Judge Watrous on this floor should be very tender about denouncing champerty as immoral; for William G. Hale, the attorney for the plaintiffs in this Cavazos case, had a champerty contract with his clients, and an interest in the suit before the court, and was admitted by the rulings of Judge Watrous as a general witness in the case, and was a most important witness throughout the case, and was allowed to translate important Spanish documents in the case without being sworn, and was allowed to use those translations and proceed in the cause as attorney, after these several wrongs had been legally objected to, and so brought to the attention of the court. And all this appears in the evidence now before this House, in connection with that singular array of equally extraordinary rulings by Judge Watrous, all on the side of this lawyer, proceeding under a champerty contract—a witness in his own cause, and translating his own title papers from the Spanish, without being sworn, for the purpose of using these translations as evidence to sustain his own title. And this, too, before our supreme court had decided in favor of the validity of such contracts.

The judge allowed the use of translations of important documents, tending to prove the title of the complainants to the property in question, which had been made out by the same attorney who was, by the agreement, to share the profits of the suit when the land should be recovered and sold, when he was not acting under the sanction of an oath, and when the translations were not verified by oath. And this judge also overruled the objections of the defendants to the use of these translations. And Charles Rosiquel, who was appointed to retranslate these documents, said, under oath, that he had "made some slight corrections in them; and I do further say, that the said translations are, as they now stand, faithful and correct translations of the originals, and correctly represent the meaning thereof." Thus showing that they were not, as they before stood,

faithful and correct. I have nothing but this record by which now to know how far they may have been erroneous; but if they had been entirely correct translations, the outrage of permitting an interested party to make them, without being under oath, and against the objection of the adverse party, would not have been lessened in the judge.

It has been said, however, as an answer to these facts, that an appeal was taken from the final decree in this case, and the judgment sustained by the Supreme Court. But this position is overthrown by the fact that an appeal was taken by one of the defendants, which Mussina supposed took up the whole case, as is shown by the testimony of Senator BENJAMIN, of Louisiana, who was employed by Mussina to represent him in the case in the Supreme Court; and he says "he did not consider himself employed for anybody else." Senator BENJAMIN, after looking to the case, told Mussina the appeal would be dismissed, because a portion of the parties had not joined in it, and advised him, as the five years were not yet out, to send to Galveston and perfect the appeal. This Mussina attempted to do, but failed. The application for an appeal was made by his attorney, Mr. Atchison, who is a highly-respectable man and lawyer of Galveston. He went to Judge Watrous at his room, and read to him the petition of Mussina and Tarnava for an appeal, and asked him to fix the amount of the bond, telling him he was ready at any moment to execute the bond; and to this he says "the judge answered me that he would take the paper and consider the matter. He said he would inform me what action he would take." Mr. Atchison says further:

"The next morning I went to the court expecting that the judge would report to me what the bond was to be, or what action he had taken in the matter. I received no such report. I did not make any further application, or insist on it at that time. I think the day after that I went into open court, and from my place called the attention of the judge to the matter which I had presented to him in chambers. I asked him whether he had fixed the amount of the bond. I told him that I was ready to execute it. He then told me, for the first time, that he would fix the amount of the bond when the opposite counsel were in court. I took up my hat and left, under the full impression that he would not do anything in the matter, because I knew that the opposite counsel were then engaged in another court, and in a case that would probably take several days."

This was about the 10th of January, 1857; and the time at which the period for taking the appeal would expire, was the 15th of that month. Who, of all the members of this House, and there are many lawyers among you, ever heard of a judge refusing to fix the amount of an appeal bond until he could see the opposite party in a case like this?

Thus the judge consummated his purpose by preventing Mussina and Tarnava from taking an appeal, knowing, as he did, that the appeal taken by Shannon would be dismissed, and that his rulings and judgment would never have to pass in review before the Supreme Court. The case was dismissed because the appeal was irregularly taken. And this is the action of the Supreme Court, under these circumstances, which has been flaunted in our faces by the friends of Judge Watrous, as the affirmation of his judgment and vindication of his conduct by the Supreme Court.

During the progress of this Cavazos case, Robert H. Hord, who was attorney for some of the defendants, was introduced as a witness for the plaintiffs. Mussina's attorneys, suspecting that he was interested with the plaintiffs; though counsel for the defendants, objected to his testimony. And putting him on his *voir dire*, they propounded the following question to him:

"Have you, or have you not, any understanding or agreement with the complainants, or either of them, or their agent or solicitor, in relation to the determination or settlement of this cause, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina in any property or rights involved in this suit? Are you, or not, interested in any such understanding or agreement?"

Which question Mr. Hord declined to answer; and thereupon the court decided that the question need not be answered.

Here, again, you see a ruling well calculated to startle both litigants and the country. And one of two things must be admitted on looking at it—either that the judge must have been influenced by improper motives, or that he was wholly incompetent to discharge the high commission with which he was clothed by the Government. But I do not present this ruling for comment in this point of view; but, if I had time, I could present

you a vast mass of equally flagrant rulings, all invariably in favor of the same parties. And I will venture the assertion that no member of this House can read them without saying in his heart, when he has done, that he would not be willing for his rights to be litigated by such a judge. And will you refuse to aid in sending him to the Senate, where that august body may pass upon his guilt or innocence?

Hord was examined as a witness on the 28th of March, 1851. And on the 1st day of the following November, Mussina instituted a suit in the fourth district court of New Orleans against Charles Stillman and Samuel A. Belden, his co-defendants in the Cavazos case, and William Alling, their associate, residents of New Orleans, and Basse and Hord, his and their counsel, in which he charged them with "combining, confederating, and conspiring together for the purpose of defrauding him," &c., "out of his just rights" under a certain "contract," dated "the 9th of December, 1848;" and with slandering him by falsely and maliciously charging him with fraud in the public newspapers of the country; and with slandering his title to said property.

This suit, you will recollect, was brought on the 1st of November, 1851, in a district court in the State of Louisiana. The final decree in the Cavazos case was rendered on the 15th day of January, 1852. A portion of the property involved in the Cavazos case was occupied by the United States for military purposes; and it was thought that there was a large sum due by the United States, for rent for it, depending on the result of that litigation.

The decree in the Cavazos case, after decreeing the title to the property involved out of the defendants and investing it in the plaintiffs, goes on to enjoin the defendants as follows:

"That the said defendants, Charles Stillman, Samuel A. Belden, Patrick C. Shannon, and Jacob Mussina, and each of them, and their each of their agents, servants, and hirelings, be forever enjoined and restrained from again setting up, claiming, or pretending, any right or title in themselves, or others, by virtue of any of the claims, grants, or titles, hereinbefore generally or specially mentioned and set forth, or others of like nature, in opposition to the title of complainants as aforesaid, and from in any way intermeddling with the said tract of land, or any portion thereof, without the license of the said complainants; that they be further forever enjoined and restrained from selling, leasing, or otherwise disposing of, any portions of the said tract of land, and from receiving any money therefor; and from selling, leasing, or otherwise disposing of, any lots in the so-called town or city of Brownsville, and giving titles therefor, and receiving any payments in money, or in any other way, for the same, without the license of the said complainants; and that a writ of injunction, in the penalty of \$20,000, as well as all other proper and usual process, be issued for the purpose of enforcing this decree and for the objects herein stated; but nothing herein contained shall be construed to prejudice or affect the rights of persons not parties in this cause, nor claiming under such parties."

And on the next day a writ of injunction was issued against the defendants. On the 25th day of February, 1854, an attachment was issued from the United States district court at Galveston, against Mussina, for a violation of the injunction in the Cavazos case; and on the same day the marshal made the following return:

Received February 25, 1854; and having made diligent inquiry, I find that Jacob Mussina is, and has been for many years past, a resident of the city of New Orleans, State of Louisiana, and is not at present, nor has been, within my district. I therefore return this writ not executed, he being not found in my district.

BEN. McCULLOCH,
United States Marshal.
By E. T. AUSTIN, Deputy.

Upon this return, a writ of sequestration was issued, and returned "no property found."

I have been thus particular in stating facts and dates that you may see a specimen of the manner in which the power of Judge Watrous's court is used, where the liberty of a citizen is involved. You have seen several specimens of his action in civil cases in the course of this debate; but you will remember that this proceeding was against the same man against whose rights his extraordinary rulings were all made in the Cavazos case.

The suit in the case at New Orleans was commenced before the decree in the Galveston suit was rendered. The suit in New Orleans was instituted under the authority and in the jurisdiction of the sovereign State of Louisiana. The United States district court of Texas had no power or authority to enjoin proceedings in a State court in Louisiana. Mussina was not a citizen of Texas, and hence not subject to the jurisdiction of the Federal court there.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2D SESSION.

TUESDAY, DECEMBER 14, 1858.

NEW SERIES...No. 3.

Thus was Mussina's rights outraged in Judge Watrous's court in Texas; and thus was he pursued, in violation of all law, for attempting to assert his rights in a court where he could hope to get justice. I agree with that part of the committee who say:

"It also seems clear, when the pleadings in the suit instituted by Mussina against Stillman, Belden, and Alling, and Basse and Hord, in the fourth district court of New Orleans, are considered, together with the judgment rendered in it upon the verdict of a jury, and the evidence in the contempt case, that there was no foundation whatever for the proceeding against him for a contempt, and that the action of the judge with respect to it was unauthorized by law, and was intended to be vexatious and oppressive. How any other conclusion can be arrived at, when it is remembered that the suit in New Orleans was instituted by Mussina against his co-defendants alone and their counsel, and related to rights growing out of their own transactions, it is not easy to conceive."

There is another matter connected with this suit in New Orleans to which I must call your attention, without having time to elaborate it. Mussina charges Judge Watrous with "being present at the city of New Orleans during the argument of the suit brought by your petitioner for the conspiracy and fraud connected with the litigation on the Texas bill, for the purpose of aiding and abetting to obtain a successful result for the defendants in the said former suit; and, in order to escape detection, attempting to conceal his presence in the said city by arrangements with the hotel-keeper that his real name might not appear on the hotel register."

In October, 1856, Mussina brought a suit against Judge Watrous and others, in the city of New York, for a conspiracy connected with this same Cavazos case. Judge Watrous's answer was filed in this case, by his attorney, on the 2d of December, 1856, under the New York statute, and sworn to by the attorney, who swears that he made it on information from Judge Watrous. In that answer he says:

"And although he admits that he visited New Orleans, yet he denies that he concealed, or attempted to conceal, the fact of his visits in any way, or that his visits were induced by the other defendants herein, or either of them, jointly or severally, or their agents or attorneys."

The testimony which was brought before Congress to sustain these charges during the session of Congress of 1856-57 contained the affidavits of Ensign and Galpin, of New Orleans, which show that he did attempt to conceal his presence in New Orleans by requesting the hotel-keeper not to enter his name on the register; that he stayed in a single room (No. 23) by himself; and that during his second stay the hotel-keeper entered on the register, opposite the number of his room, the name of "John Jones."

After these facts came out, and when he came to file his answer last winter, notwithstanding his previous answer in the New York case, he says:

"When I came to the hotel, I desired the clerk, Mr. Ensign, to give me a room without putting my name on the register, and I stated the reason of the request. It was this: that, if put upon the register, it would appear in the papers of the next morning, and be seen by the members of a family who were very intimate with mine, and they would be hurt when they found that I had been in the city and not called on them. This was the reason given to Mr. Ensign. Upon my making this statement, the clerk wrote the name of John Jones opposite the number of my room. This is the revelation of the mighty mystery."

In the first of these answers he denies positively that he attempted to conceal the fact of his presence in New Orleans. In the second he admits that he did attempt to conceal his presence in New Orleans, but attempts to explain why he did it. Which statement is true? Recollect, his arrival the first time was on the 30th of April, 1855; his second, on the 13th of May, 1855. The proof shows that he attempted to conceal his presence on both occasions. In his answer he passes it over as though he had only attempted this concealment once. This was during the pendency of the suit in New Orleans of Mussina against Alling and others, about this Rio Grande property; which was also involved in the Cavazos suit. And I call the attention of the House to the coincidence of dates disclosed in the abstract from the proceedings in that case, and the dates of Judge Wat-

rous's concealment of his presence at the Veranda Hotel, in New Orleans:

MUSSINA vs. ALLING *et al.* } In the supreme court of the State of Louisiana.

This case was called on 9th May, 1855, and fixed for trial for 16th May, 1855; the cases preceding it on the docket having taken the whole day, it was continued, for want of time, to be called by preference. It was called a second time on the 21st May, 1855, and set for trial on the 30th of May, 1855, when the argument was opened, and closed on the following day.

STATE OF LOUISIANA, Parish of Orleans.

I, Richard Brennan, a commissioner of the State of Texas for the State of Louisiana, to take the acknowledgment of deeds, &c., certify that I have this day carefully and personally examined the minutes of the proceedings of the supreme court of the State of Louisiana, as they are extant on the records of said court, touching the matters in the suit of Mussina vs. Alling *et al.*, and that, after a careful collation, I find the foregoing instrument in writing is a correct abstract of said record.

In faith whereof, I grant these presents under my signature and official seal, at New Orleans, this 29th day [L. S.] of November, A. D. 1855.

R. BRENNAN,
Commissioner of Texas for Louisiana.

The judge arrives in New Orleans the first time on the 30th of April. The case on which the Brownsville property and the large amount of money at Washington is supposed to be involved, and which is to have its influence in investing one or the other party with a vast fortune, is called up on the 9th of May, and was set for trial on the 15th day of May. The judge leaves New Orleans the 3d day of May and returns again, and is found in his private room alone, and John Jones on the register, opposite the number of his room, on the 13th day of May. The argument was closed on the 30th day of May, and Judge Watrous left New Orleans the 31st day of May.

It is also a remarkable fact, that Charles Stillman, one of the persons sued by Mussina, and supposed by Mussina to be in the conspiracy with Watrous and others, arrived at the Veranda Hotel on the same day on which Judge Watrous arrived there the second time, the 13th of May. He knew this charge, and this proof was against him; and yet he has not brought a particle of proof to break the force of these extraordinary circumstances. But he has attempted to treat them with contempt and ridicule in his answer. It is a safe rule of law, known well to Judge Watrous, that where one is charged with a crime, and the proof of his guilt rests upon circumstances, if he assume, in his defense, an impossible or improbable hypothesis, this is, itself, a strong evidence of guilt. Look to all that has transpired in Judge Watrous's court and elsewhere, in relation to this immense property. See his flagrant disregard of law, whenever it became necessary to disregard the law, in order to sustain the claims of the plaintiffs and defeat those of the defendants. See first his denial and then his admission of his attempt to conceal the fact of his presence at New Orleans. See how he evades the full force of these circumstances by assuming, in his answer, that he only once attempted to conceal his presence there. See him excusing himself on that occasion by saying "there was a family in the city who were very familiar with mine, and they would be hurt if they found I had been in the city and had not called on them," What excuse does he give for the second occasion? Why omit that? Why did he not prove by some of the "several gentlemen now in the city" the facts which he asserts, and not rest the case on his unsworn statement?

He also denies the fact in his unsworn statement of giving any directions about his name on his second arrival, and yet the witness Galpin swears positively that he did. And after looking at all these things, let your minds inquire if a man of conscious purity and a high sense of honor would attempt to treat them with ridicule and affected contempt. And the sophistry of his answer to this charge is a circumstance not to be looked over. He places his answer on the ground that Mussina charges him with an attempt to influence the judges in Louisiana by corrupt means.

Mussina made no such charge, and the judge knew it. He charged him with going there to aid and abet in obtaining a successful result for his friends in that suit. Was there no means of forwarding this result but to corrupt the judges? Can no others suggest themselves to the mind of Judge Watrous? I say to you that I look upon these facts as going far indeed to establish a conspiracy between the judge and others in the Cavazos case, to use the powers of his court for the purpose of corruptly obtaining this vast property.

There are many other interesting points in the Cavazos case, which ought to be examined, in order to a full development of the astonishing array of circumstances which induced the Judiciary Committee of the Thirty-Fourth Congress, of which the honorable gentleman from New Hampshire [Mr. TAPPAN] was one, to unanimously report that—

"In the case of Cavazos *et al.* vs. Stillman *et al.*, the record affords sufficient evidence to satisfy the committee that there was collusion between the solicitors for the complainants and a part of the solicitors for the defendants, and that a part of the defendants, or one of them at least, Jacob Mussina, was defrauded and betrayed by such collusion. They would further state, that there is evidence to satisfy them that a part of the defendants were concerned in the conspiracy, and that the judge of the court knew of the collusion during the pendency of the suit."

And which induced a part of the present Judiciary Committee to report that—

"Before concluding this branch of the subject, it is proper to state that there was no evidence before the committee to show that Judge Watrous had any interest in the subject-matter of the litigation in the Cavazos case, or that he was to derive any advantage to himself from his various rulings in it, or from its final decision in favor of the complainants. But, whilst this is true, it is also due to the occasion for us to observe, that whilst no point in the progress of the Cavazos case, to which reference has been made, would, perhaps, if standing by itself, be sufficient to constitute positive misconduct in a judge, yet we are constrained to acknowledge that our conviction is different when we look at all of these points and embrace them in a single view."

"Every irregular or wrongful decision of the judge was in favor of the complainants and against the defendant, Mussina, and those occupying a similar position, and was to their particular injury. By maintaining the proceeding as one rightfully brought on the chancery side of the court, these defendants were illegally deprived of their right to a trial by a jury, and were compelled to submit to an adjudication upon their rights to the property in such a manner that the decision would be final and conclusive as to the title of the property, instead of one upon the right of possession, which would at once have been pronounced, on the law side of the court, in an action of ejectment. By maintaining jurisdiction over the case, when a portion of the defendants as well as the plaintiffs were aliens, these defendants were deprived of their rights to have the questions involved in it decided by the courts of Texas, to whose jurisdiction they were rightfully amenable, and whose laws were to govern in that decision. By admitting incompetent witnesses to testify, their rights were affected by evidence given by persons who had interest in the litigation adverse to theirs. And, finally, they are prevented from having the decision against them reviewed in the appellate court by the failure of the judge to perform his full duty to them in facilitating the exercise of the right of appeal, given to them by law, from motives of private policy, for their own private advantage; and that, too, when there is some reason to believe that the decree by the court is not in conformity with the principles of law, as recognized in Texas. Such a course of action continued through the whole progress of a cause, in favor of some of the parties and against others, is, to our minds, conclusive evidence of the existence of a purpose, on the part of the judge, to favor one party, or set of parties, at the expense and to the injury of others, which is inconsistent with an upright, honest, and impartial discharge of the judicial functions. And this, we believe, constitutes a breach of the 'good behavior' upon which, by the Constitution, the tenure of the judicial office is made to depend."

It was my intention to have considered chiefly the case of Lapsley against Spencer, or rather the suits growing out of the La Vega grant. But as both the gentlemen who have preceded me in advocating the impeachment of Judge Watrous have directed their arguments mainly to that branch of the case, I have felt it to be my duty to change my purpose, and consider, to some extent, the more difficult, because more complicated and voluminous, Cavazos case.

Before proceeding with the other propositions I desire to present to the House, I wish to say that I have heard honorable gentlemen express themselves that, in all this vast volume of evidence, there is no specific act on which you can put your finger and say, that is such an offense, or breach of good behavior, as should call for the impeach-

ment of Judge Watrous. If gentlemen will allow me, I would say he is not charged with a specific crime, constituted by a single act, which can be so proven. He is charged with fraudulent combinations—secret conspiracies with others. He is a learned lawyer and sagacious man; and they all—those concerned with him—without exception, are either learned and able lawyers, or shrewd, sagacious speculators, and many of them men of great wealth—dealing in immense, though litigated, titles to land of doubtful validity—and all of them together combining the most extraordinary elements for the successful, secret management of such transactions in such a manner that, while human misery bemoans its effects, human ingenuity and energy and perseverance can scarcely unravel its meshes.

But go with me to the vast rich plains, the beautiful prairies of Texas, and see there the faithful, honest workmen of that State, who obey the mandate of our Great Creator, by "eating their bread by the sweat of their face." See them select some favorite spot on the frontier, locate their certificate on it, have it surveyed, and in many instances obtain the patent of the Government, settle on it, build their houses, clear and fence their farms, surround themselves with orchards and stock, and rearing families of hardy athletic children; see them so remain, as I have seen them for twenty years, attached to these homes and settled, as they supposed, for life; and then turn to such a man as Robert Hughes, or William G. Hale, or Thomas M. League, or Dr. Hewitson, or Francis J. Parker, or John Treanor, or John C. Watrous, who are prominent in the transactions now under consideration, and a great number of the same kind who are now engaged in Texas in huffing up or fabricating old grants, and in endeavoring to mold the legislation and judicial decisions of the State so as to sustain them; no matter if they rest on perjury and forgery; no matter if they were issued upon condition that they should be settled and cultivated, and neither has been done; no matter if the payment of the purchase money was a condition precedent to the investiture of the fee, and that has never been paid; no matter if there were conditions annexed to the grant which could not possibly, under the laws in force before the change of Government, have been complied with for want of time before that change took place, and were followed by constitutional provisions refusing to allow the carrying into grant of such inchoate titles, when above the size of one league and labor, which is four thousand six hundred and seven acres; no matter if they were the Mason eleven-league grants, which were fraudulent and void under the laws of Mexico and Coahuila and Texas, and were subsequently so declared by the constitution of the Republic, and also by the constitution of the State of Texas; no matter for all these things, and others like these;—see such a man, with his legal learning, or his notorious character as a shrewd manager of such things, or his great wealth, which terrifies others from litigating with him, or his high legal, or political, or judicial position, which alarms an humble but honest litigant; bringing his old title to light; discovering its locality, finding that it is not barred by the statute of limitations because it belongs either to a married woman or infant heirs, and with such a claim, under such circumstances, breaking up whole settlements of the first class of citizens I have described, and turning them out of house and home, as poor old Spencer has been served, under what I expect to show is a title resting on a most glaring and outrageous forgery.

Is it to be said, because such men cannot be convicted of crimes by the plain specific proof of a single fact, which can be comprehended at a single view, without an effort of memory and reason, that they shall go on in their crimes and desolate and demoralize a whole country by driving honest men from their rightful homes, and teaching the people, by high example, that the road to fortune is over violated oaths, falsified records, and a mercenary and degraded judiciary for that would be the effect.

I will now call your attention briefly to a few features in the Lapsley cases. The derivation of title has been stated by both the gentleman from Pennsylvania [Mr. CHAPMAN] and the gentleman from Wisconsin, [Mr. BILLINGHURST,] and I need not repeat it.

On the 1st of May, 1840, Samuel M. Williams made a deed to M. B. Menard and Nathaniel F. Williams, in trust for the use of his sister, Sophia St. John, for the eleven leagues of land granted to Thomas de la Vega, in consideration of \$2,500 paid him, in 1834; and this deed was recorded in the clerk's office in Limestone county, on the 9th of March, 1849. Then follows a deed of release, signed by Williams as agent for De la Vega, to Mrs. St. John, acknowledging the foregoing consideration on the 1st day of July, 1850. On the same day a deed is executed by N. F. Williams and Menard, the trustees of Mrs. St. John, to Thomas M. League. And on the same day a deed is executed by Thomas M. League to John W. Lapsley, of Alabama, for this land in consideration of the sum of \$7,000; and it is witnessed by Robert Hughes and A. M. Hughes. And this deed was recorded in McLennan county, on the 10th of February, 1851. Then we come to the agreement entered into in relation to this La Vega grant between Lapsley of the first part, who held the legal title, and League and Watrous of the second part, who were each made the equitable owner of one fourth; and Goldsby, Plattenburg, Frow, and Price, parties of the third part, who, together with Lapsley, were to hold one fifth of one half each, upon the conditions named in the agreement. This was executed on the 9th of July, 1850, and has not been recorded. A number of persons were in the adverse possession of this land at the time these latter deeds were executed, and suits were instituted against eleven of them early in the year 1851.

League told Watrous of the chance for this speculation in May, 1850. Watrous suggested the Alabama men, as men of capital, who would go into it. League agreed to give him a fourth interest in the land for doing so. They go to Alabama together and with Shearer, in July. They are all together, when the agreement is made with the Alabama men.

Why invest the legal title to this land in Lapsley, who owned but one tenth of the land, and not in League or Watrous, each the owner of one fourth? It is suggested for the reason that Lapsley and the other Alabama men furnished all the money. But what is the difference? If they had made a public agreement instead of a private agreement, and put it on record, instead of keeping it out of view, they would have been just as secure of their rights with the legal title in League or Watrous, as in Lapsley; and League was on the ground, the active, managing man, and one of the largest owners. Why not have vested the legal title in him? The fact that the suits were brought in Judge Watrous's own court, with his own knowledge and consent, (for he stood by and saw the first writs issued, and expressed no surprise, and raised no objection,) may, to some extent, furnish the explanation. And the fact that this judge retained jurisdiction of these suits from 1851 to 1854 without his interest being known to any of the defendants or their attorneys, (for no one of them knew it,) may show why the legal title was vested in Lapsley, a citizen of Alabama. And it is no answer to this to say that Judge Watrous's lawyers, and the officers of his court, knew of his interest. Of course they did. But none of them will undertake to say that any one of the defendants or their counsel knew of it.

I had intended here to take up the testimony of some of the witnesses who testified for Watrous, and show what awkward predicaments they frequently placed themselves in by endeavoring to screen him. But I will not have time. Any one, however, who has read the testimony, will have seen that notwithstanding Judge Watrous's interest of fifteen thousand acres in this tract of land, which by League's testimony is worth \$75,000; notwithstanding his conversations with League about it, and with Hughes, his lawyer; and notwithstanding he was present when the title and everything about the land was discussed at Selma, where the trade was made; and notwithstanding he urged League to make to Lapsley a warrant title, and said the case of Hancock against McKinney, in the State courts of Texas, would decide the question in the La Vega title; and notwithstanding he sat in judgment on the concession and power of attorney in the La Vega title, on the trial of the case of Ufford against Dykes, (for they were the identical papers under which he was claiming this \$75,000 worth of land;) and notwith-

standing in that case he charged the jury that that title was good "and conveyed the land," still Hughes and League and a number of others are all through their testimony protesting that Judge Watrous knew nothing about the title. And why is this? It is because the damning fact stands up before them all the time that their friend and patron, the judge, had sat in trial in the case of Ufford against Dykes, and had said that title was good and conveyed the land, when it was the same title under which he was to make a "fortune." Because the picture came up of the judge adjudicating his own disputed title, with his own lawyer and friend, Judge Hughes, who is employed by him to sustain the title in the Lapsley cases, being wrung in, by his assistance, to the Ufford and Dykes case, and standing before that judge pretending to resist the title which he was employed by the judge to sustain, but really admitting away the rights of his latter clients by furnishing Mr. Hale, the attorney of the opposite side, with a copy of the power of attorney about which you have heard so much, and admitting it in evidence without a question.

At the first trial of this case, when the default judgment was rendered, and a verdict had on writ of inquiry, Mr. Shearer, who came to Texas at the instance of Judge Watrous, and was made a deputy clerk under James Love at Watrous's request, and who was present at the first interview between Watrous and League about this land, and went with them to Alabama, and was present during the making of the trade at Selma, and who was neither a freeholder nor householder in Texas at the time, and consequently, under the laws there, not a qualified juror, and who was the brother-in-law of Price, one of Judge Watrous's partners, acted as foreman of the jury which rendered the verdict in the Ufford and Dykes case. Knowing, as he must have known, that the judge, in trying that case, and Judge Hughes, in pretending to represent parties whose interest it was to resist that title, before the judge who had employed him to sustain it, and himself as foreman of the jury, with a full knowledge of all these facts, and pronouncing a verdict on his brother-in-law's title, altogether made up a picture so hideous and loathsome that there is no wonder the witnesses kept going out of their way to asseverate Judge Watrous's utter ignorance of the title in which he claimed fifteen thousand acres of land. It has been asked why these witnesses have not been impeached? Gentlemen are of course serious when they ask this; but as some of them, and the most important, for the purposes of those who think Judge Watrous should not be impeached, have so repeatedly contradicted themselves during these examinations, that it really would seem to be cruelty to attempt to impeach them worse.

But another answer to this is, that the committee refused to allow this to be done. In the case of Cleveland, the question was asked, on page 190 of the printed evidence, "what are the relations between yourself and Mussina?" in order to show ill-feeling and unfriendliness on the part of the witness, and to go to his credibility; and objection was made by the committee, and the answer excluded. Remember that an attempt was made to impeach the testimony of Judge Hughes, and the committee refused to consider the question. You will recollect that Judge Hughes was asked the question by Judge Evans as to why his nomination for United States district attorney was not sent into the Senate by the President; and the committee decided he should not answer, Judge Evans at the time stating that the object of the question was to affect the credibility of the witness. I would suggest that members of the committee consider what side of these questions they voted on before they ask us why the witnesses were not impeached.

The genuineness of the power of sale from La Vega to Williams was brought in question in the Lapsley cases. I shall only have time to look to a portion of the evidence on this point.

After the order was made for the transfer of these cases from the United States district court at Austin to the circuit court at New Orleans, and on the 23d day of February, 1855, James Hewitson made oath to the following deposition:

THE UNITED STATES OF AMERICA,

DISTRICT OF TEXAS, to-wit:

Be it remembered, that on this 23d day of February, A. D. 1855, I, Archibald A. Hughes, a commissioner of affi-

deavits and bail in civil cases in the courts of the United States, duly appointed by the district court for the district aforesaid, at the request of Robert Hughes, attorney for the plaintiff herein, this day called and caused James Hewitson to be and appear before me, at my office in the city of Galveston, in the district aforesaid, between the hours of nine o'clock of the forenoon and six of the afternoon, to testify and the truth to say in a certain action at law and matter of controversy now depending and undetermined in the circuit court of the United States for the eastern district of Louisiana, at New Orleans, wherein John W. Lapsley is plaintiff, and Eliphas Spencer is defendant, in behalf of the plaintiff.

The said James Hewitson being of lawful age, and being by me first examined and cautioned, and sworn to testify the whole truth in regard to the matter of controversy aforesaid, deposeth and saith as follows, to wit:

That he is acquainted with the handwriting of Juan Gonzales, whose certificate and signature to the original *testimonio* of the power of attorney, purporting to be executed by José María and Raphael Aguirre and Thomas Vega, in the city of Leona Vicario, on the 5th day of the month of May, 1832, before the said Juan Gonzales, regidor of said city and second alcaide in turn, and which is now presented to him, and that from his knowledge of the handwriting of said Juan Gonzales, he does verily believe that the whole of said *testimonio*, including the certificate and signature of said Juan Gonzales, is in the handwriting of said Gonzales; that he is well acquainted with the handwriting of José Manuel Moral and José Nazario Ortis, the persons who purport to be assisting witnesses to said *testimonio*, and he is well satisfied and does verily believe that the signatures to said *testimonio*, "José Naz. Ortis," and "J. M. Moral," are in the handwriting of said Ortis and Moral. The said Gonzales and Ortis, when living, resided in the State of Coahuila. They are now both dead. Said Moral now resides in said State of Coahuila, in the now so-called Republic of Mexico, and is, as he believes, now there. The *testimonio* above spoken of, in order to identify it, is marked A, and his (this deponent's) signature thereon, and which the commissioner taking this deposition has certified to be the document referred to in this deponent's evidence, and has been returned to plaintiff's agent.

And further this deponent saith not.

JAMES HEWITSON.

Erased in the seventeenth and eighteenth lines from bottom of first page, the words, "he is well satisfied and does;" and the words "he does" interlined before signing.

A. M. HUGHES, Commissioner.

And I, the said Archibald M. Hughes, the commissioner aforesaid, do certify that the reason for taking the deposition of the said witness is, that the said witness, the said James Hewitson, resides and lives in the city of Saltillo, in the Republic of Mexico, more than one hundred miles from the city of New Orleans, the place of trial of the action at law or matter of controversy aforesaid; and I do further certify that I gave no notice to the said Eliphas Spencer, or his attorney, to be present at the taking of this deposition, and to put interrogatories if he or they thought proper, because neither the said Eliphas Spencer nor his attorney is within one hundred miles of the city of Galveston, the place of the caption of this deposition, and where the same is taken; and I do further certify, that being attended by the witness, as stated in the caption, after being duly sworn, he testified in my presence as before set out, which was reduced to writing by me in the presence of the witness, and by him signed in my presence; and I do further certify, that I am not of counsel or attorney to either of the parties in the action at law or matter of controversy aforesaid, or in any manner whatever interested in the event of the same. I have retained this deposition to be sealed up, directed, and transmitted to the circuit court aforesaid, in accordance with the act of Congress in such case made and provided.

Given under my hand and seal, this 23d day of February, [L. s.] A. D. 1855, aforesaid.

A. M. HUGHES, Commissioner.

The points to which I call your attention in this deposition and certificate are, that Hewitson swears to the handwriting of Gonzales, the regidor, and of Moral and Ortis, the assisting witnesses. And that the whole of the body of the instrument, together with the certificate and signature, are in the handwriting of Gonzales, and that Gonzales and Ortis were then dead—that is on the 23d day of February, 1855. And then I ask that it be borne in mind that Hewitson was an extensive litigant in Watrous's court. And that Howard, of the city of Galveston, where this deposition was taken, was the attorney of Spencer at the time, and residing in Galveston when the deposition was taken, and received no notice from Mr. Hughes, the commissioner—this is the son of Thomas Hughes the lawyer and witness. (See pages 284 and 285 printed evidence.) I must also say that it was on this deposition that League and Watrous and others, ousted old man Spencer of his home.

The following is the testimony of Thomas de la Vega, the grantee of the land claimed by Lapsley and others:

On the 24th day of November, 1855, peace having been reestablished in this city, the (señor) judge caused to appear Mr. Thomas de la Vega, to whom was administered, in due form, the oath prescribed for one who comes forward to say the truth, according to his knowledge; and he having been interrogated conformably to the interrogatories which are contained in the first of the translated documents which were read to him, he said, in answer:

To the first. That he is forty-six years of age, and, by occupation, a merchant.

To the second. That he is not acquainted with, and that he has never been acquainted with, Samuel M. Williams.

To the third. That he has examined the copy, (in question) and that he never signed the original which it purports to represent; that he did, conjointly with Don Raphael and Don José María de Aguirre, grant a power to the effect that the Williams referred to should take possession of and mark off eleven tracts, (of land,) which the Governor had granted to each one of the appearers: but that he did not grant, and that he never has granted any power, as to his part, to alienate or sell these tracts; that, consequently, the power which is exhibited to him is false.

To the fourth. That he has always signed Thomas de la Vega, and that he does not recollect ever having done so under the name of Thomas Vega.

To the fifth. That he has never signed any power for the alienation of his lands, and that he does not know whether there is a copy of the document exhibited to him in the archives of Saltillo; but that there cannot be, for he repeats his statement that he has never given any such power.

The sixth is omitted, because no such case has arisen as the question refers to.

To the seventh. That he does not understand the question.

To the eighth. That, a short time since, he granted a power to Mr. Simon Mussina, a resident of New Orleans, to settle, in his name, this matter, conformably to the powers given to him; that what he has stated is the truth, under the obligation of his oath, which he confirms and ratifies, signing it with the judge, before me, as I attest.

ACUNA,

THOMAS DE LA VEGA.

DOMINGO V. MEJIA, Notary Public.

In this deposition, La Vega swears that he never signed any power of sale, though he did sign a power authorizing Williams to locate his land; that he has always signed his name as Thomas de la Vega, and never as Thomas Vega; that he had lately granted a power to Simon Mussina to settle, in his name, this land matter.

Next, as is the deposition of Castaneda:

On the same day (November 24, 1855) appeared Mr. José Cosme de Castaneda before the judge, and he having taken the oath in due form of law which is prescribed for every one who appears to tell the truth, according to his knowledge; and having been interrogated on the questions which correspond to and are contained in the interrogatories read to him, he said in answer:

To the first. That since the year 1840 he has, in fact, been the custodian of the archives of the most honorable council of this city, as secretary of the said honorable body.

To the second. That he has examined the records, and in fact has found a power granted by Messrs. José María de Aguirre, Raphael de Aguirre, and Thomas de la Vega to Mr. Samuel May Williams, a resident of the city of Austin, which (power) is legally authenticated by the second regidor of the honorable council, who officiated as second alcaide, Don Juan Gonzales, dated the 25th of April, 1832, by which the aforementioned Messrs. Aguirres and Vega empower Williams in their name, to take possession of thirty-three tracts of land, which the said appearers (grantors) acquired by purchase from the supreme Governor of the State, and to select the spot in which the surveys of these tracts should be drawn. There is also another power which the same gentleman drew out before the same regidor and second alcaide, Don Juan Gonzales, dated the 5th of May, 1832, by which the said Williams is authorized to proceed to the sale of the above-mentioned tracts of land; but this power was signed only by the alcaide, Don Juan Gonzales and Don José María de Aguirre, and not by Don Raphael de Aguirre or Don Thomas de la Vega, or the assisting witnesses, wherefore the said document can be of no effect. That in verification of all that he has stated, he refers to the original documents which exist in the archives under his charge.

To the third. That he is unable to furnish the copies asked for, because he has not due authority to do so, but that if the judge officiating should deem it indispensable to grant authenticated copies, then recourse should be had to secure them to the president of the honorable council. That what he has stated is the truth, under the obligation of his oath, which he confirms and ratifies, adding that he is an adult, fifty years of age, a resident of this city, and by profession secretary of the honorable council. And he has signed this with the judge, before me, which I attest.

ACUNA.

JOSE COSME DE CASTANEDA.

DOMINGO V. MEJIA, Notary Public.

Each of the foregoing depositions is certified by the proper officer of Saltillo. The points in this last deposition are, that Castaneda has been the custodian of the archives of the town council since 1840, and that he finds in them a power by the two Aguirres and La Vega, authorizing Williams, in their name, to take possession of the thirty-three leagues of land they are entitled to, executed before Gonzales. He also says there is another power, which the same gentleman drew out before Gonzales, dated May 5, 1832, authorizing Williams to sell the land. But this power was signed only by the Regidor Gonzales and Don José María de Aguirre, and not by Raphael de Aguirre or Thomas de la Vega or the assisting witnesses. He thus contradicts the deposition of Hewitson.

Then we have the evidence of Juan Gonzales, an old Mexican, partially blind, whose testimony it cost League and his partners, including Judge Watrous, nearly six thousand dollars to get from

Saltillo, when, if it had been an honest transaction, it ought not to have cost him fifty dollars to get it—contradicting La Vega, who was also an interested, and hence unreliable witness, and contradicting Castaneda, the keeper of the archives, by testifying that the power of sale to Williams had been regularly executed before him by all three of the parties to it. And he also contradicts Dr. Hewitson, (page 626,) by turning up a live witness when it had become necessary to give five or six thousand dollars for the testimony of the living witness, more than two years after Hewitson had sworn he was dead. And remember that Hewitson is a citizen of the same town, and knew Gonzales's handwriting (and, of course, the man) well. Hewitson also swears positively, in order to make out a good case for the judge who was to try his causes, that the body of the power of attorney was in the handwriting of Gonzales. But Gonzales, when he comes to life, swears that the body of this instrument is not in his handwriting, and that he does not know who wrote it. And John Treanor, on page 331 of the printed evidence, swears that Hewitson and Gonzales had an acquaintance of long standing, and were well acquainted. This was in 1857. Does any one want this witness Hewitson, on whose evidence Spencer and ten other settlers were robbed, to be better impeached than this? An honest man would scorn to hold the fruits of such base perjury as his. Will Judge Watrous, or any of his confederates, disgorge their ill-gotten spoils? Surely not, if this House will indorse him as an honest man.

I have gone thus far with this power of attorney; but here, what shall I do? I am notified by my colleague that he, or some one else, has a statement over the signature of General Stephen F. Austin, which may be produced too late for examination, and which states that this disputed power of attorney is genuine. On yesterday I asked to have it laid before the House for examination, as anything coming from his great name, and, especially, if vouched for by his kinsman, and the Representative of the very aggrieved and wronged people who now appeal to this House to put this judge on his trial before the Senate, must have great weight. Is his name to be vouched here to shield this man from the arm of justice? If so, let us see the paper; let us see what General Austin says; let us see whether he saw the instrument executed, or on the records, or whether he distinguishes between the power to take possession and the power to sell. Let us know his means of information and what he does say. I have no doubt my colleague states fairly his understanding of this paper; but he will see the danger to the cause of justice of withholding that paper, if it is one which should be presented.

I will close what I have to say on this branch of the subject by presenting to the House another most important piece of evidence in relation to this power of attorney.

To the honorable Probate Judge, Señor Juez de Letras:

Thomas de la Vega, a resident of this city, now appears before you and says: that, in the archives of the illustrious ayuntamiento of this place exist the protocols of the public acts filed in the year 1832, and that among these acts is a power of attorney bearing date 5th of May of said year, which, although signed by Don Juan Gonzales, who then performed the office of judge, is not signed by me, the supposed grantor. In justice to my rights, I pray that your honor shall call at the archives aforesaid, demand the said protocol, (or file,) and open the same at the place signed by Don Juan Gonzales; that you shall cite him to appear forthwith before you, without excuse or pretext whatsoever, and in your presence read and examine the said power supposed to have been given by me to Samuel May Williams to alienate certain lands that I possessed in Texas, and, after a careful examination thereof, that he shall state whether or not it is signed by me. After which I also pray that you shall give me an authentic certificate to this effect: whether said power is, or is not, signed by me, and whether Don Juan Gonzales had authority to perform the same alone, without being accompanied by a series or competent witnesses, who, as our laws require, should always assist the judge in performance of all his official acts, to give them force and validity. As these points here above stated will be required by me as testimony in certain claims which I prosecute in the United States, to prove the nullity of the sale of certain lands of mine, I pray that you shall grant me my prayer as above, delivering to me the originals of these proceedings, with the evidence resulting therefrom, to be made use of as best will suit my interest. I demand justice according to the law.

THOMAS DE LA VEGA.

SALTILLO, September 17, 1855.

SALTILLO, September 18, 1855.

As prayed for, let Don Juan Gonzales, Zerucha, be cited, and let the demand contained in this petition be compiled

with. Therefore, the judge substitute of the probate judge (of Letras) of this district orders and signs in my presence.

TOMAS SANTOS COY.
DOMINGO V. MEJIA, N. P.

Under this same date, Don Thomas de la Vega is duly notified of the above proceedings.

DOMINGO V. MEJIA.

THOMAS DE LA VEGA.

On the same day appeared Don Juan Gonzales, Zertucho, who having taken cognizance of the petition and citation that precede, and having accompanied the honorable judge to the locality where are kept the archives of the illustrious ayuntamiento, and the secretary having been requested to produce the record of public acts for the year 1832, and the same being done, Don Juan Gonzales, after having read and examined the written power of attorney above referred to in the petition, declared that the power of attorney on record is the same authorized by him at that date, and is in conformity in all its parts with the testimonio also authorized by him, and that the signature of Don Thomas de la Vega does not appear thereon—he knows not why; and, after having so declared, he hereby signed in presence of and together with the judge, as witnesses.

JUAN GONZALES, Zertucho.
SANTOS COY.
DOMINGO V. MEJIA, N. P.

I certify with all due formality that the power appears to have been given by the Licentiate, Don José María Aguirre, Don Thomas de la Vega, and Don Raphael de Aguirre, on the 5th of May, 1832, and which is on the records of that year, is not signed by Don Thomas de la Vega, and has no other authorization than the signature of Don Juan Gonzales, who fulfilled the office of judge, without the assistance of a scribe or of competent witnesses, who ought to have accompanied him to give validity to that act, according to our laws; and in accordance with the prayer contained in the annexed petition, I here affix my signature in presence of the scribe, as witnesses.

TOMAS SANTOS COY.

DOMINGO V. MEJIA, N. P.

On two pages sealed paper is delivered the testimony to Mr. Vega.

The Governor of the free and sovereign States of Nueva Leon and Coahuila, legalizes the signature of the citizen, Tomas Santos Coy, judge substitute of the probate judge of the district of Saltillo, and that of the public scribe, the citizen Domingo V. Mejia, which authenticate the annexed preceding documents, in the matter of the petition addressed to said authorities by the citizen, Thomas de la Vega, Monterey, September 23, 1853.

DOMINGO MARTINEZ.

JUAN GARZA, *Cronic. Secretary.*

The consular certificate I annex.

J. WALSH, *Consul.*

I hereby certify that the signatures to the annexed documents are those of the Governor and Secretary of the State of Nueva Leon and Coahuila, in the Republic of Mexico; and the same as they place on all public writings.

Given under my hand and the consular seal this 23d day of September, 1853.

J. WALSH, *Consul.*

This, I suppose, will settle the question as to the testimony of Hewison, and as to the five or six thousand dollar testimony of the old man Gonzales, and will show by what sort of title Judge Watrous and his confederates hold this \$300,000 worth of land.

Here is as proper a place as any to call the attention of the House to a paragraph in the report of that part of the committee which reports against the impeachment of Judge Watrous. It is as follows:

"This property, it appears, consisted of a tract of land in Texas, granted by the State of Coahuila to Thomas de la Vega, and located and sold by his attorney, Samuel M. Williams, one of the *empresarios* of Texas, associated with Stephen F. Austin, for whose benefit, and to release whom from imprisonment in Mexico, the land was sold by Williams."

Now, I desire to ask the gentleman from Tennessee, [Mr. READY,] upon whose authority that paragraph was inserted in the report? And I respectfully ask him for an answer before the House. There was no such testimony before the committee that I am aware of. And I want to know who it is that is intruding the name of that great man, to whose memory the people of Texas look with pride, to prevent the trial and punishment of Judge Watrous? I know the gentleman did not put it there without authority, and that, the cause of justice demanding it, he will state the authority for saying that this La Vega grant was sold to release General Austin from imprisonment in Mexico.

Much has been said during the progress of this case about the clamoring of the people of Texas against the Federal judiciary. And it has been more than intimated by gentlemen that it arose from the fact that the Federal judges held their positions by a tenure which enabled them to disregard the passions and prejudices of the people; that it was an outcry against an independent judiciary. It is urged that the judge became unpopular because he had the honesty to decide against

an improper construction of the statute of limitation, and thereby to force dishonest and absconding debtors in Texas to pay their debts; and because he had had the independence to enforce the law justly, where large grants of land were involved, against which the people were both interested and prejudiced. And upon these grounds his friends rest, it seems to me, as his best defense. Judge Watrous himself set up this defense. In his answer, addressed to the Judiciary Committee, in reply to the charges preferred against him, he says:

"But it will be asked, whence comes all this discontent? Why are these repeated attempts to remove Judge Watrous made? Why did the Legislature pass resolutions requesting him to resign? I will mention two things which have exerted a powerful and controlling influence in the production of this controversy. One is the *statute of limitation*; the other, titles to land within the border and littoral leagues."

And he devotes six pages of his answer to prove this. The committee was asked, during these investigations, for permission to disprove these allegations. But they refused to hear any proof on these questions, saying that they were only called on to investigate the charges which had been made against Judge Watrous, and that it was not necessary to inquire into the causes which led to those charges. I supposed this determination had been enforced impartially on both sides, and still think it was; though, when I attempted to call the gentleman from New Hampshire [Mr. TAPPAN] to order, the other day, for discussing this question, because there was no testimony in relation to it, he informed me there was testimony on the point; that Judge Hughes had testified. Well, if Hale had been here, he, too, would, in all probability, have been a witness to that point; for there is no dispensing with the services of one or both, when Judge Watrous is concerned. If the gentleman will pardon me, if I am not mistaken he agreed with others, very properly, as I think, to exclude all such evidence from the investigation.

As Judge Watrous, however, relies on these allegations, and as his friends all discuss them, and rely on them in this debate, notwithstanding the prosecution was refused the privilege of introducing witnesses to establish their falsity, I must call the attention of the House to a few facts connected with them.

Judge Watrous in his answer on the first allegation, the one relating to the statute of limitations, devotes over two pages to show, upon his own authority, of course, that one Stafford had become indebted to the Union Bank of Mississippi in a large sum, and run a large number of negroes to Texas, and was sued there, and plead the statute of limitation, &c.; and that he had ordered the negroes sequestered, and ruled against Stafford on the statute of limitation, and these things produced an outcry and prejudice against him. Then he goes on to say he is informed that General Cuny, of that State, was Stafford's brother-in-law, and that General Cuny was the Senator who introduced in the Senate of Texas the joint resolutions of 1848, asking him to resign his office of judge. Now, I beg honorable gentlemen to turn to this part of Judge Watrous's answer, (on page 25,) and see with what fervency of eloquence he descants on this supposed state of facts.

Now, one would suppose, of course, after all the labor and circumstantiality, and apparent candor and earnestness with which he belabored this point, that there was some truth in this part of his defense. But after the witnesses from Texas reached here last spring, and he may well have supposed he would be detected, he walked into the room of the committee to whom this report was made, and asked the committee to allow him to withdraw his answer; that on reflection he found he was mistaken about the ruling on this Stafford case before the resolutions were passed by the Legislature asking him to resign; stating that he found the suit was instituted after that time. And this was the truth—that the suit was instituted some months after these resolutions had been passed.

Now, one would think, in view of this fact, that it was unfortunate he had expended so much labor and earnest fervency of expression on this part of his answer, leaving out of view the little matter of making so unfortunate a mistake in his defense. But no; his friends, as though they were afraid we should forget this blunder, remind us

in almost every speech, of his honest rulings on the statute of limitation, and the unjust clamor of the people against him for it. If we had been permitted, we would have proven to the committee that there was no truth in this part of the defense—not that there may not have been some complaint against his rulings in some cases, for no judge can escape such complaints; and he is as well prepared as most judges to prove complaints against him. But we would have proven that the complaints which alarmed the people of Texas, on account of Judge Watrous's position and power, as United States district judge with circuit court powers, sole judge as he was, resulted from the facts which were notorious, (and are proven now by the many entries on his own docket, transferring causes to another court which, from interest, he could not try,) that he had been of counsel for what was called the New York Land Company, which owned many million acres of fraudulent land certificates against Texas. It was known he was interested in the establishment of these certificates.

Then it was known that he was counsel for the holders of what we called the Mason eleven-league grants—a very large class of grants, which had been improperly and unlawfully obtained from the Mexican authorities, and which, for that reason, were declared void by the convention which formed the constitution of the Republic of Texas, and again by the convention which formed the constitution of the State of Texas. This will be seen to have been the ground on which these resolutions were passed, by looking at them. And as they constitute a part of Mussina's memorial, and embrace a part of the charges on which the judge is now being tried, I will read them. They are, as follows:

"Whereas it is believed that John C. Watrous, judge of the United States district court for the district of Texas, has, while seeking that important position, given legal opinions in causes and questions to be litigated hereafter, in which the interests of individuals and of the State are immensely involved, whereby it is believed he has disqualified the court in which he presides from trying such questions and causes, thereby rendering it necessary to transfer an indefinite and unknown number of suits, hereafter to be commenced, to courts out of the State for trial; and whereas it is also believed that the said John C. Watrous has, while in office, aided and assisted certain individuals, if not directly interested himself, in an attempt to fasten upon this State one of the most stupendous frauds ever practiced upon any country or any people, the effect of which would be to rob Texas of millions of acres of her public domain, her only hope or resource for the payment of her public debt; and whereas his conduct in court and elsewhere, in derogation of his duty as a judge, has been marked by such prejudice and injustice towards the rights of the States, and divers of its citizens, as to show that he does not deserve the high station he occupies: Therefore,

SECTION 1. *Be it resolved by the Legislature of the State of Texas,* That the said John C. Watrous be, and he is hereby, requested, in behalf of the people of the State, to resign his office of judge of said United States court for the district of Texas.

SEC. 2. *Be it further resolved,* That the Governor forward to the said John C. Watrous, under the seal of the State, a copy of the foregoing preamble and resolution; also, a copy to each of our Senators and Representatives in the Congress of the United States.

"Approved, March 20, 1848."

These resolutions, I should suppose, were at least as good evidence of the cause of the clamor in Texas against Judge Watrous as his unsworn statement about his rulings on the statute of limitation, which he retracted before the committee, and asked to withdraw. As to the clamor about his rulings on large grants, I have this to say—and I say it because it is a part of the law and public history of Texas, and on this ground I have a right to say it—that the supreme court of Texas have adjudged as valid a very large number of eleven-league grants, and parts of such grants, and are doing so every year; and though there may be, and are, occasional complaints about the establishment of these grants, there has been no public clamor either against the courts or the judges; but the people submit to these adjudications with as much loyalty to the existing tribunals, (and I say it with pride,) as they do anywhere.

As an evidence of this, our three supreme judges, who were appointed by the Governor of the State in 1846, were all reelected by the people in 1852, the mode of appointment having been changed. They then all resigned in 1855, the law having increased their salaries, and were all reelected again by the people; and one of them, Judge Hemphill, was last winter elected United States Senator; and another of them, Judge Wheeler, was this year

elected by the people to the office of chief justice, he having been associate justice while Judge Hemphill was chief justice.

Now, these judges have been adjudicating these claims all the time, and establishing or overruling them, as justice required; and yet they are popular with the people. My friend from New York [Mr. CLARK] says he loves unpopular judges. These are thought to be most excellent judges; and yet they are popular with the people. There, gentlemen, is a faithfulness of the people of Texas to an honest judiciary, of which South Carolina might be proud; and I believe she seldom changes her judges or her members of Congress.

I hope, in view of these facts, that gentlemen will find some other ground of defense for Judge Watrous than the denunciation of the people of Texas for being clamorous and revengeful towards an honest judge, because he has the moral courage to do his duty.

I will bring one more matter to your attention, and I have done. During the investigation of this matter before the committee, I caused a memorial, which was presented to Congress in 1852, by William Alexander, Esq., asking for the impeachment of Judge Watrous, to be withdrawn from the files by order of the House, and referred to the committee.

I was in part induced to ask a reinvestigation of the charges contained in that memorial, by the fact that the Legislature of Texas, during its session last winter passed another set of resolutions in relation to Judge Watrous, instructing the Representatives of that State to urge his trial on all the charges against him; and those contained in this memorial were a part of the charges which were contemplated by the Legislature, as appeared by the debates and the report of the committee which prepared the resolutions. And I was in part induced to do so because the charges had never been fully examined, and because I believed them to be true, and such as demanded Judge Watrous's impeachment.

The committee, as will be recollected, brought this matter before the House and asked its direction as to whether they should proceed with the investigation of the charges contained in this memorial, and by a vote of the House it was determined they should not. The reasons urged for this were, that the memorial had once been acted on, and the charges had not been sustained, and because they were now regarded as stale. I then went before the committee with the transcript of a record from the United States circuit court for New Orleans, properly certified, the case of James Phalen against David P. Herman, which was originally instituted in the United States district court at Galveston, in which Judge Watrous presided. And I proposed to make the charge in my own proper person, that in that case he had colluded with other persons to have the suit brought in his own court, for which purpose he and those with whom he acted had caused a note to be executed by Herman to Phalen for \$3,000, as the consideration for a fraudulent land certificate for a league and labor of land, when at the time he and they knew the certificate to be fraudulent and void and worthless, and when, in fact, among those who traded in them, they were worth but about one hundred dollars; that he and they had made up this case in vacation, and transferred it to the circuit court at New Orleans, and there, by collusion and fraud, managed, on pleas prepared for that purpose, to get the court to adjudge the certificate to be valid. And that he and they then, with like fraud and collusion, took the case by writ of error to the Supreme Court of the United States, with a view to secure an affirmance of the judgment of the circuit court at New Orleans, and thus to secure a decision of that tribunal by which they could bind the State of Texas to satisfy the outstanding fraudulent certificate against her, which, as was shown by official data, amounted to over twenty-four million acres; and that they were only prevented from consummating their purpose by the State employing counsel to come here and represent her interest in the Supreme Court, and so arrest this scheme of fraud. I offered this record to prove the facts it contained, and among them were these: that the note which was given for the certificate was executed on the 5th day of July, 1856; that the record contains an order, in the form of a letter, ad-

ressed by Judge Watrous to Thomas Bates, Esq., the clerk of his court, which is as follows:

JAMES PHALEN, a citizen of the State of New York, } In the district court of the
or, } United States for the district
DAVID B. HERMAN, a citizen } of Texas, exercising the pow-
of the State of Texas. } ers and jurisdiction of a cir-
circuit court.

Whereas the undersigned, judge of the district court of the United States for the district of Texas, was employed as a counsel in a number of cases, of which the present case is one, which renders it improper, in his opinion, to sit on the trial of this suit; and whereas it is apparent from the petition filed that the subject-matter of this suit is cognizable only in the circuit court of the United States; and whereas there is no judge, except the undersigned, authorized by law to hold said court for the trial of said cause; it is hereby ordered, upon application of the plaintiff in this cause, that this fact be entered upon the records of the court; and it is further hereby ordered, that an authenticated copy of this order, together with all the proceedings in this suit, shall be forthwith certified by the clerk of this court to the circuit court of the United States for the circuit of Louisiana, sitting at the city of New Orleans, the same being the most convenient circuit court in the next adjacent State hereto, for such order and proceedings in said circuit of Louisiana, in this case, as to the said court may seem agreeable.

JOHN C. WATROUS.

January 23, 1847.

To THOMAS BATES, Esq., United States District Court.

In which you see he recites that he "was employed in a number of cases, of which the present case is one," which rendered it improper for him to "sit in the trial;" and he, on that account, orders it to be transferred to New Orleans. His commission as judge is dated on the 29th of May, 1846; and the cause of action in this case, as you will see by the date of the note, was the 5th of July of the same year. So that, if he was employed as counsel in that case, it was after he was appointed judge; and if he was not employed as counsel, he stated his official character, on the records of his court, that which was not true, with a view to give his court jurisdiction of the case; and in either event furnishes record evidence that he was unfit to be a judge. But I did not propose to rest the case on this record alone, strong as it is, but told the committee the witnesses were then here in the city—men of high respectability, who had been summoned and brought from Texas to testify in this case, by whom I expected to make out the case against him.

I also offered to the committee to make the charge against Judge Watrous, that he had sold three fraudulent league certificates to a gentleman by the name of Lowe, of Illinois, for about six thousand dollars, when he knew the certificates to be fraudulent, void, and worthless; and when, by the laws of Texas, to sell such certificates was a crime of the grade of forgery, and punishable with the most ignominious penalties. And I proposed to prove this charge by a part of a record which I had from the district court for Galveston county, Texas, and by the testimony of gentlemen who were then here as witnesses in this case from Texas.

But Judge Watrous resisted my right to make these charges, and the committee felt themselves bound by the action of the House on the Alexander memorial, as these were a part of the charges contained in that memorial, and declined to hear the charges. I then gave notice to Judge Watrous, and his counsel, General Cushing, that when the House came to act on the report of the committee I should bring these things to the attention of the House, so that if, by such means, he should elude a trial and escape justice, the Representatives of the people, and the people of the nation, through our proceedings, should know how it was done. I have performed that duty.

It is proper for me to say here, too, that while Judge Watrous has made a sort of outward show of a desire for a trial, he has thrown every possible obstacle in the way of being sent to the Senate for a trial. And it may strike many as a matter of surprise, that while an humble lieutenant in the Army or Navy, if censured with the least dishonor, will not be satisfied until he vindicates his honor before a court, here we have a judicial officer of the second rank in the nation resisting every effort to secure an investigation of his judicial conduct and good behavior.

For these reasons, and others shown by the record, I ask you, Representatives, in the name and behalf of the State of Texas, to send Judge Watrous to the Senate for trial.

I know that, in the progress of the investigation of this case, I have manifested some anxiety and

zeal. I desire to say, however, that it was from a desire to do my whole duty, in a matter of great moment to my State and nation, and not because of any personal malice towards Judge Watrous; for I have had no acquaintance with him personally, except to see him occasionally since this investigation has been on hand, and I have no cause for personal complaint. And if in this speech my language has sometimes been plain and strong, I believe it to be faithfully true, and to have been spoken of the greatest judicial offender this nation ever produced.

Before Mr. REAGAN had concluded the delivery of the foregoing speech, the hour allotted to him expired; and he asked leave to conclude his argument.

Mr. MORGAN objected.

Mr. CLARK, of New York. I hope the House will permit the gentleman from Texas to proceed. The case is worthy a good deal of consideration.

Mr. MORGAN. I object.

Mr. REAGAN. I appeal to the House to allow me to present the conclusion of my statement.

Mr. NICHOLS. For myself, I prefer that the gentleman should have leave to print the rest of his argument, and then we will read it. I therefore interpose an objection to any gentleman consuming more than an hour; and I move that the gentleman from Texas have leave to print the rest of his remarks.

The motion was agreed to.

Mr. STEWART, of Maryland. I do not propose, Mr. Speaker, to go at any length into the examination of this case. The facts in it have been already presented to the House. Each branch of the Judiciary Committee has made a report, with such conclusions as seemed to them necessary to follow from the special views entertained. As has been pronounced by all, this is a case of great moment so far as the party implicated is concerned. It is also important to the country in all its bearings.

I purpose now, Mr. Speaker, without going into any analysis of the testimony, to submit to the House some conclusions to which I have arrived after a full and candid examination of the testimony and of the reports, and of all the arguments and suggestions that have been made. Feeling some interest in the case from its importance and character, but without knowing any of the parties, I examined it during the recess; and I will now proceed to present to the House the conclusions that have occurred to me. I state, as a preliminary question, that this is not only a very serious matter in regard to its consequences to the individual accused, but also in relation to the action of this Government in reference to the States and citizens thereof, and to the independence of your Federal judiciary when involved, it may be, by the conflicting views and prejudices of States or individuals. I have made this last remark with no special allusion to the action of the Texas Legislature in any stage of this case, but as a very possible occurrence, in any quarter, in the progress of events. I go, sir, for an impartial and independent judiciary—State and national—in its sphere. I am against clamor or prejudice from any quarter. They would never control me. I would undertake to decide a case of this kind according to its merits. I must confess that from the examination I have given to the testimony, it does seem to me that a great many extraneous considerations have been mixed up with it; and as one may be influenced by suggestions of that kind, he may form his opinion or his conclusions. But it becomes us, acting in a judicial capacity, in a proceeding of this character to form our judgment without regard to clamor, prejudice, or any outside considerations.

If the judge is guilty, he ought to be severely punished; if not, he should be firmly sustained against unfounded accusation.

Well, sir, I have some difficulty also as to the powers of the Government in reference to a matter of this kind. I am, myself, opposed to the extension of the powers of the Federal Government, whilst I am in favor of the General Government exercising all the powers that are clearly delegated to it, and all incidental means necessary to effect the objects designed by the Constitution. As a strict constructionist, I object to the extension of the authority of the Government by loose implication.

Mr. Speaker, we know that in reference to this

question of impeachment there is a great deal of doubt, uncertainty, and confusion. The Constitution of the United States, which gives this power of impeachment, specifies and provides that civil officers of the Federal Government may be impeached for treason, bribery, and for other high crimes and misdemeanors. What are these other high crimes and misdemeanors? We know what treason is. It is defined in all our books. We understand what bribery means. It also is defined, or ascertained and recognized, by the common law. But what are these other high crimes and misdemeanors? If the House is called to pass upon Judge Watrous's conduct, and to send this case up to the Senate of the United States, it must be, not upon mere matters of taste as to whether he has acted with commendable discretion in the discharge of his high duties, but whether he has been guilty of treason, of bribery, or of some high crime or misdemeanor. You cannot undertake to implicate or convict him, as I understand the Constitution and as I comprehend the extent of our duties about matters of this kind, for many of the reasons presented in these memorials and in the views urged and relied upon by the committee. It must be for some official malpractice. Now, sir, you have no statute pointing out what are these high crimes and misdemeanors. You have, then, to look to the common law, which is recognized in the Constitution, for a definition of the expression "high crimes and misdemeanors." Well, sir, I suppose it must be some official misconduct. I confess to you, sir, with all deference to the views entertained by those who are pressing this matter—the prosecutors and those who indorse the same sentiments—that I have not seen in any of the testimony the satisfactory evidence of that sort of official misconduct that would authorize me here, in deciding upon this case, to come to the conclusion that this party has been guilty. I do not believe in the doctrine advanced by the distinguished gentleman from Pennsylvania, [Mr. CHAPMAN,] a gentleman learned in the law, who has examined this case, and who acquitted himself with great credit when he addressed the House yesterday. I do not believe in the grounds which he maintained in this case, that this House has a clear constitutional right, merely upon *probable grounds*, to send this case up to the Senate of the United States in order to have the party formally tried. No, sir; I apprehend that this House must either, from an *ex parte* examination or by the taking of testimony to such extent as it may please, be satisfied that the party is guilty. No *probable ground*, I apprehend, is sufficient.

I confess I have not been able to deduce the guilt of this party from an examination of the testimony. The judge may be peculiar, eccentric, absent-minded; he may be remarkable in his temperament; he may be a very singular man; but I aver that I discover nothing definite in the testimony that convinces me that he has been guilty of official misconduct. So far as his judgments have been examined by the highest court in the country—the Supreme Court of the United States—his decisions have been sustained, I believe. Well, sir, from the investigation which I have made of the case, I say, in justice to the judge, and ourselves, and all parties, that if there are any clouds resting upon his conduct by reason of extraneous matters, they must be left to the wholesome influence of enlightened public opinion. We cannot reach this party except through the mode prescribed by law. If we wish that our Government shall move on with regularity and order, in all its machinery; if we go for law and order, the time has come when we must stand by our forms and modes of proceeding as they are prescribed in the charter. It is not the time now to enter upon a wild crusade to establish other forms and modes. The crisis has come for this General Government, and for the State governments, in all their legitimate action, to maintain firmly all the safeguards and bulwarks ordained in their organic laws.

If, sir, this House, for the reasons and grounds urged in this case, is to go into an examination of the conduct of Federal judges, where is the termination to be? The habits of a judge may be unfortunate and notoriously bad; but if, when he sits upon the bench, clothed with the judicial ermine, he discharges all his high duties without fear or reproach, can you go outside of that to

inquire into his personal character or deportment?

These are matters of taste—*de gustibus non disputandum*—questions as to the discretion or indiscretion of the parties. I have known instances, as I doubt not other gentlemen have, of judges whose general deportment could not be approved, but against whom, when upon the bench in the performance of their official duties, there could be no fair cause of complaint. If clamor is to be raised against a judge merely because his habits of private business, or otherwise, are unfortunate and do not chime with the prejudices and feelings, or fashion it may be, of the time, there is no telling where it will lead us. The signs of the times admonish us to stand by the settled and well-defined institutions of the country. We have gone far enough in departure from the principles and practices laid down by our forefathers, both in the movements of the General and in the action of the State Governments.

Why, sir, we may be resolved ultimately into a mere Government of king numbers, without check or balance; a consolidated empire, the absolute majority ruling and controlling according to its caprice or to its fancy. That is not the sort of Government under which we live. We have a confederacy under which your General Government has only delegated powers. You have also your State governments existing with all the required powers necessary to protect the citizen in his life, liberty, and in his rights of property. But if we have the principles recognized and established that an unorganized majority shall rule absolutely, you have effected a change in the system practically which may be subversive of all well-regulated liberty. Thus in the progress of events, you may arrive at a point where it will only be necessary, in any mode, to obtain the numbers to change the fundamental law of the land itself, thus subverting the whole character of the Government under which we live.

I maintain, therefore, that it is important—perhaps more so now than at any antecedent period of our history—that we should stand firm in the exercise only of the powers which have been manifestly delegated to us. That is the principle which controls me in this connection.

Then I propose that nothing in the action of this committee, nor in the evidence of the case which I have seen, shall justify me in interpolating upon the Constitution and giving my vote for preferring articles of impeachment against the accused, upon any such basis. I am not called upon here to express an opinion upon the propriety of the conduct of this man, (Judge Watrous;) I am only required to find whether, from the weight of evidence adduced, this man has been guilty of official misconduct and malpractice. I am not prepared to come to any such conclusion in consonance with the powers which, in my judgment, this House has the right to exercise. I cannot go beyond prescribed power and settle this matter according to my own mere opinion as a matter of fancy or good taste. No, sir; I deny the power. I controvert the position taken by my distinguished friend from Pennsylvania, [Mr. CHAPMAN.] I contend that we have no right to, and should not, send this case up to the Senate of the United States merely upon the impression that it ought to be further examined. It belongs to us to make the first examination; and it does not follow that because we may throw the responsibility upon the Senate that we have no duty to perform here. We must examine the case in this forum; and if we transmit it to the Senate, we should do so from the conviction upon our minds that he is guilty. If I consent to the impeachment of Judge Watrous, I ought necessarily to have formed the opinion that he is criminal as alleged. He might not be pronounced by the Senate guilty; but if I cast such a vote my opinion would be, notwithstanding, that he was guilty, upon the same state of facts. I insist that there is not sufficient evidence introduced in this case to produce such a conviction upon my mind; and, therefore, I am not prepared to accuse the party before the Senate of the commission of a high crime or misdemeanor.

It is true, that if we send it up there it requires the concurrence of two thirds of the members of that body to convict. We are admonished that this case has been pending here, in some shape or other, for several years. I know there are great difficulties always in removing a judge

who has been appointed by the President of the United States with the sanction of the Senate. I am aware it is difficult, under any circumstances, to eject him from his office; but you should not, for that reason, undertake to decide against a judge unless the testimony bearing against him is sufficient, to a rational mind, to convict him of crime or misdemeanor. I therefore dissent entirely from the position taken by my friend from Pennsylvania, that "probable cause" is sufficient, without going into a minute examination of the testimony to explore a wide field and satisfy myself whether or not the conduct of Judge Watrous was, in every respect, discreet. I am content, under the Constitution, to say that there is no satisfactory evidence, to my mind, that he has been guilty of any absolute impropriety in the nature of a high crime or misdemeanor. Unfortunately for him, perhaps, although I believe it was the only transaction of the kind in his life, he was engaged in a large land investment. He was interested in a land speculation; and the parties who make the complaint against him here were also, to some extent, involved in the same subject-matter. He entered, perhaps injudiciously, into a speculation in reference to land already partly occupied, and in respect to which there would necessarily be opposition raised upon the part of the persons in possession if the attempt was made to displace them. It may be said that a judge should not be engaged in land speculations. I admit the propriety of great prudence in such a case. But, because Judge Watrous was led into this speculation through the suggestion of his friends, or possibly from his own disposition, that, *per se*, is not, in my judgment, an adequate cause for impeachment. I may say that it was a misfortune under the circumstances; but I am not prepared to affirm that, from the connection which he had with that speculation, I should be justified in denouncing him as a guilty judge.

Then, sir, I have said as much in this case as I designed. I shall not go into the testimony. I am not satisfied that Judge Watrous is guilty. I do not pretend to say whether he is guilty absolutely, or not; but I admonish gentlemen upon this floor to examine the case in all its bearings and tendencies. Look to principles and usages, in matters of this kind. Let us bring to our assistance a full understanding of our duty, under the provisions of the Constitution of the United States providing for cases of impeachment. If it is the sense of the House that the position taken by my friend from Pennsylvania [Mr. CHAPMAN] is the correct one, and that the House may impeach upon "probable ground," that is one thing. If you take the position presented by the gentleman from Tennessee, [Mr. READY,] that the House cannot impeach without having come to the conclusion, from the evidence, that the party is guilty, that is another thing. Assuming that the ground laid down by my friend from Pennsylvania is tenable, that the House may impeach upon "probable ground," I aver that I am not prepared to say, from the examination I have been able to give the evidence adduced, that there is even "probable ground" of guilt. I am entirely convinced that if this case is brought to the notice of the Senate upon articles of impeachment, it will result, in all probability, in a decision by the Senate that Judge Watrous has been guilty of no official misconduct. According to my apprehension, if sent there, it would, so far as he was concerned, eventuate in his favor; but then, sir, we have duties to perform here, and I submit to the House that it does not become us to put this case in further progress by sending it up to the Senate for trial, unless we have reasonable ground for believing that he ought to be convicted.

I am therefore prepared to concur in the resolution submitted by the learned gentleman from Tennessee, that there is not sufficient ground for impeachment. The resolution submitted by that portion of the Committee on the Judiciary represented by my distinguished friend from Pennsylvania is in these words:

"Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached for high crimes and misdemeanors."

Between those two resolutions, if they are the only propositions upon which I am called to act, I shall be prepared to concur, so far as my judgment applies to this case, in the resolution of that

branch of the Judiciary Committee, at the head of which stands the distinguished gentleman from Tennessee, [Mr. REAGAN.]

Mr. CLARK, of New York, took the floor.

Mr. BRYAN. Will the gentleman yield to me for a moment?

Mr. CLARK, of New York. Mr. Speaker, no living man can make a fair presentation of this case to the House in an hour. I cannot yield unless my time is extended.

Mr. BRYAN. I have seen the remarks of my colleague, [Mr. REAGAN,] which he did not deliver, and it will be necessary for me to reply to them. I therefore ask the chairman of the Committee on the Judiciary whether the debate is to be continued longer than to-day?

Mr. CLARK, of New York. I yield with pleasure, if it is not to be taken out of my time.

Mr. BRYAN. I only wish to understand the intention of the House on the question.

Mr. HOUSTON. It was my expectation, when this discussion commenced, that it would terminate to-day, and that to-day we would have had a vote upon it. I am now satisfied that that cannot be done. I wish to consult the temper of the House. It is an important question, involving high considerations, national and individual; considerations alike important to the Union and the party accused. It will be my endeavor, of course, to bring the matter to as early a decision as the disposition of the House will allow. Gentlemen about me say that we can get through with the discussion to-day.

Several Members. No.

Mr. HOUSTON. I do not suppose that it can be terminated to-day; but I would like now, as the question is up, that the House will indicate some time for the close of the debate.

Mr. WASHBURN, of Illinois. Say Monday.

Mr. HOUSTON. At what hour?

Mr. WASHBURN, of Illinois. At three o'clock.

Mr. HOUSTON. If it suits the House, I am willing to say Monday, at three o'clock. I am willing to fix any time that the House may desire.

Mr. CRAIGE, of North Carolina. There are four members of the Committee on the Judiciary who have not yet spoken. Some of them are not prepared to go on with their remarks to-day. One gentleman, the gentleman from Louisiana, [Mr. TAYLOR,] has just arrived. He will wish to speak, in all probability. There are three others of the committee who may wish to speak, besides others of the House who may intend to engage in the discussion. It is impossible, therefore, that the debate can terminate on Monday.

Mr. HOUSTON. I will say this to my colleague on the committee, that I will not press the House to a vote on these resolutions until such be indicated as the disposition of the House.

Mr. NICHOLS. I suggest that this debate close on Tuesday, at three o'clock. Monday is reserved for special business, and, as a matter of course, will be occupied by it altogether.

Mr. WASHBURN, of Illinois. Can this question be overridden on Monday by motions for the suspension of the rules? If so, then this debate can only continue for three hours on Tuesday.

Mr. NICHOLS. That is time enough.

The SPEAKER. The Chair will decide questions as they arise.

Mr. CLARK, of New York. Have I the floor?

The SPEAKER. The gentleman is entitled to the floor.

Mr. CLARK, of New York. Mr. Speaker, I am one of the number of the Committee on the Judiciary who determined that the ends of public justice did not require the impeachment of Judge Watrous; and I may further say, in my own behalf at least, that I have come to the conclusion, not without doubt and not without anxiety, but nevertheless with the greatest degree of deliberation of which I am capable, that the interests of the country require that such impeachment should not be had. The single hour permitted by the rules of the House, is a period, in my judgment, greatly insufficient to enable any man to present to the House even a meager analysis of the vast mass of testimony which has been adduced before the committee. Nor, Mr. Speaker, is the opportunity afforded for the discussion, with that elaborateness of which the subject is worthy, of

the general principles of public law which it has seemed to me may be in danger of being overlooked in this case, and which are applicable to every case of impeachment arising under the Constitution of the United States. All that I shall attempt to do—for that is all I have the time to do—is to bring before the House as briefly and as clearly as I can, the prominent facts which have been established before the committee, and to state the results to which, from those facts, my reflection has led me.

The Committee on the Judiciary, of whom I will say that they gave to the examination of this case an attention most profound and a labor most unwearied, adopted a rule for their guidance which commends itself to my judgment, and which, in some degree, now comes before this House for review. Sir, I am apprehensive in this case that gentlemen upon this floor may vote wrong, under the idea that no great harm can be done; that it is safe enough to vote an impeachment, and send the case to the Senate, where justice will be done. In my judgment, that idea involves a surrender of the prerogatives of the House. It involves a surrender of the power of the people. It involves danger to the integrity and independence of the Federal judiciary. The committee determined that it was their province, in the discharge of the duties imposed upon them by the House, to look into the facts of the case beyond the point necessary to ascertain whether there did or did not exist that technical probable cause which, under the well-settled principles of the common law, justifies a magistrate in holding a person for trial, or may perhaps justify a grand jury in finding a bill of indictment. They determined that their sphere was larger, and their jurisdiction more ample; that it was their business, as I assert now that it is the business and duty of every man upon this floor, to investigate for himself and ascertain the truth, and the whole truth, of the transactions in question. The committee applied, in its broadest sense, that generous maxim, *audi alteram partem*. They determined that while they were to listen to the relation of the facts and circumstances which, upon the first impression, involved Judge Watrous in suspicion, that they were also to listen with equal patience and with equal care to the circumstances and facts by means of which those suspicions were removed. They determined to break down all the barriers which, it is admitted by professional men, the rigid rules of the common law sometimes throw in the way of the search after truth, and to come into this House and advise the House whether, upon the great facts of the case, in view of all the circumstances, under the light shed from every quarter, such a case existed as would justify the House of Representatives in calling upon the Senate to transform itself into a court for the trial of an impeachment of a member of the Federal judiciary.

Mr. Speaker, my honorable friend from Pennsylvania [Mr. CHAPMAN] has raised the point and has argued in the course of the able remarks that he made, that this was without precedent. He seemed to be inclined to draw an analogy between the House of Representatives of the United States sitting in a case like this, and a grand jury sitting under the common law, holding its dark and inquisitorial examination over the case of a citizen who is charged with crime. Sir, the committee determined that that analogy did not exist, and in that determination I fully accord. I will say that I am not an admirer of that grand-jury system that has descended to us from our ancestors. It has been said, and justly said, of the common law, that it embodies maxims which provide in some degree for their own improvement, and give assurance that its leading principles shall at no time fall far behind the spirit of the age. But, sir, in respect of that particular system of grand juries which the common law has handed down—a system which in many of the States of the American Union remains to this day unadapted and unremedied—it is far otherwise. Sir, I am by no means sure that the system of grand juries has not already outlived the purposes of its creation. It was intended as the shield of the citizen against the oppression of the sovereign. It was designed as the protection of innocence against the encroachments of imperial power; but in its every-day application we find that it often leaves the citizen, by the application of its cold and rigid rules, in the same condition in which

their application to this case may perhaps now leave Judge Watrous—condemned without a hearing, and forced to have his name recorded on the roll of judicial impeachments, a record which I will not pronounce to be one of infamy, but a record not of honor, whether acquittal or conviction follow; while, as I think is demonstrable in this case, the application of more benign and equally familiar principles will leave the name and fame of Judge Watrous unharmed to his family and to his country.

Mr. Speaker, the point in this case to which I wish to call the attention of the House—because it arises and must be determined—is, shall the independence of the Federal judiciary be maintained against, and in spite of, the prejudices of the people of a State? That is the question. I regret that I have not time to show, by reference to the record, how clearly and distinctly that question arises. But I must occupy my brief hour in the presentation of the facts; for I know men in this House who design to vote on this question under the impression that no harm can be done, because, if peradventure we do Judge Watrous wrong, the Senate can right the wrong we do. Apply that rule to every-day life. Take the case of any man charged with crime. You may accuse him; you may drag him from his home in chains; you may incarcerate him; you may put him into the felon's dock; but no harm is done; for, by-and-by, he can read the clear record of his acquittal, and hear the law pronounce, "No harm has been done you, for you are innocent." Sir, that is an unsafe vote to give. Especially unsafe is it when it comes to be applied to the case of a Federal judge. It suggests a principle to which I shall never give my sanction. I am one of those men who regard the preservation of the independence, as well as of the integrity of the Federal judiciary, as essential to the preservation of the civil liberties of our people; and I will not give my assent to a policy which deprives this House of the power of intervening for their protection when unjustly assailed.

Mr. Speaker, we heard the case against Judge Watrous, and we heard counsel against him, and we heard Judge Watrous and his counsel in defense. On that case those of the committee with whom I concurred adjudged that the suspicious circumstances—which I will not deny presented themselves upon the first impression—were explained; and it is upon that case, on which we passed, that I wish the House to pass. Therefore, I shall address myself directly to the facts alleged against him as the ground-work of this impeachment.

Mr. Speaker, we excluded evidence of Judge Watrous's general character. We examined the merits of the particular transactions alleged against him. Now, I admit that Judge Watrous may be unpopular in Texas. He may, for aught I know, have rendered unpopular judgments. He may, for aught I know, be an unpopular man. But I like an unpopular judge, provided he keeps his ermine pure and clear. I like the judge who scatters his judgments here and there among his fellow-men, indifferent, as the lightning, where and whom they strike; and, for one, I am by no means sure that Judge Watrous is not such a judge. He is a stranger to me. I have met him only when he was in attendance upon our committee, and I know not his standing as a man in the community in which he lives. But your committee having unanimously excluded the proof of his general character; having refused to listen to the suggestions of the Legislature of Texas, or to the clamor of her people; having heard nothing against him and nothing for him in respect of general character—I do not ask too much when I insist that this House shall, with the same impartiality, examine the particular facts alleged, and on them, and them alone, determine whether there is presented a case which will justify this assertion of the power of the people against a Federal judge.

Mr. Speaker, there were two cases brought before this committee, and which became the subject of their action. Other cases were mentioned, but only two were committed to the Judiciary Committee, and on these two they have reported. The one is the case of Mussina, and the other the case of Spencer. Now, it took me somewhat by surprise that my honorable friend from Pennsylvania should have omitted in his oral argument, to have

referred to the case of Mussina; to which he devotes some pages of the very able and elaborate report which he has presented to the House. I feel it to be my duty to speak to both these cases, unless my friend from Pennsylvania will relieve me, by rising in his seat, and saying, that in his judgment the Mussina case presents no facts which would justify the House in sending Judge Watrous to the Senate. If he can do this, he will relieve me from an amount of physical labor, which I really do not feel to-day well enough to perform.

Mr. CHAPMAN. Mr. Speaker, the application made by the gentleman from New York is a most singular one. I am exceedingly surprised at it, because I think he sat by me at the time I delivered my remarks, and must have heard me say that, for the want of time, I could not proceed to the consideration of the other branch of the case.

Mr. CLARK, of New York. I did.

Mr. CHAPMAN. My hour had almost expired; and if I had gone into an investigation of the case, I could not have done it any justice in the limited time that remained to me. But I am surprised that the gentleman should appeal to me to abandon that portion of the case after the report has been made, and my name has been attached to it. Sir, I am not prepared to abandon it; and I never will abandon it until that report is pronounced to be groundless by the Senate.

Mr. CLARK, of New York. I acknowledge, Mr. Speaker, that no living man, in my judgment, has the capacity to make a person who is not familiar with the testimony in this case, acquainted with its whole merits in a single hour. I heard the remark of the honorable gentleman from Pennsylvania; but I thought from the language of his report, and especially from a particular sentence in it, which I will now have read, that he might possibly relieve me from the physical labor of referring more particularly to the facts in the Mussina case. That case comes first in the order of time. It was the foundation of the report of the Judiciary Committee of the last Congress—that report being unanimous in favor of the impeachment. My friend from Pennsylvania, in his report, has used the following language, which he certainly will permit me to cite upon him:

"But, whilst this truth, it is also due to the occasion for us to observe, that whilst no one point in the progress of the Cavazos case, to which reference has been made, would, perhaps, if standing by itself, be sufficient to constitute positive misconduct in a judge, yet we are constrained to acknowledge that our conviction is different when we look at all these points, and embrace them in a single view."

Thus, Mr. Speaker, the House will see that my friends of the Judiciary Committee decide that when you come to sift the Mussina case to the bottom; when you come to bring each particular point in the case under review; if "exhibits no positive misconduct;" but when you come to combine the points all together, they become something else.

Now, I will say in respect of the Mussina case, that there is no pretense made by any of the prosecutors of Judge Watrous that he had one particle of interest in that case, or that he held any relation to the parties that placed his judicial conduct under the slightest suspicion. Now, how was the case presented to the committee? Why, the record—a record amounting to nearly one thousand pages—was thrown bodily into the Judiciary Committee of the House, consisting, with the exception of myself, of able and distinguished lawyers; and they were asked, without any particular specification of the grounds upon which it was alleged that that judgment was erroneous, to go over it, and, each applying his own familiar knowledge of that particular system of jurisprudence in which he had been educated, to say that this was wrong, and that that was wrong, and that the other thing was wrong. Now, the ready answer suggests itself, if that judgment was erroneous, why was it not appealed from and reversed on appeal? Sir, is it possible that an appeal lies to the House of Representatives for the purpose of the impeachment of a judge who has rendered, if you please, an erroneous judgment, but from which the parties to the record have not seen fit to take an appeal?

I will say something more about that case. I will take it up in its details, and show that if the

judge who decided that case can be impeached for his action in it, there is not probably one single member of the Federal judiciary who may not to-morrow be sent to the Senate for trial; and of any other judge it may be said, as well as it is said of Judge Watrous, *the Senate can do him justice*, the House have not time. Sir, if we have not time to examine the case as it deserves, we can stay our hands; we can fail to exercise this great constitutional prerogative, unless we can do it calmly, deliberately, and in such a mode as not to endanger either the independence of the judiciary, or the liberties of our people.

Mr. Speaker, it is to be borne in mind that the practice of the civil law prevails in Texas. If I am wrong in this expression, some gentleman of more accurate knowledge upon the subject can correct me.

Mr. REAGAN. It has not prevailed there since 1837.

Mr. CLARK, of New York. Well, it is probably immaterial. It prevails in Mexico. It is immaterial, so far as the Mussina case is concerned, whether it prevails in Texas or not, for the proceeding in that case is on the equity side of the Supreme Court, and, therefore, under the rules of the Supreme Court, is governed by the practice of the English court of chancery.

Now, sir, four of the members of the Judiciary Committee came to the conclusion that Judge Watrous ought to be impeached, because the frame of the bill in chancery, in that case, was wrong. My friend from Pennsylvania, [Mr. CHAPMAN]—and no man in this House has more of my personal respect, as well for the intelligence which he ever brings to bear in the discharge of his duties, as for the unswerving integrity which I know directs his course—says that the form of the case was wrong; that the court had not jurisdiction, because the bill was not, in technical phrase, a "bill of peace." I think it was in form a "bill of peace," and that the ancient and well-established practice of the court of chancery justifies just such a bill. The case, sir, was this: Certain citizens of Mexico impleaded in the Federal court of Texas certain citizens of Texas. The plaintiffs alleged a title to land in Texas, and they alleged that the defendants had obtained certain documentary evidence of title to the lands under acts of the Legislature or Congress of Texas, before her admission into the Union. The plaintiffs claimed that their title was subject to this cloud, and they asked to have that cloud removed. Now, I appeal to the lawyers of the House whether there has ever been any doubt of the jurisdiction of the court of chancery to remove a cloud upon titles to land?

Mr. REAGAN. I will state, if my friend will allow me, that the difference is that this was a case to remove trespassers, and should have been an action of ejectment, or, in Texas, of trespass, to try title, instead of a chancery proceeding.

Mr. CLARK, of New York. Sir, as a suit for partition, the bill could not, I think, be sustained; for such a bill appertains only to cases of tenancy in common. As a bill to remove a cloud upon titles, I should unhesitatingly hold it good to-morrow. As a bill for an injunction against the assertion of false claims of title, I think it comes within the acknowledged jurisdiction of the court of chancery.

But it is said (and that is the strongest point in the Mussina case) that the court had not jurisdiction of the parties. And why? Because, under the Constitution of the United States and the judiciary act, an alien, or a citizen of Louisiana, for instance, cannot implead in the Federal court of Texas a citizen of Mexico. That is true, sir.

Now, sir, I will admit that if I had presided upon the trial of that case, and had the point been raised, I should have been inclined to hold that the question of jurisdiction was well taken. But the point was not properly raised, and the question of jurisdiction was given away. The answer was confined to the merits.

Mr. REAGAN. With my friend's permission, I will call his attention to the two motions in the case to dismiss for want of jurisdiction.

Mr. CLARK, of New York. I observed those motions, but both of them came too late. I am not without apprehension that the rights of the defendants in the Mussina case, were not properly cared for; but I deny that this is the tribunal to which an unsuccessful litigant can appeal for

relief who has lost his case either because of the want of merits or from the want of professional ability, with which his case may have been defended. Sir, the point of jurisdiction may have been raised, but if so, it was raised too late. It was raised after answer on the merits. I will give my friends on the other side the benefit of the admission that the point was suggested; but I think that it was too late after an answer on the merits, without the suggestion of the defect of parties in the pleadings or the proofs, to raise a question going solely to the jurisdiction of the court over the persons of the parties.

Mr. TAYLOR, of Louisiana. Will the gentleman from New York allow me?

Mr. CLARK, of New York. My friend knows perfectly well that I have not the time to spare, even to him. I would give him the whole of my hour if he was on the right side of the case.

Mr. TAYLOR, of Louisiana. Then I will, on the proper occasion, notice the assertion of the gentleman, and will show him that he is in error.

Mr. CLARK, of New York. In respect of the order of the court, referred to by my friend from Texas, touching the citizenship of the persons made defendants, I will say that I understand that order to have been made by consent of parties; and it is important to note that in the bill, in the shape which it finally took, all the parties defendants were alleged to be citizens of the State of Texas, and, therefore, the objection as to jurisdiction did not arise on the face of the bill. But, notwithstanding the allegation that the defendants were citizens of the State of Texas, Mr. Mussina did not, in his answer, set up his citizenship in Louisiana as a bar to the jurisdiction, if the fact of such citizenship rendered the jurisdiction of the court defective. My friend from Texas [Mr. REAGAN] has presented an argument in respect to certain incidental rulings of Judge Watrous, especially those relative to the admissibility of witnesses. It is my impression that there are more than one or two errors apparent in that record. It is my impression that Judge Watrous did decide erroneously upon one or two nice questions of law which arose in respect to the admissibility of witnesses; but is he the first judge who has committed an error in a case which my friend from Tennessee [Mr. REAGAN] has well described as one where the interlocutory motions rise in number to seventy-five, and the points suggested were almost countless?

I differ from Judge Watrous in his decisions upon some of these points. He expressed opinions upon certain propositions which opinions cannot, I think, be maintained; but it is enough for me to say, that if the proper exceptions had been taken, and an appeal had, the judgment, if erroneous, would have been reversed.

Now, sir, every man upon this floor knows that among the nice questions presented for the consideration of courts and lawyers, are those touching the competency of witnesses. The lines of demarcation are very close between that kind of interest, or in respect of that kind of interest which absolutely disqualifies, and that other kind which goes solely to credibility. In some of the States this distinction no longer exists, because the common law has been modified, and the interest of the witness no longer disqualifies. In very many of the States the parties themselves can testify in their own behalf; and, strange as it may seem, the House of Representatives of the United States is asked to impeach a judge because he decided, if you please erroneously, upon a question as to the competency of a witness when the parties themselves had not confidence enough or energy enough to carry their exceptions to the Supreme Court of the United States.

But, Mr. Speaker, I must not dwell upon the Mussina case. But I will refer for a moment to the allegation that the judge has obstructed Mussina in his effort to take an appeal. The facts are these: the case was decided on the 15th of January, 1852. Mussina waited nearly five years, or until the 10th of January, 1857. Then his counsel comes into court, and, without previous notice to the adverse party, applies to the judge to fix the penalty of the appeal bond. The judge replies, "wait until the opposite counsel is in court." The opposite counsel was at the time engaged in another court, if I mistake not, in the same city. But the counsel who was thus directed to take that appeal never sought that other counsel, or

informed him of the judge's suggestion. He never renews his application; but by his non-action permits the judge to fall into something which, but for the respectability of the gentleman who had the matter in charge, would seem to be a trap set for the judge's destruction. Sir, it is my duty, upon the presentation of such facts as those which were presented to our committee in respect to the alleged effort to perfect that appeal, to denounce the seeming effort to place the court in a position which, from the evidence, I do not think the court intended to assume. My friend from Pennsylvania [Mr. CHAPMAN] has not expressed the opinion that the application to the judge in relation to the appeal was made with sufficient diligence. I do not understand the committee, in their report in favor of the impeachment, to lay stress upon the alleged misconduct of the judge touching the appeal.

Mr. Speaker, I will remark that Judge Watrous is not the general guardian of the litigants before him. The care of their cases must be left to themselves, in accordance with the usage and practice of his court. They must employ counsel competent to protect their rights, and to raise exceptions and take appeals in time. Mr. Speaker, I appeal to my friend, the honorable chairman of the Committee on the Judiciary, who is to follow me, to state to this House his opinion, whether Judge Watrous's decision on the merits of that case was or was not in consonance with the principles of natural justice, and international law?

I have looked into the case, and so far as I can judge, the great point which was raised upon the merits, and which you are to discover through the wilderness of the case, was decided right, and in accordance with the truth and justice of the case. Such, at all events, is the impression upon my mind. But that question is not before the House.

I now pass to the Spencer case, which presents other difficulties. In respect to that case I must acknowledge that my mind was unfavorably impressed upon my earlier investigation. I was apprehensive that Judge Watrous had done wrong, and was even fearful that his motives might have been impure. I therefore pursued him through the whole career of that unfortunate scheme of land speculation, from his early association with it to the end; and, sir, he comes out, in my judgment, unstained with judicial crime.

Now, sir, what is the allegation? The charge is, if I understand it, that Judge Watrous entered upon a speculation in lands, the effect of which was to do a wrong to a citizen of Texas, because the result followed that the citizen of Alabama, who was associated with Judge Watrous in the ownership of the land, acquired the right to bring his suit in the Federal court of Texas, and the judge's interest disqualifying himself, subsequently worked the removal of the case to the Federal court in Louisiana, where it was finally tried. Now, sir, this is, I believe, a fair statement of the charge. This is the whole case as presented upon the other side. I say that no wrong has been done, and if I have time enough I think I can prove it.

Mr. REAGAN. Will the gentleman allow me to interrupt him for a moment, just at this point?

Mr. CLARK, of New York. I really have not the time to spare. I propose to speak upon the merits of this case until the expiration of my hour.

Mr. Speaker, I lay down the proposition that no legal wrong can follow to one man from the assertion of a legal right by another. I affirm that if you, in the exercise of your legal rights, do what the law permits you to do, I cannot complain of any wrong flowing to me therefrom, be the consequences what they may.

Apply this principle to the judge's case. I admit that Judge Watrous has been guilty of indiscretion. He was indiscreet in embarking in the speculation; and had he not unfortunately yielded to the temptation, he would not now be seen, in his gray hairs, wandering about this Capitol, seeking to defend himself from this charge. It is true that he has been indiscreet. It is said that he was poor. That may be the cause of his misfortunes. It is not to be denied that one of the chiefest of the blessings which attend the possession of wealth is, that it renders it unnecessary for its possessor to yield to the ordinary temptations which beset men in the pathway of life. But, sir, he had the right to enter into that speculation. He had the

legal right; and so long as a judge of one of the Federal courts is compelled to drag his life along upon an insufficient salary, I am not willing, in a case of impeachment, at any rate, to lay down the rule that the judge is debarred from a participation in those enterprises which sometimes make men rich, provided he contravenes no positive law, and provided he conducts himself in such a manner as to keep his ermine clear and pure.

Mr. Speaker, I regret the circumstance. I should rejoice if the whole Federal judiciary were elevated a whole atmosphere above the cares and temptations of life. I honor England for what she has done to render her judiciary elevated and independent. Her just and generous policy in that behalf constitutes, in my judgment, the brightest jewel in England's crown.

But, sir, what did Judge Watrous do? While quietly pursuing the even tenor of judicial life, he was approached by one Thomas M. League, who suggested the purchase, upon speculation, of some forty or fifty thousand acres of land on the Brazos river. The judge listened and fell into the speculation. He had the right to take the hazard. No law prohibited him, although it was indiscreet for a judge in a new country, in a frontier country, to enter into speculations in land where titles, all in dispute, and lapped one upon another, covered the land, and known conflicting claims rendered future litigations almost inevitable.

It was indiscreet in Judge Watrous to hazard his reputation, by permitting his judicial robes to be dragged through the mire of a land speculation. But I repeat, he had the legal right. Bear in mind that the charges against Judge Watrous in the Mussina case relate to his official action in the case, and that the charges in the memorial of Spencer relate to his personal conduct outside the case. It is not pretended by any one that Judge Watrous ever sat upon the trial of any suit, in the event of which he had a legal interest. I assert this much without fear of contradiction; and I assert it mindful of the case of *Ufford vs. Dykes*, in respect to which I will speak hereafter. I will simply say, now, that his act of presiding upon that trial was an act of indiscretion rather than of crime. As a matter of good taste he had better have avoided it; but I am not satisfied that he intended wrong.

When the speculation I have referred to was thus suggested to Judge Watrous, who had not the means of his own wherewith to make the purchase, he suggested that his friends in Alabama would probably advance the necessary funds.

Now, I ask the attention of such members of the House as are disposed to permit me to impress upon them, if I can, the views which have impressed me so strongly in respect to the great question of the guilt or innocence of Judge Watrous, while I review the subsequent action of the judge in the matter of this unfortunate speculation. If Judge Watrous were my father, I would say to him that he might go to the Senate safely, and I might perhaps advise him to solicit an impeachment; but Judge Watrous must decide for himself. I will not consent to withhold the exercise of the power which the Constitution has conferred upon us, as our prerogative, to determine whether the Senate shall cease from its ordinary avocations, and as a court of impeachments judicially try Judge Watrous upon charges which we must first find to be sufficiently grave.

Now, follow Judge Watrous in the path of this speculation, and tell me what wrong he has done (when you have overlooked his acts of indiscretion) in descending from his high place and mingling in a transaction for the purpose of providing against the winter of his life. Mr. Lapsley advanced the money and took the legal title. It was an ordinary investiture of the legal title in the man who advanced the money. That is an every-day occurrence. Mr. Lapsley, a citizen of Alabama, thus acquired a legal title to these lands. He had the right to direct where the suits should be brought. The Constitution of the United States opened the doors of the Federal court of Texas to him. He had the right to invoke the jurisdiction of that court for the purpose of determining the validity of his title against the citizens of Texas. And here, Mr. Speaker, let me, in my place on this floor, express my gratitude that the fathers of the Constitution provided a tribunal that can

exercise its jurisdiction beyond the reach of the prejudices, or of the clamor of the people of a State, or of the Legislature of a State. When Mr. Lapsley acquired the title to these lands, they were, for the most part, unoccupied. Some portions of them were in the possession of parties who acknowledged the superior title that Lapsley had acquired. But Spencer, the litigant in this case, claimed under an adverse title. Spencer was a resident of the State of Texas; and if he had seen fit he could have brought his action in the Federal court against Lapsley, a citizen of Alabama. All will concede that.

Why, then, had not John W. Lapsley, a citizen of Alabama, a right to implead the party who claimed possession of this land, by title adverse to his own, in the Federal court of Texas? No one will deny that; and when my friends on the Judiciary Committee murmur against it they murmur against the Constitution of the United States. When they murmur because this cause was afterwards removed from Texas to New Orleans, because the judge had an interest which disqualified him, they murmur against the judiciary act of 1789. And I assert that every wrong in this case, to anybody, follows directly, and not indirectly, from the Constitution of the United States, which, for wise and beneficent purposes, authorized the creation of a tribunal where the citizens of every other State could go, and where the power of the Federal Union would, if necessary, be exercised to see that neither the Legislature, nor the courts, nor the people of any State, trampled upon their rights of person or of property.

Mr. Speaker, the allegations against Judge Watrous in respect to this case are several. One is, that by his becoming a partner in the purchase of these lands, Mr. Spencer lost the right of a trial of his case, in the Federal court, before a jury of the vicinage. Now, the answer to that is, there is no such right. The answer to it is, that the man who holds property in a State, or in the Federal Union, holds it subject to the system of jurisprudence which that State, or that Federal Union, shall prescribe. He takes it *cum onere*. He takes it with the disabilities which attach; and one of these disabilities in the case of Mr. Spencer was, that when Mr. Lapsley, of Alabama, became proprietor of the land and claimed adversely to him, Mr. Lapsley had the right to drag him, against his interest and without his consent, to the Federal court, and there try him before a judge who held his appointment, not by any miserable election of the people, not by any election by the members of the Legislature, but under a commission from the capital of the nation. Ah, but say my friends, if the judge had not had the interest, this would not have happened. Sir, it might have happened if you or I had been interested with Mr. Lapsley in that purchase, instead of the judge. The same result might have followed.

But, say my friends, if the judge had not had an interest, he could have tried the case. That disability of the judge resulted from the purchase of the land; and that brings you right back to the great question, "can a judge purchase land?" because, if he does, he is disqualified from trying a case involving the title to it. Ah, but, they say, he did not disclose his interest. That is nobody's business. Did he try the case? No; he did not. He had the right to keep the secret so long as he kept his hands off the cause. It was a question of taste to whom he should disclose his private business. Ah, but, say they, the case came up in his court, and he then did not disclose his interest. I say he did. I say, as a matter of fact, that he did. The witnesses say so. The record of the court says so. I will ask to have that record read; and it will appear from it that before anything had been done in these cases, before the judge had exercised one iota of his judicial power, there was written on that record, and there it remains in lines too indelible to be effaced, even by the arguments of the able chairman of the Judiciary Committee, who is to follow me, too indelible to be erased, so long as the records of the Federal judiciary are preserved—a declaration that he had an interest in these cases—an interest as owner—which disqualified him from trying them, and which rendered a transfer of them necessary. I say the record shows it.

I say that in each of the Lapsley cases, before they were transferred to Louisiana for trial, the judge announced his interest, and that the fact

was entered on the record. It was, if you please, inaccurately entered. The clerk entered on the record that the judge had an interest, and also that he was related to some of the parties. The facts are, he had an interest, but was not related to the parties; and the answer to the criticism is, that the clerk made this entry, and probably embraced within it every cause of disqualification that suggested itself to his mind.

But the judge said in open court, and the fact is testified to by more than one or two, "I will not touch these cases with a forty-foot pole." He said so the very first time the cases were called to his attention on the calendar.

Now, sir, if the judge, in this transaction, had done anything inconsistent with his judicial character, from a depraved and corrupt motive, there is not a man in this House who would have more delighted to impeach him than I would; but no matter how much clamor there may be raised against a man, so long as I have the honor of a seat in the House of Representatives, so long shall every judge have from me, at least, that same kindness of scrutiny of his judicial action which, were I placed in the same position, I should desire to receive myself at the hands of my fellow-men. I will read from the record a portion of the order in one of these cases. The order is alike in all:

"This day came the parties aforesaid by their attorneys, and thereupon the judge presiding having stated that he could not sit in this cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject-matter in contest, the said parties, by their attorneys, agree that this suit be transferred for trial to the district of Austin. And further, it is agreed that the continuances and all other orders heretofore made in this case, be corrected so as to read as made by consent, and not by the order of this court."

Mr. BILLINGHURST. What date?

Mr. CLARK, of New York. January, 1852.

Mr. HoustON. Will the gentleman read the record of 1851?

Mr. CLARK, of New York. Yes, if the gentleman will give me a portion of his time to do it in. I will say, however, that in respect to the record of 1851, there is nothing but a continuance entered; while the testimony was clear before the committee that during that period there was a negotiation pending between the lawyers—a negotiation suggested by the notorious existence of the judge's interest—with a view to calling in some lawyer to try the cases; and thus they dallied in the Federal court of Texas for two years. With the highest respect for my friend the chairman of the Judiciary Committee, [Mr. HousTOn,] I will say of him that I think he would rear a standard of judicial morality, a standard which he would adopt himself if judicial powers were conferred upon him, higher than is ordinarily attained by men. We must take men as we find them. At best we all but grope in darkness; and upon a great question like this—a question of impeachment—we must look at men as we find them. We must remember that, after all, even a judge has human sympathies and frailties. We must remember that, after all, it is true that

"Fancy's flash, and reason's ray,
Serve but to light our darksome way."

And that we must look at the conduct of men placed in trying circumstances, and decide in respect of that conduct by rules not necessarily severe. Now, I will admit that a very frank judge—a judge who opened his court by telling what land he owned, the ages of his children, and anything else that was interesting, to the bar, might have avowed that he had been speculating in lands; but I assert that Judge Watrous best preserved the dignity of his station by keeping silence until the time came when his judicial action was called for, and then it was enough for him to say, "I have a personal interest in this cause, which disqualifies me." But, sir, there is apparent in this case an impotent and ineffectual effort on the part of Judge Watrous to have these causes brought in the State courts of Texas, where it seems that from the very first he had supposed that by-and-by, prejudices would be removed, and that with the advance of the State in civilization, and the increased acquisition of wealth by her citizens, justice might be administered to Mexican claimants in spite of her Legislature, and in spite of her people.

But, Mr. Speaker, my reflection leads me to the conclusion, that so far from finding that Mr.

Spencer's rights as a citizen of Texas were invaded by the removal of these causes to the court at New Orleans, under the judiciary act of 1789, that removal assured him perfect justice. The case was one of those which above all others ought to have been tried and ought to have been determined by the Federal judiciary. It was so tried. It went to New Orleans. It was there tried before a judge whose conduct in the case has not yet become the subject of animadversion, and the judgment was that Spencer had neither title nor color of title, but was a squatter upon the domain of another man.

[Here the hammer fell.]

Mr. CURRY. I hope the gentleman from New York will have leave to go on with his speech.

Mr. JONES, of Tennessee. Is his hour out? The SPEAKER. It is.

Mr. JONES, of Tennessee. Then let the rule be regularly enforced.

Mr. BRYAN. I move that the House do now adjourn. [Loud Cries of "No, no."]

Mr. BRYAN. I will withdraw the motion if any other gentleman wishes to speak to-day. I desire to speak on Monday, and, therefore, I made the motion to adjourn; but I now withdraw it.

Mr. STANTON. Mr. Speaker, like the gentleman from Maryland, [Mr. STEWART,] during the recess of Congress I read all the evidence in this case that was published previous to the adjournment, with a view of making up my own mind as to what my duty was in voting upon this question. I do not propose, because I have made no analysis of the evidence, to go into any detailed examination of the case, or to occupy the hour assigned to me by the rules.

I propose simply, like my friend from Maryland, [Mr. STEWART,] to state only the impressions which that evidence made upon my mind, and the facts, which I understand to be undisputed in the case. I read the evidence, and the effect which it produced upon my mind, without reference to any single item, was, that there was no case made out for impeachment. Supposing that that portion of the Committee on the Judiciary must have had some ground upon which to predicate their report, I turned to that report and read it; and the result to which I came was, first, that the conclusions at which they arrived were not warranted by the testimony, and consequently the House was not warranted in preferring articles of impeachment.

I confess to you, Mr. Speaker, that I have great curiosity to know, upon the facts found by that portion of the committee in favor of impeachment, what specific articles of impeachment they can frame that will stand the test of a demurrer? I do not understand what specific act of misdemeanor, what specific act of official misconduct, what specific act of corruption, or partiality, or misfeasance in office, results from the findings of that committee. I think the chairman of this committee will find his ingenuity and professional skill pretty severely taxed if he is put upon the duty of framing articles of impeachment in which he shall specify the particular misdemeanors upon which he asks that judgment shall be rendered.

Now, sir, as I understand the undisputed facts in this case, they are simply these: that Judge Watrous was formerly a resident of Selma, Alabama, a practicing lawyer there; that he had, before the annexation of Texas to the United States, removed to Texas, and engaged in the practice of law; that while there he was the attorney of a certain Thomas M. League, a man who was pretty extensively engaged in the business of land speculation; that upon the annexation of Texas to the Union, he was appointed district judge of the United States for the district of Texas; that after he had been in office some time, about the year 1850, this Thomas M. League called upon him at his residence, in the city of Galveston, and suggested that there was a fine opportunity for a speculation in a tract of eleven leagues of land lying on the Brazos river. In a conversation between old friends or acquaintances, Judge Watrous, in reply to the suggestion, said that he had not the money that would enable him to embark in that speculation, but that he had friends or acquaintances in his former place of residence, Selma, Alabama, who could readily advance the money, and who, perhaps, might consent to unite in the speculation. The tract contains nominally forty-eight thousand acres; but really, as I understand,

a much larger quantity, perhaps sixty thousand acres. It was stated to be worth something like five dollars per acre, or in the aggregate \$300,000. He wrote to Mr. Lapsley, in Alabama, and informed him of the existence of this land, and the opportunity which was offered. But first, he had the title referred to a Mr. Robert Hughes, a leading real-estate lawyer in the State, and, as I understand, a man of high standing, morally and professionally. He gave his opinion upon the title; Judge Watrous never examined it, considering Mr. Hughes's opinion reliable.

Some time in the spring following, Judge Watrous visited Selma, where he had a conversation with Lapsley and with three or four others who were expected to unite in the speculation and furnish a portion of the purchase-money. It is a matter of controversy among the witnesses whether anything was said in that conversation whether, if any litigation should result from the purchase, suits should be carried on in the Federal or State courts. Lapsley, if I recollect his testimony accurately, says he thought it was a matter of conversation, and that it was remarked that the suits would have to be brought first in the Federal court of the State of Texas, and then removed to New Orleans, in consequence of the interest of Judge Watrous. League says, as I understand his testimony, that he cannot recollect that anything was said in that conversation about the question of bringing the suits in the Federal or State courts. Whether this occurred in the conversation or not, I do not regard as of any sort of consequence. One thing is perfectly clear, both from the testimony of League and Lapsley, that in none of these conversations was there the remotest idea that the title was to be litigated in Judge Watrous's court. It is clear that such a thing was never contemplated by anybody in the whole progress of these transactions. Such a thing will not, I apprehend, be claimed upon the part of those who are pressing upon this House the impeachment of Judge Watrous.

That is not the point. The point of the whole proceeding, as I understand it, is, that Judge Watrous, being a Federal judge, and the fact of his being a Federal judge rendering it necessary, he being a party in interest, to remove the jurisdiction to the New Orleans circuit court, he was taken into the speculation because his official position would make the transfer necessary; and that he availed himself of his official position to effect the transfer of the jurisdiction of this case to the New Orleans circuit. That is the gist of the charges, as I understand them.

Now, sir, I have to say, that if Robert Hughes and John W. Lapsley are honest men, in the highest sense of the term; not merely men who will not lie under oath, but men who will not be guilty of any known or willful concealment, men who will tell the whole truth, though they swear to their own hurt; then I say there was not the slightest impropriety in the conduct of Judge Watrous in this transaction. This conversation at Selma, Alabama, between Judge Watrous, Lapsley, and others, shows clearly that these parties had in contemplation a speculation in which they thought money could be made, and that they took Judge Watrous into it because he was the party who furnished the information where the means might be obtained to enable League to make this investment. League had found out in his explorations that this speculation could be made. He informed Judge Watrous, but stated that he had not the money necessary to enable him to avail himself of it. Judge Watrous had not the means to enable them to make the joint purchase, and, therefore, to enable them to enter into the speculation, it was necessary to find some one who would advance the required amount. With that view, and with that view solely, Judge Watrous gets these Alabama parties interested. It was only necessary to advance \$7,000, and the testimony shows that the land was worth \$300,000.

Lapsley agrees, in consideration of the magnitude of the speculation, that League and Judge Watrous shall have one half, and he and his associates the other half. He was to furnish the purchase-money, taking the note of hand of Judge Watrous and League for their half. He will take the legal title to himself, and hold it as security for the payment of notes executed to him by Judge Watrous. Lapsley, being the only man who had any money invested, was the party who

had the rightful control over any litigation which might arise out of this speculation. He had the title in himself. He was the only party who had any capital invested, and he preferred the Federal courts. Now, I pray you, Mr. Speaker, why should he not prefer the Federal courts? He could not, probably, try that case in the courts of the State of Texas without having upon the jury jurors who held titles under precisely similar grants and who were interested in the question which was to be submitted to them for their decision. He could not go to the county in which the land was located to summon a jury from the vicinage without having jurors who were directly interested in the question on which they were to decide.

But that was not all. He had to meet this same case which was made in the Mussina case. It was claimed that these Mexican grants were all void, because, by the revolution which secured Texan independence, these grants were confiscated, struck down, made worthless, and that the Texan government was not bound to recognize them as valid. Now, in the litigation of such a question as that, was it strange that Mr. Lapsley preferred the Federal courts to those of Texas? Yet, it is apparent to my mind, and satisfactorily so, that Judge Watrous was, in good faith, willing to trust the Texan judiciary. He desired the prosecution of the suits in the State courts. He wrote to Mr. Lapsley, and Judge Hughes wrote to Mr. Lapsley urging the institution of the suits in the State courts. Judge Hughes, too, was willing to trust the Texan judiciary. Mr. Lapsley, however, being himself a lawyer, and being a citizen of Alabama, and understanding all these questions, himself the party, who had the right to control the suits, preferred, and I think wisely, to have them tried in the Federal courts. In all this I confess that I find no official corruption, no official misconduct. I do not find even any imprudence or any indiscretion. What right had Judge Watrous to suppose that Texas was forever to remain without the limits of any judicial circuit of the United States courts? If we had done our duty, we would have made Texas a part of one of the judicial circuits of the United States; and then Judge Campbell, or some other judge, might have had the case tried before him. It is because Texas is deprived of a constitutional right to which she is entitled, that these difficulties have arisen. They are owing to our neglect, and are not to be ascribed to any fault of Judge Watrous.

I pray gentlemen to consider the question calmly. Is there any official misconduct here? Is there any imputation of the official integrity of Judge Watrous? Is there anything he has done in his official capacity for which we should condemn him? I take it that there is not. As a citizen, he has embarked in a private, individual speculation, from which he hoped to make some money. Be it right or wrong, are we to call into question the private dealings and the moral conduct of judges of the Federal courts, and make them matter of impeachment? That is a pretty grave question. If you can go outside of the official and judicial conduct of a judge of a Federal court, and make his private business matters subjects of impeachment—inquire whether he has dealt honestly among his neighbors, and whether he has been guilty of anything not inconsistent with sound morals, then you would open a pretty wide door. Some of the judges may drink brandy freely, and would you impeach them for that?

This brief statement of what I understand to be the undisputed facts of this case, satisfies my mind that this prosecution has originated altogether in local prejudice and in disappointed cupidity. I am satisfied that this whole thing has taken its rise from the malice of Mussina, who was disappointed in the speculation in which he had engaged, and who failed by Judge Watrous's decision in the suit which he had instituted in the Federal court—a decision, by the way, which has been since confirmed by the Supreme Court of the United States. Impeach Judge Watrous! I do not think that there is anything in it. I do not think that we ought to cast a cloud or any imputation whatever upon the character of Judge Watrous, by voting an impeachment in this case.

MR. DAVIS, of Maryland. Mr. Speaker, I do not propose to argue this case at any length. I really rise more for the purpose of calling the at-

tention of gentlemen who are in favor of impeachment to those points on which my own judgment will turn, with a view that when they come to argue the case on Monday next they may, if they see fit, direct their arguments to these points. The first ground upon which it is proposed, as well as I can understand the report of the majority of the committee, to impeach Judge Watrous is, that he entered into an arrangement with League and Lapsley to acquire an interest in a large body of land in Texas, with a view to obtain the removal of that cause from Texas to New Orleans in order that they might escape the trial of the cause by a Texan jury. The case has not yet been argued on any hypothesis which comes up to that statement.

It has been argued very generally as if all that were necessary to appear was, that Judge Watrous had acquired an interest in the property, and, after he had acquired an interest, that he had arranged with his confederates that the suit or suits should be removed. What I desire to call the attention of my friends to, is this: that that is not the question. I suppose that Judge Watrous was at perfect liberty to purchase a piece of land in Texas, in connection with any person that he might see fit, provided there were no corruption in the purchase itself, and that the title was vested in him, or that he had an equitable title.

He had exactly the same right that any other citizen of Texas had to vest the legal title in any person, in order to bring the suit in any court in which the law would authorize any other person to bring it. In other words, it was no more illegal or improper in Judge Watrous—having acquired an honest and equitable interest in this property with Mr. League—to arrange that the legal title should be vested in a citizen of Alabama, than it would have been for Mr. League or Mr. Lapsley, or anybody else, to have done so. Certainly, nobody can say that, after an interest has been acquired in property, if the law does not forbid the vesting of the legal title in one partner rather than in all, and if the convenience of the party requires that there should be one person in whose name to sue, rather than in the names of all, it was illegal to vest the legal title so that the parties should have a choice of forums in which to bring the suit. And yet it is to that exact state of facts that all the arguments here in favor of the impeachment on that ground have gone. The report proposing the impeachment does not even suggest that Judge Watrous intended to conceal his interest, and to try the case himself in his own court. On the contrary, the gravamen of this report is, that he intended to prevent a Texan jury from trying it, and that for that purpose he determined to have the trial removed out of Texas.

If, then, the case does not go beyond that, I take it there is not a shadow of ground for impeachment; because, on the hypothesis that the judge had the right to acquire a title to property, then he had the same right that every private individual has, to transfer the legal title to any one who would have the right to bring suits in the Federal court. If, then, gentlemen who are in favor of his impeachment on that ground expect a vote in favor of it, at least from me, they will have to go further and to add this material element to the case: that League, having made the purchase himself, and fearing to trust his title to the decision of a Texan jury, even before Judge Watrous—he having no interest in it—conspired not merely in his own mind and for his own purposes, but conspired with Judge Watrous, informing Judge Watrous of his intention to vest in him a portion of the interest in order that, and with the knowledge of Judge Watrous, it should have the effect of disqualifying Judge Watrous for trying the case, and in this way getting it out of Texas; for otherwise it could not have been got from before a Texan jury. If gentlemen can show, to my satisfaction, that any negotiations passed between Judge Watrous and League, showing that not merely League intended to accomplish this purpose—because I am convinced in my own mind that League did mean to accomplish it, and that that was the reason he offered Judge Watrous an interest in the land, virtually for nothing—but that he informed Watrous of his intention, and that Watrous, knowing it, conspired with him so to vest an interest in himself that he could not try the case and so remove it to Louisiana,

where otherwise it could not, under existing law, have been carried, then I will be ready to say that Judge Watrous was guilty of an illegal prostitution of his judicial functions and of his judicial position to assist his own court of jurisdiction and to prevent the people of Texas of the right, through their juries, to try their own land cases; and in my judgment he ought to be impeached. But unless they go to the extent of showing that Judge Watrous was informed of that plan and made that arrangement, and that he took an interest in the title with a view to accomplish that purpose, then they do not come within sight of showing ground for impeachment, unless, indeed, they first show that a judge of the United States has no right to purchase any piece of land in the State where he sits as judge.

There is one other point to which I wish to call the attention of those gentlemen who are in favor of impeachment. If they mean to say that Judge Watrous has been engaged largely in speculation, and that that is unbecoming on the part of a judge, I may be very willing to admit that. But if they desire to make speculation in land ground for an impeachment, then I take it they must show some connection between his speculations and some tendency in those speculations to prevent him from exercising his judicial functions, or tending to break down and discredit his position as a judge in the eyes of the community. To illustrate, Mr. Speaker: if, for instance, they show that Judge Watrous was in the habit of making contracts with persons who were litigants before his court, and that these contracts were uniformly of a one-sided and very beneficial character to himself, I think that a series of transactions of that kind would lay a fair foundation to impeach him. That would be so near to corruption, would so tend directly to discredit a judge in the eyes of the community, would create so much doubt and distrust in the minds of suitors in his court, that the moral force of his judgments would be utterly destroyed. It would necessarily tend to break down the influence of his court, and would affect his own mind in deciding cases in favor of the parties with whom he was speculating. But before they could raise even that to the dignity of a ground of impeachment, they would have to show, not one case, but a series of cases. They would have to show, not merely bargains which would be greatly to the benefit of the judge, but they would have to show this to be continuous, during at least a series of years, covering at least a series of cases, so that there should be not merely one contract with a suitor in his court, but a series of contracts with suitors in his court, tending to affect the general course of business, the general confidence in the judiciary, and the general balance of the judge's mind.

If there be any evidence to that point he ought to be impeached. If the judge made it his habit to go around among gentlemen having suits on his docket, and to say to one "I want to buy a piece of property from you at a very small price;" and another, "I want you to lend me a sum of money;" and to another the same thing; everybody sees that the suitor to whom such application is made is put in the most awkward of conceivable predicaments; and a judge who has a habit of that kind would not escape, in my mind, the fair, and in my judgment the legal, presumption that these acts were done with corrupt intent; that they tended directly to corrupt, and that they were inconsistent with the fairness and evenness of the judicial mind. So far as I understand this case, there is no evidence to show that League was a suitor in Judge Watrous's court at the time of this arrangement. There is no proof that the person with whom he made this arrangement to buy the silver mine in Mexico was a suitor in his court. And it is not pretended that there was any other case of speculation proved. If there was any other evidence on that point I trust the gentlemen who are in favor of an impeachment will, in this voluminous mass of testimony, point it out, so that I may have an opportunity of voting intelligently on these points.

As to the case of Mussina: to attempt to impeach a judge where there is no imputation of corruption, no suggestion even of prejudice, no previous relation between the parties, no expectation of reward, because he has decided a question of law against or in favor of a party, whether his decision be wrong or be right, is, in my judgment,

to destroy and not to aid the administration of justice. This is, then, an attempt to impeach a judge for mere error of judgment. But error is to be corrected by appeal, not by impeachment. Were the error clear, error is not criminal. But it is not even certain there is any error on the question of jurisdiction, which is chiefly relied on. The suit was merely the ordinary case of a bill to quiet a title, and to have the instrument, clouding the title, surrendered and canceled. It seems sanctioned by the case of Terrett and Taylor, adjudged by the Supreme Court. The bill certainly prays for the cancellation of the instrument clouding the title, and that is certainly a common topic of equity jurisdiction; and if it be suggested that error may be so gross as to prove corruption or incompetency, it is quite certain that no error is gross enough for that purpose, about the existence of which the Judiciary Committee are equally divided.

As to the matter of the order to attach the parties for violating the injunction, why, sir, if the injunction existed, whatever might be the opinion of the court ultimately as to its jurisdiction, whatever might be the ultimate result of the judgment of the court, there can be no sort of doubt that as long as the injunction stood, the party, by bringing suit, did make himself liable, under the ordinary practice of the court, to attachment; and the party was rightly attached for a violation of it.

Mr. REAGAN. I desire to ask the gentleman from Maryland, if he knows that the record presents the fact, that the suit in Louisiana was brought before the decree was rendered in the Cavazos case, and that the judge was issuing an attachment against this man for prosecuting a suit which was in existence before the decree was rendered?

Mr. DAVIS, of Maryland. I take it, that it is the every-day practice, that half the orders for injunctions made by any court are to stop proceedings in cases already instituted.

Mr. REAGAN. Let me present another view to the gentleman right there. Do I understand him to assert that if a proceeding is in existence in a State court, the Federal court in another State, after that jurisdiction has attached, can stop the jurisdiction of a sovereign State?

Mr. DAVIS, of Maryland. It does not pretend to operate upon the court. It operates upon the party. It says to him, "I lay you by the heels if you move in the State court." It does not say to the court you shall not proceed; because I take it, the court only proceeds upon the motion of a party for a violation of injunction.

But, Mr. Speaker, be the conduct of Judge Watrous right or wrong, it is a question of law, and not of corruption. If gentlemen will go on and show that the judge was paid for making the order, or expected to gain by it, or was actuated by malice, then they will bring him within the category of impeachment. But so long as they only show a case merely resting upon a question of law; that the court merely made an erroneous judgment; they do not lay the first foundation on which a question of impeachment can arise.

The only other ground that I understand to be suggested is the charge by implication that Judge Watrous attempted to set up a forged power of attorney in his own case, and conspired with Hughes to hush up all question in regard to that power of attorney in another case, in order that the fact of its being disputed might not get out. Now, if the gentlemen mean to make that a ground of impeachment against Judge Watrous, they have to bring home to him not only a suspicion, but affirmative proof that he knew that instrument was a forgery—not that other persons said it was, not that it was disputed, not that it was a matter of doubt, not that it was a matter of controversy; but that he knew that it was a forgery, and was attempting to use an instrument that he knew to be forged, in order to secure a title to himself—conduct disgraceful and unworthy of a judge, and for which I would vote to impeach him. But the gentlemen who urge this charge must show the fact of the forgery, and in such a way as would convict a man under indictment for forgery; and they must also show that Judge Watrous knew it to be a forgery, so that there shall be no doubt or uncertainty upon those points.

These, sir, are the points on which, in my judgment, this case turns; and I have taken the

liberty of calling the attention of gentlemen who are to follow me to them, in order that they may, if they see proper, direct their arguments to them.

Mr. RITCHIE. I shall not occupy the attention of the House for more than a minute or two. I simply wish to state the point upon which I find a difficulty in voting for the impeachment, and it is this: it is perfectly evident to me that League, who was a speculator in Texas lands, did not go to Judge Watrous and offer him a share in the speculation out of any charitable motives towards him. I believe that his design was this: he did not wish to have his case tried before a Texan jury, and there was but one mode in the world by which he could get his case away from a Texan jury. If he brought his suit in a Texas court, it would of course be tried by a jury of Texans. If he brought it in the circuit court of the United States, it would still be tried by a jury of Texans. There was then but one process in the world by which he could get his case out of Texas, and that was by interesting the judge of the United States court of Texas in it. There was no other process by which it could be done. I believe that, with a full knowledge and understanding of that fact, he went to see Judge Watrous. He desired to have Judge Watrous in the case as a party interested; so that he could not try it, as that would compel a transfer of the case to the State of Louisiana. He did, by getting Judge Watrous interested in the case, accomplish that purpose.

Now, the only question remaining with me—and I confess my mind is not made up upon it—is, whether Judge Watrous, at the time the proposition was made to him by League, was aware of League's intention; and, with the understanding of that intention, took his share in the land without any other payment for it than the service to be rendered by moving the case out of Texas? If he did, I would vote to impeach him. If he did not, I would not vote to impeach him. I confess that my mind is not yet clear upon that subject. I have stated the point in order to call the attention of the House to it, because I believe that it is the whole point in the case. I believe that League went to Judge Watrous for that very purpose; and I believe that if the judge of the United States court took an interest in the case, without giving any pecuniary consideration for it, with the intention that it should be moved out of Texas, and with the understanding that he should have one fourth of the land involved, in consideration of the use that would thus be made of his official position, he ought to be impeached; and, if not, he ought not to be.

Mr. WASHBURN, of Illinois. How is that consistent with his subsequent conduct, which shows that he desired all along to have the case tried in the State of Texas?

Mr. RITCHIE. I have merely stated the point. My mind is not made up on the question of fact. I do not intend to argue the point at all. I simply desired to call the attention of the House to it. I am not at all certain yet how I shall vote upon this question. My present impression is, that my vote will be recorded against the impeachment, and not for it; but it is on this point, in my opinion, that the whole case turns.

Mr. CLARK, of New York. I should like to ask the honorable gentleman—assuming that Judge Watrous had a right to become interested in the land—whether any legal hardship necessarily resulted to Spencer, because the tribunal that disposed of the case was one foreign to the people of Texas?

Mr. RITCHIE. I will say, in answer to the gentleman from New York, that I believe that no judge is at liberty to give the advantage of his position as compensation in return for property or for a pecuniary consideration. If he did that, I would impeach him. I believe he had the right to buy into it, *bona fide*, and pay his own money for it; but he had no right to sell the advantage of the position which the office of judge gives him, for a consideration.

Mr. CLARK, of New York. I would go further, and say that he had no right to lend the machinery of his court to advance the purposes of his individual speculations.

On motion of Mr. JOHN COCHRANE, (at twenty-five minutes past three o'clock, p. m.) the House adjourned to Monday.

IN SENATE.

MONDAY, December 13, 1858.

Prayer by Rev. P. D. GURLEY, D. D.
Hon. JUDAH P. BENJAMIN, of Louisiana, and Hon. WILLIAM K. SEBASTIAN, of Arkansas, appeared in their seats to-day.

The Journal of Friday was read and approved.

STANDING COMMITTEES.

The Senate, pursuant to an order made on Friday last, proceeded to the election of the standing committees for the present session.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The business first in order is the election of the several standing committees, and under the rule "the Senate will proceed by ballot, severally to appoint the chairman of each committee," unless that rule be dispensed with.

Mr. SEWARD. I apprehend—I speak only for myself—that it will be satisfactory to the whole Senate, if the names that have been proposed shall be submitted to the Senate, and a division called upon the adoption of the list *en masse*, so as to dispense with the ballot. If there be no objection, I move to dispense with the rule requiring a ballot.

The PRESIDING OFFICER. That can only be done by unanimous consent of the Senate. ["Agreed!" "Agreed!"] The Chair hears no objection.

Mr. KING. Can we have a separate vote as to the Committee on Territories? With that exception, I shall interpose no objection, but I am opposed to the organization of that committee.

Mr. SEWARD. My colleague perhaps did not understand me. We do not intend to commit ourselves to the support of these nominations, but to dispense with the ballot. I propose to take each committee by itself, and on that to call for a division.

Mr. HALE. Take them all together.

Mr. MASON. Allow me to interpose a moment. I do not exactly understand what would be the practical working of the proposition of the Senator from New York. Do I understand him to say that we should vote upon each committee separately, on an idea of his that objections may be made to some of them; because if that is the suggestion I do not see how we could properly elect a committee.

Mr. SEWARD. What I understand from the Senators around me is, that they are willing to dispense with the rule requiring a vote by ballot; then let the nominations be made in the aggregate for all the committees, and we shall be at liberty to vote for or against the aggregate; but if any gentleman chooses to separate any committee, there may be a separate vote on that committee. I renew my motion.

The motion was agreed to.

The PRESIDING OFFICER. The first committee in order is the Committee on Foreign Relations. The Clerk will read the names which are proposed to constitute that committee.

Mr. HALE. The proposition of the honorable Senator from New York, as I understand it, is that we vote on all the committees at once; but if any one wants a particular committee excepted, he may indicate it.

The PRESIDING OFFICER. The Chair will regard that as the sense of the Senate, unless objected to.

Mr. KING. I have no objection to that. I am opposed to them all.

The PRESIDING OFFICER. Will the Senate require the names of the chairmen and persons composing the several committees to be read? ["No!" "No!"]

Mr. BROWN and Mr. SEWARD. Everybody knows what they are.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York.

Mr. KING. I want the yeas and nays on the motion. I wish to record my vote against them.

Mr. ALLEN. What is the question?

Mr. COLLAMER. I ask the Chair to state the question before us.

The PRESIDING OFFICER. The question is to vote on all the committees except the Committee on Territories.

Mr. KING. I am content to withdraw the call for a division, as I shall vote against them all.

The PRESIDING OFFICER. The question is, shall the vote be taken on all the committees at once?

Mr. SEWARD. To dispense with the rule requiring ballots.

Mr. HALE. We do not want the yeas and nays on that.

Mr. KING. I understood that the rule was dispensed with by common consent, and that the question now is on adopting the committees.

Mr. SEWARD. What is the question before the Senate? To dispense with the rule, is it not?

The PRESIDING OFFICER. The rule has been dispensed with. The question now is on the committees.

Mr. SEWARD. The present question then is upon accepting the committees, is it not?

The PRESIDING OFFICER. Yes.

Mr. SEWARD. Then upon that a division is asked, as I understand.

Mr. KING. Not a division of the committees, but a division on the question of accepting the committees. On that we wish the yeas and nays.

Mr. SEWARD. Exactly.

The yeas and nays were ordered.

Mr. ALLEN. The list of committees is now before us.

The PRESIDING OFFICER. The Secretary will read the list.

The Secretary read, as follows:

On Foreign Relations—Messrs. Mason, (chairman,) Douglas, Sidel, Polk, Crittenden, Seward, and Foot.

On Finance—Messrs. Hunter, (chairman,) Pearce, Gwin, Bright, Hammond, Fessenden, and Cameron.

On Commerce—Messrs. Clay, (chairman,) Bigler, Toombs, Reid, Allen, Hamlin, and Chandler.

On Military Affairs and the Militia—Messrs. Davis, (chairman,) Fitzpatrick, Johnson of Arkansas, Chestnut, Broderick, Wilson, and King.

On Naval Affairs—Messrs. Mallory, (chairman,) Thomson of New Jersey, Sidel, Allen, Hammond, Bell, and Hale.

On the Judiciary—Messrs. Bayard, (chairman,) Pugh, Benjamin, Green, Clingman, Collamer, and Trumbull.

On Post Offices and Post Roads—Messrs. Yulee, (chairman,) Bigler, Gwin, Rice, Ward, Hale, and Dixon.

On Public Lands—Messrs. Stuart, (chairman,) Johnson of Arkansas, Pugh, Johnson of Tennessee, Chestnut, Foster, and Harlan.

On Private Land Claims—Messrs. Benjamin, (chairman,) Polk, Shields, Thompson of Kentucky, and Durkee.

On Indian Affairs—Messrs. Sebastian, (chairman,) Brown, Fitch, Rice, Bell, Houston, and Doolittle.

On Pensions—Messrs. Jones, (chairman,) Thomson of New Jersey, Clay, Bates, Thompson of Kentucky, Foster, and King.

On Revolutionary Claims—Messrs. Shields, (chairman,) Bates, Crittenden, Durkee, and Chandler.

On Claims—Messrs. Iverson, (chairman,) Mallory, Ward, Simmons, and Clark.

On the District of Columbia—Messrs. Brown, (chairman,) Mason, Johnson of Tennessee, Yulee, Kennedy, Hamlin, and Wilson.

On Patents and the Patent Office—Messrs. Reid, (chairman,) Thompson of New Jersey, Toombs, Simmons, and Trumbull.

On Public Buildings and Grounds—Messrs. Bright, (chairman,) Davis, Douglas, Kennedy, and Clark.

On Territories—Messrs. Green, (chairman,) Douglas, Jones, Sebastian, Fitzpatrick, Collamer, and Wade.

To Audit and Control the Contingent Expenses of the Senate—Messrs. Wright, (chairman,) Johnson of Tennessee, and Dixon.

On Printing—Messrs. Fitch, (chairman,) Clingman, and Cameron.

On Engrossed Bills—Messrs. Wright, (chairman,) Bigler, and Harlan.

On Enrolled Bills—Messrs. Jones, (chairman,) Brown, and Doolittle.

On the Library—Messrs. Pearce, (chairman,) Bayard, and Fessenden.

The question being taken by yeas and nays, on the adoption of the list, resulted—yeas 31, nays 20; as follows:

YEAS—Messrs. Allen, Bates, Bayard, Benjamin, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Gwin, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mason, Pearce, Polk, Reid, Rice, Sebastian, Shields, Sidel, Stuart, Thomson of New Jersey, Ward, and Wright—31.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—20.

So the list was adopted.

Mr. CLINGMAN. I ask the Senate to excuse me from serving on the Committee on Printing. My reason is simply this: it is known to the gentlemen who have noticed my course, that for many years I have opposed the printing and circulation of books. I regard it as wrong in principle, and I do not think it fair that I should be responsible, as a member of a committee, for the circulation of these documents. As the policy of the Senate has been a different one, I think it proper that an individual should be placed on the committee who can conscientiously carry it out. My opposition to this plan is well known, because it has been

expressed to my political friends; and I suppose it is the only instance in the legislation of either House where there has been an attempt to force an individual to serve on a particular committee when he declined to do so, and avowed his willingness to serve on any other committee, or to be left off all committees. I should indeed have been gratified if I had not been placed on any committee at all; and I would have been willing to serve on any other committee; but there has been an attempt to force me into this position, which I do not undertake to characterize. I believe that nobody would buy the printed matter which we circulate; I do not suppose that we have ever printed anything which could be put in market and sold at the usual rates of books; or, at least, that has very rarely been the case, for the books that we have distributed have generally been unsalable books; but, if the Senate desire to abolish this practice, it ought to be done by legislation and not by any attempt to put in this position gentlemen who are opposed to the system. I cannot carry out the system that has heretofore been acted upon. I do not think it right to me, or right to the Senate, or right to the book-makers, who expect to derive profit from this, that I should be put there. If I were to make a recommendation against printing a book, it would be taken as a matter of course; it would have no weight with anybody, for it is known that I am opposed to the system. I hope, therefore, the Senate will, as a matter of justice to itself, in order that its policy may be carried out, and as a matter of justice to me and my peculiar position, relieve me from service on this committee.

Mr. GWIN. I hope that the Senator from North Carolina will be relieved, and I move that the Chair appoint a person to fill the vacancy. The Senator is very much mistaken if he supposes any attempt was made to force him on this committee. He was placed there; other members are as reluctant to serve on it as he is. We have tried very hard, at least I have, to get some person to fill his place, but have thus far been unable to do so. I hope, however, that he will be excused, and a successor appointed by the Chair.

Mr. CAMERON. I hope the Senator from North Carolina will consent to serve on this committee. I think very much as he does in regard to all this matter of printing, and should take pleasure in acting with him as a member of the committee. I believe the time has come when we should make a reform on the subject of public printing; and if the Senator will serve with us on the committee, I hope we shall be enabled during this winter to save a great deal of money to the country, and rid ourselves of a vast amount of labor which we are now compelled to perform in distributing the worthless matter which is printed. I think this committee can be of great service to the country and the Senate, and I hope the Senator from North Carolina will consent to be a member of it.

Mr. ALLEN. In arranging the committees, it was a great object to place upon the Printing Committee members who would endeavor to save the public money. It was well known that the honorable Senator from North Carolina was one of that class, and I hope he will consent to go on the committee.

Mr. FITCH. I trust the Senator from North Carolina will be excused, at his request; but if the objection made by him now to serving on that committee had been made when the committees were first arranged among our political friends, I should certainly have objected to being put there, for the very same reason he alleges in his behalf; and if that reason excuses him, it ought to excuse me likewise. I have uniformly voted for the abolition of the franking privilege, expressly on the ground of a desire to get rid of congressional book publishing. Until that privilege is abolished, or some other course taken by Congress to rid itself of these multitudinous publications, I shall perhaps feel it a duty in accordance with the implied, if not expressed, wish of the Senate, to report in favor of printing some number of any document referred to the committee, but shall do it contrary to the dictates of my own judgment. The same reason urged by the Senator from North Carolina, for not serving on the committee, would be good for myself; and I would urge it for the same purpose; but having been placed there, and at my own request ex-

cused from service upon another committee, I will not insist upon being excused from serving upon this. Still, I should deem it a great favor if the Senate would relieve me from such service. It is a laborious committee; and let its action be what it may, that action is complained of both by Congress and by the public. No man, therefore, can court a place on it unless he wishes to court more or less undeserved odium.

The PRESIDING OFFICER put the question on Mr. CLINGMAN's motion; and it was agreed to.

On motion of Mr. GWIN, and by unanimous consent, it was ordered that the vacancy be filled by the Vice President.

Mr. IVERSON. Before we pass from the subject of the organization of committees, I desire to move that the Chair appoint an additional member to serve upon the Committee on Claims. There are now only five members on that committee, and I should like to have another.

Mr. GWIN. Add two, and make the number seven.

Mr. BROWN. If you have six you may not be able to get along.

Mr. IVERSON. There is no difficulty on that subject. If the committee is equally divided on any proposition it falls. Seven is rather too large a number. I desire to have one member added to the committee. There are only five allowed us at present.

The PRESIDING OFFICER. This committee being limited to five members by the rule, it will require unanimous consent to receive this motion.

Mr. IVERSON. I am aware of that.

The PRESIDING OFFICER. Is there objection to the motion of the Senator from Georgia?

Mr. MASON. I object.

Mr. IVERSON. I give notice that I shall tomorrow move to suspend the rule of the Senate in regard to the Committee on Claims, so that another member may be added to that committee.

Mr. BRODERICK. On looking over the list of standing committees, I find that the State of California is unrepresented upon the Committee on Public Lands. At the last session, at the request of my colleague, I was placed upon that committee; I attended all its meetings, and whenever any business was referred to me, I attended to it. I make no objection to being left off the committee; but I think, as I have been left off, my colleague ought to be placed upon it, for it is a very important committee to my State. It will be especially important if we are to have a Pacific railroad. I suppose the new railroad bills will be referred to the Committee on Public Lands; and as my colleague introduced a bill at the last session, which I believe is to be considered to-day, (to-day has been set apart for its consideration,) some action ought to be taken before we proceed any further. I consider it the most important of the twenty-two standing committees of the Senate to my State, and therefore I mention it to the Senate.

Mr. BROWN. Does the gentleman from California submit any specific motion?

The PRESIDING OFFICER. There is no motion pending before the Senate.

Mr. BRODERICK. I will submit a motion that my colleague be added to the Committee on Public Lands.

Mr. BROWN. Under the late ruling of the Chair, the Senator cannot make that motion, I apprehend, because it adds one member to the committee, and the number is already full.

The PRESIDING OFFICER. If the number is full, it will not be in order to make a motion of that kind.

Mr. BRODERICK. Does the Chair decide my motion to be out of order?

The PRESIDING OFFICER. The number fixed by the rule has already been assigned to that committee, and the Senator's motion is not in order without changing the rule.

CLAYTON-BULWER TREATY.

Mr. CLINGMAN. I offer the following resolution:

Whereas, the President in his message to Congress, of December 8, 1857, expressed himself in relation to the Clayton-Bulwer treaty, in the following language:

"The fact is, that when two nations like Great Britain and the United States, mutually desirous as they are, and I trust ever may be, of maintaining the most friendly rela-

tions with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the Isthmus.

"Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine."

And whereas, the President in his message of December 6, 1858, stated that:

"I am truly sorry I cannot also inform you that the complications between Great Britain and the United States, arising out of the Clayton and Bulwer treaty of April, 1850, have been finally adjusted.

"At the commencement of your last session, I had reason to hope that, emancipating themselves from further unavailing discussions, the two Governments would proceed to settle the Central American questions in a practical manner, alike honorable and satisfactory to both; and this hope I have not yet abandoned. In my last annual message, I stated that overtures had been made by the British Government for this purpose, in a friendly spirit, which I cordially reciprocated. Their proposal was to withdraw these questions from direct negotiations between the two Governments; but to accomplish the same object by a negotiation between the British Government and each of the Central American Republics whose territorial interests were immediately involved. The settlement was to be made in accordance with the general tenor of the interpretation placed upon the Clayton and Bulwer treaty by the United States, with certain modifications. As negotiations are still pending upon this basis, it would not be proper for me now to communicate their present condition. A final settlement of these questions is greatly to be desired, as this would wipe out the last remaining subject of dispute between the two countries."

And whereas, the Clayton-Bulwer treaty contains stipulations which are in direct hostility to the cherished policy and future welfare of the United States; stipulations calculated to operate adversely to the independent action of this Republic in the line of duty, which it may become imperative on it to adopt, in regulating and controlling the affairs of the Central American States, and consequently, the abrogation of the said treaty is demanded alike by the honor and interests of the Union: Therefore,

Resolved, That the President be requested to communicate to the Senate, if not, in his opinion, incompatible with the public interest, any correspondence which may have passed, since his inauguration, between this Government and that of Great Britain, and between this Government and that of Nicaragua, with respect to the termination or preservation of the Clayton-Bulwer treaty.

If Senators will indulge me for a few minutes, I should like to offer a reason or two why I think some action ought to take place immediately with reference to these questions. The American public is very sensitive in relation to the proceedings in Central America; and we have had within the last few days some remarkable information from that quarter.

We were told, Mr. President, in the annual message of the Executive, that England had abandoned the right of search, and I thought we had obtained a great triumph of some sort on the question of the right to search and visit our ships. It turns out, however, if the newspaper statements are to be relied upon—and there seems to be no doubt about the fact—that Great Britain has not only boarded our ships, but that she has examined the list of men on board, to ascertain who they were, whether American born or not, and whether they had arms. Now, it will be recollected that when those proceedings were taking place in the Gulf, last spring, which attracted so much attention, the allegation of Great Britain was not that she had a right to search our ships, but that she had a right to visit a vessel to ascertain its nationality, to ascertain whether it was really an American ship, and if it was, then she would let us alone; but she thought our flag was liable to be abused, and to prevent that was her sole purpose. That was the point in controversy; and I supposed from the President's message that she had abandoned that. It turns out now, however, that her officers go on board a ship, well knowing it to be an American ship, not raising any pretense of that sort, and then examine the list of passengers, and make inquiries about them. At the time of the war of 1812 they went on board our ships to take off their own men; they have now gone a step further; they want to ascertain whether Americans on board have arms or not. Is not this a very extraordinary proceeding?

The great difficulty in the way of righting these

wrongs is the Clayton-Bulwer treaty. By the terms of that treaty the United States is bound never to occupy, colonize, or fortify any part of Central America. We have abided by that treaty, and Great Britain has not. That treaty is a very extraordinary one. It is the application to us of the Monroe doctrine, by Great Britain. The Monroe doctrine was a declaration upon our part that European Governments should not colonize America; but Great Britain says to us "you shall not colonize Central America." They have turned the tables completely upon us. By this treaty they have actually got the United States to agree never to colonize, or fortify, or occupy any part of Central America. While we are talking about the Monroe doctrine and felicitating ourselves on the progress it has made, Great Britain has actually applied it to ourselves.

I have quoted in this resolution the language of the President, at the last session, upon this subject. As I then understood it, and as the whole country understood it, it was supposed that he ardently desired the abrogation of that treaty; but if it could not be abrogated, as a choice of evils, he would acquiesce in some settlement which was not inconsistent with the American view. But from the tone of the present message it would seem, I think, that the idea of abrogating the treaty has been abandoned by our Executive. I desire to give the Executive, if that be the fact, an opportunity of stating the reasons for this change to the country. I think the country ought to know them.

But there is an especial reason, Mr. President, why I desire this subject to have an early consideration. It is not easy to determine precisely what the President means in his second message, but I take it that it is something like this: that this treaty is to stand upon the American construction, which excludes us, of course, forever from that country; but that Great Britain is to go in and make separate treaties with these States. Now, what sort of treaties are they to be? I ask gentlemen what sort of treaties is Great Britain likely to make? Sir William Gore Ouseley has gone down there. Will he take care of our interests? It is said that "straws show which way the wind blows;" and I was amused three or four days ago to see an elaborate article in the Washington Union—by whom written I do not know, but that paper is sometimes, at least, supposed to reflect the views of the Administration—the purport of which, as I understood it, was that Great Britain is the only free country except our own, and that she is standing up for freedom and will protect our rights against threatened danger from the French Executive. It is said that Napoleon is despotic and menaces us with injuries, but that Great Britain will kindly take us under her protection; and I suppose Sir William Gore Ouseley has gone down there to make treaties for our joint advantage! What sort of treaties will he make? The newspapers say that they are to be bottomed upon the model of the Cass-Yrissari treaty. I do not know that that programme for a treaty has ever been promulgated by our Executive. I read it in manuscript at the last session; I then read it confidentially, and I have no right to speak of it; but there was published in the American papers during the spring and summer what purported to be a copy of it, and I have the right to allude to that, because I see that some of the British papers have represented Sir William Gore Ouseley as making similar arrangements.

There were two features in that treaty to which I had decided objections. The first was that under it and upon the construction placed upon it by Yrissari, who made two publications, gave two notices in the papers, which I commented on as a member of the other House, the right to go to Nicaragua, or to pass through it might be limited to those who went upon a particular line from New York, and who had permits from the consul. I was opposed to that. I thought that Boston, Philadelphia, Charleston, and New Orleans had a right to establish lines, and that American citizens had a right to go on them to Nicaragua, and to pass through it. I made some objections in the other House to this feature.

But there was another feature which was still more objectionable in my judgment. It was this: According to that programme of a treaty, the United States had the right to protect the transit route by the landing of troops, &c. There was another

clause, perhaps the fifteenth or sixteenth article, by which the United States bound itself to use its influence to induce other foreign Governments to make a similar guarantee of protection and neutrality to the routes. What is the meaning of that? We bind ourselves to induce Great Britain, for example, and France, to guaranty the neutrality and the safety of those routes. If they do it, of course it is not to be a naked guarantee without a right to carry it out. If they bind themselves to keep those routes in a certain condition, they have a right, of course, to use the means necessary for that purpose; and what means will they use? Most unquestionably they will have the right to use exactly the same means that the treaty allows us to use: that is, they may occupy with troops; and, therefore, I regard this as a treaty for the joint occupation of those countries by the United States, France, England, and all other nations who propose to come in.

Senators will see in a moment that this was much more objectionable to us, or ought to have been, than even the Clayton-Bulwer treaty. That was an agreement that we would not take possession of Central America, and that nobody else should; but whenever you provide that we and all others may have the right to take possession and hold it, does any one doubt that Great Britain will keep a larger force there than usual, or that perhaps France will do so, because they have vastly larger armies and naval establishments than we have? I regard that as a proposition for a joint protectorate of those countries. It is said in the papers that Sir William Gore Ouseley will go down there and negotiate treaties. Suppose he adopts this policy: what will be the effect? Great Britain will get the right to station her troops on that line, and she will hold it. There is no doubt about that. Then, how are we to get rid of her? Are we to stand still now and allow this treaty to be in force against us forever, according, as I interpret the President's message, to the American construction, which excludes us; and are we to permit Great Britain to go into Central America and make what treaties she pleases to protect her interests? Are we to stand with our arms folded until all this is done? If so, then, I suppose, we shall be protected by Great Britain from the dangers that menace us from France and other Powers! I do not know that France holds our Government responsible for these things.

What I desire is to get all the facts; at present we are in the dark. It looks, from these late proceedings, very much as if that were to be the policy of Great Britain. You find her going forward and searching our ships in a neutral port, avowing the purpose to prevent filibusters going there, not only on the high seas, though they may go in our ships, and stopping our own citizens who attempt to go there in large numbers, and obliging them to put back to New York. Remember, sir, that the very ground on which the Clayton-Bulwer treaty was placed was to open a way to our Pacific possessions. Our Government went into it to get a passage across the Isthmus. That we have not got; but the restrictive provision by which we bound ourselves never to occupy or colonize that region, went in as a sort of appendage. That, however, is in force; and the other part for which the treaty was mainly made, is not.

It is very probable, I think, that the course pursued by our Government with reference to Commodore Paulding, furnishes a key to some of these proceedings. It will be recollected that when Paulding went there, wrongfully as it was admitted, because the Executive declared he had no right to go into that territory—your Committee on Foreign Relations made a report on the same subject; and I do not believe a single Senator pretended he had a right to do it—our Government, instead of censuring him in any way, eulogized him; the President's message was mainly taken up with an attack on the filibusters, and compliments to Paulding. I believe I do not do any injustice to the report of the Committee on Foreign Relations, when I say that the body of that report was mainly directed against the filibuster movement; and while it was admitted that Paulding had violated the law and the Constitution, they took a great deal of pains to eulogize him. Now, supposing that the recent occurrences are truly stated in the papers, and I have no doubt they are, because you have the statement of the

purser and others who have just returned; what has Great Britain done exceeding our movement? If we can allow our officers to go there, (I admit not under the sanction of the Government; but then the Government took no especial pains to prevent a recurrence of these things in future;) and drive anybody out, will not Great Britain do it? You have in fact a British protectorate over Central America.

Now I desire, for one, if possible, to get rid of this Clayton-Bulwer treaty. Then the hands of our Government will be free. Until that is done, it is utterly impossible that you can protect American interests properly in that quarter. If the President has any new light since last December upon this subject, I think it fair that he should indicate it to the country. In my opinion, as I stated on the floor of the other House, the treaty could have been abrogated last spring on terms that ought to have been, and would have been, satisfactory to us. It was not done. I do not propose now to inquire how or why this was prevented. I hope, however, that this resolution will pass, and that we shall have something on the subject from the President.

Mr. MASON. Mr. President, I do not know whether there is a Printer to the Senate at this session or not; but if there is, it seems to me he has not exactly performed his duty as a Printer should perform it. The President's message, communicated this day week, was ordered to be printed, and I have, as yet, received no copy of it in any shape. I understood that in the other House it was printed. If it were printed so that I could refer to it, I would ascertain whether there is not a paragraph in it, which I think I recollect, giving a communication to Congress on the subject of our existing relations with the Central American States, and informing Congress that with Nicaragua and Costa Rica, negotiations are now pending, but that they are in such condition that it would not be compatible with the public interest to give further information. Do I understand the honorable Senator from North Carolina, to ask the Senate to differ with the President on that subject, and to request the information which he says it would not be compatible with the public interest to communicate?

Mr. CLINGMAN. The President has said something similar to the statement of the Senator from Virginia, with reference to those States. There may be, however, in his possession, information which he can communicate with regard to correspondence between Great Britain and the United States, and between us and those Governments. I leave it to him. He can determine whether or not it is compatible with the public interest to reply to this resolution. I thought it fair, under all the circumstances, that there should be a call made. If the Senator and the Senate differ with me, they can vote against the proposition. I do not see, however, that the President says anything in his message which renders it at all amiss for any Senator to make a call of this kind. I have made the usual exception.

Mr. MASON. We have certainly a right to call on the President to communicate to the Senate any matter that is pending before the Executive; of any kind pertaining to our public affairs; but it is equally competent for the President, in the respectful relations which exist between the coordinate branches of the Government, to say that in his judgment such a communication would not then be compatible with the public interest. I had remarked that passage in the message, to which I have called attention, and I thought that perhaps it might have escaped the attention of the honorable Senator who offered the resolution. I rose chiefly to say, sir, that I do not know that I shall object ultimately to the passage of this resolution; but inasmuch as we are officially informed that negotiations are pending with other Governments on the subject, it would be better, at least for the present, to allow the resolution to lie over. I object to its consideration to-day.

The PRESIDING OFFICER. Then it must lie over, under the rules.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a report of the Secretary of the Interior, in answer to a resolution of the Senate of the 12th of June, 1858, showing

the amount of money paid for pensions in each of the States and Territories since the commencement of the present Government; which, on motion of Mr. HUNTER, was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the President of the United States, transmitting a copy of the treaty between the United States and the kingdom of Siam, concluded on the 29th of May, 1856, and proclaimed on the 16th of August last; and calling the attention of Congress to the necessity of an act for carrying into effect the provisions of article two of the treaty conferring certain judicial powers upon the consul of the United States, who may be appointed to reside at Bang-kok; also suggesting that the extension to the kingdom of Siam of the provisions of the act approved August 11, 1848, entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to the ministers and consuls of the United States in those countries," might obviate the necessity of any other legislation upon the subject. The communication was, on motion of Mr. MASON, referred to the Committee on Foreign Relations.

He also laid before the Senate a report of the Secretary of the Senate, made in compliance with a resolution of the Senate, relative to stationery purchased and supplied to the Senate during the Thirty-Fourth and Thirty-Fifth Congresses; which, on motion of Mr. IVERSON, was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. HAMMOND presented the petition of William E. Haskell, for himself and others, heirs of William Thompson, an officer in the revolutionary war, praying to be allowed the commutation pay due their ancestor; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of James G. Holmes, praying an extension of his patent for an improvement in the construction of chairs for invalids; which was referred to the Committee on Patents and the Patent Office.

Mr. BROWN presented the petition of Eleanor Gardiner, widow of Henry Gardiner, deceased, praying compensation for property destroyed during the war with Great Britain, in 1812; which was referred to the Committee on Claims.

He also presented the memorial of Jonas P. Levy, asking the immediate attention of Congress to his claim against Mexico; which was referred to the Committee on Claims.

He also presented the petition of Oscar J. E. Stuart, praying that the patent laws be so amended that a patent may issue to the master for a useful invention by his slave; which was referred to the Committee on Patents and the Patent Office.

Mr. HAMLIN presented the petition of the children and heirs of John Waire, a soldier in the revolutionary war, praying to be allowed a pension; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of Mary Featherston, widow of John Featherston, deceased, late boatswain in the United States Navy, praying for a half-pay pension; which was referred to the Committee on Pensions.

He also presented the petition of Benjamin Chadburn, praying to be allowed the difference between the amount of pension he received and that he should have received for a total disability; which was referred to the Committee on Pensions.

Mr. TRUMBULL presented the petition of William Wallace, of Illinois, a soldier of the war of 1812, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. CAMERON presented the petition of citizens of Montgomery county, Pennsylvania, praying protection to American labor engaged in the manufacture of iron; which was referred to the Committee on Finance.

Mr. STUART presented the memorial of Thomas Henderson, praying that he may be permitted to purchase a certain tract of Government land on which he has located, and which he has improved; which was referred to the Committee on Private Land Claims.

Mr. SHIELDS presented the petition of Patrick Byrne, praying to be allowed the difference between the pay of a doorkeeper and watchman,

and that of a mere laborer, during the time he performed such extra service; which was referred to the Committee on Claims.

Mr. WILSON presented the petition of Eliku Williston, a soldier in the last war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Ruth Ellen Grelaud, widow of Captain John H. Grelaud, of the Army, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. GREEN presented the petition of Elizabeth Horine for herself and children, and the other heirs and legal representatives of Thomas Maddin, deceased, praying the confirmation of their title to a tract of land in Missouri; which was referred to the Committee on Private Land Claims.

Mr. IVERSON presented the petition of J. F. Polk, praying compensation for services as acting Second Auditor of the Treasury, under appointment of the President, in 1846 and 1849; which was referred to the Committee on Claims.

He also presented additional papers in relation to the claim of Henry R. Schoolcraft; which were referred to the Committee on Claims.

NOTICES OF BILLS.

Mr. BROWN gave notice of his intention to ask leave to introduce a bill conferring certain powers on the corporations of Washington and Georgetown, in the District of Columbia.

Mr. CRITTENDEN gave notice of his intention to ask leave to introduce a bill to regulate the election of Senators.

Mr. BIGLER gave notice of his intention to ask leave to introduce a bill for the relief of Henry G. Carson, administrator of Curtis Grubb, deceased.

Mr. MASON gave notice of his intention to ask leave to introduce a bill to equalize the compensation of the Ministers of the United States to France and England, respectively, between the 1st day of July, 1853, and the 1st day of January, 1857.

Mr. FOOT gave notice of his intention to ask leave to introduce a bill amendatory of existing laws relating to the punishment of certain crimes against the United States.

BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 463) for the relief of William Wallace, of Illinois; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 463) for the relief of Lewis Cass Forsyth; which was read twice by its title, and referred, with his accompanying petition and papers, to the Committee on Military Affairs and the Militia.

Mr. CRITTENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 464) for the relief of Francis Daines; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 465) for the relief of Jane Perry; which was read twice by its title, and referred to the Committee on Pensions.

PAPERS REFERRED.

On motion of Mr. JONES, it was Ordered, That the bills, resolutions, petitions, memorials, and other papers, presented since the commencement of the session to this day, and laid on the table, be severally referred to the appropriate committees, as intended on their presentation.

On motion of Mr. JONES, it was

Ordered, That the joint resolution (S. No. 54,) for changing the plan of the custom-house at Galveston, in the State of Texas, be referred to the Committee on Commerce.

On motion of Mr. JONES, it was

Ordered, That the report of the Court of Claims on the claim of John Peebles; the claim of Thomas Allen; the claim of Nancy M. Johnson, administratrix of Walter R. Johnson; and the claim of Emilie G. Jones, executrix of Thomas P. Jones, be referred to the Committee on Claims.

On motion of Mr. JONES, it was

Ordered, That the bill (S. No. 459) authorizing the Secretary of War to pay the expenses of Captain James Starkey's company of volunteers, incurred by order of the Governor of the Territory of Minnesota; and the bill (S. No. 461) for the construction of a wagon road from Fort Abercrombie, on the Red River of the North, to Seattle, on Puget

Sound, in the Territory of Washington, be referred to the Committee on Military Affairs and the Militia.

On motion of Mr. JONES, it was

Ordered, That the bill (S. No. 460) to authorize the establishment of a northern Pacific mail route be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. BROWN, it was

Ordered, That the report of the Secretary of the Interior, communicated on the 10th of December, in compliance with a resolution of the Senate of the 25th of May last, containing statements showing all the expenditures from the Treasury for public and private purposes in the District of Columbia; the number of town lots originally owned by the United States in Washington, the number sold, and the sum for which sold, the number reserved, and their value, the estimated value of individual property, and the value of Government property, be referred to the Committee on the District of Columbia.

A motion by Mr. BROWN to print the document was referred to the Committee on Printing.

ISAAC HOLLAND.

Mr. BELL. I beg leave to submit the following resolution:

Resolved, That there be paid out of the contingent fund of the Senate, to the unmarried daughters of Isaac Holland, late Assistant Doorkeeper of the Senate, the sum of \$150, for funeral expenses, and an amount equal to one quarter's salary of the deceased.

I believe this resolution only carries out what has heretofore been the usual practice of the Senate on the occasion of the death of any of its officers. I suppose, however, that the resolution will go to the Committee on the Contingent Fund.

The PRESIDING OFFICER. Under the rules, this resolution must be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

CHAPLAINS TO THE SENATE.

Mr. BIGLER. I offer the following resolution; and I ask that it may be now considered:

Resolved, That the President of the Senate be authorized and requested to invite such clergymen of the District of Columbia as the office may be acceptable to, to officiate as Chaplains to the Senate during the present session, and in such alternation as may be agreeable to them.

Mr. MASON. I do not mean to object to the consideration of the resolution; but I suggest to the Senator who offers it the propriety of amending it so as to confine it to officiating clergymen, because there are occasionally gentlemen here who are clergymen, but who are not officiating as such.

Mr. BIGLER. I have no objection to that modification. The purpose can be accomplished by inserting the word "officiating" before "clergymen."

The resolution, as modified, was adopted.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MASON, it was

Ordered, That the petition and papers in the case of Frederick Vincent, administrator of James Lecaze, surviving partner of the firm of Lecaze & Mallet, be withdrawn from the files of the Senate, and referred to the Committee on Revolutionary Claims.

On motion of Mr. SHIELDS, it was

Ordered, That the petition and papers in the case of Joseph Verbitski be withdrawn from the files of the Senate and referred to the Committee on Military Affairs and the Militia.

On motion of Mr. IVERSON, it was

Ordered, That the petition of Samuel James, Ignatius Lucas, Charles Tilley, and T. S. Bingey, for compensation as day watchman in the Navy Department, on the files of the Senate, with the adverse report thereon, be recommitted to the Committee on Claims.

On motion of Mr. IVERSON, it was

Ordered, That the memorial of Charles J. Swett, praying compensation as purser during the time he acted as such on board the San Jacinto, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. SIMMONS, it was

Ordered, That the petition of George G. Durham, praying compensation for services as clerk in the Indian bureau, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. MASON, it was

Ordered, That Cyrus H. McCormick have leave to withdraw his petition and papers.

REFERENCE OF THE MESSAGE.

On motion of Mr. DAVIS, it was

Ordered, That so much of the President's message and accompanying documents as relates to military affairs, be referred to the Committee on Military Affairs and the Militia.

On motion of Mr. MASON, it was

Ordered, That so much of the President's message as relates to intercourse with foreign nations, be referred to the Committee on Foreign Relations.

TERRITORY OF ARIZONA.

Mr. DAVIS. On account of the confused condition in which the bill originally introduced in regard to the Territory of Arizona, and the amendment reported from the Committee on Territories, appear to be, I move to recommit the subject of the organization of the Territory of Arizona to the Committee on Territories, with instructions to report a bill for the organization of that Territory. I find the bill printed with a caption which, I think, is erroneous as to the adoption, by the committee, of the bill which was referred to it, and which I believe was not adopted by it. To get rid of the present confusion, I move to recommit the whole subject to the Committee on Territories, with instructions to report a bill for the organization of that Territory.

Mr. COLLAMER. I wish that motion divided. I have no objection to the subject being referred to the Committee on Territories, but I have objection to its being referred with any express directions. I wish the whole subject to be open to the committee.

Mr. DAVIS. My motion was to refer the subject of the formation of a territorial government for Arizona back to the committee.

Mr. COLLAMER. I have no objection to that.

Mr. DAVIS. With instructions to report a bill for the organization of that Territory.

Mr. COLLAMER. On that I want a separate vote.

Mr. DAVIS. Well, sir, let the question be divided.

Mr. GREEN. I think it rather premature to instruct the committee. We ought to have the subject before us and consider it; but it would be an enunciation of the judgment of the Senate to give that instruction, and I think it wrong to pronounce that judgment in advance. I think it better to refer the subject without any instruction.

Mr. DAVIS. I will state the reason why I proposed the instruction. The committee have reported back, I think, twice, and we now have a bill for the organization of the Territory, and another bill for the organization of a separate judicial district there merely. If the object is to have a bill for the organization of the Territory, I thought it was well so to inform the committee; but if the committee did not fall into confusion, I certainly did under their action.

Mr. GREEN. I beg leave to correct the Senator. There was a bill introduced by the Senator from California [Mr. Gwin] to organize Arizona Territory, but the Committee on Territories have never reported a separate bill to organize Arizona as a Territory. They did report an amendment to one bill, giving a judicial district to this region and equalizing its representation in the Legislature of New Mexico. That is as far as the committee have heretofore gone, and now they are open to receive any information on the subject and to act according as they think the public interests require.

Mr. DAVIS. If the committee object to having instructions for the reasons offered by the present chairman of the committee, I have no desire to press the matter. The bill was printed with a caption stating that it had been adopted by the committee. If, however, it be not so, I have no objection at all to trust the committee. If they report back a bill for judicial organization merely, it will then be in order to move a substitute.

The PRESIDING OFFICER. Does the Senator withdraw his motion for instructions?

Mr. DAVIS. I have no wish to press it. I simply move to recommit the whole subject to the Committee on Territories.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. GWIN. I move that the Senate now proceed to the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. SLIDELL. I desire to be informed as to the state of the Calendar. If I understand it, there are several special orders now on the Calendar, and the effect of taking up the bill of the Senator from California would be to postpone them all. I waited with great patience during the

last session for an opportunity for action upon two of those orders specially: one in relation to a modification of our neutrality laws; the other in relation to the banks of the District of Columbia. There were, however, other subjects of more engrossing importance, it seems, that occupied the attention of the Senate, and I had no opportunity of bringing these two measures that I considered very important, to the consideration of this body.

The proposition of the Senator from California in relation to a Pacific railroad, occupied a very considerable portion of the time of the Senate during the last session; and it was then disposed of by what I considered a very decided vote. The Senate did not, at that time, think proper to entertain that proposition; it was laid on the table. Perhaps there may have since been a change of opinion on the part of some Senators, but I am not aware of it.

But I wish to state that there are two subjects now having the preference as special orders, that I think can be disposed of in a very short time. One is the consolidation of several resolutions in relation to the neutrality laws. Originally, a proposition was made to give a medal to Commodore Paulding for what was deemed his meritorious conduct in Nicaragua. An amendment was offered to that resolution by the Senator from Mississippi, [Mr. Brown,] casting censure upon Commodore Paulding. Then a bill was reported by the chairman of the Committee on Foreign Relations, [Mr. Mason,] modifying our neutrality laws—making them more stringent than they now are. For that bill I offered, as a substitute, a resolution instructing the Committee on Foreign Relations to report a bill which would give, under certain circumstances, to the President the right of temporarily suspending those laws during the recess of Congress. It has already been discussed, though not at length. Some gentlemen of the Senate may wish to speak on the subject, but I am very well satisfied it can be disposed of in a day or two.

Next we have the subject of the banks in the District of Columbia. Those institutions are now perfectly lawless. They are entirely beyond the control of Congress or any other branch of the Government. They are acting not only without law, but in violation of law. Every individual and every association of individuals has at this time an unrestricted right under the construction given to our laws by the courts of the District, to coin money in the District of Columbia. I consider that this is a very important question, and I ask if the Senate are prepared to give the go-by to those measures and occupy an indefinite number of days during the short session for the purpose of re-discussing a proposition which last year they dismissed by a very decided majority. I have stated my reasons now for opposing the motion made by the Senator from California, and I should really like to hear some reasons for giving that measure the precedence over all others.

Mr. GWIN. The Senator is mistaken in supposing that the Senate disposed of this question at the last session by a very decided majority. There was only a majority of two for postponing its consideration until the first Monday in December—last Monday. On that day I called up the bill, and the Presiding Officer decided that it was in order; but, inasmuch as the President's message was to be read on that day, I did not then press it, and gave notice that I should call it up the next day. I called it up on Tuesday, and the President of the Senate then decided that the 21st joint rule prohibited either House from taking up, during the first six days of this session, any measure which was on the Calendar at the last session. I gave notice at once that, on the expiration of that period of six days, I would move to take up this bill; and, accordingly, I have now made the motion. This bill was, by a vote of the Senate, made the special order for last Monday, and it is now up by that vote of the Senate, this being the earliest moment when it could be considered.

The measures of which the Senator from Louisiana speaks were reported to the Senate long after this bill. The numbering on the bills shows clearly that I am not violating the regular order of proceeding in the Senate by urging the consideration of this bill. One of the bills to which the Senator

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refers is No. 85, and the other No. 104. The bill which I move to take up is No. 65. I do not wish to intrude this question upon the Senate, but certainly it is one that requires the consideration of this body. The Senator is mistaken in supposing that it was discussed at large during the last session. It will probably be discussed at this session, if it be taken up, and I hope no collateral question will be allowed to interfere with it. I shall probably sustain the measures of the Senator from Louisiana; but I desire the Senate now to proceed to the consideration of this bill, if they mean to pass a Pacific railroad bill during the session. Let them at least proceed to its consideration; do not postpone it by a side blow, and give it the go-by. This is an early period of the session, and we can now proceed to consider it without any injury to other public interests. I hope my motion will prevail.

Mr. SLIDELL. On that motion, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MASON. I take it for granted that a railroad cannot be made from the waters of the Atlantic to the Pacific ocean without the expenditure of a great deal of money—a very large sum of money, counting probably by hundreds of millions, certainly by fifties of millions. Now, I submit to the honorable Senator from California, with that very laudable desire which actuates him to bring his State into communication with the Atlantic States, whether it would be expedient to press such a measure at this session? We have been admonished by the condition of the Treasury that it will be indispensably necessary to cut down the expenditures of this Government, as far as practicable at this session, unless we are disposed to go into the ruinous policy of increasing the taxes, when there is every probability that within a year or two more we shall have again a redundant Treasury. I had hoped that Senators were prepared on all hands to unite in cutting down the existing expenditures as far as practicable, and to accommodate themselves to a diminishing revenue. Amongst other considerations, if this measure should possibly be passed at this session, it would involve us in what I should consider a system of ruinous taxation on the people in order to produce the money.

Mr. GWIN. That is the very question on which I join issue with the Senator from Virginia. I wish to reply to him on that point. I can demonstrate, I think, that the Senator is entirely mistaken. I am prepared to do so, and that is the reason why I wish the subject considered before the Senate now. I am prepared to show, I think, to the Senate and the country, and I hope to the satisfaction of the Senator himself, that the bill proposed will not require this enormous expenditure of the public money. That is the very reason why I wish it brought up so as to enable the friends of the measure to answer those objections which were urged at the last session; and I am prepared, as it is my duty as chairman of the committee that reported this bill, to go into the argument to meet the assertions of the Senator. That is the reason why I wish it brought up at this early period of the session.

The question being taken by yeas and nays, resulted—yeas 30, nays 18; as follows:

YEAS.—Messrs. Bell, Bigler, Bright, Broderick, Cameron, Chandler, Clay, Davis, Dixon, Doolittle, Durkee, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Harlan, Iverson, Johnson of Tennessee, Jones, Kennedy, King, Polk, Rice, Seward, Shields, Stuart, Trumbull, and Ward—30.

NAYS.—Messrs. Allen, Bates, Benjamin, Brown, Clingman, Collamer, Crittenden, Fessenden, Hamlin, Hammond, Hunter, Mason, Reid, Sebastian, Shideell, Toombs, Wade, and Wilson—18.

So the motion was agreed to.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad,

from the Missouri river to San Francisco, in the State of California.

Mr. GWIN. Mr. President, as chairman of the select committee which matured this bill and instructed me to report it to the Senate, I am called upon to open this discussion and invoke the grave and earnest deliberation of this body in its action upon a question so replete with the most vital interest to the Confederacy. In again pressing this measure to, as I hope, a final and successful vote, I claim the indulgent ear of the Senate for the manner in which it presents itself, as well as by the peculiar relations I hold to it.

This is the first Congress that has assembled since the great presidential contest of 1856. Three parties contended, in that memorable struggle, for the control of the political destinies of this country.

The Democratic party, represented in national convention at Cincinnati, in June, 1856, adopted the following resolution:

"Resolved, That the Democratic party recognizes the great importance, in a political and commercial point of view, of a safe and speedy communication through our own territory between the Atlantic and Pacific coasts of the Union, and that it is the duty of the Federal Government to exercise all its constitutional power to the attainment of that object, thereby binding the Union of these States in indissoluble bonds, and opening to the rich commerce of Asia an overland transit from the Pacific to the Mississippi river and the great lakes of the north."

The Republican party also met in convention in June, 1856, in Philadelphia, and passed the following resolution:

"Resolved, That a railroad to the Pacific ocean, by the most central and practical route, is imperatively demanded by the interests of the whole country, and that the Federal Government ought to render immediate and efficient aid in its construction, and, as an auxiliary thereto, the immediate construction of an emigrant route on the line of the railroad."

The presidential nominees pledged themselves to the policy of building a railroad connecting our Atlantic and Pacific possessions with the aid of the General Government. I will not detain the Senate by reading the letters of the defeated candidates of the Republican and American parties, but I will read that of the present Chief Magistrate, as a brief, but one of the most powerful arguments in favor of this great measure, that has ever been penned:

WHEATLAND, September 17, 1855.

SIR: I have received numerous communications from sources in California entitled to high regard in reference to the proposed railroad. As it would be impossible for me to answer them all, I deem it most proper and respectful to address you a general answer in your official capacity. In performing this duty to the citizens of California, I act in perfect consistency with the self-imposed restriction contained in my letter accepting the nomination for the Presidency, not to answer interrogatories raising new and different issues from those presented by the Cincinnati convention, because that convention has itself adopted a resolution in favor of this great work.

I then desire to state briefly, that, concurring with the convention, I am decidedly favorable to the construction of the Pacific railroad, and I derive the authority to do this from the constitutional power "to declare war," and the constitutional duty "to repel invasions." In my judgment, Congress possesses the same power to make appropriations for the construction of this road, strictly for the purpose of national defense, that it has to erect fortifications at the mouth of the harbor of San Francisco. Indeed, the necessity, with a view to repel foreign invasion from California, is as great in the one case as the other. Neither will there be danger from the precedent, for it is almost impossible to conceive that any case, attended by such extraordinary and unprecedented circumstances, can ever again occur in our history.

Yours, very respectfully, JAMES BUCHANAN.
To B. F. WASHINGTON, Esq., Chairman Democratic State Central Committee, California.

The President did not stop here in his advocacy of Government aid in the construction of this great work. In his inaugural address, after referring to the constitutional authority which he makes so clear that no man can successfully combat it, he says:

"Now, how is it possible to afford this protection to California and our Pacific possessions, except by means of a military road through the Territories of the United States, over which men and munitions of war may be speedily transported from the Atlantic States to meet and repel the invader?"

And adds:

"It might also be wise to consider whether the love for

the Union which now animates our fellow-citizens on the Pacific coast, may not be impaired by our neglect or refusal to provide for them, in their remote and isolated condition, the only means by which the power of the States on this side of the Rocky Mountains can reach them in sufficient time to protect them against invasion."

He further enlarged on this pledge to the nation in his inaugural address, in the following emphatic language, in his first message to Congress:

"Long experience has deeply convinced me that a strict construction of the powers granted to Congress is the only true, as well as the only safe, theory of the Constitution. Whilst this principle shall guide my public conduct, I consider it clear that under the war-making power Congress may appropriate money for the construction of a military road through the Territories of the United States, when this is absolutely necessary for the defense of any of the States against foreign invasion. The Constitution has conferred upon Congress power 'to declare war,' 'to raise and support armies,' 'to provide and maintain a navy,' and to call forth the militia 'to repel invasions.' These high sovereign powers necessarily involve important and responsible public duties, and among them there is none so sacred and so imperative as that of preserving our soil from the invasion of a foreign enemy. The Constitution has, therefore, left nothing on this point to construction, but expressly requires that 'the United States shall protect each of them [the States] against invasion.' Now, if a military road over our own Territories be indispensably necessary to enable us to meet and repel the invader, it follows as a necessary consequence not only that we possess the power, but it is our imperative duty to construct such a road. It would be an absurdity to invest a Government with the unlimited power to make and conduct a war, and at the same time deny to it the only means of reaching and defeating the enemy at the frontier. Without such a road it is quite evident we cannot 'protect' California and our Pacific possessions 'against invasion.' We cannot, by any other means, transport men and munitions of war from the Atlantic States in sufficient time successfully to defend these remote and distant portions of the Republic.

"Experience has proved that the routes across the isthmus of Central America are at best but a very uncertain and unreliable mode of communication. But even if this were not the case, they would at once be closed against us in the event of a war with a naval Power so much stronger than our own as to enable it to blockade the ports at either end of these routes. After all, therefore, we can only rely upon a military road through our own Territories; and ever since the origin of the Government, Congress has been in the practice of appropriating money from the public Treasury for the construction of such roads.

"The difficulties and the expense of constructing a military railroad to connect our Atlantic and Pacific States have been greatly exaggerated. The distance on the Arizona route, near the thirty-second parallel of north latitude, between the western boundary of Texas, on the Rio Grande, and the eastern boundary of California, on the Colorado, from the best explorations now within our knowledge, does not exceed four hundred and seventy miles, and the face of the country is, in the main, favorable. For obvious reasons, the Government ought not to undertake the work itself, by means of its own agents. This ought to be committed to other agencies, which Congress might assist, either by grants of land or money, or by both, upon such terms and conditions as they may deem most beneficial for the country. Provision might thus be made not only for the safe, rapid, and economical transportation of troops and munitions of war, but also of the public mails. The commercial interests of the whole country, both east and west, would be greatly promoted by such a road; and, above all, it would be a powerful additional bond of union. And although advantages of this kind, whether postal, commercial, or political, cannot confer constitutional power, yet they may furnish auxiliary arguments in favor of expediting a work which, in my judgment, is clearly embraced within the war-making power.

"For these reasons I commend to the friendly consideration of Congress the subject of the Pacific railroad, without finally committing myself to any particular route."

His recent message goes even further than his previous declarations in favor of this great measure.

I have been thus particular in bringing before the Senate the solemn pledges of the Democratic national convention and the Democratic President, in favor of the construction of this great national highway, because this body contains a large majority of the members of that party. But when I look round this Chamber, I see no member of the Senate who was not an earnest advocate of one of the three nominees for the Presidency in 1856, who did not then, and who does not now, profess allegiance to the parties which contended for supremacy in that contest, and whose party fealty, if not official honor, does not require at least his earnest consideration of this important measure. On this side of the Chamber, among my Democratic associates, I see the men who led the columns of the Democracy in this last great contest in the popular forum, and I cannot but entertain the hope that, by their efficient

coöperation, in the language of the resolution of the Democratic national convention, "the whole constitutional power of the Government will be exercised" to build the Pacific railroad.

It is not by the volition, merely, of any one Senator, that this measure is called up before you; but as one of the great popular issues submitted to, and decided on favorably by the verdict of the people in 1856, it now presents itself for judgment. Therefore, without arrogating to myself any special credit in pressing for early action on this question, I nevertheless occupy peculiar relations to it, which will justify what may seem to be impertinence on my part. It is now seven years since I gave notice to the Senate of my intention to introduce a bill for the construction of the Pacific railroad. I was a member of the Committee on Territories when its chairman, the Senator from Illinois, [Mr. DOUGLAS,] more than six years ago, under instruction from that committee, reported the first bill in favor of building the road. I have, on four occasions, been a member, and three times chairman, of select committees appointed by the Senate to consider the subject. The late lamented Senator from Texas, [Mr. Rusk,] than whom this great project never had a truer or more efficient friend, as chairman of the first select committee, reported a bill which would have passed the Senate by the change of a single vote only, and at a time when we had the certain assurance of its passage through the other House.

The wisdom of our fathers, inspired as I believe they were in their labors, framed this Government with so many nicely-adjusted checks and balances, that the greatest measures ever considered in Congress have often been decided by a single vote; and I cannot contemplate, without a pang of regret, that the most disastrous consequences may result to this country from the want of one vote on that occasion. Four years ago, a bill reported by me, as chairman of a select committee, was more successful, as it passed this body; but, owing to either treachery or bad management in the other House, it failed to become a law.

If the necessity and beneficent effects of this measure were a matter of doubt, I should hesitate in thus earnestly urging action upon it; but is there a Senator who will rise in his place, and say that the construction of this road would not insure military protection, and add to the greatness and glory of the Republic? The bitter enemies of this measure in this body acknowledge it. Even the Senator from Virginia, [Mr. MASON,] in his speech against this bill at the last session, admits that the building of this road "is a desideratum," and that "it would be fraught with great and beneficial results to the country if built."

This being admitted, I shall proceed to consider the most plausible objections to this bill. It is contended, first, that Congress has no constitutional power to enact such a law; and secondly, that the grant of land is exorbitant, and the advance of money or credit by the Government in aid of the road will be enormous.

These are the general objections urged by those who oppose Government aid in any form, while other and more formidable difficulties exist among the friends of the measure, growing out of sectional and local interests.

The Senator from Virginia, [Mr. MASON,] whom I look upon as the most determined of all the opponents of the bill, says that the "Government is authorized to establish post offices and post roads and to carry the mails, but it has no further authority on that subject."

This bill does not propose that the Government shall build a road, or take stock or give money to build a road, but simply provides that the President shall make a contract for the transportation, by railroad, of its mails, troops, seamen, and munitions of war.

That the Government has a right to provide for the carriage of the mails is not denied; but the difficulty raised is, whether it can contract to have the mails carried in a certain manner. Now, this bill is founded on the principle, that the Government has the power to contract for the transportation of the mails, and prescribe the mode. Such has been the practice since its organization. Congress directed that the mails should be carried on foot or on horseback, in a stage or a wagon, in the first law establishing post offices and post roads, passed the 26th of February, 1792. The same

power was again conferred on the Postmaster General by the acts of May 8, 1794, and of April 30, 1810. Afterwards, as steamboats became the most rapid means of conveyance, authority was given by the act of 3d March, 1825, to the Postmaster General "to have the mail carried in any steamboat or other vessel which shall be used as a packet."

But as coaches succeeded post-riders, and steamboats followed, so at last were railroads brought into competition with, and, whenever possible, superseded, steam vessels. By the act of July 7, 1836, it was declared "that each and every railroad within the limits of the United States, which now is, or hereafter may be, made and completed, shall be a post route; and the Postmaster General shall cause the mail to be transported thereon," under certain conditions.

By the act of July 2, 1836, it was made the duty of the Postmaster General, "before advertising for proposals for the transportation of the mails, to form the best judgment practicable as to the mode, time, and frequency of transportation on each route, and to advertise accordingly."

It will thus be seen that it has been the practice of the Government from its origin, to authorize contracts to be made for the conveyance of the mails, so that they might be transported in such manner as the Postmaster General might elect.

But the honorable Senator from Virginia [Mr. MASON] is fruitful in objections. He not only intimates that Congress has no power to authorize the President to contract for the transportation of the mails by railroad to the Pacific, as contemplated by this bill, but he says, "it is intended to invite, upon the bonus held out by the bill, operators from some quarter to construct the road;" and here is "the commencement of a new policy on the part of this Government." The argument is unfortunate for the Senator, as among the very first acts of Congress on this subject, approved the 3d of May, 1802, it is declared in its third section:

"That for the better and more secure carrying of the mail of the United States on the main post road between Petersburg, in Virginia, and Louisville, in Georgia, the Postmaster General shall be, and hereby is, authorized and directed to engage and contract with private companies, or adventurers, for carrying the mail of the United States, for a term of time not exceeding five years, in mail coaches or stages, calculated to convey passengers therein: *Provided*, That the expense thereof shall not exceed a sum equal to one third more than the whole of the present expense for carrying the mail on such road on horseback."

It will be seen that, by this act, the contract was to be given to "any private companies or adventurers," not only to carry the mail in coaches, but to provide for passengers; and a bonus of one third more than was paid for horseback transportation was allowed for these additional facilities in transporting the mails and passengers. I submit to that Senator whether, after his State has had the benefit of the laws which required the mail to be carried in a prescribed manner at increased rates, not only in reference to speed, but to the accommodation of passengers, is it equal and exact justice to question the power of Congress to grant a like benefit to California? There is another peculiarity about this law. It does not appear that stages were running between Petersburg and Louisville, but that the mail was transported on horseback; so that Congress offered inducements to "adventurers" to put coaches on the road suitable for passengers.

Now, what more do we ask than that Congress shall authorize the President to contract for the transportation of mails to the Pacific by railroad? We do not propose that the Government shall build the road: far from it; we only offer inducements for private capital to undertake its construction.

Hence, I submit, that, under the Constitution, Congress has power to authorize the President to contract in any prescribed way for the transportation of the mails. Having the power to contract, the power necessarily exists to make payment, and the quantum of compensation is a matter for congressional discretion.

It is therefore apparent, that, as a postal arrangement, there is power to pass this bill; but the argument becomes stronger, if possible, under the constitutional power to provide for the common defense. It is constitutional to raise and equip troops, and to mold and cast cannon; and it will not be denied, even by the Senator from Virginia, that it is constitutional to transport

troops, supplies, and munitions of war, from one part of the country to another. If constitutional to transport them, is there, then, anything to limit the power of Congress as to the mode or manner of doing so; or of making contracts in advance for their transportation? The question is too plain for argument or illustration.

The opponents of this bill, when forced to recede from opposition upon constitutional grounds, attack it on account of the immense cost it will entail upon the Government. An examination of its provisions will show how little foundation there is for this objection.

It is proposed to give alternate sections of land for twenty miles on each side of the road. The policy of granting land to aid in the construction of railroads is too well established to need an argument, and the only objection that need be noticed is as to the *quantity* of land granted.

It will be observed, in the first place, that the land without the road is utterly worthless, and would not, perhaps for a century or more, produce to Government enough to pay the expenses of surveying and selling it; and next, it is obvious that the building of this road is an event that our Government, for political reasons, desires, and that we only seek to invite private capital to be invested for our benefit. There is not much surplus capital in the country; and in order to induce its investment in great and untried undertakings like this, we must offer proper encouragement. I shall presently show that the grant of land by the bill is the only contribution by the Government to the work.

Senators have spoken about the immense expenditure of money which by this bill would be entailed upon the Government. *I most unequivocally deny that the Government will in any manner risk the loss of one dollar, if it passes.* I ask the attention of those Senators who are prevented from favoring the measure by the fear it will become a burden upon the Treasury, to this part of my argument. The proposition submitted for consideration is, that the only aid asked from the Government is simply a donation of the alternate sections of land. It is true that the bill proposes that the Government shall advance \$12,500 per mile in bonds to the contractors, as soon as a section of twenty-five miles shall be completed—that is to say, when "twenty-five miles of the road is made and put into successful operation," then the Government shall loan to the contractors at five per cent. interest, \$302,500 in bonds. The loan is not to be made until the section of twenty-five miles is complete and in running order; then the Government advances, for the first time, \$302,500 in bonds, and patents three fourths of the alternate sections of land.

Now, before an advance of a dollar in bonds can be made, twenty-five miles of the road must be built. Then the Government pledges its credit, and acquires a lien or mortgage upon the road for the fulfillment of the whole contract. Suppose the contractors, after receiving the \$302,500 in bonds, and the lands, should fail: then the Government would take possession of the road, which must have cost the contractors probably \$40,000 per mile, or an aggregate of \$1,000,000. In other words, to obtain the loan of \$302,500 in bonds, the contractors give the best security, amounting to \$1,000,000, that they will repay the money. Even if the contractors, after obtaining an advance, were to fail, the Government would be benefited. It would then have one fourth of the lands, and twenty-five miles of the road, complete, equipped, and in running order; which must be worth, including the rolling stock, over a million dollars; by turning over which, it would be enabled to enter into a new contract upon equally, if not more, favorable terms for the other sections.

How, then, can the Government lose money? It is easy for Senators to assert that the passage of this bill would cost the Government \$100,000,000, and then inveigh against the magnitude and extravagance of the expenditure; but a candid and full consideration requires the bill to be judged by its own provisions, and not by the loose interpretation of its opponents.

The illustration adopted has been of the operation of the bill upon one section of the road; but it would work in the same manner upon any number that might be built. The principle of the rule is, that upon every dollar in bonds advanced by the Government, security will be given by the

contractors, in the ratio of more than three to one; and that it is for the pecuniary interest of the Government that the contractors should fail in their contract, as by the failure it would acquire so much of the road as had already been constructed, and would thus be enabled to enter into more advantageous contracts for the remainder.

The Government is to be repaid its bonds, with interest, by the performance of mail service, at a rate not to exceed \$500 per mile, and by the transportation of military and naval supplies, troops, and seamen, at rates not exceeding, in times of peace or war, those which may have heretofore been paid for similar service.

It may be urged as an objection to this bill, that the \$500 per mile for carrying a daily mail, both ways, will add to the expense of the Government in transmitting its mails to the Pacific coast. These mails are now carried both ways semi-weekly, weekly, semi-monthly, and monthly; not a daily-mail line exists. The annual compensation for carrying the mail by the present lines is as follows:

Ocean service from New York and New Orleans, via Panama, to Oregon and California, \$738,250.

Overland mail from San Antonio, Texas, to San Diego, California, \$149,800.

This contract expired on the 1st of the present month, after which the sum of \$90,668 is to be paid until the 1st January, 1859; and from that time, in consideration of extra services to be performed in connection with the great overland mail from St. Louis and Memphis, \$196,448 per annum is to be the remuneration.

These are semi-monthly. Then we have a semi-weekly overland mail from Memphis and St. Louis, via El Paso, to San Francisco, \$600,000.

Then we have the weekly route, by overland, from St. Joseph to Salt Lake, and thence to Placerville, \$320,000.

Then we have the monthly route from Kansas city, via Albuquerque and Tejon Pass, to Stockton, \$90,000.

And finally, the semi-monthly route from New Orleans to Tehuantepec, \$250,000.

This sum is for connecting with the Pacific mail steamships at Ventosa bay; or, if they carry through, on their own account, to San Francisco, \$286,000.

This great expenditure of \$2,200,000, is not chargeable to California alone. The ocean steam lines represent the great commercial interests, equally divided between the Atlantic, the Gulf of Mexico and the Pacific; and the overland mails manifest the unfinished link of connection in all its varied forms between the Pacific coast and the northwestern and southwestern States. In no more imposing aspect can the great importance and value of California to this Confederacy be presented than by the contemplation of these numerous lines of intercommunication between that State and the rest of the Union—girdling the American continent at six different points, passing over equatorial regions, or struggling through the eternal snows of a northern latitude.

Sir, the inconsiderable and feeble political influence of a single State on the Pacific could never alone have caused the establishment of these expensive mail routes; but the statesmen charged with the administration of the Government were compelled to listen to and meet the demands of the commercial States of the Atlantic and the Gulf of Mexico; and the stock-raising and agricultural States of the Northwest and Southwest to have the mails carried by these great highways to the Pacific.

And, sir, I cannot refrain from saying to the Senator from Virginia, [Mr. Mason,] that when, as he intimates, the effort shall be made to separate California from the rest of the Union, if she insist that the Government shall aid in building this road as the possible condition of her remaining in the Confederacy, these same sovereign and powerful States which have demanded of this Government the expenditure of millions of dollars annually in the mail service to the Pacific, imperfect as it is, will fraternally group around California and bid her remain among them.

Coming back to the question whether the rate of \$500 per mile for a daily mail each way, as provided for in this bill, is an exorbitant allowance, it will be perceived that the expense of transporting those mails, if the railroad is constructed, will be diminished at least a million

dollars annually. Not only this, but they will be carried daily instead of semi-weekly, weekly, semi-monthly, and monthly, as at present, and in one fourth of the time required for the present transit. I will hereafter show that the saving to the Government in the military transportation will be infinitely greater than in the postal service, while the efficiency in both will be increased a hundred fold.

Having demonstrated, as I conceive, that under the provisions of this bill, the Government will never be called on to advance its credit for one dollar to aid in the construction of the road without treble security, and that, in case the road should be built, while rendering increased and more efficient postal and military service, it will save millions annually to the national Treasury; I now propose to consider whether the prospective advantages that will result from its construction will compensate the Government for its land grant.

In the progress and maturity of a nation, there is a gradual system of growth and development for which its statesmen should make timely and ample preparation. It is a matter of pride with us to contemplate the present expansion of the Republic, but let us not be forgetful of the cause and means of our greatness. Accident has not enveloped us in the splendid reality of the present. Chance did not plant the seeds of our national prosperity, nor has it guided us along the path of empire. If we have extended our boundaries beyond the Mississippi, it is not because a blind caprice has led us there to track the buffalo in his wilds; and if in our progress we have crossed the Rocky Mountains, it is not because our adventurous pioneers had discovered the golden wealth sparkling in the bosom of California; but we must trace the cause to the great statesmen, who in the infancy of our political existence, framed with planetary symmetry our form of government, and inaugurated the policy in its administration which has resulted in our present greatness. Occupying a narrow strip of the North American continent, bounded by the lakes and the Alleghanies, the population not greater than that of the State of New York at present, they created a nation, and gave it the significant name of United States of America, thus manifesting the spirit with which they regarded a future, when the distinction of a northern and southern America should be obliterated under the expanding influences of the admirable system of government they called into existence. From the Declaration of Independence, and the adoption of the Constitution, that policy has prevailed in every step we have taken. The first was to obtain the free navigation of the Mississippi river, and extend the boundaries of the Republic to the Gulf of Mexico; and hence Louisiana and Florida were purchased, and Texas annexed. The next step was to extend our western boundary to the Pacific Ocean.

As early as January, 1803, Mr. Jefferson, the greatest of the great statesmen who favored this policy, called the attention of Congress to the expediency of examining the vast country west of the Mississippi, and fronting on the Pacific ocean. Congress gave its approval by authorizing the expedition of Lewis and Clark to explore regions where we had no territorial rights, but which the statesmen of that day perceived must necessarily belong to us in the future. In 1835, General Jackson offered Mexico \$5,000,000 for a line of boundary between the two Republics that would embrace the bay of San Francisco within our limits; and in 1844, Mr. Calhoun, then Secretary of State, renewed the offer, increasing the sum to \$10,000,000. There was one question during the Mexican war upon which all parties agreed, and that was that it should not close without the cession of California to the United States. Indeed, I have little hesitation in saying that no Administration would have dared to make a treaty of peace without incorporating California into the Union. What gold could not purchase, we acquired by the sword. The Russians have a proverb that the road from St. Petersburg to Paris is by the way of Constantinople. Our road to California was by the city of Mexico, and so impatient were we in securing that great prize, that we spent but a brief space of time on our way. When again (if ever) we shall reach the haunts of the Montezumas in our course of empire, we may tarry there for a longer period.

Thus, Mr. President, in the fifty-ninth year after the adoption of the Constitution, we reached the second great era in the development of our country. It has taken us but little more than half a century to make ours an ocean-bound Republic, eastward and westward; and who can tell where the flight of our eagles shall be stayed toward the Arctic and Antarctic before the close of the yet unconsumed century!

Our fathers sought this expansion of our limits in order that we might derive all the advantages that would result from an unrivaled geographical position. They have passed away, and we a succeeding generation find ourselves in the possession of the vast empire which they projected but never enjoyed. What shall we do with it? The honorable Senator from Virginia [Mr. Mason] says that we shall do nothing with it, and that, sooner than give the aid of the Government in the construction of a railroad which is indispensable to cement the Republic and make us one people, he will permit the Pacific coast to be lost to this Confederacy. His language was so emphatic, and his declarations so extraordinary and startling, that I might be accused of misrepresenting him unless I use his own words. In the discussion of this question, during the last session, he said:

"But if the Senator [Mr. Gwin] means to present this alternative, that we must either part with California or change and destroy the fabric of this Government in order to build a railroad to connect with them, with every regret to part with the country of the honorable Senator, I should be constrained to say it must go."

Does this bill "change and destroy the fabric of this Government" by simply proposing to authorize the President to contract for the transportation of the mails and munitions of war by railway to California? The Senator from Virginia cannot successfully contend that this proposition is unconstitutional, for that question has been settled by a weight of authority not to be resisted. Then how does it change and destroy the fabric of the Government? The Constitution, which is the Government, is unimpaired and untouched, as full of vigor and vitality, to carry into effect this law, as any other that has been passed by Congress since the Constitution was formed. Then where is the danger? It must be the expense which the Senator imagines the Government will incur if this bill passes. I have, as I think, demonstrated that the Government advances no money that will not be amply secured. But does the Senator count the value of this Union by the amount of dollars and cents that must be necessarily expended to give security and protection to all parts of the Republic in time of war? I hope not. Let the Senator permit me to remain in the belief that he would not, even for hundreds of millions of dollars, be willing to see our flag hauled down on the Pacific, and six hundred thousand American citizens become aliens to this Republic.

Is the value of California to this Union to be estimated by dollars and cents? If in order to obtain the passage of laws necessary for her development and protection, we are required to prove that we give more than we receive, that we are no burden to this Government, it would be no difficult task to perform. We are loyal to the Union, we know its value, and we feel a patriotic pride in being one of its integral parts. We are as loyal and devoted to it, as were the thirteen colonies to the British crown, when George Washington rode by the side of General Braddock in his advance upon Fort Duquesne; and sir, will this august body, by neglect and injustice, produce the same change in us as was manifested by the thirteen colonies toward the British Crown, as illustrated by the same patriot Washington, when he received the sword of Cornwallis at Yorktown?

Profane history presents no parallel to the policy indicated by the honorable Senator from Virginia in regard to the acquisition of California. Yet there is an illustration of it to be found in the sacred volume, where the unfaithful servant, after receiving a talent of gold, buried it in the earth, and there left it unproductive, for which he merited and received the sharp reproof of his master.

We are the successors of the great statesmen and founders of the Republic, who inaugurated the policy which has enlarged our boundaries and made us one of the most prosperous and powerful nations on the globe. In order to be on a

level with our great responsibility to the past, to the present, and to the future, we must place ourselves far above the ephemeral questions of the day, petty local and sectional prejudices, and enfeebling abstractions that would favor a war that gave us an empire, and lose that empire under the delusion that giving it military protection and promoting its prosperity would impair the fair "fabric of our Government."

Our first and great duty is, by providing the most rapid means of intercommunication between its extremes, to consolidate the Republic. We know not when our country may be precipitated into a foreign war; and if, with a great naval power, the result must be disastrous, and the prize—the only material result of the expenditure of \$200,000,000 in the Mexican war—now in our peaceful possession, be exposed to fearful peril. How could we keep open communication with California in case of such a war? The transit routes of Panama, Nicaragua, and Tehantepec, and every American port on the Pacific coast, if the nation with which we were at war had a more powerful and efficient navy than ours, would be blockaded. All our present overland routes are insecure; and it was but the other day that one of our own Territories, through which the most traveled of the routes passes, was in open revolt against the Government. That I may not be considered as overrating the difficulties and dangers of our position, in order to gain support to this measure, I will quote an authority that will commend itself to the members of this body. I read from the report of the late Secretary of War, now a Senator from Mississippi, [Mr. Davis.] In commenting upon the Pacific railroad surveys, he says:

"The facts developed by these surveys, added to other information which we possess, suggest some considerations of great interest, with regard to our territory on the Pacific. They exhibit it as a narrow slope of an average width of less than one hundred and fifty miles of cultivable land, skirting the ocean for a distance of one thousand miles, rich in those mineral productions which are tempting everywhere, beyond their value, and which would be most readily turned to the use of an invader; drained by two rivers of wide-spread branches, and with sea-ports lying so directly upon the ocean that a hostile fleet could commence an attack upon any one of them within a few hours after being despatched from land; or, if fortified against attack, so few in number that comparatively few ships would suffice to blockade them.

"This territory is not more remote from the principal European States than from those parts of our own country whence it would derive its military supplies, and some of those States have colonies and possessions on the Pacific which would greatly facilitate their operations against it. With these advantages, and those which the attacking force always has, of choice of time and place, an enemy possessing a considerable military marine could, with comparatively little cost to himself, subject us to enormous expenses, in giving to our Pacific frontier that protection which it is the duty of the General Government to afford.

"In the first years of a war with any great maritime Power, the communication by sea could not be relied upon for the transportation of supplies from the Atlantic to the States. Our naval peace establishment would not furnish adequate convoys for the number of storeships which it would be necessary to employ; and storeships alone, laden with supplies, could not undertake a voyage of twenty thousand miles, passing numerous neutral ports, where an enemy's armed vessels, even of the smallest size, might lie in wait to intercept them.

"The only line of communication, then, would be overland; and by this it would be impracticable, with any means heretofore used, to furnish the amount of supplies required for the defense of the Pacific frontier. At the present prices over the best part of this route, the expense of land transportation alone, for the annual supplies of provisions, clothing, camp equipage, and ammunition for such an army as it would be necessary to maintain there, would exceed \$20,000,000; and to maintain troops, and carry on defensive operations under those circumstances, the expense per man would be six times greater than it is now; the land transportation of each field twelve-pounder, with a due supply of ammunition for one year, would cost \$2,500; of each twenty-four pounder and ammunition, \$9,000, and of a sea-coast gun and ammunition, \$12,000. The transportation of ammunition for a year for one thousand sea-coast guns would cost \$10,000,000. But the expense of transportation would be vastly increased by a war; and at the rates that were paid on the northern frontier during the last war with Great Britain, the above estimates would be trebled. The time required for the overland journey would be from four to six months. In point of fact, however, supplies for such an army could not be transported across the continent. On the arid and barren belts to be crossed, the limited quantities of water and grass would soon be exhausted by the numerous draught animals required for heavy trains, and over such distances forage could not be carried for their subsistence.

"On the other hand, the enemy would send out his supplies at from one seventh to one twentieth the above rates, and in less time—perhaps in one fourth the time—if he should obtain command of the isthmus routes.

"Any reliance, therefore, upon furnishing that part of our frontier with means of defense from the Atlantic and interior States, after the commencement of hostilities, would

be vain; and the next resource would be to accumulate there such amount of stores and supplies as would suffice during the continuance of the contest, or until we could obtain command of the sea. Assigning but a moderate limit to this period, the expense would yet be enormous. The fortifications, depots, and store-houses, would necessarily be on the largest scale, and the cost of placing supplies there for five years would amount to nearly one hundred million dollars.

"In many respects the cost during peace would be equivalent to that during war. The perishable character of many articles would render it perhaps impracticable to put provisions in depot for such a length of time; and in any case, there would be deterioration amounting to some million dollars per year.

"These considerations, and others of a strictly military character, cause the Department to examine with interest all projects promising the accomplishment of a railroad communication between the navigable waters of the Mississippi and those of the Pacific ocean. As military operations depend in a greater degree upon rapidity and certainty of movement than upon any other circumstance, the introduction of railway transportation has greatly improved the means of defending our Atlantic and inland frontiers; and to give us a sense of security from attack upon the most exposed portion of our territory, it is requisite that the facility of railroad transportation should be extended to the Pacific coast. Were such a road completed, our Pacific coast, in lieu of being further removed in time, and less accessible to us than to an enemy, would be brought within a few days of easy communication, and the cost of supplying an army there, instead of being many times greater to us than to him, would be about equal. We would be relieved of the necessity of accumulating large supplies on that coast, to waste, perhaps, through long years of peace; and we could feel entire confidence that, let war come when and with whom it may, before a hostile expedition could reach that exposed frontier, an ample force could be placed there to repel any attempt at invasion."

For more than seven years my humble efforts have been exerted to induce the Government to aid in this important work. I have told you that every year's delay was dangerous; and that the time of peace and prosperity could not be more fitly employed than in devising some plan, and vigorously prosecuting it, to connect the Mississippi valley and the Pacific by railroad. But my counsels have fallen upon heedless ears; and even the friends of the measure have said, we can wait. And what is the result? Does any Senator believe that if this road had been commenced—I will not say finished, but reasonably advanced—our army would have spent last winter in the snowy gorges of the mountains in front of Echo Cañon; or that during the last spring, from every part of the country, flashing bayonets would have been concentrating upon rebellious Utah? Before the 1st of July next, our expenditures, on account of the Mormon difficulties, will have approached, if they do not equal, the \$25,000,000 it is proposed by this bill to loan the contractors to build the road; every dollar of which would have been saved by its commencement and vigorous prosecution in 1853.

There is another reflection forced upon us. Spread over the immense territory through which this road will pass, roam at least two hundred thousand wild Indians, who are always ready to commence hostilities. The history of our country shows, that, as our frontier settlements approach their hunting grounds, wars of extermination have raged. If these wild natives of the plains were to break out into open and undisguised warfare, twenty thousand troops could not guaranty protection to these frontier settlements, and keep open the overland communication with the Pacific; whilst the expenditure in money would reach astounding figures. As the result of the building of this road, strong and numerous settlements would be formed along its line and branches, which, in connection with the rapid movement of a few troops, would overawe and keep the Indians quiet. I beg Senators to reflect that we have not yet paid for one campaign of volunteers in Oregon and Washington Territories, which, by the report of our own Army officers, amounts to more than five million dollars; and the expense of this year in the same Territories, in suppressing Indian hostilities by the regular Army, will fall but little, if any, short of that sum.

In addressing the Senate upon this subject in 1853, among other evidences indicating this to be the age of gigantic progress, I called attention to the fact that the Emperor of Russia proposed to connect, by a railroad, St. Petersburg with Odessa, on the Black sea. That enlightened and ambitious monarch projected this scheme as a means of assuring the integrity and advancing the greatness of his empire. Its execution was postponed, although none doubted its wisdom. It was admitted that the road was necessary; that, in the language of the Senator from Virginia [Mr. Ma-

son] in reference to the Pacific railroad, it was "a desideratum;" and what was the result of delay? When Nicholas stretched forth his hand to pluck the prize coveted for generations by his ancestors and threw his gauntlet in the face of Europe, for the want of this railroad he was forced by England and France to abandon his advance upon Constantinople and repel the invasion of his own territory on the Black sea. Although victorious, the allied army was decimated by its battles with the splendid armies of Russia and the rigors of a Crimean winter. Possessed of a line of easy and rapid communication by sea, the allies poured in constant reinforcements to replenish their exhausted legions. But how different was the condition of Russia? Possessed of any amount of physical force, with armies thoroughly organized and equipped, she was unable to render them effective for the want of a rapid line of communication.

Such were the difficulties in supplying the Russian army, that though within a few hundred miles of the Ukraine, the granary of the world, absolute want frequently checked its operations. Immense sums of money were expended by the Emperor to transport supplies for the garrisons and protecting army of Sebastopol; yet the expenses, losses, and difficulties were such, that the allies were able to purchase supplies in New York, and even Chicago, and transport them to the Black sea at less cost, and with more certainty and dispatch, than the Russians could transport by land their provisions from the interior, a distance of only a few hundred miles.

The present Emperor has learned wisdom from the lesson taught his predecessor, and has contracted with private parties for the construction of railroads from Moscow to the Black sea, and from the same point to all the important outposts of the Empire, guarantying five per cent. dividends upon the capital invested. The Russian Government has learned from disastrous experience its vulnerable points, and it is covering them in such a manner that when again, if ever, the Emperor marches his armies upon Constantinople, the combined world in arms cannot stop his progress. By the delay in constructing this railroad from Moscow to Odessa, the power and prestige of Russia was broken in the late war, and the golden prize that glittered on the banks of the Bosphorus lost, perhaps forever. An ingenious author has written a work describing what might have happened, if certain great events had transpired otherwise than as they really did. He has speculated, among other things, as to how changed the destiny of Europe would have been if Napoleon had won the battle of Waterloo. But, sir, that contingency sinks into insignificance by the side of the great events that would have transpired in the last few years, if St. Petersburg and Sebastopol had been connected by railroad. The Black sea would have become a Russian lake, and the Dardanelles a Mediterranean Cronstadt.

We are indebted to good fortune and not statesmanship that we have not as well as Russia paid the penalty of inactivity. It was a probable event when an English Minister was dismissed from Washington, that the same fleets which blockaded Sebastopol would have sailed for San Francisco. Nor is it rash to speculate on the contingencies of war between the United States and Great Britain or France. The points of contact are numerous. Commercial interests clash more than the pursuits of ambition, and we have greater cause of rivalry, with one or both of these great Powers, than Russia ever had. In 1850, profound peace prevailed throughout Europe, and nothing short of insanity would have predicted the great war that is but recently closed. Yet, sir, in that short space of time the peace of the world has been broken, fierce wars have raged, great battles have been fought, again succeeded by peace, and the great allies who warred side by side on the shores of the Black sea, now regard each other menacingly across the British channel. All these great events have transpired in less than ten years; and who can tell what a like period may bring to us. Let us gather wisdom from the disasters of Russia, and profit by the lesson which the late rebellion in Utah has taught us, and no longer postpone the commencement of this great work, which, when completed, will relieve us from the perils, not only of foreign aggression, but of domestic insurrection and intestine wars.

When we take into consideration the political, commercial, and agricultural interest of the whole country that will be benefited by the building of this road, it is manifest and rank injustice to treat it merely as a *California* question. A State exporting an annual average of \$60,000,000 of gold, is second to none in this Union, in the advantages it gives us as a nation, in the commerce and exchanges of the world.

In proof of the assertion that California is a burden upon the public Treasury, frequent reference is made to the aggregate amount of the appropriations made by Congress, for what is styled her benefit as compared with the receipts of her custom-houses. The fallacy of the argument is demonstrated by the mere statement of the fact that the great States of the interior, Kentucky, Tennessee, Ohio, Indiana, Illinois, and Missouri, collect but little revenue from customs, while two thirds of the whole revenue derived from this source is collected of the city of New York. The exports from the cotton-growing States is the chief foundation upon which we rely for foreign importations, and from which the revenue derived from customs is collected; and, whilst these duties are not collected in those States, they claim that they contribute at least their full proportion to the support of the Government. The gold-exporting State of California can, with equal justice, make the same claim. You import \$50,000,000 of foreign goods more than you export of your own products, exclusive of the precious metals; and how do you pay for them? In gold, California gold. Withdraw it from your exports, and if you did not diminish to the same extent your imports, you would become a national bankrupt.

During the fiscal year that ended on the 30th of June, 1857, our imports amounted to \$361,000,000, and our exports to about \$363,000,000, of which \$60,000,000 was in gold coin and bullion. In this way California enabled you to pay for one sixth of the whole imports of the country, and consequently you are indebted to her for the means of bringing into the Treasury one sixth of the revenue from customs, independent of her paying directly at the custom-house in San Francisco upwards of one million dollars. Thus, through the instrumentality of California alone, the Government received from customs during that fiscal year upwards of twelve and a half million dollars, and the same *pro rata* will be exhibited by the imports and exports of the last or any other fiscal year.

This is looking at the question in a fiscal point of view alone; but when her importance is estimated in connection with every national interest, leaving out of view the Government revenues, it is impossible to estimate it. You see it everywhere in the progress and improvement of the country. California has graded the tracks of your railroads; she has tunneled your mountains; she has developed your coal and iron mines; she has enabled your merchants to build palaces in your cities; and has made your ship-yards and machine shops resound with the busy hum of occupation. Her trade has brought into existence the magnificent fleet of clipper ships which now bear the moral prestige of your triumphant skill upon every sea; and the rising rotunda of this Capitol is a fit type, in its splendid proportions and unfinished state, of the uncompleted prosperity which she will yet pour into the lap of our common country.

One of the most common arguments against the Pacific railroad, is, that if it was built it would not only pay no dividend upon the capital invested, but that it would not pay the expenses of keeping it in running order. There is as little truth in this argument as in most of the others that are urged against this great measure. I need only refer to the single item of revenue from passengers to demonstrate its fallacy. An estimate can be made of the travel between California and the Atlantic States, from the fact that in one year, more than one hundred thousand persons have passed over the various routes, with an annual average of fifty thousand, at a low estimate, for the last nine years. The Senator who contemplates without interest this great movement of our age, and refuses to aid in the construction of a great national highway for the accommodation of this vast emigration, misapprehends the responsibility of his position. And if any one supposes that it will not be augmented in a vast ratio upon the

construction of a railroad, he is ignorant of the history of the country for the last ten years. Danger and death stand sentinels upon all of these lines of travel, and exact a mournful tribute. At one time they appear in the form of Asiatic cholera or contagious fever; and crowded steamers lose a fearful proportion of their living freight. Again they take the form of bloody riots, and the brutal negro of Panama with impunity robs and massacres our citizens. And when the emigrant selects the routes over the plains, and asks the protection which he has a right to expect in traveling through the territories which, by name at least, belong to the United States, there the Indian preys upon his life in undisturbed security.

At the last session, I called the attention of the Government to the massacre of one hundred and eighteen emigrants, including in that number sixty-two women and children, whose bones are now bleaching on the Mountain Meadows, while their murderers go unwhipped of justice.

The windings and course of the great Pacific emigrant routes can be traced by the bones of those who have perished in their efforts to reach its shores. Upon the surface of the earth between the Mississippi and the Sierra Nevada mountains, these evidences of mortality serve as landmarks to the lone traveler; and if, in the vicissitude of time, some great physical convulsion should raise up the deep sunken bottoms of the ocean, and lay them bare to the light of day, the same unbroken chain of whitened bones that extends from the Mississippi westward, would designate the fatal course of the steamships, into which the neglect and inaction of the Government still forces this apparently doomed emigration. But has it been stopped by these dreadful tragedies, and the fearful perils that encompass every route? No, sir. As I have said, it has averaged annually for the last nine years fifty thousand persons, and is kept at this low figure only by the difficulties and dangers I have in part enumerated; and I believe this year it would have reached one hundred thousand, but for the extortion on the isthmus route, and the apprehended war with the Mormons. The cause for the increased desire for a change of locality this year is to be found in the wide and desolating effects of the financial storm which overwhelmed the Atlantic and western States last year; in contrast to which, the prosperity prevailing in California makes it doubly attractive.

If, notwithstanding the difficulties and dangers I have enumerated, tens of thousands of emigrants annually go to California to make it their permanent home, who can estimate the increase in the number of emigrants when the Pacific railroad is constructed. But taking the estimate in other States of the increased travel produced by the building of railroads, which at a low calculation is as five to one, at this ratio, the increased domestic travel between the Pacific and the Atlantic would amount to a quarter of a million persons annually. This estimate relates to our own people, without taking into consideration the fact, that the building of this road would open the shortest and quickest route for Europe to communicate with China, the East Indies, and Australia. How, then, can it be said that this road, when constructed, will not support itself, and pay dividends on the capital invested.

When we consider the other domestic benefits which this great measure will confer, nothing already suggested can diminish the importance of what remains to be discussed. The public domain between the Mississippi and Pacific ocean, embracing an area as great as that contained in the thirty-two States of the Confederacy, is now comparatively valueless. Build a railroad through it, and every arable acre will be in demand; every river-bottom and valley will have its settlement. It would be difficult to estimate the addition to the wealth of the nation by the increase in the value of the lands along the line of the road, now valueless from being inaccessible to markets. Railroads have increased ten-fold the value of lands in New England, New York, the Northwest, and in all the States where they have been constructed. For many years the prairies of Illinois and Indiana were, for the want of the means of transit, comparatively valueless; but, as the healthy circulation of commerce was given to them by the building of railroads, they acquired a value almost fabulous in comparison to that at

which they were previously estimated; and they have become one of the great granaries of the world. Look also at Massachusetts. The enterprise of that State has covered her barren soil with a net of railroads, and her exhausted and rocky lands command by the acre prices that would purchase a quarter section of fertile lands in those parts of the country distant from the lines of water and railroad communication. By means of her railroad policy, Boston enters into successful competition with St. Louis, on the Mississippi, with Cincinnati, on the Ohio, and even with imperial New York, on the shores of Lake Erie and on the banks of the Hudson. When the assessment roll of a State without railroads would show \$50,000,000 as the value of real estate, it may be safely estimated that a system of railroad communication would increase the price of its lands four-fold; and thus the railroads might be safely calculated as adding \$150,000,000 to its wealth in the enhanced value of its real estate alone.

Having reviewed at some length the arguments of those who are opposed to giving Government aid in the construction of this road, I approach with reluctance a review of the conflicting views of the friends of the measure. Ever since I took my seat in the Senate, a majority of its members have been in favor of giving Government aid in the construction of a Pacific railroad; but, for the want of harmony, and that spirit of conciliation and compromise which the opponents of the measure have always taken advantage of, we have never been able to agree upon a bill that could secure a majority in both Houses of Congress.

I know of no way by which a stronger illustration can be given of this than by quoting from the frank and candid declaration of the most distinguished and unrelenting adversary of this measure. In February, 1853, the Senator from Virginia, [Mr. MASON,] when it was proposed to survey the various routes to the Pacific, thus addressed the Senate:

"I appeal to Senators if this project can be fairly and legitimately destroyed, to destroy it for the present session; and I know of no way of doing it, inasmuch as there is a fixed majority here in favor of making a railroad from some point on the Mississippi river to some point on the Pacific ocean, but by getting up an interecine war among the friends of the measure. That is the way we fortunately succeeded in defeating the friends of the measure upon the bill itself."

How long, Senators friendly to this measure, shall we thus permit our opponents to profit by our dissensions, and tauntingly avow to us the cause of their success? With an Executive committed by every pledge that can bind a statesman, and who stands ready to redeem his pledges; with an acknowledged majority in both Houses of Congress, shall we, by our differences, arrest the progress of this, the grandest enterprise of any age, or of any nation? Is there no plan upon which we can unite? I think there is. If we regard the broad fields, where extended empire and increased wealth await our advance, rather than the contracted sphere of local interests, we shall, in the spirit of the fathers of the Republic, be enabled to devise some common basis upon which we can act in concert.

In my judgment, an undue importance is attached to the location by Congress of the *termini* of the road. This bill leaves to the contractors the location of the general route. Being about to invest immense sums of money in this gigantic enterprise in order to make their investment valuable, they will be compelled to select a route which offers them the advantages of feasibility, shortness, cheapness, and future returns. For myself I am in favor of the construction of the road on any practicable route.

Yet the Senator from Georgia, [Mr. IVERSON,] in his able speech during the last session, objects to this bill, (of which he says I am the author,) because it will secure a northern location for the route. The Senator seems not to be aware of the fact that I have been calumniated and slandered for years as an advocate of an exclusive southern route. I have treated these calumnies with the silent contempt they deserve, and only allude to them now to show my friend from Georgia that, because I am not, and never was, a partisan for any route, North or South, that I am subject to assault by those who are only in favor of sectional routes.

Mr. IVERSON. The Senator will allow me a

moment. I did not intend, in the remarks which I submitted at the last session of Congress on the subject to which the Senator refers, to accuse him of such a design—by no means. If he will look at my remarks, he will perceive that I said the result would be that the North would get the road under the bill which the Senator introduced; but I acquitted him of any design to accomplish that object.

Mr. GWIN. The Senator from New York, [Mr. SEWARD,] in his speech in favor of this bill at the last session, uttered a sentiment, which I hope will be adopted by every friend of the measure. It is this:

"That if the construction of a Pacific railroad is to be ordered by Congress, we have got to agree upon some plan, and we have all got to sacrifice some prejudices and opinions, and some distrust."

This, in my opinion, is the spirit in which the friends of this measure should come to its support. When the contractors shall be about to determine the location of the road which their money is to build, and which will only be valuable by being constructed with the best channel of commerce and through the best and cheapest country, they will be unmoved by any other consideration than self-interest. In the presence of the autocrat money, sectionalism and jealousy will cease their wranglings and heart-burnings, and be stilled; the struggle of the North against the South, and the South against the North, will be unheeded; the ascendancy of this or that section of the Union will not be considered, for the reason that, neither the spirit of fanaticism, nor the depression nor the elevation of one portion of the Union will pay dividends upon the capital invested. Wherever the road may be built, connections can be established to points distant from the main trunk; and if the folly of contractors should induce them to select a route in opposition to the ordinances of nature or the requirements of trade and commerce, this can be remedied by these connections.

The proud boast of the Senator from New York, [Mr. SEWARD,] that his metropolitan city is the natural center of the commerce of the Atlantic States, towards which trade and traffic must gravitate, however devious the line of travel, is applicable to any other point which, by its location and natural advantages, is entitled to a proportion of the rich trade to be opened by this iron channel.

The Senators from Louisiana need not fear that New Orleans will, upon any route, lose its quota of legitimate traffic. The Senators from Missouri may rest assured that St. Louis will be protected by laws more powerful than those we may enact—the immutable laws of trade. My friends from South Carolina and Virginia may remain satisfied—if it be not a violation of State sovereignty to receive commercial advantages from Federal legislation—that Charleston and Richmond will not fail to receive that benefit from the work which nature intended, when it indented the coast with the bay of Charleston and opened the channel of James river.

If the termini, as proposed in this bill, suit not the friends of the measure, let us change them. I know that no railroad can terminate at any other point on the Pacific than San Francisco, for the reason that the contractors will seek that point, without which their investment will be unprofitable. The road may ascend along the Oregon line, or deflect through Arizona, yet its terminus must be San Francisco, as the natural commercial center of the Pacific.

Irrespective of the incalculable benefits to the people of the United States, to their commerce, agriculture, mines, manufactures, and navigation, it can be demonstrated that, as a mere financial question, the revenues of the Government would be augmented hundreds of millions of dollars beyond the contribution proposed in this bill by the construction of the road. These revenues would be increased in four different ways:

1. From increased sale of public lands;
2. From the augmented revenue from imports;
3. From the diminished expenses of the War Department; and
4. By the increased revenues and diminished expenditures of the Post Office Department.

1. Increased sales of public lands.
The State of California and the Territories of Oregon and Washington contain an aggregate

area of three hundred and twenty-seven million five hundred and sixty-six thousand, seven hundred and twenty acres. There are twenty-eight million three hundred and five thousand five hundred and sixty-four acres of these lands surveyed and subject to preemption, of which about twenty-four millions are in California. It is now nearly ten years since our land and preemption system was extended to these regions; and yet, with all the incalculable inducements for emigration during all this period, the Government has received nothing from the sale of public lands. The loss of revenue from this source is attributable exclusively to the absence of railroad connection with the Atlantic States. The cost of reaching California by the present ocean routes, which, owing to Indian and Mormon hostilities, may be considered our only open emigrant routes, is about one hundred and fifty dollars for each grown person, and for a family, including the parents and five children, the aggregate cost would be \$750. Now, of the laboring classes, including most of the mechanical pursuits, not one head of a family out of a hundred thousand possesses the cash capital to pay the expenses of emigration, and but few of any other class. If they had this capital to pay their passage, when they reach the Pacific coast, no means would be left for the purchase of farms, or the necessary expenses of preparing them for cultivation. The failure of the Government to aid in the construction of a railroad to the Pacific coast, is equivalent to a decree prohibiting the sales of the public lands in these vast regions; and this fact is demonstrated not only by the mere statement of the expenses of emigration, but by the experience of the last ten years.

Nor is it the mere expense of emigration that retards the sale and settlement of these lands; but for the want of a railroad reaching from the Pacific into the interior, farmers, with the exception of mere local neighborhoods, are deprived of all markets for their produce, as well as of many of the return supplies; and thereby their lands are rendered comparatively worthless. The same remark is true to a great extent as regards the great region between the States and Territories on the Pacific and the States that border upon the Mississippi. That great intermediate region contains an area of six hundred and eighty-eight million one hundred and seventy-nine thousand two hundred and forty acres, nearly all of which is public lands, or lands to which the Indian title will soon be extinguished; and, indeed, to a vast portion of it there is no Indian title whatever. From the whole of this vast area the Government has received nothing from the sale of the public lands. These lands are now almost inaccessible, either from the Atlantic, the Mississippi, or the Pacific, and furnish no markets for products. Many of these lands, as well as those in the States and Territories on the Pacific, contain the richest minerals, and the miners must be supplied by those who cultivate the arable lands. These minerals include gold and silver, quicksilver, coal and iron, copper, lead, and salt, and many others, lying waste and unproductive for want of easy and economical access; and here, too, are found the most valuable mineral manures, such as gypsum, plaster of Paris, marl, &c. The railroad would carry a vast population into this great intermediate region from our own country and Europe, and would increase enormously the revenue of the Government from the sales of the public lands.

We have seen that the aggregate area of this great Pacific and intermediate region, now closed against emigration as if by an impenetrable wall, amounts to one and a quarter thousand million acres. A large portion of this vast area consists of the richest arable lands, a still larger of lands of a medium quality, and a still greater proportion of lands admirably adapted to grazing; but they are now almost worthless for every purpose, as is proved by statistics, and demonstrated by experience. Here especially are the most extensive and valuable grazing lands in the world, covered by the finest grasses, over which roam hundreds of thousands of buffalo, the deer, the antelope, and other wild animals; and these, together with the Indians, will be almost their only occupants until the railroad is constructed. These lands are admirably adapted for grazing of almost every description. Here can be raised the finest sheep

upon the continent, horses, mules, hogs, and cattle of every description. Here, too, in many portions, the camel can be reared as well as in any part of Asia or Africa, and in much greater abundance, and with more economy. With the railroad, one vast unebbing tide of population would roll on from the Mississippi to the Pacific, and ante-date by half a century the wealth, power, greatness, and glory of the Republic, while securing the Union by perpetual bonds of commerce, intercourse, and interest. Indeed, it is self-evident, that if the financial benefits of the Government were limited only to the increase in the sales of the public lands, the augmented revenue from this source alone would build many railroads to the Pacific.

2. Augmented revenues from imports.

But it is not from enhanced sales of the public lands alone that the revenues of the Government would be increased by the construction of the railroad; the second source of augmentation would be from the increased revenue from imports. Our imports are measured by our exports, which depend upon products and population, and cheap, certain, and speedy access to our coast. Besides agriculture and manufactures, the increase of our production of gold and silver, occasioned by cheap and easy access by railroad to these regions, with cheaper supplies, would cause an emigration that would soon raise our annual products of the precious metals to more than a hundred million dollars. From all these causes combined, it cannot be doubted that the railroad would cause an advance of our revenue from imports of at least \$10,000,000 per annum.

3. Diminished expenditures of the War Department.

The third source of revenue to the Government would be from the vastly curtailed expenses of the War Department, in the diminished cost of transportation of troops, munitions of war, and supplies. In the vast regions west of the Mississippi these expenditures amounted to at least \$10,000,000 during the last fiscal year. These heavy charges would be reduced to a very inconsiderable sum by the construction of a railroad; while Indian wars would soon be entirely prevented, and the vast annual expenditure for defending the frontier would almost cease, and the Army might be reduced. The Mormon war alone will cost the Government more than the aid asked from it for the construction of this road; as will also the Indian wars in Oregon, in the Territory of Washington, in New Mexico, and elsewhere throughout this great region, which would have been prevented if we had had a railroad—or, if not prevented, immediately quelled. And all this is independent of the massacre of our citizens, whose lives it is the duty of the Government to protect; which protection can only be properly afforded by its construction. Indeed, it cannot be doubted that the saving of the Government in a few years, in its military service and Indian wars, incidental to the construction of this road, would soon equal its entire cost; whereas but \$25,000,000 is asked from the Government, soon to be refunded in postal and other service. Nor is it only Indian wars that would thus be terminated, but all other wars to be made upon us; for with this railroad from the Atlantic to the Pacific we should be so powerful and impregnable upon both oceans, that no other nation would dare to assail us.

4. Increased revenues and diminished expenditures of the Post Office Department.

The augmented revenues and diminished expenses of the Post Office Department would alone soon refund all the money that is asked from the Government in aid of this great work. The total expenditure of the Government to supply mail facilities for our Pacific coast and this great interior region bordering upon the States fronting upon the Mississippi, amounts to \$2,148,050 per annum; while the annual receipts are but \$306,747; thus leaving an excess of expenditures over revenue of \$1,841,303 per annum; and, in the absence of a railroad, this excess of expenditures over receipts must go on constantly increasing. Now, this sum would be materially reduced by the construction of the railroad, and the receipts from postage enormously increased. Indeed, when we regard the accruing postages from increased business intercourse and correspondence, including newspapers, by the construction of this

road, by substituting a daily for semi-weekly, weekly, semi-monthly, and monthly mails, and reducing the time from more than three weeks to one; and also, that with this road as the nearest, quickest, and cheapest route, the correspondence to and from Asia and Europe, must pass over it; from all these causes combined, it cannot be doubted that the receipts from postage would soon, at least, reach the expenditures, and the Government save from this source, alone, millions of dollars per annum. When we reflect, also, that the whole advance of the Government in money would soon be refunded by postal and other Government service, so far as money is concerned, it may be truly said that the Government advances nothing in aid of this great enterprise but its credit for a very few years, secured against the possibility of loss.

Indeed, looking at a period of ten years ahead from the completion of the road, which is but as a day in the existence of a nation, it is clear, that as a mere financial project, independent of its other incalculable advantages, the revenues of the Government would be more augmented by the construction of this road than by any other practicable plan which the wisdom of man can devise. Over this road the gold and silver of the Pacific would be transported, the mails and the passengers, the teas and silks, and other costly articles from Asia, and manufactures, to a great extent, from our own country. Even many agricultural products would go on this road from the valley of the Mississippi to the Pacific. To the center of the State of Maine, northern as well as southern agricultural products, are already carried by railroad, a distance equal to half way from the Atlantic to the Pacific, and greater than that from many points in the valley of the Mississippi to that great ocean.

But it is not only as it regards the finances of the Government that we should derive vast advantages, but those accruing to the people of the United States would be still greater. Our population would be increased, our resources developed, and the continent covered with people and States from the Atlantic to the Pacific. Our wealth would be more than doubled; so would be our products. A new impulse would be given to our agricultural, manufacturing, mining, commercial, and navigating interests; and, above all, the Union secured and perpetuated. The very passage of the bill, in advance of the construction of the road, would give a new impulse to our progress and industry. First, as to population, from augmented resources and prosperity there would be, as all statistics show throughout the world, a large increase of our native population. A new flood of foreign emigration would also be thrown upon us. They would not come to linger in our large cities, but would pass into the great interior to cultivate our soil, to work our mines and factories, to purchase the products of our industry, to augment our exports, and to increase our imports, and rear up American families devoted to the Constitution and the Union. From the Atlantic to the Pacific the great arterial industrial current would flow, and the great central valley of the Mississippi, the heart of the nation, would pulsate from ocean to ocean with renewed power.

Besides the increased domestic consumption, we should find in Asia, containing two thirds of the population of the globe, new markets for most of our agricultural products. How could Europe compete with us for the markets of China and Japan if we had a railroad from the Atlantic to the Pacific? In those densely-populated regions millions perish every year from insufficient food or clothing. Give us this road, and we could supply these wants cheaper than any European Power, whilst they produce most of the very articles that we desire in exchange.

So also as to manufactures. Our new farms and increased population would furnish an augmented home market for our manufactures; and of many of these, especially of cotton, we could supply Asia cheaper than the factories of Europe. Besides, we charge no duties upon the teas of China, whilst the burdensome debts and costly Governments of Europe require them to impose heavy duties on this article, and thus give us great advantages in the exchanges with Asia. In agricultural implements and engines we are also now supplying many foreign markets; and when extended intercourse with Asia shall substitute these

for the barbarous and antiquated articles now in use, new and vast markets will be thus opened for our benefit.

Our commerce, both foreign and domestic, would receive a new impulse. Our interstate commerce would reach from the Atlantic to the Pacific; and with Asia especially it would be immensely augmented. Not only would this be the case as regards the exchanges of our own products and manufactures, but America being located between Europe and Asia, with the nearest and quickest route of the world's intercommunication, we would become the store-house and carrier of the world's products and manufactures, command the routes and traffic of the globe, transfer here the control of its exchanges, and realize for ourselves that vast tribute which England now exacts from her almost universal commerce.

To the statesman it must be apparent that from the great commercial changes and advantages which will result from the English and French war with China, as well by our recent treaty with that Power, a new impulse must and will be given to commerce. Shall we not prepare for it, and afford every facility, whereby our enterprising ship-owners and merchants, as well as manufacturers and agriculturists, may be benefited? Can we not easily foreshadow the trade that must necessarily spring up with hitherto exclusive Japan? And who can foretell what commercial enterprise is to be infused among the thousand isles of the Pacific by their intercourse with California, now daily becoming greater and greater? Turn your eyes to the Amoor river, and the boundless tracks which it drains, abounding in mineral wealth, and containing millions of inhabitants, who need and will use our manufactures and breadstuffs, and say, in view of all this, whether the commerce of all those countries should not pass over our own territory; and therefore, for these causes alone, if no others existed, a railroad is of paramount import to us.

Commerce is power and empire. Its conquests are greater, more universal and enduring, than those of arms. It carries with it peace and plenty, instead of death and desolation. It marches over States and nations to supply their wants and receive their products in exchange. Its dominion is peace; its victories are those of labor and industry. National prejudices and prohibitions, dynasties, and despotic institutions crumble before its progress. Give us, as this railroad would, the permanent control of the commerce and exchanges of the world, and in the progress of time and the advance of civilization, we would command the institutions of the world—not like the colonies of Rome, by the sword and vassalage, but by that irresistible moral power which would ultimately carry our institutions with our commerce throughout the sphere we inhabit.

Either England or the United States must in the end control that commerce. It must center in London, Calcutta, and Bombay, or in American cities. It must command the ocean and the land; and we must be secondary to England, or England to America. Now, at this very moment, England is preparing to grasp this commerce by a continuous railroad through Halifax, Quebec, and her territories on our continent, to the Pacific. This is already formally announced in her Parliament by her Cabinet Ministers; and a gigantic company, aided by British credit, British lands and capital, and Government aid, is advancing to snatch from our grasp this greatest of all earthly prizes. She has a practicable route through her American territory from ocean to ocean—a route ten degrees south of some of the Russian railroads, and which she will construct, if we do not immediately perform our duty. The power, credit, and capital of Great Britain herself, and of her American colonies, will be devoted to this great object; for she will not surrender without a struggle that command of the markets of the world which, at present, is the basis of her wealth and power. Let her do this, and she will spread her people, her institutions, and her commerce, from the Atlantic to the Pacific, and we will become a secondary power, if not on our own continent, at least as one of the nations of the earth. Her ships will traverse both oceans, her railroads will unite them, her products and manufactures will pass over them, her institutions will accompany them; and our wealth and power, contrasted with hers, will become comparatively feeble and insignifi-

cant. Great enthusiasm on this subject now pervades not only Great Britain, but also Newfoundland, Nova Scotia, New Brunswick, and the Canadas, and her vast colonial possessions stretching westward to the Pacific. We have not a day or an hour to lose, if we would secure the great prize of universal commerce. Shall we, the great Power on this continent, stretching soon, with continuous States, from ocean to ocean, step back from our destiny, or wait until England shall have secured the monopoly of this commerce for herself? Is this a British Parliament, or is it a Congress of American statesmen and patriots to whom such an appeal shall be made in vain?

Let England snatch from us this prize by a railroad through her American colonies, and for all the purposes of trade, commerce, or intercourse, we will have been recolonized; and succeeding generations will curse our treason to all the great interests of our country, and declare us unworthy to have inherited the legacy of freedom and independence transmitted to us by the patriots of the Revolution. With this road, in war the fleets and armies of England would assail us in vain; but surrender to her that great avenue of the world's commerce over our own continent, and she will have stricken us a deadly blow. Besides the loss to all our great industrial interests, it will cause vast emigration, capital, and labor, to flow from our own country to her colonies, and along this route, to enjoy the advantages of this the greatest enterprise which the energy of man will ever have accomplished. St. John's, Halifax, Quebec, Montreal, Toronto, and her cities upon the Pacific, will snatch from ours the benefits of this great interoceanic communication; and her institutions, which could accomplish such vast results, will be declared superior to our own. It will be triumphantly proclaimed, "Look what monarchy has accomplished for her people and colonies, by building this road, and see how the great and model Republic, with far superior natural advantages, has failed to secure it. Her mistaken economy, her want of statesmen and patriots, her sectional passions and prejudices, have thrown from her the greatest benefits which Providence ever vouchsafed to man. Commerce is indeed king, and royalty is her representative!" This will then be proclaimed throughout all the nations of the earth. Then, when these great calamities shall have come upon us, the records of our votes on this all-important and national question will be scrutinized by the American people, and they will know and mark the men who shall have produced this great and irremediable disaster. Our false economy, saving cents while sacrificing millions, will be universally understood and appreciated. Our local and geographical jealousies, our sectional passions and prejudices, our anti-national and anti-American votes and speeches, by which the East and the West, the North and the South, the Atlantic, the valley of the Mississippi, and the Pacific, have all, all been sacrificed, will rise up in judgment against the opponents of this road, and secure for them an immortality of execration.

Thus much for our agriculture, commerce, and manufactures. Our vessels will lose the carrying trade of the world. Make this railroad within our own territory, and our own vessels, from the increased population upon the Pacific, laden with the heavy products of our own and other nations, will more than quadruple our coasting trade, while our intercourse with Asia would soon probably be more than decupled. Without it, with the comparative decline of our mercantile marine, both in seamen and in vessels, our Navy will fall also into absolute impotence; while that of England, aided by a railroad, will rule the seas and oceans of the world. Our mines, whether of the precious metals, of coal, iron, or of other minerals, and all the industry connected with them, will either decay or cease to progress; and our fisheries will have been struck with a deadly paralysis. A war with the combined Powers of the world will not so completely palsy all our industry and arrest our progress as would the command of the world's commerce by England, secured in the construction of this road through British possessions. When I endeavor through the vista of the future to look at these disastrous results, and then contemplate the wonderful progress that my country would make should she secure now and forever all the great advantages

arising from the construction of this road, I am lost in amazement that it should find a single opponent in an American Congress. Is it in the American Capitol and in an American Congress that we shall strike down such great American interests, and by our votes give such a fatal supremacy to British interests and progress over our own? If there ever was an American question, it is this. If there ever was an enterprise in which the people of our country were united and enthusiastic, it is this. They appreciate and understand this question in all its great and comprehensive consequences. If their irresistible voice could be heard upon this floor, it would silence the petty jealousies of sections, and demand now, without a further delay, that this road should be commenced and prosecuted to its successful completion. The delay even of a year, or of a single session, may be fraught with the most disastrous consequences. If England precedes us in this great work, she may withhold from us large amounts of capital, and embarrass or destroy the prosecution of the road, if hereafter commenced. If we begin now with vigor and energy, hers may never be constructed; or, if it is, it will have been preceded by ours, and the commerce of the world will then have grooved itself into this great channel, stretching from ocean to ocean within our limits.

To the whole country it is the most important question that has ever been considered in the Congress of the United States; but to California, and the other great States arising on the Pacific, it is a question of life or death. By your refusal to build this road you isolate them forever from the rest of the Union. You place them more remote from you, in time and distance, than all of Europe and many portions of the Asiatic continent. You call them States, but you withhold from them all that communion of commerce and intercourse which binds together the other portions of this great Confederacy. You fail to defend them in case of foreign war, and you withhold from them all the advantages of foreign and domestic tranquillity. By your injustice you hold out to them the most fearful temptations to disloyalty and disaffection. You assail the stability of the Union in its most exposed and vital parts. Devoted as that people now are, and ever have been, to this Union, you hold out to them inducements to separation, by isolation and non-intercourse, such as never failed to produce disintegration in any other country, and such as it is unpardonable to present to any portion of the people of this country. On the other hand, proceed at once to the construction of this road, and your mighty empire on the Pacific will be linked to the valley of the Mississippi and the Atlantic by the ever-strengthening and ever-enduring bonds of commerce, of intercourse, and of affection. The great patriots of our country, at three successive periods of danger, by the united voice of the nation, are handed down to immortality as thrice having saved the Union. But if this Congress shall pass a law that will insure the commencement of this great work, in the present and all succeeding ages, and on the page of history, it will be hailed with ever-increasing gratitude as having placed the Union beyond the possibility of danger or disaster.

Mr. MASON. I move that the further consideration of the bill be postponed until to-morrow, with a view to go into executive session.

The motion to postpone was agreed to.

PRINTING OF BILLS.

Mr. SLIDELL. I find, in regard to the special orders to which I referred in a previous part of the day, that there are no copies of the resolutions and bills, now existing, to be distributed among Senators; and I move to take them up, simply for the purpose of having them printed in a consolidated form. They were originally printed distinctly. I move that they be printed together. I move that the joint resolution directing the presentation of a medal to Commodore Hiram Paulding, and the various other cognate resolutions and bills, be taken up together, simply for the purpose of having them printed.

The motion was agreed to.

Mr. SLIDELL. I now move that they be printed.

The motion was agreed to.

Mr. SLIDELL. I move now to take up the

bill (S. No. 104) to prohibit the issue of bank notes by corporations, associations, or individuals, within the District of Columbia, and further to prevent the circulation of bank notes issued by any incorporated company or association of individuals located beyond the limits of the District of Columbia of a less denomination than fifty dollars, with a similar object. The report of the select committee on the District banks embodies a good many facts in detail. I find that there are no copies of it remaining on file, and I move that the bill and the report of the select committee be printed.

The motion was agreed to.

Mr. SLIDELL. I give notice that, as soon as the Pacific railroad bill shall be disposed of, I shall move to proceed to the consideration of those bills.

Mr. DAVIS. I move that the report of the select committee on the Pacific railroad, and the amendments which were submitted to the bill, be also printed for the use of the Senate. Members now are not able to get access to them.

The motion was agreed to.

THE PRESIDENT'S MESSAGE.

The Senate resumed the consideration of the following order, which was submitted by Mr. BIGLER on the 6th instant:

Ordered, That twenty thousand additional copies of the message and accompanying documents be printed for the use of the Senate.

On motion of Mr. BIGLER, it was referred to the Committee on Printing.

EXECUTIVE SESSION.

Several executive messages were received from the President of the United States, by Mr. J. BUCHANAN HENRY, his Secretary.

On motion of Mr. MASON, the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 13, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. H. CHAPMAN.

The Journal of Saturday last was read and approved.

IMPEACHMENT OF JUDGE WATROUS.

The House then resumed the consideration of the resolutions submitted by the two branches of the Committee on the Judiciary; on which Mr. JOHN COCHRANE was entitled to the floor.

Mr. JOHN COCHRANE. Mr. Speaker, I have approached the question of the impeachment of Judge Watrous with a great deal of caution; I have deliberated carefully, I hope, upon the evidence; I have listened, too, with a desire to come to a safe conclusion, to every argument which has been advanced on each side, both for and against him; and I think, sir, that I am duly prepared to announce the full and deliberate convictions of my own mind upon a subject of conceded importance.

An individual occupying a seat upon the bench of one of our Federal courts is arraigned before this House, not for trial, but for accusation. We, as the House of Representatives, under our constitutional obligations, are asked not to acquit or convict, but to say whether the gentleman, concerning whose transactions evidence has been furnished to us, should be put upon a trial, the result of which must be acquittal or conviction.

Now, sir, the position has been taken by the gentleman most nearly concerned, (John C. Watrous,) that there is no allegation specified; no proof upon which a constitutional impeachment can be based; that the crime or misdemeanor of which, if any, he has been guilty, is not within the purview of the Constitution; and, consequently, that this House must drop its proceeding and refuse its resolution of impeachment. For the instruction of the House, and in justice to the judge, I will read from his memorial, supplemental to his answer, what, in that respect, bears on this point. He says, at page 3:

"It would appear, also, that the acts of official malfeasance, for which the special and additional punishment by impeachment exists, are such only as are also punishable by the ordinary laws of the land. To that effect is the express language of the Constitution—treason, bribery, and

other high crimes and misdemeanors." The same conclusion is deducible from the fact that the party convicted on impeachment "shall nevertheless be liable and subject to indictment, trial, and punishment, according to law." Indeed, any other conclusion would involve the assumption, which can by no possibility be admitted, that arbitrary punishment for offenses undefined, may exist in a system of constitutional government like that of the United States."

Sir, I cannot agree to give my assent to this process of reasoning. That it is specious and plausible, is true; but that it is utterly untenable, the House has but to refer for an instant to the language of the Constitution itself:

"The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes or misdemeanors."

Not "and misdemeanors." Now, who will claim that the language of the Constitution is to be limited, cribbed, and confined to a construction depending on the technicalities of a profession, even though that profession be the high and honorable profession of the law? It is to be construed by the high and generous standard of general usage, to be construed by the meaning which men of all professions attach to language. The meaning is not to be imparted to it through legal technicality that confines it to crimes indictable by the statute-book. It is "misdemeanor," in the general sense of language. Misdemeanor is malfeasance, or misfeasance. Misfeasance, malfeasance, and misdemeanor, are nothing more than ill behavior, misconduct. Says Blackstone:

"Crimes and misdemeanors are mere synonymous terms; but in common usage the word crime is made to denote offenses of a deeper and more atrocious dye; while small faults and omissions of less consequence are comprised under the gentler name of misdemeanors."

It is such misdemeanors as to which we are to inquire. It was upon such misdemeanors that the House impeached Judge Peck when the inquiry was whether he had oppressively used the process of his court. It was such misdemeanors into which the House inquired in the case of Judge Pickering, where the misconduct charged related to a ruling from the bench upon points affecting property. And it is as to such misdemeanors that we are to inquire here; not whether Judge Watrous has committed an offense against the statutes of Texas, or the statutes of any other State of the Union, but whether he has offended against the dignity of the people of these United States; whether he has transgressed the grave obligations of the office which he holds; whether he has soiled the purity of the ermine with which he is invested; whether, as a judge clothed with an official character, requiring exemption from suspicion, he is suspected? Sir, that it has been suspected is most true; that there is cause for that suspicion is equally true.

Sir, Judge Watrous has taken another position in his memorial. It is but justice to him and to his friends that that position should be briefly examined. He says:

"The House of Representatives, therefore, it is humbly submitted, is not to content itself with inquiring if there be probable cause of accusation; it is not to proceed *ex parte*; it is to investigate the broad question of guilt or innocence."

I crave from the members of this House their careful attention; for, upon this point, an unaccountable, though perhaps a natural, confusion exists. The general rule prevails that probable cause alone need be shown before a committing tribunal, in order to hold a party for trial; and the position taken by the defense, in this case, that the rule of evidence applicable to it requires that there shall be sufficient strength of testimony to produce upon the mind conviction of actual guilt, is a false position, both as a legal and as a general proposition. It cannot be entertained, it cannot be supported, for an instant.

It has been said that this is not a court of inquiry. Why, sir, what then is it? Is it not our duty to make inquiry concerning these allegations? Is not this House to inform itself in regard to the truth of certain reports—not inquiring whether an accusation has been made, but for facts to determine whether an accusation shall be made? There can be no accusation until this House shall have passed upon these inquiries. When we shall have affirmed the resolution of impeachment, we shall then have preferred an accusation against Judge Watrous, and not until then. He is not now accused. It is true, he is suspected; but, upon that suspicion, he cannot be tried, and for the simple

reason that he has not been accused by the impeaching body.

Sir, this is the position which, in my judgment, we occupy. We are sitting as the grand inquest of the nation; and when the case (should it ever enter within the bars of the Senate) enters there, what would be the greeting that would first reach the ears of the persons there assembled? Why, sir, following all precedent, and in obedience to the usual course of procedure, the Sergeant-at-Arms would proclaim: "All persons are commanded to keep silence upon pain of imprisonment while the grand inquest of the nation is exhibiting to the Senate of the United States articles of impeachment," &c. That is the only proclamation which will be, or can possibly be, made. The Senate will then be engaged in trying an indictment presented by the grand inquest of the nation. A grand inquest, sitting with closed doors, engaged in secret examination? No, sir; but proceeding publicly and openly, according to its voluntary legislative practice, but, nevertheless, the grand inquest of the nation; a grand inquest which, although having heard Judge Watrous in his defense, yet has examined, and is still examining, whether there is cause for a reasonable belief that he is guilty upon the case which has been made. And, sir, this is the distinction between the House as the impeaching power, and the Senate as the trying body. We here, in our impeaching capacity, give to the people, for whom we are inquiring, the benefit of the doubt. We here, as the impeaching power, lean towards the people in our inquiry, if there exists a doubt; they, as the trying body, lean towards the accused, and give to him the benefit of the doubt. Here the doubt is for the benefit of the people; there the doubt is for the benefit of the accused. Such is our position, and gentlemen can make nothing else of it.

Mr. Speaker, in 1850, on a summer morning of that year, Judge Watrous rose in Galveston a poor and needy man. He rose in the dignity of a judge. His poverty was no impeachment; indeed it was the jewel of his judicial crown. Shortly after, Judge Watrous became interested in a speculation of sixty thousand acres of land in Texas, on the Brazos river, opposite Waco, stated in these proceedings to be a certain eleven-league grant or tract. Afterwards the title of this tract of land was contested. Suits were accordingly instituted in the court over which Judge Watrous presided. They were transferred from that tribunal to a tribunal in Louisiana. A decision was had, and on a morning in the fall of a subsequent year, Judge Watrous arose an affluent man. Poor at one time, rich at another, how was it that this change was made? For whose benefit, if not for the benefit of the beneficiary, the great donee of this transaction? I do not mean to say that Judge Watrous could not lawfully engage in that speculation; I do not mean to say that it was impossible that his office could have been used, and he not have been innocent; but I do say, he having thus engaged in the speculation, and having profited by the use of his official position, it is for him to satisfy this House that he did not intend that it should be thus used. I do not mean to say that equal success would not have attended his efforts in any other court; but I do mean to say that this House is to pronounce that Judge Watrous, who, through the instrumentality of his official position, was invested with wealth, is bound to show that he did not intend that the natural consequences of his own act should flow therefrom.

Now, if I say no more, the case is complete against the judge. If I say no more, gentlemen must unite with me in declaring that he is to be held accountable for the natural consequences of his acts, as men are ordinarily held accountable for the natural consequences of their acts. Until, therefore, he shall introduce evidence which goes to show that he had no knowledge, no unlawful intention, evidence that there was no *scienter* imputable to him, Judge Watrous must be held guilty, guilty, guilty, even under impeachment.

Now, sir, I have a damning tale to read against Judge Watrous, from the evidence submitted to us. I seek the aid of no commentary; I invoke no argument; I but ask gentlemen to give the language of the evidence its effect, and to pronounce accordingly. The interview which was had between these parties, in the first instance,

respecting this tract, is thus narrated at page 32, by Judge Watrous himself; and I wish the House to observe how diametrically the judge differs from his colleague, Thomas M. League, and I will show the House how important is this difference, and how it bears in proof of his guilt. He says:

"Mr. League came into my office and told me that he had an opportunity to make a speculation; that he had purchased a tract of land upon the Brazos river, but he feared that he would not be able to pay for it. I told him that I had friends in Alabama who would furnish the money necessary, if they could be induced to think the prospect good for realizing a profit. He told me of the tract of land, the La Vega tract, nearly opposite Waco, upon the Brazos. I asked him about the title. He told me that it had been pronounced good by Judge Hughes. I was willing to trust to Judge Hughes's opinion. It was agreed upon between Mr. League and myself that we would write to Alabama and endeavor to engage my friends in the enterprise. There was then pending in the supreme court of the State a case of exactly such a title, in which I was interested by a contract made before I entered upon the bench. I stated to Mr. League my entire confidence of success, and my expectation that the decision of that case would end all further controversy about that class of claims. That if we should be compelled to sue, we should have that case for a decisive antecedent, and should be in no danger of loss. Mr. League and three gentlemen from Alabama went up and examined the land and determined to purchase it. Mr. League stated to me that he believed there would be no litigation about the purchase."

At page 200 occurs the narrative of Thomas M. League, concerning this transaction. In answer to a question propounded, he says:

"I was in the room speaking of the matter, and I said, further, that I was afraid that I could not possibly raise the money. Judge Watrous said, 'What is that you say?' I think I was speaking to Mr. Shearer at the time. I recapitulated what I had said. He said then, 'Ned, I think those men in Alabama would go into that; your brother talked about making some purchase.' From that one thing led to another. I cannot exactly relate all that was said. I did not have an idea that I would be called to repeat it; that was the substance of it. I talked more with Mr. Shearer than with Judge Watrous. Mr. Shearer was induced to write to his brother-in-law, Mr. Price. Mr. Price was married to Mr. Shearer's sister."

On page 228 there is a repetition of the same thing.

On page 226 there is another repetition, and in these words:

"Question. Who communicated with the parties in Alabama."

"Answer. Mr. Shearer."

"Question. Did you know any of these parties?"

"Answer. I never knew them."

"Question. From whom did you receive the information which induced you to apply to them?"

"Answer. From Mr. Shearer."

"Question. When did you first know Mr. Shearer?"

"Answer. I knew him first some time in the early part of that year. Mr. Shearer had just come from Alabama; I do not know exactly what time he came. My acquaintance with Mr. Shearer was not of a long standing."

On page 210 is found a reiteration of the fact, as follows:

"Question. How did Mr. Frow and his friend get to Texas; who corresponded to that end?"

"Answer. Mr. Shearer."

"Question. Was Mr. Shearer an acquaintance of these gentlemen?"

"Answer. Mr. Price married Mr. Shearer's sister."

"Question. And that is the way that was brought about?"

"Answer. Yes, sir."

Mr. Speaker, if Thomas M. League is to be believed, the consideration upon which Judge Watrous avers that he was admitted to an equal one fourth share of that land fails, because Judge Watrous did not introduce Thomas M. League to the parties in Alabama; it was Mr. Shearer who introduced those parties to Mr. League, and Mr. League to those parties. Then, as you proceed further in the case, you will find evidence to this effect: that in consequence of this introduction by Mr. Shearer, the parties from Alabama, Frow and Price, came on to Texas, and examined the land, and purchased it.

The evidence to this effect is to be found at the pages to which I will now call the attention of the House. At page 200 the question occurs:

"Question. Whom do you mean by them?"

"Answer. I sold the land to Lapsley, Mr. Pluttenburg, and Mr. Frow. Mr. Frow and Mr. Price are the men who made the contract in the name of Lapsley."

At page 202 is to be found this evidence:

"Answer. Mr. Frow and Mr. Price had consulted with Judge Hughes in regard to the title, while they were in Texas. They had reported to Mr. Lapsley."

At page 203 this evidence occurs, in corroboration of the fact stated:

"Question. Come back to Alabama. What was said about the title there? You say that Mr. Frow and his friends had talked about the title in Texas?"

"Answer. Yes, sir."

"Question. How do you know?"

"Answer. Because I was present in the room at the time."

"Question. Did you know the particular frame of the title, or did they have an opinion?"

"Answer. The title deeds were before them—all except the power of attorney."

At page 204 occurs this evidence:

"Answer. Judge Hughes examined the title, examined everything connected with it. There was \$500 to be paid to Judge Hughes. I made this arrangement. It was so understood. I made the arrangement with Messrs. Price and Frow, in Texas."

At page 205 is found this fact:

"Question. That is what I want to get at. Why you should give a lawyer \$500 as a retaining fee when there were no suits?"

"Answer. I do not know what Mr. Frow or Mr. Price gave."

"Question. That was their arrangement, not yours?"

"Answer. Yes."

So you will observe, sir, that in response to the letter written by Mr. Shearer to his friends in Alabama, Frow and Price came on to Texas, examined the lands, examined the title, and ordered suits to be brought against those who claimed under adverse titles. Now, has this House ever known a party not interested in the land to order suits to be brought concerning its title, to retain counsel, to pay retaining fees? No, sir; no. The evidence is explicit that this property was examined, that the title was examined, and that the land was purchased by Frow and Price, in Texas. Do we hear of any interest in Judge Watrous at that time? If the consideration averred by him to have been given was a true one, it existed at that time—that being the service he is alleged to have rendered in introducing these parties to each other. Yet he was then, at that very time, excluded from all interest. The parties in Alabama and Thomas M. League were the only persons, up to that time, who were known in the contract or in the title to the land. Thus far in his testimony has Thomas M. League stated explicitly to this effect; yet when, at another stage of his examination, he discovers the fault that he has committed—the trap in which his evidence has placed his friend, Watrous—he changes his position and gives another version of the affair.

At page 211 this passage of evidence occurs:

"Question. What was done then?"

"Answer. There was an article drawn up, which was signed, showing that Judge Watrous was to hold one fourth interest, Thomas M. League one fourth interest, and the Alabama party the other half interest."

"Question. That was on the spot?"

"Answer. Yes, sir."

"Question. Had that been agreed on previously between yourself and Judge Watrous?"

"Answer. Yes, sir; that Judge Watrous should hold one fourth interest and myself one fourth."

"Question. I mean, before Mr. Lapsley made this advance of money to the common account. Before you gave the deed to Mr. Lapsley, was there an understanding between yourself and Judge Watrous that he should be interested with you in the purchase?"

"Answer. Yes, sir."

"Question. Did you not say that there was no arrangement made with Judge Watrous until after you had completed the matter in Alabama?"

"Answer. I meant this—"

See, now, how this swift witness turns upon his conscience and swallows the language he has but just uttered.

"Answer. I meant this—that the matter was not finally completed until after I went to Alabama. I made a conditional sale with Mr. Price and Mr. Frow, in Galveston. What I alluded to was, that there was nothing final with Judge Watrous until after I made that sale with Mr. Frow and Mr. Price, in Texas."

"Question. Then, Judge Watrous was to be interested with you?"

"Answer. Yes, sir."

"Question. Up to that time, had Judge Watrous and you never talked about this title?"

"Answer. Never, sir. I was cautious of what I said to him."

Very well; very well; Thomas M. League—we will take you at your word; and now, in the light of your latest declaration, I will inquire what was the true consideration for the one quarter interest of Judge Watrous in this land? It was not that he introduced the parties; Mr. Shearer had done that. If not that, what could it have been? He did not participate at all in this contract during the time that Price and Frow were in Texas. The veritable League states here that no arrangement was made with Judge Watrous until after Frow and Price had left Texas. Then, how happens it that Judge Watrous, on the bench of the supreme court, should leave the trial of his causes, neglect his docket, divest himself of his judicial robes, and pay, in the month of July, a visit to

Selma? Was it because of his personal interest in Thomas M. League—that speculator who was oscillating over the earth's curvature between Baltimore and Brazos, scheming iniquity and practicing wrongs? Was it the whom Judge Watrous was endeavoring to serve? Oh, no. Judge Watrous himself, doubtless, had an interest in the land when he embarked on that journey. The reason of his embarkation appears to have been this: It was known to him, it was known to that swift witness, Thomas M. League, that there was an obstacle opposing the establishment of this title. That obstacle was the prejudices of the people of Texas. It was known that if the case, involving this title, was tried before a Texan jury, it would be irrevocably lost. The astute judge and the acute speculator laid their heads together and confidingly consulted. League said to Watrous: "My half shall be shared with you, Judge Watrous, provided you, the only man on earth who has the power of accomplishing the object, will lend your official position to effect the transfer of the suits, involving the title to this land, from the people of Texas to the people of the State of Louisiana;" and it was thus, that after the sale of one half to Frow and Price by Thomas M. League, and their departure to Texas, the serious thought occurred to Thomas M. League to call to his assistance his friend Judge Watrous, and the one half of the land in the possession of Thomas M. League he thought to divide with him, not in consideration of the introduction of the parties from Alabama, but of the avoidance of the prejudice of a Texan jury—that lion in his path. What proportion is there between the service of an introduction to capitalists in Alabama and \$75,000, the worth of one quarter of the land for which it is alleged to have been given? If there is, why was not Shearer introduced to a quarter share? Shearer might well have exclaimed of Judge Watrous, as did the Hotspur of the North of the silver Trent:

"See, how this river comes me cranking in,
And cuts me from the best of all my land,
A huge half moon, and monstrous candle out."

Was it that there was no capital in Texas? Why, sir, the evidence of this man, League, itself discloses to us that there not only was capital in Texas, but that he (League) was the possessor of that capital. Let us see how this is: On page 204 appears this evidence from League himself, in contradiction of the allegation that there was difficulty in finding capital in Texas:

"Question. Did you get the deed at that time?"

"Answer. I did; from Mrs. St. John and Jacob Cordover."

"Question. You paid the money?"

"Answer. No, sir; my obligation was held as security for the money."

"Question. You had the title?"

"Answer. Yes, sir; but he held my obligation as security for that amount of money."

"Question. Was that obligation secured upon the land?"

"Answer. No, sir; it was upon other securities."

"Question. You had the same title paper from which he drew this deed?"

"Answer. The deed from Mrs. St. John to me, that was it, and from that deed he drew the other one."

He discloses here that he had furnished security satisfactory to his grantor that he would be able to pay the purchase money, and that if his personal ability was not sufficient, these securities would be amply so. Why then seek Selma? Why find capital in Alabama, when there was capital in Texas? Because, sir, it was necessary to institute suits in the Federal courts. The suits instituted, why then introduce Judge Watrous? Because the suits commenced in the Federal courts; no man on earth could create a reason for their removal to Louisiana, except Judge Watrous, and he only by becoming interested in the land. There is the whole circle of the case, disclosing not only the fact that Judge Watrous profited by reason of the decision of the court in Louisiana, to which court this suit was transferred, by reason of his official position, but disclosing also that he intended precisely these consequences to flow from precisely these acts. Did he not know that those suits were to be instituted in Texas, in his own court? Why, look at the evidence. It is full and explicit on that point. On pages 125 and 126 is to be found, occurring in a letter dated Selma, Alabama, November 8, 1851, signed "John W. Lapsley," and directed to Robert Hughes, the counsel of the speculating company, this clause, to which I wish now to direct the attention of the House:

"I was induced to believe, by Mr. League, and probably

one or two other gentlemen who were interested in the lands, that owing to the prejudice which exists in Texas against the eleven-league grants, it would be best to try the case at New Orleans; and I had supposed, indeed, that you were of the same opinion; but in this it seems I was mistaken."

Mistaken in that he thought that it was the opinion of Hughes—not mistaken in the fact that others concerned with him thought that that was the course which should be pursued.

"Of course, I must defer to your judgment, though I considered the suggestions of Mr. League and others, that it would be safer, on account of the prejudice which is thought might operate on the juries of Texas, to try the case in New Orleans."

Again, this clause occurs in a letter from Mr. Lapsley—the same party—to Mr. League, dated Selma, Alabama, December 30, 1851:

"These considerations"—

Speaking of the same fact—the prejudices existing on the minds of the people of Texas against these titles—

—"induced me to suppose (and so I thought we all agreed at the time of the purchase) that it would be better to have the case tried in New Orleans than anywhere in Texas."

Now, I call upon the House to listen to a portion of the evidence which fixes distinctly upon Judge Watrous the knowledge that, at the time the arrangement was made in Selma, these suits were to take this course, and, through his instrumentality, were to be removed to the tribunals of Louisiana. The venue is laid in Selma; the place in Selma, Frow's room:

"Question. (by Mr. BILLINGERST.) Was Judge Watrous present at these negotiations in Selma, in July, 1850, and when you were examining the title?"

"Answer. He was in the room."

"Question. Did he take part in the negotiations?"

"Answer. The matter was discussed among us generally, while he was there; and it was understood that if we purchased, we of Alabama were to advance all the money."

I have shown him in the room by the testimony of John W. Lapsley. Now, by the testimony of the same Lapsley, let us see what occurred in the room while he was there:

"Question. (by Mr. CHAPMAN.) Was it mentioned in the course of the consultation at Selma where the suits should be brought?"

"Answer. I think that thing was spoken of between myself and my friends. I have no particular recollection, but I presume it was spoken of. It was a matter which I supposed was understood."

"Question. Was it understood that the suits should be brought in the United States court at that time?"

"Answer. Yes; and the first information that I got of the contrary desire or intention was from Judge Hughes, stating that he preferred to have the cases tried in Texas. I do not recollect anything definite on that subject further than that the matter was talked over. My own opinion was very decidedly made up."

"Question. Why did you prefer that the suits should be brought in the United States courts?"

"Answer. I preferred it for the reasons stated in my letter to League, because I had understood that there was some prejudice prevailing in Texas against titles of this kind, and I was afraid to risk it before a local jury."

"Question. Did you expect at the time that the suits would be brought in the United States court and tried there, or did you expect that they would be certified for trial at New Orleans?"

"Answer. I expected that if Judge Watrous remained on the bench they would certainly not be tried there, but would be transferred to New Orleans. I understood that was the nearest court, and I expected it to be transferred there if Judge Watrous remained on the bench."

"Question. Was there any doubt about his remaining on the bench?"

"Answer. None that I knew of; but I did not know but death or some casualty would remove him from the bench."

The judge was sure to his friends while life remained; but his friends doubted whether he might not die beneath the obligations which he had assumed, and make no sign:

"I never contemplated having the case tried in Texas if Judge Watrous remained on the bench. That was certainly never contemplated by me or any of my associates, as far as I have reason to believe."

Is more evidence still wanting? Do you want Judge Watrous to come before you and declare that the reason charged is the reason why he was introduced into this contract? Why, though one should come from the dead, if you would not believe this, neither would you believe him. But what says Love?

"He (Judge Watrous) came into my office at the time the writs were being issued, I think; and he said, in substance, 'This is one of my cases; I am interested in this case. You will lose your fees, because they will have to go elsewhere to be tried.'"

Again:

"Question. And he told you at that time you would lose your fees?"

"Answer. He said that that case would go to Louisiana, and I would lose my fees."

"Question. Did he tell you you would lose your fees for services rendered before the cases went to Louisiana?"

"Answer. Of course not."

"Question. He merely meant, then, that after the cases were transferred you would lose your fees?"

"Answer. Yes, sir."

"Question. You state that Judge Watrous said to you: 'this is one of my cases, and you will lose your fees.' I want to know what fees the judge referred to in that remark?"

"Answer. The main fees in a cause are making up the record after the trial. The clerk gets so much per page for making up the record. The beginning of a case is so much for issuing the writ; and the fees after that until the trial are very trifling."

"Question. Did not the judge's remark relate to all the fees in the case?"

"Answer. I cannot say that, because I suppose it hardly related to fees for services which I had never performed; but related only to services which I did perform."

"Question. What was his language?"

"Answer. He said this is one of the cases that will go to Louisiana, and you will never get your fees."

"Question. Did you assent to that?"

"Answer. I could neither assent to it nor dissent from it, for I knew that he was interested and could not try the case."

And does the House suppose that when Judge Watrous went to Selma, Alabama, and had there taken his one quarter interest in the land, he thought that he could try the case? No, you answer; he must have thought that he could not try the case; and he must have thought, too, as you cannot but infer, that he was taken into the speculation in consideration that, through his official instrumentality, the title should never be presented to a jury of Texas, where prejudice, it was feared, would prevail against it, and in order that it might be tried in Louisiana where there was no such prejudice existing; and when you shall have thus concluded, you will unquestionably pronounce the probabilities to be that Thomas M. League proposed these arrangements for a transfer of the suit with special reference to the obstacles in the form of prejudices known to exist in the minds of Texan juries against this title.

With these facts before me, were this case on trial before me as a petit juror, and no other evidence introduced, I would, with my hand on my heart, answer "guilty, beyond a doubt, of the charge preferred."

Sir, we have heard a voice from Texas. Its resolution is before us upon our tables, speaking in tones which never should have been disregarded, in language which should have pricked the conscience of John C. Watrous. He was asked by the representative wisdom of the State to resign. Ten years have elapsed, and there in judgment still he sits. There he sits? No, sir; here he comes, resisting suspicion, regardless of request, and repelling investigation, when another would have invited the closest scrutiny, and have courted the inquiry of an impeachment. To the people of Texas, therefore, are we this day amenable. We are called upon to quiet the agitation of that people; to suppress rumors; to remove reports whether this man be innocent or guilty; to assert his innocence or proclaim his guilt. And further, sir, the people of this Union are looking with interest upon the scene enacting here to-day. They have religiously fostered the noble institution transmitted to them by their fathers—the judiciary of the Constitution; they, as has ever been their wont, when turning their eyes to the Supreme Court, would like still to look upon the robed judge and fancy that in his purity the better days of Rome were revived in those of a greater than the Roman Republic. This people here to-day claim that we shall inquire into the conduct of this delinquent officer, and that we shall present him to be tried upon the oaths and honors of the Senators upon whom devolves that duty by the Constitution of the land. Sir, we owe it to Judge Watrous himself, we owe it to those his friends who surround him. Mistaken friends, misguided man, if you suppose that official misdemeanor or suspicion of judicial misconduct is to be removed by a successful resistance of impeachment. It is only by seeking an inspection of the case, by courting attention, by challenging inquiry, nay, by besieging the very Senate doors and demanding to have applied "judgment to the line and righteousness to the plummet," that the imputation of guilt can be rebuked, or the fruits of innocence be triumphantly enjoyed. Sir, I would empower our committee to proceed to the Senate Chamber, in vested with the dignity of the grand inquest of the nation, and with their faces before them, to exhibit arti-

cles of impeachment against John C. Watrous, a judge of the court of the United States, for high crimes and misdemeanors; and would empower them with a Roman firmness to require, in the name of the people of the United States, and for their good, that Roman justice be done.

BRITISH VISITATION.

Mr. TAYLOR, of Louisiana, obtained the floor; but yielded to

Mr. CLAY, who asked the consent of the House to offer the following resolution:

Resolved, That the President of the United States be requested, if not inconsistent with the public interest, to communicate to this House all information in his possession, or which may hereafter shortly come into his possession respecting reported recent acts of visitation by officers of the British navy, of American vessels, in the waters of the Gulf of Mexico.

Mr. MORGAN. I object.

Mr. CLAY moved to suspend the rules.

The rules were suspended; two thirds having voted therefor.

The resolution was then received and adopted.

Mr. CLAY moved to reconsider to vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. TAYLOR, of Louisiana, resumed the floor.

Mr. ADRAIN. Before the gentleman proceeds, I desire to state that I believe I rose before he did, although the Speaker recognized the gentleman from Louisiana first, as the Speaker had a right to do. I am satisfied that I had the floor; but as the gentleman from Louisiana is a member of the committee, he is, according to usage and practice, perhaps entitled to the floor.

The SPEAKER. In reply to the remark of the gentleman from New Jersey, the Chair begs leave to state that he did not see the gentleman from New Jersey upon the floor at all.

Mr. ADRAIN. All I have to say is, that it is very singular. I do not wish to dispute with the Speaker, but I stood directly behind the gentleman from Louisiana and addressed the Chair, while the gentleman from Louisiana did not speak at all.

The SPEAKER. If the gentleman stood directly behind the gentleman from Louisiana, the Chair would suggest that that is perhaps a good reason why he did not see the gentleman.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President by J. B. HENRY, his Private Secretary; which was laid upon the Speaker's table.

IMPEACHMENT OF JUDGE WATROUS--AGAIN.

Mr. TAYLOR, of Louisiana. My position upon the Judiciary Committee, and the fact that, as a member of that committee, I joined in a report recommending the impeachment of Judge Watrous, would seem to make it necessary for me to take a part in this discussion. But, if it had been otherwise, I should have felt it my duty to seek the floor for the purpose of giving expression to my views in regard to the great question involved in the resolution now before us. That resolution proposes to impeach a judicial functionary of the United States for high crimes and misdemeanors in office. The position of the case, however, is a singular one. We find that there is strong and decided opposition made to the resolution, and that that opposition is based upon positions which, according to my notions, are in violation of the principles of the Constitution; are opposed to the practice of this Government from its very foundation; and, if maintained, would in the end be subversive of the administration of justice.

It is proposed by a portion of the committee that John C. Watrous, of the State of Texas, should be impeached for high crimes and misdemeanors. That recommendation is based upon facts elicited upon an inquiry had before that committee upon two memorials. One of those memorials was presented by Jacob Mussina, a citizen of the State of Louisiana. The other was presented by Eliphas Spencer, a citizen of the State of Texas. It is not now my purpose to engage in an argument of, or even to give a recital of, the facts which were elicited upon that investigation. I shall not engage in any argument in respect to controverted positions on the evidence, but shall simply content myself by a reference to certain facts which stand uncontroverted and are

incontrovertible, and afterwards attempt to show that upon those facts as presented to this House, it is our duty to the country, that it is our duty to ourselves, to accuse John C. Watrous of high crimes and misdemeanors, and call upon the Senate of the United States, the great constitutional tribunal, clothed with the exclusive authority to condemn or absolve him on that accusation, to put him on trial at their bar.

I will refer first to the facts which are established in relation to the memorial of Jacob Mussina. In that memorial it is set forth that the conduct of Judge Watrous in a certain chancery case pending in the district court of the United States, within the State of Texas, was unworthy of a judge, and was calculated to injure a citizen, to deprive him improperly of his rights, and to disturb the administration of justice. Upon an examination of the record of that case, it will be found that that bill in chancery was brought originally in the names of a number of parties, who claimed to be the owners of a certain tract of land under a grant; and in the bill, as presented to that court, they asserted themselves to be, as beyond all doubt they were, citizens of Mexico; they asserted themselves to be aliens. In the progress of that cause, the right of the counsel who instituted the action to represent all those parties, was controverted. The fact was put in issue; it was submitted to the judge; and the judge, by an order passed, recognized the fact that the counsel who had filed the bill was not employed by five out of the seven or eight parties. The judge then ordered those parties' names to be stricken from the bill as parties complainants; but going beyond the limits of ordinary proceedings, in the same order it was suggested, and directed, that the counsel should have leave to make those persons whose names had been stricken from the bill as plaintiffs, parties defendants, upon making the allegation in the answer, that they were citizens of the State of Texas. As citizens of Mexico, they could not have been joined in a suit as parties defendants, because that would have ousted the court of jurisdiction, and the court would have been absolutely without any jurisdiction and without power to try the cause. The judge knowing that fact—for it is to be presumed that judges know something—knowing the fact that these parties were citizens of Mexico, directed the counsel to make an assertion of a falsehood upon the record, in order that the court might have authority to proceed.

Now, sir, upon examining that bill, it will be found that not only was the district court of Texas sitting as a court of equity, without jurisdiction, because of the character of the parties before it, but it will be found also that it was utterly without jurisdiction in respect to the nature of the litigation. The matter presented for the decision of the court was a mere question of title. That is a question which pertains to a court of common law. By a statute of the United States, a court exercising jurisdiction by the Constitution is prohibited from exercising chancery powers in relation to any matters in reference to which there was an adequate remedy by an action at law.

But it has been said that jurisdiction was given to the court because of the nature of the contest. It is said that this was an instance in which the parties complainant sought the exercise of the equity powers of the court to obtain peace. Sir, there is not one feature in this bill which could give a court of chancery jurisdiction; and I will call on any lawyer within the limits of the House, or within the limits of the nation, to show me one single case in which a court of chancery ever maintained jurisdiction in an action of this nature. The bill declares it is for the purpose of a recovery on the title. It expressly declares that it is not for the purpose of obtaining a partition; for it is the intention of the parties to make an amicable partition, and they wish the question of title settled in order that they may be able to make that amicable partition. It is not a bill of peace; because, Mr. Speaker, there had never been any suit in regard to that title. There is not an instance within equity jurisprudence in which there ever has been a bill of peace entertained by a court of chancery when there had not been a long series of litigation with respect to the title of property in contest in courts of law. Under the system of practice adopted in countries where the common law prevails, the ordinary mode of trying title to

property is by actions of ejectment. But the action of ejectment is, in its nature, a mere possessory action. It decides nothing but the simple question as to the right of possession at that time. In consequence of this, under the principles of common law, parties who conceive that they have a better right to a piece of property may at any time begin, again and again and again, actions in ejectment founded on the same titles.

In most, if not all, of the States composing the United States, there has been legislation on this subject for the purpose of preventing the evils growing out of protracted litigation in this way. In many of the States, it is by statute declared that after a certain number of verdicts, the question of title shall be considered conclusively settled. But, I repeat, there is not an instance in the whole circle of equity jurisprudence in which there was ever a bill entertained by a court of chancery to quiet a title—to give peace until after there had been previous litigation in regard to that title in a court of law.

These are the particular points to which I wish to direct the attention of the House, with respect to the case presented by the memorial of Jacob Mussina. I will now refer to the case presented by the memorial of Eliphas Spencer. I will not attempt an investigation of the facts involved in that case. That has been gone into at length by a number of gentlemen, and many of the most important facts have been referred to, in a manner calculated to arrest the attention of the House, by the gentleman who has just closed his remarks, [Mr. JOHN COCHRANE.] I shall, however, refer to two or three facts that are presented by the evidence, and which cannot be disputed or disproved. It is shown that the tract of land spoken of by the honorable gentleman from New York—the eleven leagues of land—was purchased by parties in Alabama, and by parties in Texas, of whom Judge Watrous was one. It is true it was sought in the course of the investigation before the committee, by the testimony of Judge Hughes and of other witnesses, to show that at the time the purchase was made, Judge Watrous desired that the litigation which was to follow upon the purchase should be instituted and carried on in the State courts, and that he, Judge Watrous, had no agency or connection, nor was he to have any agency or connection with the management or direction of that litigation; that he had no agency as to the choice of the courts in which the suits were to be instituted; that he had no agency or connection with the management and progress of the case; and that he could not, by any possibility, have had any; because the legal title was in Lapsley. This is stated, in so many words, by Judge Hughes, who was examined before the committee. It is stated in so many words by Thomas M. League, who was also examined before the committee.

That record, however, contains evidence which shows that these gentlemen were mistaken, and that what they asserted was not true in point of fact. This evidence does not depend upon treacherous or perverted memories. It is written evidence, contemporaneous with the transaction; written evidence furnished by the parties, and which preceded the institution of these suits, directed where they should be instituted, and prescribing under whose direction they should be prosecuted. Mr. Lapsley, in his letter to Judge Hughes, of the 31st of October, 1850, states that it was the determination of the parties that the suits necessary to be instituted for the recovery of this land should be brought in the Federal court of the State of Texas. In the latter part of this letter he states that he had sent a certain portion of the papers, but that there are other portions of the papers in reference to this case which would be forwarded to him at a subsequent day, through Mr. League or Judge Watrous; showing that at that time Mr. League and Judge Watrous were with Mr. Lapsley. In a letter dated the 2d of November, only two days after the writing of that letter of instructions to Hughes, directing the institutions of the suits, Mr. Lapsley writes another letter, in which he refers to the fact that suits are to be brought in the Federal court; and he then specifically instructs Mr. Hughes to be guided in respect to the management and direction of the cases to be brought—by whom? By Judge Watrous and Mr. League, who were parties interested with him.

In his testimony Mr. Lapsley declared that he never gave any other instructions to Judge Hughes, in regard to the place of instituting these suits or the mode of conducting them, than were contained in these letters. Now, Mr. Speaker, as was well shown by my friend from New York, the design of these parties was to bring these suits in the Federal court of Texas, in order that they might be removed to the State of Louisiana. The honorable gentleman from the State of Maryland, [Mr. Davis,] in referring to the case, on Saturday, stated that it was clear to his mind that that was the intention of Thomas M. League. He admitted that that intention was an improper one, and he said in so many words, that if that design could be brought home to Judge Watrous, he would then be prepared to impeach him. I will say to that gentleman that the facts in this case show that Thomas M. League and John C. Watrous are shown to have been partners in a common undertaking; that they were partners engaged in the prosecution of a common design; that they were partners who wished to derive, and who have derived, a common benefit from the same transaction.

Under these circumstances, under the principles of the criminal law, instead of its being necessary to do what the gentleman from Maryland suggested was requisite in order to satisfy his mind—to prove that Judge Watrous was actuated by the same intention which influenced League—it would be necessary for Judge Watrous, in order to exonerate himself from such a charge, to prove the contrary. The legal presumption is, the necessary presumption is, that these men, being parties in a common transaction, having a common interest, professing a common advantage, the necessary presumption, I say, is, that they acted with a common design, with a common intent, and that they have, therefore, a common guilt.

Now, Mr. Speaker, I shall address myself to what I conceive to be the great questions involved in the inquiry now before us. The passage of the resolution authorizing the impeachment of Judge Watrous is resisted upon two or three grounds. And, first, I will refer to the case arising under the memorial of Jacob Mussina. It is said that the ruling of the judge, when taking jurisdiction of a case of which the court had not rightful jurisdiction, was an error of judgment; and that a judge, for such a ruling, is not amenable to this House, and cannot be subjected to an impeachment. Mr. Speaker, I think that that position is incorrect. I think that it is one which is disproved by the past practice of this House, and by the past action of the Senate, sitting as a high court of impeachment. Gentlemen say that a judge cannot be impeached and cannot be removed from office unless he has been guilty of corruption, or has done some act which involves the acquisition of an unrighteous gain to himself. I deny the correctness of that proposition. The contrary is shown by the practice of this Government from its very foundation. There have been, Mr. Speaker, but three impeachments of judges since we became a nation; and, to the honor of the American judiciary be it stated, not one of those impeachments has been based upon the ground of corruption in office.

There was the case of Judge Chase. This House determined, after a solemn investigation, that his conduct was a proper subject for impeachment before the Senate. Was he charged with corruption? No, sir; the charges amounted to nothing more than this, that he had allowed his partisan feelings to become enlisted until his political rancor had induced him to bear down oppressively upon a person brought before his tribunal upon a criminal accusation. In that case it was the sense of this House, as it was afterwards the sense of the Senate, that such conduct was unworthy of a judge; that it was of such a character as to give foundation for an impeachment, and that, if the allegations were established, it would justify his removal from the bench.

Another case was that of Judge Peck. Was that a case in which he was accused of corrupt practices, with proposing to obtain wealth, money, pecuniary advantage? Not at all, sir. It was a case in which he was charged with having, under the influence of partiality, proceeding from no matter what source, used his power arbitrarily to oppress a member of the bar in the conduct of a cause depending before his court. And what was

the decision of the House of Representatives, sitting at that day, upon that charge? It was, sir, that when a judge, under the influence of personal feeling, showed partiality in such a manner as to operate injuriously upon the interest of a lawyer or his client, it was an impeachable matter; and if proved to the satisfaction of the Senate, would authorize his removal from the bench.

There was yet another case, the case of Judge Pickering. Was he charged with corruption? No, sir; he was charged with an error of judgment; he was charged with an improper ruling. It was not pretended that he proposed any pecuniary advantage to himself. But whether it grew out of favor towards one party or opposition to another party, he was charged with having decided incorrectly and improperly under the influence of improper motives. This House considered in that case that an improper ruling was a proper subject of impeachment where it was of a gross and palpable character—that it was proper that the judge should be impeached and the matter presented to the constitutional tribunal in order that if it was then found upon examination that the interests of public justice required it, he might be removed. And in that instance and upon that charge the Senate of the United States decided that he ought to be removed, and he was removed by the decision of that august tribunal.

Mr. WRIGHT, of Tennessee. I desire to ask the gentleman from Louisiana, while he is upon that part of the subject, whether he understands from the ruling in the case referred to, that a simple error of judgment, without corrupt intention, would be a good ground of impeachment?

Mr. TAYLOR, of Louisiana. No, sir; a mere error of judgment would not authorize an impeachment; but where a judge makes a ruling which is in itself grossly and palpably wrong, it is the right, and I believe it to be the duty of the House, when it is brought to its notice, and it is of a character to affect the rights of litigants or to wrest aside or pervert the course of justice, to present the fact to the Senate by impeachment of the judge, in order that all the circumstances connected with the improper ruling may be investigated, with a view to ascertain what were the true causes which produced it. If, upon investigation, it were clear that it was the result of a mere error of judgment, that there was no intention to oppress, no intention to wrest aside the course of justice, it would necessarily be the duty of the Senate to absolve him. But if, on the other hand, it should be found that the improper rulings were the result of a desire to benefit one party, or to oppress another; that the mind of the judge had been influenced by hatred or affection, by feelings of partiality or dislike, or, in a word, by any motive which was inconsistent with the faithful and honest discharge of the judicial function, without regard to the character, position, or relations of the parties, then to my mind it is clear that the judge should be condemned and removed from office. The Senate is the only tribunal authorized to absolve or condemn in such a case; and when there is reasonable ground to apprehend that a grossly incorrect ruling of the character spoken of has been made by a judge, it is my deliberate opinion that the public interest requires that he should be impeached.

Mr. Speaker, I will proceed to the other branch of the case—that presented in the memorial of Eliphas Spencer. In that case, it is shown that Judge Watrous entered into an arrangement with other parties for the purchase of a large tract of land; that in consequence of his being a party to that purchase, the suits which could have been rightfully tried in the district court of the United States for Texas were necessarily removed to Louisiana; and that it was the intention of the parties, in making the arrangement, that the suit should be brought in Judge Watrous's court, and then removed to the State of Louisiana. And what was the effect of this proceeding? It was to compel citizens of the State of Texas, who were entitled under the Constitution and laws of the United States to have their causes tried within the State of Texas, to have them adjudicated by a tribunal within the territorial limits of the State of which they were citizens; it was, I say, to compel them to go into another State to follow the suits brought against them, to impose on them the burden of going to another jurisdiction; it imposed upon them the necessity of going to a court

held at a distance of some five or six hundred miles from the place where they resided; it entailed upon them the necessity of employing counsel in a country where they were unknown; it imposed upon poor men a burden which they could ill sustain, and it gave to wealthy men advantages which they knew well how to avail themselves of.

Now, sir, without attempting to investigate the facts, without attempting to refer to particular portions of the evidence, I shall assume that it is clearly established that it was the intent and design of Judge Watrous in becoming a party to the purchase with Lapsley and his associates, to compel this transfer, with all its attendant consequences, to the injury of the parties who were to be the defendants in the suits to be brought for the benefit and advantage of himself and his associates. If this be true, and I cannot for a moment conceive how the fact can be controverted, then it seems to me clear that Judge Watrous, in becoming a party to that transaction, became a proper subject for the exercise of the impeaching power of this House.

But it is said by the opponents of the resolution before us, that a judge of a United States court had the same right to purchase land as any other man; it was said by the gentleman from Maryland, [Mr. Davis,] and several others, that Judge Watrous had the right to be engaged in this transaction, though his engaging in it necessarily led to the results spoken of. Mr. Speaker, I differ in opinion from all those gentlemen. That Judge Watrous had the right to purchase land, as a general rule, is beyond all dispute; but that he had no right to engage in a purchase of land which would interfere with the discharge of his duties as judge, I think is equally beyond dispute.

But I will go further than this. I say that in my opinion, Judge Watrous had no right, as a man, to engage in that particular transaction at all.

The honorable gentleman from the State of Tennessee, [Mr. READY,] who spoke upon this subject, alluded to one of the witnesses who appeared before the Committee on the Judiciary, in this case, (Simon Mussina,) and strove to create an impression in the House unfavorable to the character of that witness, by reciting the fact that he had entered into a contract with parties now living in Mexico, who claimed to be the owners of the land in question under the same grant, which he said was a champerty contract. Well, sir, I am not here for the purpose of defending the character of Simon Mussina; I am not here for the purpose of defending the character of the contract entered into by him with a view to enforce the title of parties in Mexico to the land, and under which he is to obtain a portion of it for his services in the event of success in the contemplated litigation. The gentleman stated that the effect of this arrangement, if carried out, would be to oust the squatters, as he termed them, from the land, and intimidated, as I understood him, that, in this, Mussina was acting against those in whose interest he had prepared the memorial of Eliphas Spencer. The gentleman will remember, and the House will remember, that this arrangement was made after the decision of the suit by which these squatters were ousted from their possession, under the claim of Lapsley, Watrous, and their associates, and that if anything grows out of it, it will have the effect of ousting these parties from the vast tract of land which they now appear to have possession of.

But while speaking of this champerty contract of Mussina, it seems never to have occurred to the gentleman from Tennessee that Judge Watrous himself was a party to a champerty contract. What was the arrangement by which this land was acquired? What do the facts show? They show that the title of this land upon which Lapsley, Watrous, and their associates instituted the suits against Eliphas Spencer and others, was vested prior to 1850, and had been for many years previously vested in certain other parties, who had never attempted to enforce this title; that the grant or concession under which this title existed covered some fifty or sixty thousand acres of land; that a large portion of this vast extent of land was in the possession of settlers who had made it productive by their toil—had made it their homes, and who had been in the quiet possession of it for years; that Judge Watrous was himself

a party to the arrangement by which this title was purchased, with the intention of instituting suits to dispossess those occupants. If gentlemen will refer to the common-law definition, they will find that champerty is nothing more or less than buying the rights of parties with a view to subsequent litigation. This purchase by Judge Watrous and his associates was a champerty arrangement. The transaction was wrong in itself; it was one which would have been punishable as a criminal offense under the common law of England.

But, sir, it may be that in the States of this Union it is not such an offense; it may be that no penalty is attached to the fact of being engaged in such a transaction; but I hold it to be immoral in any man, and especially for a man holding a high judicial position, to purchase, under these circumstances, for the paltry consideration of \$7,000, a title under which a recovery of property which the purchasers believed to be worth \$300,000 was to be had against actual possessors. If they succeed, it will indeed enrich them; but how? By rendering destitute scores of families, driving them from their homes, and stripping them of possessions which they have peaceably enjoyed for years, and which they had a right to consider theirs, and which would have been theirs, but for the conduct of these persons, who, taking advantage of their knowledge of facts not known to the former holders of the title or to the common mass of the people, for the purpose of enriching themselves. Sir, I am one of those who believe that transactions of this character are in opposition to good morals, and injurious to the best interests of the country.

But, sir, I will now look at it in another aspect. If this were a transaction which was right in itself; if this were a transaction in which an ordinary man could engage without stain, without subjecting himself to moral censure, it is a transaction in which a judge, placed upon the bench, has no right to enter. What is the position of a judge? He is set apart for the discharge of judicial functions; he is a priest appointed to minister in the sacred temple of justice; he is to hold the scales and pass upon the rights which may be brought into controversy before him. It is his duty to be impartial; it is his duty to administer the high functions of his office impartially in every case which, under the laws and the Constitution, may with propriety be brought before him by any citizens of the Republic, or which may be brought against any citizen of the Republic. When he goes upon the bench, there is an obligation assumed by him that he will discharge the duties of his office faithfully; that he will remain in such a position that he may try the cases which may arise within the territorial limits of the district for which he is appointed. I hold that when a judge has once taken his seat upon the bench, that obligation exists, that it is imperative upon him. It may be true, that while an ordinary citizen he may engage in this and that transaction. But if he becomes a judge; if he takes his seat upon the bench, this right is surrendered so far that he has no right to engage in any transactions which may be likely to embarrass his mind in the cases before him, or have the effect of imposing a burden not contemplated by the law upon any citizen living within his district. If Judge Watrous had not engaged in that transaction, the defendants in the Lapsley case would have been entitled to a trial of their causes before his tribunal; entitled to have the questions of fact arising in them passed upon by a jury of the vicinage.

This judge, by his acts in the pursuit of gain, after he went upon the bench, rendered that impossible. This judge, by his act, after he went upon the bench, placed a portion of his fellow-citizens, men who had a right to the decision is that court at that place, in such a position that they were compelled to go before a tribunal foreign to them. That, sir, was one of the causes which led our fathers to engage in the revolutionary struggle which severed these provinces from the mother country. I know not what other men may think upon that subject; but for myself, I am clear that, under the principles of the Constitution of the United States, it is the right of this House, if such facts—facts which produce such results—are brought to its knowledge, to prefer an accusation in order that the Senate of the United States, sitting as a court of impeachment, may determine whether or

not a functionary, who has so engaged in the ordinary transactions of life, that a functionary who has so far forgotten the contract entered into between him and the people, when he accepted the judicial office, has not committed an act which is a cause, and a just cause, for his removal.

What is the position of a judge? What is the tenure by which he holds his office? It is during good behavior. Gentlemen say you cannot remove a judge unless you bring home to him corruption. In most of the States of this Union, perhaps in all, in addition to the method of removal of judges by impeachment, there is another mode in which the public can get rid of an unfaithful and unfit judicial officer; that is, they may be removed by the Governors of the different States upon an address of two thirds of both branches of the Legislature. No such provision exists in the Constitution of the United States. Here, the only mode of removal is by impeachment. But gentlemen say, in order to impeach, you must have a well-formed, distinct, and recognized offense against a known law. No, sir. In the sense of the Constitution of the United States, the word "misdemeanor" means, as the gentleman from New York [Mr. JOHN COCHRANE] well expressed it, misconduct—anything which is, in its nature, calculated to render a judge unfit for the discharge of his judicial functions; anything which shows that he has wrested the course of justice, under the influence of improper motives; anything which shows that he is incapable of holding the scales of justice even; anything which shows that by his conduct he will deprive his fellow-citizens of their rights, impose improper burdens upon them, or give advantage to combinations of men who seek unjust gains at the expense of or to the injury of others.

This is embraced in my view in the word "misdemeanor," because the Constitution of the United States does not give to a judge the place for life; does not give him the right to his office for any specified length of time, but only so long as his conduct is right and proper. Upon any other principle than this, what would be the result? If you refuse to pass this resolution, what will be the necessary effect? A judge upon the bench will be at liberty to enter into every species of speculation, though such speculations have the effect of entirely disqualifying him from the trial of the causes that ought legitimately to come before him. Individuals who desire to accomplish the removal of causes from one State where they apprehend defeat to another where they are assured of success, contrary to the spirit and intention of the Constitution and laws of the United States, will be able to attain that end by making judges parties to their transactions; engaging them, under the hope of gain, to lend themselves to insure or promote the success of speculative schemes, and that, too, by depriving multitudes of individuals of the rights which their fellow-citizens enjoy, of having the controversies in which they are engaged tried by their own juries, decided by their own courts. Such a state of things would have the effect of giving extraordinary advantages to combinations of intelligent and wealthy men over the poor and ignorant. Men of small means may well defend their own causes at home and among their own fellows when the process of the courts is within their reach, and when the counsel who practice in these courts are known to themselves or their neighbors, without incurring any extraordinary expenditure; but when they are exposed to the danger of being called a great distance from home, four, five, or six hundred miles, as has happened in this instance, it becomes a burden which poverty cannot bear.

Now, sir, in my view the judicial ermine should be preserved pure. In my view it is of the most extreme importance to the people of the United States that this House should act in such a manner as to make it certain that no judge, after he has accepted a seat upon the bench, after he has become a minister in the temple of justice, shall be engaged in any transaction which will be calculated to bias his mind in respect to questions which may arise before him, or be tempted to engage in transactions which will necessarily deprive those who are ordinarily subjected to his jurisdiction, of the advantage of having their trials at home, and subject them to the necessity of going elsewhere for the adjudication of their cases.

It was not my intention to have spoken thus

long; and I shall therefore now merely say, in conclusion, that, for myself, such is my conviction as to the danger of failing to visit with proper condemnation acts of the kind which have been placed in evidence before us, such is my feeling as to the duty I owe to the people of Texas, some of whose citizens have already suffered from them, and others of whom are still exposed to injury from other acts of the same description; feelings as to the duty which I owe to the people of other States who are exposed to the same practice and the same evils, that I shall vote, heartily vote, for the resolution of impeachment.

Mr. MAYNARD. Mr. Speaker, it is proposed to prefer, at the bar of the Senate, articles of impeachment against John Charles Watrous, judge of the district court of the United States for the district of Texas. That is a very grave and important procedure. Judging from the record that is presented before us, and comparing it with the proceedings in the cases of Judges Chase and Peck, this impeachment, if it be carried to the Senate, cannot be completed without occupying a very large portion of the time of this, the last session of the present Congress, to the hindrance of the general legislation of the country, and to the great detriment of many higher and more important interests. This, however, is no argument why Judge Watrous should not be impeached; but it is a very grave and very weighty consideration, why we should consider well before acting in this regard, whether, in fact, he ought to be impeached. If we believe, on the examination of the facts disclosed before us, that he has been guilty of high crimes and misdemeanors, then it is our duty to attempt his impeachment; but, if on our consciences and our personal honor, we do not believe that he is so guilty, it is equally our duty to see that he be not impeached.

It has been suggested, by persons apparently wishing well to the judge, that it would be for his interest, for his fair fame, and for the support of his high reputation, that this matter should be transferred to the Senate, and that he should come out of the ordeal, as they allege they have full confidence he would, like gold that has been seven times tried. Considerations of such equivocal kindness, and considerations growing out of the clamor of the Texan populace, we are bound equally to disregard. They ought not to, and they cannot, justly enter into our consideration of the case. I purpose, in the remarks which I shall submit to the House, to examine the two charges that are made against the judge, and to see whether they sustain the accusation made against him and require his impeachment.

These two charges are made, as we are told in the report submitted to us, by one Simon Mussina; he using in the one case the name of his brother, Jacob Mussina, and in the other that of a Mr. Eliphas Spencer. The charge contained in the memorial of Jacob Mussina is substantially this: that Judge Watrous, either from personal hatred or from a corrupt partiality, sustained a suit in his court over which he had no jurisdiction; and that he made in it various erroneous and illegal rulings, every one of which, we are told, was to the prejudice of the party against whom he finally decided; that he used his influence, and used it most unworthily and indirectly, to prevent an appeal; and that, after he pronounced his final decree, he proceeded, without any authority of law, to attach the person of the defendant, and, failing in that, proceeded to a sequestration of his property; and moreover, that, when he attempted an indirect redress in the courts of the State of Louisiana, and had obtained a verdict and judgment in one of the inferior tribunals, which had been prosecuted to the supreme court of that State, Judge Watrous found it convenient to be secretly and stealthily in the city of New Orleans, in order that he might corrupt the supreme court of Louisiana and induce it to give a dishonest and erroneous decision; and furthermore, that his conduct was so outrageous that the Legislature of Texas, by solemn resolution, called upon him to resign. It is further charged against him that, in order to prevent men from having fair trials by juries in the vicinage, he had directed the marshal of his court not to summon jurors from that neighborhood, but to go a long distance and bring jurors from different parts of the State. These are substantially the charges made against Judge Watrous, in the memorial which

comes before us in the name of Jacob Mussina. It is proper to say, as the House will have seen, that in the report of the minority recommending impeachment, only a portion of these charges are touched, and the rest of them are squinted at very slightly. The main charge against him rests elsewhere.

Now, if Judge Watrous was guilty of the charge as contained in that memorial, if he was the Jeffries he is there represented to have been, it would be our duty, not only to impeach him, but to do everything in our power to see that he was removed from his place, and that the disgrace of his acts be visited upon him. I understand it to be our duty to look into the charge, and see whether we are satisfied it is true—not whether it is probably true; not whether there may be ground for suspicion or complaint. So far as we are concerned here, our action is final and conclusive; not that the case is not to be tried at the other end of the Capitol; but our action is the condemnation of this House.

Now, Mr. Speaker, what are the facts that are disclosed and shown to sustain the charge made in the memorial of Jacob Mussina? I will attempt briefly to recapitulate them. It appears that certain citizens of Mexico filed a bill on the chancery side of the circuit court of Texas. They alleged that they were owners, and had been in possession, for more than fifty years, of a tract of land lying in that portion of Texas which we derived under the fifth article of the treaty of Guadalupe Hidalgo. They allege that some five men, citizens of the State of Texas, had obtained titles that were void—mere colors, pretenses of title—and had put them on part of that land; that they had proceeded to lay off a town on paper, advertised lots for sale, and done other acts of a similar character, which would throw a cloud on the title of these Mexican claimants. And they asked that the men who were thus operating in speculative titles upon their lands, might be enjoined from so proceeding; that their titles be declared void; and that they be forever inhibited from setting up and attempting to assert them. It was a bill filed for the purpose of quieting the titles of the parties, which, it was alleged, were clearly valid, and covered lands of which they had been in possession for nearly, or quite, fifty years.

Now, we are told very gravely, not only in the report submitted to us, but in the argument that has been addressed to us here to-day, that the case "had no one feature which could give rise to the slightest pretense of subjecting it to the chancery jurisdiction of the district court." It strikes me, sir, that that would have been news to Lord Eldon or to Mr. Justice Story. Why, sir, I thought it was an every day's proceeding in a court of chancery—as I have understood from my reading and from my practice in that court—that where a cloud is thrown over the title to your real estate, either by forged papers or any other kind of illegal title, you may go into the court of chancery and have such illegal titles declared void, and the party enjoined forever from attempting to set them up. That is what was attempted to be done in this case. And upon the correctness of my position upon this point I am willing to meet any gentleman at the proper place, which would not be here in such a discussion as this.

But we are told that it was not a proper subject for the jurisdiction of the Federal court, that being a court of limited jurisdiction, confined to certain particular cases specified in the Constitution. I believe that the jurisdiction of the Federal court in that case can be maintained from the provisions of the treaty of Guadalupe Hidalgo, under which, as the bill alleges, this territory was brought into the United States, and consequently making it the duty of the United States, through her legal tribunals, to see that the rights of previous owners of soil in the territory comprehended within the provisions of that treaty were properly ascertained and protected. But the question has not been discussed in the House in that view, and I will not pursue it further. It has been discussed with reference to the citizenship of the parties. I shall not recapitulate the argument; because it has been presented in such terms that I am not aware that anything I could say would add to the force of it; and I may be permitted to say, with respect to one of the gentlemen whom I have the honor to follow, and who is sitting by my side, [Mr. READY,] that when he has given a subject like

this the benefit of his investigation, very little is left to be done by lawyers like me, who come after him. Here is a passage in the memorial to which I call the attention of those who are interested in this discussion, and are listening to it for the purpose of making up their minds how to vote:

"In the progress of the cause, defendants having reason to believe."

Now, mark, the word "defendants" is put in very ingeniously, as you will see when you come to look into the facts of the case; not "the defendants," but "defendants."

"In the progress of the cause, defendants having reason to believe that the said bill, in whole or in part, was filed without the authority of the parties complainant, a motion was made that the aforesaid solicitors, Allen and Hale, produce their authority for filing said bill. The question was referred to the master, who, having heard the same, reported, June 27, 1849, that the solicitors for the complainants had failed to show any authority to institute said suit.

Without any appeal having been taken, the district judge subsequently made an order that Tarnava and wife, Ramon Lafon, (the infant,) Manuel Prieto, and F. de Tigerina, [certain parties in Mexico,] be stricken from the bill as complainants, and that they be made defendants."

That is the statement of the petition. Now, on looking to the record in the case, how are the facts? I have it before me, and pray your attention to it for a single moment. Here is the order that was made:

"Rice Garland, solicitor for defendants Fitzpatrick and Shannon, prays the court to order that the plaintiffs, by themselves or their solicitors, come before James Love, Esquire, master, &c., and show by what authority they and each of them, respectively, instituted this suit, or caused the same to be instituted, and the said master do make report thereof on or before the first Monday in June next."

That was ordered. The clerk made the inquiry, and he reported substantially that the plaintiffs had not in person shown any authority. But here is another order that I call the attention of gentlemen to, made on the 30th of June, 1849:

"On motion of Rice Garland, Esquire, counsel of defendants, it is ordered, that the motion, heretofore heard, referring the motion to the master to take testimony to show upon what authority certain persons named in said motion were made parties complainant in this cause, is withdrawn from the master and the motion dismissed."

That was done by the voluntary act of the counsel who had made the motion. And now, it is gravely urged that Judge Watrous is to be impeached because he did not proceed to act upon a motion which was dismissed or voluntarily withdrawn by the solicitor who made it! Is it fair? Is it right? Is it just? And yet it is by such arguments as these, it is by such villainous pretenses as these that the judge is attempted to be discredited and dishonored before Congress and the country!

I might proceed and look through this record. I have not had time to do it, and I would not do it excepting for a professional consideration. I have looked into it, however, to see whether or not the charge can be sustained that—

"Every irregular or wrongful decision of the judge was in favor of the complainants and against the defendant, Mussina, and those occupying a similar position, and was to their particular injury;"

as made by those of the Judiciary Committee who recommend an impeachment.

Do the gentlemen of the committee undertake to say that they have examined every one of the seventy-five rulings in the record, for we are told that there are so many, thirty-four in favor of Mussina, and forty-one against him? Do they undertake to say that there were no erroneous rulings excepting such as were made against Mussina? It would seem so. Now, here is one of the erroneous rulings, relating to the introduction of the testimony of William G. Hale, which, we are told, is exceedingly erroneous—so much so that we must send this judge to the Senate, and let them inquire whether his motives in making it were not corrupt. Sir, I concur entirely with my colleague [Mr. WRIGHT] in the opinion which he suggested in his question to the gentleman from Louisiana, [Mr. TAYLOR,] that before we can impeach a judge by reason of an illegal or erroneous decision, it must appear that he has not only made such erroneous decision, but that it has been done through dishonest motives, and with a corrupt intent.

It seems that it became necessary, in the progress of the cause, for the complainants to introduce Mr. William G. Hale, not as a substantive witness, to testify to facts directly in issue, but for the purpose of substantiating certain documents.

His deposition is taken; it is rejected by the court upon an exception to the notice; it is retaken; and he is examined as to his interest. Now, the interest of a witness which excludes his testimony is very precisely defined in the books treating on the law of evidence. It is said that where the interest of a witness in the result of the suit is certain and direct, he is incompetent, and his testimony must be excluded; but when his interest is indirect and contingent, it goes to his credit; and not to his competency, and his testimony may be admitted. Mr. Hale was examined upon that point, and his answer is very clear. It is, as I understand it, that he had no certain or direct interest in the result of the suit. He had undertaken, for a certain fee, to prosecute a number of suits, of which this was one—the fee to be no larger or smaller by reason of results. This fee was secured upon lands not in controversy in the present suit; nor had he any interest in the result of the suit; unless, perchance, the land now in controversy should be sold and his fee paid from the proceeds of the sale. Mr. Speaker, under these circumstances, I venture to say that there is no honest, well-informed judge who would not have decided precisely as Judge Watrous did. Mr. Hale was declared a competent witness, and his deposition received.

Another question of evidence arose, the ruling of which is made a matter of complaint. It was the admissibility of the testimony of Mr. Hord, counsel for a portion of the respondents. It is well settled that though a witness be interested on both sides of a cause, yet if the interest preponderate against the party calling him, he may be examined. Mr. Hord was introduced on behalf of the complainants. He testified that his interest, though on both sides of the cause, was stronger in favor of the defendants. The question was then propounded by the counsel of Mussina, which appears in his memorial. The witness doubtless regarding it as an intended insult, declined to answer. The judge was at first inclined to decide the question required an answer; but on more mature consideration held that he could not be compelled to answer, in which decision I entirely concur.

These are the erroneous decisions, and I believe the only ones alleged to have been made in the progress of this great cause; the printed record of which extends over more than one thousand pages.

Another charge is made against the judge, growing out of his conduct in connection with the final decree. At the term when the cause was heard, no final decision was made. The judge took the case under consideration, or, in legal phrase, took time until the next term to advise. It is charged that previous to the time of the subsequent term, the judge had announced that no court would then be held; that Mussina, thus thrown off his guard, did not attend, and thereby lost his opportunity to appeal to the Supreme Court of the United States. With respect to this charge, it is enough to say, that the proof does not sustain the allegation as to the conduct of the judge. On the contrary, it is shown that he had stated repeatedly and publicly that the court would be held. Mussina's counsel was present in court when the decree was pronounced; made no objection to it on that ground, only complaining that it was pronounced in the absence of his associate counsel. The judge held his court open for nearly two days, until he was compelled to leave to attend another court; no application was made in behalf of Mussina for an appeal, nor any notice filed to that effect; nor was any attempt ever made to obtain an appeal, until within a few days of the expiration of the five years allowed by law for that purpose, and then in such a manner as indicates either the grossest ignorance or the grossest bad faith. It would hardly be profitable, had I the time, to develop the details of this affair. The whole subject came before the Supreme Court of the United States at the last term, on application by Mussina for a *mandamus*, and the decision is reported in 20 Howard, 288. The opinion of the court delivered by Judge McLean, fully sustains Judge Watrous, and disposes of this whole charge. Here it is:

"Mr. Justice McLean delivered the opinion of the court. 'A motion was made at this term for a rule on the district judge of Texas, to show cause why a *mandamus* should not be issued, commanding him to allow an appeal in the above case. This rule was granted on the affidavit of Simon Mussina, as agent for a part of the defendants.

"In his answer the judge says: 'I am now ready to allow

the appeal, and always have been; that some time before the 15th day of January, 1857, Mr. Daniel Etchison, of Galveston, stated to him, at chambers, that he wished to take an appeal for Jacob Mussina in the above case, and that the judge inquired whether the time limited for taking appeals had expired, and was informed it had not. The judge then replied: "Mr. Mussina has a right to an appeal, and I will allow it as a matter of course, when the opposing counsel shall appear, and I will fix the amount of the bond." It is his practice to allow appeals in the presence of counsel. Mr. Hale, the counsel for the defendants, lives in Galveston, near to the place where the court was held, and was daily in court. No application seems to have been made in court on the subject of the appeal; no citation was presented to the district judge; no bond for his approval. The conversation with Mr. Etchison, at the chambers of the judge, respecting the appeal, is all that was said to him on the subject. If it were mentioned in open court, he has no recollection of it.

"The clerk of the court, the deputy clerk, the crier, the marshal of the United States, and his deputy, who were in attendance on the court, all corroborate, on oath, the statement of the judge, and say no application was made in open court for the appeal; and no entry on the docket is found of such an application. From the certified copy of the petition for an appeal, it does not appear to have been filed, or that entry of it was made on the docket.

"A party wishing an appeal should make an application for its allowance in open court, or to the judge at his chambers, and should name his securities. And the bond should be prepared for the approval of the judge, and the citation for his signature, unless the appeal was prayed in open court and entered upon the record. It appears the decree in question was entered jointly against several defendants, and that an appeal by Patrick C. Shannon only, who was one of the defendants, was taken. Simon Mussina, on whose oath the rule was entered, was agent for Jacob Mussina, Angela Garcia Lafon Tarnava, who were also defendants, and he desired that these persons might be allowed an appeal, and also the other defendants, so as to remove the case to the Supreme Court. At this time, the cause was pending in the Supreme Court, on the appeal taken by Shannon. That appeal was irregular, as less than all the defendants in a joint decree cannot appeal without a summons and severance in the court below. And this was not done on Shannon's appeal.

"The regular mode of proceeding would have been to dismiss the appeal in this court, pray for another appeal in the court below, and for a summons and severance, so that the defendants desirous of an appeal might take it, without the concurrence of those defendants who were opposed to it. Had the appeal been prayed in open court, and entered upon the record, the judge below might well have refused it, as the legal steps for its allowance were not taken. Under such circumstances, it was the duty of the judge to act in the presence of the opposing counsel. (*Owings et al. vs. Kincannon*, 7 Peters, 339; *Todd et al. vs. Daniel*, 16 Peters, 521.)

"Whether an application might not have been made to this court to correct the irregularity of the appeal, is not before us under the rule for the *mandamus*. The writ is refused."

So much for Judge Watrous's attempt to prevent an appeal.

The final decree was pronounced in January, 1852. In January, 1854, upon cause shown, the following order was made:

"On this day the surviving complainants in the above entitled cause, to wit: Maria Josefa Cavazos and Estafina Goseascochea de Cortina, by their counsel, suggested the death of Raphael Garcia Cavazos and José Manuel Prieto, and thereupon their motion, filed on the 4th day of January, 1854, for a rule against Jacob Mussina, one of the defendants, came on to be heard on the affidavits and documents filed in support of the said motion; and the same having been fully considered, it is now ordered by the court that the said Jacob Mussina do, on or before the 1st day of February, A. D. 1854, show cause to this court why a peremptory attachment should not issue against him for contempt of this court in disobeying the order and injunction of the court contained in the final decree rendered in this cause in the following particulars: First, by persisting in setting up and still claiming a title in himself to a portion of lands mentioned in the said decree, as to which he is thereby enjoined against the said complainants before the several Departments of the Government of the United States at the city of Washington, District of Columbia, and particularly before the Quartermaster General and Secretary of War, on or about the 18th day of August, A. D. 1852, and thereafter, to the great injury of the said Maria Josefa Cavazos; second, by setting up and asserting such claim of title in a suit instituted by him on or about the 26th day of March, A. D. 1852, in the fourth district court of the city of New Orleans and State of Louisiana, against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord; and, third, by claiming and asserting such title in himself to a portion of the land aforesaid, by his parol declarations and written statements, made by himself or his authorized agent constantly and repeatedly since the said final decree in this cause was rendered. And in case the said Jacob Mussina do not show cause as aforesaid, on or before the day aforesaid, then that peremptory attachment at once issue against him."

A copy of the order was served on Mussina at his place of business, in New Orleans. He appeared in court and asked for further time to answer. It was granted until the 18th of February. He then put an answer according to the statement of his memorial, as follows:

"That he had never, knowingly or intentionally, treated with disrespect the laws of any of the tribunals of the United States, and that it has always been his wish and purpose to show all becoming respect to the laws and to all the tribunals of the United States, and that he has never intended to violate, or attempted to violate, the injunction of this

honorable court, and being satisfied that there can be no contempt where none was intended, and not being aware that there has been any disobedience of said injunction since the same was served on him about May, 1852."

Of course, the answer was held insufficient, or rather to be no answer; the attachment was made peremptory against his person, which the marshal returned "not found." A writ of sequestration was then granted against his property. This was returned *nulla bona*; and so the matter ended by Mr. Mussina violating the injunction with impunity. He has the effrontery now to make this matter of grave complaint, or rather his brother Simon does so, in his name.

I will not take up the time of the House in attempting to answer the allegation that Judge Watrous went to the city of New Orleans and ensconced himself in a private room in a public hotel for the purpose of attempting to corrupt the supreme court of Louisiana. There are some propositions which require only to be stated to make manifest their absurdity; and this is one of them. Let any one read, if he pleases, the answer of Judge Watrous to this point, and see the reason which he gives, why upon that occasion he desired privacy indeed, but not secrecy—a reason which it has not been attempted to disprove, not a particle of evidence having been adduced to impeach it. Nor shall I notice the charge of sending to certain distant counties, to the exclusion of others nearer, to obtain a jury for the court at Brownsville, further than to refer the House to the testimony in the case, and particularly to that of the deputy marshal, Mr. Cleveland, (page 173, *et seq.*) where it will be found that an order to this effect was asked in open court by parties concerned in the litigation in that court who did not believe that an impartial jury could be obtained in the vicinage; that the order was warmly opposed by William G. Hale, a lawyer, who it has been charged was the pet and favorite of Judge Watrous; and that the order was made notwithstanding his resistance. Nor shall I dwell upon the resolutions of the Legislature of Texas asking Judge Watrous to resign. Whether he is popular or unpopular is a matter which it is not our business to examine. I think it was on one occasion, when this argument was attempted to be brought to bear against Lord Mansfield, in the high exercise of his judicial functions, and he was informed that public sentiment required him to take a particular direction, that he said—and the sentiment is worthy of immortal record—"I would rather be one of the pillars in the temple of justice to uphold and sustain it, than the vane on the top to point out the ever-fluctuating breezes of popular opinion."

This is the character of the case which is presented to us by the memorial of Jacob Mussina. The ghastly specter of falsehood shrinks into its natural proportions, and shows its native hideousness at the blithful touch of the weapon of truth. The other charge against Judge Watrous is contained in the memorial of Eliphas Spencer. That, too, is of very grave import. It alleges that Judge Watrous, by confederating with other wicked, corrupt, and designing men in Texas and Alabama, discovered a forged title to some fifty or sixty thousand acres of land in the State of Texas; that they found they could buy the land for some seven thousand dollars; that they were to purchase it in the name of one of the conspirators—for that is what they have been called here—resident in Alabama; that they were then to bring suits upon that forged title against the legal and honest owners in the Federal court before Judge Watrous; that he was to try and decide the cases, and they to make a common division of the spoils; that failing in that object, by the accidental discovery of the judge's interest, the cases were to be transferred to New Orleans; that to sustain this forged, this fictitious, this felonious title, Judge Watrous, with other of his confederates, sent an Irishman to Mexico to suborn a witness; that they brought him to New Orleans under the promise of securing untold wealth, took his deposition, which sustained, or attempted to sustain, the forgery by the commission of perjury. In other words, the charge is, in its length and breadth, that the judge has been guilty of uttering forged documents knowing them to be forged; and to sustain himself and carry out his plan, had also been guilty of subornation of perjury.

His case, as you are told, was before the last

Congress, and was there investigated *ex parte*. We are told that an *ex parte* report was made. It was not acted upon. It was again referred to the Judiciary Committee the first session of the present Congress. We find that one of the nine members of the committee has not acted upon it. We find the opinions of the rest of the committee equally divided; or, in other words, in popular parlance, they had a "hung jury" upon it. If we were to analogize their proceedings to that of a grand jury, that would amount to an *ignoramus* of the bill—sufficient to set it aside and require no further proceedings upon our part. But each branch of the committee make their report. The reports are upon the table, and have been read and commented upon by many gentlemen much more fully than I shall do. I wish merely to state, in general terms, as the result of the examination which, somewhat carefully, I have given to this testimony, the few leading propositions which I think are clearly and satisfactorily established by the evidence.

I think it appears, in the first place, that Thomas M. League, a citizen of the State of Texas, discovered a tract of land which he could purchase on such terms as he believed would be profitable and advantageous; that he made an executory contract, by which he was to have the privilege of purchasing for the period of thirty days, though he was not bound to do it unless he chose. We are told that League was a speculator in land. Now, that is an argument which I conceive would address itself with singular force to a jury of squatters, whether in Texas or Wisconsin; but it does strike me as being rather out of place in this presence, everything and everybody considered. Speculating in land! Why, sir, from the time of General Washington—who, we are told by his biographer, was an extensive speculator in western lands—down to the present time, I believe it has been the fortune, or misfortune, of a great majority of our moneyed men to be engaged in land speculations somewhere at some time. If you speculate at all, in our new States and Territories, there is little else to speculate in besides land. They have no stocks there. They had at that time in Texas no railroads, no banks. What was there to speculate in? What is there to speculate in in a new country, excepting in lands? And I undertake to say that, not only as a matter of morals but as a matter of political economy, that the disposition of the American people to speculate in lands has been one of the great means, one of the vital instrumentalities by which this vast continent of ours has been explored and peopled with such unexampled rapidity.

Thomas M. League was a speculator in lands, although proved to be a gentleman and man of character. He discovered the opportunity of making what he considered would be an advantageous purchase. He had referred the title for examination to three of as able lawyers—it may be said without disparagement to the other lawyers of Texas—as the State afforded. They had pronounced the title valid and indefeasible. He happened accidentally, as he tells us, to mention the subject in Judge Watrous's office to a young gentleman from Alabama, Edwin Shearer, saying he was unable to perfect the transaction for want of money. Thereupon the judge, to whom the conversation was repeated, remarked to young Shearer, "Ned, perhaps your brother-in-law would like to participate in the purchase." It was exactly in that way, and in no other way, if we are to believe the testimony in this case, that Judge Watrous came to know anything about the matter, or to have any connection with it. It arose out of a mere casual conversation which had sprung up in his presence without purpose or premeditation.

I will not follow the various preliminary steps by which the trade was brought to a consummation. Suffice it to say, that from that time forward, a series of transactions did occur by which Mr. League came into contact with five gentlemen from the State of Alabama, gentlemen who, we are told—and it has not been gainsayed—are men of the highest respectability; and they finally concluded an agreement by which League, who had been negotiating with the former owner, was to complete the purchase and convey the title by deed of general warranty to Mr. Lapsley, one of the Alabama gentlemen. The trade was to inure

to the joint benefit of the purchasers in Alabama and of those in Texas, the Alabama gentlemen having one half and the two Texas gentlemen the other half.

We are told—and the evidence, I am satisfied, sustains it—that, in the particulars of the negotiation and trade, Judge Watrous was not an active participant, and that he had no connection in arranging or fixing the terms. He occupied the position, in homely, country parlance, of a poor boy at a frolic. He was to take what the others allowed him; he was not in the condition to dictate terms. Says Mr. Lapsley, in effect, "I insisted that the title should be made that way, and would not have it made in any other way. It was done for my protection; and I took a warranty from Mr. League because he was a stranger to me—because I was never acquainted with him before; and I wanted the strongest legal obligation, to give me an assurance of his moral integrity and fairness of purpose."

It is said they were contemplating a series of lawsuits at that time. Gentlemen may argue that way; but what is the proof? The proof is, from more than one of these gentlemen, that they contemplated no such thing; they regarded litigation as possible, but not as probable.

Mr. REAGAN. I ask the gentleman from Tennessee if he will please to account to this House for the reason why Judge Watrous, being present, assented to an arrangement by which a retaining fee of \$500 was allowed to Robert Hughes, with a view to anticipated litigation about this land, when the contract was made between Lapsley, League, and himself, and others, at Selma?

Mr. MAYNARD. I can tell the gentleman that very readily. These men were going into a large operation, and they wanted to provide themselves with counsel. Why is it that a bank or a railroad corporation employs its attorney, or that a gentleman of large private estate has his lawyer constantly and regularly employed, to whom he can apply if he needs any advice, or for the purpose of drawing deeds, inspecting titles, or selling property? Every man who lives under a government of law, which he does not professionally understand, will, as a matter of just prudence and precaution, have the service of some man who is learned in the law, to direct and point out his course. It is a matter of ordinary prudence and sound discretion, and so was the action of these gentlemen in this case.

I know that that fact is dwelt upon as though it signified much. To my mind it not only does not signify little, but it signifies actually nothing in sustaining the charge against Judge Watrous; and I present against it the statement of these men, that they were not anticipating or looking for litigation to establish the validity of the title. We are assured by the witnesses, if their testimony is an assurance, that Judge Watrous had never seen the title papers, and did not know what they consisted of. He relied on the judgment and advice of counsel who had examined them.

Litigation did follow. The suit has been tried. The case has gone before the Supreme Court of United States, and has been there decided, while we have been considering this very impeachment; and I will ask gentlemen of the House, who are not satisfied in their own minds, to examine the decision for themselves, [20 Howard, page 264, *Spencer vs. Lapsley*.] They will find that the advice on which these gentlemen acted in making the purchase was sound, and well supported by the law. In process of time, as I have said, it was necessary to institute certain suits. They were brought at the instance of Mr. Lapsley, who held the legal title, and who was a lawyer in Alabama. By his direction they were brought in the Federal court of the State of Texas, rather than in the State courts; and this was in opposition to the private personal wishes of Judge Watrous himself. I take it that that fact is established clearly and fully by the proof.

Mr. REAGAN. Will the gentleman permit me—

Mr. MAYNARD. Not now. I know very well the statement on which reliance is placed by those who hold the other side in this argument. I know very well that the gentleman from Texas [Mr. REAGAN] is able to make everything that can be made out of the fact. But I beg to say, with all kindness to him, that I think he has made nothing

out of it, simply because nothing can be made out of it.

Mr. REAGAN. I want to draw attention to the fact that Judge Watrous was present when these writs were issued, and that he expressed no surprise, and made no objection to their being issued.

Mr. MAYNARD. I am very well aware of that testimony, and the gentleman is very well aware of the answer. I will not consume time in dwelling further on that point. I say that the weight of the evidence to my mind establishes the fact as I have stated.

Be it remembered that it is charged that Judge Hughes was also one of these confederates or conspirators. Now, if you look at the correspondence that passed between Lapsley and Hughes, you will discover the fact, that Hughes was desirous of having the suits tried in Texas, to have a lawyer not connected in the case to sit at the trial instead of Judge Watrous. Mr. Lapsley in his letter says, in substance, "I thought it was understood they were to be removed to New Orleans. I had so supposed; but still I leave it with you. I may have been mistaken in my supposition." Now, if Mr. Hughes was one of these conspirators, desiring to get the case out of Texas, into Louisiana, he would certainly never have suggested the idea of putting a lawyer on the bench, and letting the cases be tried before him; and yet, if you will examine the case, you will find that he did so. The facts as set forth in the record furnish, to my mind, a full and complete refutation of the charge that this thing was concocted with a view to deprive the opposite parties in the apprehended litigation of the right of trial before a Texan jury.

But it is said that the causes were kept for several years in the courts of Texas, first at Galveston and then at Austin. That is certainly a very strange charge to urge against Judge Watrous, and the other parties who owned the land. A man whose land is invaded and who brings a suit to recover possession, generally wants to press his suit as soon as he can to a hearing, and get the possession of his property. The man in actual possession having "nine points of the law" in his favor is perfectly willing that the trial should be postponed until doomsday, he having, in the mean time, possession of the estate and the enjoyment of its profits; a fact, which I suppose every lawyer knows. And yet this suit depended in the courts of Texas, from 1851 till 1854, when Judge Hughes, finding it impossible to make any arrangement by which he could get a Texas lawyer to try the cause, moved to have it transferred to New Orleans, and it was so transferred; and that is the only order or action taken by Judge Watrous in the case.

We are told, however, that Judge Watrous very improperly presided in a cause known in this record as the case of *Ufford vs. Dykes*, in which he was substantially deciding on the validity of his own title. I would ask gentlemen of the House, whose minds have not been made up upon this or any other point in the case, to look at the testimony of Mr. Hartley, one of the lawyers concerned in the defense of that case, and whose testimony, I venture to say, will address itself to the mind of every gentleman, as coming from a frank, candid, and fair-minded man. The reading of that testimony has satisfied me that the facts were these: A man of the name of Ufford had sued several parties in Texas for the recovery of an eleven-league tract of land. He had employed several able counsel, and among them William G. Hale, who is represented as a lawyer of unusual energy, care, and ability. The defendants had employed a young and inexperienced practitioner by the name of Hughes, who resided at Georgetown, a point distant from that where the court was held. The case came up. Judgment was had by default in favor of the plaintiff and against the defendants, the merits of the case not having been investigated. The superior legal skill of Mr. Hale having, in the opinion of Judge Watrous, obtained an unfair advantage by getting a judgment without bringing the case to a proper test, the judge—doing what I venture to say every judge has had occasion to do many times, and what many judges have done within my own personal knowledge—went to Judge Hughes, (not the counsel for the defendants, but a member of the bar in no way connected with the case,) and

said to him, "I dislike to see that case go off without its merits being investigated; if an affidavit be put in showing a meritorious defense, I will set aside this judgment and grant a new trial."

This was said, be it remembered, to a gentleman of the bar in no way connected with the case—a gentleman in whom Judge Watrous had confidence. Young Hughes (not Judge Hughes, but the lawyer in the defense of the case of *Ufford vs. Dykes*) employed Mr. Hartley, the witness, to assist him in getting a new trial. Judge Hughes met Mr. Hartley, and repeated to him the remark of Judge Watrous. Hartley and young Hughes together procured some party to make an affidavit that the defense was meritorious. The judgment was set aside, and a new trial was granted. Then said Mr. Hale, "I am ready to try the cause." The defendants said, "we are not ready; we want time until the next court." They put in an affidavit asking a continuance. A continuance was granted. In the mean time the defendants made up an additional fee of \$1,000—half of it for young Hughes and half for the witness, Hartley—to attend to the suits in the trial. Hartley says that he was not well prepared in the suits when the term at which they were to be tried came up, and he himself went to Judge Hughes and told him that if he would assist them he (Hartley) would divide his own fee with him—he taking \$250 and Judge Hughes \$250. The latter assented, and they examined the case. They believed the title under which the plaintiff claimed, to be valid. They believed, however, that a successful defense would be made as to part of the defendants; on the ground that the title did not cover the lands which the defendants were claiming, and as to the other defendants, in addition to that, that they were protected by the statute of limitation. The case came on, and the court called upon Mr. Hale, counsel for the plaintiffs, to know if he was ready for trial. He said that he was not; that he wanted testimony to prove the execution of the power of attorney, about which you have heard so much said. Judge Hughes was confident that the power of attorney was genuine; they all believed it to be so; it had never been questioned and was not until long afterwards. They wanted a trial, and young Hughes, who had to come all the way from Georgetown, wanted the case disposed of. Relying upon what they believed to be a valid and sufficient defense, and believing that any attempt to defeat the power of attorney would be nugatory, and that Mr. Hale, by the next term, could establish fully its execution, they agreed that it should be put in as evidence in the case, and that no question should be raised about it. All this was done, and that was the character of the case, and these are the facts upon which Judge Watrous was called to decide.

I might go further into the case, but there are a great many facts which, in the course of an hour, I cannot consider, or even allude to. I have barely touched upon the points as they have presented themselves to my mind; and with the views which I have taken of these facts, I should be doing dishonor to myself, I should be guilty of a high crime and misdemeanor if I were to consent to the putting upon trial at the bar of the Senate of this judicial officer, whose conduct, in so far as I have been able to collect it in this voluminous record, scrutinized and scanned as it has been, for long, long years, with the keen eyes of private malice aided by public detraction, has been blameless. I cannot lend the sanction of my vote to this impeachment. I think he ought not to be impeached. It would, in my judgment, be a grievous wrong. I think he ought to be sent back to preside upon the bench, among the people who, perhaps, will one day come to appreciate what it is to have an honest and upright judge.

This is not the only instance in the history of the times that clamor has been raised against judicial officers. The times are sadly out of joint in that respect. Clamor against the judiciary is one of the symptoms of distempered popular feeling. I do not propose to make any allusion or address any remarks which will grate harshly upon the ears of any portion of the House. I speak to a fact; and to a fact that is well known and so notorious, that, I trust, this House will not, by its action, do anything that shall have no other effect than merely to add fuel to the flame that already burns too fiercely.

THE CONGRESSIONAL GLOBE.

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Mr. ADRIAN obtained the floor.

Mr. READY. I ask the gentleman from New Jersey to yield me a moment of his time to answer an interrogatory propounded by the gentleman from Texas [Mr. REAGAN] in his speech of Saturday, as published in the Globe. He had not an opportunity of delivering all of it in the House; but had the permission of the House to publish the remainder, and it is to answer an interrogatory there contained that I desire now an opportunity.

Mr. ADRAIN. I will yield for that purpose.

Mr. READY. The following is the paragraph in the speech of the gentleman from Texas to which I refer:

"Here is as proper a place as any to call the attention of the House to a paragraph in the report of that part of the committee which reports against the impeachment of Judge Watrous. It is as follows:

"This property, it appears, consisted of a tract of land in Texas, granted by the State of Coahuila to Thomas de la Vega, and located and sold by his attorney, Samuel M. Williams, one of the *empresarios* of Texas, associated with Stephen F. Austin, for whose benefit, and to release whom from imprisonment in Mexico, the land was sold by Williams."

"Now, I desire to ask the gentleman from Tennessee, [Mr. READY,] upon whose authority that paragraph was inserted in the report? And I respectfully ask him for an answer before the House. There was no such testimony before the committee that I am aware of. And I want to know who it is that is obtruding the name of that great man, to whose memory the people of Texas look with pride, to prevent the trial and punishment of Judge Watrous? I know the gentleman did not put it there without authority, and that, the cause of justice demanding it, he will state the authority for saying that this La Vega grant was sold to release General Austin from imprisonment in Mexico."

Without intending any disrespect to the gentleman from Texas for making the inquiry, I should not have deemed it necessary to have made an answer at all, because the fact stated is merely given in the form of a historical narrative of the Le Vega claim, or concession of the land in controversy. I say, I should not have deemed it necessary to answer the question but for the fact that it is apparent that he is laboring under the impression that some individual, whose name does not appear on the record, has communicated the information upon which the statement is made; and in order that his mind may be disabused upon that subject, I feel that it is due to the gentleman from Texas, as well as to the gentleman to whom I suppose his remarks point, that I should answer his interrogatory.

The statement in the report to which the gentleman from Tennessee refers, was not made upon the information of any gentleman whose testimony does not appear in the record of the case. It was made upon the testimony of Samuel M. Williams, whose testimony was given upon the trial of the case of Ufford and Dykes—the record of which was filed before the Judiciary Committee as evidence on the charges against Judge Watrous. In the testimony of Samuel M. Williams it appears that Stephen F. Austin was the principal owner of this Thomas de la Vega tract as well as of two others, which were granted by Coahuila and Texas. It also appears from the deposition of the same witness that Stephen F. Austin lived in the State of Texas in 1833, and went to Mexico from whence he did not return until about August, 1835. It is a part of the history of the times, that during this period of the absence of Stephen F. Austin from Texas he was incarcerated in prison in Mexico. It also appears that this Thomas de la Vega tract of eleven leagues was sold by Williams as the agent and attorney-in-fact, or purporting to be the agent or attorney-in-fact, of Austin in April, I think, of 1834. In his testimony, which was more particularly in reference to the Raphael Aguirre tract—for that has the one more particularly in controversy—he states that the proceeds of the sale of that tract of land were used by Stephen F. Austin, when he was in Mexico; and, of course, while he was in prison. It further appears that the Raphael Aguirre tract was sold before it was actually granted. Perhaps it may have been too strong an inference, but I felt authorized, as a member of the committee, in arriving at the conclusion, as a fair inference from the testimony of

Williams, that inasmuch as the proceeds of the sale of the Aguirre tract made in 1834, went to Mr. Austin while he was incarcerated in prison in Mexico, the proceeds of the sale of the Le Vega tract took the same direction. That is the testimony upon which the statement was made, whether it was authorized or not.

Mr. REAGAN. This morning I called the attention of the gentleman from Tennessee to the part of my speech above quoted. I have looked as carefully as I could to the testimony, and I have handed him the book in order that he might find the testimony, if it were there, upon which the statement was made. I have not been able to find in the testimony any evidence that any of the proceeds of the sale of either the La Vega or the De Aguirre tract went to release Stephen F. Austin from prison. I have called attention to it for the reason that it seemed to me an unauthorized use of the name of a great man, whose name is everywhere venerated in Texas, to shield the greatest judicial offender this country ever produced. I ask the gentleman from Tennessee now to read the testimony upon which he felt himself authorized to make this statement?

Mr. READY. I wish to say one word in reply to the gentleman.

Mr. ADRAIN. I would like to accommodate all these gentlemen if the time occupied is not to be deducted from my hour.

Mr. BILLINGHURST. I hope, by general consent, the gentleman from New Jersey will be allowed his full time after this explanation.

The SPEAKER. The Chair supposes that, by general consent, the time occupied by the gentleman from Tennessee and Texas will not be deducted from the time of the gentleman from New Jersey.

Mr. READY. I should have read the testimony of this Samuel M. Williams upon that subject, but I should have had to read more than I thought a proper understanding of this subject would render necessary in order to enlighten the House. I stated, in my first remarks, that it was an inference drawn from the testimony of Samuel M. Williams. I stated that he made a positive declaration that the proceeds, or a portion of the proceeds, of the sale of the Raphael de Aguirre grant went to Stephen F. Austin, of Mexico; but inasmuch as the other land was sold while he was in prison, at a time when he would be more likely to need means than at any other, I inferred that the proceeds of the Thomas de la Vega tract also went there. Nothing could be further from my intention than to cast any imputation upon Mr. Austin. I have had some knowledge of the character of Mr. Austin from an early period up to his death, in 1836. I have had the pleasure and honor of some personal acquaintance with Stephen F. Austin; and I can testify that he was a man of intelligence. I believe him to have been an honest man in every sense of the term, and as patriotic and as brave a man as ever breathed the breath of life. I would be as far from casting a stain upon his memory as any man living. I may be permitted to add that I had friends who were nearly and dearly connected with me by the ties of blood, whose bones now bleach upon the plains of Texas, who lost their lives in the war of independence, and whose history and reputation are, to some extent, identified with those of Stephen F. Austin; and therefore I would protect his memory as I would that of those of my own blood.

Mr. REAGAN. I am satisfied the gentleman from Tennessee was influenced by no improper purpose in the insertion of this inference in the report as a fact; and my purpose is accomplished now that it has come to the knowledge of the House that this was an inference, and not a fact, deducible from the testimony.

Mr. ADRAIN. I do not presume that I am possessed of sufficient ability to enable me to shed any new light upon the important subject now under consideration. It has been most ingeniously and ably argued by the gentlemen who have preceded me; and I only rise to notice a few

points in the case, and to throw out a few observations which have influenced my mind and which will lead me to vote as I intend to do on the question of impeachment of Hon. John C. Watrous.

It is scarcely necessary for me to observe that this is a very important subject, and one which requires at our hands a calm and deliberate consideration; and I was very much gratified that the chairman of the Judiciary Committee, the other day, stated that he did not intend to close the debate upon this subject until the House showed a disposition to have it closed, in order that this subject might be fully and thoroughly investigated. It is a question deeply important to Judge Watrous himself; and I should be very sorry to see him placed on trial before the Senate of the United States without a sufficient cause. But, sir, it is equally important that an example should be set of any judge who soils his robes and has shown a want of integrity in office—a judge whose duty it is to hold the scales of justice impartially between man and man.

Much, Mr. Speaker, has been said of the independence of the judiciary of this country; but that is not the question in dispute here. Who is debating that point? Who is doubting the wise provision of the great men who framed the Constitution, when they put a provision in that Constitution making the tenure of the office of judge that of good behavior, which is tantamount to the same thing as for life? And my friend from New York, [Mr. CLARK,] to whom I listened the other day with so much pleasure, expressed his thanks to the great and pure men who framed the Federal Constitution, for having made the judges independent; but, at the same time that they provided for a manner of appointment, inserted also a provision in that instrument by which dishonest and corrupt judges could be reached and brought to trial.

It is said here that Judge Watrous is persecuted; and hunted down by clamor and by prejudice. If that is true, I hope we will at once dismiss the case, because I should be very sorry to see him sent to trial to the Senate upon mere clamor and prejudice. The gentleman from New York [Mr. CLARK] stated the other day that Judge Watrous was an unpopular judge, and that he admired an unpopular judge. So do I when I know the causes that make a judge unpopular. I have known judges who are petulant; I have known judges who are unsocial in their intercourse with members of the bar, and with suitors in their courts. They may become unpopular in that respect, but that would not lessen the high regard I might have for their legal attainments and their integrity of character.

But is that the reason why Judge Watrous is unpopular? Is that the reason why the people in his district are afraid to come into his court and submit their claims to his decision? Why, sir, we have, in the record here before us, resolutions passed by the Legislature of Texas condemning Judge Watrous, declaring him unfit to sit on the bench because of his being wanting in integrity of character, and declaring that he is a man who cannot hold the scales of justice equally between parties. That is the reason why he is unpopular. We have recently seen, Mr. Speaker, an instance of a most distinguished judge, (Judge Campbell,) who delivered a most able and lucid charge to a jury at Mobile, on the true meaning and intent of the neutrality laws of this country, and what constitutes a violation of them. That charge has excited a great clamor.

Mr. STEPHENS, of Georgia. And ought to.

Mr. ADRAIN. Although he delivered that charge among a people that were opposed to the views he expressed, yet he had the courage and independence to exercise his own judgment and to take such a view of the subject as accorded with the law and with his own convictions of duty; and I do not hesitate to say, from an examination of that charge, that it was highly creditable to the judiciary of the country, and that its argument is unanswerable, even by my very distinguished friend behind me, [Mr. STEPHENS,]

who has just remarked that it ought to have excited a clamor. That judge may be unpopular, and his is the kind of unpopularity which I admire. It is that which excites my admiration; and I commend, with all my heart, such a judge to the admiration of my honorable friend from New York, [Mr. CLARK,] and not a judge from Texas, who is polluted, whose robes are soiled, and in whose character the important element of moral integrity is lacking:

It is not only important, as the gentleman says, to have an independent judiciary, but it is important to have an honest judiciary; and I am glad that those great men who framed the Federal Constitution did not make the judiciary of the United States so independent as to put it beyond the reach of our power.

It has been argued here, Mr. Speaker, that we are not sitting in the character of a grand jury to investigate the subject; but that, according to the view of the honorable gentleman from New York, [Mr. CLARK,] we are sitting here as if we were trying Judge Watrous on his guilt or innocence; that we were entering on the investigation of all the facts and circumstances as if we were here sworn as a court. I differ with the gentleman. We sit here simply in the character of a grand inquest. And when those great men who framed the Constitution of the United States provided that the House of Representatives should have the power of impeaching, and the Senate the power of trying, they were following out a great principle of common law—that a bill of indictment should be first found, and that then that indictment should be tried before another jury different from that which found the bill. My friend went out of his way, as I thought, when he declaimed against the system of grand juries, as if it was an engine of oppression and wrong. According to his opinion, grand juries ought to be abolished. According to mine, they are the safeguard of innocence, protecting men from clamor and prejudice. When a man is suspected of or charged with crime, he is not hurried to trial; but his case is first to be investigated before a grand jury to see if there is a probable cause for putting him on trial; and then, if there be, he is to be tried before a petit jury.

Now, Mr. Speaker, to show that we do not sit here in the character of a court of trial, let me remark that we are not sworn to try this case. No additional obligation is placed upon us to investigate this matter. But look to the Constitution of the United States, and you will perceive that before the Senate proceeds to the trial of a person accused before them, its members are to be sworn. They are to take an oath additional to the oath they have already taken as members of the Senate, fully and fairly to try the case that is presented before them. If we enter on the trial of Judge Watrous, to decide his guilt or his innocence, we then infringe, as I conceive, on the prerogative of the Senate, which has the sole right to try a man on a bill of impeachment that this House may have found against him. Our duty is simply to see if there is a *probable cause* for putting Judge Watrous on trial before the Senate.

Now, Mr. Speaker, what are the charges that are brought against Judge Watrous? Two memorials have been sent to this House, praying for his impeachment; one by Jacob Mussina, of Louisiana, and the other by Eliphas Spencer, of Texas. I do not think that there is anything in the memorial of Mussina that calls on us to find an impeachment against the judge. The principal charge in that memorial amounts simply to this: that Judge Watrous, in a certain case that was tried before him, in which Cavazos and others were complainants, and Mussina interested as one of the defendants, decided some points of law against Mussina. I maintain that, although Judge Watrous may have committed an error of judgment on some of these points of law, yet that does not furnish a sufficient ground of impeachment. We are not a court of appeals. We are not here for the trial of nice questions of evidence or of other legal points; and it appears from the record in this case that nearly one half of the decisions made by Judge Watrous were in favor of the defendants—forty-one for the complainants and thirty-four for the defendants. I understand that there were only seven points as to which the defendants complain of Judge Watrous's decision. We, sir, are not to look at Judge Watrous's legal opinions and to review them. The question is,

whether, in this suit of Cavazos and others, against Mussina and others, he acted corruptly; and whether, in making his decision, he was actuated by any bias, by any ill-will or prejudice, or by any interest in the case. And yet it is proved most distinctly, and is admitted upon the part of the gentlemen who have reported in favor of impeaching Judge Watrous, that in his decision in that case, there was nothing like corruption. Why, he did not even know this Jacob Mussina, and had not a cent's worth of interest in the case. Finding, therefore, that in the rulings that he made in that case he was not operated upon by ill-will, or by prejudice, or by interest, or by any corrupt motive, I am willing to say, that upon the memorial of Jacob Mussina, this House ought not to find a bill of impeachment against Judge Watrous.

Mr. REAGAN. I desire to ask the gentleman where he gets the evidence of the number of questions decided against the one and the other of these parties? I have never heard of it before.

Mr. ADRAIN. It is stated in the record that appears before us.

Mr. REAGAN. I would be glad to have the gentleman point to it. It is new information to me.

Mr. ADRAIN. I cannot now lay my hand precisely upon that point in the evidence. But I found it stated somewhere in the record that there were so many rulings for the plaintiffs and so many for the defendants. But that is perfectly immaterial. It is a matter of no moment whatever, how many rulings there were for either of the parties. I do not care if Judge Watrous ruled every time against Mussina and the other defendants in that case, provided that he did not so rule from any corrupt or interested motive. That is the point. The question is not whether he erred in judgment. Where is the man sitting upon the bench as a judge who does not sometimes err upon points of law? But, Mr. Speaker, I would refer the gentleman from Texas to a part of the report of those members of the committee who are opposed to the impeachment of Judge Watrous in regard to the number of rulings that were made in that case. I stated, a moment ago, that I could not immediately lay my hand upon the evidence; but I see, by reference to the report of the members of the Judiciary Committee who are opposed to the impeachment, that they use this language upon that point:

"As to the incidental rulings in the case, the undersigned perceive, in examining the transcript, that the case was earnestly contested on both sides; that numerous counsel were employed for some of the parties, and for Mussina about as many counsel as for all the parties, plaintiffs and defendants, put together; that a great mass of evidence was put in, and in the course of the preliminary proceedings on the hearing, at least seventy-five motions or other questions were made requiring the decision of the judge; of these, forty-one were decided in favor of the plaintiffs, and thirty-four in favor of the defendants."

That is the statement of the members of the committee who are opposed to the impeachment of Judge Watrous.

Mr. REAGAN. Will the gentleman permit one word right there?

Mr. ADRAIN. I would rather proceed with my remarks.

Mr. REAGAN. I desire to correct a very important error, and to bring the truth before the House.

Mr. ADRAIN. I must object, because this is a question not between the gentleman from Texas and myself, but between the gentleman and those members of the Judiciary Committee who have signed this report.

Mr. REAGAN. I can do it in one word.

Mr. ADRAIN. Well, do it with me, and not with me. I take their report, and I presume that they have reported correctly. I cannot believe that they have reported facts to this House which are not true.

Now, Mr. Speaker, to come back to the point where I was interrupted: I was saying that errors of judgment upon legal questions furnish no sufficient ground for impeachment unless they spring from prejudice, or some corrupt intent, or from such ignorance of the law as renders the judge incompetent for the discharge of his official duties; and no one charges Judge Watrous with incompetency, but all admit his decided ability as a lawyer and a jurist. Why, sir, have not the judges of the Supreme Court of the United States—have not the most learned and distinguished men who

have ever sat upon the bench of this country or of any other—made errors sometimes? Have not Marshall and Story, and our present distinguished Chief Justice Taney, made errors sometimes on points of law? And would the fact that they have sometimes erred in their judgment of legal questions be ground for their impeachment? When you can show that the decision of a judge has been instigated by corrupt motives, or from the other causes that I have mentioned, then you will have sufficient ground for impeachment, and not till then.

But, Mr. Speaker, I turn from the memorial of Jacob Mussina to the memorial of Eliphas Spencer; and I regret to say that in that memorial I do think there are charges which have been sustained by the evidence furnished in the record before us, that call upon this House to find a bill of impeachment. The memorial states that Judge Watrous entered into a stupendous speculation in lands in the State of Texas, on the Brazos river, amounting to some sixty thousand acres of land, valued by the parties at \$300,000, of which he had one fourth interest. It appears that one Thomas M. League, in the summer of 1850, came to the office of Judge Watrous at Galveston, in Texas, and told him of a rich speculation; and that if he would enter into it, it would be of great advantage to himself and other parties who might join in the purchase of that immense tract of land. That is a fact that is not denied. It is admitted by Judge Watrous himself that he did purchase, with League, Lapsley, and others. We have that fact to start with. Well now, it is asked, had not the judge a right to purchase land? Because Judge Watrous is on the bench he is to be deprived of the opportunity that other men have of making a fortune by the successful purchase of real estate?

I wish to state the case fairly for the judge, and I am ready to admit that if, in making the purchase, it did not interfere or was not likely to interfere with his official duties in any respect, then there was nothing wrong or improper on his part. The judge states, as a reason for the purchase, that his salary of \$2,000 was not sufficient to support himself and family. If that is so, if our judges are not provided with salaries sufficient to support them in decency and in comfort, let their salaries be increased; but I do not think that \$2,000 was so very small a salary for the support of the judge and his family. I believe he could have made out to live upon it in Texas. Mr. Speaker, this League, who came into the office of Judge Watrous for the purpose of enlisting him in the purchase of this large tract of land, was a notorious speculator, well known to be such to the judge, and living in the same place with him, who spent his time in purchasing up doubtful titles. Now, I would ask why he came to enlist Judge Watrous in this enterprise? It appears that Judge Watrous was poor; that he had no money to engage in any speculation; that his salary of \$2,000 was not sufficient for his support. What, then, was his object? There must have been some motive on his part; and the only motive that I can conceive of was, that the judge was to be used in his official capacity for a corrupt and dishonest purpose.

After the purchase was made by the several parties, and the title was vested in Lapsley, who lived in the State of Alabama, we find that suits were almost immediately brought in the district court of Texas, over which Judge Watrous presided. Now, if League came into Judge Watrous's office to engage him in this speculation, and the judge knowing or suspecting his object, and he lent himself to it—which was, that the title to the land was either to be tried in his own court, or, on account of his interest, removed to a court out of the State of Texas—then I say that Judge Watrous committed an act which was inconsistent with his duties as judge, and which renders him unfit to sit upon the bench to try cases which may be brought to his court.

Mr. TAPPAN. Will the gentleman from New Jersey allow me to interrupt him, and to correct him in reference to the testimony bearing upon the point which he is now making? There is nothing in the evidence which goes to show that League approached Judge Watrous for the purpose of getting him into this purchase; but on the contrary, the testimony shows that League was casually in his office; that the conversation sprang

up incidentally—one thing leading to another—until finally Judge Watrous's Alabama friends were brought into the purchase. There is no evidence that League went there in the first instance to engage Judge Watrous in the purchase.

Mr. ADRAIN. It is immaterial whether Mr. League came to the office of Judge Watrous for that purpose, in the first instance, or in the second instance; whether he came there casually, and the conversation sprang up incidentally or not. We find here a statement on page 22 of the answer of Judge Watrous in the record, in which he admits that League came into his office and made the proposition to him to embark in the enterprise. Does the gentleman from New Hampshire deny that?

Mr. TAPPAN. I refer to the testimony given by League himself, given in evidence before the committee, which shows just exactly why he was in the office.

Mr. ADRAIN. We have the distinct fact that he was there and that this conversation took place, in which it was proposed that Judge Watrous should embark in this speculation, and that is all we want. The following is the statement of Judge Watrous:

"Mr. League came into my office and told me that he had an opportunity to make a speculation. That he had purchased a tract of land upon the Brazos river, but he feared that he would not be able to pay for it. I told him that I had friends in Alabama who would furnish the money necessary; if they could be induced to think the prospect good for realizing a profit. He told me of the tract of land, the La Vega tract, nearly opposite Waco, upon the Brazos. I asked him about the title. He told me that it had been pronounced good by Judge Hughes. I was willing to trust to Judge Hughes's opinion. It was agreed upon between Mr. League and myself that we would write to Alabama and endeavor to engage my friends in the enterprise. There was then pending in the supreme court of the State a case of exactly such a title, in which I was interested by a contract made before I entered upon the bench. I stated to Mr. League my entire confidence of success, and my expectation that the decision of that case would end all further controversy about that class of claims. That if we should be compelled to sue, we should have that case for a decisive antecedent, and should be in no danger of loss. Mr. League and three gentlemen from Alabama went up and examined the land and determined to purchase it."

Now, we have an interview between this notorious speculator and the judge of the court; and upon looking at the whole of this case, I cannot resist the conviction of the corruption of the judge, and that his official position was to be prostituted for selfish and interested ends.

Now we find, after Lapsley got the title to these lands, and was holding them for himself and the other parties interested—Judge Watrous, League, and others—that suits were instituted a few months after the purchase in the court over which Judge Watrous presided. Now, sir, either one thing or the other must be true; either that those suits, in regard to the title to the lands, were to be tried in the court held by Judge Watrous, or else they were to be transferred to another court out of the State of Texas, to avoid a trial by a Texan jury. My own impression is, that the first design was to have the suits tried in Judge Watrous's court. But the plan was afterwards changed; and they thought the best policy was to transfer them to New Orleans, out of Judge Watrous's district, in consequence of the prejudice which existed in the minds of the people of Texas against the lands, which were held there upon Mexican titles.

Now, it is said that Judge Watrous was ignorant that any suits had been instituted in his court upon the 11th of January, 1851. Can it be believed for a moment that Judge Watrous was ignorant of this fact? He says he did not know it until two years afterwards, or more, and that he first discovered that there were such suits by their appearing upon the docket. It appears in the evidence that Lapsley wrote to Judge Hughes, who was living in Galveston, the next-door neighbor to Judge Watrous, to consult Judge Watrous and League in relation to the institution of suits; and in that letter he stated that Judge Watrous was interested in them. There was not only League living at Galveston, but there was Hughes, employed to institute the suits, also living there—both neighbors of Judge Watrous; and yet Judge Watrous, in his answer, pretends that he never knew of the institution of the suits. Judge Watrous may tell the truth; but it cannot be possible, in the nature of things, but that he must have known it. We have here the testimony of Love, the clerk of his own court, who states that Judge

Watrous came into his office and saw the writs at the time they were made out or being prepared. Who is this Love? Is there a particle of evidence to show that Love is a man who ought not to be believed? We have the statement of Love under oath, and we have the simple statement of Judge Watrous, not under oath, and deeply interested to the amount of \$75,000. The judge says he did not know, and Love swears that the judge did know it. Who is to be believed?

Mr. TAPPAN. I do not like to take up the gentleman's time, but I would like to refer him to the fact which I adverted to when I spoke upon this question—that I hold in my hand, and would like to read it with the permission of the House, the affidavit of Love, showing, that in his statement before the committee, he was mistaken in reference to that matter.

Mr. ADRAIN. I object to its reading. In the first place, it would be a consumption of my time; and in the second place, it is not in the record. We are to decide this case upon the record sent up here by the committee, and not upon outside evidence. I do not care if the gentleman holds fifty affidavits of certain facts to contradict evidence before us. It is upon the evidence in the record, and upon this alone, that this House is called upon to make its decision. Again: we should have an opportunity to cross-examine the man who swore to that affidavit. Let him be brought here for that purpose.

I say, then, that the institution of these suits must have been known to Judge Watrous, because we have the clear and positive testimony of Love, his own clerk, to that fact. And I stated that they were either to be tried in Judge Watrous's court or to be removed to another tribunal. Now, how were they to be removed? How was the trial in the district court of Texas to be avoided, if that was the original or subsequent design? It was by the conveyance of the title to Lapsley, a man living out of Texas, in Alabama; thereby giving him the right to institute a suit in the district court. Then they were to be removed from that court to New Orleans, so that the people living in Texas, with their prejudice against Mexican title, would not be called upon to pass upon the title. If it was not intended that the suits should be instituted in the district court for the purpose of having them removed out of Texas, why was not the title left in League, who originally held it, and to whom the conveyance was originally made, or why was it not conveyed to some other person residing in Texas? Why travel off to Alabama for some individual to hold the title? And yet Judge Watrous declares, in his answer, that he was anxious to have the suits tried in the State courts; and yet it appears, from the evidence, that the title was vested in a man who could bring a suit in the district court, and have it removed to another State, in order that it might not be tried by a Texan jury.

But it is said, Mr. Speaker, that Judge Watrous had no control over the institution of these suits; that the title was vested in Lapsley, and that he could do as he pleased, and bring the suits where he pleased. Why, this Judge Watrous, it appears, would have us believe that he took no interest whatever in regard to the institution of the suits in the proper court. All the interest he took was in relation to the purchase of the land. He embarked in that. He went down to Selma, Alabama, and arranged with the parties there to purchase the land; but the moment it is purchased, and the title vested in Lapsley, he turns around and says: "I had nothing further to do with it. The legal title is in Lapsley." Suppose it was: whom did Lapsley hold the land for? He held it as trustee for Judge Watrous and League and the rest. Judge Watrous had a one fourth interest in it; and is it to be believed that he never took any interest in, or any kind of control over, the institution of the suits or the court in which they were to be instituted? Why, sir, at one time, according to his own statement, he did take the matter of instituting suits in his own hands. Just listen to what he says in his answer, on page 33 of the record. He remarks:

"I was anxious, when it became necessary to sue, that the litigation should be had in the courts of the State, and inquired of Judge Hughes how much money it would take to bring the suit and commence the litigation in the State courts? He stated to me that \$300 would be enough, and I paid him that amount for that purpose out of my own pocket to insure the certainty that the litigation which I

had not anticipated, but which had now become necessary, should be had in the courts of the State."

But this occurred two years or more after the suits had been instituted in his own court; and he would have us believe that he was ignorant of them, and had no control over them, as the title was in Lapsley—the title to the land was in Lapsley when he paid, as he says, \$200 out of his own pocket. Why did he interfere? Did he consult Lapsley about bringing the suits in the State courts? It does not appear that he did. But why did he take such particular pains to have a suit at once commenced in the State courts? Why, sir, the truth is, that it was beginning to leak out that he was interested in this grand speculation, and that the suits had been instituted in his own court by his knowledge and consent. And it was to cover up the suspicion of improper and corrupt conduct on his part, that he spoke to Judge Hughes about instituting suits in the State courts, and, poor as he was, raised \$200 to fee the judge and pay expenses.

The question then comes back—and it is the main question in this case—to the naked point, whether Judge Watrous, in entering into this bargain with these other parties, entered into it for the purpose of having his official position used for his own selfish and interested purposes, and for the selfish and interested ends of those who were connected with him?

It is pretended that when Judge Watrous entered into the purchase of the land, he supposed the title was good, and that there would be no law-suits instituted to recover possession. Now, is that true? Why, in his own answer, he says, that the first time that League came to see him he told him the title was good; that Judge Hughes, one of the best land lawyers in Texas, had examined it; and yet he says: "if we are compelled to sue," showing that there was in his own mind an idea that suits would have to be instituted before the men who had settled on this large tract of land, and made improvements on it, would remove from them or give them up without resistance. Mr. Lapsley states in his evidence that, while the parties were together in Selma, Alabama, talking about the purchase of this tract of land, Judge Watrous being present, the question as to the probability of suits having to be brought for the recovery of the land was brought up and talked over. Lapsley, in his evidence on pages 120 and 121 of the record, says:

"Question. How long were your discussions continued at Selma before you finally agreed and executed these papers?

"Answer. I think some two days after Mr. League and Judge Watrous came there. That is, the greater part of that time was engaged in examining the titles, consulting with my associates in Alabama, and drawing up the papers—perhaps as much as two or three days. The discussion did not last that long. It was first agreed upon that I should draw up such papers as I thought proper. They were then submitted; and perhaps we were several hours talking over the matter before it was concluded. And from first to last there were two or three days occupied, as before stated."

"Question. When you purchased, you were aware, of course, that it would be necessary to bring suits in order to eject the persons on the land?

"Answer. Yes, sir; I understood that there were men, who were called squatters, on the land. Mr. League spoke of them as being on the land."

"Question. Was it contemplated, at that time, that suits were to be brought?

"Answer. Yes, sir; I calculated that suits would become necessary."

"Question. Did you give any instructions in regard to the bringing of the suits?

"Answer. Yes, sir; I gave instructions."

"Question. To whom?

"Answer. I think my instructions were given by letter to Judge Hughes. I have got here copies of some of my letters."

And in his letter to Judge Hughes, dated Selma, Alabama, November 2, 1850, he says:

"As Mr. League and Judge Watrous are interested in this land, I beg leave to refer you to them in relation to any matters relating to the suit to be brought," &c.

Therefore, Judge Watrous not only knew from this conversation, but he knew from the very nature of the case, that these men, who had settled on this land, would not yield it up without a struggle. They had made improvements on it, had cleared a portion of the land, and had expended a good deal of money on it. They were attached to the land, and were residing there with their wives and their children, supposing that they had a good right there. Is it then to be supposed, from the very nature of the case, that Judge Watrous did not know that suits were to be instituted before this large tract of land could be recovered?

Now, Mr. Speaker, if he did know this; if there was every reasonable probability to suppose that litigation would be necessary; and if he lent his position to further the objects of those who were engaged in the speculation, he committed an act inconsistent with the judicial position which he held.

Now, it is said that a bill of impeachment cannot be found against Judge Watrous unless it is proved that he has committed some crime or misdemeanor. But I ask if he may not be impeached for acts which do not constitute a crime—may not a judge be impeached for misbehavior? Are not the judges of the Supreme Court and of the district courts of the United States to hold their offices during good behavior? And it follows, necessarily, that they may be displaced for bad behavior, which does not amount to any crime. May not a judge of the United States court be impeached for intemperance when it renders him unfit for his official duty? May he not be impeached when he becomes so petulant on the bench, and discourteous and overbearing to the members of the bar and parties in his court, as renders it impossible for justice to be done in his tribunal? And may he not be impeached when it is shown that he is lacking in integrity of character and prostitutes his office to subserve his own selfish and corrupt ends? All these are acts of misbehavior, although not amounting to any crime.

Now, sir, I contend that what Judge Watrous did in this case, lending his position for a corrupt purpose, was far worse than if he had committed what might be technically called some official act; because, if it was an official act, such as an order or decision upon some legal point, the parties who were prejudiced by it could take the case to another court, and have their remedy upon appeal; but in this case there was no remedy for those parties, who were dragged out of Texas from their own homes and from among their own neighbors. If Judge Watrous lent his office for the purpose of having suits instituted in his own court and then removed into another State, so that they might be tried there to his own advantage, and to the detriment of the parties who were sued, he gave evidence of a lack of integrity unfitting him to sit upon the bench and act fairly and honestly between suitors in his court.

Mr. Speaker, it is our duty, out of respect to the character of our judiciary, to have a man displaced from office who has shown himself unfit to fill it. The people of Texas complain of Judge Watrous, and say that he is an unworthy and corrupt judge; they are unwilling to go into his court and have their suits tried before him. How is this evil to be remedied? How is Judge Watrous to be removed, if these charges that are urged against him are true? Only by a bill of impeachment, and by sending him to the Senate, where he will have a fair trial, so that if he be innocent, the stain that is now fixed upon his character will be removed. And why does he object? Why is he, by every personal effort and through his friends, trying to prevent a bill of impeachment from being found against him? I do not see that a bill of impeachment would damage him any more than he is already damaged in this case.

It does not necessarily follow, on finding a bill, that he is guilty; for every man is presumed, by a well-settled principle of law, to be innocent until fairly tried before a legal tribunal, and found guilty. The deep stain of infamy now resting upon his character will only be wiped out by an honorable acquittal, upon a fair, full, and thorough investigation, at the bar of the Senate, into all the facts and circumstances which now throw around him such a dark cloud of suspicion, distrust, and utter want of confidence in his integrity as a man and a judge. If innocent, he need not fear a trial. It is only a guilty conscience which deters him from calling at once upon his accusers to meet him face to face, before the only lawful tribunal which has the power to determine and pronounce upon his guilt or innocence.

"Innocence, unmoved
At a false accusation, doth the more
Confirm itself; and guilt is best discovered
By its own fears."

Mr. MAYNARD. I hope the gentleman does not refer to me as one of the friends of Judge Watrous.

Mr. ADRAIN. I did not intend to allude to

the gentleman from Tennessee, though he has shown himself, by his speech, to be a friend of Judge Watrous.

Mr. MAYNARD. I will take this occasion to say that I have no personal acquaintance with Judge Watrous, and do not even know him when I see him. I have spoken, not as the friend of Judge Watrous, but as a Representative in the Congress of the United States.

[Here the hammer fell.]

Mr. WARD obtained the floor.

Mr. GARTRELL. If the gentleman from New York will yield me the floor, I will move that the House adjourn.

Mr. WARD. I yield for that purpose.

Mr. GARTRELL. I then move an adjournment.

The SPEAKER. Will the gentleman from Georgia withdraw his motion for an adjournment, to enable the Chair to lay before the House a message from the President of the United States?

Mr. GARTRELL. I withdraw it for that purpose.

TREATY WITH SIAM.

The SPEAKER then laid before the House a message from the President of the United States, transmitting a copy of the treaty between the United States and the kingdom of Siam, concluded on May 24, 1856, and proclaimed on the 16th of August last, and calling the attention of the House to the necessity of an act to carry into effect the provision of article two of said treaty, conferring certain judicial powers on the consul of the United States at Bangkok; also suggesting the extension to the kingdom of Siam of the provisions of the act approved August 11, 1848, entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte," giving certain judicial powers to the ministers and consuls of the United States in those countries.

Mr. RITCHIE. I move that the message be referred to the Committee on Foreign Affairs and be printed.

Mr. LETCHER. I think a portion of that message ought to go to the Committee of Ways and Means; that portion which asks for means to carry out the treaty.

Mr. RITCHIE. Well, we can send it to them as soon as we get through with it.

Mr. LETCHER. I move that so much of the message as relates to the providing means for the execution of the treaty be referred to the Committee of Ways and Means.

Mr. BARKSDALE. Is that the usual course?

The SPEAKER. The Chair is hardly prepared to answer that question. One branch of the message might perhaps properly go to the Committee on Foreign Affairs, and the other to the Committee of Ways and Means. The Chair supposed that the Committee on Foreign Affairs might report an amendment when the consular and diplomatic bill was before the House, inasmuch as it would be a proposition to carry out an existing law, and the amendment might appropriately come from the Committee on Foreign Affairs.

Mr. LETCHER. I have no particular wish to have the matter referred to the Committee of Ways and Means.

Mr. HOUSTON. I do not know what is in the message; but if I understand the gentleman from Virginia correctly, he speaks of an appropriation that is required to carry out a treaty that has recently been made. If that be true, the appropriation must be made in a bill by itself, and could not come from any committee in the shape of an amendment to a general appropriation bill. All appropriations of money for the execution of treaties have to be reported and passed in bills by themselves.

Mr. BARKSDALE. It strikes me that the message ought to be referred to the Committee on Foreign Affairs.

Mr. JONES of Tennessee. Does the message ask for an appropriation?

Mr. KELSEY. It does not.

The SPEAKER. The President calls the attention of Congress to the necessity of an act for carrying into effect the provisions of article two of the recent treaty with the kingdom of Siam, conferring certain judicial powers upon the consul of the United States, who may be appointed to reside at Bangkok.

Mr. LETCHER. I withdraw my motion. The message was then referred to the Committee on Foreign Affairs, and ordered to be printed.

REPORT ON PUBLIC PRINTING.

The SPEAKER laid before the House the annual report of the Superintendent of the Public Printing; which was laid upon the table and ordered to be printed.

CONTINGENT EXPENSES OF THE HOUSE.

The SPEAKER also laid before the House the report of the Clerk of the House on the contingent expenses of the House during the past year; which was laid upon the table, and ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. WINSLOW, the Joint Committee on the Library was discharged from the further consideration of joint resolution, No. 53, directing the printing of certain reports therein mentioned; and the same was referred to the Committee on Military Affairs.

EIGHTH CENSUS.

Mr. GARTRELL. I now renew my motion, that the House adjourn.

Mr. HUGHES. I ask the gentleman from Georgia to withdraw that motion to allow me to offer a resolution?

Mr. GARTRELL. I withdraw it for a moment for that purpose.

Mr. HUGHES. I ask leave to offer the following resolution:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to prepare and report a bill making appropriations for such necessary sum of money as may, in their judgment, be required for taking the eighth census of the United States, according to the provisions of the act of Congress approved May 23, 1850, entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States."

Mr. STANTON. I suppose that carries with it the taking of the census precisely according to the law passed ten years ago. If so, the matter ought to be considered, and not hastily decided on. It will not injure anybody if we have a day or two to look at it.

Mr. HUGHES. The resolution proposes that the Committee of Ways and Means shall report a bill appropriating money for the purpose indicated.

Mr. PHILLIPS. I would inquire whether the resolution ought not to be a joint resolution?

Mr. HUGHES. It is merely a resolution of instruction to the Committee of Ways and Means. I move that the rules be suspended to enable me to introduce the resolution.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn.

Mr. BARKSDALE. The gentleman from Illinois has not the floor to make that motion.

The SPEAKER. The Chair understood the gentleman from Indiana to move to suspend the rules.

Mr. BARKSDALE. But still retained the floor.

The SPEAKER. He could not retain the floor for the reason that the motion is not debatable.

Mr. WASHBURN, of Maine. I desire to ask if this resolution will not come up the first thing next Monday morning?

The SPEAKER. It will.

Mr. WASHBURN, of Maine. Then I think we had better let it go over, that it may look into it a little.

TERMINATION OF DEBATE.

Mr. HOUSTON. I wish to say to the House that I will endeavor to get a vote upon the pending case to-morrow—say at three o'clock.

Several MEMBERS. That is right.

Mr. JONES, of Tennessee. I think it would be better if the gentleman from Alabama would move the previous question at two o'clock, if he contemplates occupying his hour after the previous question shall have been ordered. We shall then have time to take the votes before the hour of adjournment, otherwise the House may adjourn before the case is disposed of.

Mr. HOUSTON. Very well, I will accept the suggestion of the gentleman. I merely wished to give the notice so that the House should not be taken by surprise. I now give notice that I

will call for the previous question to-morrow at two o'clock.

MARYLAND CONTESTED ELECTION.

Mr. BOYCE. I give notice to the House that I will call up the Maryland contested-election case as soon as the pending question is disposed of.

The motion of Mr. WASHBURN, of Illinois, was then agreed to; and thereupon the House (at quarter past four o'clock) adjourned.

IN SENATE.

TUESDAY, December 14, 1858.

Prayer by Rev. P. D. GURLEY, D. D.

Hon. SAM HOUSTON, of Texas, appeared today.

The Journal of yesterday was read and approved.

COMMITTEE ON PRINTING.

The VICE PRESIDENT announced the appointment of Mr. DAVIS on the Committee on Printing, in the place of Mr. CLINGMAN, excused.

PETITIONS AND MEMORIALS.

Mr. HALE presented six petitions from George M. Lee and others, clerks of navy-yards, praying for an increase of salary; which were referred to the Committee on Naval Affairs.

He also presented a memorial of citizens of New Hampshire and members of the Legislature of the State, praying that a system of instruction may be introduced on board our national ships and vessels for the improvement of the personnel of the Navy; which was referred to the Committee on Naval Affairs.

Mr. SEWARD presented the petition of J. Hosford Smith, praying to be allowed to import, free of duties, three iron steamers, to be used in the coasting trade, and registered as American vessels; which was referred to the Committee on Finance.

Mr. BIGLER presented the amended memorial of Hayne M. Salomon, praying indemnity for moneys advanced to members of the Continental Congress, and public securities held by his father, Hayne Salomon; which was referred to the Committee on Revolutionary Claims.

Mr. DURKEE presented the memorial of Clark Hoadley, a soldier in the war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the memorial of Orrin W. Rice, praying to be indemnified for a loss sustained by him as contractor for a military road in Minnesota; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOSTER presented a memorial of the Governor, Lieutenant Governor, Secretary of State, and members of the Legislature of Connecticut, praying for the adoption of a system of instruction on board our ships-of-war for the improvement of the personnel of the Navy; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented the petition of William Welsh, a soldier in the last war with Great Britain, and subsequent Indian wars, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CRITTENDEN presented the memorial of John D. Colmesnil, President of the Ohio and Mississippi Mail Line Company, praying compensation for carrying the mail between Louisville and New Orleans during the boating seasons of 1832 and 1833; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented a memorial of the Legislature of the Territory of Dakota, elected under a resolution passed at a mass convention held for the purpose of establishing a temporary government, praying Congress to approve the laws of the Territory, and to extend to it a more perfect organization; which was referred to the Committee on Territories.

Mr. HALE. I hold in my hand the petition of Dorcas Stewart, who represents that she is the widow of a soldier who enlisted in the service of the United States in the war of 1812, and died in the year 1814; that from that time to the present she has been making continual claim on the Treasury, and succeeded, in 1853—after the lapse of nearly forty years—in getting a small pension of about three dollars and fifty cents per month; and she prays that an additional pension. She further represents that in 1858 she ascertained that there

was due to her, by the books of the Treasury, the sum of \$130, which they paid to her at that late time without interest; and she prays that she may have interest allowed her on the sum found to be due; and also an additional pension. As this petition involves two distinct matters, I move that that part praying interest for money paid be referred to the Committee on Claims, and the residue to the Committee on Pensions.

The motion was agreed to.

Mr. HAMLIN. I hold in my hand the memorial of the Rev. Joseph Stockbridge, of the Baptist denomination, who is a chaplain in the Navy of the United States. The memorial is somewhat remarkable in its features, and I ask the attention of the Naval Committee for two minutes to the statement which he makes. He sets forth, in the first place, that while in the discharge of his official duties, he was requested by the commodore and lieutenant who were in command of the vessel on which he was serving, to use the Episcopal liturgy, under an intimation that if he did not use it, he would be superseded. Following that immediately was a series of indignities, which he attributes solely to his refusal to use the forms which they prescribed, rendering his services useless, and he himself was insulted. He concludes his memorial in this language:

"Your memorialist believes there is a design to fasten on the Navy the Episcopal liturgy, not only from what he has stated above, but from the fact that already several non-Episcopal chaplains have conformed, and also from the significant fact that your memorialist was refused permission to preach on board the razee Independence, in the harbor of Rio, on the ground that he would not read his prayers. He therefore asks the enactment of such laws as will protect him in future, and punish offenders."

If the facts which this chaplain sets forth be true, they are clearly in derogation of the Constitution. That instrument provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" if rules can be established in the Navy, subversive of this guarantee of the Constitution, they are equally as unconstitutional as would be such a law passed by Congress.

I am also informed that the attention of Congress will be called to this subject by religious denominations of several States in the Union, and by the Old-School Presbyterians of the city of Baltimore. It is a matter that invites the attention of the Committee on Naval Affairs, and I hope they will give to it that investigation which its importance demands. I ask that the memorial be referred to the Committee on Naval Affairs.

It was so referred.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HALE, it was

Ordered, That the memorial of Joseph Humphries, praying that the Secretary of the Navy may be authorized to test his patent "floating anchor or drag," for vessels to ride by in heavy gales of wind at sea, with a view to its adoption in the Navy, on the files of the Senate, be recommitted to the Committee on Naval Affairs.

On motion of Mr. RICE, it was

Ordered, That the memorial of citizens of the town of Medary, the memorial of the citizens of Big Sioux and Medary counties, and the memorial of citizens of Pembina county, all in the Territory of Dakota, praying the organization of a territorial government for that Territory, be recommitted to the Committee on Territories.

NOTICES OF BILLS.

Mr. RICE gave notice of his intention to ask leave to introduce a bill for the organization of the Territory of Dacotah.

Mr. BRODERICK gave notice of his intention to ask leave to introduce a bill to facilitate communication between the Atlantic and Pacific States, by electric telegraph.

He also gave notice of his intention to ask leave to introduce a bill to provide for the transportation of the United States mail, in steamships, between San Francisco, in California, and China, touching at the Sandwich Islands and Japan.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 466) to establish a system of common-school education in the Navy, and to found libraries on board of naval ships; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. RICE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S.

No. 467) extending the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits" to Minnesota; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 468) to aid in the construction of certain railroads to the Pacific, to encourage settlements on their lines, and for other purposes; which was read twice by its title.

Mr. RICE. I will state to the Senate that my purpose is, when the Pacific railroad bill reported last session shall come up, to offer, as a substitute for it, the bill which I have just introduced. I move, therefore, simply that it lie on the table for the present, and be printed.

The motion was agreed to.

Mr. MASON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 469) to equalize the compensation of the Ministers of the United States to France and England, during the period therein mentioned; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. FOOT, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 470) amendatory of existing laws relating to the punishment of certain crimes against the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CAMERON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 471) for the relief of Anne M. Smith; which was read twice by its title, and referred to the Committee on Pensions.

THE COAST SURVEY.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate a copy of the special report and accompanying papers prepared by the Superintendent of the Coast Survey and of Weights and Measures, in December, 1857, by direction of the Treasury Department, showing the amount expended and the progress in each year, and also the weights and measures furnished the different States and custom-houses, and their cost.

CUSTOM-HOUSE AT GALVESTON.

Mr. CLAY. The Committee on Commerce, to whom was referred the joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas, have instructed me to report it back without amendment and recommend its passage. As it is a matter of local interest, and the resolution is recommended by the Secretary of the Treasury, and does not involve any cost to the Government, I hope it will be acted on at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which proposes to authorize the Secretary of the Treasury to make such alterations of the dimensions and plan of the custom house building now being constructed at Galveston as he may deem best according to the petition of the people of that city, with a proviso that the cost of the building when completed shall not exceed the amount already appropriated.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

COMMITTEE ON CLAIMS.

Mr. IVERSON. I offer the following resolution; and I hope the Senate will indulge me in its present consideration:

Resolved, That the 34th standing rule of the Senate be so altered and amended as to make the Committee on Claims consist of six members.

The VICE PRESIDENT. Is there objection to the consideration of the resolution?

Mr. MASON. I shall not object to the present consideration of the resolution; but shall object to its adoption. I do not like to see the committees enlarged. The subject was under consideration among a large body of Senators the other day, and the number of the committees was agreed upon.

Mr. IVERSON. In relation to the propriety of adopting the amendment which I have proposed to the rules, in reply to the observations of the Senator from Virginia, I will make this statement: when this committee was formed by the

sub-committee of the Democratic caucus, they changed the number of the committee from seven, as it was originally, to five members; and as I was made chairman of the committee, they consulted me on the subject, and stated then, that if upon experiment I found that five was not a sufficient number, they would alter the number to a larger one. I have made the experiment, and think the labors of the committee require an additional member. I do not ask for seven, because that is rather too large a number; six, I think, will be ample. The Senator from Virginia, as well as every member on the floor, knows how laborious are the duties of that committee. Perhaps no committee of the Senate has as much labor to perform as the Committee on Claims. This is the only mode by which the change can be effected. It must be upon motion to change the 34th rule, which was adopted at the last session. I trust the Senate will at least indulge me in this respect; because if there be any committee in the Senate that requires additional members, certainly it is the Committee on Claims. I have made the experiment, and I presume all the members of the committee will accord in the statement I make that we ought to have additional assistance. I know there is great difficulty in finding a gentleman to serve on the committee, but I trust there will be sufficient courtesy in this respect so that some member will be found who will serve. I hope the resolution will pass.

Mr. BAYARD. I should like to understand from the honorable Senator from Georgia whether his committee consisted of seven or five members at the last session of the Senate?

Mr. IVERSON. It consisted of five.

Mr. BAYARD. I believe the proposition now is to add one member to the committee. I am, myself, averse to altering the general rules of the Senate in this respect, which have arisen from the custom and experience of the body. I do not know whether the honorable Senator from Georgia makes this request to the Senate at the instigation of a majority of the committee by any resolution of theirs; and it seems to me that it is hardly possible, at this early day of the session, to find that the experiment has failed, because there cannot well have been much business transacted in any meeting of the committee subsequent to its being appointed at this session. I am not disposed, myself, to change the number of a committee without some strong reason for it, when the former practice of the Senate has been to confine it to a certain number. If the Committee on Claims has found that the press of business is too great for it, and that it cannot get along without an additional member, then, of course, it will become a matter for deliberation. I suppose when that change is made, you will have to increase the number to seven. I do not suppose we have ever constituted a committee with an even number; because you must always look to the possibility of division of opinion, and it necessarily requires some mode of having a decision, one way or the other, in the committee, at least so far as numbers are concerned. If the committee, by their experience, found that the duties were too onerous to be performed by five members, that would be a legitimate reason for increasing the number to seven; but that cannot now be alleged.

I was once a member of that committee, before the Court of Claims was established. I may be wrong, but it strikes me that the labors of that committee cannot be greater, I should think far less, since the establishment of the Court of Claims, than they were before; because antecedent to that time they had to weigh and investigate all the testimony connected with the written documents, and a great deal of the testimony was of a very loose cast. Independent of determining the questions of law which went to the foundation of a claim, they had also to ascertain whether the facts were properly and sufficiently proved to sustain the case, supposing the principle of it to be right otherwise. Now, the mass of the claims that go to that committee having been decided on by the Court of Claims, the committee have the facts all ascertained by evidence judicially taken, where both sides were heard. The labor, therefore, must necessarily be diminished in that respect; and I should suppose that all the members of the committee would have to do would be to read the opinions of the court; and if, on the face of those opinions, there did not arise any question

which gave rise to doubt as to the propriety of the recommendation, adopt it; and it would seem to me, reasoning from what I should suppose to be the labors of the committee, that they would be less now than they were under the former system. If that be so, and for a period from the foundation of the Government, five members were sufficient to transact the business of that committee, I can hardly see, unless it comes very strongly recommended by the committee, any reason for wishing to increase the number at the present session.

Mr. CLARK. Mr. President, I was upon the Committee on Claims at the last session, and I have also been put upon that committee for the present session. There can be no doubt that there is a great deal of work before that committee; but by diligent and constant application, the committee were able to perform the work that was before them at the last session. I think I may say that the committee did a great deal more work than the Senate did with the claims which they reported; not to say that the Senate was not diligent, but we were enabled to report a great mass of claims, which have not yet been acted on by the Senate. I do not know what business may come before that committee at the present session; no one can tell; there has been as yet no meeting of the committee. It would seem to me better that the committee should stand as it is at the present time. I do not desire to oppose the wishes of the chairman; I do not desire to oppose further assistance upon that committee if it shall be found to be necessary; but I desire that the committee shall stand until we see what business is before it, and then we can determine whether we can perform that business or not. If we cannot perform it, we have one of two courses with regard to a certain portion of the business. There is always a portion of the business that comes before the Committee on Claims, that may, if we cannot find time to do it, be reported back to the Senate, and appropriately referred to other committees; but if we cannot dispose of it in that way, and find it accumulating on our hands, we can ask for an addition to the committee; we can state to the Senate that we have made an effort to perform the business and cannot do it, and therefore ask that additional force be given to the committee. I prefer myself that the committee should stand as it is until they have a meeting, until they have consulted, until they know what they can do, and know what will be the business before them.

Mr. FESSENDEN. I should like to correct one statement that was made by the honorable Senator from Georgia. He said that this reduction of the committee to the number of five was agreed upon in the Democratic caucus. I was unaware of that fact; and I think there must be a mistake about it, because I happened to be a member of a special committee that was raised by the Senate to revise this whole subject of the committees at the beginning of a former session.

Mr. IVERSON. Perhaps it was that committee.

Mr. FESSENDEN. At that time it was taken into consideration, and I myself, being the only member of the Committee on Claims who was a member of that special committee of the Senate, proposed that the number should be reduced from six to five. Having served on the committee during the whole of the preceding Congress, I stated to the select committee that I believed the number of five to be much more convenient than six, and that it would save all trouble in reference to an equal division of the members; that five could do the work as well, in my opinion, and it would be a better number for the Committee on Claims.

All I can say in regard to my own experience is, that I was a member of the Committee on Claims during the last Congress, and I found no difficulty in disposing of all the business that was intrusted to me. I could have done double the amount with ease, and I believe that I had my share of the business to be done by the committee. The truth is, with regard to that committee, that it has a clerk who does the principal part of the business. The clerk draws up all the reports of any sort of consequence, and presents them to the committee. The absolute labor of drawing the reports comes from him, so that the members of the committee have very little labor of that description as a general rule. I do not know how it may have been during the present Congress,

but such was the case during the last Congress. I will not undertake to judge of the necessities existing at the present time, because I am not a member of the committee; but at the time the change was made, it was at my suggestion; in consequence of my statement of the experience I had had in reference to the business of the committee. I believe the Democratic caucus had nothing to do with it.

Mr. IVERSON. The correction made by the Senator, perhaps, is right. My statement on that point was merely from remembrance. I remember that the committee that regulated the number of members of the standing committees did make that statement to me. Perhaps it was the chairman of the special committee, the Senator from Louisiana, [Mr. BENJAMIN,] who made it. I then rather protested against the reduction of the number of the committee, and it was stated to me that if, upon experiment, it was found that five should not be sufficient, the Senate would add another member, the original number, I believe, being six. At any rate, it was understood at the time the committee was reduced to five members, that if, upon experiment, it was found that five should not be sufficient, the Senate would add another member, the original number, I believe, being six. At any rate, it was understood at the time the committee was reduced to five members, that if, upon experience, we should find that number insufficient, the Senate would not hesitate to restore the original number.

Now, sir, in relation to the business of the Committee on Claims, I have a word to say. I have been on the committee for three years. I was on it the first two sessions of my service in the Senate, and I was made its chairman at the last session; and therefore I speak from some personal knowledge. The Senator from Delaware [Mr. BAYARD] is mistaken in supposing that the labors of the committee have been lessened by the establishment of the Court of Claims. There is not a case which goes to the Court of Claims and which comes back to the Senate, either favorably or unfavorably reported upon, but has to be investigated by the committee. We have to look over the judgments of the court; we have to examine the arguments of counsel; we have to look into the evidence as nicely as we had to do before that court was established. It does not lessen the labor of the committee a single bit, as far as I have had any experience on the subject. Indeed, I think it increases it; because a great many cases go to the Court of Claims which probably never would come before the Senate but for its establishment, and there the testimony is much more voluminous. Both parties take evidence—the United States as well as the claimants; and the mass of evidence, in some cases, is very voluminous, which necessarily the committee are bound to examine.

The Senator from Maine, [Mr. FESSENDEN,] I think, is mistaken in relation to the facility with which he could do all this business. He may have greater facility for transacting business and investigating business than I have; but I am sure, from my experience at the last session, that it required nearly the whole of my time to examine the cases which were referred to me by the committee. The clerk does not make out all the reports. It would be impossible that the clerk should do any such thing. Besides, the members of the committee cannot rely upon reports made out by the clerk. If they do their duty, as I am satisfied they did during the last session, they examine all these cases themselves. They examine the cases that are especially referred to them by the chairman, and then they make their reports. That has been our habit at least. We do not trust to the clerk; we cannot trust to the clerk; we are obliged to examine for ourselves, because there are sometimes very important cases presented for our investigation, and each member looks into the cases referred to him, and makes his report to the committee in general meeting, and then the whole case is gone over. The clerk does nothing more than make a brief of the facts, and if necessary he draws up a bill according to the dictates of the committee; but very often the members of the committee draw up their bills for themselves. I invariably do that, unless it is a very small bill, which requires only a few lines, and those in mere formal language.

The business of this committee, so far from diminishing, is increasing every year. As the Gov-

ernment enlarges, as the population of the country increases, as the operations of the Government become more extended, of course claims accumulate against the Government, which have to go to this committee. If I had the statistics, I could show the number of cases the committee investigated at the last session. There were more than one hundred and fifty cases which the committee actually investigated and reported to this body. That is my recollection. There may have been still more. I think at least three hundred cases were referred to the committee, some of which could not be investigated. There are some cases which did not receive the investigation of the committee, simply because there was not sufficient labor in the committee. If a member of the committee is taken sick, as was the case during the last session—the Senator from New Hampshire [Mr. CLARK] was sick for months, and was unable to perform any service whatever—of course the labors of the committee must be much more onerous on the other members. Now, sir, my experience is that the original number of this committee, which was six, ought to be restored. Of course, if the Senate do not consent to this, I shall perform all the labor I possibly can, without a murmur.

Mr. BAYARD. There is a difference of opinion, certainly not an unnatural one, between the honorable Senator from Georgia and myself. I was a member of that committee before the establishment of the Court of Claims, and of course know, personally, what its business was then. He has been a member since then, and of course knows more than I do of its business now; but neither of us can compare it relatively, founded upon personal experience of the committee. My own inference I consider as the correct one still; that it is a much easier labor to take up the printed reports which are sent by the Court of Claims, in which arguments of the counsel, and the opinion of the court, are printed, and to arrive at a correct result, than it would be to take up the same case with the papers in manuscript, and arrive at a correct conclusion. In the latter case, you have to search out the testimony from investigation as well as to consider whether the claim is good in point of law, conceding the facts, which must be done always in an argument of that kind; you have to look at the testimony which is not on both sides, to see if it establishes the facts, as well as to make out for yourself, without the benefit of the argument of counsel or the opinion of the court, all the questions which enter into the propriety of a claim. I think, reasoning from what I have seen of the business of the Committee on Claims, that necessarily its duties are much less now—I mean in each individual case. Cases may have increased in number; that I know nothing about; but I knew they were quite numerous enough when I was a member of the committee.

Again, I think the honorable Senator is mistaken as to the number of which this committee originally consisted. My impression is, that it was always five until a very recent period, and that the way in which the number six got into the committee was, that in consequence of the illness or absence of a member of the committee, an additional member was appointed, and he remained in after the other member returned, and so the committee continued at six. That has been, I think, since I came into the Senate; but I will not be positive as to that.

Mr. CLARK. I have only one word to say in answer to the Senator from Georgia. It is very true that, for a considerable portion of the last session, I was unable to be present at the meetings of the committee; but whenever I was able to get to the committee-room, I think that he will bear me witness that I was the first one there, although I was obliged to lie on the sofa after I got there.

Mr. IVERSON. If the Senator will allow me to interrupt him, I will say that I did not intend to cast any reflection upon his want of attention to the duties of the committee, for he was a very faithful member.

Mr. CLARK. I simply wish to say, that if, during the last session, they got along with four, I being sick, I can now inform the Senator from Georgia that I am very well, and can attend to my duty. [Laughter.]

Mr. IVERSON. I beg to read to the Senate a memorandum of the business before the committee at the last session, made out by the clerk.

There were two hundred and one original cases referred to the committee, and one hundred and thirteen cases from the Court of Claims; making, in all, three hundred and fourteen cases referred to the committee during the last session. Of these, the committee acted on one hundred and forty-eight of the original cases, and twenty-two of the cases from the Court of Claims; making one hundred and seventy cases on which the committee acted. That was done nearly altogether by four members of the committee. I do not say that the committee cannot perform all this labor, but I say that it is imposing too much duty on the members of the committee. It requires too much time. It takes off too much of the attention of the members of the committee from other important business of the Senate; and I insist that the committee ought to have this labor, to some extent, divided with another member. That is just what I desire—nothing else.

The resolution was rejected.

ENROLLED BILLS.

A message was received from the House of Representatives, by Mr. J. C. ALLEN, its Clerk, announcing that the Speaker had signed the following enrolled bills:

A bill (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased; and

A bill (H. R. No. 565) to confirm the land claim of certain pueblos and towns in the Territory of New Mexico.

THE NEW SENATE CHAMBER.

Mr. BRIGHT. There is a resolution on the files, directing the Committee on Public Buildings and Grounds to inquire into the condition of the new Senate Chamber, and report to the Senate. I hope it will be taken up, and acted on.

Mr. MASON. I shall object to that, if it requires any removal.

Mr. BRIGHT. Let it be read.

The Secretary read the resolution, as follows:

Resolved, That the Committee on Public Buildings and Grounds inquire into the condition of the new Chamber for the Senate, and report at what time it may be permanently occupied, and the ceremony appropriate upon removing thereto.

Mr. MASON. I do not want to debate the resolution; but, unless there is some reason for making this inquiry in reference to the management of that department of the public buildings, I see no necessity for it unless there is some unnecessary delay, of which I am not aware. I have never seen the new Chamber, and do not know its state of progress. I am opposed to removing to it this session.

Mr. DAVIS. The whole purpose, I understand, is to inquire whether we can remove this session, or not.

Mr. BRIGHT. Let the resolution be read again.

The Secretary again read it.

Mr. BRIGHT. It is a mere resolution of inquiry.

The resolution was adopted.

CLAYTON-BULWER TREATY.

Mr. CLINGMAN. I hope there will be no objection to considering the resolution I offered yesterday, and which went over at the suggestion of the Senator from Virginia.

The VICE PRESIDENT. Does the Senator from North Carolina move the postponement of the unfinished business of yesterday to take up that resolution?

Mr. CLINGMAN. I ask general consent to take up the resolution.

Mr. COLLAMER. I object.

PACIFIC RAILROAD.

The VICE PRESIDENT. It is the duty of the Chair to call the attention of the Senate to the unfinished business of yesterday, being Senate bill No. 65. I understand, though I was not in the chair at the adjournment yesterday, that it was pending when the Senate then adjourned.

Mr. STUART. I wish to call the attention of the Chair to the condition in which the Senate adjourned yesterday. The Senate did not adjourn with the Pacific railroad bill pending. It was postponed until to-day, which gives it position among the general orders.

The VICE PRESIDENT. That being the

case, the position of the Senator is correct. It is not the unfinished business.

Mr. MASON. I made the motion to postpone the bill, but without any design to displace it. It is proper and right I should say so, though I should hope to defeat it if I can; but I shall not take advantage of that to get up the bill for the payment of the Amistad claimants, though I desire to have it considered as soon as possible.

Mr. GWIN. I hope the railroad bill will be taken up as the unfinished business. That was the intention of the Senator who made the motion to postpone it.

Mr. STUART. I know nothing of the design. I state that that is the fact; and that it does not come up as the business of the Senate. What may be the pleasure of the Senate, I do not know.

Mr. GWIN. Then I move to postpone all prior orders, with a view to take up the Pacific railroad bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. STUART. I do not know that any Senator desires to speak to-day upon the Pacific railroad bill; it is a measure which, before it can pass this body, has to undergo a very considerable amendment; and among other amendments that have been proposed is one proposed this morning by the Senator from Minnesota, [Mr. RICE,] which has been ordered to be printed; but not having been printed, of course Senators are not advised of what its contents are. For myself, sir, I shall not be prepared to vote upon this question until I can see the proposition of the Senator from Minnesota. If in detail it is what I understand it to be in principle, I am for it. I think there are many other gentlemen who are in favor of a Pacific railroad, who entertain similar views. Under this condition of things, I would suggest to the Senator from California whether it would not be better to postpone this subject for a day or two until that amendment can be printed, and we can have the whole subject before us. We shall gain nothing, it seems to me, by consuming to-day upon it. I think it is the very first, or among the first, special orders on the Calendar, so that it would not be displaced by a postponement. I should be very glad, therefore, if the Senator from California would agree to a postponement, because I think we shall spend the day uselessly if he does not; and I shall be glad to bring up another subject that I think the Senate can dispose of to-day.

Mr. GWIN. There are a number of amendments now pending, independent of that introduced this morning by the Senator from Minnesota, and it is utterly impossible to consider them all, unless we proceed. If we proceed with the question we can soon mature a bill. The subject has been many years before the Senate, and we have now half a dozen bills on our tables in the shape of amendments to the original bill. The Senator from Mississippi [Mr. DAVIS] has an amendment which, I presume, he will move immediately.

Mr. DAVIS. The amendment which was offered at the last session, which was printed, and which stands as it is printed next to the bill reported by the committee, was presented by myself. At the time I presented it, and it is so printed, it was supposed to offer the views of the minority of the committee. That appears at the head of the amendment. I have moved to strike out all after the enacting clause of the original bill, and insert a substitute.

The VICE PRESIDENT. The Chair understands from the Secretary that there is now an amendment to an amendment pending.

Mr. DAVIS. This was the first amendment offered.

Mr. GWIN. We are maturing some amendments to the original bill.

Mr. POLK. I am very certain there is an amendment to the first section pending, which was offered by my colleague or myself. I recollect offering an amendment to the first section of the bill reported by the majority of the committee.

The VICE PRESIDENT. The Chair will cause the Secretary to read the pending question.

The Secretary read the amendment offered by Mr. POLK at the last session; which is to strike out of the first section the proposed eastern terminus of the road, namely: "from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers," and in lieu thereof to insert:

From a point on the Missouri river, or in the western boundary line of the State of Missouri or the State of Arkansas, between the mouth of the Big Sioux river and Fort Smith, on the Arkansas.

The VICE PRESIDENT. The pending question is on an amendment to this amendment, which was offered by the Senator from Wisconsin, [Mr. DOOLITTLE,] which is to strike out of the amendment of the Senator from Missouri the words, "or in the western boundary line of the State of Missouri or the State of Arkansas, between the mouth of the Big Sioux river," and in lieu thereof to insert: "between Breckinridge, at the confluence of the Bois-de-Sioux with the Red River of the North, on the western boundary line of Minnesota."

Mr. SEWARD. Is the amendment first read printed?

The VICE PRESIDENT. The Chair understands that this amendment has not been printed.

Mr. FOOT. I take it to be entirely in order for the Senator from Mississippi to make the motion which he has made—to move the bill be introduced as a substitute for the original bill of the committee; but before the question shall be taken upon the substitution of his bill for the bill of the committee, both of them are open to modification which any member may move; so that, as I understand the rule, the first question now is upon an amendment moved by the honorable Senator from Missouri, [Mr. POLK,] and to that, if I recollect aright, is pending an amendment, moved by the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] After these amendments to the different sections of the original bill, which is first before the Senate for amendment, shall have been disposed of, and then after amendments to the proposed substitute, which will next come before the Senate for amendment, shall have been disposed of, it will be in order to take the question on the substitution. We are first to perfect the original bill, and next the substitute, and then to take the question on the substitution.

Mr. DAVIS. In moving my substitute I did not intend to interfere with amendments to perfect the bill. It is a well-settled rule to allow that to be first perfected.

The VICE PRESIDENT. The Chair desired it to be read to inform the Senate what is the pending question. The Chair does not doubt the right of the Senator from Mississippi to make his motion.

Mr. DAVIS. My motion is to strike out all after the enacting clause of the original bill, and insert what is printed on pages 12, 13, 14, 15, 16, 17, 18, and 19, of the document laid on our tables this morning.

The VICE PRESIDENT. Does the Senator desire to have it read?

Mr. DAVIS. No, sir; I suppose that all the Senators have read it.

Mr. SEWARD. I hope that in some way, informally, it may be understood that the amendment and the amendments to that amendment which are offered by the Senators from Missouri and Wisconsin may be printed, so that we may have them at a future stage of the debate. I ask unanimous consent to submit this motion.

The VICE PRESIDENT. If there be no objection, the order will be made for printing those amendments. ["Agreed."]

Mr. FOSTER. There are also amendments moved to subsequent sections of the same bill. I hope that they will be also included in the motion to print these proposed amendments.

The VICE PRESIDENT. That order will be made as to all the pending amendments, if there be no objection. ["Agreed."]

Mr. WILSON. If that be the case, and amendments are to be printed, I wish to move an amendment to the first section of the bill, which I should like to go with the others. My amendment is to strike out, in the ninth and tenth lines of the first section, the words "on the most eligible route, reference being had to feasibility, short-

ness, and economy;" and in their stead to insert: "on the shortest practicable route between the thirty-seventh and forty-second parallels of north latitude."

Mr. STUART. I ask the Senator to modify that amendment by making the northern limit the forty-ninth parallel.

Mr. WILSON. I do not think I can do that. There is a northern route talked of, and a southern route, and a central route. My amendment throws off five degrees of latitude on the south, and seven and a half on the north, and puts the road over the central region of the country. I prefer that it should stand as I have offered it.

Mr. BRODERICK. I ask the Senator from Massachusetts to make the southern limit the thirty-fifth instead of the thirty-seventh parallel.

Mr. WILSON. I do not know that I shall object to that. I will consent to that modification, at the request of the Senator from California, and fix the limit between the thirty-fifth and forty-second parallels.

Mr. MASON. Mr. President, there remain but a little over two months of this session; there is a vast mass of public business to be done; and if this bill continues before the Senate, it will occupy, I think, fruitlessly, a great deal of that time. I think it can hardly pass both Houses. If it is the pleasure of the Senate to continue it, I shall of course acquiesce cheerfully; but to test it, I move to lay the bill and amendments on the table; and on this motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken resulted—yeas 23, nays 32; as follows:

YEAS—Messrs. Allen, Bates, Bayard, Benjamin, Brown, Cameron, Clay, Clingman, Crittenden, Fitzpatrick, Hamlin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mason, Pearce, Reid, Sebastian, Sidel, Thomson of New Jersey, and Toombs—23.

NAYS—Messrs. Bell, Bigler, Bright, Broderick, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Harlan, Jones, Kennedy, King, Polk, Rice, Sevard, Shields, Simmons, Stuart, Trumbull, Wade, Ward, Wilson, and Wright—32.

So the Senate refused to lay the bill on the table.

The VICE PRESIDENT. The Secretary will read, for information, the amendment of the Senator from Mississippi.

Mr. FOOT. I suppose there is no desire on the part of the Senate, or any member of the Senate, to hear that substitute read. It is a long one, and I presume we are all familiar with it. It lies on our tables. If, however, the reading of it is called for by any member, I have no objection.

Mr. HUNTER. I should like to hear it read or explained. I do not know what it is.

The VICE PRESIDENT. The Secretary will proceed with the reading of the amendment.

The Secretary read Mr. DAVIS's proposed amendment, which is to strike out all the original bill, as reported by the select committee, after the enacting clause, and to insert the following substitute:

That the President of the United States be, and he is hereby, authorized and directed to advertise for proposals to establish railway communication across the territory of the United States, and thence to connect the States of the Atlantic and the Pacific, and to contract for the transportation, upon said railroad, of the United States mails, troops, seamen, munitions of war, supplies for the Army and Navy, and all other Government service.

Sec. 2. *And be it further enacted*, That the party contracting to establish said railway communication shall be required to construct the railroad in a substantial and workmanlike manner, equal in all respects to railroads of the first class, with all the necessary drains, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including equipment and rolling stock. And the said railroad, with all its appurtenances and equipment, shall be finished and put into complete operation within the period of ten years from the execution of the contract.

Sec. 3. *And be it further enacted*, That, to aid in the construction of said road, there shall be, and hereby is, appropriated and set apart the alternate sections of public land, for the space of six miles on each side of said road, to be held and conveyed as herein provided. The alternate sections hereby appropriated shall be those designated in the public surveys by odd numbers; and the contracting party receiving lands under the provisions of this act, shall be required to sell, and unconditionally convey, one half of the same within five years from and after the issuing of the patents for the same, and the remaining half within ten years from the issuing of the patents; and all said lands not so alienated shall revert to and become the property of the United States.

Sec. 4. *And be it further enacted*, That the party with whom the contract aforesaid may be made shall proceed without delay to locate the general route of said road, and furnish a detailed survey and map thereof to the President, who shall cause the public lands, to the extent of forty miles on each side of said road, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable; and the provisions of the act of September, 1841,

granting preemption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to the lands thus surveyed, excepting those herein set apart and appropriated for the use of the said road.

Sec. 5. *And be it further enacted*, That in making said contract, it shall be stipulated that the said road be divided into sections of twenty-five miles each, and that none of said lands are to be conveyed to the contracting party until one section is completed and put into successful operation, when the President shall convey by patent to the contracting party three fourths of the land pertaining to the section so completed, retaining the other fourth for security for the completion of the next section of twenty-five miles; and when the next is completed the President shall, in like manner, convey to the contracting party three fourths of the land pertaining to that section, together with the reserved one fourth on the preceding section; and so on with each succeeding section, conveying three fourths and retaining one fourth as security for the completion of the next until the last section of the road is finished and put into operation, when the President shall convey to the contracting party the residue of the lands hereby appropriated.

Sec. 6. *And be it further enacted*, That the land of the United States, for two hundred feet in width, along the entire line of said road, is hereby set apart and dedicated for railroad and such other purposes, not incompatible with this grant, as Congress may authorize and direct; and the party contracting for said road may take any earth, stone, timber, or other necessary materials, for the construction and keeping in repair of the road, within the said two hundred feet, subject to such regulations as Congress may provide.

Sec. 7. *And be it further enacted*, That the contracting party for, or owners of, said road may at any time construct one or more additional tracks, within the two hundred feet set apart for the right of way; and it shall be the duty of said contracting party, or owners of said road, to permit any other railroad, which shall be authorized to be built by the Legislature of any Territory or State in which the same may be situated, to form connections with it on fair and equal terms.

Sec. 8. *And be it further enacted*, That the President be, and he is hereby, authorized to enter into contracts for the transportation, under the direction of the proper Departments, on the said road, when completed, and for any available part thereof, while said road is in course of construction, for the period of twenty years, of the United States mails, and all military and naval supplies, troops, seamen, passengers, and freights of all kinds for Government purposes, with the limitation that the price to be paid shall not exceed that which the Government would necessarily pay by any existing means of transportation, nor in time of war be higher than the rates stipulated for in time of peace.

Sec. 9. *And be it further enacted*, That in any case where the passengers and freight shall be greater than the transporting capacity of the road, the Government shall have priority of right for all purposes of transportation.

Sec. 10. *And be it further enacted*, That for and in consideration of the advantages thus to be secured to the United States in the use of said road, and further to aid in the construction of said road, \$1,000,000 are hereby appropriated, to be advanced upon the following conditions and provisions, to wit: As a guarantee of the faithful performance of the contract heretofore described, the contracting party shall deposit with the Secretary of the Treasury the sum of \$500,000, in bonds or certificates of stock of the United States, which may be subsequently withdrawn in sums of \$100,000, as the work progresses, on production of vouchers showing, to the satisfaction of the Secretary of the Treasury, that an amount equal thereto has been expended in the construction of said road. When one twentieth part of the line of said road, located as heretofore described, is completed and put in successful operation, the President shall cause to be advanced to the contracting party the twentieth part, less ten per centum, of the whole sum of money herein appropriated. And, in like manner, when each succeeding section of equal extent is completed and put in successful operation, an equal amount shall be advanced to the contracting party until the whole road is completed, when the ten per centum reserved shall be advanced to the contracting party, as heretofore provided.

Sec. 11. *And be it further enacted*, That until the sum of money thus advanced to aid in the construction of the road shall have been repaid to the United States, no dividends shall be declared to the stockholders of said road, nor other sum be retained by the contracting party than that which may be necessary for the maintenance and successful operation of the road.

Sec. 12. *And be it further enacted*, That until the said contracting party or owners shall have fully reimbursed the United States for the advance of money herein authorized to be made, they shall keep books in which shall be entered regular statements of all disbursements, expenditures, and receipts, setting forth specifically the objects of said expenditures, and the sources whence such receipts are derived, together with a particular account of all accidents that may occur affecting property or persons, or causing delays upon the road; which books shall be open at all times to the inspection of the President of the United States, or any person authorized by him to examine the same, and to the members of each House of Congress; and the contracting party or owners shall make a report thereof annually to the President of the United States, on the 1st day of October in each year, accompanied by a minute and detailed exhibit of the expenditures and profits of said road for the year preceding, to be attested by the oaths of their secretary and treasurer, which report shall be transmitted to Congress at the commencement of each session.

Sec. 13. *And be it further enacted*, That should said contracting party neglect, refuse, or in any way fail to prosecute the work undertaken by them in a manner to secure the completion thereof in compliance with the contract, then all rights of said contracting party to the said road, right of way, lands, or other property pertaining thereto, including such amount of the sums of money advanced, if any, that may remain unexpended, shall be and become forfeited, and the United States may enter and retain the same. In the event of such forfeiture, to be determined by the Pres-

ident of the United States, he shall proceed to relet that portion of the road remaining uncompleted under such forfeited contract, and provide for the disposition of the work in such a manner as will secure the earliest completion of the road in conformity with the provisions of this act: *Provided*, That he shall not stipulate, on the part of the United States, for any higher or other terms than are authorized and provided for in this act.

Sec. 14. *And be it further enacted*, That the proposals for establishing the railroad communication, and performing the service hereinbefore described, shall be opened by the President of the United States after due notice, in the presence of his Cabinet and such persons as may choose to attend; and he is hereby authorized and directed to enter into contracts for establishing the railroad communication, and for the transportation provided for in this act with the party whose proposal shall be by him deemed most advantageous to the United States, for the full and complete performance of said contracts, in compliance with the provisions of this act. All questions of damages and forfeitures by reason of any breach of said contracts shall be determined by the express terms and conditions of the same: *Provided*, That this act shall be taken and considered as part of any contract that may be made in accordance with its provisions, in like manner, as if the same was set forth in said contract.

Mr. DAVIS. Mr. President, the principal points of difference between the amendment which I have proposed as a substitute, and the original bill, I will, with the consent of the Senate, present to them very briefly.

First, no attempt is made in my substitute to locate the road. The original bill locates the road. I have always, from the time, at least, when I first considered the subject maturely, believed that it was not in the power of Congress to locate the road so as to be at all satisfactory to the country at large, or to give any assurance of the construction of the road, unless it is to be built by the means and the Treasury of the United States. In Congress, with all due respect to my associates, I must say the location of this road will be a political question. It should be a question of engineering, a commercial question, a governmental question—not a question of partisan advantage, or of sectional success in a struggle between parties and sections. To relieve it, then, of that feature, I have only indicated a connection between the States of the Atlantic and the Pacific, making neither beginning nor ending, and relying upon the contractors, their wits sharpened by their interests—the men whose money is to be involved in the construction of the road—to find, from examinations which have been made or may be made, where the road may be best located for the advantage of those who are to construct it, which, in other words, is the advantage of the country. I have very little doubt that if capitalists come forward to construct this road, they will discard all political and sectional considerations; that with them it will be a question of dividends, of the interest to be derived from the investment; and with them the location of the road will be a question of engineering; it will be a physical problem, determined by the face of the earth. Thus set apart, and thus fixing it upon the best route with the concentrated uses of the Government, I believe one road may be built. I look upon it as a herculean undertaking. I believe that that country between the Mississippi and the Pacific, which has been well denominated the desert, is to remain so; that from its meteorological conditions it can never be densely populated by an agricultural people; and that, therefore, the road will never be a paying one, except as it is required for the uses of the Government.

The events of the present moment strongly confirm me in the view I have heretofore entertained as to the want, I might say the necessity, of the Government of some overland railroad communication. From time to time our intercourse with our possessions on the Pacific has been disturbed; and just at this moment we are threatened with difficulties on one of the transit routes, which may, though I hope not, involve us in national troubles, which will close all of those routes to us until a navy shall be constructed which, by force, can open them. What, then, would be the condition of the Pacific coast? As yet their agricultural resources have not been sufficiently developed to support even the population of the country, and still less an army that might be sent there. Separated from us by an intermediate desert, it is not within the power of the United States to give them adequate protection.

I once made a calculation, which was read yesterday to the Senate, of the expense of transportation. I think, in the same report, and if not, in some other, another view of that subject was

taken, which exhibited the fact that, after the question of expense had been overcome, there yet remained a difficulty beyond, and that proved it to be an impossibility thus to supply an army on the coast of the Pacific. The reason is brief, and I will state it. The draft animals in crossing this wide belt of desert are compelled to live upon the grass. Grass and water are found only at certain places, and those sometimes so far apart as to make it difficult for a day's journey to span the intermediate space. It very soon follows that, train succeeding train, the grass is consumed or trodden down around all the watering places, and then no more trains can cross the desert until there is another crop of grass. Thus, I say, it is impossible with the present means of transport, to perform our duties of defense towards the coast of the Pacific.

This I hold to be a constitutional obligation upon the United States, and from that I derive whatever of constitutional power we possess for the construction of this road. If the Government of the United States, and the Government of the United States alone, had use for this road; if it had no commercial value; if it was unconnected with agriculture and travel; then, I say, the United States would have the power out of its own resources to build the road, and hold it for its own uses. That, however, fortunately, is not our case. It has commercial uses; and it is right that all the interests which are involved in the construction of the road should bear a proportionate share of the burden. The United States is but a party; and as a party it appears both in the original bill and in the substitute. The \$10,000,000 which the substitute proposes to advance, and which is to be refunded, is a very small representative of the money which is annually paid for the transportation of mails alone. If to that you add the cost of the transportation of troops and munitions of war for the Army and Navy in time of peace, it will be found, I think, that in several years that amount has equaled the whole sum which it is proposed here to advance.

Another point of difference is, that the sum which is to be advanced is to be returned by the company as it has net profits. Instead of requiring the whole receipts of the company to be paid to the United States until the sum advanced has been returned, the net profits are only to be claimed on the part of the United States. My great object in this was, to prevent the danger of the road lapsing to the United States. I hold a railroad to be a sort of institution which the United States can neither own nor manage; that it must be in the hands of a company. I wished, therefore, particularly to avoid the danger of the road, from its becoming unprofitable, falling into the hands of the United States. And one of the changes made was, to remove from us as far as possible this hazard; and therefore it is that only the net proceeds, denying to them all dividends or reserved funds, are to be paid to the United States as they accrue, until the \$10,000,000 advanced be refunded. To secure this, the next section of the substitute provides for keeping an accurate account of all receipt and expenditures, so as to give to the United States whatever of net profits there is, until the \$10,000,000 shall have been returned. This is about one third of the sum provided for in the original bill, and, I think, is a small representative of the interest we have in the construction and use of the road—I mean the interest of the Government as separated from the great uses of the people and the uses by the different Departments of the Government for the transportation of the mail, the transportation of official correspondence, the sending out of agents, and the sending out of troops and munitions for the Army and Navy.

I have no expectation that we shall ever be able to pass a bill which attempts to fix the route; and whether it be the bill of the able chairman of the select committee, [Mr. GWIN,] or the amendment proposed by the Senator from Vermont, [Mr. Foor,] or any other attempt to locate the route, it but revives political dissensions and sectional warfare, of which we surely, have quite enough on other questions. If the section of which I am a citizen has the best route, I ask who that looks to the interest of the country has a right to deny to it the road? If it has not, let it go where nature says it should be made. I do not hold that any section finds its final interest in the termini

of this road. Build it where you will, whenever it spans that unpopulated desert, and which I believe is, the most of it, to be unpopulated forever, and reaches the agricultural regions, the valley of the Mississippi on the one side, and the slope of the Pacific on the other, roads will radiate in every direction from the extreme north to the extreme south and at all intermediate points. There will be cultivated land and population along every trace over which the people may choose to build roads to their particular localities. From Galveston to St. Paul, to New York, to Baltimore, to Richmond, to Savannah, to Mobile, to New Orleans, to every point along the coast and in the interior, after you reach the cultivated region, it will be possible to run your roads from the end of this trunk, build it where you will.

After some years of examination of the subject, I informed the chairman of the select committee at the last session, that if the road as located by himself were constructed, and I was called upon to know how the town of Mobile should be connected with it, my plan would be, to run north to the beginning point, or within one hundred miles of the beginning point, as the only place where it could be connected by private capital; and the reason is this: a very short distance from the beginning point, perhaps not over one hundred miles, you would have an arid region, where the land would be utterly worthless; grant as many acres of it as you might, population of an agricultural character probably never would exist there. Never, I say, unless they have artesian wells to render the land fertile. How, then, is private capital to build its connection with this trunk road running through an arid desert? The great power of the United States might do it. They might build it of bars of gold, if they would, and I rejoice that I belong to a country so powerful and wealthy as to enable it to make that road; but private capital never could. It would remain an isolated road from its beginning, unless it ran so far south as to strike the road which the State of Texas is constructing, and I hope will extend as far as the Rio Grande.

I have offered this amendment because I thought it relieved us of all the political difficulties which are involved in the question, because I thought it reduced the amount of money to be given in aid of the enterprise to a point so low that we might well afford to do it, because it gives no more land than I believe is necessary, and does not create a corporation owning such a wide domain as to shut out population from the country through which the road is to pass. Let capital locate the road where it may. Wherever it shall prove to be profitable to capitalists to construct it, it will prove to be beneficial to the whole country, and I am willing to take the hazard, because I am confident that the road will go, if thus located on the proper route. I do not arraign others, and say they wish to locate it by Congress, because of the possession of any political advantage here, or because they hope to wield a majority of votes here; but I ask them if it is not fair to treat this as a physical problem, and allow money and engineering skill to locate the road, instead of seeking to know where the largest number of voters can be obtained?

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the amendment offered by the Senator from Wisconsin to the amendment of the Senator from Missouri to the first section of the original bill.

Mr. JONES. I should like to understand that amendment. How will the section read if it be amended as proposed?

Mr. STUART. It will carry the extreme northern limit for the eastern terminus up to Breckenridge.

Mr. JONES. I am in favor of that, and shall vote for it.

Mr. POLK. Let the section be read as it would stand if the amendment of the Senator from Wisconsin to my amendment were adopted.

The PRESIDING OFFICER. If the amendment of the Senator from Wisconsin should be agreed to, and then the amendment of the Senator from Missouri as thus modified should be adopted, the first section of the bill would read:

“That the President of the United States be, and he is hereby, authorized, and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions

of war, Army and Navy supplies, and all other Government service, by railroad, from a point between Breckenridge at the confluence of the Bois-de-Sioux with the Red River of the North, on the western boundary line of Minnesota and Fort Smith on the Arkansas, to San Francisco in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy."

Mr. GWIN. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. As I offered the amendment to the amendment, perhaps it is due to the Senate and due to myself that I should say a single word. I do not propose to take any time in discussing it. If there is to be but one railroad to San Francisco, I desire to have the ground open from north to south, so that the best road may be adopted. I shall not go into a discussion or detail of the facts which appear from the reports that have been made by those who have surveyed the various routes. I will simply content myself by saying that I believe the facts reported by those who have surveyed the routes, show that if you were to commence at Breckenridge, which is on the west line of Minnesota, and to which point Congress has already granted lands for the purpose of constructing a railroad from that point to San Francisco, by the mouth of the Columbia, or by Puget Sound, it would be a better route than to follow the line which has been indicated as the mail route to San Francisco by this Administration, if that were to be adopted as the route. I shall not discuss this question at length; but I simply say that if there is to be but one route, and it is to be thrown open for the competition of capital to determine where it shall be located, open the whole field, give us a fair opportunity, and let capitalists select the route and the line of settlement, and the line of railroad, and the best way of connecting the East with the West. That was my object in offering the amendment to the amendment of the honorable Senator from Missouri, which proposed to extend the line further south than was contemplated in the original bill.

Mr. SEWARD. I want to hear the amendment read again.

The Secretary read it.

Mr. BROWN. I think if the object be to get capitalists to fix the initial point of the road, it is better to take a little more latitude than is allowed in any one of these amendments, and say that they may commence at any point between the mouth of the Mississippi and the Falls of St. Anthony. Leave the whole country open and let them start where they please. I voted this morning to lay the whole proposition on the table. I did so, because I had not the remotest hope that Congress, at this session, was going to act on this subject. With such a multiplicity of opinions as are manifested, and the great number of propositions coming from various parts of the country, I had no expectation that in the two months which are left to us, with a vast deal of business, we were going to consider a question of so much importance, and therefore I thought it was better that our time should be devoted to something practical. I have seen no proposition yet for the construction of a Pacific railroad which can command my vote, and hence I was prepared to lay the whole thing on the table.

I expect, Mr. President, if I live to be as old as the oldest member of this body, to see a Pacific railroad built, and I expect to see it built as other roads have been and are being built, by individual enterprise, with such legitimate aid as the Government can give to it. I never expect to see this Government take the first step towards the construction of any such work as this; and, professing as I do to be a friend to this great enterprise, I should regret to see the Government put its hand on it in any form. The hand of the Government will oppress the work. Instead of being an assistance to it, if you undertake to construct this road it will languish, and languishing it will die. You will drive individual enterprise out of the field. Individual capital will not come in competition with a great Government scheme. I have not forgotten that it required the whole internal improvement party of this country, for I think a period of nearly twenty years, led by the great mind of Mr. Clay himself, to secure the construction of a turnpike road from Cumberland, in Maryland, to Wheeling, in Virginia. Why? You had constant charges of fraud and corruption;

and these had to be investigated. When the Clay party were in power, they would make appropriations. When the Jackson party were in the ascendancy they would withhold the appropriations. You would go on a year or two, then stop the appropriations, and the work would rot away. Then you would get other appropriations, and go on a little while longer. It will be so with this work if the Government puts its hand on it. Leave it alone; leave it as other railroads have been left—to individual enterprise, and it will be constructed just so fast as the traveling and commercial interests of the country require it. You have a railroad now from Montreal, in Canada, to the city of New Orleans, with a little gap of about sixty-five miles in the old States—not known as the Montreal and New Orleans railroad, it is true; but still you have the railroad connection; built in small parcels by individual enterprise; built as the commercial and traveling interests of the country required it should be built. Leave your Pacific railroad alone, leave it to individual enterprise; let capital, as has been said before, and well said, commence the road where it pleases to commence it, and construct it in its own way; and noiselessly, and much more rapidly than by your interference, it will go on, and go on to completion.

I repeat, I want to see this road built. I am not prepared to say that I would not go to the extent now of enacting a law declaring that Congress would give to any company which should offer sufficient guarantees of its ability to construct a road, so much land. I will give the land simply in aid of the construction of the road. Let the title pass, not when all the road is built, but when the company shall actually have constructed a section, say of fifty miles, and so on as other sections are completed. I would go further, and authorize the Postmaster General to contract for carrying the mail over such parts of the road as were completed, and as rapidly as they are completed, and the Secretary of War to contract for carrying troops and munitions of war in the same way. I would deal in this spirit liberally and justly with it; but I would not have this Government call a company into being—least of all would I have this Government undertake to fix the point at which the road shall commence. If you undertake that, capital will have nothing to do with it.

It is because I am a friend to the road that I am opposed to propositions like these. I want the road built. I say again, I hope to live to see it built, and see it built as other roads have been, by individual enterprise, aided by such assistance as the Government of the United States can, within the limitations of the Constitution, give to it. We have given land to other railroads; we can give it to this. We have given land to other companies after they had been organized. We have given it to the States to assist in building roads. We have not undertaken to build them on Government account; we have not undertaken in any manner to make them Government enterprises, but only enterprises in which the Government would assist by such means as were constitutional within the admission of almost everybody. This I believe, sir, is about all I shall have to say this session on the subject of a Pacific railroad.

Mr. SHIELDS. Mr. President, if I understand the amendment offered by the honorable Senator from Wisconsin, it proposes to extend the northern point of departure of this road so as to allow a point to be taken between Breckenridge, in Minnesota, and Fort Smith, in Arkansas. If we are to have but one road to the Pacific, and that road is to be thrown open to fair and equal competition, I am inclined to think that this is a fair proposition. Certainly, it cannot be considered as sectional in any respect. I differ from my honorable friend from Mississippi, [Mr. Brown:] I am not going to make a speech; I am not now prepared to do so, for I have not investigated this question sufficiently for that purpose. My impression is—I state it only as a general impression—that so far as this Government can, under the Constitution, favor this enterprise, it is a high political duty on the part of the Government to assist in opening communication between the Atlantic and Pacific States. We have a growing empire on the Pacific, separated, in fact, by natural obstacles, completely, from the great empire here on the east. It presents a new problem, as

it were; no other country presents any such spectacle. Here we have two great empires, one commanding the Atlantic and opening to Europe; the other commanding the Pacific and opening to Asia; and between these two empires within this Government, there is no direct line of communication. I therefore think that so far as the Government can constitutionally go, it ought to further this great enterprise.

I am not speaking now of what was stated by the honorable Senator from Mississippi, [Mr. Davis,] and to whose observations I listened with great interest, as to the great commercial advantages of such a communication as this. This communication must and will be made; time will make it; the public necessities will make it; but the question now is, whether the Government of the United States, as a paternal Government, is not in duty bound, as far as that duty can be performed constitutionally, to aid in establishing this great band between the Pacific and the Atlantic oceans? It is a band between those two great oceans, as well as between the two parts of this great empire.

I do not think it fair to the people of the Pacific slope, to our great and growing empire there, to leave us in the condition in which we are now left in regard to Central America, seeking and trying to open a kind of route through there for our own people. I am prepared as far as I am concerned, to go for any fair proposition that shall be equally just to the various sections of the country, and to the whole country, in order to accomplish this great enterprise. I consider it as one of the greatest enterprises of the kind in the world, not only in a military sense, and what is still to be considered so far as the Government is concerned, in a high political sense, but also in a commercial and industrial sense.

I do not know what the honorable Senators from the Pacific coast may think, but it seems that it is not to be expected that the people whom they represent will rest satisfied without some such communication. Look, sir, at the difficulty we have had in getting a little military expedition into Utah in order to deal with the Mormons, and the trouble we have had in furnishing them with supplies. That single enterprise has cost this Government more than all that is demanded of it for this railroad, as I understand.

If there is to be a struggle here as to where this road is to commence, as to the point of departure, I think I could show that the route between the great northern lakes and Puget Sound is so advantageous that if there is to be any selection of routes, that should be chosen; but whether this railroad should happen to be established upon that route, or not, such is the very nature of that region of country that Lake Superior will in a short time be connected with it. I will not now go into that question, however; for I do not wish to embarrass this proposition. If the amendment of the Senator from Wisconsin be adopted, I think it will open a fair and equal range from Minnesota to Fort Smith, in Arkansas; and then, if capitalists enter upon this enterprise, they will have the opportunity of selecting the cheapest and best route to the Pacific. I will vote for that proposition.

Mr. IVERSON. I do not rise, Mr. President, for the purpose of entering into any discussion on the general merits of the question of a railroad to the Pacific. I had the honor to submit some observations of a general character on that subject at the last session of Congress, and I do not wish to enter upon it at present. I desire to speak particularly to this amendment. If I understand its object and operation, it fixes the eastern terminus of the road at some point between Fort Smith, in the State of Arkansas, and the forty-ninth parallel, which is the *ultima thule* of the line of the United States, at the north. Now, sir, I want to know from the Senator who offers the amendment, and its friends, why they confine the southern terminus to Fort Smith? Why do they not allow it to go down to the thirty-second parallel? Is it to force this road on the thirty-fifth parallel, or some point north of that? While the amendment extends the margin up to the very last inch of ground owned by the United States, on the north, it excludes three degrees upon the southern frontier.

Mr. DOOLITTLE. If the honorable Senator from Georgia will give way, I will explain.

Mr. IVERSON. Certainly.

Mr. DOOLITTLE. The original bill proposed that the starting point should be between the mouth of the Big Sioux and the Kansas rivers. The honorable Senator from Missouri [Mr. POLK] proposed to extend the line still further south to Fort Smith. According to his amendment, the point of departure would be fixed between the mouth of the Big Sioux and Fort Smith. Then it was that the Senator from Wisconsin proposed, as an amendment to the amendment of the Senator from Missouri, to extend the line so that the point of departure might be between Breckenridge on the west line of Minnesota, not as far north as the forty-ninth parallel, and Fort Smith, the point which was named in the amendment of the Senator from Missouri. There was no intention whatever to prevent the point of departure upon the south being carried still further south, if that should be the most practicable point. The object of the Senator from Wisconsin was simply to amend the amendment as proposed by the Senator from Missouri.

Mr. POLK. I will ask the Senator from Wisconsin if he will accept an amendment fixing the southernmost limit of the point of departure as far south as the thirty-second degree?

Mr. STUART. And say the forty-ninth degree of latitude on the north.

Mr. POLK. Say between the thirty-second and forty-ninth degrees.

Mr. DOOLITTLE. For myself I have no objection to that. If the honorable Senator from Missouri desires it, I will withdraw my amendment to his amendment for the purpose of allowing him to amend his amendment, so as to make the limit of the southern point of departure the thirty-second parallel; and then I will propose my amendment to his amendment, if that will accomplish what he desires.

Mr. POLK. I withdraw my amendment so that that can be done.

The PRESIDING OFFICER. The yeas and nays having been ordered on it, the amendment cannot be withdrawn, unless by unanimous consent. ["No objection."] By unanimous consent, the amendment of the Senator from Missouri, and the amendment to it moved by the Senator from Wisconsin, will be considered as withdrawn.

Mr. POLK. Now I move to amend the first section of the bill, by striking out the eastern terminus named in it, and insert:

A point between the thirty-second and forty-ninth parallels of north latitude.

Mr. IVERSON. On that I have nothing to say. I rose originally only to protest against excluding the route on the thirty-second parallel, because I think it would be doing decided injustice to that section of country, and, perhaps, to the whole question; for it must be remembered that the thirty-second parallel has been considered by a number of intelligent engineers as the very best route to the Pacific; and it has this very important advantage over any other route, that seven hundred and fifty miles of that road, through the State of Texas to the Rio Grande, have already been secured by the magnificent donation of land and money made by that State. There is no longer any doubt on the minds of intelligent men but that that road, from the eastern to the western line of Texas, will be built by the company now engaged in its construction. That route, therefore, will have the advantage of leaving seven hundred and fifty miles less to be provided for by the company which may be organized by the Government. It will have the advantage of being practically seven hundred and fifty miles shorter than any other route, because seven hundred and fifty miles will be constructed by other means through the State of Texas; and to that extent Government aid will not be required. Beyond doubt, it will be the cheapest road which can be constructed from the Atlantic to the Pacific. I do not say that it is the best route. I do not say that a company organized to construct a road would select it in preference to the route over the thirty-fifth, or any other parallel of latitude. It may be that, upon examination of the whole question, they may take some other route, and not that along the thirty-second parallel. At any rate, I think we ought to have the advantage of having this route included; and I rose only to protest against an amendment excluding it. That is all I have to say at present.

Mr. STUART. I suppose the yeas and nays

ordered on the former amendment will not stand. I ask for them on this amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment as now proposed, is to strike out, "from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers," and insert the words, "from a point between the boundary of Minnesota, on the forty-ninth parallel of north latitude, and the boundary of the State of Texas, on the thirty-second parallel of north latitude."

Mr. BROWN. I much prefer this amendment to the original proposition; but I do not see the propriety of stopping even at the thirty-second parallel. If you want to widen the margin, you had better throw open the whole extent of our country. I should much prefer to say, "from the mouth of the Mississippi river to the forty-ninth parallel;" and I move to amend the amendment in that way.

Mr. POLK. I accept that amendment.

Mr. BROWN. Very well.

Mr. GWIN. I would suggest that the object of Senators will be accomplished more directly by taking the vote on striking out the limitation in the original bill, as to the eastern terminus of the road. That would leave the contractors to select a route to carry the mails between San Francisco, in California, and the Mississippi river. That would be the most direct way of accomplishing the object. The real contest is whether there shall be a terminus fixed on the Atlantic side, and I presume, therefore, it would be better for gentlemen simply to move to strike out any eastern terminus.

Mr. FOOT. I am quite disinclined, Mr. President, to engage in any extended remarks on this bill, or on any of the amendments which are proposed; and I do not intend to do so. I have always favored, by my vote, the construction of a railroad to the Pacific. I believe I have voted for every bill which has been brought to the consideration of the Senate for that object. I have regarded the connection of our Atlantic and Pacific possessions by direct railway communication, as an existing, urgent, national necessity; and the bill before us, the original bill of the committee, is intended to meet that necessity. The provisions of that bill, its principles, and all its details, have been very fully and minutely explained, both at the last and the present session, by the honorable Senator from California, the chairman of the select committee, which, after long and laborious and careful examination and study, reported it and recommended it to the favorable consideration of the Senate. I favored that bill in the committee-room; I intend to vote for it here, although it is not precisely such a bill, in all its features, as would best suit my own views. Although I gave notice for a substitute, it was with the view of offering it only in the event of a contingency, which I do not now think is very likely to happen, and the substitute, therefore, will probably not be offered. It was not contemplated as an antagonist proposition to the bill of the committee, to which I had given my own assent.

The bill of the committee was drawn with the view and intent of avoiding the two grand objections which have hitherto stood in the way of the passage of a Pacific railroad bill.

It avoids the constitutional question of the power of Congress to make a direct appropriation of land or money, or both, in aid of the construction of such a road in this: that the bill merely authorizes the President of the United States to enter into contract for the transportation of the mails, troops, munitions of war, and for the performance of other Government service by railroad, instead of stipulating for the performance of this service by any other particular mode; and it holds out certain inducements to parties to enter into such contracts, and to enable the party to whom the contracts may be awarded to perform this service in the particular mode specified. I see no constitutional objection to this, more than there is to stipulating for the performance of like service by wagons, or by four-horse coaches, or by steamboats, as has been ordinarily done, since the foundation of the Government.

The bill also avoids, or was intended to avoid, the practical question which divides the opinions of Congress and of the country, as to the particular line or location of the road. I suppose that

it is to be assumed as quite impracticable to undertake the building of more than one main or trunk line of road to the Pacific ocean at this time and in the present financial condition of the Government. And I apprehend, sir, that no bill which shall define and mark out the route of but one road will be able so far to overcome local feeling, local interest, local prejudices if you please, as to command the assent of a majority of either, much less of both Houses of Congress. For example, it can hardly be expected that an extreme southern route, running along the borders of Mexico, would command the assent and aid of the northern vote. On the other hand, it is not probable that the extreme northern route, approaching near to the borders of the British provinces, would receive any aid from the southern vote.

And again, the central route, so called, I apprehend would receive but a partial support either from the North or from the South. Certain it is that it will receive very little aid from the southern vote. I take it for granted, and the discussions hitherto have disclosed, that but a fraction of the southern vote can be counted upon in favor of any Pacific railroad upon any route. Many southern gentlemen, and some northern gentlemen, I know, look upon this measure as altogether impracticable, as a wild and visionary scheme; and some of them regard it as altogether beyond the pale of our constitutional power. I do not choose or intend to enter into a discussion with any of these gentlemen at the present time upon these questions. The question of practicability has been settled by scientific surveys and explorations, and by the construction of thirty thousand miles of railroad within our own borders, mostly by private enterprise. The question of constitutional power has been settled by seventy years of legislation. The question of expediency is only a question of time and means.

I ought perhaps to say for myself, in this connection, that I would vote for a bill providing for the construction of a road over what is commonly called and known as the central route, running through the famed South Pass, and near the forty-second line of parallel. While it is obvious that we can make provisions for the construction of but a single line of road to the Pacific, at the present time, I should regard this as a fair compromise between the conflicting claims of the extreme northern and southern roads.

But, sir, for the purpose of avoiding all questions of this sort, and for the purpose of giving all the proposed routes a fair and equal chance, according to the intrinsic merit of each, the bill fixes the western terminus of the road at San Francisco, and the eastern terminus upon the Missouri river, at some point between the Big Sioux and the Kansas—a central point geographically to the country, and a point easy of access and connection with the great system of railroads already built and in operation in the country. The bill thus fixing the termini of the road, leaves it to the parties, in forming their contract, to designate the line between these termini upon "the most eligible route, reference being had to feasibility, shortness, and economy."

With these terms and under these limitations and restrictions, all sections and all parties who are in favor of a railroad to the Pacific and in favor of making it upon the best line, ought to be satisfied, in my judgment, and I think generally would be satisfied provided they had some reliable guarantee that these provisions would be fairly complied with. With an honest and impartial execution of the provisions of the bill as it stands, in reference to the location of the road, I certainly should be satisfied, and I think I may say thus much in behalf of the northern section of the country generally. Fixing the termini of the road, as the bill does, under the conditions and limitations of feasibility, shortness, and economy, I am willing to leave it entirely to the contractors to seek out the best route. Their own direct interest, acting in unison with the public interest, will be a sufficient inducement to them to seek out and to adopt the best line if they are allowed to act independently and without bias from any undue or extraneous influences.

It is suggested by some of my friends that, under the plan of this bill, somebody is to be cheated. I hardly know, sir, what reply to make to that suggestion. I trust nobody is to be cheated. Some will undoubtedly be disappointed; but no-

body is to be cheated, provided the terms and provisions and conditions of the bill are fairly executed and carried out; and that much of risk we must take in any bill whatever. If the bill of the committee is not sufficiently guarded upon this point, let it be made so. This is but the ordinary case of submitting a question upon which opinions and interests are divided, to a competent, and so far forth as we may be able to do it, to an impartial tribunal.

Such being the provisions of the bill, Mr. President, in respect to the location of this road, there is little occasion for discussion here, with regard to the relative merits of the different routes which have been proposed, and which have indeed been more or less accurately explored, and each of which has its friends and its advocates. Indeed, sir, the tendency of such a discussion would be to excite irritation and jealousy, and to provoke opposition. The bill itself was framed with a view to avoid this very diversity and conflict of opinion. I have my own views and preferences, as other Senators doubtless have theirs, fixed and decided, as to the most eligible route for a Pacific railroad; but I do not intend to press them upon the consideration of the Senate at this time. I am willing, indeed, so far to yield my individual opinions and preferences as to leave the question of the route of the road, since we cannot agree upon it here, where the bill leaves it—to leave it to the contracting parties, who, of all persons in the world, will be most interested in selecting the most eligible route, and that is all that anybody demands; it is all that anybody professes to desire.

I apprehend, Mr. President, that a majority of either or of both Houses of Congress can be brought together only upon the terms of such a bill as this, which leaves the question of the locality of the road to be designated by the parties who, in making their bids or proposals, will designate and select the best route. In other words, the best offers or bids will be made upon the best route, the route upon which the road can be most easily and most cheaply built, and which will be likely to furnish to it the largest amount of business; and no other offer or proposal can be accepted by the President without a flagrant violation of the letter and terms of the act itself.

In fact, sir, no bids will be made by responsible parties, who must deposit half a million dollars in money in advance, as a guarantee for the fulfillment of their contract—to build a railroad over a route which runs through extensive and arid sand plains where the lands would be of no sort of value to the contractors, and would furnish no supplies of wood, grass, or water—three indispensable necessities to the building or to the operating of any railroad. The only bids which would be likely to be made, and of course the only bids which could be accepted, would be for the building of the road over a route running through a country where the lands would be most valuable to the parties, and which, being most valuable to the parties, would furnish the largest supplies of business and contribute most largely to the support and to the value of the road. Through such a country and only through such a country can any railroad carry settlements along with it. Such a country and only such a country can sustain a permanent population and business. Such a country and only such a country can sustain a railroad; and through such a country, and only through such a country, every practical railroad man knows that a railroad can be built.

These are inducements and the very strongest inducements that can be presented to operate upon the minds of the contractors to select the very best route; and what is their interest in this respect is the public interest; and what is the public interest is their interest; and in this regard and to this extent their interests harmonize with the interests of the public.

If a majority of either House of Congress cannot meet upon the terms of such a bill, or upon a bill which shall directly and expressly provide for the construction of a road over the great central South Pass route, as a compromise of extreme routes, north and south, I think it will be in vain to attempt to bring together a majority of either House upon any bill which shall be more specific in regard to the route, or which shall designate any other general line. I doubt not, sir, that a very

large majority of the members of Congress in each House are in favor of a railroad to the Pacific coast upon some route, and all will agree at once that the best route, all things being considered, should be selected; and there lies the very difficulty: a majority of Congress do not seem to agree which is the best route for the country as a whole; and if they cannot so agree, the consequence is, that for the want of such a majority no bill can pass which lays down and defines any particular route, unless it be, perhaps, as I have before suggested, the great central route, as a compromise of diverse and conflicting opinions and interests and preferences.

I repeat, Mr. President, that I am still, as I always have been, in favor of a Pacific railroad, and in favor of granting all the aid of the Government which may be necessary to secure its construction; and while I avow my decided preference for the northern route so-called, the route explored by Governor Stevens, I am willing to yield my preferences so far as to meet gentlemen who are in favor of the extreme southern route, upon the terms of this bill or upon a bill providing for the construction of the road on the central route. But if we cannot meet in a spirit of conciliation and compromise upon either of these propositions, and if each of us shall insist upon and vote for no bill except such as shall embody our own peculiar views, I think the prospect anything but a bright one for our passing any bill for the construction of a Pacific railroad.

But I did not rise, Mr. President, to prolong this debate, and am ready for the question to be taken upon the preliminary questions before us.

Mr. GREEN. Mr. President, while I profess to be as much a friend of the general proposition as any other Senator, I shall have to vote against this amendment. I differ from other Senators in another respect. When it is said that we may well trust the sharp eyes of interest in capitalists to select the best route, my reply is, I am willing to give them all a right of way, and let them go and select their routes and make their roads when and where they please. But when you ask the Government, for the uses of the Government and by the Government means, to contribute to and assist in the work, it is the duty of the Government not to transfer a responsibility that rests upon them to the shoulders of capitalists. They, to the extent that they contribute and assist in building the road, have a duty to perform to their constituents which they cannot constitutionally transfer. If we are simply to give the privilege of making a road—to give the right of way to any and all companies that may be formed—I should be willing to trust them as between the thirty-second and forty-ninth parallels of latitude, and let them go where they please; because it would be a matter of individual enterprise only, and, in that case, we might properly trust the vigilance of self-interest. But when the Government undertakes to put its hands to the work, and looks to the wants of the Government as a justification for doing so, those who are the agents of the Government must discharge that trust in a becoming manner, and locate the road which they propose to assist in the construction of where they believe the public interest and duty require.

So far as the Government is concerned, do we need only one road? I think so. Others may think we require three. I think one trunk, with branches at each end, will meet all the wants of the Government; and, in the location of that trunk, as it is designed for the Government, and as the Government must contribute to its construction, we, the agents of the Government, intrusted with this power by our constituents, have a responsibility and a duty to perform, which we have no right to transfer to interested capitalists.

Permit me to ask this question, sir: if those capitalists should locate the road by Puget Sound, or by the El Paso route, would it meet the wants of the Government? This would address itself to our judgment as to the expediency and propriety of investing a certain amount of public lands and public money for a road which, when constructed, would be local in its character. In order to make use of it, if constructed on the southern route, New York and Maine would have to transport their goods three thousand miles to get to the eastern terminus; and if the extreme northern route were taken, portions of California would

have to transport their commodities two thousand miles to reach Puget Sound. Just so, certain as you put it on either one of these extremes, you will either have, in a very short period of time, a proposition for another road, or you will have overland mail routes and wagon roads constructed; because even by a wagon road you can carry the mail through, and carry munitions of war through, better and cheaper than you can by a railroad on either one of the extremes, and then have to disseminate it after you get it over. We find now that, instead of transporting the mails in ocean steamers, it is the interest and duty of the Government to send them across the plains.

Let the railroad route be as circuitous as the route of the ocean steamers, or approximate to it, and the increased facilities of improved roads across the interior will still successfully compete with it; because, being so circuitous, when supplies go over it they have to be carried thousands of miles before they get to the point of destination.

That brings up this question: Will you make more roads than one? I am now speaking of the Government, its wants, and its interests. Will the Government embark in the making of more roads than one? If not, one on an extreme route will not subserve the ends proposed by the Senator from Mississippi, [Mr. DAVIS.] It will not meet those wants; it will not transport those supplies in that length of time; and under those circumstances which would make it a matter of justification for the Government to embark in the enterprise.

We have not an unlimited discretion to employ any means we please, even for the accomplishment of a constitutional end. There are limitations to that discretion. Those limitations are, first, that the means proposed must be necessary, and next, not only must they be necessary, but they must be proper. It will not do to break down these barriers in the exercise of our discretion, even to accomplish a constitutional end to defend the country, and say we will make use of any means we please, though not necessary and though not proper. It thus must address itself to our honest hearts and honest judgments; whether it be necessary and whether it be proper, and if not necessary and proper to accomplish a constitutional end of the Government, we have no right, in the discharge of our duty, to put our hands into the Treasury and take one solitary dollar.

Then, is it necessary and proper to make three roads or five? Is it necessary and proper to make one road on the verge of the Union, and after it traverses this intermediate space, have three thousand miles to go before it reaches its proper point of destination? It is not, according to my judgment; and I may be permitted to say it is almost straining a point even to make one road on the most central route, where it is practicable, on the best land, over the best soil, with the best facilities of timber, and of water, and of grains. Even in that aspect, it may perhaps require a little elasticity of conscience. In obedience to a growing, strong, powerful public sentiment, we might do it because it is plausible enough; it seems to be necessary and proper in a reasonable point of view, and to that extent we may go; but because it would be necessary and proper to that extent, let us not go to the wild extreme of saying that we will make numberless roads under pretexts that do not address themselves to our judgment.

As I before remarked, I must vote against the pending proposition, for it is transferring the duty which is imposed upon us. If it be necessary and proper for the wants of the Government, we must decide that necessity, and that propriety, and we must not transfer the decision of these two questions to interested capitalists. I shall vote against the amendment. I may, perhaps, submit some other proposition, if I see that there is a common sentiment in the Senate which would justify me in anticipating a success in defining the location of the road. The Senator from Vermont remarked that no proposition to locate it south could get northern support and no proposition to locate it north could get southern support.

Mr. FOOT. The Senator will understand me as speaking of the extreme routes—the one on the borders of Mexico and the other on the borders of the British provinces.

Mr. GREEN. Yes, sir; I will take that for granted. Well, because that may be the case, are we to pass a bill which permits interested capitalists to locate it? The Senator says the result is, that nobody will be cheated but somebody will be disappointed. Will not the public will of the country be misrepresented by it? You and I, and all of us, profess to represent our respective States according to their will. Their will is, not to put the road on one of those extreme routes; and yet, by voting this latitude of choice, you superinduce a certain train of circumstances which may thus locate it in defiance of the public will of the country which you and I are here to represent. It is therefore not right. If that public will will not concentrate itself and locate this road at a proper point, then the public will is not ready for the road. To say that we, as the exponents of the people and of the States, would not go for either one of those routes, and yet, that we will superinduce a train of circumstances that may result in one of them being taken, I think is stultifying ourselves. I must vote decidedly, understandingly as to what the proper point is. Whenever that question comes up I may deem it my duty, as well as my privilege, to give the reasons for the vote I shall cast. For the present I simply content myself with giving these reasons why this great latitude should not be allowed.

Mr. DAVIS. Mr. President, if I understand the Senator from Missouri, he argues that there is a constitutional necessity on Congress to locate the road before giving it assistance, and argues that the Government, a sort of myth—

Mr. GREEN. If the Senator will allow me, I would much prefer to have him, or any other Senator, not give his understanding of what I say, but to repeat my words. I merely remarked that there was a constitutional power to defend the country, and that if it be necessary and proper in the defense of the country to make a road of a certain description to meet the wants of the Government, we had the power to do it on a tolerably liberal construction, but that we must be the judges as to whether it was necessary and proper, and that the location of it, to a great extent, would influence the question whether it was necessary and proper to accomplish the end.

Mr. DAVIS. Did not the Senator say that Congress owed it to the country as an obligation upon it, to locate the road?

Mr. GREEN. Yes, if they undertake to make it.

Mr. DAVIS. Very well. Then the Senator holds that it is a constitutional obligation on Congress to locate the road if they give the aid to the company which is proposed in this bill, and he speaks of the Government as though it was a sort of myth, a thing standing alone by itself, of which the Senator announces himself an agent, and he assumes that the Government is to know where the road ought to be located, and therefore ought to locate the road; I suppose, understanding this physical problem, as Falstaff knew the prince, "by instinct." The Government, whether composed of Senators and Representatives, or otherwise, can have no knowledge of the country over which the road is to run other than as they derive it from the examinations and reports of others. He says, and says truly, that one road will suffice for the wants of the Government; but then where does he get his public opinion that makes that road begin from Missouri? It may be the public opinion of his own State, and his own locality.

Mr. GREEN. I assuredly did not name Missouri.

Mr. DAVIS. You did not name it, but you located it as exactly as if you had named it. The predecessor of that Senator used to be in the habit of telling us of a direct route, a dead level that used to lay across mountains, which, when surveyed, were found to be ten thousand feet above the sea. That was a part of the "instinct" of the Government that knew just where to locate railroads.

The whole proposition of leaving this question open, rests upon ground purely moral and highly defensible. It is that we have gathered as much information as we could collect; that we have no power without debate, doubt, or error, to decide where the best line to the Pacific is, but that having got information enough to enable us to

say some of the routes are practicable, (and that was more than we knew at one time,) we now say upon some of those routes found to be practicable we desire a road to be built, we will aid in its construction; and to determine which of them is best we say we will accept bids from capitalists for the construction of the road, and in those who can build the road cheapest and in the shortest time must be found the best route. If, sir, it was proposed to give them so much a mile, and to increase it to an unlimited sum, then it might be supposable that a company would go around by the most circuitous route; if any route could be found where they could afford to build the road for the mere gratuity the Government offered; but when that sum is limited, when it is cut down in the substitute which I explained to simply \$10,000,000, it is quite clear that they will not find that central and level route which was described in former years, the one over which they can afford to build the road for that amount of money, and the other aids offered by the proposition before the Senate.

If there be other inducements, and a company chooses to go there and build the road, well; and thus I say let them build it where they will. If they will cross that desert, it will answer the purpose of the Government, for strike the populated and agricultural country when and where they will, roads will run along the meridians of longitude, and reach every portion of our country. It is that great mass of mountain and desert plains, which lie in their midst, and on the eastern side of them, which constitutes the difficulty not to be overcome by private enterprise.

It is very easy for Senators to say, and it would be very acceptable to me if I could believe, that private companies might go on and build the roads wherever they pleased, and that we would give them the right of way; but this problem is the greatest undertaking which has been attempted for many centuries, and it is a difficulty too great to be overcome by private capital in the present condition of the country. The period is remote, too remote for any man now living to foresee it, when that desert will so far be peopled that private capital can afford to build this road across it. The aid of the Government, and that aid not so much in this bill as in the contracts it contemplates for services to be rendered to the Government, the highest and most enduring inducement in the bill, and the very one that has not been noticed, may induce capitalists to build a road across the continent. When that road is built it will answer the purposes of the Government—build it even to Puget Sound. That it will be built there, under any view which I take of it, is a thing scarcely possible; but if I should be in error, (for I have none of that "instinct" which enables me, though a part of the Government, to tell where the best route is,) if it should be built there, then I ask you, will it be so remote from the center when it reaches the valley of the Mississippi? Roads are extending up the Mississippi now, and the great struggle of every eastern Atlantic city is to tap those valleys of the West. Everywhere capital is struggling in rivalry against capital, in neighboring cities, to see how far it can extend its roads and how much it can ramify them to reach those fertile plains that lie to the west; and whether this road come across through Texas, whether it come across over those mountains to Missouri, along the forty-second parallel, or whether it come along the forty-ninth, whenever it shall reach those cultivated valleys, every commercial city, from New Orleans to Boston, will be linked to it by iron in a very short period. Already, a town even further north and east than the one I have named, is extending its connections, coupling itself with works of internal improvement in Canada, and reaching strongly out towards the Rocky Mountains. If it were done, though it would not answer all our purposes as well, perhaps, as some other location, it would answer our purposes and enable us to reach any point on the Pacific in eight or ten days.

I do not, therefore, admit the solidity of the argument of the Senator from Missouri. But I would have allowed his argument to pass, if he had not put all those who differed from him in the attitude of abandoning a constitutional duty, and failing to perform a function which was im-

posed upon them, and which he claims they are, without constitutional authority, about to delegate. It is no delegation, Mr. President, to say that we will allow capitalists, any more than it is a delegation to say we will allow engineers, to aid us in the location of this road. Capitalists, sharpened by their own wit, studying the soil, the profile, and the natural history of the country as furnished to them by exploring engineers, come in aid of the United States in the location of the road. It is a valuable aid, and most valuable because it is necessarily, so far as we are concerned, disinterested. Their interest is to build it for the least money, and to get the largest returns. Are they going to build it where it will not answer the purposes of the Government? It would be stultification, indeed, on their part, if they would invest their own money in the construction of a road over a route so remote, so circuitous, so little useful to the country, that it would not, after it was completed, answer the purpose of the Government. It seems to me to be conjuring hazards from the land of dreams, to imagine that a company of large capitalists will construct the road at a place where there would be nothing to carry upon it; and there would be nothing to carry upon it if it was constructed in such a locality that it would not answer the purposes of the country.

Mr. GREEN. Mr. President, I think I must have been a little unfortunate in my mode of expression, else I do not see why the Senator from Mississippi could take any exception to my urging, as my own reasons for my own vote, what I regarded as my constitutional duty.

Mr. DAVIS. I did not so understand you.

Mr. GREEN. I think I must have been exceedingly unfortunate if I was not so understood. I do not expect to shadow forth the thoughts and impressions and opinions of other Senators' minds. Their opinions of constitutional duty and obligation may be different from mine; but I undertake to speak for myself, and to represent the opinions I entertain. Nor need the Senator undertake to lessen the force of these objections by saying that the Government cannot know by instinct. I trust I never laid the foundation for any such idea as that.

We are required to legislate on other subjects as well as on the subject of Pacific railroads; but who believes that we learn our business with regard to military affairs by instinct; with regard to the judiciary by instinct; with regard to the ten thousand interests that affect this vast Union by instinct? And yet we talk and we act and we legislate upon those subjects with definite exactness; but because we are so required to legislate, no one supposes that it implies an imputation that we learn these things by instinct. If we do not know where the road ought to be, and if its location is an important element in the consideration of the question whether or not it be necessary and proper for the Government, then we are not ready, with our information, to legislate on the subject. And to say that, because my predecessor thought a certain route was a good route.

Mr. DAVIS. The best.

Mr. GREEN. Well, say the best route, and subsequent explorations show it to be impracticable, affords no argument against our undertaking to perform that task with the great lights shed upon it by that branch of the public service over which the Senator from Mississippi presided. Because Senator Benton, whose fame will stand notwithstanding these remarks, made use of such an expression, what has that to do with the point of objection that I made to this broad latitude, and the transference of a subject on which we ought to act, to other and irresponsible hands?

There is another consideration. When capitalists and commercial men take hold of this subject, they act with reference to their interests, their benefit, their good, their money-making plans. When we act as the representatives of the States, I trust no such consideration enters into our action. But the only question is, where does the want of the Government require it to be placed? Is that place practicable, from the lights and information collected in the War Department? Are we justified in selecting that as the location? Approximate, come as near as possible to it; you can define the termini upon the east and upon the west, because you know the points between which

you want the Government service performed. We are not talking of commerce. It has been demonstrated that two hundred pounds' weight—the weight of a barrel of flour—cannot be transported on rails from the city of San Francisco to the city of New York for less than nine dollars and some cents; and hence the idea of a general commerce from city to city by railroad is out of the question. It has to go by other routes. The main object of this road is to meet the necessities of the Government in transporting the mail, in affording those facilities of communication which the wants of the Army and the wants of the Navy may require; and these are the only wants that ought to address themselves to the consideration of the Senate. Incidental benefits to commerce springing out from it may well be considered, but they ought not to influence our action in locating the road.

I have indicated no point, and, as I remarked before, I do not know that I shall. If I see a proper disposition in the Senate to give it a fair consideration, I most assuredly will give my opinion on it, and make a proposition in accordance with that opinion. But my purpose now is, to show that we are not legislating according to my understanding of my duty; and for that reason I shall vote against the amendment. We are undertaking to execute a specific plan to provide for the defense of the country. We are asked to say that this is a necessary and proper means of providing for that defense. I cannot answer that question until I know where the road is to be; because, if it be put on either of the extreme routes, according to my honest judgment, it will be neither necessary nor proper to meet the wants of the Government; and for that reason I will not transfer the decision of the question of that necessity and that propriety to hands to whom it has not been delegated by the States and the people—to capitalists. I will undertake to act upon it myself; and if I err, I shall remember that "to err is human."

Mr. WILSON. We have ordered some amendments to be printed, and also the bill presented to-day by the Senator from Minnesota. The Senator from Wisconsin has a bill which I think he intends to present. I should like to look at it, and have a little time to examine these various projects with some degree of care. I move, therefore, that the further consideration of this subject be postponed until Monday next, so that we may prepare ourselves to take up the matter, and continue it then until it be settled.

Mr. DOOLITTLE. If the honorable Senator will give way, I will ask unanimous consent to introduce as an amendment to this bill, what I gave notice of my purpose to introduce as a substitute for the original bill. I will not ask that it be read, but that it be printed.

There being no objection, it was ordered to be printed.

Mr. DAVIS. I should like to hear the pending amendment read. There have been several changes in it, and I do not exactly know how it now stands.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The Secretary read the amendment, which is in lines seven and eight, of the first section of the bill, to strike out the words: "on the Missouri river, between the mouths of the Big Sioux and Kansas rivers," and insert in lieu thereof:

Between a point in the boundary of Minnesota on the forty-ninth parallel of north latitude, and the mouth of the Mississippi river.

Mr. DAVIS. "The mouth of the Mississippi river" is a very indeterminate phrase.

Mr. SEWARD. Say "the Balize."

Mr. DAVIS. That would be equally so. If you would say the mouth of the Rio Grande, it would certainly include the western frontier. [Laughter.] But I suppose something must be meant in relation to the line of the road. Now, the road can neither start from the mouth of the Mississippi nor the mouth of the Rio Grande.

Mr. IVERSON. Say "the southern boundary of the United States."

Mr. DAVIS. If you say "the southern boundary of the United States," very well. One of the reasons why I asked for the reading of the amendment was that I had heard the thirty-second degree of latitude announced. That would not do;

because that would be to raise a question which has been argued, and on which I expect the opinion of engineers may well be in doubt, as to the best crossing point thereabout, and the thirty-second parallel is not our southern boundary. It is, perhaps, some minutes south of that; but just there is an important point. If you say "the southern boundary of the United States," it will include all those places.

The PRESIDING OFFICER. The motion now before the Senate is to postpone the further consideration of this subject until Monday next.

Mr. GWIN. I think we had better vote on the pending amendment. ["No, no."] If it is understood by the majority of the Senate that the subject will come up again on Monday, I have no objection to a postponement. My great object is to have as early consideration of this question as it is possible to obtain after full information shall be before the Senate. If the proposition is to postpone for the purpose of putting the bill in such a position that it cannot come up, I object to it; but if it is for the purpose of taking it up then, and proceeding with the discussion, I have no objection. If a majority of the Senate wishes for more time, (and there is evidently a majority of the Senate in favor of a Pacific railroad, as has been shown by the test vote to-day,) I am willing to postpone it to Monday that we may then mature the bill.

Mr. WILSON. I make this motion to postpone simply for the purpose of examining these various projects with some degree of care preparatory to giving an intelligent vote on the subject. I, for one, am willing to take up the bill on Monday next, and to adhere to it until it be settled. ["Agreed."] I do not make the motion for the purpose of embarrassing the question in any respect whatever.

The PRESIDING OFFICER. Does the Senator from Mississippi move to amend the pending amendment in the manner suggested by him?

Mr. DAVIS. Yes, sir. Instead of the words, "mouth of the Mississippi," I move to insert the words, "the southern boundary of the United States."

The PRESIDING OFFICER. Unless objected to, it will be considered the sense of the Senate that that be the proposed amendment. ["Yes."] It will be so modified. The question now is on the motion to postpone the further consideration of this bill until Monday next, at one o'clock, and make it the special order for that time.

Mr. MASON. I am not disposed to protest against any disposition of the bill which its friends choose to make of it; but I think we had better go on with it and end it. As to understanding, I think we have seen enough, from the discussion here to-day among the friends of the bill, to show that it is not susceptible of being understood by any delay that may be given. I have looked into the report of the Superintendent of Public Printing to-day, and it states, I think, that the tenth volume of the Pacific railroad explorations and survey is now in the course of being printed, and is not yet finished.

Mr. DAVIS. If the Senator will allow me, I will state to him that all the exploration has been printed long since. That volume is the work of savans who have been engaged on the entomology, and botany, and geology, and other branches referred to them.

Mr. MASON. I have no doubt the Senator is correct. I only spoke of the fact that the tenth volume of this exploration or survey for a Pacific railroad is not yet finished. Whether it contains any surveys or not, I do not know. I have looked into the volumes heretofore furnished, and no more. I do not know that any Senator has been able to read them, unless he devoted his time to them exclusively. But I referred to the fact that there are ten volumes of the surveys, which are not yet finished, as confirmation of my suggestion that the subject is not at present susceptible of being understood. I do not think, therefore, that any advantage will result from the delay. I think we had better go on with the bill, and dispose of it in some way.

Mr. GWIN. Then I shall insist on going on with the bill to-morrow; and I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 14, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. N. COOMBS, D. D.

The Journal of yesterday was read and approved.

EMIGRANT ROUTE TO PUGET SOUND.

Mr. WASHBURN, of Illinois, by unanimous consent, gave notice of his intention to introduce a bill to establish an emigrant route from the most eligible point in Minnesota to Puget Sound.

APPROPRIATION BILLS.

Mr. PHELPS, of Missouri, from the Committee of Ways and Means, by unanimous consent, reported bills of the following titles; which were severally read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriations for the payment of invalid and other pensions of the United States for the year ending 30th June, 1860;

A bill making appropriations for the support of the Military Academy for the year ending 30th June, 1860; and

A bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various tribes of Indians, for the year ending 30th June, 1860.

RECIPROCITY STATISTICS.

Mr. KELLOGG, by unanimous consent, introduced the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish to this House a statement of the amount and kinds of the productions of the British colonies imported into the United States free of duties, under the provisions of the treaty between Great Britain and the United States, signed June 5, A. D. 1854, known as the reciprocity treaty; and also the amount and kinds of the productions of the United States exported to the said British colonies under the stipulations of the said treaty, from the ratification of said treaty to the present time; and also the amount and kinds of like productions imported from and exported to said colonies from the year 1850, inclusive, until the ratification of said treaty, and the amount received from duties thereon during that period.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased; and

An act (H. R. No. 365) to confirm the land claim of certain pueblos and towns in the Territory of New Mexico.

MESSAGE FROM THE SENATE.

A message was received from the Senate, through Mr. DICKINS, their Secretary, informing the House that the Senate had passed a resolution changing the plan of the custom-house at Galveston, in the State of Texas; in which he was directed to ask the concurrence of the House.

Mr. SAVAGE. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from New York [Mr. WARD] is entitled to the floor.

IMPEACHMENT OF JUDGE WATROUS.

The House then resumed the consideration of the resolutions submitted by the two branches of the Committee on the Judiciary; on which the gentleman from New York [Mr. WARD] was entitled to the floor.

Mr. WARD. Mr. Speaker, I approach this subject of the proposed impeachment of Judge Watrous with a due sense of its importance. I gave to the reports and evidence that consideration which was demanded by my duty as a legislator, during the *interim* between the sessions, to enable me to arrive at a just conclusion in determining my vote, but without any intention of taking part in the discussion.

If the advocates of Judge Watrous had been content with their vindication of him from the charges preferred, I should have remained silent. But as some of them have thought proper to assail the accusers, I feel it my duty to address the

House, for reasons that will appear in the course of my remarks.

Sir, no member has a higher respect for an independent judiciary than myself. I would do nothing to impair it; but I do not believe in that independence which is characterized by tyranny and oppression. I believe in that independence which is governed by an honest heart and an integrity of purpose, without fear or favor.

In no country is an independent and fearless judiciary more important than in ours. The peculiar structure of our Government, divided, as its functions are, into executive, legislative, and judicial, the latter assumes a high character and a position of vast importance. It may be said to stand between liberty and despotism, and is the great bulwark between legislative encroachment and the rights of the people.

If the Congress enact an unconstitutional law, the court can declare it void. This great power that it possesses, renders it necessary that the judiciary should not only be independent, but pure, honest, and without taint or suspicion.

I do not propose to follow the course of this debate into an extended investigation, or an analysis of the evidence against Judge Watrous. There are some points, however, in this proceeding for impeachment, to which I would invite the attention of the House.

I insist that we should hold the right of petition sacred, and that the exercise of this great republican privilege of the citizen should be treated with proper consideration by those who represent the rights and interests of the people.

It is not proper for a member of this honorable body to reproach any man for the exercise of this right. It is not for the House to go beyond the subject-matter of the petition, to assail the character and motives of the citizen who seeks to secure his rights, and invokes the constitutional power of Congress for the redress of grievances.

Sir, if the right of petition—if one of the most important guarantees of our liberties—is to be subverted, made a source of invective against the character and motives of citizens who approach Congress, in a proceeding of this nature, it is of but little benefit to the people.

For myself, I have been taught to regard the right of petition as one of the most sacred secured to us by the Constitution, and intimately connected with the liberties of the people; and I believe it is the duty of the House to consider the matter of the petition preferred, and the evidence adduced here for the impeachment of a Federal judge, solely on its merits, and with a view to determine the guilt or innocence of the accused merely; and not to permit the issue to be changed by an attempt to place his accusers on trial in his stead, by allowing their character to be assailed.

I have noticed, with regret, attempts made to draw the attention of the House from inquiries into the grounds for the impeachment of Judge Watrous, by attacks upon the motives of the memorialists, including the honor and integrity of the people of Texas who join in the desire for the trial of the accused. The memorialists seek, and properly applied for redress; and I do not wish that the attention of this House should be led away from inquiring into the grave charges made against a judicial officer of this Government. It must be borne in mind that it is Judge Watrous that is arraigned, and not Simon Mussina; it is his official character that has to be pronounced upon, and this investigation should proceed upon its merits; the House must do its duty to the country, determining whether there is reasonable suspicion of the guilt of Judge Watrous, and if he is impeachable upon the allegations that have been standing against him the last ten years.

Let the House determine this question on the evidence, and the evidence alone. The dignity of the House forbids that it should descend to vituperate private and unaccused citizens, who have appealed here for redress of wrongs, and not for inquisition and judgment upon their motives.

From the course of a portion of this debate, we should suppose that Mr. Mussina was on his trial, instead of the real party.

The name of this gentleman has been drawn into this debate unjustly. He comes before this honorable body under a well-defined right, and is entitled to our protection.

The distinguished member from Tennessee, [Mr. READY,] particularly, exhibited a prejudiced

feeling in his remarks against the memorialist. He seems to regard it as a species of effrontery in him to ask for an investigation into Judge Watrous's conduct.

The House must be sensible that a great wrong has been done to the cause of justice in permitting the inquiry to be thus diverted from Judge Watrous, and that an equally great wrong has been committed towards Mr. Mussina, in allowing accusations, without evidence, to be made on the floor of this House against his character and motives.

Sir, I do not conceive that these proceedings furnish any occasion for going into an investigation of Mr. Mussina's claims to the respect, confidence, and good opinion of honorable members of this body.

In reply to the assaults upon his character, made on this floor without warrant and in language I deem not proper, on the part of the advocates of Judge Watrous, it is but just that I should say Mr. Mussina is a resident of the city of New York, which I have the honor in part to represent, where he has resided upwards of two years; and it is due to my convictions to add that from personal acquaintance with him, as well as from a knowledge of the part he has borne in this proceeding, I am persuaded of the integrity of his motives and the entire right he has, and the propriety of his conduct in asking the investigation of the conduct of an officer, who, he conceives, has oppressed, betrayed, and defrauded him.

I do not consider this a proper occasion to speak further on this subject, except to remind the House of the fact that Mr. Simon Mussina, the active prosecutor in this proceeding, is contending for the recovery of his own direct and personal rights in the Cavazos suit—he being jointly interested in the land transactions of his brother, against whom the judgment was rendered; and that the right and integrity of the proceeding he has instituted, for the punishment of the accused, has never before been questioned by any authority to which he has submitted his case. On the contrary, he has received the indorsement of public bodies, and a sovereign State has united in the prayer of his petition; and he stands to-day asking for justice, and justice only, from this honorable body.

In the proceedings of the Thirty-Fourth Congress it will be seen that the matter of Mr. Mussina's petition was made the subject of careful investigation, and that the Judiciary Committee unanimously indorsed it, granted his prayer, and recommended the impeachment of Judge Watrous, for high crimes committed in a series of acts of oppression and fraud upon the memorialists. The report of this committee states in a convenient and concise form the leading facts of Mr. Mussina's case, and I will read from it as far as it may be necessary for the House to be informed in this particular, in order to show the grounds upon which the committee unanimously determined the guilt of Judge Watrous and recommended his impeachment:

"The committee would, however, state very briefly the substance of the charges in the petitions, and the grounds upon which they have resolved to report the resolution. The complaints in the petition of Jacob Mussina, among others, are founded upon the conduct of Judge Watrous in a chancery suit litigated in his court at Galveston, and charge that throughout the progress of the case he was oppressive and partial; that he entirely disregarded the well-established rules of law and evidence, and the rights of litigants.

"The cause at Galveston was commenced by one Cavazos *et al.* vs. Stillman *et al.*, January 12, 1849, for partition among the complainants, of a large tract of land situated upon the east bank of the Rio Grande, which included the town of Brownsville, and to quiet the title as against the claim of those who were made defendants. The bill of complaint, which was verified by oath, alleged that all the complainants were citizens of the Republic of Mexico, and that the defendants were citizens of the State of Texas, which gave the United States court jurisdiction. Afterwards it appearing upon the report of a master that the suit was commenced by the attorneys of Cavazos without the knowledge or consent of several of the parties made complainants, the court ordered that the names of such parties should be struck out of the complaint and inserted as defendants, upon the agreement of an attorney to appear for them, and place upon the record in the cause, by answer or otherwise, such averments as would recognize the jurisdiction of the court, by acknowledging themselves citizens of the State of Texas, although it was well known that they were citizens of Mexico, and not of the State of Texas, and, although no notice had been given to any of such parties, one of them being a married woman, and another an infant for whom no guardian *ad litem* was ever appointed, their rights were finally passed upon in the decree in this irregular manner. These facts might not have been cause of serious complaint,

if the judge, in the subsequent proceedings, had shown a disposition to administer justice with an even hand.

"The petitioner, Jacob Mussina, was not made a defendant in the cause until after these proceedings were had; but his interest afterwards, appearing by the affidavit of one of the defendants, although he was not a citizen of Texas, but a citizen of Louisiana, he was made a defendant by an amendment to the bill of complaint. The committee find that, during the progress of the cause, the well-established rules of law and evidence were repeatedly disregarded by the court, and in all cases in favor of the complainants and against the defendants. The testimony of interested witnesses was allowed against the objection of the defendants; and the deposition and affidavits of an attorney for the complainants were received in evidence, against the objection of the defendants, although it was shown by his own testimony that he was prosecuting the suit under an agreement of chicanery—that is, he was to share in the proceeds of the sale of the property after it should have been recovered and sold.

"The court allowed the use of translations of important documents tending to prove the title of the complainants to the property in question, which had been made out by the same attorney who was by agreement to share in the profits of the suit when the land should be recovered and sold, without acting under the sanctions of an oath, and without the translations being verified by oath. And the court also overruled the objection of the defendants to the use of such translations. There is some record testimony before the committee showing that these translations were false in some respects, without showing in what respects they were false.

"A short time previous to the January term of the district court of Galveston for 1852, Judge Watrous caused it to be understood by rumors, and by declarations given out by himself publicly, that he would not hold a January term at Galveston, which came to the knowledge of Jacob Mussina and prevented his attending that court, and taking such steps as might be necessary to secure the benefits of an appeal. But notwithstanding his declarations, he did hold the January term at Galveston, and rendered a decree in the said chancery cause, declaring the title of Mussina to the property in controversy to be null and void, and enjoining him forever from further asserting any claim to the same, remarking at the time that he had seen or conversed with the parties at Austin, and that they had consented to, or were satisfied with, the decree; which declaration of the judge prevented an attorney of Jacob Mussina, then happening to be in court, from taking the necessary steps for an appeal; whereas in truth and in fact, Judge Watrous had not seen or conversed with Jacob Mussina at Galveston, or elsewhere, or any person representing his interest; and the pretense that he had consented to the decree, or was satisfied with it, was without foundation or excuse. Five of the eight complainants, who were material and necessary parties, had been made defendants in an early stage of the cause, and without any answer or allegations on their part, except two of them, a decree was rendered in their favor against Mussina; and to perfect an appeal, a notice should have been given in open court, at the time the decree was rendered, or, in case of appeal being taken afterwards, by the provisions of the twenty-second section of the judiciary act, the appellates must be served with a citation of appeal; and as one of the parties was a married woman, and another an infant, all of them residing out of the jurisdiction of our courts, being citizens of Mexico, it became very difficult, if not impossible, to perfect an appeal after the court had adjourned.

"It further appears, that afterwards, on or about the day of January, 1854, Judge Watrous, upon the application of the solicitor of the complainants in the chancery cause at Galveston, cited said Jacob Mussina to appear in court at that place to answer for a contempt of court, in continuing to assert that he had an interest in the said property at Brownsville. The acts charged to be in contempt of court were, first, that he had commenced and prosecuted a suit in the city of New Orleans, against some of the parties and solicitors in the said case of Cavazos *et al.* vs. Stillman *et al.*, for conspiracy, in the proceedings in said case, to defraud and cheat, under color of legal proceedings, the said Jacob Mussina out of his interest in the property at Brownsville. The suit at New Orleans was commenced the year before the decree was pronounced at Galveston. That decree did not notice the suit at New Orleans, or in any manner enjoin it. The other act charged to be a contempt, was the filing of protests by said Mussina in the office of the Secretary of War and in the Quartermaster-General's office, at Washington, against the payment of money by the Department to the successful litigants for the rent of the Brownsville property. The court declared Jacob Mussina to be in contempt, and issued an order for his arrest; and because he could not be found, not being a citizen of Texas, but a resident and citizen of Louisiana, an order was issued to sequester all his property. The committee deem the proceedings for a contempt to have been irregular, unjust, and illegal, and, taken in connection with the previous proceedings and rendition of the decree, oppressive and tyrannical.

"In the case of Cavazos *et al.* vs. Stillman *et al.*, the record affords sufficient evidence to satisfy the committee that there was collusion between the solicitors for the complainants and a part of the solicitors for the defendants, and that a part of the defendants, or one of them at least, Jacob Mussina, was defrauded and betrayed by such collusion. They would further state, that there is evidence to satisfy them that a part of the defendants were concerned in the conspiracy, and that the judge of the court knew of the collusion during the pendency of the suit, and that he alluded to a conversation between himself and one of the defendants' solicitors, who was concerned in the collusion, when he remarked that the defendants were satisfied with the decree. The defendant Mussina commenced a suit at Galveston, against the other defendants and solicitors in the case, on the 15th of March, 1850, for such conspiracy; but owing to continual obstacles and delays in the prosecution of that suit at Galveston, Mussina afterwards, but before the rendition of the decree in the chancery cause, commenced a suit against the same parties for the same cause at New Orleans, and Judge Watrous afterwards de-

clared said Mussina to be in contempt for having commenced and prosecuted this suit at New Orleans, and ordered him to be imprisoned, and because he could not be found in the State of Texas, ordered his property to be sequestered, as above stated.

"The committee have examined numerous records, consisting of pleadings, orders of court, affidavits, and depositions; and, after a patient and laborious research, they have reluctantly come to the conclusion that the conduct of Judge Watrous, in the cases above referred to, cannot be explained without supposing that he was actuated by other than upright and just motives; that in his disregard of the well-established rules of law and evidence, he has put in jeopardy and sacrificed the rights of litigants, and in acquiring a title to property in litigation, or held by adverse possession, he has given just cause of alarm to the citizens of Texas, for the safety of private rights and property, and of their public domain, and has debarred them from the rights of an impartial trial in the Federal courts of their own district. In view of the above-recited facts, and the conclusions of the committee, they report the evidence, and the following resolution:

"Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached of high crimes and misdemeanors."

It is especially to be remembered, Mr. Speaker, that this report is based entirely on record testimony. I desire to call the attention of the House especially and emphatically to this fact, and to the further and crowning fact that these records of Judge Watrous's court, on which all the material charges of Mussina were based, were before the committee of the present Congress, as likewise the parties who made them, and no attempt was made to impeach any one of them.

These same accusing records, on which the Judiciary Committee of the Thirty-Fourth Congress came to a unanimous judgment of the guilt of Judge Watrous, are before the House to-day as witnesses for his impeachment.

It is worthy of the observation of the House that the report of the committee of the last Congress, to which I have just referred, does not partake of the character of mere assertions or argument only, but rests upon a most careful examination of the evidence.

We find, in the abstract they have annexed to their report, which I make a part of my remarks, the date assigned and the page given for every material item of evidence in the case. (See Appendix No. 1.)

I would call the attention of the House to the approval which four members of the Judiciary Committee of this Congress have given to the judgment so deliberately made of Judge Watrous's official misconduct towards Mussina by the former committee of the Thirty-Fourth Congress. This approval comes to us with such authority and with such extraordinary evidences of truth as to constitute, in unbiased minds, a chain of evidence that leads irresistibly to the conviction of the guilt of Judge Watrous.

It is known that the present Judiciary Committee at the last session investigated the conduct of Judge Watrous with the greatest patience, and with an evident and earnest desire to arrive at the truth. For five months this investigation was steadily pursued; for a great part of this time the committee were in daily session occupying in their examination of witnesses even the hours of the day when the House was sitting.

No circumstances were wanting, no pains were omitted, nothing was denied, to insure a full, impartial, and truthful investigation. Every opportunity of explanation and defense was afforded to Judge Watrous. He was indulged in a tedious defense by the committee; he had able counsel to conduct the investigation; and in a spirit of liberality, as I think, the committee went so far as to refuse to allow his witnesses to be impeached.

This, I say, sir, was undue liberality; for it enabled Judge Watrous to make a defense from the testimony of the officers of his court, and also the partners in his iniquity. But notwithstanding all these circumstances of advantage on the part of the judge, and after the most patient and comprehensive examination of all the facts, no matter how remote, in his favor, we find, sir, a portion of the committee affirming, in the strongest and most unreserved terms, the same judgment of his guilt that had first been pronounced, on the same charges which Mussina had submitted for investigation in the Thirty-Fourth Congress.

That judgment of censure and evidence of guilt is affirmed in the following clear and decided language. Summing up the proofs in the case, they say:

"Every irregular or wrongful decision of the judge was

in favor of the complainants and against the defendant, Mussina, and those occupying a similar position, and was to their particular injury. By maintaining the proceeding as one rightfully brought on the chancery side of the court, these defendants were illegally deprived of their right to a trial by a jury, and were compelled to submit to an adjudication upon their rights to the property in such a manner that the decision would be final and conclusive as to the title of the property, instead of one upon the right of possession, which would at once have been pronounced, on the law side of the court, in an action of ejectment. By maintaining jurisdiction over the case, when a portion of the defendants as well as the plaintiffs were aliens, these defendants were deprived of their rights to have the questions involved in it decided by the courts of Texas, to whose jurisdiction they were rightfully amenable, and whose laws were to govern in that decision. By admitting incompetent witnesses to testify, their rights were affected by evidence given by persons who had an interest in the litigation adverse to theirs. And, finally, they were prevented from having the decision against them reviewed in the appellate court by the failure of the judge to perform his full duty to them in facilitating the exercise of the right of appeal, given to them by law, from motives of public policy, for their own private advantage, and that, too, when there is some reason to believe that the decree by the court is not in conformity with the principles of law, as recognized in Texas. Such a course of action, continued through the whole progress of a cause, in favor of some of the parties and against others, is, to our minds, conclusive evidence of the existence of a purpose, on the part of the judge, to favor one party, or set of parties, at the expense and to the injury of others, which is inconsistent with an upright, honest, and impartial discharge of the judicial function. And this, we believe, constitutes a breach of the 'good behavior' upon which, by the Constitution, the tenure of the judicial office is made to depend."

As to that portion of the charge assigned by Mussina, in relation to the judge's prosecution of him for alleged contempt, the report of the committee of this Congress, from which I have just read, also affirms the former investigation, to the effect that the action of the judge was tyrannical and oppressive. This matter, sir, of unauthorized, vexatious, and wrongful persecution of a citizen for alleged judicial contempt, is no light subject of complaint. It must be considered that in such a case there is no appeal to the Supreme Court; and a corrupt and malicious judge may practice his tyrannies with impunity, under disguise of such proceedings for contempt as were authorized by Judge Watrous in the case of Mussina, unless Congress, as it is now invoked to do, shall interfere to establish a precedent that shall hereafter check judicial tyranny.

In reference to the contempt case, the report already referred to as that of a portion of the present committee, says:

"It also seems clear, when the pleadings in the suit instituted by Mussina against Sillman, Belden and Alling, and Basse and Ford, in the fourth district court of New Orleans, are considered, together with the judgment rendered in it upon the verdict of a jury, and the evidence in the contempt case, that there was no foundation whatever for the proceeding against him for a contempt, and that the action of the judge with respect to it was unauthorized by law, and was intended to be vexatious and oppressive. How any other conclusion can be arrived at, when it is remembered that the suit in New Orleans was instituted by Mussina against his co-defendants alone and their counsel, and related to rights growing out of their own transactions, it is not easy to conceive."

It appears that the report from which I have been reading is signed by the honorable members from Pennsylvania, [Mr. CHAPMAN,] Wisconsin, [Mr. BILLINGHURST,] Louisiana, [Mr. TAYLOR,] and Alabama, [Mr. HUSTON,] gentlemen distinguished for legal learning and talents.

In addition to these two reports, the former made to the Thirty-Fourth Congress, and followed by the one just referred to, made at the last session, both adjudging the accused guilty of high crimes and misdemeanors, we have a copy of the resolutions of the Legislature of Texas, adopted in 1848, branding Judge Watrous with "one of the most stupendous frauds ever practiced upon any country or any people," and urgently requesting him to resign his office. This comes to us as an expression of the voice of Texas ten years ago. The same appeal lingers here for justice, and the resolution still stands unrepealed upon the statute-books of the State.

I will read the resolutions:

"Whereas it is believed that John C. Watrous, judge of the United States district court for the district of Texas, has, while seeking that important position, given legal opinions in causes and questions to be litigated hereafter, in which the interests of individuals and of the State are immensely involved, whereby it is believed he has disqualified the court in which he presides from trying such questions and causes, thereby rendering it necessary to transfer an indefinite and unknown number of suits hereafter to be commenced, to courts out of the State for trial; and whereas it is also believed that the said John C. Watrous has, while in office, aided and assisted certain individuals, if not directly interested himself, in an attempt to fasten upon this State

one of the most stupendous frauds ever practiced upon any country or any people, the effect of which would be to rob Texas of millions of acres of her public domain, her only hope or resource for the payment of her public debt; and whereas his conduct in court and elsewhere, in derogation of his duty as a judge, has been marked by such prejudice and injustice towards the rights of the State and divers of its citizens, as to show that he does not deserve the high station he occupies: Therefore,

"SECTION 1. Be it resolved by the Legislature of the State of Texas, That the said John C. Watrous be, and he is hereby, requested, in behalf of the people of the State, to resign his office of judge of said United States court for the district of Texas."

"SEC. 2. Be it further resolved, That the Governor forward the said John C. Watrous, under the seal of the State, a copy of the foregoing preamble and resolution; also, a copy to each of our Senators and Representatives in the Congress of the United States."

I read, also, the following resolution passed by the Senate of Texas, August, 1856, but at too late a period of the session to allow of its several readings in the House, previous to the adjournment:

"Whereas the Constitution of the United States provides that 'the judges, both of the supreme and inferior courts, shall hold their offices during good behavior'; that John C. Watrous being appointed judge of the United States district court for the State of Texas, before or during the month of May, 1846, and is still presiding over said court; and whereas an act of Congress was passed requiring said Watrous, judge, to reside in his district, thereby making known that he was a non-resident and stranger among the people over whom he presided as such judge, and an implied condemnation of his official behavior; and another act of Congress passed, which provided for the branching his court, thereby showing that it was intended to deprive him, as far as possible by legislation, of the means and facilities which he then and there possessed of accomplishing his wicked designs, and to weaken the unlawful combinations which he had then and there formed, and a joint resolution passed the Legislature of the State of Texas, enumerating very many sufficient causes, and requesting said Watrous to resign his said office, yet said judge holds on to his office with the tenacity of a convict felon holding to life, and adding insult to injury done the country, by procuring and publishing a certified character, obtained by him from the grand jury of his own court; and whereas charges were preferred against Watrous for his outrageous violation of law and his uniform course of bad behavior, and that said charges have been delayed and postponed by the contrivances of said Watrous, aided by his co-peers, who, after defeating inquiry into his official misconduct, had the effrontery, by certificate statements, to undertake to whitewash a character blackened by deeds of crime; and whereas it is quite generally believed that in 'rich cases' in his court, a party's success depends altogether upon his employing the favorites of said judge as the party's attorneys, and thereby secure the said judge's active cooperation in making up the case, his boasted control of his jury, and the final speech to said jury, wherein he fails not to use every argument, both false and sound, as occasion may require, to obtain the verdict; and whereas said judge is guilty of obtaining and attempting, by contriving and carrying on a made-up suit in his own court, to validate in the same over twelve hundred fraudulent land certificates, claimed by himself and his 'co-peers,' and of a class—in all the enormous amount of twenty-four million three hundred and thirty-one thousand seven hundred and sixty-four acres—of fraudulent certificates, thereby attempting to deprive his country of a vast domain, besides causing the State the cost of additional counsel in defending herself against such enormous preconcerted spoiliations; and whereas, on discovery of his interest in said class of certificates being made, said judge transferred said suit for determination to the United States court in another State, after shaping the case and influencing that court in such a manner as to obtain his desired judgment; and whereas said judge, since his appointment, has interested himself in a class of eleven-league land claims, which class of claims cover millions of acres of the best lands of the State, generally regarded as invalid, and his vast interest in sustaining said class of claims, and means of accomplishing his purpose, owing to his station and influences with the officials and juries of his court, render him obnoxious and dangerous to the general welfare of the people; and whereas it is believed by very many good citizens that said Watrous, in connection with one Thomas League, and other 'co-peers,' are directly or indirectly interested in most of the important suits brought in his court; and whereas it is believed that said Watrous is now in Mexico, engaged in procuring more of that class of land claims, in order to enrich himself and his 'co-peers' at the expense of his country; and whereas the interests and feelings of said Watrous are wholly antagonistic to the interests and feelings of the people over whom he so disgracefully presides; and whereas the period of his administration has been marked by a series of acts of partialities, oppressions, speculations, and frauds, which render him odious and abhorred in the sight of all good citizens: Therefore,

"Be it resolved, That our Representatives in Congress are requested, and our Senators are instructed, to use every legitimate means in their power to procure the removal of said John C. Watrous from said office."

I wish the House most seriously to consider whether this array of verdicts against Judge Watrous, pronounced in the most deliberate manner, and under the most imposing circumstances, by public bodies, does not peremptorily call for a full investigation of the case by regular and final trial at the bar of the Senate. It will be recollected also that a resolution of the Texas Legislature was presented at the last session, requesting this honorable body to investigate the official misconduct of Judge Watrous.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2d Session.

THURSDAY, DECEMBER 16, 1858.

NEW SERIES....No. 6.

Sir, in arriving at the conclusion that the interests of public justice and the peculiar duty of the House, in a proceeding of this nature, require that Judge Watrous should be committed for trial before the Senate of the United States, I have not neglected to examine all the defenses and evidence urged in his behalf. I have sought to do full and impartial justice to the accused, to the extent of my ability to judge between truth and falsehood, right and wrong. I have not omitted to examine the report emanating from a minority of the committee and made in his defense, and which is indorsed by my colleague, [Mr. CLARK,] a member of the Judiciary Committee, who has urged the exculpation of the judge in a forcible speech.

I examined that report, sir, with some anxiety to discover in it some ground, some recital of evidence, or some circumstance to excuse Judge Watrous, or to justify a charitable doubt, which I should have been glad to entertain, of his guilt. But I found that it amounted to nothing more than a broad assertion of the judge's innocence, slighting the evidence, and even failing, on its own showing, to examine into a portion of the charges.

I would direct the attention of the House to an instance of omission in this minority report to inquire into the merits of an act of Judge Watrous which was particularly complained of, and which was strongly censured by the unanimous voice of the Judiciary Committee of the Thirty-Fourth Congress and by a portion of the present committee. This instance of omission may well serve to illustrate the want of proper consideration of a material part of the charge. Referring to the process of contempt issued against Mussina, the signers of the report declare:

"If it had been followed by actual arrest of person or sequestration of property, the undersigned, out of tender regard for the rights of the citizen, might be disposed to inquire into its merits with care."

What a strange avowal is this to make! The merits of the contempt case have not been inquired into with care, because the executive officer of Judge Watrous's court failed to capture the victim and despoil him of his property. Was it less unjust, less unauthorized by law, less criminal in the judge to issue writs of arrest and sequestration from the fact that they happened to be returned unsatisfied? His offense was the same, whether the writs accomplished his objects or not. He violated law, abused his power, and prostituted his court to private malice and cupidity; and for this, it might be supposed, a Federal judge would be held answerable to the offended and outraged laws of his country. But no; the signers of the report would not even inquire into the conduct with care, because the poor hunted victim of judicial tyranny had got, for the time, beyond the reach of his persecutors. It must be remembered, too, that these tyrannical writs still hang over Jacob Mussina, who, a citizen and resident of New Orleans, cannot venture his person or property in the adjoining State of Texas without incurring the risk of the execution of the tyrannical sentence of Judge Watrous.

In what a position does this circumstance place the contempt case, so slightly and carelessly dismissed by the honorable gentlemen who have subscribed the judgment "full and entire acquittal" of the accused! Here is a citizen of Louisiana prevented from entering the borders of Texas, disqualified from holding property there, and actually forbid to go into a State of the Union; and yet we are told by this branch of the Judiciary Committee which exculpate Judge Watrous, that "there is nothing in it deserving the attention of the House."

I do not consider it necessary, Mr. Speaker, after pointing out this instance of failure of duty and disregard of right and justice in the minority report, to establish by further and detailed criticism its unreliability. I do not consider it necessary to indicate further the absence of a full and proper consideration of the points involved. They are sufficiently obvious from the judgment and

temper manifested in excusing and protecting the tyranny of Judge Watrous, because his malice had fallen somewhat short of its aim.

But, sir, before dismissing this report, I cannot refrain from offering some general remarks on the visionary suggestions it makes, that "there is nothing in the affair but the resentfulness of disappointed litigants;" meaning, I suppose, Mussina and Spencer, who had preferred distinct accusations against Judge Watrous. Sir, the idea is simply preposterous that private citizens, from mere "resentfulness," should subject themselves to years of toil and harassment, and to an enormous expense, in order to bring a judge to a trial if it could only result in his full and entire acquittal! It is entirely improbable that any man of common prudence would, merely to gratify bad passions, undertake the impeachment of a judge, and follow it up through all the tedium, difficulty, odium, and expense, that he must necessarily encounter in bringing him to the high judicature of the United States Senate, with a conviction that an acquittal must eventually be pronounced in favor of the accused.

It should be considered to what pains and hazards a party subjects himself in taking ground against a United States judge in seeking his impeachment if this judge should be really innocent. Charges of judicial corruption are not likely to be made, at least not likely to be followed up with real zeal, regardless of time and expense, and through all the difficulties that the official and his surroundings may throw in the path of justice, merely from personal spite, and without any foundation in fact. I think that it is quite improbable that a judge could be persecuted to this extent by resentful suitors in his court; and I may say further, that it is not probable such a motive of private malice could originate a proceeding against Judge Watrous, the truth and justice of which have been affirmed in most of the preliminary investigations of the case made by public authority.

These investigations have covered the whole ground of the judge's official misconduct, and not only on charges to which I have referred in these remarks, but in numerous and multifarious charges of other acts of judicial corruption he is deemed guilty, and in consequence of which he has become repulsive to the people of his district, who now, in conjunction with the memorialists, seek the interposition of this honorable body.

The limited time allowed to me under the rules of the House for this discussion, does not permit me to enter at any length into the land frauds and land speculations which Judge Watrous is charged with.

But gentlemen who have preceded me in this debate have sufficiently informed the House of the material facts on which the charge of Eliphas Spencer is preferred in accusing the judge of corruptly lending his court to sustain his own title to a grant of land, and of complicity in the procurement of an alleged forged power of attorney, upon which his title wholly depends. I cannot now do more, for want of time, than to refer generally to these important and apparently sustained charges, and to invite a careful attention to the majority report of the committee on this important point.

I would invite the attention of the House to the character of the testimony by which it has been sought to absolve Judge Watrous. It appears that there were brought here a number of friendly and interested witnesses to give evidence in favor of Judge Watrous, consisting of the officers of his court, Love, Cleveland, Jones, Shearer, his agent, John Trearor, and of his partners in alleged land speculations, League, Lapsley, Frow, and others. The Judiciary Committee refused to allow these witnesses to be impeached, but I beg the House to examine their testimony with just suspicion. Numerous contradictions appear. You will see evidence of collusion; you will notice Judge Watrous refreshing the recollections of these witnesses, (see Appendix No. 2,) and the variance in their testimony from day to day, to

suit his case. You can then give proper credit to men naturally prejudiced in favor of the accused and interested in his crimes.

Mr. Speaker, in conclusion let me indulge the hope that this House will not hesitate to execute the high duty it owes to the country in subjecting to trial before the Senate of the United States a judge who stands before us charged with high crimes and misdemeanors, which lessen the high character of, and our respect for, the bench. This impeachment is due to the dignity and purity of judicial position, to the people of Texas—to the memorialist whose rights have been trampled upon, and to the country; and more than all, it is due to the accused that he should vindicate himself before the high court of impeachment, that if innocent he may be acquitted. Until that is done, his usefulness as a judge is gone, his honor tarnished, and his integrity impeached.

The House may refuse to put him upon his trial, but it cannot obliterate the record of his alleged crimes and misdemeanors, nor remove the stigma under which he rests; nor will such a vote restore the confidence of the people of his own district or the country.

[APPENDIX No. 1.]

Abstract of testimony referred to in Report of Committee of the Thirty-Fourth Congress.

In the Cavazos case, suit was instituted January 12, 1849, by E. Allen and William G. Hale, solicitors, claiming to represent eight citizens of Mexico, against citizens of Texas, thus giving the United States courts jurisdiction, (p. 15.)

Motions to dismiss the bill of complaint as to five of the complainants, as having been filed by the said Allen and Hale without authority, (p. 35.)

Motion to dismiss, referred to a master in chancery, who, after citing and hearing the parties, reported that no authority to commence the suit on the part of five of the complainants had been shown, (p. 37.)

The motion to dismiss ostensibly sustained, but in effect only so far as to strike the names of such five complainants, sworn citizens of Mexico, from the bill of complaint, and without any motion, leave was granted to the remaining three complainants to amend the bill, by making defendants the said parties thus stricken from the bill; and without any process or notice to them, it is entered of record by the court, in the same entry, that the said parties appearing in open court, by an attorney in fact, did agree to place upon the record, by answer or otherwise, an acknowledgment that they were citizens of the State of Texas, to give the court jurisdiction, (p. 48.) One of the parties, Ramon Lafon, was an infant, and another, Angela Garcia de Tarnava, a married woman; neither could make a binding agreement, even in open court, (p. 95.) The following is the order referred to:

"ORDER.—June 30, 1849.

"RAPHAEL GARCIA CAVAZOS and others }

vs.

"CHARLES STILLMAN and others. }

"Upon consideration of the motion made by Elisha Basse and Robert H. Hord, counsel for Don Constantino Tarnava, Doña Angela Garcia Lafon de Tarnava, his wife, Don Ramon Lafon, Don Manuel Prieto, and Doña Felician Goseascoche de Tigerina, made parties complainant in the bill of complaint in this cause; and upon further consideration of the several affidavits filed in respect to the said motion and the said bill of complaint, and the argument of counsel, it is now hereby ordered that the said motion be sustained, and that the other parties complainant in the said bill named have leave to amend the said bill by making the abovesaid parties complainant defendants to the said bill; and that the said parties, so to be made defendants, now appearing by R. H. Hord, their attorney in fact, in open court, do agree that, being so made parties defendant, they will place upon the record in this cause, by answer or otherwise, such averments as will recognize the jurisdiction of this court, by acknowledging themselves citizens of this State for the purposes of this action, and the costs already incurred and the liabilities accrued to be borne by the parties remaining complainants."

Jacob Mussina's interest appeared by affidavit of S. A. Belden, (p. 42.) Bill amended, making him, as a citizen of Texas, a party defendant, July 7, 1849, (p. 49.) Filed his answer, which was under oath, and in said answer set forth that he was a citizen of Louisiana, (p. 50.)

Motion of defendants to exclude all packages of depositions, exhibits, transcripts of any sort and description whatsoever, dependent for their admission upon the depositions or affidavits of William G. Hale, Esq., one of the solicitors of the complainants, on account of his interest, (p. 113;) overruled, (p. 118.)

Cross-interrogatories and answers of William G. Hale as to his interest, (pp. 132, 133, 134, 135,) wherein he admits that he held a deed for part of the property in litigation, and that he and his partner were to share in the proceeds of the sale of the property when recovered.

Extract from answer of William G. Hale, (page 134.)

"Some time after making of the original agreement, and after the commencement of this cause, the complainants executed conveyances to Mr. Allen and myself of a certain

undivided portion of their distributive shares of the tract of land mentioned in the bill, but these conveyances were not to be considered as delivered, so as to vest any interest or legal fee in us, until the termination of the suits before stated; and they were not, in any event, to inure to our benefit, so as to entitle us or to give us an interest in the land, including the town sites before stated. The conveyances were intended as a security for our protection, and to give us a lien or power to enforce the agreement before mentioned, and were so stipulated for in the original agreement itself.

"In answer to the second cross-interrogatory, I refer to my former answer, and distinctly say, that I shall not receive, in consequence of the agreement referred to, any greater compensation, in the event the complainants recover, than if the defendants prevail, except in so far as my partner and myself will then have done a part of what we undertook to do, and will consequently have less labor before us; whether we shall make anything in addition to the amount already paid us by our clients, will depend entirely upon the successful issue of the other suits to be commenced, as well as of this, and the further sale of the land so recovered.

"In answer to the third cross-interrogatory, I refer to my foregoing answers. As to the land, including the town site of Brownsville, I have already said that I am not, by any agreement, to have any portion of said land, in any event, nor any interest in such land, but only a portion of the proceeds of sale, should the same be finally recovered and sold."

William G. Hale's deposition, read in support of the title of the complainants, (p. 135,) and he was received as a general witness throughout the progress of the cause. (See pp. 65, 71, 88, 89, 90, 110, 111, 117, 140, 145, 146, 147, 148, 149, 150, 151.)

See also his affidavits in law case 134—the same title being in issue, and same counsel, (pp. 635, 655, 656, 657, 659,) also, contempt case, (p. 337.)

The principal part of the documentary evidence of the complainants consisted in what purported to be translations from the Spanish. These translations were made by William G. Hale, Esq., and not sworn to, as shown in the objections and exceptions of the defendants, which were overruled, (pp. 109, 110, 153.) Translations were in some respects false, (p. 660.)

See exceptions of Jacob Mussina, (pp. 95, 103, 109, 114;) overruled, (pp. 215, 218.) See also, p. 317.

The court permitted Robert H. Hord, counsel for defendants and witness covertly interested, to testify at the hearing of said cause, and sustained his refusal to answer the following proper and legal question, intended to show that he had a collusive interest adverse to Jacob Mussina:

"The solicitors of Jacob Mussina put the following question to Mr. Hord:

"Have you, or have you not, any understanding or agreement with the complainants, or either of them, or their agent or solicitor, in relation to the determination or settlement of this cause, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina, in any property or rights involved in this suit? Are you or not interested in any such understanding or agreement?"

"Which question Mr. Hord declined to answer; and thereupon the court decided that the question need not be answered.

"And thereupon the said Robert H. Hord, being sworn in chief by the court, deposed and said as follows:"

Hord's testimony taken by leave of the court in support of the title of complainants, (p. 137,) objected to on account of the interest of said Hord, (p. 137.)

Affidavit: R. H. Hord, solicitor for defendants, in support of the testimony of William G. Hale, solicitor for the complainants, (p. 119.)

The decree (p. 119) covers a much larger tract of land than the grant relied upon in evidence, and adopts different and more extended boundaries than those described in the grant and included in the testimony explaining the surveys made by the holders of the grant, (pp. 160, 163, 171, 156.)

Judge Watrous caused it to be understood, by declaration given out by himself publicly, that he would not hold a January term at Galveston. (See report, p. 2; see depositions, M. M. Potter, D. D. Atchison, F. H. Merriam, B. C. Franklin, and John S. Jones, pp. 180, 181, 183, 185, 187, 190, and 195; interrogatories, 11, 14, and 16, and answers thereto.)

Transcript, chancery docket, January term, 1852, showing that there was no other chancery business done at said term, (p. 125.)

November 1, 1851, Jacob Mussina instituted a suit in the court of his domicile—New Orleans—against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord, among other things for a conspiracy in the Cavazos cause to defraud and cheat, under color of legal proceedings, the said Jacob Mussina out of his interest in the property at Brownsville. For a full transcript of all the proceedings and testimony in that suit, see pages 418 to 882 inclusive. This suit resulted in the following verdict, rendered May 21, 1853, and which verdict was a virtual finding of guilty as charged, except as to Stillman, on whom service was not had.

JURY.—P. A. Giraud, John E. Currin, A. David, J. Calder, J. A. Lum, Robert Henderson, S. L. Fowler, Dennis Fulvey, W. K. Day, S. E. Moore, Amileur Roux, A. Durand.

Verdict and Judgment, 21st May, 1853.

JACOB MUSSINA

vs.

WILLIAM ALLING et al. } 4,726.

This cause, continued from yesterday, came on again today.

Roselius and Wolfe & Singleton, Esqs., for plaintiff, Bonford & Finney and H. D. Ogden, Esqs., for defendants.

When the jury sworn in, having come into court, were called, and after receiving a written charge from the court,

the jury retired to deliberate on the verdict; and after deliberation they returned into court and delivered the following verdict, to wit:

"We, the jury, find that the defendants shall convey unto Jacob Mussina, the plaintiff, by good and sufficient title, all the rights of property acquired by Basse and Hord, under the transfer of conveyance of the 14th December, 1849, and 31st January, 1850, within ninety days from the date hereof, and that Elisha Basse, R. H. Hord, S. A. Belden, and W. Alling pay to the plaintiff the sum of \$25,000 damages.

"We, the jury, further find, that S. A. Belden and W. Alling convey to J. Mussina the property purchased by them from Basse and Hord, on the 5th January 1851; and on the said defendants complying with the above, the said plaintiff shall refund the said amounts advanced by the defendants for the purchase of the property; and in default of the defendants making the above conveyances within ninety days, we, the jury, find a verdict in favor of the plaintiff, J. Mussina, for the sum of \$214,000, in lieu of the title to the property.

S. L. FOWLER, Foreman.

"NEW ORLEANS, May 21, 1853."

Judgment was afterwards rendered upon this verdict in accordance with its terms. The defendants appealed to the supreme court. The judgment was set aside by the supreme court for want of jurisdiction in the court below.

The proofs that Judge Watrous had knowledge of the conspiracy between the solicitors for the complainants, and part of the solicitors for defendants, also part of the defendants, to defraud Jacob Mussina, are as follows: Jacob Mussina commenced suit against the conspirators, Hord and others, in the United States court, at Galveston, March, 1850, (p. 475;) the admission of Hale, solicitor for the complainants, of his interest in the subject-matter of the suit, (p. 133;) the question to Hord as to his complicity in the conspiracy, and his refusal to answer sustained by Judge Watrous, March, 1851, (p. 136;) the reception of the testimony of Hale and Hord, and his declaration that he had seen the parties, and that they were satisfied, (pp. 183, 185, 192.)

Motion for a rule on Jacob Mussina to answer for a contempt of court, January 4, 1854, (p. 236;) served upon Jacob Mussina, at New Orleans, January 18, to appear February 1. The service was less than twenty days before the next rule day—1st February—and out of the State of Texas. Jacob Mussina, by counsel, January 31, petitioned the court for further time to answer, under the rule allowing time until the next rule day, March 1, in cases where the service was less than twenty days, (p. —.) This petition was overruled; but the rule to show cause, &c., was extended until February 18, (p. 253.) On the 15th February, he filed exceptions to the jurisdiction of the court, as follows, (p. 259:)

"DISTRICT COURT OF THE UNITED STATES, }
"District of Texas, at Galveston."

"Between RAPHAEL GARCIA CAVAZOS et al., complainants, and CHARLES STILLMAN et al., defendants. In chancery, No. 41.

"And now comes Jacob Mussina by his solicitor, and appearing for the purposes herein set forth, respectfully submits to this honorable court whether he ought, or is bound to appear and answer the rule to show cause why a peremptory attachment should not issue against him, &c.—1. Because no copy of the motion and exhibits, upon which said rule was granted, was ever served on him. 2. Because the said Jacob Mussina was, at the time of the filing of the original bill of complainants, and is now, a citizen of the State of Louisiana, and not within the jurisdiction of this honorable court. 3. That this court has no power to issue process, to be served upon parties who are, and always have been, beyond its jurisdiction; and for other causes, &c.; and he refers to the various papers in the cause in support hereof, &c.

JACOB MUSSINA.

"By his Solicitor, DANL. D. ATCHINSON."

Jacob Mussina, to protect his property in Texas, filed his answer, and purged himself of the alleged contempt. The following is the first part of his answer, (p. 259:)

"This respondent, Jacob Mussina protesting that he ought not to be called upon to answer said rule, because he has not been served with the — motion, with the exhibits referred to therein, upon which the same was granted, and that the said motion, exhibits, and rule are wholly insufficient in law, without waiving any benefit that may or might be taken by exception to the manifest error and imperfections thereof, for answer unto said rule, says, that he has never, knowingly or intentionally, treated with disrespect the laws, or any of the tribunals of the United States; and that it has always been his wish and purpose to show a becoming respect to the laws, and to all the tribunals of the United States; and that he has never intended to violate, or attempted to violate, the injunction of this honorable court.

"And being satisfied that there can be no contempt when none was intended, and not being aware that there has been any disobedience to the injunction, he denies that he has in any way been guilty of any contempt, or disobedience of, said injunction since the same was served on him, about May, 1852."

(He also insists that he was not prosecuting the suit at New Orleans when the rule was served upon him, but was defending, as appellee, in the supreme court. He insists that, having been made the victim of a conspiracy in the suit at Galveston, as is evidenced by the verdict of a jury, and the judgment of a court thereupon, which verdict and judgment he made a part of his answer, it was not competent for the United States court in Texas to prohibit him from prosecuting the conspirators in the courts of the State of his residence. Particular attention to the whole of the answer and exhibits is requested by the committee.)

February 24, 1854.—Court decided that Jacob Mussina was guilty of a contempt, as charged, (p. 337.)

February 25, 1854.—Attachment issued, (p. 338.)

Marshal's Return.

Received February 25, 1854; and having made diligent inquiry, I find that Jacob Mussina is, and has been, for many years past, a resident of the city of New Orleans, State of Louisiana, and is not at present, nor has been,

within my district. I therefore return this writ not executed, he being not found in my district.

BENJAMIN McCULLOCH.

United States Marshal.

By E. T. AUSTIN, Deputy.

Galveston, February 27, 1854, (p. 339.)

Motion for sequestration against Jacob Mussina, filed February 28, 1854.

And afterwards, to wit, on the 16th day of March, of the same year, the court here made an order, which is in the words and of the tenor following, to wit:

"Order.

"MARIA JOSEFA CAVAZOS and another }
vs. }

"CHARLES STILLMAN and others.

"The motion of the complainants in the above-entitled cause for a writ of sequestration against Jacob Mussina, one of the defendants, filed on the 28th day of February, 1854, having been heard at a former day of this term, and the court having then taken time to consider the same, and being now fully advised, and it appearing to the court that the writ of attachment heretofore issued has been returned not found, it is now ordered by the court that a commission or writ of sequestration, in due form, at once issue to Israel B. Bigelow and E. D. Koffman, of the county of Cameron, and William G. Webb, of the county of Fayette, in this State and district, as commissioners, empowering and directing them, or any of them, to enter upon the messuages, lands, tenements, and real estate of the said Jacob Mussina, and collect, receive, and sequester, not only the rents and profits of his real estate, but also his goods, chattels, and personal estate, and to retain and keep the same under sequestration in their hands until the said Jacob Mussina shall clear his contempt, and this court make other order to the contrary."

And afterwards, to wit, on the 23d day of March, of the same year, a writ of sequestration was issued from the clerk's office of our said court.

It appears that Spencer settled upon what he supposed to be public domain of Texas, November 25, 1847, (p. 350.)

Suit was commenced against him at Galveston by Lapsley, January, 1851, (p. 347;) afterwards it seems to have been removed to Austin, (p. 352,) and remained pending in the district court of Texas until November, 1854, (p. 352.)

Transferred by order of the court to the United States circuit court, eastern district of Louisiana, on account of the interest of the judge in the land in controversy, (p. 352.)

Spencer would have pleaded the interest of the judge as matter in abatement, but did not know of such interest when he filed his answer, (pp. 355, 356.)

Numerous other land suits were transferred to the United States circuit court in Louisiana for the same cause, (p. 380.)

The deed of Williams and Menard, trustees of Sophia St. John, for the land in controversy, to Thomas M. League, bears date July 1, 1850, (p. 393.)

League to Lapsley, same day, (p. 398;) see the answer and affidavit of Spencer, (p. 355.)

By tracing the title set up to the land in question by Lapsley, (as shown upon pp. 393, 394, 395, 396, 397, 398, 399,) we conclude that the interest of Judge Watrous, referred to in the order, was acquired in 1850.

The title claimed by Lapsley in the land in controversy originated in three eleven-league grants, made by the Mexican States of Coahuila and Texas, to three persons in severalty. (See p. 388 et seq., and p. 401 et seq.)

By the record of the verdict and judgment in the case of Ufford vs. Dykes et al., (p. 406;) and the bill of exceptions, (p. 410;) and the testimony of Williams, (pp. 407, 408, 409, 410, 411, 412, 413;) and the opinion of the court, (p. 114,) it appeared that Judge Watrous tried certain cases, and pronounced judgment therein, involving a claim to land depending upon the same title as the land included in the suits transferred to the United States court, in Louisiana, on account of his interest, after the change of venue in the Spencer case.

APPENDIX No. 2.

The following passages of testimony of Judge Watrous's witnesses are taken as examples, to show the effect of their having their recollections refreshed by the judge on their examination by the committee:

Testimony of J. W. Lapsley.

"Question, (by Mr. EVANS.) Since you gave your testimony on the first day of your examination, have you not had frequent conversations, on the subject of your testimony, with Judge Watrous and his counsel, Judge Hughes?"

"Answer. I have had repeated conversations with those gentlemen in relation to the subjects about which I have been testifying.

"Question. Were not some of the explanations, qualifications, and alterations in your testimony made at the suggestion of Judge Watrous or Judge Hughes, or suggested by one or both of them?"

"Answer. I will state this: that in my testimony the first day I was examined about a number of matters which appeared to me to be immaterial, and I spoke without very much reflection, when the testimony came to be read over, I found I had not been as definite as I desired to be when I ascertained that some portions of my testimony might be regarded as material. On conversing with Judge Hughes and Judge Watrous, after my testimony was taken down, and on my attention being called to one or two matters as to which it was desired that I should be more definite, I reflected on the subject, and I came to the conclusion that it was proper that I should speak more definitely. It was desired that I should be as definite as my recollection would enable me to be. The matter I now refer to, particularly, is in regard to what transpired at Selma at the time of the contract; but the larger portion of the corrections were made

by me without any suggestion from either of these gentlemen, merely for the purpose of rendering my testimony as accurate as practicable.

"Question. (by Judge Watrous.) Have you made any part of your deposition or statements on suggestions made by me or Judge Hughes, or in consequence of anything either of us has said to you?"

"Answer. No, sir; except so far as my recollection was refreshed by the conversations."—*Testimony*, p. 158.

Testimony of James Love.

"Question. Have you conversed with Judge Watrous since the adjournment yesterday, in regard to the matter of this rehearing?"

"Answer. I conversed with him about nothing with regard to the rehearing whatever.

"Question. Have you conversed with him at all in relation to the testimony you gave yesterday?"

"Answer. I did.

"Question. As to what point?"

"Answer. Simply as to the point that he misunderstood my testimony yesterday. I approached him and said, 'I do not wish to talk with you as a witness at all.' He repeated that; and, said he, 'you may talk to anybody else you please, but I will not hear you.' He stayed in the room a few minutes, and I spoke to others about it. He made no reply, except to say that he thought I was mistaken in what I stated yesterday; that is, that my version of it was not exactly correct. Mr. Cushing was present when I addressed the judge, and both of them said they would not hear me."—*Testimony*, p. 365.

"Question. (by Mr. CHAPMAN.) What portion of your testimony yesterday was it that Judge Watrous referred to when he said your recollection was erroneous, or your statement was not correct?"

"Answer. I had designated the names of divers lawyers, who had appeared for Mr. Mussina, and had said that Mr. Ford, and Mr. Potter, and Mr. Merriman, and Mr. Hartley, and Atchison, were the counsel for Mussina; and I said that I thought Atchison was perhaps in court at the time attending to the case; Judge Watrous said no; that Mr. Atchison did not attend to it at all. That was one point.

"Question. (by Mr. BILLINGSWORTH.) Did he suggest who did attend to it?"

"Answer. No, sir; he did not say anything in my presence then. I heard him say this morning, in conversation with another, Mr. Howard, that Mr. Potter attended to it; but he did not say so to me then.

"Question. (by Mr. CHAPMAN.) You were going to state another point; what was it?"

"Answer. It was in regard to my testimony as to Mr. Atchison's conversation with my son. I still adhere to what I said, although his recollection differs from mine. I had said that I understood from my son that Mr. Atchison presented the petition to Judge Watrous in his chamber. He said that it had not been presented at all, and that I had misconceived what my son had told me in relation to the facts. I gave my understanding of what it was, and I retain that recollection yet."—*Testimony*, p. 363.

A few of the many contradictory statements of J. A. H. Cleveland, the deputy marshal of Judge Watrous's court, are placed in juxtaposition to show how the testimony of this witness has varied on the different days of his examination before the committee, showing also a refreshment of his recollection by the judge:

Testimony of J. A. H. Cleveland, as to the occurrence in court about Mr. Atchison's taking an appeal in the Cavazos case.

On examination, April 29.

"Question. (by Mr. CLARK.) Then I do not want it; I only want what was done in open court, or what Judge Watrous heard. What was said about taking an appeal?"

"Answer. Judge Watrous directed me—

"Question. In open court?"

"Answer. Yes.

"Question. In the presence of Atchison?"

"Answer. No, sir. Mr. Atchison had quit the court-house, very angry.

"Question. Did he say, when he quitted the court-house, that he had abandoned the case?"

"Answer. No, sir; I do not recollect; he was in a bad humor generally.

"Question. And he left the court?"

"Answer. He left the court.

"Question. After he left the court, what did Judge Watrous say?"

"Answer. After he left the court, Judge Watrous ordered me—I was then a deputy marshal, and in attendance on the court—to appoint a bailiff, and keep him in the court-house for the purpose of letting him know if Mr. Atchison came in, and to keep the court open until the time of the starting of the boat for Brownsville, where he was going to hold his next term. In place of putting a bailiff in court, I remained there myself, and stayed there until twelve o'clock each night.

"Question. What day was that?"

"Answer. That was the 16th and 17th of January. The court adjourned at the time the bell was rung on board the boat for passengers to go on board.

"Question. The court adjourned the 17th of January, 1852?"

"Answer. Yes.

"Question. When was it that Atchison left the court-room?"

"Answer. On the morning of the 15th of January, 1852.

"Question. The decree was rendered on the 15th?"

"Answer. Yes.

"Question. Was there any further business done after the decree was rendered?"

"Answer. No further business was done, but to make up the minutes and sign them. That the judge did, and went from the court-house to the boat.

"Question. Was there any further business done between the 15th and 17th?"

"Answer. I do not think there was.

"Question. Then the last business done was the rendition of the decree?"

"Answer. I think so.

"Question. What time of the day was it on the 15th?"

"Answer. I think the decree was rendered about eleven or twelve o'clock on the morning of the 15th. I kept the court open.

"Question. How late that day?"

"Answer. Till about twelve o'clock that night.

"Question. And the next day?"

"Answer. I went from the market-house, about daylight, to the court-house, and remained there that day until about twelve o'clock that night.

"Question. That was the 16th?"

"Answer. Yes, sir.

"Question. Well, the 17th?"

"Answer. About twelve o'clock, on the 17th, Judge Watrous left for Brownsville, on the boat.

"Question. When was Judge Watrous's court at Brownsville held?"

"Answer. It was held in the month of January.

"Question. Then this keeping the court open after the business was done was all unusual.

"Answer. Yes; but the judge told me he wanted to afford Mr. Atchison an opportunity to take an appeal.

"Question. Did Atchison know that this was going on?"

"Answer. I do not know; I think he did.

"Question. What makes you think he did?"

"Answer. I asked Mr. Jones to tell him, and to say that I was tired remaining there.

"Question. Do you know, of your own knowledge, that Atchison knew it; had the judge informed Atchison, before he left the court in a pet, that he should keep the court open for the purpose of facilitating an appeal, or was this order made after Atchison had left; I want to see if Atchison knew it; did Atchison come in there at all?"

"Answer. No, sir; he never came.

"Question. Was there a pretty full attendance of the bar, at the time that Judge Watrous told you to keep the court open?"

"Answer. I do not think there were a great many lawyers in the room; I am certain, though, there were some.

"Question. Do you know of any fact that would tend to satisfy us on the point, whether Atchison knew of Judge Watrous's keeping the court open?"

"Answer. Nothing more, than that I myself sent Atchison word by Jones, the deputy clerk.

"Question. But no step was taken further?"

"Answer. I did not feel bound to follow Mr. Atchison.

"Question. You sent Jones after him?"

"Answer. I did that as a matter of accommodation. I wanted to get rid of sitting there day and night.

"Question. Where was Judge Watrous these two days?"

"Answer. In the office, adjoining the court. He directed me to come to him, if Atchison came in.

"Question. Before Atchison left the court was anything said by Atchison or by the judge about an appeal at all?"

"Answer. I do not recollect."—Pages 181, 182, 183, 184, 185.

On examination, May 1.—J. A. H. Cleveland examined by Mr. Cushing, counsel for Judge Watrous.

"Question. You have stated that, after the complaints by Mr. Atchison in court, on the rendition of Judge Watrous's decision in Cavazos vs. Shannon, the judge ordered the court to be kept open to receive an appeal. Was that order given before or after Mr. Atchison left court?"

"Answer. I was mistaken, the other day, about that. On reflection, and on thinking a good deal about it, I recollect pretty much what occurred in court. The order was made in Mr. Atchison's hearing, just as he was in the act of leaving court.

"Question. Do you recollect the words that Judge Watrous employed in making that order?"

"Answer. I do, sir.

"Question. Please state them.

"Answer. At the close of the discussion between Mr. Atchison and the judge, Mr. Atchison was evidently angry, and replied in pretty harsh terms, as I stated, to the judge. The judge replied to him, 'I do not intend to be put in the wrong in this matter; and he turned to me and said, 'Mr. Marshall, do you keep this court open as long as I can possibly remain here, for the purpose of letting Mr. Atchison take whatever course he pleases.' He turned away, with his hat in his hand, and left the court-room."—Page 158.

Cross-examined by Mr. EVANS.

"Question. You recollect I was quite particular in my inquiries as to the notice given in court as to keeping the court open for an appeal; whether Atchison had or had not left the court when that notice was given; have you had any conversation with any party on that point since?"

"Answer. I have, sir; but it was in order to see whether I was right or not.

"Question. With whom?"

"Answer. With Colonel Love, and with Judge Watrous, and with Mr. Shearer.

"Question. Did you travel to this city with Colonel Love?"

"Answer. No; I came here alone. I came a different route from the other witnesses.

"Question. Did you have any conversation with Colonel Love, since you got here, as to the points you expected to prove?"

"Answer. Only at the time I have stated. I wanted to recollect and state the thing as well as I could. That was my reason for inquiring and refreshing my memory.

"Question. (by Judge Watrous.) You spoke of having talked with me on this subject since the close of your testimony; did I approach you on the subject, or you me?"

"Answer. I asked you; and I think I said—

[Question excluded.]—Page 690.

Testimony of J. A. H. Cleveland, in relation to the nature of the interest disclosed by Judge Watrous in the Lapsley suits.

On examination, April 29.

"Question. What was said in open court by the judge?"

"Answer. The judge refused to make any order, as I tell

you. He told him he would not. I recollect his expression very distinctly. It was rather a homely one. It was, that he would not touch it with a forty-foot pole.

"Question. He used that expression?"

"Answer. Yes, sir, he did.

"Question. Did he say why he would not touch it with a forty-foot pole?"

"Answer. He had disclosed his interest.

"Question. Did he say at that time what interested him?"

"Answer. I cannot distinctly state that. The record will show.

"Question. Do you recollect what the judge said in relation to his interest, if he had any; or in relation to his disqualification to try the cases, or to make an order in them?"

"Answer. My belief is, that he stated it was on account of his relationship by blood or marriage.

"Question. But did you get the idea then, from what the judge said, that he was the owner of the land, and directly interested in the subject-matter of the suits?"

"Answer. I cannot say positively about that. I do not think I did.

"Question. Did you ever get that idea until after the cases were transferred to Austin?"

"Answer. No, sir; I do not think I did.

"Question. You did not know the fact, if fact it be?"

"Answer. No, sir.

"Question. And you thought it was a disqualification resulting from his connection with the parties?"

"Answer. I judged so from the entry on the record.

"Question. I did not ask your judgment from the record. I ask you to speak from what Judge Watrous said in open court?"

"Answer. I have told you as nearly as I can recollect." (See p. 181; also, pp. 174, 177, 180.)

In cross-examination, May 1.

"WITNESS.—I desire to make some explanation of my testimony on Thursday. In regard to the judge disclosing his interest at the April term of 1851, I recollect that he stated that he was part owner of the lands.

"Question. (by Mr. CLARK.) Is that all the correction you wish to make?"

"Answer. That is all, except as to the length of April and May term. I said fifty-six days; it was probably seventy days.

"Question. When did this new recollection come to you?"

"Answer. On returning to my room and thinking over it. When I was called here, I did not know on what point I was going to be examined.

"Question. Do you not recollect how I questioned you very particularly on that point?"

"Answer. Yes; but you questioned me very fast.

"Question. When did this thing return to your recollection?"

"Answer. On the very day I was examined here. I went to my room, and I began to think and study it over.

"Question. You recollect that I put the question half a dozen times, with a view to refresh your memory?"

"Answer. I recollect you did.

"Question. Did you have any conversation with Judge Watrous on that point?"

"Answer. I did have a conversation with Judge Watrous, for the purpose of refreshing my memory.

"Question. And he did refresh it?"

"Answer. He did, sir; but Judge Watrous could not get me to state a falsehood.

"Question. But your recollection of that incident is aided by your conversation with Judge Watrous?"

"Answer. I talked with Judge Watrous and Colonel Love about it.

"Question. When did you have that conversation about it?"

"Answer. The evening of the day I was examined.

"Question. Can you give the language the judge used when he stated his pecuniary interest in the suits?"

"Answer. He stated that they need not proceed any further; that he could not try any of the Lapsley cases; that he had an interest in them—an interest by marriage; and that he was part owner of the lands. That was about the language he used, as well as I recollect.

"Question. Then he said he was part owner of the lands?"

"Answer. Yes; he had a personal interest in the lands, or in the suit.

"Question. Or in the subject-matter?"

"Answer. Yes; that was his expression, I think.

"Question. And are you certain, now, that the disqualifying relations that he spoke of was not one of blood or marriage?"

"Answer. I think he stated both—that he had an interest both ways?

"Question. Was it true that he had an interest, by blood or marriage, disqualifying him?"

"Answer. I do not know whether it was true or not."—Page 190.]

MR. CLARK B. COCHRANE. I do not propose, Mr. Speaker, at this late period of the discussion, to enter into an examination of the merits of this case; but, upon a question of this magnitude and responsibility, it seems to me that we should have some definite idea of the legal position which we occupy under the Constitution; that we should understand by what legal rule it is that we are to be governed in the votes which we are called upon to give upon this important question of impeachment.

It has been contended, in the course of this debate, that we occupy the position of a grand jury merely; that our office was that of accusation only. Indeed, it has been said that a stain rests upon the reputation of this Federal magistrate; and that it was our duty to put him upon trial, in order to afford him the opportunity of estab-

lishing his innocence; that it was sort of a humane method, in order to afford the accused an opportunity to vindicate himself.

Now, sir, with great respect, I entirely dissent from those views. I take it—and in this I hope to be corrected if I am mistaken—that our position and authority is precisely the same as that of the Commons House of Parliament in cases of impeachment. We not only occupy the position of a grand jury, we are not only an accusing body, but we are a prosecuting body. We unite the two offices of the grand inquest and the public prosecutor. Every member of this House who votes for this impeachment, affirms that Judge Watrous is guilty of high crimes and misdemeanors. The theory of this proceeding is, that we appear at the bar of the Senate as the prosecuting body, demanding his conviction and his deposition from his high office by that body. And, if I understand the rule by which we are to be governed, it is, that no member can vote for this impeachment who is not prepared upon this evidence to vote that he is guilty. We demand his conviction; we go to the Senate through our managers, and present him as condemned by us, and ask for a verdict of guilty at the bar of the Senate.

Now, if gentlemen are prepared to give a vote of guilty upon the case of Judge Watrous, then they are at liberty to vote to send him to the Senate; otherwise not. The rule would be the same if we were but a grand jury. What is the rule in that case? It is that no indictment can be found by the accusing body except upon evidence which is sufficient to warrant the conviction of the accused before a petit jury. The evidence on its face must be sufficient, if unexplained, to justify conviction. This is the rule. And I understand that no further evidence is anticipated or expected in this case. No further accusing evidence can be brought or will be given; and I submit to the House whether his impeachment will not be a mere waste of time of this body and of the Senate.

Mr. BILLINGHURST. I am not aware that any information has been given by the committee that the testimony in this case is exhausted upon either side. I certainly, as a member of that committee, have not so understood it. It may be that the House and the accused might consent to go to trial before the Senate upon the evidence; but it is not pretended upon either side of the committee that the testimony is by any means exhausted.

Mr. CLARK B. COCHRANE. I do not mean to say that there has been any public declaration to that effect.

Mr. CHAPMAN. As one of the Committee on the Judiciary, I think it proper to say that, in the course of my remarks, I distinctly stated that there might be evidence adduced before the Senate both exculpatory and criminative. I certainly did not say, nor hear any member of the committee say, there would be no other evidence produced before the Senate than what has been used.

Mr. CLARK B. COCHRANE. The statement of the gentleman had escaped me. But whether it be so or not, we are bound to have sufficient evidence here, and now, upon which we are prepared to vote a conviction. That is the rule by which we are to be governed.

Now, sir, in my judgment, that case is not presented to the House. If I could be persuaded that Judge Watrous was brought into the original negotiation and arrangement at Selma, for the purpose of disqualifying him from hearing those causes, if brought, and thereby work their transfer to New Orleans, and that Judge Watrous was cognizant of that fact and purpose, then I would vote for his impeachment, because I should be willing to vote for his conviction. But a careful examination and reexamination of the evidence has failed to convince me that he was privy to any such original arrangement. The evidence does satisfy my mind, and I think it may be inferred from the testimony, that the parties in Alabama had a consultation, perhaps, and came to the understanding that it would be better to try the causes in the Federal courts; but I believe that the testimony in this case, and the correspondence which took place between Lapsley and League, and between Lapsley and Judge Hughes, are utterly inconsistent with the idea that the Texas parties had been parties to any such original arrangement.

That correspondence was written in the confidence of business, at a time when it was not dreamed by any of the correspondents that the contents of their communications would ever be made public. From a careful perusal of that correspondence, I am satisfied that neither Judge Watrous nor League understood that any agreement had been made, that any understanding had been originally entered into, by which those suits were to be brought in the Federal court, Judge Watrous ousted of jurisdiction, and the causes transferred to an adjoining State. I think, so far as Judge Watrous was concerned, he entered into this arrangement for the purpose of speculation and money making, without a thought or understanding that he was thereby to be disqualified for the purpose of carrying out an original arrangement to that effect, between those parties.

Now, sir, it has been said that any misbehavior in office is a cause for grave impeachment by the House of Representatives. I concede that Judge Watrous has been guilty of imprudence and indiscretion; that it would have been better and wiser in him to have had nothing to do with this speculation in any way or form. But I do not concede that any misbehavior, even in a judge, is a cause for impeachment under the Constitution of the United States. What is the language of the Constitution?

"The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, and other high crimes and misdemeanors."

What other crimes and misdemeanors? Not bribery and corruption, certainly, but crimes that are kindred in moral turpitude—that are related to the crimes specified; crimes which come in that great class which lays hold of the heart and intention of men, and makes them guilty in the sight of God and honest men. It is not every misbehavior or dereliction of duty or error of judgment, however gross, that is worthy of impeachment here. Crimes and misdemeanors are things which relate to the heart and to the intent, not to the head or to the judgment. Can it be that every misbehavior in a judge makes cause for grave impeachment? Why, sir, the fathers of the Constitution provided that every judicial functionary who is convicted of a high crime and misdemeanor shall be beyond the reach of executive clemency; that the President of the United States shall not interfere to relieve the infamy or the punishment of the party thus convicted; and is it to be believed that executive clemency is restricted, and the Executive forbidden to exercise it in favor of a party who has only been guilty of some misbehavior in office? No, sir; that is not the rule. That is not the position of this inquiry. The judge must have been guilty of wrong and criminal intent in relation to his high office. He must have consented to the prostitution of his office for the purpose of private gain; and the evidence has failed to satisfy me that he has been thus guilty. I yield to no member of the House in my appreciation of the purity and incorruptibility of the judiciary, of the importance of preserving the judicial ermine pure and unspotted. But I know that to err is not only human, but that to err sometimes belongs to the judge and to the bench; and I do not think it wise on the part of this body, in a case which I affirm is at least doubtful, to send this party to the Senate as an accused criminal, and on our constitutional responsibility and oaths assume the attitude of demanding his conviction at the bar of that body.

Mr. VALLANDIGHAM. I do not rise to speak upon the facts in this case, nor, indeed, to discuss anything; but rather to state briefly the conclusions at which I have arrived, and the reasons which control my vote.

I begin just where the gentleman from New York [Mr. C. B. COCHRANE] began. Before inquiry into the facts in any case, it is essential first to comprehend clearly the law or the principles to which they are to be applied. By what law, then, are we governed? Upon what principle ought this House to proceed in ordering an impeachment? In what scale shall we weigh, by what rule shall we measure, the facts in this case? What, sir, is an impeachment under the Constitution of the United States, and by the House of Representatives? Sir, this case has been heard and argued all along as though it were a *trial*; and a trial by criminal law, and under a penal statute, and it has

just been so argued by the gentleman from New York. Certainly the mistake is most natural; and the course pursued by the committee—I speak it most deferentially—a course sustained by but one precedent, and that not in the United States, has, in my judgment, caused all this embarrassment. They have heard the whole case; have examined witnesses in full and at length on behalf of the accused, and have reported not only the whole testimony before them, but elaborate arguments in defense of the conclusions at which they have severally arrived. But all this does not change the nature of an impeachment, nor the duty of the House.

And here, sir, at the very threshold, it becomes us to lay aside old habits and associations. Whoever hears of an impeachment, thinks involuntarily of great orators and great criminals; of Cicero and Verres, of Burke and Hastings. Splendid visions rise up before him. Every lawyer, too, turns at once to Hale's Pleas of the Crown, or Chitty's Criminal Law, for the rule and practice governing impeachments. Now, sir, against all this, I maintain that impeachment with us is not a criminal proceeding at all. We are not a grand inquest; we are not a grand jury; and all analogies drawn from them, tend only to mislead and confuse. Impeachments in England and the United States are two essentially different things. They differ in the persons who may be impeached; they differ in the object of the impeachment; they differ in the nature and jurisdiction of the tribunal, and in the punishment that follows upon conviction. In England, the high court of Parliament is strictly a criminal court, and a court of public and general jurisdiction. It is so treated in all the books; and it is as much, and as closely bound by the rules of law and evidence, as is the Court of King's Bench. All persons—Lords and Commons, officers and private persons—may alike be tried by it; they may be tried for any offense, and may be put under arrest pending the trial. The punishment is the same as upon conviction in any other court, extending even to the death penalty; and the nature and purpose of the tribunal is the punishment or repression of crime.

Not so under our Constitution. The Senate of the United States is not a criminal court established for any such purpose. It has no criminal jurisdiction. It exercises no judicial power other than impeachment; and even here its power is not strictly judicial. None but civil officers are subject to impeachment, and the judgment—not the punishment, for that word is not used—extends no further than removal from office and political disability. The accused is not liable to arrest, and the case may proceed, though he should refuse to appear. There can be no conviction unless two thirds of the Senate concur; and neither life, liberty, nor estate is affected by it. Though the offender were the President of the United States, a great State criminal, convicted of treason, hatched and consummated here within the very capital; yet could not a hair of his head be touched. You could not even put him under arrest pending the trial. And more than this, neither conviction nor acquittal by the Senate can be plead in bar of an indictment for the same offense, pending in a court of ordinary criminal jurisdiction; nor can the judgment of the Senate be given in evidence upon such trial.

These incidents, sir, all indicate unmistakably that impeachment with us is not a criminal proceeding, and that we are not to look for the rules and practice which govern it to the common law of England, nor yet even to the usages of Parliament, but only to the Constitution of the United States and our own practice under it. By that instrument it is limited and defined; and we are as much bound to respect these definitions and limitations as any other part of the Constitution.

What, then, palpably, are the objects of impeachment under our Government? I answer, first, restraint upon public officers; and secondly, the removal of such as shall in any manner misbehave. Except, indeed, so far as it may be regarded as a restraint upon those who hold office for a fixed term, it is of value only or chiefly as to offices held for life. These are the judges of our Federal courts, and they are answerable before no other tribunal; they are subject to no other check; our Constitution has exacted no other security for their good behavior. And even

this is not imperative to its full extent upon the Senate. Political disability does not necessarily follow upon conviction, since the Senate may do no more than remove from office. Impeachment, sir, is no engine of oppression here. There is no danger of its abuse. Indeed the difficulties which attend upon its successful prosecution render it of little value even as a restraint. Tyranny is always simple in its appliances, and will never resort to such cumbrous machinery as impeachment.

What, I inquire next, are the offenses for which impeachment lies under our Constitution? Gentlemen have argued as though some great crime must be charged, in order to justify it. Not so; treason, bribery, and high crimes, are indeed enumerated; but that is not all. Misdemeanors, also, are included. Whoso shall *misdemean* himself in any civil office, shall be liable to impeachment. And this is especially so in the case of the judges of our Federal courts. They hold office "during good behavior." Misdemeanor is misbehavior. It is so in lexicography, and it is so in law. I read from Blackstone:

"In common usage, the word 'crime' is made to denote such offenses as are of a deeper and more atrocious dye; while smaller faults and omissions of less consequence, are comprised under the gentler name of 'misdemeanor' only."

What, then, is judicial misbehavior or misdemeanor? That, sir, depends wholly upon the standard which you shall fix for judicial character and conduct. Mine, I confess, is the highest. I would have both as pure as the "fann'd snow," that's bolted by the northern blasts, twice o'er," and as spotless as the ermine which was once the emblem of judicial purity. The integrity of the judge ought to be above suspicion in his great office. I would have him the *sanctissimus iudex* of the Romans; for to the litigant in his court he stands in the place of God. Save impeachment, he is subject to no responsibility except an enlightened conscience and a religious sense of duty. Theoretically, indeed, the judiciary is in every country, to a great extent, of necessity an arbitrary power. Even when hedged in by law, there yet remains the vast field of "judicial discretion;" and beyond all that lies the boundless ocean of the "interpretation of laws"—the great business of the judge. Sir, there are ten thousand ways in which a corrupt, a weak, or a pre-judiced judge—a judge hostile or friendly to the litigant, or what is more common, to the lawyer, may pervert justice, pollute its pure fountains, and do foul wrong in the cause; and yet none but he who has suffered know it. These are the false weights which it is so easy, unperceived, to throw into the scales of justice. Add now, to all this, that the judicial power, like the invisible and impalpable air which surrounds us, penetrates everywhere and affects every relation of life; that it extends even to life itself, to liberty, to property in all its infinite complications; to marriage, divorce, parentage, master and servant, and finally pursues us even after death in the distribution of estates; nay, that the very monuments of the dead, the dull, cold marble in which they sleep, are the subjects of its destroying or protecting hand.

There is no department of the Government, therefore, which is so liable to abuse as the judiciary; but, to the honor of America and of human nature be it said, there is none where so little abuse prevails. In seventy years this is the first example of the impeachment of a judge demanded because of alleged corruption in office for private gain. Arbitrary and dissolute judges have indeed been impeached, though in but two or three instances during that long period; yet none for corruption. But if infrequent, it is nevertheless the most atrocious, and in its consequences to the judiciary and to the public the most dangerous crime which a judge can commit; for "there is no happiness, there is no liberty, there is no enjoyment of life, unless a man can say, when he rises in the morning, I shall be subject to the decision of no unjust judge to-day."

What, I inquire next, is the province of the House of Representatives here? The Constitution defines it? You have the sole power of impeachment. What is it to impeach? Certainly not to try; that is the sole right of the Senate. To impeach is simply to accuse. We do not try, we have no right to try, the question of the guilt

or the innocence of the accused. I have not in this case made up my mind definitely upon that point, because I am not willing to usurp the province nor anticipate the judgment of the Senate.

We are not judges; we are not grand jurors; we do not act under special oath; we are not here exercising judicial power; we are acting in our representative capacity. Our province is to accuse—to prosecute; and when your committee shall appear at the bar of the Senate, they will impeach or accuse in the name of the House of Representatives. In that high court of impeachment also we sit during the trial as accusers. We are bound, therefore, by no mere technical rules of law and evidence; we are under no obligation other than that highest of all obligations—a sense of duty alike to the people and to the accused. Into our hands the Constitution has committed the guardianship—and in the case of offices held for life the sole guardianship—of the rights of the many who do not hold office against the few who do. Certainly, sir, no man ought to be lightly accused of even official misconduct or abuse of public trust. But where there is no other restraint or redress; where the office is judicial and for life; where the trust is so delicate and momentous in its nature, and so open to abuse; where public opinion usually is silent, and even the press cares not to speak out; this House ought, in my judgment, to be, if not swift, certainly not slow to listen to the complaints of those who invoke its process to summon the accused into court. All other courts stand open, night and day, and it is the high constitutional right of every citizen to demand their process as of course. But between this high court of impeachment, which alone under our Constitution holds the power of redress of official wrong and oppression, stands the House of Representatives. Am I not right, then, in saying that we ought not too hastily to deny the only process by which such oppression and wrong may be redressed? If, indeed, the case be palpably frivolous, or the prosecution plainly malicious, it is our duty promptly, if not indignantly, to refuse. Can any one, will any one, say that this is such a case?

But it has been said that there is too much doubt and perplexity in this case, and that, therefore, there ought to be no impeachment. Not so. We have no power to try and acquit; and these very perplexities and doubts, if, indeed, any such there are, especially after the accused has been heard fully in his defense, are, of themselves, enough to justify this House in sending the case to the Senate for adjudication. What! shall we deny to Judge Watrous's accusers the only process by which he can be brought into court and put upon trial?

Let it be remembered that the charge is corruption, and the accused a judge. Sir, I, too, am for the independence of the judiciary; but I am for its purity first. Howsoever I might vote upon the question of the life tenure and mode of appointment of the judiciary, in a convention assembled to frame anew a constitution for the United States, I am opposed to any change of that instrument in these respects now. But I will be the more exact, fifty-fold, in enforcing the only other restraint and remedy which the Constitution has devised. Corruption, moneyed corruption—and we have heard it from high authority—is steadily, though with noiseless but most guilty tread, stealing into other departments of our Government. Legislation here, it is said, has been controlled by it; and this House has not been slow to appoint committees of investigation founded upon but rumor alone. Sir, some years hence—I dare not say centuries—seats in this House may perhaps be openly bought and sold. They have long been merchandise in the House of Commons. But in England the judiciary is pure and incorrupt, and England still survives. For one, Mr. Speaker, whosoever else in this Government corruption may come, or how far soever elsewhere it may be carried, I demand that there shall be preserved one citadel at least within which public virtue may retire and stand intrenched.

These, then, in my judgment, are the principles, and these the considerations, upon which the House ought to proceed and be governed in ordering an impeachment; and applying them now to the testimony reported by the committee, for

my single self I am obliged to vote for this impeachment.*

Mr. BRYAN obtained the floor.

OLD SOLDIERS' BILL.

Mr. SAVAGE. I desire to ask the Speaker if it is in order to now move to go into the Committee of the Whole on the state of the Union; and whether, if the House fail to go into committee to-day, the old soldiers' pension bill will lose its place as a special order?

The SPEAKER. It is not in order to move to go into committee now. The Chair will reply to the other interrogatory of the gentleman, that the bill to which he refers, according to the recollection of the Chair, was made the special order in committee from day to day until disposed of. There is, however, another special order which takes precedence.

THE WATROUS CASE—AGAIN.

Mr. BRYAN. Mr. Speaker, the Legislature of my State, during the last winter, passed the following resolutions:

"Be it resolved by the Legislature of the State of Texas, That whereas divers charges have been made against John C. Watrous, district judge of the United States for the eastern district of Texas, before the House of Representatives of the United States, with a view to his impeachment; and a committee of said House has reported the following resolution: 'Resolved, That John C. Watrous, United States judge for the district of Texas, be impeached of high crimes and misdemeanors;' and it is required for the honor of the State of Texas, and is due to the accused, that all of said charges be promptly and fully investigated, and finally acted upon; that, without intending to express any opinion as to the guilt or innocence of Judge J. C. Watrous, the Representatives in Congress from this State are hereby requested to take such steps as may be necessary to cause a full investigation to be made by the House of Representatives of the United States, during the present session, of all the charges that have been made against said John C. Watrous, and to use their best exertions to cause definite action to be taken thereon."

"Sec. 2. Be it further resolved, That the Governor is hereby requested to forward to each of the Senators and Representatives in Congress from this State, and also to said John C. Watrous, a certified copy of this joint resolution."

The Legislature expressed no opinion as to the guilt or innocence of Judge Watrous, but requested their Representatives in Congress to see that a full investigation should be made of the charges preferred. I was disposed, Mr. Speaker, to have left the direction of this question to the Committee on the Judiciary, and the decision of it to the House, believing that Texas would be satisfied with the final action of this House upon the question. But, sir, in consequence of the language of my colleague in a speech he delivered a few days since, it becomes important that I should speak before this question is disposed of, for that speech goes back to my constituents as well as to his. He says:

"I have gone thus far with this power of attorney; but here, what shall I do? I am notified by my colleague that he, or some one else, has a statement over the signature of General Stephen F. Austin, which may be produced too late for examination, and which states that this disputed power of attorney is genuine. On yesterday I asked to have it laid before the House for examination, as anything coming from his great name, and, especially, if vouched for by his kinsman, and the Representative of the very aggrieved and wronged people who now appeal to this House to put this judge on his trial before the Senate, must have great weight. Is his name to be vouched here to shield this man from the arm of justice? If so, let us see the paper; let us see what General Austin says; let us see whether he saw the instrument executed, or on the records, or whether he distinguishes between the power to take possession and the power to sell. Let us know his means of information and what he does say. I have no doubt my colleague states fairly his understanding of this paper; but he will see the danger to the cause of justice of withholding that paper, if it is one which should be presented."

The notice which he speaks of is reported thus after my statement in reply to the declaration of the gentleman from Pennsylvania, [Mr. CHAP-

* NOTE. "There is much force in the remark, that an impeachment is a proceeding purely of a political nature. It is not so much designed to punish an offender, as to secure the State against gross official misdemeanors."—1 Story on the Constitution, § 693.

"[It impeachment] is designed as a method of national inquest into the conduct of public men. If such is the design, who can so properly be the inquisitors for the nation as the representatives of the people themselves? They must be presumed to be watchful of the interests, alive to the sympathies and ready to redress the grievances of the people. If it is made their duty to bring official delinquents to justice, they can scarcely fail of performing it without public denunciation and political desertion on the part of their constituents."—Ibid., § 689.

MAN,] that the sale was a fraudulent one; as reported in the Globe, it reads:

"Mr. REAGAN. I find, Mr. Speaker, by the report in today's Globe, that my colleague [Mr. BRYAN] made a statement yesterday which I did not hear distinctly at the time, but to which I desire to call his attention. He is reported as having said:

"As one of the Representatives of Texas, I state here that Stephen F. Austin has stated, under his own hand, that he purchased the three eleven-league grants, and that Samuel M. Williams had full power of attorney to sell them."

"The purpose for which I rise is to ask my colleague whether it is convenient for him to lay before the House the paper on which he made that statement, as such a statement coming from my colleague, who is a relative of General Austin, must have a very important influence on the House."

"Mr. BRYAN. I state on the authority of a Representative who has been sworn at your desk to discharge his duty, that such is the fact; and no member here will question it. I state that Stephen F. Austin has declared, over his own signature, that he made the purchase; and I trust my colleague will not require the paper to be laid before the House."

"Mr. REAGAN. That is not an answer to my question. Will the gentleman from whom my colleague derived his information be good enough to place the paper before the House? I repeat, that anything coming from the great Stephen F. Austin, and vouched for by the Representative of an aggrieved and injured people, who are here seeking for the impeachment of one of their judges, must have an important influence in this matter? Will my colleague present the paper, or can a copy of it be had?"

"Mr. BRYAN. I state that I have the paper, and it is not necessary to present it. At a proper time, and in a proper place, however, I will, if called upon, present it."

My colleague, the chairman of the Judiciary Committee, or any member of the committee of this House, could have seen the paper had they requested me to show it to them. But I did not consider that that was the time, or the House, then, the place to present it. And I was convinced of this, for, since that time, and in a conversation with the chairman of the committee, he said he should have objected to the presentation of it, because it was not evidence before the committee. But, as a part of my speech, I will give the exact words of Stephen F. Austin; and I will state to the House the circumstances under which they were given. In 1833, Texas was a province of Mexico. The people of Texas met in convention to frame a constitution, and sent Austin with that constitution to Mexico to ask for admission into the Federal Republic of Mexico as a State. Previous to his leaving, as the trip and the duty were attended with great hazard, he made out a memorandum of instruction for his brother-in-law, my step-father—which paper I have in my possession. In these instructions, in reference to his private affairs, he says:

"I have three eleven-league grants in the name of Aguirres and Vega that I bought last year; they are in Williams's hands."

This is dated April 19, 1833, and was a private document for the government of his brother-in-law.

Again, when he left Texas as one of the Commissioners appointed by the Republic of Texas—or Texas in a transition state from a province to a republic—for the purpose of soliciting aid from the people of this country, he uses this language in a similar letter of instruction:

"I purchased three eleven-league tracts of Aguirre, of Saltillo—the power of attorney to take possession of this land and sell it was given to Williams by Aguirre. Of these tracts, one was sold to Mr. St. John, by Williams, with my consent; one was sold to John Austin, without my consent, and one still belongs to me, and was located by me on the east side of Colorado, at the foot of the mountains, surveyed by Sam Brown, for which I paid him."

Samuel M. Williams says to James F. Perry, July 23, 1836, that one of the tracts belongs to S. F. Austin:

"One of the other tracts belongs to Doctor Hoxey, and his friends in Alabama; and the other to Samuel St. John, sr. Stephen F. Austin is entitled to receive \$2,100 for the last two mentioned tracts, and is an offset to \$2,000 drawn for by him on the house of Beers, St. John, & Co., of New Orleans."

Now, sir, I was in possession of these facts when the charge was made that the sale was a fraudulent one, and that the power of attorney was a forgery, and I would have been recreant to every honorable sentiment had I remained silent and heard that charge fastened upon a man who was innocent of participating in the sale. Here you have the declaration of Austin in 1833, and in 1835, that these grants were purchased by him, and that S. M. Williams was authorized by power of attorney to sell them. You have the declaration of Williams in 1836 as to their disposition long before

Judge Watrous knew anything about them. Then he could not have participated in the forgery, if there had been any; and, so far as the sale and power of attorney were concerned, was as innocent of wrong as you or I, sir.

But the charge is made that Watrous was cognizant of the forgery, that he was a participant in it, and I have heard it insinuated, outside of this House, that he concocted it with others. Now if the other charges that are made against him are as baseless as this, they are entitled to no consideration.

Mr. HOUSTON. I feel it my duty, if the gentleman will allow me, to ask him a question. He seems to be presenting testimony to the House which, if in the shape of testimony, might very well have been called by the committee. I desire to know of the gentleman from Texas, whether he was in possession of this information during the last session in such a shape as that he could have placed it before the committee; and why, if he had the papers and evidence, he did not offer them to the committee for their action?

Mr. BRYAN. I will answer the gentleman. I told the chairman of the Committee on the Judiciary, and several of the members of the committee, that Stephen F. Austin had been the purchaser of these three eleven-league grants, and that I believed I had at home the evidence; but I had not that evidence with me. I told the same to Mr. CHAPMAN and Mr. BILLINGHURST; and when I rose on the floor at the conclusion of last session, and was called to order by the chairman of the Judiciary Committee, and the point of order sustained by the Speaker, I intended to declare to this House the facts, and the members of the House will recollect that I was not allowed to proceed.

Mr. HOUSTON. I do not know that I am authorized to refer to the conversation to which the gentleman refers, but as he has done so, I will probably be permitted to do so likewise. I did have a conversation with the gentleman from Texas, or he had it with me, but not on the evidence which he is now giving, other than incidentally. The gentleman had a conversation with me as to the extent to which his uncle's character was connected with this investigation. I told him then that I thought there was nothing before the committee implicating his uncle's character at all. I think so now. I remember hearing the gentleman say, substantially, that he believed his brother probably had some communication from his uncle; and I suggested to him that if he thought it important he should go before the committee, and I suggested to him the propriety of having his brother and the evidence both brought here.

Mr. BRYAN. I did not consider it important for the reputation of Stephen F. Austin that any one should go before the Judiciary Committee. I acquainted the chairman of the committee with the facts; and it was not for me to point out to the committee their duty.

Mr. HOUSTON. The gentleman does not meet the point I present. I myself suggested that his brother should be called before the committee; and, if I remember correctly, he said he thought it unnecessary, and that he would correspond with his brother. As a member of the committee, I was willing to have him before the committee. I wanted no *ex parte* evidence to control this case. I do not desire the House to send this case to the Senate, unless a trial ought to be had. I want no advantage; I wanted no advantage during the progress of this investigation; and if the gentleman had acquiesced in my suggestion, his brother would have been brought before the committee as a witness, had the committee sanctioned what I would have proposed.

Mr. BRYAN. The gentleman and myself are directly at issue, as to the subject-matter of the conversation. I did say I would correspond with my brother, but not as to his coming here. It was as to the examination of the papers; and I did write to him on that subject. The papers, however, were not convenient for him to examine; they were in the hands of one who was writing the history of Texas. But, sir, it was not for me to indicate the course which the Committee on the Judiciary should pursue; for, on some occasions, when I did propose to do so, in my zeal to serve my constituents, a cold shoulder was turned on me by the chairman and other members

of the committee; and it was only from a high sense of public duty that I ever approached the committee on the question at all.

Mr. CHAPMAN. I desire to know from the gentleman whether he includes me in the category of those who showed him the cold shoulder?

Mr. BRYAN. I do not. I have always been treated courteously by the gentleman from Pennsylvania.

Now, sir, in regard to the *testimonio* which is spoken of. The *testimonio*, if examined at all by Judge Watrous, he was bound to regard as a valid instrument; as on its face it was properly authenticated, and nothing to show that it was a forgery. I will read from the Texas Reports of the Supreme Court, (page 332, volume 7,) as to the power and effect of a *testimonio*:

"The *testimonio*, though denominated a second original, is still an original. It was executed and delivered contemporaneously with the making of the protocol. It constitutes the original evidence of authority in the tribunal to which it was directed, and invested them with power to act in the premises. It remains with them, as the basis of their authority, and the foundation of their proceedings. It was an original, as much so as a patent issued under the great seal."

"This point was expressly decided by the supreme court of the Republic, in the case of Smith vs. Townsend, (Dallas, 569;) and the principles of that case were fully recognized and affirmed by the court in the case of Houston vs. Perry and Williams (5 Texas Reports, 462.) In pronouncing the opinion of the court in the former case, the chief justice, after citing authorities, said:

"From the authorities and laws to which we have referred, as well as from the facts proven in this case, we conclude that copies of notarial acts were (at the time of the execution of this instrument) regarded in contemplation of law as original; that they were the only evidence of title which the party interested was entitled to retain in his possession; and that they are properly admissible for all the purposes which, by the introduction of the originals themselves, could be effected."

Again, on page 363:

"We all concur as to the effect of a *testimonio* in evidence; but, perhaps there might not be an entire unanimity of opinion as to the effect of a second certified copy of the original remaining as an archive in a now foreign country. It must be remembered in all cases of this character, that the party is not entitled to the possession of the original. He can by no possibility have control over it, for the reason that it is not his property, but constitutes an archive of a public office. It would be just as reasonable to require a patentee under the State to produce the book from the general land office, in which his patent may be recorded, as to require a party holding a *testimonio* or copy of title under the former Government to produce the original instead of the *testimonio*, or copy, neither the one or the other having ever been, or by law could be, in the possession or under the control of the claimant. The proper disposition of questions of this character, so as to attain the ends of justice where the original archive remains abroad, is envied without difficulties. If *testimonios*, or copies, are admitted without restriction, a wide door is opened for the admission of fraudulent and forged titles. Their falsity or fictitious character cannot be tested by original records or evidence within the limits of our own jurisdiction; but, on the other hand, when the former Government was overthrown and the new sovereignty was created, the *testimonios*, or copies, were the only evidence of title which individuals had in their possession."

That, sir, is the decision of the supreme court of Texas, defining what a *testimonio* is, its legality and its effect; and it was such a *testimonio* as is here defined by the court which was presented to Judge Watrous, and upon which his opinion was based, if he had an opinion. But we know from the evidence, that he made no examination of that paper; that he was not required to give an opinion; that he did not even see the document, because it was admitted by agreement of parties.

Now, sir, in Texas Reports (vol. 8, page 218) we find the following:

"The commissioner must give a certified copy or *testimonio* to the interested party to serve him as evidence of title, ~~not~~ in the same way, and to the same extent, that a *testimonio* or copy of any and all public instruments, extended before a notary serves the parties thereto as the evidence of their rights. In neither the one case nor in the other; neither in the grant of land nor in contracts or agreements between individuals executed before a public officer, or the parties entitled to the original or protocol of the title, or of the instrument of conveyance or agreement. In all cases these remain with the officer; and certified copies or *testimonios* are the only evidence of right which the parties in any case can possibly require."

In the case of Jones vs. Menard, (Texas Reports,) the name of the commissioner was not signed to the original title to Menard for a league of land remaining in the commissioner's office, and thence transferred to the general land office of the Republic of Texas. Menard's title was attempted to be proved by a certified copy, from the general land office, of this original title. The *testimonio* to him was not produced or accounted for. The supreme court held that the paper without the

signature of the commissioner was incomplete and a nullity, and that Menard had no title. (Texas Reports, p. 10.)

The original title from the commissioner, which remained in the office, was unsigned by the commissioner, but the *testimonio* contained his signature, and the question was whether it was a good title. The court held the title to be good. They use this language:

"The *testimonio* is, to the party interested, to be considered as a muniment of his title, occupying the same grade and as conclusive of his right to the land described in it as a deed of conveyance in the usual form at common law, where the common law is the rule of action."

Here, sir, we have these authorities in favor of the *testimonio*, and, as a matter of course, there could be no imputation of forgery where the *testimonio* bore the stamp of genuineness, as this did.

Now, sir, it is contended by my colleague that the *testimonio* is not good, for the reason that Gonzales, the officer who was brought to New Orleans as a witness, and before whom the recognition was made, was blind, while at the conclusion of his argument he presents an affidavit which purports to have been taken before an officer at Saltillo, in which Gonzales says that the original power of attorney, which was signed by one of the Aguirres only, was the instrument to which he intended to refer. Now, if he could see in the one instance, he could see in the other, and if his testimony is good in the last case it must be good in the first. This blind man, it seems, has come to his vision; and he is made a witness in the one case, when he is not credited in the other. I have spoken, sir, of the *testimonio* because it is regarded by some as a forgery, and I say that if it be a forgery, it does not necessarily place condemnation upon Judge Watrous.

I will now, Mr. Speaker, advert very briefly to the condition of our landed system in Texas. I hold in my hand the remarks of my colleague, in which he says:

"But go with me to the vast rich plains, the beautiful prairies of Texas, and see there the faithful, honest workmen of that State, who obey the mandate of our Great Creator, by 'eating their bread by the sweat of their face.' See them select some favorite spot on the frontier, locate their certificate on it, have it surveyed, and in many instances obtain the patent of the Government, settle on it, build their houses, clear and fence their farms, surround themselves with orchards and stock, and rearing families of hardy, athletic children; see them so remain, as I have seen them for twenty years, attached to these homes and settled, as they supposed, for life; and then turn to such a man as Robert Hughes, or William G. Hale, or Thomas M. League, or Dr. Hewitson, or Francis J. Parker, or John Treanor, or John C. Watrous, who are prominent in the transactions now under consideration, and a great number of the same kind who are now engaged in Texas in hunting up or fabricating old grants, and in endeavoring to mold the legislation and judicial decisions of the State, so as to sustain them; no matter if they rest on perjury and forgery; no matter if they were issued upon condition that they should be settled and cultivated, and neither has been done; no matter if the payment of the purchase money was a condition precedent to the investiture of the fee, and that has never been paid; no matter if there were conditions annexed to the grant which could not possibly, under the laws in force before the change of Government, have been complied with for want of time before that change took place, and were followed by constitutional provisions refusing to allow the carrying into grant of such inchoate titles, when above the size of one league and labor, which is four thousand six hundred and seven acres; no matter if they were the Mason eleven-league grants, which were fraudulent and void under the laws of Mexico and Coahuila and Texas, and were subsequently so declared by the constitution of the Republic, and also by the constitution of the State of Texas; no matter for all these things, and others like these;—see such a man, with his legal learning, or his notorious character as a shrewd manager of such things, or his great wealth, which terrifies others from litigating with him, or his high legal, or political, or judicial position, which alarms a humble but honest litigant; bringing his old title to light, discovering its locality, finding that it is not barred by the statute of limitations because it belongs either to a married woman or infants, and with such a claim, under such circumstances, breaking up whole settlements of the first class of citizens I have described, and turning them out of house and home, as poor old Spencer has been served, under what I expect to show is a title resting on a most glaring and outrageous forgery."

I recognize in the foregoing the same spirit that I have battled against in the Legislature of my State.

When Spencer went upon this land he knew it was covered by this eleven-league grant. "He was told," he says, "by the surveyor, that an eleven-league grant had been put upon it, but that it was of no account and would not injure his title." It was recognized, then, in the maps of the public lands, as he tells you, and it has since been recognized by the maps of the land office of that State. He went on to the lands, therefore, with

the knowledge that there must be litigation upon it before his title could be made a good one. Therefore, as he took the risks, he must abide the consequences.

In the early settlement of Texas, the grants came directly from Spain and from Mexico. They were eleven-league grants, or grants for a larger or smaller number of leagues. The colonial grants from Mexico are for a league and labor, and fractions of a league. Difficulties, however, arose from the different sizes of the grants, after the settlements came to be made by the Anglo-Americans. The original colonists received their league and labor, but the extent of land granted in Austin's first colony, to others, was augmented in proportion to their ability to be useful. In some instances the amount was augmented to five, six, or ten leagues; but some of those who came to the State after the battle had been fought and the victory won, took ground against these large grants. Locations were made upon lands covered by these grants; and in this way a strong feeling of antagonism arose in one section against another. A strong spirit of legislative hostility grew up in the Legislature between those who held that the original grants from Mexico should be recognized and those who refused to recognize them. During the nine years in which I was a member of the Legislature, I resisted this spirit of hostility, which was then very strong against the original grantees of the soil. Judge Watrous, before and after he was on the bench, favored the old grants.

The Hancock and McKinney case, which has been alluded to, was a case of this description. McKinney was one of the settlers on the land, holding under the old grants. Hancock located upon the lands covered by McKinney's grant. Hancock, in 1849, instituted a suit against McKinney. In 1850 the contract was entered into between League and Watrous. It was generally supposed that the Hancock and McKinney case would dispose of all these contested grants; and it may be that Judge Watrous, in entering into this contract, supposed that the decision of this case, by the supreme court of Texas, would settle the principles involved in the eleven-league grants generally; and that there would, therefore, be no litigation in the Vega case. The impression may have been produced upon his mind, as League says, that the decision of the Hancock and McKinney case, by the supreme court, would settle finally all points which were involved in reference to the title to this eleven-league tract. It was generally supposed, in and out of the Legislature, that this decision of the supreme court would give a quietus to the war that had been carried on. The supreme court decided that the locator could not intervene between the original grantee and the State. The locator maintained, under the clause of forfeiture in the constitution of the State of Texas, as well as in the constitution of the Republic of Texas, that the lands, where the condition of the grant had not been complied with, reverted back to the public domain; and that those who held a certificate of the State entitling them, by the language of the certificate, to locate upon any of the unappropriated lands, were entitled to place them upon these lands. The supreme court, however, decided that, until the Legislature of the State passed an act pointing out the particular mode by which this forfeiture was to be reached, the locator had no right to assume that the land was vacant. The decision of the supreme court therefore decided but a part of the controversies arising under these Mexican grants; but Judge Watrous had the right to suppose, as well as myself and others, that the decision of the supreme court would cover the whole case, and that this decision would cover and settle all the principles in reference to these grants that would be brought into his court.

But, sir, there is a doubt in my mind as to the character of the understanding between him and League in regard to this transaction; and as there is such a doubt, and inasmuch as the Legislature of Texas has requested their Representatives to use all proper means to bring this controversy to a decision, to pursue such a course as would lead to final action upon the question, I am willing to give my State the benefit of the doubt, and to vote to send this case to the Senate. A fair statement of the facts of the case, however, which I have made, was required at my hands; justice required it. Whatever may be the decision of this House,

you cannot entirely wipe out the stain which has been cast upon his integrity by these charges.

Mr. BINGHAM obtained the floor.

Mr. REAGAN. I desire the opportunity to present a few facts to the House, in connection with the statement which has just been made by my colleague.

The SPEAKER. The gentleman from Texas having once occupied the floor upon this question, the gentleman from Ohio is entitled to it.

Mr. BINGHAM. I will yield to the gentleman from Texas for the purpose of explanation.

Mr. REAGAN. These charges have been made, Mr. Speaker, against this man before the Thirty-Fifth Congress, and investigated; and yet this title was never brought forward before. These charges were brought forward before the last Congress, in reference to this fraudulent title, yet nothing was said of any evidence of there being a title to this land in Stephen F. Austin. The trial proceeded, the evidence of witnesses under oath was taken, and public documents produced; the report of the committee was made up; and yet we never heard of this evidence until four days ago, when my colleague promised to produce the facts which he has disclosed to-day. I saw the importance of the facts at the time, and appealed to him to reveal them. I have renewed that appeal since, whenever he has made allusion to them. He declined to do it then, and has waited until to-day, until the very hour when, by arrangement, the previous question was to be moved, when he comes forward and gives us his facts.

Mr. BRYAN. I will state to my colleague that I understand this debate is not to be closed to-day.

Mr. REAGAN. Very well; I have no doubt my colleague has stated, and truly stated, what he found in the papers to which he referred; but I promise this House to show that this La Vega title, so far as it relates to one of the Aguirres and La Vega, and the two assisting witnesses, was a base and infamous forgery. I stand here now and repeat the evidence in that part of my printed speech which was not delivered for want of time, but printed by the consent of the House; and then I will show that these statements of my colleague do not conflict with that evidence, and, if true, do not conflict with anything I have stated. This was intended as trump card, which I am prepared to break the force of by the most conclusive evidence, and to show what it was introduced for, and that it has nothing to do with the question of the guilt or innocence of Judge Watrous.

The first effort to introduce the name of General Austin to shield Judge Watrous was in the report of that part of the committee which reported against the impeachment of Judge Watrous. This effort I defeated on yesterday by showing that it was only an inference by the committee, and not a fact deducible from the testimony. The next effort to introduce the name and fame of General Austin in support of this forged power of sale was by my colleague on last Thursday. I know it was not introduced by him for such a purpose, but that would have been the effect of allowing his statement on that day to go unquestioned. On Friday morning I called the attention of the House to it, and requested him to produce the paper, or a copy of it, which showed that General Austin had said the power of sale of the La Vega eleven-league grant was genuine. He declined to do so. And in my speech on Saturday I again called attention to it, in the terms just read at the Clerk's desk. Still the response is reserved for the crushing, crowning effort in the defense of this case.

I have watched this case a long time; and that part of my speech in which I discussed the validity of this power of sale, on Saturday, concisely states the evidence upon which I make the declaration that it is a forgery, and I will now read it. It is as follows:

"The genuineness of the power of sale from La Vega to Williams was brought in question in the Lapsley cases. I shall only have time to look to a portion of the evidence on this point."

"After the order was made for the transfer of these cases from the United States district court at Austin to the circuit court at New Orleans, and on the 23d day of February, 1855, James Hewitson made oath to the following deposition:

"THE UNITED STATES OF AMERICA,

"DISTRICT OF TEXAS, to wit:

"Be it remembered, that on this 23d day of February, A. D. 1855, I, Archibald A. Hughes, a commissioner of affidavits

and bail in civil cases in the courts of the United States, duly appointed by the district court for the district aforesaid, at the request of Robert Hughes, attorney for the plaintiff herein, this day called and caused James Hewitson to be and appear before me, at my office in the city of Galveston, in the district aforesaid, between the hours of nine o'clock of the forenoon and six of the afternoon, to testify and the truth to say in a certain action at law and matter of controversy now depending and undetermined in the circuit court of the United States for the eastern district of Louisiana, at New Orleans, wherein John W. Lapsley is plaintiff, and Eliphas Spencer is defendant, in behalf of the plaintiff.

"The said James Hewitson being of lawful age, and being by me first examined and cautioned, and sworn to testify the whole truth in regard to the matter of controversy aforesaid, depose and saith as follows, to wit:

"That he is acquainted with the handwriting of Juan Gonzales, whose certificate and signature to the original *testimonio* of the power of attorney, purporting to be executed by José María and Raphael Aguirre and Thomas de la Vega in the city of Leonia Vicario, on the 5th day of the month of May, 1832, before the said Juan Gonzales, regidor of said city and second alcalde in turn, and which is now presented to him, and that from his knowledge of the handwriting of said Juan Gonzales, he does verily believe that the whole of said *testimonio*, including the certificate and signature of said Juan Gonzales, is in the handwriting of said Gonzales; that he is well acquainted with the handwriting of José Manuel Moral and José Nazario Ortiz, the persons who purport to be assisting witnesses to said *testimonio*, and he is well satisfied and does verily believe that the signatures to said *testimonio*, 'José Naz. Ortiz,' and 'M. Moral,' are in the handwriting of said Ortiz and Moral. The said Gonzales and Ortiz, when living, resided in the State of Coahuila. They are now both dead. Said Moral now resides in said State of Coahuila, in the now so called Republic of Mexico, and is, as he believes, now there. The *testimonio* above spoken of, in order to identify it, is marked A, and his (this deponent's) signature thereon, and which the commissioner taking this deposition has certified to be the document referred to in this deponent's evidence, and has been returned to plaintiff's agent.

"And further this deponent saith not.

"JAMES HEWITSON."

"Erased in the seventeenth and eighteenth lines from bottom of first page, the words, 'he is well satisfied and does;' and the words 'he does' interlined before signing 'A. M. HUGHES, Commissioner.'"

"And I, the said Archibald M. Hughes, the commissioner aforesaid, do certify that the reason for taking the deposition of the said witness is, that the said witness, the said James Hewitson, resides and lives in the city of Saltillo, in the Republic of Mexico, more than one hundred miles from the city of New Orleans, the place of trial of the action at law or matter of controversy aforesaid; and I do further certify that I gave no notice to the said Eliphas Spencer, or his attorney, to be present at the taking of this deposition, and to put interrogatories if he or they thought proper, because neither the said Eliphas Spencer nor his attorney is within one hundred miles of the city of Galveston, the place of the caption of this deposition, and where the same is taken; and I do further certify, that, being attended by the witness, as stated in the caption, after being duly sworn, he testified in my presence as before set out, which was reduced to writing by me in the presence of the witness, and by him signed in my presence; and I do further certify, that I am not of counsel or attorney to either of the parties in the action at law or matter of controversy aforesaid, or in any manner whatever interested in the event of the same. I have retained this deposition to be sealed up, directed, and transmitted to the circuit court aforesaid, in accordance with the act of Congress in such case made and provided.

"Given under my hand and seal, this 23d day of February, A. D. 1855, aforesaid.

[L. S.] "A. M. HUGHES, Commissioner."

The paper which I have read is the deposition made by one Dr. Hewitson, a citizen of Saltillo, in Mexico, on the 23d February, 1855, in which he declares that he is acquainted with the handwriting of Gonzales the regidor, who purports to have executed the power of sale in the De la Vega title; that he is acquainted with the handwriting of the two assisting witnesses, and that their signatures are in their handwritings respectively; that the body of the instrument is in the handwriting of Gonzales, as are also the certificate and signature.

It may be asked why I present this evidence, which goes to the validity of the title of the De la Vega tract? I do it because every particle of this case ought to be brought to the consideration of the House. The subsequent testimony will show that this man Hewitson, an extensive ligant in Judge Watrous's court in eleven-league grants, as is proved by his own witnesses, was guilty of base perjury in swearing to that testimony. It is a part of the evidence, and it is one of the circumstances upon which we rely to show the falsity of the instrument.

We next come to the *testimonio* of Thomas de la Vega, the maker of the grant in question. That was taken the 24th of November, 1856, by the proper officer in Saltillo, before which officer De la Vega swears he never signed such a paper; and at the same time says he did, in connection with the two Aguirres, sign a power of attorney to Samuel May Williams, authorizing him to take possession

of thirty-three leagues of land, to which they were collectively entitled under the concession. He says he never signed such an instrument as this power of sale, though, upon examination in the archives of Saltillo, he finds a paper which he executed, authorizing Williams to take possession of this land; and he also finds a power of sale, which is signed by one of the Aguirres, and not by the other, nor by himself, nor any assisting witness. That is the oath of De la Vega, who is alleged to be the maker of this grant. His testimony is as follows:

On the 24th day of November, 1856, peace having been reestablished in this city, the (senior) judge caused to appear Mr. Thomas de la Vega, to whom was administered, in due form, the oath prescribed for one who comes forward to say the truth, according to his knowledge; and he having been interrogated conformably to the interrogatories which are contained in the first of the translated documents which were read to him, he said, in answer;

To the first. That he is forty-six years of age, and, by occupation, a merchant.

To the second. That he is not acquainted with, and that he has never been acquainted with, Samuel M. Williams.

To the third. That he has examined the copy, (in question,) and that he never signed the original which it purports to represent; that he did, conjointly with Don Raphael and Don José María de Aguirre, grant a power to the effect that the Williams referred to should take possession of and mark off eleven tracts, (of land,) which the Governor had granted to each one of the appearers; but that he did not grant, and that he never has granted, any power, as to his part, to alienate or sell these tracts; that, consequently, the power which is exhibited to him is false.

To the fourth. That he has always signed Thomas de la Vega, and that he does not recollect ever having done so under the name of Thomas Vega.

To the fifth. That he has never signed any power for the alienation of his lands, and that he does not know whether there is a copy of the document exhibited to him in the archives of Saltillo; but that there cannot be, for he repeats his statement that he has never given any such power.

The sixth is omitted, because no such case has arisen as the question refers to.

To the seventh. That he does not understand the question.

To the eighth. That, a short time since, he granted a power to Mr. Simon Mussina, a resident of New Orleans, to settle, in his name, this matter, conformably to the powers given to him; that what he has stated is the truth, under the obligation of his oath, which he confirms and ratifies, signing it with the judge, before me, as I attest.

ACUNA.

THOMAS DE LA VEGA.

DOMINGO V. MEJIA, Notary Public.

Mr. CRAIGE, of North Carolina. I desire to ask the gentleman if, after De la Vega made that grant in 1832, and after Mussina, the present prosecutor, had lost his suit in New Orleans, in which the court decided that Lapsley had the title, De la Vega did not make a contract with Simon Mussina, the prosecutor, by which he authorized him to sell this same tract of land, and to give him one fourth of the land for his services?

Mr. REAGAN. I will say to the gentleman from North Carolina, that I have heard it said that Mussina, in 1857, made some such contract with La Vega; but that was a year after this testimony was taken.

Mr. CRAIGE, of North Carolina. Mussina so swore before the committee.

Mr. REAGAN. Let it be so; but that is not the question with which I have to deal. I say here is La Vega's oath made when he was a party to a grant which might inure to his own benefit, and there is this ground of interest going to his credibility; but fairness requires the statement.

Next comes the deposition of José Cosme De Castaneda, the custodian of the archives of Saltillo, dated December 24, 1856, which is as follows:

On the same day (November 24, 1856) appeared Mr. José Cosme de Castaneda before the judge, and he having taken the oath in due form of law which is prescribed for every one who appears to tell the truth, according to his knowledge; and having been interrogated on the questions which correspond to and are contained in the interrogatories read to him, he said in answer:

To the first. That since the year 1840 he has, in fact, been the custodian of the archives of the most honorable council of this city, as secretary of the said honorable body.

To the second. That he has examined the records, and in fact has found a power granted by Messrs. José María de Aguirre, Raphael de Aguirre, and Thomas de la Vega, to Mr. Samuel May Williams, a resident of the city of Austin, which (power) is legally authenticated by the second regidor of the honorable council, who officiated as second alcalde, Don Juan Gonzales, dated the 25th of April, 1832, by which the aforementioned Messrs. Aguirre and Vega empowered Williams in their name to take possession of thirty-three tracts of land, which the said appearers (grantors) acquired by purchase from the supreme Governor of the State, and to select the spot in which the surveys of these tracts should be drawn. There is also another power which the same gentlemen drew out before the same regi-

dor and second alcalde, Don Juan Gonzales, dated the 5th of May, 1833, by which the said Williams is authorized to proceed to the sale of the abovementioned tracts of land; but this power was signed only by the alcalde, Don Juan Gonzales, and Don José María de Aguirre, and not by Don Raphael de Aguirre or Don Thomas de la Vega, or the assisting witnesses, wherefore the said documents can be of no effect. That in verification of all that he has stated, he refers to the original documents which exist in the archives under his charge.

To the third. That he is unable to furnish the copies asked for, because he has not due authority to do so, but that if the judge officiating should deem it indispensable to grant authenticated copies, then recourse should be had to secure them to the president of the honorable council. That what he has stated is the truth, under the obligation of his oath, which he confirms and ratifies, adding that he is an adult, fifty years of age, a resident of this city, and by profession secretary of the honorable council. And he has signed with the judge, before me, which I attest.

ACUNA.

JOSE COSME DE CASTANEDA.

DOMINGO V. MEJIA, Notary Public.

Now, here is the oath of Castaneda, the keeper of the archives of Saltillo, duly sworn to and certified, in which he says he has been the keeper of these archives since 1840; is familiar with them; has examined them carefully, and has found a power to take possession executed by the two Aguirres and La Vega to Samuel M. Williams, signed and properly authenticated; and that he also finds a power of sale signed by one of the Aguirres, but not signed by the other Aguirre or by La Vega, or by either of the assisting witnesses. Who is this man Hewitson, who swore he had signed it? And yet it appears from the document now in the archives that it was never signed at all.

Mr. MAYNARD. I desire to ask the gentleman whether it is, or is not, a fact that after the date of this power of attorney, purporting to be from La Vega to Williams, and after the sale of this property, and after possession was taken under it, and tracts sold, and tenants in possession adversely, a period of twenty-five years and upwards did not elapse without La Vega's attempting to assert his right to it?

Mr. REAGAN. Oh, no; the country was far in the wilderness until ten or twelve years ago, and nobody was in adverse possession of the land; and I tell the gentleman more, that although this sale was from Williams to Menard, and Williams as trustee for Mrs. St. John, his sister, purports to have been made May 1, 1840, for a consideration paid in 1834, yet they never thought enough of their title to record it till March 9, 1849.

Gonzales's testimony in the case of Lapsley and others, it will be recollected, was taken in 1856, at New Orleans, after the case had been tried and sent to the Supreme Court of the United States, and when there was no use for the evidence, except for the purpose of sustaining the perjury of Hewitson. His deposition was taken and filed in the circuit court of New Orleans. I am authorized to state, from the evidence in the case, that old man Gonzalez was induced by the parties, at a cost to them of near six thousand dollars, as much as League gave Mrs. St. John for this tract of land, which he testified is worth \$300,000, to come to New Orleans, and testify that he signed, as regidor, the power of sale from La Vega and the Aguirres to Samuel M. Williams, after they had appealed to his passion and his prejudices, after they had spent near six thousand dollars in bringing him to New Orleans to testify in a case that had been decided. What was his testimony? That he did not write the body of the instrument, and that he did not know who did write it. Now, Hewitson, the first witness, had previously sworn that he knew the handwriting of Gonzales well, and that Gonzales did write it. He also swore that Gonzales was dead. Two years afterwards, when it is thought necessary to give \$6,000 for a living witness, Gonzales comes forward and swears that he did not write the body of the instrument. There he stands, a living six-thousand-dollar witness, to contradict the false oath of that miserable Hewitson, who was litigating extensively these eleven-league grants in the court of John C. Watrous. Sir, if that had been honest testimony, it would not have cost fifty dollars to get it. Who is there that does not know that?

Now, sir, this poor Mussina, who has exhausted a fortune in trying to have punished a judge who had robbed him, who has resorted to every proper means to give this House information that should cause them to bring John C. Watrous for-

ward to trial, is arraigned and complained of as a bad man because he has devoted years and years, and money, and toil, for the purpose of bringing this judge to account. If he had no other purpose than malice, is it reasonable to suppose that he would have devoted years, and toil, and his fortune, to secure the bringing of this man to justice? Even since the last session, having reason to believe that this power of sale was a forgery, he sent and procured, from the keeper of the archives at Saltillo, a certificate corroborating the evidence of the other keeper of the archives, stating that the power to take possession, made by these three parties to Williams, is there on record, and that the power of sale is there signed by one of the Aguirres, but not signed by the other, or by La Vega, or by the assisting witnesses. Now, what do we see? Old man Gonzales, who swore to the power of attorney, is contradicted by the two keepers of the archives. Now, if there remains yet a lingering doubt in the mind of the House that the power of sale, proven up by Hewitson and Gonzales, from the Aguirres and La Vega to Williams, was a forgery, let me clinch conviction by the following document:

To the honorable Probate Judge, Señor Juez de Letras:

Thomas de la Vega, a resident of this city, now appears before you and says: that, in the archives of the illustrious ayuntamiento of this place exist the protocols of the public acts filed in the year 1832, and that among these acts is a power of attorney bearing date 5th of May of said year, which, although signed by Don Juan Gonzales, who then performed the office of judge, is not signed by me, the supposed grantor. In justice to my rights, I pray that your honor shall call at the archives aforesaid, demand the said protocol, (or file,) and open the same at the place signed by Don Juan Gonzales; that you shall cite him to appear forthwith before you, without excuse or pretext whatsoever, and in your presence read and examine the said power supposed to have been given by me to Samuel May Williams to alienate certain lands that I possessed in Texas, and, after a careful examination thereof, that he shall state whether or not it is signed by me. After which I also pray that you shall give me an authentic certificate to this effect: whether said power is, or is not, signed by me, and whether Don Juan Gonzales had authority to perform the same alone, without being accompanied by a scribe or competent witnesses, who, as our laws require, should always assist the judge in performance of all his official acts, to give them force and validity. As these points here above stated will be required by me as testimony in certain claims which I prosecute in the United States, to prove the nullity of the sale of certain lands of mine, I pray that you shall grant me my prayers as above, delivering to me the originals of these proceedings, with the evidence resulting therefrom, to be made use of as best will suit my interests. I demand justice according to the law.

THOMAS DE LA VEGA.

SALTILLO, September 17, 1858.

SALTILLO, September 18, 1858.

As prayed for, let Don Juan Gonzales, Zertucho, be cited, and let the demand contained in this petition be complied with. Therefore, the judge substitute of the probate judge (of Letras) of this district orders and signs in my presence.

TOMAS SANTOS COY.

DOMINGO V. MEJIA, N. P.

Under this same date, Don Thomas de la Vega is duly notified of the above proceedings.

DOMINGO V. MEJIA.

THOMAS DE LA VEGA.

On the same day appeared Don Juan Gonzales, Zertucho, who having taken cognizance of the petition and citation that precede, and having accompanied the honorable judge to the locality where are kept the archives of the illustrious ayuntamiento, and the secretary having been requested to produce the record of public acts for the year 1832, and the same being done, Don Juan Gonzales, after having read and examined the written power of attorney above referred to in the petition, declared that the power of attorney on record is the same authorized by him at that date, and is in conformity in all its parts with the *testimonio* also authorized by him, and that the signature of Don Thomas de la Vega does not appear thereon—he knows not why; and, after having so declared, he hereby signed in presence of and together with the judge, as witnesseth.

JUAN GONZALES, Zertucho.

SANTOS COY.

DOMINGO V. MEJIA, N. P.

I certify with all due formality that the power appears to have been given by the Licentiate, Don José María Aguirre, Don Thomas de la Vega, and Don Raphael de Aguirre, on the 5th of May, 1832, and which is on the records of that year, is not signed by Don Thomas de la Vega, and has no other authorization than the signature of Don Juan Gonzales, who fulfilled the office of judge, without the assistance of a scribe or of competent witnesses, who ought to have accompanied him to give validity to that act, according to our laws; and in accordance with that prayer contained in the annexed petition, I here affix my signature in presence of the scribe, as witnesseth.

TOMAS SANTOS COY.

DOMINGO V. MEJIA, N. P.

On two pages sealed paper is delivered the testimony to Mr. Vega.

The Governor of the free and sovereign States of Neuva Leon and Coahuila, legalizes the signature of the citizen Tomas Santos Coy, judge substitute of the probate judge of the district of Saltillo, and that of the public scribe, the

citizen Domingo V. Mejia, which authenticate the annexed preceding documents, in the matter of the petition addressed to said authorities by the citizen, Thomas de la Vega, Monterey, September 22, 1858.

DOMINGO MARTINEZ.

JUAN GARZA, *Cromc. Secretary*.

The consular certificate I annex.

J. WALSH, *Consul*.

I hereby certify that the signature to the annexed documents are those of the Governor and Secretary of the State of Neuva Leon and Coahuila, in the Republic of Mexico; and the same as they place on all public writings.

Given under my hand and the consular seal, this 23d day of September, 1858.

J. WALSH, *Consul*.

This document is regularly certified by all the proper officers, and I have the original Spanish in my possession ready to be exhibited. There, then, is the record? Where is this poor old man, who was induced to perjure himself for a little over two thousand dollars, by this terrible set, coming up in the face of the record and of the judge, and unswearing all he had sworn before? There he stands, convicting this Hewitson. There stands the terrible record against this Hewitson, upon whose evidence poor old Spencer and ten others were turned out of house and home, and driven off by as infamous perjury as ever was committed by human being! For it was upon this testimony, as I have given it, that the power of sale was admitted in the circuit court at New Orleans, when Lapsley and his confederates gained this land.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. REAGAN. Not now; I will answer the question directly. Now, what is the answer made to all this? At the last hour, just as the debate is closing, my colleague comes forward and reads to you extracts from certain private papers purporting to have come from General Austin. What is the effect of those extracts? It is to prove that General Austin said that he had purchased the La Vega and Aguirre grants. If General Austin purchased them, the title may still be in his heirs, of whom my colleague is one; but we have never seen one paper, signed by any human being on earth, showing that General Austin ever had one particle of connection with this matter. Where are the official documents? Where is the concession? It never mentions his name? Where is the power to locate? It never mentions his name. Where is the power to sell? It never mentions his name. Where is every title-paper, from the inception down to this good hour, that even mentions the name of the great Stephen F. Austin? And yet they come here and tell you that Austin said he held the title, without showing the fact or exhibiting a particle of proof; and a sensation is produced upon the very eve of trial, to defeat the course of justice, and turn loose this terrible judge upon the aggrieved people of Texas!

I, too, have come into this case by the instructions of the Legislature of my State; not coldly; not to appear to obey them, but strive to defeat and overturn their object; not to seem to support the right but certainly to sustain the wrong. I have stood all the time in this case where I stand now, urging justice to the people of my State.

But, sir, if you are not yet satisfied, let me call your attention to one more fact, and that is the fact that if General Austin did hold the title to these lands it may be in him or his heirs yet, and that does not affect the question as to whether the title of Samuel M. Williams was a forgery. Did you not see that when the argument was made? Did gentlemen suppose, in making this argument, that that point would escape my notice? Did they think that I have watched this case and this corruption so long, and yet would permit such a point as that to pass before the House? Ah! sir, justice is all powerful, and it will prevail.

Now, sir, my colleague no doubt stated the truth when he stated that he found the memorandum, to which he has referred, among the papers of General Austin; but does that touch the pretended power of attorney to Samuel M. Williams? Does it touch any part of the case? My colleague will see that his effort to crush down the case, great as it is, never touches the question of the validity of the title, nor contradicts the record or the oaths of the man who is charged to have made the power of attorney, and of the two keepers of the archives which I have produced to prove forgery. I have now done my duty to myself and this cause, and I thank the House for its kindness in permitting me to do it.

Mr. BINGHAM resumed the floor.

Mr. BRYAN. I ask the gentleman to yield to me.

[Loud cries of "Hear him!" "Hear him!"]
Mr. BINGHAM. I yield to the gentleman from Texas.

Mr. BRYAN. Mr. Speaker, I ask my colleague if, in the remarks which he has just made, he intended to impute any improper motives to me, when he said that I intended to crush down the investigation?

Mr. REAGAN. Mr. Speaker, I desire to say once for all, that I impute no improper motives to my colleague. If he has been induced to take a wrong position, it is, perhaps, through mistake; but, certainly, I impute nothing against his personal integrity of purpose, or his faithful belief in the truth of what he has stated; and I repeat, that what he has stated does not conflict with what I have said.

Mr. BRYAN. My colleague made the speech containing the imputation on myself, and which is now on its way to his and my constituents, on Saturday last. Monday—yesterday—was the first day on which I could have replied to him. Those who are with me at my boarding-house know the reason why I was not here, all of the day on yesterday. Circumstances prevented my attendance the whole day; and when I was here I could not get the floor. I, sir, never shrink from the discharge, and the full discharge, of my duty; but, sir, my colleague called in question the veracity of the statement that I made a few days since.

Mr. REAGAN. Will my colleague recollect that I stated then, as I have stated now, that I knew my colleague conscientiously believed everything that he stated to be true? I trust he will not insist on making an issue of veracity between us, when I disclaimed it then, disclaim it now, and have, all the time, admitted that my colleague conscientiously believed all the facts which he stated to be true.

Mr. BRYAN. I stated at the time that I announced the fact that, at the proper time, I would respond, if any one called upon me. He did not call upon me, although he had an opportunity at the time when I called upon him and asked him for a copy of his speech.

Mr. REAGAN. The reason why I did not call upon the gentleman then was, that the statement was made publicly, in the ears of the House; and I wished to have the whole matter come before the House. My calling on the gentleman, in private, would not have satisfied the House.

Mr. BRYAN. I could have satisfied my colleague, and he could have satisfied the House. I held back nothing. The papers containing this statement were private memoranda mixed up with a great many other things, private affairs of my relative which I did not choose to bring up before this body. I will, however, willingly exhibit the papers to any one who is disposed to look at them, as I have done to several gentlemen who have called upon me. I have nothing which I seek to conceal.

Now, sir, in reference to the statement of my colleague that I withheld this matter until the hour when the previous question was to have been moved, I will state that I should have made the statement which I have made this morning as soon as the gentleman from New York [Mr. Ward] had taken his seat, if I could have obtained the floor. I have not desired to withhold it with the view of affecting the question when no reply could be made. But, sir, I do desire that justice should be done to an injured man, one who is charged with forgery in a matter in which he had nothing whatever to do. If there was forgery, it must have been upon the part of others. I have shown you that the paper was in existence years ago.

My colleague has told you that Hewitson swore falsely. Well, sir, Hewitson may or may not have sworn to a lie, but that does not affect the statement which I have made. He has moreover bought Le Vega as a witness. Well, sir, Le Vega comes here with an interest in the case to the amount of \$225,000, which is enough to blind his mental vision and his integrity. He is the owner of the whole tract, worth, as stated, \$300,000, except \$75,000 which Mussina is to get if he can prove that paper to have been a forgery.

These, sir, are the facts. Hewitson may have

been guilty of all that my colleague imputes to him. I care not. But, sir, when I found myself in possession of this information it would have been very wrong in me to withhold it. I was unwilling that this House should pass upon this case of Judge Watrous without having these important facts before it. They could have been brought forward by me at any time if the committee had seen fit to call for them.

Now, sir, in reference to the instructions of the Legislature of Texas, I have read them to the House. I presume my colleague and myself construe them to mean the same thing. Each of us is responsible to our constituents. I seek nothing from him, and he will seek nothing from me. These instructions are merely that we shall see that the charges against Judge Watrous are looked into, examined, and brought to a final decision, "without expressing any opinion as to his guilt or innocence." I, sir, in deference to the State in which I was raised, consent to give up some of my personal independence in this House, and I shall therefore vote for the resolutions of impeachment in order to obtain "final action." But, sir, I have stated the facts which I have brought forward, and I ask that they may have their due weight in making up the decisions of those who are called upon to judge in reference to the testimony of the case so far as they weigh.

Sir, the Legislature of my State, in 1848, passed resolutions requesting Judge Watrous to resign. I was at the time a member of the Legislature, and voted against those resolutions.

Mr. REAGAN. I intended to have stated that I was also a member of that Legislature, and that I voted for the resolutions in connection with all the members of the House of Representatives, with the exception of my colleague and four others, in a House of sixty members.

Mr. BRYAN. I voted against these resolutions at a time when I did not know Judge Watrous, and had never spoken to him or seen him. I regarded the facts then presented as not satisfactory or convincing, and therefore voted against the resolution.

Now, Mr. Speaker, I do not regard these resolutions of the Texas Legislature as instructing me to pursue any other course than I have pursued, to impartially examine into the charges and try to obtain "final action" upon them.

Mr. BINGHAM. Mr. Speaker, I have been slow to believe that Judge Watrous should be impeached for high crimes and misdemeanors. I am not accustomed to sit in judgment upon the guilt or innocence of my fellow-citizens accused of crimes and offenses against public justice and personal rights. It would have been to me a matter of pleasure if I could have concluded upon the testimony before us that the accused was not guilty.

Sir, with gentlemen who have spoken on this side of the House and upon that, I, too, would maintain the independence of the judiciary; but I would maintain its integrity and purity as well. To your judiciary is intrusted the issues of life and death. Those, therefore, who hold and execute its great trusts, should not only be independent of all extraneous and undue influences, but they should also be above suspicion, and without reproach. But who will contend that the judiciary should be irresponsible to the people under the Constitution for confidence betrayed and official trusts violated? The high power of impeachment conferred upon this House for the accusation of all civil officers of the United States, is absolutely essential to secure to all and to each of us protection against the oppressive abuse of the powers intrusted to them only for the purposes of just and good government.

Mr. Speaker, this power of impeachment should be exercised strictly within the limitations of the Constitution. The House, in my judgment, can only prefer articles of impeachment against any civil officer of the United States, upon proof that he is guilty of treason, bribery, or other high crimes or misdemeanors. But, sir, I cannot agree that, to the exercise of this power, the party accused shall have been guilty of an offense indictable either under the laws of the United States or at the common law. It is sufficient to the impeachment of a judge of the Federal court that he shall be guilty of an indictable offense, or of an offense not indictable, but which is in derogation of his office, a virtual violation of his official

oath, and a wanton denial of justice or of public or private right. It is too late to construe the Constitution to mean, by the words "other high crimes and misdemeanors," only offenses indictable at the common law or by statute. Upon two occasions, this House has preferred articles of impeachment against judges of the United States, in which there was no charge that the accused was guilty of an indictable offense. I refer to the articles of impeachment preferred against Judges Chase and Peck. Against the latter there was but one article presented by the House; it charged Judge Peck with having, unjustly, and with the intent to wrongfully oppress him, arrested and imprisoned Mr. Lawless, upon an attachment, for contempt. This act of Judge Peck was not an indictable offense under the Federal statutes. No man can be indicted under the Federal Government but for crimes and misdemeanors made indictable by statute of the United States. Common-law crimes are not indictable merely as such under our national Government. It may well be doubted whether Judge Peck could have been indicted for the act specified (in the article of impeachment) at the common law. On his trial before the Senate, he was defended by counsel who, for legal ability and learning, were scarcely second to any lawyers in the world. That article of impeachment, although it charged neither a crime or misdemeanor indictable under our laws, was not deemed insufficient by either of the eminent counsel of the accused—Mr. Wirt or Mr. Merideth. This House, under the guidance of such minds as McDuffie and Storrs and Buchanan and Spencer and Everett and Burgess, deemed the accusation sufficient as charged, although it specified no indictable offense.

In the argument of that great case, it was conceded on all sides that Judge Peck had full and complete jurisdiction to order as he did the arrest Mr. Lawless for contempt, and to commit him for contempt; there was no question made upon the fact charged, that the judge did cause the arrest and imprisonment of Lawless for contempt; nor was it questioned by his learned counsel that he should be found guilty by the Senate of high crimes and misdemeanors in his office, if the intent, as charged, was present and constituted the object and purpose of his action in the premises. While it was conceded in that case that Judge Peck had complete jurisdiction to act as he did in the premises, it was also conceded that he had no right, under color of his admitted and undoubted authority, to abuse his power as judge to gratify his malice or revenge upon the citizen, by arresting him as for contempt without sufficient cause, and with the intent, the criminal intent, to oppress him and unjustly deprive him of his liberty. That accusation, sir, like this, was one of oppression in office, wherein the judge used his position with the intent to deprive the citizen of his right under the law, and by which he wrongfully and unjustly and with the intent aforesaid, did deprive the citizen of his legal right.

I maintain, sir, that Judge Watrous is guilty, upon the testimony before us, of this abuse in his great office; that he did unlawfully, and with the intent to injure citizens of Texas, and deprive them of their rights under the laws of the land, and to secure to himself an unjust advantage, to their injury, in his own court, enter into, and carry out to the fullest extent, a fraudulent arrangement with Thomas M. League. I charge, that by his fraudulent combination and arrangement with League he intended to, and did unlawfully and unjustly, deprive the tenants in possession of the lands in Texas, (described in the deed to League,) of their right under the law, of trial of that title in the courts of Texas, and by a jury of the vicinage; that he corruptly advised, and procured the transfer of the legal title in these lands, to Lapsley, a resident of Alabama, with the intent thus to deprive the tenants in possession of their just legal rights; and, with the further unlawful intent to secure a pecuniary advantage to himself; that by this arrangement he secured the bringing of the actions touching these lands, in his own court, in the name of Lapsley, but for the joint benefit of himself and League, as well as Lapsley, and thereby in further pursuance of his intent to injure and wrong and oppress the tenants as aforesaid, did certify and transfer the cases to Louisiana, a distance of some five hundred miles from the residence of the

tenants, thereby subjecting them to an expense in defense of their possessions which many of them were ill able to bear, and virtually depriving them of their rights by an *ex parte* trial. If Judge Watrous has done all this, as I am constrained to believe he has, I submit that he is guilty of oppression in office; of "high crimes and misdemeanors," within the meaning of the Constitution, for which this House should prefer articles of impeachment against him, and compel him to answer therefor before the Senate and the country.

Sir, I do not say that it was a crime for Judge Watrous to buy lands, in Texas or elsewhere. I do not say that it was a crime for him to form a partnership with League in the purchase of lands for profit; but I do say that it was a crime, a high crime, for him to advise and procure the transfer of sixty thousand acres of land by League to Lapsley, in trust for himself and others, with the corrupt intent thereby wrongfully, unjustly, to give to himself original jurisdiction thereof in the trial of the title, and to enable him to transfer the causes out of the State, to the direct injury of the possessors thereof, and in deprivation of their right under the law to a trial by the vicinage. That the judge did this, and with the intent charged, appears to me clearly proved and established by the testimony now before us. I know that it has been asked, and reiterated in the course of this debate, where is the proof of the criminal intent? I ask, when was a criminal intent ever established by direct proof, save in the comparatively few cases of criminal acts where the accused confessed or declared it himself? The criminal intent of an unlawful and criminal act is not usually capable of direct proof, and is most generally inferred by the triers or jury, from facts proved. To find the intent of Judge Watrous in these transactions, the House need only apply the well-established rule of the common law—that a man shall be held to intend the natural and necessary consequences of his acts. What, then, are the acts of Judge Watrous, established by the proof from which resulted the wrongs and injuries to the Texan claimants, to which I have referred, and to the accomplishment of which he so well adapted the means to the end? I shall only refer to the testimony of his chosen confederate, Thomas M. League. If by that testimony it is established that Judge Watrous did enter into the arrangement with League, as I have stated, and with the intent thereby to wrong and injure the occupants of the lands in Texas, as I have charged, then it seems to me it is the imperative duty of the House to adopt the proposition of the report to the effect that he be impeached for high crimes and misdemeanors, and to appoint managers to prefer articles of impeachment against him, and send him before the Senate for trial.

How, then, are the facts upon League's testimony? In 1850, League was a citizen and resident of Galveston, in the State of Texas. In the case of Jones *et al.*, vs. Thomas M. League, (18 Howard S. C. Repts., 77,) the court decided that League was a citizen of Texas on the 1st of July, 1850, notwithstanding his temporary removal to Maryland. On or about the 1st day of July, of that year, Mr. League acquired a title to this sixty thousand acres of land by grant of J. D. Cordova, as attorney in fact of Sophia St. John. In anticipation of that purchase, he consulted with Judge Watrous in respect to the purchase and in respect to the great profits likely to arise out of it. What then takes place? Judge Watrous confederates with League and others, as partners in the profits likely to result from the purchase, to the extent of one fourth part in his own right, amounting to fifteen thousand acres, and worth \$75,000, as the proof shows, his share of the land, as also of the whole tract, being estimated to be worth five dollars per acre. But how shall he make sure of this title? He is the man, and it is an indisputable fact that he is the first man, who suggested the transfer of that title to Mr. Lapsley, a non-resident of the State of Texas. For what purpose? For no other purpose, I undertake to say, than the corrupt intent to deprive the persons in possession of the benefit of a trial by a jury of the vicinage. Under the eleventh section of the judiciary act of 1789, League, holding the title and being a resident citizen of Texas, could not bring his suit in the Federal court. That section has been repeatedly construed by the Supreme Court

of the United States to mean that each of the persons, citizens of any other State, entitled to sue in the Federal court, must be competent, by reason of their non-residence in another State, to sue in said court. That where there is a joint interest among several, each must be a non-resident, or jurisdiction cannot be entertained. (*Ward vs. Arrodenda et al.*, Paine's C. C. R. 410; *Strawbridge vs. Curtis*, 3 Cranch, 237, and 2 Cranch, 9.)

Now, if League had taken the deed to himself, Watrous, and Lapsley, in common, Watrous and League, being citizens of Texas and holding a joint interest with Lapsley in the lands, could not avail themselves of the benefit of Judge Watrous as a Federal judge, to take jurisdiction of the cases in his court. That League and Watrous expected and intended to institute suit for the lands is clearly although reluctantly confessed by League and sworn to by him. (See pages 204 and 205 of League's testimony.) As suits were to be brought, to try which Judge Hughes had to be retained, and a retaining fee of \$500 for these suits to be commenced paid to him, it became absolutely necessary, that Judge Watrous might obtain jurisdiction of these suits in his own behalf, to make over the entire legal title then in League to a citizen of another State! Accordingly Watrous and League did it, and for that purpose.

If Watrous did not suggest to League the persons in Alabama, Lapsley and others, in order to give himself and League this benefit of having this darling project of gain and profit committed to his keeping as the sole judge of the Federal court for the district of Texas, then, pray, for what purpose did he do it? Was he really desirous to extend the great profits of the purchase to non-residents of the State from mere charity; or was he anxious to reduce his own anticipated gains, by inviting these non-residents to share with him and League to the extent of one half the so-much-coveted prize? I do not believe it.

But, sir, it was decided by Judge Watrous absolutely necessary to transfer the title. Gentlemen have undertaken to say that this transfer became necessary in order to procure the money to pay for the land. I tell the gentlemen who say so, that they have not looked carefully into the evidence. League, the confederate of Watrous, swears that he held at that time the legal title himself; that he had secured the payment of the purchase money to the vendor, by his note, indorsed by a third party; and that the purchase money was not, at the time, a lien upon the property. Why, then, did he and Watrous go to Alabama to find men able to advance the sum of \$7,000? League was a man of property. And who believes that they could not raise \$7,000 within the limits of Texas, if they desired it? No, sir. He and Watrous went to Selma about the 9th of July, 1850—nine days after he had the title vested in himself, free from all incumbrance. Watrous has the title drawn up, transferring the whole body of this land to Lapsley, an inhabitant of Alabama, who holds, as secret trustee for himself and League, to the extent of one half, or thirty thousand acres; so that the suits might be brought before Judge Watrous, within his own court, to try the title to his own property. There was no other object or purpose in view. They intended by that transaction simply to vest Lapsley with the title, so that he might remove the causes for trial to Louisiana, and thus deprive the tenants in possession of the land of the benefit of a trial before a jury of the vicinage. It was a substantial denial of justice to the parties to trail them some six or seven hundred miles from home—men ill able to bear the expense—to defend their title to their property. And I undertake to say that if the fact had transpired before the circuit judge at New Orleans, that Lapsley held as trustee for Watrous, and was so vested with the title to give to Watrous jurisdiction, he would have dismissed the case from his docket, and denied the original jurisdiction of Watrous. Look at the evidence of this guilty purpose, as it stands out upon the face of this transfer to Lapsley. In the transaction of 9th July, 1850, when the absolute title was made over by League to Lapsley, we find that the deed did not convey the title to all the partners jointly. Yet League swears they were joint owners—he to own one portion of fifteen thousand acres, Watrous to own another portion of fifteen thousand acres, and the Alabama gentlemen, Lapsley, Frow, and others, to own

the remaining half of the land. Why not, then, make a joint deed? I will give you the answer to that. Because Judge Watrous, who was present, directing the matter and adapting the means to the end intended, knew that it was well settled that the true construction of the eleventh section of the judiciary act of 1789, as I have before stated, was, that all the parties jointly interested as plaintiffs must be non-residents and citizens of another State, in order to entitle them to claim the jurisdiction of the Federal court in Texas against residents therein. In order, then, to secure to Judge Watrous jurisdiction in his own case, he has the absolute legal title made to Lapsley, who is a citizen of the State of Alabama, and has, at the same time, a secret trust deed made, declaring on its face that Lapsley is the trustee of Watrous and League to the extent of half the land, worth, according to the proof here, \$150,000. And what did League and Watrous pay for this? Not one dollar, to this day. They gave their note to Mr. Lapsley for \$5,500, payable in five years.

These are the facts, Mr. Speaker, which lead me to the conclusion that Judge Watrous, in entering into the speculation, in hunting up a man outside of the State of Texas, to take the actual title, and in concealing his own interest in the suits, could have had no other object or purpose than to secure to himself the control of the suits involving his own interest, and to deprive the tenants of their legal right to a trial, as against him and League in the State courts of Texas. That was as much a corrupt and oppressive abuse of the jurisdiction of the Federal court in Texas as if Watrous himself had held the absolute title at the time, and had gone over to Alabama and hunted up a man of straw there, and conveyed the title to him, without any consideration, and in secret trust for himself exclusively, and then come back and had suits instituted in his own court, to establish his own title! Does any man stand here to say that that would not be a misdemeanor within the true intent of the Constitution, and impeachable as such? I admit that Watrous had the right to buy land. I admit that he had the right to go into partnership with League in the purchase of land; but I say that as a Federal judge he had not the right, and was not at liberty, under the obligations of his office and his official oath, to enter into a combination for the purpose of depriving a suitor within his jurisdiction of his legal right, to have a fair trial before a jury of the vicinage. Such an act done by a judge, with such an intent, in my judgment is as distinct an offense as was ever committed against any man in a court of justice, by a minister of the law. Such an act, in my judgment, is a high crime, for which the guilty offending judge should stand impeached. Such conduct in a judge should clothe him with infamy as with a garment.

But, say gentlemen, what evidence have you of the intent? I have answered that question already. What evidence, I ask them, have you of the criminal intent of any man, except the proof of a fact inconsistent with his obligations under the law, and his duties to his fellow-citizens? You infer the criminal intent under that wholesome rule of the law that a man is held to have intended the consequence of his own deliberate act. The legal and necessary consequence of this act of Judge Watrous in transferring the title to this property from League, a citizen of Texas, to Lapsley, a citizen of Alabama, was to put it in his own power to transfer the jurisdiction from the State courts of Texas to his own court, and thus to enable him to have control of the cases, to the injury of the suitors in his court, and to the absolute exclusion of their legal rights as against him and League. Did he not intend this result from his act? He could have intended nothing else.

It seems to me that it is not necessary that I should waste the time of the House with any further remarks in regard to this matter; but I ask the House, when it comes to make up and pronounce its judgment, to bear in mind that the facts which I have stated are testified to by League himself, and are most abundantly established. To be sure, Mr. League did not condescend to tell us exactly on what day of the month of July, 1850, he got the title himself. In regard to that, as in regard to other matters, he is a little oblivious of the facts; but one thing is very certain, that he had the title before, and when he and

Watrous went together in person to Selma, Alabama, to execute the conveyance to Lapsley; for he says the conveyance was drawn from his own deed! (p. 204.) By the recital in Mrs. St. John's deed, (p. 207,) the deed of her attorney, Cordova, to League, was made about the 1st day of July, 1850; so that these gentlemen had about nine days to go to Selma to make and conclude the arrangement, and transfer these lands in secret trust to Lapsley!

Now it seems to me that under circumstances of this kind, this gentleman may well be held to answer upon the proof, and to show any other intent than that I have assigned here, for traveling all the way from Texas to Alabama to find a man in whom he might vest his title in secret trust for himself. He certainly could have accomplished that in Texas. He could have found men in Texas capable of taking the title, and to whom he could have as securely committed this secret trust. The reason assigned by this Mr. League, and by those gentlemen who have opposed the impeachment here, that Watrous and League went to Selma to get some person to advance the purchase money, is, in my opinion, just no reason at all, in the light of the fact established by the testimony of League, that he had before that time purchased and obtained a deed for the land, and had given his bond and secured the purchase money, and that there was no lien on the land for any part of it. Then I ask again, why these two men traveled so far to find a trustee? The answer is that they did so simply in order to enable that trustee to bring suits and to enforce their claim to the land in Judge Watrous's own court, and thus to give him the control of the whole matter for his own benefit, and to the direct injury and wrong of the then claimants and occupants.

It is no answer to the conclusion at which I have arrived for gentlemen to say that Judge Watrous had manifested a desire to have some of these suits brought in the State courts. He never manifested that desire until after he had been detected in this criminal combination. I want to see the proof that Judge Watrous manifested any desire to bring any suits in the State courts of Texas until the complaint and accusation had been made against him by Alexander, and the fact had leaked out to the public that he held an interest in these lands, secured by a secret trust.

You will also note the other fact in passing here, that Judge Watrous did not record this trust up to the time of his accusation, nor indeed has it yet been recorded so far as the proof shows; yet, sir, upon its face it was expressly agreed that it should be recorded in the proper county court in Texas. The registry laws most generally, if not universally, provide that the withholding the deed from record within the time prescribed shall work a forfeiture of title in any case where a transfer shall be made to a third party without actual notice; still all this risk of a grant by Lapsley to third persons without notice must be run by Judge Watrous, for the simple purpose of enabling him, without suspicion from any quarter, to entertain jurisdiction of a suit in which he was personally interested, and which in point of fact, as the proofs show, he got up for his own especial benefit. The accusation is established. Lapsley was invested with this title to enable him, under the act of 1789, to bring suits for these lands before Judge Watrous by Judge Watrous's own act and for Judge Watrous's own benefit, as well as for the benefit of his trustee, whom he would, of course, reward for his services in that way, and for the benefit of his confederate League; and with the criminal intent, therefore, of depriving the persons in possession of these lands of their rights under the laws to a fair and impartial trial in the courts of their own State and by a jury of the vicinage. And this conduct of Judge Watrous, I submit, is a high crime, a perversion of justice, and a denial of right, which ought to be punished and for which there is no remedy but by impeachment.

I shall, therefore, upon this view of the case, without detaining the House longer, be constrained to vote for the resolution appended to the report of the Judiciary Committee, which is in terms, "that John C. Watrous, United States district judge for the district of Texas, be impeached of high crimes and misdemeanor."

Mr. HOUSTON. Mr. Speaker, the pressure

upon all sides for the termination of this debate, induces me now to ask for the previous question.

Mr. STEPHENS, of Georgia. I wish very much to address the House briefly upon this question, but not this evening. I trust, therefore, that the previous question will not be sustained, and I promise the House not to trespass upon their attention for more than half an hour to-morrow morning.

Several MEMBERS. Go on now.

Mr. STEPHENS, of Georgia. I have some extracts to which I desire to refer, but I did not bring them up with me to-day. I promise the House not to detain them longer than half an hour in the morning.

Mr. HOUSTON. As it seems that there are gentlemen who desire to address the House this evening, and as the vote cannot be taken before to-morrow, I will not insist on the previous question if any gentleman will go on now.

Mr. EUSTIS. I move that the House do now adjourn.

[Loud cries of "No!" "No!"]

Mr. STEPHENS, of Georgia. I believe I have the floor.

The SPEAKER. The Chair did not understand whether the gentleman from Alabama yielded the floor or not.

Mr. HOUSTON. I only yielded the floor to the gentleman from Georgia temporarily. I indicated that I should ask for the previous question, but I stated also that if any gentleman desired to go on now, I would withhold the call for the previous question for that purpose. I feel bound, under what I stated to the House yesterday, and under the frequent calls that have been made upon me to do so, to ask for the previous question, and thereby put it in the power of the House to do as they please. Whatever may be the decision of the House, I shall be satisfied. If the House chooses to continue the debate, I have no objection.

Mr. CURTIS. I believe the gentleman from Georgia has the floor, and I ask him to give way for a motion that the House do now adjourn.

Mr. STEPHENS, of Georgia. I will yield for that purpose, if I have the floor.

The SPEAKER. The Chair recognized the gentleman from Georgia under the supposition that the gentleman from Alabama had yielded the floor. The gentleman from Alabama states, however, that he had only yielded it temporarily, for a particular purpose, which the Chair does not understand to be in the nature of a surrender of the floor, and the gentleman from Alabama, before resuming his seat, as the Chair understands, demanded the previous question.

Mr. HOUSTON. Yes, sir.

Mr. KEITT. As the gentleman from Georgia desires to address the House, and I have no doubt the House desires to hear him, and as the House may also be disposed to wind up this discussion, which has gone on for a considerable length of time, I suggest that the matter be arranged by agreeing to take the previous question to-morrow at half-past one or two o'clock.

[Loud cries of "Agreed!"]

Mr. CLARK B. COCHRANE. Say one o'clock.

Mr. KEITT. Well, one o'clock.

[Cries of "Agreed!" "Agreed!"]

Mr. STEPHENS, of Georgia. That will suit me.

Mr. KEITT. Let the previous question be ordered at one o'clock to-morrow, and the House can adjourn now.

Mr. SMITH, of Tennessee. I move that the House adjourn. That motion, I believe, is in order.

Mr. HOUSTON. I do not feel authorized, so far as I am concerned, to accept any modification of my own motion. If the House desires to hear the gentleman from Georgia they may do so by voting down the previous question and adopting the proposition of the gentleman from South Carolina. I shall have no objection to that. But, so far as I am concerned, I do not feel at liberty to make any such motion.

Mr. STEPHENS, of Georgia. The gentleman from Alabama says he has no objection to the proposition of the gentleman from South Carolina. [Mr. KEITT.]

Mr. KEITT. Then let us adjourn now.

Mr. SMITH, of Tennessee. I have moved an adjournment.

Mr. DEWART. I ask the yeas and nays on the motion of the gentleman from Tennessee.

Mr. KELSEY. If the House now adjourns, will the gentleman from Georgia be entitled to the floor in the morning?

The SPEAKER. The Chair thinks not.

Mr. KELSEY. Then I hope the House will vote down the previous question before we adjourn, so that we may hear the gentleman from Georgia. For one, I wish to hear his views upon this question. My own mind is not made up in regard to it, and I desire to get all the light I can before I am called to vote upon it.

Mr. STEPHENS, of Georgia. The gentleman from Alabama stated that he had no objection to the arrangement suggested by the gentleman from South Carolina.

Mr. SMITH, of Tennessee. All the difficulty will be obviated by an adjournment now.

Mr. LOVEJOY. Are remarks in order at this time?

The SPEAKER. The question of adjournment is not strictly debatable, but the Chair has indulged gentlemen in suggestions with a view of accommodating this matter.

Mr. CLARK B. COCHRANE. It seems to me that the matter might be accommodated by an agreement that the previous question shall be sustained at one o'clock to-morrow.

Mr. SMITH, of Tennessee. I insist on my motion that the House do now adjourn.

Mr. DEWART. And I insist on the demand for the yeas and nays.

Mr. JONES, of Tennessee. I wish to suggest to the gentleman from Alabama, that he waive the demand for the previous question until the House can indicate its sense upon the proposition of the gentleman from South Carolina, that the previous question shall be called to-morrow at one o'clock.

Mr. HOUSTON. So far as that is concerned, I will say that the House has the whole power over the question. If they prefer that the previous question shall be sustained to-morrow at one o'clock, they can vote down my motion and adopt the proposition of the gentleman from South Carolina.

Mr. GROW. I ask the Speaker to put the question upon the proposition of the gentleman from South Carolina, and see if any one objects.

Mr. LOVEJOY objected.

Mr. BURNETT. I hope the gentleman from Tennessee will withdraw his motion to adjourn; let us vote upon the demand for the previous question, and then the House can adjourn.

Mr. SMITH, of Tennessee. Very well; I withdraw the motion.

The House then refused to second the previous question—ayes 62, nays 96.

Mr. STEPHENS, of Georgia, obtained the floor, and yielded to

Mr. EUSTIS, who moved that the House adjourn; which motion was agreed to.

And thereupon the House (at twenty minutes before four o'clock) adjourned.

IN SENATE.

WEDNESDAY, December 15, 1858.

Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT signed the following enrolled bills which had heretofore received the signature of the Speaker of the House of Representatives:

A bill (H. R. No. 356) for the relief of Roswell Minard, father of Theodore Minard, deceased; and

A bill (H. R. No. 565) to confirm the land claim of certain pueblos and towns in the Territory of New Mexico.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate of the 10th of June, 1858, information respecting stock held by foreigners in ocean mail steamers, covered by the flag of the United States, running between New York and Liverpool, New York and Havre, and New York and Bremen; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of James Royce, of Arkansas, against the admission of Kansas into the Union as a slave State; which was ordered to lie on the table.

Mr. DAVIS presented the petition of Mrs. H. B. Macomb, widow of General Alexander Macomb, praying a pension; which was referred to the Committee on Pensions.

Mr. CLARK presented the petition of Frederick Griffing, praying payment of an amount claimed to be due to him for land purchased by the Secretary of the Navy for the navy-yard at Brooklyn; which, with his papers already on file, was referred to the Committee on Claims.

Mr. PEARCE presented the petition of Ann Scott, widow of William B. Scott, deceased, praying that authority be given to the accounting officers of the Treasury to allow her a commission upon the disbursements of her husband as pension agent; which was referred to the Committee on Naval Affairs.

Mr. SEWARD presented the petition of Samuel Lockwood, a commander in the Navy, praying to be allowed expenses incurred in defending himself before the court of inquiry established by the act of January 16, 1857; which was referred to the Committee on Naval Affairs.

He also presented the memorial of the watchmen in the Washington navy-yard, praying to be allowed the benefits of the second section of the act of 12th June, 1858, making appropriations for the naval service; which was referred to the Committee on Naval Affairs.

Mr. BIGLER presented the petition of Henry G. Carson, administrator of Curtis Grubb, late of the firm of Curtis & Peter Grubb, praying the payment of a final-settlement certificate, with interest; which was referred to the Committee on Revolutionary Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed a resolution for the appointment of a committee whose duty it shall be to digest and revise the rules of order, and to suggest alterations and amendments, and report the same for the action of the House at an early day in the next session, and authorizing this committee to join such committee as may be appointed by the Senate, to revise the joint rules of the two Houses; and had appointed the Speaker, Mr. WINSLOW, Mr. GROW, Mr. BOCKO, and Mr. ISRAEL WASHBURN, the committee on its part.

PUBLICATION OF BOOKS.

The VICE PRESIDENT. There was forwarded to the Chair last spring a memorial by a Mr. Beebe, of the State of New York, which by some accident or neglect was mislaid. The memorialist requested that it should be read to the Senate. As it is very brief, the Chair will direct the Secretary to read it.

Mr. SEWARD. Who is the memorialist?

The SECRETARY. Pierre Ogilvie Beebe.

Mr. SEWARD. What is it about?

The VICE PRESIDENT. It will be read.

The Secretary read it, as follows:

To the Senate of the United States:

The author of a work on American law, in minute questions adapted to Kent's Commentaries, with examples of answers to the first part, respecting the law of nations, humbly shows that he desires to publish the same under the patronage of Congress, with a corresponding appropriation, because, without such aid, from the abstruse and simple nature of the work, he fears it may not be brought into use with that zeal, tact, and judgment, which its intrinsic merit will justify; and as it was abundantly examined and approved by the chancellor, in his life time, the voice of posterity silently prays that his research should not be slighted, while from the brief specimen of the annexed examples, since prepared, your petitioner hopes it will appear to your honorable body and the House of Representatives, whom he begs to harmonize in the solicited appropriation, that it will be proficuously serviceable to those branches of legal science which legislators, people, and sovereigns are interested to promote. PIERRE OGILVIE BEEBE.

UTICA, NEW YORK, March 24, 1858.

Mr. SEWARD. The memorialist is in the lunatic asylum at Utica. [Laughter.] I move that his memorial be laid on the table.

The motion was agreed to.

Mr. SEWARD. I present the petition of James O. Wright and his comrades, publishers, at No. 377 Broadway, New York, setting forth that, there being a great deficiency of copies of the

Book of Mormon, they have produced a new and accurate edition. They state that they are informed, by many persons in whose opinions they confide, that one of the most effectual means of winning back the victims of the lamentable and wide-spread delusion of Mormonism, would be to give the Book of Mormon a large and free circulation throughout the United States, and that the Book of Mormon does not sustain the gross superstitions and errors believed and practiced by that sect. For these reasons they respectfully pray the passage of a resolution to publish copies of this book for distribution throughout the United States. I move that the petition be referred to the Committee on the Library.

Mr. PEARCE. I move that it be laid on the table. I do not think it is worth while to refer such petitions to the Committee on the Library. It will only give us the trouble of making adverse reports, I presume.

Mr. SEWARD. If the chairman of the Committee on the Library is satisfied that the committee understand the question which is involved, that is whether the Book of Mormon does not give countenance to the practice of that sect, I should not object to that proposition.

The VICE PRESIDENT. Does the Senator from New York insist on his motion?

Mr. SEWARD. No, sir.

The VICE PRESIDENT. The petition will lie on the table.

METROPOLITAN RAILROAD.

Mr. PEARCE. I have been requested to present a memorial of numerous citizens of Montgomery county, Maryland, praying that Congress will authorize the Metropolitan Railroad Company to connect their proposed road with the Baltimore and Ohio railroad, by a track through the cities of Washington and Georgetown. I understand that this company was incorporated some years ago by the Legislature of Maryland, and that Congress gave their assent to their laying down their track within the District of Columbia as far as Georgetown. They propose now that Congress may authorize them to lay down a track from Georgetown to this city, to carry a branch of it to the navy-yard, and to connect with the Baltimore and Ohio railroad at their depot, and in consideration of that to carry the mails of the United States free to and from the city of Baltimore and their proposed junction with the Baltimore and Ohio railroad, at or near the Point of Rocks, below Harper's Ferry. The memorialists are very respectable people, and I think their memorial is so couched as to entitle it to candid consideration at the hands of Congress. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

THE IRON TRADE.

Mr. CAMERON. I submit to the Senate, with a request that it be printed for the use of the members, a memorial and other documents relating to the manufacture of iron in Pennsylvania, published by the convention of ironmasters which met in Philadelphia, on the 20th December, 1849; and other additional statistics, furnished by members of the American Iron Association, and I wish to make a few remarks explanatory thereof.

In table 47 of the annual report of the Secretary of the Treasury, of last year, he gives the yearly average price of pig iron in New York for thirty-eight years, from 1820 to 1857; which, I find, making an average for the whole time, to be \$34 20. The duty on this price, at thirty per cent., would have been \$11 26 per ton; under the tariff of 1824 it was \$10; 1828, \$12 50; 1832, \$10; 1833, \$9 47 4-5; 1837, \$9 23 4-5; 1839, \$8 47; 1841, \$5 20 4-5; 1842, \$9; 1846, thirty per cent.

I find, also, that the duty under the tariff of 1842, on rolled bar iron, was \$30 per ton, and on other bars \$18 per ton.

In 1828 the duty on rolled bars was \$37 per ton; on other bars, \$22 40 per ton.

Under the act of 1832 the duty was reduced.

In 1839 on rolled bar iron it was \$21 40 per ton; on other bars, \$15 32 4-5 per ton.

In June, 1842, on rolled bars, \$13 60 per ton; other bars, \$12 87 1-5 per ton.

By the act of August, 1842, on rolled bars, \$25 per ton; other bars, \$17 per ton.

By the act of 1846 it was made thirty per

cent. *ad valorem*, and by the act of 1857 reduced again to twenty-four per cent.; and under the last act the business broke down.

Referring to the Secretary's report, it will be seen that the average price of pig iron for twelve years, from 1846 to 1857, inclusive, was \$29 06, and that at thirty per cent. the duty would have been \$8 70. From 1848 to 1852 the average price was \$23 54, and at thirty per cent. the duty was \$6 76; and yet the total consumption of iron and steel and the manufactures thereof, imported, was during these five years of low duty but \$84,326,254; whereas during the next five years, from 1853 to 1857, inclusive, the consumption was \$134,432,328, although the price had risen to \$33 20, and the duty at the same rate would have been \$9 96, instead of \$6 76; showing conclusively that a low price and a low duty do not increase the imports or the revenue. It follows, that this low rate of duty is not the revenue standard.

The tables furnished by the Secretary are a conclusive answer to the theory of *ad valorem* duties on iron, and prove that it is alike opposed to the interests of the Government and of the consumers of foreign iron and steel. This I proceed further to demonstrate.

At pages 85 and 86 of the printed memorial of the ironmasters of Pennsylvania, are given certificates from machinists and consumers of iron in Philadelphia and Boston, who concur in saying that they do not find the low prices of foreign iron any advantage in their general business, and for the reason that they find the consumption greatest and business most satisfactory when remunerating prices are general, and when all branches of business are in full activity. The Boston manufacturers, who consume twenty-four thousand five hundred tons per annum, say:

"The consumption of our manufactured articles falls off when the manufacture of iron languishes, and orders fail us when foreign iron is plenty and cheap."

The reason of this is given in the letter of Mr. John A. Wright, who says:

"The average number of men employed at a charcoal furnace, making 1,000 tons pig iron per year, is not less than 70—making a population, immediately dependent, of not less than 350. The average number of horses and mules is not less than 50. The amount of grain used will not vary much from 2,500 bushels of wheat, 3,000 bushels of corn, 3,000 of oats, 1,000 of rye, 80 tons of hay, and 3,000 bundles of straw. The amount of merchandise sold, near \$8,000; and, in addition, there is a large amount of bacon used; and the farmer finds a market for all the vegetables and truck he will raise. His butter, eggs, veal, potatoes, &c., articles which will not bear transportation to market, and what is no unimportant item, saving a large quantity of manure to be used at home to enrich the soil."

The same letter says that the effect of the erection of furnaces is, that lands which otherwise would not be worth more than from \$1 to \$5 per acre, sell for \$40 and \$50 per acre.

We find, from the Secretary's table, that the production of pig iron, which, until 1820, was but 20,000 tons, had, in 1855, risen to 1,000,000 tons. If we apply the data given by Mr. Wright to the million of tons, we find that if 1,000 tons employ 70 men, then 1,000,000 will require 70,000. If 1,000 tons support 350 persons, then 1,000,000 will support 350,000. If 1,000 tons employ 50 horses, 1,000,000 will employ 50,000 horses. If 1,000 tons require 2,500 bushels of wheat, 1,000,000 will require 2,500,000; 3,000,000 bushels of corn, 3,000,000 bushels of oats, 100,000 bushels of rye, 80,000 tons hay, 3,000,000 bundles straw, \$8,000,000 worth of merchandise, and, in the same proportion, bacon, beef, eggs, butter, vegetables, &c.

The advocates of low, *ad valorem* duties, place their theory on the basis that the price is regulated by the demand. I ask them to estimate what the relative effect on the prices of their great staples of agricultural produce would be if the three hundred and fifty thousand persons engaged in and dependent on the manufacture of pig-iron, instead of being consumers of these agricultural products were engaged in agriculture? What would be the effect on the price of agricultural products in the interior, and especially in the remote parts of the great West, if there were no railroads or steamboats to cheapen transportation? And how are the railroads and steamboats built? Are they not the result of the surplus profits, and the credits resulting from the profitable employment of our labor?

How can the three hundred and fifty persons dependent on the manufacture of one thousand

tons of pig iron, consume \$8,000 worth of merchandise? Is it not because the seventy men who are employed in its manufacture earn at least \$21,000 per annum; a part of which pays for the merchandise, and a part for the agricultural products which they consume? Do gentlemen who advocate a mere revenue duty take into consideration the facts, that by diversifying labor—that by employing seventy men in making iron, we give employment to many more in agriculture, who by the supply of these seventy men aid their families with provisions, &c., obtain the means of consuming foreign imports, and thus contribute their proportion of the revenue? Do the opponents of an increased duty upon iron take into consideration the fact, that unless the duty be so increased as to enable our ironmasters to compete with foreign iron, the three hundred and fifty persons now dependent on the iron manufacture must become agriculturists, and that the effect must be a redundant supply, and that the value of the whole agricultural produce, increased as the quantity will be, will be diminished in the rate of excess? for there will be an increased quantity without an increased consumption. This, then, is the solution of the fact, that the consumers of iron find that their business is less profitable when foreign iron is abundant and cheap. It is because the introduction of cheap foreign iron, at a low rate of duty, ruins the home manufacture, and by depriving the farmers of a home market for their surplus produce, deprives them of their ability to purchase.

This memorial embraces other important facts. We find, by tables given on pages 99 and 100, that the price of pig iron, in Glasgow, has varied from \$33 75 to \$10 39½, and that the price of bar iron has varied \$69 59 to \$25, and that the best iron was charged at from \$6 25 to \$8 50 *extra price*. Can any one of the advocates of a low, *ad valorem* duty, explain the reason why the price of iron should fluctuate so much in the British market, or can any one justify a system of duties liable to so much uncertainty as a system of *ad valorem* on prices so variable? But the uncertainty and fluctuation in prices are not the most valid objections to a system of *ad valorem* duties on British iron. It is known that the British manufacturers produce a cheap article for our market, made of the refuse material which is unfit for use; but being low-priced, and paying but little duty, is introduced and placed on our railroads, and by wear and breakage is the cause of most of the accidents and loss of life by which the country is too often astounded. A moment's reflection must satisfy every intelligent person that, however applicable a system of *ad valorem* duties may be to other articles, it is a most unwise system for the duty on iron. It is a premium for fraudulent manufactures, and for fraudulent invoices. And who are benefited by it? Not the Government, for it diminishes the revenue. Not the railroad companies, because it is now understood that the wear on such iron is from fifteen to twenty per cent. per annum, whilst the wear on good American iron is about one per cent. only. Not the farmers or planters, not the consumers of iron; because none of these can, or will use this fraudulent stuff. What, then, is the remedy? I can see no other but a specific duty, which will forbid the importation of this fraudulent article.

I would refer Senators to the letter of Mr. Reeves and to analyses which he gives, showing the relative cost of manufacture in this country and in England; and the manner in which the farmer, the miner, the owner of land, the railroad companies, and the capitalists, are benefited by the manufacture of iron. I would, also, refer Senators to the statements and tables explanatory of the manner in which the manufacture of iron has been fostered and strengthened in England by duties as high as \$39 52 per ton, until it now defies competition, and will continue to do so until, by a wise system, we bring into use the abundant materials which would soon enable us to create the capital and organize the labor which will not only command our own market, but would enable us to compete with all others in the markets of the world.

In conclusion, I would add, that it will be seen that a specific duty will be a less *ad valorem* on the higher-priced iron, and will thus benefit the farmer, the planter, and the workers of iron, who all use the better and higher-priced bars; whilst it will exclude the low-priced bars, made for sale

to our railroad companies, who will be benefited by the use of a better quality. We have seen that an *ad valorem* duty of thirty per cent. on the average price in the New York market, for the last five years, will be \$9 96. I venture to say that the iron masters will be content with a specific duty of nine dollars per ton on pig iron, and of eighteen dollars per ton on bars.

I move that the usual number of copies of this memorial be printed for the use of the Senate.

The VICE PRESIDENT. That motion will, under the rule, go to the Committee on Printing.

Mr. FITCH, from the Committee on Printing, subsequently reported in favor of printing the memorial; and the motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BIGLER, it was

Ordered, That the petition and papers of the heirs of Stephen Moylan, deceased, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. COLLAMER, it was

Ordered, That the petition and papers of Mrs. Emily L. Slaughter, widow of Commander Slaughter, of the United States Navy, praying for a pension, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. BAYARD, from the Committee on the Judiciary, to whom were referred the joint resolution (S. R. No. 13) in relation to certain liabilities assumed by the State of Wisconsin, and three memorials of the Legislature of Wisconsin, praying the adoption of such measures as will secure to that State the amount due from the sales of public lands therein, asked to be discharged from their further consideration, and that they be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the Milwaukee and Rock River Canal Company, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 469) to equalize the compensation of the Ministers to France and England during the periods therein mentioned, reported it without amendment.

Mr. DIXON, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution offered by Mr. BELL, providing for an allowance to the unmarried daughters of Isaac Holland, late Assistant Doorkeeper, of \$150 for funeral expenses and an amount equal to one quarter's salary of the deceased, reported in favor of the resolution; and it was adopted.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Interior relative to expenditures by the Government in the District of Columbia, the number and value of lots and of those now owned by the United States in the city of Washington, and the estimated value of private property in said city, reported in favor of the motion; and it was agreed to.

NOTICE OF A BILL.

Mr. IVERSON gave notice of his intention to ask leave to introduce a bill to allow back pay to certain officers of the Navy, who were dropped or put on the furlough list, by the action of the late retiring naval board, and who have been subsequently restored or placed on the "leave list."

BILL INTRODUCED.

Mr. BIGLER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 472) for the relief of Henry G. Carson, administrator of Curtis Grubb, deceased; which was read twice by its title, and referred to the Committee on Revolutionary Claims.

CLAYTON-BULWER TREATY.

Mr. CLINGMAN. I ask that the resolution in regard to the Clayton-Bulwer treaty, which I offered on Monday, be now taken up.

The VICE PRESIDENT put the question, and declared that the yeas appeared to have it.

Mr. CLINGMAN. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 25; as follows:

YEAS—Messrs. Bates, Bayard, Benjamin, Bigler, Brown, Clay, Clingman, Davis, Fitzpatrick, Green, Houston, Iversen, Johnson of Tennessee, Jones, Folk, Reid, Rice, Sebas-

tian, Shields, Slidell, Stuart, Toombs, Ward, and Wright—24.

NAYS—Messrs. Broderick, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Hammond, Harlan, Hunter, King, Mason, Pearce, Seward, Simmons, Trumbull, Wade, and Wilson—25.

So the motion was not agreed to.

AGRICULTURAL COLLEGES.

Mr. STUART. I ask the Senate to take up a bill from the House of Representatives, which was passed by that body at the last session. I allude to the bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

Mr. GWIN. At one o'clock, the unfinished business must be taken up, which is the Pacific railroad bill; and I think the Senator had better wait until that time. His bill will certainly lead to a good deal of discussion if it be brought up. I wish the Senate to take up the Pacific railroad bill at one o'clock.

Mr. FITZPATRICK. I wish to say to the Senator from Michigan, that I have received a communication from the Senator from Ohio, [Mr. PUGH], in which he informs me that circumstances over which he has no control have detained him at home, and that he will be, in all probability, detained for several days yet. He feels an interest in this bill; I think he was a member of the Committee on Public Lands when the bill was before that committee. He requested me, when the bill should be brought up, to say to the Senate that he wanted to be heard, and heard fully on it, and that it would be out of his power to be here sooner, perhaps, than the last of the month. I suppose these facts were not known to the Senator from Michigan, for I feel assured that if they were known to him, he would not ask the Senate to take up the bill and have action on it before the Senator from Ohio could be heard on the subject. Under the circumstances, I trust the Senator from Michigan will not insist on the bill being taken up and discussed at the present time.

Mr. STUART. Mr. President, if I understand the Senator from Alabama, he states that the Senator from Ohio does not expect to be here until the last of this month. On the very first day of the session, I gave notice to the Senate that I should call this bill up, as soon as the Senate should be usually full. I gave the notice in order that Senators who desired to speak on the subject, or to vote on it, might have a reasonable opportunity to be here; but I certainly think it would be very unreasonable to ask me to postpone calling for the consideration of this bill until the last of this month, thus disposing of one third of the session, in order to give the Senator from Ohio an opportunity to be heard against it. If this were the long session, the application now made would present a very different case; but to take one third of the whole session, it seems to me, is asking a courtesy that, however much I should be glad to oblige the Senator, would be really omitting a proper discharge of my own duty.

Now, one word, sir, in regard to the suggestion that fell from the Senator from California. I think it is perhaps tacitly understood that the Pacific railroad question may go over until Monday. If there be any conflict of opinion upon that point, it will be time enough to decide it when the hour arrives for taking up that bill; but I think, perhaps, the Senator will find that the friends of the measure will prefer that it should go over until Monday. What I desire is, on my part, and I think I may speak for the friends of this bill generally, not a discussion upon the question, but a vote upon it. As a matter of course, Senators who are opposed to it will take their own time to deliver their views on the subject, but I hope we may get a very early vote upon the question.

I will recur again for an instant to the point on which I first spoke, simply to say to my friend from Alabama, that I would go as far as my sense of public duty would permit me to oblige the Senator from Ohio, or any other gentleman here; but I really think that, inasmuch as he is not to be here until the last of this month, it would not be a proper discharge of my duty as chairman of the committee to accede to his request. I hope the Senate will agree to take up the bill.

Mr. FITZPATRICK. I will state to the Sen-

ator from Michigan, that the Senator from Ohio is detained by sickness; not, to be sure, in his immediate family, but in his family connections. He informs me that, unless there be an absolute necessity for his being here, he does not know that he can come sooner than the time I before mentioned; but he will endeavor to get here as soon as possible. He feels a deep interest in this bill. I am not on the Committee on Public Lands, and hence will not undertake to speak authoritatively of what occurred in that committee; but, if I understand the case correctly, the bill to which the Senator alludes never received the sanction of a majority of that committee, of which the Senator from Ohio was a member. It is a bill of great importance, one which he says should be discussed and thoroughly understood before it receives the sanction of the Senate. In addition to the absence of the Senator from Ohio, the Senator from Arkansas, [Mr. JOHNSON], who is also a member of that committee, is detained at home in consequence of the indisposition of a member of his family.

It seems to me that with these facts before the Senate with regard to a bill which did not receive the sanction of the Committee on Public Lands, when two of the members of the committee who oppose the bill are absent, and one of them expresses an anxiety to be heard upon the bill, it would not be fair, nor would it be in accordance with the usual courtesy of the Senate, to force the body to action upon it. We all know that before the holidays there is not much important business transacted—especially not business of a general character. Local matters are taken up, and matters of imperious necessity; but here is a bill that proposes to grant a vast quantity of land to the several States to endow colleges, which is not sanctioned by a majority of the Committee on Public Lands, and two members of that committee absent, one of whom desires to be heard upon it. It does seem to me that the Senate ought not to force action on this bill until the Senator who is anxious to be heard can be informed of the fact. I shall inform him as early as convenient, and when the Senate come to some conclusion, let my friend from Ohio know what is the action of the Senate on the subject.

Mr. SHIELDS. I beg leave to state to the honorable Senator who has charge of this bill, that Minnesota was a Territory when the bill was introduced, and there was, therefore, no provision in the bill for her, as I understand. It is necessary that there should be some examination of that matter. I have not had time to prepare an amendment to satisfy that case, and consequently I am hardly prepared to act on the bill now.

Mr. SEWARD. Mr. President, if we give all the weight that can be justly claimed for the arguments of the Senators from Alabama and Minnesota, they only go against a decision on the merits of this bill to-day. I see very little reason to believe that if the bill was taken up and debated, we should be able to reach a decision to-day. I do not see the least reason on earth why the bill, if it is ever to be brought up, should not be brought up now, and let those who desire to debate it, have an opportunity to do so. It will be then time enough to consider the propositions made to postpone it for the convenience of those Senators who may not be prepared for the final vote, or who, being absent, may wish to be here before it is finally passed. I hope the bill will be taken up.

Mr. MASON. I have understood generally—other Senators are better informed upon the subject—that the probability is that the friends of the bill introduced by the Senator from California may desire to lay it over until some day next week. But whether that be done or not, I shall feel it incumbent on me to ask the Senate to-day, at as early an hour as practicable, to proceed to the consideration of executive business. There are some matters of urgent necessity requiring to be acted upon in executive session, which may occupy an hour or two, or possibly more; and if it is agreeable to the honorable Senator from California, I will make that motion now. I shall ask the Senate of necessity to go into executive session at a sufficiently early hour to dispatch what the public business seems to require. I believe, however, that there is a question pending.

Mr. SEWARD. Let us have the question on taking up this bill.

Mr. MASON. I cannot move for an executive session now, there being a motion pending to take up a bill.

Mr. STUART and Mr. FITZPATRICK called for the yeas and nays on the motion; and they were ordered.

Mr. HALE. As the yeas and nays have been ordered, I feel bound to say that, although I am a friend to this bill, and desire to secure its passage, I shall vote against taking it up now, because I do not think there is time for it at present, and I do not consider it fair to the Senator from California, who has another measure pending which is of great importance.

The question being taken by yeas and nays on Mr. STUART's motion, resulted—yeas 24, nays 24; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Kennedy, King, Seward, Shields, Simmons, Stuart, Trumbull, Wade, Wilson, and Wright—24.

NAYS—Messrs. Bates, Benjamin, Bigler, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hale, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mason, Polk, Reid, Rice, Sebastian, Shidell, Toombs, and Ward—24.

The Senate being equally divided, the Vice President voted in the negative.

So the Senate refused to proceed to the consideration of the bill.

EXECUTIVE SESSION.

Mr. MASON. I move that the Senate proceed now to the consideration of executive business.

Mr. DAVIS. I ask the Senator from Virginia to postpone that motion long enough to enable us to take up the Calendar and dispose of those cases on which adverse reports have been made. We weekly print the order of business, and I find that there is a constant reprinting of the titles of bills on which adverse reports have been made. Probably, in some cases on which I made adverse reports myself, the expense of this continual reprinting has exceeded the amount claimed, and we had better pay the money to the claimant than pay it to the Printer for constantly repeating on the order of business the names of bills and the adverse reports made upon them. I should be glad to have them disposed of during this week, so as to avoid the expense of reprinting them for next week.

Mr. MASON. I would yield with great pleasure to the honorable Senator; but there are so many of those adverse reports that I am now informed that even reciting them by their titles will occupy a considerable time. Perhaps we had better take some interval when it can be done with greater convenience.

Mr. SEWARD. With the leave of the honorable Senator from Virginia, I wish to ask the chairman of the select committee on the Pacific railroad—the Senator from California—whether he assents to this motion to go into executive session, and whether he intends to call up the Pacific railroad bill to-morrow?

Mr. GWIN. I believe it is in order at all times to move that the Senate go into executive session, without disturbing the order of business. The Pacific railroad bill is now the unfinished business of yesterday; and if we go into executive session at this time, it will come up to-morrow at one o'clock, as the unfinished business.

Mr. SEWARD. You intend to call it up then?

Mr. GWIN. Yes, sir.

The VICE PRESIDENT. The Pacific railroad bill is now properly before the Senate as the unfinished business of yesterday; but the Chair understood the Senator from Virginia to appeal to the Senator from California to allow him to make the motion for an executive session, and that motion is the pending question.

Mr. MASON. The Senator from California assented to it. It does not derange the order of business.

Mr. GWIN. No; it does not derange the order of business. The railroad bill will come up to-morrow.

Mr. MASON's motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 15, 1858.

The House met at twelve o'clock, m. Prayer by Rev. G. W. DORRANCE.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting copies of contracts entered into for the transportation of the mails to foreign countries; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Also, a communication from the Secretary of State, asking for authority to pay the salaries of certain foreign ministers out of balances of former appropriations; which was referred to the Committee of Ways and Means, and ordered to be printed.

CHANGE OF TARIFF.

Mr. COMINS. I give notice that I shall, on some early day, introduce a bill regulating the duties on imports, and for other purposes, with a view of increasing the rate of duties as to several of the schedules under the present law, of levying specific duties upon iron and several other articles to which they can be properly applied.

Mr. BOWIE, by unanimous consent, introduced the following resolutions; which were referred to the Committee on Agriculture:

Joint resolution in relation to the tobacco trade of the United States with foreign nations.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the trade in tobacco with Great Britain, France, Spain, Portugal, Austria, Brazil, and all other foreign nations, is clogged with restrictions and limitations, wholly inconsistent with that fair and reciprocal condition of commerce which ought to exist between the United States and those nations respectively; and is, therefore, unsatisfactory to the States of Virginia, Kentucky, Maryland, North Carolina, Missouri, Tennessee, Ohio, and Connecticut, in which the article of tobacco is an important, if not the chief staple, of agricultural production.

SEC. 2. Be it further resolved, That it is the duty of the Federal Government to use its utmost power, by negotiations or other constitutional means, to obtain a modification or reduction on the part of said foreign nations, of the duties and restrictions imposed by them on the importation of American tobacco, and to this end to employ all the diplomatic and commercial powers which the Constitution has confided to it, in producing a more just and equal reciprocity in a trade so deeply involving the value of that portion of the agricultural labor of the country in which at least one fourth of the Confederacy is concerned.

SEC. 3. Be it further resolved, That the treaties of the United States with China and Japan present a fair and fitting occasion for the enlargement and extension of the tobacco trade of the United States, and it is the duty of the Government of the United States to use all their exertions within the limits of constitutional power, to foster and encourage the introduction of American tobacco as an article of use among the people of those nations.

SEC. 4. Be it further resolved, That diplomatic negotiations with England, France, Spain, and Austria, as well as with China and Japan, ought to be commenced as soon as practicable, by the Government of the United States, with the view of obtaining a modification of the existing systems of revenue and taxation of those nations, in respect to American tobacco; and for this purpose instructions ought to be given to our foreign ministers, consuls, and commercial agents in those nations by the Executive of the United States, to use all their constitutional and legitimate functions in producing so desirable a result.

APPOINTMENT OF MIDSHIPMEN.

Mr. HUGHES. I ask the consent of the House to introduce a bill to provide for the appointment of midshipmen in the Navy where vacancies occur under the provisions of the law now in force.

Mr. GROW. I object.

Mr. HUGHES. Due notice has been given.

The SPEAKER. The bill cannot be introduced if objection be made.

Mr. HUGHES. Then I take this occasion to say, that I shall hereafter object to everything which requires unanimous consent.

GALVESTON CUSTOM-HOUSE.

Mr. REAGAN. I ask the consent of the House that Senate resolution (No. 54) for changing the plan of the custom-house in Galveston, in the State of Texas, which was passed by the Senate and sent here a few days ago, may be taken up and referred.

Mr. BRYAN. The bill is merely to change the plan of a custom-house within my district, and I hope it will be referred to the Committee on Commerce.

The bill was read a second time, and referred to the Committee on Commerce.

IMPEACHMENT OF JUDGE WATROUS.

The House then resumed the consideration of the resolutions submitted by the two branches of the Committee on the Judiciary, on which the gentleman from Georgia [Mr. STEPHENS] was entitled to the floor.

Mr. STEPHENS, of Georgia. In compliance with the promise I made yesterday, I propose to address myself to the House this morning for a very brief space of time. An analysis of all the facts set forth in the voluminous mass of evidence before us would require too much time. That is not my object. It would be useless to do so. But there are some matters connected with the subject I wish to be heard upon. This is the first case of impeachment which has ever come directly before me, since I have been a member of this House, for consideration and action. I shall, in what I say, attempt to lay down some general principles by which my own conduct shall be governed in this and all like cases. I feel it due to myself, due to the party, due to the country, and also due to the House.

It has been said in this debate that this is the first instance of impeachment, in this country, of a judicial officer, where there has been an imputation upon his integrity and honesty—where corruption has been charged. I believe that is true. It is a matter of congratulation to us, looking at our past history; and I think the same cannot be said of any other country upon earth with a history as long as ours. This of itself gives an interest to the question before us, which, in its very nature, is one of the gravest character. The power we are called upon to exercise is a great one. It is a wise power; it is a right power; it is a just power; and it ought to be justly exercised. We are acting, however, under limited powers; and I do not know that I should have addressed the House at all, had it not been for principles and doctrines advanced by some gentlemen, by which we should be governed, to which I do not assent.

What offenses are impeachable? Some gentlemen have argued that "misdemeanor" is a term in the Constitution used, in contradistinction to that conduct known as "good behavior," during which a judge can hold his office. To demean is to behave, and to misdeemean is to misbehave; and any misbehaviour is a misdemeanor—that is their argument. I do not, sir, agree to that construction of the word "misdemeanor" in that clause of the Constitution under which we are acting. The Constitution authorizes us to impeach for "treason, bribery, and other high crimes or misdemeanors." What is to be understood by this term "misdemeanor"? Is it whatever a majority of this House, or a majority of the Senate at any one time may think is *misbehavior*? I think not. From the days of *magna charta* in England, and much more so in the United States under our Constitution, no man can be deprived of life, liberty, or property, "*aut aliquo modo distruiatur*;" or in any other manner be injured in his *estate or reputation*, but by the judgment of his peers, and the *laws of the land*. The offense must not merely exist in the breasts of a majority—questions of propriety, questions of what may be deemed good behavior or not; but it must be some offense known to the law or Constitution; and I will lay down the broad principle that the offense, to be impeachable, must be within one or the other of the classes of acts, known to the law either as *mala prohibita*, or *mala in se*.

Now, sir, some have asked if no act is impeachable by this House except such as violate some statute of the United States? I am free to say that my individual opinion is that none others are; and before you try a man for violating a law, you must make the law, or declare it; and where there is no law, there is no sin. Either in the Divine or human codes, where there is no law there can be no transgression. No man ought to be arraigned and tried for anything, unless in the act complained of he has violated some law. But it is not necessary for me to urge these individual opinions upon this occasion. I do not intend to do it, because, in the precedents of our past Government, it has not been practically recognized, and for all essential purposes, so far as this case is concerned, it is not necessary to do so. This, however, is the commencement of a criminal prosecution, and it must be prosecuted according to the known rule of law as recognized by the precedents, at least;

and according to them it must be for a violation of some one or more of the great principles of the common law.

This, I state, is the practice of the Government, and I do not care to deviate from it in this case. It is settled by the highest authority; and I refer the House to what Judge Story has said upon the subject, in his treatise upon the Constitution of the United States. I believe it will be admitted that this eminent jurist, of whom our country may well be proud, of whose fame this generation may be proud, whose name extends wherever civilization extends and civil jurisprudence has a foothold, was highly federal enough. That he was in favor of giving the Government quite as much power as it ought to possess, I think will be conceded. Now, in considering the power of impeachment, and the offenses which are impeachable, he says:

"The next inquiry is, what are impeachable offenses? They are 'treason, bribery, or other high crimes and misdemeanors.' For the definition of treason, resort may be had to the Constitution itself; but for the definition of bribery, resort is naturally and necessarily had to the common law; for that, as the common basis of our jurisprudence, can alone furnish the proper exposition of the nature and limits of this offense.

"The only practical question is, what are to be deemed high crimes and misdemeanors? Now, neither the Constitution nor any statute of the United States has in any manner defined any crimes, except treason and bribery to be high crimes and misdemeanors, and as such impeachable. In what manner, then, are they to be ascertained?"

He goes on to say that they are to be ascertained by the common law; and I beg leave to read particular parts of what he does say:

"It is the boast of English jurisprudence—and without the power of impeachment would be an intolerable grievance—that in trials of impeachment the law differs not in essentials from criminal prosecutions before inferior courts."

Some gentlemen have argued this case as if it was not in the nature of a criminal prosecution. In my judgment it is a criminal prosecution of the very highest order; in England it is undoubtedly so, because the loss of the life of the party was often the result of the judgment. It is true, that in our Constitution we have limited it; with us, the result of a conviction is disqualification from holding office. It is, nevertheless, here as there, as Judge Story says, in the nature of a criminal prosecution. Now, mark you:

"The same rules of evidence, the same legal notions of crime and punishment prevail."

"The same legal notions of crime." Gentlemen said yesterday that any conduct which would disqualify a party from occupying a seat on the bench, is misbehavior. What, sir, is misbehavior? What different notions people have on the subject—it is often a matter of taste. "*De gustibus non est disputandum*," is an old maxim. There is nothing that there is more difference of opinion about, than what constitutes misbehavior, or good behavior. But to go on:

"Impeachments are not framed to alter the law, but to carry it into more effectual execution where it might be obstructed by the influence of too powerful delinquents, or not easily discerned in the ordinary course of jurisdiction, by reason of the peculiar quality of the alleged crimes."

Again:

"It seems, then, to be the settled doctrine of a high court of impeachment, that though the common law cannot be a foundation of a jurisdiction not given by the Constitution or laws, that jurisdiction, when given, attaches, and is to be exercised according to the rules of the common law; and that what are and what are not high crimes and misdemeanors, is to be ascertained by a recurrence to that great basis of American jurisprudence."

Judge Story did not go to the extent of the Federal doctrine, that there is an American common law under which indictments may be found; but he says that the common law is our guide, and that when the statute is silent on an offense in the high court of impeachment, rules to ascertain the nature and extent of crimes have to be determined by that great basis of American jurisprudence.

Now, sir, one more extract, and I will drop this authority, for it is uniform:

"It is not every offense which, by the Constitution, is so impeachable; it is not every offense even against the common law that is impeachable; it must not only be an offense, but a high crime and misdemeanor."

That is what Judge Story says. We are first to determine the offense according to the principles of common law, and then it must be a high crime and misdemeanor under that. To this extent he lays down the rule, and on this principle I shall consider this case. These are the general

principles I intend to apply to the facts of this case.

All that he has said in this debate about the purity of the bench, and the importance of preserving the judicial robes unsullied and untarnished, I fully concur in. Every word that has been uttered on that point I endorse. I would have the ermine of your judges as unstained as my honorable friend near me, [Mr. VALLANBHAM,] who declaimed so eloquently on that theme the other day; and if there was a single fact in the case which led me to believe that the purity of the bench had been tainted in the person of Judge Watrous, I would not withhold my vote to send this case as charged—that he is guilty of having used a forged instrument knowing it to be forged—to the Senate.

What, then, are the accusations and what are the facts? I propose, Mr. Speaker, to present to this House succinctly the gist of this accusation. I will not undertake to detail all the minutiae of the case, but merely the strong points—those on which the impeachment must or ought to stand or fall. I am not giving my views to the House for the purpose of influencing any gentleman's mind; I am only giving the views which govern my own action. I have drawn from the memorial of the parties the gist of what I consider to be the accusations in this case.

First, there is the memorial of Spencer, stating that, in 1850, Watrous, while judge of the United States court for the district of Texas, purchased or acquired an interest, *secretly and under cover of another man's name*, in a certain eleven-league grant of land in Texas, with the understanding and intention of litigating and determining the validity of said eleven-league grant in the Federal court of Texas, of which he was the sole presiding judge.

That is the gist of the first charge. Well, Mr. Speaker, if that were true, I do not hesitate to say that, according to the principles laid down, we ought to vote to have this case sent instantly to the Senate, and the Senate ought instantly to convict him, or as soon as the charge could be proved. I do not hesitate to say that notwithstanding this is not an indictable offense by the statutes of the United States, it would be by the common law a high crime and misdemeanor; and if he were guilty of it he ought to be impeached on those principles. But how stands the fact? The allegation is that Judge Watrous became interested, *secretly and covertly*, in a certain title, with the purpose of litigating it in his own court. If there was one particle of evidence, from the beginning to the end of this case, establishing that charge, I have not read it. He with others bought a tract of land; that is true. But I have not seen any evidence that he intended to litigate the title in his own court. In the whole volume of evidence—that seems to have been a drag-net, bringing up everything—there is not a particle of evidence which I have yet seen that he either acquired his interest *secretly*, or intended to litigate the case in his own court. So far as the charge of secrecy is concerned, the testimony shows that quite a number of persons knew of the purchase at the time it was made; Judge Hughes, of Texas, knew it, and Mr. Love, the clerk, testifies that he knew it from common hearsay.

And then as to the intention of adjudicating the validity of his own title in his own court, the testimony shows that even before the writs were filed, when he first saw them in the clerk's office, he spoke of his interest. Here is the testimony:

"Mr. Love, sworn, says: He [Judge Watrous] came into my office at the time the writs were being issued, I think, and said, in substance, 'this is one of my cases; I am interested in this case. You will lose your fees, because they will have to go elsewhere to be tried.'"

The same fact he disclosed and spoke of openly in court at the April term, to which they were returned in 1851. There is not a particle of evidence going to show that he ever concealed the fact from mortal man. The allegation is attempted to be sustained only by persons who never heard of it; and who cares for the testimony of a hundred thousand witnesses of that character? Not only the clerk, but the record shows that this his interest was announced in court, and he refused to act or pass orders in those cases involving the validity of his title. There is not, then, one particle of evidence to show that there ever was an intention that his interest should be concealed.

But, Mr. Speaker, it was argued yesterday that the conduct of Judge Watrous was fraudulent and corrupt because he made the purchase with a view corruptly to transfer the case from Texas to New Orleans. The evidence conclusively and completely refutes the first charge of intending to try it himself, and the argument now is, that he corruptly bought the land in order that the case might be transferred to another State. The original accusation against him failed, and now he is pursued with a distinct disavowal of the original ground of accusation with another wholly inconsistent with the first.

Well, sir, League, according to his evidence, was a non-resident of Texas, and the gentleman from Ohio [Mr. BINGHAM] said yesterday that he was a partner with Watrous, and that the title was given to Lapsley, in order to get the case into the Federal court. Now, Mr. League, himself, was a non-resident, and had a right to bring the case in the Federal court. Is not that straining the evidence a long way, in order to cast an imputation upon Judge Watrous, where there is not a particle of evidence?

Mr. BILLINGHURST. Allow me to say that the Supreme Court of the United States has decided that he was not *bona fide* a non-resident and dismissed the case which he brought upon that ground after Judge Watrous had decided in such a way that he was held to be a non-resident of Texas.

Mr. STEPHENS, of Georgia. When was that? At what date?

Mr. BILLINGHURST. It was in the case of *League vs. Jones et al.*, which is reported in 18 Howard.

Mr. STEPHENS, of Georgia. They decided that League was not a non-resident?

Mr. BILLINGHURST. Yes, sir; the court decided that he had removed to Maryland for the purposes of litigation, and hence turned him out of court.

Mr. STEPHENS, of Georgia. When was that decision made?

Mr. BILLINGHURST. In the December term, 1855.

Mr. STEPHENS, of Georgia. That does not at all interfere with my argument. The Supreme Court may have decided that he was not a *bona fide* non-resident; but if he sued as such in the Federal court, that showed that he thought he was, and would not have got Lapsley joined in the purchase for the purpose of suing in that court. The decision that he was not, made long after this transaction, could not have influenced his motive at the time of the trade.

I come now, sir, to the second allegation. The first charge has been substantially abandoned, and the second is, that several suits were brought in the Federal court of Texas, of which said Watrous was sole judge, in the year 1851, to test the validity of said grant; that they continued pending there until 1854. In the mean time various orders were entered in said causes, said Watrous acting as though no such interest on his part existed; that during this period of nearly four years, he fraudulently and corruptly concealed his interest in the subject-matter of litigation before him; that his interest was finally detected and became publicly known; then the cases were transferred to the Louisiana circuit.

Well, sir, if this charge be true; if, as stated, he did act in his own case; I say according to the principles laid down, put the brand of infamy eternally upon him. But, sir, when I take up this book of testimony, I see that when the writs were filed, Judge Watrous announced his interest, and published it to the bar, and that from the beginning to the end, he never passed a single order on the merits of the case. Here is the testimony:

Mr. Love, the clerk, swears:*

"Question. Do you recollect the occasion when you first heard the subject mentioned in court?"

"Answer. When the cases were called in court, Judge Watrous said distinctly, (I have the minutes and memoranda of the court, and I know it was then,) 'I am interested in these suits.' Somebody wanted an order in these cases; says he, 'I will give you no order in these cases, for I would not touch them with a forty-foot pole.'"

Again, the minutes show this order:

"John W. Lapsley vs. Charles Duncan.

"This day came the parties by their attorney, and thereupon the judge presiding having stated that he could not sit in this cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood,

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in a part of the subject-matter in contest, the said parties by their attorneys agree that this cause be removed and transferred for trial to the district of Austin."

Now, sir, in the face of this record, it is asserted that he acted in his own case, and kept his interest secret for four years, until he was detected—that is, from 1850 to 1854. Why, the accusation is utterly disproved; the testimony is directly to the contrary.

Mr. BILLINGHURST. Did I understand the gentleman from Georgia to say that Judge Watrous's interest was discovered at the first term after these causes were instituted? The causes were instituted in January, 1851, and this entry on the record was not made until January, 1852. Two terms intervened before it was made.

Mr. STEPHENS, of Georgia. This is the way I read it:

"At the United States district court for the State of Texas, held in the city of Galveston, on the 21st May, 1851," &c.

Mr. BILLINGHURST. The gentleman will find that the entry he has just read relates to "continuances." If he will read from the record before him a few lines further on, he will find that the judge did not make the disclosure of his interest until January 4, 1852.

Mr. STEPHENS, of Georgia. That does not affect the merits of the case at all. When his interest was disclosed or announced, the case was, and it ought to have been, continued. The great fact is, that his interest was not concealed, and that he made no order touching its merits. This the record shows, while there is not a single witness who testifies that Judge Watrous ever designed at any term, or ever did, in fact, conceal his interest for a single moment. The testimony is positive that the announcement was made when the writ was issued, before it was filed even, and that he never made a single order in the case, except to continue by agreement of attorneys until the transfer was made.

Mr. REAGAN. I desire to ask the gentleman from Georgia if he is apprised of the fact that Spencer states that he never knew of Judge Watrous's interest, until the order for the transfer was made.

Mr. STEPHENS, of Georgia. I know nothing of Spencer's statement, further than appears upon the record; nor would his statement, under the circumstances, have much influence with me. For any man who comes before the House of Representatives of the United States, and charges a high judicial officer with having concealed his interest in a case for four years, during which time he took orders in his own case, and was then detected, when there is not one solitary fact to prove the allegation, but the contrary appearing, as in this case, I say that a man who thus deliberately make such a groundless charge, for the purpose of blackening the character of another man, high or low, I would not believe under oath in anything. But whether his statement be true or not, whether he knew of the interest of the judge or not, is not the question.

Mr. CRAIGE, of North Carolina. Pascal swears that he knew of the interest long before the time when Spencer says it was detected in 1854.

Mr. REAGAN. He knew it; but he said he received his information in a way in which he did not feel authorized to make it known to any one.

Mr. CRAIGE, of North Carolina. Pascal was an enemy of Judge Watrous, and had no object in concealing it.

Mr. STEPHENS, of Georgia. That is immaterial. Why, sir, Alexander came here in 1852, and tried to get Judge Watrous impeached, not for the matters now alleged; and this same interest of Judge Watrous was then disclosed or spoken of before a committee of this House.

Mr. REAGAN. I ask the gentleman from Georgia to point to a word or syllable in this record which discloses the interest of Judge Watrous.

Mr. STEPHENS, of Georgia. The order which I have just read, shows it.

Mr. REAGAN. That order was made two

years after the case was filed. It was made in 1852.

Mr. STEPHENS, of Georgia. The order was made in January, 1852, the suits were brought in January, 1851, returnable to April term 1851. His interest was then disclosed as proved, and the cases continued by consent of parties. If Judge Watrous ever passed any order in any one of these cases touching the merits of the cause, I defy any gentleman to point it out. I have looked for it in the testimony in vain. Yet Spencer says he took orders in his own case for four years, until his interest was detected.

I now, sir, pass to the third charge. It is, that after the transfer of said cases to the Louisiana circuit, and on the trial of the issue involving the validity of the title in which said Watrous was so corruptly interested, under said grant, the plaintiffs, Watrous's associates and confederates, amongst other documents, introduced what purported to be a certain power of attorney from one La Vega and others, to one Williams, dated the 5th May, 1832, which said instrument, or pretended power of attorney, was a forgery, and known as such to the parties offering the same, and all of which was done with the previous knowledge, advice, and assent of said Watrous, judge as aforesaid.

This allegation is, that when his interest was detected; when, as judge, he could not try and pass upon his own case, it was transferred to New Orleans. He followed there; and as one of the links in the chain of his title, he caused his confederates to offer an instrument which was forged, and which he knew to be forged.

I say again, if that be true, condemn him, according to the rule laid down. If that be true, if it is supported by a single particle of evidence even of probable cause, I will say, let his impeachment be voted. But so far from it, there is not a particle of evidence even that he ever saw this La Vega power of attorney in his life. It was never read to him, and he never saw it. It was one of the links in the chain of title; but whether it was forged or not, there is no evidence to show that Judge Watrous knew it. I call upon the gentleman to show the evidence that Judge Watrous knew it to be a forgery.

Mr. REAGAN. I call the attention of the gentleman to the record made by Judge Watrous himself upon the trial of Ufford vs. Dykes, upon a judgment by default, and upon writ of equity awarded, where there was no resistance by the defendant. Judge Watrous charged the jury, on that trial, that the title was good and conveyed the land. And these were the identical title papers under which Watrous claimed his interest in the La Vega grant, the same concession, same power to locate, and the same power of sale.

Mr. STEPHENS, of Georgia. Did he say he knew it was forged? If he said the title was good, does that show that he knew it was forged?

Mr. REAGAN. That is not the point.

Mr. STEPHENS, of Georgia. It is precisely the point. How can you sustain a charge against Judge Watrous on the ground of this forged instrument unless he knew it was forged?

Mr. MILLSON. The gentleman has made a concession which I do not think he intended to have made.

Mr. STEPHENS, of Georgia. Perhaps the gentleman will not think so when he hears me through.

Mr. REAGAN. I have seen the gentleman's adroitness before in avoiding the point at issue; and now he essays to display it at my expense; and I wish to show how he does it. He asserted that the judge never saw the power of attorney; but he has passed over the allegation that the judge never saw the power of attorney, and contented himself with saying that he did not know it was a forgery. My point is, that Judge Watrous could not have adjudicated the default case before him without looking, at the time of the suit, at the power of sale, and he was bound to look at it.

Mr. STEPHENS, of Georgia. What I said to the gentleman was, that there was no evidence,

no witnesses, to show that Judge Watrous ever saw it even, much less that he knew it was forged.

Mr. REAGAN. There is the record. Mr. STEPHENS, of Georgia. The record does not show that he ever saw the power of attorney. The gentleman draws an inference. In the case of Ufford vs. Dykes, this question was in issue; but the attorney says the power of attorney was not read; that the plaintiffs would not go to trial because he did not have it; that he permitted them to use his copy, but that no question was raised upon it, and that it was not read in court; and that when the defendants acknowledged its validity, then only the judge said that the title as admitted was good. But there is no evidence in the world that the judge ever saw it, or examined it, or knew anything about its genuineness. The gentleman argues inferentially that he did see it, but the testimony is that he did not see it; but if he had seen it, that would not prove that he knew it was forged.

Mr. REAGAN. The gentleman has shifted his ground again. I said he must have seen the title papers, when he charged the jury that the title was good, and conveyed the land at the time the default judgment was taken; but he has gone off, and answers me by stating what occurred on a subsequent trial of the same case, this default judgment having previously been set aside, and a new trial granted. And if, in the charge I speak of, there was no power of sale, then the judge gave a false charge, and ought to be impeached for that.

Mr. STEPHENS, of Georgia. Then let him be impeached for that; but I am dealing with the charges as they are preferred.

In reference to the case of Ufford vs. Dykes, I will say that the plaintiff claimed lands, and that this De la Vega power of attorney was a link in the chain of evidence; and it is said that Judge Watrous corruptly acted as judge in that case, because, in its trial, that link in the chain of title of the plaintiff was permitted to go before him, and he passed corruptly upon it. Now, suppose a judge, residing in this District, should buy a piece of land under the grant of Mr. Carroll, who held this whole tract of country, and a suit should be brought in reference thereto: the title to that piece of land would have to be traced in the court from the King's grant down through Carroll. I suppose it would be held by the gentleman from Texas and others that a judge of this District, who might hold his own title from the same source, could not sit on the trial of the case. It is monstrous.

Mr. MILLSON. I desire to suggest to the gentleman from Georgia that the power of attorney from La Vega was not a link in the chain of evidence in the case of Ufford vs. Dykes.

Mr. REAGAN. It was an essential link.

Mr. MILLSON. There were three eleven-league grants of land to the two Aguirres and La Vega, severally; and, although the two Aguirres and La Vega united in a power of attorney which was written upon the same paper, yet they were, in legal contemplation, separate and distinct powers. In the Ufford vs. Dykes case, the plaintiff claimed under Aguirre; and even though the judge might have known that the signature of La Vega was forged, it did not affect the power from Aguirre.

Mr. STEPHENS, of Georgia. If that were so—if the La Vega power of attorney was a link in the chain of Ufford's title—it is not corrupt necessarily, because the judgment in the case could not possibly ever have affected the judge's interest. I see no corruption in that; none in the world. But the truth is, that the judge did not see the power of attorney; it was not read; and there is not the slightest shadow of proof that he ever knew that it was the same paper. Not a single witness swears that Judge Watrous ever saw it, or knew that it was a forgery. The gist of the charge is, that a forged instrument was used in court; that the judge knew it, and sent it there. If so, according to the principles laid down he

ought to be impeached; but there is not a particle of proof, not a shade of a shadow, or a semblance of proof, to sustain any such charge, if it is true.

But, as I understand the fact, there was an issue of *non est factum* made upon that power of attorney in the Louisiana court; and, upon the trial, the jury found it was not a forgery.

Mr. REAGAN. They did upon the testimony of Hewitson, who swore that Gonzales was dead; and Gonzales came forward and testified as a witness in the case two years afterwards.

Mr. STEPHENS, of Georgia. I am not going to bring up all the records to show how it was done; but there was a judge of the Supreme Court of the United States presiding, all the witnesses were there upon both sides, and the result of the verdict of twelve men was, that the paper was not a forgery. Now, I take it for granted that they were as competent to judge of that fact as this House is. Are you to say that that instrument is a forgery? Why, before you could impeach Judge Watrous upon this indictment, you are bound upon your oaths to say it was a forgery—which that jury could not do with all the evidence before them. You have got to say not only that it was a forgery, but that Judge Watrous *knew it*.

But, in addition to that, is the statement of the gentleman from Texas [Mr. BRYAN] the other day, from the private papers of Stephen F. Austin, executed in 1833, I believe, in which he alludes to this identical paper, and says it conveyed the power of sale. To my mind that is conclusive, if there was any other evidence wanting, that that power of attorney is good and valid.

Mr. REAGAN. My colleague never said what the gentleman supposes he did; and there are no such papers in the case.

Mr. BRYAN. My colleague says there were no papers in the case. My declaration upon this floor, the extracts I read, and the assertion that I would present to him and to any other persons the originals, should be sufficient to him and any other persons.

Mr. REAGAN. I spoke of the title papers, and in no one of them is that fact given.

Mr. BRYAN. The fact is given, and that is sufficient, without any title papers. I agree most thoroughly with the gentleman from Georgia.

Mr. STEPHENS, of Georgia. I must go on. I have stated the most prominent parts of this case. There is one rule which governs me, and I think it is a wise and good one. When any person makes an accusation against another's fair fame and reputation, and deliberately publishes what turns out to be a most gross and outrageous, if not malicious, charge against him, and I find that he has committed a great wrong against his fellow-man by accusing him falsely, I watch very closely the smaller matters of his accusation; and when those great matters are proven to be untrue, I apply another maxim of law to the smaller ones—*de minimis non curat lex*.

As to the rulings or errors in the Mussina case, in which it is not pretended that Judge Watrous had the remotest personal interest, I have read them all carefully; and this is what I have got to say to that: that if these were errors, Mr. Mussina could have appealed. In my judgment, he comes now falsely, and says he did not appeal because Judge Watrous would not let him.

Mr. REAGAN. If the gentleman will allow me, I will show him that it was impossible for him to appeal?

Mr. STEPHENS, of Georgia. I will.

Mr. REAGAN. Well; let me tell the gentleman that by the action of this judge, a married woman and a minor child, resident in Mexico, were made parties defendants—the one without a husband and the other without a guardian in the jurisdiction or under the power of the court; and Mussina never could have had the necessary papers served on them to bring up the appeal as to them, and without them no appeal would lie. The matter was so ingeniously arranged by the judge that there was no possibility of appeal.

Mr. STEPHENS, of Georgia. Did Mussina make that point before the judge?

Mr. REAGAN. He could not. When could the point have been made?

Mr. STEPHENS, of Georgia. When the error was committed, why did he not except then and take it up to the supreme court? Why could he not? and why did he not? He did not; and it is a pretext for him to do so now. I do not think there

was any error in these rulings. In my judgment, every ruling of the judge that is complained of was right. That is my opinion as a lawyer. But if there was any error in them, our judicial system provides for the means of correcting errors of judgment; but not by impeachment.

Mr. REAGAN. I wish now to have the gentleman from Georgia answer this question: Was it right in the judge to admit a party to the suit to swear as a general witness, in his own case, against the objection of the adverse party?

Mr. STEPHENS, of Georgia. As to all such questions as serving notices and interrogatories, it is uniformly allowed by the courts.

Mr. REAGAN. But I ask whether a party should be admitted as a *general witness*? Let the gentleman go the whole length of the record.

Mr. STEPHENS, of Georgia. State the point in the record.

Mr. REAGAN. I ask you if it was right in the judge—

Mr. STEPHENS, of Georgia. Just wait. If there was error in that, why not have excepted to it, and have it taken to the Supreme Court?

Mr. REAGAN. I have answered, that Mussina could not do it.

Mr. STEPHENS, of Georgia. Why?

Mr. REAGAN. For the reason that the necessary process could not be served on the married woman and minor child, who resided in Mexico, and whom Judge Watrous improperly and unlawfully took jurisdiction of.

Mr. STEPHENS, of Georgia. Why did he not except to that?

Mr. REAGAN. He did except.

Mr. STEPHENS, of Georgia. Why not bring it to the Supreme Court?

Mr. REAGAN. I stated in my argument the other day, an additional reason that Mussina believed that the appeal taken by Shannon would have settled his own case.

Mr. STEPHENS, of Georgia. Does Mussina show that he ever thought that Shannon's case carried up his?

Mr. REAGAN. He employed Mr. Benjamin as his counsel in that appeal, and did not know that Shannon's case did not carry his until Mr. Benjamin told him that it did not.

Mr. STEPHENS, of Georgia. He went to see Mr. Benjamin, to get him to defend his case, after nearly five years had elapsed, and Mr. Benjamin swears that he did not understand what case Mussina was talking about; so little did he know about it, that he could not describe it correctly. But he had ample time to appeal after Mr. Benjamin told him of the defect; and Judge Watrous notified his lawyer after Mr. Benjamin's opinion was given, that he was ready to certify the appeal when he complied with the terms of the law. But he did not do it.

Mr. REAGAN. In justice to Mr. Mussina let me say that Mr. Benjamin did not state that that was the fault of Mussina, but a mistaken inference on his part. He supposed that Mussina referred to another case in which his name was mentioned.

Mr. STEPHENS, of Georgia. Well, let those things go for what they are worth.

Now, Mr. Speaker, to return. As to all these rulings, as my attention has been directed to them out of the line of my argument, and by which so much time, unexpected, has been consumed, I repeat, in my judgment, they were correct; witnesses were allowed where their interest was mutually balanced; and in one instance complained of, the preponderance of interest was against the party calling the witness. In my judgment every one of them was correct. But a sufficient answer for me is that if there was an error of judgment, an appeal might have been taken, and if the party lost his appeal by *laches*, he cannot now get redress by impeachment.

Mr. REAGAN. If the gentleman will allow me time, I will show how often he tried to get an appeal.

Mr. STEPHENS, of Georgia. Not now. I have talked with some gentlemen on this matter, who told me that they think it was wrong in Judge Watrous to have gone to Alabama and join with citizens of that State to buy these lands. All that I have got to say on that is, that it was no offense; and I say further, that if Judge Watrous was the man that they pretend to think he is, and charge him to be, Spencer, instead of complaining of what he did, ought to thank him for it, for

if he had not been interested, Lapsey could have sued in his court and got a trial before him—this most corrupt judge as they charge him to be. But as he became interested, the case complained of was transferred and tried before Judge Campbell; against him there is no charge or imputation. By the arrangement he got an able, competent, and acknowledged honest man to try his cause. If he lost it as he did, he has no reason to complain of Judge Watrous. No one pretends that justice has been defeated or anybody been wronged. If Spencer has lost his case, it was because the law was against him. The burden of his complaint now is, that, by the conduct of Judge Watrous, his cause was tried before an honest judge and impartial jury.

One word about the action of the Legislature of Texas. This was in 1848, not about any of these transactions; the reason why the Legislature requested him to resign, as I understand it, was because he held that certain statutes of limitation did not run until the parties got within the jurisdiction of the State of Texas.

Mr. REAGAN. That was not the cause of the action of the Legislature. The reason they requested Judge Watrous to resign was because he was believed to be engaged in dealing in fraudulent land certificates and fraudulent eleven-league grants.

Mr. STEPHENS, of Georgia. Well, at all events, Mr. Speaker, they could not have alluded to this transaction, because the resolution was adopted in 1848, and this purchase was not made till 1850. I do not think that spiritual rappings had been known so early as 1848, or that there was any *media* at that day, which could tell in 1848 what would be done in 1850, and from that on to 1854.

Mr. REAGAN. But, fraudulent certificates and fraudulent eleven-league grants were known then, if spiritualism was not.

Mr. STEPHENS, of Georgia. Then all I have got to say is, that the Legislature was worse than Mussina, for they allowed ten years to pass and have not yet brought witnesses to prove this fact. Mr. REAGAN. Will the gentleman stop there?

Mr. STEPHENS, of Georgia. Yes, right there. [Laughter.]

Mr. REAGAN. I offered to prove that before the Judiciary Committee during the last session. I went before them with a record of the circuit court of Louisiana for that purpose, and asked to have witnesses examined, as I have said before; but I was denied the privilege by the action of this House and the committee.

I also offered to prove that he had sold three fraudulent league certificates to Mr. Low, of Illinois, and swindled him out of about six thousand dollars, when he knew them to be fraudulent, void, and worthless; for which, by the laws of Texas, he subjected himself to a most ignominious punishment; but was denied the opportunity of doing this, too.

Mr. STEPHENS, of Georgia. Then it would have been much better to have proved it in Texas, and have had him whipped.

[Here the hammer fell.]

Mr. CLAY. I move that the gentleman have leave to proceed.

The SPEAKER. The gentleman from Georgia can only proceed by unanimous consent.

Mr. JONES, of Tennessee. I ask that the rule may be enforced.

The SPEAKER. The gentleman from Alabama [Mr. HOUSTON] is entitled to the floor.

Mr. HOUSTON. I am perfectly willing that the gentleman from Georgia shall go on as long as he chooses.

The SPEAKER. Objection has been made.

Mr. HOUSTON. It was not by me.

Mr. JONES, of Tennessee. I object to the rule being violated.

Mr. HOUSTON. I understand that the time at which I shall be entitled to address the House will be after the main question is ordered.

The SPEAKER. That is the opinion of the Chair.

Mr. HOUSTON. Then I demand the previous question.

The previous question was seconded; and the main question ordered.

Mr. HOUSTON moved to reconsider the vote by which the main question was ordered; and

also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HOUSTON. Mr. Speaker, it is utterly impossible, in the course of one hour, for any gentleman to debate the various points that arise in this case; and it is less in my power than it is in that of almost any other member of the House, because, naturally, I speak slowly. I shall, therefore, omit many of the matters that have been presented to the House, for the reason that it is my purpose to press those points only which I believe are conclusive in this case.

In what are we engaged to-day? Are we trying the guilt or innocence of Judge Watrous, as the gentleman from Georgia seemed disposed to argue? No, sir; we are not. We are only investigating the charges against him, in order to see whether those charges, under the proof that is before the House, make out a case that ought to be further investigated by the only tribunal that has power, under the Constitution, to pass upon the guilt or innocence of the party accused. And what is Judge Watrous doing? He is resisting, not the finding of his guilt; he is resisting a proposition which is pending before the House, that he shall be transferred to the Senate, where he can be heard in a fair, public, open trial, and where he can prove his innocence, if innocent he be. The resolution reported by that branch of the committee with which I concur, does not pass upon his guilt or innocence. It simply proposes to impeach him before the Senate for high crimes and misdemeanors, and to turn him over to the only court competent, under the Constitution, to try him. Gentlemen say, however, that if you send him to the Senate it is a stain upon his character. I would like to know how much more his character would be stained if he were sent before the Senate for trial, than it is now, with these clouds and charges hanging over him? Why, sir, it is but an act of justice to the party himself, if he be innocent, to let him go where he can vindicate his honesty and prove his innocence, and stand forth before the world without this stain upon his character.

Gentlemen have said, however, that the expense of sending him to the Senate will be great; and that it would be wrong to send him to the Senate, because it would consume time. Why, sir, that is no argument. It does not affect the merits of the case. If he ought to go to the Senate for trial, there is no consideration of expense or the consumption of time that ought to weigh with us at all; but he ought to be sent before that tribunal, where he might have a public trial, which would be satisfactory to the country, to the State of Texas, and which ought to be satisfactory to the judge himself. The gentleman from Georgia, however, says—and there I confess I do not understand precisely what ground he intended to occupy—that he does not consider that this House has the constitutional power to impeach, unless it be for the violation of some law, which violation is indictable in your courts, and punishable accordingly.

Mr. STEPHENS, of Georgia. What is that?

Mr. HOUSTON. I cannot repeat what I have said.

Mr. STEPHENS, of Georgia. The gentleman stated my position?

Mr. HOUSTON. Yes, sir; I was repeating what the gentleman avowed as his opinion; and yet the gentleman specified in the course of his argument, that he would impeach for many things which are not indictable under the common law, or under any statute of the country; so that his inconsistency is presented to the House in a few words.

Now, Mr. Speaker, if we cannot impeach a judge for anything short of a crime, for which he may be prosecuted, what security or protection has the country against the misconduct of a corrupt judge? Why, sir, there is security of some sort where the criminal laws take cognizance of, and punish offenses upon the part of a judge; but you have no security against the thousand and one things in which he may violate the rights of the parties who may come before him, and against whom he may corruptly use the machinery of his court, for which he could not be criminally prosecuted. If the doctrine of the gentleman prevails, the judge may go scot free, and the parties whose rights have been stricken down

must pay the penalty. And, Mr. Speaker, the dangers of the misconduct of a judge, arising from his malpractices in those cases which are not prohibited and made punishable by the criminal laws of the country, are much greater and more alarming than those that are thus punishable. In those cases where the law inflicts a punishment, if he is a bad man, he would be naturally inclined to avoid such indictable crimes. If, however, you establish the doctrine enunciated by the gentleman from Georgia, you will find that all judges who are disposed to be corrupt, will feel free from restraint. Such are controlled only by their fear of punishment.

But I would like to put a few cases which seem to me to settle that point too conclusively to require further examination. Suppose a judge should go upon the bench drunk, unfit to discharge the duties of his office: would the gentleman contend that he ought not to be impeached? Suppose a judge should speak to a lawyer who rises to address him, "Sir, you have no right to come into my court; I will not allow you to appear in my court." The lawyer says, "But, your honor, I was employed to appear in this case by Mr. A B; I am not aware that there is any disqualification resting upon me." "Sit down sir, you shall not appear in my court!" "Why not? am I not a member of the bar?" "Mr. Clerk, strike that man's name from the roll of attorneys." Is that an offense for which a judge could be prosecuted *criminally*? Certainly not. Yet every member of this House will admit that it is a proper case for impeachment. But why illustrate by these supposed cases, when there are cases, precedents, established by the House and the Senate, which are conclusive on the point. There is the case of Judge Peck, with charges precisely like this, whose trial was initiated in the House, and sustained by the House. Judge Peck was put upon his trial before the Senate, and the charges there investigated. It is true that two thirds of that body did not vote to convict him, but still the case was entertained and tried by the Senate, and the precedent is conclusive.

Again, sir, I hold in my hand, but have not time to read, an account of the trial of Judge Pickering, of New Hampshire. There were four articles of impeachment filed in the Senate against him. The last of the four was that he went upon the bench in a state of inebriation—when he was drunk; you could not indict a judge for that. There is no law in this country under which you could indict a judge for getting drunk or appearing upon the bench drunk; yet the House of Representatives, by an almost unanimous vote, sustained the articles of impeachment, and the Senate convicted him by a vote of nineteen to six or seven upon that charge. So it appears that Judge Pickering was impeached by the House, upon that with other articles, convicted by the Senate, and dismissed from his office. Can further argument be necessary? I presume not.

Another question upon which I will say a word or two, has arisen in the course of this debate; it is this: My friend from New York, before me, [Mr. CLARK,] argued that this case should not be sent to the Senate upon anything short of absolute proof sufficient to convict him before the Senate. He contends that the same proof which would be required to convict him in the Senate, would be necessary in this House to send him to the Senate for trial. This, Mr. Speaker, is a new doctrine in this country; it is a new construction of that clause of the Constitution relating to impeachment. I refer that gentleman to the case of Judge Peck, where the gentlemen who were defending the judge as well as those who were urging his impeachment, agreed that when there was probable cause for prosecution, probable ground of guilt, the House should impeach. The argument of Mr. Wirt upon that occasion is conclusive upon this question. He there took the ground that the action of this House was similar to that of a grand jury; that while the investigation of the House was not necessarily *ex parte*, the office of the House of Representatives was not to ascertain whether the party was guilty or innocent of the charges preferred against him, but whether the proof was sufficient to make the case *worthy of a further trial*.

Why, sir, if the office of this House was to ascertain the guilt or innocence of the party, where would be the necessity of a trial in the Senate?

I ask the gentleman from New York seriously, if his view of the duty of the House is the correct one, and was so intended by the framers of the Constitution, why send the case to the Senate at all, why not try it here? Why go to the additional expense and trouble of requiring the Senate to try him again? Sir, as conclusive proof that the gentleman is wrong, I need only refer to the fact that when a case goes from here to the Senate for trial, the members of that body resolve themselves, under a constitutional requirement, into a court; they, for that trial, become judges. They are called up and sworn to try the case as judges, and a two-thirds vote is necessary to convict. So that the gentleman must be mistaken. I put this case: suppose, in an investigation in this House, there was a contrariety of evidence, a conflict of proof, so that it embarrassed the minds of gentlemen to determine on which side was the preponderance: I would like to know what we should do in that case? Here are witnesses who prove charges against the judge which ought to cause his impeachment; here are other witnesses who swear differently; and in that condition of things the case is brought before the House. The minds of members may very well be in doubt; and yet will you turn that judge loose upon the country with that cloud hanging over his integrity, and tell the people of his district that they must have their rights adjudicated by him? Would my friend from New York [Mr. CLARK] have a judge sit upon his life, his liberty, or his rights of property, when the testimony of respectable men (as is true of the case before us) showed the fact that he was corrupt, notwithstanding there might be proof, to a greater or lesser extent, of a counter character?

Now, sir, the true rule is this, not that the House, as a mere grand jury, should hunt up its evidence from one side. It is our duty to get such evidence, if we can, as will present the true state of the case; not that we should go to the prosecutor alone, or to the other side alone, but that it is the duty of the committee, as it is the duty of the House, to examine into the truth of the case; to send for witnesses that they believe know the truth, and will tell the truth; and when those witnesses show a fair, probable ground of impeachment to exist, to send the case to the Senate, where the party may be fairly put upon his trial, and vindicated if innocent, or punished if guilty. My doctrine is that in a trial before this House—such a one as we are now engaged in—if doubt rests upon my mind, I should give the benefit of that doubt in favor of an outraged and injured people, in favor of a trial; and the very doubt which I would give here in favor of putting the party upon trial before the only court in which he can be tried, would induce me, were I a Senator, to acquit him. You cannot try the case in this House; and if you turn the party loose upon a mere balance of testimony, his character is not vindicated, and he is not in a condition to try causes. He is only in a condition to be brought before the House again, and have his case reexamined. It is the duty of the House, where there is shown to be a fair ground of an offense, such as is impeachable, to impeach the party accused.

I admit, Mr. Speaker, as a general rule, that a judge has the right to purchase and sell land, as other persons have; but I want you, and I want my friend from New York, [Mr. CLARK,] who sits near me, to tell me by the vote he shall give upon this resolution, whether Judge Watrous should not be impeached if he were to buy land the title of which was in litigation before his court?

Mr. CLARK, of New York. If he did, he would have disqualified himself from deciding the title.

Mr. HOUSTON. He would have disqualified himself for the performance of a portion of his duty, and my friend would say, "impeach him for it." If that is true, (and I am satisfied I do not misunderstand him,) I would like him to tell me the difference in principle between the two cases? What is the difference between the case where the property is then in litigation before the court of which he is judge, and the case where the parties (as I think I will show of the case under discussion) agreed, at the time of the purchase, that the case should be brought into litigation in his court? I assimilate this case to one where a judge goes upon the bench drunk. In that case he ought to be impeached. Why? Because he disqualifies

himself for the discharge of his duties; and because he brings disrepute upon his court. The judge who enters into a speculation of land, the title of which is disputed, and disputed upon the same ground that the large mass of the real estate of the country is disputed, he disqualifies himself to that extent for the discharge of his duties; and being thus disqualified by his own act, he still holds his office and receives the emoluments. I assert that a judge has no right to disqualify himself by either mode; and if he should do so he should be impeached.

But gentlemen say that Judge Watrous did disqualify himself. All agree that he bought the land; and the question is, what was the condition of the title when he bought it? Read Judge Watrous's own statement. He tells you, on the second page of his last memorial to this House, when replying to what the committee had reported, that a reason why there was great trouble in his office was, that—

"Its land titles were involved in controversy by the circumstances attending the transition of the State from dependence to independence, and by the supervening necessity for the reconciliation of the codes of proprietary concessions under the Crown of Spain; of colonization under the authority of the Mexican Republic; of revolutionary and head-right or settlement grants by the Republic or State of Texas."

If you will examine the evidence, you will find that Lapsley swears that, when this purchase was made, he expected litigation. In answer to questions, he says, (p. 120:)

"Question. When you purchased, you were aware, of course, that it would be necessary to bring suits in order to eject the persons on the land?"

"Answer. Yes, sir; I understood that there were men who were called squatters on the land. Mr. League spoke of them as being on the land."

"Question. Was it contemplated, at that time, that suits were to be brought?"

"Answer. Yes, sir; I calculated that suits would become necessary."

Look at League's evidence. He says, (p. 212:)

"Question. Did you expect any litigation?"

"Answer. I expect litigation on everything."

"Question. You expected litigation?"

"Answer. I did not know but that there might be litigation."

"Question. Because of the uncertainty of titles, and by reason of locations?"

"Answer. Yes, sir; if you go out, before your return you will have some squatters upon your land."

He uses a strong figure—if a man should leave his land, before he returns he would find some squatter upon his land. Colonel Lapsley says expressly, and in all the various places where he has been examined he continues to repeat, notwithstanding great efforts were made to get him to say otherwise, that he expected litigation when he bought the land. If the parties expected it, (and that cannot be doubted,) there can be no difference between this case and the one which the gentleman from New York says would be impeachable.

There is another circumstance. What was the condition of this land, at the date of the purchase? Here was a land grant of eleven leagues of land. Ordinarily, there are about forty-eight thousand acres of land in a league. Judge Hughes swears that there were about twenty thousand acres more than that, in this grant, making it nearly seventy thousand acres. And what was given for it? Seven thousand dollars for seventy thousand acres of fine, rich Texas land, together with some ten thousand acres of land scrip or certificates!

Now sir, that \$7,000 would have been repaid by the land scrip which accompanied the sale, and which was sold and transferred to the Lapsley company with the land, so that the land was bought virtually for nothing. Why, then, was it that Nathaniel F. Williams, being the brother of Mrs. St. John, understanding the titles of Texas lands and the value of Texas lands, should have sold sixty or seventy thousand acres of land and the land scrip I have spoken of, belonging to his sister, for \$7,000, when the land scrip itself would probably have repaid the purchase money, or the most of it? There is something in that which shows that there was no confidence in the title, and that those acquainted with it could not believe it was a good one.

Gentlemen say that if Judge Watrous knew at the time of the purchase that suits were to be brought in his court, then he ought to be impeached. I understood the gentleman from Maryland [Mr. Davis] to attempt to draw a distinction in regard to the time when the interest of Judge Watrous

accrued; but that can make no difference in principle. I understood him to say that if we could establish the fact that at the time of the purchase, and as a part of the consideration, it was understood that Judge Watrous was to use the machinery of his court for the purpose of advancing the speculation and getting the case out of Texas, then he ought to be impeached. Now, a word as to that. Can there be any difference in the cases because of the fact of such understanding having been had at the time of the contract, and its having been had afterwards? If Judge Watrous had gone into that trade saying, "you may bring the suits in my court, and I will transfer them to New Orleans, so as to avoid a trial before a Texan jury," he would have well deserved to be impeached. Suppose the trade had been made honestly; suppose it had been made without reference to the use of his court, but that, after the transaction was concluded, the parties should have concluded that it would advance their interests to bring the suits in Judge Watrous's court, and Judge Watrous had assented to that; what difference would there be in the degree of criminality? The charge is, that Judge Watrous gave the use of his court corruptly; in the one case, for his interest in the land; in the other case, for the purpose of advancing the interests of the partnership. The consideration was the advancement of his own speculation, and the security of the title which he had thus acquired. It is all true that the legal title having been vested in a citizen of another State, that person had the right to sue in the Federal court of Texas. But, suppose the proof shows that, while that must be acknowledged as a right, it was talked over between the judge and the other parties, and that the judge agreed to, and acquiesced in, the understanding that suits were to be brought in his own court for his benefit; then, I say, the bargain is as corrupt as if it had been the understanding *ab initio*.

Mr. BARKSDALE. I desire to ask whether there is any proof of that?

Mr. HOUSTON. I feel satisfied that I can show the fact conclusively proven. I will not ask the House to rely on my word for it. I will refer to the pages where the proof is to be found. Gentlemen will find it in Lapsley's testimony, (pp. 126, 128, 132, 147, 148, and 149;) also, a corroboration in Love's testimony, (pp. 335, 336;) and in League's, (p. 213.) I will read a paragraph or two, at the risk of losing the time which perhaps I ought to appropriate to other branches of the subject. I regard this as an important point in the case—a controlling point. I have stated my grounds broadly, and I wish to sustain them by reference to the proof.

Aside from this reference, will the gentleman from Mississippi, [Mr. BARKSDALE,] who, I know, desires to obtain the facts as they exist—as I hope we all desire in this matter—bear with me till I call his attention to a letter written by Mr. Lapsley to Mr. League, under date of December 30, 1851—a letter which will not lie; which speaks the truth, and is not influenced by passion, or prejudice, or sympathy. Referring to the purchase as made at Selma, and giving reasons why the case should be tried in Texas, Colonel Lapsley says:

"In such cases the prejudices and sympathies of juries would very naturally incline them to favor the defendants, more especially if some of the jury (a very likely case) should be interested in the question on the side of the defendants, or should have relatives or friends so interested."

"These considerations induced me to suppose (and so I thought we all agreed at the time of the purchase) that it would be better to have the case tried in New Orleans than anywhere in Texas."

"In the trial of these cases, I do not know exactly what questions will be submitted to the jury, but if any controlling question should be submitted to a jury biased by prejudice, interest, or partiality, I would fear the result, and would prefer, if practicable, to avoid such an ordeal."

How could the trial before a Texan jury have been avoided? The gentleman from Georgia [Mr. STEPHENS] says that Mr. League was a non-resident, and could as well have brought the suits as Mr. Lapsley. Suppose that were true; there was yet another thing to be accomplished in order to secure a trial of this case out of Texas, and to put it out of the influence of a Texan jury; and that was, to interest the judge of the Federal court in the speculation with the legal title in a non-resident. League suing without an interest, the judge would have been compelled to try before a Texan jury. That was what they intended to avoid.

Mr. BARKSDALE. I desire to ask the gentleman from Alabama whether, if any one else in Texas but the judge had had his interest in the lands, the case could have been removed for trial to Louisiana?

Mr. HOUSTON. There is no law of the United States that authorizes a change of venue in the United States courts.

Mr. BARKSDALE. I would ask the gentleman whether, if any other citizen of Texas had brought the suit, the case could have been transferred?

Mr. HOUSTON. No, sir; there was no one else in Texas who could have caused the suit to be transferred, except Judge Watrous.

Mr. STEPHENS, of Georgia. Suppose the land had been sold to a kinsman of Judge Watrous: how would it have gone?

Mr. HOUSTON. In that case it might probably have gone to another State. Why did they not put the title in a kinsman?

Mr. STEPHENS, of Georgia. Mr. Speaker, I—

Mr. HOUSTON. The gentleman must excuse me. Unless my time is to be extended, I cannot yield to him. I have not interrupted gentlemen, and unless my time is to be extended, I cannot submit to be catechized by them.

Mr. STEPHENS, of Georgia. I only desire to answer the gentleman's question. I want the House to understand that the gentleman will not allow himself to be corrected on an important point in the testimony.

Mr. HOUSTON. Well, what is it?

Mr. STEPHENS, of Georgia. The gentleman said that it was proved by the testimony that it was agreed by the parties at the time of the purchase, that the suit should be brought in Judge Watrous's court. Now, I call the gentleman's attention to the testimony of Lapsley, who swears that there was no "agreement made directly or impliedly, which was not put in the instrument of writing." It is true, Lapsley says that there was some talk amongst some of them about where the suit should be brought. But he does not say that Watrous was present when such talk was had. He understood it so, or presumes he did, but does not say that Watrous did or even gave his assent to any such thing, and there is no evidence that he ever did.

Mr. HOUSTON. Sir, that shows what the gentleman has already exhibited in his speech, that he knows nothing about the case at all. I have already read from Colonel Lapsley's letter to Mr. League; I will now read from Colonel Lapsley's evidence, page 128:

"Question, (by Mr. CHAPMAN.) Was it mentioned in the course of the consultation at Selma where the suits should be brought?"

"Answer. I think that thing was spoken of between myself and my friends. I have no particular recollection, but I presume it was spoken of. It was a matter which I supposed was understood."

"Question. Was it understood that the suits should be brought in the United States court at that time?"

"Answer. Yes; and the first information that I got of the contrary desire or intention was from Judge Hughes, stating that he preferred to have the cases tried in Texas. I do not recollect anything definite on that subject, further than that the matter was talked over. My own opinion was very decidedly made up."

"Question. Why did you prefer that the suits should be brought in the United States court?"

"Answer. I preferred it for the reasons stated in my letter to League; because I had understood that there was some prejudice prevailing in Texas against titles of this kind, and I was afraid to risk it before a local jury."

Also, speaking of the same subject, he says:

"Question. Was that spoken of?"

"Answer. I presume it was spoken of, although I cannot state positively. I think it was spoken of."

"Question. In the presence of Judge Watrous?"

"Answer. Yes, sir. I cannot say that Judge Watrous ever said a word on the subject of bringing suits in Texas. My consultations were principally with the gentlemen in Alabama, with whom I was associated."

I could read other paragraphs of his evidence, but these abundantly establish what I stated, and as fully disprove the statement of the gentleman from Georgia.

This, sir, is the proof, and it is as strong as the English language can make it; and now you can appreciate the speech of the gentleman from Georgia, who asserted that there was no proof tending to show any such thing.

But, sir, I read again from pages 148, 149, while Colonel Lapsley was being examined by Judge Hughes, attorney for Judge Watrous. This shows that Judge Watrous participated in

the negotiations at the time they were going on, and which resulted in the purchase, and the only purchase, of that land to which Judge Watrous was a party. It will not be pretended that he had any interest in the land until the trade at Selma, Alabama:

"Question. When you met on the second occasion for the purpose of executing the papers, was your attention called at any time, and if at any time, at what time, to the fact that Judge Watrous was present?"

"Answer. We all met there—Judge Watrous and the rest of us.

"Question. When you first arrived was he there, or did he come in afterwards?"

"Answer. It puzzles me to say. I cannot recollect.

"Question. State what occurred in relation to the warranty being urged on him; did Judge Watrous urge him to sign it?"

"Answer. I think he did.

"Question. Did he participate otherwise actively in the proceedings towards the execution of this instrument, besides in that particular, except when he came to sign it?"

"Answer. I think all the parties were present when it was read. I read it over. Mr. League protested that it was wrong to require him to execute such a deed. I think I remarked, 'It is nothing more than you yourself assert. You say you have undoubted confidence in your title, and that your counsel, Judge Hughes, has given you this advice; why not sign it?' Judge Watrous told him, 'You can sign it with perfect safety, Mr. League, because I am satisfied that the title is good.' As to urging him particularly, I do not know that he was very urgent about it; but he advised him to sign the paper. Mr. League hesitated for some time. I am inclined to think that the reason of his hesitation was to see if I would not recede. The other gentlemen seemed to leave it to me to fix that matter. I think, perhaps, I made this remark, or something equivalent to it, that unless that paper, or something equivalent to it, was signed, I would not go into the matter; and it was at that time that Judge Watrous advised him, or rather urged him to sign the paper, and he did sign it.

"Question. Do you recollect his participating in what was said or done there, beyond that advice, and the signing of the agreement when it was read?"

"Answer. No further than his stating that you (Mr. Hughes) had examined the papers, and that you had pronounced in favor of the title, and that he was entirely satisfied that the title was good.

"Question. I understand you, then, to say that you cannot specify any other participation than that in the thing going on there?"

"Answer. Judge Watrous spoke of the quality of the land. That the lands were valuable, being situated on the Brazos river. That was a matter which came up in the course of conversation."

Turn to page 335, and you will find the following, in Love's evidence, speaking of Judge Watrous's interest in the Lapsley land. He says:

"Question. You had your information from hearsay?"

"Answer. From Judge Watrous himself.

"Question. Judge Watrous himself had told you who the parties in interest in these suits were?"

"Answer. He told me before the suits were brought.

"Question. How long before the suits were brought?"

"Answer. I think a very short time before the writs were issued; or it may have been at the time that I was issuing the writs. I was interested in these suits; they were very profitable.

"Question. And either at the time of your issuing the writs or shortly before you had a conversation with Judge Watrous about them?"

"Answer. It was a voluntary communication on his part. Judge Watrous and myself have been friends for twenty years. He had been a stranger to me, and never been introduced. He used to come into my office. We had discussed all these questions years and years before. He came into my office at the time the writs were being issued, I think; and he said, in substance, 'This is one of my cases; I am interested in this case. You will lose your fees, because they will have to go elsewhere to be tried.'"

This shows that Judge Watrous saw the writs when they were being issued, and evidenced no surprise or objection to the suits being instituted in his court. He treated it as a matter understood and expected by him; yet the gentleman from Georgia very confidently and unconditionally asserts that there is no evidence tending to fasten a knowledge or understanding upon him. What an overpowering thing this book of evidence has proven itself to be!

Mr. League says:

"Question. The question I am asking you is, was anything said about the tribunal, in which any litigation might result, owing to the peculiar character of land titles in Texas, should be conducted—whether they should be in the State court or Federal court?"

"Answer. My impression is, there was something spoken of it at the time. This case of Santiago del Valle was soon to come up, and to be decided, and the decision was looked upon as settling the question of our title."

And now, Mr. Speaker, I feel authorized by the evidence in saying that it was agreed at Selma, at the time of making the contract, and we are bound to believe as a part of the contract, that the suits should be brought in the Federal court of Texas, presided over by Judge Watrous, for the purpose of getting the case out of Texas—avoiding the trial before a Texas jury, and that Judge

Watrous was present when that agreement was made.

Mr. TAPPAN. I desire to correct the gentleman.

Mr. HOUSTON. No, sir; I cannot yield. If I had time, I could show that the gentleman made many gross mistakes in the statement of the testimony in his speech.

Mr. TAPPAN. I want but one minute.

Mr. HOUSTON. No, sir; I decline to yield. The gentleman did not confine himself to the testimony in his own speech, and I do not wish to be interrupted by him now. I am endeavoring to give this case a candid, fair, and impartial examination before this House.

Mr. TAPPAN. I merely want to refer the gentleman to—

Mr. HOUSTON. I cannot yield. And to corroborate that testimony is the statement of Thomas M. League, a witness whom I confess I believe wholly unworthy of credit; but Thomas M. League, himself, says that this thing was talked of during the negotiations at Selma, Alabama; that the court in which the suits should be brought was spoken of in conversation there, so that the evidence upon that point, as I understand it, is wholly, or nearly so, on one side. It is true that in one part of League's evidence he says his recollection is confused upon these points; but the very fact of his recollecting such conversation, though confused as he states it, is in itself proof that the whole matter of suing, and the court in which the suits should be instituted, was talked over and agreed upon.

[A message, in writing, was here received from the President of the United States, by J. B. HENRY, his Private Secretary.]

Now, Mr. Speaker, I am admonished that my time is fast passing away. I wish briefly to speak to a few other points. It is said that there was an agreement between the lawyers representing the case, that it should be removed to Austin, and there tried before a lawyer selected by the parties. I deny that there is sufficient evidence to prove any such agreement. On the contrary, while the testimony of two or three witnesses tends to prove the existence of such agreement, the letters of Colonel Lapsley, which I have before said are more reliable than the memory of the witnesses who have spoken of it, satisfactorily disprove it—they show that Judge Hughes contemplated such an arrangement. They do not show an agreement made, and the lawyer on the other side swears no such agreement was ever made; and if such agreement were not made, why transfer the cases from Galveston to Austin, Judge Watrous being the judge at both points? And if they could agree for a lawyer to try the cases, why take them to Austin? Why not try at Galveston? The whole thing is an absurdity. Mr. Taylor swears he made no such agreement, and I am entirely satisfied he told the truth.

I must pass rapidly on. It is said that Judge Watrous disclosed his interest in these suits at the first term after they were instituted. The gentleman from Georgia stated that the interest of Judge Watrous was disclosed at the first term after the suits were brought; he said the record proved it, and read from the minutes of the court of the third term. The gentleman from Wisconsin [Mr. BILLINGHURST] showed that the orders to which the gentleman from Georgia referred, in which that interest was disclosed, were not made at the first term, thereby disproving the statement. Now, let me refer the gentleman to page 482, where the record shows that at the April term, 1851, the Lapsley cases were continued; that they were so marked on Judge Watrous's docket, and in his own handwriting.

"During the examination of James Love, the clerk of the Federal court at Galveston, he was requested by the committee to furnish transcripts of the orders entered in the Lapsley cases, in the books produced by him before the committee, and of the docket of those cases, to which he and his deputy, John S. Jones, were examined, and such transcripts were produced, as follows:

"No. 1.—Trial docket, April term, 1851.

"Hughes 346. John W. Lapsley vs. James Martin; filed January 11, 1851. Continued.

"Hughes 347. Taylor. Same vs. Charles Duncan; filed January 11, 1851; executed March 5, 1851. Continued.

"Hughes 348. Taylor. Same vs. Brown; filed January 11, 1851; executed February 17, 1851. Continued.

"Hughes 349. Same vs. George Bernard; filed January 11, 1851; executed February 17, 1851. Continued.

"Hughes 350. Taylor. Same vs. David Barton; filed January 11, 1851; executed February 17, 1851. Continued.

"Hughes 351. Taylor. Same vs. James Barton; filed January 11, 1851; executed February 18, 1851. Continued.

"Hughes 352. John W. Lapsley vs. Eliphas Spencer; filed January 11, 1851; executed February 18, 1851. Continued."

You will find from the evidence of Colonel Love that this entry was made by Judge Watrous himself, and that not one word was said disclosing his interest, or about his interest in any way; and that these entries on the minutes were read to Judge Watrous and not in the least objected to by him; and notwithstanding these facts, during the January term of 1852, Jones, the deputy clerk, swears that Judge Watrous insisted that he should make an entry changing the continuances marked in his own hand writing, to make them read as by consent; and he did so. Again: Taylor says he never made such an agreement, and that he never heard of it until he saw the evidence of it exhibited in the committee-room here. Why did Judge Watrous direct that these entries should be made to read by agreement of parties? Had he the right to do so? The attorney swears he never consented to the change. Jones swears he did it at the instance of Judge Watrous. Yet, in the face of this mutilation of the record, gentlemen say he should not be tried.

But it is said that he disclosed his interest to certain parties. What is a disclosure of interest, unless the disclosure is made publicly or to the parties in interest—the parties who have a right to avail themselves of it if they can? Yet there is no proof that he did so disclose to the parties to this suit. On the contrary, the evidence is that the suits were carried from term to term without such disclosures being made or put upon record. Mr. Taylor, who was then the attorney for most of the defendants in the Lapsley suits, not only says he made no agreement to substitute a lawyer to try the cases in place of the judge; that he made no consent or agreement to transfer the cases to Austin; that he made no agreement to change former entries, as Judge Watrous insisted that Jones, his deputy clerk, should do, and as was thus done. Mr. Taylor swears, however, that he made a regular motion in court to have certain suits transferred to Austin. And when he argued it, the judge granted his motion; and he supposed his case went to Austin by virtue of such motion and orders upon it. There are orders on the minutes marked as erroneous, and are precisely as Taylor remembered them. Those orders were entered upon the record of Judge Watrous's court. Afterwards a consent or agreement was entered upon the record, and the former orders marked erroneous; which Taylor swears he never made or agreed to, and never heard of until he came into the committee-room. Those orders go on to say that the counsel agree that all former orders shall be changed, so as to read as if entered by consent, when the evidence is that they were changed otherwise.

Now, sir, one word to the gentleman from Virginia, [Mr. MILLSON.] He seems to feel the force of the arguments which have been presented within the last few days—that there was a certain power of attorney in which Judge Watrous was interested, and that that certain power of attorney was admitted on the Ufford and Dykes case, with the knowledge of Judge Watrous of the fact that it was a power on which the judge himself was interested; and he presents the point that the power of attorney may have been good for La Vega and not for Aguirre. If the gentleman will look into this case, he will find from the evidence of Hartley, one of the lawyers in the case, that they objected to the introduction of the original concession as evidence.

In the case of Ufford vs. Dykes the same concession gave La Vega and the two Aguirres eleven leagues of land each; and that concession, if good for one, must have been good for all; if bad for one, bad for all. That concession was not admitted by consent. It was objected to by the lawyers; and was objected to upon the ground that the laws of Coahuila and Texas did not authorize the Government to grant so much land in a concession. The judge overruled the point of the lawyers, and permitted the concession to go in evidence to the jury, and charged upon that evidence that the concession was good and conveyed the title.

Mr. CRAIGE, of North Carolina. The gentleman does not state the facts, which appeared in the testimony, that the concession never was

read before Judge Watrous, in the Ufford and Dykes case; that the case went off upon the statute of limitation; that the defendant admitted it to be read, and that no question was raised as to its validity.

Mr. HOUSTON. The gentleman is mistaken. Mr. CRAIGE, of North Carolina. No, sir; the proof is complete and full as to those facts.

Mr. HOUSTON. My hour has nearly expired; but if the House will give me time I will show whether that is so or not. I stated that Hartley swears that he objected to the introduction of the concession, and I am satisfied that I can show that he did object. He goes on to state that he did object because it conveyed more land than the law allowed.

Mr. CRAIGE, of North Carolina. I challenge the gentleman to show that the case did not go off upon the statute of limitation.

Mr. HOUSTON. That is not the question before us. Here is Hartley's testimony, and I leave the House to determine the question. I have no feeling in this matter other than the discharge of my duty. I have no pride in having a trial ordered if the circumstances and proof do not require it; but I have a pride in making good what I say.

Mr. CRAIGE of North Carolina. I have as little pride as the gentleman; but the gentleman, having the conclusion of the argument, should not misstate the testimony.

Mr. HOUSTON. I did not say the gentleman had any pride, nor do I care whether he has or not. I am arguing the question upon the facts.

I am going to read the evidence, and the House can judge whether I am right or wrong.

[Here the hammer fell.]

Mr. HOUSTON. I hope the House will allow me to read a short extract from Mr. Hartley's evidence sustaining my statement.

Mr. GARTRELL. I move that the gentleman be allowed thirty minutes longer.

[Cries of "No!" "Yes!" and "Go on!"]

The SPEAKER. The gentleman's time has expired, and objection is made to extending his time. The question is now upon the resolution, and the amendment offered thereto.

[The following is the evidence of Mr. Hartley to which Mr. Houston referred:

"Question. You stated that the original concession embraced the two titles of La Vega and Aguirre?"

"Answer. It was to La Vega, Raphael Aguirre, and José Maria Aguirre.

"Question. It was a single concession embracing three grants?"

"Answer. Yes, sir; and I think one of the objections to it was taken upon that ground. The objection was that it embraced thirty-three leagues, when the law of Mexico provided that no more than eleven leagues should be united in the hands of any one person.

"Question, (by the CHAIRMAN.) In your argument you and your colleagues attacked the original concession from the State of Coahuila and Texas to the two Aguirres and La Vega?"

"Answer. Yes, sir; Thomas P. Hughes and myself. We did not argue that question to the jury. We resisted its admission as evidence on that ground at the trial."

The resolution was read, as follows:

Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached of high crimes and misdemeanors.

The pending amendment was read, as follows:

Strike out all after the word "Resolved," and insert:

That the testimony taken before the Committee on the Judiciary, in the case of Hon. John C. Watrous, judge of the district court of the United States for the eastern district of Texas, is insufficient to justify the preferment of articles of impeachment against him for high crimes and misdemeanors.

The question being first upon the amendment, Mr. KELSEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 99; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Avery, Boccoe, Bonham, Bowie, Boyce, Branch, Brayton, Buffinton, Burlingame, Burns, Caruthers, Case, Cavanaugh, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clark B. Cochrane, Cragin, Burton Craige, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Durfee, Edmundson, Elliott, English, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Goode, Granger, Gregg, Grow, Robert B. Hall, Harlan, Harris, Haskin, Horton, Howard, Hughes, Jackson, Jewett, Keim, Kellogg, Kilgore, Knapp, Lamar, Leach, Leiter, Lovejoy, Macley, Samuel S. Marshall, Maynard, Miller, Millson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Olin, Parker, Pendleton, Pettit, Potter, Purviance, Ready, Ricard, Robbins, Royce, Rufin, Savage, Seales, Scott, Seward, Aaron Shaw, John Sherman, Robert Smith, William Smith, Stanton, Stephens,

James A. Stewart, Tappan, Thompson, Tompkins, Trippé, Underwood, Vance, Wade, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Watkins, Winslow, Wood, Woodson, Wortendyke, John V. Wright, and Zollcoffer—111.

NAYS—Messrs. Adrain, Ahl, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Bryan, Burnett, Chaffee, Chapman, Clay, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, James Craig, Curry, Davidson, Davis of Indiana, Dawes, Dean, Dimmick, Dodd, Dowdell, Eustis, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Gooch, Goodwin, Greenwood, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hoard, Hopkins, Houston, Huyler, Jenkins, George W. Jones, Owen Jones, Keitt, Kelly, Kelsey, Landy, Lawrence, Leidy, Letcher, McQueen, Mason, Miles, Moore, Palmer, Peyton, John S. Phelps, William W. Phelps, Pottle, Reagan, Ritchie, Russell, Sandiego, Searing, Henry M. Shaw, Judson W. Sherman, Shorter, Singleton, Spinner, Stevenson, William Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Vallandigham, Walbridge, Waldron, Ward, Warren, White, Whiteley, and Augustus R. Wright—91.

So the amendment was agreed to.

Pending the vote,

Mr. CASKIE said: As I am a member of the Judiciary Committee, I desire to say that I decline voting upon this resolution for the reason which induced me to decline any investigation of this subject. I shall not trouble the House with a statement of that reason. Suffice it to say, in my judgment at least, it involves a matter of personal delicacy upon my own part.

Mr. MOORE stated that Mr. Cobb was detained from the House by sickness.

Mr. COVODE stated that he had paired off with his colleague, Mr. KUNKEL.

Mr. EDIE stated that he had paired off with his colleague, Mr. PHILLIPS; otherwise he should have voted in the affirmative.

Mr. NICHOLS stated that he had paired off with Mr. KUNKEL, of Maryland.

Mr. MOORE. I wish to say that, by my vote in this case, I intend to cast no aspersion upon those citizens of Alabama—Price, Lapsley, and others—who were associated with Judge Watrous in his speculation. On the contrary, I know them all personally—one of them being my constituent; and I know them to be honorable men, whose characters are above suspicion.

Mr. CRAIGE, of North Carolina, moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider upon the table; which latter motion was agreed to.

The question recurred on the adoption of the resolution as amended.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 86; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Avery, Boccoe, Bonham, Bowie, Boyce, Branch, Brayton, Buffinton, Burlingame, Burns, Caruthers, Case, Cavanaugh, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clark B. Cochrane, Cragin, Burton Craige, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dick, Durfee, Edmundson, Elliott, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Goode, Granger, Gregg, Grow, Robert B. Hall, Harlan, Haskin, Horton, Howard, Hughes, Jackson, Jenkins, Jewett, Keim, Kellogg, Kilgore, Knapp, Lamar, Leach, Leiter, Lovejoy, Macley, Samuel S. Marshall, Maynard, Miller, Millson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Olin, Parker, Pendleton, Pettit, Pike, Potter, Purviance, Ready, Ricard, Robbins, Royce, Rufin, Savage, Seales, Scott, Seward, Aaron Shaw, John Sherman, Robert Smith, Samuel A. Smith, Stallworth, Stanton, Stephens, James A. Stewart, Tappan, Thompson, Tompkins, Trippé, Underwood, Vance, Wade, Walton, Cadwalader C. Washburne, Ellihu B. Washburne, Israel Washburn, Watkins, Winslow, Wood, Woodson, Wortendyke, John V. Wright, and Zollcoffer—113.

NAYS—Messrs. Adrain, Ahl, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Bryan, Burnett, Chaffee, Chapman, Clay, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, James Craig, Curry, Davidson, Davis of Indiana, Dawes, Dean, Dimmick, Dodd, Dowdell, Eustis, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Gooch, Goodwin, Greenwood, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hoard, Hopkins, Houston, Huyler, George W. Jones, Owen Jones, Kelly, Kelsey, Landy, Lawrence, Leidy, Letcher, McQueen, Mason, Miles, Moore, Palmer, Peyton, John S. Phelps, William W. Phelps, Pottle, Reagan, Ritchie, Russell, Sandiego, Henry M. Shaw, Judson W. Sherman, Singleton, Spinner, Stevenson, William Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Vallandigham, Walbridge, Waldron, Ward, White, Whiteley, and Augustus R. Wright—86.

So the resolution, as amended, was adopted.

Pending the vote,

Mr. SHORTER stated that he had paired off with Mr. SMITH, of Virginia.

Mr. CRAIGE, of North Carolina, moved to reconsider the vote by which the resolution as

amended was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

MARYLAND CONTESTED-ELECTION CASE.

Mr. BOYCE. I desire now to call up the contested-election case from the city of Baltimore.

The resolution reported from the Committee of Elections was read, as follows:

Resolved, That it appears to this House that there was such tumult, disorder, riot, intimidation, and injustice, in the election of a Representative to Congress from the third congressional district of the State of Maryland, on the 3d day of November last, in contempt of law, and in violation of the freedom of elections, that the said election is void. The seat from the said district is hereby declared vacant, and the Speaker of this House be, and is, directed to notify the Governor of said State thereof.

Mr. BOWIE. That resolution was reported at the last session of Congress, and reads "November last." I suggest that it be altered so as to make it read "November, 1857."

The resolution was so altered.

Mr. BOYCE. The report which accompanies that resolution was made by the Committee of Elections, at the last session. We urged on the House, at that time, the consideration of this question, as I felt a great interest in it then. The House declined to consider it at that time, and postponed it until this session. In my opinion, time was the very essence of the question. The House, however, having taken a different view of it from what I supposed they should have taken, I do not feel any desire, at this late day, to prosecute the case vigorously. My desire is, to discharge my duty formally, and leave it to the House to do what they think proper in the matter.

Mr. EUSTIS. I move to lay the whole subject on the table.

Mr. BOWIE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. WHITELEY. I move that the House do now adjourn.

Mr. BURNETT. I demand the yeas and nays.

The question was taken; and there were, on a division—yeas 54, noes 97.

So the House refused to adjourn.

Mr. BURNETT. I asked for the yeas and nays before the House divided on the motion to adjourn; and I desire to say this to the gentlemen on the other side of the House: on this side of the House there are many gentlemen absent. If it be the desire of the other side to take this vote to-morrow, at any hour they name, I have no objection to it; but I do not want to have it taken now on this motion to lay on the table.

Mr. EUSTIS. I desire to say to the gentleman from Kentucky that this day was appointed and fixed for the taking of the vote on this question; and that in making the motion I have made, I have taken no advantage of the absence of members. It was distinctly understood that the vote should be taken to-day; and it was because it was so understood that I made the motion.

Mr. BURNETT. In reply, I desire to say that I certainly did not contemplate, and that I do not believe any gentleman contemplated, having the question disposed of in this summary manner without discussion. I had no idea that there would be a motion made to lay on the table.

Mr. SHERMAN, of Ohio. I think it was understood that a final vote should not be taken on this question to-day. I therefore hope that we will adjourn now, and agree to take the vote at one o'clock to-morrow. I move the House do now adjourn.

Mr. JONES, of Tennessee. Would it not be in order to have the report of the Committee of Elections read before the vote is taken on it? The motion to lay on the table includes the report and all. We have a right to hear what we are to vote on.

The SPEAKER. The only thing on which the House is called to vote is the resolution.

Mr. SHERMAN, of Ohio. I have submitted the motion that the House do now adjourn.

Mr. BARKSDALE. It seems to me that the proposition made by the gentleman from Ohio, that the vote be taken to-morrow at one o'clock, is fair, and I hope no gentleman on this side of the House will object to it.

Mr. WASHBURNE, of Illinois. Is the vote to be taken on the motion to lay on the table, or on the main question?

The SPEAKER. On the motion to lay on the table.

Mr. WASHBURNE, of Illinois. Then if the motion to lay on the table does not carry, the whole subject will be open for discussion?

The SPEAKER. So the Chair understands.

Mr. BURNETT. One important reason with me for resisting the motion of the gentleman from Louisiana, is that the gentleman who contests the seat of the gentleman from Maryland desires to be heard; other gentlemen desire to be heard on this question; and we do not want the vote to be taken at this particular time. I will say, however, that I think the proposition of the gentleman from Ohio is a fair one, and I hope the House will adjourn.

Mr. HARRIS. I desire simply to say that, as a matter of course, in all these preliminary motions I am a passive party in this matter. The statement of the gentleman from Kentucky that the party who contests my right to the seat which I hold desires to be heard, is to me an entirely satisfactory reason for an adjournment. I have not the slightest desire to throw any impediment whatever in the way of a full discussion, a frank hearing, and a fair judgment upon this case.

Mr. BOYCE. I desire to offer a resolution giving Mr. Whyte the right to be heard.

Mr. SHERMAN, of Ohio. I withdraw my motion for the present.

Mr. SMITH, of Tennessee. I understand that the gentleman from Louisiana, [Mr. EUSTIS,] who made the motion to lay this subject on the table, is perfectly willing to withdraw it, and let the House adjourn. I hope, at any rate, that the House will adjourn if the motion is not withdrawn.

Mr. EUSTIS. I withdraw my motion.

Mr. BOYCE. I then offer the following resolution:

Resolved, That William Pinkney Whyte have leave to occupy a seat on the floor of the House pending the discussion of the report of the Committee of Elections, in the case of his contest as to the seat now occupied by Hon. J. Morrison Harris, from the third congressional district of Maryland; and that he have leave to speak to the merits of said contest, and the motions thereon.

Mr. BILLINGHURST. I would inquire of the chairman of the Committee of Elections if there is anybody claiming the seat? I do not understand that there is anybody claiming it. The purpose is to vacate the seat now occupied by the sitting member; and if we pass this resolution, we may perhaps recognize a contestant here, and it may be of some importance on the question of compensation.

Mr. BOYCE. I will remark, in reply to what the gentleman from Wisconsin said, that Mr. Whyte did claim the seat, but the committee held that he was not entitled to it.

Mr. BILLINGHURST. All I desired, in making the remark, was that I should not be understood, in assenting to this resolution, as recognizing Mr. Whyte as a contestant.

Mr. STANTON. I do not know what the precedents are, but I think there has never been any precedent for a gentleman whose rights are not in controversy being admitted to a seat and to the right of debating the resolutions of the House. Ordinarily the resolution is that A B, the contestant, is entitled to his seat, and that C D, the sitting member, is not; and upon a resolution of that kind the contestant is uniformly admitted to discuss the question of his right to the seat. But in this case no branch of the committee present any resolution giving the contestant the seat. There are no rights of the contestant pending before the House for its decision—none whatever. Why, then, should the House extend to him the right to discuss the questions pending before it? I do not, therefore, see any propriety in passing the resolution offered by the gentleman from South Carolina, nor do I think that there is any precedent for it. The Committee of Elections have probably examined the precedents, and if there is any case in which a party whose right to a seat was not involved in the question pending before the House has been admitted to a seat on the floor, and has been permitted to participate in the discussions of the House, I should be glad to know it. All I desire is to pursue the practice that has been adopted heretofore. Certainly the rights of Mr. Whyte are not involved in the resolution that has been presented to the House, and I see no reason why

he, any more than any other elector in the third congressional district of Maryland, should have a right to a seat here for the purpose of mingling in our discussions.

I throw out these suggestions, in order that the Committee of Elections may inform us what the precedents are, and whether this resolution is not out of the ordinary course. So far as this case is concerned, I should like to consult the wishes of the sitting member who says that he desires that this party may be heard; but I am not willing to introduce here any new practice, or to adopt any principle that has not been heretofore recognized in contested election cases. I should be glad, therefore, to have some information from the chairman of the Committee of Elections as to whether any such practice as this has ever been adopted heretofore.

Mr. BOYCE. This is a peculiar case. I do not know that there has ever been exactly such a case.

Mr. STANTON. Oh, yes.

Mr. BOYCE. I have never known any instance in which a contestant has been refused a hearing before the House. The committee thought that, as a matter of course, there would be no objection to the resolution. Mr. Whyte did claim the seat, and for aught I know may still claim it. The committee, however, thought that he was not entitled to it. They thought that there was no valid election.

Mr. WASHBURNE, of Illinois. Will the gentleman from South Carolina answer me one question?

Mr. BOYCE. Certainly.

Mr. WASHBURNE, of Illinois. Did the gentleman (Mr. Whyte) claim the seat himself before the committee?

Mr. BOYCE. Yes, sir. I think there has been sufficient debate on this question, and that the House understands it. I therefore call the previous question on the resolution.

Mr. SHERMAN, of Ohio. In order that we may have an opportunity to look into the precedents, I move that the House do now adjourn.

Mr. CLAY. I hope the gentleman will withdraw that motion.

Mr. STEVENSON. I hope the gentleman from South Carolina will withdraw the demand for the previous question for a moment. I will renew it.

Mr. BOYCE. Certainly, sir.

Mr. SHERMAN, of Ohio. I insist upon my motion.

Mr. STEVENSON. I thought I was entitled to the floor.

Mr. SPEAKER. The gentleman from Ohio obtained the floor before the gentleman from Kentucky rose, and made the motion that the House do now adjourn.

The question was taken on Mr. SHERMAN's motion, and it was agreed to.

And thereupon (at twenty minutes past three o'clock) the House adjourned.

IN SENATE.

THURSDAY, December 16, 1858.

The Journal of yesterday was read and approved.

ADJOURNMENT TO MONDAY.

On motion of Mr. ALLEN, it was

Ordered, That when the Senate adjourns to-day, it adjourn to meet on Monday next.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a report of the Superintendent of the Coast Survey and of Weights and Measures, showing the cost and progress of the Coast Survey in each year, and also the weights and measures furnished the several States and custom-houses, and their cost; which was ordered to lie on the table; and a motion of Mr. DAVIS to print it, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. SHIELDS presented the petition of Vincent Kokowski, an old soldier at the military asylum in the District of Columbia, praying to be allowed a pension, to enable him to live with his family; which was referred to the Committee on Pensions.

Mr. CHANDLER presented the memorial of Lewis Purdy and others, officers and soldiers in the Black Hawk war, praying for such an amendment of the bounty-land laws as will include those who served in that war less than fourteen days; which was referred to the Committee on Pensions.

Mr. DAVIS presented the memorial of John A. Ragan, proposing a plan to prevent the overflow of the Mississippi and its tributaries, and praying a grant of land to enable him to effect that object; which was referred to the Committee on Public Lands.

Mr. POLK presented the memorial of L. W. Boggs, praying an appropriation for his pay as alcalde and judge under the military government of California; which was referred to the Committee on Claims.

TERRITORY OF ARIZONA.

Mr. WILSON presented a paper, which he gave notice of his intention to propose as an amendment to the bill (S. No. 8) to organize the Territory of Arizona, and to create the office of surveyor general therein; to provide for the examination of private land claims; to grant donations to actual settlers; to survey the public and private lands, and for other purposes; which was referred to the Committee on Territories, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the petition of Joseph Verbiski, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Augustus Moor, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Merrihew, submitted an adverse report; which was ordered to be printed.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the joint resolution (S. No. 55) authorizing Townsend Harris and H. C. J. Hensken, respectively to accept certain presents from her Majesty the Queen of Great Britain and Ireland, reported it without amendment, and submitted a letter from the Secretary of State, and other papers on the subject; which were ordered to be printed.

PRINTING OF THE MESSAGE.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print twenty thousand additional copies of the President's message and accompanying documents, reported the following resolutions:

Resolved, That there be printed for the use of the Senate, ten thousand copies of the message of the President of the United States, with the reports proper of the heads of Departments and chiefs of bureaus, communicated therewith, omitting the statistical matter accompanying said reports; and twelve hundred additional copies for the use of heads of Departments.

Resolved, further, That there be printed in addition, two thousand copies of the report of the Commissioner of Indian Affairs, for the use of his office; one thousand additional copies of the report of the Commissioner of the General Land Office, for the use of his office; five hundred additional copies of the report of the Commissioner of Public Buildings for the use of that office; five hundred additional copies of the report of the officers in charge of the Government Hospital for the Insane, for their use; and five hundred additional copies of the report of the officers in charge of the Penitentiary for the District of Columbia, for their use.

Mr. FOSTER. I should like to inquire of the chairman of the Committee on Printing, whether I understood the resolutions right, as proposing to dispense with the publication of all the statistics in these reports? If so, it seems to me to be an objectionable provision. The great value of the reports, in my opinion, is the statistics they contain.

Mr. FITCH. We propose to exclude the statistics from the extra numbers—not from the ordinary number printed for the use of the Senate. We cut them off in the extra numbers which are printed for distribution; and in this way there will be a great saving in printing and paper.

Mr. FOSTER. That explanation is sufficient. The resolutions were agreed to.

PATENT LAWS.

Mr. DIXON submitted the following resolu-

tion; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Patents and the Patent Office, be instructed to inquire what legislation is necessary to enable the Commissioner of Patents to compel the attendance and examination of witnesses, and the production of books, contracts, and vouchers, and a full disclosure, by patentees and others, of all facts upon which any claim for the extension or reissue of a patent may be claimed; and that said committee report by bill or otherwise.

COLONEL GRAHAM'S REPORT.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the last annual report of Lieutenant Colonel J. D. Graham, on the lake harbors from Lake Michigan to Lake Champlain, including Lakes Erie and Ontario.

LANDING OF THE BARK WANDERER.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, any information in his possession, in relation to the landing of the bark Wanderer, on the coast of Georgia, with a cargo of slaves.

WITHDRAWAL OF PAPERS.

Mr. DIXON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Clerk of the House of Representatives be requested to communicate to the Senate, the papers which accompany the memorial of the Penny Post Company, of California, now on the files of the House.

Mr. DIXON subsequently moved to reconsider the vote by which this resolution was adopted.

The motion was agreed to; and the resolution was ordered to lie on the table.

BILLS INTRODUCED.

Mr. MASON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 55) authorizing Townsend Harris and H. C. J. Hensken, respectively, to accept certain presents from her Majesty the Queen of Great Britain and Ireland; which was read twice by its title, and referred to the Committee on Foreign Relations.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 56) authorizing the Secretary of State to pay the salaries of the ministers resident to the Argentine Confederation, Costa Rica, and Honduras; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. IVERSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 473) to allow back pay to certain naval officers; which was read twice by its title, and referred to the Committee on Naval Affairs.

JOHN DAVIS.

Mr. FITZPATRICK. I rise to ask the indulgence of the Senate to take up the bill (H. R. No. 318) recognizing the assignment on land warrant No. 35,956, issued to John Davis, as valid. It will occupy the attention of the Senate but a few minutes. I had supposed that it was passed at the last session.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

It directs that the assignment upon land warrant No. 35,956, issued to John Davis under the act of September 28, 1850, for forty acres, be recognized as valid.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CLAYTON-BULWER TREATY.

Mr. STUART. I desire at this time to renew the proposition which was submitted yesterday by the Senator from Mississippi, [Mr. Davis.] I think we can do an act of great importance by disposing of the adverse reports on the Calendar; and it can be done without consuming very much time.

Mr. CLINGMAN. I hope the Senator will give way. If my resolution is to be considered at all, it ought to be considered now. If a majority of the Senate are against taking it up today, I shall not press it again. I hope the Senator will allow me to make a motion to take it up. I will say that I propose to modify the preamble

somewhat, to make it more acceptable to Senators, but leaving the call for information. If it is to be acted on at all, it ought to be acted on promptly.

Mr. STUART. If the resolution proposed by the Senator from North Carolina is not likely to produce much debate, and if he desires simply a vote on taking it up, I shall yield for that purpose.

Mr. CLINGMAN. I desire a vote on it. I hope it will not lead to debate. I do not propose to debate it myself.

Mr. STUART. Very well.

Mr. CLINGMAN. I propose to modify the preamble, in answer to an inquiry from the Senator from Virginia, [Mr. Mason,] instead of the words "contains stipulations which are in direct hostility to the cherished policy and future welfare of the United States; stipulations," to insert the words "in its actual effect is;" so that it will read:

"And whereas the Clayton-Bulwer treaty, in its actual effect, is calculated to operate," &c.

Of course, though, if it comes up, the preamble, or any other part of it, will be subject to amendment. All I desire is, that the Senate will take it up, if they think the subject of sufficient importance to justify it. I understand that several Senators who voted against my motion yesterday, will vote for it to-day.

The VICE PRESIDENT. The question is on the motion of the Senator from North Carolina, to take up the resolution offered by him on Monday last.

The question being put,

The VICE PRESIDENT declared that the yeas appeared to have it.

Mr. CLINGMAN. I will ask for the yeas and nays, because this is the last time I shall move to take it up.

The yeas and nays were ordered.

Mr. MASON. I would say to the honorable Senator from North Carolina that I shall not object, as far as I am concerned, to taking up the resolution; but when it is up, without the slightest disrespect to him or discourtesy to his resolution, I shall feel it my duty to move to lay it on the table as a test question.

Mr. CLINGMAN. I have no objection to that course. I hope then, by general consent, that it will be taken up, and the Senator's motion made.

Mr. SEWARD. I hope I may be allowed to make a suggestion before the motion is made to lay the resolution on the table. Will it not answer every purpose to have it referred to the Committee on Foreign Relations?

Mr. MASON. I should prefer taking the sense of the Senate upon laying it on the table as an indication (if that be the view of the Senate) that they are not disposed to consider a resolution calling for this information under the circumstances mentioned in the resolution itself.

Mr. HUNTER. What is the use of taking it up to lay it on the table? Let those who wish to lay it on the table, vote against taking it up. That will be the shortest way.

Mr. MASON. I have no objection, if the Senator from North Carolina considers that a test question.

Mr. CLINGMAN. I know that, when the resolution shall be before the Senate, one or two Senators desire to say something about it; and I hope the Senate will have the resolution before it. I trust it will come up, and then let the Senate dispose of it as the majority see fit.

Mr. HUNTER. I would suggest to the Senator from North Carolina, that I understand a message was communicated to the House of Representatives yesterday—I do not know what is in it—that may, perhaps, contain the very information he is seeking. Would it not be better for him to wait?

Mr. CLINGMAN. The call which was made by the House of Representatives was in reference to the late proceedings on the coast of Nicaragua. That in no wise affects this resolution of mine. The call of the other House relates to a small question, which has collaterally sprung up there, and which is not embraced in my resolution. I do not like to take up the time of the Senate in discussing this question, unless I know it is regularly before the body; and I have no wish myself to do it. I believe a majority of the Senate are willing to take it up; and I hope the question will now be taken.

The VICE PRESIDENT. The question is on the motion to take up the resolution.

Mr. CRITTENDEN. I should be glad to have it read.

The Secretary read it, as follows:

Whereas the President, in his message to Congress of December 8, 1857, expressed himself in relation to the Clayton-Bulwer treaty, in the following language:

"The fact is, that when two nations like Great Britain and the United States, mutually desirous as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transit over all the routes across the Isthmus."

"Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success, I am not yet prepared to express an opinion. A brief period will determine."

And whereas the President in his message of December 6, 1858, stated that:

"I am truly sorry that I cannot inform you that the complications between Great Britain and the United States, arising out of the Clayton and Bulwer treaty of April, 1850, have been finally adjusted."

"At the commencement of your last session, I had reason to hope that, emancipating themselves from further unavailing discussions, the two Governments would proceed to settle the Central American questions in a practical manner, alike honorable and satisfactory to both; and this hope I have not yet abandoned. In my last annual message, I stated that overtures had been made by the British Government for this purpose, in a friendly spirit, which I cordially reciprocated. Their proposal was to withdraw these questions from direct negotiations between the two Governments; but to accomplish the same object by a negotiation between the British Government and each of the Central American Republics whose territorial interests are immediately involved. The settlement was to be made in accordance with the general tenor of the interpretation placed upon the Clayton and Bulwer treaty by the United States, with certain modifications. As negotiations are still pending upon this basis, it would not be proper for me now to communicate their present condition. A final settlement of these questions is greatly to be desired, as this would wipe out the last remaining subject of dispute between the two countries."

And whereas the Clayton-Bulwer treaty contains stipulations which are in direct hostility to the cherished policy and future welfare of the United States; stipulations calculated to operate adversely to the independent action of this Republic in the line of duty, which it may become imperative on it to adopt, in regulating and controlling the affairs of the Central American States, and consequently, the abrogation of the said treaty is demanded alike by the honor and interests of the Union: Therefore,

Resolved, That the President be requested to communicate to the Senate, if not, in his opinion, incompatible with the public interest, any correspondence which may have passed, since his inauguration, between this Government and that of Great Britain, and between this Government and that of Nicaragua, with respect to the termination or preservation of the Clayton-Bulwer treaty.

Mr. SHIELDS. Before the vote is taken I beg leave to state to honorable Senators, that I think it is but fair to the Senator from North Carolina that this resolution should be taken up for the purpose of amending it. If this is to be considered a test vote, the resolution should be put in such a form by the mover as to present the question fairly to the Senate. I am inclined to vote for the resolution if it be amended in the manner suggested by the Senator from North Carolina; whereas, as it now stands, I am disposed to vote against it. My reason is this: it contains within itself an assumed interpretation of the Clayton-Bulwer treaty. I voted for the Clayton-Bulwer treaty. The interpretation which our Government has put upon that treaty makes it a fair treaty; and I am not disposed to stultify myself and condemn that act. Nor do you want any resolution in this body to assume any condemnation of that treaty at the present time, considering that our Government has put one construction on the treaty, and the British Government another construction; but I think it is fair to the Senator from North Carolina that he should have a chance to amend the resolution, so that if we vote upon it we may vote upon it intelligently and knowingly.

For my own part, I am not going to enter into a debate upon this question; but I am prepared to say this much—and that is presented by the resolution of the Senator from North Carolina—that we have been exceedingly unfortunate in our dip-

lomacy with regard to Central America. We have not had what the French call a grand success. We first made a treaty with England, which we call the Clayton-Bulwer treaty, by which we expected to regulate the affairs of Central America in connection with that great Power. England takes one view of the treaty, and we take another view of it; so that in some respects that has been a failure. I am not going to prejudge, I am not going to attempt to embarrass the Administration in its future action by any speculation; but it is a fact admitted by the President, both in his former message and in this, that there is a difference between Great Britain and this country in the construction of this all-important treaty; that that difference continues; that it is permanent; that every effort has been made to unite and agree; but that there is no agreement, and no likelihood of an agreement. That was our first attempt. I call it a failure, and a singular and peculiar kind of failure. I do not know but that there may be a good reason, some of these days—I am not prepared to say when—as we cannot agree upon the construction, to obliterate the text.

Our next attempt was to negotiate directly with the Central American States. We have failed in that. Our negotiation there, so far as I understand, has not been a successful one. I do not pretend to comment upon it; I merely state the fact. Now, if I understand the President's message—and on this subject I would like a little light, for perhaps I am in the dark—it informs us that, as we first attempted to negotiate as to the affairs of Central America in harmony and unison with Great Britain, and failed in that; and as we next attempted to negotiate directly with Central America, and have failed in that, we are now determined to let Great Britain do the negotiation for her and for ourselves. If I understand the message aright, that is its meaning. Be that as it may, I say that, in my humble judgment, it is politic and wise to let the Senator from North Carolina modify his resolution. Let him put it in the shape he judges best. It is only a resolution of inquiry, at best. It is like a petition. Every man has a right to petition, I suppose, for anything reasonable, and we have a right to make an inquiry. If the Executive thinks the inquiry is not proper, and that it would be improper to communicate the information, of course he will withhold it. But, if there be any information on the subject, I, for one, would like to know it; for I am a good deal in the dark on this matter, though the proper time may not yet have come for full light on it. At all events, I think the honorable Senator from North Carolina has introduced this resolution with a wise intention. He means to amend it in such a way that it shall assume nothing, but simply ask for information on this subject. For one, I hope the Senate will grant him an opportunity of amending it and putting it in proper shape, and I trust that we shall then get a vote upon it.

Mr. BAYARD. I will vote with pleasure to take up this resolution; but I shall be compelled to vote against its adoption if the preamble is not struck out. I would vote for the resolution itself, because it is merely a request of the Senate to the President to send us information, if not incompatible with the public interest. It is right for the Senate to pass any such resolution; and I do not see any objection to it. There is a part of the preamble which I think not very material, but there are other parts from which I entirely dissent. With the preamble, I could not vote for the resolution, because it implies what I do not consider to be existing facts.

Mr. COLLAMER. I am not disposed to go into the consideration of the resolution very much, though I agree with the suggestion of the Senator from Delaware, that the preamble is totally unnecessary, and contains assumptions which cannot be maintained, and certainly cannot be useful to the gentleman's object, if he entertains the legitimate purpose of a resolution of inquiry.

Mr. CLINGMAN. Will the Senator allow me to suggest that, if the resolution comes up, any Senator can call for a division of it. If the resolution be adopted, it is immaterial to me whether the preamble is adopted or not.

Mr. COLLAMER. Do you propose to strike it out?

Mr. CLINGMAN. I do not propose to strike it out. That has not been suggested. But when the resolution is taken up it will be competent for

the Senate to pass the resolution and reject the preamble, or it will be competent for any Senator to move to strike out the preamble.

Mr. COLLAMER. That is not the trouble I have. The preamble is not necessary to the resolution—certainly not to any legitimate effect of it when passed. The preamble contains matter, that the gentleman does not propose to strike out, which would occupy this body, I know, days, and, I think, months, in discussing it. I do not think that time would be very well expended. It evidently contains things—I need not go into them—which would necessarily involve much discussion, and the gentleman does not propose to strike it out. Then he does propose to have all that discussion, as a matter of course.

In the next place, I think the resolution in itself is objectionable. The President tells us that there is a pending negotiation in relation to the Central American business between us and England, and also between us and Nicaragua, and he informed us in his last message that, in that state of things, he does not think it proper to communicate the condition of the negotiations; and yet we go right on in this resolution and ask him to communicate it. It seems to me that is hardly courteous treatment between two coordinate branches of the Government. The President has already expressed his opinion on it, and yet we ask him to give the information. The very substance of the resolution itself, independent even of the preamble, is exceedingly questionable in its propriety. As the honorable Senator from Minnesota suggests, if the gentleman wishes to make it such a thing as would confine it simply to a proper point of inquiry, if that is all he wants, he can very easily offer a resolution that will answer the purpose. This being here does not prevent that being offered at all. But we are to take this resolution up, and thereby involve all the discussion which must necessarily grow out of it, and all the bickerings which must necessarily attach to it. I say we must go into all that if we get up this resolution, when we can make another without taking it up; just such a one as will call for legitimate information.

Mr. MASON. I said to the Senator from North Carolina, that I would not object to taking up this resolution with an understanding that I should then move to lay it on the table. I have no objection to that course, but I do not know what course this vote may take if it is submitted as a test question.

Being up, I will say that the Senator from Vermont is undoubtedly right. If the resolution comes before the Senate with the preamble, it necessarily opens to debate the whole policy of the Executive with reference to Central American affairs—a debate that I suppose, at this day, the Senate is not disposed to entertain unless there be some Senators who think the public interests imperiously require that we should go into an examination of the policy of the Executive in this purely executive matter. I am not one of those. But if the preamble remains there it will be an intimation; certainly an intimation on the part of the mover, that it is his purpose to go into an inquiry into the conduct or the management of the relations of the country as conducted by the present Executive between Great Britain on the one hand and the Central American States on the other. I am not disposed to go into that inquiry. I certainly should go into it if I thought the public interest required it.

But again: my objection to the resolution has been well stated by the honorable Senator from Vermont, whose most valuable aid I, for one, am exceedingly happy to recognize in this matter. The President has told the Senate, in his annual message, giving to the country information as to the condition of the Union, that negotiations are pending, between the United States and Great Britain on the one hand and between the United States and Nicaragua on the other, concerning one of those disturbing questions which have so long affected the relations between this country and England; and he has said further, that while they are thus depending, or in their present posture, he does not consider that it would be wise on his part to make a full communication to the country of the state of things. That being the exact posture of affairs, the honorable Senator from North Carolina must mean to make an issue between the Senate and the President—to make

an issue with the President on this single point of what does or what does not conduce to the public interest in reference to these negotiations. That must mean this: that, in the opinion of that honorable Senator, for some reason the President has mismanaged these negotiations; that he has not conducted them in such a manner as will conduce to the public interest, and, therefore, that it becomes the Senate, (notwithstanding he has said that, in his judgment, it is not compatible with the public interest to communicate it,) to call upon him to do it; and, if he refuse to do it, to leave that issue between the Executive and the Senate open before the American people. I can see no other view that can be taken of the resolution as it stands.

Now, sir, I do not profess to know, because I really do not know, either personally or officially, what is the condition of that negotiation. I have no further information about it than is gathered from the public documents, so far as they have heretofore reached us. I take no account, of course, of all the ephemeral partisan efforts that are made to affect the public mind through the public press by the letter-writers; none whatever. But I know this much: that if the day should unhappily arrive when the President and the Senate deem it necessary, either with the assent of England or without it, to abrogate the Clayton-Bulwer treaty, no statesman can be prepared to recommend it, unless he is prepared to inform the American people where it will land them. No statesman can undertake to do it, unless he has looked far enough ahead to see what consequences may ensue, and what recommendations he will make to meet those consequences. One thing is very certain: if that treaty is abrogated, it will place the two countries precisely in the condition in which they stood before the treaty was made, and it will bring up that vague and so far undefined doctrine called the Monroe doctrine; and it will devolve upon the country either to maintain that doctrine and to carry it out, or to repudiate it.

Mr. COLLAMER. And especially to define it.

Mr. MASON. And to define it, of course, because we could not maintain it unless it was defined. That may all necessarily occur for all that I know; but at present, so far as we have any official information, we have reason to believe that the Executive, where this power and this responsibility reside by virtue of the Constitution, is engaged at this very time in an effort to avert the consequences that may ensue if we are driven to an abrogation of that treaty.

We were informed by him in his annual message at the last session that it would seem to be the most natural course for two sensible Governments to pursue if they differed about the construction of a treaty, to put an end to the treaty upon which they thus differed in construction, and set to work to make another one, which is certainly a very sensible view of the subject. But he said further, that Great Britain had made overtures to him to endeavor mutually to agree upon the existing treaty without taking the hazard of abrogating it and making a new one; and that he had accepted those overtures as he was bound to do, unless he was prepared to go to war. At this session, following out the communication made at the last session, he tells us that negotiations were opened pursuant to those overtures, and are pending not only with Great Britain, but with the Central American States whose relations are interested in those questions; and he tells us, I think very wisely, that because they are pending, and only because they are pending, he deems it unwise to make them public.

In that state of things, the honorable Senator calls upon the President, (although in the courteous language that such resolutions always bear, "to communicate it, if not incompatible with the public interest,") within one week after he tells us that negotiations are pending, the character of which ought not for the present to be disclosed, without any other intervention than this formal caution, to disclose the whole correspondence. If I were to vote for that resolution, I should consider, although it was in the formal tone only of propriety and politeness, that the Senate had made a demand on the President, overruling his discretion, for information about the construction of a treaty. It was to avoid the necessity of going into this debate that I had declined heretofore, so far as I was concerned, to call up the resolu-

tion. As I have said before, without intending the slightest discourtesy of any kind, either to the honorable mover or to the resolution itself, if it be taken up, I shall move to lay it on the table.

Mr. CLINGMAN. I am reluctant to occupy any part of the time of the Senate on this question; but the remarks of the Senator from Virginia will perhaps excuse me for saying a single word.

The Senator is pleased to say that he has no information on this subject beyond that which has been communicated to the public. It so happens, Mr. President, that I was in a position at the last session, in which I acquired some knowledge that is not before the public, and if those facts can be brought to light, (whether they can or not, I am willing to leave to the discretion of the President to determine,) I think the Senate and the country will see abundant reasons for such a movement as I favor. The Senator from Virginia will doubtless remember a conversation which occurred between him and myself at the last session. I do not propose to repeat the conversation, but I have no doubt he has memory enough of it. I allude to the one which he held with me at the instance of certain other persons, the object of which was to prevent my pressing, in the House of Representatives, a proposition which I had reported, or was about to report from the Committee on Foreign Affairs, relative to the abrogation of the Clayton-Bulwer treaty. I then gave the Senator somewhat in detail some of my reasons for thinking that this movement ought to go on. Whatever reasons I then had, operate more strongly at this time, or rather I have additional reasons for thinking the course then indicated was right. The Senator will do me the justice to remember—at least I presume his memory recalls the conversation—that after hearing what he had to say, I went into a pretty full detail and indicated to him why I thought that matter ought to be pressed to the utmost; and I hope very much that something may occur that will bring before the public all the facts which I know to exist; but until that is done, it seems to me all we can do is to make this inquiry of the President.

Now, in what position do we stand? A year ago the President spoke of these negotiations. He said he hoped they might end in something favorable, but a brief period would determine. One year has elapsed; and from the tone of the Executive message it would seem that so far from being nearer any result, we are further from it. The President seems now, as far as his message is concerned, to have lost all thought or hope of any abrogation of the treaty, which is the plain point, I confess, that I had in view; and now in what attitude are we placed? It seems from his statements in his messages, and particularly in this year's message, that the attempt to negotiate with Great Britain has not been satisfactory, and that the attempt to negotiate with the Central American States has not been satisfactory; that is, the attempt to negotiate with Nicaragua has failed. They did not think proper to ratify such a treaty as we desired. Well, there is a hope held out in the message that the British Government will make separate treaties with Nicaragua and the other Central American States, that will be satisfactory to us. Now, I appeal to the Senate, what reason have we to entertain any such hope? I have great respect for the Executive; but this is the state of the case: Great Britain refuses to make a treaty such as we desire, and Nicaragua refuses to make such a treaty; then what hope is there that when they come to make a treaty between themselves, they will grant to us what they refused to us directly?

It seems to me that steps are being made backwards; and I say in all candor to the Senator from Virginia, that my purpose is, if I see any hope of passing it, provided some other Senator does not make the movement, to bring the question in some practical shape before the Senate. I think that treaty ought to be abrogated at all hazards. I desire to be thrown back where we were before it was made. It is conceded by everybody that, so far from our having gained any advantage by means of this treaty, Great Britain is stronger in those countries now than she was before it was made. The excuse for it was, that she was to be ousted from Central America. The

treaty was made eight years ago; and there is not, I believe, a single intelligent man in the country who does not admit the fact that Great Britain has more power in that region, and has been getting stronger there every day, while we have held off.

But the Senator seems disposed to alarm us with the idea that we shall have to define and carry out the Monroe doctrine. I do not profess to understand it, nor do I care what it is; but I am willing to go as far as any other Senator to take care of the material interests of the country. Suppose we could abrogate this treaty to-day: it might be impolitic in us to make any movement in Central America now. I rather think, perhaps, it would be. I am not, however, prepared to speak decidedly as to that. But, if you get this treaty out of the way, two years will not roll over our heads before there will be an opening. We have had two opportunities, to my certain knowledge, within the last four or five years, when there was every prospect that a favorable movement might be made. Three or four years ago, when the Panama outbreak occurred, it is well known, England and France were together in the Russian war, and I believe that then, but for this treaty, our Government could have righted itself. I rather think that last spring there was another favorable opportunity, when it is well known that England, besides the troubles of the India rebellion, which had not then been suppressed, and the Chinese war, which was yet undetermined, was threatened with European difficulties. I do not pretend to inquire how the facts were, but everybody knows that the British Government at that time looked with alarm upon the condition of things in France; that the whole British press was sensitive on the subject, and that the British Government went to work to arm themselves at home. There was a sensitive state of feeling prevailing there at that time, and I think it quite possible that there may have been an opening for us then. I may be altogether wrong in this, but what I desire to indicate is, that if we get this treaty out of the way, we can act according to circumstances.

Therefore, whether this resolution pass or not, I intend, if I see the least hope of success, to press some proposition of that kind. A year ago, I thought it was right simply to request the Executive to take steps to abrogate the treaty. As the Executive has accomplished nothing in that respect since that time, I am very much inclined to think that I would vote for a stronger proposition now. Gentlemen know very well that in the year 1798 a treaty with France was abrogated by Congress. That was a strong and decided measure, and I would wait a long while before I would propose to go to such an extent here; but I think it is due to the country that we should have all the information we can get on the subject. I have brought forward this proposition at this time, not expecting that it would give rise to any general discussion in relation to this particular treaty. I thought it was a bad one at first; but, under the interpretation of Great Britain, it has grown worse and worse every day.

If my resolution be taken up, and gentlemen object to the preamble, I am willing to waive that. It indicates my own individual opinions; but I do not desire other Senators to adopt it, unless it conforms to their opinions. Unless the Senate are willing to allow the resolution to go through as a whole, I do not care to have a mere naked preamble adopted, which effects nothing. The propositions it contains may be adopted hereafter. I throw them out in this shape now as argumentative merely, as presenting reasons why some call ought to be made. If it shall turn out that the President cannot give us the information, it may be that another proposition will be brought here.

I have said thus much, sir, because I thought it due to the remarks of the Senator from Virginia. He and I differed at the last session widely in regard to this question. He knows the reasons which then operated on me; and they operate with equal force at this time.

Mr. SHIELDS. Mr. President, I do not want to prolong this debate, and have no desire to go into it; but, by some remarks that have been made, I should perhaps be placed in a false position if I did not explain myself. The honorable Senator from Virginia assumes that a call for this information at this time would be making an issue with the

President, and would be, so far as it goes, expressing a want of confidence in the management of the negotiations by the Executive. Sir, I have no such opinion as that; and I am not willing to be placed in such a position. When we make a proper call for information, I cannot see how those who make that call in respectful language can be placed in any such position as that of making an issue with the Executive in relation to the management of negotiations.

Mr. MASON. Allow me to make a suggestion to the honorable Senator. The President has told us, within a week, of the pendency of these negotiations; and he has told us that, in his judgment, it is not compatible with the public interest to communicate the correspondence concerning them. Now, if, without any further communication from the President, and within that short period, we call upon him to send us that correspondence, I cannot but infer, whatever the design may be, that the vote will show that we differ with the President as to what is compatible with the public interest in a matter which is peculiarly within his cognizance.

Mr. SHIELDS. While the President, in his message, makes the statement which the honorable Senator from Virginia has very fairly presented, I think he goes still further, and suggests the propriety of arming the Executive with authority to use the Army and Navy in Central America. It is necessary that we should have some information before we can act on that suggestion.

But I rose especially to notice the suggestion of the Senator from Virginia—for whose opinions I entertain the highest respect, both as the chairman of the Committee on Foreign Relations, and as an able statesman—that to abrogate the Clayton-Bulwer treaty would lead to war. [Mr. Mason shook his head.] I misunderstood him, then. I thought he intimated that we must be prepared for some extraordinary result if the Clayton-Bulwer treaty should be abrogated. Our position, in that case, would be an exceedingly unfortunate one; because, for my life, I cannot see what we have gained by the Clayton-Bulwer treaty. Great Britain, as the greatest maritime Power in the world, has this moment possession of all the commanding ports of Central America, precisely as she had before that treaty was formed. It has not changed her position there in the slightest; but our hands are completely tied.

I will not go into that, however. But when the honorable Senator says that to make a respectful, courteous call upon the Executive for information, if such information is compatible with the interest of the public, is making an issue with the Executive, I think he does wrong to those who will vote for this resolution. I have no such intention, as far as I am concerned; but I do believe that it would be wise and politic, at this moment, if there be any information, as suggested by the honorable Senator from North Carolina, that can be laid before the public without injury to this negotiation, that it should be laid before the public at once. I have no fears of difficulty arising there. I should regret it exceedingly, and regret any measure that would lead to any difficulty; but I think a respectful call for information can have no such effect. Even if we should refuse to make the call, a resolution might be introduced, such as the honorable Senator from North Carolina suggested—and when in the other House, I believe he offered such a resolution—to abrogate this treaty; and then the question would come up, and we must meet it. In the mean time, if there be any information on the part of the President which would prevent the Senate from moving in that matter, I think it would be wise and well that it should be called for and laid before the Senate.

The question being taken by yeas and nays, resulted—yeas 22, nays 28; as follows:

YEAS—Messrs. Bayard, Benjamin, Bright, Broderick, Clark, Clay, Clingman, Crittenden, Fitzpatrick, Green, Houston, Iverson, Mason, Polk, Reid, Rice, Shields, Toombs, Trumbull, Wade, Ward, and Wilson—22.

NAYS—Messrs. Allen, Bell, Bigler, Chandler, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Gwin, Hale, Hamlin, Hammond, Harlan, Hunter, Johnson of Tennessee, Jones, King, Sebastian, Seward, Slidell, Stuart, Thomson of New Jersey, and Wright—28.

So the Senate refused to consider the resolution.

ORDER OF BUSINESS.

The VICE PRESIDENT. The Chair will call

up the unfinished business, which is the Pacific railroad bill.

Mr. DAVIS. I ask the Senate to take up for consideration the subject I presented yesterday, and for reasons then given, which I hope it is unnecessary to repeat—the adverse reports which are upon the Calendar, in order that they may be considered, and, so far as they do not involve debate, disposed of at the present session.

The VICEPRESIDENT. The Chair has called up the special order. Does the Senator move to postpone that?

Mr. DAVIS. Yes, sir, informally; merely to take up the adverse reports.

Mr. GWIN. The Senator from Tennessee [Mr. BELL] wishes to address the Senate on the railroad question; and if it will not interfere with him I shall be very glad to yield to the Senator from Mississippi.

Mr. DAVIS. Wherever a case brings up debate we can let it go over, so as to occupy but a short time in disposing of reports which involve no debate.

Mr. BELL. I should be very glad to accede to the wishes of the Senator from Mississippi; but, as I expect to be compelled by necessary private business to be absent next week, I had a desire, if an opportunity were presented to-day, to state briefly some of the positions which I had taken formerly upon the subject of a Pacific railroad, and to show that I had not changed my views of the importance and necessity of such a measure. I fear that I shall not have that opportunity if I yield to the proposition of the Senator from Mississippi.

Mr. DAVIS. I will wait until you get through, then, if you will not wait for me.

The VICEPRESIDENT. Does the Senator from Mississippi withdraw his motion?

Mr. DAVIS. Of course.

Mr. BELL. I shall not occupy many minutes. I am not prepared to enter into any argument in detail.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, and munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

The pending question, as modified before the adjournment on Tuesday last, was on Mr. Polk's amendment to strike out the proposed eastern terminus of the road, in lines seven and eight of the first section of the bill, in these words:

"On the Missouri river, between the mouths of the Big Sioux and Kansas rivers."

And insert in lieu thereof:

Between a point in the boundary of Minnesota, on the forty-ninth parallel of north latitude, and the southern boundary of the United States.

Mr. BELL. Mr. President, I have stated already that I do not propose to enter into the discussion of the subject in any detail, or to express my views at any length upon it. I wish merely to advert to some of the positions that I took on this floor as far back as seven years ago. My friend from California remembers some of them. I will state now that, from the first dawn of our settlements and empire on the Pacific coast, from the time of the ratification of the treaty of Guadalupe Hidalgo and the emigration that set in so soon afterwards, which was increased by the extraordinary discoveries of gold in California, seeing that we should have probably a dense population in California, and in Oregon and Washington Territories, I have never hesitated or faltered in the opinion, that if we meant to hold our empire there, this was a work of inevitable necessity; that it was one of such a gigantic nature, and was surrounded by such circumstances, that it could not be safely left to private enterprise. Whatever may be done in the future, half a century or a century hence, it is unnecessary to conjecture; but for a long period at least, there is a region of country along on any route to the Pacific, extending north and south, upon an average, some four hundred and fifty or five hundred miles that forbids the investment of private capital, or the expectation of it. Therefore, if we are to have these means of intercommunication for war purposes—I put it mainly on that ground, and say nothing of the commercial advantages and conveniences

that may be derived from it—unless the Government contributes its aid, it can never be enjoyed, and we can never maintain our Pacific coast against any great maritime Power.

Gentlemen talk and speculate of transporting there the necessary military force and munitions of war, without any such road as this; and they refer to the probability of wagon roads, the feasibility of which is disclosed, it is said, by the practical operation of the mail route that we have authorized. Why, sir, I have never yet heard a military man say it was practicable, without a railroad, such as we propose by this bill, to transport an army across the continent for the defense of our western frontier. The honorable Senator from Mississippi, [Mr. Davis,] the other day pointed out clearly that, even in time of peace, it was not practicable; an idea which he stated he did not include in the first report that he made on this subject when Secretary of War. Then, I say, a railroad to the Pacific is a matter of necessity, if we mean to be prepared to hold our possessions there in the contingency of a war with any great maritime Power—with England, or with France—and much more with those two Powers combined. In such a contingency the routes that we are so anxious to secure across the Isthmus would be unavailable to us until at least a long period, and until our resources had been very much exhausted in building up a navy to compete with those great Powers. From three to five years at least, with all the energy we can employ, and all our financial and material resources, must transpire in the event of such a war, before we could be able to compete with those Powers.

An idea was thrown out by the gentleman from California [Mr. Gwin] the other day, which is certainly well entitled to consideration. It might suggest itself to our minds on a careless consideration, that a maritime force on our western coast would not be able to supply themselves. The country could not do it. The supplies there from agricultural products would not be more than sufficient to subsist the population; but, as was demonstrated, the supplies from other countries would be as accessible to an enemy, and within as short a distance; nay, shorter than they would be from the Atlantic States. Then my opinion is, as stated long since, that if this work is to be constructed, it will have to be by Government aid; and as I said the other day in conversation, to the honorable Senator from Mississippi, my principal objection to his proposition to amend the original bill is grounded upon the small degree of aid that he proposes to give by this Government. I think it is not enough; it is not, in my judgment, half enough. And even when such a road shall have been constructed by a contribution on the part of this Government, by a loan of its resources, or its credit if you please, of \$50,000,000, then there is another difficulty in my mind. Suppose capitalists, upon the promise of this aid, much as it may appear in the views of gentlemen, shall have accomplished this great work, where is the fund provided; where are the resources contemplated by this bill to enable that company to operate such a road through a desert tract of five hundred miles? Select any route you choose of the many that have been pointed out as practicable at some cost, and what is to be the reliance of the country upon the ability of a private corporation or company to continue to operate a road over an extent of two thousand miles, five hundred of which can contribute nothing either in the way of way trade or way travel to supply the current expenses of it?

My objection is not founded, then, on the large amount of means proposed to be provided on the part of this Government, or the extent of credit proposed to be conceded to private individuals, to aid in the construction of this road. On that point, my objection is that the grant is not liberal enough. Seven years ago, I expressed the opinion that if it was a question whether this road was to be or never to be, and this Government was to contribute \$150,000,000 to secure it, it would be a measure of economy to grant that sum, rather than to assume the position that it was never to exist; provided we intend to hold the western and eastern slopes of this continent together in the same political union or confederacy.

I contend, further, that it would be a measure

of economy even, to contribute that large amount—looking at the necessary expense and the probable annual cost of transporting the mail, which was but a small item; though, as I stated then, I believed the cost of mail transportation between the Atlantic States and California to be eight or nine hundred thousand dollars; but it has now reached the enormous amount of \$2,200,000 annually. What is to be the cost of furnishing military supplies to our troops guarding our extensive Indian frontiers, not only on the slopes of the Pacific, but in New Mexico, and other interior Territories? I am informed by those gentlemen who have looked into it with more care than myself, that it has not amounted to less than ten million dollars for the last year. What prospect is there that the cost, in the future, of the transportation of military supplies for the defense of our interior settlements against the Indians that are disposed to be hostile upon both our extensive borders, eastern and western, will be lessened? No gentleman who looks at it, can suppose for a moment that the cost will be less in any future year.

I have seen it stated, I think, in the morning papers of to-day, that there is information from New Mexico that the war with the Navajoes has not ceased, and is not expected to cease during the winter, nor for a long series of years. What is to be the cost of that? Why, sir, let us remember that it cost \$40,000,000 to wage a war against a handful of Indians in the peninsula of Florida, every cent of which has been expended by this Government in the suppression of hostilities there; and there is not an end of the expenditures yet. Then look at the extensive region between our settlements beyond the Mississippi and those on the Pacific coast, roamed over by two hundred and fifty thousand, or, according to some estimates, three hundred thousand Indians. Although they may agree to treaties, and make peace from year to year; although they may receive large bounties from this Government in the shape of annuities, we know they are ever ready for an onslaught when hunger pinches. We can hardly dream that good faith will be observed even on the part of tribes much further advanced in civilization than any of them. When, then, is this expenditure to cease? Never.

Well, gentlemen may say that the cost of this transportation, and of supporting our military posts on these two extensive frontiers, will still be a subject of large expenditure to the Government, even when we have this road. That is true. We can only look then to diminished expenditures. A considerable diminution of them we may well calculate upon; but that they will fall below ten millions of dollars annually, I predict will not take place in the next twenty years, unless we have such a road. This is in time of peace in protecting our frontiers from two hundred thousand or three hundred thousand Indians. But when you take into consideration the contingency of war by any foreign Power attacking our western possessions, (there is the point where we are the weakest, and the first point where they would make their attack,) and when you come to make an estimate of the cost of transporting supplies, which cannot be expected to be furnished in California, Washington, and Oregon, and our access to them by the ocean would probably be cut off by the superior naval power of our opponent, then the question is not so much of cost as of possibility. The Senator from Mississippi, the other day, expressed the sentiment that it would be impossible to furnish supplies to our Pacific possessions in such an event. I concur fully with him. It would be utterly impossible. We should not only lose for the present, but for many years after such a contest, the possession of those regions, but we should be dishonored in our character, we should lose our prestige as a growing, powerful, and irresistible people, as we sometimes imagine ourselves to be; or if we were to maintain our possessions there under such adverse circumstances, it would be at such an expense as would almost exhaust the resources of the country, great as they are, and the bars of gold in addition which may be expected to be supplied from California and the other regions where gold is found.

Then this road is a matter of necessity—I place it upon that ground—if we expect to hold possession of our dominions on the Pacific coast. I will

not go into the consideration of the commercial advantages of the trade with the western portion of Asia—a trade that may grow up under the operation of the treaties lately concluded by our Government with Japan and with the Chinese empire. All these things I leave out of view, but they may very well be taken into consideration. They have already been elaborately and ably placed before the Senate. I must, however, say a word further in justice to the gentleman whom I consider to have been the pioneer in this business, who first diffused this idea over the States by great personal exertions and the exercise of manly intellect. I allude to Mr. Whitney, a man of decided and remarkable vigor of intellect. It is due to him to say that ten or twelve years ago he had a pretty full conception of most of the arguments that have been presented to the Senate from year to year in favor of this measure, when it has been before this body. The only astonishment is, that when they took possession of the public mind as they have done since the idea of the probability of such an enterprise was first diffused over the country, Congress has slept upon this great and necessary project.

Now, sir, I do not suppose that I need say anything more to show that my views on this subject have not changed in the slightest degree. If I imagined that this question depended upon my vote, and that it was likely that it would come to a decision at this Congress, so strong an opinion have I of the necessity of this work, that I would make any private sacrifices to remain, and listen to the discussion that may ensue hereafter, until there is a final vote on the question. I shall endeavor to be present; but at this time I do not expect to be able to be here when the vote shall be taken, if the question is to be decided next week.

Mr. STUART. I suppose it is understood that this question will be now informally passed over, and I desire to ask leave of the Senate to call up a bill simply for the purpose of making it a special order. I refer to the bill which I moved to take up yesterday—the bill granting lands to the States for agricultural purposes. I merely wish to have it taken up now for the purpose of being made a special order for some day next week.

The PRESIDING OFFICER. (Mr. Mason in the chair.) Some disposition must be made of the bill before the Senate.

Mr. GWIN. I do not want to lose its position; but let it be passed over informally, so that it shall come up at one o'clock on Monday.

Mr. STUART. I do not intend to interfere with that at all; but it will only take a moment to dispose of my proposition. I suppose, by general consent, the pending bill may be passed over informally.

The PRESIDING OFFICER. The Chair will treat the bill as passed over informally, unless there be objection.

AGRICULTURAL COLLEGES.

Mr. STUART. I move to take up the bill (H. R. No. 2) donating lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

The motion was agreed to.

Mr. STUART. I now move to make this bill a special order for Tuesday next, at one o'clock. The motion was agreed to.

ADVERSE REPORTS.

Mr. DAVIS. I now renew the motion which I made this morning, to take up the Calendar and consider those cases in which adverse reports have been made by committees.

The motion was agreed to.

The PRESIDING OFFICER. (Mr. Mason in the chair.) The Secretary will read over the names of the cases in which there are adverse reports, and the question will be taken on each at once, unless some Senator desires that one shall be excepted.

Mr. STUART. I would suggest, for the convenience of the Chair and the Senate, that the whole list be read; and, unless some Senator makes an objection, let the Senate be considered as agreeing to these reports, without putting the question formally on each.

The PRESIDING OFFICER. That course will be pursued, if there be no objection. Each report, as stated, will be considered as agreed to,

unless some Senator indicates a desire to have it reserved.

NATHANIEL CHAMPE.

The first was the adverse report of the Committee on Revolutionary Claims on the memorial of Nathaniel Champe.

The report says that the history and public services of Sergeant Major Champe, of Lee's legion, during the revolutionary war, are well known. The attempt to seize Arnold, after his treason, which was planned by Washington and Lee, and the execution intrusted to Champe, would, if it had been successfully executed, have been one of the most romantic events of the Revolution. But his merit was not the less because it failed, as the failure resulted from causes unforeseen and not anticipated. To what extent Champe was remunerated pecuniarily, does not appear. It is probable that the promises of Washington were performed. Unless he was rewarded by Washington, there is no evidence that he received any reward in his lifetime. He has been dead half a century, and his descendants are numerous and said to be poor; and if no provision had ever been made for them, the case presents facts which would bring it within the principles adopted in other cases. But it appears that, by an act approved July 7, 1838, the widow of Sergeant Champe was allowed a pension for life, commencing from the 4th day of March, 1831, at the rate of \$120 a year. By dating the pension back to 1831, she received \$840, besides what accrued afterwards. It also appears that, by an act approved the 3d day of March, 1847, there was allowed to his heirs the commutation pay of an ensign for five years, amounting to \$1,200, thus allowing to his heirs, as a compensation for his gallant conduct, what he himself was never legally entitled to, as the resolution of October 21, 1780, and the commutation resolve of 1783, included only commissioned officers. The committee were therefore of opinion that all had been done for the heirs of Sergeant Major Champe which can reasonably be asked for, and recommend that the prayer of the petition be refused.

The report was concurred in.

JOHN WENTWORTH.

The next was the report of the Committee on Pensions on the petition of John Wentworth.

It appears that the petitioner served in the Navy of the United States during the last war with Great Britain; that he was a seaman on board the frigate Constitution at the time of the capture of the *Guerriere* and *Java*; that he was wounded in the battle with the latter frigate; that on the 18th of May, 1848, he was granted a pension of thirty-six dollars per annum for his disability; and on the 23d of September, 1851, his pension was increased to fifty-four dollars per annum, on account of the increase of his disability. The prayer of the petition is, that the payment of the pension may be made to commence from the 2d of April, 1813, the date of his discharge from the service. The present law of the United States, and the practice of the Department, are to allow the payment of pensions to commence from the time of completing the testimony. Granting the prayer of this petition will be a departure from the existing law; and until Congress is prepared to repeal it, the committee are of opinion that it should be enforced. They therefore recommend that the prayer of the petition be denied.

The report was concurred in.

HOPPER'S HEIRS.

The next was the report of the Committee on Pensions on the petition of A. G. Hopper and others, heirs-at-law of Garnett A. Hopper.

The committee report that the purport of the petition is to be allowed a pension for the revolutionary services of the father of the petitioner. By a recent decision of the Attorney General, however, it appears that "children of revolutionary soldiers cannot legally establish and recover claims of this character;" and the committee therefore report adverse to the prayer as made.

The report of the committee was concurred in.

ISAAC BLAUVELT.

The next was the report of the Committee on Pensions on the petition of Isaac Blauvelt.

The committee report that the petitioner alleges, without evidence, that his father was a revolu-

tionary soldier, and he therefore asks to be allowed such pension as would have accrued to his father at the time of his death, in 1843. By a decision of the Attorney General, under which the Pension Office is now acting, even was the proof of the service of the father complete, this petition could not be allowed. The committee therefore report adverse to the prayer of the petition.

The report was concurred in.

ELIJAH ROTH.

The next was the report of the Committee on Pensions on the petition of Elijah Roth.

Roth alleges that he was a soldier in the war of 1812; and that, whilst engaged in active service, he became injured in the left side, which rendered him unfit for duty, and for a considerable time unable to perform labor. His statements, however, are entirely unsupported by concurring testimony, and therefore the committee recommend that the prayer of the petition be not granted.

The report of the committee was concurred in.

GEORGE MAYO.

The next was the report of the Committee on the Post Office and Post Roads, on the petition of the legal representatives of George Mayo, deceased.

The petition alleges that about the 1st of September, 1831, George Mayo, at the suggestion of his brother, the petitioner, who was at that time a clerk in the Post Office Department, went to work to assist him upon the duties of his desk, George Mayo being at that time an applicant for a clerkship in that Department. He was thus employed for one month, when, it is alleged, he was transferred by one of the Assistant Postmasters General to other duty, which he performed until the 1st of March following, when he voluntarily left the Department. At a subsequent period he received an appointment in the Department, which he had during all this time been expecting, at a salary of \$800 per annum, but held the same only about a year before he was taken sick and died. No evidence appears that he preferred a claim against the Department during his life for the services rendered prior to his appointment.

The first claim that appears to have been made was by the petitioner, in the year 1843, about eleven years after the service was performed; which claim, upon being presented to the then Postmaster General, Mr. Wickliffe, was rejected, upon the ground that the records furnished no evidence of an agreement to pay, and that, in the opinion of Mr. Wickliffe, as Mayo remained without being paid, or claiming pay, though the clerks, regular and extra, were paid off at the end of each month, he occupied a position in the office often sought by young men, to do duty without charge, in order to be in a favorable position for the first vacancy; which opinion was subsequently concurred in by Postmaster General Johnson, in 1846.

It does not therefore appear that the employment of George Mayo in the Department prior to his appointment was authorized by the Postmaster General, the only officer competent under the law to employ extra clerks in his Department; and this fact, taken in connection with the fact that no demand was made upon the Department during Mayo's life, and not until nearly eleven years afterwards, justifies the inference that the Department entertained the proper view of the case, and in which view the committee concur. They feel that the equity of the case is not sufficiently strong to justify them in recommending the payment of the compensation prayed for, establishing thereby a precedent which might lead to much laxity and abuse. They think it best to adhere strictly to the rule that no clerks or officers shall be added to the public service by the Executive Departments beyond what is authorized by law and provided for by appropriation, and therefore they recommend the adoption of the accompanying resolution:

Resolved, That the prayer of the representative of George Mayo, deceased, ought not to be granted.

The resolution was agreed to.

JOHN HUGHES.

The next was the report of the Committee on Naval Affairs on the petition of John Hughes, praying to be allowed a pension on account of injuries received while serving as a private during the war of 1812.

The application of the petitioner having been submitted to the Navy Department for information as to the facts stated in it, the reply was, that after a thorough examination of Commodore Porter's correspondence, nothing could be found to show that Hughes was wounded in the service. His name appears upon the rolls of the Essex at the time stated by him; but the only proof which he submits of his having been wounded while serving in the Essex is his own affidavit. The only provision made by Congress for invalids disabled on board of private armed vessels, during the war of 1812, is an appropriation for the payment of the pensions of those now on the list. There is no law now in force under which original claims of this class can be allowed. The committee are of opinion that the prayer of the petition ought not to be granted.

The report was concurred in.

JOHN POPE.

The next was the report of the Committee on Naval Affairs on the petition of John Pope, a captain in the Navy, praying to be allowed the difference between the pay he received and that Commodore Abbott would have received had he not died, for the time he discharged the duties of commander of the squadron.

The death of Commodore Joel Abbott, commanding the East India squadron, on the 14th of December, 1855, made Captain Pope the senior officer on that station until the date of the sailing of the Macedonian (which vessel he commanded) on the 2d of February, 1856, for the United States. In the mean time, Commodore James Armstrong, who had been ordered to relieve Commodore Abbott, left New York on the 25th of October, 1855, in the steam-frigate San Jacinto, for the East Indies. Captain Pope never received any order from the Department to hoist a broad pennant, nor was he recognized by it as commanding a squadron. He was at that time, and is now, a captain, promoted under the act of February 23, 1855, to fill a vacancy created by the reserved list. Captain Pope, on the 28th of August, 1856, after the return of the Macedonian to the United States, applied to the Department to be allowed the pay of a commodore, and was answered, that, "if there were no other objection to your being allowed pay as commander of a squadron, the allowance would be prohibited by the act of February 28, 1855, which decides the pay of officers promoted under that act." The committee are of opinion that the petitioner presents no just grounds for the allowance prayed.

The report of the committee was concurred in.

WILLIAM H. KENNON.

The next was the report of the Committee on Naval Affairs on the memorial of William H. Kennon, late purser in the Navy, praying for the same compensation as has been allowed to his predecessor and successor on board the United States steam-frigate Mississippi.

While Mr. Kennon served in the Mississippi she was a "steamer of the first class," and the pay allowed by law to the purser of such a vessel is \$2,000 per annum. When Purser Bryan served in her, she had been classed by the Department as a "frigate," and he was therefore entitled to pay at the rate of \$3,000 per annum. On the 3d of June, 1845, the Secretary of the Navy directed that, in the settlement of future accounts, she was to be considered as a "steamer of the first class." Accordingly, Purser Warrington, who succeeded Purser Bryan, and Purser Kennon, who succeeded Purser Warrington, were allowed \$2,000 only. By a subsequent order of the Department, dated on the 22d of November, 1850, to take effect on the 1st of January, 1851, the classification was again changed, and the Mississippi was rated as a "steam frigate." Under this order Purser Eting, who was then attached to her, was paid at the rate of \$3,000 per annum from the 1st of January, 1851, but for his previous service he was allowed at the rate of \$2,000 only. When Mr. Kennon was ordered to the Mississippi, it was only his second cruise, and, by the regulations of the Department, if she had been rated as a frigate, he would not have been entitled to have been ordered to her.

The Fourth Auditor states that there is no evidence on the files in his office to show that the duties of Purser Kennon, during the year and a half that he was on board the steam-frigate Mis-

issippi, were more varied or onerous than might reasonably be expected to devolve on the purser of a flag-ship of a squadron in the time of war. Doubtless, many transfers were made of stores and money to other vessels; but when such transfers were made, Mr. Kennon had only to take receipts from the disbursing officers of those vessels, upon the production of which he would receive credit for the amount. He did not act as purser of any vessel except his own. There was no peculiarity in his situation, nor any cause arising out of the regulations or instructions to which he was subjected, that would have prevented him, with the exercise of due diligence, from keeping and rendering accurate accounts of his disbursements.

The committee report that, in their judgment, the memorialist has no just claim for the additional compensation prayed, he having received the full pay to which he was entitled by his position on the Register and the rate of the vessel to which he was attached; and that his pay was equal to the amount received by his immediate predecessor and successor, during the period in which the Mississippi was rated as a "steamer of the first class." They therefore ask to be discharged from the further consideration of the subject.

The report was agreed to.

REVOLUTIONARY CLAIMS.

The next was the adverse report of the Committee on Revolutionary Claims on the memorial of heirs of revolutionary officers of the Continental line, praying for the repeal of the acts of limitation of 1792 and 1793, in order that the Court of Claims may pass upon their claims.

The report was concurred in.

JOHN D. ALVEY.

The next was the adverse report of the Committee on Revolutionary Claims on the petition of Mary D. Hayes and B. S. Fassett, praying to be allowed a pension on account of the services of John D. Alvey, deputy postmaster at the headquarters of the army during the revolutionary war.

The report was concurred in.

THOMAS JOHNSON.

The next was the report of the Committee on Pensions on the petition of Thomas Johnson, praying for a change in existing laws, so that all pensions for wounds or injuries received while in the line of duty in the military or naval service of the United States shall commence from the date of the disability, instead of the time of completing the testimony.

Mr. FESSENDEN. Let that pass over without action upon it now.

The PRESIDING OFFICER. That report will be excepted.

JANE STONEHAM.

The next was the report of the Committee on Pensions on the petition of Jane Stoneham.

The petitioner alleges and proves that she is the widow of Henry Stoneham. Record evidence is also adduced, showing that one Henry Stoneham served for more than two years in the Virginia Continental line; but the petitioner has failed to prove that her husband was the *bona fide* Henry Stoneham who so served. It is alleged and proved likewise that one Henry Stoneham was at the battle of Guilford Court-House, in North Carolina; but this is no evidence that he was in the Virginia line, or that he served six months, if he was therein, because it is well known that those were Virginia volunteers who engaged in that battle. The petitioner asks for a pension in consideration of the revolutionary services of her husband; but, as the committee is of opinion that the evidence adduced is not sufficient to establish her claim, it recommends that her prayer be rejected.

The report of the committee was concurred in.

JANE BAKER.

The next was the report of the Committee on Pensions on the petition of Jane Baker, widow of Thomas Baker, for the pension which was granted to her late husband for naval services in the revolutionary war.

It was first presented to Congress on the 13th of December, 1820, at which period the petitioner is said to have been an aged person. A period of nearly forty years has elapsed since the peti-

tion was first presented, and as no other papers accompany it, nor any evidence is adduced showing the propriety of the case, the committee report adversely. If, however, the facts asserted in the petition were proven, the petitioner does not come within any class of pensioners, because her husband did not die in the service of the United States. The committee therefore recommend that her prayer be not granted.

The report was concurred in.

JOSIAH LOCKE'S HEIRS.

The next was the report of the Committee on Revolutionary Claims on the petition of R. S. Hamilton and J. E. L. Hamilton, heirs of Josiah Locke, an officer in the revolutionary army, praying to be allowed a pension.

The adverse report of the committee was concurred in.

COLLECTIONS OF EXPLORING EXPEDITIONS.

The next was the report of the Committee on the District of Columbia on the memorial of the National Institution for the Promotion of Science, praying for an appropriation for preserving the collections of objects of natural history intrusted to their charge. The report of the committee shows that in fact the collections are now in the Smithsonian Institution—they were formerly in the Patent Office—under the charge of the Government, and therefore the committee ask to be discharged from the further consideration of the memorial.

The report of the committee was concurred in.

MARY HOPPER.

The next was the report of the Committee on Pensions on the petition of the heirs of Mary Hopper, widow of John A. Hopper, a revolutionary officer, praying to be allowed a pension.

The adverse report of the committee was concurred in.

RICHARD E. RANDOLPH.

The next was the report of the Committee on Public Lands on the petition of Richard E. Randolph, praying to be allowed bounty land for services in the Florida war in the year 1836.

The adverse report was concurred in.

JOSEPH DOWD.

The next was the report of the Committee on Pensions on the petition of Joseph Dowd, late a private in the Army of the United States.

The petitioner is now in the receipt of the highest rate of pension allowed for full disability in his grade in the service, and unless there should be an alteration in the general law, the committee are of opinion that his pension ought not to be increased.

The report of the committee was concurred in.

THOMAS HENDERSON.

The next was the report of the Committee on Private Land Claims on the petition of Thomas Henderson, asking to be allowed the right to enter a certain tract of land in the State of Michigan.

Mr. STUART. That subject has been re-committed to the committee at this session, and I prefer that there should be no decision of the Senate on it for the present.

The PRESIDING OFFICER. That report will be reserved.

PUBLIC LANDS IN IOWA.

The next was the report of the Committee on Public Lands on the petition of citizens of Taylor county, in the State of Iowa, praying to be allowed to enter certain lands on which they had settled, at the minimum price.

The committee report that no legislation on the subject is at present necessary; they therefore report the petition back to the Senate, and ask that the committee be discharged from the further consideration of the subject.

The report of the committee was concurred in.

ALEXANDER HAYS.

The next was the report of the Committee on Military Affairs and the Militia on the petition of Alexander Hays.

The petitioner represents that while he was attached to the United States Army in Mexico, in 1846, as a lieutenant, eighth infantry, he was obliged to act as disbursing officer, receiver of subsistence, &c. These duties were not incum-

bent upon him under his commission in the line, but arose from the exigencies of the service on several occasions; and in the settlement of his accounts at the Treasury, he finds himself charged with \$2,050 57 on cash account, and \$1,934 71 on account of subsistence stores. In the account making up this first item, Lieutenant Hays is charged with drafts made upon and paid by Captain R. E. Clary, in December, 1847—\$1,500; which, in his correspondence with the War Department, he pronounces forgeries, and he also declares that \$400, charged in the same account for "discount on draft," was a fraud practiced upon him by his clerk. These are the only explanations made by Lieutenant Hays for these deficiencies, (the residue of the \$2,050 57 being errors in calculations, \$23 35; \$80 paid for clerk hire disallowed, and \$48 received by him from Captain J. H. Young, which he did not acknowledge.) For the second item, \$1,934 71, for sundry provisions turned over to him at Puebla, Mexico, in October, 1847, he does not account in any way, nor have any returns been received at the War Department showing their application to the public service; but some unsigned vouchers were left by him with his account in the Third Auditor's office, for which, of course, he cannot be credited without some satisfactory explanation. The committee do not find any reasonable offsets to these charges against Lieutenant Hays, and report that the prayer of the petition be denied.

The report of the committee was concurred in.

ROGER KEAN'S HEIRS.

The next was the report of the Committee on Revolutionary Claims on the memorial of Jane M. Kean, Mary A. Reynolds, and Catharine E. Kean, heirs of Roger Kean, deceased.

The petitioners represent themselves to be the children of Roger Kean, who was first a lieutenant, and afterwards commander, of a private armed vessel named the *Holkar*, fitted out at Philadelphia—a very successful cruiser against the enemy in the war of the Revolution. The prayer of the petitioner is, that the officers of the national Navy, and of private armed vessels, may be put on the same footing as the officers of the army of the Revolution. The only claim which officers of the army or their descendants have on the Government are such as arise from the resolution of October 21, 1780, by which half pay for life was promised to all officers who should continue in the army to the end of the war, or to such supernumeraries as should be displaced by the reorganization of the army, then about to take place. The reasons, so far as we can learn them from contemporaneous history, applied solely to the army. Many attempts were made to enlarge the resolution, so as to comprehend other classes, as appears by the resolution of the 26th of January, 1784, which is: "That half pay cannot be allowed to any officer, or to any class of officers, to whom it has not heretofore been expressly promised." In the *Journal of Congress*, May 16, 1785, volume 4, page 518, it is stated that, on the report of a committee, to whom was referred the petition of Hannah Young, widow of the late John Young, commander of the sloop-of-war *Saratoga*, in the service of the United States, praying for a resolution to entitle her to half pay, it was resolved "that it is inexpedient to comply with the prayer of the said petitioner." If the Congress refused to grant the half pay, or its substitute—commutation for five years' full pay—to the widow of an officer of the Navy, the committee are unable to perceive any reason for extending the half pay to their children or descendants, after a lapse of sixty years, and especially to officers of private armed vessels, who generally reaped an abundant reward in the profits of the prizes captured by them. They therefore recommend that the prayer of the petition be refused.

The report was concurred in.

HEIRS OF SAMUEL HAMMOND.

The next was the report of the Committee on Revolutionary Claims on the memorial of the heirs of Colonel Samuel Hammond.

The petitioners are the children of Samuel Hammond, who served in the war of the Revolution, in the militia of the State of South Carolina, as captain, major, and colonel. The memorial states, in substance, that at the commencement of the war he resided in Virginia, where he was actively engaged in defense of that State, and was engaged

in several military expeditions and battles; that in 1779 he removed to South Carolina, and from that time to the end of the war he was almost constantly engaged in the military service. He was at the assault on Savannah, and after the surrender of Charleston, in May, 1780, he participated in nearly all the battles which were fought in the upper part of that State, and in North Carolina. He was at the Cowpens, King's Mountain, Guilford, the siege of Ninety-Six, and the battle of Eutaw, by which the enemy were driven into Charleston, and the whole interior of the State reconquered from the dominion of the English troops. For these services, and many sacrifices of money and property, he never received any remuneration, except a pension under the act of June 7, 1832, of \$600 per annum, until his death, in 1842. The prayer of the memorial is, that the children of Colonel Hammond may be put on the same footing as the children of officers of the Continental line, and paid the same amount as they would be entitled to if their father had been a colonel in the regular Army.

The evidence furnished is the same as that upon which the pension of Colonel Hammond was allowed, and some historical notices of him, in books relating to the events of the revolutionary war. These furnish no evidence of any pecuniary debt due to him, or losses of property for which any indemnity was due to him from the Government of the United States. But they show that he was an active and enterprising officer, and rendered very important and useful services in the memorable struggle to conquer the State of South Carolina, which had been almost entirely subjugated after the fall of Charleston. But these services, however great, were such as were rendered by many others, who have never received any compensation whatever, not even the pension which Colonel Hammond received for a period of ten years. During the long continuance of the war, (a period of great suffering and privation,) with but few exceptions, every patriot did his duty according to his station and ability. Congress, under a very pressing emergency, by the advice of the commander-in-chief, promised to those officers then in the service of the United States half pay for life, on the condition of their continuing in the service to the end of the war. The benefit of this contract has never been enlarged, except in a few extraordinary cases, and the committee are of opinion that in the present state of the Treasury it would be unwise to inaugurate a new class of claimants, the extent of which can scarcely be conjectured. If the door is once opened, the applications will be by hundreds, if not thousands, who have, or at least think they have, equal merit with these petitioners. The committee, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners be not granted.

The resolution was agreed to.

MARY B. RENNER.

The next was the report of the Committee on Claims on the petition of Mary B. Renner.

This claim is for the amount of twenty per cent. deducted from the aggregate of the original claim, presented to the Fifteenth Congress, which allowed the claim, less twenty per cent. on the prices charged for the articles destroyed, and a small sum to cover the expenses of removing the same to and from a place of safety.

It appears that, during the war between the United States and Great Britain, the British forces took possession of Washington city, in August, 1814; that, at the time, Renner & Heath owned an extensive rope-walk in the city, at which they were manufacturing hemp, cordage, &c., for the United States; that they had a large quantity of materials on hand in their rope-walk; that, in consequence of the act of the United States, they were prevented from removing their property to a place of safety, in consequence of which they suffered the loss of the same—it having been set on fire, together with the buildings, and destroyed, by order of the British commander. Shortly after the war, and during the Fifteenth Congress, the parties presented their claim for indemnity. The whole amount of the claim, as then presented, was \$24,161, exclusive of the value of the buildings. It was referred to the Committee of Claims of the House of Representatives, and a report made upon it by Mr. Lewis Williams, from that

committee, and a bill passed at that Congress which allowed the amount of the claim for the articles destroyed, deducting the sum of \$4,953 40, which latter sum was intended by the committee and Congress to cover the expense of transporting the materials to a place of safety and back, damage done to the same thereby, and over charge in the prices claimed for the articles destroyed. The sum allowed and paid by that bill was \$19,813 60.

The claim for the balance of the property destroyed, including the buildings, has been several times, subsequent to 1815, presented to Congress and rejected or failed to pass, until the Thirty-Second Congress, when a bill passed paying for the value of the buildings \$5,650, and for seventeen hundred and fifty pounds of twine, which was not included in the original account of property destroyed, and making the sum of \$6,744. The whole sum thus allowed to the parties amounts to \$26,547 60. The committee considered the prices charged too high, and made the deduction. They therefore recommend that the petition be rejected.

The report was concurred in.

WILLIAM F. RUSSELL.

The next was the report of the Committee on Military Affairs and the Militia on the memorial of William F. Russell.

It appears that while the memorialist was absent from his home at Fort Capron, Florida, in the month of November, 1853, two houses belonging to him, adjoining the fort, were taken possession of by United States troops by order of their commanding officer, and were so occupied without his knowledge or consent, and without rent, until the 15th December of the same year, when they were accidentally destroyed by fire. The testimony of Lieutenant Dickerson is, that he placed the family of a soldier in the houses, under the impression that they belonged to the United States; that the houses were so occupied when he was removed from the fort; and Major Haskins, who succeeded him in the command, testifies that the houses were burned on the 15th December, 1853, while occupied by the soldier's family. The soldier himself testifies as to the occupancy and cause of burning; and Manuel Navarro, a practical house-joiner, besides corroborating the statements, declares under oath that the houses so burned were worth \$1,200; and his statement is vouched for by the subscribing magistrate. The committee cannot understand how these houses could have been taken possession of and occupied so long without the knowledge and consent of the owner, a resident of the place, and there is no satisfactory proof that the property belonged to the memorialist; they therefore report that his prayer be denied.

The report was concurred in.

ROBERT A. WAINWRIGHT.

The next was the report of the Committee on Claims on the petition of Robert A. Wainwright.

The petitioner prays to be reimbursed a sum of money stolen from his possession, in Boston, while he was acting as commandant of the arsenal at Watertown, Massachusetts, and for which he has accounted to the United States.

The committee being of opinion that due care and diligence were not used, report that the petitioner was not entitled to relief.

The report was concurred in.

MARTIN HUBBARD.

The next was the report of the Committee on Naval Affairs on the petition of Martin Hubbard, praying indemnity for the loss of a vessel owned by him, which was run into and sunk by the United States steamer Engineer, Captain Lovell.

On the night of the 6th May, 1856, which was very dark and rainy, the Engineer was going down the Chesapeake from Annapolis to Norfolk, when she discovered a light, which was supposed to be Lookout light, and made for it. It was soon ascertained to be the light of another vessel, which proved to be the schooner Buena Vista, owned by the petitioner, commanded by Captain Turner, and bound for Baltimore. Had Captain Turner pursued his course, or the Engineer hers, the collision could not have happened. The committee think that it should be investigated by a court of law, in which all the facts could be fully drawn out; and as it has not yet been decided that the United States is bound to pay damages for the

carelessness or unskillfulness of persons in public employment, the committee beg leave to be relieved from further consideration of the subject. The report was concurred in.

JOHN CARIS AND OTHERS.

The next was the report of the Committee on Military Affairs and the Militia on the petition of John Caris and others.

The petitioners represent that they were volunteer soldiers, raised in the State of Ohio in May, 1812, under the act of 6th of February, of that year; that they were received into the service of the United States in July, 1812, under the command of Captain John Campbell; that they were included in the capitulation of General Hull's army, on 16th August, 1812, and were taken prisoners by the British at River Raisin, and were continued as such prisoners until about September, 1814. They acknowledge that they were paid for one year's services, but they now claim pay and allowance for another year, namely, from September, 1813, to September, 1814. The records of the War Department show that Captain John Campbell's company, to which these petitioners belonged, was mustered for one year, and that they were paid for that time, but they do not show that they, or any part of them, were prisoners of war after the time for which they were paid, nor do the petitioners present any evidence to sustain their claim. The committee therefore report that the prayer of the petitioners be not granted.

The report was concurred in.

PUBLIC BUILDINGS IN IOWA.

The next was a report of the Committee on Commerce on a resolution of the Legislature of Iowa, in favor of the erection of a post office, United States court-house, and custom-house, at Burlington, in that State.

The adverse report of the committee was concurred in.

D. MERIWETHER.

The next was the report of the Committee on Indian Affairs, upon the petition of D. Meriwether, praying that an appropriation may be made for the payment of his salary as superintendent of Indian affairs in the Territory of New Mexico, from July 27, 1854, to April 30, 1857.

The adverse report of the committee was concurred in.

JOHN S. DEVLIN.

The next was the report of the Committee on Pensions on the petition of John S. Devlin, late an officer in the marine corps.

The petitioner received a flesh wound in the chin at the storming of Chapultepec, September 16, 1847, and was discharged by the surgeon, as fit for duty, in the December following. The character of the wound, as described by the surgeon, does not indicate that any permanent disability would probably result from it, and the testimonials of officers of the Navy do not indicate that such has been the result, as they show that Mr. Devlin continued in active service up to 1852. This case is now before the committee for the third time, having been reported upon adversely upon two former occasions; and as no additional testimony has been adduced, going to show disability, as the result of the wound received in the service, the committee recommend that the prayer of the petition be denied.

The report was concurred in.

WILLIAM R. BROWNLEE.

The next was the report of the Committee on Pensions on the petition of William R. Brownlee.

The petitioner represents that he entered the service of the United States as a soldier in the regular Army, on the 17th of June, 1812, and was honorably discharged in July, 1817; that he was afterwards engaged in the Indian difficulties upon the frontier; that he is now old, decrepit, and nearly blind, and that he has no means of obtaining a livelihood but from the charities of friends. There is no evidence, however, to show that his present disabilities are the result of wounds received, or disease contracted while in the line of duty in the service of the United States. The committee are, therefore, of the opinion that the prayer of the petition should be denied.

The report was concurred in.

CASSANDRA S. WITHERELL.

The next was the report of the Committee on Private Land Claims on the petition of Cassandra S. Witherell, praying that a land warrant may be issued to the heirs-at-law of her late father, Major General Hugh Brady, of the United States Army.

The adverse report of the committee was concurred in.

SETH BELKNAP.

The next was the report of the Committee on Claims on the memorial of Seth Belknap.

In the year 1819, Nimrod Farrow and Richard Harris entered into contract with the United States for the erection of a fortification on Dauphine Island, in Mobile bay, and Seth Belknap became a sub-contractor under them in doing that work; and, as such, they became his debtors to a large amount; and on the 20th December, 1823, executed to him their note, at thirty days, for \$17,642 64. The erection of the fort was ultimately abandoned, and on the 3d of March, 1825, Congress passed a law for the relief of Farrow and Harris, which required the Secretary of War to cause to be delivered up and returned to Farrow all sureties or liens held by the United States on his property, and to pay to Farrow, or his legal representatives, \$75,747 76; provided that, before he should receive the same, he should enter into bond to the Secretary in the sum of \$120,000, with good and sufficient securities, conditioned that he should appropriate the net proceeds of the personal property, and the money so to be received from the Treasury, towards the payment of the debts contracted by Farrow and Harris for supplies furnished and services rendered in and about the erection of the fortification; and if there should be any surplus after paying those debts, he should pay to Harris, or his legal representatives, his just proportion of the surplus. This law also provided that it should be the duty of the Secretary of War, on application of any of the parties interested, and upon satisfactory proof of the failure of Farrow to fulfil the condition of the bond, to prosecute the sureties. The petition alleges, in substance, that Belknap, by his attorney, demanded that the Secretary of War should institute suit for his benefit on the bond, which he failed to do. This allegation of the petition is the material one to sustain the claim of the petitioner; indeed, it is indispensable; for without its being established there can be no just or equitable claim for the relief sought. After a careful examination of the case before them, the committee find that there is no sufficient proof that a demand was ever made upon the Secretary of War by Seth Belknap, or any other person or persons for him, to prosecute the bond for his benefit; nor was any proof ever made to him of the failure of Farrow to fulfill the condition of the bond, or even that Belknap was a creditor of Farrow. The committee, therefore, think that the prayer of the petitioner in this case ought not to be granted.

The report was concurred in.

FREE PLANK ROAD.

The next was the report of the Committee on the District of Columbia upon the petition of residents and property holders of Montgomery county, Maryland, praying that the plank road in the District of Columbia leading into that county, may be made free of tolls.

The adverse report was concurred in.

J. H. CARTER AND OTHERS.

The next was the report of the Committee on Naval Affairs upon the petition of J. H. Carter, for himself, J. W. Bennett, and R. B. Lowry, lieutenants in the Navy, praying to be allowed the difference of pay between the grades of master and lieutenant, during the time they served as acting lieutenants in the East India squadron.

The third section of the act of June 17, 1844, repeals so much of the acts of 1835 and 1842 "as provides that officers temporarily performing the duties belonging to those of a higher grade shall receive the compensation allowed to such higher grade while actually so employed." The act of August 10, 1846, makes an exception in favor of passed midshipmen "performing the duties of master, under the authority of the Secretary of the Navy," and provides that they shall "receive the pay allowed to such higher grade while actually

so employed"—an exception established, in the opinion of the committee, in consequence of the peculiarly responsible duties of masters as navigators of our ships-of-war. The committee can see no sufficient claim on the part of the petitioners, in the temporary performance of the duty of a higher grade, in the regular line of the naval service, under the detail of the commander-in-chief of a squadron, to require that exception should be made in their favor from the provisions of the act of 1844; but, on the contrary, they do perceive that the granting of their prayer would open the doors of Congress to innumerable applications of equal merit. Officers commissioned as lieutenants, under the appointment of the President, by and with the advice and consent of the Senate, now on duty in our foreign squadrons, are receiving at the rate of \$1,650 per annum only, and bearing all the expenses of their grade, in outfit and uniform, while the petitioners, for service of one year as "acting lieutenants," ask to be allowed at the rate of \$1,500 per annum. The committee, therefore, under the general rule of action adopted by them of refusing to grant to the officers of the Navy any higher compensation than that allowed to them by law, feel constrained to report adversely to the prayer of the petitioners.

The report was concurred in.

WILLIAM REYNOLDS.

The next was the report of the Committee on Naval Affairs on the petition of William Reynolds, praying to be allowed the amount of the value of one hundred pairs of stockings, which were stolen from the storeship Fredonia, while he was acting purser and storekeeper aboard the same.

The committee do not conceive the petitioner entitled to relief by Congress, and therefore recommend that the committee be discharged and the prayer of the petitioner rejected.

The report was concurred in.

W. W. BASSETT.

The next was the report of the Committee on Naval Affairs on the petition of W. W. Bassett, late master in the United States Navy, praying to be allowed the difference of pay between the grades of master and lieutenant during the time he acted as lieutenant.

This case does not differ from that of Lieutenants Carter, Bennett, and Lowry, and, for the reasons therein stated, the committee reported adversely to the prayer of the petitioner.

The report was concurred in.

JABEZ B. ROOKER'S HEIRS.

The next was the report of the Committee on Claims on the petition of the heirs of Jabez B. Rooker.

Mr. Rooker appears to have been employed as clerk in the office of the Commissioner of Public Buildings from 1836 to 1850. Prior to March, 1843, he appears to have been paid for his services out of such funds as the Commissioner had within his control, and at such rate as the Commissioner deemed proper, there being no law recognizing the service or fixing the compensation. The rate allowed varied from nine hundred to twelve hundred and fifty dollars per annum. In 1843 Congress passed "An act to fix the compensation of the Commissioner of Public Buildings," the second section of which prescribes "that no portion of the appropriation for public buildings and grounds, or any improvement or alteration of the same, shall be applied to the payment of a clerk or clerks in the office of said Commissioner, or of an architect, unless the same be expressly provided for in the act." Mr. Rooker still remained in the office, and in the discharge of the duties of clerk, as appears from the statement of Commissioner French and others, until the beginning of 1851, although no appropriation was made for his compensation, and although Congress had expressly prohibited the Commissioner from paying for such services out of the public moneys committed to his charge. In 1852, Congress allowed the Commissioner a clerk, at \$1,000 per annum. At the last Congress the heirs of Mr. Rooker petitioned for the allowance of his salary from 1843 to 1851, at the rate of \$1,250 per annum, and an act was passed, upon the recommendation of the Committee on Claims, directing the accounting officers of the Treasury to settle the claim, and to allow at the rate of \$900 per an-

num for the time he was employed, deducting all sums paid to him for services during that period. In the execution of this act the accounting officers appear to have allowed the salary for the full period claimed, but deducted the sum of \$929 50, (\$622 for money paid Mr. Rooker by the Commissioner out of his private funds, and \$307 50 which he received as supernumerary police officer at the Capitol.) The petitioners now ask the allowance of the sum so deducted, and an additional allowance of \$350 per annum. Upon a revision of the case, the committee is of opinion that the sums were properly deducted, and that the rate of compensation allowed was, under all the circumstances, a liberal one.

They therefore think that the prayer of the petitioners ought not to be granted.

The report was concurred in.

ANN MATHIESON.

The next was the report of the Committee on Claims on the petition of Ann Mathieson.

Robert Mathieson, the husband of the petitioner, in the fall of 1856, went from Delaware county, Iowa, to Spirit Lake, in Dickinson county, for the purpose of entering upon and securing a claim to a half section of public land, with the purpose of making it the future home of his family. He selected a claim and commenced his improvements upon it, and continued them until he was interrupted by the snow. He passed the winter at a neighboring settlement until the 12th of March, when he and the settlers with whom he resided were all massacred by a party of hostile Indians, and their property destroyed or carried off. It is in evidence that the property of Mr. Mathieson was valued at about nine hundred dollars. The settlers at Spirit Lake are protecting the claim of Mr. Mathieson at Ocaboga Lake, for the benefit of his widow and children. Mrs. Mathieson asks that the claim may be granted to her children, and that the value of the property destroyed may be paid to her and them. So far as the claim for remuneration for property destroyed is concerned, the committee are not aware of any principle heretofore recognized by Congress which would justify its allowance from the public Treasury; they therefore recommend that it be rejected.

The report was concurred in.

JOHN M. HINTON.

The next was the report of the Committee on the Post Office and Post Roads, on the memorial of John M. Hinton, praying additional compensation to indemnify him for losses in consequence of the yellow fever at Norfolk, in 1855.

The memorialist alleges that in the year 1855 he was contractor for carrying a daily mail from Norfolk, in Virginia, to Elizabeth City, in North Carolina, and a tri-weekly mail from the latter place to Edenton, in North Carolina, a distance in all of about seventy-five miles; that he undertook the service at almost a nominal price, \$1,400 per annum, intending to rely upon the income derived from the transportation of passengers to and from those places—particularly between Norfolk and Elizabeth City—to make his profits, and to that end he put upon the line between those points four-horse instead of two-horse coaches; that soon after commencing service the yellow fever broke out in Norfolk, and prevailed to such an alarming extent that the town authorities of Elizabeth City passed an ordinance prohibiting the bringing of passengers, or even the mails, to that place from Norfolk, and he was thereby deprived of all income from passenger transportation during the months of August, September, October, and a part of November, of that year, and since that time the travel between those points has been much less than it was before the epidemic appeared in Norfolk.

In view of these facts, and the fact that he sustained a heavy loss in supporting his team unemployed during the existence of the yellow fever at Norfolk, he prays that Congress will authorize to be paid to him additional compensation for that service, to indemnify him for his losses, and to bring the value of the service up to what it is really worth, aside from the profits of passenger transportation.

While the committee regret that so unhappy a cause arose to disturb and disappoint the calculations upon which the proposals of the contractor were based, they do not perceive any just prin-

ciple upon which this case can be distinguished from the numerous others in which the expectations of profit from a contract to serve the Government are disappointed by unforeseen and even unavoidable causes.

They therefore recommend that the prayer of the memorialist ought not to be granted.

The report was concurred in.

LUCRETIA BELL.

The next was the report of the Committee on Revolutionary Claims, on the petition of Lucretia Bell, heir of Jane Van Deen, widow of Abram Buskirk, a soldier of the Revolution.

The widow of the deceased soldier died before the passage of the act of July 7, 1838. If she was entitled at all, it must have been under the act of the 4th of July, 1836, which gives a pension to the widows of all soldiers who, if living, would be entitled to a pension under the act of June 7, 1832, who were married before the termination of the last period of the service of the husband. To establish a right to a pension under this act, two things are necessary: first, that the husband served six months at least; and second, that the marriage took place during the service. There is, perhaps, satisfactory proof that the marriage took place on the 29th of November, 1778; of the service, the evidence is not satisfactory. There is no evidence of any service, except the affidavits of two very old men, who say that he was pressed into the service in 1776 and 1777, and served during these years, and in 1778—two years and nine months in all; but whether he served after his marriage is entirely uncertain. For this deficiency of proof, the Commissioner of Pensions refused the application. At the date of this rejection, under some former interpretation of the pension laws, it was held, that if a widow who was entitled, died without receiving the pension to which she was entitled, her children could receive it upon establishing her claim. Under this decision, the children of Mrs. Van Buskirk, if they could have furnished the requisite proofs, would have been entitled to receive her pension from the date of the act to the time of her death. But it is understood that the present Attorney General has given a different construction to the pension law, and the rule of the Department now is, that a pension is a gratuity to the pensioner, and not an inheritable estate transmissible to the heirs-at-law of the deceased. In this construction the committee concur; and, therefore, even if the proof of the service of Abram Van Buskirk was entirely satisfactory, the petitioner would be entitled to no relief. But she alleges that her mother made application, but died before she was able to perfect her proof. In relation to this, it is sufficient to say that, independent of the insufficiency of the evidence of service, there is no proof of any such application. The papers from the Pension Office afford no such evidence. The committee therefore recommend that the prayer of the petition be refused.

The report was concurred in.

NANNIE DENMAN.

The next was the report of the Committee on Pensions, on a memorial of Mrs. Nannie Denman, widow of First Lieutenant Frederick J. Denman, deceased, late of the United States Army, asking a pension.

Lieutenant Denman was a graduate of West Point in 1842, and was attached to the first regiment of United States infantry. He was stationed for several years on the northwestern frontier, and when the Mexican war broke out was ordered, with his company, to join General Taylor, and served through the war. He was afterwards stationed at Fort Terrett, in Texas, where he died March 2, 1853, from an accidental gun-shot wound. There is no law granting a pension to the widow of an officer who died under the circumstances stated, nor are the committee aware of any special act having been passed in such a case. They are not prepared to establish a precedent in the case of Mrs. Denman, and therefore recommend that the prayer of the petitioner be denied, and ask to be discharged from the further consideration of the case.

The report was concurred in.

JOSEPH PAUL.

The next was the report of the Committee on Pensions, on the petition of Joseph Paul.

Mr. Paul alleges in his petition that he served as a private soldier in the war of 1812, having been draughted at Delaware county, in the State of New York, on or about the 5th of September, 1814, for the term of three months, and that he was discharged on account of sickness at the end of two months and a half. There is, however, no proof offered in corroboration of these allegations. The disability of which he now complains, is not, in the opinion of the committee, the result of disease contracted, or injury received while in the service of his country. They therefore recommend that the prayer of the petition be denied.

The report was concurred in.

J. R. HAGNER.

The next was the report of the Committee on Pensions on the memorial of the guardians of the children of Major J. R. Hagner, United States Army, praying for a pension.

Major Hagner, a paymaster in the Army of the United States, had, from the time of his entering the service of his country up to the year 1855, been free from disease, possessing a vigorous constitution, which had been preserved by a strictly temperate life. In the year 1853 he was ordered to Texas, and served afterwards at Corpus Christi, whence he was ordered to Fort Brown, on the Rio Grande, and charged with the payment of the troops at the different posts for two hundred and fifty miles up and down the river. The severity of this labor, added to the insalubrity of the climate, seriously injured his health, and in the spring of 1856 he suffered severely from the intermittent fever of the country, accompanied by dysentery, and was advised by his physicians of the danger of his remaining longer in that climate. He then applied to the Department to be relieved, and orders were issued to that effect; but the officer appointed to take his place was detained some time, and Major Hagner continued to perform the duties of his post, though suffering from sickness and great debility consequent thereupon. At length he became so worn down from disease, as induced the commanding officer of the department to grant him a sick leave, upon the certificate of Surgeon Head, of the Army; but before he could avail himself of this leave, he received an order to attend a general court-martial, at Ringgold barracks, which convened in October, 1856. He attended the court, but became so much enfeebled that, when released from his attendance there, he was utterly unable to undertake a journey to New York; and, after suffering from bilious dysentery, died at Fort Brown, Texas, on the 6th of December, 1856. Notwithstanding the committee believe that Major Hagner died from disease contracted in the line of his duty, they are not willing to establish the precedent of granting pensions to the children of deceased officers where there is no widow; and therefore recommend that the prayer of the petitioners be denied.

The report was concurred in.

CHARLES WEST.

The next was the report of the Committee on Pensions on the petition of Charles West.

The petitioner was a soldier during the war of 1812, having enlisted, for five years, on the 30th of May, 1812, and was discharged the 19th of May, 1817, as appears from a letter of the Assistant Adjutant General to the petitioner, dated the 20th February, 1851. He claims a pension in consideration of disabilities received while in the service. There is no evidence before the committee, nor can any be obtained from the bureaus where the rolls, &c., of the Army are kept, to show that the petitioner received any wound or other disability during the time for which he was enlisted; and they ask to be discharged from the further consideration of said petition.

The report of the committee was concurred in.

JAMES PURVIS.

The next was the report of the Committee on Revolutionary Claims on the petition of James Purvis, praying for commutation.

He entered the service in the first Virginia regiment, in 1775; he was afterwards appointed an ensign, and continued in the Army until February, 1778, when he resigned. In January, 1779, he was appointed a lieutenant, and afterwards was promoted to a captaincy in the regiment raised in Virginia to guard the prisoners stationed at Charlottesville, in which service he remained

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until the regiment was disbanded, in 1781. On these facts the petitioner claims that Captain Purvis's case is embraced within the resolution of the 20th October, 1780, by which half pay for life was promised to all those officers of the Army who should remain in the service to the end of the war, or who should become supernumerary by the reduction of the Army, then about to take place. This case, and several others of the same class, have been before Congress for more than thirty-five years, upon which different reports have, from time to time, been made, some favorable and some unfavorable, but without any definite action of Congress on any of them.

The adverse report of the committee was concurred in.

JOHN W. PRAY.

The next was the report of the Committee on Revolutionary Claims on the petition of John W. Pray, one of the heirs of John Pray, an officer in the Revolution.

It appears from the revolutionary records that John Pray was a captain in the Massachusetts Continental line; that he served to the end of the war, and was paid his commutation. The petitioner has, therefore, no claim founded on the resolution of the 20th of October, 1780; and the committee therefore recommend that the prayer of the petition be rejected.

The report was concurred in.

JEREMIAH GILMAN.

The next was the report of the Committee on Revolutionary Claims, on the petition of John Mason, heir of Jeremiah Gilman.

It may be assumed that the facts set out in the petition are true; that Colonel Gilman served in the army of the Revolution with distinction, and that he was a meritorious officer, and that he was compelled, by inability for active field duty, to resign; yet this case does not come within any of the resolutions or acts of Congress in relation to the officers of the Continental army. He resigned in March, 1780, which was before the passage of the resolution by which half pay was promised to the officers who served to the end of the war. Whilst the committee think that Congress should fully perform all the promises made to the officers and soldiers of the revolutionary army, they do not feel that there would be any propriety in paying to the grandchildren of an officer, who resigned three years before the end of the war, the same as to those who bore the privations and hazards of the campaign of 1780 and 1781, by which, mainly, the independence of the colonies was achieved. They therefore recommend that the prayer of the petition be refused.

The report of the committee was concurred in.

E. A. MIDDLETON.

The next was the report of the Committee on Revolutionary Claims on the petition of E. A. Middleton, praying to be allowed a sum of money expended by her father, Captain Belair Posey, during the revolutionary war.

Captain Belair Posey was a captain in the troops marched to New Jersey, called the Flying Camp. He received from the council of Maryland money to pay his troops in 1777. He marched to Philadelphia, where a month's pay for his company was paid him by order of Congress. He did not pay over the money to his company, and the reason assigned was, that he thought the men had as much money as was necessary for them. He marched from thence to Elizabethtown, at which place the sum of £180 15s. 6d. was stolen from his trunk in the night time, notwithstanding he used every care and precaution for its safe-keeping. He paid the troops all the money he received, and applied to the Legislature of Maryland to reimburse the money so lost. The committee of claims of that State reported against the claim, and it was disallowed. The committee say in their report that the facts stated in his petition were doubtless true, and if he had lost the money before he arrived at Philadelphia, where he should have paid it, he would have been entitled to relief;

but as he kept the money in his possession after that time, it was at his own risk. This report was made the 4th of March, 1777. It does not appear from the papers that any subsequent application was made to Maryland, and the case is now presented to Congress for the first time. Eighty years have elapsed since this application was made to the State of Maryland. It may have been a meritorious case, and Congress have in many cases relieved those with whom public money was deposited, under like circumstances; but there should be some limitation of time to these old demands. The very fact of delay, unaccounted for, is calculated to excite a prejudice. The committee think it unwise to open a door to antiquated cases of this kind, and recommend that the prayer of the petition be refused.

The report was concurred in.

NANCY HAMMOND.

The next was the report of the Committee on Revolutionary Claims on the petition of Nancy Hammond, daughter of James Dennison, an officer in the army of the Revolution.

It appears from the petition and the evidence that James Dennison was a captain in the sixth regiment of New York militia, raised in the manor of Van Rensselaerwick; that in that capacity he performed service in apprehending disaffected persons, and that his house was the resort of the Whigs of that section when called into service. That he marched with his company into the western part of the State, where he was attacked with the small-pox, of which he died, leaving a widow and five children, who are all dead except the petitioner, who is now old, poor, and infirm. She asks that she may be allowed a sum of money for her maintenance, or land. Captain Dennison was a militia officer, and his case does not come within the resolution of Congress of 1780, giving half pay to the widow and children of those officers of the Continental army who were killed or died in battle. Neither is it embraced within any of the pension laws. These provide only for the soldier himself and to his widow. The committee therefore recommend that the prayer of the petition be refused.

CATHERINE L. McLEOD.

The next was the report of the Committee on Revolutionary Claims on the petition of Catherine Lydia McLeod, only surviving heir of Ebenezer Markham.

At the breaking out of the American Revolution her father was a merchant residing at Montreal, and warmly espoused the cause of the rebels, as they were called; in consequence he was seized and imprisoned for a long time at various periods of the war. After or during the struggle for independence he removed to the United States and settled, first in New York, on a piece of land, three hundred and twenty acres, given by the State, which was poor and of little value. He afterwards settled in Vermont, where he was sued for his old debts contracted whilst he resided in Canada, and imprisoned until his death in 1818, as he was unable to pay. The evidence, though not very satisfactory, is perhaps the best which can now be produced; and the committee have been constrained to report against these antiquated claims.

The report was concurred in.

MARTHA BROWN.

The next was the report of the Committee on Revolutionary Claims on a petition of inhabitants of Yates county, New York, praying that a pension may be granted to Martha Brown, widow of a revolutionary soldier.

The adverse report of the committee was concurred in.

RICHARD G. DOVE.

The next was the report of the Committee on Claims on the petition of Richard G. Dove.

This claim has already been twice reported against by the Committee on Claims of the Senate. The petitioner seems to think that because

the Third Auditor might, under the authority of law, have contracted to give him a larger compensation than, in point of fact, he did contract to give him, therefore, the petitioner ought to receive compensation for his services as assistant messenger up to the maximum limit to which the law allowed the Third Auditor to go. The committee by no means accede to any such position. The adverse report was concurred in.

ADAM HAYS.

The next was the report of the Committee on Pensions on the petition of Adam Hays for arrears of pension from the disbanding of the Army the 15th June, 1815, to the 30th of January, 1838, when his pension was first received.

The petitioner was a surgeon in the Army during the war of 1812. While in the service he contracted disease which resulted in a hernia, which, continuing to become more and more troublesome and dangerous, at length produced total disability, for which, in January, 1838, he was allowed a pension, at the rate of \$22 50 per month. He now asks arrears from the time he left the service.

The adverse report of the committee was concurred in.

THOMAS FITZGERALD'S CHILDREN.

The next was the report of the Committee on Pensions upon the memorial of citizens of Michigan, praying that the pension granted to Hon. Thomas Fitzgerald be extended to his children.

Mr. STUART. Let that be excepted.

The PRESIDING OFFICER. It will be passed over.

JACOB W. MORSE.

The next was the report of the Committee on Private Land Claims on the petition of Jacob Washington Morse, praying to be placed on the Navy pension roll as an invalid pensioner, for wounds and disabilities in the war of 1812.

The petitioner alleges that he entered the Navy of the United States in the spring of the year 1813, and was on board of the sloop-of-war Growler, in the capacity of a purser's steward, at the time of her capture by the British on Lake Champlain; and in this action he states that he was wounded in the foot, and is now suffering from lameness in consequence thereof, and partial deafness occasioned by the heavy discharge of cannon. He further states that he filed his application for a pension in the office of the Commissioner of Pensions more than twenty years ago, but could not satisfactorily prove his claim on account of the loss of the ship's papers in the action alluded to. The present petition was first presented to the Senate during the first session of the Thirty-Fourth Congress, referred to the Committee on Pensions, and by that committee reported upon adversely. The petitioner has now amended his prayer, and asks only for the land and extra pay promised by an act of Congress granting bounties in land and extra pay to certain Canadian volunteers, approved March 5, 1816. The name of Mr. Morse cannot be found on the general roll of officers and men employed on Lake Champlain during the last war with Great Britain, nor on the particular roll of those who were attached to the Growler. In consequence of this, and of the insufficient and unsatisfactory character of the evidence filed in support of his claim, the committee report adversely to the prayer of the petition.

The report was concurred in.

JAMES HENDEBERT.

The next was the report of the Committee on Claims on the petition of James Hendebert.

The petitioner represents that he is the sole creditor (as he believes) of Captain John Hudry, to whom the United States is justly indebted for important and valuable services at the battle of New Orleans; that he supported Captain Hudry for several years prior to his death, and while engaged in prosecuting his claim before Congress, for which he has received no compensation, and as Captain Hudry left no widow or children, he asks that Congress make an appropriation in his be-

half out of the amount due to Captain Hudry, to reimburse him for the expenses thus incurred. Without assuming to express any opinion on the justice of the claim of Captain Hudry upon the Government, having no evidence before them in regard to it, the committee are not aware of any principle or precedent which would justify Congress in undertaking to dispose of his estate, or to become responsible for the payment of his debts. If the Government is indebted to Captain Hudry, or his estate, the presumption is that payment will be made to his legal representatives upon the presentation of the proper evidence, and they are the parties to whom this claimant must look for his remedy. The committee submit the following resolution:

Resolved, That the allegations of the petitioner do not present any claim, on his part, against the Government.

The resolution was agreed to.

MONTEREY MILITARY REDOUBTS.

The next was the report of the Committee on Military Affairs and the Militia, upon a resolution of the Legislature of California, in favor of the cession to that State of the Monterey Redoubt, for the establishment of a military school, or for other purposes of education.

The adverse report was concurred in.

ISAAC W. BROWN.

The next was the report of the Committee on Military Affairs and the Militia on a petition of Isaac W. Brown, representing that he has invented a new and useful fire arm, which invention, as he alleges, is used in the United States service, and praying an investigation thereof.

The adverse report was concurred in.

O. H. BROWNE.

The next was the report of the Committee on Claims on the petition of O. H. Browne.

The petitioner represents that in August, 1856, the house which he occupied in Kansas Territory was consumed by fire, together with so much of its contents as had not been previously stolen; that his horse and wagon were stolen, and a cabin belonging to him was taken down; all of which mischief was done by marauders, in consequence of the political excitement of the times. If all the allegations of the petition were admitted, it is clear that no ground of claim upon the United States is presented. The committee therefore submit the following resolution:

Resolved, That the petitioner is not entitled to indemnity from the United States.

The resolution was agreed to.

WILLIAM L. S. DEARING.

The next was the report of the Committee on Claims on the petition of William L. S. Dearing.

The petitioner alleges, that in 1837, at the request of President Jackson, he raised a mounted company of Tennessee volunteers for the Florida war, and became personally responsible for a large portion of their horses and equipage; that when the company was discharged, in 1838, he was obliged to receive a transfer of the claims of the soldiers on the Government to secure him against the liabilities thus incurred; that he was unable to obtain the liquidation and payment of these claims, or a large portion of them, until 1844, and in the mean time, he was compelled to make great sacrifices to meet the payments which he had assumed for the service of the Government, and some of the claims still remain unpaid. He asks such relief as may comport with the principles of equity and justice. In answer to an inquiry addressed to the Department, the following statement is made by the Third Auditor of the Treasury:

"It appears from a copy of a valuation list, on file with the papers relating to Captain Dearing's company, that the horses and equipments of all of the non-commissioned officers and privates thereof were valued at sums amounting to \$6,208, and that Captain Dearing has been paid, through this office, for horses, &c., lost by the members of his company, \$6,833 16. For other horses turned over by them to a quartermaster, for the use of the United States, he also received from Captain Brant the sum of \$1,965, which, being added to the payments through this office, makes \$8,798 16. This amount, it will be observed, is only \$409 84 less than the aggregate valuation of all the horses and equipments of the company; and as Captain Dearing admits in his memorial that he did not furnish all, it seems to be quite probable that his entire outlay has been reimbursed to him, and that he has not suffered from his responsibility for the company, except from delay in recovering the amount for which he had become liable."

The claims were principally paid prior to and during the year of 1844. There is no evidence presented of the cause of the delay; and in the absence of such evidence, the presumption is, that it was for want of the presentation of proper vouchers, and therefore no fault on the part of the Government. Hence the committee are of opinion that no case is presented calling for the interposition of special legislation for the relief of the claimant.

The report was concurred in.

WILLIAM BLAKE.

The next was the report of the Committee on Pensions on the petition of William Blake, asking for arrears of pension.

The petitioner performed meritorious services in the war of 1812, and received wounds upon several occasions, particularly at the battles of Chippewa and Fort Erie. On account of these wounds, a pension of eight dollars per month was granted March 14, 1845, which was subsequently increased to thirteen dollars per month. It is not in proof, nor, indeed, is it alleged, that Mr. Blake was totally disabled from the date of the wounds received, and therefore he is not, in the opinion of the committee, entitled to the arrears asked for.

The report was concurred in.

THOMAS WATTS.

The next was the report of the Committee on Pensions upon the memorial of Thomas Watts, a pensioner, praying to be allowed back pay.

The petitioner was a private in the Georgia volunteers, in the war of 1812, and, for a wound received in the battle of Kalebew swamp, was placed on the roll of invalid pensioners on the 21st of August, 1852, at the rate of eight dollars per month. He now asks that his pension may be made to commence from the passage of the act of 1816, and alleges that the reason why he did not make application for the benefits of that act at an earlier period was that he was in affluent circumstances. Poverty alone, brought on by "security debts," prompted him to make his application in 1852. The committee are not willing, except, perhaps, in cases of extraordinary merit, to recommend any variation from the law of 1822, which prescribes that all pensions shall commence from the date of the completion of proof; nor are they able to discover, in the case of this petitioner, any good reason for a departure from that law; they therefore recommend that the prayer of the petition be denied.

The report was concurred in.

CHARLES GRAMPP.

The next was the report of the Committee on Pensions on the petition of Charles Grampp, praying that his pension may be made to commence from the date of his discharge.

Grampp was a private in the Kentucky volunteers, and received an injury of the back and head from a fall while on his way to Mexico. He was discharged on a surgeon's certificate at Camargo, Mexico, on the 31st of August, 1846, for sickness and disability. On the 1st of December, 1857, he made his declaration for a pension, and the proofs being completed on the 11th of February following, he was pensioned from that date at eight dollars per month. He asks the passage of a special act authorizing his pension to commence from the date of his discharge from the Army. The committee are unwilling to depart from the existing law, that all pensions shall commence from the date of the completion of proofs; and they are unable to discover, in the case of this petitioner, any good reason for varying this rule. They therefore recommend that the prayer of the petition be denied.

The report was concurred in.

ADAM SENER.

The next was the report of the Committee on Pensions in regard to the claim of Adam Sener for a pension.

The petitioner asks to be placed on the roll of invalid pensioners, on account of disability, which he alleges is the result of injuries received while in the service of his country, in the war of 1812. Accompanying the petition is one from some thirty-five persons, claiming to be acquainted with Sener, who testify to his good character, his old age, his infirmities, and to his indigent circumstances; but they do not pretend to know anything

of the alleged service in the war, nor do they affirm that his present disability is the effect of alleged injury received therein. The medical testimony is of the same character; it establishes disability, and says that it results "from the weakened and painful condition of the parts injured during his service in the Army of the United States;" but it does not appear that the surgeons so testifying have any knowledge of such service, except the assertions of the petitioner himself. However worthy the case may be, the committee are not willing to establish the precedent of granting a pension where no proof of service is adduced to corroborate the assertions of the petitioner, and therefore recommend that the prayer of the petitioner be denied.

The report was concurred in.

FRANCIS D. PONS.

The next was the report of the Committee on the Judiciary upon the petition of Francis D. Pons.

The petitioner states that on the 25th of November, 1824, under the provisions of the act of June 26, 1834, "for the relief of certain inhabitants of East Florida," he presented to the judge of the superior court for the eastern district of the then Territory of Florida a memorial setting forth his claims for losses alleged to have been occasioned by the troops of the United States in East Florida in the years 1812 and 1813; that the amount of loss claimed by him in his memorial was \$3,915 79; that of this amount \$2,625 was claimed for the destruction of two frame houses, and the residue for the loss of a vessel and cargo, and other property; that his cause was heard before the judge of the court, and the sum of \$2,000 allowed to him as the value of the two houses, with interest; but that the claim for the value of the vessel and other property was disallowed, because, in the opinion of the court, the evidence was not sufficiently strong to justify a decree for its loss.

The petitioner further represents that he resided at Fernandina, far distant from St. Augustine, where the court was held, and employed an agent and attorney to prosecute his claim, to whom he furnished the names and residences of all his witnesses, whose testimony he instructed his attorney to have taken. The name of the attorney is not stated in the petition, nor the names of the witnesses furnished to him; nor is there even a direct allegation that the attorney failed to have the examination of any and what witness taken, though the allegation is made, that if the testimony of certain unnamed witnesses had been taken, the loss of the vessel and cargo and other property would have been established. It is also alleged that the petitioner is advised that several of the witnesses are yet living. The petitioner also states that until recently he supposed that the witnesses had been examined; that the decision of the judge had been acted upon by the Secretary of the Treasury, and thus, by the inattention and neglect of his attorney, he has sustained a serious loss, and is without remedy, except through the action of Congress. A copy of the record of proceedings before the court in Florida accompanies the petition, and he prays for the passage of an act of Congress authorizing him to take and file additional testimony in relation to the claim for the loss of the vessel and cargo and other property, which was formerly disallowed for defect of testimony, and that the judge of the United States district court for the northern district of Florida may be authorized to adjudicate his claim for the same. The petition purports to be signed by Francis D. Pons, by his attorney, but the name of the attorney is not signed, nor is there evidence of any authority to sign the name of the petitioner. No affidavit is made authenticating the facts stated as grounds for the relief prayed, and, from aught that appears, the petition may have been draughted and presented without the authority or knowledge of the petitioner. The committee think the present petition insufficient in that respect; but if it were properly authenticated, they know of no principle which would justify the reopening of the case on such allegations as are here made, and hence report that the prayer of the petitioner ought not to be granted.

The report was concurred in.

JUDICIAL SALARIES.

The next was the report of the Committee on the Judiciary on a memorial of members of the

Ohio Legislature, for the increase of the salary of the United States district judges in that State to \$3,500 each.

The reasons assigned for this increase are the inadequacy, in the opinion of the memorialists, of the present salaries, and the increase within the last few years of the expenses of living in the cities of Cincinnati and Cleveland. The salaries of all the district judges of the United States were revised and increased, under a general law, approved February 17, 1855, and the committee are not aware that the cost of living has been increased since that time, either in Cincinnati or Cleveland. The revision of salaries made in 1855 was the result of full inquiry, and necessarily involved the concession of great differences of opinion amongst members of Congress; and no change of circumstances has since occurred which, in the opinion of the committee, renders it expedient that the general law then passed should, in so short a period, be modified or altered. The conclusion therefore is, that the recommendation of the memorialists ought not to be adopted.

The report was concurred in.

JERVIS M. BARKER.

The next was the report of the Committee on the Judiciary on resolutions of the Legislature of Missouri, praying the reimbursement of the costs incurred by Jervis M. Barker in defending a prosecution against him by the United States, in which he was acquitted.

Mr. POLK. I desire to have that case excepted.

The PRESIDING OFFICER. It will be reserved.

JAMES BALDWIN.

The next was the report of the Committee on Pensions on the papers relating to the claim of James Baldwin to a pension.

The adverse report was concurred in.

HARRISIN SARGENT.

The next was the report of the Committee on Pensions against the application of Harrisin Sargent for a pension; and it was concurred in.

BOUNDARY STREET.

The next was the adverse report from the Committee on the District of Columbia, on a petition of citizens of the District of Columbia, praying that an appropriation may be made for improving Boundary street, in the city of Washington.

The report was concurred in.

EQUIPMENT OF MILITIA.

The next was the report of the Committee on Military Affairs and the Militia adverse to the prayer of seven petitions of officers of the Rhode Island militia, asking that further provision by law be made for equipping the militia of the United States.

The report was concurred in.

FRANCES CATO.

The next was the report of the Committee on Pensions on the petition of Frances Cato, widow of Barrrel Cato, a soldier in the revolutionary war, praying to be allowed a pension.

The adverse report was concurred in.

EDWARD MERRITT.

The next was the report of the Committee on Pensions on the memorial of Edward Merritt, late an Army express rider in the Mexican war, praying to be allowed a pension, or other compensation, for services rendered and injuries received in the public service.

The adverse report was concurred in.

DANIEL J. BROWNE.

The next was the report of the Committee on Claims upon the memorial of Daniel J. Browne.

This claim is for compensation for extra services performed in the agricultural bureau of the Patent Office, principally in preparing and superintending the printing of the annual report on agriculture. He was appointed to this duty in June, 1855, at a salary of \$1,500 per annum, which was increased, in 1856, to \$2,000 per annum. The reason assigned for the smallness of the original compensation was, that the amount of appropriation applicable to the agricultural branch of the office would not admit of a higher rate. The memorialist states that, from the time

of his appointment, he has been charged with collating or composing, and making up the agricultural report; procuring the designs for the necessary illustrations, and with the superintendence of its execution through the press. It is evident, from an inspection of the successive works, that great labor and industry—much beyond that required of ordinary clerks—must have been bestowed by Mr. Browne upon these reports. He asks an additional compensation of three dollars per day.

The committee are not aware that any allowance has heretofore been made to any head of bureau or other clerk in any of the public offices for and on account of extra attention to the duties of their office voluntarily performed. In the discharge of the duties which devolve upon the incumbents of the offices, it often happens, from the pressure of business or some public exigency, that the officers are obliged to work out of office hours—sometimes for a longer and sometimes for a shorter period. These services are not imposed by Executive order or by the command of any head of Department, but are generally undertaken from a sense of duty of the clerk or other officer. The public service often requires it, and every office is accepted with the full knowledge that such extra services may be and often are required, and that the officers are expected to render them when necessary and proper. No unexpected or forced burden is therefore borne, and no additional compensation is either promised or looked for. Were the Government to establish the rule to pay for all such extra services, it would, doubtless, lead to the neglect of duty in office hours, in order to create an apparent necessity and excuse for performing labor out of those hours for the purpose of getting additional pay. Such a practice would add largely to the expenses of the Government, and lead to manifold abuses. In cases where laborers and other subordinate employes of these offices are compelled to perform extra labor out of office hours, at the command of heads of bureaus or Departments, it would be fair and just that something should be allowed for such extra services. In such cases the labor is menial and compulsory, and ought not to be exacted without additional pay. But when clerks or other officers voluntarily do these extra services to keep up the current business of their offices, or to meet a sudden or unexpected call upon their time and labor, no additional compensation ought to be allowed. The committee, therefore, cannot recommend the allowance of the extra pay asked for by the claimant.

The adverse report was concurred in.

DOUGLAS OTTINGER.

The next was the report of the Committee on Commerce on a memorial of Douglas Ottinger, praying for compensation for the labor and expense attending his invention of an apparatus for rescuing passengers from sinking vessels in the open sea, called the "life or surf car."

The adverse report was concurred in.

JOHN FRINK.

The next was the report of the Committee on the Post Office and Post Roads, upon the memorial of John Frink, praying the remission of certain fines and deductions made from his compensation for carrying the mails under a contract with the Post Office Department.

The memorialist alleges that he entered into contract with the Post Office Department to transport the mails on various mail routes in the States of Missouri, Illinois, Iowa, Wisconsin, and Michigan, and performed the service from July 1, 1850, to June 30, 1854; that, by an act of Congress passed subsequent to entering into these contracts, a large reduction was made in the rates of postage, the effect of which was to increase, to a large extent, the size and weight of the mails, all of which were carried without any extra compensation; but, on the contrary, large and excessive fines were imposed, and deductions made for failures to arrive in schedule time, when such failures occurred in consequence of bad roads, rendering it impossible to make time with the large increase in the weight of the mail, which would average more than double, and frequently more than five times, its weight prior to the change of the law; and the memorialist therefore prays that the Postmaster General be authorized

and required to review the cases, remit the fines and deductions, and settle the account in a just and equitable manner. It appears from the statement of the Postmaster General that the memorialist was the contractor on ninety-three different mail routes in the above-mentioned States, at an aggregate annual compensation of \$116,087, amounting in the contract term to \$464,348, and that the fines and deductions during the same period amounted to only \$9,742, or a yearly average of \$2,435 50. This amount does not seem to the committee to be, as the memorialist alleges, "excessive," considering the magnitude of the service and the compensation allowed; and as the committee do not deem it wise to interfere lightly with the discretion vested in the Postmaster General in the matter of fines and deductions, they recommend the adoption of the following resolution:

Resolved, That the prayer of the memorialist ought not to be granted.

The resolution was adopted.

FLORIDA STEAM-PACKET COMPANY.

The next was the report of the Committee on Commerce upon the petition of the president and stockholders of the Florida Steam Packet Company.

The memorialists are the owners of the steamer Carolina, plying between Charleston, South Carolina, and Palatka, on the St. John's river, Florida, touching at the intermediate ports and landings. They allege that the steamer was unlawfully seized by James G. Dell, the collector of customs at the port of Jacksonville, on the 21st of May, 1857, and detained for a period of twenty-eight days, to the serious damage of the interests of the owners; and they ask Congress to make reasonable remuneration to them for the loss so imposed, which loss they estimate at \$8,000. This controversy has arisen out of the administration of the ninth and tenth sections of the law of 1807 "to prohibit the importation of slaves," &c. These sections have sole reference to the transportation of slaves coastwise, from one port to another, within the jurisdiction of the United States; the main points in the case being whether the master of a vessel shipping slaves at one port in the United States consigned to another was bound to exhibit the manifest and permit at intermediate points, or whether a simple report of the presence and destiny of the vessel was sufficient; and whether the law of 1807 should be construed to apply to the casual transportation of slaves from one port to another within the same State, though in different collection districts.

ROUTE AGENTS.

The next was the report of the Committee on the Post Office and Post Roads on the petition of S. Van Sickell, J. R. Bellerjeau, and George C. Leidy, post route agents upon third-class route from New York to Philadelphia, praying an increase of compensation.

The adverse report was concurred in.

BOWNE AND CURRY.

The next was the report of the Committee on Commerce on the petition of Bowne & Curry, praying to be allowed a portion of the money paid as duties on certain coal raised from a submerged wrecked vessel.

Merchandise taken from wrecks, and imported into the United States, is generally liable to duty; and the law expressly provides for the manner in which the duties shall be assessed, as will be seen by reference to the twenty-first section of the act of March 1, 1823. The only other act of Congress on this subject is that of March 3, 1843, which exempts from duty any merchandise recovered by any person or persons from a vessel which shall be, or shall have been, sunk in any bay, river, or waters, subject to the jurisdiction of the United States, and shall have remained so sunk for the period of two years, and shall have been abandoned by the owners thereof; but in this case the vessel in question did not remain sunk for the period of two years, and was not abandoned, but was sold at public auction, and purchased by the petitioners, and therefore the case does not come within the terms of the act of March 3, 1843.

The committee deem it inexpedient to grant the prayer of the petitioners.

The report was concurred in.

BEVERLY DIGGS.

The next was the report of the Committee on Commerce upon the memorial of Beverly Diggs.

The memorialist was appointed a third lieutenant in the revenue cutter service in June, 1834, was promoted to a second lieutenant in December, 1838, and was advanced to a first lieutenant in August, 1843, in which grade he served until April 3, 1853, when, by direction of the President, he was, together with a number of officers of each grade, dropped from the service by letter of the Hon. James Guthrie, the then Secretary of the Treasury. The reason for this action on the part of the Department, as appears from the record, was that it did not consider it had authority of law to keep in the service a greater number of officers than were cutters needing their employment. In making selection of those officers to be retained and those to be dropped, the Department was governed solely by a proper consideration for the efficient performance of the duty required of them, except in the grade of third lieutenants, in which grade those officers dropped were mostly those who had but recently entered the service. It was adjudged that Mr. Diggs was, from his manifest bodily infirmity, utterly incapable of rendering efficient service, and was, accordingly, among those dropped. Mr. Diggs received, during his entire connection with the revenue cutter service, the legal pay of his rank, and it is not conceived that he has any claim for further compensation.

The report was concurred in.

JOSEPH HAYNES.

The next was the report of the Committee on Pensions upon the petition of Joseph Haynes.

The petitioner was placed upon the pension roll, at eight dollars per month, on the 14th September, 1846, the date at which he perfected the proofs of service, and alleges that, "in consequence of the loss of his certificate of honorable discharge, and of the death of his commanding officer, he was unable to perfect his proof at an earlier period," and now asks that he may be paid the amount he would have received could these proofs have been obtained. The law provides that all pensions shall commence from the date of the proofs upon which the pension is allowed, and the committee are unable to discover, in the case of Mr. Haynes, any reason for a departure from this rule. They therefore recommend that the prayer of the petitioner be denied.

The report was concurred in.

RACHEL MOREY.

The next was the adverse report of the Committee on Pensions upon the petition of Rachel Morey, praying for a pension; which was concurred in.

LOUIS F. TASISTRO.

The next was the report of the Committee on Claims on the memorial of Louis F. Tasistro.

The memorialist was employed as translator in the State Department, at a salary of \$1,800 per annum. In 1855 he was directed by the Secretary of State "to devote all his leisure to an examination of the materials which have been submitted to the Secretary for a new volume of the American Archives." Mr. Tasistro says that his ordinary duties required and occupied all his time in regular office hours, and that it was necessary for him to devote five or six hours a day, out of office hours, for several months, in the discharge of the extra duty imposed upon him by the Secretary. He asks to be allowed "a just and liberal compensation" for the extra work thus performed by him. It is evident that there was no intention of laying the foundation of a claim for extra compensation. The instructions are as follows: "The Secretary directs that translations of papers of any considerable length will be made by the assistant translator, and revised by Mr. Tasistro. The latter gentleman will devote his leisure to the examination of materials which have been submitted to the Secretary for a new volume of the American Archives." It thus appears that a portion of Mr. Tasistro's ordinary duty was transferred to the assistant translator for the express purpose of affording him the leisure which he was required to devote to the particular duty required. The committee are of opinion that the memorialist presents no just or equitable claim against the United States.

The report was concurred in.

NATHAN SCHOLFIELD.

The next was the report of the Committee on Patents and the Patent Office upon the petition of Nathan Scholfield.

The petitioner obtained, on the 15th of May, 1836, letters patent "for an improved governor or regulator for equalizing and governing the motion of machinery driven by water or steam power," and at the expiration of the original term of fourteen years obtained from the Patent Office an extension for seven years which term expired on the 15th day of May, 1857. He now applies for a further extension of the patent for a term of seven years. He alleges that he has not received an adequate compensation for the time, labor, and expense, and ingenuity bestowed upon the invention and its introduction to general use, and presents an account showing the net profits of the patent to have been \$3,912 90, all of which accrued during the extended period of seven years, and that nothing was made upon the patent during the fourteen years of its original existence. The account shows, however, that five hundred and thirty-nine governors were sold during the first fourteen years, while only one hundred and forty-two machines were sold during the extended term of seven years, to which should be added certain privileges to make and use, sold to the corporations of Lowell, Manchester, and a few other corporations and individuals. The petitioner presents no evidence of the utility of his invention beyond the number of machines he states to have been sold. The committee think that the petitioner does not present a case calling for special legislation of Congress in his behalf.

The report was concurred in.

RACHAEL POSEY.

The next was the adverse report of the Committee on Pensions on a petition of Rachel Posey, widow of Micajah Posey, praying for a pension; which was concurred in.

FRANCIS HUTENACK.

The next was the report of the Committee on Pensions on a petition of Francis Huttenack, praying for a pension.

The adverse report was concurred in.

COD FISHERIES.

The next was the report of the Committee on Commerce asking to be discharged from the consideration of a petition of inhabitants of the town of Duxbury, Massachusetts, engaged and interested in the cod and haddock fisheries on the coast of Massachusetts, praying that some provision be made by law so regulating the mode of taking these fish as to prevent the destruction of those fisheries.

The report was agreed to.

HEZEKIAH MILLER.

The next was the report of the Committee on Claims on the memorial of Hezekiah Miller, who prays for the difference between the amount he actually received as clerk in the Indian office from 1828 to 1834, and the amount which should have been allowed to the position he filled. The committee do not think the allegations of the petitioner furnish any ground for a claim against the Government, particularly as Miller received all that which the law allowed him, and hence report against the allowance of the claim.

The report was concurred in.

RED RIVER RAFT.

The next was the report of the Committee on Commerce on a resolution instructing them to inquire into the expediency of making an appropriation for completing the removal of the raft of Red river, agreeably to the estimates furnished to the War Department by the engineer in charge of the work. The committee asked to be discharged from the consideration of the resolution; which was agreed to.

SEBASTIAN INDIAN RESERVATION.

The next was the report of the Committee on Indian Affairs, to be discharged from the consideration of a resolution of the Legislature of California instructing the Senators and requesting the Representatives of that State in Congress to use their efforts to prevent the removal or change in the location of the Sebastian Indian reservation in California.

The committee were discharged.

JOSEPH MORROW.

The next was the adverse report of the Committee on Pensions on a petition of Joseph Morrow, a soldier in the last war with Great Britain, praying to be allowed a pension; which was agreed to.

EBENEZER WATSON.

The next was the adverse report of the Committee on Pensions on the memorial of Ebenezer Watson, praying an increase of his pension; which was agreed to.

LYDIA WEEKS.

The next was the report of the Committee on Pensions on the petition of Lydia Weeks, praying to be allowed the pension to which her husband, Jedediah Weeks, was entitled at the time of his death.

The report was concurred in.

JOHN DROUT.

The next was the report of the Committee on Pensions on the petition of John Drouet, a pensioner of the United States, praying that his pension may commence from the date of his discharge.

The adverse report was concurred in.

JOHN WIGHTMAN.

The next was the report of the Committee on the Post Office and Post Roads on the petition of John Wightman, a contractor for carrying the mail on route No. 3366, from Meadville to Clarion, in the State of Pennsylvania.

The petitioner represents that he has a contract with the Post Office Department for carrying the mail daily between Clarion and Meadville, in the State of Pennsylvania; that the contract was allotted to him at the regular letting and in regular form; that he has so far performed his engagement, but owing to the destruction of sundry bridges on the route and the dilapidated condition of the road, it having been entirely abandoned by the company owning it, the expenses of transporting the mail have been greatly increased, whilst, at the same time, the traveling public have been mainly driven from the route, and he is consequently a heavy loser by the contract, and he prays Congress to pass an act authorizing the Postmaster General to change the compensation allowed in his contract.

The adverse report was concurred in.

STEPHEN KREBS.

The next was the report of the Committee on Indian Affairs on the petition of Stephen Krebs, Mary McGehey, and Lucy Lowery, children of Stephen Krebs, a citizen of the Choctaw nation of Indians, praying to be allowed other land in lieu of that to which they were entitled under the treaty with the Choctaw Indians, of September 15, 1830. The committee ask to be discharged from the further consideration of the petition; and the report was concurred in.

CYNTHIA CONY.

The next was the report of the Committee on Pensions on the petition of Cynthia Cony. The committee asked to be discharged; which was agreed to.

GEORGE CHORPENNING.

The next was the report of the Committee on Indian Affairs on the petition of George Chorpenning, praying remuneration for losses sustained by himself and Absalom Woodward by Indian depredations, while carrying the mails from California to Salt Lake City, under contract with the Post Office Department. The committee asked to be discharged from the further consideration of the subject; which was agreed to.

COURTS IN FLORIDA.

The next was the report of the Committee on the Judiciary on a presentment of the grand jury of the United States court for the northern district of Florida, relative to the necessity of a building for the accommodation of the United States courts in that district. The committee asked to be discharged from the further consideration of the subject; which was agreed to.

JAMES B. THOMAS.

The next was the report of the Committee on Indian Affairs on the memorial and joint resolution of the State of Iowa, in behalf of James B.

Thomas and family, sufferers by Indian depredations.

The committee ask leave to be discharged from the further consideration of the subject; which was agreed to.

TAKING OF DEPOSITIONS.

The next was the report of the Committee on the Judiciary on a resolution of the Senate, directing them "to inquire into the expediency of conferring on the district courts of California, in the investigation of facts relative to cases pending on appeal from the United States land commissioners, the powers given to the courts of the United States by the judiciary act of 1789, in regard to the taking of depositions."

The only object of such a change of the law is to enable claimants to examine witnesses in Mexico as to California land grants in cases now pending, without their being subjected to the test of an oral cross-examination. Two thirds, at least, of the claims in California have been disposed of without resort to such testimony; and considering the low state of private and public morals in Mexico, the unsettled and disorganized condition of its Government, and the experience of the United States in relation to the facility with which fraudulent and forged documents can be established there, the prevention of fraud would seem imperatively to require that the provision of the act of 1851, organizing the land commission, in relation to the mode of obtaining testimony, should remain unaltered. The committee are of opinion that it is not necessary for the purposes of justice, or expedient, that any additional power in relation to taking testimony, inconsistent with the provisions of the act of 1851, should be conferred on the district courts of California.

The adverse report was concurred in.

A. G. CAROTHERS AND OTHERS.

The next was the report of the Committee on Public Buildings and Grounds on a petition of the Rev. A. G. Carothers and others, citizens of Washington, praying that the public reservation in said city, opposite the "Assembly's Church," may be inclosed.

The adverse report was concurred in.

UNITED STATES COURTS.

The next was the report of the Committee on Judiciary on a presentment of the grand jury of the United States for the district of South Carolina, in session at Charleston, recommending an appropriation for a new court-house at that place, and that provision be made for arranging the records of that court, and increasing the allowance for the maintenance of prisoners.

The adverse report was concurred in.

The next was the report of the Committee on the Judiciary on a presentment of the grand jury of the United States district court at Greenville, South Carolina, recommending an appropriation for a new court-house, and the appointment of commissioners at suitable places within the jurisdiction of that court.

The adverse report was concurred in.

The next was the report of the Committee on the Judiciary on a presentment of the grand jury of the United States court for the northern district of Florida, relative to the necessity of a building for the accommodation of the United States courts in that district.

The adverse report was concurred in.

The next was the report of the Committee on the Judiciary on a resolution of the Legislature of Texas, in favor of the erection of buildings for post offices and the use of the United States courts in that State; and also the establishment of another judicial district therein.

The adverse report was concurred in.

The next was the report of the Judiciary Committee on a memorial of members of the bar of the northern district of Florida, praying that the salary of the judge of that district may be increased.

The adverse report was concurred in.

NOAH MILLER.

The next was the report of the Committee on Commerce on the petition of Noah Miller.

The legal representatives of Noah Miller represent, that on the 14th day of November, 1814, Miller, in company with West Drinkwater, Jonathan Clark, Samuel, John, and Kingsbury Dun-

can, as captain and crew of a large class whale-boat, captured the British sloop Mary, in the Penobscot bay, on her way from Halifax, with supplies for the British army at Castine; he had no letters of marque, and made the capture on his own responsibility, and at the imminent hazard of himself and crew. Miller being ignorant of his rights under the law, was induced by the custom-house officers at Camden to believe that he could not hold the vessel and goods on his own account; that the only way to render the capture complete and available was to claim that he had captured the vessel as a custom-house officer, and that for that purpose he accepted a commission as an inspector of customs, antedated so as to make his authority seem to be sufficient at the time of the act; that Mr. Hook, the collector at Camden, took possession of the vessel and goods, and exposed them to sale, as provided by the revenue laws—one moiety of the proceeds going to the custom-house officers and the other to the United States Treasury. When Mr. Miller was first made aware of the fact that he had a right to capture the vessel and keep her and the goods, he was not needy, and consequently did not make application for the restoration of his money from the Treasury of the United States until 1838, when, for the first time, he presented his application to Congress to reimburse to the amount of money which had gone into the Treasury, through his individual agency and efforts, without any assistance from the Government. The petitioners pray that the sum of \$33,212, the moiety which fell to the United States, may be paid to the heirs or legal representatives of said Miller.

The committee asked to be discharged from the further consideration of the subject; which was agreed to.

SAMUEL BROMBURG.

The next was the report of the Committee on Foreign Relations on the memorial of Samuel Bromburg, late United States consul at Hamburg, praying compensation for diplomatic and extra services.

The committee think that the memorialist has no well-founded claim for compensation for what he conceives to have been his diplomatic services, those services being properly pertinent to his consular office, and strictly within the line of his legitimate duty. They therefore recommend that the prayer of the petitioner be refused, and ask to be discharged from the further consideration of the subject.

The report was concurred in.

MATTHEW FLAUSBURGH.

The next was the adverse report of the Committee on Pensions on the petition of Matthew Flausburgh, praying to be allowed a revolutionary pension; and it was concurred in.

WILLIAM A. VAUGHAN AND OTHERS.

The next was the report of the Committee on Commerce on the memorial of William A. Vaughan, John Smith, William D. Little, and Nathaniel Dennet, jr., praying that compensation may be made to them for the time that they were employed as inspectors at the port of Portsmouth, New Hampshire.

The petitioners were appointed inspectors of the customs at the port of Portsmouth, New Hampshire, in the year 1819, at a compensation of three dollars per day. They also performed the duties of measurers, for which they received the fees allowed by law for that service. It had been the practice at that port, before these petitioners were appointed, to allow pay to inspectors for those days only in which they were in the actual discharge of official duty. This practice, it is presumed, was of course known to the petitioners when they accepted their appointments. They were so paid and duly receipted for their compensation, and no objection is believed to have been made to the Department by them, or on their behalf, until the month of December, 1852, and January, 1853, when, in a letter to the then collector, dated the 31st of December, 1852, they refused to receipt their accounts as formerly, and inclosed their bills for the fourth quarter of 1852, made out in conformity to the principle contended for by them, which was, that they were entitled to compensation for every day on which they reported themselves for duty. It is obvious that should such a claim be allowed, the inspectors

of revenue at Portsmouth and other ports, who, during a long series of years, were allowed only for the time actually employed, will be equally entitled to have their accounts readjusted, and additional allowances made for such periods as they prove themselves to have been ready and willing to perform duty had they been required. The committee report against the prayer of the memorial.

The report was concurred in.

ELBRIDGE LAWTON.

The next was the report of the Committee on Naval Affairs upon the petition of Elbridge Lawton.

Mr. Lawton was ordered to the United States steamer John Hancock, one of the vessels detailed for service in the late surveying expedition to Behring's Straits, North Pacific, and China seas, as first assistant engineer, and served on board that vessel without a senior for three years, performing, as he alleges, the duties of chief engineer. He therefore asks the difference between the pay of a first assistant engineer and chief engineer. The facts, as obtained from the Navy Department, are, that the John Hancock, by her rating, was only entitled, in the "complement tables," to a first assistant engineer as principal engineer, and as such Mr. Lawton was ordered, and not to perform the duties of a higher grade. The committee can find no grounds for allowing the claimant the additional compensation he asks, he having simply performed the duties of his grade.

The report was concurred in.

G. S. ISHAM.

The next was the report of the Committee on Territories upon the memorial of Giles S. Isham, praying a grant of land in the proposed Territory of Arizona for the purpose of establishing a colony of industrious farmers, mechanics, and artisans.

The prayer of the memorialist is believed to be both wrong and impolitic, and beyond the appropriate scope of congressional power, and it is therefore reported against.

The report was concurred in.

GEORGE W. BLUFORD.

The next was the report of the Committee on Claims on the petition of George W. Bluford.

The petitioner contracted in the usual form to transport six hundred and eighteen barrels of pork from the navy-yard at Gosport, Virginia, to the navy-yard at Brooklyn, New York. The pork was shipped on board the schooner Jamestown, and the usual bill of lading given therefor. Fifty-eight barrels were lost on the passage.

The petitioner alleges that the Government officers in charge insisted that all the pork should be taken on board, notwithstanding they were informed that a portion of it would have to be stored on deck, and that the vessel would be overloaded; and further, that, in consequence of such overloading, during a gale on the voyage, it became necessary to lighten the vessel by throwing a quantity of the pork overboard.

The United States libeled the Jamestown for the value of the pork lost, and after a full hearing before the United States district court for the eastern district of Virginia, a decree was rendered in favor of the Government for the sum of \$771 99, with interest. The vessel having been released on bond, execution was issued for the recovery of the amount of the judgment, and returned by the marshal "nulla bona." The petitioner asks to be released from liability.

The committee think that it would be inexpedient and unsafe for Congress to undertake to revise and overrule, by special legislation, the judicial decisions of the courts in the exercise of their proper jurisdiction. No circumstances connected with the facts or proceedings in this case appear to the committee to justify or call for a departure from the above principle, and they therefore report the following resolution:

Resolved, That the claimant is not entitled to relief.

The resolution was agreed to.

BOUNTY LAND CLAIMS.

The adverse reports of the Committee on Public Lands on the following petitions and memorials, were concurred in:

A petition of Thomas Jones and others, of Clermont county, Ohio, praying to be allowed bounty land for services in the war of 1812;

A petition of Lemuel Worster, praying to be allowed bounty land for his services in the war of 1812;

The petition of Mary S. Taylor, widow of Alexander S. Taylor, a volunteer in the war of 1812, praying to be allowed bounty land;

The petition of Eliphalet Lyman, praying to be allowed bounty land for his services as surgeon to a company of draughted militia in the war of 1812; and

The petition of Henrietta Carroll, widow of William Carroll, praying to be allowed bounty land, for the services of her husband during the last war with Great Britain.

JAMES H. BIRCH AND OTHERS.

The next was the report of the Committee on Public Lands upon the memorials of James H. Birch, jr., T. D. W. Yonley, Thomas E. Bassett, Joseph B. Biggerstaff, Elizur D. Parsons, and Thomas E. Turney.

Mr. GREEN. I desire to have that passed over.

The PRESIDING OFFICER. It will be reserved.

JOHN LEACH.

The next was the report of the Committee on Pensions upon the petition of John Leach.

The petitioner alleges that he served in the revolutionary army for some three years, and was honorably discharged. There is, however, no documentary evidence that such is the fact. Mr. Leach is a resident of the city of Washington, and has been for many years; and, though his reputation for truth and veracity seems to be well sustained, the committee are reluctant to establish the precedent of granting a pension merely upon the assertion of the applicant that the alleged service was actually performed. They therefore recommend that the prayer of the petition be denied.

The report was concurred in.

ANNA M. M'KENNEY.

The next was the report of the Committee on Pensions upon the petition of Anna M. McKenney, widow of the late Chaplain William McKenney, of the Navy.

Rev. William McKenney entered the service September 8, 1841, and died therein May 4, 1857. In the application made by his widow, it is claimed that he died of asthma, caused by exposure in burying one of the boat hands, on the 28th of October, 1841; and the medical testimony shows that Chaplain McKenney suffered severely for a number of years from asthma, and that his death was caused by that disease, in conjunction with the medical agents used by him to obtain relief; but there is no evidence which, under the rules of the Pension Office, could be considered as proving that such disease originated in the line of duty. The committee therefore report that the prayer of the petitioner ought not to be granted.

The report was concurred in.

S. S. POWELL AND OTHERS.

The next was the report of the Committee on Commerce on the petition of Samuel S. Powell, and others, praying an examination of Samuel Nowlan's plan for bridging the East river, at New York.

The adverse report was concurred in.

E. BALLARD AND R. JORDAN.

The next was the report of the Committee on Claims on the petition of Ebenezer Ballard and Rishworth Jordan.

The petitioners represent that they were seamen on board the United States ship Adams, which was destroyed in the harbor of Hampden, Maine, in 1813, by order of her commanding officer, to prevent her falling into the hands of the enemy; by which the clothing and other property of the crew, to the amount of about one hundred and fifty dollars, was destroyed and lost. The petitioners further state that, prior to the destructions of the Adams, during a cruise to the coast of Ireland and back, she took several prizes, the proceeds of which were delivered to a Navy agent of the United States, in whose custody they were lost to the petitioners. It is asked that Congress will grant indemnity for the personal property lost by the burning of the Adams, and for the prize-money to which the crew had become entitled. The committee consider the claim

too stale and unsupported to authorize its allowance.

The report was concurred in.

MICHAEL NOURSE.

The next was the report of the Committee on Claims upon the petition of Michael Nourse, claiming compensation for certain services rendered at the request of Mr. Whittlesey, First Comptroller of the Treasury, in 1853. It seems that the examination amongst the records, made by the petitioner, was voluntary upon his part, made to oblige his friend, Mr. Whittlesey, and without any authority of law, direction of any Government officer, or any promise of compensation. Although Mr. Nourse acted very cleverly in the matter, and deserves the thanks of the Government, yet there is no legal or equitable claim upon the Government for compensation for services thus gratuitously rendered. The committee ask to be discharged from the further consideration of the case; which was agreed to.

CHARLES VINSON.

The next was the report of the Committee on Claims upon the petition of Charles Vinson, claiming compensation for extra services while he was a clerk in one of the Departments.

The adverse report was concurred in.

J. HOSFORD SMITH.

The next was the adverse report of the Committee on Commerce on the petition of J. Hosford Smith, praying an additional allowance during the time he was United States Consul at Beirut, in Syria; which was concurred in.

INDIAN POLICY.

The next was the report of the Committee on Indian Affairs asking to be discharged from the consideration of the memorial of the Executive Board of the American Indian Aid Association, in the city of New York, praying that such laws may be passed as will protect and improve the Indian tribes in the United States.

The report was agreed to.

R. F. HUNTER.

The next was the report of the Committee on Military Affairs and the Militia on the petition of R. F. Hunter, a lieutenant in the Army, praying to be allowed a credit in his accounts for certain public money stolen while in his custody.

The adverse report was concurred in.

JOHN H. YEWELL.

The next was the report of the Committee on Pensions upon the petition of John H. Yewell, praying to be allowed a pension.

The adverse report was concurred in.

GUANO ISLANDS.

The next was the report of the Committee on Commerce asking to be discharged from the consideration of two memorials of merchants and others, citizens of New York and Brooklyn, praying the adoption of measures for ascertaining the correctness of certain alleged discoveries of guano on Jarvis and Baker's Islands, in the Pacific ocean, the quality of the guano, and its accessibility to merchant vessels.

The report was agreed to.

TELEGRAPHING.

The next was the report of the Committee on the Judiciary asking to be discharged from the consideration of the memorial of the Magnetic Telegraph Company, and of the New England Union Telegraph Company, praying the enactment of a law which will prevent combinations between citizens or companies in the United States and monopolies or companies out of the United States, for the purpose of oppressing telegraph companies and monopolizing the business of telegraphing in the United States; and also the memorial of the American Telegraph Company in answer thereto, and a further memorial of the American Magnetic and New England Telegraph Company by way of reply, varying the prayer of their first memorial.

The report was agreed to.

RIGGS AND CO.

The next was the report of the Committee on Claims on the memorial of Riggs & Co.

The memorialists allege, in effect, that Charles Loring, the receiver of the land office at Benicia, California, applied to them, in Washington, on

the 17th July, 1854, to advance to him \$2,700, which they accordingly did, at a commission of one per centum thereon. Loring had verbally applied to the Department for this money for the use of his office, and was advised that a draft might be issued in his favor for \$2,700, the amount of his requisition for the expenses of his office for the current quarter, but that it could not be paid until after the passage of the appropriation bill pending before Congress, in which that item was provided for. Mr. Loring executed a power of attorney to Riggs & Co., authorizing them to receive the money, which power of attorney was received and corrected by the accounting officers of the Treasury, and upon this proceeding the money was advanced. Did this advance constitute a claim upon the United States? Was it an advance to the United States or to Loring? The committee think it an advance to Loring, and not to the Government. Nor is it shown that the Government derived any benefit from the advance. Riggs & Co. charged their commission, and must be regarded as having taken all the risks, including that of Loring's death and removal from office. They therefore report adversely.

The report was concurred in.

CHARLOTTE TAYLOR.

The next was the report of the Committee on Claims, on the petition of Charlotte Taylor, who, as daughter of William Scarbrough, of Savannah, Georgia, asks for some "pecuniary acknowledgment" for the benefits which have resulted to the country at large from the enterprise and pecuniary sacrifices of her father in constructing the first steamer that ever crossed the Atlantic.

The mechanical energy and boldness of Mr. Scarbrough, aided by his private fortune, were all embarked in an enterprise of great interest, of the successful issue of which serious doubts were generally entertained by practical as well as scientific men on both sides of the Atlantic. He was eminently successful, and from this enterprise dates the era of ocean steam navigation. In thus practically demonstrating a problem of unusual interest, and one from whose successful solution mankind have been so greatly benefited, Mr. Scarbrough doubtless exhausted his means and died in poverty; and the enduring honor of having thus served his race, and the gratitude of his countrymen, will place his name in fellowship with that of Fulton. But the committee, after mature consideration and reflection, can find no authority for granting the prayer of the petitioner, and they report adversely.

The report was concurred in.

GEORGE T. PARRY.

The next was the report of the Committee on Naval Affairs upon the memorial of George T. Parry, praying that the Secretary of the Navy be authorized to purchase his patent for an instrument, the object of which is to abolish the friction attending the thrust of propellers.

The committee, while acknowledging the merit of the petitioner's invention, cannot recommend the purchase of his patent, and hence ask to be discharged from the consideration of the subject.

The report was agreed to.

REYNALL COATES.

The next was the report of the Committee on Naval Affairs upon the memorial of Reynall Coates, praying compensation for losses sustained and services rendered while with the scientific corps of the South Sea exploring expedition.

The adverse report was concurred in.

JAMES A. MOTT.

The next was the report of the Committee on Claims on the memorial of Dr. James A. Mott. Dr. Mott charges the Government with medical services performed by him for United States soldiers during the war of 1812-15, including several capital and other surgical operations upon officers and soldiers in consequence of wounds received in battle; he also charges for the impressment of a horse and sleigh into the service, and for damages for a wound received from a dragoon. The whole amount claimed is \$949, with interest from 1814. There is no proof before the committee in support of the claim, except the affidavit of the claimant and some general hearsay statements of two or three other parties. The committee, therefore, in view of the great lapse of time, and the entire ab-

sence of competent proof, recommend that the claim be rejected.

The report was concurred in.

CHARLES KOHLER.

The next was the report of the Committee on Claims upon the petition of Charles Kohler, for salvage.

Mr. BRODERICK. I desire to have action on that report deferred.

The PRESIDING OFFICER. It will be accepted.

BINDING FOR CONGRESS.

The next was the report of the Committee to Audit and Control the Contingent Expenses of the Senate on the resolution of the Senate that the binders of the Congressional Globe and Appendix for the Thirty-Fourth Congress be paid the same price per volume as is allowed by law for binding the same for the Thirty-Fifth Congress.

By a public advertisement, dated September 17, 1858, the Secretary of the Senate invited proposals "for binding the Congressional Globe and Appendix for the first and second sessions of the Thirty-Fourth Congress, ordered by the Senate." Mr. De Camp being the lowest bidder, a contract was entered into with him for the execution of the work, at thirty-nine cents per volume. The work has been done and is paid for at that price. On the 23d March, 1857, a similar advertisement was made for proposals for binding the Congressional Globe and Appendix for the third session of the Thirty-Fourth Congress, in two volumes—one of about twelve hundred and the other about five hundred pages. Mr. Espey being the lowest bidder, (his proposals averaging thirty-eight and three fourths cents for each of the two volumes,) a contract was entered into with him for binding the two volumes at those rates. The work has been done and paid for accordingly. In view, therefore, of the fact that the binding of the Congressional Globe and Appendix for the Thirty-Fourth Congress was submitted to open and fair competition, and that the parties concerned willingly agreed to execute it at prices named by themselves, the committee cannot recommend any further allowance for that work, but recommend that the resolution do not pass.

The report was concurred in.

THE CALENDAR.

Mr. STUART. Having gone through with those adverse reports, I suppose it is understood that we shall now proceed with the Calendar of bills, and act on those of them which have been reported upon adversely.

The PRESIDING OFFICER. That will be done. The Secretary will now proceed to read the titles of the bills on the Calendar on which adverse reports have been made by committees, or from which they have asked to be discharged. Any of those bills may be reserved by the Senate at the request of any Senator.

The SECRETARY. The Committee on Public Lands ask to be discharged from the consideration of the bill (S. No. 2) granting a homestead of one hundred and sixty acres of the public lands to actual settlers.

Mr. STUART. A single suggestion in addition to what the Chair has said. The proper motion in all these cases is the indefinite postponement of the bill. It may be understood by the Senate that that motion is agreed to, unless a case be excepted.

Mr. FOOT. I was about to make that motion in regard to this bill. Another bill for the same object is pending before the Senate, introduced by the Senator from Tennessee, [Mr. JOHNSON.] This is another bill of the same character, and may be indefinitely postponed. We only want one bill on the same subject and embracing the same general object.

The PRESIDING OFFICER. The Chair will understand it as the vote of the Senate that each bill, the title of which may be read, will be indefinitely postponed if it be not excepted at the request of some Senator.

The Senate then proceeded to the consideration of the bills on the Calendar on which adverse reports had been made; and the following were indefinitely postponed:

A bill (S. No. 2) granting a homestead of one hundred and sixty acres of the public lands to actual settlers;

A bill (S. No. 109) for the relief of O. H. Berryman and others; (C. C.)

A bill (S. No. 49) to provide for the construction of a court-house, post office, and custom-house in Appalachicola, in the State of Florida;

A resolution (S. No. 19) to extend the limitations of the act entitled "An act for the relief of citizens of towns upon lands of the United States under certain circumstances," approved May 3, 1844;

An act (H. R. No. 14) to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called the James McIndoe, now owned by Thomas Coatsworth, James G. Coatsworth, and William Coatsworth, of Buffalo, New York;

A bill (S. No. 139) amendatory of the act entitled "An act in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855;

A bill (S. No. 121) for the relief Sturges, Bennett & Co., merchants, of the city of New York; (C. C.)

A (bill S. No. 56) explanatory of an act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855;

A bill (S. No. 23) for the relief of Robert Dickson, of the Kentucky volunteers;

A bill (S. No. 20) to amend an act entitled "An act to provide for holding the courts of the United States in the case of sickness or other disability of the judges of the district courts," approved July 29, 1856;

A bill (S. No. 133) to extend an act approved the 3d day of February, 1853, entitled an "Act to continue half pay to certain widows and orphans;"

A bill (S. No. 234) for the remission of fines, penalties, and forfeitures,

A bill (S. No. 62) to establish an additional land district in the State of Iowa;

A bill (S. No. 299) to establish an additional land district in the State of Iowa;

A bill (S. No. 5) to provide for the survey of the Ohio river and its principal tributaries;

A bill (S. No. 7) for the improvement of navigation at the falls of the Ohio river;

A bill (S. No. 43) to authorize the improvement of the Mississippi, Missouri, Ohio, and Arkansas rivers, by contract, and making appropriations for the same;

A bill (S. No. 146) making an appropriation for deepening the channel of the St. Mary's river, in the State of Michigan;

A bill (S. No. 339) granting a pension to Joseph Vance;

A bill (S. No. 17) to divide the State of Indiana into two judicial districts, and to provide for holding the district and circuit courts of the United States therein;

A bill (S. No. 21) to divide the State of Iowa into two judicial districts;

A bill (H. R. No. 222) for the relief of Elizabeth E. V. Field;

A bill (S. No. 230) to repeal the twenty-fifth section of the act to establish the judicial courts of the United States, approved September 24, 1789;

A resolution (S. No. 10) directing the Secretary of the Interior to pay certain pension claims therein specified;

A bill (S. No. 399) to amend an act entitled "An act to extend preemption rights to certain lands therein mentioned," approved March 3, 1853;

A bill (S. No. 423) for the relief of Jane Perry;

An act (H. R. No. 365) granting a pension to Jeremiah Wright;

A bill (S. No. 105) to ascertain and adjust the titles to certain lands in Kansas;

A joint resolution (S. No. 27) authorizing the suspension of sales of public lands in the Territory of Kansas;

A bill (S. No. 378) to enable the Columbian College in the District of Columbia, to found and establish a professorship of agriculture and mechanical science, and to complete her endowment fund, and for the benefit of the public schools of Washington, District of Columbia;

A bill (S. No. 379) to enable the Columbian College in the District of Columbia, to found and

establish a professorship of agriculture and mechanical science, and to complete her endowment fund, and for the benefit of the public schools of Washington, District of Columbia;

A bill (S. No. 24) to secure to actual settlers the alternate sections of the public lands reserved in the grants to the States for railroads;

A bill (S. No. 415) to extend the principles of the preemption act to certain lands herein mentioned, and for other purposes;

A bill (S. No. 369) to amend an act entitled "An act making appropriations for the current and contingent expenses of the Indian department," approved July 30, 1854;

A joint resolution (S. No. 29) to refer the claim of Joseph Valliere, deceased, to the Court of Claims;

A bill (S. No. 448) to repeal an act entitled "An act to expedite telegraphic communication for the use of the Government in its foreign intercourse," approved, March 3, 1857;

A bill (S. No. 401) to facilitate communication between the Atlantic and Pacific States by electric telegraph;

A bill (S. No. 281) to secure a prompt construction of a line of telegraph from San Francisco to Fort Smith, and from thence to St. Louis and to Memphis;

A joint resolution (S. No. 44) to grant to the judges and solicitor of the Court of Claims the use of the congressional library, and for other purposes;

A joint resolution (S. No. 14) authorizing the appointment of commissioners to examine into the difficulties in the affairs of the Territory of Utah, with a view to their settlement;

A bill (S. No. 372) to settle the titles to certain lands belonging to the half-breed Kansas Indians, in Kansas Territory;

A bill (S. No. 66) to amend an act entitled "An act to continue half pay to certain widows and orphans," approved, February 3, 1853;

An act (H. R. No. 652) to repeal the second section of the act entitled "An act to establish certain post roads," approved June 14, 1858; and

A joint resolution (S. No. 12) to authorize the Secretary of War to modify a contract made with Righter & Crain for the removal of obstructions in the Southwest Pass and Pass à l'Ouvre, at the mouth of the Mississippi river.

BILLS RESERVED.

The following were reserved when taken up in succession, at the request of Senators, as indicated below:

A bill (S. No. 93) for the relief of Nahum Ward, (C. C.)—by Mr. POLK in consequence of the absence of Mr. PUGH.

A bill (S. No. 42) to provide for the construction of a custom-house, court-house, and post office in Trenton, in the State of New Jersey—by Mr. WRIGHT.

A bill (S. No. 40) to settle doubts in relation to the title of certain common-field lots in the State of Missouri, heretofore granted to the inhabitants of Saint Louis for the support of schools—by Mr. POLK.

A bill (S. No. 289) explanatory of an act granting public lands to aid in the construction of a railroad in the States of Florida and Alabama, and for other purposes—by Mr. CLAY.

A bill (S. No. 6) to continue the pension heretofore granted to Katharine M. Hamer—by Mr. JONES on behalf of Mr. PUGH.

A bill (S. No. 147) making an appropriation for deepening the channel over the St. Clair Flats in the State of Michigan—by Mr. CHANDLER.

A bill (S. No. 228) making appropriations for certain public works in the State of Maine—by Mr. HAMLIN.

A bill (S. No. 179) to extend the provisions of section twelve of the "act making appropriations for the naval service for the year ending the 30th of June, 1858"—by Mr. HOUSTON.

A bill (S. No. 110) for the relief of Mrs. Jane Turnbull—by Mr. MASON.

A bill (S. No. 229) for the relief of Jane Turnbull—by Mr. MASON.

An act (H. R. No. 353) for the relief of Eli W. Goff—by Mr. FOOT.

A bill (S. No. 22) for the relief of certain citizens of Sioux city, in the State of Iowa—by Mr. JONES.

A bill (S. No. 220) for the relief of citizens and

owners of property in the city of Omaha, Nebraska Territory, and Sioux city, State of Iowa—By Mr. JONES.

A bill (S. No. 200) in relation to the duties of postmasters—By Mr. Foor.

A bill (S. No. 246) to provide for the geological and mineralogical survey of the Territory of New Mexico—By Mr. POLK.

A bill (S. No. 14) to confirm the title in a certain tract of land in the State of Missouri to the heirs and legal representatives of Thomas Mad-din, deceased—By Mr. GREEN.

An act (H. R. No. 220) for the relief of Mary Bennett—By Mr. BAYARD.

VINCENNES LAND OFFICE.

Mr. STUART. I ask the Senate to take up the bill (H. R. No. 302) to continue the office of register of the land office at Vincennes, Indiana. The Representative of that district saw me yesterday and said there was a pressing necessity that the bill should be acted on at once. It simply continues the office for necessary purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to continue the office of register of the land office at Vincennes for the period of three years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN CAMPBELL.

On motion of Mr. HAMLIN, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 342) for the relief of John Campbell.

It directs that the pension of four dollars per month, given to John Campbell by special act of Congress, be increased to eight dollars per month, the increase commencing on the 3d of December, 1855.

The bill was reported to the Senate without amendment.

Mr. DAVIS. I should like to hear some explanation of the bill.

Mr. HAMLIN. The report is very brief, and perhaps that is the best explanation which can be given.

Mr. DAVIS. Very well, let us hear it.

Mr. HAMLIN. I can state the substance of it. The soldier was originally granted a pension by special act of Congress some years ago for half disability at four dollars a month. The certificates of surgeons, whom I know personally very well, and who are gentlemen of high repute, as well as other evidence, show now that he is wholly disabled, is not able to do a particle of labor; and the committee have therefore reported in favor of giving him a full pension of eight dollars a month. That is the case.

The bill was ordered to a third reading, read the third time, and passed.

On motion of Mr. CLAY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 16, 1858.

The House met at twelve o'clock, m. Prayer

by Rev. W. B. EDWARDS, D. D.

The Journal of yesterday was read and approved.

BRITISH VISITATION.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in compliance with a resolution of the House adopted on the 13th instant, calling for information in respect to recent reported acts of visitation of American vessels by officers of the British navy, &c., communications from the Secretary of State and the Secretary of the Navy.

Mr. CLAY. I call for the reading of the documents accompanying the message of the President.

Mr. MAYNARD. I would ask the gentleman from Kentucky if the same purpose would not be accomplished by having the documents laid on the table, and ordered to be printed? They can, I suppose, be printed and laid on our tables by to-morrow.

The SPEAKER. If objection be made, the Chair will put the question to the House whether the documents shall be read or not.

Mr. CHAFFEE. I object.

Mr. HOUSTON. I suppose the gentleman from Kentucky has the right to have the documents read, on a motion to print.

Mr. CLAY. I then call for the reading of the message and accompanying documents.

The SPEAKER. Under the motion to print the Chair supposes the gentleman can have the papers read.

After the Clerk had proceeded to read a portion of the documents, Mr. CLAY withdrew the call, and moved that they be referred to the Committee on Foreign Affairs; and ordered to be printed.

The motion was agreed to.

CORRECTION OF THE JOURNAL.

Mr. JENKINS. I find that I am recorded in the Globe as having voted in the affirmative on the adoption of the resolution of the House in reference to the impeachment of Judge Watrous. I intended to have voted in the negative. I do not know whether the mistake was mine or that of the reporter.

The SPEAKER. The Chair learns that the gentleman is also recorded on the Journal as having voted in the affirmative. As the gentleman's vote will not change the result, if there be no objection the Journal will be corrected as he indicates.

There was no objection, and the Journal was accordingly corrected.

DESTITUTE AMERICANS.

The SPEAKER laid before the House a communication from the Secretary of State, asking for an appropriation to defray the expenses of transporting destitute Americans from Victoria, Vancouver's Island, to San Francisco, in one of the steamships of the Pacific Mail Steamship Company; which was referred to the Committee of Ways and Means, and ordered to be printed.

PRINTING DEFICIENCY.

The SPEAKER also laid before the House a communication from the Superintendent of Public Printing, containing estimates for deficiencies in the appropriations of the last session for printing and paper; which was referred to the Committee of Ways and Means, and ordered to be printed.

NOTICE OF A BILL.

Mr. BOWIE. I give notice that I will, at an early day, introduce a bill to grant to the Baltimore and Potomac Railroad Company, and to the Metropolitan Railroad Company, five hundred thousand acres each of the public lands, to be located in the Territory of Nebraska, to aid in the completion of said railroads respectively.

WILLIAM LYON.

Mr. MAYNARD, by unanimous consent, in pursuance of previous notice, introduced a bill for the relief of William Lyon, late pension agent at Knoxville, Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARYLAND CONTESTED ELECTION.

The SPEAKER stated the business first in order to be the report of the Committee of Elections, on the Maryland contested-election case; and that the following resolution was immediately pending, upon which the previous question had been demanded:

Resolved, That William Pinkney Whyte have leave to occupy a seat on the floor of the House pending the discussion of the report of the Committee of Elections, in the case of his contest as to the seat now occupied by Hon. J. Morrison Harris, from the third congressional district of Maryland; and that he have leave to speak to the merits of said contest, and the report thereon.

Mr. HOUSTON. If I am permitted to do so, I would like to ask the gentleman from South Carolina [Mr. Boyce] whether Mr. Whyte claims the seat occupied by Mr. Harris, and that he has been elected by the people of his district; or whether he simply claims to oust the sitting member, and have the seat left vacant?

Mr. BOYCE. I will say in reply to the gentleman from Alabama that I understand that Mr. Whyte did claim the seat. He so stated in his notice of contest, and also when he appeared before the committee.

Mr. BOWIE moved that there be a call of the House.

The motion was not agreed to.

Mr. MAYNARD. I desire to ask the chair-

man of the Committee of Elections a question, which is, I believe, the same as that propounded by the gentleman from Alabama, but the response to which I did not hear. It is this: Does Mr. Whyte now claim the seat occupied by Mr. Harris? I do not ask what the report of the committee is, for I understand that.

Mr. BOYCE. I suppose that some gentleman from the city of Baltimore can answer that question better than I can.

Mr. STEWART, of Maryland. If the gentleman will withdraw the previous question, I will satisfy the House upon that point. As the previous question has been called upon the motion proposed by the chairman of the Committee of Elections, to allow Mr. Whyte to address the House upon the merits of this question, and as many inquiries have been made by gentlemen upon all sides of the House, I will state for their information, founded upon the proceedings in this case, that this is a contested case between Mr. Whyte, who is the contestant, and Mr. Harris, the sitting member. That is the position taken in the original memorial, and the case has been thus discussed before the Committee of Elections by both parties. After the testimony had been taken, under an order of the House, by Mr. Whyte, at great expense to himself, (some fifteen hundred or two thousand dollars,) and without any contribution by this House, the committee of which the honorable member from Illinois [Mr. Harris] was chairman, (who is not now, I am sorry to say, in his seat,) reported that the seat should be declared vacant. The minority, on the contrary, reported that Mr. Harris was entitled to his seat.

These are the propositions submitted by the committee; and I submit to the House whether the action of the committee is to govern the House, or change the character of the case as originally made up by Messrs. Whyte and Harris, and as it now presents itself before the House for final disposition? I apprehend that Mr. Whyte is not in the position of Mr. Brooks, who contested the seat of Mr. Davis, because Mr. Brooks did not claim the seat, and therefore the committee took the view they did of the case. Whyte, in his memorial which was presented to the House, took a different ground from that occupied by Brooks. He presents himself as a contestant of the seat of Mr. Harris, and claims that he is entitled to it; if he is not entitled to the seat, then, he says, that by reason of the character of the election in Baltimore, by which it could not be ascertained who was elected, he prefers that the case should go back to the people.

Mr. BOYCE. I will relieve the gentleman from Maryland and the House, by saying that I am authorized to state that Mr. Whyte does not now claim the seat, and that he wishes to be understood as a petitioner against the right of Mr. Harris to occupy a seat upon this floor, and wishes to be heard.

Mr. STEWART, of Maryland. I believe I am entitled to the floor.

The SPEAKER. The gentleman was occupying the floor only by unanimous consent, the previous question having been called.

Mr. STEWART, of Maryland. I did not propose to go any further than to state that Mr. Whyte occupies the position of contestant, and takes that ground in his memorial.

Mr. STANTON. If the gentleman insists upon the previous question, I shall move to lay the resolution upon the table. I interposed objection yesterday, and desire to refer to some precedents which I have at hand.

Mr. BURNETT. I understood that the remarks of the gentleman from Maryland were indulged in only by unanimous consent. I now object to everything out of order. If one be heard, let all those who wish to speak be heard.

Mr. STANTON. I move to lay the resolution on the table.

Mr. BURNETT called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were—yeas 108, nays 90; as follows:

* YEAS.—Messrs. Abbott, Adrain, Anderson, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Branton, Bunting, Burlingame, Caruthers, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Burton, Craige, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis,

Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hickman, Hoard, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vance, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson, and Zollcofer—108.

NAVS.—Messrs. Ahl, Arnold, Atkins, Avery, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Cavanaugh, Chapman, John B. Clark, Cobb, John Cochrane, Cockerill, Corning, Cox, Crawford, Curry, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, English, Faulkner, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Kelly, Lamar, Landy, Lawrence, Leidy, Letcher, MacIay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Montgomery, Moore, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Scales, Scott, Searing, Aaron Shaw, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Vallandigham, Warren, Watkins, White, Whiteley, Winslow, Augustus R. Wright, and John V. Wright—90.

So the motion to lay on the table was agreed to.

Pending the call,

Mr. DAVIDSON stated that he had paired off on this case with Mr. HILL, of Georgia.

Mr. NICHOLS stated that he had paired off upon this case with Mr. KUNKEL, of Maryland; otherwise he should have voted in the affirmative.

Mr. PHELPS, of Minnesota, stated that, upon all questions connected with this case, he had paired off with Mr. KUNKEL, of Pennsylvania.

Mr. CASKIE would have voted in the negative had he been within the bar when his name was called.

Mr. STANTON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. EUSTIS moved to lay the whole subject on the table.

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 97; as follows:

YEAS.—Messrs. Abbott, Adrain, Anderson, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bratton, Burlington, Burlingame, Caruthers, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Daves, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hickman, Hoard, Horton, Howard, Keim, Keitt, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Maynard, Miles, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Seward, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vance, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson, and Zollcofer—106.

NAYS.—Messrs. Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Cavanaugh, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, Cox, Burton Craig, Crawford, Curry, Davis of Mississippi, Dewart, Dimmick, Edmundson, English, Faulkner, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Kelly, Lamar, Landy, Lawrence, Leidy, Letcher, MacIay, McQueen, Samuel S. Marshall, Mason, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Vallandigham, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—97.

So the motion to lay on the table was agreed to.

Pending the call,

Mr. DAVIS, of Indiana, stated that he had paired off upon this question with Mr. McKINNEY; otherwise he would have voted in the negative.

Mr. SMITH, of Virginia, stated that he had paired off with Mr. MARSHALL, of Kentucky.

Mr. KNAPP stated that Mr. DAMRELL was detained from the House by sickness.

Mr. DAVIDSON stated that he had paired off with Mr. HILL.

Mr. EUSTIS moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CODIFICATION OF THE REVENUE LAWS.

Mr. PHELPS, of Missouri, obtained the floor. Mr. JOHN COCHRANE. Will the gentleman give way for a moment?

Mr. PHELPS, of Missouri. I yield to the gentleman from New York; for I believe the proposition he desires to make is one to facilitate the business of the House.

Mr. JOHN COCHRANE. House bill No. 487, commonly known as the bill for the codification of the revenue laws, was made a special order, by a vote of the House, for last Wednesday, and from day to day until disposed of. During the recess certain suggestions and alterations have been made and approved by the authorities of the Government and others, which I have not yet been able to submit to the Committee on Commerce for their approval. There are gentlemen in the House who wish a few days or weeks in which to look over some of the provisions of the bill as reported; and I have consented to give them the time. Under these circumstances, I propose that the special order—which is now in order—be postponed until the first Wednesday of January next.

Mr. HOUSTON. I did not clearly hear the gentleman from New York. I desire to know of him whether he proposes that the bill shall be reprinted? I understand that the Secretary of the Treasury, in his report, has suggested some material modifications of the bill as it is now before the House. I wish to know whether the gentleman from New York, the chairman of the Committee on Commerce, intends to embody those suggestions in the bill, and then bring it to the House and have it printed; or whether they intend to bring up those suggestions by way of amendments, and keep the bill in its present position?

Mr. JOHN COCHRANE. In answer to the suggestions and inquiries of the gentleman from Alabama, I may say that the recommendations of the Secretary of the Treasury are not the amendments to which I refer; they will probably be presented to the House in the shape of a separate bill. Should a different course, however, be taken, and these recommendations be ingrafted on the bill, they will, undoubtedly, be printed in connection with the present bill. Whatever course shall be taken therefore, will be presented for the consideration of the House first by the printed documents. My resolution for a postponement is based on considerations of minor importance, which will not materially change the present aspect of the bill. I merely ask the postponement for the convenience of various members, and for the convenience of the Committee on Commerce, who have not yet had time to look into the proposition as it stands. I trust there will be no objection.

Mr. HOUSTON. I do not oppose the postponement sought by the gentleman from New York. My object was to know from him if he intended to ask the House to reprint the bill so as to embody all the recommendations which the committee intend to adopt: for, if the bill is to be reprinted, I desire the committee to take such course with it as to make a distinction between that portion of the bill which simply reenacts existing laws, and that portion which is introduced as new matter. The bill as now before the House does, to some extent, draw that distinction. I am not advised, however, that it does so to the full extent. If it does, then everything that I desire to have accomplished on the subject of printing is accomplished. The revenue laws embrace such a very large code, such a great number of statutes, that it is impossible for one who has not labored long and assiduously to know what the existing laws are, and what the amendments proposed are. I understand that this bill reenacts many of the provisions of laws that are in existence, and makes many changes. My purpose is to have these things made as apparent to the House as can be done.

Mr. PHELPS, of Missouri. As I understand the proposition of the gentleman from New York, it is merely to postpone the question.

Mr. HOUSTON. I have no objection to the postponement.

There being no objection, the further consideration of the bill was postponed till the first Wednesday in January next.

PACIFIC RAILROAD.

Mr. WASHBURN, of Maine. I ask leave to introduce for reference a bill, of which previous notice has been given, to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad, and for other purposes.

Mr. HUGHES. I object.

OLD SOLDIERS' PENSION BILL.

Mr. PHELPS, of Missouri. I desire to submit a motion to go into the Committee of the Whole on the state of the Union. I desire to proceed in committee with the consideration of the President's annual message. I am aware, however, that there is a special order now pending, which takes precedence of the message; and unless that special order be postponed we must proceed with its consideration. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Hopkins in the chair,) and proceeded to the consideration of the bill (H. R. No. 259) granting pensions to the soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period.

Mr. PHELPS, of Missouri. Mr. Chairman, I desire to submit a motion to postpone the further consideration of the pension bill, for the purpose of taking up the President's annual message. I would suggest its postponement till Tuesday next.

Mr. SAVAGE. As I understand this matter, it will take but a very short time to dispose of the bill now before the committee. I yielded, time and again, last session, for the purpose of accommodating members, and facilitating the business of the House; and if I thought that it interfered now with any material business of the House, I would yield again. I do not understand, however, that any delay will be produced by taking up the bill to-day, inasmuch as debate has been closed upon it. The bill is fully understood by the House, has been discussed before the country, and is a bill for action on which the country looks to Congress.

Mr. SMITH, of Tennessee. I rise to a question of order. I have never seen it yet declared competent for the Committee of the Whole on the state of the Union to postpone a bill to any particular day. That must be done in the House. If the committee pass over this bill now, it must go to the Calendar, where it was before, and take its place. I do not think that discussion is now in order, because the committee has no power to put this bill off to a particular day.

The CHAIRMAN. The Chair thinks that the point of order raised by the gentleman from Tennessee is well taken.

Mr. JONES, of Tennessee. I wish to understand the position of this bill before the committee. I understand my colleague to say that the debate has been closed in one hour. My recollection is, that the bill has never been up in committee since it was made the special order, at the close of the last session, for the second Tuesday in December.

Mr. SAVAGE. The question I submit to the Chair is, whether the subsequent order of the House making this bill a special order annuls the previous order of the last session closing debate? I should be glad to find it so; and if in the opinion of the committee the bill is still open to debate, I should be willing to have sufficient time allowed to enable gentlemen who desire to discuss this question to prepare themselves to do so; I shall be willing that a motion shall be made that the committee rise for the purpose of letting the friends of the bill get ready to discuss it, because I know there are gentlemen upon the floor who would address the House upon this subject, but are perhaps not prepared to do it this morning under the impression that the rule of the last session would preclude them from debating the question.

Mr. JONES, of Tennessee. I merely wish to say that I do not understand that the resolution adopted by the House before the bill was made a special order, affects it now, and closes the debate in one hour. Sir, you may talk about all your questions of foreign policy, your difficulties in the Gulf, the state of the finances, the public printing, and the borrowing of money, but, in

my opinion, there is no question now pending before the House, or before the Congress of the United States, which is of paramount importance to the one now before the committee—this pension bill. And, although I do not expect to make any lengthened remarks upon it, I do wish to assign a few of the reasons why I shall act as I think it my duty to do in this case.

The CHAIRMAN. Will the gentleman allow the resolution of last session, closing debate, to be read?

Mr. JONES, of Tennessee. Yes, sir.

Mr. HOUSTON. I desire to ask the Chair whether it has not been the universal practice of the Committee of the Whole on the state of the Union, to postpone special orders?

The CHAIRMAN. The Chair thinks it has not.

Mr. HOUSTON. If the Chair will refer to the precedents that have been established by the Committee of the Whole on the state of the Union, I am satisfied that he will find that such has been the practice.

The CHAIRMAN. The Chair is advised that the precedents are the other way.

Mr. HOUSTON. I know that the Committee of the Whole on the state of the Union have, time and again, postponed special orders.

The CHAIRMAN. The House itself gives direction to the business in Committee of the Whole on the state of the Union.

Mr. SMITH, of Tennessee. If the committee postponed the special order, the bill would go upon the Calendar, and cease to be a special order.

Mr. GROW. Is not this motion in the nature of a question of the priority of business?

The CHAIRMAN. The Chair thinks so.

Mr. GROW. If so, is it debatable?

The CHAIRMAN. It is not, in the opinion of the Chair.

Mr. GROW. Then I hope we shall have the question at once.

Mr. HUGHES. For the purpose of allowing a proper order to be taken in this matter, I move that the committee do now rise.

The CHAIRMAN. What report does the gentleman propose that the Chairman of the committee shall make to the House?

Mr. HUGHES. My purpose is that the House shall dispose of the question of postponement.

Mr. SMITH, of Virginia. I would suggest to the gentleman from Indiana and to the gentleman from Alabama, that we pass over this subject and go to something else.

The CHAIRMAN. The Chair thinks that could only be done by general consent.

Mr. SMITH, of Virginia. Well, I move that it be done by general consent. [Laughter.]

Mr. BURNETT. I object.

Mr. SMITH, of Tennessee. I suppose that when the committee rises, the Chairman will report that the committee have had under consideration the bill granting pensions to the soldiers of the war of 1812, and have come to no conclusion thereon, and have decided to rise. We have had that subject under consideration.

The CHAIRMAN. The Chair thinks that all this debate is irregular and out of order.

Mr. JONES, of Tennessee. I hope the Chair will have the resolution closing debate read.

The Clerk read the resolution, as follows:

"Resolved, That all debate in the Committee of the Whole on the state of the Union on the bill of the House (No. 259) granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in wars during that period, shall cease in three hours after the House shall again resolve itself into the Committee of the Whole House on the state of the Union, and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall then report it to the House with such amendments as may have been agreed to by the committee."

Mr. JONES, of Tennessee. I ask that the resolution making this bill a special order be now read.

The Clerk read the resolution, as follows:

"Resolved, That bill of the House (No. 259) granting pensions to the soldiers of the war of 1812 and the Indian wars about that period, be made the special order for the second Tuesday in December next, to continue from day to day until disposed of."

Mr. JONES, of Tennessee. I wish to suggest that the resolution closing debate was superseded by the adjournment, and by the resolution making the bill a special order.

Mr. NICHOLS. That is exactly my opinion.

I desire only to say, in regard to this special order, that I myself, and several other gentlemen, desire to submit some remarks in opposition to the whole bill; and all I desire is that we may have a free and fair discussion upon the questions involved, and I insist upon that.

Mr. BURNETT. I want to see whether I understand the position of this bill. I understand it to be the special order from day to day until disposed of, and that, under a resolution of the House, the debate closes in three hours after the committee resumes its consideration.

Mr. NICHOLS. That is the question in controversy. I think that the last order superseded the first.

The CHAIRMAN. The Chair thinks that the order making this bill the special order in the Committee of the Whole on the state of the Union is a subsisting order, like the other special order which the House postponed to-day.

Mr. BURNETT. Then I understand the Chair to decide that there is no limitation to the debate.

The CHAIRMAN. The Chair thinks there is a limitation.

Mr. BURNETT. And that the debate closes in three hours?

The CHAIRMAN. The Chair thinks that the three hours have been exhausted.

Mr. SAVAGE. Am not I entitled to an hour?

The CHAIRMAN. The gentleman who reported the bill is entitled to an hour.

Mr. BURNETT. Then I understand the Chair to decide that no debate is in order on the bill?

The CHAIRMAN. The Chair understands that the three hours allowed for debate have been exhausted.

Mr. BURNETT. Then I move, sir, that the committee rise, and report the bill to the House, with a recommendation that it do pass.

Mr. NICHOLS. I hope that will not be done.

Mr. JONES, of Tennessee. I suppose that we shall at least have an opportunity to offer some amendments before that motion is put.

The CHAIRMAN. Of course that will be in order, and five minutes' debate can be had upon such amendments.

Mr. WARREN. I understood the Chair to determine that this bill is properly before the House for discussion. Now, sir, I think we have heard enough of this thing; and for the purpose of bringing it to a termination, I move to strike out the enacting clause.

The CHAIRMAN. The Chair will state that the motion of the gentleman is not in order at this time; the gentleman from Tennessee is entitled to the floor.

Mr. GARTRELL. I understand the Chair to decide that debate is closed upon this bill. The gentleman from Kentucky moves that the committee rise and report the bill to the House, with the recommendation that it do pass. I desire to know whether, if that motion prevail, the motion which I submitted at the last session of Congress to amend will come up before the House for its action?

The CHAIRMAN. The Chair thinks not.

Mr. GARTRELL. I desire that the amendment which I submitted shall be put in such a position that it will come up for action when the House comes to consider the bill on its passage.

The CHAIRMAN. The Chair will suggest to the gentleman from Georgia, that it will be the proper place to offer his amendment in committee; but that no amendment is now in order, until the gentleman from Tennessee has occupied his hour in closing the debate.

Mr. WARREN. I wish to know what has become of my motion to strike out the enacting clause? I thought the effect of that motion was to cut off all debate.

The CHAIRMAN. The motion was not in order while the gentleman from Tennessee held the floor.

Mr. JONES, of Tennessee. If my colleague does not propose to occupy the hour to which he is entitled, I ask him to yield to me for a few moments.

Mr. SAVAGE. I have agreed to yield half of my time to the gentleman from Louisiana, [Mr. DAVISON.]

Mr. JONES, of Tennessee. I requested my colleague to yield me a portion of his time. I

believe I am the only member of the delegation from Tennessee who opposes this bill. The gentleman from Louisiana, I believe, favors the bill. I hope, therefore, my colleague will yield to me for a few moments.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee [Mr. SAVAGE] that he cannot recognize any arrangement to yield a portion of his time to another member.

Mr. UNDERWOOD. For the purpose of removing some of the difficulties which seem to be in the way of a proper consideration of this most important bill, I am disposed to ask the gentleman from Tennessee to allow me to make the motion that the committee rise for the purpose of taking the proper action for prolonging the debate upon this subject. There are a number of gentlemen who desire to be heard, and who cannot be heard unless some such action is taken.

The CHAIRMAN. The Chair would suggest, if it be the pleasure of the committee, that a motion be made that the committee rise, and report a recommendation that the special order be postponed until some subsequent day, which shall be named.

Mr. FENTON. I desire to ask whether the amendment, indicated by me at the last session of Congress, is before the committee?

The CHAIRMAN. The Chair thinks not.

Mr. FENTON. Then I ask the gentleman from Tennessee to give way to allow me to submit it.

The CHAIRMAN. It will be in order for the gentleman from New York to submit his amendment when the gentleman from Tennessee shall have occupied the hour to which he is entitled, he having reported the bill.

Mr. HUGHES. I rise to a question of order. I submitted the motion, some time ago, that the committee rise. I ask that the Chair shall submit that motion to the committee.

The CHAIRMAN. The gentleman could not take the floor from the gentleman from Tennessee to submit that motion unless the floor was yielded for that purpose. The gentleman from Tennessee is entitled to the floor.

Mr. SAVAGE. Mr. Chairman, I have anticipated all that has occurred in regard to this bill. Every great cause has been opposed without regard to its merits. Indeed, persecution and opposition seem to have been the most unrelenting and bitter to those that were best. Christianity came upon the world to raise a universal howl against it from the heathen nations. Progress of all kinds, from the earliest period to the present time, has met this fate. Our Revolution—the most glorious step in man's political history—had its bitter and irreconcilable opponents, who sacrificed their lives and fortunes, under the name of Tories, for the deadly hatred they bore the cause of liberty. Gentlemen opposed to this measure rejoiced as if something unexpected had occurred, when the gentleman from Alabama [Mr. CURRY] spoke against it at the last session. For myself, I was in no way disappointed. If it had not called forth some such opposition, I might have doubted its correctness and final success; but this beginning gives me a full assurance of the end, and that sooner or later the citizen soldier shall again be victorious. There is nothing new to me in the speech of the gentleman, [Mr. CURRY.] Every argument and illustration used by him was urged most eloquently, and more in detail, by Mr. Davis, of South Carolina, in 1832, against the soldiers of the Revolution; indeed, this last speech is a perfect daguerreotype of the first—smaller in its dimensions, and more concise and beautiful in its expressions. If the speech of Mr. Davis was read to-day to the committee, as much or more would be said, applicable to this bill, as was said by the honorable gentleman from Alabama. These arguments were powerless then, and will fail now.

Mr. Davis denounced the bill of 1832 as a system of immense magnitude, novelty of character, and incalculable amount. No time, he thought, could be more unfortunate and ill-judged for the introduction of the measure. He described the nation as depressed beyond endurance, and laboring under burdens too heavy long to be borne; he called it a "mammoth bill," extending beyond all former, all describable limits, and beyond all calculable costs, ushered into the House, and pressed forward with haste and zeal; that it was

"enormous, wild, and extravagant." He compared it to the herding together of wolves to chase the wounded buffalo, and said that it would saddle upon the country an annual expense of more than six millions; that it was the same system which, in the language of Jefferson, had sent the European laborer supperless to bed; that it would pension such men as General Wade Hampton, and lay the foundations for an aristocratic and privileged order; that it was a sacrifice of the property of one man for the benefit of another, and would teach the people to look to the Government for bread; that it was a system corrupting to individuals and States; and he more than once repeats what we heard from the gentleman from Alabama, that Roman liberty was but a name after the people began to feed from the public granaries.

Mr. Davis also noticed the soldiers of the war of 1812, as the member from Alabama has done the soldiers of subsequent wars; he denies that they ever dreamed of pensions; but he describes the Federal Government as then penniless and insolvent—too feeble to even furnish arms to meet the foe, and sinking upon the wild current of war, like the great Cæsar upon the swollen Tiber, crying to a generous people "Help! help me, or I sink!" The gallant citizens of the West, without arms or equipments furnished by the Government, marched to New Orleans and fought a battle that broke the hearts of tyrants, covered themselves with imperishable glory, and forever established the dignity of freemen and the power of America. These and many other offensive things were urged by the gentleman from South Carolina, in 1832, against the pension system for the revolutionary soldiers. I have noticed them for the purpose of showing to those who may have thought otherwise, that the weapons used by the gentleman from Alabama, in his assaults upon this bill, are old, broken in former defeats, and in no way dangerous. Gentlemen, by professions of respect and kind feelings for the old soldiers, endeavor to avoid the responsibility of the arguments they make and the votes which they give; but I tell them there is no neutral ground; this is a great battle, and he that is not for us is against us. The tree must be judged of by the fruit, and the fruits of their speeches, if permitted to ripen, are death to the hopes of these old men who now, sinking to the grave under the iron grasp of poverty, cry to the nation "help! help!" as that nation cried to them in 1812, when struggling beneath the paws of the British lion.

There is another fact which makes the speech of the gentleman from Alabama the "unkindest cut of all." If I am not mistaken, he lives upon and represents the glorious battle-field of Talladega; the very soil that produces the bread that he eats contains the bones, and has been made richer by the flesh and blood, of my countrymen, offered up in 1812 as a sacrifice to the common safety and glory, and I can well believe that some poor old helpless women, whose husbands have perished from exposure in those campaigns, now listen most anxiously in their homes of poverty for your response to their petitions. I have learned from the men, the mothers, and wives of that day, the sacrifices and sufferings that attended these great achievements, and the stars of heaven shall not move more steadily in their courses than shall my feeble efforts be given in pressing their claims before the nation.

It is the greatest absurdity to adduce the English pension system as an argument against the one proposed by this bill. They are adverse in every respect. In England the power to pension is in the Crown, and the pensioners are nobles, flatterers, and favorites of the monarch—it is a royal and not national system. This bill proposes to give it to the humble and unfortunate, because of the injuries they have sustained for the public good.

It is too late for gentlemen to talk about the unconstitutionality of the pension system. The legislation in regard to the revolutionary soldiers has established the precedent, and forever fixed the constitutional law upon the subject. It is our daily practice to give pensions for injuries sustained in the service, and the argument for this bill assumes that all who enter your service are more or less injured in health, fortune, and power to labor.

In the language of the report—which I adopt on this occasion—

"Many of these gallant men return with impaired health—some with ruined constitutions; but no matter how they return, with a few fortunate exceptions, they find that while others who have remained at home have advanced, they have retrograded in the race for the good things of this world which render man independent and old age comfortable; their business and families have been neglected, their property depreciated, their patronage is in the hands of others; with them it is almost commencing life a second time at the bottom of the ladder, although their absence from home may have been of short duration. As a general rule, they give the strong days of their manhood to the service of the country, and see as much of actual war in a few campaigns as the soldiers of these vast standing armies do in their lifetime; so that our Government secures the same benefit in the hour of danger, for a very small expense, that is obtained by other countries at the enormous cost of their perpetual establishments. The burden and sacrifices of a foreign war are, for this cause, unequally divided between the citizens of the Republic, being principally borne by the brave men who, from patriotic motives, thus enter the military service. This view of the subject may be illustrated by supposing the case of two men of equal ability following the same occupation: the one obeys the impulses of patriotism, enters your service, sheds his blood in your cause, advances your standard to victory and glory, bringing peace and renown to the nation; but in most cases, if he returns at all to the bosom of his family it is with less ability to toil, with property and business injured, perhaps lost forever, and for no other reason than because he fought your battles this gallant man goes down to the grave in poverty, and leaves his wife and little ones to misery and want. The other, from accident, necessity, or a greater regard for individual comfort, remains at home, pursues his business, accumulates property, guards his family, and leaves them at his death comfortable and wealthy. No bounty of the Government is likely ever to place these men upon an equality; but a generous people should not let the old soldier die among them, when poverty has been the result of sacrifices for their safety."

Gentlemen have avoided this view of the question; they have neither answered it or tried to answer it. It suits their purposes far better to deal in flowers of rhetoric, general axioms, and abusive epithets.

Gentlemen attack the bill in its details, criticising its provisions with great severity, yet they suggest nothing in lieu of them. Now, I submit to a candid world whether they would not show themselves wiser legislators and better patriots by employing the ability which they manifest to make perfect the imperfect bill which has been reported. For myself, I had neither a hope or expectation of presenting a system perfect in its details. My purpose, when drafting the bill and report, was to present the question to the nation in the fewest words possible, and in the most striking light. I had no hopes of the passage of any bill until the people should speak out upon the subject and order their Representatives to execute their will. I expect amendments, and should other gentlemen fail to offer those I think necessary, I will propose them myself.

I pass now over many minor arguments to answer the statement in regard to the costs. The gentleman from Alabama spoke of a table before him, carefully prepared at the Pension Office, making an estimate of the amount involved in this bill. All the world was left to infer that the gentleman's statement of facts and conclusions rested upon the authority of the pension bureau. I was astonished when the statement was made; for besides feeling confident that it was extravagant and unfounded, I knew that the Military Committee (of which the gentleman from Massachusetts [Mr. BUFFINTON] and I are members) had called upon this Department, through the President, and had received no such answer.

Mr. BUFFINTON assented.

Mr. SAVAGE. I have examined the so-called tables of the gentleman from Alabama, and find them unsigned and unauthorized by any officer of the Government, and hence this famous calculation is wholly without foundation, save the splendid imagination of the orator, or the private information of some individual. But the authority of no Department could sustain the truth of this statement. It is too easy to show that it is a very great error. This calculation assumes that more than eleven million dollars per annum will be required to meet the pensions under this bill. By reference to the message of the President, above alluded to, in reply to the Military Committee, it will appear that the whole number of officers and men mustered from the militia in the war of 1812, was four hundred and seventy-one thousand six hundred and twenty-two; and the report of Mr. Calhoun, Secretary of War in 1820, shows that the full pay received by officers and men for the

whole term of service, amounted to \$12,618,961; and by the report made to Congress, in 1836, by the Third Auditor, it appears that only one hundred and sixty-eight thousand nine hundred and eighty-two of this number were in service for the term of three months. Now, forty-five years since the war, when nine tenths of these gallant men are in the grave, the monstrous absurdity is pressed upon us by gentlemen, that the survivors of this one hundred and sixty-eight thousand will draw nearly as much by way of pension, per annum, as the whole four hundred and seventy-one thousand drew for full pay during the whole time of the war.

Again, it appears from the report of Mr. Calhoun, above referred to, that the grand total of officers and men engaged in the revolutionary war amounted to four hundred and ten thousand six hundred and four. The invalids were provided for at an early period; and in 1818, all who served nine months, or to the end of the war of the Revolution, in the Continental line, were provided for. In 1832, pensions were given to all persons, militia, volunteers, and regulars who served for the term of six months in the war of the Revolution. Now, sir, the letter of the present Secretary of the Treasury, addressed to this House, on the 10th of February last, shows the sums drawn from the Government under these various acts, and it shows that under the act of 1818, and the invalid acts of a prior date, the annual appropriations on account of pensions were usually less than one million, and, with the exception of two years, never amounted to two millions. It also shows that after the passage of the act of 1832, against which the gentleman from South Carolina distinguished himself, by wild and extravagant assertions, such as we have heard from gentlemen in regard to this bill, that the appropriations were usually about two million dollars, and never in any year but one, amounting to as much as four millions, which large sum was created by the act relating back to a period anterior to its passage. It also appears by this report, that the whole sum paid by the Government, from 1792 to the present date, by way of pensions, is \$77,372,941 54, an amount not sufficient to support our little Army three years.

Now, it is seen that there is not a great difference between the numbers of the soldiers of the Revolution and those of the war of 1812; and it is known that the benefits of the revolutionary acts were extended to heirs and representatives; so that it is impossible that there can be as many applicants under this bill, which provides only for the soldier and his widow, as under the revolutionary acts. Then, away with this false clamor of \$11,000,000, or even half that sum; it is groundless, and made to draw away the mind from a fair consideration of this question.

Gentlemen assert that there is no legal right resting upon us to confer these pensions; and if claimed as a matter of right, the next step will be to adopt the policy of Great Britain, with her magnificent Chelsea hospital for the relief and support of worn-out and disabled soldiers, and her Greenwich hospital—once a royal palace—as an asylum for seamen who, by age or wounds or other accidents, become unfit for service. This statement is made with a view to disparage Great Britain; but gentlemen are mistaken; they could not have found in English history so high a compliment to that imperial Power. It shows that, no matter how much we may abuse her for pampering her lordly aristocrats, her policy and providence reach down to, and care for, the humble and faithful servant. In other words, the argument amounts to this: that the English soldiers under Packenham, who invaded our country with the infamous watchwords of "Beauty and Booty," if disabled or in age, shall, because they fought for a king, be happy and comfortable in a royal hospital; but those gallant soldiers who met the storm of war by the side of Jackson, and drove back your invaders, shall be left to perish along the pathway of life, in poverty and want, because they were the citizen-soldiers of a Republic. Is this the country that I am called upon to love, defend, and honor? Shall we follow the advice of gentlemen, and prove to all mankind the truth of that most infamous charge that republics are ungrateful?

The gentleman from Alabama [Mr. CURRY] paid that most faithful and able public officer, the

Secretary of the Treasury, a high compliment, and quotes from the Secretary's report to show that the Treasury was empty, and that this was not the time to pass that measure. Far be it from me to accuse the gentleman of sinister motives in passing this high eulogy; but it does become me to examine my side of the question; and before proceeding I will say that I have my fears that neither the gentleman nor the "able Secretary" would ever find a convenient season for the passage of this bill. Sir, if the Treasury is empty, how come it so? the gentleman did not inform us. If he had referred to the letter of this same Secretary, dated 10th of February last, from which I have already quoted, he will find on page 10 thereof, these words and figures: "The balance in the Treasury on the 30th day of June, 1857, was \$46,802,855," and we know that in addition to the accruing revenues, this Congress has already authorized a loan of \$40,000,000, and the Treasury is still bankrupt. The overflowing millions of the last Congress have gone somewhere, but—

"Thou canst not say I did it,"

for the old soldier has not received a dollar of it.

It is asserted that our Government has become disgracefully extravagant; that our expenses have increased out of all reason, and have run up to nearly eighty millions; but how a logician can impute this extravagance to a measure that never had an existence, requires some transcendental sagacity to discover. To recapitulate and brand abuses without showing the cause of the wrongs and the means for the remedy, is no part of statesmanship. The many political maxims quoted by gentlemen do not bear upon this bill; but only prove the truth of that saying of the first Napoleon, that, "If an empire of granite were submitted to the dogmas of political economists, they would grind it to powder." The real economist is a practical man—making liberal, wise, and necessary expenditures—not an eternal fault-finding, "penny-wise and pound-foolish" objectionist. I yield precedence to no man in my opposition to unnecessary and extravagant appropriations; but the friends of this bill urge its adoption upon the ground that it will save the nation countless millions, by avoiding the otherwise unavoidable necessity of a large standing army in time of peace. The gentleman [Mr. CURRY] will find this view of the question wholly unanswered in the speech of his "illustrious predecessor," Mr. Davis; nor can he now, or any other gentleman, in my opinion, answer it successfully.

Among the opponents of this bill are a certain class of gentlemen upon this floor, who pride themselves upon being called the watch-dogs of the Treasury. Whether or not they deserve the honors they seem ambitious of wearing, I will leave posterity to determine. One thing I do know, that their efforts are always powerless, except against the humble and the poor.

When the Galphins and the Gardiners, the land grants, the ocean mail steamers, and all such princely schemes of public plunder, enter your Halls, if they do not crouch or stand aside for safety, their barking is no more in the pathway of these giants than the breath of a child upon the billows of the ocean. I am willing they shall be the high priests at the altar of economy; they may preach their sermons, and pharisaically thank God that they are not as other men; but I am not willing that the rights and hopes of the old soldier, and the policy of a great nation, shall be a victim to their political notions.

Gentlemen say we have no money, and it is therefore the wrong time to pass this bill. I say, if their allegation be true, that it is the wrong time for the Treasury to be empty. I brought forward this measure at the last Congress, when the Treasury was full to overflowing. The eyes of this nation were turned upon it. A universal argument was made that so much money ought not to be withheld from general circulation. Almost a thousand schemes were discussed or proposed for its distribution. Some of them forced themselves upon the records of this House. A bill to invest \$8,000,000 in railroad stocks was voted for by some very distinguished opponents of pensions. A bill also passed this House, by a vote of 119 to 79, distributing the surplus between the different States; and the old idea of bank deposits was not without its advocates.

Sir, these were the most prominent of the rival schemes for the distribution of the vast accumulation. I opposed them all as being unwise, partial, and unjust to the great mass of the nation. This money was the property of the whole people, and belonged to every man alike—to the poor and the humble, as much as to the rich and the proud; and I was unwilling to sanction any plan for its distribution that did not extend its incidental benefits, as far as possible, to every citizen of the Union. To deposit it with the banks was to give it to the merchants, speculators, politicians, and wealthy men about your cities, whose character and influence would secure accommodations. The mechanics, agriculturists, and people of the interior, would not get a dollar. To invest it in railroad stocks was a scheme for the benefit of the Shylocks and capitalists of the Union by giving them gold from the Treasury at a very high figure for railroad bonds, which they had purchased much lower. It would have realized to those bondholders great fortunes, while the nation at large would have been in no degree benefited. I was unwilling to distribute it to the States, because I believed it would induce unwise and extravagant legislation for the benefit of the few without regard to the rights of the many. I was unwilling for this great fund to be scattered abroad, unless, like the dews of heaven, it should fall with its refreshing power upon every citizen of the Union, whether rich or poor, humble or distinguished, living in a great city or the remote country. I expected by this bill to accomplish three things:

1. To reward the old soldier for the patriotism he has displayed and the injuries sustained in your service.

2. By the honor conferred upon old age, to encourage an emulous spirit in the bosoms of our youth that will forever furnish citizen soldiers to meet the exigencies of war, and thus avoid that most to be dreaded of all necessities, a standing army.

3. A distribution and expenditure of the public revenue which will, to a greater extent than any other plan, confer its incidental benefits upon all sections and all classes.

I have neither time nor space to examine our vast expenditures; but to illustrate this view of the argument, I will state a few prominent items as a general standard.

I know that it is very difficult for the Government, in making expenditures, to confer equal benefits upon all sections and upon all classes; but I hold that it is a duty to approximate as near thereto as possible, and never, without some great necessity, to adopt measures or make expenditures which confer benefits upon one section or one class to the exclusion of others. It requires no argument to prove that if all the revenue is collected in one class of States and spent in another, or from one class of men and paid to another, that the latter will become rich and the former poor; and hence it follows that almost as much partiality and injustice may exist in disbursing as in collecting the public revenue. It appears from Secretary Cobb's report, from which I have already quoted, that the total amount appropriated by the Government since 1789, is \$1,975,935,176 97, which consists of the following items:

Civil list.....	\$119,081,454 81
Foreign intercourse, including awards.....	82,853,654 34
Miscellaneous.....	195,291,713 17
Military service.....	503,233,048 33
Revolutionary and other pensions.....	77,372,941 54
Indian department, including Chickasaw fund.....	79,434,170 16
Naval establishment.....	320,835,794 16
Appropriations, exclusive of public debt.....	1,378,032,776 51
Public debt.....	597,902,400 46
Total.....	1,975,935,176 97
Amount carried to surplus fund.....	41,026,056 26

Now, it is seen that nearly half of the whole amount collected for all purposes has been spent upon our little Army and Navy, and that our pensioners have received less than we have paid the Indians.

It appears from this same report that our expenditures for the year ending June, 1857, amounted to \$71,274,587 83, and it is well-grounded opinion, that for the last year they amounted to over eighty millions. The estimates for the present year amount to \$74,065,896 99. These vast sums are collected from all sections, and every citizen, and a partial expenditure inflicts the greatest injus-

tice. The large items for sustaining the Army and Navy are expended upon the borders and along the sea-board, and in the great cities. The interior agricultural people are refreshed by this goldenshower to a very slight extent. And so far as I can see, it is a misfortune without a remedy; but it is not so with some other items that I will mention.

Congress has heretofore appropriated the sum of \$21,815,103 67, for roads, rivers, and harbors; which expenditures are local and partial in every respect—a mere draft upon the Treasury for the benefit of some particular city or community; and I am well informed that some gentlemen, quite prominent in this system of public plunder, have distinguished themselves as opponents of this bill. Congress has also expended much treasure in fortifying our great cities and sea-port towns. Since the year 1832, the sum of \$24,584,375 has been voted for this purpose; and of this sum, the last Congress voted \$5,684,375. To fortify our cities, may have been wise at the time this system was commenced; for then the nation was weak, and the communication with the interior slow. Now, railroads extend to every section, and the iron horse far outstrips in speed the ships upon the ocean. I hold that fortifications are, at best, a very poor substitute for the want of men. History proves them to have been more commonly the instruments of domestic tyranny than of national defense. The boasted San Juan de Ulloa, and Perote, of Mexico, have often been the prisons of her own citizens, but were as nothing in the pathway of our invasion.

Now, sir, instead of annually pouring out these large sums in our cities, in building fortifications that may never be assaulted, I propose to abandon the system and distribute the money to every section of the country, to assist in bringing up gallant men, who shall be ready and willing, when the haughty foe shall threaten, to fly with railroad speed, and stand around the beleaguered city, a wall of living valor, more to be relied on and more honorable than cold stones, though piled upon each other as high as the tower of Babel.

The old soldier is found everywhere; but, perhaps, most often in the interior agricultural regions, where public expenditures, as now made, never reach. Perhaps the very community that taught him to toil, and sent him to fight your battles in the strength of his youth, received him back again with health impaired or ruined habits. The Government, when it took this man from toil, injured his friends and neighbors; and now I propose to pay the debt by giving him ninety-six dollars per annum; and this is a gift, also, to a great extent, to that community wherein the soldier lives, for he must spend it to educate his children, for bread to eat, to pay the merchant, the doctor, and mechanic. The money, unlike the vast sums poured out upon your great cities for your Army and Navy, your printing, fortifications, or the collection of the public revenue, would be principally given to the interior agricultural regions, and become a great educational and agricultural fund to aid and strengthen these men of humble fortune who are the real strength and glory of every land; for it is they who fill your workshops, cultivate your fields, raise and educate the children who fight your battles, and sustain the freedom of your Government at the ballot-box. This system is not only great in its accomplishments, but equal to all men in its benefits.

The Secretary of the Treasury was lauded in the public press some few months after the inauguration, because it was said that the gentleman, for the purpose of aiding the mercantile world to meet the pressure of hard times, had paid off quite a large portion of the public debt, when the same had many years yet to run. It appears, from the Secretary's financial report, that he paid the sum of \$688,977 78 by way of premium upon these debts. This operation was for the benefit of the merchants, bankers, and brokers; and, in my opinion, was equal to one fourth the annual cost of this bill. With such facts before them, the friends of the Secretary ought not to talk of the extravagance of this bill.

It may be safely said that the Army and Navy annually cost fifteen times as much as the pensions under this bill.

I exhibited to this House, at the last session, calculations of Professor Tucker and Mr. De

Bow, showing that in all probability less than seventeen thousand men entitled by the bill were then surviving—requiring about a million and a half per annum to pension them. The opinions of these gentlemen are founded upon the known value of human life, and the opponents of the bill have not dared to controvert their correctness.

Every people, to maintain their independence, must have some system to guard against domestic usurpation and foreign war. The object of this bill is to avoid the European system. Vast armies there surround the thrones of princes, crushing the spirit of liberty, and destroying the substance of the people by the most ruinous and oppressive taxation. England maintains, in time of peace, about one hundred and fifty thousand; France, in 1854, had on foot four hundred and one thousand two hundred and forty-seven; Russia, in 1855, had eight hundred thousand soldiers. We have an army, by the report of Secretary Floyd to the present Congress, of seventeen thousand four hundred and ninety-eight. For the last year it cost us largely over twenty million dollars. This year the Secretary estimates for \$18,010,190 23, which we know is liable to be increased by a deficiency bill at the next Congress; from which it appears that we pay over a million dollars for each thousand men, or more than one thousand dollars per man; so that, if we adopt the European system, and raise our Army to equal that of Great Britain, it would cost annually \$150,000,000; if we rival France, over four hundred million dollars; and to equal Russia, more than eight hundred million dollars. When this system is adopted, the freedom of the people is at an end. Our little Mexican war produced five or six ambitious generals, each of whom acted as if he had a legal right to the Presidency. Discourage the citizen soldier, increase your standing Army; let a foreign war come that shall try the strength of the nation; and, unless the commander of your conquering legions shall be a second Washington, your Congress will be driven hence, your Constitution trampled under foot, and the people will become the victim and inheritance of a usurper and his descendants. Gentlemen cannot avoid it. The question upon this bill is simply, will you have a pension list or a standing army? At the last session, Congress was asked to grant five additional regiments to the regular establishment; thereby increasing, for all time, our annual expenditures more than five million dollars. Congress refused; and if the request had been granted, past experience authorizes us to say, that if a further increase had not been asked during this Administration, it would have been demanded at the beginning of the next. Gentlemen who talk about the extravagance of this bill vote to increase the Army without hesitation. The systems are opposed to each other, and gentlemen are entitled to their opinions. The bill proposes to secure to the nation a reliance upon the citizen for military service, as the cheapest, most honorable, and least dangerous system for a free people. If we reject it, we must adopt the alternative, and expend vast sums to create a regular establishment, equal to national defense, thus devoting many of our citizens and much money to military purposes forever.

The principle of pensioning for military service has been approved by the distinguished men of the United States since 1818. It was approved by General Washington in 1780, when Congress, at his urgent request, passed a resolution giving to the officers half pay for life, and which he then described as necessary to prevent a dissolution of the army. Resting upon these high authorities, I feel confident that the passage of this bill will establish a military policy, which alone can secure the nation against the dangers of foreign war and domestic usurpation.

As to the soldiers of subsequent wars, I cannot consent to pension them now. If, hereafter, when they have grown old, and the Government is in the hands of their children, they should be honored and held up to the nation in their declining years as examples for imitation, it would be in accordance with the policy which I desire to see established. But these old men of 1812 are the fathers of the Republic—the victors in the second war of independence. They are rapidly sinking to the grave, and must be paid now or never. It is no argument to say that the Treasury is empty. The nation which they defended in the days of

their youth I hope may live forever, and yet become the most glorious and powerful on the face of the globe.

Mr. FENTON. Is it in order now to offer a substitute for the bill now before the committee?

The CHAIRMAN. The committee will first proceed to perfect the original bill, and then a substitute will be in order.

Mr. COBB. I desire to offer an amendment to the first section of the bill.

The CHAIRMAN. The first section of the bill will be read.

The first section of the bill was read, as follows:

Be it enacted, &c., That each of the surviving officers, non-commissioned officers, musicians, and privates, who shall have served in the regular Army, State troops, volunteer, or militia, for a term of three or more months, or shall have been engaged in actual battle with the enemy, in the war declared by the United States against Great Britain, on the 18th day of June, 1812, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in said line, according to his rank, but not exceeding, in any case, the pay of a captain of infantry; such pay to commence from the first day of the present Congress, and continue during his natural life.

Mr. COBB. I desire to offer an amendment to the first section.

The CHAIRMAN. The Chair would remark that an amendment is already pending. Is the amendment of the gentleman from Alabama an amendment to that amendment?

Mr. COBB. I will hear the amendment read.

The pending amendment offered by Mr. GARTRELL, was read, as follows:

In the first section of the bill strike out, in line ten, all after the word "appropriated" down to the word "such," in line twelve, namely: "the amount of his full pay in said line, according to his rank, but not to exceed, in any case, the pay of a captain of infantry," and insert "the sum of ninety-six dollars a year, to be paid semi-annually."

Mr. MARSHALL, of Kentucky. I desire to offer an amendment, to come in prior, in point of place, to that amendment. I move to strike out, in line five, the word "three," and insert "one;" so as to make the bill read "for the term of one month or more."

I will say to the House that the bill, as it now stands, excludes a very large class of men who served in the war of 1812, and rendered most meritorious service; for instance, men who fought the battle of the Thames; who went from my State and returned before the expiration of three months. If the House is going to pass this bill, I cannot sit here silently and see so deserving a class of men excluded. Therefore, I propose to reduce the term, so that the bill will include them. There were a great many men who went out with Governor Sheldon, who might not have been in actual battle. The second section does not apply to them. I desire the bill put in such a shape that that class may not be cut off from the benefits of the bill by construction at the Department.

I hope the committee will pass the amendment, in order that we may put ourselves upon the record in the House upon it.

Mr. NICHOLS. I am opposed to the amendment of the gentleman from Kentucky. I admit it is rather an ungracious task to oppose a proposition to pension any persons who have been engaged in the military service of the country. But I am opposed to the substitute offered at the last session by the gentleman from New York, [Mr. FENTON,] and I am opposed, too, to the principle of this bill. I want that distinctly understood. The gentleman from Kentucky moves to amend so as to include men who have served only one month. As I understood the bill, any man who was engaged in actual battle, though he served but one day, is entitled to a pension as already provided.

Mr. Chairman, I do not think it is the policy of the country, in any circumstances, to increase the band of pensioners. A careful review of the pension laws shows these facts. The pension acts, commencing, I think, in 1810, providing for bounties, provide for full pay, and that has been received by all who have served. If it has not been received, it is the fault of those who served.

And since that, during the brief experience I have had as a member of this body, Congress has three times provided for bounty lands for services rendered. Let me state my own experience in reference to these bounty lands. I was, in 1850, a young practicing lawyer. The act of September 28, 1850, was passed, giving bounty land to the soldiers of the last war. As agent, I made

ninety-six applications for those entitled to bounty land under that act; and each of those entitled had served three months, precisely as those who will be entitled to pensions under this bill will have to serve. Now, ninety-three of the men in my own county out of the ninety-six for whom I made application, and who were entitled to the benefits of that act, were at that time in better circumstances, and are now, than I am myself.

Let me state another fact. A colleague of mine, in a conversation with him within the last fifteen minutes, stated to me that he presented a petition to this House for this identical pension bill at the last session, signed by fifty persons, all of whom, with five exceptions, are worth from five to twenty-five thousand dollars. I cannot state how the fact is in reference to other localities, as I know nothing about them.

I lay down the general principle that it is wrong for the Government to increase the system of pensions. What motive have these men in coming to this body, and asking this Government to reward them for services which have been performed, when the act under which they enlisted provided for them?

[Here the hammer fell.]

The CHAIRMAN. The question recurs on the amendment of the gentleman from Kentucky, [Mr. MARSHALL.]

Mr. GREENWOOD. This is a very important amendment, and I ask that the question be taken by tellers.

Tellers were ordered.

Mr. BURNETT. I desire to offer an amendment to the amendment. It is to reduce the time from one month to fourteen days. The gentleman from Ohio [Mr. NICHOLS] stated that he regarded it as bad policy in the Government to increase the number of pensioners. This statement the gentleman repeated, I think, as often as three times; but he did not give the reason to the committee or to the country why he thought so. This system of pensioning was inaugurated at an early period of the history of the country. It was adopted by men who established the Government, and many of them participated in its benefits. Various acts that were passed from 1810 up to the present time, have carried out the same policy.

Now, I hold that there is no policy better calculated, under our military system, to keep alive in this country a spirit of patriotism and devotion to the country, than that those who have fought her battles shall know that in their old age, when they may become helpless and unable by their own industry to acquire the necessities of life, they will be taken care of by the Government.

The gentleman gave us various instances in which men of wealth, of large fortune, memorialized Congress to have a law passed to give them pensions. Granted. Grant that many men of wealth would be entitled to pensions under the bill now under consideration; yet why not present the other side of the picture? There may be men entitled under this bill who do not really need the bounty of the Government; but that objection is worth nothing, because there are hundreds and thousands who do need what they may receive under this bill. I am in favor of this amendment as offered by the gentleman from Georgia, [Mr. GARTRELL,] because I believe it to be wrong to pay, under this bill, the full pay to which men would be entitled if they were in actual service. That is unprecedented in the history of all the pension laws that have been passed. Hence, I will vote for the amendment offered by the gentleman from Georgia, believing it right to follow the precedent that has been set. I tell gentlemen here that unless we do pass this bill the people will send men here who will pass it. I ask leave to withdraw my amendment.

Mr. NICHOLS. I object to the withdrawal of the amendment, for I desire to speak in opposition to it. I was about saying, that I believe it to be bad policy for the Government to increase its band of pensioners. Now, Mr. Chairman, nobody sympathizes more than I do with the particular class of cases instanced by the gentleman from Kentucky; but I have examined all these pension bills, and have found, that whenever a man is disabled in the service, he is entitled to a pension. If he was wounded in battle, he has his pension. If he was slain in battle, his heirs have the pension. If he served without disability,

he has had the bounty prescribed by the Government in three several acts. I want to know where is the particular claim of justice on the part of those who have served in the Army? That is the question I propound. I need not be told that many who have served their country are poor. There are thousands in my own district; there are thousands in the district of every gentleman here, who never served their country, and who are poor. What then, and why then? It results from those causes that embrace the grand system of political economy in the Union. We might give to those who have served pensions without stint, and they would still be poor; and would you go on and give them additional pensions because they had squandered the benefits that they derived from the pension acts and bounty acts already passed?

I have stated a part of my experience. I have stated that I obtained ninety-six land warrants, under the act of 1850, as agent for men who were entitled to its benefits. Where did these land warrants go? That is the point. I will tell you. Long before these warrants were obtained, bankers in my own town, moneyed men, speculators, had obtained a lien upon them; and when the warrants came, they were simply transferred to those who went into the western Territories and located the warrants to the prejudice of the actual settlers. That is my experience in this matter.

I come back to the original proposition, and to a point alluded to by the gentleman from Kentucky. I do not want to make our revolutionary war serve as a precedent here; and I will tell you why. You had then no Government. Then, the men who embraced your service and went to the defense of the country and of its liberties, were those who had no guarantee of any reimbursement. Their chances were between a halter and recompense. But since that time, and in the war of 1812, and subsequent wars, you have had a Government which invested those who entered its service with all the rights and immunities of national men. If they were taken prisoners, they were prisoners of war, not subject to the halter, but to those grand international rights which pervade all the civilized world. There is the distinction which I would impress on the mind of the gentleman from Kentucky, [Mr. BURNETT.] Sir, you cannot lead me to believe that there is any similitude between the cases of the soldiers of the Revolution and of the soldiers of our subsequent wars. The one was the case of a grand popular struggle for liberty, where men were in rebellion. In the others, those who fought did so as citizens of a great nation having its solidarity, so to say. I ask any man if there is not a great difference between these cases?

As to your pension system, no man values the services of those who have fought for the liberty and defense of this country more than I do. But I say if to-morrow the tocsin of alarm were sounded, and the dogs of war let loose, it would be my duty, as it would be the duty of every man who hears me, and of every citizen of this great Confederacy, to give his blood, his services, his wealth, and his position, to the country. And do you tell me that for doing this, which is my duty as a citizen, I should be pensioned? I say no, sir. [Here the hammer fell.]

Mr. BURNETT withdrew his amendment.

Mr. BLISS. I move to amend the amendment of the gentleman from Kentucky [Mr. MARSHALL] by substituting "fifteen days" for "one month." I do it for the purpose of stating a fact in connection with those stated by him. And I premise by saying that the principle of this bill, granting to the able and able-bodied, the rich as well as the poor, is a very doubtful one, and I have not yet made up my mind to vote for it. The pension system is in general an evil one, and should not be thoughtlessly extended. But if this bill is to pass, it should be put in such a shape as to give pensions to those who are entitled to them under its general principles. Now, what are the facts in relation to the time of service of our most patriotic volunteers? I believe, sir, that the majority of those who volunteered to defend the frontier after the surrender of Hull, were in service less than three months. I know that I have neighbors all around me, who upon hearing of that surrender, at once turned out by whole militia companies. Every man in the neighborhood deserted his farm or his business, left his crops unsown, his flocks unguarded, shouldered his

musket, and marched still deeper into the wilderness; and most of those men were discharged within three months, the necessity for their services having ceased. I have a company now in my mind's eye, that was gone over two months, during the sowing season, and thus lost the whole wheat crop of a large section. Now, do we wish to reward any particular term of service, in the shape of wages, or do we wish to encourage that patriotic impulse that leads men to rally to the defense of their country at all times when needed, and without regard to the length of time they may be kept in the service?

Again, in the State of New York, I know that militia and volunteers were often called out as danger threatened, and went to Sackett's Harbor, to Niagara, and other points on the frontier, and were there from thirty to sixty days, but less than three months. I will instance the battle of Plattsburg; when the British invaded that part of the country, the people turned out *en masse*, not for any particular time, but to repel the invader, indignant that he should tread upon our soil and not find a grave. It mattered not to them whether it was for one, for three, or for six months; they went to answer the call of their country on that occasion, and they did answer it. But suppose the enemy, instead of giving battle, frightened at this outburst of patriotism, fortunately for them and for us, had retired from our borders: would not the patriotism have been the same? And yet these men would have been excluded by the terms of this bill.

Sir, if we are to adopt the principle of pensioning for services merely, without regard to wounds, disability, or present need—which I consider a doubtful principle—let us fix it upon some basis that will hold out an encouragement to volunteers to turn out to meet any emergency, without reference to the number of days it may be necessary to keep them in service. I now withdraw my amendment, and hope the amendment of the gentleman from Kentucky, which I had intended myself to offer, will prevail.

Mr. RITCHIE. I move to amend the amendment of the gentleman from Kentucky, by striking out "one month" and inserting "twelve months." I do it for the purpose of stating that my objection to this bill is, that before many years elapsed, it would disable the Government from carrying on any war at all. If we are to go on and pension every person who serves, or who has served, in the militia, or in the Army or Navy, and the widows of those who have died, then in one generation the resources of the Government will be exhausted in the payment of pensions, and nothing else. One great objection that was made in the early history of our Government, against all the Governments of Europe, was their pension lists. We declared against the system. That was the revolutionary principle; and subsequent to the Revolution the outcry made against half pay to the officers for life was so great that it led to the passage of the commutation act. The men who had served in the revolutionary war could not endure that the officers should receive half pay for life, although the contract had been made with them on that ground; and so great was the outcry that that contract had to be repealed. That was the understanding of the militia and regulars who fought in the Revolution. The system adopted forty years after the close of the revolutionary war was to pension those only who were poor and too old to earn a living for themselves. That had to be in proof at the Pension Office; and no pension was allowed to any man who had property enough to live on, or who was able to earn a living by his own exertions. I say, sir, that that is the true principle for a republican Government. It was adopted by the very men who fought the Revolution. Patriotic men of all parties, men who had served as officers, and men who had served as privates, forced upon Congress the repeal of the act granting to the officers half pay for life; they would endure no pension list, and nothing in the shape of it. I say, sir, that the system of pensioning and gratuities, upon which it is proposed to enter, will, in a few years, place this Government in a position where it will not be able to fight out a war with the pettiest kingdom on the face of the earth. All its energies will be tasked and loaded down by the payment of pensions. The one half of the people who labor will have to give the proceeds of their

labor to the other half who do not labor, but receive pensions. I say that the man who discharges his duty well in the civil departments of life as a true laborer and a true man, is as much entitled to a pension, in case of disability, as a great majority of those who have served in the militia, and perhaps more so. That is all I have to say upon this subject.

Mr. MASON. Gentlemen upon the other side of the House have taken upon themselves to come down upon those who advocate this bill, and scold them, as if they were proposing something criminal.

Mr. RITCHIE. I am down on the bill—not on those who advocate it.

Mr. MASON. I have but five minutes, and cannot yield to the gentleman. I did not interrupt him. Gentlemen not only scold those of us who advocate the claims of the men who gave their services to their country in its hour of need, and have now grown old, but they undertake to scold even sovereign States which have instructed their Representatives to support this measure. If they have any arguments to urge against the bill, we shall be willing to listen to them; but it must be recollected that my own State and other sovereign States have instructed us here to vote for and sustain this measure.

Sir, we come not here as beggars for a set of paupers. We come here to ask for justice—to ask for the payment of a debt that was promised to these men at the time of their services. Did you ever hear an orator inducing his fellow-citizens to become volunteers who did not hold out to them the inducement that they will be regarded and honored by their country, and, in their old age, provided for, if need be, by a pension? Who will say that eight dollars a month pays a man for enduring the perils and privations of the camp and the field, or for exposing his health in the cold snows of Canada or in the tropical climates of the south? And if it does not pay him, you owe these men a debt, and it is that debt which we now ask you to pay. You know he was not paid. No man will consider eight dollars per month as a compensation for the privations of the camp and the perils of the battle-field. If you have not paid him, then you owe him now. What else, if you refuse to pension those who have served the country faithfully, have you to offer as encouragement to young men to volunteer in the service of the country? It is, as my friend from Tennessee says, a measure of economy. Unless you hold out some inducement for the young men of the country to volunteer, you will have to maintain a standing army of fifty or a hundred thousand men. You have an army now of millions, ready to spring up, at a moment's call, in defense of their country; but make the soldiers who now come here for justice mere mendicants and beggars only, and what will be the effect? It will come soon to the point when the soldier will be regarded as unfit for civil life or for anything else, except the Army.

As my friend from Tennessee has remarked, in the rural districts in my section of the country men of reputation and standing have enlisted in the rank and file; but go to a section of the country where the soldiers are pointed at as degraded, and instead of getting the best men to enlist in the rank and file, it will be filled with rowdies, wharf-rats, thieves, and vagabonds, who will do no duty in camp, and run in battle. Get the yeomanry of the country to enlist in the service, and you will always have a plenty of men ready at the slightest notice, and who will, after a few days' drilling, fight as well as regulars.

[Here the hammer fell.]

Mr. RITCHIE, by general consent, withdrew his amendment.

Mr. SMITH, of Tennessee. I move to amend so as to make the term of service ten days instead of three months; and upon that amendment I wish to make a few remarks.

I confess, Mr. Chairman, that my colleague, [Mr. SAVAGE,] and my friend from Kentucky, [Mr. MASON,] who have addressed the committee, have said the most of what I desired to say upon this subject. But I wish to say that I prefer a pension list to a standing army; I am willing and desirous to take care of the old men who, in the first and second wars of independence, stopped bullets at eight dollars per month; and this is the reason that calls me to my feet.

I drew a bill somewhat similar to this the first Congress in which I served, five years ago. I drew it because I believed it was but justice to the soldiers of the war of 1812; and I wish to say further to the committee, and to the Chairman, that I have never once named the subject in any speech which I ever made in my own district. Nevertheless, there are perhaps more soldiers of the war of 1812 in my district than in any other district in the United States. More of the soldiers who served under General Jackson in the Creek war and at New Orleans in the war of 1812, came from that district than from any other; and yet, because I have desired and done what I could to do justice to these old men, I have never mentioned it in any speech in my own district, nor is it generally known there that I introduced such a bill during the first Congress in which I had the honor to occupy a seat in this House.

I fully subscribe to the opinion announced by General Washington in his letter to Congress, in reference to the soldiers of the war of the Revolution, when he said:

"On the whole, if something satisfactory be not done, the army (already so reduced in officers, by daily resignations, as not to leave a sufficiency to do the common duties of it,) must either cease to exist at the end of the campaign, or it will exhibit an example of more virtue, fortitude, self-denial, and perseverance, than has ever yet been paralleled in the history of human enthusiasm. The dissolution of the army is an event which cannot be regarded with indifference. It would bring accumulated distress upon us; it would throw the people of America into a general consternation; it would discredit our cause throughout the world; it would shock our allies. To think of replacing the officers with others is visionary. The loss of the veteran soldiers could not be repaired."

I believe that such inducements ought to be held out to our young men to enlist in the service whenever their services are required. As my friend from Kentucky just remarked, you now have a standing army of ten million men if their services were necessary. Sir, the volunteer soldiers who fight the battles of the country ought to be taken care of by the country. Why, Mr. Chairman, the only Government, the only monarchy, which ever existed for any respectable period of time, was the absolute despotism of Egypt, in which, when any man served his country in war, he was taken care of in his old age. I believe the men designated by this bill ought to be taken care of; I know old men in my own district, in the State of Tennessee, whose legs were cut off in the war of 1812, and who were thus rendered incapable of earning their living. I believe it to be the duty of the Government to take care of them. Sir, I wish to do nothing here which shall have the appearance of demagogism—nothing to make capital of in my own district. I believe that justice to these old men, justice to the country, justice to ourselves, requires that these old men, who, in the war of 1812, as I have said, stopped bullets at eight dollars per month, should be taken care of by the Government of the United States. It is an honest expenditure of the money of the Government. It injures the interests of no one. It comes from the pockets of the people, and I am willing to pay my part of it.

Mr. HUGHES. I desire to speak in opposition to the amendment of the gentleman from Tennessee; and I propose to pursue the same course which other gentlemen have adopted, and speak to the merits of the bill.

I am in favor of paying pensions to the soldiers of the war of 1812, and every national war in which this country has been or may be engaged. I believe it is sound policy and true economy. The objection urged is that it will exhaust the public Treasury; and one gentleman has said that if this policy is carried out the Government will not have money enough after a while to carry on a war. Mr. Chairman, something else is required in time of war besides money. Money is a very good thing, and has even been called "the sinews of war;" but money alone is not all that is needed; it is men that we require for the defense of our country, or to carry its conquering flag, if we should engage in a war of aggression. I do not ask you to pay these men because they are poor. Most of them are poor, it is true, but some of them doubtless are rich; but it is because I think this Government ought to make a public and solemn recognition of their services, with a view to cultivate a military spirit among the people, that I would have this bill passed.

As to economy, sir, if you wish to economize,

strip the tinsel ornaments from these Halls of legislation; cut off the annual drain upon the Treasury for recording and printing every idle word that is uttered here; cease to lavish millions in fortifications upon your sea-coasts; let your forts and arsenals crumble into ruins. You have now a system of telegraphic communication, by which, when an enemy appears upon your coast, the news can be sent upon the lightning's wings to the uttermost bounds of the Republic, and summon a host of brave men to its defense. You have a system of railroads now centering upon the sea-board which can immediately concentrate there a million of men, if a military spirit exists among the people. That is the most economical course to pursue which will foster and promote that spirit.

In ancient times the people of Greece were in the habit of defending themselves by building walls around their cities. But there was one city, the most warlike of them all, that had no walls to protect it; and when an ambassador from an enemy's country asked "where are your walls; where your fortifications?" the commander of the city answered, pointing to her sons, "these are the fortifications to protect Sparta in time of war." Let us build up such fortifications as those; and let us, by public and solemn legislation, recognize the gratitude we owe to those who bear the musket in time of battle; and when the country needs soldiers and fortifications, they will be prompt in its defense.

I say, further, I am opposed to any discrimination in the rate of compensation between officers and men. The duties of an officer are easiest and his pay the best while in service; and when all retire into private life, let them be pensioned alike.

The question recurred upon the amendment to the amendment, to substitute "ten days" for "three months."

Mr. DAVIS, of Mississippi, demanded tellers. Tellers were ordered; and Messrs. TALBOT, and CRAIG of Missouri, were appointed.

The House was divided; and the tellers reported—ayes 90, noes 48.

So the amendment to the amendment was agreed to.

Mr. BURNETT. Is it in order to move that the committee do now rise?

The CHAIRMAN. It is.

Mr. BURNETT. I make that motion.

The motion was not agreed to.

The question recurred upon the amendment as amended.

Tellers having been previously ordered, Messrs. MARSHALL of Kentucky, and BRANCH, were appointed.

The committee divided; and the tellers reported—ayes ninety-one, noes not counted.

So the amendment, as amended, was agreed to.

Mr. JONES, of Tennessee. I desire to offer an amendment.

The CHAIRMAN. The Chair would remind the gentleman from Tennessee, that there is an amendment now pending—that offered by the gentleman from Georgia, [Mr. GARTRELL.]

Mr. JONES, of Tennessee. I thought the gentleman had only given notice of that amendment.

Mr. GARTRELL. No, sir; I offered it.

Mr. COBB. I have an amendment to come in at the ninth line, which I desire to offer now.

Mr. GARTRELL. I am willing that the gentleman from Alabama [Mr. COBB] should offer his amendment now.

Mr. COBB. I want the committee distinctly to understand that my amendment is offered in good faith.

Mr. UNDERWOOD. I desire to offer an amendment, which I indicated before my colleague [Mr. MARSHALL] offered his.

Mr. COBB. At what line does it come in?

Mr. UNDERWOOD. My amendment is to come in at line nine, and unless I offer it now I will not have an opportunity of doing so again.

Mr. JONES, of Tennessee. My amendment comes in at line seven.

Mr. COBB. The reading of my amendment will indicate the particular point at which it comes in.

Mr. COBB's amendment was reported, as follows:

After the word "twelve" in line nine, insert the following:

The Florida and Creek and Indian wars of 1833, 1837, and 1838, and the Mexican war of 1846, 1847, and 1848.

Mr. COBB. Mr. Chairman, I gave notice of my intention, at last session, to offer this amendment. It was thought by some gentlemen at that time, that my object was to trammel the bill. I announce here to-day that such was not, and is not, my intention. But I ask every gentleman of the committee to point out to me, if he can, what difference of merit is there between the widow of a soldier of the war of 1812, and the widow of a soldier who served in the Mexican, Florida, or Indian wars? If the one is entitled to a pension, surely so is the other. And I now say, to clear away the mist from the minds of gentlemen, that I intend to vote for this bill unless they clog it with such provisions as forbid my voting for it. I desire the adoption of my amendment, because my mind travels back to the massacres that took place in the Florida war, where every man, in some instances—as in the Dade massacre—was killed; and where there was not one left to tell the tale. Why should not the Government provide for the widows and the orphans of those men? I am not unmindful of the claims of those who lost their husbands and their fathers by the inclemency of the weather, and the hardships of the campaign of 1812; but neither would I have the committee be forgetful of the claims of those who lost their husbands or their fathers in Florida or in Mexico. Tell me the difference between the lone widow of a soldier of the war of 1812, and the lone widow of one who served in the Mexican or Florida wars. Sir, there is no difference. It may be said that the one is much older than the other, and, therefore, more dependent on the bounty of the Government. But that does not hold good in all instances; for gray-headed men, as gray-headed as yourself, Mr. Chairman, [laughter,] took up arms for their country, and marched into Mexico, and left their bones there by the Rio Grande and on the field of Resaca de la Palma; and their widows are, it may be assumed, old women. Have these men left no widows to be provided for; and if they have, are you providing for them in this bill? Not unless you adopt the amendment that I have offered. I see around me colonels and officers who distinguished themselves in the war with Mexico; and some of them say they want no pensions because they are youthful and vigorous. The gentleman from Tennessee [Mr. SAVAGE] said that he wanted no pension for himself. Sir, he has received a pension far superior to that which any poor soldier may receive under the provisions of this bill; for, in all probability, he owes his seat, as many others do, to his services in the Mexican war. [Much laughter.] Sir, I am not unmindful of all that. My mind falls back—

[Here the hammer fell, amidst cries of "Go on!" "Hear him!"]

Mr. DEWART obtained the floor.

Mr. COBB. Cannot I go on for a minute longer?

[Cries of "Go on!" and much laughter and confusion.]

Mr. DEWART. I was originally in favor of this bill, but the committee have loaded it down with so many amendments that I shall be obliged to record my vote against it.

Much confusion prevailed in the committee at this point. Members crowded round the speaker, amidst shouts of "Order!" and "Down in front!" and much laughter.

Mr. SAVAGE. I hope the Chair will preserve order.

The CHAIRMAN. If gentlemen do not come to order, the Chairman will be obliged to vacate the chair, and report the disorder of the committee to the House. It is impossible to proceed with the business while there is so much disorder.

Mr. DEWART. I was going to move, sir, to amend the bill so as to provide that the defeated candidates in Pennsylvania, in the late Kansas campaign, be allowed a pension of ninety-six dollars per annum. [Roars of laughter.]

Mr. KELSEY. It is evident that no business can be done, in the present temper of the House. I therefore move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill of the House (No. 259) granting pensions to the officers and soldiers of the war

with Great Britain, of 1812, and those engaged in the Indian wars during that period, and had come to no resolution thereon.

And then, on motion of Mr. KELSEY, (at twenty minutes past four o'clock, p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 17, 1858.

The House met at twelve o'clock m. Prayer by Rev. L. D. FINCKEL.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed bills of this House of the following titles:

An act (No. 302) to continue the office of register of the land office at Vincennes, Indiana;

An act (No. 318) recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid; and

An act (No. 342) for the relief of John Campbell.

Also, that the Senate had indefinitely postponed bills of the House of the following titles:

A resolution (No. 14) to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called the James McIndoe, now owned by Thomas Coatsworth, James G. Coatsworth, and William Coatsworth, of Buffalo, New York;

An act (No. 223) for the relief of Elizabeth E. V. Field;

An act (No. 365) granting a pension to Jeremiah Wright; and

An act (No. 652) to repeal the second section of the act entitled "An act to establish certain post roads," approved June 14, 1858.

ORDER OF BUSINESS.

Mr. STEPHENS, of Georgia. What is the special order for to-day?

The SPEAKER. The special order in the House is the consideration of House bill No. 367, being a bill to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians. It was made the special order at the last session, and, by some inadvertence, the Committee of the Whole House was discharged from the consideration of the bill, and it is, therefore, a special order before the House.

Mr. STEPHENS, of Georgia. This is private bill day; and as the bill is a special order, I move that it be referred to a Committee of the Whole House on the Private Calendar; and I shall then move that the House resolve itself into a Committee of the Whole House to take up that special order.

The motion was agreed to.

Mr. STEPHENS, of Georgia. I now move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

WITHDRAWAL OF PAPERS.

Mr. ABBOTT. Will the gentleman from Georgia give way for a moment, to enable me to obtain leave to withdraw some papers from the files of the House?

Mr. STEPHENS, of Georgia. I have no objection to that.

Mr. ABBOTT. I ask leave, then, to withdraw from the files of the House, the papers in the case of George W. Whitney, an applicant for a pension.

The SPEAKER. Will the gentleman indicate for what purpose he desires to withdraw the papers?

Mr. ABBOTT. I wish to carry them before the Department. The Committee on Invalid Pensions made an adverse report last session upon the memorial of the petitioner on the ground that the existing law furnished relief, and entitled him to a pension. I wish to withdraw the papers for the purpose of laying them before the Department.

There being no objection, leave was given for the withdrawal of the papers.

CHANGE OF REFERENCE.

On motion of Mr. DAVIS, of Massachusetts, it was

Ordered, That the Committee on Foreign Affairs be dis-

charged from the further consideration of the papers in the case of J. B. Cook, and that the same be referred to the Committee of Ways and Means.

WITHDRAWAL OF PAPERS.

Mr. BLAIR. I ask leave to withdraw the memorial, with the accompanying papers, of the Penny Post Company of California, for the purpose of reference in the Senate.

There being no objection, leave was granted.

PAPERS RECOMMITTED.

Mr. MARSHALL, of Kentucky. I am instructed by the Committee on Military Affairs to ask that the adverse report made by that committee in the case of Captain McFerran, and the papers in the case, be recommitted to that committee.

There being no objection, it was so ordered.

VACANT LANDS IN OHIO.

Mr. STANTON. I ask the unanimous consent of the House to introduce a bill, of which notice was given at the last session. It was not in my drawer when the States were called at the commencement of this session. It was a bill ceding the vacant lands in the military district in Ohio, to the State of Ohio, for school purposes.

Mr. HUGHES. I object.

Mr. DAVIS, of Indiana. I desire to inquire what the regular order is this morning?

The SPEAKER. The motion of the gentleman from Georgia that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. DAVIS, of Indiana. I appeal to the gentleman from Georgia to withdraw his motion, in order that one hour may be devoted to the call of committees for reports.

Mr. STEPHENS, of Georgia. There is a special order in Committee of the Whole House, and I am anxious that it shall be considered to-day.

Mr. SAVAGE. Is it in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The motion could be made, but the Chair is of opinion that the motion of the gentleman from Georgia would take precedence.

Mr. GOODE. I ask the permission of the House to introduce a joint resolution, for the purpose of reference merely. It is necessary that it should be passed at an early day.

Mr. HOUSTON. I ask for the regular order of business.

CLAIMS OF GEORGIA AND ALABAMA.

Mr. STEPHENS, of Georgia. I now insist on my motion.

The question was taken, and the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. SHERMAN, of Ohio, in the chair,) and proceeded to consider the special order, being House bill (No. 367) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

The bill was read, and is as follows:

A bill to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to cause the claim of certain citizens of Georgia and Alabama, for losses sustained by the Creek Indians, outbreak in 1836, 1837, and 1838, according to statement exhibited in volume 6, Executive Documents 1837 and 1838, No. 127, to be examined by the proper accounting officers of the Government, and that there be allowed and paid to said citizens, or their attorneys or agents, out of any money in the Treasury not otherwise appropriated, the sum or sums that may be found due said citizens, respectively, for losses sustained by the destruction of their property, for provisions used by the troops in the service of the United States, and Indians.

Sec. 2. And be it further enacted, That the Secretary of War be, and he is hereby, authorized, without regard to existing rules and requirements, to receive such evidence as is on file in the Departments of the Government, and any further proofs which may be offered tending to establish the validity of the claims of the citizens of Georgia and Alabama, as aforesaid, upon the United States, or any part thereof, for losses as aforesaid; and in all cases where such evidence shall, in his judgment, prove the truth of the items of the claims, or any part thereof, to act on the same in like

manner as if the proof consisted of such vouchers and evidence as is required by existing rules and regulations touching the allowance of such claims, deducting what has been heretofore paid, if any: *Provided,* That the payment to be made by the provisions of this bill shall be in full satisfaction of all claims for damages for property lost by the act of the Creek Indians, in 1836, 1837, and 1838, or taken for Government use.

The report, which was read, states that, on the 12th February, 1825, a treaty was entered into with the Creek nation for the purpose, as declared in the preamble of the treaty, to carry out "the policy and earnest wish of the General Government, that the several Indian tribes within the limits of any of the States of the Union should remove to territory to be designated on the west side of the Mississippi river."

By the terms of this treaty the Creek nation ceded all their lands to the east of the Chattahoochee, in the State of Georgia, on a stipulation that the United States would give in exchange "the like quantity, acre for acre, westward of the Mississippi, on the Arkansas."

Having thus disposed of all their lands east of the Chattahoochee, on the 24th March, 1832, another treaty was entered into by which the said Creek nation "ceded to the United States all their lands east of the Mississippi." By its stipulations ninety of the principal chiefs and each head of a family were to be entitled, after the land had been surveyed, to certain reservations, which reservations they were authorized to dispose of for a fair consideration.

By the twelfth article of the treaty the desire of the United States is expressed, "that the Creeks should remove to the country west of the Mississippi, and join their countrymen there;" and provision is made for their emigration.

This article contains a proviso that it is not to be construed "so as to compel any Creek Indian to emigrate." But it is evident that the Government intended to pursue its great policy of emigrating this tribe—a policy founded, in long experience, which demonstrated that the interests of the Indians, as well as the whites, demanded their separation. This is seen not only in the article referred to, but in the provision which authorized them to sell the small reservation of all the land that remained to them east of the Mississippi. Situated in the midst of white settlements the authority to sell was equivalent to a decree of sale, as the event showed.

The Government having completed the survey under the treaty, its lands were placed in market early in 1834, and a settlement of whites invited. The reservations of the Indians became immediately the subject of speculation and purchase, so that by the spring of 1836 there were but few who had not dispossessed themselves of all their landed rights. To investigate certain alleged frauds in some of these sales, a commission was instituted by the Government, which sat in 1835 and 1836.

The means thus obtained by the Indians were soon dissipated, and a great number were reduced to the condition of starving vagrants. This condition of things awakened the most serious apprehensions on the part of the white settlers. Petitions were forwarded by the settlers to the Governors of Georgia and Alabama, and by them to the Government of the United States, in which their critical condition was fully stated, and asking for protection and for the removal of the Indians. These petitions were unheeded; so far from affording relief, the Government removed the small force—the only one it had in that region of country—then stationed at Fort Mitchell, for the purpose of employing it in the Seminole war. The Government was also notified of this condition of affairs by Colonel Hogan, who had been appointed to investigate in the nation the character of the sales made by the Indians of their reservations.

The danger apprehended by the settlers was soon realized, and early in May, 1836, the depredations and hostilities were of so serious a character that the settlers had to seek safety in a hasty flight into the denser white settlements of Georgia and Alabama.

To suppress these hostilities, State troops were called out, and General Jesup was ordered to take command. He moved on the 12th June with seven hundred and twenty volunteers, and was joined by a brigade of Indians on the 14th and 17th, consisting of one thousand three hundred to

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one thousand five hundred warriors. With this force, without fighting any battle, by the 1st August, hostilities were suppressed, peace secured, and shortly afterwards the Indians were emigrated to their home west of the Mississippi.

It is for the loss and damage suffered by the citizens on both sides of the Chattahoochee during this period that this claim is now presented.

The character of these losses may be gathered from the following extracts in the letter of General Jesup. He says: "I passed on the 5th June from Columbus to Tuskegee, distance forty-two miles. The plantations on nearly the whole route had been destroyed; many of the buildings were burning as I passed, and at one or two places the Indians were seen carrying off corn. There were, as I learned, large supplies of corn, bacon, and fodder, and numerous herds of cattle and hogs, belonging to the inhabitants who had fled, which, in consequence of the delay in the movements of the troops, fell into the hands of the Indians." Again: "One object of my movement was to secure for the troops a quantity of corn and other supplies reported to have been left at the plantations on the road to Fort Mitchell; but I was too late; the enemy had destroyed the fodder, carried off the corn, and driven off the cattle and hogs. I raised a brigade of Indian warriors; part of them joined me on the 14th and part on the 17th June. From the time they marched until they returned to the neighborhood of Tuskegee, (about the 1st of July,) they derived, perhaps, half their subsistence from the cattle and corn taken in the country.

General Jesup then adds, "that Colonel Hogan's, Major Collins's, and Major Torrence's statements are substantially correct, and General Woodward's is correct, with the exception of his remarks in regard to myself." And concludes with the remark: "Whether the property lost can be paid for or not by the public, I have no hesitation in declaring that much of it might have been saved by a prompt and determined movement of the troops early in June."

Colonel Hogan states in his letter of September 18, 1837: "Of the cattle that were killed for the subsistence of the Indian forces under my command, no marks or numbers were taken. Indeed, such a course was impracticable. I was ordered by General Jesup to *subsid the force in the best manner I could*, and I had forage parties out every day hunting up corn and fodder and beef. As soon as the Indians would drive up a gang of cows, calves, or oxen, before I was aware of their being in any part of my camp, which was very extensive, having from thirteen hundred to fifteen hundred Indians scattered all over the hills about the Big Springs, those Indians who were most in want of provisions would commence shooting them down. In this way an immense number of cattle were destroyed, and a great many more than were required for the actual subsistence of the whole army. To prevent a general destruction of cattle was utterly impossible, and equally so to obtain a list of marks and brands."

General Woodward says: "Cattle were killed and made use of both by whites and Indians, though it is true that many more were killed than were really necessary for the use of the troops. This was done by order of General Jesup. There was much other property taken that belonged to the whites, such as mules, horses, corn, fodder, and many things too tedious to mention. As to household furniture, it appeared not to be an object with the friendly or hostile Indians, for it was scattered over the woods in every direction, sometimes burned, and at others torn up and broken to pieces."

Major Collins testifies that he served with the regiment of friendly Indians under Jim Boy from the time they took up arms until they were discharged from the service of the United States. That they "had no rations supplied by the Government until a surrender was made; that they drew a little provision which was given them to get it out of the wagons to enable them to move quicker, as they intended moving to Fort Mitchell,

where stores were supplied for the subsistence of the army. All former supplies we had were such as were left by the unfortunate settlers; of this the Indians felt authorized to use, and did so freely wherever they could find any. The Indians said they were to have all the property they could find, according to the proposition made to them by the commander-in-chief, General Jesup, and was acceded to by him, it being their mode of warfare. They accordingly continued to kill a great many cattle, more than was actually necessary for the subsistence of the whole army, which they said they killed to starve the hostiles.

The proviso to the act of 3d March, 1837, "that nothing hereinbefore contained shall be so construed as to subject the United States to pay for depredations not provided for by the act of 9th April, 1816, and the acts amendatory thereto, nor by acts regulating the intercourse between the Indian tribes and the United States," must be construed as containing the implication that if the depredations were such as were provided for by those acts, then the United States would pay for them. The proviso operates as an exception, limiting the extent to which Congress was willing to admit their liability.

What, then, was the meaning of Congress in referring their liability to these several acts? Did they intend to limit their liability to cases which fell within their letter, or did they intend to include depredations which would be included within their spirit and equity? It is very clear to your committee that the latter could alone have been intended; for they cannot presume that Congress was ignorant of the fact, that by no possibility could these claims have been included by the express terms of those acts.

First, the act of 9th April, 1816, and the acts amendatory thereto, relate solely to losses during the late war with Great Britain, and by its very terms excluded all other cases.

Second, as to acts regulating intercourse between the Indian tribes and the United States, it is to be observed that the only act in force in 1837 was the act of 1834, which repealed the prior acts for that purpose. The first section of the latter act declares "that all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana, or the Territory of Arkansas; and also that part of the United States east of the Mississippi, and not within any State, to which the Indian title has not been extinguished for the purposes of this act, be taken and deemed to be the 'Indian country.'"

The seventeenth section, then, provides "that if any Indians belonging to a tribe in amity with the United States, shall, within the 'Indian country,' on passing from the 'Indian country' into any State or Territory inhabited by citizens of the United States, take and destroy their property, the owners of said property shall make claim to the superintendent or Indian agent, who, upon due proof of the loss, shall, under the direction of the President, apply to the tribe for satisfaction; and if such satisfaction be not made within twelve months, the same shall be reported to the Commissioner of Indian Affairs, that such steps may be taken as shall be proper to obtain satisfaction; and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party so injured an eventual indemnification."

This recital of the provisions of the act shows that its terms necessarily exclude the present claims. This must have been well known to Congress; and therefore, in referring to it, they could only have intended to appeal to the spirit of the enactment, and the principles on which it is based.

It is believed that the losses in this case, which consist either of property used by the United States forces, or property destroyed by the hostile portion of the Indian tribes, are clearly within the spirit of the acts of 1816 and 1834, and that the act of 1837 was a pledge to the petitioners that such losses should be paid over when they should make proper proof of the same before the commissioners appointed for that purpose.

The reading of the bill by sections, for amendment, was then commenced.

Mr. SHORTER. The facts of the case are fully set forth in the report of the Committee on Indian Affairs. It is not possible for me to discuss, in the short period allowed me, all the points involved in this claim; and I shall therefore confine myself, in the remarks I shall make, to the main points upon which the parties interested in this case depend.

The facts of the case are briefly these—and I would like to gain the ear of the House in these opening remarks, that it may act understandingly when it comes to the final disposition of this case: it appears, by the evidence, that, in the year 1825, a treaty was made by the Government of the United States with the Creek tribe of Indians, whereby they ceded to the United States all of their lands east of the Chattahoochee river. The Creek Indians were then removed west of that river, in the State of Alabama. It was the policy of the Government at that time to persuade these Creek Indians to remove west of the Mississippi. But those Indians, like the Seminoles in Florida, were averse to leaving their old homes and hunting grounds, and removing to the waters of the Arkansas.

In 1832, the Government, still insisting on the removal of these Indians, made another treaty with them while they were residing within the limits of Alabama. By this treaty the Creeks ceded to the Government all their lands east of the Mississippi, saving and excepting reservations made to certain chiefs and heads of families, of three hundred and twenty acres each. By the terms of the treaty, each Indian had the right guarantied to him to sell his own reservation. What was the object of the Government in giving these reservations in fee simple to the Indians? It was eventually to secure their removal to the waters of the Arkansas. The Government anticipated that when they had disposed of all their lands, they would be compelled, from necessity, to remove west of the Mississippi river.

In order to carry out this policy, in 1834, the Government had the public lands thus obtained by the treaty of 1832, surveyed and offered at public sale. Citizens of the United States, from Georgia, from South Carolina, and from Florida, emigrated into this new country, under the invitation of the Government, for the purpose of purchasing these lands.

For the first time, then, in the history of the Government, we find the white man and the Indian living together on the same soil, side by side.

Mr. GIDDINGS. I understand the gentleman to say that this is the first time in the history of the Government that the Indian and the white man have resided together upon the same soil. I have resided by the side of Indians, year after year, and I have seen them burning the buildings around me.

Mr. SHORTER. That may all be true; but I say that it was in accordance with the settled policy of the Government to invite within this Indian territory settlers from other States, in order to carry out its purpose of compelling the Indians to remove to the west. Under this invitation the whites went in, purchased, and settled upon those lands. Finding the Indians were their neighbors, owning three hundred and twenty acres of land each, with the right to sell, as a matter of course they purchased from the Indians their reservations.

What was the consequence to the Indians? After selling their land, they spent their money, and, as the report truly states, were soon reduced to a state of vagrancy and starvation. In 1836, a portion of that tribe, after they had squandered the proceeds of the land which they had sold to the whites, rather than starve, commenced plundering and pillaging the community for subsistence. There was, at that time, a small United States fort within that territory called Fort Mitchell. The whites anticipating an outbreak on the part of a portion of the Creek Indians, petitioned the Government, through the Legislatures of Geor-

gia and Alabama, for protection; but instead of sending additional troops, the Government issued an order to send the troops that were stationed at Fort Mitchell to Florida.

It was under such circumstances as these that the depredations were committed. A portion of the tribe—not the whole tribe, for a large majority of them were opposed to hostilities—commenced burning the houses of our people, stealing their property, and the whole country was soon depopulated. The people had to fly for their lives into the interior of Florida and Georgia. To suppress these hostilities—not on the part of the Creek tribe, as a tribe; but to suppress and intimidate this band of marauding Indians—the United States sent out General Jesup, with a command of United States soldiers. General Jesup states in his letter the condition of the country as he found it. He had not been in the country three months before he succeeded in suppressing all these difficulties and restoring peace and quiet to the community. In order to do this, however, General Jesup ordered the enlistment of a brigade of friendly Creeks, headed by their principal chief. They were enlisted; and this brigade of Indians and the United States troops proper, for upwards of three weeks, subsisted upon the property of citizens of Alabama. The evidence shows conclusively that they subsisted upon property belonging to our citizens, which they impressed. Colonel Hogan, one of the commanding officers there, General Woodward, Major Collins, Charles McLemore, and Major Torrence, all testify that large herds of cattle were seized by the United States troops, under the order of General Jesup. These witnesses were United States officers.

I contend, in the first place, that the Government ought to pay these claims, because they are bound to do it under the provision of the Constitution of the United States, which provides that "*private property shall not be taken for public use without just compensation.*" The question now arises, was the private property of citizens of Alabama taken at that time for the public use? If it was, it is plain that the claimants are entitled to compensation. What does General Jackson say, in his message, in 1836, upon this point. He says he knew the fact that this property was taken for the subsistence of the United States Army. He says:

"On the unexpected breaking out of hostilities in Florida, Alabama, and Georgia, it became necessary, in some cases, to take the property of individuals for public use. Provision should be made by law for indemnifying the owners, and I would also respectfully suggest whether some provision may not be made, consistently with the principles of our Government, for the relief of the sufferers by Indian depredations or by the operations of our own troops."

Now, let us see to what extent private property was taken for the support of your army at that time. We have here in the report the testimony of the officers in that command, and as that is a material point, I will read that testimony, and I do hope the committee will listen to the evidence. It is as follows:

"General Jesup then adds, 'that Colonel Hogan's, Major Collins's, and Major Torrence's statements are substantially correct, and General Woodward's is correct, with the exception of his remarks in regard to myself.' And concludes with the remark: 'Whether the property lost can be paid for or not by the public, I have no hesitation in declaring that much of it might have been saved by a prompt and determined movement of the troops early in June.'

"Colonel Hogan states in his letter of September 18, 1837: 'Of the cattle that were killed for the subsistence of the Indian forces under my command, no marks or numbers were taken. Indeed, such a course was impracticable. I was ordered by General Jesup to *subsist the force in the best manner I could*, and I had *four* parties out every day hunting up corn and fodder and beef. As soon as the Indians would drive up a gang of cows, calves, or oxen, before I was aware of their being in any part of my camp, which was very extensive, having from thirteen hundred to fifteen hundred Indians scattered all over the hills about the Big Springs, those Indians who were most in want of provisions would commence shooting them down. In this way an immense number of cattle were destroyed, and a great many more than were required for the actual subsistence of the whole army. To prevent a general destruction of cattle was utterly impossible, and equally so to obtain a list of marks and brands.'

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up arms until they were discharged from the service of the United States. That they 'had no rations supplied by the Government until a surrender was made; that they drew a little provision which was given them to get it out of the wagons to enable them to move quicker, as they intended moving to Fort Mitchell, where stores were supplied for the subsistence of the army. All former supplies we had were such as were left by the unfortunate settlers; of this the Indians felt authorized to use, and did so freely wherever they could find any. The Indians said they were to have all the property they could find, according to the proposition made to them by the commander-in-chief, General Jesup, and was acceded to by him, it being their mode of warfare. They accordingly continued to kill a great many cattle, more than was actually necessary for the subsistence of the whole army, which they said they killed to starve the hostiles. They also carried off mules, horses, and other things of value which originally belonged to the white settlers.'

"Charles McLemore testifies 'that he was in service and commanded for some time a large force of friendly Indians, and that the Indians did take and use everything they could get hold of; stock of all description, corn, fodder, bacon, and a large quantity of household furniture. The Indians who were friendly considered themselves entitled to all the plunder they could find,' &c.

"John B. Strange states that he was with Opoth-le-yoholo and Jim Boy in every expedition, and is able to say 'that nothing like stock or plunder of any kind escaped them. True it was they drew some rations; but every bushel of corn and every stack of fodder on any plantation through which we passed was either carried off by them or destroyed, to prevent, as they said, their falling into the hands of the hostiles. At the same time, a great many cattle were killed; in fact, all that were seen; and a number of horses and mules were carried off by them, and all belonging to the unfortunate white settlers, which the Indians considered as their own property when taken.'

"Major Torrence testifies: 'In addition to the stock destroyed by the friendly Indians, they took all the corn they found, and turned their horses on the green corn and oats.' Again: 'Wherever we marched we saw traces of mischief—houses and fences burned, cattle and hogs shot. At Neah Mico's and Neah Muthla's camps we found hundreds of dollars of property of almost every description, which was wholly lost to the original owners.'

I have had the testimony of the officers in command read in order to establish, beyond all doubt, the proposition that property of the citizens of Alabama was taken by the United States for public use without just compensation. It is therefore undeniably true that a large amount of money is due to these people by the Government for provisions taken for the use of the army. What was the amount of the force employed by the Government at that time; and who drew their whole subsistence by using the property of the people? General Jesup himself states in his letter, which is now before me, the number of troops he had there. He says that he had seven hundred and fifty United States troops, and a brigade of Indian warriors to the number of one thousand five hundred, amounting in all to two thousand two hundred and fifty men. Well, sir, having established the proposition that the property of private citizens was taken for the public use without compensation, we come now to consider the action of Congress to ascertain what it did in response to the message of General Jackson, in 1836, calling its attention to these losses, and recommending an appropriation to cover their payment. Congress passed an act appointing commissioners to visit Alabama and Georgia to ascertain the facts of the case, and the extent of the losses. Their report is found in Executive Document, volume 6, of the second session of the Twenty-Fifth Congress. Let us refer to that report one moment. The commissioners appointed by the Government assembled at Columbus, Georgia, on the immediate border of the Creek territory. The people, by invitation, came before them. The commissioners established their own rules of evidence. It was an *ex parte* proceeding on the part of the Government, represented by the commissioners. Here is their report, giving the names of each claimant, the amount of his losses as claimed by himself, and in another column, the amount recommended by these commissioners to be paid by Congress.

Well, sir, on the examination of this report, the House will perceive that the total amount claimed by the citizens for losses, was \$1,257,407. What amount did the commissioners recommend to be paid? They cut down the claims, and only allowed \$349,120. Why this great difference between the amount claimed by the citizens and the amount recommended to be paid by the United States commissioners? And here, I will say, for the information of the committee, that the object of this bill is to provide only for the payment of the amount recommended by the commissioners.

Mr. LEITER. I wish to call the gentleman's attention, and that of the committee, to this point: whether the whole or a part of the sum recommended by the commissioners has not been paid?

Mr. SHORTER. I am coming to that point in a moment.

Mr. LOVEJOY. Do I understand the gentleman to say that the bill only provides for the payment of the amount recommended in the report?

Mr. SHORTER. That is all. I was going to show that, by some error in drawing up the bill, it does not conform with the report of the committee; but I have prepared a proviso which I intend to offer, so as to make the bill conform to the report. Our object is to secure to these citizens of Georgia and Alabama, payment only of the amounts recommended by the commissioners. In justice, however, to the citizens of Alabama and Georgia who preferred this claim, I wish to explain why it is that, while they claimed \$1,547,000, the commissioners only recommended payment of \$349,000.

The report of the commissioners, if members would take the trouble to examine it, will explain this matter. They assert most positively that in no single instance did they make an allowance for what they call "consequential damages." What do they mean by consequential damages? It was in the spring of the year of 1836, that these difficulties occurred. The settlers had planted their crops; their corn, and their cotton, and their wheat were up and growing. All their crops were destroyed. But because it was not property *in esse*, the commissioners said that the people had no right to compensation for the loss of their growing crops, which they could not secure, because they were compelled to fly from the country and leave their homes. In no single instance was a dollar allowed them for the growing crops which they lost that year. That is what the commissioners mean by consequential damages.

Our citizens thought that it was the duty of the Government to have protected them in the peaceful enjoyment of the lands which the Government itself had sold them; and as the Government had failed to do that, they believed they had a right to demand from the Government—and I think so too—the payment of full indemnity for their losses, actual and consequential.

Mr. NICHOLS. Will the gentleman allow me to ask him a question?

Mr. SHORTER. With a great deal of pleasure.

Mr. NICHOLS. I find in the second section of this bill these words:

"That the Secretary of War be, and he is hereby authorized, without regard to existing rules and requirements"—

Mr. SHORTER. I understand the question which the gentleman is going to ask me, and I will answer it right here.

Mr. NICHOLS. I want that language explained, because I cannot vote for the bill without explanation.

Mr. SHORTER. I am glad the gentleman has called my attention to that point, because it relates to the argument I am just now advancing. The commissioners organized their own court. Their report shows that they had considerable difficulty in establishing the rules of evidence by which they would be governed; but they finally made their own rules of evidence. The testimony was taken down in writing. The claimant himself was sworn; his neighbors were brought in, and they too were also sworn to prove his claim. All this evidence, taken by the commissioners, is now on file in the War Department. Many of the witnesses are dead, and others are gone to parts unknown; and the object of that provision in the bill is simply to authorize the Secretary of War to accept the evidence now on file in the War Department—evidence taken down *ex parte* on the part of the United States—in the adjudication of the claims.

Mr. NICHOLS. One other question. Does it exclude the rules of the Departments, and the ordinary rules of evidence required to substantiate claims against the Government?

Mr. SHORTER. No, sir; we do not understand it in that light at all. The object of the bill is simply to ask the Secretary of War to act upon the evidence—let it be worth what it may—that is now on file in the Department. Many of these claimants are now dead. Their widows and orphans, many of whom were reduced to poverty at that time, are now anxiously waiting to hear of your action on this bill. And if you tell them to go and hunt up the absent witnesses, and to call the husbands of those widows from the graves to establish these claims, it will be utterly impossible

for them to obtain relief under the ordinary rules of the Department. That is the reason for that provision in the bill; and I hope it is satisfactory to my friend from Ohio. The gentleman, however, can fix the phraseology of the bill on that point to suit himself.

Mr. CURTIS. I would ask the gentleman if he intends that the Secretary of War shall go behind the finding of the commissioners?

Mr. SHORTER. No, sir. We want him to stand upon the finding of the commissioners.

Mr. CURTIS. Then what do you want the testimony for?

Mr. SHORTER. For the reason that we want the Secretary to determine the cases on the written evidence now on file in his Department, because the witnesses who testified before the commissioners are many of them dead, or scattered throughout the country. But the evidence sworn to before the commissioners is now on file in the War Department, and we want the Secretary to act upon that.

Mr. CURTIS. The gentleman does not understand my point. What is the use of testimony when you do not intend him to go behind the finding of the commissioners?

Mr. SHORTER. Well, I shall be perfectly satisfied if you will pay the parties the amounts recommended by the commissioners.

Mr. CURTIS. I am certainly opposed to going behind the findings of the commissioners.

Mr. SHORTER. I have no objection in the world to your passing a law requiring the Secretary of War to pay these parties the amounts recommended as due to them by the commissioners. That is all we are asking.

Mr. KILGORE. I wish to ask the gentleman whether the bill is not intended to cover the entire claims admitted by the commissioners?

Mr. SHORTER. No, not the entire claims. The entire claims amount to over a million dollars.

Mr. KILGORE. The bill, as I understand it, requires the Secretary of War to take the proof that is now on file, and that was taken before the commissioners, and by that to determine the amount to be allowed. The commissioners report the entire evidence; but, according to the affidavit or evidence of the claimants themselves, they rejected something more than three fourths of the amount of claims. Yet those rejected claims would be embraced under this bill, if I understand its provisions.

Mr. SHORTER. Yes, sir; but I have drawn up a proviso which I intend to offer, limiting the payments to the amount recommended as due by the commissioners. I hope the committee understand that point.

Mr. LEITER. I will state that the Committee on Indian Affairs agreed to that unanimously.

Mr. SHORTER. Yes, sir; the committee unanimously agreed to it.

Mr. HOUSTON. I desire to see if I understand my colleague correctly. I understand that he proposes, not that the evidence which is on file in the War Department shall be conclusive of the correctness of the charges and amounts, but that that evidence shall be taken for what it is worth, in the adjustment of the accounts.

Mr. SHORTER. That is all.

Mr. HOUSTON. I understand my colleague to state also that this evidence was taken by the commissioners at their own option.

Mr. SHORTER. Yes, sir.

Mr. HOUSTON. And that it is not evidence that it was brought by the claimants of the property themselves?

Mr. SHORTER. My colleague understood me correctly.

Mr. GIDDINGS. I wish to inquire of the gentleman from Alabama whether the claims in schedule "A" were not paid at the time, or soon after, under the law of 1816?

Mr. SHORTER. The claims on that schedule are not included in this bill.

Mr. GIDDINGS. I know that; but I wish to inquire if those claims were paid?

Mr. SHORTER. They were; there were only about seventeen names included in that schedule; and if I remember correctly, their claims were for articles of clothing and other things taken from some merchants for the use of the army.

Mr. GIDDINGS. If the gentleman will permit me, I desire to ask him one more question. Is not that exactly the same rule on which all claim-

ants for losses sustained in time of war have been compensated by this Government, since 1816?

Mr. SHORTER. I do not understand the bearing of the gentleman's question.

Mr. GIDDINGS. I merely ask, whether the rule, under the law of 1816, is not the measure by which we have paid all claims of this character, from that day to this?

Mr. SHORTER. Well, in this case, the evidence was different, and the testimony here explains all that. There were some seventeen claimants under schedule "A." They were merchants whose goods had been taken by the United States troops for the use of the army; and written memoranda, signed by the officers, of the precise goods which they took, were given to the parties at the time, and the claims of those parties were adjusted under the law to which the gentleman from Ohio refers. But in these other cases, the officers all testified, as the gentleman from Ohio would have learned if he had listened to the reading by the Clerk, that it was utterly impossible to keep an account of the property taken by the United States troops, and by the friendly Indians, for the support of the army. It was impossible to do it. The parties whose property was impressed had no way of identifying it, so that it could be paid for as the parties embraced in schedule "A" were paid. And all that we ask, and all that we contemplate by this bill, is, that the Government shall pay to the citizens of Georgia and Alabama the amounts recommended as due by the commissioners, in their report.

Now, what has been the objection made to this bill? It is asked why a claim of this character has been so long before Congress? The answer is plain. If you will examine your record, you will find that the Legislatures of Georgia and Alabama have petitioned and petitioned, over and over again, for action by Congress on these claims. You will find that the United States Senate passed a bill for the payment of this amount on two several occasions, and that an adverse report never has been made, in that body, to the payment of the claims. But we have never had an opportunity to be heard before this House. This is the first time since 1836, when President Jackson recommended Congress to pay this debt, that we have ever obtained a hearing before this House.

Well, the gentleman inquires, why we have never had a hearing? Why have not a great many other worthy claimants, who have been here by petition for the last twenty years, had a hearing? It is a burning shame that they have not had a hearing before Congress. This House is to blame for it; and that is my answer to the gentleman.

But it has been again said, that these claims ought not to be paid because the depredations were committed in time of war, and that the Government is not bound to indemnify its citizens for losses sustained by the enemy in actual war. I grant the general proposition to be a correct one, because the establishment of any other rule would bankrupt the Government. But, sir, was this a war? A war with whom? With the Creek tribe of Indians? Why, the chiefs of that tribe, with a large number of friendly Indians, were enlisted in the service of the United States, in endeavoring to put down the hostiles. War? Was there ever a declaration of war? None. Was there any treaty of peace? None. The chiefs of that tribe sent a protest to the Senate three years ago, against this idea that they had been at war with the United States in 1836. I have read that protest. I take it for granted that if there was a war, it was a war with the Creek tribe of Indians. The United States could not be at war with a small subdivision of the tribe. But we have here testimony of the highest character showing whether it was a war or not; and what is that? I hold in my hand a letter from General Jesup, the highest officer in command in that territory at that time. In that letter, General Jesup says:

"But a small portion of the Indians were at that time hostile."

Again:

"From the best information I could obtain there were about one thousand warriors in the different hostile camps, but not more than forty or fifty had at any time been concerned in burning houses or committing murders, and not over one hundred and fifty warriors had ever engaged in active hostilities."

Well now, Mr. Chairman, is it fair, is it right, when the citizens of Alabama and Georgia come here to urge their just claims against the Government, to be met by the argument that the losses were sustained in time of war, when the commanding officer tells you that the tribe of Creek Indians were friendly to the United States, and a large portion of them enlisted for the suppression of the depredations of those who were hostile? and that there were not, from first to last, more than one hundred and fifty Indians engaged in hostilities. And what do the commissioners say? They say that "after diligent inquiry they find it very difficult to determine what portion of the Creek tribe had been engaged in hostilities." But I care nothing for what the commissioners say on this point. Here is the testimony of General Jesup, signed in his own handwriting, which must put to rest forever the proposition that this was a war with the Creek tribe of Indians.

Mr. CURTIS. If the gentleman will permit me, the Committee on Military Affairs have adopted a rule always to pay for articles which have been taken by our own Army for military or other purposes, but not to pay for the depredations committed by a predatory band of Indians in the havoc of war. I wish to ask the gentleman from Alabama if this claim is for depredations committed by a band of Indians? If so, it should be disregarded by this House. I am willing to pay for whatever property has been taken by our Army, but not for depredations committed by bands of Indians. That is the rule adopted by the Committee on Military Affairs.

Mr. SHORTER. I understand the proposition of the gentleman from Iowa, and as a general rule it is correct, with the qualification that where the depredations committed by Indians are not to be paid for by the United States, they must have been committed by a tribe at war with the United States. But the act of March 3, 1837, settles this matter in the following proviso:

"Provided, Nothing hereinbefore contained shall be so construed as to subject the United States to pay for depredations not provided for by the act of April 9, 1816, and the acts amendatory thereto, nor by acts regulating the intercourse between the Indian tribes and the United States."

It is plain that Congress knew what that intercourse act was. They know perfectly well that if the depredations committed by the Creek Indians east of the Mississippi river came within the spirit of the Indian intercourse act, the United States were liable. What is the Indian intercourse act? What are its provisions? It provides that when a portion of a tribe of Indians at peace with the United States, comes into the white settlements and commits depredations, the Government is liable, if the provisions of the act are complied with by the sufferers, and it deducts the amount from the annuities which are due to said tribe. Gentlemen will not say that our losses were sustained in the "havoc of war" when the depredations were committed by a small band of vagrant Indians while the great body of the tribe remained at peace with the Government. The Indian intercourse act provides that such depredations shall be paid out of the United States Treasury. And by the act of 1836, passed by Congress in conformity to the recommendation of President Jackson, Congress pledged itself to pay all these losses, if they fall within the principles of the Indian intercourse act. Did they fall within the principles of that act? Certainly they did; the commanding officer testifies that not over one hundred and fifty of the Creek tribe were engaged in these depredations, and the records of the Government show that some two thousand of that tribe enlisted under our own flag to suppress these hostilities. The gentleman's proposition is wrong; we have a law upon this subject, known as this Indian intercourse law. By this very act of Congress the Government is pledged to pay us, not only for the property which the United States troops took to support themselves upon, not only for the property impressed for the maintenance of your army, but also for the property destroyed by this band of depredating Indians.

A gentleman asks why did not the people of Georgia and Alabama go before the Indian agent at that time? There was no Indian agent. Immediately after the losses were sustained, the Legislature of Alabama assembled and petitioned Congress to indemnify the citizens for their losses; and Congress, in the absence of an Indian agent,

appointed these commissioners, Pease and Smith, who went out there.

Mr. PURVIANCE. Why was it that, under the seventeenth section of the act of 1834, the course indicated by that act was not pursued?

Mr. SHORTER. I have not the act before me, and therefore I cannot answer advisedly.

Mr. WOODSON. There was no Indian agent. Mr. PURVIANCE. In the absence of an Indian agent, was no complaint made to the Commissioner of Indian Affairs, and did he pursue the course prescribed by the seventeenth section of the act of 1834; did he make a report, and if so, what was it?

Mr. SHORTER. I know nothing about the action of the Commissioner of Indian Affairs at that time. I know, by General Jesup's letter, that there were not more than one hundred and fifty Creeks engaged, at any one time, in those depredations; and the Legislature memorialized Congress to pay those claims; General Jackson recommended them to the favorable consideration of this body; and Congress appointed those commissioners to go there. We have their report, and now we ask that they may be paid. It is the fault of the Government that we have been delayed thus long. We do not ask even for interest on the amount allowed by the commissioners. We do not ask what is justly due us. We only ask pay for the property taken and destroyed by the United States troops, by the friendly Indians under our flag, and by a small band of hostile Creeks.

Now it appears that, out of \$349,120 recommended by these commissioners to be paid to the citizens of Georgia and Alabama, one claim of \$20,000 was due to the firm of Henry W. Jernigan & Co., merchants in the town of Roanoke. It was assigned to the Central Bank of the State of Georgia. The marauding Indians crossed the Chattahoochee river and destroyed the goods belonging to that firm. It was transferred, as I said, and when the State of Georgia came here as a creditor of this Government and asked for the payment of \$20,000 of these items, recommended by the commissioners to be paid, you paid it; but these claimants, scattered all over the country; many of them, to-day, barely able to obtain a subsistence; many of them having lost their husbands and fathers, who were, at that time, shot down in the night by a band of hostile Indians; have asked you, ever since 1837, to pay them the small amounts due them respectively; but Congress has, thus far, turned a deaf ear to their supplications. You pay Georgia the amount due to Jernigan & Co., but when a citizen of my State, claiming only \$150, or other small amount, for household furniture destroyed, for corn taken by your troops from their cribs, or for bacon taken from their smoke-houses to feed your army and impressed by the authority of the Government, asks you to pay him, you spurn him from the Halls of Congress. Is it just and fair to treat these parties thus?

I care not what may be the language of the bill that provides for their payment. I should prefer a bill simply providing that the claims shall be settled according to the report of the commissioners. This matter has been fully investigated and discussed at length before the Committee on Indian Affairs. Some gentlemen upon that committee had a prejudice against the claim until they came to understand it in all its bearings; and this report now stands before the House indorsed unanimously by that committee; and I trust that Congress will now act in such a manner that justice, though long delayed, may at last be done to the citizens of my State, who are so deeply interested in this bill.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, having been a member of the Committee on Military Affairs in the Thirty-Fourth Congress, I happen to know something of this claim. It came before that committee, and was very fully considered. The State of Alabama appeared before the committee by able counsel, and the case was ably argued before us, and the committee determined there was no merit in it. I supposed that there would be a formal report made, but it appears there was not.

So much for the case in the Thirty-Fourth Congress. What, then, was my surprise to learn, during the first session of this Congress, that this case had been referred to the Committee on In-

dian Affairs, and a unanimous report made in its favor.

Mr. SHORTER. Did I understand the gentleman to say that his committee reported unanimously against it?

Mr. WASHBURN, of Wisconsin. Not at all. They made no formal report, but decided in the committee to reject the bill.

Mr. SHORTER. How was the vote?

Mr. WASHBURN, of Wisconsin. I should not be at liberty to say how it was, even if I knew. It was rejected upon full and fair investigation, and that is enough for me to say.

Having understood that this bill was made a special order, I have, within the last twenty-four hours, endeavored to refresh my recollection in relation to the facts of the case, and I now propose to give to the House the result of my investigations. This claim grows out of a war with the Creek Indians. It is not necessary for my purpose to inquire into the origin of that war. There would be little found in it to recommend these claimants to the favorable consideration of Congress.

Mr. CRAWFORD. I have no doubt but that the gentleman from Wisconsin desires to have this question presented to the committee in such a way that they may understand it. The question to which I wish to invite his attention, and to which I shall address myself if I obtain the floor, is, that this was no war; and I rise to ask the gentleman to give the committee the information when the Creek nation, as a nation, declared war?

Mr. WASHBURN, of Wisconsin. I will do so with great pleasure. I will come to that directly. As was correctly stated by the gentleman from Alabama, the Creek nation, in 1825, made a treaty with this Government. That treaty provided for the disposal of their rich and fertile lands in Georgia, for an exchange of an equal number of acres in Arkansas. A very magnanimous Government this, to get these poor Indians to trade off their rich lands in Georgia for lands on the upper Arkansas! This treaty was a fraud and an outrage. The Creek Indians were outraged by it, and they made such complaints in regard to it, that, in 1826, this Government was compelled to declare that treaty void. It was made in violation of a law of the Creek Indians, which declared that if any of their chiefs should assent to a cession of their lands, he should suffer death; and in accordance with that law the celebrated chief Macintosh was killed by the tribe for having consented to the treaty of 1825. However, in 1826, a new treaty was made, by which the Georgia lands were ceded, and the Indians were removed to the limits of Alabama. It has been said by the gentleman from Alabama that these Indians were very much attached to their lands and their homes; and who would blame them for that? It was not shown that they were guilty of any crime up to that time, except that they had copper-colored skins, and lands that were favorable to the production of cotton. In 1832, however, the Government, being continually pressed by the people of that portion of the country, was forced to make a new treaty. They could not induce the Indians to cede their lands; but they succeeded in doing what they knew, but the Indians did not know, would deprive the Indians of their lands, and lead to their removal beyond the Mississippi. They succeeded in breaking up, to some extent, their tribal character; and it was provided in this treaty that each chief—some seventy-odd—should receive one section of land, and each head of a family who was not a chief a half section, or three hundred and twenty acres. It has been said, and said truly, that it was known that the effect of the treaty would be to deprive these red men of their lands. Improvident as they are, all their reservations were soon found in the possession of white men; and having parted with their reservations, the Indians, as has been said by the gentleman from Alabama, were soon in a starving condition.

This war then broke out. I do not think it strange that it did. They were an outraged and an abused people. They had been induced to break up their tribal character, and to take their lands in severalty, with the delusive provision in the treaty that the Indians might remain there as long as they pleased. These reservations having passed into the hands of white men, the Indians

became clamorous at seeing that they were defrauded. Their lands, they said, had been acquired from them by fraud. That they were, in many instances, defrauded, is well established. The Government appointed a commissioner, this same General Hogan who has been spoken of, to investigate in respect to these alleged fraudulent purchases of Indian reservations. I have not found (nor have I looked for it) his formal report; but I find an affidavit in Document No. 127, wherein he speaks of these complaints, and says:

"That in the fall of 1835, and spring of 1836 he acted as an investigating agent to examine into frauds committed on the Creek Indians in the sale of their reserves; that he investigated the frauds committed on the Uchees, at a place called Big Spring, in Russell county, in February, 1836, at which investigations the inhabitants of that settlement attended; and in almost all the cases the fraud seemed to have been committed by agents of land companies in and about Columbus, Georgia. Against the actual settlers he does not recollect of any complaints being entered, except against Scroggins, (who I, the said deponent, believed was at that time a settler in that settlement, and who had acted as agent for Luther Blake,) John D. Howell, and Fanning, against each of whom there was great complaint; but it was said it was Scroggins who had transacted the business. The settlers, as far as I could ascertain, had come in possession as fair and honorable purchasers, from those who held certificates or bonds of purchase. They generally attended in a body at the examinations; and I was pleased to find that, although the poor Uchees and other Indians had been most outrageously plundered of their lands, yet no part of the odium could justly attach to the settlers in that vicinity."

But, not to spend too much time in speaking of the origin of this war, I will pass on. These frauds having been thus committed on the Indians, and they having been deprived of their lands and ancient hunting-grounds, were driven to a state of starvation; and while in this condition they broke out in an open war. I say "war," because gentlemen will perceive that the effort now is to prove that there was no war. They do not claim that if there was a war, these claimants would have a right to compensation; but they claim that, there having been no war, they are entitled to be remunerated for the losses they sustained during the disturbance with these Indians.

Mr. SHORTER. In this case I contend that even admitting there was a war, it was the duty of the Government to have provided, in a subsequent treaty with the Indians, for indemnity to the citizens of Alabama for the losses sustained by them.

Mr. WASHBURN, of Wisconsin. I will speak to that point directly, and will inquire what indemnity the United States could have obtained from these poor Indians, who had been robbed of everything? War broke out in 1836, on the 2d day of May, as the proof will show. The first scalp, it is said, was taken on the 2d of May, and there was a general outbreak on the 9th of May. Now, it is alleged by the gentleman from Alabama, that it was the duty of the Government to have prevented these outrages and this outbreak, for he will not have it a war. Well, I admit that it is the duty of the Government to protect its citizens always, when it can do so. I will show that the Government was not derelict in this case; for I find that in this very month of May, during which this outbreak occurred, Congress appropriated \$500,000 to put down this very war. And yet it is claimed now that it was not a war. I find, too, that this sum was but a mere drop in the bucket of all the expenses incurred in putting an end to this war.

Mr. SHORTER. The gentleman is evidently confounding the struggle with the Creek Indians with the Seminole war, which was in progress at the same time. It was a party of the Creeks who were going to join the Seminoles, that burned the town of Roanoke. The Commissioner of Pensions decided that these difficulties with the Creek Indians were not a war, so as to entitle the party engaged in them to land warrants; and that war was not commenced till these Indians joined the Seminoles.

Mr. WASHBURN, of Wisconsin. I may be mistaken in saying that this appropriation of \$500,000 was made for that Creek war. I have sent for the statute, however, and will soon know whether I am mistaken or not.

President Jackson, in his message, December, 1837, says that this outbreak was unexpected. How, then, could this Government have been more prompt than it was,—voting, almost immediately, liberal supplies of money and of men to suppress the outbreak? In the very clause of his message, in which this commission was recom-

mended, and in pursuance of which, Congress acted, General Jackson spoke of it as an unexpected outbreak, and suggested that private property had been taken for public uses, and that it ought to be paid for; to all of which I agree as much as the gentleman from Alabama, or any other gentleman here. There is no doubt about that; and where private property was taken for public uses, in this war, it has already been paid for to the extent of the amount so found by the commissioners who were appointed to investigate these claims.

Well, sir, under this recommendation of General Jackson, a commission was appointed by the President, and Congress appropriated \$5,000 to pay the commissioners, to go down into Alabama and examine into these claims.

Now, the gentleman from Alabama seemed to think that I made a mistake in stating that \$500,000 was appropriated to put down the Creek Indians. I have the statute now before me, and I find that on the 23d day of May, 1836, \$500,000 was appropriated for that purpose, on these terms:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of \$500,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray any expenses which have been, or may be, incurred in suppressing hostilities by the Creek Indians, and by the calling out by the President of any part of the militia of the United States, according to the provisions of the Constitution and law."

That is all I need read upon that point, as I believe it establishes the assertion which I made; but, as I said before, that \$500,000 was a mere drop in the bucket of the expense which this Government has been put to for this "no war." The President appointed three commissioners, who went to Alabama, took testimony, and made a report upon these claims. I have their report here. They were appointed at the instance of the Representatives from Georgia and Alabama, and I suppose were friendly to these claimants; and they speak of it as a war. They say, in their report, that although there was no formal declaration of war, yet there were all the evidences of war, and a majority of the tribe were engaged in it. It is known that when an Indian goes to war, he does not issue a written proclamation. Not at all; but his intention is made known by other means, and such as are in keeping with their savage natures. But the commissioners say that they were instructed to ascertain what part of the losses for which compensation was claimed occurred before the war, and what part during the war. For that reason, it became necessary for them to inquire when the war commenced. They made the inquiry, and they say in regard to that:

"It is said that when an Indian takes the scalp of his victim, his intention is to signify to his adversary a disposition for war, if it does not amount to an open declaration. It was in proof, before the commissioners, that an individual (named Flournoy) was murdered and scalped on the 2d day of May; but the whole current of testimony went to establish the fact that a general concerted hostile movement did not follow until the 9th."

But the gentleman tells you that there must be a declaration of war. Well, now, how did the war with Mexico occur "by the act of Mexico?" Was there any formal declaration? No, sir; there never was; and, as a nation, we never declared war against Mexico.

Well, sir, the disturbances caused these parties, who now seek for indemnity, to flee from their homes; and the consequence was that they sustained great losses. I have no doubt of that. They had to leave their property and their crops; and they brought claims against the Government, filling a schedule occupying many pages, and amounting in the aggregate to \$1,272,722 30.

These claims, one thousand and three in number, that were filed by these parties before the commissioners, and which this bill covers, as it is now drawn, may be found in House Document No. 127, Twenty-Fifth Congress, second Session. The commissioners stated that they found that many of the charges made were outrageous, and they cut them down, allowing only \$349,120 37½; but they did it arbitrarily. The claims that have been established for goods and property taken for the subsistence of the United States troops, of which there was proof, have been paid. There is general and uncertain proof, however, that property was taken, used, or destroyed, by United States troops; but no proof that the prop-

erty of any particular individual was so used or destroyed.

Mr. SHORTER. I desire to call the attention of the gentleman to the letter of General Jesup.

Mr. WASHBURN, of Wisconsin. I will come to that letter. I wish to speak of it. In that letter General Jesup states that at no time were more than forty or fifty Indians engaged in hostilities. Well, now, here are one thousand and three chivalric Alabamians coming here and asking for over twelve hundred thousand dollars because forty or fifty Indians drove them from their homes, and to be rewarded for their bravery!

But, sir, my time is passing rapidly away, and I must hurry on. In 1837 the Legislature of Alabama sent a memorial to Congress. I have not time to advert to it more than to say that in that memorial they speak of this as a "war," and ask Congress to appropriate money to recompense those who sustained losses "during the war." That memorial was referred to the Committee of Claims, and a report was made by Elisha Whittlesey, rejecting the claims altogether. I have not time to read that report; but it is to be found in House Documents of the second session of the Twenty-Fifth Congress, report No. 932. When the report of the commissioners, however, reached Washington, it was communicated to Congress, and was referred to the Committee of Claims. In order to show whether this disturbance, as gentlemen now call it, was regarded as a war, or not, by those who sustained losses in it, I beg to call attention to the language made use of by these claimants in their memorial to Congress. They say:

"That during the winter of 1834, the year 1835, and the spring of 1836, they became settlers of that part of Alabama known as the Creek nation; that, having purchased lands of Government, or of those who had purchased from the Indians according to treaty stipulations, they reasonably expected governmental protection, more especially as, by settling among the Indians, carrying civilization among them, and reducing their hunting grounds to tillage, the petitioners were contributing to effect the humane and benevolent purposes of Government, in causing the remnant of the Creek nation to remove to their destined homes beyond the Mississippi."

"While your petitioners were peaceably and industriously employed in improving their possessions, striving to secure to themselves that competency and affluence which it is the proud prerogative of a free Government to guarantee to its industrious and peaceable citizens, and incidentally contributing to effect your policy, we were suddenly involved in a ruinous and destructive war."

That is what these gentlemen say. They tell you that they bought the lands, and ought to be protected; that they were carrying out the humane policy of the Government—that of driving the Indians from their homes in Alabama. Well, now, sir, I have not had time to inquire whether this statement, that they bought their lands from the Government, is true or not; but it seems that Mr. Whittlesey, who made this report in 1838, took the pains to make that inquiry at the General Land Office. And how many of these one thousand and three claimants who now ask us to appropriate the money of the Government for their benefit, purchased their lands of the Government? Only seventeen or nineteen!

Mr. SHORTER. I ask the gentleman to read the reply of the Commissioner at the time. I remember to have read it; and my recollection is, that he stated that it was utterly impossible to tell who had purchased land and who had not.

Mr. WASHBURN, of Wisconsin. I will, if the gentleman will refer me to the documents. But let us see what Mr. Whittlesey says upon this subject:

"The committee sent to the Commissioner of the General Land Office to ascertain how many of the petitioners had purchased lands of the United States, or had become the proprietors of lands by purchase of the Indians under treaty stipulations."

"It appears from a list of those who purchased land in the United States within the State of Alabama, and within the district where the depredations were committed, that nineteen of the petitioners were land proprietors by purchases made of the United States. The Commissioner says there is no evidence in his office that any of them became proprietors by the purchase of Indian reservations."

Here are only nineteen, out of the one thousand and three, who had actually purchased land. The rest were squatters or trespassers in the Indian country. In this report of Mr. Whittlesey, in 1838, he goes very fully into the question as to how far the Government is bound to compensate for losses which may have been sustained during a war, and he quotes precedents to show that the Government

had refused to make compensation for property destroyed by the Indians in time of war.

Now, Mr. Chairman, in the principle which it is sought to establish by this bill, probably my district has more interest than that of any gentleman on this floor. It was the seat of the Black Hawk war. Nearly all the battles which were fought during that war were fought within the limits of my district. The inhabitants of my district turned out to suppress the hostilities of those Indians almost to a man, and they sustained losses certainly as great as those sustained by the citizens of Alabama in the Creek war.

Mr. SMITH, of Illinois. If the gentleman will allow me, I simply want to say that he must admit that in that war a great many—

Mr. WASHBURN, of Wisconsin. I understand what the gentleman is going to say. I admit that while the war was going on in my district a great many "succors," a great many men from Illinois, came up there to help us and fought bravely. Particularly bravely did they fight on their way up to Wisconsin, at the desperate encounter at Sycamore creek. It was a good war. It answered a noble purpose, not only in suppressing the Indian hostilities and promoting the cause of civilization, but in making a great many great men, heroes, statesmen, senators, and ambassadors, [laughter.] Well, sir, the people of my district, the people in the district of my friend from Illinois, and of other districts, being interested, they sent here a petition asking to be compensated for losses sustained in the Black Hawk war. That petition was examined and reported upon in 1838; and what do the committee say?

Now, this Black Hawk war was no more a war than the Creek war, because only a portion of the tribe were engaged in it. The larger portion of the tribe under their chief, Keokuk, remained on terms of amity with the United States on the west side of the Mississippi river. I admit that a portion of the Creek Indians also remained friendly. But who ever heard that because Keokuk and a large part of the tribe of Sacs and Foxes remained at amity with us, therefore there was no war? It was a very sharp war, and there was some as desperate fighting in it as is often met with, either in civilized or savage warfare.

Mr. Whittlesey, in making his report on the Black Hawk memorial, says:

"The committee, on the 10th of January, 1838, reported against allowing compensation to the sufferers from the depredations of the Sac and Fox Indians in Illinois in 1832. (See Reports of Com. 2d sess. 25th Congress, No. 351.) In that report the committee say: 'These losses were incident to a state of war with savage tribes on the western frontier. They bear oppressively on settlers exposed to the unrestrained revenge of the Indians; but it has not been the practice of the Government to remunerate for such losses; and it may be doubted whether it is within the constitutional powers of the Government to do it. No part of the property was in the service of the United States, and they are not the insurers of the property of their citizens against savage aggression; nor against the aggression of civilized nations.'

"The destruction of the property of our citizens on the frontier by a tribe of Indians may be good cause of our going to war, and so may the capture of our vessels on the ocean be a good cause of war against the nation whose subjects have thus disregarded their moral, social, and national obligations; but in neither case has the sufferer a claim on the United States."

"The committee regret the losses the claimants have sustained, but they are similar to those sustained by others on the frontiers, as settlements and civilization have extended westward from the Atlantic coast."

Now, sir, in 1854, on the 10th of June, another report was made upon these Black Hawk claims by the Committee of Indian Affairs in this House, of which the present Speaker of the House was chairman. The following is the report then made.

Mr. WASHBURN, of Illinois. Will the gentleman from Wisconsin pardon me a moment. I will state that many of my constituents who had been engaged in the Black Hawk war, were writing continually to me in regard to these claims; and that I introduced into the House a resolution inquiring into the propriety of legislation in regard to paying those persons who had lost their property in that war. The report made upon that is the one to which the gentleman from Wisconsin now refers.

Mr. WASHBURN, of Wisconsin. Very well. That report is as follows:

Mr. ORR, from the Committee on Indian Affairs, made the following report:

"The Committee on Indian Affairs, to whom was referred a resolution instructing them to inquire into the expediency of passing a law providing for a settlement of the claims growing out of depredations committed by the Indians in

the Black Hawk war of 1832, report: That they have taken into consideration the resolution, and have examined both into the nature and extent of the depredations committed upon the property of citizens of the United States, residing principally in the State of Illinois. The claims, for the payment of which a general law is now asked to be passed, have been, in a great measure, specifically brought before Congress and rejected. An adverse report on these claims was submitted at the first session of the Twenty-Fourth Congress, which was sustained by the House, thereby rejecting the claims now sought to be revived and discharged. The committee have been furnished, by the Indian Bureau, with abstracts of a great number of these claims. The abstracts are predicated upon the report of a commission organized under the direction of General Atkinson in January, 1833. The commissioners, Captain Palmer and William Hempstead, Esq., were charged with the duty of "collecting, adjusting, and examining all outstanding claims arising from the movements of the militia and friendly Indians called into service" during the spring and summer of 1832. All the claims on file in the Indian Bureau, (and your committee are satisfied that they embrace all contemplated in the resolution which is the occasion of this investigation,) though presented to and received by the commissioners, were not within the limits of their instructions, and were consequently disallowed. This decision of the commissioners, which was approved by the Indian Bureau, it is not pretended, violated any right of the claimants under existing laws or the uniform practice of the Government. Should Congress now interpose a remedy, and pay that class of claims to which the resolution refers? Your committee think not. The depredators (the Sac and Fox Indians) were at war with the United States. Soon after the commencement of hostilities, the inhabitants on the Indian frontier abandoned their homes, crops, and property, and sought safety by retreating into the denser white settlements. It is alleged by some of the claimants that their absence from home, occasioned by apprehensions of danger from the Indians, prevented them harvesting their growing crops; some ask reparation because they were prevented from the same cause, tilling their crops; and others found their claims upon the seizure and appropriation of their personal property by the hostile savages. Is there anything peculiar in this state of the facts which should authorize and require the Government to pay for these real and speculative losses? The rule which has been uniformly pursued by this Government towards its citizens, is to pay only such losses as were occasioned by the action or authority of its own officers. For example: if the buildings of a citizen are occupied by troops, and are destroyed by the enemy on account of such occupancy, the Government will indemnify; but for casualties arising in the progress of the war from the action of the enemy, or the citizen himself, to his property, no indemnity has been made, whether the enemy was white or red; and it would be, in the judgment of your committee, highly inexpedient to change the rule. War is calamitous to the Government as well as to the citizen; and if the former should attempt, in addition to the support of armies and navies, to indemnify the citizen for every personal loss, positive and mediate, it would entail a most burdensome public debt, to be only discharged in national bankruptcy. Every citizen encounters a share of the sacrifice of a national war, and it would not be just to tax all to relieve from that sacrifice a few whose losses may be susceptible of ascertainment, when the great mass have been equal sufferers, remotely, if not directly.

Your committee, being satisfied that any legislation upon the subject is inexpedient, ask to be discharged from the further consideration of said resolution.

That, Mr. Chairman, is one of the precedents to which I wish to call the attention of the committee. It is directly in point. That case is this case. And here I wish to say that I do not pretend to claim that the Government is not bound to pay for property which it takes from private citizens for public use. That is conceded; and if property was taken from citizens of Alabama for the public use, which has not been paid for, frame a bill to cover such a case and I will vote for it; but I will vote for no such bill as this.

I now refer to another case in the history of the Government; the case of Daniel Smith, of the State of Tennessee, reported upon by the Committee of Claims in 1800. It was a claim for property destroyed or stolen by the Indians; and the committee use this language:

"Your committee have seriously considered the principles upon which the claim of the memorialist is founded, and lament seriously his loss; but knowing that an immense number of the citizens of the United States have been plundered of property to a very great amount, both by land and sea, in the same unwarrantable manner; and believing the whole revenue of the United States would scarcely be commensurate to meet the demand of applicants in similar cases, should compensation be made in this, the committee are of opinion it would be inexpedient to open so extensive a field, and therefore that the prayer of the memorialist cannot be granted."

If it was inexpedient at that time, when there were comparatively few claims, how much more inexpedient is it now, after we have had numerous wars—a war with Great Britain, wars with the Indians, and a war with Mexico; and when the amount of claims which would be brought forward if you establish this principle would exhaust the entire resources of the Government?

Another case to which I would advert is that of the citizens of Detroit, who petitioned for redress for the destruction of their property at the time of the surrender of Detroit by Hull. By

the terms of the capitulation they were to be protected in their persons and property, but no sooner had they capitulated than the Indians were turned loose, and their property destroyed. They have petitioned repeatedly to be compensated, and it has been alleged that it was the duty of this Government to insist upon compensation from the British Government at the time of making the treaty of peace, but that, not having performed that duty, it devolved upon the Government to make good their losses. Congress took an opposite view. Mr. Adams, who negotiated the treaty, says this claim was insisted on; but that it was abandoned for the reason that, had it been further insisted on, it would have prolonged the war.

I find another case referred to in the report of Mr. Whittlesey, made in 1838. The case occurred as far back as 1815. The Territory of Mississippi memorialized Congress for compensation for losses incurred in a similar manner, as the losses now under consideration. The claim was rejected.

Mr. Whittlesey also refers to a report made in 1821, in the case of Mr. House, which can be found in the American State Papers, volume Claims, page 813. It was a case of great hardship; but depending upon a similar state of facts, it was rejected. The report says:

"The sufferings of the petitioner it is admitted present strong claims upon our sympathies; but they are common to many others upon whom like cruelties have been practiced by the Indians. If the present claim be allowed, others of a similar character cannot, with propriety, be rejected. Allow this claim and a principle is established which makes the Government responsible for all outrages which have been, or may be, committed by a savage enemy upon the persons or property of our citizens; a principle, in the estimation of your committee, destructive to the resources of the nation."

Mr. DOWDELL. The cases are very different. In this case, the property destroyed was destroyed by the friendly Indians, who were enlisted in behalf of the Government to put down the hostile Indians.

Mr. WASHBURN, of Wisconsin. On that question, I have one or two remarks to make. It is claimed—and probably claimed truly, and I will not question the fact—that these parties did sustain losses by depredations committed by the Indians in the service of the Government; for General Jesup took some fifteen hundred friendly Indians into the service of the Government, and authorized them to seize any plunder that belonged to the hostiles; and it is alleged that they overstepped his restrictions, and destroyed property belonging indiscriminately to the whites and to the hostile Indians; and it is alleged that it was not in the power of the officers to restrain them. It is not pretended that there is any proof here in this volume (Report No. 127) going to show that any particular portion of the property that goes to make up these claims was used by the friendly Indians, or by the Government of the United States. There is no proof to show that any part of these claims is made for property destroyed by friendly Indians.

Mr. LEITER. Will the gentleman allow me?

Mr. WASHBURN, of Wisconsin. I decline to be interrupted. The duty of the Government to compensate persons for the losses of property was very fully discussed in 1815, at the close of the war with Great Britain; and the result of that was the passage of the act of 1816, which prescribed a certain class of cases where the Government would pay for losses; and none of these claims come within the provisions of that act. There are also the Indian intercourse acts, which govern the Government in its intercourse with Indians, and under which the Government compensates individuals for property destroyed by friendly Indians. The reason of that law is, to prevent our citizens from avenging their own wrongs, and taking justice into their own hands. We agree that if a friendly Indian wanders out of the limits of his territory, or reservation, and commits depredations on our citizens, we will see our citizens compensated, either by deductions from the annuities of the Indian tribe, or in some other way. But the Indian intercourse act has no bearing on this case. The whole thing comes down to this: was there a war? I believe that it will not be pretended by any man that we are bound to pay the losses sustained during a war. Those are losses which every citizen takes the risk of. Now, I maintain that there was a war.

All the proof goes to sustain that position. It is an afterthought to say that there was no war. When the Legislature of Alabama memorialized Congress, they called it a war; when her citizens memorialized Congress, they spoke of it as "a cruel war." But, when Mr. Whittlesey makes his report, and shows that if it was a war, the claimants cannot recover, then they turn round and say it was no war; and Mr. Dixon H. Lewis writes a letter controverting the position that it was a war.

He says, in a letter to C. A. Harris, then Commissioner of Indian Affairs:

"I regret that the Secretary of War does not think proper to recommend, in the report in which he is to submit to Congress, the result of the investigation of the commissioners, the payment for the property destroyed."

Mr. Poinsett, the Secretary of War, would not recommend the payment of these claims; and Mr. Lewis, who was a Representative in Congress from Alabama, regretted it. He says:

"You will see that the main objection to indemnity rests on the fact that the depredations being committed during a state of actual war, it was not in accordance with the policy of the Government to indemnify the sufferers." * * * "One of my main objects in getting an appropriation for the commission was to prove that it never was a general war with the Creek tribe." * * * "The commissioners charged with the inquiry as to 'what portion of the Creek tribe were engaged in hostilities,' have, to my surprise, reported that a large majority were engaged in such depredations."

On seeing the effect of the first declaration that there was war, they attempted to controvert that statement; but the commissioners reported that a large majority of the tribe were engaged in hostilities. They took testimony on that point. And here I wish to call the attention of the committee to the language of the act under which these commissioners were sent out, because it is contended now that that act pledges the Government to pay these claims. What is the language of the act?

"That the sum of \$5,000 be, and is hereby, appropriated to enable the President of the United States, by suitable agents, to inquire what depredations were committed by the Seminole and Creek Indians on the property of citizens of Florida, Georgia, and Alabama, immediately before the commencement of actual hostilities on the part of said respective tribes of Indians; what amount of depredations were committed during the pendency of said hostilities; what portion of the Creek tribe were engaged in such hostilities, and what depredations have been committed by a remnant of said tribe, supposed to be friendly, and a part of whom were actually employed against the Seminoles, since the removal of the main body of them west of the Mississippi; and that the President report the information so acquired to Congress at its next session: *Provided*, Nothing hereinbefore contained shall be so construed as to subject the United States to pay for depredations not provided for by the act of April 9, 1816, and the acts amendatory thereto, nor by acts regulating the intercourse between the Indian tribes and the United States."

It is expressly declared by this act that the Government does not mean to recognize the right of these people to call on it for anything that does not come within the provisions of the act of 1816, or of the Indian intercourse acts. But now we are gravely told, that by sending out that commission the Government pledged itself to pay these claims. I would inquire of the gentleman who made this report, at what time before this was a favorable report on these claims made by a committee of this House, as this report, I think, alleges there has been? I want to be informed when such report was made, and by whom? The bill, I know, has passed the Senate once or twice, and was unanimously reported last Congress by the Committee on Indian Affairs in this House.

Mr. WOODSON. In reply to the gentleman from Wisconsin, I would say that that statement in the report is an error. I meant it to refer to the Senate, and it was inadvertently made to refer to the House.

Mr. WASHBURN, of Wisconsin. It appears, then, that this is the first report made in its favor in this House, although it has been twenty years and upwards before Congress. On looking over the discussion that took place on this subject in the Senate last session, I find that a Senator from Arkansas states that this is an old acquaintance of his; that it was before his committee when he was upon the Committee on Indian Affairs in the House; but that it never received favorable consideration. This is the first time, I repeat, that it has ever been favorably reported upon in this House, although there have been, perhaps, but one or two formal reports against it; but it has been rejected repeatedly, as it was during the last Congress.

Mr. GIDDINGS. I wish to say that I believe that, in every instance where this claim was before the Committee of Claims, it was rejected. It never received the assent of a majority of that committee.

Mr. WASHBURN, of Wisconsin. I suppose we shall hear now from the Committee on Indian Affairs. The question is, was this a war? I ask the gentleman from Alabama, who has interrupted me, whether it is not true that these same claimants have all applied for bounty land warrants, claiming that they served in a war with the Creeks, and whether they have not all received bounty land warrants for their services?

Mr. COBB. I will answer the gentleman. In consequence of the decision of the Department that this was not a war, the bill has been modified so as to say "hostilities." [Laughter.]

Mr. WASHBURN, of Wisconsin. In answer to that, I desire to call the attention of the House to a letter of Hon. A. A. H. Stuart, Secretary of the Interior, addressed to Mr. Haralson, a member of this House from Georgia in 1851, in which he decided that it was really an Indian war within the meaning of the act of September 28, 1850, and that, therefore, these persons and the representatives of such as were deceased, were entitled to bounty land under the provisions of that law; and I learn that they got their bounty land, and not a few of them either. If I am not mistaken, there were some twelve thousand rank and file called out to subdue forty or fifty hostile Indians. I learn from a table at the Pension Office, that there were twelve thousand four hundred and eighty-three rank and file engaged in this "no war."

Mr. DOWDELL. It was not known at that time whether or not the Creeks were in combination with the Seminoles, who were engaged in a war, and a very expensive war, too. These hostilities of the Creeks were commenced by a portion of the tribe, and not by the whole tribe, or by authority of the chiefs of the tribe; and a great many of those troops were called out before the extent of the outbreak was known, in order to cut off the communication and prevent a connection between the Florida Indians and the hostile Creeks. The hostile portion of the Creeks did escape from the Creek nation down into Florida, and join the Seminoles, who were engaged in a war. But the outbreak in the Creek nation could not have been a war, because the majority of the tribe and the authorities of the tribe were in favor of the United States, and did not participate in it.

Mr. WASHBURN, of Wisconsin. I say that land warrants were issued to these men for their services in the "Creek war;" and other warrants were issued to soldiers for services in the "Florida or Seminole war;" and those warrants show distinctly on their face which were issued for services in the Creek and which for services in the Seminole war.

Mr. DOWDELL. Does the gentleman say that they show upon their face that they were issued for services in the Creek war? If this were so, (which, if I remember rightly, is not the case,) it would not prove, even in the opinion of the Department, that a war existed at the time these alleged depredations were committed, although it terminated in a war afterwards, by a combination of the hostile Creeks with the Seminoles.

Mr. WASHBURN, of Wisconsin. If I am correctly informed, the warrants state upon their face that they were issued for services in the Creek or in the Seminole war, as the case might be. Mr. Stuart stated that those who served in the Creek war were entitled to bounty land, and that it was a war within the purview of the act of 1850.

Now, in order to show what the passage of this bill will lead to if you pass it, I will state that when the case was up in the Senate, an amendment was offered by Mr. YULEE; and he insisted, with great pertinacity, and no doubt with justice, that the claims for which it provided had just as much foundation as these claims of Alabama and Georgia. That amendment provided for the payment of claims for similar losses that occurred during the Indian troubles in Florida, and was only withdrawn because it might prejudice the bill. Now, I propose, if the House intends to pass this bill, to offer an amendment to place my constituents, who served in the Black Hawk war, upon the same footing that the citizens of Alabama desire to be placed upon. I have not time to say more than a word in regard to the bill itself. It

is a very extraordinary bill. The second section provides:

"That the Secretary of War be, and is hereby, authorized, without regard to existing rules and requirements, to receive such evidence as is on file in the Departments of the Government, and any other proofs which may be offered tending to establish the validity of the claims of the citizens of Georgia and Alabama, as aforesaid, upon the United States, or any part thereof, for losses as aforesaid."

I say that this is a very extraordinary provision. Great as is the confidence I have in the present Secretary of War, I have not that confidence in him that I would be willing to give him the power that this bill proposes to give him—a bill which involves \$1,200,000, if it ever gets to him for adjudication, and how much more God only knows; for if the claims are good and should be allowed at all, the claimants ought to be allowed interest from the time the depredations were committed; if they ought to have been paid then, (and it is our fault that they were not paid,) they should be allowed interest up to this time.

[Here the hammer fell.]

Mr. CRAWFORD obtained the floor.

Mr. STEPHENS, of Georgia. Will my colleague yield the floor to me?

Mr. CRAWFORD. I will yield if my colleague desires to make any suggestion.

Mr. STEPHENS, of Georgia. I wish to move that the committee do now rise, in order that we may close the debate upon this bill to-day.

Mr. CRAWFORD. I have no objection to that.

Mr. STANTON. I hope that will not be done yet.

Mr. STEPHENS, of Georgia. Will the gentleman permit this bill to be taken up on the next private bill day? If that is the general understanding, I have no wish to close the debate to-day.

Mr. STANTON. I have no power to agree to that for anybody else, although, so far as I am concerned, I have no objection to it. I will make the suggestion that the committee rise, and that we limit the debate to fifteen or twenty minutes, instead of allowing one hour. That would, perhaps, answer; but I should not be willing to be cut down to the five minutes' debate.

Mr. STEPHENS, of Georgia. I do not wish to cut off the debate upon this bill at all; but I am very anxious to have this special order executed. I will state to the House that in making this bill a special order, the words "from day to day until disposed of" were omitted by a mistake of the Clerk. If the committee will consent to the understanding I have suggested, I will not press my motion.

Mr. STANTON. I have no control over that matter.

The CHAIRMAN. Does the gentleman from Georgia insist on his motion?

Mr. STEPHENS, of Georgia. Yes, sir; I move that the committee do now rise, with a view of closing the debate.

Mr. LEITER. I hope the gentleman from Georgia will withdraw that motion. I think it is important that this bill should be further discussed.

The CHAIRMAN. The question is not debatable.

Mr. STEPHENS, of Georgia. I make the suggestion, then, that when the committee rises this evening the debate shall be closed.

Mr. LEITER. That would hardly meet my views. I feel disposed to follow the argument of the gentleman from Wisconsin, and I prefer that the debate shall not be closed until I can see his remarks in the Globe. I think that he has made general and leading declarations that are unjustifiable by the facts that were presented to the committee, and I should prefer that the debate should not be closed until I can have an opportunity of reading his remarks in the Globe.

Mr. STEPHENS, of Georgia. I desire to give ample time for debate.

Mr. LOVEJOY. How long is this motion that the committee rise to be discussed?

The CHAIRMAN. Debate is not in order except by unanimous consent.

Mr. STEPHENS, of Georgia. I withdraw my motion.

Mr. SHORTER. I desire the attention of the gentleman from Wisconsin, who addressed the House last. I understood him, while addressing the House, to say that the people of Alabama had

fled from their homes in fear of the Indians, thereby losing their property, and that they now come before Congress to "ask pay for their bravery?" Did I understand the gentleman correctly?

Mr. WASHBURN, of Wisconsin. Very likely I may have used that language. Perhaps I should have added, and for their losses, too.

Mr. SHORTER. So far as the declaration that they come here asking "pay for their bravery" is concerned, I pronounce it false and slanderous. [Cries of "Order!" "Order!"]

Mr. WASHBURN, of Wisconsin. I have no doubt that the citizens of Alabama are brave; as has been illustrated by their Representative here to-day.

Mr. SHORTER. I can say nothing more to the member from Wisconsin.

The CHAIRMAN. The Chair cannot permit gentlemen to indulge in personalities. If he had foreseen what would be the purport of the remarks of the gentleman from Alabama, he would have at once called him to order.

Mr. CRAWFORD. Mr. Chairman, it is with very deep regret that I have just witnessed what has transpired between my friend from Alabama [Mr. SHORTER] and the gentleman from Wisconsin, [Mr. WASHBURN:] for I know how easy it is to excite in this body prejudices against a bill because of a misunderstanding between gentlemen representing different portions of the country. But, sir, I beg of the committee to hear me without reference to anything of an unpleasant character which may have occurred, and give to the persons claiming under this bill the full benefit of all the merits which it may possess.

It is, as its title purports, a bill to provide for an examination and payment of the claims of certain citizens of Georgia and Alabama who had property destroyed by the Creek Indians in 1836.

These claimants for twenty years have asked of Congress the settlement of their just demands against the Government. From time to time they have been deferred, sometimes from one cause, sometimes for another, and yet at no time has payment been refused upon the ground that there was nothing due. Committees of the respective Houses have repeatedly reported in their favor, and still the various bills have fallen between the two Houses, or for want of time. We therefore come now, Mr. Chairman, at the first of the session, with this bill, unanimously reported from your Committee on Indian Affairs, and ask its consideration and passage to-day. I will not ask the indulgence of the committee long, for the facts are few, and the principles upon which the parties rest their claims are clear. In 1832, all the lands upon which the Creek nation held any claim, east of the Mississippi river, were ceded to the United States, and the only limit to that cession was that chiefs and heads of families should have certain reservations when the land was surveyed. These were made and secured to them, and the treaty upon the part of the Government carried out in good faith.

In 1834 land offices were opened, and the people invited to enter, and then settle upon these lands; this was done, and, in fact, not only were the public lands generally taken up, but nearly all those reserved likewise; so that, in the year 1835, the settlement of the whites upon these purchases was large, though very much scattered. The Indians had set apart for them, west of the Mississippi, an equal quantity of the public domain to that which they had ceded to us. The opening of these lands to entry by the Government was but an invitation to the people to purchase and occupy them; and they did so, relying upon the good faith of the United States to protect them in their possession, and to allow no depredations to be committed upon their property. But, sir, the consequence was, that after the Indians had sold their lands, received and squandered their pay, a large number of them, being destitute of the means of support, began to rob and plunder the settlers; this at first was secretly done, but soon in armed bands they openly traversed the country and at will appropriated to their own use whatsoever they desired. The United States, instead of giving protection to these people, had removed the only body of troops which they had previously stationed in that country; and, by petition, they appealed to the Governors of Georgia and Alabama to preserve their lives and property.

The Indian agent, who might possibly have rendered the whites important service in this matter, had been dispensed with; and their only hope of safety was in flight from the country, and leaving behind them their corn, meat, cattle, and growing crops, at the mercy of these lawless savages. Very many were killed in their attempted flight, whilst all had their stores of provisions robbed, and their houses burned. Long after it was too late to remedy the evil, Government troops reached the nation, and succeeded in driving the Indians from their swamps and hiding places, and at the same time feeding the soldiery and friendly Creeks upon whatsoever of provisions had not fallen into the hands of the hostiles.

The result of these operations in the nation only forced the Indians to seek a new field upon which to destroy the property and spill the blood of the white man. The open war then existing between the Seminoles of Florida and the United States offered them the opportunity desired, and the only hindrance in the way of their accomplishing their object was a small body of Government troops which had taken possession of the town of Roanoke, situated on the Chattahoochee river, for the purpose of intercepting their march in that direction. Too well, however, did the Indians know our strength at that point; for, with a force sufficient to overpower our men, they entered and fired the town, murdering, indiscriminately, all who could not escape their vengeance. Soldier and citizen sought safety by flight to the neighboring farms; but here they were pursued and driven away, and the homes of these planters laid waste. They destroyed everything which would incur them in their march, and then, through sparsely-populated districts, they took their way to the everglades of Florida.

Having presented the facts, how stands the obligation of the Government to these citizens for the payment of the losses sustained?

Mr. GIDDINGS. I desire to vote for this bill if I can do so consistently, and I therefore wish to hear the explanation of the gentleman from Georgia upon a point to which he was just now alluding. It is, whether the history of the depredations which he has just related is not that which has characterized the proceedings prior to the breaking out of every Indian war in New York, in Ohio, and in every part of the country?

Mr. LEITER. I am prepared to show that there is a marked difference, whenever I shall have the opportunity.

Mr. CRAWFORD. We hold that one of the first duties of the Government is to protect the citizen in the enjoyment of his property, and more particularly that property which he holds directly from the Government itself. This is a principle of law so generally acknowledged, that it is useless to argue it. The claimants referred to by this bill are citizens; were occupying lands which the United States Government had sold them; they were living where they had the unquestioned right to live; they were violating no law, either of this Government or of the Creek nation; as a necessary consequence, they were entitled to protection for their persons and their property. The Creek Indians had parted with their general and their individual titles to all this territory; as a nation they had obligated themselves to go west, and the whites, under such circumstances, had procured titles and occupied the country.

It must be remembered that the United States troops which had formerly been stationed in the Indian country had been removed by order of the War Department, thereby depriving the settlers of the only sure guarantee which they had against Indian perfidy and atrocity. The consequences of the removal have already been spoken of; and whilst the Government cannot restore to life its murdered citizens, it can at least compensate for the actual losses sustained by them. Not only under the general right which the citizen has, that his property shall be protected, but also under the act of 1834, these claimants are entitled to compensation for their losses; not, I grant, under its letter, but under its spirit.

Mr. GIDDINGS. The gentleman is laying down a very correct rule; but I desire that he shall turn his attention to the application of it. It is unquestionably the duty of the Government, in the ordinary exercise of its functions, to protect its citizens. Now, I ask the gentleman if the

rule was ever adopted in any Department of the Government, by compensating for losses of property in this way, and before the Government had all proper and reasonable time to bring its forces there for the protection of citizens and property?

Mr. CRAWFORD. I ask the gentleman from Ohio if he approves of the principles laid down in the act of 1834, in regard to the intercourse between the whites and Indians?

Mr. GIDDINGS. If the gentleman will specify any particular part of it, I will give a definite answer.

Mr. CRAWFORD. It is this:

"That if any Indians belonging to a tribe in amity with the United States, shall, within the 'Indian country,' on passing from the 'Indian country' into any State or Territory inhabited by citizens of the United States, take and destroy their property, the owners of said property shall make claim to the superintendent or Indian agent, who, upon due proof of the loss, shall, under the direction of the President, apply to the tribe for satisfaction; and if such satisfaction be not made within twelve months, the same shall be reported to the Commissioner of Indian Affairs, that such steps shall be taken as shall be proper to obtain satisfaction; and, in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party so injured an eventual indemnification."

After describing what shall be Indian country, it then provides that if any Indians belonging to a friendly tribe shall destroy property, either in the Indian country or in passing from it into any State or Territory inhabited by citizens of the United States, the owners of such property shall, upon proof of the loss, under the direction of the President, apply to the tribe for satisfaction, and, in the mean time, the United States guaranty the parties an eventual indemnification.

Mr. GIDDINGS. I yield that a most hearty assent.

Mr. CRAWFORD. The gentleman from Ohio says he approves the principles laid down in that law. I now say to him, and to the House, that although the letter of the law does not cover the claims we bring to the House, yet its principle does. It is true that most of these losses were sustained in Georgia and Alabama; but the Indians were occupying their country, and it was no part of the duty of these States to remove them from it. Had these depredations been committed by Indians west of the Mississippi, the claimants would have been paid long years ago; but payment is withheld because they did not occur in what is known technically as "Indian country." The friends of this bill admit that, under the act of 1834, this was not Indian country; but they do say, that if the presence of the whole tribe and their occupancy of the lands ever makes Indian country, then this was verily so, indeed. If the payments made be just under the act of 1834, then they are just under this bill; and if Congress did right in passing that law, then Congress ought to pass this.

It was under this view, no doubt, that General Jackson, in December of this same year, says to Congress that provision should be made for indemnifying the owners of property which had been taken for public use, and suggests that relief should also be rendered for depredations committed by these Indians. Congress, whether concurring in that view or not, appropriated a sum of \$5,000 to cover the expense of a suitable commission to examine into the depredations committed and report the same to Congress. The commissioners discharged that duty, and ascertained that \$1,272,000 was the amount claimed to be due; but the amount allowed was only \$349,000; reducing in every instance the sum claimed one third, and in some cases one half. The Government, after sending out this commission, has only paid one of the sufferers, and his claim had been transferred to the State of Georgia, or that would never, perhaps, have been paid. It may be insisted that the Government cannot undertake to pay for losses sustained by the citizen when a state of war exists; but let it be remembered that no war was ever declared by the Creek nation against the whites. These depredations were committed by comparatively small bands of dissatisfied Creeks, who were also hostile to a majority of their tribe, and determined never to emigrate to the country assigned them.

And it is just at this point in the history of these troubles that a misunderstanding arises as to the hostilities, whether it was a war or not. It was not known definitely, at first, how far this hostile state of feeling existed; but was in the end

well known that at no time was a majority engaged in it. It was undoubtedly a war the very moment these hostile Creeks agreed to join Osceola in his rebellion.

The question then made is, will the Government, after having treated for these lands and the removal of the Indians, after having sold the same to its citizens, permit a portion of the tribe to disregard the treaty, violate its obligations, murder the settlers, destroy their property, and then refuse to allow compensation or give redress? When these claimants ask the Government to withhold annuities due the Creeks, they are met with the response that that can only be done when war has existed or the depredations have been committed in the Indian country proper. Thus it is, in the first place, they are denied payment because the whole tribe did not engage in the hostilities; and in the second, because of a legal technicality.

In no event, however, can a portion of these claims be denied payment; because the records of the War Office show that such destruction of property as occurred in Georgia was induced by the occupation of it by your troops; and that, too, after the hostile Creeks had accepted the invitation of the Seminoles to unite with them in their open war against the United States. Such were the losses at Roanoke, and in the adjacent country; all of which this Government is in good faith bound to refund.

Mr. STANTON. I do not propose, Mr. Chairman, to occupy the time of the committee long. If we were now about to settle the question as a new question as to how far the Government is responsible for Indian depredations, it would be a very different question from the one that is presented to the House. There may be an abstract claim of justice on the part of the Government to protect its citizens against the invasions of Indian tribes or foreign enemies; but, sir, if I understand it, this Government has long since fixed the principles upon which it will recognize its liability to the citizens of the country for depredations either by Indians or by a foreign enemy. The question, as a matter of necessity, was presented at the close of the war of 1812, when the depredations of the foreign enemy were so extensive that indemnity to citizens was a matter of absolute impossibility. Congress passed a law in 1816, prescribing the principle upon which this Government would hold itself bound to its citizens.

It may be said, in general terms, that where the losses happened in consequence of the act of the Government in taking possession of private property, the Government is responsible for making compensation; but in cases where claims have been made for the immense losses in consequence of a public enemy passing through the country, destroying whatever property might fall in its way, the Government has always disclaimed any obligation to its citizens.

Again: the Government has, as I understand it, uniformly repudiated any liability on account of depredations made by lawless individuals upon its citizens, whether they be Indians, citizens, or foreigners, white or black, no matter of what color, condition, or country. Neither the United States nor any State recognizes its liability to make good the depredations committed by lawless persons.

Acting, then, upon this principle, an immense amount of private property has been destroyed upon our frontier settlements in all parts of the country in the southwest and in the northwest. Wherever the frontier settlements have extended and encroached upon the Indian tribes, collisions have happened and property has been destroyed; but the Government has at all times refused to recognize its liability to persons whose property has thus been destroyed. I know that such was the fact in the early settlement of that portion of the country which I represent, some twenty-five or thirty years ago, when the Indians were still in that country. There was a constant destruction of the property of the whites by the Indians, and as constant refusal by the Government to hold itself liable for the property thus destroyed.

Hence, Mr. Chairman, I am wholly at a loss to perceive any distinction between this case and any of the ordinary cases of collision which have arisen upon our frontier settlements between the Indian and white population, immediately preceding or immediately following a general outbreak of hostilities. I say if there is anything else here, I am utterly at a loss to comprehend it.

Whatever may have been the exact condition, technically, about that being an Indian war, I am not particular about; it is the same state of things which has existed everywhere upon our frontier settlements immediately preceding a general outbreak of hostilities, during which property is destroyed and lives lost, perhaps on both sides; and I do not think the Government has ever, in any one instance, recognized its liability to make compensation for property so destroyed.

The question I ask is not whether the claims of these citizens of Alabama and Georgia may not be intrinsically good upon principles of justice and equity; but it is, shall the same rule of justice, shall the same measure of right which has, by the settled policy of the Government, been meted out alike to every portion of the country, be applied to this case? That seems to be the plain question. If it is not, I do not understand it.

This case, as I understand it, is briefly this: By the treaty of 1825, this tribe was to move west of the Mississippi. They ceded their lands for an equal number of acres west of the Mississippi, with the reservation that such portion of the tribe as did not choose to remove might remain, and have granted to them a certain tract in fee simple, to reside upon or sell, as they might see fit. Upon that treaty being carried into execution, the lands adjacent were brought into market, and the settlements commenced on the part of the whites. In many instances, the Indians sold out their reservations. There was a special provision in the treaty that the Indians should not be compelled to remove. They were there upon the soil on which they were born, where were the graves of their fathers; they were where they had a right to be by any express stipulation of the treaty made between them and the Government of the United States. While they were there, the increase of the white population occasioned collisions between them and the white settlers, it may have been at first because of their necessities, it may have been because of their unthrift, it may have been because they were starved; but from whatever cause, the same collisions occurred which always occur upon the frontiers, upon white settlements, by which property is destroyed.

I pray you, then, what is there in this more than has happened in every instance where Indian territory has been ceded to the Government, and the settlement upon the ceded territory by a white population has followed? If there is anything in the case beyond that, it passes my comprehension. It is claimed by the gentleman from Georgia, [Mr. CRAWFORD,] and by the Committee on Indian Affairs, that these parties came somehow within the equity of the law of 1834. If I understand the object of that law, it is to make such provision for the white settlements as may become necessary, and to remove the Indians who have ceded their territory, to a newer portion of the country, where their lands are to be located. It provides that if any Indian, while in process of removal, belonging to any tribe with which the United States are on terms of amity, destroys property, that property shall be paid for out of the annuities reserved to be paid to that tribe of Indians. What is the principle upon which that law is based? It is that when the property of our citizens is destroyed by the subjects of a foreign Government, then that foreign Government must make reparation to the injured citizens. If the loss be by a foreign Power, the citizen makes complaint to his Government, and asks for a reimbursement for property so destroyed. But in this instance, inasmuch as these Indian nations are our creditors, inasmuch as we are indebted to them, under treaty stipulations, for annuities periodically due, we agree to take out of those annuities the amounts due to our citizens for property so destroyed. To entitle a party to the benefits of the provisions of that act, he must make his complaint before the superintendent of Indian affairs, and make proof of the amount of loss; and upon the proof being returned, the superintendent of Indian affairs makes a deduction of that amount from the sum due to the Indian tribes. That is the principle upon which that act of 1834 goes.

It was never intended by that act to recognize the principle that the Government of the United States was under any obligation, legal or moral, to make good the depredation and spoiliations

committed by Indians upon the property of citizens out of the National Treasury. It is simply a recognition of that well-settled principle of the common law, that this Government may make reclamation upon foreign nations for property of our citizens destroyed by Indians. That is all there is of it.

If any gentleman will explain to me how it is that citizens of Alabama and Georgia have any other claim than that which may be set up by the citizens of any other frontier State, then I will thank him exceedingly to point it out. There were large reservations in Ohio. The Indians were there when I settled in that State; and if any collision ensued between the Indians and the citizens of the State, they never dreamed of applying to the Government of the United States for pay out of the national Treasury. If they did not come within the provisions of the act of 1834, and did not get indemnity through the instrumentality of the Commissioner of Indian Affairs, everybody understood that the claims were at an end. It is not pretended that these citizens of Alabama and Georgia come within the provisions of the act of 1834. Those Indians were not making depredations within Indian territory, within the contemplation of that act. And I trust gentlemen will understand that this is all there is in controversy in the bill now before the committee; because, let it be understood, so far as there is any claim set up here in favor of making compensation to citizens of Alabama and Georgia for property taken for the support of our troops, under the authority of our officers, that has long since been allowed and paid. There is no controversy about that; it is provided for under the law of 1816; it has been paid to the amount of \$25,000.

Well, if Congress intends now to establish a new principle; if it is intended to open the door for all persons who have had property destroyed by the Indians upon the frontiers, either in time of peace or in time of war, and who are not able to bring themselves within the provisions of the act, and have their compensation deducted from the Indian annuities, and allow them the right to come here and ask reimbursement from Congress, let us know it; for we have a good many claims of that nature in my State, and there are others in other States of the Confederacy.

Mr. CURTIS. I do not wish to make a speech upon this case; but I wish all the facts and all usages understood. I understand a custom has grown up in the Indian territories of indemnifying persons who have lost property in this way; where there is a treaty between the Government and the Indian tribes, the claimants may have their damages deducted, through the Indian agent, from the Indian annuities. That seems to recognize the equity of the law of 1834; but it operates partially, because it extends to cases where there are treaties.

Mr. STANTON. That is precisely what I have been asserting.

Mr. CURTIS. The argument is that it opens the door too wide.

Mr. STANTON. Yes, sir; to the amount of millions.

Mr. STEWART, of Maryland. Do I understand that it is an uncontradicted fact that, so far as these States have claims for property used for the support of the troops of the United States, they have been settled?

Mr. STANTON. They have been adjusted and paid, under the act of 1816.

Mr. STEWART, of Maryland. I wanted to call the attention of the gentlemen who advocate these claims to the fact. I did not so understand it from the report.

Mr. STANTON. Gentlemen will find, from the documents before us, that the law of 1837-38, schedule "A," covers that description of losses.

Mr. WOODSON. Schedule "A" is not at all applicable to the claims now before the House.

Mr. STANTON. I understand from the gentlemen who made this report, that all the claims for property taken by the officers of the Army, for the support of the troops, have been paid.

Mr. WOODSON. I assert that they have not been paid, and the testimony of the officers themselves shows a good reason why they could not have been settled—that no account was kept of that property.

Mr. STANTON. One thing is clear; that the law of 1816 makes abundant provision for their

settlement by the Department, upon satisfactory proof; and there is no occasion for a special law for damages of that character.

Mr. GIDDINGS. I understand that the commissioners appointed to ascertain these claims reported the amount which came within the law of 1816, and inquired of one of the gentlemen whether that schedule "A" had not been paid; and he answered most emphatically that it had.

Mr. CRAWFORD. It did not cover the claims of this character.

Mr. GIDDINGS. I said the commissioners reported the claims in that schedule, and that that schedule was paid.

Mr. STANTON. I understand the law of 1816 only recognizes the liability of the United States to pay for property appropriated under the rules of war—taken under the authority of some commanding officer. I do not understand that if a soldier robs a smoke-house or a hen-roost, the United States is liable for the property so taken.

Mr. LEITER. As I understand it, the law of 1816 applied exclusively to the war with Great Britain.

Mr. STANTON. The law has been repeatedly extended to subsequent wars. The principle has been recognized, and there is no difficulty about it.

Now, do gentlemen expect to say that whatever may have been appropriated or destroyed by a soldier in the service of United States, without the consent of his officer, and not according to the rules of law—a mere burglary, or an arson, or a larceny, is it to be compensated for by the Government? I take it for granted no man will claim that the Government is bound to make good the larcenies committed by any person in its employment.

Mr. LEITER. As I understand the rules and laws, the doctrine is that where the Government of the United States, by its officers, sends out foraging parties, and they seize the property of citizens, the Government is liable.

Mr. STANTON. Undoubtedly. There is no question about that. If an officer is charged with levying contributions on the surrounding country, and does so under orders, it is the act of the Government, and the Government is responsible for it.

That is all there is in the case as I understand it. If you pass this bill and make compensation to the citizens of Alabama and Georgia, outside of the principles recognized by the general laws, or by any former act of Congress, I confess I do not see that there is any limitation to the effect of it; and although it may be true that the gentlemen from Alabama and Georgia may now put their limitations on this bill—that the whole amount payable under it shall not exceed \$349,000; and although they may assent to that in good faith, and observe it so long as they remain here; yet, if you recognize the principle that this Government is liable, I should like to know how you would resist a claim that they had not received their full compensation, and a demand that further proof should be taken as to the value of their property destroyed? The whole of this \$1,200,000 would be claimed, and have to be paid. That is my experience of the way that things work. If claimants can only get in a little bill for one thousand or one thousand five hundred dollars, then the principle is recognized. Congress cannot go back of it, and claimants will then go on and, by virtue of that principle, will plunder the Treasury to the amount of a million or two. That is the way these things are always done. I think, myself, that this bill sets a very dangerous precedent. I think it is a very important bill, and I hope the committee and the House will be very careful how they pass it. I regret exceedingly that any thing of a sectional or party feeling has been allowed to enter into it.

Mr. LEITER obtained the floor, but yielded to Mr. DAVIDSON, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CLAY having taken the chair as Speaker *pro tempore*, Mr. SHERMAN, of Ohio, reported that the Committee of the Whole House on the Private Calendar had had under consideration the special order, being the bill (H. R. No. 367) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account

of losses sustained by depredations of the Creek Indians, and had come to no resolution thereon.

Mr. STEPHENS, of Georgia. I submit the usual resolution that all debate on this bill shall close within two hours after the Committee of the Whole House shall again resume its consideration.

Mr. WASHBURN, of Illinois. I desire, in the first place, to know whether the special order extends over this day or not?

The SPEAKER *pro tempore*. It does not.

The resolution was adopted.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. BARKSDALE. I move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. MORGAN. On that I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. BUFFINTON called for tellers.

Tellers were ordered; and Messrs. BUFFINTON and BARKSDALE were appointed.

The House divided; and the tellers reported— yeas 85, noes 39.

So the motion was agreed to.

And thereupon (at three o'clock and forty-five minutes, p. m.) the House, on motion of Mr. MORRIS, of Pennsylvania, adjourned to Monday.

IN SENATE.

Monday, December 20, 1858.

Prayer by Rev. D. BALL.

The Journal of Thursday last was read and approved.

Hon. STEPHEN R. MALLORY, of Florida, appeared to-day.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act to continue the office of register and receiver of the land office at Vincennes, Indiana;

An act recognizing the assignment of land warrant No. 35956, issued to John Davis, as valid; and

An act for the relief of John Campbell.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Second Auditor of the Treasury, communicating copies of accounts of persons charged with the disbursements or application of moneys, goods, or effects, for the benefit of the Indians, during the year ending 30th June, 1858, together with a list of the names of the persons to whom goods, moneys, or effects have been delivered during that period; which, with the accompanying papers, was, on motion of Mr. STUART, ordered to lie on the table; and a motion by him to print the letter and papers, was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Senate, showing the payments from the contingent fund of the Senate, during the year ending December 4, 1858; which was, on motion of Mr. DIXON, ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of Margaret Halsey, widow of Captain Daniel Cushing, who was an officer in the last war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Mary Morris, widow of Peter Louis Morris, a soldier in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented the petition of Sheldon McKnight, praying additional compensation for carrying the mails on the Cleveland, Detroit, and Lake Superior routes, from the year 1848 to the present time; which was referred to the Committee on the Post Office and Post Roads.

Mr. KENNEDY presented a memorial of

Thomas Coward, praying for a pension for services as a privateersman during the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. BRODERICK presented a memorial of Richard Roman, a commissary of subsistence during the last war with Great Britain, praying to be credited with an amount disallowed in the settlement of his accounts; which was referred to the Committee on Claims.

He also presented the petition of Richard Chenery, assignee of H. B. Russ, praying payment for paving the street in front of the custom-house in San Francisco; which was referred to the Committee on Commerce.

Mr. GREEN presented the petition of A. Payne, praying the passage of an act repealing the condition of settlement and cultivation imposed upon purchasers of lands graduated to twelve and a half cents per acre; which was referred to the Committee on Public Lands.

Mr. COLLAMER presented the memorial of Lieutenant T. Harmon Patterson, praying to be allowed the pay due him for services as an officer of the astronomical expedition to Chili; which was referred to the Committee on Naval Affairs.

Mr. CLARK presented the petition of Joseph Witcomb, a soldier in the war of 1812, praying to be allowed an invalid pension; which was referred to the Committee on Pensions.

Mr. THOMSON, of New Jersey, presented the petition of Harriet S. Wyman, widow of Captain Thomas W. Wyman, of the Navy, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. JONES presented a petition of citizens of Iowa, praying for the establishment of a mail route from New Oregon to New Hampton in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented two petitions of citizens of Iowa, praying the establishment of a new land district in the northwestern part of that State; which were referred to the Committee on Public Lands.

Mr. MALLORY presented the petition of Thomas Brown, administrator of George Fisher, deceased, praying an amendment of the joint resolution of last session, devolving upon the Secretary of War the execution of the act of December 23, 1854; which was referred to the Committee on Claims.

He also presented the petition of Sarah Hutton, daughter and heir of Jane Baker, praying to be allowed a pension, on account of the services of Thomas Baker, in the navy of the Revolution; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PEARCE, it was

Ordered, That the petition and papers of the heirs of Robert Sewall, on the files of the Senate, be referred to the Committee on Claims.

REPORT OF A COMMITTEE.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Treasury, communicated the 16th instant, transmitting a statement of the cost and progress of the Coast Survey, reported in favor of the motion; and it was agreed to.

JAMES F. MORTON'S WIDOW.

Mr. SEBASTIAN submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid out of the contingent fund of the Senate, to the widow of James F. Morton, late superintendent of furnaces, the sum of \$150, for funeral expenses, and an amount equal to one quarter's salary of the deceased.

NOTICE OF A BILL.

Mr. BAYARD gave notice of his intention to ask leave to introduce a bill to provide for holding the courts of the United States in the State of Alabama.

BILLS INTRODUCED.

Mr. PEARCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 476) to authorize the President to make advances in money to Hiram Powers; which was read twice by its title, and referred to the Committee on the Library.

Mr. RICE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 475) to organize the Territory of Dacotah, and for other purposes; which was read twice by its title, and referred to the Committee on Territories.

Mr. FITCH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 474) to provide for a superintendent of Indian affairs for Washington Territory, and additional Indian agents; which was read twice by its title, and referred to the Committee on Indian Affairs.

REFERENCE OF THE MESSAGE.

On motion of Mr. STUART, it was

Ordered, That so much of the President's message as relates to the public lands be referred to the Committee on Public Lands.

REVISION OF RULES.

The PRESIDING OFFICER [Mr. BRIGHT] laid before the Senate the following resolution of the House of Representatives:

IN THE HOUSE OF REPRESENTATIVES.

June 14, 1858.

Resolved, That a Committee be appointed consisting of the Speaker and four members to be named by him, whose duty it shall be to digest and revise the rules of order, and suggest alterations and amendments, and report the same for the action of the House at an early day in the next session, and that said Committee be authorized to meet such as may be appointed by the Senate, to revise the joint rules of the two Houses.

Ordered, That the SPEAKER, Mr. WINSLOW, Mr. GROW, Mr. BOGOCCK, and Mr. ISRAEL WASHBURN, be the said Committee.

Mr. STUART. That resolution, as I understand it, was passed at the last session of Congress in the House of Representatives.

The PRESIDING OFFICER. Yes, sir.

Mr. STUART. And provides for a report to be made at the commencement of this session. Of course, the time for its practical operation has expired, and I think it might as well lie on the table. I make that motion.

Mr. WILSON. I understand that the Committee in the House are now sitting on the rules, and I am inclined to think we had better adopt the resolution. I am told by one of the members of that Committee that they want to modify the rules, and that there may be some action proposed with regard to the joint rules. It might lie over for the present.

Mr. STUART. I think it had better remain for the present.

The PRESIDING OFFICER. It will lie on the table.

NEW MESSENGER.

Mr. THOMPSON, of Kentucky. I desire to offer the following resolution, and ask for its present consideration:

Resolved, That the Sergeant-at-Arms be authorized to employ a person in the service of the Senate, in the place of, and at the same compensation as H. J. Ragan, promoted.

The purpose of this resolution is simply to keep on the floor about the same force as we have had heretofore. It provides for no additional force. I have conversed with the Sergeant-at-Arms, and I believe with yourself, sir, and several others, and I suppose there can be no objection to it.

Mr. CLAY. I wish it to lie over.

The PRESIDING OFFICER. It will lie over under the rules.

Mr. THOMPSON, of Kentucky. If the Senator from Alabama will look at it, and then say it is not right, I will move to reconsider it to-morrow.

Mr. CLAY. I do not know the merits of the particular resolution; but I have been impressed ever since I have been in the Senate, with the belief that we have a good many supernumeraries here, and that, instead of providing places for outsiders, we ought to dispense with some of those who are inside. It is on that ground that I object to the consideration of this resolution.

Mr. THOMPSON, of Kentucky. Let it lie over until to-morrow morning.

RECESS FOR CHRISTMAS.

Mr. ALLEN. I offer the following resolution: *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That when the two Houses adjourn on the 23d instant, they adjourn to meet on Tuesday, the 4th of January next.

I ask that it may be taken up and considered now.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FOOT. I desire the yeas and nays on the adoption of the resolution. I wish to vote against it.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 21; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Broderick, Clay, Crittenden, Fitch, Green, Hale, Hammond, Houston, Iversen, Kennedy, King, Mason, Pearce, Polk, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wilson, and Wright—29.

NAYS—Messrs. Chandler, Clark, Clingman, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Gwin, Hamlin, Hunter, Johnson of Tennessee, Jones, Reid, Rice, Wade, and Ward—21.

So the resolution was adopted.

DOUGLASS OTTINGER.

On motion of Mr. HAMLIN, the Senate reconsidered the vote agreeing to the adverse report of the Committee on Commerce, on the petition of Douglass Ottinger; and it was

Ordered, That the petition be recommended to the Committee on Commerce.

JEREMIAH WRIGHT.

On motion of Mr. KING, the vote by which the bill (H. R. No. 365) granting a pension to Jeremiah Wright was postponed indefinitely, was reconsidered, and the bill was recommitted to the Committee on Pensions.

BINDING OF CONGRESSIONAL GLOBE.

Mr. JOHNSON, of Tennessee. I rise for the purpose of asking the Senate to take up report No. 327. It is an adverse report, which was acted upon last Thursday. I desire to move its reconsideration, and that it be referred back to the Committee to Audit and Control the Contingent Expenses of the Senate. I think there is some justice in the claim, and a portion of the committee, at least, would like to consider it again.

The PRESIDING OFFICER. The Secretary will read the designation of the subject.

The Secretary read as follows:

Report (No. 327) by Mr. WRIGHT, from the Committee to Audit and Control the Contingent Expenses of the Senate, and resolution to pay for binding the Congressional Globe and Appendix for the Thirty-Fourth Congress, the same as was allowed by law for the Thirty-Fifth Congress.

The motion to reconsider was agreed to; and the resolution was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

FRENCH SPOILIATIONS.

Mr. CRITTENDEN. Mr. President, I have long been waiting in the expectation that the bill in relation to the claims for French spoiliations would be reached in the regular order of business. I despair of that now; and I ask that the Senate will be so good as to take up that bill, merely for the purpose of fixing some time when it shall be heard. It was on the Calendar during the most of the last session, but was not then reached; it was always anticipated by special orders, and I fear it is likely to share the same fate at this session, unless something be done in regard to it. I move to take up that bill, for the purpose of fixing a day when the Senate will be pleased to hear it. It is a subject involving some investigation, and, therefore, the Senate should have notice of the time when it will probably be considered. I move to take it up for that purpose.

Mr. GWIN. If the motion of the Senator from Kentucky will not interfere with the regular order, I have no objection to it; but I do not want it to supersede the business regularly before the Senate, which is the Pacific Railroad bill.

Mr. CRITTENDEN. I only want now to take up the French spoliation bill, for the purpose of assigning some day for its consideration.

The PRESIDING OFFICER. The bill referred to by the Senator from Kentucky, (S. No. 45), is now among the special orders.

Mr. CRITTENDEN. It is down on the special orders.

The PRESIDING OFFICER. It stands on the special orders of the last session, which are continued.

Mr. CRITTENDEN. I give notice to the Senate, then, that I will call up that bill on the 6th day of January. As I presume that the copies of that bill which were printed at the last session have

been mislaid or lost, I ask that the usual number be printed for the use of the Senate.

It was so ordered.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, and munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco in the State of California. The pending question being, on Mr. POLK's amendment to strike out the proposed eastern terminus of the road, in lines seven and eight of the first section of the bill, in these words:

"On the Missouri river, between the mouths of the Big Sioux and Kansas rivers."

And insert in lieu thereof:

Between a point in the boundary of Minnesota, on the forty-ninth parallel of north latitude, and the southern boundary of the United States.

Mr. WILSON. I give notice of an amendment that I intend to propose to the bill. I desire to have it read and printed.

The PRESIDING OFFICER. The Senator does not offer the amendment at present.

Mr. WILSON. I cannot offer it now, but I wish to have it read.

The Secretary read it.

Mr. WILSON. I should like to have my proposition printed. I move that it be printed as an amendment that I intend to propose as a substitute for the whole bill.

The motion to print was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Missouri, [Mr. POLK,] upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 29; as follows:

YEAS—Messrs. Allen, Bates, Clay, Davis, Fitzpatrick, Houston, Hunter, Iversen, Kennedy, Polk, Reid, Sebastian, Shields, Slidell, Stuart, Toombs, and Ward—17.

NAYS—Messrs. Bigler, Bright, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Gwin, Hale, Hammond, Harlan, Jones, King, Mason, Rice, Seward, Simmons, Thompson of Kentucky, Trumbull, Wade, Wilson, and Wright—29.

So the amendment was rejected.

Mr. RICE. Mr. President, the deep interest my constituents take in the measure now under consideration must be my apology for detaining the Senate a few moments.

I do not propose to discuss the comparative merits of the different routes, nor go into details. They have been given so often that the Senate must be familiar with them. My purpose is to state a few facts in relation to the northern route; and, notwithstanding my preference for that line, I will cheerfully vote to give equal aid to the others.

The country through which a road between the great lakes and Puget Sound would pass offers great facilities for intercommunication between the various portions of our Union. On this route lie the Mississippi, Missouri, and Columbia rivers, and the Red River of the North, supplying means for internal navigation to an immense region of fertile and flourishing country. The lakes and the Pacific thus connected, a ship could proceed without breaking bulk, from the Atlantic by way of the St. Lawrence and the lakes to the head of Lake Superior, and from that point her cargo could be sent over the road proposed, direct to the Pacific, without transhipment.

It can scarcely be doubted that the great saving, both in the time and cost of transportation, would cause, not only the entire American, but the entire European trade with China, Japan, and the Pacific islands, to go through this channel instead of going around the capes.

The British Government is already alive to the importance of a more direct and speedy communication with her possessions on the Pacific, and is already taking steps to promote her commercial and strengthen her political interests on this continent, by building a railroad along the southern line of her possessions. Should she carry out the work she has already commenced, we must lose, not only the European and Asiatic trade, but also that of the large tract of country on our northern frontier, and of the adjacent British possessions. If we do not act promptly, if we suffer

British capital and energy to forestall us in this important matter, we lose the magnificent prize that offers itself to our grasp, and forever regret our procrastination.

It has been alleged that the "intense cold" and the "deep snows" of the country through which this road is proposed to be run, must forever prevent the accomplishment of the project. At this moment, several thousand men are at work on the lines of road within the State of Minnesota. Within the last six months, two hundred miles have been graded; and by spring another hundred will be completed; and before another year three hundred miles will be ready for the iron horse. The incorrectness of this statement will be best shown, and the readiest answer to it will be given, by merely stating the fact that prosperous settlements have for years existed in, and indeed beyond, the point of lowest temperature.

Emigration has pushed itself beyond the Red River of the North, and every year demonstrates that there is no portion of that country which our citizens do not find well adapted to the purposes of civilization.

My own State illustrates the energy and enterprise of the settlers on this route. Nine years ago Minnesota was organized as a Territory, and contained about three thousand inhabitants. Her census will now show two hundred thousand. Her numerous and prosperous towns have become centers of active and profitable trade, and her increase, both in population and commerce, is unprecedented.

From an official record before me, it appears that the arrivals of steamboats at St. Paul in 1848 were sixty-three, and at the close of the past season, the number was one thousand and sixty-eight; an increase of one thousand and five, at the rate of more than one hundred a year!

It is not alone, however, as an encouragement to private enterprises, that this project presents itself to our favorable consideration. The public service will secure in this road a most important aid, as it offers so many channels of intercommunication for the cheap transportation of troops and munitions of war, and for the rapid and general distribution of the mails. The navigable lakes and rivers everywhere intersecting or lying along the road would make every portion of it easily accessible.

These lakes and rivers would also materially lessen the cost of freight and travel between the extreme termini; because the road actually to be constructed could not exceed eighteen hundred miles in length, and the longest section on the line, between navigable waters, would not exceed six hundred miles.

Merchandise could be transported to the middle and northern States, or eastern sea-board, through the lakes and the St. Lawrence; the Mississippi and the Missouri rivers would furnish abundant facilities for reaching all the States in the great western valleys; and the distant regions of California and Oregon could be promptly supplied by the craft that navigate the waters of the Columbia.

We all know how much greater the charges are for railroad than for water transportation; and a glance at the map must convince any one that freight or passengers can be taken on board at any navigable point on the Ohio, Mississippi, or Missouri, and transported thence by water to the point of intersection with this road, and thence sent forward to the Pacific, with only five hundred miles of railway from the last-named stream.

By what other route could more States be accommodated? Let Lake Superior be thus connected by steam with the Pacific, and the commerce of our inland seas will be speedily doubled. In 1816 the first effort was made to navigate the lakes. In 1841 the trade reached the aggregate of \$65,000,000; and in 1856 it swelled to the enormous amount of \$698,000,000. These statistics show the wonderful spirit of enterprise which now pervades regions that were long considered an uninhabitable wilderness. Is not such a spirit worthy of encouragement? Before the lapse of another year, steamers will be in use on the Red River of the North. This river is navigable four hundred miles within the limits of the United States; and should this road be constructed, we could not only supply our extreme northern settlements, but the British provinces would be dependent on us for their means of transportation.

Various roads in our State, leading to the

route indicated, and to the Red River of the North, are already under construction, and they will render that river a most important channel of international trade. Direct intercourse will thus be established between the Red River and the Mississippi, by which latter stream, and the railroads of the country, there will be ready access to and from all the great thoroughfares of the States.

Great Britain and Russia are strengthening themselves in their respective possessions in our vicinity. At Esquimaux, a fine harbor on Vancouver's Island, the former nation has established a naval station, where already float three ships of war; while the Emperor of Russia is similarly engaged in the construction of a depot and naval station at the mouth of the Amoor. He is also rapidly advancing with his improvements towards his possessions in America; and if we would keep pace with those nations in their onward march on this continent; if we wish to be prepared to protect our frontiers without maintaining a large standing army, we should offer every possible facility to those who wish to settle in that country.

The opening of this road, would also, virtually, subdue the Indian tribes, and relieve us from a large portion of the enormous expenses, now annually incurred in endeavoring to control them. The expenditures to which we have already been forced on this account, would have defrayed half the cost of building this road. With proper encouragement, our people would make settlements all along our northern boundary, and but a very few years would elapse, before an army of volunteers could be raised on the line, amply sufficient for its protection. From Lake Superior to the mountains, the country is almost an uninterrupted plain, and from thence to the Pacific it is known that no engineering obstacles present themselves. There is no deficiency of material—stone, timber, and water can be readily procured. Neither is it probable that cars, daily traversing these regions upon elevated road beds, would meet with serious obstructions from the snows; but even conceding that there might be occasional embarrassments, no one will pretend to compare them with the difficulties against which the Canadian and Russian railways have to contend. The mean temperature at Montreal, is below that of any spot on the northern route, and such storms as block up the road between St. Petersburg and Moscow, have never been known in these latitudes.

But these difficulties have never delayed the onward progress of the Russian or Canadian. Every year new projects for still further extending their railroads are commenced and carried into successful operation; and I have too high an opinion of the energy and perseverance of my own countrymen to believe that cold and snow can offer any serious obstacle to the accomplishment of their purposes. Indeed, so far as part of this line is concerned, I can speak from my own personal knowledge. I have travelled hundreds of miles along it, and over the adjacent country, and have passed both winter and summer in hunting and exploring, and neither the cold nor the snow ever hindered my progress. The country contains a larger portion of arable soil than any equal quantity of land on the Atlantic border, and nearly the whole line of the projected road could be made a continuous farm. North of the forty-ninth degree of latitude, fine crops of corn are raised, and their wheat is of so fine a quality that it is eagerly sought after for seed in the States. Even beyond the fiftieth degree, wheat of a superior quality, together with oats, barley, and all sorts of vegetables, are successfully cultivated. It is highly esteemed as a grazing country. Cattle are not housed during the winter, and herds are frequently driven south, a distance of from five hundred to seven hundred miles, and there disposed of at a profit, and for a less price than it would have cost the purchasers to raise them. The salubrity of the climate is remarkable. There are no malarious swamps, and the journals of every exploring and surveying party attest their enjoyment of uninterrupted health.

I am opposed to any congressional legislation that will embarrass the States that may hereafter be admitted into the Union, by mortgaging the lands in advance to gigantic monopolies. I therefore, in the bill I introduced last week, left all legislation to the States and Territories now in existence, and to such others as may, from time

to time, be organized on the line of the contemplated road.

The bill also provides a way for settlements and roads to advance together. By its passage, no calls on the national Treasury will be made, and the amount of land donated does not exceed one half of that called for in the other bills.

No great extent of country will be withheld from the emigrant—on the contrary, every man will have an opportunity to secure himself a home, and at the same time aid in carrying out the true policy of the country, by contributing to the defense of its outposts.

The bill was hastily drawn, and is probably defective in its details; but I believe the general principle is the only true one by which aid can constitutionally be given to this great enterprise.

I believe that Congress should give life to this measure. Its passage would stimulate a generous rivalry between different sections of the country, and the result would be a Pacific railroad through some part of it; and if the snows, the mountains, and the cold, prevent us from reaching the Pacific as soon as our more southern neighbors, we will rejoice at their success as heartily as those more directly interested.

I notify the Senate that, at the proper time, I shall offer the bill which I introduced the other day as a substitute for the one now under consideration.

THE PRESIDING OFFICER. The amendment properly before the Senate is one that was submitted a few days ago by the Senator from Connecticut, [Mr. FOSTER,] to strike out of the seventh section of the bill, the following words:

“Provided, That all duties on railroad iron imported and laid down on said road shall be charged to the contracting party and paid to the United States, by deducting the amount from the credit to be given for the service first performed under this act: Provided further, That if American manufactured railroad iron, of equal qualities, shall be offered to the said contracting party, which, including all items of cost of manufacture, sale, and delivery, shall not exceed the like cost of such iron if obtained from foreign countries, the American manufactured iron shall be preferred and used by said contracting party.”

And in lieu of them, to insert:

Provided, That all the iron necessary to construct said railroad, and which may compose the track of the same, shall be of American manufacture.

MR. FOSTER. Mr. President, I shall detain the Senate but a short time in the few remarks I shall offer in support of the proposed amendment.

I am one of those who believe that the construction of a railroad to our Pacific coast, over our own territory, is vital to the prosperity and even to the perpetuity of our Union. Still, if it is to be constructed of iron imported from abroad, thus adding to our foreign debt, which we now count by hundreds of millions, it is, in my judgment, very questionable, whether it is wise, at present, to attempt the enterprise.

We have now in our country not far from thirty thousand miles of railroad—the last returns I have examined were up to 1857, when we had twenty-four thousand four hundred and seventy-six miles, more by some thousands of miles than there are in all Europe. Ohio, Illinois, Pennsylvania, New York, and perhaps other States, count the roads within their own limits by thousands of miles. In a period of five years, from 1852 to 1857, we built twelve thousand eight hundred and forty-five miles. That these roads are of immense advantage to the public none will deny. To build them, however, we have imported three million sixty-nine thousand and twenty-seven tons of iron, and we are in debt for most of it to-day. Here is one of the causes of our dependence on Europe, for debt creates dependence as well between nations as individuals. Here is one of the causes why any stringency in the money market of London, is felt so certainly and so painfully in our commercial metropolis, New York, and from thence through every city and village in the Union.

The object of the amendment is to develop our own resources, give employment to our own labor, and to diminish the force and the frequency of these commercial shocks, so disastrous to our prosperity, so humiliating to our honest pride as an independent nation. That we possess the means to attain the object proposed by the amendment, is too plain to be argued. The States of Pennsylvania, Maryland, Tennessee, Missouri, and others, possess inexhaustible mines, and even mountains, of the finest iron in the world, in close proximity to beds of coal of unequalled extent

and richness. The means of subsistence, meats and breadstuffs, are no where more abundant. There is no lack of laborers. On the contrary, there are hundreds and thousands of men seeking employment, now unwillingly made idle by our persistence in a national policy adverse to national prosperity.

In view of these facts, and of many like facts, why should we go to Europe for iron to build this road? Why should we cross three thousand miles of ocean, go into the mountains of Wales, pay foreign hands for mining and manufacturing it, freight it across the ocean, land it, transport it some three thousand miles further inland, and then lay it down over beds of coal and iron far richer and better than those from which it was taken? The naked proposition would strike a plain practical man of sense and intelligence, unlearned in what is called the science of political economy, with absolute astonishment. If any private individual should manage his own affairs in such a way as this, there is not a community in the United States which would not feel called upon to place him under the control of an overseer or conservator, to prevent him from wasting his estate and becoming a burden on the public charity. If such policy is to be pursued, there ought to be a poor-house for the nation.

I am well aware that it may be replied, granting all this to be true, there is no need of any legislative enactment; capitalists will buy where they can buy cheapest; only let them alone. The mischief, however, is, they are not let alone. We have not let them alone; and if we were to do so there will be, as there has been, much intermeddling from other quarters. There has been no stability, no steadiness, in our revenue policy; fluctuation has followed fluctuation, and the rod of “free trade” has been held over the heads of all who were engaged, or who proposed to engage, in home production. Those engaged in the business, not having capital sufficient to stand such shocks, have been ruined; the fires of our furnaces have gone out; capital is proverbially timid; and few are now bold enough to embark in a business which experience has proved generally to be so disastrous.

Foreign manufacturers have watched our policy with a keen eye, have understood it, and have taken advantage of it.

Two years ago, an English newspaper, in an article on the iron trade, said:

“During the present year (1856) the prices of iron in America have been steadily declining; best brands having fallen about five dollars, and inferior qualities from seven and a half to ten dollars, during the year. In the last three years, the make of iron in America has very largely increased; from 1853 to 1855, the annual production is believed to have been doubled, or to have increased from five hundred thousand tons to one million tons; and that it is since increasing at fully two hundred thousand tons per annum.”

“These facts have led some interested in the trade to the conclusion that it would be sound policy for the Staffordshire ironmasters to reduce the prices next quarter—say two pounds per ton—with a view to regain the command of the American market, and to get rid of the competitors who are supplanting English iron in the United States. Doubtless, if the price of iron could be reduced to that extent for some considerable period, it would ruin many of the American manufacturers, and would for a time open the way for a large demand for English iron.”

At a subsequent date, the same paper says:

“A considerable improvement has taken place in the demand for iron throughout the country.” * * * * * *“The demand from the United States, however, has not been nearly so great as has been anticipated; for the last six months the orders from that quarter have been one continued disappointment. The American merchants congratulate themselves on the position of the English market; prices being just high enough to enable their own ironmasters to supply the market to the full extent of their production. A general reduction in England is absolutely necessary to prevent the undesirable extension of the iron manufacture in the United States.”*

Here we see what English policy on this subject is; and in a commercial view, it is no doubt a wise one. That policy is to break down, to ruin the American manufacturer, by making sales below the cost of production. If they would pursue the same course permanently, we ought to be, and would be, satisfied. It happens, however, that when the object is attained, when the American manufacturer has been ruined, and the market is left to the foreign manufacturer, the price rises to the consumer; and it does not stop at the cost of production and a fair profit on that; it goes up until the foreigner is paid, and paid with interest, all that it cost him to ruin the home manufacturer and drive him out of the market.

It is not only in regard to the manufacture of railroad iron that our home manufacturers have this ruinous competition from abroad. The surplus products of cotton and woollen manufactures in England are sent here for sale, and generally sold at or below the cost of production. This is done rather than sell them at home; for that would bring down the price there; and the whole home market is secured at a profit to the manufacturer. It would be for the advantage of the foreign manufacturer to throw the surplus products into the ocean rather than sell them at home. All that is obtained for these products, above the freight and insurance, may be considered profit. In this way, American manufacturers are brought in competition, as to price, with the prices of the surplus products of foreign countries. Ought this policy to be successful? I must say, for one, I think it will be a shame to our legislation if it should. I am not, however, on our tariff policy, but only on this single question: Where shall we get the iron to build this road? My answer is, get it at home. If Congress will say so, we shall get it cheaper, actually cheaper, than we can get it abroad, and at the same time give hope and cheer to the depressed labor of our country.

I do not require to be told that these opinions and doctrines are contrary to the policy of what is called the Democratic party. It would be quite unavailing to urge arguments to any (I trust there are none such here) who accept the decisions of party as ultimate truths in politics, and as infallible authorities in legislation. I may surely invoke the aid of those who regard the name of Andrew Jackson as an authority. In his letter to Dr. Coleman, in 1824, he says:

"Heaven smiled upon and gave us liberty and independence and national defense. If we omit or refuse to use the gifts which he has extended to us, we deserve not the continuation of His blessings. He has filled our mountains and our plains with lead, iron, and copper, and given us climate and soil for the growing of hemp and wool. These being the grand material defense, they ought to have extended to them adequate and fair protection, that our manufacturers and laborers may be placed in a fair competition with those of Europe, and that we may have within our country a supply of those leading and important articles so essential in war." * * * "In short, sir, we have been too long subject to the policy of the British merchants. It is time that we should become a little more Americanized; and instead of feeding the paupers and laborers of England, feed our own; or else, in a short time, by continuing our present policy, we shall all be rendered paupers ourselves."

This was good Democracy thirty years ago; though now, I suppose, it has ceased to be so. Still, it indicates our best and wisest national policy—a policy to which we shall be compelled to return before we shall have a permanent national prosperity.

Mr. President, Senators have spoken of this work as a great, a Herculean undertaking. Such, indeed, it is; the very idea of it lifts us almost into the regions of the sublime. Old Rome boasted of her Appian way; and France points to the road over the Simplon as one of the monuments of the genius and power of her Napoleon. The work we contemplate is mightier far than those. Let us enter into it with pride as an American work; and let us determine that the material which composes it shall be of American origin and American manufacture.

Mr. GWIN. Mr. President, I think we have given sufficient protection to the manufacturers of American railroad iron in the bill as reported from the select committee. The proviso in the seventh section is in these words:

"That if American manufactured railroad iron, of equal qualities, shall be offered to the said contracting party, which, including all items of cost of manufacture, sale, and delivery, shall not exceed the like cost of such iron obtained from foreign countries, the American manufactured iron shall be preferred and used by said contracting party."

Thus it is made obligatory on the contractors to use American railroad iron, if the same quality can be obtained at the same prices as foreign iron. I think that in passing a bill of this description, we should not be obliged to go further than that, and say that they shall use American iron exclusively. It might embarrass the work very much. We might not be able to get a sufficient supply to meet the wants of the country in pressing forward the work. I hope the Senator from Connecticut will see that all the advantage that is legitimate is given to the American manufacturer of railroad iron by the bill in its present shape.

Mr. FOSTER. I am sorry I cannot see the protection which the honorable Senator from Cal-

ifornia points out; for really, when examined, it does not appear to me to be any protection at all. It is, that the contractors shall take American iron if it can be obtained at the same price.

Mr. GWIN. And the same quality.

Mr. FOSTER. The same quality and the same price. Well, every railroad man knows that American iron for railroads is far superior to foreign iron. There is no necessity for requiring the contractors to take it, if they can get it at the same price as foreign iron; for they will be exceedingly glad to do so, because everybody knows it is better. Therefore, really, while professing (and sincerely, no doubt) regard to American interests, this provision affords them no protection whatever—not the slightest.

Mr. GWIN. I think the Senator will admit that the quality is to be taken into consideration as well as the price; and the quality being equal, if the price is the same, they must take American iron. Then, if the quality of American iron is better, let it be taken into consideration, and the contractors will be forced to take American iron at the higher price.

Mr. SEWARD. Read that clause again.

Mr. GWIN. It says expressly:

"If American manufactured railroad iron of equal qualities shall be offered to the said contracting party, which, including all items of cost of manufacture, sale, and delivery, shall not exceed the like cost of such iron obtained from foreign countries, the American manufactured iron shall be preferred and used by said contracting party."

It was intended by the committee, I know, that the quality should be brought into consideration as well as the price.

Mr. FOSTER. That is true, Mr. President; but still it does not provide that the contractors shall take the best iron. Quality, it is true, is spoken of in the bill; but there is no requirement that the best iron shall be taken. If that were so, and the contractors were bound to take the best iron, then, I think, there would be protection in the clause; but as it now is, as I suggested before, I think there is not the slightest.

But besides, on this subject of quality, there is in the United States no railroad iron manufactured of a quality so poor as a good deal that is brought from abroad; and, of course, the price of that would be cheaper than any American railroad iron, because we have none so poor. There is no restriction but that the cheapest iron may be bought; and in that state of things, iron could be imported that would not enter into competition at all with the home market if like quality was to be the rule. As it regards any embarrassment to the work in consequence of our not producing enough to make this road, I think that is an imaginary danger based on no real foundation. Why, sir, it would take, I suppose, from two hundred thousand to three hundred thousand tons, probably, to make this road, reckoning one hundred tons to the mile. We have made in this country more than a hundred and fifty thousand tons in a single year, and can make greatly more than that. We can make enough in one year to build the whole road. There can be no possible embarrassment to the work, either in delaying it or in the price paid for the iron, if the amendment be adopted. I ask for the yeas and nays on its adoption.

The yeas and nays were ordered.

Mr. SEWARD. Mr. President, when this bill was under consideration in the committee, this question of giving an opportunity to American manufacturers to supply the iron, was debated at some length, and with a sincere desire, I think, on the part of the committee, to secure the benefit of the employment of American mechanics and manufacturers in furnishing the materials for this road. I thought at the time that the provision contained in the bill would answer that purpose. I think I drew it myself, and I supposed that it would probably secure the use of American material for the rails. I am very desirous to secure that object now; and I see no objection to the amendment of the honorable Senator from Connecticut, and shall vote for it with great pleasure if it is thought by the friends of that interest that it will be more effective in securing this object.

But I should like to know beforehand, from the Senators from Pennsylvania, or Maryland, or New Jersey, who are more familiar with the manufacture of iron than I am, why it is that we are unable in this country to produce a quality of iron

suitable for railroads which is not thought by railroad contractors, and by those who build railroads, too superior to be used? I very well understand the fact that foreign iron is preferred to American iron, because it is cheaper; and that the English iron so preferred is inferior in quality; and yet I do not know why it is that American manufacturers cannot produce any quality of any requisite goodness and sufficiency to make it demanded at their hands. I should like to know from the Senator from Pennsylvania, [Mr. BIGLER,] if he will inform me, whether it is possible under this provision in the bill to secure a supply of such iron as is wanted—poor, if poor iron is to be had? Perhaps the Senator from Pennsylvania will enlighten me on the subject.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. SIMMONS. Before I vote on this proposition, I should like to say a word. Perhaps the Senator from Pennsylvania did not hear the appeal made to him to give the Senate information as to the quality of railroad iron manufactured in this country. I have been told, I think, by the Senator from Pennsylvania, that in the trial of the rails upon the Central road, in Pennsylvania, which is all made of American iron, it has been found that the wear of that road does not exceed one tenth annually of the wear of common English rails.

The Senator from New York asks us why we cannot make the poor rails? I was inclined to vote for this amendment for the purpose of keeping poor rails off this road, and thus prevent accidents. Would any one like to have a national road made with rails so poor that a man would have to give seventy-five per cent. to insure the safety of his neck in going over it? [Laughter.] It is this cheap, poor stuff that has ruined the country, and broken the necks of more men than all other causes of accident put together. A late Senator from Missouri showed me, when I was here on business some six or eight years ago, a sample of iron ore he had with him; and he told me that in making some railroad in Missouri, they had graded the road with this ore, which had sixty or seventy per cent. of pure metal in it; and after grading the road with ore, in the neighborhood of coal beds, they had laid the road with English iron for rails! I have no purpose to complain of anybody's making a road, if it is made by private capital, with just such material as they please, provided they have it strong enough not to break people's necks who travel over it; but here we are going to make a road at the expense of the nation—for no man will pretend, however ingeniously the provisions of the bill may be drawn, that this road is to be built by private enterprise, or private capital. There are, to be sure, some provisions in it that you shall pay double the rate of interest on that capital that you could hire the money for yourselves to build the road; for you cannot get a railroad man to invest money in a railroad upon any such probable return of profits, as we can hire money for upon the bonds of the United States. That, I suppose, everybody will admit.

But, aside from that consideration, I believe that upon a route of this extent, away from places convenient for repairs, it would be cheaper, and a matter of real economy, to pay double price originally for the rails, so as to have them of the most superior kind of iron than it would be to use poor rails, where, if a rail broke, or a car broke, you would have to go a thousand miles to find a place where civilization had reared machine-shops to make repairs. It is a very different thing to build a railroad through a desert two thousand miles without any means for repairs, from what it is to build it where you have a machine-shop every day within half an hour of you. As a matter of mere economy and safety, the very best railroad iron should be laid upon these distant routes. I have no doubt, myself, that a contract of this magnitude would furnish a competition to supply such a contract as would produce the iron at the lowest possible cost of production. There is no doubt about it. If three hundred thousand tons of railroad iron is the amount to be used, the contractors, whether they be the Government or anybody else, would be able to get rails of the best quality at the lowest possible cost that could be afforded. A good quality of railroad iron should be secured at all events, let it cost what it would.

As to making poor iron, I know the Senator from New York does not want to use it. He does not mean to encourage making poor iron, but he would have the best article that could be produced in this or any other country for such a purpose; and it is a fact well known, as I am told by those experienced in railroad building, that the rails sent to America for railroads are the very poorest description of rails that are made in Wales. Better qualities are laid down in England, as I am told, and the poorer qualities are sent here. It is worse to lay poor railroad iron, on any road, than it would be to buy Peter Pindar's razor, that was made merely to sell. That would not do anything; you could not shave with it; but to build railroads with poor iron, is putting at hazard the lives of men in a way that there is no apology for, and in a district of our country, away from civilization, as this will be for years. Some Senators have said there is a desert of five or six hundred miles to cross; it will be impossible to provide convenient places for repairs; and it should be made a great deal better than any railroad that has ever been made, as to all chances of accident by breakage of cars and everything of that sort. I shall very cheerfully vote for the amendment.

Mr. CLINGMAN. Mr. President, in this connection, I should like to ask the Senator from New York a question. Some years ago the subject was under discussion in Congress, and I was then informed that on the Erie railroad, which was made, perhaps wholly or in part, out of American iron, there were found to be some very bad and very brittle rails. I know that was admitted in the discussion in the other House. I should like to ask the gentleman from New York whether that is the fact or not, and whether there was not a good deal of breakage of the Erie rails—those that were made in American furnaces?

Mr. SEWARD. I can only answer that I have no knowledge of that fact. It did not happen to fall within the range of my observation or hearsay.

Mr. CLINGMAN. If it be true, and I have no doubt it is, it merely proves that in the United States we can have bad iron made, as well as good. I understand there has been some very bad iron made in this country for railroad purposes. My object, Mr. President, in rising, was to call attention to this circumstance with reference to the general argument of the Senator from Rhode Island, who says that it will not do to make bad iron, that the British manufacturers have sent us bad iron here, and therefore we ought to regulate it. We might with as much propriety expect to regulate, by legislation, the sale of bad shoes. A gentleman told me the other day that he had bought some shoes made up in New England, perhaps in the Senator's own State, that did not last a week. People buy them because they are cheap; but they last a very little while. Everybody understands that. So it is with railroad companies. If you go to Wales and buy the cheapest iron, you will get an inferior article; if you give a higher price, you will get the best English iron, which is about, perhaps, equal to our own iron. The company has the discretion to buy the best iron. If it be true, therefore, as the Senator from Rhode Island argues, that American iron will last ten times as long as English iron, why not leave this company to find out that fact?

As we are called upon now to advance money out of the Treasury to build this road, and as we are called upon to give public lands to effect that object, would it not be cheaper and better for all parties to release the company from the tax on iron which they will have to pay if they bring it from abroad—the import tax? It is said it will take three hundred thousand tons to make this road. Well, ten dollars a ton on that—and I suppose the present duty is about that; I have not inquired about the price of iron lately—would be \$3,000,000. Is it a wise policy with us to impose a tax of \$3,000,000 on this iron, and then pay them back sums of money or give them lands? I am perfectly willing if all imports are taxed, and you have no free list, that those engaged in making railroads shall pay their share of the public taxes; but if you have a free list, and things that are to be used by manufacturing companies are to come in free, why not let those who are manufacturing railroads have the iron free of duty, especially on a road which we are called upon to build in part?

Now, I submit to Senators whether there is any policy in putting our hands into the pockets of these people, if they find it more advantageous to import foreign iron, and making them pay a heavy tax, and then drawing the money out of the Treasury and returning it to them, or giving them lands in lieu of it. I have been of the opinion for a long while, that if there was any one article which it was important to make free, it was railroad iron. It is conceded on all hands that the foreign iron is cheaper. I put the question to members from Pennsylvania, who were making arguments in favor of an additional tax upon iron, and they admitted the fact at that time—it may have been changed since—that the railroads which went up directly to their furnaces, and were employed in transporting their iron to market, were laid down with foreign iron. Well, if in Pennsylvania, where they are making iron, and where they are always so clamorous for taxes on the agriculture of the country, they think proper to use foreign iron, why should not everybody else be allowed to use it? I would not advocate this policy if you proposed to tax everything; but if raw materials used by manufacturers are to be free, why not let the raw material that is used in making railroads be free?

The Senator from Connecticut said this morning that the English had reduced the price of their iron in order to break down our establishments. I should like to know how much that reduction is. Can the Senator inform me whether it is ten, or twenty dollars a ton, or what amount? Has he any data on this subject? What reduction, in other words, on English iron, has to be made to enable them to underwork our establishments and break them down?

Mr. FOSTER. The English newspaper from which I read, stated it at two pounds per ton.

Mr. CLINGMAN. That is about ten dollars. Well, in England they are making, I think, about four million tons at this time. I know that three or four years ago they were making three million tons, and that branch of industry has increased very rapidly. Ten dollars on four million tons is \$40,000,000. If these English manufacturers are willing to lose \$40,000,000 a year to break down the few establishments in the United States, for we are not making a great many rails in this country, I think it shows that they have very little judgment, and we ought to be able to compete with such people. But really, does any man believe it? Is it not a perfect absurdity? Why, sir, some years ago, a gentleman made this argument, and upon calculation I then found, taking his own statements from his printed speech, that to break down three furnaces, (for I believe at that time it was conceded there were but three furnaces in the United States that were making rails, and they were making from eighteen thousand to twenty thousand tons,) the British manufacturers were actually spending \$30,000,000 a year in losses on their iron! Does anybody believe that? Does any one suppose that business men, common sense men, would do such a thing? You might just as well argue that the American cotton-planters had put down the price of cotton in this country to break down the little establishments in Algeria.

This branch of industry is going on in England. I have no doubt they get the best prices they can. It is very easy to explain why it is they underwork us. We have got plenty of ore, plenty of coal. We have advantages in that respect; but labor is cheaper with them. According to the statements which the iron conventions have sent us from time to time, they say that nine tenths of the cost of making iron is labor; that there is only about one tenth in the value of the materials used. If that be the case, we never can work on as cheap terms as they do, unless we put down the price of labor, and nobody is in favor of that. We have to give in this country about a dollar a day for the same labor that they would get for, perhaps, twenty-five cents a day, and of course they will continue to underwork us. This question presents itself: shall we avail ourselves of these cheap rails to make our roads, that benefit the whole country and get our produce to market, or shall we refuse to do it? Would it be reasonable in the people of Great Britain to refuse to take our cotton at ten cents a pound, and try to get cotton elsewhere at twenty cents, in small quantities? Nobody will pretend that it would be. Why shall

we not make use of this wisdom? As to the idea of what is raw material, and what is not, there is nothing in the world in it. Coal is raw material, and so is iron ore, to the maker of pig metal, and then pig metal is raw material to the maker of bar iron, and bar iron is raw material to the blacksmith, who wants to work it up, and the plows and hoes he makes, the farmer might consider his raw material—instruments to work out his crop—things that are used by him in getting the crop; and the rails are a part of the raw material that the railroad makers made use of in constructing railroads. I think, therefore, there is no reason upon earth for any such distinction.

I did not mean, however, Mr. President, to be drawn into any general argument on this question; but I wanted some gentleman who has examined the bill to move a distinct proposition to allow this railroad company to get the iron where they can get it cheapest, and import it free of any tax. I think it is a far more sensible policy to do that, than to impose taxes upon them, and then burdens on the rest of the community. I know there is complaint that there was a pressure last year, that the times are hard, and that something must be done for the manufacturers. That is an old story, sir. The times are just as hard on the agriculturists as upon the manufacturers. Why tax them when their produce is liable to fall? American labor is to be protected, it is said. All those people who make crops in the sunshine are laborers. Why impose a tax on them?

I have no doubt that the iron business is profitable to this country, and it will go on. A Senator from Pennsylvania [Mr. CAMERON] asked the other day, if the three hundred and fifty thousand men who were engaged in the manufacture of iron should all stop work, what would be the condition of the country? Now, suppose that the three and a half million of agriculturists should all stop work, what would be our condition? Men continue farming and planting, because it is the best thing they can do. Others continue to make iron, because it is the best thing they can do. The Government, I hold, is equally bound to protect all of them. I say this much to indicate my views of our revenue policy, for I fear there is to be an attempt to impose a protective tariff on the country again above the wants of the Treasury, for high duties so far from helping the Treasury, as every body knows, are calculated, and, in fact, notoriously intended, to prevent the collection of the revenue. It is said, however, by some gentlemen; that when you impose a tax, you must impose it so that the manufacturers may derive some advantage. That is a popular argument; but when you examine it, what does it amount to? Simply this, that if you impose a tax on the people to support the Government, the manufacturers come in and say "we must have some too; we are not willing that the people shall pay you to support the Government unless we get a draw." That, reduced to its simplest form, is about the amount of the argument. Everybody knows that by imposing a duty on articles that are not made in this country, you get the revenue at a less cost to the consumers. I will not, however, Mr. President, trouble the Senate further.

Mr. SEWARD. Mr. President, I certainly shall not go into an argument on the tariff and the revenue system of the country on this bill, because it is enough now to get this measure through, and it will be hard enough, I am afraid, to get a good revenue system through. Every part of the railroad which is the subject of this bill, will lie within the Territories of the United States, not within any of the States. It will lie within Territories which are in the far west, the nearest one adjoining the border of the State of Missouri. It is very clear, therefore, that the iron which will be used, if it be American iron, will probably be drawn from the western States, most likely from Missouri, or from Texas, or from the Territories themselves through which the road is to pass.

I had supposed that when you came to consider the expense of transportation across the Atlantic, and the expense of transportation inland, upon foreign iron, these expenses would be so large that they would probably render it impossible for the foreign manufacturer to compete with the American manufacturers, in the vicinity of this road, for furnishing the rails. When my honorable friend from Rhode Island rose, I expected

that he would answer the question which I put in all good faith and sincerity, of what was the difficulty on the part of the American manufacturer in making iron, of any kind, or of any description, which might be required, in competition with the English iron; but, although he said everything else, he failed to answer that question—the first time I have ever known him to fail in doing any reasonable thing in the world. I suppose, probably, that the reason why the English manufacturer can make poor iron cheaper than the American manufacturer can, is that he will take poorer pay, and he takes the bonds and the credit of American railroad companies, which improve in value by the distance which they travel, while the American manufacturer, having smaller capital, requires prompter pay.

I think, Mr. President, that it is a reproach against this country, that a railroad should ever be made with foreign iron, over American native iron beds and ore beds and coal beds. I am sincerely desirous that this great work shall be carried on, and completed not only with American iron, because it is an American institution, but also for the very reason which the honorable Senator from Rhode Island states so explicitly, and so cogently, and that is, that in doing so, you get better iron. If I had known any way in which I could have put a condition into this bill, as to the quality of the iron to be employed, so as to secure the best kind, and the safest rails, I should have done so, at whatever cost or hazard; because I think it is important, above all things, that the road when built, shall be well and permanently built.

The honorable Senator from North Carolina asked me whether some inferior iron had not been used upon the New York and Erie railroad? I answered truly that I had never heard that fact. I have no reason to believe that it is so; because, according to my recollection, there has never been any accident or disaster on that road resulting from the quality of the rails which were used. Certainly, if it was so, it is an exception to the generally admitted and established fact, that American railroad iron, professing to be, or supposed to be, of the same quality, is superior to the iron which is imported from Europe. I did not know, until the honorable Senator from Rhode Island stated it, that the iron which they use for railroads in England is better than ours; they send an inferior quality here. If that be so, it will be a great protection to this whole country, if we shall, in this bill, provide for good iron; and, to secure that object, provide for having it made of American iron. Therefore, I shall go, with the greatest pleasure in the world, for the amendment of my honorable friend from Connecticut, which I think a very judicious and proper one.

Mr. SIMMONS. I will explain to the Senator from New York the reason why I did not answer the question he put to me as to the reason why we cannot make poor iron in this country. As I said, I did not suppose that he made that inquiry of me with a view of buying poor iron; and therefore thought there was no reason for going into the matter. I do not believe you can find an American cutlery establishment that makes razors merely for the purpose of selling them; they make them to be used. So they make iron here, as I understand, of good quality, so that, by the maker being known, and the railroad-builders having an experience in the wear of the iron, they can get a second contract.

Mr. SEWARD. I suppose they want to establish a reputation for the article.

Mr. SIMMONS. Yes, sir. I am not particularly acquainted with the making of railroad iron; but in conversation with some railroad ironmasters in Pennsylvania, as I came through, they stated to me that the great Pennsylvania Central Railroad had been laid entirely with American iron, and that notice had been taken of the wear and tear of it compared with some foreign iron laid in small parcels for the purpose of trying the experiment, and that the wear of the American iron turned out to be only one fifth, or perhaps one tenth, that of the foreign article. Certainly there was a very great disparity between the wear of the two descriptions of iron.

I have heard nobody suggest any reply to the reason—I merely stated it—why we ought particularly to guard this bill so as to have good iron, and I made those suggestions, which happened to

come into my mind at the time. This road is to go through a desert country, away from civilization, without the common means which are on other railroads to repair the road or the cars when an accident happens; and that would be a controlling consideration, if there were none other. But the Senator from North Carolina has gone into a very minute calculation, to show how much it would cost England to break down the iron works of this country. I thought the Senator from Connecticut suggested in his remarks, the reason why they could afford to sacrifice a portion of the cost of railroad iron, or any other product that they had in excess of the wants of their own country, to accomplish such a purpose. As he stated, if there is an over-production in England, of iron, or any other article, they will ship that surplus here rather than break down the price at home, because it gets off, where the evil effect of sacrificing the product will fall on other producers, and not theirs. That is the reason why they send it here. It is suggested that one reason why we get such poor iron is, that we give poor pay; and I admit that the pay is as poor as the iron; but I trust, that, if we are going to build this road with five per cent. bonds of the United States, the pay will be about as good as any iron in it, however well we guard it. I believe these bonds will bring the gold at a premium. I do not believe, then, that there is any excuse for buying poor iron for this road. We mean to pay well—to pay in good paper, and, therefore, we should have a good article.

The Senator from North Carolina, on reflection, I think will appreciate the reason why the surplus products of other countries are sent here. This is the best country in the world to sell in; and he has given the reason for that. It is because the laborers in this country are the best paid of any in the world, and they can afford to pay better than those of other countries. But the Senator says, that if people in England work at one fourth what they do here, common sense would teach us to employ them instead of our own people. What would be the effect of doing that? The effect would be, that we must necessarily reduce the price of wages here to the standard in England. People cannot live without labor anywhere.

Mr. CLINGMAN. The Senator misunderstands me in that respect, and I hope he will allow me to correct him.

Mr. SIMMONS. Certainly.

Mr. CLINGMAN. What I do say is this: that if in any particular branch of labor, like that of making iron rails, we cannot compete with them, we had better take their iron, and let these laborers go into something else where they can make fair wages. I remarked that in this country, men expect to have a dollar a day; and they get it in many branches of business. Let them follow those, and we can avail ourselves of the cheap labor of others in other respects.

Mr. SIMMONS. I was coming to that as fast as I could step along. If you transfer the labor employed in the iron-mills to some other pursuit, what will be its effect? Will there not be more labor offered in that other pursuit than is needed, and will you not thus break down the price of labor in that pursuit, and so on with all pursuits? We have labor enough to produce these articles for ourselves, and we should do so.

But the Senator says we are taxing other classes of men to maintain the makers of railroad iron. The truth is, if he will look at the statistics from which he has got that notion, he will find that the very effect of breaking down the ironmasters has been to prostrate the prices of all the agricultural products of the country, for the simple reason that the people, who were before consumers, have nothing to buy with. Look at the report of the Secretary of the Treasury, and he shows you a list of all the leading products of agriculture that have fallen twenty-four per cent. during the time this branch of industry, and others, have been entirely prostrated; and that is the reason of it. He says this is a hard time to tax the agriculturists of the country, when the prices of their products have fallen one fourth during the revulsion; but let him look at the cause why they have fallen. The cause is, that there is nobody to buy their products; the labor employed in other pursuits is unable to purchase them; and, therefore, their products languish upon the market, and fall in price. Revive the business of these other depart-

ments and you will revive the market for this produce; and that is the only practicable way that you can have anything inure to the benefit of the producers of agricultural products. That is the true history of it.

But I do not mean to enter into the discussion of the general tariff policy. I wish, however, to urge this matter upon the friends of this bill. I have been an ardent friend of this communication with our Pacific possessions ever since we have had any. The first railroad to the Pacific was suggested when I was in the Senate fifteen years ago. The Post Office Committee reported then in favor of a communication of this sort before we had California, in order to reach Oregon. I hold that this is a great national work; that it ought to be built at the national expense; that it cannot be built by private enterprise. These schemes, in my deliberate judgment, will not answer to make an efficient system of communication; but I will try them if their friends have matured them. When they have got their plans matured, I will select the best. But whatever plan may be selected, whether the work is to be controlled by private enterprise or private capital, or is to be constructed by national means furnished by the Government, I insist upon it, that every guard shall be placed on this bill to secure the best material. There should be no risk of accidents if it can possibly be avoided. In my deliberate judgment, the best is the cheapest in the end; and therefore, without further troubling the Senate on any of these general views of commercial policy or revenue system, I think the single fact that we are to build a road nearly three thousand miles long, all the way without any settlements that have become sufficient to make States, should induce men who are opposed to anything like protection to favor a proposition like this, which will afford some security.

I do not call this protection; I have long ceased to think it was necessary to have what were formerly called protective duties; but I would give, in any general bill for revenue, encouragement to all branches of industry; but in this case in particular, I would give protection to the lives of the people who are to travel over the road, by insuring the best kind of iron, regardless of a few dollars' cost per ton.

Anybody who will turn it over in his mind will see that an accident befalling a railroad car in the center of this desert, by the breaking of a rail, if it did not kill anybody, would leave the passengers in danger of starving before they could reach a place to make repairs. Every precaution should be taken to prevent accidents. Suppose that fifteen hundred miles from the borders of Missouri a railroad train should be overturned by a rail breaking; where are you to go to get repairs? It would be almost impossible to run a road for such a distance on foreign rails without the repeated accidents that we have on some of the recent roads. If there is any question about the superior character of our railroad iron, the matter ought to be delayed until we can ascertain, in point of fact, from the experiment already tried on the Pennsylvania Central railroad, how much this iron is superior; I believe it is generally admitted to be superior; I believe the Senator from North Carolina admits it to be superior. As a general rule, American iron is vastly superior to the iron that is imported.

Mr. CLINGMAN. I understand that they make first-rate iron in England; but as that bears a higher price, those who purchase generally get the inferior, and we pay for it very frequently in bonds which the companies here will not take, and sometimes the bonds are not better than the iron they are used to pay for.

Mr. SIMMONS. I hope that the Senate will wait until the result of these experiments can be ascertained, unless they are ready to adopt this amendment.

Mr. BIGLER. I had intended, Mr. President, to make some remarks to-day on this general subject; but finding myself suffering severely from pain in the head, I shall not proceed. I must, however, say a few words in reference to the amendment under consideration. I think there is no diversity of opinion amongst experienced railroad men on this question. I think they agree that the American iron is much superior to the foreign. The Pennsylvania railroad is built almost exclusively with American iron,

and I understand the experience to be that it wears at the rate of more than one per cent. per annum better than the foreign iron. A more striking case could not, perhaps, be found, than is presented in the experience of the Pennsylvania railroad, and that of the Baltimore and Ohio railroad. I have not the particular facts at hand, but they are said to be almost incredible as to the striking difference between the durability of the iron in these two roads, the latter being constructed of foreign iron, and being much the most perishable.

I think that the Senator from New York [Mr. SEWARD] has taken the safe view of this subject—the strong, practical view; and I agree with him that it matters little what the terms of this bill may be, the railroad will be constructed of American iron, as it ought to be. It will be constructed of American iron, because the capitalists who will engage in the construction of this work will go about it like far-seeing business men. They will consider the interests of the enterprise in which they are engaged, and they will consider the quality of the iron as much as the price. In fact, it enters into the real value of the article. If the American iron will last much longer than the foreign, no man of sense will pay the same price for the latter. Then there is, in addition, the inland freight to the eastern terminus of the proposed road, which, in itself, would amount to a very considerable rate of duty; and, most undoubtedly, I may assume that railroad iron establishments will be put into operation as near the vicinity of this road as practicable. There is no difficulty whatever in establishing works of this kind in the State of Missouri, along the banks of the Missouri river, with every facility of production and transportation. I can speak on this subject freely, without being liable to the charge of selfishness, because I cannot see that my constituents are very directly interested. I should think it very singular if, in the course of ten or twelve years, which would be required to construct this great improvement, iron establishments should not be brought into existence in the western States which would exclude those in the Atlantic. I take it, sir, you would find the iron supplied by different establishments along the line of this great improvement as it may progress, and that the foreign article will not, as it never should, be used.

Sir, I have no partialities or prejudices on a subject of this kind. I am perfectly prepared to treat it as a broad business question; but, at the same time, I am free to say that I am anxious to secure the construction of this great work of American material. With an abundance of raw material in the very vicinity of its eastern terminus; with every facility possessed by any other country; with greater enterprise and higher skill than are to be found elsewhere, why should it not be so? Why should we import an article which is so abundant in our own country, and which, it is admitted, is produced here of superior quality? I am willing to put this bill in quite as strong terms as those suggested by the Senator from Connecticut to secure this end; not that I would throw an obstacle in the way of this great enterprise for a moment, for I am its friend; nor that I would be willing to assert a selfish or contracted principle; but because I believe the policy right, and, at the same time, it would not at all interfere with the enterprise. This road will be better built, it will be more cheaply constructed, when made of American, than of any other iron; at least, such is my deliberate judgment.

I should, under other circumstances, take up the details of the experience that we have had on this subject; but, as I remarked before, I have suffered so intensely this morning that I find myself unable to proceed. Certainly, I am safe in saying that, amongst experienced railroad men and iron men, there is now no difference of opinion as to the superior character of American iron. They all agree that the American article is better than the foreign; and I think we should agree, however much we may differ on the tariff question, that, if we should seek to secure the use of the American article in any improvement, it should be in this. The Pacific railroad is to be a work not only national in its character, but it is necessarily to receive its aid and countenance from the Government at Washington alone. It is more especially to represent the Government and the people of the United States than any other im-

provement which has been or ever can be made. I would have it of American material, because I believe it would be best; it would be cheapest; it would be more durable; and I think such a course would be more consistent with the feelings of the American people. I have no contracted notions, as you are aware, sir, on the subject of using foreign products. I have no disposition whatever to insist upon a selfish principle; but, in this instance, I think it would be well to secure the construction of this great national work with American iron. This policy will, I am confident, throw no embarrassments in its way, nor in any way impede the progress of the work, or enhance its cost to the owners.

Mr. IVERSON. I propose to say a few words on this amendment. The committee who reported this bill gave the preference in the use of the iron by which this road is to be constructed to American iron of the same quality and cost as foreign railroad iron; but the Senator from Connecticut and his friends are not satisfied with that. They demand now that there shall be a positive and unqualified obligation on the part of the constructors of this road to use American iron at any cost, no matter what that may be. Now, sir, according to the provisions of this bill, those who construct this road will have to take American iron of the same cost and same quality over any foreign iron which may be imported. The present duty on iron is thirty per cent. The consequence is, that the constructors of this road will have to pay thirty per cent. to the American manufacturer more than they would have to give for the vast amount of iron that will be necessary to construct this road, if they were allowed to go to Europe and purchase the iron there free of duty. The average distance of this road is, I understand, about two thousand miles. At about sixty pounds to the lineal yard, it would take one hundred and twenty tons of iron for each mile. This bill prescribes that the iron shall weigh seventy-five pounds to the yard. It would therefore take probably one hundred and forty or one hundred and fifty tons of iron to the mile to construct this road. But, at the low estimate of one hundred tons, which is as low as could possibly be made, it will require two hundred thousand tons of iron to construct the road on a single track, to say nothing of the turnouts and the branches.

Now, sir, at the present rate of duty, or premium, which American ironmongers have by the operation of the present tariff, they get a benefit of about fifteen dollars per ton; the iron costing originally about forty dollars a ton, I think; that being about the average cost of English iron. To that is to be added thirty per cent. duty, making twelve dollars. The cost and charges being added would make a difference of about fifteen dollars a ton. That is the advantage which the American ironmonger has now over the foreign manufacturer. At fifteen dollars a ton on the two hundred thousand tons, it would make the constructors of this road pay to the American manufacturers \$3,000,000 more than they would have to give if they had not to pay thirty per cent. on the importation of foreign iron.

But that, it seems, is not enough; the amendment of the Senator from Connecticut proposes that the constructors of this road shall be compelled to buy the American iron, no matter at what cost. That would put it in the power of the large American manufacturers, by combination, to put up the price of their iron to any sum they chose to demand of the constructors of this road. Two hundred and fifty thousand tons of iron is no small amount to manufacture, and no persons could supply it except the large manufacturers, and by a concert of action they could make the company which proposes to construct this road pay any price they chose to demand, over and above the fifteen dollars per ton advantage which they would have by the operation of our present tariff. If by a combination of this sort they make the constructors of this road pay only ten dollars additional price for each ton, that would make a difference of \$2,000,000 more, which, added to the \$3,000,000, the result of the tariff, would make \$5,000,000, which whoever constructed this road would have to pay for the benefit of the Pennsylvania manufacturers of iron. That is the long and short of it.

Now, if the company that is to build this road were foreign capitalists, if it was to be built of

foreign capital and by foreign people, and the benefits were to inure to foreigners, then there might be some plausibility in demanding of them this very large contribution to the patriotism of the iron manufacturers of this country. Although it would be unjust, in my opinion, still we might, perhaps, be excused, in that contingency, for committing so great an outrage on the sense of justice of every honorable man in the country, by compelling the persons who construct this road to contribute \$5,000,000 for the benefit of the manufacturers of this country. But, sir, I wish you to remember that this road, if constructed at all, is to be constructed of domestic capital, is to inure to the benefit of our own people. Americans are to construct this road, in all probability, out of their own capital, for their own benefit. Then the proposition is to compel one company of American people to contribute at least \$5,000,000 for the benefit of northern manufacturers. Is there any justice or propriety in that? You propose to compel this company to buy their iron where these gentlemen desire, to restrict their purchases to American iron, and thereby to contribute the large sum of \$5,000,000, to take it out of the pockets of one set of American capitalists and put it into the pockets of another set of American capitalists.

Sir, I hold that that is unjust. It is wrong in principle; and it is wrong in policy; because the construction of this road is no small matter at best. The amounts which have been estimated for it, I think, range from eighty to two hundred million dollars. Not one of the routes can be constructed for less than \$80,000,000. When you add \$5,000,000 to the cost of construction, you at least throw that much more obstacle in the way of its being constructed. Is it politic that we should throw this embarrassment in the way? No, sir. Let us remove everything we can, let us take off every burden and restriction. With the Senator from North Carolina, I think it would be good policy, in order to secure the construction of this road, not only to leave the contractors free to buy iron wherever they thought proper to buy it, but to take off the thirty per cent. duty laid by the tariff, so that they might buy their iron for the smallest possible price. This would be a large encouragement to the construction of the road. It is very doubtful whether this road will be constructed under any circumstances; and surely the prospect of its construction will be lessened by the imposition of the burdens which the Senators on the other side propose to inflict upon it.

Now, sir, so far as regards the comparative value of American and English iron, I do not think there is a very great difference. I am not very familiar with these statistics; but two years ago, a very distinguished Pennsylvanian who was here, the president of a very important railroad in that State, a gentleman who was here as the representative of the iron interest and the railroad interest of that State, endeavoring to prevent a reduction of the duties on iron—I allude to Mr. Chambers, of Philadelphia—who, I suppose, is probably known to the Senator from Pennsylvania told me that the experiments proved this: that when American iron would last thirteen years, English iron of the same price would last only about ten or eleven years. That is the difference between them. The ratio is as ten or eleven is to thirteen.

I think, sir, the bill goes far enough when it compels the contractors to use American iron, when they can get it as cheap and as good as they can get the foreign material. That seems to me to be quite sufficient. Let it be left to their own sense of propriety and economy. If the American iron of the same cost is better than the English iron, they will not hesitate to buy the American iron. This bill goes far enough when it says, that between two materials of the same cost, and the same quality, they shall be compelled to discriminate in favor of American iron; and I object to a policy which would confine them to American iron, and compel them to take up with the exorbitant combinations and extortions of the American manufacturers. That must necessarily be the result if the amendment of the Senator from Connecticut prevails.

The question being taken by yeas and nays, resulted—yeas 25, nays 23; as follows:

YEAS—Messrs. Allen, Bigler, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Fessenden, Foot, Fos-

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THIRTY-FIFTH CONGRESS, 2D SESSION.

WEDNESDAY, DECEMBER 22, 1858.

NEW SERIES....No. 10.

ter, Hale, Harlan, Houston, Kennedy, King, Seward, Simmons, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, and Wright—25.

NAYS—Messrs. Bates, Bright, Clay, Clingman, Davis, Durkee, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Reid, Rice, Sebastian, Stuart, and Ward—23.

So the amendment was adopted.

Mr. WARD. Would it be in order now to offer an amendment to the bill?

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Chair would inform the Senator that an amendment is now pending, and therefore his proposition would not be in order at this time. The amendment now before the Senate is one submitted by the Senator from Connecticut, [Mr. FOSTER;] which is, in section ten, line sixteen, after the word "yard" to insert "or such other track as the President shall decide to be equivalent thereto in strength and security;" so as to make the section read:

With rails of the best quality, weighing not less than seventy-five pounds to the yard, or such other track as the President shall decide to be equivalent thereto in strength and security.

Mr. FOSTER. This amendment has reference to the weight of the iron. The bill, as it stands, requires the rails to weigh at least seventy-five pounds to the yard. The amendment provides that it may be that or such other track (that is, a rail of greater or lesser weight) as the President shall decide to be of equal security.

Mr. SEWARD. It seems to me the amendment does not express that idea. "Such other track" does not seem to have any reference to the weight of the iron in the track. Say "such other weight."

Mr. FOSTER. Perhaps "such other weight of rail" would be a better expression, and I modify my amendment in that way.

Mr. SEWARD. I suggest to the honorable Senator whether it would not be better to say "such greater weight." I do not want a railroad made of rails weighing less than seventy-five pounds to the yard.

Mr. FOSTER. There are rails of less weight, which, in the opinion of engineers, on a peculiar construction, are equally as safe, and indeed safer, than those weighing seventy-five pounds to the yard.

Mr. SEWARD. Very well.

Mr. FOSTER. There will be no danger, I apprehend, of the Executive selecting one of less weight, unless it shall be shown to be abundantly equal in strength and security. It seems to me it is desirable, in a bill of this sort, to avoid details as much as possible on a matter of this kind; that is, that we should not tie it up to any express, precise number of pounds.

The amendment was agreed to.

The PRESIDING OFFICER. There is another amendment—one offered by the Senator from Massachusetts, [Mr. WILSON;] in the ninth and tenth lines of the first section, to strike out the words "the most eligible route, reference being had to feasibility, shortness, and economy," and insert "the shortest practicable route between the parallels of latitude thirty-five and forty-two."

Mr. SEWARD. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. SEWARD. That is a very important amendment, and we shall not have time to discuss it to-day. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 20, 1858.

The House met at twelve o'clock, m. Prayer by Rev. T. W. GREER.

The Journal of Friday last was read and approved.

DISBURSEMENTS TO INDIANS.

The SPEAKER laid before the House a communication from the Secretary of the Interior,

transmitting accounts of all disbursements for the benefit of Indians during the fiscal year ending June 30, 1858; which was laid upon the table and ordered to be printed.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 342) for the relief of John Campbell;

An act (H. R. No. 318) recognizing the assignment on land warrant No. 35,956, issued to John Davis, as valid; and

An act (H. R. No. 302) to continue the office of register of the land office at Vincennes, Indiana.

CLAIM OF MASSACHUSETTS.

Mr. CHAFFEE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of making an appropriation to satisfy the claim of Massachusetts for advances for the United States in the war of 1812-15 with Great Britain, as audited by Hon. Joel R. Poinsett, late Secretary of War; said audit having been reported to the House December 23, 1837, and having been made under a resolution of Congress, approved May 14, 1835.

Mr. HUGHES. I call the attention of the gentleman from Massachusetts to the notice which I gave the other day, and under which I am constrained to object to his resolution.

Mr. CHAFFEE. I move a suspension of the rules to enable me to offer the resolution.

The SPEAKER. There is a motion already pending to suspend the rules.

THE EIGHTH CENSUS.

Mr. PHELPS, of Missouri. I believe there is a resolution now pending to suspend the rules for the introduction of a resolution. I desire to make a suggestion to the House. We are now approaching the holidays. From the suggestions made in conversation amongst members, it is probable that neither House of Congress will be in session next week. That, however, is a matter yet to be determined; but at any rate the House will not be in session more than two or three days. There is a special order, the pension bill, in the Committee of the Whole on the state of the Union, and no other business can be considered in that committee until the special order is disposed of. I am very desirous that the pension bill shall be disposed of, in order that we may act upon two of the appropriation bills, and take up the President's annual message this week. The bills I desire to have acted on, are the pension appropriation bill and the bill making appropriations for the support of the Military Academy for the next year. I presume they will give rise to little or no discussion, and may be passed before the holidays. The debate can then take place on the President's annual message. With a view of disposing of the special order, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. There is a motion to suspend the rules already pending. The gentleman from Indiana [Mr. HUGHES] moved, on Monday last, that the rules be suspended so as to enable him to introduce the following resolution, objection having been made to it:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to prepare and report a bill making appropriations for such necessary sum of money as may, in their judgment, be required for taking the eighth census of the United States, according to the provisions of the act of Congress approved May 23, 1850, entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States."

Mr. DAVIS, of Indiana. I desire to ask my colleague to modify his resolution somewhat, so as to make it a resolution of inquiry instead of a resolution of positive instruction.

Mr. HUGHES. I have no objection to that, sir.

The resolution was accordingly modified so as to read:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to inquire into the expediency of preparing and reporting a bill, &c.

The question was taken on the motion to suspend the rules; and, on a division, there were—ayes 97, noes 33.

So (two thirds voting in favor thereof) the rules were suspended.

The question recurred on the adoption of the resolution.

Mr. HUGHES. Mr. Speaker, I wish to submit a remark or two, but will not detain the House ten minutes. Before doing so, however, I desire to have the resolution again reported.

The Clerk again read the resolution. Mr. HUGHES. My object, Mr. Speaker, in presenting this resolution to the House, is to call the attention of the House to the state of the law providing for the taking of the census. If that law is to be pursued in the taking of the next census—and I think that it ought to be—it seems to me that it becomes the duty of this Congress to appropriate money for that purpose under the law.

If there is to be a change in the law, in order to give time, it ought to be made by this Congress, and a new law passed providing for the taking of the eighth census; for it is a matter that will require considerable time and elicit considerable discussion.

The act of 23d May, 1850, the title of which is recited in this resolution, provides not only for the taking of the last or seventh census, but for that of the eighth, or any subsequent census, in the absence of any new law for that purpose. The following in the section to which I refer:

"Sec. 23. And be it further enacted, That if no other law be passed providing for the taking of the eighth, or any subsequent, census of the United States, on or before the 1st day of January, of any year when, by the Constitution of the United States, any further enumeration of the inhabitants thereof is required to be taken, such census shall, in all things, be taken and completed according to the provisions of this act."

It seems to me, therefore, that we have a law now in force providing for the taking of the eighth census, which contains the forms of schedule and everything necessary for that purpose. All that is needed is an appropriation of money for carrying it out. I observe that the Secretary of the Interior asks an appropriation of \$15,000, preliminary to the taking of the next census; but that does not cover the expense of actually taking the census. The following is the recommendation of the Secretary of the Interior:

The Constitution provides that the actual enumeration of the inhabitants of the United States shall be taken at periods of every ten years, in such manner as shall be directed by law. The near approach of the period for taking the eighth census, makes it incumbent upon Congress at this session to provide the means necessary for the commencement of the work.

"The law approved May 23, 1850, providing for taking the seventh census, was drawn with great care, and it requires that if no other law shall be passed prior to the first day of January, 1850, superseding it, the Secretary of the Interior shall proceed to take the eighth census according to its provisions. The plan of the last census was devised by a census board of eminent men, and was the result of unusual preparation. It was reported to, and adopted by, Congress after the most searching scrutiny and careful amendment, and presented no feature which interposed any obstacle to its easy execution. Its schedules were full and comprehensive; by them we not only ascertained the number and character of our population, and the condition of agriculture, manufactures, and trade, but they also embraced within their scope the examination of many moral and social facts, illustrative of the intelligence, prosperity, and happiness of the people; the duration of life, and the causes of death. The value of these developments will be greatly enhanced by such uniformity in future censuses as will enable us to institute comparisons and exactly determine our progress, without which the results lose most of their significance and interest. Although the greatest precautions may have been exercised, it was impossible to execute so great a work for the first time without some imperfections, which the experience of the past, it is hoped, will enable the Department to prevent in the future. To change the schedules, or to enlarge or multiply them, will but tend to embarrass our officers, and throw suspicion upon the accuracy of the information obtained. With these views, I cannot do otherwise than recommend adherence to the law of May 23, 1850, in the belief that a census taken in accord-

ance with its provisions will afford the greatest amount of accurate information, and prove most satisfactory to the country.

My object in offering the resolution was merely to call the attention of the House to the facts which I have presented, and especially to the report of the Secretary of the Interior. I now propose to demand the previous question upon the passage of the resolution.

Mr. WHITELEY. I ask the gentleman from Indiana to withdraw the demand for the previous question, to permit me to offer a substitute for his resolution.

Mr. HUGHES. I have no objection to allow the gentleman from Delaware to get his amendment properly before the House. I will therefore withdraw the demand, asking the gentleman to renew it when he shall have offered his resolution.

Mr. WHITELEY. I move to amend by striking out all after the word "Resolved," and inserting as follows:

That the Committee of Ways and Means be directed to inquire into the propriety of reporting a bill repealing all the provisions of any law now existing for taking the census, except such as relate entirely and alone to the counting of the people.

I now demand the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. PHELPS, of Missouri. I would suggest to the gentleman from Delaware, that as his amendment relates to the repeal of a law, it should properly go to the Committee on the Judiciary. There seems to be an inconsistency between the original resolution and the substitute. The resolution of the gentleman from Indiana relates alone to making an appropriation, and goes, of course, to the Committee of Ways and Means; but the amendment involving no appropriation, but providing for repealing a law should go to the Committee on the Judiciary.

Mr. HOUSTON. If the gentleman from Delaware will modify his resolution so as to make it an addition instead of a substitute, the House may, perhaps, think proper to adopt both.

Mr. WHITELEY. I will modify it, then, so as to add to the resolution of the gentleman from Indiana, "and that they be directed further to inquire," &c.

Mr. KELSEY. Can that be done after the previous question has been ordered?

The SPEAKER. Only by unanimous consent.

Mr. MORGAN. I object.

Mr. JONES, of Tennessee. I think the amendment is right, and I call for the yeas and nays upon its adoption.

Mr. CHAFFEE. I think it is wrong, and hope it will not be adopted.

Mr. WASHBURN, of Maine. Is the amendment offered as a substitute or as an addition?

The SPEAKER. As a substitute.

Mr. BUFFINTON called for tellers upon the yeas and nays.

Mr. WHITELEY. Agreeing in the suggestion of the gentleman from Missouri, that my resolution should go to the Committee on the Judiciary, I withdraw it; and will offer it as a distinct proposition.

Mr. SHERMAN, of Ohio. I object to its withdrawal.

The SPEAKER. It can only be withdrawn by unanimous consent.

Tellers were ordered; and Messrs. CHAFFEE, and CRAIG of Missouri, were appointed.

The House divided; and the tellers reported—ayes 43, noes 76.

So the yeas and nays were ordered, (one fifth of a quorum voting in favor thereof.)

The question was taken; and it was decided in the negative—yeas 51, nays 140; as follows:

YEAS—Messrs. Atkins, Avery, Barksdale, Bocoock, Branch, Burnett, Caskey, Clay, Cobb, Cox, Burton, Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, Eustis, Foley, Foster, Garnett, Gartrell, Gilmer, Goode, Greenwood, Houston, Jackson, Jewett, George W. Jones, Kilgore, Lamar, Leiter, Letcher, Humphrey, Marshall, Maynard, Miles, Milson, Pendleton, Powell, Reagan, Scales, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, William Smith, Stallworth, Stephens, Stevenson, Trippie, and Whiteley—51.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Bennett, Billinghurst, Bingham, Bishop, Bliss, Brayton, Buffinton, Burlingame, Burns, Caruthers, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, John B. Clark, Clark B. Cochrane, Cockerill, Coffax, Comins, Corning, Covode, James Craige, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa,

Dawes, Dean, Dick, Dodd, Edie, English, Farnsworth, Fenton, Florence, Giddings, Gillis, Gilman, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Harris, Hatch, Hickman, Hoard, Hopkins, Horton, Howard, Hughes, Huyler, Jenkins, Owen Jones, Keim, Kellogg, Kelsey, Knapp, John C. Kunkel, Lawrence, Leach, Leidy, Lovejoy, Macay, Samuel S. Marshall, Mason, Miller, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Parker, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Ready, Reilly, Ricaud, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Savage, Scott, Searing, Seward, Shorter, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, George Taylor, Thompson, Tompkins, Underwood, Vallandigham, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—140.

So the substitute was rejected.

Pending the call,

Mr. BUFFINTON stated that his colleague [Mr. Gooch] had been called home by sickness in his family, and that he had paired off with Mr. STEVENSON, until the 3d of January.

Mr. CHAFFEE stated that Mr. THAYER was confined to his room in consequence of sickness.

Mr. GREENWOOD made a similar statement in reference to his colleague, Mr. WARREN.

Mr. SHAW, of North Carolina, made a similar statement in reference to his colleague, Mr. RUFFIN.

The question was then taken on the original resolution; and it was adopted.

Mr. HUGHES moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve into the Committee of the Whole on the state of the Union.

Mr. STANTON. I would inquire what the regular order of business is? Is it not the calling of States for bills and resolutions?

The SPEAKER. It would be in the absence of any other motion to suspend the rules.

Mr. STANTON. I do not think we shall have another day on which the States can be called for that purpose, and members have many bills and resolutions which they wish to introduce.

Mr. PHELPS, of Missouri. I wish to revert one moment to the condition of our business, in view of the probability of a recess of both Houses of Congress next week. It is desirable that this soldiers' bill should be disposed of, in order that we may be able to proceed to other business. Unless we go into committee, this day will be wasted, because any member who can get the floor may move to suspend the rules.

Objection was here interposed to any debate, as out of order.

The question was taken; and on a division there were—ayes 99, noes 77.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and resumed the consideration of the

OLD SOLDIERS' PENSION BILL.

The CHAIRMAN stated that the pending question was on the following amendment of the gentleman from Alabama, [Mr. COBB:]

In line nine, after the words 1812, insert:

"The Florida, and Creek, and Indian wars of 1836, 1837, and 1838, and the Mexican war of 1846, 1847, and 1848."

Mr. COBB. Is it now within my power to modify my amendment, so as to include "the Florida war of 1817?"

The CHAIRMAN. The gentleman can modify his amendment if there be no objection.

There was no objection; and the modification was made accordingly.

Mr. JONES, of Tennessee. I would suggest to the gentleman to modify it so as to include the Indian wars since the close of the war of 1812.

Mr. SMITH, of Illinois. I move to amend, by including those who served in the Black Hawk war of 1827, 1831, and 1832.

Mr. Chairman, I wish to say that it is not my purpose to trammel this bill; for I have been, from the earliest moment I have occupied a seat upon this floor, and so the history of this House will show, the friend and advocate of the old soldiers. If gentlemen will examine your Journals, they will find that years ago I offered a resolution call-

ing for an investigation by the proper committee into the expediency of giving to the old soldiers who served prior to 1812 the same pensions that were given to the soldiers of the revolutionary war. At a later day, I submitted a resolution instructing the Committee on Public Lands to provide for giving bounty land to these soldiers; and I simply call the attention of the House to these facts to show that it is through no new-born zeal with me that I stand by a bill giving pensions to the soldiers of the war of 1812.

Sir, for myself I care not what may be the condition of the Treasury. If the bill were just and right, and worthy of passage when the Treasury was overflowing, then it is just and right now, and ought now to be enacted into law. I do not consider that it is magnanimous in the American Congress to admit that these soldiers are entitled to bounty lands and pensions, and then to make the plea that, because the Treasury is not full, justice cannot be done. They periled their lives in time of trial, and we who come after them are now enjoying the blessings which they secured. We owe it to those soldiers and to their descendants to do them justice. I would be willing to take such a bill, indeed, as would acknowledge the principle, even though my amendment and the amendment of the gentleman from Alabama are not included; for, sir, if we pass such a pension bill, while it does not provide for all the cases which are just and right, it will show the disposition of Congress and the Government to do justice to the soldiers of the former wars of the country; and at another session, as we have done with the bounty land law, we can provide for all meritorious and just cases.

I have risen simply to say that I am for this bill. I am for such a bill as can pass. I have no local or sectional views in relation to it. I believe it is time that this Government should do justice to those patriots who have served their country in time of peril. I am, if it be the pleasure of the House, willing to withdraw my amendment.

Mr. COBB. I object.

Mr. WASHBURN, of Illinois. Do I understand my colleague as withdrawing his amendment?

Mr. SMITH, of Illinois. I have not withdrawn it.

Mr. JONES, of Tennessee. Mr. Chairman, it is the duty of this Government to provide for those who may become disabled from supporting themselves, by wounds, or disease contracted in the military service of the country; yet I do not think that it is either right or proper for this Government to inaugurate a system of general-service pensions. It has been, as I conceive, one of the settled principles of the Government to oppose a system of general-service pensions. It is said that this system was established by the act of 1832. It was contended, if I am not at fault, by the advocates of that law, that it could be no precedent; that such a case could never again arise in the history of this Government as that of the soldiers of the revolutionary war; and that, with them, the service-pension system would terminate.

But, sir, it is said that other countries and Governments—the Governments of Europe—pension their soldiers, after they have rendered military service. Who are the soldiers of the European Governments? Are they soldiers like ours, who fight and defend their own firesides, and for a Government in which they have part? No, sir, they are the paid hirelings of the sovereign, who fight his wars, and to maintain him in power. Here, the sovereigns themselves are the men who go to the battle-field to defend their homes, their firesides, and their altars. And I venture to say that there is not one man in the whole country, who rendered services for which provision is made in this bill, who for a moment contemplated, when he went into the service, that the time was ever to come when he should receive a pension because of that service. I have acted and coöperated with those who have been in favor of providing for the widows and orphans of those who have fallen in battle, or by disease contracted in the service. I think now that we might do much in revising our invalid-pension system. What is the pension you give to a widow who lost her husband in battle, or, after lingering years, by disease contracted in the military service of the

country? A pension of \$3 50 per month. Three dollars and fifty cents a month, when her husband had lost his life! And this bill, as it originally stood, proposed to give a full-pay pension for three months' service.

What, sir, is your revolutionary pension law now? The man who toiled in that Revolution, the man who fought in a doubtful cause, the man who fought to establish the independence that we now enjoy—what pension can he get for two years' service? He can only receive for two years' service a full-pay pension; and the full-pay pension of a private of infantry in the Revolution is only eighty dollars per annum. No revolutionary soldier now living, or who ever lived, can get a pension for his services unless he shall have proved and established the fact that he served six months during that war. When he has proved and established the fact of six months' service in the Revolution, under the act of 1832, the act now in force, he gets but the pitiful sum of twenty dollars a year; and if he proves twelve months' service, he gets but forty dollars a year. And now, by the vote of this committee, the man who has been in service ten days is to receive a full-pay pension!

Again, sir, there should be no distinction made in service pensions. When in actual service, you must have your military organization; you must have privates—the basis of your Army—and then you must have the various officers to command and direct that force. That is necessary, sir, in actual service. But when they have rendered the service, and returned to their homes, then, I say, that if you are going to give service pensions, you should put them all upon an equality, and let them receive the same pensions for the same service. I see no reason why there should be a difference made between those who happened to be officers and those who happened to be privates.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I ask for tellers on the amendment to the amendment. I want to see who will stand by the soldiers of the Black Hawk war.

Tellers were not ordered.

The question was taken; and there were, on a division—ayes 87, noes 48.

So the amendment to the amendment was agreed to.

The question occurred on agreeing to the amendment as amended.

Mr. COBB. I move now to amend the amendment by adding the words, "and all other Indian wars;" and I do it for the purpose of making a few remarks.

The House will see the object I have in view in offering that amendment. The amendment which I offered a few days since, and which I then discussed, provided, as I thought, for a legitimate portion of the army of the Government. It was thought then, however, that I was acting in bad faith towards the soldiers of the war of 1812, although I stated at the time that I was not. But just, sir, as I was beginning to feel as if I was able to do justice to the soldier of the war of 1812, by paying him the tribute which he deserved, the hammer fell, and I was left in a very awkward predicament, standing, with my plumage spread, ready to take flight, and to ascend to a height at which I might have done honor to myself, if not to my country, your hammer, sir, fell just at that point, and you lost the benefit of what I was about to say, and I lost the benefit which might follow from it hereafter. I do not propose now to take the flight that I then intended to take, because, perhaps, your judgment might not be exercised with such acuteness as it was on that day, and might not bring me down just before I got so far that I could not come down with propriety. I was alluding then, sir, to the sufferings of the soldiers in the Florida and Mexican wars. I was doing it sincerely and in good faith. I had alluded to the bones of our soldiers that now bleach upon the plains of Mexico. I had alluded to the Dade massacre in Florida, where there was not one left to tell the tale of woe to the widows and orphans of those who were slaughtered. I had, sir, alluded to the sufferings of the soldiers of the Mexican war, and to the blood which baptized the banks of the Rio Grande, and to the disease which they contracted in the service, and which will follow them to their graves. And I was about alluding to the gallant Palmetto regiment from South Car-

olina, of whom scarcely one survived to tell the mournful tale to the descendants they left behind in the old Carolina State. I intended to bring these matters forcibly to the mind of the House, in order that they might do justice to the class that I represented on that occasion. I did not intend to be unmindful to pay my tribute of respect to the soldiers of the war of 1812, although they, or some babblers, might consider that I brought those matters into the discussion with a view of defeating the bill providing for them.

While, sir, I ask that justice shall be done to another portion of the army of this Government, I am not unmindful of the valor of our soldiers of 1812. I have not forgotten the iron hail poured out by our army at the battle of New Orleans—which wrung from the Old World applause such as had never before been heard. I was not unmindful of, nor have I forgotten yet, the services rendered by our soldiery in 1812, in the Creek war, nor can I forget those who fell in that war, nor the bones which now bleach upon the battlefields of Taladege, Emuckfau, and the Horse Shoe bend. While I advocated with zeal a provision to provide for them, not one syllable did I utter to detract from the standing and the merits of the army of 1812. Sir, the achievements of our gallant Navy in that war, as well as those of our gallant soldiery, have always been pleasant themes for me to dwell upon, from my youth down to the present moment. Was I unmindful of all this in 1850? Sir, as early as the 24th of December, 1849, I gave notice to the House that I intended to introduce a bill providing bounty lands for these soldiers of 1812. Was I then unmindful of them? Sir, let the record speak, and let the widow who now enjoys the benefit of that act in her little domicile say whether I was unmindful of her then any more than I am now. Sir, was I unmindful of the widows of the soldiers of 1812, when, in 1853, I offered an amendment to a bill granting pensions to certain widows, to provide for the widows of soldiers who had fallen from disease contracted in the line of duty, although they died after they left the service? Sir, I would not, to-day, raise my voice against one of them. I am now, as I have always been, for the widows of 1812. Yes, sir, and also for the widows of the soldiers of the Florida and Mexican wars. I hope my amendment will prevail.

Mr. AVERY. Mr. Chairman, I am opposed to the amendment of the gentleman from Alabama, [Mr. COBB,] for I do not wish to see this bill incumbered with amendments that will militate against its passage. I wish to say something, though, as to the merits of the bill. It cannot be expected that in the brief time allotted to a single member, in a debate like this, that much can be said; but, sir, coming as I do from a State which has won for herself the proud title of the "volunteer State;" a State that has shed as much luster upon our arms as any in this Union in every war in which we have ever been engaged—from King's Mountain to the gates of Mexico; a land, too, where sleep the ashes of the buried chieftains of the war of 1812, with the rank and file who followed them; I say, coming from a State like this, with these memories crowding thick and fast upon me, I cannot allow this opportunity to pass without putting upon record one poor word in behalf of those old soldiers of this war who still survive. What, sir, is the great argument urged against the passage of this bill? What the great bugbear held up to honorable gentlemen to frighten them from its support? Is it that it is unconstitutional? That is not the argument used. Is it that the policy is wrong? This position I do not consider as seriously contended for. Is it that it is not in accordance with our governmental policy? Why, sir, the wise, the just, the patriotic legislation of the enlightened past, has lent to this policy its most solemn sanction. What, then, is the chief ground of opposition? It is because it costs some money. Is this a valid argument, in a case like this? Is this great Government to plead poverty, in a cause like this? And who puts in this plea? Have the people done it—they, whose servants we are, and whose will we are sent here to execute? Has the potential voice of an honest, patriotic, and outspoken people come up to the council chambers of your Capitol, from the hills and the valleys and the crowded marts of commerce, protesting against this measure? This measure has been before Congress for years, and I have

yet to hear the first murmur against its passage, coming up from the people. The people are for it. Their patriotic heart beats responsive to this measure. It was argued the other day, by the gentleman from Ohio, [Mr. NICHOLS,] that he opposed this bill because, forsooth, some who would be the beneficiaries of it are above want. Is that a good argument in this case?

Mr. NICHOLS. I wish to ask the gentleman from Tennessee to do me the justice to say that I opposed the principle of the bill throughout.

Mr. AVERY. But I understood the gentleman from Ohio to urge as his chief argument, that, as a lawyer, he had ascertained in his experience that some who would be the beneficiaries under this bill were above want. Sir, it is not asked as a gratuity, a charity, but a debt. Will any gentleman dare say that it is not as much a duty to pay a debt to the rich as to the poor? While there may be some of these old soldiers who have, by their industry and frugality, elevated themselves above want, there are many, ay, more, who have not been so fortunate, and whose rough declivity of life will be made easy by this measure. But I say here in my place, that, if I knew of my own knowledge that ninety-nine of every hundred of these old soldiers were, by their own exertions, placed above the frowns of poverty, and the hundredth man was in the downhill and decrepitude of life, needy, I would still go for the bill. But, sir, this is not so; many of them are poor, and but few of them are left; they are fast falling into the tomb. Entering the army at a reasonable age would now bring them to their threescore years and ten. Although, sir, as many (may be more) of these brave old men now live in Tennessee as in any other State, many of whom I have known from my boyhood, yet, sir, I have to meet the first man of them who has made an appeal to me to support this measure. It is their friends, their neighbors, who know them, whose hearts swell with grateful recollections of their past good deeds, that desire its passage.

As has been ably argued by my distinguished colleague who reported this bill, [Mr. SAYAGE,] one of two measures of policy must prevail in the Government: either that policy which will foster a patriotic, an enlightened citizen soldiery; or a large and expensive standing army must be kept up, composed of a hireling soldiery, recruited, too, from the sinks of vice, corruption, and degradation. It did not take me long to determine which policy to favor. Adopt this policy, sir, and we can stand against the world. Every man is a soldier, high and low, rich and poor; he is proud to be so. Standing armies grow up each year all over the land; companies, regiments, battalions, of a patriotic and proud citizen soldiery, spring by magic into being, when the first rude shock of war is felt upon our borders, ready, ay, eager, to flock to our standard wherever it floats.

The amendment to the amendment was not agreed to.

Mr. GIDDINGS. I am opposed to the amendment, as amended.

The CHAIRMAN. The debate is exhausted upon the amendment as it now stands.

Mr. GIDDINGS. Then I will move to amend by providing that the class of men included in the amendment shall be paid only *pro rata*, according to their term of service.

I rise, not so much for the purpose of advocating this amendment, as to protest in this House against the manner in which this subject is treated. My friend from New York [Mr. GRANGER] and myself are the only men in this House who have the right to speak here for the soldiers of the war of 1812; and I appear here before you to protest against this treatment of those who served the country in that war. If they have merits, judge of them, and vote upon them; but we protest against being associated and connected in our deserts with men of 1840, or 1836, or 1825. When they have lived forty-five years from the time of their service, then take up their case; when they have lived as the revolutionary pensioners did, then take up their case; but when we who served the country nearly fifty years ago are attempted to be connected with those whose service was as it were but yesterday, I protest against it.

If we have merits, vote upon them, and acknowledge them; if we have not, say so. Mr. Chairman, we are now paying \$25,000,000 a year for the support of the Army. When in 1812 our

whole army at Detroit, with all its officers and armament had surrendered, when your now Secretary of State was a prisoner of war, then the militia of Ohio and Kentucky took up the defense of the frontier, and they did not surrender. I say they did not surrender. They met the enemy, and the enemy were beaten back by them, when they had in their own possession your whole regular Army.

[The committee informally rose; and the House received a message from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a resolution providing that when the two Houses adjourn on the 23d instant, they adjourn to meet on Tuesday, the 4th of January next; in which he was directed to ask the concurrence of the House.]

Mr. NICHOLS. I did not hear the amendment which was offered by my colleague, [Mr. GIDDINGS,] but I wish to say, in response to his remarks, that at least one member of this House has met this bill upon principle; and that one, myself, is willing to meet it upon principle. My colleague's white hairs may appeal to me, as a young man, to vote a pension to men who, like him, have rendered services in the war of 1812. I acknowledge the force of that appeal; I acknowledge it as strongly as any man in this House; for I am, sir, when at home, surrounded by men who, like my colleague, rendered such services.

But I put another question to him now. I ask him—and I appeal to the history of the country to answer—if rewards have not followed those services as sure as the sunshine follows the night? My colleague is a living witness of that fact. He, sir, served early.

Mr. GIDDINGS. The gentleman does not understand my position, if he thinks we are seeking for dollars and cents. It is the pride of the soldier that stimulates us to ask a recollection and acknowledgment of those services.

Mr. NICHOLS. I understand the force of that appeal also. I understand it to be the pride of the soldier; but I ask him whether, since he has been a member of this body, the Government has not twice acknowledged that service in a most bountiful manner?

One word as to the reward I spoke of. What has followed? I will tell you. The men who rendered distinguished services to their country in the war of 1812, where are they? My colleague himself is a living example of the gratitude of the American people. Twenty years of service upon this floor, is a tribute of the gratitude of the American people, though I acknowledge that his position here may be partially attributed to the distinguished civil service he has rendered his country.

Now, I cannot consent to support the principle of this bill, or of any such bill, for I believe the whole system has been carried too far. Our statute books are covered all over with examples of legislation for the benefit of those who have served, for their widows and their orphans, and for the benefit of the heirs of those who were slain in battle; and I am unwilling to carry the principle any further. Gentlemen have said they do not care what the condition of the Treasury is. I say, I do not care. If it be bankrupt, let it be so; if it be overflowing, still I will not vote for the principles of this bill. And I now send up some extracts from the report of the Secretary of the Interior, showing where this thing is going to, and what its end must inevitably be.

"The whole number of Army pensioners, under the various acts of Congress, is 10,723, requiring for their payment \$302,700 23.

"The whole number of Navy pensioners is 892, and the aggregate amount of their annual payments is \$130,501 10." "It appears that the total disbursement for pensions up to this date is about \$90,000,000. If to this sum we add the bounties in land, 62,739,362 acres, and estimate that land at \$1 25 per acre, the total amount granted for bounties and pensions will be \$168,424,202."

"During the ten years preceding the year 1815, the annual expenditure on account of invalid pensions averaged \$98,000. During the ten years succeeding 1815, the average was \$256,000 per annum. At the present time it is \$445,000 per annum. This constant increase can only be accounted for by the peculiar provisions of the laws under which the allowance is made. The disability may have wholly ceased, yet the Department has no authority, under existing laws, to withhold the pension of an invalid once granted."

"With a view of showing the impossibility of arriving in advance at any reasonable conception of the expenditures which will be required by a pension law, I will refer you to the history of the passage of two enactments, one of

1832, and the other of 1853, occurring more than twenty years apart.

"On the 7th of June, 1832, forty-nine years after the close of the revolutionary war, 'an act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution' was passed. While that bill was under consideration, a committee of the House of Representatives went into an elaborate calculation in order to ascertain the number of persons then living who were embraced by its provisions, and the annual amount of money it would require. The conclusion was, that the number of soldiers who would claim and be entitled to its benefits was 10,057, and that the annual expenditure would be \$507,608. On this calculation the bill was passed. The number of claims filed under the law during the first year was about 25,000. The whole number filed under it exceeds 38,600. The whole number admitted was 33,414.

"The whole amount expended for pensions in the year 1831, was \$1,281,679 71. In 1833, it was \$5,100,203 97. The increase caused by the act of June 7, 1832, was, therefore, \$3,818,524 26, more than four times as much as the committee estimated the bill would require.

"It was further estimated by the committee that, at the end of seven years, fifty-five years after the war of the Revolution, there would be none surviving to receive its benefits. Now, if the whole number, 10,057, which it was supposed would receive pensions under this law, had lived out the seven years, it would have required \$6,253,226 to have met its entire requirements, according to the calculation of the committee. But this, of course, was not anticipated, inasmuch as they expected that the whole number of beneficiaries would have passed away within the seven years. It is fair then to presume that one half of this amount, \$3,126,613, was all that was expected to be drawn from the Treasury under its provisions. Twenty-six years have elapsed since the passage of that law, and about two hundred soldiers are yet on the rolls, and the gross amount expended under the act is now over eighteen million dollars.

"On the passage of the act of February 3, 1853, granting pensions to the widows of revolutionary soldiers married subsequent to 1800, the estimate of the office was, that \$24,000 would be sufficient for the first year. That amount, however, was found wholly inadequate, and the additional sum of \$200,000 was asked for, and appropriated in the deficiency bill of the succeeding session for that purpose."

Now, Mr. Chairman, let us look at the scope of this bill. What does it propose? To give pensions to the privates of the regular Army, militia, or volunteers who served three months in the war with Great Britain, declared on the 18th day of June, 1812; and to the officers, pensions according to their grade, not exceeding the pay of a lieutenant colonel. And in the case of the death of the person who served, then the pension goes to those who are nigh of kin—his widow or children. This is the basis of the bounty-land acts of 1847 and 1850; and we are told by the friends of this bill that fifteen thousand persons are entitled to its benefits. This will not do, sir. Why? Let us see.

In 1855, on the 26th of February, the pension office reported to this House that there were issued under the acts of September 28, 1850, one hundred and twelve thousand one hundred and fifteen forty-acre land warrants, fifty-eight thousand nine hundred and eighty eighty-acre land warrants, and the number of one hundred and sixty acre land warrants are not reported. Let gentlemen pause before they enter upon a field the boundaries of which are so illy defined. Where is the system to end?

Mr. BURNETT. I believe the motion which I propose to make is parliamentary. I desire that this measure shall soon be disposed of in some way. I suppose it will not be necessary for me to speak of zeal for the passage of this bill. The gentleman from Alabama [Mr. Cobb] claims to be a great friend of this bill, and seems exceedingly anxious not only for the soldiers of the war of 1812, but for those engaged in all wars subsequent to that time. I must be permitted to say to him upon this occasion, that his zeal for the bill is beyond his knowledge. I must be permitted to say to gentlemen who claim to be friends of this measure, that, if they understand the sentiments of this House, they will agree with me that the numerous amendments proposed to be put upon this bill, and the numerous amendments voted for by the opponents of this bill, must ensure its defeat in the House. I do not doubt that gentlemen who have offered amendments have done so in good faith; but, sir, when those amendments are adopted, who vote for them? Gentlemen of this House who are opposed to the passage of any bill for the benefit of the soldiers of the war of 1812. That fact has been shown by every vote which has been taken by tellers. Now, I hope that the friends of this measure—those who have been in good faith struggling for a pension for the soldiers of the war of 1812, will vote for the bill with only such modifications as are absolutely demanded, and recommended by the Committee on Invalid Pensions. The bill was

reported unanimously by that committee. There are one or two amendments which, in my judgment, would be advisable; yet I am still willing to take the bill as it stands, if I cannot have it made to suit my own peculiar views.

I now move, to strike out the enacting clause of the bill, with a view of having the bill reported to the House.

Mr. GARTRELL. I hope the gentleman will not press his motion at this time. I have an amendment which I wish to offer and have voted upon by the committee before that motion is pressed.

Mr. BURNETT. I would like to yield to the gentleman; but we have had this debate going on at the last session and the present session, day after day, and there certainly can be no more light shed upon it. I am satisfied that the friends of this measure will give the gentleman an opportunity to offer his amendment in the House, and therefore I must insist upon my motion.

Mr. SHERMAN, of Ohio. I desire to offer an amendment to the second section before that motion is made, and I hope I may have an opportunity of doing so.

Mr. JEWETT. I appeal to the gentleman to withdraw the motion.

Mr. BURNETT. I withdraw it for the present; but shall renew it soon, if I can obtain the floor.

The question being upon the amendment of the gentleman from Ohio,

Mr. GIDDINGS withdrew the same, there being no objection.

Mr. CURRY. What is the pending proposition?

The CHAIRMAN. The amendment of the gentleman from Alabama, [Mr. Cobb.]

Mr. CURRY. Is it in order for me to make a speech of five minutes in opposition to it?

The CHAIRMAN. Debate has been exhausted on the amendment.

Mr. CURRY. Then I move to include "the Creek and Cherokee disturbances."

Mr. Chairman, I conceived it to be my duty at the last session to oppose this bill, and in my speech I presented a certain table, or rather conclusions drawn from that table, showing the amount involved in this pension bill, as calculated by the Commissioner of Pensions, to be something like eleven million dollars per annum. That table having to some extent been called into question, I have procured an additional table from the Commissioner of Pensions, which is as follows:

TABLE D.—Showing the force employed in the war of 1812 alone, for a period of three months or upwards, and the amount of pensions involved by the provisions of the House bill.

	Officers.	Non-commissioned officers.	Privates.
Three months' service...	8,098	14,676	102,868
Six months' service....	4,118	7,515	52,132
Nine months' service...	190	334	2,096
Twelve months' service	344	866	5,936
Two years' service....	862	1,532	9,328
	13,612	24,924	194,060

Amount of Pensions involved.

Field officers and captains,	3,490,	\$40 per month,	\$157,600
First lieutenants.....	3,024,	30 "	90,720
Second lieutenants.....	3,024,	25 "	75,600
Ensigns.....	3,024,	20 "	60,480
Surgeons.....	300,	40 "	12,000
Surgeons' mates.....	300,	40 "	12,000
Sergeants.....	12,462,	11 "	137,082
Corporals.....	12,462,	10 "	124,620
Privates.....	194,060,	8 "	1,552,480

Monthly amount for whole force..... \$2,322,582

	Monthly amount.	Annual amount.
Three eighths of which would be	\$833,468 25	\$10,001,619
If to this be added the amount of pension for Navy and marine corps engaged in 1812, being five sixths of force calculated for in table L.....	89,640 00	1,075,680
	\$923,108 25	11,077,299

Or, amount involved in granting pensions under the House bill for military and naval service in war of 1812, \$11,077,299 per annum.

Of course, sir, this estimate must necessarily, to some extent, be conjectural. I will read, however, an extract from the Commissioner's letter, explaining the table:

"From an examination of the warrants issued under the various acts of Congress, it appears that 279,920 out of the

whole force engaged have received land. That is a proportion of nearly one half. But in view of the lapse of years, the rapid decrease in the number of the parties, as shown by the failure of 11,660 out of 59,360 to apply for the complement of bounty land, it may be safely assumed that not more than three eighths of those who served will become applicants for the benefits of those bills."

The estimate, as I have remarked, must to some extent be conjectural; but still it approximates the truth.

Mr. Chairman, it seems to me that a misapprehension exists in regard to the number of soldiers who were actually engaged in the war of 1812. I will give the precise number. There were total militia engaged in the war for three months and over, 199,174; add the regular force, 33,422, and we have the total of regulars and militia, 232,596. Add the marine and naval force, which is also provided for in this bill, and the total military and naval force engaged in the war of 1812, who served three months and over, is 250,242, entitled, under the bill as reported by the committee, to a pension. Taking the calculation of the Commissioner of Pensions, and estimating that five eighths are dead, then there are still 93,840 left of those who served three months and over, who are entitled to pensions under this bill; making, according to the amendments which I understand my friend from Georgia [Mr. GARTRELL] will offer—that is at ninety-six dollars per annum each, and not discriminating between officers and soldiers—the amount involved over nine million dollars. But an amendment which the gentleman from Kentucky [Mr. BURNETT] objects to—the amendment of my friend from Tennessee [Mr. SMITH]—reduces the service to ten days; and if you add three eighths of those who served ten days and over, there will be 196,000, at ninety-six dollars per annum each; and \$18,000,000 per annum would be the amount involved under the bill. Suppose you take even one fourth as the proportion now surviving: then the sum required for this bill, under the amendment of the gentleman from Tennessee, would be \$13,000,000 per annum.

To show that there is little certainty in calculations made by the friends of the bill, I propose to refer to a few statistics in reply to the gentleman from Tennessee, who found such a similarity between my speech and the speech of a former gentleman from South Carolina, and which speech, I confess with some shame, I never saw until my attention was called to it. That gentleman [Mr. SAVAGE] states that in 1818 the friends of the bill estimated the probable amount of expenditure under it at \$120,000 per annum. From the report of the Secretary of the Interior, now before me, recently submitted to the Senate, I find that the appropriations for pensions ran up from \$710,000 in 1818, to \$3,208,302 71 in 1820. The annual report of the Secretary of the Interior states certain facts, which show the inaccuracy of calculations made by advocates of pension bills, and the impossibility of arriving at "any reasonable conception of the expenditures" which will be required under such bills.

On the 7th of June, 1832, forty-nine years after the close of the revolutionary war, an act for the relief of surviving revolutionary soldiers was passed, a committee of the House of Representatives, after an elaborate calculation, estimated 10,057 persons as entitled to the benefits of the bill, and \$907,608 as the amount required. "On this calculation the bill was passed." The whole number admitted was 33,414, and in 1833, the amount expended for pensions was \$5,100,203 97. The increase was four times the amount estimated. [Here the hammer fell.]

Mr. CURRY. I will take another five minutes to conclude.

Mr. JEWETT. Mr. Chairman, it was not my purpose when this bill was reported from the Committee on Invalid Pensions to address the House on its merits; but after the scenes of last Friday, when the subject was last up, I have felt it to be my duty to offer a few observations in defense of this measure which has received the unanimous sanction of a committee of nine members of this House; and I do so by way of reply to the arguments which have been advanced against it. A Representative of the American people, in regard to a matter of great interest to the country, ought to be in a condition calmly and dispassionately to consider the report of one of the standing committees of this House, rather than to look to an effort ridiculing their labor.

There has been an argument submitted here by the enemies of this bill, and which has pointed to a settled hostility against the principle of pensioning worn-out soldiers. The argument of the gentleman from Alabama [Mr. CURRY] runs upon that line; and such was the argument of the gentleman from Ohio, [Mr. NICHOLS,] who led off when the case was last up before the House, and who has spoken again this morning. He based an argument upon his practice at the bar, an argument founded on his own experience, an argument which was *ad hominem* in its character, and to which no gentleman can reply.

If the gentleman from Ohio has any disposition to perfect the bill, or is not actuated by settled hostility against it, why did he not come forward with a proposition to exclude the millionaires he referred to as having taken bounty land under our bounty land laws? Is it any reason against the merits of the bill; is it any against the great principle aimed at by the Committee on Invalid Pensions to relieve the poor soldiers of the country and their widows and orphans from want and penury, that there are some patriotic citizens of the gentleman's district, worth from five thousand to twenty thousand dollars each, who took bounty land under our bounty land laws? It is no argument against the principle of the bill; nor, sir, are the calculations of the gentleman from Alabama based upon the number of men who served for ten days and over, any good reason against it.

Mr. CURRY. No, sir; my calculations are for those who had served for three months.

Mr. JEWETT. The gentleman made the argument upon fourteen days also, if I understood him aright.

Sir, there is but one argument that has ever addressed itself to my mind against the bill, and if that argument can be fairly and fully met and answered, it is the bounden duty of this Congress to see to the wants of these soldiers. I have heard it said, and with seeming force and effect, that there was a contract expressly between the soldier and the Government, that he would serve the Government for eight dollars a month. Sir, if that argument were sound, and the contract were valid, I would vote against the bill; but there was no contract express or implied. It is true you have your law which provides that the soldier may volunteer to serve the Government for eight dollars a month. He may enlist. But suppose he does not enlist: then you draft him, and you force him to serve your Government at the price stipulated by the Government, and to which he is bound to accede. Do you tell me that an enlistment of this kind, with a statute staring a man in the face, telling him in plain language that if he does not enlist he will be drafted—that this is a contract which excludes the soldiers from coming to the Government and asking for full compensation for the services rendered? Sir, the bill is not entitled as it ought to be. It ought to be, a bill to pay the old soldiers a long-deferred and honest debt.

[Here the hammer fell.]

Mr. CURRY. I withdraw my amendment.

Mr. WRIGHT, of Tennessee. I offer an amendment to include in this bill the soldiers of Wayne's war; and I do it only for the purpose of making some remarks on the merits of the bill under consideration.

I did not intend, Mr. Chairman, to say anything with regard to this bill. I intended to express my views by simply casting my vote in favor of the bill granting pensions to those gallant men who fought the battles and achieved the victories of the war of 1812. Sir, it did not seem to me that it needed any argument to bring the mind of any gentleman to this conclusion who had read the history of that memorable contest, which, in some respects, may be called the close of the struggle for American independence. When I remember their services, and when I see many of them, now in their old age, pinched by want and living on the charity of the world, I feel that I would be doing injustice to my own conscience to withhold from them the small sum necessary to smooth their pathway to the grave. The gentleman from Alabama [Mr. CURRY] has made an argument today, in which he urges objections similar to those urged by him during the last session. He comes with an array of figures, showing the enormous amount of money involved in the passage of this bill. This was the substance of his labored speech

during the last session of Congress. He does not show that the bill violates the Constitution; or that the policy is a bad one. His plea is simply that of the debtor who complains, not that the debt is unjust, but that it is too large. Sir, I do not propose to ask myself how much it will cost to do these men of 1812 justice? In coming to my conclusion I have inquired, is it constitutional, is it just, is it sound policy, to take care of the old men in their declining years, who left the comforts of home to engage in a war waged to defend the honor and preserve the rights of your flag? Having answered these questions satisfactorily to my mind, I did not inquire how much it would cost to do it.

Some gentlemen, who pretend to be friends of the bill, have introduced amendments which, I believe, were not offered for the purpose of promoting the success of the measure, but for the purpose of its destruction. There are two ways to defeat measures here. One is by an open, bold, and manly opposition. That method of defeating a bill I can respect, even though the measure defeated finds favor with me. Nay, sir, I can admire a bold, frank, and generous foe. But, sir, I confess that I have no fancy for that other method, that assassin-like way of pretending friendship, mainly for the purpose of more effectually destroying a measure of proposed legislation. Gentlemen may aver upon this floor that they are the friends of this bill; they may indulge in loud declamation, glorifying the men who fought the battles of the country, but they shall be judged by their acts and not by their words. The people, whose servants we are, will know who the real friends of the bill are, and who are the enemies, concealed though they may think themselves.

I say, sir, that it is a proper and a wise policy to grant pensions to the soldiers of the war of 1812. The fathers of the Republic did not consider it a dangerous policy; nor did they stop to count the cost to grant pensions to the gallant men who fought the battles of the Revolution, and achieved American independence.

Amendments have been offered and speeches made, endeavoring to show that the men who have been engaged in all the other various wars of the Republic are equally entitled to pensions. I say, sir, that the cases are entirely different. The men of 1812 are now old, tottering, sir, upon the brink of the grave; most of them are in needy circumstances; many of them actually in want, living upon the cold charity of the world. Their time on earth is short, at best; and my experience does not accord with that of the gentleman from Ohio, [Mr. NICHOLS,] who thought that most of them were in easy pecuniary circumstances.

I agree with my colleague, [Mr. AVERY,] that if I knew of but one single instance of a man who had performed valuable services in that war, whose poverty made him an object of this bounty, against many who did not need it, I would not withhold my vote from this measure. And, sir, when in the course of time the soldiers of our other wars may be placed in circumstances similar to those surrounding the men of 1812, should I be in public life, I would also be found ready to do them justice. At any rate, I doubt not that posterity will take care of them.

I do not agree with the honorable gentleman from Alabama, [Mr. CURRY,] as to the amount of money it will require to carry out the provisions of this bill. I think he has greatly overestimated it. I believe that the figures of my colleague, [Mr. SAVAGE,] who reported the bill, are nearer correct. And yet, sir, even did I agree with the gentleman from Alabama, I would vote for the bill. I am of opinion that my friend from Alabama is honestly a friend to economy. I am a friend to economy. My record shows it. I think it quite as good as the gentleman's or anybody's on that question, but economy does not require injustice. There are thousands of ways in which we can exercise sound and practical economy. I will go with my friend in any of these; but I will not refuse the full share of justice to the men who defended our shores against a hostile foe, who spent their youth in the service of the country, and who, when they have grown old and infirm, come and ask their children for the small pittance which this bill proposes, where-with to keep them from penury and want. Sir,

I will vote for the measure, and if I err, I shall at least have the consolation of having erred in behalf of humanity, in behalf of men whose valor shed glory upon the American name, and left their children an imperishable renown. I will now withdraw the amendment which I offered.

Mr. WASHBURN, of Maine. I object to its withdrawal, as I propose to say a few words in opposition to it. I do not propose at this time to make any argument upon the bill, but simply to state my position in very few words, not occupying the five minutes to which I am entitled under the rules.

I should be in favor of what I should regard as a just and proper bill, granting pensions to the soldiers of the war of 1812. For a bill which would place the soldiers of that war on the same footing as the soldiers of the revolutionary war, I would cheerfully vote. But, sir, I am opposed to the discrimination which this bill makes. Under this bill, as reported by the Committee on Invalid Pensions, not only every soldier who served in the war of 1812, but every soldier who served in the Indian wars will be entitled to a pension of ninety-six dollars a year for a service of three months, while no soldier who served in the revolutionary war for a period of nine months, or eleven months, was entitled to receive more than twenty dollars a year.

Mr. GIDDINGS. Let me call the attention of the gentleman to this distinction. The soldiers of the revolutionary war received their pensions thirty years after their services were rendered, whilst it is now forty-three years since the soldiers of the war of 1812 rendered their services.

Mr. WASHBURN, of Maine. Yes, sir; but that difference of time is not sufficient to make this great difference in the pensions that should be allowed them. The soldier in the war of the Revolution, who served eleven months, was entitled to receive only some twenty dollars a year, for, if I recollect aright, six months' service during that war was the shortest period for which a pension was allowed. For one year's service twice that amount was allowed; for two years' service, eighty dollars; and, for service during the war, ninety-six dollars a year was allowed. And, sir, it seems to me that it would be invidious and unjust for us to grant pensions to the soldiers of the war of 1812 for a shorter term of service than the soldiers of the Revolution were granted pensions for. If we do it, you may depend upon it, Mr. Chairman, this House will be besieged with petitions that will be ultimately successful to place the revolutionary soldiers and the heirs of revolutionary soldiers upon the same footing as the soldiers of the war of 1812.

For these reasons, and believing it is sufficient for us now to accord to the soldiers of the war of 1812 the same measure of justice that we have dealt out to the soldiers of the revolutionary war, whilst I should vote for a bill containing these provisions, I shall not be able to vote for this bill, unless it shall be amended so as to conform to the revolutionary pension law.

Mr. WRIGHT, of Tennessee. I withdraw my amendment.

Mr. DAVIS, of Maryland. I move, merely for the purpose of offering one or two remarks upon the bill, to increase the amount one dollar a month. I do not know, Mr. Chairman, that there is any gentleman in this House whose constituency is more directly interested in this bill, than that which I have the honor to represent. If promptness in volunteering at a time when their service was sure to be needed, and that service of a dangerous character, or if heroism in the discharge of duty can entitle to a pension, I am not aware that there is any portion of the people of the United States who are better entitled to a pension than that portion which I have the honor to represent.

But, sir, it is because I owe a duty to the country, as well as to those whom I more immediately represent, that I desire here explicitly to state my views upon this bill.

My objection to the bill is not because of its details; not because it includes one class of soldiers and excludes another; it is not because three months' service entitles under one form, and ten days entitles under another form, but my objection goes to the whole principle of the bill.

I take it, sir, that military service is not paid by the eight dollars per month; I take it that it is

not rendered on a contract; no man admits that the money which feeds and clothes him pays for military service. I suppose that when a man volunteers in the military service of the country, he merely discharges a duty resting on him. It is a bounden duty which he owes to his country to render the service. It is equally the duty of the country to support him while engaged in that service; beyond that the country owes him no debt but honor.

If he shall be wounded in battle or broken down by exposure or disease, if he shall in any manner become less able to support himself in the service of the country, then it is the duty of the country to see that he is well cared for. To that extent I am willing to vote for any pension law; but to pension a man merely because he has rendered a service which he owed to his country, a service which he owed to his family and which he owed to himself, and which he would scorn to treat as compensated by money, is a proposition which I cannot support. Because a man was not hurt, and has been so happy as to live in honor and health for forty years beyond the period of his service, I regard as scarcely ground for a pension at all. Sir, I had reflected little on this subject until, at the last session, I heard the able, elaborate, and statesmanlike argument of the gentleman from Alabama, [Mr. CURRY] and he has laid me under additional obligations by the observations which he has made to-day. The gentleman presented reasons which, if there were no other reasons to be urged, should, in my opinion, be sufficient, in a legislative point of view, to determine this House against this bill.

The number of men employed in the last war is as nothing to the numbers which must be employed in any war in the future. Events now transpiring in the Gulf may bring us into a collision with France and England, and in that event no President would venture to recommend calling at once into the field less than two hundred thousand men. In such an event, will any man tell me where the money is to come from to pension all these men? or will it be said that we are only laying down a system of pensions for the past, and that the future is to be treated on different principles?

Sir, no Government, with the wealth of England and France, or the combined wealth of Europe, can sustain a system like this if it should be inaugurated. Whatever, therefore, my constituents may think about it, however they may be interested, I owe it to the country, and to those who earn the money to be paid out under this bill, to oppose this measure. The country has already acknowledged the services of the soldiers of 1812 by liberal grants of bounty lands, and the people have acknowledged the services of many by elevating them to places of honor. The gray-haired gentleman whose touching appeal I listened to this morning, has been honored long by a grateful constituency for his gallant service in the war of 1812. Our people are not an ungrateful people; they have been eager to seize upon every opportunity to elevate to places of public trust, men for their heroism in the service of the country. The presidential chair has been again and again graced by the greatest military men the country has ever produced, from the days of the immortal Washington, and he included in the list, to the present time. I say there is no ground to impute anything like want of gratitude to this people; but in dealing with financial matters they must do that which is possible; they must do that which even the wealthiest nation cannot go beyond, take care of those who have been injured, made decrepit, and broken down in the service, and leave those who have not, to be paid by the blessings of the health and long life which God gives them.

Mr. SAVAGE. It is true, as the gentleman from Maryland [Mr. DAVIS] has stated, that the people are generous and just. They very often permit those who have served them faithfully upon the field of battle to serve them in the councils of the nation. Many men have been so fortunate as to be fully and overpaid for the services which they have rendered; but this is not the case with all. There have been examples, such as in the case of the gentleman from Ohio who just addressed the House, [Mr. GIDDINGS], where men who have served their country honorably upon the battle-field have been well rewarded for their services; but then there is a much larger class of

mankind in humble circumstances, born to toil; men without whom the world would be poor indeed; not the great men of the earth, not the distinguished, not the rich, not the talented, but the humble, who, after an honest and industrious life, find themselves going down to the grave in poverty, want, and neglect. It is to provide against this poverty and want, by the bounty and generosity of a great people, that this bill was introduced; not to care for such people as the gentleman from Maryland speaks of; it is not for those who have talent and power to work themselves up to high places; it is for the farmer, the mechanic, and the poor, but honest and true hearted man, who dies happily when your flag triumphs, who has no other hope except the glory of this great country; these are the men whom this bill is to provide for. I am not astonished that the gentleman from Maryland should oppose this bill and manifest no sympathy for the class of men for whom it provides; he is indebted to his abilities alone for his seat upon this floor; but "talents, though angel bright, when wanting worth, are shining instruments in false, ambitious hands, to render faults illustrious and give to infamy renown."

Now, Mr. Chairman, upon this question the statistics which I have exhibited to the House controvert, in the strongest terms possible, every allegation brought by the gentleman from Alabama. I hold in my hand the message of the President of the United States, giving a communication from the Commissioner of Pensions, communicated in accordance with a resolution of this House, adopted at the instance of the Military Committee; but there are no conclusions to be drawn from that document, such as were stated by the gentleman from Alabama.

I say again, it will be found from the report of Mr. Calhoun, contained in volume 2, page 280, of the American State Papers, that the pay of all the forces employed in the war of 1812, amounted to \$12,000,000. Look at that document, and then gentlemen must see that the calculations presented by the gentleman from Alabama, [Mr. CURRY], as furnished him by the Pension Office, are totally unreliable. It is impossible that both those reports can be true. It is shown by Mr. Calhoun's report that the pay of all did not amount to over \$12,000,000; and yet, after nine tenths of them have died, it is contended that they will receive an amount only \$1,000,000 less than the sum they received during the whole war.

I will say, further, that I carefully examined the tables, with the aid of a clerk, for weeks, and I could only make out that there were one hundred and sixty-eight thousand men who served the period of three months. The report which we expressly requested from the Pension Office avoided the point on which we expressly asked information—that is, as to the number who served three months. They avoided that point; and hence, I say, the authority of the Department cannot sustain the facts endeavored to be established by the gentleman from Alabama.

The question recurring upon the amendment offered by the gentleman from Maryland—

Mr. DAVIS, of Maryland, withdrew the amendment, no objection being made.

Mr. DAVIS, of Indiana. I move that the committee rise, for the purpose of offering in the House the following resolution:

Resolved, That the five minutes' debate allowed by the rules of the House, on House bill No. 239 terminate in twenty minutes after the same shall be resumed in the Committee of the Whole on the state of the Union.

Mr. SAVAGE. I wish to say to the gentleman from Indiana that there are three amendments which ought properly to be made to this bill—one offered by the gentleman from Georgia, and two which I, myself, think are necessary to perfect the bill.

The CHAIRMAN. The resolution would not prevent the offering of amendments; it will only preclude debate upon them.

Mr. SAVAGE. If I understand the resolution, then, it takes the debate out of the Committee of the Whole on the state of the Union, and throws it into the House.

The CHAIRMAN. The gentleman does not properly understand the resolution.

Mr. DAVIS, of Indiana. I understand that, under the rules of the House, my resolution will not cut off amendments which gentlemen may de-

sire to offer to this bill. Its effect is to cut off debate, and thereby facilitate action on this bill.

Mr. HOUSTON. I would suggest to the gentleman from Indiana, that if he wants to end this debate, if he will call upon the Chair to execute the rule requiring each member to debate the precise amendment, this debate cannot be spun out to any great length. He had better do that than attempt to cut off debate entirely; therefore, I hope he will withdraw his motion, and ask the Chair to enforce the rule.

Mr. DAVIS, of Indiana. I do not withdraw the resolution.

Mr. GOODWIN. I hope the gentleman will withdraw the motion, and allow me to offer an amendment to the second section of the bill.

The question was put, and the motion was not agreed to.

The question recurring upon the amendment of the gentleman from Alabama as amended,

Mr. COBB demanded tellers.

Tellers were ordered; and Messrs. CHAFFEE and BRANCH were appointed.

The committee divided; and the tellers reported—ayes 64, noes 60.

So the amendment, as amended, was agreed to.

Mr. GARTRELL. I desire now to offer the amendment of which I gave notice a few days ago.

Mr. UNDERWOOD. I have an amendment to come in before the gentleman's. I have been waiting to offer it for some time. I am a friend of the original proposition properly corrected, and have therefore withheld my amendment until the amendments embracing within their range all the wars which have occurred since 1812 have been discussed and acted on. I have not been favorable to any of these amendments, because I believed they were calculated and intended to defeat the proposition before us, and were unsustained by high considerations which commend the original bill to our adoption. I have an amendment, which I now offer in good faith, and which I hope the House will unanimously adopt. It is as follows:

Insert after the amendment just adopted these words: "or in the war under the command of General Anthony Wayne, against the Indians, in the years 1793 and 1794, commonly called 'Wayne's war.'"

I must say, Mr. Chairman, that I had some doubt whether I ought now, in the present state of the bill, to offer that amendment; but I suppose it will be parliamentary, when the House comes definitively to act on the bill, to retain my amendment, and to reject, as in my opinion they ought to reject, all those which have been already adopted. There dwell, sir, a few straggling old men in the State of Kentucky, some of whom have frequently appealed to me to procure for them the relief which was due to them from their country. But under no existing law have they, the survivors of that most gallant band who, under Wayne, won for this Union an empire, been provided for. They do not come under the provisions of the law granting pensions to those who served in the revolutionary war; nor, indeed, do they come under the provisions of any law passed since.

It is, perhaps, not generally known that when we made the treaty of peace with Great Britain, in 1783, there was no provision including within its stipulations the Indian allies of that Power; and that, in consequence of this omission, upon the confines of Ohio and Kentucky, especially the latter, a most ruthless and bloody war was waged by those Indians, resulting in the massacre of between two and three thousand of the women and children of the State of Kentucky. One or two attempts were made, first under General Harmer, and then under General St. Clair, to chastise these Indians as they deserved to be; but they were unsuccessful. General Anthony Wayne (Mad Anthony as he was called) was placed in command of a sufficient force of Ohio and Kentucky militia. The Kentucky troops were under the command of General Scott, afterwards Governor of that State, and amounted to about sixteen hundred men. This gallant and patriotic band, under the command of these heroic leaders, Wayne and Scott, marched through a trackless and inhospitable wilderness for the purpose of chastising, as they did most successfully chastise at the memorable battle of Falling Timber, those bands of Indians who had been so long depredating upon our people and massacring our women and children. No soldiers suffered more or fought more bravely, and they ought to receive

some appropriate reward at the hands of the country which they served so well. It has already been too long delayed, and I ask that they shall be placed upon the same footing as those who have since fought our battles. I am persuaded that there is not a friend of this bill, or a friend of that justice we ought to extend to those who have faithfully served the country in its hour of need, who will not vote for the amendment. I have nothing more to say.

Mr. KEITT. Mr. Chairman, I appreciate and admire the zeal and earnestness which characterize the gentleman from Tennessee [Mr. SAVAGE] under whose auspices this bill has been conducted. The general pension system is at all times, in a Government like ours, demoralizing. I listened to him attentively, and the only conclusion I could draw from the tenor of his remarks was that the Government presented itself in two aspects: First, that of war; and second, that of distributing alms to those who have carried our flag. The policy of a country, sir, should always be dictated upon the necessities of peace; but there are exceptions. I hold this general pension system to be against the very genius of the Republic. It is but a substitute for a standing army; and who advocates a large standing army? It is demoralizing, because it spreads inevitably the influence of the Government through all the ramifications of society. It is not so intended; but the inevitable effect of this measure is to create a class of legionaries who shall look only to the Government.

We have been told, sir, that some men here and there, for brilliant services, have been taken and elevated to power, and we must hunt out the poorer men from their obscurity, and, although we can give them no cross of honor, we must give them bread. Why, sir, do we not all know that a year ago, when the Government asked for troops to go to Utah, almost one hundred thousand volunteered? Did not Kentucky herself volunteer to send six regiments, and was not the President assailed because he did not take them all? Was it not a struggle of emulation among those companies which of them should be received? Does this look as if the patriotism of the soil was fading away? Does it look as if it was necessary for the Government to pay these subsidies to men for carrying our flag? These men, on the very terms and conditions of the contract, were benefited by the service, or else they were animated by a patriotism which needed no pecuniary advantage.

How was it in the revolutionary war? Does not every man upon this floor know that many of those brave and gallant men—ay, the bravest of them, who, as the gentleman from Tennessee has said, met the baptism of battle, and were willing to find their country's flag their winding sheet—repudiated the whole system of pensions, and said it was contrary to the genius of our Government? Did not the most gallant of them decline to take the pension? Is it not very well known that the young wives of many of them—women who had married them in their old age—after the deaths of their husbands, took the pension, although their husbands had protested against it on their dying beds? Is there a necessity for subsidizing—I will not use the word—for pensioning those who carry our flag? Has there been, in the history of the Government, a moment when the citizen soldiery of the country were not ready to defend the rights and honor of the Republic without a pension? Sir, I said it was against the genius of the country; for I say that the people of this country should defend their flag and their Government just as a monarch defends his crown. The institutions of the country are theirs. They are fighting not for alien interests, not in a foreign cause, but they are fighting in defense of their homes and firesides, or in defense of their flag carried abroad. Do these men need pensions? Have any of them ever asked, when going abroad, what they were to get when they came back? Have any of them ever required that this Government should be converted into a stupendous almshouse, from which they were, in after life, either for seeing the enemy or for not seeing him, to draw pensions?

[Here the hammer fell.]

Mr. MAYNARD. I move to amend the amendment by adding "the soldiers in the war with the Barbary Powers." I offer the amendment chiefly

for the purpose of stating my objections to certain arguments addressed to our consideration, such as that which we have just heard from the gentleman from South Carolina, [Mr. KEITT,] and such as those made by the gentleman from Alabama, [Mr. CURRY,] and the gentleman from Maryland, [Mr. DAVIS.] I took occasion, at the last session of this Congress, to express my views briefly on this general subject, and I shall not deem it necessary, now, to recapitulate them. But I confess it has required some self-constraint on my part, to sit and listen to some things addressed to us by gentlemen, by honorable, able, and distinguished gentlemen. I think they do themselves injustice.

Why, sir, we are told by the gentleman from South Carolina that a pension system is impolitic and injudicious, as though it was now proposed to establish it for the first time. The pension system is one that has been recognized from the very earliest period of our Government, and indeed it was recognized before we had a Government. And it is, in my estimation, in no small degree owing to the fact that we have established that policy as a part of our military system, that we see that eagerness and promptitude on the part of our young men, in their pride and chivalry and gallantry—uncaring what shall befall them in after life, to rush forward to the defense of our country, and which was manifested so conspicuously twelve months ago, on the occasion alluded to by the gentleman from South Carolina, [Mr. KEITT.] The argument to be drawn from experience, I think, wholly sustains the system, now so well established and so long in operation.

Again, we are told by the gentleman from Alabama [Mr. CURRY] that there were, I think he said, 250,000 men engaged in the war of 1812; that three eighths of them still survive; and that to pension them would cost the Government annually from nine to eleven millions of dollars.

Mr. CURRY. Allow me to correct the gentleman. The total force engaged in that war, including the militia, the regular Army and the Navy, was 522,747.

Mr. MAYNARD. I misunderstood the gentleman's figures, but I rejoice that the number was even greater than I had thought. It speaks well for the patriotism and gallantry of our fathers; and I rejoice if there are so many of them alive, as he supposes—a much larger proportion, however, than, I am afraid, the facts will warrant. But is that any reason why we should neglect them? It is no reason, to my mind, why we should turn upon them with ridicule and sneers and derision, and exclude them from the same boon and benefit which we have conferred on other men who, like them, were engaged in the service of their country. Ten millions out of an annual expenditure of more than eighty millions! And \$80,000,000 for what! Look around this Hall; look around your Capitol; go to your navy-yards; go to your fortifications; look to your jobs and your contracts; go to your printing office; and count up the items that make up this \$80,000,000; ponder them well; and then go home and tell your constituents that our Government is so poor, that there is so little money in the Treasury, that you cannot pay the old soldier for his services, rendered, perhaps, before you were born. Go to the country with that argument; address it to the people, and let them hear it; and when the old soldier comes halting up, diseased, decrepit, and haggard; his youth and his health and his buoyant heart given long ago to his country; ay, and asks for a tardy payment of the debt which you owe him, tell him that you cannot pay him, for you have to give the money away to a shoal of pets and favorites for gewgaws, "chips and whetstones," and Heaven knows what besides.

But my distinguished friend from Maryland [Mr. DAVIS] puts the case upon another ground; he raises another objection to the pension system. He says that this thing of fighting for the country and defending it is a matter of duty. So it is; but is it the duty of one man to the exclusion of his neighbor? Is it the peculiar duty of the soldier, to the exclusion of him who stays at home and tills his ground, or attends to his merchandise? Why, the defense of the country is the common duty of all. While that is so, it is equally the duty of the Government of the country to see

that those who go into actual service, that those who suffer the hardships and privations of the camp, that those who neglect their own private business for the interests of the country—when they come into the evening of life, when they are deprived, as I undertake to say most of them are, of those advantages and those facilities for a comfortable support that other employments will generally secure—I say it is the duty of the Government to see that those men are not turned adrift, with no provision for their support. The duties are reciprocal—the duties of the citizen-soldier to the Government, and the duty of the Government to the soldier. I am content to place the matter on the high ground of duty—of right; duty to the men who have periled their lives in the cause of their country, and have suffered hardships and privations fatal to many of their comrades; disastrous to themselves. It is, in my opinion, no less a dictate of duty than a wise and judicious policy, to see that they shall have no reason to regret the services from which we have gained so much. [Here the hammer fell.]

Mr. BRANCH. As this is the only day in the week when resolutions can be offered under a suspension of the rules, as there is a great deal of business which gentlemen around the Hall desire to transact, and as this bill can come up any day, I move, for the purpose of enabling gentlemen to have an opportunity of offering resolutions, under a suspension of the rules, that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman (Mr. HOPKINS) reported that the Committee of the Whole on state of the Union had, according to order, had the Union generally under consideration, and especially the bill granting pensions to the officers and soldiers of the war of 1812, and had come to no resolution thereon.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. PHILLIPS. I ask the consent of the House to take up the resolution from the Senate, for a temporary adjournment.

Mr. CURRY, Mr. MORGAN, and others, objected.

Mr. PHILLIPS. I move that the rules of the House be suspended, for the purpose of taking up the resolution.

Mr. MARSHALL, of Kentucky. I would inquire whether that resolution cannot come up to-morrow, after the morning hour?

The SPEAKER. It could if the House should first go to the business of the morning hour.

Several MEMBERS called for the reading of the joint resolution.

The joint resolution was read. It provides that when the two Houses of Congress adjourn on Thursday, the 23d instant, they adjourn to meet on Tuesday, the 4th day of January next.

Mr. JONES, of Tennessee. I would inquire of the gentleman from Pennsylvania if it is his purpose to amend the resolution by altering the time for which it is proposed to adjourn?

Mr. PHILLIPS. It is not. The resolution will, however, be in the possession of the House if they shall suspend the rules.

Mr. UNDERWOOD. It will be perfectly in the power of the House to amend the resolution. I hope the rules will be suspended.

Mr. STANTON called for the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 122, nays 75; as follows:

YEAS—Messrs. Abbott, Adair, Ald, Anderson, Andrews, Arnold, Avery, Barksdale, Bennett, Billingshurst, Bishop, Blair, Bliss, Bonham, Boyce, Branch, Burlingame, Burnett, Burns, Caruthers, Case, Cavanaugh, Chapman, Horace P. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Corning, Covode, Cox, Barton Craig, Crawford, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Dimmick, Edmundson, Elliott, Estis, Fenton, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Gregg, Grow, Harris, Hatch, Hawkins, Hickman, Horton, Howard, Bayler, Jackson, Jenkins, Jewett, Owen Jones, Keim, Keitt, Kellogg, Kelley, Kelsey, Kilgore, Jacob C. Kunkel, Lamar, Lawrence, Lovejoy, Maclay, McQueen, Mason, Maynard, Miles, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Peyton, William W. Phelps, Phillips, Potter, Pottle, Powell, Reagan, Reilly, Ricard, Robbins, Russell, Sandidge, Savage, Scott, Shorter, Singleton, Robert Smith, William Smith, Stephens, Stevenson, William Stewart, Talbot, George Taylor, Thompson, Trippe, Underwood, Vailandigham, Waldron, Ward, Cadwalader C. Washburn, Eliza B. Washburne, Israel Wash-

burn, Watkins, Whiteley, Winstow, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer—122.

NAYS—Messrs. Atkins, Boccock, Brayton, Buffinton, Caskie, Chaffee, Ezra Clark, John B. Clark, Cobb, Colfax, Comins, James Craig, Curry, Davis of Indiana, Davis of Mississippi, Daves, Dean, Dick, Dodd, Dowdell, Durfee, English, Farnsworth, Foster, Giddings, Gilman, Goode, Goodwin, Greenwood, Groesbeck, Lawrence W. Hall, Harlan, Hoard, Hopkins, Houston, Hughes, George W. Jones, Knapp, Leach, Leidy, Leiter, Letcher, Humphrey Marshall, Samuel S. Marshall, Miller, Millson, Moore, Morgan, Morrill, Isaac N. Morris, Parker, Pendleton, Pettit, John S. Phelps, Pike, Purviance, Ready, Roberts, Royce, Scales, Seward, Henry M. Shaw, John Sherman, Spinner, Stanton, James A. Stewart, Tappan, Tompkins, Vance, Wade, Walbridge, Walton, White, and Wordendyke—74.

So the rules were not suspended, two thirds not having voted therefor.

Pending the call of the roll,

Mr. SMITH, of Illinois, stated that his colleague, Mr. SHAW, was detained from the House by indisposition.

Mr. HUGHES. I move to reconsider the vote just taken, for the purpose of giving the House an opportunity of adjourning, if they shall think proper, on another day.

Mr. LETCHER. I move to lay the motion to reconsider on the table.

Mr. HUGHES. The gentleman has not the floor for that purpose.

The SPEAKER. The Chair cannot entertain the motion to reconsider. The motion to suspend the rules is one which can be repeated an indefinite number of times; and a motion to reconsider would therefore not be in order.

Mr. STEPHENS, of Georgia. We can reach the thing very easily to-morrow, if the majority of the House desire, by calling committees for reports one hour, and then going to the business on the Speaker's table.

REVISION OF THE RULES.

Mr. WINSLOW, from the select committee appointed to revise the rules of the House, made a report; which was recommitted to that committee, and ordered to be printed.

REVISION OF PATENT LAWS.

Mr. STUART, of Maryland. I have a proposition to make to the House, to which I suppose there will be no objection. The committee of which I had the honor to be chairman at the last session—the Committee on Patents—after a careful examination of the matter, submitted a bill to this House for amending the patent laws. It is not a bill in which one party is interested more than another, but it is one in which the whole country is interested. It is not a bill which is to take money from the Treasury. The object is to make the Patent Office a self-sustaining establishment. There are amendments necessary to be made to make that bureau accomplish the ends for which it was designed. My object, however, is not now to discuss the bill, but to ask the House to assign a particular day when it may be taken up and discussed. I hope, therefore, the House will consent to make this bill (H. R. No. 68) a special order; and I suggest, if it will suit the convenience of the House, that it be made the special order for the 4th day of January, which is to-morrow two weeks. I make that motion.

Since that bill was reported to the House some amendments have been suggested; and I desire that those amendments may be printed, so that the House may have the whole subject before them when the bill comes up under the motion I have made.

Mr. WASHBURN, of Illinois. I have no objection to the printing of the bill, but I object to making it a special order.

Mr. PHELPS, of Missouri. I object to making it a special order in the present posture of the public business. I have no objection to printing the amendments as the gentleman desires.

Mr. STEWART, of Maryland. I do not think the consideration of the bill will occupy much time.

Mr. PHELPS, of Missouri. The House is about to lose two weeks by adjournment over the holidays, and we will hardly have sufficient time to transact the public business.

Mr. STEWART, of Maryland. I do not believe that the bill will consume over two hours.

Mr. MORGAN. I object to any further debate.

Mr. HARLAN. I object to the introduction of the resolution.

Mr. STEPHENS, of Georgia. I wish simply

to state that there is some doubt as to our reaching the Senate resolution in the morning hour to-morrow. It did not occur to me that there is a special order to-morrow. I make this remark that the House may not be misled by what I said before.

Mr. STEWART, of Maryland. I move to suspend the rules, to enable me to introduce my motion.

Mr. SMITH, of Illinois. I would suggest to the gentleman from Maryland that, if he will give way, and allow me to offer a resolution, he will reach the object he has in view. It is a resolution providing that the States shall be called to-morrow for resolutions and bills.

Mr. STEWART, of Maryland. This bill was reported at the last session. It is one of the first bills now on the Calendar. I call for the yeas and nays upon my motion.

The yeas and nays were not ordered.

The motion to suspend the rules was not agreed to.

IMPORTS AND EXPORTS.

Mr. STANTON asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Secretary of the Treasury be requested to furnish to the House the following statements, to wit:

1. A statement of the aggregate amount of imports from Great Britain to the United States, as shown by the United States custom-house returns, for each of the following years, namely: 1853, 1854, 1855, 1856, and 1857.
2. A statement of the aggregate amount of the exports from Great Britain to the United States, for the same years, as shown by the British custom-house returns.
3. Similar statements of the aggregate amount of imports from France to the United States, as shown by the French and American custom-house returns.
4. A statement of the quantity and value of iron and manufactures of iron imported from Great Britain to the United States for each of the same years, as shown by the United States custom-house returns.
5. A statement of the quantity and value of the same articles exported by Great Britain to the United States, for the same years, as shown by the English custom-house returns.
6. A statement of the quantity and value of silks, wines, and distilled liquors imported from France to the United States for each of the same years, as shown by the United States custom-house returns.
7. A statement of the quantity and value of the same articles exported from France to the United States for the same years, as shown by the French custom-house returns.
8. If the English and French custom-house returns, for all the years mentioned, are not immediately accessible to the Department, the Secretary will furnish the foregoing statements, for the last five consecutive years, which the data within his reach will enable him to make.

Mr. LETCHER. I would inquire of my friend from Ohio, if he has any idea that these tables can be made and furnished to the House?

Mr. STANTON. They can be prepared by six hours' work. I have looked over the statistics myself, and know what they are.

Objection was made to the introduction of the resolution.

Mr. STANTON moved a suspension of the rules.

The rules were suspended, (two thirds voting in favor thereof.)

Mr. STANTON introduced the resolution, and called the previous question.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was adopted.

Mr. STANTON moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider upon the table; which latter motion was agreed to.

SALE OF CERTAIN PUBLIC LANDS.

Mr. GOODE, by unanimous consent, introduced the following joint resolution; which was read a first and second time, and referred to the Committee on Commerce:

Joint resolution to authorize the Secretary of the Treasury to sell a certain plat of land in the city of Petersburg, Virginia, belonging to the United States.

RECESS FOR THE HOLIDAYS—AGAIN.

Mr. KEITT. As my friend from Georgia [Mr. STEPHENS] has suggested probable difficulties in the way of reaching the Senate resolution for adjournment during the holidays, I now move to take it up for consideration, and if there is any objection to it, I shall move to suspend the rules.

Mr. CHAFFEE. I object.

Mr. KEITT. I move to suspend the rules to enable me to make that motion.

Mr. BARKSDALE. Will the gentleman yield to me a moment, in order that I may introduce a bill for reference only?

Mr. KEITT. I will with pleasure, if I do not lose my right to the floor.

The SPEAKER. It has been the practice of the House to do anything by unanimous consent, but the Chair cannot conceive how the gentleman from South Carolina can yield to the gentleman from Mississippi, and yet retain his right to the floor unless by unanimous consent. The Chair would also say to the gentleman from South Carolina, that the special order which is in force operates only in the Committee of the Whole on the state of the Union.

Mr. KEITT. Let us settle the matter at once. There may be other business to-morrow to crowd this question from consideration.

The SPEAKER. Is there objection to the proposition that the gentleman from South Carolina yield the floor to the gentleman from Mississippi, for the purpose of introducing a bill?

Several MEMBERS objected.

Mr. KEITT. Then I insist on my motion that the rules be suspended for the purpose of taking up the Senate resolution for the adjournment over the holidays.

Mr. SEWARD. Is it in order to renew that motion when it has already been voted down?

The SPEAKER. The Chair is of the opinion that it is in order to move a suspension of the rules as often as gentlemen may see fit. The rejection of the motion to suspend is not a decision of the question. The very reason which induced the Chair not to entertain the motion of the gentleman from Indiana, [Mr. HUGHES,] proposing to reconsider the vote refusing a suspension of the rules, would indicate the opinion of the Chair that it was in order to renew the motion for a suspension as many times during the day as gentlemen can get the floor for that purpose. If that were not so, the motion of the gentleman from Indiana would have been in order.

The yeas and nays were demanded and ordered.

Mr. CURRY moved that the House adjourn. The House refused to adjourn; there being, on a division, only fifty-nine yeas, noes not counted.

Mr. HUGHES. Is it in order to move that we proceed to the consideration of the business upon the Speaker's table?

The SPEAKER. It is not. The morning hour has not yet commenced.

The question was taken on Mr. KEITT's motion; and it was decided in the affirmative—yeas 129, nays 61; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Bonham, Boyce, Branch, Bryan, Burlingame, Burnett, Burns, Case, Cavanaugh, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Corning, Cox, Burton, Craig, Crawford, Curtis, Davis of Massachusetts, Davis of Iowa, Dick, Dimmick, Edmundson, English, Eustis, Farnsworth, Fenton, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Gregg, Grow, Robert B. Hall, Harris, Hatch, Hawkins, Hickman, Horton, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Keitt, Kellogg, Kelly, Kelsey, Kilgore, John C. Kunkel, Lamar, Lawrence, Maclay, McQueen, Mason, Maynard, Miles, Miller, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Palmer, Pendleton, Peyton, William W. Phelps, Phillips, Potter, Pottle, Purviance, Reagan, Reilly, Ricard, Robbins, Russell, Sandidge, Scott, Seward, Shorter, Singleton, Robert Smith, William Smith, Stallworth, Stephens, Stevenson, William Stewart, Talbot, Thompson, Tripp, Underwood, Vallandigham, Waldron, Ward, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollcoffer—129.

NAYS—Messrs. Atkins, Bocock, Brayton, Buffinton, Caskie, Chaffee, Ezra Clark, John B. Clark, Cobb, Cockrell, Colfax, Comins, James Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dodd, Dowdell, Durfee, Giddings, Gilman, Goode, Goodwin, Granger, Greenwood, Groesbeck, Lawrence W. Hall, Harlan, Hoard, Hopkins, Houston, Knapp, Leach, Leidy, Leiter, Letcher, Humphrey Marshall, Millson, Moore, Morgan, Isaac N. Morris, Parker, Pettit, Pike, Ready, Royce, Scales, Henry M. Shaw, John Sherman, Spinner, Stanton, James A. Stewart, Tappan, Tompkins, Wade, Walbridge, Walton, and Wortendyke—61.

So (two thirds voting in favor thereof) the rules were suspended.

Pending the above call,

Mr. MORRILL stated that he had paired off with Mr. Davis, of Maryland.

Mr. SMITH, of Illinois. Mr. Speaker, I am against the resolution, and shall not vote for it; but I will vote now to suspend the rules in order that the House may have a direct vote on the question.

Mr. HUGHES. Satisfied, sir, that the House wants a direct vote on the question, I vote "ay."

Mr. HALL, of Massachusetts. I vote "ay," in order that the resolution may come up, and be adopted or rejected on a direct vote.

Mr. KEITT. I call for the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered.

Mr. KELSEY. Is it in order to amend the resolution, and make the adjournment over for a shorter time?

The SPEAKER. It is not; the main question has been ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 94; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Avery, Bennett, Billingshurst, Bishop, Blair, Bliss, Bonham, Boyce, Branch, Bryan, Burlingame, Burnett, Burns, Case, Chapman, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Corning, Cox, Burton, Craig, Davis of Massachusetts, Davis of Iowa, Edmundson, Elliott, Eustis, Fenton, Florence, Garnett, Gartrell, Gilmer, Gregg, Grow, Hatch, Hawkins, Hickman, Horton, Howard, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Keitt, Kellogg, Kelly, Kelsey, Kilgore, John C. Kunkel, Lamar, Lawrence, Lovejoy, Maclay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Oliver A. Morse, Mott, Murray, Nichols, Phillips, Potter, Pottle, Purviance, Reagan, Robbins, Russell, Sandidge, Scott, Seward, Singleton, Samuel A. Smith, William Smith, Stallworth, Stevenson, Talbot, Thompson, Tripp, Waldron, Ward, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Watkins, Whiteley, Winslow, Woodson, Augustus R. Wright, and Zollcoffer—98.

NAYS—Messrs. Atkins, Barksdale, Bingham, Bocock, Brayton, Buffinton, Caskie, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Cobb, Cockrell, Colfax, Comins, James Craig, Crawford, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Dawes, Dean, Dewart, Dick, Dodd, Dowdell, Durfee, English, Farnsworth, Foley, Foster, Giddings, Goode, Goodwin, Granger, Groesbeck, Lawrence W. Hall, Robert B. Hall, Harlan, Hill, Hoard, Hopkins, Houston, Hughes, George W. Jones, Keim, Knapp, Leach, Leidy, Leiter, Letcher, Samuel S. Marshall, Miller, Millson, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Niblack, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Pike, Ready, Reilly, Ritchie, Royce, Scales, Henry M. Shaw, John Sherman, Shorter, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Miles Taylor, Tompkins, Underwood, Vallandigham, Vance, Wade, Walbridge, Walton, White, Wortendyke, and John V. Wright—94.

So the joint resolution was passed.

Pending the call,

Mr. DAVIS, of Mississippi, said: Suppose the interests of the country should demand that the President should call us together again; who will be responsible for this adjournment—the Democrats or Republicans?

Mr. SEWARD. I move that the House do now adjourn.

Mr. JONES, of Tennessee. Before that motion is put, I wish to move that when the House adjourns to-day, it adjourn to meet on Thursday next.

Mr. JONES's motion was not agreed to.

The question was then taken on Mr. SEWARD's motion; and the House refused to adjourn.

Mr. KEITT moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

Mr. MORGAN demanded the yeas and nays on the latter motion; and asked for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken; and the motion was agreed to—yeas 111, noes 46.

So the motion to reconsider was laid upon the table.

And then, on motion of Mr. BARKSDALE, (at five minutes past four o'clock, p. m.,) the House adjourned.

IN SENATE.

TUESDAY, December 21, 1858.

Prayer by Rev. B. F. BITTNGER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, with the accompanying documents, in answer to a resolution of the Senate of the 7th of January last, calling for all the official dispatches and correspondence of the Hon. Robert M. McLane and of the Hon. Peter Parker, late commissioners of the United States in China, with

the Department of State; which was, on motion of Mr. Foot, ordered to lie on the table; and a motion by him to print the documents was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate calling for the annual report of Lieutenant Colonel Graham on lake harbors; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a memorial of manufacturers of gold and silver leaf in the city of New York, and other places, praying a modification of the tariff of 1857, in respect to gold and silver leaf, and the articles used in their manufacture; which was referred to the Committee on Finance.

He also presented three petitions of inhabitants of Oneida and Jefferson counties, New York, praying the erection of a breakwater at the port of Cape Vincent; which was referred to the Committee on Commerce.

Mr. FOOT. I am requested to present the petition of Jeremiah Thornton, praying to be allowed an invalid pension, for a wound received in the last war with Great Britain. I move that the petition be referred to the Committee on Pensions. I am personally acquainted with the petitioner; and believing the application to be a very meritorious one, I ask the early and favorable attention of that committee to the application.

It was so referred.

Mr. DAVIS presented the petition of Theodore Lewis, military storekeeper at the Washington arsenal, praying compensation for performing the duties of assistant commissary of subsistence; which was referred to the Committee on Military Affairs and the Militia.

Mr. FITCH presented a memorial of the Pacific and Pueblo Railroad Company, praying for a grant of land to aid in the construction of that road; which was referred to the Committee on Public Lands.

He also presented a memorial of the Leavenworth and Fort Gibson Railroad Company in Kansas Territory, praying for a grant of land to aid in the construction of said road; which was referred to the Committee on Public Lands.

Mr. BRODERICK presented the memorial of George C. Johnson, praying for the passage of a bill for the further adjudication of the validity of a Mexican grant, by the United States district court for the northern district of California; which was referred to the Committee on Private Land Claims.

Mr. BRIGHT presented the memorial of Gilbert Vanderwerken, praying that the bill passed by the House of Representatives in relation to a railroad along Pennsylvania avenue, in the city of Washington, may become a law; which was referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. RICE, it was

Ordered, That the papers on the files of the Senate, relating to the claim of Alexander Wood, administrator of William Wood and George M. Wood; the claim of Alexander Wood, administrator of Josiah W. Stewart; the claim of Lewis Roberts, and the claim of Adam P. Shogley, be referred to the Committee on Indian Affairs.

On motion of Mr. DURKEE, it was

Ordered, That the petition and papers of the heirs of Jabez B. Booker, on the files of the Senate, be referred to the Committee on the District of Columbia.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 477) authorizing the removal of the offices belonging to the United States, and occupied by the collector of the revenue, in connection with the quarantine station in the port of New York; which was read twice by its title, and referred to the Committee on Finance.

Mr. BAYARD, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 478) to provide for holding the courts of the United States in the State of Alabama; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BROWN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 479) conferring certain powers on the corporations of Washington and Georgetown, which

was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom was referred the memorial of Lewis Purdy and others, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 462) for the relief of William Wallace, of Illinois, reported it with an amendment.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of William Welch, reported adversely thereon.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the resolution of the Legislature of Minnesota, relative to the Sioux and Winnebago reservations, asked to be discharged from its further consideration, and that it be referred to the Secretary of the Interior; which was agreed to.

NEW SENATE CHAMBER.

Mr. BRIGHT, from the Committee on Public Buildings and Grounds, to whom was referred a resolution directing an inquiry into the condition of the new Chamber for the Senate, and at what time it might be permanently occupied, and what ceremony should be observed in removing thereto, submitted the following report:

That by the 4th day of January next, the Chamber can be finished and furnished in a suitable manner for the reception of the Senate; and your committee suggest that, in their opinion, an address from the Vice President on the occasion of the removal would be appropriate, and recommend the adoption of the following resolution:

Resolved, That the superintendent of the Capitol extension be directed to prepare the Chamber for the occupancy of the Senate by the 4th day of January next, and that a Committee of three be appointed by the Chair to make all necessary arrangements.

Mr. IVERSON. I wish to call the attention of the chairman of the committee to an inquiry which I desire to make: whether any arrangement has been made, or any plan agreed upon, by which the Senators are to occupy the seats in the new Chamber. Unless there be some arrangement before we go into it, there will be a scramble for the choice of seats. It seems to me that that matter ought to be regulated, and that the committee ought to propose some plan for that purpose.

Mr. BRIGHT. I will answer the inquiry.

Mr. HALE. I rise to a question of order. I object to the consideration of the resolution to-day.

Mr. BRIGHT. If objected to, it lies over, of course.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) It must go over till to-morrow.

Mr. SEWARD subsequently said: I have reason to believe that if the honorable Senator from Indiana will renew the call for the question on his resolution, the objection to its consideration to-day will be withdrawn.

Mr. MASON. It will be renewed. I shall renew it.

Mr. SEWARD. Very well.

The subject therefore lies over.

THE SLAVE TRADE.

Mr. SEWARD submitted the following resolution for consideration:

Resolved, That the Committee on the Judiciary inquire whether any provisions of law are necessary, by way of amendment to existing laws which prohibit the African slave trade, to secure the effectual suppression thereof.

J. H. MERRILL.

Mr. GWIN. I offer the following resolution, and ask for its present consideration:

Resolved, That the Court of Claims be requested to return to the Senate the papers in the case of J. H. Merrill vs. the United States.

They were referred to the Court by an order of the Senate, at the last session, and the claimant wishes them to be brought back.

Mr. IVERSON. Is the resolution up for consideration?

The VICE PRESIDENT. The Senator from California asks unanimous consent to consider it at this time.

Mr. IVERSON. I have no objection to its consideration, but I wish to discuss it.

Mr. BROWN. Then I hope it will not be considered now.

The VICE PRESIDENT. It will lie over.

NEW YORK HARBOR.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate whether, from any information now in his Department, or which can be obtained, there is, in his opinion, now belonging to the United States any land in the harbor of New York, or its vicinity, which can properly be appropriated to the use of the revenue department in case the same should be required for such purpose.

JEREMIAH WRIGHT.

Mr. KING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a message be sent to the House of Representatives, to request the return to the Senate of bill H. R. No. 365, granting a pension to Jeremiah Wright, which was returned to the House on the 17th instant.

PROPRIETARY RIGHTS IN OREGON.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate, such correspondence and other information as he may possess in relation to the claims of British subjects to proprietary rights in the Territories of Oregon and Washington of the United States.

MEXICAN DIPLOMATIC RELATIONS.

Mr. CLAY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, so far as it is compatible with the public interest, to lay before the Senate the correspondence between the Mexican Government and Mr. Forsyth, Minister of the United States to Mexico; and the correspondence of the State Department on the subject of Mexican affairs, referred to in his late annual message, and such other correspondence as may be necessary to elucidate the complications which resulted in the suspension of diplomatic relations with Mexico by the United States Legation in that country.

CAPTURE OF WILLIAM WALKER.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate copies of any letters or correspondence, now on file in his Department, between the President of Nicaragua and Commodore Hiram Paulding, in relation to the capture of Walker and his command at San Juan de Nicaragua, in December, 1857.

EXPENDITURES FOR INDIANS.

Mr. WILSON submitted the following order; which was referred to the Committee on Printing:

Ordered, That the usual number of copies be printed for the use of the Senate, of the accounts of the Treasurer of the United States, communicated 10th December, 1855; and the letter of Second Auditor, communicating copies of accounts of disbursements for the benefit of the Indian tribes, communicated 20th December, 1855.

RECESS FOR CHRISTMAS.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had agreed to the resolution of the Senate, providing for a temporary adjournment of Congress from the 23d instant to the 4th of January, 1859.

HIRAM POWERS.

Mr. PEARCE. I have been instructed by the Committee on the Library, to whom was referred a bill (S. No. 476) to authorize the President to make advance in money to Hiram Powers, to report it back with a recommendation that it pass. I ask the Senate to proceed to its consideration now, being sure that, after a very brief explanation, there will be no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill; which authorizes the President, out of the moneys heretofore appropriated by law to enable the President of the United States to contract with Hiram Powers for certain statuary, to make such partial payments in advance as he shall deem fit.

Mr. PEARCE. Mr. President, I beg to state, for the information of the Senate, that some four years ago an appropriation was made, and put at the disposal of the President, for the purpose of

procuring certain statues from Mr. Hiram Powers, an American citizen and sculptor, now residing at Florence. It has been customary, when statues or paintings have been ordered to be made, to make some advances, generally a small portion of the money which is needful to the artists, because they are generally not people of much money, and they are put to expenses which it is reasonable they should have the means of defraying at the outset. These contracts have been made so for the last thirty years, and the contract has been prepared in this case. It stipulates for the payment of about two thousand five hundred dollars, I think, in advance, and partial payments as the work shall progress, the progress of the work to be certified to the President by the United States consul at Leghorn, he being the nearest functionary to the residence of Mr. Powers. The President has no doubt at all of the propriety of making this allowance; but the Secretary of the Interior has suggested that an act passed in 1823, intended to apply to disbursing officers, forbids payments in advance to anybody on any contract with the United States. Although it may be somewhat doubtful whether the language of that act is intended to apply to a case of this sort, being applicable only to disbursing officers; and this fund not being in charge of a disbursing officer, but remaining solely at the discretion of the President, it has been thought proper to authorize the President by law to make such advances. I take it for granted there will be no opposition to it; and I therefore ask that the bill may be put on its passage this morning.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NEW MESSENGER.

Mr. THOMPSON, of Kentucky. I ask that the resolution which I offered yesterday morning, to which the honorable Senator from Alabama, [Mr. CLAY] objected, may be taken up. I understand from the senior Senator from Indiana, this morning, that upon looking into the matter, he would not object. The object of the resolution (I will explain it, for I suppose it would pass unanimously, if understood,) is simply this: A boy, by the name of Ragan, was here on the floor, working for us at the last session of Congress. During the recess a messenger died, and Ragan was put in his place. Ragan was put here under the direction of law, and the Sergeant-at-Arms, without an act reviving that or something equivalent to it, does not wish to make the appointment; it creates no new place, no additional expenditure, and does not add to the force we have had heretofore. I suppose there cannot possibly be any objection to it. I hope the Secretary will read the resolution, and that the Senate will pass it.

The motion to take up the resolution was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Sergeant-at-Arms be authorized to employ a person in the service of the Senate, in the place of, and at the same compensation as H. J. Ragan, promoted.

The VICE PRESIDENT put the question on the passage of the resolution, and declared that the yeas appeared to have it.

Mr. THOMPSON, of Kentucky, called for the yeas and nays, and they were ordered.

Mr. HALE. Before that resolution passes, I wish to hear some explanation of the necessity for it. I think we have more employes about the Senate now than there are members. We have more than one to each man.

Mr. CLAY. I deem it necessary, in consequence of the remarks of the Senator from Kentucky, to say that he misapprehended my position. I said I would not make any argument against the resolution, but that I could not vote for it.

Mr. THOMPSON, of Kentucky. I will give an explanation if the Senator from New Hampshire desires it. The resolution to which I allude was introduced by the late Hon. John M. Clayton. This boy was brought in here and put under employment. He continued in employment under that resolution until, a messenger dying in the recess, he was promoted to fill that messenger's place. The object of this resolution is simply to have an appointment to fill Ragan's place. It provides for no additional force, no increase.

Mr. HAMLIN. What is the date of that resolution?

Mr. THOMPSON, of Kentucky. I find it in the Journal, as follows:

"Mr. Clayton submitted the following resolution for consideration:

"Resolved, That Horatio J. Ragan be continued in the service of the Senate, under the authority of the Sergeant-at-Arms, until the further order of the Senate."

That was in 1855. He was so continued, and while he was so continued a messenger died, he was put in the messenger's place, and this is nothing in the world but to fill up the rank and file. Unless I was perfectly satisfied that it was right, I would not offer it. I am very cautious about such things.

Mr. HALE. Is this a resolution to fill up Ragan's place as messenger?

Mr. THOMPSON, of Kentucky. Yes; to fill his place as messenger. It creates no additional office. That is all the explanation I can give about it. I think it perfectly proper, perfectly right. It does not tax the Treasury. I do not think it is a case on which to display retrenchment, economy, and reform.

The question being taken by yeas and nays on the passage of the resolution, resulted—yeas 13, nays 29; as follows:

YEAS—Messrs. Bates, Bright, Brown, Crittenden, Dixon, Fitch, Foster, Iverson, Jones, Kennedy, Pearce, Simmons, and Thompson of Kentucky—13.

NAYS—Messrs. Allen, Bayard, Broderick, Cameron, Clark, Clay, Clingman, Davis, Fessenden, Fitzpatrick, Green, Hale, Hamlin, Harlan, Johnson of Tennessee, King, Mason, Polk, Reid, Rice, Sebastian, Seward, Shields, Silldell, Toombs, Trumbull, Ward, Wilson, and Wright—29.

So the resolution was rejected.

ST. CLAIR FLATS.

Mr. CHANDLER. I move to take up Senate bill No. 321.

Mr. SLIDELL. What bill is it?

Mr. CHANDLER. The bill in relation to the St. Clair flats.

The VICE PRESIDENT. The Senator from Michigan moves to take up the bill (S. No. 321) making an appropriation for deepening the channel over the St. Clair flats, in the State of Michigan.

Mr. IVERSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 31, nays 20; as follows:

YEAS—Messrs. Allen, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, Kennedy, King, Mallory, Pearce, Rice, Sebastian, Seward, Shields, Simmons, Thompson of Kentucky, Trumbull, Wade, Wilson, and Wright—31.

NAYS—Messrs. Bayard, Bigler, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Iverson, Johnson of Tennessee, Mason, Reid, Silldell, Thomson of New Jersey, Toombs, and Ward—20.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which appropriates \$50,000 for the purpose of deepening the channel over the St. Clair flats, in the State of Michigan.

Mr. CHANDLER. I do not propose to discuss the merits of this bill. I merely wish a vote to be taken upon it. The former appropriation is exhausted, and this bill provides the exact amount requisite to finish the work. As I merely desire a vote upon it, I will not occupy the time of the Senate.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading; and was read the third time.

Mr. IVERSON. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 22; as follows:

YEAS—Messrs. Allen, Bates, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Kennedy, King, Pearce, Rice, Seward, Shields, Simmons, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—29.

NAYS—Messrs. Bayard, Bigler, Bright, Brown, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Hammond, Houston, Iverson, Johnson of Tennessee, Mallory, Mason, Reid, Sebastian, Silldell, Thompson of Kentucky, Toombs, and Ward—22.

So the bill was passed.

THOMAS LAURENT.

Mr. SHIELDS. As there seems to be no business at present before the Senate, I ask leave to call up the bill S. No. 334. I think it will give rise to no debate. It is a claim which has been very long deferred.

Mr. GWIN. It is impossible before one o'clock to consider that bill. I do not know anything

against the bill; but the hour has almost arrived for the consideration of the special order, and I object to taking up this bill. I have no objection if it will not interfere with the special order.

Mr. SHIELDS. I think it will lead to no debate. Certainly I am not disposed to discuss it. It is a case which has been long pending.

Mr. GWIN. The Senator can hear the bell striking one o'clock now.

Mr. SHIELDS. I hope the Senator will let it pass.

Mr. GWIN. I have no objection.

Mr. SHIELDS. I think it will be sufficient to read the report in the case.

The motion was agreed to; and the bill (S. No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent, was read a second time, and considered as in Committee of the Whole.

It requires the Secretary of War to pay to Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent, or to his legal representatives, the sum of \$15,000, being the amount paid by that firm to Major General Winfield Scott, in the city of Mexico, for the purchase of a house, in that city, out of the possession of which they were since ousted by the Mexican authorities; which amount is to be in full of their claim against the United States.

Mr. FESSENDEN. Is there a report in that case?

Mr. SHIELDS. Yes, sir. Let it be read.

The Secretary read the report, from which it appears that the petitioner is the surviving partner of the firm of Benjamin & Thomas Laurent, British subjects, and merchants in the city of Mexico in 1847, where they were tenants in occupancy of house No. 1, Third street of San Francisco, the property of the convent Purissima Concepcion. On the 11th January, and 4th February of that year, the Mexican congress passed laws confiscating the church property to carry on the war with the United States, and the Messrs. Laurent, being notified that the house they occupied was to be sold, immediately contracted with the Mexican Government for the purchase of it for \$26,000, payable a part in cash, and the balance in easy installments. But before the conveyances could be executed a revolution broke out in that country, these confiscating laws were repealed, (on the 29th March, 1847,) and the contract of purchase was consequently annulled. In September, 1847, Major General Scott took military possession of the city of Mexico, and promised protection to private and church property in the following words of his proclamation:

"This beautiful capital, its churches, and its religion, its convents, and its monasteries, the inhabitants and their property are, moreover, placed under the special safeguard of the good faith and honor of the United States Army."

But being informed of the negotiation alluded to above, he served upon the Messrs. Laurent the following notice:

HEADQUARTERS OF THE ARMY,

MEXICO, November 8, 1847.

Mr. Benjamin and Mr. Thomas Laurent are notified that the Government of the United States seizes as property of the Government of Mexico, the \$28,000, for which they purchased house No. 1, in the Third street of San Francisco, which sum is now in the hands (in the power) of said gentlemen; two thirds thereof payable in cash, and one third in bonds of twenty-six per cent.

By command of Major General Scott:

G. W. LAY,

Lieutenant, Military Secretary.

This is to certify that a debt of \$26,000, due by Benjamin and Thomas Laurent to the Mexican Government, for a house, has been seized by me, on behalf of the United States Army, as a lawful prize of war.

WINFIELD SCOTT.

Executed by Major General Scott, in my presence, November 8, 1847.

GEORGE W. LAY,

Lieutenant and Military Secretary.

Major General Scott, being now assured by the Messrs. Laurent that this \$26,000 had not been paid to the Mexican Government, that there was no existing contract, and that they were only tenants of the convent, undertook to sell the house to the Messrs. Laurent for \$15,000 in cash, and to put them in possession of it, which was done by his order to the notary Arteagor. He also issued his order to the civil judge to suspend all legal proceedings against them, and to leave them in the peaceable possession of the premises. This amount, \$15,000, was paid by the Messrs. Laurent to General Scott, and they considered themselves the owners of the property under the authority of the United States.

After Major General Scott's absence from Mexico, the Messrs. Laurent addressed to Major General Butler a letter requesting further security of title. His answer to that letter is as follows:

HEADQUARTERS ARMY OF MEXICO,

MEXICO, March 15, 1848.

The major general commanding has received the representation of the Messrs. Laurent, asking to be confirmed in their title to the house sold them by the Mexican Government, the price of which was seized to the use of the United States army.

It appears to him that the most formal title which it is in the power of military authority to give, has already been given by the general-in-chief in the certificate that the debt has been seized by him as prize of war, and in the order to the legal authorities to put the Messrs. Laurent in possession of the house; and the commanding general does not see what he can add to those sanctions of their title. Should the Mexican Government hereafter attempt to oust them from possession, it would be a question between the Governments; and to provide against that case, the commanding general will refer the matter to Washington.

W. O. BUTLER,

Major General Commanding.

It does not appear that General Butler ever communicated this matter to the War Department; and immediately after the evacuation of Mexico by the American army, the Messrs. Laurent were sued by the convent for the recovery of the house, and having no other title than the possession given them by General Scott, the suit was decided against them; their appeal to the Supreme Court was dismissed, and they were formally dispossessed of the property, and so they remain to this day.

Thus situated, the Messrs. Laurent presented their claim for damages to the commissioners under the convention for the adjustment of claims of subjects or citizens of Great Britain and the United States against either Government, where it was rejected for want of jurisdiction, as the Laurents were "at the time alien enemies." Having thus exhausted every other remedy, he now applies to Congress for relief.

In Lieutenant G. Lay's testimony before the court of inquiry, in the case of Captain McKinstry, in January, 1848, he states, that the money was received by him, and Major General Scott, in rendering his account of money received by him in Mexico, on 11th November, 1847, charges himself with "debt due Mexican Government, collected by Lieutenant Lay," \$7,000.

The committee of the Senate are satisfied that the sum of \$15,000 was paid by the Messrs. Laurent in the manner they state, and that they have received no value therefor, and they report this bill for the relief of the surviving partner, or their legal representatives.

Mr. FESSENDEN. I think the bill had better be postponed. I should like to look a little further into it. I have very strong doubts whether the Government ought to pay anything.

Mr. SHIELDS. The case is a peculiar one, and I will state what it is. General Scott levied \$15,000 upon this firm, and put the firm in possession of a house which he believed he had the power to do at the time—a house in lieu of the \$15,000, as a consideration. It turned out that the house was the property of a convent, and that these people, the moment he left Mexico, were ousted from its possession. He levied the \$15,000 upon them, and gave them possession as he believed to be proper; but they were ousted from the house, and now they ask for the \$15,000. I knew the parties well in Mexico. They were as respectable men as were then in that city, and they were amongst our kindest and best friends on all occasions. This claim has passed the Committee on Military Affairs, and I hope the objection will be withdrawn.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The hour has arrived for the consideration of the special order, and it becomes the duty of the Chair to state that fact.

Mr. FESSENDEN. If the matter is to go on further now, I have a word to say; but if the special order takes precedence, very well.

Mr. GWIN. It goes over I suppose, and the unfinished business comes up.

The PRESIDING OFFICER. The special order is the unfinished business of yesterday, and it will now be taken up.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war,

Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; the pending question being on the amendment of Mr. Wilson to strike out of the first section the words, "the most eligible route, reference being had to feasibility, shortness, and economy," and in lieu thereof to insert "the shortest practicable route between the parallels of latitude thirty-five and forty-two;" so as to make the section read:

That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the shortest practicable route between the parallels of latitude thirty-five and forty-two.

Mr. WILSON. Mr. President, before the debate goes on upon that proposition, I desire to modify it. On further examination, instead of the thirty-fifth, I propose to say the thirty-fourth; and instead of the forty-second, to say the forty-third degree of latitude.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. WARD. Would it be in order to introduce an amendment to be considered after disposing of the present one?

The PRESIDING OFFICER. The Senator can give notice of his intention to move an amendment, but an amendment at the present time will not be in order.

Mr. SEWARD. It can be received informally. The PRESIDING OFFICER. It can be received as notice of an amendment to be offered hereafter, when it shall be in order.

Mr. WARD. Then I give notice that I shall, when it may be in order, offer the amendment which I send to the Chair.

The Secretary read the proposed amendment, which is to strike out, in section one, the words:

"From a point on the Missouri river between the mouths of the Big Sioux and Kansas rivers to San Francisco, in the State of California,"

And insert:

From some point between the forty-fifth degree of north latitude and the southern boundary line of the United States to the nearest eligible point on the Pacific coast, in the State of California, reference being had to feasibility, shortness, and economy.

And second: to strike out, in section seven, the sum of "\$25,000,000," and insert "\$10,000,000."

Mr. WARD. Mr. President, I voted to bring the original bill before the Senate, for the purpose of offering an amendment at the proper time; but hitherto I have not been able to get it before the Senate. As I shall oppose the amendment now under consideration, I have thought proper, before the vote is taken, to bring to the minds of the Senators the one which I will offer in its order, should I have the opportunity of doing so; but as to the merits of the one now before the Senate, I shall say a few words.

Mr. President, I have thought it proper to take this course, because I feel deeply interested in the construction of this road; not in a sectional point of view only, but to attain that location for the road that would be for the best interests of the whole country. It appears to me that if any of the lines for the location of this road as heretofore spoken of are to be considered, we should adopt the language used in the bill in its literal sense, when it provides that the road shall be constructed on the most eligible route, reference being had to feasibility, shortness, and economy. Now, does the pending amendment which proposes to limit the road to a route between the thirty-fourth and forty-third degrees, present an opportunity to select the nearest, the cheapest, and the most practicable route to the Pacific coast? If not, I contend that the whole field should be thrown open so as to afford a chance for a route below the thirty-fourth degree.

According to the explorations of the various routes, as reported, it will be seen that some have been considered impracticable; and others, from the nature of the country over which they pass, as well as their great length, would cost an unnecessary expenditure of money and delay.

It will appear from the table of cost and distances, that amongst them all (and I believe there are eight or ten of them) the southern route from Fulton to San Diego, via El Paso, is the shortest and most practicable one by over fifty per cent.,

after allowing for that link in the road which is now being constructed by private enterprise, aided by the State of Texas. If, however, upon further examination, a more available one can be found, it should by all means be adopted.

I have ever been of the opinion, Mr. President, that some place on the Mississippi river should be selected as the starting point for this great national highway, and its terminus to be the nearest practicable point on the Pacific coast. It appears clear to my mind that the interest of the whole people would be most effectually guarded and protected by entrusting the location of this road to the care and direction of the capitalists who may undertake the work with the proper guards and restrictions. In the first place, they would be required to locate the line of road according to the provisions of the bill, "on the most eligible route, reference being had to feasibility, shortness, and economy;" but before committing this important trust to the charge of undertakers, we should first consider what their interest would prompt them to do.

It is, however, reasonable to suppose that they would select a starting point within the space allowed, with reference to the whole country, so as to concentrate at some central and convenient point the largest portion of the travel and commerce for the patronage of their road.

I have not a table of the railroad statistics before me, but I believe the estimate is, that there are about twenty thousand miles of railway east of the Mississippi river, and as many miles of navigable streams, forming a complete network from Maine to Georgia and from the gulf coast to the lakes of the north. And it will be observed that the general tendency of those roads is westward, many of them reaching from the Atlantic coast, by one continuous line, to the Mississippi river; others terminating on the Ohio river from the north, tapping it at various places from its head to its mouth; whilst the roads from the gulf coast reach far up into the interior of the country; all seeming to be in search of a passage west to the Pacific.

And now, Mr. President, we must cast our mind west, and examine critically the physical condition of the country over which we have to make a road, as well as the roads west already built, and those in prospect, and see the best and most practicable route for a connection with the Pacific coast. I am not familiar with their railroad prospects in the extreme northwestern portion; but I will say from St. Louis there is a road running west from that place one hundred and seventy-five or two hundred miles. I am not certain as to its length.

The Cairo and Fulton road has a grant of six sections of land per mile to aid in its construction, and has, I am told, a portion of it under contract. The Memphis and Little Rock railroad, which intersects the Cairo and Fulton road, has a similar grant from the Government, and fifty miles in running order. The Mississippi, Wachita, and Red River road, sometimes known as the Gaines Landing road, the whole length of which will be one hundred and eighty miles, has one hundred miles graded, and a portion of it ready for the iron. These roads form a junction at Fulton, a little south of the thirty-fourth parallel. The Memphis, El Paso, and Pacific road leaves at that point for El Paso, a distance of about eight hundred miles. The Vicksburg and Shreveport road is now being constructed, and is to be completed in 1861, according to the contract. It connects with the Southern Pacific road at the eastern boundary line of Texas, a little north of the thirty-second parallel. From this point, the Southern Pacific road runs west, to El Paso. It has twenty-five miles now in running order, and recently fifty more under contract; and perhaps it would not be amiss here for me to say that, but for some unfortunate difficulties which have existed in that company, a much greater amount of road would now be in running order. I am happy to say, however, that these difficulties have been recently removed, and that at a late meeting held at Louisville, where more than three fourths of the stock were represented, they agreed harmoniously to prosecute the work. That road runs west to a point where it will form a junction with the Memphis, El Paso, and Pacific road, somewhere on the Trinity river; and from that point the energies, the interests, and the cap-

ital of both companies will be united in the construction of one trunk road to El Paso. The Opelousas road, too, is completed to Berwick's bay, from whence there is a communication to Galveston by water, and a continuation of the same line by land to the Sabine Pass, where it connects with other Texas roads running north and west, by way of Houston, Austin, and San Antonio, in the direction of El Paso.

The Galveston and Henderson road also has forty-seven miles completed, and twenty-five miles under contract. The Texas, Central, and Houston road have had fifty miles running successfully for several years; and I am told that by July they will have at least seventy-five miles in running order. This road will connect with the Memphis, El Paso, and Pacific road, somewhere on the Trinity river. I consider these gulf roads of vast importance in this great enterprise; for it is a well known fact that commerce will, as far as possible, seek water transportation.

I have thus attempted to bring the minds of Senators to the fact that the Texas roads, in connection with the roads west of the Mississippi river, carry this great work to El Paso. According to the best information we have, it is only six hundred and fifty miles from El Paso to San Diego. Thus, if the El Paso route be taken, there will be only six hundred and fifty miles to be constructed by Government aid; and according to the best information that can be had, there are but few obstacles in the way of its construction, there being streams and natural water tanks at convenient distances. In the absence of these, well water can be had at the distance of forty or fifty feet. Such is the opinion of Mr. Gray, derived from actual observation while engaged in the boundary-line survey under the treaty of Guadalupe Hidalgo, in 1852.

Next, I would call the attention of Senators to the discrepancy between the costs and distances of a road on the various routes proposed. The shortest route actually surveyed within the range of country prescribed in the amendment of the Senator from Massachusetts, [Mr. Wilson,] is two thousand miles; while, on the route of which I have spoken, the aid of this Government will be required for only six hundred and fifty miles. Some may, perhaps, think that this argument falls to the ground, for the reason that they suppose the Texas roads will not be built. In answer to that, I will say that I have every confidence in the completion of those roads. Some, perhaps, may not be built; but the leading roads across the country, the main arteries of which I have spoken of, will undoubtedly be constructed. Having said this, perhaps it may be necessary that I should give some of the reasons which lead me to this conclusion.

In the first place, these roads have received a magnificent grant of land from the State of Texas—sixteen sections of land to the mile, with a reservation for the location of the road. In addition to that, we have a school fund of \$3,000,000, which has been, and will be, loaned to these roads to aid and assist in their construction to the extent of \$6,000 a mile. Besides, we have a peculiar population in Texas; our people are largely interested in the real estate of the country, the value of which, to some extent, depends on the completion of these roads. We have a larger number of landholders in proportion to our population than any State in the Union. From the poorest to the most wealthy, our people are taking stock in the roads. Why? Because aside from the bonus to be received from our magnificent land grants and the increased value of real estate, we have in Texas the finest country in the world over which to construct a railroad, and a country so situated, geographically, that we have no navigation, comparatively speaking, and are driven to make roads from necessity. These are some of the reasons which induce me to believe that such roads in the hands of such people are bound to succeed. As an evidence of the cheapness of their construction, I will read a short paragraph from a report of the president of the Vicksburg, El Paso, and Pacific road, immediately on this line. He says:

"The grading of the first fifty miles will cost \$56,000. [See the able report of our engineer.] These estimates we have tested, by letting out twenty miles of the road, and the contractors make handsome profits on their contracts."

"The ability to proceed with the construction increases

with the progress of the works. If the land grant should be sold at \$1.50 per acre, it would amount to over \$15,600 per mile, a sum fully sufficient to pay for the entire cost of the road; and if the grant should be worth as much as the grant to the Central Illinois road, ten dollars per acre, it would amount to \$100,000 per mile; and after paying for the road, would leave a bonus of \$85,000 a mile, to be divided among the stockholders."

In that country, where there is in many places but little more to do than lay down the iron, railroads can be constructed for \$15,000 per mile. When I say this, I am not imagining what can be done, but I am speaking of what has been done. I do not pretend to say that the whole line will be constructed for this amount; but I do say that the cost of the whole line will not average more than \$20,000 a mile, and at most \$25,000; and it can only cost the latter sum for small sections. These estimates may startle some gentlemen, who live in other regions of the country, where railroads have to be built over lofty mountains, by inclined planes, and through deep cuts, and carried over broad rivers. We have no such difficulties in our way.

I would further suggest the advantages of the climate in the latitude over which the El Paso route must pass—a latitude so favorable for the business of its construction and of its operation; being free from snow and ice at all seasons, which is often found troublesome in a more northern latitude.

And further still, this road would reach from the extreme northeastern portion of the United States to the extreme southwest, passing in a diagonal direction across the Union, thereby making it equally convenient for both the North and South to reach it by branch roads.

And still another idea: It would embrace, in its course, the manufacturing, grain, cotton, and sugar interest; we should necessarily, therefore, be thrown together in the course of business and travel from different localities, and this would afford an opportunity to get better acquainted, and better understand each other and our institutions; and, although it may appear to some of small importance, if of any importance at all, yet I honestly believe that such an interchange would do more towards harmonizing and binding together the different sections of the Union than all the excited discussions and newspaper warfare could accomplish in all time to come. I do not bring forward this as an argument to induce the location of the road on any given line, but only incidentally, and in connection with other results.

And now, Mr. President, I will briefly consider the necessity and advantage of this road in a national point of view. I will not enter into details on this point, for the question has been ably discussed, and at length, by honorable Senators heretofore. I beg leave, however, to call the attention of Senators to the fact, that millions of people are anxiously waiting for the accomplishment of this desirable object, by which the Federal Government, without any actual outlay of Government means, would not only accommodate and protect her citizens, but would develop the resources of an immense country and increase her commerce and revenue beyond the calculation of the most fruitful imagination.

But, in time of war with foreign nations, the inestimable advantage of speedy communication between our Atlantic and Pacific possessions, will be most felt and appreciated. Men, and munitions of war, by thousands, could be made available almost as soon as called for, and at comparatively small expense, and thus, by a timely preparation, we should not only prevent a war, but save the lives of thousands of our citizens and millions of dollars to the country.

Mr. SEWARD. Mr. President, I am very glad to see these numerous propositions of so many fixed and certain routes for a Pacific railroad; and I hope that every proposition of that character which is in reserve may speedily be submitted, because their presentation will open the way to a candid consideration of the few remarks which it is my purpose to make in support of this bill; remarks designed, not to show that the road which probably will be made under the bill which is reported by the committee will be made upon the best, or the most convenient route, or the cheapest route, or that the system which the committee have adopted and submitted to the Senate in their bill, is the best system and the most satisfactory one to all parties which can

be devised, but designed to show that it is impossible for the Congress of the United States, representing, as they do, confederated States and communities distant from each other so widely as they are, and maintaining systems of commerce and agriculture and manufactures so diverse, can agree and determine upon any one route, or the full details of any one system, to the exclusion of all others.

I have little occasion to appeal to the Senators from California, the only community on the Pacific coast which as yet is represented in the Congress of the United States. I have noticed always in the State to which I belong that the memory of the Netherlands is held in the tenderest affection by the descendants of the colonists of New York. On the other hand, when I traveled in Holland, I was unable to find even one lingering tradition there of the settlement of the New Netherlands. It is always so. The affection of the emigrant for his native land is always stronger than the concern of the fatherland for its exiles in foreign countries. The Senators from California are convinced and committed, and are earnest enough in support of a Pacific railroad. It is only the Senators from the eastern side of the Rocky Mountains who require to be convinced. It is only on this side of the mountains that the snow and ice of indifference and prejudice remain to be dissolved.

I shall pass rapidly over the question of details. No Senator has shown—I think no Senator can show—any objection against the propositions for settling the route, which are contained in the bill reported by the committee, which has not been already anticipated there. No one can show, I think, as no one has shown, an objection against the plan adopted and recommended by the committee for the construction of the road which has not been anticipated there, which I myself have not anticipated and surrendered there. This bill is not my bill. The route upon which the road will probably be made under it is uncertain. It cannot now be ascertained. My own apprehensions are, that it will cause a road to be built in a latitude further south than I should prefer; but, on the other hand, I know, or at least I think I am authorized to say, that members of the committee, as well informed on the subject and as shrewd and sagacious as I, opposed the bill in committee, because they believed that under it the road would probably be made on a route more northern than they could approve. If I were authorized and empowered to provide for the construction of the Pacific railroad, I should begin in a very northern latitude, and I should carry the road directly across the continent, in continuation of the northwestern track of the emigration which has been pursued from the time when the navigation of the great lakes was opened until now, when we find population already gathered and clustering upon the western shores of Lake Superior. If I were authorized to provide the system upon which it should be built, I would discard and reject at once all pretense of the employment of companies or associations which, in my judgment, are but shams when engaged by the Government of the United States to construct a great national work. I regard such associations as bodies which will have no substance, no blood, no nerves, no sinews, in short no power, and even no vitality, but what they will derive from the vigor and strength of the Government of the United States. I would discard, utterly and entirely, the policy of giving public lands to railroad companies to be sold in the shambles to speculators, to raise means to carry on this great national work. I would directly employ the capital and the credit of the United States, increasing the revenues of the United States from commerce for the purpose of defraying the cost and establishing, at the same time, a sinking fund which should, within a reasonable period, absorb the public debt thus created. And I would surrender the public lands in the vicinity of the road to actual settlers for cultivation, so as to secure the speediest possible production of revenue from it.

But, Mr. President, I have been overruled in the committee, as have been all the proposed other or different plans or methods of determining the route; and they have been overruled upon a due consideration of all our objections. This bill has been reported by a majority of the committee, with whom I agree to accept it, not as the best possible bill, but as that one which will come

nearer to our own systems and views. The only alternative, therefore, were either one less acceptable to those with whom I suppose myself to be acting, or no bill for a Pacific railroad at all. If any one inquire why I submitted to be overruled, I answer, it was because I think that it is time for deliberation to end, and for action to begin. In other words, I am in earnest in desiring to see a Pacific railroad built.

If I have not made myself clear in regard to this impossibility of fixing a route in debate here, I think I shall be able to do so by a single further remark. The Congress of the United States contains representatives who may be distributed in several classes: first, those who would vote for a Pacific railroad, if it should go in a route sufficiently near to the States and districts which they represent, and would probably vote against any Pacific railroad on any other conditions; a second class, who would vote for a railroad if it was not carried upon a route entirely distant and remote from the States which they represented; and a third class, who will not vote for a railroad at all anywhere, to be made in any way, and under any circumstances. Since we concluded in the committee that no one route could be determined on in debate, it only remained to find some plan for the selection of a route independently of our own direct action.

The proposition which was adopted provides that the President of the United States shall be furnished with means to contract virtually for the building of a Pacific railroad, starting at a point on the western line of the organized States of the Union, that is the Missouri river, the western border of the State of Missouri, at some point between the Big Sioux and the Kansas rivers, and thence to proceed to San Francisco, in the State of California, by the most eligible route, regard being had to feasibility, shortness, and economy. It is possible that the confidence thus to be reposed in the Executive might be abused; but there is a guarantee for his trust being executed wisely and justly, in the fact that the bill provides an appeal to the interests of capitalists to ascertain the most eligible route, reference being had to feasibility, shortness, and economy. The western terminus of the road must at all events, and immediately, be at San Francisco; not that it will be the only terminus of all the Pacific railroads which shall be hereafter built; not that it is in our power to bind up fate and compel the population throughout the whole extent of the Pacific coast to pay tribute forever to San Francisco, but that San Francisco occupies, at this time, the position of the center of commerce on the Pacific coast of this continent, and that civilization is further advanced and more completed and perfected in the State of California, and in that portion of it which communicates with San Francisco, than it is in any region north or south of that coast. A railroad to the Pacific ocean would be practically incomplete which should traverse the continent and stop at San Diego on the south, or at Guaymas, on the Gulf of California, or at Puget Sound. Although it may be practically wise to build the road to Vancouver's Island, or to Puget Sound, still, when it has been brought there, commerce, trade, business, and the interests of the Government, would require it to be continued to San Francisco. Therefore, a majority of the committee supposed it was safe and proper to require that the road should be built to that point. What remained, then, was to approximate to a terminus on the western border of the Atlantic States; and leaving the margin of a short distance of three hundred miles between the Kansas and Big Sioux rivers, we thought a point might be taken from which connections might be made from Chicago, from St. Paul, from St. Louis, from Memphis, from New Orleans, and from Texas. In this way, while it might be supposed that the interests of the trade, as already established, have determined one or several terminations on the Atlantic coast—Portland, if you please, or Boston, or New York, or Philadelphia, or Charleston, or New Orleans, or all of them—the only question left was a practical one, namely: where, on the western borders of the existing Atlantic States, these several points could most naturally and easily and conveniently be connected with the route across the continent which would be most eligible, because it was the most feasible, the shortest, and the one requiring the least expense.

Each Senator now raises a question whether the road, if starting at a point between the Big Sioux and the Kansas rivers, and seeking San Francisco, will go northerly enough, or whether it will go sufficiently far south, or whether it will take the central route, or the Albuquerque route. All that matter is left to be ascertained by the surest and best test, and that is the test of the skill and science and economy of the contractors who shall engage to build the road. What has already occurred here has been sufficient to show that although it was possible that a majority of those who favor the construction of a railroad to the Pacific may not agree upon this system or plan of ascertaining where it shall be located, yet a majority cannot be gathered together to vote for the northern, or Governor Stevens's route, because everybody south of that route would be inclined to vote against it. So, if you take a central route, those on the north and those on the south may be expected to combine to vote against it; and if you take the Texas route, there would be a strong opposition on the part of all those who think that its effect would be to carry the emigration of the country and the progress of civilization further south than is consistent with the interests of the States which they represent. I make these allusions not for the purpose of showing that the details which this bill adopts are the best, but for the purpose of showing that they are the best upon which I suppose a majority of Congress can be brought to agree.

Mr. President, we are met on this occasion, as we always have been, with the argument that the construction of a Pacific railroad is impossible. That objection has been raised here annually for eight years, and so often as the subject of a Pacific railroad has been renewed; but it comes now in a modified form. Now, it is said that it is impossible to make the road within any reasonable limits of expense, and within any reasonable and convenient period of time. It has been already demonstrated, by actual surveys, that this road can be made at an expense varying from \$95,000,000 to \$125,000,000, on any one of, I think, five several routes; and that, if the requisite energy shall be exercised, it can be built within a period of ten or fifteen years.

But it is said the road will cost a hundred or more millions, and will be worthless when it is made; because it will not be self-sustaining—that it will be a burden upon the Treasury of \$10,000,000 a year. It does not lie in my way to dispute or gainsay these specifications of the old objection of impracticability as now modified. I grant you, sir, that railroads cannot be made anywhere without great cost, and especially if they are made through mountain passes and over sterile plains, in a region absolutely uninhabited, or inhabited only by savages. I grant, moreover, that railroads do not often pay dividends, and seldom or never pay dividends when they are constructed through a region in which society has yet to be called into existence. I admit the truth of these objections when stated with any moderate limitations; but this admission does not at all settle the question of economy. We have fallen into the habit of regarding that road alone as feasible which could be made by commerce, and sustained by commerce, because that has been our experience, and the experience of older nations. A road is undertaken in Russia, in Germany, in France, in England, in Massachusetts, New Hampshire, Virginia, Georgia, Tennessee, everywhere in settled and civilized States, for commercial purposes only, or chiefly. It is undertaken upon the ground that the profits of traffic upon it will pay for its construction, and its management. It is a very wise policy on the part of the Government of the United States to employ for postal and military purposes, roads in those States which are made by commerce, and for commercial uses. But it by no means follows, and it is a great error to infer that commerce will make and sustain railroads everywhere, adapted to the purposes of the Government, or that the Government of the United States has no need for a railroad across the continent, because commerce will not make, and will not sustain it when made.

The error, Mr. President, lies in supposing that the road is to be built exclusively or chiefly for commercial purposes, and that the test of its expediency is an expediency of commerce. This road for the present, perhaps for a long future, is to

be chiefly a political road, a road which will have three purposes: the first, the conveyance of the mails of the United States, thus making it a postal road; second, the conveyance of the armies and the military and naval stores of the United States to the interior of the continent, and across the continent to the Pacific States; third, the introduction and establishment of society in the recesses of the continent. Independent of the great central, desolate, dreary region which intervenes between us and the Pacific coast, we have already exploded the ancient theory that the mails of the United States can be maintained by commerce alone; we are actually maintaining postal communication as a political necessity over eastern portions of the United States, and upon the Atlantic and the Pacific oceans, at a cost greatly exceeding the revenues derived from the postal service itself. A postal railroad across the continent, within our own dominion, would stand on the same footing with our present overland wagon road, or our steamship lines between New York and San Francisco. But this is a very small element in the question. Other great elements are the maintaining of peace, and order, and authority over the savage tribes in the interior of this continent; and, if need be, which God forbid, hereafter the maintenance of authority and of peace and of law in Territories organized within that region; and still further the protection of the American communities which are growing up on the Pacific coast from the Gulf of California to the boundary of British Oregon, the security of those communities against danger in such foreign wars as our whole political system contemplates as possible; and lastly, there is the object of consolidating the Union between those States and the Atlantic States.

These are political objects, and it is seen at once that the commercial uses of the road are entirely incidental. For one, Mr. President, I believe that if there had been a Pacific railroad there would have been none of those recent disturbances and alarms in Utah, which have cost us so many millions; there would have been none of those expensive and distracting incursions of the Indian tribes on our infant settlements in Oregon and Washington. If there had been a Pacific railroad, there would have been a more rapid increase of the population and strength and wealth and vigor of the new States upon the Pacific coast—California and Oregon. The emigrant goes for a song from the Atlantic States to the borders of civilization beyond the Mississippi. Fifteen, twenty, or fifty dollars, pays the expense of the emigrant from Boston unto what we are yet accustomed to call the Far West, and a sum not greater than that, pays the expense of the emigrant from Europe to this country; but the emigrant from the Atlantic coast, or from any of the internal Atlantic States, or from Europe, lays out a small estate in reaching the settlements on the Pacific, which it will be fortunate for him if he is able to replace by the labor of many years after his arrival there.

If, Mr. President, it be said that there is no need of the display of the Government in those regions until society shall have been organized there, and shall have developed commerce, which will furnish and maintain the desired communications, then I answer that that is a question which was foreclosed ten years ago. It was settled and determined when the treaty of Guadalupe Hidalgo was executed. The United States then, solemnly undertook and committed itself to its own people, and to the world, to discharge the responsibility of establishing and maintaining civilization and government across the Rocky Mountains, and the snowy mountains, and the deep ravines, and the sterile plains, which intervene between their summits. This Government, in fact, has never been able for a moment to get away from the sense and conviction and pressure of that obligation. What are all our experiences of treaties with Great Britain and with the Central American States for the route across the Isthmus of Panama, for the route across Nicaragua, for the route through Honduras, to say nothing of our surveys of a ship canal across the Isthmus of Darien? What have all these negotiations meant? What mean all the conflicts and embarrassments which attend them, and which are perpetually increasing? What means our controversy about the filibuster system, about the Monroe doctrine,

about M. Belly's interoceanic ship canal? What are all these together but the betrayal of the conviction of the United States of the necessity of having routes across this continent by which to maintain order and government within our unorganized territories, and to secure the safety and prosperity of our new States on the Pacific?

For one, sir, I believe that society will never be permanently organized and maintained in peace in the interior of the continent; I believe that authority will not be maintained there successfully; and I believe even that union will not be perfected between the East and the West, until we shall have completed this bond of connection, this great instrument of political discipline, if you please so to call it, which it ought to have been the first task of the Government of the United States to provide on the organization of society in California under our Constitution. So believing, the question of \$50,000,000, or \$100,000,000 expense, or of \$10,000,000 a year in maintaining the system, sinks into insignificance. It is necessary; and since it is necessary, there is an end of the argument. It stands, I repeat, upon the same footing as your postal system; precisely upon the same foundation as your Navy and your Army; and if you are to dispense with either, if you are to cut down the expenses of either, my sober judgment is that retrenchment should lay its hands upon the armed forces and the naval establishment of the United States, while a liberal and fostering hand should be extended to the commencement and prosecution of this great enterprise.

Mr. President, I do not know how long we can go on floundering in the way we have done for the last eight years, disputing with the Republic of New Granada to-day, disputing to-morrow with the Republic of Nicaragua, unable to repress incursions of our own citizens upon Central America, in danger perpetually of conflict with France and England for the want of this great improvement; but I am sure of one thing; that, loyal as the people of the Pacific coast are, that loyalty has its limits, and it is founded in reason, and not in blind partiality or affection. This community, so distant from us, so separated from us, growing up by itself in a state of isolation on the Pacific coast, and as near to-day to the great communities of western Europe and to Asia, practically, as it is to us, cannot be retained in political connection with us by a mere written bond, a contract in writing; but it must be maintained by the exercise of the spirit of the Union, which is equality—equality between the States; equality between the communities constituting the States; that political equality which, making due allowances for physical barriers that cannot be surmounted, yields and affords to agriculture, to mining, to manufactures, and to commerce, throughout every part of this great empire, equal facilities and advantages. Every Senator can answer for himself whether the Pacific coast enjoys this equality of privileges and advantages consistently with the obligations of the Government so long as it is kept separated and isolated. Let us not deceive ourselves. There is no destiny that secures, and will, in despite of our own errors, vices, or crimes, perpetuate this inestimable Union. On the other hand, the fates are always assiduously engaged in weaving an inevitable web for thoughtless and improvident States.

Ambition, Mr. President, is not exclusively a plant of eastern growth. It springs up and is as vigorous on the Pacific as upon the Atlantic; and our Pacific States will, if they are not allowed to connect themselves directly and intimately with the eastern States, do just exactly what the older Atlantic States did. They will colonize the Pacific coast of the continent and set up for themselves. It is only a question of time, if there be no change of policy. They can be no more loyal to us and entertain no more affection for us than our forefathers cherished towards the country from which they emigrated to this continent. Then, I think, the Pacific railroad involves this question: whether this capital, endeared to us by so many attractions and exciting so much hope and pride and promise, shall, by the improvement of facilities for intercourse, commerce, and communication between us and the Pacific coast, remain the capital of the whole United States of America; or whether it shall dwarf and sink, and become the capital of the United States of Atlantic America only; and Mexico, invested as it is

with so many ancient and heroic traditions already, shall become a rival capital—the capital of the Pacific States of America.

Mr. President, I shall not willingly lose my way in debates about the constitutional power of the Government of the United States to construct this road. For myself, I understand the Constitution of the United States to have been made "to establish justice, to maintain domestic tranquillity, and to secure the blessing of liberty to ourselves and to our posterity." Believing, as I do, that justice cannot be maintained, tranquillity preserved, or the blessings of liberty secured under the Constitution to this whole American people, divided as it is into two communities, isolated and separated from each other, I am in no frame of mind to indulge in that sharp political criticism which seeks to render the Constitution of the United States, and the Union which it constitutes, a powerless, spiritless, lifeless thing. Since it is necessary for peace, since it is necessary for order, for safety, for liberty, and for union, I can, without scrutinizing the provisions of the Constitution closely, find in it ample ground for my support of this great measure. But all will agree that in cases of immediate danger, or in case of such remote danger as exacts precaution, it is allowed by the Constitution of the United States to Congress to make post roads in the Territories of the United States, and military roads within the same Territories. That concession is all that this occasion demands.

Mr. President, I hope I may be excused for appealing to the Senate of the United States to remember that we are now a people of thirty millions, and that we are increasing at the rate of a million a year—not a million of slaves, or drones, or a million of subjects of ignorant and besotted castes, but a million, practically, of free, vigorous, enlightened, intelligent, emulous, ambitious men. Sir, activity is the law of a community so strong, vigorous, and prosperous. I mean activity beyond the mere daily occupation in domestic trades and professions, in mining and in agriculture, and in manufactures and commerce—an activity which constitutes the exterior life, if I may so call it, of a State, and which forces it on some career of improvement or aggrandizement; that political activity which, carrying one nation forward after another, or many along together, constitutes what we recognize as the world's progress, or the advance of civilization. Political activity is a law of nations. Of all the enlightened States which have existed in modern or in ancient times, there has been no one which has failed to obey this law. What was the colonization of the United States but the exercise of this activity by the British nation; what the colonization of the provinces lying to our north, including the western bank of the Mississippi, by France? Sir, Great Britain, within the last two hundred years, has, in obedience to this law of political activity, extended her empire in vast circles around the globe. France, in obedience to the same law, has disturbed and convulsed the nations of the earth for two hundred years, and made her language the conventional language of the world. In obedience to the same law, Spain, lethargic as she was, discovered the one half of the globe; and Portugal, even less developed, as she was at the beginning of the fifteenth century, as a civilized State, rescued from oblivion the other half. History is only a record of this political activity of nations.

How can this national activity of the American people be repressed, if it be wise to repress it? It never has been repressed. On the contrary, it has always had free scope. Our rescue of the dominion over so much of the continent from Spain, France, and England, as we now enjoy, has been only the exercise of that activity. We have rescued enough for present uses, and for improvement for a considerable period in the future. What is to be done? This activity will not be repressed. Let me say now, that it will henceforth manifest itself either in a pacific form, in the form of peaceful enterprise, or in a martial form. One form or the other it must necessarily assume. It is for us to determine whether it shall be a pacific form or a military one. If any think that it can be repressed or conjured into peace by words, what they see going on in Central America and in Sonora and Chihuahua, ought to satisfy them that Young America is not to be held in a state of rest by fastening green withes upon his limbs.

Now, sir, I am not to say, for the first time here, that if there is a choice, I am for securing a peaceful direction of the activity of the nation. Peaceful activity is safer; it is cheaper; it is surer; it saves all the elements of national strength and national power, and increases them. War is desolating; and even the best advantages which it confers are obtained at the cost of the distraction of large and precious energies of the human race. Besides, history teaches us nothing if it does not teach us that a chronic national passion for war is incompatible with the maintenance of our free republican institutions. If I were asked why it is that the British race here is republican and yet is monarchical in Europe, I should answer, it is because there it affects war; here it cherishes peace.

If we are to have a peaceful exercise of the national activity, it must be confined at home. War necessarily attends it or results from its labors when it passes our own boundaries. It is subject to the popular sympathies and affections when exercised at home. What other domestic ambition have we? what other employment? What other field is there at home for the exercise of our activity but the improvement of the resources of wealth, of strength, and of power, which lie in the great regions which we have lately added to our empire? The Pacific railroad will give peaceful employment to this activity for a considerable period; perhaps, sir, throughout your life as well as mine. It will be within our own borders; it will be altogether subject to our own laws; it will bring us into collision with no foreign State. You may safely build this railroad at a cost of \$100,000,000, and employ one hundred thousand men a year in the construction of it, and have peace with all nations; but, sir, you cannot send a steamship on a voyage from New York to San Juan without incurring some risk of foreign war.

Mr. President, if we are to secure the exercise of this activity peaceably and at home, and in an enterprise like this of the Pacific road, it devolves upon Congress to direct it. It is a political enterprise, and must be controlled, directed, and sustained by some power. It is incapable of self-direction. Individuals cannot direct it; commerce will not do it; the States have become sedentary forces; and the Federal Government, the common Government of all the States, which alone is responsible for this great work, and alone possesses the power and can control the means, must secure to the public activity the needful direction to attain that end.

My words are intended, Mr. President, rather to bring together, if possible, the friends and supporters of this measure, than to meet the objections which are made against its details. I have only one other thought to express. Every Senator may naturally desire, that when he shall retire from public life, he shall leave behind him some monument of his patriotism, of his wisdom, and of his devotion to the interests of his country and to civilization. I can conceive of no monument which would be at once so imposing and so lasting as a single vote cast in favor of this great enterprise, emphatically the enterprise of our country and of our age. It was pleasant to me the other day to see that when we came upon questions of political relations towards those very distant countries, China and Japan, there were peace, harmony, and agreement, in the Senate of the United States. It seems to me now that this great tract of unoccupied lands, waste, desolate, stretching away between us and the Pacific coast, is so distant from the North, so distant from the South, so separated from us all, so isolated, so new and strange to us all, that we can meet there as in a common field, leaving all our contentions behind us, and improve it for the common benefit of our posterity, and for the welfare and happiness of the human race. Whoever shall come into that field in that spirit, will entitle himself to the praise which the Roman historian gave to the statesman whom he loved and honored above all others: "he was moderate in acting for himself; but, when acting for the Commonwealth, was dignified and effective."

EXECUTIVE SESSION.

On motion of Mr. IVERSON, the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 21, 1858.

The House met at twelve o'clock, m. Prayer by Rev. R. R. GURLEY.

The Journal of yesterday was read and approved.

TERRITORIES OF THE UNITED STATES.

Mr. KELLOGG. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Territories be instructed to report to this House a bill that shall embrace all the organized Territories of the United States, providing for the election by the people of all territorial officers now appointed by the President. Also providing for the donation of one hundred and sixty acres of Government land to every actual settler thereon, within any of said Territories, under such regulations and restrictions as shall secure an actual and bona fide occupation, and permanent improvement thereof; the title thereof to be transferred to said occupant at such time and on such conditions as the committee may deem advisable to secure the permanent settlement and improvement of said lands; and that no person shall be entitled to receive from the Government more than one donation of land under the provisions of said bill. Also providing that the inhabitants of each of said Territories shall provide for and pay the current expenses of such territorial government. And also providing that the inhabitants of said Territories shall remain in a territorial form of government until the inhabitants of a Territory shall be equal to the number required for one Representative under the ratio of congressional representation. And that the people of any of said Territories, who may desire to establish a State government, having the requisite number of inhabitants, and having formed a constitution for such State government, shall cause the same to be submitted to a fair vote of the legal voters of such Territory for approval or rejection.

Mr. MILLSON. I utterly object to that resolution.

Mr. KELLOGG. Is it in order to move a suspension of the rules?

The SPEAKER. Not to-day.

Mr. KELLOGG. Well, sir, I shall move to suspend the rules to enable me to offer that resolution, whenever it is in order for me to do so.

APPROPRIATION BILLS.

Mr. PHELPS, of Missouri, by unanimous consent, from the Committee of Ways and Means, reported the following bills; which were severally read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying documents, ordered to be printed:

A bill making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1860; and

A bill making appropriations for the support of the Army for the year ending 30th June, 1860.

ORGANIZATION OF DACOTAH.

Mr. CAVANAUGH, by unanimous consent, and in pursuance of previous notice, introduced a bill for the organization of Dacotah, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate had passed a bill authorizing the President to make an advance of money to Hiram Powers; in which he was instructed to ask the concurrence of the House.

Also, that the Senate had passed a resolution requesting the House to return to the Senate a bill (H. R. No. 365) giving a pension to Jeremiah Wright.

BUSINESS OF THE HOUSE.

Mr. PHELPS, of Missouri. I desire to submit a proposition which will enable us to dispose of all those matters. I propose that half an hour be set apart for the introduction of bills for reference only.

Mr. BARKSDALE. Say one hour.

Mr. PHELPS, of Missouri. I think that in half an hour all those gentlemen who have bills which they desire to introduce for reference only can have an opportunity of doing so.

[Cries of "No!" "No!"]

Mr. BARKSDALE. I ask the unanimous consent of the House to introduce a bill merely for the purpose of reference.

Mr. SMITH, of Illinois. I wish to say that I do not want to object to the introduction of any measure offered by any gentleman upon this floor; but I wish to introduce some propositions myself, and I want the House to pass a general resolution setting apart some time when gentlemen

who have business which they wish to present shall have an opportunity of doing so.

Mr. BARKSDALE. Will the gentleman allow me one moment?

Mr. SMITH, of Illinois. Yes, sir.

Mr. BARKSDALE. I am willing to yield the floor for a motion such as the gentleman suggests, that half an hour or an hour be set apart for this purpose.

Several MEMBERS. Say one hour.

Mr. BARKSDALE. Very well; say one hour.

Mr. SMITH, of Illinois. I send to the Chair a resolution which I have drawn up, and which I desire to have read for information.

The Clerk read the resolution, as follows:

Resolved, That the States and Territories be called for the introduction of resolutions and bills of which notice has been given, and which do not give rise to debate, on tomorrow, to be continued until all have been called.

Several MEMBERS. Say to-day, and not to-morrow.

Mr. SMITH, of Illinois. I will modify the resolution so as to make it read to-day.

Mr. SMITH, of Virginia. I must object to the resolution, unless the gentleman will modify it by striking out the words "of which notice has been given."

Mr. HOUSTON. I do not wish to object to anybody's bill; but as soon as the gentleman from Mississippi is through, I desire to call for the regular order of business.

Mr. BARKSDALE. As the resolution of the gentleman from Illinois is objected to, I ask the unanimous consent of the House to introduce a bill, and I will state that it is important that it should be referred.

Mr. GIDDINGS. I do not wish to object to any one's bill, but I must object to this suspension of the rules for everything. Let us adhere to the rules, and all take our chances, and then there can be no complaint.

OLD SOLDIERS' PENSION BILL.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. MORRIS, of Illinois. I call for the yeas and nays on that motion.

The yeas and nays were not ordered.

The question was taken; and, on a division, there were—yeas 97, noes 49.

So the motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and resumed the consideration of the special order, being the bill granting pensions to the officers and soldiers who served in the war with Great Britain of 1812, and in Indian wars during that period.

The CHAIRMAN stated that the pending question was on the amendment to the amendment offered by the gentleman from Kentucky, [Mr. UNDERWOOD,] to insert, in line twelve of the first section, the following:

Or in the war under the command of General Anthony Wayne against the Indians, in the years 1793 and 1794, commonly called "Wayne's war."

The amendment to the amendment was agreed to.

Mr. CLARK, of Missouri. I move to amend in the fifth line of the first section by adding, after word "militia," the words "of the States and Territories."

I have offered this amendment for the purpose of including in this bill a class of soldiers who fought in the war of 1812, in the then Territory of Missouri. When Missouri was first acquired from France, as gentlemen know, it formed a part of the Louisiana purchase. In 1809, I believe it was, a separate organization was formed, and the Territory of Missouri was constituted. A militia was then formed, which was augmented and increased under the auspices and leadership of Daniel Boone, Cooper, and others of the pioneers of the Far West. When the war broke out in 1812, these men, some two or three hundred in number, with their families, were located two or three hundred miles away from the settlements, and were consequently compelled to retire to the forts to protect themselves. They fought many battles, and endured many hardships, sacrifices, and privations. At the least, two thirds of their numbers were killed by the savages. They con-

quered these savages, acquired their country, and placed us in peaceable possession of the country which now forms the State of Missouri. I think they form a very meritorious class, and are entitled to be placed upon the pension rolls.

These soldiers, sir, were meritorious in another point of view. They were emphatically volunteers. They went, without being called out by the Government, under the leadership of the brave Boone and Cooper, cotemporaries of the Revolution. They maintained themselves; they received no pay; they have received no bounty; they furnished their own ammunition; they killed more Indians and won more territory than the same number of men in any other portion of the country. Is it not right that these men should receive a pension? They were good men, they were brave men, they were noble men, they were patriotic men, they were self-sacrificing men; they were not learned men; they were not men who found their places in the Halls of Congress or in the presidential chair of the nation. Sir, their first sacrifice was upon the altar of their country; they conquered that region which now forms the State of Missouri, and then presented the land to the United States, which has been sold, and thousands and millions of dollars have come into the Treasury and gone to the support of the Government from such sales; and now we ask that these old men, in the decline of their years—many of whom have become decrepit, many of whom are poor—shall receive this pittance at the hands of the Government which they have served voluntarily and at such great sacrifice. I appeal to this House to know if their claim is not just, and if they ought not to be incorporated in this bill? And I appeal further to this House; are gentlemen prepared to say that the few remaining soldiers of the war of 1812, most of them volunteers from the States and Territories, shall be deprived of the little pittance which this bill proposes to give them? The gentleman from Ohio [Mr. NICHOLS] says that some of them are rich. The gentleman from South Carolina, [Mr. KERR,] yesterday, said these old soldiers would be disgraced by coming to this great alms-house which would be created by the passage of this bill. Sir, without intending to be disrespectful to the gentlemen themselves, I regard such arguments as an insult to this country and to the soldiers of the war of 1812. The gentleman from Ohio, however, was unfortunate in his statement; for, while he said that many of these old soldiers for whom he, as a lawyer, applied for bounty land, were worth from twenty-five to thirty thousand dollars, yet he said that many of them had pawned their warrants for money before they were even located. Now, sir, why were the warrants pawned if it was not that they were poor men, and were compelled to go into the market to sell their warrants for the little pittance which they received?

Mr. Chairman, I am astonished to hear the condition of the Treasury urged against the passage of this bill. I think if the executive officers of the Government had spent as much time in furnishing us statistics of the expense of your coast survey, of your ocean mail steamers, of the extension of your Capitol, and the thousand other extravagant expenditures of the Government, they would have been better employed, and they would have furnished a much more acceptable service to the country, than in furnishing statistics to cut out the old soldiers and pioneers who have conquered a country that has extended your empire from ocean to ocean.

[Here the hammer fell.]

Mr. ATKINS. I cannot concur in the amendment of my friend from Missouri, [Mr. CLARK.] I regret the action of the committee in loading down this bill with amendments. I will not question the motives of honorable gentlemen. I had hoped that the sense of the House would be tested upon the original proposition. In my judgment, it should be restricted in its provisions to the soldiers who were engaged in actual service in the last war with Great Britain.

Besides being requested by the Legislature of my State, I could not do less than support this bill, representing as I do, in part, the chivalrous people of Tennessee—the land of Jackson, and Carroll, and Coffee, and others, whose martial deeds have shed such a luster upon the escutcheon of our common country. I feel, sir, that I owe it to the memory of the honored dead, as well as

to the rights and necessities of the gallant living. In restricting myself to the bill I have indicated, I would not be understood as detracting in the least from the well-earned fame of any of our countrymen, who have participated in any of the wars that have occurred since 1815—the Seminole, Creek, or Mexican wars. They have all acted bravely and patriotically, and deserve the gratitude of their country. When time shall have bowed their manly forms, and whitened their locks with the frosts of sixty or seventy winters, as it has all the soldiers of the war of 1812—to say nothing of the thousands whom old age has borne long since to the tomb—I doubt not the Representatives of the people will be far more prompt to remember their services, and to throw the fostering arm of the Government around them, and shield and protect them from want, as they shielded and protected the nation's honor from the insults of an arrogant foe, and the hearthstones of innocence from the indecent outrages of a licentious soldiery.

Sir, we have been asked by the gentleman from Alabama, [Mr. COBB,] in the course of this debate, why discriminate between the soldiers of the war of 1812 and those of the Mexican war? I have shown why. But I will not rest the question there. I will appeal to the gallant spirits who participated in that sanguinary struggle; whose deeds of valor have decked their own and their country's brow with a coronet of unfading glory, some of whom their grateful and admiring countrymen have delegated as their Representatives upon this floor and the floor of the American Senate. Will you say that the cases are similar? Do you feel that there is the same justice and necessity to afford you this relief, that there is to the surviving veterans of the second war of independence? From the nobleness of your hearts comes up the patriotic but just response, No! You are in the meridian of life, while all of them are old; the sun of the hopes of many of you has barely reached its culmination, and is pouring its noontide splendor upon your pathway; while, with them, the sun of life is nearly set, and its dim and slanting shadows falling before their feeble footsteps, too plainly warns them of the near approach of the dreary night of death. Very many of them are standing with one foot in the grave, and the other upon its brink, poor, penniless, and dependent upon the gratitude and beneficence of kind friends and relatives; while others, perhaps, may not be so fortunate, but may depend upon the cold charity of a pitiless and mercenary world. Sir, when the soldiers of the Mexican war, or of any other war, shall have lived near half a century from the date of their service, as have those who we propose to be beneficiaries by this bill, and their necessities incident to age, decrepitude, and indigence, shall be manifest like these; then will Congress, I doubt not, be ready to do them justice.

Gentlemen talk about this bill as a bounty, as a gift. We do not come as supplicants to this House. We do not ask it as a bounty; we demand it as a debt due to those brave old men for their heroic services. Will any gentleman say that the debt has been discharged? Has eight dollars per month, and one hundred and sixty acres of wild land, compensated them for the labors of the camp, the toils of the march, and the dangers of the field? Do you count as nothing the sacrifices they made, the leaving home with the thousand charms that cluster around it; the parting from wife, children, friends, all, to brave the bloody horrors of the battle-field? Sir, it was not money; a higher and a nobler sentiment controlled their action and animated their hearts—their love of country. And as patriotism made them shoulder their muskets and rally to their country's defense, not counting the cost, why cannot the same magnanimous, liberal, and patriotic spirit prompt us to rush to the relief of their necessities, and drive back the demon want from their door? There are but few of them left, and every year makes the number less. All of them were ready to make a free offering of their life upon the altar of their country's honor. Thousands fell, and their funeral dirge is now chanted as a psalm to the nation's glory; and shall their surviving comrades be less fortunate? Shall they linger out in obscurity and poverty the evening of a life, the morning of which was illustrated by deeds of such noble daring?

Will not the country awake to a high sense of

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the moral obligation and legal right which demands of it to protect these old men, now that they, or many of them, are unable to protect themselves. Oppose it, because it will cost some money! When did any great measure, intended to benefit the country or mankind, originate that did not cost money? Will the young men of the country complain? Never! Their hearts are too full of patriotic fire. Before we complain of the cost, let us first retrench the heavy and groaning expenditures of the Government. I, for one, sir, will vote to-day for a ten per centum reduction upon the salary of every officer of the Federal Government, from the President down to the gardener of your public grounds, if it will facilitate the passage of this measure. Two or three millions annually is all that will be required under this bill. But what if it is more? Will you stop to count the cost? Did those brave old warriors stop to count the cost, when the clarion note of war summoned them to the field? when the British regulars, trained under the rigid discipline of the Iron Duke, were marching under Pakenham upon the queen city of the South, the gateway of our southern and western commerce, with his troops fresh from the victorious fields of Europe, frenzied with the brutal watchword of "beauty and booty," did the gallant spirits who rallied around the flag of Andrew Jackson, stop to count the cost? No! But with an utter abandonment of self, and recklessness of life, with their heroic leader at their head, drove back the British lion upon the plains of Chalmette, thus proving to the world the efficiency of the citizen soldier over that of the regular. No brighter gem studs the diadem of fame that encircles the fair brow of Columbia, than that which answers to the memorable victory of the 8th of January, 1815.

The question is not what it will cost. Is it right, is it just, is it magnanimous, is it humane, and lastly, is it grateful? Bring any charge you will against the Government. Say it is parsimonious, say it is false, heartless, unjust, oppressive; but do not subject her to the charge of ingratitude, that "foulest whelp of sin." Shall this country be more unmindful of its defenders than other nations? Shall posterity learn the mortifying lesson that our Government is willing to lavish millions upon a standing army, and not a cent to the brave volunteer, when old age has overtaken him and poverty has laid its heavy hand upon him? Will not these old men feel, if you defeat this bill and thereby deny them that relief so necessary to their comfort and support, that the Government has forgotten the hours of its peril and extremity, and that it disregards the heavy sacrifices made by them for their country? Will they not feel that they have only lived to be forgotten by that country for whose defense they would have laid down their lives; that the memory of their illustrious deeds had faded from the hearts of posterity ere life itself had passed away? Why did the Old Guard follow blindly and madly the eagles of Napoleon over the frozen snows of the Alps, or through the terrible conflagration of the imperial city of Moscow? Even the iron heart of that man of blood melted in pity and gratitude for the sufferings and services of his soldiers, and his purse-strings were ever ready to be loosed to relieve their necessities; and shall the most enlightened nation in Christendom, in the middle of the nineteenth century, be less generous than the great imperial autocrat, whose throne was but the mausoleum of liberty? Defeat this bill, and a standing army like a bird of prey will swoop down and gnaw at the vitals of the Republic. Pass it, and a million of men from the North, South, East, and West, from hill and dale, from your crowded cities and mountain fastnesses, at the first bugle blast of war will rally to your flag, and like the hero-sons of the Spartan mother, will return it blazoned all over with victory, or be encircled in its folds as their winding-sheet.

Mr. KUNKEL, of Pennsylvania. I move to increase the amount of one dollar. I move the amendment merely to give me opportunity to express my views in the five minutes allowed me

upon this bill. I am not content that the debate in favor of the bill shall be sustained entirely by Kentucky and Tennessee. Pennsylvania always has an arm for the battle, and a voice for the soldier. The gentleman from Tennessee [Mr. AVERY] characterized that State as the volunteer State. Sir, I dispute that title with him. I claim that honor for Pennsylvania. She is emphatically the volunteer-soldier State of this Union. More than once has she tendered more gallant soldiers to the Government than would meet its requirements, and never has she turned her back upon the country's chieftains, or been unmindful of their services. The military ardor of her people has entangled upon her several peculiarities. There are some three things which no public man in Pennsylvania can do and live: he cannot vote against supplies to the Army when actually engaged in war with a foreign Power; he cannot vote against any fair and honorable acquisition of territory by the Government; and, above all, he cannot vote against that expression of the nation's gratitude to its war-worn soldiers which is manifested by grants of pensions. On these subjects, my State has fixed sentiments and opinions, and I am most happy that my own agree entirely with hers.

I have no doubt of the justice of the principle of this bill, and none of the expediency of its passage even in the present condition of the Treasury.

With all respect to the gentleman from Alabama, [Mr. CURRY], and the gentleman from Maryland, [Mr. DAVIS], who have distinguished themselves in opposition to the bill, I have yet to hear the first valid argument against it. The argument of the gentleman from Maryland [Mr. DAVIS] has been—and the same argument has been urged by others—that inasmuch as it is the duty of the citizen to defend his country when called upon, the principle of compensation upon which all pension laws proceed is wrong; that the soldier is only discharging the duty of the citizen, and is, therefore, not entitled to be paid. The duty is acknowledged and granted. It is a duty; but it is the duty of all the citizens alike. All, however, are not needed, and all cannot share in the duty, if they would. The military duties of the people of the country must necessarily be discharged by a few of them. That few must encounter the hardships, privations, and dangers of the camp, while the great body of the people pursue their peaceful avocations at home. The victorious peace which is won by the sacrifices and lives of the few, inures to the common benefit. Thus, those who remain at home in time of war, become debtors to the soldiers; the generation which prospers in peace, to the generation that conquered the peace. Civil and military services are upon the same footing, and if the soldier is to be content with the consciousness of discharging a duty to his country, why should not the civilian? I can, indeed, imagine a Republic in which all functionaries discharge their trusts from considerations of sheer patriotism and duty; the President, his Secretaries and subordinates, the Legislature, Senate, and House, all discharging their several functions without compensation, and only under the inspiration of patriotic duty. In such a Government, you might say to the soldier he did only his duty. But such a Government is only an imagination; certainly it is not ours.

But the argument used with most force against the bill, is based upon the exigencies of the Treasury. It is said this bill will involve an annual expenditure of ten or twelve million dollars. That is the estimate of the Commissioner of Pensions. My friend from Iowa next me, [Mr. CRATTIS], who, from his labor and research, seems well qualified to judge, assures us the amount will not exceed \$3,000,000. Doubtless the passage of this bill will require a large annual appropriation. Be it so. If economy is to be exercised in this Government, let it begin somewhere else. Why, sir, how shall we answer to these scarred and war-worn veterans? Shall we say to them, "We believe your claim a just and honest one, and we would cheerfully vote you something out

of the national Treasury, but the Treasury is bankrupt, and we are not able to do it?" Sir, would they not point to our immense grants of land in the western Territories to railroad corporations; the millions annually expended upon fortifications; the millions wasted upon these edifices, &c.; and put us to shame? Sir, our citizen soldiery stand in lieu of a standing army. Have gentlemen ever calculated the expense of standing armies in time of peace? Why, the meanest Power of Europe expends more in the maintenance of its armies, than the whole amount disbursed by this Government for pensions from its foundation. Suppose this bill should involve ten or twelve million dollars? The people of the United States are willing to show their gratitude to the gallant defenders of their honor and homes, even at that cost. The last thing the American people would submit to, would be to maintain the extravagance of this Government by direct taxation. But if pensions for these brave men could be raised in no other way, I verily believe they would consent to raise the money directly from their own pockets.

[Here the hammer fell.]

Mr. SANDIDGE. Mr. Chairman, I rise not so much for the purpose of making a speech, as to make an explanation—an easy task—of the great discrepancy which exists between the statement made upon this floor by the gentleman from Tennessee, [Mr. SAVAGE], who is advocating this bill so strenuously, and that of the gentleman from Alabama [Mr. CURRY] who has opposed it.

When the gentleman from Alabama stated upon this floor during the last session of Congress, and the other day reiterated the statement, that under the operations of this bill \$11,000,000 would be taken from your Treasury every year to pay these pensioners, the member from Tennessee rose in his seat, and asked the question: How is it possible that under the operations of this bill \$11,000,000 will be taken from the Treasury every year, when, according to the statement made by Mr. Calhoun, in 1836, only \$12,000,000 was taken from the Treasury to pay the militia soldiers for the entire war. He put the question emphatically, and as though he had entirely demolished the argument of the gentleman from Alabama. I thought there was some force in the statement of the gentleman from Tennessee; but since then I have had occasion to inquire into it, and it is the easiest thing in the world to solve.

According to the report made by Mr. Calhoun, in 1836, 471,000 was the whole number of militia engaged in your service during that war; and they received only some twelve million and some hundred thousand dollars. Of this 471,000, 147,200 served for less than one month; and they only received for their services \$1,177,000; and if they were alive, according to the terms of this bill they would receive, every year so long as they might live, the sum of \$14,131,000. But, sir, of course they are not all alive; and if only twelve or thirteen thousand of them should be living, that number would receive as much every year, under this bill, as the 147,200 received for their entire service in the war of 1812.

Again: of this 471,000, 125,307 served more than one month and less than three months. For that service they received \$3,007,000. According to this bill, they would receive, every year, if alive, and so long as they might live, \$12,029,000. And this is the way to solve the discrepancy. A large number of militiamen served only for a few months, and the most of them for less than three months; and this bill proposes to pay each of them—the men who served for less than one month as well as the men who served for a year—a pension not for one month's service, but a pension of ninety-six dollars a year for life. Will not gentlemen, then, understand how the gentleman from Alabama can be perfectly right in his statement to this House? It seems to me so.

Mr. Chairman, from the discussion of this bill, it would be thought that our Government was the most ungrateful upon the face of the earth, and that for services rendered by our soldiers not one

cent of compensation had been allowed; that we had made no provision for the widows and orphans of those who had fallen in battle, died of their wounds, or of disease contracted while in the service; that no sort of pension was allowed for any kind of disability. Now, I find that every man who has been disabled in the service of his country, in any of our wars, is now entitled, under the laws upon the statute-book, and is receiving the same rate of pay, as pension, as that which he received during his term of service. If a soldier died of wounds received in the service, or from disease contracted in it, then his widow and minor children receive that pay. What class of your soldiery is it who are unprovided for? It must be those who, although they did perform service, yet were not wounded, nor suffered any disability, and I think that having provided pensions for the soldiers who have been wounded or disabled by disease contracted in the service, and to the widows and minor children of those who have fallen in battle or died of wounds or disease, we have gone far enough.

I may state here, Mr. Chairman, that the State of Louisiana has not waited for the action of the General Government. We commenced, after the battle of New Orleans, and pensioned every man who took a part in it, and was there disabled by wounds, or in any other way. More than that, Louisiana is now paying to her citizens, for that one battle of New Orleans, a larger sum, in proportion to her revenues, than the Government of the United States is paying to all its citizens for all the wars it has carried on. Then our citizens are provided for, whether you pass this bill or not. And I wish to say, in addition, when it is iterated and reiterated that the old soldiers are begging for the passage of this bill, that none of my constituents are here for that purpose.

[Here the hammer fell.]

Mr. KUNKEL, of Pennsylvania, withdrew his amendment.

Mr. WHITELEY. I submit the following amendment:

Provided, That the benefits of this act shall not be extended to the soldiers who performed military service in States which refused to place the militia, or any part of it, in the service of the United States, at the request of the President, to be commanded by him, pursuant to acts of Congress: or which refused to allow the militia to march beyond the limits of said States.

Mr. BURNETT. Is that amendment in order? Is it germane?

The CHAIRMAN. It is.

Mr. WHITELEY. The debate upon this bill has afforded all of us an opportunity to make an exhibition in the patriotic line; and I hope that my amendment will not mar the effect of that exhibition by exciting any unpleasant historical reminiscences.

I am, sir, opposed to this whole system of pensioning. I believe that length of service, and the poverty of the soldier, or of his widow, are conditions precedent to entitle him or her to a pension. But, if I am wrong in this, I am not certainly wrong in the principle that those who, in time of war, refuse to support the Government, ought not to call upon the Government to support them.

We all recollect how the war of 1812 was characterized; how it was called "Jim Madison's war;" and I do not know but what it was also characterized as an "unholy war;" and that certain States—it is not for me to name them—did pass laws prohibiting their militia from going without their borders, and refusing to place their militia under the command of the President when Congress had declared war. Now, sir, as I read this bill, these very people can come here and demand pensions under it.

Mr. CLARK, of Missouri. I want the gentleman to except Missouri from that statement.

Mr. WHITELEY. I am told, sir, by old men, that even Tories of the Revolution have come here to Washington and been pensioned; men who fought against their country in that dire hour of our country's necessities, have been pensioned by this Government. That is wrong; but it is no more wrong than to pension men who would not fight beyond the limits of their own State. Let the militia and volunteers, from whatever State they may come, whose Governors and Legislatures refused to let them go without the borders of the State, go to the State and get their pensions.

Now, Mr. Chairman, I have said that I think

this whole pension system wrong; and while I do not mean to reflect for one moment upon the volunteers or regulars who, in the war of 1812, upon the confines of our territory, did participate in many a glorious battle, I put it to the common sense and common justice of this House why it is that men should be pensioned whose only deed of war, like that of another army, was to "march up the hill and then march down again?"

Now, sir, the gentleman from Pennsylvania [Mr. KUNKEL] claims that that is the volunteer State. I know that a great many volunteers from Pennsylvania came down to defend Delaware, and stopped for about a month at a place called Camp du Point, enjoying themselves most pleasantly. We had, it is true, a rencounter at Baltimore of some significance and importance. We had a very important affair here within six miles of this city, which, I must be permitted to say, did not reflect signal credit upon the American arms. [Laughter.] And you may take the volunteers of the middle States in the war of 1812, and their whole service, as a general thing, was in putting on uniforms, rubbing up muskets, and turning out twice a day to be ready in case the English should come. These men come here now—the rich as well as the poor—and ask to be supported for really doing nothing; or, if not for doing nothing, for doing what it was their duty to do; for that man who would not fight for his country, except in the hope of a pension, ought to leave his country for his country's good.

I do not believe in this doctrine that gentlemen promulgate—that if you do not pension these men, you will have no volunteers. I do not believe the volunteers of this great country are a Swiss guard, who fight for pay alone, or for the expectation of it. Sir, we have never had a war, from the Revolution down, when the volunteers of this country did not spring most manfully to their country's defense; and I say it to their honor, that I do not believe they did it with any idea of ever being pensioned. Pension a man who is able to support himself? The people in my State who are able to support themselves, and who served most gallantly in the war of 1812, as well as in the war with Mexico, would spurn a pension, if there was any other possibility of keeping themselves out of the poor-house.

[Here the hammer fell.]

Mr. DAVIDSON. Mr. Chairman, I should have liked to have had an opportunity, in the course of this debate, of replying to the speech made by the gentleman from Alabama, [Mr. CURRY] last session, which was one of great eloquence and remarkable speciousness.

Mr. SHERMAN, of Ohio. I rise to a question of order. My point of order is this, that this whole debate is not in order. The gentleman from Delaware [Mr. WURTELEY] moved an amendment to the amendment. The gentleman from Louisiana does not propose to oppose that amendment at all, or to confine his remarks to it. There are gentlemen here who desire to offer amendments to the bill in good faith, for the purpose of perfecting it. I desire to offer such an amendment; but while this irregular debate goes on, we never shall have an opportunity of doing so. I must, therefore, object to it.

The CHAIRMAN. The Chair would suggest that greater latitude has been allowed throughout this debate than is strictly in order; and it has been done without objection. The Chair will feel bound, however, to confine the debate to the questions before the committee, if any gentleman insists upon a rigid enforcement of the rule.

Mr. SHERMAN, of Ohio. I ask for it.

The CHAIRMAN. The gentleman from Louisiana will confine his remarks to the pending amendment.

Mr. DAVIDSON. I was saying, sir, that I regretted that I did not have an opportunity of exposing the speciousness of the eloquent argument of the gentleman from Alabama. I should have liked, sir, to have discussed with him that axiom which he says is derived from the wise men of the Scriptures, that before you build a tower, you must first examine the expenses that you will incur. I do not pretend to deny that that is a just and proper axiom; but I would like to ask the gentleman how this spacious temple came to be built—this temple which has been built in order that the Representatives of the people may sit here and discuss whether, as the gentleman said, the sol-

diers of the war of 1812 were in a war that "tried men's souls?" I say that the soldiers of the war of 1812 were men whose souls were tried. Sir, if the soldiers of that war were not men whose souls were tried, I would like to know in what war men's souls were tried? But, sir, you commenced to build this Capitol on the pretense that it would cost only \$1,000,000; and you have already expended six or eight millions to adorn a house in which you can sit to sneer and snarl at the men who defended your firesides and the honor of your wives and daughters.

The gentleman from Delaware undertook to cast a flog at the valor of the volunteers who were compelled to retreat before the standing army of Great Britain, leaving this city defenseless, so that your Capitol was burnt down. It is true that we were beaten at the first, as we always will be by the trained bands of foreign Governments; but it is no argument why these men should be treated with contempt, and should not be cared for, because, mayhap, you may provide for some who are not meritorious. Even though it be true that many of the old soldiers are able to live without a pension, is that a reason why men who have fought the battles of the country should not be paid for their service?

But we are told that the policy is wrong. Now, sir, the fathers of the Revolution established the pension system, and it is not for us either to establish or change that system, but merely to designate the men who are to be the beneficiaries under it.

[Here the hammer fell.]

Mr. WHITELEY called for tellers upon his amendment to the amendment.

Tellers were not ordered.

The amendment to the amendment was not agreed to.

The question recurred on the amendment; and it was not agreed to.

Mr. SHERMAN, of Ohio. I desire to offer an amendment in the nature of a substitute.

Mr. BURNETT. I desire to ask whether a substitute can be offered at this stage of the consideration of the bill?

The CHAIRMAN. It may be received; but it will be in order first to perfect the original bill before the vote can be taken upon it.

Mr. SHERMAN, of Ohio. I then move to strike out all after the enacting clause of the bill, and to insert as follows:

That each of the surviving officers, non-commissioned officers, musicians, and privates, who shall have served in the regular Army, State troops, volunteers, or militia, or shall have been engaged in active battle with the enemy in the war declared by the United States against Great Britain on the 18th day of June, 1812, or in hostilities against any of the Indian tribes prior to 1815, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of full pay to which under existing laws a private in the continental line is entitled to receive; such pay to commence from the date of application and continue during his natural life.

Sec. 2. *And be it further enacted*, That if any of the officers, non-commissioned officers, musicians, or privates, have died, leaving a widow, such widow shall be entitled to receive the same pension to which her husband would have been entitled under this act, for and during her natural life.

Sec. 3. *And be it further enacted*, That the pay allowed by this act shall, under the direction of the Secretary of the Interior, be paid to the officer, non-commissioned officer, musician, private, or his widow, or their authorized attorney, at such places and times as the Secretary of the Interior may direct; and that no officer, non-commissioned officer, private, or his widow, shall receive the same until he furnish the said Secretary of the Interior with satisfactory evidence that he is entitled to the same, in accordance with the provisions of this act; and that the pay hereby allowed shall not be in any way transferable or liable to attachment, levy, or seizure, by any legal process whatever, but shall go unincumbered to the possession of the officer, non-commissioned officer, musician, private, or his widow.

Sec. 4. *And be it further enacted*, That the officers, non-commissioned officers, and marines, who served in the naval service, or were engaged in actual battle with the enemy during the war with Great Britain aforesaid, and their widows, shall be entitled to the benefits of this act, in the same manner and to the same extent as is provided for the officers and soldiers of the army of the war of 1812.

I desire to say, Mr. Chairman, that my objections to the original bill are threefold. It discriminates against the soldier and in favor of the officer. It makes no discrimination in respect to length of service; the soldier who served during the whole war receives no more than the one who served for ninety days. In the third place, the pension provided for in the original bill involves too great an expenditure of money.

The chief feature of the amendment which I

offer, is this: It places the soldiers of the war of 1812, and the soldiers of the Indian wars, up to 1815, upon the precise footing the soldiers of the continental line are under the existing law. This, it seems to me, is all that ought now to be granted. I think that the same honor and the same reward ought to be given to the soldiers of the war of 1812, that was given to the soldiers of the war of the Revolution.

It may be that the service in Delaware and Pennsylvania in the war of 1812 were such as the gentleman from Delaware has stated, but in Ohio, and everywhere upon the frontier, that service was no child's play. For twenty years before the close of the war the people upon the frontiers were engaged in an almost constant Indian war, during which nearly every able-bodied man was at some time engaged in the service. I repeat, sir, that it was no child's play, and that the soldiers who enlisted in the service of the State or of the country during that period, for the protection of their families and of their homes, ought to be rewarded. It is my purpose by this amendment not only to give the survivors of these wars a small amount of money by way of pension, but to give them a higher reward—the reward of honor. I know of no honor more befitting that ought more to gratify the pride of an old soldier than to place them upon the same footing with the continental line; upon the same footing with those who fought at Valley Forge, and Yorktown, and in all the battles of the Revolution.

The same objection as to cost does not apply to this amendment that has been so forcibly urged against the original bill. After a careful computation, I am satisfied that if this amendment be adopted, the entire cost would not exceed \$1,500,000. It will be perceived that the pension only commences from the date of the application, and very many will not apply for it. Such a pension law as this would be approved by the country, and would not overburden the Treasury. I believe that we could not expend that amount of money better than by giving it to the survivors of the soldiers of the war of 1812. In comparison with the multitude of projects to deplete the Treasury constantly pressed upon us, I am very willing to extend to the survivors of this war the same honor and reward which a grateful country has extended to revolutionary patriots. But to put them on a larger pension would, in my judgment, be a dangerous precedent.

Mr. FENTON. I wish to inquire whether the substitute proposed by me for the bill is now pending?

The CHAIRMAN. The Chair knows of none.

Mr. FENTON. I offered a substitute immediately after the remarks of the gentleman from Tennessee, [Mr. SAVAGE.]

The CHAIRMAN. The Chair understood the gentleman to give notice that he would offer his substitute at the proper time.

Mr. FENTON. I thought it was considered as pending.

The CHAIRMAN. It would have been considered before the committee if it had been sent to the Clerk's table; but that was not done.

Mr. GIDDINGS. Inasmuch as my colleague [Mr. SHERMAN] has argued his amendment, if it is in order I would like to answer him, as there may be no other time, and I will show the inconsistency of his positions. I will say to my colleague that there were two regiments of one thousand men each, under General Cass and another general, who volunteered for twelve months, and who were put upon the regular service. They went to Detroit, and, without firing a gun, every one of them surrendered as prisoners of war and went home to work. Now, under my colleague's proposition, those men will draw a full pension; while the men who fought the enemy and served in the field for three months will receive no pension. It is unjust.

Mr. SHERMAN, of Ohio. With the consent of my colleague, I will answer him.

Mr. GIDDINGS. Certainly.

Mr. SHERMAN, of Ohio. There were many similar cases in the revolutionary war.

Mr. BURNETT. I rise to a question of order, and I must insist on the enforcement of the rule. I understand that the amendment which the gentleman proposes to offer does not now come up for action. He has already spoken upon it, and

his colleague has replied; and the gentleman is not in order in making any further remarks.

Mr. MASON. The gentleman from Ohio [Mr. GIDDINGS] made a speech and yielded to his colleague [Mr. SHERMAN] a portion of his time to make an explanation.

Mr. GIDDINGS. I want my colleague to answer me.

Mr. SHERMAN, of Ohio. My colleague yielded to me for explanation in his time.

The CHAIRMAN. The gentleman from Ohio is aware that the Chair, by what he supposed the indulgence of the committee, allowed his colleague [Mr. GIDDINGS] to reply; but, objection being now made, no further discussion is in order.

[The committee here informally rose, and received a message from the President of the United States, by J. B. HENRY, his Private Secretary, notifying the House that he did this day approve and sign bills of the following titles:

An act to continue the office of register of the land office at Vincennes, Indiana;

An act recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid; and

An act for the relief of John Campbell.]

Mr. GARTRELL. I had hoped that an opportunity would have been offered me to present, at some length, my views upon a proper and judicious bill granting pensions to the soldiers of the war of 1812. The passage of such a bill by this Congress would, in my judgment, be eminently just and proper. To attempt now, however, even the outlines of an argument in a five minutes' speech, would be idle. The amendment proposed by myself, and now before the House for consideration, seems to be so acceptable, and so generally understood, that I deem extended remarks upon it wholly unnecessary. A word, however, by way of explanation, may suffice. It will be observed that by the original bill, as reported by my friend from Tennessee, [Mr. SAVAGE,] it is proposed to give to the officers and soldiers of the war of 1812 pay according to their rank in the line, but in no case to exceed the pay of a captain of infantry. By the operation of the bill as it now is, I understand that a large number of officers will receive \$480 per annum, and some—a large number—receive less than that amount, but over ninety-six dollars. I propose—and I think the principle of it is a good one, though I will not stop to argue it—in granting this honorary compensation, if you please to call it such, to the gallant officers who fought the battles of the country in 1812, to put them and the common soldiers upon an equal footing. I see no reason for any discrimination. I think the principle is a just one; and thus much will suffice in reference to my amendment.

It has been truly said, Mr. Chairman, that this is an important question. Appealing, as it does, to our heads and to our hearts, and to our enlightened consciousness of duty and patriotism, I had hoped the House would have approached its consideration with deliberation and calmness. To deny this small pittance to those gallant old men who fought so bravely in our second war of independence, as it has been termed, would, in my judgment, amount to a hardship. I was surprised to hear gentlemen console themselves with the argument that the country was invaded, and that it was the duty of these old soldiers to fight. Yes, sir, it was their duty to fight; and right nobly did they discharge that duty. I would that I had the time to allude to their gallantry and daring; but, sir, perhaps they need no encomiums at my hands. History has recorded their heroism, and grateful countrymen will yet reward their toils. They are fast passing away; worn down with age and exhausted by disease, soon the last one of them will have gone down to the grave, and sleep beneath the cold clods of the valley. I can well remember, Mr. Chairman, the impression made upon my mind, when, quite a youth, I met for the first time an old soldier of the Revolution. They, sir, have been pensioned by the Government, and have nearly all disappeared. In a few years, the soldiers of the war of 1812 will stand in the same position, and your sons and daughters of the rising generation will mark them and point to them, and say, "there goes a soldier who served gallantly in the war of 1812." These old men come to us now and say, "we have exhausted our strength; our youth was wasted in the defense of

the liberties of our country; and now we have become aged, decrepit, and infirm, we pray you provide for us in this our hour of infirmity." And why will you refuse? and what are the arguments? I insist, with all courtesy to the gentlemen who advanced them, that they are no arguments at all. The distinguished gentleman from Maryland [Mr. DAVIS] tells you that he is opposed to all gratuities and subsidies, and that he believes they are wrong in principle; and yet he fails to give a single reason to sustain that judgment. My friend from Alabama [Mr. CURRY] maintains that the passage of this bill will violate the Constitution and bankrupt the Treasury. Did I believe either the one proposition or the other, I should feel it to be my duty to vote against it. The gentleman from South Carolina tells you that all pension laws are immoral in their effect; and yet these gentlemen, with their acknowledged ability and ingenuity, fail to present a single illustration to sustain the positions upon which they rely.

Mr. Chairman, in behalf of the gallant old soldiers of the country, I protest against any such pretenses. I take issue with my friend from South Carolina, [Mr. KEITT.] You have had a pension system almost from the beginning of this Government; and where is it proved that it has been demoralizing? I deny that it is, and maintain the reverse of the proposition to be true. Our past history refutes the assertion. Give these old men their due; give them fifty, sixty, or ninety-six dollars a year; gratify them thus, and when they come to pass away from the stage of action they will go down to their graves with grateful hearts, and their last act, perhaps, will be to call upon an all-wise Providence to bless a great and prosperous and grateful country. My friend says "that it is their business to do that anyhow." I doubt very much whether he makes any appeal to that Providence himself. [Laughter.] If he does, I fear very much his supplications might not be heeded. But this is outside of the question. I desire to present some considerations upon the score of economy; and as was remarked by the gentleman from Tennessee, if you want to institute a system of economy, commence it here in this Hall; here you may profitably apply the knife. I will go for retrenchment and reform in all the departments of Government, as far as he who goes furthest. It is our duty to begin the work to-day. Begin it in good earnest; institute a system of rigid economy, retrenchment and reform, and bring this Government within legitimate expenditures. Do that, and you will have saved the Treasury, and have money enough to relieve the old and needy soldier, to smooth his pathway down to the tomb.

[Here the hammer fell.]

Mr. MILLSON. Mr. Chairman, I do not deny the merits and services of the soldiers of the war of 1812, so eloquently described by my friend from Georgia, [Mr. GARTRELL.] No one has denied them; and I protest against the idea that a reluctance to vote for the pending measure implies a willingness to deny the services of those who fought the battles of the country in any of our wars. The country has not been unmindful of their services. The country has not been ungrateful. Sir, no Government, however overflowing with riches, has been so munificent in its bounties to its soldiers as has been the Government of the United States. We learn from the report lately submitted to Congress that more than one hundred and sixty million dollars has been paid in military pensions and bounties to the soldiers engaged in our wars. The survivors of these wars may well feel a natural and just pride in the recollection of their services, and the country will always acknowledge them.

But, sir, does this justify the burdening of the country with the vast expense to be entailed by the passage of this bill? Those who are not familiar with the history of legislation throughout the world would feel some surprise that, at a time when the finances of the country are disordered; when the revenue is not sufficient even for the economical administration of affairs; when we are reminded by the President and the Secretary of the Treasury of an urgent necessity for providing additional means to meet the current expenditures of the Government, any one should seriously and even earnestly urge the passage of a measure like that now under consideration. Those who have a more intimate acquaintance with the inconsis-

encies of human conduct would have their surprise much diminished.

Where is this money to be obtained? Remember, that even on the calculation made by the gentleman this morning that not more than \$6,000,000 yearly will be required to meet the expenses of this bill, it involves a charge of \$100,000,000; that is to say, it is equivalent to a capital, or addition to the public debt, of \$100,000,000. Where is this to come from? It must be raised by loans or by an increase of the duties upon imports; and I cannot but express my surprise and regret that gentlemen who are known to agree with me in opposition to the extension of a protective tariff, should select the present time for adding these heavy burdens to those already borne by the people of the United States. It must be admitted, sir, that the present is a most unpropitious moment for passing a bill like this, when countless millions of dollars are proposed to be expended in the construction of a Pacific railroad, when your French spoliation bill claims consideration, and when it has been recommended to increase the Navy, and perhaps additions, too, will be urged to the Army; this is the time selected for plunging the country into the expenses involved in the passage of the present measure. I can well understand why the gentleman from Pennsylvania, [Mr. KUNKEL,] who spoke this morning, and so earnestly, in behalf of the volunteers of his own State, will look upon the passage of the bill with much satisfaction. He sees in this bill visions of tariff bounties and specifics. The gentleman nods assent. What do my southern friends say to this? Are they, too, willing, by passing this bill, to render it necessary to raise the duties on imports and thus increase the vigorous operations of the protective tariff system?

[Here the hammer fell.]

Mr. KUNKEL, of Pennsylvania. I wish the gentleman to state, also, that I said I would vote for the bill if the money was to be raised by direct taxation, and that I thought that the people would be willing to pay it out of their own pockets.

Mr. MILLSON. I have shown the vast amount of expenditure involved; and however vast, unquestionably, if this be a debt, it must be met.

Mr. CURRY. I move to reduce the amount one dollar.

Mr. Chairman, a very obvious reply might be given to the opinion which my friend from Georgia [Mr. GARTRELL] entertains of the different speeches which have been made on the other side; but I will not be so unkind as to present it. I propose, however, to show very briefly that the argument indulged in yesterday, in reference to the incorrectness of the calculation which is presented, is utterly unfounded. My friend from Louisiana [Mr. SANDIDGE] has partially relieved me from that duty. It was urged yesterday that my estimates were erroneous, from the fact that Mr. Calhoun, in 1820, stated the aggregate expenditure of the Army, during the war of 1812, at \$12,000,000. This is easily accounted for. The soldiers were paid according to their term of service. Twelve months embraces four periods of three months each. Now, sir, in twelve months there may have been four different periods of three months' service each, and for each service they were paid in proportion to the time spent in the army. But, under this bill, every man who served ten days gets a full pension of the amount that a soldier in the war of 1812 got for the whole year. Now, there were over one hundred and seventy thousand militia-men in the war of 1812 who served less than three months; and each of these soldiers who survives, and the widows of each of them who has deceased, gets a pension. And that accounts very satisfactorily for the difference, and explains what seems to be apparently such a strong argument against my calculation.

Now, Mr. Chairman, the difference between gentlemen on the other side and myself, in reference to the probable cost under this bill, arises from our difference of opinion as to the probable duration of the lives of the soldiers engaged in the war. The survivors and widows of over five hundred thousand would be entitled, under the bill as it now stands, to a pension. The Commissioner estimates, and he bases his calculation on the number of land warrants which have been issued, as shown by the gentleman from Ohio, yesterday, that three eighths of these soldiers are still living. By a simple arithmetical calculation, taking

the amendment of the gentleman from Georgia, giving ninety-six dollars per annum, you have \$18,000,000, or about that sum.

But strike out one half of that and it still leaves nearly ten million dollars, which will be involved under this bill.

It is said by gentlemen upon this floor that no argument as to the expense is an argument as to the merits of the bill. I take a different position. Sir, when you propose to tax the people of this country for the purpose of conferring a gratuity upon men who are not disabled, not needy, not objects of charity—for this bill does not discriminate between the wealthy and the necessitous—then I contend that it is a legitimate line of argument to inquire into the expense under this bill, and to hold up to public view and observation the enormous amount which will be required to execute it.

Sir, extravagance in other departments of the Government furnishes no excuse for this outlay. I will go as far as any gentleman in lopping off expenditures. My course shows that I have done it already. And I think that \$45,000,000 are ample, and more than ample, to defray all the necessary expenditures of this Government; but that has nothing to do, sir, with this question. For myself, I have avowed it before, I avow it still again, that I am opposed to this whole system of pensioning where there is no disability incurred in actual service. It is fraught, in my opinion, with incalculable mischiefs, and antagonizes every just idea of a free Government. Nor is there any force in the argument offered by gentlemen around me, that it is a question between a pension system on the one side and a standing army on the other. I think the gentleman from Pennsylvania, [Mr. KUNKEL,] and others, have done their States very great injustice by calling them volunteer States, and in the next breath saying that this pension system is requisite, in order to secure volunteers in the future. I think, sir, it does not speak well for the people of the country; and if that be the argument, I disavow and repudiate it. Gentlemen refuse to follow their own principles to their logical and inevitable consequences, when they are unwilling to put the soldiers of every subsequent war in this pension bill. The gentleman from Kentucky yesterday, and the gentleman from Tennessee, [Mr. ATKINS,] in the beautiful speech which he delivered this morning, say that this is a debt. If so, when did it occur? Obviously from the rendition of the service; and there is no justice in postponing the payment of the debt until three fourths of them are in their graves.

[Here the hammer fell.]

Mr. GROW. Mr. Chairman, I desire to inquire if the substitute offered by the gentleman from New York [Mr. FENTON] some days ago, is pending?

The CHAIRMAN, (Mr. JOHN COCHRANE in the chair.) It is pending, and when these amendments are disposed of it will be in order.

Mr. GROW. Mr. Chairman, it is an ungracious task, I am aware, to seem even to oppose any application for the bounty of the Government in behalf of those who have upheld its standard on the battle-field. Such men are deserving, it is true, of a more substantial reward than tears to the dead and thanks to the living; and the Government has so decided, for under the bounty-land policy the Government has granted to all such men one hundred and sixty acres of land, thus securing to them a home, and, if able-bodied, they can surround it with comfort and make their firesides happy. The Government has never pensioned for service merely, except in case of the Revolution, so this bill proposes an entirely new policy.

The substitute offered by the gentleman from New York, proposes to grant to all the invalids, those who were disabled in the service of their country, and thus incapacitated from obtaining their livelihood, a pension from the date of their disability. Sir, in my judgment, that is the only proposition that can pass both Houses, and thus become a law, at this session of Congress. I am, therefore, in favor of this substitute. I am in favor of it, believing that if there be any difference—and certainly there is—those are the meritorious men who appeal to the justice of their country; they appeal with that strongest of all appeals, decrepitude and want, incurred by reason of the disability they received in the service of their coun-

try. These men receive a pension now from the time they complete their proof, and it is granted because they were disabled in the service of their country. The disability is the meritorious cause of the pension. Why not then begin from the date of that disability? In all cases, I desire to see the Government of my country provide for the widows and children of those who fell in her struggles; and provide, also, for the men disabled in her cause. You have such men to-day scattered all over the land, hobbling on their crutches on the brink of the grave, from disabilities received in upholding the standard of their country. Their relief can be provided for. Then why not do a practical and just thing for these men? Do what there ought to be no objection to, and what every man knows can become the law—pass a bill which will secure these men this bounty from the date of their disability. That will give them, in this, the period of their decline, the means of relief, and secure them from want the little remnant of their pilgrimage on earth.

Sir, the great argument that I have heard in behalf of this bill, and the one strongly pressed in favor of this new policy of pensioning for service alone, is that it is a substitute for a standing army. That argument pays a poor compliment to the patriotism of the country; that it must be stimulated to defend its own hearthstones and firesides by the paltry sum of a Government bounty of ninety-six dollars a year. I appeal to the gallant men upon this floor who rendered such signal service in planting the standard of their country in the ancient halls of the Montezumas, if that consideration could have influenced them to enlist to fight the battles of their country? I know they would repel it as an insult to their manhood, if not to their sense of duty to their country. And will they claim to be more patriotic than their co-patriots in arms? Two things are in my judgment to be avoided, if possible, in this Government; the one a large standing army, and the other a large list of life pensioners upon the bounty of the Government. The men who enlist in the service of their country in the hour of danger, need no such stimulus. As was well said by the veteran and gray-haired member from Ohio, [Mr. GIDDINGS,] "the pride of the soldier is the great stimulant to such action." He only needs the consciousness that—

"If there be on this earthly sphere
A boon, an offering Heaven holds dear,
'Tis the last libation liberty draws
From the heart that bleeds and breaks in her cause."

[Here the hammer fell.]

The amendment to the amendment was not agreed to.

Mr. HARRIS. I move to amend by striking out "one dollar" and inserting "five dollars." My object in offering this amendment, is partly to ask my friend from Ohio [Mr. SHERMAN] the effect of one clause of the substitute which he has offered. As I understand the bill now pending before the committee, it gives compensation, by way of pension, for various terms of service, varying in duration, but that one clause of the bill provides that those who were engaged in any battle in the war of 1812, shall, irrespective of the term of service, receive the maximum amount of pension; the question I ask is, whether the substitute he has offered does not put all such upon the continental system, giving those who have been engaged in battle a less amount than the pending bill gives to that class?

Mr. SHERMAN, of Ohio. The substitute I have offered, gives to those who have fought in battle, the highest pension given upon the continental line.

Mr. HARRIS. Is that as much as is given in the bill pending before the committee?

Mr. SHERMAN, of Ohio. Yes, sir; as I understand it, ninety-six dollars a year.

Mr. HARRIS. That is a feature of some consequence to the constituency which I represent, because a large number of the volunteers engaged in the gallant defense of Baltimore served a less period than those enumerated in the bill. There is one thing very certain, that whatever may be the deserts of others who were engaged in the war of 1812, I think it would be a very difficult matter to find fault with any of the soldiers of my native city who were engaged in that war—I am confident that the fighting done in that war by those whom I represent, was fighting, the quality and

value of which will not be objected to by any gentleman on this floor.

I shall make but one observation in connection with the allusion made by the gentleman from Delaware to the affair at Bladensburg, and that is, that some gallant fighting, at least, was done in that battle, and was, perhaps, the redeeming feature of the engagement; and that was, so far as my memory serves me, the gallant stand made by Commodore Barney with his battery. I will further say, that I believe it is the impartial verdict of history that the inglorious results of that battle may be attributed mainly to the conduct of the then Secretary of War.

Now, sir, I need not stand before this House, or before the country, to defend the soldiers of the old Maryland line. You will find its glory flashing all over the records of the revolutionary war. Nor need I do so for those gallant men who, under the provisions of this bill, would receive a pension for services in the war of 1812. They need no defense from me. If any man upon this floor wants to deprive any of these old soldiers of the poor pittance which this bill gives, upon any doubt of their gallant services, let him look to Fort McHenry and old North Point.

If there be any men in the country who merit the grateful recognition of gallant services by their country, those men stand in the foremost rank of desert, and it would ill become me to withhold the recognition of their gallantry.

Mr. VALLANDIGHAM. I rise simply to give notice that when this bill shall have been reported to the House, I will, if I can obtain the floor, offer the following resolution; which I ask the Clerk now to read for information.

Mr. BURNETT. I rise to a question of order. The gentleman cannot offer his proposition at this time.

Mr. VALLANDIGHAM. I desire to have it read as my speech.

The resolution was read as follows:

Resolved, That the bill and pending amendments be referred to a select committee of five, with instructions to inquire into the expediency of commutating the money value of the pensions provided for in the bill, in land, and report accordingly.

Mr. BURNETT. I am satisfied that sufficient time has been taken up in the discussion of this bill, and there is no necessity, as it seems to me, for further prolonging this discussion, either by the friends or opponents of this bill. With a view of testing the sense of the Committee, I move to strike out the enacting clause.

Mr. WASHBURNE, of Illinois. Will not the motion of the gentleman from Kentucky, if adopted, cut off all the amendments which have been made in committee?

Several MEMBERS. It will.

Mr. WASHBURNE, of Illinois. Then it will cut off from the benefits of this bill all those who were engaged in the Black Hawk war. I shall vote against it.

Mr. BURNETT. I ask for tellers upon the motion.

Mr. STEWART, of Maryland. I rise to a question of order. I submit that, by the order of the House closing debate upon this bill, the committee must vote upon such amendments as may be offered to the bill, and that, therefore, the motion of the gentleman from Kentucky, which cuts off all amendments, is not in order.

Mr. HOUSTON. I wish to ask the Chair whether, if the motion to strike out the enacting clause prevails, it will not carry the bill to the House as it came here, without amendment?

The CHAIRMAN. It will.

Mr. HOUSTON. I think the bill ought to be amended here in committee, and I hope the gentleman will not insist upon his motion.

Mr. BURNETT. I do not know whether the gentleman from Alabama is a friend or an enemy of this bill.

Mr. HOUSTON. I am a friend of the country.

The CHAIRMAN. The Chair overrules the question of order made by the gentleman from Maryland. The question is upon the motion of the gentleman from Kentucky, [Mr. BURNETT,] to strike out the enacting clause.

Mr. BURNETT. I withdraw the motion, and move to amend by making the amount \$100. Mr. Chairman, I certainly have no desire to occupy the time of this committee in discussing the various questions involved in this bill, when I can

throw no light upon the bill itself; but I desire to make an appeal to the friends of this bill, to gentlemen who are acting in good faith with us.

Mr. WASHBURNE, of Illinois. I hope the same rule will be applied to the gentleman from Kentucky which he insisted on applying to others. The gentleman is not speaking to his amendment.

Mr. BURNETT. I have no objection to that. I will confine myself to the point. I was remarking that I wanted the gentlemen who are in favor of this measure to take some action which will bring this question to a vote. The various amendments with which this bill has been clogged have been, as I stated yesterday, put upon it by the enemies of the bill; and, I am afraid, by gentlemen who do not want to be brought to a direct vote upon it.

Mr. COBB. I deny it, as far as my action is concerned.

Mr. NICHOLS. I object to this discussion as out of order.

The CHAIRMAN. The gentleman from Kentucky will proceed to discuss the merits of the amendment.

Mr. BURNETT. I am doing so; and if gentlemen do not see the point, I am not in fault.

Mr. HOUSTON. I want the gentleman to confine himself to his amendment.

Mr. WASHBURNE, of Illinois. I move that the committee rise and report the bill, with the amendments, to the House.

Mr. BURNETT. I give way to that motion.

The CHAIRMAN. The Chair holds that the motion is not in order during the pendency of an amendment.

Mr. MASON. I shall not inquire whether the gentleman from Alabama, [Mr. HOUSTON,] who wished the gentleman from Kentucky to proceed in order, is in favor of this bill or against it. I hope we shall find, when he comes to vote, by tellers or otherwise, that his private opinion will be exhibited in its favor, for we need friends. We may have men voting against it, who really are for it.

Mr. COBB. Very likely.

Mr. MASON. But one thing is certain; that if conduct of that kind is justly chargeable to any man the public will be apt to find it out. The feeling which we wish to represent here—the sentiment of the country in favor of these old soldiers—is one thing, and the disposition to defeat that feeling of the country is another thing. Gentlemen claim a good deal of manhood in resisting the public sentiment upon this subject; they seem to own that the public require that this bill should pass, but they seek to overrule and break it down by parliamentary attacks in the form of amendments, and do not want to exhibit their hand by a fair vote. Very well; parliamentary tactics are all fair, it is understood; but no one can conceal his opposition to the bill by trying to attach amendments to it calculated to clog it.

If I understand the position which was assumed by the country in 1832, and carried out in a bill passed that year, this is a just measure. From the debates of that day it appears that all the heads of all the political parties of that time argued the justness of the claim. Our distinguished Senator from Kentucky, (Mr. Clay,) who was at the head of one party, argued in favor of the justness of the claim; and General Jackson, who was at the head of the other party, signed the bill. Yet the gentleman from Alabama says that this is a new system. The gentleman is a lawyer; and many distinguished lawyers of that day, as is proved by the book I hold in my hand, considered that it was a just claim and a debt. The gentleman from Alabama [Mr. CURRY] shakes his head. I will read the evidence.

Mr. CURRY. Will the gentleman tell me when the debt was due?

Mr. MASON. Many distinguished lawyers thought that it was a debt, and I will read a quotation from a speech of Mr. Choate, of Massachusetts, showing what his views were upon that point. He says:

"I still think the pensions we now bestow, and which this bill proposes to bestow, are to be regarded rather in the light of compensation for services than as alms to the most meritorious poverty. Perhaps they partake of a mixed character. To some of those to whom we give them, they are given merely in charity; to others, and these the greatest number, they are nothing less than the long-deferred and inadequate wages of such service as no money could ever compensate."

"Forty-nine in fifty, perhaps, in a refined and high equity, are your creditors to-day; and I submit that the law, which ought to adapt itself to the general state of the facts, ought therefore to assume the form of a provision for the payment of a national debt, rather than that of a distribution of national alms. It humbles and rebukes one—the thought that we should compel our creditor to prove not only his right to the money he asks for, but his need of it."

[Here the hammer fell.]

Mr. BURNETT, by unanimous consent, withdrew his amendment.

Mr. MARSHALL, of Kentucky, moved to strike out the enacting clause of a bill.

Mr. WASHBURNE, of Illinois, demanded tellers upon the motion.

Mr. KILGORE. I appeal to the gentleman to withdraw his motion, that I may offer an amendment.

Mr. MARSHALL, of Kentucky. I would do so to accommodate the gentleman, but that I consider this is the best way to dispose of the bill. The bill will come before the House in its original shape, and if there is to be a substitute offered, we can act upon and dispose of it in the House.

Tellers were ordered; and Messrs. JEWETT and BUFFINGTON were appointed.

The committee divided; and the tellers reported—ayes 82, noes 76.

So the motion was agreed to.

Mr. SMITH, of Tennessee. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. JOHN COCHRANE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill (No. 259) granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period, and had directed him to report the same back to the House with a recommendation that the enacting words be stricken out.

Mr. SAVAGE. I move that the House do non-concur in the committee's recommendation; and I offer a substitute for the original bill, on which I call for the previous question.

The SPEAKER. The substitute is not now in order.

Mr. SAVAGE. Then I move a non-concurrence in the recommendation of the Committee of the Whole on the state of the Union; and on that call for the previous question.

Mr. WASHBURNE, of Illinois. What will be the effect of a concurrence in the report of the committee?

The SPEAKER. A defeat of the bill.

Mr. MARSHALL, of Kentucky. I will ask the Chair whether, if the previous question be seconded, and the House refuse to concur in the report of the Committee of the Whole on state of the Union, the House will not bring itself to a vote upon the original bill as it stands, and cut off all amendments?

The SPEAKER. The practice of the House has been different. The practice has been, when a vote was taken on agreeing to any recommendation of the committee, under the previous question, that on that vote the previous question exhausted itself.

Mr. WASHBURNE, of Illinois. If the House refuse to second the call for the previous question, what will be the condition of the bill?

The SPEAKER. The recommendation of the committee would then be open to debate.

Mr. WASHBURNE, of Illinois. Then I hope that the previous question will not be seconded.

Mr. SAVAGE. If the House non-concur in the recommendation of the committee to strike out the enacting clause, will it not then be in order to submit a substitute for the original bill?

The SPEAKER. The Chair thinks it might.

Mr. SAVAGE. I hope that the friends of the bill will see that I intend to offer a substitute, and vote accordingly.

Mr. WASHBURNE, of Illinois. I demand tellers on seconding the call for the previous question.

Tellers were ordered; and Messrs. McQUEEN and CHAFFEE were appointed.

The previous question was seconded, the tellers having reported—ayes 90, noes 68.

The main question was then ordered.

Mr. BURNETT. I ask for the yeas and nays on the question of non-concurring in the report of

the Committee of the Whole on the state of the Union.

THE SPEAKER. The question will be put, "Shall the enacting words of the bill be stricken out?"

The yeas and nays were ordered.

Mr. MAYNARD. I would like to inquire what would be the effect of concurring in the report of the committee?

THE SPEAKER. The rejection of the bill.

Mr. RITCHIE. I object to questions or debate.

Mr. SAVAGE. I ask the Chair again whether, if the enacting words of the bill are not stricken out, it will then be in order for me to offer a substitute?

THE SPEAKER. The gentleman from Pennsylvania objects to debate.

The question was taken; and it was decided in the negative—yeas 75, nays 127; as follows:

YEAS—Messrs. Abbott, Barksdale, Blair, Bliss, Bocoock, Bonham, Boyce, Branch, Caskie, Horace F. Clark, Burton, Crayford, Curry, Davis of Mississippi, Davis of Iowa, Dodd, Dowdell, Edmundson, Garnett, Gilman, Goode, Granger, Greenwood, Groesbeck, Grow, Harlan, Hill, Horton, Houston, Howard, Buylor, Jenkins, George W. Jones, Keitt, Lamar, Leach, Leiter, Lovejoy, Maclay, McQueen, Miles, Miller, Milson, Moore, Morgan, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Pendleton, John S. Phelps, William W. Phelps, Phillips, Pike, Reagan, Ritchie, Sandidge, Seales, Henry M. Shaw, Singleton, William Smith, Stallworth, Stephens, George Taylor, Miles Taylor, Thompson, Valandigham, Wade, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, Whiteley, Winslow, and Wrentdence—75.

NAYS—Messrs. Adair, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Bowie, Bratton, Burlingame, Burlingame, Burnett, Burns, Caruthers, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Coffey, Comins, Covode, Cox, James Craig, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dewart, Dick, Dinmick, Foster, Elliott, Eustis, Farnsworth, Fenton, Florence, Foley, Forster, Gartrell, Gilmer, Goodwin, Gregg, Lawrence W. Hall, Robert B. Hall, Harris, Haskins, Hatch, Hawkins, Hickman, Hopkins, Hughes, Jackson, Jewett, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leidy, Humphrey, Marshall, Samuel S. Marshall, Mason, Maynard, Morrill, Edward Joy Morris, Isaac N. Morris, Murray, Niblack, Palmer, Parker, Pettit, Peyton, Poutle, Powell, Russell, Savage, Reilly, Rieand, Robbins, Roberts, Royce, Russell, Scott, Seward, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Thayer, Tompkins, Underwood, Vance, Waldron, Walton, Ward, Israel Washburn, Watkins, White, Woodson, Augustus R. Wright, John V. Wright, and Zolliecofer—127.

So the House refused to strike out the enacting words of the bill.

During the call of the roll,

Mr. POTTER stated that he had paired off with **Mr. MONTGOMERY** on this bill, or he should have voted in the affirmative.

Mr. SCALES stated that his colleague, **Mr. RUFFIN**, was detained from the House by severe indisposition.

Mr. SAVAGE. I offer the substitute for the bill which I send to the Clerk's desk, and on it I demand the previous question.

Mr. FENTON. Will the gentleman from Tennessee give way for a moment, that I may offer my substitute as an amendment for his substitute?

Mr. SAVAGE. No, sir; I cannot do it. I will state that the substitute which I offer is the result of the labors and consultations of the friends of the bill who met at the Capitol last evening. Believing it to be the best bill that we could get, we agreed to stand by it, without admitting other amendments. I insist on the demand for the previous question.

Mr. FENTON. Then I hope the previous question will be voted down.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair?

Mr. HUGHES. I object to debate.

Mr. JONES, of Tennessee. I only wish to make an inquiry of the Chair. If the previous question is voted down, will not the gentleman from New York [**Mr. FENTON**] have an opportunity to offer his substitute?

THE SPEAKER. The bill will be open to amendment, if the previous question be not sustained.

Mr. GROW. Then let us vote down the previous question.

Mr. SAVAGE. I ask for the reading of my substitute.

Mr. MASON. It is the compromise substitute that was agreed upon last night.

The substitute was read, as follows:

Strike out all after the enacting clause, and insert:

That each of the surviving officers, non-commissioned officers, musicians, and privates, who shall have served in the regular Army, State troops, volunteers, or militia, for a term of sixty days or more, or who have been engaged in actual battle with the enemy, in the war declared by the United States against Great Britain, on the 18th day of June, 1812, be authorized to receive a pension from the United States, to commence from the first day of the present Congress, and continue during his natural life.

SEC. 2. And be it further enacted, That each of the officers, non-commissioned officers, musicians, and privates, who have served in the regular Army, State troops, volunteers, or militia, of any State or Territory, for the space of sixty days or more, against any of the Indian tribes during or preceding the war of 1812 with Great Britain, or who were engaged in any battle fought by the United States against any Indian tribe during the aforesaid war with Great Britain, shall be entitled to all the benefits of this act.

SEC. 3. And be it further enacted, That if any of the officers, non-commissioned officers, musicians, or privates, have died, or shall hereafter die, leaving a widow, such widow shall be entitled to receive the same pension to which her husband would have been entitled under this act, for and during her natural life.

SEC. 4. And be it further enacted, That the pay allowed by this act shall, under the direction of the Secretary of the Interior, be paid to such officer, non-commissioned officer, musician, private, or his widow, or their authorized attorney, at such times and places as the Secretary of the Interior may direct; and that no officer, non-commissioned officer, musician, private, or his widow, shall receive the same until he furnish the said Secretary of the Interior with satisfactory evidence that he is entitled to the same, in accordance with the provisions of this act; and that the pay hereby allowed shall not be, in any way, transferable, or liable to attachments, levy, or seizure, by any legal process whatever, but shall go unencumbered to the possession of the officer, non-commissioned officer, musician, private, or his widow.

SEC. 5. And be it further enacted, That the officers, non-commissioned officers, and marines, who served for the time of sixty days in the naval service, or were engaged in battle with the enemy, during the war with Great Britain aforesaid, and their widows, shall be entitled to the benefits of this act, in the same manner as is provided for the officers and soldiers of the Army of the war of 1812.

SEC. 6. And be it further enacted, That the pension provided by this act shall in no case exceed the full amount of ninety-six dollars per year, and shall be graduated according to the length of service, as follows: For twelve months' service, or more, ninety-six dollars; for six months' service, but less than twelve months, seventy-five dollars; for sixty days' service, but less than six months, fifty dollars: *Provided*, That the survivor, or surviving widow of an officer, non-commissioned officer, musician, or private, who participated in actual battle, in said war, shall be entitled to the maximum pension given by this act.

Mr. SEWARD. Is a motion to recommit in order?

THE SPEAKER. Not pending the demand for the previous question.

Mr. CLAY. What will be the effect of seconding the demand for the previous question? If it is to cut off all debate and amendments, I hope it will not be sustained; for I wish to express some views which I myself entertain in reference to this bill, and also to offer an amendment.

THE SPEAKER. The previous question will preclude all debate and amendment.

Mr. BRANCH. I rise to a question of order. The point which I submit is this: that this bill, making an appropriation of money, or touching an appropriation of money, must have its first consideration in a Committee of the Whole House. The 131st rule says:

"No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House."

But the 132d rule, on which I most rely, is as follows:

"No sum or quantum of tax or duty, voted by a Committee of the Whole House, shall be increased in the House until the motion or proposition for such increase shall be first discussed and voted in a Committee of the Whole House; and so in respect to the time of its continuance."

The point I make is, that the Committee of the Whole on the state of the Union in striking out the enacting clause and thus rejecting the bill, reported in favor of no appropriation; while the substitute offered by the gentleman from Tennessee proposes an appropriation of a very large amount, certainly larger than was recommended by the Committee of the Whole on the state of the Union. Under that rule, I make the point of order that the amendment proposed by the gentleman from Tennessee must be first considered in the Committee of the Whole House.

Mr. COVODE. I think the gentleman from North Carolina is mistaken in the amount which

this substitute appropriates. My own opinion is, that the amount is reduced from that contained in the bill which was under consideration in committee.

Mr. BRANCH. The committee reported against any appropriation.

Mr. COVODE. But the House has reversed that decision. This bill only gives a pension to all who have served over two months.

Mr. MARSHALL, of Kentucky. The question raised by the gentleman from North Carolina was decided in the case of the New York fire bill. This bill makes no appropriation; it merely changes the law.

Mr. BRANCH. If the bill does not make an appropriation, it is unquestionably a proposition "touching" an appropriation, and therefore comes under the rule.

Mr. MARSHALL, of Kentucky. The question was very distinctly decided in the case to which I have referred. This bill does not make an appropriation. It only provides for a pension; but no pension will be paid at the Department until an appropriation has been made by Congress. There is no sum appropriated, and there would be no money paid under this bill without the further action of Congress.

Mr. BRANCH. I would like to call the attention of the Speaker to the 133d rule, which says:

"All proceedings touching appropriations of money shall be first discussed in a Committee of the Whole House."

This is certainly a proceeding touching an appropriation, and is brought within the terms of that rule.

Mr. STANTON. I think the gentleman from North Carolina is right. If the point is overruled, it deprives us of all discussion of amendments to our appropriation bills in committee.

THE SPEAKER. The Chair overrules the point of order made by the gentleman from North Carolina. So far as the first question raised by him is concerned, the bill was referred to the Committee of the Whole on the state of the Union, and received its consideration there. The committee reported it back, with a recommendation in which the House did not concur; but that does not affect the fact that the committee considered the bill. The Chair is of opinion that the other rule to which the gentleman has reference, applies exclusively to revenue bills.

Mr. STEPHENS, of Georgia. How in reference to the 133d rule?

THE SPEAKER. The ruling of the Chair would be the same as under the 131st, that the bill has been already considered in committee. The Chair does not remember a single instance where amendments have been offered to appropriation bills after they have come from committee, and they have been decided to be out of order. The Chair does know that such has been the practice, and that amendments have been received in the House to appropriation bills after they have been reported from committee.

Mr. STEPHENS, of Georgia. That is where the committee has reported something; but here, the committee struck out the enacting clause, and reported nothing. It occurs to me that the action of the committee has brought it outside of the operation of that rule. If the committee had reported anything, the Chair would be right.

THE SPEAKER. Does not the gentleman from Georgia perceive that it would be impossible for the Chair to propound a question at all, unless the bill had accompanied the report? The report of the committee was a recommendation to the House to strike out the enacting words—of what? Of this very bill which was reported to the House.

Mr. STEPHENS, of Georgia. It was to strike out everything which appropriated a single dollar.

THE SPEAKER. It was to strike out the enacting words of the bill.

Mr. STEPHENS, of Georgia. Every word covering a dollar was stricken out of the bill, and the object is now to increase that.

Mr. SMITH, of Tennessee. The committee reported to strike out the enacting clause, but under the rules of the House that is a rejection of the bill, and the House has seen proper not to concur in the report of the committee.

Mr. CLAY. I desire to know if debate is in order?

THE SPEAKER. It is not.

Mr. CLAY. Then I desire that we shall proceed in order.

Mr. FENTON. Will it be in order to have a substitute read for information before the amendment of the gentleman from Tennessee is acted upon?

The SPEAKER. By unanimous consent it will.

Objection was made.

Tellers having been previously ordered, on seconding the previous question, Messrs. McQUEEN and BURFINTON were appointed.

The House divided; and the tellers reported—ayes 82, noes 103.

So the previous question was not seconded.

Mr. FENTON offered the following substitute by way of amendment, for the substitute of the gentleman from Tennessee: strike out all after the word "that," and substitute the following:

The pensions which have been granted, or which may hereafter be granted, to officers, non-commissioned officers, musicians, privates, artificers, rangers, sea-fencibles, volunteers, express-riders, seamen, marines, pilots, engineers, firemen, and coal-heavers, and other persons in the land or naval service of the United States, disabled by wounds or other injuries received while in the line of their duty, shall be considered to commence from the time of their being so disabled; and the amount of pension to which said officers, non-commissioned officers, musicians, privates, artificers, rangers, sea-fencibles, volunteers, express-riders, seamen or marines, pilots, engineers, firemen, and coal-heavers, and other persons, may be entitled, shall be regulated according to existing laws in relation to the pay of invalid pensioners: *Provided*, That the amount of pension which any persons above-named have received shall first be deducted from the pension to which he is entitled under this act.

SEC. 2. *And he it further enacted*, That in case of the death of any officer, non-commissioned officer, musician, private, artificer, volunteer, express-riders, sea-fencible, pilot, seaman, marine, engineer, fireman, or coal-heaver, or other person mentioned in the first section of this act, before or after the passage thereof, the amount which may be due to such person under the provisions of this act shall be paid to his widow; and in case of her death, to her surviving child or children; and if none, then to the next of kin of the persons provided for by the first section of this act.

Mr. FENTON. I move the previous question on my substitute.

Mr. MARSHALL, of Kentucky. I call for tellers.

Mr. SHERMAN, of Ohio. I desire to move to amend the original bill before the question is put upon the substitute.

The SPEAKER. That is not in order, pending the demand for the previous question.

Mr. STEWART, of Maryland. I desire to ask the gentleman from New York to withdraw the demand for the previous question, and allow me to offer an amendment which will not come in conflict with the proposition he has presented.

Mr. DAVIS, of Massachusetts. I move that the House do now adjourn.

The motion was not agreed to.

Mr. SHERMAN, of Ohio. I ask the gentleman from New York to withdraw the demand for the previous question, to enable me to offer an amendment to the original bill.

Mr. FENTON declined to withdraw the call for the previous question.

Mr. HUGHES. I wish to make an inquiry on a point of order.

Mr. RITCHIE. I object to debate.

Mr. HUGHES. I wish to make an inquiry on a point of order. The Committee of the Whole on the state of the Union had this bill under consideration, made sundry amendments, and finally reported the bill to the House with a recommendation that the enacting words be stricken out. The House has refused to concur in that recommendation. Do the amendments agreed to in the committee now come before the House?

The SPEAKER. They do not. They fell in committee, on agreeing to the motion to strike out the enacting clause. When a report is made to the House to strike out the enacting words, it does not carry with it the amendments adopted in committee.

Mr. LOVEJOY. If we sustain the previous question, it cuts off all further amendments.

The SPEAKER. It does.

Mr. SHERMAN, of Ohio. If the previous question is not seconded, will it then be in order for me to move an amendment to the original bill?

The SPEAKER. It will.

Mr. SHERMAN, of Ohio. I hope, then, that the previous question will not be seconded.

Tellers were ordered; and Messrs. UNDERWOOD and AVERY were appointed.

The previous question was seconded; the tellers having reported—ayes 91, noes 83.

The main question was ordered.

The SPEAKER stated that the first question to be on agreeing to the amendment of the gentleman from New York, [Mr. FENTON,] which was in the nature of a substitute.

Mr. KELSEY. I would suggest to my colleague to move his amendment as an addition instead of a substitute.

The SPEAKER. That can only be done by unanimous consent.

Mr. DAVIS, of Mississippi. I object.

Mr. SAVAGE. If the amendment of the gentleman from New York be voted down, will not the vote be next on my substitute?

The SPEAKER. It will.

Mr. SMITH, of Virginia. I move that the House adjourn. I want to see these amendments in print. They are long; and, although they have been read, it is necessary, to a full understanding of their provisions, that we should see them in print. I demand the yeas and nays on the motion to adjourn.

Several MEMBERS. Do not call for the yeas and nays.

Mr. SMITH, of Virginia. I withdraw the call for the yeas and nays.

The House refused to adjourn.

Mr. MARSHALL, of Kentucky, demanded the yeas and nays on Mr. FENTON's substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 98, ayes 100; as follows:

YEAS—Messrs. Abbott, Andrews, Barksdale, Billingshurst, Blair, Bliss, Boeck, Bonham, Boyce, Branch, Bryan, Case, Caskie, Cavanaugh, Chaffee, Chapman, Ezra Clark, Horace F. Clark, John Cochrane, Comins, Burton Craige, Crawford, Curry, Davis of Maryland, Davis of Mississippi, Davis of Iowa, Dean, Dodd, Dowdell, Edmundson, Farnsworth, Fenton, Garra, Gilman, Goode, Granger, Greenwood, Groesbeck, Grow, Robert B. Hall, Harlan, Hatch, Hill, Hoard, Horton, Houston, Howard, Jenkins, George W. Jones, Keitt, Kelsey, Knapp, Lamar, Leitcher, Leach, Leiter, Lovejoy, McQueen, Miles, Miller, Millson, Moore, Morgan, Morrill, Freeman H. Morse, Mont, Murray, Nichols, Palmer, John S. Phelps, William W. Phelps, Phillips, Pike, Reagan, Ritchie, Royce, Sandidge, Seales, Scott, Seward, Henry M. Shaw, Singleton, William Smith, Spinner, Stanton, Stephens, James A. Stewart, Miles Taylor, Vallandigham, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Whiteley, Winslow, and Wortendyke—88.

NAYS—Messrs. Adrian, Ahl, Anderson, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Bowie, Brayton, Buffinton, Burlingame, Burnett, Burns, Caruthers, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, Cockerill, Colfax, Corning, Covode, Cox, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Dawes, Dewart, Dick, Dimmick, Durfee, Eustis, Florence, Foley, Foster, Gartrell, Giddings, Gilmer, Goodwin, Gregg, Lawrence W. Hall, Harris, Hawkins, Hopkins, Hughes, Huyler, Jackson, Jewett, Owen Jones, Keim, Kellogg, Kilgore, John C. Kunkel, Lawrence, Leidy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Edward Joy Morris, Isaac N. Morris, Niblack, Pettit, Peyton, Pottle, Powell, Purviance, Ready, Reilly, Ricard, Robbins, Roberts, Russell, Savage, John Sherman, Judson W. Sherman, Robert Smith, Samuel A. Smith, Stevenson, William Stewart, Talbot, Tappan, Thayer, Tompkins, Tripp, Underwood, Vance, Walton, Ward, Watkins, White, Woodson, John V. Wright, and Zollcoffer—100.

So the substitute of Mr. FENTON was rejected.

During the call of the roll,

Mr. REILLY stated that in the hope of getting a better bill than this, he voted "No."

Mr. CRAIG, of Missouri, desired to say a word in explanation of his vote.

Mr. KELSEY objected.

Mr. ELLIOTT stated that he was absent from the Hall on account of indisposition when his name was called. If he had been present he should have voted "No."

The question recurred on agreeing to the substitute offered by Mr. SAVAGE.

Mr. CURTIS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SEWARD. I move to reconsider the vote by which the substitute of the gentleman from New York was rejected.

Mr. MORGAN. Upon that I ask the yeas and nays.

Mr. UNDERWOOD. I move to lay the motion to reconsider upon the table.

Mr. NICHOLS. On that I demand the yeas and nays.

The SPEAKER. The Chair cannot entertain the motion of the gentleman from Georgia, as the gentleman did not vote with the majority.

Mr. DAVIS, of Mississippi, moved that the House do now adjourn.

The motion was disagreed to—ayes 95, noes 97.

Mr. SEWARD. I move to reconsider the vote by which the main question was ordered on the substitute.

The SPEAKER. The Chair cannot entertain that motion, unless the House should previously reconsider the vote by which the substitute was disagreed to.

Mr. SEWARD. My motion is to reconsider the vote by which the main question was ordered on the substitute of the gentleman from Tennessee.

The SPEAKER. The gentleman from Georgia will remember, that when the previous question was demanded by the gentleman from Tennessee, [Mr. SAVAGE,] the House refused to second it; and it was not until after the gentleman from New York [Mr. FENTON] had offered his substitute, that the previous question was seconded. The previous question, therefore, operated upon the substitute of the gentleman from New York, as well as upon the substitute of the gentleman from Tennessee.

Mr. SEWARD. What, then, prevents me from making the motion?

The SPEAKER. The reason that there was an intervening proposition. The House cannot restore itself by a reconsideration of the previous question to the position it was in, without going back regularly and reconsidering the vote on the substitute of the gentleman from New York, so as to leave the question exactly where it stood when the main question was ordered.

Mr. SEWARD. I move, then, to reconsider the vote by which the main question was ordered upon the substitute of the gentleman from New York.

The SPEAKER. The Chair thinks the motion is not in order.

Mr. SEWARD. The Chair decided correctly that I was not in order, in moving to reconsider the vote by which the substitute of the gentleman from New York was rejected; but I make a distinct motion now, and it is a privileged motion, to reconsider the vote by which the main question was ordered upon that substitute; and I think that is clearly in order.

The SPEAKER. The Chair thinks the motion is not in order.

Mr. SEWARD. I move, then, to lay the whole subject upon the table.

The motion was disagreed to—ayes 70, noes 106.

Mr. WALBRIDGE moved that the House do now adjourn.

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 91, nays 104; as follows:

YEAS—Messrs. Abbott, Andrews, Barksdale, Billingshurst, Blair, Bliss, Boeck, Bonham, Boyce, Branch, Bryan, Caskie, Chapman, Horace F. Clark, Corning, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dimmick, Dodd, Dowdell, Edmundson, Fenton, Gilman, Goode, Granger, Greenwood, Groesbeck, Grow, Robert B. Hall, Harlan, Hatch, Hill, Hoard, Horton, Houston, Howard, Jackson, Jenkins, George W. Jones, Keitt, Kellogg, Kelsey, Knapp, Lamar, Leach, Leiter, Leitcher, Lovejoy, MacLay, McQueen, Miller, Millson, Moore, Morgan, Freeman H. Morse, Mont, Murray, Nichols, Pendleton, Phillips, Pike, Potter, Reagan, Ritchie, Royce, Sandidge, Seales, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, William Smith, Stallworth, Stephens, Tappan, Miles Taylor, Thayer, Vallandigham, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Whiteley, Winslow, and Wortendyke—91.

NAYS—Messrs. Adrian, Ahl, Anderson, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Bowie, Brayton, Buffinton, Burlingame, Burnett, Burns, Caruthers, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, James Craig, Curtis, Davidson, Davis of Massachusetts, Dawes, Dean, Dewart, Dick, Durfee, Elliott, Eustis, Farnsworth, Florence, Foley, Foster, Gartrell, Giddings, Gilmer, Goodwin, Gregg, Lawrence W. Hall, Harris, Hawkins, Hopkins, Hughes, Huyler, Jewett, Keim, John C. Kunkel, Lawrence, Leidy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morrill, Edward Joy Morris, Isaac N. Morris, Niblack, Palmer, Parker, Pettit, Peyton, William W. Phelps, Pottle, Powell, Purviance, Ready, Reilly, Ricard, Robbins, Roberts, Russell, Savage, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Tompkins, Tripp, Underwood, Vance, Walton, Ward, Watkins, White, Woodson, John V. Wright, and Zollcoffer—104.

So the House refused to adjourn.

Pending the call of the roll,

Mr. KEITT said: If the House adjourn now, will not this bill come up in the morning?

The SPEAKER. It will.

Mr. BURNETT. If we vote now we shall not have it to do in the morning.

Mr. SCOTT stated that he had paired off with Mr. MILES.

Mr. DAVIS, of Mississippi. I am in favor of a pension bill properly adjusted, but I am decidedly opposed to this bill. I desire also to say that it was my intention to have presented my views upon the subject, but for some reason, best known to those who preside over the deliberations of this body, I have never been allowed the opportunity.

The question then recurred upon the adoption of the substitute proposed by Mr. SAVAGE.

Mr. WALBRIDGE. We have been discussing this pension bill for the last ten days, until every member of this House understands the original bill; but, at this moment, a new bill is sprung upon us. With a view of having a full House when we come to vote upon it, I move that there be a call of the House.

The SPEAKER. The previous question has been seconded; and the motion, therefore, is not in order.

Mr. WALBRIDGE. I move that when the House adjourns, it adjourn until Thursday next; and upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The motion was disagreed to.

The question again recurred upon the adoption of the substitute proposed by Mr. SAVAGE.

Mr. KILGORE. I ask the unanimous consent to offer an amendment to the second section of the substitute.

Several MEMBERS objected.

The question was taken; and it was decided in the affirmative—yeas 122, nays 61; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Billingshurst, Bingham, Bishop, Bliss, Bowie, Brayton, Bullinton, Burlingame, Burnett, Burns, Caruthers, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, Cocke, Colfax, Comins, Covode, Cox, James Craig, Curtis, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Elliott, Farnsworth, Fenton, Florence, Foley, Foster, Gartrell, Giddings, Gilmer, Goodwin, Granger, Gregg, Lawrence W. Hall, Harris, Haskin, Hatch, Hawkins, Hoard, Hopkins, Houston, Hughes, Huyler, Jewett, Keim, Kellogg, Kilgore, John C. Kunkel, Lawrence, Leidy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morrill, Edward Joy Morris, Isaac N. Morris, Murray, Niblack, Palmer, Parker, Pendleton, Pettit, Peyton, Pike, Pottle, Purviance, Ready, Reagan, Reilly, Ricard, Robbins, Roberts, Royce, Russell, Savage, John Sherman, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stevenson, William Stewart, Talbot, Tappan, Thayer, Tompkins, Tripp, Underwood, Vallandigham, Vance, Waldron, Ward, Israel Washburn, Watkins, White, Woodson, John V. Wright, and Zollicoffer—122.

NAYS—Messrs. Barksdale, Bocoek, Bonham, Branch, Caskie, Chapman, Horace F. Clark, Burton Craige, Curry, Davis of Mississippi, Davis of Iowa, Dowdell, Edmundson, Gilman, Goode, Greenwood, Groesbeck, Grow, Robert B. Hall, Harlan, Hill, Horton, Howard, Jackson, Jenkins, George W. Jones, Owen Jones, Knapp, Lamar, Leiter, Letcher, Lovejoy, Maclay, McQueen, Miller, Millson, Moore, Morgan, Freeman H. Morse, Mott, Nichols, John S. Phelps, William W. Phelps, Phillips, Ritchie, Sandidge, Seales, Seward, Henry M. Shaw, Judson W. Sherman, Singleton, William Smith, Stallworth, Miles Taylor, Wade, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, Whiteley, Winslow, and Wortendyke—61.

So the substitute was agreed to.

Pending the call of the roll,

Mr. JOHN COCHRANE stated that his colleague, Mr. CORNING, had paired off with Mr. BRYAN.

Mr. PURVIANCE stated that Mr. BLAIR had paired off with Mr. HOUSTON.

Mr. JOHN COCHRANE stated that he had paired off with Mr. CRAWFORD, otherwise he should have voted in the affirmative.

Mr. CAVANAUGH stated that he had paired off with Mr. GARNETT.

Mr. WALTON stated that he had paired off with Mr. BORCE.

The result was then announced as above recorded.

Mr. SAVAGE moved to reconsider the vote by which the substitute was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. WHITELEY. I move that the House do now adjourn.

RESIGNATION OF MR. KELLY.

The SPEAKER, by unanimous consent, laid before the House a communication from Hon. JOHN KELLY, resigning his seat in the Thirty-Fifth

Congress, as a Representative of the fourth congressional district of the State of New York, to take effect on and after the 25th instant; and stating that he had so notified the Governor of the State of New York, and that a new election had been ordered to fill the vacancy.

BILL RETURNED TO THE SENATE.

The SPEAKER also laid before the House, by unanimous consent, the message of the Senate, asking the return to that body of House bill No. 365, granting a pension to Jeremiah Wright.

No objection being made, it was

Ordered, That the said bill be returned to the Senate.

NAVY CONTINGENT FUND.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting a detailed statement of the disbursements out of the contingent fund of the Navy Department for the year ending the 30th June, 1858; which was laid on the table, and ordered to be printed.

The question then recurred on the motion that the House adjourn.

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

Mr. WHITELEY then withdrew the motion. Mr. DAVIS, of Mississippi, moved that the House adjourn.

The motion was disagreed to; yeas 68, noes 85.

OLD SOLDIERS' PENSION BILL—AGAIN.

The bill was then ordered to be engrossed and read a third time.

Mr. SAVAGE demanded the previous question upon the passage of the bill.

Mr. HOUSTON. I ask to have the engrossed bill read.

The engrossed bill was accordingly read.

Mr. HOUSTON called for the yeas and nays upon the passage of the bill.

Mr. STANTON moved (at four o'clock and thirty-five minutes) that the House adjourn; and, upon that motion, demanded the yeas and nays.

The yeas and nays were refused.

Mr. WASHBURN, of Illinois, called for tellers upon the question of adjournment.

Tellers were ordered; and Messrs. NICHOLS and TALBOT were appointed.

The House divided; and the tellers reported—yeas 73, noes 76.

So the House refused to adjourn.

Mr. WASHBURN, of Illinois, moved that when the House adjourns, it adjourn to meet on Thursday next.

The motion was disagreed to.

Mr. DAVIS, of Mississippi, moved that the House adjourn; and, on that motion, called for tellers.

Tellers were ordered.

Mr. HUGHES demanded the yeas and nays.

Mr. BURNETT. If there is to be a filibustering arrangement here, we may as well give them the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative; yeas 65, nays 89—as follows:

YEAS—Messrs. Abbott, Barksdale, Billingshurst, Bliss, Bocoek, Bonham, Branch, Case, Caskie, Chaffee, Horace F. Clark, Burton Craige, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dodd, Dowdell, Edmundson, Farnsworth, Fenton, Gilman, Grow, Harlan, Haskin, Hoard, Horton, Howard, Jenkins, Owen Jones, Leach, Letcher, Lovejoy, Maclay, McQueen, Millson, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Murray, Nichols, William W. Phelps, Phillips, Pike, Potter, Reagan, Royce, Seales, Searing, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, William Smith, Stallworth, Stanton, James A. Stewart, Miles Taylor, Tripp, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Whiteley—65.

NAYS—Messrs. Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Bowie, Brayton, Bullinton, Burlingame, Burnett, Burns, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Cocke, Colfax, Comins, Covode, Cox, Curtis, Dean, Dewart, Dick, Durfee, Elliott, Florence, Foley, Foster, Gartrell, Giddings, Gilmer, Goodwin, Gregg, Groesbeck, Lawrence W. Hall, Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jewett, George W. Jones, Keim, Kellogg, Kilgore, John C. Kunkel, Lawrence, Leidy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Isaac N. Morris, Niblack, Palmer, Pettit, Pottle, Purviance, Ready, Reilly, Robbins, Roberts, Russell, Savage, Robert Smith, Samuel A. Smith, Spinner, Stevenson, William Stewart, Talbot, Tappan, Tompkins, Underwood, Vance, Waldron, Ward, Watkins, White, Woodson, John V. Wright, and Zollicoffer—89.

So the House refused to adjourn.

Pending the call,

Mr. ADRAIN stated that he had paired off with Mr. WINSLOW.

Mr. JENKINS stated that his colleague, Mr. GOOPE, had paired off with Mr. CRAIG, of Missouri.

Mr. BURNETT said: Mr. Speaker, I shall move to dispense with the reading of the names, if it be agreed that the main question shall be ordered on the passage of the bill, and then we can adjourn.

Mr. WASHBURN, of Illinois. There is no objection to that; but we did object to forcing on a vote to-night.

On motion of Mr. BURNETT, the reading of the names was dispensed with, and the vote was announced as above.

Mr. SAVAGE demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

And then, on motion of Mr. BURNETT, (at five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, December 22, 1858.

Prayer by Rev. J. H. Bocoek, D. D.

The Journal of yesterday was read and approved.

JEREMIAH WRIGHT.

The following message was received from the House of Representatives by Mr. ALLEN, its Clerk:

Mr. PRESIDENT: I am directed by the House of Representatives to return to the Senate, in compliance with its request, the bill of the House (No. 365) granting a pension to Jeremiah Wright.

The bill was, in pursuance of an order heretofore made, referred to the Committee on Pensions.

BILLS BECOME LAWS.

The message further announced that the President had approved and signed, on the 21st instant, the following acts:

An act to continue the office of register of the land office at Vincennes, Indiana;

An act recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid; and

An act for the relief of John Campbell.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, transmitting, in compliance with law, the annual statement of appropriations and expenditures for the service of that Department; which was, on motion of Mr. MASON, referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a letter addressed to him by L. Stoddard, a commander in the Navy, relative to his pay; which was referred to the Committee on Naval Affairs.

He also presented six petitions of citizens of Berks and Lancaster counties, Pennsylvania, praying for the protection of American labor engaged in the manufacture of iron; which were referred to the Committee on Finance.

Mr. GWIN presented the petition of Simpson P. Moss, praying to be allowed the benefit of the act of July 21, 1852, fixing definitely the compensation of the collector at Astoria, in the settlement of his accounts as collector of the district of Puget Sound; which was referred to the Committee on Claims.

Mr. BIGLER presented proceedings of a meeting of the soldiers of the war of 1812, held at Uniontown, Pennsylvania, on the 16th December, 1858, in favor of the enactment of a pension law that will be just to the Government and generous to the soldiers of that war; which were referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of James Varney, a soldier in the war of 1812, praying to be allowed a pension on account of a disability contracted in the service; which was referred to the Committee on Pensions.

Mr. CAMERON presented one hundred and thirty-six petitions of citizens of various counties in the State of Pennsylvania, praying for protection to American labor engaged in the manufacture of iron; which were referred to the Committee on Finance.

Mr. HUNTER presented the petition of A. M. Tabb, clerk of the navy-yard at Gosport, Virginia, praying that the pay of clerks of navy-yards may be increased; which was referred to the Committee on Naval Affairs.

Mr. POLK presented the petition of Gillum Bailey and William R. Bailey, praying indemnity for losses by depredations of the Mohave Indians; which was referred to the Committee on Claims.

Mr. JONES presented a petition of citizens of Iowa, praying the establishment of a mail route from Calmar, via Burr Oak Springs, to New Oregon, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Iowa, praying the establishment of a mail route from New Oregon to Hampton, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Iowa, praying the establishment of a mail route from New Oregon to Osage, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. MALLORY presented the memorial of G. R. Barry, a purser in the Navy, praying compensation for services as judge advocate; which was referred to the Committee on Naval Affairs.

PENSION BILL.

A message from the House of Representatives, by Mr. ALLEN, announced that the House had passed a bill (H. R. No. 259) granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period.

The bill was read twice by its title, and referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of Isaac Moses, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 75) to increase the efficiency of the Army and of the marine corps, by retiring disabled or infirm officers, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 463) for the relief of Lewis Cass Forsyth, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

Mr. REID, from the Committee on Patents and the Patent Office, to whom was referred the petition of James G. Holmes, submitted a report, accompanied by a bill (S. No. 480) for his relief. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, reported a joint resolution (S. No. 58) authorizing Captain William L. Hudson and Joshua R. Sands to accept certain testimonials awarded to them by the Government of Great Britain; which was read and passed to a second reading.

BILLS INTRODUCED.

Mr. MASON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 57) granting further time to the creditors of Texas to present their claims at the Treasury; which was read twice by its title, and referred with the accompanying papers, relating to the claim of Edward Pontois, to the Committee on Finance.

Mr. WARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 59) to provide for the payment of certain volunteer troops called into service by the Governor of the State of Texas for the protection of the frontier of said State, and to reimburse said State for the amount advanced by her on account thereof; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

POSTAL SYSTEM.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be directed to report to the Senate such changes in the law regulating post-ages and the Post Office Department as, in his opinion, would make that a self-sustaining Department.

LAND CLAIMS OF JOHN RICE JONES.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, requested to communicate to the Senate a complete list of the land claims of the late John Rice Jones, in the State of Illinois, which have been the subject of action by the boards of land commissioners, from time to time, discriminating those claims, if any, which have not been satisfied, and the causes; and such thereof as, in his opinion, should be allowed on the principles of equity and justice, and which require legislation of Congress for that purpose.

FREDERICK VINCENT.

Mr. SHIELDS. I offer the following resolution; and ask for its present consideration:

Resolved, That the papers in the case of Frederick Vincent, executor of James Lecaze, surviving partner of Lecaze & Mallet, be returned to the Senate by the Court of Claims, and referred to the Committee on Revolutionary Claims.

Mr. IVERSON. I beg leave to inquire whether that case was referred to the Court of Claims by order of the Senate heretofore?

Mr. SHIELDS. The case is at present before the Committee on Revolutionary Claims, and nearly all the papers are there, but there are a few still in the possession of the Court of Claims.

Mr. IVERSON. That does not answer the inquiry. The question was, whether this case was originally referred to the Court of Claims by order of the Senate?

Mr. SHIELDS. I cannot tell.

Mr. IVERSON. I desire to know how it got to the Court of Claims, whether by original petition or by order of the Senate?

Mr. SHIELDS. All I know about it is, that there was an order of the Senate referring it to the Committee on Revolutionary Claims.

The resolution was adopted.

J. H. MERRILL.

Mr. GWIN. I wish to call up a resolution which I offered yesterday, providing for the return to the Senate of the papers of J. H. Merrill.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That the Court of Claims be requested to return to the Senate the papers in the case of J. H. Merrill vs. the United States.

Mr. IVERSON. There is a question connected with this resolution which I desire to present to the Senate, and ask the decision of the Senate upon it, inasmuch as it will determine, to some extent at least, a matter of some importance, and govern the action of the Committee on Claims. The memorial of Mr. Merrill was presented at the last session of Congress, and referred to the Committee on Claims. The committee, upon looking into the case, saw that it was an application for the refunding of money to Mr. Merrill, which he had paid out for medical and other personal attention, furnishing of stores, &c., board and lodging, and medicines, to certain sick and disabled seamen, in San Francisco, prior to the organization of a State government in California, and during the existence of the military government of General Riley. It was a pretty large claim, and there were several facts to be ascertained: first, whether this service was rendered or not; in the next place, by whose order it was rendered; and, in the third place, whether the amounts charged were reasonable and just, or not. The committee did not think themselves competent to decide these questions on the *ex parte* statements and testimony which the claimant presented. There was nothing before the committee by which they could come to any conclusion, except the *ex parte* testimony and statements of the claimant himself. We, therefore, thought it was proper that the case should go before the Court of Claims, who have the power to investigate the facts, to examine witnesses, and to decide upon the reasonableness of the charges. Hence, we returned the papers to the Senate, and had an order passed referring the case to the Court of Claims. Now, the Senator from California comes forward and asks that the papers be returned by the Court of Claims to the Senate, with a view to have them again referred to the Committee on Claims for its action. It is said the Court of Claims have declined to take jurisdiction of cases of this sort—cases referred by either House of Congress which do not come within the jurisdiction of the court, under the original items of the bill establishing

that court. I will read that clause of the bill to the Senate, and take its advice on the subject:

"And the said court shall hear and determine all claims founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, which may be suggested to it by a petition filed therein."

These are the heads of jurisdiction: any case founded upon a law of Congress, or any claim founded upon a regulation of an Executive Department, or any claim founded upon any contract, express or implied, with the Government of the United States. Those cases may be brought before the Court of Claims by an original petition filed therein. Then the law goes on to say:

"And also all cases which may be referred to said court by either House of Congress."

Now, sir, it has been stated—I do not speak authoritatively on this point—that the court have said they cannot entertain jurisdiction of cases referred to them by either House of Congress, unless they come under the previous heads of jurisdiction; that is, unless the claims arise out of an act of Congress, or a regulation of a Department, or a contract, express or implied, with the Government of the United States. If that be the case, then that portion of the law which gives them jurisdiction of cases referred to them by either House of Congress is altogether nugatory, and ought never to have been put into the statute. My own opinion is, that Congress intended to give a much more enlarged jurisdiction to this court than would be included in the heads which are first enumerated. I think that Congress, in enacting this law, intended to give the Court of Claims jurisdiction of any case which either House of Congress might deem it proper to refer to their adjudication, whether it was founded upon an act of Congress, upon a regulation of a Department, upon a contract, either express or implied, with the United States, or was a case that depended upon the equity of Congress. Otherwise the latter clause would have been altogether unnecessary, and would mean nothing.

I desire the sense of the Senate to determine whether it considers the Court of Claims as having jurisdiction of any case which it may refer to the Court of Claims. A case of this sort occurred at the last session—another one besides the one now under consideration. A case was referred to the Committee on Claims, in which it was necessary to examine testimony to ascertain the amount of the charge, and the committee asked the Senate to pass a resolution referring that case to the Court of Claims with instructions to examine and report to the Senate in relation to certain facts connected with the claim. I conceive that either House of Congress has the power, under the law establishing the court, to refer any case to the Court of Claims with instructions as to how that court should investigate the case, and what they should report to Congress for its guidance. The Court of Claims, under this law, in my opinion, may be made use of as a registrar in chancery, for the purpose of inquiring into facts and reporting them to Congress to aid the conscience of Congress in the determination of a case.

But, sir, if the Court of Claims are not to assume jurisdiction in such cases, if they are to reject every case which Congress may refer to them, unless it comes under one of the original heads stated in the law, it will be unnecessary to refer any case to them, and the Committee on Claims will understand how to act. I desire to put this question so that it may be determined by the Senate on this motion of the Senator from California. If the Senate decide that the Court of Claims are not to be compelled to take jurisdiction of such cases as this, then, as a matter of course, the papers ought to be brought back and referred to some appropriate committee.

Mr. GWIN. Mr. President, the very reason the Senator has given why this case will not be considered by the Court of Claims, is the cause of my asking to have it brought back to the Senate. There was no law, no regulation of a Department, no contract, in this case, under which the claimant is entitled to relief, strictly speaking. There was no government in California, at the time, but a military government. A mere colonel in the Army issued his edicts there, like the Autocrat of Russia. There was not a solitary law recognizing the existence of California, except one to collect

duties, and that had not gone into operation at the time these services were rendered. This gentleman disbursed this money under orders issued by the military commander; it was part of what was called the civil fund. Congress passed a law some years ago authorizing General Riley, who was the military Governor, to settle his accounts; and under that act numerous accounts of the same character have been paid. This gentleman disbursed the money under the orders of the collector appointed by General Riley. Other moneys which were disbursed in a similar manner there, by order of General Riley, have been paid to the parties. This case, and another case that came before the Senate the other day, in regard to the late Governor Barker, of Missouri, have not been paid.

The Court of Claims will not recognize this claim. There was no law of Congress in operation at the time providing for these services, nor was there a contract, nor was there a regulation of an Executive Department, and hence this claimant has no chance at all to get a hearing in that court. The claim was sent there for the purpose of identifying the items that have been charged. I know, of my own knowledge, that these expenditures were made. It was sent there because it was thought necessary to reduce the amount, as it was supposed the court could do, by taking testimony, but they will not act upon it at all.

The Senator is mistaken about the claim being for a large amount; it is a small amount. The claimant is here hoping to get some relief. He is certain to get none from the court. The case has been sent there by the Senate, expecting them to examine it. They will not do it in consequence of a view they have taken of the law. All I ask is that the papers be brought to the Senate and referred to some committee, that the party may have a hearing.

Mr. BAYARD. If the Court of Claims have made the decision which the honorable Senator from Georgia supposes they have made, and which I am not aware of—

Mr. IVERSON. I did not say that the Court of Claims had made any such decision. I only remarked that it had been said they had done so. The court have certainly made no decision of the kind in this particular case. At least, I have no official information on the subject.

Mr. BAYARD. If they had made such a decision, I agree with him they would have most materially thwarted the intention of Congress in the passage of the law which organized the court. In my view, the law had a double aspect. We chose to define specifically the character of claims over which the court should have original jurisdiction without coming to Congress at all, and my own doubt is whether, in that class of cases, we ought to receive a petition wherever it comes within the terms of the express language in which jurisdiction is conveyed to the court. But in the alternative, there is the further authority, that they are to take jurisdiction of cases referred to them by order of either House of Congress. Now, we had a special object in that, as well as the mere decision of the court on questions which come originally before them prior to coming to us; and that object was, that the testimony in any case, where Congress saw fit to order it, should be taken in such a manner that justice might be done on a fair hearing of the claim, which, from our own experience, we knew would not probably be the case when examined by a committee on the *ex parte* testimony which was furnished by the claimant. That was one of the secondary objects. We did not, in any case, make the decision of the Court of Claims final. We required its revision and confirmation by this body, even where we gave them original jurisdiction without coming to Congress originally.

I confess I cannot conceive that such a decision has been made under the language of the law, until the court send it to us; because they would be bound to send to us their decision, if they denied their jurisdiction. We have sent a great variety of cases to them under the order of the Senate, and they would be bound to communicate to us an adjudication of that kind, if they had made one, and it would come before us in their reports. I know of no such decision; none such is stated; and I will not presume that the court have misconstrued the law so grossly until such a return is made to us. I therefore think, in this case, as in any other where the primary object of Congress

was to have an investigation of the facts of the case, founded upon a hearing on both sides, for which purpose we appointed a solicitor on the part of the Government, who should cross-examine witnesses; who should obtain testimony for the United States, acting as their representative, which cannot be the case in any question before a committee here; that was one of the great objects of the law; the great end will be entirely thwarted if we return these cases back to the Senate after sending them to the Court of Claims, where there are facts to be ascertained, complicated, perhaps, in themselves, which a committee can only judge of from an *ex parte* examination of witnesses. This case, in my view of the law, is peculiarly one which ought to be decided by the court, because they ought to take testimony in that form which we will not do, and cannot do, under our rules.

But again, sir, supposing even that the court had so decided, I still think this case falls within the jurisdiction given to them originally. If I heard correctly the statement, it is a claim for disbursements made under the authority of an officer of the United States, who had the control in California just after the pendency of the war, before any civil government was organized. I incline to think that such a case as that, under those circumstances, would create an implied contract on the part of the Government to pay what the party disbursed at the request of an officer so situated, though not a civil officer; because if a civil government was not organized, and the country was under military control from the hour we took possession of it, it must be treated as a country under the control of the United States until we organized a civil government. I take it for granted, that under the law of nations, the powers of the commanding officer who had possession of the country would entitle him to make all necessary contracts for the purposes of the United States, and the Government would be impliedly bound to pay them. Then the claim would be a good one if it was based on that ground, as a claim against the Government, and it is only necessary to prove the fact in order to sustain it. Therefore, I think the case would come within the jurisdiction given to the court, apart from the reference of the Senate; but under the reference of the Senate, I cannot doubt that it ought properly to go before them. The honorable Senator from Georgia says the committee having these facts before them, and not being satisfied on the *ex parte* testimony to decide the facts of the case, and some other questions also arising, proposed the reference of the case to the Court of Claims. Why ought it not, as any other case of the kind, to remain there, so that testimony may be taken, and properly taken, so that we may decide upon it rightfully when it shall come before us?

Mr. STUART. I desire to inquire of the Senator from California, whether the court has rendered any decision in this case, on the question of jurisdiction?

Mr. GWIN. The claimant so understands, and he requests that the papers may be brought back, because the claim, not being founded on any law of Congress, or any regulation of an Executive Department, or any contract with the United States, he has no hope or prospect of getting his claim through the court. For that reason he wants the papers brought back to the Senate.

Mr. STUART. Yes, sir. It is then a case to which the attention of the court has not been brought—probably it has not been reached on their calendar. The court have decided nothing at all in regard to it; but the claimant has come to the conclusion that the court have not got jurisdiction. Surely, this is not a case calling for the interposition of the Senate at all.

But, sir, I would suggest to my honorable friend from Georgia, that it is utterly impossible to effect the object he desires, by a vote on this resolution. It is impossible to determine by the sense of the Senate what the jurisdiction of the court is. The court determine for themselves what is their jurisdiction; and if a majority of the Senate disagree with them as to that, the only way to remedy it is by amending the law, and declaring in express terms, what a majority of the Senate might say was their construction of the law; but there is no such thing as appealing from the Court of Claims to the Senate, upon a question of their jurisdiction.

Again, there is no practical difficulty in a case

of this sort; for whenever the court determine that they have no jurisdiction of a claim the petitioner has leave to withdraw the papers, and he can bring them to the Senate or House of Representatives, and present them again; but there is a difficulty in listening to the constant suggestions of claimants. Those of us who keep watch of the business here, can turn to cases that have been sent backward and forward—sent to the court, then to the Senate, back to the court again, returned to the Senate, and so on, over and over again, just as the whim or caprice or the supposed interest of the claimant induced him to act.

So far as this case is concerned, whether these papers come back here or not, is a question of very little practical utility; but I think it proper to say that so far as my vote goes, I do not intend to express any opinion as to the jurisdiction of the Court of Claims, in accordance with the suggestion of the Senator from Georgia. My views upon that subject have been given heretofore and will control my vote, but I do not think the sense of the Senate given on this question is a determination in the mind of each Senator what his opinion of the jurisdiction of the Court of Claims is. He may be willing to say that if the Senator from California desires these papers back, let them come—I have no objection to say that; but not meaning thereby to determine that the Court have no jurisdiction of the case.

I must say here that I think the course that has been pursued here with many claims to which my attention has been called incidentally has been very improper. It is a very great stretch of courtesy to ask the Court of Claims to return us papers which we have sent to them, before they have reached the case and determined whether they have jurisdiction or not, or what they will do with it. That is the fact here as I understand, and considering the time when the case was referred, it is evident that must be the fact. The case could not have been reached on their calendar by this time, so that in reality you have got no judgment of the court at all upon it.

Mr. COLLAMER. Mr. President, I have for three sessions past been listening to the constant suggestions which have been made about an apparent conflict of jurisdiction between the Court of Claims and our Committee on Claims, and I am very desirous for one that it should be brought to some issue, so that we may know where we stand. The statute which the honorable Senator from Georgia [Mr. IVERSON] has read to us this morning, gives the court, in the first place, jurisdiction of claims which the parties may present to them, which must be legal claims growing out of some legal obligation, or an implied or actual contract. It then goes on to provide that they shall also have jurisdiction of whatever claims either House may refer to them. It has been suggested, and I apprehend with a good deal of truth, that the court view that last clause as nothing more than a manner of getting a case before them, but that the case itself must present a claim falling within the previous description of their jurisdiction; that is, it must be a legal claim, or they have no jurisdiction of it. If, when they get it before them, it does not fall within the general description of a legal claim, founded upon implied or actual contract, it is not within their jurisdiction after all, no more than it would be if an individual had, by petition, presented to them a claim of that character. It has been said, for two years past at least, in this House, that that is the view which the court take, and yet we do not seem to get at it. Now, I apprehend the difficulty on that point is that the statute, as I understand, merely requires the court to send to Congress reports in relation to those claims which they allow.

Mr. BAYARD. It requires the adverse reports to be sent here also.

Mr. COLLAMER. If they have sent any adverse reports here, they have very seldom come up; indeed, I have no recollection of one being considered. What I desire is that some mode shall be provided, of which the Senator from California and others who have charge of cases can avail themselves, so that we may know whether or not the court take that view of their jurisdiction which I have stated. If that be the construction which they put on their jurisdiction, I entirely agree with the Senator from Michigan that we cannot alter it by any resolution of ours show-

ing that we entertain a different opinion. The fact that we desire them to take a more extensive jurisdiction of the cases which we refer to them, and to act in the character of a committee; the fact that we differ with them about the meaning of the existing law on that point, will effect nothing. We may send papers to them with a request that they will inquire into the facts, and give us their conclusions, but they are not therefore bound to do so; because such action on our part would not be a law; it would be nothing but the request or direction of one House, and not a law binding on the court. I say, then, that if we differ with the court and desire them to do more than under their construction of the present law they feel inclined to do, we can only reach our object by a law giving them such jurisdiction in express terms, and making it their duty to exercise it for our benefit, so that we may avail ourselves not merely of the *ex parte* testimony which we get through a committee, but of testimony taken under a commission with proper examinations. It will require a statute for that purpose.

I have not recently examined the statute establishing the Court of Claims. It may be that it requires them to send here their adverse reports.

Mr. BAYARD. It does; and if the Senator will allow me, I will read the provision. The seventh section of the act provides that the "court shall keep a record of their proceedings, and shall, at the commencement of each session of Congress, and at the commencement of each month during the session of Congress, report to Congress the cases upon which they shall have finally acted, stating in each the material facts which they find established by the evidence, with their opinion in the case, and the reasons upon which such opinion is founded." It then provides for dissenting opinions, and requires the report, with the briefs of the solicitor and the claimant, to be printed; and the ninth section declares "that the claims reported upon adversely shall be placed upon the Calendar when reported, and if the decision of said court shall be confirmed by Congress, said decision shall be conclusive; and the said court shall not at any subsequent period consider said claims unless such reasons shall be presented to said court, as by the rules of common law or chancery, in suits between individuals, would furnish sufficient ground for granting a new trial."

Mr. COLLAMER. But I do not find that our Committee on Claims are yet advised as to what has been the decision of the Court of Claims with regard to cases referred to them by either House of Congress. Clear it is that, so far as my knowledge extends, no report has been made to Congress in which that decision is announced one way or the other. I do not know whether the court may not say that they are not required to report upon a case in which they have no jurisdiction, for the reason that a decision of that point is not a "final one." They may say "the cases sent to us from Congress do not fall within what we deem our jurisdiction, and we will not do anything with them; we will let them alone;" and they may consider that such cases do not come within the category of those upon which they have made a final decision, according to the language of the statute. At any rate, I say they have reported no such case to us. I will simply repeat, without consuming further time, that my desire is, that some mode may be taken by which either the Senator from California will be enabled to get his case before us, or we shall be enabled to see whether or not, in point of fact, the court will take jurisdiction of cases which we refer to them.

Mr. HALE. Is it in order to move to amend this resolution by instructing the Committee on Claims to inquire into the expediency of abolishing the Court of Claims? If so, I want to vote for such a measure; but if that amendment is not in order to this resolution, I give notice that I shall very soon introduce a proposition of that kind. I think this court has been productive of nothing but mischief, and we have the testimony of the Committee on Claims that, instead of diminishing, it has increased their work, and certainly it has increased the drain upon the Treasury. Would it be in order to amend this resolution in the mode I have suggested?

The PRESIDING OFFICER. (Mr. Foor.) The Chair thinks such a proposition would not be in order as an amendment to this resolution,

which provides for withdrawing papers from the court.

Mr. HALE. Then I shall postpone what I have to say until some future time, simply expressing the wish now that I may get a chance to introduce such a proposition.

Mr. HUNTER. Mr. President, in regard to this point there has been an elaborate decision of the Court of Claims, as I understand, on the subject of their jurisdiction, which was published some two years since. I think the view which they take of the law is this: that they sit to try such cases as the United States might be sued upon, if the United States were capable of being made a party defendant in a suit; that they were constituted a court, and as a court were designed only to try such cases as a suit might be instituted upon against the United States, if the Government permitted itself to be sued; that in regard to the manner in which those cases were to be brought before it, they were either to be brought by the party himself, at his own option, or if the party did not chose to go there, fearing the court, either House of Congress might send it there, the design of the law being to enable Congress, through either House, to send the case there, or to enable the party himself to carry it there if he distrusted either House in regard to it.

Now, sir, I do not see that they are to blame for taking that view of their jurisdiction. It has been some time since I saw the opinion which they delivered on that point; but it seemed to me at the time that it was well reasoned, and that it was conclusive. It may be that the jurisdiction ought to have been enlarged; but if so, that is a subject for an amendment of the law. It may be that we ought to be enabled to use the court as a sort of commission to examine testimony and to state facts; but if so, the law ought to be enlarged in regard to cases upon which there could be no suit—which appeal merely to our generosity—to our discretion. I apprehend, though, it would be very difficult for a court to undertake to say, as a court, what we should do in the exercise of those feelings of generosity, or in the exercise of that discretion. I think, myself, the jurisdiction was well limited. Perhaps, however, it may be that we ought to go further, and ought to be allowed to use the court as a commission to ascertain facts, so as to enable us to exercise our discretion in regard to what generosity should dictate, and in regard to what we ought to do as a mere matter of benevolence.

I do not think the Court of Claims are at all to blame for the view of their jurisdiction which they have taken. Neither do I agree with those who think that tribunal has not been a useful institution. I believe that, like all those things which are slow in getting under way, it has been liable to mistakes; it has made grave errors—

Mr. COLLAMER. Will the honorable Senator indulge me for a moment?

Mr. HUNTER. Certainly.

Mr. COLLAMER. I would suggest to the honorable Senator that it has been stated to me just now, that, in point of fact, the Court of Claims have not made the decision which he states, but that they take charge of cases referred to them by either House of Congress; and though they decide that the parties have not a legal claim, they still go on to take testimony. It is so stated.

Mr. HUNTER. If so, that is certainly as far as they ought to go.

Mr. BAYARD. Will the honorable Senator from Virginia allow me to make a statement to him on that point?

Mr. HUNTER. Certainly.

Mr. BAYARD. I understand, from a gentleman who is a practitioner in the Court of Claims, and knows well the practice of that tribunal, that the decision of the court has been this—and it is evidently, to my mind, the true construction of the law: that, where Congress refers to them a claim, they treat it under the first clauses of the act which give jurisdiction, and see first whether or not it is a legal claim. They are not to give judgment in any case; but they decide that it is a legal claim on the United States, if it falls within the designation of jurisdiction contained in the first part of the act; but if it does not, inasmuch as Congress has referred it to them, they still entertain the case and take the testimony, and give you their opinion that it is not a legal claim; but if there is an equitable ground for the interference

of Congress, they say so, and return the papers to you. I understand that they have never decided in any case that they had no jurisdiction of a claim referred to them by Congress; but that, on the contrary, they give in the hearing a preference to cases referred to them by order of Congress.

Mr. HUNTER. If that be so, I see no cause for imputing blame to them. That surely is as far as they ought to be required to go. For myself, I do not think that, in such cases, they ought to be allowed to do more than act as a mere commission to report facts. I would not ask them for their opinion, except on cases which would be the subject of suit if the United States could be made a party defendant in a suit.

Mr. GWIN. I hope we shall have a vote on this resolution; because I do not think the question brought before the Senate by the Senator from Georgia ought to prevent the passage of this resolution. I am told by the claimant that the cause of asking for the return of his papers is, that the Court of Claims have decided that they have not jurisdiction in his case. The court have decided the question on this very case. His claim was sent there by the Senate, not by himself. He did not present himself before the Court of Claims. He came, with a memorial, before Congress. It was referred to the Committee on Claims. The chairman of that committee, in order to ascertain certain facts—

Mr. MASON. I hope the Senator will allow me to interrupt him. I understand him to say that the Court of Claims have decided in this case that they have no jurisdiction.

Mr. GWIN. Yes.

Mr. MASON. If such be the fact, I take it for granted they have reported that decision to the Senate, and sent the papers back with it.

Mr. GWIN. Not yet.

Mr. IVERSON. I think the Senator from California is laboring under a mistake on a question of fact. This claimant may have told him so; but I have consulted with the solicitor, and other members of the court, and I understand that no such decision has been made in this case by the Court of Claims. I venture to assert that they have never had this case under investigation. It was only referred to them at the latter part of the last session of Congress, and I venture to assert it has not yet come up before the Court of Claims; and they have not decided the question. They may have decided a similar question in some other case, but in this identical case the gentleman is mistaken.

Mr. GWIN. I am not mistaken. That is what the claimant tells me. That is the reason he asked me to present the resolution. If that be the fact, we cannot get the papers here without a resolution of this kind, because the Court of Claims do not send us the papers when they report against a claim. How is the claimant to get relief, if such be the fact? I am willing to let the resolution go over, so that we may obtain the facts. I do not wish to encumber the Committee on Claims with this or any other claim, unless they think it proper to act on it.

Mr. POLK. I suggest to the Senator from California to let the resolution lie over until tomorrow.

Mr. GWIN. I shall do that.

The PRESIDING OFFICER. The Chair will take that to be the sense of the Senate. The resolution will be postponed for the present.

ORDER OF BUSINESS—EXECUTIVE SESSION.

Mr. BRIGHT. I move to take up the report from the Committee on Public Buildings and Grounds which was made yesterday.

Mr. MASON. I ask if there was not an order of the day for one o'clock.

The PRESIDING OFFICER. The Chair was about to say that it was made his imperative duty, under the rules, to call for the consideration of the special order at this hour, which is the unfinished business of yesterday, being the bill for the construction of the Pacific railroad. The Chair is also bound to state that another special order was made in executive session, to proceed to executive business at this hour. The Chair, however, gives precedence to the prior and elder special order, being the unfinished business of yesterday.

Mr. MASON. I move that the Senate proceed to the consideration of executive business.

Mr. BRIGHT. I think it is a matter of consequence that we should settle the question as to whether it is the pleasure of the Senate to remove from this Hall to the new Chamber. I feel no anxiety about it myself, but with a view of getting at the sense of the Senate, I move to postpone all special orders with a view of taking up that report.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Virginia to proceed to the consideration of executive business. The Chair is of opinion that that cannot be superseded by a motion to postpone. The Senate may vote it down if they feel disinclined to agree to it.

Mr. BRIGHT. Then I hope the Senate will vote it down.

Mr. DAVIS. I hope the Senator from Virginia will allow us to decide the question whether we shall remove or not. I am in favor of removing; he is not; but we want a decision of the question, because it affects the progress of the work. There are certain things to be done if we remove; and it will not do to delay them and decide at the last moment that we shall remove. All I ask, therefore, is a decision of the question.

Mr. MASON. Allow me to say a single word. If that resolution comes up, it will be debated, and will take the time which has been appropriated for executive session.

The PRESIDING OFFICER put the question, and declared that the yeas appeared to have it.

Mr. MASON called for the yeas and nays, and they were ordered.

Mr. BAYARD. I hope the Senate will proceed to the consideration of executive business. We must always take the relative importance of matters before us, and we should recollect that, after to-morrow, we adjourn under a joint resolution until the 4th of January. The 1st of January will then have passed, and our action is necessary in executive session before that time. I think we ought to proceed to executive session, in accordance with our order.

Mr. GWIN. I wish to ask whether, if we go into executive session now, the special order, the unfinished business, comes up at one o'clock to-morrow? ["Certainly."]

The question being taken, by yeas and nays, resulted—yeas 30, nays 23; as follows:

YEAS.—Messrs. Bates, Bayard, Bigler, Broderick, Brown, Clay, Collamer, Crittenden, Doolittle, Durkee, Fessenden, Foot, Gorman, Gwin, Hale, Hamlin, Houston, Hunter, Iverson, Johnson of Tennessee, King, Mallory, Mason, Polk, Sebastian, Shields, Thompson of Kentucky, Ward, Wilson, and Wright—30.

NAYS.—Messrs. Allen, Bright, Cameron, Chandler, Clark, Clingman, Davis, Dixon, Fitzpatrick, Foster, Harlan, Jones, Kennedy, Pearce, Reid, Seward, Simmons, Sibley, Stuart, Thomson of New Jersey, Toombs, Trumbull, and Wade—23.

So the motion of Mr. Mason was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened.

COMMODORE STEWART.

Mr. HALE. I offer a resolution of inquiry, and I hope it will be adopted at once, by unanimous consent:

Resolved, That the Committee on Naval Affairs be instructed to inquire and report to the Senate what action, if any, should be taken by Congress to manifest the appreciation by the country of the gallant and meritorious services of Captain Charles Stewart, of the United States Navy, the oldest captain in the service, and who was displaced from his position on the active list by the late naval retiring board.

Mr. STUART. I have no objection to the resolution if the Senator will strike out the last part of it. I agree with the Senator from Florida, [Mr. MALLORY,] that whatever action was had displacing officers was the action of the President of the United States.

Mr. HALE. Well, I will say "displaced by the President on the action of the late retiring board."

Mr. STUART. Would it not be better to strike out all that portion of the resolution?

Mr. HALE. Very well. I will modify it so as to read:

Resolved, That the Committee on Naval Affairs be instructed to inquire and report to the Senate what action, if any, should be taken by Congress to manifest the appreciation by the country of the gallant and meritorious services of Captain Charles Stewart, of the United States Navy, the oldest captain in the service.

The resolution as modified was adopted.

Mr. BROWN. I ask leave to introduce a joint

resolution authorizing the President of the United States to confer the title of admiral by brevet, for eminent services.

Leave was granted, by unanimous consent; and the joint resolution (S. No. 60) was read the first time by its title.

Mr. BROWN. I am free to say that my object in introducing this joint resolution is to give the President of the United States an opportunity of doing that which all of us are sure he will do with great pleasure—confer the title of admiral upon Commodore Stewart. I do not think there can be any doubt that that will be his disposition. This is a complete copy, *mutatis mutandis*, of the resolution conferring the title of lieutenant general upon General Scott. I think, immediately upon the proceedings of this day, that the most grateful service we can render to the oldest commodore in the service, who, all of us think, has been treated harshly, would be to pass a resolution of this sort, and give the President of the United States an opportunity to nominate him at once—even without the inquiry sought by the Senator from New Hampshire, [Mr. HALE,]—to the Senate as admiral. The resolution, when read, will show that it is limited to the lifetime of the single man. With this explanation, I hope the resolution will be read through—it is very short—that the Senate may understand what it is.

The Secretary read the resolution, which proposes to establish the grade of admiral in the Navy of the United States, in order that when, in the opinion of the President and Senate, it shall be deemed proper to acknowledge the eminent services of a captain in the Navy, the grade of admiral may be specially conferred by brevet, and by brevet only, to take rank from the date of such service; but when the grade shall have been once filled, and have become vacant, this resolution is to expire and have no effect.

Mr. BROWN. I certainly have no disposition to insist on the consideration of this joint resolution now, but if the Senate feel in the same temper that I do, they will pass it this evening.

Mr. FESSENDEN. I object to that being done.

Mr. BROWN. A single objection, of course, passes it over. Then I give notice that I will, at the earliest day after the holidays—of course I cannot call it up to-morrow—call it up and ask for its consideration.

Several SENATORS. Refer it.

Mr. FESSENDEN. I objected to its consideration now simply for the reason that I do not think a matter of so much importance should be sprung upon us and passed through in the present state of feeling here. It should be considered wisely and deliberately, like any other measure of importance.

Mr. BROWN. It seems to me proper, if we are going to defer the resolution, to commit it to the Committee on Naval Affairs, to be considered by that committee in connection with the resolution offered by the Senator from New Hampshire. I move that it be referred to the Committee on Naval Affairs.

The PRESIDING OFFICER. Before that can be done the joint resolution must receive its second reading, which, at this time, requires unanimous consent.

There being no objection, the joint resolution was read the second time by its title, and referred to the Committee on Naval Affairs.

SAN FRANCISCO POST OFFICE.

Mr. HALE. I present the following resolution:

Whereas, the Senate, on the 13th of May last, adopted the following resolution, namely:

Resolved, That the Postmaster General be also requested to inform the Senate, at the same time, whether there are on the files of the Post Office Department any complaints of malfeasance in office, or violations of law, on the part of the San Francisco postmaster; and, if so, when the same were filed, and in what manner they are substantiated, and the nature of the charges, the specific sections of the law which the alleged acts are in violation of, and what action, if any, has been taken in regard thereto;

And, on the 10th of June last, the following additional resolution, namely:

Resolved, That the Postmaster General be requested to transmit to the Senate the evidence of alleged violations of law and malfeasance in office on the part of the postmaster at San Francisco, and also the papers accompanying the same, filed in the Post Office Department on or about April 20, 1857. Also, all correspondence with J. D. Fry, the special agent of the Post Office Department, in regard to any alleged malfeasance on the part of said postmaster; and

especially, a copy of a letter addressed to said Fry, October 3, 1855, and the reply to the same; and also the report made by the said Fry. Also, letters in relation to the same from Van Bokkelen, Esq., in 1856, and Messrs. Moore & Folger in 1857, and copies of all correspondence connected therewith. Also, letters from H. L. Goodwin in 1855, and four letters from the same person, dated March 27, June 25, July 18, and July 25, 1857. Also, letters of C. L. Weller, dated September 1, 1855, March 21, 1856, and October 11, and 20, 1857; and that the Postmaster General inform the Senate whether there is any information on the files of the Post Office Department showing or charging that the investigation ordered to be made by J. D. Fry, was an *ex parte* investigation;?"

And whereas the information called for in the first mentioned resolution, and the papers called for by the second resolution have not been communicated to the Senate: Therefore,

Resolved, That the Postmaster General be directed to transmit to the Senate, without further delay, the information and papers relating to the alleged malfeasance in office and violations of law, on the part of the postmaster at San Francisco, called for by the two abovementioned resolutions of this body, adopted May 13 and June 10, respectively.

If the Senate will indulge me for a moment, I shall ask for the consideration of this resolution; and I will state that the call of the 10th of June, to which it refers, was responded to by the Postmaster General on the 12th, only three days before the adjournment of Congress, and the reason he assigned for not sending in the papers was, that he did not know whether we wanted originals or copies, and he said that if we wanted copies he had not time then to make them. I have his letter before me, printed. The adjournment was so near at hand, that he had not time then to prepare a full answer. I simply want now to call on him for those papers, and let him exercise his discretion as to sending originals or copies.

Mr. STUART. I shall have no objection to the Senator's resolution on his own statement if he changes its phraseology; but this resolution in its preamble goes to show that calls have been made on the Postmaster General which he has disregarded. If the Senator will put it in the shape of an affirmative resolution calling for the papers, I shall make no objection to it.

Mr. FITCH. Let it go over.

The PRESIDING OFFICER. Objection is made to the present consideration of the resolution, and it goes over under the rules.

On motion of Mr. CLAY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 22, 1858.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

INTERIOR DEPARTMENT APPROPRIATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a statement of balances of appropriations standing to the credit of the Interior Department, amounts appropriated for the service of the fiscal year, transfer of appropriations, &c., and also amounts carried to the surplus fund; which was laid upon the table, and, with the accompanying papers, ordered to be printed.

OLD SOLDIERS' PENSION BILL.

The SPEAKER stated the first question in order to be on the passage of the House bill (No. 259) granting pensions to the officers and soldiers who served in the war with Great Britain of 1812, and those engaged in Indian wars during that period, on which the previous question had been ordered.

Mr. SAVAGE. Mr. Speaker, I see that many of the members who are in favor of this bill have not yet arrived in the House, and to give them time to get here, I move, if it be in order, that there be a call of the House.

The SPEAKER. The Chair thinks that that motion is not now in order.

Mr. GREENWOOD. I understand that the gentleman from Tennessee desires to move that there be a call of the House, in order to give absent members a chance to get here; and as that motion seems not to be in order, I suggest to him that he will accomplish his purpose as well by getting the unanimous consent of the House that one hour shall be devoted to the reception of reports from committees.

Mr. RITCHIE. I call for the regular order of business.

Mr. HOUSTON. Then I demand the yeas and nays on the passage of the pending pension bill.

Mr. JONES, of Tennessee. To give gentlemen time to get here, I move that the House adjourn; and on that motion demand the yeas and nays.

The yeas and nays were ordered.

Mr. COMINS. I would suggest that instead of consuming time in that way, we devote half an hour to the reception of bills and resolutions, of which previous notice has been given.

The SPEAKER. The regular order of business has been called for.

Mr. COMINS. Perhaps the gentleman from Pennsylvania will withdraw his objection.

Mr. RITCHIE. No, sir; I cannot.

The question was taken; and it was decided in the negative—yeas 11, nays 180; as follows:

YEAS—Messrs. Billingham, Bliss, Garrett, Hatch, Keitt, McQueen, ~~Mohr~~, Nichols, Judson W. Sherman, George Taylor, and Wilson—11.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bingham, Bishop, Blair, Bonham, Bowie, Boyce, Branch, Brayton, Buffinton, Burlingame, Burnett, Burns, Caruthers, Case, Caskie, Cavanaugh, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cragin, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edie, Elliott, English, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Gartrell, Giddings, Gilman, Gilmer, Goode, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Haskin, Hawkins, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keim, Kellogg, Kelsey, Knapp, John C. Kunkel, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Millson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Murray, Niblack, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Pottle, Powell, Purviance, Ready, Reagan, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, John Sherman, Singleton, Robert Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollicoffer—180.

So the House refused to adjourn.

Pending the call,

Mr. KEITT said: Mr. Speaker, I usually vote against adjournments, but as the gentleman from Tennessee [Mr. JONES] makes a motion for adjournment, to accommodate him, although he will not vote for it himself, I will vote in the affirmative.

Mr. BURNETT said: I ask the unanimous consent of the House that the reading of the names be dispensed with, because the purpose of the gentleman from Tennessee has been accomplished, and there is now no necessity for further consumption of time.

There was no objection, and the reading of the roll was dispensed with; and the vote was announced as above recorded.

The question recurred on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 130, nays 74; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Bowie, Brayton, Buffinton, Burlingame, Burnett, Burns, Caruthers, Case, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Durfee, Edie, Elliott, English, Farnsworth, Florence, Foley, Foster, Gartrell, Giddings, Gilmer, Goodwin, Granger, Gregg, Lawrence W. Hall, Harris, Haskin, Hatch, Hawkins, Hoard, Hopkins, Hughes, Huyler, Jewett, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leidy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Morrill, Edward Joy Morris, Isaac N. Morris, Niblack, Palmer, Parker, Pettit, Peyton, Pottle, Powell, Purviance, Ready, Reilly, Ricard, Robbins, Roberts, Royce, Russell, Savage, Scott, Searing, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vance, Waldron, Walton, Ward, Watkins, White, Wilson, Woodson, John V. Wright, and Zollicoffer—130.

NAYS—Messrs. Barksdale, Billingham, Bliss, Bocoock, Bonham, Boyce, Branch, Bryan, Caskie, Chapman, Horace F. Clark, Burton Craig, Crawford, Curry, Davis of Maryland, Davis of Mississippi, Davis of Iowa, Dodd, Dowdell, Faulkner, Fenton, Garrett, Gilman, Goode, Greenwood, Groesbeck, Grow, Harlan, Hill, Horton, Houston, Howard,

Jackson, Jenkins, George W. Jones, Keitt, Leach, Leiter, Letcher, Lovejoy, Maclay, McQueen, Miles, Miller, Millson, Moore, Morgan, Freeman H. Morse, Mott, Murray, Nichols, John S. Phelps, William W. Phelps, Phillips, Pike, Reagan, Ritchie, Sandidge, Seales, Seward, Henry M. Shaw, Singleton, William Smith, Stallworth, Stephens, Miles Taylor, Wade, Walbridge, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Whiteley, Winslow, and Wortendyke—74.

So the bill was passed.

Pending the call,

Mr. BARKSDALE stated that he had paired off with Mr. VALLANDIGHAM, and that he was opposed to the bill, while the gentleman from Ohio was in favor of it.

Mr. BLAIR stated that he had paired off with Mr. EVRIST. He would have voted against the bill.

Mr. POTTER stated that he had paired off with Mr. MONTGOMERY, otherwise he would have voted in the negative.

Mr. CASKIE said: Mr. Speaker, I wish to make a statement to the House. When my name was called, I was accidentally in the lobby, and I ask the House that I may, by unanimous consent, be allowed to vote. I perhaps would not make the request, were it not that a gentleman from Pennsylvania [Mr. DIMMICK] who votes on the other side, is in precisely the same situation.

Mr. SAVAGE. I hope that both gentlemen will be allowed to cast their votes. There will be no change of the result.

There was no objection; and both gentlemen, Messrs. CASKIE and DIMMICK, cast their votes as above recorded.

Mr. TAYLOR, of New York, stated that to accommodate the gentleman from Mississippi, Mr. BARKSDALE, he had agreed to pair off with Mr. VALLANDIGHAM, to allow him (Mr. B.) to vote on the pending proposition.

Mr. GREENWOOD stated that his colleague, Mr. WARREN, was detained from his seat by illness, and that if he were present he would vote in the negative.

The vote was then announced as above recorded.

Mr. SAVAGE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

The title of the bill was adopted.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the title of the bill was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

HIRAM POWERS.

Mr. WINSLOW. I ask the unanimous consent of the House to take from the Speaker's table and put on its passage, a bill of the Senate, (No. 476,) which came here yesterday, to authorize the President to make advances of money to Hiram Powers.

Mr. SMITH, of Virginia. Does this bill come up as a matter of course? If not, I object to it.

Mr. WINSLOW. If the gentleman will hear it read, I do not think he will object.

Mr. SMITH, of Virginia. I will hear it read.

The bill was read. It authorizes the President to make such partial payments in advance, as he shall see fit, out of the money heretofore appropriated by law, to enable the President of the United States to contract with Hiram Powers for certain statuary.

Mr. SMITH, of Virginia. I have no objection to that.

Mr. SEWARD. I object.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Before, however, that motion is put, I desire to have an order made that when the House in Committee of the Whole on the state of the Union shall consider the pension appropriation bill and the Military Academy bill, the debate upon those bills shall be confined to the subject-matter under consideration; but I do not wish this hereafter to be quoted as a precedent in the rules regulating debate in the Committee of the Whole on the state of the Union. When those two bills shall be disposed of in committee, I propose to call up the President's annual message, upon which general debate can take place as to the subject-matters embraced in it.

Mr. SMITH of Virginia. I desire to suggest

to the gentleman from Missouri, that we are now about to take a considerable recess, and if bills, now in the hands of members, are referred to the appropriate committees before we take the recess, perhaps in that way business will be facilitated. If the gentleman will give us fifteen minutes for the purpose of introducing bills for reference, a great deal may be effected.

Mr. PHELPS, of Missouri. That can be done to-morrow?

Mr. SMITH, of Virginia. Why not to-day?

Mr. PHELPS, of Missouri. Well, sir, I ask that the order be made restricting the debate upon the two bills which I have indicated.

Mr. GROW. I understand the gentleman to say that he intends to call up the President's annual message as soon as those bills are disposed of.

Mr. PHELPS, of Missouri. I expect to call up the President's annual message immediately thereafter.

Mr. MORRIS, of Pennsylvania. I desire to give notice that to-morrow, or some future day I shall ask leave to introduce a bill laying duties on a certain class of imports, and so amendatory of the present tariff, as to furnish increased revenue to the Treasury, and proper protection to the labor and industry of the country.

Mr. HOUSTON. I object to anything out of order. I object to notices of bills except under the rules of the House.

The SPEAKER. That is the only way in which notice can be given, if objection is made.

Mr. SMITH, of Virginia. Would it be in order to move that half an hour be assigned for the reception and reference of bills?

The SPEAKER. It can be done by unanimous consent of the House.

Mr. SMITH, of Virginia. Then I ask the unanimous consent of the House.

Mr. HOUSTON. I call for the regular order of business.

Mr. SMITH, of Virginia. I desire to make another inquiry. There are a number of bills on the Calendar, in the Committee of the Whole on the state of the Union, standing over from last session. Is not this a motion to postpone those bills indefinitely?

Mr. PHELPS, of Missouri. Oh, no; these are appropriation bills.

Mr. SMITH, of Virginia. I want to take up the bills on the Calendar, in their order.

Mr. MORRIS, of Illinois. I wish to make a suggestion to my friend from Missouri. He moves to-day, as he has done on two or three preceding days, to go into the Committee of the Whole on the state of the Union for the purpose of disposing of two certain bills, and then taking up the President's message, with a view of having it appropriately referred.

Now, sir, we have agreed that we will adjourn over for the space of twelve days, and hence no regular day will arrive for three weeks on which an opportunity will be afforded for the introduction of bills. I think it, therefore, only fair and right that the gentleman from Missouri should allow gentlemen to have an opportunity of introducing bills on a call of the States; and I appeal to him to do it before he asks the House to go into the committee.

Mr. PHELPS, of Missouri. I will say to the gentleman that the regular order of business being called for, it would not be in order to introduce bills to-day.

Mr. MORRIS, of Illinois. That is very true; but gentlemen might obtain leave to introduce bills. But according to the plan of the gentleman from Missouri, all business except that in which he is interested as chairman of the Committee of Ways and Means is to be excluded, for no one will pretend that if we take up the President's message with a view to its reference, as the gentleman has avowed his purpose of asking the House to do, we can do anything else either to-day or to-morrow or for the next month.

Mr. PHELPS, of Missouri. Let me say that it will depend on the wish of a majority of the House whether we go into the Committee of the Whole on the state of the Union to-morrow or not. I desire that the committees shall be called for reports to-morrow, and I shall have no objection to the introduction of bills.

Mr. MORRIS, of Illinois. The call of the committees for the reports will afford no opportunity for the introduction of bills.

Mr. PHELPS, of Missouri. Well, do not object to this order restricting debate.

Mr. WASHBURN, of Illinois. What is the question before the House?

The SPEAKER. A motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I call for the regular order of business, and object to further debate.

Mr. SMITH, of Virginia. I desire to see if I understand the gentleman from Missouri.

The SPEAKER. This question is not a debatable one.

Mr. SMITH, of Virginia. I know that, sir; but I desire to know if I understand the proposition of the gentleman from Missouri. As I stated a while ago, there are sundry bills on the Calendar in the Committee of the Whole on the state of the Union, which were referred to that committee last session; one of them is a bill providing for the organization of the new Territory of Nevada. I wish now to know if it is in order for me to move to go into the Committee of the Whole on the state of the Union, for the purpose of taking up that bill.

The SPEAKER. Such a motion could not be entertained.

Mr. BARKSDALE. I desire to inquire if debate is in order?

The SPEAKER. It is not.

Mr. BARKSDALE. Then I object to further debate.

The SPEAKER. The gentleman from Missouri asks that, by unanimous consent, the debate in the Committee of the Whole on the state of the Union, on the two bills which he has indicated, shall be confined to the subject-matter of the bills. Is there objection?

Mr. DAVIS, of Mississippi. I object.

Mr. PHELPS, of Missouri. I now ask for a vote on my motion, that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Hovstox in the Chair.)

PENSION APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I desire that the committee shall take up House bill (No. 662) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th June, 1860; and, although the House failed to make the order which I requested should be made, yet I hope the debate upon this bill will be confined to the subject of the bill. I will state the purpose which I announced in the House; that when this bill and the Military Academy bill shall have been disposed of, I will move that the President's message be taken up, on which there may be unlimited debate.

I do not propose to submit any remarks more than to make a simple statement of the amount of money proposed to be appropriated. The amount of money proposed to be appropriated by this bill is \$852,000, that amount being required, together with the unexpended balance of former appropriations on hand, to meet the pensions under the several special and general pension acts placing persons upon the pension rolls. It exceeds the amounts appropriated at the last session of Congress, by \$82,000. There was then a larger amount of unexpended balances on hand, and there is now a larger number of persons placed upon the pension rolls under the special acts of the last session.

The bill was read through; and the reading by sections for amendment commenced.

Mr. GIDDINGS. I wish to ask the attention of the chairman of the Committee of Ways and Means to the character of these several pensions. We have been, for the last two or three days, considering the subject of pensions, and I ask the chairman of the Committee of Ways and Means to inform the House of the precise character of the different classes of pensions mentioned in this clause of the bill.

Mr. PHELPS, of Missouri. They are for the five years' half-pay pensions to widows of soldiers

who have been killed in the military service of the Government, and the orphans of such soldiers under the age of sixteen.

Mr. GIDDINGS. I desire that the House may understand the subject as well as myself. We have been discussing this question of pensions, and I wanted the House to understand the subject.

Mr. SHERMAN, of Ohio. I have before me the pension law, to carry out which this clause makes appropriations, and I want the House to understand the character of the pensions provided for in this bill. I find that a private of the Continental line receives ninety-six dollars a year pension for two years' service in the revolutionary war; forty-eight dollars a year for one year's service in that war; and twenty-four dollars a year for six months' service; for less than six months, nothing at all. For intermediate periods between six months and two years, the pension bears such proportion to the annuity granted for the service of two years as this term of service did to that term. The pension bill we have passed to-day will more than quadruple the revolutionary pensions; and I think, in the aggregate, it will amount to six or eight times as much.

[The committee here informally rose, and received a message from the President of the United States, by J. B. HENRY, his Private Secretary, notifying the House that he had this day approved and signed bills of the following titles, namely:

An act (H. R. No. 565) to confirm the land claim of certain pueblos and towns in the Territory of New Mexico; and

An act (H. R. No. 356) for the relief of Roswell Menard, father of Theodore Menard, deceased.]

Mr. SHERMAN, of Ohio. I only desired to call the attention of the committee to the character of the revolutionary pensions, as contrasted with the character of the pensions to be given under the bill we have passed to-day.

Mr. GREENWOOD. I would like to know whether the gentleman did not vote for that bill this morning?

Mr. SHERMAN, of Ohio. I will state to the gentleman that I voted for it in hopes that the Senate would amend it so as to place the soldiers of the war of 1812 upon an equality with the troops of the Continental line. By the rigor of our rules and the application of the previous question, I was prevented from voting for a bill as I wish it to become a law. Rather than defeat it, I preferred to send it to the Senate as it is.

Mr. RITCHIE. That was about the question I desired to ask the gentleman—whether he did not vote for it upon the ground of the superior merits of the beneficiaries under it?

The bill having been read through, and no further amendments being offered,

Mr. PHELPS, of Missouri, moved that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

MILITARY ACADEMY BILL.

Mr. PHELPS, of Missouri. I move that the committee proceed now to the consideration of House bill (No. 663) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1860.

The motion was agreed to; and the bill was taken up and read the first time.

The Clerk then commenced reading the bill by clauses for amendments.

Mr. PHELPS, of Missouri. I desire to make a brief explanation with reference to the amount of money proposed to be appropriated by this bill, as well as in reference to the amount which was appropriated for the Military Academy for the current year. The amount appropriated for the present current year was \$169,386; the sum proposed to be appropriated by this bill is \$180,884. In reference to the first item of this bill—for pay of officers, instructors, cadets, and musicians—an increase of the pay of certain military officers stationed at West Point was made by the first section of the act making an appropriation for the support of the Army for the present year; and this makes an increase of about four thousand dollars in the appropriation for the pay of instructors, cadets, &c., at West Point. So far as the pay of officers is concerned in the appropriation for the support of cadets at that institution, to-

gether with the small military force kept there, no more money is appropriated in this bill than is requisite under existing laws to carry on that institution.

When you come to the item for repairs and improvements at the Military Academy, there is a diminution from the amount which was submitted in the annual estimates of about six thousand three hundred and fifty dollars, consisting of various matters of detail, all of which are small items, and which the Committee of Ways and Means concluded not to recommend the House to embrace in this bill. That, consequently, reduces the amount proposed to be appropriated. In the judgment of the committee, that was best for the institution, and a matter of economy to the country.

Mr. STANTON. I do not know what the expenditure for the Military Academy for this year was, but I find that the estimate for the current year was \$116,000, and that the estimate for the next fiscal year is \$122,000. Now, the bill of last year appropriated, if I understood the gentleman from Missouri, \$179,000, making an excess over the estimates of \$57,000.

Mr. PHELPS, of Missouri. The gentleman will permit me to call his attention to the fact that the last Military Academy appropriation bill contained special items, which made the amount \$169,386, instead of \$115,000 as stated by the gentleman.

Mr. STANTON. Certainly; and by some means or other, which I do not fully comprehend, the appropriations are always largely in excess of the estimates. That seems to be pretty clear from the gentleman's statement, if nothing else is. Now, the War Department, in its estimate for the fiscal year ending the 30th of June, 1860, have said that \$122,000 is necessary for that service; and I have not heard any explanation from the gentleman from Missouri, the chairman of the Committee of Ways and Means, as to what necessity has arisen since those estimates were made out, which requires an addition to those estimates. Unless there is some new fact coming to the knowledge of the committee or of the Department, since those estimates were made, which produces a necessity for this increase, I cannot see the propriety of appropriating it. It doubtless may be true that at the time the estimates were made the Department might not be aware of necessities which might subsequently arise, and an explanation may be made to show the necessity of increasing the appropriation; but whenever an appropriation is asked for which is in excess of the estimates, I hold it to be the bounden duty of the House to know what that necessity is.

The Administration is in the habit of making capital with the people for an economical administration of this Government, by reporting the amount of its estimates of what is necessary to carry on the Government for the ensuing fiscal year. I am disposed to hold it to its estimates, unless a necessity for an increase is shown. Here, now, in an estimate of \$122,000, there is an increase asked of nearly thirty-three and a third per cent. We are asked to appropriate \$58,000 more than is estimated in an appropriation amounting in the aggregate, according to the estimate, to \$122,000. The appropriation asked by the chairman of the Committee of Ways and Means is thirty-three and a third per cent. more than the estimate of the Department. I shall not vote for this bill, therefore, until I have some very satisfactory explanation of that increased expenditure.

Mr. PHELPS, of Missouri. With the permission of the gentleman, I will make an explanation?

Mr. STANTON. I am through.

Mr. PHELPS, of Missouri. The gentleman from Ohio is mistaken in the figures which he has presented to the committee. The estimates for the expenditures for the support of the Military Academy, made for this fiscal year, submitted to us at the last session of Congress, were \$182,804.

Mr. STANTON. What page does the gentleman refer to?

Mr. PHELPS, of Missouri. I am reading from the annual estimates for 1859.

Mr. STANTON. I want to call the gentleman's attention to page 152, where the estimates for last year are given at \$116,000.

Mr. PHELPS, of Missouri. That is only one item of expenditure at the Military Academy, an

expenditure for the pay of the officers. If the members of the committee will look at it, it is headed "estimates for pay of the Military Academy, subsistence of officers, and such allowances in lieu of forage and clothing as may be drawn in money, for the year commencing July 1, 1859, and ending June 30, 1860." There are embraced in it estimates for the pay of the officers and cadets, while it does not embrace estimates for the support of the horses or for the ordnance men stationed there. It does not embrace the expenditures necessary for lighting, or for fuel, and a hundred other incidental expenses connected with the Military Academy. I called the attention of the committee to the fact that there was an increase in the amount to be appropriated this year for the pay of officers and cadets at the Military Academy, rendered necessary by a provision incorporated in the Army appropriation bill for this year. And this is the full explanation.

Mr. Chairman, as I was remarking, the Secretary of the Treasury, at the commencement of the last session of Congress, submitted an estimate for the support and maintenance of the Military Academy during the fiscal year, amounting to \$192,804. The Committee of Ways and Means of the last Congress, as well as Congress itself, reduced that amount and appropriated only \$169,386. The Committee of Ways and Means recommend to this House to appropriate the sum of \$180,884 for the support and maintenance of that institution. The largest item of increase of expenditures is in consequence of the repairs to be made about the building, which are represented as necessary for the preservation of the property of the Government.

Mr. LOVEJOY. What is the expense of graduating a cadet at the West Point Military Academy?

Mr. PHELPS, of Missouri. The pay of each cadet is thirty dollars per month.

Mr. LOVEJOY. What is the cost, the aggregate cost, of graduating a cadet?

Mr. PHELPS, of Missouri. I have not instituted any comparison of the number graduated in each year; although there may be a large class entered, yet in consequence of want of proficiency in studies and failure to keep up to the standard maintained there; or, in other words, when the students are unable to pass their examinations, they are compelled to leave the institution or take a position in an inferior class, and in consequence of dismissals for misconduct and for other reasons, and resignations, the average number of graduates each year is much reduced. I have an impression that the average number which graduates each year is forty; ranging from forty to forty-five. I may be mistaken, but that is my recollection.

Mr. LOVEJOY. I see an item for forage in the sixteenth line, and a similar item in the twenty-fourth line. What is the distinction between them?

Mr. PHELPS, of Missouri. That embraced in the lines from the fifteenth to the nineteenth is for the forage of the animals employed about the institution for the performance of work; and the forage mentioned below, in the twenty-fourth line, is for the horses kept there for the instruction of the cadets in cavalry and artillery practice. That is the reason for the introduction of the separate items.

Mr. GIDDINGS. Mr. Chairman, it is not my purpose to oppose this bill. I rise to call attention to this prominent fact, that while gentlemen were so scrupulous in granting a small pension to men who fought for the country, without instruction in the art of war, and without expense to the Government for their education, it is now proposed to make appropriations to educate your young men in a military academy, in order that they may do what the veterans of our wars have already done. We are appropriating from the funds of the nation for that purpose; and I wish it to be understood that I am not finding fault with the House. The West Point institution is a part of the military system of the country. But I want gentlemen to understand that we are paying these cadets thirty dollars a month to learn the trade of fighting, which I had to learn without any such teaching or inducements. I want the gentlemen who were so scrupulous yesterday to understand that now they are putting their hands into the Treasury of the United States, for the

purpose of maintaining one of the institutions necessary to our military system, to educate and support men while they are being educated to fight, instead of for services in the wars.

It is not my purpose, as I have said, to commence any attack upon this bill. I rise for the purpose of calling the attention of gentlemen of all parties to the great prominent fact that now stands in the history of the country, that we are abusing the powers vested in us, in appropriating vast funds of the nation for the purposes of warfare when war is no part of our institutions, and no part of our business. Our mission is one of peace; ours is a mission of equity; of unostentatious, just, and righteous government; not a military government; for, sir, the founders of our institutions never contemplated any standing army, or the appropriation of money with the view to teach our citizens how to fight. I call the attention of my friends particularly to the fact that for the purpose of maintaining our military system, we are now called upon to vote—not to pay men for service rendered, but to teach men for future service. Soon, too, we shall be called upon to make appropriations for our fortification system, which I unhesitatingly pronounce the greatest humbug of the age in which we live. It is a throwing away of money for nothing; throwing away money to make ourselves ridiculous in the coming time; for let me say that twenty-five years hence, these fortifications will be looked upon as the towers upon the Rhine, and will be about as useless. And I fear that my friends who were so scrupulous in voting yesterday, will vote for those fortifications.

Mr. PHELPS, of Missouri. I desire to appeal to the gentleman from Ohio not to indulge in that line of remark which will lead to general debate upon this bill; because I propose, if this bill shall be disposed of to-day, to call up the President's annual message, on which there can be unlimited debate.

Mr. GIDDINGS. I want the gentleman to understand that I am not debating the bill at all. I am debating other matters.

Mr. PHELPS, of Missouri. I appeal to the gentleman to postpone any such remarks until we take up the President's annual message.

Mr. GIDDINGS. I have no idea of discussing the bill; but I want to have our friends understand that we are just entering on a system which is to occupy our attention during the greater part of the session—the system of appropriating money for the Army and Navy. I am opposed to that system.

Mr. LOVEJOY. I desire to inquire of the gentleman from Ohio if he believes such appropriations to be right?

Mr. GIDDINGS. I do not.

Mr. LOVEJOY. Then, how can he seek to justify one wrong appropriation by another which is not right?

Mr. GIDDINGS. I am glad that I can instruct my reverend friend, [laughter,] and I will do it with the greatest pleasure. Sir, when we adopt a system, I will deal out that system with an even hand; and if the money of this Government is to go for military purposes, I will give as much to those who have fought as to those who never fought. That is my theology. [Laughter.] I will do justice to those of the past as well as those of the present and of the future. Why, sir, Congress squandered upon General Scott—a man for whom I have great respect—\$30,000 while he was drawing \$6,000 a year from the Treasury. Sir, I can point to men in my own district, who are not worth one hundred dollars, who fought as gallantly and patriotically as ever General Scott did. They were soldiers, and God forbid that I should forget the soldiers when the money of the nation is being poured out upon generals. My desire is to do equal justice to all.

Mr. LOVEJOY. My theology is, that two wrongs do not make a right.

Mr. GIDDINGS. That is no theology at all. [Laughter.]

Mr. LOVEJOY. Why, sir, General Scott and General Cass are pensioners under the very bill we passed this morning; and so is my venerable, though not reverend, friend from Ohio. They are all pensioners under this bill. I could laugh to see them come up to the Treasury, like Oliver Twist with his soup-bowl, and ask for a "little more." I wish that I had time, and that it was

appropriate for me to appeal to the gentleman from Ohio to make a stand here. The rule applicable to this case is *obsta principiis*. He is opposed, he informs us, to the whole military system; and yet to-day he voted to inaugurate a military pension system which is opening a sluice-way into a measureless and bottomless ocean of expenditure and corruption. We were right on the very threshold of that system, and he had the power (for there were more than fifteen or twenty votes standing behind that venerable gentleman) to defeat the whole thing, as I honestly believe. And more than that; I believe that if we had voted by ballot, and voted the honest sentiments and convictions of our minds, that bill could not have got fifty votes in this House. [Laughter, and approval.]

And now, sir, I want to state, as I had no opportunity of doing so before, that this bill (to which reference has been made) was discussed here for about a week, and all sorts of hifalutin and humbuggy frisked around the Hall here, on the old crutches of the old soldiers of the war of 1812, just like boys on a broomstick; and then, after a week or so of such discussion, the work of the Committee of the Whole House was all laid aside, and the moment the matter comes into the House, in pursuance to a caucus arrangement, a new bill is sprung upon us, without discussion, without amendment, and without an opportunity for discussion or amendment. The previous question was voted upon us, and we are put through without a word, [Laughter.] That is the way, sir, this new system of military expenditure was managed, involving now, and in the future, the expenditure of countless millions; and it is sought to be justified now on the ground that other expenditures, equally wrong, and equally erroneous, are proposed by the Government.

Sir, I will vote with the gentleman against this Military Academy bill, except to a limited extent. I will vote against every military bill that looks to a standing Army, and huge naval establishments. That is good theology, is it not? [Laughter.] It is Christianity as well as theology. But I do not wish now to occupy the time of the committee. I always must deeply regret that this pension bill should have passed, and should have received the votes of gentlemen who gave it their support. There may be a popular furor in its favor, but my deep conviction—as deep as that of my being—before God is that the bill is wrong in principle, and will prove ruinous in its operation.

Mr. GIDDINGS. I wish to say one word in reply to my friend. I want to correct a mistake that he has fallen into, as to this pension bill inaugurating a new system. That system was inaugurated in 1818; and, from that day to this, we have maintained and kept it up. We have not commenced pensioning for the service of 1812 yesterday or the day before. We have long since commenced to give pensions to the widows and orphans of those who fell, and to the invalids of the war of 1812. The system has been only continued by this pension bill, and that is why I called on my friend from Missouri [Mr. PHELPS] to explain to the House why we pay pensions to the widows of those who fell in the battles of 1812; and this bill is only carrying out that system. There is only the one system; this is no new one. We have even a retired list of Army officers in this country. Now I only wanted to provoke my friend to good works when I called his attention to these facts. I wanted him to come forward, and assail these Federal expenditures. When he will attack them and cut down the system, then I will vote to cut off all pensions, even revolutionary pensions.

This is all that I wanted to say to my friend. The system is upon us; and while it is upon us, I say deal it out with equal honesty, and let equal justice be done. It is not because we do injustice in one instance, that we ought to do it in another. No, sir; but I say unhesitatingly that the soldier who fought our battles, who left his home, his fireside, and his family, is entitled to some compensation here, even in dollars and cents. I want to know whether my friend [Mr. LOVEJOY] would refuse this compensation? Why, sir, as I was saying yesterday, in 1812, when your regular army, which we are now fostering and educating, surrendered at Detroit, with all its paraphernalia of war, without firing a gun, the militia of that part of the country were constrained to turn out,

to leave their families and firesides, and to protect the frontier. They did so. They met the enemy, and they did not surrender.

Mr. WASHBURN, of Maine. Will the gentleman from Ohio allow me to ask him a question? Mr. GIDDINGS. Certainly.

Mr. WASHBURN, of Maine. If, as I understand the gentleman from Ohio to say, he only desired to have equal justice done, I wish to ask him what he thinks of his equal justice when he gives a pension to the soldier of the war of 1812, who has been out for sixty days, fifty dollars a year, and gives nothing to the soldier of the war of the Revolution, who has been out a hundred days?

Mr. GIDDINGS. I would do all that I have said to my friend there, [Mr. LOVEJOY.] Give me the chance, and I will do equal justice to all. Has the gentleman from Maine brought forward a bill for the purpose he suggests? Has my friend offered or advocated such a measure? If not, why does he ask me to do so? I tell him to deal out even-handed justice, and whenever he proposes such a measure I will sustain him in it.

Mr. WASHBURN, of Maine. I would ask my friend from Ohio whether or not he voted against the demand for the previous question yesterday in order to enable the gentleman from Ohio [Mr. SHERMAN] to introduce his amendment, which would have put the soldiers of the war of 1812 on precisely the same footing as the soldiers of the Continental line?

Mr. GIDDINGS. Let me say to my friend most unequivocally, that it was out of the power of my colleague to put the soldiers of the war of 1812 upon an equal footing with the soldiers of the war of the Revolution. Let the gentleman remember that the soldiers of the Revolution waited only thirty-six years, while we have waited for nearly half a century. There were then a great portion of those soldiers living; while, with the exception of the gentleman behind me [Mr. GRANGER] and General Cass and myself, I hardly know one of the soldiers of the war of 1812 in the city.

A MEMBER. There are plenty of them.

Mr. GIDDINGS. My friend says there are a plenty of them; I am glad of it; I hope they will live forever. But, sir, I will not continue this discussion. I only wished to reply to the assaults upon the soldiers of the war of 1812.

Mr. LOVEJOY. I have not assailed the soldiers of the war of 1812, or the soldiers of the war of 1776. I simply assailed the system. The gentleman says that this is not the inauguration of a new policy. I think he is mistaken there. We have, aside from this bill, already pensioned invalids; we have pensioned every class who have received any injury in the military service; but it cannot be found in the history of the entire world, so far as I know, that any nation has ever pensioned soldiers who were well.

Mr. BLISS. I rise to a question of order. The gentleman is not discussing the bill before the committee.

Mr. LOVEJOY. There is no order of the House that I should not.

The CHAIRMAN. The Chair understands it to be the unbroken custom in the Committee of the Whole on the state of the Union to discuss any measure which the member having the floor may see fit to discuss.

Mr. BLISS. I understood that before we came into committee a resolution was adopted restricting debate to the bill before the committee.

The CHAIRMAN. The Chair will state to the gentleman from Ohio, that a proposition was made by the gentleman from Missouri, [Mr. PHELPS,] such as the gentleman suggests; but objection having been made, it was not entertained by the House.

Mr. BLISS. Then of course my point of order is not well taken.

Mr. LOVEJOY. I simply want to say that, so far as my knowledge of the history of the world extends, there is no precedent for the pension bill which we have to-day passed. There is no Government on the face of the globe that ever pensioned well men, with the single exception of the war of the Revolution. And the war of the Revolution is an exceptional case; it stands out separate and distinct from all other wars that we have ever waged or are likely to wage—separate and distinct from the war of 1812. I think no one is disposed to deny that. And, sir, my

conception of it is, that if we take a stand now, and refuse to give pensions, we never shall be troubled with them hereafter. But if we now give pensions to the soldiers of the war of 1812, we shall have, ere long, to give pensions to the soldiers of the war with Mexico, the Florida war, and thus on through all the petty wars that have been, or may be, waged in the country; and I say that when once you have established this policy, there is no Government in the world that can stand under it. It will break down the mightiest Government on earth. That is my honest conviction.

Now, sir, we hired these soldiers to fight for us, and paid them all we agreed to; and we paid them one hundred and sixty acres of land in addition. Those who were old men at the time of the war have died, and those who were young men then you propose to pension. It is a pension to longevity. And more than that, some—most—of those soldiers who fought in the war of 1812 are dead, and their widows are dead; and now you propose to tax the orphan children of those who were slain to pay General Scott, General Cass, my venerable friend, and others. Is that justice? It may be good theology according to the schools, but it is not good Christianity.

But, as there was an understanding that this general debate should not go on upon this bill, I do not care to continue it now. And I close by saying that if we go on with this insane legislation, we shall need some eccentric Dean Swift to bequeath us the means of building a mad-house,

"To show, by one satiric touch,
No nation needed it so much."

The reading of the bill by sections was then completed.

On motion of Mr. PHELPS, of Missouri, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

PRESIDENT'S MESSAGE.

Mr. PHELPS, of Missouri. I now move that the annual message of the President be taken up. The motion was agreed to.

Mr. PHELPS, of Missouri. I offer the following resolutions for the reference of the message. The resolutions were reported, as follows:

1. *Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress, at the present session, as relates to our foreign affairs, together with the accompanying correspondence in relation thereto, and to the claims of our citizens against the Governments of Spain and Mexico, to the injuries inflicted on the persons and property of our citizens by those Governments, and the manner of redress; to an appropriation for the "Amistad" claimants, and to provision for the protection of our citizens on the transit routes of Panama, Tehuantepec, and Central America, be referred to the Committee on Foreign Affairs.

2. *Resolved*, That so much of said message and accompanying documents as relates to the finances, the public debt, a modification of the tariff, and the mode of assessing and collecting the revenue from customs, and the reduction of expenditures, be referred to the Committee of Ways and Means.

3. *Resolved*, That so much of said message and accompanying documents as relates to the Army of the United States, and the protection of our citizens on the southwestern frontier, be referred to the Committee on Military Affairs.

4. *Resolved*, That so much of said message and accompanying documents as relates to the Navy of the United States and the increase of the same, be referred to the Committee on Naval Affairs.

5. *Resolved*, That so much of said message and accompanying documents as relates to the Post Office Department, its operation and condition, the rates of postage, to the franking privilege, and to the modification of the law regulating the transportation of mails, be referred to the Committee on the Post Office and Post Roads.

6. *Resolved*, That so much of said message and accompanying documents as relates to the public domain and bounty land system, and that the benefits of our land laws and preemption system be extended to Utah, be referred to the Committee on Public Lands.

7. *Resolved*, That so much of said message and accompanying documents as relates to the Territories of the United States, the establishment of a territorial government over Arizona, and the provision for a general act for the admission of Territories into the Union as States, be referred to the Committee on Territories.

8. *Resolved*, That so much of said message and accompanying documents as relates to the District of Columbia, be referred to the Committee for the District of Columbia.

9. *Resolved*, That so much of said message and accompanying documents as refers to the pension system, be referred to the Committee on Invalid Pensions.

10. *Resolved*, That so much of said message and accompanying documents as refers to a modification of the patent laws, be referred to the Committee on Patents.

11. *Resolved*, That so much of said message and accompanying documents as relates to our policy towards the Indian tribes, be referred to the Committee on Indian Affairs.

12. *Resolved*, That so much of said message and accompanying documents as relates to a bankrupt law, applicable

to banking institutions, and the amendment of the act of 2d March, 1819, be referred to the Committee on the Judiciary.

13. *Resolved*, That so much of said message and accompanying documents as relates to public expenditures, be referred to the Committee on Public Expenditures.

14. *Resolved*, That so much of said message and accompanying documents as relates to the construction of a Pacific railroad, be referred to the select committee on that subject.

Mr. PHELPS, of Missouri. I have submitted the resolutions which have been read at the Clerk's desk, for the purpose of referring the President's message to the various committees of this House for their consideration. I do not propose to occupy any of the time of the House at this moment, in the discussion of any of the measures mentioned in the President's annual message, and I yield the floor to others who desire to occupy it.

Mr. COMINS obtained the floor.

Mr. SHERMAN, of Ohio. With the permission of the gentleman from Massachusetts, I desire to give notice that, at the proper time, I shall offer an amendment to the resolution of the gentleman from Missouri, to refer so much of the President's message as relates to the expenditures of the various Departments of the Government, to the appropriate committees, under the 106th rule of the House.

Mr. PHELPS, of Missouri. I would say that so far as the expenditures of the various Departments of the Government are concerned, there is nothing in the President's message referring to them specifically. We have a Committee upon Public Expenditures, who are charged with the duty of inquiring generally as to the expenditure of the public money in every branch of this Government. I embrace that subject by referring that specially to the Committee on Public Expenditures. So far as the expenditures in the Departments of the Government are concerned, under our rules, the committee has charge only of the mere contingent expenses of the Departments. But there is a conflict with reference to it. I have no objection, however, to charging the several committees with the subject.

[The committee informally rose, and received a message from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill making appropriations for deepening the channel over the St. Clair flats, in the State of Michigan; in which he was directed to ask the concurrence of the House.]

Mr. COMINS. Mr. Chairman, I have read the message of the President, which is now before Congress and the country, with great care, and considerable solicitude. There is much in it to approve, and much to condemn. It is not my purpose, however, to comment at length upon it at this time, or to review its general features.

The President has acquired the fame of a statesman, and aspires to the reputation of a just man and faithful Executive. But, sir, I cannot understand that statesmanship which fails in all that which it recommends. He is no farmer who fails to bring forth the fruits of the earth; he is no mechanic whose every machine fails in its automatic powers of action; he is no merchant who fails in every enterprise in which he embarks; he is no navigator who runs his ship upon every shoal; he is no lawyer whose every opinion is reversed by the court. But he is a just man and good President, whose Administration comprehends the interest of the whole people, and secures to the individual citizen his rights, whether founded in equity or in law. I have looked in vain, in the message of the President, to find any recommendation to Congress to do justice to American citizens, who have claims against their own Government.

The President is extremely solicitous that Congress should promptly reimburse Spanish citizens for losses sustained in the Amistad case; he is extremely urgent that duties unjustly exacted from American vessels at different custom-houses in Cuba should be refunded; he would make war upon Spain for deferred justice to claimants upon that Government; he earnestly recommends Congress to assume a protectorate over Mexico for its delinquencies to our people, but says nothing upon the delinquencies of our own Government; he says nothing upon the duty of our own Government to pay to its own citizens claims eminently just and legal; and whether exacted by an unscrupulous department, or upon the technical ruling of the tribunal. Sir, I do not care espe-

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cially to discuss the message of the President, but prefer to say a few words upon the neglect of Congress to give its attention to the claims of American citizens upon their own Government.

Near the close of last session, I entered a motion to reconsider the vote laying upon the table the adverse report of the Committee of Claims in the case of Nathaniel and Benjamin Goddard. I intend at an early day to call up that motion. As a motion to reconsider a vote to lay upon the table is not debatable in the House, I take an opportunity to speak upon the subject involved in that motion, in the Committee of the Whole on the state of the Union.

The case of Nathaniel and Benjamin Goddard is one with the history of which the working members of this House are familiar. It was first brought to the attention of Congress on the petition of Nathaniel Goddard, in behalf of himself, William Parsons, Thomas C. Amory, James and Thomas H. Perkins, Thomas Parsons, and Samuel May, all of Boston, owners of the ship *Ariadne* and cargo—all established merchants, useful, enterprising and honorable men; merchants of extensive business knowledge, and of great public spirit, ready at any time to engage in any enterprise, useful and honorable, which boded good to their country, or to embark in any undertaking in aid of the oppressed and the unfortunate.

It was by such men, actuated by the highest and noblest motives, that the ship *Ariadne*, in September, 1812, (war then existing between the United States and Great Britain,) was dispatched for Cadiz, a neutral port in Spain, with a cargo of flour, and consigned to a mercantile house there, composed of American citizens, with the *bona fide* intention of furnishing the inhabitants of that neutral city with this necessary article of food. In this connection it will not be improper to impress upon the House the condition of the inhabitants of Cadiz, of Lisbon, and of the whole peninsula, at that time. The people there, as in every country and in every age, suffered extremely from the effects of the war. The whole peninsula was in a state of extreme agitation, starvation, and distress. Military aspirants dominated over the inhabitants, and imposed upon them most odious and oppressive exactions. Like the oppressed and starving inhabitants of Ireland and of Madeira, at a more recent period, they received the sympathy of the American people, and bread was sent to their relief. Under these circumstances, and for the relief of a starving people, on the 12th of September, 1812, the ship *Ariadne* sailed from Alexandria, then a port in the District of Columbia, and was captured on the 15th of the following October by the United States brig-of-war *Argus*, and taken into the district of Pennsylvania, and there libelled in the district court of the United States. The vessel and cargo were ordered to be restored by said court, but the circuit court reversed the decree of the district court, and the vessel and cargo were condemned. The decree of the circuit court was affirmed by the Supreme Court of the United States.

I desire here to say, that the decision of the Supreme Court was based upon the technical construction of the law, that the sailing under the enemy's license constituted, of itself, an act of illegality, which subjects the property to confiscation, without regard to the object of the voyage, or the port of destination; shutting out the facts and circumstances connected with the enterprise, which were offered by the claimants in evidence of the innocence of the voyage, and that it was not prosecuted for the promotion of the enemy's interest, but to supply a neutral but starving people with bread—a voyage held by eminent legal authorities to be as innocent as a voyage from Alexandria to Boston, or from Boston to New Orleans.

In consequence of said decree of condemnation, the bonds which had previously been given by the claimants upon the delivery of vessel and cargo, were paid, and a distribution made to the United States, and to the captors, according to

law. The sole cause of capture and condemnation was, that the ship had on board, at the time of her capture, a British license. It was not alleged that the cargo belonged to the enemy, or that it was shipped with any intention of furnishing supplies for the enemy. The allied armies were not, at the time of shipment or capture, on or near the coast of Spain, and did not receive supplies from that source. There was not even a suspicion that the property was being shipped with the intention of affording aid and comfort to the enemy. The cause, and sole cause, of the capture and condemnation, was the mere possession of a British license.*

The ground on which the petitioners have, from time to time, applied to Congress for relief, is, that the error of the shippers, if error there was, was unintentional. Although ignorance of the law is no excuse which the law itself will admit, it will be establishing no new principle, as you well know, Mr. Chairman, and as this House well knows, for Congress to remit penalties and forfeitures incurred by parties where their own conduct has been in no degree criminal, and where no principle of public or private duty has been violated. But it is not admitted by the petitioners that any law was violated. Some of the best judicial minds of the country have pronounced in favor of the innocence and legality of the enterprise which led to the capture and condemnation of the *Ariadne*. The owners and shippers, before entering upon that enterprise, availed themselves of every precaution which prudence and wisdom could dictate, to ascertain the law of the land in such cases. They were advised by men distinguished for their legal knowledge, and of undoubted integrity, that it was not in violation of any law or commercial regulation, either of nations or of the United States, for an American vessel clearing from an American port to Cadiz, in Spain, to have on board a license or passport of the description of that found on board the *Ariadne* at the time of her capture by the *Argus*. It is a well-known and historical fact, that, after the declaration of war with Great Britain, and at the time the *Ariadne* enterprise was conceived, a large portion of the supplies of breadstuffs for Cadiz was obtained from the United States, transported in American vessels, sailing from American ports, owned by American citizens, and sailing under passports like that for which the *Ariadne* was condemned; and without seizure or complaint—the *Ariadne* alone being condemned for the sole cause of sailing with such license, which, from

* To the commanders of any of his Majesty's ships-of-war or private armed ships belonging to subjects of his Majesty:

Whereas, from a consideration of the great importance of continuing a regular supply of flour and other dry provisions to the ports of Spain and Portugal, it has been deemed expedient by his Majesty's Government that, notwithstanding the hostilities now existing between Great Britain and the United States of America, every protection and encouragement should be given to American vessels so laden with flour and other dry provisions, and bound to the ports of Spain and Portugal; and whereas, in furtherance of these views of his Majesty's Government, and for other purposes, Herbert Sawyer, Esq., vice admiral and commander-in-chief of his Majesty's squadron on the *Halifax* station, has directed to me a letter, under date of the 5th of August, 1812, (a copy whereof is herewith annexed,) and wherein I am instructed to furnish a copy of his letter, certified under my consular seal, to every vessel so laden, and bound either to any Portuguese or Spanish ports, and which is designed as a safeguard and protection to any such vessel in the prosecution of such voyage:

Now, therefore, in pursuance of these instructions, I have granted unto the American ship *Ariadne*, Bartlett Holmes, master, burden 382 2/3 95th tons, now lying in the harbor of Alexandria, laden with flour, and bound to Cadiz or Lisbon, the annexed documents, to avail only for a direct voyage to Cadiz or Lisbon, and back to the United States of America, requesting all officers commanding his Majesty's ships-of-war, or private armed vessels belonging to subjects of his Majesty, not only to suffer the said ship *Ariadne* to pass without any molestation, but also to extend to her all due assistance and protection in the prosecution of her voyage to Cadiz or Lisbon, and her return thence, laden with salt or other merchandise to the net amount of her outward cargo, or in ballast only.

Given under my hand and seal of office, at Boston, this 5th day of September, A. D. 1812.

[SEAL.]

ANDREW ALLEN, Jr.,
His Majesty's Consul.

the then existing relations between the United States and Great Britain, was necessary to avoid capture by British cruisers.

It was the opinion of William Pinkney, then Attorney General of the United States, a lawyer and statesman of great eminence—perhaps as great as ever presided over the law department of the country—that the possession of a British license like that carried by the *Ariadne* was not a breach of any law of the United States. In a written opinion, signed by Mr. Pinkney and John Purviance, another eminent and distinguished lawyer of Maryland, it is stated that there was, in their opinion, no law of the United States which could be supposed to interdict to American citizens trade with Cadiz or Lisbon; and that such trade, *with* or *without* such license, was not unlawful.

But the decision of the Supreme Court was otherwise. At the session of 1817 a decision was made against the petitioners, and a final decree of condemnation passed upon the vessel and cargo. The petitioners paid the amount of their bonds, and a distribution was made to the United States and to the captors.

Immediately after the final decree was pronounced and the amount of bonds paid, the petitioners presented their case to Congress for relief. In January, 1818, it was referred in the House of Representatives to the Committee of Ways and Means, and by them referred for information to the Secretary of the Treasury. Mr. Crawford, another eminent and distinguished statesman and lawyer, then Secretary of the Treasury, in a letter to the chairman of the Committee of Ways and Means, gave it as his opinion that the petitioners were entitled to a remission of the amount paid by them into the Treasury; and if the penalty incurred by the petitioners had been within the jurisdiction of the Secretary of the Treasury, it would have been remitted upon the principle upon which remissions had been ordinarily granted by the Treasury Department. But the power of the Secretary of the Treasury to remit fines and penalties was confined to cases arising under the revenue laws, and those which concerned the registry and licensing of vessels of the United States.

Mr. Lowndes, of South Carolina, then chairman of the Committee of Ways and Means, a statesman of unsullied honor, whose genius and whose honesty of purpose had won for him a national fame, after a most careful and scrupulous investigation of the whole matter, was so impressed with the injustice which had been done the petitioners, that he at once reported a bill for their relief. The report of Mr. Lowndes was founded upon the full conviction of the committee that there had been no willful negligence or intentional fraud committed. The bill reported by Mr. Lowndes failed to become a law.

In 1824, a petition was again presented in the House of Representatives, and referred; but no further action appears to have been had upon it during that session.

In 1837, it was again brought before the House of Representatives and referred to the Committee of Claims, and favorably reported upon, a bill introduced, but no further action had upon it. Like many other just and worthy bills, it was never reached upon the Calendar.

In 1840, Mr. Russell, from the Committee of Claims, reported a bill for the relief of the petitioners, which, however, for want of time, did not pass the House.

I am particular to refer to these dates, that the House may not suppose that because the case originated in a transaction which occurred as far back as 1812, it is not entitled to its favorable consideration. It will be seen that the case has been constantly pressed upon the attention of Congress, and that there has never been but one adverse report upon it, and that by the honorable gentleman from Tennessee, [Mr. MAYNARD;] which I trust he will join me in reconsidering.

In 1846 a favorable report was made in the Senate, and a bill remitting the amount of the penalty passed that body; but it was not reached in the House.

In 1854, Mr. Wentworth, of Massachusetts, from the Committee on Commerce, reported a bill directing that there should be paid, without interest, to Nathaniel Goddard, William Parsons, Thomas H. Perkins, and their assistants, owners of ship *Ariadne*, or to their legal representatives, the amount of the proceeds of said ship and cargo which had been paid into the Treasury of the United States. This bill, not having been reached in the House, and the Court of Claims having been organized, it was, with a mass of petitions and papers, by a resolution of the House, referred to the Court of Claims. Judge Blackford gave, as the opinion of the court, that the case be reported back to Congress as one in which, on the face of the petition, the claimants had no legal demand against the United States, but it was one that addresses itself entirely to the discretion of Congress.

And, sir, it is to the discretion, to the judgment, and to the justice of Congress, that I now appeal. As a principle of right, of justice, and of equity, I appeal to this House to give this matter its most careful consideration.

Mr. Chairman, the projectors of the *Ariadne* enterprise are gone. Of the seven or eight Boston merchants engaged in that act of humanity and philanthropy, only one (Samuel May) now lives. After a career of usefulness and of honor, they have all but one passed away. But their legal representatives are before you. The distinguished lawyers and statesmen to whose authority I have referred, are, too, gone. But where is the public faith? Has the good faith of Government gone? If Pinkney has passed away, are there no more Pinkneys? If Crawford is gone, have we not the descendants of that illustrious statesman to echo within this Hall the appeals for justice which fell from his lips? If Lowndes no longer lives to stir Congress and the country to a sense of duty, with his eloquent voice, have we not those who represent the principles of justice, of equity, and of right, which he represented? Sir, the moral sense and just expectations of the people have been too long outraged by the neglect of their representatives to faithfully investigate, or to investigate at all, the private claims which are referred to them for their consideration. Individual members of committees give much time and labor to these things; as much, perhaps, as it is possible for them to do. They examine into facts and make elaborate reports; but often, too often, the leaves of these reports remain uncut, and the bills which accompany them are never read, but die upon the Calendar.

Mr. Chairman, the case of Nathaniel and Benjamin Goddard has been before Congress a long time; but it is none the less just. Perhaps there is no material interest which receives greater neglect at the hands of Congress than the commercial. Yet, next to agriculture, commerce is the national occupation of our people. It is the source from which the nation derives its revenues, the great agent for the advancement of civilization and the foundation of empire. The names of Perkins, of Parsons, of Goddard, and others attached to the original petition for this claim, are among the pioneer merchants of our country; there are few who inherit their virtues or their enterprise. It is to the bold and dauntless courage of such that our commerce whitens every sea; through their enterprise the hidden treasures of the world have been developed, the riches of tropical climes brought to our doors, and oriental luxuries laid at our feet. From revenues from their richly-laden ships, has Government filled its coffers, built its fortifications, created its navies, maintained its armies, and supported the civil list. And yet, Mr. Chairman, there is no class of men who are more hampered and embarrassed with Government interference and unjust laws.

Sir, I cannot but indulge the hope that this House will concur in the views and opinions which have been expressed, avowed, maintained, and placed upon record, by the high and distinguished authorities to which I have referred. It is not in evidence that any law has been violated in this case. There may have been neglect through inadvertence, but certainly not to an extent to justify a forfeiture of property. In my judgment, it is wholly incompatible with the dignity and the honor of Government to retain in its Treasury money which has fallen into its possession through a technical construction of an obscure law.

Mr. Chairman, at an early day—to-morrow, if agreeable—I shall ask the House to take up my motion to reconsider the vote laying this matter upon the table; and I hope the honorable gentleman from Tennessee, [Mr. MAYNARD,] who made the only adverse report which has been made upon it, will concede a reconsideration, that there may not be a contested vote upon it. I ask that the case may be carefully examined by the House; and, whatever may be the result, I shall have done my duty.

Mr. MAYNARD. I wish merely to say a few words in explanation of the report which, as a member of the Committee of Claims, it was my duty to make to the House, and to state the ground upon which that report was predicated. As I recollect the facts, at this distance of time, they were substantially these: The ship *Ariadne* was captured on her way from Alexandria to Cadiz, with a cargo of flour. She was taken before the district court of Philadelphia, and the capture was pronounced illegal, and a decision made in favor of the vessel. An appeal was taken from the district to the circuit court. The decision was reversed, and the vessel condemned. That condemnation was approved by the Supreme Court of the United States, upon an appeal taken. The committee thought it did not behoove them to call in question the decision made by that court—a decision establishing the law of the case, and would have been content to rest their action upon that ground alone. They thought it injudicious and unwise to go behind that decision.

But had they felt at liberty to do so—that decision out of the way—the committee thought it would be impolitic to grant relief in this case for another reason. This American vessel, when captured, was sailing under a British license. It will be remembered that we were then at war with Great Britain. Your committee thought it would be establishing a dangerous precedent to allow our vessels, in time of war with a foreign maritime Power, to take protection under such Power, implying either our inability to protect our own commerce, or a willingness that an intercourse should be carried on between our own shipping and the belligerent Power, alike detrimental and dishonorable, and opening the door to a great deal of malpractice. In other words, your committee thought it would be a very dangerous policy, by allowing this claim, or by any other action which Congress could take, to sanction or tolerate a practice such as obtained in this case, of suffering our vessels in time of war to sail the ocean under a license from the enemy. It was in these two views of the case that your committee felt constrained to report, as they did report, the rejection of the claim. And I must be permitted to say, my own individual views have not been changed by the remarks addressed to us, and so forcibly put, by the gentleman from Massachusetts, enforced as they have been by a most formidable array of great names. It may be my misfortune to differ in opinion from men so distinguished, and who do so much honor to our country; but I must still be permitted to say that I think the decision of the Committee of Claims was right. It may have been, and doubtless was, a hard case upon the owners of the vessel and cargo; but that is not to the purpose. Every loss is a hardship, more or less severe. The parties in this instance, probably, supposed they were making their assurance doubly sure, relying upon their flag as a protection from American cruisers, and upon their license as a protection from those of Great Britain; but they were mistaken. Their vessel, with the cargo, was captured and condemned. They had violated the law, ignorantly, perhaps; still there seems to be no valid reason why we should interpose between them and the penalty, and many grave and weighty why we should not.

Mr. COMINS. In reply to the gentleman from Tennessee, [Mr. MAYNARD,] I will say that it is a well known and historical fact that, during the war with Great Britain, in 1812, the inhabitants of Cadiz, Lisbon, and the neutral ports of the whole peninsula, received a large portion of their supplies of breadstuffs from the United States, owned by American citizens, transported in American vessels, and without molestation. And if he will refer to the record, he will find more than fifty cases in which forfeitures which have been decreed by the Supreme Court have been remitted by Congress.

Mr. TAYLOR, of New York. Mr. Chairman, I desire to submit some remarks upon our Central American affairs, but as there seems to be a disposition on the part of members to rise, I will ask leave to print my remarks, if there be no objection.

The CHAIRMAN. If there be no objection, the gentleman can have permission to publish his remarks. Is there any objection to the proposition of the gentleman from New York?

There was no objection.

Mr. TAYLOR, of New York. Mr. Chairman, during the first week of this session the resolution on the Clayton-Bulwer treaty, which had been reported from the Committee on Foreign Affairs, was recommitted to the Committee of the Whole for the purpose of further debate. On this subject I desire to offer a few remarks. Existing difficulties give this resolution more than ordinary importance. We have been seriously embarrassed by the course England has thought proper to adopt in Central American affairs, and especially in her interpretation of the Clayton-Bulwer treaty. It now becomes important for us to decide whether the treaty shall be abrogated by the consent of the parties, or whether we shall insist upon its observance according to our interpretation of it. Certainly, there is one point on which all agree—and that is, that the present condition of affairs cannot, and should not, be permitted to continue. The reputation of our Government requires a final settlement of these difficulties. Either the treaty must be abrogated, or England be compelled to observe its stipulations. The construction of this treaty, and the manner of carrying out its stipulations, have taxed the energy and skill of our best and most distinguished diplomats, during a period of seven years. While we have gained nothing, but lost much by this delay, England has used the time in strengthening her island posts in the Caribbean sea, in cultivating a better understanding with the Central American States, and in forming alliances by which she hopes to enforce her own interpretation of the treaty, or at least avoid the duty imposed upon her.

Our misunderstanding with England has prevented us from adjusting our relations with the Central American States; has kept our unsettled and unsatisfactory accounts with them in a state of suspension; and thus has forced us into the humiliating position of seeing our rights withheld and our citizens unprotected. We cannot continue in this position with honor. We may be, and undoubtedly are, deeply interested in the Isthmus routes, in which we ask no advantage over the other civilized nations; but we are infinitely more interested in keeping our treaty stipulations, and in compelling other nations to keep theirs with us. In the first instance a great commercial route is involved; but, in the latter, the honor, if not the existence of the Government, depends. If we have no power to enforce the observance of our treaty stipulations, our position is not only humiliating, but dangerous.

It has been said in England, and by English statesmen, that our difference is one of interpretation only, in which all parties may be equally honest. It is true that nations may honestly differ in the construction of language and the interpretation of treaties; but it can scarcely be the case in this instance. The language of the treaty does not admit of a doubt. It is clear, distinct, and comprehensive; it meets the points specifically and by general implication. But, independent of its clear language, we have conclusive evidence of its meaning in the acts of the English Government. The first article of the Clayton-Bulwer treaty is in the following language:

"The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise, any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people, for the purpose of erecting or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take any advantage of any intimacy, or use any alliance, connection, or influence, that either may possess, with any State or Government through whose territory the said canal may pass, for the

purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the said terms to the citizens or subjects of the other."

This language appears sufficiently distinct and positive to satisfy any one seeking a just and fair interpretation. But we have evidence that British statesmen understood it precisely as we interpret it. The treaty was submitted to the British Cabinet before it was exchanged; and they directed Sir Henry Bulwer to exchange it, with a "declaration" that they did not understand it to apply to their settlements in Honduras usually called "the Belize." I will read the "declaration," in order to see their exact position:

"In proceeding to exchange of the ratifications of the convention signed at Washington on the 19th day of April, 1850, between her Britannic Majesty and the United States of America, relative to the establishment of a communication by ship canal between the Atlantic and Pacific oceans, the undersigned, her Britannic Majesty's Plenipotentiary, has received her Majesty's instructions to declare that her Majesty does not understand the engagements of that convention to apply to her Majesty's settlement at Honduras, or to its dependencies. Her Majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned.

"Done at Washington, the 29th day of June, 1850.

"H. L. BULWER."

To this "declaration," Mr. Clayton replied that the convention which had been twice approved by the British Government did not apply to the settlement in Honduras, Belize, (commonly called British Honduras, as distinct from the State of Honduras,) nor to the small islands in the neighborhood of that settlement; but he says that it was understood to apply to, and does include, all the Central American States of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies. With this declaration on the part of our Government they were satisfied.

British statesmen now say that the treaty was not intended to interfere or disturb them in the possession then held. If this be true, why was the Belize distinctly reserved from its operations? What induced the "declaration," and what object had they in view? If the treaty was prospective only in its operation, then it was not necessary to reserve their rights in the Belize. The interest felt on this subject very clearly proves that they considered the treaty retrospective in its action, and that it required them to give up their settlements and possessions, or claims, in Central America, Mosquito protectorate and all. So fully were they impressed with this interpretation, that they felt it necessary to reserve their rights in the Belize, which Mr. Clayton did not consider as embraced in the convention, because it is not considered a part of Central America proper. Mr. Clayton reminds Sir Henry of the territory which it did embrace; which interpretation, by the exchange of ratifications, was accepted by him.

There is a strange inconsistency in this matter. If the British Cabinet did not consider itself bound by the provisions of the treaty to yield their claims and protectorate in Central America, why was it necessary to make the "declaration" regarding the Belize? This "declaration" furnishes a key to the whole transaction. The English Cabinet of 1850 understood that treaty as we understood it; but subsequent Cabinets have thought it best to give it a different interpretation. It is true that a demonstration was made by the English, in the fall of 1850, in the Mosquito protectorate and at Roatan; and it was reported at the time that it was done to show to the Central American States that the English officers there did not consider their Government bound, under that treaty, to yield any of her possessions or claims in the Central American States; but there are reasons for supposing that their course was the result of an after-thought, involving merely a question of policy with those States.

But, whatever their understanding was then, there is no doubt of their position now. England now contends that that treaty does not, and was not intended to, disturb her in any rights or possessions then belonging to her; and that it was prospective in its action. To this position the United States cannot yield. It would be a sacrifice of everything on our part, without any equivalent from Britain. It would leave her in the possession of all she can desire—sufficient in every respect to give her control of the Central American States, and of the only ship-canal route across

the Isthmus. While they admit the provisions of the treaty securing the neutrality of the canal route, they are careful to insist upon retaining their possessions, or pretended possessions, by which they defeat one of the chief objects of the convention. The only condition upon which the United States would have entered into a joint convention with England, was her agreement to withdraw from her pretended possessions in Central America. This condition was offered, and accepted; and after we had bound ourselves not to acquire any territory in that section; after we had, by reason of the Clayton-Bulwer treaty, yielded the rights acquired by the Squiers treaty, to Tigre Island, and thus overlooked the gross outrage committed upon us by the unauthorized and illegal conduct of the British consul, Mr. Chatfield, England made a new interpretation of the treaty, by which she hopes to avoid the performance of her stipulations, while we are strictly held to ours.

It was not simply the neutrality of the canal route that we sought in that convention—this was the least important matter in view. During our war with Mexico, and about the time of our acquisitions on the Pacific coast, in fact, after we had taken possession of California, England manifested an increased interest in Central American affairs. When our war with Mexico commenced, England had her settlement at Honduras, and this embraced her entire claims in that section, except her assumed protectorate over the Mosquito territory, which was confined within its original limits, and was exercised with indifferent care. In 1847, they extended their boundary along the entire coasts of Nicaragua and Costa Rica, from Bluefields to the river St. Pedro; and in 1848 they extended their boundary line, or that of their Indian ward, the Mosquito king, far back into the interior, embracing a portion of Lake Nicaragua, thence across the state of Nicaragua to the river Ronan, which they followed to the coast. By these extensions—these new and unauthorized appropriations of Central American territory—England secured the control of every bay and harbor on the coast, from Rio Hondo to the river St. Pedro; the whole extent of the coasts of Honduras and Costa Rica, except a short distance between the Sarstoon and Cape Honduras, which portion she commanded from Roatan and the Bay Islands, which she appropriated at the same time.

It was these unwarrantable proceedings which induced our Government to direct Mr. Lawrence, Minister in England, in November, 1849, to inquire whether England intended "to occupy or colonize Nicaragua, Costa Rica, the Mosquito Coast, (so called,) or any part of Central America;" and also to ascertain whether England would unite in guaranteeing the neutrality of a ship canal across the Isthmus. Notwithstanding the distinct and emphatic denial of Lord Palmerston, that England intended to colonize either, or any portion of said districts, the fact of their possession of so much territory in the name of the Mosquito king, and of their seizure of Roatan, the Bay Islands, and of Tigre Island, in the Bay of Fonseca, on the Pacific side, created the most unpleasant apprehensions on our part.

We were not ignorant of the singular ingenuity that some nations have, in converting mere occupancy into absolute sovereignty; nor of the rapidity with which this change is sometimes effected; hence the anxiety on our part to secure some distinct declaration of intentions from England. Without this, our former position as well as our interests, would have required more decided measures. To avoid this extreme necessity, our Government entered into the convention of April, 1850. This was our chief object; the guarantee of neutrality was a concession on our part; we certainly did not require it; but the Government was then willing to give it, which, in my humble opinion, was an error. The British interpretation of the convention of 1850, avoids the objects we had in view, while it enables that Government to retain her recent acquisitions, and to monopolize the entire Isthmus, contrary to our well known doctrine—a doctrine which our Government has announced, and from which it cannot with honor retreat. It is true that Lord Clarendon treated it, in his statement sent to our Ministers during the negotiation in 1854, as a mere dictum. He said:

"With regard to the doctrine laid down by Mr. President

Monroe, in 1823, concerning the future colonization of the American continent by European States, as an international axiom which ought to regulate the conduct of European States, it can only be viewed as the dictum of the distinguished personage who delivered it; but her Majesty's Government cannot admit that doctrine as an international axiom which ought to regulate the conduct of European States."

That doctrine was announced after mature deliberation, and under circumstances of the most important character. The Central American States and Mexico had just achieved their independence from Spain; and we had acknowledged that independence, and had sent a Minister to the Republic of Columbia, and was about sending one to Mexico. We had made a formal proposal to England for a concerted recognition of their independence before the congress of Aix-la-Chapelle; and there we announced the doctrine which President Madison afterwards declared in his annual message of 1823.

Mr. Adams, when Secretary of State, in his letter of instruction to Mr. Anderson, Minister to Columbia, in May 27, 1823, foreshadowed the position taken in the President's message, in the following language:

"So far as the proposed Columbian confederacy has for its object a combining system of *total and unqualified independence of Europe*, to the exclusion of all partial compositions of any one of the emancipated colonies with Spain, it will have the entire approbation and good wishes of the United States, but will require no special agency of theirs to carry it into effect.

"So far as its purpose may be to concert a general system of popular representation for the government of the several independent States which are floating from the wreck of the Spanish power in America, the United States will still cheer it with their approbation, and speed with their good wishes its success.

"Of this mighty movement in human affairs, mightier far than that of the downfall of the Roman Empire, the United States may continue to be, as they have been heretofore, the tranquil but deeply attentive spectators. They may also, in the various vicissitudes by which it must be followed, be called to assume a more active and leading part in its progress."

This language was used, it is true, in a private letter of instruction, which has now been made public; but the distinct position of this Government had been made known, at Aix-la-Chapelle, to the European Powers; for it was well known that Spain desired, and was trying to secure, a general coöperation in again bringing the revolted colonies into subjection. It is well known that the rumors on this subject excited the public mind at the time; and that the House of Representatives passed a resolution calling for information. In reply to this resolution, on the 12th day of January, 1824, President Monroe said that he "possessed no information on that subject, not known to Congress, which can be disclosed without injury to the public good." The private information received from our Envoy, Mr. Rush, relative to the threatened combination of European Powers in behalf of Spain, it was thought best not to communicate. This fact induced our Government to announce the Monroe doctrine, before it appeared in the message of 1823. We had acknowledged the Republic of Columbia, and we could not permit European Powers to bring it again under the Crown of Spain. This announcement created very considerable feeling at the congress of Aix-la-Chapelle, but our Government would not and did not yield. To this, more than anything else, are the Central American States indebted for their continued independence of Spain.

Under these circumstances, President Monroe announced the doctrine known by his name, in his message of December 2, 1823, in the following language:

"The citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men on that side (European) of the Atlantic. In the wars of the European Powers in matters relating to themselves, we have never taken any part, nor does it comport with our policy to do. It is only when our rights are invaded, or seriously menaced, that we resent injuries, or make preparation for our defense. With the movements in this hemisphere we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied Powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted.

"We owe it, therefore, to candor and to the amicable relations existing between the United States and those Powers to declare that we should consider any attempt, on their part, to extend their system to any portion of this hemis-

phere, as dangerous to our peace and safety. With the existing colonies or dependencies of any European Power we have not interfered, and shall not interfere. But with the Governments who have declared their independence, and maintain it, and whose independence we have, on great consideration and just principles acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European Power, in any other light than as a manifestation of an unfriendly disposition towards the United States. In the war between these new Governments and Spain, we declared our neutrality at the time of their recognition; and to this we have adhered, and shall continue to adhere, provided no change shall occur which, in the judgment of competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security."

Following up the same purpose, Mr. Clay, Secretary of State, in 1825, directed Mr. Poinsett, our Minister to Mexico, to—

"Bring to the notice of the Mexican Government the message of the late President of the United States to their Congress, on the 2d December, 1823, asserting certain important principles of continental law, in the relations of Europe and America. The first principle asserted in that message is, that the American continents are not, henceforth, to be considered as subjects for future colonization by any European Powers." * * * "There is no disposition to disturb the colonial possessions, as they now exist, of any of the European Powers; but it is against the establishment of new European colonies upon this continent that the principle is directed."

"The justice or propriety cannot be recognized of arbitrarily limiting and circumscribing enterprise and commerce, by the act of voluntarily planting a new colony, without the consent of America, under the auspices of foreign Powers belonging to another and a distant continent. Europe would be indignant at any American attempt to plant a colony on any part of her shores, and her justice must perceive, in the rule contended for, only perfect reciprocity."

The doctrine was necessary to protect the infant colonies of Central America, and it had that effect—whether as a "mere dictum," or as a great international axiom founded upon justice and propriety, and dictated by the interests and safety of this Republic.

If it is true, as I believe it to be, that the announcement of this doctrine had a salutary effect in preventing Spain from getting sympathy and support from her European neighbors, when she sought their aid to reconquer her revolted colonies, it is proper for us to insist upon it at the present time. If this independence of the Central American States was necessary to our commerce then, how much more so is it now, when England is assuming the place of Spain, and by her interpretation of the treaty is absolutely excluding us from any influence on the Isthmus by the application of the rule to this Government.

British action in this matter has not been accidental. Every step has been taken in pursuance of a settled policy. But they were undoubtedly hastened by our acquisitions on the Pacific coast. There are some remarkable coincidences connected with these movements, to which it may not be improper to refer.

Our war with Mexico commenced in 1846; and, as early as the summer of 1848, it was apparent that we would acquire, or be compelled to take, territory from her for indemnity. President Polk's administration instructed our commissioner, in 1847, to make the cession of California and New Mexico, as indemnity, an *ultimatum*. We had possession of those territories at that time; and British statesmen must have seen that that important Pacific territory would fall into our possession, in which case the Isthmus routes would become doubly important to this country. But, in addition to this fact, an American company was at this time negotiating with Nicaragua for the privilege of constructing a canal across the Isthmus by the way of Lake Nicaragua. These facts explain the increased interest taken in these matters by Britain at that time.

The spirit manifested by England in these various and important acquisitions may be seen in the correspondence which took place between the British consul general and our chargé d'affaires. Nicaragua had ceded Tigre Island to the United States in the spring of 1849; but, notwithstanding this fact, (for so far as they are concerned, it made no difference whether the United States desired the cession of that island or not,) Mr. Chatfield took forcible possession of the island. Against this proceeding Mr. Squier protested, and at once notified Mr. Chatfield of the cession of the island to the United States. Mr. Chatfield replied that Nicaragua had no right to cede any part of her territory, "because, in the first place, it had no claim even to a national existence; and, secondly, it could not exercise that right in the pres-

ent case, because he, as British consul general, had before intimated his intention of placing a lien on the island in question." The consul general refused to give up the island, but generously promised to refer the question to his Government. This was prior to their descent upon the Bay Islands. His Government replied to the question of Tigre Island, referred to it, by the seizure of all the islands in the sea belonging to Nicaragua and San Salvador.

I know not how other gentlemen view this transaction, but to me it appears to have been a most unprovoked and inexcusable insult to our Government. A wrong which should have been redressed at once, and in the most summary manner, was entirely overlooked, because our Government did not approve the treaty negotiated by Mr. Squier, and the insult was afterwards merged in the Clayton-Bulwer treaty, by which we have been induced to submit to further and greater degradation. I repeat, that so far as the insult is concerned, it is not important whether we desired the island or not. We had, through our Minister, negotiated for it, and it was ours so far as Britain was concerned; and it was inexcusable for her to interfere. England denied the right of Honduras to cede any portion of her territory, while she was robbing this weak State of its most valuable islands and seaports. All the possessions now claimed by England in Central America, were acquired in the most objectionable manner. She has no claims there which will bear an investigation. She has purchased nothing, and, according to the laws of nations, she has gained nothing by conquest. She has not been at war with either of these States, and hence she could acquire nothing by conquest. All the advantages ever gained from Spain, she yielded in the treaties of 1763 and 1786. Britain has gained nothing in Central American States since their independence, which ought to be recognized by civilized nations. She has neither discovered or purchased rights there, and without a legitimate war, properly conducted, she could acquire nothing by conquest. She has taken possession of territory, of islands, of harbors, and cities, without cause or justification. She has driven peaceable citizens from their possessions, levied taxes upon unoffending people, and blockaded their ports until the amount was paid, as in the case of Truxillo.

"Captain Nollath, of her Majesty's ship *Plumper*, formally presented a claim, amounting to \$111,061, to the commandant of Truxillo: and, failing payment, took possession of the town and fort. The afflicted inhabitants, having raised \$1,200, the gallant captain left with the spoil for Jamaica."

This is the language used by the excellent English missionary, Mr. Crowe. The same author says:

"With no other claim than what is afforded by the treaties with Spain, we have possessed ourselves of the actual sovereignty of territories on the northern shores of the Bay of Honduras, extending over about twenty thousand square miles, or twelve million eight hundred thousand acres, exclusive of islands and keys."

"We have taken and retaken the important island of Roatan no less than five times, and are now (September, 1850) exercising the right of sovereignty over its fertile lands, which extend at least to one hundred and fifty square miles, or ninety six thousand acres."

"By virtue of a late treaty with one of the contending parties in Yucatan, and on the score of assistance afforded for the pacification of the peninsula, during the war of races, which is still raging there, we have obtained an extension of limits on the northern boundary of our Central American empire, extending from the Rio Hondo to the port and town of Salamanca de Bacalar, thus including about three thousand six hundred square miles, or two million three hundred and four thousand acres of additional territory."

"To the occupation of these extensive tracts of country must be added the protection of the Mosquito shore, over which our Government exercises as much control as over its own possessions, though in a somewhat less direct manner, or, rather, by a more indirect course. In addition to four hundred miles of sea-coasts, from the Roman river to the San Juan del Norte, we have lately put forth a claim, in the name of the Waikna mohareh, to about one hundred miles more of sea-coast, to the southward of the San Juan, extending through the State of Costa Rica and part of the province of Viragua, as far as Chiriqui Lagoon; thus including, altogether, at least thirty-seven thousand square miles, or twenty-three million six hundred and eighty thousand acres of protectorate, including the occupation of Greytown."

"Thus, as the actual result up to the present time, exclusive of such smaller items as Roatan and Tigre Islands, we have a sum total of sixty thousand six hundred square miles, or thirty-eight million seven hundred and eighty-four thousand acres, over which we exercise full control, being nearly a third of all Central America, and more than two thirds the area of Great Britain."

To all this territory Mr. Crowe says England

has "no other claim than what is afforded by the treaties with Spain."

In this connection, it is proper for us to ascertain what claim Britain acquired by her treaties with Spain. Her first settlements were made by pirates. The town of Belize was named after one of the most notorious buccaners, and was, for a long time, the headquarters of the vile and the lawless—the common outlaws of the seas. They were not recognized until they turned their attention to cutting logwood and other valuable timbers, when they received sympathy and support from England. Repeated attempts were made by Spain to dislodge them from her coasts, but they had the assistance of English cruisers, and the work was not easily done. They maintained their position, and were soon able to extend their settlements into the Mosquito territory, from which a few emissaries made a covert attempt to colonize certain districts in Central America. Their chief object seemed to be to get control of the line of country where the junction of the two oceans was thought to be most practicable. At this early period, (1740,) the project of a channel through the river San Juan and lake Nicaragua was conceived; and at that time it excited considerable interest. While England pressed her interests by the route across the Isthmus of Darien, she was not careless of the route across the Isthmus of Panama.

In these piratical settlements Britain laid the foundation for her claim against Spain for certain limited rights in "the Belize." Their first treaty was made in 1763, by which England stipulated to demolish all fortifications erected by her subjects in the Bay of Honduras, and other places in the territory of Spain in that part of the world, within four months after the ratification of the treaty; in consideration thereof Spain agreed to permit them to cut, load, and carry away logwood, without molestation. This treaty continued until the close of our revolutionary war; when a treaty was made between Britain and Spain, at Versailles, September, 1783. The sixth article of that treaty reads as follows:

"The intention of the two high contracting parties being to prevent, as much as possible, all causes of complaint and misunderstanding heretofore occasioned by the cutting of wood for dyeing, or logwood; and several English settlements having been formed, under that pretence, upon the Spanish continent, it is expressly agreed that his Britannic Majesty's subjects shall have the right of cutting, loading, and carrying away logwood, in the district lying between the rivers Ballis, or Belize, and Rio Hondo, taking the course of the said two rivers for unalterable boundaries."

This article authorizes his Majesty's subjects engaged in cutting wood to build houses for their protection, and secures them all the rights granted, but upon the express condition that the stipulation should not be considered as derogating in anywise from Spanish sovereignty. Three years afterwards additional articles were added by the convention of July, 1786.

Article two of that treaty reads as follows:

"The Catholic King, to prove, on his side, to the King of Great Britain, the sincerity of his sentiments of friendship towards his Majesty and the British nation, will grant to the English more extensive limits than those specified in the last treaty of peace, (1783,) and the said limits of the lands added by the present convention shall in future be understood in the manner following: the English line, beginning from the sea, shall take the center of the river Sibun or Javon, and ascend up to the source of said river; from thence it shall cross in a straight line the intermediate land, till it intersects the river Wallis; and by the center of the said river the line shall descend to the point where it will meet the line already settled and marked out by the commissioners of the two Crowns in 1783; which limit, following the continuation of the said line, shall be observed as formerly stipulated by the definitive treaty."

"ART. 3. Although no other advantages have hitherto been in question, except that of cutting wood for dyeing, yet his Catholic Majesty, as a greater proof of his disposition to oblige the King of Great Britain, will grant to the English the liberty of cutting all other woods, without even excepting mahogany, as well as gathering all the fruits and produce of the earth, purely natural and uncultivated, which may, besides being carried away in their natural state, become an object of utility or commerce, whether for food or for manufactures; but it is expressly agreed that this stipulation is never to be used as a pretext for establishing in that country any plantations of sugar, coffee, cocoa, or other like articles, or any fabric or manufacture, by means of mills, or other machines whatsoever; since, all lands in question being undisputedly acknowledged to belong of right to the Crown of Spain, no settlements of that kind, or the population which would follow, can be allowed. The English shall be allowed to transport and convey all such wood and other produce of the place, in its natural and uncultivated state, down the rivers to the sea; but without ever going beyond the limits which are prescribed to them by the stipulations above granted, and without thereby taking an opportunity of ascending the said rivers

beyond their bounds, into the countries belonging to Spain."

Article seven provides for the "entire preservation of the rights of the Spanish sovereignty over the country in which is granted to the English only the privilege of making use of the wood of various kinds;" and it provides that the English "shall not meditate any more extensive settlements than the one defined."

This treaty also required England to evacuate her settlements on Black river, and other parts of the Mosquito coast:

"His Britannic Majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the islands adjacent, without exception."

To see that this was done, and that no further settlements were made, Spain sent out commissioners at different times, thus showing their determination to secure the observation of the treaty stipulations, to protect their territory from further settlement, and maintain their sovereignty over the country.

It is difficult to see what right England acquired under these treaties further than that of cutting dye-woods and mahogany; and yet we have seen how they have violated the express provisions of the treaty of 1786, by continuing the protectorate over the "Mosquito shore." It is true that most of these extensions have been made since the Central American States and Mexico achieved their independence from Spain; but these States succeeded to the rights of Spain; and in the case of Mexico, England thought it necessary to stipulate, in her treaty of the 26th December, 1826, with that State, for the same rights and privileges as she acquired from Spain under the treaty of 1786.

England can show no other right than that acquired from Spain; and certainly she cannot justify her pretensions under the treaties to which I have referred. Lord Palmerston was fully convinced of this fact in July, 1849; and in order to avoid the charges of gross violation of their treaty stipulations, he attempted, and wrote to the Nicaraguan Minister, to show that the Mosquito territory did not form an integral portion of the Spanish dominions in Central America; and that in the treaties of 1783 and 1786, it was not a question of proving the rights of Spain, but one regulating the relations of British subjects in their industrial pursuits. This may have been their object, but the Spanish King had different views of the convention, and through his commissioners saw that they were carried out.

The district was regularly visited by Spanish commissioners, who, in many instances, destroyed the improvements which had been made by the British settlers, and laid waste their plantations of sugar-cane and other produce. These acts England acknowledged as just, under the treaty. Some of the oldest inhabitants of the bay still retain vivid impressions of those visits, and of the destruction of their property. The British Minister can justify the spoliation of the territory of the Central American States in no other way. After making three solemn treaties with Spain, in which she acknowledged, and pledged her national honor to observe, the sovereignty of Spain over this very territory, English statesmen have the assurance to deny that this territory constituted a portion of the Spanish domain. This interpretation of the treaties of 1783 and 1786 with Spain, is equalled only by their interpretation of the Clayton-Bulwer treaty. In the first, they solemnly admitted the sovereignty of Spain, and demolished their own forts, and evacuated the territory; they now pretend to deny that Spain had any sovereign rights over that section, and insist that the treaties with her were for the regulation of the rights of British subjects.

In the case of the Clayton-Bulwer treaty, they entered into equally solemn stipulations to evacuate their possessions and give up their protectorate in consideration of our agreeing not to colonize any portion of the Central American territory, and as a final settlement of the difficulties caused by their attempted seizure of Roatan, Greytown, the Bay Islands, and other territory; and they acknowledged this interpretation by their "declaration," specifying and reserving their rights in the Belize. Yet, so soon as it was thought necessary to give a different interpretation to the treaty, they denied that the treaty had in

view the settlement of territorial rights, and treated it as one having no other object than the security and neutrality of the proposed canal route across the Isthmus.

The whole object of British diplomacy on these Central American affairs, appears to have been to delay and embarrass until they could repudiate and avoid the obligations accepted by herself—a system of duplicity and of fraud equally dishonest and disgraceful. She has kept no engagement made with Spain on this subject; and she will keep none that she may make with the weak Central American States. She has been true to the same base policy so far as we are concerned; and she will continue so until she is compelled to observe her treaty stipulations by arguments of a more forcible character. Britain has the same interest in these Central American islands—these keys to the commerce of the Pacific ocean—that she had in Malta, which she considered the key to the route to India by the way of the Isthmus of Darien; and she is pursuing the same general policy. England saw the importance of Malta, and wrested it from France. Afterwards, in the treaty of Amiens, England stipulated to restore Malta to the order of St. John of Jerusalem, the Cape of Good Hope to Holland, and Alexandria to the Sublime Porte; but she refused to do either. Various excuses were given for her violation of the treaty, but the true and only one was the importance of the Island of Malta to her Mediterranean commerce, and as an outpost on the route to India. Napoleon saw this, and took his position boldly and distinctly, as we should now take ours. He notified the British Government that peace or war depended upon their evacuation of Malta:

"That rock of Malta, on which new fortifications have been erected, is doubtless of great importance in a maritime point of view; but it has a value far more important in my eyes; it touches the honor of France. What would the world say, if we were to submit to the violation of a solemn treaty signed by ourselves? Would they not doubt our energy? For myself, my part is taken: I would rather put you in possession of the heights of Montmartre than of Malta."

The time has arrived in the history of our negotiations with England on Central American matters for something definite. They should be notified that peace can be maintained only by the observance of her treaty stipulations, and that we mean what we say on the subject of the Monroe doctrine. If war comes, let it come; the honor of the country will be maintained, and the nations will learn that they must observe their treaty stipulations with us.

But we are told that England has formed an alliance with France intended for the west as well as the eastern continent. Suppose she has; this does not change the principle of right involved, or prevent other alliances from being formed, by which her commerce can be ruined and her power broken. This system of offensive and defensive alliances is not new with England. European history furnishes many instances of a similar character.

When she first interfered in European affairs, she practiced this system between France and Spain. The friend of first the one, and then the other, until she weakened and injured both. She next tried her skill in the north of Europe; and the same policy enabled her to estrange and weaken Denmark and Sweden, and to secure an ascendancy of those States. She had barely accomplished this desirable end, when Russia demanded her attention. The Czar Peter aspired to a maritime existence for his Government. For a period the advantages England enjoyed in supplying the wants of Russia, kept the two nations on the most friendly terms; but after the alliance between Spain and Austria, by which Gibraltar was threatened, and the relations of the European Powers were forced into new combinations, England found it necessary to fit out three fleets, two for the benefit of Spain, and one to protect Denmark and Sweden from contemplated movements on the part of Russia. In this movement England allied herself with the German States, and Prussia and France, and against her old ally, Austria. Soon after this, she renewed her relations with Spain; and by aiding or agreeing to aid Spain in Tuscany, Parma, and Placentia, she secured a full recognition to her claim to Gibraltar and Minorca. But in accomplishing this end, she violated the provisions of the quadruple alliance, and committed a breach against her old and

faithful ally. Walpole, however, succeeded in quieting Austria by a secret negotiation, by which he recognized the pragmatic sanction and the succession of Charles VI.

Her next stroke of policy was seen in the manner she avoided the war which grew out of the Polish succession. In doing this she violated a dozen different treaties, with as many different nations, and then succeeded by ingenious excuses and apologies in satisfying the offended parties. Her first difficulty after this period was with Spain, in the war of 1739, which resulted from her trespasses on the Spanish territory at "the Belize," and her attempt to rob Spain of the commerce with her American territories. To correct the one, and avoid the other, Spain was driven to the use of the severest measures. She asserted the right "of visit and search," and attempted to exercise it. This England could not tolerate, and hence her declaration of war against Spain. Can we, with honor, permit England to do now, what she refused to permit Spain to do in 1739? We have her authority for denying the right, and we should, if another offense is committed, adopt her remedy.

The ambitious policy of France, in the Austrian war of succession, led England into a grand alliance with Austria, Russia, and Prussia. Through this combination she forced the peace of Aix-la-Chapelle, by which Austrian interests were protected from French cupidity. First, the ally of Austria, then of Spain, and then of France—for and against each in their turn; and when her interests could be promoted, it was of little importance with which one she acted. In the next European war, she was against all her old associates, having been forced into alliances with Prussia and Sardinia and Portugal. In these relations she was not faithful, but, forming a separate treaty, she left Frederick II. to get out of the difficulty the best way he could. In each of the continental wars alluded to, the Spanish, the Austrian war of succession, and in the seven years' war, England had different allies; and in each instance she made secret and selfish treaties, in which she deserted her principal confederates.

During the wars of the French Republic, England pursued the same crooked policy. First the ally of one and then of another nation, but always influenced more by her commercial interests than by her treaty stipulations. While we are compelled to censure her want of good faith, we cannot avoid admiring her noble bearing, and of justifying her deep interest in a commercial policy which has made her the great storehouse of the nations. We envy not her prosperity, but we demand the performance of her treaty stipulations, whereby we may hope to have an equal chance in the great race of civilization and national advancement.

I have thus alluded to British diplomacy, and the manner in which that great nation has too often violated its treaty stipulations, with regret. Contrasted with these blemishes, there is so much to admire in her past history and in her present character, that they are almost forgotten in making up the record of her greatness. But, there has been such strange misunderstandings about our Central American affairs; such repeated and positive contradictions between their language and their acts; such a dullness on their part, in comprehending the English language, of which they are unquestionably the accomplished masters; finally, such unwillingness to speak plainly and act promptly, that very many honest people doubt their professions of good faith and plain dealing with us in the Central American questions.

Under these circumstances, it is excusable to look into their past history in such matters. From these circumstances, in connection with our experience already, it is not improper to doubt England's sincerity in what she now says. If it is her intention to comply with the stipulations in the Clayton-Bulwer treaty, why not do so openly, and without introducing her old system of triangular diplomacy. This attempt, on her part, to keep her treaty with us by entering into other treaties with the weak States of Central America, promises no good result. It is her duty as an honorable and powerful nation to meet this question squarely and openly; and it is our duty to demand this from her. We may, possibly, gain the same result from the course proposed by Brit-

ain, but it will be done at the sacrifice of our independence and equality.

In my opinion, it is our duty to take the highest possible position on this question, and to maintain it at all hazards. In this way, both peace and honor can be maintained, but in no other course can it be done. Let it be known that the shadow of our flag covers the ship with an enchanted atmosphere, into which no nation can penetrate with impunity, and we will hear no more of "visit and search," under any circumstances whatever. Let the Clayton-Bulwer treaty be abrogated at once, and if necessary, by force, and we will not again be called upon to spend ten years in fruitless and irritating diplomacy!

Mr. MORRIS, of Illinois. I desire, Mr. Chairman, to have read the resolution submitted by the gentleman from Missouri, in reference to the Territories of the United States.

The Clerk read as follows:

Resolved, That so much of said message and accompanying documents as relates to the Territories of the United States, the establishment of a territorial government over Arizona, and the provision for a general act for the admission of the Territories into the Union is referred to the Committee on Territories.

Mr. MORRIS, of Illinois. I move to amend that resolution by adding the following:

And that the said committee be authorized and directed to report to the House the following bill—

Mr. PHELPS, of Missouri. I have only to suggest to the gentleman from Illinois that the resolution he refers to is not at this time before the House. There will be the same course of procedure on the resolutions I have offered as upon a bill; each resolution will be taken up in its turn; and all the gentleman can do now is to give notice of his amendment. I have no desire to preclude it.

Mr. MORRIS, of Illinois. I think that I am in order in submitting my motion at this time.

The CHAIRMAN. The Chair understands the gentleman from Missouri to make the point of order, that the amendment of the gentleman from Illinois is not now in order.

Mr. PHELPS, of Missouri. I merely threw out the suggestion to the gentleman that we have not yet reached the resolution which he proposes to amend. The resolutions have only been read for information; and I made the remark in order that the gentleman and the House might not be taken by surprise.

The CHAIRMAN. When the resolutions are taken up for final action, they must be taken up as they have been offered; and the gentleman's amendment will not be in order until the resolution has been reached which he proposes to amend.

Mr. MORRIS, of Illinois. I understood the gentleman from Missouri to submit certain resolutions to this committee, and that these resolutions are now before us for consideration, and no one of them is entitled to any particular precedence. I am aware of the sensitiveness of some gentlemen in regard to the amendment I propose. I gave notice on the 8th instant that I would ask for leave to introduce it on the next day, which was two weeks ago, and I had it ready to introduce on that day, but no opportunity was then afforded me to do it. I hope, therefore, that my friend will not insist on his point of order. If we are not to move to amend the resolutions until they come up for final action, one by one, we may never get a chance to amend them. But still, if I am not allowed to move my amendment, I cannot be prevented from giving my views on the subject of my proposition. Neither the Chairman nor the gentleman from Missouri can gainsay that position. Let the Clerk read the bill as a part of my speech.

The Clerk read as follows:

A bill for an act granting to the people of the several organized Territories of the United States the right to provide, through their respective Legislatures, for the appointment or election of their Governors, Judges, and all other territorial officers, in such mode or manner as said Legislatures may by law determine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the several organized Territories of the United States be, and they are hereby, authorized and empowered to appoint or elect their Governors, Judges, and all other territorial officers, in such mode or manner as their respective Legislatures may by law determine, and to define their powers and prescribe their duties: *Provided*, That nothing herein contained shall be so construed as to interfere with the right of the existing officers in said Territories, or those that may be hereafter appointed by the President, to hold their respective offices until their successors are appointed

or elected, and qualified in pursuance of the laws of said Territories.

SEC. 2. *And be it further enacted*, That the people of the Territories hereafter organized by acts of Congress shall be vested with the same right and power of appointing or electing their Governors, Judges, and all other territorial officers, and defining their powers and prescribing their duties, which, by the provision of the foregoing section, are conferred on the people of the Territories now organized.

SEC. 3. *And be it further enacted*, That all suits and causes of action in the said Territories, arising under the Constitution and laws of the United States, shall be tried at such times and in such manner as Congress may by law provide.

SEC. 4. *And be it further enacted*, That the people of any Territory of the United States, now organized, or which may be hereafter organized, are hereby authorized and empowered to call a convention and frame a constitution preparatory to admission into the Union as a State, in such manner as their Legislature may by law prescribe: *Provided*, That application for such admission into the Union shall not be made until the population of such Territory shall be sufficiently numerous to entitle it to one Representative in the House of Representatives, on the basis of the apportionment of representation established by Congress for the several States: *And provided further*, That no such application shall be received or entertained by Congress until the constitution framed for said Territory shall be submitted to the people thereof, by a direct vote, for their approval or rejection, and shall have been approved by a majority of the legal voters of said Territory: *And provided further*, That nothing herein contained shall operate against the immediate admission of Kansas and Oregon into the Union.

SEC. 5. *And be it further enacted*, That all acts and parts of acts coming in conflict with this act be, and the same are hereby, repealed.

Mr. MORRIS, of Illinois. Mr. Chairman, it will be remembered by the committee, as I have already stated, and desire to repeat, that some two weeks ago I gave notice to the House that on the next day I should ask permission to introduce the bill which has just been read at the Clerk's desk. I have earnestly sought, sir, from that day to this, for an opportunity to introduce it, that it might come before the House for its consideration. No such opportunity having been offered me, I have been compelled to resort to having it read as a part of my speech, that I may show that I was in good faith in the notice I gave.

I do not propose, however, to stop now and discuss the merits of that measure. I am desirous that an examination of the bill shall be made by each member of the House, and that it shall be considered by the country; and if it shall be thought just and right, as I believe it to be, that it will receive the sanction of Congress when we come to a final vote upon it. I shall offer it to the House, not for the purpose of gratifying any idle curiosity, nor, as some gentlemen might suppose, for Buncombe; but I shall offer it in good faith, believing it to be just and proper.

Mr. Chairman, the President, in his annual message, has seen proper to open the whole subject of our difficulties with Kansas and our relations to the Territories, and to assume to instruct us in reference to our obligations toward them. I regret this deeply; but there is no one responsible for it but himself. I can say, for one, that when I returned to this House as a Representative from the State of Illinois, I was in hopes that old issues which had passed and gone would be suffered to sleep. But they have been revived; and the same line of policy which has been pursued by the Administration and its friends, from the opening of the Lecompton question down to the present moment, towards the Democracy of Illinois—and everything indicates it—is to be followed up.

But I will not now enter into a discussion of the message, or that policy in detail. I will not now pause to vindicate the Democracy of the State which I have the honor, in part, to represent. Its history, sir, speaks for itself; and is a proud and enduring monument to its fidelity to principle. Its banner, in the hottest and fiercest political battles that have ever been fought in the nation, has never trailed in the dust. That State has never cast her electoral vote for any other than the Democratic candidates for President and Vice President. And yet, sir, the Democratic party there has been subjected to the humiliating spectacle before the nation of having its bravest and truest men brought to the guillotine, and their places supplied by miserable scoundrels and sycophants. I will say this much now; and if occasion offers, I intend to prove to this House and the country the character of these miserable creatures, who crowd around the public table for the crumbs that may fall from it. Thank God, sir, the true-hearted sons of Illinois value their principles far above place or official position; and these vampires who have sloughed off from the

moral face of society, and who congregated here last winter for the loaves and fishes, while they hold their places, do so in defiance of the public wish, and at the price of public scorn. And, sir, when the proper time arrives, I shall call names; I shall produce records; and I shall show that some of the most infamous men that have ever disgraced public station or society, have been placed in official positions in Illinois, over the heads of brave, and true, and good men; and aside from the record, I will prove it, in part, by their turning State's evidence on each other.

Mr. WASHBURN, of Illinois. Do I understand my colleague to say that persons of that description have been appointed to office by the present Administration?

Mr. MORRIS, of Illinois. I have said, Mr. Chairman, what I have said. I have nothing to take back. I have nothing to retract from the course which I have heretofore thought proper to pursue upon the Lecompton question. I do not mean to say that the character of the individuals alluded to was known to the President or the heads of the Departments at the time of their appointment. I simply charge that such men have been appointed to office, and as to how far the heads of Departments here are responsible or culpable, is a matter for future consideration. I merely charge the fact, that in consequence of our difference with the Administration in reference to the Lecompton constitution, the Democracy of Illinois have been pursued and hunted down everywhere by Federal patronage and power. Be it so; it will make no difference in my action here as a Democratic Representative upon this floor.

I have said, sir, that the Lecompton question was the origin of all this hostility towards the Illinois Democracy; but I will not say that. No, sir, this war is upon Illinois' distinguished Senator, and its origin lies away behind that. Lecomptonism was merely seized upon as a pretext to rally an opposition to him.

But I am fearful that I shall occupy too much of the time of the committee. I wanted simply to say this: that we were hunted down in consequence of a difference of opinion between us and the Administration on one question alone; that every Democrat in that State who dared to take his position in opposition to the admission of Kansas, under the Lecompton Constitution, was proscribed; and I now repeat that no other class of Democrats has been so treated.

I could not, yesterday, help reflecting upon the sad—I had almost said melancholy—condition of my distinguished friend from Virginia, [Mr. MILLSON.] In discussing the pension bill, he was unfortunate enough to say to the member from Pennsylvania, that he thought he was advocating it because he saw specific duties in it. The gentleman from Pennsylvania nodded assent. By the remark of the gentleman from Virginia, he certainly left the impression upon the House and the country, that he was opposed to specific duties. I will shake hands with him upon that position. I am opposed to specific duties as much as he is; but I pity his condition, because I did not know but before night he might be read out of the Democratic party at the White House! He chose to differ from the President. We chose to differ from the President, and that was the result with us; and I do not know why he should be made an exception to the rule.

But, sir, my object in introducing the bill which was read at the Clerk's desk, is to relieve the people of the Territories from Executive influence, Executive power, and Executive interference, as they are, and of right should be, relieved from congressional intervention. I think I can; as I shall at the proper time undertake to do, demonstrate that we have the constitutional power to confer this right upon the people of the Territories, and that it is our sworn and bounden duty to do it. When that is done, we shall hear no more of the agitation of the slavery question within the walls of this Capitol. The evils which have grown up in the Territories in their domestic affairs have principally arisen from the mismanagement of the executives who have gone into them; and it is far better that you should leave the men who have settled them to regulate their own affairs, and select their own officers, than it is for Congress or the President to do it for them.

I shall endeavor to show that while the Governor of a Territory is responsible to the Presi-

dent for his acts, he exercises a local power over the local interests of the people of the Territory to whom he is no way responsible for the manner in which he discharges his duties.

I shall undertake, also, to show that while these judges are called Federal judges, they are nothing but local, territorial judges, passing upon the local rights and interests of the people, while they are responsible in no way to those upon whom they sit in judgment. I think these propositions can be clearly and conclusively demonstrated; and I hope when the measure comes before the House it will be fairly, dispassionately, and candidly considered, and that we shall take these Territories out from under the control and influence of power at Washington. You allow the people now to elect the members of their Legislature; you allow them to pass such laws as they think proper without submitting them to Congress for its approval or disapproval; and what reason can be offered why they should not also be permitted to choose their judges and other territorial officers? In every liberal government, sovereignty resides in its legislative department; the executive and judicial departments are only subordinate and auxiliary branches; and if you allow them to make their own laws, why not give them the power to execute them; and not hold the power here in the city of Washington, far away from the locality where it is to operate? When you talk about popular sovereignty, do not "keep the word of promise to the ear and break it to the hope."

Mr. KEITT. Will the gentleman allow me to ask him whether he was in favor of the repeal of the Missouri restriction?

Mr. MORRIS, of Illinois. I will answer the gentleman. I was in favor of that repeal; and if any gentleman has ever told him to the contrary—

Mr. KEITT. Nobody has; nobody has.

Mr. MORRIS, of Illinois. I believe the measure which repealed the Missouri line was eminently just and right. I so stated in a speech which I made in this House at the last session of Congress, and I have frequently stated it before. And why do I so believe it? Because it was one step towards giving to our distant settlements in the Territories the right of self-government. I want to follow up that step; and I call upon the gentleman from South Carolina, if he was in favor of that measure, (as I presume he was, for he voted for it,) to go on in his well-doing. If he believed in the doctrine of popular sovereignty then, and believes in it now, he ought not to oppose a bill which proposes to carry it out to its legitimate and proper extent. That the principle is right, he will hardly deny. If it was right when he supported it, it is right now. If it was right to give the people power to pass their own laws, it is equally right to give them the power to appoint the officers who are to execute those laws; and I call upon the honorable gentleman from South Carolina to stick to the bargain he made when the Missouri compromise line was repealed, and not to back down from it. If the shoe pinches, he must not wince. You may have the power—and I concede that you have it—to create the machinery of government for the Territories; but you have no power, when it is created, to operate it for the people. That power belongs of right to them, and you should leave them to exercise it. Because you own the soil, it does not follow that you own the man who lives on it. I assert the doctrine, without taking the time to more than merely enunciate it, that, when a man leaves one of the States to settle in a Territory, he goes there clothed with all the dignities, rights, powers, and privileges of an American citizen; and your Government has no right to deprive him of them. He carries with him the undoubted right to lay the foundations of his own institutions in his own way; to build them up in conformity to his own notions; and whenever you prevent him from doing it, you exercise an act of tyranny at which his nature revolts, and which is at variance with the whole genius of our Government.

Mr. RITCHIE. I would ask the gentleman what he considers the practical effect of his theory would be in the Territory of Utah, if it were carried into effect there?

Mr. MORRIS, of Illinois. I am very glad the gentleman has suggested that, for I want to talk about it, and I hope he will continue to make other sensible suggestions. I will treat the sub-

ject in a serious manner, for I believe the gentleman is a serious man, and wants to be treated in a serious way. I was aware that there was that objection to the bill, and that it would be urged before the House. My first answer to it is, that where you lay down a general rule, as I propose to do in this bill, there may be occasional cases where it will not operate well. But, sir, as wise legislators, are you to eschew or cast aside a measure, in itself right, because some evil or abuse may flow from it? Let the general principle apply wherever your Territories extend, and if evils follow, remedies for those evils will very soon present themselves.

But, sir, I have some little knowledge of this class of persons to whom the gentleman from Pennsylvania alludes, as he also is perhaps acquainted with their history. He is aware of the fact that they once resided in the State of Illinois.

Mr. RITCHIE. I only instanced the case of Utah as one of a whole class of cases. If we yield the government to the Territories; we permit them to establish any kind of institutions, though hostile to our own. They have already the Legislature; and if we give them the executive they will have the law in their own hands, and they may to all intents and purposes be a hostile nation. I admit that the position taken by the gentleman now is entirely consistent with the position taken by the repealers of the Missouri compromise in 1854; but I wished to point out the absurdity of the whole theory.

Mr. MORRIS, of Illinois. I did not hear the last remark of the gentleman from Pennsylvania; but I understand he is a bachelor, and does not know much about "domestic institutions;" and hence, if he was talking about territorial affairs, he may be excused if he errs. But I was going on to say, when interrupted, that if the gentleman is in earnest in reference to Utah, let him offer an amendment to the bill, excepting that Territory from its general operation.

Mr. RITCHIE. I want it to apply to Utah, as well as to all other Territories, if it is to apply anywhere.

Mr. MORRIS, of Illinois. I was about to add that it makes no difference whether these officers in Utah are appointed by the President or elected by the people, for the reason that if they are opposed to the institutions of the Mormons, they cannot remain there. If they are sent there by Executive authority, and approve of and wink at the delinquencies of the Mormons, and refuse to enforce the laws against them, they will be treated kindly by them, and be thus betrayed into a dereliction of duty. In other words, you cannot carry out a policy instituted by the Government towards the Mormons, in their present organized condition, which they are not willing to acquiesce in, any more than you can carry out an obnoxious course of policy towards the people of Kansas, Nebraska, or any other Territory. If your Government officers attempt to interfere with their institutions, as they have done in some instances, the result will be as it has been in the past—that they will be driven away. I am free to say that, so far as any beneficial influence is to result from the appointment of officers for that Territory, it would, perhaps, be just as well that the Mormons should make their own selections, as that they should be selected by the President, for the reasons I have assigned. If they are selected by the President, they yield obedience, as experience has shown, to Mormon dictation and Mormon behests. If the contrary were true, if they would enforce the laws, I might take a very different view of the matter; but still I would not abandon the great principle of self-government as applied to the Territories, though in the case of Utah I would be careful to guard against abuses.

When we had this measure before the House at the last session of Congress, I desired to ask gentlemen who were talking about enforcing the laws there, how they were to be enforced? Suppose the President appoints the Governor, the marshal, the district attorney, and the judges: what will it amount to, when the Mormons have the grand and the petit juries? You may find indictments, arraign them for trial, prosecute them ably, and your judges may instruct the jury to bring in a verdict of guilty; yet, as soon as the jury return to their room, they will laugh the charge to scorn, and render a verdict contrary to instructions. Hence, as in a practical point of

view, judging from the past, no beneficial results are to follow appointments made by the President; it is just as well that the Mormons should select their own Governor, judges, and other officers, as it is that you should send them there; because, when they get there, they have no power to enforce a solitary provision of your statute. Until very recently, Brigham Young, the great leader of Mormondom, has been acting as Governor under Executive appointment. My remedy for our Mormon troubles is, to repeal their organic act, treat them as alien enemies, and attach them to some neighboring jurisdiction for judicial purposes.

I did not, Mr. Chairman, when I rose, intend to occupy the time of the committee but a few minutes. I did not intend to enter into a general discussion of the measure which I shall submit at the first favorable opportunity. I only intended to give an outline of it, and an assurance to the House and the country that I had introduced it in good faith. And, sir, I intend to follow it up. If the measure is not passed at this session—and I must confess I have no expectation that it will—I shall press it upon the next Congress, and as long as I have the honor of a seat upon this floor, if it is not sooner disposed of.

Mr. JENKINS. I do not wish to embarrass the gentleman in his argument; but if he will permit me, I will ask him whether he is to be understood as taking the position in favor of the extension of the principle to which he refers, to Utah?

Mr. MORRIS, of Illinois. When Utah is in a state of rebellion I would so treat it. I have heard it said that it was in a state of rebellion. But this is not a matter I now propose to discuss. I refer only to general principles; and if the gentleman from Virginia thinks he can make anything by interrogating me, as he has on the Mormon question, he is welcome to it. I do not ask to take anything back. I have long since defined my position toward that people. I believe, this day, that they embrace within themselves more of corruption and wickedness than any other class of people upon the face of the earth; and further, that the day will come when their presence will no longer be tolerated by any society. The very law of self-preservation will induce the adoption of some means of disposing of them. We could not live with them in Illinois, nor can any people who are contiguous live with them in peace and safety. If they are in a state of rebellion we should treat them as rebels. I do not know that they are fighting against our troops. On the contrary, I believe the President, in his annual message, has congratulated the country on the termination of the Utah war. I cannot say that they are at war without disputing the statement of the President, for I have not the privilege of looking behind the screen; but, sir, I can guess; and if I should I would guess that there will be a fearful sequel to the Mormon troubles. You can never rely upon them.

But do not let us lose sight of a great principle. When the thirteen colonies declared their independence of the mother country, it was approved by the majority of the people. Would gentlemen have withheld that declaration with all its countless blessings, because perhaps it might bring one or two evils in its train, or one or two families might be benefited by it who ought not to have been. It is the business of legislators to look at the general bearing of a measure which is presented, to look and see whether the good predominates largely over the evil. When the good, as it does in this instance, largely predominates, then the measure ought to be adopted. The day is not distant when these Mormon outrages and difficulties will be corrected. And, sir, because they, with the rest of the Territories, may have the right to elect their Governors and other officers under this bill, that is no reason why the people of all the Territories should be treated unjustly. I hope, therefore, the measure will be adopted when it comes before the House.

I have, Mr. Chairman, only sketched a brief outline of my views, not having intended to do anything more when I rose than merely to present the bill. But as that privilege was denied, by what I regarded as the merest technical objection, the only alternative left was to present it as a part of a speech, and then to make the speech from necessity to fit the bill. I shall hereafter go more into the details of the subjects referred to.

Mr. DAVIS, of Mississippi. I ask the permission of the House to print some remarks upon the state of the Union generally.

Permission was granted. [This speech will be published in the Appendix.]

Mr. MILLSON. Mr. Chairman, I am debtor to the gentleman from Illinois [Mr. MORRIS] for his sympathies; but, I am happy to assure him, I have no need of them. I do not fear that my position in the Democratic party will be forfeited by a faithful adherence to the principles which have been consecrated by Democratic legislation. It is true, sir, that I avowed yesterday my opposition to the revival of specifics. The avowal was not new with me, and I am sure, did not surprise any of the gentlemen with whom I have been heretofore associated. I am opposed to specifics, and one among the strong objections I have to the pension bill, which was finally passed this morning, was that it induces the necessity, which I so much deplore, of a return to the system of high protective tariffs.

Sir, that bill came upon us in a most unfortunate moment—at a moment when the grave question is submitted to Congress, whether they shall adhere to the legislation of 1857, or return to the protective policy, which I supposed had been exploded by the unanimous consent of the civilized world. The passage of that bill involved the necessity of an increase of the duties upon imports. But for that, sir, I believe we could have successfully resisted any attempt to increase those duties; for even if it should be necessary to raise more money to meet the current expenses of the Government, we could have effected that object by loans. I prefer to effect that object by loans; for the operation of the tariff of 1857 would, I believe, in the meantime, have vindicated itself, and have shown, as soon as the recent commercial disasters had passed away, that an ample revenue could be raised under that tariff to meet the just and necessary expenses of Government. It was for this reason I so much deplored the action of this House; and shall still more deplore it if it shall be consummated in the Senate. It will, in that case, be absolutely impossible to avoid a recurrence to that system of high duties, which I supposed had been abandoned by the common consent of the American people.

Mr. RITCHIE. I desire to ask the gentleman one question. How is it that he asserts specifics are necessarily high duties? To my mind, specifics relate to the character, and not to the amount of duties.

Mr. MILLSON. The suggestion of the gentleman is altogether proper; and had I intended to go into any lengthened discussion of the question, I should not have omitted to notice the view which he has just now presented. There is no necessary connection between a high duty and a specific duty.

Mr. RITCHIE. That is how I understand it.

Mr. MILLSON. And I do not know that the President, in his recommendation, means to be understood as suggesting the propriety of imposing high rates of specific taxation. But I was not referring so much to the recommendation of the President, as to what I presumed to be the wish of the gentleman from Pennsylvania, [Mr. KUNKEL,] to whom I alluded yesterday, as one who doubtless saw in this pension bill visions of high rates of duties and specific taxes.

Mr. RITCHIE. I wish to remark, right there, that there is no necessary connection between the advocacy of a particular form of tariff and that of a pension bill. I, sir, for one, am the Representative of a high protective district, but I had the honor to vote against the pension bill on principle. I do not like it.

Mr. MILLSON. The gentleman is entitled to credit for voting against his interests.

Mr. RITCHIE. I do not think so.

Mr. MILLSON. I give him credit for it, sir; but the remark is still true, and it will not be contested here, that the passage of that bill, should it become a law, will make it necessary to raise the funds requisite to meet those expenses, either by loans or by a resort to increased taxation.

Mr. GIDDINGS. I wish to propound this question to the gentleman, whether you could not accomplish the same object by cutting down the expenses of the Army and the Navy to an amount equal to the amount of the pensions granted in the bill?

Mr. MILLSON. Why, sir, if \$10,000,000 be required for the payment of these pensions, it is only a truism to say that the \$10,000,000 can as well be supplied by lopping them off existing subjects of expenditures as by imposing an increased rate of taxation. But the inquiry is: can we wisely curtail those expenses? Can we do it without injury to the public service? If so, then let us do it. No one objects to that. But if we cannot meet—as we are assured by high authority we cannot—the necessary expenses of the Government, without increased funds, either from loans, or additional duties; why, then, I say that the passage of the pension bill necessarily brings with it an increase of taxation; and not merely that, but it will be made the occasion and the pretext for a return to the protective system.

Mr. MORRIS, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. MILLSON. I have no objection to these interruptions, sir, except that they keep me on the floor a much longer time than I expected to occupy it when I rose.

Mr. MORRIS, of Pennsylvania. I desire to see if I understand correctly the force of a remark made by the gentleman. I understood him to assert that the policy of protection had been universally abandoned.

Mr. MILLSON. As I supposed, sir, universally.

Mr. MORRIS, of Pennsylvania. Why, sir, it is the policy of all the leading States of Europe to the present day.

Mr. MILLSON. It has been abandoned by the science of the world—for political economy is a science; and upon this question all science is agreed. Sir, you cannot find in any of your universities, or in any of your primary schools, if the subject be taught there at all, any work upon the subject of political economy which does not condemn the antiquated protective system, unless, indeed, you resort to those works which are manufactured by protectionists for the occasion. Upon that subject all science has been agreed, from the days of Adam Smith down to the present time. From the time when the people of England had the privilege of speaking for themselves; from the time when they were emancipated under the reform bill, and permitted to send their own representatives to guard their own interests; from that day to this, I think I am warranted in saying this system has been exploded by the common consent of the civilized world.

Mr. STANTON. Will the gentleman allow me to ask him a question?

Mr. MILLSON. I will yield to the gentleman, if he wishes it, if he will first allow me to make a single remark in the way of explanation. It is this: I do not shrink from interrogation, but I only took the floor for the purpose of occupying it about three minutes. I did not wish or intend to detain the committee longer. I sought the floor merely for the purpose of making a brief reply to the personal allusion to myself, made by the gentleman from Illinois, [Mr. MORRIS.] If, after this explanation, the gentleman from Ohio desires to engage me in the discussion of other subjects, I certainly will not decline to be interrogated by him.

Mr. STANTON. I wish to ask the gentleman a single question. I understood him to say that by the common consent of scientific men the doctrine of protection was exploded. Now, I desire to ask him if it is not by common consent the policy of all civilized countries to protect their infant manufactures?

Mr. MILLSON. I do not understand it so.

Mr. STANTON. I want to know of one single instance of a civilized country which has not protected its domestic industry until it was able to protect itself without protection. If the gentleman can point to one, I shall be glad if he will do so.

Mr. SMITH, of Virginia. With the permission of my colleague, I will state that according to the authority of one of the most valuable periodicals of the day, *De Bow's Review*, our tariff is at this time more highly protective than that of any of the leading commercial nations of the earth.

Mr. STANTON. I trust gentlemen will not rely on *De Bow's Review*, when they have the commercial tables before them, giving them, side by side, the rates of duties under every foreign tariff compared with our own; and those tables show that ours are the lowest.

Now, I want to ask the gentleman from Virginia [Mr. MILLSON] a single question. He differs with the President in his recommendation as to specific duties. I want to know if he concurs with him in the opinion that, if increased duties be necessary, a discrimination should be made with a view to the protection of domestic manufactures?

Mr. MILLSON. I have, on a former occasion, some six years ago, I think, and in a discussion with the very gentleman from Ohio who now propounds this question, taken occasion to explain that there is not, and could not be, such a thing as a duty which is at the same time protective and revenue producing. I endeavored then to show, sir, that it is absolutely impossible, in laying a revenue tax, to discriminate for protection.

I do not mean to enter upon the argument now. I refer the gentleman to what I said in that discussion, which he may, perhaps, recollect, as he participated in it. I only express my opinion upon the subject, without meaning at this time to defend it.

Mr. STANTON. Well, I understand the recommendation of the President to be that if it be necessary to raise additional revenue, and increase the duties, they shall be increased upon the leading products of the industry of the country. My question is, whether the gentleman concurs with the President in that recommendation?

Mr. MILLSON. I do not.

Mr. STANTON. You do not?

Mr. MILLSON. I do not. So far from it, as I took occasion to explain last year, I desire revenue to be raised chiefly upon articles of foreign growth and manufacture, not competing with our own.

Mr. STANTON. That is as I understood the gentleman. He proposes to discriminate against protection.

Mr. MILLSON. I propose to raise taxes from imports for revenue alone. I propose, in shaping the details of a tariff bill, to have reference to no other consideration than the raising of revenue. I propose to lay such taxes as will yield, every dollar of them, an increase to the Treasury. I propose to avoid such taxes as will exclude articles from importation, with a view of adding to the cost and price of similar articles produced at home. That is my position upon the tariff.

Mr. RITCHIE. Mr. Chairman, I wish to make one remark with reference to what fell from the gentleman from Virginia, [Mr. SMITH.] He said, as I understood him, that he would pledge himself to prove that the present tariff of the United States is the highest protective tariff in the world.

Mr. MILLSON. The gentleman from Pennsylvania will excuse me if I decline to yield for a discussion between himself and any other gentleman. I think I have been indulgent enough in allowing myself to be interrogated.

Mr. RITCHIE. I desired to make but a single remark. I thought the gentleman had concluded what he desired to say.

Mr. MILLSON. In alluding to the abandonment of the protective policy, I did not mean to allude so much to the course of legislation at home and abroad, as to the enlightened scientific sentiment of the world. I refer to the opinions of the French economists upon this subject, to the opinions of English economists, and to those of American economists. I meant to refer to that enlightened public sentiment, even in France, when the Minister (Colbert) applied to the merchants of France to know what he could do for them, and when they replied to him, "*Laissez nous faire*"—let us alone. And I say that all the scientific works that have been produced upon this subject have concurred in and supported that sentiment. There is as universal a concurrence upon that subject, among those who have studied and understood it, as there has been among astronomers since the time of Copernicus in regard to the revolution of the earth around the sun. It is true that ignorance may refuse to believe that the earth moves, and not the sun; but we can only reply that all science is agreed upon it.

Now, sir, I do not consider the voice of those gentlemen who represent the protected interests, as always expressing even their own individual sentiments upon the subject. I know that men are sometimes subject to a bias which inclines them to shape their opinions according to their in-

terests. I believe, and have always believed, that the great Webster was too intelligent a man not to see the hollowness and the shallowness of the argument which he, from time to time, produced, as the advocate of the interests committed to his guardianship.

One word more and I have done. The House, I hope, will pardon me for this discursive and unpremeditated argument, for I had no purpose whatever of entering upon a discussion of this subject. I only wanted to show the reasons for making the remark which I made yesterday, to which the gentleman from Illinois [Mr. MORRIS] made allusion. He feared I might be read out of the Democratic party by the Administration, because of my opposition to specifics. I have no such fear. Nor do I fear that the Democratic party will abandon their own position upon this subject. I do feel strongly the dangers resulting from the passage of this pension bill, because of the strength and sincerity of my opposition to a protective tariff. I believe the people of the United States had determined to abandon the system of protection; I believe they will abandon it, if left to themselves by Congress. Unless heavy additional burdens of taxation are imposed upon them by their Representatives in Congress, they will abandon it. They have so determined in the past triumphs of the Democratic party. They will so determine again, in the future triumphs of the Democratic party, if it is once more organized as a Democratic party, and only as a Democratic party.

Mr. NICHOLS obtained the floor.

Mr. RITCHIE. I ask the gentleman from Ohio to yield me the floor to make a single remark, which will not occupy more than thirty seconds.

Mr. NICHOLS. I will yield the gentleman five minutes of my time, and not more.

Mr. RITCHIE. I will not occupy half that time. It was stated by the gentleman from Virginia, [Mr. SMITH,] who addressed the committee before the last gentleman, that he believed the existing tariff was the highest protective tariff ever known. I have no doubt the gentleman can make that position out verbally completely to his own satisfaction; but the practical business men of the country know that such is not the fact. There is a great deal of difference between the business calculations of a scientific man on paper and the experience of a practical business man; and the gentleman will find just this difference between his verbal demonstrations and those of practical business men.

The gentleman who last addressed the committee will find, running through all his remarks, the same difficulty. The gentleman believes that the ignorant peasants resist the truth, but he will find that the conclusions of the practical farmers and mechanics will overturn all the verbal arguments, or arguments on paper, of mere men of letters; and understanding the fallacies of the argument of the gentleman from Virginia, I pledge myself to prove them to the satisfaction of the gentleman from Virginia himself, if his mind is not utterly hardened against the truth.

With the consent of the gentleman from Ohio, I now move that the committee rise.

Mr. NICHOLS. I yield for that purpose.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman (Mr. HUSTON) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bills Nos. 662 and 663, which he had been instructed to report back to the House without amendment, and with the recommendation that they do pass; that the committee had also had under consideration the annual message of the President of the United States, and had come to no resolution thereon.

Mr. PHELPS, of Missouri, demanded the previous question upon the engrossment of House bill No. 662; it being the pension appropriation bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time.

Mr. PHELPS, of Missouri, demanded the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then passed.

Mr. PHELPS, of Missouri, moved the previous question upon the Military Academy appropriation bill.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PHELPS, of Missouri, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then passed.

Mr. PHELPS, of Missouri, moved to reconsider the votes by which the two bills were severally passed; and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. BARKSDALE, by unanimous consent, introduced a bill for the relief of the Mobile and Ohio Railroad Company; which was read a first and second time, and referred to the Committee on Public Lands.

LOCATORS UPON SWAMP LANDS.

Mr. LOVEJOY, by unanimous consent, introduced a bill for the relief of locators upon swamp lands; which was read a first and second time, and referred to the Committee on Public Lands.

CUSTOM-HOUSE AT GALVESTON.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to report back from the Committee on Commerce Senate resolution (No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas, for the purpose of putting it upon its passage. I will say to the House, that it is a matter of great importance to have it passed without delay.

Mr. JONES, of Tennessee. If it is to be put upon its passage, I object. I think it doubtful whether we have a quorum here.

ACQUISITION OF CUBA.

Mr. DAVIS, of Mississippi, asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee on Foreign Affairs be instructed to report a bill authorizing and requiring the President of the United States to take and retain the possession of the Island of Cuba, unless, within the next six months, the sum of \$125,655 51, acknowledged in the year 1854 by the Spanish Government to be due to citizens of the United States for duties unjustly exacted from American vessels at different custom-houses in Cuba, be paid, and satisfaction be given to the President for insults heretofore offered to our flag, and injuries inflicted on the persons and property of our citizens.

Mr. MORGAN objected.

CALL OF STATES FOR BILLS, ETC.

Mr. CRAIG, of Missouri, asked unanimous consent to introduce the following resolution:

Resolved, That at one o'clock, to-morrow, the Speaker will proceed to call the States; and upon such call, members may introduce bills and joint resolutions for reference, of which previous notice has been given.

Mr. NICHOLS objected.

ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. SMITH, of Virginia, asked unanimous consent to introduce a bill, of which previous notice had been given, for the relief of the Alexandria and Washington Railroad Company.

Mr. PETTIT objected.

MRS. SHAW.

On motion of Mr. PENDLETON, it was

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of the application of Mrs. Shaw.

J. D. TREVILLE.

On motion of Mr. MILES, it was

Ordered, That leave be granted to withdraw from the files of the Court of Claims the papers in the case of Captain J. D. Treville, for the purpose of reference to a committee of the House.

MARIA AND ELIZABETH SWART.

Mr. ANDREWS asked unanimous consent to introduce a bill, of which previous notice had been given, for the relief of Maria Swart and Elizabeth Swart.

Objection was made.

Mr. CRAIG, of Missouri. I understand the gentleman from Ohio [Mr. NICHOLS] withdraws his objection to my resolution, if modified.

Mr. NICHOLS. I have certainly no objection if the gentleman modifies the resolution so as to provide that the States shall be called at half past twelve o'clock to-morrow, the call to be continued half an hour.

Objection was made.

MILITARY LANDS IN OHIO.

Mr. STANTON asked unanimous consent to introduce a bill, of which previous notice had been given, ceding the vacant lands in the Virginia military district in the State of Ohio, for school purposes.

Mr. HUGHES objected.

And then, on motion of Mr. DAVIS, of Mississippi, (at three o'clock and forty minutes, p. m.) the House adjourned.

IN SENATE.

THURSDAY, December 23, 1858.

Prayer by Rev. F. X. BOYLE.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. CRITTENDEN presented the petition of Leslie Combs, praying the payment of Texas bonds, formerly held by him, but which have been lost, and also a *pro rata* distribution of the money appropriated by Congress for the satisfaction of the Texas bonds, and now remaining in the Treasury; which was referred to the Committee on Claims.

Mr. CAMERON presented proceedings of a meeting of the soldiers of the war of 1812, held at Uniontown, Fayette county, Pennsylvania, December 16, 1858, in favor of the enactment of a pension law that will be just to the Government and generous to the soldiers of that war; which were referred to the Committee on Pensions.

He also presented the petition of William H. Crabbe, clerk of the navy-yard at Philadelphia, praying that the salary of the clerks at the several naval stations may be increased; which was referred to the Committee on Naval Affairs.

Mr. BROWN presented a petition of citizens of the District of Columbia, praying the enactment of a law to prevent malicious mischief and to protect property in that District; which was referred to the Committee on the District of Columbia.

Mr. KING. I present the petition of Mary Everts, of Friendship, in the county of Allegany, State of New York, representing that she is the only surviving child of Colonel Gideon Brownson, formerly of Sunderland, in the county of Bennington, in the State of Vermont. Her father, as she has been informed by him, was a soldier in the French war, from the State of Connecticut; before the commencement of the revolutionary war, he moved to Sunderland, and was at the taking of Ticonderoga under Colonel Ethan Allen, and subsequently commanded a company in Colonel Warner's regiment. He was engaged in, and wounded at, the battle of Bennington, and subsequently was taken by a scouting party of Indians; was wounded, and taken as a prisoner to Montreal. Previous to the close of the revolutionary war, she represents that her father was commissioned, and served, as a major of a regiment, and his services are in part, or wholly, shown by the records in the Pension Office at Washington, and in the office of the Secretary of the State of Vermont. The petitioner is seventy-five years of age; she is very poor, and has no means of supporting herself; and she respectfully asks Congress to grant to her an annual pension to continue during her life. I move that the petition be referred to the Committee on Pensions.

The motion was agreed to.

Mr. KING also presented the petition of citizens of Friendship, New York, praying that a pension may be allowed to Mary Everts; which was referred to the Committee on Pensions.

He also presented the petition of officers of the State government and members of the Legislature of New York, praying that a pension may be granted to Mary Everts; which was referred to the Committee on Pensions.

Mr. SIMMONS presented the petition of John

T. Ferguson, administrator of John Ferguson, late naval officer at the port of New York, praying to be paid his portion of the proceeds of certain wool which has been paid into the Treasury; which was referred to the Committee on Claims.

Mr. DOOLITTLE presented the memorial of M. Meeker, remonstrating against the right of an officer of the Government to exact rent from certain lead mines worked by him; and asking that the same rule may be applied to him that was applied in the case of John P. B. and Henry Gratiot; which was referred to the Committee on Claims.

Mr. RICE presented a memorial of citizens of Washington Territory, praying to be reimbursed a sum of money expended by them in opening the military road from Fort Steilacoon to Fort Walla Walla; which was referred to the Committee on Military Affairs and the Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SIMMONS, it was

Ordered, That the petition and papers of Joseph K. Boyd, on the files of the Senate, be referred to the Committee of Claims.

On motion of Mr. IVERSON, it was

Ordered, That the petition and papers of C. B. Chuskey, on the files of the Senate, be referred to the Committee of Public Buildings and Grounds.

HESTER STOLL.

Mr. SHIELDS. I present the petition of Hester Stoll, widow of Urban Stoll, late a soldier in the Army, praying for a pension. I will state, in presenting this petition, that the petitioner is the widow of a soldier who served some twenty-six years in the Army, and received an honorable discharge and a small pension for his services; that she herself served as hospital-matron throughout the Florida war, and attended to the sick and wounded in that war. She afterwards accompanied the American army when it landed at Brazos Santiago, and acted as hospital-matron throughout the whole of that campaign in Mexico. I know that her services were exceedingly valuable in connection with the sick and those who were suffering from privation and wounds. She is now a very old woman, and calls upon the sympathy of Congress. I hope the Committee on Pensions will consider her case favorably, and report a bill for her relief. I move its reference to that committee. The motion was agreed to.

GENERAL NATHANIEL GREENE.

Mr. CRITTENDEN. Mr. President, I am requested to present to the Senate the petition of the grandson of General Nathaniel Greene of the revolutionary army. The object of the petition will be best made known by its reading. I present it with a great deal of pleasure to the consideration of the Senate. I ask that it be read.

The Secretary read it, as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled:

It is universally acknowledged by the students of our revolutionary history, both in Europe and in America, that next to Washington the first place was held by Nathaniel Greene, of Rhode Island. This officer joined the army before Boston immediately after the battle of Lexington, as Brigadier General of the contingent of his native State; was made Major General in 1776; Quartermaster General in 1778; an office which he accepted only at the urgent solicitation of Washington and the committee of Congress; Commander-in-Chief of the southern department in 1780; served through the whole war without a day's furlough; and died three years after the peace, bequeathing his reputation to the honor and justice of his country. His private and official correspondence during this period contain important materials for the general history of the war, and the only authentic ones for the history of the Quartermaster General's department, and of those brilliant campaigns which rescued the Carolinas and Georgia from the enemy.

For more than ten years your memorialist has been engaged in collecting and arranging these documents, in the hope of preserving for posterity this essential part of our national history. They consist of more than six thousand original letters, upwards of two thousand of which were written by General Greene. The only method by which they can be secured against the chances which have destroyed so many invaluable documents, and made generally accessible to the students of our history, is by publication. General Greene's own letters will fill nine volumes, making, with his life, ten volumes of the same size and style with the first edition of Sparks's Washington. It is for the accomplishment of this undertaking, exceeding the just bounds of individual enterprise, and belonging to a class recognized by all Governments as strictly national, that your memorialist asks Congress to give its aid, by taking two thousand copies, at the rate of three dollars a volume.

On the 8th of August 1780, six weeks after the death of General Greene, it was resolved by a Congress familiar with all the circumstances of his career, and upon the report of

a committee composed of Mr. Lee and Mr. Carrington, of Virginia, and Mr. Pettit, of Pennsylvania:

"That a monument be erected to the memory of Nathaniel Greene, Esq., at the seat of the Federal Government, with the following inscription:

"Sacred to the memory of Nathaniel Greene, Esq., a native of the State of Rhode Island, who died on the 19th of June, 1786, late major general in the service of the United States, and commander of their army in the southern department. The United States in Congress assembled, in honor of his patriotism, valor and ability, have erected this monument."

"Resolved, That the board of Treasury take order for the due execution of the foregoing resolution."

That monument was never erected, and not a stone remains to show where the ashes of the hero of the South mingled with the soil of the country which he saved. Your memorialist, the son of his still-surviving son, takes this opportunity of declaring, in the name of his family, their united belief that the best monument which can be raised to the memory of such a man, is by perpetuating and diffusing the authentic record of his actions.

GEORGE WASHINGTON GREENE.

NEW YORK, December 18, 1858.

Mr. CRITTENDEN. I move that the memorial be referred to the Committee on the Library. The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 406) to authorize the city of Washington to distribute and use the water soon to be introduced therein from the Potomac river, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Buildings and Grounds; which was agreed to.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the letter of the Second Auditor of the Treasury, communicating copies of accounts of persons charged with disbursements or application of moneys, goods, or effects, for the benefit of the Indians, during the year ending 30th June, 1858, together with a list of the names of the persons to whom goods, moneys, or effects have been delivered during that period, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs, to obtain their opinion as to the propriety of printing the report; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the resolution of the Senate of April 1, 1858, relating to the amendment of the laws for taking affidavits and holding to bail, so as to enlarge the powers of commissioners, asked to be discharged from the further consideration of the subject; which was agreed to.

COURTS IN ALABAMA.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the bill (S. No. 478) to provide for holding the courts of the United States in the State of Alabama, have instructed me to report it, with a recommendation that it pass. I ask the Senate to allow its present consideration. If it gives rise to the slightest debate, I am willing that it shall go over. It is a temporary law, arising from an emergency owing to the illness of the judge of that district. I can make a statement explaining it, in a few moments. I hope it will be considered now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BAYARD. The necessity for passing this bill, which is purely temporary in its character, arises from the illness and the precarious state of health of the existing judge of the district courts in Alabama. The judge of the supreme court, who presides in the fifth circuit, is willing to assume those labors temporarily while the district judge is under that disability, without any expense to the United States, or any compensation. It is impossible, under the existing laws—which provide for disabilities of that kind by taking judges of the same circuit—to provide for this case, owing to the press of business on the Louisiana district judge and the other judge in the fifth circuit. Unless something be done, during the illness of the district judge, the suitors will be left without remedy. I think there can be no possible objection to the bill. It is temporary in its character, and is limited expressly to the duration of two years. I hope the Senate will pass it, so that justice may be had there.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. CRITTENDEN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 481) to prescribe the time and manner of holding elections for Senators of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 482) to divide the State of Iowa into two judicial districts; which was read twice by its title, and referred to the Committee on the Judiciary.

The bill (S. No. 18) to appropriate one million acres of the public lands of the United States for the benefit of free public schools in the District of Columbia, introduced by Mr. Wilson, at the last session, was, on his motion, taken from the table and referred to the Committee on the District of Columbia.

ROGUE RIVER INDIANS.

Mr. SEBASTIAN submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish to the Senate a statement showing the amount yet remaining due to claimants and unprovided for, under the third article of the treaty made with the Rogue River Indians, of Oregon Territory, on the 10th day of September, 1853, as ascertained by commissioners appointed for that purpose.

SPECIFIC DUTIES.

Mr. SIMMONS. I beg leave to offer a resolution of inquiry, and to ask for its consideration at this time:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate a plan for raising revenue sufficient in amount to meet the ordinary expenses of the Government, by the imposition of specific, instead of *ad valorem*, duties, according to the recommendation of the President in his annual message to Congress at its present session; and that he also furnish a schedule of all articles upon which specific duties have been levied under any of the revenue laws of the United States; and to add to such schedule such other articles upon which, in his judgment, specific duties may be safely and conveniently imposed, (with the average value, for the last five years, of such of them in foreign countries and in the United States as he has the means of ascertaining,) with the rate per centum which was collected upon the value of the principal articles subject to specific duties under the tariff act of 1842.

Mr. IVERSON. Let that resolution lie over.
The VICE PRESIDENT. Objection being made, the resolution will lie over.

Mr. SIMMONS. The object of this resolution is to get some information, and there will be no day to call it up until after the recess, unless it is considered now, and the schedule can as well be made out while we are off on a visit as at any other time. It is a mere matter of information.

Mr. IVERSON. I do not want the information myself, and do not want it presented here.

Mr. SIMMONS. I do.

THE IRON TRADE.

Mr. CAMERON. I presented last week a memorial from a convention of ironmasters in relation to the manufacture of iron, giving many statistics in regard to it. The question of printing it was referred to the Committee on Printing; and I am now authorized by the committee to report in favor of printing it. I ask that the report may be concurred in.

Mr. DAVIS. I will not object to taking up the report, if such be the pleasure of the Senate; but I give notice that I shall oppose the printing, and give my reasons for that opposition.

Mr. CAMERON. If it requires unanimous consent—

The VICE PRESIDENT. The report having been made to-day, it requires unanimous consent to consider it. The Chair has not heard an objection.

Mr. CLINGMAN. I object to taking it up now.

A. HARRIS AND S. F. BUTTERWORTH.

Mr. SEWARD. I ask the consent of the Senate to take up the bill (S. No. 201) for the relief of Arnold Harris and Samuel F. Butterworth. The levy of an execution on the property of the defendants requires that it should be passed at an early day. It is reported by the Committee on the Post Office and Post Roads, and I presume there will be no objection to it.

Mr. TOOMBS. I object.

AGRICULTURAL COLLEGES.

Mr. STUART. I wish to ask the Senate to

take up the bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts. It is a bill which I had made the special order the other day.

Mr. FITZPATRICK. I inquire of the Senator from Michigan, if his object in taking up the bill is to discuss it, or give it any particular direction?

Mr. STUART. My object is to ask the Senate to vote upon the bill to-day. That is the object I have in asking the Senate to take it up.

Mr. FITZPATRICK. The same objection which I urged to the Senate on a former occasion applies with equal, if not more, force to-day than on the day the Senator last asked the Senate to take up and discuss that bill. If I understand correctly, that bill involves the appropriation of a very large amount of the public lands, approaching six million acres. It is one which attempts to establish a new theory in the disposition of the public lands, and the relations of this Government towards the States. I hardly believe that my friend from Michigan supposes that that bill can be taken up and a vote obtained on it to-day, involving, as it does, important principles, particularly as it has not been reported to this body by the sanction of a majority of the committee that had charge of it. It seems to me that, at the last hour, when we are about to adjourn for the holidays, it would be out of place to take up and dispose of such a bill when two of the Senators who composed the committee that investigated the subject are absent. The Senator from Arkansas [Mr. JOHNSON] is not in his seat, nor has he been here since the commencement of the session. He, doubtless, will be prepared to throw some light on this subject; he is expected here before Congress reassembles after the holidays.

Another important member of that committee, the Senator from Ohio, [Mr. PUGH], is also absent. He has been detained, as I have before stated to the Senate, by indisposition—not, to be sure, in his own family, but in families connected with him. I have written to that Senator as to the importance of his presence here, and I am frank to say that I want the benefit of his counsel, and the knowledge he has, and the light he can throw on this bill, before I vote upon it. I take it for granted, from what he said to me in his letter, received but a few moments before the call was made by the Senator to take up that bill, a few days ago, he will be here by the time Congress reassembles. He is decidedly opposed to the bill, and is anxious to be here before it shall be acted on by the Senate.

Now, I call upon the Senate to say if it is proper, and awarding the usual courtesy to the absent Senators, to take up and pass a bill of such grave importance, when we are about to adjourn for ten days, with the almost absolute certainty that two members of that committee will be here when we meet again. I trust that the Senate will not take up the bill, and will not attempt to consider it until an opportunity shall be allowed to those who are opposed to it to be heard. I am not a member of the Committee on Public Lands, and do not profess to be conversant with the details of the bill; but I say to the Senate, that it is one which demands very serious consideration before it should receive the sanction of this body. One member of the committee says that he is anxious to be heard upon it; I trust, therefore, the Senate will not yield to the motion made by the Senator from Michigan; but if his object is to be heard, without a design of pressing the Senate to a vote, I am willing to hear him. I was not present when the motion was made to make the bill a special order, or I should have objected to it at that time.

Mr. STUART. I ought to have corrected a misapprehension of the Senator from Alabama the other day. The only reason why I did not do it is the strong disinclination I have to discuss a question on a motion to take up the bill. But the Senator is entirely mistaken in supposing that the bill is reported to the Senate without the sanction of the Committee on Public Lands. A majority of the Committee on Public Lands were in favor of reporting the bill, and the committee authorized it to be reported. One of the members of that committee, at the time the report was made, expressed himself as unable to say what his course would be on the bill itself; but on the

very day, or the next day after, the bill was reported, he having authorized the report, he told me he was for the bill, and would vote for it.

But, sir, it is a mistake to suppose that it was reported without the sanction of a majority of the committee. It was reported with the sanction of a majority of a full committee; and certainly it is strange that surprise should be manifested that I should urge action upon this bill. There is every consideration why I should do so. I have been anxious to get it up, but other measures have been interposed to prevent it, from time to time; certainly not measures of any greater importance.

Now the Senate is about to adjourn for ten days or a fortnight, and then appropriation bills will be coming in here, and we shall be urged by the chairman of the Committee on Finance not to consider any other subject so long as we have an appropriation bill before us. This bill, therefore, like every other measure of the kind, will be constantly met with impediments, and those impediments will thicken as the session progresses. But, sir, it must be determined by the pleasure of the Senate. I am only acting in the discharge of what seems to me to be an imperative duty resting on me. If the Senate, for reasons of their own, decline to take up this measure, certainly I can find no fault with them; but it is my duty to ask them to do it, and to urge a vote upon it.

So far as the Senator from Ohio is concerned, as I said the other day, I think the request made on his behalf, under the circumstances, entirely unreasonable. He is acquainted with no facts that are not obvious to every Senator in the body. All he desires is to present a legal argument upon the power of Congress to make such a grant. That question is as old as the Government itself; and each Senator doubtless entertains his own views upon it, which would not be affected by anything that the Senator from Ohio could say. The facts involved in the bill are plain and simple; they are upon the face of it; they are easily comprehended; so that there is nothing, either in the constitutional question or in the practical question, that every Senator is not perfectly familiar with. I desire not to take up the time of the Senate.

Mr. FITZPATRICK. In relation to the question of fact about the majority of the committee, the Senator from Michigan, who is chairman of the committee, of course has a better right to speak than I have. All the information I have on it was obtained from a communication made to me by the Senator from Ohio.

Mr. STUART. It is a mistake. What I said is correct.

Mr. FITZPATRICK. I will not undertake to gainsay the statement of the Senator from Michigan, that the majority of the committee are, at this time, in favor of it; but at the time the Senator from Ohio wrote to me, I am satisfied his impression was that they stood three to three, one declining to vote, as I understand. Since then, that one may have yielded his assent.

Mr. STUART. No, sir. The majority of the committee instructed me to report the bill to the Senate.

Mr. FITZPATRICK. So I understood, informally, from the Senator from Michigan, I will do him the justice to say, since my remarks on a previous occasion; but I wish to put myself right on the information I communicated to the Senate. It was predicated upon a communication from the Senator from Ohio to me. It is now near one o'clock, and we have, perhaps, but two or three hours to sit. Two members of the Committee on Public Lands are absent, and we are asked to take up and dispose of a measure which is novel in its character, and which, I venture to say, has never received the sanction of this body from the foundation of the Government; and, in addition to that, we have one of the Senators who is absent calling upon the Senate to allow him a reasonable time to be here, as he is anxious to discuss and vote upon this bill. Now, I ask Senators, and I appeal to the courtesy and liberality that usually prevail in this body, is it right or proper to take up and dispose of a bill of this character, under such circumstances? I say not; and I do trust that the Senate will not take up the bill, but will let it remain as it is until the reassembling of Congress. This is all I have to say.

Mr. BRIGHT. I dislike to interpose any objection to the motion of the Senator from Michigan, but I must insist upon calling up a resolution

which I reported from the Committee on Public Buildings and Grounds, on Tuesday last. If this bill be taken up, I apprehend it will consume the remainder of the day; and, if we intend to act on the report of the Committee on Public Buildings, it must be acted on to-day, in order to carry out the object of the report. I hope the Senator will withdraw his motion until this report can be taken up and disposed of.

Mr. IVERSON. The Senator from Michigan has made his motion on several occasions to take up this bill, and I think that the Senate has indulged him sufficiently to testify to his zeal in behalf of this measure; and I presume that is about all the Senator desires—that his zeal for the passage of this measure may go before the country, and be understood. I do not see any necessity for pressing it to a hasty conclusion, though the Senator seems to desire so earnestly to have the action of the Senate upon it. It is a bill which the Senator must certainly be aware cannot pass without some debate. It is a bill, as I understand, which proposes to take out of the public Treasury, in the way of public lands, many million dollars; and, in the present exhausted condition of the Treasury, I trust no such bill will pass this body without a manly resistance from some quarter or other.

But, sir, there are only fifteen minutes remaining, before the time will arrive when the special order is to be taken up, and certainly it can do no good to the Senator to take up that bill now, simply to lay it down again. We certainly cannot dispose of it without thrusting aside the Pacific railroad bill, and that I apprehend cannot be done without riding over the dead body of my distinguished friend from California. [Laughter.] It would kill him if we were to thrust his bill aside; and I trust no such calamity will be visited on the country and on the Senate, merely to take up a bill which is of vastly less importance.

I oppose the taking up of this bill because, if the Senate refuse to take it up, I desire to ask them to take up a private bill, which is a matter of some consequence. It is a bill which was reported by the Committee on Claims, at the last session, for the relief of John R. Nourse, and others. It is to relieve him from the operation of a judgment which the United States have now against him, upon the bond of a former purser. The case is one of great merit, and it is likely to involve the claimant in a good deal of danger. The judgment is now standing against him. He is likely to be put to great inconvenience. His property may be sacrificed under the hammer of the sheriff; and if he is to be relieved at all, it is important he should be relieved promptly. It is a case in which the Senator from Iowa [Mr. HARLAN] feels a personal interest, and it is to oblige him, as well as to accomplish an act of justice in behalf of this claimant, that I shall ask the Senate to take it up and pass it. I think it will give rise to no debate, for a simple statement of the facts in the report of the committee, which is very short, will satisfy every Senator that the bill ought to pass. I hope, therefore, the Senate will not take up the bill to distribute this large amount of public lands, but that the Senate will, at my request, take up this private bill, so that this party may be relieved from the danger in which he now stands.

Mr. CLAY. I ask for the yeas and nays on the motion of the Senator from Michigan.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. KENNEDY (when his name was called) said: I merely wish to state that though a friend of the bill, for the reasons stated by the Senator from Alabama, I vote "nay."

The result was then announced—yeas 20, nays 28; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, King, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—20.

NAYS—Messrs. Bates, Bayard, Bigler, Bright, Brown, Clay, Clingman, Crittenden, Davis, Fitch, Fitzpatrick, Green, Gwin, Harlan, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Kennedy, Mason, Polk, Reid, Rice, Sebastian, Silldell, Toombs, and Ward—28.

So the motion was not agreed to.

JANE TURNBULL.

Mr. CRITTENDEN. Mr. President, as we are about entering upon the holidays, I wish to do it with a good and cheerful spirit, and do a

good deed beforehand. I move to take up the bill (S. No. 229) for the relief of Jane Turnbull. It will occupy, on my part, not five minutes, if the Senate shall see fit to take it up. This bill was in progress, with the bills for the relief of Mrs. Jones and Mrs. Gaines, and several others of like character, at the last session. We were busily engaged in passing them; the debate had ceased; all the other bills passed, and this would have passed in five minutes after, but for the exercise of the great prerogative of the chairman of the Committee on Finance, to whom we render precedence; he came in at that moment and cut it off. The other bills have passed, and are now before the House of Representatives. I ask that this may be passed, and take the same fate with the other bills in that House.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 229) for the relief of Jane Turnbull, which had been reported adversely by the Committee on Pensions. It requires the Secretary of the Interior to place the name of Jane Turnbull, widow of the late Colonel William Turnbull, of the Army of the United States, on the pension roll, at the rate of fifty dollars per month, from December 10, 1857, for and during her natural life.

Mr. CLAY. Read the report.

Mr. CRITTENDEN. I believe there was no written report made by the committee.

The VICE PRESIDENT. There is no report in writing, but there are papers accompanying the bill.

Mr. FOSTER. The report of the committee was adverse, but there was no written report. The majority of the committee thought the petitioner not entitled to the relief asked for by the bill.

Mr. CRITTENDEN. That renders it necessary for me to make a brief statement of the case as it appears upon the proof on file. William Turnbull entered the Army in 1819; he died in 1857. He never, during that whole period, as it appears from the official list of his career in the Army, asked for leave of absence, except on account of sickness and inability to perform his duties. He served everywhere—from one end of this country to the other, belonging to the most scientific department of the Army—the topographical engineers. He served in Mexico. He was twice brevetted for services in Mexico. He died of rheumatism of the heart, induced by exposure there. A man of remarkable strength—a very athletic man, and of the finest constitution, it was his fate, while serving in Mexico, to suffer exceedingly from exposure to the climate. In talking with General Scott on this subject, the first day I saw him, I believe, after the death of Colonel Turnbull, he told me, with that passionate sort of grief with which he seemed to regard the death of this gentleman, "I killed him, sir." "How was that, general?" "At the siege of Vera Cruz, a terrible northern blowing upon us the whole time, I sent him out on service; he was exposed the whole day to a storm of cold wind from the north, and to clouds of sand; he got back to my quarters at night, after having served the whole day, unable to get off his horse, almost frozen, utterly exhausted; he had to be lifted from his horse; and, with such refreshment as could be administered to him, he recovered; but he never finally recovered from that shock." It is certified by his physician that he was afterwards sent upon the northern frontier to superintend some works of the Government there. This added the shock which his constitution had received in Mexico. He came back, time after time, with the rheumatism with which he was slightly attacked, from the period of this exposure in Mexico.

The VICE PRESIDENT. The Chair regrets that he is obliged to interrupt the Senator; but it is his duty to call attention to the fact that the hour has arrived for the consideration of the special order.

Mr. CRITTENDEN. I hope it will be postponed.

The VICE PRESIDENT. If it be the pleasure of the Senate, it will be informally postponed. The Chair hears no objection. The Senator from Kentucky will proceed.

Mr. CRITTENDEN. He continued in service occasionally, his physicians certifying from time to time that he was not fit for that position,

that he was subject to acute rheumatism to such an extent that he could not stay there; and he was recalled and sent to the South. At Wilmington, North Carolina, he died. Being apparently well, in the evening this acute rheumatism attacked him and is supposed, by his physicians, to have fallen on the heart. He died in his bed, nobody present, and he has left a family, for whose benefit this provision is asked. Surely, so far as the merits of the father can entitle this family to a compensation, his services for over thirty years, of the most arduous character, exposing him in every climate in making surveys, and particularly in our war with Mexico, ought to be enough to secure them this small allowance. After that time, the effects produced in Mexico having been renewed and aggravated by his service in the north, he fell a victim to that service and exposure. So far as his merits are concerned, it seems to me his family is amply entitled to relief; and so far as that family can speak, they are abundantly justified in appealing to the liberality of Congress. Such a family of children has hardly been left by any officer in our service who has died. They are in utter want. He had a large family. All his pay was necessary to support them during his life. To be in his house, as I have been, and as many a Senator here has been, and see that beautiful economy with which the expenses of a large family were brought within the compass of small means, was an affecting sight even in his lifetime. He has left a wife that well deserved such a husband, utterly in want, with nothing, I believe, but a naked house.

I hope, sir, that this bill will pass. Others like it; others, not more meritorious, passed this body at the last session, when this bill was here also for action, and the consideration of it was cut off by some of those necessary movements on the part of the Finance Committee that stopped the hearing of such bills. I wish not to detract from the merits of other bills; but Mrs. Gaines's bill was passed, Mrs. Jones's bill was passed, and Mrs. Smith's bill was passed, by this body at the last session, and sent to the other House. This was in company with them here, and was retarded by the accidental circumstance I have alluded to. I think the Senate will deem it but justice if those bills are to pass, that this bill shall pass, and if so, that it should be put on an equal footing with those other bills, which are pending before the House of Representatives. I hope the Senate will pass this bill.

Mr. SHIELDS. Mr. President, as stated by the honorable Senator from Kentucky, a bill passed both bodies at the last session after full consideration, precisely similar in its character to this. The only difference was—and I would suggest to the honorable Senator to make a change in that respect here—as to the amount. The amount allowed in the case of Mrs. Barnard, the widow of a very gallant officer, was thirty dollars a month. This bill proposes to allow fifty dollars, and I think it would perhaps be well to establish some system, to equalize these pensions as nearly as possible. To be sure, this officer held a higher rank, and I can testify in a great measure to the truth of the statement of the honorable Senator from Kentucky. I knew this officer well. He was a brave, efficient, and worthy officer; and I am satisfied, from my own knowledge, that he contracted the disease that occasioned his death in the manner stated by the honorable Senator from Kentucky. I do not know how it is that this bill has been reported unfavorably by the Committee on Pensions. There may be some circumstances of proof that did not reach them. It may not have been made clear—I dare say it was not—that he died of disease contracted in the line of his duty in the Army; but it is precisely similar to the case that I have mentioned. Several other cases stand on the same footing, and I think it but fair and just that there should be the same amount of pension granted to the widow of this meritorious officer as to the widows of others, namely, thirty dollars a month.

Mr. HAMLIN. I desire to inquire of either of the Senators who have spoken, whether this lady is now in the receipt of a pension under the existing law?

Mr. CRITTENDEN. Not at all.

Mr. HAMLIN. The case as the Senator from Kentucky states it, it seems to me, is very clearly one provided for by existing law.

Mr. CLAY. I will explain the reason why no pension was granted in this case, and why the committee reported against it. Under the general law, all those widows whose husbands die in battle or die of wounds received or diseases contracted in battle, or of diseases contracted in the service of the country, are entitled to a pension; but we had no evidence before us to satisfy us that Colonel Turnbull died under those circumstances; and I do not think that any one who will read the evidence can come to that conclusion. It was on that account we reported against it. We saw that it would be making an initial to the pensioning of the widow of everybody who died in the Army of the United States, and we were not prepared to do so. I should not, however, perhaps, have said a word against this bill if the pension now proposed to be given to Mrs. Turnbull was not greater than that which the widow of General Scott would be entitled to receive if he were to die at this time, and it is more than twice as much as she would be entitled to under existing laws.

Mr. SHIELDS. That is the objection, and the only one; and I agree with the honorable Senator from Alabama, that there was not, and could not be, sufficient evidence before the committee to show that he died of disease contracted in the line of his duty. It is very difficult to prove that point; whereas, as stated by the honorable Senator from Kentucky, the circumstances connected with his career in the Army show the fact to be that he died of disease so contracted. But, as the honorable Senator from Alabama says, there is no widow of an officer in the Army of the United States who receives a pension higher than thirty dollars a month; and I would suggest to the Senator from Kentucky to make that amendment.

Mr. GWIN. I served with Colonel Turnbull after he returned from the Mexican war. It is within my own knowledge that he did contract disease during that war, which no doubt resulted in his death; but he died suddenly, unknown to any person, and he left no testimony behind as to that point. He had no expectation, of course, of such a sudden death, and he left no testimony. It would take a good deal of time to collect the evidence, but it could be produced; and I have no doubt that the Senator from Mississippi, [Mr. DAVIS,] who was Secretary of War, knows the fact that the gentleman's health was impaired during the war, but the testimony is not of a sufficient character to satisfy the Department, under present laws; hence, the bill was introduced at the last session. I served with Colonel Turnbull in 1848, and he was then suffering severely from disease which he had contracted in the Mexican war; he afterwards died of rheumatism of the heart.

Mr. DAVIS. I will merely state to the Senate that it was officially within my knowledge that the deceased Colonel Turnbull, was every fall and winter so affected with rheumatic affection at the northern station where he was serving, as to render it necessary to withdraw him. His headquarters were at Oswego, and he had to be withdrawn from there on account of rheumatic disease. The rheumatism finally, at a southern station, fell on his heart, and suddenly killed him. As to the origin of that disease, of course it would be impossible for me to express an opinion. It would hardly be possible for a board of physicians to express an opinion that would be reliable, whether it occurred at the time of his exposure in Vera Cruz; whether it occurred at the time of his service in the construction of the New Orleans custom-house, to which the Senator from California has referred; whether at the time he built the work which stands a monument to his memory, the aqueduct across the Potomac; or in the course of the various services he has performed in the exploration of the country, and in making surveys for the construction of railroads or other works; or whether it occurred in the last position in which I knew most of his service, it mattered not, for it happened while he was in the service of the United States, and in the line of his duty, and was exposure incurred in the performance of that duty.

The evidence, it seems, has not been sufficient to satisfy the committee of that fact; but if the Senate are satisfied of that fact, we have a right to judge of it, and pass this bill. It comes within the spirit of the law, though the form of the tes-

timony may not be sufficient to justify the committee in making a favorable report. I will merely say that Colonel Turnbull was an officer of great merit, a man of pure character, whose small pay barely enabled him to support his family, and he died as officers of the Army usually do, leaving nothing behind him for the maintenance of his family. Indeed, one of the best officers in the Army, and one of the most honest men I have ever known, (and that his word may have weight, I will say that I allude to the present Quartermaster General,) once told me that if an officer of the Army got rich, he ought not to hesitate to let others know that he had become so honestly, that he ought to be ready, on question, to show where he got the money, for it could not be got out of his place, for his pay was but a poor support. I think this enters fairly into the consideration of pensions, because if we retain in the service men of high capacity, men who could get high compensation in civil pursuits, and retain them for small amounts, it is to be supposed that they must expect to reap by liberal construction whatever advantages the pension laws would give. I think this case comes within the spirit of the pension law; and I hope, therefore, the bill will pass.

Mr. CRITTENDEN. I wish to state a word in explanation, not to continue this debate. There was no written report from the committee. The truth is, I presume, that the matter was not properly attended to by those who had it particularly in charge for Mrs. Turnbull. A statement in writing was furnished by General Scott. He came to me and brought the paper voluntarily, and then held the conversation which I have, in part, repeated, in regard to Colonel Turnbull and the origin of the disease of which he died, handing me at the same time a paper to be used before the committee. This business commenced in the other House, and the paper passed from me to some person there, and has been lost. Finding this to be the case, when the committee of the Senate was about to act on this matter, I gave General Scott notice, and requested the committee, as I think my friend from Iowa [Mr. JONES] will recollect, to summon him as a witness. I wanted the committee to hear General Scott, to have him before them, to examine him. General Scott was notified and attended here; I saw him in the Senate Chamber. It was not convenient for the committee to meet on that day; but some of the gentlemen of the committee conversed with him, and told him that would suffice, for they would repeat what he said to the committee. In the variety of business and avocations of that period of the session, this business, I suppose, was but very imperfectly attended to.

General Scott attributes the origin of Colonel Turnbull's death to his being frozen and exhausted at Vera Cruz in the manner I have stated. The physicians whose certificates are on file, not knowing of that occurrence, speak of his rheumatism as being the result of his service at Oswego, and other points in the north where he was sent to superintend the construction of public works. They did not know what General Scott knew, and General Scott did not know what they knew. But the service at the north, afterwards, on the water's edge, and in that climate, was altogether coöperative with the cause occurring in Mexico; and instead of there being different causes assigned by witnesses contradicting each other, each of them assigns causes of the same character, all contributing to the same result. He died of disease contracted in the line of his duty. Whether it was in Mexico at Vera Cruz, or whether it was on the northern frontier, is not very important; but the more rational way of considering it, is to suppose that one of these causes aided the other, and led to the final catastrophe, his death. I think it is as plain a case made out of a man dying from disease contracted in the public service as I have seen before the Senate, except where the man was actually killed in battle.

As for the amendment that is proposed—to reduce the pension to thirty dollars a month—I am perfectly willing to accede to anything which will be most acceptable to the Senate; and if I knew that thirty dollars would be more acceptable to them than the fifty dollars fixed by the bill, I would instantly agree to make the alteration; but I observed that in the cases of Mrs. Worth and Mrs. Gaines, and in other cases to which my attention was called, the pensions had been fixed at

\$600 a year. There are some gentlemen opposed to the passage of a bill like this in any shape; but still, if it is to pass, it is another question whether it ought to allow the more competent sum; and surely it is only a bare allowance for a widow with children, of \$600 a year, or the inadequate sum of \$360 a year. If anybody desires to make the application for the reduction, I shall not object to it; but it seems to me that this family is as well deserving as any family can be of the pension of \$600 a year; and Congress has carried its liberality up to that point in other cases.

Mr. JONES. I must, in justice to the Committee on Pensions, say, that they did investigate this case as thoroughly as they ever did any case, in my opinion, that was ever presented to them. The testimony before the committee varied as to the cause of the disease which led to the death of Colonel Turnbull; but I am one of the members of the committee who heard the statements of General Scott. We summoned him to appear before our committee, which he failed to do; but he did make such a statement to me as satisfied me that the origin of the disease which terminated in the death of Colonel Turnbull was at Vera Cruz, as stated by the Senator from Kentucky and the Senator from Mississippi. He said that his sufferings continued from that time until the day of his death; and that he knew he never did recover from the disease (rheumatism) which finally terminated his life; and that the surgeons of the Army, who were consulted and who attended him during his sickness, certified that that disease continued from the time he was in the service at Vera Cruz. That was the reason which induced me, as one of the members of the committee, to vote in favor of reporting this bill; and I think it is as strong a case as any, and much stronger than a good many, which we pass through our committee and through the Senate. I hope the bill will be favorably acted upon.

Mr. FOSTER. Mr. President, I think that the honorable chairman of the committee [Mr. JONES] is a little mistaken in one point of his statement; that is, that the surgeons certified that the disease of which Colonel Turnbull died continued from the time of the injury to his health at Vera Cruz until his death.

Mr. JONES. I say General Scott said that; but some surgeons differed.

Mr. FOSTER. On the contrary, I think the testimony is the other way. The certificate of the surgeon, now among the papers, is, that Colonel Turnbull did not have the disease of which he died until he was stationed at Oswego, in the State of New York, which was years after he had been at Vera Cruz. If that was the disease which occasioned his death, as is claimed, it is not a disease which had any reference to service at Vera Cruz. He was stationed at Oswego, and there had the rheumatism during the winter, and asked for a continued leave of absence, because that climate was too rigorous for that disease at that season of the year, (the winter,) and he had his leave of absence prolonged to North Carolina, where he died.

It is exceedingly unpleasant to me, Mr. President, to oppose any of these bills. On the contrary, it has been my misfortune to have advocated many that the Senate have not thought proper to pass. I have no doubt—and if I had, certainly the testimony which is here borne to the gallant services of Colonel Turnbull would remove any doubts—as respects the great debt of gratitude which the country owes him as a gallant and distinguished officer; but this case cannot be distinguished from the great majority of cases of the death of officers while they are in service in the Army. If this bill passes, there should be a general law to give to the widows and children of meritorious and deserving officers an amount at least equal to this. That Colonel Turnbull was meritorious and deserving, in a very high degree, I have no doubt; but we should not pass such a general law, I apprehend; and if not, I confess I do not see how we can pass this bill.

Mr. CLAY. I move to strike out "fifty" and insert "thirty." The cases of Mrs. Gaines and Mrs. Smith are not parallel cases. Their husbands were majors general. The husband of Mrs. Turnbull was a colonel; hence, there is a difference in rank, and the Senator from Kentucky knows that these pensions have been graduated according to rank. I do not pretend to say that

that is a just or wise method of apportioning the bounty of the Government; but such has been the system of the Government hitherto. The objection to allowing Mrs. Turnbull this sum of fifty dollars a month is, that we shall be called upon to raise the pensions of all other widows of colonels to the same amount; and I do not see how those who have passed this bill can refuse the same thing to other meritorious cases of the same rank. Hence I move to strike out "fifty" dollars and insert "thirty" dollars.

Mr. CRITTENDEN. I had assorted the papers in this case, for the purpose of easy reference, particularly the certificates of the surgeons. I stated before that one of the surgeons, a young gentleman, Dr. Coolidge, did not know probably what General Scott knew as to this case, not having been in Mexico. He did not know the shock which this gentleman's constitution received there. Here is the certificate of another surgeon, who does not make the same statement as Dr. Coolidge. Dr. Coolidge did not know that Colonel Turnbull had rheumatism until long after the war with Mexico, and he was engaged in service at Oswego, and so he states; but it is not contradictory to General Scott's statement; it is not contradictory to the statements of the others. That was all he knew about it. I say it is clear that he died of rheumatism contracted in Mexico. Now, I beg leave to read a very brief letter furnished in the testimony in this case, by a friend and neighbor of his, a gentleman known to us all, Mr. Thomas Carroll.

"In reply to your inquiries of yesterday, I have no hesitation in expressing my firm conviction that the seeds of the disease which terminated Colonel Turnbull's life were imbibed by him during his service in the Mexican war. Having known Colonel Turnbull for the last thirty years, having resided in his immediate neighborhood more than twenty of them, and having enjoyed the privilege of great intimacy with his family, I am enabled thus to speak confidently. Colonel Turnbull, a young man, was remarkable for his extraordinary physical powers; and when he returned from Mexico, his family and his friends were shocked by the sad ravages which the service had made on his appearance and constitution, and I have a very distinct recollection that a few days afterward, I think in November or December, 1855, on his return from the northern lakes, and when he was a cripple and almost deprived of the power of locomotion by a severe neuralgic affection, that he then informed me that it was in consequence of the prostration of his system in Mexico, and expressed the opinion that he would never recover therefrom."

That is the last word I have to say.

THE VICE PRESIDENT. The question is on the amendment of the Senator from Alabama.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. IVERSON. I know it is a very ungracious thing to oppose a bill of this sort; for the bill under consideration is certainly one of those cases which appeals strongly to sympathy. It is nothing more nor less than a mere gratuity. There is no justice nor right in it, nor is it pretended that there is any. I do not rise, however, for the purpose of debating this case, but to state a fact to the Senate. We have a bill upon our table, just sent from the House of Representatives, which grants a pension of ninety-six dollars a year to every officer and soldier who is alive that was engaged in the war of 1812, and to the widows of those who are dead. By a calculation which has been made upon very reliable data, that bill will draw from the Treasury \$18,000,000 a year; and here is a proposition to extend even that system, to give a pension to the widow of an officer who died in the service, without any evidence that his death resulted from wounds or from disease contracted in the line of his duty. If we do it in this case, I ask what is the reason we should not do it, as the Senator from Connecticut has very properly said, in every case, and not only grant a pension to the widow of every officer who dies in the service, but to the widow of every soldier; for I do not see the least distinction between a soldier and an officer? If one is entitled more than the other, it is the widow of the poor soldier who trudges along and exposes his life on all occasions, and who has nothing to leave to his widow and children to support them. Officers have high salaries; they have high social position; they have many advantages that soldiers do not have; and so have their widows and surviving children. If, therefore, there be any regard to justice or propriety, the soldier ought to be entitled to the bounty of the Government rather than the officer.

It is a mere gratuity; it is a proposition to take out of the Treasury money which has been put there by the sweat of the brows of millions, to feed those who have been already pampered by the Government. That is the long and the short of it; but I do not intend to debate it. I shall ask for the yeas and nays on the passage of the bill.

Mr. HOUSTON. I did not intend to make any remarks on this subject; it is one on which I have not discoursed with any gentleman present; but I have listened to the discussion this morning on this bill, and the explanations given of it, and my mind has arrived at a conclusion in favor of its passage. I admit to some extent the force of the remarks of the Senator from Georgia; when he says the officers have advantages over the soldiers; but if the officers have advantages, they are not greater than would fairly balance the increased responsibilities which their position imposes on them. They are generally men of education and of position in society which is very fair when they enter upon the profession of arms; and these are considerations that entitle them to the confidence of the Government, and obtain for them these situations. If they assume the responsibilities conferred by the Government and discharge their duties faithfully, all that they receive as a consideration for it is not more than sufficient to maintain the position which the Government requires them to occupy.

The fact that Colonel Turnbull did not fall in battle will weigh nothing with me. Whether he fell in battle or whether he fell a victim to disease contracted in the service of the country, is a matter that I care nothing about. If he had fallen a victim to war in the shock of battle, he could not have given his life; the change would have been sudden from life to death, without pain, without sickness, without anguish of spirit; but this man, for years, endured the anguish of disease, of sickness, and of debility; and the approach of a period when he must leave his family and commit them to the generosity of his country, and to the liberality of his countrymen, stared him in the face. He never had the means of amassing for them wealth, or even competency; and this, to a proud and gallant man, must have inflicted a deep wound on his sensibilities. Under these circumstances, he continued in the service of his country, faithfully and honorably discharging his trust; and when disease consumed his life, he gave it to his country. He died in his country's service. I care not whether he fell by the javelin, the sword, or the cannon ball. When he gives his life, his all, to his country, he can do no more; and is it to be a reproach to the nation, when its gallant sons perish and fall victims to their country and in its service, that because there was no law according a pension to the widow, and making that just provision which is made in all other countries, it is not within the competency of the Legislature of this great nation to say that they will award justice to the widows and orphans of those gallant men? Sir, I never wish to see it acknowledged by the Senate that there is any stringent rule to prevent the legislation of this country extending to suitable objects of its consideration.

I will vote for this pension; and I would vote for it if it were even more than is proposed to be granted. When the old soldier comes, and when the widow and the orphan of the gallant defenders of our country come here, I will vote to the very last cent to relieve their necessities, and to vindicate the honor of this nation against the imputations of stinginess. I will be liberal; I will be just. Whether a man fall in battle or fall a victim to disease contracted in the service of his country, I care not; he has given his life to his country; it is all he had to give.

The bill was ordered to be engrossed for a third reading, and was read the third time.

On its passage,

Mr. IVERSON called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 26, nays 18; as follows:

YEAS—Messrs. Bates, Bright, Broderick, Brown, Cameron, Chandler, Clingman, Collamer, Crittenden, Davis, Dixon, Doohittle, Durkee, Foot, Gwin, Houston, Jones, Kennedy, Reid, Seward, Shields, Simpsons, Thomson of New Jersey, Ward, Wilson, and Wright—26.

NAYS—Messrs. Bigler, Clay, Fessenden, Green, Hammond, Harlan, Hunter, Iverson, Johnson of Tennessee, King, Polk, Rice, Sebastian, Sidel, Stuart, Toombs, Turnbull, and Wadsworth—18.

So the bill was passed.

NEW SENATE CHAMBER.

Mr. BRIGHT. I move now to postpone the special order, with a view of taking up the report of the Committee on Public Buildings and Grounds.

Mr. GWIN. I hope it will be done informally, so as not to displace the special order.

Mr. BRIGHT. Of course.

The VICE PRESIDENT. If there be no objection, the Chair will consider the special order as laid aside.

Mr. STUART. I object to that disposition of the question. I have no objection to a motion to postpone the special order, but I object to disposing of it in this way.

The VICE PRESIDENT. It is moved and seconded to postpone all special orders with a view of taking up the resolution indicated by the Senator from Indiana.

The motion was agreed to; and the Senate proceeded to consider the following resolution, reported by Mr. BRIGHT on Tuesday last:

Resolved, That the superintendent of the Capitol extension be directed to prepare the Chamber for the occupancy of the Senate by the 4th day of January next, and that a committee of three be appointed by the Chair to make all necessary arrangements.

Mr. DAVIS. I wish this question decided, because it connects itself with the conduct of the work and the preparation of the Chamber. I am quite satisfied that the new Chamber is as dry as this. It has been for two years under roof. There need be no apprehension on that point. I am satisfied that it is better ventilated, will be better heated and better lighted, and after we get there we shall be more comfortable than we are here. My principal desire is that the question shall be settled, because it connects itself with the conduct of the work.

Mr. CLAY. I am opposed to the adoption of the resolution; and it is rather for the sake of my friends who are in the Senate, than for myself. I have always heard, as an old adage, that "new houses are old men's graves." My friend from Mississippi and I might escape the effect of that adage, but others might not. I am persuaded, from my own experience and observation of the new Hall, that it is not thoroughly dry. I know they have not completed all the plastering; I know they have not laid all the tiles, which are laid in plaster; and hence I suppose the atmosphere must be more humid than this; and old men may be subjected to rheumatism and other diseases by going into that Hall.

There is another objection which I have to it. Unless we are going to adopt the rules of the House of Representatives, and limit the number of those who may come within the area of the Hall, where Senators sit, it will be far more objectionable than this Hall. We cannot admit almost everybody, as we do here, to come in upon the floor, when we have no guard to keep them off, and they will actually run over the Senate if we do not adopt the same rule which has been adopted in the House of Representatives; and if we are going to agree to this resolution, I trust, as a preliminary, there will be an arrangement to limit the number of those who shall be admitted on the floor.

Mr. HAMLIN. I concur with the Senator from Alabama, and I shall vote with him against the adoption of this resolution for other reasons, however, than those which he has stated. I am inclined to think that the room may be dry enough, and that old or young need entertain no very serious fear that it will be the grave of any. It seems to me, however, that there are some other objections which I have not heard alleged, and which, perhaps, the committee took fully into consideration and will be able to explain, and, perhaps, remove the objection which I have to the resolution. All the papers connected with this body, all the offices, the Secretary's rooms, the engrossing clerks' room, the post office, are now adjacent to this Hall, if we shall remove to the distant building, those papers cannot be removed during this short session. The rooms appropriated for that purpose are yet unfinished, and it is half a day's journey almost from that wing into these various offices. All of us have daily, almost hourly, occasion to go into these offices for the purpose of examining papers that are there on file. We call for them here; we want them in the business of the session; we go to our post office;

we go to our retiring rooms. By this removal, we shall be remote from them, and it seems to me it will be a very serious obstruction to the business of the Senate.

Besides, if we should go into that part of the building we shall be annoyed—I think that is not an inappropriate word—by the workmen, who are still engaged, I suppose, upon all parts of the building, and by the dust that arises from their operations; and a variety of objections of that character are more than commensurate with any benefit we can derive from going into that Hall. Now, sir, I think I have one of the poorest seats in this Hall, one of the most undesirable, and in any arrangement that may be made for new seats there, I stand in such a position that I may improve—I cannot be worse off; but I had rather occupy this seat here, than go into that Hall, subject to the objections which I have named; and they are such as, in my opinion, ought to induce the Senate to remain here, where we are, during this short session, and to go to the new Hall when the building will be appropriately fitted up, when the offices connected with the Senate, the papers, and everything, will have been moved adjacent to the Hall. For the reasons I have given, I shall vote against this resolution.

Mr. CLINGMAN. I hope the Senate will excuse me for saying a word on this subject, as I have a little experience in this matter of removal. Twelve months ago, when Congress met, the condition of the south wing of the Capitol was not near as far advanced, as all gentlemen know, as this is now; and when Captain Meigs then told me that he would have it ready by the 1st of January, I did not think it possible; but at the end of two or three weeks, after the session commenced, he reported to the House of Representatives that it was ready. Very few of us believed it, and the feeling at first was universally against a removal; but a committee was raised to investigate the matter, and on going into the Hall, it was found to be a convenient, well-furnished, well-warmed room, perfectly dry; and a majority voted to go there. It was said then, as it is said now, in this case, that the walls would leak; that there was in the Hall, mortar and wet, and all that. There was some truth in it then, but there is very little truth in such an allegation in reference to the new Senate Chamber. Captain Meigs said he could put in a heat of two hundred degrees, or any other amount, and make it perfectly dry. We went in there and found a very pure atmosphere, just as good to breathe as that on Pennsylvania avenue; and I believe everybody admits that last year the members of the House of Representatives enjoyed better health than they have ever done during a session.

As far as this matter of removal is concerned, the officers there had exactly the same objections they have here. I find, indeed, that the main objection is that the officers of the body do not want the trouble of removing their papers, but would like to have a year to do it in. That objection was made in the other House; but when the order was made, they all got into their new rooms in the course of three or four days without inconvenience, and were all pleased with the change. It now takes probably a quarter of a minute to come from the Clerk's office or the post office into this Chamber; perhaps it might take half a minute more to go from them into the new Chamber. These officers have comfortable rooms now; there are not enough men in them to vitiate the air, and they do not want the trouble of removing. Very well, let them stay where they are; it is no serious drawback. I have no doubt, however, they would all go in at once, and without any sort of difficulty. But I think I have a right to complain of misrepresentations which some of them are making to Senators, electioneering around the room. I find a good many Senators making statements to me which I know not to be true, and when I trace them, I find they come—

Mr. HAMLIN. The Senator will allow me to say that I have not passed a word on this subject with any person who holds a subordinate place in the Senate.

Mr. CLINGMAN. I was not alluding to the Senator from Maine, but several other Senators, some of whom are in my eye, have heard these statements from these individuals. There is no mortar at all, nothing wet in the room we propose to occupy. In two or three passages they are

laying down tiles. Well, even in their present condition, a Senator walking over them is no more likely to take cold than he is in passing through the rotunda or walking over the pavement; but, as soon as those tiles are laid down and exposed to the heat for a few days, they will be perfectly dry.

The great objection I have to remaining here—and I think everybody who has tried the difference between the two Halls in the other wing of the Capitol can appreciate it—is the want of pure air to breathe. Every window above us, and around us, is closed at this time—necessarily so; otherwise the room would become too cold. Everybody understands that a person breathes four or five gallons of air in each minute, and that when it is once breathed it is not fit for respiration again; and with four or five hundred persons here in this close room, the air is vitiated; and I have no doubt that everybody feels the inconvenience. To-day, and yesterday, the room has been apparently full of smoke; but, even without this smoke, which is very frequent, we find that when there is a session of four or five hours, the air is very much vitiated; and nothing in the world, as at least all physicians, who have a right to speak on this subject, say, is more unfavorable to health than bad air.

As to what my friend from Alabama says about old men dying in new houses, I do not think there is anything in it, when the room is warmed and ventilated in this way. Captain Meigs says that in the large Hall of the House, he throws in air enough to change the atmosphere every seven minutes. This being a smaller room, the same apparatus will, I suppose, change it every five minutes. The result is, that you will have a constant supply of fresh air, and not cold, either, but air of any temperature you desire; you can have it warm or cold. The consequence will be, that gentlemen will have that cheerful, invigorating feeling that we all perceive in the open air. I declare, as one individual, with reference to my personal convenience, that I would rather pay for the use of that room the same price that I pay for my lodgings in the city, than to sit here. I came from the Hall of the House into this room at the most favorable time to make the comparison, last May, when the windows and doors were open; but I found that when the sessions lasted five, or six, or seven hours, as they frequently did at that time, there was the same vitiated air that I used to experience in winter in the old Hall of the House of Representatives. I believe that if the experiment be made, every Senator will find an advantage in the change. I have thought proper to say thus much, having had a little experience on the subject.

Mr. SHIELDS. I should not say anything on this subject but for the fact that the honorable Senator from North Carolina seems to intimate that the officers of the Senate have been electioneering against this resolution. I am inclined to think that he labors under some little mistake, and perhaps is doing injustice to the officers; for I find, on making inquiries around me, that there has not been a single attempt on the part of any officer here to influence the action of any Senator in my vicinity.

Mr. CLINGMAN. If the Senator will allow me, I will mention to him privately the names of two or three members who have been talked to in this way, and got their ideas from some of these officers, who have talked to me and tried to impress me with the same views. I do not desire to mention publicly the names of the gentlemen to whom I allude.

Mr. SHIELDS. For my own part, I am a little indisposed to risk going into the new Chamber. My lungs are not of the strongest, and I am a little afraid that some of these young Senators are disposed to lay a trap for us valetudinarians. I have a little suspicion of that kind, and I am not willing to risk it. [Laughter.]

Mr. CLINGMAN. It is for the benefit of my friend and all others. I wish them to live long and in the enjoyment of good health; and I am quite sure his life will be prolonged by a temperature such as he will find there.

Mr. SHIELDS. Well, sir, then there is another point, which the honorable Senator may, perhaps, explain. He says Captain Meigs has informed him that he can throw in a sufficient quantity of air every now and then to make it a

healthy position for us. Now, suppose Captain Meigs should accidentally neglect to perform that duty; we should be in a very unfavorable position. [Laughter.]

Mr. CLINGMAN. I will only say that that operation is going on all the time in the Hall of the House of Representatives, and there has been no neglect there. I admit some few persons have complained of that Hall, but it is on other grounds altogether than the want of a supply of good air, and at the proper temperature.

Mr. SHIELDS. I have no doubt there is a great deal of superabundant air in the other House. [Laughter.] How produced I do not know.

Mr. CLINGMAN. And a good deal of gas here. [Laughter.]

Mr. SHIELDS. For my own part I am unwilling to hazard this experiment. I prefer this old Chamber. It would be gratifying to me to take a seat in the new Chamber, because it is a little more showy, and I dare say, in some respects, more comfortable; but, at the same time, on the ground of health, I question very much whether that Chamber is in a condition to make it a healthy location. Certainly, there must be some dampness there; and I should not like to be placed in a position where it would be necessary to heat the Chamber to such a degree as to overcome that dampness, for that would make the matter worse.

Mr. IVERSON. I am for moving into the new Chamber as early a day as our convenience will possibly admit; I think it will be more comfortable there than here; but I wish to ask some questions of the chairman of the committee who have had this matter in charge, and perhaps his responses may guide my vote on this resolution. I wish to know whether it is possible for the superintendent to put the Hall in good order for our reception by the 4th of January? The resolution directs him to do it; but directing him to do it is one thing, and his ability to do it is another. I want to understand whether the superintendent has expressed the opinion that he will be able to put the Hall in order for our reception by the 4th of January? It may be that the atmosphere which is brought into the Hall by the operation of Captain Meigs's machinery will be better; but I understand from reliable authority, that at the present time the painters are at work in the Chamber painting it, and that the painting has not yet been completed. Then, although the atmosphere which is brought in by the operation of this machinery may be ever so pure and pleasant, we know it will be impregnated with the paint, and everybody understands the danger of that atmosphere which is saturated with paint. Unless, therefore, the superintendent believes he can assure us that the painting will be done in sufficient time not to affect the atmosphere which is brought into the Chamber, I should think it would be more safe for us to defer our going into the Chamber for a longer period.

Again; is the ante-room or retiring room of the Senators prepared for their reception? That is a very important appendage to the Senate Chamber; it is absolutely essential to the comfort and convenience of Senators. I understand they are now laying the tiling, the very flooring of that room.

Mr. KENNEDY. No, sir; it is already done.

Mr. IVERSON. Is the room ready in other respects? Will it be ready by the 4th of January? Again: how about the carpeting? Is there a carpet already made, ready to go down; or can they buy carpeting and put it down by the 4th of January over that immense Hall, and over all the rooms that ought to be carpeted for the convenience and comfort of Senators? Has the superintendent already bought his carpet, and fixed it up? If so, by what authority; who authorized him to do it? I should like to know whether this is already done, and if so, who has done it; and where the money came from to pay for it, and by what authority it has been done?

Mr. KENNEDY. If the Senator will allow me, as a member of the Committee on Public Buildings, I will state that, in conversation with the superintendent to-day, he said that every part would be entirely completed by the day named for going in; the walls would be perfectly dry, the carpeting would be down, and all the upholstery would be up, and everything would be complete except the removal of these seats.

Mr. IVERSON. In relation to the carpeting, I have only this to say: that, on some conversa-

tion with the Secretary of the Senate at the last session, in relation to furnishing that Hall, he informed me that he had no authority to purchase furniture for it, and that there was no existing appropriation for it, and that it would require a resolution of the Senate. If Captain Meigs has gone forward to purchase the carpeting for that Hall, without any authority on the part of the Senate, I desire to know whether he will be permitted to go on and furnish that Hall as he chooses, without some authority from this body? It may be so; and if it be so, of course I have nothing more to say; but will he have the Hall ready? I wish to know that fact. I am not for going into the Hall until it is put into condition to receive us; and when it is ready, I am willing to go into it immediately afterwards.

Mr. BRIGHT. The committee, I think I may safely say, in fixing a time, was governed entirely by the opinion of the superintendent. He expressed the opinion that by the 4th of January the Chamber could be put in a condition suitable to receive the Senate. The committee was charged merely with the duty of inquiring into the condition of the Chamber—when it might be ready for the use of the Senate, and what ceremonies would be appropriate on removing. The committee did not feel authorized to inquire as to who purchased the carpets, or who would purchase carpets, or who would put them down. The resolution contemplates that that shall be left entirely to the superintendent. I believe he has perhaps some of the materials purchased, and I think I may say that he expects to pay for them out of the general appropriation made for the erection of that wing of the Capitol. Whether that has been in accordance with past usage or not, I do not pretend to say. The committee felt authorized, from the information derived from the superintendent, to say that by the 4th of January the Chamber would be in suitable condition to receive the Senate, if it was their pleasure to go there; and we so reported. I cannot say that I was one among the number who favored an immediate removal. I thought it would be better to take more time, to give our officers a fair opportunity of preparing their offices, and taking their papers over in order. While upon this point, I will say that I inquired of the Secretary of the Senate, with a view of ascertaining his opinion on that subject, and he stated to me that he declined giving it; that he had made it a rule never to interfere in the business of the Senate; that if the Senate should order a change, he would endeavor to do his duty, so far as making that change was concerned.

Mr. IVERSON. There is another subject to which I wish to call the attention of the Senate. If we go into the new Chamber there must be either one of two things done: we must adopt an order excluding visitors entirely from the floor of the Senate, or we must have a bar erected, such as exists in this Chamber. I understand that the committee have agreed, and it seems to be a matter agreed upon generally by Senators, so far as I can learn, that we are to occupy the same relative positions in the new Chamber that we occupy here; that is, that the seats are to be placed precisely as they are now, and Senators are to occupy the same positions they now do. That would put me on the outside. For one, I protest against being put on the outside, with no bar to protect me from the intrusion of "all the world and the rest of mankind." [Laughter.] I want some protection. I will vote for a resolution to exclude all visitors, and not let any one come upon the floor of the Senate; the galleries are ample there, and I trust that rule will be adopted. But is that to be the case? If not, I want an amendment added to the resolution, providing that the superintendent be instructed to erect a bar, such a one as exists here. Whether he can do that by the 4th of January is a very questionable matter.

Mr. DAVIS. I will attempt to answer some of the objections of the Senator from Georgia. The painting to which he refers is a very limited amount, and in water colors. Therefore the apprehension he has of his olfactorys from the ordinary paint, oxide of lead, need not be entertained there. It is a different character of painting, altogether; he would have nothing to apprehend if it was done the morning he went in there.

Then, as to the arrangement of seats, the committee did not undertake to decide that. The

committee reported so much as is in the resolution, and it provides for a committee of arrangements. The question of seats was one which, for myself, I preferred that the Senate should decide through some committee appointed for the purpose. Whatever ceremony they chose to adopt, I preferred should be decided by some committee appointed by the Senate for the special purpose. This resolution was reported by a standing committee, and it did not choose to take charge of a question which is always involved in delicacy. I entertained the opinion, and perhaps expressed it, that the most convenient and becoming manner for the Senate to remove into the new Chamber, would be to take the desks and seats, and put them down in positions relatively corresponding to those occupied at this time, so that every one with a small organ of locality could get to his seat in the new Chamber by knowing where he was located here.

Mr. COLLAMER. Allow me to ask the Senator a question. In the new room, there are but three tiers upon which to place the desks; whereas there are four rows of them here. Will the gentleman permit me to ask how the relative positions of Senators can be preserved in putting the desks in the new Chamber?

Mr. DAVIS. Only by adding rows on the level below, or by increasing the number of seats in a particular row, which would change the position from one tier to another merely.

Mr. COLLAMER. It might be done by throwing the outward seats upon the area for general spectators without the bar. Otherwise, there are but three rows for desks in the new Chamber.

Mr. DAVIS. I am in favor of having the bar outside of the building, or up stairs, [laughter;] somewhere outside of the Chamber.

Mr. BRIGHT. Anticipating that there would be some objection on account of seats, I addressed a letter to the superintendent, and received a reply from him giving his opinion as to how the seats may be arranged. I ask the Secretary to read it.

The Secretary read the following letter:

WASHINGTON, December 21, 1858.

DEAR SIR: I inclose a photographic plan of the Senate Chamber, United States Capitol extension.

No arrangement of the desks and seats has been yet made; but the floor has four platforms or steps, rising from the level of the open space in front of the Vice President's chair, and admits of positions of seats very similar to that on the present floor.

Respectfully, yours,
M. C. MEIGS,
Captain of engineers in charge Capitol extension.

Hon. J. D. BRIGHT.

Mr. HAMLIN. I propose to offer an amendment to the resolution. I have written it very hastily. I do not know that it embodies precisely my ideas; but let the Secretary read it.

The Secretary read it, as follows:

Resolved, That the seats in the Senate Chamber shall be assigned to Senators in the following manner: The Secretary shall put into a box the name of each Senator, and in the presence of the Senators shall proceed to draw the same therefrom; and each Senator shall be entitled to select a seat as his name shall be called.

Mr. CLINGMAN. As an original question, I should be in favor of something like this, as I have not at present a very desirable seat. It seems to me, however, that we ought not to embarrass the original resolution; and, after all, as the Senate has had the usage of taking seats according to priority of service, those who have been here longest having the most desirable seats, I hope that the gentleman will not press that proposition. I would rather have any seat in the new Hall than the most desirable one in this; and I will vote against this proposition, not that I see anything wrong in it, but it seems to me we had better not encumber this with the other question.

Mr. TOOMBS. I second the suggestion of my friend from North Carolina. The usage has been to select seats here according to priority of service, and probably that would be the best plan to adopt in the new Hall. I do not see any difficulty in our going there and doing that. I can make this suggestion the more readily, as I belong to the youngest class of Senators—being in my first term.

Mr. BRIGHT. I suggest to the honorable Senator from Maine that that question can be better considered after we shall have disposed of the report of the committee.

Mr. HAMLIN. Why not now?

Mr. BRIGHT. It is calculated to embarrass the resolution of the committee.

Mr. HAMLIN. I do not see how it embarrasses this question at all; I cannot for my life discover how it can. It may add one condition, possibly, by which some men might be induced to vote for or against the resolution, as the amendment may be adopted or rejected. I do not know that I want to embarrass the original resolution in any way. That is not my object, and I do not think the amendment would have that effect; but I think we ought to draw for our seats there. I can see no reason why Senators, who may have had the most desirable seats here for a long period of time, should retain them when they go there. I think the equity of the case would be the other way, and that they should give us, who have had poor seats here for a long time, a chance. I have been in the body a long while, compared with some who hold seats here; it is true, I was out a short time; but when I came back, I was put into a very bad seat. There are others here who have occupied good seats for a long while. I think it is but a simple act of justice that we should go there on the utmost equality, and that the mode in which we should settle our seats there should be one which would give to every Senator an equal chance for a desirable seat. I will, however, withdraw the amendment, and offer it separately when this resolution shall have been voted upon.

Mr. HOUSTON. Mr. President, I do not know that any suggestion which I may make will have any influence on the decision which may be arrived at on this subject. I am differently circumstanced from the majority of the Senators. My term will expire on the 4th of March next, and, unless we go into the new Hall on the 4th of January, I, for one, shall never have the pleasure of taking a seat in it. Now, I do not expect the Senate to defer to my wishes; but I confess that, after hearing the subject discussed, I am satisfied that this is as fit a time to occupy the new Hall as any which we can fix. I see no objection to the resolution. We have satisfactory assurances from the superintendent that the Hall will be in readiness at the time fixed. As to the objection of the want of a bar, I do not think that is essential. They have none in the House of Representatives; and I have no doubt that Hall was prepared in the best possible style of which the superintendent was capable; and I have full confidence in his capacity to arrange our Hall in a becoming manner to receive the Senate of the United States.

As for these incidental matters about seats, I care nothing for them. For so short a time as I shall have to occupy a seat, that point will not concern me greatly; and if I should happen to draw a very eligible situation, any gentleman who wishes to exchange with me can do so.

I think we had just as well go into the new Hall now as at the commencement of the next session, and perhaps better. My own impression is, that this is an unwholesome room. I have for two or three sessions during the time I have been in the Senate contracted the greatest colds and hoarseness I have ever had in any place in my life, and I think it is as unhealthy a room as could possibly be selected by the Senate. I apprehend no danger from the occupation of the new Chamber. Indeed, I have no doubt that it would conduce to our health. It is a fine, spacious, and airy room, and I think our situation will be much more agreeable there, and our deliberations will undergo the same routine there that they do here. I am in favor of removing at once. The holidays are at hand, and a great many visitors will come to Washington city, and they will wish to occupy a desirable situation. The galleries in the new Chamber, I am told, are very capacious, and calculated to receive many; and if we go there, gentlemen who wish to speak will have an opportunity of gratifying their friends who may be spectators on the occasion; and you will not hear universal complaints about the smallness of the galleries, nor will the health of spectators be endangered, for there they will have space and fresh air; but here, if persons come to the galleries in large numbers, ladies particularly, they are apt to be suffocated.

I assure you, Mr. President, that I am decidedly in favor of it for the convenience of the Senate, and as it has to be done at some period, and feeling assured that the Chamber is now ready for our reception, we ought at once to go there and inaugurate our situation with the new year that is advancing, and not postpone it until the end of

another year. I like to take things at the first hop, at the commencement, and then we can keep pace with them; but to go in at the flag-end of a year, is not a good omen. I am for occupying the new Hall with the new year, or as near it as possible, and I shall decidedly vote for going in there.

Mr. SEWARD. Mr. President, I have taken no interest in this question, because it seemed to me to be quite an immaterial one, at least so far as I was concerned myself. It was whether we should occupy the new Chamber for the residue of this session, or whether we should postpone going there until the next. But, sir, I am not insensible to considerations of courtesy, respect, and affection to others on such a subject; and the Senator from Texas—I will say the distinguished and venerable Senator from Texas—has put this question upon a basis, upon which I, feeling otherwise indifferent on the subject, entertain a strong disposition to vote with him for occupying the new Chamber. We have been associated many years with Senators, some of whom are older than I am here; some of whom are not so old. We are to separate with a portion of the body on the 4th of March next; and though the forebodings of that honorable Senator may be wrong in his own case, and he may yet be returned to the Senate of the United States and have many years of honorable service hereafter in this body, yet, in regard to others of us, it is probable that we shall not again meet him and his associates who now retire. Upon that ground, then, in order that those who have gone with us in making these appropriations, in directing the construction of the new edifice, and in preparing it for public service, may have an opportunity of closing their present terms of service in the Senate in the new Hall, I shall very cheerfully acquiesce in the suggestion which he makes, and give my vote for the change. So far as the question of health is concerned, I cannot be at all made to believe that that edifice, the main part of which has been completed for two or three years, and has been subjected to a continual drying process, can be at all unwholesome; and it, as I before said, presents no other question than a question simply of choice, a matter almost of caprice, one way or the other.

Mr. WILSON. I am in the same condition with the Senator from Texas; my term expires on the 4th of March next; and so does the term of the Senator from Maine, [Mr. FESSENDEN;] but I prefer to close my term here, and I shall vote against going into the new building, because I prefer to see it occupied only when it is completely finished; when all the avenues leading to it are in a proper condition, and when the officers have removed there. But, sir, if we are to go there, I hope the suggestion made by the Senator from Georgia will be carried out, and that at once we shall have a railing put around the seats of Senators. Those Senators who sit on the back seats will find it very inconvenient to occupy that position, unless we have a bar or railing such as we have here in this Hall. I think no one can go into the House of Representatives and witness the condition of that portion of the House who occupy rear seats, liable to be incommode by persons dropping into the seats of members, without coming to the conclusion that we ought to have a railing around the seats of members, and that no person should be permitted to take the seat of a Senator, with the exception, perhaps, of members of the House of Representatives. If we are to go into the new Hall, I hope some committee will direct that such a bar be placed at once around the rear seats of the members. I shall vote, however, against going now, for I am content to remain here; and I am very much surprised to hear, as I have heard to-day, that this is a place so very unhealthy.

Mr. COLLAMER. What is the question before the Senate?

The VICE PRESIDENT. The question is on the resolution of the Committee on Public Buildings and Grounds.

Mr. BROWN called for the yeas and nays; and they were ordered; and, being taken, resulted—yeas 26, nays 18; as follows:

YEAS—Messrs. Bright, Broderick, Brown, Cameron, Chandler, Clingman, Crittenden, Davis, Dixon, Doolittle, Durkee, Fitzpatrick, Gwin, Hammond, Harlan, Houston, Jones, Kennedy, Reid, Rice, Seward, Slidell, Thomson of New Jersey, Toombs, Trumbull, and Wade—26.

NAYS—Messrs. Bates, Bigler, Clay, Collamer, Fessenden, Foot, Green, Hamlin, Iverson, Johnson of Tennessee,

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 2D SESSION.

WEDNESDAY, JANUARY 5, 1859.

NEW SERIES...No. 13.

King, Polk, Sebastian, Shields, Stuart, Ward, Wilson, and Wright—18.

So the resolution was adopted; and the Vice President appointed Messrs. DAVIS, COLLAMER, and KENNEDY, as the committee of arrangements to superintend the removal.

Mr. HAMLIN. I now ask the Senate to vote on the resolution which I submitted. I do not propose to discuss it. It is a proposition which every Senator understands. It is a question, whether we shall simply draw or not draw for our seats when we go into the new Hall.

The VICE PRESIDENT. Does the Senator move to postpone the special orders in order to take up that resolution?

Mr. HAMLIN. I do. I did not suppose anybody would object. I withdrew the resolution, as an amendment to the one just adopted, at the request of Senators. I now offer it, as a separate resolution, in this shape:

Resolved, That the seats in the Senate Chamber shall be assigned to Senators in the following manner: The Secretary shall put into a box the name of each Senator, and in the presence of the Senators, shall proceed to draw the same therefrom, and each Senator shall select a seat as his name shall be called.

Mr. DAVIS. Allow me to suggest to the Senator, that the matter might be appropriately referred to the committee of arrangements, provided for in the resolution which has been adopted.

Mr. HAMLIN. I understand that; but the committee of arrangements may be of one opinion, and the Senate of another, and I simply wish the expression of the opinion of the Senate, and then let that committee be guided by it.

Mr. BROWN. I hope the Senate will take no such course as that. Drawing for seats is well enough in the House of Representatives, but in a body so small as this it seems to me to be wrong. For this particular case, I should not have so much objection to it; but I fear it is going to run into a precedent, and at the opening of every Congress we shall be asked to draw for seats, and old Senators will be displaced and new ones take their places. If it could be confined to this single time, I do not know that I should object to it; but I have a bump of locality pretty highly developed. If I get in a seat, I want to stay there, and do not want to be drawn out of it by any sort of lottery of this kind. I have no idea but that we can go into the new Chamber like gentlemen, and get comfortable seats without any such scramble as has been anticipated.

Mr. CAMERON. I am afraid we shall not have time to discuss the proposition of the Senator from Maine. A number of us desire to leave to-day, and the Senate will adjourn in the course of half an hour, or an hour at any rate. The cars start at half past three o'clock, and those who are going north and east ought to leave the Senate Chamber in a few minutes. This proposition will require a good deal of discussion. I move, therefore, that the Senate do now adjourn.

Mr. GWIN. I hope the Senator will withdraw the motion for a moment. I want to take up the special order so as to leave it as the unfinished business.

Mr. CAMERON. I will withdraw the motion long enough for that purpose.

The VICE PRESIDENT. Then the question is on the resolution of the Senator from Maine.

Mr. CAMERON. I will not withdraw my motion for that.

The VICE PRESIDENT. The question now before the Senate is on the motion to postpone the special orders, with a view to take up the resolution of the Senator from Maine.

Mr. CAMERON. Does not my motion to adjourn take precedence?

The VICE PRESIDENT. The Chair understood the Senator to withdraw it.

Mr. CAMERON. Only on condition.

The VICE PRESIDENT. Then the motion to adjourn is pending.

Mr. STUART. I wish to ask the indulgence of the Senator and the Senate, to pass a resolution which was introduced yesterday by the Senator from New Hampshire, [Mr. HALE,] making

a call upon the Post Office Department. The parties desire that the resolution should be disposed of before the adjournment, so that the information may come in; and I have prepared a substitute which meets my views, and to which I suppose there will be no objection at all. I should like to have the unanimous consent of the Senate to dispose of it.

Mr. COLLAMER. I must object to that. The Senator from New Hampshire is not in his seat.

The VICE PRESIDENT. The Senator from Vermont objects. Then the question is on the motion to adjourn.

Mr. THOMSON, of New Jersey. Will the Senator from Pennsylvania withdraw that for a motion I propose to make for an executive session. A nomination has come in this morning, which must be acted on to-day. I think it will not take five minutes.

Mr. CAMERON. I will withdraw it for the purpose of going into executive session.

EXECUTIVE SESSION.

Mr. THOMSON, of New Jersey. I now move that we proceed to the consideration of executive business.

Mr. GWIN. I wish to make an inquiry of the Chair. Is not the unfinished business Senate bill No. 65, the Pacific railroad bill?

The VICE PRESIDENT. The present occupant was not in the chair yesterday, at the time of the adjournment; but he understands that that bill is the unfinished business.

Mr. GWIN. That is all I wish to have understood.

Mr. THOMSON, of New Jersey. I renew my motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened.

ARREST OF WILLIAM WALKER.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 21st instant, copies of all the letters or correspondence, now on file in his Department, between the President of Nicaragua and Commodore Hiram Paulding, in relation to the capture of William Walker and his command at San Juan de Nicaragua, in December, 1857.

Mr. DOOLITTLE. I move that the communication be printed, and laid on the table.

Mr. CLAY. I suppose the motion to print goes to the Committee on Printing, as a matter of course?

Mr. DOOLITTLE. I think it is not necessary to refer the matter to the Committee on Printing. This, as I understand, is a letter from the President of Nicaragua to Commodore Hiram Paulding, in relation to the capture of Walker at San Juan.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) Under the rule, a motion to print a document of this kind must be referred to the Committee on Printing; but by unanimous consent the Senate can dispense with that rule.

Mr. DOOLITTLE. I ask unanimous consent for that purpose.

Mr. CLAY. I must object.

The PRESIDING OFFICER. It will go to the Committee on Printing.

SAN FRANCISCO POST OFFICE.

Mr. BIGLER. I ask the Senate to proceed to the consideration of the resolution offered yesterday by the Senator from New Hampshire, [Mr. HALE,] calling for certain information in reference to charges against the postmaster at San Francisco. I do so for the purpose of offering an amendment which will be more agreeable and satisfactory to the Committee on the Post Office and Post Roads, and to all parties.

Mr. COLLAMER. I must object to calling up the resolution. It is a resolution which was introduced by the Senator from New Hampshire, who is not now present, who does not want it

called up, that we know of. He is not here to attend to it.

Mr. STUART. I will say to the Senator from Vermont that the Senator from New Hampshire desired it to be taken up and passed.

Mr. COLLAMER. But he did not want it to undergo entire modification.

Mr. STUART. All I can say is, that he sent word to me, through the medium of the person who is anxious to have this matter acted on, that he wished the resolution called up and passed.

Mr. COLLAMER. Of course he wants it passed.

Mr. STUART. And that he was willing it should be put in that form which would give the widest scope to the inquiry.

Mr. BIGLER. There will be no objection whatever, I am satisfied, when the Senator hears the amendment read. It accomplishes the object of the Senator from New Hampshire; for it is entirely broad in its terms. The only difference is that the resolution which he offered reflects, in some of its terms, upon the Department, and at the same time was somewhat severe in its intimations upon the postmaster at San Francisco; but this amendment calls for all papers and documents on the subject. That is the shape in which the committee desired the resolution to appear; and I am satisfied that if the Senator from New Hampshire were here, he would agree to it in that shape.

Mr. COLLAMER. As these gentlemen seem to be advised of the views of the Senator from New Hampshire, who is not here, I shall not undertake to differ with them. I simply say, it seems to me that, when he has introduced a resolution, it should be left to him to take that course which he thinks proper. The fact that he wishes it passed, does not prove that he would consent to a modification of it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania, to proceed to the consideration of the resolution named by him.

The motion was agreed to; and the Senate proceeded to consider the resolution yesterday offered by Mr. HALE; which is as follows:

Whereas, the Senate, on the 13th of May last, adopted the following resolution, namely:

Resolved, That the Postmaster General be also requested to inform the Senate, at the same time, whether there are on the files of the Post Office Department any complaints of malfeasance in office, or violations of law on the part of the San Francisco postmaster; and, if so, when the same were filed and in what manner they are substantiated, and the nature of the charges, the specific sections of the law which the alleged acts are in violation of, and what action, if any, has been taken in regard thereto;

And, on the 10th of June last, the following additional resolution, namely:

Resolved, That the Postmaster General be requested to transmit to the Senate the evidence of alleged violations of law and malfeasance in office on the part of the postmaster at San Francisco, and also the papers accompanying the same, filed in the Post Office Department on or about April 20, 1857. Also, all correspondence with J. D. Fry, the special agent of the Post Office Department, in regard to any alleged malfeasance on the part of said postmaster; and especially, a copy of a letter addressed to said Fry, October 3, 1855, and the reply to the same; and also the report made by the said Fry. Also, letters in relation to the same from Van Bokkelen, Esq., in 1853, and Messrs. Moore & Folger in 1857, and copies of all correspondence connected therewith. Also, letters from H. L. Goodwin in 1855, and four letters from the same person, dated March 27, June 25, July 18, and July 25, 1857. Also, letters of C. L. Weller, dated September 1, 1855, March 21, 1856, and October 11, and 20, 1857; and that the Postmaster General inform the Senate whether there is any information on the files of the Post Office Department showing or charging that the investigation ordered to be made by J. D. Fry, was an *ex parte* investigation;

And whereas the information called for in the first mentioned resolution, and the papers called for by the second resolution have not been communicated to the Senate: Therefore,

Resolved, That the Postmaster General be directed to transmit to the Senate, without further delay, the information and papers relating to the alleged malfeasance in office and violations of law, on the part of the postmaster at San Francisco, called for by the two abovementioned resolutions of this body, adopted May 13 and June 10, respectively.

Mr. BIGLER. I now offer this amendment, in the nature of a substitute, for the resolution:

Resolved, That the Postmaster General be requested to transmit to the Senate all the papers and documents relating

to the various charges made against the official conduct of the postmaster at San Francisco.

The amendment was agreed to; and the resolution, as amended, was adopted.

ADMISSIONS ON THE FLOOR.

Mr. TRUMBULL. I offer the following resolution, which I think ought to be acted upon before we adjourn. It relates to going into the other Hall:

Resolved, That until the Senate otherwise order, no person except Senators, the officers of the Senate, and members of the House of Representatives, be admitted to the floor of the Senate while in session.

I think it would be better that we should have some rule about this matter before we go into the new Hall, as it will be unpleasant, if we once admit persons on the floor, to turn them out afterwards. I have no objection to the alteration which is suggested by the Senator from Michigan, [Mr. STUART,] but I think it would be desirable not to have the Senate crowded upon, and particularly those of us who set on the outer circle, when we first go into the new Chamber.

Mr. HUNTER. I do not see that, in as large a room as that, we should be likely to be disturbed by allowing those to come in who are now privileged to come upon the floor.

Mr. TRUMBULL. There is no railing at all there; there is nothing to prevent the crowd coming right upon those of us who sit on the outer circle.

The PRESIDING OFFICER. Perhaps the resolution of the Senator from Illinois may conflict with the standing rule of the Senate, as to the admission of persons.

Mr. STUART. It will require unanimous consent to change the rule without a day's notice.

Mr. IVERSON. I hope we shall pass the resolution offered by the Senator from Illinois, because I shall be put on an outside seat, and I know how disagreeable it will be to occupy that position, unless we have a railing, or exclude visitors. I have had experience of that in the Legislature of the State of Georgia, and I see how the difficulty operates in the House of Representatives. I do not know but that we shall be compelled, as the Senator from Massachusetts very properly said, to have a bar anyhow, even if we exclude visitors, to keep out members of the House of Representatives, for they will come in and drop into our seats, if there is no barrier; and if you want to sit down, you will have to be guilty of the rudeness of asking gentlemen to get up. We shall probably have a bar; we can, at any rate, try this method, and if it does not work we can alter it.

Mr. CLAY. Mr. President, I have heard repeatedly here what has been very painful to me, and must be very painful to the public ears, and, I think, is calculated to bring the Senate into great discredit; that is the repeated charge that the Senate keeps a bar, and that the Senate is addicted to railing. [Laughter.] I trust we shall not hear anything more about that, but that gentlemen will substitute some other words. I hope the resolution will be adopted.

Mr. IVERSON. I stand corrected by the superior critical erudition of the gentleman from Alabama.

The Senate, by unanimous consent, proceeded to consider the resolution, and it was agreed to. On motion of Mr. STUART, the Senate then adjourned.

HOUSE OF REPRESENTATIVES

THURSDAY, December 23, 1853.

The House met at twelve o'clock, m.

The Journal of yesterday was read.

Mr. GILMAN. I desire to have the Journal amended. I find my name is recorded as voting in the affirmative on the passage of the old soldiers' pension bill. I voted in the negative.

There being no objection, the Journal was corrected accordingly.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, asking authority to pay A. Dudley Mann for services rendered to the Government; which was referred to the Committee of Ways and Means.

INTRODUCTION OF BILLS, ETC.

Mr. TRIPPE. I ask the unanimous consent of the House to introduce a bill of which previous notice has been given, for the purpose of reference only.

Mr. CRAIG, of Missouri. If the gentleman will permit me, I will offer a resolution which will allow all equally to introduce bills.

Mr. TRIPPE. I hope the gentleman will allow me to introduce this bill.

Mr. ANDREWS. I shall object.

Mr. PHELPS, of Missouri. I suggest to the gentleman from Georgia, that it would be better to allow the resolution to be submitted, which will enable all to introduce bills and resolutions.

Mr. CRAIG, of Missouri. I ask unanimous consent to introduce the following resolution:

Resolved, That the Speaker now proceed to call each State and Territory, and upon such call members may introduce bills and resolutions for reference only, and without debate, of which previous notice has been given, and such House resolutions as shall not give rise to debate.

Mr. HOUSTON. If the resolution can be modified so as to receive reports from committees, I shall have no objection to it. It ought also to be modified, so far as to provide that the reports and bills and resolutions which may be introduced and referred to committees shall not be brought back by a motion to reconsider.

Mr. CRAIG, of Missouri. I have no objection to such modification.

Mr. RITCHIE. I hope the gentleman will strike out the words, "of which previous notice has been given."

The resolution, as modified, was read as follows:

Resolved, That the Speaker now proceed to call each State and Territory, and upon such call members may introduce bills and resolutions, for reference only, and without debate, of which previous notice has been given, and such House resolutions as shall not give rise to debate, and also reports from committees: *Provided*, No bill so introduced or reported shall be brought before the House by a motion to reconsider.

Mr. GROW. Does that mean that only reports of committees shall be referred?

The SPEAKER. The Chair thinks it would require a report coming from a committee to be referred without debate; in other words, that nothing coming from a committee can be put on its passage under the terms of the resolution.

Mr. CRAIG, of Missouri. That is as I understand it.

The SPEAKER. Is there objection to the resolution?

Mr. HOUSTON. I wish to understand the resolution. Suppose I offer a resolution and call the previous question on it: would that be admissible, or would the resolution, if the previous question were not seconded and debate occurred, be excluded under the terms of the resolution? I ask the question for this reason: if gentlemen are permitted to offer resolutions and to call the previous question, the most litigated resolutions may be presented and voted on.

Mr. CRAIG, of Missouri. Does the gentleman object to the resolution?

Mr. HOUSTON. I do, unless it is restricted to resolutions which do not give rise to debate, and on which the previous question is not called.

The SPEAKER. It will be amended so as to read such resolutions as shall not be objected to.

GALVESTON CUSTOM-HOUSE.

Mr. JOHN COCHRANE. I ask the gentleman from Missouri to suspend action on his resolution, to enable me to report back from the Committee on Commerce Senate resolution No. 54, for changing the plan of the custom-house at Galveston, Texas, to which I referred yesterday, and put it on its passage. It is important that the proposed alteration should be made, and it is recommended by the Secretary of the Treasury. The contractors are waiting here, and that whole section of country is interested in it. I hope the House will permit me to have the bill and amendment reported, and put them upon their passage.

Mr. CRAIG, of Missouri. I shall interpose no objection.

Mr. CLARK, of Connecticut. I object.

REPORTS, RESOLUTIONS, ETC.

Mr. CRAIG's resolution, as modified, was then adopted.

Mr. CRAIG moved that the vote by which the resolution was adopted be reconsidered; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER then proceeded to call the States and Territories in their order, beginning with the State of Maine.

TARIFF BILL.

Mr. COMINS introduced a bill to regulate the duty on imports, and for other purposes; which was read a first and second time, and referred to the Committee of Ways and Means.

CLAIMS OF MASSACHUSETTS.

Mr. CHAFFEE asked leave to submit the following resolution:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of making an appropriation to satisfy the claim of Massachusetts for advances for the United States in the war of 1812-15 with Great Britain, as audited by Hon. Joel R. Poinsett, late Secretary of War; the said audit having been reported to this House December 23, 1837, and having been made under a resolution of Congress, approved May 14, 1836.

Mr. JONES, of Tennessee, objected.

MARIA SWART AND ELIZABETH SWART.

Mr. ANDREWS introduced a bill for the relief of Maria Swart and Elizabeth Swart, heirs of Adam Swart; which was read a first and second time, and referred to the Committee on Invalid Pensions.

CLERKS TO COMMITTEES.

Mr. JOHN COCHRANE asked leave to submit the following resolution:

Resolved, That such of the standing committees of the House as were authorized at the last session of Congress to employ clerks, be respectively authorized to employ clerks at the same rate of compensation, for the present session, and that their pay commence from the date of service.

Mr. JONES, of Tennessee, objected.

CAPTAIN SAMUEL C. REID.

Mr. JOHN COCHRANE introduced a joint resolution of thanks to Captain Samuel C. Reid, for having formed and designed the present flag of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

THE PUBLIC PRINTING.

Mr. TAYLOR, of New York. I ask leave to offer the following resolution:

Resolved, That a committee of five be appointed to investigate the accounts of the late Superintendent of Public Printing, and that said committee be authorized to send for persons and papers, and have leave to report at any time.

Mr. HOUSTON. I do not want to object to that resolution. I do not know what has induced the gentleman to offer it; but my understanding is that a special committee was created at the beginning of the last session of Congress on the subject of the public printing, and that committee has not yet been heard from.

Mr. WASHBURN, of Illinois. Did not that committee expire at the close of the last session.

Mr. TAYLOR, of New York. The gentleman from Alabama is mistaken. The special committee on printing, of which I was a member, made reports of two separate and distinct bills, and were discharged from the further consideration of the subject.

Mr. FENTON. I object to debate. The resolution was agreed to.

REVOLUTIONARY CLAIMS.

Mr. FENTON asked leave to offer the following resolution:

Resolved, That House bill (No. 259) to provide for the settlement of the claims of the officers and soldiers of the revolutionary army, and the widows and children of those who died in the service, be made the special order for the second Tuesday and Wednesday in January.

Mr. PHELPS, of Missouri, objected.

PUBLIC BUILDINGS AT TRENTON.

Mr. ROBBINS asked leave to offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety of purchasing a site and constructing a building for the purpose of a post office, custom-house, and court-house at Trenton, New Jersey.

Mr. LETCHER objected.

JERSEY CITY A PORT OF ENTRY.

Mr. WORTENDYKE introduced a bill to establish a port of entry at Jersey City, in the State of New Jersey; which was read a first and second

time, and referred to the Committee on Commerce.

DUTIES ON IMPORTS, ETC.

Mr. RITCHIE asked leave to offer the following resolution:

Resolved, That a committee of seven be appointed, with instructions to report a bill increasing the duties on imports so as to raise revenues sufficient for the wants of the Government, and making, so far as can be conveniently done, the said duties specific.

Mr. HOUSTON. Believing that that law exists, I object to the resolution.

MEETING OF CONGRESS.

Mr. GROW asked leave to offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill to fix the annual meetings of Congress on the second Monday of November in each year.

Mr. WASHBURNE, of Illinois, objected.

REVISION OF THE TARIFF.

Mr. KEIM asked leave to offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report a bill, revising the present tariff, substituting specific for *ad valorem* duties, where practicable; increasing the duties, so as to defray the expenses of the Government, economically administered, and afford proper protection to the trade and industry of the country.

Mr. HOUSTON objected.

NATIONAL FOUNDRY AT READING.

Mr. KEIM asked leave to offer the following resolution:

Resolved, That the Committee on Military Affairs be instructed to report a bill to establish a national foundry, to be located at the city of Reading, Berks county, Pennsylvania.

Mr. FAULKNER objected.

PURCHASE OF ARMS.

Mr. KEIM introduced the following resolution; which was read, considered, and agreed to;

Resolved, That the Committee on Military Affairs be instructed to report a bill granting the privilege to the States of the Union to purchase arms from the General Government to supply the deficiencies and the wants of the militia.

DUTIES ON IMPORTS.

Mr. PHILLIPS introduced a bill regulating and fixing the duties on imports, and for other purposes; which was read a first and second time, and referred to the Committee of Ways and Means.

TITLE OF CAPTAIN-IN-CHIEF.

Mr. PHILLIPS also introduced a bill authorizing the President of the United States to confer the title of captain-in-chief for eminent services; which was read a first and second time, and referred to the Committee on Naval Affairs.

PENNSYLVANIA ELECTION.

Mr. COVODE asked leave to offer the following resolution:

Resolved, That a committee, consisting of five members, be appointed to inquire into the facts, charged by the President of the United States, as contained in his letter to the president of the centenary convention, held in Pittsburg, on the 25th day of November last, upon certain individuals, of having sent money into the State of Pennsylvania to influence the late congressional elections in said State, in opposition to his wishes; and to report the names of the persons implicated.

Mr. JONES, of Tennessee. I object to that resolution.

Mr. COVODE. Is the gentleman afraid of the investigation? [Laughter.]

Mr. MILLER. I object to the resolution, if no one else does.

CENSUS LAWS.

Mr. WHITELEY asked leave of the House to offer the following resolution:

Resolved, That the Committee on the Judiciary be directed to inquire into the propriety of reporting a bill repealing all the provisions of any existing laws, providing for the taking of the census, except such as relate entirely to the numbering of the people and providing for the apportionment of the members of the House among the several States.

Mr. TOMPKINS objected.

PURSUERS IN THE NAVY.

Mr. STEWART, of Maryland, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy communicate to this House, if not incompatible with the public interest, the number of vessels now in commission on foreign sta-

tions having no regular pursers on board, and the reasons why they are not supplied.

BALTIMORE COURT-HOUSE.

Mr. HARRIS introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to this House whether he has taken any, and if so what, action to carry out the provisions of the act of Congress appropriating money toward the construction of the United States court-house in the city of Baltimore.

DUTIES ON TOBACCO.

Mr. BOCKOFF offered the following resolution; which was read, considered, and adopted:

Resolved, That the President of the United States be requested to inform this House, if, in his opinion, not incompatible with the public interest, whether any measures have recently been taken by this Government to procure a reduction of the excessive duties on tobacco, now imposed by the principal States of Europe; and that he be further requested to communicate to this House any views in relation to that subject which may seem to him proper.

COST OF CENSUS.

Mr. LETCHER offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish a statement showing the entire cost of taking the census of 1850, and of arranging and publishing the same.

HEIRS OF DANIEL BEDINGER.

On motion of Mr. FAULKNER, it was

Ordered, That leave be granted to withdraw from the Court of Claims the papers in the case of Daniel Bedinger's heirs, for the purpose of reference to the appropriate committee of this House.

ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. SMITH, of Virginia, introduced a bill in relation to the Alexandria and Washington railroad; which was read a first and second time, and referred to the Committee for the District of Columbia.

CAPTAIN BRITTON'S COMPANY.

Mr. JENKINS introduced a bill granting bounty land to the companions of Captains Britton and Davis, of the war of 1812; which was read a first and second time, and referred to the Committee on Public Lands.

DIFFERENCES WITH SPAIN.

Mr. BRANCH introduced a bill appropriating money to enable the President to settle unadjusted differences with the Government of Spain, and for other purposes; which was read a first and second time, and referred to the Committee on Foreign Affairs.

HEIRS OF FRANCIS WARE.

Mr. SHAW, of North Carolina, introduced the following resolution; which was read, considered, and adopted:

Resolved, That the papers in the case of the heirs of Francis Ware be recalled from the Court of Claims for the purpose of referring them to the appropriate committee in this House.

REMOVAL OF MEMBERS' DESKS.

Mr. MILES. I ask leave to offer the following resolution:

Resolved, That it be referred to a special committee of this House to consider and report on the expediency of removing the present desks from the Hall, and making such arrangements of the seats of members as will bring them together in a smaller space, for the purpose of greater facility of hearing and more orderly debate.

I would simply remark to the House, that the resolution merely instructs the committee to inquire and report. It provides for no definite action on the part of the House.

Mr. WASHBURN, of Maine. I hope that resolution will pass.

Mr. WASHBURNE, of Illinois. I move to lay the resolution on the table.

Mr. MILES demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. WASHBURNE, of Illinois, demanded tellers upon the motion.

Tellers were not ordered.

The motion was not agreed to.

The question recurring upon agreeing to the resolution,

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were ordered; and Messrs. SEWARD, and CLARK of Connecticut, were appointed.

The House divided; and the tellers reported—aye 73, noes 55.

So the resolution was adopted.

Mr. MILES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MILES. I would suggest that the committee shall consist of five members.

There being no objection, it was ordered that the committee consist of five members.

SPEECHES NOT DELIVERED.

Mr. MILES asked leave to offer the following resolution:

Resolved, That hereafter no speech by any member of this House shall be published in the Daily Globe or Appendix, unless it has been actually delivered in the House; and that a deduction of \$500 be made from the pay of the said newspaper for every violation of this prohibition.

Mr. NICHOLS objected.

MRS. FERGUSON SMITH.

Mr. TRIPPE introduced a bill for the relief of Mrs. Ferguson Smith; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

EMPLOYÉS OF THE HOUSE.

Mr. STEPHENS, of Georgia, offered the following resolution:

Resolved, That the Committee on Accounts be authorized to fix the number of clerks, messengers, laborers, or other employes in the offices of the Clerk, Postmaster, Doorkeeper, and Sergeant-at-Arms of this House: *Provided*, That in the reorganization of these respective offices, no increase of force be made requiring other appropriations than are now or may hereafter be made by law.

Mr. HUGHES. There is a bill pending before the House to accomplish the same object; and therefore I object to the resolution.

INSTRUCTIONS TO NAVAL OFFICERS.

Mr. DOWDELL introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House, if not deemed by him incompatible with the public interests, the instructions which have been given to our commanders in the Gulf of Mexico.

WEST POINT CADETS.

Mr. MOORE asked leave to offer the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the number of cadets at the Military Academy at West Point.

Mr. GROW objected.

ADVERSE REPORTS.

Mr. HOUSTON, from the Committee on the Judiciary, made adverse reports on the following cases:

House bill (No. 428) to amend an act entitled "An act to establish a court for the investigation of claims against the United States;"

A resolution for the election of postmasters;

House bill (No. 51) to repeal an act entitled "An act to establish a court for the investigation of claims against the United States," approved February 4, 1855;

A resolution in relation to a change of venue in United States circuit and district courts; and

The memorial of the grand jury of the United States district court of South Carolina, praying a change of the location of the district court of the United States for that State.

On motion of Mr. GREENWOOD, the adverse report on the bill to repeal the law establishing the Court of Claims, was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The remaining reports were laid upon the table, and ordered to be printed.

EMPLOYÉS OF THE HOUSE.

Mr. HUGHES. I withdraw my objection to the resolution of the gentleman from Georgia, [Mr. STEPHENS.]

The resolution was again read.

Mr. HOUSTON. Am I to understand that resolution as completing the action proposed, without its coming back to the House? If so, then I renew the objection. If the Committee of Accounts is authorized by that resolution to prepare a bill establishing salaries, and the number of employes, &c., to be reported for the action of the House, I have no objection; but if the whole matter is to be left to the discretion of the Committee of Accounts, then I do object.

Mr. NICHOLS. Let me say a word.
Mr. HOUSTON. I understand the gentleman from New York [Mr. SEARING] to say, in answer to my question, that it does not give to the Committee of Accounts the power I have indicated. I therefore withdraw my objection.

Mr. NICHOLS. I wish to say this: From practical experience and very accurate knowledge of the difficulties of a position on the Committee of Accounts, I know that, because of conflict between resolutions of this House of the last session and the law as it stands, it is almost impossible for that committee in any manner or form to pay an employé of the House of Representatives.

Mr. MAYNARD. Is debate in order?

The SPEAKER. It is not.

Mr. MAYNARD. Then I object.

Mr. STANTON. That resolution ought to be considered, and I object to it.

WILLIAM HAZARD WIGG.

Mr. MOORE. I ask unanimous consent to have taken up and put on its passage Senate resolution (No. 52) for the relief of William Hazard Wigg. It was referred to the Committee of Claims, and reported back unanimously with the recommendation that it do pass.

Mr. WASHBURN, of Illinois. Does the resolution under which we are acting embrace bills reported from committees?

The SPEAKER. It would be more regular and less likely to lead to confusion if the call for bills and resolutions were completed, and the House was then to proceed with the call of committees for reports.

Mr. WASHBURN, of Illinois. I only wanted to understand the matter, as I have myself several reports to present.

Mr. MOORE. I withdraw my request for the present.

GRADUATION BILL.

Mr. COBB introduced a bill to amend an act approved August 4, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," which was read a first and second time, and referred to the Committee on Public Lands.

Mr. COBB. I send up a resolution which I have been instructed by the Committee on Public Lands to offer.

Mr. STANTON. Does the resolution under which we are acting authorize committees to report when the States are called? I do not understand to what State committees belong, or how committees can report on a call of the States.

The SPEAKER. The Chair suggested to the House a moment ago, that under the resolution which has been adopted, perhaps it might be in order; but it would save great inconvenience and irregularity if the call of the States and Territories for bills and resolutions was first completed, and then the committees can be called for reports, such as are contemplated by the resolutions.

Mr. HOUSTON. I had in view, when I proposed the modification of the resolution, that, whenever any gentleman's State was called, he might make such reports as he had been instructed by his committee to make.

The SPEAKER. If it be the pleasure of the House, the Chair will execute the order in the way the Chair has indicated.

[Cries of "Agreed!" "Agreed!"]

ACQUISITION OF CUBA.

Mr. DAVIS, of Mississippi, asked leave to offer the following resolution:

Resolved, That the Committee on Foreign Affairs be instructed to report a bill authorizing and requiring the President of the United States to take and retain the possession of the Island of Cuba, unless, within the next six months, the sum of \$128,635 54, acknowledged, in the year 1854, by the Spanish Government to be due to citizens of the United States for duties unjustly exacted from American vessels at different custom-houses in Cuba, be paid, and satisfaction be given to the President for insults heretofore offered to our flag, and injuries inflicted on the persons and property of our citizens.

Mr. RITCHIE objected.

DECLARATORY ACT.

Mr. TAYLOR, of Louisiana, introduced a bill declaratory of the meaning of a clause in the second section of an act approved June 2, 1853; which was read a first and second time, and referred to the Committee on Private Land Claims.

DEEPENING OF THE MISSISSIPPI.

Mr. TAYLOR, of Louisiana, also introduced a bill to authorize the State of Louisiana to impose duties on the tonnage of certain ships or vessels, to be appropriated to the deepening of the channels in the mouths of the Mississippi river and of the channel into and through Atchafalaya bay, for the convenience and advantage of the commerce and navigation of the United States; which was read a first and second time, and referred to the Committee on Commerce.

DEBASEMENT OF SILVER COINS.

Mr. TAYLOR, of Louisiana, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the first, second, third, fourth, and fifth sections of an act approved February 21, 1853, which provide for debasing the silver coins of the United States of the denominations of half a dollar, quarter of a dollar, dime, and half dime, and make the coin so debased a legal tender for sums not exceeding five dollars.

GRAND CHENIERE ISLAND.

Mr. SANDIDGE introduced a bill recognizing the survey of the Grand Cheniere Island, State of Louisiana, as approved by the surveyor general; which was read a first and second time, and referred to the Committee on Public Lands.

LOAN BILL.

Mr. SANDIDGE also introduced a bill authorizing the President to obtain a loan for a certain purpose; which was read a first and second time, and referred to the Committee on Foreign Affairs.

TREATY OF WASHINGTON.

Mr. SANDIDGE also introduced a joint resolution for the abrogation of the eighth article of the treaty of Washington, concluded on the 9th of August, 1842; which was read a first and second time, and referred to the Committee on Foreign Affairs.

BEACON LIGHT.

Mr. SANDIDGE also introduced a bill appropriating a sum of money for the establishment of a beacon light at the mouth of the Calcasieu river, Louisiana; which was read a first and second time, and referred to the Committee on Commerce.

ATCHAFALAYA BAY.

Mr. SANDIDGE also introduced a bill appropriating a sum of money to deepen the outlet from Atchafalaya bay into the Gulf of Mexico, State of Louisiana; which was read a first and second time, and referred to the Committee on Commerce.

SERVICE IN THE NAVY.

Mr. DAVIDSON submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be instructed to inform this House how many persons of the Navy there be who are not actively employed; how long each one of said persons has been out of active service, or has not been at sea; and the amount of the salary of each of said persons, and the reason of his not being actively engaged in sea duty.

KANSAS AFFAIRS.

Mr. BINGHAM introduced a bill to repeal the act entitled "An act for the admission of the State of Kansas into the Union," approved May 4, 1853; which was read a first and second time, and referred to the Committee on Territories.

COMPENSATION OF MEMBERS.

Mr. BINGHAM introduced a bill to amend an act entitled "An act regulating the compensation of members of Congress," approved August 16, 1856; which was read a first and second time.

Several MEMBERS called for the reading of the bill.

The bill was read. It provides that, after the present Congress, members of Congress shall receive no mileage; and that, in lieu thereof, they shall receive an amount sufficient to defray their actual expenses in traveling from their places of residence to this city, by the shortest route of travel.

Mr. HOUSTON. Would it be in order at this time to move to amend that bill by striking out all after the recital of the act, to which it refers, and inserting a clause simply repealing the act?

The SPEAKER. It would not.

Mr. NICHOLS. I object to the introduction of the bill.

The SPEAKER. The gentleman has no right to object.

Mr. BARKSDALE. I concur fully in the proposition of the gentleman from Alabama, [Mr. HOUSTON.]

The bill was referred to the Committee on Mileage.

ELECTION OF TERRITORIAL OFFICERS.

Mr. LEITER. I wish to ask whether it is in order to introduce a bill of which I gave notice at the last session of Congress?

The SPEAKER. It is, under a former decision of the Chair.

Mr. LEITER then introduced a bill authorizing the people of the Territories to elect their territorial officers; which was read a first and second time, and referred to the Committee on Territories.

ROGUE RIVER INDIAN MONEYS.

Mr. LEITER offered the following resolution; which was read, considered, and agreed to.

Resolved, That the Secretary of the Interior be requested to furnish this House with a statement showing the amount yet due to claimants, and not provided for under the third article of the treaty made with the Rogue River Indians, Oregon Territory, on the 10th day of September, 1853, as ascertained by commissioners duly appointed for that purpose.

PAY OF MEXICAN VOLUNTEERS.

Mr. HARLAN introduced a joint resolution for the pay of volunteers in the Mexican war; which was read a first and second time, and referred to the Committee on Military Affairs.

PORTS OF ENTRY, ETC.

Mr. HARLAN asked the consent of the House to introduce the following resolution:

Whereas, the Secretary of the Treasury, in his annual report on the state of the finances, submitted to Congress at its last session, in accounting for the large and annually increasing expenses of collecting the customs, states that Congress, "without careful regard to the burdens they may permanently impose," have ordered "the building of new revenue cutters not needed for the enforcement of the revenue laws," and by "the multiplication of ports of entry and ports of delivery for local and temporary convenience at points not required for the collection of the revenue," &c., &c.; and whereas this House, at its last session, and on the 4th day of January last, passed the following resolution:

Resolved, That the Secretary of the Treasury be requested to furnish this House with a statement of the number of ports of entry and ports of delivery now established by law, which, in his opinion, are not required for the collection of the revenue, and the points and places where the same are located, and the cost and value of the buildings belonging to each, and the entire annual cost and expense of maintaining each of them, and also what number of revenue cutters are now equipped and maintained by the Government, which are not needed for the enforcement of the revenue laws, and at what points they are located or employed, and the annual cost and expense of maintaining each of them;

And whereas no reply has been given to said resolution: Therefore,

Resolved, That the Secretary of the Treasury be now requested to answer said resolution at his earliest convenience.

Mr. WHITELEY objected.

REVOLUTIONARY CLAIMS.

Mr. COX introduced a bill to repeal certain acts of limitation in reference to revolutionary claims; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

HOUSE EMPLOYÉS.

Mr. NICHOLS. I now ask leave to introduce a resolution which was objected to a little while ago. I hope there will be no objection.

The resolution was read, as follows:

Resolved, That the Committee of Accounts be authorized to fix the number of clerks, messengers, laborers, or other employés in the offices of the Clerk, Postmaster, Door-keeper, and Sergeant-at-Arms, of this House: *Provided*, That in the reorganization of these respective offices no increase of force be made requiring other appropriations than are now, or may hereafter be, made by law.

Mr. JONES, of Tennessee, objected.

EMPANNELED JURIES.

Mr. BLISS introduced a bill to provide for empanneled juries in the United States district and circuit courts for the State of Ohio; which was read a first and second time.

Mr. BLISS said: This bill relates to a matter of much interest to the State of Ohio; and for the purpose of bringing it early to the notice of the House, I ask that it may be printed.

Mr. JONES, of Tennessee. I think it will be soon enough to print it when the committee make their report. I object.

Mr. BLISS. Then I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

CESSION OF LANDS FOR SCHOOL PURPOSES.

Mr. STANTON. I wish to introduce a bill, with some papers accompanying it, and I hope the House will consent to the printing of them.

The bill was read a first and second time, as follows:

A bill ceding vacant lands in the Virginia military district, in the State of Ohio, for school purposes.

Mr. STANTON. I move that the bill and papers be referred to the Committee on Public Lands, and printed.

The SPEAKER. The Chair cannot entertain the motion to print.

Mr. STANTON. Then I move their reference to the Committee on Public Lands.

The motion was agreed to.

Mr. STANTON. I now ask unanimous consent that the bill and accompanying papers be printed.

No objection being made, it was so ordered.

REORGANIZATION OF JUDICIAL CIRCUITS.

Mr. STANTON introduced a bill to reorganize the judicial circuits of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

CLERKS OF UNITED STATES COURTS.

Mr. MAYNARD introduced the following resolutions; which were severally read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any change should be made in the compensation now allowed to clerks of the circuit and district courts of the United States, and whether the laws regulating the same should be modified; with leave to report by bill or otherwise.

Resolved, That the same committee be instructed to inquire into the expediency and propriety of furnishing to the clerks of the circuit courts of the United States a copy of the Reports of the Supreme Court of the United States; with leave to report by bill or otherwise.

ELECTION OF MEMBERS OF CONGRESS.

Mr. ZOLLICOFFER introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of regulating the time of electing Senators and Representatives in the Congress of the United States, and of fixing the election of Representatives on the same day in the several States of the Union; and that said committee have leave to report by bill or otherwise.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that the Senate had passed an act providing for holding the courts of the United States in the State of Alabama; in which he was directed to ask the concurrence of the House.

INSPECTION DISTRICT AT MEMPHIS.

Mr. AVERY introduced a bill providing for the establishment of an inspection district at the city of Memphis, in the State of Tennessee; which was read a first and second time, and referred to the Committee on Commerce.

PUBLIC BUILDINGS AT MEMPHIS.

Mr. AVERY also introduced a bill to increase the appropriation for public buildings at Memphis, Tennessee; which was read a first and second time; and referred to the Committee on the Post Office and Post Roads.

PUBLIC BUILDINGS IN TENNESSEE.

Mr. AVERY also introduced a bill providing for the erection of a court-house, post office and pension office at the city of Jackson, Tennessee; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

IMPORTATION OF SLAVES.

Mr. KILGORE offered the following resolution:

Resolved, That the President of the United States be requested to report to this House what information has been received by him in regard to the recent importation of slaves from Africa into Georgia, and what steps, if any, have been taken to punish this violation of the laws of the United States.

Mr. GARNETT objected.

MIDSHIPMEN IN THE NAVY.

Mr. HUGHES introduced a bill to provide for the appointment of midshipmen in the Navy where vacancies remain under the provisions of the law now in force; which was read a first and second time, and referred to the Committee on Naval Affairs.

ADJOURNMENT ON DEATH OF MEMBERS.

Mr. HUGHES offered the following resolution:

Resolved, That this House will not adjourn, upon the announcement of the death of any member, unless such death took place during the session, and in the city of Washington.

Mr. McQUEEN. I object to the resolution, unless it is modified so as to apply only to cases of deaths which may hereafter occur. If that is done, I will not object to it.

Mr. STEPHENS, of Georgia. I object to the resolution. It would not preclude a motion to adjourn, because a motion to adjourn is at any time in order.

Mr. HUGHES. It is a mere expression of the opinion of the House upon the subject.

Mr. STEPHENS, of Georgia. I am opposed to the resolution.

Mr. RITCHIE. The resolution is tantamount to nothing, because the House can adjourn whenever it chooses.

ILLINOIS LAND FUND.

Mr. MORRIS, of Illinois, introduced a bill authorizing the payment of the two per centum land fund, to which the State of Illinois is entitled for road purposes, to said State; which was read a first and second time, and referred to the Committee on the Judiciary.

NATURALIZATION LAWS.

Mr. MORRIS, of Illinois, also introduced a bill to amend the naturalization laws; which was read a first and second time, and referred to the Committee on the Judiciary.

SUGAR AND SALT DUTY FREE.

Mr. MORRIS, of Illinois, also introduced a bill providing for the admission of sugar and salt into all the ports of the United States, free of duty, from and after June 30, 1859; which was read a first and second time, and referred to the Committee of Ways and Means.

ELECTION OF TERRITORIAL OFFICERS.

Mr. MORRIS, of Illinois, also introduced a bill granting to the people of the several organized Territories of the United States the right to provide, through their respective Legislatures, for the appointment or election of their Governors, judges, and all their territorial officers, in such mode or manner as such Legislature may by law determine; which was read a first and second time.

Mr. MORRIS. I ask that that bill be referred to a special committee of three.

Mr. RITCHIE. I object to that.

Mr. PHELPS, of Missouri. Is it in order to move to refer the bill to a special committee?

The SPEAKER. The Chair thinks that it is not, under the resolution of the House.

The bill was referred to the Committee on Territories.

APPOINTMENTS IN ILLINOIS.

Mr. MORRIS asked leave to submit the following resolution:

Resolved, That the heads of the Executive Departments be, and they are hereby, respectively requested to communicate to this House the following information, as far as they may be in possession of the same in their respective Departments:

1. The names of all persons removed from office in the State of Illinois since the commencement of the first session of the present Congress, and the salaries paid respectively to each.

2. The names of the persons appointed to office in said State of Illinois since the meeting of the present Congress.

3. A copy of all petitions, letters, remonstrances, and other papers, upon which said removals and appointments were made, now on file, or which may have been on file, in their respective Departments.

Mr. HUGHES. I move to strike out all after the words "heads of Departments," and to insert "be taken off." [Laughter.]

Mr. DAVIS, of Mississippi. I object to the resolution.

Mr. MORRIS, of Illinois. I presume it is not now in order for me to submit any remarks on the resolution.

Mr. WATKINS. I object to debate.

EMPLOYÉS OF THE GOVERNMENT.

Mr. SMITH, of Illinois, asked leave to submit the following resolution:

Resolved, That House bill No. 127 providing for the appointment of the clerks and messengers of the several Departments of the Government, in the city of Washington, among the several States and Territories and District of Columbia, be made the special order for the third Thursday in January next; and that all debate in Committee of the Whole shall be closed thereon within two hours after the same shall be taken up in committee.

Mr. HOUSTON objected.

GEORGE PHELPS.

Mr. SMITH, of Illinois. I ask leave to offer the following resolution:

Resolved, That the petition and papers in the case of George Phelps be withdrawn from the Committee of Claims and be referred to the Committee on Military Affairs.

Mr. MARSHALL, of Illinois. I do not rise for the purpose of objecting to this resolution, but I feel it to be my duty to say to the House that this is a Senate bill, which was referred to the Committee of Claims, and that that committee is now ready to report. I have no objection to the resolution, if the House think proper to pass it after this statement.

Mr. DAVIS, of Mississippi. I object to it.

DUTY ON PIG LEAD.

Mr. WASHBURN, of Illinois, asked leave to offer the following resolution:

Resolved, That in any bill which shall be introduced by the Committee of Ways and Means, for a change of the present revenue laws, there should be imposed a specific duty of three cents per pound on pig lead.

Mr. KEITT. I object.

KANSAS POST ROAD.

Mr. WASHBURN, of Illinois, introduced a bill to authorize the laying out and constructing a post road from Leavenworth City, in Kansas Territory to the head waters of the South Fork of the Platte river, near Pike's Peak, in the said Territory of Kansas; which was read a first and second time, and referred to the Committee on Territories.

Mr. MARSHALL, of Illinois. Is it in order under the order of the House to introduce reports from committees?

The SPEAKER. The Chair has not been receiving reports. The committees will be called so soon as the call of the States has been completed for bills and resolutions.

ASA B. WEBB.

Mr. MARSHALL, of Illinois, introduced a bill for the relief of Asa B. Webb; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARINE HOSPITAL AT CAIRO.

Mr. MARSHALL, of Illinois, introduced a bill for the construction of a marine hospital at Cairo, Illinois; which was read a first and second time, and referred to the Committee on Commerce.

CORRESPONDENCE ON FILLIBUSTERS.

Mr. STALLWORTH. I was not in the House when my name was called. I have a resolution which I desire to offer, and I ask the indulgence of the House to permit me to do it.

No objection being made; the resolution was read, considered, and agreed to; as follows:

Resolved, That the President of the United States be requested to communicate to this House all the correspondence which has lately taken place between the Secretary of the Treasury and the collector of the port of Mobile, in reference to the clearance of vessels, and all correspondence between said collector and the parties seeking clearance.

RIGHTS OF CITIZENS TO WAGE WAR.

Mr. KEITT. I was not in my seat when my State was called, and I ask the consent of the House to offer the following resolution:

Resolved, That the Committee on the Judiciary be directed to inquire into the expediency of repealing all laws of the United States which make it criminal for citizens of the United States to take part in foreign wars, if they, of their own accord, and at their own peril, choose so to do.

Mr. BLISS objected.

ELECTION OF TERRITORIAL OFFICERS, ETC.

Mr. KELLOGG asked the consent of the House to submit the following resolutions:

Resolved, That the Committee on Territories be instructed to report to this House a bill that shall embrace all the organized Territories of the United States, providing for the election by the people of all territorial officers now appointed

by the President. Also, providing for the donation of one hundred and sixty acres of Government land to every actual settler thereon, within any of said Territories, under such regulations and restrictions as shall secure an actual and *bona fide* occupation, and permanent improvement thereof; the title thereof to be transferred to said occupant at such time, and on such conditions, as the committee may deem advisable to secure the permanent settlement and improvement of said lands; and that no person shall be entitled to receive from the Government more than one donation of land, under the provisions of said bill. Also, providing that the inhabitants of each of said Territories shall provide for and pay the current expenditures of such territorial government. And, also, providing that the inhabitants of said Territories shall remain in a territorial form of government until the inhabitants of a Territory shall be equal to the number required for one Representative under the ratio of congressional representation, and that the people of any of said Territories who may desire to establish a State government, having the requisite number of inhabitants, and having formed a constitution for such State government, shall cause the same to be submitted to a fair vote of the legal voters of such Territory, for approval or rejection.

Mr. KEITT objected.

SALE OF FORT ARMSTRONG.

Mr. FARNSWORTH introduced a bill to provide for the sale of the reservation at Fort Armstrong, known as Island, or Rock Island, in the State of Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

PACIFIC OVERLAND TRANSPORTATION.

Mr. FARNSWORTH introduced a bill to provide for the transportation of the mails and all other Government service by railroad, from the Missouri river, by way of the Great Salt Lake, to San Francisco and Puget Sound; which was read a first and second time, referred to the select committee on the Pacific railroad, and ordered to be printed.

SUPPRESSION OF THE SLAVE TRADE.

Mr. FARNSWORTH offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be requested to inquire and report to this House if any, and what, further legislation is necessary, upon the part of the United States, to fully carry out and perform the stipulations contained in the eighth article of the treaty with Great Britain, known as the Ashburton treaty, for the suppression of the slave trade.

SALE OF LANDS—PREEMPTIONS.

Mr. FARNSWORTH asked the unanimous consent of the House to submit the following resolution:

Resolved, That the Committee on Public Lands be requested to report a bill to this House prohibiting the further sales of the public lands, except to actual settlers, and to them only in limited parcels or quantities to each settler; and that said committee be further requested to inquire and report to this House the propriety of extending the period for preemption of claims to persons who shall plant a portion of the same with timber.

Mr. McQUEEN objected.

JUDICIAL DISTRICT IN GEORGIA.

Mr. SEWARD introduced a bill to form and lay out a new judicial district in the State of Georgia, and to provide for the appointment of a district judge; which was read a first and second time, and referred to the Committee on the Judiciary.

PROPERTY IN SLAVES.

Mr. SEWARD asked the consent of the House to introduce the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire what legislation is necessary upon the part of Congress to protect property in slaves in the Territories of the United States, and report to this House at an early day.

Mr. RITCHIE objected.

RESERVED TOWNSHIPS IN INDIANA.

Mr. NIBLACK introduced a bill for the relief of the inhabitants of the reserved townships in Gibson county, in the State of Indiana; which was read a first and second time, and referred to the Committee on Public Lands.

PROPERTY DESTROYED.

Mr. CRAIG, of Missouri, introduced a bill to revive an act in relation to property lost or destroyed in the military service of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

INCREASE OF MAIL SERVICE.

Mr. CRAIG, of Missouri, introduced a joint

resolution to increase the service on the mail route from St. Joseph, Missouri, to Placerville, California; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

BOUNTY LAND TO TEAMSTERS.

Mr. CRAIG, of Missouri, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands inquire into the expediency and justice of amending the existing laws so as to grant bounty land to such teamsters as may have served during the war with Mexico, with the United States troops in the Indian country, whether such teamsters were marched into Mexico or not; and that they report by bill or otherwise.

BOUNDARIES OF KANSAS.

Mr. CRAIG, of Missouri, asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee on Territories be required to inquire into the expediency of changing the boundaries of the Territory of Kansas, so as to make the Platte river the northern boundary of said Territory.

Mr. FERGUSON. I object.

Mr. CRAIG, of Missouri. I appeal to the gentleman from Nebraska to withdraw his objection. If a majority of his constituents do not join me in asking for this change, I will join him in opposing the proposition.

The SPEAKER. The Chair doubts whether he has the right to receive the objection of a Delegate from a Territory.

Mr. CRAIG, of Missouri. That is as I supposed, but I did not wish to raise the question myself.

Mr. RITCHIE. Well, sir; I object. I have the right.

Mr. CRAIG, of Missouri. I appeal to the gentleman to withdraw his objection. It is only for a proposition to inquire into the expediency. The committee is not instructed to report a bill.

Mr. RITCHIE. No, sir; I am opposed to the whole thing, and I do not want the committee to make any inquiry upon the subject.

Mr. CRAIG, of Missouri. I have about two miles of petitions upon the subject.

Mr. RITCHIE. That does not remove my objection.

EDWARD BRINLEY.

Mr. CRAIG, of Missouri, (at the request of Mr. GOODE,) introduced the following resolution:

Resolved, That Edward Brinley have leave to withdraw his petition and papers, asking for difference of pay between passed midshipman and lieutenant, from the files of this House.

Mr. LETCHER. Let copies be left.

Mr. GOODE. I have no objection to that.

The resolution was so modified, and adopted.

DONATIONS OF PUBLIC LANDS.

Mr. BLAIR asked leave to introduce the following resolution:

Resolved, That provision ought to be made by law, that every male citizen of the United States, and every male person who has declared his intention of becoming a citizen, according to the provisions of law, of twenty-one years of age, or upwards, shall be entitled to enter upon and take any one quarter section of the public lands which may be open to entry at private sale, for the purpose of residence and cultivation; and that when such citizen shall have resided on the same land for three years, and cultivated the same, or, if dying in the meantime, the residence and cultivation shall be held and carried on by his widow or his heirs or devisees, for the space of full three years from and after making entry of such land, such residence and cultivation for the said three years, to be completed within four years from the time of such entry, then a patent to issue for the same to the person making entry, if living, or otherwise to his heirs or devisees, as the case may require: *Provided nevertheless*, That such person so entering and taking the quarter section, as aforesaid, shall not have, nor shall his heirs or devisees have, any power to alienate such land, nor create any title thereto, in law or equity, by deed, transfer, lease, or any other conveyance, except by devise by will: *And provided further*, That said land shall not be taken in execution, or sold for the debts or liabilities of the person making the entry as aforesaid, or the debts or liabilities of his widow, heirs, or devisees.

Mr. ZOLLICOFFER. I object.

DRED SCOTT DECISION, ETC.

Mr. BLAIR asked the unanimous consent of the House to introduce the following resolutions:

1. *Resolved*, That the judicial power of the United States does not extend to political questions, and that all pretended decisions of such questions by the Federal judiciary are illegal and void.

2. *Resolved*, That the late decision of the Supreme Court in the case of Dred Scott against Sandford, so far as the same applies to the act of Congress commonly called the Missouri compromise act, is the decision or a political question, not within the jurisdiction of the court, and is illegal and void.

3. *Resolved*, That there was nothing in the case before the court to authorize it to take cognizance of the validity of the Missouri compromise act, and the cognizance so taken of that act was extra-judicial and gratuitous.

4. *Resolved*, That the assumption of the court to make the said decision, when the case on the record out of which it grew was dismissed for want of jurisdiction, was a clear and manifest proceeding without any judicial authority; and was illegal and void.

5. *Resolved*, That the decision of the same court in the same case, declaring the self-extension of the Constitution to Territories, carrying African slavery with it and protecting it there, against the power of Congress or the people to reject it, was a decision without any authority to make it, and without any case before the court requiring a decision, and without any foundation to rest upon after the case was dismissed for want of jurisdiction out of which it grew, and that said decision was *obiter dicta*, and without legal effect or force.

6. *Resolved*, That said decisions are in derogation of the power of Congress, and restrictive of its time-honored right and practice to legislate for Territories; and being so derogatory and restrictive, it becomes the duty of Congress to vindicate its rights by asserting its full authority to legislate upon slavery in Territories, and declaring its total disregard of the said illegal, extra-judicial, and void decisions of the Supreme Court; which, accordingly, is hereby done.

7. *Resolved*, That the Congress and the President (as part of the legislative authority) are judges of their own powers in passing or approving bills, to be governed by their own oaths and consciences; and that the Supreme Court has no more power to control them than they have to control the court, being both coordinate branches of the same Government, and independent of each other within their constitutional sphere.

Mr. MOORE objected.

THE SLAVE TRADE.

Mr. BLAIR asked the unanimous consent of the House to submit the following resolution:

Resolved, That the Committee on the Judiciary be, and hereby is, instructed to report a bill more effectually to prevent the slave trade, under the guise of the "coolie trade," so called, or of "apprentices," or of "African labor importation companies," or under any other name, or in any other guise, the real purpose or effect of which may be, directly or indirectly, immediately or ultimately, to make slaves of the persons so procured and transported.

Mr. HOUSTON objected.

PACIFIC OVERLAND TRANSPORTATION.

Mr. WOODSON introduced a bill to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and other Government service, by railroad from San Francisco, in the State of California, to the States of Missouri, Texas, and Iowa; which was read a first and second time, and referred to the select committee on the Pacific railroad, and ordered to be printed.

APPROPRIATION BILLS.

Mr. PHELPS, of Missouri. I ask the unanimous consent of the House to permit me to report from the Committee of Ways and Means three of the annual appropriation bills, that they may be referred and printed, as I may not be present when the committees are called.

No objection being made,

Mr. PHELPS, of Missouri, reported a bill making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1860; which was read a first and second time, and referred to the Committee of the Whole on the state of the Union, and, with the accompanying papers, ordered to be printed.

Mr. PHELPS, of Missouri, also reported from the Committee of Ways and Means a bill making appropriations for the naval service for the year ending the 30th of June, 1860; which was read a first and second time.

Mr. PHELPS, of Missouri. I move that the bill be referred to the Committee of the Whole on the state of the Union, and printed.

Mr. SHERMAN, of Ohio. The chairman of the Committee on Naval Affairs was instructed by that committee to submit a motion in regard to that bill. As I do not see him in his seat, I will submit the motion myself. It is, that the bill be referred to the Committee on Naval Affairs, and printed. I wish to make a point directly to the House upon this matter. I desire to have the bill referred and printed as I have indicated, and the Committee on Naval Affairs have leave to report it back under the rules. That course will create no delay, as the committee will act upon and report it back without any unnecessary delay.

Mr. PHELPS, of Missouri. I must object to the motion made by the gentleman from Ohio, to refer annual appropriation bills, after being matured by a committee of this House, to be reexamined by another committee. It is, of course, unprecedented action, and one which I do not feel willing shall, at this time, be adopted by this House, unless it is the disposition of the House to censure the Committee of Ways and Means in the performance of their duties. If there were any rule providing for this course, I would have no objection.

But I have another objection. The unanimous consent of the House was given me to report this bill from the Committee of Ways and Means, in order that it might be referred to the Committee of the Whole on the state of the Union, and printed. That motion has been made, and therefore the motion of the gentleman from Ohio cannot be entertained.

Mr. SHERMAN, of Ohio. The motion I submitted was the unanimous sense of the Committee on Naval Affairs. It is clearly in order, under the 120th rule, which provides:

"After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted."

This bill has been reported to the House, and it may be recommitted to any committee of the House which has charge of the subject-matter; and it seems to me that these appropriation bills ought, at some stage in their progress, to be referred to the committee having charge of the particular departments of business to which they relate. I think, therefore, that the naval appropriation bill should always be referred to the Committee on Naval Affairs; the military bill to the Committee on Military Affairs; and that all these bills ought to have their appropriate reference. Under the present practice, we all know that the entire business of this House is substantially absorbed by the Committee of Ways and Means. I do not wish to cast any imputation upon the chairman of the Committee of Ways and Means, or upon the committee itself. I have great respect for them.

Mr. HUGHES. I object to any further debate.

Mr. SHERMAN, of Ohio. If I am interrupted by a question of order, I await its decision.

The SPEAKER. Debate is objected to.

Mr. SHERMAN, of Ohio. I think I have a right to debate the question of reference.

The SPEAKER. The Chair thinks not, under the order of the House made this morning.

Mr. SHERMAN, of Ohio. Then I submit the motion without further debate.

Mr. JONES, of Tennessee. I cannot see any possible good that can result from the gentleman's motion.

Mr. PHELPS, of Missouri. I submit the motion that the bill be referred to the Committee of the Whole on the state of the Union, and printed.

Mr. SHERMAN, of Ohio. I submit the motion that it be referred to the Committee on Naval Affairs; and upon that motion I call for the yeas and nays.

Mr. GREENWOOD. I hope there will be no interruption to the call of States, as there are others who desire to introduce bills and resolutions.

Mr. CURTIS. Would it be in order to object to the reception of the bill?

The SPEAKER. The bill has been reported by unanimous consent, and has been read twice.

Mr. JONES, of Tennessee. The motion to refer to the Committee of the Whole on the state of the Union takes precedence, I believe.

The SPEAKER. The first question is upon the motion of the gentleman from Missouri.

Mr. SHERMAN, of Ohio. Upon that motion I call for the yeas and nays.

Mr. PHELPS, of Missouri. I see it is the evident intention to prevent the reporting of that bill within the first thirty days of the session, as the rule requires.

Mr. SHERMAN, of Ohio. My motion will not create a moment's delay. The bill can be referred, printed, and reported back without delay.

Mr. PHELPS, of Missouri. To prevent an interruption of the call of committees, I will have the next bill reported and acted upon first, if the Chair will permit it.

The SPEAKER. The bill has been read a first and second time.

Mr. JONES, of Tennessee. We might as well settle this question now as at any other time.

Mr. HOUSTON. The objection to settling it now is, that debate is not in order. While I differ from the gentleman from Ohio as to the propriety of his motion, still I would prefer to hear him upon the subject.

The SPEAKER. Debate is objected to.

The question being upon the call for the yeas and nays,

Mr. NICHOLS called for tellers.

Mr. SHERMAN, of Ohio. I will suggest, in order to accommodate those who desire to introduce bills and resolutions, that the States be called through, and also the committees for reports; and then, by unanimous consent, we can take up and dispose of this question.

Mr. JONES, of Tennessee. I object to that. The bill is before the House, and we may as well settle the matter now as at any other time.

Mr. SHERMAN, of Ohio. I only made the suggestion to enable the House to dispose of bills which gentlemen wished to report.

Messrs. McQUEEN and NICHOLS were appointed tellers.

The House divided; and the tellers reported—ayes 45, noes 64.

Mr. WASHBURN, of Illinois. There is no quorum voting.

Mr. JONES, of Tennessee. I submit that the Constitution says that one fifth of the members present may order the yeas and nays.

The SPEAKER. The Chair is well aware of the fact; but he supposed the House need not unnecessarily consume half an hour's time in taking the yeas and nays upon a vote which would be unavailing if no quorum is present.

Mr. HUGHES. I move that the House do now adjourn.

Mr. JONES, of Tennessee. Suppose, when you call the roll, a quorum should vote: it would be a valid vote, would it not?

The SPEAKER. Certainly it would.

Mr. WASHBURN, of Illinois. Is there not a motion pending to adjourn?

Mr. GREENWOOD. I appeal to the gentleman from Indiana [Mr. HUGHES] to withdraw the motion to adjourn, until all the States and Territories have been called.

Mr. HUGHES. I withdraw the motion.

Mr. JONES, of Tennessee. I now move that there be a call of the House. I object to proceeding with anything until it is ascertained that a quorum is present.

Mr. KELLOGG. I move that the House do now adjourn.

The SPEAKER. Before the question is put, the Chair asks leave to lay before the House a communication.

Mr. JONES, of Tennessee. I object to anything being done if there is not a quorum here.

Mr. GREENWOOD. I demand the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 16, nays 117; as follows:

YEAS—Messrs. Abbott, Jewett, Kellogg, Letcher, Lovejoy, McQueen, Nichols, Potter, Ritchie, Seward, Stephens, Walbridge, Cadwalader C. Washburn, Elihu B. Washburne, White, and Whiteley—16.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Billinghurst, Bingham, Blair, Bliss, Branch, Branton, Bryan, Bufington, Burdington, Burns, Caruthers, Case, Caskie, Cavanaugh, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Cobb, John Cochran, Colfax, Comins, Conning, Cox, Cragin, James Craig, Burton Craig, Curry, Curtis, Davis of Indiana, Davis of Iowa, Dean, Dimmick, Dodd, Dowdell, Farnsworth, Faulkner, Fenton, Florence, Foster, Garnett, Gartrell, Gilman, Gilmer, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Harris, Hawkins, Hoard, Houston, Hughes, Huyler, Jenkins, George W. Jones, Owen Jones, Keim, Keitt, Kilgore, Knapp, Leach, Leiker, Samuel S. Marshall, Millson, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Niblack, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William V. Phelps, Pike, Powell, Purviance, Ready, Reagan, Robbins, Roberts, Royce, Russell, Savage, Scales, Scott, Searing, John Sherman, Singleton, Robert Smith, Spinner, Stallworth, Stanton, James A. Stewart, William Stewart, George Taylor, Miles Taylor, Tompkins, Vance, Wade, Walton, Ward, Israel Washburn, Winslow, and Zolllicoffer—117.

So the House refused to adjourn.

The question recurred upon the motion of Mr. JONES, of Tennessee, that there be a call of the House.

Mr. PHELPS, of Missouri. One word of explanation. I have a proposition to make which, I think, will be satisfactory to all sides.

Mr. SEWARD. I object to any debate unless the other side can be heard.

Mr. PHELPS, of Missouri. I do not propose to debate, but merely to make an explanation.

Mr. SEWARD. I want to make an explanation upon the other side.

Mr. PHELPS, of Missouri. I desire to submit a motion.

Mr. HUGHES. The chairman of the Committee on Naval Affairs is now in the House, and, perhaps, this matter can be accommodated.

Mr. PHELPS, of Missouri. I move that the further consideration of the question in relation to this bill be postponed until Thursday, the 6th day of January next, at one o'clock.

Mr. JONES, of Tennessee. I submit whether that motion is in order? The bill was reported under the resolution, which provides that bills shall be received for reference only.

Mr. PHELPS, of Missouri. No; it was not reported under that resolution, but by unanimous consent.

Mr. JONES, of Tennessee. I believe that forty-odd members voted for ordering the yeas and nays; but since that it has been ascertained that there is a quorum present, and we can proceed with the vote and settle the question of reference now.

The SPEAKER. The question is upon the motion of the gentleman from Tennessee, that there be a call of the House. The motion of the gentleman from Missouri cannot be received while that is pending.

Mr. JONES, of Tennessee. I withdraw my motion for a call of the House.

Mr. PHELPS, of Missouri. Then I submit the motion to postpone the consideration of this question.

Mr. HOUSTON. If there is no objection to the motion of the gentleman from Missouri, I shall make none. I was going to suggest to the gentleman from Missouri, that he should withdraw the bill, as he can introduce it again under the rules of the House at any time, and the call of the States for bills and resolutions can now be concluded.

Mr. PHELPS, of Missouri. I prefer to adhere to my motion that the further consideration of this subject be postponed until Thursday the 6th of January.

Mr. SHERMAN, of Ohio. That is perfectly satisfactory to me.

Mr. JONES, of Tennessee. I ask for a division of the House upon that question.

The motion to postpone was agreed to—ayes 105, noes 25.

CIVIL APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I now send up the other appropriation bill, which I wish to introduce and refer.

Mr. JONES, of Tennessee. I ask that the order of the House shall be executed before anything more is done by unanimous consent.

Mr. PHELPS, of Missouri. Unanimous consent was given to report these bills.

The SPEAKER. The gentleman from Missouri, when he arose, stated that he asked the unanimous consent of the House to introduce three appropriation bills, and sent them up at the same time. It was an informal and irregular mode of doing business, but the Chair thinks the consent of the House was given.

Mr. PHELPS, of Missouri, then, from the Committee of Ways and Means, reported a bill making appropriations for sundry civil expenses of Government for the year ending June 30, 1860; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying papers, ordered to be printed.

DISTRIBUTION OF THE PUBLIC LANDS.

Mr. CLARK, of Missouri, asked the consent of the House to submit the following resolution:

Resolved, That the Committee on Public Lands be instructed to report a bill to this House, granting all of the public lands to the several States in which they are situate, to be appropriated by such States for internal improvement therein.

Mr. PENDLETON objected.

NEW MODE OF WRITING.

Mr. GREENWOOD introduced a bill to enable the Secretary of State to test a new mode of writing.

ing, invented by John M. Hogue, of Arkansas; which was read a first and second time.

Mr. GREENWOOD moved that the bill be referred to the Committee on Foreign Affairs.

Mr. RITCHIE. I object to that reference. We have no skill in writing which makes it proper to refer the bill there, I assure you. Let it go to the Committee on Patents. That is the proper place for it.

Mr. LETCHER. Read the bill, and let us see what it is about. I do not think it has any place here. Let the man test his own mode of writing. There is a man in my district who invented a plow, and you might as well make an appropriation to enable him to test that.

Mr. GREENWOOD. I hope the gentleman will allow the bill to go to the Committee on Foreign Affairs.

Mr. RITCHIE. No, sir; it has no business there.

The motion was not agreed to.

Mr. GREENWOOD. I move, then, to refer the bill to the Committee on Military Affairs.

Mr. STANTON. No, sir. We do not want it. The motion was agreed to.

PEAY AND ALIFF.

Mr. GREENWOOD introduced a bill authorizing the Postmaster General to settle and adjust the accounts of Messrs. Peay & Aliff, mail contractors in the State of Arkansas; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MICHIGAN UNIVERSITY LANDS.

Mr. LEACH introduced a bill authorizing the Governor of the State of Michigan to locate certain university lands, due said State under the act entitled "An act concerning seminary lands in the Territory of Michigan," approved May 20, 1826; which was read a first and second time, and referred to the Committee on Public Lands.

PROTECTION OF THE TEXAS BOUNDARY.

Mr. BRYAN submitted the following resolution.

Resolved, That the Secretary of War be requested to furnish to this House, at an early day, copies of all correspondence in his office between the officers of the Government of the United States and Governor Runnels, of Texas, in regard to the protection of the frontier of Texas; also, similar correspondence between the Secretary of War and General Twigg.

Mr. MORGAN. I do not know what this refers to; but one of my colleagues [Mr. SAGE] introduced a resolution of a similar character in regard to Oregon, at the last Congress, which employed about twenty men for nine months, and when it came here it was piled up, and never even ordered to be printed.

Mr. BRYAN. One clerk can furnish all the correspondence alluded to in one day.

Mr. MORGAN. Then, I withdraw my objection.

The resolution was adopted.

MILITARY RESERVATIONS, ETC.

Mr. CURTIS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire into the expediency of providing by law against needless dimensions to military reservations, and for encouraging and fostering the settlement and cultivation of the soil in the vicinity of our western posts.

TRANSPORTATION OF MILITARY STORES.

Mr. CURTIS offered the following resolution; which was read, considered, and agreed to.

Resolved, That the Committee on Military Affairs be directed to inquire into the nature of existing contracts for transporting military stores to Utah, and that they examine into the expediency of amending present laws, so as to provide against frauds and secure greater competition among bidders for such service.

DONATIONS OF PUBLIC LANDS, ETC.

Mr. CURTIS asked leave to introduce the following resolution:

Resolved, That the Committee on Public Lands be directed to inquire into the expediency of providing by law against all future sales of public lands, and providing for their donation, in limited quantities, to those only who desire to occupy and cultivate the same.

Mr. RITCHIE objected.

LANDS TO IOWA RAILROADS.

Mr. DAVIS, of Iowa, introduced a bill granting preemptions to the State of Iowa to aid in the construction of the McGregor and St. Peter's and

Missouri river railroad; which was read a first and second time, and referred to the Committee on Public Lands.

CARMICK AND RAMSEY.

Mr. BILLINGHURST introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to report to this House what action, if any, has been taken under the sixth section of the Post Office appropriation act, approved August 18, 1856, for the adjustment of the damages due Carmick and Ramsey; and if the said section of said law yet remains unexecuted, that the President report the reasons therefor.

BIG STURGEON BAY.

Mr. BILLINGHURST introduced a bill making an appropriation for cutting a channel between Big Sturgeon bay and Lake Michigan, in the State of Wisconsin; which was read a first and second time, and referred to the Committee on Commerce.

MILITARY POST IN DACOTAH.

Mr. CAVANAUGH introduced a bill for the erection of a military post in the Territory of Dacotah; which was read a first and second time.

Mr. MORGAN. I would like to know where that Territory is?

Mr. JONES, of Tennessee. I would inquire if there is any such Territory as Dacotah? I would suggest to the gentleman that it would be best to look into the Territories organized.

Mr. CAVANAUGH. There are two military posts in that Territory now. The Territory of Dacotah, so called, is composed of that portion of Minnesota Territory lying west of Minnesota State and east of the Missouri river.

The bill was referred to the Committee on Military Affairs.

AMENDMENT OF AN ACT.

Mr. PHELPS, of Minnesota, introduced a bill to amend an act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856;" which was read a first and second time, and referred to the Committee on Public Lands.

ST. CROIX RIVER.

Mr. PHELPS, of Minnesota, also introduced a bill making appropriations for improving the St. Croix river, (the boundary between the State of Minnesota and the State of Wisconsin;) which was read a first and second time, and referred to the Committee on Commerce.

LANDS ERRONEOUSLY SOLD.

Mr. PHELPS, of Minnesota, also introduced a bill authorizing repayment for lands erroneously sold by the United States; and moved that it be referred to the Committee on the Judiciary.

The bill was read a first and second time.

Mr. COBB. I move that the bill be referred to the Committee on Public Lands. Why does the gentleman want to send it to the Committee on the Judiciary?

Mr. PHELPS, of Minnesota. I would state that the attention of Congress was called to this matter at the last session, by the Secretary of the Interior. It regards the interpretation of existing laws, a subject which properly belongs to the Committee on the Judiciary. But I am not very strenuous as to its disposition.

Mr. COBB. It should go to the Committee on Public Lands.

Mr. PHELPS, of Minnesota. I am perfectly willing that it should go there.

The bill was referred to the Committee on Public Lands.

SIOUX HALF-BREED SCRIP.

Mr. PHELPS, of Minnesota, also introduced a bill to provide for the manner of adjusting the compensation of land officers for the location of the Sioux half-breed scrip; and moved its reference to the Committee on Indian Affairs.

The bill was read a first and second time.

Mr. COBB. The bill, as I understand it, proposes to adjust some difficulty in relation to land. That matter comes properly within the jurisdiction of the Committee on Public Lands; and I move the reference of the bill to that committee.

Mr. HOUSTON. Let the bill be read.

The bill was then referred to the Committee on Public Lands.

CANAL AROUND ST. ANTHONY FALLS.

Mr. PHELPS, of Minnesota, also introduced a bill for a donation of public lands for the construction of a canal around the Falls of St. Anthony, and removing obstructions in the Mississippi river in the State of Minnesota; which was read a first and second time.

Mr. PHELPS, of Minnesota, moved that the bill be referred to the Committee on Commerce.

Mr. COBB. That bill ought not to go to the Committee on Commerce. Why it proposes a grant of lands for internal improvements, and that subject certainly belongs to the Committee on Public Lands. I move that it be referred to the Committee on Public Lands.

The question was first taken on Mr. PHELPS's motion, and it was agreed to.

So the bill was referred to the Committee on Commerce.

LANDS TO MINNESOTA.

Mr. PHELPS, of Minnesota, also introduced a bill for the donation of Public lands, for the construction of dam and lock at the rapids of the Minnesota river, in the State of Minnesota; which was read a first and second time, and referred to the Committee on Commerce.

PUBLIC LANDS.

Mr. PHELPS, of Minnesota, asked leave to offer the following resolution:

Resolved, That the Committee on Public Lands be instructed to report a bill to provide, that hereafter none of the public lands of the United States shall be sold, except to actual settlers thereon, and in limited quantities; unless it shall be ascertained by the Commissioner of the General Land Office, that any body of land proposed to be sold is either mineral or pine lands.

The resolution was objected to.

DONATION OF PUBLIC LANDS.

Mr. LANE introduced a bill to provide for a donation of the public lands on the line of certain mail routes; which was read a first and second time, and referred to the Committee on Public Lands.

INDIAN HOSTILITIES IN NEW MEXICO.

Mr. OTERO offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of authorizing the President of the United States to call into service one regiment of volunteers in the Territory of New Mexico for the suppression of Indian hostilities therein.

INDIAN AGENTS IN NEW MEXICO.

Mr. OTERO introduced a bill authorizing the appointment of two additional Indian agents in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

MILITARY ROADS IN NEW MEXICO.

Mr. OTERO also introduced a bill to complete the military road from Ticolete to Albuquerque, in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. OTERO also introduced a bill making appropriations for explorations and surveys of certain military roads and bridges in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. OTERO also introduced a bill for continuing the improvement of the road from Santa Fé to Doña Ana, and for surveying the route thereof, with a view of making a final location of that portion between Albuquerque and Doña Ana, in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

TERRITORIAL LEGISLATURES.

Mr. STEVENS, of Washington, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Territories be instructed to inquire into the expediency of amending the organic acts establishing territorial governments for New Mexico and Washington, so that the number of members in each of the two branches of the Legislative Assemblies shall be equal to the number provided for in section four of the act approved March 3, 1849, to establish the territorial government of Minnesota.

INDIAN AFFAIRS IN WASHINGTON.

Mr. STEVENS, of Washington, introduced a bill to provide for a superintendent of Indian

affairs for Washington Territory, and additional Indian agents; which was read a first and second time, and referred to the Committee on Indian Affairs.

MILITARY ROADS IN WASHINGTON.

Mr. STEVENS, of Washington, also introduced bills of the following titles; which were severally read a first and second time, and referred to the Committee on Military Affairs:

A bill for the construction of military roads in the Territory of Washington; and

A bill for the completion of military roads in the Territory of Washington.

PUBLIC BUILDINGS IN WASHINGTON.

Mr. STEVENS, of Washington, also introduced a bill to make additional appropriations for the completion of the public buildings in Washington Territory; which was read a first and second time, and referred to the Committee on Territories.

ELIAS YULEE.

Mr. STEVENS, of Washington, also introduced a bill for the relief of Elias Yulee, late receiver of the land office in Washington Territory; which was read a first and second time, and referred to the Committee on Public Lands.

DEFENSE OF PUGET SOUND, ETC.

Mr. STEVENS, of Washington, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House detailed plans and estimates for the defense of Puget Sound and the entrance of the Columbia river.

NAVY YARD, ETC., AT PUGET SOUND.

Mr. STEVENS, of Washington, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing a navy-yard and naval depot on Puget Sound.

MARINE HOSPITAL AT PUGET SOUND.

Mr. STEVENS, of Washington, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation of money for the construction of a marine hospital for Puget Sound.

BOUNDARY OF KANSAS.

Mr. PARROTT introduced a bill to change the northern boundary line of the Territory of Kansas; which was read a first and second time, and referred to the Committee on Territories.

LAND ENTRIES IN LEAVENWORTH ISLAND.

Mr. PARROTT introduced a bill legalizing certain entries of land situate in Leavenworth Island, in the State of Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

SETTLERS ON KANSAS HALF-BREED TRACT.

Mr. PARROTT also introduced a bill to secure the titles to settlers upon the Kansas half-breed tract; which was read a first and second time, and referred to the Committee on Indian Affairs.

KANSAS MINERAL LANDS.

Mr. PARROTT also introduced a bill to regulate settlements on the mineral lands in Kansas Territory; which was read a first and second time, and referred to the Committee on Public Lands.

FORT LEAVENWORTH RESERVATION.

Mr. PARROTT also introduced a bill to reduce the military reservation at Fort Leavenworth, Kansas Territory; which was read a first and second time, and referred to the Committee on Military Affairs.

KANSAS MILITARY ROADS.

Mr. PARROTT also introduced a bill making an appropriation for the repairs of certain military roads in Kansas Territory; which was read a first and second time, and referred to the Committee on Military Affairs.

LAND DISTRICT IN NEBRASKA.

Mr. FERGUSON introduced a bill establishing an additional land district in the Territory of

Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

SCHOOL LANDS IN NEBRASKA.

Mr. FERGUSON also introduced a bill authorizing the Legislative Assembly of the Territory of Nebraska to provide for leasing school sections sixteen and thirty-six, in said Territory, for the benefit of common schools; which was read a first and second time, and referred to the Committee on Public Lands.

HOMESTEADS TO ACTUAL SETTLERS.

Mr. FERGUSON also introduced a bill to grant to every person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, on condition of the occupancy and cultivation of the same for a period therein specified; which was read a first and second time, and referred to the Committee on Public Lands.

GEOLOGICAL, ETC., SURVEY OF NEBRASKA.

Mr. FERGUSON also introduced a bill to provide for a geological and mineralogical survey of the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

NEBRASKA LEGISLATURE.

Mr. FERGUSON also introduced a bill for defraying the expenses of an extra session of the Legislative Assembly of the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

JUDICIAL DISTRICT IN NEBRASKA.

Mr. FERGUSON also introduced a bill to establish an additional judicial district in the Territory of Nebraska, to be called the Laramie district; which was read a first and second time, and referred to the Committee on the Judiciary.

OMAHA CITY.

Mr. FERGUSON also introduced a bill for the relief of Omaha City, in the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

FLORIDA VOLUNTEERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting estimates for the payment of the Florida volunteers; which was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

WILLIAM HAZARD WIGG.

Mr. MOORE. Before the question is taken upon that motion, I desire to ask the consent of the House to take up from the Speaker's table Senate resolution (No. 52) for the relief of William Hazard Wigg.

Mr. STEPHENS, of Georgia. I will waive my motion for that purpose.

Mr. MOORE. I ask the unanimous consent of the House to take up and put upon its passage Senate resolution (No. 52) for the relief of William Hazard Wigg. The object of the resolution is merely to correct a clerical error. It comes to the House unanimously recommended by the Committee of Claims. I ask that the resolution may be put upon its passage.

The resolution, which was read, directs the Secretary of the Treasury to examine and adjust the accounts of William Hazard Wigg, stated under the authority of an act of Congress for his relief, approved March 3, 1853, and ascertain the alleged clerical error, whereby the sum of \$1,560 is supposed to have been withheld, and to pay the same to him out of any moneys in the Treasury not otherwise appropriated, according to the true interest and meaning of said act.

The report of the Committee of Claims states, that, by reference to House Report No. 176, first session Thirty-Second Congress, it will be found that there was a clerical error in the statement of the account of William Hazard Wigg, amounting to the sum of \$1,560; and therefore they reported the Senate resolution, with a recommendation that it do pass.

Mr. MORGAN objected.

Mr. MOORE. I hope the gentleman will withdraw the objection.

HIRAM POWERS.

Mr. SEWARD. I made an objection, the other day, to a Senate bill which the gentleman from North Carolina [Mr. WINSLOW] desired to take up and put upon its passage. I withdraw the objection, and hope it may now be taken up and put upon its passage.

Mr. WINSLOW. Let the bill be read.

The title of the bill was reported, as follows: An act (S. No. 276) to authorize the President to make advances of money to Hiram Powers.

Mr. DAVIS, of Indiana. I object.

Mr. JONES, of Tennessee. It is time enough to pay when the work is done.

CUSTOM-HOUSE AT GALVESTON.

Mr. JOHN COCHRANE. I ask unanimous consent to take up and put upon its passage a Senate resolution in reference to the Galveston custom-house, which I attempted to call up a few days ago, but it was objected to. That objection has been withdrawn.

Mr. JONES, of Tennessee. I move that the House adjourn.

The SPEAKER. The gentleman from New York is upon the floor.

The resolution was read, as follows:

A resolution (S. No. 54) changing the plan of the custom-house at Galveston, in the State of Texas.

Mr. JOHN COCHRANE. I offer the following amendment to the resolution:

And provided further, That the consent, in writing, of the contractors and their sureties for the construction of said custom-house to such alterations, shall be first had and delivered to the Secretary of the Treasury.

Mr. STANTON. I move that the House do now adjourn.

Mr. MORGAN. I wish to withdraw my objection to the resolution for the relief of William Hazard Wigg.

Mr. JOHN COCHRANE. I believe I have the floor.

The SPEAKER. The gentleman from Ohio had the right to make a motion to adjourn.

Mr. STANTON. What will be the pending question, if I withdraw my motion?

The SPEAKER. It will be upon the Senate resolution, called up by the gentleman from New York.

Mr. STANTON. I withdraw the motion.

Mr. JOHN COCHRANE. The passage of this resolution is recommended by the Secretary of the Treasury, and the contractors are waiting here for its passage. It is merely for altering the plan of the custom-house at Galveston. The alteration is to be confined within the present appropriation, and at the rate of prices already provided.

Mr. JEWETT. I object to the consideration of the resolution.

Mr. JOHN COCHRANE. The objection comes too late, as the resolution has been received.

Mr. RITCHIE. I move that the House do now adjourn.

The motion was agreed to; and the House accordingly (at twenty minutes past three o'clock) adjourned to meet on the 4th day of January next, in accordance with the concurrent resolution of the Senate and House of Representatives.

IN SENATE.

TUESDAY, January 4, 1859.

Hon. ROBERT W. JOHNSON, of Arkansas; Hon. GEORGE E. PUGH, of Ohio; and Hon. DAVID L. YULEE, of Florida, attended to-day.

Prayer by Rev. W. B. EDWARDS, D. D.

The Journal of Thursday, December 23, 1858, was read and approved.

ADMISSION OF LADIES.

Mr. STUART. There is a very great interest felt in the proceedings that are to take place here, previous to going into the other Chamber. While many of the ladies have found seats in the galleries, there are others who have not, and have great anxiety to witness these proceedings. We have plenty of seats here, and I move (I hope there will be no objection to it) that they be admitted to seats on the floor. It will be but for a few moments, and they will not interrupt our business.

The VICE PRESIDENT. It requires unanimous consent.

Mr. HAMLIN. It may be an ungracious, it is an unpleasant task, to object to the motion which has been made by my friend from Michigan; but I have seen so many occasions when ladies were admitted to this Hall when the result was only to interrupt the legitimate business of the session, that I feel compelled to enter my objection. We passed a resolution on the last day of our meeting excluding all persons, except the members of the House of Representatives, from being admitted to the Senate Chamber; and I think it is too early now to depart from that resolution. I must therefore object to this proposition.

REMOVAL TO THE NEW HALL.

Mr. DAVIS. The special committee appointed to make arrangements for the removal of the Senate from the present to the new Chamber have directed me to make a report, accompanied by a diagram, which I now submit to the Senate.

The VICE PRESIDENT. The Secretary will read the report.

The Secretary read the report, in which the committee state that they had arranged the seats and desks for Senators, and for the officers and reporters of the Senate, in the mode exhibited in an accompanying diagram. They had also assigned rooms for the use of the officers of the Senate; and they added that an appropriation was required for furnishing them. The galleries on the left of the chair were assigned to ladies and the gentlemen accompanying them; those on the right of the chair to gentlemen alone. The center portion of the north gallery was reserved for such reporters of the press as may be admitted thereto by the authority of the Senate, except the front desk, which was set apart for the reporters of the Senate. The committee proposed the following order of proceedings for removing to the new Chamber: After an address, to be delivered by the Vice President, the Senators, preceded by their President, Secretary, and Sergeant-at-Arms, will move in the usual order of procession to the new Chamber, and there assume the seats respectively assigned to them; when, after prayer by the Chaplain, the business will be continued as prescribed by the rules of the Senate.

Mr. CRITTENDEN. I move you, Mr. President and Senators, that we proceed at once to the consideration of this report, and that it be adopted. That is the purpose for which I rise. Before, however, submitting that motion to the vote of the Senate, I hope that I may be indulged in a few words of parting from this Chamber. This is to be the last day of our session here; and this place, which has known us so long, is to know us no more forever as a Senate. The parting seems to me, sir, to be somewhat of a solemn one, and full of eventful recollections. I wish, however, only to say a few words.

Many associations, pleasant and proud, bind us and our hearts to this place. We cannot but feel their influence, especially I, Mr. President, whose lot it has been to serve in this body more years than any other member now present. That we should all be attached to it, that my longer association should attach me to it, is most natural. Mr. President, we cannot quit this Chamber without some feeling of sacred sadness. This Chamber has been the scene of great events. Here questions of American constitutions and laws have been debated; questions of peace and war have been debated and decided; questions of empire have occupied the attention of this assemblage in times past; this was the grand theater upon which these things have been enacted. They give a sort of consecrated character to this Hall.

Sir, great men have been the actors here. The illustrious dead, that have distinguished this body in times past, naturally rise to our view on such an occasion. I speak only of what I have seen, and but partially of that, when I say that here, within these walls, I have seen men whose fame is not surpassed, and whose power and ability and patriotism are not surpassed, by anything of Grecian or of Roman name. I have seen Clay and Webster, and Calhoun and Benton, and Leigh and Wright, and Clayton, (last though not least,) mingling together in this body at one time, and uniting their counsels for the benefit of their country. They seem to our imagination and sensibilities, on such an occasion as this, to have left

their impress on these very walls; and this majestic dome seems almost yet to echo with the voice of their eloquence. This Hall seems to be a local habitation for their names. This Hall is full of the pure odor of their justly-earned fame. There are others besides those I have named, of whom I will not speak, because they have not yet closed their career—not yet ended their services to the country; and they will receive their reward hereafter. There are a host of others that I might mention—that deserve to be mentioned—but it would take too long. Their names are in no danger of being forgotten, nor their services unthought of or unhonored.

Sir, we leave behind us, in going from this Hall, these associations, these proud imaginations so well calculated to prompt to a generous emulation of their services to their country; but we will carry along with us, to the new Chamber to which we are to go, the spirit and the memory of all these things; we will carry with us all the inspiration which our illustrious predecessors are calculated to give; and wherever we sit we shall be the Senate of the United States of America—a great, a powerful, a conservative body in the government of this country, and a body that will maintain, as I trust and believe, under all circumstances and in all times to come, the honor, the right, and the glory of this country. Because we leave this Chamber, we shall not leave behind us any sentiment of patriotism, any devotion to the country which the illustrious exemplars that have gone before us have set to us. These, like our household gods, will be carried with us; and we, the representatives of the States of this mighty Union, will be found always equal, I trust, to the exigencies of any time that may come upon our country. No matter under what sky we may sit; no matter what dome may cover us; the great patriotic spirit of the Senate of the United States will be there; and I have an abiding confidence that it will never fail in the performance of its duty, sit where it may, even though it were in a desert.

But it is yet, sir, not possible to leave this Hall without casting behind us many longing and lingering looks. It has been the scene of the past; the new Chamber is to be the scene of the future; and that future, I hope, will not be dishonored by any comparison to be made with the past. It, too, will have its illustrations of great public services rendered by great men and great patriots; and this body, the great preservative element of the Government, will discharge all its duties, taking care to preserve the Union of the States which they represent—the source of all their honors, the source of the trust which they sit here to execute, the source as it has been and as it will be of their country's greatness, happiness, and prosperity, in times to come as it has been in the time that is past.

Mr. President, I cannot detain you longer. I move that the vote of the Senate be now taken on the report which has been presented, and that it be adopted.

The VICE PRESIDENT. The question is on agreeing to the report of the committee.

The report was adopted *nem. con.*

The VICE PRESIDENT. Senators, I have been charged by the committee to whom you confided the arrangements of this day, with the duty of expressing some of the reflections that naturally occur in taking final leave of a Chamber which has so long been occupied by the Senate. In the progress of our country and the growth of the representation, this room has become too contracted for the representatives of the States now existing and soon to exist; and accordingly you are about to exchange it for a Hall affording accommodations adequate to the present and the future. The occasion suggests many interesting reminiscences; and it may be agreeable, in the first place, to occupy a few minutes with a short account of the various places at which Congress has assembled, of the struggles which preceded the permanent location of the seat of Government, and of the circumstances under which it was finally established on the banks of the Potomac.

The Congress of the Revolution was sometimes a fugitive, holding its sessions, as the chances of war required, at Philadelphia, Baltimore, Lancaster, Annapolis, and Yorktown. During the period between the conclusion of peace and the commencement of the present Government, it

met at Princeton, Annapolis, Trenton, and New York.

After the idea of a permanent Union had been executed in part by the adoption of the Articles of Confederation, the question presented itself of fixing a seat of Government, and this immediately called forth intense interest and rivalry.

That the place should be central, having regard to the population and territory of the Confederacy, was the only point common to the contending parties. Propositions of all kinds were offered, debated, and rejected, sometimes with intemperate warmth. At length, on the 7th of October, 1783, the Congress being at Princeton, whither they had been driven from Philadelphia, by the insults of a body of armed men, it was resolved that a building for the use of Congress be erected near the falls of the Delaware. This was soon after modified by requiring suitable buildings to be also erected near the falls of the Potomac, that the residence of Congress might alternate between those places. But the question was not allowed to rest, and at length, after frequent and warm debates, it was resolved that the residence of Congress should continue at one place; and commissioners were appointed, with full power to lay out a district for a Federal town near the falls of the Delaware; and in the mean time Congress assembled alternately at Trenton and Annapolis; but the representatives of other States were unwilling in exertions for their respective localities.

On the 23d of December, 1784, it was resolved to remove to the city of New York, and to remain there until the building on the Delaware should be completed; and accordingly, on the 11th of January, 1785, the Congress met at New York, where they continued to hold their sessions until the Confederation gave place to the Constitution.

The Commissioners to lay out a town on the Delaware reported their proceedings to Congress; but no further steps were taken to carry the resolution into effect.

When the bonds of union were drawn closer by the organization of the new Government under the Constitution, on the 3d of March, 1789, the subject was revived and discussed with greater warmth than before. It was conceded on all sides that the residence of Congress should continue at one place, and the prospect of stability in the Government invested the question with a deeper interest. Some members proposed New York, as being "superior to any place they knew for the orderly and decent behavior of its inhabitants." To this it was answered that it was not desirable that the political capital should be in a commercial metropolis. Others ridiculed the idea of building palaces in the woods. Mr. Gerry, of Massachusetts, thought it highly unreasonable to fix the seat of Government in such a position as to have nine States of the thirteen to the northward of the place; while the South Carolinians objected to Philadelphia on account of the number of Quakers, who, they said, continually annoyed the southern members with schemes of emancipation.

In the midst of these disputes, the House of Representatives resolved, "that the permanent seat of Government ought to be at some convenient place on the banks of the Susquehanna." On the introduction of a bill to give effect to this resolution, much feeling was exhibited, especially by the southern members. Mr. Madison thought if the proceeding of that day had been foreseen by Virginia, that State might not have become a party to the Constitution. The question was allowed by every member to be a matter of great importance. Mr. Scott said the future tranquility and well-being of the United States depended as much on this as on any question that ever had, or could, come before Congress; and Mr. Fisher Ames remarked that every principle of pride and honor and even of patriotism were engaged. For a time, any agreement appeared to be impossible; but the good genius of our system finally prevailed, and on the 23d of June, 1790, an act was passed containing the following clause:

"That a district of territory on the river Potomac, at some place between the mouths of the eastern branch and the Connochocheague, be, and the same is hereby accepted, for the permanent seat of the Government of the United States."

The same act provided that Congress should hold its sessions at Philadelphia until the first Monday in November, 1800, when the Government should remove to the district selected on the Potomac. Thus was settled a question which had

produced much sectional feeling between the States. But all difficulties were not yet surmounted; for Congress, either from indifference, or the want of money, failed to make adequate appropriations for the erection of public buildings, and the commissioners were often reduced to great straits to maintain the progress of the work. Finding it impossible to borrow money in Europe, or to obtain it from Congress, Washington, in December, 1796, made a personal appeal to the Legislature of Maryland, which was responded to by an advance of \$100,000; but in so deplorable a condition was the credit of the Federal Government that the State required, as a guarantee of payment, the pledge of the private credit of the commissioners.

From the beginning Washington had advocated the present seat of Government. Its establishment here was due, in a large measure, to his influence; it was his wisdom and prudence that computed disputes and settled conflicting titles; and it was chiefly through his personal influence that the funds were provided to prepare the buildings for the reception of the President and Congress.

The wings of the Capitol having been sufficiently prepared, the Government removed to this District on the 17th of November, 1800; or as Mr. Wolcott expressed it, left the comforts of Philadelphia "to go to the Indian place with the long name, in the woods on the Potomac." I will not pause to describe the appearance, at that day, of the place where the city was to be. Contemporary accounts represent it as desolate in the extreme, with its long, unopened avenues and streets, its deep morasses, and its vast area covered with trees instead of houses. It is enough to say that Washington projected the whole plan upon a scale of centuries, and that time enough remains to fill the measure of his great conception.

The Senate continued to occupy the north wing, and the House of Representatives the south wing of the Capitol, until the 24th of August, 1814, when the British army entered the city and burned the public buildings. This occurred during the recess, and the President immediately convened the Congress. Both Houses met in a brick building known as Blodgett's Hotel, which occupied a part of the square now covered by the General Post Office. But the accommodations in that house being quite insufficient, a number of public-spirited citizens erected a more commodious building, on Capitol Hill, and tendered it to Congress; the offer was accepted, and both Houses continued to occupy it until the wings of the new Capitol were completed. This building yet stands on the street opposite to the northeastern corner of the Capitol Square, and has since been occasionally occupied by persons employed in different branches of the public service.

On the 6th of December, 1819, the Senate assembled for the first time in this Chamber, which has been the theater of their deliberations for more than thirty-nine years.

And now the strifes and uncertainties of the past are finished. We see around us on every side the proofs of stability and improvement. This Capitol is worthy of the Republic. Noble public buildings meet the view on every hand. Treasures of science and the arts begin to accumulate. As this flourishing city enlarges, it testifies to the wisdom and forecast that dictated the plan of it. Future generations will not be disturbed with questions concerning the center of population, or of territory, since the steamboat, the railroad, and the telegraph have made communication almost instantaneous. The spot is sacred by a thousand memories, which are so many pledges that the city of Washington, founded by him and bearing his revered name, with its beautiful site, bounded by picturesque eminences, and the broad Potomac, and lying within view of his home and his tomb, shall remain forever the political capital of the United States.

It would be interesting to note the gradual changes which have occurred in the practical working of the Government, since the adoption of the Constitution; and it may be appropriate to this occasion to remark one of the most striking of them.

At the origin of the Government, the Senate seemed to be regarded chiefly as an executive council. The President often visited the Chamber and conferred personally with this body; most

of its business was transacted with closed doors, and it took comparatively little part in the legislative debates. The rising and vigorous intellects of the country sought the arena of the House of Representatives as the appropriate theater for the display of their powers. Mr. Madison observed, on some occasion, that being a young man, and desiring to increase his reputation, he could not afford to enter the Senate; and it will be remembered, that, so late as 1812, the great debates which preceded the war and aroused the country to the assertion of its rights, took place in the other branch of Congress. To such an extent was the idea of seclusion carried, that, when this Chamber was completed, no seats were prepared for the accommodation of the public; and it was not until many years afterwards that the semi-circular gallery was erected which admits the people to be witnesses of your proceedings. But now, the Senate, besides its peculiar relations to the executive department of the Government, assumes its full share of duty as a coequal branch of the Legislature; indeed, from the limited number of its members, and for other obvious reasons, the most important questions, especially of foreign policy, are apt to pass first under discussion in this body, and to be a member of it is justly regarded as one of the highest honors which can be conferred on an American statesman.

It is scarcely necessary to point out the causes of this change, or to say that it is a concession both to the importance and the individuality of the States, and to the free and open character of the Government.

In connection with this easy but thorough transaction, it is worthy of remark that it has been effected without a charge from any quarter that the Senate has transcended its constitutional sphere—a tribute at once to the moderation of the Senate, and another proof to thoughtful men of the comprehensive wisdom with which the framers of the Constitution secured essential principles without inconveniently embarrassing the action of the Government.

The progress of this popular movement, in one aspect of it, has been steady and marked. At the origin of the Government no arrangements in the Senate were made for spectators; in this Chamber about one third of the space is allotted to the public; and in the new apartment the galleries cover two thirds of its area. In all free countries the admission of the people to witness legislative proceedings is an essential element of public confidence; and it is not to be anticipated that this wholesome principle will ever be abused by the substitution of partial and interested demonstrations for the expression of a matured and enlightened public opinion. Yet it should never be forgotten that not France, but the turbulent spectators within the Hall, awed and controlled the French Assembly. With this lesson and its consequence before us, the time will never come when the deliberations of the Senate shall be swayed by the blandishments or the thunders of the galleries.

It is impossible to disconnect from an occasion like this, a crowd of reflection on our past history, and of speculations on the future. The most meager account of the Senate involves a summary of the progress of our country. From year to year you have seen your representation enlarge; time and again you have proudly welcomed a new sister into the Confederacy; and the occurrences of this day are a material and impressive proof of the growth and prosperity of the United States. Three periods in the history of the Senate mark, in striking contrast, three epochs in the history of the Union.

On the 3d of March, 1789, when the Government was organized under the Constitution, the Senate was composed of the representatives of eleven States, containing three millions of people.

On the 6th of December, 1819, when the Senate met for the first time in this room, it was composed of the representatives of twenty-one States, containing nine millions of people.

To-day it is composed of the representatives of thirty-two States, containing more than twenty-eight millions of people, prosperous, happy, and still devoted to constitutional liberty. Let these great facts speak for themselves to all the world.

The career of the United States cannot be measured by that of any other people of whom history gives account; and the mind is almost

appalled at the contemplation of the prodigious force which has marked their progress. Sixty-nine years ago, thirteen States containing three millions of inhabitants, burdened with debt, and exhausted by the long war of independence, established for their common good a free Constitution, on principles new to mankind, and began their experiment with the good wishes of a few doubting friends and the derision of the world. Look at the result to-day; twenty-eight millions of people, in every way happier than an equal number in any other part of the globe! the center of population and political power descending the western slopes of the Alleghany mountains, and the original thirteen States forming but the eastern margin on the map of our vast possessions. See besides, Christianity, civilization, and the arts given to a continent; the despised colonies grown into a Power of the first class, representing and protecting ideas that involve the progress of the human race; a commerce greater than that of any other nation; free interchange between the States; every variety of climate, soil, and production to make a people powerful and happy—in a word, behold present greatness, and, in the future, an empire to which the ancient mistress of the world in the height of her glory could not be compared. Such is our country; ay, and more—far more than my mind could conceive or my tongue could utter. Is there an American who regrets the past? Is there one who will deride his country's laws, pervert her Constitution, or alienate her people? If there be such a man, let his memory descend to posterity laden with the execrations of all mankind.

So happy is the political and social condition of the United States, and so accustomed are we to the secure enjoyment of a freedom elsewhere unknown, that we are apt to undervalue the treasures we possess, and to lose, in some degree, the sense of obligation to our forefathers. But when the strifes of faction shake the Government, and even threaten it, we may pause with advantage long enough to remember that we are reaping the reward of other men's labors. This liberty we inherit; this admirable Constitution, which has survived peace and war, prosperity and adversity; this double scheme of Government, State and Federal, so peculiar and so little understood by other Powers, yet which protects the earnings of industry, and makes the largest personal freedom compatible with public order; these great results were not acquired without wisdom and toil and blood—the touching and heroic record is before the world. But to all this we were born, and, like heirs upon whom has been cast a great inheritance, have only the high duty to preserve, to extend, and to adorn it. The grand productions of the era in which the foundations of this Government were laid, reveal the deep sense its founders had of their obligations to the whole family of man. Let us never forget that the responsibilities imposed on this generation are by so much the greater than those which rested on our revolutionary ancestors, as the population, extent, and power of our country surpass the dawning promise of its origin.

It would be a pleasing task to pursue many trains of thought, not wholly foreign to this occasion, but the temptation to enter the wide field must be rigorously curbed; yet I may be pardoned, perhaps, for one or two additional reflections.

The Senate is assembled for the last time in this Chamber. Henceforth it will be converted to other uses; yet it must remain forever connected with great events, and sacred to the memories of the departed orators and statesmen who here engaged in high debates, and shaped the policy of their country. Hereafter the American and the stranger, as they wander through the Capitol, will turn with instinctive reverence to view the spot on which so many and great materials have accumulated for history. They will recall the images of the great and the good, whose renown is the common property of the Union; and chiefly, perhaps, they will linger around the seats once occupied by the mighty three, whose names and fame, associated in life, death has not been able to sever; illustrious men, who in their generation sometimes divided, sometimes led, and sometimes resisted public opinion—for they were of that higher class of statesmen who seek the right and follow their convictions.

There sat Calhoun, the Senator, inflexible, aus-

tere, oppressed, but not overwhelmed by his deep sense of the importance of his public functions; seeking the truth, then fearlessly following it—a man whose unsparing intellect compelled all his emotions to harmonize with the deductions of his rigorous logic, and whose noble countenance habitually wore the expression of one engaged in the performance of high public duties.

This was Webster's seat. He, too, was every inch a Senator. Conscious of his own vast powers, he reposed with confidence on himself; and scorning the contrivances of smaller men, he stood among his peers all the greater for the simple dignity of his senatorial demeanor. Type of his northern home, he rises before the imagination, in the grand and granite outline of his form and intellect, like a great New England rock, repelling a New England wave. As a writer, his productions will be cherished by statesmen and scholars while the English tongue is spoken. As a senatorial orator, his great efforts are historically associated with this Chamber, whose very air seems yet to vibrate beneath the strokes of his deep tones and his weighty words.

On the outer circle, sat Henry Clay, with his impetuous and ardent nature untamed by age, and exhibiting in the Senate the same vehement patriotism and passionate eloquence that of yore electrified the House of Representatives and the country. His extraordinary personal endowments, his courage, all his noble qualities, invested him with an individuality and a charm of character which, in any age, would have made him a favorite of history. He loved his country above all earthly objects. He loved liberty in all countries. Illustrious man!—orator, patriot, philanthropist—whose light, at its meridian, was seen and felt in the remotest parts of the civilized world; and whose declining sun, as it hastened down the west, threw back its level beams, in hues of mellowed splendor, to illuminate and to cheer the land he loved and served so well.

All the States may point, with gratified pride, to the services in the Senate of their patriotic sons. Crowding the memory, come the names of Adams, Hayne, Wright, Mason, Otis, Macon, Pinckney, and the rest—I cannot number them—who, in the record of their acts and utterances, appeal to their successors to give the Union a destiny not unworthy of the past. What models were these, to awaken emulation or to plunge in despair! Fortunate will be the American statesmen who, in this age, or in succeeding times, shall contribute to invest the new Hall to which we go, with historic memories like those which cluster here.

And now, Senators, we leave this memorable Chamber, bearing with us, unimpaired, the Constitution we received from our forefathers. Let us cherish it with grateful acknowledgments to the Divine Power who controls the destinies of empires and whose goodness we adore. The structures reared by men yield to the corroding tooth of time. These marble walls must molder into ruin; but the principles of constitutional liberty, guarded by wisdom and virtue, unlike material elements, do not decay. Let us devoutly trust that another Senate, in another age, shall bear to a new and larger Chamber, this Constitution vigorous and inviolate, and that the last generation of posterity shall witness the deliberations of the Representatives of American States still united, prosperous, and free.

In execution of the order of the Senate, the body will now proceed to the new Chamber.

The Senate, preceded by the Vice President, the Secretary, and the Sergeant-at-Arms, proceeded to the new Chamber.

The Senators having been seated, the VICE PRESIDENT called the body to order, and the Rev. P. D. GURLEY, D. D., offered up the following prayer:

Almighty God, our Father and helper, in all the events and changes of life, we would acknowledge Thee that Thou mayest direct our steps. In entering this new council chamber where the representatives of a great, a free, and a mighty nation are to meet and deliberate in years to come, we would look up to Thee through Jesus Christ for Thy presence and Thy blessing. To Thee would we dedicate the place—to Thee our God and the God of our fathers. To the cause of justice, of liberty, and of humanity, would we dedicate it; praying that the counsels which may prevail in years

to come, may be counsels of truth, of duty, and of wisdom, which Thou wilt approve, and which Thou wilt cause to redound to Thine own glory, and to the highest welfare of our beloved country. Grant, we beseech Thee, that those who come here from year to year, as the representatives of the different States of this Union, may be true to the Union, and true to all the interests confided to their care. May they never yield to the sway of evil passion, or sacrifice any principle or interest which duty to Thee and to their beloved country may call them to defend; but may they so act in the fear of Thy name, and under the guidance of Thy word, that the influences which issue hence, shall be cheering to the heart of Christian patriotism, and only cheering, and that continually.

We beg of Thee, blessed God, here to be present in the hour of our country's peril, whether that peril be internal or external, domestic or foreign. In the hour of peril, be Thou here to guide our counsellors by Thine own counsel, and to incline them, while they prove all things, to hold fast that which is good.

And now, our God, we beseech Thee to spread over us the banner of Thy protection. Aye let it wave over the flag of our country, and over all our precious interests. Aye let it wave from generation to generation over this Hall, and over the happy representatives of a happy, a free, and a united people; and to Thy name, Father, Son, and Holy Ghost, shall be the praise and the glory forever. Amen.

The VICE PRESIDENT. Petitions are in order.

CREDENTIALS.

Mr. JOHNSON, of Arkansas, presented the credentials of Hon. WILLIAM K. SEBASTIAN, chosen a Senator of the United States by the Legislature of Arkansas, for the term of six years, from and after the 4th of March next; which were read and ordered to be placed on file.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a paper from B. J. Moeller, a lieutenant in the Navy, in relation to his transfer from the furlough to the leave list; which was referred to the Committee on Naval Affairs.

Mr. HARLAN presented two petitions from citizens of Iowa, praying the establishment of a mail route from Jefferson to Sac City, in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. BRIGHT presented the memorial of William Maxwell Wood, a surgeon in the Navy, praying to be allowed traveling expenses incurred under an order of his commanding officer; which was referred to the Committee on Naval Affairs.

Mr. HAMMOND presented a petition of residents of Edgefield district, South Carolina, praying the establishment of a post office at Kaolin, in that State, and additional mail facilities between Branchville and Kaolin; which was referred to the Committee on the Post Office and Post Roads.

He also presented the memorial of William Hazard Wigg, praying that the papers relating to his claim for the destruction of his grandfather's property during the revolutionary war, may be withdrawn from the Court of Claims and referred to the Committee on Revolutionary Claims; which was referred to the Committee on Revolutionary Claims.

He also presented resolutions of the Legislature of South Carolina, opposed to any change in the present organization of the Light-House Board; which were referred to the Committee on Commerce.

Mr. MASON presented the memorial of Fannie White, widow of C. B. White, a military storekeeper, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. KENNEDY presented the memorial of James H. Causten, attorney in fact of the legal representatives of Samuel Smith, James A. Buchanan, and others, praying that interest may be allowed in the settlement of their accounts at the Treasury Department, upon certain awards made for vessels sunk in the defense of the city of Baltimore during the last war with Great Britain; which was referred to the Committee on Commerce.

Mr. DAVIS presented the petition of officers of the Army stationed at Fort Kearny, praying that

provision may be made for supporting bands of music in the military service; which was referred to the Committee on Military Affairs and the Militia.

He also presented the memorial of Samuel Jones, a captain in the United States Army, praying to be remunerated for losses sustained by him in consequence of the blowing up of the steamer Pennsylvania, on the Mississippi river, while he was a passenger thereon, traveling in the public service; which was referred to the Committee on Claims.

He also presented a petition of citizens of New York, praying that all further traffic in and monopoly of the public lands may be prevented, and that they may be laid out in farms for the use of actual settlers; which was referred to the Committee on Public Lands.

Mr. GWIN presented twelve petitions of citizens of California, praying the establishment of a mail route from Marysville to San Francisco; which were referred to the Committee on the Post Office and Post Roads.

He also presented the petition of Robert Perkins, praying indemnity for property stolen and destroyed by the Indians; which was referred to the Committee on Indian Affairs.

He also presented the petition of Leonard J. Rose, praying indemnity for property stolen and destroyed by the Indians; which was referred to the Committee on Indian Affairs.

Mr. CHANDLER presented the petition of Thomas Sprague, praying compensation for investigating certain depredations on the public lands in the State of Michigan; which was referred to the Committee on Claims.

Mr. FESSENDEN presented a petition of Reuben Knight and others, whose claims for bounty land under the act of March 3, 1855, have been rejected, praying a modification of that act; which was referred to the Committee on Public Lands.

Mr. BROWN presented a memorial of the Provident Association of Clerks, praying an amendment of their charter; which was referred to the Committee on the District of Columbia.

Mr. GREEN presented additional papers in support of the claims of James and R. H. Porter, praying indemnity for losses occasioned by the United States Army in the expedition to Utah; which was referred to the Committee on Military Affairs and the Militia.

Mr. CLAY presented the memorial of Simeon Geron, praying compensation for services rendered and losses sustained in carrying dispatches during the war of 1812; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOOT presented the petition of Marshall Harvey, praying to be allowed an invalid pension; which was referred to the Committee on Pensions.

He also presented a statement of S. S. Wickham, John Robinson, and Samuel S. Bryan, soldiers in the war with Mexico, respecting the raising of the first American flag on the citadel of Mexico, in September, 1847; which was referred to the Committee on Military Affairs and the Militia.

Mr. KING presented the petition of Rebecca A. Correll, widow of Isaac Correll, deceased, late private in company D, eleventh regiment United States infantry, for a pension; which was referred to the Committee on Pensions.

He also presented a petition of citizens of New York, praying that the public lands may be laid out in farms for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. JONES presented the memorial of the Annual Convention of Baptists, held at Iowa City, Iowa, October 9, 1858, praying the enactment of a law for the protection of chaplains in the public service; which was referred to the Committee on Naval Affairs.

He also presented the memorial of R. H. Gillet asking compensation for the argument of certain cases in the Supreme Court of the United States, at the request of the Attorney General; which was referred to the Committee on the Judiciary.

Mr. MALLORY presented the petition of Raphael Semmes, a commander in the Navy, praying that he may be allowed the sea-service pay of his grade while employed as secretary of the Light-House Board; which was referred to the Committee on Naval Affairs.

REPORTS FROM COMMITTEES.

Mr. MALLORY. The Committee on Naval Affairs, to whom were referred various petitions of officers of the Navy, have instructed me to report a bill (S. No. 485) to increase the pay of the officers of the Navy. I give notice to the Senate, as the session is necessarily a short one, that I will move at an early day to take up this bill, and test the sense of the Senate upon it.

The bill was read, and ordered to a second reading.

Mr. MALLORY also, from the same committee, reported a bill (S. No. 486) to authorize the construction of ten small war steamers; which was read, and passed to a second reading.

NOTICES OF BILLS.

Mr. SEWARD gave notice of his intention to ask leave to introduce a bill to refund to the State of New York moneys expended by that State in constructing and repairing the harbor at Buffalo, on Lake Erie, at the western termination of the Erie canal.

Mr. BIGLER gave notice of his intention to ask leave to introduce a bill to regulate the location of the public buildings in the city of Philadelphia.

BILLS INTRODUCED.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 61) giving construction to the act entitled "An act to extend an act entitled 'An act to continue half pay to certain widows and orphans,' approved February 3, 1853," approved June 3, 1858; which was referred to the Committee on Pensions.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 62) explanatory of an act approved March 3, 1855, entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 63) authorizing the settlement of the accounts of Redick McKee; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 484) for the relief of Isaac S. K. Ogier, judge of the United States district court for the southern district of California; which was read twice by its title, and referred to the Committee on Claims.

MAILS TO THE PACIFIC.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 483) concerning the transportation of the mails between the Pacific and Atlantic coasts.

The bill was read twice by its title.

Mr. GWIN. Mr. President, I ask the indulgence of the Senate for a few moments, to explain the provisions of this bill, before I move its reference to the Committee on the Post Office and Post Roads. The contracts for carrying the mails to the Pacific coast by ocean steamers, expire on the 1st of October next. I propose in this bill to make provision for the transportation of the mails to the States on the Pacific on four different ocean routes, to wit: Panama, Nicaragua, Tehuantepec, and Vera Cruz.

The first and second sections of the bill authorize the Postmaster General to contract for carrying the mails monthly in twenty-four and twenty-two days, from New York to San Francisco, and thence to Astoria. The third and fourth sections give the same officer authority to contract for carrying the mails monthly from New Orleans by the way of Tehuantepec and Vera Cruz, to connect at that point with the other two lines. The time by these routes, from New Orleans to San Francisco, is to be seventeen days. Each contract is to be given to the lowest responsible bidder; those by Panama and Nicaragua not to exceed \$250,000 each, and those by Tehuantepec and Vera Cruz not to exceed \$143,000 each.

Until recently we have had but one of these routes opened, and the mails carried on it semi-monthly, at an annual cost of about seven hundred and fifty thousand dollars. In the last two or three months the mails have been conveyed semi-monthly from New Orleans, via Tehuantepec, to

Acapulco, at a cost of \$286,000, making the amount now paid annually on the two routes upwards of a million dollars. By the provisions of this bill it is proposed to carry these mails monthly over each of the four routes, at about the same rates that we have heretofore paid for semi-monthly service on one route, and for \$250,000 less than is now paid on two routes. This is the maximum rate which the Postmaster General is authorized to pay for this service, and he may get it done for less, for each route is to be let to the lowest responsible bidder. There is no doubt he will be able to get the service performed at these rates. Six years ago, responsible parties proposed to carry the mails semi-monthly from New York to San Francisco, via Nicaragua, for \$250,000 per annum, the limit given to the Postmaster General in this bill to pay for monthly service. Eight years ago, Congress authorized the monthly service from Panama to Astoria to be changed to semi-monthly, to correspond with the service on this side of the Isthmus, provided it could be done at one fourth less than the then contract price, and the contractors promptly accepted those terms. The Government now pays the Panama railroad (only fifty miles in length) \$100,000 for carrying our mails semi-monthly. One tenth of that sum would be ample compensation for monthly service.

I assume that if Congress directs the Postmaster General to make these contracts, no interference in the execution of the law in crossing the Isthmus at the points named will be tolerated by this Government. By treaties we have the right, and by policy are committed, to keep these routes open, and will be disgraced in the eyes of all civilized nations if we permit the weak and distracted Governments that claim jurisdiction, or either of them, to disturb the transit of our mails. As to the mail to be conveyed via Vera Cruz there can be no difficulty in making an arrangement with Mexico for its secure and uninterrupted transit. We are compelled to carry the mails from New Orleans to Vera Cruz by ocean steamers, and the only additional service contemplated by this bill is to connect that mail overland with the Pacific from Vera Cruz, via the City of Mexico, at Acapulco. But if we cannot make such an arrangement with Mexico, the bill requires the mails to be carried semi-monthly, via Tehuantepec, at the same compensation as is now allowed.

The contracts are to be made for five years on each route. I believe at the expiration of that time, the transit by the overland mail routes will be so perfected, with such progress as I hope will be made in the Pacific railroad, and we will certainly then have various telegraph lines, that we will need no ocean lines to carry our mails to the Pacific coast. These routes will always continue as commercial lines, and will be used to carry the mails from the United States to the countries they traverse; but they will not be used to transport mails to the Pacific States of the Union. I propose to use them now merely as auxiliaries to the great overland transit, which should be aided by the whole power of the Government. They are also important emigrant routes, and will thus increase the population of the Pacific States, and break up the monopoly of one route, that has for years been such just cause of complaint.

The consolidating the passengers from Acapulco north, and San Francisco south, to that point, would not endanger their health. Nearly the whole distance is cool and pleasant. The danger on all the routes south of Acapulco, and through this region, this bill wisely distributes between four lines of steamers, instead of confining them to two; and those to New Orleans do not enter these equatorial regions, so deleterious to health, and where most of the fatal diseases have prevailed among passengers on the transit over the Isthmus routes to and from California.

I move that the bill be referred to the Committee on the Post Office and Post Roads, and that it be printed.

The motion was agreed to.

JUDICIAL FEES.

Mr. JOHNSON, of Tennessee, submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That so much of the report of the Secretary of the Interior as relates to the compensation of the United States district attorneys, marshals, and clerks of the courts be referred to the Committee on the Judiciary; and that said committee report by bill or otherwise.

THE GUANO TRADE.

Mr. SLIDELL submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate, if in his opinion it be not incompatible with the public interest, any correspondence with the Government of Peru, or its agents, on the subject of trade in guano; and all information which may tend to explain the manner in which said trade is regulated; and whether such regulations have not the effect unduly to enhance the price of guano to the consumer, or to deprive vessels navigating under the flag of the United States of the fair and equal competition with those of other nations, guaranteed by the treaty with Peru of the 19th of July, 1852; and, if so, whether any and what regulations is expedient to counteract the effect of such regulations.

APPROPRIATION BILLS.

A message from the House of Representatives, by Mr. BARCLAY, one of its clerks, announced that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (No. 662) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1860; and

A bill (No. 663) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1860.

On motion of Mr. HUNTER, these bills were read twice by their titles, and referred to the Committee on Finance.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 21st of December, an act for the relief of Roswell Minard, father of Theodore Minard, deceased; and on the 22d of December, an act to confirm the land claim of certain pueblos and towns in the Territory of New Mexico.

GOVERNMENTAL EXPENDITURES.

Mr. JOHNSON, of Tennessee. I submit the following resolution, and ask for its consideration at the present time:

Resolved, That so much of the President's second annual message as relates to a reduction of the expenditures of the Government of the United States, which is in the following words, to wit: "I invite Congress to institute a rigid scrutiny to ascertain whether the expenses in all the Departments cannot be still further reduced; and I promise them all the aid in my power in pursuing the investigation," be referred to the Committee on Finance, and that said committee are hereby instructed, after first conferring with, and obtaining all "aid" and information from the President and heads of the Departments, as indicated in the President's message, to report a bill reforming, as far as possible, all abuses in the application of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenditures to an honest, rigid, economical administration of the Government.

Mr. HUNTER. I should like to have that resolution lie over until to-morrow. I see that it instructs the committee.

Mr. JOHNSON, of Tennessee. I hope the Senator will make no objection to the resolution. It is merely directed to the committee, and instructs them, after obtaining the information, to do what the President himself says can be done. It seems to me this is a very auspicious time for such a movement.

Mr. HUNTER. I should like to hear it read again. Perhaps I may agree to it. I did not catch it all.

The Secretary read the resolution.

Mr. HUNTER. I wish to make a suggestion to my friend from Tennessee. His object is one in which I entirely concur, but he has probably named the wrong committee. It is the function of the Finance Committee to carry out what existing laws require. It is therefore the duty of the Finance Committee, if too much is appropriated to carry out any existing law, to reduce it to that; but all changes of the laws under which expenditures are had in the various Departments should proceed regularly from the committees which are raised in reference to these Departments. Now, I think this would be a capital proposition if it were divided into about five resolutions, one directed to the Military Committee, one to the Naval Committee, one to the Post Office Committee, and so on. Each committee, by this division of labor, might unite in the effort, and we might probably have something done; but if the whole matter is referred to the Committee on Finance, I am afraid that with their other occupations, they will hardly be able to do justice to the subject. I believe

I may say for them, that they would desire most earnestly to carry out the object of this resolution if they could do so, and they will do the best that is in their power; but I think if the Senator wishes any thing practical, he would do better to divide it so that each committee might take charge of the expenditures which flow from the particular Department in reference to which it is raised.

Mr. JOHNSON, of Tennessee. I am in hopes that the Senator from Virginia will withdraw his opposition to this resolution. The House of Representatives, under their rules, appoint committees to investigate and examine the expenditures of the respective Executive Departments. I served in that House ten years, and never knew any of those committees to make a report on the expenditures of any of the Departments. If we divide the labor here between these various committees, or appoint a special committee on the expenditures of the various Departments, there will never be anything done. I would prefer to have the labor and efforts of the Finance Committee first, to see if something cannot be done in the way of retrenching the expenditures of the Government, as indicated by the President of the United States. I think there can be no objection to this. If the Finance Committee find it impossible for them to perform the labor, they can report that fact to the Senate. They are efficient; they are a working committee; and I hope the resolution will be referred to them.

While I am up, Mr. President, I must be permitted to make one other remark. I have been waiting a long time, and looking a good while for a favorable opportunity to commence this work of retrenchment. I have long been satisfied in my own mind that it cannot be done unless the movement be headed by the Administration of the country. One member may come into the Senate Chamber, and a few others into the House of Representatives, and they may talk about retrenchment, and introduce resolutions, and propose propositions, and all that kind of thing, but it results in nothing; the effort fails; there is no retrenchment commenced, and there is no reform brought about. But now we have a favorable opportunity. It is in time of peace. A Democratic President now proposes, in his annual message, to lead in this work of retrenchment. He tells us in the message that the expenses of some of the Departments have been reduced below what they were last year; and the suggestion is clear that if Congress will commence this work, the expenditures can be still further reduced. The President almost asks it. The President proposes to lead in the work of retrenchment, and why shall we not join him in the effort? It never will be done until this or some other Administration places itself in the lead of this great work. The President, it is true, says, in the message, that it is unreasonable to expect that the expenditures of the Government can now be as small as they were some years ago; that as the business of the country, and the country itself, increase, and become more extensive in everything that pertains to a Government, we must expect the expenditures of the Government to correspondingly increase. That is reasonable and right, and in that I concur with the President; but the question is whether the expenditures of the Government are not running far ahead of a corresponding increase of the population and business of the country. There are one or two facts that I think will go far to show the necessity of commencing this work of retrenchment and reform with the President at its head.

In 1790, the population of the United States was a fraction less than four million; and the expenditures, in 1791, were \$2,000,000. At that time the amount required to carry on the Government for four million people was only \$2,000,000. In 1858, we find that the population was twenty-eight million, and the expenditures of the Government for the last year were about seventy-five million dollars. At least, \$75,000,000 was the estimate; but the actual expenditures, as we are told, were \$81,000,000, and the amount we appropriated at the last Congress was \$83,000,000. Confine it to the estimates made last year, and assume the expenditures to be \$75,000,000. From 1790 up to the present period of time the population has increased seven fold; but the expenditures of the Government have increased thirty-five fold. I ask you if this ratio is not too great, if the expenditures of the Government have not gone too

far ahead of the population and business of the country. Can we take any better data to get at what should be the expenditures of the Government than the population? There may be other things which may enable us to reach a correct conclusion; but this is near enough to show the country that the expenditures are outrunning our population and business in too great a ratio.

Our population has increased seven-fold, while our expenditures have multiplied thirty-five-fold. Thus it appears that, from 1790 to the present time, the expenditures of the Government have gone twenty-eight hundred per cent. in advance of the population. With that ratio going on in the future, how long will it be until the expenditures of the Government go beyond the ability of the people to pay the expenses of it?

I hope this resolution will go to the Committee on Finance. I think that is the appropriate committee. It is the committee that reports all the bills providing for the expenditures of the Government, and it is the appropriate committee, as I conceive, that should look into the expenditures and report to this House whether those expenditures cannot be reduced. I hope that the resolution will be referred to the Committee on Finance.

Mr. HUNTER. Mr. President—

Mr. GWIN. If this is to be discussed at any length, I hope it will go over until to-morrow.

Mr. HUNTER. I shall not take up much time. I would rather it should be acted on at once, for I think the object of the resolution is a very good one. I am not opposed to the resolution; I think the inquiry ought to be made; but I suggest to the Senator from Tennessee, whether, in order to accomplish the object which he has in view, it would not be better to direct these inquiries to the committees connected with the several Departments? It would impose so much labor on the Finance Committee, in addition to their other and indispensable duties, that the probability is, the work could not be accomplished as the Senator desires. When we come to look into this whole subject of reform in expenditures—take for instance the Post Office Department—nobody can doubt but that some radical changes ought to be made by which that Department should sustain itself. The idea of its being a burden on the Treasury to the extent of six or nine million dollars a year, is monstrous; and yet, when we come to ascertain what are the precise reforms, and what should be done in enabling that Department to accomplish this desirable end, it is manifest the inquiry ought to be conducted by the Post Office Committee, and not by the Committee on Finance; because they have not time to look into the workings of the Departments in order to make these radical changes at the same time that they attend to the general appropriation bills.

Take the Army. It has been suggested, I do not know with how much truth, but I think it very probable, that we are subjected to a great deal of unnecessary expense on account of the manner in which the Army is posted; that it is not the duty of the Government to post the Army in expensive positions, where it costs a great deal of money to transport to them the necessary supplies for the purpose of protecting men who are intruding into the Indian country, and who can, at any time, call for an expensive escort, and who do call for it when the Army is so posted. Such inquiries as that ought to be left to the Military Committee; and it seems to me that it is an inquiry which ought to be instituted.

So in regard to the expenditures for the Navy Department. I think the knife ought to be introduced there too. We ought to inquire how far, in the present condition of the finances, we can properly go on increasing the Navy. We ought to look to see how much it is costing us per gun upon the present naval establishment, and what changes can be made in order to introduce some reform in these particulars. Who so fit to undertake that inquiry as the Committee on Naval Affairs? The chairman of that committee has all the special knowledge which is necessary for that purpose. The Committee on Finance have none of that special knowledge. I believe that if this resolution were divided into five or six, directed to the appropriate committees, good would come of it; but I can only say that, if the Senate send it to the Finance Committee, I will do the best I can with it. I heartily sympathize with its object; I

agree with the views expressed by the Senator from Tennessee; I believe there ought to be reform in the expenditures of this Government. I think, sir, it is monstrous that we should be expending \$74,000,000 a year. I believe that it is contrary to the expectation of all those (and they consisted of most of the members of the Senate) who voted for reforming the tariff a few years ago for the purpose of cutting down the revenue. It was done so that we might reduce the expenditures. No man dreamed, when it was done, that if you increased the expenditures, the existing tariff could furnish revenue enough for them. It is obvious that, if the expenditures go on at this rate, they will soon exceed the capacity of the customs to supply the wants of the Government, and you will be forced, whether you desire it or not, to look to other sources of revenue. I therefore say to the Senator from Tennessee, God speed him in his inquiry, and I would be willing to render him any aid in my power; but I am afraid he is mistaking the best means of accomplishing this purpose, in sending so broad an inquiry to the Committee on Finance, who are occupied in other and indispensable business connected with the ordinary appropriation bills which will probably take up the whole of their time in the fifty days now left to us. If, however, after this suggestion, he still insists on sending it there, let it go there; but perhaps a special committee would be better. I know no gentleman better qualified than the Senator from Tennessee to move that committee. He seems to have been directing his attention to that object. I say the inquiry ought to be made, and I will vote for it in some shape. I only desire that it may be placed in hands competent to execute the task which is required of it.

Mr. SEWARD. Mr. President, I believe that the whole Senate will be agreed in the principle and object of this resolution. The only question that can exist amongst us is how to produce the practical result which is contemplated by the resolution; that is, a reduction of the expenses of the Government to a just and reasonable standard? After hearing all that has been said by the honorable Senator from Virginia, my opinion remains unchanged that the proper destination of this inquiry is to the Committee on Finance, of which he is chairman. He suggests that because that committee is occupied with so many labors and duties already, it would be expedient to send the work to be done to other committees of the Senate. But, Mr. President, it is very clear that if what is everybody's business is nobody's, what is the business of twenty-two committees will not be done by any or all of them. We have twenty-two committees, and to distribute this trust among them all, will be to defeat it, I think, altogether. It must be in the hands of one committee, and that a responsible one.

Again, somebody is to blame for the excessive expenditures over and above the standard which the President recommends, and which this resolution contemplates as being the right one. Somebody is responsible for that excess, that extravagance. It must be that it is these very committees, these twenty-two committees of the Senate, that must bear the responsibility, so far as this body is concerned, of this excess; and we can see naturally how it occurs that each one makes its recommendations, and introduces its bills with reference simply to the objects which are committed to its care, and not at all to any common standard of revenue and expenditure. To send the inquiry, therefore, to the several committees, is to send it to the very sources from which the errors have already arisen, and which, perhaps, they have no capacity whatever to correct.

Then, in regard to a select committee, I can very well see that such a trust devolved on a select committee would be regarded as a very delicate one, exposing them to a great deal of jealousy, a great deal of suspicion, a great deal of censure; and their report would be, probably, assailed on all sides as prejudiced and interested and bigoted. But the Committee on Finance, which has got the general charge, so far as advising the Senate is concerned, of the amount of revenue which can be brought into use, has also a general supervision of the whole expenses of the Government; and it would seem to be possible for them, if it is possible for anybody, to recommend the reduction as proposed by this resolution.

Mr. FESSENDEN. I suppose, sir, that, like

every other Senator here, I am in favor of retrenchment; I presume there is nobody who would admit that he is not, and everybody I suppose, in point of fact. The only question, then, is, all being in favor of it, what is the best mode, if any can be adopted, to accomplish the purpose. Now, I am very free to say, as has been said by the chairman of the Committee on Finance, that if the honorable mover of this resolution expects anything to be accomplished at this session, he will not send it to the Committee on Finance. I say so understandingly, because I am perfectly satisfied from my knowledge of its duties, that it would be impossible in the very short period that is left of this session, although we have the largest portion of it left, for the Committee on Finance to examine the various subjects that must come before it in connection with this resolution, and at the same time to discharge properly its other duties which it cannot possibly avoid. Why, sir, there will be but a few days before the appropriation bills will be submitted to our charge; and any one who has had the experience of that committee, even for a single session, as I have had, knows very well that when that labor begins, it necessarily occupies all the time of the committee until the close of the session. It would, therefore, in my judgment, be impossible for that committee to investigate the subject so as to understand it, and make a report which would be satisfactory to this body. Suppose, for instance, that we undertake to investigate the subject of retrenchment in the expenses of the Army. As the chairman of the Committee on Finance has observed, we are very imperfectly acquainted with that matter, and when we take up, if we should do so, that favorite branch of the service—a favorite certainly in the view of the committee which has that service specially in charge in this body—we should have to meet objections from that committee, and probably contest every inch of ground with it. So with regard to the Navy; so with regard to the land system; so with regard to every other feature of any report which we might make in regard to retrenchment in the various branches of the public service.

Now, then, I say to gentlemen, if they sincerely desire that retrenchment shall be made; if they believe that the President is sincerely in earnest in this matter, and desire to carry out his views as well as their own, they will take a course which is calculated to produce the effect desired, and not one which is calculated to thwart it. If the honorable mover will make a very slight change in his resolution, all this matter can be accomplished, if anything is to be done, and if there is a sincere desire to accomplish it. Just submit, in his resolution, to the Committee on Naval Affairs the investigation of the matter how far the expenses of the Navy can be reduced. So of the Army; so of the Treasury; so of the Post Office Department. The committees to which these subjects appropriately belong are competent to do it. They have time, certainly, much more time to do a portion of the labor, than the Committee on Finance has to do the whole of it.

I suppose the Committee on Finance should have charge of that portion of it relating to the Treasury. It would be as much as they could do to take charge of that subject and report on it. I am glad the matter has been introduced. I am willing to discharge my share of the labor; more than my share, if desired; but I wish to see this business seriously undertaken in a manner that shall bid fair to produce some practical result; but it cannot be by burdening one committee, which has matters of so much importance as we have before us, with the whole of this duty, and expect us to make a report that will be satisfactory in any portion of the Senate, or which will be an understanding report in its character. I trust, therefore, that the honorable mover will modify his resolution in some particulars, so as to give a fair opportunity, a reasonable chance to accomplish something.

I agree with the Senator from Virginia, the chairman of the Committee on Finance, that if we go on increasing our expenditures they will soon be beyond the power of the present revenue system to meet them. They are far beyond it now. I believe that no reduction which will meet the reasonable wants of the Treasury at the present time, the reasonable expenditures of the Government can be brought within any amount of

revenue that can be raised by the tariff as it stands at present. On that I may differ with the chairman; but, at any rate, it is very easy to look into this matter if we desire to do so, and in order to accomplish it in the few days left to us, we must necessarily divide the labor. I stand like all other Senators here, unwilling to appear in any degree to oppose the slightest obstacle to that investigation. I am anxious for the investigation; but, sir, I am anxious that the reform, when it begins, or an attempt at it, should begin in such a manner as to show that we are serious in relation to the matter—not by preaching reform eternally, as has been done in Presidents' messages and other documents which are sent to us, without the first movement or the first idea suggested with the view properly, in any manner, to carry out the reform which is recommended. The President has control of the Departments; his officers in the Departments know where a reform can be made, if any is necessary. Why do not they suggest it to us? Why do not they point to the particular places to which we are to go in order to find out what is wrong in the finances of the Government? We hear nothing but general recommendations; and now, if you are to heap everything in relation to this matter on one committee at this period of this short session, I tell you there is not the remotest possibility that anything can be accomplished. I trust, therefore, that the Senator from Tennessee, if he is, as I know he is, sincerely desirous to reform the expenditures of this Government, will take a course that may be likely to produce some effect.

Mr. BIGLER. I concur, Mr. President, most heartily, with the views presented by the Senators from Virginia and Maine. I think that this subject ought to be referred to the several committees having charge of the various Departments of the public service. The reasons for this opinion, to my mind, are very clear. The inquiry will not be one as to the amount of money expended alone; but it will cover, necessarily, the whole governmental policy with reference to the branches of the public service which the respective committees may represent. The Committee on the Post Office and Post Roads are already considering the subject. They have felt required, on the suggestion of the President and Postmaster General, to look into this question; and I can see at once why that inquiry would be very difficult for the Committee on Finance. It will cover the whole question of mail service. It leads into the question of how far the present service may be dispensed with; whether we have not more routes than are necessary; whether the compensation be not more than is required? It will cover every consideration connected with our postal service. I do not see that the committee that prepares the appropriations, can, more especially than any other, inquire into the question of economy. The same may be said of the Committee on Naval Affairs. Their inquiries will cover the whole question of the efficiency of that branch of the public service. I think the reason suggested by the Senator from Maine, that the action and opinion of the Finance Committee would always be disputed by the committee properly representing the business, is conclusive. The Committee on Naval Affairs will judge whether it is wise or unwise to reduce the naval expenditures; whether any part of the service can be dispensed with; whether it is wise to increase or diminish the Navy; and upon these inquiries will depend the propriety of the reduction of expenses. The same remark will apply to the Army, the other branch of the public defense; and, after the Committee on Finance shall have done its best—and we all know that the Senator from Virginia would devote himself to the subject with untiring vigilance—he would find the whole of his efforts defeated by a difference amongst those committees.

I agree heartily with the Senator from Tennessee, and I am glad he has introduced the resolution; but, sir, if we are to have practical fruits from his efforts, let the subject either go to a select committee, or let it be divided into the several classes and referred to the various appropriate committees. I hope the Senator from Tennessee will yield to the reasoning of the Senator from Virginia. I know he will do so the moment he is convinced that that policy is best to attain the object which he has in view.

I should not have said a word on this question;

but I felt its importance, and I thought, too, the whole effort would be lost if the policy insisted on by the Senator from Tennessee should be adopted. I hope the resolution will either lie over or be changed.

Mr. TOOMBS. I hope the Senator from Tennessee will adhere to his resolution as it stands. It is the only practical form in which it can be put. I know that this investigation may be troublesome and irksome to the Finance Committee, but not more so than the general duties with which they are charged. If they have too much to do, they ought to be relieved. They have by custom, and I believe I may say by the order of the Senate, drawn to themselves the general consideration of all Departments of the Government. They pass judgment on every expenditure, down to a single dollar. The appropriation bills are all referred to them, and they pass upon every one of them. It is true, the committees who are charged with the consideration of the great arms of the public defense, and other branches of the public service, suggest amendments, generally enlargements of the appropriations for that particular service. It seems to be the rule in this body, and I believe it is in the other House, so far as my experience and observation have gone, that every committee seems to think it its duty to obtain an enlargement of the appropriations for the particular branch of the public service committed to its care; to get as much money as possible for that; and this great scramble has carried our expenditures in ten or twelve years from \$40,000,000 to \$75,000,000. It is unnecessary to send this subject to each several committee, because they are already charged with it. It is their duty now, under the general rules of the Senate, to take into consideration everything connected with that branch of the public service confided to them; to propose a correction of abuses; to diminish the service, if necessary to make it efficient; to put it in the best condition compatible with the public interest. We find that under the present system we have gone on increasing and increasing, until the whole Senate says our expenses must be diminished. You might just as well send the lamb to the wolf for safety, as to send this subject to the various committees; for that is exactly the source of our evil. They have done this wrong, or have been unable to prevent the doing of it—one or the other. They have had charge of these great branches of the public service, and the expenditures for them have gone on increasing until a clamor has been created from without; and I am very glad it is beginning to be felt from within.

I think, then, this investigation should be confided either to a special committee or to the Committee on Finance; and it belongs peculiarly to the Committee on Finance, because they must have already this information before them; they must know pretty nearly what the revenue will be, and it is proper that they should adjust the public service to the revenue. We have but two or three options left to us now: we must either reduce the public expenses to the revenue, which we all know is deficient at the present rate of expenditure; or we must raise the revenue; or we must borrow money. Everybody seems to go against borrowing, though I think there is more merit in that mode of relief, if it is shown to be for a temporary deficiency of revenue, than is accorded to it either by the Executive Government or its opponents on this floor. I am not yet satisfied myself that that would not be the wisest course; and I certainly think it would be if it should turn out on investigation that the existing deficiency is temporary, not permanent. Of course loans are vicious when made for the purpose of supplying a permanent deficiency; but if the deficiency is temporary, a loan is the wisest way of raising revenue to meet it—much wiser than to disturb a great system of revenue and vary it for partial causes.

The Committee on Finance of this body, and the Committee of Ways and Means in the other House, have drawn to themselves, by the custom, if not by the order, of the two bodies, the supervision of the entire expenditures of the Government, and they are the proper committees to propose a reduction. It is their duty to do it. They ought to do it without a special resolution. Those committees are chargeable with the great body of the expenditures of the Government; but, instead of looking into these matters themselves, a system

has grown up in both branches, of late years, under which these committees consider themselves mere recorders of the demands of the executive officers of the Government; and not merely the chiefs of bureaus, who generally know as little about such matters as those who pass on them here; but even the subordinates in the various offices make their estimates, and the Senate and House of Representatives seem to be powerless to arrest them. Indeed, they can get a puff in a newspaper for the great facility and rapidity with which they press the various appropriation bills through Congress. This is very easily done by taking the Government estimates. It requires neither learning, nor genius, nor patriotism. It only requires subserviency. It has come to this, that the appropriation bills come to us from the Departments printed, and they are put through our committees. Now and then, some outsiders like myself attempt to call attention to some great outrage, some unnecessary extravagance; and we pitch off a little here and a little there; but the great volume rolls on, strengthening and enlarging with every inch it travels. It is said now it ought to be stopped. Are we capable of stopping it? You say you want time. You have plenty of time to appropriate eighty or a hundred million dollars, and I should suppose you had time enough to save twenty millions. Although you have but sixty days left, you are going to appropriate eighty or ninety millions. You have just as much time to appropriate it intelligently, as you have to appropriate it lavishly and ignorantly, unless you are determined to ignore your public duties. The time it takes to pass an extravagant appropriation bill is time enough to pass an economical and just one. Though there be but a day or an hour left, if it is too short a time to pass a good bill, it is too short to pass a bad one; and let them all fail. If the Legislature is incapable of doing its duties well, let it not do them at all.

I hope this resolution will go to the Committee on Finance. It is properly their duty to attend to this matter. It is the duty of the other committees to attend to it in the particular branches committed to their care; but they have not done it, and the consequence is a great increase in expenditure. I make no charges against any committee. I belong to some committees, and I know that now and then a gentleman on one committee will attempt to retrench a little here and a little there; but the general fact which I state applies to all the committees, as we all know; and every department of the Government has gone on enlarging its expenditures until at last it has begun to attract public attention, and the Executive appeals to us to do something in the work of retrenchment. While there is a general cry for retrenchment, when any practical movement is made, the answer always is that this is not the right time, that is not the right place. I am afraid we shall never find a right time or a right place, until the popular revolution becomes strong enough to send here men who will do the public business better than we have done it.

Mr. FESSENDEN. Mr. President, it would be very easy, I take it, for the Committee on Finance to take the course suggested by the honorable Senator from Georgia; that is to say, to go over the appropriation bills when they are presented to us, and strike out a gross sum here, and a gross sum there, and a gross sum in another place, and reduce in one place and another. We can do that; but the question after all is, whether we should do it understandingly and properly? Now, sir, I do not belong to that class of individuals who suppose that this Government can be carried on without the expenditure of a large sum of money yearly. From the extent of our territory, as well as from the number of our people, and more from the extent of our territory than from the number of our people, we must necessarily be at great expense in carrying on this Government. But the Committee on Finance, if I understand its duties as imposed upon it by the rules, has to discover what existing laws require, and to propose the appropriations according to those laws. It is not for us to say that this law shall not be carried out for want of an appropriation, or that law not be carried out for want of an appropriation. We must discover what the laws require, and submit to the Senate the appropriations necessary to execute them. That is our duty. We are not charged

with the duty of revising the laws making these appropriations necessary, in any shape or form. We may be of opinion in some cases that too much is asked for, and then we do make reductions, and we have made them, or have tried to make them, very often without success. Now, sir, if you wish to reform the expenditures, and retrench the amount of money that it has taken to carry on this Government, you must begin in the several departments. The Senator from Georgia is always anxious for reform. Let him begin upon the judiciary of the country.

Mr. TOOMBS. I have nothing to do with that department. The Senate has discharged me from that.

Mr. FESSENDEN. I was mistaken. The honorable Senator was formerly a member of the Judiciary Committee; I thought he was now. I will say he ought to have begun with the expenses of the judiciary. They have been increasing, from time to time, until they have got to be enormous; and, I believe, have been increasing wrongfully and unnecessarily.

Mr. TOOMBS. No doubt of it.

Mr. FESSENDEN. Why has not that matter been looked at heretofore by gentlemen who were desirous of making these retrenchments? So in matters relating to commerce. There is room enough there. I should like to know whether we cannot make a retrenchment in the number of officers who are employed in the collection of the revenue? whether we cannot strike down expenditures there as well as elsewhere? I believe we can. We go on here from day to day passing laws which call for expenditures increasing the number of judicial districts, increasing salaries in that particular department. We go on in the departments relating to revenue, increasing the number of officers unnecessarily, increasing salaries, too, creating this and that building—totally unnecessary and uncalled for, in my judgment—to gratify different sections of the country. These are the places to begin; and those who begin should have charge of those particular departments. Is there any difficulty in their doing it?

Mr. TOOMBS. They will not do it.

Mr. FESSENDEN. Very well. I wish to impose that duty on them. I wish to impose the duty on each committee having charge of the supervision of each department, to look into that with which they are best acquainted, and not call on the Committee on Finance to make an investigation, and then when we come in with a report, if we ever get a chance to make one, have gentlemen of different committees saying that we are totally mistaken; that we are ignorant of the subject; that we are not acquainted with it; that we do not know how much to ask for. No, sir; it is simply because I desire, sincerely desire, that the expenses of this Government should be retrenched, that I wish the duty properly apportioned among those gentlemen who are best qualified to inform the Senate where reduction can take place. That is my object; and I believe now, as I stated before, that if gentlemen really expect on rational grounds to have anything done at this session, they will not impose this enormous burden on the Finance Committee. They might have an opportunity to look into some portion of it, but it would be physically impossible for them to do all the labor that would be required by this examination.

Why, sir, it includes a review and a consideration of all the branches of expenditures in all the Departments of the Government. If we could devote our whole time to it, between now and the close of this session, it would be little enough for the examination and for framing the laws necessary to carry it out, for we cannot put it into the appropriation bills. If we bring in an appropriation bill here—for instance, a bill appropriating money for the service of the Navy—and append to it provisions repealing this source of expenditure, and that source of expenditure, we open a fruitful subject of debate on every single bill that we bring in with which retrenchment is connected. But if we are to frame general bills in relation to the whole, if you impose it on us, you will have to demand of the committee to sit in the recess and send for persons and papers, and make an examination and have a detailed report, and prepare bills for the next session of Congress. I have not the slightest idea that we can do anything on a resolution so broad as this, at the

present session of Congress. I repeat, therefore, that while I am indisposed, in any shape or form, to stand in the way of the honorable Senator from Tennessee, but, like everybody else, wish to aid him in every possible way that I can, I am in earnest about the matter, and wish something accomplished, that it should not be "sound and fury, signifying nothing."

Mr. JOHNSON, of Tennessee. Mr. President, I hope the Committee on Finance will withdraw their opposition to this resolution going to them for consideration. It seems to be a proposition that everybody is for; yet there can be no agreement as to the proper disposition of the resolution. The Committee on Finance—not speaking disparagingly of the other committees—is an able, an industrious, a working committee, and that committee is necessarily compelled to make all the investigations that would be needed in order to frame a bill or bills of the description mentioned in the resolution. All the appropriations for the Navy, all the appropriations for the Army, all the appropriations for the civil department, all the appropriations for the judiciary, have to pass under the consideration of that committee. They, of course, must determine as to the propriety or impropriety of making the appropriations. They then, in fact, are compelled to make the investigation necessary to enable them to say how much is necessary. Why should they make the investigation without it being their duty to report a bill?

We have most conclusive proof furnished to-day of the propriety of sending it to that committee. Just before its introduction we saw the honorable chairman of the Committee on Naval Affairs reporting a bill increasing the expenditures of that Department. That does not seem likely to be a very appropriate committee at this time to bring about a reduction of expenditures in that Department. We see indicated, too, from the chairman of the Committee on Finance, his coöperation in this work of reduction; and he thinks it ought to be commenced, and is willing to commence it, but the greatest difficulty that seems to be in the way is the labor it imposes on that committee. As I before remarked, that committee, in fact, practically performs all the labor necessary to the ascertainment of the correct information which should be embodied in a bill of this description. If you refer this subject to the various committees of the Senate, the result will be no report and no reduction. I do not mean to cast any improper imputation on any of the committees; but when you call upon the Committee on Military Affairs to make a reduction in the expenditures of the War Department, they are fortified with all the arguments and reasons why those expenditures should be kept up or increased. When you call on the Naval Committee, it is the same thing; and so on with all the committees having charge of particular departments. Hence the Committee on Finance is the proper committee. It is their duty to supervise and look into the appropriations for all the departments, and see whether they are right or wrong, and report accordingly. I hope the chairman of the Committee on Finance will withdraw his opposition, and let the resolution go to his committee. Let them commence the work, and if they cannot go through with it during this session, let them report how far they have gone, and indicate how much can be done. You will find, too, when that committee commence the work, as I believe they will commence it in good earnest, if the duty is imposed upon them by a resolution, that war will be made upon them in many instances from other committees of this House. To my mind, the conclusion is clear and strong that that is the proper committee to commence this work of retrenchment.

But the Senator from Maine throws out a doubt, in his remarks, as to the sincerity of the President in recommending retrenchment. I believe the President is in earnest, and that he has made the recommendation in good faith; but, if he is not in earnest, let us put him to the test. He has agreed to give aid to this committee, or any committee that Congress may institute, in prosecuting their investigations in the various Departments, and has recommended a reduction. Now, let us test his sincerity; and I ask the Senator from Maine to go with me, and put the President to the test. I know, so far as I am concerned—and I say it in no spirit of egotism—that my acts, my votes, and my speeches in the Congress of the United

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States for a number of years, correspond with my professions; and I am willing now to reduce my professions to practice. I am satisfied that the expenditures of this Government are too great; I am satisfied that they are unnecessary and profligate. I do honestly believe that millions of the people's money are collected and squandered here for improper purposes. It is our duty as faithful sentinels, as faithful representatives of the sovereign States, to commence the work of reduction and retrenchment of the expenses of the Government. Then let us unite in this movement. All agree that it is right; all agree that it should be done; all agree that the expenses are too great; all agree that there is extravagance and profligacy, and some insinuate that there is even corruption; but if we are all satisfied that this ought to be done, should we now be diverted from the object by a simple disinclination on the part of the Committee on Finance to go into the investigation?

Mr. President, (Mr. FITZPATRICK in the chair,) you have been a member of this body a long time; I see many faces here that I served with in the House of Representatives; and, from the time I took my seat there up to the present moment, whenever this subject was mooted the cry has been "this is not the time." There was always something in the way. An appropriation was needed for this, or an appropriation was needed for that, or the session was too short; it was not time to commence the work. When will the time come? When can we commence this work? In the estimation of some, it never will come; and, even amongst the friends of retrenchment and reform, when you present a proposition, it is not exactly in the right shape, its reference is not to the right committee, or the session is too short for anything to be done. If we are in earnest in this matter, if (following the intimation of the honorable Senator from Maine) we are sincere, let us give the public some evidence of our sincerity. Let us not talk about expenditure; let us not talk about extravagance; but let us reduce our professions and our talk and theories to practice.

I hope the Senate will send this resolution to the Committee on Finance. That is the committee whose duty it is to pass upon all the appropriations; and even if they were not favorably disposed, I say again, that, in preparing bills for the expenses of the different Departments they obtain all the information that is necessary to enable them to propose a general measure of economy. As to the suggestion that we should appoint a select committee, that would not be a proper committee. The Finance Committee is in possession of the real information, and that is the committee which should perform the work. I hope the resolution will be sent to the Committee on Finance, and let them progress as far as they can. I believe if we pass a resolution of this kind, they will report a bill, and the work can be commenced in good earnest.

Mr. SHIELDS. Mr. President, I do not want to occupy the attention of the Senate more than a moment to express my satisfaction that this debate has arisen in this Chamber this morning. I think we are indebted to the honorable Senator from Tennessee for introducing this necessary subject as an inauguration of this Chamber. The Senate could not be better occupied on the first morning of the first day of its session in this Chamber, in my humble judgment, than in discussing the subject of retrenchment. I do not know that any good will arise from this movement; I doubt whether there is time to accomplish much; I am apprehensive that our able Finance Committee is already sufficiently burdened with work, and cannot do a great deal on the subject at this short session; but, sir, the very discussion of the subject, the very introduction of it, the exhibition of a general feeling amongst northern and southern men in favor of retrenchment, on the first day of our session in this Chamber, I think augurs well for the country. I had made up my mind not to introduce the subject; I did not think it would be becoming for me to do so; but I had made up my mind at the same time that if any

gentlemen would introduce it and adhere to it and push it, I would stand by them to the last. I think it is not saying too much to declare that this country has gone faster and further in ten years, in the way of governmental extravagance, than most other countries have done in centuries. I do not know how it has happened, but it seems to me there is no way of stopping it unless by some great combined movement.

I remember that, before I had the honor to enter the Senate as a member of the body, when I was younger than I am now, I was a listener to a chance debate, somewhat similar to the debate of this morning, that arose in the old Chamber. I listened to remarks that day which made such an indelible impression on my mind that I can quote them substantially now. John C. Calhoun, of South Carolina, took part in the debate—a running debate, similar to the discussion of this morning, on the subject of retrenchment and reform, and reduction of expenses, and so on. I remember well that he rose and stated emphatically, in substance, what I am going to repeat: "Congress is powerless to arrest this extravagance. It will increase from year to year. The legislative department has not, within itself, the power to arrest it. The executive department, the President and the Departments, have to initiate, organize, regulate, and present a great plan of general reform both for the civil and military service of the country; and then, in connection and cooperation with the legislative department, both can carry it into effect." These are something like his remarks; I give them substantially; and my opinion is, that they were the deductions of profound wisdom and experience.

Congress, then, only reformed by piecemeal, here and there; there was no systematized general retrenchment. But it is very well to initiate a measure like this introduced by the honorable Senator from Tennessee, and have it before the Senate. Let us refer it to the Committee on Finance; not that that committee, even if you gave it the whole time between now and the next session of Congress, would be able entirely to accomplish this great work; but it is a first step; it is an initiation; it is a commencement. Judging from the recommendation of the President, in his message, I presume the Executive will take up the subject and organize a plan of reform, according to the suggestions of Mr. Calhoun, and present a general plan, embracing not only the judiciary, but the military, the coast defenses, and all expenses of Government.

But, sir, I ask pardon of the Senate for consuming so much time. I shall vote to send this resolution to the Committee on Finance; not because that committee can possibly accomplish this work, but it is the leading committee of the Senate; it is the great representative committee on such subjects; and if any man will go into this matter with ability and zeal, its chairman will do so. He will initiate it at all events, and I have no doubt the President of the United States, and the Departments of the executive government, will bring you in a general plan when you meet here next session. I agree with the Senator from Georgia; nothing can be truer; you must either reduce your expenditures, or raise your tariff. There is no question about that; and you cannot levy your tariff in such a way as to meet the expenses as they are going on now; the thing is impossible. They are increasing every day, and as was said by John C. Calhoun, they will increase from year to year. They cannot be arrested by Congress. They can only be arrested by the cooperation of the executive and legislative departments. I shall vote for sending the resolution to the Committee on Finance.

Mr. SEWARD. Mr. President, I thought, when I had the floor before, that I made it sufficiently evident that it would be totally impossible for the several committees to introduce a general system of retrenchment; because there must be a standard, a fixed amount of expense, which the Government shall not exceed; and there must be a relative *pro rata* reduction of the expenditures

of the Government, in order to bring us down to the standard. Now, just to show the operation of dividing the task of retrenchment and sending it to several committees, I have at random taken up the "general orders," and looked at the recommendations of those committees who, according to the views of the Finance Committee, are to assume this examination. The first bill which I find is a bill from the Committee on the Judiciary "to equalize the salaries of certain judges of courts in the District of Columbia, and for other purposes;" I suppose, doubtless, to increase the salaries of those officers, and so the expenditures of the Government. Another is a bill from the Committee on the Post Office and Post Roads, "to create the office of Fourth Assistant Postmaster General;" a bill to create a new salaried officer. The next is from the Finance Committee: "A bill increasing the pay of certain officers of the revenue cutters." Proceeding on, I find "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts;" and then a bill from the Committee on Public Buildings and Grounds, to enlarge the public grounds surrounding the Capitol; a bill from the Committee on the District of Columbia, "to provide for the lighting with gas certain streets across the mall;" a bill from the Committee on Public Lands "to authorize augmented rates for surveying the public lands in the Territory of Washington," and so on; two bills reported this morning—for aught I know, right in themselves—reported from the Committee on Naval Affairs: one increasing the pay of the officers of the Navy; the other to authorize the construction of ten war steamers. Finally, upon this subject, I take up a bill which is laid on our table, and has been passed by the House of Representatives, I believe on the recommendation of the Committee on Pensions, which bill proposes to pay to every person who served a term of sixty days or more in the service of the United States in the war of 1812, a pension, beginning at the first day of the present Congress and continuing during his natural life. I do not say that these proposed appropriations are wrong; I only say that the constitution of the committees is such that the bills which come from these several committees are bills increasing, rather than diminishing, the expenditures; and that, if you are to have a reduction, it must be the task of one committee which is assigned for that purpose, and has a general supervision of the whole subject.

Mr. DAVIS. If I understand the object of the resolution, it is to direct the Committee on Finance to inquire what abuses are made in the application of appropriations. If the purpose be economy, this surely is not the direction to take to attain that end. If abuses exist, that might require an inquiry. It would be needful, however, to indicate to the committee which commenced it where the abuses were. The resolution in its present shape is quite too broad for any committee ever to reach a point at which they could venture to make a report. If the object be economy in the Government, it is to be sought by the reorganization of many of its departments. No small portion of the very heavy expenditures of the Government annually accumulating is due to the vicious organization of many of its departments, and the manner in which the public duties are formed. For instance, sir, you charge one Department with the conduct of Indian affairs, and you charge another Department with the defense of the frontier. You make appropriations annually to the department having charge of the Indians, to supply them with arms, with powder, with ball, with blankets, indeed with every thing which is necessary to conduct a campaign. These, too, are annually distributed to Indians who it is well known never hunt with firearms—Indians of that nomadic character who live on the plains, and who hunt entirely with the spear and the bow. The arms distributed by the Government are kept solely for purposes of war. They commit a depredation on the frontier; then the other Department

charged with the defense of the frontier sends out the United States troops, or calls on the volunteers to accumulate their number, and these Indians appear with arms which have been distributed by the other Department, and thus the Government conducts a war maintaining both sets of combatants, and widening the expense from year to year by the fact that the responsibility is divided.

That is one. I mention it, because it is striking, because it is notorious. There are many others. If a committee could be appointed to examine into the questions of organization, to examine how many drones are found in the Departments, how many useless employes have come to be fastened upon the Government, and to propose a reorganization with a view to efficiency and economy, I doubt not that a very large amount of money might be saved to the Government. If that were done, the appropriations would follow in the train of your reorganization; your appropriations would be controlled by your wants. But nothing is more idle than for Congress to require a particular service, to indicate a particular number of men, and the grade of men who are to perform it, and then clamor against the manner in which the appropriations are expended. You have, yourselves, required the expenditures. Abuses may exist; I hope they are more rare than is generally believed; but if they exist, it is a special inquiry to be made in each particular case, and cannot come within the scope of the time which would possibly be permitted to the Committee on Finance to examine into the question. If the mover of this resolution will modify it so as to raise a committee to examine into the subject of organization, or refer the subject to the Finance Committee as peculiarly qualified to examine into such questions, I will vote for it; but as it stands now, it is an arraignment without proof of the manner in which the appropriations are expended, and involves every one who is charged with those expenditures in the censure which we are about to pass upon them; and in that form I must vote against it.

Mr. COLLAMER. Mr. President, I have listened with some interest to the remarks which gentlemen have made in relation to this proposition, and I find that while all seem to entertain the idea that the great purpose of the resolution should be sustained by us, they differ entirely about the manner of doing it. I think the idea that the expenditures of this Government can be in any measure curtailed by means of the appropriation bills is impracticable. The evil does not lie in the appropriation bills. They are but the ultimate and necessary result of previously passed laws. The reform cannot begin with the appropriation bills, nor can it begin with the Committee on Finance who take those bills under consideration.

At times I have entertained the thought that if the various appropriation bills were sent to the different committees raised on those various topics, they might lay the foundation for an inquiry as to the mode of getting at a reformation.

For instance, if the appropriation bill for the support of the Army, instead of being sent to the Committee on Finance, were sent to the Committee on Military Affairs, who have the subject of the Army under consideration, they might do something with it. So, too, if the appropriation bill for the support of the Post Office Department were sent to the Committee on the Post Office and Post Roads, who are supposed to understand, and who should understand, all subjects relating to the Post Office Department in all its relations; they might possibly institute some process by which some sort of reformation might be induced. So, too, of the other appropriation bills.

I make these remarks at this time because two appropriation bills from the House of Representatives have been presented to us to-day, and the chairman of the Finance Committee rose, according to the usual practice, and moved to send those bills, one of which related to pensions, not to the Committee on Pensions, not to the committee having charge of the pension system, but to the Committee on Finance—to do what? Simply to consider a bill to pay the pensions which by law we are bound to pay.

Now, how can an appropriation bill in itself be a means of reform? How can it furnish an opportunity for the curtailment of the expenses of the Government, all of which expenses are the neces-

sary result of previously existing laws, which laws are permitted to remain in force un repealed, unaltered, unchanged?

I say, then, it is utterly impracticable to think of devolving upon the Finance Committee the business of proposing the necessary appropriations, to carry into effect the laws which we have passed, and which we sustain, and which we do not propose to amend, and at the same time to ask them to travel back and review the whole proceedings of this Government for the last thirty years, or fifty years if you please, and to inquire what enactments may be made for the purpose of repealing and modifying our systems so that they will not demand appropriation bills of this extent. It is a thing they cannot do, and we all know it is utterly impracticable. I was, however, a little astonished at one remark of the honorable chairman of that committee. He said that though they could produce no effect, though they could practically do nothing with this resolution, he would, after all, vote for it. Perhaps I misunderstood him; but if I heard him correctly, his remarks were calculated to show us that the resolution would fail utterly if it were sent to the Finance Committee, and yet he said he would not vote against it. I am sensible that he remarked that if the Senate sent it to the committee, he would do the best he could. That is a matter of course—a matter of necessary courtesy; but the question is, why should we vote for a resolution which must be in its results impracticable? Perhaps, however, I misunderstood the gentleman.

Mr. HUNTER. What I said, or meant to say, was this: that I thought the Senator from Tennessee could not accomplish his object so thoroughly by committing this investigation to the Finance Committee as by distributing the business amongst the other committees. I did not say that the Committee on Finance could do nothing; but I said it would be impossible that they could effect the whole purpose, or could effect as much of it as would be effected if it was distributed amongst the other committees. I said, though, at the time, that the inquiry was a proper one; that some committee ought to be charged with it; and that I should not oppose the resolution further than to suggest a better mode of accomplishing the object. I did not say the Committee on Finance could do nothing; but only that they could not do as much as the other committees could; that it does not belong to them so appropriately as to the other committees; but still, if the Senate choose to send it there, I have no doubt that committee will do the best they can, and probably the little they can do will be better than nothing.

Mr. COLLAMER. Still, the gentleman does not come to the point I was after. I understood him to state before exactly what he has stated now; but I understood him further to say that he would vote for the resolution.

Mr. HUNTER. I do not know that I pledged myself to vote for it, but I think I shall not oppose its passage if the Senate will not take the better mode, according to my opinion, which I have suggested. If they do not, I shall not oppose the matter going to the Committee on Finance. After having given this warning to the Senate, if they still think proper to send it there, I shall make no further objection.

Mr. COLLAMER. I shall certainly not occupy the time of the Senate further in regard to this point; but the honorable chairman of the Finance Committee has now said that, if the resolution be passed in this form, it will result in no practical effect, and is not likely to produce any. I know that gentlemen who have been familiar with the Departments and their organization, like the honorable Senator from Mississippi, are apt to attribute some of our difficulties to a clashing in their organization. I know that there are evils in that respect. I know that the duties are not always capable of being perfectly divided amongst the different Departments; and it may be that reorganizations are necessary. The Senator from Mississippi has suggested one case to us—that of the Indian department, which was formerly under the charge of the War Department, but is now under the charge of the Secretary of the Interior. It may be that that is a bad arrangement and that it ought to be corrected. Perhaps that ought to have been left as it was; though I do not see that a return to the old state of things, in that

respect, would correct the evil which the Senator from Mississippi has suggested by way of exemplifying his view. We make treaties with the Indians; and in those treaties we agree to make certain payments and annuities, and to make them sometimes specifically in certain goods and supplies. If the Indian bureau were under the charge of the War Department, I do not see but that the head of that Department would be bound to see these treaties executed; and our appropriations would have to be made for that purpose. The evil in that instance, as in others, lies in the fact that the past laws require a necessarily recurring expense; and then, when we come to meet the expense in the appropriation bills, we hesitate and palter about it. The evil lies further back.

When I first rose I was about to move to lay the resolution on the table, to enable me to have an opportunity of drawing up an amendment, referring the subject to the various appropriate committees; but after all, inasmuch as the head of the Finance Committee still entertains the belief that we ought to vote for it as it is, I shall not object to the resolution, but shall vote for it.

Mr. MASON. Mr. President, I take it for granted, indeed I am sure, that the honorable mover of this resolution desires to attain the end which the resolution imports; but I think it must be manifest to him, from the discussion which has taken place, that his end cannot be attained by the resolution as it is now shaped.

The President has invited, and properly invited, a scrutiny into the expenditures of every Department of the Government; and I agree with that honorable Senator that it is highly becoming in the legislative department of the Government to institute that scrutiny. I am utterly ignorant of the waste, or extravagance, or possible corruption which I understood that honorable Senator to intimate as having arisen in any Department of the Government. But whether it be so or not, it is certainly wise and provident to have the scrutiny to see if it is there; and if it is there, to expose it, and to correct it; but it cannot be done, I would submit to that honorable Senator, by the means of this resolution, and for more reasons than one. The honorable Senator, my colleague, who is at the head of the Committee on Finance, has told you that in the short time that remains of this session, the thing is impracticable in itself for that committee. I should agree with that honorable Senator in his view; but it is not appropriate to that committee. I submit to the mover of the resolution, that to attain the end practically, this scrutiny must be instituted either by those standing committees of the Senate who have especial charge of the several Departments of the Government, or by a select committee, raised for the purpose of examining into them all.

Now, sir, to use a phrase that is somewhat hackneyed, but not the less expressive in its use, the expenditures of this Government have increased, are increasing, and ought to be diminished. I suspect I should have a response from every Senator on this floor in the use of that phrase. It may be that the expenditures are increased by improvidence in the Departments, for aught that I know. It has not been my province, nor have I had an opportunity, to look into the practical administration. I know, in relation to one of them, by the exposition of that Department made during this session of Congress, that the expenses there have increased and are increasing, but I am not prepared to say that by a vote of this body they would be diminished. I refer to the expenditures of the Post Office Department. This result has been brought about, not from any fault of the administrators of that Department, so far as I know, at this day or at any former day, but in consequence of the craving desire of some portions of this Confederacy for the expenditure of public money.

Sir, the honorable Senator who represents California, and those who united with him, obtained, a few years ago, an appropriation, according to my recollection now, of \$600,000 per annum for a mail wagon to pass across the continent, from Missouri to San Francisco—the interest upon \$10,000,000 voted by the Senate for this mail wagon to go across the continent to carry a mail with a few letters, (for it cannot carry a heavy mail,) when at the same time we had competent, and, so far as I know or have ever heard, diligent

and faithful service in carrying the mail by the Panama route. I do not know, for I have not traced it, how many more hundreds of thousands of dollars are expended in diffusing a mail by different routes from the Missouri river to Oregon, and to Utah, and to New Mexico; but I do know that the result of it all has been, together with other appropriations not for the public service but for the purpose of expenditure entirely, they have increased the expenditures of that Department until now they are some \$3,500,000 beyond its revenue.

Sir, this committee, under the order of the Senate, as shaped by this resolution, will not go into that inquiry; but the Committee on the Post Office and Post Roads would, if you directed them; or if you were to raise a select committee, it would necessarily go into the legitimate expenditures of a Post Office Department. If that committee were to report that those expenditures should be curtailed, I appeal to that honorable Senator, and to those around me, to know where the vote would come from to reduce those expenditures?

So with the Army. Our people are passing into every foot, almost, of new territory, whether it belongs to us or not; and there are those who say the army should follow to protect them after they get there. If that be true, we can account, to a large extent, at least, for the increasing expenditures of the War Department; not because of the administration of the War Department, but because of the appropriations volunteered by Congress to protect our people when they go into these distant and remote territories, occupied by Indians alone, in violation of the laws of the land, and infringing upon the rights of the Indians. That is the course of inquiry which, if ever it can be made—a matter which, I confess, I despair of—may lead to cutting down the expenditures of the Government.

I think, therefore, with all the respect which I certainly bear to the honorable mover of the resolution, that his end cannot be attained by the resolution; and perhaps it became me the more to say what I have said, because I shall vote against the resolution, if it is pressed in the form in which it is presented. If it is modified, as suggested by the honorable Senator from Vermont, or in any other mode that will make the inquiry one of practical use, I shall vote for it earnestly, and give any aid in my power to carry it out.

I would call the attention of the honorable Senator from Tennessee to the bill adverted to by the Senator from New York, [Mr. Seward,] which is now on our table, and has passed through the other branch of the Legislature. I know not how much money will be called for by that bill—I mean the bill pensioning everybody that took part in the war of 1812. It is said by some that it will amount to eight million or ten million dollars. I know it will amount to a vast deal more than an ordinary inquiry or a casual glance at the probabilities would lead us to believe. I would refer honorable Senators to a very instructive and impressive lesson, read to me, at least, in reading the report of the Commissioner of Pensions to Congress at this session, in which he has shown that every pension bill that has passed in successive years has overrun, in the pensions created by it, many fold, the estimates made upon which the bill was based, and the estimates made by a committee raised in Congress for the purpose of making those estimates a guide to Congress. Now, I take it for granted, as that honorable Senator feels an earnest desire to reduce the expenses of this Government, that we shall not find him or those acting with him, friends to this new, extraordinary, and unparalleled system that is proposed by the bill sent to us from the other House.

There is another reason why I think this duty should not devolve on a select committee, or the appropriate committees having charge of the several Departments. I should like an inquiry into the organization of the Department of the Interior, which came some few years ago, since I have occupied a seat on this floor, as a cloud in the horizon hardly bigger than a man's hand, and now it overshadows the whole land in its embrace. The expenses of that Department are enormous. I charge this by no manner of means to the administration of it, so far as I know. I doubt not its administration is as economical as its organization will admit of; but I see large sums and small sums appropriated here from year to year, against

my earnest remonstrances at least, and those of a very few others, and administered through that Department, not for any beneficial purposes of government, but as alms to the people, until you have taught the people almost to expect that they are to be fed by the crumbs which fall from the table of the Federal Government. The inquiry of the honorable Senator will not reach that, because it is not directed to it; but if you devolve it upon an appropriate standing committee of the Senate, or raise a select committee charged with the whole duty, and require them to look into the organization of that Department, as well as all the rest, we might possibly reorganize it in such a way as to show to the Government, or what is more important, expose to the States, the unauthorized, improvident, wasteful, corrupting expenditures that are fastening themselves upon the Government from year to year, and that by the vote of the two Houses of Congress.

Sir, there is one item, and a very small one in amount, because it does not reach now one hundred thousand dollars, according to my recollection, but it is an exemplar of a great many of a larger amount which the inquiry of the honorable Senator cannot reach—I mean the \$70,000 appropriated at the last session for the purchase of seeds, garden seeds and flower seeds, corn, wheat, and Heaven knows what all, to be distributed as bounty to the people—voted by this Senate against remonstrance in debate on the floor. That is one of a class, a small one of its kind, but to me the most odious amongst them.

I did not rise to detain the Senate, and I do not mean to go into a debate; but I again respectfully ask the honorable Senator from Tennessee either to modify his resolution, or permit it to be modified in such a way as to attain his ends.

Mr. JOHNSON, of Tennessee. I would ask the Senator what modification he proposes.

Mr. MASON. I have very great reluctance to interfere with the plan of the Senator from Tennessee; but I would submit to him either charge each standing committee of the Senate with its appropriate inquiry, or to raise a select committee charged with the whole.

Mr. STUART. I have an amendment which I propose to offer to this resolution, and I am willing to modify it in any form to suit the honorable mover or the Senate; but my attention was called to it by the suggestion made by the Senator from Mississippi. My purpose is to strike out these words: "all abuses in the application of the appropriations made by Congress," and to insert "the expenditures;" so that, as amended, it will read:

"To report a bill reforming as far as possible the expenditures for the support of the various Departments, and which will reduce the expenses to an honest, rigid, economical administration of the Government."

The resolution as it reads would seem to indicate that the object of the reformation is abuses in the expenditures authorized by Congress, in the application of the money. To that the Senator from Mississippi objected; and that is not intended by the honorable mover of the resolution. But as I said, to carry out that idea I shall agree to anything. I only wish to say a few words; because the ideas I entertain on this subject have been well expressed by the Senator from New York, and the Senator from Georgia, and others. I think the Committee on Finance is the appropriate committee, because it has all these subjects regularly and steadily before it; and while, as the honorable Senator from Maine said, it is their duty to make appropriations to carry out existing laws, yet it will be equally their duty, if they think the law unnecessary, to recommend its repeal, to recommend its modification; and to do this continually, from time to time, until the end is effected. It is not the work of a day, nor the work of a session, and when Senators say it cannot be accomplished at this session, it is true; but a part of it can—something can be done. Something can be done in reference to every single appropriation that is excessive, and the very idea suggested by the honorable Senator from Virginia [Mr. Mason] can also be reached. If there are supernumeraries in a Department, they can be struck off by law; but the Committee on Finance, of all others, is that committee which is constantly advised, at this session and at every successive session, of where there is an excess in the expenditures of the Government.

But again, sir, if I may use the term, it has more moral power in this body than any other committee, or any other five committees. That is an advantage. When that committee comes in as the financial organ of this body and reports a measure or a combination of measures to reduce the expenditures of this Government, it has a moral power here which would not be had by any select committee that could be raised.

Again, it is suggested that we must either increase the tariff or reduce the expenditures. I suggest with great deference, that in my judgment we shall have to do both. I thought at the time when the last tariff act was passed, that it would not raise revenue enough; but whether I am right or wrong, that very proposition will be in a measure demonstrated by carrying out the object intended by the resolution offered by the Senator from Tennessee. By progressing from time to time in these reductions, we shall learn upon how small a basis of appropriation the Government can be administered, and we shall in the meantime learn how much of revenue this tariff will raise. Thus we shall gradually approach that very point which we all desire to reach, which will enable us to determine how much the tariff is to be increased, and how much the expenditures can be reduced, and I hope to see it commenced to-day on this resolution—not to overburden the Finance Committee, not to refer to that committee what does not legitimately belong to it, but to signify that the sense of the Senate is that they will aid that committee in all the reductions which it may recommend in the expenditures of this Government in every department. If they wish a reduction in the expenditures of the Army they can consult the chairman of the Military Committee, or any other gentleman who, like him, understands that subject. So of the Navy.

But there is an objection which has been suggested by Senators against referring to the very committee that asks for expenditures, and asks often, perhaps, for unnecessary expenditures, the subject of reducing the expenditures. They can furnish you information; they will furnish you information; the heads of the Departments will furnish you information; the President will. But the Committee on Finance, I say again, (and it is all I desire to say,) can better carry out the sense of the Senate and the country on this question than any other standing committee of the body, or any special committee which can be raised.

I hope that the suggestions I have made in the way of amending the resolution, will be agreed to. They will obviate the objection made by the honorable Senator from Mississippi. They will make the inquiry broad, which is the object of the mover of the resolution, and will not carry with it any intimation of malappropriation of money against any Department.

Mr. DAVIS. I think the amendment suggested by the Senator from Michigan would certainly be an improvement, because it would not restrict the committee in its field of inquiry. Though I concur very much in the remarks made by the Senator from Vermont, I think he either misapprehended what I meant, or misapprehended the case itself, in his reply to my reference to a particular subject by way of illustration. To follow the illustration one step further, I will tell him that I meant more than I said, supposing that he would understand all I meant. The treaties are made, as he says. They are made, however, by a Department not having charge of the Indians when an outbreak occurs. The Indians do not then feel any relation to the military branch of the Government; they are not under the advice of the military officer; the intercourse with them cannot be restrained by him; and I have known it even to occur that when a military expedition was in progress against a particular tribe of Indians, the Interior Department were sending supplies containing the very munitions of war to those same Indians, and had to be arrested by military authority.

Mr. JOHNSON, of Arkansas. Under this Administration?

Mr. DAVIS. Not under this Administration. The case I refer to is the case of the Indians on the upper Missouri, when General Harney was marching against them from the Platte river—a case, I think, which the Senator from Arkansas will recollect.

Then again, sir, it is only the power which has reduced the Indians to submission that can treat with them effectively, for it is only force which they will respect; and if, at the close of a campaign, the military is withdrawn, and an agent for whom they have not heretofore felt and are not now impressed with any idea of respect, steps in to hold a council with them, the result is a treaty which they do not regard, and many of them will even believe that there are warring elements in our own Government, the one represented by the military arm and the other by the peaceful arm under the Interior Department; and thus, I say, they are instigated to outbreak, unintentionally to be sure. It is not an abuse, but it is the consequent effect of the system which we have adopted, of the organization which we follow. The Senator from Vermont will see all the deductions which are to be made from this; how it ramifies, how it runs into the vast expenditure, first producing the war, then producing the treaty; this treaty producing the annuities, and the annuities furnishing the means to wage another war at a subsequent period. So it goes on, like a snowball, gathering as it rolls. But in the Post Office Department how is it? Why does the Secretary of the Navy pay large sums of money for the transportation of the mail? Why does he estimate for large contracts made under the laws of the Government to carry the mails across the Atlantic? Thus, you not only conceal from Congress the actual expenses incurred for the Post Office Department, but you divide its responsibility.

Again, sir, in our own action we control the franking privilege; we print large numbers of documents. I will not intimate that documents are ever printed in order that gentlemen may send their franks out upon them, though it has been so charged; but certain it is that documents are printed which would not pay their transportation through the mail. The Senate, therefore, controls a vast expenditure of money for the transportation of the mails. By its action it interferes with the power of the Post Office Department to sustain itself; it divides the responsibility; and this is another defect in organization. I might go on, and from my own scanty knowledge might accumulate many more instances. It brings me back to the point at which I originally started, that we must first reform the organization of the Government, so that the wants of the Government may be clearly stated by that Department which has the sole charge of every particular duty; that you shall not have different branches of the Government making estimates to Congress for services to be performed of the same cognate character, dividing the responsibility and concealing from the public the money that is expended; but that a single Department, having the sole charge, and, through its own agents, the sole administration of the duty, shall be responsible for its expenses, and they shall stand prominently out in the estimates which the head of that Department submits.

Further, sir, I may say, in relation to the military defenses of the country, as the Army has been alluded to, that a vast sum of money might be saved if the system of posting the troops in a way best adapted to their efficiency was adopted; and that Congress has coerced one Executive after another to scatter the troops in handfuls throughout the frontier, where bread is almost as valuable, ounce for ounce, as gold, and where the troops in small garrisons are powerless for any other purpose than self-defense. If your whole system of posting the Army was changed—if large garrisons were maintained in countries where they could be cheaply fed, and expeditions were sent out during the summer season when emigrants are on the trains and Indians are committing their outrages, I believe you would not only reduce the expenses, but greatly increase the effectiveness of the defense of our frontier.

Mr. FESSENDEN. I wish to inquire of the Senator whether Congress has anything to do at all with the posting of the troops, or ever interferes with it?

Mr. DAVIS. I think, constitutionally, the Executive has the power to post the troops where he pleases.

Mr. FESSENDEN. Have Congress interfered in the matter?

Mr. DAVIS. They have, in this way; they have made appropriations, frequently very inad-

equated for the purpose, for the construction of a post at a particular place; and, as we are merely conversing on this matter with a view to coincidence, I will call the Senator's attention to a case on which, I suppose, he must have voted—the appropriation of \$5,000 to establish a post at Pembina; an appropriation, perhaps, sufficient to have transported a regiment from the Mississippi river to the place, but not sufficient to put them in huts even for a month.

Mr. FESSENDEN. My inquiry was not directed to the mere matter of appropriation for the construction of fortifications or the establishment of posts or anything of that sort, but with reference to the change of location from place to place. That detail is all under the direction of the Department, and I am not aware that Congress ever interfered with it.

Mr. DAVIS. I am trying to make the Senator perceive that they have; because I am mentioning a case on which he himself acted, where the Department had not located, and where it did not propose to locate troops; but Congress intervened by a species of instructions, making an appropriation of a certain sum of money to establish a post at a place where the Government would not have established it but for the interference of Congress. I am calling the Senator's attention to a case on which he must have acted himself, in order that he may see how Congress has interfered.

Then there is another manner in which Congress interferes. Members go to the Executive Department in greater or less numbers, and they represent the necessity of establishing a post at a particular locality; petitions are sent in from persons who have migrated beyond the limits of settlements; they are referred by members of Congress and recommended to the adoption of the Executive; and thus, I say, Congress is to no small extent responsible for this. I hold with the Senator from Maine that it is constitutionally within the power of the Executive to post the troops according to his discretion; but every Executive does, practically, as I think he should, look to the sense of Congress as one of the evidences of public opinion, and one of the bases on which he will found his judgment of what is right; and when he knows the opinion and the will of Congress, it behooves him to pause and reflect often before he departs from it. I do not know whether it is necessary that Congress should act otherwise than by a resolution; but I do not believe you will ever get an Executive to face the shower that would be dashed on him of declarations from every quarter that he was failing to perform his duty, until Congress has to some extent protected him by declaring its opinion of the policy which it belongs to the Executive to recommend. That policy was recommended to Congress. It took no heed of it. If Congress had only said it was a thing with which Congress had nothing to do, the Executive would have known that he was thrown on his own responsibility, without any judgment from Congress, and doubtless would have taken that responsibility and acted on it.

But I rose simply for the purpose of correcting what I thought was an error of the Senator from Vermont in supposing that the execution of the treaty was the beginning and end of the question. The necessity for the treaty is the first question. That necessity may be entirely avoided by having the control of the Indians, both in peace and in war, under the direction of the same head.

Mr. COLLAMER. The gentleman's explanation is satisfactory to me; that is to say, that the treaty itself should have been formed by the same Department having the execution of it, and the control of the Indian tribes generally. That seems to me very obvious; and I think, therefore, throwing the Indian department into the Interior, and out of the War Department, was a mistake.

Mr. HUNTER. I will suggest to the mover of this resolution that the Senate heretofore, when they have gotten up retrenchment resolutions, have confided them, as I understand, to a select committee. I propose now to strike out of this resolution "the Committee on Finance," and insert "a select committee;" and if that amendment be made, I shall support the proposition with great pleasure. It seems to me that then the matter will be where it ought to be. I do not doubt but that the inquiry ought to be made; but I think that if a select committee be charged with

the subject, the inquiry will be more efficiently made than it will be if the matter be sent to the Committee on Finance. I think the select committee would work more efficiently, and be better able to deal with the subject, than a committee charged with so many other subjects. I think, therefore, that to accomplish his purpose, the Senator from Tennessee would do better to agree to the amendment which I suggest. At any rate, I move an amendment to refer this inquiry to a select committee of seven members.

Mr. FESSENDEN. I believe there is an amendment pending to which I wish to say a word—an amendment suggested by the Senator from Michigan, who proposes to strike out the inquiry as to abuses in the expenditure of money, and to provide for a simple inquiry into the subject of expenditures generally. I wish to suggest to that Senator that it would be more satisfactory to some of us if the proposition were simply to amend the resolution by adding the words which he wishes to add, and leaving the inquiry as broad as possible. I see no reason why abuses in expenditures should not be inquired into.

Mr. STUART. I have no objection to that. Indeed, I think the mover of the resolution rather desires to retain that clause, simply appending the words "if any" after the word "abuses." By making that modification, and introducing the term "expenditures," I think the resolution would be made better, and would answer the object intended.

Mr. CLINGMAN. I am anxious in this matter to do what the chairman of the Committee on Finance desires generally, but it seems to me that such a course as he now proposes to take will produce a conflict between these two committees. If we raise a select committee, and they recommend reforms, his committee, of course, will not have charge of the subject, and the result will be that they will act upon the Executive estimates. They will present one statement to us, and this committee of reform will present another statement, and the Senate will have to decide between them; and, as the Senator from Michigan says, the moral weight and influence of the Committee on Finance will carry the day. I have seen this experiment repeatedly made in the other wing of the Capitol, where there is a similar committee, and I invariably found that unless that committee did investigate the subject themselves—and they are not very much in the habit of doing it there; I do not know how it is here—they were very apt to stand up for the Executive recommendations; and the result would be that the personal and individual influence of a portion of the members whose constituents were interested, going for the expenditure, backed by the Committee of Ways and Means, would carry the day, and any attempt at reform went for nothing. I apprehend you will have the same result here. The Senator from Virginia and his committee will not have investigated this subject; they will tell us the Departments say these moneys are necessary, and we must act in the dark. Here is one committee upon one side, and a weighty committee, having the purse-strings of the Senate, on the other. The Finance Committee will recommend to us what we shall pay out, and on the strength of their recommendation we shall have to act.

I saw an example of this kind in the year 1851. There was an attempt at that time on the part of Congress, against the wishes of the Executive, and against the recommendation of the Committee of Ways and Means, to make reforms. In 1851, Congress took the responsibility of making large reductions on the estimates. I think the reduction on the Army bill was about two and a half millions, and there were large reductions in other branches, amounting altogether to several millions. We passed the bills cutting them down in that way; and what was the result? When Congress assembled at the next session, we found that the entire amount which the executive department had said was necessary had been expended, and the Committee of Ways and Means brought in deficiency bills, which were ultimately passed. As one individual, I resisted them, and so did others; but the force of that committee was such as to carry through those bills, and the money might as well have been voted in the first instance. It seems to me that if any reform is to be made at all, it must begin with the Committee on Finance. They are familiar with the whole subject; they

are necessarily required to investigate the expenditures of all the Departments.

If this resolution is to pass, I shall feel it to be my duty to vote against the amendment of the Senator from Virginia.

The PRESIDENT OFFICER, (Mr. FITZPATRICK in the chair.) The question is on the amendment of the Senator from Michigan, to insert after "possible," the words "the expenditures and;" and also to insert the words "if any" after the word "abuses," so as to make the clause read:

"A bill reforming so far as possible the expenditures and the abuses, if any, in the application of the appropriations."

The amendment was agreed to.

Mr. HUNTER. I now move to strike out "the Committee on Finance," and insert "a select committee, to consist of seven members."

Mr. JOHNSON, of Tennessee. I hope the Senate will not agree to that amendment. The result of it will be to defeat the resolution. If the Finance Committee cannot perform the work this session, a select committee cannot. Any select committee that might be appointed now would consist, to a great extent, at least, of members to whom such inquiries would be somewhat new, who would have to get all the information, who are not conversant with the different Departments; but the Finance Committee are accustomed to look into them. If the amendment be adopted, I shall consider it as equivalent to a rejection of the resolution. I hope it will not be agreed to; but that the resolution will be adopted as it is.

Mr. IVERSON. I trust the amendment will be adopted; because, if we adopt that, we shall have the benefit of the experience and extraordinary zeal and economy which the Senator from Tennessee has exhibited for so many years. He has been very familiar with this subject, and has probed it probably deeper than any other man in Congress. If the amendment be passed, he, as a matter of courtesy and parliamentary propriety, will be the chairman of the select committee; and I am sincere when I say, that there is no man in this body, or probably in either House, who is so fit and appropriate to probe this wound of the public, as the Senator from Tennessee; and I trust that on this account the amendment will be adopted, and that we shall have the benefit of his experience and the interest he takes in this question.

Mr. JOHNSON, of Tennessee. I am very much obliged to the Senator from Georgia for his compliment, but I must decline it on the present occasion; and I am in hopes the Senate will not make the amendment for the reasons stated by the Senator. I do not desire any such position. I only desire to be a collaborer in this work, which should be commenced by the proper committee; and if the Committee on Finance cannot do it, no other committee can; and the appointment of a select committee to-day is the rejection of the resolution; and it is saying, in effect, to the country, that we will not commence this work. I hope the Senate will not accept the amendment.

Mr. JOHNSON, of Arkansas. I have no idea that it is possible that any advance towards the object embraced in the resolution of the Senator from Tennessee will ever be attained at all, if the amendment be adopted. The Committee on Finance has ever held the entire confidence, not only of this body, but of Congress, and of the country. They are proceeding, and will proceed to make recommendations of all appropriations that may be necessary, whilst to another committee is now to be assigned the task of reforming beneath their feet, and striking out from under them the action which they are recommending. It may be said, however, that the Committee on Finance cannot attend to this business and perfect a scheme of reform at the present session. It is not the less true, however, that they can do it at a future Congress. If they cannot succeed now, they may succeed hereafter. The subject is kindred to those which ordinarily engage their attention. That committee consists of gentlemen who are selected on account of their great knowledge in regard to the expenditures, the revenues, and the finances of the country. It is now proposed to take this matter from their hands, and to create a select committee. The consequence will be to cause a conflict, and to defeat the end in view. This I believe, will be the result. I do not think a select

committee can be appointed to make war upon the present system of expenditures under this Government, when the Committee on Finance is left in a position to maintain it, and call on the Senate to make appropriations for its necessities. I do not believe that a select committee can make a successful movement in this direction, and I know that it will not be possible for the Finance Committee to make a thorough reform at the present session. Who ever heard of a great reform in the history of any Government, that was ever accomplished within the space of two months?

If the resolution of the Senator from Tennessee shall be adopted, I do not expect that this subject will be reported upon and acted upon fully during the present session of Congress. Reform is a matter of years; it must take its course; it must progress slowly and gradually. It can never attain perfection by a quick growth. It can only attain it by taking the counsel of the wisest and most matured minds, and those most familiar with the subject. If you were to force even the Committee on Finance to act finally at this session, they themselves could not do it justice. Take a select committee, unfamiliar with these matters, and compel them to act at this session, and they will necessarily come in conflict with the Finance Committee, and be placed at fault, and entirely defeated in the whole object. I believe the movement made by the Senator from Tennessee is strictly and legitimately right; I believe it to be wise and prudent, and the only process by which reform can be attained through the action of this House and the other branch of Congress.

You cannot have a select committee without leaving off it those members who would investigate the subject if it were referred to the Finance Committee; and in leaving them off you shut yourselves out from the most eminent ability, according to the opinion of the Senate; there is here to meet and throttle the abuses in the system which they are contemplating and working upon every day. I do not think the Committee on Finance should be required to abandon their legitimate duties by making a full report on the resolution at this session. They will have the benefit of a very long vacation afterwards to consider all these matters; and, in obedience to their public duties, I should suppose they would give this question a very serious and constant attention in the meantime. It is impossible to suppose that within two months we can accomplish a great reform in the expenditures, and, I may say, the abuses, which have grown up in the length of time that this Government has been in existence. It is hopeless to imagine that, within so brief a space of time, any great measure of reform can be prepared and passed through the ordeal of debate in the two Houses of Congress. But why not commit the subject to that tribunal amongst ourselves that is familiar with it? Why not commit it to that which we know has the highest and most perfect experience on it? Why not commit it to those of our members whose minds are most devoted to the investigation of that class of questions? I trust it will not be taken away from the Finance Committee, where, it seems to me, the confidence of the Senate would at once confide all serious and difficult questions of this particular character. For one, I do not feel myself able to cast my vote for an amendment that shall take from that committee the power to discharge these duties, and throw them upon a committee which will have to come forward with its recommendations without having had the legitimate confidence of the Senate, or without having been, I think I may justly say, legitimately put forward to the task of reforming the finances of the Government.

Mr. GREEN. As I shall vote in favor of a select committee, and therefore sustain the amendment now proposed, I deem it proper to remark that I do not think the honorable Senator from Tennessee has a right to charge those who vote in favor of the amendment with defeating the whole object and end that he contemplates.

Mr. JOHNSON, of Tennessee. By the permission of the Senator I will say that the charge I make is this: that the effect will be to defeat the object of the resolution. I do not charge Senators with the design, but I assume that that will be the effect.

Mr. GREEN. I understood that perfectly. I did not understand him as impugning the motives of anybody, but only giving it as his own reason

why he preferred the Committee on Finance, to a select committee charged specially with this subject. I shall vote for it for the reasons urged by the honorable Senator from Vermont, and the honorable Senator from Virginia, who is at the head of the Finance Committee, because that committee is ordinarily charged simply with seeing what appropriations existing laws demand. That is generally the sum total of their duty and their business; but I shall also vote for the select committee, for the direct purpose of furthering the objects contemplated.

It is well known that the scope of inquiry will embrace subjects not heretofore fully investigated by a Finance Committee; subjects that have never heretofore belonged to that committee; and that they will take hold of them therefore as such in the character of new men, as a select committee would, if one were raised, charged with that subject. They do not know as much about the wants of the Army, the condition of the public service, with reference to that arm of the public defense, as the Military Committee. They do not know as much in reference to the necessities of the Navy as the Naval Committee; but the scope of the inquiry here contemplated will embrace not simply whether existing laws will permit a diminution of the amount of appropriation, but whether these existing laws may be repealed, reformed, or modified, without any injury to the public service. To answer that question, those committees having special charge of each branch of the public service would be most appropriate.

But as there seems to be such an eager anxiety to effectuate reform and retrenchment, the system now proposed by the amendment precisely comes up to the accomplishment of the views of all, so far as I have been able to get them. Thus at the head of the select committee will stand the honorable Senator who has presented the subject, who has so fully investigated it, who is so fully conscious of the fact that many of the present laws can be dispensed with, and thus save the necessity of appropriations. Next will come very appropriately, no doubt, a member taken from the Post Office Committee, one taken from the Military Committee, one from the Naval Committee, and so on throughout the Senate until the seven can be grouped together, bringing together an amount of information which no one committee could possibly command. Thus they will be enabled to say what laws may be repealed, how far they may be modified so as to save expense from the public Treasury, and to accomplish the reformation which we propose to accomplish.

I think, therefore, a select committee would be better adapted to the accomplishment of the end in view than any one standing committee; and for another reason, the charge or insinuation of partiality for a particular branch of the service specially commended to any one committee, does not apply to the proposition now pending. As there can be but one member from the Military Committee on the select committee, there will be enough to overrule him, and you would yet have the benefit of all his information, the facility with which he could refer you to the laws, explain the necessity of their original passage, explain the present condition of the country with reference to the end contemplated by those laws, and whether they are now necessary, or how far they may be useless or may be changed. All of this information can come from each branch of the committee, and the associated wisdom and experience and information of the whole will better be prepared to accomplish the end in view than any one standing committee or any division of the labors of it, because it brings together an association of information which will enable all in gross to make a presentation in a report which in my opinion will commend itself to the sanction of the Senate.

Again: it does not bring up any conflict between the report of a select committee and the report of the Finance Committee. The Finance Committee will not omit an appropriation enjoined by law; but when the report of the select committee comes in and says that law ought to be repealed *in toto* or *pro tanto*, we shall hear the reasons urged by the respective committees; we shall hear the facts upon which it is founded, and the Senate will decide the matter; and I do not apprehend that there will be more weight given to the representations of the one committee than the other. They will only be received, regarded, and acted

upon, as far as they are founded in propriety and public necessity. Hence I shall vote in favor of the pending amendment.

Mr. REID. Mr. President, I think, if the adoption of this resolution is necessary at all, that the subject had better be committed to the Committee on Finance. If we refer it to a select committee, that committee will, in all probability, not make a report to this body before about the close of the session, when it will be too late to govern the action of the Senate in regard to the appropriations. Besides, the Finance Committee have a familiarity with the subject which no other committee in this body can be supposed to have; and, if it be referred to them, we may have the benefit of their conclusions in controlling the appropriations at the present session; but, if you refer it to another committee, the action of that committee will not afford to this body any light, perhaps, until a succeeding session, and by that time the whole matter may be forgotten.

I feel confident that the Senator from Tennessee is honest in his efforts to reform the expenditures of the Government, and he is entitled to the thanks of the Senate and the country for his exertions; but while I shall vote for his resolution, I think that but little will be effected by it. It would instruct any committee to do but little more than is the duty of every individual Senator. If the expenditures of the Government are too large, (and I have no doubt of that fact,) it is the duty of every Senator to endeavor to curtail them; and how is this to be done? Let every Senator consider himself a committee charged with the subject, resist the importunities for local appropriations in which his own immediate constituency is interested, and only vote to appropriate such moneys as are necessary to carry out the national and legitimate objects of the Government, and then you accomplish the end.

If any Senator knows that money has been extravagantly or unconstitutionally expended, it is his duty to make the charge and to have it investigated. You can produce economy in this way. Let every Senator determine that he will be economical, resist local appropriations, go only for those that are national and legitimate, and we can have economy. But little can be effected by talking about economy. It depends at last on the action of the legislative department of the Government. When you once pass appropriations, or leave them optional with the Executive, every one knows that it is almost impossible for the Executive to resist the importunities that will be made to induce the expenditure of the money you appropriate. Restrict your appropriations, therefore, and I know of no committee in this House whose information will enable them at so early a day, and in so complete a manner, to ascertain what appropriations ought to be cut down, and what reforms ought to be made, as the Committee on Finance. They are more familiar with the subject than any other committee can possibly be; and if you expect any good to result from the passage of this resolution at all, I have no doubt that is the proper committee to make the inquiry.

Mr. PEARCE. As it is now nearly four o'clock, I move that the Senate adjourn.

Mr. SLIDELL. I understand there are some Executive messages on the table, and I move that the Senate proceed to the consideration of executive business. It will not occupy five minutes.

The PRESIDING OFFICER. Does the gentleman from Maryland withdraw the motion to adjourn?

Mr. PEARCE. I withdraw it for that purpose.

EXECUTIVE SESSION.

The motion of Mr. SLIDELL was agreed to; and the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 4, 1859.

The House resumed its session after the recess for the holidays, this day, at twelve o'clock, m. The Journal of Thursday, the 23d ultimo, was read and approved.

CALL OF THE HOUSE.

Mr. BERNHISEL obtained the floor.

The SPEAKER. Will the gentleman from

Utah yield a moment, until the Chair presents a communication from one of the Executive Departments?

Mr. BERNHISEL. Certainly.

Mr. JONES, of Tennessee. We have a very thin House, there evidently being no quorum present; and I therefore move, in order that the proceedings may go on regularly, that there be a call of the House.

A MEMBER. Let us have a division.

Mr. JONES, of Tennessee. Then I call for the yeas and nays on my motion, which is probably the next best thing.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 50, nays 37; as follows:

YEAS—Messrs. Ash, Brayton, Caskie, Chapman, Horace F. Clark, Cobb, John Cochrane, Comins, Corning, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Dowdell, Faulkner, Florence, Goode, Gregg, Harlan, Harris, Hughes, George W. Jones, Owen Jones, Letcher, Lovejoy, McKee, Millson, Montgomery, Isaac N. Morris, Freeman H. Morse, Mott, Parker, Pettit, William W. Phelps, Phillips, Pike, Potter, Reagan, Ricard, John Sherman, Singleton, Robert Smith, Miles Taylor, Tompkins, Vance, Wade, Walton, and Elihu B. Washburne—50.

NAYS—Messrs. Anderson, Branch, Buffinton, Burlingame, Burns, Ezra Clark, Colfax, Cox, Curtis, Davis of Maryland, Durfee, Farisworth, Foley, Giddings, Gilmer, Granger, Greenwood, Hatch, Hawkins, Hill, Keim, Knapp, Landy, Leach, Leidy, Matteson, Morgan, Nichols, Olin, Peyton, John S. Phelps, Ritchie, Royce, Stanton, Thompson, Israel Washburn, and Wortendyke—37.

So a call of the House was ordered.

During the above call of the roll,

Mr. POTTER stated that his colleague, Mr. BILLINGHURST, was detained from the House by illness.

The roll was then called.

Mr. LETCHER stated that Mr. RUFFIN had been unwell for some time, and therefore unable to be in the House.

Mr. SMITH, of Illinois, stated that his colleague, Mr. SHAW, was detained at home on account of sickness in his family.

The SPEAKER remarked that excuses would properly be in order after the names of the absentees had been called.

The Clerk then proceeded to call the names of the absentees.

Mr. SHERMAN, of Ohio. Mr. Speaker, a large number of members who have been in the Senate Chamber have returned to the Hall; and as there is in all probability a quorum now present, I move that all further proceedings under the call be dispensed with.

Mr. COBB. Let the call go on.

Mr. JONES, of Tennessee. Is there a quorum present?

The SPEAKER. The Chair does not know. Mr. JONES, of Tennessee. Then we had better go on until that fact appears. We only had eighty-seven members present at the completion of the last vote.

The SPEAKER. There was no quorum present on the last call of the roll.

Mr. SHERMAN, of Ohio. A great many members have come in since.

Mr. JONES, of Tennessee. I demand the yeas and nays on the gentleman's motion.

Mr. SHERMAN, of Ohio. I withdraw my motion.

The Clerk then resumed and completed the call of the absentees; when the following members failed to answer to their names:

Messrs. Abbott, Adrain, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bliss, Bonham, Bowie, Boyce, Burlingame, Burnett, Burroughs, Caruthers, Cavanaugh, Chaffee, John B. Clark, Clay, Clemens, Clark B. Cochrane, Cockerill, Covode, Cragin, James Craig, Burton, Craige, Crawford, Curry, Danrell, Davis of Massachusetts, Dawes, Dewart, Dick, Durfee, Eliott, English, Foster, Garnett, Garrett, Gillis, Gilman, Gooch, Groesbeck, Robert B. Hall, Haskin, Hickman, Hopkins, Horton, Howard, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Keitt, Kelsey, Kilgore, Jacob M. Kunkel, John C. Kunkel, Lawrence, Leidy, Maclyn, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Miles, Miller, Oliver A. Morse, Murray, Palmer, Pottle, Powell, Ready, Reilly, Robbins, Roberts, Ruffin, Russell, Savage, Seales, Searing, Seward, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Sickles, Samuel A. Smith, William Smith, Spinner, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Tripp, Underwood, Vallandigham, Walbridge, Waldron, Ward, Warren, Watkins, White, Whiteley, Wilson, Wood, Woodson, and Augustus K. Wright.

Mr. FOLEY stated that his colleague, Mr. ENGLISH, was detained from the Hall by sickness in his family.

Mr. PURVIANCE stated that his colleague, Mr. STEWART, was detained at home by the indisposition of his father.

Mr. GREENWOOD stated that his colleague, Mr. WARREN, at the time of the adjournment of the House over the holidays, was called home by sickness in his family, and that he had paired off with Mr. BLISS, of Ohio, for one week after the present reassembling of Congress.

Mr. MORSE, of Maine, stated that his colleague, Mr. WOOD, was detained in New York by illness in his family.

The SPEAKER stated that one hundred and twenty-two members had answered to their names.

Mr. WASHBURN, of Illinois. A quorum of the House is present, and appears on the roll call?

The SPEAKER. Yes, sir.

Mr. WASHBURN, of Illinois. I move then that all further proceedings under the call be dispensed with.

Messrs. ATKINS and KEITT desired to know whether their names were recorded.

The SPEAKER replied that the name of a member was not recorded who was not present at the call of the absentees.

Mr. BARKSDALE. I have no doubt, sir, that the members who have come in were in the Senate Chamber, witnessing the ceremonies attending the occupation of the new Hall.

Mr. CURRY. I call for the yeas and nays on the motion of the gentleman from Illinois.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I withdraw my motion.

Mr. MORRIS, of Illinois. I renew it.

Mr. MILLSON. It is obvious that there is a quorum present, and I hope the motion will be agreed to.

Mr. CRAIG, of Missouri. I think that we can save time by allowing the members now present to be recorded on the last roll call. It will save an hour.

Mr. MORRIS's motion was agreed to.

Mr. FLORENCE. I call for the yeas and nays on that motion.

The SPEAKER. The gentleman's call did not come in time.

Mr. FLORENCE. My purpose was to get upon the record the names of gentlemen who have been witnessing the ceremonies this morning in the Senate Chamber.

The SPEAKER. The Chair will state that, unless by unanimous consent, those members cannot have their names recorded upon the Journal who were not present on the call of the absentees.

Mr. FLORENCE. The yeas and nays would give those gentlemen an opportunity to place their names upon the Journal.

Mr. FOSTER. I wish the reporters to put down that I was absent in the Senate Chamber hearing the speeches of Mr. CRITTENDEN and the Vice President.

Mr. KILGORE. I hope, by unanimous consent, that the gentlemen who are here now may, if not there already, have their names placed upon the Journal.

Mr. MASON. Let us compromise the matter by allowing those members, who were absent at the other end of the Capitol, credit for paying proper respect to the Senate.

ROGUE RIVER INDIAN TREATY.

The SPEAKER laid before the House a communication from the Secretary of the Interior, in reply to the House resolution calling for statements of amount due claimants under the treaty with the Rogue River Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

THE SEVENTH CENSUS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting a report of the Register of the Treasury, in answer to a resolution of the House of the 23d of December, 1858, relative to the expenses of taking the seventh census of the United States; which was referred to the Committee of Ways and Means, and ordered to be printed.

TERRITORIAL CAPITOL OF UTAH.

Mr. BERNHISEL, by unanimous consent,

offered the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of providing for the completion of the territorial capitol of Utah, and that said committee report by bill or otherwise.

LAKE HARBORS OF NEW YORK.

Mr. JOHN COCHRANE. I am instructed by the Canal Board of the State of New York to present to the House of Representatives a memorial asking an appropriation for lake harbors connected with the canals of New York; and I ask the consent of the House to have it referred to the Committee on Commerce and printed.

Mr. LETCHER. Let it be presented under the rule.

Mr. HOUSTON. I object to the printing.

Mr. LETCHER. I do not object to the presentation of the memorial, but I think it might as well go in under the rule.

Mr. JOHN COCHRANE. Let it be referred, without the order to print.

It was so ordered.

REPORTS FROM COMMITTEES.

The SPEAKER. In further execution of the order of the House at its last sitting, reports from committees, for the purpose of reference, without debate, are in order.

Mr. MAYNARD, from the Committee of Claims, reported back an act (S. No. 207) for the relief of Mills Judson, surety on the official bond of the late Purser Andrew D. Crosby; which was referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. MOORE, from the same committee, reported back the following joint resolution and bills; which were severally referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

Joint resolution (S. No. 52) for the relief of William Hazard Wigg;

An act (S. No. 418) for the relief of Captain J. B. Montgomery; and

An act (S. No. 200) for the relief of George W. Flood.

Mr. GOODWIN, from the same committee, reported back an act (S. No. 306) for the relief of Samuel H. Taylor; which was referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. JACKSON, from the same committee, reported back an act (S. No. 398) for the relief of William Money; which was referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported back an act (S. No. 222) for the relief of Jeremiah Moors; and an act (S. No. 60) for the relief of Tench Tilghman; which were severally referred to a Committee of the Whole House on the Private Calendar, and, with the reports, ordered to be printed.

He also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 475) to establish Salem, in the State of New Jersey, a port of delivery; which was laid on the table, and, with the report, ordered to be printed.

He also, from the same committee, presented adverse reports in the following cases; which were laid on the table and ordered to be printed, and the committee discharged from the further consideration thereof:

Joint resolution of the Iowa Legislature for custom-house, post office, and marine hospital at Muscatine, Iowa;

Petitions of inhabitants of the towns of Adams Center, Adams, and Chaumont, and others, Jefferson county, New York, for a breakwater at Cape Vincent, New York;

Memorial of citizens of Missouri, praying for the passage of an act granting public lands to aid in the improvement of the Des Moines river;

Petition of citizens of the county of Lake, Ohio, for an appropriation of money for the repairs and preservation of the harbor at the mouth of Grand river, Ohio; and

Proceedings of a public meeting at the Sault Ste. Marie, Michigan, relative to the place and manner of expending the appropriation made by

the General Government for the improvement of the west channel of Lake George.

Mr. COMINS. I am directed by the Committee on Commerce to report a bill making an appropriation for the survey of the harbor of Boston, Massachusetts. As the bill makes an appropriation, it must necessarily, under the rule, go to the Committee of the Whole on the state of the Union; and I ask that it may be printed.

It was so ordered and referred.

Mr. WASHBURN, of Illinois, from the same committee, reported back the following bills; which were severally referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

An act (S. No. 342) for the preservation and repair of the piers at the mouth of Milwaukee river, Wisconsin; and

An act making an appropriation for repairing and securing the locks at the harbor of Chicago, Illinois.

Mr. COBB. I have in my hand a bundle of adverse reports from the Committee on Public Lands, which it would take about an hour to dispose of separately. If there be no objection, I will send them up, and ask that they may be laid on the table without reading, and the committee discharged from the further consideration thereof.

Mr. GROW. Let them be read, so that we may know what they are. If I am not mistaken, there is among them a bill to prevent the sales of the public lands under the proclamation of the President.

Mr. COBB. I will state to the gentleman that that bill was withheld the other day, at his special request.

Mr. GROW. That request applied only to that day. If the gentleman is ready, I should like to have him report the bill now.

Mr. BOCKOCK. I rise to a question of order. I submit that, by the order under which the House is acting, no reports can be received from committees except for reference to a Committee of the Whole; and that a motion to lay on the table is not in order. I do not wish to interfere with my friend from Alabama; but it was designed to give all the committees an opportunity of reporting bills for reference to a Committee of the Whole; and if we allow motions to be made to dispose of matters by laying them on the table, the yeas and nays may be called upon such motions, and the object of the House in adopting this order may be defeated.

Mr. GROW. Is this call being made under the order adopted before the recess?

The SPEAKER. It is.

Mr. GROW. Then, I make no objection to the report of the gentleman from Alabama.

Mr. HOUSTON. I would suggest to the gentleman from Virginia [Mr. Bockock] that it would save time to allow these reports to be made in gross, and disposed of by laying them on the table.

The SPEAKER. The reception of the reports in gross was objected to by the gentleman from Pennsylvania, [Mr. Grow.]

Mr. HOUSTON. The gentleman from Pennsylvania can examine the reports privately, and call up any particular case, if he wishes to do so, to-morrow, by a motion to reconsider.

The SPEAKER. The order of the House will be read.

The Clerk read the order, as follows:

Resolved, That the Speaker now proceed to call each State and Territory, and, upon such call, members may introduce bills and resolutions, for reference only, and without debate, of which previous notice has been given, and such House resolutions as shall not give rise to debate, and also reports from committees: *Provided*, No bill so introduced or reported shall be brought before the House by a motion to reconsider.

Mr. HOUSTON. I will not object to the course the Chair has taken this morning, but I will say that my construction of that order would be, that it terminated on the day on which it was adopted. I am willing that this order should be executed this morning; but I think the House is now proceeding under the regular call of committees for reports, under the rules.

The SPEAKER. The Chair is of a different opinion.

Mr. HOUSTON. I took it for granted the Chair was of a different opinion, or he would not have so decided.

Mr. COBB. My worthy colleague ought not

to object to my making these adverse reports, for he will recollect that he himself made adverse reports the other day by the consent of the House.

Mr. HOUSTON. Why, I was just asking that the rule should be construed so as to admit the reports of my colleague.

Mr. COBB. That is exactly right.

The SPEAKER. The Chair will say to the gentleman from Alabama that it is only in order to submit such reports as are to be referred to the Committee of the Whole on the state of the Union or to a Committee of the Whole House on the Private Calendar.

Mr. COBB. And not those to be disposed of in any other way?

The SPEAKER. No.

Mr. COBB. I desire that these cases shall be laid on the table.

The SPEAKER. It is objected to; and the reports cannot be received.

Mr. COBB. Very well, then; send them back and let them lie on my table. [Laughter.] They can lie there just as well as they have done for the last six months. I merely desired to discharge my duty in making the reports.

The SPEAKER. The Chair does not desire to prevent the gentleman from making his reports. The Chair is only enforcing the objection of others.

Mr. COBB. Oh! certainly not. During many years' experience with the Chair, I have found that he always does his business properly.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported back Senate bill (No. 426) to authorize the Secretary of the Interior to issue a land warrant to Russell Fitch; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

He also, from the same committee, reported a bill for the relief of David Moors, heir-at-law to Timothy Moors, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed:

He also, by unanimous consent, made an adverse report, from the same committee, on Senate bill (No. 421) to authorize the Secretary of the Interior to issue a land warrant to Benjamin Ward; which was laid on the table, and the report ordered to be printed.

He also, from the same committee, made adverse reports on the following petitions, resolutions, and bills; which were laid on the table, and the reports ordered to be printed:

The petition of Mary Ann Walker for bounty land, for service in the Black Hawk war;

The petition of Richard E. Randolph for a land warrant, for services in the Florida war, in 1856;

The petition of Eliphalet Allen and nine others, for alteration of bounty land laws;

The memorial of citizens of New Jersey, asking that the bounty land act of March 3, 1855, may be so amended as to entitle certain wagoners and teamsters to the benefits thereof;

The petition of N. G. Howell, for amendment to the bounty land act;

The petition of the president and directors of the Peru and Indianapolis Railroad Company, praying a grant of land for said road;

A bill (H. R. No. 309) granting bounty land to Andrew J. Fleming, of Gettysburg, Pennsylvania;

A bill granting bounty land to artificers, ship-carpenters, carpenters, and blacksmiths, employed under the direction of competent authority in any war in which this country has been engaged since the year 1810;

The memorial of the Metropolitan Railroad Company, praying the passage of an act incorporating said Company within the District of Columbia, &c.;

A bill (H. R. No. 293) confirming the title to certain lands;

A bill (H. R. No. 397) to amend the existing laws in relation to bounty lands;

The memorial of the Mayor and Common Council of Rock Island, Illinois;

The petition of the Burlington and Missouri Railroad Company, for additional grant of land to aid in the construction of their road;

The resolution of the Legislature of the State of Iowa, asking that certain land entries, made with warrants and cash, may be confirmed;

A memorial from the State of Minnesota, for a grant of land to aid in the construction of a railroad from the confluence of the southern branch of Root river, by Sioux Falls City, on the Big Sioux river, via Preston, Carimona, and Forrestville;

A memorial from the State of Minnesota, for a grant of land for railroad purposes; and

A memorial of the Legislature of the State of Minnesota, to aid in the construction of the Nining, St. Peter's, and Western railroad.

Mr. GARNETT, from the same committee, by unanimous consent, made adverse reports on the following petitions, resolutions, and bills; which were laid on the table, and the reports ordered to be printed:

A bill (H. R. No. 99) surrendering to the State of Louisiana the unoccupied public lands in said State for the purposes of public education;

A joint resolution of the State of New York, in relation to a grant of public lands, to secure the construction of a canal around the Falls of Niagara;

A joint resolution of the Legislature of Iowa, asking appropriation for a railroad around the lower rapids in the Mississippi river, on the Iowa, or west side thereof;

The petition of L. S. Humphrey, asking compensation for clerk hire, office rent, &c., while acting as register of the land office at Monroe, Michigan;

The petition of three hundred citizens of Battle Creek, Michigan, asking a donation of land in aid of the agricultural college of that State;

The memorial of the Michigan State Agricultural Society, asking a grant of land for the same purpose;

The memorial of Calhoun County Agricultural Society, Michigan, for the same purpose;

The petition of Frederick W. Fowler and others, asking bounty lands on account of alleged services in the war of 1812;

The memorial of J. K. Miller and others, citizens of Michigan, asking an appropriation of public lands for the construction of a wagon road from Saginaw City northward, along the shore of Lake Huron, touching at Ottawa bay and Thunder bay, to some point near the northern extremity of the lower peninsula of Michigan, opposite Mackinac; and from Sault St. Marie, to some point on the southern shore of the upper peninsula of Michigan, near Mackinac; and

A bill (S. No. 249) to release to the Milwaukee and Mississippi Railroad Company the interest of the United States to a certain parcel of land.

Mr. COBB, from the same committee, by unanimous consent, then made adverse reports on the following bills, resolutions and memorials; which were laid on the table, and the reports ordered to be printed:

The petition of Charles Mason and others, of Iowa, praying that a grant of land may be made for the construction of a steamboat canal around the lower rapids of the Mississippi, similar to that constructed around the falls of St. Mary's river, in Michigan;

A bill to create a land district in the Territory of New Mexico;

The petition of certain citizens of New York, praying for the passage of a law to prevent all further traffic in, or monopoly of, the public lands of the United States;

The petition of Benjamin Price and others, to give the public lands to actual settlers who are not in possession of other lands;

The petition of citizens of Ohio, praying a donation of public lands to actual settlers, free of cost;

A bill authorizing the purchase of iron safes, &c., for the registers of the various land offices of the United States;

A bill to amend an act to authorize the Commissioner of Public Lands to decide cases of appeal;

A resolution of the Legislature of Washington Territory, praying an appropriation of land for the establishment of a lunatic asylum;

The petition of R. C. Foster and others, praying for a modification of the preemption law, so as to permit persons to preempt a homestead even after they have once owned land;

A resolution of the Legislature of the State of Maine, asking a distribution of a portion of the public land among the States for educational purposes;

A resolution of the State Agricultural Society of New York, for the distribution of a portion of the public lands to the States and Territories for the benefit of agricultural colleges therein;

A resolution of the Kentucky Agricultural Society, in relation to the appropriating of a portion of the public domain for school purposes;

A remonstrance of citizens of New York against the grant of public lands to corporations;

The memorial of George B. Clitherall, register of the land office at Ottertail City, Minnesota, praying the passage of an act amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856;

A resolution of the Legislature of the Territory of Washington, asking for the creation of three additional land districts in that Territory;

A resolution of the State of New Jersey, asking for a donation of public lands for agricultural colleges;

A memorial of the Legislature of the State of Iowa, praying a donation of land for the purpose of establishing scientific agricultural schools in that State;

A memorial of the citizens of township No. 6, seventh range, eighth west, of Randolph county, Illinois, praying for a grant of land, or an equivalent in money, in consequence of there being no sixteenth section in said township;

A petition of the citizens of Connecticut, praying for the passage of an act to prevent all further traffic in, or monopoly of, the public lands;

The petition of certain citizens of New Jersey, New York, and Pennsylvania, in relation to the same subject;

A memorial of the General Assembly of Iowa, praying the passage of a law restricting the sale of public lands to actual settlers;

A joint resolution of the Legislature of Iowa in reference to the same subject;

A petition of certain citizens of Iowa, praying that the alternate sections belonging to the Government, and near the railroads of Iowa, be sold to actual settlers only;

The petition of the Rhode Island Society for the Encouragement of Domestic Industry;

The petition of certain citizens of Iowa, for a new land office in that State;

The petition of certain citizens of Arkansas, for the establishment of a land office at Monticello, in that State;

Petitions of certain citizens of Pennsylvania and New York, in favor of a homestead bill;

A petition of certain citizens of Illinois, for an amendment of the preemption laws;

A petition of certain citizens of Vermont, New York, Illinois, Michigan, South Carolina, and Indiana, in favor of a bill donating lands to private colleges for the benefit of agriculture and the mechanic arts;

The petition of Andrew Murray, praying Congress to give soldiers holding their own warrants for land preference in locating them;

A petition of certain citizens of Ohio, praying a grant of one quarter section of land to actual settlers in the Territory of Arizona;

A bill (H. R. No. 176) to amend an act entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," approved July 22, 1854;

A bill (H. R. No. 409) making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State, from McGregor, on the Mississippi river, to the west line of said State;

A joint resolution of the Legislature of the State of Iowa, praying for a grant of land to aid in the construction of the Lansing, northern Iowa and southern Minnesota railroad;

A joint resolution of the Legislature of Minnesota, praying for a grant of land to aid in the construction of a railroad from St. Paul, via Minneapolis, to the southern boundary of the Territory, in the direction of the mouth of the Big Sioux river;

A bill (H. R. No. 407) to establish an additional land district in the State of Iowa;

The memorial of the General Assembly of the State of Iowa, praying for a grant of land to aid in the construction of a railroad from the Missouri river, via the South Pass, to some point in Washington Territory;

The petition of W. Loomis and others, of Iowa, praying that William Rees be permitted to form a normal settlement, and that lands be appropriated for such settlement;

A petition of J. K. Cook and others, of Nebraska, asking that the restriction which limits entries, under the act of May 23, 1844, to three hundred and twenty acres, may be repealed or extended; and

A bill (H. R. No. 368) to prevent the accumulation of an unnecessary surplus in the Treasury, and to equalize the grants of lands to the several States.

Mr. COBB, from the same committee, also reported a bill for the relief of William Packwood; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. COX, from the Committee on Revolutionary Claims, made an adverse report on the petition of Nancy D. Holker; which was laid on the table, and the report ordered to be printed.

He also, from the same committee, reported a bill for the relief of Maryatt Van Buskirk; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

Mr. WHITELEY, from the Committee on Agriculture, made an adverse report upon the petition of Denton Oluf; which was laid on the table, and the report ordered to be printed.

Mr. GREENWOOD, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, an act (S. No. 417) for the relief of Willis A. Gorman; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

He also, from the same committee, reported back, with a like recommendation, an act (S. No. 403) for the relief of George Stealey; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

He also, by unanimous consent, made an adverse report, from the same committee, upon the petition of Theophilus Bruguire, a citizen of Iowa; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. FAULKNER, from the Committee on Military Affairs, reported back the following Senate resolution and bills; which were referred to the Committee of the Whole on the state of the Union, and, with the accompanying reports, ordered to be printed:

A bill (No. 380) to provide for the payment of the claims of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war;

A joint resolution (No. 48) for the payment of an unexpended balance to the State of Georgia, on account of military services;

A bill (No. 385) for the relief of the heirs and legal representatives of Jean Hudry; and

A bill (No. 256) further explanatory of an act approved August 18, 1856, entitled "An act for the relief of Adam D. Steuart and Alexander Randall, executors of David Randall."

Mr. FAULKNER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the communication of Hon. John B. Floyd, Secretary of War, and the accompanying papers inviting the attention of Congress to the claim of the Methodist Missionary Society, for land held by them at the Dalles in Washington Territory, and which land has been taken for military purposes, be referred to the Committee on Military Affairs, for such relief as may be deemed just and proper.

Mr. BUFFINTON, from the Committee on Military Affairs, by unanimous consent, reported adversely upon the following memorials; which were laid upon the table, and the accompanying reports ordered to be printed:

The memorial of Alexander W. Reynolds;
The memorial of James Wright;
The memorial of Frederic Merrill;
The memorial of Mauris Lang;
The memorial of R. W. Duncan; and
The memorial of Dr. John Work.

On motion of Mr. BUFFINTON, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the petition of the Tikanah volunteers, and that the same be laid upon the table.

On motion of Mr. BUFFINTON, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of Senate bill (No. 78) entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855, and that the same be laid upon the table.

Mr. BUFFINTON, from the Committee on Military Affairs, reported a bill for the relief of Alden and Williams; which was read a first and second time, referred to the Committee of the Whole, and, with the accompanying report, ordered to be printed.

Mr. PENDLETON, from the same committee, reported adversely in the following cases; which were laid upon the table, and the accompanying reports ordered to be printed:

The memorial of S. L. Frémont, late captain United States Army, praying to be reimbursed for loss of property on board the steamer San Francisco; and the memorial of John Shaw, praying remuneration for losses sustained in furnishing six companies of rangers on the Mississippi with provisions, ammunition, &c., during the late war with Great Britain.

Mr. CURTIS. I ask the unanimous consent of the House to introduce the following joint resolution:

Be it resolved, &c., That a joint commission of members of Congress and officers of the Army, to consist of one Senator, to be named by the Vice President, two Representatives, to be named by the Speaker of the House, and six officers of the Army, to be selected by the President, as follows: one officer to be taken from one of the staff corps, one from the artillery arm, one from the infantry arm, one from the dragoon arm, one from the cavalry arm, and one from the mounted rifle regiment, shall be assembled as soon as practicable after the adjournment of Congress, for the purpose of revising the existing militia and volunteer laws of the States, and for the revision of the Army laws, organization, and regulations; and it shall be the duty of said commission to present to the next Congress their report, with such suggestions for further legislation of Congress as they may deem necessary for the better organization, efficiency, and discipline of the said military forces.

Sec. 2. And be it resolved, That the members of Congress who may be appointed on this commission shall receive eight dollars per diem as compensation while sitting and engaged in this behalf, and one half the mileage of members traveling to and from Washington, where the board shall convene.

Mr. JONES, of Tennessee. I object. We had better leave the States to take care of those things for themselves.

Mr. FAULKNER. I do not understand that the gentleman presents that as a report from the Committee on Military Affairs.

Mr. CURTIS. I only ask leave to introduce it as an original resolution.

Mr. FAULKNER. Then I move that it be referred to the Committee on Military Affairs.

Mr. CURTIS. I do not object to that.

Mr. JONES, of Tennessee. I object to the whole thing.

Mr. BONHAM. I have a report to make from the Committee on Military Affairs; but it is locked up in my desk and I have mislaid the key; and if there be no objection, I shall ask to present it to-morrow.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported back Senate bill (No. 371) for the relief of Anthony W. Bayard, and moved that it be referred to the Committee on Invalid Pensions; which motion was agreed to.

He also, from the same committee, reported back, with a recommendation that it do not pass, an act (S. No. 128) for the relief of George Phelps; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

He also, from the same committee, reported back the following bills; which were severally referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

An act (S. No. 268) for the relief of Aaron H. Palmer;

An act (S. No. 429) for the relief of Jane J. Wingert;

An act (S. No. 288) for the relief of Miles Devine; and

An act (S. No. 137) for the relief of the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased.

NAVAL AFFAIRS.

Mr. SHERMAN, of Ohio, by unanimous consent offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be requested to

report to the House, as soon as practicable, first, the number of officers of each grade of the Navy and marine corps, designating the number on the active and reserved list, on sea duty, on shore and other duty, and waiting orders; second, the number of seamen, marines, and other employees under charge of the Navy Department; third, the number of vessels of the Navy, designating the number and rate of each class.

BENEFICIARIES OF THE NAVAL ASYLUM.

Mr. DAVIS, of Massachusetts, by unanimous consent, introduced a bill for the benefit of the beneficiaries of the Naval Asylum; which was read a first and second time, and referred to the Committee on Naval Affairs.

REPORTS FROM COMMITTEES—AGAIN.

Mr. JEWETT, from the Committee on Invalid Pensions, reported bills for the relief of Joseph McReynolds and of Andulosia Pier; which were severally read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

He also, from the same committee, presented adverse reports on the petitions of Nathaniel Wilbur, Lyman N. Cook, Robert Waycom, Eliza G. Fisher, and of Benjamin Almon; which were severally laid on the table, and ordered to be printed.

On motion of Mr. JEWETT, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the memorial of James Tidd, and of Loisel Blodgett and others; and that the first be referred to the Committee on Revolutionary Pensions, and the second to the Committee on Public Lands.

Mr. ANDERSON, from the same committee, reported the following bills; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill granting a pension to Sarah Blackwell;

A bill granting an invalid pension to Michael Hanson;

A bill granting an invalid pension to Anselm Clarkson, of Missouri; and

A bill increasing the invalid pension of William T. Broadus, of Virginia.

He also, from the same committee, presented adverse reports in the cases of Benjamin Cummings and William Young; which were severally laid on the table, and ordered to be printed.

On motion of Mr. ANDERSON, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petitions of Sally Gill, Margaret Guine, Mrs. Barker, Williams, and Elizabeth Cheeseman.

On motion of Mr. ANDERSON, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of Thankful Cheesboro, widow of Elijah, and that the same be referred to the Committee on Revolutionary Pensions.

Mr. FLORENCE, from the same committee, reported the following bills; which were severally read a first and second time, referred to a Committee of the Whole House, and ordered to be printed:

A bill granting an invalid pension to Henry F. Bowers;

A bill increasing the invalid pension of John O'Leary;

A bill granting a pension to Gregory Patti; and

A bill granting a pension to Mary J. Maddox.

Mr. CASE, from the same committee, reported back, with an amendment, Senate bill (No. 411) for the relief of Ebenezer Ricker; which was referred to a Committee of the Whole House, and, with the accompanying amendment and report, ordered to be printed.

He also, from the same committee, by unanimous consent, made adverse reports on the following petitions, &c.; which were laid on the table, and the reports ordered to be printed:

The petition of Albro Tripp, for an increase of pension;

The petition of William Kingsbury, of Stark county, State of Ohio, praying for an increase of pension, for services in the war of 1812;

The petition of Valentine G. Wehrheim, of Randolph county, Illinois, for an increase of pension;

The memorial of Samuel Crapin, of Baltimore city, asking for certain relief therein mentioned;

The petition of Moses Olmsted, praying for an increase of pension on account of services in the war of 1812;

The petition of Jacobina Keefhaber, for a pension; and

The petition of Jacob Sailor, praying for a pension, on account of disability incurred from wounds received in the military service of the United States in the war of 1812.

Mr. BRAYTON, from the Committee on Patents, reported back Senate bill (No. 308) for the relief of M. C. Gritzner; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. GOODWIN, from the Committee of Claims, by unanimous consent, (the call of that committee having been passed,) reported back Senate bill (No. 428) for the relief of James Myer, with an adverse report thereon; which was laid on the table, and the report ordered to be printed.

AMENDMENT OF THE RULES.

Mr. WINSLOW. I desire to make a report from the select committee on rules, and that a special day, say Monday next, be assigned for its consideration.

Mr. JONES, of Tennessee. I would like to make an inquiry. I understand this committee propose to report amendments to various rules of this House. Now the inquiry I wish to make is, whether when that report comes up, and the discussion has proceeded for some time upon the first proposition, the House may not, by a majority vote, call the previous question, and members be compelled to vote upon all the amendments as one report?

The SPEAKER. The Chair is of opinion that if no order is taken until the House shall have ordered the previous question, the amendments must be voted on as a whole; the previous question will operate upon the entire report; but before the previous question shall have been sustained, any member may call for a separate vote upon each amendment.

Mr. JONES, of Tennessee. I will make this proposition: that when the report comes up for consideration, the amendments shall be considered separately, and the previous question only be considered to apply to the particular amendment under consideration. When that amendment has been disposed of, the previous question may be called upon the next, and so on. I have no objection to the special order, if that course is to be taken.

The SPEAKER. The Chair supposes that only by such a course as the gentleman suggests could the House be sure of a separate consideration of each amendment.

Mr. WINSLOW. I think that is a fair proposition. I have no objection to it.

Mr. RITCHIE. It strikes me that if the House get into the consideration of a new code of rules, it will occupy a great part of the remainder of the session. We have but eight weeks left, and I think we had better let the next Congress make its own rules. I object.

Mr. WASHBURN, of Maine. I hope my friend from Pennsylvania will withdraw his objection. It is only proposed that a day shall be set apart for the consideration of the report.

Mr. RITCHIE. It is just that I object to. We have only eight weeks of the session left, and I think it better that the next Congress shall make its own rules.

Mr. WASHBURN, of Maine. We will, I am sure, Mr. Speaker, save three days for every one we might lose, if we adopt the amendments suggested by the select committee. Their consideration will not occupy more than a day, and I hope, therefore, that the gentleman will withdraw his objection. I have not the least doubt that the adoption of the committee's report will do a great deal towards facilitating the transaction of business at this session.

Mr. STANTON. Cannot the gentleman from Tennessee accomplish the object he has in view by a reference of the report to the Committee of the Whole on the state of the Union?

Mr. JONES, of Tennessee. I do not think I can.

Mr. STANTON. Why not?

Mr. JONES, of Tennessee. We may get up some unimportant amendments, and in the House the previous question may be called on the entire report, so that not one word can be said upon really important amendments.

Mr. WASHBURN, of Maine. The proposed

amendments to the rules have been printed, and every member has a copy of them. Every member has had an opportunity to read them and to know them. If the gentleman from Tennessee, or any other gentleman, shall call for a division before the previous question is ordered, there will be opportunity for a direct vote on each amendment.

Mr. JONES, of Tennessee. But not one word of explanation can be given after the previous question has been ordered.

Mr. RITCHIE. I am satisfied that this is equivalent to making a new Constitution, and I object.

EXPENSES OF THE SUPREME COURT.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. LETCHER. I ask my colleague to let me first introduce a resolution calling for information.

Mr. PHELPS, of Missouri. I yield for that purpose.

Mr. LETCHER. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Interior be requested to communicate to this House a statement showing the expenses of the United States Supreme Court, in comparative detail, for the years 1854, 1855, 1856, and 1857.

Mr. PHELPS, of Missouri. And say 1858.

Mr. LETCHER. Very well.

Mr. JONES, of Tennessee. And I ask the gentleman from Virginia also to include a resolution calling upon the Secretary of the Interior to know by what authority an agricultural convention is assembled here, and by what authority its members are to be paid from the Treasury of the United States.

Mr. LETCHER. I should like to indulge my friend, but that would be rather an odd affair to hitch on to my resolution; otherwise I would have no objection to the gentleman's proposition.

The resolution was adopted.

On motion of Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the memorial and joint resolution of the Legislative Assembly of the Territory of Nebraska, and that the same be referred to the Committee on Military Affairs.

INDIAN APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I renew my motion to go into committee, and I will state now that, if the motion be agreed to, I shall ask unanimous consent to lay aside the President's message, and to take up the Indian appropriation bill.

Mr. DAVIS, of Mississippi. It may, perhaps, be well enough to remark at this time that it is the intention of the Mississippi delegation to announce on to-morrow the death of General QUITMAN, late a Representative from my State.

The motion of Mr. PHELPS, of Missouri, was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOGGS in the chair.)

The CHAIRMAN stated that the pending question was the annual message of the President of the United States, and certain resolutions in relation to it.

Mr. PHELPS, of Missouri. With the permission of the gentleman from Ohio, [Mr. NICHOLS,] who is entitled to the floor, I will move that these resolutions be passed over for the present, and that we proceed to take up and consider the Indian appropriation bill.

Mr. NICHOLS. I do not object, if I do not lose my position upon the floor when the consideration of the President's message is again resumed.

The CHAIRMAN. The gentleman will be recognized.

The motion was agreed to; and the committee proceeded to the consideration of House bill (No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860.

Mr. PHELPS, of Missouri. This is a long bill, occupying thirty-seven pages, and I move, if there be no objection, that the first reading for information be dispensed with.

Mr. LOVEJOY. I object.

Mr. PHELPS, of Missouri. This bill proposes

to appropriate only the money necessary to carry out treaty stipulations with the various Indian tribes; and as I ask merely that the first reading, which is for information, may be dispensed with and that the Clerk shall proceed to read it, paragraph by paragraph, for amendment, I hope the gentleman will withdraw his objection.

Mr. LOVEJOY withdrew his objection.

The first reading of the bill was dispensed with; and the Clerk proceeded to read the bill by clauses, for amendment.

Mr. PHELPS, of Missouri. I move, *pro forma*, to strike out the second clause, in order to state to the committee the amount that it is proposed to appropriate under this bill. The estimates for the service of the Indian department embrace salaries for superintendents of Indian affairs and Indian agents, the appropriations necessary to comply with our treaty stipulations with the various Indian tribes with which we have made treaties, and also for the contingent expenses of the Indian department; and they amount to \$1,866,419 49. The Committee of Ways and Means recommends that there shall be appropriated \$1,865,919 49; making a reduction of \$500 on the estimates submitted to us, owing to a mistake in the computation of the annuities due to one of the Indian tribes by treaty stipulation.

The Secretary of the Interior, in submitting his annual estimates for the contingent expenses of the Indian department, in the several States and Territories of the Union, reduced the estimates of the superintendents of Indian affairs. The superintendents, and the supervising agent of the State of Texas, asked that there should be appropriated for the contingent service of the Indian department, for the purpose of preserving peace with the Indians, making presents to them, removing them to, and maintaining them on, the reserves designated for them, as follows:

For the Territory of New Mexico.....	\$243,500
For the State of Texas.....	87,186
For the Territories of Oregon and Washington....	314,853
For the State of California.....	215,000
For the Territory of Utah.....	69,500
Total.....	\$930,039

The Secretary of the Interior, however, reduced these estimates as follows:

For the Territory of New Mexico.....	\$75,000
For the State of Texas.....	40,000
For the Territories of Oregon and Washington....	221,000
For the State of California.....	57,500
For the Territory of Utah.....	45,000
Total.....	\$438,500

The Committee of Ways and Means have recommended to the House the adoption of the estimate, as submitted to the committee by the Secretary of the Interior. I withdraw my amendment.

The Clerk then continued the reading of the bill by clauses, for amendment.

Mr. LOVEJOY. As I do not believe that the items under the head of "miscellaneous" are authorized by any existing laws or treaties of the United States, I move to amend the bill by striking out all that portion of it from line eight hundred and thirty-four to the end; as follows:

"For insurance, transportation, and necessary expenses of the delivery of Pawnee annuity goods, \$5,000.

"For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuit of civilized life, to be expended under the direction of the Secretary of the Interior, \$75,000.

"For the compensation of three special agents and four interpreters for the Indian tribes of Texas, and for purchase of presents, \$15,000.

"For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas, and for the establishment of the reserve west of the Pecos river, \$25,000.

"For the general incidental expenses of the Indian service in the Territories of Oregon and Washington, including insurance and transportation of annuities, goods, and presents, and office and traveling expenses of the superintendents, agents, and sub-agents, \$35,000.

"For defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, compensation of laborers and other employees: *Provided*, That the sum of \$111,000, or so much thereof as may be necessary, may be applied in payment of liabilities incurred during the year ending 30th June, 1859, \$161,000.

"For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, and compensation of laborers and other employees, \$25,000.

"For the Indian service in California, to be expended under the direction of the Secretary of the Interior, \$30,000.

"For the general incidental expenses of the Indian service in California, including traveling expenses of the superintendents, agents, and sub-agents, \$7,500.

"For the Indian service in the Territory of Utah, to be expended under the direction of the Secretary of the Interior, \$45,000."

Mr. PHELPS, of Missouri. I would suggest to the gentleman to move to strike out these clauses *seriatim*.

Mr. LOVEJOY. I do not see anything in them that ought to be reserved.

Mr. PHELPS, of Missouri. My proposition would enable the committee to vote understandingly. We have been in the habit of treating the clauses in the appropriation bills as sections; and, therefore, strictly speaking, the only amendment in order under the practice of the House, is to strike out the clause read.

Mr. MORGAN. Is it necessary to give notice now that I will ask for a separate vote on these amendments?

The CHAIRMAN. The clauses proposed to be stricken out will be read for amendment, in order to perfect them; and after they have been amended, one vote will be taken on the amendment of the gentleman from Illinois, [Mr. LOVEJOY.]

Mr. HOUSTON. The true way to test the sense of the committee on this subject, will be to move to strike out each paragraph as it comes up. If the motion be to strike out all it cannot be divided, although some of the portion proposed to be stricken out may, in the estimation of the members of the committee, be proper to be retained; whereas other portions of it should be stricken out. I think it would be better, therefore, that the gentleman should move to strike out the paragraphs one by one, as we go along, so that we can have a distinct vote upon them.

The CHAIRMAN. Previous to putting the question on the motion of the gentleman from Illinois, the Chair would entertain a proposition to strike out any one paragraph or line of the part of the bill which the gentleman from Illinois proposes to strike out. No proposition, however, has been made to do so.

The clauses were then read *seriatim* for amendments to the amendment.

Mr. STEVENS, of Washington. I desire to offer an amendment to the amendment.

Mr. REAGAN. Before passing to that I desire to say a word in relation to the Indians of Texas. I could not hear distinctly what the gentleman from Illinois said; but I understood him to say that one of the reasons for his amendment was that there were no treaties under which these sums are proposed to be appropriated. I desire to say to him that there are treaties with the Camanches. A number of that tribe of Indians reside on the reserves in Texas, under treaty stipulations with the Government of the United States. And I say, further, that although we have an Indian frontier of eight hundred miles in length, and although we have been a long time past in an almost continuous state of war, we have, notwithstanding, a less appropriation for Texas than is made for any other State or Territory having anything like the number of Indians that we have. For Texas, with its frontier of eight hundred miles in length, there is only \$40,000 appropriated, while for New Mexico there is double the amount appropriated. To the State of California you give by hundreds of thousands. I have not undertaken to investigate why this difference is. There may be a greater necessity for large appropriations for California, and for Oregon and Washington, than there is on our extended frontier in Texas; and yet, with the exception of the war that lately existed in Washington Territory, it is probable that there has not been anywhere else so many Indian depredations, so much loss of property and of life, as there has been on the frontier of Texas. Yet with regard to Indian affairs, as has been the case with regard to military defenses, there seems to be the strictest character of economy practiced towards Texas.

I am not, however, now asking for an increase of this appropriation. I suppose that would be useless. It is small, indeed, in view of the objects to be accomplished by it, for there are already two Indian reservations in Texas, and another authorized, which this appropriation is

intended to cover. But I make these statements in order that gentlemen may see, at least so far as relates to Texas, that these appropriations are partly covered by treaty stipulations, and by obligations growing out of the policy this Government is observing in reference to the Indians; and I would also repeat that this appropriation for Texas is very small, compared with the appropriations for like service in other portions of the country.

Mr. STEVENS, of Washington. I now ask that my amendment may be read.

The amendment was read, as follows:

For the expenses of bringing to the city of Washington, and to visit the principal cities east of the Rocky Mountains, delegations of the Indian tribes from the Territories of Oregon and Washington, the sum of \$30,000.

Mr. STEVENS, of Washington. It is not necessary for me to dwell much upon the importance of this proposition. It is a proposition looking to the peace of our country; it is a proposition looking to the reduction of the expenses of our Indian service. It has been recommended for many years by the officers of that service, by the officers of the executive department of those Territories, and by the officers of the Army. I need not dwell, on this occasion, as to how much we have suffered in that country through Indian wars and Indian depredations; but I will refer to the fact that this Government has been compelled to incur large expenses for the protection of that distant people on the northwestern coast. We desire to do everything we possibly can to reduce these expenses; and we are satisfied that if a delegation of Indian chiefs, having the confidence of their tribes, can visit this national capital, and visit the principal cities on the coast and in the interior, they will carry back with them a knowledge of the resources, power, and munificence of our country, which will tend to perpetuate peace among those Indian tribes.

The Indians upon the Pacific coast differ very much in character from the Indians east of the Rocky Mountains. I speak from my own knowledge, founded upon careful observation. They have an acuteness, a power of observation, and prowess, to which we should pay some respect. I assure you, Mr. Chairman, that if these Indians, represented by their principal men—and we have chiefs there who are the equals of Tecumseh and King Philip—can visit our cities, see our power, and feel, as they will feel, that our policy is a policy of beneficence, a policy having for its object the civilization of these Indian tribes, they will go back there and give that information to their Indian brethren, and it will do more than all things else to relieve us from Indian wars; it will do more than all things else to strengthen the hands of this Government; to strengthen the hands of the officers of your Indian service on that coast, and to strengthen the hands of the military and civil authorities. I repeat again, that this proposition has the recommendation of every man acquainted with Indian affairs in these Territories. Look over the archives of this Government; look at the reports made by the executives, by the Indian superintendents, and, as I said before, by your military officers, and you will find one unbroken column, one single word, coming from that country, asking that this delegation of Indian chiefs should be sent. I need not say more.

Mr. PHELPS, of Missouri. One word in reply both to the gentleman from Illinois [Mr. LOVEJOY] and to the Delegate from Washington Territory. If you will examine the report of the superintendent of Indian affairs for the Territory of New Mexico, as well as those of the superintendents for the Territories of Washington and Oregon, you will find that they have recommended to the Government the bringing of delegations of these wild Indians to the eastern seaboard; but the executive department of the Government have thought it unwise to recommend to Congress to make an appropriation for that purpose during the present session.

So far as the difficulties in the Territory of Washington are concerned, I believe myself that they now have peace there, owing to the vigorous manner in which the recent war in that Territory has been prosecuted against these hostile Indians. I am one of those who believe that if we desire peace and quietness with our Indian tribes, the only way to secure it is to make them feel the force and power of the Government; to whip them;

and then you can negotiate such treaties as you desire. It may then become necessary to support them until they can support themselves by agriculture. I believe, therefore, that at the present time, the proposition of the Delegate from the Territory of Washington ought not to receive the sanction of this House. The information which I have is, that since the recent vigorous Indian war in that Territory, quiet has been restored amongst the Indian tribes there.

My friend, the Delegate from the Territory of New Mexico, [Mr. OTERO,] where some of the Indian tribes are perpetrating outrages upon the settlers there, and upon emigrants passing through the Territory, desires very much that some of those Indians shall be brought here, for the purpose of forming some opinion of and having some adequate conception of the power and strength of the Government. The executive department of the Government, however, have thought it inexpedient to recommend an appropriation, at this session of Congress, for that purpose; and in that opinion the Committee of Ways and Means have concurred; hence they have reported no proposition looking to the bringing of delegations of Indians here.

In reference to the proposition of the gentleman from Illinois, [Mr. LOVEJOY,] I think he is laboring under a misapprehension in relation to this branch of the Indian service. It has been the policy of the Government, for several years past, to endeavor to colonize the Indians, and place them upon reservations detached, if possible, from the settlements of white men; to endeavor to induce them to pursue the peaceable pursuits of agriculture, and to subsist themselves. In pursuance of this policy, various Indian reservations have been selected in the different Territories; an Indian reservation has also been selected in the State of California; two or three have been selected in the State of Texas. I say it has been, for several years, the policy of the Government to concentrate the Indians, as much as possible, upon these reservations, both with a view of economy, and for the purpose of enabling the different tribes to command the instruction of the officer, agent, school-teacher, farmer, smith, and to endeavor to teach them to subsist themselves.

In consequence of this policy, several years since commenced, it became necessary, in the opinion of the Secretary of the Interior and of the Commissioner of Indian Affairs, to recommend to Congress to make this appropriation for the purpose of collecting the Indians in the Territory of New Mexico upon the Indian reserves there established. The superintendent of Indian affairs of that Territory, a gentleman with whom I am well acquainted—an officer active, vigilant, and faithful, and who understands the Indian affairs of that Territory as well as any other person, for he has been an inhabitant of that Territory some twenty-five years, and was somewhat acquainted with the Indians before he went to that country—from the State of Missouri, has submitted his estimates, and recommended to the Administration an appropriation of \$243,500 for the service of the Indian department in that Territory.

As I stated in the few remarks I submitted when this bill was taken up, the estimate for this incidental service has been reduced by the Secretary of the Interior. The aggregate of these was \$930,039; while the Secretary submitted estimates for only \$438,500. An act is upon our statute-book providing for this military reserve in New Mexico. If it be the policy of the legislative department of the Government to carry out the policy hitherto sanctioned by our legislation, it is right that this appropriation should be made. If, on the contrary, you are willing to abandon it, to turn the Indians loose from these reserves, and tell them that you will no longer take care of them, you will soon have war in every Territory and every State in which you have collected the Indians upon reserves for the purpose of teaching them the arts of agriculture. Hence, I say, it is unwise to strike out this appropriation.

In reference to the appropriation for the support of the Indians in the State of Texas, the gentleman from Texas [Mr. REAGAN] has explained the necessity for it; and the Representatives from that State complain that the Secretary of the Interior has diminished the estimates submitted by the supervising agent in Texas. The amount, as estimated by him, was \$87,186; while only

\$40,000 is appropriated in this bill, embracing the salaries of those agents and their interpreters.

The next section contains the appropriation for the Indian service in the Territories of Washington and Oregon. The next contains an appropriation for defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservation therein, &c. The remarks I first made are applicable to those three sections of the bill.

With reference to the Indian service in California, you have the report of the superintendent of Indian affairs in that State. He tells you that many of the Indians have been collected upon the reserve, and are raising wheat and other means of subsistence. The late superintendent for California desired an appropriation of \$215,000 for that service; but, in the opinion of the Executive Department, \$57,500 was adequate for the purposes, in addition to the unexpended balance remaining over from the present fiscal year.

If it be the policy of this House to carry out the policy which we have inaugurated, and which, up to this time, we have sustained, I think it is economy to make the appropriations contained in this bill. I think it will be the means of avoiding Indian disturbances and hostilities in those States and Territories where it is proposed that this money shall be expended. If, however, it be the desire that the military power shall be called into requisition to keep these Indians in a state of subjection; if there are persons who desire to have a war of extermination waged against the red man, withhold these appropriations, and let the frontiers be ravaged by the Indians, and the peaceful emigrants, going to the Pacific ocean by the great central line of travel across the continent, be destroyed. Do this, and I assure you that in a short time you will find use for our whole Army and for volunteers to restore peace and quiet throughout the Indian country.

Mr. STEVENS, of Washington. I desire to say a single word, not in opposition to the gentleman from Missouri, but rather in corroboration of the truth of his remarks. There has been a glorious campaign waged in Oregon and Washington, during the last season. The hostile tribes have felt the power of the Government. But let me say to the gentleman from Missouri, that the gentlemen who most strongly urge the bringing of those Indian chiefs here are those who figured in those wars. The leaders of those forces, intelligent Army officers, who have met those Indians in battle, urge upon the Government the policy of sending forward to Washington these Indian delegations. I received by the last mail, from that intelligent and able man, Colonel Mansfield, the Inspector General of the army, and one of the right arms of the army in Mexico, a letter, stating that he had by that mail forwarded a report to General Scott, urging the coming on of these Indian chiefs; and I have reason to believe, I state it emphatically in this presence, that the Commissioner of Indian Affairs looks upon this as an important measure for the peace of our distant country.

I offer my amendment, believing from my own experience, and from the judgment of other gentlemen, that it is important as a measure of economy, and as a measure looking to the permanent peace of the country.

Mr. HOUSTON. I would like to have the chairman of the Committee of Ways and Means tell me what law, if any, outside of the clauses of appropriation, regulates the amount of the items proposed to be appropriated in the latter part of this bill? I would like to know how these items are made up, and who controls the making of them up?

Mr. PHELPS, of Missouri. In reply to the inquiries propounded by the gentleman from Alabama, I have to say that, so far as the making up of the estimates are concerned, they are first submitted by the superintendent of Indian affairs in the particular Territory—New Mexico, for instance. They are revised by the Commissioner of Indian Affairs, and also by the Secretary of the Interior. The superintendent of Indian affairs, who recommends how and in what manner this money shall be expended, also recommends in his estimates what sum shall be expended at this agency and at that agency, and the object for which it is to be so expended. He did so recommend; but the Commissioner of Indian Affairs, deeming the estimates extravagant, has recommended that the

estimates be reduced, and that we make no other or greater appropriation than that contained in this bill.

The gentleman from Alabama is himself aware that, by an act of Congress, we have provided for the establishment of Indian reserves in the Territory of New Mexico. When the Indians shall be assembled upon those reserves, it is proposed to subsidize them until they shall have raised a sufficient amount of agricultural products to sustain themselves. Money must be expended for the procurement of agricultural implements, for quarters for officers, and some kind of habitations for the Indians until they are able to take care of themselves. These are the kind of expenditures which it is proposed to make in New Mexico and in the other Territories.

Mr. HOUSTON. Mr. Chairman, my opinion is, and has been for years, that the growing expenditures under these general clauses of the Indian appropriation bill should arrest the closest scrutiny of the members of this body. There is no law by which the application of these moneys is restricted. The policy of this Government has for several years been (and it may be a wise policy) to induce the Indians to remove to and occupy reservations, so as to take up as small a portion of the country as possible, and to bring them under our influence and our power. If gentlemen will notice these miscellaneous items, they will see that large appropriations are made for incidental expenses. It seems to me that the appropriations are very large, and especially in view of the present condition of the national Treasury, and when we are asked to increase the imposts upon the consumption of the country. It seems to me that we should lay our hands upon these miscellaneous appropriations, which are made without any legal restraint attaching to the officers who are to disburse them; these appropriations of money which are expended merely at the discretion of the superintendents and other officers who may have the control of them. And if the gentleman from Missouri [Mr. PHELPS] will turn to page 36, he will find added to the paragraph, "for defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, compensation of laborers and other employees," the following proviso:

Provided, That the sum of \$111,000, or so much thereof as may be necessary, may be applied in payment of liabilities incurred during the year ending 30th June, 1859, \$161,000.

Now, sir, that may be called a deficiency; but if it be a deficiency, why is it that it is introduced into this regular annual Indian appropriation bill? It may be termed a deficiency, and perhaps properly; but, if it be a deficiency, that fact, to my mind, is conclusive evidence that it has no right here. It shows, too, that while the officer or officers who had the control of these Indians, or the expenditure of this money, were restricted as to the amount, yet that they have gone on and disregarded the law, and now call upon us to appropriate over one hundred thousand dollars to make good their liabilities, incurred, as I have stated, in defiance of law enacted in a previous appropriation bill. If that be the true state of the case, and I think it is, then it becomes important to this committee, to this House, and to the country, that we should at once examine these appropriations, and before passing them, throw round them, where it is competent for us to do so, that sort of restraint of law which ought to control every appropriation from the general Treasury, when it can be done. It will not do for me to be told, it will not do for gentlemen to say, that we must rely upon the Secretary of the Interior—that we must rely upon the superintendents and agents who have control of these things.

Mr. PHELPS, of Missouri. I will state, with the gentleman's permission, that had I been aware that the gentleman from Alabama desired me to explain particularly with reference to this provision for \$111,000, I would have done so when I was on the floor at first. There was not, I assure the committee, any wish on the part of the Committee of Ways and Means to disguise any deficiency of appropriations. Now, there is here an express proviso that the sum specified in this law, or a sum not exceeding \$111,000 may be applied to the Indian service in the Territory of Oregon

for this fiscal year. The report of the superintendent of Indian affairs explains the necessity which gave rise to this deficiency; and I will read from it one short extract:

"Anticipating that it was not contemplated to abandon the system, [the system of colonization,] after great improvements had been made at such a heavy expenditure, I made my estimates for the present fiscal year, amounting to \$484,700; which was, as I conceived, the least possible sum with which the Indians could be subsisted, and the peace of the country maintained."

That, sir, was the estimate of Mr. Nesmith, the superintendent of Indian affairs, for this fiscal year. Congress, however, reduced that amount, appropriating much less, perhaps not more than one half. He continues:

"I am, however, notified that the sum actually appropriated for the present fiscal year amounts only to \$160,500, which, with the utmost economy, can only subsidize the Indians until the 1st of December next, when, if I am not permitted to exceed the limits of the appropriations, I shall have no alternative left but to turn the Indians loose to obtain their living by robbing the whites, and which can only result in a sanguinary war. In this event, all that has been expended in collecting the Indians and removing them at such a heavy expense to their present homes, will be a total loss. The southern portion of Oregon, formerly occupied by several of these warlike tribes, and to which they will inevitably return, is, by reason of the great emigration of miners to the northward, but poorly calculated to defend itself against an overwhelming horde of returning savages; and, in the event of their return, we may expect to witness a reenactment of the scenes of murder, robbery, and rapine enacted in 1855 and 1856. In relation to the Indians located upon these reservations, the Government must speedily choose between feeding and fighting them. If it is determined to abandon the reservation system, and thereby force the Indians to war by withholding their promised supplies of food, it is better that it should be done at once."

Now, sir, this superintendent tells you that he wants a sum not exceeding \$111,000 for the service of the present fiscal year, and he tells you, too, what will be the consequences if it be denied—that the Indians will return to their old homes and their old haunts, there to engage in a predatory warfare on the settlers. He believes that unless this amount is appropriated, we shall be driven into another Indian war; and this is the reason that induced the Committee of Ways and Means to recommend that discretion should be given to use not exceeding \$111,000 of this appropriation for the service of the present fiscal year.

Mr. HOUSTON. I do not altogether acknowledge the force and propriety of the gentleman's explanation. He seems to lay some stress upon the fact that at the last session of Congress an amount was estimated by the superintendent, which was largely reduced by Congress, and that he now comes back, and in the face of Congress says, notwithstanding the warning given to him in the last appropriation bill, that he wants \$111,000 to make up a deficiency—to cover an expense which Congress said he should not incur, but which nevertheless he did incur.

Mr. PHELPS, of Missouri. He says that if he shall not obtain authority to use this money, then he will have to turn these Indians loose, lose all that has been done already, and let them return to their homes, to engage in war upon the white settlers.

Mr. HOUSTON. I do not think that that explanation is conclusive. Here is an amount of money that is sought to be had by a superintendent of Indian affairs; he asks for a certain amount of money, which he says is necessary. I do not know how this item was reduced at the last session, or on whose motion. I presume it was reduced by the Committee of Ways and Means themselves. With the exception of last session, when I voted against a deficiency bill, I have generally, when I could get my conscience up to the point, voted to give the money asked by the Government as necessary for it to carry on its functions. But, Mr. Chairman, a different state of things is fast coming about. If we continue to grant money; if we continue to let estimates pass without scrutiny or examination; if we continue to relax, or allow to remain relaxed, these stringent laws and regulations that ought to control the disbursement of the public moneys, I discover, very clearly, that we are bound to put our hands in the pockets of the people again, to get more money to replenish the Treasury. Such being the case, the expenditures of the Government satisfying me that I must either strike at something they propose or must put my hands in the pockets of the people and take more from them. I must look at the amount asked, and see whether we cannot reduce that.

It occurs to me, sir, that where we have a superintendent in charge of Indians who is competent and faithful in the discharge of his duties, he has but to make the amount which Congress gives him the rule of his action. If the sum is not enough for the purpose, he ought to deal it out in that sort of way as to make it last through the year; or else he ought to say to the Government: "I cannot do it with this sum, and I give it up." I have no idea, Mr. Chairman, of allowing your superintendents, or heads of bureaus, or heads of Departments, or the Executive of the United States, to go on in the face of, and in opposition to, the will of Congress, as expressed in the appropriations made, and to spend more money on any object than Congress has said ought to be spent upon it.

Mr. LANE. Will my friend from Alabama allow me to explain this thing to him?

Mr. HOUSTON. Yes, sir.

Mr. LANE. I will say to my friend from Alabama that if I had a vote to give I would join him in bringing the Government back to the strictest principles of economy. But while I would do that, while I would like to see the expenditures of the Government curtailed, I would ask my friend not to commence at Oregon. It is very far off. It is a remote portion of our country, and it is a Territory that has had very little favor from Congress. It has cost the Government certainly much less than any other Territory that has been so long in a territorial condition.

Now, as to this \$111,000, I want to explain. I understand the matter well; and I say that the money ought to have been granted at the last session of Congress. If it had, there would not have been any necessity to ask for it now. Not only was the attention of Congress called to the necessity of making that appropriation by the superintendent of Indian affairs, but it was estimated for by the Secretary of the Interior. The Committee of Ways and Means, however, said to me and to my worthy colleague from the adjoining district, [Mr. SREVEES, of Washington,] that these estimates were too large; that the Government was borrowing money; that it would be a difficult thing to get so large an appropriation from Congress; and that, therefore, they would cut it down; and they did cut it down, just one half.

Mr. PHELPS, of Missouri. The estimate was stricken out by the Commissioner of Indian Affairs.

Mr. LANE. Very well, Mr. Chairman, even if it was stricken out by the Commissioner of Indian Affairs, I recollect very well that, in conversation with the late chairman of the Committee of Ways and Means, (Mr. J. Glancy Jones,) he expressed himself fully satisfied of the necessity of making that appropriation; and said to me, while the bill was being acted on, "do not urge it now; you will get it at the next session."

Now, I desire my friends from Alabama and from Illinois and the chairman of the Committee of Ways and Means, to bear in mind that in 1855-56, there was a bloody war in Oregon and Washington Territories. The superintendent, in 1855, commenced this policy. He undertook to treat with the tribes as he could. He finally did treat with all of them in two years, and brought them on reservations. He took them from their country, from the grounds where they had game and fish, where they could live as they always had lived, and placed them on reservations, there to be subsisted by this Government, that peace might be maintained in that far-off country. Under that system, an appropriation to feed the Indians until they could be made self-sustaining in their reservations, became absolutely necessary; and I will say to my friend from Alabama, that the superintendent for Oregon and Washington is an efficient officer. There is no man who understands his duty better. He is honest and faithful in the discharge of his official duties, and has called the attention of Congress, in the most handsome manner, in his report, to the necessity of this appropriation.

Now, bear in mind, Mr. Chairman, that all the Indians, west of the Cascade mountains in Oregon Territory, have been collected and placed on two reservations—the Selectz reservation and the Grand Round reservation. On these reservations there are five or six thousand Indians who must be subsisted, or else war is inevitable, and will

follow in three days after their subsistence is stopped. In regard to it, this superintendent says:

"In respect to the Indians located on these reservations, the Government must speedily choose between feeding and fighting them."

Now, it is for this Congress to decide which must be done. The Indians must be fed, or we will have to fight them, and it is much cheaper to feed them than to fight them. The moment they leave their reservations they will strike at the settlements. Men, women, and children, will fall under their blows; and the property, the hard earnings of the people who went into that country—many of them from the State represented in part by the gentleman from Illinois, [Mr. LOVEJOY,] will be sacrificed by these Indian savages. I ask him how he can ask to have stricken out of the bill that portion of it which provides for taking care of the Indians, when, if they were turned loose, it would be at the expense of the lives of the men, women, and children of the settlements? I do not want to discuss this matter further; but I ask it as a favor from the gentleman from Alabama, that he will take some other occasion to introduce his system of economy, and, if possible, to bring this Government back to the strictest observance of the principles of the closest economy.

I would like to see it done. I would reduce the expenditures of this Government very much if I had my way, but I would not begin there; I would not begin in Oregon, and I hope my friend will not insist on commencing in Oregon Territory, which has never had, altogether, many millions from the General Government, and which never expects to have much more than enough to feed her Indians. Give her that, and pay her people that you owe them, and she will endeavor to take care of herself.

Mr. HOUSTON. My friend from Oregon is mistaken in the purpose I had in view. I am not beginning in Oregon; I am beginning at no particular point; but I am illustrating the improper conduct of our officers by a case which has occurred in Oregon; that is the view I have taken. I have not moved to strike out any portion of this bill; I do not know that I shall; but it does seem to me that we ought to commence somewhere. My friend from Oregon says we ought not to commence there; the Delegate from the Territory of New Mexico says that is not the place; the Delegate from the Territory of Washington says you must not touch the appropriations for that Territory; and in Nebraska and Kansas it is the same way. Sir, you will never find a place to commence if you wait for the Delegate or member representing the locality particularly interested to give his consent for the retrenchment to commence there.

Mr. LOVEJOY. Will the gentleman from Alabama give way for a motion that the committee rise?

Mr. HOUSTON. I will not occupy ten minutes. I have no set speech to make. I want to say two or three things in this connection, and I propose to do it right here.

Now, Mr. Chairman, it seems to me it is high time that we should know where the power of this Government over the public money lies; whether that power resides in Congress or in your disbursing officers. Have Congress the right to say how much money shall be appropriated to be expended under the various heads of Government? or shall the disbursing officers be allowed to say how much they will have out of Congress? Here is an officer who comes at one session of Congress and asks for a particular amount of money. Congress cuts down the amount; but at the next session you find that officer coming back and saying to Congress, "I want every dollar of the amount which you cut down at the last session." In the language of my friend from Oregon, "it ought to have been passed before."

Has it come to this, that we cannot control our own expenditures, and our own appropriations? Here is a case, according to the explanation which has been given, where an officer estimates \$220,000 for a particular object. Congress, in its wisdom, as I understand it, with the assent of the Commissioner of Indian Affairs, and with the assent of the Committee of Ways and Means, cuts down the amount to \$110,000. Very well; that ought to have put the officer on his guard.

He ought to have understood the amount to which he was to be limited, and to have commenced to economize so as to make the money cover the Territory and the time Congress intended it should cover. With this limitation, what does he do? He goes on, forgetting or heedless of what Congress has done, and expends or incurs liabilities for the \$110,000 cut down by Congress, and at the very next session of Congress comes here and says, "I want that \$110,000, and must have it. I told you at the last session of Congress I should want it. I have incurred liabilities covering it, and I must have it!"

I am tired of this system of legislation. I have legislated here from year to year in duress, if the term may be used in application to such a case as this. I have legislated in this way until I have become sick and tired of it. I want our officers who disburse our appropriations to know that we have control of the money. I want them to know, when we appropriate a sum of money for a particular object, that that is all they are to have. I grant that circumstances may arise of a different character from those anticipated at the time the appropriation was made. New features may present themselves, making it absolutely necessary that deficiency bills should be brought before Congress. I am not warring upon deficiency bills. I am endeavoring to call the attention of the House to the fact that large sums of money are being appropriated here precisely as they were done at the last session of Congress, to be expended without restraint of law, at the discretion of the Secretary of the Interior, superintendents, and agents. I say we are appropriating and placing at the discretion of these officers hundreds of thousands of dollars—men who, when they have before them the determination of Congress, will heedlessly use money; will recklessly go on in their own way, regardless of the obligations placed upon them by Congress in its action upon a particular subject. For one, I am tired of it; for one, I will vote no more such appropriations. I will vote no more under that system of pressure by which we are called upon to vote money and pay indebtedness incurred in violation of law.

Mr. BRANCH. These appropriations are all, I have no doubt, very correct. I have not risen for the purpose of opposing them. They come recommended by the Executive Departments and sanctioned by the Committee of Ways and Means, and I am prepared to vote for them when they appear here in a shape which, in other respects, can command my approval.

I understand this to be a bill the nature of which is set forth in its title. It is a bill "making appropriations for the current, and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes." I would like to ask the chairman of the Committee of Ways and Means if there is in this bill any item which is not to carry out a treaty stipulation?

Mr. PHELPS, of Missouri. In response to the inquiry made by the gentleman from North Carolina, I have to say that there are many such items. The pay of superintendents and other officers of the Indian service is not embraced under any treaty stipulation. These salaries are provided for near the commencement of the bill. It has always been the case, in Indian appropriation bills, to embrace items which are not covered by treaty stipulations, such as the pay of Indian agents, the pay of superintendents of Indian affairs, and the pay of interpreters; but with that exception, and the appropriation for maintaining the Indian reserves, all the appropriations are to enable us to comply with treaty stipulations.

Mr. BRANCH. The bill itself, on its face, purports to be for the purpose of paying the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860. I understand the chairman of the Committee of Ways and Means to admit that there are appropriations contained in this bill that are not intended to carry out treaty stipulations. Now, I want to ask the chairman how he gets over the second clause of the 78th rule of this House? Here it is:

"In preparing bills of appropriations for other objects, the Committee of Ways and Means shall not include appropriations for carrying into effect treaties made by the United States; and where an appropriation bill shall be referred to them for their consideration which contains ap-

propriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent appropriations for carrying a treaty into effect being included in the same bill with appropriations for other objects."

There is a rule of the House which has been upon our Manual since the year 1819. It is express. It is explicit that no item shall be embraced in an appropriation bill for carrying out a treaty, that is not intended to execute a treaty. It is not sufficient for the Committee of Ways and Means to tell me that it has always been the practice to do it. There is a rule of the House which forbids it. If I rise here to move as an amendment to that bill, an appropriation that is not for the purpose of carrying into effect a treaty, you, sir, would rule it out of order; and you would properly rule it out of order. For the purpose of testing this matter, I intend to make a point of order upon the amendment proposed by the gentleman from Washington. In order that we may show the extent to which we have departed from the rules of the House, and in order to show the extent to which a committee of the House has been allowed even to disregard the rules of order, I intend to make the point of order; and I wish to say to the gentleman from Washington, that I do not do it out of hostility to his amendment, but for the purpose of showing that the Committee of Ways and Means have reported a bill which contains appropriations in the very teeth of our rules, which, should a member of the House move them as amendments, would be ruled out of order.

Now, I shall vote for the motion of the gentleman from Illinois, not because I desire to defeat these appropriations—for I have no doubt they are correct; but because so long as that rule stands upon our books, we prohibit an individual member of the House from moving such amendments to an appropriation bill. I shall vote against every bill which contains appropriations in violation of the rule. I repeat, that the appropriations are doubtless all correct; and, if brought here in a separate bill, and in a shape that does not violate the rules of order, I will vote for them. But until that rule is repealed, or is so altered that individual members of the House may move amendments that they deem fit and proper to such bills, as well as the Committee of Ways and Means, I shall vote against every bill, as it comes up, which violates it.

I know very well that the practice has been to permit the Committee of Ways and Means to disregard this rule. I know that the Committee of Ways and Means has, session after session, been in the habit of disregarding it. I cast no reproach upon them for bringing in the bill in this shape, for it is doubtless the shape in which it has been brought in session after session. But I cannot, according to my notions of propriety and justice, sanction the practice of allowing the Committee of Ways and Means to legislate in appropriation bills, unless members of the House shall also have the opportunity of proposing amendments in the way of legislation.

And that is not all, Mr. Chairman. As I am at present advised, I intend to vote against every bill that comes from the Senate with amendments which violate this rule. If I cannot propose amendments to abolish abuses, I shall object to any committee, or any legislative department of the Government being permitted to put in abuses in violation of the rules of the House.

Mr. LOVEJOY obtained the floor.

Mr. PHELPS, of Missouri. I desire to answer the gentleman from North Carolina.

Mr. NICHOLS. I appeal to the gentleman from Illinois to yield me the floor that I may move that the committee rise.

Mr. LOVEJOY. I yield for that purpose.

Mr. NICHOLS. I move that the committee do now rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. BOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill of the House (No. 664) making appropriations to defray the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending 30th June, 1860, and had come to no resolution thereon.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a statement prepared by a Register of the Treasury, exhibiting the receipts and expenditures of the United States for the fiscal year ending June 30, 1858; which was laid on the table, and ordered to be printed.

Also, a message from the President of the United States, transmitting a copy of a letter, of the 8th of April last, from the Minister of the United States in China, and of the decree and regulations accompanying it, for such revision thereof as Congress may deem expedient; which was referred to the Committee on the Judiciary, and the message and accompanying papers ordered to be printed.

Also, a communication from the Secretary of the Navy, transmitting a statement of contracts made under the cognizance of the bureau of docks and yards, for the Navy Department, for the year ending June 30, 1858; which was laid on the table, and ordered to be printed.

Also, the report of the Secretary of the Treasury, covering a statement of payments for discharging miscellaneous claims, not otherwise provided for, during the year ending June 30, 1858; which was laid on the table, and ordered to be printed.

And then, on motion of Mr. DAVIS, of Mississippi, the House (at twenty minutes past four o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, January 5, 1859.

Prayer by Rev. S. D. FINCKEL.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a copy of a letter of the 8th of April last, from the Minister of the United States in China, and of the decree and regulation which accompanied it, for such revision thereof as Congress may deem expedient pursuant to the sixth section of the act approved 11th of August, 1848; which was, on motion of Mr. PUGH, referred to the Committee on the Judiciary; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in obedience to law, a statement of the contracts which have been made under the cognizance of the bureau of yards and docks, during the year 1858; which was ordered to lie on the table; and a motion by Mr. MALLORY to print the report was referred to the Committee on Printing.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs, in answer to a resolution of the Senate of December 23, 1858, calling for a statement showing the amount yet remaining due to claimants and unprovided for, under the third article of the treaty made with the Rogue River Indians, of Oregon Territory, on the 10th day of September, 1853, as ascertained by commissioners appointed for that purpose; which was, on motion of Mr. SEBASTIAN, referred to the Committee on Finance.

He also laid before the Senate a letter of the chief clerk of the Court of Claims, returning, in compliance with a resolution of the Senate, the papers in the case of Frederick Vincent, executor of James Lecaze, surviving partner of Lecaze & Mallet; which were, in pursuance of an order formerly made, referred to the Committee on Revolutionary Claims.

CREDENTIALS.

Mr. CLAY presented the credentials of the Hon. JAMES CHESNUT, jr., elected a Senator of the United States by the Legislature of South Carolina, to fill the vacancy occasioned by the death of the Hon. Josiah J. Evans; which were read; and the oath prescribed by law having been administered to Mr. CHESNUT, he took his seat in the Senate.

PETITIONS AND MEMORIALS.

Mr. PEARCE presented a petition of residents of Georgetown, District of Columbia, praying

that the Metropolitan Railroad Company may be authorized to construct their road from Georgetown into and through the city of Washington; which was referred to the Committee on the District of Columbia.

He also presented five petitions of citizens of Washington, praying that the Metropolitan Railroad Company may be authorized to construct their road along Pennsylvania avenue to the Baltimore railroad depot; which were referred to the Committee on the District of Columbia.

Mr. DOOLITTLE presented a letter, addressed to him by A. G. Miller, United States district judge for Wisconsin, showing the necessity of a law to authorize the district courts of the United States to appoint commissioners; which was referred to the Committee on the Judiciary.

He also presented the petition of William Henry Brisbane, of Wisconsin, formerly a citizen of South Carolina, praying the enactment of a law by which negroes born in the United States, and not convicted of crime, may become citizens; which was referred to the Committee on the Judiciary.

Mr. MASON presented the petition of William Gaston Pearson, asking indemnity for injuries to a certain mill and water rights, done in the execution of an act of Congress for supplying the public buildings with water; which was referred to the Committee on Public Buildings and Grounds.

He also presented the petition of Dorothy Hyre, widow of Michael Plyman; the petition of Isaac Cutright; the petition of Elizabeth Knight, widow of John Knight; the petition of Jacob Riffel; the petition of Henry Schoonover; the petition of Samuel Warner; the petition of George Butcher; the petition of Mary Bickel, widow of George Bickel; the petition of Phebe Noose, widow of Jacob Noose; the petition of Elizabeth Myers, widow of Andrew Myers; the petition of Elizabeth Tennant, widow of Peter Tennant; and the petition of Isaac White, severally praying to be allowed a pension; which were referred to the Committee on Pensions.

Mr. BROWN presented a memorial of citizens of Washington, residing in the southern portion of the Fifth ward, praying for certain improvements on New Jersey avenue; which was referred to the Committee on the District of Columbia.

He also presented a resolution of the Corporation of Georgetown, District of Columbia, in favor of the construction of a permanent bridge over the Potomac river upon the piers of the aqueduct of the Alexandria canal; which was referred to the Committee on the District of Columbia.

Mr. IVERSON presented a resolution of the Legislature of Georgia, in favor of the establishment of a mail route from Ellijaz, by way of Jasper, in Pickens county, and Ball Ground, in Cherokee county, to Canton; also, in favor of the establishment of a mail route from Eden, Effingham county, to Harrellville, Bullock county, in that State; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented a resolution of the Legislature of Georgia, in favor of the establishment of a tri-weekly mail line from Canton, in Cherokee county, via Fort Buffington, Orange, Ophir, Hightower, and Barrettsville, to Dawsonville, in Dawson county, in that State; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of Georgia, in favor of the appointment of a commission for the purpose of obtaining information of the southern pine timber region of the United States; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also presented a resolution of the Legislature of Georgia, in favor of the establishment of a national armory within that State; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also presented a resolution of the Legislature of Georgia, in favor of the enactment of a law to refund the various sums advanced by that State in the prosecution of the Indian wars and the last war with Great Britain; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. POLK presented the petition of Napoleon Koseialowski, captain of a company of Missouri

volunteers in the war with Mexico, praying that his company may be allowed three months' extra pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. SEBASTIAN presented three petitions of citizens of the Fayetteville land district in Arkansas, praying that the land office at Fayetteville may be removed to Huntsville; which were referred to the Committee on Public Lands.

Mr. MALLORY presented the petition of Frederick E. Sickles, praying that his application for an extension of his patent may be referred to the Commissioner of Patents; which was referred to the Committee on Patents and the Patent Office.

He also presented resolutions of the Chamber of Commerce of Appalachicola, Florida, praying the improvement of the harbor at that place, and the erection of buildings for the use of the custom-house, court-house, post office, and marine hospital; which were referred to the Committee on Commerce.

Mr. BRODERICK presented the petition of William Richmond, a soldier in the war with Mexico, praying a pension; which was referred to the Committee on Pensions.

Mr. JOHNSON, of Arkansas, presented the petition of citizens of Arkansas, praying for the establishment of a mail route from Champagnolle to Atlanta, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Arkansas, praying the establishment of a mail route from Mount Ida to Hot Springs, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. TRUMBULL presented the memorial of Benjamin Page and Henry E. Page, heirs of Captain Benjamin Page, deceased, praying indemnity for French spoliation prior to 1800; which was ordered to lie on the table, a bill having been reported on the subject.

Mr. BRIGHT presented a memorial of the president and directors of the Leavenworth and Fort Gibson Railroad Company, and the Pacific and Pueblo City Railroad Company, praying permission to run the line of their roads over Indian lands, on certain conditions; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. GREEN, from the Committee on the Judiciary, to whom was referred a resolution of the Senate, instructing that committee to inquire into the expediency of a law authorizing the marshal of the western district of Arkansas to employ assistants and guards in serving process on the Indians, asked to be discharged from its further consideration; which was agreed to.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of Fannie White, widow of C. B. White, a military storekeeper, praying for a pension, asked to be discharged from its further consideration; and that it be referred to the Committee on Pensions; which was agreed to.

POST ROUTES IN ARKANSAS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing post routes between the following points: From Geesville, Pope county, in Arkansas, to Jasper, Newton county, in said State; from Ultima Thule, Sevier county, Arkansas, to Boston, Bowie county, Texas; from Reveille to Caulhoun's Prairie, by way of Sugar Creek, all in Arkansas; from Russellville, by Dover, Rockhill, Geesville, Borland, and Carrollton, in Arkansas, to Forsyth, in Missouri; from Fremont, Ouachita county, Arkansas, by way of Lisbon, Atlanta, and Pinson, to Varner's; from Huntsville, in Madison county, Arkansas, to Springfield, in Missouri.

AFRICAN SLAVE TRADE.

Mr. SEWARD. I submitted the other day a resolution to instruct the Committee on the Judiciary to inquire if any amendments were necessary to the laws prohibiting the African slave-trade, to which objection was made by a member of the Senate. On consulting him, I am authorized to believe that the resolution, in the form in which I now propose to amend it, will meet with no objection; and I therefore move to take it up.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Committee on the Judiciary inquire

whether any provisions of law are necessary, by way of amendment to existing laws which prohibit the African slave-trade, to secure the effectual suppression thereof.

Mr. SEWARD. I propose to amend the resolution so as to read:

Resolved, That the Committee on the Judiciary inquire whether any amendment to existing laws ought to be made, for the suppression of the African slave-trade.

The amendment was agreed to; and the resolution, as amended, was adopted.

BILLS INTRODUCED.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 64) explanatory of "An act to amend an act entitled, 'An act supplemental to an act providing for the prosecution of existing war between the United States and Mexico, and for other purposes,' approved July 19, 1848;" which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 488) for the relief of the citizens and owners of property in Omaha City, Nebraska Territory; which was read twice by its title; and referred to the Committee on Public Lands.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot, on which the United States custom-house, in Rutland, Vermont, stands, in exchange for other land adjoining said lot; which was read twice by its title, and referred to the Committee on the Judiciary.

ELECTION EXPENSES.

Mr. WILSON submitted the following resolution for consideration:

Resolved, That a committee of five be appointed to inquire whether any civil officer, clerk, or other person, in the employ of the Government in any department of service, has been, since the 4th of March, 1857, required to contribute a portion of his salary, pay, or compensation, in any manner, to defray the expenses of, or to be in any way so used in any election during that period, or whether any such officer, clerk, or other person has, during that period, been removed from office because of any refusal or omission to comply with any such requirement; and that said committee report the facts elicited by said inquiry, and also what legislation is necessary to prevent the employment, directly or indirectly, of money to carry or influence elections; and that said committee be authorized to send for persons and papers, and examine witnesses under oath.

ROCK ISLAND RESERVATION.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 487) to provide for the sale of the military reservation of Fort Armstrong, known as the island of Rock Island, in the State of Illinois; which was read twice by its title.

Mr. TRUMBULL. I move that the bill be referred to the Committee on Public Lands.

Mr. DAVIS. I object to that reference. It is a military reservation which has been taken out of the body of public lands, and over which, therefore, the Committee on Public Lands has no jurisdiction. I move that it be referred to the Committee on Military Affairs.

Mr. TRUMBULL. I apprehend that the most appropriate reference for the bill is to the Committee on Public Lands. The tract of land in question has, I understand, been turned over to the land department. I have no feeling as to what course it may take; my design is to have the land disposed of, not to benefit any particular individual at all. The only object, I believe, that the parties who urge the passage of such a bill have in view is, that it may not be maintained there as public property. I believe that the War Department has given notice that it no longer desires to reserve the property. However, I do not wish to go into the matter now. I brought in the bill with a view to reference; that the facts may be inquired into. I thought the Committee on Public Lands most appropriate, as I understood the facts, and I still think so; but I will not persist if there is any particular reason why it should go to another committee.

Mr. DAVIS. I do not suppose the Senator has any feeling on the subject. It is hardly a proper subject for feeling. It is a matter of disposing of public property. I have no information that this military reservation ever has been surrendered, nor do I conceive how, under the existing law, it could be surrendered to the Land Office.

You have passed a law which gave the Secretary of War authority to sell it, not to turn it over to the body of the public lands. If you did so, you would turn it over to the laws of preemption. Land which has become valuable by standing as it does between two towns, if surrendered must be to some one who, by going on it and setting up a claim of preemption, would get it for \$1 25 an acre.

Mr. STUART. I hope this subject will be referred to the committee on Military Affairs. The suggestions which have been thrown out by the chairman of that committee are simply the history briefly of Rock Island. It would, if it were subject to the public land laws, be open to preemption. Various individuals have undertaken to obtain preemptions there. Many have been the applications which have been made, some through the Senate, and some otherwise, to the Committee on Public Lands of the Senate with regard to it. I have had my attention incidentally directed to it. Whatever may have been done with that island heretofore, has been done under the direction of the War Department, whether by license to occupy or otherwise. All the legislation which has been had with regard to it, has been in connection with that Department, and there is every propriety in sending the proposition to that committee. I hope, therefore, that the Senator from Illinois will withdraw his motion to refer the bill to the Committee on Public Lands, and will allow it to go to the Committee on Military Affairs.

Mr. TRUMBULL. I am quite willing that it shall go to the Committee on Military Affairs. I made the motion for its reference to the other committee merely because I supposed it most appropriate, and as I understood the facts, I conceived it to be so. But as Senators seem disposed to think the Military Committee the proper one, I withdraw the motion which I before made, and am quite willing that the bill should go to the Committee on Military Affairs.

The bill was referred to the Committee on Military Affairs and the Militia.

ADMISSIONS ON THE FLOOR.

Mr. IVERSON. I offer the following resolution, and ask for its consideration at the present time:

Resolved, That the order of the Senate of the 23d ultimo in relation to the admission of persons on the floor of the Senate be so amended as to admit heads of Departments, the President's Private Secretary, Governors of the States for the time being, foreign ministers, ex-Senators, and judges of the Supreme Court.

There being no objection; the Senate proceeded to consider the resolution.

Mr. CHANDLER. I move that the Mayors of Washington and Georgetown be added to that list.

Mr. IVERSON. The original resolution which was passed by the Senate on the last day of our session in the old Hall, was restricted to members of the House of Representatives. It was passed in a hurry and without much reflection, and was merely intended to operate temporarily. I took it for granted that the privilege was to be extended, for I thought it was too restricted under the terms of that resolution. The resolution which I have now presented by way of amendment to the order made on the 23d ultimo, conforms to the order made by the House of Representatives when they entered into their new Hall, with the exception of the admission of foreign ministers. They do not admit foreign ministers because they have a gallery which has been appropriated especially for the use of the diplomatic corps. We have no such gallery, and therefore it seems to me appropriate that foreign ministers who are the representatives of sovereign States, should be entitled to come on the floor of the Senate. This courtesy, it appears to me, ought to be extended to them as the representatives of foreign Governments.

My resolution further includes judges of the Supreme Court and Governors of the States for the time being. The amendment of the Senator from Michigan proposes to extend this courtesy to the Mayor of the city of Washington and the Mayor of the city of Georgetown. Now, I do not see the relation which the mayors of these two cities have with the Senate that warrants such a discrimination. They have nothing to do with the Senate, so far as I understand, on account of their official station. They may have com-

munications to make to the two Houses through the committees, but I do not understand that it is necessary for them to come on the floor of the Senate for the purpose of transacting any of their official business. If they have anything to present to the Senate, any official communication to make, they must do it through other channels and not here in person. They can do it by communication with the Committee on the District of Columbia. I do not, therefore, see why the Mayor of the city of Washington, as an individual, should be any more allowed to come on the floor of the Senate, as a personal privilege, than the Mayor of the city of Baltimore, or the Mayor of the city of New York, or any other mayor of any other city of the United States. The fact that he is the Mayor of the city of Washington, does not present any reason why he should be singled out among all the mayors of the various cities of the United States and be allowed this personal privilege.

So far as the present Mayor is concerned, he is my personal friend, and a man that I esteem very highly, and I should be very happy to extend any privilege to him which I could consistently with my conscience and judgment; but I must act on general principles, and not with reference to the particular individual who holds the office at this time. I do not think the mayors of these cities have any right to come upon the floor. I do not think we ought to have them here, and I therefore object to the amendment.

Mr. TOOMBS. I hope my colleague will withdraw his objection to the admission of these two gentlemen. I think there is a vast difference between the Mayors of Washington and Georgetown, and the Mayor of Baltimore; because they are the highest civil authorities here. They represent a people who are governed directly by Congress. I think, therefore, they are fairly exceptional. I am inclined to think his resolution is a good one; I am rather for restricting this privilege; but they are the highest civil functionaries here; they are the proper channels through which we can communicate with the people of the District, of whose legislation we have the exclusive care. Therefore I think that the mayors of these two cities are entirely exceptional from Baltimore, and any other city in the Union, and ought fairly to come in. I hope my colleague will withdraw the objection, and with this amendment I think the regulation which he proposes is a good one.

Mr. BROWN. I quite concur with the Senator from Georgia who last spoke, in favor of allowing the Mayors of Georgetown and Washington to come on the floor of the Senate, if this privilege is to be extended to anybody. Congress has the exclusive legislative power for this district. The mayors of these two cities occupy a very important official relation to the Federal Government. They may be assimilated to the Governors of the States, so far as a State Legislature is concerned. Who is it that speaks for a State? The Governor. Who speaks for Washington? The Mayor. Would a State Legislature ever dream of excluding the Governor of the State from the floor of either House of its Legislature. The Mayor of Washington occupies the same relation to this Congress, so far as he is concerned, that the Governor of a State occupies to the Legislature of a State. He is the chief executive functionary, and to exclude him would seem to me to be altogether wrong. I do not know that there is any marked propriety in permitting anybody to come upon the floor except the heads of the Departments, the Private Secretary of the President of the United States, and the members of the other House of Congress; but if we are going to extend the privilege to Governors of States and other officers not in any way connected directly with the Congress, then it strikes me you could not, without marked impropriety, exclude the Mayor of the city of Washington, and if you take him you must necessarily take the Mayor of Georgetown. They are but two persons; but they occupy, as I said in the outset, a very important relation to this body. Here is the only Legislature in the world to which they can appeal, speaking as the chief executive functionaries of these two cities. I think there is a propriety in allowing them the privilege of the floor.

Mr. CLAY. It occurs to me, sir, that the reason assigned for admitting the mayors of these two cities is rather a reason why they should not

be admitted upon the floor of the Senate. I think it is proper for them to make any communication they desire to present to us in writing. They surely do not wish to assist us to legislate for the District of Columbia; and if they have business, I do not think this is the proper place to transact it. They will rather impede than assist the progress of public business. I approved very much of the resolution as it was originally adopted, with some amendments that are perhaps requisite. The officers of the Senate—and, I think, the clerks of the several committees of the Senate—ought to be admitted upon the floor. As I understand the resolution at this time, I think it does not embrace them.

Mr. IVERSON. The original resolution embraced all the officers of the Senate; and I think they are officers of the Senate.

Mr. CLAY. I think this resolution had better go to the appropriate committee—the Committee on the Library—and let them regulate the matter, as they can better do than the Senate, from their experience and from conversing with officers of the Senate, and ascertaining who it is that must necessarily come upon the floor. I hope it will take that reference. After the amendment is voted upon, I shall move to refer the resolution to the Committee on the Library.

Mr. CHANDLER. The Senator from Alabama remarked that if the Mayors of Washington and Georgetown had business with us they might as well communicate it in writing. Why, sir, this is a mere act of courtesy in any event, and if the Senator's objection be a good one, it would apply with as much force to the members of the Cabinet. Cannot they communicate with us in writing? It is simply proposed, as an act of courtesy, to extend to distinguished individuals occupying official positions the right of admission on the floor. The Mayors of Washington and Georgetown occupy the same relative position to these two cities that the Governors of the States do to the States. Being an act of courtesy it seems to me it could not be more properly extended to any persons than to the Mayors of the cities of Washington and Georgetown. I trust that the amendment will be adopted, and the resolution acted upon at once.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The Chair will state to the Senate that unless otherwise directed the business now in order is the bill to construct a Pacific railroad; the hour of one o'clock having arrived.

Mr. GWIN. I hope it will be taken up.

Mr. MASON. I submit to the mover of the resolution now before the Senate, and to the Senator from California, to allow it to go to the Committee on the Library as the best disposition that can be made of it.

Mr. IVERSON. I have no objection.

Mr. MASON. Let there be general consent. I move its reference to the Committee on the Library.

Mr. KENNEDY. Before that is done, I should like to suggest to the Senate the propriety of extending the proposed courtesy further to ex-Secretaries of the Departments.

Mr. MASON. Let that be considered by the committee.

The resolution and amendments were referred to the Committee on the Library.

THE VICE PRESIDENT'S ADDRESS.

Mr. FOOT. I beg leave to offer a resolution, to which I am sure there will be no objection:

Resolved, That the address of the Vice President, on the occasion of the Senate withdrawing from the old, to take possession of the new, Senate Chamber, be spread in extenso upon the Journal of the Senate.

I understand that this is in accordance with the uniform practice of the Senate. Whenever its Presiding Officer has been called upon on any occasion to address the Senate, as for instance, upon his induction into office, his response to the customary resolution of thanks, his remarks have always been spread at length on the Journal.

The resolution was considered by unanimous consent, and agreed to.

PRINTING OF ADDRESSES.

Mr. JONES submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That fifty thousand copies of the addresses delivered yesterday in the late Senate Chamber, and the

prayers of the Chaplains on the occasion of the retiring of the members of this body therefrom, be printed for the use of the Senate.

GOVERNMENTAL EXPENDITURES.

Mr. STUART. The resolution which was up yesterday, I suppose is strictly the business in order at one o'clock, being the business on which the Senate adjourned; and I wish to say to the Senator from California, that I have prepared an amendment which, I understand, will be satisfactory to the mover of the resolution and to the Committee on Finance. Let that be taken up, so as to enable us to dispose of the question now.

Mr. GWIN. I wish to say that there is a Senator who has been prepared for a long time to speak on the railroad question.

Mr. STUART. This will not occupy five minutes, if the Senator will allow it to be disposed of.

Mr. GWIN. If it will not occupy more than that, I shall not interpose any objection.

Mr. STUART. I hope the Senate will proceed to consider that resolution. I send the amendment to the Chair to be read. It is to be added to the resolution in the nature of a proviso.

The Secretary read it, as follows:

Provided, That in case said committee shall not be able fully to comply with this resolution during the present session of Congress, the duties shall be extended to the next and subsequent sessions for the purpose of more mature and complete action.

Mr. STUART. I understand that the Senator from Virginia will withdraw his motion to substitute a select committee, and this is agreeable to the mover of the resolution. We can take up the question and dispose of it.

Mr. SEWARD. I hope that amendment will not be urged. It may be regarded by the committee to whom this subject shall finally go, as a distinct intimation to them that the Senate do not expect them to carry out this examination into the expenses of the Government. It will be so understood by the country. It will be time enough at the end of the session, if the committee say they have been unable to perform that duty, then to give them power to continue.

Mr. GWIN. I must insist on the motion to proceed to the unfinished business. This resolution can come up to-morrow morning, in the morning hour. It is, in fact, morning hour business.

Mr. STUART. I do not agree to the idea that the unfinished business is not the first business in order to-day. That has been the uniform practice; and it was decided at the last session by the Vice President that the unfinished business had priority among the special orders—the business on which the Senate adjourned; and that is a point which is of such importance to our proceedings, that I am not willing to yield it. I am entirely willing that this subject should be disposed of, but I am not willing that it should be understood in the Senate that a special order is to override the unfinished business of the day before, because that would lead us to great confusion in our rules.

Mr. GWIN. The question that comes up is not the special order, but the unfinished business at one o'clock of each day. I do not want to make a point of order on the Senator from Michigan, because that would consume more time, doubtless, than it would take to dispose of this question; but it is evident that Senators want to look at this subject. I am willing to dispose of it at once, but others are not.

Mr. STUART. Does the Senator understand me? I am entirely willing that he should move to postpone this resolution and take up his bill.

Mr. GWIN. I make that motion. I move to postpone the resolution under consideration until to-morrow morning.

The motion was agreed to.

PUBLIC GROUNDS.

Mr. BRIGHT. I wish to state to the Senate that there is a bill pending proposing to enlarge the public grounds surrounding the Capitol. It is a matter of great moment that it should be acted on at an early day, and I shall take the earliest opportunity to-morrow morning, during the business of the morning hour, to call it up with a view of asking the action of the Senate on it.

PACIFIC RAILROAD.

The Senate resumed the consideration of the

bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. BIGLER proceeded to address to the Senate an argument in favor of the construction of a railroad to the Pacific, in the course of which he was interrupted by a messenger from the House of Representatives, who announced the action of that body in relation to the death of one of its members. The whole argument may be found in the next day's proceedings.

DEATH OF GENERAL QUITMAN.

The following message was received from the House of Representatives, by Mr. J. M. BARCLAY, one of its clerks:

Mr. President: I am directed by the House of Representatives to communicate to the Senate the proceedings of the House on the death of Hon. JOHN A. QUITMAN, late a member of the House of Representatives from the State of Mississippi.

Mr. DAVIS. I ask for the reading of the proceedings of the House.

The Secretary read, as follows:

IN THE HOUSE OF REPRESENTATIVES UNITED STATES, January 5, 1859.

Resolved, That this House has learned with feelings of deep regret the death, since the adjournment of the last session of Congress, on the 17th of July last, of the Hon. JOHN A. QUITMAN, a member of the House of Representatives from the State of Mississippi.

Resolved, That in the death of General QUITMAN, the country has lost a citizen eminent for his public and private virtues, a soldier of the highest chivalry of character, a statesman of the purest patriotism, and that his death is deplored by the whole people of the country.

Resolved, That, as a testimony of respect for the memory of the deceased, the members and officers of the House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings in relation to the death of JOHN A. QUITMAN be communicated to the family of the deceased by the Clerk.

Resolved, That, as a further mark of respect for the memory of the deceased, this House do now adjourn.

Ordered, That the Clerk communicate these resolutions to the Senate.

Mr. DAVIS. Mr. President, the message which has just been received sadly recalls to our consideration the loss which not only Congress, but the whole country, has sustained, as justly has been described in the resolutions which have been just read. During the past year, as a member of the House, he was associated with us in the labors of legislation. Years of experience had set upon his brow the crown of wisdom and of public confidence, and therefore his services became, with every revolving year, more valuable to his country; he yet retained enough of physical and intellectual vigor to give promise that his life would be long, and his career of usefulness add much to his country's welfare. A soldier who had so often been spared amid the storms of battle, it was but natural to expect would still continue to be the favorite of fortune. He was not the one we should have supposed in the midst of common danger would have been selected by the hand of death for its victim. Yet the tide of time, returning hoarse, bears as a wreck on its relentless wave, all that was mortal of the hero and statesman, JOHN A. QUITMAN. It is not my purpose to attempt, in the language of eulogy, to describe the character and services of the deceased, but briefly, very briefly, to refer to some of the events of his life which connect themselves with the history of the country, and serve to illustrate some of the blessings of the institutions under which we live.

He was a native of the State of New York, born in the year 1799. Educated carefully by a pious father, taught especially languages to fit him for the holy ministry, his taste as he grew up led him to seek a more active field. He emigrated to Ohio, and was there admitted to the bar. After a brief residence, about two years, he went on to the State of Mississippi, settled at Natchez in 1822, and there commenced his career as a lawyer. The energy, the activity, the love of popular esteem which constantly pressed him on to vigorous exertion, brought fame and wealth in their train; brought more than these, the tribute of the approbation of his fellow-citizens, and the love of his neighbors throughout his long and eventful life.

It was but a short time after his arrival in Mississippi that my acquaintance with him commenced, and I then realized what so many have

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felt at subsequent periods—the power he had to attach to him the young. I was a school-boy; he read Spanish with me, and impressed me by this peculiar trait in his character which endeared him to youth, and which caused so many manly cheeks to be wet with tears when his death was announced in the country where he was best known.

His career in the profession of the law was one of rapid advancement. He was not only among the first in his profession at the bar where he practiced, but he was soon elevated by the popular judgment to the post of chancellor. He mingled with the arduous labors of the law the pursuits and the cares of a planter. He also, prompted by that patriotism which turned him aside from his own avocations to those of general importance, engaged in the public affairs of the State; was a member of the Legislature in both its branches; presiding officer, at one time, of the Senate; and the Governor of our State; thus having, as it were, completed the circle both of political and of legal positions within the limits of the State of which he was a citizen. We thus see a northern youth, thrown off into the extreme portion of the Union from that in which he was born, associated with men not only strangers to him, but without any knowledge of any portion of his family, raising him step by step because of the merit and patriotism which he exhibited to all the distinctions which it was in their power to confer—a beautiful tribute to the fraternity which binds the American people together, and the Constitution, which gives equality of privilege and immunity to the citizen of each State who may choose to reside in any other. His last political office was that of a member of Congress. It was in that position that he became associated with us here. He was always active, always laborious. He addressed himself to the useful labors of the body of which he was a member. He sought not to render himself conspicuous by frequently appearing in debate, nor by delivering studied orations; but he addressed himself to the useful labors of the committee-room and the current business of the House of which he was a member.

I feel that I hazard little for my intercourse with members of the House of which he was a member, in saying that he has left behind him the respect as well of political opponents as friends, the regret of all who knew him well, and marked in his death the loss of a faithful public servant. Earnest, he pursued his duties though his health was impaired and life was steadily waning away; and thus he continued to devote himself to the constant labors of his position until at the close of the last session he left the seat of Government in enfeebled health, returned to his home, and there, like a ship that has ridden out many a storm, and then goes down in the calm of a summer sea, in the bosom of his family he passed from earth to eternity, and left a reputation which all who value integrity, patriotism, and usefulness, will not fail to hold up to the rising generation as an object for their emulation.

His taste led him very early to pay attention to military affairs. He thus soon became connected with the militia of the State of Mississippi after he became a citizen of it. He was the captain of a company which has maintained its reputation down to the present day, and its organization and its name still continue in the town of his former residence. He was a general of the militia, and took such special interest in all that advanced it that he is considered, and I think justly, as the father of the present militia system of our State. When the war with Mexico began, the same tendency to military affairs which he had exhibited on another sphere, led him to offer his services to the Government. He was appointed a general of volunteers, and joined the army of General Taylor, who, with that discriminating judgment which exhibited itself upon so many occasions, selected him from among those who were at his headquarters at Camargo, as one who should accompany him to Monterey. In the siege and storming of that place he was conspicuous,

and exhibited, as on after occasions, the martial spirit and aptitude for military affairs of which his previous career gave promise.

Not the least interesting characteristic of the American people is the capacity which has been, in so many instances, manifested to pass from one pursuit to another, so that a single individual treads all the paths of human distinction. He was lawyer, planter, statesman, and soldier, and prominently successful in each.

After the siege and capitulation of Monterey, and when, by the decision of the Government here the plan of the campaign was changed, instead of advancing directly from that point into Mexico, the port of Vera Cruz was adopted as the base of operations, and the main force sent thither, General QUITMAN was transferred from the command of General Taylor, and passed to that of General Scott. Thus he served in the campaign of the valley of Mexico, gathering distinction as wide as his employment was various. In one expedition he commanded the whole of the land forces. He at last arrived at the city of Mexico, and there established the high military reputation which will descend as a rich inheritance to his family. It was his good fortune to be distinguished in various combats around the city. It was his special fortune to lead the column which first entered the capital, and received the surrender of the citadel of the place.

After peace returned, and brought its blessings to our country, being no soldier by profession, he retired to the pursuits which had previously occupied him, and thus remained until he became a member of Congress, and served with us at the other end of the Capitol.

In youth and in age he bore a love of representative liberty which developed itself in various forms. It was this which led him, when Texans were struggling to achieve their independence, to go with a company and unite his fortunes with theirs in the darkest hour of their revolutionary trials. His career there was not eventful, circumstances having thrown him out of coöperation with that column which fought the main battle and achieved the independence of Texas. It is an instance, however, of his readiness to sacrifice his own ease and interest for a cause which he believed to demand his exertions; and thus, I think, his services have been gratefully remembered by the people of Texas.

In after years, when he believed, and had reason to believe, that a people oppressed by despotism were struggling to be free in Cuba, he connected himself with movements which were designed to aid them in their effort. He has himself explained, far better than I could, his views in relation to such subjects, by the able speech which he made in the House of Representatives on the neutrality laws. To those who may not agree with him in his conclusions, to those who may dissent from him in the opinions which he entertained and upon which, to some extent, he acted, I have only to say, that to us at least, it is a sufficient apology that whatever error existed, arose from an excess of love for representative liberty. We have been reared from our infancy to turn to the names of De Kalb and Kosciusko and Pulaski and La Fayette, and they all were men who left their country to join their fate with our fathers when they bore the name of rebels. I have said it was not my purpose to speak in the language of eulogium, or attempt to give a history of the deceased; and with this brief allusion to that which may be in some minds the subject of criticism, I leave the subject.

In politics, he belonged to what is known as the State-rights strict-construction school. He followed it in the various phases and names which it has borne. Mr. Calhoun was the light and guide of his youth; and when he occupied a seat in the House of Representatives, he endeavored—I leave others to say if he did not successfully endeavor—to follow in the path of that great political luminary. I will not, upon an occasion like this, attempt to defend—of course it is not expected that I should attempt to justify—the creed

which he entertained, and which is also my own; but I allude to it because it is part of the public history of the deceased, and is a logical deduction from the character ascribed to him as one who looked to the strict ends of justice, and believed that all power emanated from, and permanently resided in, the people; who held that government existed alone by the consent of those over whom it was established; and that compacts for the delegation of functions must be rigidly construed to entitle them to popular respect; and that within this limit a people who enter into an obligation are bound to adhere to it to the last jot and tittle. Out of these elements was wrought the political creed which he always avowed, and which, on this occasion, I have ascribed to him.

Duty to his country marked his career, both military and civil. Duty! The word which in the American, as in the English heart, always occupies the first position. We are not a people captivated by splendor, whom the mantle of glory dazzles so as to blind them to the obligations imposed upon States and individuals, and covers failures of duty. Ours, I trust, is long to remain a Government of justice, and a people among whom a general who violated the Constitution under which he held his commission, could not receive an ovation, though he brought with him from a triumphant campaign the representatives of twenty conquered provinces at his heels. Duty! the great watchword of an American statesman, the regard for which is the first prerequisite of those who hold a position under our form of Government, whether their functions be legislative, judicial, or executive. In this devotion to duty, as I have before suggested, he passed the last days of his life, and fell a victim to it, sadly impressing us with the fact that

“The paths of glory lead but to the grave.”

Faithful to his country, endeared to his friends, honest in all his relations, public and private, respected by his neighbors, language fails me to express the tender and exemplary relation which he bore to his family; he closed a long life of public usefulness, having impressed upon those who knew him best the conviction that every day made him but more and more necessary, not to his family only, but to his country also. At the home, and in the midst of his relatives and friends, his mission was ended, and life's fitful fever passed on the 17th of July, 1858. He died leaving behind him that good name without which “glory is but a tavern song.”

I offer the following resolutions:

Resolved, That the Senate receives, with sincere regret, the announcement of the death of Hon. JOHN A. QUITMAN, late a member of the House of Representatives from the State of Mississippi, and tenders to the relatives of the deceased the assurance of their sympathy with them under the bereavement they have been called to sustain.

Resolved, That the Secretary of the Senate be directed to transmit to the family of General QUITMAN a certified copy of the foregoing resolution.

Resolved, That, in token of respect for the memory of the deceased, the Senate do now adjourn.

Mr. SHIELDS. Before a vote is taken on these resolutions, I wish to make a few remarks as a tribute of respect to the memory of the deceased. I regret that it is not in my power, on this occasion, to do full justice to the character of one of the truest friends and bravest soldiers with whom it has been my lot to be associated in life. It was my good fortune to be closely and intimately connected with General QUITMAN in Mexico. In some of our campaigns in that country we happened to be thrown together in many a scene of more than ordinary suffering and peril. This connection engendered a strong personal attachment between us; which strengthened into a feeling of brotherly affection before the close of the war—a feeling that continued without interruption until the last moment of his existence.

The deceased was endowed by nature with all those solid, sterling qualities, which render a man loved and respected in private life or in public station. He was an affectionate father, a kind neighbor, and an upright citizen. He was simple, courteous, and dignified in his deportment, scrupulous

pulously honorable in his dealings with others, and firm, inflexible, and fearless in the performance of whatever in his conscience he believed to be his duty. In word and deed his bearing and conduct on all occasions, and under all circumstances, were such that no man ever approached him without becoming impressed with the inherent manliness and the exalted heroism of his whole character.

I have listened with interest to the able, eloquent, and truthful remarks of the Senator from Mississippi. He has spoken feelingly and forcibly of the character and services of his deceased colleague. He served with him in Mexico, and fought by his side at Monterey. The eulogy which he has this day pronounced upon his courage and conduct on that occasion, is the testimony of a gallant soldier, who shared with him in the perils and glories of that memorable siege. I can say nothing in this connection but what would be likely to impair the effect of what has been so well stated already; so I will pass to other scenes with which I happened to be more familiar, and in which our deceased friend performed a prominent part.

The siege of Vera Cruz is one of the most remarkable of the kind in our military annals. Like the battle of New Orleans, it presents an instance of a magnificent result achieved with inconsiderable loss. At that siege, although the perils were not extremely imminent, the services required and performed were, in general, of the highest importance. During the investment and bombardment of the city, General QUITMAN performed the duty allotted him with so much zeal and activity that he won for himself a high reputation in the Army for vigilance, sagacity, and indomitable energy. After the fall of Vera Cruz, the American Army took up its line of march for the capital of Mexico. Owing to accidental circumstances, and greatly to his own regret, the deceased was prevented from participating in the first engagement that took place on that line. But notwithstanding this, his soldierly conduct upon all occasions was so conspicuous that he continued from day to day to augment the reputation he had previously achieved at Monterey and Vera Cruz.

But, Mr. President, it was in the last engagements in the valley of Mexico—those brilliant exploits that crowned a succession of glorious victories—that General QUITMAN exhibited that energy and efficiency which established his reputation in the Army as an accomplished soldier and an able and successful commander. On the morning of the 13th of September, 1847, the division then under his command received orders to unite in a general attack upon the castle of Chapultepec. The moment the word was given, the troops dashed across the plain that stretched between the main road and the castle, carried a few batteries which they found in their route, forced their way up the side of the steep hill on which that ancient fortress stands, in the face of a destructive fire, and united on the summit with the division under the gallant Pillow, in a combined attack upon the castle. The attack was as successful as it was bold and impetuous. Chapultepec fell; and the fall of that fortress placed the military key to the City of Mexico in the hands of the Americans. This was our morning's work—a work admirably conceived by the Commander-in-Chief, and splendidly executed by the troops appointed to the service.

Early in the afternoon of the same day the troops of the same division attacked and pursued a large force of the enemy along the aqueduct on one of the main roads to Mexico, drove them headlong through the Gareta Belen, assaulted and carried that Gareta at the point of the bayonet, in the face of a murderous fire of grape and musketry; and having driven the enemy from the batteries that commanded the entrance, threw themselves down upon ground moist with their own blood and the blood of the enemy, and slept upon their arms the following night within the walls of the city they had just captured with such unparalleled intrepidity; and throughout that whole day General QUITMAN was to be constantly seen at the head of his command, in the midst of the fire, animating his troops, directing their movements, and infusing his own daring spirit into his battalions.

Mr. President, in referring to these exciting scenes, there are memories of the past—strange

memories—that crowd upon my mind and threaten to overpower my feelings. How can I ever forget the noble friend who came to the poor, shattered hut in which I lay wounded, at Cerro Gordo, to bid me, as he then supposed, a last farewell; and who, taking my hand in his, said, in accents trembling with emotion: "My dear friend, if we never meet again in this life, I will take good care that full justice shall be done to your reputation!" The man who did this had a soldier's heart. Or how can I forget the night that followed the capture of the City of Mexico, when the same friend came once more to my bedside, where I again lay wounded, and, though exhausted and worn out with the fatigues of the day, watched over my troubled sleep with as much affectionate solicitude as if I had been his own son? Acts of kindness such as these I can never forget until my own heart forgets to beat; and if I thought it necessary, I would make the same pledge to his memory, here in the Senate, which he made to me at Cerro Gordo: that, to the best of my ability, I would try to see full justice done to his reputation. But no such pledge is necessary. No American will ever be found to do injustice to the reputation of General QUITMAN. No, sir; the State in which he sleeps, the country he loved and served so well, history and posterity, will do full justice to the memory of one of America's bravest soldiers and noblest sons.

Mr. WARD. Mr. President, I feel that Texas is called upon to contribute her expression of regret for the loss of a distinguished statesman and patriot of her sister State. To the immediate Representative is intrusted the eulogy in detail of this lamented patriot. I only rise, sir, in the name of Texas to acknowledge the gratitude due to the memory of her lamented friend and soldier. He came to her assistance in the hour of trial, and offered up his fortune and his life in aid of an oppressed people struggling for independence. In the death of General QUITMAN the country has lost a bold and disinterested patriot, whose life was devoted to the best interest of his country.

Mr. HOUSTON. Mr. President, the occasion is unexpected to me. I was not aware, until the announcement was made this morning, that such a proceeding was to take place to-day. I have not been insensible to the occasion of these resolutions. I was aware of the decease of the illustrious dead, and I had offered in heart that condolence which I thought due to the event and to those who feel so deeply wounded and affected by this death. I felt that the country had lost a patriot and a soldier. I felt, too, in reminiscences of the past, that the State of which I am, in part, a representative, was sensible of obligations to the illustrious dead, for evidences of patriotism and sympathy which he had evinced towards that State in her revolutionary struggle for liberty. He had made sacrifices in her behalf of personal conveniences and comforts, and of pecuniary aid.

So soon as a knowledge of the struggle in which Texas was engaged reached the ears of General QUITMAN, he threw aside his family cares and domestic endearments, his business transactions, and everything of interest, and repaired to Texas to participate in her trials. He reached there at an important crisis, but detained by orders of the vigilance committee at Nagadoches, he was unable to engage in the conflict that was decisive of her liberty. He arrived two days after the action that sealed her existence as a nation; and I will recollect his patriotic expressions, on that occasion, his ardent feelings, his indescribable regrets that he had not been there to mingle in the conflict. I well remember the respect with which Texas was inspired for the man. Ere his advent into that country he had been known to the citizens of Texas, and they hailed his arrival with the greatest enthusiasm and pleasure. So deeply were they impressed with the importance of his services as a man and an officer, that the commander-in-chief tendered to him the situation of adjutant general of the State, if he chose to remain; but the attractions that had drawn him there had ceased; the occasion that he had sought to anticipate had passed by; the charms which had brought him to that place existed no longer. It was thought that the great struggle of the revolution was over,

and that no other occasion would present itself requiring his aid and services. Hence he declined that situation, and returned to his own State of Mississippi. His illustrious services since then have been so well described by the Senator from that State, and by the gentleman from Minnesota, who were associated with him in arms, that I should think it an unnecessary consumption of time to attempt any allusion to those services. As a man, General QUITMAN was every inch a man; as a soldier, he was every inch a soldier; as a citizen, he was most amiable in all his relations; as a parent, he was tender, affectionate, and gentle; as a man, in his moral and social relations, he was honest, and above all unworthiness of heart or action.

The resolutions were unanimously adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 5, 1859.

The House met at twelve o'clock, m.
The Journal of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

DEATH OF MR. QUITMAN.

Mr. McRAE. Mr. Speaker, taking my seat in this Hall for the first time, a member of the House of Representatives, I have a melancholy duty to perform. I would it were otherwise; not that this duty should not devolve upon me, but that it should not devolve upon any one; rather that the distinguished dead was here to personate himself as one of the illustrious living.

But, sir, the ways of Providence are inscrutable, and we are all obliged to submit to them; they are imperative, and overrule us, however unwilling the obedience which we yield to them.

It becomes my painful duty to announce to you, Mr. Speaker, and to this House, the death, since the adjournment of the last session of Congress, of one of its honored members—the death of Hon. JOHN A. QUITMAN, of Mississippi.

I am before you sir, the living example that he is no more. Sent here by the constituency which honored him to fill, as well as I humbly may do, the place which they regarded so well filled by himself.

Death, under all circumstances, and in whatever manner it approaches us, is always a melancholy thing; but when it comes heralding with it sad tidings, the fall of a great and good man, it impresses us with the solemnity of the warning, and fills the heart of the country with grief. To die is always a sad thing. It is to leave the beauties and glories of this world, and the enchantments of an existence here, the only one we know of, to be transferred to another, which may be bright and beautiful, or dark and gloomy, but which the vision of mortality has never yet looked upon.

But it is not my purpose to dwell upon this. It has been the custom, in all ages, and among all people, to pay tribute to the distinguished dead; and I propose, in a few words, to perform this service to the memory of General QUITMAN.

General QUITMAN left this city a few days after the adjournment of the last session of Congress, feeble in health, but not apprehending himself, nor was it apprehended by his friends, that he was so soon to meet with an untimely end. He arrived at his home on the 26th of June, and was not able afterwards to leave it; and in one month and three days from the time of his departure from the scenes of his public duties here, on the evening of the 17th of July, at five and a half o'clock, he died at his residence in Mississippi. He was of the opinion himself that his disease was contracted at the National Hotel, in this city, from an infection which prevailed there two years ago, from an unknown cause, where he resided for a time, and was afterwards accustomed to accept the hospitality of his friends. And whether this be true or not, yet he believed that he inhaled the poison there, or contracted the disease which, as a slow consuming fire, preyed upon his vitals until they fell into decay, and his life perished with them.

General QUITMAN was a native of New York,

born at Rhinebeck, in Dutchess county, on the 1st of September, 1799, and was fifty-nine years of age at the time of his death. He was of German descent, his father, Doctor Frederick Henry Quitman, being a native of Prussia, of German origin, and, after his removal to this country, an officiating minister of the Evangelical Lutheran Church, at Rhinebeck. General QUITMAN himself was educated for the ministry; but, pursuing the inclination of his own mind, on his arrival at mature years determined for himself upon the profession of the law. At the age of twenty-one, he left his paternal homestead to seek his fortune for himself, and, emigrating to the West, remained two years in the State of Ohio, where he became a licensed practitioner of the law. Thence he removed to the State of Mississippi to pursue his profession; and, in 1822, settled at the city of Natchez, where, in 1824, he was married to the accomplished Miss Turner, the present Mrs. Quitman, who, with an interesting family, still survives him, and where he continued to reside up to the time of his death.

General QUITMAN's first entrance into public life was in his twenty-eighth year, when, in 1827, he was elected a member of the representative branch of the Mississippi Legislature from the county of Adams. In that body he served as a member of the judiciary committee, and gave such evidence of his justly discriminating mind, and superior legal attainments, that the following year he was appointed by the Governor to the high office of chancellor of the State. This position he afterwards held by unanimous election of the Legislature, and again, without opposition, by the entire popular vote of the State, as from time to time the various modes of filling this important office were changed by the laws and constitution of Mississippi.

It was as a professional man and jurist that General QUITMAN made for himself his first and most enviable character. At the bar, always true to the honor of his profession, he was strictly faithful to his client and to the court; to his associate, as well as opposing counsel, he was kind, courteous, and obliging; towards all the members of the profession, pleasant and agreeable in all his relations; and such was his known sense of right and honor, that his advocacy of a cause gave to it the merit of justice, which usually carried with it success.

On the bench the uprightness and integrity of his character, the clearness of his judgment, and the discernment of his mind, impressed attorneys and litigants in his court with the sentiment that in every cause before him justice would be strictly administered, without prejudice or favor. His name was associated with all that was pure and noble in the legal profession; and it was as a counselor at the bar, and as the honored wearer of the ermine, that he gained for himself a reputation cherished most highly by all who knew him, and equaled only by their admiration of him afterwards for his fame as a soldier and his position as a statesman.

General QUITMAN was a member of the convention in 1833, which formed the present constitution of Mississippi, and was among the most prominent and able debaters of that body in the discussion of all questions involving the delicate adjustment of political rights and powers between the people and their agents, under constitutional governments.

In 1835 he was elected to the State Senate, and, owing to a brief interregnum which occurred in the executive office of Mississippi, under changing administrations, the Senate was convened in special session to elect a President, who should be temporarily the acting Governor. General QUITMAN was chosen to that position; and at the meeting of the Legislature, in January, 1836, made to that body the annual message as Governor of the State. This message was one of the highest merit as an able State paper, as well as of the most finished composition, and its principles fully illustrated the leading traits of General QUITMAN's mind as a politician and statesman. Besides embracing in a concise view the various State interests, it advocated a liberal system of education for the people, avowing the doctrine of the duty of the State to provide the means for the education of her children, and spurning the idea that free constitutional government can be successfully

maintained without the intelligence of freedom to uphold it. On the subject of our Federal relations, the message was imbued with strong sentiments of State-rights, and the limitations of the powers of the Federal Government, strictly within the written charter. This, as was subsequently shown, was a leading sentiment of his life, and gave character to him as a statesman.

General QUITMAN, though not educated for the military service, showed, at a very early period, his strong disposition for that line of life. It is said that at the age of twelve years he drilled into military discipline a company of youths in his native town. In 1824 he organized, and was elected captain of, a company called the Natchez Fencibles, in the city of Natchez, the oldest and most noted volunteer company in Mississippi, and which is, to this day, an honor to the volunteer spirit, and a noble ornament to that service in the State. Besides this, he held, for many years, the highest rank in the regular military service of Mississippi.

In 1836 he led a volunteer force into Texas, to aid the revolutionists in establishing Texan independence. In 1846, when war was declared between the United States and Mexico, he was appointed, by President Polk, one of the six brigadier generals to command the American volunteer forces. He joined General Taylor with his division, while the orders were being given for the attack on Monterey, who immediately assigned him an important position in storming that city, which he was the first American general to enter, under the heavy fire of the enemy.

After the capitulation of Monterey, General QUITMAN was transferred from the command of General Taylor, on the Rio Grande, to that of General Scott, for the capture of Vera Cruz and the march to the city of Mexico. It was in this field that he displayed the high evidences of his military genius, and, by his courage and skill in planning and executing the orders of battle assigned to him, commanded the admiration of the officers and men of the Army, and the enthusiastic applause of the country. From the difficult and dangerous landing of the troops at Vera Cruz, and the storming of that city, his march through the passes and perils and battles to the gates of the City of Mexico, and the planting of the American flag upon the walls of that ancient capital, which he, with his brave command, was the first American general to enter, and of which, by the commanding general, he was made civil and military Governor, was one of brilliant triumphs, crowned with the successes and glories of victory.

The records of the War Office, in reporting the history of that campaign, are filled with the recital of his achievements, and credit him with the bright honors which are due to him by the country. The Congress of the United States voted to him a sword, in token of the gratitude of the nation; and the citizens of his home and country presented him with a similar and brighter gift, as an evidence of their appreciation of his heroic services.

On his return from Mexico, at the close of the war, he was, by the almost unanimous voice of the people of Mississippi, elected Governor of the State, and installed into that office on the 10th of January, 1850. His inaugural address was in accordance with his message in 1836, high-toned and thoroughly State-rights, never complicating the powers of the Federal Government with the reserved rights of the States, but strictly adhering to the true principle of constitutional government, that no powers are to be exercised by the governors except such as are clearly delegated to them by the governed.

In the beginning of the second year of his term of office, he was unexpectedly and unjustly prosecuted by the Government of the United States for an alleged violation of its neutrality laws. A writ was issued against him from the United States district court of Louisiana, directed to the United States marshal of Mississippi, commanding his arrest, and his appearance before the tribunals of the Federal Government in the city of New Orleans. In obedience to this writ, though not recognizing the rightful authority of the Government of the United States to remove him, as Governor of a sovereign State, to be tried in another State for an offense alleged against him simply as a citizen, false as he knew it to be, and not being willing to resist the authority of the Federal Government,

which, both rightfully and with the armed power of Mississippi, he might successfully have done, nor willing to degrade the character of the State, in yielding to the arrest of her Governor by unauthorized Federal authority, he resigned his office, and submitted himself, as a private citizen, to this unjust trial, from which he was discharged by honorable acquittal.

At this proceeding of the Government, such was the indignation of the Democratic sentiment of Mississippi, connected with its bitter opposition to the legislation of Congress in 1850, to which General Quitman was known to be strongly opposed, that he was again nominated in the summer of 1851 for the office of Governor, by the united voice of the Democracy in convention. An election being provided by law, to take place preceding the gubernatorial election, for delegates to a convention of the State, to determine what position the State of Mississippi would occupy in her relations with the Federal Government, on account of the legislation of 1850, and the public sentiment being expressed against the views of General QUITMAN, he withdrew from the canvass for Governor, refusing to be a candidate for office, when the known sentiment of the people differed with his own, though his personal popularity might have secured him the election. In this, and in the preceding case of his resignation of the office of Governor, he showed himself a man of sacrifices for principle, and that honor with him was higher than ambition.

General QUITMAN was Governor of Mississippi at the time of the passage of the compromise measures, in 1850; and holding these measures as unjust to the South, convened the Legislature in special session to test the sense of the State in reference to acquiescence in, or resistance to, them. His message on that occasion was one of the ablest State papers which the country has ever produced, replete with the true doctrines of the rights of the States in their relations with the Federal Government, and a clear and powerful vindication of the rights and honor and institutions of the South. The Legislature sustained him, but the sentiment of the people was expressed against his views, and he retired to private life. He was not again in public station until in 1855 he was called from his retirement by the Democracy of the fifth congressional district of Mississippi to represent them in the Congress of the United States. Of his standing and position here, I need not speak. His course is well known to the country and to the members of this House, and was approved by his constituents at home.

General QUITMAN as a public man was regarded by many as sectional in his views, but he was not. He was a purely national man, equally devoted to the rights of all sections of the country, as guaranteed by the Constitution. It was a leading feature of his life strictly to maintain constitutional government. This sentiment ran through all his ideas and all his political action. He believed that with the Federal Government administered strictly within the limitations of the Constitution, no jarring and no discontent would exist among the several States; that the Constitution construed for interest and expediency in Federal legislation was the cause of all our ills. He was among the very few public men who understood truly the theory and practical working of our Government, and who based the hopes of the Republic on the faithful adherence to its true constitutional principles. As a statesman, he was willing to sacrifice himself to this position. As a soldier, he proved in arms his fidelity to his country and to the national Government. He was a man of progress, and represented truly the American sentiment.

I knew General QUITMAN well, and I may truly say that he was a great and good man, lofty in the purity of his principles and bold in their advocacy; and, what should make him immortal, he was an honest man. As a master, he was kind; as a father, indulgent; as a husband, affectionate, amiable, and just in all his relations of life, and honored and esteemed by all who knew him. He was equal to every position which he was called to fill. In whatever department of the public service he was engaged, or upon whatever field of peril or adventure he embarked, he gave evidence "that his was not the spirit of the common throng, whose sails are never to the tempest given," but

the bold spirit of the heroic few, whose canvas to the breeze is ever set, whether storms or calms ensue.

As a man, such was his noble bearing, and the manly graces of his person, that it might well be said of him "that every god had seemed to have set his seal upon him, to form a more perfect image of his own divinity." As a statesman, such was the purity of his patriotism that if the crown of empire had been offered to him, he would have spurned it for the liberties of his country. As a soldier, such was his daring that no field of danger would ever have witnessed his retreat; but his sword and his epaulet upon his corpse, with his face to the foe, would have marked the place of his fall, if his courage and skill had not have achieved the victory.

If he had a fault, there stood by its side a virtue so prominent as to overshadow it; and, if not entirely to conceal it, to give to it its own coloring to such an extent as to shade it from the common observation. If he committed an error, there stood out the purity of his motives, challenging the admiration of his friends, and commanding the respect of his opponents; and what might have been censured or condemned in others, was overlooked in him; such was regarded the purity of his heart, that even his errors were forgiven.

But I dwell too long upon his character and the incidents of his life.

General QUITMAN died at home, in the bosom of his family, surrounded by friends and the affections of warm hearts, which were buried with him, and which will sleep with him in his grave forever; and, though it was sad, yet it was sweet to see him die—to witness from its frail tenement depart a spirit for earth too noble, gone to dwell with God.

He was borne to his last resting place, attended by a concourse of citizens and friends who loved and admired him when living, and who wept for him in death. He was buried with the honors of that noble order of which he was a bright member, who gave to him the first place amongst them on earth, which he shall hold at the right hand of the Grand Master in Heaven. He was buried also with civil and military honors; and the booming of cannon, the roll of the muffled drum, and the silent tread of citizens and soldiers, gave deep solemnity to the occasion. His saber and his plume are laid by his side; and the one shall never wave, and the other shall never glitter again upon the battle-field. His arms are folded upon his breast, and shall never again be raised in defense of his country's honor, or in vindication of his country's wrongs. His voice is still in death, and shall no more be heard in the council chamber to advise, or on the battle-field to command.

His grave is in the city of Natchez, near his own beloved Monmouth, on the bank of the mighty Mississippi, whose turbid waters shall roll mingling with his fame forever.

The people of his State have provided to erect him a monument, not to perpetuate his memory with them—for that shall live in their hearts forever—but to show their appreciation of his virtues, and to point the pilgrim stranger to the place where his sacred dust reposes, when he shall visit that hallowed spot. And while he there sleeps well, "the hues of fame which canopy his noble name shall ne'er grow dim;" but fading into brighter colors, shall forever brighten on, to mingle with the sunlight of his immortality.

Mr. Speaker, I send to the Clerk's desk resolutions, which I ask may be read and adopted.

The resolutions were read, as follows:

Resolved, That this House has learned with deep regret the death, since the adjournment of the last session of Congress, on the 17th of July last, of Hon. JOHN A. QUITMAN, a member of the House of Representatives from the State of Mississippi.

Resolved, That in the death of General QUITMAN the country has lost a citizen eminent for his public and private virtues, a soldier of the highest chivalry of character, a statesman of the purest patriotism, and that his death is deplored by the whole people of the country.

Resolved, That as a testimony of respect for the memory of the deceased, the members and officers of this House wear the usual badge of mourning for thirty days.

Resolved, That the proceedings in relation to the death of Hon. JOHN A. QUITMAN, be communicated to the family of the deceased by the Clerk.

Resolved, That as a further mark of respect for the memory of the deceased, this House do now adjourn.

Ordered, That the Clerk communicate these resolutions to the Senate.

Mr. BONHAM. Mr. Speaker, it is fit that South Carolina should drop a tear on the grave of General QUITMAN. He was, for years, the trusted friend and correspondent of her own Calhoun; and no one out of her borders was more nearly the exponent of her political principles, or had more the affections of her people. They admired him whilst living, and dead he will never be forgotten.

It was first my fortune to meet him on the eve of his leading his brilliant division into the valley of Mexico. I was struck with his manly form and his proud and determined bearing, as he passed before his troops, along whose lines rang deafening cheers for their gallant leader. He was then in the pride and glory of manhood, and a nobler specimen of genuine manliness I have seldom looked upon. But, sir, when I again met him, at the beginning of the last session of Congress, after the lapse of but nine years, how different his appearance! The powerful form of the gallant chieftain was bent by disease, and the heart of friendship could but be started at the change.

In every part which he was called upon to play on the active theater of life, he never fell below the highest mark of public expectation, and often went beyond. On the bench he was a pure, able, and upright judge. In the councils of the Confederacy he impressed all with his wisdom and sterling integrity. If there was any one trait in his character more prominent than all others, it was his love of the truth—that honesty which makes "man the noblest work of God."

He was wise in the council of war—bold in conception—cool in action—in the charge "dreadful as the storm." His dashing passage along the aqueduct from Chapultepec to the Gáretta of Belén—carrying two fortifications in rapid succession, the latter before the very mouths of the cannon of the citadel—has seldom if ever been surpassed in boldness of conception or brilliancy of execution.

As a commander, he was beloved by his troops; and no man ever possessed, in a more eminent degree, the respect and confidence of those with whom he acted, in peace or in war, how divergent soever their views.

Conscientiously faithful in the performance of every public duty, he displayed, as chairman of the Committee on Military Affairs, during the last session of Congress, a degree of attention and energy which none but a robust frame could sustain, and which doubtless contributed to speed the fleeting sands of life.

His style of oratory was not ornate; it was concise, clear, cogent. He disdained mere ornament, and went direct to his object. Hence he never spoke that he did not command the ear of the House, and that, too, without wearying the attention. It is within the memory of us all that during the last session he was, by unanimous consent, urged to go beyond his hour.

Into the abode of private grief I will not intrude. Let us hope that the "Divinity which shapes our ends" will apply the balm to that wound which, for His own wise purposes, He has inflicted.

Sir, not only for South Carolina at large do I pay this heartfelt tribute. I speak most especially for that portion of her citizens—the remnant of that regiment which he so gallantly and successfully led in the glorious victories on Chapultepec's Heights, and at the Belén Gate. Less than two years since, in this Hall, he took part in paying the last honors to one of their most cherished and gallant companions in arms. On the 4th of May last, he joined this remnant, at a meeting of their association, of which he was an honored member, as their anniversary orator. Little did they then think they would so soon hear of the death of their beloved commander. Who can know what the morrow will bring forth!

"Our lives are rivers, gliding free
To that unfathomed, boundless sea,
The silent grave!
Thither all earthly pomp and boast
Roll, to be swallowed up and lost
In one dark wave."

Their wail went forth through all the land at the sad tidings of his death; but here, too, they ask to lay a chaplet on his honored grave.

On the banks of the mighty Father of Waters sleeps the patriot, warrior, statesman. O'er his grave will weep the willow, and the cypress and pine sing their gentle dirge. The marble shaft

will lift high its head in memory of his virtuous deeds; but in the hearts of his countrymen is already erected his most grateful and enduring monument.

Mr. WRIGHT, of Tennessee. Mr. Speaker, when at the commencement of the Thirty-Fourth Congress, I took my seat on this floor as a Representative of a portion of the people of Tennessee, I found myself among the youngest members of that body. The distinguished man whose death we this day mourn, though, like myself, a member for the first time, ranked amongst the oldest and ablest of the House. Up to that time it had not been my good fortune to form his personal acquaintance. I had observed with peculiar pleasure his high and honorable course as a public man. I had listened in my youth with eager ear to the words of my paternal ancestor, who, like General QUITMAN, had identified himself with the early history of the Lone Star State in her struggle for independence, and who had been associated with him upon the battle-fields of Mexico, as he detailed the part which he took in that memorable struggle—a part, sir, which entitles the name of QUITMAN to a place on the brightest page of its history. Under these circumstances, and representing here a State adjoining to the one represented by him, it is not strange that I sought and obtained his acquaintance.

By the gentleness of his manners, and his words of kindness and encouragement, he soon won my warmest personal regard and friendship; and it gives me great pleasure to add, that on many occasions he evinced that the regard was mutual. He was a true friend to young men, and he was fond of their society. This arose, no doubt, sir, partly from the natural youthful flow of his spirits and partly from a fixed principle. It gave him pleasure to stir up the ardor of youth, and to stimulate the ambitious minds of the young men of the country to the attainment of high and honorable ends. On one occasion when I had visited him, in company with a valued young friend, our conversation turned on the present and prospective condition of the country. We suggested that a crisis had arrived which required the mature wisdom of age and experience to navigate the ship of State through the storm, and save the Republic for a higher and nobler destiny than it had yet attained. It was then that I understood and appreciated his partiality for the young minds of the country. He arose from his seat, and with an earnestness of manner, peculiar to himself, said: "No sir; their opinions are formed, their habits of thought and principles settled. You are mistaken in your reliance upon the antiquated politicians of the country. I rely for the future, for the correction of present abuses and the establishment of proper reforms in this Government, upon the rising generation of statesmen. It has been among the most pleasing duties of my life to endeavor to instill proper principles of government into the minds of the young men of the country, and I am happy to believe that my labors have not been entirely fruitless."

It is but natural, sir, that sentiments such as these should have more strongly attached me to him. He won my warmest friendship and entire confidence. Indeed, sir, whilst I feel, in common with the people of the United States, the great loss we have sustained in his death, my grief is rendered more intense by the strength of those attachments.

At the close of the last session we traveled together homewards. Disease then had nearly done its work, and death seemed to have already laid his cold and clammy hands upon him. I was a constant companion of a greater part of his journey. I thought that I saw that the good man was fast failing; and his condition, coupled with my high regard and admiration for his military, political, and personal character, induced me to be unremitting in my attentions to him. Several now around me were with us. They will remember with what apprehension I regarded his condition. We parted. As I shook his hand upon our farewell greeting, I felt that I was parting ne'er to see him more. It was a parting, the feeling of which on my part, concealed from him, was of no ordinary character. I thought that it was a final farewell, and that my friend must soon go to that "undiscovered country from whose bourn no

traveler returns." Mr. Speaker, how true was that unpleasant presentiment! I had scarcely returned home, when it was announced that the hero, the statesman, and the patriot, was no more.

When I heard the announcement, although I was to a great extent prepared for it, yet it shocked me. I was forcibly reminded of the history of the great chief of one of our southern tribes of Indians. He had ruled his tribe for many long years; under his government, his people had been prosperous and happy; he grew old, and in his old age he came to this city, accompanied by some five or six of his braves. Suddenly attacked by violent disease, he became conscious of approaching dissolution. He reflected upon the past happy condition of his tribe, and he felt a deep interest in their future welfare. He called his braves around his dying couch and addressed them. Said he, "You will go back to our country, and as you go along the path you will hear the birds singing and see the flowers blooming. My people will come out and ask you, Where is Push-met-a-ha? And you will tell them he is dead, and they will hear it like the falling of the mighty oak in the stillness of the forest." And so it was with JOHN A. QUITMAN. In that State of his adoption which he loved so well, the breeze that bore on its wings the news of his death was filled with sadness, and the announcement fell upon her people as it did upon the whole country like the crash of the noblest oak of the forest.

His popularity, like his fame, was not confined to the borders of his own State. Though entertaining what are sometimes termed ultra political views, yet he never failed to command the respect and esteem of all, even those who differed with him however widely. A remarkable instance of this will be remembered by every member here. On one occasion, when he deemed it proper to express his views on an important question, at the close of the hour allotted to him by the rule of the House, he had not concluded his remarks. Unanimous consent was necessary to allow him to proceed. So highly was he esteemed by this body, that no member on either side of the House was found to object. It was a rare compliment; one not often paid; and yet, sir, I can say, without any hesitation, that it was a courtesy felt to be due him who was himself ever courteous and kind, on account of his great personal worth and his distinguished services to his country. It was a just tribute to him, and honorable in the highest degree to the body which paid it.

Mr. Speaker, JOHN A. QUITMAN was a man to whom eulogy can add nothing; but an allusion to the many virtues which adorned his character, whilst it can add nothing to his solid fame, may be useful in stimulating others to attain by honorable means the high position which he reached. He did everything well which he undertook to accomplish. There are few men who have succeeded so well in so many and different positions. He was an able and upright judge, a successful and accomplished lawyer, a wise statesman, and a true hero. His entire career was a continued effort to maintain the true principles of State-rights. He loved the Constitution, because he had studied it, and understood it. His early manhood was connected with the revolution which snatched Texas from Mexican misrule, and consecrated her to freedom. His valor made illustrious the war which punished Mexico for an insult to the honor of his country. His undying love of liberty gave direction to the movement which, but for the action of his own Government, would have added the gem of the Antilles to the American constellation, and freed Cuba from the thralldom of Spanish tyranny.

His political career was marked by an unbounding devotion to principles, an unremitting discharge of the duties which his public trusts imposed upon him, and by a singular integrity which distinguished alike his political and private life.

His entire life was a perfect exemplification of the "honest man, the noblest work of God." But he has gone. No more shall we listen to his words of wisdom. That voice of reason and patriotism, which was wont to charm the people of his beloved State, is hushed in the solemn stillness of the tomb. The eye that once proudly flashed over his country's war fields, is closed forever.

"He sleeps his last sleep; he has fought his last battle; No sound can awake him to glory again."

Let him rest in peace upon the banks of the

noblest river of his country; and though no proud monuments may be raised to commemorate his deeds, his name will live and be revered whilst the love of liberty shall find a resting place in the human heart.

"Light be the sod which rests upon his breast;
Green be the grass that grows upon his grave;
Eternal be the laurels that flourish round his tomb."

Mr. THOMPSON. Mr. Speaker, I trust I shall not be deemed an intruder upon the solemnities of this hour, if I respond to the expressions of bereavement and regret coming up from the South, by giving utterance to a sympathetic sadness and sorrow from the North. If the voice of New York answers back to that of Mississippi, in the tones of a common and kindred regard for one of her distinguished sons who went out from her borders, in the confidence of early manhood, to win distinction among the sons of a sister State, that delighted to honor him while living, and now, with his bereaved household, pours her sad lament over his tomb; if the Father of Waters, that rolls along where he dwelt, gives signs through all his troubled and turbid billows that a great man has departed, shall not the Hudson, sweeping by the mountain ranges that sentinel its flow; take up the lamentation for one who was born on its green slopes, and whose infancy was nurtured hard by the play of its musical waves?

Born in the same State, county, and town with General QUITMAN; knowing some of his antecedents, and several of his family; remembering in my early boyhood his revered father, who in the exercise of his clerical functions, discoursed on the Sabbath morning in German, and in the afternoon in English, to the primitive people who received the law from his lips; having watched the career of the deceased for years past with interest, I was warmly welcomed by him on this floor, and treated with the respect and confidence of a friend. I saw, indeed, that time and toil had done their work upon his frame; that they had bowed the strength of his manhood and thrown a totter in his step; but I saw, also, that the clearness of his mental perceptions was not obscured, that the vigor of his stern will was not subdued; that the ardor of his patriotism was not abated, nor the strength of his heroic purpose destroyed. Physically feeble, yet tireless and unshrinking; debilitated, yet strong in spirit; he sat day after day in that chair for six long months, calm in the midst of excitement, respected by all, and most by those from whom he differed—a model of courtesy, nobleness, and devotion. Is it unseemly that I should bring my offering, and that of my State, to his obsequies, or weave a chaplet, however humble, with which to adorn his bier?

From Mr. Lanman's forthcoming work I extract this brief history:

"JOHN A. QUITMAN was born at Rhinebeck, Dutchess county, New York, September 1, 1799. He had a liberal education, studied theology and law, but preferred the latter; and in his twentieth year was a professor of law in Mount Airy college, Pennsylvania. In 1820 he emigrated to Ohio, and was admitted to the bar of that State, but soon afterwards removed to Natchez, Mississippi. In 1827 he was elected to the State Legislature; in 1828 was appointed Chancellor of the State, serving three years. In 1835 he was elected to the State Senate, and as President of that body was called upon to perform the duties of Governor. In 1836 he distinguished himself as a soldier and leader in behalf of Texas against Mexico. In 1839 he visited Europe on business for the Mississippi railroad; and on his return was appointed judge of the high court of errors and appeals. He served with distinction in the Mexican war, had a horse shot from under him at Monterey, commanded at Victoria, was at Vera Cruz and Ojo del Agua, was commissioned by the President a major general in the Army; he also acquitted himself with great credit at Chapultepec. He was Governor of Mississippi in 1850; and in 1855 was elected a Representative in Congress from Mississippi, and was reelected in 1857, serving, during both terms, as chairman of the Committee on Military Affairs. By virtue of his experience and strict integrity, he commanded the respect of all; and the kindness of his heart and his amiable manners won for him troops of friends among all parties. He was spoken of, on two occasions, as the Democratic candidate for Vice President; and was the recognized leader of those favorable to the annexation of Cuba. He died at his residence, in Mississippi, July 17, 1858."

A good man's qualities and character are the heritage of his country. The ancients honored their dead by public ceremonies and orations, commending their example to the admiring imitation of posterity.

Let me advert to one or two prominent traits in the character of him we mourn to-day. It is usually supposed that high military ardor is incompatible with those gentler and humaner vir-

tues that mark the character of our growing civilization; that the war-spirit which an attachment to military science and camp-life generates, tends to roughen and harden the moral sentiments and sensibilities, so that the accomplished soldier becomes semi-barbarous in his tastes and dispositions. If there be any truth in the idea, General QUITMAN was a distinguished exception. His love of military life was almost a passion. Yet what spirit was gentler? Whose sensibilities were more acute? Who could easier weep over suffering? or who appreciated more highly all those refinements of Christian morality by which human nature is elevated and adorned? His martial tendencies welled out from deeper springs than those which originate and feed the "pomp and circumstance of glorious war." They were founded on a deep and philosophic insight of the fact that national peace and honor are only to be secured by a constant and thorough equipment for any strife that may come; that to preserve our renown untarnished, to resist insult and aggression, to conquer peace and secure it, material force and scientific skill, with gunpowder, the great civilizer, are all indispensable agents and conditions.

Was he not a pacificator? Even here, when calm men lost their balance, and quiet men were borne down by the excitement of passion and the fury of partisan warfare, his feeble voice and gray locks arrested instant attention, and all crowded round to hear his words of kindness and moderation; because there dropped from his lips instruction and not insult; enlightenment and not exasperation; and men forgot their passions in the soberness of his counsels.

I remark upon another peculiar trait of his character. I allude to his *quiet energy*, to the unambitious and undemonstrative nature of his efforts, contrasted with the vigor and reach of the principles he announced. Men of the heaviest metal are thus, not uncommonly, men of the quietest means. Their weight is intrinsic, not super-added; dwells in the thought more than in any single act that incarnates it; and goes forth among the works and ways of men with a footfall silent as angels, yet with a power that noiselessly changes the face of the world! He had much of this element, both in the field and in the forum. He announced his plan and purpose, and left it to do its work, without going forth with loud clamor to hail support to his standard, or swell the numbers of his train.

As a statesman, he was faithful, industrious, unshrinking; always at his post, discharging his duty with a diligence no fatigue could exhaust, and no obstinacy tire.

As a soldier, he was brave, self-forgetful, heroic, unawed by danger, and nerved by disaster; he imparted his own enthusiasm to all under his command, and infused a life and vigor through the ranks which is itself the sure omen of success.

As a father and friend his attachments were strong and lasting. Yet, into the smitten and sacred circle of domestic life I forbear to enter—under the shadow of the heavenly wings let it abide; for in the Divine beatitudes alone can it find consolation.

It is said he loved warmly and well the State of his adoption, that honored him with her confidence, at the head of whose armies he fought, and for whom he stood here a Representative. But I thank God, and I thank him, that I can say as truly, and as proudly, that he loved his whole country as well, and that Union of us all, in bonds so strong, yet so silken; harder than brass, yet yielding as ether; linked and twisted and wrought into one encompassing zone that no saber can sever. That, up to the last hour of his life, he was true to that glorious flag on which his infant eye was opened; that nerved him as he strode over the carnage of the battle-field, and to which his proud gaze was turned, and his exultant heart leaped as it waved in the toying winds over the strongholds of Monterey and Chapultepec.

Sir, I did not subscribe to all items of his political creed; yet I honor his memory, and drop a tear upon his grave.

"The evil that men do lives after them;
The good is oft interred with their bones."

Yet no man's remembrance need utterly perish! If he link himself to great thoughts, high achievements, noble endeavors, grand institutions, he shall live in their life, survive in their being, and perpetuate his memory in their vital and eternal

existence. Our little aims and paltry ambitions and social distinctions die with us, often before us; but intellectual power, scientific attainment and enlargement, national institutions—these are immortal! these light the track of ages, and burn and live with a quenchless luster; these “flow on in a perennial and undying stream”—cumulative and reproductive, at once prophetic and monumental—the witnesses of our renown, and the hope and heritage of coming generations!

In the pauses of our deliberations, death steps into this Hall and leads out HARRIS and QUITMAN, and we see them no more. He will shake hands with all that remain; his touch will wither our laurels, and smite our crowns in the dust! Let the example of our good men lead us to unity and forbearance, to love better our great country, “Time’s latest empire;” to hand down to our children every emblem of her nationality unbroken, that when we sleep with our fathers, this heritage of ages may rise and ripen into a hale and vigorous maturity, and stand the consummation of the wisdom, justice, and piety of the world!

Mr. MOORE. Mr. Speaker, those of us who observed, during the last session, how the once mainly form of General QUITMAN was slowly wasting away under some unknown malady, were not altogether unprepared for the early announcement of his death. We had fondly hoped, however, that his bright career was not so soon to terminate, and that we might have had, still longer, the benefit of his sage experience in our deliberations here. But, alas! we shall listen no more to the words of wisdom that were wont to fall from his lips, for his voice is now hushed in death.

A patriot, whose every pulsation was for his country’s good and his country’s honor; a statesman of enlarged experience, to whom many looked for guidance, and all with trust and confidence—he it is whose loss we this day mourn.

Well may we, who were associated with him here, and who witnessed his faithful discharge of every public duty, unite in offering some tribute of respect to his memory.

Though a Mississippian, justly proud of his State, as she was of him, yet he belonged not alone to her. His fame was the property of the whole country; and we may all claim the privilege of mingling our tears together over his loss as over a common calamity. His life had been mostly spent in the employment of the public. On the bench, in the councils of his own and of the United States, as the Chief Magistrate of his State, in the “tented field,” he had performed faithful and distinguished services; and, sir, in whatever situation he was placed, he so bore himself that he won the respect and admiration of his countrymen while living, and their tears and regrets have followed him to his grave. Vain would be the attempt, on an occasion like this, to do justice to his character, or even to present the outlines of his eventful life. When, hereafter, his career shall be fully traced by his faithful biographer, what an instructive example will be furnished to every American youth!

See the young stripling first leaving his parental roof, wandering afar off to seek his home and fortune among strangers. Relying upon his own indomitable energy and unswerving integrity, he bravely encounters all opposition; struggles on with poverty; gradually rises in favor with his fellow-men; amasses fortune; wins fame—a world-wide fame; and even after the frosts of many winters had settled upon his brow, and he had well nigh “sounded all the depths and shoals of honor,” we see him still toiling on in the path of duty, ever preserving the glow of his youthful patriotism and ambition.

Ambitious he was; but his ambition was of that lofty kind that made him despise all devious paths—everything that savored of personal dishonor. He was wealthy; yet no one could have been less ostentatious. He was brave, too; yet who, in his daily intercourse with others, could have shown more of amiability and true knightly courtesy? Might not the description given of Cato, without exaggeration, be applied to him?

“At Catoni, studium modestie, decoris, sed maxime civitatis erat. Non divitiis cum divite, neque factione cum factione; sed cum strenua virtute, cum modeste pudore, cum innocente abstinentia certabat; esse, quam videri bonus malebat; ita, quo minus gloriam petebat, eo magis sequebatur.”

I first met General QUITMAN, Mr. Speaker, under circumstances well calculated to test the character, and, where friendships were formed, most strongly to cement them. It was my fortune to serve under his immediate command in Mexico. I saw him when first called from private life to assume a high command in the American Army. At a single bound he had attained an elevation which few had ever reached who had spent their lives in the military service; but he exhibited then no more of arrogance or vanity than he was wont to exhibit here. He seemed not to think that he stood upon a pedestal so high that he could look down upon all others as his inferiors, but his big manly heart throbbed with generous sympathy for those, of whatever rank, whom patriotism had called to the service of their country.

Few officers ever succeeded as he did in winning the love, respect, and admiration of those whom they commanded. Neither General Jackson, nor the great Napoleon himself, was more ardently beloved by those who shared with them their toils, their dangers, and their triumphs. And yet this love and admiration he won by no studied arts on his part; by no relaxation of necessary discipline; but by his noble bearing, his uniform kindness, and the happy blending of modesty with self-reliance, gentleness with firmness, dignity with suavity of manner.

It was no my privilege, Mr. Speaker, to follow him to the brightest fields of his fame; to witness his gallantry at Monterey, at Chapultepec, or at the Belen Gate; and, save on one occasion, never saw an exhibition of his coolness and intrepidity under the fire of the enemy; nor is there wanting any witness of these things, for they are inscribed already on the brightest pages of his country’s history.

I saw him, for the most part, on fields where no laurels were to be won, but where the melancholy sounds of the dead march were daily heard, as they followed some brave volunteer to his untimely grave. I can, however, bear witness to the interest which he ever evinced for the health, the comfort, and safety, of those placed under his command. The humblest soldier, sir, never approached him without receiving at his hands the most considerate attention; and often did he visit those whom disease had prostrated, to counsel, encourage, and minister to them. These things may appear too trivial to be mentioned; yet they have been treasured up in the hearts and memories of many, now scattered all over the country, who have often invoked the blessings of Heaven upon the head of their beloved commander; and in those bright realms whither, as we would fain hope, he has gone, and where an unerring record is kept of the acts and motives of men, they may have caused a halo of glory to encircle his brow, far transcending all the splendor of his military fame.

Mr. CURTIS. Few are the words of grief; low is the voice of sorrow; sad is the note of woe; and silence is the solace of mourning. Pilgrims and sojourners on life’s uneven way, we are constantly surrounded with objects that live, and move, and mingle in the revolving, shifting scenes of time and sense. All nature seems endowed with a principle of animation. The running waters, the sighing winds, the lowing herds, the moving millions of our fellow-beings, all radiant with this principle of vitality, how logical becomes the delusion that life is universal and perpetual, and that our animated bodies are stamped with immortality!

Absorbed by this vain but congenial conclusion, we revel in the glowing, bewildering charms of life, and unite with her votaries in peans to her exalted fame. We exclaim:

“Oh, life! thy paths are strewn with flowers and sunshine;

Thy heart is ever buoyant and happy;
We follow thy votaries in song and dances;
And, with hope, joy, and gladness,
Rejoice in the pleasures of time.”

“But pleasures are like poppies spread,
We seize the flower; its bloom is shed;
Or like the snow-flakes on the river,
A moment white, then melts forever;

“Or like the Boreas’ race,
That flit ere you can point their place;
Or like the rainbow’s lovely form,
Evanishing amid the storm.”

While we thus rejoice and revel in the endearments of life, and revolve in the endless circle of humanity, the click of time marks the cycle of our duration, and we are suddenly launched upon an unknown and shoreless sea, and wafted to a bourn from whence no traveler returns.

Death sends no usher; heeds no engagement; brooks no delay; scorns all ceremony; and at the most unpropitious hour seizes his victim with unrelenting heart and hand, and bears him away to the gloomy mansions of the grave. The fond fabrics of reason, the delusions of hope, and the dreams of fancy, all shrink and vanish before the dread reality, the absolute certainty, the sad and silent presence of death. Nor shall eminence or obscurity shield us from the fell destroyer of our race. Rich and poor, old and young, brave and timid, prince and peasant, all in equal submission tremble and fall before the imperious and awful majesty of this king of terrors. The vale of his temple is the gloom of despair, and his canopy is the dark pall that overshadows the spirit world.

These reflections, which contrast the delusions of life with the stern realities of death, are suggested by the announcement of the demise of the late honorable member from Mississippi, the worthy citizen, the brave and gallant soldier, and distinguished Representative and statesman, General JOHN A. QUITMAN.

The news of this sad dispensation, in July last, circulated with telegraphic speed, throughout the length and breadth of our Union; and thousands mingled their sighs with the note of sorrow that came up from the shores of the lower Mississippi.

Iowa, young daughter of the national family, smitten by the sad note of woe, unites in sympathy and sorrow with her sisters of the sunny South, and drops a tear to the memory of the gallant and the brave.

The announcement of his death in this Hall, where his country last called him, and his labors suddenly ended, is a fit occasion for the expression of grief and tokens of respect that have here been made to his memory.

Death has stricken a distinguished name from the congressional roll. To the Speaker’s call there is now no answer; but every surviving heart responds with anguish and sorrow, when we hear that once familiar name.

Constant in attendance, devoted to duty, prompt in debate, and conspicuous in person, his absence has created a void in this honorable assembly that is seen, felt, and lamented by all of us, his transient survivors. He differed widely from many of us on this side of the Hall on some questions; but he did not intrude or thrust his views beyond strict rules of decorum, and we respected his argument and the honesty of his convictions. But to differ is not to divide. All things differ, and thereby we distinguish. The human face, so like in all, shall nowhere find its exact semblance. Reason would stagnate if all agreed in all things. Error is restrained by the conflict of reason. Repulsion maintains porosity, but gravitation unites the universe. Those who foster differences may lose sight of each other; but those who study fitness and coincidence will find perpetual bonds of union. General QUITMAN was a practical statesman. Looking to results, he avoided irreconcilable differences, and united in the conflict of living issues. Turning aside from impassable obstacles, he found avenues through which he approached and took his adversary by surprise; and kindness and courtesy secured a victory, when violence would have caused defeat.

His amiable deportment, his honorable bearing, and his persuasive eloquence, gave him, as all will attest, extraordinary influence in this House, and secured the esteem and affectionate remembrance of those who survive and mourn our untimely separation.

It is not my province to detail the events of General QUITMAN’s life. New York may claim the honor of his nativity; and in Ohio he studied and practiced the profession of law; but at an early age he adopted Mississippi for his home, and was warmly attached to her institutions, and earnestly labored for her development and prosperity.

When Texas raised the standard of liberty and freedom, he espoused her cause, and was a distinguished participant in the struggle which resulted in her independence.

When volunteers were called to rally under our flag that was borne to Mexico by General Taylor, among the gathering ranks from all sections that assembled on the sickly, sultry plains of the Rio Grande, I found General QUITMAN among those assembled to do his country service. His fidelity, zeal, and courage, secured the esteem of his associates in arms; and no volunteer general made more successful advances, or received more public commendation for distinguished services.

He was on both lines, and therefore served under both General Taylor and General Scott; and was honorably mentioned for gallant services in the public orders of both these, his distinguished commanders.

He was in many battles; but was particularly distinguished in the brilliant and glorious victories of Monterey, Chapultepec, and the Garita Belen.

After the capture of the City of Mexico, he was appointed, by General Scott, military governor of that city; and he therefore occupied the palace and wielded the scepter of the ancient Montezumas.

After the treaty of Guadalupe Hidalgo, which terminated the war with Mexico, and the necessity of his military services, he returned to his private avocations in Mississippi, from which he was called by the people to serve in the Congress of the United States. You can all testify to his distinguished services in these Halls.

On my entering this body, I had the honor to be associated with him in the Committee on Military Affairs, where he was the honorable chairman. Here again I can bear personal testimony to his devotion to the interests of the Army, the volunteers, and the honor and glory of his country.

His history is thus identified with two sanguinary struggles, which resulted in a large accession to our national domain. In his place, as a Representative, he has also participated in eventful struggles in our national Congress.

In war and in peace, in the field and the forum, he has well borne a distinguished part; and we, his associates and survivors, may close his official record with the honors due to a hero and statesman.

"Sans peur et sans reproche. Il a bien mérité de la patrie."

Our demonstrations to-day are not solely an effusion of sympathy, or a mere tribute of respect to distinguished worth. The glory of a nation is an element of power; and a grateful tribute is due to those who increase the aggregate of our national renown.

As a sacred duty, therefore, and with fraternal affection, we commend his body to the grave, his fame to posterity, and his spirit to the God who gave it.

While we thus commemorate the dead, we would affectionately condole with the bereaved and the afflicted. To the widow and the fatherless we tender a nation's sympathy.

But no honor to the brave, or expressions of sympathy, can solace the grief of those who were most endeared and most dependent. We feel that death is the universal conqueror, and man is the vanquished and the victim.

Generals and armies, by converging lines, in slow but steady marches, approach death's dark defile.

We, therefore, fellow-travelers to the grave, may resume our reflections on our approaching consummation; when all our achievements and aspirations will merge in the vast ocean of eternity.

*"The boast of heraldry, the pomp of power,
And all that beauty, all that wealth e'er gave,
Await alike the inevitable hour;
The paths of glory lead but to the grave."*

Mr. BOWIE. Mr. Speaker, I cannot permit the occasion to pass without asking to be allowed to express my grief and to mingle my sorrows with those which seem so universally to pervade the members of this House at the loss of so distinguished and useful a member as the lamented QUITMAN, whose death has been so eloquently and feelingly announced this morning by the distinguished gentlemen who have preceded me.

Sir, there are occasions when the eye refuses

to drop a tear and the heart to expose its sadness; but, sir, when the eye will not weep, or grief will not speak,

*"They but whisper an o'erfraught heart,
And bid it break."*

There are occasions, too, sir, as great calamities befall a nation by the loss of her distinguished heroes and statesmen, when it is both seemly and fitting that every generous and patriotic heart should send forth its streamlet of tears to be mingled with that great ocean of sorrow which overwhelms the public mind. I come now, Mr. Speaker, to add my humble share of lamentation and sorrow to that reservoir of grief which surrounds the grave of JOHN A. QUITMAN.

Sir, I, too, had the good fortune to have enjoyed the acquaintance of General QUITMAN. Very shortly after his arrival in this city to take his seat in the Thirty-Fourth Congress of the United States, I sought an introduction to him. I recollect that on an occasion when the ardor of youthful valor required the sage counsels of wisdom and experience, he had generously extended the kind offices of his friendship to those who were near and dear to me in the State of Mississippi. These generous sympathies on his part, had not been unheralded to me. His fame as a lawyer; his exalted character as a judge; and his still more exalted, but more newly acquired, fame as a soldier—one among the conquering heroes of Mexico, and the first to plant the stars and stripes of our flag, that emblem of our national power, upon the very walls of the city—had all become part and parcel of the history of his country, and had won for him the admiration of a grateful people. All these characteristic traits, as well of private as of public character, had come far ahead of him in his slow approach to this city. Like Brennus of old, a general of the Gauls, who had invaded Italy, defeated the Romans, and entered into the very heart of their citadel, not only without opposition, but with honors of triumphal joy, General QUITMAN came to this capital—this great capital of a great nation—bringing along with him the united hearts of a proud constituency; himself the recipient of a nation's thanks. I venture to say, sir, there will be no modern Camillus brought from a state of banishment to contest his laurels, or to envy his fame. These will and shall be, in the simple but beautiful language of Cicero, *"Semper et sempiterna."*

Mr. Speaker, I appreciated these private and public virtues in General QUITMAN's character, and made haste to express my emotions of gratitude for the one—my unbounded admiration of the other. I came before him, sir, bearing with me no commission from the oracles of either Dodona or of Delphi. I came not as a soothsayer, to predict either his success or failure in the future. I came simply to express my gratitude for the past. Dodona and Delphi had long since ceased, in the progress of Christian civilization, to be regarded as the oracles of truth; and had I commission from either, or from both, I should have torn it into tatters, that its broken fragments might become the emblems of a purer and holier incense, to be offered upon the altar of eternal truth.

Mr. Speaker, in my first interview with General QUITMAN—an interview which I shall never forget—I was struck with surprise at the gentleness and simplicity of his manner. A man who had acquired so much of good reputation among his friends and neighbors at home, in his own State of Mississippi; who, in the hour of his country's need, had been among the foremost to offer the flag of his State in defense of the rights and honor of the Federal Government; and who, by hard service, active enterprise, and exploits of extraordinary valor, had enshrined that flag in a halo of immortal glory, might well enough have worn the aspect of ostentatious vanity. But, sir, I found in General QUITMAN that "modest meekness and humility which doth so become a man" had so possessed him, that even the greatness of his own high offices had become more resplendent by the reflected luster of unaffected virtue. I found him, sir, to be a plain and unostentatious gentleman, with a mind quick and active and vigorous and yet profound withal. Profound, did I say? Sir, the word falls far too short of the reality of truth. With a thorough knowledge of the Constitution of his country, and with a soul devoted to its

preservation, it claims from me a higher test of value. There was about it a deep, ay, deeper, characteristic of strength, in its undying attachment to the Union of these States as equal and independent sovereignties, and in that patriotism which made him love his country even before himself. Well might he have exclaimed:

*"I am the son of Marcus Cato,
A foe to tyrants, and my country's friend."*

Mr. Speaker, I do not mean to speak of General QUITMAN's private or public virtues in detail. That office has been performed already by the distinguished gentlemen who have preceded me. But sir, I know enough of his history, both private and public, to make me feel that on this day and before this House, I am but performing the patriotic duty of proclaiming to this great nation the loss of one of her best and greatest men. Sir, it has been said that to be truly great you must be truly good. It is a maxim of unerring truth. The magnetic needle no more constantly points to the north star, that eternal evidence in the heavens of an eternal God thereof, than does the greatness of the goodness of an all-wise Providence. I do not mean to say that all good men are great men, or that all great men, in the sense of the world, are good men; but I mean to say, and I mean to maintain it, now and forever, at least in all my time to come, that greatness without goodness is

"Like a world without a sun."

Mr. Speaker, who ever looked upon General QUITMAN's face without discovering the strongest characteristic marks of kindness, and gentleness, and benevolence? Who ever watched his smile without perceiving in it the emblems of a complacency

"Less of earth than Heaven?"

Who ever gazed upon his piercing blue eyes, without being conscious that they were but reflected lights from windows to a soul, which was full of Grecian fire, and of unflexed will? Who ever listened to his soft and subdued, yet manly and heroic tones of voice, on this floor, without feeling impelled by the syren sweetness of its music to gather and linger around him,

"That they might catch its May-morn honey dew?"

Its buds, still swelling with round and orient pearls, like pretty flowrets to the eyes, brought tears, as frankincense to true and genuine eloquence. Mr. Speaker, I have myself, on more occasions than one, felt the power of his captivating eloquence. There was a simplicity, yet fervid strength, in every idea he expressed, and a clearness and precision of language but seldom equaled, and never excelled, which won their way to the hearts and judgments of all his hearers. I may well compare him to Thucydides, the great Grecian orator and historian. Of him it is said: "That he spoke and wrote as one who was clear of all passion, independent in every light, entirely unconcerned who was pleased or displeased; the servant only of reason and truth. Altogether indifferent about the opinions of the generation in which he lived, he wrote and spoke for posterity only, and appealed to the future world for the value of the present."

So was it, sir, with General QUITMAN. I believe, as faithfully as I believe in my own existence, that General QUITMAN, in all that he ever wrote, or said, or did, looked only to the future glory of his country. Forgetting even self in the present, and fearless as to all and any risks of honorable achievement in the future, I believe he was ever ready to defend and protect the Constitution of his country; that ages yet to come might behold its still unbroken columns and untarnished flag, to bless the memories of those who had helped to preserve them.

Mr. Speaker, the sad calamity which has befallen this House, in the death of one of its greatest and best members, should make us all mindful of the obligations we owe to ourselves and to posterity. It invokes our calmest, most considerate, and, if possible, more than most of our patriotic emotions. Sir, what greater calamity can befall us as members of this House, or our respective constituents as primary elements of political power, or even this great Federal Government itself—but a union of sovereign and independent constituencies—if, when even one link in the chain of Union is broken, there be no deep and lasting

and lingering sorrow in the public mind? Sir, the doctrine of some of the astronomers may be true, that even a star, that emblem of omnipotent beneficence, may be struck from the heavens, and yet the harmony of the celestial sphere be preserved, by what they call laws of gravitation and attraction. But, sir, I tell you there are no laws of gravitation or attraction in this, our political sphere, which can unite and bring together a once distracted and broken Confederacy. No star can ever be stricken from that constellation which compose and make up the flag of this Union, without bringing along with its loss, the loss of all that is great and good and glorious in the future destinies of the world.

Mr. Speaker, true, national, patriotic men—men who have maintained, and who mean to maintain in the future, the Constitution of the United States, in the sense in which it was made by our fathers, and in the sense in which it is now and ever has been understood, and ever ought to be understood—as a Confederacy between free, equal, and independent States—are as dear to us as the stars that grace the flag of our common country. And although, sir, the loss of such men cannot and ought not, like the loss of those stars, result in the overturning and destruction of the entire fabric, yet I say, and I feel, sir, what I say, that the departure of such men from amongst us ought now to be remembered, as in times gone by, as mournful signs of national depression and distress.

Mr. Speaker, I looked upon General QUITMAN as one of those men who stood, as it were, between the North and the South. Born and reared and educated amongst the mountains of New York, a State, which at this day, owes all of its present as well as its former greatness and power, to that germ of freedom incubated amidst the struggles between liberty and despotism which had been waged by the people against the Stadtholders of Holland, he seems to have inhaled, from his early youth, that breath of individual as well as of national independence, which was left as a legacy to their posterity by the early settlers of that ancient colony—a colony, sir, which long since then has emerged from its infantile weakness, and become the Empire State of this great Confederacy. Empire State, did I say? I do not like the word, sir. It sounds to me too much like an assumed control over those who are as free and great as herself. It snatches too much of the arrogance and pride of royalty, sounds and words which I hate and abhor. And yet, sir, I am free to confess, that I would most gladly accord to her that preëminence of title, if, in all her imperial power, she could, but even now, restore to a distracted country that harmony and peace which once existed, and always should exist, between all, and every portion of her people. Then, indeed, would her empire be hailed as one of universal good, and be enshrined as the "Holy of Holies" in the hearts of all true friends of constitutional liberty.

Born, sir, as I said General QUITMAN was, in the very midst of such elements as these, it is but natural to suppose that his mind and his feelings would have partaken, more or less, of the towering influence of his native mountains. Standing, as it were, on some one of their very highest peaks, he seems to have caught the electric spark which brought down from heaven to earth the knowledge of that great truth so much venerated by the immortal Burke, that "Equality and freedom are but terms inseparable." With these principles and emotions instilled into his nature by the influences and education of early life, he left his native home, the scenes of his early—I might say mountain—boyhood, where had clustered around him none other than the holiest and loftiest emotions of patriotism, to seek his destinies and his fortune in a distant but not foreign clime. He still determined to stand by the stars and the stripes of the flag of his own glorious country. He would not consent to be sheltered or protected by those of any other. And in his own way, and according to his own good pleasure, he sought and found a home in the far sunny South. I do not mean to speak now of his efforts, or of his struggles with competition for fame and distinction in this new home of his adoption. A man who had retired from the mere romances of elevated mountain peaks, engendering, as they usu-

ally do, concomitant elevated emotions—fruitless, perhaps, of good in all other respects, might naturally enough have yielded to the practical workings of a system of useful and valuable labor, in the home of his adoption. Ay, sir, the very lessons of elevated culture; the very lessons of high and ennobling sentiment, which had been taught him in his native clime, and amidst the scenery of his native mountains, would have but quickened him to deeds of high and noble bearing in the land of his living.

And so, indeed, sir, was it with General QUITMAN; standing as he did, with all his affections for both his native and his adopted land unabated in any degree whatever by the flight of years or the progress of time, and with that deep sense of constitutional obligation which he felt he owed to the whole of his country, both native and adopted. He knew no North, no South. And, sir, he felt in his heart no North, no South. But relying upon the sacred guaranties of the Constitution, he maintained that each and all of the States of this Confederacy should have that equality of right to which they were entitled, not only as among themselves as independent States, but in respect also to Federal territory, the common property of each and every member of the Union. Sir, he well knew and felt, in his own sense of instinctive patriotism, that, in the language of the Psalmist—

"Promotion cometh neither from the East, nor from the West, nor yet from the South."

But, regardless of all schemes and machinations of personal aggrandisement, he so expressed and conducted himself as that even the world itself, with all its censoriousness, might be forced to acknowledge and confess that he was indeed a true patriot, living and acting only for the good of the whole and every portion of a common and beloved country.

Mr. Speaker, if New York claims the honor of having been General QUITMAN's birth-place, Mississippi may claim the honor of having been his adopted home; and pointing to her adopted son, she may well exclaim, as did Cornelia, the mother of the Gracchi: "Here is my jewel whom I have trained and brought up—"

"Non tam in gremio quam in sermone matris."

Sir, when Mississippi points thus to her adopted son, and claims to have educated him, not only in the language, but in the spirit and sense of the Constitution of his country, New York, too, may well be jealous of the reputation of her native son, and claim most truly and most justly, and be proud of it withal, that her bosom has given suck to so much of exalted worth and of national virtue.

And now, Mr. Speaker, let me ask, in conclusion, why is it that northern men and southern men come together, mourn together, and weep together, like members of a common family, over the loss of their distinguished dead, if it be true, as we are sometimes told by sneering cynics and traitorous knaves, that there is no bond of union between them? Sir, it is not true. Those who say there is, and can be, no bond of union between them, grossly libel the very genius of patriotism itself, and the spirit of their country's freedom. There is a bond of union between them; and that bond is the Constitution of the United States, cementing them together by the blood of revolutionary sires, and sanctified in the hearts of millions of freemen for the inestimable and priceless blessings it has conferred on them and their children. That Constitution has made them one, and given them a common destiny. It has made them one—one for glory, one for shame. And, sir, I do declare here to-day, before these the assembled Representatives of the nation, that all men, and all parties of men, no matter from what quarter they may come, who seek to alienate and divide those whom God in his infinite providence hath joined together, must expect to meet, as they deserve to meet, the doom which He pronounced on his enemies of old. And that doom do I now invoke upon their guilty and rebellious heads:

"Because ye seek to separate me and my people, therefore will I curse you."

The question was then taken on the resolutions; and they were adopted unanimously.

And thereupon the House (at half past two o'clock) adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

THURSDAY, January 6, 1859.

Prayer by Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, the Postmaster General, and the Attorney General, of proceedings under the joint resolution of June 3, 1858, in relation to the public buildings at Philadelphia; which was, on motion of Mr. BIGLER, referred to the Committee on the Post Office and Post Roads.

He also laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate of December 23, 1858, all the papers and documents relating to the various charges made against the official conduct of the postmaster at San Francisco.

Mr. CLARK. These papers were called for by a resolution presented by my colleague, who is not now in his place, and I do not know what direction he desires to give to them. I move that they lie on the table for the present.

Mr. BIGLER. I suggest to the Senator that these papers properly and necessarily belong to the Committee on the Post Office and Post Roads, and I am aware, too, that his colleague will make no objection to that reference, because he is one of the committee.

Mr. CLARK. I do not know but that that may be the proper direction; but my colleague will be here very shortly, and I desire that nothing may be done in the matter until he arrives.

Mr. BIGLER. Very well.

PETITIONS AND MEMORIALS.

Mr. JONES, presented the petition of Abby Snelling Chaplin, surviving representative of Colonel Josiah Snelling, of the United States Army, praying for a pension; which was referred to the Committee on Pensions.

Mr. SEWARD presented the petition of citizens of New York, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms or lots of limited size for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

He also presented papers in support of the claim of Jane Perry, widow of Commodore Matthew C. Perry, to a pension; which were referred to the Committee on Pensions.

He also presented the petition of Peter Tyler, a citizen of the United States, residing in New York, praying the aid of the United States in enforcing his claims against the Government of Peru; which was referred to the Committee on Foreign Relations.

Mr. HUNTER presented a petition of citizens of Loudoun county, Virginia, praying the establishment of a national foundry on the Potomac river, in said county, at a place opposite the Point of Rocks; which was referred to the Committee on Military Affairs and the Militia.

Mr. BIGLER presented the memorial of William Young, praying the establishment of an additional daily mail between New York and Boston; which was referred to the Committee on the Post Office and Post Roads.

Mr. PUGH presented the petition of James Albertson, a soldier in the war with Mexico, praying for a pension; which was referred to the Committee on Pensions.

He also presented the memorial of Thomas W. Rathbone, heir, and for the co-heirs, of J. C. Rathbone, deceased, praying indemnity for French spoliation prior to the year 1800; which was ordered to lie on the table.

Mr. SLIDELL presented a petition of the Louisiana Tehuantepec Company, praying the enactment of a law authorizing the issue of registers to the steamships America and Canada, and to change their names; which was referred to the Committee on Commerce.

Mr. JOHNSON, of Tennessee, presented a resolution of the City Council of Memphis, Tennessee, in favor of the establishment of an inspection district and the erection of a marine hospital at Memphis; which was referred to the Committee on Commerce.

KANSAS.

Mr. SEWARD. At the request of the president of the late constitutional convention held in the Territory of Kansas, at Leavenworth, I submit a memorial of the people of Kansas, in convention assembled, accompanied by a constitution adopted by that convention, and ratified at an election of the people of Kansas, with the evidences of the election, and I ask that the papers may be referred to the Committee on Territories. The memorial prays for the admission of Kansas into the Union, as a State, under this constitution.

The papers were referred to the Committee on Territories.

BILLS INTRODUCED.

Mr. BIGLER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 490) regulating the location of the public buildings at Philadelphia; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

BRUNSWICK NAVAL DEPOT.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate what action has been taken, or is intended to be taken, by the Department towards the construction of the naval depot at Brunswick, Georgia, and that he also transmit to the Senate copies of all correspondence and other papers on file in the Department, upon the subject of the sale and purchase of the site for said depot; also, a statement showing the several amounts, and for what objects expended, of the fund appropriated by Congress for the purchase of said site and the construction of said depot.

POST ROUTES IN ALABAMA.

Mr. FITZPATRICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Pleasant Hill to the city of Selma, in the county of Dallas, in the State of Alabama.

REPORTS OF COMMITTEES.

Mr. STUART, from the Committee on Public Lands, to whom were referred the memorial of the Leavenworth and Fort Gibson Railroad Company, in Kansas Territory, praying for a grant of land to aid in the construction of that road; a petition of citizens of New York, praying that all further traffic in, and monopoly of, the public lands, may be prevented, and that they may be laid out in farms or lots for the use of actual settlers only; the memorial of the Pacific and Pueblo City Railroad Company, praying for a grant of land to aid in the construction of their road; a petition of citizens of New York, praying that the public lands may be laid out in farms for the free and exclusive use of actual settlers; the petition of Reuben Knight and others, whose claims for bounty land, under the act of March 3, 1855, have been rejected, praying a modification of that act; the memorial of Lewis Purdy and others, officers and soldiers of the Black Hawk war, praying such an amendment of the bounty land laws as will include those who served in said war less than fourteen days; the petition of A. Payne, praying the passage of a law repealing the condition of settlement and cultivation imposed upon purchasers of lands graduated to twelve and a half cents per acre; the memorial of John A. Ragan, submitting a plan to prevent the overflow of the Mississippi and its tributaries, and praying a grant of land to enable him to effect that object; a memorial of the Legislature of Minnesota, praying that a grant of land may be made to aid in the construction of the Nimniger, St. Peter's, and Western railroad; several memorials of the Legislature of Minnesota, praying a grant of land to aid in the construction of a railroad from Winona, via La Crosse and Brownsville, to the point of junction with the Milwaukee and Mississippi road, at the southern boundary line of the State, and a grant of land to aid in the construction of a railroad from the confluence of the southern branch of Root river to Sioux Falls City; a memorial of the Legislature of Minnesota, praying an amendment to the act granting land to that State for railroad purposes; and a memorial of the Legislature of Minnesota, praying that grants of land may be made for the establishment of agricultural colleges in that and other States, and that a homestead of one hundred and sixty acres

may be granted to actual settlers; submitted adverse reports thereon.

He also, from the same committee, to whom was referred the joint resolution (S. No. 62) explanatory of an act approved March 3, 1855, entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," reported adversely thereon.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred a petition of citizens of the District of Columbia, praying the enactment of a law to prevent malicious mischief, and to protect property in said District, reported a bill (S. No. 489) to prevent malicious mischief and protect property in the District of Columbia; which was read, and passed to a second reading.

Mr. CLAY, from the Committee on Commerce, to whom was referred resolutions of the Legislature of California, in favor of the appointment of American consuls at the ports of Guaymas, Mazatlan, Manzanillo, and La Paz, in Mexico, asked to be discharged from their further consideration.

He also, from the same committee, to whom was referred the petition of Abel Hildreth, praying an appropriation to enable him to set up and attach to the bell at White Head a simple apparatus, invented and patented by him, for keeping up a continual alarm by the operation of the rise and fall of the tides, asked to be discharged from its further consideration.

FRENCH SPOILIATION BILL.

Mr. CRITTENDEN. As the morning hour seems to be concluded, I wish to move that the bill making provision for the indemnity on account of French spoiliations, be taken up. This is the day which was assigned for its consideration sometime before our holidays. I move that that bill be now taken up.

Mr. CLAY. It is known probably to the Senate that I am opposed to that bill. I do not know that I shall feel it necessary to assign the reasons for my opposition; but in order to test the strength of the bill, I will ask for the yeas and nays on taking it up.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 18, as follows:

YEAS—Messrs. Bates, Bayard, Bell, Benjamin, Bright, Clauder, Clark, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Foot, Foster, Hamlin, Kennedy, Pearce, Seward, Simmons, Stuart, Thompson of New Jersey, Trumbull, Wade, and Wilson—24.

NAYS—Messrs. Bigler, Broderick, Brown, Clay, Davis, Fitzpatrick, Green, Gwin, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Polk, Pugh, Reid, and Sidel—18.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 45) to provide for the ascertainment and satisfaction of the claims of American citizens for spoiliations committed by the French, prior to the 31st day of July, 1801.

The bill was read. It provides that satisfaction shall be made, as hereinafter provided, to an amount not exceeding \$5,000,000, to such citizens of the United States, or to their legal representatives, as had valid claims to indemnity upon the French Government arising out of illegal captures, detentions, forcible seizures, illegal condemnations and confiscations, committed prior to the ratification of the convention between the United States and the French Republic, concluded September 20, 1800, the ratifications of which were exchanged on the 31st of July following; but the provisions of the act are not to extend to such claims as are stipulated for and embraced in the convention between the United States and the French Republic, concluded April 30, 1803, and for the liquidation and payment whereof provision is made in that convention; nor to such claims as were allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain, concluded on the 22d of February, 1819; nor to such claims as were allowed, in whole or in part, under the provisions of the treaty between the United States and France, concluded on the 4th of July, 1831.

For the purpose of carrying into effect the provisions of this act, and to ascertain the full amount and validity of the claims, three commissioners are to be appointed by the President, by and with the advice and consent of the Senate, who shall meet at the city of Washington, on or before the first Monday in October next, and, within the

space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the description contained in this bill; and the Secretary of State is to be required forthwith to give notice of the meeting, to be published in three newspapers in Washington, and in such other papers as he may think proper. The commissioners are to take oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent performance of their duties; and in case of the death or resignation of any such commissioner, his place may be supplied by appointment as therein described, or by the President during the recess of the Senate, of another commissioner in his stead. The commissioners are to be authorized to hear and examine all questions relative to the claims, and to receive all suitable testimony, on oath or affirmation, and all other proper evidence and documents concerning the same; and the rules for the decision of the commissions are to be the principles of justice, the laws of nations, and the former treaties between the United States and France, to wit: the treaty of amity and commerce of the 6th of February, 1778; the treaty of alliance of the same date; and the consular convention of the 14th of November, 1788. Their decisions are to be in writing, and filed with their secretary, and the individuals interested therein are, on demand, to have a copy thereof. The promulgation of the decisions of the commissioners must be in public. The commissioners are not, at any one time after the 1st of December next, to adjourn for a longer period than ten days, without the consent of the President of the United States in writing. The commissioners are to be authorized to make all needful rules and regulations, not contravening the laws of the land or the provisions of this act, for carrying their commission into full and complete effect.

The Secretary of State is to procure, through the American Minister at Paris, or otherwise, all such evidence and documents relating to the claims as can be obtained from abroad; which, together with the like evidence and documents on file in the Department of State, or which may be filed in the Department, may be used before the commissioners by the claimants. The awards of all such claims as may be admitted and adjusted by the commissioners, to an amount not exceeding \$5,000,000, are to be paid *pro rata*; and the Secretary of State, acting upon that principle, is to ascertain and fix the amount to be paid upon each award, and the record of the proceedings of the commissioners, and the documents produced before them, are, after the commission is closed, to be deposited in the Department of State.

As soon as the commission is closed, and the records of proceedings of the commissioners are deposited in the Department of State, the Secretary of the Treasury, on the application in writing of any claimant, his lawful attorney, executor, administrator, or assignee, is forthwith to sign and issue to the person entitled thereto, certificates of United States five per cent. stock, in such sums as such applicant shall desire, not less than \$200 in each certificate, unless the award be for a less sum, for the full *pro rata* amount awarded to such claimant; and such certificates of stock are to be redeemable at the pleasure of the United States. The President of the United States is to be authorized to take any measure which he may deem expedient for organizing the board of commissioners, and for this purpose appoint, with the advice and consent of the Senate, a secretary well versed in the French and Spanish languages; and the commissioners are to have power to appoint a clerk and also a messenger; but the compensation of these officers is not to exceed, to each commissioner, \$3,000 per annum for three years only; to the secretary of the board, \$2,000 per annum; to the clerk, \$1,000; and to the messenger, \$500; and the whole expenses of the commission are not to exceed \$50,000; but during the continuance of the commission, all documents and communications having relation to the claims, which shall be addressed to or from the said secretary, are to be free from postage.

The sum of \$5,000,000, specified in this act, is to be in full discharge of all claims for compensation for the class of cases provided for in this act; and the presentation of any claim or memorial to the commissioners, for adjudication

under this act, is to be taken to be a release and discharge of the United States from all other and further compensation that the claimant may be entitled to receive under the provisions of this act. In case any alleged holder of any claim contemplated by this act shall fail, for any cause, to present the same for adjudication and adjustment, his claim is forever after to be deemed and taken as altogether invalid, in whose hands soever the same may be. It being the true intent and meaning of this act that the proper amount of indemnity for the damages therein provided for cannot be considered in the aggregate to exceed the amount therein appropriated, however much the claims for indemnity in the aggregate may exceed that sum; and should the board of commissioners, under their rules and regulations of allowance, find a larger aggregate, the reduction, *pro rata*, then required, is only to be considered as a mode of ascertaining the true amount of damages sustained in each case.

An attorney to the board is to be appointed by the President, by and with the advice and consent of the Senate, whose duty it shall be to resist all unjust claims, and to protect the interest of the United States and of the fund that may be appropriated to carry this act into execution; and, to this end, he is to have power to examine witnesses and to cause testimony to be taken, and have access to all testimony before the commission for the purpose of examining it, and a right to be heard in all cases. He is to be sworn to the faithful performance of his duty as attorney, and is to be entitled to the same compensation as one of the commissioners.

Mr. CRITTENDEN. Mr. President, this is a bill which has been so frequently the subject of consideration in this body, and by its committees, that I feel that I should be trespassing upon the Senate if I attempted to go into details in the discussion of this subject.

The bill has been the subject, I believe, of twenty-five reports from committees of this body, all in its favor but three, and those three were at a time anterior to the year 1824, when upon a resolution of this body full information was given to the Senate from the public archives of the whole history of these claims. Since this evidence has been received and these new lights thrown upon the subject, of the many reports that have been made here by the ablest men in the country, there has not been one adverse report. All of them have been in favor of the measure—reports by Mr. Livingston, reports by Mr. Choate, reports by Mr. Everett. The reports by all these distinguished gentlemen, and by many others whom I could mention, have been favorable. The bill has passed this body I believe eight times. It is since the year 1846 alone that a direct vote has been obtained upon it in the House of Representatives. It has never been adversely reported upon there. Twice it passed that House after having passed this body, and twice it was submitted to the President; once to Mr. Polk, who vetoed it. It was passed again, and Mr. Pierce vetoed it; but the sense of Congress, and more emphatically, the sense of the Senate, has been manifested on this bill in every form in which it could be expressed. All the committees since 1826 have reported in favor of it. It has never since 1826 been put to the vote of the Senate when the vote of the Senate has not been in its favor.

It has been the subject of elaborate reports. Among the distinguished names that have given their sanction to this bill, are embraced all that is most venerable and most wise in our country. General Washington considered these claims as well founded, and issued a proclamation to our merchants in 1793, to persist in their commercial efforts; to go abroad and attempt to carry on the commerce of the country, and that they should be taken care of; that their injuries should be redressed; and that the Government would attend to it. There is evidence enough of Mr. Jefferson's recognition of these claims as just and well founded. The late President Adams, and the former President Adams, recognized their justice. Webster, and Clay, and Lowndes of South Carolina, I believe, all gave their sanction to the justice of these claims.

It is unnecessary for me, I presume, to enter into the discussion; the Senate understands the question; and I have risen merely for the purpose of calling attention to the leading facts of the case,

with the hope that no prolonged discussion of it will take up the time of the Senate. We all know how these claims originated. By the treaty of 1778 of amity, of commerce, and of alliance, with the French Government, we obtained that assistance which seemed absolutely necessary for our success in the revolutionary war. France stepped forward and proffered us her aid. That treaty was made securing it; and, by that treaty, she not only promised assistance, (which she gave,) but she guaranteed to us our independence, unlimited in all national rights. She made good all her promises. In the very same article where she gave us this most important guarantee, we guaranteed to France all the possessions which she then held in America; and she held large possessions—the West India Islands. We guaranteed them, and all that she might acquire during that war, to her forever. We guaranteed that her vessels, in time of war with others, should have peculiar advantages and privileges in our ports. Her ships of war, with the prizes that they might take in war with any other nation, might be brought for shelter into our harbors, and should receive that shelter, and might sell their prizes here. In the same spirit in which these provisions were made by her consular convention in 1783, she gave to her consuls all the powers that were necessary to the complete enjoyment of these provisions.

These were the stipulations. France performed them on her side; we failed to perform them on ours. Whenever we set up claims against France for these stipulations, she answered: "Indemnify us for your failure to perform your sacred obligations, contracted by treaty under circumstances that ought to have given them double force; when our assistance was essential to you to establish your independence, we gave it; we performed to you in your days of infancy and weakness all our obligations, and gave you strength and gave you victory. Now, fulfill to us the obligations which you entered into at the same time to us, and in consideration of our obligations to you." We not only did not grant the privilege in our harbors to her privateers and men-of-war, which we promised, but during the mighty struggle to which she was called, shortly after our war, to establish her own freedom, she called upon us in the name of our honor, in the name of American honor, to fulfill these obligations. Not only did we not do that, but we entered into obligations by the treaty commonly known as Jay's treaty, with Great Britain, by which we stipulated to exclude France from the very privileges we had conceded to her by this former treaty; and we engaged with Great Britain that the prizes she was then making on French commerce might come into our ports and receive equal shelter and equal favor with the ships of France.

France complained of all these things, and claimed indemnity from us. We tried to buy her off with money. This Government offered her a gross sum of 5,000,000 francs. That was scornfully rejected. We offered \$200,000 per annum during the continuance of any future war of France—a perpetual and everlasting annuity. Finally, sir, it was agreed that France should renounce all these claims which she had upon us, in consideration of our renouncing and assuming upon ourselves the responsibility of paying all that was due from her for spoiliations upon the commerce of our merchants. This Government availing itself of the mighty responsibility which France had incurred, used that claim upon France, used the claim which our own fellow-citizens justly had for compensation for property of which they had been lawlessly deprived. We agreed to exercise our sovereign power over our citizens as a Government—to release to France all those private claims. We thereby assumed upon ourselves, certainly, the obligation to pay to these claimants what France ought to have paid.

Now, sir, to this long day it has been neglected and remains undone. These claimants have never failed or ceased to make complaint to the Government of the non-payment of these claims. I believe the convention of September, 1800, which contained these mutual renunciations of the two Governments, was not ratified until 1801. In 1802, within less than a year thereafter, these claimants came before the Government, and claimed the indemnity to which they were entitled; and a favorable report was made. They have persisted, from

that day to this, with an industry and persistence that seem to be indomitable, in renewing and repeating this application for justice.

The VICE PRESIDENT. The Senator from Kentucky will pause for a moment. It is the duty of the Chair, under the order of the Senate, to call up the special order at this hour, unless some motion be made.

Mr. CRITTENDEN. I hope that the Senate will agree to postpone that until I get through, as I shall in a few minutes, this statement; because I do not intend to discuss the matter.

Mr. BIGLER. I hope the Senator will be allowed to finish his remarks.

The VICE PRESIDENT put the question on postponing the special order, and it was agreed to.

Mr. CRITTENDEN. I do not propose, as I stated at first, to go into a discussion of this question. I am prepared for it, but I hope it is unnecessary. I wish merely to sketch an outline of this case, and revive the memory of gentlemen upon it. To my mind there never was a more just claim, nor one more thoroughly demonstrated by public documents and unimpeachable evidence, than this claim is. I have examined it with some care, and that is my judgment. I undertook to mention the names of some of the reliable men of former times who examined it, and were acquainted with it, and knew it. I ought not to omit that the late Chief Justice Marshall was most unequivocal in his opinion, and in the declaration of it, that these claims were just and ought to be paid. He was one of the commissioners sent to France to negotiate these very claims. He was thoroughly instructed, and thoroughly acquainted with the whole subject, and he declared freely in this city, that in his judgment the claims were valid and just claims, and ought to be satisfied. I confess, sir, that besides the evidence, my mind reposes with great confidence on the judgments of such men—men who lived near the period of these transactions, and who, from their positions, must have been minutely acquainted, more minutely than we, perhaps, can now be, with the history of these claims.

Sir, I will not enter (because that would lead to a discussion of the subject now) into a review of the excuses that have been made by the opponents of these bills in times past. I do not propose myself to commence a general debate on the subject. The bill is guarded. Some apprehensions were entertained that the claims embraced under our treaty with Spain might come in under it. Some were apprehensive, and objected to this bill because it might embrace claims that were provided for under our convention of 1803 with France. This bill, in its terms, has been drawn to quiet all apprehensions of that sort, and declares that those claims are excluded. The bill does not, in truth, embrace them at all. They are not only not embraced in any language of this bill, but they are expressly excluded by its positive terms.

Payment has been long delayed, but under the circumstances of the case, so far from this delay detracting from the probable genuineness and justice of the claims, it ought, I think, to make us feel the obligation of permitting this delay to exist no longer. We are now able to pay. When these claims were first presented to Congress we were not able to pay the money, and the only possible national excuse we can make for the non-payment of these claims long and long ago, was necessity. We had it not in our power to pay them, and we therefore did not pay them. We cannot say that now. We may not be able to pay at the moment; I know the financial necessities of the country now, but they amount after all to a mere trifle in comparison with the ability of the country. Still, the temporary and accidental condition of the Treasury is looked to in this bill and is provided for. The sum to be awarded is not to exceed \$5,000,000, and that \$5,000,000 is to be paid in certificates upon the Treasury, redeemable at the pleasure of the Government. As long as your necessities require it, you will delay the payment of the principal. At the pleasure of the Government it is to be paid, and not sooner than their ability and their will concur to make the payment.

I rest on this opening of the case rather than a discussion, for I have attempted no discussion. I hope Senators have made up their minds for or against the bill. I am willing to abide their judgment. I should have preferred that every seat in

the Senate should have been occupied. I regret that there are so many absentees, but the time of the session is short, every moment is of value to the public, and I am unwilling, as I hope and believe needlessly, on this occasion, to occupy the time of the Senate.

Mr. GWIN. I hope the further consideration of this bill will be postponed, that we may proceed with the regular order of business. The Senator from Pennsylvania [Mr. BIGLER] is in the midst of a speech on the Pacific railroad, and I move, therefore, to postpone the further consideration of this bill until to-morrow, in order that we may take up the Pacific railroad bill.

Mr. CRITTENDEN. I hope that we shall have the vote now. I think it will be a great economy of time if we are allowed to vote on this measure at once.

Mr. HAMLIN. Let us dispose of this measure before we take up another.

Mr. WADE. Let us take the vote.

The motion to postpone was not agreed to.

The bill was reported to the Senate without amendment.

Mr. DAVIS. I did not expect this bill to be called up this morning and hurried to a vote in this manner. The positions taken by the Senator who has addressed the Senate on this occasion, sounded to me extraordinary. To state that no report ever had been made against it, that everybody had been for it, from General Washington down, and yet that payment had been delayed, is to put those who preceded us in a very awkward position.

Mr. CRITTENDEN. The Senator misunderstood me, I think. I stated that there had been three unfavorable reports in this body, but those reports had been antecedent to 1824, when the public documents relative to this subject, on a resolution of this body, were brought into the Senate, and that from that time there had been no adverse report.

Mr. DAVIS. I heard the Senator but imperfectly, and should very much prefer to see his remarks before attempting to reply to them, because there was a great deal I could not hear at all.

Mr. GWIN. The Senator wants to discuss this question?

Mr. DAVIS. I do not ask the Senate to postpone it for me.

Mr. GWIN. The Senator from Pennsylvania is on the floor on the other question. I make a motion that this bill be postponed until to-morrow; and I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. CRITTENDEN. Certainly, if my friend from Mississippi is desirous to be heard on the bill, I shall not object.

Mr. SEWARD. The call for the yeas and nays may be dispensed with, and there will be no objection to the postponement.

The VICEPRESIDENT. The Chair hears no objection to withdrawing the call for the yeas and nays.

The motion to postpone was agreed to.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. BIGLER. Mr. President, I have for some days desired to give expression to my views on the subject of a railroad to the Pacific ocean; not, indeed, that I am vain enough to believe that I can advance any new or effective argument in favor of the measure, for the subject has been exhausted by abler hands; or that I can in any way influence the action of the Senate on the question. My main purpose is to give form to my own views, on the general subject, before voting on the various and somewhat dissimilar propositions now pending before the Senate, so that my true position may be known to my constituents. There seems to be, I am happy to discover, but little diversity of opinion as to the main object. All, or nearly all, seem anxious for the construction of a railroad across the public domain to the Pacific ocean. The conviction seems to be general, as well in the Senate as throughout the States, that

such an improvement would be of vast advantage to the country. The main differences are about the proper means to accomplish the desired end; about the extent and character of the aid which Congress may rightfully extend to the proposed work, and as to its proper location.

For myself, I shall not be tenacious on minor points. My object is to secure the construction of a grand channel of intercourse between the Atlantic States and our Pacific possessions; not so much as a means of developing the material wealth of the intermediate country and extending our commerce, as of maintaining our rights and protecting our citizens on the Pacific side. The whereabouts of the road is with me a secondary consideration. I care not that it be a few degrees further north, or further south, so that it be a great national highway, open to all, and of capacity sufficient to answer all the purposes of the Government, and the demands of commerce, trade, and travel. Though believing only one railroad necessary, and that the construction of one will be a task requiring quite all the aid the Government will be willing to extend, and anxious that that one road should be a fair representative and agent of the Government, and be, in its location and construction, satisfactory to the great mass of the people, I am still, in view of the peculiar nature of the question, willing to give to those who may undertake the work, a liberal discretion as to its location. Certainly no one will contend that it should be forced where nature did not intend it to be. It should be on the best location; and for one I am willing to leave the decision of that question to the results of scientific investigation, and to those business considerations which may properly influence such an issue. Those who are to construct, own, and manage the road, will be most interested in the location; they will look for the cheapest and best; as Mr. Benton said, "They will look before they leap, and if they do not, they will not leap long." It is true, I prefer a central route, and I hope one somewhat central may prove acceptable; but I go for a road, however far north or south, rather than none. But I attach serious importance only to the location of the main trunk, which is to extend across the mountain range. As for connections with the main trunk on the eastern, as well as on the western side of the mountains, I can see no occasion for jealousy or conflict among the friends of the measure as to these.

The eastern terminus will be accessible by railroad communication to all the Atlantic cities, and if found anywhere on the Missouri river, above St. Louis, the difference in distance between it and those great cities would not be material. If fixed at the mouth of Kansas river, it would be about fourteen hundred and fifty miles from Boston; twelve hundred and fifty miles from New York; eleven hundred and fifty miles from Philadelphia; ten hundred and fifty miles from Charleston, and nine hundred miles from New Orleans. Besides, the country on the eastern slope, for several hundred miles, is susceptible of high cultivation, and blest with a genial climate, being capable of sustaining a large population engaged in agriculture, mining, manufacturing, and the other arts of peace. This region, like the Atlantic States, will, in due time, and with wonderful rapidity, be checked over in all its parts with railroads, extending north, south, and east, and leading to all the principal points on the Atlantic side of the Union, serving as feeders to the main trunk, and receiving in turn much of their patronage from its ample stores. You might name a terminus anywhere—New York, Philadelphia, St. Louis, or at the mouth of the Kansas river—but such terminus, in point of practical operation, would be but nominal. The road would be tapped at every point west where the business of the country might require it, and the practical terminus would be at the eastern side of the mountain range. The South Pacific, the Jefferson, the Hannibal and St. Joseph, the St. Joseph and Atchison, the several roads across the State of Iowa, that up the Platte river, and that from Atchison, in Kansas, to Fort Kearny, are each intended to reach the Pacific road, and will do so at some time, no matter where it may be located. The main trunk through the mountain region is the desideratum. This should be properly located, regardless of every other consideration; and in deciding this question due reference should be

had to the cost of the work, the heights of the grades, and the character of the curvatures; as well, also, as to the nature of the climate and the depths of the snows.

The road should not only be an efficient one when built; but, if possible, it should be so every week and day in the year. This could not be the case were it located in a region where the snow falls to great depths; for there is no more fatal impediment to railroad travel, and no greater hazard to the traveling public on railroads, than snow drifts, in a severe climate. However fiercely the iron horse may snort and smoke and thunder along on a clear track, he is readily tamed in a snow drift. I have seen him so completely subdued by this element, in a few hours, that he could go neither back nor forward. The Russians have attempted to avoid this difficulty by placing their roads on embankments; but this could not be done on an undulating surface, where cuts and fills must follow each other in such rapid succession; for the cuts necessarily fill up.

But, let me digress from the main subject for a few moments, to notice the progress of railroads, and their influence upon the growth of the United States. Thirty years ago railroads were unknown in this country. Now about thirty thousand miles are in operation, extending from State to State, and from city to city, on the Atlantic side of the continent; and it is now proposed to construct two thousand miles more, to connect all these with the Pacific. Of their happy effect upon the trade and commerce, as also upon the physical improvement and material wealth of the nation, I need not speak; this is apparent to all. But their influence upon the political growth and strength of the Union, though less obvious to the careless mind, has been still more wonderful, and, if possible, more beneficial. When that Union was composed of thirteen States, the means of intercourse and communication between them were tedious, inefficient, and uncertain; and, so far as all these were concerned, the Confederacy was already a very large one; the States seemed widely separated, and their people strangers to each other. Even ordinary mail communication was a tedious process. For instance, the news of the battle of Bunker Hill was not known to the Continental Congress, at Philadelphia, for a week after it occurred; when the Declaration of Independence was enunciated, many weeks elapsed before the event was known in all parts of the infant Republic; and, as late as 1814, the Capitol at Washington had long been in ashes before the startling news was known in all the States. Then our Union, measuring its proportions by the time necessary to communicate with its different parts, seemed extended and unwieldy. Then it required many days to communicate between even our principal Atlantic cities; and weeks to send the orders of the Government to its military forces on the frontier, and months to move an army from the interior or west to the sea-board.

It was not, therefore, singular that about that time wise and prudent statesmen should have entertained apprehensions of the danger of extending our possessions, and of increasing the number of States. But we have, nevertheless, gone on extending our limits and acquiring new territory, until our western boundary is marked by the waters of the Pacific. State after State has been welcomed into the Union, until they now number thirty-two; and yet, for all the purposes of commerce and trade, for the arts of peace and the ends of war, for political and social intercourse, our country seems rather to have contracted than expanded. Whatever now happens to one of the States is known with wonderful promptitude to all the others, save only the one on the Pacific; so much so that the States now find themselves in daily and hourly intercourse with each other, and with the Government at this place. Why, sir, the circumstance that I address you to-day will be known to millions of the people to-morrow, and in all the States save one; and in forty-eight hours after, the locomotive will have distributed the details of this day's proceedings to an equal extent. Were any one of the States assailed to-day by a foreign foe, the fact would be known to all the others, save one, to-morrow, and the whole military power of this Atlantic Confederacy, if I may so term it, could be thrown to the point of attack in a few days; and thus the wonderful spectacle is witnessed, that, for all the purposes

of government, the Confederacy of thirty-two States is more compact and conveniently managed than was that of the original thirteen. Railroads and telegraphic wires have worked this phenomenon in our country's progress. It was these great agencies, keeping pace with the growth of the country, that have seemingly counteracted, and far more than counteracted, its physical expansion; and, by the annihilation of space, to have drawn its several parts into a more close alliance and intercourse, as they have also at the same time, and, perhaps, forever, put to rest all apprehensions of danger to the Republic by the extension of its limits. And now, sir, permit me to ask whether there is one man in this body, or one in the nation, who is not willing, if not anxious, that these great agencies shall continue to move onward *pari passu* with the future growth of the country and perform their munificent functions? Having thus already brought the States east of the Rocky Mountains within a family circle, they are extending their strong arms towards the "Far West" in order, if possible, to bring the Pacific States and Territories within the same accessible and intimate relation. Who is not anxious that the States of California and Oregon, the Territories of Washington and New Mexico, shall be included in this familiar circle? As to Utah, until she behaves better, she must not expect to be welcomed into civilized society; while I doubt not the road would become an efficient agent of her reformation. But these things can only be attained by carrying this agency over the mountain barrier found between us and them.

The belt of barren country between the Mississippi and the Pacific has arrested the westward progress of railroads, and the work of overcoming this obstacle is evidently too great for individual means. The construction of a railroad for more than a thousand miles over a somewhat inhospitable region, ill suited in its natural condition for agriculture and mechanic arts, however rich in mineral resources, is no ordinary enterprise. If the Government would enjoy it, she must extend toward it a most liberal support. It is at least evident that if left to mere commercial considerations, it is not likely to be constructed in time to answer the pressing necessities of the Government. Merely for commerce, it might be deferred; but the wants of the General Government will, I doubt not, become imminent. Nor is it presented as an ordinary railroad enterprise; the considerations which surround it and impel us to its construction, are far higher and, if possible, nobler, than the motives ordinarily at the bottom of railroad measures. To my own mind it is far more a measure of military power and political progress on the Pacific coast than of material wealth and population to the intermediate country; more one of political and social intercourse, of unity and fraternity between the Atlantic and Pacific members of the Union, than of trade and commerce, though essential to the promotion of each and all of these interests. We must have complete command over, and the power to protect, the possessions we now have, if we would hereafter induce neighboring States to accept our free institutions as their form of government. We must have constant and rapid intercourse between the Atlantic and Pacific States, as a means of cherishing those political, commercial, and social ties which bind civilized communities together, begetting union, fraternity, and power.

Shall this relation be brought about? Shall this obstacle be removed, or shall it forever interpose? It is the only barrier in the way of unlimited railroad communication between the States that are and are to be. Shall it forever interrupt railroad intercourse, which has already accomplished so much for the confederacy of States? There it lies, sir, in its full length and breadth, across the public domain, and there it will lie forever. But it is not an impassable barrier, and it must be overcome. The Government has a deep stake in the enterprise; and why should it not lend its countenance, its property, and its credit? I agree, sir, that the construction of railroads is not one of the objects of Government; and were the purposes of the one in view only commercial, and was it to extend over a region of country susceptible of high cultivation in its full extent, I should be reluctant to connect the Government with it in any way; but it is far otherwise; a great barrier is found in the way of political, social, and com-

mercial reciprocity, and military aid and defense between widely-separated members of the Union, each having equal claims upon the favor and guardianship of the Government at Washington. Individual capital is not equal to the herculean task; the inducements are insufficient, and the strong arm of the Government must be extended to the work.

Nor will it do to regard this work as an ordinary railroad scheme. The obstacle to which I have referred is one of its distinguishing characteristics. However rich that region may be in minerals, (and I doubt not it contains valuable treasure, and perhaps a large portion of its soil may be susceptible of cultivation by irrigation, as claimed by the Senator from California,) it is not the character of country that presents inducements to farmers—the pioneers of a new country. They will always seek that region best suited by nature for their pursuits; where the least measure of labor will produce the largest amount of subsistence. Over such a country the agriculturist and mechanic will spread, and be immediately followed by the manufacturer, the capitalist, and then by railroads. But not so as to the region in view; as to it the usual process of settlement must be inverted; the railroad must be the pioneer, and draw after it population, capital, and the industrial pursuits.

I think the Government should aid this work as a means of political power and military defense; and the people of the United States should build it as a means of contending for the greatest commercial prize that has been staked in modern times, and as the most effective agency of developing the material wealth of their vast domain. The general subject, therefore, is one of momentous importance, and should command the attention of the wisest men of the land. It is not a question to be lightly treated; for its consequences are pregnant with great results to the nation. We should look at the subject calmly, and determine what is best for the future of our glorious Union. The statesmen of the revolutionary times and of the earlier days of the Republic do not seem to have been fatalists in their opinions. They did not trust great objects, touching the growth of our country, to the course of "manifest destiny," nor to the policy of "masterly inactivity." They relied upon action—well-considered and well-directed action. The independence of the Republic was not the result of fate; nor was the formation of our republican Government, with its numerous independent sovereignties perfectly equal in their rights—acting through and sustaining a common Government—the work of chance; nor was the purchase of Louisiana and Florida the result of accident. Each and all of these acts were the fruits of a wise and sagacious policy. Let us, then, attempt to glance at the future.

Let me allude to the importance of this work in a military point of view. No statesman, it seems to me, can contemplate the inevitable condition of California in case of a war with a strong naval Power without painful solicitude. The first sixty days of a war with such a Power would, in all probability, see her cut off from all intercourse with the Atlantic States, and would see us without the means of sending an army to her relief through our own possessions. She would be left to struggle, perhaps to fall, alone. At present, it would require four or five months to send an army to her rescue overland; and if the demand should be made in the inclement season of the year, relief could not be extended at all. Can the Government look upon a picture of this kind with indifference? Shall we see a far-off, though wealthy and cherished Commonwealth, thus hazarded? May Congress be thus careless of the obligations which rest upon them to provide the means to "repel invasion?" Is not such an object worthy of the best efforts of the Government? And does it not warrant the exercise of a high degree of power on the part of Congress to provide means of ready defense for such valuable possessions?

For myself, sir, I can see but little difference between such a work and the construction of forts to defend the commercial cities of our seaboard. Were California assailed by a foreign foe to-day, would it not be the bounden duty of the Government to go to her aid with all possible dispatch, and "repel the invasion?" And, in doing so, who will pretend that the means of the Treasury may not be legitimately expended to construct roads

and bridges over which to pass the army? Such use of the public money has constantly been made. Was it not proper to construct a road for the army from Vera Cruz to the city of Mexico? Was it not proper to construct a road to Utah? and would it not be allowable, were we engaged in war, to expend the money of the Government to almost any extent to secure a rapid transit of the army from one point to another? If these things may be done, why then may we not, in time of peace, prepare to meet exigencies that must inevitably arise in time of war? It could as well be objected to the construction of forts in time of peace as to the work in view. Gentlemen may think lightly of this view of the subject; for they may be ready to conclude that we are to have no war; and I trust, in God's name, their impressions may prove correct; for war is always a calamity, but it is not so great a calamity to a nation as submission to insult and degradation; nor need we disguise the fact that our Government is at present, to a greater or less extent, involved in imbrolios with England, Nicaragua, Mexico, and Spain, from which such a misfortune might readily arise. I am not specially a war man, nor do I believe the people of the United States desire such a struggle with any other Power; but it cannot be disguised that their patience has been seriously tested within the last twelve months by indignities offered to our flag by the British, under various, and, to my mind, only specious pretenses. I never desired an American sea-captain to violate law, or the instructions of the Government; but I must confess, that had one of our men-of-war sunken the *Styx* or *Buzzard*, or any other offending vessel of the British navy, I should have been slow to break the commission of the captain. There is at least enough in these things to suggest the possibility of war; and I tell gentlemen that when war does come with any respectable foreign Power, the first and most universal exclamation amongst statesmen and military men will be, "What a misfortune it is that we have not a railroad to the Pacific coast!" And it would be singular, sir, if the first six months of such a war did not cost us, for the want of such an avenue, the price of its construction. Who will talk about estimating our rights and possessions on the Pacific coast by dollars and cents? Who can look through the dim vista of the future, and measure the amount of commerce that is to be drawn to our country from our possessions on that seaboard? Who will fix a price upon California—a State which, for the rapidity of its growth, and the facility with which wealth and power has been brought into existence, and all the ends of civilization accomplished, has no parallel in the history of this country, or any other. No longer ago than 1846, it was comparatively unknown, with an Anglo-Saxon population not exceeding ten or twenty thousand; now its population is five hundred thousand. Since the time that Moses passed through the wilderness, there has never been a case of discovering, occupying, and improving a country with such rapidity.

I suppose, sir, it will hardly be pretended that in case of war an early, if not the first, assault of the enemy would not be upon our possessions on the Pacific coast. Will any man say that we are in a condition to defend them? I think not, unless the attack is by a feeble naval Power. Then, sir, with what propriety can we talk about the acquisition of additional possessions? Talk about a war for Cuba, and about a protectorate over neighboring States, while we must confess that we have not the means of promptly and thoroughly protecting the possessions we now have! Let us establish this great protectorate for ourselves, and we shall then be in better condition to influence the destiny of others. How many Senators are there opposed to the Pacific railroad who would refuse to vote two or three hundred million dollars for the purchase of Cuba? I presume not one; few of them would vote more than myself. And will they not grant a portion of the public lands, (which, without the railroad, will remain valueless,) and the credit of the Government, to a moderate extent, as a means of securing to us California and Oregon and Washington, and securing the means of civilizing Utah? The truth is, the estimated cost of this avenue to the Pacific is a bagatelle compared with the value of the considerations involved; and all that is pro-

posed by the pending bill is little more than has been done for railroads in all the new States. Why, sir, my only fear is, that the aid proposed is quite insufficient to accomplish the object.

I do not care to elaborate this idea of military defense; but, sir, let me ask you what would have been the fate of the English and French at Sebastopol, had the Russians possessed a thorough railroad communication from St. Petersburg to that point, by means of which they could have thrown their immense army, with the necessary provisions, into the struggle in a few days' time? Suppose Mexico had had efficient railroad intercommunication from the halls of the Montezumas to Vera Cruz: how could General Scott have effected a landing? Or, suppose those railroad facilities had extended to the Rio Grande: what would have been the fate of General Taylor at Palo Alto and Resaca de la Palma? And, sir, what power strong enough to meet us on the Pacific coast, if we had such a means of transmitting men and munitions of war; or what Power so weak that it might not, for a time, annoy and degrade us, without it? But, sir, I find this point most happily and clearly discussed by the late Secretary of War, now the Senator from Mississippi, and I shall ask the indulgence of the Senate whilst I read a few extracts from that admirable paper. They are as follows:

"The facts developed by these surveys, added to other information which we possess, suggest some considerations of great interest with regard to our territory on the Pacific. They exhibit it as a narrow slope of an average width of less than one hundred and fifty miles of cultivable land, skirting the ocean for a distance of one thousand miles, rich in those mineral productions which are tempting even beyond their value, and which would be most readily turned to the use of an invader; drained by two rivers of wide-spread branches, and with sea-ports lying so directly upon the ocean that a hostile fleet could commence an attack upon any one of them within a few hours after being despatched from land; or, if fortified against attacks, so few in number that comparatively few ships would suffice to blockade them.

"This territory is not more remote from the principal European States than from those parts of our own country whence it would derive its military supplies; and some of those States have colonies and possessions on the Pacific which would greatly facilitate their operations against it. With these advantages, and those which the attacking force always has, of choice of time and place, an enemy possessing a considerable military marine could, with comparatively little cost to himself, subject us to enormous expenses in giving to our Pacific frontier that protection which it is the duty of the General Government to afford.

"In the first years of a war with any great maritime Power, the communication by sea could not be relied upon for the transportation of supplies from the Atlantic to the States. Our naval peace establishment would not furnish adequate convoys for the number of store-ships which it would be necessary to employ; and store-ships alone, laden with supplies, could not undertake a voyage of twenty thousand miles, passing numerous neutral ports, where an enemy's armed vessels, even of the smallest size, might lie in wait to intercept them.

"The only line of communication, then, would be overland; and by this, it would be impracticable, with any means heretofore used, to furnish the amount of supplies required for the defense of the Pacific frontier. At the present prices, over the best part of this route, the expense of land transportation alone, for the annual supplies of provisions, clothing, camp equipment, and ammunition for such an army as it would be necessary to maintain there, would exceed \$23,000,000; and to maintain troops, and carry on defensive operations under those circumstances, the expense per man would be six times greater than it is now; the land transportation of each field twelve-pounder, with a due supply of ammunition for one year, would cost \$2,500; of each twenty-four pounder and ammunition, \$9,000; and of a sea-coast gun and ammunition, \$12,000. The transportation of ammunition for a year for one thousand sea-coast guns would cost \$10,000,000. But the expense of transportation would be vastly increased by a war; and at the rates that were paid on the northern frontier during the last war with Great Britain, the above estimates would be trebled. The time required for the overland journey would be from four to six months. In point of fact, however, supplies for such an army could not be transported across the continent. On the arid and barren belts to be crossed, the limited quantities of water and grass would soon be exhausted by the numerous draught animals required for heavy trains, and over such distances forage could not be carried for their subsistence.

"On the other hand, the enemy would send out his supplies at from one seventh to one twentieth the above rates, and in less time—perhaps in one fourth the time—if he should obtain command of the Isthmus routes.

"Any reliance, therefore, upon furnishing that part of our frontier with means of defense from the Atlantic and interior States, after the commencement of hostilities, would be in vain; and the next resource would be to accumulate there such an amount of stores and supplies as would suffice during the continuance of the contest, or until we could obtain command of the sea. Assigning but a moderate limit to this period, the expense would yet be enormous. The fortifications, depots, and store houses, would necessarily be on the largest scale, and the cost of placing supplies there for five years would amount to nearly one hundred million dollars.

"In many respects the cost during peace would be equivalent to that during war. The perishable character of many

articles would render it perhaps impracticable to put provisions in depot for such a length of time; and in any case, there would be deterioration amounting to some million dollars per year.

"These considerations, and others of a strictly military character, cause the Department to examine with interest all projects promising the accomplishment of a railroad communication between the navigable waters of the Mississippi and those of the Pacific ocean. As military operations depend in a greater degree upon rapidity and certainty of movement than upon any other circumstance, the introduction of railway transportation has greatly improved the means of defending our Atlantic and inland frontiers; and to give us a sense of security from attack upon the most exposed portion of our territory, it is requisite that the facility of railroad transportation should be extended to the Pacific coast. Were such a road completed, our Pacific coast, in lieu of being further removed in time, and less accessible to us than to an enemy, would be brought within a few days of easy communication, and the cost of supplying an army there, instead of being many times greater to us than to him, would be about equal. We would be relieved of the necessity of accumulating large supplies on that coast, to waste, perhaps, through long years of peace; and we could feel entire confidence that, let war come when and with whom it may, before a hostile expedition could reach that exposed frontier, an ample force could be placed there to repel any attempt at invasion."

President Buchanan, in his inaugural, said:

"I consider it clear that, under the war-making power, Congress may appropriate money for the construction of a military road through the Territories of the United States, when this is absolutely necessary for the defense of any of the States against foreign invasion. The Constitution has conferred upon Congress power 'to declare war,' 'to raise and support armies,' 'to provide and maintain a navy,' and to call forth the militia 'to repel invasions.' These high sovereign powers necessarily involve important and responsible public duties, and among them there is none so sacred and so imperative as that of preserving our soil from the invasion of a foreign enemy. The Constitution has, therefore, left nothing on this point to construction, but expressly requires that 'the United States shall protect each of them [the States] against invasion.' Now, if a military road over our own Territories be indispensably necessary to enable us to meet and repel the invader, it follows as a necessary consequence not only that we possess the power, but it is our imperative duty to construct such a road. It would be an absurdity to invest a Government with the unlimited power to make and conduct a war, and, at the same time, deny to it the only means of reaching and defeating the enemy at the frontier. Without such a road it is quite evident we cannot 'protect' California and our Pacific possessions 'against invasion.' We cannot, by any other means, transport men and munitions of war from the Atlantic States in sufficient time successfully to defend these remote and distant portions of the Republic."

Mr. Benton, in his speech of 1855, portrayed the utility of the work in the following impressive terms:

"Safety as well as profit—security as well as policy—protection against calamity, as well as prospective good—require the construction of this road. What sustains and stimulates the national industry at this time? California gold! that gold, the weekly arrival of which is the life's blood of our daily industry; and one month's default of which would be the paralysis of our financial, commercial, and industrial world. And how do we receive that gold now? Over foreign seas, and across foreign territory, and after a circuit of six thousand miles—liable to be cut off at any moment by the cruisers and privateers (to say nothing of fleets) of any Power with which we might be at war; and several specks of that portentous cloud now appear above the line of our political horizon. And this is the place for these political considerations. Such considerations address themselves to the political power, and that political power is here. Congress is charged with the protection of the national interests, and ships and troops and missions are put in requisition for that purpose. A readier, a cheaper, a more effectual mode of protection to that commerce which belongs to the Pacific—which comes from California—would be to make this road through our own territory, placing it beyond the reach of foreign depredations, and at the same time making it a means of keeping the Indians themselves in order."

The value of the proposed work as a means of increasing our commerce, it is difficult to estimate. With that work completed, the direct route from Europe to China and Japan would be through the United States; and whilst ordinary merchandise would not bear transportation through such an avenue, it could not fail to become a thoroughfare of travel between these distant points. Nor will any one doubt that it would be the means of securing for our country a very large commerce with the countries of eastern Asia. They would become, to a great extent, consumers of our products, and we, in turn, would take their silks, teas, and other commodities. The experience of the world shows that personal intercourse amongst men always begets trade and commerce; and with so large a portion of the eastern and western hemispheres interested in an avenue of intercommunication, it could not fail to attract millions on millions of wealth, which cannot now be counted or discovered.

But, sir, look at the internal business that must necessarily grow up; the reciprocal trade and commerce between the Atlantic and the Pacific States. I know and agree that this would not be

the route for heavy tonnage or ordinary merchandise; but it would be a route for all the travel, for the precious metals, for the finer fabrics, and for the mails; and from the east as well as the west, it would convey into the intermediate country all the goods of every character which could be consumed, and, in turn, convey the products of that vast region to an eastern or a western market, as the case might be. It requires almost an effort of imagination to draw a picture of what the country between the Mississippi and the Pacific may become. Much of the surface, it is true, is rugged and apparently useless; but I doubt not it will, in the end, be found to abound with inexhaustible mineral wealth. Think of an area of twelve hundred million acres, with a very large proportion of fine arable land, and then undertake to calculate the millions on millions of population which it is capable of sustaining, and estimate the commerce which must necessarily follow! But, so far as the trade of Asia, of China and Japan, is concerned, or, indeed, the commerce of our own western coast is involved, we are not to gain all these without a struggle. If we desire to rival Great Britain for this prize, we must adopt the necessary means. Nature has designed it for the United States, and it will be a reproach to her statesmen if she should not enjoy it. The construction of a railroad to the Pacific is the most effectual means to that end we can adopt. Nor should we be slow to move in the matter. Our rival is vigilant, powerful, and determined. It now seems to be conceded that a railroad can be constructed through the British possessions by way of the valley of the Red River of the North to Fraser river; and this fact is perhaps sufficient to settle the question that it will be done. Great Britain will not be likely to neglect a measure so full of promise for her commerce, and so beneficial to her colonial dependencies. She will certainly grasp the prize unless we do. In alluding to the vast commerce at stake, the Senator from California has fitly said, that "either England or the United States must, in the end, control that vast commerce. It must center in London, Calcutta, and Bombay, or in America." As the contest now stands, England has the advantage, because of her powerful navy and great shipping ability. But how will the case be should she construct a road of the character in view, and the people of the United States neglect to make one within our limits? Then, what would become not only of our commerce but of our political power in that region? Then, England would care but little about the right of way through Nicaragua or Mexico.

Under such circumstances, the apprehension suggested by the Senator from New York, as to the political consequences of neglecting this work, might receive great force and plausibility. He said:

"The Pacific railroad involves this question: whether this capital, endeared to us by so many attractions, and exciting so much hope, pride, and promise, shall, by the improvement of facilities for intercourse, commerce, and communication between us and the Pacific coast, remain the capital of the whole United States of America, or whether it shall dwindle, and sink, and become the capital of the United States of Atlantic America only; and Mexico, invested as it is with so many ancient and heroic traditions, shall become a rival capital—the capital of the Pacific States of America."

Whilst I am not willing to anticipate consequences so momentous as the result of neglecting the proper means to protect our fellow-citizens on the Pacific coast, and to extend to them that support to which they are so justly entitled under the compacts of the Constitution, I do think it a great moral and political wrong to neglect them, and to put their loyalty to the test by a well-founded cause of complaint, or to excite that measure of discontent which might by possibility lead to alienation. I am for promoting commerce and fraternal affection with them, cost what it may. What could compensate the nation for the loss of California, or for the humiliation the nation would feel at having her cut off and hemmed in by a foreign Power? Gentlemen are startled at the idea of \$100,000,000 to construct a railroad to protect California, Oregon, Washington, and all the other interests that are to grow up on the Pacific, and yet they would vote hundreds of millions to purchase Cuba, or, in a war, to maintain our present transit route across the Isthmus of Panama. Why, sir, California is already sending fifty or sixty millions of gold, annually, to the Atlantic States; and that amount is gradually on the in-

crease. The adoption of measures to protect fully and completely all the possessions which we now have, by railroad communication, and, if needs be, by additional naval power, is my mode of practicing the Monroe doctrine. It is the best means of influencing surrounding States, and a far better agency of gaining additional possessions than weak and lawless filibustering expeditions.

But it is urged as an objection to the proposed road that it will not only fail to pay fair dividends on the capital necessary to construct it, but that the business will not be sufficient to pay the expenses of working it when built; and it is admitted that if the estimate of its income is to be based upon the present amount of commerce and trade between the Atlantic and Pacific divisions of the country, the objection would seem to be well taken. But no reasoning could be more unfair, and at the same time futile, than this. Who maintains that the present amount of business is sufficient to fairly reward the necessary amount of capital? This is not claimed, nor need it be, by the friends of the measure. It is not necessary to establish that position, in order to demonstrate the utility of the work. The great reasons in favor of it are, that it will increase not only the domestic but the foreign commerce of the country; that it will beget trade and travel; that it will develop the material wealth of the country through which it is to pass, and that population and all the operations of a civilized community will follow in its wake. Nor does any one contend that we can have a railroad immediately. Its construction, under the most favorable circumstances, will require much time—six or eight years, at least. Indeed, the pending bills propose to give the contractors from ten to twelve years to complete the work; and who, among the objectors, will undertake to tell us what the condition of the country will be ten years hence? What will be the population on the Atlantic and Pacific sides, and what the demands for such a channel of commerce may be, no one can tell with accuracy; but the lessons of experience are the best index of the future. The past growth of our country is, therefore, the safest basis upon which we can rely; and any one can see that on that ratio of increase, especially when applied to the Pacific region, the result would be almost fabulous. It is easy to show that the commerce and trade between our people on the Pacific and those on the Atlantic are meager, compared with those of the whole country; but it must be remembered that the Pacific region has been ours for only a brief period; that the American population within the last ten years has increased fifty fold, having swelled up from about ten thousand inhabitants to over five hundred thousand. The number of persons passing to and fro is rapidly approaching the respectable number of a hundred thousand per annum, which, at fifty dollars each, amounts to the respectable income of \$5,000,000. But it must be noticed, also, that each section of the road, as it approaches the center from the east and the west, would beget, to a great extent, its own business from a region now unoccupied and unproductive.

But the objection with which I am dealing, it will be seen, is not strictly applicable to the proposed action of Congress. It is not claimed that the road, however successful, is to be a source of revenue to the Government, nor can it be a drain upon its means or property beyond a very limited extent. The objection that the road will not pay, would certainly be a fair subject for capitalists to consider. It is a question for the decision of those who may weigh the question of constructing the road. If satisfied that they are to lose the money which will be required for the work, it is scarcely necessary to say that they will not undertake to construct it; and if the law we are about to pass is not executed, surely the Government cannot suffer. The reasons for Government aid to the work stand far above a question of dollars and cents, as I have already shown. That the road may not pay the stockholders, is no reason why the Government should not have the use of it to transmit its mails, its agents, its armies, and all the munitions and paraphernalia of war. But I must confess, Mr. President, the objection which I am now combating had at one time made a strong impression on my own mind against the utility of the scheme; but fuller reflection upon all its objects and tendencies, and especially upon

its political influence, and the necessities for it in a military point of view, has made me its advocate. I never have had any doubt of the practicability of the work. I always believed it possible to construct a railroad across our domain to the Pacific ocean, but had great doubts as to its successful operation when built; and we must not be astonished that there are those who doubt on one as well as the other of these points, and that there are others who resist the enterprise on the broad ground that there is no necessity for it. Railroad improvement has always encountered an inveterate foggyism, which has hung on its skirts, and industriously predicted disaster and failure at every step. Why, sir, it is but a few years since, in the Senate of my own State, I found it no easy task to combat the impression that a railroad from the eastern to the western extremity of that State was a visionary and impracticable scheme. The construction of the Pennsylvania railroad was resisted distinctly and emphatically on that ground; but it is now one of the best and most successful roads in the world.

But I object entirely to this mode of ascertaining the value of railroads. It is not to be estimated by dividends to stockholders. Great as have been the benefits conferred upon the country by railroads, there are but few that could stand such a test. Their real value to the country through which they extend consists not so much in income to their owners as in their tendency to develop natural elements of wealth, to attract population, and to facilitate trade and travel. Why, sir, the time saved to the traveling public is in itself a source of great wealth to the country. If productive labor is the wealth of a nation, the time of each individual is capital to him. We all know how much time we now save by coming to the capital in railroad cars, instead of on horseback, or in coaches. I have seen it estimated that the time saved to the traveling community by railroad facilities, as against former modes, is sufficient, if well employed, to cover the entire traveling expenses; so that it is seen, if this estimate be correct, we now travel free of charge, as compared with former times. For instance: the distance from Missouri to the Pacific is about two thousand miles, and it would take a man, on foot, at least three months to make the trip; and with horses, about two months; but by railroad, at ordinary speed, the trip can be accomplished in eighty hours, thus saving time enough to earn a large proportion, if not the entire expense, of the trip. Besides this, their general influence upon the prosperity of the country is almost beyond estimate. These arteries of trade and travel seem to be as necessary to the vigorous growth and prosperity of the country as are the veins in the human system to give life and growth to the body. Their real value would be better understood and appreciated should their functions be suddenly suspended. Who can imagine the condition of the country in such an event? The shock would be terrific. It would paralyze the business operations of the country from one extremity to the other, and lead to countless sacrifices and disappointments. If they are so important to the Atlantic States, how shall the country between them and the Pacific prosper without their use? What we need to promote the welfare of, and give political and military strength to, the whole country, is a grand artery across the public domain, through which may flow and reflow the vital fluid from the heart of the Republic, giving health, growth, and vigor to its Pacific extremities, now weak and paralyzed. The agency it must have in developing the material wealth of the country, and giving value to the public domain, is also an important element in its real value to the nation. But I find this point so fully and forcibly presented by the Senator from California, in his late excellent speech in favor of the road, that I think its reproduction the best I can do for the cause. He reasons as follows:

"Nor is it the mere expense of emigration that retards the sale and settlement of these lands; but for the want of a railroad reaching from the Pacific into the interior, farmers, with the exception of mere local neighborhoods, are deprived of all markets for their produce, as well as of many of the return supplies; and thereby their lands are rendered comparatively worthless. The same remark is true to a great extent as regards the great region between the States and Territories on the Pacific and the States that border upon the Mississippi. That great intermediate region contains an area of six hundred and eighty-eight million one hundred and seventy-nine thousand two hundred and forty

acres, nearly all of which is public lands, or lands to which the Indian title will soon be extinguished; and, indeed, to a vast portion of it there is no Indian title whatever. From the whole of this vast area the Government has received nothing from the sale of the public lands. These lands are now almost inaccessible, either from the Atlantic, the Mississippi, or the Pacific, and furnish no markets for products. Many of these lands, as well as those in the States and Territories on the Pacific, contain the richest minerals, and the miners must be supplied by those who cultivate the arable lands. These minerals include gold and silver, quicksilver, coal and iron, copper, lead, and salt, and many others, lying waste and unproductive for want of easy and economical access; and here, too, are found the most valuable mineral manures, such as gypsum, plaster of Paris, marl, &c. The railroad would carry a vast population into this great intermediate region from our own country and Europe, and would increase enormously the revenue of the Government from the sales of the public lands.

"We have seen that the aggregate area of this great Pacific and intermediate region, now closed against emigration as if by an impenetrable wall, amounts to one and a quarter thousand million acres. A large portion of this vast area consists of the richest arable lands, a still larger of lands of a medium quality, and a still greater proportion of lands admirably adapted to grazing; but they are now almost worthless for every purpose, as is proved by statistics, and demonstrated by experience. Here especially are the most extensive and valuable grazing lands in the world, covered by the finest grasses, over which roam hundreds of thousands of buffalo, the deer, the antelope, and other wild animals; and these, together with the Indians, will be almost their only occupants until the railroad is constructed. These lands are admirably adapted for grazing of almost every description. Here can be raised the finest sheep upon the continent, horses, mules, hogs, and cattle of every description. Here, too, in many portions, the camel can be reared as well as in any parts of Asia or Africa, and in much greater abundance, and with more economy. With the railroad, one vast unobscured tide of population would roll on from the Mississippi to the Pacific, and ante-date by half a century the wealth, power, greatness, and glory of the Republic, while securing the Union by perpetual bonds of commerce, intercourse, and interest. Indeed, it is self-evident, that if the financial benefits of the Government were limited only to the increase in the sales of the public lands, the augmented revenue from this source alone would build many railroads to the Pacific."

Considered, Mr. President, as a mere question of economy for the Government, this improvement would still have strong claims on our favorable consideration. The saving in mail service alone would be no inconsiderable item. We now pay for this service to California and our other points on the Pacific over two million one hundred and eighty thousand dollars a year. By the railroad, at the highest rate claimed in the bill, \$500 per mile per annum, the cost would be but about one million dollars. It is true, sir, that a single railroad could not furnish the mail to all the points now supplied by the expenditure of which I am speaking; but it would not require a million dollars to furnish a daily through line on this road. I doubt not that in this single item we should save \$1,000,000 annually, and have a far more efficient mail service. In addition, the receipts of the Treasury, which are now but \$300,000, would be greatly enlarged. But, sir, this income is small in comparison with what would result to the Treasury from the increased population and consequent consumption of foreign goods which would follow. The Treasury would secure large incomes from this quarter. What it might do as an agent of peace and civilization no man can foresee; but we all know that the expedition to Utah is likely to cost as much in money as is claimed in the credit of the Government for the purposes of this road; and we shall be very fortunate indeed if we have no other occasion for similar expeditions towards the Pacific prior to the construction of the proposed work. I hope we may not, but all the probabilities are against such a conclusion. I am quite convinced that if such an agency of intercourse had been in existence years ago, we should never have had serious trouble with the Mormons. The authority of the United States Government would never have been resisted had the Government possessed facilities of sending an army with promptitude to the Territory, in order to sustain the assertion of its authority, and to execute the laws.

I am not the advocate of a prodigal use of the public money or of public property; but, sir, Governments, like individuals, may be "penny wise and pound foolish;" and a refusal to aid in the construction of this road over the public lands on the ground of economy, would be a striking illustration of the truth of the adage. By attempting to save twenty or thirty or fifty millions, we may involve the Government in an expenditure of a much larger sum. We may do more; we may bring upon the country the degradation of (at least for a time) losing our power and lowering our flag on the Pacific side of the Union.

Nor am I in favor of the exercise of doubtful constitutional powers. I hold the Constitution sacred above everything; but I go for this measure consistently with these views, because I believe it necessary to provide the means of repelling an invasion or providing for the public defense; and, therefore, there is no room to doubt our authority to use the public property and credit, nor the money for such purpose. Nor, sir, need any statesman, it seems to me, have apprehensions as to the consequences of this measure as a precedent. It will form no precedent for this or any other country. The world has never witnessed the like before, and probably never will again—a Government aiding in the construction of a railroad nearly two thousand miles, over an unoccupied region, for the purpose of uniting sovereign States and providing for their defense. We shall never have occasion for the exercise of such power under similar circumstances, and no statesman need apprehend evil consequences from the precedent.

Now, sir, when I shall have made a very brief reference to the bill pending before the Senate and the amendments, I shall have done with the subject. I have felt required to discuss it somewhat at length for the reason that no representative from my State has ever before done so, and whilst the sentiment is strongly in favor of the measure, it is not as thoroughly understood as it should be.

So far as the propositions that propose various routes are concerned, I have nothing to say. In reference to routes, I have taken my position, and my votes shall be accordingly. But there are propositions important in a different point of view, relating to the manner of constructing this work, and to the extent to which the Government should aid it, to which I shall refer. I am willing to go to the necessary extent to secure the construction of the road, in donating the public lands, and in loaning the credit of the Government, for money to be subsequently refunded; but I am not willing to give to the Government the ownership, control, and management of the work. My own State government has had a sad experience in that way, from which useful lessons may be drawn. I have no confidence in the ability of a Government to manage a work of this character, which is in its details a mere business affair. Those who direct its construction and its operations should be those who are personally concerned in its success as directly as may be. This kind of agency is necessary to give security to the owners, and give efficiency to the work. I cannot, therefore, favor any one of the propositions which are intended to lead to the construction of this work directly, by the money of the Treasury. But, sir, I have a suggestion or two to make in reference to the bill of the committee. I shall offer no amendment; I intend to vote for that bill, and in the main to stand by it as it is; but I will make a suggestion or two in reference to points of the policy of that measure, wherein it may possibly prove somewhat defective; and in reference to these suggestions, I should be glad to have the attention of the Senator from California.

The bill, as it stands, proposes to give the lands for twenty miles on both sides of the line. It proposes to make a contract for mail service not to exceed a specified rate—\$500 per mile. It proposes also to secure to the Government the use of the road for military purposes, and, when necessary, an exclusive use, all of which is very well. It goes on to provide that the road shall be constructed in sections of twenty-five miles each; that the work may commence at the western as well as at the eastern terminus; that the contractors shall, upon the completion of each section of twenty-five miles, get a title to their lands, save one quarter, and also get the bonds of the Government, to be repaid in mail service, to the extent of a little over three hundred thousand dollars for every twenty-five miles.

Now to the point. You will see, sir, that under these provisions, the inducement will be very strong to make both ends of the road, because the eastern as well as the western end will pass through the best of the lands on the route. There will be, therefore, a stronger inducement to build the Pacific end and the Atlantic end, than the interior division. There will be no inducement or obligation to go on, except the one quarter due on

each section as completed. The original \$500,000 pledged to secure the commencement of the work is, as you will perceive, to be drawn as the work progresses. My only object in these suggestions is the better to secure the construction of the road; and that the Government may not be mistaken in its contract, I suggest, Mr. President, whether the bill might not be wisely altered so as to throw this work into three equal divisions, the eastern, western, and middle, and allow the provisions of the bill, as it stands, to apply to the eastern and the western divisions, and then, instead of relying upon the lands for the middle section, make provision that, on the completion of each twenty-five miles, the bonds of the Government, running thirty or forty years, redeemable in mail and other service, shall be issued to the contractors, and become a lien upon the whole road. My apprehension is, that the inducements to construct the road through the mountain region may not be sufficient. At all events, I think it is evident that the contractors would have far stronger inducements to make both ends, than to make the middle division, which is the real obstacle to overcome. It may be said that there will be an obligation on them to make all. That would be an obligation of honor; but if you attempted to do it you probably could not make such an obligation effective. But the eighth section of the bill provides expressly that, in case of a failure or neglect of the contractors, the President shall relet the work. Now, sir, I would rather vote for \$25,000 a mile on the middle division, say one third of the whole distance, instead of the lands on that division to be secured upon the work, than to risk the bill as it stands. I should greatly prefer the bill in that shape. I think it would be more efficient as to the accomplishment of the work, and no more objectionable in point of principle.

With these remarks, Mr. President, I leave the subject.

Mr. HARLAN. Mr. President, I earnestly desire the definite action of the Senate on this bill; and for that reason, if for no other, I must refrain from entering on the discussion of the general question. The question of the propriety of the construction of a railroad from the States east of the Rocky Mountains to the Pacific, has been elaborately discussed in the Senate Chamber session after session for several years, which has resulted, as I believe, in a general conviction on the part of Senators, as well as of the country, of the practicability and necessity of the construction of the road. Nor do I propose, on this occasion, to engage in the discussion of the most appropriate means to be employed in the accomplishment of this work. However various may have been the propositions hitherto submitted, it is now, I believe, generally conceded that this work must be effected by private enterprise, aided by the Government of the United States. I desire, however, to submit a few remarks on the propriety of the location of the general route of the road by Congress itself.

The bill now under consideration, as originally reported, provides in its first section—

“That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government services, by railroad, from a point on the Missouri river between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy.”

This language is well calculated to deceive the casual reader. It might be supposed to imply that the selection of the best route was intended to be conferred on the President of the United States; and if so, the bill in this respect, would be less objectionable. The people of the country would then have some guarantee from his high official character, for its faithful and impartial performance, and that the route ultimately selected would be feasible and appropriate; but on examining the fifth section of the bill, it will be seen that neither Congress, nor the President, nor any one of the high functionaries of this Government, is to be called on to exercise a practical discretion on this subject; but “the party with whom the contract aforesaid may be made shall proceed without delay to locate the general route of said road, and furnish a detailed survey and map thereof to the President;” but when shall this be done? After the contract shall have been

made, signed, sealed, and delivered; after the monopoly, if it should be monopoly, shall have been secured; then the contractor is to inform the President of the general route of the road. Now, I desire to know how the President is to exercise any discretion in the selection of the most eligible route; how he is to have reference to shortness, and to feasibility, and to economy, when he is compelled to act in the dark; when he is not to know even the general route of the road until after this contract shall have been signed, sealed, and delivered?

But the location of the general route of the road involves legislative discretion. The object to be secured by the passage of this bill is the rapid transportation of the United States mails, troops, seamen, munitions of war, and Army and Navy supplies, by railroad, from the heart of the country to remote States and Territories, so as to promote the general welfare, and render more efficient our means of protection and defense. And hence it has been denominated a great war measure, as well as a measure of concord and peace. It therefore seems to me not only appropriate that Congress should locate the general route of the road, but that it requires the exercise of a discretion which the legislature of the nation cannot transfer to another.

The people of the United States have conferred on Congress, and not on the President, or any other functionary of this Government, the power to establish post roads; the power to raise and support armies; the power to provide for and maintain a Navy; the power to provide for the common defense and general welfare of the country; and the power to regulate commerce. It is proposed to accomplish all these objects to a very great extent, by the construction of this Pacific railroad. Now, if this be true, I inquire of Senators here, as a constitutional question, whether the members of the Congress of the United States have the right to transfer this legislative discretion to an agent to be selected by themselves, or a secondary agent to be selected by some other officer of the Government? If it were the enactment of a law merely, none, perhaps, would contend that Congress could transfer that discretion; but it is not only the enactment of a law establishing a national mail route, and military road, but the creation of iron ligaments, with which to bind together discordant States, and the establishment of a great avenue for travel and commerce across the continent, connecting the people of this country, by a direct line of railroad and ocean steamers, with the populous and wealthy Asiatic States, and the East India Islands, which, it is said, is to control the trade of this continent, of Europe, and of the world. And it is proposed to confer a power of such vast consequences, not on the President of the United States, or any one of the high functionaries of this Government, but on a mail and Army contractor.

But it seems to me that the location of the general route of the road by Congress is necessary for the purpose of securing competition among bidders for contracts. It is agreed that the construction of a railroad on any one of the proposed routes will cost in the neighborhood of one hundred million dollars. This would be one third of the entire surplus products of the United States, estimated by the statistics of our foreign trade.

This bill provides that it shall be completed in ten or twelve years from its commencement, which will require the expenditure of from eight to ten million dollars per annum. No one can, in good faith, become a bidder unless he can control a capital yielding this sum per annum, deducting the \$10,000 per mile, to be drawn from the Treasury of the United States, as the work progresses. Hence, each bidder must be able to control in the neighborhood of one thirtieth of the entire productive capital of this country before his bid to construct this road can properly be considered by the President of the United States. I fear, sir, there are but very few individuals or companies in the United States able to control such an immense productive capital. The capital of this country is invested in bank stock, in ships, in forges, in furnaces, in factories, in machine shops, in staple products that may have accumulated from year to year, in houses and lots, in farms and plantations and their equipments, in canals and in railroads. One hundred million dollars cannot very readily be diverted

from the uses to which it is now applied, by many individuals or companies in the United States; and if competition is to come, directly or indirectly, from abroad; if we are to appeal to the capitalists of France, under the provisions of this bill, what guarantee would we have that the road might not be built in a southwestern direction from the eastern terminus proposed to the Gulf of Mexico, and there terminate, leaving the trade of the world to pass through the ship canal now being constructed under the protection of the Emperor of the French. And if we seek the capital of England, what guarantee have we that it will not result in a branch road running up in a northwestern direction, intersecting the great Canadian railroad to Puget Sound?

To secure fair competition among bidders, the general route of the road must be established by Congress. The route being established, it may be divided into sections as proposed by the honorable Senator from Pennsylvania, who has just taken his seat. Locate the general route of the road by indicating the parallels between which it shall be constructed as proposed by the amendment offered by the honorable Senator from Massachusetts, and the President of the United States may receive bids for the construction of sections of twenty-five, fifty, one hundred, or five hundred miles. Individuals or companies desiring to control the entire road would thus be brought into competition, with the bidders who were able individually to construct each one of these sections. Unless this shall be done, or some similar amendment shall be adopted by the Congress of the United States, a contract to build a railroad two thousand miles across the western portion of this continent must inevitably become a monopoly; for very few individuals or companies in the United States, at least, will be able to make a proposition that any discreet President of the United States would be likely to entertain.

Congress, in my judgment, should locate the general route of the road, for the purpose of securing the most direct route. This bill, as it now stands, unamended, it seems to me, holds out a direct inducement to the contractor to construct the road on the most circuitous route. I will suppose the contract to have been made, to have been signed, sealed, and delivered; that then the contractor informs the President that the general route of the road, commencing at the mouth of the Big Sioux, the northern extremity of the eastern terminus named, will run over the alluvial lands near the Missouri river, across Nebraska to the Kaw river, thence across Kansas and the Indian Territory, in a southwestern direction, towards the thirty-fifth or the thirty-second degree of north latitude; and that he proceeds to its construction, and builds the first division of twenty-five miles. He will receive his \$250,000 and fifteen sections of land for each mile of road thus constructed. The completion of the next division of twenty-five miles would secure \$250,000 in money, to be drawn from the Treasury of the United States, and twenty sections of land per mile; and should he thus proceed across these very desirable alluvial lands, a distance of 800 miles, he will have drawn from the Treasury of the United States \$8,000,000 in money, and secured title in fee simple to ten millions one hundred and sixty-four thousand acres of the very best lands belonging to this Republic.

This might bring the road to the foot of rugged mountains or sterile plains. What guarantee would we have that the contractor would proceed with the work? Ten million acres of land, located on both sides of a railroad, built and equipped, across the country I have described, would be estimated, by any great land-holder in the western States, to be worth at least \$100,000,000, and no railroad contractor would estimate the average cost of such a railroad at more than \$20,000 per mile, one half being drawn directly from the Treasury of the United States. Thus, the contractor would receive a bonus, for the construction of this division of the road, of sixty or seventy million dollars.

But according to the provisions of this bill the fee simple to the land as well as the money is to be transferred to the contractor, and may have been transferred by him at the completion of such a division of the road to innocent holders. The \$8,000,000 in money and the value of ten millions one hundred and sixty-four thousand acres of

land being in the pockets of the contractor, what guarantee have you that he will continue his work, being now on the borders of precipitous mountains and sterile plains stretching off in a southwestern or western direction for more than a thousand miles?

It is said in this bill that five sections of land along the last division of the road completed shall be retained as a guarantee for the construction of the next section; that is, you will retain the title to 76,000 acres of your own land as a guarantee that the company will proceed. Nothing more. From this time forward the land granted will be perfectly worthless and the cost of the road greatly enhanced. By looking at the reports of the engineers it will be seen that the remaining part of the road, after reaching the ninety-ninth meridian, is estimated to cost across long districts from forty to fifty and even one hundred thousand dollars per mile.

But in the next place we should adopt some such amendment as the one now proposed; because Congress is, or ought to be, better qualified to pronounce an enlightened and impartial decision of this question. I know that in this opinion I differ from many of those around me. I know it is said that we are divided by locality; that we are divided in this respect by interest, and consequently, that there is great danger of the loss of the bill, although a large majority of the Senate and of Congress is believed to be in favor of a Pacific railroad, on a route to be voted for in the dark, and thereafter to be located by some other party; the responsibility being thus shifted from their shoulders. I have already intimated my opinion that the members of the Senate, and of the House of Representatives, have no right to evade the discharge of the discretion with which they have been intrusted by the people of the United States. They have no right to evade the responsibility of their present position. They have accepted the office; they have accepted the trust; and they are daily drawing the pay with which it is accompanied. If we admit ourselves to be incompetent to the enlightened and impartial discharge of the trust that is involved in the office which we have received from the people and the States, it seems to me to be our plain duty to vacate our seats here, and give place to those who are sufficiently enlightened and sufficiently impartial to give a just decision. All things else being equal, it is true, doubtless, that Senators and Representatives would give the preference to their own States; but if a majority of the members of the Senate believe the construction of a railroad from the eastern States to the Pacific ocean necessary to secure the great ends contemplated in this bill, I can hardly think it possible that local interests could influence us to sacrifice the great demands of the nation. Each Senator is the legislator for the nation at large, rather than of even the State in which he lives.

It may be said, however, that the members of the Senate are not sufficiently informed to give an enlightened opinion on this subject. Such a proposition, several years since, would probably have been just in relation to a majority of the members of this body; but I find that Congress passed a law, approved March 3, 1853, appropriating \$150,000, and May 31, 1854, appropriating \$10,000 more, and August 5, 1854, \$150,000 in addition, to be expended, under the direction of the Secretary of War, in an exploration and survey of all the routes then proposed. In all, \$340,000 have been withdrawn from the Treasury of the United States, by Congress, for the purpose of securing the requisite information. These laws have been faithfully executed. The corps of engineers, appointed on the various routes, have laboriously performed their duties. They have made their reports to their superior, the Secretary of War, and they have been ordered to be printed, and eight large quarto volumes have been laid on the desks of Senators. These reports are not the brief field-notes of the surveyors and topographical engineers jotted down while on duty in the field, but they have been written out at length, in beautiful narrative style; they have been printed in clear type on pure, clear paper, exhibiting not only the general topography of the country, but its mineralogy, its geology, its flora and its fauna, from the forty-ninth to the thirty-second parallel, and from the Mississippi and Missouri rivers on the east to the shores of the Pacific ocean. These

reports have been made in the language of science, and are clear and perspicuous.

But lest some Senators and members of Congress might not be able to read and comprehend them, they have been illustrated. Every unusual swell of land, every unexpected or unanticipated gorge in the mountains has been displayed in a beautiful picture. Every bird that flies in the air over that immense region, and every beast that traverses the plains and the mountains, every fish that swims in its lakes and rivers, every reptile that crawls, every insect that buzzes in the summer breeze, has been displayed in the highest style of art, and in the most brilliant colors. This printing, as I have been informed, has cost the Senate for the twenty thousand copies ordered for its use and information, \$800,000; a ninth volume, unbound, is now at your disposal for the asking, costing \$99,000 more, which added to the cost of the exploration, will amount to more than a million dollars, expended by the Senate of the United States, to qualify its members to judge discreetly as to the proper route for a Pacific railroad; and yet members of the Senate shrink from the exercise of the discretion with which they have been clothed by the Constitution of the United States, on the plea of a want of information! All of this immense sum of money has been spent in vain; we have taxed the talent and energy of our best and most scientific civil engineers for three or four consecutive years, in collecting the requisite information in vain! Congress is still uninformed! The Congress of the United States is still unable to give an enlightened decision!

I cannot, Mr. President, with this immense mass of information before me, decide that I am incompetent to give an enlightened opinion. No member of this Senate, who has read these reports, can do so. No member of Congress can do so. Then what pretext have we for transferring the discretion, not to the President, not to the Postmaster General, not to the Secretary of War, not to the Secretary of the Navy, not to the Secretary of the Interior, but to a mail contractor and an Army contractor—an official hitherto not known to the history of this country? This high legislative trust must be transferred to a mail contractor, that members of this body perchance may avoid the opprobrium that may be cast on them if their particular locality should lose the great Pacific railroad! Others may be guided by influences like these; but I cannot consent to be. I will conclude my remarks by expressing briefly my preference of a route. The amendment now pending proposes that the road shall be constructed between the parallels of 43° and 34°. It seems to me that narrower limits should be prescribed. I would propose to limit its location by the thirty-seventh and forty-third parallels of north latitude. If it is the object of Congress to secure the construction of a railroad on which to carry the great national mail; on which to bear troops and munitions of war and Navy supplies—a railroad which is to bind together the discordant members of this Confederacy—if indeed there be such—a railroad which shall draw across the center and to the heart of this Republic the trade of the civilized world, no Senator, as it seems to me, can vote in favor of the extreme northern or of the extreme southern route. A minute examination of the reports will show that topographically there is but little advantage in favor of either the extreme northern, the central, or the extreme southern route. Each one has its difficulties, and they are very great. Each one has its precipitous mountains to ascend, to excavate or tunnel, and to descend. Each one has its sterile plains to cross. Each one has its broad fertile plains to cross, which are at the same time desolate of timber, and to some extent of water; but your engineers have reported each one of these three routes practicable. A railroad can be built on any of them, and built with the means of the people of the United States, as is believed by the members of this committee, within the period of ten or twelve years, without seriously deranging the great commercial and financial interests of the country.

As I before remarked, there are advantages peculiar to each of these routes; but when we compare them they are very evenly balanced. The route near the forty-seventh and forty-ninth parallels, from St. Paul to Vancouver, thence to Seattle, is estimated by the engineers at two thou-

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sand and fifteen miles. The route near the forty-first and forty-second parallels, via South Pass, from Council Bluffs to Benicia, is estimated by the engineers at two thousand and thirty-two miles. The route near the thirty-second parallel, from Fulton to San Pedro, and extension to San Francisco, is estimated by the engineers at two thousand and fifty-eight miles.

That which is usually denominated the central route on the parallel of 41° or 42°, is a little too far north to traverse the center of our possessions, the extreme north being 49° and the extreme south near 32°. But whilst this is true, it brings it all the nearer the center of population and wealth. It may have been observed by Senators that south of Mason and Dixon's line, in 1850, according to the census report, there were but little over six million white people; north of that line between thirteen and fourteen million. This relative proportion of the white population of the two districts has been increased largely in favor of the North since that period. The country that I represent, in part, the great Northwest as we sometimes style it, including the five States northwest of the Ohio and Missouri, Iowa, Minnesota, Kansas, and Nebraska, now contains, probably, one third of the white population of the United States. They cast at the recent elections about a million and a half of votes, representing probably about eight million people.

What is true of the growing population of the Northwest, is true, to some extent, of the States immediately east, so that none can avoid drawing a conclusion that the center of population has been steadily traveling northward since the taking of the last census. Then, if forty-one or forty-two be a little north of a projection of a line from the geographical center of the eastern portion of this country, it brings it all the nearer to the center of the line of population. All things else being equal, no just Senator can decide in favor of an extreme southern or an extreme northern route. That road which traverses the Republic nearest its center is the one that is demanded by justice to the whole country.

The people that I and my colleague here represent are vitally interested in this subject, I admit; and this has induced me to make this rapid statement of the reasons that will control my vote. If left to them, however, and it should be clearly demonstrated that the great interests of trade and commerce, our postal system, the public defenses by sea and land, required a road on a different latitude, I believe they would join with me in its support in opposition to their immediate local interests. I cannot believe that the vote of the Senate will be controlled by local interests and sectional views, in violation of the great interests of the nation at large.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The question is on the amendment of the Senator from Massachusetts, [Mr. WILSON.]

Mr. WARD. Mr. President, having introduced an amendment to this bill, which will come up in its order, I wish to say that I will move to amend it, at a proper time, by inserting the forty-ninth parallel instead of the forty-fifth. I did not consider, at the time I offered it, the surveys that had been made north of the forty-fifth parallel. In relation to the amendment now under consideration, if I were to consult my inclination at this time, (being young in the Senate,) I would not say a word more on this subject; but, sir, I feel that I should not have discharged my whole duty, were I to permit this amendment to pass without again alluding to it.

Having on a former occasion endeavored to show the superior advantage of a route for this road, which will be excluded by the pending amendment, should it pass, I trust that I have not, nor will I now, insist upon its claims before the Senate without reasonable authority for it. From the nature and extent of our Pacific possessions, it can no longer be a question that it is the interest and duty of the Federal Government to provide ways and means for their protection and for the defense of the nation.

It would be unnecessary for me at this time to allude at length to the great necessity of a speedy connection, by railroad, with our Pacific coast. It will only be necessary to refer to the estimates heretofore made to show that the transportation by land, over the best routes, for mails, Army and Navy supplies, necessary even in time of peace, will cost at least \$20,000,000 annually, and in time of war it must necessarily be very much greater, as past experience will prove in the rate of transportation on our northern frontier, during the late war with Great Britain. Besides, even if it were possible to carry an army across the desert plains at some seasons, they would be exhausted and broken down, and supplies wasted before they reached their place of destination, to say nothing of the time spent in the march at an important crisis; and should we be cut off from the Isthmus route (which should not be relied on) we would have no other alternative. In view of our condition, therefore, Congress has from time to time appropriated large sums of money, amounting to about eight hundred thousand dollars, for the purpose of sending out competent and experienced engineers in search of the most eligible route for a railroad to the Pacific, with positive reference to shortness and economy; and after having spent much time and labor in exploring the various mountain passes and desert plains, from the Mississippi river to the Pacific, and from latitude 32° to 49°, have reported the result of their investigation to the proper authorities, as will be seen in the exhibits of the Secretaries of War on that subject. Now, Mr. President, if we are called upon to decide between the lines for this road, as reported to the Government, it becomes our duty to compare them, and to select according to the intention of the law authorizing the surveys; but if this amendment should prevail, in my judgment it would set aside and repudiate the very object sought to be attained, and for which this immense amount of money has been expended. Let us examine the record and see whether it does not bear me out in this statement. The Pacific Railroad Report shows the comparative costs and distances of the various routes to be as follows:

	Distance—miles.	Cost.
A route near 47° and 49°.....	2,025	\$140,000,000
A route near 47° and 49°.....	1,864	130,780,000
A route near 41° and 42°.....	2,632	115,695,000
A route near 38° and 39°.....	2,680	Impracticable.
A route near 38° and 39°.....	2,460	"
A route near 35°, from Fort Smith to San Francisco.....	2,196	\$166,000,000
A route near 35°, from Fort Smith to San Pedro.....	1,826	92,000,000
A route near 32°, from Fulton to San Francisco.....	2,024	99,000,000
A route near 32°, from Fulton to San Pedro.....	1,398	68,000,000
A route near 32°, from Fulton to San Diego.....	1,533	68,000,000

It will appear from these estimates that the line on the thirty-second parallel from Fulton even to San Francisco, is shorter than all others reported, and at a cost from sixteen to fifty millions of dollars less; but from Fulton to San Diego, it shows a difference of four hundred and ninety-one miles less than from Fort Smith to San Francisco, and twenty-four millions less cost. This estimate includes the line of road across Texas, which is not to be taken into this calculation. The only remaining link of road to be built by Government aid on the thirty-second parallel, will be through that portion of Government Territory from El Paso to Fort Yuma, a distance of five hundred and thirty-nine miles, between the States of Texas and California, which is at least one thousand miles shorter than the Territorial line on thirty-fifth degree, or any other line reported. It is also in proof that on the line of thirty-two degrees will be found the lowest pass in the mountains by several thousand feet, being over three thousand feet below that of thirty-five degrees. North of the thirty-fifth parallel, the elevation continues to increase to the height of ten thousand feet in latitude thirty-eight, and the peaks rise up to the enormous height of seventeen thousand feet into the region of perpetual snow. No pass has been discovered through the Sierra Ne-

vada mountains for the construction of a railroad between the parallels of thirty-five and forty-one. North of this, however, in latitude forty-seven, the elevation is not so great, and the pass appears to be lower than at any point North of thirty-two degrees.

I will here briefly allude to the comparative merits of the parallels of 35° and 32°, as I understand them. It will appear from all the information before us, that the face of the country on the line of 35° is, to a very great extent, broken and mountainous, though in portions of the route there are fine valleys of land and good water; but in consequence of its increased elevation and latitude, it would not only be more difficult and expensive to construct a road, (to say nothing of its additional length,) but it would be more expensive, as to running time, on account of ascents and descents, which are said by railroad men to be a very large per cent. in favor of lighter grades. It is estimated that a grade of ten feet to the mile would add twenty per cent. to the running cost, increasing in the same ratio, and thus a grade of fifty feet to the mile would involve a working expense of double that of a level road. This estimate would especially apply to long and heavy trains, such as would necessarily be thrown on this road, as it would be the recipient of all roads; and further, we are told by railroad operators, that in case of heavy grades the trains are usually freighted with reference to the worst portion of the road. Add to this a climate of ice and snow, and the difficulties, as well as risk, will be greatly increased.

The face of the country on the thirty-second parallel, from El Paso to Fort Yuma, is said to be level or gently undulating for over two thirds of the distance, and that route passes over a soil alternately rich and gravelly; and it is now confidently believed that the extensive valleys of the Colorado and Gila, heretofore considered unproductive, being destitute, to some extent, of seasons, can be irrigated from those rivers and their tributaries successfully, which will greatly increase the agricultural interest on that line of road.

I have been told by reliable gentlemen who have been engaged in the overland mail service on that line during the past year, that the country was so generally level that it was very seldom necessary to lock their wagon wheels over the most difficult portions of the road from El Paso to Fort Yuma; and that settlements were being formed by Americans, so as to enable travelers to reach them daily, at convenient distances. Another consideration for the construction of this road is, that upon this line and the adjoining country labor can be had at from ten to fifteen dollars per month.

Some suppose, Mr. President, that a larger amount of money should be set apart to insure the building of this road. I think, sir, that \$10,000,000, with the immense bonus of land, is quite sufficient to carry it through the Territories on the shortest and best route; and, in addition to that, there are other considerations. The profits of the road when completed will, necessarily, be very great. It will be the trunk road into which all other roads will be merged, and the commerce and travel, both by land and by sea, for thousands of miles will pass over it. I believe that the inducement would be sufficient for capitalists to engage in it even without Government aid, if that portion of the road which runs through the States were in progress, with a fair prospect of early completion. Still, I am in favor of extending such aid as may be deemed necessary to construct the road through the Territories only, and I think the provisions of the bill are ample in that respect.

I have dwelt at some length upon the claim of the thirty-second parallel for this road, and whilst I believe it possesses advantages far superior to all others, yet if a better can be found I shall be in favor of it; but I do insist that, as one of the surveys reported by Government agents, it should not be precluded as proposed by the amendment now under consideration before the Senate.

I feel assured that the interest of the nation would be most effectually guarded and protected

by submitting the question of location to capitalists whose interest will prompt them to select that route upon which the road can be built for the least amount of money, and in the shortest space of time.

Mr. IVERSON. Mr. President, when this bill was under consideration at the last session, I submitted some amendments to it, the object of which was to provide for the construction of two Pacific railroads—a northern and a southern road. The bill then reported to the Senate by the select committee, and which is the same now before us, provided for Government aid to only one road, and confined its eastern terminus to some point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, and its western terminus to San Francisco. It proposed to grant the alternate sections of the Government lands for twenty miles on each side of the road on its whole route, making twenty sections, or twelve thousand eight hundred acres to the mile. It also proposed to contract with the person or persons, company or companies, who should undertake its construction, for the transportation of the Government mails for twenty years, and to agree to advance, by way of pay for this service, in regular and equal portions, \$25,000,000 in Government bonds, as sections of twenty miles should be completed and put in operation; the company constructing the road to refund back this advance pay in railroad service, in carrying the mails, soldiers, sailors, munitions of war, and other Government stores and property, at certain rates of compensation to be agreed upon in the contract, and limited in the bill itself.

My amendments proposed that the President should enter into a similar contract, or contracts, for the construction of two roads, the eastern terminus of one to be on the Missouri river, anywhere north of the thirty-sixth parallel of north latitude and within the boundaries of the United States, and ending at any point or place on the Pacific coast that might be selected by the contracting party; the other road to be located on any route south of the thirty-sixth parallel of north latitude, west of the Mississippi, within the United States, and terminating at any point on the Pacific selected by the contractors. My plan proposed a similar grant of land to each road of twenty sections to the mile, and a contract with each road to the extent of \$12,500,000 in Government bonds, for mail and other Government service, to be advanced in like proportionate sums, and under similar restrictions, limitations, and conditions, as were imposed in the original bill.

Upon my amendments, as well as upon the merits of the whole subject, the necessity and propriety of a railroad communication between the Atlantic and Pacific States, and the constitutional power of Congress to afford Government aid in land and postal contracts, I submitted my views at some length during the last session. These views were well matured and have undergone no change. I have no doubt whatever that Congress has the power, under the Constitution, to "dispose of the public territory" in this or any other way deemed to be for the general public good. It is a subject within the sound discretion of Congress; and ordinarily, railroad grants, as they are called, contribute largely to the public good. It is true they benefit individuals, those who own the roads; but it is not an objection to them in my view, if they, at the same time, do not diminish the value and price of the lands reserved by the Government, or lessen the aggregate sum for which the whole sell. If the Government, by the operation and effect of these grants, obtains as much money for the reserved alternate sections as the whole would command without the road, and sells them sooner, and at the same time stimulates their settlement and cultivation, thus increasing the population and wealth of the country and opening avenues of commerce and travel, I cannot, for the life of me, see what objection there can be to the exercise of this power, regulated and controlled always by a sound discretion, as to the objects of the grant and the necessity or propriety and value of the proposed road. Believing that we have the power to grant the lands, I do not doubt the expediency of making the grant in this case. If ever there was a necessity or propriety in building any railroad, and giving the aid of the Government to its construction, it exists, in my opinion, in this very case.

I shall not consume time in enumerating the reasons for the construction of this road; they are so numerous and so very obvious that none can doubt, and may be said to establish an absolute necessity. Nor have I any doubt that Congress may authorize and provide for a contract with the constructors of this railroad for the transportation of the United States mails, troops, munitions of war and other Government property, for a definite period of years, at a certain annual price, and may undertake to pay the contract price, either in whole or in part, in advance. This is also a question of mere expediency, within the constitutional powers of Congress, and only to be guided and governed by a sound and proper discretion. If, therefore, by the exercise of these constitutional powers, and within a wholesome discretion, the construction of this great work of public necessity and usefulness can be secured and accomplished, I think the obligation upon us to exercise the power is imperative. But sir, whilst I am a warm advocate for the construction of this road, and am ready and willing to grant Government aid, within the constitutional bounds, and to a reasonable extent, I am not willing to vote an acre of land or a dollar of money towards the construction of a Pacific railroad which will be so located as to confer all its benefits upon one section of this Union. I made this objection at the last session, and I stand by it at this.

Now, sir, I have not a solitary doubt, that if only one road is provided for and the route is left open to be selected by the company who shall undertake it, a northern route will be adopted, making its immediate connections with the northern and northwestern roads, and pouring all its vast travel and freights over those roads and into the northern States and cities of this Union. The South may now and then get a straggling passenger, or a box of stray goods, but the great bulk of all its operations will be turned towards the North; and, sir, I cannot but be surprised that any southern Senator should be willing to vote such a magnificent donation of land and money to an enterprise from which his section is likely to derive such trifling profits. Will it be said, sir, that if the South has the best route, capitalists will build the road on that route? Is it likely that northern capital will be invested to construct a southern road? No, sir; not a dollar will ever be so spent. The political and sectional prejudices which pervade the northern people against the South would be sufficient of themselves to deter them. How much northern capital is ever invested in southern enterprises? It is a notorious fact, that whilst no northern railroad ever pays more than six per cent., and many of them pay less, whilst some pay nothing, there is scarcely a railroad in all the southern States that does not pay seven per cent., a large majority of them yield eight per cent., and many of them even more. And yet, sir, there is not one dollar of northern capital in a thousand, yea, probably not in ten thousand, invested in southern roads. Northern capitalists shun all southern investments as if the very touch was pollution. Why, sir, whilst a northern man, with northern security, can borrow any amount of money in New York at from four to six per cent. per annum, I venture to say that even the Senator from South Carolina, [Mr. HAMMOND,] as wealthy as he is and as popular as he has lately rendered himself in the North by his Barnwell speech, if he were to go to New York and ask for a loan of \$10,000, and propose to mortgage his plantation and negroes, worth half a million, as security, he could not get a dollar. Such, sir, is the worthless opinion which northern capitalists have of southern securities, southern enterprises, and southern investments. And, sir, do you think that these feelings, these opinions, these prejudices, would not operate in the selection and construction of a Pacific railroad?

But, sir, there is even a more powerful cause than these, which would control the question of selection and force the road upon a northern route. Open this speculation to northern cupidity; put this glittering prize of twenty-five million acres of the public land and twenty-five millions of Government money, in the shape of a twenty-five-years' mail contract, up to competition, and who can doubt for a moment that it would be clutched by northern speculators and capitalists? And when

we add to these the countless millions of commercial benefits and moneyed receipts which a Pacific railroad would bring to the section into which it is to run; when we look at the vast moneyed interests already invested in northern and western roads, and the large number of people concerned in them, all residing in the North and West—he must be indeed blind who could for a moment suppose that a southern route would be adopted. Do you think, sir, that the railroad companies of New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Iowa, Wisconsin, Minnesota, to say nothing of the New England States, with all their various, extended, and ramified interest, their numberless stockholders and vast moneyed and commercial connections and relations, would furnish the means or permit a southern road to be built? No, sir; they would have unlimited control over the subject, and would place the road where their own interests would be most promoted. I am not opposed to a northern road. I am willing to give the North the privilege of building one if they choose, and put them upon the same footing with the South. I am willing to grant land to a northern road, and give it the aid of a liberal mail contract; but I insist that the South shall be put on a perfect equality with the North. If the North can take the land and the mail contract, and raise the means to construct a northern road, let her do it. If the South, with like advantages, cannot do so, let the South suffer from the failure. All we want is to have an equal chance. Give us that, and, for one, I shall never murmur at or envy the North any benefits it may derive from a Pacific railroad built by its superior wealth or superior enterprise. But I do object to and protest against any arrangement by which the aid of the Government is to be invoked to construct a work of internal improvement which is to be so unequal in its operations; which will confer untold benefits and blessings upon one, and comparatively none upon the other section of the Union.

Sir, this unequal flow of the Government money and Government benefits into the great northern maelstrom has been going on long enough, and shall not continue longer by any vote of mine. I do not object to northern prosperity; but I insist that, in the dispensation of Government money and patronage, every section shall be put on an equality. Sir, if the statistical tables of Government expenditures were consulted, it would appear that more than three fourths of the money and lands expended by the Government have been appropriated to the North and West, comprising the free States of this Union. It is all wrong, sir. If either section is to have the advantage, it should be the weaker one. The North boasts of her superior numerical strength and her great preponderance in wealth, and yet her Senators and Representatives in Congress let no opportunity escape, but are ever pressing and pushing forward every Government scheme that can add to these elements of power on the one hand, or weaken them on the other. Such, sir, have been the workings of the Federal Government since the formation of the Federal Union; and such, I apprehend, will be its workings as long as that Union lasts, or until the South asserts her equality of rights and benefits as the condition of remaining in the Union.

And speaking of the Union, sir, I take occasion to say that there is another reason connected with it, which makes me object to any bill, the provisions of which will secure the Government aid in the construction of a railroad to the Pacific, exclusively confined to the northern States. Sir, I believe that the time will come when the slave States will be compelled, in vindication of their rights, interests, and honor, to separate from the free States, and erect an independent Confederacy; and I am not sure, sir, that the time is not near at hand when that event will occur. At all events, I am satisfied that one of two things is inevitable; either that the slave States must surrender their peculiar institutions, or separate from the North. I do not intend, on this occasion, to enter into an elaborate or prolonged discussion of this proposition. I content myself with expressing my firm belief, and a brief allusion to the foundation of that opinion. It is unnecessary to look back to the commencement of the anti-slavery agitation in the northern States, and to trace its regular and rapid growth to its present monstrous proportions.

I remember twenty-five years ago, when petitions were first presented to Congress for the

abolition of slavery in the District of Columbia; it was the beginning of the agitation, and was limited to a few deluded religious fanatics amongst the men, and some of the weaker sex, of the New England States. It nevertheless aroused the fears and excited the angry feelings of many of the southern people; it produced much discussion in Congress, and amongst the newspaper press of the southern States. Many expressed their belief that it was the beginning of a storm which was to sweep over the free States, carrying everything before it; but they were met with the syren song which the distinguished Senator from South Carolina has recently so eloquently poured forth, "there is no danger; slavery is too strong to be overturned; let the sound, conservative mind and heart of the North be appealed to, and all will be right; our friends there will protect us." Behold the result in the late elections! With the bold, undisguised declaration of hostility to slavery at the South, as enunciated by the great leader of its enemies at Rochester, with his loud-sounding pronouncements of "down with the accursed thing;" with the bloody flag of anti-slavery unfurled, and "war to the knife" written upon its folds, there is not at this day a majority of true, conservative friends of the rights of the South in a single free State of this Union this side of the Rocky Mountains. The demon of abolition, in his most hideous shape, has covered them all over with the footprints of his onward and remorseless march to power.

Sir, he knows but little of the workings of human nature, who supposes that the spirit of anti-slavery fanaticism which now pervades the northern heart will stop short of its favorite and final end and aim—the universal emancipation of slavery in the United States by the operation and action of the Federal Government. When Mr. Wilberforce began the agitation of his scheme of emancipation in the British West India Islands, there was not a corporal's guard in both Houses of the British Parliament who sympathized with him or approved the movement; and yet, in less than a quarter of a century, all England became abolitionized, and perpetrated, by a decree in Parliament, one of the most arbitrary and outrageous violations of private rights which was ever inflicted by despotic power upon peaceful and loyal subjects. And so it will be in this country. The same spirit which brought about emancipation in the British islands, will produce it here whenever the power is obtained to pass and to enforce its decrees. When the present Republican party, or its legitimate successors in some other name, shall get possession of the Government; when it has the President, both Houses of Congress, and the judiciary, what will stay its hand? It cannot stand still; if it does, it dies. To live and reign, it must go on. Step by step it will be driven onward in its mad career until slavery is abolished or the Union dissolved. One of these two things is as inevitable as death.

I know that there are men even in the South, who, like the distinguished Senator from South Carolina, argue that slavery is stronger and safer now in the Union than it ever has been—that the South, by unity and concert, can always combine with a party at the North sufficiently strong to carry the election and control the action of the Federal Government. In my opinion there never was a greater mistake. Suppose the election of President were to come off at this time, and all the southern States, including even Maryland, were united upon a candidate: how many free States would he carry? Perhaps California, and Oregon, if she is admitted; but not another State. The recent elections show clearly that the Abolitionists have not only a decided but an overwhelming majority, in every free State on the Atlantic slope. In all the late elections, conservative and sound Democracy, the only element sympathizing with the South, has not carried a single free State. I do not consider the triumph of the distinguished Senator from Illinois [Mr. Douglas] as a victory of sound Democracy. It was a victory of Free-Soil Democracy over Abolition Whigery, and no more; and I would not give a copper for the difference. So far as the South and her constitutional rights are concerned, it was a victory over her and over them. I would not turn on my heel for choice between the Wilmot proviso and the squatter-sovereignty doctrine and policy of the Senator from Illinois. Indeed, sir, if I was driven

to select between them, I would take the former. It is open, manly, and decisive; it settles the question at once, by debarring the southern people, in terms, from entering the Territories with their slave property; it is an open and undisguised denial of right to the South, which the South could resist or submit to, as her sense of honor or her policy might dictate, whilst the squatter-sovereignty doctrine and practice, as defined by its distinguished advocate, is plausible, delusive, deceptive, and fatal. No man of common sense can suppose that, under it, the South will ever obtain another foot of territory, or add another slave State to this Union. Both are political heresies, finding no authority in the Constitution; equally violative of the rights of the southern people, subversive of their equality in the Union, and an insult to their honor, which, in my opinion, alike demand their reprobation and resistance.

The people of the southern States, as coequals in the Union, and as joint and equal owners of the public territory, have the right to emigrate to these Territories with their slave property, and to the protection and the enjoyment of that property by law during the existence of the territorial government; laws passed by Congress as the trustee and common head of the joint property—head of all the States and all the people of the States in the public territory; laws recognizing the equal right of every citizen to go in and possess and enjoy the common inheritance; laws, not to deprive men of property, but to regulate and secure its enjoyment; laws to put every man in the United States upon an equal footing in the exercise of a great constitutional right. This, sir, is what we of the South are entitled to at the hands of a common Government; and we ought not to be content with less, or submit to a denial of it. I am free to declare here, that if I had the control of the southern people, I would demand this of Congress at the organization of every territorial government, as the terms upon which the South should remain in the Union. I would hold our "right" in one hand and "separation" in the other, and leave the North to choose between them. If you would do us justice, I would live with you in peace; if you denied us justice, I would not live with you another day.

Sir, abolition is advancing with rapid strides to the accomplishment of its great end, the universal emancipation of slavery in the United States. The distinguished Senator from New York, [Mr. Seward], when he uttered his anathemas, and ushered forth his declaration of war against southern slavery at Rochester, understood well the feeling which sways, and is likely to sway, the masses in the northern States upon this important and exciting subject. The North intends to put down slavery at the South, "peaceably if they can, forcibly if they must." It is true, the Senator from New York, the great embodiment of this abolition sentiment and will, has very kindly and condescendingly told the world that this great end and object are to be accomplished by "constitutional means!" What fool does not understand that? A majority party, controlling all the branches of the Government, and bent upon an object, would have no difficulty in finding a grant of power in the Constitution for the accomplishment of any object. What better authority would they want than the power given to Congress to "provide for the general welfare" of the United States? Slavery, they say, is a great curse, a political, moral, and social evil; a dark and damning stain upon the national escutcheon; a blight upon its prosperity; a great and growing injury even to individuals and States who tolerate it. The national welfare demands its extinguishment, and Congress may and must do it. Here is the grant, and here the necessity and occasion of its exercise. What is to deter or hinder? The union of the southern people in presidential elections? That is the almighty panacea of some gentlemen. Such an idea is not folly only; it is treason against the South. The constitutional power will soon be found; there are more clauses than one which would justify such a proceeding upon the part of a bold and reckless majority. I have heard that John Quincy Adams once said, in a speech delivered in the House of Representatives, that there were so many clauses in the Constitution open to construction, that he could drive a four-horse wagon and team through forty places in it, and find authority in each to abolish slavery in the

southern States; and so, sir, when the Republican party obtains the possession and control of the Government—President, Congress, Supreme Court—and shall feel secure of its power, and confident of success, there will not only be no constitutional barrier to stay its hand, but abundant authority will be found in the Constitution, as it is, to justify any measure its wisdom or its folly may prompt it to adopt.

Sir, there is but one path of safety for the institution of slavery in the South, when this mighty northern avalanche of fanaticism and folly shall press upon us; and that path lies through separation and to a southern confederacy. This is the great ultimate security for the rights, honor, and prosperity of the South. Sir, there are even now thousands of her sons who believe that the slave States, formed into a separate confederacy, and united under such a government as experience and wisdom would dictate, would combine elements of more political power, national prosperity, social security, and individual happiness, than any nation of ancient or modern times; and, sir, I am among the number. This is not the time or place to enter upon the discussion of this proposition; if it were, the demonstration of its truth would be easy and irresistible. But whether this be so or not—whether the southern States would be better off in a separate confederacy or in the present Union, one thing is certain; and that is, that no Union, or no slavery, will sooner or later be forced upon the choice of the southern people. I do not say, sir, how or when the South will decide the question; but I will say that there is a large and growing party in many, if not in all of the southern States, in favor of separation now for causes already existing, as an object both of necessity and political expediency. Ten years ago, and scarcely a voice could be heard in all the South calculating the value of the Union. Now, their name is legion. As, at each recurring and returning crisis of agitation, the strength of the Abolition party increases at the North, so does the spirit of disunion increase at the South, and its advocates become more confident and defiant.

I venture the opinion that in my own State, so well convinced are the great mass of the people of all parties that the anti-slavery agitation is not to cease until the institution is destroyed, if the question was now put whether the southern States in a body should separate and form a southern confederacy, a majority would vote for the proposition. I do not say, sir, that Georgia would secede alone, or together with a few of the other States, or with any number less than the whole; but I verily believe that if the separation of all of them in a body depended upon the voice of Georgia, that voice would boldly and promptly speak out—separation! I do not say, sir, that this sentiment would be unanimous; I know there are many who are conscientiously of opinion that the Union is the greatest political good; many for whom the Union has irresistible charms; many who would oppose separation from a dread of consequences; and some from interested motives would cling to the powers that be, and the things that are; they would say, let us trust still longer to the conservative feeling of the North; let us appeal to their patriotism, or to their interests; let us give them a Pacific railroad; let us give them high protective tariffs; let us vote millions of the public money to clean out their rivers and improve their harbors; let us feed them and fatten them and gorge them out of the public crib, until, like young vultures, they vomit in our faces; let us smother their fanaticism with masses of gold and silver; and then, perhaps, they will let us keep our wigs! But, sir, these are not my sentiments, nor do I believe they are the sentiments or the arguments of the great body of the people of my State. The majority already believe that northern aggression has gone far enough and ought not to be allowed to go further; they believe that southern rights and honor out of the Union are better than dishonor within it; they believe that slavery without the Union is better than the Union without slavery; and they are prepared, at the very next act of aggression from the North, to resist, even to the "disruption of all the ties which bind them to the Union." Nor do I believe, sir, that the people of Georgia or of the South will be disposed to wait for an overt act of aggression upon the rights, honor, or interests of the southern States.

The election of a northern President, upon a sectional and anti-slavery issue, will be considered cause enough to justify secession. Let the Senator from New York, [Mr. SEWARD,] or any other man avowing the sentiments and policy enunciated by him in his Rochester speech, be elected President of the United States, and, in my opinion, there are more than one of the southern States that would take immediate steps towards separation. And, sir, I am free to declare here, in the Senate, that whenever such an event shall occur, for one, I shall be for disunion, and shall, if alive, exert all the powers I may have in urging upon the people of my State the necessity and propriety of an immediate separation. I know, sir, that disunion is considered by many as an impossible thing; many think so at the South, and all the northern people feel assured that the South can never be driven out of the Union, no matter what may be the aggressions upon their constitutional rights. I trust and believe, sir, that they will find themselves mistaken, whenever a proper occasion occurs.

Sir, it is not so difficult a matter to dissolve this Union as many believe. Let the Republican party of the North obtain possession of the Government, and pass a Wilmot proviso; or abolish slavery in the District of Columbia; or repeal the fugitive slave law; or reform the Supreme Court, and annul the Dred Scott decision; or do any other act infringing upon the rights, impairing the equality, or wounding the honor of the slave States; or let them elect a President upon the avowed declaration and principle that freedom and slavery cannot exist together in the Union, and that one or the other must give way, and be sacrificed to the other, and the Union would be dissolved in six months. I do not believe, however, that such a result could or would be brought about by a general convention of all the slave States; it is doubtful whether all of them could be got into convention for any cause, and if they could, it is still more doubtful whether they could be harmonized and made to move together toward such a momentous end. But, sir, let a single State move upon the happening of any of these contingencies; let her swing out of the Union, and she would, of necessity, very soon drag every other slave State out with her or after her.

Whenever any one of the southern States shall secede in vindication of her rights and honor, to protect her peculiar institution from the ruthless assaults of an anti-slavery majority in Congress, and an attempt be made to force her back into the Union, or enforce the decrees of an arbitrary and unfriendly Government, her surrounding sister States, sympathizing with her in her bold and manly struggle for liberty and the right, would not hesitate for a moment to come to her relief, and join her in the assertion of an honorable independence, and the formation of another and better Union. Such a movement would necessarily result either in the formation of a confederacy of all the slave States, or to amendments of the present Constitution, placing their rights and equality upon a firmer and better basis than at present, as the condition upon which the seceding State or States would reunite with her former sisters. To attempt to force a seceding State back into the Union, with the surrounding States sympathizing with the feelings and causes which impelled her to secede, and interested in all that concerned her honor, her rights, and her independence, would be the veriest act of folly and madness which ever influenced or controlled a weak or wicked Government. No, sir; the ties of this Union once broken, and there would be but one basis on which they could ever be reformed—*concession from the North; security for the South.*

And, sir, it is because I believe that separation is not far distant; because the signs of the times point too plainly to the early triumph of the Abolitionists, and their complete possession and control of every department of the Federal Government; and because I firmly believe that when such an event occurs the Union will be dissolved, that I am unwilling to vote so much land and so much money as this bill proposes, to build a railroad to the Pacific, which, in my judgment, will be created outside of a southern confederacy, and will belong exclusively to the North. Sir, the public lands now held by the United States, as well as the public Treasury, are the joint property

of all the States and the people of this Union. They belong to the South as well as the North; we are entitled, in the Union, to our just and equal share, and if the Union is divided, then we are no less entitled to a fair proportion of the common fund.

What I demand, therefore, is, that the South shall be put upon an equality with the North, whether the Union lasts or not; that in appropriating the public lands and money, the joint property of all, in connecting the Atlantic and Pacific oceans by railroad, the South shall have an equal chance to secure a road within her borders, to inure to her benefit whilst the Union lasts, and to belong to her when—if ever—that Union is dissolved. I am not willing to intrust this matter to contingencies. I am not willing to trust the selection of the route for a single Pacific railroad to influences which, as certain as fate itself, will control its construction on a northern route, and exclude the southern section of the Union from its vast and numerous benefits. I have no desire to deprive the North of a road; I am willing to grant her the same amount of Government aid that I claim for the South. I believe that with twenty sections of land and \$10,000 to the mile, in Government bonds, a railroad can be built, by additional private enterprise, over either the thirty-second or thirty-fifth parallels of north latitude. If one can be constructed over a more northern route with the same amount of Government aid, let them have it. If both sections are placed upon an equality, and either fails, the fault, or the misfortune, will be hers. Neither will have cause of complaint.

Now, sir, for the purpose of accomplishing my object, I move that this bill be recommitted to the special committee who had charge of the subject at the last session, with instructions to bring in a bill providing for the construction of a railroad on each of two routes to the Pacific ocean.

The PRESIDING OFFICER. (Mr. FOOT in the chair.) The question before the Senate is on the amendment offered by the Senator from Massachusetts, on which the yeas and nays have been ordered.

Mr. IVERSON. Is not my motion to recommit the bill first in order?

The PRESIDING OFFICER. The motion of the Senator from Georgia is not now in order, the yeas and nays having been ordered by the Senate on the pending amendment.

Mr. IVERSON. It will be in order, then, as soon as that question is decided. I give notice of my intention to move it, and to call for the yeas and nays on the proposition.

Mr. HARLAN. Let the pending amendment be read.

The Secretary read Mr. WILSON'S amendment; which is to strike out, in the ninth and tenth lines of the first section, the words: "the most eligible route, reference being had to feasibility, shortness, and economy," and insert: "the shortest practicable route between the parallels of latitude 34° and 43°;" so that the section will read:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the shortest practicable route between the parallels of latitude 34° and 43°.

Mr. SHIELDS. Do I understand the Chair to decide that the vote is to be taken on the amendment of the Senator from Massachusetts?

The PRESIDING OFFICER. That is the pending question, on which the yeas and nays have been ordered.

Mr. HARLAN. Would an amendment to the amendment be now in order?

The PRESIDING OFFICER. It would be.

Mr. HARLAN. I move, then, to strike out of the amendment "thirty-four" and insert "thirty-seven."

Mr. SHIELDS. I wish to make a few remarks on this bill and the amendments, but it is quite late.

Mr. SEWARD. I move that the Senate adjourn.

Mr. SHIELDS. I believe I will go on. ["Let us adjourn!"] I do not want to make a set speech.

Mr. JOHNSON, of Arkansas. I suggest to

the Senator that it would be as well to adjourn. If he will allow me, I will make that motion.

The PRESIDING OFFICER. The Chair does not understand the Senator from Minnesota as yet yielding the floor with a view to a motion to adjourn. Does the Senator yield the floor for that purpose?

Mr. SHIELDS. Yes, sir.

Mr. CAMERON. I ask the consent of the Senate, for a few minutes, to permit me to call up the bill providing for a passenger railway along Pennsylvania avenue. ["No!" "No!"]

The PRESIDING OFFICER. The question is on the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 6, 1859.

The House met at twelve o'clock, m. Prayer by Rev. C. C. MEADOR.

The Journal of yesterday was read and approved.

LIEUTENANT COLONEL LEWIS S. CRAIG.

Mr. STEPHENS, of Georgia, by unanimous consent, introduced a bill to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort in the Mexican boundary commission; which was read a first and second time, and referred to the Committee on Military Affairs.

RAILROAD IN KANSAS AND NEBRASKA.

Mr. CRAIG, of Missouri. I ask the unanimous consent of the House for leave to introduce a bill granting lands to the Territories of Kansas and Nebraska to aid in constructing a railroad in said Territories, for reference only.

Mr. ZOLLICOFFER. I object.

COLONA.

Mr. COLFAX. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given, for the organization of the Territory of Colona.

There was no objection; and the bill was read a first and second time, and referred to the Committee on Territories.

Mr. COLFAX. As members desire to examine for themselves the boundaries of the proposed Territory, I move that the bill be printed, in order that they may have it before them.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

ANN L. RODGERS.

Mr. MAYNARD, from the Committee of Claims, by unanimous consent, reported back Senate bill (No. 340) for the relief of Ann L. Rodgers, with the recommendation that it do not pass; which was laid upon the table, and the report ordered to be printed.

TOWNSEND HARRIS AND H. C. J. HERSKIN.

Mr. HOPKINS, by unanimous consent, introduced the following joint resolutions; which were read a first and second time, and referred to the Committee on Foreign Affairs:

A resolution authorizing Townsend Harris, United States Consul General at Japan, and H. C. J. Herskin, his interpreter, respectively to accept presents from the Queen of England; and

A resolution authorizing payment of salaries to ministers resident to the Argentine Confederation, Costa Rica, and Honduras.

CODIFICATION OF THE REVENUE LAWS.

Mr. JOHN COCHRANE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole on the state of the Union, to take up the special order, which is bill (No. 487) for the codification of the revenue laws of the United States, and for other purposes.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH, of Tennessee, in the chair,) and proceeded to consider the special order.

Mr. JOHN COCHRANE. Mr. Chairman, this is a voluminous bill, occupying, as it does,

two hundred and eighty-nine pages, and I therefore move that, by unanimous consent, its first reading for information be dispensed with.

The motion was agreed to.

Mr. JOHN COCHRANE. I purpose, as briefly and with as much precision as possible, to state to the committee the circumstances under which this bill is now propounded to their consideration. It purports to be for the codification of the existing revenue laws of the United States, and for other purposes. The title of the act is, to some degree, a misnomer. It cannot pretend to the dignity of a codification of revenue laws. It is simply but a consolidation or collocation of those laws, with a repeal of laws conflicting with them, and a proposition to supply others to cure defects created by our increasing commerce.

I must remark preliminarily that this bill in no way affects the collection districts of the United States. It in no degree affects the revenue officers of the United States, nor their emoluments, nor the ports of entry or of delivery. It is a pure collection of laws necessary to the due collection and disbursement of the revenues necessary to the continuous action of the Federal judiciary engaged in the administration of law applicable to the commerce of the country.

In the first place, it is requisite to understand the various interests affected by the laws of the land in this regard, as they at present exist. We have in the Union one hundred and fifty-two collection districts. In each one of these districts we have a port of entry; and there are also located within them various ports of delivery, amounting in all to eighty-nine. We have more than three thousand officers engaged upon the revenues, distributed throughout the United States, all of them daily and constantly directed and controlled by these laws. We have a vast army of lawyers in these United States, who are called upon to expound these laws. Twenty-five thousand lawyers are there, and merchants a hundred thousand, the vocation of all of whom is, without intermission, connected intimately with subjects that are controlled by these laws, affected by the bill now on the desks of members.

But more than this, the vast interests of our daily and annual commerce are affected by these laws thus condensed and codified. Five thousand millions of interior commerce not untruly represents the vast interest to which these laws are applicable, and over which they are spread; while \$723,839,786 of annual imports and exports but feebly announce to this House the magnitude and extent of those interests that are controlled, modified, or governed, by the revenue laws of the United States.

Therefore, when we consider also that the tonnage of the country now amounts to over five million tons; when we consider that all of these laws, in their application to this tonnage in its unity and in its aggregate, have in charge interests which, for magnitude and importance, cannot be approached by any other that can be presented to this committee, we will acknowledge the importance of this bill. In fact, sir, this is a collection of laws to affect and control the interests of every individual in the whole country; and we, as a committee, in this sense, are called upon to consider the obligation of our primary duties; namely, that of making laws for, and giving laws to, the country which we represent. Now, sir, the code that forms the basis of the existing revenue laws of the United States is that enacted in the years 1793 and 1799. It was taken mainly from the English shipping-laws of that day, and was adopted bodily into the practice of the country without regard to its geographical conditions, without regard to our different relations with the world at large. So, sir, it is not to be wondered at that many of the provisions of the laws of 1793 are, for their many inaccuracies and imperfections, inapplicable to our commerce now, as they were oppressive upon it then.

Since that time, in every decade, there have been additional laws passed—laws temporary in their effect, to comply with the exigencies of the day; laws that had no general or catholic application, but which, after having answered the desired object, went into oblivion in fact, while they still maintained a footing on the statute-book. Thus it is that many of the laws are inoperative, though on the statute-book, because they are inapplicable to the present state of our commerce; and many

are obscure because they are obsolete. Many of them having been, in fact, practically repealed before, it is quite time that they should be entirely removed from the records of law. In truth, sir, so involved has the entire body of these laws become, so difficult of interpretation, and so obscure, that even our judges are often at fault in their efforts to discover their tenor and effect. Not only has legislation come to be so uncertain that the law has departed from its proper object, but even those who are charged with its administration have pronounced it impossible to follow it in its continuous but devious track. The Executive of the country had its attention directed to this evil as long ago as 1851. President Fillmore, in his message of that year, advised Congress that it was necessary to establish a commission for the revision of the criminal code of the United States, inclusive of the revenue laws. I may be permitted here to read an extract from that message, which places in their proper view the difficulties that beset not only the criminal code, but as well the revenue laws of the land:

"The public statutes of the United States have now been accumulating for more than sixty years, and, interspersed with private acts, are scattered through numerous volumes; and from the cost of the whole, have become almost inaccessible to the great mass of the community. They also exhibit much of the incongruity and imperfection of hasty legislation. As it seems to be generally conceded that there is no 'common law' of the United States to supply the defects of their legislation, it is most important that that legislation should be as perfect as possible; defining every power intended to be conferred, every crime intended to be made punishable, and prescribing the punishment to be inflicted. In addition to some particular cases spoken of more at length, the whole criminal code is now lamentably defective. Some offenses are imperfectly described, and others are entirely omitted, so that flagrant crimes may be committed with impunity. The scale of punishment is not in all cases graduated according to the degree and nature of the offense, and is often rendered more unequal by the different modes of imprisonment, or penitentiary confinement, in the different States.

"Many laws of a permanent character have been introduced into appropriation bills, and it is often difficult to determine whether the particular clause expires with the temporary act of which it is a part, or continues in force. It has also frequently happened that enactments and provisions of laws have been introduced into bills with the title or general subject of which they have little or no connection or relation. In this mode of legislation so many enactments have been heaped upon each other, and often with but little consideration, that in many instances it is difficult to search out and determine what is law.

"The Government of the United States is emphatically a Government of written law. The statutes should, therefore, as far as practicable, not only be made accessible to all, but be expressed in language so plain and simple as to be understood by all, and arranged in such method as to give perspicuity to every subject. Many of the States have revised their public acts with great and manifest benefit, and I recommend that provision be made by law for the appointment of a commission to revise the public statutes of the United States; arranging them in order, supplying deficiencies, correcting incongruities, simplifying language, and reporting them to Congress for action."

Sir, this wise advice in respect to the criminal code has been observed by the House of Representatives and by the Senate of the United States. A commission was formed, which, having been in session for more than five years, has perfected what is now presented to the consideration of the committee.

Nor is the House left to the opinions and advice of the Executive alone. Those best acquainted with the subject—the judiciary—have also spoken. I will, for the sake of the information of the committee, direct its attention to the words which fell from the lips of Chief Justice Story:

"I cannot but regret that the revenue laws have not undergone a thorough revision and consolidation, since the act of 1799, so as to cure the numerous defects, and supply the obvious omissions (not to speak of the repugnances of the later legislation) which experience has demonstrated to exist in that act. Instead of a plain and uniform statute to regulate this whole matter, we are now driven to an examination of numerous laws, which have been since passed upon the same subject, the provisions of which are not always reconcilable with each other, and which present almost endless embarrassments and questions in their actual application," &c. (See *Alfonso vs. United States*, 2 Story Rep. 424.)

But we are not left alone with the opinions of this learned occupant of the bench of former days; at a more recent date, and in our own time, has another learned Federal judge spoken upon this subject. In the case of *Matthew Buckley vs. Charles Brown*, collector, Judge Grier, in pronouncing the opinion of the court, says:

"It is a great grievance that the revenue laws passed by Congress have become so numerous and complicated that it is often difficult to ascertain what is the existing law on any particular subject. In the construction of other laws, when one statute supplies or changes the provisions of an-

other, the latest is construed as a repeal of the former. But, on the construction of this mass of contradictory revenue laws, it would seem that the statute which gives the highest duty, the largest fees, or the severest penalty, is never repealed by a later act, which mitigates the penalty or diminishes the fees.

"Acts giving certain fees or forfeitures to certain officers, become almost like the laws of the Medes and Persians, incapable of being repealed. At least, it is hard for human ingenuity to discover language for the purpose, which may not be perverted by ingenious misconstruction."

I have thus, in few words, directed the attention of the committee to the inconveniences which attach to the administration of the revenue laws of the United States, and to the opinions which prevail in highest quarters, and among unquestioned authorities, respecting the difficulties; indeed, the impossibilities which prevent their administration. I will now ask the committee to consider, in view of the facts, whether it is not their duty, in regard to the interests of their vast constituency, to take from the statute-book those laws which have been repealed by implication, but which still remain recorded laws, and which, though practically repealed, still, by their obstinate presence in the midst of other parts of statute law, utterly confound and bewilder courts and juries.

The office of codification, Mr. Chairman, is a simple office. It is not enactment. It is not so much innovation as it is the rejection of innovation which has crept in through the inconsistency and the obscurity of existing law. It appeals to the highest sense of duty of any deliberative body. All deliberative bodies should legislate for the benefit and prosperity of the people whom they represent. Their first object, as law-makers, should be to see that the code of laws under which their constituency live is such as is reconcilable with their wishes, their tastes, and their habits; capable of application and administration by the judiciary to whom it is intrusted.

Such is the object of codification or consolidation; and if this House shall accomplish no other object, in the course of its present session, than the revision of the present revenue laws, and the constitution of a code which shall be comparatively brief and accessible, they will have accomplished a work which will shed honor upon themselves now, and redound to their credit with the country.

I trust now that I shall be permitted to refer, with a commendable brevity, to the facts more immediately connected with the bill now before the committee for consideration.

On the 19th day of July, 1853, a resolution was passed by the Senate of the United States, instructing the then Secretary of the Treasury (James Guthrie) to embark in the work of revising the revenue laws of the United States, and requesting that he should present the results of his labors to its then coming session. The work was zealously undertaken, and efficiently performed. In the course of the session indicated, the Secretary furnished the result of his labors to the Senate. I will read an extract from the letter which accompanied the submission of the work. It shows the mode of procedure by the Secretary, and his wisdom:

"The whole legislation upon the subject has been examined from the commencement of the Government to the present time. The first object was to obtain a clear view of all the acts of Congress upon the subject; the second, what part of those enactments had been directly repealed; the third, what part had been repealed by conflicting enactments, so as to ascertain what was still in force; the fourth, what part of the remaining enactments was inapplicable to the present condition of our revenue and navigation laws, and required modification; the fifth, what additions were necessary to make the enactments a consistent whole, capable of a practical and beneficial application by our official corps, and a ready comprehension by those engaged in commerce and navigation."

But while prosecuting these labors, the code of law thereby constructed had been submitted for the opinion and advice of various authorities through the land connected with the dispensation of revenue law. The collectors of our chief commercial ports were consulted, and their subordinate officers asked for advisory aid. Bill upon bill, with marginal emendations and strictures, were returned to the Secretary, who, with the aid of the corps of experts attached to the Treasury Department, formed a general law, which was submitted with an accompanying letter, an extract from which I have read, to the Senate of the United States.

The bill was, accordingly, introduced into the

Thirty-Fourth Congress, framed in accordance with the opinions of the Secretary of the Treasury, formed and matured as I have described; but it was objected to by many of the merchants of our chief commercial emporium, who complained that many of the antiquated features of the law of 1799 were retained; they complained—and I think with justice, too—that many features which experience had condemned were unadvisedly and improperly retained; and Congress wisely, at that time, rejected the bill; for, sir, it was very clear that a code of laws or collection of statutes not approved by the people, or by that class of the people whose interests they were to affect, could not be of any practical effect; for, if the people for whom it is intended reject the law, however distinctly it may be imprinted upon the statute-book, it will be a dead letter, incapable of administration, and void. The first object, therefore, after having selected the facts and reason as our guide, is to consult the wishes, opinions, and interests of those whom it is intended that the law shall govern. In the instance under consideration, the merchants, in their united capacity, protested against the passage of the bill because of its many objectionable features. The protest had its proper effect upon the opinion of Congress, who accordingly dismissed the bill from their further consideration, and rejected it.

But, sir, by the same Congress it was resolved that the whole subject should be referred again to the Treasury Department. It took that course, and in the *interim* between the expiration of that Congress and the assembling of this, the incumbent of the Treasury Department, the present Secretary of the Treasury, renewed the labors of his predecessor, reexamined the bill in its various parts, amended it in some places, affirmed its provisions in others, and, at the opening of the last session, the whole subject was again introduced to the present Congress, and by the House was committed to the Committee on Commerce. From that time to this, this committee have had the subject under careful deliberation. They have consulted authorities in all quarters. The United States district attorneys charged with the execution of the laws; the collectors in the various principal collection districts of the Union, the naval officers and surveyors, presumed to be familiar with this subject, have, in very many instances, been consulted, and in nearly every instance their advice has been accepted. The merchants have had the bill proffered to their consideration; the Chamber of Commerce of the city of New York appointed a commission to review its provisions, to examine them, and to report to that body their nature, and to pronounce whether the code, as now offered, was compatible with the interests, and acceptable to the masters of commerce. They held it under deliberation, and afterwards communicated with me, by letter, as chairman of the Committee on Commerce of this House, from which the following is an extract. The letter, I should premise, is signed by P. Perit, the president of the Chamber of Commerce:

"In the meantime I beg to say to you, that the resolutions express the full approval by the chamber of the revenue bill as reported."

I may also say that, in addition to this approbation, the bill has the approval of the present Secretary of the Treasury—not that in every particular he gives it his cordial assent, but he expresses his desire that it may pass, and that in reference to those parts of which he disapproves, and from which he differs, he is content that the expression of that disapproval be clearly made to the committee, to the end that it may judge whether his opinion be correct, or that of the committee which reported the bill. When we shall arrive, in reading, at those parts of the bill signified by him, I will take the opportunity of expressing his views upon them, as well as the conflicting views of the committee which I represent.

Now, sir, four or five years have elapsed since this work of consolidation was undertaken; five years of continuous and arduous labor; five years expended upon a subject of the greatest importance to the commercial interests of the Union; five years of codification, bestowed under the most favorable circumstances, aided by the knowledge and advice of all the experts of the land. If, then, the Congress of 1852 had chosen to commit the work of the revival of the revenue laws to a body of men, or commission to be named, they could

not have selected a body so able, so competent, and so laborious, as that which has had this work in charge. I say this for the assurance of gentlemen who are not to be presumed to be familiar with the technicalities of revenue laws. I say to them, that among all the subjects embraced in this bill, there is not the most trivial one which has not passed under the careful and repeated scrutiny of experts, practitioners, and administrators of revenue law, and most accomplished adepts in the administration of custom-house rules; nor is there a single provision among them which has not been ratified and affirmed by their judgment.

Five years, I repeat, have been spent upon this work by such a body of men. Sir, the law which now governs nearly the whole of Europe, the law which controls many of the States of this Union, the civil law, in its inception, occupied but about fourteen months. It was Tribonian and nine sages who produced in that time the code of Justinian. The Pandects and the Institutes, far-reaching and profound as they were, required but the period of three years for their completion. Now, if this committee is to act by analogy, I may say that five years occupied by a commission such as I have announced, with the results now presented, should satisfy the committee that ample time for careful codification has been afforded to the men who, above all others, are presumed to have the greatest familiarity with the subject, most interested in an accurate collocation of law, as well as most desirous of its early and propitious accomplishment.

I may, therefore, say that although it is impossible that honorable members should sit in judgment upon a collection of laws, the provisions of which they have not been educated to understand; upon laws which not even the most practiced professional man would be able at first effort to interpret and construe; upon laws which no person else than he familiar with the details of the circumlocution office, and with the red-tapeism of the custom-house procedure, can be presumed to penetrate or to compass. I say, although it may be impossible for gentlemen to understand the details and technicalities connected with, and inseparable from, the collection of the revenue, the entry of merchandise, and the clearance of vessels, yet, under the circumstances I have presented, and with the facts before them, which I have narrated for their guidance, they should determine whether they may not, with all just reason, conclude that confidence should be reposed in the work presented for their acceptance as judicious, reliable, and necessary.

I will now, sir, as concisely as possible, proceed to enumerate the most important changes in the existing laws which are proposed and which are now presented for legislative action. I may say, however, before proceeding with this enumeration, that these changes are by no means innovations. They have been supplied to the consolidated act from the practical experience of the last fifty years, in the collection of the revenues, and they mainly, if not entirely, have been imported from the Treasury regulations appertaining to our various custom-houses. With this remark I will proceed with the list of changes proposed, which I hold in my hand. There is at present a law which distinguishes the documents with which every vessel is required to be furnished, whether sailing coastwise or on foreign voyages, by registers, enrollments, and licenses—a distinction in truth without a difference; creating confusion, and oftentimes resulting in injury to the merchant and shipholder. It has been thought wise by experienced individuals to abrogate this law, and to resolve all enrollments, registers, and licenses, into the one denomination of registers.

Another subject, sir, of great importance, perhaps of greater importance than any other contemplated by the bill, is the admeasurement of vessels for tonnage. I will not, limited as I am now in time, embark fully upon this subject, but leave that to the opportunity of an amendment which I intend at the proper period to offer, from the Committee on Commerce. I will say in brief, however, that the present system of admeasurement for tonnage is injuriously false; that it is erroneously applied; and that it is, to the extent of its ability, working evil to our marine architecture, and destroying, if that be possible, the enterprise and success of American nautical abil-

ity. It is, sir, impairing the very model of our marine, and in this wise: The law, as it is, has descended to us from 1789, when it was adopted into our code from the English law of 1773, which, in its turn, had descended from the elder English law of 1375. And thus, a law dictated by the ignorance of the times, which presumed that the depth of a vessel was but equal to half its breadth, and applied such a false element to the admeasurement of the tonnage of vessels; or, in other words, to the mensuration of their cubical capacity; has inflicted upon our country a system of tonnage admeasurement for vessels all wrong—injurious, ruinously wrong.

I will give to the committee an instance: so imperfect is this law, that under it, of two vessels, each admeasured for and having a registered tonnage of one thousand tons, one may carry fifteen hundred tons, and the other but five hundred tons. And so it is, that the merchant purchasing by tonnage admeasurement, the merchant taxed by tonnage, the merchant who pays duties upon tonnage, has been entrapped and injured, and, in certain cases hopelessly involved, by the unjust application of this most pestilent law. The English partially rectified their error in 1836, having then adopted a new style of admeasurement called the "new admeasurement;" afterwards they improved upon this, and in 1853, adopted their present rules, and now their vast naval and commercial marine, under the influence of this true system, is making vast advances from their old models, and begins to compete with the best models of the American marine. It is time now that we should obviate this difficulty. The voice of reason and of patriotism demands it. The interests of the shipholder and the interests of the merchant appear before this committee and claim the adoption of the proposed amendment; the adoption, substantially, of the English system of admeasurement for tonnage.

Another new feature, Mr. Chairman, is, that instead of the sailors being taxed twenty cents per month for hospital dues, on account of sick and disabled seamen, it is proposed to have recourse to a tax upon tonnage for the creation of the desired fund. The crew list of a vessel is oftentimes imperfect; oftentimes it is so modified as to suit the interest of the ship-master; and in our interior coastwise districts it has always been difficult, nay, impossible, for the master to furnish to the custom-house the names of his crew. Of course, a failure on the part of the Government to collect the twenty cents from all those employed has been the consequence.

Now, sir, it is very well that we should take charge of the interests of the sailor. And while it is proper that the sailor himself should be assessed, (and it is manifestly improper that he, as one of the class to be benefited, should escape the contribution which the law directs for his benefit,) he frequently, under our present laws, escapes; and it is to prevent this that the amendment is proposed. Its action will be of this character: The ship-owner will pay three cents per ton upon the tonnage of his vessel, he having the legal power, however, to exact remuneration from each sailor shipped, in proportion to his time and wages. Thus will the tonnage of the country be answerable to the Government. All that should be collected; and the ship-owners and masters will be protected, while securing the Government from loss; will in turn be protected by the power conferred on them to secure from the sailor what they have paid to the Government in his behalf.

Another grave consideration, Mr. Chairman, is that, at present, the sum paid by the Government is over three hundred and forty thousand dollars annually for the relief of sick and disabled seamen, while only \$167,000 is collected, leaving the large difference to be appropriated each year by Congress out of Treasury funds. Your committee are of the opinion that this deficiency should not fall upon the country at large, but first upon those who are most immediately connected with and dependent on the seamen, and then upon those who compose the class intended to be benefited. It is believed, on accurate computation of the tonnage of the country, that an assessment of three cents per ton will yield a sum equal to the sum required annually for the relief of sick and disabled seamen. Another innovation is an apprentice system which it is proposed to introduce

into our commercial marine. Such a system applied to the Navy, I understand, has worked well, and is working well.

Mr. CLARK, of New York. Will my colleague permit me to inquire whether the apprenticeship system, which he says works well, is voluntary or involuntary?

Mr. JOHN COCHRANE. It is involuntary in a degree.

Mr. CLARK, of New York. Will my friend permit me to propose another inquiry, saying, however, that I have not examined this bill sufficiently to be able to speak of its merits? I should like to inquire how many new offices are created by that section which provides for this apprenticeship system?

Mr. JOHN COCHRANE. There is but one that I now think of. That one is the commissioner.

Mr. CLARK, of New York. I will ask my colleague—

Mr. JOHN COCHRANE. One moment: Mr. Chairman, I cannot now, with all deference and respect to my colleague, give him a greater part of my time, as I may not be able otherwise to complete, within my hour, what I have to say. When we come to that part of the bill, in the stages of its future consideration, I will give my colleague every requisite information within my power that he desires.

Mr. CLARK, of New York. I submit to my colleague, as chairman of the Committee on Commerce, whether, when the House is asked to pass a bill of two hundred and eighty-nine pages, it is too much to expect from him to answer such questions as may be addressed to him by any gentleman on this floor?

Mr. JOHN COCHRANE. My colleague mistakes me. I must decline—and that with as much courtesy as I am possessed of—to yield to my colleague that part of the time assigned to me by the House for the opening of this question. I purpose, when we arrive at the part of the bill to which my colleague refers, to answer every question freely, proposed upon that subject, and more at length than I am able to do within the limits of the time now assigned me.

Mr. CLARK, of New York. My friend is on the subject of this apprenticeship now. There are a few objections which strike my mind in regard to the system proposed, in respect to which I should regard it as a favor to have some light on the subject. I wish to know how many offices the bill creates. I wish to know how much expenditure is to be saddled upon the Federal Treasury. I wish to know who has the distribution of this patronage. I wish to know the regulations under which this patronage is to be administered; and certainly these things are matters with which I supposed my friend should be familiar.

Mr. JOHN COCHRANE. My friend has evidently, in his zeal for the interests of his constituents, and in his intelligence, which I respect, assumed a fact which I think he will not find warranted by the pages of the bill; namely, that the Federal Treasury is to be saddled with any new offices.

Mr. CLARK, of New York. So much the worse. If the money is to come from the pockets of the ship-owners, I should like to know whether they can administer it themselves?

Mr. JOHN COCHRANE. I must respectfully decline further interruption; but, when we come to the consideration of this part of the bill, I shall be willing, and I trust able, to explain to the satisfaction of my colleague that there is no new office created by this bill, with the exception of the one to which I have referred. If I am not able to do so, I shall yield to the objection which my colleague, in that connection, may urge. No fees are to be required, or salaries to be paid out of the Federal Treasury.

Mr. CLARK, of New York. I rose to an inquiry, and not to an objection. I desire my friend to understand that the difficulties which occur to me may possibly be removed by a categorical answer to one or two questions.

Mr. JOHN COCHRANE. I shall be very happy, if the gentleman will now propound these questions categorically, to answer them.

Mr. CLARK, of New York. Will my friend turn to page 254 of the bill?

Mr. JOHN COCHRANE. Let the questions be as brief as possible.

Mr. CLARK, of New York. I see that the

Secretary of the Navy is authorized to appoint commissioners; is authorized to select the ports at which they shall reside; to apportion them along the ports as he shall deem expedient; and to provide the expense of carrying these provisions into effect out of funds to be raised according to his decision. I desire to know if the number of commissioners of apprenticeship is or is not limited?

Mr. JOHN COCHRANE. It is not limited.

Mr. CLARK, of New York. I shall ask if the salaries are fixed?

Mr. JOHN COCHRANE. The salaries are not fixed.

Mr. CLARK, of New York. Where is the discretion to fix the amount of the salaries and to limit the number of the apprentices?

Mr. JOHN COCHRANE. That is left purposely in its present state.

Mr. CLARK, of New York. Who is to fix it?

Mr. JOHN COCHRANE. The Secretary of the Navy, I presume.

Mr. CLARK, of New York. I desire to say that I think this is the body which ought to fix the salary of every man who draws a salary, either from the Treasury or from the people.

Mr. JOHN COCHRANE. When we reach another stage of the bill, and are engaged in its further consideration, I shall listen with great pleasure and deference to the suggestions of my colleague; and shall accept all of them which may be, in my judgment, reasonable and wise. My colleague will, however, pardon me for not going now further into the matter, which must necessarily exhaust my brief remaining time.

And this provision of the amendment applicable to this bill is, that the requisition that two thirds of the crew of an American vessel shall be Americans to secure to it tonnage duty immunities, is repealed. But it is unnecessary for me to dwell on this point now. The principle that the whole ship, her tackle and her furniture, shall be forfeited for minor offenses is repudiated; it being considered that the interest only of the party offending, or his privies, shall be affected by the offense. The penalty for importing liquors in small quantities is repealed; all fees are abolished. The obstacles to the present coast-wise trade existing in seamen's articles, are removed. The legal holder of a bill of lading is made to represent the imported merchandise for all revenue purposes, and not the consignor. The simple reason suggests that the merchant abroad consigning here, frequently for security, conveys the title to the goods by an indorsement of the bill of lading to a person other than the consignee; while, under the present law, the custom-house enters the goods at the instance of the consignee, before the legal title has passed into his hands.

There is also in this law a limitation on the participation in seizures of the officers now entitled thereto in the various collection districts. I should say here that there is somewhat of a difference of opinion, in this respect, between the Secretary of the Treasury and the Committee on Commerce; the Secretary of the Treasury insisting that this distribution should be limited to a sum not exceeding one hundred per cent. on the salary of the officers concerned, while the Committee on Commerce have permitted the subject to remain subject to the provisions of the present law. It will be for the committee to pronounce, at the proper stage of the bill, which of the two methods is the more advisable. I may say, before I take my seat, that many of the changes proposed by the bill, have already been enacted by one or the other of the Houses of Congress. It is so in regard to the admission of foreigners as stockholders in domestic corporations, and their admission thus to an interest in our internal and coastwise trade, a law to this effect has been already passed by this Congress.

Mr. WASHBURN, of Maine. I would like to ask the gentleman from New York a question. I understood him to say that he had some twenty or thirty amendments to offer to this bill.

Mr. JOHN COCHRANE. Yes.

Mr. WASHBURN, of Maine. Have they been printed?

Mr. JOHN COCHRANE. They have not been printed.

Mr. WASHBURN, of Maine. Then I suggest to the gentleman, when he gets through with his remarks, to move that the committee rise and

report the bill with a resolution that its further consideration be postponed for some few days; until we have an opportunity of reading those amendments.

Mr. CLARK, of New York. That will remove all the difficulty.

Mr. LETCHER. I would like to make an inquiry of the gentleman from New York. I should like to know how much additional cost will be imposed by this bill upon the Treasury?

Mr. JOHN COCHRANE. In my judgment, not one dollar.

Mr. LETCHER. I want the figures.

Mr. JOHN COCHRANE. I cannot give figures. There is but one instance which I now recollect—and we have been very careful in the preparation of the bill—in which a new office has been created, and the bill provides for the creation of a fund not drawn from the Treasury to defray its expenses.

Mr. LETCHER. I understand the gentleman to say, however, that the bill places it in the discretion of the Secretary of the Navy to create offices.

Mr. JOHN COCHRANE. That is true; but the fund to which I have referred is to pay their salaries. It is true that these salaries are to depend on mercantile contributions. But, sir, the whole apprenticeship system is proposed for the benefit of the merchants, as I trust I shall be able to show at the proper time.

Mr. JONES, of Tennessee. I wish to make an inquiry of the gentleman. I wish to inquire what will be the extent of the amendment which is proposed to the present tariff upon imported goods? By the fourteenth section of the bill, found upon page 183, it is provided—

“That there shall be levied, collected, and paid, on each and every non-enumerated article which bears a similitude, either in material, quality, texture, or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty which is levied and charged on the enumerated article which it most resembles in any of the particulars before mentioned; and if any non-enumerated article equally resembles two or more enumerated articles, on which different rates of duty are chargeable, there shall be levied, collected, and paid, on such non-enumerated article, the same rate of duty as is chargeable on the article which it resembles paying the highest duty; and on all articles manufactured from two or more materials, the duty shall be assessed at the highest rates at which any of its component parts may be chargeable.”

Mr. JOHN COCHRANE. I will, with pleasure, answer my friend's interrogatory. This is what may be termed one of the new provisions of the bill. It was adopted from among the regulations of the Treasury Department, under which the custom-house system has been administered for the last ten years. It merely provides for a rule in the construction of the tariffs which exist, or may be enacted. It refers to the interpretation of the schedules and scales recognized by and comprehended within the various tariff laws which have been, from time to time, presented upon questions raised to the collectors of the different ports, and by them oftentimes referred to the Secretary of the Treasury for his decision under the existing law.

Mr. JONES, of Tennessee. I see that this section is marked new. I suppose any amendment changing the provisions of the present tariff would be in order to this bill; but I supposed this bill was to affect only the custom-house laws and regulations.

Mr. JOHN COCHRANE. If my understanding of the subject be correct, then I think my friend is in error when he supposes that the design of this section, or if not the design, its effect, would be to make a change in the existing tariff. As I before said, the design is to provide a rule of construction of a law already passed, and whether that law be the present law, or one to be passed in future, is wholly immaterial, for it only applies to the construction of the schedules ordinarily attached to a tariff, and to the classification of articles therein named. But I will say that if there is a question respecting the nature and legal effect of this provision, rather than it should make the bill liable to the criticism of inducing a change of the tariff, although not so designed, I would consent that the bill should be amended by striking out the section.

[Here the hammer fell.]

Mr. HOUSTON. I have no objection to the gentleman going on to explain the remaining sections, but I wish to make a suggestion to him

which I think will secure a more intelligible consideration of this bill. The bill is very properly divided into chapters. Each chapter might very well constitute the subject of a distinct bill. In voting upon the large amount of matter embraced in one bill, there are probably many gentlemen who cannot familiarize themselves with the various provisions and sections sufficiently to justify them in voting for it as a whole. There will be, doubtless, votes against the bill, simply because gentlemen do not sufficiently understand all its provisions. I believe most of the provisions to be good; but some of its sections are clearly not free from objection; and I would suggest, whether it is not competent for this committee—and whether such a course would not meet the approbation of my friend from New York—to divide the several chapters into bills, each of which shall constitute a separate bill; we could, by that means, secure at least the passage of such provisions as would command the unanimous approval of the House.

Mr. CLARK, of New York. I will say that such a course would command my approval.

Mr. JOHN COCHRANE. I will say, in reply to the gentleman from Alabama—though my hour has expired—that the reason of presenting the bill in its present shape is this: It is important that the several subjects of legislation contained in the bill should be acted upon simultaneously, and to adopt the suggestion of the gentleman from Alabama would be to adopt a partial code of corrective laws, leaving the great preponderating evil behind. The passage of one of these chapters as a separate bill, would encounter the same objection now urged against the whole bill as it stands.

I take it for granted that any individual upon this floor not being familiar with the details of custom-house routine, would be unable, from an examination of this bill without assistance, to arrive at its true meaning or import; and I will say in this connection, that if this House intends to adopt a system of revenue laws applicable to the present wants of the commerce of the country, they will be obliged to take the greater part of it upon the representations of those most deeply interested in it, and upon the advice of those most familiar with the laws which govern it.

And now, in order to terminate the debate for the present, as it has been suggested to me from various quarters, I will, for the purpose of moving in the House that this special order be postponed for ten days, to permit the amendments of the committee to be printed, move that the committee do now rise.

Mr. MILLSON. I rise to make a suggestion to the gentleman from New York and to the committee. It is now so late in the day that I think we had better go on with this debate, if there is any other gentleman desirous of speaking upon the general question. By continuing the debate now, we shall save that much time; and when the committee rise, it will then be competent for the gentleman from New York to submit the motion he contemplates—that is, to have the amendments printed and the bill made a special order for some other day. If there are gentlemen desirous of speaking, I suggest that they had better occupy the time of the House now; and we shall, in that way, be aided in our deliberations upon the general subjects contained in this bill. I think it very profitable to keep up this running discussion in the form of a dialogue, as it will elicit considerable information. If, therefore, there are any gentlemen who desire to continue the discussion, I suggest to the gentleman from New York that he delay his motion.

Mr. WASHBURN, of Maine. I hope the gentleman from New York will insist upon the motion now, for the reason that there can be no very intelligent discussion of the bill until we know what the amendments are.

Mr. JOHN COCHRANE here sent to the Chair the amendments to the bill which are proposed by the Committee on Commerce.

Mr. HOUSTON. I understand that important amendments are to be proposed to this bill by the Committee on Commerce, and, so understanding, I agree that the motion of the gentleman from New York is a proper one.

I have another suggestion which is in conflict with the one made by the gentleman from Virginia, [Mr. MILLSON.] We have the bill before us,

and by a postponement we shall have the amendments before us, and the speech of the gentleman from New York will be before us, giving his running criticism upon the entire matter contained in the bill, and with those before us we can form a better opinion than otherwise we shall be able to do. I therefore hope the gentleman will adhere to his motion.

Mr. JOHN COCHRANE. I adhere to my motion.

The motion was agreed to.

So the committee rose; and Mr. JONES, of Tennessee, having taken the chair as Speaker *pro tempore*, Mr. SMITH, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and especially a bill (H. R. No. 487) for the codification of the existing revenue laws of the United States, and for other purposes; and had come to no resolution thereon.

Mr. JOHN COCHRANE. I move that the amendments of the Committee on Commerce to bill No. 487 be printed, and that the special order be postponed till the 13th instant.

Mr. SMITH, of Virginia. I suggest to the gentleman from New York that there is a special order for the 16th instant, and the consideration of this bill, if set down for the 13th instant, will probably interfere with that other special order.

Mr. JOHN COCHRANE. I will say the 12th, then.

Mr. SMITH, of Virginia. The French spoliation bill will come up on the 16th.

The SPEAKER *pro tempore*. The Chair would suggest that the 16th is Sunday.

Mr. WASHBURN, of Maine. I move to amend the motion of the gentleman from New York by substituting "two weeks from to-day," in the place of "the 13th."

Mr. PHELPS. I would like to know whether the amendments from the Committee on Commerce have yet been reported?

Mr. JOHN COCHRANE. Not in form; but they are upon the Clerk's desk.

Mr. HOUSTON. I understand that the gentleman at the head of the Committee on Commerce, now proposes to report amendments under the instruction of the committee?

The SPEAKER *pro tempore*. They are on the Clerk's desk.

Mr. HOUSTON. Are they received so that they may be printed?

The SPEAKER *pro tempore*. They are before the House.

Mr. JOHN COCHRANE. I presume, if the consideration of this bill is postponed to the time indicated by the gentleman from Maine, it will amount to a defeat of the bill, as we shall not then have time to perfect it in the Committee of the Whole and report it to the House and have it acted upon there. If, at the end of the week, it shall be necessary to make a further postponement, I will then make a motion to that effect.

The question being on the amendment,

Mr. JOHN COCHRANE demanded tellers.

Tellers were ordered; and Messrs. BRYAN and HARRIS were appointed.

The House divided; and the tellers reported—ayes 57, noes 67.

So the amendment was not agreed to.

The motion of Mr. JOHN COCHRANE was then agreed to.

Mr. JOHN COCHRANE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. PHELPS, of Missouri. Mr. Speaker, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, in order that we may take up and act upon the Indian appropriation bill, which was under consideration when the committee was in session previous to this morning.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. TAYLOR, of Louisiana, in the chair,) and resumed the consideration of the Indian appropriation bill, upon which the gentleman from Illinois [Mr. LOVEJOY] was entitled to the floor.

Mr. LOVEJOY. Mr. Chairman, I shall post-

pone the general remarks which I had intended to make on the policy of this Government, in regard to the various Indian tribes, to a more appropriate occasion. I understand that there will soon be presented a proposition to pay the scalping parties who went out against the Walla-Wallas, and then I shall make some observations on the subject. At present, I shall only occupy the attention of the committee for a few moments in assigning some objections to this bill. *L'état c'est moi*—I am the State—said Louis XIV.; and, sir, if the process of centralization goes on for a few years to come, as it has for years past, the Executive of this country can, with equal truth, say, "I am the Government." When measures are proposed, when bills appropriating vast sums of money are reported from the Committee of Ways and Means, their passage is urged not upon the ground that they are right; we are not told that these appropriations are necessary, or, at any rate, we are told only that they are necessary, and not for what objects, and for what purposes. No, sir; their passage is urged simply upon the ground that the Executive has recommended the appropriations; and it is considered a matter of extreme favor to Congress that the committee have only reported about one half what an Executive Department has recommended.

Mr. PHELPS, of Missouri. I ask the gentleman to permit me to correct him just there. The mistake into which I see he has fallen is the same that was perpetrated by two of the daily journals of this city. It was there stated that the Committee of Ways and Means had reduced the estimates of the Commissioner of Indian Affairs. I did not make that statement. I stated that the Secretary of the Interior had reduced the estimates of the superintendents of Indian affairs and supervising agents in the States and Territories about one half, and that the Committee of Ways and Means had recommended that this House should appropriate the sum recommended by him. I make this correction in justice to the Commissioner of Indian Affairs.

Mr. LOVEJOY. I do not know as to that, sir; but I do know that when objections were made the other day to this bill, the uniform reply on the part of the chairman of the Committee of Ways and Means was—It has been recommended; it has been recommended. And there is a report in the papers, whether true or not, having the authority of the chairman of the Committee of Ways and Means, that unless we model our legislation to suit the views of the Executive, we shall be called together again during the approaching summer in extra session. I would like to know, by the way, whether that report has the authority it claims to have?

Mr. PHELPS, of Missouri. There is so much noise that I have not heard the gentleman's question. I do not understand what is his interrogatory.

Mr. LOVEJOY. I do not hear the gentleman. [Laughter.]

The CHAIRMAN. Gentlemen will please preserve order in the committee.

Mr. PHELPS, of Missouri. I did not hear the question asked by the gentleman from Illinois.

Mr. LOVEJOY. I asked the chairman of the Committee of Ways and Means whether the newspaper report had any sanction, that unless we revise the tariff to suit the Executive we shall be called together in an extra session?

Mr. PHELPS, of Missouri. I am ready to answer that interrogatory, although I do not regard it as relevant to the debate.

Mr. LOVEJOY. Yes, it is relevant to what I was saying.

Mr. PHELPS, of Missouri. Very well. I will answer it, for I do not desire to shirk any responsibility. I say that, unless Congress provides means for carrying on the Government during the next fiscal year, either by a modification of the tariff, or by the authorization of a loan, or by the issue of Treasury notes, or by some one or all of these measures, there will be, in my opinion, a necessity for Congress to be specially convened during the ensuing summer.

Mr. LOVEJOY. I ask the gentleman whether that sentiment has the sanction of the Executive?

Mr. PHELPS, of Missouri. Mr. Chairman, I trust that, when the President of the United States desires to have an organ in this House, he will

select some other person than myself; and when he desires to communicate to this House his opinions, they will be read from the Clerk's desk. I stand here speaking no man's sentiments but my own. So far as the statement I have made refers to the President of the United States, I have heard no such opinion expressed or avowed by him.

Mr. LOVEJOY. The gentleman thinks that this is not relevant. It was relevant, because I was making to this bill an objection, which lies also to a great many other bills which come here recommended and supported simply by Executive recommendation. With the entire inexperience that I had, when taking my seat in this Hall, I was surprised, and I may say amazed, with nothing so much as with the manner in which these bills, appropriating immense sums of money, are passed in this body. It is supposed that an Executive recommendation is sufficient authority to carry it through, high and dry, without discussion and without scrutiny. Talleyrand once said that words were invented to conceal ideas; and many of the rules of this House seem to have been invented to conceal what we are doing; or, at any rate, to keep it from the knowledge of the uninitiated. Now, I have two objections to that portion of the bill which I have moved to strike out. In the first place, when it came into the House, it should have been referred to the Committee on Indian Affairs, and should have been examined by that committee; and if they thought it proper, they should report it back to the House, and let us know the necessity of appropriating this large sum of money. In the second place, I object to it because, from the limited investigation and inquiry that I have been able to give this subject, I cannot learn that there is any law anywhere requiring or allowing this appropriation. I should like the chairman of the Committee of Ways and Means, who has been justly styled the Chancellor of the Exchequer—

Mr. NICHOLS. The first Lord of the Treasury. [Laughter.]

Mr. LOVEJOY. I should like him to refer this committee to the law in accordance with which this appropriation is made, covering four or five hundred thousand dollars in a postscript, which, like postscripts to ladies' letters, seems to be the most important part of the entire bill. When the bill is reported here from the Committee of Ways and Means, it goes to the Clerk's desk, and is read a first and second time by its title, without being printed, and without any members of the House, but a limited few, knowing what is in it. "First reading of a bill." What is it? "A bill to fulfill treaty stipulations with the Indians." "Second reading of a bill." "A bill to fulfill treaty stipulations with the Indians." Now, that is a deception. It is that, but it is more than that. I repeat, that one fourth of the entire sum is under the head of "miscellaneous," which is not indicated, at least distinctly, in the title, and which is not known on its face. Then the bill is printed and brought up here; and it must pass because some sub-agent has recommended to some agent or some superintendent, away off in Walla-Walla, or the Lord knows where. Now, I will vote for no bills under such circumstances, notwithstanding all the scalping-knives and all the tomahawks that can be trotted out here before us, [laughter;] and I press this inquiry: where is the law authorizing, or requiring, or allowing this appropriation of money? There is no such statute; and I think the objection taken by the gentleman from North Carolina, [Mr. BRANCH,] as well as the argument of the gentleman from Alabama, [Mr. HUSTON,] are conclusive against this appropriation being passed in this manner. I do not object to the object of the appropriation; because I am frank to say, that though I have little hope that these Indian tribes shall ever be saved from final extinction or absorption, still I think that it is a Christian and humane thing to try and give them these immense sums of money are going, under the direction of the Secretary of the Interior? He may buy powder and ball, or spelling books, just as he pleases; and nobody knows how much of the one or of the other he purchases. No one knows how much adheres to the hands of the agents and sub-agents and superintendents and sub-superintendents. No one knows anything about it, nor will, till the day of judgment, I am

afraid. I should like an answer to my inquiry—where the law is under which this appropriation is to be made?

Mr. PHELPS, of Missouri. I do not like much the manner of the interrogation; but I will answer it. By the act of 1853, authority was given to the President of the United States to select certain military reservations in the State of California and in the Territories of the United States; for the purpose of congregating these Indians on military reserves and subsisting them, and with a view, eventually, to make these Indians subsist themselves, after they shall have been taught the art of agriculture.

A subsequent act has been passed, since the one to which I refer, also providing for setting apart two Indian reservations in the State of Texas. I will endeavor to read the sections of the acts to which I allude. I now read from the act of 1853:

"That the President of the United States, if, upon examination, he shall approve of the plan hereafter provided for the protection of the Indians, he, and he is hereby, authorized to make five military reservations, from the public domain in the State of California, or the Territories of Utah and New Mexico, bordering on said State, for Indian purposes: *Provided*, That such reservations shall not contain more than twenty-five thousand acres in each; *And provided further*, That said reservations shall not be made upon any lands inhabited by citizens of California; and the sum of \$250,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of subsisting the Indians in California, and removing them to said reservations for protection."

That is to provide for the establishment of Indian military reservations in the State of California, and in the Territories of Utah and New Mexico. By subsequent legislation, similar provision has been made for reservations in the Territories of Oregon and Washington; and, by still further legislation, provision has been made for three reservations, of a like character, in the State of Texas. Texas asserted her right to all the public domain within her limits; and she was entitled to it under the resolutions of annexation. Texas was unwilling, at one time, that the provisions of the Indian intercourse act should be extended over the Indians within her limits; and it was only after subsequent legislation, by which these Indians were to be congregated upon reservations restricted within certain limits, that she consented to set apart, as she has set apart, these reservations for their use. One of these reservations was surveyed by the Government officers several years ago; and upon it have been congregated a portion of the Indians of Texas. Another portion of her Indians are now being congregated upon the reservation lying west of the river Pecos.

I have already cited one of the acts setting apart these reservations. I can refer to the others if the gentleman wishes.

Mr. LOVEJOY. As I said, I do not object to the purpose of this bill, though I do not understand the laws referred to to cover all these items of appropriation. But I content myself now with these observations, reserving more extended remarks until the bill to which I have referred comes up, and to which they will be more appropriate. I think the objections to the passage of this bill in its present shape are conclusive and insurmountable. If this item is to be passed, it certainly should not be tacked on to the end of an appropriation bill for fulfilling treaty stipulations with the Indians. I think this certainly is not the place for it, and I concur in the views presented by the gentleman from North Carolina, [Mr. BRANCH,] in regard to the 78th rule, and hope they will be sustained by the committee.

Mr. PHELPS, of Missouri. A question of order was raised the other day by the gentleman from North Carolina, upon which I desire to say a few words. In reference to the 78th rule, to which the gentleman referred, it is true that the language of the rule would apparently forbid the insertion in this bill of any objects of appropriation not for the carrying out of treaty stipulations; but it is also true that the contemporaneous construction of a rule of this House becomes a part of the rule itself; and at the time of the adoption of the rule to which the gentleman refers, the contemporaneous construction of the House was that it referred only to treaties negotiated with foreign nations, and not to treaties made with our own Indian tribes. Some years ago, entertaining the views the other day expressed by the gentleman

from North Carolina, I made a point of order upon an Indian appropriation bill, citing the same rule which the gentleman now quotes for the purpose of sustaining my point of order. The House, however, overruled my point of order, and I then learned from older members, and from the best parliamentarians then in the House, that the rule was construed to apply only to treaties negotiated with foreign nations, and not to the domestic regulations made with our Indian tribes.

Mr. BRANCH. If the gentleman from Missouri understood me, when this bill was last before the committee, as raising a question of order, he misunderstood me. I only indicated my purpose to raise a point of order at the proper time. Since that time I have been informed that the construction of the rule has been such as the gentleman from Missouri has indicated. I shall not, therefore, make the point of order which I designed to make. My object is not to prevent the passage of these appropriations, as I stated when I addressed the committee before upon this subject. But there is the 78th rule which prohibits including in any bill, for carrying out treaty stipulations, any appropriations for objects other than those covered by treaty stipulations. There is, also, the 81st rule which prohibits including in any general appropriation bill any items except such as are intended to carry out existing law, or necessary to carry on the several departments of government; and I intend, so far as I can, on all suitable occasions to enforce those rules upon the House. Since I have been a member of the House these rules have been time and again habitually disregarded. I shall not make the point upon this bill, because I understand the decision of the committee on former occasions has been against me in regard to the 78th rule, and it is not clear that these items in it are in violation of the rule; that is, it is not clear that there are items of appropriation which are not to carry out existing laws, or are not necessary to carry on the various contingencies of the Indian service; but I desire to state now that whenever an appropriation bill does come before the House containing provisions in violation of these rules, I intend to make a point of order upon it. These rules should be adhered to. In my judgment they are essential to correct legislation, and I know of no rule of the House which should be more rigidly enforced than these.

The object of the 81st rule was that nothing should be embraced in a general appropriation bill which was not necessary to carry out existing laws, or to enable the Government to carry on its ordinary current functions, in order that when such a bill was before the House objects of doubtful merit should not be fastened on it and forced through under the impression, upon the part of members, that the bill must be passed in order to enable the Government to carry on its operations. The design of that rule was to prevent legislation of that description; yet you, Mr. Chairman, and every member of this committee, have been here long enough to have seen that rule time and again violated, and to have seen some of the worst legislation that has ever passed this House carried through here against the judgments of a majority of the House, because members could not defeat it without at the same time defeating the appropriation bills. I made this point in the last Congress, but it was then so late in the session that there was not time to remodel the appropriation bills, and the House overruled the point. I intend to make the point again this session, and I shall endeavor to make it at so early a period of the session that if we refer back these appropriation bills to the Committee of Ways and Means, there will be sufficient time to reframe and remodel them, and for the House to pass upon them. I mean to make the point if the Committee of Ways and Means violate this rule, a thing I hope they will not do.

Mr. BRYAN. The gentleman from Illinois [Mr. LOVEJOY] proposes to strike out a portion of this bill which refers to the State of Texas. It is the portion that provides "For the compensation of three special agents, and four interpreters for the Indian tribes of Texas, and for the purchase of presents, \$15,000." Annually, since 1850, this appropriation has been made for the support of the three agents who have been assigned to Texas. Also, "For the expense of colonizing, supporting, and furnishing agricultural

implements and stock for the Indians in Texas, and for the establishment of the reserve west of the Pecos river, \$25,000." This is another clause which is proposed to be stricken out. When Texas, sir, entered the Union of States, one of the stipulations of the compact was, that she should be protected. The United States Government has thought proper, in carrying out that stipulation, that her Indians should be collected upon reserves. A portion of those Indians have been collected upon two of the reserves which were assigned for that purpose by the United States Government, by the act of the Legislature of Texas, in 1854. The agents were instructed to collect the Indians upon those reserves, for the benefit of the Indian, and in order to carry out the pledge of protection to Texas. Notwithstanding a portion of the Indians have been collected upon those reserves, within the last eighteen months our frontier has been desolated, and hundreds of citizens have been driven from the frontier to the interior settlements to seek protection. If this appropriation is not to be made, the Indians now upon the reserves, will be turned loose upon the frontier settlements, and there will be accumulated expense incurred by this Government, in sending troops there and maintaining the pledge which she gave to Texas when she came into the Union. There are other wild Indians, besides those now upon the reserves, whom it is the intention of the agents to collect there.

Sir, I can say, that in consequence of the poor protection which has been given by this great Government to one of the States of this Union, the affections of the people of Texas are fast being alienated from the Union. I mention it not as a threat, but state it as a fact. We have reminiscences of the past. The day has been when Texas threw to the breeze her own lone star; and when, in the face of the world, she maintained it. She came into this Union by a treaty; by a mutual pledge entered into by this Government and the sovereign Republic of Texas. All she asks from this Government is to extend to her the protection which she pledges herself to bestow. We care not for dollars and cents when the lives of our citizens are in jeopardy; and all we wish is to know the fact that you will not extend to us that protection that we have a right to under the compact, and we will protect ourselves. We have done it in the past, and can do it in the present and in the future.

Mr. GIDDINGS. I wish to suggest to my friend from Texas, that Texas was annexed by resolution, and I think he had better move to repeal or rescind that resolution, for which I pledge myself to vote.

Mr. BRYAN. I will say to the gentleman from Ohio that a resolution of this Government with a sovereign State is a treaty. What is a treaty? It is a compact entered into between two sovereign Powers. And was it not a compact that was entered into by the Republic of Texas and by the Republic of the United States? How did Texas get into this Union if not by the assent of the Government of the United States? And how did she come here if not by the assent of the sovereign Republic of Texas?

Mr. GIDDINGS. I merely suggest to the gentleman that the treaty to which he refers was absolutely rejected by the Senate, and that Texas did not come in by treaty.

Mr. BRYAN. I am not here quibbling upon names. I know there was a thing called a treaty introduced into the other branch of the legislative department of the Government, and I know it was rejected, and I do not refer to that; but I know that Texas was brought into this Union under a solemn compact; and, whenever that is disregarded, we have the right, as we will do, to go out of this Union.

Mr. GIDDINGS. I would suggest to the gentleman from Texas that we have, by solemn legislation of this body, declared that any former act or resolution of Congress may be repealed. Of that we had a very striking illustration in 1854.

Mr. BRYAN. All that I have to say in reply is, repeal it. We of Texas then will know what to do; and, sir, I do not know but it would have been vastly to the interest of Texas had the resolution never been passed, and she never been in the Union. I can say, if protection is not given to Texas, that all the people there will think, as many of them do now, that the "resolution" is

virtually repealed by your own act in refusing protection. Repeal it.

Mr. GRANGER. I have heard it stated today, and heretofore, that unless the General Government should provide troops to defend the sovereign State of Texas against these Indians, their country will be laid waste. Now, I wish to know if Texas is not able to protect herself against a few straggling, ragged Indians? I want to say one word more. I understood the gentleman from Texas to say that, unless we do more for Texas, the affection of that people will rapidly decrease. I would only say that I am apprehensive there will not be much love lost.

Mr. BRYAN. In reply to the last remark, in all deference to one who stands upon this floor as equal with myself, I will say, with such we are willing to part company.

In reply, Mr. Chairman, to the other remark the gentleman has made, I will say that the people of Texas have received nothing but what was their due; and I will say that the people of Texas can take care of themselves; and, sir, since 1855, we have protected ourselves, to a great extent; and now, before the Committee on Military Affairs of this House is a resolution of the Legislature of Texas, which was presented at the last session, asking for moneys advanced by that State in 1855, and since, for protection against the Indians which she has rendered herself. The Constitution of the United States guarantees protection, and Texas has the right to demand it, and not rely upon herself; and the gentleman must know this. If we are to protect ourselves, tell us so. We have protected ourselves, and we ask you to repay the money we have expended.

But, sir, you have turned a deaf ear upon the request of this sovereign State for money which she took from her own treasury for the support of the volunteers called out for her protection. All that we want to know is, whether or not you intend to protect us? We will rely upon you, of course, in the Union, to a certain extent, so long as you act fairly. If you say that you will not give protection, then we will resort to those means we have hitherto used, and which are amply sufficient to protect us. We only wish to know whether you will, and I can say that I wish that this vote would determine the question. So far as I am concerned, I would rather you would exclude it now, if you do not intend to protect us; for the earlier we know it the better.

Mr. Chairman, now for the \$28,000 for the Pecos reservation, and the law on the subject. In the appropriation bill of June 12, 1853, there will be found this clause:

"For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, for the Indians in Texas, \$50,000; and the Secretary of the Interior is hereby authorized to accept and survey the Indian reservation designated by an act of the Legislature of the State of Texas, approved February 4, 1856, and to appoint an Indian agent for said reservation."

That, sir, is the Pecos reservation, and this the law under which we claim the present appropriation. The Muscalaro Apaches infest the region through which the San Diego and San Antonio overland mail road runs. If this reservation be established, then these Indians will be collected upon it, and peace and protection will be extended to the travelers and emigrants to California and Arizona, who pass through Texas. You will have these Indians taught the arts of civilization instead of having them, as now, practicing the warfare and wiles of the savage. We ask for this appropriation in order to carry out what is due alike to the people of Texas and the Indians themselves. If you intend to civilize the Indians, as you say you do, then we ask that these appropriations may be made, and that good faith may be kept with us. If you do not intend to keep faith with us, say so, and reject this.

Mr. GIDDINGS. It is not my intention, Mr. Chairman, to reply to the remarks of the gentleman from Texas, but it does strike me that they were hardly appropriate to this occasion. These threats have lost their effect either upon gentlemen in this Hall or upon the country. We have no fears; we are not horrified; we are not alarmed at threats of a dissolution of this Union. And when I said that I would vote for a resolution of repeal of the Texas annexation resolution, if the gentleman would bring it forward, I meant that he should understand me as candid and sincere in that declaration. I recollect when it was urged

from the other side of the House that we must have Texas to protect ourselves; that it was necessary we should have it to render the free States safe and secure.

Mr. BRYAN. The gentleman is now speaking of the argument that was made in this country at the time of the agitation of the annexation of Texas. We of Texas had nothing to do at that day with the arguments made here. The annexation took place, and all that we ask now is that its compacts shall be observed.

Mr. GIDDINGS. I am inclined to think that Texas, at least, consented to the annexation. Am I correct?

Mr. BRYAN. It is true she consented; but she consented as a sovereign Power treating with a sovereign Power; treating with a nation in this enlightened age, who knew what good faith was, and who she believed would observe the conditions specified in the contract of annexation.

Mr. GIDDINGS. It is not my intention to stir up any feeling on this question; but, sir, the declarations of the gentleman from Texas [Mr. BRYAN] bring to my mind what I saw in this body some ten years ago. The argument which was addressed to us was, that the annexation of Texas would secure safety and protection to this Union.

And, sir, we have done for Texas what we have done for no other State in this Union. We have paid her debts, and that to the disgrace of the men who took the money from our pockets to do it. Fourteen million dollars was wrested from the Treasury, not for our protection, but to pay the debts of Texas.

Mr. BRYAN. If the gentleman will permit me, I will answer him.

Mr. GIDDINGS. I yield to the gentleman for that purpose.

Mr. BRYAN. The gentleman says that this Government has done more for Texas than it has done for any other State—that it has paid the debts of Texas. I deny that statement. We had a territory which we sold to this Government, and out of the proceeds of the sale we paid our debts. You received a consideration; for we gave you a large territory of over eighty-seven thousand square miles. We received \$10,000,000 for our territory, and with that \$10,000,000 we paid our debts.

Mr. GIDDINGS. I merely reply by stating, what every member knows, that every foot of that Territory we conquered by our army from Mexico, and bestowed it upon Texas. There stands the history of the times. Every man knows that Texas was confined to the limit of the Nueces, and that when she sent any men beyond that they were captured and made prisoners. We conquered that territory by the force of our arms, and conferred it upon Texas. She had the benefit of it; and when her Representative stands up here and says it was conferred upon us, I deny it.

Mr. BRYAN. I say that, when Texas was annexed to this Union, she was annexed as the Republic of Texas, with her limits defined, commencing at the mouth of the Rio Grande, and running to its source, and thence in a line due north to the territory of the United States. You recognized the independence of the Republic of Texas. You sent your commissioners there, and you treated with her as an independent Power. You recognized her with the limits she claimed. You appointed a commission to act with a commission on the part of Texas to run this boundary, and a portion of it was run by this joint commission. When Texas was recognized, she was taken as she had defined her limits; and when you treated with Mexico by the Guadalupe Hidalgo treaty, the limits Texas had claimed were expressly stipulated for by making the Rio Grande in part the line; for, by the joint resolutions of annexation, it was expressly stipulated by the high contracting Powers that—

"First, said State to be formed subject to the adjustment of all questions of boundary that may arise with other Governments."

Here Texas stipulated for the settlement of boundary as to Mexico, and not as to the United States; and thus, by these joint resolutions of annexation, reserved to herself the right to boundaries; and the United States, by the resolution of Congress of annexation, had no right, after the treaty of Guadalupe Hidalgo, to question the limits which they had previously recognized and by that treaty determined. Again: when war was

declared against Mexico, on what ground was it declared? On the ground that American blood had been spilled on American soil, by Mexican troops crossing the Rio Grande and invading the territory of the United States, which was the territory of Texas. Now, how can the gentleman, at this late day, question that? But I suppose he has always questioned it; and I do not care, after this brief explanation, at this late day to go into the questions of the boundaries of Texas. Those questions, with the boundary, have long since been settled, and the United States recognized the title of Texas by paying for a portion of the soil.

Mr. GIDDINGS. I wish merely to remark that history, that never-failing record to coming generations of the events that have transpired, has recorded the fact in regard to Texas; and neither that gentleman, [Mr. BRYAN,] nor myself, nor any member of this body, can change that record. There it stands; and no misrepresentation, here or elsewhere, can ever change it. There I leave the matter.

The question was taken on the amendment of Mr. STEVENS, of Washington, to insert the following clause:

For the expenses of bringing to the city of Washington, and to visit the principal cities east of the Rocky Mountains, delegations of the Indian tribes from the Territories of Oregon and Washington, the sum of \$30,000.

The amendment was rejected.

The question recurred on Mr. LOVEJOY's amendment to strike out the following clauses of the bill:

"For insurance, transportation, and necessary expenses of the delivery of Pawnee annuity goods, \$5,000.

"For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuit of civilized life, to be expended under the direction of the Secretary of the Interior, \$75,000.

"For the compensation of three special agents and four interpreters for the Indian tribes of Texas, and for purchase of presents, \$15,000.

"For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas, and for the establishment of the reserve west of the Pecos river, \$25,000.

"For the general incidental expenses of the Indian service in the Territories of Oregon and Washington, including insurance and transportation of annuities, goods, and presents, and office and traveling expenses of the superintendent, agents, and sub-agents, \$35,000.

"For defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, compensation of laborers and other employees: *Provided*, That the sum of \$111,000, or so much thereof as may be necessary, may be applied in payment of liabilities incurred during the year ending 30th June, 1859, \$161,000.

"For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, and compensation of laborers and other employees, \$25,000.

"For the Indian service in California, to be expended under the direction of the Secretary of the Interior, \$50,000.

"For the general incidental expenses of the Indian service in California, including traveling expenses of the superintendent, agent, and sub-agents, \$7,500.

"For the Indian service in the Territory of Utah, to be expended under the direction of the Secretary of the Interior, \$45,000."

Mr. PEYTON called for tellers.

Tellers were ordered; and Messrs. BUFFINTON, and DAVIS of Mississippi, were appointed.

The committee divided; and the tellers reported—ayes fifty-four (less than half a quorum,) noes not counted.

So the amendment was rejected.

The reading of the bill by sections, for amendments, was continued.

Mr. SHERMAN, of Ohio. I move to strike out the following proviso:

"*Provided*, That the sum of \$111,000, or so much thereof as may be necessary, may be applied in payment of liabilities incurred during the year ending 30th June, 1859."

My first objection to this is, that it is a deficiency on its face, and should be provided for in a deficiency bill. My second objection to it is, that it recognizes whatever claims the President or Secretary of the Interior may choose to recognize as claims against the Government. I think we ought not to invest that power in the Secretary of the Interior or the President.

Mr. HOUSTON. To complete the amendment of the gentleman from Ohio, he ought to move to reduce the sum appropriated in that clause from \$161,000, to \$50,000.

Mr. SHERMAN, of Ohio. I accept the sug-

gestion of the gentleman from Alabama, and move to reduce the sum from \$161,000 to \$50,000.

Mr. PHELPS, of Missouri. I undertook the other day to explain this appropriation, in reply to remarks which were then made. I say, now, that there was nothing of the kind intended as that to which the gentleman refers. This appropriation was only intended to meet any liability which might occur during the fiscal year which it might be proper for the Government of the United States to defray. I then read from the report of the superintendent of Indian affairs, made at this session of Congress, in which he stated that, in consequence of the large expenditure for collecting the Indians upon the reservations in the Territory of Oregon and of subsisting them there, the appropriations made at the last session of Congress would be expended during the month of December. He stated, furthermore, that unless we furnished the means of defraying these expenses; unless we provided for collecting and subsisting the Indians; the unavoidable result would be that the Indians would leave the reservations and go back to their old haunts, where they had subsisted themselves by hunting; that that country was now settled up by white men, and that the consequence would be a collision between the two races and another Oregon Indian war. That point was urged by the superintendent of Indian affairs in Oregon with so much force that the Commissioner of Indian Affairs here thought proper to recommend that \$111,000 of the appropriation contained in this clause should be expended during the present fiscal year. The superintendent of Indian affairs says that a large number of Indians are collected upon the reservations; that the money for collecting and subsisting them will be expended during the month of December; that he has then no means to furnish clothing for them or subsistence to prevent them from starving.

Under these circumstances, I take it that a prudent man, seeing that another Indian war would be inevitable, unless clothing and subsistence were furnished, would incur the expense, relying upon the Government to furnish the means. He would not be a humane man in this emergency if he did not incur the liability, believing that the Government, as soon as the facts came to its knowledge, would redeem all liabilities thus incurred legitimately in the public service. As a general rule, I am as averse as any gentleman upon this floor to sanctioning expenditures by the executive officers where no money has been appropriated; but there are cases of exception. There are cases of exception in the military service of the country, where a military officer disobeys the order of a superior officer for the purpose of meeting a great public emergency. If his efforts are crowned with success he is justified by the country, though he may be condemned by the laws of military discipline; so here I submit to this committee—for upon this subject I have no feeling except to promote the public good—whether it is not expedient to appropriate this money for the objects for which it is intended to be disbursed, and thereby prevent another Indian war in the Territory of Oregon? You heard from the Delegate from the Territory of Oregon his remarks upon this subject, based upon his own personal knowledge and observation. It is said that one cause of the difficulty—one cause of the late Indian war in Oregon and Washington was the failure to perform the promises made by the superintendent of Indian affairs at the time when the Indians signed the treaty which has not yet been ratified by the Senate. The treaty provided for removing the Indians and extinguishing their title to their lands. The whites, in anticipation of the removal of the Indians and the bringing of the lands into market, went upon the lands in advance of the removal of the Indians, and in advance of the extinguishment of their title. The Indians finding themselves crowded upon by the whites, finding their hunting and fishing grounds occupied, must commence hostilities unless you furnish the means of subsistence.

Mr. BLAIR. The argument used in support of this appropriation is that it is to furnish means for the subsistence of these Indians, to keep them at peace. Now, in nine cases out of ten, instead of that, the Government furnishes them with the means of making war upon the white people. It will be found, on looking at the executive documents, that one of the Indian agents on the Santa

Fé road, from Missouri to Santa Fé, wrote to the Commissioner of Indian Affairs not to send a supply of rifles and ammunition to be presented to the Indians on that road; but the Commissioner of Indian Affairs insisted upon making that kind of presents to the Indians, and they proclaimed openly, as I understood upon good authority, that they intended to use them upon the people of Texas; and they did soon after make an attack upon the frontiers of Texas. The name of the agent was Miller, and that of the Commissioner Manypenny. Since then, I have understood that it is the custom of the Government to make every year presents of rifles and ammunition to these Indians, with which they make war upon the white people.

Now, sir, I believe that these appropriations, made by Congress under the guise of furnishing support to the Indians, are nothing more or less than to furnish them with rifles and ammunition, with which they make war upon our own white people. It used to be a great complaint, upon our part, that the British Government furnished the Indians with arms to fight us with; yet we have furnished those savages arms to fight our own people with, for that is the object of most of these appropriations.

You will find that the Indians in the region of country around Santa Fé are collected together for the distribution of these presents; after which they collect upon the route of our commerce between Missouri and the Territory of New Mexico, and, by means of the arms and the powder which have been distributed among them, they levy black-mail upon every wagon which passes upon that road. It is notorious that the traders cannot pass to New Mexico without being intercepted by the Indians, and compelled to submit to have black-mail levied upon them. The Indians have the arms and ammunition with which to intimidate and destroy our people.

Mr. PHELPS, of Missouri. In order to avoid one of the objections taken by the gentleman from Ohio, I desire to amend the amendment, although I think the language now used covers the point. I will insert after the words "liabilities incurred" the words "for the objects aforesaid." I have no desire, nor is it the intention of the committee, to give unlimited control to the superintendent of Indian affairs, or to Indian agents. The object was to embrace the necessary expenses incurred in removing those Indians to their reservations, and assisting them in the purchase of provisions, implements of husbandry, &c., until they could support themselves; and I desire that the amendment shall limit the appropriation to those objects.

The amendment was agreed to.

Mr. SHERMAN, of Ohio, obtained the floor.

Mr. HOUSTON. I desire, with the permission of the gentleman from Ohio, to ask the gentleman from Missouri, how many Indians are now upon the reserves in Oregon; to whom this appropriation is to be applied; and how many were there at the last session of Congress when the appropriation was cut down?

Mr. PHELPS, of Missouri. The number of Indians intended to be provided for by this provision is about thirty-two thousand. The gentleman will find, by referring to the last volume of estimates, that it is for so many of them as shall be subsisted and maintained upon the reserve.

Mr. HOUSTON. The gentleman does not answer the question. There may be thirty thousand or more Indians there; but what I want to know is the number for whom this \$222,000 is to be, or was intended to be, expended? It will not do to tell me that there are thirty thousand Indians anywhere within the Territory of Oregon, or within certain precincts of it, intended ultimately to be brought upon the reserves. The propriety or impropriety of this appropriation would mainly depend, as my friend will see, upon the number that have actually been brought upon the reserves.

There is another point I would like to hear the gentleman upon. It is, whether the appropriation now asked to be given is not precisely, to a dollar, the amount which the estimates of the superintendent were cut down at the last session of Congress, with the consent of the Interior Department and the Commissioner of Indian Affairs?

Mr. PHELPS, of Missouri. I will answer the question again, for I think I did answer the gen-

tleman in the first instance. There is not merely one reserve in Oregon; there are several. If the gentleman speaks of the Grand Ronde reserve, there are some twelve hundred Indians upon it. But there are other reserves in Oregon, and there are some agencies attached to those points, and the amount estimated by the superintendent of Indian affairs of that Territory was \$337,000, for the purpose of expending it in the subsistence of the thirty-three thousand Indians I have mentioned. It is not all to be expended on one reserve. The language made use of includes a number—and there are several—and the gentleman will find that these sums are estimated for as necessary at those particular reserves.

The gentleman from Alabama also propounded another inquiry. He desired to know whether this \$111,000 was not the exact sum by which the estimates for this object were diminished at the last session of Congress? I answer, that it is. I so stated the other day, and I stated also that the reduction was made with the consent of the Commissioner of Indian Affairs, with the remark, that perhaps they could get along with one half of the original estimates, but saying, at the same time, that Congress would then be in session, and if he could get along with that sum, well and good; if not, the subject could be again laid before Congress.

Mr. HOUSTON. I do not think the gentleman from Missouri has yet answered the question I propounded to him. I did not ask him whether there were many reserves in Oregon Territory, or whether there was but one. That is immaterial.

Mr. LANE. Will the gentleman allow me to answer him?

Mr. HOUSTON. Certainly.

Mr. LANE. With the permission, then, of the gentleman from Alabama, I will take great pleasure in stating to him the number of reserves and the number of Indians upon the reserves, or nearly so.

Mr. SHERMAN, of Ohio. I believe I am entitled to the floor, and after a few words I will yield it to the gentleman from Oregon.

The explanation of the gentleman from Missouri is not satisfactory to me. He may have given good reasons why the House at the last session should have appropriated this \$111,000 for the purposes named in the bill; but if any Indian agent in Oregon has used that sum of money, or any other sum, for the purposes named in this bill, without the authority of law, he did what he should not have done, whatever might have been the consequences.

It is proposed now to legalize what the gentleman presumes has been done. The appropriation is based upon the idea that the agent in Oregon has incurred a liability. How incurred a liability? He had no right to incur it. He had no right to incur a dollar of expense until Congress had appropriated the money by law. And I desire to say that I will make the point whenever I can, in order to put a stop to the assumption of power not authorized by law.

If you pass this bill, inserting this proviso, you will indorse a clear violation of the law. The observations of the gentleman from Missouri do not meet this objection. I do not desire to make the point as to the amount expended for these Indians, but that money shall not be expended in violation of law and in defiance of appropriations. I am willing to give them all the money which may be necessary for the support of the Indians during the fiscal year. Then, if we have not given enough in the past, let the gentleman from Missouri introduce a deficiency bill, and we can make good our own wrong or neglect. But, sir, these subordinate officers ought not to do that without our consent.

Mr. LANE. With the gentleman's permission, I will answer the inquiry he has made; and I hope that he will listen.

Mr. SHERMAN, of Ohio. I will listen.

Mr. LANE. Upon the Grand Ronde reservation there are about twelve hundred Indians; upon the Siletz, between two and three thousand; and upon the Umpqua and upon the Wasco, including those I have named, there are, in all, some five or six thousand Indians, and these Indians have been brought and settled upon those reservations, upon the promise that they should be subsisted until the reservations could be made self-sustaining.

For the purpose of that subsistence, an estimate was made by the superintendent of Indian affairs of the amount necessary, and presented to the Secretary of the Interior prior to the meeting of Congress. That estimate was of as low a figure as the subsistence of these Indians would allow. But, sir, as the gentleman has remarked, this estimate was cut down one half, it was reduced \$111,000; and you, Mr. Chairman, will bear in mind, the gentleman from Ohio will bear in mind, that, by a law of the last session of Congress, appropriating money to pay deficiencies in Oregon and Washington Territories, the Secretary of the Interior was authorized, before these claims could be paid, to send a commissioner to that country to examine into them. A man was selected for that duty, which has since been performed; and he reports that he found all the claims equitable and just.

Now, while the gentleman from Ohio is right in the main in regard to appropriation laws that officials should not exceed the law, yet there are exceptions; and here, sir, when a sufficient amount was not given to this superintendent to subsist the Indians upon the reservation, he deemed it absolutely necessary that he should obtain that subsistence while the deficiency was being supplied. Let me appeal to members whether, if it is necessary for the maintenance of these Indians, and consequently to save the lives and the property of our people, it is not well to provide by appropriations for that purpose? This superintendent has taken care promptly to call the attention of Congress to the fact that the appropriations for the subsistence of these Indians for the fiscal year ending June 30, 1853, will not be adequate, and will be exhausted before the expiration of that time, because of the one half reduction to which I have alluded. He says that it will be exhausted, perhaps, in December. Subsist these Indians and they can be kept upon these reservations, and peace will be preserved to our borders. I submit to my friend from Ohio [Mr. SHERMAN] and to my friend from Alabama, [Mr. HOUSTON,] who are in favor of keeping the Government down to the strictest line of economy in public expenditures, whether common sense will not dictate that it is much better economy to make this appropriation now than to wait? for if we wait, we may incur, besides this expense, also the loss of life and the destruction of property to the amount of millions. Then, if my friends really are in favor of economical expenditure and reasonable legislation, let them vote for this appropriation, and thus enable the superintendent of Indian affairs to maintain peace with these Indians which he cannot do without it.

Mr. Chairman, I took occasion the other day to call the attention of members to the fact that Oregon, though more exposed than any other Territory, save her sister, Washington Territory, outside of the care and protection to which she is entitled, has cost this Government but little. We have had little favor at your hands. When an appropriation is asked for Oregon, gentlemen take alarm, raise objections, and give that far off people the cold shoulder. They are American citizens, the citizens of Oregon, and they are upon American soil; as devoted to this Union as any people in it; and I thank God that they know no North, no South, no East, no West—nothing but the Union and the Constitution, and the rights of the States under it. They are law-abiding, peaceful, industrious; and yet, never is an appropriation asked for Oregon but what objection is interposed. I hope this is not done from any unkindness to Oregon. When protection is needed to her borders, and to citizens within them, from the incursions and assaults of the savage foe, will this Congress deny it? We have had little, and we expect little. If our Indians are subsisted, and peace is preserved; if the lives and property of our people are preserved, and if their just claims upon this Government are provided for, then we are satisfied. Do this, and we will then endeavor to take care of ourselves.

In regard to the remarks of the gentleman from Missouri, [Mr. BLAIR,] relative to the policy of the Secretary of the Interior in furnishing munitions of war to the Indians, I will say that such has not been the policy in Oregon. Arms and ammunition have not been carried there and placed in the hands of the Indians to shoot down and shed the blood of our people. No portion of this

appropriation is for any such purpose. On the contrary, I will say to the gentleman, that so far from its being the policy to give the Indians of that Territory arms and ammunition, it has been the policy of the superintendent of that Territory to collect the Indians there upon the Indian reservations, and instead of rifles and shot-guns, to give them a home and a knowledge of the arts of civilization; to take from them that with which they have shed blood, and in its stead, to provide them with that with which they may cultivate the soil. This is a wise, a humane, and a Christian policy, and if this Government will carry it out, it will civilize the Indians, and enable them to support themselves. But cut off that policy; compel the Indians to abandon their reservations and to seek subsistence outside, and war will immediately follow—a war that will cost you millions of dollars.

The policy, therefore, of refusing the necessary appropriations to maintain these reservations and to keep peace with the Indians, is a "penny wise and pound foolish" policy; for in trying to save a few hundred thousand dollars you will not only sacrifice the lives of the settlers, but you will incur expenses of millions of dollars.

Then, I ask the gentleman from Alabama, [Mr. HOUSTON,] to withdraw all opposition to this appropriation; and I ask my friend from Ohio, [Mr. SHERMAN,] to give us that pittance which is necessary to maintain peace. To my friend from Missouri, [Mr. BLAIR,] I say, raise not the objection that arms and ammunition are placed by the appropriation in the hands of the Indians, for no such policy has been carried out in that country, nor will be. I hope, Mr. Chairman, that the committee will consider favorably this appropriation. Make the appropriation, not for the people of Oregon, but in order that, as the gentleman from Ohio [Mr. GRIMES] said a few years ago, we may feed the Indians and have peace. Give them rations and subsistence, pay the little just claims of our people upon the Government, and Oregon will endeavor to take care of herself.

Mr. STANTON. I am glad that the question is presented as it is. I want the House to decide upon it. This may be, and I trust it is, a strong case, where the appropriation called for is necessary. But if I understand it, this House, last session, on full discussion, on mature deliberation, determined the amount of money that should go from the national Treasury for this particular service. We settled that question. A subordinate of the executive department of the Government differs with us as to the necessities of the service, and chooses to spend more money than we appropriated; and now, we are called upon to legalize that act. Now, sir, if there is any purpose for which we come here, it seems to me that it is to determine how much money we will give for each particular branch of service. Having settled that question, if we are to permit any subordinate of the Executive, on any view of his as to what the public necessities may call for, to exceed the means which we are willing to grant, I think we had better go home.

Mr. LANE. I would say to the gentleman that I think that he is laboring under a great mistake, and I will endeavor to explain. I say to him, as I said the other day, that the estimate of the superintendent of Indian affairs was adopted by the Secretary of the Interior. But the Committee on Ways and Means concluded that it was more money than they could get, under the circumstances, at that session, and they said to me "create no discussion; we know you ought to have it, and by not raising any discussion now, we will give it to you at the next session of Congress."

Mr. STANTON. I wish to know if it be true that the financial organ of this House reports here for appropriations for specific objects, amounts which he knows to be inadequate, with a view of calling upon us at a succeeding session to make an additional appropriation for that deficiency? Is that so?

Mr. PHELPS, of Missouri. It is not so. I was then a member of the Committee of Ways and Means, and it becomes me not to say what occurred in the committee room. I only speak of the report made by that committee. That committee recommended, with the concurrence of the then acting Commissioner of Indian Affairs, the appropriation of \$111,000, instead of \$222,000—

the Commissioner, at the same time, as I am informed, saying to other members of the committee, "this sum is deemed necessary; perhaps we may get along with a smaller sum; but if not able so to do, the facts can be presented to Congress, and a further appropriation asked." I do not speak all of this of my own knowledge; but this, I am informed, is what occurred. As a matter of course, I, as a member of the committee, united in the report that was made; but I do not recollect what occurred.

Mr. STANTON. The financial organ of the House, and of the Administration—the Committee of Ways and Means—on inquiry and examination and consultation with the Secretary of the Interior, reported a bill to the House what they regarded sufficient for that specific branch of public expenditure. I thought that the suggestion of the gentleman from Oregon [Mr. LANE] could hardly be well founded—that the Committee of Ways and Means was knowingly making an under-estimate, with a view of calling, in the future, for an additional appropriation to supply the deficiency. I thought that that could hardly be so; and it is not so. But now it seems, as I said in the outset, that this subordinate of the executive department, the Indian agent, or the Commissioner of Indian Affairs, did not regard himself as at all limited in the amount of his expenditure by the amount granted him by Congress for this particular object; but goes on, without the slightest regard to that limitation, incurs further liabilities, and comes here relying confidently on his representations of the public necessities for our granting him a further sum. Now, if the subordinates of the executive department are to be the judges of the public necessities, and to say how much money should be expended on a particular object of expenditure, then, I repeat, we had better go home. We are a mere incumbrance. The nation is throwing away money upon us. I hold that it ought to be an impeachable crime for any subordinate to exceed the particular amount appropriated for a particular expenditure. He ought to be impeached, punished, and removed from office. I should be glad to know whether there is any limitation on the Executive Departments. An idea has prevailed that the purse is in the hands of the people's Representatives; but if you leave the mouth and strings of it in the hands of the Executive, I do not think it is much matter where the body is. I trust the House will, in regard to their own principles and to the Constitution, maintain this amendment. The clause ought not to be here anyway. It ought to be in a deficiency bill, and has no business in a regular appropriation bill.

Mr. GARNETT. I think, Mr. Chairman, after the developments that have just been made, that this House ought to have a clear understanding with the Committee of Ways and Means, before it votes this sum. It appears that at the last session there was an estimate submitted for \$222,000; but the appropriations made for the purpose, for that fiscal year, was but \$111,000. It seems that the superintendent of Indian affairs in Oregon has spent that sum, or will have expended it in the month of December just past; and we are called upon to appropriate an additional sum of \$111,000 for the services of this year, making the total sum for the service of the present fiscal year \$222,000.

Now, the total appropriation made in this bill, is \$161,000. Of that sum \$111,000 is to go to the service of the present fiscal year, while for the service of the next year it but appropriates \$50,000. Now, I put this to the chairman of the Committee of Ways and Means: If it takes \$222,000 to support these Indians in the present fiscal year, will it not take more than \$50,000 in the next fiscal year? And does the committee mean to come here asking for only \$50,000 for this service with the understanding that at the next session we are to have a deficiency bill for the remaining one hundred and seventy or one hundred and eighty thousand dollars, or is this appropriation of \$50,000 a *bona fide* appropriation—one intended to be adequate for the objects for which it is designed, and are we to hold down our executive officers rigidly to this amount? I pause for a reply.

Mr. PHELPS, of Missouri. I will answer the inquiry of the gentleman from Virginia. The inquiry is whether the sum contained in this bill will

be adequate to meet the wants of the next fiscal year for the object for which it is intended. I will state for the information of the committee, that it will be sufficient unless some unforeseen event should occur. Then comes the other inquiry of the gentleman from Virginia; why it is necessary to appropriate \$222,000 for the service of the present fiscal year, when only \$50,000 are required for the next fiscal year? I answer, that the appropriation for this fiscal year provides for removing the Indians and assembling them upon the reservations as well as subsisting them. It is contemplated that under this head of appropriation, not only the expenses of assembling the Indians and subsisting them will be defrayed, but also the expenses of building houses for the superintendent and agents, and for the Indians themselves. When you have collected the Indians and erected the buildings, you will have no further expenditures under that head except so much as may be necessary to subsist them until such time as they shall be able to provide for themselves.

I remarked before that the policy of the Government being to teach the Indians to subsist themselves through agricultural pursuits by their own labor, it will be necessary to procure agricultural implements and to break up the soil for them. When this shall have been done no further appropriations under this head will be necessary. The object of setting apart these reservations is to make the Indians collected upon them self-sustaining; that when they shall have been taught by their farmers to cultivate the ground, they shall raise enough to support themselves upon their own resources. That is the explanation which I give to the gentleman from Virginia.

Mr. GARNETT. It appears, then, that a part of these Indians are still in their original abodes, and have not been removed on the reservations. What, then, becomes of the argument of the gentleman from Oregon, that, unless you pass this appropriation the Indians crowded upon these reservations will return to their original haunts, and commit depredations upon the white settlements?

Mr. LANE. I want my statement to be distinctly understood, and I hope the gentleman from Virginia will understand me. The Indians upon the Umpqua, the Siletz, and the Grand Ronde reservations, are Indians who gave us much trouble in the war of 1855. They lived then in the southern portion of the Territory—a portion now occupied entirely by white settlements. The portion of country which they ceded is now covered by the thriving homes of peaceful and industrious citizens. The Indians were removed some two or three hundred miles, upon the reservations set apart for them, where we agreed to subsist them until they were able to provide for themselves; and unless we do subsist them, they cannot remain there, for they have not the means of providing for themselves; and the moment they are permitted to go abroad for something to eat, they will rush back to the country they formerly occupied, now scattered over by white citizens, rush in upon them, destroy the lives of men, women, and children, take their cattle and other stock, lay waste the country, and besides the suffering they will produce, cost the Government millions of dollars.

Mr. GARNETT. Does any reasonable man in this committee believe—do either of my friends, who have just spoken, believe—that these Indians, when you have brought them upon their reservations, will be able to support themselves within any reasonable time?

Mr. LANE. I will answer the gentleman, that they have already reduced the cost of subsisting them by cultivating the soil. They raise wheat in considerable quantities. They have reduced the expense of subsisting them about two thirds, and I have no doubt, in two or three years, will be able to provide themselves with subsistence.

Mr. GARNETT. Well, sir, I am happy to hear that opinion from a gentleman of so much experience as the gentleman from Oregon; but, for my part, acknowledging with great deference his superior judgment upon this subject, I cannot believe that the true way to teach these Indians to support themselves is for you to support them. I have never seen, in the course of my observation, men, practicing upon that system, succeed. It is true, they are a different race from ourselves; but I do not believe they are so different in that

human nature which is common to us all as to be induced to support themselves while you are providing them with subsistence.

Mr. BRYAN. If my friend from Virginia will permit me to make a remark, I will state that the Indians upon one of the reservations in Texas, during the last year, although some of the white men in the neighborhood, on account of drought, were not able to do it, raised corn enough to feed themselves. This they could not have done if they had not received the fostering care of the Government.

Mr. GARNETT. I think if the gentleman will examine all the provisions of this bill, he will find that there are appropriations in it for colonizing and supporting the Indians in Texas. If they have food enough to support themselves, so much the better; but then why do we need an appropriation in this bill of \$25,000 for colonizing and supporting them?

Mr. BRYAN. Simply for the reason that corn will not sustain them alone; they must have something else. They raise corn enough to feed themselves, but they must have something besides to live upon. I will remark, also, that we have other Indians in Texas who have not been removed on to the reservations, and it is proposed to collect them on the Pecos reservation.

Mr. STEVENS, of Washington. By referring to the estimates of the superintendent of Indian affairs, you will find that he calls for only half rations of flour, and half rations of beef, for the Indians; and in some cases for only half rations of flour.

In the course of two years these reserves have worked so well that nearly two thirds of their subsistence has been raised by the Indians during the present year. We have an authentic report from the Commissioner of the Interior Department, who has visited these reserves, and who states that every Indian family upon the Siletz and the Grand Ronde reserves has a little farm, and that the Indians are at work raising a portion of their subsistence. If we go on it is certain, from the experience of the past, and the present year, as originally reported by Judge Mott, that little subsistence will be required from us another year, unless by a failure of the crops—a thing that has never yet occurred nor is likely to occur.

Mr. GARNETT. I am well aware that this is not the place to alter our policy, and that if the Indians are already upon the reserves we cannot now change our policy and remove them. But I say we can determine not to remove those not already on the reserves. I do say there is no reason for removing upon the reserves those now in their original homes.

I cannot but think the gentleman from Missouri is mistaken, in ascribing the whole difference between two hundred and twenty odd thousand dollars and \$50,000, in the appropriation for this and the next fiscal year, to that single item of removal. I think an analysis of the estimates sent in by the superintendent of Indian affairs, will show that out of that \$222,000, \$170,000 has not been spent in removal alone; and as there are more Indians on the reserves than there were last year, it is almost certain that under this system we shall have an application next year for a deficiency, just as we have this year. And I think this the more, because if the House votes this \$111,000, it will be settling and establishing the principle that the executive officers of this Government, and not the Congress of the United States, are to determine the amount to be expended. I think it the more, because there is not a more flagrant instance, in my humble judgment, in the whole catalogue of executive reports, than this very case. I had some occasion at the last session to look into the report of this superintendent, (Mr. Nesmith), and though I have heard a high character of him, personally, from my friend from Washington Territory, [Mr. STEVENS], on whose judgment I rely, yet I will say—and any gentleman who will look into that report, in reference to the Indian deficiency bill of last year, will bear me out—that Mr. Nesmith's correspondence with the Indian department exhibits a vast amount of insubordination upon the part of an officer of this Government, and a determination to exceed his instructions. He sends letter after letter, and absolutely scolds the Commissioner of Indian Affairs because he recommends economy, and he gives him distinctly to understand, that no matter what the

appropriation is, he will spend what is necessary. And here is the result.

I thank the gentleman from Alabama [Mr. Housron] for calling the attention of the committee to this point, and I concur with him in thinking that if we are ever to assert a proper control over the purse-strings of the Government; if we are ever to be anything else than a mere chamber for registering the executive edicts, now is the time to assert the principle.

Mr. LANE. If the committee will allow me, I wish to place the gentleman right in some of his views. Now, in relation to bringing the Indians upon the reservations, I will say to my friend that I have had a little experience in that matter. To collect and get the Indians upon the reserves was a very difficult matter to accomplish. When certain tribes would come in, and agree to go upon the reserves, a small band of them would always be found who would refuse to go, and would take themselves off to the mountains, and give the settlements much trouble. This has been the source of very great annoyance to the country, yet the system of collecting the Indians has been pursued until these scattering parties have nearly all been brought in, and are now quietly located with the others.

I will say to my friend that a small party of Umpqua warriors (three in number) and their families who had refused to come in and go upon the reserve, told the agent in the last talk he had with them, that they would make war as long as a white man lived. They went into their mountain fastnesses where it was impossible to find them, and for eighteen months these three Indians committed depredations amounting to thousands of dollars. They burned barns, houses, and killed horses and cattle in great numbers, and shot at people by the way side; and just before I was ready to come to this city, they came into my neighborhood and killed a gang of horses belonging to an old, esteemed friend and neighbor of mine, who could not go after them. I raised a party and followed them for thirty-five days, and in addition to my own labors, I hired a party of friendly Indians, without whose assistance we never could have secured them. I spent my own money, for which I never made any charge, and never intend to; but I had the satisfaction of catching a portion of those Indians in the mountains, surprising them in their camp, and finally bringing them all to the reserve, where they are now quietly living, and will continue to do so if the House will only appropriate this small amount of money for the purpose of their subsistence, until they can raise enough to subsist themselves.

The committee know the expense of collecting the Indians upon the reserves; of erecting the buildings; of fencing in the farms. That portion of the service has been accomplished, and the cultivation of their farms has been going on. Continue your appropriations to them two years longer, and they will raise sufficient to subsist themselves. With this explanation I hope the committee will at once vote the amount necessary, and let us hear no more about Oregon.

Mr. SMITH, of Virginia. I would ask the gentleman how long these reserves have been established, and to what extent they have been occupied?

Mr. LANE. They were commenced in 1855, and in 1857 they erected the first farm. For a year or two, they have not raised enough to subsist themselves; but this year they have large crops of wheat, and, it may be, will be able to provide for their own subsistence.

Mr. SMITH, of Virginia. Does the gentleman know of any reservation, either in Oregon or California, that is self-sustaining?

Mr. LANE. I have nothing to do with California. I am satisfied, however, that the reservations in Oregon will be self-sustaining in a few years; perhaps by the next year.

Mr. SMITH, of Virginia. I do not intend to take ground against the gentleman's statement, for I have no personal knowledge of those reservations; but I will say that I think it is true that, to a great extent, the reservation system has been a serious detriment to the agricultural interests of California. The civilized Indians there were the laborers of the country. The rancheros depended upon them. The ranches were occupied by them. The old padres of the missions had brought them into subjection. They were, as I

have said, the agricultural labor of the country. When we conquered that country, and since we have established the reservation system there, I presume there has not been, nor is there, a reservation which is not a heavy charge upon the Government. Sir, the persons engaged in the management of these Indians have a wide and splendid field for emolument and speculation.

Mr. SCOTT. The remarks of the gentleman, in regard to the laboring Indians of California, are applicable only to what are known as the mission or civilized Indians, constituting about one fifth of the total number of the Indians of California—some forty or fifty thousand in all.

Mr. SMITH, of Virginia. I am aware that there are two descriptions of Indians in California, as I suppose there are in Oregon; but of that I am not advised. In California, the civilized Indians, as they are called—made so by the mission establishments—were, in turn, the laborers who contributed to their support and of the population at large. They constituted the herdsmen of the country; and to the extent of their loss, the laboring material of California has suffered. As to the wild Indians, the gentleman from California knows well enough that the country is ample, and will support them, as it has supported them, as they have lived for hundreds of years. But the whole system which has been introduced has been, in my opinion, prejudicial to the real interests of that State, and of the country. It has been a heavy tax upon the resources of the country. Sir, fortunes are made in the operations under it, and fortunes will be made while it is maintained. Many an operation has been carried on by those who are engaged in the management of these Indians. They have made the reservation system tributary to their own emoluments and treasure.

In my opinion, Mr. Chairman, there would have been no war if the whites had remained within proper limits. It is the spirit of aggression of the white population upon the Indian territories, I maintain, that has brought all the difficulties with the Indians upon us. And will gentlemen say that these Indian reservations will be exempted from this spirit? No, sir. Have we not seen otherwise? Have not eastern Indians been settled year after year, in localities which they have had to abandon? Does the gentleman suppose that in Ohio an Indian reservation would be allowed to be occupied by them when white men pressed round and demanded it? If a gold mine were found in an Indian reservation, would it be respected or regarded? No, sir; the armies of the United States might be ordered to protect these reservations, but those armies would be disregarded by the men who would go upon them, come woe, come woe. They would, if no other ultimatum were left, drive the Indians off; and perhaps that would be the best way to dispose of them, for such is the inevitable destiny that awaits them. The system we have inaugurated is rather a contrivance for the benefit of the superintendents of our own race, than for the benefit of the race it is said we are to protect.

There are many things which I cannot now go into, but which I should like to. I need not tell gentlemen that the Indians are continually imposed upon. They may not be in all cases; but, perhaps, there are many cases gentlemen could name if it were not against their neighbors. I will pass that by. I have made these remarks for the reason that I am one of those who are not in favor of the appropriation of money for public objects which, in no event, can lead to any resulting public benefit. I am especially against deficiencies; which, as my colleague has well said, are but the contrivance of subordinate officers practically to legislate for the country. If we are to go on, year after year, in violation of all the notions of frugality taught us in the early days of the Republic, and foot the bills of officials who say they will spend, not what we think proper, but what they shall deem proper, what power is left us, the Representatives of the people, over the purse-strings of the country?

I will say that the public agent who would transcend the appropriation confided to his charge, ought to be dismissed with the brand of the public indignation upon him, one especially that would prevent him from being afterward employed upon the public service. I would allow no man to undertake to say that he will disburse money which

this Government has not authorized him to expend, unless under extraordinary circumstances. I do not wish subordinate officers to be the judge. I wish that we shall judge and not they. But I see that it is one of the crying evils of the age. It is one of the deepest outrages upon constitutional right and liberty to call upon us year after year to supply the deficiencies created under circumstances calculated to justify suspicions of the fidelity and the integrity out of which they have originated. I say that it is our duty to put a stop to it, and I say that it is the duty of the Committee of Ways and Means of this House never to countenance such a departure from the law under any circumstance whatsoever. If I were on the Committee of Ways and Means I would provide payment of no such deficiencies. I would recommend that they should be disregarded. I would hold agents of the Government responsible personally to the extent of their private fortunes. I would teach them all that there is no safety in transcending the law which they are all sworn to support. Hence it is that I would vote against all deficiencies; and hence it is that I would support the most rigid policy of economy here if one could be inaugurated. Hence it is that in such policy we can see the only way in which the Treasury of the United States can be protected against outside influences and usurpations of authority in derogation of the Constitution, and the rights of the Representatives of the people here assembled.

Mr. HUGHES. Mr. Chairman, the policy of the Government in regard to the Indians is fixed by treaty and by law, and we are not now to change it, or to inquire whether it is right or wrong. We have simply to decide whether certain sums of money, proposed to be appropriated, are necessary to carry it out. The executive branch of the Government, in pursuance of its duty, lays before the House the facts of the case, and on these facts predicates certain conclusions. I am unable to perceive in this any invasion of the constitutional rights of the Representatives of the people, who hold the purse-strings of the nation and grant supplies. With all the commentaries on facts presented by gentlemen, and with their inferences founded on these facts, will they change any of these facts, or invalidate any of the reasons given by the Executive officers? Why, the gentleman from Ohio [Mr. STANTON] has said that it ought to be a matter of impeachment for the Executive, or an executive officer, to exceed an appropriation in his expenditure. Well, that gentleman is a member of the House of Representatives. The House of Representatives holds in its hands the impeaching power. Why does not that gentleman propose articles of impeachment against the delinquent public functionary? The fact that he does not, while he continually talks about impeachment, might lead one to suspect that he is not altogether sincere when he says it is a matter for impeachment. I see no invasion of the constitutional rights of this House, in the fact that information is communicated here on which we are called to act. Let us look at the facts which are presented. If they are true, let us draw our inferences, and decide for ourselves, whether or not the appropriation is proper or improper.

It is the duty of the executive branch of the Government to furnish us with information. Having done that, the remainder rests with us. We are not bound by the recommendation of the Executive.

Now, the only question before the committee is this. Are these sums of money that are asked for, necessary to carry out the object which this Government has, wisely or unwisely, assumed, with these Indians, by treaty stipulations and by law. The gentleman from Virginia [Mr. GARNETT] says it is the first time he ever heard of enabling a people to support themselves by Government taking on itself the work of supporting them. He does not state the case fairly. The Government has already assumed the duty of supporting these people; and the question before the committee is, what is the most economical method of extending to them that support? I am not at all familiar with the details of these estimates. The only thing I see about them is this: that the appropriation heretofore made was short of the mark. Certainly no gentleman can bring it as a charge against the executive branch of the

Government, that in its desire to economize the public money, its estimates have fallen short. The estimates had better always fall short, and too little money had better be expended, leaving it to the wisdom and judgment of Congress afterwards to supply the deficiency. I say, sir, that the fact that the estimates submitted have been short of the mark, is evidence of the economical disposition of the executive department. What inducement has it to over-estimate or to over-expend? General denunciations about want of economy amount to nothing. Certainly, if any public functionaries have abused their trust, or wasted the public money, they can be reached. To remedy the evil it is not necessary to defeat an appropriation bill, which cannot punish them. The gentleman from Virginia [Mr. GARNETT] complained that there is another appropriation in a subsequent section of the bill, for supporting those Indians. My understanding about it is, that this applies to a new reservation.

Mr. CLAY. I desire, Mr. Chairman, to make a few brief remarks on the question under consideration by the committee. I understand that the proposition is to appropriate a certain sum of money for the purpose of removing Indians to reservations, and for the purpose of subsisting and maintaining them on these reservations until they shall be able to maintain themselves. And I understand, moreover, that the appropriation now under consideration refers to Indians in Oregon. From the course of life which it has been my fortune to lead, I happen to know some little of the history of our Indians. I happened to have considerable acquaintance with Indian men from my earliest days, and have frequently conversed with them on the subject of the best policy of the Government in regard to that unfortunate race of people. I have heard with astonishment my honorable friend from Virginia, [Mr. SMITH], advocating the doctrine that the only mode of taking care of these poor beings, all whose lands and possessions we have taken, leaving them nothing but their Great Father to look to, was that which I have heard advocated on the plains of the far off West—to wipe them out from the face of the earth. Sir, I believe in no such doctrine. I believe that that is a mode of getting rid of them; but it is a mode which humanity should cause us to shudder at, and which the people of a great nation should shrink from. Gentlemen have told us here to-day that the policy of bringing these Indians together on reserves, and keeping them there till they are able to support themselves, was an untried one—a thing which could not succeed. Why, look at the borders of Arkansas. Look at the Creeks and Cherokees, whose removal cost far more to the Government than is asked for these Indians. What is their condition now? They are peaceable, quiet, rich in all the goods of the world. They also own some slaves; a fact which I mention for the benefit of my old friend [Mr. GIBBINGS] whom I see smiling over the way.

But it is not only on account of the Indians themselves, and on account of humanity, that I would advocate this policy; but I would advocate it on account of the white settlers on the frontier. Look at the borders of Texas. Look at Oregon. Look at California. Look everywhere where the Indians are suffered to go at large and in a wild state, without being provided for by the Government. What is the history of that country but one dark blot of blood, rapine, and murder? Do you tell me that these men are so miserable that they will not fight? Do you tell me that when you have taken from them their lands and their possessions they will not fight for bread against white men? Recollect you old Logan, that chief so true to the white man—recollect you how he died? Recollect you Tecumseh, that brave old warrior? A friend has just put into my hand the story of a chief residing in the Rogue River valley, called John. He was a great warrior with the Indians of southern Oregon. He was brought with his people, in 1856, and placed upon one of these reservations, where he entered into a conspiracy to kill the agent. He was sent down to San Francisco in a steamer. He only had his son with him; he was a man advanced in years, yet on the passage, during the night, they put out the light and made a general attack upon the passengers and crew; they were secured with great difficulty, and not until they had killed several on board; and he declared that if he had had five

more Indians with him, he would have captured the steamer.

That is the kind of men your settlers on the frontier have to contend with. I think gentlemen are mistaken in the remark, that the policy of the Government, with regard to the Indians, is fixed and determined. I say that policy is not fixed and determined by law. I say that, under this Administration, they are wisely attempting to inaugurate a new policy, a new system, in regard to those Indian tribes. I say that, looking to the success of Russia with the Tartars and Cossacks, who were, at one time, as wild as the Indians on the plains, but who have been brought down to be among the most valuable subjects of the Empire by bringing them together into military columns—I say the success of that policy is enough to encourage us to persevere in the system we are just now inaugurating. It is a wise and humane policy. Acts of Congress, it is true, have established reservations and brought Indians into them; but no acts of Congress have made it a general system for all the Indians. It is a policy which I wish to see extended, and which I hope I may live to see extended until it shall embrace all the wild Indians who now roam over our land, whose lands and possessions we have taken away. With these remarks I have done, with the simple announcement that I shall vote for this appropriation.

Mr. DAVIS, of Mississippi. It appears to me that the proposition we are debating is not exactly understood. I do not regard the proposition as one making an appropriation to supply a deficiency. There is no deficiency existing at present. An appropriation of \$110,000 was made at the last session of Congress for the purpose of removing and supporting those Indians. The agent in charge of them has exhausted that sum; but before incurring any debt for which he would be responsible, he advises Congress of the fact that the money appropriated last year is not enough to remove these Indians and support them for the entire year; and he announces the period at which the sum appropriated at the last session will be expended, and informs us that a further appropriation will be necessary to subsist them during the balance of the year.

That is the whole case. No man is more in favor of holding agents of the Government responsible to the provisions of law than I am; but this agent I regard as having acted with prudence and propriety in not going on to expend the money necessary to subsist the Indians for the whole year, but in advising Congress of the state of affairs.

Now, if this appropriation has not been expended in obedience to the laws; if it has been improperly expended, then hold him accountable for the expenditure he has made up to the present time. But that is not the question now before us. He has informed us that another appropriation of \$110,000 will be necessary to subsist these Indians for the balance of the twelve months, or the Indians will be left, without means of subsistence.

Mr. SHERMAN, of Ohio. Will the gentleman allow me to say that this agent cannot know of this appropriation before the 18th of May next? I set that down as a premise; consequently, according to the argument of the gentleman from Mississippi, he will have to expend this entire amount between the 1st of May and the 30th day of June next. Now, I will ask the gentleman from Mississippi whether, in his opinion, it will be necessary to expend this \$110,000 for this purpose in that time? But, if the agent is to expend a large portion of this money before he can know of the passage of this law, then it is a clear violation of law.

Mr. DAVIS, of Mississippi. It makes no difference whether he can know it before May or not. He informed Congress before he had expended anything beyond the appropriation made; and if he, in the discharge of his duty, having so informed Congress, finds it necessary, in justice to the Indians, to subsist them, it is the duty of Congress to appropriate the money. But though he may proceed to expend this money, and thereby create a deficiency, no deficiency exists now, and therefore this appropriation is not to supply a deficiency; it is simply to meet a necessary contingency, a necessary debt which is to accrue hereafter, which was not provided for last year, and

which is to be provided for now. He has proceeded to notify us that the money already appropriated will not be sufficient to supply the wants of the service for the year, before he had expended anything beyond the appropriation. He may now go on to expend money beyond the appropriation. I cannot tell how that will be; but he has notified us of the circumstances of the case, and it is now our duty to go on and make the necessary and proper appropriation.

Mr. SMITH, of Virginia. Allow me to state the case. When an appropriation is asked for, it is founded upon executive estimates. These estimates are made with reference to the requirements of the public service. An executive officer having charge of a particular subject, and who ought to be well advised of what expenditures may be necessary, estimates that \$100,000 will be required for a particular service; and Congress appropriates that amount, in accordance with his recommendation. Now, I ask this House if it is not the duty of that officer to commence his expenditures so as to make the appropriation cover the time for which it was made? Sir, if he be wasteful and extravagant, and choose to take the responsibility, he may expend the \$100,000 in the first month, and go on through the year at that rate of expenditure. I ask, if he does such a thing as that, if the debt is not clearly a deficiency? I ask if the officer is not violating his duty if he spends in a month what Congress has said he shall only spend in a year? He has made a deficiency by his own prodigal expenditure of money. It is practically and in effect a deficiency.

Mr. DAVIS, of Mississippi. Now, Mr. Chairman, the gentleman says "if." There may be much contained in that inquiry, or there may not be much contained in it. But I ask the gentleman this question: can he show or does he charge that one dollar has been expended by the Commissioner up to the present time, that humanity and the interests of the Government did not require?

Mr. SMITH, of Virginia. I will answer the gentleman. If I understand the facts—I have not given the matter a critical examination—the money has been spent by the agent at his own volition, and without the order of the Commissioner. I understand that the expenditure has been made by an officer in the Indian country.

Mr. DAVIS, of Mississippi. The gentleman says he "understands." I ask from what source he obtained his information, and whether that information is reliable? I ask him if he can put his finger upon a single dollar expended in that service, which the wants of that service did not demand? And then, if that agent has proceeded to do what justice demanded, what humanity demanded, what the interest of the Department demanded, I ask the gentleman if his acts should not be indorsed by this House.

The gentleman speaks of money being appropriated. I ask him from what source that money is obtained? The very money you have appropriated has been realized from the sale of lands taken from the Indians. It has been realized from their own property. Now, when the question of humanity, and not only of humanity but justice and common right, is presented to this House, and they are asked for a few thousand dollars—a moiety only of that of which these people have been robbed—for the purpose of supporting, civilizing, and bringing them together, gentlemen talk of an unnecessary expenditure of money upon the part of this House and this Government. If the gentleman can bring any law to bear upon this subject which can afford any light to this committee, let him present it and I am ready to hear.

Mr. SMITH, of Virginia. The gentleman is addressing the committee, and I want him to give us the facts and the law. He is enlightening the committee, and he ought to address them, and not call upon me to furnish law and facts.

Mr. DAVIS, of Mississippi. I have been endeavoring to show that this is not a deficiency; and, while I have been doing that, the gentleman has been endeavoring to establish, by supposition, that a deficiency does exist—a thing which I deny. Here is an important question to be decided by the committee; this is an important service; and any recommendations which may be made by any official of this Government in relation to the necessities of the service are predicated, to a

greater or less extent, upon hypothesis. It is impossible to estimate definitely what the service may cost. The agent resides at a vast distance from the Government, and he must necessarily have some latitude, because he will be called upon hastily to respond to the demands of humanity and necessity, of which neither the members of this House, nor the Government, at this distance from the theater of action, can judge intelligibly.

Now, I confess that if that agent does not exercise a sound discretion, he should be held accountable. But when his account is presented to us, if the money has been spent in a manner which should demand our approval, we should approve it. If the expenditure has been unauthorized by any necessity, or any exigency of the occasion, we should not approve of it. If an exigency arises at the moment which demands an act in apparent excess of authority, and that discretion is exercised to the best interest of the service, as well as to the best interests of the Indians and of this Government, I ask if there is a man upon this floor who will not ratify the act? If gentlemen, instead of constantly raising clamors growing out of technicalities and forms, would argue questions upon the higher ground of humanity and justice, it would be infinitely better for the legislation of the country, and for the country itself, and give evidence of a better and higher order of statesmanship than is frequently exhibited here upon questions of technicalities.

Latitude must be given to some extent, under all the circumstances; and I am willing to indorse an act of discretion where it has been properly exercised in reference to the existing necessity, and I take it that every just man upon this floor will be as ready to indorse it, and will not interpose mere technicalities against it. There is to be, and necessarily must be, a permanent policy in reference to those Indians. There must necessarily be expenses incurred by this Government for a long time, for the Indians upon this continent. I have no idea of allowing one drop of blood of any Indian to be improperly and wrongfully shed. Humanity shudders at the treatment those tribes have heretofore received. We found them here, and it is our duty to extend to them all the facilities for civilization which we can command.

It may well be necessary in the course of human events to compel the Indians to abandon the mode in which they have heretofore obtained their subsistence; and we may be compelled absolutely to force them to the pursuits of agriculture to obtain their support in after times. When the effort shall be made by the Government to concentrate them in a small and compact body, we must afford them the means of subsistence, if it becomes necessary, in the attainment of that object. If humanity and Christian benevolence require it, I stand ready to appropriate any amount, large or small, which may be necessary. And when I have made the appropriation, I shall not consider that I am appropriating one dollar that has been taken out of the pockets of these gentlemen, or that has been taken out of the pockets of any gentleman upon this floor. I will consider that I am but giving back something of what I or my ancestors have been concerned in taking from them. In so doing I return only a small portion of that which is theirs by every right, national and divine. I have occupied the attention of the committee already longer than I intended.

Mr. GIDDINGS. Mr. Chairman, I am reminded, by this discussion, of a scene which occurred in this body very many years since, when a distinguished Democrat from Tennessee announced to the House and the country that, if we would give to him the provisions expended upon our army upon the frontier, and permit him to deal them out to the Indians, he would defend and protect the frontier against Indian depredations. Gentlemen ask me who was it? I rejoice to say that it was a leading Democrat; and, sir, I am free, at all times, to acknowledge anything of that kind; because, as we all know, the scarcity of an article invariably enhances its value. [Laughter.]

Now, sir, the remarks of the gentleman from Mississippi, [Mr. DAVIS,] who was last up, have come home to the feelings and the consciences of us all. Here are Indians collected together upon the reservations. They are wild, uncultivated, savages. We, as a Christian nation, have ap-

proached them in this manner, feeding them and endeavoring to cultivate among them the arts of civilization. The agent who has charge of these Indians reports to the Department that his appropriation will soon be exhausted, and that, unless he is able to continue feeding them, they will go off, separate, and once more begin their depredations upon the white settlers, and that we will lose the control over them which we now exert. Am I right?

Mr. PHELPS, of Missouri. Yes, sir.
Mr. GIDDINGS. I understand such to be the statement of the chairman of the Committee of Ways and Means. I agree with gentlemen all round me, that agents should be held to the strictest accountability when trust is reposed in them by the Government; but here is a question which is higher, and lies behind the questions to which reference has been made. This is a great and mighty question of policy, and, if my earnest prayer be heard, I do pray and hope that the policy indicated by the gentleman from Mississippi may be adopted by this Government, and that, instead of cutting the throats of the Indians, we may feed and civilize them. It is more in accordance with civilization. It is more in accordance with humanity. It is more in accordance with every generous feeling and high-minded statesmanship to feed the poor wretches we have driven from the soil of their fathers, than to shoot and slay them. The pending proposition is to carry out that policy. I only regret that I have not lived to see that policy adopted here, as one of great and fixed nationality. Yet, I do hope and trust that upon this side, and upon the other side, the policy will be adhered to of feeding these savages instead of murdering them.

As I shall soon close my political life, I will say that if I have any desire in regard to the Indian department, it is that this policy shall be established; that instead of sending armies we shall send philanthropists to the Indians, to feed and to civilize them, to reduce them to friendship through kindness, rather than by force of arms. I will not go back—for one I will not inquire how this vast expenditure has been caused, when the question comes home to us as this does, to prevent the Indians from scattering and lapsing again into habits of predatory warfare against the whites, I shall vote for it without the slightest hesitancy.

Mr. BRANCH. Mr. Chairman, it is apparent to all that we cannot get through with this bill to-night. If I supposed there was any possibility of the debate terminating, and the passage of the bill, I would, late as it is, be in favor of going on; but I have no such hope; and therefore I move that the committee rise.

Several MEMBERS. Oh, no! We can get through with the bill to-night.

Mr. BRANCH. Debate is neither limited nor exhausted, and there is to my mind no hope that we can get through with it this evening. I insist on my motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. TAYLOR, of Louisiana, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Indian appropriation bill, and had come to no resolution thereon.

Mr. UNDERWOOD. I move that the House adjourn.

The SPEAKER. Will the gentleman yield until the Chair lays some executive communications before the House?

Mr. UNDERWOOD. I yield for that purpose.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a message from the President of the United States, transmitting a report from the Secretary of the Navy, with accompanying papers, in compliance with the resolution of the House, adopted December 23, 1858, requesting "the President of the United States to communicate to the House, if not incompatible with the public interest, all instructions which have been given to our naval commanders in the Gulf of Mexico;" which were referred to the Committee on Foreign Affairs, and ordered to be printed.

He also laid before the House a report of the Secretary of the Treasury, with accompanying

documents, containing information called for by resolution of the House of December 23, 1858, concerning the correspondence in reference to the clearance of vessels at the port of Mobile; which was laid on the table, and ordered to be printed.

He also laid before the House a report of the Secretary of the Treasury, the Secretary of War, and the Attorney General, as to the condition of the public buildings in the city of Philadelphia; which was referred to the Committee of Ways and Means, and ordered to be printed.

He also laid before the House a communication from the War Department, inclosing correspondence with Governor Russell and General Twiggs; which, on motion of Mr. BRYAN, was referred to the Committee on Military Affairs, and ordered to be printed.

BOARD OF AGRICULTURE.

Mr. JONES, of Tennessee. If there is no objection, I will offer the following resolution:

Resolved, That the Secretary of the Interior be requested to report to this House, by what authority, and under what law, if any, the Advisory Board of Agriculture of the Patent Office, has been assembled in this city; how the delegates, or members, were apportioned, and by whom appointed; the business, purposes, and objects of the board; the manner and mode of compensating the delegates; the name of, and amount paid to each, and the fund or appropriation out of which the same is to be paid.

Mr. WHITELEY. I do not want to object, but I would like to state to the House that the Committee on Agriculture have called themselves for that same information this morning.

Mr. HUGHES. I object.

The question was taken on the motion to adjourn; and it was agreed to.

And thereupon (at a quarter past four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, January 7, 1859.

Prayer by Rev. T. W. GREER.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. HAMMOND presented the credentials of Hon. JAMES CHESTNUT, jr., elected a Senator by the Legislature of South Carolina, for six years from the 4th of March, 1859; which were read and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate, a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in respect to land in the harbor of New York, belonging to the United States, that may be appropriated, if required, to the use of the revenue department; which was ordered to lie on the table; and a motion by Mr. COLLAMER to print the report was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of George W. Grayson, one of the heirs of Colonel William Grayson, of the revolutionary army, praying that his heirs may be allowed commutation pay with the interest thereon; which was referred to the Committee on Revolutionary Claims.

He also presented a petition of citizens of Kentucky, praying the establishment of a national foundry at Mound City in Pulaski County, Illinois; which was referred to the Committee on Military Affairs and the Militia.

Mr. SEWARD presented a petition of citizens of New York, praying for the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms and lots of limited size for the free and exclusive use of actual settlers only; which was ordered to be laid on the table.

He also presented a petition of citizens of Mount Morris, Livingston county, New York, praying that pensions may be granted to the militia and other officers and soldiers of the war of 1812, and their widows; which was referred to the Committee on Pensions.

He also presented a letter addressed to him by N. T. Strong, in favor of including the Seneca Indians of New York, who were engaged in the war of 1812, in the bill granting pensions to the soldiers of that war, now before Congress; which was referred to the Committee on Pensions.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2D SESSION.

MONDAY, JANUARY 10, 1859.

NEW SERIES....No. 17.

Mr. HAMMOND presented the memorial of Lucien Peyronnet, of Charleston, South Carolina, praying that he may be authorized to locate certain bounty land warrants, issued under the act of Congress of 11th February, 1847; which was referred to the Committee on Public Lands.

Mr. KING presented the petition of citizens of New York, praying that the public lands may be laid out in farms, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. BIGLER presented the memorial of Taylor & Maury and others, of Washington, District of Columbia, praying for authority to construct a railroad from Georgetown, along Pennsylvania avenue, to the navy-yard in that city; which was referred to the Committee on the District of Columbia.

He also presented the petition of William Honeywell, postmaster at Miamiville, Kansas, praying the establishment of a mail route from Paola to West Point, on the Missouri State line; which was referred to the Committee on the Post Office and Post Roads.

Mr. GREEN presented the memorial of William Rees, praying permission to locate fifteen thousand acres of public lands, in a body, for the establishment of a normal settlement; which was referred to the Committee on Public Lands.

Mr. WARD presented the petition of Adolphus Glaevecke, praying for indemnity for mules and horses illegally seized at Brownsville, in October, 1851, by the United States marshal; which was referred to the Committee on Claims.

Mr. BIGLER. I have been requested to present the memorial of Lawrence Myers, setting forth that in May, 1858, he made a contract to furnish certain water pipes. The contract required him to perform it, to its full extent, early in October. He sets forth, also, that the contract required that the engineer-in-chief should furnish the patterns and specimens and directions, in order that the work might progress in due course of time. He alleges that the patterns were not furnished up to the time his contract expired by its own limitation; that the contract was annulled; that he was, therefore, a large sufferer, and claims damages at the hands of the Government. I ask the reference of the memorial to the Committee on Claims. It was so referred.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JONES, it was

Ordered, That the petition of Samuel Crapin, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. CLAY, it was

Ordered, That the petition of Simeon Gerron, on the files of the Senate, be referred to the Committee on Claims.

CHANGE OF REFERENCE.

On motion of Mr. SEWARD, it was

Ordered, That the Committee on Finance be discharged from the further consideration of the bill (S. No. 477) authorizing the removal of the offices belonging to the United States, and occupied by the collector of the revenue, in connection with the quarantine station in the port of New York, and that it be referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (S. No. 470) amendatory of existing laws relating to the punishment of certain crimes against the United States, have instructed me to report it back with amendments. If there be no objection, as I apprehend there will be none, I ask that the bill be acted on at this time.

Mr. GREEN. I notified the Senator in committee that I should certainly object to it.

The VICE PRESIDENT. Objection being made, it cannot be considered at this time.

Mr. GREEN, from the Committee on Territories, to whom was referred a memorial of the Legislature of Minnesota, asking indemnity for certain expenditures by that State, reported adversely thereon.

BILLS INTRODUCED.

Mr. GREEN asked, and by unanimous consent

obtained, leave to introduce a bill (S. No. 491) to authorize the issuance of patents for lands entered under the graduation act; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SEBASTIAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 66) authorizing the Postmaster General to adjust the accounts of Peay & Ayliff, for carrying the mail on route No. 7503, in the State of Arkansas; which was referred to the Committee on the Post Office and Post Roads.

Mr. SHIELDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 494) to secure title to the settlers upon the Kansas half-breed tract, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 492) to amend "An Act for the punishment of crimes in the District of Columbia," approved March 2, 1831; which was read twice by its title, and referred to the Committee on the Judiciary.

FLORIDA CLAIMS.

Mr. MALLORY. I desire to give notice to the Senate that on Monday next, or on some early day thereafter, I shall ask the Senate, in the morning hour, to take up the bill reported from the Committee on Claims at the last session, declaratory of the acts for carrying into effect the ninth article of the treaty of 1819, between the United States and Spain; and I do so because there is a very elaborate report made from the Committee on Claims, which I very much desire Senators to read. It contains all the evidence in support of this bill, and such an argument I believe as will sustain it before the Senate without occupying its time. If Senators, therefore, will give their attention to report No. 258, the probability is, if the bill should be taken up, that the discussion will be very limited.

AFRICAN SLAVE TRADE.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States, if in his opinion it shall be not incompatible with the public interest, be requested to communicate to the Senate any correspondence which may have passed between her Britannic Majesty's Government and the Minister of the United States in London, of recent date, touching the abuses of the American flag in the prosecution of the African slave trade on the coast of Africa, and especially touching the cruise of the *Donation* on that coast.

DONATION CLAIMS IN ARKANSAS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of reviving and extending for a limited term the acts authorizing the location of donation claims in the State of Arkansas, and report.

JOEL HARRIS.

Mr. FITZPATRICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior report to the Senate the length and grade of service performed by Joel Harris of Virginia, in the war of the Revolution, and whether the State of Virginia did or did not transfer and allow the service of the said Joel Harris and order a remainder of pay to a private of infantry of the Continental line by the name of James Harris; and that he also report the age of said James Harris as appears on the rolls, order books, or other record of the Continental line proper, now in his Department.

OVERLAND PACIFIC MAIL.

Mr. WILSON submitted the following resolution for consideration:

Resolved, That the Postmaster General, at the earliest practicable period, communicate to the Senate copies of all contracts or agreements made with John Butterfield and his associates for carrying the mail, or otherwise, from the Mississippi river to the Pacific ocean, or from or to any intermediate points; that he state by what authority and under what law or resolution such contract or contracts, agreement or agreements, were made; and that he also state fully what payments or advances have been made for or on account of such service, contracts, or agreements; when

made, to whom; and in what sum or sums. And that the Postmaster General further state and set forth fully what number of letters, packages, and dispatches, or other matter, have been carried or transported by said company from or to the Mississippi river or California, or any intermediate points, and the amount of money collected or received for postage, or otherwise, on such letters, dispatches, or packages; and what security or securities have been given for the performance of such agreement or contract, and that he furnish copies of any bonds or other security, and the number of passengers that have been carried by said company; from what point, to what point, and for what compensation; and also the time made each trip, between San Francisco and the Mississippi river.

NAVAL REFORM.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy communicate to the Senate a list of all the vessels of all kinds, belonging to, or employed in connection with, the Navy of the United States, together with a list of all the officers of the Navy, with their compensations; together with his opinion whether the number of such officers, or their compensation, or that of any class of them, can be reduced without injury to the public service.

REGISTERS TO VESSELS.

Mr. CLAY. Mr. President—

The VICE PRESIDENT. The Senator from Alabama will pause for a moment. The Chair must call the attention of Senators to the fact that it is impossible to transact business in this Chamber as the Senate has been in the habit of transacting business, unless silence and order are preserved both on the floor and in the galleries. The room is so large that the slightest disorder renders it impossible for the Chair to hear Senators upon the floor.

Mr. CLAY. The Committee on Commerce, to whom was referred the memorial of the Louisiana Tehuantepec Company, praying the enactment of a law authorizing the issue of registers to the steamships America and Canada, and changing their names, have had the same under consideration, and have instructed me unanimously to report a bill carrying out the purposes of the memorial. I hope the Senate will indulge me in allowing the bill to be passed at this time. It is important to the interests of this company, and, indeed, of the entire country, I may say, that the company should have the relief for which they pray; and it is such as is usually granted.

There being no objection, the bill (S. No. 493) authorizing the issue of registers to the steamships America and Canada, and to change the names of said ships, was read twice by its title, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to issue registers for the steamships America and Canada, now lying in the port of New York, and that their names be changed to the Mississippi and the Coatzacoalcos respectively; and they are hereafter to be considered as ships of the United States, and to be entitled to all the rights and privileges accorded by law to ships and vessels built in the United States; but this act is not to go into effect until due proof be made to the satisfaction of the Secretary that the vessels are wholly owned by citizens of the United States, or by an incorporated company entitled to receive registers for ships or vessels under the provisions of existing laws.

Mr. FESSENDEN. I should like to inquire what the particular necessity is for passing this act? I have an aversion to changing the names of well known steamships—I think we have had an illustration of the danger of it. People forget entirely their character, and old vessels are passed off for new ones. I do not know that that is the case in this instance; but I do not understand it.

Another thing: I see no reason, and it seems to me to be a new thing, for giving an American character to these foreign-built vessels. I should like to understand what the reasoning is upon which the bill is founded, and what the peculiar necessity for it is. In its present aspect, without explanation, I must vote against it.

Mr. HAMLIN. I will answer the inquiries of my colleague, and I hope I shall be able to answer them satisfactorily to him. The bill does

not propose to change the names of these vessels because they are foreign vessels, or because they are old vessels, or because they are new vessels. The law, as it now stands, provides that any foreign vessel wrecked upon our coast may receive American papers, where three fourths of the value of the vessel when repaired are put upon her in an American port. These are foreign-built vessels; but they were built by American citizens with American materials, and were brought into our ports. While, therefore, this case does not come within the letter of the existing law, it comes within more than its spirit. They are essentially American-built vessels; they were built on the frontiers of New York. They were simply built across the river for the accommodation of our own citizens and with our own materials, and everything about them was furnished by our own citizens, and they were constructed by Americans. Under that view of the case, the committee, as the chairman has said, were unanimously in favor of allowing them an American register. They are new vessels.

Mr. FESSENDEN. That answers one portion of my inquiry; but as to changing the name, I do not understand any necessity for that.

Mr. CLAY. The Senator from Louisiana, I suppose, can explain better than I can the reason for the change of name.

Mr. BENJAMIN. Mr. President, these vessels, as I understand, were built for connecting the termini of a Canadian railroad, and therefore built on the northern side of the Niagara river to entitle them to run on the Canada side. The railroad being completed, the vessels are no longer necessary there, and they have been bought for the commerce of the Gulf of Mexico, to run between the city of New Orleans and the Tehuantepec Isthmus. Their former names of America and Canada were deemed inappropriate, and the committee proposed to change the names to the names of the two rivers between which these boats are to run, the Mississippi and the Coatzacoalcas, calling the one the Mississippi and the other the Coatzacoalcas.

Mr. FESSENDEN. I should like to have the Senator explain the propriety of the last name.

Mr. BENJAMIN. It is the name of the river to which it runs.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FALLS OF NIAGARA.

Mr. BIGLER. Mr. President, at the last session a memorial of citizens of the State of Indiana, praying Congress to adopt necessary means to construct a ship canal around the falls of Niagara, was referred to the Committee on Commerce. The committee have examined the subject to a liberal extent. Whilst some are inclined to favor the measure, and others resist it on its real merits, there is no diversity of opinion as to the inexpediency of attempting an enterprise of this character in the present depleted condition of the Treasury. I was, therefore, instructed to move the dismissal of the committee from the further consideration of the subject; and I make that motion accordingly.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. SLIDELL. I move that when the Senate adjourns to-day, it be to meet on Monday next—to-morrow being the 8th of January. I believe the Senate has not, for many years, sat on that day.

Mr. HAMLIN. I hope the Senate will not vote to adjourn over until Monday. We have before us here a large Calendar, and I hold it to be our duty to dispose of it in some way. I do not know that it is of any use to make the objection; but I hope the Senate will not adjourn over, but will come here to-morrow and devote that day at least to the Private Calendar.

Mr. PEARCE. I hope we shall adjourn over. The Senator must be aware that all of us are engaged in our committee business, and must go to the Departments. It is certainly the case with two committees of which I am a member. If the Senate sits to-morrow, we shall have no opportunity to visit the Departments. In addition to that, I find it necessary to go to the Departments on the business of the particular committees of

which I am a member. The Finance Committee now have appropriation bills before them; and after the lesson we have had on economy and retrenchment, I trust it will be considered nothing extraordinary if we are exercising a little more than ordinary vigilance. In the exercise of that vigilance, it is necessary for some of us to visit the Departments to-morrow and make pretty extensive inquiry. It is not to waste time in holiday festivals, but that we may better prepare business for Congress, that I want to adjourn over to-morrow.

The motion was agreed to.

FRENCH SPOILIATION BILL.

Mr. CRITTENDEN. I rise for the purpose of moving that the unfinished business of yesterday morning, the bill concerning French spoliations, be taken up.

Mr. CLAY. I think that the Senator from Mississippi, who is not now in his seat, [Mr. DAVIS,] signified to the Senate yesterday his desire to be heard on that bill; and, inasmuch as he is absent, and absent, probably, under the impression that this was private bill day, and that it could not come up for consideration, I submit to my friend from Kentucky that, perhaps, as a matter of courtesy, it would be right to allow him to be heard. I believe he is, perhaps, the only gentleman on this side of the House who proposes to speak about it at all.

Mr. CRITTENDEN. I am very unwilling to withhold any opportunity from my friend from Mississippi, or to stand in the way of extending any courtesy towards him on this occasion; but I think he is very indifferent about speaking. I asked him yesterday, when this business was disposed of, whether he desired to speak, and I understood him that he did not intend to discuss the subject. Perhaps, as it was the Administration of which he formed a part which vetoed the bill, he might want to defend that act of the Administration; but nothing has been said about it at all; and no defense is necessary where there is no accusation.

Mr. IVERSON. I rise to ask the Chair whether the order of the last session, setting apart Friday for the consideration of private bills, is not now an order of the Senate. If so, at one o'clock they must necessarily come up.

The VICE PRESIDENT. The Chair is under the impression, and is so informed by the Secretary, that it was limited to the last session.

Mr. IVERSON. I shall insist, at one o'clock, that the Senate proceed to the consideration of private bills.

Mr. CRITTENDEN. Does not this bill come up as a matter of course?

The VICE PRESIDENT. The Chair thinks not. It requires a motion.

Mr. FOSTER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 30, nays 23; as follows:

YEAS—Messrs. Bates, Bell, Benjamin, Cameron, Chandler, Chesnut, Clark, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Foot, Foster, Hamlin, Hammond, Harlan, Houston, Kennedy, Pearce, Seward, Shields, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, and Wilson—20.

NAYS—Messrs. Bigler, Bright, Broderick, Clay, Davis, Fitzpatrick, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Mason, Polk, Reid, Rice, Sebastian, Slidell, Ward, and Welles—23.

So the motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 45) to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

The VICE PRESIDENT. The question is on ordering the bill to be engrossed for a third reading.

Mr. DAVIS. I regret very much, Mr. President, that it devolves upon me to say anything upon this bill. I had hoped that some one, not only more competent from his greater knowledge of the subject, but from his physical ability better fitted for the task, would have undertaken it. I look upon it, however, as an important public measure, as involving questions the importance of which is greatly beyond the simple case; and I therefore feel constrained, however reluctantly, to say something upon it, before I allow it to pass to its third reading.

The bill proposes to provide for the ascertain-

ment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801. It is a case which has been long before the Congress. It is one which was considered by the men who were coeval with the transaction. It has remained from that time to this, pressed in one House or the other; and from the amount of energy which has been shown in its prosecution, it is fair to suppose it is not simply the interest of those segregated sufferers who may have been wronged by France, or their descendants, that is cared for. Never, however, during the whole course of the many years in which it has been pressed upon the attention of Congress, has it received the favorable action of both Houses, except upon two occasions, and then it met the Executive veto. It therefore comes before us now after the men have passed away who are cognizant of the facts; after the men have gone to their final reckoning who suffered by these spoliations; after all the witnesses have been swept from the face of the earth that could have brought to us any new evidence; and we are called upon to sit in judgment on that which others better qualified have decided, and to grant what their wisdom and justice withheld, a favorable action.

Feeling that I should be unable to enter at all at large into the subject, and yet that I am constrained somewhat to notice the history which involves itself in the case, I will now proceed, as succinctly as I may, to state some of the facts which lead me to the conclusion I will afterwards present to the Senate. It will be recollected that when these colonies declared their independence, and then as a feeble Power were struggling against the great military and maritime Power of the globe, we received friendly assistance from France; she came to us in the hour of our need; her gallant sons entered our service as volunteers; her navy was upon our coast, and rendered most efficient and valuable service. Indeed, it may be well doubted to-day whether, but for the service they rendered then and there, we could have achieved our independence. It might have been postponed to subsequent generations, when "freedom's battle once begun," had been fought again and again, until at last it would have been won.

These relations to France caused us as early as 1778 to enter into treaties of amity and commerce and alliance, giving peculiar privileges to the vessels of France in relation to our own ports and to their commerce. Among the provisions of this treaty and convention was one which gave the right to a vessel of either nation to enter the ports of the other, and there have its prizes condemned and sold. With this treaty and convention we went through the war of the Revolution and achieved our independence. In 1792-93, when the Republic of France became involved in war with Great Britain, and the monarchical Powers of Europe were all sympathizing with Great Britain in the contest, when it was the policy to starve out France and compel her to submission by the want of bread to feed her soldiers, Great Britain, disregarding the rights of neutrals, declared provisions contraband though they were *en route* to a port not blockaded, seized our vessels upon the high seas, took them into her ports, there condemned them as having contraband goods on board, or, as was usually the case, to encourage the continuance of a trade advantageous to her, purchased the cargoes for her own use. Thus the provisions which were shipped from the United States for the benefit of France were seized upon the high seas by the great maritime Power of the earth, carried into her ports, turned aside from their destination, and there being liberally paid for caused but little complaint on the part of the shippers in the United States, until at last it came to pass that the French people looked upon us as acting in collusion with Great Britain.

Many difficulties arose, too, from the execution of that article of the convention which allowed the French to condemn and sell their prizes, and to fit out their privateers in our ports. Constant dissatisfaction followed; complaints so grave arose as to threaten the continuance of our peaceful relations; and this led to the proclamation of President Washington, as wise as he showed himself on other occasions, declaring the neutrality of the United States toward the belligerent Powers

of Europe. He looked, and, I think, to-day, when we turn back retrospectively upon the whole case, looked fairly and justly upon the convention made with France as a defensive alliance, and that the condition which France then occupied towards Great Britain was that of offense, and that the United States were then under no obligations to her, growing out of that treaty. France, however, continued to complain of the conduct of the United States in this regard, as well as in the failure to furnish subsidies and supplies (which entered also into our treaty) to her West India possessions; for it will be remembered that, amongst other things, France had guaranteed the liberty, sovereignty, and territorial possessions of the United States; and the United States had in turn guaranteed the possessions of France in the West Indies.

To countervail the effect which the acts of Great Britain had to render the treaties of 1778 and 1788 disadvantageous to France, France being compelled to allow our vessels to sail with any supplies they might please to transport to the ports of Great Britain, while Great Britain, liberated from such obligation, seized them on the high seas, declaring supplies to France to be contraband of war, it followed that France, by a decree, ordered that merchant vessels upon the high seas should be treated by the armed vessels of France in like manner as the countries to which they belonged permitted Great Britain to treat them, and we ceased to enjoy the privileges secured by treaties, and to which circumstances had given an immeasurable value, that of carrying supplies during the general war of Europe to the ports of the belligerents. Our just expectations from France were violated by the infraction of that clause of the treaty which declared that free ships made free goods. In the history of nations, for the first time two great civilized Powers established that rule which has now become the maritime policy, if not the national law of the world.

From this decree of France followed captures, confiscations, an embargo, detentions, arrests of individuals; and the United States continued to complain and remonstrate; complain of the injuries she received, and remonstrate to France as not keeping faith with her treaty, until at last, after indignity had been offered upon indignity; after our Minister had been rudely rejected; after a commission of three distinguished individuals had been sent to France to compose the difficulties with our ancient ally, and been as offensively rejected as the Minister, who had been sent away before; President Adams assembled the Congress in extraordinary session, and addressed a message to them, in which, with marked indignation, he spoke of the conduct of France towards the United States, and the sufferings of our citizens, from the violation of the treaty between the two countries. Then our course towards France was changed. Anterior to that offense, it had been one of toleration of France. Anterior to that, our only efforts had been to reconcile existing difficulties, and to send our ablest men to argue with her in the cause of fraternity; to yield much, because of the grateful obligations we were under to her; but now we assumed that hostile demonstration was our only resort, and henceforth our course was one of force.

In 1798, the succeeding year to the time when President Adams sent in that message, we passed various laws, one for the employment of the Navy in the capture of the armed vessels of France, then hovering upon our coast and depredating upon our commerce; another declaring commercial non-intercourse between the United States and France; another authorizing the President to commission private vessels—in other words, to grant letters of marque and reprisal against France. It is well known that during her war with the great maritime Power of the world, France had upon the sea comparatively nothing but armed vessels. Therefore it was that the act was directed towards the seizure of the armed vessels of France alone, as well as because it was the armed vessels of France that committed outrages upon the commerce of the United States. Another act provided for the condemnation and sale as prizes of any armed vessels of France which might be captured; and, as my memory serves me, about eighty were taken during the progress of that year and the next. At length, as a final step for the United

States, we declared the treaties of 1778 and 1788 to be abrogated.

Now, upon what rests the claim which is before us? It is that, to get rid of the obligation of those treaties, the United States took private property; and that, by using that private property to relieve themselves from the obligations of those treaties, they were exempted from onerous duties to France; and having taken private property for public use, are bound, under the Constitution, to make just compensation therefor. We had sought all the powers of negotiation; we had exhausted it even to the extent of an extraordinary and special commission; we had then resorted to hostilities; we had carried on a maritime war against France; millions of treasure were spent, and much of blood was shed in the progress of that war; we had declared the treaties to be abrogated. How, then, can it be asserted that we were giving up private property to get rid of the obligations which these treaties imposed? They were as entirely swept from the statute-book as treaties can be which have passed away through a state of war, and have to be revived in order to acquire a renewed existence.

The VICE PRESIDENT. The Senator will pause. It is the duty of the Chair to call up the unfinished business of yesterday, at this hour.

Mr. CLAY. I move that we proceed to the consideration of private bills. I think that, according to the rules of the Senate, certainly those that obtained at the last session, private bills are to be proceeded with at this hour to-day.

The VICE PRESIDENT. The resolution of the last session expired with the session. Does the Senator move to postpone all the orders, with a view to take up the Private Calendar?

Mr. CLAY. I submit a motion to postpone all the prior orders, and to take up the private bills on the Calendar.

Mr. CRITTENDEN. I hope not. It seems to me the object of the motion must be considered executed. This may be regarded as a private bill as well as any. It becomes of public consequence on account of the magnitude of the claim; that is all; but it is still a claim of private citizens. I hope the motion will not prevail.

Mr. CLAY. If we proceed to the consideration of private claims we shall take them up in their order on the Calendar; and if this comes first we can go on with it.

Mr. IVERSON. It strikes me that the order being that the Private Calendar shall be the order of the day at one o'clock, it is the duty of the Chair to call the Private Calendar, and the bill which is under discussion goes by unless there be a motion to postpone the special order.

The VICE PRESIDENT. The Chair is not aware of any order calling up the Private Calendar at one o'clock.

Mr. IVERSON. The truth is, that the Private Calendar should be taken up immediately on the assembling of the Senate on Friday morning.

The VICE PRESIDENT. The Chair is not aware of any such order.

Mr. IVERSON. I understood the Chair to say that the order made at the last session continued over to the present.

The VICE PRESIDENT. No, sir; it expired with the session. It is moved and seconded to postpone all prior orders with a view to take up the Private Calendar.

Mr. GWIN. Does that postpone the unfinished business of yesterday?

The VICE PRESIDENT. It does.

Mr. GWIN. I do not want to interrupt proceedings on this bill, and do not wish to be considered as obtruding on the Senate; but I am not willing to consent to postpone the Pacific railroad bill, which may lose its place on the Calendar by that course, without calling for the yeas and nays on the question. I shall say nothing further than that.

The yeas and nays were ordered.

The VICE PRESIDENT. The Chair will state the question. The Chair calls up at this hour the unfinished business of yesterday, the Pacific railroad bill. The motion is to postpone that and other orders, with a view to proceed to the consideration of the Private Calendar; and upon this motion the yeas and nays have been ordered.

Mr. GWIN. I thought it was a motion to continue the French spoliation bill.

The VICE PRESIDENT. The Chair will

again state the condition of the question. On the hour of one o'clock arriving, the Chair, in obedience to the order of the Senate, called up the unfinished business of yesterday, which was the special order for that hour. The Senator from Alabama moves to postpone that unfinished business, and all other orders, with a view to proceed to the consideration of the Private Calendar. That is the question now before the Senate; and on that the yeas and nays have been ordered.

Mr. HAMLIN. If that motion should prevail, will the Private Calendar come up without a distinct motion? or can the Senator from Kentucky then move to proceed with the bill now before the Senate?

The VICE PRESIDENT. The Chair would consider the Private Calendar before the Senate.

Mr. HAMLIN. Then the motion now before the Senate may be divided; and we can have the question first on postponing, and second on taking up the Private Calendar.

The VICE PRESIDENT. The Chair hardly thinks it susceptible of division.

Mr. HAMLIN. They are two distinct propositions.

The VICE PRESIDENT. But if the prior orders are postponed, the Private Calendar comes up immediately; and then any motion can be made to postpone it. It will complicate the question to attempt to divide it.

Mr. CRITTENDEN. The way to effect the object of those who desire to progress with this bill will be, I presume, to vote against the present motion, and then the Senate will go on with the consideration of this bill. I shall therefore vote in the negative.

Mr. CLINGMAN. I beg leave to say that I desire this bill to be considered; but the Senator from Mississippi is very unwell to-day, and as a matter of courtesy to him, not in hostility to the bill, for I desire to have early consideration on it, I shall vote to give it the go-by just now. I say this much to explain my vote.

The Secretary proceeded to call the roll.

Mr. FESSENDEN. I rise for the purpose of inquiring again specifically what the question is. We differ here. I supposed that the result of my vote in the negative on this motion was to keep the present bill before the Senate. I am informed that I am mistaken, and I hope the Chair will be kind enough to state the question again.

The VICE PRESIDENT. The Chair will take pleasure in stating the condition of the question again. When the hour of one o'clock arrived, the Chair, under the rule of the Senate, interrupted the proceedings to call up the special order, which was the Pacific railroad bill. The Senator from Alabama moves to postpone that, and other prior orders, with a view to take up the Private Calendar. If the motion fails, the business before the Senate is the Pacific railroad bill—the unfinished business of yesterday, and the special order.

Mr. FESSENDEN. Suppose the motion prevails: what is the business then?

The VICE PRESIDENT. We go to the Private Calendar.

Mr. HAMLIN. I voted under a misapprehension, then. With this explanation of the Chair I desire to change my vote.

Mr. CAMERON. I desire to keep before the Senate the French spoliation bill. I wish to vote "no."

The VICE PRESIDENT. That question is no way connected with the present question.

Mr. FESSENDEN. I ask, in any event, whether this is decided in the affirmative or the negative, if there must not be another motion in order to keep the present bill before the Senate?

The VICE PRESIDENT. That is the opinion of the Chair.

Mr. FESSENDEN. Then it makes no sort of difference.

The result was announced—yeas 20, nays 31; as follows:

YEAS—Messrs. Bright, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Green, Hunter, Iverson, Johnson of Arkansas, Jones, Mason, Polk, Reid, Sebastian, Slidell, Trumbull, Wade, Ward, and Yuice—20.

NAYS—Messrs. Bayard, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hamlin, Harlan, Houston, Johnson of Tennessee, Kennedy, King, Rice, Seward, Shields, Simmons, Stuart, Thompson of

Kentucky, Thomson of New Jersey, Toombs, and Wilson—31.

So the motion of Mr. CLAY was not agreed to.

The VICE PRESIDENT. The business before the Senate is the Pacific railroad bill.

Mr. FOOT. I rise to move the postponement of the consideration of the Pacific railroad bill, and all prior orders, with a view to proceed, at this time, with the consideration of the French spoliation bill. Before making that motion, however, as I desire to be governed by the wishes of the honorable Senator from Mississippi, who has occupied the floor a short time on that bill, I will say that I shall only make the motion provided it is agreeable to him to go on this morning. If it is not agreeable, in consequence of indisposition or other cause, I will not make the motion.

Mr. DAVIS. I thank the Senator from Vermont for the courtesy which he has shown to me, and I will merely say that I am unwell, but can conclude the few remarks which it is needful for me to make. I should probably inflict upon the Senate something more at another time than I would in my present condition, and therefore perhaps he would gain something by requiring me to go on now.

Mr. CRITTENDEN. What is the desire of the Senator?

Mr. FOOT. I submit entirely to the wishes of the Senator.

Mr. DAVIS. It would be more convenient to me, probably, to speak at some other time.

Mr. FOOT. I will not interpose under these circumstances, and prefer to proceed with the railroad bill.

SMITHSONIAN INSTITUTION.

Mr. CLAY. At the request of the Senator from Mississippi, who is obliged to leave the Chamber on account of indisposition, I offer a resolution which I am told it is important should be passed to-day. It is that the vacancies in the board of Regents in the Smithsonian Institution of the class other than members of Congress, be filled by the appointment of Alexander Dallas Bache, a member of the National Institute, and resident of the city of Washington, and George E. Badger, of the State of North Carolina. I am told that their terms of office have expired; that the Regents wish to hold a meeting on Monday next; and unless it be passed by the Senate now, the meeting cannot be held. I know the importance of acting on it, and I trust the Senate will indulge me in having the resolution passed at this time.

There being no objection, leave was granted to introduce a joint resolution (S. No. 67) for the appointment of two Regents of the Smithsonian Institution; and it was read three times and passed.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. SHIELDS. Mr. President, the State that I have the honor to represent, in part, takes a deep interest in the Pacific railroad. There is but one opinion amongst our people upon the necessity of railroad communication with the Pacific. Though the youngest State in the Union, Minnesota is not behind the foremost of the oldest in public spirit, and an enlightened sense of public duty. From our geographical position it is quite natural that we should prefer the northern, or what is commonly called Governor Stevens's route. Being the northwestern State of the Confederacy, we are accustomed to regard this road as an object of the very first importance, not only to us, but to the commercial interests of the country. This opinion derives additional force from the conviction, on our part, that the northern route, upon full and fair investigation and trial, will be found to be the cheapest and best of all the contemplated routes to the Pacific. But to prevent misconception, I take occasion to say, that the moment I find that our first choice is not attainable, I am ready and willing to support any just, equal, and feasible project that will promise to accomplish the general object. There are before the Senate at this time what may be called two general projects for railroad communication with the Pacific.

The first contemplates one single central road from the borders of Missouri to San Francisco; the second looks to the construction of three roads—a northern, middle, and southern road.

Mr. IVERSON. Will the Senator from Minnesota allow me to interrupt him for a moment?

Mr. SHIELDS. Certainly.

Mr. IVERSON. I do so for the reason that he is stating what is the proposition before the Senate. I made a motion to recommit this bill to the special committee, with instructions to bring in a proposition for two roads; and the Senator who occupied the chair at that time ruled that to be out of order; but I think he was satisfied subsequently that he was wrong in his decision, and that my motion was the first one in order. That motion, then, is now pending; that is the motion before the Senate; and it opens the whole discussion on every subject connected with this project.

Mr. SHIELDS. I thank the Senator for his information, for I prefer making it a broad, general discussion. I state, then, that there are two general projects before the Senate, and, as it were, before the country: the one is a single central road to the Pacific; the other contemplates three roads: a northern, a middle, and a southern one. If we are to have but one road, it must be, beyond all peradventure, a central road; and, if we cannot get this, then let us have three roads; nothing but one or other of these two projects will satisfy the country.

The bill reported by the committee proposes a single road, commencing on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, and terminating at San Francisco. To this bill there is a palpable, though not incurable, objection. While it fixes the termini with sufficient accuracy, it leaves the general line of the road wholly undetermined and indefinite. The road, under the provisions of this bill, may be carried in a northern or a southern direction. It may make a deflection in the direction of the British line, or in that of the frontiers of Mexico. Indeed, under certain circumstances, it may be the interest of the contracting party to give it such a deflection, for the purpose of securing valuable lands, as would render it a very inconvenient and insufficient national thoroughfare. I am willing to admit that no bill can be so framed as to locate the line of the road with anything like particularity; but what may be done with great propriety, and what ought to be done, I humbly think, in the present case, is to designate two parallels of latitude within which the road will be bound to cross the summit of the Rocky Mountains.

We know, from careful exploration, that there is more than one practicable pass through the summit divide near the forty-second parallel of latitude. This fact is as well ascertained now as it ever can be by future surveys. Then why not confine the line of the road within, say, the fortieth and forty-third parallels of latitude? This would afford ample room for selection among the different central routes and central passes through the Rocky Mountains, and give an assurance to the country that the road, if constructed at all, would be constructed on the great central line of trade and travel, commencing at New York and terminating at San Francisco.

The Senator from Vermont says, if I understand him aright, that it has been charged upon this bill that it is a project under which somebody is bound to be cheated; and that Senator, who is one of its ablest advocates, while he repels this charge, admits, at the same time, that although nobody is to be cheated, yet it is very likely that some parties may be disappointed by it. For my own part, I cannot rid myself of an instinctive apprehension that, in its present shape, it is likely to eventuate in a way that will disappoint the great body of the American people. But, as I have no wish to cheat, or be cheated; and do not like to disappoint others, or be disappointed myself; as I do not desire to leave the determination of such an important question to the cupidity of a private company, I hope to see this objection removed by an amendment; and then, if we are to have but a single road, this bill may answer that purpose as well as any other. But as several amendments propose a northern, a middle, and a southern road, I deem it a duty which I owe to my constituents to present a few of the general advantages of the northern line.

I have collected much accurate information on

this subject from the reports and public statements of Governor I. I. Stevens, an able and indefatigable engineer, and a man to whom the whole country is indebted for his reliable explorations and researches throughout our northern Territories. From the western borders of the State of Minnesota to the head waters of Puget Sound the distance, by the northern route, is one thousand five hundred and forty-four miles. From Council Bluff to Benicia, by the middle route, it is two thousand and thirty-two miles; and from Fulton to San Francisco, by the southern route, it is two thousand and twenty-four miles. This shows that the northern route is the shortest from the borders of the western States to the Pacific. The Cadotte Pass, through which the northern road is intended to cross the summit of the Rocky Mountains, is five thousand one hundred and ninety-five feet above the level of the sea. The Summit Pass, near the South Pass, on the middle route, is eight thousand three hundred and seventy-three feet; and the Guadalupe Pass on the southern route is five thousand seven hundred and seventeen feet.

Here, again, the advantage, and a very decided one, is on the side of the northern route. From the western borders of Minnesota to the base of the Rocky Mountains, the country is generally, in fact almost entirely, habitable. Nearly the whole of this immense region possesses a rich productive soil, is well watered, and abounds in luxuriant meadows and prairies, over which countless herds of buffalo roam at will, and find food in abundance, both in summer and winter. The late Colonel Benton declared, on one occasion, that the buffalo was an intelligent and sagacious engineer, and that he surpassed our most scientific engineers in the discovery of the best routes. That remarkable man spoke from observation and experience when he ventured to make this assertion. In the natural condition of a country the track of the buffalo is always sure to be the shortest and best route between two distant points. But whatever may be thought of the capacity of the buffalo as an engineer, nature has furnished him with an infallible instinct to select for his pasture a region of country where soil, water, productions, and climate, all combine for the sustenance and support of animal life. This instinct is so infallible that wherever you find the buffalo you may conclude that the country is habitable. This is what hunters know, but what engineers do not know. The explorations of engineers, and the information of trappers and hunters, who are familiar with the character of this region, confirm this account of its general fertility and habitable character. The country on this route, west of the Rocky Mountains, possesses a rich soil, a mild, healthy climate, and abounds in timber, water, and coal—all indispensable requisites for the construction and operation of railroads.

A summary of the supposed disadvantages of this route includes a long tunnel through a mountain region of five hundred and fifty miles, and the rigor and severity of the climate. By accurate explorations and surveys, it has been ascertained that by deviating about forty miles to the south, this whole difficulty can be obviated, and the necessity for this extra labor avoided, so that there will be less tunneling required on this route than on either of the others; and, as it has the least sum of ascents and descents, and the lowest grades, the cost of construction must be proportionate. With respect to climate, it is a curious, but well-attested fact, that the average cold at Cadotte's Pass, in the forty-seventh degree of latitude, is not as great in winter, owing perhaps to the Pacific winds, as at St. Paul, in Minnesota; and the depth of snow at the same place, even in mid winter, is never known to exceed two feet; and this, like the snow in all northern latitudes, is so dry and light that it can be brushed away like dust or chaff before the wheels of a locomotive. Who does not know that the quantity of snow that falls or lies upon the ground in any particular region depends not so much upon latitude as upon altitude, as well as upon the moisture and dampness of the atmosphere?

This objection on the score of climate cannot be a very formidable one in a country that possesses so much practical experience on this subject. Why, the best constructed, best managed, and greatest number of railroads are to be found,

at the present day, in northern climates. The engineers of Canada and New England are not a little amused at such objections. They point to the Grand Trunk, in Canada, and the railroads of New England, as their best refutation. The best railroads of the world are to be found in northern climates and northern countries.

In shortness and cheapness; in the general habitable character of the country through which it runs; in the abundance of the wood, water, and coal, along the line of the road, the northern route has an incontestable superiority over all other contemplated or possible routes from the Mississippi to the Pacific. In addition to this, the depression in the Rocky Mountains, about the forty-seventh parallel of latitude, is so great that the head waters of the Missouri and Columbia rivers almost interlock. The Missouri is navigable by steamers to Fort Benton. The Columbia, by one of its branches, (the Snake river,) is navigable to the mouth of the Palouse. From Fort Benton to the mouth of the Palouse is only four hundred and fifty miles. Therefore, a railroad four hundred and fifty miles in length will connect the navigable waters of the Atlantic with the navigable waters of the Pacific. This fact alone, if thoroughly appreciated, ought to induce the Government, as a mere question of economy in the transportation of troops and military stores, to construct this connecting link, so as to have an unbroken and uninterrupted chain of communication across the continent. But this fact, which has been so clearly presented by Governor Stevens, has not succeeded in impressing itself with due weight upon the attention of the Government.

There are other facts of striking importance, which I can barely touch upon in this connection, which renders this one of the most remarkable lines of communication in the world. Nature, as if to make North America the cradle of a mighty race, has opened and penetrated the continent to the very center by a chain of immense lakes or inland seas. There is nothing comparable to this remarkable geographical fact, to be found in any other division of the globe. A vessel laden in the London docks will be able, without breaking bulk, to land her cargo on the shore of Lake Superior, in the State of Minnesota. The future commerce of those lakes will some day equal, and more than equal, the commerce of the Mediterranean sea—a sea that washed the shores of the greatest empires of the ancient world, and which contributed more than any other natural cause to the development of their civilization and power. These lakes are destined, in process of time, to exercise a proportionate influence in the development of the New World. On the Pacific we find Puget Sound to be one of the most magnificent harbors on the globe. Here is what Governor Stevens says in relation to it:

"Puget Sound is admitted, by all naval and military gentlemen who ever visited its waters, to be the most remarkable roadstead on the shores of any ocean. It has sixteen hundred miles of shore line, and a great number of landlocked, commodious, and defensible harbors. It can be entered by any winds, is scarcely ever obstructed by fog, and is the nearest point to the great ports of Asia of any harbor on our western coast."

When we take into consideration the advantages of these lakes and of Puget Sound, the mineral and lumber wealth of Lake Superior, the mineral wealth of Washington Territory, and the region of Frazer river, and the vast agricultural resources of the intervening country, is it not evident that a railroad connecting Lake Superior with Puget Sound would be the most important inland communication in the world?

Mr. President, in endeavoring to do justice to the northern route, I have been careful not to disparage any of the others. Why should I? I am prepared to support any proposition which will give equal assistance to all these roads; and, although the amount may be considerable, it is my firm conviction that, before the lapse of ten years, the augmentation in business and general prosperity would indemnify the nation for the expenditure.

Mr. DOOLITTLE. Mr. President, yesterday a proposition was suggested by the honorable Senator from Georgia, [Mr. IVERSON,] to recommit this bill to the committee, with instructions to report the bill that he submitted to the Senate. I should like to inquire of him whether he intends to make that motion?

Mr. IVERSON. I do. I consider the motion already pending. I submitted the motion yesterday, but the Chair then ruled it out of order; but I think it is considered that the Chair acted hastily in ruling it out of order, and the motion is now pending. I so intended it.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The Chair cannot now consider the motion of the Senator from Georgia as in order, it having been decided out of order by the occupant of the chair when the motion was made. The Chair, however, will submit the question to the Senate whether the motion shall be entertained, inasmuch as the present occupant will not certainly overrule a decision of the former occupant of the chair.

Mr. IVERSON. The occupant of the chair yesterday acted on the impression that, inasmuch as the yeas and nays had been ordered on a previous proposition, it was out of order to move to recommit the bill; but I think he is satisfied, as the present occupant of the chair doubtless must be, that that decision was wrong, and that a motion to recommit has priority of all other motions.

The PRESIDING OFFICER. The Chair will submit the question to the Senate, whether the motion of the Senator from Georgia shall be entertained.

Mr. GWIN. What is the question?

The PRESIDING OFFICER. The question is, whether the motion of the Senator from Georgia, which is to recommit the bill with instructions, shall be entertained in the present stage of the discussion?

Mr. STUART. Whether it is in order?

The PRESIDING OFFICER. The question the Chair is about to submit is, whether the motion of the Senator from Georgia shall be entertained as now in order, that motion having been decided yesterday by the Chair to be out of order? The suggestion of the Senator from Georgia is, that the occupant of the chair at that time is satisfied that he was mistaken. The present occupant of the chair will not overrule a decision made yesterday, and therefore submits this question to the decision of the Senate. The question on which the Chair asks the Senate to vote is, shall the motion of the Senator from Georgia be now entertained as in order?

Mr. FITZPATRICK. Before the Senate votes on the question, I ask that the rule controlling this matter be read.

The Secretary read the 29th rule, as follows:

"The final question, upon the second reading of every bill, resolution, constitutional amendment, or motion, originating in the Senate, and requiring three readings previous to being passed, shall be. Whether it shall be engrossed and read a third time? and no amendment shall be received for discussion at a third reading of any bill, resolution, amendment, or motion, unless by unanimous consent of the members present; but it shall at all times be in order, before the final passage of any such bill, resolution, constitutional amendment, or motion, to move its commitment; and should such commitment take place, and any amendment be reported by the committee, the said bill, resolution, constitutional amendment, or motion, shall be again read a second time, and considered as in Committee of the Whole; and then the aforesaid question shall be again put."

The PRESIDING OFFICER. Senators, as many as are of opinion that the motion of the Senator from Georgia, to commit this bill to the committee with instructions, shall now be received as in order, will say "ay;" those who think otherwise, will say "no."

The question was determined in the affirmative.

The PRESIDING OFFICER. The motion of the Senator from Georgia is before the Senate.

Mr. DOOLITTLE. Mr. President, as the committee which had charge of this bill has, I suppose, expired, it is necessary that the motion of the Senator from Georgia should be amended so as to send the bill to some other committee. Beyond that, I also desire to amend the motion so far as the instructions are concerned, by instructing the committee to report a bill which I have drawn up, and which I intend to submit to the Senate as a proposition looking towards the construction of three Pacific railroads. It is not my purpose now to detain the Senate at length, or to do anything more than state substantially the provisions of the bill which I have drawn up.

The first section of it provides for the appointment by the President, by and with the advice and consent of the Senate, of three boards of engineers, to consist of three persons each, the one

to have charge of the location of the general route of the northern, the second of the central, and the third of the southern Pacific railroad, and that they shall report their proceedings to the President of the United States in time for him to lay before Congress, in 1860, a general map of the routes of those roads as surveyed and located by them, with a general estimate of the cost of the construction of each.

The next and several following sections provide that, after those surveys are submitted to the President, and by him presented to Congress, the President shall then issue his proposals, as provided in the bill now pending before the Senate, but have them published for a period not less than six months. It also provides that he may enter into contracts; subject, however, to approval and ratification, by act or joint resolution of Congress. It provides, not for a grant of public lands to any company or any monopoly, but for the granting of the proceeds of certain alternate sections of those lands to aid in the construction of the road. It provides further, and in this respect perhaps its provisions are somewhat novel, that the alternate sections which are reserved by the Government of the United States shall be open to settlement under the provisions of what is denominated the homestead bill. It also provides that the sections which are reserved and set apart to aid in the construction of the different lines of railroad shall always be open to settlement and preemption at a price not less than \$2 50 per acre.

It provides, further, that for the purpose of aiding in the construction of the roads, when sections of twenty-five miles shall have been constructed and in operation, the bonds of the United States shall be issued to the amount of \$10,000 per mile; and it provides, also, (and in that respect it is a new provision,) that the sum so paid, together with the amount of the proceeds which shall have been received for the lands which shall have been sold upon the various sections, shall not exceed the amount of the actual cost as ascertained by the board of engineers, until the full completion of the road. It further proposes that these sums of money which are to be advanced from time to time in the course of the construction of the road, in the bonds which are to be issued, are to remain a lien charged on the road until the service shall have been performed by the contracting party, as provided in the bill now under the consideration of the Senate.

I believe, sir, that I have stated in brief words the main features of the proposition which I submit to the consideration of the Senate. But as the proposition necessarily contains several sections, and some of them are reduced to writing, and have not been printed, I hope that the amendment may, by order of the Senate, be printed, and laid on the tables of Senators.

Mr. President, I will state in a single word what this measure which I submit does, and what it does not do. It does not grant the public lands, so that they can be monopolized by any corporation, or by any number of individuals. It does not put the public lands in the power of railroad contractors, so that they may locate their line of route where they please across the best of the public domain, at their pleasure, and then abandon the road when they shall enter upon lands which are less desirable. It does not propose to disturb the monetary affairs of the country; for there is a limitation contained in the bill as to the number of miles which shall be constructed and put in operation in any single year. It does not contemplate, I may say, either, the building of two railroads; one a northern, and the other a southern railroad, with a view to the dissolution of the Union. It does not propose to push forward this enterprise so fast as to disturb the great currents of emigration which are going on across the continent. It does not place the Treasury of the United States almost absolutely within the disposal of the executive department of this Government. It does, on the other hand, organize, or if it does not organize, it aids in the advance of three grand columns of emigration and settlement across this continent. It provides the only practical mode of building a railroad. I undertake to say that if it be not impossible, it is utterly impracticable, to build a railroad where there is no population. Railroads do not precede population, settlement, and civilization. They always follow, and they always will.

I know, sir, that it is objected by some that this proposition is too colossal in its proportions. I admit that it is colossal; but it is only in keeping with all that is American. If you look to but one single road to the Pacific, and that to San Francisco, you have an empire at the North, you have an empire still at the South; and when you shall have reached San Francisco, so far as those considerations which are to be drawn from our foreign relations are concerned, we are; to all intents and purposes, just as much in the power of England, or France, or any other great naval Power, in regard to our possessions upon the northwest and upon Puget Sound, as we are now. From San Francisco to Puget Sound, the only practicable intercourse is by sea. If you build your southern route to San Diego, still the same objection would lie; and there is no safety until these communications are made not only over the central route, but over the northern and over the southern route; and we must have them all three; and the necessities of the country, in the end, will demand them.

But, Mr. President, I do not suffer considerations like these to influence me in governing my vote on this question. I do not believe there is any serious danger of war or conflict with Great Britain; and if we were to have war with Great Britain, we should not fight her at Puget Sound; we should not fight her perhaps in California as much as we might fight her nearer home, and in Canada; and it may be well for Great Britain, and for ourselves, too, that we are both under mutual bonds to keep the peace—that every consideration of duty and of interest binds Great Britain and binds ourselves to keep the peace.

Mr. President, I did not intend to-day to speak on the general subject of the Pacific railroad. I concur in much that I have heard on this floor, as to the necessity of this communication across the continent; but with me the practical, the important, the all-absorbing question is when and how and where, and it is on that very question of detail, which some gentlemen utterly ignore, that my mind is most exercised on this subject; and it is, therefore, that I have submitted this proposition which I now move as an amendment to the proposition of the Senator from Georgia; I also ask that the bill I have submitted may be printed under the order of the Senate, and laid upon the desks of Senators.

Mr. IVERSON. What is the amendment?

The PRESIDING OFFICER. To add instructions to the motion to commit in lieu of the instructions moved by the Senator from Georgia.

Mr. GWIN. What are those instructions? What is the motion of the Senator from Wisconsin.

The PRESIDING OFFICER. The motion of the Senator from Wisconsin is to add instructions in lieu of those now pending. The instructions of the Senator from Georgia have not been read at length.

Mr. IVERSON. I will draw up my proposition if the Chair will wait a moment.

Mr. TRUMBULL. Mr. President, while the gentlemen are preparing their amendments, I will say a word or two on the subject of this bill. I am one of those favorable to the construction of a railroad to the Pacific ocean, and favorable to the granting by the Federal Government of whatever aid is necessary to accomplish the object. I shall not stop to argue the constitutionality of a measure of this character, which is a measure to provide for the common defense, to promote the general welfare, and to secure the blessings of liberty to ourselves and our posterity. It cannot be that a measure designed to carry out the very objects for which the Constitution was formed, is in conflict with that instrument. Nor shall I undertake to point out the importance of this great work. That has been done by others, and it would be a work of supererogation on my part now to attempt to point out the advantages in a domestic point of view to our own people, and the great advantages to accrue to this country in its foreign intercourse with the other nations of the earth, from the construction of this great work across the continent. It would facilitate intercourse with those eastern nations now for the first time about to be freely opened to the civilized world, and whose trade and wealth have excited the cupidity of European nations from the earliest times. It would be the means of trans-

porting into the heart of the country, and across the continent, the commerce and the riches of the East, which contribute so largely to the wealth and importance of the enlightened nations of Europe.

But, as to the construction of this road, if but one road is to be built, as has been justly said, it should be a central one, a road that will accommodate most of the population and business of the country. We do not want a road where no one lives; but we want a road where the business of the country is, where the population of the country is; and all parties, it seems to me, from all sections of the country, should unite in favor of that great national route which will accommodate, to the greatest extent, our population, and the business of the country, to commence the road on the Missouri river between the mouths of the Big Sioux and Kansas rivers, as provided in this bill. I think a road commencing between those termini on the east, and terminating on the Pacific at San Francisco, and built on the most direct and eligible route between those points, would be a central road, and ought to command the support of the country.

But, sir, we have no assurance from this bill that any such road is to be built; and before I can give my vote, partial as I am to the construction of a Pacific railroad, to any bill, I must know something about where that road is to run. I do not understand the bill under consideration as some of its friends do. The Senator from California, who has this bill in charge, [Mr. GWIN,] seems to suppose that the location of the road is left to the contractors. Such is not my understanding of it. The choice of the point from which the road is to start is left to the contractors between certain limits—the mouths of the Big Sioux and Kansas rivers—but they have no authority to select the route under this bill. In looking at the remarks of the Senator from California, I find that he states that the committee were careful, in preparing this measure, to confer no discretionary power on the President or any one else. Why, sir, this bill confers all power on the President. He may carry the road where he pleases, and we have had some experience as to how this power will be exercised on the part of the executive authorities; and I will call the attention of the Senate in a moment to the way in which power is exercised, for we have had some foretaste, in the past action of the Government, of what may be expected under this bill, if it should pass.

The bill under consideration does not give to the contractors the right to select the route, but it directs a contract to be entered into between the President and such persons as may choose to bid for carrying the mail, from some point on the Missouri river, between the mouths of the Big Sioux and the Kansas rivers and the city of San Francisco, over the most direct and eligible route proposed. I am referred, by the Senator from California, to the fifth section as giving the power to the contractors. It reads as follows:

"That the party with whom the contract aforesaid may be made, shall proceed without delay to locate the general route of said road, and furnish a detailed survey and map thereof to the President, who shall cause the public lands, to the extent of forty miles on each side of said road, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable."

The Senator will observe that the language is: "the party with whom the contract is made shall proceed without delay to locate the general route of said road." This is after the contract is made. The President may make a contract to take the road, if you please, by El Paso or anywhere else, and then the contractor locates it. The first section provides for carrying the mail by railroad from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, "on the most eligible route, reference being had to feasibility, shortness, and economy." There is where the power is given to the President to make a contract for carrying this mail between these points "on the most eligible route." Who determines it? "Reference being had to feasibility, shortness, and economy." Why, sir, the whole discretion is left to the Executive. He determines with whom he will make the contract, and which route is the most feasible and the shortest, and where the road can be most economically constructed.

Another provision of the bill, in the third sec-

tion, declares that the President shall make the contract "with the party whose proposal shall be by him deemed most advantageous to the United States for the full and complete performance of said contract." Is not the whole power there given to the President to make the contract with the party whose bids shall be by him deemed most advantageous to the United States? After the contract is made, the contractors, when they are limited to take the road wherever he shall think proper to direct, will have the laying out of the road, the meanderings within ten, twenty, or, perhaps, fifty miles; but the points of the road, by this bill, are all left in the discretion of the President.

Sir, we have had a little experience as to how the executive authorities use discretion of this kind. I recollect that, about two years ago, Congress passed a law authorizing the Postmaster General to contract for the conveyance of a mail "from some point on the Mississippi river, as the contractors may select," (it was a little more specific than this bill,) "to San Francisco, in the State of California;" and that act provided that the Postmaster General should, before entering into the contract, "be satisfied of the ability and disposition of the parties, *bona fide* and in good faith, to perform the said contract." We all understood, when that bill was pending, and when it passed Congress, that it was to be left to the contractors to select the route by which they would take the mail across the continent to San Francisco. It would seem that, at first, the Post Office Department so understood the law; for, in the advertisement for proposals under that act, they stated that, "besides stating the starting point on the Mississippi river, bidders will name the intermediate points proposed to be embraced in the route, and otherwise designate its course as nearly as practicable."

Under this advertisement for proposals to transport the letter mail overland to California, numerous bids were made on different routes; but what does the Postmaster General do? He rejects every bid that was made for a specific route, and adopts a route of his own. I have his official report made at the commencement of the last session of Congress, in which he states that "the foregoing route," after stating what route he had selected, "is selected for the overland mail service to California as combining, in my judgment, more advantages and fewer disadvantages than any other."

Now mark what he says further: "No bid having been made for this particular route, and all the bidders whose bids were considered regular under the advertisement and the act of Congress, having consented that their bids may be held and considered as extending and applying to this route," therefore, he goes on to make a contract. Here the contractors were coerced, in defiance of an express act of Congress, into changing their bids to take the mail over a route indicated by the Postmaster General, or else they could not have the contract at all. Their bids were made applicable to a route which he designated; and what was that route? A route starting from the cities of St. Louis and Memphis, converging in Arkansas, and running away down nearly into Mexico, and around on to the Pacific coast hundreds of miles south of San Francisco, and thence up to the city of San Francisco—a mail route as crooked as an ox-bow, running south six parallels of latitude, and then back again six degrees of latitude to reach the place of its destination.

In the argument which the Postmaster General made on that occasion, to show why he had required the contractors to carry the mail over the circuitous route, I find that he stated the distance, by way of El Paso, at two thousand and sixteen miles. Well, sir, the route has been traveled; and what is the actual distance? How has it turned out? I have not, at this moment, before me the statement of the parties who traveled over that route and measured the distance, but it has been published to the country; and, according to my recollection—I ask the Senator from California if I am not right—it is between twenty-eight and twenty-nine hundred miles from Fort Smith to San Francisco.

Mr. GWIN. I presume the Postmaster General, when he made the publication to which the Senator refers, alluded to the official survey. I think, if the Senator will refer to the map of the

railroad surveys, he will find that the number of miles indicated by the Postmaster General is that named on that map. The route taken by the contractors has diverged very much from that on account of the difficulty of passing through the Indian country, and for other reasons that I know nothing about.

Mr. TRUMBULL. The Senator has not exactly answered my inquiry, which was to know the actual distance traveled.

Mr. GWIN. I know no more of that than the Senator.

Mr. TRUMBULL. I understand it is twenty-eight or twenty-nine hundred miles.

Mr. BRODERICK. It is twenty-seven or twenty-eight hundred miles.

Mr. BENJAMIN. Do I understand the Senator from Illinois to say that is the distance from Fort Smith?

Mr. TRUMBULL. The distance actually traveled, as reported.

Mr. BENJAMIN. From St. Louis, or from Fort Smith?

Mr. TRUMBULL. I did not suppose it reached from St. Louis. The distance, as stated in the Postmaster General's report, from San Francisco bay, by San José, to Fulton, was one thousand nine hundred and seventy-two miles; and from San Francisco bay to San Francisco city, forty-four miles. That would make the distance two thousand and sixteen miles.

Mr. GWIN. That is from Fulton, in Arkansas, on the Red river.

Mr. TRUMBULL. This is the distance he reported it at the time he required the contractors to take this route from Fulton. Now, I understand the actual distance from Fulton to be some twenty-seven or twenty-eight hundred miles, as actually traveled.

Mr. POLK. As the Senator from Illinois is asking for information upon this subject, I can state to him that I happen to have in my pocket a recapitulation that will probably give him what he wishes. From San Francisco to Los Angeles is four hundred and sixty-two miles; from Los Angeles to Fort Yuma, two hundred and eighty; from Tucson to Franklin, three hundred and sixty; from Franklin to Chadbourn, four hundred and twenty-eight; from Chadbourn to Red river, two hundred and eighty-two and a half; from thence to Fort Smith, one hundred and ninety-two; from Fort Smith to Tipton, the then termination of the Missouri Pacific railroad, three hundred and eighteen and a half; from Tipton to St. Louis, one hundred and sixty; making an aggregate of two thousand seven hundred and sixty-five miles; that is from San Francisco to St. Louis. This is a recapitulation that I recollect cutting from a newspaper, I think the Missouri Republican, giving the distances on the first occasion of the passage of a passenger from San Francisco to St. Louis, by that mail route.

Mr. TRUMBULL. The aggregate distance, then, as I understand the Senator from Missouri, is two thousand seven hundred and sixty-five miles from the city of St. Louis.

Mr. POLK. That is this statement.

Mr. TRUMBULL. That is very considerably more than the distance as stated by the Postmaster General, when you add the difference between St. Louis and Fulton in Arkansas. I only allude to that to show the Senate the statistics upon which the Postmaster General based his decision in taking this mail over that circuitous route to San Francisco.

Now, if under this act of Congress, passed in 1857, authorizing the Postmaster General to contract for the carrying of a mail overland from a point on the Mississippi river, to be designated by the contractors, to San Francisco, he had authority to make a contract over such a route as he should designate—and he has made such a contract, and the Government is paying for carrying the mail over that route—I ask whether the President of the United States would have any difficulty in making a contract for carrying the mail on this railroad over any route that he should think proper, provided he made the starting point between the mouths of the rivers indicated in the bill. Therefore, with the experience we have heretofore had, unless this bill is amended, partial as I am to the project of a railroad to the Pacific, I cannot vote for it. But if it be amended so as to locate the road on a line which shall be cen-

tral, or nearly central, to the population and the business of the country, I shall most cheerfully give it my support; and I hope the amendment proposed by the Senator from Iowa [Mr. HALL] will be adopted as an amendment to this bill.

Mr. YULEE. Before the Senator passes from the subject of distance, I desire to call his attention to a fact in respect to the distance, which will perhaps correct his misapprehension. The distance to which he adverted, as stated by the Post Office Department, was two thousand miles between Fulton and San Francisco. I ascertained upon inquiry from gentlemen acquainted with the locality, that the distance between Fulton and St. Louis, by way of Fort Smith, exceeds eight hundred miles, which would make a distance altogether of some two thousand eight hundred, or two thousand nine hundred miles between St. Louis and San Francisco; so that the distance of two thousand seven hundred miles which the Senator states to be the actual experience of the travel between St. Louis and San Francisco, is within the distance to be derived from the report of the Postmaster General at the last session. It is less than the distance stated by him, with the addition of the distance between Fulton and St. Louis.

Mr. TRUMBULL. I am not prepared, with statistics, or tables of distances, to controvert the statement of the Senator from Florida, but really I think it cannot be more than eight hundred miles from any point in Arkansas to the city of St. Louis. From my general knowledge of the country, I think it impossible, unless you take the same kind of road that the Postmaster General has adopted, and travel in the form of an ox-bow, up and down. A direct line surely cannot be eight hundred miles.

Mr. YULEE. The distance from Fort Smith to St. Louis is within a fraction of five hundred miles, and the distance between Fort Smith and Fulton, as I am told, exceeds, as traveled, three hundred miles, which would make eight hundred and odd miles.

Mr. GWIN. If the Senator from Illinois will permit me before he goes to the other branch of the subject, I desire to say that he is laboring under a mistake in regard to the provisions of this bill, and the power it confers on the President. He says, the power conferred on the President is in the first section of the bill, and that power is conferred by words providing that the road shall be built on the most eligible route, reference being had to feasibility, shortness, and economy. He says, that language gives the President power to select the route; but if the Senator will look at section two, he will see that the President is required to advertise for proposals; and what are they to be? He is to invite sealed proposals for the construction of the road, and for the performance of the service required by the bill. And what is to be contained in those proposals? He is not left any power at all, because the bidders are required by the bill to put into their proposals certain propositions upon which the President is to decide. It was intended in drawing the bill, (and it was drawn with great care in reference to that object,) that the President should have no further power than to determine on these sealed proposals; and power was given to him to select from among the bids the best for the interests of the United States. What is to be contained in the bids?

"First. The time in which it is proposed to construct and finish the entire road, and put the same into successful operation, which period shall not exceed twelve years from the execution of the contract; also, what extent and portion of said road, beginning at the eastern and western terminus, and progressing continuously until finished, shall be completed and put in operation during each and every year.

"Second. The time in which said party will surrender that portion of said road, which passes through the territory of the United States, with its rolling stock and all appurtenances thereunto, belonging to the United States, for the purpose of being transferred to the several States which may hereafter be formed out of said territory, as herein provided."

These have to be stated in the bids; and again:

"Third. At what rate per mile per annum, not exceeding \$500, it is proposed to carry the United States mails daily, both ways, on said road, under the direction of the Post Office Department, for the period of twenty years from the completion of the road, and also for the portion which may be in use while the said road is in course of construction; and at what rate per mile, for a like period, upon each section as it is completed, it is proposed to carry on said road, under the direction of the proper Department, all military and naval supplies, troops, seamen, passengers, and freights of all kinds for Government purposes, with the limitation that the price to be paid shall not, in any event, either of

peace or of war, exceed the sum which in time of peace has been heretofore paid for similar service, or equal amount upon any existing route."

The only discretion that is left the President is, that if one party agrees to carry the mail for less than \$500 a mile, and agrees to carry the munitions of war at less than present rates, he is required to select those contractors who agree to build the road on the best terms to the United States. He has no power to assign a route, nor is there anything to be said about the route; but when he makes the contract according to the proposals, they are required to select the route and lay it before him, and then he is required to withhold the public lands for forty miles on both sides of the line. It is stated specifically in the bill what the proposals are to contain, and then, after the contract is made, the law prescribes the manner in which the route shall be located, and that is by the contractors; but the intention is, that capital shall find the best route and locate it.

Mr. TRUMBULL. Experience is, perhaps, our best teacher in this matter; and the Senator from California, who is interested in these overland mail routes, cannot but have observed the construction that the executive department of this Government put upon our act two years ago.

Mr. GWIN. If the Senator will permit me, I will say that the provisions of that act are not like those I have just read. There is not a solitary clause in that act in regard to the route. The contractors are required to select the place on the Mississippi river where it shall commence, but not a word is said that they shall select the route. If the Senator will read this bill, he will see that it was drawn up to take from the President all power in reference to the selection of the route. The contractors have the power to select it between the Kansas and Big Sioux rivers. It was intended to prevent any party but the contractors having the power.

Mr. TRUMBULL. Let us see what the facts are.

Mr. POLK. Will the Senator allow me?

Mr. TRUMBULL. I was going to answer the Senator from California. I do not know the purpose of the Senator from Missouri.

Mr. POLK. I will state my purpose. It is merely to say that I have been informed since I was up before, that accompanying the message of the President of the United States, there is a statement made by an individual who went out with the overland mail, of the distance traveled. He himself has informed me that he made the estimate; and it is accurate, giving the entire distance between San Francisco and St. Louis, which has been printed in the documents accompanying the President's message. I will add that he has informed me that he supposes the statement from which I read before is a recapitulation of the distances given by himself. He says, however, that there is some error in the addition, and that the distance between St. Louis and San Francisco is more than is here given, and I think he says is some two thousand nine hundred miles on the overland mail route.

Mr. COLLAMER. The Butterfield route?

Mr. POLK. Yes, sir.

Mr. TRUMBULL. Lest I forget it, I will first attend to the Senator from Florida, [Mr. YULEE,] as I have cast my eye on a map since he was up and stated the distance from Fulton to St. Louis, by way of Fort Smith. From my general knowledge of the country, I knew that it could not be eight hundred miles from any point in Arkansas to St. Louis, on a direct line; and, upon looking at the map, I find that Fulton lies further east than Fort Smith; that you must pass Fort Smith in order to get to Fulton. Fort Smith is as near San Francisco as Fulton City—just about the same distance; and, in order to make out the eight hundred miles, the Senator from Florida takes the mail-carrier east of Fort Smith to Fulton City, and then has him traveled back again to Fort Smith, and thence to St. Louis. Well, I reckon that would make eight hundred miles; but the distance from Fort Smith to St. Louis is nothing like eight hundred miles; and this shows that the distance to be traveled from St. Louis to San Francisco, on the overland mail route, is, by hundreds of miles, greater than what the Postmaster General stated it to be in the report of his contract made with these individuals.

Now, sir, as to the Senator from California, he

says that, under this bill which he has reported here, the President has no discretion. How does he make that out? He says that in the proposals which are to be offered for the construction of this railroad, the contractors are to designate the line of the road.

Mr. GWIN. No, sir; the terms upon which they are to carry the mails and supplies; and they are to state in those proposals what those terms are, and the President has to select the most advantageous to the United States. The second section states what those proposals shall contain specifically, and the fifth section then says they shall locate the route.

Mr. TRUMBULL. Yes, sir; and the proposals issued by the Postmaster General contained certain propositions. I will read one for the information of the Senator from California.

Mr. GWIN. That was not the law. This is the law.

Mr. TRUMBULL. It is:

"Besides stating the starting point on the Mississippi river, the bidders will name the intermediate points proposed to be embraced in the route, and otherwise designate its course as nearly as practicable."

That was the proposal of the Post Office Department, under the law of March 3, 1857, for carrying the overland mail to California; and bidders did make their proposals in accordance with this advertisement; but what did it avail them? Why, sir, when they came to the Post Office Department, the Postmaster General thrust them all aside, and adopted a route of his own, for which there were no bids, and said to them, or, rather, says in his report, that "no bids having been made for this particular route, and all the bidders whose bids were considered regular under the advertisement and the act of Congress having consented that their bids may be held and considered as extending and applying to said route." No doubt they consented their bids should be considered as applying to the route he indicated, well knowing that, if they did not give their consent, their bids would be utterly valueless.

The Postmaster General was directed, before entering into the contract, under the act of 1857, to satisfy himself of the ability and disposition of the parties in good faith to perform it; and it is under that clause that the Postmaster General shelters himself for adopting the route which he did; it being, as he says, the route which he was satisfied the mail could be carried over. Under this bill, the President is to make the contract with the party whose proposal shall be deemed by him most advantageous to the United States; and if there be no bid for the route which he deems most advantageous, I have no doubt all the bidders will consent that their bids shall apply to the route which he thinks the best; exactly as the Post Office Department did in establishing the overland mail route.

Sir, I want a limit here; and if it is intended that this road shall be built in good faith, as a great central Pacific railroad, then let us limit it within certain parallels of latitude. Why does the Senator from California object to this? Why has he named a limit between which the road shall start, if he is not willing to limit it across the continent? If this bill is not to be subverted from its purposes; if this railroad is not to be taken off in a southerly direction instead of a western direction; why object to confining it within limits that will compel the contractors and the President to build the road across the continent, and not up and down? There is, as I understand it, nothing in this bill under which the President may not, with the latitude of construction which was adopted under a similar law for establishing the overland mail route to California, take this road wherever he pleases.

But, sir, I was about to call attention to the extraordinary speech of the Senator from Georgia, [Mr. IVERSON,] delivered yesterday—a speech, winding up with a proposition to recommit this bill with its various amendments, for the purpose of having a bill reported for the construction of two railroads; and for what reason? For two roads, because he looked to a separation of the Confederacy—the very last reason on God's earth why I would vote for any bill. Sir, I trust the day is far distant, when our legislation will be shaped with reference to a separation of the States of this Union. Has it come to this, that the basis of our legislation is to be a division? If so, I apprehend

it will not be long before we have it. But, sir, I am glad that the Senator from Georgia has spoken out so boldly. He has but avowed what I have long understood to be the sentiment of the party in power. I believe he is a fair exponent of it; and that distinguished Senator, occupying a prominent position in the country and in this body, possessing the confidence of the Administration and the party in power—

Mr. IVERSON. Will the Senator allow me a moment?

Mr. TRUMBULL. Certainly.

Mr. IVERSON. The Senator is greatly mistaken when he says I am in the confidence of the Administration. I did not speak the sentiments of the Administration. So far as I understand them, I do not believe the Administration maintain the sentiments which I uttered yesterday. I certainly have no official or personal connection with the Administration, or any member of it, although I must state that I approve of the conduct and the general measures of the Administration.

Mr. TRUMBULL. I did not suppose, or mean to be understood as intimating, that the elaborately-prepared and carefully-written-out speech of the Senator had received the approbation of the Administration in advance; but he being associated with the Administration, possessing its confidence and that of the party in power, I did regard his views as a fair exposition of the views of the leaders of the so-called Democratic party of the present day. I have understood, before they were so openly and frankly avowed here, that they were the views of that party. I supposed that they looked, as the Senator told us, to the control of this great Government in all its departments, executive, legislative, and judicial, by the slaveholding interests of the country, or to a dissolution of the Union.

Sir, how can it be that those views are not in harmony with the views of the party, maintaining the relations he does to it? I understand by the action of the party, and I have sought to show this to the country before, that they do indorse the very doctrines which he has so frankly and plainly avowed here in the Senate, and that it amounts simply to this: "We will control the Government; we will have the patronage and the power of the Government; we will disburse its revenue and dispense its patronage and govern the North; and when we cannot do it, we will dissolve connection with you; we will unite with you for the purpose merely of ruling and controlling you for our benefit and aggrandizement; but when the time that we can do so ceases, the Republic ceases to exist;" and when a practical measure is pending before this body, a motion is made to recommit it for the very purpose of establishing two roads across the continent, looking to a division of the Confederacy. The Senator said yesterday:

"When the present Republican party, or its legitimate successors in some other name, shall get possession of the Government; when it has the President, both Houses of Congress, and the judiciary, what will stay its hand? It cannot stand still; if it does, it dies. To live and reign, it must go on."

Sir, I believe that. It cannot stand still. It is a party of progress, of power. It is going on; and I coincide with the statements uttered by that Senator yesterday, that the time will come when it will take possession of the Government. It has but to pursue the even tenor of its way, standing by the Constitution, standing by the Union, encroaching upon the rights of no section of the country, but carrying out and maintaining the principles of the Constitution, as our fathers made it. I say it has but to go on in that course to attain power and possession of the Government, and make our Union perpetual. Further, the Senator said:

"Step by step it will be driven onward in its mad career until slavery is abolished or the Union dissolved. One of these two things is as inevitable as death."

It is by statements of this kind as to the aims and objects of the Republican party that the public mind of the South has been misled; and although I accord to the Senator from Georgia a fair exposition of the views of the so-called Democratic leaders of the present day, I trust he is not a fair exponent of the public sentiment of the South when it shall understand the position of the Republican party. Does it propose to interfere with

your institution of slavery? Where? When? When, in any of its recognized public conventions, has it ever avowed such a principle? Never; but it has placed itself on the Constitution, and on the doctrines of Jefferson and Washington and Monroe and Madison and Jackson in regard to the slavery question; ay, sir, and of Polk too. It proposes to let slavery alone where it exists in the States. It proposes to prevent its expansion into countries that are free, and where slavery has not existed. Is that a new doctrine in this country? Why, sir, if the Senator from Georgia had occupied a seat on the floor of the Senate in 1789, when the Government was organized, and when Washington was President, and when the law passed excluding slavery from the great Northwest, according to the creed he now avows, he must have become an advocate for disunion at once.

But, sir, the Senator made an allusion to Illinois politics, upon which I would say a word. He declared that—

"In all the late elections, conservative and sound Democracy, the only element sympathizing with the South, has not carried a single free State. I do not consider the triumph of the distinguished Senator from Illinois [Mr. DONALD] as a victory of sound Democracy. It was a victory of Free Soil Democracy over Abolition Whiggery, and no more."

Now, sir, if the Senator from Georgia is laboring under any such misapprehension as that the great Republican party of Illinois, which has not been triumphed over, is an Abolition Whig party, he is very much mistaken. If he is under the impression that the party sustaining my colleague is a Free-Soil Democracy, he is very much mistaken. Need I go back to the history of this country to show that parties were disrupted in 1834, the Democratic party as much as the Whig party? In 1854 was inaugurated a measure never before in issue between parties in this country, never before a party test. Immediately preceding that period, in 1852, both the then great political parties of this country had agreed upon the slavery question. In their national conventions each party had passed resolutions pledging itself to the country to abide by the settlement of the slavery question as made in 1850, and denouncing any man as an agitator who, under any pretense whatever, should again raise that question in Congress or out of Congress. But, sir, what occurred within two years afterwards? Notwithstanding this pledge to the country to abide by the compromise measures of 1850, a proposition was introduced into this very body, in 1854, opening up again the whole excitement—a proposition to unsettle not only the policy of 1850, but the policy of 1820, under which the country had acquired peace. When that new proposition was introduced to repeal the Missouri compromise, which excluded slavery from what now constitutes Kansas and Nebraska, parties took their position upon that question. It became a party question. The Senator from Georgia, if he will look into the proceedings of the House of Representatives upon that question, will find that a majority of Democrats from the northern States voted against the Kansas and Nebraska bill. Less than half of them supported the measure. Then it was that parties were organized upon a question which was not before in issue between them.

One of those parties, that which opposed the repeal of the Missouri compromise and the expansion of slavery, took the name Republican, and it is composed of persons belonging to all the previous parties—Democrats and Whigs alike. The party adhering to that measure, and pledging itself to that policy which has disturbed the peace of the country for the last four or five years, and given us more trouble than any one measure that ever passed the Congress of the United States, assumed the name Democrat—an old name applied to a new principle. Who composed its army? Those who had been Democrats? Why, sir, I need look no further than at the distinguished members of this body, to find that the leaders and champions of this so-called Democracy were the trusted Whig leaders of old time, and Whigs now I apprehend, for they will tell you that they have changed no principles. The transition was easy from former Whiggery to a pro-slavery Democracy. It required no abandonment of Whig principles. The so-called Democratic party has but one principle to-day, and what is that? The expansion of slavery. Will they keep a Whig out of the ranks if he will indorse the Kansas-Ne-

braska bill? They will promote him to high office in the Democratic army. An Abolitionist, or a man who has been an Abolitionist, can get into it, if he will indorse the Kansas-Nebraska bill. My friend at the right [Mr. HAMLIN] says many of the New England Abolitionists are in it now. I could not name them all, or all the distinguished ones. I believe the late Attorney General of the United States was a distinguished example of that class; and we have many distinguished examples here of persons who were Whigs, now in full communion in the Democratic church.

The so-called Democratic party in Illinois, the "Free-Soil Democracy," as the Senator from Georgia describes it, is not made up exclusively of old Democrats. If there had not been some old Whigs and some old Know Nothings in that party, "the triumph of the distinguished Senator from Illinois," of which he spoke, would never have occurred. No, sir; there are enough Know Nothings and Whigs in the Illinois Legislature to have changed the result; and although there are many Whigs in the Republican party in Illinois, there are many Democrats in it. It is made up of both; large numbers, I am happy to say, of both, constituting a decided majority of the people of the State; and the Democratic party, so-called, not only in that State but in all the northern States, and the southern States, too, is made up largely of old Whigs. This reproach upon the Republican party, that it is but an Abolition Whig party, cannot be sustained by the facts in relation to the organization of the party as it at present exists. What has become of the old Whig party of the South which once carried many States? Is it not affiliated with and incorporated into the party with which the Senator acts? I need not go any further than his own distinguished colleague, [Mr. TOOMBS,] to show him that he does not abhor altogether affiliation with Whigs, or men who were once Whigs.

But the Senator proceeded to comment upon the doctrines of the party in Illinois, and he spoke of the Republican party as denying a right which the South is entitled to—the right to take slaves into the Territories of the United States, the common property of the Union. We do deny that the South has any such right. We deny that the Republican party makes any discrimination between the citizens of slave States and citizens of free States, as to their rights in the Territories. We deny that it advocates any doctrine leading to an inequality between the States. We would give to the citizen of Georgia the same rights in Kansas that we claim for the citizens of Illinois; but we give him none other. We deny to the citizen of Illinois the right to introduce slavery into Kansas; we deny that right to the citizen of Georgia. They are on an equal footing. We deny to the citizen of Illinois the right to take the laws of Illinois to Kansas. By our laws, females are of age at eighteen years; free to act for themselves. We deny the right of the Illinois farmer who takes his daughter to Kansas, to carry that law with him; or the right of the daughter, when she gets there, and finds the law of Kansas fixing the age when females shall have the right to act for themselves at twenty-one, to set at defiance that law, and assert her right to act for herself in opposition to her parents, and in opposition to the laws of Kansas, because, forsooth, if she had remained in Illinois she would have possessed that right. We deny the right of a man who owns a slave in Georgia, by virtue of State law, (and he can hold him by virtue of none other,) to take that law with him to Kansas; and hence, when he goes there he has no right to hold the person as a slave.

We say that slavery depends upon local law. The Constitution of the United States so treats it. The language of that instrument in regard to persons escaping from service or labor in one State into another, clearly shows this. The language is, that "persons held to service or labor in one State under the laws thereof," and escaping into another, shall be delivered up, &c.; that is under the laws of the State, not under the laws or the Constitution of the United States. You cannot reclaim a runaway negro in any State of this Union, unless he is held as a slave by virtue of a State law. This shows that the Constitution was not intended to establish slavery.

But, sir, if the Constitution did establish slavery, which it does not, the Constitution has no force in the Territories of the United States, un-

less Congress carries it there. That instrument was made between the States, to form a more perfect union between the States; and when the Constitution was established, it gave to the Government which was formed by it the right to govern the Territories; but it did not extend the Constitution of the United States over the Territories; nor does it extend there except by operation of law. When the Kansas-Nebraska bill was passed, Congress inserted a clause in it declaring that the Constitution of the United States should extend over Kansas and Nebraska; thus indicating that, in the opinion of Congress, the Constitution did not reach that Territory at all, unless it was made to do so by act of Congress.

The whole practice of the Government shows this to be the meaning of the Constitution. Why, sir, we appoint judges in all the Territories of the United States; and for what length of time? For four years. What does the Constitution of the United States say? I have not it before me, but it specifically declares that the judges shall be appointed during good behavior. What right has Congress to limit the term of office of a judge in Kansas or Washington Territory to four years, under the Constitution of the United States, if that instrument extends to, and operates in, the Territories? If the appointees are judges in the contemplation of the Constitution of the United States, then they are judges during good behavior, and Congress has no power to limit the tenure of their office. But Congress has done it; and it has done it upon this principle: that the Territories belong to the United States, to be governed by the Congress of the United States irrespective of those particular requirements in that instrument which are applicable to States alone, and not to Territories.

Congress cannot, of course, do any act in regard to a Territory which the Constitution forbids, such as to pass a law prohibiting the freedom of speech therein; but it may pass any law in regard to a Territory which it is not inhibited from passing, and which is not inconsistent with the spirit of our institutions.

But the Senator proceeded further to speak of the views of what he calls the Free-Soil Democracy of Illinois, and I quite agree with him in some remarks he made in regard to the positions put forth by that party. I am happy to agree with him in something. I quite agree with him that it is a monstrous doctrine, if the principle be once established that the Constitution carries slavery into a Territory, that you have a right by indirection to thwart and subvert that constitutional right. Satisfy me that the Constitution of my country guarantees to an individual the right to take his slave into a Territory of the United States, and I will help, so long as I sit here under an oath, to support that Constitution, to support that right. God forbid, that after laying my hand upon the holy Scriptures and swearing to support the Constitution of my country, I should turn around and say that, although the Constitution gives a right, I will, by unfriendly legislation, or by non-legislation, thwart and deny it. It is a position wholly untenable; and when I believe the Constitution guarantees to an individual any right, I will stand by and protect him in the exercise and enjoyment of that right. I cannot find it consistent with my conscience, or my honor, or consistent with my feelings, as an honest man, to undertake by indirection to thwart the very instrument which I have sworn to support. But, sir, I deny any such constitutional right as the Senator from Georgia claims. Therefore, I say that slaves cannot be taken legitimately and constitutionally into Kansas.

The Senator from Georgia further told us that

"The people of the southern States, as coequals in the Union, and as joint and equal owners of the public territory, have the right to emigrate to these Territories with their slave property, and to the protection and the enjoyment of that property by law during the existence of the territorial government; laws passed by Congress as the trustee and common head of the joint property—head of all the States and all the people of the States in the public territory; laws recognizing the equal right of every citizen to go in and possess and enjoy the common inheritance; laws, not to deprive men of property, but to regulate and secure its enjoyment; laws to put every man in the United States upon an equal footing in the exercise of a great constitutional right."

I agree that the people of the South are entitled to equal laws, and to laws that will put every citizen in the United States upon an equal footing in the exercise of a great constitutional right; but

I do not assent to the application which the Senator from Georgia seeks to make of it, when he says that, under this general principle, the people of the South are entitled to a law that shall protect them in holding slaves in the Territories. I say that would not be giving them equal rights, but allowing them to impose slavery on a Territory where the people may not want it. Why has not the free citizen of the North, who emigrates to Kansas, and prefers living in a free State where free labor is respected, as much right to insist upon keeping slavery out of, as a man who happens to own a slave in Georgia has to insist on taking it into the Territory? Has not the citizen of Georgia, who owns no slaves, and who emigrates to a free Territory, as good a right to insist that slavery shall not come there, as the citizen who owns a slave in Georgia has to take him there? The interests of free white laboring men, North and South, are affected by the existence of slavery in their midst; and after all, slavery is participated in but by a very small proportion of the population of the United States.

There were, according to the census of 1850, about twenty million free white people in the United States. Thirteen million and more of those people resided in the free States of the North; about six million white people resided in the slaveholding States; and of those six million white people, only about three hundred and fifty thousand, something like one in twenty, of the free white population of the South, owned negroes; and yet our legislation here is to be controlled and shaped for the benefit of these three hundred and fifty thousand slaveholders, or the Union is to be dissolved. Sir, have the more than five and a half million white people in the South, and more than thirteen million white people in the North, no rights to be respected? Is slavery to be forced upon them by the action of the Federal Government, or the Union be dissolved? Do we deny just rights to the South, when we allow the man who owns slaves, and the man who owns no slaves, the same rights and the same privileges in going to our public Territories?

But the Senator from Georgia told us that unless he could have a law that would protect these three hundred and fifty thousand slaveholders in the holding of slaves in Kansas, he would dissolve the Union. This is his language:

"I am free to declare here, that if I had the control of the southern people, I would demand this of Congress at the organization of every territorial government, as the terms upon which the South should remain in the Union. I would hold out 'right' in one hand and 'separation' in the other, and leave the North to choose between them."

Who is going to do this? Three hundred and fifty thousand slaveholders? Surely the five and a half million free white people in the South are not going to hold out their hands in this way, when they do not own a negro, and say, "if you do not allow us to go with our negroes into the free Territories we will dissolve the Union." They are not going to do it. Well, who is going to do it? Three hundred and fifty thousand out of twenty million people. Why, sir, I think if we legislate for the benefit and protection of the nineteen twentieths of the people of the South, the Senator has no right to complain that our legislation is shaped against the policy the South wants. But he is right, in some respects, in attaching this importance to the slave power of the South. It is important, and although it is but one in twenty of the white population of the South, I know it controls the legislation of the South. The large planter, with his numerous slaves around him, controls the labor of the country; and monopolizes the land of the country; and the white people of the South owning no slaves are in a measure his dependants.

The labor which would otherwise be performed by the free hands of free men is there performed by slaves; and that labor which every man should be entitled to as his right, as the capital on which he is to live, is taken out of his hands, and given to this servile race. Exercising that control over the political institutions of the South and over all the interests of the South, this power comes here to Washington, and, I am sorry to say, exercises a control over this General Government. Not only the five and a half million free white people of the southern States are controlled by it, but the thirteen million people in the northern States, where no slaves exist, are made subject to it; and we are gravely told, if this great popula-

tion shall attain control of the Government; if they shall elect a President and obtain control of Congress, and the various departments of the Government, then the Union is to be dissolved, and for the benefit of three hundred and fifty thousand slaveholders! I suppose the Senator from Georgia will hardly contend that the five and a half million people who own no slaves in the South are benefitted by slavery.

In making this comparison, fairness would require me to say, and I wish to speak with entire candor, that although the number of slaveholders is but three hundred and fifty thousand, yet more persons are probably interested in slavery than that, because the slaves are generally owned by the heads of families; and supposing a family to consist of five white persons, which I suppose is a fair estimate, there would be five times three hundred and fifty thousand, or some one and three quarter millions of the white population of the South that might be directly or indirectly interested in slavery. The only interest the others could have would be to get rid of it, and to elevate labor in that country to a standard where it would be honorable for free white men to perform it.

The Senator, in speaking further of the public sentiment of the South, remarked:

"I venture the opinion that in my own State, so well convinced are the great mass of the people of all parties that the anti-slavery agitation is not to cease until the institution is destroyed, if the question was now put whether the southern States in a body should separate and form a southern confederacy, a majority would vote for the proposition."

Well, sir, I can only regret that such is the public sentiment of Georgia; but I hope and trust the Senator is mistaken; and if such a public sentiment does exist there, I apprehend it exists upon a false basis. It has been brought about by a misunderstanding of the public sentiment of the North, and will be corrected the moment the Republican party is in power, and has an opportunity practically to illustrate its principles. Sir, it is by the misrepresentation of its views that this prejudice has been engendered against it in the southern States. The election of a President of the Republican party to dissolve this Union! Why, sir, what is the Union worth; what sort of a Union is it that we have; if, when a majority of the people of this country, in a constitutional form, elect one of their number President of the United States, that is to break up the Government? Does the South remain in this Union only to control it? Has she no principle further than the principle of obtaining the spoils of office and the power and the patronage of the Government? Is she attached to it by no other ties than these? Has she no love for this Union, under which the people in all parts of the country have prospered to such an unexampled degree since its formation? Does she take no pride in this country, in its advancement, in its greatness, in its power, and only remain a part of it merely to enjoy the spoils of office? Sir, it will be time enough for the South to talk about dissolving the Union and forming a southern confederacy, when the North, or the Republican party of the North, makes any aggressions upon its rights; and if it waits for that day it will wait eternally. No such aggression is meant—none is intended. The people of the North, unlike the citizens of Georgia, are a Union-loving people; they will stand by the Union, and stand by the Constitution; and all they ask is that they be not perverted and undermined by a party which is only willing to support them so long as it can control.

Such a party has no existence in the North. We are submitting now to an administration of this Government which we believe to be very unjust and very wrong. We have submitted to many acts which we believed to be unconstitutional, acts of usurpation, on the part of the executive officers of the Federal Government. We have seen the partial manner in which the laws of the United States are executed. We have noticed, within a few days, the fact that a cargo of negroes, kidnapped in Africa, has been brought to the Senator's own State, and landed there, to be subjected to slavery, in defiance of an act of Congress pronouncing it piracy; and we have seen the official organ of the Administration, here in this city, proclaiming, in an editorial article, that our institutions are a failure, so far as their ability to resist this violation of law and of the rights of humanity, is concerned. These Africans have

been smuggled away from their native land, and introduced into the heart of this country; and yet, so far as we know, no man engaged in this piratical act has been brought to justice. In South Carolina the juries refuse to indict men engaged in the slave trade. What does the Federal Government do? Where were the Army and Navy of the United States, that the men engaged in importing Africans into Georgia could not be found and arrested? Perhaps the Army is in Kansas, guarding per chance men indicted under a pretended charge of treason. Possibly it is on its way to Boston to form in the streets of that city to catch a runaway negro. Not many years ago, when a single negro escaped from bondage in order to regain his liberty, and was at large, the Army and Navy of the United States were called forth, the troops were brought out, the telegraph was called into requisition, and the whole power of the Government was employed to arrest and return the negro to bondage. Now, three hundred free persons sought to be forced into bondage in defiance of the laws of the land, receive no protection from the Federal Government; but its institutions are pronounced a failure, so far as regards its ability to prevent such violations of the law.

We have seen this; the country has seen it; and although the laws in the one case for the benefit of slavery are exerted with the utmost rigor, we see no corresponding efforts to enforce the laws in favor of freedom. Yet the people of the North are attached to the Union. Temporarily they submit to these acts, and they submit to the outrageous promulgation of opinions by judges in what is known as the Dred Scott case, upon a question not before them, because in due time, they expect, in a constitutional mode, to reform and correct these abuses. When the Republican party attains power, it will not, as the Senator from Georgia supposes, make any encroachments on the rights of the South; but it will, I trust, be equally ready to enforce the laws both North and South, and its Army and Navy will be called into requisition alike in all parts of the Republic whenever needed for the enforcement of law, and it can be legally and constitutionally done.

Mr. WILSON. I move that the further consideration of this subject be postponed until Monday next at one o'clock.

Mr. DOOLITTLE. Will the honorable Senator allow me, before that motion is put, to place my amendment to the proposition of the honorable Senator from Georgia, in proper shape?

Mr. WILSON. Certainly; I withdraw my motion for that purpose.

Mr. DOOLITTLE. The honorable Senator from Georgia has withdrawn his first proposition, and reduced his present one to writing; and I now move to amend it by inserting the words "and central" after the word "northern" and before the words "and southern."

The PRESIDING OFFICER. The Secretary will read the motion of the Senator from Georgia. The Secretary read it, as follows:

Resolved, That the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, be committed to a select committee of nine members, with instructions to prepare and report a bill providing for the construction of a northern and southern Pacific railroad, and that the special committee having charge of this subject at the last session, be revived, and be charged with the whole subject.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin is to amend these instructions, by inserting "and central" after the word "northern."

Mr. DOOLITTLE. I move that the bill which I have presented as an amendment, informally, be printed for the use of the Senate.

The motion was agreed to.

Mr. WILSON. I renew the motion to postpone the further consideration of this subject until Monday next.

Mr. GWIN. If the Senator wishes the floor, it will be better for him to move to adjourn, leaving this bill as unfinished business.

Mr. WILSON. I have no objection to that course, but I did not know but that it might be desired to do some other business. ["Oh, no!"] I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 7, 1859.

The House met at twelve o'clock, m. Prayer by Rev. JOHN LANAHAN.

The Journal of yesterday was read and approved.

SPECIAL COMMITTEE.

The SPEAKER announced that he had appointed Messrs. MILES, LETCHER, WASHBURN of Maine, PENDLETON, and MORRIS of Pennsylvania, a special committee on Mr. MILES's resolution to consider and report on the expediency of removing the present desks from the Hall, and making such arrangements of the seats of members as will bring them together in a smaller space, for the purpose of further facility of hearing and more orderly debate.

ASSAY OFFICE IN ST. LOUIS.

Mr. BLAIR, by unanimous consent, introduced a bill to establish an assay office in the city of St. Louis, State of Missouri; which was read a first and second time, and referred to the Committee of Ways and Means.

ADMISSION OF OREGON.

Mr. STEPHENS, of Georgia. In answer to inquiries made of me, from all sides of the House, as well as from the country, in regard to the Oregon bill, I wish to announce to the House that the bill has been in my desk for some time, ready to be reported whenever the Committee on Territories shall be called. I wish to give notice that such is the fact; and that whenever the Territorial Committee is reached, that bill will be presented to the House with a request that it shall be acted upon. I trust that it will be reached by next Tuesday, and that the bill will be acted on by the House.

Mr. WASHBURNE, of Illinois. Does the gentleman propose to put the bill on its passage without discussion?

Mr. STEPHENS, of Georgia. No, sir; not at all. I propose to report it to the House; and the House can have as long a discussion upon it as it may require.

Mr. KELSEY. I would like to inquire whether that bill has been printed?

Mr. STEPHENS, of Georgia. With the permission of the House, I will now have an order made that the bill be printed.

Mr. CHAFFEE. I call for the regular order of business.

Mr. NICHOLS. I trust the gentleman from Massachusetts will allow the bill for the admission of Oregon to come before the House, and be printed. For one, I desire to read it, and I also desire early action on it.

There being no objection; the bill was ordered to be printed.

ADJOURNMENT OVER.

Mr. DAVIDSON. As to-morrow will be the anniversary of the battle of New Orleans, I move that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was not agreed to.

REPORTS FROM COMMITTEES.

The SPEAKER proceeded to call committees for reports of a private character, commencing with the Committee of Ways and Means.

Mr. JOHN COCHRANE. By the instruction of the Committee on Commerce, I report back a joint resolution of the Senate, changing the plan of the construction of the custom-house at Galveston. It is recommended by the Secretary of the Treasury, and it is important that it should be put upon its passage and become a law immediately. I report it back, with an amendment, and I ask unanimous consent to have it put upon its passage.

Mr. CHAFFEE. That is not a private bill.

Mr. JOHN COCHRANE. I hope the House will allow this to be done. There was no objection to it before the recess. The contractors are here waiting. The people of Texas are in suspense, and the Treasury Department requires the passage of the joint resolution. I hope that all objection will be removed by this statement, and that the House will pass the resolution with the amendment, and send it back to the Senate.

Mr. NICHOLS. I do not understand that to be a private bill at all; and I do understand that

this day is set apart for private business, and I must object on that account, and on that ground solely.

On motion of Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the memorial of the citizens of Missouri, asking for a grant of land for school purposes.

Mr. COBB. I was directed by the Committee on Public Lands, at the last session, to report back, with a recommendation that it do pass, Senate bill (No. 235) for the relief of Martin Layman; and I ask that the bill be put upon its passage.

The bill authorizes Martin Layman to enter the southwest quarter of section thirty-six, township twenty-nine north, range twenty-four west, in the Minneapolis land district, State of Minnesota, on payment of the usual minimum of \$1 25 per acre; and authorizes the superintendent of schools in the State of Minnesota to select an equal quantity of land for the use of the public schools.

Mr. COBB. This bill provides for permitting Martin Layman to enter a portion of the thirty-sixth section of a township in Hennepin county, in the State of Minnesota. The facts of the case are simply these: in 1852, Samuel and David Hanscom entered upon this land, which was then unsurveyed, and erected a dwelling house on it, costing \$150, with the intention of claiming the land by preemption. In 1853, they sold or quit-claimed their right to the land to Thomas Dumas, who entered and settled upon the land, residing there with his family, and expending during the year, in improvements upon it, \$350. In October of the same year, he sold or quit-claimed his right to the petitioner for the sum of \$1,000, who, with his family, have resided on the land since that time.

The act of 1857 provides that *bona fide* settlers upon the sixteenth and thirty-sixth sections of the public lands, should have their lands confirmed to them, if they had complied with the provisions of the preemption act of 1841, which provides that a person entering upon such unsurveyed lands shall have made certain improvements thereon.

Mr. MORGAN. I rise to a question of order. This is not a private bill. It provides that the State of Minnesota may enter lands. I presume the State of Minnesota does not come here as a private claimant.

The SPEAKER. The Chair thinks it is a private bill.

Mr. COBB. I was proceeding to say that if this petitioner had himself erected the house in which he has lived since 1854, he would have been entitled to enter the land at \$1 25 per acre; but he did not build the house, though he purchased the house, with the preemption title, at a cost of \$1,000. Mr. Layman has fenced and put under cultivation eighty acres, and made other improvements, valued at \$2,000. He has built a good farm-house; he is a man of good reputation; he is represented to be a poor man, having a family of twelve children, and asks that Congress will allow him to enter this land at the rate of \$1 25 per acre, as he would have been entitled to do under the act of 1857, if he had built the house upon the land when he purchased it.

I hope there will be no objection to this bill, and that it will be allowed to pass without being referred to a Committee of the Whole House. It can do no harm to anybody, and I hope the House will allow this old man to enter his land before he dies and leaves his wife with twelve children destitute of the means of subsistence.

Mr. SMITH, of Virginia. I desire to obtain some information in relation to this case. I understand it is one of a large number of cases which are continually arising, and I would suggest that a general law be passed covering all such claims.

Mr. COBB. There was a general law passed at the last session of Congress. The only difficulty in bringing this case under that law is, that the petitioner did not build the house himself.

Mr. CHAFFEE. I move that the bill be referred to a Committee of the Whole House on the Private Calendar, and be ordered to be printed.

The motion was agreed to—ayes 79, noes 51.
Mr. COBB. I have discharged my duty faithfully. I now move that the petition be printed, and that it may be considered as the report of the committee.

The petition was ordered to be printed.

Mr. MILLSON, from the Committee on Commerce, reported back with a recommendation that it do pass, an act (S. No. 400) to surrender the stock of the United States in the Dismal Swamp Canal Company, upon certain conditions, to said company; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, made adverse reports on the following; which were severally laid on the table:

The memorial of J. H. Langley and others, for a recognition of their rights as preëptors of lands on the late military reservation on Rock Island;

The petition of citizens of North Carolina, for an amendment of the bounty land laws;

The petition of the soldiers of the ninety-ninth regiment of the Virginia militia, for bounty land for services in the war of 1812;

A joint resolution relative to a grant of land in aid of a railroad from Hastings to the Red River of the North;

A joint resolution of the Legislature of the State of Georgia relative to the rules of evidence in applications for bounty land; and

The petition of John F. Davis, for bounty land.

Mr. MARSHALL, of Illinois, from the Committee of Claims, asked that the committee be discharged from the further consideration of the petition of F. B. Graham, of Washington, Indiana, for damages for wreck of a flat-boat by the United States frigate Alleghany, in the Mississippi river, and that the same be referred to the Court of Claims.

It was so ordered.

He also, from the same committee, made adverse reports on the following petitions; which were laid on the table, and ordered to be printed:

The petition of L. Hall, for reimbursement of money expended by him; and

The petition of Nathan Carver.

Mr. MOORE, from the same committee, made adverse reports in the following cases; which were severally laid on the table, and ordered to be printed:

The petition of Ira Carpenter; and

The petition of Joseph H. James, late surgeon in the sixth infantry.

Mr. CLARK, of New York, from the Committee on the Judiciary, made adverse reports in the following cases; which were severally laid on the table, and ordered to be printed:

The petition of William C. Reddall, in reference to the condemnation of his property for the Washington aqueduct; and

The petition of Mary L. Nourse.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported back, with amendments, an act (S. No. 327) to affirm certain entries of land in the State of Louisiana; which was referred to a Committee of the Whole House, and the bill, amendments, and report, ordered to be printed.

He also, from the same committee, made adverse reports in the following cases; which were laid on the table, and the reports ordered to be printed:

The petition of the heirs of Colonel John Ellis; The petition of Norbert F. Scopini, administrator of Jacques Grapp; and

The petition of Quincy A. Baker.

Mr. GREENWOOD, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, an act (S. No. 377) for the relief of Madison Swezer; which was referred to a Committee of the Whole House, and the bill and accompanying papers ordered to be printed.

Mr. COLFAX, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 181) for the relief of Anson Dart; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. STANTON, from the Committee on Military Affairs, reported bills of the following titles; which were severally read a first and second time, and referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill for the relief of John F. Sanford, administrator *de bonis non* of the estate of Robert Sanford, deceased;

A bill for the relief of Benjamin and Thomas Laurent; and

A bill for the relief of Charles Stillman.

He also, from the same committee, reported adversely on the following cases; which were laid upon the table, and the reports ordered to be printed:

The petition of Daniel Waldo; and

The petition of Charles Stillman.

He also, from the same committee, reported back Court of Claims report (No. 141) adverse to the claim of Abraham R. Woolley, with the recommendation that it be concurred in; which was agreed to.

Mr. BUFFINTON, from the same committee, reported bills of the following titles; which were severally read a first and second time, referred to a Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill for the relief of Julius Martin;

A bill for the relief of Annie E. Bronaugh; and

A bill for the relief of Antoine Robedoux.

On motion of Mr. BUFFINTON, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the following petitions, and that they be laid upon the table:

The petition of Jonathan Lay, of California;

The petition of James Monroe;

The petition of Frank Madison; and

The petition of David W. Wells.

On motion of Mr. WINSLOW, it was

Ordered, That the Committee on Naval Affairs be discharged from the further consideration of the memorial of R. Piermont, and others, praying for compensation for saving the United States ships *Raritan* and *Vandalia* from destruction by fire on the 11th of October, 1847, and that the same be laid upon the table.

Mr. SHERMAN, of Ohio, from the Committee on Naval Affairs, reported a bill for the relief of John Allen, of Harrington, Maine; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

On motion of Mr. SHERMAN, of Ohio, it was

Ordered, That the Committee on Naval Affairs be discharged from the further consideration of the following petitions, and that the same be laid upon the table:

The petition of John Casaday; and

The petition of William P. Bowhay.

Mr. HOPKINS, from the Committee on Foreign Affairs, reported a bill for the relief of the owners, officers, and crew of the brig General Armstrong; which was read a first and second time, and, with the accompanying report, ordered to be printed.

On motion of Mr. ZOLLICOFFER, it was

Ordered, That the Committee on Territories be discharged from the further consideration of the petition of Samuel A. Lowe, and that the same be laid upon the table.

Mr. HICKMAN, from the Committee on Revolutionary Pensions, reported back Senate bills of the following titles, with the recommendation that they do pass; which were referred to a Committee of the Whole House, and, with the accompanying papers, ordered to be printed:

An act (No. 298) for the relief of Catharine Jacobs, widow of Franklin Jacobs, a waiter in the military household of General Washington.

An act (No. 142) for the relief of Hannah Swoop, widow of John Swoop, deceased.

On motion of Mr. HICKMAN, it was

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petitions of Daniel Court, and W. D. V. Hurl, and that the same be laid on the table, and printed.

On motion of Mr. PARKER, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petitions of John Neill, Emma Delaney, and William Humphrey, and that the same be laid on the table.

On motion of Mr. BRAYTON, it was

Ordered, That the Committee on Patents and the Patent Office be discharged from the further consideration of the petitions of William A. Burt, Emmons Waters, and Horatio Hubbell, and that the same be laid on the table, and printed.

On motion of Mr. NIBLACK, it was

Ordered, That the Committee on Patents be discharged from the further consideration of the memorials of William R. Nevins and Richard Inley, and that the same be laid on the table, and printed.

Mr. SMITH, of Illinois. I am directed by the Committee on Mileage to ask to be discharged from the further consideration of the petition of F. T. D. Bettler, and that the same be referred to the Committee on Private Land Claims. The Committee on Mileage did not see that there was

any propriety in submitting the question to them; and as the petitioner is a constituent of my friend from Wisconsin, [Mr. WASHBURN], who is on that committee, we thought it but just to him to refer the case to his care.

It was so ordered.

FORTIFICATION BILL.

Mr. PHELPS, of Missouri, by unanimous consent, reported from the Committee of Ways and Means a bill making appropriations for the preservation and repairs of certain fortifications and other works of defense, for the year ending the 30th of June, 1860; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

GEORGIA AND ALABAMA CLAIMS.

Mr. CHAFFEE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. STEPHENS, of Georgia. I believe there is a special order before that committee for to-day. I know there are a number of bills upon the Private Calendar, which gentlemen wish to reach; and therefore I move to postpone the special order and other orders relating to it until next Friday. It was so ordered.

CHARLES D. ARFWEDSON.

Mr. SMITH, of Illinois. I ask the unanimous consent of the House to have leave to withdraw from the files of the Court of Claims the papers in the case of Charles D. Arfwedson, for reference to the Committee of Claims.

The SPEAKER. The Chair would suggest to the House that difficulty has already occurred with reference to orders of this sort. The Chair supposes that all that the House can do in a case of this description is, to request the Court of Claims to return the papers. The House has no jurisdiction over the Court of Claims.

Mr. SMITH, of Illinois. That is all we require, that the Court of Claims be requested to return the papers.

Mr. MARSHALL, of Illinois. I ask my colleague to state the object of his application.

Mr. SMITH, of Illinois. The Court of Claims decide that they have no jurisdiction in the case.

Mr. JONES, of Tennessee. Then the papers will be sent back with their decision.

The SPEAKER. Does the Chair understand that any objection is made to the order asked for by the gentleman from Illinois?

Mr. NICHOLS. My own opinion is, that when the jurisdiction of the Court of Claims attaches, on reference made to it, the request of the House or the order of the House are both improper. I believe the only proper way to get papers back into the House is to have a report from the Court of Claims on the subject referred to it. I am, therefore, constrained to object. I believe it is sound policy to pursue that course.

ADVISORY BOARD OF AGRICULTURE.

Mr. JONES, of Tennessee. I suppose there will be no objection this morning to the resolution which I proposed last evening; and I now ask unanimous consent to introduce it.

The resolution was reported, as follows:

Resolved, That the Secretary of the Interior be requested to report to this House by what authority, and under what law, if any, the advisory board of agriculture of the Patent Office has been assembled in this city; how the delegates, or members, were apportioned, and by whom appointed; the business, purposes, and objects of the board; the manner and mode of compensating the delegates; the name of and amount paid to each, and the fund or appropriation out of which the same is to be paid.

Mr. HUGHES. I desire to state that when I objected to this resolution yesterday, I did so because I supposed that the matter was not of sufficient importance to justify the House in passing the resolution, and because I knew that any member of the House who felt sufficiently interested in the matter to seek information might obtain it by his personal application at the office of the Secretary of the Interior. I supposed, also, that as the Committee on Agriculture had called for this same information, that committee would, if there was anything in the matter, present it to the House in some practical form. I believed that every gentleman who is a member of the House knew, or ought to know, that there had been an appropriation by law of \$60,000 to be

expended under the direction and discretion of the Secretary of the Interior, in collecting agricultural statistics; and I supposed that this agricultural board, of an advisory character, was quite as much authorized under that law as the expenditure of \$15,000 to send out a vessel to bring sugar-cane cuttings to this country for cultivation, a proceeding to which I have heard no objection.

But, sir, I find that there is quite a disposition upon the part of this House to look into this matter, and, perhaps, I was mistaken in estimating the importance of this inquiry. I, therefore, feel no disposition to persist in my objection, or to stand in the way of obtaining the information the resolution calls for.

I will say, however, that I am at a loss to perceive what practical action can be had upon the part of the House that will benefit the country to a greater degree than, or equally with, the agricultural congress itself.

Mr. STEPHENS, of Georgia. I have no objection to the passage of the resolution. I suppose that the expenses of the assemblage are to be paid out of the appropriation of \$60,000 authorizing the Secretary of the Interior to collect agricultural statistics. Heretofore, I believe, it has been done by means of circulars. I suppose the Secretary of the Interior has thought it best to invite gentlemen to come to Washington, as the cheapest and best means of obtaining the information. I was against that appropriation. I think it was wrong. And I am perfectly willing to have this information now, in order that the House may see the effect of their appropriation; but if there is error in the matter, I trust the House will take the responsibility, and not impose it upon the Secretary of the Interior, for carrying out the law you have passed.

Mr. JONES, of Tennessee. The object of this resolution is to obtain for this House and for the public the information therein called for—to know if there has been an agricultural congress or an advisory board of agriculture to the Patent Office assembled in this city, under the authority of one of the Departments of the Government—in order that Congress itself may take such action as they may think proper. If it is right and proper that the system shall be continued, let the Congress of the United States take the responsibility of providing how and when this congress shall be assembled, by whom the delegates shall be appointed, where the delegates shall come from, and what shall be their compensation. It is to get this information, that we may know what we are doing when we come to act upon another appropriation of sixty or one hundred thousand dollars, or any other amount, for this purpose, that I have offered the resolution. I call for the previous question.

The previous question was seconded; and the main question ordered to be put.

The resolution was then adopted.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SENATE BILLS REFERRED.

The following private bills from the Senate, on the Speaker's table, were severally taken up, read a first and second time, and referred as indicated below:

An act (No. 476) to authorize the President to make advances of money to Hiram Powers. Referred to the Committee on the Library.

An act (No. 229) for the relief of Jane Turnbull. Referred to the Committee on Invalid Pensions.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a resolution (No. 67) for the appointment of two regents of the Smithsonian Institution; and also a bill (No. 493) authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships; in which he was directed to ask the concurrence of the House.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

WITHDRAWAL OF PAPERS.

On motion of Mr. SMITH, of Virginia, by unanimous consent, it was

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of Martha Dammell, widow of Christopher Tompkins, for the purpose of reference to the Court of Claims.

PRIVATE CALENDAR.

Mr. CHAFFEE moved that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into a Committee of the Whole House, (Mr. COLFAX in the chair,) and resumed the consideration of the Private Calendar, where it was interrupted on the last objection day.

The bills were read over in their order on the Calendar; and such as were not objected to were, without debate, laid aside, to be reported to the House with the recommendation that they do pass.

JOHN SHAW.

A bill (H. R. No. 329) to authorize the Commissioner of Indian Affairs to adjudicate and settle certain claims against the Menomonee Indians.

Mr. UNDERWOOD objected.

GEORGE CHORPENNING, ET AL.

A bill (H. R. No. 330) for the relief of George Chorpenning and Elizabeth Woodward, deceased, and the children of said Elizabeth Woodward.

Mr. REAGAN objected.

DENT, VANTINE, AND COMPANY.

A bill (H. R. No. 331) for the relief of Messrs. Dent, Vantine, & Co., for provisions furnished to Indians in California, during the years 1851 and 1852.

Mr. REAGAN objected.

HIRAM PAULDING.

A bill (H. R. No. 337) for the relief of Hiram Paulding.

Mr. SMITH, of Virginia. I have examined that case. It involves a very important principle, and requires discussion. I therefore object.

JOHN M. BROOKE.

A bill (H. R. No. 338) for the relief of John M. Brooke.

Mr. JONES, of Tennessee, objected.

FRANCIS DAINESE.

A bill (H. R. No. 339) for the relief of Francis Dainese.

Mr. LETCHER objected.

MARY BLATTENBERGER.

A bill (H. R. No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger.

The bill directs the Secretary of the Interior to place the name of Mary Blattenberger, of Pennsylvania, on the pension roll, at the rate of four dollars per month for five years, commencing February 16, 1858.

It appears from the papers filed in the case that the petitioner is the widow of John Blattenberger, who was a private in the company of Captain William Downey, of the fifth regiment United States infantry, and who was killed by the Indians on the 29th day of March, 1820, whilst in the line of his duty as a private in said company and regiment; that her marriage to the said John Blattenberger is satisfactorily proven; and also the fact that she is now a widow.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

EDWIN M. CHAFFEE.

A bill (H. R. No. 348) for the relief of Edwin M. Chaffee.

Mr. WASHBURN, of Illinois, objected.

Mr. SMITH, of Virginia. I hope the gentleman will withdraw the objection.

Mr. JONES, of Tennessee. I understand that the petitioner has had a patent for his invention for twenty-one years; that it expired some time since, and the invention now belongs to the public. I object.

Mr. SMITH, of Virginia. Do I understand the gentleman from Illinois to insist upon his objection?

Mr. WASHBURNE, of Illinois. I made the objection, and do not propose to withdraw it.

R. L. B. CLARKE.

A bill (H. R. No. 351) for the relief of R. L. B. Clarke.

Mr. LETCHER objected.

ENOCH B. TALCOTT.

A bill (H. R. No. 352) for the payment of extra compensation to Enoch B. Talcott, for his services and expenses in recovering Government funds embezzled by Jacob Richardson.

Mr. LEITER objected.

SAMUEL MILLER.

A bill (H. R. No. 354) for the relief of the heirs of Captain Samuel Miller.

Mr. JONES, of Tennessee, objected.

WILLIAM EDMONSTON.

A bill (H. R. No. 355) for the relief of the heirs of William Edmonston.

Mr. JONES, of Tennessee, objected.

ABEL M. BUTLER.

A bill (H. R. No. 357) for the relief of Abel M. Butler.

The bill provides that the Secretary of the Interior be authorized and directed to issue to Abel M. Butler, a volunteer in the company of Captain Jesse Stone, and engaged in the battles at Fort Oswego, New York, in 1813 and 1814, a warrant or certificate for one hundred and sixty acres of land, which warrant may be located by him, his heirs or assigns, upon any of the public lands of the United States subject to private entry; and upon the return of such certificate or warrant, with evidence of the location having been legally made, to the General Land Office, a patent shall be issued therefor.

It appears from the report, which was read, that Abel M. Butler was a volunteer in the company of Captain Jesse Stone, under Colonel Parkhurst, in April, 1813, and marched with said company to the defense of Fort Oswego, then being attacked by the British; and again, on the 5th of May, 1814, he volunteered into the said company, and fought through the battle of Oswego, again attacked by the enemy. That in May, 1855, he presented his claim to the Commissioner of Pensions for bounty lands under the act of March 3, 1855, but his claim was denied for want of record evidence. It appears, also, that the service was performed with fidelity and bravery, and by the direct and positive testimony of two of his comrades, who were in these battles in the same company, and who have received land warrants for such service.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

HANNAH LITTEL.

A bill (H. R. No. 358) for the relief of Hannah Littell, and for other purposes.

The bill directs the Secretary of the Interior to issue to Hannah Littell, the mother and only heir-at-law of Martin Littell, late a private in the third regiment of United States infantry, who died while in the service, during the Florida war, a warrant or certificate for one hundred and sixty acres of land, which warrant may be located by her or her heirs or assigns upon any of the public lands of the United States subject to private entry; and upon the return of such certificate or warrant, with evidence of the location having been legally made, to the General Land Office, a patent shall issue therefor.

From the petition and evidence which accompanied it from the Second Auditor's Office, it appears that on the 17th of September, 1840, Martin Littell (having served a previous term) re-enlisted at Rochester, New York, for three years, and was attached to company K, third regiment United States infantry, and served therein as such in the Florida war until the 3d of February, 1843, when he died in the service, from drowning, near Cantonment Morgan, in Florida, while in the line of his duty. That he left no wife, child, or children, nor parents, him surviving, except the petitioner, who is his mother, and whose circumstances are very destitute.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

GEORGE P. MARSH.

An act (S. No. 1) for the relief of George P. Marsh.

Pending the reading of the bill and report in this case,

Mr. JONES, of Tennessee, moved that the committee rise; and called for a division upon the question.

Mr. FLORENCE. I apprehend that the object of the motion is to ascertain whether a quorum is present; I therefore call for tellers.

Tellers were ordered; and Messrs. TAYLOR of Louisiana, and BURFINTON were appointed.

The committee divided; and the tellers reported—ayes 9, noes 112.

So the committee refused to rise.

The Clerk then concluded the reading of the papers in the case of George P. Marsh.

Mr. LETCHER objected to the bill.

JOHN P. BROWN.

A bill (H. R. No. 360) for the relief of John P. Brown.

Mr. LETCHER objected.

MRS. MARY ANN HENRY.

A bill (H. R. No. 362) for the relief of Mrs. Mary Ann Henry.

Mr. OLIN objected.

Mr. FLORENCE. I hope the gentleman will withdraw his objection.

Mr. DEAN. If the gentleman from New York withdraws it, I will renew it.

HUGH GLENN.

A bill (H. R. No. 441) for the relief of the assignees of Hugh Glenn.

The bill directs the Secretary of the Treasury to pay to the legal assignees of Hugh Glenn, or their personal representatives, the sum of \$6,971 26, in full of a balance of a judgment certified by the United States district court for the district of Kentucky, at the December term, 1822, in favor of Mr. Glenn, in a suit where the United States was plaintiff and he was defendant; that sum having been assigned by him, the assignees filing with the Secretary good and sufficient evidence of the assignment and of present subsisting title thereto.

It appears from the report of the committee that on the 20th of January, 1817, Hugh Glenn, of Kentucky, contracted with the United States to furnish provisions at the military posts within the limits of several of the northwestern States, including the State of Indiana. His contract did not specify the quantity to be furnished at the several points, but bound him to furnish of the articles enumerated such quantities as "shall be required of him for the use of the United States, at all and every place or places where troops are or may be stationed within the limits" of the States mentioned, upon "thirty days' notice being given of the post or place where rations may be wanted," &c. It further bound him to furnish the supplies "upon the requisition of the commandant of the Army or post, in such quantities as shall not exceed what is sufficient for the troops where stationed," &c. It was also required that rations should, from time to time, be issued to such Indians as visited the various military posts, and in such quantities as were necessary. The facts involved in this claim were presented to Congress as early as 1826, when General Harrison, who is supposed to have been familiar with such transactions, made a favorable report from the Committee on Military Affairs in the Senate, accompanied by a bill for the relief of the party.

Again, in 1850, Mr. Thomas, from the Committee on Claims in the House of Representatives, made a report. They state that "the Secretary of War on the 8th of May, 1816, instructed the officer commanding at Fort Harrison, in the State of Indiana, that he was 'required to certify all abstracts of rations issued' to the Indians who 'usually resorted' to that fort. To enable him to fulfill this duty, the Indian agent there was also instructed 'to make daily reports' to the officer 'of the number of Indians present, and for whom rations were to be issued,' that the commandant might know what quantity of rations were necessary. Brevet Major John T. Chunn was the officer in command, and General Posey was the Indian agent. Upon the reports of the agent to Major Chunn, he certified to the Department of

War 'abstracts of rations' issued and furnished the Indians at Fort Harrison by Hugh Glenn to the amount of \$44,764 02.

"In the course of the execution of Glenn's contract, he was advanced the sum of \$133,346 14 for supplies furnished at the following forts, to wit: Belle Fontaine, Fort Osage, Fort Clarke, Fort Crawford, Fort Edwards, Fort Armstrong, Belle Point, and St. Louis. When his account was rendered at the Department for final settlement, he claimed that he had furnished provisions at the various forts to the value of \$142,884 74, including the \$44,764 02 for issues at Fort Harrison; for which amount Major Chunn had certified the abstracts. Upon an inspection of the account, it appeared to the Secretary of War that the amount certified for Fort Harrison was too large; that the number of Indians frequenting that post could not have been so large as to require so many rations. He accordingly suspended this item of the account, which left a balance standing on the books of the Department against Glenn of \$37,792 76. He ordered a court-martial to try Major Chunn for what was supposed to be fraud in certifying the abstracts, and ordered suit to be brought against Glenn for the \$37,792 76.

"The court-martial set at Terre Haute, near Fort Harrison, and, after a careful investigation of all the facts and the examination of a number of witnesses, honorably acquitted Major Chunn. The suit against Glenn was tried in the United States district court in Kentucky, and resulted in favor of Glenn upon the verdict of a jury and upon an investigation of all the facts. The jury say: 'We, of the jury, find that the defendant, Hugh Glenn, is entitled to a credit of \$44,764 02 for rations issued to the Indians at Fort Harrison, from June 1, 1817, to June 30, 1818; for which a credit has been claimed by him and suspended by the officers of the Government. We therefore find for the defendant. We also certify that the defendant set up no other claim, nor made any other question on the trial of this cause, except what relates to the above sum of \$44,764 02, and that our verdict is founded upon the evidence relating to that item only.'

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOSEPH C. G. KENNEDY.

A bill (H. R. No. 442) for the relief of Joseph C. G. Kennedy.

Mr. JONES, of Tennessee, objected.

WILLIAM F. WAGNER.

A bill (H. R. No. 443) for the relief of William F. Wagner.

The bill directs the Secretary of the Treasury to pay to William F. Wagner, late marshal of the United States for the district of Louisiana, \$533 35, in full payment of his costs in the case of "the United States vs. Schooner Renaissance and cargo;" and also \$666, in full payment of his costs in the case of "The United States vs. A Lot of Timber."

It appears from the report, that William F. Wagner was marshal of the United States for the eastern district of Louisiana, in 1847. Whilst holding that office, a suit was instituted in the district court of that district by the United States against a quantity of timber, alleged to have been illegally cut by trespassers on the lands of the United States, and an order for the sequestration of the timber was issued by the district court, commanding him to take the timber in question into his keeping.

In obedience to this order of the court, he went into the district of country in which the timber was situated and seized it. This seizure was made at a distance of one or two hundred miles from the city of New Orleans; and it became his duty, under the law in force, to provide for its safe-keeping, and to protect it from being carried off by those who had cut it. He therefore put a keeper in charge of the property, who continued in charge of it from June 16, 1847, to January 29, 1848, amounting to two hundred and twenty-eight days, for which he paid him at the rate of \$2 50 a day. This payment is shown by the receipt of the keeper; and the sum so paid, together with the fees due the marshal, amounted to the sum of \$666. The account presented was certified by the district judge to have been examined and approved. In the latter part of the year 1847, a

suit was brought by the United States against the schooner *Renaissance* and cargo. The schooner was seized by the marshal, under the authority of the court, and was condemned and sold. The costs and various expenses incurred in the course of the proceedings, for the sale, &c., amounted to \$533 35, which was paid out of the proceeds of the property sold; but, upon an appeal to the circuit court, the decree of the district court was reversed condemning the vessel and cargo, and the marshal was compelled to pay the amount he had received over to the claimants. These claims were presented to the Navy Department, but were not paid, as there were no funds under the control of that Department to pay. They were then referred to the Interior Department. There was some inclination there to regard them as payable out of the judiciary fund, and they were sent to the Comptroller's Office. The Comptroller did not think that they could be paid out of the judiciary fund; but would require for their payment the intervention of Congress.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOSEPH HARDY AND ALTON LONG.

A bill (H. R. No. 444) for the relief of Joseph Hardy and Alton Long.

The bill directs the Secretary of the Treasury to ascertain, as in the case of John P. B. and Henry Gratiot, what amount, if any, of rent, was exacted by the United States agents of lead mines from Joseph Hardy, for lead mined and smelted upon the lands of the Ottawa, Pottawatomie, Chippewa, Winnebago, or other tribes of Indians, prior to their purchase by the United States, and pay such amount as may be legally proved to have been actually paid by him to such agents of the United States, to Joseph Hardy and Alton Long, out of any moneys in the Treasury not otherwise appropriated.

It appears from the report that Joseph Hardy, one of the petitioners, previous to the year 1823, made an arrangement with the Winnebago, Ottawa, Pottawatomie, and Chippewa Indians, and obtained from them permission to work certain lead mines on the lands occupied by them, on the upper Mississippi, within the Territories of the United States, and to which their title had not then been extinguished. There is no direct proof of that arrangement, or of the time when it was entered into, but the fact of its having been made is sufficiently established by other evidence.

Some time after this arrangement was made, it seems that the agents of the United States saw fit to contest the right of Mr. Hardy to carry on the smelting of lead under this contract with the Indians, and insisted upon his paying rent to the United States for the use of the mines, and taking from them a lease of license to that effect. When this interference with the operations of Mr. Hardy first took place does not appear from anything in the papers submitted, but it was certainly prior to the year 1826, as rent was paid to the United States by Mr. Hardy in 1826; and there is a copy of a contract between him and Lieutenant M. Thomas, superintendent of the United States lead mines, dated June 7, 1827, giving to Mr. Hardy permission to purchase and smelt ore on those lands for the period of one year from that date, on his stipulating to pay a certain rent therefor. The Indian title to the lands on which the mines in question were situated was not extinguished until in 1829 and 1832, when the treaties of Prairie du Chien and of Rock Island were respectively made (7 Statutes at Large, 320 and 370) with the different tribes occupying them. From the time the agents of the United States first claimed rent for the working of these mines, it appears from a statement furnished by the Commissioner of the General Land Office with his letter of the 21st of February, 1850, that Mr. Hardy had delivered to the agents of the United States, up to the 2d of January, 1830—the day on which the treaty of Prairie du Chien went into effect—one hundred and seven thousand four hundred and ninety-two pounds of lead. And the question now presented is this: ought this rent to be returned, because improperly exacted?

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ENOCH B. TALCOTT.

A bill (H. R. No. 77) for the relief of Enoch B. Talcott.

The bill directs that there shall be paid to Enoch B. Talcott, out of any money in the Treasury not otherwise appropriated, \$452 97, the amount lost by him by the robbery of the custom-house at Oswego, New York, on the night of December 9, 1857, whilst he was collector of customs for that district.

It appears from the report that the money was kept in an iron safe provided by the Government, and that on the night of the robbery the safe was properly locked, and the doors of the custom-house fastened and secured by bolts and bars. The thieves succeeded in making an entrance into the room, and then, by means of gunpowder, as it is believed, blew open the lock of the iron safe, from which they abstracted the sum of money now proposed to be paid Mr. Talcott, he having at the time made good the amount to the Treasury.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

SAMUEL A. FAIRCHILD.

A bill (H. R. No. 445) for the relief of Samuel A. Fairchild.

The bill directs the Secretary of the Treasury to audit and settle the accounts of Samuel A. Fairchild, for expenses and services in arresting and bringing to trial certain persons charged with robbing the mails of the United States, and to pay him out of any money in the Treasury not otherwise appropriated, whatever sum may be shown by proper evidence he may have expended in arresting and securing the said parties and delivering them to the authorities of the United States; also to pay him a fair compensation for his services in the premises; provided that the whole amount paid him under the bill shall not exceed the sum of \$302 50.

It appears from the report that the claimant was the sheriff of Madison county, Texas, and receiving a warrant issued by a justice of the peace within the said county, directing him to arrest certain parties charged with robbing the United States mail, he did arrest and bring to trial the parties so charged. The trial resulted in the conviction and confinement in the penitentiary of one of the parties so arrested. Mr. Fairchild alleges and proves, that in executing the mandate of the justice he expended upwards of four hundred dollars. He also claims \$300 as a fair compensation for his services. The duty of arresting the parties accused devolved upon the petitioner on account of the absence of the United States marshal. He employed and paid guards to secure the prisoners, and was himself personally employed in the matter about three months.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

HALL NEILSON.

A joint resolution (H. R. No. 21) for the relief of Hall Neilson.

The bill provides that whereas by a contract or agreement entered into in August, 1841, between the Solicitor of the Treasury and Hall Neilson, by which the latter executed four several bonds of \$1,500 each, payable to the United States, with interest, for the purchase of a certain piece of land, the property of the United States, near Vincennes, Indiana; and whereas the title to said land soon after became the subject of litigation, by which it has been rendered unavailable to the purchaser to the present time, the Solicitor of the Treasury be directed to surrender said bonds to Hall Neilson, upon the payment of the principal thereof and any costs that may have been incurred thereon, without interest; provided payment be made within six months from the confirmation of the title of the United States to the land to Hall Neilson.

It appears from the report that, in 1828, William H. Neilson entered into a contract with Messrs. Bartolett, Harrison, and Buntin, trustees for the Secretary of the Treasury, for the purchase of a certain lot of land, with improvements, near Vincennes, Indiana, for which he agreed to pay \$6,000, in six yearly payments of \$1,000 each, commencing on January 1, 1830, the trustees stipulating to convey the property with a general warranty. Under this contract for a title it appears that the purchaser expended a large sum in improvements on the property. Although frequently applied to, the trustees delayed to execute the

deeds, in consequence of the failure of Mr. Juelah, the United States district attorney, who had received the deeds from the Bank of Vincennes to the United States, to place the same upon record. In the mean time the equitable title passed from W. H. Neilson to the present petitioner. Adverse claims had also sprung up against the title of the United States. Under such circumstances, as the petitioner alleges, he found it impracticable to rent or sell the property, and consequently the buildings and improvements went to decay, and were entirely lost. In 1841, the Solicitor of the Treasury called on Mr. Neilson for an adjustment of the matter; and it was finally arranged by Mr. Neilson giving his bond, with security, for the payment to the United States of the original sum of \$6,000, with interest from November 15, 1838, payable in four instalments, on the 1st of August, in the years 1843, 1844, 1845, and 1846, in consideration of which he received a deed, with special instead of general warranty from the United States.

In 1844, a suit was commenced by Wilson Logan against Hall Neilson to recover this property, and the Government consented to suspend the collection of Mr. Neilson's bonds until the result of this suit should be ascertained. The courts of Indiana decided adversely to the title of Mr. Neilson, as the assignee of the United States. From this decision an appeal was taken to the Supreme Court of the United States, in which the decision of Indiana was reversed, and the title of Mr. Neilson from the United States was sustained, and the case remanded to the courts of Indiana for proceedings accordingly. It is understood that this decision of the Supreme Court has been acquiesced in by the supreme court of Indiana, and that the case will be finally disposed of in the Knox county court, where the proceedings originated, in March next, thus finally settling the question of title in favor of Mr. Neilson. Under these circumstances, the Solicitor of the Treasury now demands payment of the bonds given by Mr. Neilson, with the interest, agreeably to their tenor. Mr. Neilson expresses his willingness to pay the amount of the original purchase money, notwithstanding the heavy losses which he alleges that he has sustained by the decay and the destruction of the improvements on the property, and his inability to sell, use, or lease it, by reason of the litigation of the title, but he asks to be relieved from the payment of the interest.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ELIAS HALL.

An act (S. No. 63) for the relief of Elias Hall, of Rutland, Vermont.

The bill directs the Secretary of War to cause to be paid, out of any money in the Treasury not otherwise appropriated, to Elias Hall, of Rutland, Vermont, the sum of \$516 52, in full for the balance due him for his services as superintendent of repairs of small arms, and for subsistence, expenses, and losses while engaged in the service of the United States, during the last war with Great Britain, with interest thereon from the 29th of April, 1854, when the account was properly presented for payment.

Mr. LETCHER. I object.

Mr. WALTON. I hope the gentleman from Virginia will withdraw his objection, and hear the report.

Mr. LETCHER. I will not permit any claim to go through here which provides for the payment of interest.

Mr. WALTON. Well, strike out the interest.

Mr. LETCHER. Let the report be read.

The report was read; from which it appears that the memorialist was a gunsmith, and in 1812 was doing a large and profitable business in Middlebury, Vermont. In October of that year, a portion of the American Army being stationed at Plattsburg, New York, Lieutenant Colonel Brearly was sent into Vermont to procure a quantity of pikes for the use of his regiment. After several unsuccessful efforts, he applied to Mr. Hall, who entered with great energy and patriotism into the service of supplying the Army with the desired weapons. So highly pleased was Colonel Brearly with the skill and energy of character manifested by the memorialist, that he prevailed upon him to repair to headquarters, "that the Army might

avail itself of the services of an armorer and artificer so completely qualified, in all respects, to execute every branch." And Colonel Bready says he was satisfied, from personal knowledge and observation, that Mr. Hall's motives for entering the service were evidently more from a spirit of patriotism than any prospect of emolument. On their arrival at headquarters, he was introduced to General Dearborn "as just the man the public service required" to superintend the repair of small-arms. At a subsequent interview, General Dearborn proposed to him to engage in the service in that capacity, which he agreed to do, at a compensation of fifty dollars per month and rations, for "during the war." He was paid for his services, at the rate stated, from that time until the 22d of July, 1814. From this time until the close of the service, in consequence of some informalities, he failed to receive his pay. General Dearborn had left that place, and seems to have failed to officially report the arrangement with Mr. Hall, although General Bomford certifies that General Dearborn informed him of the fact, and promised to furnish the Department with a certificate to that effect, which he seems to have failed to do.

The claim has been several times presented to the Department, and although it seems to have always been regarded as just, they have not deemed themselves authorized by law to pay it. General Talcott, in a letter dated June, 1853, after stating that no record of the contract can be found, says: "But desirous that meritorious service should not be overlooked nor neglected, I would recommend that you make out regular accounts, &c., and to make affidavit to its correctness." The account was accordingly stated and submitted to the ordinance department, and General Talcott, the head of that department, says in regard to it: "I consider (it) an equitable claim upon the Government, but so much time has elapsed since it originated, and almost every one who could supply the information necessary to corroborate or sustain the claim having deceased, it has not been possible for him to present it in such a shape as to obtain payment." The amount due for pay and subsistence is \$421 52; and if interest were allowed, by way of damages for its detention, the amount would be \$1,507 20. Mr. Hall also presents a claim for sundry expenses incurred by him in the public service, which he specifies and verifies by oath, amounting to \$40 50, and for a horse lost in consequence of urgent and extraordinary service performed immediately preceding the battle of Plattsburg, and in the preparation for that action, ninety-five dollars, making \$135 50. The loss and value of the horse are sustained by other evidence.

Mr. LETCHER. Now, with this understanding that no proposition shall be made in the House to restore the interest, I will withdraw my objection. Otherwise I shall renew it.

Mr. WALTON. Very well. I move to amend the bill by striking out the portion of it authorizing the payment of interest.

The amendment was agreed to; and the bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

SHADE CALLOWAY.

A bill (H. R. No. 386) for the relief of Shade Calloway.

The bill directs the proper accounting officer to allow and pay out of the Treasury, to Shade Calloway, the sum of \$1,350, for work done by him on the Tennessee river, under his contract with Brevet Lieutenant Colonel J. McClelland, dated the 16th of September, 1853, according to the account approved and certified by the agent placed in charge of the work at the death of the officer.

The report was read. It appears therefrom that on the 16th September, 1853, the petitioner made a contract with Brevet Lieutenant Colonel J. McClelland, topographical engineers, then in charge of the improvement of the Tennessee river, for the construction of a dam at the head of Ross's Island, to be two feet high, and two hundred yards long, for which he was to be paid the sum of \$1,500. The dam was to be completed by the 30th November, 1853, "if the high water does not prevent." The contractor commenced work on the dam, but the high water prevented its completion during the fall of 1853. In the following summer, as soon as the condition of the river

would permit, he resumed the work, and constructed one hundred and eighty yards of the dam, in strict compliance with the terms of the contract. At this stage of the work, in August, 1854, Colonel McClelland ordered it to be suspended, for the reason that the appropriation made by Congress was not sufficient to complete it.

Colonel McClelland died on the 1st September, 1854, without having reported to the Department the condition of the work done under said contract; the Secretary of War appointed R. W. W. Byrd, who had been an assistant under Colonel McClelland, to take charge of and close "the accounts and affairs connected with the improvement of the Tennessee river." This officer duly approves and certifies the petitioner's account for \$1,350, which is the proportional amount due for the work done in pursuance of the contract. The affidavits of Samuel C. Davis, James Lewelling, John Long, and John Finley, fully prove the faithful execution of the work according to the terms of the contract; and the official certificate of Mr. Byrd, and the testimony of J. E. S. Blackwell, one of the commissioners of the United States appointed for this work, establishes the fact that no payment was made to Calloway, or to any person for him. But this latter fact also sufficiently appears in the accounts of the work; for it is not claimed that any payment was made. The committee also append the letter of the Third Auditor of the Treasury, dated 19th November, 1855, in which all the material facts of the case are admitted, but in which the certificate of the agent of the United States, R. W. W. Byrd, is discredited, because not sworn to, and for the reason that Colonel McClelland's reports to the Department do not give information of this particular part of the work under his charge. This omission, however, is fully accounted for by the sudden death of that officer, which took place very soon after he had ordered the work to be suspended. But the objections of the Auditor are based chiefly upon the absence of proof; and it is due to him to state that the affidavits hereunto appended were not before him, as their dates will show. It is apparent, from the Auditor's letter, that the condition of the appropriation fully justified the contract at the time the latter was made, and during the progress of the work.

Mr. JONES, of Tennessee. I am willing that this bill, and any other bills on the Calendar, shall be reported to the House under the proposition that I made several times at the last session of Congress; that is, that they will let us have the yeas and nays on the passage of the bills in the House. With that understanding, I will interpose no obstacle to the reporting of any bill.

Mr. LEITER. I think the proposition of the gentleman from Tennessee a good one. A single objection here is sufficient to defeat the bills reported by gentlemen. When they get home to their constituents, they are met with the declaration that they had no influence, or power, in the House, because they could not even get a vote upon a bill. Now, for one, I am willing that these bills shall come up in the House in the order that they stand on the Calendar, and have the vote taken upon them by yeas and nays. I think the proposition should be assented to.

Mr. JONES, of Tennessee. I am willing to have the Committee of the Whole House discharged from the further consideration of every bill on the Calendar, to have them read in the House with the reports, and then to have them put upon their passage, and the yeas and nays taken on them.

Mr. LETCHER. I object to anything of the sort.

Mr. JONES, of Tennessee. Nobody pays attention to the reading of the reports here.

Mr. SMITH, of Virginia. I object to the proposition of the gentleman from Tennessee; because, under it, the bills would have no examination at all.

Mr. CLAY. I rise to a point of order. I would inquire whether this debate is in order?

The CHAIRMAN. It can only be indulged in by unanimous consent.

Mr. SMITH, of Virginia. I object to the proposition of the gentleman from Tennessee.

Mr. CLAY. I object to debate, and move that the committee do now rise; and I call for tellers.

Tellers were ordered; and Messrs. CLAY and NICHOLS were appointed.

The committee divided; and the tellers reported—ayes 38, noes 84.

So the committee refused to rise.

There being no objection, the bill for the relief of Shade Calloway was laid aside, to be reported to the House with a recommendation that it do pass.

JANE SMITH.

An act (S. No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama.

The Committee on Public Lands recommend its passage with the following proviso:

Provided, however, That this act shall only operate as a relinquishment of title on the part of the United States to said land.

Mr. HOUSTON. I do not know who reported that bill, but I should like to know what authority the United States have over the land intended to be entered by this bill.

The CHAIRMAN. The gentleman's colleague [Mr. CONN] reported the bill.

Mr. HOUSTON. It seems to me that we are authorizing the entry of certain lands which the bill itself shows we have got no title to, it belonging to another individual.

The SPEAKER. Does the gentleman from Alabama object to the bill?

Mr. HOUSTON. My colleague not being here, I do not like to object to it.

Mr. NICHOLS. I objected to this same bill last session, but I found that my objection was unfounded. I think it ought to pass.

Mr. LAWRENCE. I object.

NEHEMIAH STOKELY.

A bill (H. R. No. 447) for the relief of the heirs of Nehemiah Stokely, a revolutionary officer.

Mr. MILLSON. I have looked into that question, and I object to the bill.

THOMAS WILLIAMS.

A bill (H. R. No. 448) for the relief of the legal representatives of Lieutenant Thomas Williams, a revolutionary officer.

Mr. JONES, of Tennessee, objected.

Mr. DEWART. I move that the committee rise; and I call for tellers.

Tellers were ordered; and Messrs. COX and CHAFFEE were appointed.

The committee divided; and the tellers reported—ayes 65, noes 71.

So the committee refused to rise.

NATHANIEL HEARD.

A bill (H. R. No. 49) for the relief of the heirs of Nathaniel Heard.

Mr. CRAIGE, of North Carolina, objected.

Mr. WINSLOW. I move that the committee do now rise; and I call for tellers.

Tellers were ordered; and Messrs. CRAIGE, of North Carolina, and SPINNER, were appointed.

The committee divided; and the tellers reported—ayes eighty-five, noes not counted.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, Mr. COLFAX reported that the Committee of the Whole House had had the Private Calendar under consideration, and had instructed him to report bills of the House, Nos. 343, 357, 358, 441, 443, 444, 77, 445, and 386, without amendment, and with a recommendation that they do pass; and also Senate bill No. 68, with an amendment, and with a recommendation that it do pass.

Mr. DAVIS, of Mississippi. I move to add to that list House bills Nos. 589 and 644.

The SPEAKER. The motion of the gentleman is not in order.

BILLS PASSED.

The titles of the bills were then read over; and the following, upon which a separate vote was not asked, were *en masse* ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed:

A bill (H. R. No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger;

A bill (H. R. No. 357) for the relief of Abel M. Butler;

A bill (H. R. No. 358) for the relief of Hannah Littell, and for other purposes;

A bill (H. R. No. 441) for the relief of the assignees of Hugh Glenn;

A bill (H. R. No. 443) for the relief of William F. Wagner;

A bill (H. R. No. 77) for the relief of Enoch B. Talcott; and

A bill (H. R. No. 445) for the relief of Samuel A. Fairchilds.

ELIAS HALL.

Senate bill (No. 68) for the relief of Elias Hall, of Vermont, reported with an amendment, was then taken up.

The amendment to strike out the clause allowing interest was agreed to.

The bill, as amended, was then ordered to a third reading, and was accordingly read the third time and passed.

PRIVATE BILLS TO-MORROW.

Mr. KELSEY asked the unanimous consent of the House to offer the following resolution:

Resolved, That, on to-morrow, the Committee of the Whole House shall take up the Private Calendar as on objection day; and when a bill is objected to, the member making objection shall be allowed five minutes' time to state his objections; and five minutes' time shall be allowed to answer such objections, or explain the bill, and then the question, on reporting the bill to the House, shall be taken without further debate.

Mr. CURRY objected.

SHADE B. CALLOWAY.

The bill of the House (No. 386) for the relief of Shade B. Calloway, was next taken up, and ordered to be engrossed, and read a third time.

Mr. MAYNARD demanded the previous question upon its passage.

The previous question was seconded; and the main question ordered to be put.

Mr. JONES, of Tennessee, called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 54; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Barksdale, Bennett, Bingham, Blair, Branch, Brayton, Case, Cavanaugh, Chaffee, Ezra Clark, Clawson, Clay, Colfax, Comins, Corning, Covode, Cox, James Craig, Curtis, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dimmick, Dodd, Durfee, Eustis, Farnsworth, Fenton, Florence, Foster, Gilmer, Goodwin, Granger, Robert B. Hall, Harris, Hatch, Hawkins, Hopkins, Howard, Kelm, Kellogg, Kelsey, Kilgore, Landy, Leiter, Lovejoy, McRae, Mason, Matteson, Maynard, Morrill, Freeman H. Morse, Mott, Nichols, Palmer, Parker, Peyton, William W. Phelps, Purviance, Ready, Reilly, Ricard, Robbins, Royce, Spinner, Stanton, Stevenson, Tompkins, Underwood, Wade, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Watkins, and Wortendyke—81.

NAYS—Messrs. Bishop, Buffinton, Burns, John B. Clark, Cobb, Burton Craig, Curry, Davis of Indiana, Dowdell, Faulkner, Foley, Garnett, Giddings, Gregg, Harlan, Hoard, Houston, Huyler, Jackson, George W. Jones, Owen Jones, Knapp, Lawrence, Leach, Leidy, Letcher, McQueen, Miles, Milson, Morgan, Murray, Niblack, Olin, Pendleton, Pettit, John S. Phelps, Phillips, Pike, Potter, Pottle, Reagan, Ritchie, Sandidge, Seales, Henry M. Shaw, John Sherman, Miles Taylor, Thayer, Vallandigham, Vance, Waldron, Whiteley, Winslow, and John V. Wright—54.

So the bill was passed.

During the call of the roll, Mr. BRANCH stated that Mr. RUFFIN had been obliged to leave the Hall on account of indisposition.

Mr. MAYNARD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOSEPH HARDY AND ALTON LONG.

A bill (H. R. No. 444) for the relief of Joseph Hardy and Alton Long, reported from the Committee of the Whole House with a recommendation that it do pass, next came up.

Mr. PHELPS, of Missouri. It will be recollected that a bill for the relief of these parties, which came from the Senate last session, was referred to a Committee of the Whole House, and that I entered a motion to reconsider the vote by which it was so referred, in behalf of my colleague, [Mr. CARUTHERS,] who was then absent in consequence of indisposition. I have compared that bill with the one now before us, with one of the officers of this House, and I find that the two bills are precisely the same. I therefore ask that by unanimous consent, the Senate bill may be taken up and passed, instead of the House bill which is now before us.

No objection being made, the bill from the Senate for the relief of Joseph Hardy and Alton Long was taken up and ordered to a third read-

ing, and was accordingly read the third time and passed.

Mr. PHELPS, of Missouri. I now move that the House bill be laid on the table.

The motion was agreed to.

Mr. PHILLIPS. I move that the House do now adjourn.

MARTIN LAYMAN.

Mr. COBB. I desire to move to reconsider the vote by which the bill for the relief of Martin Layman was referred to a Committee of the Whole House.

The SPEAKER. The motion will be entered.

Mr. STANTON. I move to lay the motion to reconsider on the table. I do not want such a precedent set on private bill day.

Mr. COBB. Can the gentleman take the floor from me for that purpose?

The SPEAKER. The Chair supposes the floor cannot be taken from the gentleman from Alabama. There is a motion to adjourn pending; but the gentleman from Alabama under the practice and courtesy of the House, was, perhaps, entitled to make the motion to reconsider, even pending that motion. The gentleman from Pennsylvania moves that the House do now adjourn.

Mr. COBB. I shall take occasion to make a speech hereafter. I did not propose to do it now.

ADJOURNMENT OVER.

Mr. McQUEEN. I move that when the House adjourns, it adjourn to meet on Monday next. I simply want to state that to-morrow is the 8th of January.

Mr. MORGAN. We have not been in session on legislative business but seventeen days during this session. I object to the motion, and call for the yeas and nays upon it.

Mr. FAULKNER. I ask the unanimous consent of the House to introduce a resolution calling for information.

The SPEAKER. There are two privileged motions already pending.

Mr. PHELPS, of Missouri. Is it in order to say a word or two in relation to the motion to adjourn over?

The SPEAKER. The motion is not debatable.

Mr. FLORENCE called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to adjourn over was not agreed to.

The question recurred on the motion to adjourn.

Mr. FAULKNER. I ask the gentleman from Pennsylvania, who made the motion to adjourn, to allow me to offer a resolution calling for information.

Mr. MORGAN objected.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, in relation to a joint resolution for carrying the United States mails from St. Joseph, Missouri, to Placerville, California, which was presented to him for his approval on the last day of the last session of Congress; which was laid upon the table, and ordered to be printed.

Also, a communication from the Secretary of the Treasury, transmitting a statement of salaries, and compensation of the employes on the coast survey, and a list of the names thereof, for the year ending the 30th of June, 1858; which was laid upon the table, and ordered to be printed.

The motion of Mr. PHILLIPS was then agreed to; and the House (at four o'clock and fifteen minutes, p. m.) adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 8, 1859.

The House met at twelve o'clock, m. Prayer by Rev. J. MORSELL.

The Journal of yesterday was read and approved.

CARMICK AND RAMSEY.

The SPEAKER, by unanimous consent, laid before the House, a communication from the President of the United States, submitting the reports from the Secretary of the Treasury and Postmaster General, with accompanying papers, in compliance with a resolution of the House, adopted on the 23d of December 1858, requesting the President of the United States to report

what action, if any, has been taken under the sixth section of the Post Office appropriation act approved August 18, 1856, for the adjustment of damages due Carmick & Ramsey, and if the said section of law yet remains unexecuted, that the President report the reasons therefor.

Mr. NICHOLS. At the request of the gentleman from Wisconsin, [Mr. BILLINGHURST,] who is confined to his room by indisposition, I rise to make a motion in reference to this message which is out of the usual course. It has been usual, I believe, to lay these messages upon the table, and order them to be printed. But there is a peculiarity in this case which arrested my attention when the gentleman from Wisconsin brought it to my consideration, and I think it ought to take another direction. The sixth section of the act provides that—

“The First Comptroller of the Treasury be, and he is hereby, required to adjust the damages of Edward H. Carmick and Albert C. Ramsey on account of the abrogation, by the Postmaster General, of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated the 15th of February, 1853, and adjudge and award to them, according to the principles of law, equity, and justice, the amount so found due; and the Secretary of the Treasury is hereby required to pay the same to said Carmick & Ramsey out of any money in the Treasury not otherwise appropriated.”

That is the section of law passed in 1856; and, as I understand, application was made to the accounting officers of the Treasury to carry it out. By the interference, however, of the heads of other Departments, that object has been counteracted.

Mr. HOUSTON. I cannot hear the gentleman from Ohio, and would be glad to know what he proposes to do with the communication from the President of the United States, which has been laid before us.

Mr. NICHOLS. That is what I propose to indicate in a moment. I was remarking that this section of the law, for law it is, has been defeated in the Executive Departments of the Government. I know nothing about the original merits of the claim. I do not know the parties. This I do know, however, that by the papers presented it is shown the executive officers have refused to execute the law in this case. And, Mr. Speaker, I think that the reasons given for that refusal are utterly indefensible. Such is my opinion; and inasmuch as the gentleman from Alabama, [Mr. HOUSTON,] the chairman of the Judiciary Committee, manifests a disposition to hear, in reference to this question, I will call his attention to a report made from that committee by the gentleman from Wisconsin, [Mr. BILLINGHURST.]

At the last session of Congress, on the reference of a petition of the parties interested to that committee, they reported (Report No. 151) that a contract was entered into February 15th, 1853, with Carmick & Ramsey, to carry the mails upon the Vera Cruz, Acapulco, and San Francisco route; that that contract was abrogated by the Postmaster General; that damages are due Carmick & Ramsey on account of said abrogation; and they also reported that the First Comptroller of the Treasury be, and is hereby, required to adjust said damages, and to adjudge and award to Carmick & Ramsey, according to principles of law, equity, and justice, the amount he shall so find due. They further report that, in accordance with the finding of the committee at its last session, in strict accordance with it, Congress had previously passed a law embodying all these provisions covering the findings of the committee at the last session, and that it is the duty of the accounting officers of the Treasury to go on and execute that law. They have not done that; and I apprehend from the papers I hold in my hand—which may turn out to be copies of those transmitted this morning, but of that I am not certain—that no satisfactory reason is presented by the accounting officers for refusing to execute the law of Congress.

Allow me to remark, sir, that I know nothing of this claim, and I care nothing about it; but on the points presented to me by the gentleman from Wisconsin, I regard the action of the accounting officers of the Treasury, and the other functionaries identified with this transaction, as a high usurpation of power, and that it becomes the dignity of this body and of Congress to resent it in the most efficient and proper manner. I should have been willing to have allowed this communication go to the table; and I refer it to the gentle-

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man from Alabama, the chairman of the Judiciary Committee, and I refer it to this House as a proper point for investigation, to know whether clerks in the Departments of the Government; whether Cabinet officers; whether any party behind the law-making power has the right to make laws for themselves, and refuse to carry out the judgment of Congress and execute the laws passed by the proper law-making powers of the Government?

Having this view of the case, and without saying anything further on it, regarding it as I do as a proper case for investigation by the Judiciary Committee, to know whether any further legislation is necessary to carry out the edicts of Congress; or whether, if none be necessary, any action ought to be taken to vindicate the dignity of Congress against those of the Executive Departments that seek to affect it; I move the reference of the message and accompanying papers to the Committee on the Judiciary.

Mr. FAULKNER. With the gentleman's permission, I would like to know what recommendation the President has made.

Mr. JONES, of Tennessee. Read the message.

The SPEAKER. The President states simply that he transmits the papers from the Treasury Department.

Mr. PHELPS, of Missouri. Let the Secretary's report be read.

The Clerk read as follows:

TREASURY DEPARTMENT, January 6, 1859.

SIR: I have the honor to transmit herewith a copy of the decision of the First Comptroller of the Treasury upon the claim of Messrs. Carmick & Ramsey, together with copies of the papers on file in his office, in relation to said claim.

HOWELL COBB,
Secretary of the Treasury.

To the PRESIDENT.

Mr. JONES, of Tennessee. Now read the Comptroller's letter.

The Clerk read as follows:

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, January 6, 1859.

SIR: The resolution of the House of Representatives, adopted on the 23d ultimo, requesting the President to report "what action, if any, has been taken under the sixth section of the Post Office appropriation act, approved August 18, 1856, for the adjustment of damages due Carmick & Ramsey, and if the said section of said law yet remains unexecuted, that the President report the reasons therefor," was referred by you to this office on the 3d instant.

I have now the honor to transmit, herewith, a copy of my decision in said case, and also copies of the papers and communications on file in this office relative to the claim in question.

Very respectfully, your obedient servant.

W. MEDILL.

Hon. HOWELL COBB, Secretary of the Treasury.

Mr. NICHOLS. I simply desire, I will state to the House, a reference of the whole subject to the Committee on the Judiciary, instead of having it laid upon the table and ordered to be printed. I call for the previous question.

Mr. HOUSTON. I do not understand the criticism the gentleman from Ohio has seen fit to pass upon the action of the Department, or the proper accounting officer of the Treasury whose duty it was to make a decision in this case. If his only object is to have a reference—

Mr. WASHBURN, of Illinois. Has not the previous question been called?

Mr. HOUSTON. Certainly not; for I was in possession of the floor.

The SPEAKER. Such is the fact. The gentleman from Ohio had surrendered the floor when it was taken by the gentleman from Alabama, and before the call for the previous question.

Mr. HOUSTON. If the gentleman's object had alone been to refer these papers to any committee of the House, that could have been accomplished on his mere motion; but he has seen fit to go into a presentation of the question under a state of facts which, he alleges, controls it, and I feel it due to say a few words by way of explanation and reply. I have not seen the decision of the Comptroller of the Treasury. If that officer has made a decision, that is all that Congress, under any state of facts or circumstances, can ask. The contest in this case, in its early stage, was one between the then First Comptroller of the Treasury and the Attorney

General, who gave an opinion at the instance of the Postmaster General. The opinion of the Attorney General was given on a claim presented against the Government, growing out of what Carmack & Ramsey hold to have been a violation of their contract with the Post Office Department. The Postmaster General, in the course of that investigation, saw fit to ask the Attorney General for his opinion on the law as involved in the contract and in the subsequent legislation. That opinion of the Attorney General was given, and the Comptroller declined to receive it, or in any way be controlled by it, upon the ground that, under the law, he alone had a right to construe and execute its provisions. He took the ground that the law having constituted him the party to decide the questions submitted, he had a right to do so irrespective of any other officer of the Government. I remember that this matter was submitted to the Committee on the Judiciary at the last session; and while I may have agreed in some of the conclusions of that committee, there were some of them from which I dissented. But the action of that committee was simply an expression of opinion. There was nothing proposed for Congress to do. Congress was not asked to pass a bill.

Mr. NICHOLS. I wish to call the gentleman's attention to the language of the report, made by his own committee, at the last session of this House:

"For the purposes of this law, the accounting officer is an officer of Congress, and, *pro tanto*, independent of all Executive interference. In one point of view only can the President's power be invoked. It is his duty to see that the laws are faithfully executed. If the First Comptroller has refused, or shall refuse, to carry out this law, the President, knowing it, should cause him to be removed, and a person appointed who would obey the law. Congress has taken its share of the responsibility in declaring that a contract existed, was abrogated, and that damages are due. Whether it has wisely or unwisely met and discharged that responsibility is not a question that can be reviewed now by the First Comptroller, the Secretary of the Treasury, the Postmaster General, or the President. That is a closed question. The President has approved the law."

Now, I wish to say, before the gentleman concludes his remarks, that if he will refer to the arguments in this case, he will see that the precise position taken by his committee at the last session is sustained by Attorney General Wirt, Legare, Butler, Johnson, and other most eminent jurists; by Mr. Spencer, Secretary of War, and other gentlemen occupying positions as heads of Executive Departments; who have all contended that when Congress devolves a duty of this kind on an accounting officer, it must be discharged by him independently of all influences from any power whatever. It is the will of Congress, and must be carried out.

Mr. HOUSTON. The last speech of the gentleman from Ohio was wholly unnecessary, for in the beginning of my remarks I stated that that was the point at issue in the beginning of this controversy; that the question was whether the jurisdiction of the First Comptroller of the Treasury was or was not, complete. The First Comptroller holds, as the gentleman from Ohio holds, that he had the exclusive power to determine the question, and that he was not under the control of any other department of the Government in the discharge of that duty. The Postmaster General, however, differing from him, called for the opinion of the Attorney General, and the Attorney General decided what he regarded as the law of the case. That brought up the issue between the First Comptroller and the Attorney General.

Mr. NICHOLS. Will the gentlemen allow me another question right there?

Mr. HOUSTON. Well, sir.

Mr. NICHOLS. I wish to ask the gentleman whether the Attorney General did not base his objection to the settlement of this claim by the First Comptroller of the Treasury, on the precise ground which Congress had concluded him from taking, by finding the facts against him?

Mr. HOUSTON. I cannot now undertake to state all the points that were presented in the opinion of the Attorney General. I have not recently

seen it. He did not feel himself concluded by the phraseology of the act. He did not agree in the hypothesis which the gentleman from Ohio now advocates, that because Congress seemed to have assumed in its legislation that the contract had been abrogated by the Postmaster General, they had therefore necessarily determined the facts of the case, and had adjudged that the contract had been abrogated. The opinion of the Attorney General went behind that; but the First Comptroller said he was not to be controlled in any way by that opinion. That was the condition of the matter at the last session of Congress, and before.

Mr. NICHOLS. I have no disposition to prolong this discussion to any greater length. I understand the gentleman from Alabama, the chairman of the Judiciary Committee, to say now that the Attorney General decided that the contract of these parties had never been violated. Now, I ask the gentleman from Alabama, as a lawyer, as a distinguished lawyer, as the head of the Judiciary Committee, to answer me this question: after the law is made, after the facts are found in the law, and after the instructions are given to carry out that law, by what authority or right does the Attorney General presume to decide that the facts are not as found by the law? I also want the chairman of the Judiciary Committee to answer me this question: when his committee of nine members of this House has deliberately reported, in the second clause of their finding, that the contract was abrogated, by what right a single opinion of the Attorney General is now quoted as authority against that committee? All I want is the reference and examination of this matter.

Mr. HOUSTON. The gentleman wholly mistakes my position and the point I make. In what I said in my reference to the opinion of the Attorney General, I was simply presenting to this House the issue heretofore in this controversy, and I intended to show the issue that is now presented.

When interrupted by the gentleman from Ohio, I was referring to the action of the Judiciary Committee of the last session. I do not understand that that action has anything to do with the question now before the House. It seems that the committee were called on for an expression of their opinion; and in accordance with that call, they expressed an opinion. They were not called on to report a bill. They did not ask the House to pass a bill. The committee simply gave an opinion by its majority, as a mere opinion; and therefore the comments of the gentlemen upon the action of the committee have no application to the present question; for it seems the Comptroller has rendered his judgment and executed the laws as he understands his duty under it.

Mr. NICHOLS. I wish to ask the gentleman another question. I understand him to say that the report of the committee was merely the expression of the opinion of the majority; I wish to ask if there was a minority report?

Mr. HOUSTON. Mr. Speaker, that is a very unimportant question, and I am astonished that it should have been propounded; because the gentleman knows very well that minority reports of committees are very seldom made—not made in one case in fifty, or one in a hundred cases, involving questions wholly unimportant and immaterial, as the report of the committee was in this case. Here was a report of a committee, involving only a mere expression of opinion, made in the closing hours of a session of Congress; and it is not to be wondered at that no minority report was presented.

But, Mr. Speaker, what is the injury of which the gentleman now complains? I understand from the papers which have been read from the Clerk's desk, that a decision has been made by the First Comptroller. I do not know the character of the decision, nor do I care what his decision may be. He is an officer, as the gentleman contends, and as Carmick & Ramsey contend, whose decision upon this case is final. There is no appeal from it.

I say that I have not seen the decision of the Comptroller, nor do I care what it is. But suppose he has decided that no damages are due to those parties: is there any need of action upon the part of the House against that officer? You have imposed upon him the duty of deciding certain questions under the law, and he has but discharged that duty in compliance with his judgment of the terms of that law.

Mr. NICHOLS. I understand the gentleman to say that there is no appeal from the decision of this officer, if he has refused to comply with the law. Now, I suggest to him that there is an appeal to the Executive head of the nation, whose duty it is to remove him if he refuses to comply with the law.

Mr. HOUSTON. I said that according to the doctrine laid down by the gentleman from Ohio, there was no appeal from the decision of the First Comptroller in this case. I am well aware that, under the ordinary relations existing between the head of an Executive Department and the subordinate officers of that Department, their acts may, in a proper case, be reviewed; but the hypothesis under which the gentleman presents this case is, that the First Comptroller is, by law, made an independent officer, to perform this particular duty, free from all influences from other officers; controlled alone by his honest judgment. I say, if that be true, there is no appeal from his decision.

Mr. NICHOLS. I do not propose to speak upon this question again, but I want to keep the gentleman straight as he goes along; that is my object.

Mr. HOUSTON. That is right.

Mr. NICHOLS. Very well. Now, I wish to express my dissent to the last conclusion of the gentleman, that my argument placed this officer above everybody else. I expressed no opinion of my own; I merely read from the report of the Judiciary Committee expressing the opinion that he was an officer of Congress selected to execute this law, and as such was above Executive control in its execution.

Mr. HOUSTON. I suppose that the gentleman subscribed to the sentiments and doctrines of the report of the Judiciary Committee, especially as he used them in his argument without expressing a dissent. This officer, as the other executive officers, may subject himself to the censure of Congress. Nothing further. But that is not the point: I was arguing upon the hypothesis of the gentleman that, in the execution of this law, he is an officer above the interference or control of the President. You have made him the sole and absolute judge in the matter, and, when in the discharge of his duty as such he makes his decision, you want the President to remove him for that decision. You will not allow the President, you will not allow the Secretary of the Treasury, you will not allow the Attorney General to interfere with him in his action under the law by which the question is referred to him, or inquire whether the contract has been abrogated, and, if abrogated, upon what grounds or for what reasons; yet you want the President to remove him if he does not decide in favor of the claim, and give large damages. Now, that is rather a singular state of things. You will not allow the President to look at the contract to see whether the First Comptroller has executed the law or not, and yet you want the President to remove him because he has not executed it as Carmick & Ramsey understand it! I say that, if the gentleman's hypothesis is good for his argument, it is good for mine.

Mr. JONES, of Tennessee. I understand that the gentleman from Ohio [Mr. NICHOLS] assumes that Congress, in the passage of this law, referred the case of Carmick & Ramsey to the First Comptroller of the Treasury, to determine the damages due these gentlemen for a violation of contract upon the part of the officers of the Government, and to pay them the amount of damages found arising therefrom, Congress deciding that there had been a violation of contract. Now, sir, I assume that Congress determined no such thing. You, Mr. Speaker, will recollect, and gentlemen will recollect, that during the whole session of Congress in which this bill was passed, there was a private bill pending for the relief of Carmick & Ramsey; that that bill could not pass Congress; and that, during the last night of the session, in the hurly-burly, confusion, uncertainty, and everything else that characterize legislation at

that period, which should not characterize it, the Post Office appropriation bill, when pending in the Senate, had attached to it this provision, which I will now read from the law.

Mr. HUGHES. I rise to a point of order. I do not wish to interrupt the gentleman from Tennessee; but, as this discussion is taking a somewhat wide range, I will make the question of order. I understand that the motion of the gentleman from Ohio is to refer these papers to the Committee on the Judiciary. Does that open up the discussion of the merits of the whole question? If not, I object to this debate.

The SPEAKER. The motion of the gentleman from Ohio was to refer and print, which opens the merits of the whole question.

Mr. JONES, of Tennessee. The sixth section of the Post Office appropriation bill, approved August 18, 1856, was incorporated into that bill in the Senate, if I mistake not, on the last night of the session, and sent here for concurrence. Whether it was read to the House or not I do not now recollect. But that it received no consideration of the House which passed it, I am very certain. Here it is:

"That the Comptroller of the Treasury be, and he is hereby, required to adjust the damages due to Edward H. Carmick and Albert C. Ramsey, on account of the abrogation, by the Postmaster General, of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated the 15th of February, 1853, and adjudge and award to them, according to the principles of law, equity, and justice, the amount so found due; and the Secretary of the Treasury is hereby required to pay the same to said Carmick & Ramsey out of any money in the Treasury not otherwise appropriated."

Now, sir, I ask if that decides the merits of the case? I ask if it decides or determines that there is one cent due to these claimants? Upon the contrary, it appears to my mind that Congress, so far as they determined anything, determined that they would not decide whether there was anything due to these claimants or not, but that they would constitute the First Comptroller the chancellor in equity, to sit upon and determine the question upon its merits.

Mr. RITCHIE. I agree with the gentleman from Tennessee in much that he has said. I think it would be very bad legislation for us to determine whether damages were sufficient or not. But if I understand the point, it is this: the gentleman from Ohio wishes simply that the Committee on the Judiciary shall inquire whether an executive officer has willfully refused to execute a law of Congress or not. Now, if any member of this House asks that such an inquiry should be made, I think the request should be granted him. The proper time to discuss the merits will be when the report of the committee comes in, and not now.

Mr. JONES, of Tennessee. The complaint is, I believe, that the Comptroller refused to execute this law, as he is required to do. If that be so, it would be just cause for arraigning him before this House and trying him for his refusal to execute the law. The contract was made, and it concludes with this additional and emphatic stipulation:

"And it is hereby further expressly understood that this contract is to have no force or validity until it shall have received the sanction of the Congress of the United States, by the passage of an appropriation to carry it into effect."

Now, sir, upon the point of the refusal of the Comptroller to execute the law, I have assumed that Congress did not determine that there was anything due under that law. That is the point the Comptroller has decided; and in the concluding paragraph of his decision, which is this morning presented to us, he says:

"I have not attempted to notice many of the arguments advanced, and points made by the claimants and their attorneys, because my conclusions were reached without any necessary reference to them. The determination of a single question disposes of the whole matter, and puts an end to the investigation. Repudiating the idea that Congress had determined by law the facts in this case, or intended to do so, it was my duty, first, to inquire whether the contract referred to in the law was so abrogated by the Postmaster General as to make the United States liable to the contractors for damages for such abrogation; and that being decided in the negative, I had no further investigation to make, and it remained for me only to decide that I find nothing due from the United States to Messrs. Carmick & Ramsey, under the contract aforesaid."

This is his decision; and I say that the Comptroller has discharged the duty devolved upon him, and he has communicated the result of that investigation to the House, as he was called upon

to do by the resolution. I call the previous question.

Mr. PHILLIPS. I hope the gentleman will withdraw that call.

Mr. JONES, of Tennessee. I will do so.

Mr. PHILLIPS. I cannot imagine what objection there can be to a reference of this matter to the Committee on the Judiciary. When this House sought the information it must have been with a view of taking some action upon it; and the gentleman from Tennessee, and I believe the gentleman from Alabama, have greatly mistaken the purpose of the law, and the duty of the Comptroller under it, in the view they have expressed here.

I have had occasion to examine, not with reference to the justice of the claim, or its amount, but in reference to the power of this officer to disregard the law, as I think he has done. The gentleman from Tennessee [Mr. JONES] makes a mistake when he says that this officer has executed the law in arriving at a decision which is unfavorable to the claimants. If I understand rightly what was done by Congress, it was to settle the question that there had been an abrogation of the contract.

Mr. JONES, of Tennessee. Did the gentleman ever see a claim of this sort passed at the close of a session of Congress?

Mr. PHILLIPS. I cannot say that I have. I have not been here.

Mr. JONES, of Tennessee. It amounts to nothing except for the purpose of getting money out of the Treasury.

Mr. PHILLIPS. I speak, sir, of the law as I find it upon the statute-book. I tell the gentleman that it was never intended by that law that the Comptroller of the Treasury should have the power of determining whether or not the contract had been violated. That was the determination of Congress, whether made rightfully or wrongfully. It was the determination of Congress; and this, sir, was like a thing well known to lawyers, a judgment by default with a remission to assess damages, and that was the ministerial duty of the Comptroller.

But, Mr. Speaker, I will tell the gentleman that I know something of this case, and that he is mistaken in reference to its history. This claim underwent the investigation of a committee of the Senate, and the report of that committee was full in determining that the contract had been violated. And although it is true that the contract contained the clause that it should not be operative until Congress made an appropriation for the purpose, yet the gentleman knows that a subsequent ratification is equivalent to an original authority. Therefore, when the carrying of the mail was ratified by the Post Office Department, when Congress subsequently recognized the validity of the contract, by declaring that it had been violated, that it had been abrogated, I want to know if the Comptroller of the Treasury had the right to set up—what?—his judgment under the act of Congress? No! but his decision upon a point which had never been referred to him; namely, his decision that the contract was never violated at all, a thing that was never intended, even, that he should decide.

The gentleman read the law, and he said that Congress did not declare that any particular sum of money was due. That is so; but Congress did declare—whether in haste, or not, makes no difference—and it is upon the statute-book, that the Comptroller of the Treasury should assess the damages which should be found due for that violation of the contract. Now, what does the Comptroller do? We are told by the chairman of the Committee on the Judiciary—the gentleman from Alabama, [Mr. HOUSTON]—that the Comptroller ought to execute the law as he understood it. I wish some of the other officers would imitate his independence. He was the officer to execute the law of Congress, and it was never intended that he should receive advice or instructions from any other executive officer. The precedents are against him; the opinions of the Attorneys General are against him. When Congress, in this manner—and it is not unusual—determines a matter for itself, and refer to a subordinate officer—if you chose to call him such, a ministerial officer—the duty of finding out how much damage has been sustained, there has never, up to this time, been known of any instance where there

has been a refusal to do it. If the accounting officer who preceded the present one always did it, he only did his duty; and if the present Comptroller had gone through this matter, and had said, "I cannot find much damages; I find only nominal damages;" then he could have come before us with at least some pretext of compliance with the obligations of the law. But, on the contrary, he comes to Congress with a decision, and I have read it, that "you must not decide this contract was never abrogated, because I say that there never was any contract, and that, consequently, as there was no contract, there could have been no violation of any contract. Therefore, as I differ from you on that point, I will not execute the law which you have passed."

Why should not this matter be referred? It involves a precedent. The same thing which has been done to-day may be cited as a precedent for the morrow. Why should not the motion of the gentleman from Ohio be adopted, and this whole matter be referred to the Judiciary Committee to inquire what is the extent of the powers of the Comptroller of the Treasury, what the meaning of the act of Congress, and what the intention of the members who passed it? If those who passed it differed about it, if officers of the Treasury differ with us about it, I think it should go to the Judiciary Committee for investigation.

I have read the report of the committee of the other branch of Congress, where it is declared that the Postmaster General put the contract in force by directing the mails to be carried on it. I believe, and indeed I know, that it was the intention of the committee to declare that there was a contract, to recognize the contract, and further, to declare that it had been unjustly abrogated by the successor of the Postmaster General who had made it. And, as the gentleman said, in the last hours of the session, we said that we would not say what amount was due, but would refer it to our officer, to whom we are in the habit of referring such things, to assess the damages. But what does he do? He does not, as I have said before, say what, if any, damages are due; but under the direction of others, he tells Congress: "I find you have made a mistake when you recognized that there was a contract, and therefore shall allow no money to go out of the Treasury in execution of your enactments."

Mr. HOUSTON. I wish to say to the gentleman, in the first place, if he did not so understand me, that I purposely avoided going into the merits of this claim. I have expressed no opinion on its merits; I only endeavored to present the point now involved. And I understand my friend from Pennsylvania to take the ground that the First Comptroller is the officer designated, and who can alone decide upon the claim as presented to him.

Mr. PHILLIPS. The amount of the claim.

Mr. HOUSTON. But I ask my friend who it is that has the right to construe the law? An officer acting under a law, and in obedience to its mandates, necessarily must construe it. He may take one view of his duty and we may take another. He construes the law as devolving a certain duty upon him, and that duty he discharges. And I ask if that officer acts conscientiously in the discharge of what he believes to be his duty, whether he is to be exposed to censure and the harsh criticism of this House?

Mr. WASHBURN, of Illinois. With the gentleman's permission, I wish to say a word or two. If we are going into a full discussion of this matter to-day, then let us have all the papers read so that we may understand it. If not, then let us refer it at once to the Committee on the Judiciary; let them examine it; let them report their conclusions, and then let us act. As it is now, we are certainly acting in the dark.

Mr. PHILLIPS. In reply to the suggestion of the gentleman from Alabama, I will say that it depends upon his committee whether this officer shall be censured. I have not cast censure upon him. I have not said one harsh word of his motives. I have no doubt that he was actuated by pure motives; but the question is, whether his construction of the law is to be supreme. I understand the gentleman from Alabama to say that where a ministerial officer differs in his construction from that of Congress, that is enough.

Mr. HOUSTON. The gentleman wholly misunderstands me; and I will say, in all respect, that

I have made no remark from which he can fairly draw any such inference. I said that, assuming the gentleman's hypothesis, and the hypothesis of the gentleman from Ohio, the Comptroller was the individual designated in the law, and that he alone had the right to construe the law, in discharging his duty under it. He is required to discharge a duty under the law passed by Congress; and in the discharge of that duty, preparatory to its proper discharge, he must construe the law. Then, in the construction of the law, he being the only party who can decide the point, he does not say Congress erred. He makes no such statement; but in the discharge of his duty, he says that there has been no violation of the contract, and of consequence, no damages due. And I say that there is no appeal, no redress, unless it shall be found in a subsequent act of the two Houses of Congress, making a new regulation on the subject, where his duty shall be more distinctly marked out.

Mr. PHILLIPS. I did not misunderstand the gentleman. It amounts to the same thing. I agree that the officer must construe the law, must understand, and must execute it. But if he acts wrongfully, we must correct him. There must be a power somewhere. Now, all that I suggest is, that this is a matter proper for the investigation of the Judiciary Committee. I think I never could have voted for that section of the bill. I do not approve of that sort of legislation; but I find it to be the law. I find it on the statute-books. It has the validity of law. The First Comptroller of the Treasury, recognizing it as a law, undertakes to execute it; and, in executing it, he does not decide what he has got to decide, but decides another point which was not referred to him.

Mr. HUGHES. I move the previous question.

Mr. VALLANDIGHAM. I am informed by the gentleman from Georgia [Mr. STREPHENS] that this is the first time in his legislative experience of fifteen years, that either branch of Congress has been in session on the anniversary of the battle of New Orleans. [Cries of "Order!" "Order!"] I move, therefore, that the House do now adjourn. The Senate has adjourned over, as this is a national holiday.

Mr. KEITT. We have already met and been here an hour and a half.

The question was taken; and there were—ayes 61, noes 86.

Mr. MORGAN. I raise the question of order, whether the gentleman had the floor to make the motion?

The SPEAKER. The gentleman could make the motion.

Mr. MORGAN. I call for the yeas and nays. I wish to know who these gentlemen are that want to adjourn.

Mr. VALLANDIGHAM. I withdraw the motion until the pending question is disposed of.

Mr. GROESBECK. I ask the gentleman from Indiana to withdraw his call for the previous question, in order that I may say a word on the question.

Mr. HUGHES. I withdraw the demand on the condition that the gentleman from Ohio will renew it.

Mr. GROESBECK. Mr. Speaker, this discussion has occurred in regard to the First Comptroller of the Treasury. I know nothing about the merits of the controversy, but I am glad to see that the Comptroller has made the decision he did; and on his behalf, and in view of the discussion that has taken place, attempting to visit censure upon him, I invite an investigation into his conduct, and hope that the motion to refer this transaction to the Judiciary Committee will be accepted without any opposition, in order that we may know what has been done; and that the First Comptroller, having been censured in part, may be vindicated in whole before the House. He courts investigation, and I ask it on his behalf. I now renew the call for the previous question.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the papers were referred to the Judiciary Committee, and ordered to be printed.

ADJOURNMENT.

Mr. VALLANDIGHAM. I now renew my motion to adjourn.

Mr. COBB. I rise to a privileged question.

The SPEAKER. The Chair supposes that the

motion to adjourn is a question of as high privilege as any other.

Mr. LEITER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 84, nays 93; as follows:

YEAS—Messrs. Adair, Ahl, Anderson, Atkins, Barksdale, Bishop, Bonham, Bowie, Burnett, Burns, Caruthers, Caskey, Cavanagh, Chapman, John B. Clark, Cobb, Cockrell, Cox, Burton Craige, Crawford, Davis of Mississippi, Devart, Dowdell, Edmundson, Eustis, Faulkner, Florence, Foley, Gartrell, Gillis, Greenwood, Groesbeck, Lawrence W. Hall, Hatell, Hawkins, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Keitt, Kilgore, Lamar, Landy, Lawrence, Leidy, Macay, McQueen, McKee, Mason, Maynard, Miles, Miller, Montgomery, Moore, Niblack, Peyton, Phillips, Ready, Reilly, Ruffin, Sandridge, Savage, Henry M. Shaw, Shorter, Samuel A. Smith, William Smith, Stallworth, James A. Stewart, George Taylor, Miles Taylor, Trippie, Underwood, Vallandigham, Watkins, White, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—84.

NAYS—Messrs. Andrews, Bingham, Blair, Branch, Bratton, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, John Cochrane, Colfax, Comins, Corning, Covode, James Craig, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilmer, Goode, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Harlan, Harris, Hoard, Horton, Howard, Owen Jones, Kellogg, Kekey, Knap, Leach, Leiter, Lovejoy, Samuel S. Marshall, Matteson, Millson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Moff, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, John S. Phelps, William W. Phelps, Pike, Potter, Pottle, Purviance, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Seales, John Sherman, Robert Smith, Stanton, Thayer, Thompson, Tompkins, Vance, Wade, Waldron, Walton, Caldwell C. Washburn, Elihu B. Washburne, and Israel Washburn—93.

So the House refused to adjourn.

Pending the vote,

Mr. DAVIS, of Mississippi, said: Mr. Speaker, I always vote against adjournments; but this is the 8th of January, and it is obvious that nothing will be done to-day, as the motion to adjourn will be made every five minutes. It is better to adjourn in order than to sit in disorder. I therefore vote "ay."

Mr. CLAY said: I desire to say that if I had been in my seat when my name was called, I should, from respect for this day, the anniversary of one so full of glory to our country, have voted "ay."

Mr. FLORENCE said: Agreeing, as I do, with the sentiment expressed by the gentleman from Kentucky, [Mr. CLAY] I change my vote, and vote "ay."

Mr. MORRIS, of Illinois, stated that, if he had been in the Hall, when his name was called, he would have voted "no."

ARMY REGISTER.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting two hundred and fifty copies of the official Army Register for 1859, for the use of the House of Representatives, in compliance with its resolutions of February 1, 1820, and August 30, 1842.

The communication was laid on the table, and ordered to be printed.

NATIONAL ARMORIES.

The SPEAKER also laid before the House a communication from the same, transmitting a statement of the expense of the national armories, for the year 1858; which was laid on the table, and ordered to be printed.

COAST SURVEY REPORT.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the report of the superintendent of the Coast Survey, showing the progress of the work for the year ending 30th of November, 1858; which was laid on the table, and ordered to be printed.

Mr. RITCHIE. I move that a thousand extra copies of the report of the superintendent of the Coast Survey be printed.

The motion was, under the rules, referred to the Committee on Printing.

PREEMPTION LAWS.

Mr. TAYLOR, of Louisiana, by unanimous consent, introduced a bill to protect the rights of persons entitled to a preemption right under the laws of the United States in certain cases; which was read a first and second time, and referred to the Committee on Public Lands.

ROCK ISLAND RESERVATION.

Mr. FARNSWORTH, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to this House the present situation of the military reservation of Rock Island, in the Mississippi river; whether the same has been transferred by the War Department to the Interior Department, and, if so, whether and when the same has been trespassed upon by persons claiming preemption rights, and whether any decision has been made by the said Department of the Interior in favor of such preemption to purchase the said reservation at the minimum price of \$1 25 per acre.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn; and ask for the yeas and nays on the motion.

Mr. KUNKEL, of Maryland, called for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and HICKMAN were appointed.

The House divided; and the tellers reported thirty-eight in the affirmative—more than one fifth of the members present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 89; as follows:

YEAS—Messrs. Adrian, Ahl, Anderson, Barksdale, Bishop, Bonham, Bowie, Burnett, Burns, Caruthers, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Cockerill, Corning, Cox, Burton Craig, Crawford, Curry, Davis of Mississippi, Dewart, Dowdell, Edmundson, Eustis, Florence, Foley, Gartrell, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Kilgore, Jacob M. Kunkel, Lamar, Landy, Leidy, Macley, McQueen, McKee, Maynard, Miles, Miller, Montgomery, Moore, Niblack, Nichols, Peyton, Ready, Reilly, Ricard, Sandidge, Scott, Henry M. Shaw, Shorter, Samuel A. Smith, William Smith, Stallworth, Stephens, James A. Stewart, Trippe, Underwood, Watkins, White, Whiteley, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—82.

NAYS—Messrs. Andrews, Bingham, Blair, Boock, Branch, Brayton, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Cobb, John Cochran, Colfax, Comins, Covode, James Craig, Curtis, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dodd, Durfee, Edie, Fenton, Foster, Garnett, Giddings, Gilmer, Goode, Goodwin, Granger, Grov, Robert B. Hall, Harlan, Harris, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Knapp, Leach, Leiter, Lovejoy, Samuel S. Marshall, Matteson, Milson, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Olin, Palmer, Parker, Pendleton, Pettit, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Pottle, Reagan, Ritchie, Robbins, Roberts, Royce, Savage, Seales, John Sherman, Spinner, Stanton, Thayer, Thompson, Tompkins, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—89.

So the House refused to adjourn.

TOPOGRAPHICAL INFORMATION.

Mr. OLIN, by unanimous consent, submitted the following resolution; which was read, considered and agreed to.

Resolved, That the Secretary of War furnish to this House a copy of the military topographical memoir report, and maps of the military department of the Pacific, by Captain T. J. Cram, of the corps of topographical engineers.

EXPENSES FOR BARRACKS, ETC.

Mr. FAULKNER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to transmit to this House a statement of the money annually expended during the last ten years for barracks and officers' quarters; distinguishing, under the several heads of rents, construction, and repairs, the amount so expended at each post, with the sums now appropriated but unexpended, for such objects, exhibiting the posts so erected and now occupied by our troops, and the number at each post, and such as have been abandoned as no longer needful for military purposes, stating how far, in his opinion, the system of erecting permanent barracks on our frontier posts, whose value must be temporary, should be dispensed with, and a more economical system introduced; together with any other suggestions which may occur to him, calculated, without injury to the public service, to reduce the expenditures in the quartermaster's department.

Mr. CHAFFEE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

ADJOURNMENT.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn; and call for tellers on the motion.

Tellers were ordered; and Messrs. EDIE and SHORTER were appointed.

Mr. MORGAN. I want to show that the friends of the Administration are squandering the time of the House. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. PHELPS, of Missouri. I hope the gentleman will withdraw the motion to adjourn, and that the gentleman from Massachusetts will allow us to go into the Committee of the Whole on the state of the Union.

Mr. CHAFFEE. I am willing to withdraw my motion to go into Committee of the Whole House on the Private Calendar for that purpose.

Mr. DAVIS, of Mississippi. I do not withdraw my motion to adjourn.

Mr. LEITER. I should like to know whether gentlemen on the other side of the House have determined that there shall be nothing done to-day? if they have, I think we might as well adjourn.

The SPEAKER. Debate is not in order.

Mr. HOUSTON. I desire to say that the gentleman from Virginia [Mr. LETCHER] requested me, if the yeas and nays were called, to announce that he was confined to his room by indisposition.

The question was taken; and it was decided in the affirmative—yeas 83, nays 76; as follows:

YEAS—Messrs. Adrian, Ahl, Anderson, Barksdale, Bishop, Boock, Bowie, Burnett, Burns, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Cockerill, Corning, James Craig, Burton Craig, Crawford, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dewart, Dowdell, Edmundson, Eustis, Florence, Foley, Gartrell, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Lamar, Landy, Lawrence, Leidy, McKee, Mason, Maynard, Miles, Miller, Montgomery, Moore, Niblack, Nichols, Pendleton, Peyton, Ready, Reilly, Ricard, Sandidge, Savage, Seales, Scott, Henry M. Shaw, Shorter, William Smith, Stallworth, Stephens, James A. Stewart, George Taylor, Trippe, Underwood, Watkins, White, Whiteley, Woodson, Wortendyke, and John V. Wright—83.

NAYS—Messrs. Andrews, Bingham, Blair, Branch, Brayton, Buffinton, Burlingame, Chaffee, Ezra Clark, Horace F. Clark, Clawson, John Cochran, Colfax, Comins, Covode, Cox, Dawes, Dean, Dodd, Durfee, Edie, Fenton, Foster, Garnett, Giddings, Gilmer, Goode, Goodwin, Granger, Robert B. Hall, Harlan, Harris, Hoard, Horton, Howard, Huyler, Owen Jones, Kelsey, Knapp, Leach, Leiter, Lovejoy, Matteson, Milson, Morgan, Isaac N. Morris, Freeman H. Morse, Murray, Olin, Palmer, Parker, Pettit, John S. Phelps, Phillips, Pike, Potter, Pottle, Parviance, Reagan, Ritchie, Robbins, Roberts, Royce, John Sherman, Spinner, Stanton, Thayer, Thompson, Tompkins, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—76.

So the motion was agreed to.

Pending the call,

Mr. DAWES stated that his colleague, Mr. GOOCH, was detained at home on account of severe indisposition in his family.

Mr. JOHN COCHRANE stated that his colleague, Mr. RUSSELL, was detained from the House by sickness.

Mr. MARSHALL, of Kentucky, stated that had he been in his seat when his name was called he should have voted in the affirmative.

The House accordingly, (at two o'clock and twenty-five minutes, p. m.) adjourned to Monday.

IN SENATE.

Monday, January 10, 1859.

Prayer by Rev. W. D. HALEY.

The Journal of Friday last was read and approved.

Hon. S. A. DOUGLAS, of Illinois, appeared to-day.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of War, accompanied by copies of the Army Register for the year 1853; which was read.

He also laid before the Senate a letter of the Secretary of the Treasury, communicating a report of the Superintendent of the Coast Survey, showing the progress of that work during the year ending November 1, 1858, with a map prepared in obedience to an act of Congress approved March 3, 1853; which was read; and a motion by Mr. PEARCE to print the report, and the following resolution, were referred to the Committee on Printing:

Resolved, That, in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for the year 1858, there be printed six thousand two hundred copies: of which twelve hundred shall be for the use of the Senate, and five thousand for distribution by the Superintendent of the Coast Survey; that the same be printed and bound with the charts and sketches in quarto form, and that the printing of said charts and sketches shall be done to the satisfaction of the Superintendent of the Coast Survey.

He also laid before the Senate a report of the

Secretary of War, communicating, in obedience to law, a statement of the expenses of the national armories, and the arms and appendages made thereat, during the year ending the 30th of June, 1858; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a memorial of Roland Gelsten, for himself and the co-heirs of David Gelsten, praying indemnity for French speculations prior to 1800; which was ordered to lie on the table.

He also presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. PEARCE presented the memorial of Ann Scott, widow of William B. Scott, deceased, praying to be allowed a commission upon the disbursements of her husband as pension agent; which was referred to the Committee on Naval Affairs.

Mr. FITZPATRICK presented the memorial of Carlos Butterfield, praying the aid of the United States in establishing a line of steamers between the principal Mexican and American ports on the Gulf of Mexico; which was referred to the Committee on the Post Office and Post Roads.

Mr. JOHNSON, of Tennessee, presented the petition of Micajah Owen, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. BIGLER presented the memorial of Russell Comstock, on the subject of letter transportation; which was referred to the Committee on the Post Office and Post Roads.

Mr. CAMERON presented a petition of citizens of Armstrong county, Pennsylvania, praying that the bill passed by the House of Representatives, granting pensions to the soldiers of the war of 1812, may become a law; which was referred to the Committee on Pensions.

Mr. JONES presented the petition of Samuel Crapin, praying that his pension may commence from the date of his disability; which was referred to the Committee on Pensions.

He also presented the petition of Ezra Clark, praying that his pension may commence from the date of his discharge; which was referred to the Committee on Pensions.

Mr. PUGH presented the petition of George Robbins, a soldier in the war with Mexico, praying to be allowed a pension, on account of disease contracted in the service.

Mr. RICE presented a petition of citizens in the Root river land district, in Minnesota, praying the establishment of a new land district, and stating the proposed boundaries thereof; which was referred to the Committee on Public Lands.

Mr. JONES presented the memorial of E. Y. Swift and others, engaged in the Black Hawk war, praying an amendment of the bounty land laws; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FITZPATRICK, it was

Ordered, That the memorial of Thomas Watts, together with the adverse report thereon, be recommitted to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed the following bills and joint resolution, in which the concurrence of the Senate was requested:

A bill (No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger;

A bill (No. 357) for the relief of Abel M. Butler;

A bill (No. 358) for the relief of Hannah Little, and for other purposes;

A bill (No. 441) for the relief of the assignees of Hugh Glenn;

A bill (No. 443) for the relief of William F. Wagner;

A bill (No. 77) for the relief of Enoch B. Talcott;

A bill (No. 445) for the relief of Samuel A. Fairchilds;

A bill (No. 386) for the relief of Shade B. Galoway; and

A joint resolution (No. 21) for the relief of Hall Nelson.

The message further announced that the House had passed bills of the Senate (No. 198) for the relief of Joseph Hardy and Alton Long, and (No. 68) for the relief of Elias Hall, of Vermont, with an amendment in which the concurrence of the Senate was requested.

CREDENTIALS.

Mr. SIMMONS presented the credentials of Hon. HENRY B. ANTHONY, elected a Senator by the Legislature of Rhode Island and Providence Plantations, for the term of six years, from and after the 4th day of March, 1859; which were read and ordered to be filed.

NOTICE OF A BILL.

Mr. RICE gave notice of his intention to ask leave to introduce a bill to authorize the President, with the consent of any Indian tribe, to expend their money annuities for educational, agricultural, and other objects necessary to their advancement.

BILLS INTRODUCED.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 495) for the relief of James Albertson; which was read twice by its title and referred to the Committee on Pensions.

Mr. IVERSON, in pursuance of previous notice, asked, and obtained leave to introduce a bill (S. No. 496) to abolish the franking privilege of members of Congress, and for other purposes; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. SLIDELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 497) making appropriations to facilitate the acquisition of the Island of Cuba by negotiation; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 498) for the relief of the city of Omaha, in the Territory of Nebraska; which was read twice by its title, and referred to the Committee on Territories.

Mr. SEBASTIAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 68) for supplying the Choctaw Nation with such copies of the laws, journals, and public printed documents as are furnished to the States and Territories; which was read twice by its title, and referred to the Committee on the Library.

REPORTS FROM COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 494) to secure title to the settlers upon the Kansas half-breed tract, and for other purposes, reported it without amendment, and adversely.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 341) for the relief of John Harris, of Warren County, Kentucky, reported it without amendment and adversely.

He also, from the same committee, to whom was referred the petition of Hester Stoll, widow of Urban Stoll, late a soldier in the Army, praying a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Nancy Read, widow of Levi Read, deceased, a revolutionary soldier, praying to be allowed a pension, reported adversely thereon.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of Radford, Cabot & Co., praying indemnity for losses sustained in consequence of orders of Colonel Johnston, commander of the United States troops sent to Utah, submitted an adverse report; which was ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 663) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1860, reported it without amendment.

PRIVATE BILL DAYS.

Mr. BIGLER. I submit the following resolution, and ask for its present consideration:

Resolved, That for the residue of the present session, Friday and Saturday of each week, after the expiration of one hour from the time of meeting of the Senate, shall be set apart for the consideration of private bills, in the order in which they stand upon the Calendar.

Mr. HUNTER. Does the Senator propose to set aside two days for private bills? I am willing to give them one, but not two.

Mr. CLAY. I object to the consideration of the resolution, if that will carry it over.

The VICE PRESIDENT. The objection will be considered in time, and the resolution will lie over under the rule.

ADMISSION ON THE FLOOR.

Mr. PEARCE, from the Committee on the Library, to whom was referred a resolution submitted by Mr. IVERSON, on the 6th January, relative to the admission of persons to the Senate Chamber, reported the following resolution:

Resolved, That the following be substituted for the 48th rule of the Senate:

48. No person shall be admitted to the floor of the Senate while in session, except as follows, namely: The officers of the Senate; members of the House of Representatives, and their Clerk; the President of the United States, and his Private Secretary; the heads of Departments; foreign ministers, and their secretaries of legation; ex-Senators, and judges of the Supreme Court.

The officer in charge of the Capitol extension during the progress and until the completion of the work, shall be admitted to the floor of the Senate.

The clerks of the committees of the Senate, may be admitted to the floor of the Senate, for the particular occasion, upon a special order signed by the chairman of the committee.

He also, from the same committee, who were directed by a resolution of the Senate of February 10, 1858, to consider and report a plan for the admission and accommodation of reporters in the gallery of the Senate, reported the following resolutions:

Resolved, That the front seat of the reporter's gallery shall be assigned to the reporters of the Globe.

Resolved, That the other seats in the reporter's gallery be numbered as directed by the Presiding Officer of the Senate, who, at the commencement of each Congress, may assign one seat to each newspaper in the city of Washington, and to such other daily newspaper elsewhere as may apply therefor; but if any such papers have more than one reporter, they may alternate, occupying only the one seat assigned to such newspaper.

Seats in the reporter's gallery, however, shall not be assigned to any person unless the Presiding Officer shall be satisfied that such person is bona fide a reporter of the particular paper, by whose editor or editors he shall be certified to be so employed.

Resolved, That the Presiding Officer be authorized to make, from time to time, such further regulations in regard hereto as may be deemed proper by him.

The VICE PRESIDENT. Does the Senator ask for the consideration of these resolutions now?

Mr. PEARCE. I do not ask for their present consideration; but if the Senate are disposed to do so, perhaps it would be advisable to settle these questions at once.

Objection being made, the report was not considered.

REFERENCE OF A RESOLUTION.

Mr. FOOT. A joint resolution (S. No. 62) explanatory of an act, approved March 3, 1855, entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," was reported back adversely the other day from the Committee on Public Lands. I desire to take it up with a view to move its reference to the Committee on the Judiciary. It involves a legal question as to the construction of the provisions of that act, and it seems to come within the jurisdiction of that committee. I have conferred with the chairman of the Committee on Public Lands, who concurs with me in the propriety of that reference.

The joint resolution was taken up, and referred to the Committee on the Judiciary.

FLORIDA CLAIMS.

Mr. MALLORY. I ask the Senate, in pursuance of the notice I gave on Thursday last, to take up Senate bill No. 373. It is not my disposition to interfere with the business before the Senate; but I wish the Senate to understand that I am disposed to press this bill on its attention at the earliest possible moment. If they will indulge me now, I suppose it will not take more than half an hour to dispose of it.

The VICE PRESIDENT. The question is on the motion of the Senator from Florida to take up the bill (S. No. 373) to provide for carrying into effect the ninth article of the treaty between the United States and Spain.

Mr. HUNTER. I ask if that is the bill in relation to the Florida claims.

Mr. MALLORY. My friend from Virginia may not have been present, a few days ago, when I gave this notice. I gave it for the purpose of having gentlemen refer to the report of the Committee on Claims in the case; and if the motion does not prevail now, I trust Senators will avail themselves of the opportunity of reading the report from the Committee on Claims (No. 258.) It is the bill to carry into effect the ninth article of the treaty of 1819 between Spain and the United States, and does provide for the payment of the Florida interest claims. That is the bill.

Mr. HUNTER. It is obvious this bill will give rise to a good deal of discussion. It has always been a disputed subject, and I hope it will not be pressed now. I hope the Senate will not take it up, because, whenever it is taken up, it ought to be debated and examined. It involves a good deal of money and questions that ought to be carefully examined and considered before we commit ourselves to any such principle as is contemplated by the bill, as I understand it. It is only from my recollection of past debates that I speak of it. I trust it will not be taken up, but that the Senator will give us more time to examine it. I trust the Senator will not press it now, and, if he does, I hope the Senate will not agree to take it up.

Mr. MALLORY. A single word in reply. It is not my purpose to be pertinacious in insisting on this bill to the exclusion of matters now before the Senate; but we have not hurried the Senate on this question. The bill is to carry out the provisions of the treaty with Spain; it is to fulfill the expectations of that Government, and to pay the just claims of her citizens. They have been at the doors of Congress for over twenty years with this claim founded, as I conceive, in justice. If the Senate will agree to take it up on any day within a reasonable time, so as to afford a prospect of its passage, I shall not be pertinacious now; but I ask for the voice of the Senate, without the yeas and nays, to see what is their disposition.

Mr. HAMLIN. I desire to inquire of the Chair whether the bill which the Senator from Florida desires to take up at this time is not a private bill?

The VICE PRESIDENT. The Chair does not consider the decision of that question important, as the motion is in order.

Mr. HAMLIN. It may not be important in relation to the motion that is made; but I regard it as important to the Senate. We have a Calendar here of over one hundred private claims, and I know of no good reason why this bill should have precedence of all other bills which have merits equal to those of the bill which the Senator from Florida moves to take up.

Mr. MALLORY. The Senator will see that it is not a private bill, but to fulfill the stipulations of a treaty.

Mr. HAMLIN. There are other bills on the Calendar of a precisely similar character, to carry out the provisions of treaties. That, nevertheless, does not relieve it from the objection I make, that it is a private claim. Now, sir, look at your Calendar. I do not design to give any opinion, at this time, as to what shall be the vote I shall give when this bill shall come before me for action; but I do mean to say that there is injustice done to every other private claim upon the Calendar, when you wrest this bill from its position and make it a special order. Even if I were in favor of the claim, I should vote against making it a special order, in the hope, at least, that we should have the vote of the Senate to keep us to the Private Calendar in its order, and that we should have the stimulus of that vote to induce the Senate to take up the Calendar in its order, and to render justice to others as well as to the State of Florida. I take it this is a consideration which ought to operate on the Senate, and that we ought not to take up one private claim and give it precedence over all others. I say this without regard to the amount that may be involved, and without expressing any opinion upon its merits. I think the principle itself is wrong, and I hope the motion will not be agreed to.

Mr. CRITTENDEN. I only wish to remind the Senate that in the morning business of the previous day's session, the French spoliation bill was under consideration. I hope it will not be displaced by another claim. There is a member of the Senate who was speaking on the subject, and we adjourned that measure because of his in-

disposition and inability to proceed upon that morning. The gentleman is now present, and I hope this motion will be withdrawn, so as to afford him an opportunity of finishing his remarks on that subject.

The motion of Mr. MALLORY was not agreed to.

FRENCH SPOILIATION BILL.

On motion of Mr. CRITTENDEN, the Senate resumed the consideration of the bill (S. No. 45) to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801; the question being on ordering the bill to be engrossed and read the third time.

Mr. DAVIS, Mr. President, when, by the courtesy of the Senate at its last sitting, the bill being then under consideration, it was postponed to a subsequent day, I had but a few remarks to add to those which I had already submitted, being then, as I am now, unable to go into the question at length. The only requital I can make to the Senate for the courtesy exhibited in postponing the question on account of my physical condition, is to abridge as far as possible the remarks which I shall offer on the present occasion.

I was, at the moment the debate was arrested, proceeding to the point that the treaties which were claimed to be the consideration for which the United States had surrendered private claims, had expired, were of no binding force upon the United States, and, unless revived, could not be put in force against the United States. I had already stated that those treaties had been broken by the act of France. In 1793, France being then engaged at war with Great Britain particularly, and the continental Powers generally, violated her treaty of amity and commerce with the United States, by seizing our vessels on the high seas, by detaining them in her own ports, and by confiscating private property. They were led to this, not by any act of the United States, but by the fact that the treaty which bound France to allow American vessels to sail with all things not contraband of war, even to an enemy's port, operated injuriously against France, because Great Britain, choosing to proclaim provisions contraband of war, seized all vessels bound to French ports, and thus the treaty with the United States, under the action of Great Britain, operated disadvantageously to France.

Having violated the treaty in its provisions, and, as was believed by the most eminent men of our country at that time, having violated the law of nations, our citizens, who were sufferers by the aggressions of France, sought redress from the Government of France; and, having exhausted all the means within their power, applied to the Government of the United States. The Secretary of State informed them that all claims which should be well authenticated would receive the attention of the Government of the United States; and that letter of the Secretary of State has since been brought forward to support these claims, as a proposition on the part of the Secretary of State, that the commerce which was so advantageous to the United States, should continue to be prosecuted with full vigor for the benefit of our country; but it being, as I esteem it on the other hand, nothing but a declaration of that functionary, that citizens of the United States should receive such protection as our Government could give, created no obligation on the United States. Our Government then intervened for the protection of its citizens; sought by every means within its power to obtain an allowance of the claims; continued to prosecute them, and to press them so vigorously, as finally to lead to insult and outrage on the part of France in the rejection of our Minister, and the refusal to receive a special commission which was subsequently sent to them.

Having failed in all amicable attempts to procure justice to our citizens who had suffered by the wrongs of France, the Government was driven to resort to force. The Congress of the United States, the war-making power of our Government, provided that the Navy should be put on full commission, provided for its increase, and authorized the President to cruise with the Navy against the armed vessels of France. Not only did they thus employ the military power of the Government to make war on the armed vessels of France; they did more; they called out the patri-

otic citizens of the country, and granted commissions to private vessels to capture French armed vessels. Thus, I say, the military arm of the Government, and the volunteer citizens of the country, were brought into war with France—war upon the sea, it is true; a partial war; but war by the authority of Congress, not by Executive act; as has been so often alleged.

But it is said, "this was not war; if it had been war, all the citizens of one country would have been at hostilities with all the citizens of the other; and this was not the fact." It is also said, that if it had been war, it could only have been terminated by a treaty of peace. I grant it was not a general war; I grant it was not a declaration of war against France; but it was legislative authority to make war upon the armed vessels of France; and that war was carried on with many battles, victories, and defeats; prisoners were taken and held in our country, and cartels were offered to France for the exchange of prisoners. Is this a state of peace? If this be peace, I ask what would be war? Millions of treasure were spent; citizens of every character were involved in conflict; blood was shed; captures were made; prizes were sold under authority of special legislation by the United States; and still we are to be told that we were in a state of peace! War is not necessarily both on sea and land; neither is there any form prescribed in which the Government of the United States shall declare war against a foreign Power. For example: when, by the invasion of our territory on the Rio Grande, it was deemed necessary to invade the territory of Mexico, it was done as an act of defense. We did not then formally declare war. Congress passed a law asserting that war existed by the act of Mexico, and provided men and money to prosecute the war. In this instance, Congress declared that the depredations of France must be repelled by force; and they gave men and money for the purpose.

The cases are nearly parallel, the difference being that one was a war on sea, and the other was wholly a war on land, and both resulted from the circumstances of the case. France did not choose to invade the United States. She had not then the power, involved, as she was, in the general war with Europe, to do it. The United States did not wish to invade the territory of France. The aggression she received was upon sea, and on the sea she went to repel it. In the case of Mexico, the aggression was upon the land; and upon the land she went to repel it. Mexico had no navy; therefore we had no battle on sea. In the one case the combats were purely on the sea; in the other, they were purely on the land. In neither case was there the ordinary form of a declaration of war; but in both cases a legislative act which recognized aggression and provided for its redress.

But I am to be told, no doubt, as we have been told often before, that the negotiations of 1800 were conducted on the basis of peace. It is true; but why were they conducted on the basis of peace? The United States, specially regardful of the claims of her citizens who had suffered depredations, did not choose to hazard them by putting their negotiations on the basis of war. If it was treated as a case of war, the claims had been swept away. France, on the other hand, anxious to revive the treaties of 1778 and 1788, did not choose to put negotiations on the basis of war; for if they admitted war to have existed, those treaties—their claim to the obligations incurred by the United States under those treaties—were at an end. Thus, the negotiators on both sides were willing, on the basis of peace, to proceed to the new negotiations of 1800. They thus conducted them. Language was used which would justify the assumption which has been made, and may be made again, that peace existed; but after negotiation was at an end, when diplomacy had exhausted itself, when all diplomatic subterfuges were no longer of value, they used a different language; and then we were informed by the French ministers negotiating with our commissioners, that it was a state of war, and that there was no claim to indemnity because of the existence of war. As this is considered the main point in the case, I refer to the authority. In the journal of the proceedings of the commissioners (State Papers, Foreign Relations, page 377) may be found, in reference to their discussions, the following lan-

guage, after referring to the guarantees, indemnities, &c.:

"The conversation on this subject closed by a declaration of the President of the French commission, that such a modification could not be acceded to without new instructions, that they had no powers to assent to such a stipulation; but that, if the Government should think proper to instruct them to make a treaty on the basis of indemnities and a modified renewal of the old treaties, he would resign sooner than sign such a treaty; adding, that if the question could be determined by an indifferent nation, he was satisfied such a tribunal would say that the present state of things was war on the side of America, and that no indemnities could be claimed. The other two commissioners made similar declarations."

Our own commissioners, in writing the account of the negotiation to their own Government, said:

"The American ministers being now convinced that the door was perfectly closed against all hope of obtaining indemnities, with any modification of the treaties, it only remained to be determined whether, under all circumstances, it would not be expedient to attempt a temporary arrangement which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved, save the immense property of our citizens now depending before the council of prizes, and secure, as far as possible, our commerce against the abuses of captures during the present war."

This is the language that was used after all the terms of diplomacy had ceased to have value—after they had reached the point of a concluding issue. The French ministers stood asserting that the old treaties must be revived, and the American ministers insisting that full indemnity should be granted to our citizens; the one making it the condition of the other; the American ministers being instructed not to revive the old treaties, the old treaties having been considered by our Government as totally abrogated; they proposed to make some modification of the old treaties, and thus secure indemnity. Finding that this could not be done, and that it was useless further to argue on the basis of peace, the French negotiators peremptorily say, "we will not negotiate on the basis which is offered, because war has swept away your claim to indemnity;" and our ministers admit it by stating that they now determined to get rid of the injuries they would suffer from the continuance of war. This was the plain language which was used after diplomacy had exhausted all its arts.

But, Mr. President, I do not hold that the question turns on this point peculiarly, though it has been so argued, and therefore I have thought proper so to notice it. This Government had a right, I say, to abrogate those treaties; they had a right to consider those treaties as destroyed, because they had been broken by the opposite party. A compact broken on one side is broken entirely. It rests then with the party who have suffered from the breach of the other, to permit the compact to continue, or to annul it at its pleasure. France had broken the treaties; and there is a strange anachronism in the argument which is presented, that the outrages of France resulted in the wrong and failures of the United States. Those outrages were committed in 1793, before the treaty which is made the great basis of complaint, was negotiated by Mr. Jay with Great Britain. That treaty was negotiated in 1794, and amongst the complaints of France was, that it was not promulgated when it was negotiated. It was negotiated a year after these outrages were committed; not promulgated until some time in 1796. This shows how utterly fallacious it is to put the outrages committed by France upon the ground of a violation of the treaty first by the United States, by negotiation with Great Britain. And there has been a strange mutation in the relation of parties too. That party to which I and my friends have succeeded, the old Democratic party, were not the advocates of the Jay treaty. They considered the Jay treaty as a violation of good faith to France. It was odious in this country, and it was long before the Administration was brought to its promulgation; and but for the outrages committed by France, I think it is more than doubtful to-day whether the Jay treaty ever could have been ratified. Alienation occurred from the wrongs which France had committed on our commerce and the injuries she had inflicted on our citizens, and that feeling sustained the Jay treaty, and, I believe, led to its ratification. I say then, sir, that it does not devolve on me to defend the Jay treaty; but how stands it with the other side? The successors of the party who advocated the Jay treaty now bring it forward to put their own Government in the wrong, and to show that France was entirely right.

Our Government, proceeding upon the basis which I have stated, in the preamble to the act which declared the abrogation of the treaty, spoke of it as broken by France, and then proceeded to declare it abrogated. Now it is urged that one party to a contract cannot abrogate it without the consent of the other. How, then, is a treaty ever to be terminated? We have had before us at this session, and probably shall have soon again, the question of abrogating the Clayton-Bulwer treaty, as it is termed. If the construction which Great Britain places upon that treaty is found highly beneficial to her and injurious to us; if we, as I think we may justly, claim that she has violated the spirit of that treaty, and if she continue to violate it to our injury, are we to wait until we get her consent before we declare it abrogated? Is there no right on the part of the United States, when a treaty has been violated in its letter and in its spirit, to declare that it is at an end, and to take the consequences? It seems to me that any other theory binds our Government perpetually to a contract which, being violated or disregarded, may be injurious to all its interests, and which may be degrading to its honor. Contracts fairly made and faithfully adhered to, should bind Governments as they bind individuals. Contracts disregarded on one side may, I say, be repealed on the other, or abrogated at its pleasure. Hence arose the right of the United States to abrogate those treaties; and when our commissioners met in 1800, they met with a perfect understanding, as their instructions show, that those treaties were extinct, and that they had no authority to revive them. Therefore, every proposition made by France to recognize all claims for indemnity on the basis of those treaties was necessarily rejected; and when, at last, the convention of 1800, by its second article, provided at some convenient time for considering the question of indemnities and the question of those treaties also, it came to the Senate of the United States and it was stricken out, and mainly because those commissioners had no instructions, had no authority to treat upon the basis of the revival of those treaties, and they were so odious in the United States that the Senate would not entertain the proposition. In striking out the second article, they substituted for a convenient time a specific period, a term of eight years.

Now, I ask, how can it be fairly, intelligently urged that by striking out the second article we abandoned any claim of an American citizen? Did the second article provide for the payment of any? None. It only provided for the consideration of the question of the indemnities and the abrogated treaties at a convenient time. What indemnities would have been paid is merely hypothetical. Whether they referred purely to private claims, or whether they embraced also national claims, is more than doubtful; but we find in Mr. Madison's instructions that he refers to the national claims as a thing which might be waived; private claims as a thing which could not be.

The VICE PRESIDENT. Will the Senator be good enough to pause a moment? The Chair must call up the special order at this hour.

Mr. STUART. I think that we shall find it to our advantage to dispose of some of these subjects and not have them mingling with each other; and I therefore move to postpone the special order that the Senator may continue his remarks; and that we may get rid of this subject.

The motion was agreed to.

Mr. DAVIS. In the convention of 1800, it will also be remarked that other articles provided for claims of the United States. It is further to be remembered that so far from considering the erasure of the second article as the abandonment of claims not provided for in that convention, in the very next year the President of the United States in his message to Congress speaks of the opportunity which is presented by the return of peace in Europe as one which "strengthens the hope that wrongs committed on offending friends under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of retribution for the past, and new assurances for the future;" thus opening the very case which, in the argument that has so often been offered for these claims, has been said to be closed by the erasure of the second article.

Thus we find them constantly prosecuted by

our ministers abroad, and our Secretary of State at home, until, in 1803, a new convention was made, and in that convention those claims arose, and were further provided for.

Now, sir, I ask, even if it were granted that a release had been made, what is the value of that release? Suppose our Government had abandoned the prosecution of the claims, had given our acquittal: what would have been the loss to the claimants? Was anything paid of those claims which were allowed by the convention of 1800? Not a dollar. They remained as they were left by that convention, until the new convention or treaty of 1803, when the United States agreed to pay for Louisiana a certain sum of money, retaining a portion of that sum of money to liquidate the claims of citizens of the United States; and it appears as a fact not known to our commissioners, but now known to us, that we paid France more than the whole sum which was reserved, over and above the price which her ministers were instructed to ask for the territory.

Then, again, in the convention of 1803, (as proofs that neither party considered that we had abandoned the claims of private citizens,) the preamble announces the desire, in compliance with the articles two and five of the convention of 1800, to provide for the claims of American citizens. If the retrenchment of article two was a surrender on the part of the United States of all claims to which it referred, how did the commissioners say, in 1803, that their desire was to provide for the claims embraced in article two? Yet such is the language of the preamble, and then in articles three and five of the convention of 1803, provision is made to secure the sums due to citizens, including cases not mentioned in the convention of 1800. This Mr. Madison noticed particularly, lest the variation of language should be considered as pre-empting any of the claims; and his instructions were to press the claims of citizens, giving priority to those of greatest merit, but that nothing should be considered as a waiver of the rightful claims of citizens of the United States, or be regarded as an assumption by the United States of any of those claims over and above the sum which had been reserved in the convention for the purchase of Louisiana.

We find it thus continued to 1800, and from 1800 to 1803, and, after 1803, in 1804 the question revived again and discussed; and so on from time to time, and never yet has advantage been taken and maintained of any propositions that the United States had abandoned the claims of its citizens. There was one class of claims which France never would recognize—that class of claims which were set up for property belonging to foreigners and carried upon American vessels, or belonging to Americans and carried in foreign bottoms. That is the class of claims which remained never admitted by France, but always contended for by the United States. These were claims admitted as growing out of our treaties, but denied as not being within the law of nations, and therefore dependent upon the revival or continued existence of the treaties.

Then the question is, what did we surrender? I ask, was there ever anything surrendered by the United States which it was possible to obtain from France? Did she, in either of her conventions, admit that a single claim of citizens of the United States, which she had ever heretofore defended, was considered henceforth to be of no obligation on the part of France? But more than this: not only did we thus provide, and become paymasters ourselves of claims of American citizens, but it was further provided that any claim not admitted by the United States, should still be admissible before the courts of France, liable to be paid by her, though disallowed by the United States. I think, in the whole history of our negotiations, there has never been a case where private claims have been so successfully and so energetically prosecuted as those very claims which arose from the spoliation of France.

Then, Mr. President, one step further. What was the value of those claims as against France? I know they have been magnified of late, or attempted to be magnified by showing what was the value of the treaties. Denying wholly that we were released from the treaties by any surrender of private claims, I refer to the failures of Americans to get anything from France; the failures of France to pay anything, even of the claims

admitted under the convention of 1800; and come down to the point where the sum was estimated by the men who were then upon the ground, and most cognizant of the facts. You find that France asserted as well her unwillingness as her inability to pay any indemnities whatever. You find that Mr. Skipwith, who had explored the subject profoundly, estimated that the 20,000,000 livres reserved from the sum to be paid in the purchase of Louisiana from France, would be fully equal to all the fair claims of creditors who were citizens of the United States. It may have proved otherwise; but this was the estimate of Mr. Skipwith, whose opinion was considered so valuable that Mr. Livingston, in his correspondence with Mr. Madison, communicated it to him. If there is any desire that I should read these things, I will do it; otherwise I will pass on. We find also, that Mr. Livingston noticed the fact that the creditors of other nations then prosecuting their claims before France had received nothing, and were not likely to receive anything; and the citizens of the United States would have been in the same condition, but for the intervention of their Government.

If, then, the claims were not abandoned; if no release from the treaties was purchased; if the Government of the United States has faithfully observed all its duty to its citizens; if it has derived no benefit where those citizens have failed to get what was due to them; I ask on what rests the foundation for that pretension, which is now set up, that we are justly bound to remunerate them as citizens whose private property has been taken for public use? I will admit that we could at any time have obtained a full recognition of these claims; could have obtained the obligation of France, and indemnified our citizens for all their losses, if we had been willing to pay the price of renewing the treaties of 1778 and 1783; treaties which had been abrogated, swept from the statute-book, buried in the long career of hostilities which had ensued, and which constituted, in 1800, or any period subsequent, no obligation on the part of the United States.

Hurrying through the case, Mr. President, as I am compelled to do, I would ask, why is a discrimination made in the present bill? Why do we provide for one class of cases not included in any previous treaty, and exclude all cases included in those treaties, and for which payment has not been made? Mr. Madison's instructions were to give priority to the best class of claims. Why now do you select a class of cases to which priority was not given, and make them the favorites in this bill? My view would be otherwise. If I were disposed to appropriate money to the payment of the claims at all, I would throw the door wide open to all claimants coming under the head of those despoiled by France; all who suffered and have not been indemnified should be permitted equally to come forward with their proofs, and if they belonged to the better class of cases, the claimants who suffered by force on sea, or by confiscation of their property entering a port of France, with good papers, they, above all others, I say, should first be paid; and those who traded with and became partners of British subjects, and thus involved themselves in the refusal of France to pay them at all, would be the last class of cases to which I would make indemnification.

We are told also, Mr. President, of the evidence which is presented in the action of Congress by its committees. Appended to the report of the present committee, I find a report made a number of years ago, in which the reports of the various committees which had sat on the subject up to that time are grouped to show how many were favorable and how few were adverse. In looking over this list, however, it is found that a large number of these are reports from select committees. A report from a select committee is the report of the member who moves the committee, and generally favorable—almost uniformly favorable. How is it in the present case? A select committee was raised to examine into the claims of American citizens for losses suffered by French spoliations. The chairman of that select committee, being the mover of the committee, makes the report. The minority of the committee, a respectable minority—the Senator from Virginia, who has heretofore reported on this subject, [Mr. HUNTER] was one of them—agreed that the report should be made in its present form, not expressing an opinion on the part of the committee, but pre-

senting a report which should contain two reports favorable and two adverse, so that the views heretofore taken on the subject might be laid before the Senate. That is the extent to which the committee went in making the present report; and yet some future page will contain this report as evidence of the opinion of the Senate, or the opinion of the select committee at this day in favor of these claims.

Discarding, then, the select committees, and taking merely the standing committees to whom these claims have been referred, I find, on adding them up, that there are thirteen favorable, five adverse. Of the thirteen, I find one man made three, another man made three, and another man made four—a total of six persons making the favorable reports. Of the adverse reports there is a different man for every report. The consequence is that it stands five to six persons. Then, tried in another manner, of the six persons who have made favorable reports, three of them were from a single State, the State of Massachusetts; of the five persons who made adverse reports, all were from different States; so that it stands compared, State against State, four favorable and five adverse. Since this list was made, the Senator from Virginia, to whom I have already alluded, whose ability and purity of character are known to us all, has made an unfavorable report, and that is one of the unfavorable reports not noticed in the debate; for it is constantly stated that no adverse report has been made since the report of the Secretary of State in 1826.

There is, also, something strange in the prepared, stereotyped information which members of Congress receive in relation to these claims. Speeches handsomely covered, long statements ably gotten up, are coming constantly through the mail. What becomes of the adverse reports, and where are the speeches against these claims? Having very great respect for the wisdom and for the laborious investigations of Senator Wright, of New York, now deceased, I endeavored to obtain his speech. A friend procured one for me and sent it to me, and I found in it the strangest presentation. Sixteen pages were Mr. Wright's speech, when suddenly the argument changed to the other side. It was a speech entirely for the claims from that to the end of it, and appended to it was a statement of the character of Mr. Wright's argument, answering the facts on which he relied. It was quite apparent that from the sixteenth page out, though it was regularly paged all the way through, Mr. Wright had never uttered a word of it; it was a spurious document; delusive in its character; and the statement which is appended to it, being an argument for the claims, shows that the document was not made either by a friend of Mr. Wright, or an opponent of the claims.

Among the adverse reports incorporated in this report of the select committee, is one from Mr. Forsyth—a man of enlarged experience; a man whose services abroad had given him special means of information; a man whose elevated tone, and whose manly character rendered it impossible that he could endeavor to skulk from either a personal or public obligation. Let us see in his report how he treats the presentation of the arguments made then and since in this case. I shall read only a passage:

"This Government never received from France any equivalent for the claims of Americans upon France. The war of aggression was commenced by France, and every act of the United States was a just retaliation for previous injury. The treaties with France were annulled by an act of Congress, in 1798, in consequence of the utter disregard of the stipulations of them by that Power.

"In short, to justify their claims upon the United States, the petitioners assume that France was right, and their own Government wrong; that France was prepared to make a just reparation for the outrages committed under her own laws until released from her obligations by the United States, who were faithless to their trust, in the first instance, and have been regardless of the obligations of justice ever since—assumptions not consistent with truth, nor creditable to the patriotism of those who make them. The committee recommend to the House to adopt the following resolution:

"Resolved, That the petition of the several persons who ask indemnity for spoiliations committed by French cruisers on their property between the years 1793 and 1800, be rejected."

There is a historical relation which this subject bears. It is now presented as a case in which our fathers seized private property and failed to make compensation, transferring to posterity obligations of justice and of honor. Is it true? Were they so forgetful of the obligations of the Government?

were they so recreant to the instincts of honor and of manhood? I hold not. I hold that they exhausted all their power, diplomatic and military, in the advocacy of these claims; that they did all which could be required of them, even to the extent of becoming paymaster for the claims when they purchased a territory, and continuing to prosecute such as had not been provided for even at a subsequent date. Witness demands often made not against France only, but also against Spain. If it be a claim of justice and of honor, then our fathers were wanting in both. If it be so, I am willing to meet it. I am willing to pay whatever is due, and can be shown to be due; but I hold that it is a severe arraignment to say that all the efforts of that long negotiation omitted what honor and justice demanded, or that such claims were put in the lowest class of cases, as those do who hold it now to be a constitutional duty to assume them. Guarded, as our negotiations were, by the constant declaration that we made no waiver of the obligations of France, that we made no assumption on the part of the United States, how can it be that justice requires us to make that assumption now? I well remember when a Senator, thirty years a member of the Senate, serving with me on a committee of this body, told me, in relation to my opposition to a particular claim, "it is needless; you may reject it now, but it will come again and again; and old claims at last always pass." It remains to be seen whether this is an example of the wisdom of that Senator, or not.

I plead, sir, no statute of limitation. If the money ever was due, I grant you it is due now. I plead no inability of the United States to meet the obligation. If it be just, let us meet it, if need be, by direct taxation. I take no advantage of the present condition of the Treasury. I am willing to rest the question simply on the obligation which the Government has incurred to its citizens. At the same time, I am not willing that importunity or sympathy towards individuals shall blind us to our obligations to the history of our fathers, to the fair fame of our Government, to the past, to the present, and the future. The present, sir, is full of such claims, and all will be revived upon a precedent like this—claims for every species of loss which the Government could not prevent—coming to the Treasury, there to be remunerated; and in the future, whatever hazards an individual may choose to encounter, either in peace or in war, if he shall present a claim against some foreign Government, and the United States shall perform its obligation to prosecute that claim, and fail to get remuneration, on this principle, is to be regarded as a debt due by the United States. If an unkind Providence were to convert our fertile soil into a plain of gold, it would not pay the claims which might arise from such a precedent. We cannot consent to become the guarantors of the hazards which merchants may choose to take when they go upon the high seas and engage in foreign trade. They take the hazards because of the high profits; and insurance companies rate their grade of insurance according to the hazard which is to be encountered. The "legal representatives" spoken of in this bill, I suppose, are in very many cases the insurers of the cargo which were lost.

But why limit it to merchants? Were no others sufferers by these irregularities or hostilities of France? It will be remembered that at that time Europe was engaged in a general war. The United States was the great store-house of provisions. Our prosperity was promoted; our progress was rapid; it was unusual, under the profits derived from the demand which was created for the agricultural products of the United States. It was this which stimulated the activity of our merchants. Did not the farmer suffer also? Did not the man on shore suffer as well as he who was on sea? If we begin upon this general principle of indemnifying all loss sustained, where is it to stop? Not with the single individual whose vessel was seized or whose cargo was taken, but it is to go on ramifying until it includes every citizen of the United States.

There is another view in relation to this bill, which I deem it proper to present. If this be a claim demanded by justice and law, and if it be a case in which we are to make remuneration for private property taken for public use, whence is the right to scale? We are bound under the cir-

cumstances to pay the full sum found due; we have no right to scale. If, on the other hand, we are proceeding under a liberal and equitable view, then some of the best cases, I expect, will be found to be those having the most imperfect proof. By the present plan you array a body of claimants to contest every case by technicality and special requirements, and to defeat that which the equity or liberality of Congress might grant if it were presented individually. I believe there are exceptional cases. I think there are cases now existing contemplated in the convention of 1800—cases contemplated in the convention of 1803—where, from the ignorance or the isolation of the party, or where, from the fact of the papers having been destroyed by the French cruisers, when they captured the vessels, it became impossible to make the adequate proof. In such cases the parties have some equitable claim upon the United States; not because of the abandonment of their case; not because of the trading away of their right; but because of the manner in which our duties, as paymaster were conducted. I believe there are some such. I believe I have met one; and if his case be such as he has presented it, I consider it a good one; but if it be as good as his presentation would make it, it is excluded by the terms of the present bill. His case is one which came exactly under the convention of 1800, and was the most favored of all classes, being one of those cases where the captain of a merchantman, sailing with perfect papers to a French port, entered it and there lost his cargo, and subsequently his vessel, by the acts of France. Whether the non-payment was because of the ignorance of the claimant of the place and manner in which it should be presented, or because of his inability to produce the perfect proof, I am not able to say. He laid his case before me—he was an old man, remembering well the event, reduced to poverty by that single act, his life had been spent in toil upon his farm—and, as I heard it, I believed it to be a case in which equity clearly demanded relief; and if I were providing for any case at all, I should endeavor to seek exactly such cases as that.

I will only say in conclusion, Mr. President, for I have already occupied more time than I intended, that I do not hold our Government, in any aspect of the case, censurable; that I do not hold them in any aspect of the case responsible. I believe that they discharged all their duty; that they relieved themselves of all responsibility. They got no consideration for the surrender of the claims, as alleged; no remuneration for the vast amount of treasure and blood which were expended, as well in war as in negotiation—a negotiation continued through a long series of years, and pressed with a degree of energy and ability which will compare favorably with the efforts of any Government, at any time, in the advocacy of the rights of its private citizens. The maxim of a gallant sailor, now no more, was "My country, right or wrong." It would require some modification for the legislator; and yet my sentiment, as an American, very much responds to the feeling; and the proof must be clear that my country was wrong before I am ready to censure it; the proof must be positive that the men who founded this Government, who achieved its independence, and transmitted to us the blessings which we enjoy, shrank from the performance of a duty which justice and honor demanded. I cannot allow to pass unnoticed the carefully prepared representations which are made by snatching paragraphs here and there from a voluminous correspondence, and putting them together to support this claim. Thus have been explored the letters written to a foreign minister at another Court, and an extract taken and applied as though it was language addressed to the American Congress, or to the American Commissioners in France, and construed as though it belonged to a case to which it had no application, save upon a hypothesis which that Secretary was answering. Of such, I say, is woven the web which is presented; such forms the mesh thrown around the sympathy, if not the judgment of the American Congress, to bind it to the recognition of obligations which have long since been discharged, obliterated by having been, in peace and in war, prosecuted with all the ability which belonged to our Government.

I know it is an ungracious task to attack this character of claims, they are speciously repre-

sented as connected with our revolutionary struggle, have so long been before Congress as to be enveloped in the sanctity of age; and it is apparent that they have the sympathy of a majority of the body of which I am a member on their side. I have, against personal considerations of comfort and condition, endeavored to perform—and I know I have very imperfectly performed—what I consider a duty to the public, a duty to the taxpayers, above all a duty to the history of my country and its fair fame, as it is to descend to future generations. Much of the opinion which I entertain rests upon examinations made years ago. I have not attempted even to present a tithe of the authority on which my opinion reposes. I feel that the subject has been worn almost threadbare already; that Senators are weary of it; and I have endeavored to fulfill the promise I made that, in requital for their courtesy, I would abridge my remarks as much as possible.

Mr. CRITTENDEN. Mr. President, I will endeavor, with the greatest possible brevity, to make rather a statement than an argument in response to what has been so ably and so plausibly urged by my friend from Mississippi. There is one fact that I think cannot be misunderstood. The history of the times of which we are speaking, and not only that, but the documentary history of the country, shows the fact that from 1793 to 1800 a war such as the world had never seen before, for its utter disregard of all law, and for the persistence with which it was pursued, existed in Europe; and during that period American commerce was made the prey of every belligerent in Europe. There were but few nations who had a naval power to employ in this rapacious mode, but all of them who had the power were employed in committing acts that would in other ages be called piratical, upon the commerce of the world. Our merchants were robbed in every sea; the commerce of the United States was on the point, apparently, of being utterly extinguished and every source of revenue dried up. These robbed merchants; these merchants who from 1793 to 1800 were thus made the subjects of spoliation by France and by England especially, they being the greater Powers engaged in this war possessing any naval force; what has become of their claims? Have they ever been paid? We know that they were robbed to the amount of millions, that our commerce was in effect swept from the sea in a very great measure. What have become of those poor merchants who were entitled to appeal to their Government for protection and for redress of those wrongs? Have they ever been paid? Has my honorable friend from Mississippi undertaken to point out the time, manner, or place in which they ever received one cent of payment and indemnity for these outrages?

Mr. DAVIS. I did endeavor to point out that 20,000,000 livres, or \$3,750,000 were paid to these claimants; and it was estimated at the time that that amount would cover all the just claims of American citizens.

Mr. CRITTENDEN. I am surprised that it should have escaped the attention of one so competent and so able as my friend, that both in the convention of September 30, 1800, and in the convention of 1803, for the cession of Louisiana to the United States, a distinction is made between debts due from France upon contracts, and indemnities due from her for wrongs and spoliations. They understood it perfectly. Now let me read to the Senate the fifth article of the convention of 1800, to show this:

"The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States."

These are debts contracted by one of the two nations with individuals of the other, but the distinction is still further manifest by the next sentence:

"But this clause shall not extend to indemnities claimed on account of captures or confiscations."

Here is clearly and broadly drawn a distinction between debts due by one Government to the citizens of the other Government, and indemnities due on account of captures or confiscations.

The indemnities due on account of captures and confiscations had been released, by striking out the second article of the treaty by our Senate. They were separate subjects of negotiation. The

second article of this identical convention provided for these indemnities and these claims. The French Government and our Government were not able to agree in respect to these spoliations, captures, and confiscations; for the French insisted, at the same time, that indemnities should be allowed to them for our failure to observe the treaties of 1778 and 1788. They made claims, and set up pretensions, on the score of our neglect to perform those treaties. Here were mutual claims; France claiming indemnity for our non-performance of the treaties of 1778 and 1788; the United States claiming indemnity for the very condemnations and captures here spoken of. The ministers agreed, in this convention, that the claims for indemnities, about which the Governments disagreed, should be postponed for further negotiation at a more convenient time; and they went on to provide for everything else about which the two nations could agree; and the two nations could agree in respect to debts due from one Government to the citizens of the other. The honor and the justice of every Government were too deeply involved in that question to admit of a controversy as to it. The debts due by the French Government to citizens of the United States shall be paid; debts due by the American Government to citizens of France shall be paid; that is the stipulation here. Those debts shall be paid; but this article shall not extend to spoliations and confiscations; because, by the second article of the same convention, they had been disposed of in a different manner, postponed for further negotiation and further adjustment of the relative claims of the two parties. They are postponed, but debts shall be paid; thus reads the treaty. So the matter rested. France did not pay. I do not know whether there were any such claims on the Government of the United States, but France did not pay.

We come then to the convention of 1803, by which Louisiana was acquired. We agreed to give France 80,000,000 francs for Louisiana. She agreed that we should retain 20,000,000 of those francs for the purpose of paying—whom and what? For the purpose of paying those identical debts which she had agreed, by the fifth article of the convention of 1800, should be paid—expressly so. What in the mean time had been done? In the mean time, the convention of 1800, which by its second article had temporarily disposed of these claims for confiscation, by providing for further negotiations as to them, had been extinguished on both sides; and how? When this convention came to be laid before the Senate of the United States, they struck out the second clause of it, which disposed of these mutual pretensions. They would not agree to the postponement.

Mr. DAVIS. I do not think I made myself understood by my friend from Kentucky. It was the convention of 1803 to which I referred, as providing for this payment; and in that he will find that, instead of ignoring, it does exactly refer to the second article which he is arguing was destroyed by being erased by the Senate. In its preamble that convention refers specifically to that second article, and so it goes on to refer to the class of cases to be paid; and in it they include not merely those recited by the Senator, but "debts such as are due to citizens of the United States who have been, and are yet, creditors of France, for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged," &c.

Mr. CRITTENDEN. There were claims for embargoes which had remained unsettled up to that time. When they made the convention of 1803, as I was stating, they left 20,000,000 of the 80,000,000 francs to be given for Louisiana, in the hands of this Government on the condition that this Government should apply those 20,000,000 francs to the payment of the debts of France as contradistinguished from confiscations and captures. That was the amount of it, and the money was so applied. Did those merchants who had suffered confiscations and captures of their vessels and their goods, come in under the stipulations of the Louisiana convention of 1803, for any indemnity? They were not entitled to come in. It was not intended that they should come in. We had, before that time, released to France these claims. When we struck out the second article, when Bonaparte came to ratify the treaty of 1800, with the

second article stricken out, he said: "I ratify it upon condition that this retrenchment of the second article is considered a renunciation by both Governments of all the pretensions set up in the article stricken out." We accepted it. The treaty was proclaimed by the President of the United States, by and with the advice and consent of the Senate, with that ratification of Bonaparte upon it, then the First Consul of France, and at the head of the executive Government.

Here, then, in 1801—for the convention of 1800 was not ratified until 1801—was a mutual renunciation of the treaties of 1778 and 1788, of all the claims derived from them by France on us; of all our engagements to her for commercial advantages, of our guarantee of her American possessions, and of injuries which she had sustained by our non-performance of those articles. All these she renounced upon condition that the United States should renounce to her these claims for captures and condemnations of the property and ships of the people of the United States. Do you suppose, is it probable, would it not be the most marvelous thing on earth, that, having three years before negotiated and given a valuable price, as she thought, a full equivalent for our relinquishment to her of these claims, she would, in 1803, stipulate that we should pay these claims over again, as though they existed against her; that she should recognize them as claims existing against her? She did no such thing. These robbed merchants were not entitled to come in under the convention of 1803 for any part of the 20,000,000 francs reserved; and, in point of fact, they did not. They had no right, according to the language of the treaty, to any portion of that money, and they did not get it. When France, in 1803, is speaking of claims against her by citizens of the United States, can you suppose her to include claims which had been settled? claims which had been released and relinquished to her? They were no longer claims against her. When she speaks of claims against her, we must understand that she refers to those which existed, and not to those which had been released and relinquished.

But, in point of fact, they were excluded from any participation in that treaty; and I remember well when Mr. Clayton introduced here the authenticated statement of all the claims which were allowed under the convention of 1803, and a statement, also, of the merchants who were robbed between 1793 and 1800; and it was found that, as a matter of fact, those robbed merchants were not found in the list at all of those who had been indemnified. I believe that—inadvertently, perhaps, it may have been, or upon some construction of it—there were four cases found on both lists; the one the list of the parties indemnified under the convention of 1803, and the other the list of merchants who had been robbed, and who had filed their cases. There were four—and they were cases of captures made between the making of the convention of 1800 and the ratification of it—made after the convention, but before the ratification. They, it was supposed, might be admitted. They were not the captures and confiscations alluded to in the convention, because they did not then exist; they came into existence afterwards. Although they are the subject of special provision in the convention of 1803, and ought not to have been admitted, yet I suppose, upon some view of this sort, that they had been captures made subsequent to the making of the convention, they were admitted and paid.

I conceive that I have shown that, of right, these claimants had no sort of colorable claim to participate in the 20,000,000 francs reserved in the convention of 1803. They were reserved for debts and other claims which our citizens had; not the claims which had been provided for in the second article of the convention of 1800. We had other claims against France besides those for captures and confiscations. France admitted it in 1803. A portion was reserved for future payment, France saying, "we will pay these;" but the dispute was about captures made contrary to the treaty of 1778, and the law of nations, for wrongs done. There was the difficulty. For wrongs done, nothing was included in the treaty of 1803.

This is plain. The facts show it; the treaty shows it. The list was brought here, and every gentleman was invited to examine it. It was said to us, "You have been disputing about a thing

that exists by inference; now look at the fact; here is the book, the record;" and the record showed that the argument was wrong. The argument was wrong in itself, in reference to the law and the terms of the treaty. They have never been paid in that way. How else have they been paid? They are of large amount, must have been of large amount, not rated by our Government at any time at less than from fifteen to twenty million dollars. When were they paid? Such a sum as this could not be paid, and no record of it be made. Such a transaction could not have existed, and no memorial or testimony be left to make it plain and apparent to us. Sir, there was no payment of them made; and, since a few months after this Government renounced the claims of our merchants, in order to purchase its own release from the treaties of 1778 and 1788, from that moment down to this, these people have been continually making claim upon Congress; they have been continually disappointed, and have gone away without obtaining any sort of redress whatever. Is this right? We plead payment; and yet our creditor is able to show continual demand upon us, and we are not able to show any mark or evidence of payment, and the sum is a large one. It is impossible, it seems to me, to indulge such a presumption as that of payment from any fact in the case.

Well, Mr. President, I intend not any regular argument; but I want to attend for a few moments to some of the positions taken by my friend on this subject. Were we not liable for these claims? If I understand the obligation between the Government and the citizen, it is obedience on the one side, and protection on the other. These merchants who were seized on the high seas, and had their property wrested from them, were under our protection. We were bound, upon every principle, to see that they did obtain redress; and not only that, but General Washington, by a circular letter addressed to the merchants of the United States, expressly encouraged them to go on with a commerce that was then almost afraid to launch itself on the high seas, such was the certainty of capture. General Washington, acknowledging the responsibility of the Government to these merchants, tells them to go on; "if any wrong is done you, it shall be redressed; send us the proper accounts of these wrongs, and it shall be the business of the Government to attend to them, and to secure you a proper redress." This is the substance of the circular letter issued to our merchants.

Then, besides the general obligation resulting from the principle of Government, from the correlative obligation of obedience on the one side and protection on the other, we have added to it, and our merchants have the particular pledge of our President, and that President George Washington, that this law of nations should be enforced on all wrong-doers in their favor, and compensation enforced.

Could men have gone abroad under a more solemn pledge of protection from their Government? They went forward, and they were robbed, and to this day they have received no compensation. Not only have they received no compensation, but their Government has received it and rendered nothing to them. Their Government received it in the release from France of the most onerous obligations that could be imposed upon a nation, to guaranty her possessions. What were they? What was the consideration which France gave us for this guaranty of her possession in America? She performed faithfully all the obligations of her treaty of alliance and assistance during our revolutionary war. She expended \$280,000,000 in carrying it into effect. She secured to us our liberties and the success of our revolutionary war. We engaged, in consideration of her engaging to do that, that we would guaranty to her her American possessions forever, and that her cruisers and her vessels of war, with the prizes they might make in any future wars, should have particular privileges in coming into our ports and harbors. We performed nothing of all this. She lost all her West Indian possessions that she held under our guaranty. She lost all the advantage of those privileges in our harbors; for as early as the year 1794, one year after the universal war in Europe commenced against France, at the very time when she needed most our aid and assistance; when she needed most the faithful performance by her ally of these stipulations, we

withheld them from her. It was then that we did nothing to make good our guaranty of her possessions in America. We raised no hand to protect them. As for the privileges in our harbors, which we had promised to her, we gave them to Great Britain by the treaty of 1794. France claimed indemnity for all this. She had a right to it upon every principle. If there was any obligation created by national law or by national justice, we were bound to fulfill it. If there was any obligation created by positive treaty and express engagement, we were bound to fulfill it. What was the consequence? We were liable to indemnify her for the failure to do specifically the thing we had engaged to do. She claimed that indemnity; and whenever we asked of her indemnity for the spoiliations of our commerce, she said "yes, it is due; France is willing to do justice to all; but while we are settling with you for the indemnity due to your citizens, settle with us for these great obligations that you are under to us."

The result was, that the parties, not being able to agree in their estimations, not being able to agree upon the indemnities mutually claimed, agreed to renounce them all. France said, "we admit our liability to your merchants; in the convulsive struggles into which we were forced for our very existence and for that liberty which we were striving to obtain, our people have done many things that were wrong; we have done many things which were wrong, which nothing but the necessities of the case could have afforded us a possible pretext for; we admit that you are entitled to indemnity, and we are ready to settle with you; but this war has exhausted our finances; we are bound now, when you are claiming indemnities, to claim an indemnity from you, and we will not settle the one unless you will settle the other." This was natural, fair, equitable. We preferred, in that day of our necessities and our poverty, to take the bold step of relinquishing these claims to France, for her relinquishment to us of our obligations to her. We got clear of the treaties, of all indemnities for infractions or omissions to perform the treaties, and we gave up to her the claims of our citizens.

Was not this using private property for public purposes? Was there any doubt about the claims of these men who asked indemnity? This Government asserted their right continually, and instructed its ministers to make it an ultimatum with France, *a sine qua non*, that these claims should be settled and satisfied, so strong was the sense of our Government. Did France deny the claims of these men to indemnity? Before 1800, we were continually thundering in the ears of France these claims. They were ultimately given up to France, in compensation of her relinquishment to us; and now what do we say? They never had any claims! We asserted them; France admitted them always.

Now, can there be any doubt at all about the original justice and solidity of these claims, and the right of the claimants to redress? None whatever. They are admitted by all the world; by both Governments—those who claimed, and those who were to pay the claim, all admitted them. Now, when they have besieged Congress in vain for nearly sixty years without getting a single cent of redress, the length of time seems to warrant us in denouncing the claims as stale. It is said that they never existed in fact; or, if they did exist, they have been compensated. Gentlemen cannot say how they have been extinguished by this Government; they cannot show that a cent was ever paid; and, in fact and in truth, according to history, not a cent was ever paid. I do not know how it is possible for me to make this case plainer.

The gentleman says, however, that there was war between this country and France. This was a strange war. No history takes notice of any war between the United States and France during the progress of her great revolutionary struggle. Neither the Government of France nor the Government of this country acknowledged that there was war. There had been misunderstandings, not war. War is always concluded by treaties, not by convention. We never made a treaty of peace with France since that day. How, then, has this little occult, obscure war run along through the course of time, and not found a place in history, or been known to either of the nations supposed to be at war? It was known to neither of the Governments; was

disavowed by both Governments. The French commissioners, to be sure, on one occasion said to our Minister, "you made war upon us; we never made any war upon you." We, on the contrary, might have taken a different view of it, and might have said, "no, we have made no war upon you; all the measures taken by our Government have been purely of a defensive character; and that does not make war." Mere defense is not war. Our measures were all of that character. There was no war between the two countries. Neither of them ever acknowledged it. They denied it. Hear what Mr. Adams said, for instance, long after these transactions, which occurred when he was President of the United States:

"To explain all the mysteries of that period, never was and never will be in my power. It would require volumes to give a simple history of it. All that I can say of it is, there was war between St. Denis and St. George; each had an army in America, constantly skirmishing with each other, and both of them constantly stabbing me with lancets, spikes, and spears. My sole object was to preserve the peace and neutrality of my country; and that, I thank God, I obtained, at the loss of my power and fame on both sides."

Here was the President of the United States, that knew nothing of this French war; he is congratulating himself afterwards:

"I suffered from the controversies of parties, one being for alliance with England, one for war with France, another for war with England; and so the whole country was split up and divided at that period."

"I suffered much," said Mr. Adams, "but I am gratified at it all, for my object was to preserve the peace and neutrality of my country, and I did it." Now the argument is that he did not do it, and this argument is urged for what purpose? That that war must swallow up the just claims of our citizens in its consequences, and release this Government from any protection of their rights, and France from any obligation of indemnity. What did we go to war for, if we had any war? Why should we have gone to war, but to require indemnity for the outrages she was committing on our citizens and their property on the high seas? Shall we not, when peace comes, stipulate for them? Does the war mutually extinguish the cause for which we commenced it, and it become afterwards a mere causeless and wanton warfare? Suppose we had gone to war because France refused to make these very indemnities: do we impair at all the obligation of France to pay the claims by endeavoring to enforce them? No, sir; not at all; and suppose when we come to make peace, France says: "Let us be friends, and I will pay these indemnities;" would that be unreasonable? Well, take it that there was war, and here by the convention of 1800 they come to terminate it and settle the controversy which had caused the war, and France says, "now I admit your claim on me for indemnities; but do equal justice; you owe me indemnities for this great treaty, none of whose obligations you have fulfilled, though I have paid you a mighty sum in consideration of those obligations. I poured out my blood and my treasure to make successful your revolutionary war; I spent \$280,000,000 in your cause, and sacrificed much of the blood of many of my gallant citizens; I did all that; I performed to the letter, in money and in blood, every stipulation which I made in your favor, and you have had the benefit of it. Now, when the time comes that you are to render some benefit to me in consideration of all this; when your treaty binds you to guaranty my rights in my West Indian possessions, you have utterly failed to do it, and the enemy have taken them all. When I sought for my cruisers a safe shelter in your ports for any prizes they might make of the enemy, you said, no. At first, you admitted them; at first, by a circular letter from the Government to the collectors, they were directed to receive my vessels according to that treaty; but in 1794, one year afterwards, you made a treaty with Great Britain, in which you undertook to give her those rights which you had stipulated to secure to me in your ports. Was that done like a friend? Was that the performance of your treaty? And so I claim indemnities for this." Was not all this natural and right, even as the result of the conclusion of a war, and the parties settling it in the way most acceptable to themselves, by making a mutual release, one to the other, of those claims to indemnity? All is perfectly apparent, and perfectly plain. There is not an argument, it seems to me, that will not be better answered by an ex-

amination of the true history and facts of this case than by any reasoning that can be employed on the subject.

But, says the gentleman, we repealed, in 1798, the treaty of 1778, out of which grew France's claim for indemnity. Mr. President, undoubtedly, ordinarily war puts an end to treaties between the parties; but may there not be obligations of a primary character contracted for considerations mutually agreed upon and paid, which war would not put an end to? What an easy and compendious mode of taking the benefit of national bankruptcy would this afford! Here France had entered into mutual stipulations with us. She performs all hers at a cost of blood and money incalculable, almost, in amount. She secures to us the great objects for which these services were rendered. She buys of us a correlative obligation that we will do certain benefits to her when she stands in a particular position—that is, when she comes to be in war. By a simple act of Congress—now that blood has been shed by her in our cause, now that \$280,000,000 have been laid out by her in performing her obligations—can we rid ourselves of our reciprocal obligations, supposed to be an equivalent, and only an equivalent, for this great performance on the part of France, by repealing the treaty?

Why, sir, if an individual could repudiate or repeal a promissory note, for which he had given a valuable consideration, it would be in social life exactly what this doctrine that is contended for is in political life. But it is a question whether Congress can repeal by law any treaty. It was the opinion of Chief Justice Marshall that they could not. It was the opinion of General Washington and his Cabinet that they could not. Here is the evidence: Marshall's opinion expressed in his history of the life of Washington. Mr. Jefferson gave it as his opinion, to General Washington, in Cabinet council, that such a treaty could not be repealed by an act of Congress, and all the Cabinet were supposed to assent; no one objected. In the 54th number of the *Federalist*, this very subject is treated of; and there it is declared that a treaty is irrepealable by act of Congress.

I do not mean to say that my mind is entirely satisfied on that point; but nevertheless, even supposing the power to repeal, what then? Certainly we are bound to compensate a person who has lost by your repeal of a contract made by two parties. I have made a contract with you; I refuse to perform it; you cannot make me do it specifically; you can have damages, though, for my not performing it; and that would be your redress, and that I am willing to pay. A treaty might be inveigled into a very injudicious treaty—a treaty that would ultimately sacrifice our liberty and our Government; it may be onerous and destructive; what is to be done? Violate it; but the moment you violate it, say: "I have done that for self-preservation and self-protection; my faith is intact, and I acknowledge my treaty obligation; but the necessity of self-preservation requires me to disregard that treaty, and annul it, and to proclaim to you that I can no longer perform it; but I will render whatever indemnity, or whatever satisfaction I can." Would not that be the result? Suppose, then, Congress is authorized to repeal a treaty; must she not repeal it, with all those legal consequences, just as when you refuse to perform a contract, which you acknowledge to have been fairly made, you are subject to damages; that is, to indemnify the man with whose contract you have refused to comply? Certainly. These arguments, then, result in nothing disadvantageous or prejudicial to these claims.

I think, therefore, that we ought not to hesitate one moment to discharge this debt. It is said that we shall be dishonoring our ancestors if we pay this debt now; that it will be as much as to say that for sixty years this nation has been delinquent to its citizens in failing to pay this debt. That is the melancholy fact. It is surely no ground of an argument to say: "I have long delayed payment, and therefore I will not pay at all." The obligation was once acknowledged to have existed; the parties claiming under it have made perpetual claim, year by year, from that time to this. It is not a claim brought up after a long rest. These have not been dormant creditors; they have not slept upon their rights. If they had done so, an inference might have arisen from their own inaction. It would be said that if this

large sum of money had been due to them, they would have been attempting to obtain satisfaction; and the inference might have been that they had been satisfied, and now, after a great length of time, were come again to demand another satisfaction. But these parties have not slept upon their rights. Nobody can say that; they have pursued this matter with a diligence which shows, if anything could show, the earnestness with which they believe there is a debt due to them from the nation, and the men of old times did not hesitate about it. The men who participated in the negotiations with France; the men who made the conventions of 1800 and 1803, and before that time, had negotiated for indemnities of France, all from whom we can derive any evidence whatever, testify to the justice of these claims. After a long time had passed and things had become quiet, what did Chief Justice Marshall say? What did he think? He was one of our negotiators in France. He was there in 1797. Here is what Mr. Preston and Mr. Leigh, two distinguished Senators formerly of this body, state as to a conversation with Mr. Chief Justice Marshall:

COLUMBIA, January 29, 1844.

Sir: I have this moment received your letter of the 24th instant, inquiring of me concerning Judge Marshall's opinion on the French spoliation claims anterior to 1800.

When that subject was under discussion in the Senate some years since, as a member of the committee to which it had been given in charge, I bestowed no little pains in the investigation of it; and, as I believe it will happen to every one that does so, I became thoroughly satisfied of the justice of the claims.

While they were under discussion in the Senate, they happened to be the subject of conversation between Mr. Leigh, Mr. Calhoun, and myself, one evening in our mess parlor, when Judge Marshall stepped in, and having overheard, or being informed of the subject of conversation, asked to share in it, saying, that having been connected with the events of that period, and conversant with the circumstances under which the claims arose, he was, from his own knowledge, satisfied that there was the strongest obligation on the Government to compensate the sufferers by the French spoliation. He gave a succinct statement of the leading facts, and the principles of law applicable to them, in so precise and lucid a way, that it seemed to me a termination of the argument by a judicial decision. It was apparent, from his manner, that he felt an interest in the elucidation of his opinion, arising from deep conviction of its truth.

I most heartily desire that the long delayed and very inadequate justice now proposed to these unfortunate claimants, will be made this session.

I am, dear sir, your obedient servant,

WILLIAM C. PRESTON.

JAMES H. CAUSTEN, Esq., Washington.

RICHMOND, August 17, 1846.

MY DEAR SIR: I received, in due time, your letter of the 11th; and I should have answered it immediately, but you intimated that you had sent me, at the same time, a copy of your speech containing Mr. Preston's letter, and I was desirous of seeing it, in order that I might see how far his recollection agreed with mine. However, the copy of your speech has not yet come on; and now, I think it better to write at once than to wait longer for the information.

I have then to state, that the late Chief Justice Marshall did, in a conversation with me and some two or three others, while a bill was before the Senate for the payment of the claims for French spoliation prior to 1800, express an opinion, distinctly and positively, that the United States ought to make some provision for the payment of those claims; and the opinion made the more impression on my mind, since it was contrary to an idea which I had taken up on the subject, and it determined me to examine it with greater care and deliberation than I had before given it.

You may mark what use of this letter you please. The President's recent veto of this claim appeared to me very strange. Is a President authorized to veto every bill for which he himself would not vote? If he is, he is the whole Legislature whenever there is not a majority of two thirds in both Houses of Congress.

I remain with old and constant respect and esteem, yours, truly,

B. W. LEIGH.

HON. JOHN M. CLAYTON.

I shall not detain the Senate by quoting other authorities on the subject. Almost every man distinguished by his public reputation, and living in those times, expressed the same sentiment. The subject is too well known to the Senate, it is too much of a historical case, to require that I should go into it with that sort of particularity which might be necessary if it were simply a private claim founded on ordinary circumstances. This is a great case. The reasons which have so long delayed its passage and its termination are not difficult of explanation. Up to 1824, these claimants had to come before Congress with very imperfect evidence of the history of their claims. The correspondence, the negotiations of our Ministers at Paris, had not, up to that time, been made public. Under these disadvantages they came here to labor with imperfect evidence to sustain

their case. When they first came, it was not only under these disadvantages, but it was at a time when the Treasury of the United States was unable to compensate them. They came first during the administration of Mr. Jefferson, whose great principle—a wise and sound one—was, to bring the expenditures of the Government at all hazards within its income. The payment of these claims was utterly beyond its income, and the Government, therefore, could not pay them. The Government was poor, and its necessities excused it for delay. This continued long to be the case. When the poverty was, perhaps, about ceasing, we got into a war with Great Britain, and that absorbed our resources. Afterwards came on the war with Mexico. That again delayed them; and that, in substance, is the only plausible reason alleged by Mr. Polk for his veto of this bill. The country required the whole of its revenues, and all the money it could raise, for the purposes of the war; hence he declined to approve the bill in 1846.

So they have been subject to all these national vicissitudes from beginning to end. They have waited so long that Congress has felt that they could wait a little longer; and with hopes deferred and hearts made sick they are here this day petitioning for rights that their country acknowledged more than a half century ago. Shall it longer be our reproach that they are not paid? Until my connection with this subject, accidental so far as it concerns me, I did not know of the extent to which these claims were ramified throughout the country. I have received imploring letters even from the distant West. These impoverished merchants and their families have been scattered abroad throughout the wide world. From residences the most distant, from States the most distant, there comes in from one quarter and another a feeble voice, not uncommonly that of women, imploring, now that in their poverty, at this late and last day perhaps for them, the Government will make some compensation for the justice that has been so long delayed. I trust that will be done now by the passage of this bill. There is no war now. It may be argued, perhaps, that the Treasury is not at present in a condition to pay; but this bill does not make any present draft upon the Treasury, and the claimants ask us by it to settle the claims, and not leave them to the fate of an ambiguous legislation, and an uncertain and a doubtful redress. The bill proposes to issue a stock bearing only five per cent., not for the whole amount, but for only \$5,000,000 out of, say \$15,000,000; and if you added interest on it, I do not know what would be the sum. The claimants ask us to allow them \$5,000,000, and for that to give them a stock bearing only five per cent. interest, and payable at the pleasure of the Treasury. Here is a mode of doing justice, without producing any sort of embarrassment to the Treasury. Shall it be done? Though late, shall we have the satisfaction of knowing that we have done such justice, (although not a full measure of it,) as nations have felt themselves constrained at all times to do?

Sir, but for these claims having been absolved and relinquished by us to France, they would long since have been paid. England and France were the great depredators on our commerce, and England has paid us \$10,000,000 for our merchants for the wrongs which she committed. France, too, would have paid us, but you relinquished your claims to France, and, of course, took upon yourself her responsibility; and you have not paid them yet. Now we ask not a settlement, not payment to the last cent, which would be but rigid and strict justice, but \$5,000,000 for the descendants of these starving creditors, the merchants who ventured upon the ocean in the midst of a stormy war, at the hazard of a capture, under the glorious protection of this free Government, and under the promise of General Washington himself that they should be protected, or redress given them. They ventured abroad to carry on the commerce of this country on the ocean, and they fell victims to their enterprise, and victims to the confidence which they had in their Government and in their President. Now shall they not have redress?

Mr. DAVIS. Mr. President, I am happy indeed that the difference between my friend from Kentucky and myself as to what public or private morality demands, is rather a difference of fact than of the conclusion which we would reach from

the same state of facts. My estimation of him is so high, that I should be pained to arrive at an opposite conclusion as to what virtue and manliness demanded, if we had first agreed upon the state of facts; and therefore I do not rise to reply to his argument, for facts do not admit of an argument, but simply to show the authority on which I rest the position I have taken, and I think thereby to prove that his position is untenable.

His main point is that we have renounced these claims for a valuable consideration, and that the means by which we did renounce them, was the retrenchment of the second article of the convention of 1800. What did the second article propose to do? Did it, as he says, propose to admit the claims of American citizens for indemnity? Would it, as he says, if it had remained in the convention, have secured to them the payment of the money by France? Let history answer; and when history is hushed, let the second article itself speak. Not a word is here about the admission of claims; not a word here about the payment of claims. It is simply this:

"The Ministers Plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed:"

They do what?

"The parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

What did this give to the creditor? Nothing but the poor promise of his claim being considered at a convenient season—that doubtful period both in temporal and spiritual affairs. On the other hand what did it assert against the United States? A right at some future day to discuss with us the revival of treaties which we had swept out of existence. But it is said that the amendment of the Senate by which this article was stricken from the convention of 1800, constitutes the renunciation of the claims of American citizens. Let us see how that is. The Senate ratified this convention, two thirds concurring, "provided the second article be expunged and the following article added or inserted: 'it is agreed that the present convention shall be in force for the term of eight years from the exchange of the ratifications.'" How did this affect the claimants? Instead of their case being considered at a convenient season, it was required to be considered within eight years, or this convention of amity and commerce was to terminate. It was a means of driving France forward to a consideration of their pretensions and claims, whatever they might be; not a renunciation of them. Then again, as to the ratification of this treaty by the First Consul. He agreed to it with this amendment:

"Provided, That by this retrenchment the two States renounce the respective pretensions which are the object of the said article."

Then the President sent this special ratification of the First Consul to the Senate, with a message:

December 11, 1801.

GENTLEMEN OF THE SENATE: Early in the last month I received the ratification, by the First Consul of France, of the convention between the United States and that nation. His ratification not being pure and simple, in the ordinary form, I have thought it my duty, in order to avoid all misconception, to ask a second advice and consent of the Senate before I give it the last sanction, by proclaiming it to be a law of the land.

TH. JEFFERSON.

This is the message of Mr. Jefferson. Was Mr. Jefferson willing to renounce the pretensions of American citizens—this sacred right so eloquently advocated this morning? Surely that will not be alleged. The very argument of the Senator precludes him from alleging it. Then how did the Senate treat it? Not as a renunciation of pretensions which had been set up by our Government for private right; not as a modification of the treaty which required it to be considered and ratified; and surely it would have done so if it was to violate private rights and involve the Government in heavy obligations; but they returned it to the President with this resolution:

"Resolved, That the Senate (two thirds of the members present concurring therein) consider the convention between the United States and the French Republic as fully ratified."

That is, this proviso of the First Consul required no action on the part of our Government. Then

follows the whole history of the transaction, showing that, from time to time, at every consecutive step, we were urging these claims to a settlement upon France, and that they were the subject of future negotiations.

Mr. FESSENDEN. The Senator will excuse me for interrupting him.

Mr. DAVIS. Certainly.

Mr. FESSENDEN. I should like to ask him what evidence he has that these specific claims for spoliations were ever urged by our Government on France after that period?

Mr. DAVIS. I speak of claims for spoliations.

Mr. FESSENDEN. Well, what evidence has the Senator that the claims for spoliations, prior to 1800, were urged upon France after that period?

Mr. DAVIS. The evidence is to be found in the instructions of the commissioners who negotiated the convention of 1803, in the journal of their intercourse with the Ministers of France, urging it from point to point, and from time to time, their efforts being obstructed by the old treaties being constantly presented then as before. You will find it in the Journals.

Mr. FESSENDEN. I think not.

Mr. DAVIS. I shall not be drawn from my argument by the question of the Senator just now. I will attend to him when his time comes.

Mr. FESSENDEN. I did not design to draw the Senator from his line of argument. I merely asked for information.

Mr. DAVIS. Following my own line of argument, which I prefer to that suggested to me. In 1803, when we acquired Louisiana, we had also a convention referring specifically to the claims of citizens of the United States against the French Government, appended to the convention for the acquisition of the territory. In that, so far from its being understood at that time, or at any other, that we would renounce these claims, you find in the preamble the declaration:

"Being desirous, in compliance with the second and fifth sections of the convention of the 8th Vendemiaire, ninth year of the French Republic, (30th September, 1800,) to secure the payment of the sum due by France to the citizens of the United States."

There, instead of its being regarded that we had abandoned all the claims considered in the second article of the convention of 1800, it is specifically announced as one of the things which they were desirous to adjust. Perhaps the Senator will think that was paying no attention to them.

Mr. FESSENDEN. If the Senator will look to the treaty, he will see how it was disposed of.

Mr. DAVIS. This is it:

"ART. 4. It is expressly agreed, that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been, and are yet, creditors of France, for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention, 8th Vendemiaire, ninth year, (30th September, 1800.)"

"ART. 5. The preceding articles shall apply only, 1st, to captives of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States otherwise than he might have had to the Government of the French Republic, and only in case of insufficiency of the captors; 2d, the debts mentioned in the said fifth article of the convention contracted before the 8th Vendemiaire, an. 9, (30th of September, 1800,) the payment of which has been heretofore claimed of the actual Government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prize: whose condemnation has been or shall be confirmed; it is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who, by that reason and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist."

This article shows that the class of cases not provided for, were those where the parties had connected themselves with foreign merchants. Then it goes on:

"All agreements and bargaining concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made."

Again:

"The rejection of any claim shall have no other effect than to exempt the United States from the payment of it, the French Government reserving to itself the right to decide definitively on such claim so far as it concerns itself."

Again:

"ART. 12. In case of claims for debts contracted by the Government of France with citizens of the United States

since the 8th Vendemiaire, ninth year, (30th September, 1800,) not being comprised in this convention, may be pursued, and the payments demanded in the same manner as if it had not been made."

Will the Senator say this is a renunciation of American claims? Will he say this was an abandonment of them, or that this was an assumption of them? Will either one or the other be said? Again, my friend from Kentucky, who urges, with his usual zeal and eloquence, this case, pleads the entire insufficiency of the amount reserved in the convention of 1803. Mr. Livingston, on July 30, 1803, writing to the Secretary of State, Mr. Madison, says:

"Mr. Skipwith still thinks that the American debt will fall much within the twenty million for which we have engaged, and all the fair creditors be fully satisfied: the supposed debt being extremely exaggerated in America. Other nations, creditors of France, have, at present, no prospect of being paid."

They regarded it then as an adequate provision. Again, Mr. Madison, writing to Mr. Livingston as late as January 31, 1804, says:

"Should France, however, be unlikely to admit her responsibility for the pretermitted claims, and there be danger that, by urging her responsibility at this time, an equitable modification of any sort may be rendered more difficult, it will be best to pass over the question for the present, taking care that no waiver be made which may either still further weaken the claims against France, or give color for turning them over against the United States."

"Neither of the succeeding alternatives will increase the balance payable by France, nor is it contemplated that in these, or any other modifications whatever, the Treasury of the United States is to be made chargeable with more than \$3,750,000; or rather, with more than so much of that sum as would satisfy the debts to which it is subjected by the last convention."

This is the only place where I find him to refer to the fifth article. But it is found that in the convention of 1803, both in its preamble and fifth article, it does enlarge the class of cases to be considered under it, and that new class of claimants did come up not provided for in the convention of 1800. Such appears to be the fact.

Then, again, in the instructions which were given in opening this correspondence, the first point in the instructions was:

"At the opening of the negotiation, you will inform the French Ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained, by reason of irregular and illegal captures or condemnation of their vessels and other property, under color of authority or commissions from the French Republic or its agents."

That was the position of our Government. That they did not get all which I would myself believe to be just; that they did not get all which our Government, at that time, contended for, is true; if, as I believe, it was a violation of the law of nations, as well as a violation of the treaties with France, to seize an enemy's property when on board a neutral vessel. They got, however, as much as by diligent and energetic application they could obtain. This is my answer to all allegations made that we have surrendered something which France was willing to give.

The Senator from Kentucky, however, says that history tells nothing of the war of which I spoke; it is a thing unknown heretofore. As I am not willing yet to be classed among those who make war on private account, I think it necessary to refer to some evidence that it has been heard of before I made my poor remarks this morning. In the journal of the negotiators, it appears that, on the 12th of September, 1800, the president of the French commission used such language as this:

"If the Government should think proper to instruct them to make a treaty on the basis of indemnities and a modified renewal of the old treaties, he would resign sooner than sign such a treaty; adding that, if the question could be determined by an indifferent nation, he was satisfied such a tribunal would say that the present state of things was war on the side of America, and that no indemnities could be claimed."

Then our own commissioners, giving as a reason why they did not still further press these pretensions, say:

"The American Ministers being now convinced that the door was perfectly closed against all hope of obtaining indemnities"

Not that they had abandoned the claims of American citizens when the French Government was willing to pay them, and wanted an opportunity to do justice; but they say:

"Convinced that the door was perfectly closed against all hope of obtaining indemnities, or any modification of the treaties"

That is, unless they would give the treaties as he price:

—It only remained to be determined whether, under all circumstances, it would not be expedient to attempt a temporary arrangement which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved, save the immense property of our citizens now depending before the council of prizes, and secure, as far as possible, our commerce against the abuses of captures during the present war."

These were justifiable reasons. They were not required to urge the claims of private citizens to a point that would involve their own Government in a perpetual war. Neither does our Government become responsible, because it may not choose to wage, or having commenced, to continue, a war with any foreign country.

I will not argue this question; but I have some further authority, being a statement of the facts of the case made before the Senate on a former occasion, by a Senator now deceased, Mr. Benton; a decision of Judge Washington, and a decision of Judge Chase. With the permission of the Senate, I will ask my friend from Alabama to read these extracts.

Mr. CLAY read the following extract from Mr. Benton's speech of August 10, 1846:

"The injuries to our commerce, for the satisfaction of which this bill provides, commenced with the year 1793, with the commencement of the war between Great Britain and France, and continued till the treaty with the First Consul, signed on the 30th of September, in the year 1800. Seven years were the period of these depredations, and seven years of more extraordinary exertions for the protection of its citizens were never made in any country. All the means of protection were resorted to; embassies, military and naval preparations, taxes, loans, letters of marque and reprisal, convoy to merchant ships, exclusion of French vessels from our ports, a non-intercourse with France, the condemnation of her vessels, retaliation upon her citizens, &c. And in the month of July, 1793, Congress cut the last cord of friendly intercourse with France by passing a solemn act abrogating all our treaties with her, and placed the two countries in a state of actual hostilities. The famous combat of Captain Paxon, in the United States frigate *Constitution*, with the French frigate *L'Insurgente*, was one of the fruits of that war; and, although the most signal, was by no means the only instance of fierce and bloody collision between the French and Americans of that day. Besides the extraordinary embassies, the military and naval preparations, the loans and taxes, were immense and almost incredible for a young nation of five millions of people. Between the year 1793 and the complete restoration of friendship with France in the spring of 1801, the appropriations for the Army were above twenty million dollars; those for the Navy exceeding fifteen million; the authorized loans were above twenty-five million dollars; duties on imports were increased; direct taxes were laid; the stamp act and excise made their appearance among us. The statute-book from 1793 to March 4, 1801, is thickly sprinkled over with acts for these taxes, loans, and appropriations; nor did they remain dead letters upon the book. The taxes were collected, ships of war were built, the regular Army was augmented, a provisional army of ten thousand men was raised, Washington was called from his retreat to take the command, ships of war conveyed the merchantmen. At home, the tax gatherer entered every house, the excise-man was abroad, the stamp master retailed his little bits of paper, no contract between man and man was good for more than twenty dollars unless on taxed paper. Such were the burdens which our fathers bore for seven long years, to protect these claimants, or procure redress for them; expenses and efforts almost incredible in a young nation of five million people, and which, to be equaled by our present population in any similar emergency, would require every item of expense or exertion to be multiplied by four. After all, with all the duties on imports increased, and with all the resources of excise, direct taxes, and stamp act, the expenses of these extraordinary exertions were not met. A large debt was created, much of it bearing eight per cent. interest, and the burden of which, both principal and interest, fell on posterity."

"The case of *Bas vs. Tingy* (4th Dallas, page 35) came up upon a question of prize, in which a claim for salvage was prosecuted; a claim which turned upon the question whether a vessel taken from the French was a vessel taken from the 'enemy,' and that brought up the whole subject as to the nature of the hostilities we were then waging with France on account of these claims. Upon that subject the judges were unanimous. They all decided that it was war; that it was public war, coming under the denomination of what is called an imperfect war."

Judge Washington says:

"The decision of this question must depend upon another, which is, whether at the time of passing the act of Congress of the 2d of March, 1799, there subsisted a state of war between the two nations? It may, I believe, be safely laid down, that every contention by force between two nations in external matters, under the authority of their respective Governments, is not only war, but public war. If it be declared in form, it is called solemn, and is of the perfect kind, because one whole nation is at war with another whole nation; and all the members of the nation declaring war are authorized to commit hostilities against all the members of the other, in every place and under every circumstance. In such a war all the members act under a general authority, and all the rights and consequences of war attach to their condition.

"But hostilities may subsist between two nations more confined in its nature and extent, being limited as to places, persons, and things; and this is more properly termed im-

perfect war, because not solemn, and because those who are authorized to commit hostilities act under special authority and can go no further than to the extent of their commission. Still, however, it is public war, because it is an external contention by force between some of the members. It is a war between the two nations, though all the members are not authorized to commit hostilities, such as in a solemn war, where the Government restrains the general power."

Again, Judge Washington says:

"In fact and in law we are at war: an American vessel fighting with a French vessel, to subdue and make her prize, is fighting with an enemy accurately and technically speaking; and if this be not sufficient evidence of the legislative mind, it is explained in the same law."

Let us read what Judge Chase says:

"What, then, is the nature of the contest subsisting between America and France? In my judgment, it is a limited, partial war. Congress has not declared war in general terms, but Congress has authorized hostilities on the high seas by certain persons in certain cases. There is no authority given to commit hostilities on land, to capture unarmed French vessels, nor even to capture French armed vessels lying in a French port; and the authority is not given indiscriminately to every citizen of America against every citizen of France, but only to citizens appointed by commissions, or exposed to immediate outrage and violence. So far it is, unquestionably, a partial war; but, nevertheless, it is a public war, on account of the public authority from which it emanates.

"There are four acts, authorized by our Government, that are demonstrative of a state of war. A belligerent Power has a right, by the law of nations, to search a neutral vessel, and upon suspicion of a violation of her neutral obligations, to seize and carry her into port for further examination. But by the acts of Congress an American vessel is authorized: 1. To resist the search of a French public vessel. 2. To capture any vessel that should attempt by force to compel submission to a search. 3. To recapture any American vessel seized by a French vessel. And, 4. To capture any French armed vessel wherever found on the high seas. This suspension of the law of nations, this right of capture and recapture, can only be authorized by an act of the Government, which is, in itself, an act of hostility."

Mr. DAVIS. These are some of the authorities which I present to the Senate as answering the position taken by the Senator from Kentucky. I do not doubt that, if I viewed the facts as he does, I might reach his conclusion; or, if he viewed the facts as I do, he might reach my conclusion. I admit everything he says about the obligation of the Government to protect its citizens; and I would measure it neither by time nor by money. I said before I plead no statute of limitation, and I plead no incapacity to pay.

Neither, sir, can I agree with the Senator from Kentucky that it has been the poverty of our country that has kept us from paying this debt, as he terms it. There has been a time when our Treasury was gorged to such an extent as to require depletion by an act of distribution. When the last veto message was sent to Congress, the Treasury was full; the country was prosperous; there was no reason to dread the inability to bear this one payment; and if this were the end of it, it might have been cheaply purchased by saving the time it has occupied. But this constitutes a precedent; it establishes a pledge of the Government, whenever it attempts to advocate the claims of one of its citizens, and to vindicate their rights against a foreign country, that it must succeed, or must wage an interminable war, or must pay the citizen the amount of his claim. It is in this view of the case that I consider it of public importance. It is this which has urged me to make my opposition on this occasion.

The bill was ordered to be engrossed for a third reading, and was read the third time. On the question, "Shall the bill pass?"

Mr. DAVIS called for the yeas and nays; and they were ordered.

Mr. GREEN. I beg leave to state that at the request of the Senator from Maine, [Mr. Fessenden,] I have paired off with him on this question.

The question being taken by yeas and nays, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Bates, Bayard, Bell, Benjamin, Broderick, Cameron, Chandler, Chesnut, Clark, Clingman, Colamer, Crittenden, Dixon, Doollittle, Durkee, Foot, Foster, Hamlin, Hammond, Houston, Pearce, Seward, Simmons, Stuart, Toombs, and Wilson—25.

NAYS—Messrs. Bigler, Bright, Clay, Davis, Douglas, Fitch, Fitzpatrick, Harlan, Hunter, Iverson, Johnson of Tennessee, King, Mason, Polk, Reid, Rice, Sidel, Trumbull, Ward, and Yulee—23.

So the bill was passed.

Mr. KENNEDY rose at a later period of the day, and said: Mr. President, I should like to make a personal explanation before the Senate adjourns to-day. I presume I can make it now, by the unanimous consent of the Senate. It is

simply to state, that during the discussion to-day upon the French spoliation bill, I was called from my seat to the door upon a matter of business. I had designed not only to vote for that bill, but to have spoken upon it; but when I returned to my seat I found that the vote had been taken. I desire simply to say, that if I had been here I should have voted in favor of the bill as well as spoken for it.

MILITARY ACADEMY BILL.

Mr. GWIN. I move to proceed to the consideration of the unfinished business.

Mr. HUNTER. I would suggest that we had better, perhaps, take up the West Point appropriation bill. There is but part of the day left.

Mr. GWIN. If the Senate will let the Pacific railroad bill come up so as to be the unfinished business for one o'clock to-morrow morning, it can be laid aside informally, to take up the Senator's bill.

Mr. HUNTER. It can be taken up after we get through with the West Point bill.

Mr. GWIN. If the Senator from Massachusetts [Mr. Wilson] would prefer addressing the Senate on the railroad bill to-morrow, instead of to-day, I shall not object.

Mr. HUNTER. I move to take up the Military Academy appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 663) making appropriations for the support of the Military Academy, for the year ending June 30, 1860.

The bill was reported to the Senate without amendment; ordered to a third reading; read the third time, and passed.

ADMISSIONS ON THE FLOOR.

Mr. PEARCE. It seems to me that it would be well for us to take up at this time the resolution reported from the Committee on the Library to-day, in relation to privileged seats. I make that motion.

The VICE PRESIDENT. It is the duty of the Chair to call up the special order, which is the unfinished business. Does the Senator move to postpone it?

Mr. PEARCE. I do.

Mr. GWIN. I hope this will be taken up informally, without postponing the special order.

The VICE PRESIDENT. The Chair has been in the habit of postponing bills, informally, by unanimous consent; but objection was made the other day by a Senator, and since that time the Chair has been in the habit of putting the question in each case.

Mr. STUART. I objected at that time because I did not want this bill to stand all the time in the way of other business; but at this time of the day I have no objection to the other question coming up.

The VICE PRESIDENT. Then, if there be no objection, the special order will be informally postponed for the purpose of taking up the resolution of the Senator from Maryland.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That the following be substituted for the 48th rule of the Senate:

48. No person shall be admitted to the floor of the Senate, while in session, except as follows:

The officers of the Senate; members of the House of Representatives and their Clerk; the President of the United States and his Private Secretary; the heads of Departments; foreign ministers and their secretaries of legation; ex-Senators, and judges of the Supreme Court.

The officer in charge of the Capitol extension, during the progress, and until the completion of the work, shall be admitted to the floor of the Senate.

The clerks of the committees of the Senate may be admitted to the floor of the Senate, for the particular occasion, upon a special order, signed by the chairman of the committee.

Mr. HUNTER. I move to amend by inserting "the Mayors of the cities of Washington and Georgetown."

Mr. SHIELDS. I move to amend the amendment by adding, "and the heads of bureaus."

Mr. HUNTER. I think there is a great deal of difference between the heads of bureaus and the mayors of the two District cities. It is well known that the people of this District have no delegate in Congress—no one to represent them, except that sort of informal representation which they enjoy through these mayors. They appear here, particularly on days when we have up Dis-

strict business; and it's almost necessary that they should be here, because it frequently happens that it is only through them we can learn the wishes of the people of the District. We find that certain measures, which they desire, cannot be carried without modification; and to ascertain what modification would suit them, and what they would prefer in regard to those matters, it is important that they should be on hand, so that we may consult them. I hope the amendment which I have proposed will be adopted. I am not willing to extend it further. I do not know why we should want the heads of bureaus on the floor.

Mr. GWIN. It is well known to the Senator from Virginia, and to all the members of this body who have been here any length of time, that it is almost indispensable to have the heads of bureaus here when we are considering the appropriation bills. They are more important for us to consult than the heads of Departments. We get our information from the heads of bureaus, and not the heads of Departments. They are indispensable. If we do not permit them to come on the floor, we shall have to be running out of this Hall for the purpose of getting that information which is indispensable to understand the business of legislation. I think they are more important than anybody named in the resolution, for the convenience of the public service and the discharge of our duties. I hope the amendment to the amendment will be adopted.

Mr. SHIELDS. I do not want to waste the time of the Senate in discussing this matter; but I believe this is coming back to the old rule. We have been in the habit of admitting heads of bureaus, and when we have enlarged our Chamber and have a great deal more room than we had in the former Chamber, I do not see why we should diminish the number to be admitted. I agree with the honorable Senator from California that as far as the transaction of business goes, the heads of bureaus are more important to us than the chiefs of the Departments. If I recollect aright, when I had the honor of being at the head of a bureau myself, I was frequently sent for by Senators. I think it is only returning to the old rule that was in practice in the old Chamber.

Mr. TOOMBS. I give notice that when it is in order, I shall move to strike out the clerks of committees, unless you include the clerk of every Senator. The clerks of committees are usually the clerks of the chairman of the committees, and I shall insist that every other Senator shall have his clerk here, as most of us are compelled to keep them, temporarily or altogether, to transact our business. I shall insist that the committee clerks shall be stricken off, or all our clerks be admitted. My servant may probably want to come here.

Mr. COLLAMER. I think Senators are mistaken in regard to heads of bureaus being admitted. I ask for the reading of the old rule, for which this is a substitute.

The VICE PRESIDENT. The Secretary will read the old rule.

The Secretary read it, as follows:

"48. The following persons, and none others, shall be admitted on the floor of the Senate: Members of the House of Representatives, and their Clerk; the Secretary of State; the Secretary of the Treasury; the Secretary of the Interior; the Secretary of War; the Secretary of the Navy; the Attorney General, and the Postmaster General; the Private Secretary of the President; chaplains to Congress; the Superintendent of the Public Printing; the deputy postmaster of the City of Washington, and the marshal of the United States for the District of Columbia; Judges of the United States; Clerk of the Supreme Court; foreign ministers and their secretaries; Ministers of the United States to foreign Governments, and their secretaries, and persons who have been such ministers or secretaries; the Superintendent of the Coast Survey; the Mayor of Washington; the Mayor of Georgetown; the heads of bureaus; the secretary and members of the Board of Regents of the Smithsonian Institution; the district attorney of the United States for the District of Columbia; officers who, by name, have received, or shall hereafter receive, the thanks of Congress for their gallantry and good conduct in the service of their country, or who have received medals by a vote of Congress; the Governor, for the time being, of any State or Territory of the Union; the ex-Governors of the several States; Judges of the courts of record of the several States, and persons who have been chancellors, or judges, of the highest courts of law or equity of the several States; the ex-officers of the Senate; such gentlemen as have been heads of Departments, Secretaries, Clerks, Sergeant-at-arms, or members of either branch of Congress; persons who, for the time being, belong to the respective State and Territorial Legislatures, and persons belonging to such legislatures of foreign Governments as are in amity with the United States.

"No person, except members and officers of the Senate, and members of the House of Representatives, shall be ad-

mitted at either of the side doors of the Senate Chamber, and all persons claiming admission on the floor of the Senate, excepting members, and the Clerk, and Sergeant-at-arms of the House of Representatives, for the time being, the heads of the several Departments, the Private Secretary of the President, the chaplains to Congress, judges of the United States and of the several States, foreign ministers and their secretaries, ministers and ex-ministers of the United States, their secretaries and ex-secretaries, and the clerk of the Supreme Court; solicitor and clerk of the Court of Claims; and officers, who, by name, shall have received the thanks of Congress, or medals by a vote of Congress; the Superintendent of the Coast Survey, the Mayor of Washington, heads of bureaus, the secretaries and members of the Board of Regents of the Smithsonian Institution, the district attorney of the United States for the District of Columbia, and persons who have been chancellors or judges of the highest courts of law or equity of the several States, shall, (each time before being admitted on the floor,) enter their names, together with the official position in right of which they claim admission, in a book to be provided and kept at the main entrance to the Senate Chamber; and no person except members of the Senate shall be allowed within the bar of the Senate, or to occupy the seat of any Senator."

Mr. COLLAMER. I perceive that heads of bureaus are included in the old rule.

The VICE PRESIDENT. The question is on the amendment to the amendment, which is, that heads of bureaus be admitted to the floor of the Senate.

Mr. TOOMBS. I hope this amendment will not be adopted. We have no legislative communication whatever with heads of bureaus, and we ought to have a great deal less with many of the Executive Departments of the Government. I see no need for them here in any way whatever. If it is a compliment, it is not more important to give it to them than to a great many other classes of people in this country; but certainly, in a business point of view, it is a great mistake. We do not get information from them. We must get it from them, if at all, through their proper Departments. We ought to have no official communication with them; all communication with them is irregular and out of place. I think there is no single reason, of public convenience of any sort, why they should be here. According to our custom, I believe it has been rather more the case of late years, we do not go directly to the President of the United States for information as to all the Executive Departments, which would be the more orderly course; but we have sometimes of late years gone to the heads of Departments. My own opinion is, that it would be a very great improvement of our system—and I have thought frequently of suggesting it as an important matter—if the Cabinet officers should be on the floor of both Houses and should participate in the debates. I have no doubt that we should thus get rid of one of the very greatest difficulties in our Constitution. But so far as the executive officers are to come here in person, let them be the heads of Departments. The admission of the heads of bureaus is not needed to facilitate the public business, and they ought not to be admitted as a personal compliment to them. The Senator from Minnesota says we have enlarged our Hall, and can accommodate more. Why, sir, in the old Hall the admission of persons to the floor got to be an unbounded nuisance, as I believe was conceded by everybody. We have not probably so much room on this floor for persons as we had in the old Hall; certainly very little more.

Mr. COLLAMER. But we have a large gallery for every one.

Mr. TOOMBS. We have made much greater accommodation for the public to hear the debates, to the very great sacrifice, I think, of the personal convenience of Senators. Not one of the people named in this resolution is necessary to be here to enable us to discharge the public business. There are, however, good reasons for all of them being admitted except the clerks of committees; and if you admit them, I shall insist on enlarging that provision, so that every Senator shall have on the floor his clerk, having charge of his business. Believing that your standing committees do not need clerks for any public utility whatever, but that they are mere abuses that have grown up, I shall oppose the bringing of such persons upon the floor.

Mr. BAYARD. My own inclination of opinion, as a member of the committee to which this resolution was referred, was originally to restrict entirely the admission to the floor to the heads of Departments, and the President and his Private Secretary. I was induced to think that heads of Departments ought to be admitted on a principle

to be drawn by analogy from the country from which, in general, our institutions are derived. In the British Parliament, all ministers who are responsible to public opinion and to the public, are members of the House of Commons or the House of Lords. Here, under our system, they have no voice; yet they have responsibility, and are responsible to public opinion. There may be occasions connected with the business of the House, and the progress of debates, that may involve the conduct of the head of a Department in reference to the management of that Department, and though he himself cannot be heard on this floor, I thought he ought to have the means of explaining, through some Senator, the course and management of his Department. But that principle cannot extend to the mere heads of bureaus. You may call them heads of bureaus, but they stand in no responsibility to public opinion. They are but subordinate officers, to whom the public do not look at all. They look to heads of Departments for the control of all the subordinates. I can see no reason, therefore, why we should, on any ground, (and we certainly cannot on any business connection they would have with us,) admit them to the floor.

The first general principle that ought to govern us would be that those only should be admitted on the floor who are connected with the transaction of the business of the Senate. That would be the strict and rigid rule. I cannot bring the heads of bureaus within any rule or principle, in my judgment, that should create an exception in their favor. I can see it as regards the heads of Departments, on account of their public responsibility to the opinion of the country for the management of their Departments; but no such responsibility exists or is thought of by the public as regards the heads of bureaus. I am, therefore, opposed to going beyond the extent to which the committee have gone in that respect. In the view I took of it, I should have been disposed to confine admissions entirely under the rule of the Senate, to its officers; but I thought, from the reason I have stated, that heads of Departments should properly be admitted. Besides, in practice, they would seldom be among us; they are limited in number, and there can be no inconvenience arising from it. Beyond that, my own judgment would not have allowed me to go.

But another question arose in reference to foreign ministers. Foreign ministers, it was ascertained, according to the usages both of Holland and England, are admitted to the floor of the House of Commons in the one country, and the deliberative assembly in the other—I know not its name. International courtesy, therefore, seemed to require that we should extend a similar privilege here. We confined it strictly to the ministers and the secretaries of legation.

The second rule which I viewed as essential in all cases, even if the first was not applied, for the purpose of controlling admissions to the floor of the Senate, was that the class admitted under the rule should not be composed of individuals who could not be personally known, in all probability, to the employees of the Senate; because if they were not known, it would lead to abuse. As regards the honorary admission, I do not look on it in that view, because the moment you begin to admit classes, the honor is all gone. A special resolution of the Senate, on a particular occasion, admitting an individual to a seat on the floor, may be an honor and a compliment; but a more general resolution, admitting classes of persons, is a privilege alone; it amounts to neither an honor nor a compliment. In that view, therefore, I suppose that we ought to exclude all, certainly under the rule of identity, who could not be familiarly known to the officers of the Senate. No one can doubt that under our former rule of admitting indiscriminate classes, with whom the officers were utterly unacquainted, it grew into such an abuse that it forced us into an abrogation of the rule as it existed, before we came to this Hall.

I speak not of the propriety of the course of others; but every Senator knows that our former rule was so abused that no matter who applied to many Senators on this floor for admission, they were admitted, whether within the rule or without it. It was impossible for the officer to distinguish; he could not know the position of the party. You prescribed that books should be kept and names entered. It was found to be an entirely

idle and useless prescription. Individuals were constantly on the floor, and in numbers, who, under your rule, were not entitled to a seat upon the floor; and they were introduced by Senators. The result was that other Senators were often appealed to to introduce persons who did not come within your rule; and they were obliged, of course, either to make an enemy of the individual, or not to refuse him. I have had numerous applications of that kind made to me by gentlemen of whom I entertained sincere personal regard, and when I have told them, "I have no authority to admit you on the floor, unless you show me that you fall within the rules of the Senate," they have said, "Mr. A. B. has taken me on the floor on a former occasion, and why should you not do it?" It is very hard to answer an argument of that kind; because to refuse implies a censure on a brother Senator, and it also irritates the individual, who thinks you are overpunctilious by refusing. I am one of those who think that it is the duty of a Senator, if he expects the rules to be obeyed by the officers of the Senate, to obey them himself. I have, therefore, refused such applications, and I can easily see the difficulties resulting from solicitations to Senators. Under such circumstances, you cannot hold your officers to responsibility. They do not know an individual; if he is brought in at the door by a Senator they will not even venture to inquire as to him; but if you confine the classes entitled to admission to the floor to persons who, in all human probability, must be known to the officers of the Senate, then you have a safe rule, and you can hold your officers to responsibility if they admit on the floor those not entitled under your rules to admission.

As regards judges of the Supreme Court, there would be no difficulty as to identity there. They reside here for three or six months in every year. They are all known familiarly to the officers of the Senate. They are but nine in number. They might well be admitted under the rule of identity. As regards foreign ministers, they are residents here, and, of course, they have become known to the employees of the Senate, and there would be no difficulty as to them; besides, their number is limited. As regards ex-Senators, their number is not great. I felt great doubt in my own mind about extending the admission that far; but it was the propriety of extending a courtesy towards those who had been members of the same body with us that led me to give way to it. Ex-members of the Senate, from the permanence and duration of their term—six years—would always be likely to be known to officers of the Senate. We hold our officers, I think rightly, during good behavior; we do not indulge in the fanciful notion of removing men for the mere sake of change; we keep them permanently, as long as they perform their duties properly; and, therefore, they have the opportunity of knowing gentlemen who have been members of this body for many years back. There is no inconvenience, then, in the rule of identity in that case. But I cannot consent to go further; I cannot agree to violate both rules, the rule which really ought to restrict a deliberative body—that none but those who are members transacting its business, or necessary attendants upon those members, should be admitted; and the secondary rule, that if you trespass upon that, arising from matters of convenience and a variety of grounds, you ought never to go beyond a class of persons who can be identified personally by the employees of the Senate. Take them both, and all that we have recommended the admission of would fall within those rules.

Beyond that I was unwilling to go; and for that reason I thought that the Governors of States ought not to be admitted on the floor of the Senate. They have no peculiar business with the Senate. They would necessarily be unknown to the officers of the Senate. If it be a mere honorary token of recognition, the honor is lost in the extension of the class; and besides, if there was any reason for admitting the Governors of States, on the ground of the position they occupy, to the floor of the Senate, the same principle would require, as an honorary mark of distinction, that the ex-Governors of States should be admitted; for the office having been held, the party is as much dignified by the position, as the existing incumbent of the office; and therefore we should be led on step by step to the same indiscrimi-

nate admission which existed under the former rule.

I believe that the committee have gone as far as they ought to go, and I rather think they may perhaps have gone further than they ought to go; but why should we add under this amendment the heads of bureaus? Although they are not subject to the objection of want of knowledge on the part of the employees to identify them, nor subject to the exception that they have no business here, there is no reason for their admission. The reason for the admission of a head of a Department is, that he is responsible to the public opinion of the country for the management of his Department; but no such responsibility exists in reference to the heads of bureaus, who are merely subordinate officers, and on the honorary principle, it is all lost—there is no use in discussing it—it is all lost the moment you make general rules instead of admitting the individual for the occasion.

Mr. PEARCE. My attention was called off at the moment the resolution was taken up, or I should have endeavored to state to the Senate the principles which governed the committee in proposing this rule. I suppose I may do that now, notwithstanding the motion is specially one to add the heads of bureaus. The committee sought to provide for the admission of such persons as have such official relations with us as made it desirable, very convenient, or necessary, that they should have the privilege of the floor for the purpose of communicating with us. I do not know that there is any one beyond our own officers and the heads of Departments who come within that class. With the heads of Departments we have official relations; we get all our information from the Executive through the heads of Departments. We do not get such information through the heads of bureaus. If a member of the Senate wishes to obtain information from any given Department, he does not address the subordinate who is at the head of one of the bureaus of that Department, and if he does, he will not get the information for which he asks; he must apply to the Secretary, and properly enough. As it is from the Secretaries of those Departments that we obtain official information, it is to them only, it was thought, we should extend the privilege of the floor. I do not know the period when we adopted that part of the old rule which allows the heads of bureaus to come on the floor. I do not know that I have witnessed half a dozen examples, in twice as many years, in which their presence has been necessary for our information. In truth, the committees who report the bills ought to be advised of all that is necessary for them to know, before the bills come up here for discussion; and they ought to get that information from the fountain-head, the Secretaries of the Departments. I have seen heads of bureaus here who had no business, and very often; but in such cases they were an incumbrance, an abuse, as one gentleman said. Our accommodations for such persons are not enlarged. It is true the Hall is much larger, and the galleries are many times larger, but the privileged seats are not as numerous, and do not afford as much accommodation as in the old Hall, for there we had the large space behind the President's chair, which would hold one or two hundred, perhaps, and now we have no such convenience as that.

I can see no reason for admitting these gentlemen from courtesy, as a compliment. Their position is not such as to entitle them to that privilege from comity; and, as I think I have shown, there is no necessity, for our convenience, why they should be admitted. It seems to me, therefore, that it is rather an unconsidered thing to recommend their admission to the privileges of the floor. In regard to other propositions, I shall say nothing; but wait until the time comes.

Mr. COLLAMER. I shall vote for the admission of the heads of Departments, but not for any such reasons as I have heard suggested here to-day. If it is true that we are to receive information from the heads of Departments in relation to any action of our own, it should be the duty of those heads of Departments to attend here so that we could have the use of them; but I insist that we ought to have no communication with the heads of Departments, except it is a mere act of courtesy and civility, unless it is in writing; and whatever information we have from them should be common to us all, and not have any man go to

them and acquire some private information for his own particular use. I disclaim altogether the idea that these gentlemen should be admitted on this floor from any considerations of this kind; but I am perfectly willing to vote for their admission as a matter of courtesy and respect, and nothing further.

Mr. SHIELDS. I shall not continue this discussion; I do not take sufficient interest in the matter to do so; but I have a word to say as to the classes proposed to be admitted. I regard the clerks of the Senate as the most important of all the persons named in the resolution, if the object is to facilitate the business of the Senate.

The VICE PRESIDENT. The Senator will pause a moment. The Chair must call the attention of Senators to the fact that conversation is loud and general all over the Chamber. He trusts that better order will be observed.

Mr. SHIELDS. To facilitate the business of the body—to aid the chairmen of committees in the transaction of important business—constant communication with the clerks of the committees; it strikes me, is necessary. I have found it so; and I think every chairman of a committee in this body will concur with me. When we want important information, it is necessary that we should communicate with the Clerk; and we have either to go to the committee-room, or bring him here with papers, because no messenger understands the business as he does. If it is a mere compliment, I agree with the honorable Senator from Georgia; but to facilitate the business of the body, constant and almost daily communication with the clerks of committees is necessary to the chairmen.

Now, so far as the heads of bureaus are concerned I consider them as next in importance in regard to the transaction of business. There are measures every day in progress in this body that the heads of bureaus understand, even better than heads of Departments, because they are the working agents of the Government; they are the hands that prepare the work; and though we might not find it necessary to send for them, they might deem it very necessary to be here occasionally in order to understand what is before the body. The Senator from Georgia thinks we have already had too great an intrusion on us, if I understand him. If so, it has been in violation of the rule, and not because the rule was strictly adhered to. It strikes me we have abundance of room now to admit all proper persons.

Mr. PEARCE. I did not propose to go beyond the question properly before the Senate, but I must reply to the Senator from Minnesota. I cannot admit, though he seems to be confident of it, that the clerks of committees are better informed in the business of the legislation of the Senate than members of the Senate and members of the appropriate committees. The Senator seems to think so; at least he said so.

Mr. SHIELDS. Did I say so? I think not.

Mr. PEARCE. He said they were better informed than members of the Senate. I am afraid we are totally unworthy of our seats if that be the case. It is convenient, sometimes, I know, to have committee clerks admitted to the floor of the Senate. There are certain occasions, as when the great appropriation bills are up, when there are a vast number of amendments, and sometimes calculations and various papers in relation to the amendments, when it is convenient to have a clerk at hand who knows the arrangement of the papers and can supply you at once with what you would otherwise have to search for; but except on those occasions, I see no necessity for committee clerks coming on the floor of the Senate.

I am free to admit, however, that we might, perhaps, dispense with this portion of the rule. Some gentlemen, however, heads of committees, have been very anxious that they should be allowed to extend this privilege by a written order for particular occasions, to the clerks of their committees. They say it would be very convenient to them, and save them and the committee trouble. Some of the Library Committee have thought it would answer equally well if, when such an occasion occurs, the Senator would state the fact to the body, and ask permission to have his clerk come on the floor of the Senate. With that I should have been satisfied myself; but I found the heads of committees were, generally, very desirous that their clerks should have this privilege on special written order. The Library Committee

supposed that such an authority would not be abused by the chairmen of committees, and therefore inserted it. For myself, I care nothing about it. I know, though, that there are Senators who will find it somewhat inconvenient at the close of the session, when we are all very much hurried and have no time to waste, to be compelled to go through their papers here without the aid of the clerk of their committee.

I will say nothing further about the heads of bureaus, except this, that although it may be that heads of bureaus are often very minutely acquainted with the details of the service with which they are charged, yet it is the duty of the committees (and I believe they endeavor to discharge that duty) to obtain from the proper authority, the head of the Department—whether he can furnish it directly, or does it through the heads of the bureaus, makes no difference—the information necessary to enable them to conduct the particular matter in hand. I think committees generally procure that information; and I must say, I have never myself seen an occasion on this floor, though I have been a member of the Committee on Finance some eight or ten years, I believe, of referring to heads of bureaus for any information on bills before us. We ought to get it, and generally do get it, beforehand. It is only when some unexpected amendment is moved that we want that information; but I think it unnecessary to extend this privilege so widely as the proposed change of the rule will do.

Mr. SHIELDS. I rise only to correct the honorable Senator in relation to what he says I stated. I presume he misconceived what I said. It was, that the clerks of the committees understood the papers and the business before the committees, and understood how to communicate with the committee better than a messenger. The honorable Senator, I presume, thought I said, better than the members; and perhaps it would not be so inconceivable a thing, even if I had said what he supposed. I did not say it; certainly I did not mean it; but I would now almost accept the amendment of the honorable Senator, and say that in some cases they really understand the business of the committee almost as well as some of us chairmen.

Mr. DAVIS. I hope we shall not violate the rule which has been adopted. We have entered a new Chamber, the construction of which is peculiar and new to us, different from the old in many particulars, having not as much accommodation for visitors as there was in the old Chamber, but with very large and abundant accommodations in the galleries. I do not think this is the place for conversation. I do not think Senators ought to have anybody in this room, with whom they wish to converse. If it be desirable to have a particular class of persons, with whom Senators may confer during the session, here is the retiring room; let the closed doors that lead to it be opened to a particular class of persons; let Senators go out and see them there. This is the place for deliberation, for action; let the spectators be in the gallery; let silence be in the Chamber.

Then, sir, as to the provisions made in the gallery, which has been noticed heretofore; I will only say that in setting apart one side of the gallery for one class of persons, and another for another, it was supposed they would go wherever they found it most desirable. It was not with a view to discriminate against foreign ministers that no particular location was designated for them; but it was to give them their option to go where they pleased about the gallery—to let them select the seats most agreeable to them. I supposed really it would be an advantage to them rather than to tie them to a particular spot. I have understood that in the House of Representatives the practice is that they do not go to the particular place which has been assigned to them. If it be desirable to have seats set apart for the officials of the Government, for the Supreme Court, why not put them on the right and left of the Vice President in the two small galleries overhead? You may reserve them for that class of persons if you please; but I think, generally, it will be found that they can accommodate themselves better without being assigned to a particular locality, and that, I believe was the opinion of the committee of arrangements when they assigned the gallery.

Then I wish to call the attention of Senators to the fact that we have provided a room very

convenient to the Chamber, and eligible in every respect, for the President. It was not expected that the President would be there more than once a year, if that often. It was not designed, therefore, for the President alone, but it was supposed his Cabinet officers might frequently wish to consult with Senators, and that room would be available for that purpose, where they could have conversation uninterrupted, where they could explain whatever they wished to communicate, and I think it had better be done out of the Chamber than in it. I think that a Cabinet officer has no right to come here and disturb any one addressing the Senate or Senators in paying attention to him; neither has any Senator the right to bring them here with that effect.

Another word in relation to the connection of the executive and legislative departments of our Government. I do not think they ought to be so far mixed as to bring executive officers into the Senate Chamber. From the days of General Washington down, no President has come to enter either of the Halls of Congress during their deliberations. He left it under circumstances which constituted a warning to his successors. If I may be excused for referring to myself, I will say that when I was in an Executive Department, I never came into either Hall of legislation, save on the last day of the session, and that only when we were required to come here because the President was to receive and sign bills in the Capitol. Having charge of the construction of the building of the Capitol, and frequently in it, as a rule of propriety, I carefully avoided going into either Chamber. I do not think it necessary for the head of an Executive Department to be here to hear the debates. I do not think it proper that he should be here to interfere at all with the course of discussion.

I hope the matter will stand as it is, at least until we have made that fair experiment which will enable us to determine what the present Chamber is fitted for, and whether there be any space in it where visitors can be received and converse without interfering with the deliberations of the body. We have no lobby here, no space behind in which persons can converse, as in the old Chamber, and I think it will be found a great inconvenience if they are admitted.

Mr. PEARCE. The committee included the President of the United States, not because they supposed the President would be likely to visit the Chamber. There was a time, as the Senator from Mississippi has intimated, when the President came here and conferred personally with the Senate. It is a possible thing such an event may occur again. We do not expect it, it is true; but we saw no reason why we should exclude the President from our Hall by our rules, and therefore included him. We propose to admit foreign ministers, because of national comity. We know that our own ministers abroad are admitted on the floor of the British House of Commons; so also in the Chambers of Holland, and perhaps elsewhere. We thought, therefore, that it would be hard to exclude them, after they had been for so many years admitted. They trouble us very little, only occasionally, and do not stay long, and I do not think their admission will inconvenience us.

Then we included ex-Senators because of the relation they sustained to the body of which they had been members. The number of them is comparatively small, I mean compared with the number of ex-members of the other House. This is a more permanent body; members serve here longer, and I doubt very much whether we shall ever have a dozen ex-Senators at one time availing themselves of the privileges of the resolution. The committee therefore thought there would be no impropriety in extending to our old comrades this courtesy. So of the Supreme Court, a co-ordinate branch of the Government, one of great dignity, a venerable body I may say. They have been allowed heretofore to come in. It is very seldom that they ever appear here. Some of them, I am sure, I have not seen in the Senate during the whole period of my having been a member of it. I do not recollect having seen the Chief Justice here, except on official occasions, when it was his duty to come, on the inauguration of the President. Some of the judges occasionally come in, but only for a short time.

As to the clerks of committees I have spoken

before, and will say nothing more on that. There is one other provision. We proposed to admit the superintendent in charge of the Capitol extension, and we did so for special reasons. Within the last few days, complaints have been made in regard to the ventilation of the apartment. It was desirable that he should be here, then, to know what it was that was objected to, and to see how it might be remedied. Captain Meigs is a modest gentleman, not likely to abuse any privilege; and we thought that, during the continuance of the construction of the Capitol, we should make an exception in his behalf, for our own convenience much more than his. There we propose to stop, believing, as the Senator from Mississippi has well said, that this is a place for deliberation, and not for discussion or the transaction of other business than that which is proper for Senators in their places. I think the extension of the privilege, as far as we propose, will not be found inconvenient; but I doubt whether a further extension, as proposed by Senators, will not be found so.

Mr. POLK. Before the Senator from Maryland takes his seat, I should like to ask him a question for information, because I may offer an amendment at the proper time. I desire to know whether there is any reciprocal courtesy that requires the admittance of the secretaries of legation of foreign ministers on the floor?

Mr. PEARCE. I will say to the Senator that I have been informed by my friend who sits near me, [Mr. Toombs,] that he went on one occasion to the House of Lords with our present President, then our Minister to England, and that the officer in charge of the door said, "the American Minister, I believe." "Yes." When he inquired whether the Senator from Georgia, who was with him, was attached to his legation; and being told he was not, he said, "Then I cannot admit him without an order from the Chancellor." I infer, therefore, that those attached to the legation are admitted. We have not gone so far as that, but purpose only the admission of ministers and secretaries of legations; and we have done so on the grounds of national comity which I have stated.

Mr. IVERSON. My original resolution, which was referred to the Committee on the Library, provided for the admission of foreign ministers, without including their secretaries of legation. I thought it proper to admit the ministers, because they were the representatives of foreign countries here, and as a matter of courtesy they might very properly be admitted; but the Senator from Maryland, I think, is mistaken in relation to the fact that the minister and secretary of legation of the United States are admitted upon the floor of the British Parliament, or any other legislative assembly in Europe. If he is right, the President of the United States is wrong; for he told me on Friday night, that it was not the case in any of the courts of Europe; that no minister from the United States was admitted upon the floor of the British Parliament, either of the House of Lords or the House of Commons, and the President is acquainted with the fact, because he has been not only minister in Britain but minister in Russia.

Mr. TOOMBS. I will state one fact. The gentleman may make a mistake as to the floor. I know that inside of the door of the House of Commons, and on a slight elevation, there are two boxes for foreign ministers, and I was the gentleman referred to who went in with the present President of the United States, and members came and conversed with him, to some of whom I was introduced. Whether you call it on the floor or not, it was probably six inches, or a foot, or a foot and a half, above the level of the floor, and inside the House. These are the facts. I was inside of the House, and in the boxes assigned to foreign ministers, immediately under the general gallery. With that qualification, the statement, that foreign ministers are admitted to the House of Commons is correct.

Mr. IVERSON. I presume the distinction is, that that is not on the floor. The President may have understood the floor to mean on a level with the members. There are boxes, as my colleague states, assigned to foreign ministers; but I do not think they are admitted on the floor on a level, and on an equality, with the members of the body themselves. Still, I am in favor of their admission here.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2d Session.

WEDNESDAY, JANUARY 12, 1859.

NEW SERIES...No. 19.

Mr. POLK. Unless some gentleman can state that secretaries of legation are admitted on the floor of the British House of Commons and other deliberative bodies with which this Government has connection through its ministers, I shall move, at the proper time, the strike out the secretaries of legation.

Mr. FESSENDEN. As a member of this committee, and disagreeing with them somewhat in their conclusions in regard to the provisions of the resolution, perhaps I ought to say a word or two. My original idea would be very much in accordance with what has been advanced by the Senator from Mississippi, that it would be a great deal better not to extend this rule at all beyond those whom we now admit; but the general disposition of the Senate undoubtedly appeared to be that it should be somewhat extended, that it should embrace some classes that were admitted in the old Hall. Then the only question for us was, how far ought we to advise the Senate to go in reference to this matter; or rather how far can we go and not open the door to all sorts of amendments? At first it was proposed to exclude foreign ministers. I may speak with propriety, I suppose, of our different views.

Mr. PEARCE. Of course.

Mr. FESSENDEN. The committee were agreed on that subject, until it was stated on the authority, I believe, of the Senator from Georgia, that foreign ministers were admitted to the floor of the House of Commons. That settled the question with the committee.

Mr. TOOMBS. Probably it will be necessary, to prevent confusion in this matter, to state that within the room where the House of Commons sits are specially assigned seats for foreign ministers. Those seats are not exactly on the same level with the members. They are in the same room, and are specially assigned seats.

Mr. FESSENDEN. I do not suppose it is understood, when we admit these gentlemen on our floor, that we admit them to sit in our chairs. What we mean is the room, within what we consider the bar; and it was suggested that inasmuch as foreign ministers, on the authority of gentlemen, were said to be admitted on the floor of the House of Lords and House of Commons, considering all this inclosure as the floor, it would be no more than courtesy for us to do the same thing. We assented to it on that ground. It was afterwards extended so far as to admit secretaries of legation. To that I was opposed. I see no reason for taking them in. I see no reason why we should admit these young gentlemen, when we provide good seats for them in the galleries, if they are disposed to come here, while there are many dignitaries in our own country to whom we certainly ought to extend the same courtesy if we give it any general broad significance. However, the committee decided to admit the secretaries of legation. I am perfectly willing to strike out that provision; and I would vote to strike it out, not that I have any objection to them, but that I wish to have this privilege within the narrowest possible limits we can, consistent with proper courtesy and respect to ourselves.

Then, if we extended it at all, it became, in my view, a mere matter of compliment and proper respect to the individual; and I was willing, with that exception, to go as far as the proposed rule goes, in the first provision of it; and that is, to admit the heads of Departments, for the reasons suggested by the Senator from Vermont, and not for the other; for I agree with him, that so far as business is concerned, there is no necessity for them to come here at all; and I think it would look better if they did not come to talk on business affairs; but, with reference to the dignity of their position as members of the President's Cabinet, leading officers, heads of Departments, I was willing to extend the courtesy to them. If extended to them, I see no reason why it should not be extended also to the judges of the Supreme Court, certainly holding an office of the very highest dignity and importance, and entitled, as a coordinate branch of the Government, to receive any com-

pliment from us which we extend to anybody; and, as suggested by the honorable Senator from Maryland, they are few in number, and would not be likely to trouble us in any way.

The same reasoning that struck his mind with regard to ex-Senators struck mine, and I yielded for that particular reason. We struck out the Governors of States. We saw no reason why they should come in; and, in doing that, we supposed we had disposed of the question also with regard to the Mayors of Washington and Georgetown, because their admission was, the other day in debate, placed upon the ground that they occupied in point of fact, there being no Governor of this District, the same comparative relation that the Governors of States did, and, indeed, were more concerned with the business of the body, for they had business to transact with us.

Now, with reference to this matter of business, in my humble opinion the argument amounts to just nothing at all. None of them have any sort of business with us that cannot be transacted in five minutes in the reception room or outside of this door. The argument that is drawn from the necessity of meeting them on business affairs, is a mere argument for the occasion, in my judgment, to get them inside of the Hall on some pretext or other. The reason on which we ought to put it is simply that there are certain high dignitaries, men connected with the Government in Washington, who, from their position, are entitled to this compliment which we extend to but few. We ought not to extend it beyond the narrowest possible limits; and it was the view of the committee that by making it in a measure exclusive, we should avoid the difficulty of having these motions made to admit this one and that one and the other. I see that it has not produced that effect, and I think the reason it has not produced that effect is traceable to the decision of the committee, from which I dissented, that for the time being, be it longer or shorter, the gentleman in charge of the Capitol extension should be made an exception to all rules, and admitted here on the ground that it is necessary that he should come in to see what is to be corrected here. Why, sir, does he want to come in for that purpose during the session of the Senate? It is possible that there may be something to correct; but he is not a regular architect; he would not be likely to come himself for that purpose, but would be apt to send somebody who knew how to correct details, rather than himself, who is the mere superintendent. It would be more the architect than the superintendent who would attend to such matters.

Mr. PEARCE. I ask the Senator to allow me to interrupt him for a moment.

Mr. FESSENDEN. Certainly.

Mr. PEARCE. From one of his remarks it might be possibly inferred that Captain Meigs has made a request to have this privilege extended to him. He has given no intimation of any such wish of his, and I spoke only of the fact that members of the Senate wished to have correction made in the ventilation of the Hall, and wanted Captain Meigs here to see what should be done. I dare say he has no desire to come here.

Mr. FESSENDEN. We have a Committee on Public Buildings, my friend from Vermont suggests, who have or ought to have control of that matter. While I say this, I speak with all respect for Captain Meigs. I would just as soon see him here as any other gentleman, because I consider him a gentleman, and I would like to admit him if he could come fairly within the spirit of the rules; but the idea that during the session of the Senate, from twelve o'clock until four, it is necessary for the convenience of the Senate that the architect should come in to examine the condition of the room—

Mr. PEARCE. He is the constructor.

Mr. FESSENDEN. He is the superintendent, and has the superintendence of the whole building, but he is not the absolute constructor. There is an architect different from him.

Mr. PEARCE. He is the constructor, and admirably qualified for it.

Mr. FESSENDEN. He may be called so and hold that place nominally, but in point of fact, I apprehend, he has duties to perform not precisely those of construction. He is not such, though he may be called so, and have the regulation of the Hall and be competent to that business. I am not speaking, however, in regard to him; but I say this provision is merely to make an exception in his favor. No Senator can suppose but that before twelve o'clock in the morning and after four in the afternoon, there will be abundance of time and occasion, to point out to the constructor or architect, or anybody, any inconvenience that is suffered. But what could he do if he made a personal examination while we are here? The argument strikes me as totally inadequate to accomplish the purpose, or to render even a decent reason why it should be accomplished, although that cannot often be said, and I would not say it of any argument that my friend from Maryland thought worthy to advance; for everybody knows that he usually exhibits himself as perfectly unwilling to use an argument which, to his mind at least, ought not to have, and therefore necessarily has, very considerable force on the minds of others. I only say that I cannot see force in it. I believe it to be unnecessary that he should come in, although I have no objection, unless on the ground that, if we admit the constructor or architect having charge of the building, why not have the Commissioner of Public Buildings here? Why not admit the gentleman with whom we contract to do our reporting? Why not any one of twenty other persons connected with us? I see no reason. If one comes, the rest must come, and all have their friends; and therefore I think we had better confine ourselves to the rule which the committee first supposed adequate to meet all that was necessary.

With reference to the clerks of committees, all I have to say is this: I was in favor of their coming in on special occasions by permission of the Senate; and if I was chairman of one of the committees, I would prefer to have the rule thus in order not to be vexed and teased with continual applications which must follow from clerks to come on the floor of the Senate. If the chairmen want them, I only say that I should be willing to accommodate them, if the Senate thought it necessary; but I cannot imagine a case in which I think it would be necessary. I hope both provisions to which I have objected will be stricken out; and I shall move to strike them out when the proper time comes.

The VICE PRESIDENT. The present question is on the amendment to the amendment, to admit to the floor the heads of bureaus.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question now is on the amendment offered by the Senator from Virginia, to admit the Mayors of the cities of Georgetown and Washington.

The amendment was rejected.

Mr. TOOMBS. I move now to strike out that clause in reference to clerks of committees. It will bring in a larger class than any other division, and is totally unnecessary for any public business whatever, and would bring in over twenty persons.

The VICE PRESIDENT. The question is on the amendment of the Senator from Georgia, to strike out the words:

"The clerks of the committees of the Senate may be admitted to the floor of the Senate, for the particular occasion, upon a special order, signed by the chairman of the committee."

Mr. BAYARD. My own opinions originally were not in favor of admitting any clerks at all; but when this restricted form of admission for the particular occasion, upon an order signed by the chairman of the committee, was suggested, I did not think it would afford any practical difficulty as regards their admission on the floor. I inclined to the opinion, though, that it ought to be confined to the clerk of the Committee on Finance. I can conceive that constantly, at certain periods of the session, it may be of extreme convenience to that

committee, from the multiplicity of detail connected with their duties, that they should have the right to call in their clerk during the sessions of the Senate without the necessity of any motion for the purpose. I hope the Senator from Georgia, as that certainly cannot lead to any abuse, will move to modify the resolution, so as to confine it to the clerk of the Committee on Finance. I am perfectly willing to vote for that.

Mr. TOOMBS. I do not see any necessity for that. The committee can communicate with the clerk in the committee-room. It would lead to the introduction of more if you gave the privilege to one. I recollect that, in the House of Representatives, I served on the Ways and Means Committee during the Mexican war, and we met one hundred and eighty days consecutively, except Sundays, and there was not a clerk to the committee, and I know the business was well done by the gentlemen who then did it. If the chairman desires to bring in his clerk, by special leave, it may be done at any time, but I should oppose it. It is all unnecessary.

The chairman of that committee, my friend from Virginia, I know is able to attend to his own business. The appropriation bills undergo thorough review in the House of Representatives. They are brought here in full shape. There is much more labor on them there than here, especially inasmuch as we have ignored our constitutional right to introduce the bills ourselves. They are there made, shaped, and passed, and sent to us. They are brought here to this committee, and there is no sort of necessity for this provision. The chairman, I have no doubt, will inform himself, as he always does, well; and he does not want a clerk here for the purpose of bringing in his papers. I think it wholly unnecessary. Indeed, I think the clerk is unnecessary in the first place, and it is certainly unnecessary that he should come on the floor. I insist that if a clerk is necessary for my friend to discharge his duties, it is just as necessary for me.

Some gentlemen in this body have had no connection with committees. I have had very little. I have as much as I can do to attend to the general business of the country. I have use occasionally for clerks. I have to employ one. Mine is as necessary to me as any clerk is to a chairman of a committee, and I am as much entitled to him. If this provision is not stricken out, I shall insist on a vote as to whether the other members of the body are to have the right to bring in clerks, because we all know that, in point of fact, the clerk of a committee is the clerk of the chairman. He is with the committee when it sits, but the rest of the time he attends to the business of the chairman. Every other member of the body is entitled to bring in his clerk, and there are sixty-four of them.

Mr. CLARK. There is another difficulty about this matter of the admission of clerks besides those which have been mentioned. The proposition is to bring in the clerk of a committee on an order signed by the chairman, and for the convenience of the business of the committee. Now, suppose the second man upon the committee wants that clerk; how is he to get him? He has to go to the chairman to get an order signed. You might as well go to the committee-room and find the clerk. I do not quite like this distinction. If the chairman can bring him in, let the other members of the committee bring him in, who want him as much; and if your Committee on Finance can bring in a clerk, let the other committees have their clerks here; but let us have no distinction about it. I want to keep them all out, where I think they should be.

The motion to strike out was agreed to.

Mr. FITZPATRICK. There is an amendment that I desire to submit, which I feel assured will commend itself to the attention of the Senate; it must have escaped the observation of the committee; for I see that they have provided for ex-Senators, while there is no provision for Senators elect. It is well known to the Senate that many of the States elect in advance of the time at which Senators take their seats, and they frequently come here to witness our proceedings. I therefore move to add after the words "ex-Senators," the words "Senators elect."

The amendment was agreed to.

Mr. FESSENDEN. I move to strike out the clause providing for the admission of the person

having charge of the erection of the Capitol extension, which is in these words:

"The officer in charge of the Capitol extension, during the progress and until the completion of the work, shall be admitted to the floor of the Senate."

The motion was agreed to.

Mr. FESSENDEN. I now move to strike out the words "and their secretaries of legation," after "foreign ministers."

Mr. MASON. I regret that the honorable Senator has made that motion. These gentlemen are admitted—foreign ministers and their secretaries—because they are here as the guests of the United States. It is well known to that honorable Senator, doubtless, that a foreign minister has no office; our ministers abroad have no office; nor have these gentlemen who come here; but they come accredited as the representatives of the country whence they come, and are received here as guests of the country. It is the highest national comity to permit them to reside here and to communicate with our Government upon matters of interest; and I would suggest to that honorable Senator again that it has been the invariable usage of the Senate to admit the secretary of legation with the minister. To exclude them now would seem, though not intended, as rather invidious. I hope it will be allowed to remain as heretofore.

Mr. FESSENDEN. There is nothing invidious about it; and nobody out of this Hall has the right to suppose there is. We are settling questions for our own convenience; we have already stricken out several classes; and, if we strike out another, it is no disrespect to them, but because we consider it important for our own advantage, doing business here, to render the class admitted to the floor as small as possible consistent with comity and our duties. I see no reason why they should come in any more than Governors of States, for instance, when they happen to be here, whom we exclude. We have altered the usage to a great many things; we have struck out more than a dozen different classes of individuals; and I see no reason why, because these persons are foreigners, they should be admitted, while we exclude the dignitaries in our own land.

Mr. BAYARD. The committee at one time had determined that they would assign a portion of the gallery to foreign ministers and their *attachés*. My assent to the provision as reported was founded on the information of the Senator from Georgia, that it was the usage in Great Britain, and also in Holland, to admit on the floor, properly speaking, within the body of the House, the representatives of foreign nations, with their *attachés*. We did not go to the extent of admitting all those attached to the legation; but we thought we might extend it, as a matter of international comity, to the secretary of legation as well as to the minister. Now, if the rule holds at all, founded on international comity, it extends to the secretary of legation, who is a recognized officer of the legation just as much as the minister, and if we admit the one on that principle, (and there is no other on which I think we can admit the minister at all,) we should admit the secretary of legation.

The amendment offered by Mr. FESSENDEN was agreed to; there being on a division—ayes 22, nays 18.

Mr. PEARCE. There is another amendment which I desire to submit on my own responsibility. I think the committee overlooked it when this subject was under their consideration. I move before the words "ex-Senators" to insert "ex-Vice Presidents."

The amendment was agreed to.

Mr. STUART. I move that the Senate adjourn. The motion was not agreed to.

Mr. PUGH. Is it true that the committee have excluded Governors of States, while they leave in secretaries of legations? ["No! No! secretaries of legation are not included."] But foreign ministers are. Actually, the Presidents of your own sovereignties at home cannot get in; but some fellow that represents a picaresque foreign Government can come in here. I move to insert "the Governors of States." I want to pay some respect to our own sovereignties.

The amendment was rejected.

Mr. KENNEDY. I move to add, "ex-members of cabinets."

The motion was rejected.

Mr. HOUSTON. I move to add:

Ex-members of the House of Representatives who are not employed as claim agents. [Laughter.]

The amendment was rejected.

Mr. KENNEDY. I move further to amend the rule by adding, "ex-Presidents of the United States."

The amendment was agreed to.

The resolution as amended was adopted. It proposes to make the 48th rule read as follows:

48. No person shall be admitted to the floor of the Senate while in session, except as follows:

The officers of the Senate; members of the House of Representatives, and their Clerk; the President of the United States, and his Private Secretary; the heads of Departments; foreign ministers; ex-Presidents of the United States; ex-Vice Presidents; ex-Senators; Senators elect; and judges of the Supreme court.

On motion of Mr. MASON, the Senate then adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 10, 1859.

The House met at twelve o'clock, m. Prayer by B. H. NADAL, D. D.

The Journal of Saturday last was read and approved.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. My object is to proceed with the consideration of the Indian appropriation bill. I am informed that the death of Mr. HARRIS, of Illinois, will be announced some day this week. That will consume one day. It is desirable that some of these appropriation bills should be disposed of, and sent to the Senate.

Before the question is put upon the motion I have made, however, I move the usual resolution, to close debate upon the Indian appropriation bill in half an hour after the Committee of the Whole on the state of the Union shall again resume its consideration.

ACQUISITION OF CUBA.

Mr. BARKSDALE. I ask the gentleman from Missouri to suspend his motion a moment, in order to allow me to introduce a resolution of inquiry merely. I think there will be no objection to the resolution.

Mr. PHELPS, of Missouri. Let it be read for information.

The resolution was read, as follows:

Whereas it has been announced in foreign journals that the Cabinets of France and England have given notice to the Government that the cession of Cuba to the United States would not be tolerated, even with the consent of Spain:

Resolved, therefore, That the President be requested, if not incompatible with the public interest, to communicate to this House the correspondence between this Government and France and England, in relation to the acquisition of Cuba by the United States.

No objection being made; the resolution was received, considered, and agreed to.

ABDUCTION OF MORTARA.

Mr. HARRIS. I ask my friend from Missouri to yield a moment to allow me to introduce a resolution, which ought not to excite any objection in the House.

Mr. PHELPS, of Missouri. Let it be read for information.

The resolution was read, as follows:

Whereas the people of this country are believed to regard with deep sympathy the abduction from his parents of the Italian boy, Edgar Mortara, by the Papal authorities of Bologna, and a large and worthy class of our fellow-citizens have memorialized the President upon the subject, and solicited the moral aid of this Government in effecting his restoration; and whereas, in a similar case of persecution suffered by the Jews of Damascus, under the Pasha of Egypt, in the year 1840, the then Secretary of State, Mr. Forsyth, by direction of President Van Buren, expressed through the representative of the United States at Alexandria "the anxiety of our Government that the active sympathy and generous interference of the United States should not be withheld from so benevolent an object;" and directed him to "employ all those good offices and efforts that were compatible with discretion, and his official character, to the end that justice and humanity might be extended to those persecuted people;" and whereas the case of Edgar Mortara is one that violates the sanctity of the parental relation and the freedom of conscience and religion: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be requested to interpose with the Government of the Pontifical States in the case of Edgar Mortara, "all those good offices and efforts which are compatible with discretion and his official character."

Mr. PHELPS, of Missouri. I believe that is

a joint resolution, and I would ask if previous notice has been given of its introduction?

Mr. HARRIS. No notice has been given.

Mr. JONES, of Tennessee. I think it relates to a subject with which we have nothing to do; and I therefore object.

Mr. HARRIS. I give notice that I will introduce it on the next resolution day.

COMMITTEE OF THE WHOLE.

The question recurred on the motion to suspend the rules, and go into the Committee of the Whole on the state of the Union.

Mr. MORRIS, of Illinois. This, I believe, is resolution day. At the suggestion of many members of the House who, perhaps, expected the announcement to-day of the death of Major HARRIS, that announcement has been postponed in consequence of their desire to attend to the business properly pertaining to this day. I hope, therefore, the motion of the gentleman from Missouri will not prevail. It seems to me that we ought to have some day in which we can attend to other business than that to which the chairman of the Committee of Ways and Means desires our attention. If we go into the Committee of the Whole we shall do no business beyond the consideration of appropriation bills.

The resolution to close debate upon the Indian appropriation bill was then agreed to.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred on the motion to suspend the rules.

The motion was agreed to—ayes 98, noes 32.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCOCK in the chair,) and resumed the consideration of the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860; the question being on the amendment offered by Mr. SHERMAN, of Ohio, to strike out the following proviso:

"Provided, That the sum of \$111,000, or so much thereof as may be necessary, may be applied in payment of liabilities incurred during the year ending 30th June, 1859."

And to insert in lieu of the words "\$161,000" the words "\$50,000."

Mr. SHERMAN, of Ohio, asked for tellers on his amendment.

Tellers were ordered; and Messrs. BUFFINTON and BRYAN were appointed.

The committee divided; and the tellers reported—ayes 71, noes 50.

So the amendment was agreed to.

Mr. BLAIR. I offer the following amendment to come in as an additional section at the end of the bill:

And be it further enacted, That no part of the money hereby appropriated shall be used for the purchase of arms or ammunition, to be given or furnished to any of the Indians herein named.

Mr. PHELPS, of Missouri. I rise to a question of order; that this is an attempt to ingraft on an appropriation bill matters of general legislation, and is therefore not in order.

The CHAIRMAN. The Chair is of the opinion that the amendment is in order; for while the Committee of the Whole on the state of the Union, has uniformly decided that it is not in order to ingraft any principle of general legislation on an appropriation bill, yet it has quite as uniformly decided that any limitation consistent with the general purpose of the bill, upon the money to be expended in the bill, is in order.

Mr. PHELPS, of Missouri. As the Chair has decided this amendment to be in order, I take no exception to the policy which my colleague desires to establish. I have no fault to find with it except one. If he will modify his amendment so as to obviate that difficulty, I will not object to it. I believe there are two or three treaties with different Indian tribes, by which we have stipulated to give guns to these Indians. These were treaties made several years ago. I understand that the Interior Department has directed the guns to be withheld from the Indian tribes while these tribes were in a state of hostility towards the people of

the United States. I think that that is a wise regulation. If we stipulated to make such presents to the Indians, it was a bad stipulation; but still we are bound to obey it as long as it remains on the statute-book. If my colleague makes that modification, I will have no objection to his amendment.

Mr. BLAIR. How does the gentleman propose to modify it?

Mr. PHELPS, of Missouri. I propose to modify it so that it shall not be construed to conflict with, or to change or alter any treaty stipulations now existing.

Mr. BLAIR. I do not think it will have that effect.

Mr. PHELPS, of Missouri. I propose the modification only out of abundant caution. As my colleague does not propose to reach these treaty stipulations, let him modify his amendment so as to make it read "unless when otherwise provided by treaties."

The CHAIRMAN. Does the gentleman from Missouri consent to the modification?

Mr. BLAIR. Yes, sir.

The amendment, as modified, was agreed to.

Mr. PETTIT. I offer the following amendment, to come in at the end of the bill, as an additional section:

And be it further enacted, That the amounts hereby appropriated for the payment of the Miamis of Kansas and the Miamis of Indiana, shall be paid in conformity to the first proviso of the first amendment to the fourth article of the Senate amendments to the treaty with the Miamis, of June 5, 1854, and not otherwise.

Mr. PHELPS, of Missouri. Let that proviso to the treaty be read so that we can understand this proposition.

Mr. PETTIT. That is just what I desire. I wish to say, however, in the first place, that this amendment is intended to operate on two clauses, making appropriations for payment to the Miamis of Kansas and the Miamis of Indiana. I ask, then, that the proviso to the Miami treaty of June 5, 1854, which I have marked, may be read from the Clerk's desk.

The proviso was read, as follows:

"Provided, That no persons other than those embraced in the corrected list agreed upon by the Miamis of Indiana, in the presence of the Commissioner of Indian Affairs, in June, 1854, comprising three hundred and two names, as Miami Indians of Indiana, and the increase of the families of persons embraced in said corrected list, shall be the recipients of the payments, annuities, commutation moneys, and interest hereby stipulated to be paid to the Miami Indians of Indiana, unless other persons shall be added to said list by the consent of the said Miami Indians of Indiana, obtained in council according to the custom of Miami tribe of Indians."

Mr. PETTIT. I now call the attention of the chairman of the Committee of Ways and Means to the fact that the proviso which has just been read, is a proviso that was appended by the Senate to the treaty made with the Miami tribe of Indians, and by subsequent ratification, became a part of the treaty. It has, therefore, the dignity of a treaty stipulation, and is one. Nothing can be more clear and unequivocal. It is an engagement of the Government that the annuities due the Miamis of Indiana, after the 5th of June, 1854, should be paid to particular persons, three hundred and two in number, and to no other persons. They are identified by a corrected list, then on file with the Commissioner of Indian Affairs, contemporaneous with the treaty, and by the very reference, made a part of it. And to exclude any other construction, it was stipulated that no others should be added to the list, unless by the consent of the Miamis of Indiana, obtained in council according to the custom of the tribe.

The third section of the supplemental appropriation act for the Indian department, approved June 12, 1858, and which, by its terms, is meant to be a permanent rule, flagrantly violates this provision. I ask that the section may be read.

The Clerk read the extract, as follows:

"Sec. 3. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe since the removal of the Miamis in 1846, and since the treaty of 1854, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is authorized and directed to enrol such persons upon the pay list of said tribe, and cause their annuities to be paid to them in future: *Provided*, That the foregoing payments shall be in full of all claims for annuities arising out of previous treaties. And said Secretary is also authorized and directed to cause to be located for such persons each two hundred acres of land

out of the tract of seventy thousand acres reserved by the second article of the treaty of June 5, 1854, with the Miamis, to be held by such persons by the same tenure as the locations of individuals are held which have been made under the third article of said treaty."

Mr. PETTIT. Mr. Chairman, it will be seen from the proviso which has been read from the treaty, that the stipulation was that the payments to the Miamis of Indiana should be confined to certain three hundred and two persons, whose names were upon a prescribed list—a list identified and named in the proviso of the treaty. But it will be seen, also, by the section last read, that Congress has taken upon itself to say, in contravention of this stipulation, that certain other persons shall be put upon that list, persons who, for a period of more than fifteen years, have, by repeated resolutions of the Miami tribe, been excluded as not belonging to their number. It is an attempt to accomplish by statute what, in very terms, is denied by the treaty. It is a subversion of a treaty by congressional enactment. Certainly Congress has no such power.

In pursuance of this third section, sixty-eight persons have been added to the list of the Miamis of Indiana, in opposition to the solemn stipulation of the treaty, not only to share the distribution of the annuities of the present year, and to be beneficiaries of these payments hereafter, but to reach back for the whole period of fifteen years, during which they have been excluded from sharing these payments, and now charge all these arrears on the payments of the present year.

Within the last month, these payments have been directed to be made. They have already been made, or are being made now; but in such a manner, under the direction of the Secretary of the Interior, that, of the amount appropriated for this purpose last year, (the same in terms and amount with the appropriation now made,) the sum of \$34,000 16, much the largest part of the payments of the present year, have been set apart under the pretended authority of this law, and in obvious violation of the treaty, in favor of these persons added, in this illegitimate manner, to the list.

I wish, now, respectfully to ask the chairman of the Committee of Ways and Means whether that committee, at the last session of Congress, consented, and at this time consents, to this arrangement, because there is no question at all that if we violate in this manner the provisions of the treaty, the tribe may come in here and ask that we, in turn, shall make them restitution of what they have been deprived of under this particular section. The consequence, therefore, is, that while on the one hand the tribe is robbed of a payment that, by treaty, belongs to it now, on the other hand, there is a charge made upon the Treasury, growing larger from year to year, that at a future time must be met, if we mean to observe the faith of treaties. I ask, therefore, that the House will consent to this just amendment and effectuate the provisions of this treaty.

Mr. PHELPS, of Missouri. I did not know the nature of the amendment proposed to be submitted by the gentleman from Indiana, but if I understand it—and I desire his attention for a moment—it is to require the money which is by this bill appropriated for the benefit of the Miamis of Indiana and Kansas; to be expended according to the treaty stipulations.

Mr. PETTIT. That is the purpose, and that is all.

Mr. PHELPS, of Missouri. That being the case, I have no objection to the amendment.

The amendment was agreed to.

Mr. SMITH, of Virginia. I offer the following amendment:

And provided, That no portion of the appropriations provided for in this act shall be expended in any way other than is provided for in said act: *And provided further*, That no public agent connected with the expenditures hereby authorized, shall incur liabilities or enter into engagements extending beyond the period for which the appropriations are made, or in excess of the appropriations hereby made.

I believe I am correct in saying that there are but two modes of dealing with our Indians—the one is to recognize their right to hold lands and grant them annuities, which is the plan which has heretofore prevailed in the Atlantic States, and which now prevails this side of the Rocky Mountains; and the other is the system attempted to be inaugurated on the Pacific coast, which is to locate the Indians upon reservations.

Mr. PHILLIPS. I rise to a point of order.

Mr. SMITH, of Virginia. I have but ten minutes, and I hope the gentleman will not interrupt me.

Mr. PHILLIPS. I make the point of order that the latter part of the amendment is not in consistency with the rules of the House relating to appropriation bills.

The CHAIRMAN. The Chair feels bound to sustain the point of order made by the gentleman from Pennsylvania, so far as the latter clause of the amendment is concerned.

Mr. SMITH, of Virginia. Well, I will go on, confining my remarks to the first clause of my amendment; but I will say I am surprised that the gentleman from Pennsylvania should, when there are but ten minutes left for debate, raise a question of order; and I am surprised, furthermore, that that clause of the amendment which seeks to confine the execution of the bill to its own terms should be objected to.

The CHAIRMAN. The first clause of the amendment puts a limitation upon the manner in which this particular fund was to be employed. The Chair holds that to be in order. The second clause was general legislation in relation to Indian agents. The Chair holds that not in order.

Mr. SMITH, of Virginia. The bill provides for an expenditure terminating on the 30th of June, 1860, and the amendment is to confine the disbursements of the agents to the period of time specified in the act itself. But let that pass.

I was going on to state that this system of collecting the Indians upon reserves is different from the policy of the Government in past days, but the report of the agent to the Secretary of the Interior, and the report of the superintendent of Indian affairs, demonstrates that it is a magnificent policy; and the object of my amendment is to notify the Indian agents of the policy hereafter to be pursued in the expenditure of this money, to notify them that they shall confine themselves to the appropriation made, and shall not take the liberty of instituting and operating a system of expenditure unauthorized by the appropriation of Congress. I hope the amendment will be adopted. It seeks only to confine those in charge of the disbursement of this appropriation to the terms of the bill itself; and to say to them that they shall not incur any liability beyond the period for which the bill is passed; and that they shall incur no liability which the appropriation will not pay. The object is, that when we come to legislate upon this subject again, as we shall in the next session, we shall have no deficiency, and no unauthorized liability to meet, but that we shall have a clean account of Indian expenditures, so that we can confine ourselves, then, to the policy which the wisdom of Congress may determine. That is the object of the amendment; and it has no other effect or purpose. It is to notify these agents that they must confine themselves to the pleasure of Congress, as manifested by the legislation of the country.

Mr. PHELPS, of Missouri. The latter part of the amendment, I understand, is withdrawn. The gentleman from Virginia is mistaken, I think, in the object he desires to accomplish. We appropriate money in this act to carry out treaty stipulations. The treaties with many Indian tribes regulate the manner in which the money shall be expended; and just now, at the instance of the gentleman from Indiana, [Mr. PETTIT,] an amendment was adopted, which required the money appropriated in this bill to be expended in pursuance of the second article of a treaty which was referred to.

Mr. SMITH, of Virginia. If the gentleman will look at the amendment, he will see that it is simply a caution to agents not to transcend the provisions of the law; and I ask if it is not necessary to do that? As modified, the amendment is of very little consequence to be sure; but I am still surprised that the gentleman should object to it.

Mr. PHELPS, of Missouri. I ask for a division of the House on the amendment.

Mr. SMITH, of Virginia. I call for tellers.

Tellers were ordered; and Messrs. GARNETT and CHAFFEE were appointed.

The committee divided; and the tellers reported—ayes 75, noes not counted.

So the amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

PRESIDENT'S MESSAGE.

The CHAIRMAN stated that the next question before the committee was on the resolution of the gentleman from Missouri, [Mr. PHELPS,] in relation to the reference of the President's message; upon which the gentleman from Ohio [Mr. NICHOLS] was entitled to the floor.

OLD SOLDIERS' PENSION BILL.

Mr. NICHOLS. I rise, Mr. Chairman, and propose doing, for the first time in my legislative history, that which my own judgment hardly approves. I believe that in six years' service in this body, I have never made any remarks on a question that was not immediately under consideration before the House, or before the committee. But I am constrained to do so at the present juncture, in consequence of legislation on the part of this House, within the past few weeks; legislation which I regard as extraordinary in its character; legislation which must have a pernicious influence on the future destinies of the country; and legislation which involves the highest interests of the people. My record was fully and clearly made against it; and inasmuch as the reasons for the vote of the House on that question were such as I, in my sober judgment, never conceived, and which, in my judgment, were against the candid sense of the House, I rise simply for the purpose of putting my own reasons on record for the course that I pursued. I need not say that I allude to what is called, in familiar language on this floor, the old soldiers' bill; in other words, the pension bill, introduced by the gentleman from Tennessee, [Mr. SAVAGE,] discussed at the last session of Congress, and brought up again at this, and passed—passed, sir, with but one hour's speech upon it, and a refusal on the part of the majority to give to those who were conscientiously opposed to it, a full opportunity for a discussion of its merits. I embrace this opportunity to put on record my protest against its passage, and the reasons, at length, for my course in regard to it.

Now, sir, this pension bill involves many questions of peculiar interest to the American people. In my judgment, it involves the independence of the citizen, the dignity of the people; and in its provisions I find legislation which, in the end, is to sink the individual character of the citizen, and destroy in him that feature which declares his perfect independence. Under the present system, the citizens bear the burdens of the Government upon their shoulders, carrying them bravely and manfully. Under the system proposed to be inaugurated, the citizens who fight the battles of the country become a mere set of placemen, mere dependents on the gratuity of the country for support and existence. I start out with these two points, and invite the attention of the gentlemen here who have cast their votes for this measure, to its effects and consequences. I want their ear. I wish, sir, to know their objects, and how they can reconcile it with sound policy to vote as they have voted?

If my voice could be heard, and could have any influence on the question, I would invoke the attention of those who are yet to act upon it before it becomes a law. I would ask them to pause, to deliberate, to study carefully, all the interests involved in it, before they inflict on this country such a curse as I believe this bill is to become.

What is it, sir? Who originated the system? In what interest and for what causes was the system inaugurated? Let us inquire. Gentlemen have said here that this is but a tribute of gratitude to those old soldiers. They have said that the war of the Revolution and the policy of those who served in that war, and who preceded us in this body, has dictated to us the course that we should pursue on this question, and that we were bound by that precedent. I had occasion, in response to the gentleman from Kentucky, [Mr. BURNETT,] to draw, the other day, a line of distinction between the two cases, which I believed to be just. I draw it again. I say that the war of the Revolution and the action of our fathers founded upon that war furnish no precedent to us for the passage of the bill that has passed this body. It stands out as a single, an isolated case; and there is no parallel to it in the legislation of the country, from that day to this. Why it should be now brought up and the principle applied to cases never contemplated by those who passed these old revolutionary acts, is a question

best to be answered by the friends of the bill. That distinction, as I defined it before, was this: in the one case it was a people contending for their independence against a Power to which they owed allegiance. They were subject to none of the rules of civilized nations; to none of the laws of nations; to none of the laws of war; because, if unfortunate, they were rebels, and their punishment was the halter. But bravely they struggled; successfully they struggled. They achieved their independence, and they founded, as was supposed, a Government of equal rights; a Government which was designed to assert the independence of the individual man against classes, and his power to control the Government of which he was a member. But how was it in the war of 1812? Then you had a nation. Then you had a Government; a Government with capacity to execute all its contracts made in the prosecution of that war; a Government which assumed its debts for the purpose of carrying that war, and which gave to its soldiers all that it ever stipulated to give them. It was a contract between the citizen and the Government. The terms held out by the Government were assented to by the citizen before he entered the service of the country. I speak of it now as a money affair. I speak of it in a moneyed sense in this connection; and, I say, in the first place, that what the Government pledged itself to, it has carried out, and has redeemed fully its obligations in every particular.

But now let me speak of it in another sense. Let me throw money out of consideration. I have listened attentively to gentlemen invoking the patriotism of the country, and talking about its destinies and future prosperity. Let us look at it for a moment in that point of view. Do you tell me that, having a Government like this, a free Government, controlled by the people, with destinies before them such as the men who fought in the war of 1812 had before them, the patriotism that dictated their service was measured by the miserable consideration of dollars and cents? I say it never was; and, in my judgment, no grosser insult was ever offered to the brave men who fought, than the argument that puts their services on any other consideration than that of their patriotism and devotion to the freedom and best interests of the Government.

Why did we pass the pension bill? Let us take the arguments of its friends. Let us take the reasons assigned by the gentleman who introduced the bill. The bill, as originally introduced, provided pensions for certain men who had rendered services, graduating the amount of the pension to the rank and pay of the officers, and giving to the rank and file the pay per month they had while in service, if they served three months. For what reason were these pensions to be given? Why, said the distinguished gentleman who introduced the bill, it is to reward the old soldiers for the patriotism displayed by them, and for the injuries which they sustained in your service. I give his words, sir; I do not wish to misrepresent him:

"1. To reward the old soldier for the patriotism he has displayed and the injuries sustained in your service."

"2. By the honor conferred upon old age, to encourage an emulous spirit in the bosoms of our youth that will forever furnish citizen soldiers to meet the exigencies of war, and thus avoid that most to be dreaded of all necessities, a standing army."

"3. A distribution and expenditure of the public revenue which will, to a greater extent than any other plan, confer its incidental benefits upon all sections and all classes."

These, Mr. Chairman, are the three luminous reasons given for the passage of this bill. To the first I address my first inquiry. What is a pension? When Dr. Johnson constructed his dictionary, stung by certain insults in a notable case, he gave a definition of the word "pensioner," which I do not mean to adopt, because gentlemen might think then that I was insulting the services of these old soldiers, and accordingly, as a friend of the old soldiers, I have referred to Webster. What is a pensioner? He is a dependent; and the gratuity which you confer upon the old soldier by this bill is to destroy his independence as a man; it strikes his individuality as a citizen; it characterizes him not as a sovereign, but as a dependent.

Mr. Chairman, I know not what the mass of these old soldiers want. I live among a numerous class of them; but I say this, that I think it is insulting to these men to make them pensioners on this Government, and to class them as mis-

erable stipendiaries and dependents. "To reward him for patriotism;" that is the next reason. Why, sir, patriotism has its reward—it unquestionably has. When I look around this Hall, and see here generals and colonels and majors; when I turn to my venerable colleague, [Mr. GIDDINGS,] when I see him here, and when I read in the newspapers which furnish the literature of political campaigns in my own State, I read that my distinguished friend was a wagoner or soldier in the last war; when I recollect that another gentleman here was at the head of a Kentucky regiment, and another was a major, in the war with Mexico, and that another distinguished gentleman headed his regiment at Buena Vista, and has received his reward in the friendship of the people and their consideration for his services, in his elevation to distinguished official and civil positions in the Government, some of them involving almost a long life of service; when I see all this, I ask you if there is any indisposition on the part of the people to reward the patriotism which these gentlemen have displayed? But if this be an argument, I recollect one notable incident, and if the gentleman from Iowa [Mr. CURTIS] was in his seat, I would call his attention particularly to it. It was this: When the war broke out with Mexico, in 1846, we had a requisition on the State of Ohio for three regiments; but men enough offered their services to constitute seven or eight regiments. I believe some ten thousand men offered their services. Now, as the officer who had the mustering in of these soldiers, the gentleman from Iowa himself was compelled to muster out of the service the spontaneous patriotism manifested by the State of Ohio. This, sir, teaches us this one fact, that the argument based upon the necessity of rewarding patriotism, is no argument at all. It is not founded upon necessity or upon any exigency in God's world, because the patriotism of the country has always flooded our army with more men than the Government could employ.

But, Mr. Chairman, let us analyze these reasons a little further. We are told that we must repay them for the injuries sustained in our service. Now, sir, that is a curious argument. I say it with all respect. Turn to the volume of the pension and bounty land laws of this Government, collated and printed by the direction of Congress, [exhibiting one,] and what do you find? I will tell you what you will find; and it is an amusing commentary on the eloquent apostrophes and invocations to American Congressmen to pension the men who were "crippled," according to one gentleman from Tennessee, or who "stopped bullets at eight dollars a month," according to another. I say it is amusing. Why? Because if a man was disabled in the last war, he is entitled to a pension now, and if he is not in the receipt of it, it is his own fault. If he was shot in battle, his widow and children were and still are beneficiaries under the law. But suppose he was not shot or injured in battle, what then? Why, if in the progress of his duty, he contracted any disease which rendered him unfit to maintain himself thereafter, he is, on proving that fact, provided by law with a pension. Where, then, are your cripples? Where, then, the necessity of any further legislation, when all these classes are provided for?

Again, Mr. Chairman, you do not stop with the last war with Great Britain; you go down to the Mexican war, and you have twice provided extensions of the five years' half pay to the widows of those who were killed or who died in the service during that war; one of these laws is still in existence, and the beneficiaries are drawing pensions under it.

I ask those gentlemen who are responsible for the passage of this bill, to answer me the question fairly and candidly: is there in their knowledge, within the range of their investigation, have they arrived at the fact from any researches, that there is a Government on the face of God's earth that is so liberal to the men who have rendered service to the Government, as is the Government of the United States? I say, sir, that there is none, and I ask for no extension of the system. I am utterly opposed to it.

Mr. GIDDINGS. It is not my purpose to reply to my colleague, and therefore, I wish, at this time, to notice one fact which I brought out in my remarks the other day, and that is that by

encouraging the militia service we do away with the policy and necessity for a standing army, for which we now pay \$20,000,000 annually. I merely call my colleague's attention to this point, and ask him to state distinctly to the House whether he is desirous of maintaining a standing army in opposition to the militia of the country?

Mr. NICHOLS. I will answer the question, and I think I can do it very effectually. What is our volunteer system but a militia system? Now, sir, I ask my colleague, turning his attention to all the records of the Government and to all its necessities, to point out to me one single instance in which, in forty-five years, the Government has needed the force placed at its disposal for protecting the frontiers of the country and carrying on the ordinary military duties of the country, when the standing army has not been found adequate to the wants of the Government in time of peace?

Mr. GIDDINGS. I would ask the gentleman what he wants a standing army of a thousand men for in this nation?

Mr. NICHOLS. Well, I will tell the gentleman why I want it. I suppose that a standing army of a thousand men is wanted for various purposes.

Mr. GIDDINGS. What are they?

Mr. NICHOLS. In the first place, for the protection of the Indian frontiers, and to be kept in service so that they can be had at a moment's warning when required; and when, if we waited until an ordinary draft could be made for volunteers and militia, the necessities of the service would have passed away.

Mr. GIDDINGS. In reply to my colleague, I desire him to state whether there is at this day half as much necessity for a standing army as there was in 1811-12—when it consisted of only a few thousand men—when the militia of the northwest defended the northwestern frontiers, and when your standing army had surrendered to the British without firing a gun?

Mr. NICHOLS. There is a valuable suggestion there; and though neither my colleague nor myself are Yankees—

Mr. GIDDINGS. I am a Yankee.

Mr. NICHOLS. Yet I will pursue the Yankee policy, and ask him if the passage of the old soldiers' bill, for which he voted, would disband a single soldier of the regular Army?

Mr. GIDDINGS. I reply in all sincerity that my whole support of that bill was for the purpose of impressing upon the House and the country the outrage of keeping up the present standing Army of the United States, and to call attention to the fact that we are substituting a standing army for that defense of the country which our forefathers intended to devolve upon the militia of the nation.

Mr. NICHOLS. I do not believe that any gentleman who voted for the pension bill thought it would diminish the standing Army one man.

Mr. GIDDINGS. I will say to the gentleman—

Mr. NICHOLS. Well, I object to injecting so many speeches into my own.

Mr. GIDDINGS. I merely wish to place the gentleman right. I wished to impress upon the House the extravagant expenditures of our standing Army; while, at the same time, we violate the intention of those who founded our Government, that the country should be defended by its militia, its citizen soldiers.

Mr. NICHOLS. I will discuss that point in a moment, and I hope the gentleman will like it as well when I get through as he now seems to like his own position in regard to it.

I have heard before of this curtailing the standing Army and diminishing the expenses of the Government; but the direction the Government has taken the last six years has been a step backward rather than forward in the direction the gentleman desires; and the most lamentable step backward is the one they took in the passage of the old soldiers' bill. You talk about this pension bill as necessary to inculcate among our people a spirit of patriotism, and to provide against the contingency of a large standing army. What are the facts? From the time the war of 1812 was over, peace declared, and the men mustered out of service in 1814, there have been no wars worthy of the dignity or of that consideration until we came to the war with Mexico.

Now for the argument that we elevate the patriotism of the people, and provide against the contingency of a standing army. War was declared against Mexico. What followed? The men who mustered for that war had had no pensions. You had not, at that time, passed even a bounty land act, unless for those who had served under a regular enlistment in the Army. But the moment the drum beat, and the standard was raised, such multitudes flocked around it that you had to turn and drive them back; you had to repress the spirit of patriotism, and keep men out of battle who were urging their way into it; you had to reject men from the service of the country who honestly sought to give that service to the country. Where was the regular Army then? It formed hardly a nucleus of that organized band which carried your banner to the capital of Mexico. And, without offering any insult whatever to the regular branch of the service—for I have a high regard for it—I believe it is conceded by the best military men in the Army that those bands of volunteers rendered services which the regular Army never did; and it was said, by one of the most accomplished officers that engaged in that campaign, that in one of the bloodiest of its battles, when men almost shrank aghast at the work of carnage and death, our Army was whipped, but that the volunteers did not know it, but fought on, and wrought out a victory in the face of terrible odds. Talk of pensioning men of that character! talk of going back and exhuming the dead relics of brave men and bestowing a pension upon them! pensions necessary to cultivate a war spirit among our people! From the other end of the avenue comes to us the distant sound of war, growing out of the trespasses of our people upon the peace of other nations. Is it necessary to pension men who have rendered services to their country in order that you may inflame some such spirit as that? Let me tell you, sir, and let me invoke the attention of gentlemen, that your history for the past five years, and not only that, but your history for the next ten years of the future, will compel you to stringent resolutions to repress the war spirit of the land, and to prevent our people from fighting without the sanction and authority of the General Government.

A gentleman before me suggests another point, and one which I intended to make in carrying out the history of the military spirit in connection with the wars of the Government. Your President declared that there was a war in Utah not long ago. Well, it was not much of a war, it is true; but the authorities of the country declared that Utah was in a state of rebellion, and that war existed. We came to Congress; and in order to gratify the President, you provided, upon his recommendation, for raising two or three regiments. In carrying out that act, I want it remembered, that, upon a careful computation and report made to those in charge of this Government, it appeared that there were nearly fifty thousand men anxious to go to Utah to fight. So you see our people are bent on fighting. They have a sort of spontaneous patriotism, which overflows whenever the drum beats, and that spirit needs no culture. You do not need to force it; it comes of itself; and the only measure of legislation necessary, is legislation to repress it, and confine its action within legitimate limits. That is my judgment about it. You had better cultivate, sir, conservative, instead of belligerent propensities. God knows, Mr. Chairman, our people are willing to fight; but are we equally willing to respect the laws of nations, and to preserve peace and amicable relations with mankind?

But, Mr. Chairman, I have a high regard for the standard value of patriotism. In my judgment, the value of patriotism has been sadly underrated here. I was told by the gentleman from Kentucky, [Mr. BURNETT,] in response to my remarks, that if we did not pass this pension bill, the people would send to Congress those who would pass it. Very well; my constituents have sent a man in my place. But I wish to say this: that whenever I have to sacrifice my independence on any legislative floor to gratify outside clamor, involving a deliberate sacrifice of my judgment, then let the people whom I represent fill my seat with some one else. It is not worth holding one moment, when to hold it involves the loss of character. But, says the gentleman, the people demand it, and

it must become a law. You must do it, said he, or they will place the Government in the hands of men who will carry out their will. Well, Mr. Chairman, I just ask you to carry back your mind to the events of a few years ago, and to see how strikingly this principle was illustrated. In 1850, you passed the bounty-land act. That was to be a gratuity, and a reward to these men for their services. Very well; they got that reward.

But, says the gentleman, they now demand pensions. True, they do; and who, that was in service here on the 8th of January, 1855, fails to remember the convention of men who assembled on the avenue that day? Thousands of them were here, and hundreds of them wore the badge of "Bladensburg." Many others, perhaps, were at Upper Sandusky, in my own State, where, although five thousand were there, but few fought, and, I believe, no particular service was done, because circumstances did not demand it. The assemblage was composed of militia men who had been draughted into the service and had served for two or three months; and what did they do? They surrounded our Halls of national legislation, to go from there to a church in the city, and there they passed resolutions demanding a further grant of bounty lands—*demanding it*. And they got it. Your legislators gave it to them. And you talk to me about *demanding* legislation. What next, Mr. Chairman? What have we seen occurring, a year ago, in a municipal contest in an adjoining city? We have seen a candidate for a distinguished position in that city invoking the populace to surround the halls of city legislation and to demand bread at the public expense, and asserting the right of people temporarily out of employment to be fed at the public expense.

Mr. CLARK, of Missouri. I ask the gentleman whether he voted for any of the bills granting bounty lands?

Mr. NICHOLS. No, sir; and I never would. I voted against the bounty land act of 1855, and I took the responsibility of my vote among the largest constituency of old soldiers that, perhaps, exists in the northwest of Ohio. And I will stand now on the course I then pursued. Let me hear nothing, however, about legislation that is "demanded." I stand here as a free American Representative. I understand well the tenure of my office. I am sent here to do what, under God and according to my conscience, I believe to be right and in accordance with the Constitution of the United States, and with the laws which should govern me as a gentleman of honor. No demand upon me would affect my vote, or change it in favor of a proposition like this.

Now, sir, there are some things which I wish to say, in connection with this bill, to gentlemen who are generally alluded to as "gentlemen on the other side of the House." Who has the charge of this Government in all its branches? You. Who are responsible for it? You. I am a "colored Republican," in a minority here. I have none of the responsibilities of legislation, except those which devolve on me as an individual, not recognizing, perhaps, the binding validity of a caucus arrangement of any party. You are a majority here. You are to carry on this Government, and to engineer it safely through all the financial shoals and difficulties that appear to be surrounding it. Are you prepared for the responsibility of the act that you have passed? I ask that question because very many votes in favor of this bill came from the other side of the House. I dare not allude to motives, Mr. Chairman; I do not wish to do it. I do not wish to be unparliamentary. I find by the report of the Secretary of the Treasury, that last year you spent \$81,000,000. I recollect very distinctly that at the last session of Congress my colleague [Mr. SHERMAN, of Ohio] made a very able and earnest speech against the expenditures of this Government, and collated numerous ugly facts. Between you and me, Mr. Chairman, that speech was a very fatal document to the Democracy in the northern elections this fall.

Mr. GROW. The \$81,000,000 does not include the Post Office deficiency.

Mr. NICHOLS. Well, I will assume that, in round numbers, the expenditures for the last year amounted to \$81,000,000. Good heavens, sir, is not that enough? And yet I am told that that does not include the deficiency for the Post Office Department for last year, which was sup-

plied in a supplemental appropriation bill, to the amount of near three million dollars. Now I take up the report again, and I find that, according to the best figuring which the Secretary of the Treasury can make for the present fiscal year, there must be a deficiency of \$4,000,000 in the ordinary expenses of the Government.

Mr. SHERMAN, of Ohio. My colleague will find in that report that the Secretary of the Treasury includes, as a part of the ordinary revenues of the Government, some fifteen or sixteen million dollars, the proceeds of a loan; so that, if this sum be excluded, that deficiency will be some twenty million dollars.

Mr. NICHOLS. That is about what I was going to say. I thank the gentleman for his suggestion. I was going on to say that the deficiency in the Post Office Department was not included in the estimate; and that in that estimate is included fifteen or sixteen million dollars of the proceeds of Treasury notes and loans, which make the real deficiency about twenty million dollars.

Then, again, you have sent your expedition to Paraguay. What will be the expense of that expedition? Can any man tell? I do not know. Your Department cannot estimate it. Its cost will depend upon the contingencies that may arise there. Does the estimate cover the whole expense of your Army? Let three hundred naked savages in Oregon, or Washington, commence with the tomahawk and scalping knife, carry on a three months' foray, as they have repeatedly within the last three years, and you will have a deficiency immediately in the Army service of five or six million dollars. Has there been a time within the last five years, that you have not had to appropriate for deficiencies in that branch of service, created on account of contracts for transportation, provisions, and otherwise? Let your congressional records answer. Sir, they are fruitful in instruction. Will not the friends of this pension bill study them?

In the face of this state of the revenue, I ask the gentlemen on the other side who are friends of the bill, where they are to get the money to pay these pensions? How are they going to raise the amount of these pensions? Where is the money to come from? What will the bill cost? That is the next subject for consideration. I have heard very many estimates of its cost. The gentleman from Tennessee who introduced it read in his speech, delivered at the last session of Congress, the opinions of certain professional gentlemen in which it is assumed that according to the laws of mortality, there could not be over twenty thousand persons alive who would be beneficiaries under this bill. But that, on the part of these professors, was a "lame and impotent conclusion," for these gentlemen assume in regard to the sparsely-settled population of the country, facts that apply to denser populations in older countries. The facilities with which the Government has given to every man to acquire a home, occupy land, and engage in agricultural pursuits, all vary and change the general rules as understood and practiced amongst professional men.

Now, to show how completely all the calculations of these men are set at fault, I will refer gentlemen to the report prepared by Mr. Waldo, Commissioner of Pensions, in 1855, which shows that under the forty-acre clause of the bounty-land act one hundred and seventeen thousand warrants were issued; seventy thousand under the six months' or eighty-acre clause; and the number of the one hundred and sixty-acre warrants is not reported. It will be a fair approximation to place the number of one hundred and sixty-acre warrants at fifteen thousand. Yet, in the face of these figures, we come down to your pension bill; and assuming that twenty per cent. of the beneficiaries of that bounty land act are dead, what is the result? Take the basis of your bill, where you bring in the six weeks' men and pension them, and add them to the list, and you more than make up the deficiency in Mr. Waldo's report by deaths which have occurred since that time. What did the gentleman from Kentucky say the other day? "I am opposed to the three months' basis," said he, "because it does not embrace enough men. I have men in my country who volunteered for six weeks, and who fought the battle of the Thames, and who are excluded from the benefits of this act." Certainly, sir; and I have in the

district which I represent men who were drawn out by the proclamation of Governor Harrison in 1812 for the relief of Fort Wayne; and who, at the end of four weeks, were discharged with certificates that they were entitled, from the Treasury, to three months' full pay, on account of the extraordinary service they were called on to discharge.

Then take up this bill upon the basis of "every man engaged in battle." What is a battle? There are men in Virginia who assembled and fired some long shots at a British man-of-war. Is that a battle? I suppose that Bladensburg was a battle. While it is true that there were some brave men in that fight, yet there were many who were not brave, and are the last men who should get either pensions or grants of bounty lands. In Massachusetts, in all the New England States, your history is redolent with examples of robberies of chicken-roosts and pig-pens, by the enemy, of long bowls with four-pounders, muskets, and shot-guns, to beat off the invasions of British ships, boats, &c.; and which although history does not chronicle many lives lost, yet were not all such "battles?"

Now, what is a battle? It was said here in debate, and I do not know how the fact is—I do not wish to make any invidious comparison or any invidious allusion—that down in Alabama some skirmishes with Indians in that State were magnified into a war, and that bounty lands were issued to those who were engaged in them. Why, sir, in cases of the suppression of civil dissension, where, to vindicate the laws of a State sovereignty, men are called out to put down and bring to order those who were acting in defiance of them; in all such cases as these, where any shooting was done, *there was a battle*. I have made a calculation upon that basis. If you take the actual number of land warrants issued under the act of 1850—and recollect that that act adopted the three months' minimum; if you take that act and deduct twenty per cent. from it for deaths occurring since its passage; if you add those who are included in this bill and those who since have acquired the benefits of the act of 1850, I will tell gentlemen they will find that this pension bill will cost the Government \$12,500,000 per annum. It will require that to start it. Every gentleman can take the basis I have stated, and make the calculation for himself. For, sir, this law, as I understand it, carries the law back in its operation to the commencement of this Congress. If you get it passed, you will not get it in time, this session, to appropriate \$25,000,000 to carry it into execution. If it is passed into law, of course it must be carried out; and at the next session you will be bound to provide for three years' pension, which will involve the nice little sum of \$37,000,000 and over, to start this system. The records of this Government show just what this bill is. How, then, will you raise the money? How will you secure this revenue? You will come in at the end of a year or two and try to repudiate this system. You will try to get rid of these old soldiers' claims by offering them lands or something else in commutation, to rid your Government of bankruptcy, as you scaled and avoided the just claims of the soldiers of the Revolution.

Mr. Chairman, no worse thing was ever done for the interests of your rising States in the Far West than the grants to them of public lands for railroad and other purposes. The prolific, immoderate grants to them have been fruitful in evils on every hand. I stand here as the Representative of a State which has had as many lands for public improvement as any other; and I invoke my colleague, who with me represents the least improved portions of that State, to answer me, whether he does not believe that her social condition, the interests of her people, of her finances, would not have been better subserved by refusing her any portion of the public land? What has been the result? True, some works of benefit, some works of improvement, some works which commend themselves to the good sense of the people, have been undertaken; but as an offset, you have side cuts, everywhere debts and corruptions, heavy taxes, to pay interest upon debts which sound policy reprehends, and a multitude of improvements which, after the money expended for their construction, have ever since been dead capital to the State, which has been indeed trying to get

the Secretary of the Interior shows the operation of the bounty land system:

"During the year ending the 30th September last, 13,815 bounty land warrants were issued, requiring 2,634,420 acres of land to satisfy them. This, added to the quantity shown by my report of last year, makes the whole amount of public lands granted for military services up to September 30, 1858, 62,739,362 acres. Under the acts of 1847 and 1855, there are about 74,000 bounty land claims pending in the office, originally suspended on account of informality, irregularity, or defective proof. Many of these cases are called up, from time to time, by the parties interested, for reexamination, requiring a large amount of labor and patient investigation in the disposition of them."

Mr. FENTON. Mr. Chairman, I am not pressed with anxiety to discuss the President's message at this time; I shall occupy the attention of the committee for a few minutes only, and upon a subject not therein specially embraced, but scarcely less important to the country, in my judgment; and which seems to excite little, if any less, comment and discussion. I allude, sir, to the pension bill, which recently passed this House; and my connection with the subject of pension, in asking gentlemen to consider and act upon two bills, for pensioning classes of persons who have been in the military service of the country, is my apology, if any is required, for occupying a moment in the discussion of a topic which has passed from this Hall to the one in the other wing of the Capitol.

The bill of the gentleman from Tennessee [Mr. SAVAGE] presented the grave proposition of pensioning those who had been in the military employ of the United States for service alone. It was a grave question; because the first time presented under similar circumstances, and demanding an expenditure of a vast amount of money and involving consequences as a precedent which we may not, in the moment of excited debate, readily comprehend. The question, however, of pensioning for service, settled in the affirmative, I agree with gentlemen who sought to amend the bill for the purpose, that we should pension for the least amount of time that men performed meritorious service in the camp, on the march, or on the field of battle, and graduate the amount of pay by the length of time they were in service. The amount of funds drawn from the public Treasury under this system should not forbid or prejudice our favor and support of the scheme, if it is right in principle and justified by the best policy of enlightened legislation; for in this case we should and we could find a way to discharge the obligations however great.

But I did not believe that the House was prepared to indorse the principle—a principle or policy—which has no precedent in this or any other country, except, partially, in the case of those who were in the revolutionary service. And this, as said by the gentleman from Illinois, [Mr. LOVEJOY], was a different case. It was founded on considerations that at once removed it from the ordinary, the cautious, and the wise policy of legislation. It will be recollected that pensions and half pay to the revolutionary soldiers and officers were founded upon a promise made by the Continental Congress at the time they were in the service, and, perhaps, as the only means of continuing them in the service. Yet this promise was not made until after the credit of the Government was entirely gone, its bonds and certificates had depreciated to \$2 50 on the \$100; there was no money, nor anything to pay with. Promises then was all our fathers had to give; in truth, it was, as Washington said, the only way to prevent a total dereliction in the public service; it was to these men the hoped-for pecuniary recompense for their long suffering and sacrifices, of which the history of mankind presents no parallel; it was the price of their blood and of our independence. Yet this promise, this contract, was deferred for fifty years, (then only partially fulfilled,) for no general act for their relief was passed until 1832, and that provided pensions for six months; less than half given by this bill to those in subsequent wars for sixty days, and only one fourth as much as those who were in a battle during the war of 1812, or the Indian wars during or antecedent to that period—a discrimination, if we were to pass an act giving gratuities alone for services, at once unfair and unjust.

Those who entered the service in the war of 1812 were not expecting a pension for service simply; they were not promised it; but were promised pay which they generally received—I admit a poor equivalent for their gallantry and patriot-

ism, if this was the only consideration in upholding the standard of their country, and vindicating its honor; but such was not the case, they would spurn the suggestion. Their reward, the great reward, was to be found in the fortresses they erected to civil and religious freedom; in the priceless glory of liberty perpetuated. We, however, said if they were disabled while in the line of their duty, that they should be pensioned from the date of their injuries, or wounds, according to the nature and degree of their disability, to continue during life. And this was the practice in cases of disability down to 1822; when, for unexplained and, to my judgment, insufficient reasons, the rule was changed to pension from the completion of the proofs made by applicants. The substitute I had the honor to offer, and which failed to pass by one vote, was to remedy this injustice, this wrong, to those who had a right to expect a fulfillment of the contract made with them at the time they entered the service. There are not more than three thousand of these veterans left whose pay has not been carried back to the period of their injuries, and \$1,500,000, at the furthest, would have satisfied the demand.

These men, and the country, had a just reason to expect, and ask us, to be just before we were generous; to carry out our contracts sealed with their blood, and made sacred by their valor. Had the bill of the gentleman from Tennessee [Mr. SAVAGE] been framed to embrace only that class who are dependent or in want, I should cordially have supported it, appending my substitute as an amendment, earnestly solicitous that both propositions should have had the favor and concurrent action of the House. The old soldier will not doubt my fidelity to his interests—nor my eagerness to do whatever he may command, in harmony with our engagements, to him, the principles of justice, and the policy of prudent and wise legislation. None will accuse me of indifference to the services and heroism and sacrifice of all those who were in the struggle of 1812, and in the Indian wars; we owe them a debt of gratitude; we should honor them living, care for their wants in middle life, their infirmities in old age, and revere their memories when dead. So we should be thankful, and exhibit an appreciating gratitude to those who were in still later wars—the Florida campaign, the frontier Indian wars, and in the Mexican war.

And how, allow me to ask, are we to refuse gratuities to all this class when, a few years hereafter, they ask it at our hands? Will you say this policy was established for the persons embraced in this bill only? In vain would you urge such argument; in vain would you point to the twelve or fifteen million dollars annually drawn from the Treasury by this act; you would stand like the maiden urging her virtue, yet yielding to embrace when virtue could not well be made a test. And what Government could stand up under such a wide-spread and general pension system, to be extended, if our country is so unfortunate as to be engaged in future wars—throughout the period of our Republic? It would more than exhaust our most abundant resources; more than this, and worse: it would beget a spirit of war—if it be possible to allure a people like ours by the hope of Government gratuities and bounties—which is ever the curse and oftentimes fatal to republics.

I make no attack upon the motives of gentlemen; the supposed popularity of the measure should not, and very likely did not, influence their action; but I feel assured if the bill could come back to this Hall, it would meet a defeat as overwhelming as its success, a few days since, was remarkable, and the substitute that I then urged would be cheerfully accepted. The occasion is not opportune for extended remarks in further explanation or support of my measure; but at the first moment that it can be fairly brought before the House, I shall vindicate its claims upon your attention, and urge its humane purposes. The resolutions and instructions now upon your table, from several of the State Legislatures, call us to its support; and the tottering steps of those aged and infirm veterans appeal to us in arguments more eloquent than any language of mine; and I cannot believe Representatives will forego another opportunity to carry out our engagement, and do them justice. It is the duty of Government to carry out its contracts with all, espe-

cially with those who have entered its service in the hour of her peril; it should, moreover, be the pride of a people reaping the reward of the patriotism and valor of those who defended their honor and flag and preserved their heritage by heroic deeds, to provide for their independence from want in the decrepitude of age. And yet, I will not believe that the patriotism of our people requires even this to impel them to defend their homes and firesides, and the free institutions of these United States, handed down as a legacy by the fathers.

ACQUISITION OF CUBA, ETC.

Mr. ANDERSON. Mr. Chairman, I desire to submit to this House and the country a few brief observations on some of the subjects presented to our consideration in the message of the President of the United States; and, without any preliminary remarks, I approach (I confess not without some hesitation) the discussion of our foreign relations; regarding them, at this juncture of time, of more serious concern and magnitude to the American people than any other subjects embraced in that great State paper—a more able and lucid exposition of our internal affairs and foreign relations than any message that has preceded it within the last quarter of a century.

The American people have been very wisely and properly taught to regard war as a great and terrible evil, devastating the moral and material elements of a nation's greatness; one that should never be incurred until the absolute safety and honor of our country imposes upon us the direful necessity. Our statesmen and diplomatists have, from the very foundation of our Government, sought in every honorable way to avert so dreadful a calamity. Our Government, acting upon this noble and humane principle, have peaceably submitted, for nearly the last half century, with, perhaps, one exception, to outrage after outrage, to insult after insult, upon sea and by land, rather than resort to the ultimatum of breaking the lance with any of the nations of the world. The result of this amiable but hazardous policy on our part has been to bring the flag of our country into disrespect and subject our citizens to wrongs and injuries, which, if gathered up and presented at one view to the vision of the American people, would arouse a spirit of irrepressible indignation. The result of this policy has been to authorize not only the great, but even the smallest, nations of the globe to insult our flag, trample upon our national and private rights, and (as they had reason to expect) go unpunished.

Sir, I think it is high time (unless we intend to continue our permission to the nations of the earth to treat us as they please) for us boldly and firmly to assert our rights, and sternly maintain and rigidly enforce them.

We are told by the President, in his message, that our relations with Spain remain in an unsatisfactory condition. In December, 1857, the President informed us that our Envoy Extraordinary and Minister Plenipotentiary to Madrid had asked for his recall; and that it was his purpose to send out a new Minister to that Court, with special instructions on all questions pending between the two Governments, and with a determination to have them speedily and amicably adjusted, if that were possible. "This purpose," he says, "has been hitherto defeated" by causes which he does not enumerate. What these causes were, I do not pretend to know with absolute certainty. I take it for granted, however, that they were sufficient to justify the delay.

We are now advised that a distinguished gentleman of Kentucky has had confided to him this delicate and important mission, which, it is to be hoped, will speedily result in that reparation which the dignity and honor of our country and the rights of our citizens demand. But, sir, I greatly fear that it will terminate, as other negotiations have heretofore done, with a remote prospect of an ultimate adjustment, to be effected by future diplomacy, thereafter to be renewed. Sir, it is my opinion, and I think that I am sustained by the public sentiment of the country, that the treatment received by us from the Government of Spain is of a most aggravated and totally unjustifiable character, and that we ought not thus long to have submitted to it. What violation of national rights has she not perpetrated? Again and again has she outraged our national flag; treated with contempt

and indignity our naval officers; and inflicted numerous injuries on the persons and property of our citizens.

So long ago as 1844, she unjustly and iniquitously exacted from American vessels at Cuba pretended duties to the amount of \$128,635 54. Four years since (after ten years of what is called diplomacy) she reluctantly admits the injustice of this exaction, and her duty to refund this large amount, of which she had robbed American citizens; and now, after remaining this long in contempt of our rights, and unlawfully retaining this large sum of money, justly due to our citizens, she very condescendingly proposes to pay \$42,878 41, without interest, in full satisfaction, declaring that this offer to our Government is made as a special favor. Was ever a more insulting proposition made by one Government to another, in view of the circumstances attending the transaction? By force, she takes from our citizens upwards of one hundred and twenty-eight thousand dollars; retains it until the accumulation of interest makes the debt upwards of two hundred and fifty thousand dollars, and now modestly informs us that she is willing to pay us, as a special favor, less than forty-three thousand dollars, in full satisfaction of the indebtedness. Sir, is it possible that this Government has so greatly "fallen from its high estate," that it can afford no better protection to its citizens? Are they to be robbed of their money, and the robbers to retain possession of it fourteen years, and then refuse to pay even less than one sixth? And are we still to continue negotiations with them; in other words, to beg and beseech, to pray and to entreat them to be honest, and pay our citizens a debt incurred under the most aggravating circumstances? Is this the true and patriotic course of policy for a great and mighty nation to pursue? Is this the high bearing, by which the honor and respect due to her flag is to be secured, and protection guaranteed to her people and their property? How can our citizens be expected to entertain a proper respect for a Government that will not redress their wrongs and repair their injuries more promptly? What guarantee, under such a cowardly policy, can an American citizen have for his protection in a foreign land? When the other nations of the world see us thus trampled upon, and hear of no other redress than diplomatic murmurings and complainings, they are emboldened, even the smallest and weakest of them, to hold our Government in derision. What flagitious wrongs has Spain not perpetrated? Need I repeat them? She has insulted our flag, imprisoned our citizens, confiscated their property, and refused even to make an apology.

Sir, I know not what instructions have been given to our recently appointed Minister to Spain; but I do know, sir, what instructions the honest and truly brave and patriotic citizens of this country would have delivered to him. Sir, they would command this Minister to proceed to Madrid, and demand the prompt payment of the sums of money due from Spain to our citizens; full and adequate remuneration for all the wrongs and injuries inflicted upon our people; and if that Government refused to make prompt, full, and honorable reparation, to demand his passports instantly, and report himself to his own Government; and thereupon the American people would send a sufficient squadron to the Gulf, take possession of Cuba, and hold it as an "indemnity for the past and a security for the future." The respect due to our flag, the protection of our citizens, and the honor of our country, demand such action at the hands of our Government. Nothing less than such a course can entitle us to respect, either at home or abroad; and such, I flatter myself, will be the policy of the Executive.

The Island of Cuba is almost in sight of our shores; our commercial relations with it are of the highest practical importance; our citizens are almost compelled to have daily intercourse with that people; and they should and must be made to respect our flag and the rights and immunities of our citizens.

And now, Mr. Chairman, I desire to look at our relations to this island in another aspect. I quote from the President's message the following paragraph:

"The Island of Cuba, from its geographical position, commands the mouth of the Mississippi, and the immense and

annually increasing trade, foreign and coastwise, from the valley of that noble river, now embracing half the sovereign States of this Union. With that island under the dominion of a distant foreign Power, this trade, of vital importance to these States, is exposed to the danger of being destroyed in time of war; it has hitherto been subjected to perpetual injury and annoyance in time of peace."

If this statement, made by the President, be true, and no one doubts it, what course does the safety of our country make it incumbent upon us to pursue? Self-preservation is said to be the first law of nature. That it is so with individuals, none deny; that the principle is equally applicable to governments, all must admit. Is it not, then, essential to the peace and preservation of our country, and absolutely demanded, to enable us to protect the rights of our citizens, that we should possess the Island of Cuba? The intelligent nations of the earth, looking at the commercial and geographical relations that our Government sustains to this island, will and must admit the necessity and propriety of our ownership and occupation of that territory. What, then, should be our policy? First, that recommended by the President, namely, its purchase for a fair and just compensation. But suppose, sir, that we fail thus to acquire it—and who is there so ignorant as not to know that we shall be disappointed in any such expectation? What statesman is there so short-sighted as not to know that England and France, even if Spain was disposed to cede us that island, would interfere and prevent it? Sir, it must be evident to every man, who knows anything about the policy of England and France, that it is the settled purpose of those Governments that we shall never extend our dominion, if they can by any means, fair or foul, prevent it. Their influence at the Court of Madrid is known to our Government, as is also the jealousy with which they regard our territorial extension.

What, then, I inquire, are we to do in the event of a refusal on the part of Spain to cede to us this island? The timid diplomatist, the hesitating, compromising, statesman would say, that we must mildly insist and diplomatically urge upon Spain the justice and necessity of our demand. Sir, we want more action, and less diplomacy, in the management of this Government; more unyielding firmness and promptness, and less scribbling and insincerity, in all our diplomatic relations. We certainly possess intelligence, perception, and patriotism enough to know our rights. Why shall we not, then, assert them? and, if denied, let us, like men descended from an illustrious ancestry, resort to all the means with which we are so bountifully blessed to enforce them. This is the only true policy for every great nation to pursue. It is essentially our policy, at this period in our national career, with the impending difficulties that now surround us. Are we to be retarded in our progress, and hedged in by the diplomatic acts and intrigues of England and France? Are we to permit them to come upon this continent and arrest the spread of republican institutions? to stay the onward march of human liberty? to say to American institutions, with all their glorious results, "thus far thou shalt go, and no further?" Such, sir, are not the sentiments of the people of this great nation; such are not the feelings that now animate their bosoms; and, let me assure you, sir, that the statesman who assumes the fearful responsibility of permitting a policy which leads to such cruel and unpatriotic results, will, ere long, find himself under the ban of public condemnation.

Sir, why is it that the policy and principles of the Ostend manifesto—the joint production of Mr. Buchanan, then Minister to England, Mr. Mason, Minister to France, and Mr. Soule, Minister to Spain—have not been executed? In that justly celebrated paper, (every word of which I approve,) after presenting in a most masterly manner the reasons that should induce Spain to sell to us the Island of Cuba, and thus imposed upon us the stern necessity of possessing it, they say:

"If Spain, dead to the voice of her own interest, and actuated by stubborn pride and a false sense of honor, should refuse to sell Cuba to the United States, then the question will arise, what ought to be the course of the American Government under such circumstances? Self-preservation is the first law of nature with States as well as individuals."

Again they say:

"Our past history forbids that we should acquire the Island of Cuba without the consent of Spain, unless justified by the great law of self-preservation. We must, in any event, preserve our own conscious rectitude and self-respect. Whilst pursuing this course, we can afford to disregard the

censures of the world, to which we have been so often and so unjustly exposed. After we shall have offered Spain a price for Cuba far beyond its present value, and this shall have been refused, it will then be time to consider the question, does Cuba, in the possession of Spain, seriously endanger our internal peace, and the existence of our cherished institutions?"

"Should this question be answered in the affirmative, then by every law, human and divine, we shall be justified in wresting it from Spain, if we possess the power; and this upon the very same principle that would justify an individual in tearing down the burning house of his neighbor, if there were no other means of preventing the flames from destroying his own house."

"Under such circumstances, we ought neither to regard the cost, or count the odds, which Spain might enlist against us. We forbear to enter into the question, whether the present condition of the island would justify such a measure."

What, sir, was then the opinions of these distinguished men as to the absolute necessity of our acquiring Cuba? Why did they then "forbear" to enter into a discussion of the question, whether the condition of the island, and our relations to it, would justify us in wresting it from Spain, if we failed to obtain it by purchase? They knew that such an investigation would result in the inevitable conclusion that self-preservation and "our internal peace, and the existence of our cherished Union," demanded it. What they conceived to be public policy at that moment alone prevented them from announcing to the world such a conclusion. Is there less public necessity for our possessing Cuba now than then? Have our relations to Cuba assumed a more favorable aspect? Is our commerce less endangered now than then? Are our citizens less harassed, insulted, and maltreated? Would not the same advantage accrue to foreign nations in a war with us now that would then, by their being enabled to avail themselves of the advantages resulting from the foreign occupation of Cuba? Sir, let us speak and act boldly and independently upon this great question. It is useless, sir; it is supreme folly for us longer to disguise the fact, that an imperious and unalterable necessity is rapidly hurrying us on to that point of time when we must take possession of Cuba. Why longer delay it? The difficulty of obtaining it only becomes more and more complicated.

Let us offer to Spain a fair consideration for it; yea, an exorbitant one if you please; and honestly and firmly advise her, in view of a continuance of our peaceful relations and her own welfare and interest, to accept it. If she refuse, then the fearful responsibility and momentous consequences will rest upon her. We shall then be justified, in the eyes of all nations, in pursuing such a course as the honor, dignity, and welfare of our country shall dictate.

I now pass, Mr. Chairman, to the examination of our affairs with our unfortunate and ill-fated neighbor, the Republic of Mexico. Our distinguished Chief Magistrate, in speaking of our relations with that Government, thus addresses us:

"The northern boundary of Mexico is coincident with our own southern boundary, from ocean to ocean, and we must necessarily feel a deep interest in all that concerns the well-being and the fate of so near a neighbor. We have always cherished the kindest wishes for the success of that Republic, and have indulged the hope that it might at last, after all its trials, enjoy peace and prosperity, under a free and stable Government. We have never hitherto interfered, directly or indirectly, with its internal affairs, and it is a duty which we owe to ourselves to protect the integrity of its territory against the hostile interference of any other Power. Our geographical position, our direct interest in all that concerns Mexico, and our well-settled policy in regard to the North American continent, render this an indispensable duty."

While all this is true, it seems to me that when we look at the present condition of Mexico, the intestine war that now is and has been for some time raging in that Republic, we are called on by principles of humanity and philanthropy to interpose. It is unquestionably our duty to recognize the head of the constitutional Government of that Republic, and at least by our countenance give to it aid and encouragement.

But, sir, let us inquire if we are not called upon by our national interest and integrity to do more than this. What is the effect of the present condition of affairs in Mexico upon our commerce and intercourse with that people? We are informed by the President "that no American citizen can now visit Mexico on lawful business without imminent danger to his person and property." Our citizens have been murdered, imprisoned, and plundered; but the Government, though repeatedly urged thereto, have made no effort either to punish the authors of these outrages

or prevent their recurrence. We are, then, upon the borders of a Republic with which we have heretofore formed business and commercial relations, under the solemn sanctions of a treaty; and now, in the execution of these guarantees, we find no adequate protection for either person or property. Are we to remain in this humiliating condition? Are our citizens thus to be treated, and we tamely submit to it? The American people will soon answer this question, if their agents will not. If their Government is inadequate to the protection of its honor and dignity, and the personal and private rights of its citizens, arising either from an excess of timidity bordering on cowardice, or from fear of the accumulation of a public debt, or from any other cause, the sooner the country is advised of it the better. If Congress will not strengthen the hand of the executive department of the Government, then the people must exert that omnipotent will which alone belongs to them.

I hear gentlemen frequently speaking of a "bold policy" on the part of the Executive towards these Governments. Let me say to these gentlemen that this clamor for a "bold policy" is but sheer nonsense. Under our system of government the President has no power to inaugurate a "bold policy." The bolder his demands may be, the greater is the exposure of his impotency to enforce them, and the greater the ridicule to which our Government is subjected. With other Governments, sir, there may be a "bold policy" with the Ministry, for the power to enforce is coequal with the power to demand; but the President of the United States is powerless to resent insult or redress national wrong. And, sir, the responsibility for the present melancholy condition of our foreign affairs rests not upon the Federal Executive, but upon the Congress of the nation. This fact, sir, I wish to go to the country. I wish the people to understand and appreciate it, whether this House will or not. Upon us rests the entire responsibility for the present humiliating attitude of the American Government, however much others may prate of a "bold policy" on the part of the Executive. And upon us, sir, it will rest, until we arm the Executive with the "sinews of war."

Sir, the people of this great nation have, within the last few years, seen their flag insulted, their citizens imprisoned, and the rights and property of their people trampled upon by almost all the nations of the earth. England has visited and searched our vessels with impunity; Prussia has impressed our naturalized citizens, and compelled them to serve in her armies; Paraguay has insulted our flag, and added injury to insult, and laughed at our demand for reparation; Nicaragua and Costa Rica have taunted us with insults and reproaches; and now the weak and impudent, priest-ridden and unjust Republic of Mexico treats with scorn and contempt our efforts to obtain redress for the glaring wrongs that have been perpetrated upon our citizens. What are we to do? Is the question now propounded to every statesman. Must we still wait? Are we yet longer to submit to insults and indignities? Will forbearance never cease to be a virtue? Are we to be trampled upon by every little petty Power upon this continent, and insulted by those of Europe? Are we quietly to see our citizens robbed in sight of our doors; "loans" forced from them in violation of existing treaties?

Mr. Chairman, the people of this great Republic are becoming restive and indignant at this pusillanimous policy; our Government, owing to the "masterly inactivity" of Congress, is too tardy in redressing our wrongs; we want a greater degree of firmness, promptness, and efficiency. Let us arm the President with ample power for the protection of the public honor and interest. I am satisfied that Mr. Buchanan possesses, in an eminent degree, all the requisite traits of character necessary to enhance the respect due to our flag and secure protection to all our rights. We have now no minister in Mexico. Mr. Forysth has withdrawn with the consent of our Government, and very properly, after the treatment he had received at the hands of the Mexican authorities. Americans there are without even the shadow of protection, witnessing the violation of their personal and private rights almost every day. Sir, ought this Government to hesitate a moment as to the policy demanded by the honor and integrity of the nation? I would not advise that we

should make an immediate declaration of war upon Mexico, weak, imbecile, and distracted as she is; but I would, without a moment's hesitation, arm the Executive branch of the Government with ample power to take immediate possession of sufficient Mexican territory to indemnify us for injuries unredressed, and demands unsatisfied. Let that territory be along our southern border, whereby we can protect the Territory of Arizona from lawless Mexicans and wandering tribes of thieving savages, thereby accomplishing two very important results.

Our relations with Nicaragua, Costa Rica, and New Granada, also demand the deliberate consideration and action of this Congress. The narrow isthmus of Central America, through which transit routes pass between the Atlantic and Pacific oceans, is a subject of deep and momentous importance to this Republic. "It is," says the President, "over these transits, that a large proportion of this trade and travel between the European and Asiatic continents is destined to pass." The importance and magnitude of this route, to the people of the United States, is almost beyond computation. It must be admitted, as the unquestionable duty of this Government, to have this inter-oceanic route not only kept open, but see "that no interruption occurs in it by the interference of any of the Republics of Central America, or by the conflicting interests of rival companies." It is an immunity belonging to the nations of the world, which Nicaragua has no right to refuse. The transit for the travel and commerce of the greatest nations of the world is surely not, in this enlightened day, to be interrupted, much less prohibited, by any other nation, because the transit necessarily passes through her territory. The President informs us, "that since February, 1856, it has remained closed, to the great prejudice of the citizens of the United States. That a treaty was signed on the 16th day of November, 1857, by the Secretary of State and Minister of Nicaragua, under the stipulations of which the use and protection of the transit would have been secured, not only to the United States, but equally to all other nations." This treaty failed to receive the ratification of the Nicaraguan Government, in consequence, it is said, of a very important and necessary stipulation, which authorized the United States "to employ force to keep the route open, in case Nicaragua should fail to perform her duty in this respect." Without this stipulation in the treaty, it is evident that it would have been of but little benefit, and the route not only liable to be interrupted by the Government and citizens of Nicaragua, but in addition thereto, the citizens of the United States, in passing and repassing to and from our Pacific possessions, would be subject to continual danger and wrongs. In the event of a war with other nations, this transit, of such vital importance to the defense and safety of our immense possessions on the Pacific, might be closed, unless we have it secured to us in some way, by treaty or otherwise.

The Executive Government, in its intercourse with foreign nations, being limited to the employment of diplomacy alone, calls upon us for authority "to employ the land and naval forces of the United States in preventing the transit from being obstructed or closed by lawless violence, and in protecting the lives and property of American citizens traveling thereupon;" and he also asks for similar authority for the protection of the Panama and Tehuantepec routes. I apprehend that it is useless for me to urge upon this House the necessity of a speedy response to this demand; for surely the representatives of no portion of the American people will hesitate a moment to confer upon the President a power so proper and necessary to the protection of the great interests of this nation; and it is to be hoped that the President will not delay a moment in the energetic execution of it.

Mr. Chairman, there are other great questions growing out of our foreign relations that ought to be defined, and distinctly and unequivocally settled. How far and to what extent do we intend to permit other nations to interfere with the Governments of Central America is a matter of vast moment and anxious solicitude to the country; one in reference to which the representatives of the people, the guardians of their honor and interest, ought to express a decided opinion.

The Clayton-Bulwer treaty, it was supposed, at the time of its ratification, settled definitively this great question; but the result has shown that it only involved our country in greater complications and difficulties. England, by her interpretation of the terms of that treaty, has assumed powers and perpetrated acts in direct opposition to the American construction of it. That treaty, according to its plain import, binds the parties neither to occupy, fortify, colonize, assume, nor exercise any dominion over Nicaragua, Costa Rica, the Musquito coast, or any part of Central America; and yet, with this existing treaty, the British Government takes possession of San Juan Del Norte, seizes the Bay Islands, and assumes a protectorate over Nicaragua. Our Government has complained of this palpable violation of the treaty, but England still insists that she has committed no act that this treaty does not justify. We are recently told, however, that she promises, at some future time, to relinquish her protectorate over Central America, and our Government is passive. She has to-day a police established in the ports of that country; and boldly and impudently avows that her fleet is there for the protection of Nicaragua against the filibusters; and for the accomplishment of that purpose she not only assumes, but exercises, the right to visit and search American vessels. If she can guaranty protection to the Government of Nicaragua against filibusters, she may, with equal right and propriety, guaranty protection to her against all the rest of mankind. This treaty imposes upon us restrictions that we ought, in my opinion, to throw off. Whilst England reserves to herself the right of extending her possessions, and colonizing, and exercising dominion, wherever she thinks her interest requires, and her ability assures it, over any of the Governments or territories of her own continent, she steps across the ocean and inveigles our Government into a treaty by which we tie our hands, in all time to come, if we permit it to stand. And no matter what circumstances may arise, we, upon our own continent, at the very door of Central America, are not to occupy, colonize, assume, or exercise any dominion over, any portion of that country. Sir, although the time may never come when it will be right and proper for us to do so, that is no reason why we should surrender to England such a privilege.

Sir, our true and manly policy is to annul the Clayton-Bulwer treaty, and throw ourselves back on our original rights, and defiantly assert and boldly maintain the Monroe doctrine, the true meaning and import of which is, that no foreign Power shall be permitted to interfere with any of the Governments on this continent; they shall neither occupy, colonize, assume, nor exercise any dominion over them. Let the nations of the Old World confine their operations to their own continent, and the territory they actually own on this. Let England exhibit her insolence and meddlesome propensities elsewhere. If her rapacious maw is not yet satisfied with territorial acquisitions, let her push her conquests still further into Asia, or colonize Africa, which ought certainly to be very agreeable to her, if we may judge from the tender solicitude she evinces for the welfare of the negro.

Mr. Chairman, why should not this Government at once boldly and unequivocally proclaim to the world the doctrines that we in future mean to maintain in regard to Central America and the search and visitation of our vessels? Why all this diplomacy on these great questions? We surely know what duty, right, and patriotism, demand of us. Let us then act as becomes a great nation, in reference to these vital questions. Let us require our flag to be respected by all nations; let it be a passport and a shield to American citizens on every sea; let its ample folds protect them on every spot of God's habitable earth; let us interdict other nations from ever interfering in the affairs of Central America; let us not only assert these doctrines, but maintain them at all hazards.

Sir, is it not a humiliating spectacle for the people of this great Republic to witness the fleet of England hovering around the ports of Nicaragua, and asserting that her purpose is to prevent Americans, who have chosen to expatriate themselves and unite their destiny with another people—or American citizens, if you choose—from landing upon the soil of Nicaragua? Is it not a

usurpation of arrogant power on the part of England, to which this country ought not to submit; and to which we cannot, without losing our self-respect? Sir, while I disclaim all sympathy for Walker and his confederates, who are doubtless actuated alone by selfish considerations, and believe that our neutrality laws should be rigidly enforced, yet I am one of those who question exceedingly the right of this Government, under our "neutrality act," to molest Americans after they leave our shores with the avowed purpose of inhabiting another country on this continent. Whether they intend, after their arrival, to aid in changing the institutions of the country, or not, is a matter that does not concern us. Sir, let no technical impediment be thrown in the way of our Americanizing Central America. Humanity, philanthropy, and Christianity, demand that it shall be done at no distant day. Such is our manifest destiny; and why should we be afraid to proclaim it to the world? Wave upon wave of immigration will roll in upon that country, until, ere long, its internal wars, ignorance, superstition, and anarchy, will be supplanted by peace, knowledge, Christianity, and our own Heaven-born institutions.

THE REPUBLICAN PARTY.

Mr. WASHBURN, of Maine. Mr. Chairman, I have taken the floor at this time for the purpose of presenting some thoughts concerning the Republican party, its duties, and dangers. As I can speak for no one but myself, their expression, I trust, can do no harm to that party or to the cause which it represents; and, perhaps, some good may be accomplished by calling the attention of its members, in this way, to the subject to which they refer.

Two antagonistic ideas underlie the political movements of the country and will be represented by its political organizations; and no party which is not founded upon, and is not true to, one or the other of these ideas, can, in the elemental struggle which is going on, preserve anything more than a transient and unhealthy existence. Until the question, "which of these ideas shall prevail?" shall have been decided intelligently and definitively, there will be room for no other parties than those which represent its opposing sides; and such others as may endeavor to obtrude themselves upon the public, and to tease it with their impertinences, will be dismissed speedily, and with no excess of ceremony, from its presence.

The ideas to which I refer are, I need not say, the democratic and the aristocratic. The democratic affirms the equal rights of all men; while the aristocratic denies the existence of such rights, and divides mankind into classes—a governing and privileged class, and a governed and disabled class. And the real question before the American people is, which is the true government: that which recognizes the democratic idea, or that which builds upon the aristocratic? I know of no better statement of the former than is to be found in the Declaration of Independence. Say the authors of that great instrument:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

A practical and authoritative exposition of the latter is contained in the Lecompton constitution, the seventh article of which reads as follows:

"The right of property is before and higher than any constitutional sanction; and the right of an owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any property whatever."

The party which, by a strange misnomer, is called Democratic, is the representative of the doctrines of the Lecompton constitution; the life of its life is derived from the ideas upon which that instrument rests. The Republican party draws its inspiration, its principles, and its lessons of duty, from the Declaration of Independence.

The business of the former is to consolidate an oligarchy in these United States, and make it perpetual; of the latter, to secure to the people "the blessings of liberty," and to the States a "republican form of government;" and hence it is well called the Republican party, in contradistinction to the oligarchical (misnamed Democratic) party. And here, precisely, is the great, vital, central issue

of the day, "Shall this Government be a Republic or an oligarchy?" In other words, shall the Constitution, which guaranties to the States a republican form of government, be preserved in its integrity and power, through the efforts and faithfulness of the Republican party, or shall the doctrines of the so-called Democratic party be accepted, and its purposes accomplished, the Constitution subverted, and a baleful oligarchy established upon the ruins of our republican system? Talk as men will, doubt or dissemble as they may, the real and imminent question is as I have stated it; and one way or the other it must be decided by the present generation. A question vaster in its issues has not arrested the attention or demanded the action of the American people since the Revolution; God grant that they may be equal to it! Mr. Chairman, shall a republican Government, or that of an oligarchy, be the one under which you will live, and which you will transmit to your children? The question has been distinctly raised by the sham Democracy, and the real Democracy must settle it. That I do not err in what I have asserted to be the purpose of the mis-called Democracy, appears from facts and manifestations the most obvious and unmistakable. I can refer to but a few of them. The self-styled Democratic party is essentially a southern or slaveholders' party. Its policy, in reference to all questions of national or political interest, is dictated by the slaveholders. It has yielded to them, by a two-thirds rule, the nomination virtually of its candidates for President and Vice President. In its national conventions it permits a slaveholding minority to control a non-slaveholding majority; thus discarding the Democratic principle that the majority shall govern. It consents that a slaveholding minority may prescribe the issues upon which every national canvass shall be conducted, and pronounce the shibboleth which every Democrat shall repeat, from the Rio Grande to the Alleghush. It asserts, through its President, that—

"The Supreme Court of the United States has decided that all American citizens have an equal right to take into the Territories whatever is held as property under the laws of any of the States, and to hold such property there under the GUARDIANSHIP OF THE FEDERAL CONSTITUTION, so long as the territorial condition shall remain. This is now a well-established position."

It requires the acceptance of this "position" by the Democratic party as one not to be denied, or even brought in question. It insists that the inhuman and impious declaration of the slaveholding judges of the Supreme Court of the United States, that those who bear "God's image cut in ebony" have "no rights which white men are bound to respect," and may be treated as outlaws and hunted as wolves, shall be received as a sacred and indubitable verity.

It demands the admission of Oregon into the Union as a State, with a constitution which denies to colored persons, although they may be citizens of sovereign States under the constitutions thereof, the right to maintain suits at law for the vindication of any right, or the redress of any wrong.

It compels its allies of the straight Whig school to renounce all the cherished ideas and oft-repeated declaration of the Whig party, and, by unavoidable implication, to stamp as weak or hypocritical the great chieftains of that once powerful organization—Clay, Webster, and others, whose names will stand conspicuous and eternal in the firmament of their country's history—and, wallowing in the mire of an inconceivable degradation, to assert, as a northern Whig journal has recently asserted, that—

"The declaration that all men are endowed with an inalienable right to liberty, and that this right is self-evident, is contradicted by natural reason, by natural religion, and by the sacred Scriptures, and leads not only to infidelity, but also to anarchy and atheism."

Sir, the purpose of the Democratic party in the inauguration of that carnival of crime in Kansas, of which the annals of that people will preserve the faithful record, through everlasting generations, are placed beyond all doubt in its closing scenes.

Something more than a year ago the Democratic party caused a constitution, prepared by the Administration at Washington, to be sent to the Territory of Kansas, and thence returned to the President of the United States, with a certificate, held to be legal and sufficient, to the fact that it had been acted upon and adopted by the people of that Territory, as their organic law; when, in

truth, the people never agreed to it, and had no opportunity of voting against it. Among its provisions was the extraordinary one I have already quoted, and which I will read again:

"The right of property is before and higher than any constitutional sanction; and the right of an owner of a slave to such slave and its increase, is the same, and as inviolable, as the right of the owner of any property whatever."

And this constitution the Democratic party insisted, by its President, its members of the Senate and House of Representatives, (with a few exceptions,) its politicians, its State Legislatures, its newspaper press, ought to be acceptable to Congress, and recognized by that body, as a proper and republican constitution, containing no provisions inconsistent with the theory of our Government and the principles upon which it was founded. The Democratic party, I repeat, perceived in the fact that this article was in the constitution, no objection to the admission of Kansas as a State; on the contrary, it insisted that notwithstanding it contained this article, and mainly, no doubt, because it did contain it, the State should be admitted at once into the Union.

The object of the Democratic party in urging with unexampled zeal and pertinacity the admission of Kansas under the Lecompton constitution, was not merely to secure another slave State, but also, and more particularly, to obtain from Congress a recognition of the doctrines so clearly set forth in that instrument—doctrines wholly incompatible with the republican idea, and which, in practice, constitute an oligarchy. For it was perceived that if Congress could be induced to admit a State into the Union presenting itself with a constitution not republican within the meaning of that clause of the Federal constitution which declares that "the United States shall guaranty to every State in this Union a republican form of government," but clearly founded upon oligarchical principles, the revolution in the Government, for which the slave power has been for years laboring, would be accomplished, and an oligarchy, a nation of classes, a Government founded in the theory that men are not equal, but always and necessarily belong to different classes in respect to political and civil rights and privileges, would be acknowledged to be the proper Government for a State of this Union.

Now, sir, if it be indeed true that the right of an owner of a slave "is before and higher than any constitutional sanction," it follows that slaveholding is founded in natural law; it is a God-given and indestructible right; it is above all merely human laws; it cannot be destroyed or impaired by any earthly power. This dogma, if true at all, is all true; if good in and for Kansas, it is equally good in and for Maine, and for every State in the Union. It is a truth of universal application, and can be legitimately resisted nowhere. And pray, sir, what does an acknowledgment of it involve? Why, undoubtedly this: that, as the right to hold slaves is from the Almighty, it is wrong, and even impious, to deny it; that whatsoever relation God has established among his creatures is not only right, but one which human laws must assail in vain; and that Governments and institutions based upon different relations are false and immoral; they are in opposition to the laws of God; in violation of His holy will; they mock His wisdom and power. Hence, you perceive, Mr. Chairman, that every free State is established upon false and atheistic principles; while those States which recognize the Divine right of men to hold property in men are in harmony with the highest laws, are true and religious States, and may well look for the favors and benedictions of Heaven. Thus we arrive at the logical conclusion, that a government which does not rest upon the oligarchical theory of castes or classes is no rightful and legitimate government. This is the lesson of the Lecompton constitution; and to obtain a practical recognition of it by the Congress of the United States, is what the slaveholders designed to accomplish by the admission of Kansas under that constitution.

Heretofore, in the admission of States into the Union with constitutions establishing or protecting slavery, there has been no such acceptance of the oligarchical idea as would have resulted from the admission of Kansas under the Lecompton constitution; for in no previous instance has the constitution presented by a State applying for admission contained a provision like the one which

I have read from the Lecompton constitution. These constitutions, so far as I am informed, have all been framed on the hypothesis that slavery might be established or regulated by positive law, and not that it existed by natural and universal law. They have never assumed that slavery was of inherent right, and that laws inhibiting it were violations of the higher law, and therefore void. From their provisions no inference could be drawn that freedom was not as good as slavery; and we know historically, that their framers, with few exceptions, regarded slavery as an evil; and that until within a few years the great majority of the citizens of the slave States have looked upon all legal and constitutional guarantees of the slave system within the States as the adjuncts of a state of society which would soon pass away. The constitutions to which I have referred contained provisions for the regulation of an existing evil; but the Lecompton constitution denied that slavery was an evil, and affirmed its intrinsic rightfulness and its universal necessity. The former treated slavery as a thing to be endured for a time, notwithstanding its oligarchical character; the latter as an institution to be cherished and defended on account of that character. A State which tolerates a system, oligarchical in its nature, and which it knows not how to be well rid of, may, nevertheless, be a republican State, within the meaning of the Federal Constitution; for its government and temper may, on the whole, be republican; whereas, a State in which such a system should be in accordance with its central ideas, the outgrowth of its cherished polity and the substratum of its society, could not, with any propriety, be called republican.

This extraordinary article of the Lecompton constitution was not necessary for the protection of slavery in Kansas; for this end might have been effected by such provisions as have been embodied in the constitutions of other States; but for the designs of the slaveholders it was of the first importance. If they could succeed in bringing Kansas into the Union with a constitution not merely protecting or establishing slavery, but also declaring it to be a just and indispensable relation in every well-ordered society and in every true government, it was believed that all serious opposition to slavery and its extension in this country would cease, and that the transformation of the Government from a Union of free States to a confederation of oligarchies would be easy and certain. Failing to carry this point, the Democratic party next insisted, to the end that the oligarchical idea should in some way be declared preferable to the republican, that a State with a slave constitution should come into the Union with forty-five thousand inhabitants, and protested that no free State should be admitted with less than ninety-three thousand.

Mr. Chairman, I have dwelt longer, perhaps, than was necessary, upon these facts and references; but I desired to show, by the most incontestable proofs, what the ulterior designs of the slavery propagandists are, and that the Democratic party is their organ and representative, and fully committed to the work of executing their commands.

Now, sir, the other idea—the Democratic as opposed to the aristocratic, the Republican as contradistinguished from the oligarchic—the idea upon which this Government was founded, will never be left without a representative among the political parties of the country. When, after years of uneasiness and apprehension, it became apparent to the people of the free States that the Democratic party, as it calls itself, had been subsidized by the slaveholders, and it was seen that among the organizations of the day there was no one which, from its combined earnestness and liberality, was competent to maintain the cause of liberty and republicanism against the plottings of the slaveholding oligarchy, they delayed not to call into existence a party which they hoped might be able to execute this high commission, and they gave it the name of the REPUBLICAN PARTY. Sir, what better or more appropriate name could have been given to it? It is suggestive of the better days of the Republic; it has an odor of genuine nationality; its associations are of liberty, order, and law; it is the name by which the author of the Declaration of Independence, and the father of the Constitution, chose to be known; it speaks for itself, and needs no qualifying terms; and men

who are afraid, or ashamed, to own it, are not, I fear, those to whose guidance the ark of the Constitution may be safely committed. The party which is worthy to wear it should hold every lover of liberty, every hater of oppression, every opponent of slavery fanaticism, whether in the North or in the South, for it draws the breath of its life from the Declaration of Independence, and it "stands in defense of the Constitution."

This party was formally organized at Philadelphia, in the month of June, 1856, and in the succeeding November it carried the elections in eleven of the free States by unparalleled majorities; and if it is not to-day in the ascendancy in every free State this side of the Rocky Mountains, the exceptions are those States only in which its friends have been unwilling to stand upon the strength of their own principles, and within the organization of their own party, but have sought alliances and coalitions with men, and bodies of men, whose purposes were not coincident with their own, thinking to gain something by swapping off principles for voters, and ideas for allies. Sir, this policy cannot win. God forbid that it should. Its fruits, where it bears any, are Dead Sea apples. The party which seeks to obtain power by adopting it will expose itself to the fate of the eagle who stole a piece of flesh, to which some embers were sticking, and thereby burnt up its own nest. How long before men and parties will learn that nothing is to be gained by fear and cowardice; that no party can or ought to reap success which does not believe something, and believe it with all its might? Mr. Chairman, parties and men, to borrow a figure from Walter Savage Landor, "like columns, are only strong while they are upright." If our idea is not the true one—if an oligarchy be better than a republic, or if there is no real danger, and the slaveholders do not deserve to be opposed, let us say so like honest men; but if, believing in Republican principles, and seeing that they are assailed, we desire that they may prevail, let us say that, and say it as if we were not afraid that we should fail in our efforts to maintain them. We cannot fail, if we are true. There were never any issues presented to the American people so strong as those which have been given to the care of the Republican party. They are stronger than the party, or than any party that ever was in this country; and the organization which is faithful to them is stronger than any man in it. We shall grow weak only as we ignore or deny them. In those States where the Republicans have been contented to abide in their own organization, and rely upon their own issues, the party is united and impregnable; and a like policy will be attended with similar results in every State. But if Republicans will encourage men not to depend upon their own principles, but rather upon coalitions, bargains, and offsets—so much for so much—it will be impossible for them to preserve a party which will enjoy the confidence and respect of the people.

I have noticed that many persons, Americans and others, in opposition, are accustomed to speak of the Republican party, not as a great, fixed, necessary party, with rights and purposes of its own, but as a chance gathering together of men, or as a mere organization of convenience, ready and fit to be used from time to time, as occasion may seem to require, as an instrumentality to defeat the Democratic party; not for the sake of vindicating Republican principles, but to beat the Democracy and place a new set of men in power. Not long since a number of very respectable gentlemen assembled in this city to see what was to be done with this Republican party, and how it could be made most available—not for a successful resistance to Democratic pro-slavery schemes and plans, but to whip the Democratic party. And they were so kind, according to a New York journal, as to say that the Republican party "is a great power," and that "its disorganization would be neither politic nor desirable; that said party has vitality and force which must be availed of in any effort to reform the Federal Government." I can smile at the charming patronage of these benignant gentlemen; but it gives me inexpressible pain to know that Republicans here and there are, by their words and counsels, giving these men and others license, or excuses at least, for holding the low views which they have of the character and mission of the Republican party. It is too bad, that men calling themselves Republicans should

give countenance to this degradation of their party, treating it as a piece of merchandise to be disposed of to the highest bidder; and I have observed that there are some among them who seem even more anxious to dispose of what they have on hand than get anything in return; rivaling in benevolence the liberal publican who, we are told, "exults to trust, and blushes to be paid."

Sir, a party must have faith in itself, and respect for itself, if it would be more than a mockery and a sham. To be powerful and respected, it must be positive and self-reliant. Its ideas and purposes must be clearly defined and well understood. It must have unquestioning faith in the truth, fitness, and necessity of its issues and objects; for its first duty is to be, in respect to them, as perfect as it knows; they should express its best thoughts and its profoundest convictions. A party careful to be right will be earnest, and earnestness is the hardest opponent that wrong and error can encounter; a mere opposition party is, of necessity, a failure; it rarely succeeds in carrying an election; and when it does, it inevitably falls to pieces afterwards; for without unity of purpose, or homogeneousness of *materiel*, with nothing to keep it together but the "cohesive power of plunder," it quarrels about the spoils, and, by a poetic justice, finds its executioners in the causes of its apparent success.

Shall we admit that a party which was brought into the world to oppose the slave power in its efforts to overthrow our republican institutions, to maintain the fundamental ideas of the Government, to resist an oligarchy, to stay the spread of slavery, to restore the "action of the Government to the principles of Washington and Jefferson," is not strong enough and well-founded enough to succeed? That it has anything to gain by avoiding these issues or exchanging them for others? If there was ever a party on the earth which could not afford to hesitate as to its duty, or to be less than true and logical, it is the Republican party. Its fidelity is the condition of its success.

Let us, Mr. Chairman, learn wisdom from our opponents. Look at the Democratic party and note its policy. It has held possession of the Government, with short interruptions, for more than a quarter of a century; not because it has been always right, but because it has been in earnest and has dared to trust itself. It has never paid court to its opponents, or stooped to speculate upon their weaknesses and divisions; always bold and uncompromising, it has never doubted its own sufficiency and invincibility, and so it has ever been a mighty power in the land.

And let not the lesson to be read in the fate of the old Whig party be lost upon us. It was the weakness of that organization that it was too much a party of expedients and providences—always waiting for something to turn up. It had no sufficient unity and persistency, and lacked prevailing faith. Its questions were of measures rather than principles. It was more disposed to be controlled by circumstances than to make itself the master of circumstances; and so, with all its intelligence and worth, it enjoyed no great triumphs. In 1840 and 1848 it resolved itself into an opposition party; and though it gained "famous victories," it gained neither strength nor power. Divided in its councils, the Democratic party ruled, in fact, with exception of a brief period, the Administrations which it inaugurated.

In 1854, the slave power, acting through the Democratic party, demanded the abrogation of the Missouri compromise, by which slavery had been excluded from all that part of the Louisiana purchase lying north of 36° 30'; and that party being in power, of course granted its request. A large majority of the people of the free States resisted this demand, not merely that it involved a violation of plighted faith, but also for the reason that the prohibition sought to be removed was within the constitutional power of Congress and a wise and just exercise thereof. The Democratic party north attempted to justify the Nebraska bill upon the ground that it was necessary to a practical recognition by the Government of what was called popular sovereignty. This was a false and delusive pretext, for the reasons that there was no real popular sovereignty in the bill, and that the great majority of those who supported it denied that there could be any such thing in a Territory. The questions raised by this measure were discussed before the country with

uncommon ability and thoroughness, and its verdict has been rendered against the Douglas-Cass doctrines of territorial sovereignty. The general power of Congress over the Territories is scarcely denied anywhere to-day. The Dred Scott opinion affirms it, but maintains that it is limited and restrained in the single case of slavery by the Federal Constitution, by virtue of which that system is guaranteed and protected in all the Territories of the United States. This is now the received doctrine of the slave Democracy. The Supreme Court of the United States had, in previous decisions, declared that the power of Congress was plenary and unlimited; and such had been the construction by all departments of the Government, by all statesmen and lawyers, down to 1847 or 1848, when the dogma of squatter or popular sovereignty, was fished up by General Cass in his pursuit under difficulties of a presidential nomination. And it is not unworthy of remark that all the politicians who have undertaken to engineer this heresy—Cass, Douglas, and the rest—have been “hoist with their own petard,” and their broken remains are scattered over all quarters of the country; their bones, if I may borrow an expression not unfamiliar in this House, are “now bleaching” on the sea-side and the lake shore, on mountain and prairie, from Maine to Kansas—to which I will respectfully add, long may they bleach! [Laughter.] There are not now so many men in this country as would fill an omnibus who deny the authority of Congress to legislate for the Territories, subject, of course, to the Constitution of the United States; and the Republicans maintain that there is nothing in that instrument to forbid legislation upon the question of slavery. They have ever denounced the squatter-sovereignty doctrine as a heresy and a swindle, and upon grounds the most stable and satisfactory. The Republican theory, as I understand it, is, that the Constitution has vested in Congress original and plenary power over the Territories; that it is bound to exercise this power for the advantage of the Territories and for the general welfare; and that, as a matter of convenience and expediency, it is well and proper to commit to the people of the Territories the privilege of making their own laws on all subjects in which they are alone concerned; in other words, that in these cases Congress should make the laws through the agency of the Territorial Legislatures; but that upon questions which interest the people of the whole country, and where wrong or unwise legislation would affect injuriously the people of the States, who are the proprietors of the Territories, there the appointed organ of the proprietors, the Congress of the United States, should legislate directly thereon; otherwise the sovereignty of the people of the United States would be laid at the feet of the interlopers and squatters who might take themselves, perhaps, to escape from the hands of justice, beyond the limits of the States. And it has been uniformly held by the Republican party—and by all parties down to 1847—that the question whether slavery should occupy our new Territories, was one of such general interest and importance that it should be reserved for the action of Congress. The Republican party affirms what has been well stated by Hon. Caleb Cushing, that “negro servitude is a deadly blight upon the social and economical condition of a country, weighing down its prosperity, corrupting the morals of its people of every class and color, and condemning it to long endurance of public evils.” Hence it follows, logically and irresistibly, that whenever the members of this party have the power to inhibit it, it is their duty to exercise that power. Congress can keep it from a Territory if it will pass a law for its exclusion; and from the State to be formed out of such territory, for in no community from which slavery is excluded till it becomes a State, will it ever be subsequently established. It is said that by the Dred Scott decision the power of Congress to prohibit slavery is denied? I answer, there is no such decision; the opinions of the slave-holding judges upon this point were mere *obiter dicta*, of no binding force whatever; and further, that if they were opinions upon questions before the court, they would not be binding, as a statement of political truths, upon Congress or the people. The people are the source of power, and the ultimate judges in all political questions. Sir, if there is any man, or number

of men in this country, who are authorized to decide political questions, and from whose decrees there is no appeal, then, we have a despotism; and it matters not whether there is one despot or nine, or whether the power is lodged with a king, a directory, or a supreme court. And, sir, to repudiate and resent this usurpation of the slave-holding judges; this assumption of authority to decide such questions, and to impose a master upon the people, I would have Congress, on all proper occasions, affirm and exercise the right to legislate for the prohibition of slavery in the Territories. This should be done that there may be no presumptions against this right from non-user or acquiescences in the opposite theory. For these considerations, I desire to thank my friend from Missouri [Mr. BLAIR] for the resolutions which he offered in the House a few days ago, drawn, as I am informed, by the distinguished gentleman who represented that State for so long a period in the Senate of the United States, (Colonel Benton.) One of them is as follows, and it contains sound doctrine:

“6. *Resolved*. That said decisions are in derogation of the power of Congress, and restrictive of its time-honored rights and practice to legislate for Territories: and being so derogatory and restrictive, it becomes the duty of Congress to vindicate its rights by asserting its full authority to legislate upon slavery in Territories, and declaring its total disregard of the said illegal, extra-judicial, and void decisions of the Supreme Court; which, accordingly, is hereby done.”

Mr. BLAIR. Those resolutions were drawn by Colonel Benton. I have the original in my possession in his handwriting.

Mr. WASHBURN, of Maine. Mr. Chairman, the fate of the Territories to be formed from our unoccupied domain, is in the keeping of Congress; and it will be for it to determine, so far as the most of them at least are concerned, whether they shall be slave or free.

But the Republican party does not stop with the assertion that Congress ought to intervene to keep slavery out of the Territories. It also maintains—if I have been properly instructed in what it has inscribed upon its list of duties and purposes—that wherever, for any reason, an act of Congress cannot be passed to keep slavery out of a Territory, the only remaining way to secure this end shall be resorted to, and the people of the Territories permitted to exclude it by their own legislative authority. It would rely upon the people of the Territory to repress an evil which can be reached by no other power; but it does not leave to popular sovereignty the opportunity to introduce an undoubted evil into a Territory, or commit an acknowledged crime, when it can legally prevent it. To act otherwise—to say to the people of a Territory, “slavery is a great wrong; it will be an everlasting curse to you if you have it; we can keep it from your midst if we will, but we choose not to do so, in order that you may have an opportunity to reject it if that shall be your pleasure”—would be weak indeed; and worse than weak in those cases (which would be the great majority) where it would be seen beforehand that they would not reject it. Yet, I am told there are men in the Republican ranks who insist that this intervention policy is a very unwise and mistaken policy; and that, although Congress has undoubtedly the right to prohibit slavery, it ought not to exercise it; but should leave to the people of the Territories to decide for themselves whether or not they will have what they (the Republicans) declare to be an unmitigated and gigantic evil. And who are the people to whom it is proposed to leave this question? A few hundreds of runaways or outlaws, it may be. And who are to be affected by their decision? All the people of the United States. To these first inhabitants, such as they are, good or bad, is to be left the settlement of questions of supreme importance to all the States; questions like these: shall there be a majority of free States? or shall the slave States outnumber the free? Shall democratic ideas or aristocratic be encouraged? Shall the government be republican or oligarchical? Shall Congress be so constituted that its majorities will protect free labor, or oppress it? The people of the States are interested in these questions deeply, vitally; and they have the power to determine what the answers to them shall be. But it is proposed that those who would decide right, should abdicate in favor of the people of the Territories, who may decide wrong.

It is safer and wiser, I hear it said, to leave a

people to act freely than to hedge them around with legal restraints. It is better that a people should do right because they desire to, than because the law keeps them from doing wrong. But whether it is better that they should do wrong, there being no law, than to do no wrong, the law preventing, is a question which I would commend to the consideration of the philosophers of popular sovereignty. This theory of giving men the largest opportunity to do wrong to themselves and others strikes at all legal restraints. I am not prepared to say that it would be wise to repeal all our penal laws because it is better that a man should do right for the right's sake than from fear of punishment. To carry out the ideas of these gentlemen to their logical results, your statutes against larceny, murder, treason, and other crimes should be repealed, that men may be left perfectly free to do as they will; because if they will not steal, or kill, or seek to overthrow the State, in the absence of law forbidding these crimes, they will, not improbably, be better men and citizens than if they had been placed in circumstances where such laws might have had an influence upon their characters and lives.

On the whole, sir, I think I will stand by the ancient ways. I will abide with the old prudence, and where I have two weapons to destroy a monster, I will not throw away either. I am not quite prepared to adopt a theory which would compel me to say to the people of Utah: “form your own institutions in your own way; it is better you should practice polygamy without stint, than that Congress should restrain you by law.”

The theory of territorial sovereignty may be consistent enough with the principles of Senator Douglas, and those who, like him, consider it a matter of indifference whether freedom or slavery shall be established in a State, and who think that, on the whole, it would be better to have some slave States than none; but how it can find favor with those who regard slavery as a wrong, or a great impolicy, I confess I am unable to understand.

One word more on this subject. Granting that there is no further necessity for resorting to congressional intervention, and all that can be done hereafter must be accomplished by popular sovereignty; is there any great wisdom in hurrying to renounce our old faith; in parading our former opinions as mistakes before the country; in saying, in effect, that Senator Douglas did what was right in principle when he brought in the Nebraska bill, and that those who opposed him were in error, and ought, at once, to have fallen in with the Illinois Senator and aided him in his efforts to “establish a great principle”? Suppose they had done so, and no excitement had arisen, as in that case none would; Kansas, from its proximity to Missouri, would have been, inevitably, a slave State, and the question of republican or oligarchic would have been already decided.

Mr. Chairman, how can a party hope to obtain power, or to keep it, if it has no certain opinions upon questions of such magnitude as this? Either the people will say its leaders are ignorant, and know not what is sound doctrine; or they are destitute of principle, and care not what is; and, at any rate, are very unsafe guides.

If there are any Republicans who think that because Kansas is saved, there is no longer occasion to maintain their organization—that the slaveholders will rest from their agitations and make no further attempts to revolutionize the Government, let me assure them that they never labored under a more fatal mistake. The struggle for the supremacy of the system of servile over free labor has but fairly begun; and although the champions of slavery failed in the Kansas campaign, they have not laid down their arms, nor will they till many more fields shall have been lost. At present they are confident of ultimate success, and the least sanguine of them will tell you

“I am but sorry, not afraid I delay’d.
But nothing afeard: What I was, I am;
More straining on for plucking back.”

They know that there can be no stand-still to slavery, and that unless they would prepare for its gradual removal, the work of aggression must go on. Arizona must be made a slave Territory. Cuba must furnish two slave States, and Mexico and Central America an indefinite number more. The slave trade must be reopened; Dred Scott decisions repeated, asserting the nationality of

slavery, and affirming the right to hold slaves in every State, North or South, irrespective of local laws, until the oligarchical ideas shall be accepted in all departments of the Government and in all sections of the country.

And, sir, during the controversy which these unjust and revolutionary demands will occasion, the Republican party, or, if that shall fail to do the work required of it, one more faithful and vigorous, will be a necessary and unavoidable political organization. And I do not believe that it will be constituted hereafter of those only who are now within its ranks, but that it will embrace, also, all Americans and anti-Lecompton Democrats who do not mean to submit to the subjugation of freedom, or the overthrow of our political institutions. Upon these over-shadowing issues there can be but two opinions or parties; and those who are not with the slaveholders' party must be with that of their opponents. Wise and conservative southern men, too, who are not the propagandists of slavery; men who do not desire the extension of that system more than the continuance of the Government as established by our fathers, should be with this party; for it seeks nothing inconsistent with their honor, their rights, or their true interests. It will leave them to manage their domestic affairs in their own way, claiming no authority to interfere therein. It will strive to place them on no ground which was not occupied by the South for the generation succeeding the Revolution. Southern men who are willing to stand where their fathers stood at the close of the second war with Great Britain, will find in the principles and purposes of the Republican party nothing to which they will desire to object; but in that party the instrumentality for which they have long waited, to restore peace and harmony to all sections of their beloved country, and to strengthen their hands for the grand consummation which must be nearest to their hearts. It appears to me that there are no men so much interested as they, that the Republicans should submit to no change of purpose or policy, to no dilution of their principles, or lowering of their standard. But if they think otherwise, and the Republicans, in obedience to their requirements, yield their distinctive position, I have not the shadow of a doubt that they will go into a minority in nearly every free State in 1860. Maine, strongly Republican as she is, I am confident could not be depended upon to defeat the Democratic party on any other platform. Would it be wise to exchange Maine, not for Kentucky, but for a possibility of carrying that State? Who would advise a surrender of New York for the sake of running an electoral ticket in Virginia? Thousands of earnest and efficient Republicans in every northern State will leave their organization the moment it becomes a mere opposition party. They have learnt that a party, into which southern men come for the sake of gaining a victory over the Democrats, and not for the purpose of sustaining Republican principles, must allow them to dictate the issues so far as the slavery question is concerned, and that they, fearing the immediate consequences at home, of a recognition of Republican doctrines, will insist upon its being upon this subject a mere acquiescing and do-nothing party; in making it, in fine, the practical abettor and not the opponent of the Democratic party; make it what the Whig party was, in 1850, when its administration became the defender of the compromise measures of that year. Do those who remember how impossible it was to bring the masses of that party to the support of the policy of Mr. Fillmore, believe that the Republican party, more earnest and determined than ever the Whig party was, will consent that their organization shall tread the path which led to the ruin of the Whig party? Friends, Republicans, opponents of the slaveholding propaganda! I beg you to be wise in time; stand upon the solid ground of your imperishable principles; respect your party as a fixed fact and a necessity, and it will be the party that for years to come will hold the power in this country. And, sir, I venture to predict that within ten years from this time, it will have the support of a large majority of the people of the slave States.

Am I told that there are other things than those regarding slavery to which a great political party should give its attention, I answer that I acknowledge it; but add that, upon the questions referred to, no party has ever been able to stand against

the so-called Democracy; and that it can be opposed successfully only by one which the people believe, and can readily see, is more truly democratic. I would say, also, that these slavery issues are more important than all others; and, besides, important as the others may be, and as I know them to be, there is no hope of their being justly treated, except in the success of the Republican party. If we would have economy in the Administration, justice to all, honesty and good faith, a development of the vast resources of the country, a wise regard to the interests of free labor, let us work to strengthen and consolidate the Republican party, and in so doing we shall treat these questions as important, but subordinate and incidental. Seek first to place the liberties of the country on an immovable foundation, and all other needful things shall be added.

I hear it objected that the Republicans are unwise in insisting upon formulas and platforms, which are unnecessary, as they will give them no new recruits, and will drive away many who would be willing to act with them, if not thus repelled. I answer that in some way the principles and objects of the party must be distinctly understood; that common honesty, as well as sound policy, requires this. If, however, its purposes are so well known, and its policy so distinctly pronounced, that there can be no misunderstanding in regard to them; or if it shall have in the persons of its standard-bearers those who are regarded as embodiments of its principles, living witnesses to the truth, written and formal platforms and declarations may be dispensed with. But I think there should be no objection, at any time, to a plain and truthful statement by a party of its principles and issues. The Democratic party has for many years been in the habit of adopting a platform at its national conventions, and I have never understood that it has suffered from this practice. It seems to me there is great force in the remark of a celebrated author and statesman, "that doctrines must generally be embodied before they can excite a strong public feeling;" and a platform, if not, strictly speaking, the embodiment of a doctrine, is such a deliberate and authoritative expression of it, as makes it clear to the public mind, and palpable to its touch.

I am informed that two or three northern States are not up to the Republican standard. Perhaps not; though I doubt the statement so far as their people are concerned, but do not in reference to some of their politicians. However this may be, I am certain that if the Republican party will, by its earnestness, firmness, and self-respect, persuade the people of those States that it is to remain in the field till the objects for which it was instituted are accomplished, every opponent of the slave-struck Democracy, and every man in them who believes that white men have interests which should be cared for and protected, will find himself fighting gallantly within its ranks.

That it will remain in the field till the vast questions which called it into life are disposed of as they should be, I will not permit myself to doubt. The inherent vitality that there is in truth instructs me that the leading idea of this party can never be extinguished; and this idea is so thoroughly accepted by its masses, and so many of them feel that the path of principle is the only road to success; that its infidelity or disintegration are events placed far beyond the machinations of those who feel that their own advancement has little encouragement from a line of policy which looks to power as a means and not as an end; and when they hear it said by the latter that the first object is to get power, they add, *to get it fairly and honestly*, perceiving that power obtained for no specific purpose is to be relied on for no definite good; and they will insist that, in this instance at least, power is more certain to be won by a frank avowal of principle than by any other course; that the highest policy is to maintain the Republican doctrines in their integrity and fulness, and to bear aloft its standard at all times and everywhere.

Sir, if ever men were greatly in earnest in a political movement in this country, those who constitute a vast majority of the Republican party are so. They have enlisted for the war, and while it lasts they will move on fearless and undiscouraged, however many rebuffs and defeats they may encounter, and proceed from what source they may. They will be oppressed by no fear of ultimate defeat, and will tell you that with faith, a good

heart, and a good cause, success is certain. Mr. Chairman, with all these our Republican ship is freighted, and thus we bid her God-speed on her voyage.

*"In spite of rock and tempest roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith, triumphant o'er our fears,
Are all with thee—are all with thee."*

Mr. JENKINS obtained the floor, but yielded to

Mr. PHELPS, of Missouri, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Indian appropriation bill, and had directed him to report the same back with sundry amendments; and that the committee had also under consideration certain resolutions relative to the annual message of the President of the United States, and had come to no resolution thereon.

Mr. PHELPS, of Missouri. I call for the previous question on the amendments which have been just reported from the Committee of the Whole on the state of the Union.

The previous question was seconded, and the main question ordered.

The first amendment was reported as follows:

Strike out the following words:

"Provided, That the sum of \$111,000, or so much thereof as may be necessary, may be applied in payment of liabilities for the objects aforesaid, during the year ending 30th of June, 1859; and reduce the amount which follows to \$50,000."

The House was divided; and there were—ayes 86, noes 47.

Mr. STEVENSON demanded the yeas and nays.

The yeas and nays were ordered.

Mr. GREENWOOD. I move that the House do now adjourn.

The motion was not agreed to.

Mr. STANTON. I wish the House, before it adjourns, would give its unanimous consent to allow me to take from the table a resolution from the Senate appointing Regents for the Smithsonian Institution. There will be a meeting this day week, and there is no other day on which the resolution can be passed.

Mr. JONES, of Tennessee, objected.

The question was taken; and it was decided in the affirmative—yeas 100, nays 51; as follows:

YEAS.—Messrs. Adrain, Anderson, Andrews, Bingham, Blair, Boccock, Branch, Bratton, Buffinton, Burlingame, Burns, Case, Chaffee, Ezra Clark, Clawson, Cobb, Colfax, Comins, Covode, Burton, Craig, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dodd, Durfee, Edie, Foster, Gilman, Goodwin, Granger, Groesbeck, Grow, Harlan, Harris, Hatch, Hill, Hoard, Horton, Houston, Jewett, George W. Jones, Kelsey, Kilgore, Knapp, Lamar, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Matteson, Maynard, Miller, Moore, Morgan, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Potter, Pottle, Purviance, Ready, Reagan, Reilly, Ricard, Robbins, Roberts, Royce, Scales, Henry M. Shaw, John Sherman, Robert Smith, Spinner, Stallworth, Stanton, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—100.

NAYS.—Messrs. Ahl, Avery, Barksdale, Bowie, Boyce, Bryan, Caruthers, Cavanaugh, Chapman, John B. Clark, Clay, Corning, Cox, James Craig, Crawford, Davis of Mississippi, Davis of Iowa, Dewart, Dimmick, Dowdell, Eustis, Florence, Foley, Gartrell, Giddings, Greenwood, Gregg, Hawkins, Hopkins, Howard, Jenkins, Owen Jones, Jacob M. Kuakel, Landy, Mason, Millson, Morrill, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Singleton, Stevenson, James A. Stewart, Vallandigham, Ward, Watkins, Winslow, Woodson, and Augustus R. Wright—51.

So the amendment was concurred in.

Pending the call of the roll,

Mr. SHAW, of North Carolina, stated that Mr. LETCHER was detained at his room by illness.

Mr. LAMAR stated that Mr. JACKSON was confined to his room by sickness.

On motion of Mr. MORGAN, the reading of the list was, by unanimous consent, dispensed with.

The remaining amendments of the Committee of the Whole on the state of the Union were then read, and severally concurred in.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PHELPS, of Missouri. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. PHELPS, of Missouri, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REGENTS OF SMITHSONIAN INSTITUTION.

Mr. STANTON. I now ask the consent of the House to have taken from the Speaker's table the joint resolution of the Senate for the appointment of two Regents of the Smithsonian Institution.

No objection being made, the joint resolution was taken from the table, received its several readings, and was passed.

EVENING SESSIONS.

Mr. PHELPS, of Missouri. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That during the ensuing two weeks it shall be in order each day after to-day for the Committee of the Whole on the state of the Union to take a recess until seven o'clock, p. m., after which hour general debate may be indulged in: *Provided*, That no vote shall be taken at such evening sessions, except on motions that the committee do rise and the House adjourn.

Several MEMBERS objected.

Mr. PHELPS, of Missouri, moved a suspension of the rules.

Mr. JONES, of Tennessee, demanded the yeas and nays.

And then, on motion of Mr. GROW, (at fifty minutes past three o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, January 11, 1859.

Prayer by Rev. C. H. HALL.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Treasury, communicating the report of Professor J. H. Alexander, appointed a commissioner, under the joint resolution of February 26, 1857, to provide for ascertaining the relative value of the coinage of the United States and Great Britain, and fixing the relative value of the unitary coins of the two countries; which was, on motion of Mr. Mason, referred to the Committee on Finance.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with the ninth section of the act of June 12, 1858, reports of the Second and Third Auditors, in regard to claims which arose during the war of 1812 with Great Britain; which was, on motion of Mr. HUNTER, referred to the Committee on Finance.

He also laid before the Senate a report of the Secretary of the Senate, showing the names of the persons employed in his office during the year 1858, and the amount paid to each; which was, on motion of Mr. Mason, ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MASON presented the petition of Edward Brinley, an officer in the Navy, praying to be allowed the difference between the pay of a midshipman and that of a lieutenant, during the time he acted in the latter capacity; which was referred to the Committee on Naval Affairs.

Mr. STUART presented the memorial of Captain Zadock Pangburn, praying an appropriation for the purpose of testing certain improvements in vessels and life-boats; which was referred to the Committee on Commerce.

Mr. DOOLITTLE presented a petition of citizens of New York, praying that the public lands may be laid out in farms, for the free and exclusive use of actual settlers; which was ordered to lie on the table—a bill having been reported on that subject.

He also presented a memorial of the Board of Trade of the city of Racine, and a petition of citizens of Racine, Wisconsin, praying the construction of a pier-head on the north pier in the harbor

at that place, and the erection of a light-house thereon; which were referred to the Committee on Commerce.

He also presented a memorial of the Mayor and City Council of Racine, Wisconsin, praying the construction of a pier-head on the north pier in the harbor at that place, and the erection of a light-house thereon; which was referred to the Committee on Commerce.

Mr. GREEN presented the petition of Joel and Thomas R. Hodgpoth, praying indemnity for losses by Indian depredations; which was referred to the Committee on Indian Affairs.

Mr. BROWN presented the petition of Henry B. Livingston, an officer in the revolutionary war, praying for half pay and arrears of pay for services, under the resolves of October 21, 1780, and March 8, 1785; which was referred to the Committee on Revolutionary Claims.

Mr. JOHNSON, of Tennessee, presented the petition of Joel M. Smith, praying a per centage on his disbursements as pension agent at Nashville, Tennessee; which was referred to the Committee on Pensions.

Mr. YULEE presented the petition of John Gordon, chief messenger in the Post Office Department, praying for compensation for extra services; which was referred to the Committee on the Post Office and Post Roads.

Mr. RICE presented the petition of Hiram J. Graham, praying the establishment of certain mail routes in Iowa, Kansas, and Nebraska; which was referred to the Committee on the Post Office and Post Roads.

THE HOMESTEAD BILL.

Mr. JOHNSON, of Tennessee. I present the petition of citizens of Paterson, New Jersey, praying that the public lands may be laid out in farms for the free and exclusive use of actual settlers; and, in this connection, with the indulgence of the Senate, I will remark that, at the very first opportunity, I shall press the consideration of that bill upon the Senate. It was made the special order for the first day of this month; but other business having come up, it has been passed by. At the first favorable opportunity, however, I shall press the consideration of the homestead bill.

The petition was laid on the table.

WITHDRAWAL OF PAPERS.

Mr. POLK. At an early day in the session, I had the honor to submit the petition of Gillum Baley and others, which was referred to the Committee on Claims. It was a claim for depredations by the Mohave Indians. I have spoken to the chairman of the Committee on Claims, and I move that that committee be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger—to the Committee on Pensions.

A bill (No. 357) for the relief of Abel M. Butler—to the Committee on Public Lands.

A bill (No. 358) for the relief of Hannah Littel, and for other purposes—to the Committee on Public Lands.

A bill (No. 441) for the relief of the assignees of Hugh Glenn—to the Committee on the Judiciary.

A bill (No. 443) for the relief of William F. Wagner—to the Committee on Claims.

A bill (No. 77) for the relief of Enoch B. Talcott—to the Committee on Claims.

A bill (No. 445) for the relief of Samuel A. Fairchilds—to the Committee on the Post Office and Post Roads.

A bill (No. 386) for the relief of Shade Callo-way—to the Committee on Claims.

A joint resolution (No. 21) for the relief of Hall Nielson—to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. SEWARD. The Committee on Foreign Relations, to whom was referred the memorial of H. Rives Pollard, praying that an adequate sal-ary may be attached to the office of the United

States consul at Bangkok, in Siam, to which post he has recently been appointed, has instructed me to report adversely.

The same committee, to whom was referred a communication from C. J. Fox, United States consul, at Aspinwall, asking an increase of his salary, has directed me to make a similar report in that case.

I am instructed by the committee to state that in each of these cases the petitioner is a consul and applies for an increase of his salary; that consuls are commercial officers, and not at all diplomatic officers. The Committee on Foreign Relations find in these cases nothing in which they are given to understand that these consuls have performed any diplomatic duties; they therefore regard the subject as falling outside of their province. They, at the same time, think that these subjects properly belong to the Committee on Commerce; but inasmuch as the Committee on Commerce has been discharged from one of these cases, and caused the petition to be referred to the Committee on Foreign Relations, there is no course left for our committee but to ask that the reports be laid on the table, with the explanations I have given.

The motion was agreed to.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the joint resolution (S. No. 56) authorizing the Secretary of State to pay the salaries of the ministers resident to the Argentine Confederation, Costa Rica, and Honduras, reported it without amendment, and submitted a communication from the Secretary of State on the subject; which was ordered to be printed.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 500) authorizing the President of the United States to use the public force of the United States in the cases therein provided; which was read, and passed to a second reading.

Mr. SHIELDS, from the Committee on Revolutionary Claims, to whom was referred the memorial of Henry C. Flagg, praying that he might be allowed his portion of the half pay to which his father was entitled for services in the revolutionary war, submitted an adverse report.

He also, from the same committee, to whom was referred the bill (H. R. No. 324) to allow the legal representatives of Samuel Jones five years' full pay in lieu of half pay for life, reported it without amendment; and submitted a report, which was ordered to be printed.

Mr. CLAY, from the Committee on Pensions, to whom was referred the memorial of Joshua Mercer, reported a bill (S. No. 502) restoring Joshua Mercer to the roll of invalid pensioners; which was read, and passed to a second reading.

FURNISHING THE CAPITOL.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire and report as to the provisions necessary to be made for furnishing the north wing of the Capitol.

OUTRAGES AT PANAMA.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, as far as is consistent with the public interest, to communicate to the Senate the correspondence, instructions, and other information in relation to outrages committed on citizens of the United States on the Isthmus of Panama, State of New Granada.

HEATING THE CAPITOL.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the propriety of extending to the center building of the Capitol the system of heating now applied to the wings.

SAN FRANCISCO POST OFFICE.

On motion of Mr. HALE, it was

Ordered, That the report of the Postmaster General, in relation to the charges against the official conduct of the postmaster at San Francisco, be referred to the Committee on the Post Office and Post Roads.

BILLS INTRODUCED.

Mr. STUART asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 449) for the relief of certain half-breed Indians in Kansas Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. SHIELDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 501) to establish the Lake Superior and Pacific overland mail route; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

INDIAN APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860; which, on motion of Mr. HUNTER, was read twice by its title, and referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed the joint resolution of the Senate (No. 67) for the appointment of two Regents of the Smithsonian Institution.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill (S. No. 198) for the relief of Joseph Hardy and Alton Long; which thereupon received the signature of the Vice President.

MILITARY ACADEMY BILL.

A subsequent message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled bill (H. R. No. 663) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1860; which thereupon received the signature of the Vice President.

REPORTERS' GALLERY.

The VICE PRESIDENT. If there be no further reports from committees, the Chair will call the attention of the Senate to the Calendar.

Mr. GWIN. I hope the unfinished business, the Pacific railroad bill, will be taken up now; and I wish to suggest to the Senate that it is desirable that we shall have a final decision of that question some time this week. I think the subject has been sufficiently discussed. There is a great deal of other important business that requires the attention of the Senate; and I hope that on Thursday next we shall have a final vote on the Pacific railroad bill. I move that the Senate proceed to the consideration of that question now.

Mr. PEARCE. I ask the gentleman from California to waive that motion for the present, to let the Senate take up and dispose of the resolutions about the reporters' gallery. It is advisable that that question should be settled, I think.

Mr. GWIN. I give way for that.

There being no objection, the Senate proceeded to consider the following resolutions, yesterday reported by Mr. PEARCE, from the Library Committee:

Resolved, That the front seat of the reporters' gallery shall be assigned to the reporters of the Globe.

Resolved, That the other seats in the reporters' gallery be numbered as directed by the Presiding Officer of the Senate, who, at the commencement of each Congress, may assign one seat to each newspaper in the city of Washington, and to such other daily newspaper elsewhere as may apply therefor; but if any such papers have more than one reporter, they may alternate, only occupying the one seat assigned to such newspaper.

Seats in the reporters' gallery, however, shall not be assigned to any person unless the Presiding Officer shall be satisfied that such person is bona fide a reporter of the particular paper by whose editor or editors he shall be certified to be so employed.

Resolved, That the Presiding Officer be authorized to make, from time to time, such further regulations in regard thereto as may deemed proper by him.

Mr. PEARCE. There is a single verbal error in one of those resolutions which has occurred in copying it, and I propose to strike it out, to which I suppose there will be no objection. I move to strike out the word "other," in the second resolution, before the word "daily."

The amendment was agreed to; and the resolutions, as modified, were adopted.

FRENCH SPOILIATION BILL.

Mr. PUGH. I wish to say that my colleague

[Mr. WADE] and I were out of the Senate Chamber when the French spoliation bill passed to a vote yesterday. We were in the House of Representatives at the time. We had paired off with each other, he being in favor of the bill, and I being against it.

PACIFIC RAILROAD.

Mr. GWIN. I now move to take up the Pacific railroad bill.

Mr. PUGH. I hope the Senator from California will not press that motion. The entire time of the Senate has been taken up by two bills—the Pacific railroad bill and the French spoliation bill. Last Friday, which was the ordinary day for the consideration of private bills, was monopolized by one of these. Now, it is not yet time for the orders of the day, and I think we ought to be allowed to think of something else than these two measures. I move that the Senate take up the Private Calendar, or, rather, if my motion be in order, I move that the Senate proceed to the consideration of Senate bill No. 334. We might at least have the morning hour for other business, if we cannot have any further time.

The VICE PRESIDENT. The Chair thinks the motion of the Senator from California is a simple one.

Mr. PUGH. Is it in order to amend the motion?

The VICE PRESIDENT. The Chair thinks not in that way.

Mr. GWIN. Let us dispose of this question.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, scamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. WILSON. Mr. President, before the acquisition of California, before the discovery of its golden treasures had allured our countrymen to the Pacific ocean, the idea was conceived of a railroad across the continent, which should make our country a way of transit between the nations of western Europe, and the teeming millions of eastern Asia. Since the treaty of Guadalupe Hidalgo gave us the title deeds of that magnificent empire on the shores of the Pacific, and since the discoveries of gold have drawn to that portion of the globe the eyes of mankind, the attention of the country—the of the public men of the country, and of the people of the country—has been directed to the construction of a railway from some point on the Mississippi, or the Missouri, to the bay of San Francisco. After years of discussion and investigation, the opinion of the people has been unmistakably pronounced in favor of the speedy construction of this great national work—a work which will carry population over the continent, carry the light of Christian civilization to the shores of the Pacific, develop the power and wealth of the Republic, and bind together by ties of interest, as well as affection, the people who are hereafter to dwell on the Atlantic and Pacific slopes of the Rocky Mountains.

But it is not my purpose, sir, to enter into the general discussion of the considerations why we should construct a Pacific railroad. The time for such discussions in these Halls has passed away. We are summoned now to the consideration of plans of detail, and to act upon specific questions. I conceive the only questions before the Senate and the country now to be: over what route shall this railroad be located, and how shall it be constructed? I propose to address myself to the consideration of these two questions, which I conceive to be the only practical questions before the Congress of the United States.

The Senator from New York, [Mr. SEWARD,] at the outset of his earnest, eloquent, and powerful appeal for the construction of a railway across the continent to the shores of the Pacific, said that "it was only the Senators on this side of the Rocky Mountains who required to be convinced;" that "it was only on this side of the mountains that the snow and ice of indifference and prejudice remained to be removed." There may be Senators who require to be convinced; I am not one of that number. There may be States where the snow and ice of indifference and prejudice remain to be removed; Massachusetts is not

one of that number. Nor is it recent investigation that has convinced me of the necessity of constructing a railway to the Pacific.

More than twenty years ago—while California was but a distant, and almost unknown, province of the Mexican Republic, before the discovery of its golden treasures had fixed on it the attention of the commercial world—it was my good fortune to listen to Mr. Whitney, the railroad pioneer, in the capital of my native State, New Hampshire, and hear him there unfold, and develop his splendid scheme for the construction of a railway across the North American continent. Little as was then known of the interior of the country, or even of the region on the shores of the Pacific; little as was then known of the location, construction, and working of railways; it seemed to me that a plan so grand, so comprehensive, so national in its scope and character, would, at no distant day, be an achieved result. And, sir, during the past seven years, in seventeen of the States of this Union, and before assembled thousands, I have advocated the policy of the construction of a railway from some point on the Mississippi, or Missouri, across the central regions of the country, to the city of San Francisco. I do not suppose that I shall be considered an enemy of the project because I cannot give my assent to a plan which I think comes under the head of that class of schemes characterized by the Senator from New York, as "shams;" because I cannot give my assent to a bill that, with all respect to the committee which reported it, I think should be entitled "An act to facilitate the schemes of speculators in the public lands, and secure to their use and benefit those portions of the public domain, the proceeds of which should be devoted to the construction of a railway to the Pacific ocean." The zeal of new converts, however, is proverbial, and the Washington Union, in its newborn ardor for this project, seems inclined to hold us, who have been its steady and persistent advocates, to a rigid account for our lack of faith in the practicability of the bill now under consideration.

But, sir, while the country is united in favor of the construction of a Pacific railway, the people are divided in regard to the location of the road. That local interests and prejudices should divide the people, will excite no surprise; but, in my judgment, this division of public sentiment is due to a great extent to the conduct of the Government in organizing and in carrying on the surveys that have been ordered for a route for the railway. Those surveys were organized in 1853. They were instituted under the late Secretary of War, now a member of the Senate; and we all know that he carried into the Cabinet of President Pierce a vehement and passionate devotion to what is called southern rights, southern interests, and southern policy. No man can read the eight volumes of reports of surveys that have been printed without coming to the conclusion that the summary, the deductions, and the arguments made by the Secretary of War are not sustained by the evidence published in those volumes. I think, and I believe the country entertains the same opinion, that the great central route, and also the northern route, have been belittled; that the entire policy of the last Administration, and of the present Administration, has been to magnify the route along the thirty-second parallel.

In the first place, I think a great mistake was made in the men who were sent into the field to make those surveys, as we call them. We call them surveys, but they are not surveys; they are simply explorations and reconnoissances. The Senator from Iowa, [Mr. HARLAN,] the other day, asked why, with all this data before us, we could not locate the road? Why, sir, there is no evidence here for us to locate the road upon. All we can get from those volumes are some general views of the country. I think that with the officers of the Army, there should have been sent some of those men who for a quarter of a century have been engaged in surveying, in locating, in constructing, and in working the railroads of the United States. There are such gentlemen whose opinions, with us as well as with the business men and the capitalists of the country, would outweigh those of a whole battalion of officers of the Army, intelligent as we all know them to be, and well fitted as we all know they are for their appropriate duties.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2D SESSION.

WEDNESDAY, JANUARY 12, 1859.

NEW SERIES.....No. 20.

Then, sir, this Administration took up the policy of the last, for the sake of magnifying that desert route, now and hereafter to be known, I trust, as the disunion route; and in order to reach San Francisco by the thirty-second parallel, the present Postmaster General, without authority of law, has located along that parallel a mail route at an expense of more than half a million dollars.

I have said that the Administration policy has been to belittle the central and the northern routes; to represent them as impracticable; to represent them as being in a condition unfitted for the location of a road like this. Now, sir, the testimony of the officers who have surveyed these lines—little as those gentlemen were accustomed to the location and construction of railways, little able as they were to examine the subject, resolve it into its component parts, and make up a sound judgment worthy of the confidence of the country—shows that the central route is a practicable one; that the route by the Canadian through Albuquerque, across the Colorado, and thence through the Tulare Valley to San Francisco, is a practicable route; and that the route from Lake Superior to Puget Sound is a practicable route.

Let me quote here, sir, the testimony of some of the gentlemen who went over these routes. Governor STEVENS, now the Delegate from Washington Territory, surveyed the northern route. Those who know him, know him to be a gentleman of great intelligence. I hold in my hand an address recently delivered by him in the city of New York, before the American Geographical and Statistical Society. He has examined that whole country, and he says in regard to the temperature:

"There were more cold days on the line of the Great Trunk railroad, and of the roads in Minnesota, than on this northern route."

Referring to the impediments to be encountered from snows—and he is a native of New England, familiar with the snow-storms of that region—he says:

"If I were asked where I should expect the most difficulty from snow in the whole country from the Atlantic to the Pacific, I should say the first ten miles from the Atlantic ports."

I find, too, that in his report as published, of the very highest portions of that route among the Rocky Mountains, he says:

"We find on the route no desert; we find on the route no tremendous snows; we find the country there nearly all arable and adapted to grazing."

He says further:

"In 1853-54, my parties crossed in the depth of winter the Big Hole Pass, Hell Gate Pass, the Little Blackfoot Pass, and Chelot's Pass; and the greatest depth I saw, except when drifted, was one foot."

He states that the Indians, with their wives and their children, traverse these passes at all seasons of the year. I have here, also, the report of Lieutenant Saxton. He says, writing on the 26th of August, when near the summit of the Rocky Mountains, between the head waters of the Columbia and Missouri:

"Our route was along the Flat-Head river, through a fine, open country, with an abundance of fine timber upon the hills back from the river." * * * * "The sun does not shine upon a better spot of earth."

"I find that my previous ideas of the Rocky Mountain range were, so far as this section is concerned, entirely erroneous. Instead of a vast pile of rock and mountains, almost impassable, I found a fine country, well watered by streams of clear cold water, and interspersed with meadows covered with the most luxuriant grass."

"We crossed, to-day, the highest mountain in our route. It was one of the Rocky Mountain range, and, I think, may be avoided in the construction of a railroad. It was raining heavily when we crossed it. It is covered to its summit with a heavy growth of timber." * * * * "

"September 5.—Marched twenty-five miles due west, along the banks of the Blackfoot Fork river, through a magnificent country, fitted to support a numerous population of civilized men. Its bracing air and grand mountain scenery will give inspiration and energy to the future inhabitants of this mountain region."

"September 6.—We marched thirty miles, and are now encamped on the last dividing ridge of the mountains. Antoine says that we shall see to-morrow the long looked for plains of the Missouri. We passed through a region of the same fine character as that of yesterday, but with more timber and more game. I saw numerous large, fine-looking

elk, which would have made a welcome addition to our slender stock of provisions; but we did not succeed in taking any."

"The grass and timber are as good as can be found anywhere. It is contrary to all my preconceived ideas of the Rocky Mountains, to find such a country in their very heart."

"Crossed the last dividing ridge of the mountains, and are encamped on a small creek upon the eastern side, one of the head branches of the Missouri. The ridge which divides the waters flowing into the Atlantic from those flowing into the Pacific, at the place where we crossed, is but a high hill, and it is not more than a mile in a straight line between the sources of the Columbia and the Missouri. Nature seems to have intended it for one of the great highways across the continent. We stopped and took a panning glass of the clear, pure water of the Columbia, and in a few moments pledged the toast from the stream whose waters flow to mingle with the gulf of Mexico. The view from the summit of the pass is grand and beautiful—the Atlantic and Pacific slopes of the mountains, spreading out on either side, and embracing on this hill of union as well as of separation."

"The mountains at this point offer no obstacle to the construction of a railroad from this place to the Flathead village. With the exception of one mountain, easily to be avoided, a finer region through which to build a road can nowhere be found. The vast amount of timber and stone, granite and marble, will furnish an inexhaustible resource of materials for its construction."

It will be remembered that Lieutenant Saxton spent several months in traversing this country, at the head of twenty-five men. He had no sickness, lost no men, was only one night without wood over the whole route. He saw Indians who owned a thousand horses; he saw immense herds of buffalo; he found the entire country, among the very summits of the Rocky Mountains, adapted to agriculture and grazing, and containing some of the most beautiful spots on the North American continent. He says, in summing up:

"From as careful a survey of the country through which I passed as the limited means at my disposal, and the rapid rate at which I traveled, would admit, I give as the result of my observations:

"First. That from the mouth of Walla-Walla river to Fort Benton no insurmountable obstacle to the construction of a railroad exists; and that the Blackfoot or Cadotte's pass is much the lowest pass through the Rocky Mountains that has yet been discovered, and eminently fitted by nature for the line of railroad."

"Second. That the region is well watered, rich in agricultural and mineral resources, and abounding in fine timber, and all other materials necessary for the construction of a railroad. It is destined, and at no very distant period, to be occupied by a civilized and energetic population, capable of making roads for themselves, independently of those which are to form the great lines of communication between the eastern and western oceans."

Well, sir, we all know that the country from Lake Superior to Fort Benton is a beautiful and a rich country; that it is a country where people can live, where you can grow a people, and establish the institutions that elevate and refine them. And here we have the testimony of Lieutenant Saxton, in regard to the country in the very heart of the Rocky Mountains. Passing beyond those mountains to Puget Sound, all the evidence goes to show that the country is rich, well watered, well wooded, with timber enough around Puget Sound to supply the civilized world for years. It is a great commercial line. Any man who will take the map and look at the lakes and the rivers, and look at the conformation of the country, will come to the conclusion that it is the cheapest and best route across this continent.

But it is said that the British Government intends to build a railroad from Lake Superior to Vancouver's Island. Well, sir, I hope that it will. I have no fear, no jealousy of that Power, which is rising up along our northern frontier, from the Atlantic to the Pacific ocean. It is a great country, of three million square miles; it is owned, and partially occupied, by a free people; and whether it is to be, as I trust it will be at some future day, a portion of our Union or not, it is a portion of the world with which our intercourse must be great, both commercial and social. The subject has been brought up in the British Parliament. Mr. Roebuck, in August last, called the attention of the Secretary for Colonial Affairs to the construction of this railway. The Secretary, in response to that call, indicated that the British Government hoped to make such a railway across the continent. Lord Bury, in a speech recently made at Toronto, says that in all human probability

such a railway will be constructed by Great Britain, and at this time there is, on this side of the Rocky Mountains, a corps of surveyors on that line. There is at this time, at Victoria, a corps of surveyors from England, who, in the spring, are to survey this line. It is said, also, that an attempt is being made to organize in England a company with a capital of \$50,000,000, to continue the Grand Trunk railway across the continent. We connect with Canada by the road from Portland to Montreal, by the roads through Vermont at Rouse's Point, at Ogdensburg, at Niagara Falls, and at Detroit; and if they should build a railway—and if we do not, I hope they will—we shall tap that road; we shall be connected with that road along the whole line to the Pacific ocean, and the benefits of it will accrue to us as well as to them. It excites no apprehension in my mind that the British Government, or the Canadian people, propose to construct such a railroad.

Now, sir, I pass over the central route—the reports concerning it, of Frémont, Stansbury, Beckwith, and others, have long been familiar to the country—and I proceed to examine the southern route, the route down on the frontiers of Mexico, the desert route, which we shall consider henceforth, after what has been avowed on this floor, as the disunion route. An interested portion of the public press is filled with glowing accounts of Arizona, of its mines, of the wealth buried there, of its agricultural resources; but every intelligent man in America knows that, for a great distance this side of El Paso, for one hundred and twenty-five or one hundred and fifty miles, there is one of the most barren and desolate spots on the face of the globe—the Llano Estacado, or Staked Plain. The Government has just expended \$100,000 to dig Artesian wells there. None have been attempted to be dug on the northern or central routes. They are not needed on the northern; you do not dig any on the central; but away down on this southern route \$100,000 has been expended to find water; and Captain Pope has abandoned the undertaking, having failed altogether.

The country from the Pecos to El Paso is a barren and worthless country, without wood, and without water fit for the use of man or of beast; and the country from the frontier of Texas, from El Paso for three hundred and fifty or three hundred and sixty miles to the Gila, and then from the Gila over two hundred miles to the Colorado, and from the Colorado two hundred and seventeen miles to San Diego, a distance of nearly eight hundred miles altogether, is a sterile and barren country, over which, in the words of Professor Henry, "sterility reigns supreme." Lieutenant Whipple says of the country on the river Pecos, in Texas—this beautiful, rich land, full of fertility and beauty, if we are to rely on what is now stated—Lieutenant Whipple, one of your own officers, says the valley between the Pecos and the Rio Grande, "for hundreds of miles, is a blank and dreary waste, with scarcely a shrub to relieve the eye of the traveler."

This is over the Staked Plain, over which this southern railroad has to pass, to reach El Paso. You have spent \$100,000 to get water there; you have dug six or eight hundred feet deep, and you cannot get it. That is a fine country to build a railroad over! That is the route which has been lauded to the skies, while the rich and fertile regions over the northern and the central routes have been undervalued altogether. I do not certify to the truth of this extract; but a correspondent of the Cincinnati Times, writing from El Paso, in alluding to the breaking up of Captain Pope's artesian well expedition, and the consequent sale of public property, says:

"Amongst other things are three hundred horses and mules, with not a sign of hair on them from head to tail, caused by drinking the water of the Pecos, the best that can be had in that vicinity."

Beautiful land this to run a railroad through! Fine land for agricultural purposes; fine country for the European races, and for free institutions! It is a country that will never be settled to any

considerable extent until we are as much crowded for room as they are in China, or unless gold shall be discovered there.

Of the country beyond El Paso, and from there to the Colorado, along the banks of the Gila, I now propose to give the testimony of some officers of the Army, who have passed over it. Major Emory, in his Mexican boundary survey, says:

"I think I am safe in stating that, as a general rule, throughout this vast region, corn, cotton, and vegetables, cannot be produced without irrigation; and, furthermore, the limits of the ground which can be brought under the effects of irrigation are very circumscribed."

You cannot raise these crops without irrigation, and the bounds are very circumscribed—very indeed, I should think. In 1846, Major Emory passed with General Kearny, and his military force, across that portion of the continent, and he said then of the country, at the point where the San Pedro joins the Gila:

"In one spot only we found a few bunches of grass. More than four fifths of the plain was destitute of vegetation. The soil, a light brown, loose, sandy earth, I supposed contained something deleterious to vegetation."

Passing along that region, he says of it:

"We traveled till long after dark, and dropped down into a dust hole. There was not a sprig of grass or a drop of water, and during the whole night the mules kept up a pitiful cry for both."

That is truly a fine country for a great national highway to the Pacific! He says further:

"From information collected from the Indians, and others, it appears that we shall meet with no more grass from this spot to the settlement, estimated to be three hundred miles distant."

In speaking of the long route over which he had passed, he says:

"In no part of this vast tract can the rains from heaven be relied upon (to any extent) for the cultivation of the soil. The earth is destitute of trees, and in a great part also of any vegetation whatever."

This is the testimony of an intelligent officer, selected to run your boundary with Mexico; and this is the character he gives of that country. Lieutenant Parks, another officer, says of the plain at the De Sauz, which is one hundred and forty miles west of the Rio Grande: "Grass is scarce and salty."

Of the San Pedro valley, two hundred and thirty-two miles west of El Paso, he says it is

"A dry, parched looking plain, bounded on the east by a low, bare ridge. The banks are devoid of timber, or any sign indicating the course or even existence of a stream to any observer but a short distance removed."

He characterizes the whole country as being "the perfection of sterility." And remember, sir, that this is the character of hundreds of miles over which this southern road is to be forced. Mr. John R. Bartlett, employed at one time as boundary commissioner, says:

"The valley of the San Pedro river, near our camp, was anything but luxuriant. It consists of a loam, which, if irrigated, might be productive; but as its banks are not less than eight or ten feet high, irrigation is impracticable, except by digging a canal a very long distance."

Lieutenant Michler, one of the gentlemen attached to the boundary commission, who went over the whole of this route, crossed, in twenty-three days, from San Diego to Fort Yuma, a distance of two hundred and seventeen miles, and he says:

"We passed over mountains and deserts. This road is the most difficult I have ever traveled for heavily-loaded wagons."

Speaking of the plain of the Gila and the Colorado, he says:

"The plain is a perfect desert, marked by an entire absence of water, and destitute of vegetation, save some few sickly plants." "This whole country is truly a desolate region."

A desert region of more than two hundred miles on the river Gila, that, if we are to believe what is recently reported throughout the country, ought to equal the valleys of the Rhine or the Rhone in fertility! Lieutenant Michler says, of the climate of this region:

"The climate of this region is in accordance with everything else relating to it."

"Having returned the following August to Fort Yuma, the thermometer, in the shade, at the post, was found to be 116° Fahrenheit, and over 120° in the shade along the river."

One hundred and twenty degrees! Mr. Blodgett says, in his work on Climatology, that

"At Fort Yuma the mean for the year is 73° 5', and that for the warmest month 93°—measures only equaled in the lowest basins and valleys of Arabia."

He further says:

"There are intensely heated districts, like the desert at Fort Yuma, where the heat alone is sufficing from mere excess, though the air is intensely arid."

Fine country for the people of this Union and of Europe to live in and cultivate—a region without water, without grass, without wood, with the thermometer up to 120° in the shade! I do not understand where they find the shade. Again, Lieutenant Michler says:

"The heat, commencing to be excessive in May, becomes almost unendurable in the months of June, July, and August; even in winter the sun is so hot, and the direct, as well as the reflected, light upon the sand plain so dazzling, that, excepting a couple of hours after daybreak, and an hour before sunset, it is only possible to see objects through the best instrumental telescopes in the most distorted shapes—a thin, white pole appearing as a tall column of the whitest fleece."

I think this reflected light, which dazzles the eye, by which you cannot see things except in distorted shapes, even with a telescope, by which a white pole becomes a tall white column, explains why certain gentlemen have recently had such visions of the beauty and fertility of that region. I think that is the natural philosophy of the matter; but I hope that, at this distance, this reflected light will not so distort the vision of the Senate as to pervert its judgment. Lieutenant Michler continues:

"In August we were enabled to complete that portion of the work; and although engaged upon it during the wet season, barely sufficient water was to be had for our wants. The heat had become so great as to compel us to operate entirely with signal fires by night."

This is a great route to select for a railroad, where the gentlemen employed on the boundary survey could only work over portions of it by signal fires at night! Lieutenant Michler further says:

"Instead of storms of rain during the winter and spring, they have those of dust and sand. These are caused by high and strong winds sweeping over the desert plains, coming principally from the northwest, raising and carrying before them, like mist, clouds of pulverized sand and dust. You can watch them in their progress as they approach for hours beforehand, and when they reach you the dust penetrates into every crevice, the finest silk not being impervious to it. They last generally a day, sometimes three. The winds blow up quickly and violently, and it is useless to attempt to work with nice instruments. These dust storms were our great drawbacks, as it was impossible to see many feet distant, and then only at the risk of being blinded. The gusts of wind which produce this unpleasant effect in winter, are in summer like the simooms of the Sahara, they sweep over and scorch the land, burning like the hot blasts of a furnace."

That would be a pleasant region to run a train of cars through! The Senator from Maine suggests that it would be fine country for way business! I agree with him in that opinion. Giving an account of his travels from Sonoyta to Fort Yuma and back, in the middle of August, 1855, Lieutenant Michler says:

"It was the most dreary and tiresome I have ever experienced. Imagination cannot picture a more dreary, sterile country, and we named it 'Mal Pais.' The burnt lime-like appearance of the soil is ever before you; the very stones look like the scorings of a furnace. There is no grass, and but a sickly vegetation, more unpleasant to the sight than the barren earth itself; scarce an animal to be seen—not even the wolf or the hare to attract the attention, and save the lizard and the horned frog, naught to give life and animation to this region."

I have read to you, sir, from the report of Lieutenant Saxton, where he spoke of the innumerable herds of buffalo that range all over the northern region of the continent, of elk, of deer, of herds of cattle. Here is a country through which it is proposed to construct a great national railroad—a highway between Europe and Asia—where the lizard and the horned frog are the only animals which enliven the scene and suggest the existence of animated nature.

"The eye may watch in vain for the flight of a bird;"

I suppose the reason why birds do not fly there, is because they could not live. They must carry their provisions with them in their flights in that neighborhood, and that would be rather a difficult undertaking for them.

"The eye may watch in vain for the flight of a bird; to add to all this is the knowledge that there is not one drop of water to be depended upon from the Sonoyta to the Colorado or Gila. All traces of the road are sometimes erased by the high winds sweeping the unstable soil before them, but death has strewn a continuous line of bleached bones and withered carcasses of horses and cattle, as monuments to mark the way."

This is the route that the last Administration and the present Administration have done all in their power to select; and they expended \$10,000,000

to purchase a region like this; and they sent to Asia and imported camels which could go ten days without water; and I commend them for their sagacity in that, for I think the camel is the only animal fitted to travel that country at all. They have expended hundreds of thousands of dollars to find water, and have failed; and then to add to all have given a contract for more than half a million dollars annually to carry the mail down on that route in order that a railway may follow it.

Lieutenant Michler further says:

"The valley of this part of the Gila is the same in appearance as that of the Colorado; the soil seems to be more sandy and contains more alkaline matter; a white efflorescence covers nearly the whole surface. Little grass grows, except in spots subject to overflow."

Professor Henry says of this country east of the Colorado:

"The entire district is bare of soil and vegetation, except a variety of cactus. Over a greater portion of the northern part of Sonora and the southern part of New Mexico sterility reigns supreme."

"We hazard nothing in saying that the mountains, as a whole, can be of little value as the theater of civilized life, in the present state of general science and practical agriculture."

I have before me extracts from a letter written by Edward E. Dunbar, formerly of California; and I am told by the Senator from California [Mr. Broderick] that he is a gentleman of intelligence and character. He has written a series of letters in the New York Times; and I quote from him. He has spent three or four years in that country; passed over it; seen it, and says that during that time he has known of something like two hundred murders and assassinations in that region. The only consideration that casts doubt on Mr. Dunbar's statement is how so many people got there to be murdered and assassinated. He states, also, the names of several gentlemen who have attempted to cultivate the soil in that region, but have been compelled to abandon the attempt. He says:

"That portion of Arizona, according to its present limits, lying south of the river Gila and west of the one hundred and eleventh parallel, comprising nearly half the country south of the Gila, does not contain a running stream or living spring of water. Several nomadic bands of Papago Indians exist there by the water holes and wells, which, during a few months of the year—the season of showers—furnish them with a scanty supply; but they do not and cannot cultivate."

"The Gila bottom, from the aforesaid parallel to the Colorado, a distance of little over two hundred miles, is very uninteresting, and, from a variety of causes, cannot be made available to any great extent for agricultural purposes." * * * "The climate is excessively hot in summer, and in the winter months strong and high winds, which raise stifling clouds of sand, prevail. Grass is generally scarce and poor. That portion of territory proposed to be included within the limits of Arizona north of the Gila and west of the eleventh parallel is, like the country south of the Gila, of which mention has been made, a dreary waste of deserts and mountains, and entirely destitute of water. The eastern part of Arizona, comprising nearly one half of the entire Territory, may therefore be considered wholly unavailable for agricultural purposes, except, perhaps, some small sections on the river Gila."

Sir, I have quoted authorities enough to show that, from the time you strike the Staked Plain in Texas, across to the Pacific ocean—a distance of nearly one thousand miles—there lies a country worthless for all purposes of agriculture. It is sterile, hot, barren, and unfitted for the permanent residence of any considerable portion of civilized society; and it is through this country that it is proposed to carry the Pacific railroad. It is through this country that the entire power of this Government, since 1853, has been exerted, so far as it has exerted any power at all, to force a railway to the Pacific ocean.

Now, sir, I am in favor of constructing a railroad from the point indicated in this bill, between the Big Sioux and the Kansas rivers, across the central regions of the continent to the bay of San Francisco. Starting between these two points, I would not draw the lines too close. I would even consent to have the route starting from there, make a deflection southward, strike the Canadian, and go, by way of Albuquerque, across the Colorado and through the Tulare valley to San Francisco, if that is the best route. I believe, myself, that the other is the best route, and I believe further, that this location would accommodate the North, the center of the country, and the South, with the exception of the extreme South.

It is not surprising, Mr. President, that we should divide upon this question; but in all our discussions heretofore, whatever may have been the policy of different gentlemen, we have been

accustomed to regard the construction of a railway to the Pacific as a work that would not only develop the power and the strength of the country, but also bind the people of the Atlantic and Pacific coasts together in bonds of union. The distinguished Senator from New York, [Mr. SEWARD,] in particular, based his support of the project on the fact that the construction of such a road would insure the permanence of the Republic.

But the other day, the Senator from Georgia [Mr. IVERSON] came here with a carefully-prepared and elaborate speech, committed to writing, in which he opposed the construction of a railway across the central region of the country, because it would not be within a southern confederacy when the Union should be dissolved. The Senator pictured to us the triumphs of the Republican party in the northern States. He told us that those triumphs had been triumphs over the national Democracy, over the rights of the South, and that they were not relieved even by the victory of "Free-Soil Democracy" over "Abolitionized Whiggery," in the State of Illinois. The Senator told us that he thought the time had come when the South must give up the Union or give up slavery; and he said that if the Senator from New York, [Mr. SEWARD,] or any of his compeers in this Chamber or in the other House or in the country, who concur with his political opinions, should be elected President in 1860, the time would have come for the dissolution of the Union; that it would be a sufficient cause for the South to secede.

This seemed to me to be very strange language to be used in this Hall. Why, sir, only two days before our hearts beat with patriotic pride, as we listened to the words that came gushing from the generous and patriotic Senator from Kentucky, [Mr. CRITTENDEN,] as we were bidding farewell to the old Hall, when he told us that the Union was the source of our present power and past glory, and would be the source of our future greatness. We listened, also, to the words with which the Vice President closed the eloquent and chaste address, in which he expressed the hope that our latest posterity would look upon the deliberations of representatives of independent, free, and UNITED States. We came into this Chamber, and we listened to the man of God as he consecrated the Hall and invoked the blessing of Heaven upon us, and upon the union of these States, and expressed the hope that the banner of our country would wave over a free and united people forever. Two days after this, the Senator from Georgia came into the Chamber to oppose the construction of a great national central railway, because it would lie outside a southern confederacy. In a speech deliberately prepared beforehand, and on the ground that if a majority of the people of the United States elect a President in 1860 representing their political sentiments, as they have a constitutional right to do, he announced that the slaveholding South intended to dissolve the Union.

Mr. IVERSON. Will the Senator from Massachusetts allow me to interrupt him for a moment?

Mr. WILSON. Certainly.

Mr. IVERSON. The Senator does not state my argument fairly. I have not said on this floor, or anywhere else, that the South will dissolve the Union because of the election of a northern man to the Presidency. Sir, the South will do no such thing. I am one of the last men who would advocate or promote such a proposition. Sir, the South did not talk about dissolving the Union when Mr. Adams was elected President, nor when General Harrison was elected President, nor when Mr. Van Buren was elected President, nor any other northern man. It is not because a man hails from the North, that we object to his election to the Presidency of the United States; it is not because a man hails from the North, if he be elected upon principles which are general to the whole country; but it is because you elect a man from the North on a declaration of war against the institution of slavery, that I say the South will dissolve, and ought to dissolve, the Union whenever such an event occurs. I said that whenever the North, a sectional majority of this country, elects a President upon the principles announced by the Senator from New York in his Rochester speech, then the South ought to dissolve, and I believe would dissolve, the Union. Now, sir, let the Senator state me fairly, and I have no objection to

his replying to my argument; but I shall hold him to the text, and he must not depart from it.

Mr. WILSON. Mr. President, if the Senator had heard me through, he would have found that I did not intend to misrepresent him, and did not misrepresent him. I meant simply to say, and I did say, that his threat of the dissolution of the Union was that, if the people elected to the Presidency, as they had a constitutional right to do, a man who held opinions against slavery extension, the South would dissolve the Union. If they elect a northern man with southern principles, or a northern man who would do what the slave propagandists required him to do, I did not suppose these gentlemen would threaten to secede. So long as they can use that class of men, they will stay in the Union and govern the country. But the Senator did say that—

"The election of a northern President, upon a sectional and anti-slavery issue, will be considered cause enough to justify secession. Let the Senator from New York, [Mr. SEWARD,] or any other man avowing the sentiments and policy enunciated by him in his Rochester speech, be elected President of the United States, and, in my opinion, there are more than one of the southern States that would take immediate steps towards separation."

He said further that his advice would be given for such a separation. Well, now, sir, the Senator from Georgia, and every other Senator here, who has read the Rochester speech, or the other speeches of the Senator from New York, knows that that eminent Senator stands within the Constitution and within the Union, and does not propose to interfere with the constitutional rights of any portion of the people or any section of the Republic. The Senator from Georgia, and every other Senator here, knows that there is not in this body, that there has never sat in the Senate of the United States, a Senator who has a record more clear and explicit in favor of a broad, comprehensive, and national policy, than the Senator from New York. And if that Senator should be elected President, or any of those Senators around me who agree in the doctrines which he has avowed concerning slavery, it will be, according to the idea of the Senator from Georgia, a sufficient cause for the dissolution of the Union! The Senator said further:

"It is because I believe that separation is not far distant; because the signs of the times point too plainly to the early triumph of the Abolitionists, and their complete possession and control of every department of the Federal Government; and because I firmly believe that when such an event occurs the Union will be dissolved, that I am unwilling to vote so much land and so much money as this bill proposes, to build a railroad to the Pacific, which, in my judgment, will be created outside of a southern confederacy, and will belong exclusively to the North."

Now, sir, I see no occasion to arraign the people of the North as the Senator from Georgia has done. Five years ago you repealed the prohibition of slavery over five hundred thousand square miles where it had been prohibited. The people of the North denounced your act. You opened that territory and proclaimed the doctrine of squatter sovereignty. You won under it, no matter whether you believed in it or not. You invited the people to go there and settle the question of slavery for themselves. The people went there and they settled it. The people went for freedom. A few of the managers undertook to cheat them out of their rights. They manufactured a constitution. Your own agents, Walker and Stanton, denounced it as the creature of fraud and violence. The President knew it was a fraud, for his own agents told him so; the country knew it was a fraud; and yet we were compelled to spend the last session of Congress in resisting the consummation of that great crime against the people of Kansas. You sent that constitution back to Kansas with a splendid bribe, and that poor people nobly spurned your bribe. Not one sixth of them voted for your constitution; more than five sixths voted it down. We of the North have this year simply been punishing the men who undertook to sustain that fraud, and we have succeeded to our hearts' content. Here we are to-day, representatives ready to attend to the public business; we have not thrust this question upon you. The people of the North stand cool, calm, and dispassionate; and while they have no disposition to infringe upon the rights of any body, they are determined to maintain their own. Sir, since I have been a member of this body, I have traveled in a majority of the States, more than forty thousand miles, and addressed tens of thousands of people, and I never yet heard a member of the Republican party pro-

pose to exercise power that is not clearly in the Constitution; to interfere with the rights of any section of the country, or class of its population.

But the Senator from Georgia wants this road to go south, that they may have it when they divide the Union; and he has magnanimously offered us a northern road, by which we may get to the Pacific when they have left us. We should like to have a northern road; but we are willing to give it up, so far as construction by this Government is concerned, and we are willing to build a central road, that will accommodate the North and the South alike; for if any Senator will examine the map, he will see that such a road can easily be reached from New Orleans, or any part of the southern country.

But as to the southern route, a route over barren deserts, a route now proposed to be selected for a disunion road, I am against it now, and against it forever. I will not vote a dollar for it. But I will make a proposition to the Senator from Georgia, the Senators from Texas, and the Senator from California. I will give them every foot of this Gadsden purchase; all that we bought for \$10,000,000; I will even give them all between the thirty-first and thirty-fourth parallels, from the frontiers of Texas to the Pacific ocean. I will make no reservation of alternate sections; for we should be poorer if we had the alternate sections than we should be without them. I will give them the whole "rich gold and silver mines." I will give all this to construct a local railroad from El Paso to San Diego. That is a fair proposition. I will vote for it now, and I will pledge my vote to it at any other time. Take that country. We say it is worthless, unless there be gold and silver mines in it; that for agricultural purposes it is utterly worthless. Take it; take mines and all; construct your local temporary southern railroad to San Diego, or down to Guaymas, if you can. Perhaps this proposition may be accepted. It is well known that we have, south of us, a class of uneasy gentlemen, who are exceedingly anxious to get into the Senate of the United States, or into the other House; restless, ambitious gentlemen, who are organizing southern leagues to open the African slave trade, and to conquer Mexico and Central America. They want a road to the Pacific ocean; they want to carry slavery to the Pacific, and have a base line from which they can operate for the conquest of the continent South. Now, let these gentlemen put their hands into their pockets, raise the money, take that beautiful country down there, and build their local road to the Pacific ocean. Perhaps the grants made by Texas will enable the company to reach El Paso some time during the present century.

Mr. IVERSON. Will the Senator allow me to ask him a question? Will he, as a northern representative, take the northern route, and build their road, and not take our money out of the Treasury to help it?

Mr. WILSON. I will tell the Senator what I will do.

Mr. HOUSTON. I rise, not to interrupt the gentleman, but to remark that I will accept his proposition, on behalf of the State he has mentioned, so far as I am concerned, to take that country, the mines included, and construct the railroad.

Mr. HALE. It ought to be reduced to writing.

Mr. WILSON. We will put it in print; and I tell the Senator from Texas, and I tell his colleague, who will remain here after he has left us, that he shall have my vote for that proposition at any and all times while I occupy a seat in this body.

The Senator from Georgia wants to know if we will take the northern line. I will tell him just what we will do, and what I propose to do. I am in favor of building a railway to the Pacific ocean with the money of the Government. I believe it is the only way we shall get a railroad built there for many years to come. I am in favor of starting it where this bill starts it, and running to San Francisco. I would build the road on a central route, as a great national highway, with the money of this Government. I will give the Senator the whole of the land on the southern line south of the thirty-fourth parallel, and I will make a grant of land from Lake Superior to Puget Sound—a distance of one thousand eight hundred miles—and give fifty alternate sections to the mile, limiting the sale of the land to actual settlers alone,

which will yield \$40,000 to the mile, to carry a railroad across that section of the country also. We will reserve the alternate sections on that route, because they are worth saving.

But another reason given by the Senator from Georgia was, that if this road was built, its benefits would accrue to the northern States; it would pass under the control of the great northern railroad lines, the great mammoth corporations that have constructed railways across the continent to the Mississippi and the Missouri. He told us that the South would only get sometimes a stray passenger or a stray bale of goods; but before the close of his speech, he said that, in the South, they paid from eight to ten per cent. on their railway investments, while our roads in the North paid but little, and sometimes nothing at all. I would suggest to the Senator from Georgia, that when he prepares an elaborate speech on a question of this character, he pay more attention to figures of arithmetic than to figures of rhetoric. I have examined that subject—for this whole railway system of ours is open to be read of all men—and I find that in the slave States south of this city, there are more than two hundred and seventy million dollars invested in railroads. There is, however, in that section of the country, but one mile of railroad constructed to ninety-five square miles of territory. In the free States, with the exception of Minnesota, which has just come into the Union, there are twenty thousand miles of railway out of a total for the whole country of twenty-eight thousand, and near eight hundred million dollars are invested there. We have one mile of railway to twenty square miles of territory. In Massachusetts we have fifteen hundred miles of railway, and one mile to less than six square miles of territory. The competition is greater, and of course there is more rivalry between these competing roads. Many of your southern roads have just been constructed; they traverse long lines of level country; many of them are mere surface roads. They have cost much less than our roads have cost. They have the advantage of carrying a class of freight, cotton especially, that can afford to pay high charges for transportation. They have therein the advantage over our northern lines, which have to carry wheat, corn, and other agricultural products, of less value. The southern roads are mostly new; time enough has not yet elapsed to wear them away; but you will have hereafter to lay out annually about twenty per cent. on your running machinery, and a thousand dollars to the mile to keep your railways in repair. That is the average in my State; and in New York it is higher still, being nearly two thousand dollars to the mile. The original cost of our roads in the northern States, east of the Alleghenies, was from forty-five to fifty thousand dollars; west, they cost from thirty to thirty-five thousand dollars. The original cost of the southern roads does not average more than thirty thousand dollars.

The railways of the entire country paid an average dividend, last year, of four and a quarter per cent. They earned about five per cent. clear profit. A majority of southern railroads do not pay any dividends at all. The aggregate of their dividends is not three and a half per cent. in the whole southern country south of this city. The railways of the Senator's own State are preëminently profitable, equalled, perhaps, in that respect, by those of no other State, unless it be New Jersey; but the railroads of almost all the other southern States are in process of construction. They are in about the same condition as in the northwestern States, where they have nearly one hundred millions more invested in railways than in the whole southern section of the Union, and about the same number of miles, and where railways are anything but profitable at present.

Now, sir, I come to the consideration of the question, how shall we construct a railway to the Pacific? I am in favor of constructing a railway across the central route. I do not believe, and I do not know a practical railroad man who believes, that we can raise private capital enough, with the security offered in the pending bill, to locate the road to San Francisco. I will tell you what it is, and just in my judgment what will come by the passage of such a bill as this. Under its provisions a certain class of men can take possession of the franchise—men of capital are not going to invest in the road; under the provis-

ions of this bill the road will pass into the hands of a class of men who can carry it, starting from the mouth of the Big Sioux, opposite Sioux City, in Nebraska, down across the Platte valley, the best portion of Nebraska Territory, across the front of the entire Territory of Kansas, across the Indian Territory, and strike the so-called Pacific railroad in Texas, a distance of more than five hundred miles over the best portion of the country west of the Missouri river.

We all remember that Texas made a grant of \$6,000 and ten thousand acres of land to the mile to a Pacific railroad company. I remember that when that company was organized, the men who got it up could not, by any possibility, have raised \$100,000 altogether, if they paid their honest debts. Many of them were political bankrupts as well as pecuniary bankrupts—men who had not a dollar; and some of them were men who not only never paid a debt, but never recognized any obligation to do so. They took two, three, four, or five hundred thousand dollars' worth of stock apiece, and I think some of them subscribed as much as \$1,000,000 in this splendid scheme. Years have passed away, and what has Texas got? She has got twenty-two or twenty-three miles of railway with two cars upon it, with no depot, the company owing everybody within hailing distance of the road; and they have imported an old, worn-out engine from Vermont, with which, I dare say, the Senators from that State are well acquainted. And this is part of your grand southern Pacific railroad. These gentlemen are out in pamphlets, proving each other great rascals, or attempting to do so; and I think they have generally succeeded. This whole Pacific railroad scheme, under such a bill as this, may fall into such hands as those. There may be, and doubtless are, some honest, deluded men connected with that scheme; but the whole thing, from the beginning, has been a gigantic swindle.

Well, sir, in my judgment the managers of that affair, and that same class of men who are to be found all over the country, and especially around the city of Washington, want to get hold of this splendid railway scheme which we are discussing; and how can they do it? All they would have to do would be to raise \$500,000—and that would be to them the most difficult part of the undertaking—and deposit it as security. Then they can begin the road at Sioux City, go five hundred miles through a fine country, and get \$12,500 a mile, more than six million dollars; and get between six and eight million acres of good land, worth on an average at least five dollars an acre. Much of the land over that route I know you cannot buy to-day for ten dollars an acre. They will get six million acres of land, worth at least thirty or forty million dollars, and six millions in money, for building a railroad that need not cost them more than twenty or twenty-five thousand dollars a mile—or say, at the utmost, thirty thousand dollars a mile; and then it could not cost more than fifteen million dollars. Thus they can put from fifteen to twenty-five millions into their pockets and throw the road upon the Government, utterly worthless as it would be; for a road of that class would not pay its running expenses in that country. I believe that if this bill passes in its present shape, we shall see that the men of character and the men of capital will have nothing to do with it. We shall see it pass into the hands of men who will run the road down to communicate with the southern road that is to go to El Paso, and we shall see it constructed over about five hundred miles, until it joins Texas, and then, perhaps, a portion of the Texas road will be constructed where money could be made from the lands, and the \$6,000 per mile granted by that State. Then, as they approach the desert, they will throw the road upon the Government; they will have received millions of acres of good land, and we shall have no Pacific railroad. Then the Government will have to take it up and carry it across the Staked Plain, and carry it from El Paso to Fort Yuma, and from Fort Yuma to San Francisco, over a country where the road will cost from fifty to one hundred thousand dollars a mile, and where the land is generally barren and worthless.

I know—yes, sir, I know—that a Pacific railroad cannot be built under this proposition. Who has any money to invest in such a road at this time? Look at the four new States in the West

—Michigan, Iowa, Wisconsin, and Minnesota. To-day railroad companies in those States hold millions of acres of land that can be reached from New York in two or three days—some of the best land the sun shines upon. Money in New York is at four or five per cent. per annum, and the holders of millions are seeking opportunities for investment; and yet the railroads in these States, with all this land as security, in a portion of the country that can readily be reached, remain unbuilt. Many of those lines of railroad are paralysed and bankrupt. The Northwest has no money to put into a Pacific railroad.

How is it with Maryland? Maryland has as many railroads as she can take care of now, as the Senators from that State will certify. There is her great line that she has carried across the Alleghenies to the Ohio. You can buy the stock of that road for about sixty per cent.—a great line that carries more than a thousand passengers per mile, making no dividends.

How is it in Virginia? They have embarked in a splendid scheme of internal improvements. I hope that they are to succeed, for I would glory in their prosperity; but the government of Virginia will have to be well managed if it does not get involved.

How is it South, in North Carolina? Her railroads are almost worthless. South Carolina has already had to stop one of her great lines. Georgia is prosperous, and I am glad she is so, but I think she has enough to do to take care of her own interests, and has no millions to sink in the Rocky Mountain passes.

Mr. TOOMBS. Not a dollar.

Mr. WILSON. Then we come to Kentucky and Tennessee. The Kentucky roads are almost worthless. The Tennessee roads are in process of construction—prosperous, I hope, they will be; but Tennessee has all she can do to carry out the policy she has adopted. Missouri has already become indebted about twenty-five million dollars for railways. Two of her lines were unable, on the 1st of January, to pay the interest on their bonds, and fell back on the State government for relief. There is not a spare dollar in Missouri to invest in this road.

If you go, then, to New York, you will find that the capitalists of that city now refuse to invest, to any considerable extent, in railroads west, and take land securities; though money, as I have said, is just now a drug in New York.

Go to Boston, and if there is any money in the country to build this road it will be found in New York and Boston. In Massachusetts, we have over one hundred million dollars invested in railroads; about sixty-nine million dollars of that sum in our own State, and of the rest, some is down in Georgia, and a great deal of it is west, in the Illinois Central, and the Michigan Central, and the Michigan Southern, and other roads. These outside investments do not pay very well. I will say nothing about the Vermont Central, and some other lines; but I say that their investments out of New England do not encourage our capitalists to put money into an undertaking of this character. You cannot raise in the city of Boston, or in the State of Massachusetts, money under this bill to put into a Pacific railroad. The effect of the bill, if you pass it, will be to squander thirty or forty million dollars in value of good land, from the Big Sioux to the frontiers of Texas; or if the central route should be selected from Council Bluffs, or from some point up the Platte river toward the Rocky Mountains, five or six hundred miles of country over which you can build a railroad as easily as you can lay it along Pennsylvania avenue. These lands, the benefit of which ought to go to carry the road through the Rocky Mountains, and through the deserts, will be seized by speculators, and the money of the Government will be absorbed; and then, when the Rocky Mountains are reached, we must build the road across them. As a measure to complete a road, this bill is not worth the paper it is written upon.

I am ready to commence at once, as I proposed in the amendment I have submitted, to put engineers on the line, to make a survey and locate the road, and borrow \$10,000,000 annually, at five per cent., as can be done at a premium, and go to work and build the road, setting apart the country for one or two hundred miles on each side of the route, the sales of the land within which limits are to constitute a perpetual sinking fund to pay

the debt incurred in the construction. I will vote for such a bill as that, but with the idea distinct in my mind, which I think I can demonstrate, that every dollar put into a Pacific railroad by anybody, must be sunk. Nobody supposes that a road can be built across these two thousand miles cheaper than the average cost of the railroads of the United States; you must commence at the ends of the roads; you must work into the country from both ends; you must use your road as you build it, to carry men and materials, for you have no people in the interior; you cannot approach the line by any flank movement.

This bill allows twelve years to build it in. Suppose it be twelve years: twenty-five or thirty millions must be consumed in interest, and several millions must be lost in the wear of the road. Now, I am ready to sink \$150,000,000 to make such a road, for I consider it a mere bagatelle; it does not amount to anything to this great country. The building of the road, although the stock will be worthless, will be worth to the country, pecuniarily, hundreds of millions, to say nothing of increased national strength and power. We built a road at a cost of \$80,000 a mile across the State of Vermont—the Vermont Central—over one hundred miles long, and it cost \$8,000,000. The stock and first bonds are worthless. The road hardly pays its running expenses, and yet the \$8,000,000 sunk in it were not thrown away. The road added to Vermont and to New England millions of dollars more than it cost. I look upon this Pacific railroad in the same light; and I would be thankful, when we had built it, if the road could support itself; but I doubt it, and I think you will have to pay a pretty high price for carrying your munitions of war, your troops, and your mails, over the line when completed.

But, sir, we were told the other day how many passengers we were to have; and the Senator from California told us there had been one hundred thousand in some years between the Atlantic and Pacific coasts. One hundred thousand for two thousand miles would be fifty to the mile. Then he said it might go up to two hundred and fifty thousand, which would be one hundred and twenty-five passengers to the mile. We have railroads in New England that carry twenty thousand passengers to the mile yearly. The average passengers over the Massachusetts roads are eight thousand to the mile, yearly, and the roads divide only three and a half to four per cent.; they do not earn more than five and a half per cent. over expenses, and some of them are in debt. The Eastern railroad carried one million three hundred thousand passengers last year—twenty thousand to the mile; but its stock can be bought to-day for forty-six dollars, and it has not made a dividend for several years; it is in debt, and it uses its income to discharge the debt.

I have before me a report of the New York roads, and I find that the New York Central road carried last year five thousand passengers to the mile; the Erie railroad two thousand; the Hudson River railroad ten thousand to the mile. The Erie railroad, carrying its two thousand passengers to the mile, cost about sixty thousand dollars a mile; a little more, perhaps, than the Pacific railroad would cost, or about the same; and its stock is worth about seventeen per cent. It makes no dividend, yet carries two thousand passengers to a mile. The Hudson River railroad, costing about eighty thousand dollars a mile, carried ten thousand passengers to the mile; it made no dividend last year; its stock can be bought to-day for thirty per cent. Then the Illinois Central, that great line of railway, carried, last year, one thousand passengers to the mile, about seven times as many per mile as is estimated over this road, even by its warmest friends, who think a road can be built out of the wild lands in the Rocky Mountains. The Illinois Central road made no dividend last year, and but for the grants of land along its line, I think its stock would be of little value.

The southern Michigan railroad carried one thousand five hundred passengers to the mile; and the Senator from Michigan knows what its stock is worth, and what dividends it makes. I tell you, sir, that you may go into this examination; you may take up the railroads of New England, the West, the central States, and of the South; you may analyze their receipts, and you will find that the roads generally carry from one thousand to

ten thousand to the mile. The New Jersey Central carries over twenty thousand to the mile, and yet only makes eight per cent. dividend. It takes population, it takes a travel of more than one hundred and twenty-five to the mile to support a railroad, unless that road has valuable freights.

The idea was sneered at the other day that freights could not be carried across this continent by railroad. The whole idea that a heavy freighting business can be carried over the road, is one of the most absurd and ridiculous that ever entered the minds of sensible men. Sir, suppose you wished to carry two thousand tons of freight from New York to San Francisco, and your road was constructed: what would it cost to transport it across the country; and what would it cost to carry it around by way of Cape Horn? I have examined the cost of freight transportation in New England over the Worcester and the Western railroads, and it is about four cents per ton a mile. I have here a report of the New York Central road, and I find that the charge there varies from two to five cents, and averages nearly four cents a ton. I find that on the Pennsylvania roads and the western roads the rate is about the same—four cents to the mile per ton. I find that on the southern roads, where they carry cotton and other articles that can afford to pay high rates of freight, they charge four, five, and six cents a ton to the mile. The Reading railroad that carries coal, the article that can be most cheaply transported, brings it for \$1.91 per ton ninety-eight miles to Philadelphia. Everybody who has been in that district knows how easy it is to load their trains. The cars are made to carry coal; yet this road charges two cents a mile for such freight, and does not make money at that.

Now, suppose we take the lowest rate that we find charged in the United States—the rate of two cents a ton per mile for carrying coal on the Reading railroad: we will call it three thousand miles from New York to San Francisco across the continent. What will it cost to take two thousand tons of freight across? You can ship it on board a ship of two thousand tons and carry it to San Francisco for twelve dollars a ton, or in all, \$24,000. You want to carry it across the country at two cents a ton a mile. The cargo would be carried by railroad for \$120,000; around Cape Horn for a fifth of that sum. This is at the rate they carry coal on the Pennsylvania railroads. I am inclined to think that \$96,000 added to these articles would be regarded as quite an addition, even on the shores of the Pacific, and they would prefer to wait the difference of ninety days between coming around on a clipper-ship to going across the continent. To take two thousand tons of freight you want ten trains, ten large engines with twenty-five cars each, and eight tons to the car, to steam it across the country. To carry two thousand tons of freight at the lowest conceivable rate, at only about fifty per cent. of what the railroads generally charge, would involve a cost of \$120,000; while you can carry it for \$24,000 by ship, and freight by shipping has been lower than it is now.

Do not tell me, then, that you can carry heavy freight three thousand miles by railroad in competition with ships built in our time—clipper ships that sail almost as fast as a railroad freight train travels! It is utterly impossible. You will carry what is needed in the interior of the country; you will carry what the immediate demands of the people require; you will carry some fine and costly fabrics, light, compact, and valuable. These will go across the country both ways; but the idea that the great mass of freight will go, is ridiculous. We have paid \$8,000,000 for freights to California. The proposition that all goods are to go to California by railroad cannot bear analysis for a moment. There is not a practical railroad man in the country that does not know it.

I believe the construction of this railway across the country to be a great national concern, and I am ready to vote for it; but I do not want to vote for it so as to deceive myself or anybody else. I am willing to meet the question as it is; a great enterprise on which you are to expend millions of dollars. But if you want to sell it, it would be like selling a fort that you had spent \$10,000,000 upon—valuable to the country for defense; but worthless as an article of commerce. But, sir, this bill I look upon as a mere tub to the whale; it is a sort of answer to the general wish of the country for a railroad. There is an undefined

but deep sentiment in the country for a railroad, and this meets that demand. Why, sir, if I owned the Tehuantepec route, or the Panama route, or the route across Central America; or if I owned the Pacific mail steamship line, or was in any way interested in any or all of them, I should care nothing for a bill of the kind which is before Congress. Those concerns will never be injured by the building of a railroad across the continent to San Francisco under the provisions of this bill.

The Senator from Mississippi, and I must express my utter amazement when I read his bill, proposes to give sections of land and \$10,000,000, to build a railroad across the country. According to the Senator's own representations, two thirds of the land is not arable; and he proposes to give three thousand eight hundred and forty acres of land, only one third of which is arable, and \$5,000 to the mile, to build a railroad across the country to the Pacific ocean.

Mr. DAVIS. When did the Senator from Mississippi make that proposition?

Mr. WILSON. I believe the bill is now pending as an amendment. Is it not?

Mr. DAVIS. It is \$10,000,000 to connect the States of the Atlantic and the Pacific by railroad.

Mr. WILSON. How do I understand the Senator?

Mr. DAVIS. The substitute proposes to give \$10,000,000 to connect the States of the Atlantic and the Pacific.

Mr. WILSON. Well, Mr. President, we were contemplating the question of building a Pacific railroad; and a Pacific railroad by any of the routes will be about two thousand miles in length from the Mississippi, and \$10,000,000 to build it would be about five thousand dollars to the mile. If the proposition is simply a proposition to connect Texas, at El Paso, with California, at Fort Yuma, then I understand the Senator.

Mr. DAVIS. That is not the proposition.

Mr. WILSON. Will the Senator tell us what it means, then? How are we to connect with the Pacific?

Mr. DAVIS. It means to build a road across the territory intermediate; and the Senator may, according to his construction, select the central route and connect California and Missouri or Iowa, if he believes what he has stated in relation to that route and the land upon it.

Mr. WILSON. I not only believe it, but I think it is the general belief, especially among those who have studied the subject. Now I come back to where the Senator interrupted me, and say that my original declaration was, in substance, correct. Suppose we take the central route, and start from Missouri to California: what is the distance? You are to have three thousand eight hundred and forty acres of land to the mile, and \$10,000,000 divided along the line, be it more or less. The distance is about two thousand miles, and that makes about five thousand dollars a mile. The proposition is much lower than the proposition made by the Senator from California, [Mr. GWIN,] which is to give \$12,500 to the mile, instead of \$5,000, and to give twenty sections of land instead of six sections.

I have said that I do not believe the railway can be built in this mode; and therefore I am in favor of the bill which I presented, and of building the road on the central route, through the South Pass to California, or starting within certain limits and going to the Canadian river, and up that river to Albuquerque, thence across the Colorado through the Tulare Valley to San Francisco. Here both the beginnings and endings are central. There may be a deflection south, if it can be best built in that direction. Then in order to encourage the settlement of the country; in order to encourage the building of the road, if they want a road over the thirty-second parallel, give them the whole country south of the thirty-fourth parallel to build it. Then let us establish from Lake Superior to Puget Sound a mail route, and let us give, say fifty alternate sections to the mile over that route, so arranging the act that the land cannot be sold to speculators, but must be sold to actual settlers at \$1.25 an acre. Let this be given, and then let them work towards the Pacific ocean there as fast as the public lands and settlements will enable them to go.

The lands are worthless to the Government now, and in the ordinary course of events can-

not be reached by emigration for years. I think a policy of that character, which would be a liberal and generous policy, might, in a series of years, carry a railroad over that northern route, by the aid of such a land grant, and especially if English capitalists, wishing to run their Grand Trunk railway to the Pacific, should choose to invest their money in the undertaking. They have, already, the control of roads from Portland to Montreal, and from Montreal to Toronto, connecting with the Canadian railroad at Niagara Falls, and running thence to Detroit. I understand they have got possession of the Detroit and Milwaukee railway, and that they are looking to get the control of the railway across Wisconsin—the Milwaukee and La Crosse railroad.

It may be that their surveying parties will find that it will be difficult to construct a railroad north of Lake Superior; and that they may be persuaded, as they ought to be, that it is a matter of not the slightest consequence to them whether the railroad runs through their own territory or a hundred miles south of it through ours. That is a point of no importance to them in a commercial light. They may be willing to invest their capital and take the lands as they settled at \$1 25 an acre, as their security, and in time work a railroad along that route. This route has better water, and more of it. It has better timber, and more of it. It can be approached by water. The waters of the Missouri at or near Fort Benton and the navigable waters of the Columbia are within four or five hundred miles of each other. A railway can be built in time across that divide, especially after a few years more shall have elapsed, when our population shall have made further progress westward. The difficulty in selling western lands to build railroads with, at this time, is that in land speculations we have gone some years ahead of the demands of the country. That is one reason why our friends in the northwestern States, to whom we have made magnificent grants of land, find it difficult to construct their roads.

I think the course I have proposed is that suggested by sound policy, and I should like to recommit this bill, or in some way put it in such a shape that we shall, as a Government, undertake the construction of a railroad starting between the mouths of the Big Sioux and Kansas rivers, crossing the continent to San Francisco on a line north of the thirty-fifth or thirty-sixth parallel and south of the forty-third parallel. Let that be a great national work; for the idea of the country is to go to San Francisco and not to Puget Sound, not to San Diego, where there is none and never can be any. Then let us give our southern friends, those gentlemen who want a road on which they can go to the Pacific ocean when they dissolve the Union, all the lands they want south of the thirty-fourth parallel, and let them make the most of them. I hope they may make \$100,000,000 out of them, for I should rejoice in their prosperity. Then let us give lands on the northern line, and carry out the ideas suggested by the Senator from Minnesota and the Senator from Wisconsin. What they want in that vast northern region is a people. They want settlers; and a policy of this kind will carry settlers from Lake Superior a thousand miles to the Rocky Mountains, and if the engineers who went over this route are to be believed, even in the Rocky Mountains is to be found good land. Beyond the Rocky Mountains to Puget Sound, there will be found not only a great country, but across that line, in time, I do not doubt we are to have a great commercial route connecting the northern lakes with Puget Sound.

These are my views. I am for a Pacific railroad; but I do not believe in the idea of attempting to run a road to the Pacific ocean merely by grants of land, within any reasonable period. If I make a grant to the northern line, I do not expect a road to be built there for some time. I do not even expect it to be commenced at once. I know it cannot be done in earnest in the present financial condition of the world. Neither do I expect any such thing over the southern line. But we want a central road; we want it begun now; we want it completed as speedily as possible; and to do that, let us take the money of the Government, and build it as cheaply as cash can build it, and keep the lands, reserving their proceeds as a sinking fund to meet the bonds which may be made due thirty or forty years hence. We shall then

have seventy or eighty million people, and their redemption will be but a light tax on such a nation. During that period, in my judgment, it will have added hundreds of millions to the wealth of the country, and the addition it will make to the power and strength of the Union is beyond the calculation of the human intellect.

Mr. HARLAN obtained the floor.

Mr. DAVIS. If the Senator from Iowa will allow me, I should like to make a few remarks in reply to some portion of the remarks of the Senator from Massachusetts, which affect me individually.

Mr. HARLAN. I do not intend to occupy the attention of the Senate but three or four minutes myself.

Mr. DAVIS. I will wait, of course, then, until the Senator concludes.

Mr. HARLAN. The Senator from Massachusetts, who has just closed his elaborate and very able speech, intimated in the outset that I had erred in suggesting that the railroad surveys and explorations had been sufficiently accurate to justify Congress in locating the general route of a road. He remarked that no survey had been made, in the proper sense of that word; that it was a mere exploration. The only answer I have to make to this is, that it is such a survey as engineers always make in advance of the definite selection of a railroad route. They have taken the estimates of the general elevations and depressions from mile to mile along these several routes proposed, from which they have been able to construct profiles showing the probable cost of construction on each line; and from these it appears to me that the Senator has erred in supposing that the northern line would be the cheaper and better route. I will read from the 16th page of the first volume of the Pacific railroad reports:

"The survey of the western portion of this route, by Lieutenant Beckwith, has resulted in the discovery of a more direct and practicable route than was believed to exist from the Great Salt Lake to the valley of the Sacramento. Since his report was made, a brief communication from Brevet Lieutenant Colonel Steptoe, commanding the troops in Utah, has announced the discovery of a still more direct route from Great Salt Lake to San Francisco. The new portion of this route passes to the south of Humboldt or Mary's river, and, entirely avoiding the difficulties experienced by travelers along that stream, proceeds to the valley of Carson river, being well supplied with water and grass. From Carson river, it crosses the Sierra Nevada by the passes at the head of that river, and descends to the valley of the Sacramento, being practicable throughout for wagons."

"In the absence of instrumental surveys affording data for the construction of profiles, no opinion can be formed as to the practicability of this route for a railroad. Should it be found practicable, however, it will lessen the length of the route of the forty-first parallel, and still further diminish its difficulties, already known to be less than on any other route, except that of the thirty-second parallel."

It is the latter part of this statement to which I wish to call the attention of the Senate. It is already known that the route up the valley of the Platte, and through the South Pass, or through a pass sixty miles south of it, following the Lodge Pole creek, and thence down the descent of the Rocky Mountains to the Great Salt Lake valley, is the cheapest and most practicable route of any above the thirty-second parallel; and if we refer to the reports in detail of the northern, or Governor Stevens's route, this statement of the Secretary of War will be found to be strictly true, and that the statements made by Governor Stevens, in his recent speech in New York, ought to be received with some grains of allowance. I read from page 51:

"Governor Stevens estimates that there are four thousand square miles of tillable land on the eastern slopes of the Rocky Mountains, and that the mountain valleys on the western slopes contain six thousand square miles of arable land."

"The preliminary report of the geologist of the party, made from Washington Territory, where he was still engaged in the field when the report of Governor Stevens was prepared, failed to reach the latter, who thus was not afforded the means of correcting opinions formed from those appearances of fertility presented by the growth of grasses, &c., which are liable to mislead, especially after traversing a region devoid of such verdure. A more thorough examination of the country and soil proves that very little, if any, of the eastern slope of the Rocky Mountains is suitable for cultivation; and that the valleys of the streams east of the mountains, and those west, are capable of sustaining merely small agricultural settlements. The greater portion of these valleys are only suited for grazing lands; and this mountain region, described as containing ten thousand acres of arable land, admirably adapted by nature for a grazing country, can never sustain a large agricultural population."

"There must be some numerical error in the estimate of the area of the grassed lands between the Bitter Root and

the Rocky Mountains, since careful measurements in the office make it much less than that given above."

After giving a statement of the character of the country on the northern route, it proceeds:

"So that of the two thousand and twenty-five miles from St. Paul to Seattle, on Puget Sound, we have only a space of about five hundred and thirty-five miles of fertile country; the remaining one thousand four hundred and ninety miles being over uncultivable prairie soil, or mountain land producing only lumber, with the limited exceptions of occasional river-bottoms, mountain valleys, or prairie."

An examination of the reports of the surveys will show, as I stated a few days since, that this is not a better route than that up the Platte valley. Both have very great difficulties; they have very broad expanses of country that are perfectly sterile, composed of rocky ranges of mountains and fruitless plains and sterile valleys. On the Stevens's route, as you proceed from the head waters of the Missouri, you will encounter great difficulties in the passes of the mountains that do not occur on the central; and as you descend by the valleys beyond, they are scarcely diminished. The valleys of the streams adopted are exceedingly crooked and narrow, being hemmed in by the spurs of the mountains. Governor Stevens reports that he has been compelled to adopt "the minimum curves"—the very least it is possible for trains to travel with safety. He also reports that the rivers there, in consequence of the narrowness of the valleys, are liable to floods of twenty or thirty feet in perpendicular height, rendering necessary high embankments and large cuts on the sides of the mountains, throwing the level of the road far above the streams, occasioning difficulties in procuring water, even in its immediate vicinity. So great are these difficulties as to warrant the Secretary of War, in computing the comparative cost of the several routes surveyed, in estimating the cost of this at \$140,000,000—\$24,000,000 more than the central route.

That subsequent surveys would enable the contractors to avoid some of these difficulties, is probable. But this is true, also, as I have already shown, of Platte valley road.

I will not detain the Senate with additional remarks, at this time, in regard to the two routes. It cannot be expected, however, that the representatives of the States south of Mason and Dixon's line can be induced to vote for a road on the most extreme northern route that is found to be at all practicable. The Senator himself says that he will not vote for the extreme southern route. If he will not vote for a route on the extreme southern boundary of the Republic, can he expect his brother Senators of the South to vote for the route he indicates? Nor would it be just to their own constituents, if the central route is equally practicable.

Mr. WILSON. Will the Senator allow me to say a word? The Senator has proceeded to make an argument against what I certainly did not say, for I said distinctly in my speech that I would not vote for a southern route, and did not expect anybody to vote for a route on the British frontier, though I thought it was a good route. I said I was in favor of building a central route; and he and myself precisely agree.

Mr. HARLAN. I am happy to be corrected. Then I misapprehended the whole tenor of the Senator's remarks on that point. I began to fear, sir, in consequence of this misapprehension, that the Senator would not agree to any route that a majority of the Senate would be likely to adopt. This, coming from New England, would be unjust to the people of the Northwest; and I think I ought to state here, representing, in part, one of the northwestern States, that we expect, and have a right to expect, New England to stand by us in our appeal to Congress for aid in the construction of this great national road. The united votes of her Senators, with those from New York and Pennsylvania, will render our success certain. We have, northwest of the Ohio river, five States, with ten Senators on this floor. We have, west of the Mississippi river, three States—Missouri, Iowa, and Minnesota—with six Senators, in all sixteen, who are bound by every principle of interest, as well as patriotism, to vote for any practicable proposition. The Senators from New York and Pennsylvania, I believe, have expressed themselves in favor of the road, increasing the number to twenty; New England's twelve Senators increases the number to thirty-two; Califor-

nia's two Senators, who are working with all their known energy and ability for the road, give us thirty-four, a majority of all the members of the Senate. We may count safely on the five States northwest of the Ohio, as I suppose; the three named west of the Mississippi, and California, will not dare to oppose it. If we should be deserted by Arkansas, Tennessee, Kentucky, Virginia, Maryland, Delaware, New Jersey, and the extreme South and Southwest, still, New England, New York, and Pennsylvania, have the strength to give us the road. I think it due to the Northwest to make this appeal to the Senators from these States, and to say that we expect, and have a right to expect, them to give us their united support.

We are called on every year to vote immense sums of money for the benefit of the commerce of New England, New York, and Pennsylvania. We have no direct interest in the Navy of the United States to protect our commerce. We have no commerce. We have not a ship afloat on any of the high seas. We vote thirteen or fourteen million dollars for the Navy for the protection of this commerce and for the safety *in transitu* of the great staples of the southern States. We vote millions of money for harbor improvements on the Atlantic and the Gulf. We vote many hundreds of thousands more for light-houses and beacons for the benefit of navigation and foreign trade. We are not directly interested; we sustain our part of the burdens for the interest of the country at large, as citizens of the common Confederacy. We have a direct interest, however, in securing railroad communication directly across the continent to the commercial cities of the Pacific.

The honorable Senator from Massachusetts furnished the elements of estimates which, I fear, will be used by the opponents of this measure as an argument against us. He remarked that freight by railroads in the United States cost, on an average, four cents a mile per ton. The distance from New York or Boston to San Francisco was about three thousand miles, and hence that freight to California, by railroad, must necessarily cost largely more than by the Atlantic and Pacific steamers. But, by looking at our maps, it will be seen that New York city is more than one thousand miles from Chicago; Chicago is two hundred miles east of the Mississippi, and Council Bluffs or Sioux City is between three and four hundred miles further west, giving us a distance from the Missouri river of over fifteen hundred miles of railroad before we can reach New York to ship, by steamer, to California. Hence, we must pay four cents a mile per ton from the center of the continent before we can reach New York, and then, in addition, the cost of freight, by steamers, to the Pacific. We have eight millions of people in the Northwest that are interested in being connected directly with the trade of the world; and, as it appears to me, in justice this cannot be denied us.

Nor do I think the States that have peculiar interests to protect, should complain if we should watch narrowly the measure of aid and comfort we receive from their Senators and Representatives in Congress. We cannot, with much confidence, look for support from the southern States bordering on the Atlantic and the Gulf. Their known political opinions are opposed to such enterprises by the Government of the United States; and many of these States are in the vicinity of a shorter and, for them, a better route. They are down near the isthmus. It is not to be expected that a majority of them will vote for any long line of railroad to be constructed to a very considerable extent by money drawn from the Treasury of the United States.

I ought to state, I think, before I conclude, that unless some such amendment as the one I have proposed shall be adopted, so as to secure the location of the road near the center of the Republic west, this bill cannot be passed by the Senate. I know enough of those who are pledged for a railroad, who will vote against any bill that does not locate the general route of the road.

Mr. DAVIS. Mr. President, I feel very reluctant to misapprehend the Senator from Massachusetts, and to reply to his remarks without correctly understanding their meaning. Therefore I wish to ask him whether, in arraigning the last Administration as having used all its power to "belittle" northern lines and to "magnify" the extreme southern line, he intended to imply a

want of integrity in the performance of the duty assigned to it to find the most practicable and economical route?

Mr. WILSON. I will say, in regard to that, that the Senator from Mississippi had for four years the direction of these surveys, and I do not question here, or anywhere else, his integrity; but I do say, what I believe to be true, and what I think any man who has ever read the reports of the surveyors, and his own comments upon them, his own deductions and inferences, and who has examined carefully the policy of the Government, will say, that his general opinions, his feelings, or some matter that might spring from his location in the country and from his general views, did, to a certain extent, color his actions. I do not here question his integrity or his honesty in any way whatever; for, so far as my experience goes, I have no reason to do it; but I do say that I think no intelligent man can rise from the perusal of those volumes and not say that he thinks the Senator's elaborate report on the surveys is not sustained by the evidence in the surveys; and that the Government, by its purchase of territory, by its introduction of camels, by its sinking of wells, and all its other policy, has elevated the southern route and let the others, to a great extent, take care of themselves.

Mr. DAVIS. Then, Mr. President, the Senator attributes to me a bias on account of my location—my residence. I believe no man loves the section in which he lives better than I do. Every fiber of my heart would respond to the rights and the interests of that section, whenever they are involved. But I feel, sir, that a public officer has a higher duty than that which his sentiments and his feelings prompt, and I think I can show to the Senator that he is entirely mistaken in the conclusion at which he has arrived. As he does not question my motives, so I shall not question his; but I think I can conclusively prove to him, or to any other man who may be prejudiced like himself, that if there be a difference at all, it is upon the other side. I am not conscious of ever having favored one line or the other; but if the proofs lead irresistibly to any conclusion, the record would convict me of having favored the extreme northern line; so it stands.

It will be remembered, Mr. President, that when Congress made an appropriation directing the War Department, by topographical and other engineers, and other persons, to explore the country, so as to determine the most practicable and economical route for a railroad from the Mississippi to the Pacific, I was at the head of the Department of War. I organized companies to survey lines wherever previous explorations, wherever the reports of trappers and hunters indicated that there might be a practicable route for a railroad. Even against what I believed, from examinations partially made, would be found, and because of the constant assertions made in the two Houses of Congress of the practicability of a particular route, a party was organized and explored it. It was the only line which was finally pronounced wholly impracticable.

Then, sir, as to the manner in which those parties were organized. On the route of the forty-ninth parallel, a party was organized, at the head of which was placed a gentleman recently distinguished as an officer of the engineer corps, who had been for a long time employed on the coast survey, and therefore was particularly trained to the exact character of observation which he would be required to make, he had recently left the United States military service and been appointed Governor of the Territory of Washington. Where, in the whole length and breadth of the land, could I have found a man with higher indications of qualification, or one who could have been supposed more earnestly to desire to find a practicable route to that Territory, than Isaac I. Stevens, who was appointed to the command of that party? Then, sir, not only did I select this person thus described, but his was the first party to whom instructions were given, the first party for whom any provision was made. This was because I knew it was the most difficult exploration, and therefore should have the largest amount of time; not that I cared for one route more than another. Between me and my God, I can stand and say I had no purpose but to perform my duty like an honest man. I am glad that has not been arraigned.

Not only was this party the first organized and a man thus specially qualified put in charge of it, but the quartermaster's department was required to furnish trains; and a large sum of money, supposed to be not less than \$15,000, and a corps of sappers and miners were given to it, and a number of military officers not furnished to any other expedition. Now, perhaps, I may be asked by the advocates of the southern line why was this done? My answer is, it was an unexplored region; it was filled with savage and hostile Indians, and the party was organized to acquire that sort of information which was necessary not only for a railroad, but for the military purposes of the Government. Because of its peculiar relation to the inhabitants, and the wants of the country, it derived this special advantage, and received \$15,000 in cash from the quartermaster's department, besides the sum of money which was turned over to it from the appropriation for the specific work. There were seven officers of the Army attached to the expedition, besides the detachment of sappers and miners, some of whom were non-commissioned officers. Their pay was taken from the appropriation for the support of the Army, and not charged to the expense of this exploration. To the other exploring parties, only two officers of the Army were given; an advantage of two to seven. If to the sum of \$74,000 which was set aside for this exploration, you add one half the sum expended for the party for explorations of the connections with San Francisco, \$21,000, it appears that this party received \$95,000 in money, out of the appropriation for the exploration and survey of routes; a larger sum than was given to any other route.

I ask, then, how can a man whose eyes are not utterly blinded by his sectional prejudices, arraign the fairness with which that money was distributed to the parties engaged in the exploration? Then looking southward, on the route of the forty-first and thirty-ninth parallel, \$38,000 were given. The eastern half of this route having been explored by Fremont and Stansbury, it was unnecessary to go over it again; it was a champaign country. This reduced the line of exploration, and consequently reduced the amount of money which was required for it, and therefore but \$38,000 were given. Then adding one half the expenditure for exploring the connections with San Francisco, \$21,000, you find for this line a total of \$59,000.

Then on the route of the thirty-fifth parallel, \$58,000 was given originally. Adding one half the sum for the connection with San Francisco, \$23,500, makes \$81,500 for the route of the thirty-fifth parallel. On the route of the thirty-second parallel, in 1854, \$29,000 were given; and, to ascertain the practicability of obtaining water by sinking artesian wells in regions of a certain character, west of the Rio Grande, \$20,000, making a total for 1854, on the thirty-second parallel, of \$49,000. Then further explorations for a better connection with San Francisco in 1855 involved additional expenditure, which, with the completion of the work previously commenced, raised the total on that route to \$72,500; or, stating it differently, \$37,500 in 1854, and \$35,000 in 1855, making a total of \$72,500.

Then let us divide it between the two sections of the country. This apportionment was made with no intent to favor one or the other; but was, as I have stated, purely accidental, and was not discovered until I saw in a newspaper the miserable charge that this money had been appropriated to the benefit of the southern route. I then had a comparison instituted, and it turned out to be, dollar for dollar, exactly equal—\$154,000 for the southern, and \$154,000 for the northern routes, regarding the thirty-fifth parallel as a southern route. This included both the first and second appropriations. In addition to these expenditures, there were certain expenditures for the office of the railroad exploration. They were common to all, and therefore are charged upon each.

As to the sinking of the artesian wells, the first expenditures were made on the line of the thirty-second parallel, and have been included in the charge against that line, though in fact being for the interest of all. Afterwards, as it had not proved successful, but was attended by such indications as rendered it probable that water could be obtained to flow on the surface of the earth, Congress, without the recommendation of the Depart-

ment, made an appropriation of \$100,000. Why charge that against the Administration? I say, that without the recommendation of the Administration, Congress made that appropriation. They made it for a larger sum than I believed to be necessary. The officer returned to the work and prosecuted it without success, and it is now probable that we are to be disappointed. At least the last accounts which I heard of it were that a vein of water had been struck between two strata of rock, and that the current flowed with such velocity as indicated an open channel, and destroyed the probability that it would ever rise to the surface. Whether the boring has been commenced at another point or not, is more than I can tell. It is not at all improbable, however, that within a short distance, in the same region, he may strike water which would rise to the surface of the earth.

Why were these artesian wells attempted? The Senator seems to think it was to render a line practicable which nature had rendered otherwise. Not so. It is true, the boring of these artesian wells was connected with the question of the railroad, but it was connected with a much broader question. It was whether all that arid desert, which separates the population of the East and the West, upon every line of road, could ever be rendered fit for the habitation of man. If artesian water could be obtained, and flow upon the surface, it would first produce grass, subsequently timber, and a country which otherwise will remain a desert forever, would be made the habitation of man, and be converted to the uses, if not of agriculture, at least those of pastoral life. It was but tributary to the railroad. It was commenced on the *Llano estacado*, and not far from the river Pecos, because it was believed to be one of the least probable points, and if it could succeed there it would certainly succeed on the desert plains all the way north to the British possessions. If it had succeeded there, I do not doubt but that experiments would have been made hereafter by companies—the expense would be beyond the power of individuals—and that districts would have been converted to pastoral uses; and I trust yet there are many in the Senate who will live to see the day when that will come about, and when a country where rain and dew are denied by meteorological condition, will be rendered fit for the uses of civilized man, and contribute greatly to expand not merely the wealth of the West, with which it is geographically connected, but the wealth of our whole country.

Then, sir, as to the question of this arid region. The Senator has omitted to read to us from the Secretary's report showing the aridity and desert character of some portion of the country crossed by the thirty-second parallel, as though that was a matter which had never been presented to the country in connection with the explorations of this route, and yet he reads from the very testimony on which the report was made; and in that report, brief as it was—and surely it might have been read—he would find these facts stated in the same manner in which he has quoted them. He would have found, in the first instance, that I did not announce to the country that such a survey had been made as would justify capitalists in locating the road; I did not say that the question was concluded for all time to come; but I did say, and he will find it on the eighth page, that—

"If the results of the explorations made under these instructions do not furnish the data requisite to solve every question satisfactorily, they at least give a large amount of valuable information, and place the question in a tolerably clear light. We see now, with some precision, the nature and extent of the difficulties to be encountered, and, at the same time, the means of surmounting them."

This is in the first volume of railroad explorations; and I may here also state that in this volume is contained the report of the survey of the route near the forty-ninth parallel, being the only report contained in this volume, and thrown before the public a long time before any other one was published. It had in this another advantage; and here let me state how it arose. Governor Stevens, having charge of this exploration, made his report first, and therefore it was the first ready for publication. There was neither favor for that route, nor prejudice against it.

In speaking of this northern route, I did not, as the Senator seems to assume, declare that it was impracticable. On the other hand, I proved

that it was practicable—practicable, but vastly expensive; and expensive because of the short curves so well described by the Senator from Iowa; expensive also, because of the heavy embankments which were to be made, and which, in the very brief period of these explorations, could not certainly be determined; and the probability now is, that if we were to return to the examination, and with more extended observations, greater capacity for determining the questions, we would find the level of all those streams at the periods of the greatest floods, such that the embankments would far exceed the estimates which have been made, and consequently would swell the cost of constructing the road on that route. It was in relation to the passes of the Cascade range that the Senator will find this sentence:

"But where the position itself is so unfavorable, the final advantages should be very great to determine the selection of this route. The information now possessed is sufficient to decide against this route."

What was the information? That the snow was twenty feet deep in the passes; that a tunnel had to be cut a thousand feet under the ground, with other difficulties; showing that one tunnel could not, by any means we could apply to it, be cut within ten years. Was it intended to decide against the route near the forty-ninth parallel? No; it was to show that it could not cross the Cascade range and go to Puget Sound, but it must turn down across the plains and go to the valley of the Columbia.

But the Senator says Army officers are peculiarly unqualified to form and give to the public an opinion worthy of confidence. Let us see whether the evidence before us is confined to the statements of military officers. Having indicated the route on which I believed a road could be built, by following the valley of the Columbia after crossing the Rocky Mountains, then comes the opinion of the civil engineer, Mr. Lander, the very character of person, the Senator says, who ought to have been employed, and who was sent with Governor Stevens as one of his party:

"From the Dalles to near Vancouver, ninety miles, the rocky bluffs close up the river, and the work required will be similar to that of the Hudson river railroad, along the mountain region. In the opinion of Mr. Lander, the high floods to which the Columbia river is subject, are serious obstacles to obtaining the best location for cheap construction offered by its valley."

Then he goes on to state the character of that river. Such is the character of the route, as reported by the officer in charge, aided by the civil engineer, who was with him. But we are told by the Senator that this is a route of fertility along which people of an agricultural character can fix their residence, and thus form the material, not only for building but for supporting the road. We are told of the desert character of the country on the thirty-second parallel. Why, sir, mile for mile, there is more desert reported, as my memory serves me, on the extreme northern than on the extreme southern route. It is there we find those terrible wastes of wild sage fit for nothing, it is said, but the camel to eat; where the horses of the party of exploration were nearly starved—a country of drifting sand. So it is described in the published reports. Why go out of the first volume containing these descriptions into a subsequent volume to find drifting sands. But before citing the opinions of the surveying officers in relation to the fertility of this northern region, I wish to show what statement was made by the then Secretary of War in relation to the northern route for a railroad; whether he concealed anything that was favorable to this line. After treating of the whole subject, this brief report says:

"From the Rocky Mountains to Seattle, wood, stone, and other building materials are found along the line of the route, or at points so accessible to it that it may be considered well supplied with them throughout."

"The information upon the character of the soil upon the route does not admit of satisfactory conclusions to be deduced. It is sufficient, however, to show that in this latitude, as in that of the Arkansas, the uncultivable region begins about the ninety-ninth meridian."

And then it proceeds with its geological character.

"The mountain masses, spurs, and table lands of the Cascade chain, east of the main crest, are sterile. There are exceptions to this general sterility in the mountain valleys, where the soil is better constituted for fertility and the rains more abundant; but, although portions of these are suitable for agricultural purposes, they are better adapted to grazing."

It next notices the estimated areas of fertile land. This brings me to what was said of the sterility

of other routes. In regard to the route of the thirty-second parallel, this document said:

"From the report of Captain Pope, it would appear that the belt of fertile land which lies on the west side of the Mississippi throughout its length, extends on this route nearly to the head waters of the Colorado of Texas, in about longitude 102°—that is about three degrees further west than on the more northern routes. The evidence adduced in support of this opinion is not, however, conclusive."

I would say, speculative meteorology would render it probable, but so guarded was this report in relation to every route, that here, in speaking of the thirty-second parallel, it is said that the statement of Captain Pope, that fertility on that region extended to the one hundred and second meridian, is not conclusive, though he had abundant opportunities for observation, certainly more than any officer had on another line:

"The evidence adduced in support of this opinion is not, however, conclusive; and, until it is rendered more complete, the fertile soil must be considered in this, as in other latitudes, to terminate about the ninety-ninth meridian. Thence to the Pacific slopes the route is over uncultivable soil, though generally grassed, the exceptions being, as on the route of the thirty-fifth parallel, in portions of the valleys of the Pecos, Rio Grande, Gila, and Colorado of the West. The table lands and mountain slopes are usually well covered with grama-grass, and in New Mexico have supported immense herds of cattle. There are exceptions to this, however, on the greater portion of the *Llano Estacado*, on portions of the plains between the Rio Grande and the Gila; and (comprised in that space) from Tucson to the Gila, eighty miles, there is no grass on the route traveled, nor is it to be found on the Lower Gila valley."

The very thing which the Senator explored the report of Lieutenant Michler to find, and read as matter which had been drawn from some records and never presented by the Department.

"Occasional patches of bunch grass only being found on the plain, and a species of grama-grass sometimes upon the mountain-sides. No grass is found on the Colorado desert, one hundred and thirty-five miles along the line of location."

"The length of the route through this generally uncultivable soil is twelve hundred and ten miles. Upon descending from the summit of the San Geronimo Pass, on the route to San Pedro, the soil is fertile, and either well watered or can be irrigated."

Here, again, all speculation is omitted as to what might be obtained by using that which the ancient Hebrews always found the fertilizer of soil—water—to convert that sterile plain which is spoken of, on the west side of the Colorado, into land as productive as any which is cultivated by man either on this or the other continents of the globe. By merely tapping the Colorado river and turning the water out on that sandy plain which is here described as a desert, I believe California may there command an agricultural region which, acre for acre, will be equal to any upon the banks of the Nile; but at this and all other points of speculation, things not determined by an actual existing state of facts, and brought home as results of explorations, were excluded from the report.

Then, sir, I come to the geological description furnished by Governor Stevens of his own route:

"From the range called the Snake river divide, the whole character of the country is completely changed. Here the geological formation is basaltic and volcanic, principally. None of the numerous streams and rivulets flowing from the mountains, along the route we traveled, emptied into the Snake river, but either sunk into the ground or formed small lakes in the broad valley of the Snake river. The ground, in most places, is formed principally of sand; and where large beds of basalt are not found, the ground is of a dry, absorbing nature, through which the water sinks, at times bursting out again. It was somewhat singular, that for sixty miles above Fort Hall, along the main stream of Snake river, we did not cross but one tributary, and that coming in from the south, while none came in from the north; all of the streams, as before mentioned, either forming lakes or sinking into the ground."

He goes on:

"It extends for many miles in length and breadth, forming an immense ocean of prairie, whose sameness is only broken by the 'Three Buttes' of the valley, which rise like islands in the sea, in this broad and barren area. Its whole character might be included in the word sterility."

This is Governor Stevens' own account. The Senator could not find it there, but found it on the line of the thirty-second parallel. Again, Governor Stevens says:

"From the mountains bounding the Snake river valley on the north to Fort Hall, a traveled distance of one hundred and twelve miles, there is but one fertile spot of ground that could be converted to any useful purpose, and this is found at Cantonment Loring, five miles above Fort Hall."

Then again, under the head of "topography of the route from the Missouri to the Columbia," he says:

"The great plain of the Columbia, or plateau of Spokane, as it has been called, is bounded on the north by those

river, on the west by the former, and on the south and east by the Blue and Rocky Mountains; it is about two hundred by one hundred and fifty miles in its greatest length and breadth, and presents such a curious variety of surface, that it has been alternately called a barren sage plain, rocky plateau, sterile waste, and sandy desert."

And he goes on to describe it, and shows that it deserves either one of these appellations. Such is the description of this land of rare fertility, where a teeming population is to maintain the road, according to the argument of the Senator from Massachusetts; and such is the report brought in by the men who explored it, and who perhaps as much, if not more than those on any other line, were interested in giving it its most favorable complexion.

The Senator arrays the persons who were employed as not competent. During the course of this debate, I have felt how fortunate the selection was. I have seen, at every stage of the debate, that we were, at last, to run into this poverty-stricken sectional quarrel—a thing from which I always turn with loathing; for which I feel only contempt. How fortunate, I say, it was, in this view of the case, that men were selected who, in their very boyhood, were separated from the interests of any locality, educated for their country and in its service, who are bound by habit as well as by other ties to their country, their whole country, and who went to these explorations without the influences that would sink them to the petty purposes which it is too clearly indicated must influence some portion of the argument we hear in this Chamber. The officers thus selected had their fame connected with the route they explored; they had their honorable sense of duty, and their professional reputation, involved in the exact presentation of the truth. If they could tell the truth, and show that they had discovered a favorable route, the best over which a railroad could be built, and thus identify themselves, to the end of time, with the exploration they had made, it was human ambition to do it. So far, then, as anything is said unfavorable towards the line they explored, it is to be set down to principle, to the love of truth, and the suppression of that ambition which would make every explorer desire to find the most practicable and economical route. When compendiums are made by drawing from the reports what each has said in relation to his own route, it is to be supposed that the most favorable aspect of each case is presented, and that the comparative merits derived from these is probably that which future surveys, however long they may extend, will but corroborate. On every one of the lines explored, however, with a single exception, a practicable route was laid down. The route over the Coo-che-to-pa pass they found impracticable. The exploration must have convinced every one of its impracticability.

Then, again, the pass through the Cascade range, where it was expected the northern road would go to Puget Sound, was found impracticable; but it resulted only in turning from the Bitter Root down to the valley of the Columbia, and showing that a practicable route there existed. But a route terminating on the Columbia river or terminating on Puget Sound had not yet answered the great purposes for which a road was to be built; and therefore, under the second appropriation, another party was sent out, another exploration was made, to ascertain whether the Columbia river could be connected with the harbor of San Francisco; and a further exploration was made to learn whether it was practicable along the valley of the San José, without the use of stationaries or double locomotives, to carry a railroad down to Los Angeles; and thus it was shown that we could construct a railroad all along the coast of the Pacific, without which I say its defense will never be complete. If we take into consideration the character of the country, and the immense valleys drained by streams, standing, as it were, upon here and there a single point of the coast, we are struck at once with the necessity of inland communication to connect the defenses of south with north California, and the defenses of California with those of Oregon and Washington.

If it should be found that the country described by the Senator from Massachusetts, but never found by the explorers, exists on the northern route, I think it would be very easy to show that a stated sum of money would furnish the highest inducement to contractors to adopt that line, and

build the road, if they can get this large body of fertile land on it—mind, I say if, for I am sure it is not there. Having the Missouri as high as Fort Benton, and probably above it, on which to transport their materials and their provisions, having the Columbia river as high as Walla-Walla on the other side, they would thus bring their materials, their laborers, and their provisions, most cheaply to the line of road to be constructed, and would have the shortest possible line by which to connect the navigable waters of the one river with those of the other, and thus have the earliest return of profits from the use of the road. With such advantages, I say if this fertile country did there exist, the contractors would have the strongest inducements, with a given sum of money and a variable amount of land, to take that northern route as the one they would adopt for the construction of a road.

Now, I do not think these conditions will be found to exist; and if, as appears from the reports, the construction upon this route is the most difficult and expensive, I do not believe that contractors would select it after submitting the speculation of the Senator to the test of examination. But I only set my opinion upon an equality with that of others; and if other Senators are as confident in their opinion as I am in mine, then I see no ground why they are not willing to take the hazard which I am willing to risk, being confident the route will not go there, but to the South. They attribute to me the desire to secure a southern location for the road on grounds of sectional advantage. I am confident that that would be the location adopted by contractors who invested their own money in the enterprise; and I wish to say one or two words only on it in a sectional aspect. It has been constantly argued as though the South were most eager, for sectional purposes and advantages, to get the road constructed upon the thirty-second parallel. As a southern man, I have no such motive. My opinions are the reverse. I believe that, if the railroad ran across the continent on that parallel, it would bring those hordes of "carpet-bag men," who are always dangerous to the slave population of the country with which they are mingled. I do not believe that would be any advantage to our section. We prefer the more slowly progressing and more stable population that would come over the wagon road.

I say that, in a sectional point of view, I do not feel that the South has any reason to ask for the thirty-second-parallel railroad. I do not believe it would be to her advantage, in a mere sectional point of view, to have the road constructed there. I believe a road is necessary. I ardently desire to see a road built somewhere. I do not believe that the road will be built with any sum the United States is likely to give, upon any other line than that. I believe it to be the most practicable and economical route connecting the Mississippi with the Pacific. Then I think the construction of a railroad, by Texas to the Rio Grande, will so shorten the link still to be built, that it will secure that location for the construction of the proposed railroad. I do not believe any aid we are likely to give would build a road from the Mississippi to the Pacific on that parallel or any other; and the only reason it will build it there is because Texas projects her road across her own domain as far as the Rio Grande. That is my view of it.

I think the mines that will be intersected by that line of road will be immensely valuable. The silver mines, if they are as rich as believed, will attract thither a large amount of population; and the supplies for laborers in those mines, as well as the transportation across the continent, will give to the road some probability of making a fair return to those who construct it; but it is because I believe it to be necessary for the Government, and for that reason only, that I have ever been willing to give one dollar to the construction of a road to the Pacific at all.

I have noticed the principal points in the remarks of the Senator. I hope he will review his opinions in relation to these artesian wells, and find that they did not belong to the construction of a road on the thirty-second parallel, and that they were not projected and carried out under the last appropriation, either by the recommendation or otherwise, by any indication of the Administration then in power.

The Senator further says, however, that we have

expended \$10,000,000 in buying a territory in order to construct this railroad. I really thought we had much higher objects. I think we have gained a great deal more. I think we have gained a country, the value of which is only being now realized by the public generally. I think we have acquired land that will be rich in the production of those articles which will be most profitable in the trade with Asia; that we have acquired the richest mining region within the United States; that we have acquired a portion of the best mining region Spain possessed when she held the mineral lands of this continent. I think we have procured a region where silver is in its richest deposits; and that we shall be able, whenever we get the means of transporting it from its location, to equalize the currency of the world between the gold and silver coin employed. I think these are great advantages. I think they will contribute to the building of the road, but that we might well have acquired that territory, even if railroads had never been invented or constructed.

Again he says: "we got camels to traverse this arid desert." This arid desert where? That vast plain on the route of the forty-ninth parallel covered with sage, is the very desert which nothing but the camel can ever profitably pass over. It is the only desert I know of in the United States where they cannot get some grass. But it was not on account of railroads that those camels were purchased by the Government. This subject was agitated before a railroad across the continent was ever presented to the minds of Congress. I do not recollect the year, but when I was formerly a member of this body, a good many years ago, I introduced a proposition to purchase camels for the purposes of army transportation. It went on from year to year, gaining more and more favor, until at last Congress most wisely passed a law appropriating a small sum of money to import the camel and make the experiment, to see whether or not it would be fitted, in our climate and country, for purposes of army transportation—army transportation anywhere, everywhere. I regret exceedingly that these camels were not consolidated and sent up to Fort Leavenworth, to be used in the transportation to Utah, where I think they would have exhibited their value to the country in a higher degree, perhaps, than we shall have an opportunity hereafter to show.

As to the vast expenditure for artesian wells, I have shown that the first outlay was included in the sum charged to the thirty-second parallel route, though it might have been brought into the general average. The larger expenditure was from an appropriation subsequently made by Congress, which appropriation is now in the course of expenditure, and the final results of which I do not know; but it is probable that, whether successful or not, the experiment of boring will not be confined to the region of country in which it was commenced, but will be tried in other regions, so as to see how far it is practicable to convert these sterile plains into fertility, by bringing water from hidden depths to flow on the surface of the earth.

I do not understand the Senator's expression, which he used several times, as to the route proposed to be constructed near the thirty-second parallel being a disunion route. I do not understand what he means when he speaks of the route proposed to be constructed as a disunion route.

Mr. WILSON. Does the Senator wish me to explain it?

Mr. DAVIS. If you please, sir.

Mr. WILSON. I said that since the speech of the Senator from Georgia, proposing to build a southern road, so that when the South dissolved the Union it would come within the southern confederacy, I thought the thirty-second parallel route, which had been known as the desert route, might be called the desert and disunion route.

Mr. DAVIS. That is the quarrel of the Senator from Georgia. I have nothing to say in relation to any remarks made in reply to the Senator from Georgia. He can much better take care of himself.

The Senator says he is in favor of building a road with the money of this Government. Now, sir, I had some difficulty, in the beginning of this question, to see how the Government was to furnish aid at all. It was necessary to explore the subject, before I could satisfy myself that the Government could constitutionally furnish aid in the construction of this road; and if I had not sat-

ified myself that it was necessary for the Government, that it was a means of defense, that it was essential to the performance of its duties towards the Pacific slope, I should have remained with those who probably will vote against it upon the ground that the Government cannot so appropriate its money constitutionally. When I reached the conclusion that the Government could not defend its Pacific slope without the construction of this road, that it was a means which was necessary to the performance of its duty, then I saw nothing in the character of a railroad over any other road which should prevent us from making appropriations to aid in its construction. We construct annually military roads, and make some very unwise appropriations, I am inclined to believe. But if we can construct them of earth, why not of iron? If we can use wooden rails, as we do in crossing marshes with causeways, why not use iron rails? They would outlast wooden rails. If they were cheaper, why not use them of iron? Then, if you can use iron rails, and lay them cross-wise, why can you not lay them lengthwise? And this brings you to the construction of a railroad. What lies beyond this conclusion, that the Government cannot administer the road? A railroad, with all its working apparatus, with a company to manage it, is a sort of institution which the Government cannot administer. Therefore, though the Government might have power to build a railroad, an opinion reached by induction, as I have stated it, I would deny to the Government the right to administer such an institution as a railroad may be considered.

What then remains? That it may give aid to some company which, induced by commercial and other considerations, undertakes to construct and to work the road. We annually give aid in the form of land; sometimes I think we give it away where a prudent proprietor would not do it. But if you have the right to aid it in one way and for one consideration, you have the right to aid it in another way and for another consideration; it is a use of the means of the Government to secure the construction of a road. Here I believe that giving the land would not suffice; that giving peculiar privileges would not suffice. I believe you are bound to throw in all the aid you can constitutionally render, and that you are bound to strike off every shackle which has been already imposed upon it, if you expect ever to see the road constructed. If you attempt to fetter it within particular lines, and thus increase the cost of construction, if you attempt to exclude the purchase of the cheapest iron, and thus heighten the price of the iron from which the road shall be constructed, you throw additional impediments in the way of that, the achievement of which I consider a Herculean undertaking, and which we may rather hope, than expect to see accomplished.

As to giving away all the lands to the South if they will build a road, that is idle. Thank God, the lands are not the Senator's to give; and I take it for granted a majority of the two Houses of Congress do not anticipate the day when, following the brave suggestion of the Senator, they will turn over a vast district intended for the population of American citizens, in order that they may swell the coffers of some corporation. Let that corporation construct a road on whatever parallel it may choose, and I would restrict these grants of land to the narrowest limits; I would leave, as far as possible, the lands for the actual settler to possess. Instead of expanding, I would rather curtail in that respect; and I only would have gone to the extent indicated in the substitute which I proposed, because I believed it required extraordinary provisions to be made ever to secure the construction of the road. I am opposed entirely to the large grant of land which is contained in the bill reported by the committee. I do not think the Government should allow the corporation to take possession of such an immense district, erecting, as it were, principalities in the public domain, and excluding the citizens of the United States from their possessions.

It is with the views which now and heretofore have been presented that I have been from the beginning in favor of not attempting to locate the road by Congress, in favor of stating what aid the Government would give under certain contingencies to a road to be constructed, and then leaving the President to receive the proposals of those who would undertake to construct the road, and with

that amount of discretionary power contained in almost every proposition which is presented, to leave him to select from the bidders the one that offers the best terms for the Government. The best location for the contractor will be the best for the Government. I mean to say the best location as viewed in the interest of those who build the road, will be the best location as viewed in the interest of the Government which is to use it. If the contractors can find that they will construct a road as cheaply and economically over the central line, so that branches will come in more rapidly from all extremities, and connect with their trunk whenever it reaches a region of fertility, any prudent company would select it. If they cannot, if they find that they cannot obtain the means that will construct the road there, shall we wait, shall we postpone, shall we finally fail to construct the road, or shall we secure it by throwing open the whole limit of the United States, and inviting them to select that route which nature has most favored, and consequently where they can most surely and cheaply build it? The second is my view of the question. And if by haggling over petty sectional controversies, if by sticking in the bark of the Constitution, men shall defeat the efforts which have been made from session to session by my friend from California, and shall prostrate the last hope of building this road across the continent, and if we should become involved in a war with the great maritime Powers of Europe, the politician who has pursued that course may beg the mountains to come and cover him from public indignation; he will have lost to his country that which money never can regain—a territory worth untold treasure, and a prestige and honor more valuable than territory.

It has been, sir, in the elimination of these subjects, and the constant presentation of these views, that I have reached the conclusions which I have now very briefly presented; and I stand upon the ground that we should strike off every shackle which impedes the execution of this great work. I would be willing to abandon the right to collect duty on the iron employed, to give the whole limit of the United States from which to select a route, to extend every facility we can constitutionally afford, to insure the construction of the road somewhere, be it where it may, so that it is on the soil of the United States.

Mr. WILSON. Mr. President, I have listened very attentively to the Senator from Mississippi; I have listened to his explanation and exposition; and I cannot but repeat now what I have before said, that no disinterested man can read his summing up of the reports made without coming to the conclusion that he clearly thinks the evidence in those reports has established the fact that the thirty-second parallel is the route to be built. I do not mean to charge that Senator, in all this matter, with any want of honor or of integrity; but he knows, and I know, that the history of his life shows that he is deeply, strongly, intensely devoted to the interests of his particular section of the Union. When he talks here about sectional strife, the Senator must permit me to say that I know of no man in the Senate or the country, (and I say it with entire respect for him, which he knows I entertain,) who is more biased by sectional feeling than the Senator from Mississippi. He is, I doubt not, unconscious of it; but the words found on the records of the Government, and the eloquent words he has uttered in the country, will sustain me in this position.

I say that the summary which he made of the results of the railroad explorations is not sustained by the facts of the case reported. I believe that influences have been used, perhaps imperceptibly, looking to the construction of the road on the thirty-second parallel. When a gang of speculators seized upon the splendid offering of the State of Texas—a splendid offering, indeed, one that ought, before this hour, to have carried a railway across that State, and would have done it in some portions of this Union—why was it that, when Robert J. Walker and the speculators in that great scheme wanted to make the road across Texas the route of the Pacific railway, we paid \$10,000,000 for a piece of barren and worthless soil to carry this road there; and that, too, when the evidence of Stansbury, the evidence of Stevens, and of other men, if fairly construed, the knowledge that existed in the country, showed that you could carry a railroad across the central regions of the conti-

ment, and across the northern line; and when a railroad across the central regions would accommodate equally the North and the South? The Senator says the boring of artesian wells was ordered by Congress. Well, sir, we know how these things have been done by Congress. The last Administration had, and I suppose the present Administration has, though I do not know that I can find the man, a friend in this Chamber, and in the other House; and how was it that that measure came in here and was carried through? The examination has been made; it has been abandoned, and Captain Pope has gone further up into the regions of New Mexico, somewhere, I think, near Albuquerque.

I find, on examination, that Governor Stevens made a liberal estimate, and calculated the cost of a road on the northern line at from twenty-five to thirty or forty per cent. more than similar work on the eastern lines. The Secretary of War added \$1,000 per mile to the estimate over what Governor Stevens made it. I further find that on the extreme southern route, the Senator, when Secretary of War, deducted \$10,000 a mile for eight hundred or nine hundred miles, amounting to several million dollars, from the estimates of some of the engineers who went over that line.

Now I want to say here, once for all, that I do not charge upon that gentleman any impropriety. I only suppose that he has the common weakness to which flesh is heir, and has some regard for his own particular people in that section of the country, which wants this railroad to go from Memphis, by way of Fort Smith, to the State of Texas; which has made a splendid offer to carry it six or seven hundred miles across that State, and then to go from El Paso to the Pacific ocean. I think the ultimate view is to go down to Guaymas, on the Gulf of California. The idea that this road is to go up to San Francisco I do not believe. I know that is not desired in a large portion of the country.

And now, sir, passing from the Senator from Mississippi, I have a word to say to the Senator from Iowa, and I say it with kindness of feeling. That Senator knows that I entertain for him personal regard and respect. He spoke upon this subject with a great deal of feeling and emotion; and I was amazed at the course of his remarks, and the feeling he exhibited.

Mr. DAVIS. Will the Senator from Massachusetts allow me, before he passes on to his general review of the Senator from Iowa, merely to read to him a passage which will show him (as I do not doubt his constant avowal that he wishes to do me justice) that he is doing very great injustice in hunting everywhere, except the place where a man would naturally go to find it, for what I did say? If he will go to my report, he will find exactly what he seems to hunt somewhere else to discover. In speaking of Governor Stevens's route, he will find, on page 11 of this brief report, published in the first volume, and of which he has therefore been longest in possession, this language:

"Its cost has been estimated by Governor Stevens, by the Columbia river valley and the Cowlitz, at \$117,121,000; the cost of work at eastern prices having had twenty-five per cent. added to it from the Bois des Sioux to the Rocky Mountains, and forty per cent. thence to the Pacific. It has been thought safer to add one hundred per cent. to the cost at eastern prices, from the eastern slope of the Rocky Mountains to the Pacific. This would swell the estimate to \$150,871,000."

"Should Governor Stevens have included a full equipment in his estimate, \$10,000,000 should be subtracted from this sum to bring the estimate in accordance with those of the other routes; and the cost then becomes \$140,871,000."

He will find in the same report that no pretension is made to give accurately the number of dollars which each road would cost; but, by taking a uniform standard of measurement, to show the relative cost of the different routes. Therefore, it was necessary either to cut down or to add to the sums of the reporting officer whenever he departed from the adopted standard of estimate, and thus secure an accurate comparison upon the report of the engineer, nothing else being relied upon.

Mr. WILSON. I assure the Senator from Mississippi, that I have read his report more than once since this debate commenced, and I certainly do not think I have misrepresented it in any respect.

Passing, however, to the Senator from Iowa, I say to that Senator now, that there is probably not a man in this body, not one here to-day, that

is more fully committed in favor of voting for a railway to the Pacific ocean, between the thirty-eighth and forty-second parallels, than myself. I venture to say here, that unless it be the Senator from Illinois, [Mr. DOUGLAS,] who has addressed us and addressed everybody, that I have spoken in favor of the Pacific railroad to more men in America than any one in the Senate. I go further: if I gave a vote against a good, practical plan, a plan which capitalists, experienced men, railway contractors, railway builders and engineers, assented to as a good bill to build a road, that could do it, I should not only be false to my own declarations, but false to the people I represent; for the sentiment of Massachusetts approaches unanimity in favor of a central railway to San Francisco across the continent.

The Senator from Iowa seemed to speak as though his part of the Union had a deep interest in this question. I beg the Senator's pardon; but I tell him my State has ten dollars to his one, and the sentiment is as unanimous in my State to-day as in his. The Senator arraigned me, and arraigned us of New England; I do not know by what right. I cannot speak for others; but I know there has been no arrangement and no consultation among the New England Senators here to defeat this bill, or to govern this matter in any way whatever. The Senator says he and his friends have voted to protect the commerce of the sea; they have voted for the Navy. Sir, the Navy is for the whole country; equally for the men on the Atlantic, the Pacific, the great lakes, and in every portion of the Union. A vote for the Navy is no vote for Massachusetts, any more than for Iowa. The Senator knows, and he has had practical proof of it here, that I have given my votes to give a splendid—yes, sir, I may use the word I think fit—a splendid gift of land to the State of Iowa, and to the other northwestern States. I regret to say here to-day that a vote given with all honesty to develop and improve the country, to carry population there, to add to the wealth of the Northwest, to make it a portion of this country that would raise products, that would come to us and buy our products, and thus improve their interest and our interest, has not so turned out. I regret that the great gift of this Government in too many instances there has been seized upon—I do not speak of Iowa particularly; I mean that a great deal of the lands granted to the Northwest have been seized upon by dishonest men, who have brought dishonor on their section of the country. The Senator knows that at all times, and on all occasions, I have voted in favor of western interests. He will acknowledge this.

Now, in regard to this bill, I say that I do not believe this bill can build the road; I know it cannot build the road. I will stake my existence that, if you will summon to this capital one hundred of the great railway builders of the country, the capitalists of the country—summon them before a committee, and take their opinions, they will tell you that you can never build the road under this bill.

Mr. DOOLITTLE. Will the honorable Senator give way for a motion to adjourn?

Mr. WILSON. I shall be through in one moment. I say, sir, that opposition to this bill is no opposition to building a Pacific railroad. It is simply an opposition to this measure that cannot do it; which, I think, may be entitled an act, not to build a road, but to get land. I will vote land on the northern route, the southern route, the central route, if they want that; and a large amount of it, too. I will vote for a bill that shall give land up, say, to the one hundred and sixth meridian on the central route, and then forty or fifty thousand dollars to the mile on the Rocky Mountain region to carry it through there; but I do not like this giving of \$12,500 in money, this giving of thirteen thousand acres of land per mile at the ends of this road, where you can get five or six hundred miles of glorious country, and then throw on the Government a railroad utterly worthless. I cannot vote for such a bill; and I do not intend to do it, or to be dragged into it. Bring me a practical plan, and I will vote for it with all my heart; and, in doing it, I act according to the convictions of my judgment, the warmest feelings of my heart, and what I know to be the sentiment and opinion of the people I represent. Let me say, sir, that since I offered a bill here providing that the Government should survey and locate this road, and

borrow the money to build it, I have received from New York and Massachusetts letters from some of the ablest and most experienced railway men in the country, saying that it was the practical plan to construct a road. I am not devoted to that plan. I will vote for any other. I cannot vote, however, to sacrifice millions of acres of the public domain with no security that we are to have a railroad to the Pacific ocean.

Mr. HARLAN. I wish barely to remark that I supposed the Senator from Massachusetts and myself understood each other prior to my taking my seat before, when I stated that I had misapprehended the whole tenor of his remarks. The main body of his explanation, I suppose to be just this, that I labored under a misapprehension in regard to the tenor of his speech. I have, however, seen it stated and published over the Northwest, in the public prints, that there was an understanding that the friends of the road were to be defeated at this session. Being a representative of that part of the country, who feels deeply interested in the success of this work, I deemed it proper to allude to that matter, and show that we have the power to pass this or some other bill. There is power in the localities which I have mentioned, the Northwest, New England, New York, Pennsylvania, and California, to pass a railroad bill on a practical route. That is all I wish to say at this time.

On motion of Mr. STUART, the Senate then adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 11, 1859.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM PINCKNEY, D. D.

The Journal of yesterday was read and approved.

COMMITTEE OF INVESTIGATION.

The SPEAKER appointed Messrs. TAYLOR of New York, NIBLACK, COYODE, GARTRELL, and HARRIS, the select committee, under the resolution of the House of the 23d ultimo, in relation to the accounts of the late Superintendent of Public Printing.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the following executive communications; which were severally laid upon the table, and ordered to be printed:

A communication from the Postmaster General, containing a report of all fines imposed, and deductions made, from the pay of contractors during the preceding year, for failures to deliver the mail, or for any other cause, stating the name of the delinquent contractors; the nature of the delinquency; the route on which it occurred; the time when the fine was imposed, and whether the fine has been remitted, or order of deduction rescinded, and for what reason; in accordance with an act of Congress approved July 2, 1836;

A report from the Secretary of the Treasury in regard to reopening settlements in favor of States and cities, required by act of June 12, 1858; and

A communication from the Secretary of the Treasury, containing a report on international coinage with Great Britain.

The SPEAKER also laid before the House a communication from the Secretary of State, inclosing two letters addressed to the chairmen of the Committees of Ways and Means and Territories, relative to expenses incurred for contingencies in the Territory of Kansas. The communication was laid upon the table, and ordered to be printed; and the letters were respectively referred to the Committees of Ways and Means and Territories.

CLERKS TO COMMITTEES.

Mr. MORGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk be directed to communicate to this House the number of clerks that are employed at the present session by the several committees of the House, and their names, and by what authority they are employed, and whether their duties are performed by deputy or in person.

CHANGE OF REFERENCE.

On motion of Mr. PHELPS, of Missouri, the Committee of Ways and Means was discharged from the further consideration of the communica-

tion of the Secretary of State, asking authority to pay A. Dudley Mann, for services as confidential agent of that Department; and the same was referred to the Committee on Foreign Affairs.

PRINTING OF A DOCUMENT.

Mr. CRAWFORD. I am directed by the Committee of Ways and Means to ask that a certain document, with reference to the Florida volunteers, be ordered to be printed and recommended to the committee.

It was so ordered.

Mr. STEPHENS, of Georgia. As I gave notice the other day, I wish now to insist on the regular order of business; the call of the committees for reports, in order that the Oregon bill may be reached. I would inquire of the Chair what committee was last called? My recollection is that it was the Committee on Foreign Affairs.

ADMISSION OF NEW STATES.

Mr. HILL. With the permission of my colleague, I ask leave to offer the following preamble and resolution.

Whereas by the act of Congress "for the admission of Kansas into the Union," approved May 4, 1858, it was declared and enacted that, "should a majority of the votes cast be for 'proposition rejected,' it shall be deemed and held that the people of Kansas do not desire admission into the Union, with said constitution, under the conditions set forth in said proposition, (referring to the conditions contained in said act;) and, in that event, the people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government, by the name of the State of Kansas, according to the Federal Constitution, and may elect delegates for that purpose whenever, and not before, it is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and whenever, thereafter, such delegates shall assemble in convention, they shall first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and, if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to such limitations and restriction as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State, under such constitution, thus fairly and legally made, with or without slavery, as said constitution may prescribe;" thereby, for the first time in the history of the Government, fixing by law the principle of equality in representation between the States and Territories applying for admission into the Union—a principle so just and equitable, when standing apart from all conditions and considerations of mere expediency, as to be worthy to stand as the settled policy of the Government in the admission of new States:

Be it therefore resolved by the House of Representatives of the United States, That no new State ought to be admitted into the Union until it be first ascertained, by a census duly and legally taken, that the population of the Territory applying for admission equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States.

Mr. BARKSDALE. I object.

SETTLERS IN ILLINOIS.

Mr. LOVEJOY. With the permission of the gentleman from Georgia, I ask leave to introduce for the purpose of reference only, a bill for the relief of settlers on certain public lands in the State of Illinois.

Mr. HUGHES. I object; and call for the regular order of business.

Mr. BARKSDALE. I objected just now to the resolution of the gentleman from Georgia, [Mr. HILL,] under a misapprehension. I withdraw the objection.

Mr. KELSEY. I renew it.

CASE OF WILLIAM WALKER.

The SPEAKER stated that the business first in order was the report of the Committee on Foreign Affairs on the case of William Walker.

Mr. HUGHES. Is it in order to move to refer the report to the Committee of the Whole on the state of the Union?

The SPEAKER. That motion is already pending.

Mr. HUGHES. I demand the previous question.

Mr. MAYNARD. What will be the effect of the previous question?

The SPEAKER. It will bring the House first to a vote on the motion to refer.

Mr. WASHBURN, of Illinois. I move to lay the report upon the table.

Mr. STANTON. I should like to hear what the report is?

The SPEAKER. The gentleman from Georgia

[Mr. STEPHENS] inquired of the Chair what would be the regular order of business in the morning hour. The first business is the disposition of this report from the Committee on Foreign Affairs. The next business will be the disposition of the report made from the Committee of Ways and Means of the naval appropriation bill, and then the call of committees commencing with the Committee of Elections. The Chair has already called each committee once during this session.

Mr. STEPHENS, of Georgia. My opinion was that that call was made under a special order of the House.

The SPEAKER. The Chair had proceeded to call the committees the day after they were appointed, and before the special order was made.

Mr. STEPHENS, of Georgia. I then insist upon the regular order of business, in order that we may reach the Committee on Territories, as soon as possible.

The SPEAKER. The Committee on Foreign Affairs reported the following resolutions:

Resolved, That inasmuch as the United States can never consent that any foreign Power shall have the right to enter its territory with a view of forcibly carrying away any person who may be therein, so it becomes the duty of its Government to disavow and disclaim all right on its part to enter for a similar purpose the territory of any foreign Power or State with which we are on terms of amity or friendship.

Resolved, That officers of the United States have no right to use the forces under their command in the territory of any foreign State, at the instance of, or for the benefit of such State, unless previously authorized by Congress.

Resolved, That inasmuch as the views of the President, as made known in his message to the two Houses of Congress, are in accordance with these principles, no action is necessary, on the part of Congress.

The gentleman from Pennsylvania, [Mr. RITCHIE,] from the Committee on Foreign Affairs, offered the following amendment:

Strike out all after the word "*Resolved*," and insert: That the thoughts of Congress be, and the same are hereby, presented to Commodore H. Paulding, and through him to the officers, petty officers, seamen, and marines, attached to the squadron under his command, for the capture, on the 8th day of December last, at Punta Arenas, of one William Walker, and others associated with him, who were engaged in carrying on, against the Government and people of Nicaragua, an unlawful military enterprise, which was set on foot by the said Walker and his associates within the territory, and in violation of the laws of the United States.

The gentleman from Mississippi [Mr. BARKSDALE] offered the following amendment to the amendment:

Strike out all after the word "*Resolved*," and insert: That the conduct of Commodore Paulding in capturing General William Walker and his men at Punta Arenas, in Nicaragua, was without authority of law, and meets the condemnation of this House.

The gentleman from Georgia, [Mr. WRIGHT,] by unanimous consent of the House, was permitted to offer the following amendment to the amendment:

Strike out all after the word "*Resolved*," and insert: That the capture of William Walker on the coast of Nicaragua by Commodore Paulding was without authority of law.

Resolved, That said capture was within the letter and spirit of the instructions of the Department of the Navy, ordering one of its officers "to repair with his vessel to Chiriqui, where it had reason to believe said expedition would rendezvous;" and another to proceed with his vessel to Cape Gracias, Honduras, skirting along the coast, looking in at the mouth of Bluefield Inlet, thence to San Juan del Norte, Nicaragua.

Resolved, That the right of the citizen of the United States to expatriate himself, and transfer his allegiance to other Governments; to emigrate with arms in his hands for the purpose of settling new countries and founding new States, is an inherent and sacred right, one that ought to be inviolate, and one of which he cannot be constitutionally deprived.

Mr. STANTON. What is the pending motion?
The SPEAKER. The question is on the motion to refer.

Mr. STANTON. What would be the effect of ordering the previous question?

The SPEAKER. It would bring the House to a vote upon the motion to refer; and if the House refuse to refer, then upon the amendments.

Mr. KELSEY. I understood the gentleman from Illinois [Mr. WASHBURN] to move to lay the whole subject on the table.

The SPEAKER. That is true; and that motion takes precedence of the motion to refer.

Mr. HOUSTON. When was that last amendment offered?

The SPEAKER. At the last session of Congress; and was received by the unanimous consent of the House. It is an amendment in the third degree.

[Mr. PIKE, from the Committee on Enrolled Bills, here reported that the committee had examined and found truly enrolled an act for the relief of Joseph Hardy and Alton Long; when the Speaker signed the same.]

Mr. WASHBURN, of Illinois. If gentlemen desire to have a vote *pro* and *con* upon the resolutions, I will withdraw my motion to lay on the table.

Mr. KELSEY. I renew it; and call for the yeas and nays.

Mr. SMITH, of Virginia, called for tellers on the yeas and nays.

Tellers were refused.

The yeas and nays were not ordered.

Mr. KELSEY withdrew the motion to lay on the table.

Mr. SMITH, of Virginia. I renew the motion; and demand the yeas and nays.

The yeas and nays were ordered.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that the Senate had passed, without amendment, House bill (No. 663) making appropriations for the support of the Military Academy for the year ending June 30, 1860; and also, that they had passed an act (S. No. 45) to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed prior to the 31st day of July, 1801; in which he was directed to ask the concurrence of the House.

WILLIAM WALKER—AGAIN.

The question was taken; and it was decided in the negative—yeas 83, nays 105; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Bennett, Bishop, Bocoek, Bonham, Boyce, Branch, Burroughs, Caskie, Cavanaugh, Chapman, Clay, John Cochrane, Cockrell, Corning, Cox, Burton Craige, Davidson, Davis of Iowa, Dewart, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, Hatch, Hopkins, Hughes, Huyler, Jenkins, Jewett, Jones, Owen Jones, Kellogg, John C. Kunkel, Lawrence, Leidy, Samuel S. Marshall, Mason, Miles, Miller, Milson, Montgomery, Mott, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Ready, Reagan, Reilly, Ritchie, Savage, Scales, Scott, Henry M. Shaw, Robert Smith, William Smith, Stephens, George Taylor, Tripp, Underwood, Vallandigham, Ward, Elihu B. Washburne, Watkins, White, Winslow, Woodson, and Wortendyke—83.

NAYS—Messrs. Anderson, Andrews, Avery, Barksdale, Bingham, Blair, Brayton, Bryan, Buffinton, Burlingame, Burns, Caruthers, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Cobb, Coffax, Comins, Covode, Crawford, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dodd, Dowdell, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Gartrell, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Harlan, Harris, Haskin, Hawkins, Hickman, Hill, Hoard, Houston, Howard, Jewett, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, McQueen, McKee, Humphrey Marshall, Matteson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pike, Pettit, Purviance, Ricard, Robbins, Royce, Seward, John Sherman, Judson W. Sherman, Shorter, Samuel A. Smith, Spinner, Stanton, Stevenson, James A. Stewart, Miles Taylor, Thayer, Thompson, Tompkins, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Wilson, Augustus R. Wright, John V. Wright, and Zollcoffer—105.

So the motion to lay upon the table was disagreed to.

Pending the above call,

Mr. CLAWSON stated that he had paired off for one week with Mr. WHITELEY, of Delaware.

Mr. SCALES stated that his colleague, Mr. REFIN, was detained at his room by illness.

Mr. BURNETT said that he was not within the bar when his name was called; but that, if he had been, he would have voted in the negative.

Mr. BOWIE stated that he was not within the bar when his name was called; but that, if he had been, he would have voted in the negative.

Mr. COBB said he had voted in the affirmative; but, as he found the House determined to further prosecute this matter, he changed his vote, and voted in the negative.

The question then recurred on seconding the call for the previous question.

The previous question was seconded, and the main question ordered.

The question recurred on the motion to refer to the Committee of the Whole on the state of the Union.

The House was divided, and there were—ayes 87, noes 67.

Mr. STANTON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 90, nays 102; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Bishop, Bocoek, Bonham, Boyce, Branch, Burnett, Caruthers, Caskie, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Burton Craige, Davidson, Dewart, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hopkins, Houston, Hughes, Huyler, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lawrence, Leidy, Samuel S. Marshall, Miles, Miller, Milson, Moore, Isaac N. Morris, Mott, Niblack, Nichols, Pendleton, John S. Phelps, William W. Phelps, Phillips, Powell, Ready, Reagan, Reilly, Ritchie, Savage, Scales, Seward, Henry M. Shaw, Samuel A. Smith, William Smith, Stephens, Stevenson, George Taylor, Miles Taylor, Tripp, Underwood, Vallandigham, Ward, Elihu B. Washburne, Watkins, White, Winslow, Woodson, and Wortendyke—90.

NAYS—Messrs. Andrews, Avery, Barksdale, Bennett, Bingham, Blair, Brayton, Bryan, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Coffax, Comins, Covode, Crawford, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Durfee, Edie, Eustis, Farnsworth, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Harlan, Harris, Haskin, Hawkins, Hickman, Hill, Hoard, Houston, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, McQueen, McKee, Humphrey Marshall, Matteson, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Peyton, Pike, Pottle, Purviance, Ricard, Robbins, Roberts, Royce, Sandiego, Scott, John Sherman, Judson W. Sherman, Shorter, Spinner, Stanton, James A. Stewart, Thayer, Thompson, Tompkins, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, Wilson, Augustus R. Wright, John V. Wright, and Zollcoffer—102.

So the motion to refer was disagreed to.

Mr. MILLSON. Mr. Speaker, I do not think that the occasion requires from us the expression of any opinion upon the subject. I therefore move that the whole subject be laid upon the table; and on that motion I call for the yeas and nays.

Mr. REAGAN. I hope the vote ordering the previous question will be reconsidered, in order that we may be permitted to have some debate on this question. I want, myself, an opportunity to express my dissent to the whole doctrine of filibusterism.

Mr. JONES, of Tennessee. I appeal to the gentleman from Virginia to withdraw the motion to lay upon the table. Let us have separate votes on the various propositions.

Several MEMBERS. That is right, and is all we ask.

Mr. JONES, of Tennessee. Commodore Paulding did nothing wrong, unless it was in arresting William Walker and such of his followers as were citizens of Nicaragua, and sending them to the United States. I think he did right, and acted in obedience to his instructions, in rescuing citizens of the United States engaged in that unlawful expedition, and sending them back to their own country, the United States.

Mr. BARKSDALE. I am of the opinion that Commodore Paulding did nothing that was right.

Mr. MILLSON. I may agree with the gentleman from Tennessee in what he has said; but as I said before, I do not think the occasion would justify the expression of any opinion upon the part of the House.

Mr. KELSEY. Can a motion to lay upon the table be repeated when it has just been rejected?

The SPEAKER. There has been intervening business, changing the condition of the question.

Mr. REAGAN. Let us have the question opened to debate.

Mr. HUGHES. How many propositions are there before the House?

The SPEAKER. Only four.

Mr. HUGHES. Is it too late to object to any more than three propositions being before the House at once?

The SPEAKER. It is: the proposition of the gentleman from Georgia was unanimously received at the last session.

Mr. BOWIE. I ask that the resolutions be again read.

The resolutions were again read.

Mr. HOUSTON. Is it competent for me to ask for a division of the last amendment? I understand that we vote first on the amendment last read. Is it divisible?

The SPEAKER. The previous question has been called and seconded, and the main question

ordered; and a division is not now in order. The amendments must be voted on as entireties.

Mr. BARKSDALE. If the last resolution be adopted, will a vote be had on the second resolution?

Mr. CLARK, of New York. I suppose there will if there be no objection.

The SPEAKER. If the last resolution be adopted, the next vote will be as between the amendment of the gentleman from Georgia [Mr. WRIGHT] and the amendment of the gentleman from Pennsylvania, [Mr. RITCHIE.]

Mr. BARKSDALE. Then I hope that the resolution will be voted down.

Mr. KILGORE. I rise to a question of order. Is the amendment of the gentleman from Georgia in order, inasmuch as it is an amendment in the third degree? I understand there is pending an amendment to the original resolution in the nature of a substitute, and that to that an amendment has been offered by the gentleman from Mississippi, [Mr. BARKSDALE.] Is the amendment of the gentleman from Georgia in order?

The SPEAKER. Under the rules and the practice of the House the amendment of the gentleman from Georgia would not be in order if it were an original proposition; but that amendment was received by unanimous consent, as the Journal of the last session will show. It is now too late to object to it.

Mr. CRAWFORD. I ask the Chair whether it is in the power of my colleague to withdraw his proposition, so that we can come to a direct vote on the proposition of the gentleman from Mississippi?

The SPEAKER. That can only be done by unanimous consent.

Mr. HOUSTON. I object.

Mr. WRIGHT, of Georgia. And I have no disposition to withdraw it, even if it were in order to do so. Did I understand the Chair to state that we cannot have a division of the last resolution in order that there may be separate votes on the different branches of it?

The SPEAKER. The Chair so announced. The previous question precludes any division unless by unanimous consent.

Mr. HOUSTON. I object.

Mr. RITCHIE. And I also object, and ask that the vote be taken.

The SPEAKER. The pending motion is the motion of the gentleman from Virginia [Mr. MILLSON] to lay the whole subject upon the table, on which he has called for the yeas and nays.

Mr. BARKSDALE. I thought that motion was withdrawn.

Mr. MILLSON. No, sir; I decline to withdraw it.

The yeas and nays were ordered.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported, as correctly enrolled, an act (H. R. No. 603) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1860; when the Speaker signed the same.

WILLIAM WALKER—AGAIN.

The question was taken; and it was decided in the negative—yeas 75, nays 111; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Bishop, Bocoek, Bonham, Boyce, Branch, Burns, Caruthers, Caskey, Chapman, Clay, John Cochran, Cockerill, Corning, Cox, James Craig, Burton Craige, Davidson, Dewart, Dimmick, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gills, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hopkins, Houston, Hughes, Hayler, Jenkins, George W. Jones, Keitt, Kellogg, Leidy, McQueen, Samuel S. Marshall, Miles, Miller, Millson, Mott, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Ready, Reagan, Savage, Seales, Scott, Henry M. Shaw, Samuel A. Smith, William Smith, Stephens, George Taylor, Trippie, Underwood, Vallandigham, Ward, Elihu B. Washburne, Watkins, Winslow, and Woodson—75.

NAYS—Messrs. Anderson, Andrews, Avery, Barksdale, Bennett, Bingham, Bowie, Bratton, Bryan, Bullington, Burlingame, Burnett, Case, Chaffee, Ezra Clark, Horace P. Clark, John B. Clark, Cobb, Colfax, Comins, Covode, Crawford, Curry, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dowdell, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Garrett, Giddings, Gilman, Gilmer, Goodwin, Grainger, Grow, Harlan, Harris, Haskin, Hawkins, Hickman, Hill, Hoard, Horton, Howard, Jewett, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Lawrence, Leach, Leitch, Lovejoy, McKibbin, McKrae, Matteson, Maynard, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Pottle, Purviance, Reilly, Ritchie, Robbins, Royce, San-

didge, Seward, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stanton, Stevenson, James A. Stewart, Miles Taylor, Thayer, Thompson, Tompkins, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, Wilson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—111.

So the House refused to lay the whole subject on the table.

Pending the vote,

Mr. PHILLIPS stated that if he had been in the Hall when his name was called, he would have voted "ay."

Mr. GARNETT stated that his colleague, Mr. Goode, was confined to his room by indisposition.

Mr. HOUSTON said: I announced on Saturday, the indisposition of Mr. LETCHER, but I omitted to do so yesterday, when a vote was taken by yeas and nays. I now desire to state that Mr. LETCHER continues very ill, and is confined to his bed.

The result was then announced as above recorded.

Mr. REAGAN. I move to reconsider the vote by which the main question was ordered.

Mr. JOHN COCHRANE. Will the gentleman from Texas declare the object of his motion?

Mr. REAGAN. I will; if it be the pleasure of the House.

Mr. RITCHIE. Is that motion in order? If it is, I move to lay it on the table.

The SPEAKER. The Chair doubts whether the motion is in order. The order of the House has been partially executed.

Mr. RITCHIE. I do not believe that it is in order; but if it be, I will submit the motion to lay it on the table.

The SPEAKER. The Chair thinks that the motion of the gentleman from Texas is not in order. The House cannot put itself in the position which it occupied before the original motion was voted upon, even if the motion to reconsider prevailed, inasmuch as the order has been partially executed. The House has voted down the motion to refer.

Mr. REAGAN. That motion is, of course, always in order.

Mr. HUGHES. I move to lay the motion to reconsider upon the table.

Mr. GROW. No business has intervened since that motion was negatived.

The SPEAKER. The Chair is of opinion that the motion to reconsider cannot be entertained.

Mr. BOCOCK. That question being decided, Mr. Speaker, I wish to propound a question and to make a suggestion to the Chair in regard to the effect of the vote. I have heard gentlemen talk about the last resolution being adopted. Now, in order to set myself right in the votes that I shall give, and in order that other gentlemen may stand right, I wish to state that I understand the effect of the vote to be this—

Mr. HARLAN. I object to debate.

Mr. BOCOCK. I am not debating the question. The vote now will be as between the proposition of the gentleman from Georgia, [Mr. WRIGHT,] and that of the gentleman from Mississippi, [Mr. BARKSDALE.] Those who vote for the one, or the other, do not declare by that vote that they prefer it to the resolutions reported by the committee, but merely that they prefer the one of these propositions to the other. It is merely a question of preference as between these two. We do not commit ourselves to anything until the final vote.

Mr. KEITT. If we do not vote for either, then how is it?

Mr. GROESBECK. I wish to state, in continuation of the remarks of the gentleman from Virginia, [Mr. BOCOCK,] that I understand that every proposition up to that of the gentleman from Pennsylvania, condemns Commodore Paulding, and censures the Administration.

Mr. CLARK, of New York. Can we not at least, by unanimous consent, have a division of the last series of resolutions, so that those who, like me, desire to vote for the exoneration of Commodore Paulding, can do so; and that those who desire to vote for his condemnation, can do so? It seems to me that this is due to the question, and due to the country.

The SPEAKER. That proposition was made and objected to. It can only be done by unanimous consent.

Mr. RITCHIE. I object, on this ground: that the proposition of the gentleman from Missis-

siippi does not condemn Commodore Paulding, and my proposition distinctly commends him.

The SPEAKER. The proposition that the House will first vote upon is that submitted by the gentleman from Georgia; and the House votes upon that as between its merits and the merits of the proposition submitted by the gentleman from Mississippi.

Mr. HOARD. I desire to inquire of the Chair what will be the next vote, if this be adopted?

The SPEAKER. If the amendment be adopted, then the next vote will be as between it and the amendment proposed by the gentleman from Pennsylvania.

Mr. HOARD. Then, if this be voted down, what will be the next question?

The SPEAKER. As between the propositions submitted by the gentlemen from Mississippi and Pennsylvania.

Mr. BARKSDALE. I desire to ask whether the resolutions of the gentleman from Georgia cannot be divided?

The SPEAKER. They cannot.

Mr. BARKSDALE. I am willing to vote for the third, but not for the second division of that proposition.

Mr. HASKIN. I desire to inquire whether a motion to lay the last resolution on the table would be in order?

The SPEAKER. It would carry the whole subject with it.

Mr. HOUSTON. I objected, a few moments ago, to the division of the amendment offered by the gentleman from Georgia; I now withdraw that objection.

Mr. RITCHIE. I object to it.

Mr. CRAWFORD. I ask my colleague to withdraw his resolutions, and let us take the vote on the other.

Mr. MARSHALL, of Kentucky. I object to the resolutions being withdrawn.

Mr. HOUSTON. I withdraw my objection to a division of the question. I am willing that it should be divided.

Mr. RITCHIE. I object to any division of the question, and insist on the vote being taken just as the matter stands.

The question was taken on Mr. WRIGHT's substitute; and it was rejected.

Mr. MARSHALL, of Kentucky. I want the yeas and nays on that proposition.

Several MEMBERS. Too late.

The SPEAKER. The Chair thinks the result was announced before the gentleman from Kentucky asked for the yeas and nays.

Mr. MARSHALL, of Kentucky. I want a record of the vote, and suppose there will be no objection to that.

The SPEAKER. The Chair thinks the gentleman from Kentucky was not quite expeditious enough in making the request.

Mr. MARSHALL, of Kentucky. I made it as soon as I could open my mouth.

The SPEAKER. If the gentleman from Kentucky makes that statement, the Chair will receive his proposition to have the yeas and nays.

Mr. MARSHALL, of Kentucky. In order that there may be no misunderstanding, I move to reconsider the vote by which that amendment was rejected.

Several MEMBERS. How did he vote?

The SPEAKER. There was no record of the vote taken.

Mr. BURNETT. I hope that, if gentlemen consent, the yeas and nays may be called on the last vote, and not have us get at it in this roundabout way. It is a mere consumption of time unnecessarily.

Mr. CLARK, of New York. I object to having the yeas and nays taken on that question, which has been disposed of.

Mr. WRIGHT, of Georgia. I rise to a question of order. If I understood the decision of the Chair, it was that the resolutions introduced by me could not be divided. May not the House adopt one of these resolutions as a substitute for the proposition of the gentleman from Mississippi, and reject the balance of them?

The SPEAKER. That might have been, and doubtless would have been, admissible, if the division had been called for before the previous question was seconded, and the main question ordered to be put. The gentleman from Georgia

will perceive—and that is the reason why a division is never admitted after the previous question is sustained—that such a division operates, or might operate, as an amendment, which otherwise could not be received, the main question having been ordered. The gentleman from Kentucky moves to reconsider the vote by which the resolutions of the gentleman from Georgia were rejected.

Mr. MARSHALL, of Kentucky. And on that I ask the yeas and nays.

Mr. HUGHES. I renew the motion to lay the whole subject on the table.

Mr. JOHN COCHRANE called for the yeas and nays.

Mr. DEWART demanded tellers on the yeas and nays.

Tellers were not ordered.

Mr. CLAY demanded tellers on the question. Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken; and the House refused to lay the whole subject on the table.

The question recurred upon the motion to reconsider the vote by which the amendment of the gentleman from Georgia [Mr. WRIGHT] was rejected.

Mr. STANTON moved to lay the motion to reconsider upon the table.

Mr. MARSHALL, of Kentucky. Will not that carry the whole subject to the table?

The SPEAKER. It would not.

Mr. MARSHALL, of Kentucky. I call for the yeas and nays on the motion of the gentleman from Ohio.

The yeas and nays were not ordered.

The motion to reconsider was laid upon the table—ayes one hundred and twenty-two, noes not counted.

The question then recurred on agreeing to the resolution of Mr. BARKSDALE as a substitute for the resolution of Mr. RITCHIE.

Mr. BARKSDALE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BONHAM. I desire to make an inquiry of the Chair. If I vote now for the resolution of the gentleman from Mississippi, am I thereby voting for it in preference to the resolution of the committee?

The SPEAKER. If the resolution of the gentleman from Mississippi be adopted as a substitute for the resolution of the gentleman from Pennsylvania, the question will then recur between that resolution and the report of the committee.

Mr. HILL. I wish to inquire of the Chair if it is now in order to move to lay the substitute of the gentleman from Mississippi and the substitute of the gentleman from Pennsylvania on the table—not the whole subject, but only the two substitutes?

The SPEAKER. A vote has been taken since the motion was made to lay the whole subject on the table, and, therefore, a motion to lay the resolutions of the gentleman from Mississippi and the gentleman from Pennsylvania on the table, would, perhaps, be in order. The effect of it would be, however, to carry the whole subject to the table.

Mr. HILL. I thought that it would leave the resolutions of the committee untouched, for adoption or rejection.

The SPEAKER. A proposition to lay upon the table any portion of the sequence, carries with it the original proposition.

The question was taken on Mr. BARKSDALE's amendment to the amendment; and it was decided in the negative—yeas 56, nays 128; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Caruthers, Caskie, John B. Clark, Burton Craige, Crawford, Curry, Davidson, Dowdell, Eustis, Garnett, Gartrell, Greenwood, Harris, Hawkins, Houston, Jewett, Keitt, Jacob M. Kunkel, Lamar, McKibbin, McQueen, McRae, Humphrey Marshall, Maynard, Miles, Moore, Pendleton, Peyton, John S. Phelps, Sandidge, Scales, Scott, Seward, Henry M. Shaw, Shorter, Singleton, William Smith, Stephens, Stevenson, Miles Taylor, Trippie, Vallandigham, Watkins, John V. Wright, and Zollicoffer—56.

NAYS—Messrs. Adrain, Ahl, Andrews, Arnold, Bennett, Bingham, Bishop, Blair, Brayton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Coffax, Comins, Corning, Covode, Cox, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dimmick, Dodd, Durfee, Edie, Edmundson, Elliott,

English, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Giddings, Gillis, Gilman, Gilmer, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Haskin, Hatch, Hickman, Hill, Hoard, Horton, Howard, Hughes, Huyler, George W. Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leidy, Leiter, Lovejoy, Matteson, Milson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Phillips, Pike, Pottle, Purviance, Ready, Reagan, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Savage, John Sherman, Judson W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, James A. Stewart, George Taylor, Thayer, Thompson, Tompkins, Underwood, Vance, Wade, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wortendyke—128.

So the amendment to the amendment was rejected.

During the call of the roll,

Mr. CAVANAUGH stated that he had paired off with his colleague, Mr. PHELPS, or he should have voted "ay."

Mr. DOWDELL stated that Mr. STALLWORTH was detained from the House by illness.

Mr. WRIGHT, of Georgia, when his name was called, said: In order that I myself and others may vote intelligibly on this subject, would it be in order for me to ask the gentleman from Mississippi [Mr. BARKSDALE] this question: whether it is the object of his resolution to censure the Government, or to censure Commodore Paulding?

Mr. MORGAN. I object to all debate.

Mr. WRIGHT, of Georgia. I do not propose to debate the question, but simply to make that inquiry.

The SPEAKER. The inquiry is in the nature of debate.

Mr. WRIGHT, of Georgia. Then I must decline to vote at all.

Mr. BRANCH, when his name was called, said: I am opposed to both resolutions; on the pending proposition I vote "ay."

Mr. DAVIS, of Mississippi, stated that he was uncertain whether he was within the bar when his name was called, and therefore could not vote; if he had been able to vote, he would have voted "ay."

Mr. GREENWOOD stated that Mr. WARREN was still absent from the city, and had paired off for the residue of this week with Mr. BLISS.

The result of the vote having been announced, Mr. RITCHIE moved to reconsider the vote by which the amendment to the amendment was rejected; and also moved to lay the motion to reconsider upon the table.

Mr. CURRY moved to lay the whole subject upon the table; and upon that motion demanded the yeas and nays.

Mr. HOUSTON. What is the pending question?

The SPEAKER. The first question is on the motion of the gentleman from Alabama to lay the whole subject on the table.

Mr. HOUSTON. I have been voting, heretofore, to lay the whole subject on the table, and I shall have to repeat that vote, although I voted for the amendment of the gentleman from Mississippi, [Mr. BARKSDALE], which did not express my sentiments, and would now like to have a chance to vote for the report of the committee.

Mr. GROW. I object to debate.

Mr. JOHN COCHRANE called for tellers on the yeas and nays.

Tellers were not ordered.

Mr. CURRY then withdrew his motion.

The question recurred on Mr. RITCHIE's motion; and being taken, the motion to reconsider was laid upon the table.

Mr. HUGHES moved to lay the whole subject upon the table, and demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. HUGHES called for tellers.

Tellers were not ordered.

The question was taken; and the House refused to lay the whole subject on the table.

The question recurred on Mr. RITCHIE's substitute for the resolutions reported by the Committee on Foreign Affairs.

Mr. RITCHIE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. KELSEY. I would suggest to the gentleman from Pennsylvania a verbal amendment in his resolution.

Mr. RITCHIE. I cannot accept of any amendment.

Mr. KELSEY. The resolution now reads "December last."

Mr. RITCHIE. It should be December, 1857.

Several MEMBERS objected to debate.

The question was taken; and it was decided in the affirmative—yeas 99, nays 85; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Bennett, Bingham, Blair, Brayton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Coffax, Comins, Corning, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dimmick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Goodwin, Granger, Gregg, Groesbeck, Grow, Harlan, Haskin, Hatch, Hickman, Hoard, Horton, Howard, Hughes, Huyler, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Lawrence, Leach, Leiter, Lovejoy, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Pike, Pottle, Purviance, Reagan, Reilly, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Thayer, Thompson, Tompkins, Underwood, Vance, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wortendyke—99.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Caruthers, Caskie, John B. Clark, Clay, John Cochrane, Cox, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Greenwood, Lawrence W. Hall, Harris, Hawkins, Hill, Houston, Jenkins, Jewett, George W. Jones, Keitt, Jacob M. Kunkel, Lamar, McKibbin, McQueen, McRae, Humphrey Marshall, Maynard, Miles, Milson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Ready, Ricard, Sandidge, Savage, Scales, Scott, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Trippie, Vallandigham, Vance, Ward, Watkins, White, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer—85.

So Mr. RITCHIE's substitute was agreed to.

Mr. COVODE stated, during the roll call, that he was outside the Hall when his name was called and lost his vote; he was particularly anxious to vote "ay."

Mr. RITCHIE moved to reconsider the vote by which the substitute was adopted, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The question recurred upon agreeing to the resolutions reported by the committee as amended.

Mr. BARKSDALE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. COBB. I have to offer an apology to the House for a dereliction of duty: I was examining some papers that have been referred to my committee and neglected to vote, although I was in the Hall when my name was called. I would have voted against the amendment of the gentleman from Pennsylvania, and I now ask leave to have my vote recorded.

Several MEMBERS objected.

Mr. COX. I move to lay the resolutions, as amended, upon the table; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 92; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Caskie, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Greenwood, Lawrence W. Hall, Hatch, Hawkins, Hill, Hopkins, Houston, Huyler, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, Landy, Leidy, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Milson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, Phillips, Ready, Ricard, Sandidge, Savage, Scales, Scott, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stephens, Stevenson, George Taylor, Miles Taylor, Trippie, Underwood, Vallandigham, Vance, Ward, Watkins, White, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer—97.

NAYS—Messrs. Adrain, Ahl, Andrews, Bennett, Blair, Brayton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Coffax, Comins, Corning, Covode, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Gregg, Groesbeck, Grow, Harlan, Haskin, Hickman, Hoard, Horton, Howard, Hughes, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Pottle, Purviance, Reagan, Reilly, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Thayer, Thompson, Tompkins, Wade, Waldron, Walton, Cadwalader C.

Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wortendyke—92.

So the resolutions, as amended, were laid on the table.

Pending the call,

Mr. SMITH, of Virginia, stated that he was not in the Hall when his name was called, but would have voted in the affirmative.

Mr. JOHN COCHRANE moved to reconsider the last vote taken, and also moved to lay the motion to reconsider on the table.

Mr. STANTON demanded the yeas and nays.

Mr. JOHN COCHRANE withdrew the motion.

Mr. HICKMAN renewed it.

Mr. BOCKOCK. I would inquire if the gentleman voted with the majority?

The SPEAKER. The gentleman is recorded as voting in the negative.

Mr. BARKSDALE. Then the gentleman cannot make the motion.

NAVY-YARDS.

Mr. CLARK, of New York, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs inquire, and report to this House, which of the navy yards of the United States can be dispensed with without prejudice to the public service, and if any, that they report as to the best means of disposing thereof.

NAVAL APPROPRIATION BILL.

The SPEAKER. The business next in order is the consideration of a bill (H. R. No. 712) making appropriations for the naval service, for the year ending the 30th of June, 1860. The pending question is the motion submitted by the gentleman from Missouri, [Mr. PHELPS,] to refer the bill to the Committee of the Whole on the state of the Union. The gentleman from Ohio [Mr. SHERMAN] moved that the bill be referred to the Committee on Naval Affairs. The question is first on the motion of the gentleman from Missouri, to refer to the Committee of the Whole on the state of the Union, and print.

Mr. SHERMAN, of Ohio. Upon that question I would like the yeas and nays.

The yeas and nays were ordered.

Mr. PHELPS, of Missouri. Having reported this bill, under the direction of the Committee of Ways and Means, which matured it in accordance with their views of the public service, and a motion having been submitted by the gentleman from Ohio, to commit this bill to the Committee on Naval Affairs, it becomes my duty, as representing the Committee of Ways and Means, to give some reasons why the motion submitted by the gentleman from Ohio ought not to prevail.

First, it is a departure from the usual, and from a long-established practice of this House. Commencing from the foundation of the Government, you will find that there has always been one committee whose duty it was to provide the means for carrying on the business of the Government; and also a committee to whom was committed the province of recommending to the House such sums of money as may be thought proper to be appropriated. In the first Congress which assembled under the Constitution, the estimates themselves were first referred to the Committee of the Whole House. And there, in the first instance, an attempt was made to prepare the estimates of such sums of money as were deemed proper for the purpose of carrying on the Government. Shortly thereafter, however, a change was made, and it was made prior to the time indicated in the Manual. The Committee of Ways and Means was established about the year 1795, and sometimes consisted of one member from each State of the Union, and sometimes of even more than that, and in one instance of twenty-one members, to which committee was referred the estimates of the Treasury Department; and that committee, from time to time, reported bills embracing such appropriations as they believed were necessary for carrying on the several departments of the Government.

Mr. Speaker, this proposition looks to an innovation upon the established practice of the House. The question may arise, what good could result from it? I do not consider this proposition as applicable merely to the bill now under consideration; but I consider it as applicable to every appropriation bill which may be introduced into

this House. You have a Committee on Pensions; you have a Committee on Indian Affairs; you have a Committee on Military Affairs; you have a Committee on Naval Affairs; you have a Committee on Commerce; and on the Judiciary; and there are expenditures arising under those heads which might be referred to these several committees I have enumerated. *If you are now to inaugurate the practice of referring to the Committee on Naval Affairs the naval appropriation bill, by a parity of reasoning it becomes necessary and proper to refer to the Committee on Pensions the pension appropriation bill. By the same reasoning it becomes necessary that the bill making appropriations for the support of the Army, that the bill making appropriations for the Military Academy, and the bill making appropriations for the erection or repair of fortifications, should be referred to the Committee on Military Affairs.

By a parity of reasoning, it will also become the duty of this House to refer to the Committee on the Post Office and Post Roads estimates for the mail service for the ensuing year. And you may further distribute these estimates. There are items which particularly relate to the commercial interests of the country. There are, for instance, the estimates for the coast survey, provisions for the maintenance of light-houses, and the light-house establishment generally. By parity of reasoning, these should be referred to the Committee on Commerce for its examination and report. So, also, in reference to the appropriation for the salaries of your United States judges, marshals, district attorneys, and the expenses generally of your judicial system. Those estimates ought, according to the gentleman's reasoning, be referred to the Committee on the Judiciary for investigation and report. I submit to the members of this House whether it is in the experience of any of them that any disposition has ever been found upon the part of a committee, which has any particular branch of the public service, to reduce the estimates of the Executive Departments; but whether, on the contrary, the disposition has not been to restore them when they have been reduced by the Committee of Ways and Means, or to enlarge them? Such has been my experience, and I account for it in this way: the members who give their particular care to any branch of the public service have suggestions made to them for the improvement, for the extension, and for the increase of that service; and not charged with looking to the general expenditures of the Government; not having themselves to foot up the bill; not having themselves to examine into the state of the Treasury to see whether it is prepared and able to meet the expenses which it may be proposed to fasten upon the Treasury Department; you find that, instead of reducing, they recommend an increase upon the estimates. Such has been my experience since I have been a member of this body; and since I have had the honor of serving on the Committee of Ways and Means, I know of repeated instances, when that committee have recommended reductions upon the estimates as submitted to Congress, that those having charge of the particular branch referred to have endeavored to restore those estimates.

Now, Mr. Speaker, I ask, when you have established a financial committee, what is its duty? Its duty consists, not simply in recommending to this House the sums of money which shall be appropriated for the public service; but also in inquiring into the economy of expenditures, and whether appropriations have been disbursed in accordance with law. That committee is charged with providing the means of carrying on the Government. Under the plan of the gentleman from Ohio it is now proposed to do—what? To distribute the estimates of the Executive Departments amongst the several committees of this House. In that way you will multiply the appropriation bills instead of keeping them at the same number they are now, or diminishing that number. It is contemplated (let me take another point of view) to make the Committee on Naval Affairs and the other committees of this House revising committees, whose duty it would be to revise the recommendations submitted by the Committee of Ways and Means. I submit, if it be necessary to have two committees to investigate the subject-matter of appropriations, whether the proper course would not be to charge the various committees with the examination of the estimates for

their particular branch, and then to have them submit their conclusions to the Committee of Ways and Means? Let your financial committee have the benefit of the advice and the instruction which the other committees of the House may give; but leave it with that committee to decide what amount of expenditures they will recommend to the Congress of the United States. I therefore say, in this point of view, if it be the desire to have these estimates revised by two committees, that the proposition of the gentleman from Ohio [Mr. SHERMAN] commences in the wrong place. If such be his object, as I have stated, the estimates ought to have been distributed amongst the various committees of the House before they had gone to the Committee of Ways and Means, and been there examined.

Mr. MONTGOMERY. I ask the gentleman to yield to me for a few questions.

Mr. PHELPS, of Missouri. Certainly.

Mr. MONTGOMERY. I desire to ascertain from the Committee of Ways and Means whether they have made any arrangement for the increase of the revenues of the Government? We are from day to day asked by the Committee of Ways and Means to make appropriations for defraying our governmental expenditures. At the beginning of the last Congress we received a message from the President of the United States, requesting us to grant a loan of \$20,000,000. We are informed by the Secretary of the Treasury that the present deficiency of the Treasury is \$8,000,000. These deficiencies creating new loans have created, too, a large national debt. And, sir, while we are asked from day to day to appropriate thousands and hundreds of thousands and millions of dollars for the expenses of this Government, I would like to know whether the revenues of the Government are to be increased, and how?

Mr. CRAWFORD. I object to the harangue of the gentleman from Pennsylvania, because it is not pertinent to the question before us.

Mr. MONTGOMERY. I will show that the question is pertinent and important.

The SPEAKER. The Chair is of the opinion that the gentleman's remarks are not pertinent.

Mr. MONTGOMERY. They go to the necessity of a delay of these appropriations. If there has been no arrangement for increasing the tariff of the revenues of this Government, of course then, as a member from Pennsylvania, I am opposed to any further increase of the national debt, and will vote to refer the bill to the Committee on Naval Affairs. I desire to know from the gentleman whether there has been any arrangement made for any increase of the tariff?

The SPEAKER. The Chair thinks it would not be competent for the gentleman from Missouri to answer the question.

Mr. CLARK, of New York. I should like to hear from the chairman of the Committee of Ways and Means whether, if this resolution be passed, it will be competent for the Committee on Naval Affairs to increase these appropriations? I say unqualifiedly that I vote for the reference in order that they may be reduced.

Mr. SHERMAN, of Ohio. Such is the purpose of the reference.

Mr. PHELPS, of Missouri. I will answer the question of the gentleman from New York, because it is pertinent. The Committee on Naval Affairs, if this bill be referred to them, will have it in their power to recommend an increase of appropriations authorized by existing laws.

Mr. SHERMAN, of Ohio. Or a diminution of them?

Mr. PHELPS, of Missouri. Certainly.

Mr. BOCKOCK. I wish to answer the question of the gentleman from New York. Any recommendation that might be made by the Committee on Naval Affairs would come before the House in the form of amendments to the bill. We cannot incorporate anything into the body of the naval appropriation bill. We can only bring our propositions before the House; and there would be a separate vote on everything that we should recommend, as separate and independent propositions.

Mr. CLARK, of New York. I ask the chairman of the Committee on Naval Affairs whether, if this resolution be passed, they contemplate increasing the appropriations in this bill?

Mr. BOCKOCK. Our only purpose—as I intended to state after the gentleman from Missouri

had concluded—was to give the naval appropriation bill a thorough overhauling.

"From turret to foundation stone,"

and to see if we could not find out anything in it which ought to be struck out.

Several MEMBERS. Right; right.

Mr. PHELPS, of Missouri. In reply to the inquiry of the gentleman from New York, I would say that, if the bill be committed to the Committee on Naval Affairs, that committee would have the power to recommend such an increase or diminution of appropriations as they might think proper. So has the Committee of the Whole on the state of the Union that power. When that bill shall have been referred to the Committee of the Whole on the state of the Union, where it must go, then, if the Committee on Naval Affairs desire to present any propositions as amendments to it, it will have the power to do so, either through its organ or by any member of it. So, too, any member of the House has the right, in Committee of the Whole on the state of the Union, to submit propositions to amend, by reducing or by increasing the appropriations authorized by existing laws. There the propositions can be discussed; and there is the true place in which these appropriation bills are to be perfected. No committee will arrogate to itself infallibility. The Committee of Ways and Means is as liable to err as any other committee; but when they reported the bill, they acted on their own judgment on the information before them. In many instances, they have felt it their duty to recommend a reduction of the estimates submitted to them. That was the case in the bill under consideration.

I do not see that any good is to be accomplished by referring this bill to the Committee on Naval Affairs. It has been found to be wise by those who preceded us in legislation, to intrust to one committee financial questions and financial measures. I desire to repel in most emphatic terms the charge which I have sometimes heard made on the floor of the House of Representatives, that the Committee of Ways and Means seeks to absorb the whole business of the House—seeks to monopolize it and bring it within its grasp. I have been on that committee for a long period of time, and have always endeavored to resist taking charge of anything except that which is legitimately intrusted to it under the rules of the House, and by the order of the House. And let me here remark, that if gentlemen in this House desire to get at the consideration of public business other than appropriation bills, there is no method by which that result can be brought about so easily as by hastening the consideration of the appropriation bills. I do not mean that we should act upon them without due consideration. All but three of them were reported before Congress took its recess on the 23d of December. The others were reported immediately after the re-assembling of Congress. They were ordered to be printed, and were printed and ready for distribution on the next or subsequent day after they were reported. They were therefore in that situation that every member of the House could examine them with the estimates in his hands. They could refer to the laws authorizing these expenditures, and if, in any instance, the Committee of Ways and Means had recommended appropriations that were too large or too small, gentlemen could be ready, when these bills came up for consideration, to submit amendments to them; and if gentlemen would then confine their remarks to the subject-matter under consideration they would hasten the business of the House, and soon dispose of it. When these bills shall have been disposed of, other measures of financial policy may be brought before the House. That long list of bills on the Calendar can be thus reached, and all important measures pending before the Committee of the Whole House can be considered or have some disposition made of them before the close of the session.

I therefore submit to the House whether it is expedient now to change its policy? If we do change it, why not commence with a change in the rules of the House? There is the true foundation of reform. Change your rules, and provide that the estimates for the different branches of the public service shall, by the rules, be referred to their appropriate committee. Then, if you please, let one committee, as has been suggested by some members, be an advisory committee, and let that

be the financial committee of the House. But what is proposed in this case is to make another committee an advisory committee over the action of the Committee of Ways and Means. The policy of the gentleman from Ohio, if it is to be adopted, should have been commenced on the other bills. It should have been commenced on the pension appropriation bill. It should have been adopted on the Indian appropriation bill that passed yesterday; and on the Military Academy bill that passed before the recess of Congress. These remarks, Mr. Speaker, I felt it my duty to make on this occasion.

Mr. BOCK. I shall make a very few remarks, Mr. Speaker, in reply to the remarks of the gentleman from Missouri; and I do so more from a sense of the duty that I owe to the committee over which, by your favor, I preside, and from a sense of duty to the country, than from any feeling I have in regard to the proposition now pending before the House. For a long time past there has been a feeling in the country, growing from year to year, that there is something wrong in our manner of managing the appropriations of money made by the Government of the United States. Our expenditures are great. They have increased, are increasing, and most of us believe that they ought to be diminished. We who belong to the Naval Committee are met very frequently by the inquiry, "How is it that your naval establishment costs so much money as it does; and why do you not take some steps to have the amount of money appropriated for it reduced?" It is not known, perhaps, to the country that the Naval Committee of the House, under our rules, has no more influence on the expenditures for the naval establishment of the country than is possessed by any other committee. Two or three weeks ago, with a view to change this state of things, a proposition was submitted, and, by a unanimous vote of the Committee on Naval Affairs, adopted; instructing me as its organ to move this House when the Committee on Ways and Means reported the naval appropriation bill, that it be referred to the Committee on Naval Affairs for examination. I was unintentionally out when the appropriation bill was reported; and the gentleman from Ohio, [Mr. SHERMAN,] in my absence, brought forward the proposition in my stead. I am here now to speak for that committee.

Mr. Speaker, the gentleman from Missouri, [Mr. PHELPS] has correctly laid down the duties of the Committee of Ways and Means, under the rules of the House, and has asked us why, if we mean to proceed in this matter in the manner indicated, we do not begin by a proposition to change the rules? That is a question easily asked, and as easily answered. The gentleman from Missouri is one of the few men that have been members of this House longer than I have, and yet he knows as well as I do the difficulty that exists in changing the rules of the House of Representatives. Sir, a committee was appointed at the last session to consider the subject of the rules, and recommend changes. Amendments have been proposed by that committee, and we find it almost impossible to get a consideration of them. It is next to impossible to change the rules. We had, therefore, to consider this subject under the rules of the House, as we found them, knowing as we did, that if we waited for a change of them, we should wait as the fool did till the waters passed by, and wait in vain.

Now, I would have preferred, as the gentleman from Missouri suggested, if it had been practicable under the rules, that the estimates should have been at first referred to the Committee on Naval Affairs; that when the Committee on Naval Affairs reported what amount of supply was necessary for the naval establishment, then the Committee of Ways and Means, as it is their legitimate sphere, and as their name indicates, should have merely reported to the House a bill to raise the money called for by that committee. That is the manner in which the matter is managed in the English Parliament, from which our rules are mostly taken. The Chancellor of the Exchequer submits what he calls his budget to the House of Commons. That budget is referred to a Committee of Supply; they consider it, and determine how much is necessary to carry on the operations of the Government. When that committee has reported, its report is referred to a Committee of Ways and Means. The duty, and the only duty,

of the Committee of Ways and Means is to report a bill to raise the money. The Committee of Supply is a different committee from the Committee of Ways and Means. The Committee of Supply decides how much is needed for each particular branch of the service. The Committee of Ways and Means provide for raising that money, and nothing else. A "Committee of Ways and Means!" Ways and means for what? The ways and means that may be called for to carry on the different departments of the Government.

Mr. SHERMAN, of Ohio. Will the gentleman permit a single section of the law of Parliament to be read to show the mode and manner in which business is transacted in the English Parliament?

Mr. BOCK. Yes, sir; I yield for that purpose.

The Clerk read as follows:

"When these estimates have been presented, printed, and circulated amongst the members, the sittings of the Committee of Supply begin. The estimates and accounts which are necessary to guide the committee are referred, and the member of the Administration representing the department for which the supplies are required first explains to the committee such matters as may satisfy them of the correctness and propriety of the estimates, and then proceeds to propose each grant in succession; which is put from the chair in these words: 'That a sum not exceeding £— be granted to her Majesty,' for the object specified in the estimate."

"At the beginning of a new Parliament the first business of the Committee of Supply is to elect a chairman, who, when chosen, continues to preside over that committee for the remainder of the Parliament. If any difference should arise in his election, the Speaker resumes the chair, and it is determined by the House what member shall take the chair of the committee, in the manner already explained in reference to other Committees of the Whole House. This official chairman, who is designated the chairman of the Committee of Ways and Means, also presides over the Committee of Ways and Means and other Committees of the Whole House; and executes various duties in connection with private bills, which will be described in the proper place."

"When the first report of the Committee of Supply has been received by the House, and agreed to, a day is appointed for the House to resolve itself into a committee to consider of ways and means of raising the supply granted to her Majesty; or, as it is briefly denominated, 'the Committee of Ways and Means.' The House will not appoint this committee until they have voted a sum of money as the foundation of its future proceedings; nor is the committee subsequently permitted to vote ways and means in excess of the expenditure voted by the Committee of Supply."

Mr. STEPHENS, of Georgia. In the British Parliament there are no standing committees, as in this House. The Committee of Supply is a Committee of the Whole House, and the Committee of Ways and Means is a Committee of the Whole House. I make this statement that the House may not be misled by the authority cited by the gentleman from Ohio.

Mr. SHERMAN, of Ohio. The gentleman will perceive that the head of each particular department of the Government makes his estimates, and they are explained just as if the chairman of the Committee on Naval Affairs should make a statement of what is necessary for the naval service; and after all the items have been explained and debated in the Committee of Supply, the whole goes to the Committee of Ways and Means.

Mr. STEPHENS, of Georgia. But they have no such committee as our Committee of Ways and Means. They have no standing committees at all.

Mr. BOCK. If the suggestion of the gentleman from Georgia has any weight upon this question at all, it bears in favor of the position which I maintain. If it is a Committee of the Whole House in each case, as I believe it is, then why draw the distinction between the Committee of Supply and the Committee of Ways and Means? It is because the duties in the two cases are different and ought to be kept separate and distinct. In other words, if the Committee of Ways and Means and the Committee of Supply in the British Parliament are constituted of the same persons, why, unless they wish to keep their duties distinct, call them by different names? It is because they think it important that the question of deciding how much shall be raised for the support of the Government, and the duty of devising the means to raise that money, shall be kept separate and distinct.

Mr. TAYLOR, of Louisiana. I would suggest to the gentleman that under our system the Committee of Ways and Means act with reference to existing provisions of law only. It is the peculiar function of our standing Committee of Ways and Means only to make recommendations for the

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purpose of carrying out existing laws. Under the English system that is not the practice. The expenditures of the English Government are not regulated by laws which have been in existence, but are regulated upon the estimates of appropriations made by responsible ministers. In consequence, the Committee of Supply—which is a Committee of the Whole House—performs a function which, in our case, has already been performed by the Congress of the United States. In the British Parliament, the Committee of Supply establishes propositions with reference to the public service, and the Committee of Ways and Means merely carries them out. But here the peculiar function which the Committee of Supply in the English Parliament performs has already been performed by the legislative power of the United States.

Mr. BOCKOCK. The gentleman from Louisiana may somewhat approach correctness theoretically—he is not exactly correct even theoretically—but he is very far from it practically. I ask the gentleman from Louisiana if there is any law fixing the amount which the Committee of Ways and Means shall put in the naval appropriation bill for reconstruction and repairs? Is there any law limiting the Committee of Ways and Means to \$100,000, or \$200,000, or \$300,000 for that purpose?

Mr. TAYLOR, of Louisiana. I understand that, under the rules of the House, the Committee of Ways and Means cannot report appropriations, unless it is to carry out provisions of existing law; and that, under the rules of the House, no amendment to the bills which they have reported, which is founded upon a different principle, is in order.

Mr. BOCKOCK. I said that the gentleman might approach correctness theoretically. He did not, however, exactly reach it in theory. Practically, he was far from it, as I intend to show. I had asked the gentleman whether the discretion of the Committee of Ways and Means was limited upon the different items of appropriation in the naval bill? They are not so limited by any law. It is true that they are restricted to appropriations for objects pointed out by law; but the amount which they may appropriate for these objects is left to their discretion. This is the province of the Committee of Supply in the British Parliament. Furthermore, the Committee of Ways and Means do not practically confine themselves to the law. I do not now speak with reference to the gentleman from Missouri and his committee; I speak with reference to the general practice. How is it that the gentleman from North Carolina, [Mr. BRANCH,] and other gentlemen, have had occasion so often to say: "Here is an item in this bill which is not in pursuance of existing law, and which could not be moved as an amendment to it under the rules of this House." This thing is constantly done, and what is the redress? When the Committee of Ways and Means report a bill to the House, and it is referred to the Committee of the Whole on the state of the Union, if a member makes objection to any item in it, on the ground that it is not in pursuance of existing law, the answer of the chairman is, that the bill has been referred to a committee, and that it is impossible to rule out of order what the House has ordered to be considered. So, practically, the Committee of Ways and Means may incorporate anything in an appropriation bill, and very often do they incorporate items not in pursuance of existing law; and yet, upon a question of order, we would be unable to rule it out.

Mr. PHELPS, of Missouri. With the permission of the gentleman from Virginia, I desire to interrupt him a moment. He has already passed that branch of the subject upon which I desired to make a statement. I before adverted to the course pursued in the early history of the Government in preparing estimates of expenditure. They then adopted a system similar to the English system. A committee in the first Congress was constituted for the purpose of preparing estimates of appropriations for the support of the

Government for that year. There was then no Committee of Ways and Means by the rules of the House. There were but two standing committees of the House. That committee prepared and reported its estimates in the same form that the Secretary of the Treasury now prepares his estimates. Those estimates were submitted to the House; and the House, following the course of the English parliamentary practice, referred them to a committee to bring in a bill. Some half a dozen years thereafter, I think it was in 1795, there was a simple order adopted appointing a standing committee consisting, sometimes of one member from each State, sometimes of seven members; and then again at another time of twenty-one members. But it was a committee appointed simply to bring in a bill according to estimates which had been prepared in the House itself. Afterwards the Secretary of the Treasury was required to submit to Congress estimates of appropriations; and those estimates, from that time up to the present, have been invariably referred to the Committee of Ways and Means.

I merely say that the first practice of Congress was analogous to that of the British Parliament in the House of Commons, and that our fathers changed it, and organized a standing committee of this House, whose duty it was to consider the estimates of appropriations, as well as to devise the means for raising revenue.

Mr. BOCKOCK. When I see this discussion reported, I may be at a loss to determine whose speech this is. If it is mine, I wish it to be mine.

Mr. PHELPS, of Missouri. I interrupted the gentleman only by his permission.

Mr. BOCKOCK. I do not complain. I merely mean to suggest that I would like to conclude my observations without any more interruption than gentlemen may think is necessary for them to make.

I have said I would have preferred if, under the rules of the House it could be done, that estimates of appropriation should have been originally referred to the Committee on Naval Affairs, that the Committee on Naval Affairs could have had the opportunity of giving those estimates a thorough revision, and of reporting to the House that so much money would be needed for the naval service of the country; that then the Committee of Ways and Means should have reported a bill to raise that money. That was impracticable under the rules of the House. We knew it was impossible to change the rules. The nearest we could approach the accomplishment of that object was, after the Committee of Ways and Means had reported the bill, to move to refer it to the Committee on Naval Affairs.

Now, sir, I stated, in the commencement of my remarks, that the amount of appropriations for the expenses of the Government had increased, and continued to increase, until it had reached an amount alarming to the country, and that one great difficulty in the way of reforming these abuses is the fact that these estimates of appropriations do not, and cannot, in the nature of things, under the rules as they now stand, undergo a thorough revision. How is it possible, in three short months, for one committee of this House, able, intelligent, and efficient as that committee may be, to give all the estimates of appropriations for every branch of the Government a thorough and searching investigation? How can the Committee of Ways and Means investigate and find out whether the expenses of the naval service, of the military service, of the Indian service, and of all other branches of the service, are excessive or not? Can they do it all? It seems to me impracticable. And let me submit to the House what standing committee would be most likely to know how much is necessary for the naval service? the Committee of Ways and Means, or that committee whose duty it is to turn their attention exclusively to naval affairs?

If we are to have a reform in reference to this matter, if this searching scrutiny to which I have alluded is to be given, the present practice of the House must be changed. The gentleman at the

head of the Ways and Means Committee, says this thing has not been done heretofore. All reforms have a beginning, and this is a mere declaration that it is a reform. If, sir, the doctrine prevails that because a thing has not been done before, it is not to be done now, then you yield to the necessity of moving on in the way your fathers went, without ever embracing a new idea, or adopting a new expedient to reform abuses.

Mr. Speaker, I am impressed with the belief, from my examination of the naval appropriation bill, that under several items of appropriations great abuses are practiced, and that those abuses ought to be remedied. I am free to declare it as my deliberate conviction that too much money is expended in the navy-yards of this country, for the amount of work performed.

The SPEAKER. The Chair thinks it is hardly proper to refer to the subject-matter of the bill.

Mr. BOCKOCK. I intended that as a reason why this bill ought to undergo scrutiny and revision; but if the Chair thinks it out of order, I pass it by.

Mr. PHELPS, of Missouri. Has the gentleman examined the naval appropriation bill?

Mr. BOCKOCK. I have tried to get this bill, but have been unable to do so. I believe it has not yet been printed.

Mr. PHELPS, of Missouri. The reason why I propounded to the gentleman from Virginia the question whether he had examined this bill was, that, in the haste of speaking, perhaps, he carried the impression that he was speaking of appropriations in the bill as recommended by the Committee of Ways and Means.

Mr. BOCKOCK. I did not mean to speak of this particular bill. I believe that this bill, however, recommends an appropriation almost as large as that contained in bills which have gone before it. I am not disposed to blame the Committee of Ways and Means. In the nature of things, the Committee of Ways and Means could not thoroughly examine all these matters. If these things are to be reformed, you will have to adopt some new method, and we propose it.

Is the Committee of Ways and Means, and the Committee of Ways and Means alone, to determine how much money you must appropriate for your military establishment, how much for your naval establishment, how much for your Indian establishment, how much for the judiciary, how much for your diplomatic and consular service, how much for everything else? Are some nine members, selected by the Speaker, no doubt wisely, from the most efficient members of the House—are they to be intrusted to carry on almost the entire practical legislation of Congress? I do not charge that the Committee of Ways and Means seeks to engross and absorb all the business of the House. No, sir; I have made no such charge. What I say is, that under the rules and practice of the House, the Committee of Ways and Means does practically have the control of nine tenths of the legislation of the Congress of the United States. This ought not so to be. Understand me; I do not object, so far as these gentlemen are concerned; far from it. I object to the policy. I object in the name of the country, and because the public service would be promoted by a different practice; and if my friend from Missouri [Mr. PHELPS] thinks that we had any disposition to imply any distrust of him, he does us great injustice. I do not care who may be at the head of that committee; I do not care if he be wiser than any statesman that has ever lived in the country. If we had a man who could marshal statistics with all the terrible array of a Pitt, who could hurl the burning bolts of logic with all the crushing power of Fox, and who could wield the light artillery of eloquence and of wit with all the *feu de joie* splendor of a Sheridan—if, sir, we had a man combining all the powers of all these, I would still say, that such a man would not be able to embrace, comprehend, and fully master, all the subjects referred to the Committee of Ways and Means of this House.

No, sir; I have no desire to reflect upon the

gentleman from Missouri—none in the world. I hope that he may extend and increase the well-earned reputation he enjoys, until he shall reach the highest acme of his reasonable ambition. But however much I may wish well to the gentleman from Missouri, there is that which I prefer over even his interests and his desires; and that is, the good of my country. And it is because I believe the reference of this bill to the Committee on Naval Affairs will tend to promote the interests of the country, that I have made this motion.

I know, Mr. Speaker, that gentlemen have indiscreetly circulated the report that the Committee on Naval Affairs wants this bill to ingraft upon it some proposition to construct additional sloops of war. Such an idea, so far as I know, has never entered into the mind of a single member of that committee. If we desired the construction of sloops of war, we could very easily report a bill for that purpose. The Committee on Naval Affairs of the House have not even agreed that it is expedient, at this session of Congress, to ask for the construction of new sloops. If we were so far forgetful of our duty and our obligations to you and the country as to seek to incorporate it upon this bill, we would be unable to do it. We would not be able to make it a part of this bill, and we would accomplish nothing by moving it as an amendment. I stated, when the gentleman from Missouri was upon the floor, that if the Committee on Naval Affairs had amendments to recommend, they would stand merely as amendments, and nothing else. But, sir, I will repeat that I think I state the opinion of every member of that committee, that there is no intention to increase the amount of appropriations of this bill. Such an idea has not constituted any part of the motive of action of one single member of that committee, so far as I know. Our proposition arose from a disposition to overhaul this bill, and see whether there were not some extravagances which might be got rid of.

And now, Mr. Speaker, I have done my duty. I have pointed out a mode in which the great and growing expenditures of this Government may be reduced. I do not know that the House will adopt it. Perhaps not. Real and valuable reforms are embraced slowly, and with reluctance. It is the work of time. But, when the great inquisition is made in reference to the excessive expenses of this Government, and when members shall plead their inability to reduce them, I leave this record in the hands of the people to be employed against them.

Mr. PHILLIPS. I desire to ask the gentleman a question. If this bill be referred to the Committee on Naval Affairs, which chairman is to take charge of it when it is reported back? The chairman of the Committee of Ways and Means, or the chairman of the Committee on Naval Affairs?

Mr. BOCK. As to a matter of that sort, I would yield with the utmost promptitude to the gentleman from Missouri. I think the gentleman who first reported it from the Committee of Ways and Means, would be entitled to take charge of it.

Mr. PHILLIPS. I do not ask what the gentleman would do as a matter of courtesy, but what would be the requirement of our rules?

Mr. BOCK. That would be a question for the decision of the Speaker. So far as my own opinion is concerned, I think that the gentleman from Missouri would stand as the reporter of the bill, and have the right to control it.

Mr. SHERMAN, of Ohio. Mr. Speaker, I will detain the House for a few moments, because I am satisfied that a majority of the House will agree with me in my views of this subject. I regard this motion as establishing a new practice in the House; and I think, therefore, that it ought to be well considered. The purpose of the Committee on Naval Affairs has been well stated by the chairman; and I will not, therefore, repeat it. The object is not in the least to embarrass the Committee of Ways and Means, or to embarrass this bill, or to delay the action of the House on the appropriation bills; but, if possible, to introduce a more severe scrutiny into the appropriation bills than has been, or could be, secured by the Committee of Ways and Means.

Mr. GROW. If the gentleman will give way, I will move that the House adjourn.

Mr. SHERMAN, of Ohio. I yield for that purpose.

Mr. UNDERWOOD. I ask the gentleman to withdraw the motion to adjourn until I can intro-

duce a bill to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the navigable waters of the Gulf of Mexico to the navigable waters of the Pacific ocean, of which previous notice has been given, in order that it may be referred and ordered to be printed.

Mr. KEITT objected.

The motion of Mr. Grow was agreed to; and thereupon (at five minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, January 12, 1859.

Prayer by Rev. P. D. GURLEY, D. D.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDING OFFICER (Mr. BRIGHT in the chair) laid before the Senate a communication from the President of the United States, in reply to the resolution of the Senate, passed on the 16th ultimo, requesting him to communicate, if in his opinion not incompatible with the public interest, any information in his possession in relation to the landing of the bark Wanderer, on the coast of Georgia, with a cargo of slaves. He transmits to the Senate the report made to him by the Attorney General, to whom the resolution was referred. From that report it will appear that the offense referred to in the resolution has been committed, and that effective measures have been taken to see the laws faithfully executed. He concurs with the Attorney General in the opinion that it would be incompatible with the public interest, at this time, to communicate the correspondence with the officers of the Government at Savannah, or the instructions which they have received. In the mean time, he says every practicable effort has been made, and will be continued, to discover all the guilty parties, and to bring them to justice.

On motion of Mr. HUNTER, the communication was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. PEARCE presented two petitions of citizens of Washington, praying that the Metropolitan Railroad Company may be allowed to lay a railroad track from Georgetown, through Pennsylvania avenue, to the Baltimore and Washington railroad depot; which were referred to the Committee on the District of Columbia.

Mr. TRUMBULL presented a petition of citizens of Moline and Rock Island, in Illinois, praying the passage of a law for the sale of the island of Rock Island, in that State; which was referred to the Committee on Military Affairs and the Militia.

Mr. BIGLER presented the petition of citizens of Montgomery county and its vicinity, Pennsylvania, praying the establishment of a mail route; which was referred to the Committee on the Post Office and Post Roads.

Mr. RICE presented the memorial of citizens of Minnesota, praying the establishment of a mail route from St. Paul to the navigable waters of the Columbia river, and to Puget Sound; which was referred to the Committee on the Post Office and Post Roads. As it referred to a question which the petitioners deemed one of great importance, he moved that the memorial be printed; which was agreed to.

Mr. KING presented a petition of inhabitants of Mannsville, New York, a petition of inhabitants of Vienna, New York, and a petition of inhabitants of Brownsville, New York, praying the construction of a breakwater at the port of Cape Vincent; which were referred to the Committee on Commerce.

Mr. FITZPATRICK presented the petition of Eulogio de Celis, praying remuneration for money loaned and supplies furnished to Colonel Fremont, as Governor of California; which was referred to the Committee on Military Affairs and the Militia.

Mr. HAMMOND presented the petition of H. J. Hartstene, a commander in the Navy, praying that certain expenses incurred on account of the barque Resolute may be allowed in the settlement of his accounts; which was referred to the Committee on Naval Affairs.

Mr. CAMERON presented a petition of miners and others, of Schuylkill county, Pennsylvania, praying an increase of the duties on coal and iron; which was referred to the Committee on Finance.

Mr. PUGH presented the petition of citizens of Ohio, who were soldiers in the war of 1812, praying that the bill now before Congress granting pensions to the soldiers of that war, may become a law; which was referred to the Committee on Pensions.

Mr. KENNEDY presented the memorial of Adelaide Adams, widow of George Adams, a commander in the Navy, praying for a pension; which was referred to the Committee on Pensions.

Mr. PUGH presented the petition of Thomas Ewing, jr., and others, residents of Kansas, praying that land may be granted to that Territory to aid in the construction of certain railroads; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PUGH, it was

Ordered, That the petition and papers of William Sawyer and others, citizens of Auglaize county, Ohio, asking compensation for loss of lands in Ohio by reason of an Indian title not extinguished, be taken from the files of the Senate and referred to the Committee on Private Land Claims.

BILL INTRODUCED.

Mr. RICE, in pursuance of previous notice, asked and obtained leave to bring in a bill (S. No. 503) authorizing the President, with the consent of any Indian tribe, to expend their money annuities for educational, agricultural, and other objects, that will best contribute to their prosperity and advancement; which was read the first and second times, by unanimous consent, and referred to the Committee on Indian Affairs.

REPORTS FROM COMMITTEES.

Mr. HAMMOND, from the Committee on Naval Affairs, to whom were referred the petition of William R. Babcock, guardian of Samuel Pearce; the memorial of Horace B. Sawyer; the memorial of E. Carrington Bowers; the memorial of Charles H. Jackson; the memorial of Samuel Lockwood; a communication from H. B. Sawyer and Charles T. Platt; and the bill (S. No. 473) to allow back pay to certain naval officers, reported the bill without amendment, and with a recommendation that it do pass.

Mr. MASON, from the Committee on Foreign Relations to whom was referred the message of the President of the United States, communicating a copy of the treaty between the United States and the Kingdom of Siam, concluded 29th of May, 1856, and calling the attention of the Senate to the necessity of an act for carrying the same into effect, reported a bill (S. No. 504) to carry into effect the provisions of article three of the treaty between the United States of America and the Kingdom of Siam, concluded on the 29th of May, 1856; which was read, and passed to a second reading.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the memorials of the Provident Association of Clerks, praying an amendment of their charter, reported a bill (S. No. 505) to amend the "Act to incorporate the Provident Association of Clerks of the civil Departments of the Government of the United States in the District of Columbia;" which was read, and passed to a second reading.

Mr. BROWN. I am directed by the same committee, to whom were referred the memorial of the President and Directors of the Metropolitan Railroad Company, praying the assistance of Congress to the act of the Legislature of Maryland, incorporating that company, the incorporation of the company in the District of Columbia, and authority to extend their railroad through Georgetown and Washington; the memorial of citizens of Montgomery county, Maryland, praying Congress to authorize the Metropolitan Railroad Company to construct their road from Georgetown, through Washington, to the navy-yard; the memorial of Gilbert Vanderwerken, praying that the bill passed by the House of Representatives, in relation to a railroad along Pennsylvania avenue, in the city of Washington, may become a law; the memorial of Thomas Motley, praying permission to lay a railroad track across the avenues in the city of Washington; a memorial of the members of the Board of Aldermen and Board of Common

Council of Georgetown, District of Columbia, praying that the Metropolitan Railroad Company may be authorized to construct their road along Pennsylvania avenue to the Capitol and the Baltimore and Washington railroad depot; five petitions of inhabitants of Washington, praying that the Metropolitan Railroad Company may be authorized to construct their road along Pennsylvania avenue to the Washington and Baltimore railroad depot; the memorial of Taylor & Maury and others, citizens of Washington, praying authority to construct a railroad from Georgetown along Pennsylvania avenue to the navy-yard in that city; the petition of residents of Georgetown, District of Columbia, praying that the Metropolitan Railroad Company may be authorized to construct their road from that town into and through Washington, to report upon them adversely. The committee have instructed me to report adversely on all of them, and to say that, at the last session of Congress, the House of Representatives passed a bill authorizing a company, commonly known as Vanderwerken's company, to construct a railroad on that avenue. That bill was referred to the Committee on the District of Columbia, and by them reported upon, and it is pending in the Senate for its action. The committee believe that if the franchise be granted, it had better be given to that, than to any other company, and they have instructed me to report accordingly.

Mr. HALE, from the Committee on Naval Affairs, who were instructed to inquire and report to the Senate what action, if any, should be taken by Congress to manifest the appreciation by the country of the gallant and meritorious services of Captain Charles Stewart, of the United States Navy, reported a joint resolution (S. No. 69) conferring the rank of senior flag-officer on the active list of the United States Navy on Captain Charles Stewart; which was read, and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of E. B. Boutwell, a commander in the Navy, praying compensation for certain extra services while in command of the United States steamer Colonel Harney, and the United States ship John Adams, &c., submitted an adverse report; which was ordered to be printed.

Mr. HUNTER. I am instructed by the Committee on Finance to report back House bill (No. 662) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1860, with amendments; and I give notice that to-morrow I shall ask the Senate to consider this bill.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Navy communicating, in compliance with a resolution of the Senate, copies of all the letters or correspondence on file in his Department, between the President of Nicaragua and Commodore Hiram Paulding, in relation to the capture of William Walker and his command at San Juan de Nicaragua, in December, 1857, communicated the 23d of December, 1858, reported in favor of printing the same.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of the Senate, showing the names of persons employed in his office during the year 1858, and the amount paid to each, reported against printing the same.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of War communicating, in compliance with a resolution of the Senate, information in respect to land in the harbor of New York, belonging to the United States, that may be appropriated, if required, to the use of the revenue department, reported in favor of printing the same.

He also, from the same committee, to whom was referred a resolution to print fifty thousand copies of the addresses delivered in the late Senate Chamber, and the prayers of the Chaplains on the occasion of the removal of the members of the Senate to their new Hall, reported adversely thereon.

He also, from the same committee, to whom was referred the motion to print the message from the President of the United States, transmitting a copy of a letter of the 8th of April last, from the Minister of the United States in China, and of the decree and regulation which accompanied it, for such revision thereof as Congress may deem ex-

pedient, pursuant to the sixth section of the act approved 11th of August, 1848, reported in favor of printing the same.

ELIAS HALL.

Mr. FOOT. There is a Senate private bill on the table, which has been returned from the House of Representatives, with an amendment. I ask that it be considered, and that the amendment be concurred in. It is the bill (S. No. 68) for the relief of Elias Hall, of Rutland, Vermont.

There being no objection, the Senate proceeded to consider the amendment of the House of Representatives to the bill, which was to strike out the words:

"With interest thereon from the 29th day of April, 1834, when the account was properly presented for payment."

So that the bill will read:

Be it enacted, &c. That the Secretary of War cause to be paid, out of any money in the Treasury not otherwise appropriated, to Elias Hall, of Rutland, Vermont, the sum of \$516 52, in full, for the balance due him for his services as superintendent of repairs of small arms, and for subsistence, expenses, and losses while engaged in the service of the United States, during the last war with Great Britain.

Mr. FOOT. The House amendment strikes out the interest. I move that the Senate concur in that amendment.

The motion was agreed to.

JOHN R. NOURSE.

Mr. IVERSON. I move that the Senate take up the bill (S. No. 452) for the relief of John R. Nourse and others. In submitting the motion, I beg leave to make a word of explanation to the Senate. This bill is to relieve the parties from the operation of a judgment which the Government has against them. The Secretary of the Treasury has suspended the operation of the judgment until about this period. The time has nearly expired, and unless this bill can pass both Houses of Congress very shortly, the property of the parties will be subjected to seizure and sale, and be sacrificed. I think it is a case of exigency, and I trust the Senate will indulge me in allowing the bill to be taken up and acted on. It is for a very small amount, only about \$1800.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole.

It proposes to release John R. Nourse from the effect of a judgment obtained against him by the United States, in the circuit court for the District of Columbia, as one of the sureties of William P. Zantzinger, late a purser in the United States Navy; and the act is to be considered a release of the estate of Zantzinger of all claim of the United States upon that judgment as against him.

Mr. FESSENDEN. I should like to hear the report in that case, if there is one.

Mr. IVERSON. Yes, sir; there is a report.

The Secretary read the report; from which it appears that, in 1832, the memorialist became one of the sureties upon the official bond of William P. Zantzinger, a purser in the Navy. In 1843, Purser Zantzinger renewed his bond and gave other sureties. In consequence of an apparent deficit in Purser Zantzinger's account, he and his sureties were sued in 1844, and a judgment was obtained against them for \$8,000. This deficit appears to have arisen as follows: During the late war with Great Britain, Mr. Zantzinger was attached, as purser, to the United States ship *Hornet*, on a cruise to the Indian ocean. On this cruise the *Hornet* was chased by an enemy's ship of greatly superior force, and, as one of the expedients to save the ship, the commander caused not only all her armament, but everything whatever, from below as well as above, including the purser's stores, to be thrown overboard. After the rendition of the judgment against him, Purser Zantzinger applied to Congress for allowance of credit for these stores, and a joint resolution was passed directing the accounting officers to allow him the value of such stores as were thrown overboard from the United States ship *Hornet*. Under this law the accounting officers allowed the sum of \$5,724, still leaving a balance against him on the judgment of \$2,276. Mr. Zantzinger again appealed to Congress, and two successive Committees of Claims of the House of Representatives, to whom the evidence of Captain Newton, the second-lieutenant of the ship, the officer in charge of the deck at the time the transaction took place, and who actually superintended the throw-

ing of the stores into the sea, was submitted, came to the conclusion that Purser Zantzinger was justly entitled to a considerable larger allowance. Captain Newton testifies that Purser Zantzinger's loss could not have been less than \$8,000, which would have balanced the claim of the Government. Upon a careful review of all the facts, the committee came to the conclusion that Captain Newton's testimony is entitled to be fully relied on, and that his estimate of the value of the purser's stores was not too high; and, consequently, that upon a just and equitable settlement of the accounts of Purser Zantzinger no balance would have been found against him. In accordance with these views, they reported a bill for the relief of the petitioner.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM E. KENDALL'S SURETIES.

Mr. YULEE. There is a bill upon the Calendar, reported from the Committee on the Post Office and Post Roads at the last session, which stands in pretty much the same condition as that upon which the Senate has just acted. The parties are sureties upon the bond of an officer of the United States, which is now under suit; and the case is one which, in the opinion of the committee, entitles them to relief; but, unless that relief can be granted at the present session, it will be of no avail. If the bill reported at the last session by the Post Office Committee cannot be acted on now, or at a period early enough to enable the other House to take up the subject, the parties will go without the relief which, in the opinion of the committee, they are entitled to receive. I move, therefore, that the bill (S. No. 237) for the relief of Arnold Harris and Samuel F. Butterworth, be taken up. The session has advanced so far that I feel it my duty to make the motion, inasmuch as the Senate has just recognized the principle on which the motion is made.

The motion was agreed to; and the bill was read a second time, and considered as in committee of the whole.

It provides for the relief of Arnold Harris and Samuel F. Butterworth, sureties of William E. Kendall, late deputy postmaster at New Orleans, from all claim which the United States may have against them or either of them as such sureties; and proposes to direct the Secretary of the Treasury to cause any judgment which may have been rendered against them, or either of them, as sureties of Kendall, to be cancelled and satisfied of record as to the sureties or either of them.

Mr. HALE. Is there a report in that case?

Mr. YULEE. There is a report.

Mr. HALE. Let it be read.

The Secretary read the following report:

The Committee on the Post Office and Post Roads, to whom was referred the memorial of Arnold Harris and Samuel F. Butterworth, respectfully report: That the petitioners ask relief from a penalty they have incurred as sureties of William E. Kendall, lately a deputy postmaster at New Orleans. The memorial is as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled.

The memorial of Arnold Harris and Samuel F. Butterworth respectfully sheweth: That, on the 14th of April, A. D. 1853, they signed the official bond of William E. Kendall, late postmaster of New Orleans, as his sureties in the penal sum of \$60,000. On the 7th of May, 1855, Kendall was dismissed from the office of postmaster at New Orleans; was arrested, charged with having robbed the mails; was indicted, tried, and acquitted. After his arrest, and before his trial, his account was stated by the Post Office Department, showing a balance against him, as postmaster at New Orleans, of \$10,839 19. This account was presented to Kendall; he failed to pay any part of it. Early in January, 1856, your memorialists were called upon by the Post Office Department to pay up this sum of \$10,839 19, as sureties for Kendall; on the 7th of January, 1856, your memorialist, S. F. Butterworth, deposited with the United States assistant treasurer, at New York, the sum of \$5,000 to the credit of this account; on the 10th of January, 1856, he deposited, in like manner, the further sum of \$1,950. And on the 21st January, 1856, your memorialist, Arnold Harris, deposited with the Auditor of the Post Office Department, at Washington, the sum of \$3,889 19, being the balance claimed by said account to be due from Kendall, as postmaster at New Orleans, to the United States. Soon after this Kendall was tried by a jury at New Orleans, and acquitted. He immediately left the United States and went to Mexico, where he now resides. After he had thus left the United States, on the 18th day of September, 1856, your memorialist, Samuel F. Butterworth, received a letter from the Auditor of the Post Office Department, (see copy annexed), informing him that, in making out the account against Kendall, an error had been made, and that there was still due the Department, from Kendall, the sum of \$5,365 47.

When the account was first stated by the Department,

showing a balance against Kendall of \$10,839 19, he (Kendall) insisted that there was no such amount due from him, and that the claim was made merely to present him as a defaulter, and thus prejudice his case before the jury. Your memorialists, not doubting his statements, and certain of his innocence, paid the claim without investigation as soon as it was presented to them, and they did this to insure Kendall a fair trial, and because they knew that all of his available means were required by him to prepare for his defense; but your memorialists distinctly state that if the Department had at first claimed a balance of \$16,244 66 as due from Kendall, they certainly would not have paid that large sum without investigation and legal resistance, unless first indemnified by Kendall or his relatives.

By direction of the Government, suit was instituted against Kendall (whose last known place of residence was in Missouri) and your memorialists, in the United States circuit court of Missouri, to recover this last claimed balance of \$5,365 47; process was served at the late residence of Kendall; your memorialists appeared by attorney, and suffered judgment to be obtained against them by default.

The only explanation, or rather excuse, given by the Post Office Department for the "grave error" in rendering the first account against Kendall for a sum of \$5,365 47 less than was really due the Government, was the fact that the clerk who made out the account was incompetent.

Your memorialists ask the Congress of the United States to release them from the payment of the judgment rendered against them as above stated, and they assign as a sufficient reason for such request, the fact that, by the action of an incompetent clerk in the Post Office Department, (since dismissed,) they have been deprived of all remedy against Kendall, who had departed from the country before the last claim of \$5,365 47 was made known to either of your memorialists.

A further fact your memorialists present: Kendall, charged with a high crime, was vigorously prosecuted; extraordinary means were used to procure his conviction; the United States district attorney at New Orleans was not deemed equal to the occasion; other distinguished counsel was employed, who boasted that he was to receive a fee of \$5,000 from the Government in the event of Kendall's conviction. To meet this unjust persecution and monstrous proceeding, on the part of the United States, Kendall was compelled to expend large sums of money to retain the services of Senator Benjamin, and other eminent lawyers, to procure the attendance of important witnesses, and to conduct his defense to a successful issue; more than his life, his honor and his liberty, were involved in the contest; not a particle of proof of guilt was produced, he was acquitted.

The moneys thus expended by Kendall, but for the action of the Government, would have constituted a means of paying any real balances due from him as postmaster. By the oppressive action of the Government, he was deprived of these moneys. Under these circumstances, your memorialists submit that his sureties ought not to be called on to make good the moneys thus expended.

The above facts considered, your memorialists ask such relief as the Congress of the United States may deem just and proper.

S. F. BUTTERWORTH,
ARNOLD HARRIS.

Subsequently a letter from one of the petitioners, in reply to an inquiry from the committee, was submitted, which is as follows:

NEW YORK, March 20, 1858.

DEAR SIR: A memorial from Arnold Harris and myself, as sureties of William G. Kendall, late postmaster at New Orleans, has been referred to the Committee on the Post Office and Post Roads, of which you are chairman. We omitted to state in that memorial anything in relation to the capacity of Mr. Kendall, at the time of his acquittal, to pay or secure the amount claimed as due the Post Office Department from him. It may be said that, unless we can show that Mr. Kendall could have been forced to pay, we lost nothing by his departure from the country. The fact is, that Mr. Kendall possessed a valuable property at Biloxi, Mississippi, (represented to be worth over \$12,000,) which property he settled upon his wife before he left the country, and proceedings are now pending in the United States circuit court, in behalf of the United States, to set aside this settlement, and to subject this property to the satisfaction of the judgment rendered against Kendall. Had we have known of the existence of this large claim against us, as sureties of Kendall, before his departure from the country, we certainly could, by the application of the sub-Treasury law, have compelled Mr. Kendall to apply this property to the payment of this claim, instead of settling it on his wife. There can be no doubt of this. Mr. Kendall would have exhausted his own property not only, but also that of his relatives, rather than have suffered the penalties of the law as a defaulter.

I am, with great respect, your obedient servant,

SAMUEL F. BUTTERWORTH.

The facts alleged by the memorialists are sustained upon inquiry.

The parties appeal to the equity of the Government to protect them from a loss caused by the laches of one of its officers.

When these parties became sureties, they reasonably looked with reliance upon the guards which the laws created against default of its officials for their protection. They had a right to expect correct and accurate accounts to be kept by the Government, quarterly settlements, and such prompt resort to the vigorous and sufficient means of enforcing payment of balances as the sub-Treasury law provided. They had a right, also, to expect early and accurate notice of any default, that they might employ the usual means of securing themselves from damages.

It appears that through the fault of the Government, no matter from what cause, they were deceived as to the amount due to the Government by Mr. Kendall, and were not apprised of a different state of the account, and of a further balance claimed, until the principal had disposed of his property, and left the jurisdiction of the United States. If the Government had used the proper care and diligence, his departure would have been prevented, and in all reasonable

probability, the amount recovered. The Government was the custodian of the accounts; it alone could know the true state of indebtedness; the sureties could know only through the Government. When, upon being informed by the Government of the balance owing, they generously came forward and paid the amount from their own private means, they had a right to regard their obligation as discharged, and to discharge their minds from any further vigilance in the transactions of Mr. Kendall. Thus, by the default of the Government, they have suffered a damage, and although the case is not one which would secure them immunity in a court of law, yet it presents a fair case for the clemency and consideration of the Government.

The committee think that the Government may properly relax its strict legal claim, and in consideration of the large amount already voluntarily paid by these sureties, and the injury caused to them by the laches of its own officers, release them from further liability. They accordingly report a bill for the relief of the petitioners.

Mr. HALE. This bill, I find, was reported from the Committee on the Post Office and Post Roads, of which I am a member; but it was not my good fortune to be in the committee-room when it was agreed to. I wish the chairman would let it lie on the table for the present. This is the first I have heard of it; and from what attention I have given to the report, it seems to me it does not disclose any ground for interference; but if he will let it lie, I will look into it between now and to-morrow.

Mr. YULEE. Certainly.

The bill was postponed until to-morrow.

SALARY OF MINISTER TO FRANCE.

On motion of Mr. MASON, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 469) to equalize the compensation of the Ministers of the United States to France and England during the period therein mentioned.

It directs that in the settlement of the accounts of the Minister Plenipotentiary from the United States to France, there shall be allowed and paid to him, from the 1st of July, 1855, to the 1st of January, 1857, such sum as will make his salary for that period equal to that allowed to the Minister of the United States at London.

Mr. TRUMBULL. I know nothing about this bill except from hearing it read at the Secretary's table; but it seems to me that this is a very wrong time to commence the increase of salaries, and I object very much to this way of increasing them. It is insidious. It is a way by which salaries are often raised to a point to which they ought not to be raised, under the plea of equalizing them.

Mr. MASON. Will the Senator yield me the floor for a moment? There is no report accompanying the bill; I did not think one necessary; but if the Senator will allow me, I will explain its purpose in a moment. Congress passed a law, which went into operation on the 1st of July, 1855, enlarging the compensation of all the ministers in the diplomatic service of the United States. It placed the Minister at London first, and the Minister at Paris next, and then gave various enlarged salaries to the other ministers. The difference between the salaries of the Minister at London and the Minister at Paris, was \$2,500 per annum, as fixed by that bill.

That law, as the Senate will probably recollect, took away from both those legations what had theretofore been allowed for clerk hire and office rent. The result was, upon inquiries made by the committee, to satisfy them and ultimately to satisfy Congress, that in truth the expenses of the Minister now at France are equal to, if not more than, the expenses of the mission to London; and the consequence was, that the very next year Congress passed a law placing the salary of the Minister to France on a footing with the salary of the Minister to England; but eighteen months had intervened, during which time there was that disparity between the salaries; and the one mission, incurring certainly equal, if not greater, expenses than the other, had thrown upon it the burden of clerk hire and office rent; and a very great burden it is now, at both missions.

In 1856, at the session following that at which the discrepancy was established, a law was passed placing those two salaries on the same footing. The purpose of the present bill is to pay to the Minister to France only the difference for eighteen months, during which time there was that disparity. The two salaries are now equal; and the sum provided for by this bill is exactly \$3,750. It does not affect the salaries at all, except to equalize them during that period.

Mr. TRUMBULL. The statement of the Senator from Virginia removes one objection which I had to the bill. On hearing it read, I supposed it was to raise the salary of the Minister to France under the idea of equalizing it with some other salary.

Mr. MASON. That was done long since.

Mr. TRUMBULL. I understand that has been done, and the statement of the Senator from Virginia removes that objection; but there has been a good deal of that kind of legislation. Under some particular state of circumstances, a particular officer has his salary increased, and then comes in a bill to place other officers upon the same footing with regard to their salaries. It seems, however, that that objection does not apply here, but this is a bill to increase a salary for past services. It seems to me that it is a very bad precedent. If we can go back and increase the salary of an officer for services performed years ago in one case, we may do it in others; and what shall prevent our having hundreds of applications here from parties who have performed services for the Government, to have their compensation increased because their salaries were too low? That is all there is of it. The law fixing these salaries was revised a few years ago, and Congress thought proper at that time, it seems, to allow a larger salary to the Minister to the British Government than to the Minister to France, for reasons considered sufficient by Congress. Now, after the lapse of a few years, a proposition is made to go back and increase the salary of this officer who was in France, to make it equal to the salary of the Minister to England. They are now placed on the same footing, and I think we have done enough. I am opposed to the bill.

Mr. FESSENDEN. I think a very short statement, in addition to what has been said by my friend from Illinois, ought to satisfy gentlemen of the impropriety of this kind of legislation. When we come to apply it to the individual, we find that at the time the present Minister to France was appointed, the law gave all ministers of that grade \$9,000 a year salary and \$9,000 outfit. He received the outfit, and went to France. Subsequently to that time we changed the system, and gave \$15,000 salary to the Minister to France, and \$17,500 to the Minister to England. The Minister to France had received his outfit when that law went into effect. The present Minister to England, I think, received none; for he came under the new law. Then, the present Minister to France not only got his outfit, but he got the \$15,000 additional after that period. Now, although he got the outfit which his successors are not to receive, and, in addition, got the increased salary which was intended to be in lieu of the outfit, he is to have additional back pay, simply for the reason that Congress deemed that the mission to London was more expensive, and allowed it \$17,500, and subsequently established \$17,500 as the salary of the French mission. On the ground of the difference between the two for eighteen months, he now comes here asking for, or a bill is introduced to give him, the difference during that period. Was there ever a proposition which (to my mind at least, and it seems to me it must so strike the minds of others) was more bald than this—more destitute of absolute merit? The individual there, it will be remembered, has, I repeat, received the outfit, which, under the new law, it was not intended that ministers should receive; that could not be altered; he had it in his pocket; he gets the increase of salary; but because, for a short time, there was a difference between his pay and that of Minister to England, although he now gets the increase, he comes forward and asks that that difference be paid. I am willing to do it when he returns the outfit; that will make it exactly equal.

Mr. MASON. The case stated by the honorable Senator from Maine is plausible, but plausible only. It is very true that the present Minister to France, when he was appointed, was appointed under the old law, by which he received a salary of \$9,000, and, for the first year, an outfit of \$9,000, which made, for that year, a compensation of \$18,000; but for the next year he had a compensation of only \$9,000. I do not recollect now, very distinctly, when he was sent there; but I am well satisfied that, for the first year, his compensation was the \$9,000 outfit and \$9,000 salary; so that he did receive that year \$500 more—and but \$500

more—than the Minister to England received immediately afterwards, under the law of 1855.

I do not mean to detain the Senate; but I have one word to say in reply to what fell from the honorable Senator from Illinois. This bill is not increasing a salary retrospectively—at least that was the judgment of the committee—but it is doing now what the legislation of 1856 conceded had been omitted to be done in 1855, when the one salary was raised and the other was not. It is only doing now what the law of 1856 conceded was an omission then, by putting these two salaries on the same footing. Everybody who has been to Europe—I have not been there, but I have heard it from various sources, not in reference at all to the provisions of this bill, but as a part of the general history of the country—knows that for several years past all the political relations of Europe, the political correspondence of Europe, and the political center of Europe, have been at Paris, and not London; and the result of it has been to throw upon the Minister to France those increased and increasing expenses which heretofore have devolved chiefly on the Minister to London. The salaries remain unaffected by this bill. Congress, repairing what it must have considered an omission, placed the two salaries on the same footing in 1856, and this is only to equalize them in the intermediate period between July, 1855, and January, 1857. The whole expenditure under it will be \$3,750.

Mr. TRUMBULL. The only principle upon which the Senator from Virginia puts this bill is, that because the Congress of the United States thought proper to make these salaries equal in 1857, that is an admission that they ought to have been made equal in 1855. If that is so, does it not apply to every other office-holder in this country who holds an office the salary of which has been increased? There is a bill now pending here to equalize the salaries of the judges in the District of Columbia; to give to one of those judges, whose salary is now less than that of the others, the same that the others receive. If that bill passes, shall a bill be brought in at the next session to pay him the difference between what he has heretofore received and what the other judges have received? There are hundreds of instances in the legislation of Congress where salaries of particular officers have been raised to correspond with those given to other officers. But, after such laws are passed, is that an admission by Congress that it was wrong before that time that the salaries should be different? That is all the principle there is in this application. I deny that it is any admission by Congress that the Minister to France should have received, prior to the date of the passage of the act, the same salary as was received by the Minister at London. The Congress of 1855 thought differently. The principle on which the bill is based is wrong to my mind; and I do not mean at any time to go back to increase the salaries of officers for services performed when they knew what the salary was when they took the office.

Mr. MASON. I hope the question will be taken.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. JOHNSON, of Tennessee. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. PUGH. It seems to me that the Senate cannot sufficiently deplore the very hard condition of those gentlemen who are sent abroad. They are torn from their families and their country against their will, and sent off at very inadequate compensation! It really does not seem that from year to year our ingenuity and our wit are taxed to increase the amount of their compensation! This gentleman was forced from his country at \$9,000 a year and \$9,000 outfit; and after suffering in tribulation for two or three years, Congress raised his salary up to \$15,000 a year, and afterwards to nearly eighteen thousand dollars a year; and we are to compassionate his hard case by giving him eighteen months of back rations!

I cannot see a particle of merit in this case; and, for one, I hope the attention of Senators, at least, is called to the proposition. Sir, I do hope, in consideration of the great injury inflicted upon this gentleman, and upon many other gentlemen who are sent abroad against their will, thrust into

these offices, and compelled to undergo so much hardship at such an inadequate compensation, that the committee will ease the tax-payer and ease the appointee by bringing in a bill to abolish both this mission and the mission to Great Britain. I have no doubt it would be a great benefit to the country at large.

Mr. CLINGMAN. I must beg leave to add to what has been said, that there have been a number of applications like this within the last two or three years on behalf of individuals who were holding offices when the old bill, the bill which we passed two or three years ago, went into effect. If this bill be passed, I have no doubt we shall be pressed with probably hundreds of cases of the kind. Unless, therefore, gentlemen have made up their minds on principle to go back and make advances to all these different men who have held offices where we have already raised the salaries, I think it had better rest where it does. I know of several cases that were pressed on last Congress, which had just about the same merit as this, and that is none at all. They say they ought to have the same salary now provided.

Mr. HALE. Mr. President—
The PRESIDING OFFICER, (Mr. BRIGHT in the chair.) The hour for the consideration of the special order has arrived, and it must be taken up.

Mr. HALE, and others. Let us have a vote on this bill.

The PRESIDING OFFICER. If there be no further debate, and such is the pleasure of the Senate, the yeas and nays will be called. ["Yes, yes."]

Mr. MASON. I wish to say a word in reply to the Senator from North Carolina.

The PRESIDING OFFICER. It will require unanimous consent. The Chair hears no objection.

Mr. MASON. I do not object to the bill going over, but I want to make a reply to the Senator from North Carolina. ["Go on."] I have only to say that there was no salary changed—I mean none of the diplomatic salaries changed—by the law of 1856, except so far as to equalize the salaries of the missions to England and France.

Mr. CLINGMAN. I allude to the bill commonly called Perkins's bill. They have grown up under that. That was a bill increasing the compensation in many of these cases, and the applications made during the last session were resisted in the other House expressly on the ground that we did not want to open the door. With reference to the particular act to which the Senator alludes, I intended to say nothing, and referred to the general law increasing the compensation of our diplomatic agents.

Mr. MASON. That act does not affect the proposition in the slightest degree, as the Senator stated it. He said that application had been made to increase the salaries of other foreign ministers. That may be; but I have no information about any such proposition.

Mr. CLINGMAN. I alluded to the increase of the salaries at England, France, and all those cases where they were increased by the general act, passed in 1855. The applications have grown up under that act. With reference to the amendment made in 1856, I do not know that any of them rest on that particularly; but the general principle is, as I have stated, that salaries were increased in 1855, and that individuals who were getting less than is now allowed to the offices they held, have been already making applications—in several instances to my knowledge—for an increase equal to what they would have drawn if the law of 1855 had been passed before they came into office.

Mr. MASON. I know nothing about applications that have been made. The Senator may allege that upon his own information, but I know nothing about it. Mr. Perkins's bill, as it was called, was the general law of 1855, by which all the salaries of all the missions abroad, according to my recollection, certainly of very nearly all, were increased, and a scale was adopted. The lowest was \$12,000; the next was \$15,000, and the only one put at \$17,500 was that of the Minister to England. That was the Perkins's bill, of 1855, to which the Senator refers. Now, I am not aware of any proposition before Congress to change the salaries.

Mr. CLINGMAN. Mr. President—

Mr. MASON. I hope the Senator will allow me to finish; I have yielded to him twice. I am not aware of any proposition before Congress to change the salaries, as they were fixed by the bill which the Senator calls the Perkins's bill. The highest was \$17,500, and the only one who had that salary under that bill was the Minister to England. The next grade was \$15,000, and the lowest \$12,000. Then, I say, that in 1856, the next year after that law was passed, Congress became satisfied that, although the rest was equitable and just in the grade, injustice had been done to the mission to France, and that single one was equalized to the salary of the Minister to England—\$17,500. That bill which gave to the Minister to England \$17,500, by the difference of \$2,500, placed it in his power to incur the necessary expenses of the legation which were taken away from the mission to France. This bill is only to equalize it during that period. I am sorry to detain the Senate. I think it is just and right.

Mr. CLINGMAN. I am singularly unfortunate in making myself understood by the Senator. I did not intend to argue that there was a proposition to increase these salaries; but I said individuals who had been holding office at the time the Perkins's bill became a law, and those who had been in office previously, have made application for an increase of their pay, dating back to the time when they took office, upon the ground that those who were to come in after them, or those who held on from that time, would get more salaries than they had previously done; and this rests upon the same principle, in my judgment.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 9, nays 38; as follows:

YEAS—Messrs. Bright, Crittenden, Iverson, Jones, Kennedy, Mason, Seward, Stuart, and Wright—9.

NAYS—Messrs. Bates, Bell, Broderick, Brown, Cameron, Chandler, Clark, Clay, Clingman, Collamer, Davis, Dixon, Doollittle, Douglas, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Pearce, Pugh, Reid, Rice, Sebastian, Simmons, Toombs, Trumbull, Wade, Ward, and Yulee—38.

So the bill was rejected.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, the pending question being on the amendment offered by Mr. DOOLITTLE to the motion of Mr. IVERSON, to insert the words "a central" after the word "northern" and before the words "and southern," so that it will read:

Resolved, That the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, be committed to a select committee of nine members, with instructions to prepare and report a bill providing for the construction of a northern, a central, and a southern Pacific railroad, and that the special committee having charge of this subject at the last session be revived, and be charged with the whole subject.

Mr. DOOLITTLE. Upon my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. I will state the effect of the amendment as I understand it. While the bill reported by the committee was pending before the Senate, the honorable Senator from Georgia moved to recommit it, with instructions to report routes for two railroads, one to be denominated a northern and one a southern route, excluding altogether any such thing as a central line of railroad. My amendment to his proposition is, to insert the words "a central." If the motion of the honorable Senator from Georgia prevails, there will be a proposition for a northern route and a southern route, but none for the building of a central railroad route. I move to amend his proposition so as to insert a central line.

Mr. BIGLER. I desire to make a remark in explanation of the principle which will guide my vote. I shall vote for the amendment of the Senator from Wisconsin, to insert the word "central," so as to provide for a central route; but I shall vote against the motion to recommit, whether that amendment prevails or not.

Mr. HALE. I do not know that I understand the merits of all these various propositions; but, if I do, I shall vote for the amendment of the Senator from Wisconsin. I understand the original motion is to recommit the bill, with instructions to build a northern and a southern road. That is the first one.

Mr. IVERSON. Not exactly that. It is not to instruct them to build it; but to instruct them to bring in a bill proposing to build it.

Mr. HALE. Exactly. I thank the Senator for his correction. This, then, is a proposition to instruct the committee to bring in a bill for a northern and a southern route, looking prospectively to a dissolution of the Union, so that the South and the North shall each have a railroad to the Pacific. The amendment of my friend from Wisconsin, I suppose, is to put in a central route, so that if there are a few who stick to the old Constitution, who do not go off with either of these extremists—for I am opposed to all extremists, north and south—they may have a conservative, national road, a middle ground, what the classics would call *tutissimo medio*. I am in favor of this amendment, so that all interests will be consulted and conciliated by this proposition.

The question being taken by yeas and nays, resulted—yeas 35, nays 14; as follows:

YEAS—Messrs. Bigler, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Jones, Kennedy, Poik, Pugh, Rice, Sebastian, Seward, Simmons, Stuart, Toombs, Trumbull, Wade, Wilson, and Wright—35.

NAYS—Messrs. Bell, Brown, Chesnut, Clay, Clingman, Fitzpatrick, Hammond, Houston, Iverson, Johnson of Tennessee, Mason, Pearce, Reid, and Ward—14.

So the amendment of Mr. DOOLITTLE was agreed to.

The PRESIDING OFFICER. The question now is on the motion to recommit, as amended.

Mr. BROWN. I shall vote for the proposition to recommit; but in doing so, I desire to protest that I do not commit myself to the instructions. I shall vote for the proposition to recommit so as to get clear of this question, and get it out of the Senate. I think, if we get it before this committee, they will consume the rest of the session in considering it, and we may do something else. I want to get clear of it, and I say now that I do not commit myself to the instructions; and I give notice that when they bring in the bill that they are instructed to bring in, I shall vote against it.

Mr. SIMMONS. Would it be in order to move further to amend the instructions?

The PRESIDING OFFICER. They can still be amended.

Mr. SIMMONS. I move to strike out the northern and southern routes, so as to instruct the committee to bring in a bill for a central route only. ["Oh, no."] Well, I submit no motion.

Mr. PUGH. Is it in order to ask for a division of the motion, so as to have the question first on recommitment, and then upon the instructions? I ask for a separate vote on the instructions. Let the question first come on recommitting the bill.

The PRESIDING OFFICER. The Chair thinks that, under our rules, the purpose of the Senator from Ohio cannot be attained.

Mr. PUGH. Cannot a motion to recommit with instructions be divided? The instructions can be left off.

Mr. STUART. I think the practice always has been that a motion to recommit with instructions is divisible. The Senate may be disposed to recommit the bill, and yet may not be disposed to recommit it with instructions. It is a divisible question.

The PRESIDING OFFICER. Will the Senator from Ohio state his point again?

Mr. PUGH. I ask simply that the question may be divided; so that the Senate can first vote on the recommitment, and if the Senate refuse to recommit, of course that is an end of it; but if they do agree to commit the bill, then let us vote on the instructions. I propose simply to divide the question in that way.

The PRESIDING OFFICER. The question is divisible. The Chair did not understand the suggestion of the Senator from Ohio. The first question, then, will be whether the Senate will recommit the bill?

Mr. GREEN. I call for the yeas and nays on that proposition, because I think that if it be the disposition of the Senate to recommit the bill now,

it is a final death-blow to the measure at this session. Some decisive action ought to be had; time enough has been consumed already; and while I am well satisfied that a large majority of the Senators present are in favor of a road, yet thus far it has been found almost impossible to harmonize as to its location or the means of its construction. It seems to me, as there is but one single difficult matter to settle, that it would be best to keep the bill in the possession of the Senate, and proceed to vote on the amendments. Let the measure be presented in various shapes; there are propositions now pending favorable to different locations; all of them may be voted on; and whenever a majority of the Senate concur on any of them, then I believe the bill may be passed. As a friend to the bill, as a friend of the leading proposition, I much prefer that it should not be recommitment.

In the same connection it may be proper for me to state that as a means of harmonizing Senators, who have entertained such variant views with regard to the locality of the road, I have prepared an amendment which I design to offer, and I will read it simply to give notice that when the propositions now pending shall be disposed of, and it shall be in order to move a further amendment, I shall desire the Senate to vote upon this. I propose to leave the language of the bill in the first section as it now is, with a slight change. It now proposes to locate the eastern terminus of the road between the mouth of the Big Sioux and the mouth of the Kansas rivers. I propose to strike that out, and then to insert these words, as an addition to the first section of the bill:

The eastern terminus of which shall be at the most convenient and eligible point on the western boundary of the State of Missouri.

Mr. JONES. That is modest.

Mr. GREEN. That is very modest; and I intend to show that good reasons exist why it ought to be adopted; that the interest of the whole Union is at stake; that, if we can make but one road, that is the point at which the central road ought to terminate; and, though it may look selfish in a Missouri representative to name it, still, as other Senators have not seen proper to take the same view of the subject as yet, wanting their own localities first to receive a vote, I have no doubt that, when they shall have discharged that trust, seeing that they cannot succeed with the mouth of the Big Sioux, and cannot succeed with Fulton, and cannot succeed with Fort Smith, and cannot succeed with the northern point, the extremes will meet together at the center, and the State of Missouri will receive the votes of them all.

Mr. SEWARD. Will the Senator allow me to ask him a question? What is the length of the western boundary of Missouri?

Mr. GREEN. North and south it is from thirty-six degrees and thirty minutes to forty degrees and about thirty-six minutes.

Mr. COLLAMER. How many miles?

Mr. GREEN. I do not know the number of miles. But what I have stated as my proposed amendment is not all of the amendment, and in the rest of it consists the means, I think, of bringing together our variant opinions. After what I have already read, I propose to add these words:

And with two branches, one on the south, commencing not south of Fulton, in the State of Arkansas, the other on the north, commencing not north of the mouth of the Big Sioux, all connecting at the most practicable point not further west than the one hundred and second degree of west longitude.

There is a space or tract of country through which the road must be built, whether on the northern, southern, or central route, which is almost barren—a space of from five hundred to a thousand miles upon which the way business can never support a road. It is possible, by accumulating the whole of the Pacific trade upon one grand trunk, even through a barren country, to secure business enough to justify the construction of the road. Under my proposition, upon the eastern border, we not only divide the way business between three branches, but the through business, and it will support the three branches. We cannot make three roads. If made, they could not support themselves; they would go to waste and be lost in the short space of twenty-five years, or perhaps a much shorter space of time than that. One road will answer all the wants of the Government; and, as a Congress of the United States, we have no right to look be-

yond the wants of the Government. I know that this view is thought to be a little too abstract for practical legislation, and I have been taunted with regarding the Government as a myth, without reality and without substance; but still, as long as I regard constitutional obligations, I will be thus governed in my official conduct.

I have before remarked, and I now repeat, that this measure requires a consideration of these questions: is a railroad to the Pacific necessary for the wants of the Government? is it proper for the wants of the Government? Both of them must be answered in the affirmative before we can vote a single dollar to aid in its construction. Viewing it in this light, under the limited grant of power contained in the Constitution which we have sworn to support, I do not think, for myself, and I submit it with due deference to others, that three roads can be said to be necessary and proper for the wants of the Government. Are three roads necessary for the mail service, for the Army, for the transportation of troops, seamen, and munitions of war? I apprehend no one will say that for these purposes three roads are necessary, nor that three are proper, nor that even if necessary and proper, they would be practicable to be kept up and supported.

It thus, then, reduces itself to the simple point, is one grand trunk through the barren country necessary and proper? Although it might be very necessary, if it would be impracticable to keep it up, it would not be proper. It might be very important, and we might therefore say it was necessary to have a speedy mode of communication between the Atlantic and the Pacific, though it be a barren waste over which the road must run. If it were necessary over that barren waste, and yet the attending circumstances would prevent the road from being kept up and made practical in its effects, it would not be proper to undertake its construction, because it would not meet the wants of the Government, and accomplish the desired end. Hence it would fail to answer the two requisitions imposed upon us by the Constitution of the United States—that it must be both necessary and proper. If all our energies be applied to one road, will it not be necessary, still more necessary than the three? That, of course, will be answered in the affirmative. Will it not then be proper, because may not that one grand trunk, though it runs through a barren waste, be kept up? I think it can; and it is for that purpose, and that alone, that I shall vote for one grand trunk, running to San Francisco in the west, and running to the most central point of the great population and business of the east; and to accommodate all sections, and to make it still more useful to the Government, I propose three branches on the east. Perhaps it may be asked, why propose three branches on the east, if three roads are not necessary and proper to the Pacific? I answer, these eastern branches can be kept up, because they run through a country which will superinduce a way business; they are therefore proper; they are useful means to accomplish the wants of the Government, whereas one that could not be kept up would not be proper. Is such a proposition to be attributed to sectionalism, or to locality, because the State of Missouri is fortunately located in the center of the Mississippi valley, teeming with her productions, the incidental benefits of which will be felt in the growing commerce of the Union? Surely not.

There is another grand mistake in connection with the building of this road, so far as the incidental commercial benefits are concerned, and that is this: it is supposed by some to be a railroad from the Atlantic to the Pacific. It is no such thing. It is a road that will connect in the valley of the Mississippi, with means of communication that reach to the Atlantic, on the north and on the south; but the road proposed to be made is to connect the great valley of the Mississippi with the coast of the Pacific ocean.

It has been objected, however, that if we undertake to locate the eastern terminus, we shall defeat the whole bill. I have left margin enough to accommodate the views of gentlemen. If it comes anywhere within the limits I have named, although I would prefer designating the exact spot, although I would prefer sticking an exact point in the bill from which there could be no deviation, yet, believing that the limits I have prescribed will, to a great extent, accomplish the

object we have in view, I am willing to accept it in that shape. But if it be so wrong—and I would warn the Senator from California upon this point—if it be so wrong and so objectionable to name an eastern terminus, why is it right and proper to name San Francisco as the terminus upon the Pacific ocean? There is good reason for the one, and there is good reason for the other. If it is to be a floating, uncertain matter with regard to its eastern location, let it be floating and uncertain on the Pacific ocean also. Why not take the range from Puget Sound down to the head of the Gulf of California? I believe that the Senator from California is right in locating it about San Francisco, for that is the great center of business on the Pacific slope. When the road shall be built, and in successful operation, troops and munitions of war, the mails, and other service of the Government, can readily be brought to that point. In that respect the route strikes at the center of our possessions on the Pacific ocean; and so it ought, on the same principle, to strike at the center of the valley of the Mississippi.

I will make an additional remark for the reflection of eastern Senators; for I have come to that point when I look at East and West, and pass beyond the first lesson which looks only at North and South. A road, according to the plan I propose for the location of the main trunk, will be as convenient for Boston, New York, Philadelphia, Baltimore, Washington city, Fredericksburg, Petersburg, Norfolk, Richmond, Raleigh, Charleston, and Savannah, as almost any other road you can possibly name; and not only as convenient, but as short. You cannot construct a northern road from the Pacific ocean so as to reach the city of New York on any shorter line than by a road through the State of Missouri to San Francisco. If we be thus happily circumstanced; if the favorable position of the State of Missouri be such that all interests concentrate and point to it as the eastern terminus, why not locate the road there? I propose to throw a branch south, to accommodate New Orleans and southern trade, in its incidental benefits, and to add to the direct benefit of the Government, so far as we may call for munitions. So with the North. I propose to stretch out an arm, reaching up to Sioux City, which connects with the system of railroads reaching to Chicago, Buffalo, and the northern cities. If we want accommodation, if we want to come to specific points, so as to act understandingly, and leave no one to be mistaken or deceived in regard to what the road will be if made, it seems to me that the proposition which I intend to submit commends itself to the consideration of Senators.

Why, sir, we already have a system of railroads from the eastern border to the Mississippi valley, north and south; and, therefore, the main point is to connect that valley with the Pacific. It is not to connect the eastern border with that ocean, but to supply a present hiatus in the line of road between the Mississippi and the Pacific. We have a system of roads through Missouri; through Illinois, through Indiana, and this grand trunk coming, as in all probability it will, to the center of the State of Missouri, and to the city of St. Louis, is in the line of commerce with the cities of Indianapolis, Cincinnati, Wheeling, Pittsburg, and the eastern cities I have named. Is it to accommodate, in its incidental commercial benefits, a majority of this vast Union that we desire to make a road; and is it from these same localities that the Government desires to make use of it? If so, this is just the kind of proposition which we ought to adopt.

I have named as the connecting point the one hundred and second degree of west longitude. That is a little west of the great northern bend of the Canadian river, if it should go on that route. It is about as far west, I think, as Fort Laramie, if it should go on that route. Let it go on whichever may be found to be the best. Whichever may be found to afford the most advantages, I am willing should be adopted; because if the termination be right, making it no longer, no more expensive, the benefits resulting are just as much to the State of Missouri, to Iowa, and to all the other States of the Mississippi valley, whether it goes by the South Pass or the Pass of Anton-Chico. I believe, from the information I have on the subject, that the route by Albuquerque, by the Anton-Chico pass, and by the Zuni valleys, across the

Colorado, and through the Tejon pass, is the best route; but that is a mere matter of opinion. I exceedingly doubt whether it be possible, by way of the South Pass, up near the forty-second degree of north latitude, after you shall have reached the Sierra Nevada, to penetrate that mountain; and if not—and some of the best explorers of our western territory have told me it was impossible—you are then compelled to deflect to the south, and reach the Pacific by way of the Tejon pass. That makes it worse than to set out at once for the purpose of connecting at Albuquerque. But why this detail? What is the necessity of ridiculing one route or the other, of showing that the one has more gentle grades, slighter curves, and can be run to more advantage than the other, if we cannot agree upon the greater points involved in the consideration of the subject?

For one, I would not vote a dollar for a road which would not answer the purposes for which the road alone would be desired by the Government, and I must know where that route is to be located; at least I must have a certain limit fixed, and believe that anywhere within that limit the end I have in view can be accomplished, else I cannot vote for it at all; not that my choice must prevail, not that an individual opinion of mine is to be set against the opinion of the Senate, but that it is utterly impossible for me, viewing the subject in a limited view, as I must, to decide the question whether it be necessary and proper for the Government, until I see where it is proposed to be constructed.

Now, Mr. President, I hope that this motion to recommit will not prevail. It will be equivalent to a declaration to the country that we shall not pass any bill on this subject at the present session. Hence I shall vote against that proposition, and then I shall vote for and against the amendments pending, as I think they harmonize with the general class of views which I have briefly presented; and when the proper time comes, I shall move the amendment I have stated, and I name it now in order that Senators may vote down others, believing this to be more acceptable and better calculated to accomplish what we all desire to see accomplished, than any other proposition which has as yet been submitted.

Mr. BIGLER. It is not my intention, Mr. President, to enter into the discussion of this question of routes. I desire to avoid that as much as possible. We must all feel, however, the force of the views presented by the Senator from Missouri, so far as relates to the success of the bill; and I have very little doubt that his proposition will command a very respectable, if not a controlling, vote in this body. I do not intend to commit myself either for it or against it at this time. But, sir, this measure certainly involves two systems of constructing a railroad. I would not be willing to go the same length for the construction of a railroad through the alluvial country—through that region which invites population, where the farmer and the mechanic can go—that I would for the main trunk through the mountain regions. I regard the difficulties presented by the mountain range as the distinguishing characteristic of this work. In that are found the propriety and the rightful authority for the action of Congress, to a considerable extent. It is because we encounter an impediment between the eastern and western divisions of our great country, which ordinary means cannot overcome, that the Government is expected and required to extend its strong arm.

Now, sir, I hope the friends of this measure will not be diverted by various and dissimilar propositions which may be presented. My object in rising is to endeavor, if possible, to overcome the difficulties which I presented to some extent myself, the other day, and on which the Senator from Massachusetts [Mr. Wilson] yesterday dwelt at length—I think too much so, indeed. I think he put entirely too much stress on the idea that the road cannot be operated when it shall be constructed. I agree that so far as his calculations were concerned, they cannot be gained; but the Senator might have said very much to relieve the rigid force of the picture which he presented. I claim that this would be the avenue for all the travel, the avenue for the mails, for coin, for all fine goods from the Atlantic to the Pacific. Then, sir, as was properly remarked by the Senator from Missouri, so far as concerns

ordinary trade and commerce, it is not to carry goods from the Atlantic cities to the Pacific; but from St. Louis or Leavenworth, or the greatest commercial points in the West. Besides, the road will beget business. It will carry with it population. It will be not only certain, but it will be necessary to convey into the interior all the goods that can be consumed, and in turn bring the products of that region to market, east or west, as the case may be.

But, sir, to the point. The difficulty in the way of the measure proposed by the committee seems to be this: that it offers inducements which may be entirely sufficient for the eastern and western divisions, but which are manifestly insufficient so far as relates to the middle division—the mountain region. For instance, the contractors could afford, in view of the value of the lands on the eastern and western divisions, to make the work there and abandon it so soon as they approached the mountains at either the eastern or western side. The bill provides that the road shall be constructed in sections of twenty-five miles; that the land on each side for twenty miles shall be set apart for that purpose; that the contractors shall get \$312,500, reimbursable in mail service, on each section; one fourth of the land on each section is to be retained until another section is completed, and then the retained quarter is to be conveyed to the contractors. Thus you will perceive that when they reach the mountain region from either east or west, the only forfeiture to be incurred for an abandonment of the work is the one fourth of the land on one section, which would be about three thousand acres.

I have prepared an amendment, which I shall offer at the proper time, which supersedes the main features of this bill. It sets out by providing that the road shall be divided into three grand divisions, known as the eastern, western, and middle, and then subdivided into sections of twenty-five miles each. These great divisions are to be of equal length, and the provisions of the original bill giving the land for twenty miles on each side will still apply to the eastern and western divisions. The bill, as it now is in reference to mail service, will also apply; but neither of these features will apply to the middle division. In reference to that, my amendment provides that as each section of twenty-five miles shall be completed, the President shall issue bonds to the contractors to the extent of \$25,000 per mile, the bonds so issued to become a lien on the whole road, from one extremity to the other; and that as each section shall be completed on either the eastern or western division, three fourths of the land shall be conveyed to the contractors, the remaining one fourth to be retained for the completion of the middle division. It is also provided that when a section of twenty-five miles on the middle division shall be completed, the President shall issue the bonds as I have already stated, and shall convey to the contractors the remaining quarter of land on the eastern or western sections first completed, and so on until the whole amount is conveyed, and the road completed.

The object of this amendment is to secure the construction of the road; is as far as possible to overcome the motive which might be presented to construct the eastern and western divisions, and then abandon the work. I shall not, however, detain the Senate further at present, for I do not intend to offer my amendment until the vote on the pending question shall have been taken; but like the Senator from Missouri, I am anxious to indicate in advance what that amendment is; to show that it will, at least to some extent, overcome the difficulty which I first presented myself, and which the Senator from Massachusetts yesterday pressed as fatal to this measure.

Mr. BROWN. There is a single point which was presented by the Senator from Missouri that I desire to notice. That Senator and myself have generally agreed on questions involving constitutional law. If I understood him this morning, he enunciated that, if the railroad was shown to be necessary and proper for the use of the Government, the question of constitutional power was thereby settled, and we had the right to construct it. If I understand the Senator aright, I dissent from him. If there be an overruling necessity, a necessity which is not to be dispensed with, a necessity which involves the integrity of the Government, then I would be with the Senator; but

it is not every necessity, however small, however inconsiderable, that can confer upon Congress this important constitutional power. Why, sir, is not a railroad necessary to carry the mail from here to Marlboro', in the State of Maryland? Has Congress the power to construct it? May not a railroad become necessary to carry munitions of war from here to any point in the Union which may be named, north, south, east, or west; and because there may be a contingent necessity for it growing up in the future, do you thereby obtain the constitutional power to make it? I hold that the necessity must be, if not immediate, so probable that a reasonable amount of forecast would see that it must arise; and then you must calculate the importance to the Government of the road, in comparison with the cost of it, before you can exercise this power. To tell me that this road will be a convenience to the Government, that a mail may be carried a little quicker over it, that by some mere possibility you may have a war and desire to carry troops over it, and that, thereby you dispose of the whole constitutional question, is telling me in reference to this road precisely what you could tell me in reference to any and every other road in any part of the country. Sir, if you can construct a railroad to carry a mail to the Pacific, why cannot you construct a railroad to carry it to the Gulf of Mexico or anywhere else? As I said before, if because, by possibility in the future, a necessity, may arise to carry troops over this railroad, you may therefore acquire the power to build it, why does not the same argument apply to every other railroad? Is there anything in the special condition of this road which gives it advantages or claims over any other?

I hold that the necessity must either be immediate and pressing, or it must be so probable that a prudent, discreet man, foreseeing that it would come, would prepare for it, and then the necessity must be equal to the cost. Two or three hundred million dollars to build a railroad to the Pacific! For what? To carry the mail. Cannot you carry it by some other conveyance, if a little slower, at very much less cost? Two or three hundred million dollars to carry munitions of war and troops—men of straw! Who knows that you will ever need to carry a solitary troop over the road, even if you had it built? Who knows that there will ever be occasion to carry munitions of war over it? This is a contingency that may or may not arise as the circumstances and condition of the country may change. And yet, my State-rights, strict-construction friend from Missouri, who has always stood by me upon constitutional points heretofore, has got his own consent to go for this road, because he thinks it necessary and proper. Why, sir, there is no proposition so monstrous in the way of appropriations by the Federal Government for works of internal improvement, which could not be carried through Congress upon the same plea, that they are necessary and proper.

Whatever is necessary and proper ought to be done, provided the cost of doing it does not greatly exceed the necessity for the thing, and the propriety of making the appropriation. Because you may need a railroad for mail purposes, and war purposes; because that might be a little more convenient to carry your troops, if you had to carry them at all, than a plain wagon road, and a little more convenient to carry the mail than the wagon route, or the ocean route, are you thereby to be fully invested with power to bankrupt at least ten such Treasuries as you have got now? Are the people of this country to be made to groan, through all time to come, under a national debt as onerous to them as the national debt of England is to that people? and all because you can carry a mail a little faster on a railroad, and may by possibility want to send troops and munitions of war over it?

I can, Mr. President, in conclusion, but express my astonishment that a gentleman so apt to be right on questions of constitutional law as my friend from Missouri, should so far have strayed, as I conceive, from the true path on this point.

Mr. GREEN. It is not my habit to undertake to settle great constitutional questions in an incidental debate. I am very sorry that the Senator from Mississippi and myself have to part company at all; but he ought not to complain, if we separate on this subject, for this reason: one of the Senators from Mississippi [Mr. DAVIS] coincides with me; therefore I have half of that State; I have all of my State; he is in the little minority

that is left. I think, then, I ought to express my regret at his departure, rather than he express his regret at the departure of three Senators, his equals. He reminds me of that one member of a jury who said the eleven were very contrary. But, sir, what is there in the proposition, as he presents it? Does it conflict with the position that I took? He confounds a part of the argument, depending upon the propriety, with another part, which is essential to make it constitutional. Thus, the Constitution gives Congress express authority to pass all laws which are necessary and proper to carry into effect, the granted powers, and all other powers vested by the Constitution in the Federal Government. Congress, therefore, has authority to pass all laws that are necessary and proper to carry into effect any constitutional grant of authority. Is it necessary to make this road? It may be necessary, or may not be, says the Senator; future remote contingencies might make it useful; but, until those contingencies arise, it would not be necessary. By virtue of what authority did he vote money to build Fort Monroe? There has never been a battle fought there since the fort was built. Must we wait until the invading army lands upon our shores, and we hear the sound of war in our ears, before it becomes necessary to build a fort? Can an argument like that be sustained? There is no grant of power to build a fort contained in the Constitution in express terms; there is power to provide and maintain a Navy expressly; there is power to build a fort, but it is couched in the terms I have quoted, to wit, the clause giving authority to do what is necessary and proper to carry out the granted powers. The Senator suggests that the authority is contained in the power to provide for the common defense; but can you defend anything when there is no attack?

Mr. BROWN. You can provide for it.

Mr. GREEN. Do you say there is power given to Congress to do whatever it may think will tend to promote the common defense of the country? If the Senator holds that doctrine I join issue with him. I hold that it must promote the general defense in the exercise of the particular powers granted in the Constitution; and we cannot consider the propriety, or the necessity, or the adaptation of any other means, except those provided for in the Constitution.

But, says he, are we to spend two or three hundred million dollars for this road? Why, sir, that depends upon the question which I presented; it enters into the consideration of the propriety of it. It is not necessary, according to my understanding, nor is it proper, to spend two or three hundred million dollars. I think the cost of it would be too great if it went to that extent, and the bill now before the Senate does not propose to do it; it proposes to lend a little assistance.

The Senator asks, could we not build railroads from here to Fredericksburg, or other little places, because the Government may make use of them? I answer, no. Why? Because it is not necessary and proper, for the reason that we know there are inducements and interests and facilities which will lead private capital to make those roads to meet the wants of the Government; and although the Government may need such roads, the exigency is not so pressing, and the absence of other means for their construction is not so evident, as to justify Congress in saying it would be necessary and proper for the Government to undertake the work.

Take the same principle and apply it to the Pacific road. We know, from the character of the country through which it is to pass, that private capital and interest never can make that road. Yet we know there is an urgent necessity for it in order to prepare for the defense of the Pacific coast; because, by it, troops can be thrown from point to point, and thus collect together a body of men that always can defend that region, rather than maintain an expensive standing army. We cannot give up that country. We intend to protect it. We are now consulting the most economical means of defending it. It is a matter of economy, instead of keeping a strong standing army at that distant point, to make this road, to extend a little aid towards it, just enough to insure its completion. I am willing to admit that there may be cases—I have never seen one, but there may be cases—in which the Government ought to go to work and make the entire road.

The exigency might be great enough; the necessity might be strong enough; the propriety of it might be palpable enough; and in that case it would be constitutional. General Gaines at one time proposed a system of railroads as a means for the defense of the country, rather than to keep a large standing army.

In this instance, however, that necessity to make the road at the expense of the Federal Treasury alone does not exist according to my understanding. It is, therefore, proposed simply to hold out additional inducements, such as the face of the country does not present—such as the prospective profit from the transportation of merchandise does not present—for private capital to take hold of the work, and with this aid insure the completion of the road for the uses and purposes of the Government. It thus becomes a means, a useful means, of enabling us to dispense with a large class of standing forces which would otherwise be required, and is a saving to the public Treasury.

We must anticipate coming events; and we must provide for contingencies before those contingencies arise. We must arm and equip our militia; we must provide a system of drilling for our train bands; we must erect our forts; and as we see the necessity of being provided with the means of throwing in this military power for the protection of California, we must assist private capital as far as is necessary to induce it to make that provision for us. It was a wise maxim of a man wiser than us, "A prudent man foreseeth the evil and hideth himself; but the simple pass on, and are punished." We are foreseeing evils that may arise upon the coast of California; and, as prudence dictates, we are seeking to provide for them. We are only going to the limited extent which is essential to induce private capital to embark in the enterprise. To that extent we not only have a right to go, but we ought to go. The possession and the defense of our Pacific possessions create a necessity strong enough for it. When, you ask, is it proper? It depends on the amount of necessity whether it will be justifiable or not; whether its uses to the Government will make it a matter of propriety to engage in it—just as building a fort at the mouth of any creek. I should not vote a dollar to build a fort where one was not wanted, because it would not be necessary or proper to defend the country, to suppress a rebellion, or to prevent insurrection, or anything of the kind.

There must be a reasonable view taken of these subjects; and I think when the Senator from Mississippi comes to look at the position which I have taken, and the position which he has taken, and reduce them both down to their simple elements, there will be but little difference between us. He argues that this measure is not constitutional because it is not proper. I have already said it must be both necessary and proper in order to be constitutional. He corrects me, and says he did not make such an argument. Very well; I may have misunderstood him; but if that was not the drift of his argument, I certainly misunderstood the force of language. This bill proposes to advance about twenty-five million dollars, I believe. The Senator's colleague thinks \$10,000,000 of aid by the Government, with the land that is proposed to be given as another inducement to capitalists to take hold of the work, will be sufficient. If it be sufficient, I prefer that limitation; and it is my duty as a Senator to vote for it. The smallest amount of draft on the public Treasury that will insure the completion of the work it is my duty to support, because beyond that it is not proper; beyond that it is not a necessary and proper means to provide for the wants of the Government. To that extent it is necessary and proper in the peculiar contingency which places California as she is in her relation to the rest of the Union, making it so imperative that she should have a speedy means of communication with us. So far as the carrying of the mail is concerned, it is only thrown into the bill because we know the mail will be carried by this means, and because we know that the road will charge for its transportation. The limitation is that we shall pay no more than the highest rate, or the average rate—I do not recollect the language of the bill—now paid to other routes for like service. This road is not built for the purpose of making it a mail road; but, as it is built for the defense of the country, we make the carry-

ing of the mail one of its duties, for we know the mail will be carried by it, and we must anticipate what these corporations might do if they had the power; we must curb them, restrain them, limit them. As we assist them in the construction of the road, and afford them part of the means, they ought not to have the power to oppress us after they shall have completed the work; and the provision about the mails is put in to protect the United States—not as a justification for lending the aid to the capitalists who may engage in the construction of the work.

Mr. BROWN. I do not see, Mr. President, that the proposition varies materially from very many others we have had before us, except in point of magnitude. If there is a book to be printed which is to be an unprofitable job, Congress is asked to take it. So, if there is a railroad to be constructed in which nobody can be induced to put money, Congress is asked to do it. It is of a piece with about all of the jobs you are asked to perform. Whenever there is a matter of expenditure that private capital cannot be tempted to take hold of, there are those who come and ask the Government to do it; and all manner of specious arguments are resorted to, and cunningly put forth, not only to show that you have the power to do it, but that you ought to do it. I have so often combated the argument of necessity that I felt little difficulty in presenting what I thought was a clear and proper view of the subject to my friend from Missouri—that because a matter was necessary in the judgment of a Senator, it did not follow that he had the right to vote money from the Treasury for the purpose of carrying the object into execution. If whatever may be supposed to be necessary for the Government may be bought by the Government; if every work which is supposed to be beneficial to the Government in some remote degree may be constructed by the Government; then I do not know where your authority over the Treasury is to stop. I cannot conceive of a work of improvement, either in the nature of a canal, a railroad, a river or harbor improvement, or any other, which, under this specious plea of necessity, might not be brought completely within the purview of the Constitution. I protest again to my honorable friend from Missouri, that the necessity must be immediate, or it must be so probable as to be, to all reasonable comprehensions, likely to happen. A mere remote or contingent necessity—a supposed necessity—cannot be acted upon. Besides, the necessity, I say again, must be measured by the expense of constructing the work.

Now, sir, cannot you carry your troops to California and your other Pacific possessions by other means than a railroad? I undertake to say—though boasting of no great military skill, certainly of no military position—that you have already a better, safer, and cheaper, mode of carrying your troops and munitions of war. Suppose you had your railroad already constructed; suppose you could strike the earth, as Moses struck the rock, and cause the road to rise from the earth: could you sustain it? Is there any travel, is there any commerce, which, for a distance the length of that road, could keep it up, even if you had it constructed now and could have it for wishing it? I undertake to say there is not; and I never yet heard a sensible man speak on the subject who pretended that there was. Then, this road is not only to be constructed by the Government, if it is constructed at all—for all the friends of it say that private capital cannot be tempted into it—but it is to be a burden on the Treasury through all time to come; at least that portion of it which runs through the desert.

If the traveling and commercial necessities of the country require this road, it will be built; it will be built as other railroads have been constructed in other parts of the country. Whenever the commercial and traveling necessities of our people justify the construction of such a railroad, private capital will be tempted from its hiding places, and will at once embark in the work. When you needed a railroad from here to Baltimore, private enterprise and private capital constructed it. When you needed a railroad to Philadelphia, to New York, to Boston, and other places, the same agency came forward and constructed it. Whenever you need a railroad to the Pacific, that same potential agency—much more

potential than yours—will come forward in the same manner to construct it there. You have no necessity for the road; you have no need of it; you will not have, perhaps, for half a century to come. Let it alone; keep the blighting hand of this Federal power off it. Sir, put your hand upon it, and it will wither as under the noxious influence of a mildew. The Government cannot construct the road, though this bill might be passed by the unanimous vote of this whole body. Why? You would not be engaged six months in the expenditure of the money, until the whole country would be ringing with charges of corruption and fraud in carrying it on. We should hear resounding through the whole area of this vast Chamber demands, not only to withhold future appropriations, but to arrest the whole work while we were investigating charges of fraud and corruption. Then, in two years the work which was done in the two years before would rot down.

I had occasion the other day to remind the Senate how long it took the Government to construct a turnpike from Cumberland to Wheeling, under the lead of the master-mind of Henry Clay, the great champion of internal improvements, backed by a powerful political organization. I think this Government was near twenty years in constructing that little turnpike. Now you propose to launch the Government in the great work of constructing a Pacific railroad two thousand miles long. If you undertake it, you will delay the final completion of the work, for you will frighten private capital away from it. Neither American nor European capital is going to embark in an enterprise like this, if you once put your hands upon it. As settlements push forward, as the star of empire leads, so will the construction of railroads follow. I have no doubt the day will come when the two great oceans will be linked together by an iron chain; but not by means like this. Leave it where the construction of the New Orleans and New York railroads were left; leave it to that agency which has already constructed your railroads from Montreal to the most southern extremity, and furthest extremity, of your western settlements, and let it be done, little and little at a time, by private enterprise. Let it be done just as fast as real necessities, not the supposed necessities of the Government, but the real necessities of the whole country, shall demand. Then it will go noiselessly on, and the man now lives, with a beard upon his face, who will traverse the whole continent, from the Atlantic shore to the Pacific, by a single line of railroad. These are my opinions, and I shall act upon them.

Mr. PUGH. Mr. President, I required a division of the motion of the Senator from Georgia, because I intend to vote for the recommitment of this bill, although I do not intend to vote for the instructions which he proposed. Now, the Senator from Missouri says, and the Senator from Pennsylvania agrees with him, that to vote for the recommitment of this bill is to declare that we will take no action upon the subject; I do not so understand it.

Mr. BIGLER. The Senator is greatly mistaken; I uttered no such sentiment.

Mr. PUGH. Then I misapprehended the Senator. I thought he concurred with the Senator from Missouri, who said that we must vote against the recommitment, or otherwise we should be telling the country that no action would be had. I agree that by voting to recommit this bill, I distinctly signify that I will not vote for the bill in its present shape; that it must be altered before it can command my vote. That I do mean; but I do not mean to say that there is no bill for which I will not vote.

Now, sir, what are we doing with the Pacific railroad? As the Senator from Mississippi [Mr. Brown] has truly said, if it is demanded for the commercial or other interests of the country, it will be built by private enterprise. This bill presupposes that private enterprise will not build it; otherwise we have no business with it here. Then, on what ground do we justify ourselves? The Senator from Mississippi [Mr. Davis] said yesterday, it was a necessity for the public defense; that, in time of war, we stood in danger of losing California and the Pacific coast; that we must traverse this desert by our armies, by our militia, and by our citizens going thither to settle, in order that we might be able to protect that part of the Confederacy. Well, sir, if that be the ob-

ject, let us confine the bill to that proposition; that is legitimate; everything else is illegitimate. Let us see that the proposition which is submitted to us will accomplish that object. For that purpose, you should build your railroad across the desert and the mountains, not through the fertile plains of Kansas and Nebraska.

But, sir, according to my apprehension of the bill reported by the select committee, the criticism of the Senator from Massachusetts [Mr. Wilson] is certainly correct. The contractors under it will never build the road across the desert or the mountains. They will go on, section by section, taking this princely endowment of the public domain and of money that you give them per mile, according to sections, and when they come to the desert and the mountains, that is the place where they will leave you in the lurch. The very time when you want these gentlemen is the time you will not have them. Any man can drive, not merely a coach and four, but he can drive a locomotive and an entire train of cars, through a bill like this. You propose to endow them with all this public domain, and they are to have it on the construction of one section of twenty-five miles. When they have finished that part, the President of the United States is to convey to them three fourths of all the public lands which you have given to that extent; he reserves one fourth to force them to go on with the next section. They go on with the next section, and then they get the fourth which was reserved and three fourths of the next section; and it is all very nice until they come to the place where they do not want the land, until they come to the place where the arid desert is, where they cannot sell the land, where their land monopoly will not enable them to extort from the actual settler three or four times the value of the property, and then they will stop the road.

So with your money; as long as it is profitable to build the railroad with the subsidy in money provided by the bill, it will be built. I do not know but that they will commence it at the eastern end; perhaps on the borders of the State of Missouri, a great rich empire through which the whole path of emigration from the eastern States is passing. It will be very comfortable to commence at the mouth of the Kansas river, or at any other point on the Missouri river, and go westwardly as long as the land is valuable, and as long as the Government will give them money. Perhaps they may commence also at San Francisco, and probably so. That is a large city; that is the seat of great commerce, and, no doubt, of great trade with the interior; and they will carry it from San Francisco eastward as long as it is profitable. Well, sir, how are you going to compel them to go on? They absolutely deposit a forfeit of \$500,000 in stock. A great forfeit that to make them go on! But even that they draw out. As fast as they satisfy us that they have expended that amount, they are to get it back in dribbles of \$10,000; and how long will it be before they will have it all back, and then where is the forfeit?

It is my judgment, that a bill could not have been framed so well calculated for the purpose of giving away the public domain, not to the actual settler, but to those corporations who have blasted some of the fairest States of this Union—not merely have taken possession of the land to the exclusion of the actual settler, but have subsidized and debauched the Legislatures of the States. I acknowledge that that feature of this bill, giving away the public lands with a lavish hand, is to me a capital objection. I say with the Senator from Massachusetts, if you are to build the road on the ground of public necessity, if the emergency be so great as to require the Government of the United States to take into its hands the construction of a railroad, and I confess it must be a very great crisis, certainly, that could bring us to that, if there be a crisis like that, let us build it with the public money at once; not shirk our duty, not attempt to palm off lands upon somebody else in order to get somebody else to do our duty. If it be our duty to build this road, let us build it boldly; and if you desire to appropriate the proceeds of the public lands along the route for that purpose, adopt the proposition of the Senator from Massachusetts, and issue your bonds bearing interest, and with the proceeds of these bonds go on to make your road, and reserve the public

lands as a fund out of which those bonds shall be redeemed.

I am not very sanguine as to the great benefits to be immediately conferred by a bill, even if it should be passed according to the views I have indicated. I certainly agree with the Senator from Massachusetts that this road will never carry any great amount of freight. I think it is very likely that the cost of the charges for freight on any article of bulk would far exceed the value of the article by the time it had got from one end of the road to the other. I do not believe that the stock of the road will ever be valuable or profitable, in view of the passenger travel. We have a great many railroads in my State, traversing it in every direction; I think probably two thirds of the county seats could be reached by railroads; and certainly no State of this Union affords fairer advantages to railroad enterprise than the State of Ohio. It is the only State in this Union which extends from Mason and Dixon's line to Canada, and we have a monopoly of the underground railroad, among other things, on that account. [Laughter.] There is not a mountain in it, from the lake to the river, and the consequence is that nearly all the great routes eastward and westward, from the southwest to the northeast, pass across our State. New York and Philadelphia and Baltimore are all connected with the South and the West through my State. Timber is plenty; stone is plenty; there is very little expenditure for grading; there are very few tunnels. And yet I am free to declare that the stock of our railroads is worth nothing at all; it is all sunk, with a few exceptions. Nor do I believe that there are six railroads in the State of Ohio that will ever pay more than the first mortgage bonds. They may, and I hope they will; but from their present condition such is my belief; and yet Senators talk about the profits on the stock of the Pacific railroad. Why, sir, you had better put the minus mark before any estimate that the stock will ever be worth a cent. It never will; it is to be sunk. If it were not so, the project would not be before Congress.

I say I am not sanguine on that point. The argument then is, that we must make a railroad now in advance of settlement, in advance of colonization, and before we know whether this is the best way of getting to the Pacific. We assume that, of course. We assume that we are the wisest people that ever lived, that our children and their descendants never will know any more than we do. Some Senators can recollect when the same glorification was made over turnpikes. I believe half the States of the Union went crazy about turnpikes; mine did, and put all her public money in them. They were considered the last possible invention. After them came canals, and I know New York and my State got into the canal business to their heart's content; and this very day the difficulty in our way is, what to do with our canals. They run us into debt, head over heels, every year. We are very much like the man who won the elephant at a raffle, who had no place to put him, and nobody to take him. Just at this present speaking, we do not know any better method of travel than a railroad. I do not know that there ever will be any better; but, perhaps, when the population on both sides has approached the arid desert of which the Senator from Mississippi spoke, a railroad may not be the best way to get across it, and probably all our investments in that regard would not amount to anything.

However, it is now said that the danger is imminent; that the Clayton-Bulwer treaty down in Central America is worse than a desert. I think it is. I think we shall get through the desert quicker than we shall ever get through that treaty; and therefore, it is said, we must immediately provide for getting from the Atlantic to the Pacific by railroad. Well, sir, what do we want with these three roads to get there? What do we want with the three prongs proposed? Is it to log-roll the bill through? Is it that that there is no great public necessity, but that each Senator thinks if the bill can be made to suit his section of country, or his State, he will vote for it? Well, sir, I will vote for no such thing. I will vote for no three roads, nor two roads; and none of these prongs. I want that road which will accomplish the purpose stated by the Senator from Mississippi, [Mr. DAVIS,] and I vote for that because I am satisfied that it expresses almost the unani-

mous sentiment of the people of my State, and not because I have any great expectation that it will be constructed very soon, or amount to much after it is constructed. I think if we had the road made to-day, the Senator from Virginia [Mr. HUNTER] would have to bring in a special appropriation bill to pay the expense of running the trains. As for the schemes which have been proposed to us, including the bill reported by the select committee, which in my judgment is the worst bill of all, I cannot vote for any of them; and therefore I desire to recommit the whole measure, with a view that the committee may give us something that is practicable, and at the same time in accordance with the condition of the Treasury, and the arguments which have been urged in favor of the project.

Mr. DOOLITTLE. I do not propose, Mr. President, to detain the Senate at length, but simply to state the substance of the proposition that seems the most practicable and the wisest to myself. Gentlemen may speak of building but one railroad across the continent to the Pacific, but there are in the minds of the American public at least three general lines already designated, and, I may add, already in the process of construction. There is the central route, starting from the Mississippi; there is the southern route, through Texas, starting from the Gulf; and there is the northern route, to Puget Sound and the Columbia, starting from the great lakes, which within two years from the present time it is believed will reach the west line of the State of Minnesota.

Gentlemen who reside along the central portions of the United States may say that it is important that this line of railroad should be constructed on the route where they and their constituents may happen to reside; but when the central route shall have been completed, there is an empire north of it on Puget Sound. Mr. President, I well recollect when, in 1844, then a resident of New York, acting with the Democratic party, a party then worthy the name, I went for the election of Mr. Polk as President of the United States, with "the annexation of Texas, and 54° 40' or fight," as the Shibboleth of the Democratic party. We carried the State of New York for Mr. Polk, and Texas was annexed to the Union. I have no regrets to express on that account; we gained an empire when we annexed it, but we had no 54° 40'. All north of 49° was surrendered to Great Britain. In surrendering what is north of 49°, we surrendered an empire compared with which Cuba, rich and valuable as it may be to the commerce of the United States, is a mere bagatelle, not to be named in the same day. And yet in Oregon and Washington we have possessions of vast extent and immense value, which have equal claims upon the Government.

I know, sir, there are some gentlemen who oppose the construction of a Pacific railroad on the ground of its unconstitutionality. At the same time, it is well known that the same gentlemen are especial friends of the President of the United States, who recommends in his late message the appropriation of a large sum of money for the purpose of buying the island of Cuba; and for what, sir? On account of our commercial necessities; because the island of Cuba commands the commerce of the Gulf. A bill for that purpose has already been offered to the Senate by the confidential friend of the President of the United States. I refer to the Senator from Louisiana, [Mr. SLIDELL.]

Mr. President, while I do not object to the Government of the United States affording aid in the construction of the central route, which the people are already in process of constructing, I at the same time ask the Senate of the United States to do but equal justice to other sections and portions of the Confederacy equally important. It is right, if this Government gives aid for the construction of a railroad through the central portion, from Missouri to San Francisco, that aid should be given also to the construction of the southern road, and of the great northern line. The Senator from California, who has charge of this bill, as chairman of the committee, [Mr. GWIN,] in his speech addressed to the Senate a few days since, states that if we do not construct this railroad, the great commerce of the Pacific will be lost to us forever; and why? Because the British Government will construct a railroad across the British possessions; hundreds of miles north of the

northern limits of this Confederacy, up the valley of that river whose name is so difficult to pronounce—the Saskatchewan, I believe—and so across to Puget Sound. And at the same time, gentlemen on this floor oppose this route as impracticable on account of its high northern latitude and the coldness of its climate.

As I said in the outset, I intend merely to state the substance of the proposition which I offer, and which, it seems to me, is more practicable than any other. We have already had surveys of these three routes by men belonging to the Army of the United States under charge of the War Department. My proposition is, that the President of the United States shall be authorized to appoint, by and with the advice and consent of the Senate, boards of civil engineers to survey each of these routes, and to locate their general lines, and report them to the President, to be by him laid before the Congress of the United States in December, 1860. This will give to the engineers two summer seasons, besides one winter season, to explore the lines and to ascertain and determine where the best and most eligible routes are upon each of these lines—the northern, the central, and the southern. I then propose that the President of the United States shall publish notices and receive proposals from capitalists for the construction of each of these roads; that after these proposals have been received he may enter into separate contracts, conditioned that they shall be submitted to the Congress of the United States, and that they shall have no effect whatever until they have been ratified by Congress, so that we may know what we are about to do, and go into this great measure with our eyes open.

It proposes, also, not to make any grants of public land to the constructors; I for one, Mr. President, am opposed to the monopoly of the public lands by railroad contractors. But it proposes that the proceeds of certain odd-numbered sections may be paid over for the purpose of aiding in the construction of the roads; that is to say, the proceeds of ten sections only, to any one mile of road, until the whole road shall be completed. It proposes further, at the same time, to reserve in the Treasury of the United States the proceeds of the sales of ten other odd-numbered sections until the whole line is completed. It provides, also, for opening these reserved odd-numbered sections to settlement to the actual settlers, who shall go upon them, and occupy them under the provisions of the preemption laws; and it proposes to open the even-numbered sections to settlement under the provisions of the homestead bill; the effect of which is to send forward the columns of emigration and settlement upon the lines of these roads, without which, I undertake to say, if it be not impossible, it is certainly impracticable, to undertake to build any railroad at all.

Gentlemen speak of the defenses of the Pacific country. Sir, the best defense we can have for California is to throw the population of the United States into California, and they will defend themselves. Precisely so in reference to the people in Oregon and in Washington. Open these great lines to settlement, provide the best means, first by wagon roads, then by railroads, for throwing the people of the United States into those Territories, and then we shall have the best defenses for that country. Our main defenses, sir, do not consist in ships-of-war, nor in forts on shore. It is not on standing armies that we rely. These are, to a certain extent, all well enough; but in any great emergency the people of the United States must rely upon themselves. They are the bulwark of their own defense, constituting the power of this great country in the field in war, as well as the true source of all other power in this country.

I propose further, that if, in the opinion of the board of engineers who may be appointed by the President, the proceeds of the ten sections to be paid over to the contractors as the work progresses are not sufficient to pay the actual cost of the construction of these roads in sections of twenty-five miles each, the Government of the United States may issue its bonds to the amount of not exceeding \$10,000 a mile, and that these bonds are to remain as a lien or mortgage on the road, so that it will not be in the power of the constructors to do what has been anticipated might be done under the bill now pending before the Senate.

In my humble judgment, this is a practicable mode of aiding in the construction of these lines of railroad across the continent. I believe it is the only practicable mode which has yet been suggested to my mind. Men speak of one road as being sufficient to answer the wants of this great country. Why, sir, how many railroads are there between Boston and the city of New York? You may tell me that Boston is in New England, and Massachusetts is a very populous State. Perhaps many are hardly prepared to believe it; but the truth is, sir, that Wisconsin to-day has about the same population as Massachusetts. Wisconsin to-day, although twenty years ago there was scarcely any population there, has near seven hundred thousand people; Minnesota has over two hundred thousand. The great currents of emigration are rolling on; they are going on with a power and an energy and a momentum which make the timid and the conservative quake with terror, while the heart of Young America leaps for joy; and on they will go. Sir, this Government cannot hinder them if it would; it may, perhaps, aid in their advancement, and in giving some direction to their course.

At the same time, Mr. President, I would not press on the columns at too rapid a rate, nor would I encourage the building of railroads so fast as to incur large liabilities by this Government or disturb the monetary affairs of the country.

The bill which I submit, therefore, proposes that there shall be a limit as to the rapidity with which these roads shall be undertaken to be constructed. It limits the amount to be constructed on any one line, to two hundred miles annually, and for obvious reasons. I believe that true wisdom and practical judgment require such a limitation. Without it you may not have the people upon the line who are necessary to construct it, and the people who are necessary to defend it and to operate it after it is constructed.

I admit that there are difficulties on all three of these lines; and it is simply because there are difficulties on these lines of routes, because there are points upon each where perhaps it would be impossible for private enterprise alone to construct a railroad, that I desire to retain in the Treasury of the United States the proceeds of a portion of the lands along the whole line, for the purpose of securing the building of that portion of the road where private enterprise and private capital would fail to build it. If the lands for the whole distance across the continent were fertile and arable, I would never ask for any aid from the Government of the United States; but there is a point on all these routes, much less, I believe, on the northern route than any other, where some aid will be necessary, and it is for that purpose that I desire to retain in the Treasury of the United States the proceeds of the sales of certain alternate sections, so that we may have the money derived from the proceeds of those sales regarded as a fund set apart for that purpose, to aid in the construction of the road when we approach that point.

This proposition is so drawn, too, that on whatever line a road may be attempted to be constructed, you may commence on the central route, or the southern route, or the northern route; and if you approach a point where the contractors abandon the road, the Government will not be the loser by the abandonment. All the Government will have done will be to have advanced to the company at the rate of \$10,000 per mile, holding a security upon the road itself for that amount of advancement, besides having advanced the proceeds of ten alternate sections of land. The settlement and the development of the country would have been secured; while the Government itself would have lost nothing in the operation beyond opening so much of the public domain without any compensation for its lands. In no event would the Government incur liabilities beyond \$6,000,000 per annum, if two hundred miles on each route should be annually put into operation.

Another feature of this proposition which I submit, and which I regard as one of the most important features of it, is, that it opens up the even-numbered sections, except those which are reserved for school purposes, to occupation and settlement under the provisions of the homestead bill. I shall not discuss the propriety of that measure on this occasion, for I desire simply to

call the attention of the Senate to the proposition which I submit for their consideration.

Sir, I do not believe that this would be the means of doing any injustice to any section of the Confederacy. I believe that it would be doing no more than the Government of the United States may constitutionally do, to aid the people upon these several lines in the construction of these railroads across the continent. I must say that I much prefer this to the proposition to build the central road, and that alone; for I confess that I have serious doubts whether the building of the central road, on the whole line, is so practicable as some suppose. I have still more serious doubts, as to a portion of the southern line, whether it will be practicable ever to build a road from the Colorado to San Francisco. It may be built to the Colorado or the Gulf of California; but beyond the Colorado there is a vast sandy desert, whose moving sands swept along, in thick clouds, by the winds, as they pass over it, moved as the simooms move the sands of the desert of Sahara, may, I fear, bury your railroad, cars and all, beyond the power of all the money of the Government of the United States, or any earthly power, to protect or to defend them.

But, sir, I know that we differ in our opinions on the practicability of each route. Each route has its special friends on this floor, who believe that it is not only the best, but perhaps the only really practicable route. Sir, let us adopt a proposition like this which I offer: let civil engineers be sent out, practical railroad-men, not Army officers—Army officers have been over the ground and given their account of it; let us send civil engineers who have been actually engaged in the construction and operation of railways in this country for a term of not less than five years; let them go over these routes; let them come back with their report of the several routes, and the general estimate of the cost of each; let it be then submitted again to the Congress of the United States by the President, when we can see the general lines which they have selected, and when we can vote on a question of this immense magnitude with our eyes open, and know what we are voting for, and how much we expect to involve the Government.

Mr. President, I have spoken at greater length than I intended. I hope, if the bill is to be re-committed at all, that my proposition to instruct the committee to report a bill for three lines of railroad, instead of the one line of railroad which is now pending before the Senate, will prevail.

Mr. FOSTER. Mr. President, there are forty-three working days only left for this Congress. Already a great deal of time has been occupied in the discussion of this bill, perhaps no more than is necessary, considering its great importance; but it is a fact, which has occurred, I presume, to most minds here, that the greater portion of time has been occupied by the friends of the bill. Now, sir, I would respectfully suggest to all those who are friends of this measure, and I am one of them, that an early period must be put to this discussion, or the measure will be killed by its friends. There are a great many amendments to the bill, a great many propositions before us, on which few or no votes have been taken. I respectfully suggest to all who are friends of this measure, that we had better begin voting, or this bill is dead, and the measure is put beyond all hope of resurrection for this session.

The PRESIDING OFFICER. (Mr. STUART in the chair.) On the question of recommitting the bill, the yeas and nays have been asked.

The yeas and nays were ordered.

Mr. SIMMONS. I think that the recommitment of this bill to the committee will consume more time than we should occupy in voting on it and perfecting it. Every man has peculiar notions about the amendments. Let him express them by his votes. I hope the bill will not be re-committed, and that we shall take these different substitutes, and have the sense of the Senate on each, and see whether the minds of Senators can concur in something. We can do that in a great deal less time than will be consumed by re-committing the bill to the committee. At some stage of this measure—I do not wish to interpose any obstacle now—I intend to propose, not an amendment as to the routes, but some proposition to bring whoever builds the road within the control of the Government. I do not want different corporations scattered all over this country

dabbling in railroads. The more corporations you have to dabble with them, the more squandering of money and the more trouble there will be in having any regulation about it; but the routes are to be settled first. I hope the bill will not be re-committed, but that we shall take the sense of the Senate on the various propositions which have been submitted.

Mr. DOOLITTLE. It will be recollected that the Senator from Georgia first submitted a motion to recommit the bill, with instructions to report the bill which he had prepared, providing for two routes, a northern and a southern route. I made a motion to amend his proposition, so as to instruct the committee to report the bill which I submitted. He subsequently withdrew his original proposition, and moved to instruct the committee to report a bill for two routes, a northern and a southern, which I moved to amend by inserting, also, the words, "and a central route," for the purpose of instructing them, if it went to the committee at all, to report a bill for three routes. Some friends around me suggest that a better mode of arriving at the sense of the Senate would be to move to amend the pending proposition, by substituting the bill which I have introduced, for the bill which is pending before the Senate, and let the sense of the body be taken on that.

The PRESIDING OFFICER. (Mr. STUART.) The motion before the Senate having been divided, the first question is on the motion to recommit; and if that be carried, then the Senator can propose to amend the instructions in any way he chooses.

Mr. DOOLITTLE. Would it not be in order for me to move to amend that proposition?

The PRESIDING OFFICER. Not at this time.

Mr. SHIELDS. If I understand the proposition now, it is to recommit the bill with instructions to report in favor of three roads.

Mr. TOOMBS. That has been divided. The first question is on recommitting.

The PRESIDING OFFICER. The Chair will state that the motion to recommit with instructions has been divided, so that the question now is, first, will the Senate recommit the bill?

Mr. SHIELDS. On the bare recommitment?

The PRESIDING OFFICER. Yes.

Mr. SHIELDS. As far as I am concerned, I consider that as an end of the bill; but I will ask the Senator from California who has had charge of it, whether he thinks this recommitment would not be prejudicial to it at this session? I shall certainly vote against it if he thinks so.

Mr. GWIN. The select committee had this subject before them, and a majority of the committee reported this bill. Members of the minority have presented two substitutes for it. I think we have done all we can. The recommitment of the bill, it seems to me, would be a mere postponement, without resulting in any benefit. I shall certainly vote against it.

Mr. SHIELDS. The Senator is opposed to the recommitment. I shall vote against it.

Mr. DOOLITTLE. I do not profess to understand the rules of order; but it is suggested to me that the motion to commit, with instructions, is hardly such a motion as is susceptible of division.

The PRESIDING OFFICER. It has been decided that it is divisible, and decided, as the present occupant of the Chair thinks, correctly; because the Senate may commit the bill, and refuse to agree to the instructions.

Mr. DOOLITTLE. The proposition now pending is a proposition which I myself offered. ["No."] I moved to amend, and my amendment was adopted, and it stands as amended on my motion.

The question being taken by yeas and nays on motion to recommit, resulted—yeas 25, nays 32; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Chestnut, Clay, Clingman, Crittenden, Fitzpatrick, Hamlin, Hammond, Houston, Hunter, Iverson, Johnson, of Tennessee, Mallory, Mason, Pearce, Pugh, Reid, Rice, Sidel, Stuart, Toombs, Ward, and Yulee—25.

NAYS—Messrs. Bates, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Fox, Foster, Green, Gwin, Hale, Harlan, Jones, Kennedy, King, Poik, Sebastian, Seward, Shields, Simmons, Trumbull, Wade, and Wilson—32.

So the Senate refused to recommit the bill.

The PRESIDING OFFICER. The instructions fall, of course, the Senate having refused to recommit the bill.

Mr. BIGLER. I now offer an amendment.

The PRESIDING OFFICER. There is a motion to amend pending, which will be stated. The Senator from Massachusetts [Mr. Wilson] has offered an amendment to strike out, in the ninth and tenth lines of the first section, the words, "the most eligible route, reference being had to feasibility, shortness, and economy," and insert, "the shortest practicable route between the parallels of latitude 34° and 43°;" so that the section will read:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the shortest practicable route between the parallels of latitude 34° and 43°.

The Senator from Iowa [Mr. Harlan] moved to amend the amendment by striking out "thirty-four," and inserting "thirty-seven." The question is on the amendment to the amendment.

Mr. BIGLER. My motion is to strike out all after the third section and insert. Is not that in order?

The PRESIDING OFFICER. Not at this time, the Chair thinks.

Mr. TRUMBULL. As I regard the vote now about to be taken on this proposition to confine the limits of this road between the thirty-seventh and forty-third parallels as vital and decisive to the bill, I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. HOUSTON. Mr. President, it was not originally my intention to address to the Senate any remarks on this subject, but it seems to me that the proposition now submitted to us is one of great importance. If I have correctly apprehended the design of the Pacific railroad, it is for the national advantage, for the general benefit, and it ought not to be confined to any particular section or interest in the United States. If so, I cannot perceive the propriety of restricting the engineers in their reconnoissances to any particular locality, but we should leave the wide field open for the selection of that line which will best promote our great national purposes. This amendment, however, proposes to limit the selection to a point north of the thirty-seventh parallel. It seems to me that if nature has designed a communication between the Mississippi river and the Pacific ocean, the least expensive, the most direct, the most facile means of communication, is to be found in a route commencing at the mouth of the Red river. By commencing there, all the streams which would be encountered if you commenced at Memphis, or any point further north, will be avoided, and there is but one stream of importance between that and the Rio Grande. It is a natural trough, if you will permit the expression, extending from that point, with but very little interruption, to El Paso. That country has been described by Captain Marcy, and others, who have taken reconnoissances of it, and it is manifest that a road can be constructed there with less expense than on any other route which has been designated or thought of.

We have heard of sandy deserts there interposing insuperable obstacles. Is there any route suggested that interposes no obstacles to the accomplishment of the work? None that I have heard of. It is remarkably singular that the obstacle which is regarded as insuperable, this dreary, sandy desert, this Arabian waste, as it has been termed, in which steam-cars and caravans are to be overwhelmed, is not actually known on that route at all. We have now a regular mail communication between El Paso and the Pacific ocean. If there were no facilities for a railroad on that route, how is it possible that mail-coaches could run regularly over without impediment? That fact affords a practical refutation of this assumption, which is unfounded in fact.

Why need this interpose an objection so as to rule out from the general provisions of this bill a section of country that possesses equal, if not greater advantages than any other for this work? By the route, which I have suggested you are afforded through the Mississippi river, from the point where the Red river empties into it; egress

to the Atlantic and the Gulf. From that point, too, you can communicate with the South when you cannot from St. Louis, because the ice-bound condition of the Mississippi at that point precludes navigation, and you are totally dependent on transportation by cars from St. Louis. The mouth of the Red river is never obstructed by ice, nor does it ever offer any obstruction at any point on the Mississippi below the mouth of the Ohio river: From the mouth of the Ohio you can communicate with the North and East; and from Memphis and Vicksburg with the whole South. At the terminus of this route, you have all the facilities of water transportation which, in point of cheapness, very far surpasses railroad transportation. But, sir, if you terminate the road at St. Louis, where the river is ice-bound at this season of the year, and where commerce must of necessity be arrested, how will the people of the Gulf or of the lower part of the Mississippi have communication with it? Must you transport articles to some point south of the Ohio river, and thence radiate through the whole southern country? Is that the way? Sir, you have the opportunity of accommodating all by locating the terminus at the mouth of the Red river, and there the whole commercial world is open to you; all the facilities that arise from railroad and water transportation are afforded to every section of the country north of it; but if you bring the road to St. Louis, you must be solely dependent upon railroad transportation, and you cannot have it by water, because the Mississippi is ice-bound as well as the Missouri, and you are arrested there. All the cheapness, all the convenience, and everything that would result from the other terminus is there converted into a cost and an impediment to transportation.

I think that to restrict the southern limit to the thirty-seventh, or even to the thirty-fourth parallel, is ruling out one of the most important routes, the advantages of which to the South will be incalculably greater than any other. By leaving a margin for including that route, do we cut off the North from any portion of the advantages which it has a right to claim? None at all. The Ohio and the Mississippi are open to Cairo; and at Cairo, at Memphis, and at Vicksburg, the line of which I have spoken will connect with the whole eastern portion of the country. The entire line north will be reached from Cairo; from Memphis this line will communicate with Charleston, with Richmond, and with all the southern portion of the Union. Either from Vicksburg or from Memphis, you can convey to New Orleans, by ship or steamboat transportation, all the materials that will arrive from the Pacific coast. If you have anything to transport there, you have all the advantages of embarking them at a point more accessible than the mouth of the Ohio for the people of the North. They have no streams to ascend; but the people of the South have the broad and secure Mississippi, with no impediments, no sawyers, no obstructions, to prevent their reaching the terminus with perfect convenience and security. You cannot have access to the North from any other point with the same facilities that you can from this terminus on the Mississippi.

Why rule out this route? Is it not entitled to consideration? Why not give entire latitude to those who are to construct the road, to make their selection? If it is not eligible to make the terminus I have suggested, very well; let them so decide; but I implore you not to disfranchise those who have a right to your consideration as a part of this Union. If this is to be a great national work, give it a national character, and treat it as a national measure for the defense of the Pacific coast. I have always been its advocate. I have seen no constitutional impediment to it. There is none; or else it is unconstitutional to give national defense. The Federal Government is bound to defend the several States, and to give security to them. If they owe it allegiance and loyalty, the Federal Government owes them protection. Can you give protection to California without a direct communication with the Pacific ocean? You cannot. Can you bind them in interest? can you make them identical with us? can you bind them in cordiality, in sympathy, and in loyalty, unless you create a bond of this kind? You cannot. I wish no portion of this country to be alien to the Union; and I wish to do justice to all. I never

could conceive that there was a constitutional impediment in the way of this work. Are we authorized to build forts and fortifications? If we are, are we not equally bound to afford other means of defense? Is not the communication with San Francisco and with the Pacific as important as it is to erect forts here upon our borders, on the Atlantic? Equally important. They are necessary to the protection of our Atlantic coast, and a railroad is indispensable to the protection of the Pacific coast.

I have always been a stickler for strict construction, and I am yet; but I believe whatever is necessary for the salvation of the country is constitutional. There has been no constitutional provision to bring these vast territories into the United States, and to incorporate them into our Union. The Constitution cannot be stretched; it is not a piece of India-rubber; it is a compacted whole, and not to be distended; but whenever you step beyond the Constitution to acquire a dominion, it becomes expedient that you should do something with that dominion; and then it becomes a matter of legislative discretion. That is my opinion about the Constitution and its application to those territories, that have been acquired without its pale and without its provisions. I insist that it would be an act of glaring injustice to this section of the country, possessing the vast and illimitable advantages which it does as a terminus of a road, to exclude it from the common benefits that are extended to other sections of the Union.

Mr. President, as I remarked in the outset, it was not my intention to have uttered one syllable upon this occasion. I have always entertained my private views and opinions. I did not know that they were more orthodox than those of other gentlemen, nor did I wish to bring them in opposition to their views. It is possible that I might be reconciled to the views which they have advanced; but they have not yet convinced me, and I have a right to give my opinion.

I have regretted, Mr. President, that in the course of this discussion it has been deemed necessary to draw any invidious distinctions between the North and the South. That to me for the last twelve or fourteen years has been a subject of deep and inexpressible regret. I have never heard that chord struck, but its vibration was painful to me; and the other day, when gentlemen thought proper to advert to it, and when there was crimination and recrimination, I was deeply wounded. I had hoped that that subject was deeply buried, that it never would be resurrected again, at least within my hearing for the short period during which I am to occupy a seat on this floor. That good fortune, however, was not allotted to me. I had to hear the jarring sounds again, not of the death knell, but of agitation; and what its ultimate consequence is to be, I know not; I hope never the severance of this Union. I hope, I believe, the Union is to be eternal. I cannot but think that if the bright capacity, the cultivated intellect, and the undoubted patriotism of gentlemen here could be subsidized to the great object of devising ways and means for the perpetuation of Union, for harmonizing the discordant sentiments that exist in the community, and reconciling difficulties, it would be a most desirable and commendable employment. It would seem, however, that they were rather devising causes and occasions of disagreement and alienation between the North and the South. Disunion has become a cant phrase. It is talked of familiarly. In olden times, and it is within my recollection, when it was first sounded in the House of Representatives, when it was first suggested in the debate on the tariff of 1824, I thought it was treason, and that the individual ought to have been crucified. It is no more acceptable to me now than it was then. It is more familiar, but that does not commend it either to my affection or to my judgment. Disunion, sir! You might as well tell me that you could have a healthy patient and a whole man, if you were to cut the main artery of his life.

Have gentlemen ever reflected as to when, where, and how they are to begin disunion; and where it is to end? Will they cut the great Mississippi in two? Who is to have the mouth of it? Who is to command its source? Will it be those who agitate the subject, or are ultra upon it? Never, never! Look at the great West, rising like a giant. Think you they will be prohibited the privilege of commanding the great

outlet of that river, when their productions are boundless and float upon its bosom every year, and every day of every year? Sir, it is madness. I must remark to my honorable friend from Georgia, [Mr. IVERSON,] with all kindness of feeling personally, that when I heard him speak for the South, I could not but review scenes that passed before me in the old Chamber, when gentlemen rose and spoke for the South as if they were proxies of the South, and held the South in the hollow of their hands, or controlled its destinies by their will. Sir, I am of the South. I was born there. I have lived there. No other man in the whole South has a broader interest in it than myself; my all is there, and I have represented a proud State here. I answer for a part of the South. I intend to disclaim the right of any gentleman on this floor to speak for the South, when I can offer a negation to his assertions.

This must be stopped, sir. It may wear out. If it does not, and the crisis comes, you will find the patriotic hearts of the South, are better employed than in agitating this subject; men who are better engaged in the daily avocations of life; men whose employments lead them to love their country, to hope for its advancement, to rely in security that on their own exertions depend the welfare and prosperity of their families; and whose prayers are for harmony and the well-being and prosperity of their children in life. These are the bone and sinew of that country. They have no passions to flatter; they have no political aspirations; they cherish nothing but a holy loyalty for their country and its Constitution; and when these men are called to action, and look around upon the elements which they are to oppose, it will be as wise, if it were possible, for a sane man to throw himself in the way of the furious tornado, as for public men to oppose them. They will not do it. They will stand aloof, hugging security with a consciousness of happiness and the future well-being of the human race. They will be contented with the blessings they enjoy, and will not put them to the hazards of revolution.

The gentleman spoke of one State seceding, and others following. Mr. President, it would be much easier for one State to come back than it would be for other States to go with it. I can see no propriety in that. What would they do? Suppose one State goes out; it rules itself out of the Union; it has cut off all intercourse with the other States; and as to talking of a division of the great public lands of the United States, the right of a State to any participation in them is at an end when she secedes from the Union. She has left good company and gone off by herself; she is in a minority; she cannot take any portion of the territory, for she has abjured that; she has surrendered it by going out of the Union, for it is only through the Union that she has an interest in it. Where would be the navy of the seceders? where their army? where their security at home? Sir, the very moment that a State places herself out of the Union, that moment she assumes the attitude of revolution; she has revolted. Certain duties are enjoined on her by the Constitution; if she resists the operation of the Constitution, she becomes a rebel *per se*.

Sir, let the wise men of this Union turn their heads and their hearts towards peace and harmony; let them become reconciled one to another, and continue not the use of crimination and recrimination, but the language of conciliation, of courtesy, of considerate demeanor, reflecting but not talking, thinking but not acting prematurely, and then we shall see a harmonious and desirable state of things in this country. We shall see no animosity; we shall see here no bitterness; no incendiary pamphlets will be circulated in either section. Let gentlemen of the North cease to agitate the subject of our southern institutions. They are ours, they were theirs, and they had a right to them, and can reestablish them again if they choose. If it is a matter of policy with them to eschew them, it is a matter of necessity and of right and of interest on the part of the South to maintain them. Gentlemen may talk of philanthropy and humanity and the equality of all men under the Declaration of Independence; but I do not think an African equally white with me, and therefore he is not on a footing of equality exactly. He has never enjoyed political rights, and therefore he has been deprived of none. In

Africa, he enjoyed the privilege of slaughtering and eating his fellow-man; and it was consistent with his idolatry, and consistent with his education; but that does not give him the education and moral pitch that white men have.

But be that as it may, whilst these subjects are being discussed, I ask, I implore gentlemen to tell us what better disposition can be made of them. Is the wild and savage African of Africa better than the slave of the South? Is he as well off as the free blacks of the North, or those who are freezing in Canada? No; he is not as well off as they are; he is not cared for; and will you throw our slaves back again into barbarism, or will you turn them loose upon us in the South? Have we done ought to produce the necessity of having them amongst us? Did not your ancestors do it? We never were a commercial people; we never carried on the slave-trade until recently—and I brand that as an act of unmitigated infamy; but it was done by others. Slavery has descended to us; it is necessary, and we must maintain it; but does it conflict with the well-being of northern gentlemen and northern society that the South bear it? We are told that it is a calamity and misfortune to us. Let us bear our misfortunes alone. We have not asked for intervention, nor can we permit it. It is requiring too much. Have I ever sought to drive slavery into your communities? Have I ever sought to extend its limits or to trench on any one of the established principles of gentlemen who think differently on this subject from myself? I have not sought to thrust it down their throats; but I have determined always to maintain it as a man, and to vindicate the rights that exist with us.

You never hear me talk of "southern rights." The South has no rights but what belong to the North; nor has the North any rights but what belong to the South. The North has excluded slavery; the South retains it. The North did it because exclusion was their interest; the South retain it because that is their interest. All the States have equal rights. You, gentlemen of the North, have the right to adopt slavery when you please. We have the right to abolish it when we please. You have the right to abolish it, and we to adopt it. Our rights are reciprocal under the Constitution. We hold no rights that are southern that are not northern; but "southern rights" is a cant phrase, calculated to inflame the popular mind, and create an alienation of feeling, as though the South was, in interest, antagonistic to the North, and the North to the South. Allay these reflections, gentlemen; hush them up; cure and heal the wounds that have been inflicted upon the nation; give harmony to it, and you will give stability to our institutions. God has given us everything that is necessary to make us a happy, a great, and a mighty nation; and, oh, let us not be laggard in the generous race of emulation to honor His works.

Mr. DOUGLAS. Mr. President, I am not sure that I understand the precise shape in which the bill now stands. I am informed, however, that it is the bill of the last session, with some slight amendments adopted at this session. I voted against the proposition to recommit the bill, for the reason that I am satisfied that a recommitment now would be death to it. I am satisfied that the principal object of recommitting was to strangle it, at least for this session. Such being the case, the friends of a Pacific railroad, those who desire immediate and prompt action, I think should keep the bill before the Senate, vote upon the amendments as they arise, perfect it, and give it a fair trial on a test vote upon its passage.

I had flattered myself that there was a large majority in this body, as well as in the other House, in favor of the construction of a Pacific railroad. If there is any one question on which the public mind everywhere has seemed to be united, it is the construction of a railroad to the Pacific. At the last presidential election, it was the only point upon which all three of the political parties of the country united—Democrats, Republicans, Americans. All were committed to a Pacific railroad, and their candidates equally pledged to the carrying out of that proposition. It would be a little curious if we could not find a majority of either branch of Congress in favor of the only proposition to which every man was committed before the people, or, if not every man, to which all parties were committed. Such may, however, turn

out to be the case; but I trust not. I think there are such considerations as commend themselves to the minds of all impartial men in favor of the immediate construction of this road, as will eventually control the action of Congress.

But I did not rise to discuss the main question. I have often done that before; and it has been so ably debated now, that I do not feel that I could add any new considerations. My motive, at present, in rising, is to protest, so far as my voice and vote are concerned, against the amendment proposed, by which the thirty-seventh parallel shall be substituted for the thirty-fourth as the southern limit, beyond which this road shall not be constructed. The bill, as it now stands, provides that the starting point shall be on the Missouri river, between the mouths of the Big Sioux and Kansas rivers; and that the line shall pursue the most direct and eligible route to San Francisco, in the State of California. Why are we not satisfied with that provision as it stands? Is there a northern man, is there a central man, who is not willing that the road shall start between these two points on the Missouri river, and then pursue the most eligible route to San Francisco? I think it is fair to the North, to the center, and to the South. Some are afraid that, after it starts on the Missouri river, it will bend southward, and get into the valley of the Rio Grande, and perform a very great circuit before finding its way to San Francisco. Sir, if it should take that course, I do not know what reason a northern man could have for objecting to it. It will only draw trade from that southern region up to your northern roads and your northern cities. If it goes due west, it keeps on the great central belt, and will not divert trade either way. If it made a circuit to the north, with a southern termination, it might draw northern trade down south; but I am surprised to find a northern man afraid of this southern curve. I do not wish any limits either at the north or the south.

If there is to be but one road, let it be central in its eastern and western terminus, and let it follow the best route between the termini. I am willing to leave the marking of that route to the contractors who invest their capital in the work; I am not willing to leave it to the political action of this Government. I am willing to leave it to those who invest their capital, their fortune, and have an interest to keep the road upon the best line. If the best line shall be found to be due westward, through the gold mines of Kansas and the Great Basin to California, let it take that route; if the best route shall be found to be down through Arizona, let it go there; if the best route shall be found to be up the Missouri river, to Puget Sound, let it take that course; if, on the other hand, the best route shall be found, and I am not prepared to say that it will not be, from the Missouri river to Albuquerque, and thence, on the thirty-fifth parallel, to the Tejon Pass, and thence to San Francisco, let it take that route.

The amendment now proposed is to exclude on the south the Arizona route and also the Albuquerque route; and on the north to exclude all beyond the forty-third parallel, and confine the line between the limits of the thirty-seventh and forty-third parallels. Sir, I am unwilling thus to limit it. By confining it to the thirty-seventh parallel on the south, and thus excluding the Albuquerque route, it may turn out that you have excluded the best one that ought to be adopted. The information I get is that there is probably more good soil, more of timber, of water, of those elements that would sustain a railroad, along the thirty-fifth parallel, than there are to be found either on the Arizona route or on the extreme northern route, and I am not certain but that there is more than on any of the routes. I will not affirm that there is; but the evidence before us would not justify me in affirming that the thirty-fifth parallel has not more of the elements to sustain a road than any other. If it has, if it is the cheapest, if it is the most eligible, why not allow the contractors to pursue it?

But, sir, I see a reason of policy as well as of justice, against this amendment. It strikes out those three routes that have friends in both branches of Congress. If this can prevail, and knock off the support of the friends of those routes, the bill is dead. It is an ingenious device to kill the bill. I do not say it is offered with that motive. If it is offered with that motive, it is

because the member offering it thinks the bill ought to be killed. I impeach no man's motives in the proceeding; but the friends of the Pacific railroad ought to be cautious how they are caught in a trap which, when sprung, destroys the project. If this restriction is put upon it, I look upon the bill as dead. I hope, therefore, the friends of the Pacific railroad will vote down this and all other amendments which are calculated to drive from the measure men who wish to support it, without improving the bill in its features. Amendments offered with a view to perfect the bill, are legitimate and proper; but those which have the effect not to improve it, but to drive support from it, I think its friends ought to discourage.

I desire to see this road made. I entertain no doubt as to our power under the Constitution to pass this bill. I am not going to enter into that grave constitutional question, so ably discussed by my friends from Missouri and Mississippi, about the power to make internal improvements by this Government under that clause of the Constitution which gives you the right to pass all laws necessary and proper to carry the granted powers into effect. It is sufficient for my purpose, so far as this bill is concerned, that no man in either branch of Congress questions the right of Congress to make a contract for carrying the mail from Washington city to Richmond, by railroad, or by four-horse post-coaches, or on horseback, or by such other means of conveyance as the law may prescribe. All this bill provides is, that a contract shall be made for the transportation of the mails, munitions of war, and Government supplies, from the Missouri river to the Pacific ocean by railroad. This bill does not propose to construct a railroad, but only to contract for transportation on the road when it shall be constructed. The contractor is to furnish his own road, the same as mail contractors throughout the States furnish their own roads, their own cars, their own horses, or their own coaches, as the case may be; the same, too, as your contractors on ocean steam lines furnish their own ships. It is a contract, for transportation, and not for the construction of the road.

But it may be said that here we advance money to be repaid in transportation, to enable the contractors to construct their road and build cars, with which to carry on the transportation. Yes, and in your ocean steam lines you advanced money to help the contractors to build the ships with which to carry your mails on the ocean. So in the case of your Army transportation, you carry out the same principle. I am not going to argue the wisdom of that policy. I only say that this bill involves the same principle which you have applied to every branch of the public service, from the beginning of the Government to this day, simply proposing to contract for the transportation of the mail, Army and Navy supplies, munitions of war, and other public service, designating by what conveyance they shall be transported, leaving the contractor to furnish the means of transportation, and you making advances, in order to enable him to be in a condition to perform the contract. That is all the principle there is involved; and until my friends who have charge of the finances of the country, and the military affairs, and the naval affairs, and the mails of the country, shall find out that the contracts for transportation in those various departments are subversive of the Constitution of the country, I am willing to rest the right to pass this bill on the same system of policy.

Then, sir, why should we not make this road? The military argument has been fully and ably developed; the commercial argument has been also portrayed here; all the advantages have been fully explained to the Senate; all agree that we ought to have the road. Then, why can we not unite on a bill for the purpose of making it? Simply because there are jealousies of section against section. Sir, I agree that, if there are to be two roads, one should be at the north and the other at the south. If there are to be three, let one be at the north, one at the south, and one in the center. If there is to be but one, let it be so central as to give no undue advantages either to the North or to the South. If you make it central at its termini, and it shall vary either way between those termini, that variation will be owing to the topography and geography of the country, and not to our legislation. I am willing to trust the location

on such a line as those who invest their fortunes in it shall indicate.

Sir, I will not detain the Senate by an argument on this question. I shall regard the votes about to be taken as conclusive of the fate of the bill. I hope it is not to be lost. I hope that we are to have a road, and that the initiatory steps are to be taken at this session of Congress. I will not relinquish that hope until I shall find that the bill is absolutely dead.

Mr. IVERSON. Mr. President, the Senator from Texas [Mr. Houston] has thought proper, in the plenitude of his wisdom and generosity, to deliver a lecture to me for what he calls my disunion sentiments; and he has thought proper to designate or characterize what I had the honor to say the other day on this floor as treason.

Mr. HOUSTON. Not at all. I had no reference to you in that remark.

Mr. IVERSON. The Senator remarked that, in 1824, when he heard the question of disunion discussed in the House of Representatives, he considered it treason, and it sounded very much in that light as he heard it at the present time.

Mr. HOUSTON. No, sir; I said the man ought to have been crucified. That was the expression.

Mr. IVERSON. I understand. That is a difference betwixt tweedledum and tweedledee. Now, sir, I have expressed no desire to dissolve this Union. I utterly deny that I am in favor of a dissolution of the Union. I am for the Union as long as it is administered according to the intentions of those who made it. I am for a Union that administers equality to all the States. I am for a Union that gives to every section equal rights, and promotes the honor and the interest of all sections alike. Such a Union as that I would defend, respect, and revere; but for a Union administered upon a sectional basis, a Union administered by the demon of abolitionism, a Union that would make one section cringe to another, a Union that would sacrifice the rights and interests and honor of one section to promote those of another—such a Union as that I would crush into atoms, and trample under my foot as I would the veriest reptile that crawls on the face of the earth. Such a Union may suit the Senator from Texas. Sir, if we consider his antecedents, and his present speech, I suppose that that is the Union that would be to his liking.

The Senator talks about the Union, and sings hosannas in its praise. I have heard those songs sung before; and I must say that I have never heard them sung by a southern man without suspecting at once that his eye was upon the Presidency of the United States. It may require a great deal of charity, looking at the antecedents of that Senator, and the remarks he has made here to-day, to suppose, although his political life is about to end, that he has not lost sight of that long and lingering hope of his—the great folly of his life. Sir, it is this very intensity of feeling which the Senator from Texas has so long exhibited for the Union, over and at the sacrifice of the interests of his own section, that the people of his State have decided to put him into retirement; and for one, I cannot but rejoice at that decision.

Sir, the Senator undertakes to speak for the South, and he disclaims the idea which I presented the other day, that on the happening of certain contingencies the South would dissolve the Union, or more States than one would take steps for separation. The Senator has no right to speak for his State on the subject. His State has not reposed its confidence in him. His State has repudiated him upon this floor, because of the intensity of feeling which he has exhibited in favor of the Union, at the sacrifice of the interest and honor of his own section.

That is my reading of the voice of the people of Texas upon the fate of the Senator. I do not speak for the State of Texas, or any other State in the South, except my own State, in relation to its opinions upon the anti-slavery agitation. I claim to know something about the opinions of the people of Georgia. The people of Texas may differ from them; but I should say that upon the very question of that Senator's election to the Senate, the decision of his own State has been made against him.

I do not pretend to say, nor have I ever said, that the State of Georgia or any other southern State would go out of this Union for any other cause than a decided and unequivocal expression

of the northern States that they intended to put down slavery by the action of the Federal Government. Whenever the northern States by the election of a President with declarations of hostility against slavery in his mouth, come into the administration of the Government, or whenever they in any other form declare their determination to sacrifice the institution of slavery at the South by the action of the Federal Government, then I do claim that the South will dissolve the Union, and ought to dissolve the Union. The Senator from Texas will find himself greatly mistaken if he attempts upon an occasion of that sort to hold back his own State from that glorious and manly work.

Mr. DOOLITTLE. Will the honorable Senator from Georgia allow me to put a single inquiry to him?

Mr. IVERSON. Yes, sir.

Mr. DOOLITTLE. That inquiry is simply this, whether the honorable Senator can name any prominent member of the Republican party in the United States who ever proposed on any occasion by the action of the General Government of the United States to interfere with the institution of slavery in the States?

Mr. IVERSON. I know very well that the generality of the politicians in the northern States disclaim any such idea; but what is that? Nothing but froth; nothing but pretense. I have no faith in any such declaration. I look at the acts of the northern people, and not at their pledges and declarations. The distinguished Senator from New York, in his Rochester speech, declared that the institution of slavery or the free institutions of the North, one or the other, was to be sacrificed; either one or the other must give way; and how? How, if not by the action of the Federal Government? In what other way is slavery to give way to free institutions, except by the action of the Federal Government? He said that they are antagonistical principles, which cannot exist together, and that slavery must be carried over the free States, or else slavery must be extinguished in the slave States.

Nobody pretends to suppose that the Senator from New York was in earnest when he intimated that the slave States would insist on having slavery established in the northern States. The Senator from New York has too much good sense to suppose that the South would ever insist on any such thing. They never have insisted on it, and they never will insist on it up to the last day of time. That was all humbug on the part of the Senator from New York. No man of common sense can suppose that the slave States will ever insist that the northern States shall establish slavery within their borders. No, sir; when he declared that these two institutions were antagonistical and fatal to each other, and that one must give way to the other, he meant that slavery should be abolished, and nobody of common sense can misunderstand him; and that is what I understand to be the determination of the people of the northern States, if they get the control of the Government. There are many ways, as I intimated the other day, in which slavery can be abolished by the action of the Federal Government, even under the Constitution as it now exists; but when the northern States shall get the control of every department of this Government, when they shall have fifteen, or twenty, or thirty more free States added to this Union, they can amend the Constitution to suit their own purposes as they choose, and what is to prevent them from accomplishing that?

Sir, I believe, as well as I believe in my own existence, that it is the settled design of the Republican party of the northern States to break down and destroy the institution of slavery in the southern States at all and every hazard. That I believe conscientiously; and I think the antecedents of that party, and its present condition and avowals, clearly point to this fatal end; and whenever I see—and I believe my people will sanction what I say—this determination evinced by the people of the northern States, in any act which gives them the power to carry out this scheme, then I am willing to take time by the forelock, and go out of the Union before we shall be so weak that we shall not be able to resist the aggressions of the northern States. These are my sentiments. I did not rise to say half so much as I have said.

Mr. HOUSTON. I believe it is the usual time of adjournment; however, I wish to make some remarks on this subject.

Mr. POLK. With the permission of the Senator from Texas, I move that the Senate adjourn.

Mr. BIGLER. I desire to submit an amendment, with a view of having it printed informally. The motion to adjourn was withdrawn.

Mr. BIGLER. It is my design to move to strike out the fourth, fifth, sixth, seventh, and eighth sections of the bill, and insert the amendment which I now move may be printed.

The motion to print was agreed to. The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 12, 1859.

The House met at twelve o'clock, m. Prayer by Rev. SMITH PYNE, D. D.

The Journal of yesterday was read and approved.

Mr. STEPHENS, of Georgia, then obtained the floor.

The SPEAKER. With the gentleman's permission the Chair will lay before the House the executive communications which are upon his table.

LAWS OF NEW MEXICO.

The SPEAKER laid before the House laws of the Territory of New Mexico.

Mr. STEPHENS, of Georgia. I move that they be referred to the Committee on Territories.

Mr. KELSEY. Why not make an order that they be printed? I desire to see them and to examine them.

Mr. STEPHENS, of Georgia. They will go to the Committee on Territories; and that committee will examine them.

The motion was agreed to.

EXPENSES OF THE SUPREME COURT.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting information in respect to the expenses of the Supreme Court of the United States, in reply to a resolution of the House of the 4th instant; which was laid upon the table, and ordered to be printed.

PURSUERS.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of Representatives of December 23, 1858, asking the number of vessels upon foreign stations without regular pursers, and the reason why they are not supplied; which was laid upon the table, and ordered to be printed.

OFFICERS OF THE NAVY, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in reply to the resolution of the House of January 4, 1859, requesting the number of officers of each grade of the Navy and marine corps, and the manner in which they are employed, and the number of seamen, marines, and other employes under charge of the Navy Department, and the number of vessels of the Navy, and their rates; which was laid upon the table, and ordered to be printed.

OREGON BILL.

Mr. STEPHENS, of Georgia. I ask the House, by unanimous consent, to allow the Oregon bill to be reported. Some days will elapse before the Committee on Territories will be called. I understand that there is one, perhaps there will be two, minority reports; and I desire that when the bill comes up for action the reports may be printed and before us, and each member have the opportunity to understand the several recommendations. I want it so that action will be speedy on the question when we reach it. I hope that by unanimous consent I may now be permitted to make the majority report from that committee, and that a time will be fixed when the question shall be taken up and acted on. Let the day be some day of next week, and in the mean time the House will have the opportunity to inform itself thoroughly of all the matters involved.

Mr. MORGAN. I prefer that it should take its regular course. I think that the report will keep; that it will not spoil if it be kept a little while longer.

Mr. STEPHENS, of Georgia. I hope the gentleman will withdraw his objection. We ought to act on this subject.

Mr. MORGAN. I cannot yield one jot. If the gentleman will not vote for another ten or twelve days' vacation, we may reach it soon.

Mr. CARUTHERS. I ask the unanimous consent of the House to introduce a bill explanatory of an act entitled "An act supplemental to an act entitled 'An act for prosecuting the existing war between the United States and the Republic of Mexico, and for other purposes,'" approved July 19, 1848.

There was no objection; and the bill was read a first and second time, and referred to the Committee on Military Affairs.

Mr. HUGHES. I wish it to be understood that I object now and from this time forward, to everything out of the regular order of business.

MESSAGE FROM THE SENATE.

A message was read from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate have passed an act (No. 452) for the relief of John R. Nourse and others, in which he was directed to ask the concurrence of the House.

Also, that the Senate agree to the amendment of the House of Representatives to the bill (S. No. 68) for the relief of Elias Hall, of Rutland, Vermont.

READJUSTMENT OF ACCOUNTS, ETC.

Mr. PHILLIPS. I rise to a privileged question. Yesterday, a communication was received from the Secretary of the Treasury, in compliance with a law of the last session, reporting the cases of readjustment of accounts with States and cities. It was laid upon the table and ordered to be printed. I move to reconsider the vote by which the communication was laid upon the table, intending to move its reference to the Committee of Ways and Means.

The SPEAKER. The Chair will state that such ought to have been the reference of the communication, and that he thought it had been referred to the Committee of Ways and Means.

The motion to reconsider was agreed to; and the communication was then referred to the Committee of Ways and Means.

IMPROVEMENT OF NEW JERSEY AVENUE.

Mr. KEITT. I ask the unanimous consent of the House to be allowed to submit a petition from certain citizens of the District of Columbia for the improvement of New Jersey avenue, so as to have it referred to the Committee on Public Buildings and Grounds.

There being no objection; the petition was received, and so referred.

FEES OF SERGEANT-AT-ARMS.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary to report a resolution giving construction to a rule of the House in respect to the fees of the Sergeant-at-Arms, which it is important to have acted on by the House before I give out a list of subpoenas, numbering some seventeen or twenty, for witnesses who are to be brought before that committee.

Mr. STEPHENS, of Georgia. I shall object to any matter being reported from any committee now, until the committees are regularly called. If I cannot get the Oregon bill in without conforming strictly to the rule, I shall demand that every other gentleman shall conform to the same.

Mr. HOUSTON. I have at least a dozen reports to present from the Judiciary Committee; but I do not propose to present any of them now. The particular resolution which I send up it is important to have acted upon at once, before I fill out a list of witnesses which the committee have directed to be summoned before them in the investigation of charges against a judge of the United States.

Mr. STEPHENS, of Georgia. Here is a member from Oregon duly elected, and two Senators, who have been here all the session, ready to take their seats. They are prevented from doing so, and the representation of a sovereign State is denied because the House will not permit me to report a bill for the admission of Oregon.

Mr. HOUSTON. I do not see what the gentleman from Georgia gains by opposing propositions that are necessary to be submitted.

REGISTERS TO STEAMSHIPS.

Mr. EUSTIS. I ask unanimous consent to have

taken from the Speaker's table Senate bill (No. 495) authorizing the issue of registers to the steamships America and Canada; and to change the names of said steamships.

Mr. STEPHENS, of Georgia. I object.

Mr. EUSTIS. I think the gentleman from Georgia must be laboring under some mistake. He supposes, perhaps, that this is a report from a committee.

The SPEAKER. The gentleman from Georgia objects to any business that is not in order.

Mr. WASHBURN, of Illinois. Is it in order now to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. That motion will be in order.

Mr. SHERMAN, of Ohio. I trust that the matter of the reference of the naval appropriation bill may be first disposed of. It will not take ten minutes.

Mr. WASHBURN, of Illinois. I make the motion that I have indicated.

Mr. PHELPS, of Missouri. I desire that the question of reference shall be first disposed of; and I supposed that the gentleman from Ohio [Mr. SHERMAN] was entitled to the floor.

Mr. EUSTIS. Is debate in order?

The SPEAKER. It is not.

Mr. EUSTIS. Then I object.

The question was taken on Mr. WASHBURN's motion; and it was not agreed to.

NAVAL APPROPRIATION BILL.

The SPEAKER announced the business first in order to be the consideration of the report from the Committee of Ways and Means, of the naval appropriation bill; on which the gentleman from Ohio [Mr. SHERMAN] was entitled to the floor.

Mr. SHERMAN, of Ohio. It seems to me very strange, Mr. Speaker, that a motion to refer the naval appropriation bill to the Committee on Naval Affairs, should meet with so much opposition in the House. If the committees of this House are not to be charged with their appropriate duties, they ought to be disbanded. If the Committee on Naval Affairs cannot appear here and move that the naval appropriation bill be referred to it so that it may examine it and see whether the appropriations recommended for this service are needed, you might as well disband the Naval Committee, because there is nothing for it to do. If the Military Committee, or any other standing committee of the House, cannot appear here and say that they desire to investigate the mode and manner of appropriating for their respective services, or if the House will not accede to this reasonable request, the committees ought to be disorganized and disbanded, and gentlemen ought not to be called on to serve upon them.

I said yesterday that the purpose of the motion was not to throw imputations, or to cast blame on the Committee of Ways and Means. I repeat again, that the Committee of Ways and Means is willing and anxious to do its full duty. But I am surprised that the chairman of that committee should resist so reasonable a motion as this. It was not intended to throw any disparagement on him or his committee. He should invite investigation, and should insist on the other committees of the House examining the work of the Committee of Ways and Means. It is not within the reach of possibility for the Committee of Ways and Means to examine the estimates. They cannot examine the details of expenditure of \$80,000,000 within the thirty days within which they are required by the rules of the House to report their bills. It is not within human power to examine the estimates in detail, and to report the various appropriation bills. I say, therefore, that when the appropriation bills are reported from the Committee of Ways and Means they ought to be submitted to their appropriate committees. The result of that reference would not be such as the gentleman from Missouri [Mr. PHELPS] anticipates. I am satisfied that if this bill be referred to the Committee on Naval Affairs, that committee will, so far as time will permit, enter upon a thorough investigation of the mode and manner in which the naval establishment of the country is kept up, and will save in this appropriation bill not less than \$2,000,000. I believe also, that if this principle were adopted as a general rule, it would save largely in the annual expenditures of the Govern-

ment. It would create a kind of generous rivalry, so to speak, between the committees of this House. If the Committee of Ways and Means were compelled to report their bills with the understanding that all the items were to be examined by another committee, both committees would be careful what items they would report; and each would be held responsible for any increase of expenditure recommended by them. I have no doubt that the tendency would be to decrease the expenditures of the Government. As this is a mere question of reference, and I do not think that debate to any greater length would throw light upon it; if it be the pleasure of the House, I will move the previous question.

Mr. WASHBURN, of Maine. I desire to say a single word in explanation of the vote which I shall give on this question. I therefore ask the gentleman from Ohio to withdraw the call for the previous question.

Mr. SHERMAN, of Ohio. It seems to be the general desire of the House to have the previous question moved. If the House do not second the call, the matter will be open for general discussion.

Mr. GARNETT. I wish to ask the gentleman from Ohio, whether, in order to avoid the dangers of the precedent, as ably set forth by the chairman of the Committee of Ways and Means yesterday, he will consent to a modification of his resolution, so as to refer the bill to the Committee on Naval Affairs, to inquire whether the appropriations contained in it can be reduced; so as to limit the inquiry.

Mr. SHERMAN, of Ohio. I think the gentleman ought to be satisfied with the statement which has been made here, by the chairman of the Committee on Naval Affairs, that it is the purpose not to increase the appropriations in the bill, but to, examine it with a view to a reduction of the expenditures.

Mr. JONES, of Tennessee. I hope the gentleman will withdraw the call for the previous question. I regard this as a very important question.

Mr. SHERMAN, of Ohio. I prefer to submit the matter to the sense of the House. A majority can vote down the previous question.

Mr. JONES, of Tennessee. Then I hope the House will vote down the previous question.

Mr. PHELPS, of Missouri. I call for tellers on the previous question.

Tellers were ordered; and Messrs. McQUEEN and CHAFFEE were appointed.

Mr. SHERMAN, of Ohio. It seems to be the desire of gentlemen to engage in debate, and I therefore withdraw the demand of the previous question.

Mr. WASHBURN, of Maine. I have a single word to say in explanation of the vote which I feel obliged to give on this question. It is with great reluctance that I differ from my friend from Ohio, in whose good sense and wisdom I have entire confidence. But my experience in this House has convinced me that it would be very unwise for us to adopt the system which his motion would inaugurate. He inquires what is the use of the Naval Committee, and of the Military Committee, and of other committees, if they are not to have the reporting of appropriations. Sir, what is to become of the Committee of Ways and Means? what is to become of its functions if it is to be transformed into a mere conduit for passing the estimates from the different Departments through the House of Representatives into these various committees for their action?

Mr. SHERMAN, of Ohio. I will answer that question in a word. The Committee of Ways and Means will have enough to do to furnish ways and means to meet the appropriations contained in these bills, even when reduced to a lower standard. They have questions of tariff, of loans, of Treasury notes, of revenue, and of ways and means, enough to occupy two committees of this House until the close of the session.

Mr. WASHBURN, of Maine. The Committee of Ways and Means is a committee of ways and means. It is the committee which has charge of the budget, if I may so speak. There must be some one organ in this House in connection or in communication with the Departments of the Government, and the Committee of Ways and Means is that organ. If the Committee of Ways and Means, as now constituted, is not the proper

one, you must make a better one. There must be some committee which shall have before it all the estimates for all the expenditures of the Government, otherwise there would be infinite confusion here. Suppose that instead of one Committee of Ways and Means, you have seven or eight; suppose that you refer appropriations, in reference to the coast survey, light-houses, &c., to the Committee on Commerce; appropriations in reference to courts and the judiciary, to the Committee on the Judiciary; appropriations in reference to the Army, to the Military Committee; Indian affairs, to the Indian Committee; appropriations in reference to the Territories, to the Territorial Committee; and so on with all the committees; you will have all these committees acting independently of each other, with only the estimates before them, each for its own department, each of them caring mainly for its own branch of the service, with no unity and no knowledge of what the other committees are doing, or what the aggregate is to be. Now, sir, you know, as does every member who has been here for a long time, that each of these committees is disposed to enlarge and magnify its own business—that it makes its own subject-matter its pet. The Committee on Naval Affairs takes good care of the Navy, and the Committee on Military Affairs takes right good care of the Army, and the Committee on Indian Affairs of matters connected with the Indians. Each committee, having no knowledge of what the whole aggregate of the expenditures is to amount to, would be solicitous only to take particular care of the particular matter within its own jurisdiction.

Mr. KELLOGG. I desire to ask the gentleman if the natural result of this course of procedure will not be to reduce the expenditures of each Department of the Government to the lowest reasonable amount; and, if that is not much, very much, to be desired at this time, and in the future of our Government?

Mr. WASHBURN, of Maine. Yes; I think that a reduction of expenses is very much to be desired, and very necessary; but it is my judgment that the system proposed to be inaugurated by the gentleman from Ohio will increase the expenditures of the Government from twenty-five to fifty per cent. I have not the slightest earthly doubt of that; and for that reason, among others, I am opposed to this innovation.

Mr. KELLOGG. I do not quite understand the gentleman's answer. If it will decrease the expenditures of the Government, is not that a sufficient reason for a departure from the technical rule?

Mr. WASHBURN, of Maine. I say that if you change the rules, and refer these bills to the various committees, it will increase the expenditures of the Government.

Mr. KELLOGG. I understood you to say that it would decrease the expenditures.

Mr. WASHBURN, of Maine. Oh, no, sir; I have not the slightest doubt that it would increase them. The Committee of Ways and Means has, under the rules, no authority to originate legislation.

Mr. SHERMAN, of Ohio. I desire to correct the honorable gentleman from Maine. It is true the rules of the House forbid the Committee of Ways and Means to originate legislation; but we know, as a fact, that there are propositions of legislation often introduced into the appropriation bills referred to the Committee of the Whole on the state of the Union, and there is no opportunity of making the rule apply to the Committee of Ways and Means. They report a bill to the House which is read twice by its title, and then, without reading or debate, is referred to the Committee of the Whole House. It is then too late to make the point of order. Another thing: I have before me estimates for the support of the naval service for one year of \$13,500,000; and of that amount, only between four and five million dollars is explicitly provided for by law. The balance of that large amount is simply at the discretion of Congress, and the amount may be varied or withheld at our discretion. Less than five million dollars of the amount reported on the naval bill are for salaries fixed by law.

Mr. WASHBURN, of Maine. Well, sir, if the Committee of Ways and Means cannot obey the rule, certainly nine or ten small Committees of Ways and Means would not do it.

Mr. SHERMAN, of Ohio. I would remind the gentleman that, when the Committee on Naval Affairs reports amendments, each amendment is considered by itself, and a point of order can be made on any amendment; and, if it be inconsistent with the rules, it can be ruled out of order; but we have not this check on the Committee of Ways and Means.

Mr. WASHBURN, of Maine. The question can be raised now, as it was by the gentleman from North Carolina [Mr. BRANCH] the other day, whether the bills reported by the Committee of Ways and Means contain anything not in accordance with existing law; and if so, such provisions would be ruled out of order. So, Mr. Speaker, I think there is nothing whatever in that idea.

Besides, sir, if you have ten committees to whom the appropriation bills are to be referred, you will find in practice that nearly all the general legislation of the House will be ingrafted upon the appropriation bills. Each committee having some object to accomplish by general legislation, will seek to ingraft it upon the appropriation bills reported by the committee, as the only way to obtain action; and all these committees interested, uniting in giving a construction to the rules, will be enabled to load the appropriation bills with general and independent legislation. That will be the effect of it; and besides, we shall have these eight or ten committees, with their different appropriation bills, all seeking the floor at the same time, and there will be infinite confusion.

I agree with the gentleman from Ohio in the object he desires to accomplish. The object is right, and ought to be effected. But I know, and I think no man who has had much experience here can doubt, that the proposed change will introduce inextricable confusion and increased expenditures. I will not say that the Committee on Naval Affairs will not reduce the appropriations in this bill, but the inauguration of the proposed system will give to each committee the charge of several appropriation bills, and the result will be an increase of the appropriations in the aggregate. But more than that; under the rules of the House, as they now are, all that the gentleman from Ohio desires to accomplish can be now done. All that is necessary is, that these rules should be observed and lived up to. Under those rules these committees have jurisdiction of the question now; and they have jurisdiction also by the reference of that portion of the President's message which relates to the subject of the Navy to the Committee on Naval Affairs; and, if it will do its duty, it can now, just as well as it can under the proposed change, consider every feature of the appropriation bill; and when the bill is referred to the Committee of the Whole on the state of the Union, where it must go, it will be subject to amendment. Then the gentleman from Virginia, [Mr. BOCKOCK], the chairman of the Committee on Naval Affairs, or my friend from Ohio, [Mr. SHERMAN], may rise in his place, and state that he is instructed by his committee to report certain amendments, and those amendments will be in order and must be acted on. So it is only necessary in order to accomplish the object, that the Committee on Naval Affairs should perform its duties as they are bound to do under the present rules of the House. In that way every advantage and benefit the gentleman desires can be obtained, and I think it is best for us to suggest to that committee, and all the committees, that they shall attend to the duties with which they are charged, and not undertake to destroy the entire functions of the Committee of Ways and Means.

Mr. SHERMAN, of Ohio. The gentleman from Maine says the Committee on Naval Affairs have already jurisdiction of this subject. If so, what objection can there be to allowing the Committee on Naval Affairs to have before them, and referred to them, a bill upon which they are to report amendments? Why is it that the gentleman is opposed to referring this bill to that committee, so that they may have the bill in order to examine its details, and report amendments there-to according to the rules of the House?

But I deny that we have jurisdiction. We have no right to act upon anything which is not referred to us. Under the rules of the House, if the Committee on Naval Affairs should undertake to report amendments *pro forma* to a bill not

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referred to them, they would be exceeding their authority. Any member of the committee, as a member of the House, might propose amendments; but as a committee they have no such right, because the matter has not been referred to them. We have, under the rules of the House, power to report independent propositions in reference to economy and retrenchment, but we have no right to report amendments to the naval appropriation bill, unless it is referred to us.

Mr. WASHBURN, of Maine. The gentleman says the Committee on Naval Affairs has no jurisdiction over the subject. It has jurisdiction over everything contained in this bill, and over everything pertaining to the Navy. And particularly, if the gentleman is desirous of introducing retrenchment, reform, and economy, that committee certainly has jurisdiction, for the rule reads:

"And also to report from time to time such measures as may contribute to economy and accountability in the said establishment."

And besides, so much of the President's message as relates to the Navy is referred to that committee; and that gives it full and plenary jurisdiction over everything connected with the Navy. On a former occasion, that portion of the President's message which related to California was referred to the Committee of the Whole on the state of the Union; and they reported a bill for the admission of the State of California. They obtained jurisdiction over the question only by reference to it of the President's message. And more than that, it is the every day practice, when appropriation bills are under consideration in the Committee of the Whole on the state of the Union, for members to rise and offer amendments.

I did not intend to detain the House so long, but inasmuch as I feel bound to vote against the proposition, I desire that the reasons which compel me, reluctantly, to differ from the gentleman from Ohio, should be stated.

Mr. GROW obtained the floor.

Mr. LEITER. With the permission of the gentleman from Pennsylvania, I desire to ask my colleague [Mr. SHERMAN] what facts are in his possession which authorize him to make the declaration that, if his proposition is agreed to, there will be a saving to the country of two or three million dollars? It is important that we should have the information, if he has any, for I differ from him as to the propriety of the reference he proposes. If I vote against his proposed reference, I shall do so because I believe that the legislation of the country requires that this bill should take the ordinary direction; but if he can give me any valid reason why I should vote for it, on the ground of retrenchment and reform, I shall do so, though contrary to my present intention.

Mr. SHERMAN, of Ohio. The gentleman will find, by reference to the estimates laid upon our table, that there are estimates for the next fiscal year for the expenses of the navy-yards of the Government amounting to \$2,001,827. He will also find that there is an estimate for increase of and repairs of the Navy, a single item of \$3,100,000. There are other similar items. But to go no further, here are two items of over five million dollars. Now, as one of the Committee on Naval Affairs—I speak for myself alone—I am prepared to show to the House and the country, if the matter is brought before the committee of which I am a member, that, of this amount, not one third is indispensably required for the purposes for which they are to be appropriated; that the expenditure is made upon old hulks and vessels which, when repaired, are not worth the cost of repairs. I am prepared to show that the amount of \$2,000,000, proposed to be appropriated for the navy-yards, has been increased from 1820, when it was only \$65,000; and in 1830, when it was only \$180,500; and that three fourths of the present estimates might properly be saved to the nation.

Therefore it is, I say, that by a reference to and examination of this matter by the Committee on Naval Affairs, there will be a large saving. I there-

fore say, from the expressions I have heard, that the Naval Committee are prepared to look into these expenditures, to examine them thoroughly—an examination which the Committee of Ways and Means never had the opportunity, the time, nor the physical ability, to make, because they have to examine expenditures to the amount of \$80,000,000, item for item, and account for account. They cannot do it. They might have done it in the early history of our Government, when our annual expenses were only \$2,000,000.

Mr. LEITER. I wish to ask my colleague if the Committee of the Whole on the state of the Union is not the very best of all places to make these corrections of which he speaks?

Mr. SHERMAN, of Ohio. I will answer the gentleman with the greatest pleasure. We all know what the Committee of the Whole on the state of the Union is. When you go into that committee, every thing is in order. We have speeches about Kansas, Oregon, and every other conceivable subject; and this bill can never be properly considered there. It is true that under the five-minutes rule we may possibly get on amendments, but how can any man in that time explain any thing in regard to any great department of this Government? How will any man attempt to arraign before this House the naval estimates in five minutes? Sir, it is impossible. The Committee of the Whole on the state of the Union is no place for business. It is only useful for general debate, spreading over a great space of time, and generally without the least practical result.

Mr. LEITER. Another word to my colleague. Is it not a fact that the Committee of Ways and Means has not reported the amount which he has read?

Mr. GROW. I prefer to go on now, as I have but little to say, and will then yield the floor.

Mr. Speaker, the object of the proposition of the gentleman from Ohio, [Mr. SHERMAN], as I understand it, is to facilitate the business of the House—a matter in which we are all interested. Under the rules, as they now exist, the Committee of Ways and Means are required to report the appropriation bills within the first thirty days of the session. The motion of the gentleman from Ohio, [Mr. SHERMAN], should it become the practice, is an innovation upon the regular course of business in the House; and I am gratified that the motion has been made, so as to call the attention of the House to its practice on appropriation bills, in order that the proper correction, if any be necessary in the course of legislation, may be applied. But it seems to me that the proper mode of proceeding by the House would be to so change our rules as to refer the estimates, as they come from the Departments, to the appropriate committees having charge of the particular branch of the public service, requiring them to report within a certain number of days; and that then the bills prepared by them shall be referred to the Committee of Ways and Means. The Committee on Naval Affairs would then report to the House such appropriations as it deems necessary for that branch of the public service, instead of coming in, as now, with amendments to the Navy appropriation bill as reported from the Ways and Means Committee, amendments which are not printed, and thus affording no fair opportunity of examining their full import, often pressed at the close of the session, when everything is in great confusion.

By a reference of the estimates first to the Committee on Naval Affairs, we should have these amendments and recommendations of the committee printed and before the House. We could examine them at our leisure; we could ascertain whether appropriations proposed by the committee could be curtailed without injury to that branch of the service. But the Committee of Ways and Means should have the final action upon the appropriation bills before they are reported for the action of the House, for the reason that that committee have to provide the ways and means for meeting the appropriations made. How can

the members of that committee provide these means unless they have the opportunity to ascertain what will be the aggregate amount to be provided. They ought, for that purpose, to have the appropriation bills, in order that they may foot up and see whether the revenues of the Government will meet the proposed expenditures. If they are not enough, then it is their duty to recommend some means of increasing them, or curtailing the expenditures proposed. In this way, we should facilitate the business of the House, while imposing on each committee its appropriate duty. I am in favor of introducing such a system, for I think it would be a wise one. But, sir, it can only be carried out by a change of the rules. A committee on the rules was appointed at the last session; and that committee is ready and anxious to make a report. By the changes we propose, we hope to avoid many of the objections that have been so ably urged by the gentleman from Ohio, [Mr. SHERMAN], the force of which we all feel and appreciate. As the legislation is now conducted, it is indeed too true that the appropriations of the public money receive less intelligent consideration than any other subject. The Committee of Ways and Means report a general bill, and it is sent to the Committee of the Whole on the state of the Union. Then the Committee on Naval Affairs, or the Committee on Indian Affairs, or any other committee, will propose amendments, which are not printed and before us for examination and the scrutiny they deserve. These amendments, involving expenditures of millions, cannot be well examined by the House, and must be embarrassing to the Committee of Ways and Means, for they have no control over those appropriations; and it may be that they will go to make up an aggregate beyond the revenues of the Government.

I desire, sir, to see this change made, yet I shall vote for the motion of the gentleman from Ohio. My object in rising was to indicate my views on the general question of a change in the practice of the House, but not as expressing (and I presume that is the feeling with every one) any want of confidence in the Committee of Ways and Means more than in any other committee of this House. I regard it simply as a question of fair, practical legislation. What is the proper mode of bringing these appropriation bills before the House? I have indicated my own opinion that the proper mode can be reached only by a change of the rules. But, in this particular case the gentleman from Ohio says that he can satisfy the Naval Committee that this bill ought to be reduced in amount; and I am willing, therefore, that it should be referred to that committee in order, if possible, to make such a reduction.

Mr. MILLSON. Mr. Speaker, as the rules of the House require the Committee of Ways and Means to report all the general appropriation bills within thirty days after their appointment, with a view that the House may take early action on them in the Committee of the Whole on the state of the Union, I wish to ask the gentleman from Pennsylvania whether he knows of any rule which requires the Committee on Naval Affairs, if this be referred to them, to make a report within any specified period?

Mr. GROW. Certainly not; and that is why I was objecting to this mode of changing the practice of the House. The estimates should first go to the several standing committees; and then, when they make their reports, those reports should be referred to the Committee of Ways and Means.

Mr. MILLSON. I inquired if the gentleman knows of any rule by which the Committee on Naval Affairs will be required to report this bill back within any specified period. If the gentleman knows of no rule by which the committee will be enabled to make a report at any time until it may be called in the regular order of the call of committees, I would ask him whether he is moved to vote for the motion of the gentleman from Ohio, in the present case, merely because of the statement made by the gentleman from Ohio, that in the year 1830 the appropriations for improve-

ments at the navy-yards and for the increase of the Navy was only \$150,000? And, if he does, I would ask the gentleman from Ohio whether he is prepared to repeat that statement?

Mr. SHERMAN, of Ohio. I will send for the law, and cite it for the gentleman.

Mr. MILLSON. It was near a million.

Mr. GROW. The Committee on Naval Affairs would, under the rules, be in the same position as to making a report as the Committee of Ways and Means. There is no rule which authorizes the Committee of Ways and Means to report out of its order. They have made their reports generally by the unanimous consent of the House. The Committee on Naval Affairs would be exactly in the same position. Should this bill be referred to that committee, there is no doubt but the same courtesy that is extended to the Committee of Ways and Means would be extended to it, and that, for facilitating the public business, the report would be received whenever ready to be made. I only desired to indicate my view, which is that we should alter the rules so as to accomplish the reform proposed, which is to be done by the estimates being first referred to the several standing committees, instead of, as now, all going to the Ways and Means, and leaving the other standing committees to come in with amendments in the last hours of the session, when we have not time to consider them as they ought to be; when even with the best care and attention we can give them at the time, their precise effect cannot be certainly foreseen. I would require the committees to report on the estimates submitted to them within fifteen or twenty days from the date of their appointment; and that then these reports should be referred to the Committee of Ways and Means, to be reported back within thirty or thirty-five days; then the bill so reported would be printed with the recommendations of the several committees. We can examine the recommendations at our leisure. We can see whether the phraseology of the amendments would permit an appropriation to be diverted from the purposes for which it was intended, and for which Congress would not make any appropriation, if the point were directly made. We all know that under the present system we are often called upon to vote for amendments which allow a Department to do almost anything with money which has been appropriated for its use, when the phraseology seems to confine it to specific purposes.

Mr. HOWARD obtained the floor.

Mr. SHERMAN, of Ohio. I should like to point the gentleman from Virginia to the law to which I have referred. I find in the naval laws a statement headed "abstract of appropriations and expenditures from 1791 to 1840," both years inclusive; and there I find, that the amount appropriated for navy-yards in 1820 was \$65,000, and in 1830, \$180,500.

Mr. MILLSON. It was \$773,000.

Mr. SHERMAN, of Ohio. I will send the law to the gentleman, that he may see it for himself.

Mr. MILLSON. Here is the law.

Mr. SHERMAN, of Ohio. I have quoted from the book made up at the Navy Department. If they do not print correctly I am not to blame.

Mr. HOWARD. I agree entirely, Mr. Speaker, with the gentleman from Ohio, in regard to the purposes which he aims at, namely, retrenchment and economy. But I disagree with him in all other respects. I dissent from everything that he said on the subject, except that; and for the sole reason, as has been said by the gentleman from Maine, [Mr. WASBURN,] that the carrying out of this proposition would inevitably result in increasing the expenses of this Government twenty or thirty or perhaps forty per cent. Sir, it is well known that I am in a minority on the Committee of Ways and Means, and I may state without any disrespect to any body, that that minority is sufficiently small to be abundantly safe. But, sir, I will bear this testimony to the action of the majority of that committee, that in all instances that have arisen in that committee since I belonged to it, where any question of doubtful jurisdiction, or any reduction of appropriations arose, they have uniformly aimed at retrenching and reducing expenses; and at waiving the jurisdiction when there was any doubt about it. I say that that is true of the majority, and I say that has been the rule of the committee since I have had the honor of serving on it.

Now, it is well known that the rules of the House restrict the Committee of Ways and Means to reporting appropriations that are simply to carry out existing laws. They cannot insert any item that is not required to fulfill an existing law, nor any item that would change existing law or that is contrary to existing law. And I say, in all good faith, that every member of that committee, whether of the majority or minority, has lived up to that principle in every instance. It is true that questions sometimes arise relating to appropriations that might be regarded as incidental to what is established by law; and in these cases it is sometimes very difficult to determine exactly whether the committee should take jurisdiction or not. Like blending colors, we cannot always say exactly where the line of demarkation is; but in every such case the majority and the minority of the Committee of Ways and Means have, in all good faith, acted rather in favor of letting the jurisdiction go, than of assuming a doubtful power. And now, the gentleman gets up here and says that, of these \$13,000,000 reported in this naval appropriation bill, \$4,000,000 only is required by existing law, and that the rest of it is not. It is true, sir, that only about four million dollars of this bill is for salaries; but who does not know that the business of these navy-yards, that have been established by independent legislation, over which the Committee of Ways and Means had no control, must be carried on? Take the Army bill, for instance. We appropriate for salaries, specifically. The law fixes the amount to a cent. But, then, when we appropriate for transportation, the amount must depend on the movements of the Army. Just so it is with respect to the Navy.

Now I object to the proposition of the gentleman from Ohio; because it would effect a thoroughly radical change in our system. If it were adopted, then the Army appropriation bill should go to the Committee on Military Affairs, and all other appropriation bills to the appropriate standing committees. When the bills are once there, there is no way of getting them back, except on the regular call of committees. I recollect no instance, during my service on the Committee of Ways and Means where an item has been inserted in an appropriation bill by that committee exceeding the estimate. Not one.

Mr. SHERMAN, of Ohio. I wish to correct my friend in one very important statement. It is this: he says that no other committee can report back an appropriation bill, except when the committees are called for reports. Any other committee can report back an appropriation bill on just the same terms and conditions as the Committee of Ways and Means. The rules do not give privileges to the committee of Ways and Means. They give privileges to the appropriation bills; and whatever committee has possession of these bills, may report them back, and has a right to report them back under the 80th rule.

Mr. HOWARD. How are they to get the floor?

Mr. SHERMAN, of Ohio. The Speaker, as a matter of courtesy, would give the floor.

Mr. HOWARD. Since I have served on the Committee of Ways and Means we have very often received information from members of other committees. They have made suggestions important to the interests of the service which they had under control. But, in all my experience, I never heard of a suggestion coming from any member of the standing committees proposing to reduce the estimates for their departments; not one. They always ask for more; and the Committee of Ways and Means has been obliged to stand there, like a rock, against them. And yet my friend from Ohio talks here about generous rivalry among these committees. Sir, every man who serves his country in any of the departments, if he is faithful, becomes enthusiastic in the service of that department, and knows little or nothing about the others. The rivalry would be on the part of each committee to put their branch of the service ahead; and all experience shows that to be the case. There is no exception to it.

Mr. CURTIS. I wish to correct the gentleman. I insist that the Committee on Military Affairs tried, last session, to secure a reduction of the appropriations for the support of the Army, and could not do so.

Mr. HOWARD. My objection to the whole

thing is this: It involves an entire change in the whole system, and puts this change in operation without any alteration of the rules. Get up a new set of rules, and I do not care what you do. But you propose to leave the rules standing, with certain responsibilities on the Committee of Ways and Means, and with limitations as to their action; and, regardless of those rules, you then propose to change the mode of business in the House. Sir, I protest against all this thing. I ask no sort of favor for the Committee of Ways and Means, or for any member of it. We stand ready to defend our action with regard to every single act of ours. Where we have made errors, we will acknowledge them frankly. But we ask no sort of favor from this House, or any member of it.

Mr. SHERMAN, of Ohio. I have so high a respect for my friend from Michigan, that I would not have him even suppose that I have made the slightest attack on the Committee of Ways and Means. I have disclaimed, and will disclaim, again and again, an attack upon the Committee of Ways and Means.

Mr. HOWARD. I do not so consider it. Now, it is often said that the Committee of Ways and Means are absorbing all the power of the House; that they are controlling all its legislation. Sir, there is not a committee of this House that is so much limited and restricted in legislation as the Committee of Ways and Means. We have no right to originate any legislation in appropriation bills. It is our sole duty to provide the means to execute the law. We are restricted to that, and we live up to our laws. We are ready, here and now, to be condemned by the House if we have violated this, the very law of our existence. It is true, sir, that when the whole House spends its time in making Buncombe speeches; while members are engaged in President making, and in all sorts of political maneuvers, occupying the time of the country, so that no business can be done during the whole session, except to pass the appropriation bills, then, indeed, it becomes true that the Committee of Ways and Means does control all the legislation of the House; because there is nothing done but the passage of the appropriation bills. But in all other senses, they are more limited and restricted, and justly so, than any other committee, and they have not sought to transcend their powers.

Now, sir, a word about this generous rivalry and this reduction of expenditures. At the last session of Congress the Committee of Ways and Means reported a naval appropriation bill; it passed the House; it went to the Senate, and was amended liberally there—altogether too liberally. It came back here, and the House refused to concur in the amendments of the Senate. The bill then went to a committee of conference; and, as was very proper, a majority of the managers of that conference on the part of the House were members of the Committee on Naval Affairs. I believe the chairman of the Naval Committee was chairman of these managers; and properly, too. That committee of conference brought in a report here which the House would not adopt. Did that bill break down because of what was inside of it, or because of what was outside of it? The economy of that committee of conference was such that even the temper of this House would not submit to it; and the bill broke down here.

Now, sir, I have no feeling about this matter. But I protest against a change so radical and injurious, at all events until the whole system shall have been revised, and the rules altered accordingly. I am opposed to it mainly because it would inevitably result in increasing the appropriations. Each standing committee would look alone to the interests of its own department, and would know nothing of what the real necessities of others were. The result would be, that there would be one universal scramble amongst the committees to get their share, and more than their share. We might as well refer the propositions to build custom-houses and marine hospitals, and all these nameless jobs and swindles and foolish expenditures, to the local Representatives; and all on the score of economy. We might as well refer, for instance, the Charleston custom-house to the member from Charleston, and the Chicago custom-house to the member from Chicago, and let them fix the amount of appropriations that shall be made for those works, if we turn over to the members who are devoted to a particular branch

of the service the appropriations for that service, without any knowledge on their part of the other branches of the service. The whole system is wrong. It will result in increasing the appropriations. It will produce no good, but will lead to endless confusion.

So far as the Committee of Ways and Means is concerned, I again repeat, that we ask no favors. We do not regard this as an imputation upon us—at least I do not. If I did, I would demand a trial before the House; but I believe that this system would introduce confusion, under the present state of our rules, and work nothing but mischief.

Let me say, in conclusion, that there is no one line in this naval appropriation bill that any member of the Naval Committee, or all of them together, cannot move to amend in the Committee of the Whole on the state of the Union. They can take it, line by line, and their united wisdom, or their individual wisdom, may be applied to each item; and they may put the knife in as deep as they please. I pledge myself, and I pledge every member of the Committee of Ways and Means, that in every effort they may make to reduce any appropriation that can be reduced, without positively disarranging the service, we will bid them God-speed, and give them our support.

Mr. SEWARD. Mr. Speaker, I consider this one of the most important movements that has been made since I have been a member of this House. The fact stated by the gentleman from Virginia, [Mr. BOGOCOCK], that the appropriation bills, covering every branch of the public service, have to be reported by the Committee of Ways and Means within thirty days of the commencement of the session, in my opinion, demonstrates the necessity of having the bills reported by them reviewed by the appropriate committees selected to look to the various branches of the public service.

Now, sir, we are expending about eighty million dollars per annum; and the whole of this expenditure has to be overlooked by the Committee of Ways and Means within thirty days. Now, my opinion is, that the extravagance of this Government grows, in a great measure, out of our system of legislation, from the fact that the Committee of Ways and Means merely carry out the orders from the various departments of this Government, and recommend appropriations to cover exactly what the heads of those departments say they want. The Committee of Ways and Means have not the capacity to overlook all the departments of the Government, executive, legislative, judicial, naval, and military, and see whether the recommendations of the heads of those departments are proper in themselves, or to what extent they ought to be reduced.

Now, it is said that the Committee of Ways and Means cannot report bills here, except to carry out existing laws. I would ask the gentleman from Michigan how it is that last year the increase in the item of repairs was \$2,350,000, and this year it is upwards of three million dollars? I want him to show me the law to provide for repairs, from year to year, of the navy-yards, and fix this particular amount.

Mr. HOWARD. We have not reported that amount.

Mr. SEWARD. I have not seen the bill. I want to know how much they have reported, and under what law or authority they have reported any amount for repairs, outside of the estimates made by the Secretary of the Treasury?

Mr. CRAWFORD. I can tell my colleague the amount estimated for and the amount reported by the Ways and Means Committee: the estimates were for \$698,000, and the sum recommended was about forty-three thousand dollars.

The SPEAKER. The Chair hardly thinks these remarks are in order. The Chair decided yesterday that the gentleman from Virginia [Mr. BOGOCOCK] could not go into a discussion of the merits of the bill.

Mr. SEWARD. I should like my colleague to show me any law authorizing this expenditure. There is no law on the statute-book which provides for repairs of navy-yards from year to year; and whenever the emergency arises, Congress must legislate and appropriate money for that purpose.

The Committee of Ways and Means talk about

raising money to carry on the Government. They say that appropriations already made cannot be carried out, because there is no money in the Treasury to do it; and yet here in the item for repairs for navy-yards is an increase of over three million dollars, called for in this bill, while I have an unexpended appropriation of only \$70,000, for a navy-yard in my district; that, I am told, cannot be expended because there is no money. Here are appropriations made, and money in the Treasury at the time; those appropriations cannot be used because there is no money; and yet here it is proposed to appropriate \$3,000,000 for repairs; and in connection with the bureau of construction and repairs, \$2,000,000 more. Yet my own State, the State of Georgia, two years ago, could not have an appropriation to build up a navy-yard within that State, when every gentleman knows that on our whole coast of two thousand miles, from Portsmouth to Pensacola, there is not a single navy-yard.

The SPEAKER. The Chair would state that it is hardly in order to discuss the items contained in the bill, and that the gentleman should confine his remarks to the merits of the question of reference.

Mr. SEWARD. I will conform to the wishes of the Speaker, with the declaration that I differ with him materially; but as the Chair decides against me, it is enough for my purpose.

At the last session of Congress the Committee on Naval Affairs reported in favor of the construction of seven sloop-of-war, and there was money to build them. Now, if the committee had jurisdiction, and it was proper for them to report an appropriation of \$674,000 for this purpose, I think it but proper that, in regard to all other subjects connected with the Navy, we should have a little to say. Aside from the matter of building vessels, I believe the Naval Committee are but a committee on private claims; for a great many such claims are crowded upon our committee. Officers of the Navy, including pursers, surgeons, and all who think that their compensation is not sufficient, besiege our committee for an increase. If they are disabled in service, bills for their relief are referred to our committee. Now, what is the Committee on Naval Affairs constituted for? Is it simply that they may adjudicate on a few private claims? You have a Committee on Private Claims already.

I say to gentlemen, that it is utterly useless to talk about increasing the expenses of the Government. Why, we cannot do any worse than we are now doing. Eighty million of expenses a year is bad enough. I think if the Committee on the Judiciary could review the estimate of expenses for the judiciary department, the expenses of the legislative department, the expenses of the executive department, and report to this House what sum would be right and proper to appropriate, and then send the report to the Committee of Ways and Means, and let them report a bill for raising the money, it would be well enough. So also in regard to the Military Department of the Government; so also in regard to the appropriations for our foreign intercourse; so in regard to our Navy Department. I ask how it is that gentlemen can insist that the expenses of this Government can be increased by each particular committee charged with looking after the various departments of the Government, of examining their expenses, and of reporting them here, when the Committee of Ways and Means are to review their work? How are the expenses to be increased in that way? They cannot be. Will the number of committees and the number of men charged with the duty of investigating those subjects, allow the amount of expenditures to be increased? I do not think they would. We have been told, and very properly, that we cannot diminish the amount of appropriations contained in these bills when in the Committee of the Whole on the state of the Union, where they are debated only under the five-minutes rule. If we object to any item, we are told that it is designed to carry out existing law; and thus, at the last part of the session, we are compelled to vote millions of money which we believe improper, simply because we are told that, unless we do so, the wheels of the Government will be stopped. This Congress, by the Constitution, closes on the 4th of March next; and I tell gentlemen I will vote for no bill which contains iniquitous provisions, covering millions

and millions of dollars, simply because the Committee of Ways and Means tell us the Government wheels will be stopped if we do not pass them.

Mr. JONES, of Tennessee. During my service in this House, I have served several years as a member of the Committee of Ways and Means, and I believe the present is the first time that a proposition like this has been made in this House. And, sir, common as it is here and out of doors to find fault with the rules as being calculated to obstruct business, and to confuse the deliberations of this House, it is my opinion that if the motion now made shall become the settled practice of the House, it will have a greater tendency to obstruct the business of the House and to produce confusion in all its proceedings, than any other practice which could be established. Our rules have been wisely framed and adopted, and if we would all conform to them, and let you, Mr. Speaker, every morning when you take that chair, proceed with the business in its regular order, we would promote the dispatch of business and the deliberations of this body.

The rules provide for the various standing committees of this House, and then they prescribe to each one of those committees its appropriate duty. The proposition before the House is to refer the naval appropriation bill to the Committee on Naval Affairs. The rule on that subject is—

"It shall be the duty of the Committee on Naval Affairs to take into consideration all matters which concern the naval establishment, and which shall be referred to them by the House, and to report their opinion thereupon; and also to report, from time to time, such measures as may contribute to economy and accountability in the said establishment."

There is a similar rule in regard to the Military Committee, simply substituting the words "Military Affairs" for the words "Naval Affairs."

Mr. BOGOCOCK. I very seldom interrupt gentlemen in their speeches, though when I find myself upon the floor I am constantly troubled with interruption. I desire, however, that the gentleman from Tennessee will allow me one word here. I want to know of the gentleman from Tennessee if he does not understand that rule to mean that we may report any law or public regulation, the operation of which would be to promote economy in the naval estimates? And I want to know if he is not aware that under that rule we have no power to strike from the naval appropriation bill, or recommend to strike from the bill the appropriation of \$2,000,000 for repairs? I desire to know if that is not so? That rule gives no power to make recommendations in regard to any specific amount in the Navy appropriation bill. It only authorizes us to propose laws and public regulations, the effect of which would be to promote economy in naval affairs in reference to matters which may be referred to us.

Mr. JONES, of Tennessee. I was coming to the point of the gentleman's interrogatory. I hold that under that rule there is committed to the Committee on Naval Affairs everything which pertains to the efficiency and economy and accountability of the naval establishment of the country; that they have the entire jurisdiction of that subject. They can, if they think proper, report bills prescribing the number of officers, their grades, the number of sailors and other persons who shall be engaged or employed in the Navy. They can report bills prescribing the compensation of all such officers and others; they can report anything pertaining to the Navy.

Reference has been made to the fact that there are appropriations in this bill for docks and yards not prescribed by law. That is true. There is, also, an appropriation for equipment, which to a great extent must depend upon the wants of the service, and the discretion of Congress, and those in charge of that service.

I will state what once occurred when I was a member of the Committee of Ways and Means. There was an item of this sort for docks and yards. We sent for the chief of the bureau of docks and yards to explain the item. We wanted to know if the amount could be reduced. He came to the committee-room and declared that it could not be reduced without injury to the service. A member from Georgia, [Mr. TOOMBS], now Senator from that State, was a member of that committee, and on his motion we struck off half of the estimate for that bureau. The bill was reported and passed through this House; but

when it came back from the Senate the original estimate was reinstated, and it was passed finally with that estimate. I say that these rules were wisely framed. They commit to the jurisdiction of the various committees all that pertains to the expenditures and regulations and the efficiency generally of the Departments: to the Committee on Naval Affairs, the Navy Department; to the Committee on Indian Affairs, the Indian department; and so on. Sir, as I believe the gentleman from Michigan [Mr. HOWARD] remarked, each committee of this House, looking on the Departments of the Government, is supposed to look particularly to the branch of public service peculiarly committed to its care. They are not supposed to look to the other branches of the service. They can each report recommendations to the House, and if they are adopted, then the Secretary of the Treasury is required to make estimates accordingly. The War Department, the Navy Department, and the different branches of the Government, make their estimates and send them to the Secretary of the Treasury, and he then communicates them to Congress. Why do you require them to go through the Treasury Department? That they may know there how much, in the aggregate, will be the expenses of the Government. Then, when they come here, your rules, as I think, wisely require that those estimates shall go to the Committee of Ways and Means. That committee is presumed to have no preference for one branch of the public service over any other. Their duty is to examine the estimates. In these estimates, too, the officers making them are required to refer to the law under which the appropriations are asked. The Committee of Ways and Means compares the estimates with the law and the necessities of the public service. If they are not required by existing law, then, in my opinion, the Committee of Ways and Means have no further jurisdiction of the subject.

But, I will repeat, there are some items like that of docks and yards which, to a great extent, must depend upon the discretion of the committee and of Congress. You cannot tell what repairs will be wanted for the next year, or in any particular year. They must be left mainly to the discretion of the Department, where the estimates are made. They can examine these estimates, prepare their bills, and report them under the rules within the first thirty days of the session. And in this particular case—and I merely refer to it because it is the pending question, for the same is applicable to every other committee, and every other appropriation bill—if this bill had been permitted to go in the ordinary course to the Committee of the Whole on the state of the Union, when reported by the chairman of the Committee of Ways and Means before the recess, during the Christmas holidays, it would long since have been printed, and in the hands of every man who desired to see it. Any committee, or any member, could have gone through it; and they could have presented any amendment in the Committee of the Whole on the state of the Union, which a committee can report if a bill should be referred to them. Then, if they can satisfy the House that it would be right and proper to incorporate it into the bill, I have no doubt that it would be adopted.

While this question, as an isolated one, would not work any great evil, yet I speak against it as establishing a precedent, and as establishing a new practice in this House. Suppose, when the Committee of Ways and Means shall report their bills, that they are referred to the respective standing committees, you establish a revisory committee over the action of the Committee of Ways and Means, and, it seems to me, put that committee under the ban of the House. But when, if that course be taken, will the bills be printed? For a short time the new course may flow on smoothly. It may work expeditiously. In a little while, however, some of your committees will be behindhand. Some will neglect to report back, until a late day, the bills referred to them; and then, sir, we will find ourselves, at the close of the session, with some of the bills, containing necessary legislation, unreported and unacted upon.

The Committee of Ways and Means, as I have before said, are to look to the existing laws, and to report appropriation bills in accordance with them. And, sir, not presumed to have any

preference for any particular branch of the public service, they report such sums for each as they deem each requires. If they find that the necessary appropriations exceed the revenues of the Government, then, too, it is their duty to provide the means for supplying the deficiency. Or, if they do not do that, they must look to the whole service of the country, in every branch and every department, and endeavor to cut down the appropriations, until they shall bring them within the means of the Government. Now, sir, it does seem to me that any one of the committees of this House can take the appropriation bills appertaining to their branch or department of the Government, and can overhaul it. They can compare it with the existing laws; and can prepare and report amendments as independent propositions, and have them passed upon.

Sir, it is very common to complain of the Committee of Ways and Means for assuming to themselves the business of the House. Now, I will say to you and to this committee that, of all the positions occupied in this House, that of the chairman of the Committee of Ways and Means is least to be desired, and is the most unpleasant position.

Mr. KEITT. And the most sought after. [Laughter.]

Mr. JONES, of Tennessee. And perhaps, the most sought after. The duties of the chairman of the Committee of Ways and Means are principally delicate. He has to look over the estimates, to compare them with the laws, to cipher out and to see whether the estimates are in accordance with the provisions of law. If we wish to promote the business of the House and to preserve its order, let us have, as heretofore, the bills reported by the Committee of Ways and Means referred to the Committee of the Whole on the state of the Union. I utterly deprecate the policy of so changing our rules as to divide up the annual estimates and send them to the various committees of the House, no one of which will be looking at the entire amount as recommended to be appropriated, but each looking at them with an eye solely to the branch of the service over which that committee had charge.

Mr. KEITT obtained the floor.

Mr. BOCKOCK. If the gentleman from South Carolina will give way, I will move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The gentleman from Virginia [Mr. JENKINS] has had the floor for some days in committee; and I understand it would be agreeable to him to have an opportunity of addressing the committee to-day.

Mr. KEITT. For that purpose I yield the floor.

Mr. BOCKOCK. I submit that motion.

Mr. STEPHENS, of Georgia. As the gentleman from Virginia desires to be heard to-day, I hope the motion will be agreed to; and after he finishes his remarks, the committee may rise and the House may resume the consideration of the matter before it.

Mr. KEITT. That is the reason why I give way.

Mr. FLORENCE demanded tellers on Mr. Bockock's motion.

Tellers were ordered; and Messrs. KELLOGG and CLAY were appointed.

The House divided; and the tellers reported—ayes ninety, noes not counted.

PRESIDENT'S ANNUAL MESSAGE.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Bockock in the chair,) and resumed the consideration of the President's annual message, and of the resolutions to refer the same; on which the gentleman from Virginia [Mr. JENKINS] was entitled to the floor.

CENTRAL AMERICA, ETC.

Mr. JENKINS. Mr. Chairman, I had hoped, after the recess which both Houses have taken during the holidays, and in consideration of the short intervening period from this date to the adjournment of Congress, that debate would be confined to subjects affecting the real interests of the Republic at home, and her reputation abroad. I confess, sir, that I have been disappointed in this respect by the speech of the gentleman from Maine

[Mr. WASHBURN] who was last upon the floor. It was, for the most part, the same old thing of slavery and anti-slavery; Lecompton and anti-Lecompton. I can see no excuse for the constant harangues upon this topic to the utter neglect of the vital interests of the Confederacy, both domestic and foreign. But, sir, so it is. If the tariff is to be raised, these gentlemen of the Republican party think the only way to enlighten themselves and the country preparatory to so doing, is by reading long essays against the institutions of their brethren of the South. If matters affecting our foreign interests are to be acted on, they seem to think the only legitimate manner of approaching the subject, is through a speech denouncing the slave oligarchy. Like Dr. Sangrado, who persisted in his specific of "bleeding, and warm water" for all ailments however different, so our political doctors of the Republican party dose us with anti-slavery speeches for all the ills that afflict the body politic. A remarkable point of similitude in the two cases is the pertinacity which each has displayed in adhering to their practice. Would it be hazarding too much, sir, to surmise that it was for the same reason in each case? The former, you recollect, not only made himself great and famous by it, but also found his bread and butter in it, "which," says his historian, "was of much more importance to him than the health of his patients." I think, sir, it would not be uncharitable to conclude that similar considerations have their weight with our anti-slavery agitators. I shall not consume the time which I have allotted myself for the discussion of other topics, by any further notice of the speech of the gentleman from Maine, [Mr. WASHBURN.] I merely want the country to know, in case we adjourn leaving any matters of necessary legislation unattended to, where the blame rests.

And now, sir, I revert with pleasure to the subject of our foreign relations, upon which my distinguished friend from Missouri [Mr. ANDERSON] was so felicitous in his remarks yesterday. That the foreign policy of a country like ours should constantly attract the attention of its citizens, is necessarily consequent upon the character of its free institutions.

Commencing with the origin of our Government, and coming down to the present time, no other questions have more often excited a deep interest in the public mind—more frequently drawn the line of demarcation between political parties, or had a more direct and permanent effect upon the growth and prosperity of the country, than those appertaining to our foreign relations. In subordination to this idea, the Democracy of the Union, when assembled in their last presidential convention, promulgated, among others, the following propositions:

"Resolved, That there are questions connected with the foreign policy of this country inferior to no domestic question whatever. The time has come for the people of the United States to declare themselves in favor of free seas and progressive free trade throughout the world, and, by solemn manifestations, to place their moral influence at the side of their successful example.

"2. Resolved, That our geographical and political position with reference to the other States of this continent, no less than the interests of our commerce and the development of our growing power, require that we should hold as sacred the principles involved in the Monroe doctrine; their bearing and import admit of no misconstruction; they should be applied with unbending rigidity.

"3. Resolved, That the great highway which nature, as well as the assent of the States most immediately interested in its maintenance, has marked out for a free communication between the Atlantic and the Pacific oceans, constitutes one of the most important achievements realized by the spirit of modern times and the unconquerable energy of our people. That result should be secured by the timely and efficient exertion of the control which we have the right to claim over it; and no Power on earth should be suffered to impede or clog its progress, by any interference with the relations it may suit our policy to establish between our Government and the Governments of the States within whose dominion it lies. We can, under no circumstances, surrender our preponderance in the adjustment of all questions arising out of it."

Yet notwithstanding this, we have seen the time of the last session of Congress frittered away in a useless controversy, during the pendency of which each party, by its solemn and recorded vote, conceded, so far as practical results were concerned, much for which the other contended; a controversy which, from indications thrown out during the present session, some of the combatants propose to renew; while questions of foreign policy of immediate and pressing interest demand our attention; while, sir, the very state of things

contemplated in those resolutions exists. You, sir, and this House will bear me witness that we consumed the whole of yesterday in discussing dead issues in relation to Central America; while living issues, springing out of our interests in that quarter, are hourly demanding our consideration. Yes, sir, while we are talking about General Walker, and reviving the question in a personal aspect, and that, too, with reference to transactions which transpired a year ago, a British minister is negotiating a treaty in Central America; a proceeding in which American interests will meet with about the same kindly consideration that the fable represents the doves to have received from the protecting care of the hawk. We know, too, that a British fleet, under the pretense of affording protection to that functionary, blockades the harbors of Central America, and domineers over the commerce of the world. From across the seas, the same winds which fill the sails of the "homeward-bound," waft to our ears rumors of European alliances, the basis of which is, European interference with American affairs. I shall notice a single one of the most recent of these, which comes in a shape not to be questioned. I read, sir, the translation of an extract from a French paper, the *Courrier de Paris*, of December 14, as follows:

"It has been said for some days past, there is a project for a mixed MONARCHY for the Island of Cuba, and that of Porto Rico, which would give to those possessions an independent existence, a nationality of which they have always been deprived. It is possible, also, that in the near future, Mexico—alas for her internal convulsions!—will become more calm. She can then follow their example, and an intimate alliance between the three kingdoms would suffice to protect them against the aggressions of their powerful neighbors. This plan is said to be irresistible, and Spain, the first who has taken the initiation, would not hesitate a moment to put it in practice. Perhaps for herself, it is not to be regretted, for she does not at present succeed in maintaining her dominion over Cuba by example; but has to aid it by a display of force which renders that rich colony a burdensome charge upon the mother country."

So much for European rumors.

At our side we behold our sister Republic, once of fair and comely form, and radiant with promise, now convulsed with the throes of a deadly revolution. It is my intention at present to call the attention of the House only to the first of these questions: the condition of Central American affairs, and more immediately as connected with the Clayton-Bulwer treaty. I hold this treaty in my hands. It is the result of what the world calls diplomacy—European diplomacy—the gist of which consists in each of the contracting parties affecting to concede and determine a great deal; using language, however, from which they subsequently prove, to their own satisfaction at least, that they concede and determine nothing.

What seems to me to be wanting at present on our part, is action definite and specific. That action is now before the House for consideration, in the shape of a joint resolution, which reads as follows:

"Resolved, That the President of the United States be requested to take such steps as may be, in his judgment, best calculated to effect a speedy abrogation of said treaty."

I am aware, sir, that cautious objection may be taken at the outset to such a proceeding on our part, upon the ground that by so doing we would infringe the prerogatives of the President and the Senate, who, by the Constitution, are the treaty-making department of the Government. For one, sir, I would never lend my aid to any measure which I thought would violate this provision of the Constitution, either in letter or spirit. But I submit that this resolution does neither. For I hold it to be the true theory of our Government, that the popular will is the supreme law of the land, and the Senate and the President—the treaty-making power—are only one of the formula used to express and carry out that will. Hence it would seem to be eminently proper that this House, the immediate representative of the people, should make known the popular will upon all occasions when, in its judgment, the necessity of the case requires it. In my humble judgment this is one of those occasions. I shall therefore proceed to state, concisely, the grounds upon which I advocate the passage of this resolution, and, as a consequence, the abrogation of the Clayton-Bulwer treaty.

My first proposition is—

That we derive no advantage whatever from the operation of this treaty. And the history of the matter, subsequent to its ratification, will bear me

out in what I say. It has accomplished for us no one of the things it was intended to accomplish."

One of the objects of the treaty, as set forth in the instrument itself, was "to consolidate the relations of amity so happily subsisting between the two countries." Instead of so doing, it has more than once threatened to rupture those relations in the most serious manner. Adopted, ratified, and exchanged, in 1850, it has since that time been the fruitful source of irritations and contentions between Great Britain and this country.

Another object was to guaranty to the commerce of the world the common use of a proposed ship canal. This was rather an ostensible than a real object with our Government. Though it, doubtless, lured our people into an acquiescence which they would otherwise have been slow to give. But at all events, as the canal has never been made—and, indeed, is now pronounced impracticable by some of the very parties who proposed to construct it—the treaty is a nullity in this particular. But the principal object our Government had in view, was to prevent English interference and English domination in Central American affairs. Not, sir, that we conceded her possessions in that quarter to be rightful, or her pretensions to be just; but because we wished to put both beyond all question by her solemn relinquishment. To do this we entered into the same engagement for ourselves; which, without doubt, was the consideration that induced Great Britain to confirm the treaty. To show that this was our object, as well as hers, I will read the first article of the treaty:

"The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof; or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising any dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government, through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or the subjects of the one, any rights or advantages in regard to commerce or navigation through said canal, which shall not be offered on the same terms to the citizens or subjects of the other."

Yet, sir, have we not signally failed to accomplish that object on our part? Have we ever approximated it? Has Great Britain relinquished a single foot of that country? Does she not occupy and exercise as much dominion as ever, over a great part of it? From the hour that treaty was ratified until this moment she has not fulfilled its plainest stipulation. She refused to do so upon various pretexts, always however contriving to postpone the matter, until nearly two years had elapsed, when, as if to shock the common sense of this nation, Lord Clarendon took the position that the treaty in question was not to operate upon the existing state of things, but was only to take effect *in futuro*. Now I shall not consume the time of the House by attempting to disprove the justness of the English construction. That construction, sir, is almost beneath criticism, for its reverse is as apparent upon the face of the treaty itself, as are the signatures appended to it. Lord Clarendon's letters written to bolster up his novel construction of it are, with all his force of intellect, only so many specimens of sophistry, casuistry, and word-logic, which one would have expected rather to have emanated from the schoolmen of the middle ages, than from a modern statesman. They were at the time completely exposed and riddled by our able Minister at the Court of St. James, now our worthy President. It was indeed almost a work of supererogation on his part, so far as it concerned the public mind of America; for I doubt whether a sane man could be found within the limits of this Republic, whose mind could be so perverted as to adopt the monstrous idea that this treaty was purely prospective in its operation, in the face of its obvious and palpable meaning to the contrary.

But, sir, so England now construes it, and what is more to the point, she acts upon this construc-

tion. The consequence is, that her illegal possessions in Central America are as extensive as ever; her Mosquito Indian protectorate as vigorous as ever; and her interference under its guise in the affairs of Nicaragua and Costa Rica rather more frequent than heretofore. Thus, sir, have we failed, utterly failed, in accomplishing a single purpose had in view when we negotiated this treaty. This treaty then is impotent for good. Hence its abrogation, even without further action on our part, could not make our case worse than it is. It would not increase the rights of Great Britain in Central America for two reasons: One is, that she has no rights there, even aside from this treaty; hence its abrogation could revive none. True, at a very early day, but when the whole country confessedly belonged to Spain, England did pretend to set up some kind of claim to a portion of Central America, deriving it from the English pirates; but this claim she abandoned in the treaty of Paris, concluded in 1763. Having subsequently engaged in war with Spain, another treaty was concluded between the parties in 1783, by which England bound herself to leave the whole country, which, upon various pretexts, she had contrived to occupy, and to confine herself to Balize; and even there she was not to exercise eminent domain, but was to have only an usufruct for the purpose of cutting logwood and mahogany, which had before this time become articles of commerce. England, however, violated this treaty by a most petty equivocate; asserting that "*continent Espagnol*," or Spanish continent, did not include Central America. And the history of that period shows conclusively, not only that all Europe regards it as a miserable evasion amounting to a violation of good faith; but that the English Government itself actually contemplated it as such, and so designed it from the beginning.

But, sir, even this faint shadow of a title was lost in 1786—still another treaty having been entered into at that time between the parties, by which England gave up all her pretensions, in the fullest and most unequivocal terms; and this time, acting in good faith, abandoned her fortifications, and quit possession of the country; and it was not until, by the treaty of Guadalupe-Hidalgo, we acquired California and New Mexico, that England, seeing the value of Central America to our people for transit purposes between our Atlantic and Pacific possessions, attempted to renew her old and exploded pretensions—pretensions which this Government has never admitted, either directly or by inference. As then, England has no rights in Central America, except the usufruct in Balize alluded to, the abrogation of this treaty can give her none. But there is still another reason why the abrogation of this treaty could not make our case worse, by increasing or reviving the claims of England, and that is to be found in the fact that every possession, protectorate, or pretension of any kind which she might set up outside of this treaty, she now asserts under it. This is, of course, apparent, from the simple fact that she construes this treaty to be purely prospective in its operation, and as not at all affecting what she calls her existing rights.

But it may be said that, granting all this, still it would be the better policy to continue negotiations; that England will be eventually brought to adopt our construction of the treaty; which leads me, sir, to submit to the House my second proposition, which will cover this suggestion, and render it tangible for the purpose of discussion; namely:

That the history of this matter and its present status do not furnish even probable ground upon which to predicate the assumption that England will finally adopt our construction of this treaty. After the ratification of this treaty, Great Britain having persisted, in spite of our remonstrances, in holding on to her Central American possessions, in themselves illegal, besides being totally set aside by the treaty referred to, our Government determined to have a conclusive settlement of the question at once, and our Secretary of State at that time, Mr. Marcy, as early as July, 1853, transmitted full powers and instructions to our Minister at the British Court to conclude this controversy forthwith. Mr. Buchanan, then our Minister, endeavored to do so; and frequent and lengthy conversations and correspondence were held between himself and the English Secretary for Foreign Affairs. But with all the fair promises

of the latter, these efforts amounted to nothing. Some time subsequently, the matter was brought to the immediate attention of Congress and the country, by the annual message of President Pierce, of December, 1855. I shall read an extract from that message, to throw some light upon the course events were taking. He says:

"This Government, recognizing the obligations of the treaty, has of course desired to see it executed in good faith by both parties, and in the discussion, therefore, has not looked to rights which we might assert independently of the treaty, in consideration of our geographical position, and of other circumstances which create for us relations to the Central American States different from those of any Government of Europe.

"The British Government in its last communication, although well knowing the views of the United States, still declares that it sees no reason why a conciliatory spirit may not enable the two Governments to overcome all obstacles to a satisfactory adjustment of the subject.

"Assured of the correctness of the construction of the treaty, constantly adhered to by this Government, and resolved to insist on the rights of the United States, yet actuated also by the same desire which is avowed by the British Government, to remove all causes of serious misunderstandings between two nations associated by so many ties of interest and kindred, it has appeared to me proper not to consider an amicable solution of the controversy hopeless.

"There is, however, reason to apprehend that, with Great Britain in the actual occupation of the disputed territories, and the treaty therefore practically null, so far as regards our rights, this international difficulty cannot long remain undetermined without involving in serious danger the friendly relations which it is the interest as well as the duty of both countries to cherish and preserve. It will afford me sincere gratification if future efforts shall result in the success anticipated heretofore with more confidence than the aspect of the case permits me now to entertain."

Sir, do not subsequent events show that the last sentence of this extract from President Pierce's message was penned by a statesman whose sagacity, even at that distance of time, saw into the shuffling part that England was playing; the part of wait! wait! wait! and all the time getting the game into her own hands. Yet, sir, others were either more hopeful or more timid than President Pierce; and Congress taking no decisive steps in the matter, negotiations were continued, just as some gentlemen propose to continue them now; and with what result? Why, this message from which I have just read, penned after we had been already negotiating long enough to exhaust all probability of an agreement, is dated December, 1855, and this is January, 1859. And here we are, in relation to this matter, just precisely where we were then. I ask, sir, with such a record of the past, what are we to expect from the future? Have we not been promised a settlement of this question month after month and year after year, until the most credulous might well grow skeptical of the good faith of those who proffered it?

It is not necessary that I should point out all the various instances in which this has been done, or to trace the many miserable expedients resorted to, in order to gain delay. It will be sufficient for me to call attention to the latest manifestation we have had in that direction, and which will show exactly how the matter stands at this time. This can best be accomplished by referring to some documents sent to this body, on the 15th ultimo, by the President, in compliance with a resolution of the House of a preceding date. I have these before me; one of them comprises extracts from a letter from the American Minister at the British court at this time, to our Secretary of State; which extracts contain a synopsis of a reported conversation between the former and the Earl of Malmesbury, of the Foreign Office, during which the latter personage made the following statement:

"Lord Napier had communicated to the President the treaty negotiated by Sir William G. Ouseley with the Minister from Nicaragua. It was believed that no objection was expressed to its provisions, one of the objects of which was to terminate the Mosquito protectorate."

Sir, I can imagine the astonishment of the President, and the Secretary of State, on receiving this communication from Mr. Dallas. Why, sir, though it is represented in this statement that a treaty had been negotiated between Sir William G. Ouseley and the Nicaraguan Minister at Washington, almost under the eye of the President, and that it had been communicated to him, this, sir, was the first the President had heard of it.

Our Secretary of State at once dispatched a note to Lord Napier, asking a solution of the mystery. The answer of his lordship is too good to be lost. After premising in a very elaborate manner, he comes to the point, and says:

"I conceive that what the Earl of Malmesbury intended to convey to Mr. Dallas was this: Lord Napier had imparted,

verbally, to General Cass, the general sense of a projected treaty which Sir William Gore Ouseley had been instructed to negotiate to Nicaragua, one of the objects of which is to terminate the Mosquito protectorate, and to which no objection was expressed by the United States Government.

"I have not had the honor of holding any personal communication with the President on this subject. In so far as I am informed, no treaty has as yet been concluded by Sir William Gore Ouseley with any agent on the part of Nicaragua.

"I remain, my dear Sir, yours very truly, NAPIER."

Sir, is not this too much? Does it need comment? Does it not speak for itself, and bring to bear irresistible testimony to show what I have asserted, that the English Government is only tampering with us in this matter? Why, sir, the English Secretary of Foreign Affairs does not even render to our sagacity the small tribute of resorting to a respectable subterfuge in the premises. On the contrary, he seems to have taken some pains to have singled out the veriest pretext imaginable. One might almost be led to believe that the Earl of Malmesbury was a philosopher, devoted to metaphysical inquiry; and that instead of trying to settle the Central American question with this country, he was really engaged in a profound investigation to discover how far it was possible to impose upon human credulity. I ask if we are to expect any thing from such diplomacy? Sir, it is not even diplomatizing; it is trifling with us to the last degree. And with this remark, I dismiss the consideration of the second proposition which I have advanced, and which I have endeavored to establish; and I now proceed to submit the third, namely:

That this treaty, whether taken in the English or in the American sense, contravenes what ought to be the settled policy of this Government in relation to the affairs of the American continent. That policy should be, sir, to assert not an equal, but a paramount and controlling influence over its affairs. This, sir, is popularly known as the *Monroe doctrine*. And though not precisely as enunciated by him, yet, sir, the position he took on various occasions are fairly, legitimately, and logically deducible from the principle I have laid down, and from no other. I say, then, that in calling it the *Monroe doctrine*, I do so considerably, and that I am utterly regardless of the carping criticism of the historical pedant who fails to recognize the same fundamental principle whenever a difference of circumstances happens to require a modification or a different application of it.

It will be observed, sir, that the first article in this treaty, which I have already read to the House, is fatal to the policy referred to; as it binds both parties "never to occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." Is not this deserting the high ground which our Government should take in regulating the affairs of this continent? But, sir, this treaty not only concedes to Great Britain an equality with ourselves in this respect, but it does the same for every other State on the face of the globe, from the autocracies of the Czar of Russia and the Sultan of Turkey down to the humblest of the Papal States, and even to Liberia itself; for by article sixth it is provided that:

"The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other."

And this, too, is all to be done upon the miserable pretext of protecting a ship-canal that is never to be made; or which, if made, will be done under circumstances inauspicious to American interests. Sir, a controlling influence over Central America in particular, is due to us alike from a commercial as from a political necessity. Instead of conceding, as we have done in this Clayton-Bulwer treaty, an equal control to every other State in Christendom, we should have asserted a superior and dominant control for ourselves without a treaty. In this we should have been justified by the great law of self-preservation; a law which overshadows the quibblings of writers upon international jurisprudence; a law in which Government itself has its origin in its assumption of all those powers which conflict with what we style the natural rights of man, or rights of the individual in a state of nature; powers without which there could be no such thing as government, and to account for the assumption and exercise of which the theory of universal consent, so

often set up by speculative writers, is totally insufficient. The same law, which in one of its modifications justifies a class of the community not numbering more than one fourth of the whole race even in the most liberal Republics—that is to say, males twenty-one years of age or more—in assuming to themselves every attribute of government, and regulating, by the most sovereign authority, the condition of the other three fourths of the population. The same law which justifies the course which Europeans and their descendants have pursued towards the aborigines of this continent; a law which lies at the foundation of all order, from the simple family relation upwards to the grand structure of an organized government in successful operation; without which, as Mr. Calhoun remarks, "society itself could not exist." Look, sir, at the position of this Republic; almost the only one worthy the name on the face of the globe; with the monarchies of the Old World, the growth of centuries, ready to be arrayed against us in solid phalanx at a moment's notice. Observe our geographical position; our immense possessions upon the Pacific coast; and the necessity of our having a dominant control over Central America for transit purposes; and tell me if we should not be justified in asserting our supremacy? And who shall say, sir, that we could not maintain it?

Another objection, sir, which I have to this treaty, and which I will bring forward here as under its appropriate head, is, that it prevents us, from all time to come, not only from acquiring any portion of Central America as a territorial appendage, but even from incorporating it as a sovereign State in our Confederacy; notwithstanding every citizen within its limits, as well as all our own, should desire it. For it is plain, sir, that the language of the first article of this treaty effectually precludes any such action on our part. Now, it may be said that the idea of such growth and expansion on our part, in the legitimate manner in which it has hitherto taken place, as to render it expedient to annex any portion of the country spoken of to our Union, is visionary, and would be unprecedented in the history of nations.

Sir, you cannot judge in this case by the past—I mean by the historical past. You can only judge our future by our past; by that past of which men now living are the cotemporaries; by that past whose achievements and discoveries in all the arts and sciences have been such as to revolutionize the world in all that appertains to the progress and development of nations and races. And judging by this past, what may we not predict for the future? From the eminence which, as a nation, we have already reached, what horizon can bound our political prospective? Already, sir, grave Senators discuss the question of a protectorate over Mexico. With a protectorate, Mexico would rapidly become Americanized in thought, feeling, interest, population, and, indeed, in everything calculated to fit her to enter our political system. I tell you, sir, that in this case absorption would prove to be the corollary of a protectorate. When you begin the one, you may prepare for the other. And Mexico once acquired, Central America would follow in the most natural manner.

For one, I am unwilling to say to the genius of American institutions, "thus far shalt thou go, and no further." The Roman God, Terminus, is not one of my political deities, however grand he may appear in heathen mythology. I do not wish to be understood as advocating indiscriminate annexation. I might be for it under some circumstances, and opposed to it under others. I would judge each individual case of the sort as it arose, and decide it accordingly. But I say, whether we may or may not desire to incorporate any part of Central America within our political system, I do not believe that we should, as we are made to do by this treaty if we continue it in force, give bonds to all the world in general, and to our rival, England, in particular, that it shall not be so incorporated.

Was it not, then, a fatal error of shortsightedness in us to enter into this treaty for any of the reasons that influenced us? A treaty which has thrown us so far back in the race for empire? Sir, it seems marvelous, at this day, that we could have made such a treaty; and it will seem more wonderful still to the future historian. The public mind of this country was diverted from the true view of this treaty. I have already said that with this Government the proposed inter-

oceanic canal, with its commercial advantages, was an ostensible, rather than a real object; but, sir, there is no concealing the fact that this consideration did operate upon the country at large, however little it may have influenced our Government. Sir, at the time this treaty was negotiated, so intensely was the public mind fixed upon our Pacific possessions, and, above all, upon the immense mineral developments in that region, which each succeeding day magnified almost beyond conception—where gold seemed to grow as in the garden of Hesperides—that this treaty, which appeared to facilitate a connection between ocean and ocean, and thereby to enable us, almost by stretching forth the hand, to seize upon the glittering treasures of the Pacific coast, left us unmindful of its ulterior political effect. And as Atlanta, though fabled for her fleetness, yet pausing a moment to grasp the golden fruit, was distanced by her competitor, so we, too, intent upon the golden treasures that suddenly dazzled our vision, have permitted a rival to stride between us and the goal of our ambition, who now threatens to distance us in the mighty race for empire.

I have endeavored, sir, to look at the question of the abrogation of this treaty calmly, and to give all due weight to such suggestions of my own mind as seemed to be obstacles to that course; but I must say, sir, in all frankness and candor, that those suggestions have not for a moment been able to outweigh, or even to poise in the balance, the important considerations of State policy that imperatively demand its abrogation.

But it is sometimes said that war would be the consequence; that we are unprepared for war; that England, with her five hundred battle-ships, would blockade our harbors, bombard our cities, and sweep our commerce from the ocean. If it has come, sir, to this, that there is potency in an argument of this character, then have we sunk, indeed, to the lowest depth of degradation; a degradation which has but one parallel in history. It is to be found in a chapter of Livy, wherein he recounts the capitulation of the Romans to the Gauls, and when the former even dared to remonstrate against the false weights of the Gauls, being thus made to pay a greater price than the treaty called for, Brennus, the Gallic chieftain, threw his sword into the scales with the exclamation, "*Woe to the vanquished!*"

Sir, hard as this treaty was to bear, we have borne it. Dear as was the price we were to pay, as the consideration on our part, we have paid it—the price of diminished influence; the price of curtailed empire and dominion; the price of humbled pride. And now, sir, when we object to the false measure of construction that England would apply to this treaty, and which would make our burden under it greater than we could bear, we are told that war will be the consequence. Sir, be assured that such contumely will be resented in this case as in the parallel I have cited; not, indeed, in the person of a Camillus, but in the proud and independent spirit of a free people. The American people will never submit to it, sir; not though England's armies were as many as her acts of aggression, and her navies more numerous than the treaties she has ruthlessly violated.

There is, sir, but one further question for attention. Can we abrogate this treaty without a violation of good faith? For myself, sir, I do not doubt it. I presume no man doubts it seriously; I have not even heard it mooted. There can be no umpires between sovereignties. Each must judge for itself—must be its own umpire. And, sir, as our own umpire, and trying this case *in foro conscientie*, we could not do otherwise than justify this proceeding on our part. Above all, sir, let us act in this matter at once. Every day's delay redounds to our disadvantage. Central America would have been Americanized ere this had it not been for this treaty. Under its operation, and in order to carry it out, our vessels have been boarded and attached by the officers of our Government after their decks were noisy with the tread of immigrants, their canvas already filling with the breeze, and their prows turned towards the narrow land of the tropics. Let us then at once abrogate this treaty, plant ourselves upon the Monroe doctrine, and trust to a righteous cause and the invincible spirit of our people for the consequences.

Sir, a word more and I shall have done. The

State of Virginia is about to erect, in Hollywood cemetery, a monument to the memory of James Monroe. Under the supervision of her present distinguished Chief Magistrate, we may expect it to be worthy of the object it seeks to commemorate.

Let us, as the Representatives of the whole Union, imitate her example. Let us do it, sir, not by building a temple of iron or of bronze; not by developing in the marble its latent forms of beauty; nor yet by peopling these walls through the genius of the pencil, with images almost starting into life. But let us do it by incorporating into our foreign policy, as a fundamental principle, the doctrine already consecrated by his name. Sir, let this Administration commit itself at once and unreservedly to the Monroe doctrine. And, sir, let it enforce it. Let it do this, and it may proclaim to the world, not in the spirit of classic fancy and poetic license, but in the language of soberness and truth: "*Eregi monumentum, ære perennium*"—"I have built a monument more enduring than brass." A monument whose majestic outlines will be visible through the reflecting telescope of history long after Hollywood cemetery and its Gothic temple shall have been forgotten, and the very spot which is now the receptacle of the illustrious dead shall have perhaps become the habitation of the living.

Mr. GIDDINGS obtained the floor.

Mr. PHELPS, of Missouri. If the gentleman from Ohio does not desire to proceed to-day, I would like to proceed to the consideration of another appropriation bill.

Mr. GIDDINGS. I will say that it is always my wish to aid the Committee of Ways and Means in the discharge of their duties; and I will yield if it is the general understanding that I shall have the floor to-morrow.

Mr. PHELPS, of Missouri. The gentleman from Ohio would undoubtedly have the floor whenever we shall resume the consideration of the President's annual message. I propose that, for the time being, we shall lay that aside and take up for consideration the diplomatic and consular appropriation bill, under the expectation, and under the hope, that the members of the committee will confine their remarks to the subject-matter of that bill.

Mr. GIDDINGS. Do I understand the gentleman consents that we shall go into the Committee of the Whole on the state of the Union to-morrow, upon the President's message?

Mr. PHELPS, of Missouri. I think there is a special order in Committee of the Whole, to-morrow.

Mr. GIDDINGS. Is it the intention to take the President's message out of committee for the present?

Mr. PHELPS, of Missouri. Not at all.

Mr. GIDDINGS. Then I yield.

Mr. PHELPS, of Missouri. I move, then, to lay aside the President's message, and take up the bill I have indicated.

Mr. STEPHENS, of Georgia. I move that the committee rise, in order to proceed to the business before the House before we go into committee.

Mr. PHELPS, of Missouri. The gentleman from Georgia will permit me to say that the gentleman from Ohio only gave way that an appropriation bill might be taken up at this time. I suppose the gentleman from Ohio would prefer to proceed now, if that is not done.

Mr. GIDDINGS. I do.

The CHAIRMAN. The gentleman from Georgia was rightly entitled to the floor to move that the committee rise. If he insists upon the motion, the Chair will put the question.

Mr. STEPHENS, of Georgia. If the gentleman from Ohio does not prefer to go on now, I insist on my motion.

Mr. GROW. The gentleman from Ohio, I understand, is willing to yield to the appropriation bills; but if they cannot be taken up, he prefers to go on this evening.

Mr. STEPHENS, of Georgia. Then I withdraw my motion.

THE ISSUE—ITS HISTORY.

Mr. GIDDINGS. Mr. Chairman, two days since my friend from Maine, [Mr. WASHBURN,] took occasion to call attention to the great issue which now divides the people of these States. I listened to him, with unusual pleasure. I fully

accorded with his views. It is certain that one of our political organizations holds that a State or a Territory when forming a State constitution, acting within our Federal powers, may authorize its people to enslave a portion of mankind, doom them to live without knowledge, to grope their way to physical death amid the darkness of moral and intellectual night! The other party emphatically denies those doctrines, declaring that human governments are limited in their just powers by the law of eternal right and wrong, and can impart to no man authority or moral right to rob, enslave, or murder his fellow-beings; that the object and duty of governments are to protect every human soul in the enjoyment of life, liberty, and happiness.

These positions are antagonistic. The gulf that separates the Republican and Democratic parties is broad and deep; one reasoning and acting for freedom, the other for slavery, it becomes impossible for them to agree on any collateral question.

The President, in his message, has spoken for his party. In the first paragraph, he recognizes the dogma that human souls may be enslaved and transformed into property; and the entire message constitutes an argument for extending the curse of human bondage. If his predicate be correct, his efforts to acquire Cuba and parts of Mexico and Central America cannot be wrong. Indeed, his labors in behalf of the foreign and domestic slave trade are based upon the doctrines of his party; and those men who are now engaged in bringing African slaves into Georgia and other southern States must stand or fall with the party whose doctrines they support; for if slavery be right, the slave trade cannot be wrong.

I have often spoken on this subject, and do not intend to enlarge upon it at this time. I have defined the issue thus briefly for the purpose of calling attention to some incidents in that train of events which developed this issue with the same moral certainty with which effect always follows cause.

I am led to the discharge of this duty from the consideration that I have long participated in those incidents, and have been somewhat familiar with many of the measures which have conduced to the bringing of this great question before the country. I am also induced to do this from the consideration that many honest men are desirous that the Republicans shall modify, change, or abandon their doctrines.

It is certain that our principles were promulgated in the Declaration of Independence; that the signers of that first charter of American liberty declared that all men are endowed by their Creator with the unalienable, the abstract right to enjoy life, liberty, and happiness; and that the framers of the Constitution, recognizing this primal doctrine, ordained "that no person shall be deprived of life, liberty, or property, without due process of law." Our doctrine seems to have met with universal approval, except by the Tories of that day, up to the year 1791; and the first denial of it by any Whig was published by Thomas Paine, in his essay upon "the Rights of Man," wherein he declares that "whatever a whole nation chooses to do, it has a right to do." No person can fail to see the identity of this doctrine with that now proclaimed by the Democratic party, alleging that the people of a Territory, in framing a constitution, may, without injustice, authorize slavery if they choose. The doctrines of Paine and of the Democratic party are identical in denying that human governments are limited by the law of eternal right and wrong. They agree that the people of a nation or State may, if they choose, authorize murder, robbery, and piracy; for all these are embraced in the term "slavery."

But this doctrine of Paine would probably have passed unnoticed by the statesmen of that age, except for a tacit approval by Mr. Jefferson, who carelessly expressed a desire that the work might be reprinted. The approval, however, referred to the work as a whole, and not to this particular dogma. But this circumstance called out John Quincy Adams, at that time a young lawyer of Boston, who, in a series of well-considered articles, exposed the error of Paine, and clearly demonstrated the limited power of human governments—showed their inability to change the natural or innate character of any act; that murder, or piracy, or robbery, is inherently wicked and criminal, rendered so by the immutable law

of right and wrong, and must retain their inherent wickedness, though ten thousand human statutes pronounce them just, and authorize their commission; that the legitimate powers of government extend to the *protection*, and not to the destruction of man's inestimable rights. This vindication of the self-evident truths promulgated in the Declaration of Independence, and repeated in the Constitution, was published while most of the signers of that great charter of liberty, and most of the framers of the Constitution, were living. It emanated from the son of one of the most distinguished of those patriots. It attracted the attention of General Washington, then President of the United States, who soon after tendered to young Adams a foreign mission. Every person will see the perfect identity of the views proclaimed by Mr. Adams and those avowed by the Republican party.

The institution of slavery was then acknowledged to be wrong: In the language of Henry Clay it was "looked upon as a curse—a curse to the slave, and a grievous curse to the master," a crime which they were constrained to tolerate, but could not justify.

The people of the free States regarded it as a relic of the more barbarous ages, unsuited to Christian civilization, and they repudiated and abolished it.

But the southern States suffered it to remain undisturbed until it became chronic, and men began to look round for arguments in favor of its continuance. Those of more desperate character began to deal in slaves, making merchandise in human flesh their regular vocation. Planters began to look upon these crimes as common, became familiar with them, and eventually justified their perpetration by what they termed the necessity of surrounding circumstances. Of course, they viewed northern men, who advocated universal freedom and justice to all, with distrust, and soon after with determined opposition. This feeling became so strong as to defeat the election of Mr. Adams to the Presidency in 1828, although his previous administration had been able, pure, and patriotic.

It was the good fortune of that renowned statesman to have lived at the time when the Declaration of Independence was promulgated. He had mingled freely with the patriots who devoted their lives to the support of its "self-evident truths;" he had drank deeply at the fountains of liberty; he had fully imbibed the spirit of that heroic age. Soon after his defeat in the presidential campaign, he became a member of this body; and while here he adhered most strictly to the doctrines of the Revolution, and strove to develop the real issue which then existed between slave and free labor. While the slave power was constantly persecuting him, endeavoring to prostrate his influence, he was laboring to bring out to the public view the secret doctrines and motives which controlled its advocates. If gentlemen will consult the debates of this body during the time he served here, or his biography, they will find that he was constantly endeavoring to develop the precise issue now existing between the Republican and Democratic parties. I may be permitted to cite an instance. In 1844, the Legislature of Massachusetts sent to this House a memorial, asking an amendment of the Constitution, so as to apportion the representation in Congress according to the free population of the several States. It was referred to a select committee of nine members, some of whom were regarded as among the ablest statesmen of the South. As chairman, Mr. Adams drew up a report. It was based upon the self-evident truths, that all men have equal right to live, to that liberty which is necessary to acquire knowledge and attain happiness. It was read to the committee and considered maturely. Of the eight members besides himself, I alone signed this report; but no one denied its doctrines. He and I had hoped that Governor Gilmer, of Virginia, and other southern members would have had the moral courage to admit or deny its principles; but they evidently feared to do so.

I will give another instance illustrating his confidence in the truths of that instrument. When southern men had long been in the habit of threatening a dissolution of the Union, some people of Massachusetts became tired of the bombast, and sent a petition to this body praying Congress to take measures for the peaceful and immediate

separation of the States composing our Confederacy. Its presentation by Mr. Adams created great sensation in this body; and a resolution of censure was immediately offered: and the aged patriot was forthwith arraigned at the bar of the House. The enemies of freedom were loud in their exultation; they fully expected to prostrate his influence. A distinguished and eloquent son of Kentucky was appointed to manage the prosecution. Some of Mr. Adams's friends faltered; others became alarmed, and made indecent haste to deny all sympathy with him, and publicly to repudiate his doctrines; but these things did not move him. A deep and absorbing interest pervaded this body and the community generally. Every member was in his seat. The spacious galleries were crowded to their utmost capacity. Against him were arrayed Gilmer and Wise and Cooper and Johnson, and a host of distinguished men from the slave States. Marshall led the assault in an able and effective speech, showing, to the apparent satisfaction of all southern members, that Mr. Adams had been guilty of treason to the people and to the Government of these States, by presenting the petition.

As Marshall closed, the distinguished statesman rose from his seat: his movements were deliberate; and his whole bearing was dignified. His form was erect under the weight of nearly four-score years. There he stood, venerable for his age, for his great learning, for his important services, for the high honors bestowed on him. He entered upon no argument: he put forth none of that terrible invective which had so often caused his enemies to tremble and turn pale: he merely called for the reading of the "first paragraph in the Declaration of Independence," and the Clerk read that portion which sets forth the natural rights of "all men to life, liberty, and happiness;" and with unusual emphasis he read that part which declares "governments to be constituted among men to secure the enjoyment of their rights;" and when he had read the sentence which declares that, "whenever any form of government becomes destructive of these ends, it is the right and the duty of the people to modify or abolish it," Mr. Adams stopped him, and in a loud, distinct, and solemn voice, repeated the last member of the sentence, then turning to the Speaker, he declared "if there be any principle dear to the American heart it is the right of the people to modify or abolish their Government whenever it becomes destructive of the liberties or happiness of any portion of its inhabitants." And having avowed these doctrines as the basis of his vindication he boldly challenged them to the issue. Every person present felt the strength of his position. His stalwart foes were suddenly prostrated. His persecutors were confounded: not one of their number could be persuaded to admit or deny those great truths.

It is also due to the truth of history to say that other members sympathized with Mr. Adams, and assisted him in these efforts, in a greater or less degree, according to the interest which they felt in the subject. Among those most active were Hon. William Slade of Vermont, Hon. Seth M. Gates of New York, and at a later period, Hons. John P. Hale and Amos Tuck, of New Hampshire, and John G. Palfrey of Massachusetts. Indeed, I shall not soon forget the expression of the aged patriot, when his learned colleague (Mr. Palfrey) closed his first able speech in favor of human rights; the countenance of the "old man eloquent" seemed radiant with hope as he exclaimed, "thank God the seal is broken; the seal is broken; Massachusetts is no longer silent." The lovers of liberty in this body, saw at that period most clearly, that men holding the doctrine of the republican fathers, would never seek to wield the power of Congress, or of the Federal Government, to enslave mankind, or to deprive them of those rights with which the God of nature had endowed them. They well understood that the real issue was based upon primal truths, although southern men would not, nay, dared not acknowledge it. Mr. Adams labored through life to bring out the real facts to the public view. It was his ruling principle which exhibited itself *strong in death*. I visited him while prostrate upon what was then supposed his death-bed. In the silent chamber, I sat beside the dying patriot. His lamp of life seemed flickering in its socket: his voice was feeble; but his words

were earnest. I told him that his physician feared to have him converse upon any subject likely to excite emotion. Looking me full in the face, said he, "I am on the verge of eternity; I shall never meet you again in this world; I must talk;" and he proceeded to say that he had no hope for the perpetuity of our Government, or for the liberty of our people, except that which was based upon its return to the doctrines on which it had been originally founded; and he exhorted me to exert whatever influence I could for the attainment of that object. He subsequently lingered awhile between this and the spirit-world, until the kind angel whispered his release to a higher sphere.

Mr. Chairman, I am at times led; in my own mind, to compare the anxiety of the dying Adams to form the present issue, with that of some living politicians to abandon it. He, however, had the benefit of great experience. He saw and knew that the slave power wielded the Government; that the interests of the institution guided the legislation of Congress and controlled the executive action; it made and unmade our United States Bank; it fostered our domestic manufactures, and then made war upon our manufacturing interests; it dictated a protective tariff, and then repudiated the policy; it encouraged; then abandoned the iron interest, just as the prosperity of slave labor seemed to require. And when from this forum members endeavored to give information to the people, their lips were sealed by gag rules; the freedom of debate was stricken down, and the right of petition denied, that slavery might be encouraged. Every measure and policy of Government was made to bend to the interest of that institution. These things were clearly seen by Mr. Adams and his cotemporaries; and their efforts to bring out those important facts to the understanding of the people were constant and unyielding. To me it was then incomprehensible how any man could expect that the Government would do justice to the laborers of our free States while its whole patronage and influence were exerted in favor of the most arrant despotism towards the laborers of the South. Some southern members were more consistent. They boldly asserted that labor must everywhere be compulsory; that both in the North and South the capitalists owned the laborers; that the influence and powers of the Government should, therefore, be exerted for the protection of capitalists, and leave them to take care of the laborers; and they wielded its powers for that object. I was then, as now, incapable of comprehending how an issue in regard to the tariff, or upon any other collateral question, could effect a radical reform in our Government. The necessity of basing our political efforts upon the essential truths avowed by our republican fathers was most obvious.

I had assisted in trying the experiment of uniting men of conflicting principles for the purpose of carrying the election in 1840, and driving the Democratic party from power. I labored earnestly for the election of Harrison and Tyler, believing that if we succeeded, we should, among other reforms, regain the freedom of debate in this body. After the result was known, and while the President elect was on his way to this city, I made an effort to speak on the subject of slavery. I was met at every step by slaveholders and by gag rules, but I succeeded. My friends regarded my effort as successful; as an achievement. But the President, whom I had assisted to elect, expressed his abhorrence of all attempts to agitate the question of human rights; and when, after his arrival, I called at his quarters to pay him the customary respect, he gave me such unequivocal evidence of his indignation, that I was constrained to surrender my own self-respect, or to withhold all further manifestations of respect for him. While he lived, his influence was exerted in favor of the gag rules—in favor of slavery; and the next year I was publicly censured and driven from my seat in this body, for avowing doctrines which no slaveholder dare deny; but they united with northern serviles to censure me for uttering truths on which no man of reputation presumed to take issue. This occurred under a Whig Administration, for whose election I had labored most earnestly; and by a House, a large majority of whose members belonged to the party with whom I had always acted. These facts illustrate the fallacy of uniting conflicting elements merely to carry an

election. They show that when the Executive thus elected assumes any definite policy in regard to slavery, the party at once dissolves into its original elements, and the various factions turn their weapons against each other. The disbandment of the Whig party in 1841 left no remaining doubt on the minds of independent thinking men, that a political party to become permanent must base its organization upon immutable truth; and the failure of President Tyler to carry out the views of the party who elected him, constituted an important step towards the development of our present issue.

Mr. Clay, the Whig candidate in 1844, was committed to our doctrines; but by surrendering his opposition to the annexation of Texas, he lost the support of a portion of the northern vote, and was, therefore, defeated. His failure constituted another lesson to politicians, against the policy of uniting political opponents for the mere purpose of carrying an election.

The annexation of Texas, with the avowed purpose of extending and eternizing slavery, constitutes another important chapter in the progress of events, showing that the Democratic party then acted upon the doctrines now avowed; while they evaded every effort to compel them to show their colors.

In 1848, the two great parties in their national conventions, and in their platforms, carefully avoided any issue upon the subject of slavery. But such was the popular feeling, that a new party was formed; and although it did not adopt the rights of mankind, enunciated in the Declaration of Independence, as the basis of its organization, it founded its claims to support upon its devotion to freedom. Its numbers were respectable, and so many votes were drawn from the Democratic party that the Whigs elected their candidate. But the new Administration, upon its entrance into office, was beset with the same difficulties which surrounded that of General Harrison in 1841. General Taylor could find no doctrine nor policy on which he had been elected, or to which he had been committed. Of course the conflicting elements were unable to unite; they separated, and the party disbanded, and the necessity for selecting immutable truth as the basis for a political organization became still more apparent.

At the assembling of the Thirty-First Congress, some eight members separated from the old parties, avowing their determination to vote for no man to the office of Speaker who hesitated to pledge himself so to arrange the committees as to secure respectful reports upon northern petitions in regard to slavery. Both of the leading organizations saw that this would at once develop the great issue which they feared, and they rejected the proposition. Under those circumstances no candidate could command a majority of the votes, and after a contest of three weeks they united in a resolution, declaring that the member receiving the highest number of votes should be elected. The Democratic candidate was thus elected, and the Whig party actually died by its efforts to avoid all examination of the cause which defeated its measures. From that day it appears only in history. But it were in vain for historians to record transpiring events, if statesmen, politicians, and people close their eyes to the obvious teachings of these examples, and strive to maintain a political party composed of discordant elements, with no common principle on which all can unite.

The advocates of liberty had greatly increased in 1852. Their national convention was characterized for its dignity and the high moral and political character of its members. Its platform of principles was more elevated and statesmanlike than had been previously put forth by any political party. But as neither of the old organizations openly denied the truths of our Declaration of Independence, the friends of freedom forbore to reiterate them, as such reiteration would constitute no issue with either of the other parties.

They had denounced all agitation upon the subject of slavery; indeed, they avoided making any issue between themselves. Neither denied any doctrine or policy which the other asserted; and this timidity determined many of their members to take a more distinct position, whenever an opportunity should be presented. The people generally felt it unbecoming intelligent men, unworthy of the descendants of our revolutionary sires,

to fear the investigation or the public discussion of human rights.

Fortunately, at that time the people who had settled in Kansas were calling for a territorial government. That region had been solemnly consecrated to freedom; and the right of its inhabitants to life, liberty, and property, was again to be recognized or denied by Congress. It appeared inevitable that members of this body must be driven from their hiding places. I had, for some years, looked to that period with hope and expectation that it would bring out to the public view the issue between liberty and slavery. But the chairman of the Senate's Committee on Territories, feeling the difficulty of his position, and desirous of retaining the confidence of his constituents, and at the same time to avoid a conflict with the slave power, determined to adhere to the old expediency of evasion; yet he appeared undecided and vacillating. He reported his bill to organize the Territory, then moved its recommitment, changed it, and re-reported it; and finally resolved on denying the right of Congress to enforce within our Territories that provision of the Constitution which declares that "no person shall be deprived of life, liberty, or property, without due process of law;" and to assert in opposition to this distinct declaration that the people of a Territory may, if they choose, deprive a portion of the human family of life, liberty, and property—may rob them of their intelligence, their manhood.

This doctrine being so modified as to limit the power of excluding slavery to the convention which might frame their State constitution, became, for the time being, the avowed doctrine of their party leaders; and, after the lapse of more than sixty years, the dogma put forth by Mr. Paine in 1791 was avowed in the Senate, and by individuals of the party throughout the nation. The advocates of this atheism attempted to sanctify it by calling it "popular sovereignty," and argued that a people when forming a government may authorize piracy and murder and robbery, if they choose to do so; that the right to enslave our fellow-men constituted one of the very elements of "self-government."

This avowal of unlimited tyranny without reference to the Constitution or to that eternal law of right and wrong, which was ordained by nature's God, so aroused the people at the elections in 1854 that the Democrats were left in a minority in this body.

But the Opposition was composed of conflicting elements; some were slaveholders, some Americans, but most of them were Republicans. They could not unite in the election of Speaker, or on any subject touching slavery. The Republicans adopted resolutions pledging their support to any member who would so arrange the committees as to secure respectful reports on northern petitions in regard to slavery, precisely as the advocates of freedom had done in 1849. The Democratic party and fourteen Americans discarded this reasonable proposition; but those factions could not agree with each other, and a contest unequalled in our political history followed. For nine weeks the conflict raged, until a distinguished Republican from Massachusetts was made Speaker; and it seemed that the whole nation must have seen the necessity for bringing the radical question of human rights before the people for decision. The Democratic party, in 1856, when assembled in general convention, officially avowed the doctrine proclaimed by their leaders in 1854. Thus, by the force of circumstances was that party driven, step by step, after more than twenty years' resistance, to take a definite position in regard to the greatest question which ever agitated the Christian world. These circumstances had been created by Adams and Slade and Gates and Palfrey and Hale and King and Allen and Wilmot and Root and Durkee and Julian, and other members of Congress, and by societies and lecturers and editors who had labored among the people, to drive the advocates of oppression to an avowal of their doctrines.

To effect this object, I had toiled for many years. I had, in this body, asserted the doctrine of man's inalienable rights, and called on gentlemen of the Democratic party to admit or deny it; but I had called in vain. I had traveled and spoken in thirteen States; I had written essays and newspaper articles; I had compiled a volume of romantic incidents showing the secret workings of the slave

power. These had been gathered with great labor from more than two hundred documents reposing in our library under the accumulated dust of many years. To expose this moral and political infidelity, I had encountered southern opposition and northern distrust; and I greatly rejoiced to see that party compelled to avow its doctrines; for I well knew that the avowal of its principles would show that its days were numbered.

When the Republicans met in national convention, in June, 1856, but one alternative lay before them: they were constrained to take position upon the undying truths promulgated in the Declaration of Independence, and perpetuated in the Federal Constitution, or to discard those doctrines, repudiate the Constitution, and unite with the Democratic party. The platform of the Republican party was a necessity, rendered imperious by circumstances. So obvious was this necessity, that in the committee appointed to draw up a confession of political faith not a member seemed to entertain a doubt upon the subject. I was myself one of the committee, and speak from actual knowledge. The entire platform, as it now stands, was adopted by a unanimous vote, and reported to the convention, which adopted it without a dissenting voice.

The issue thus formed was afterwards confirmed by the Supreme Court, acting as the agent of the slave power. That tribunal, unable to contradict or evade the language of the Declaration of Independence, insulted the intelligence and common sense of the people by gravely deciding that the signers of that instrument said that which they did not mean, and intended that which they did not say. But that decision transferred the issue to the record. It has passed into history, and will remain subject to the inspection of future generations. Our party was founded on these doctrines. By the inherent force of these principles it has increased beyond all precedent. The Republican States now include two thirds of our free population. This platform was framed and adopted by a convention authorized by the people, and must remain until another convention of like powers shall assemble. Men who deny these doctrines may vote with us, preferring our organization to that of the Democratic party. We should treat them kindly; encourage them in every proper manner; but we cannot claim them as Republicans while they deny our essential doctrines. Men who believe in, and adhere to, our principles, do not propose any modification of them; and those who do not believe them surely have no right to demand a surrender of them.

*The following is a copy of the Republican platform adopted at Philadelphia, June 18, 1856:

"This convention of delegates assembled in pursuance of a call addressed to the people of the United States, without regard to past political differences or divisions, who are opposed to: The repeal of the Missouri compromise; to the policy of the present Administration; to the extension of slavery into free territory; in favor of the admission of Kansas as a free State; of restoring the action of the Federal Government to the principles of Washington and Jefferson; and for the purpose of presenting candidates for the offices of President and Vice President, do resolve:

"1. Resolved, That the maintenance of the principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution, are essential to the preservation of our republican interests, and that the rights of the States must and shall be preserved.

"2. Resolved, That, with our republican fathers, we hold it to be a self-evident truth, that all men are endowed with the inalienable right of liberty and the pursuit of happiness, and that the primary object and ulterior design of our Federal Government were to secure [to secure the enjoyment of] these rights to all persons under its exclusive jurisdiction; that, as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person shall be deprived of life, liberty, or property, without due process of law, it becomes our duty to maintain this provision of their Constitution, against all attempts to violate it for the purpose of establishing slavery in the Territories of the United States, by positive legislation prohibiting its existence or extension therein. That we deny the authority of Congress, of a Territorial Legislature, of any individual, or association of individuals, to give legal existence to slavery in any Territory of the United States, while the present Constitution shall be maintained.

"3. Resolved, That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government, and that in the exercise of this power it is both the right and the duty of Congress to prohibit in the Territories those twin relics of barbarism—polygamy and slavery.

"4. Resolved, That, while the Constitution of the United States was ordained and established by the people in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, and secure the blessings of liberty, and contains ample provisions for the protection of the life, liberty, and property of every citizen, the dearest constitutional rights of the people of

It is undoubtedly true, that some who desire to defeat the Democratic party desire to modify the Republican platform; and it is equally certain that no man who desires the success of our *doctrines* will advise us to abandon their support. It must be obvious that every effort to change our position tends to our defeat, though it may not be so designed. Our troops are in the field; our enemy is before us; our ranks are serried, and ready for the conflict; and he must be a secret enemy or a doubtful friend who would advise us to change position in the face of the enemy, who is ready to charge so soon as he sees us begin to waver.

Of the character of the issue thus formed, I may be permitted to remark, that no other ever has, and I think no other ever will, take so deep a hold upon the American mind as that which relates to the natural, the inalienable rights of mankind. These constitute the basis of the Republican platform now, as they did in 1776. The devotion of the American people to liberty then proved invincible upon those battle-fields where they met the enemies of freedom at the cannon's mouth; and it will not prove less efficient at this day, when the conflict is at the ballot-box. We are not only stimulated by our love of liberty, by all the sacred recollections which cluster around the deeds of that heroic age; but we have sworn, at the altar of our country, that "no person" under our jurisdiction "shall be deprived of life, liberty, or property, without due process of law." Allegiance to the Constitution, to human nature, and to God, constrain us to maintain our republican doctrines.

I speak of the fundamental truths which constitute the basis of our political faith, as they constituted the basis of the Declaration of Independence. These truths are immutable and unchangeable as their Divine Author. They must forever remain the basis of our action, while the Constitution shall be maintained, or the party shall exist. On matters of policy, our platform may be changed to suit occasions as they arise; but the great central truth on which we all unite, must remain unchanged: the constitutional powers of Government must at all times be wielded, to preserve every human soul under its exclusive jurisdiction in the enjoyment of the rights which God has bestowed on him.

To this doctrine there can be no modification. There is no neutral ground between *right* and *wrong*, between *liberty* and *slavery*. Every human

being is entitled to live, to that liberty which is necessary to unfold his moral nature and prepare for Heaven. And he that is not with us on this point must be against us. And when politicians suggest that the Republican party shall abandon this primal truth, I reply, there is a million of electors in these States who will not abandon this doctrine of the Constitution, this faith of our republican fathers. Men who have labored to bring out this great principle ten, fifteen, or twenty years, will not suddenly abandon it, face to the right about, and again submit to the domination of the slave power. They will not be deceived nor defrauded of their votes. They will sustain no man for the office of President or Vice President because they do not know whether he is *right* or *wrong*; but candidates, to obtain support, must show by their past action or present pledges that they stand unconditionally upon these primal doctrines.

I am aware that our opponents charge the Republican party with abandoning their platform, because members of this body voted at our last session for the amendment to the Lecompton constitution in order to defeat that infamous measure. Even the President, in his message, repeats this charge. For the benefit of that high functionary, and others, I will say that members of Congress did not make the Republican platform, and they cannot *unmake* it. The people who framed it will see to its preservation. True, the President has cause to complain. We left our fortress, and, by strategy in the open field, we captured his Lecompton host. But it is not usual for prisoners thus to complain of the superior science of their captors.

It has been objected that a political party cannot stand upon moral and religious truth. I reply, it cannot at this day stand *without* such basis; The progress of Christian civilization has demonstrated that the popular mind can be no longer satisfied with mere questions of policy, while the Government is made to sanction the most arrant despotism, and encourage crimes of the most flagrant character.

We do not say the black man is, or shall be, the equal of the white man; or that he shall vote or hold office, however just such position may be; but we assert that he who murders a black man shall be hanged; that he who robs the black man of his liberty or his property shall be punished like other criminals. We deny that crime depends upon the complexion of him against whom it is committed.

Sir, our Government should have led the nations of earth in this glorious work; but it is now too late for us to aspire to that proud position. The Emperor of Russia is at this time engaged in freeing the slaves of his empire, while our President is seeking the extension of human bondage. England long since repudiated African slavery. France imitated the noble example. Several Mohammedan princes have shown themselves better Christians than American statesmen, by abolishing slavery and the slave-trade in their dominions. Even phlegmatic Holland is in advance of us in the great cause of emancipation.

But it now appears to be generally expected, both North and South, East and West, by statesmen and people, that the Republican party will come into power at the next presidential election; nothing can prevent this but their own divisions; and it is proper that we should forewarn the people of Cuba, and of Mexico, and of Central America, that if, by any means, they come under the jurisdiction of our Constitution, *its provisions will be enforced*; and that "no person among them shall be deprived of life, liberty, or property, without due process of law." Having sworn allegiance to the doctrines of the fathers, we are expected to carry them out in good faith.

Mr. Chairman, from childhood I have mingled with the people. I know their love of justice; their devotion to liberty. The great American heart beats in sympathy for the oppressed; for justice to ourselves and to mankind. The popular voice demands the exercise of our constitutional powers to drive oppression from our Territories, from our ships while sailing upon the high seas, from this District; to exclude it from all support by Congress, by the Executive, by our courts; to condemn it as an outlaw; and that the legitimate powers of Government shall be exerted for freedom. Give the people an opportunity, and they will elect a Pres-

ident and Vice President, a Senate and House of Representatives, pledged not merely to these purposes, but to put forth the moral influence of our nation to drive oppression from the earth.

To the attainment of this object my official labors have long been directed. Those labors are now drawing to a close; and I shall soon surrender the cause, so far as I am officially concerned, to other and abler hands. My political pathway has been rugged; beset with difficulties. I have been constrained to meet many of my fellow-members in intellectual conflict, and at times those conflicts have been severe; but I am not conscious of having assailed any man except in self-defense; and I separate from my opponents without a feeling of unkindness; indeed, if my desire, my earnest prayer, could avail, they should all be just and wise, and pure and happy. Here for many long years I have counseled with friends and combated opponents. The scenes through which I have passed rush upon the recollection as I am about to bid adieu to this arena of my political life. I shall leave it with emotions, but not with regret. I shall bear with me to private life many interesting recollections of the great contest which gives character to the age in which we live. And I beg to assure you, Mr. Chairman and gentlemen, that whether in public or in private life, in prosperity or adversity, whether living or dying, my heart's desire and prayer to God shall be, that every human soul may enjoy that liberty which is necessary to protect and cherish life, attain knowledge, and prepare for Heaven; and, when I shall have passed away, let my epitaph announce that *I hated oppression and wrong—that I LOVED LIBERTY AND JUSTICE.*

CONSTITUTIONAL OBLIGATIONS.

Mr. BOWIE. I had not the slightest idea, Mr. Chairman, of participating in this debate when I entered this Hall to-day. My friend from Virginia [Mr. JENKINS] has laid down the true policy which the Government ought to pursue in reference to the Clayton-Bulwer treaty. The gentleman from Ohio [Mr. GIBBINGS] has discussed the policy of the Republican party. But I intend to speak of the great progress which our Republic ought to make—to speak of the genius and the spirit of the Constitution of the United States, which is now on its onward progress. No power on earth can stop it. You and I may quarrel about what sort of domestic institutions we should have. You may prefer to enslave white men, while we prefer to enslave the African race. That is a matter of taste—it is not a matter for political discussion. You may not choose to have Africans as slaves. We do. You may take as many white men as you please to toil and labor in an inferior and degraded occupation. On our side, we say we will not enslave any white man whatever. We abominate the idea of white slaves. We go to Africa, and her sable descendants, when we want to make slaves. And for myself, I want none but their descendants in this country. But still, the cotton, tobacco, rice, sugar, and hemp plantations of the South and Southwest want, and must have, African labor. In truth they are the only generation of men who ought to serve the Anglo-Saxon race. Mr. Chairman, there was a time—I recollect it well—when to make allusion on this floor to the question of slavery would call up every Hotspur of the South. But now we have any number of anti-slavery speeches; and they fall upon our ears without even the ripple of an emotion. We have listened to you Black Republicans most calmly. We have been amused at the zeal and earnestness in which you seem to be so much delighted, and have so well reveled in all your extraordinary effusions. If you choose to indulge in a spirit of hatred and animosity and vengeance against southern men, I can only say I do not admire you for these sentiments. I myself would advise the cultivation of very different feelings. I would plant and water flowers which should exhale no poison, but should only bring to us odors of unminged and unadulterated purity.

Now, why should all this be done? We have heard enough about slavery and Kansas. The man who attempts to create feuds between individuals is a scoundrel; and he who attempts to create feuds between States is no patriot. We are all dependent on each other, in all and every one of the daily pursuits of life. Mr. Chairman, there is a spirit of evil and a spirit of good in this

Kansas have been fraudulently and violently taken from them; their territory has been invaded by an armed force; spurious and pretended legislative, judicial, and executive officers have been set over them, by whose usurped authority, sustained by the military power of the Government, tyrannical and unconstitutional laws have been enacted and enforced; the rights of the people to keep and bear arms have been infringed; test oaths of an extraordinary and entangling nature have been imposed, as a condition of exercising the right of suffrage and holding office; the right of an accused person to a speedy and public trial by an impartial jury has been denied; the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures has been violated; they have been deprived of life, liberty, and property, without due process of law; that the freedom of speech and of the press has been abridged; the right to choose their representatives has been made of no effect; murders, robberies, and arson, have been instigated and encouraged, and the offenders have been allowed to go unpunished; that all these things have been done with the knowledge, sanction, and procurement of the present Administration; and that for this high crime against the Constitution, the Union, and humanity, we arraign the Administration, the President, his advisers, agents, supporters, apologists, and accessories, either before or after the facts, before the country, and before the world; and that it is our fixed purpose to bring the actual perpetrators of these atrocious outrages, and their accomplices, to a sure and condign punishment hereafter."

"7. *Resolved*, That a railroad to the Pacific ocean, by the most central and practical route, is imperatively demanded by the interests of the whole country, and that the Federal Government ought to render immediate and efficient aid in its construction, and, as an auxiliary thereto, the immediate construction of an emigrant route on the line of the railroad.

"8. *Resolved*, That appropriations by Congress for the improvement of rivers and harbors, of a national character, required for the accommodation and security of our existing commerce, are authorized by the Constitution, and justified by the obligation of Government to protect the lives and property of its citizens.

"9. *Resolved*, That we invite the affiliation and co-operation of the men of all parties, however differing from us in other respects, in support of the principles herein declared; and, believing that the spirit of our institutions, as well as the Constitution of our country, guarantees liberty of conscience and equality of rights among citizens, we oppose all legislation impairing their security."

world of ours. Other men may invoke, if they please, the spirit of evil; but, for myself, I prefer to invoke the spirit of good.

I heard the speeches of the gentleman from Ohio, [Mr. GIDDINGS,] and of Mr. WASHBURN, who led off in a speech of yesterday.

The CHAIRMAN. The gentleman is not in order in calling the gentleman by name. He should refer to him as the member from Maine.

Mr. BOWIE. Well, sir, the gentleman from Maine, since you make the point; but you, Mr. Chairman, alone made it, and it would have been otherwise unnoticed. I was struck with the remarks which he made on the platform of that party which my friend from Ohio, [Mr. NICHOLS,] in his speech of yesterday, denominated the colored Republican party, but which I have been in the habit of designating as the Black Republican party, and who now call themselves plain Republicans. Sir, that party is composed of the followers of John Jay and of old John Adams, and of all those who were in favor of the alien and sedition laws in 1798; they are the descendants of those men who were in favor of expelling foreigners, and punishing men who spoke disrespectfully of existing powers. Show me a Know Nothing or a Republican, and I will show you one who is a lineal descendant, in opinion at least, from the old Federalists of those days. Some men, sir, are squeamish about names; they would rather be called Know Nothings than Democrats.

My old and venerable friend from Ohio has referred to that glorious old party to which he and I once belonged, and to the time when he and I were united under the flag of the Constitution of the country—a flag that protected the interests and rights of all the people of this country, from one end to the other, and made it one great Union. When my friend speaks of it as a great party, I can tell him that my heart echoes his praises of its power, its virtue, its constitutionality, and its nationality—at that day at least. When the Whig party was a truly national party, a party of the whole country, I hugged it to my bosom, and in 1852 I was on the electoral ticket for General Scott, with two of my Know-Nothing colleagues on the other side of this House. Ah! politics do make strange bed-fellows of us all. And how swift has been the change? I want the attention of my friend from Ohio, [Mr. GIDDINGS,] I call him my friend, for he is an honest man; I believe him to be a pure man, and a good man, but he will allow me to say that his goodness and his purity are running into an exceedingly refined channel. But he must remember that we are sometimes too good. “We throw our arrow o’er the house, and hit our brother.” If he chooses to associate with the African race, I do not dispute his right to do so, nor do I dispute his taste. “*De gustibus non est disputandum.*” I can only say, I cannot do it; and you, Mr. Chairman, cannot do it; nor can any gentleman on this floor whose taste is a “leete” different from his. I have no objection to his doing as he chooses, or saying what he pleases—not the slightest; but the gentleman mistakes if he thinks that now, in this enlightened day, the southern people are at all offended, or feel even sensitive about his rhapsodies and jeremiads on the subject of slavery. We have lived to see the time when these things would have ruffled our tempers; but, thank God, we live in the nineteenth century; that great age of improvement and progress, in which error and falsehood, detraction and slander, may roam at large, provided reason and truth are left to combat them. Mr. Chairman, I am in favor of the Constitution of my country; and whenever the hour comes, from whatever quarter it may, be it from the North or the South, that seeks an invasion of it, if God spares my life, I will myself plant a battery in front of its friends to put down all and every one of its enemies. I regard the safety of the South to be only under this great and generous Constitution of our forefathers. Our hopes, our safety, and I may say, our only sheet-anchor, are in the Constitution of our country. In the event of a refusal by you Abolitionists to enforce its just provisions, we of the South, through the instrumentality of the Federal Government, can turn the Federal guns upon you. You will then become traitors, and we the patriots of the land.

In respect to the operation of the fugitive slave law, should you Abolitionists refuse to carry out

its provisions, as was once done at Boston, we shall have the power of the Constitution on our side; and we shall have, besides this, the pleasure of pointing the guns of the Federal Government against the enemies of constitutional freedom. I fear that among the first who will fall in that fearful struggle will be the gentleman from Maine, [Mr. WASHBURN,] [Great laughter.] That is, if he “stands up to the rack, fodder or no fodder.” [Renewed laughter.] Oh! what a great thing it is to have the flag of our country flying over our heads when we are fighting for the preservation of our rights! Sir, if dismemberment is to come, let it come. But let it come from the North. The South will have none of it. We will stand by the Constitution, and we mean to make you Abolitionists, by the power of Federal guns, if need be, stand by it also. We will have all our forts, all the Army and Navy, which belong to the Constitution, kept in readiness for you, and for any occasion of disaster to our constitutional rights. We will—this Government will—enforce the fugitive slave law, even though it be at the point of the bayonet. We will put troops in the court-house, as Pierce did in Boston. We will put them wherever they are necessary; and we will execute the laws, let them be violated in Georgia or in Massachusetts, in Maryland or in Virginia, North or South.

But, Mr. Chairman, what a glorious Government this is that we are thus, even now, talking about throwing away. Gentlemen, you need not be alarmed. Our difficulties will, I trust, all subside. The South is patient, calm, and ready to listen to any and everything you may say about her; and when you have done uttering your slanders about her, she can say they are like “big lies that soon die away,” like fish out of water, they flounder, and flounder a while, but soon die for the want of aliment. That statesman of the South who now gets angry at any ill-natured remarks which may be made by gentlemen from the North in regard to slavery, is unwise, in my judgment, and consults but little the best interests of his constituents.

Sir, but for the remarks of the gentleman from Ohio, [Mr. GIDDINGS,] and those of the gentleman from Maine, [Mr. WASHBURN,] I should not now have said one word on this subject. My own opinion is that the question of southern slavery is becoming less exciting every day and every year, and will finally die out, if left to itself. We have certainly other great and leading questions which may well divide the two great political parties of the country.

Now, sir, I wish to call your attention to some suggestions which have occurred to my mind about our foreign relations. I hold war to be the most horrible state in which a nation can be involved. I believe that war would be peculiarly injurious to the planting portions of the Union, simply because it would prevent the exportation of their agricultural products. But no matter what may be the consequences, I say I am in favor of war whenever our rights are invaded by any foreign Power whatever.

Now, a word in regard to Central America. It has been argued that we are bound to maintain the Monroe doctrine. What is the Monroe doctrine? Does it mean that we are to fight every nation upon the face of the globe who undertakes to maintain its own possessions upon this continent? Why, sir, when Mr. Monroe sent his message to Congress, announcing what is now called the Monroe doctrine, Great Britain owned the same possessions she now owns, and has ever since owned them; and they amount to more than one third of North America. At that time she owned her West India Islands, and she owns them now. France owned her West India Islands, and she owns them now.

Brazil was then, as now, an empire; governed then, as now, by an Emperor installed into power by regular hereditary descent. Did he mean to say that monarchical principles and monarchical governments should not set foot upon this soil? No; because the fact was then existing that they already existed here. Sir, Mr. Monroe meant in that message nothing more than this: that the monarchies of the Old World should not unite to put down the progress of republican institutions in the New. In that sense we acknowledged the independence of Mexico in her contest with Spain, and in that sense this Government has

always taken the foremost steps in maintaining the right of self-government and self-protection in the republics of this continent. Do you suppose that the United States would have recognized the independence of the South American republics against Spain if the South American provinces proposed, instead of republics, to erect there separate monarchies? No, sir. It was only because it was proposed to erect republics there, that we acknowledged their independence. And Mr. Clay, the glorious leader of the Democratic party, in 1812, in the House of Representatives, and who, as such leader, conducted that party triumphantly through the war with Great Britain, from the beginning to the end of it, by voting troops and munitions of war—which I am sorry to say others did not do—at a later period of his life carried that same great principle of independent republics in Central and South America; a principle which I hope will still be maintained by the Democratic party of this day, and brought to a triumphant result. According to the Monroe doctrine we are to maintain and support the republics of Mexico and Central America, and all others upon this continent. We are to stand by them, and to support them; not to seize upon them, and appropriate them to ourselves. I believe that a republican form of government is like an angel of light, revealing the will of Heaven to all the down-trodden people of the earth. It will win its own way; it will conquer, too. Not, sir, by blood or by force, but by the seductions and the enchantments of its own goodness; no people need fear the spread of republican government. None need attempt to foster its spirit or to quicken its establishment by filibusterism, or by any other violent means whatsoever. Sir, it will take care of itself. It is very enticing, and will conquer its enemies wherever it may seek to go. It may go into the wilderness alone and unattended, but it will overcome all obstacles, and, as I sincerely believe, finally rest upon the bosom of the world. Sir, I am not opposed to emigration in any form or shape whatever; emigration from the North or from the South, from the East or from the West.

I would like to see emigration from the South, as well as from the North, to climes congenial to each; but, sir, you cannot, with my consent, allow emigration from the North into the Territories of the Union, with the view of making them free States, and thus counteract what has been called the slave power, and yet forbid emigration from the South, even if made for the purpose of producing an equilibrium of political power. Sir, the men of New Orleans and Mobile, of Charleston and Baltimore, or of any other southern or northern port whatever, must be allowed to emigrate to whatever country they may please to go, even as Daniel Webster said, “with arms in their hands.” You must not treat such men as pirates, to be captured on the high seas by your ships-of-war. If you do, you yourselves become buccanniers and picaroons, fit subjects of the penalties of international law. Sir, it cannot be believed for a moment that the South will ever consent that you should use the Navy and the Army for the purpose of suppressing emigration from their borders, when emigration from the North may go anywhere it pleases. Sir, I am quite sure that Central America is a rich and fertile country, fit for civilized people, whether they come from the North or from the South; and, I must confess, I should like to see it Americanized. I should like to see that done, sir, but not by force! The simple and peaceful means of emigration alone will accomplish everything that is desirable in this respect.

Sir, I am opposed to filibusterism in all its forms and shapes; but yet I am not willing to stigmatize emigration from the South by the name of filibusterism. I want my northern friends to understand that; I want the Executive to understand that; and I want, also, the Attorney General to understand that. Whatever may have been his opinions in times past, or whatever they may be in the future, he must not call southern emigrants pirates; he must not call simple emigration to Nicaragua or Costa Rica filibusterism, even though the emigrants go with arms in their hands. We have as much enterprise at the South as you have at the North; and all that we ask is an equal chance. You from the North have found welcome upon the hospitable shores of the South. There

are men from Maine and from New Hampshire and from Massachusetts even, in my own county; and, so far as my observation has gone, I have seen none of them adverse to the institutions of the South. They are an industrious, honest, and patriotic people; and we and they, all of us together, stand by the Constitution of our common country, as the only shield and defense of our common rights.

Sir, I believe that fifty thousand men from New York, and thousands more from Maine, New Hampshire, Massachusetts, and Connecticut, may be induced to emigrate to Central America. It is a land where frost is never seen; the cotton and the sugar-plant grow there luxuriantly. Coffee and rice and tobacco, even oranges and lemons, limes, pomegranates, and dates, and every plant or fruit that a rich tropical clime can grow, are of spontaneous growth, and may be cultivated in perfection there. It is now owned by half-breed Spaniards and mongrels of Indians and negroes. Then, why should not enlightened emigration—the great anglo-Saxon emigration—seek its way, by peaceful means, to this new field of enterprise and wealth? I can only say that you cannot get me to assent to that proposition that such an emigration as this is in violation of any law, human or divine. Oh, sir, how men do ever cling to their old habits! The anglo-Saxon race is, by nature and habit, an emigrating race! How we do encourage our own conceits, and believe in our own merits!

My friend from Maine [Mr. FOSTER] asks me to suspend my speech, and to give way to a motion to adjourn, that I may continue my remarks in the morning; but I prefer not to do so, for I want to say what I have to say now.

Mr. FOSTER. The gentleman will allow me to say that I asked him to close his remarks now, because I wish to hear them, as other gentlemen do, but am obliged to leave the Hall now. I should like to hear the gentleman's speech in the morning.

The CHAIRMAN. The time of the gentleman from Maryland has nearly expired.

Mr. BOWIE. Then, sir, I will go on. I find men here, Mr. Chairman, coming from the South, talking about filibustering in spite of France and England, and, if necessary, going to war with these Powers. Sir, I will not involve my people, or your people in a war if I can avoid it honorably, because war is the most wicked and disastrous of all acts that a sovereign Power can commit. Sir, I regard a state of war, as all publicists do, as the last remedy to which nations ought to resort, and only to be justified by pressing necessities of defense, either of honor or of sovereignty; and yet, if it becomes necessary in defense of either the honor or the liberties of my country, I would vote for war to-day. But, sir, it is not for men who choose to expatriate themselves, and to renounce the allegiance they owed to their country, to involve the country from which they fled in any wars whatever on their account. No, sir, no; I cannot agree to that. In the last war with Great Britain, she claimed the right to search our vessels for British seamen, on the principle "that once a subject of the King of Great Britain, always a subject." That is pretty much the doctrine they assert now. Notwithstanding the difficulty which some publicists have started, that there is no way of establishing the nationality of a vessel except by exercising the right of search or visitation, I say that the granting of that right would be infinitely more harmful than even the violences that might be committed under the flag.

I would never, for a moment, sanction the idea that any nation has the right to visit and search our vessels for any purpose whatever. We are our own police; and if constabulary powers on the high seas are needed at all, we must see to it that our own officers do their duty.

Sir, if the naval officers of Great Britain or France, or of any other nation, should think that any vessel sailing under our flag is engaged in an unlawful traffic or enterprise, let them take the responsibility of attempting an arrest. But, so help me God, I will never grant the right of search. The code international has provided no tribunal from whom a search-warrant can be obtained in any such case; and as the law is written, let it stand.

But, sir, I find that this question has assumed

somewhat of a sectional aspect, men from the North generally voting to sustain the course of Commodore Paulding, in reference to Nicaragua and the seizure of Walker, and southern men generally taking the opposite view. This, sir, arises from the prevalence of the idea shadowed forth in the speech of the gentleman from Maine, and in the speech of the gentleman from Ohio, this morning, that it would be a southern victory, and that Central America would be a southern acquisition. Now, so far as that is concerned, I can only say to my northern friends that I believe that nine tenths of the emigration to Central America would be from the ports of Boston, New York, and Philadelphia, and would be of northern men. I believe that, sir. Southern men are not apt to emigrate. They are content to live upon their own broad acres in the sunny South, surrounded by the blessings they already enjoy. But the northern people are prone to emigrate, and the history of our country shows it. I have a living evidence of that fact before me, in the person of my friend from Tennessee, [Mr. MAYNARD,] a son of Massachusetts, who early in life went down to the sunny South and is now here an honored Representative of a great, a proud, a noble southern Commonwealth. As to the gentleman from Maine, [Mr. WASHBURN,] I am satisfied that he is a very clever man, though I do not like his speech much. I think there is a little of the devil in it—a little of the evil genius of the world. [Laughter.] This evil genius has to find a lodgment somewhere, and I think a little of it has lodged in him and a little of it in my friend from Ohio, [Mr. GIDDINGS,] too. It floats in the atmosphere everywhere, and it takes up its residence in those by whom it is inhaled and becomes a part and parcel of their systems. Thank God! my lot is not among such. I love to dwell in peace and harmony with all men. I like the North and the South to come together and shake hands and hug each other to their bosoms in eternal friendship. I am satisfied with our laws as they stand, and with our Union as it is. I want no change. Let all the speeches that have been let off here for mere political effect and for political purposes, stand as an eternal monument to the folly and wickedness of those men who would attempt to dissolve this Union. I, sir, shall continue to stand where I now stand, with the Democratic party of the Union, maintaining the integrity of the Union, and the necessity of carrying out every provision of the Constitution, and holding to the strictest and most solemn accountability before the tribunals of the world all those who violate its principles in any respect whatever.

Mr. Chairman, I did not intend to have entered into this discussion at all, and I have made these desultory remarks solely for the purpose of showing my discontent with the opinions expressed by the gentleman from Maine and by the gentleman from Ohio. Let them revel in all their luxury of hatred and animosity to the South. It is a delightful revelry! You hate me; you hate the South! For what do you hate me? For what do you hate the South? Have we given you any cause of offense? And yet you are eternally and everlastingly upbraiding us. If I were not a semi-philosopher, indeed if I were not a good-tempered man too, such abuse would rankle in my bosom, as it has done in the bosoms of some of my friends. For what purpose are you eternally doing this thing. Is it to help a party? Why cannot you get some other issue? Something or other connected with the great finances of the country, with the public economy of the country, with abuses of administration, or something connected with the powers of the Federal Government, in reference to subjects not so excitable as that of slavery? For after all, slavery is but a form of human labor, and you know it. And besides, sir, it is as much the duty of the North to provide some form of labor for the African race on this continent, now some four millions in number, as it is the duty of the South. It will not do to say they must go free, without at the same time providing for them a means of living by protected labor. If a state of slavery suits them, and they are happy under its operation, you of the North have no right to complain, and, indeed, true philanthropy would require you to hold your tongues. What difference is it to you what form of labor we adopt? You may have white people to wait upon you, if you please; I prefer to have Africans.

My friend from Ohio [Mr. GIDDINGS] said this morning, and so did the gentleman from Maine [Mr. WASHBURN] yesterday, that they planted themselves upon the eternal principles of the Declaration of Independence, that "all men are created equal, and endowed by their Creator with the inalienable rights of life, liberty, and the pursuit of happiness." Now, sir, I will not say that Mr. Jefferson, in using this language, told a lie. I will not use offensive expressions; but everybody knows that, even as an abstraction, it is not true in any sense whatever. We will take it from the start. "All men are created equal." We know just the reverse of that to be true. Adam and Eve were the only persons ever created by the great God of heaven and earth. All the rest of mankind have been generated, and not created. Sir, there is a wide difference between generation and creation. I leave to philologists the task of defining that difference. Created! Men, women, and children, are not created now, sir. They are born, they are generated; generation takes place, and not creation. Who ever heard of creating a child? The abstraction, therefore, is false in fact, and it is in theory.

Again: we are told they are created equal. Now this is not true in fact or theory; some are born males, some females, and the book of Genesis tells us that the female is the weaker vessel; then again some are born blind and halt and maimed, while others are strong and healthy and vigorous. This abstraction, then, is equally false with the first. But we are endowed with the inalienable rights of life and liberty, says the Declaration of Independence. Not a word of truth in it. What rights are inalienable? Certainly neither life nor liberty; for the law can confiscate both, as is done every day—we hang men for murder, and we imprison men for various offenses. If life or liberty were inalienable these results could not take place. Now, sir, I suppose that Mr. Jefferson meant merely to say that all men were equal in their civil and political rights; but even these, if equal at first, may be lost and transferred in the mutations of power and of civil government.

[Here the hammer fell.]

Mr. COX obtained the floor; but yielded to

Mr. AVERY, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOGGS reported that the Committee of the Whole on the state of the Union had had, according to order, the state of the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

And then, on motion of Mr. WASHBURN, of Illinois, (at four o'clock and fifty minutes,) the House adjourned.

IN SENATE.

THURSDAY, January 13, 1859.

Prayer by Rev. J. A. HAROLD.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the memorial of the Rev. John Sellwood, praying remuneration for losses, injuries, and expenses, occasioned by the attack on American citizens at Panama, on the 15th of April, 1856; which was referred to the Committee on Foreign Relations.

Mr. THOMPSON, of Kentucky, presented the memorial of Eliza G. Townsend, widow of Major David S. Townsend, of the Army, praying a pension; which was referred to the Committee on Pensions.

Mr. SEWARD presented a petition of Moses Taylor & Co., and Mora Brothers, Navarro & Co., owners of property destroyed by fire in Baxter's bonded warehouse at New York, praying to be allowed the benefit of the act of 28th March, 1854; which was referred to the Committee on Finance.

Mr. KING presented the petition of Benjamin Willard, praying remuneration for losses occasioned by the declaration of war in 1812, and compensation for his services as a commissary during that war; which was referred to the Committee on Claims.

Mr. SHIELDS presented the memorial of B. Meeker, praying the establishment of an overland mail route from Lake Superior to Puget Sound, with a branch to the Pacific, in Oregon; which was referred to the Committee on the Post Office and Post Roads.

He also presented the memorial of Jeffrey T. Adams, lake clerk of the United States court for the Territory of Minnesota, praying to be allowed the compensation contemplated by the act of 26th February, 1853; which was referred to the Committee on Claims.

Mr. FOOT presented the petition of Joseph Needham, praying to be allowed bounty land and pay for services in the war of 1812; which was referred to the Committee on Public Lands.

Mr. BIGLER presented the petition of citizens of Philadelphia, praying an enlargement of the navy-yard at that place; which was referred to the Committee on Naval Affairs.

Mr. CAMERON presented resolutions adopted at a meeting of the soldiers of the war of 1812, held at Pittsburg, Pennsylvania, January 8, 1859, in relation to the enactment of a law granting pensions to the soldiers of that war; which were referred to the Committee on Pensions.

Mr. CLAY presented a letter from the Secretary of State to the chairman of the Committee on Commerce, communicating a copy of a letter from the Minister resident of Bremen, inviting the attention of the Government to a proposition of J. H. Eits, a citizen of Bremen, for testing his invention for preventing the destruction of vessels by fire; which was referred to the Committee on Commerce.

Mr. STUART presented additional papers in support of the claim of Richard L. Gordon to a pension; which were referred to the Committee on Pensions.

Mr. THOMPSON, of Kentucky. Mr. President, I present the petition of John Barbee and others, praying an examination of an invention, made and patented by W. Y. Gill, to protect tiller-ropes of steamboats, and other vessels, from fire, and the enactment of a law to require steamboats to use the same. I also present the memorial of W. Y. Gill, and a petition of D. R. Burbank, and others, on the same subject; and I move that they be referred to the Committee on Commerce. I send up with the memorials the letters patent for an improvement in tiller-ropes, and will simply say that it ought to be in use on the western waters, where so many calamities, and so much loss of life, and so great a sacrifice of property are recorded every year. I have before me some statistics on this point to which I request the attention of the Senate. A report by James W. Lloyd shows the loss of seventy steamboats, by fire, up to 1856, for seventeen years prior to that date. The Louisville and St. Louis papers report the loss, on the western and southern waters, by fire, of twenty-five for the year 1858. If we take 1858 as a fair average for the next sixteen years, we shall have four hundred and twenty-five, instead of seventy, boats lost by fire, not taking into consideration the marine increase on those waters for the next sixteen years. Numerous instances of the loss of life by the burning of tiller-ropes, can be given. By the burning of the Ben Sherrod, over two hundred souls were hurried out of time into eternity. The report says the passengers, three hundred in number, were sound asleep, not thinking of the awful doom awaiting them. The shrieks of nearly three hundred and fifty persons on board, rose wild and dreadful, that might have been heard several miles. The cry was, "to the shore, to the shore;" and the boat made for the starboard shore out, but did not gain it, as the wheel-ropes soon burnt. The scene of horror beggared all description. Poor Davis, the pilot at the wheel, was consumed. He was one in a thousand, preferring to die rather than leave his post in the hour of danger. Just before he left New Orleans, he was conversing with another pilot about the burning of the St. Martinsville, and he said: "If ever I should be in a boat that takes fire, and do not save the passengers, it will be because the tiller-ropes burn, or I perish in the flames." And just such men as Davis are to be found among the western boatmen. Such accidents are likely to occur at any moment on steamboats; and these memorialists pray that there may be an enforcement of the law respecting the use of tiller-ropes, to prevent such

losses of human life and of property, in which the whole mercantile community is so deeply interested. One of the memorials which I present, signed by a very large number of the mercantile interests in Louisville, is replete with facts and statistics, which commend themselves to the careful consideration of the Committee on Commerce.

While up, I will simply say that Mr. Gill, the patentee, is now in this city; he is a remarkably intelligent and sensible man. I see here, also, Captain Shallcross, the most intelligent sea-going man, if I may so express it, on the western waters. I would like the Committee on Commerce to take the subject into consideration, and cause these gentlemen to come before them with their models and explanations, and frame a bill to enforce and carry out the object of these petitions.

The memorials were referred to the Committee on Commerce.

CHAPLAINS IN THE NAVY.

Mr. SIMMONS. I present a memorial of a committee of the Warren Baptist Association, of the State of Rhode Island, in relation to the appointment of chaplains in the Navy, and the regulations of the Navy Department upon the performance of religious service in the Navy.

It appears, from the number of memorials presented to the Senate, that the subject referred to in this memorial has arrested the attention of pious men in all parts of our country; and there seems to me to be a peculiar fitness that the views of the citizens who act for this association should be laid before the Senate. The memorialists are of the denomination of Christian worshippers to which the founder of the colony or State of Rhode Island belonged, who, more than two centuries ago, upon this continent first enunciated the doctrine that "a civil State could be best maintained with full liberty in religious concerns"—the same principle which, a long time afterward, was incorporated into the Constitution under which we live. The memorialists are citizens of high standing in our community; and I perceive the paper is in the handwriting of Doctor Wayland, who is widely known for his piety and erudition; and it is written in a spirit of soberness which is the natural result of a long enjoyment of the blessings of freedom. I move that the memorial be printed, and referred to the Committee on Naval Affairs.

The VICE PRESIDENT. The motion to print will go to the Committee on Printing, and the memorial will be referred to the Committee on Naval Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. STUART, it was

Ordered, That the papers in the case of Richard L. Gordon, who was disabled while employed in the military service of the United States, and recruited and maintained a company for said service at his own expense, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. STUART, from the Committee on Public Lands, to whom were referred the memorial of E. T. Swift and others, engaged in the Black Hawk war, praying an amendment of the bounty land laws; the memorial of William Rees, praying permission to locate fifteen thousand acres of public land in a body for the establishment of a normal settlement; and a petition of citizens of New York, praying that the public lands may be laid out in farms for the free and exclusive use of actual settlers, reported adversely thereon.

Mr. STUART. The same committee, to whom were referred two petitions of citizens of Iowa, asking the establishment of a new land district in Iowa, ask to be discharged from their further consideration.

The Commissioner of the Land Office reports that it is not, in his opinion, proper. The committee therefore make an adverse report, and ask for the printing of the letter of the Commissioner on the subject.

The motion to print was agreed to.

Mr. STUART. The same committee, to whom were referred three petitions of citizens of Arkansas, praying that the Fayetteville land district may be removed to Huntsville, in Arkansas, ask to be discharged from the further consideration of the petitions, on the ground that the present legislation authorizes the President to change the

site of land offices according to the public convenience, and therefore no further legislation is necessary.

Mr. STUART also, from the same committee, to whom was referred the bill (S. No. 491) to authorize the issuance of patents for lands entered under the graduation act, reported it without amendment, and that it ought not to pass.

Mr. STUART. The same committee, to whom was referred the bill (H. R. No. 357) for the relief of Abel M. Butler, instruct me to make an unfavorable report, on the ground that the legislation of Congress authorizing parole evidence to be received instead of record evidence under the bounty land act of 1855, is all the legislation necessary.

Mr. STUART. The same committee, to whom was referred the bill (H. R. No. 358) for the relief of Hannah Littel, and for other purposes, have directed me to report it without amendment, and that it ought not to pass. The bill combines a section for the relief of Hannah Littel, as the mother of the soldier for whose services bounty land is proposed to be granted; and also a general section extending the bounty land act of 1855 to the legal representatives of deceased soldiers. On each of these propositions the committee instruct me to make an adverse report.

Mr. SHIELDS, from the committee on Revolutionary Claims, to whom was referred the memorial of the heirs of General Stephen Moylan, submitted a report, accompanied by a bill (S. No. 506) for the relief of General Stephen Moylan's heirs. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William E. Haskell, for himself and the other heirs of William Thompson, deceased, submitted a report, accompanied by a bill (S. No. 507) for the relief of the surviving grand-children of Colonel William Thompson of the revolutionary army of South Carolina. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FITZPATRICK, from the Committee on Military Affairs and the Militia, to whom was referred the petition of Theodore Lewis, submitted an adverse report; which was ordered to be printed.

Mr. CLAY, from the Committee on Commerce, to whom were referred resolutions of the Chamber of Commerce of Apalachicola, Florida, relative to the improvement of the harbor, and the construction of a custom-house at that place; reported adversely thereon.

He also, from the same committee, to whom were referred memorials of the Legislature of Minnesota, relative to the improvement of the St. Croix river, the Beef Slough bar, and the Mississippi river, at Sauk Rapids, reported adversely thereon.

He also, from the same committee, to whom were referred, on the 21st December, three petitions of inhabitants of Oneida and Jefferson counties, New York, and on the 12th January, three petitions of citizens of New York, relative to a breakwater at Cape Vincent, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Richard Chenery, assignee of H. B. Russ, reported a bill (S. No. 509) for the relief of Richard Chenery; which was read and passed to a second reading.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred the bill (H. R. No. 576) for the relief of Captain Douglass Ottinger, reported it without amendment.

BILLS INTRODUCED.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 508) to establish a national line of mail steamships between certain ports of the United States and Great Britain; which was read twice by its title, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 510) in addition to the acts which prohibit the African slave trade; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 511) for

the repayment of lead rents improperly paid to the Government; which was read twice by its title, and referred to the Committee on Claims.

REFERENCE OF A BILL.

On motion by Mr. SHIELDS, it was

Ordered, That the bill (S. No. 494) to secure title to the settlers upon the Kansas half-breed tract, and for other purposes, be referred to the Committee on Public Lands.

MAIL ROUTES IN MINNESOTA.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be requested to inquire into the expediency of establishing a mail route and tri-weekly mail from Chatfield, in Fillmore county, to Winnebago City, in Faribault county, via High Forest, Brownsville, Lansing, Sumner, and Bancroft; also, a mail route and weekly mail from Owatonna, Verner, in Blue Earth county, via Meriden and Wilton; also, a mail route and weekly mail from Hastings, in Decatur county, to St. Peters, in Nicollet county, via Lakeville, Wheatland, and Lexington, all in the State of Minnesota.

MAIL ROUTES IN MISSISSIPPI.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing a mail route from Westville, in Simpson county, to Jackson, in Hinds county, Mississippi; also, a route from Mount Zion, in Simpson county, by Rockport, to Hazlehurst, in Copiah county, Mississippi.

TERRITORIAL SALARIES.

Mr. CLINGMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of equalizing the salaries of the Governors of New Mexico and Oregon.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HENRY, his Private Secretary, announced that the President of the United States approved and signed, on the 12th instant, an act (S. No. 198) for the relief of Joseph Hardy and Alton Long.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed, without amendment, the bill of the Senate (No. 32) to repeal an act authorizing the Secretary of the Treasury to change the names of vessels in certain cases, approved the 5th of March, 1856.

Also that it had passed the bill of the Senate (No. 54), to revive and extend an act entitled "An act for the relief of the legal representatives of John Donnelson, Stephen Heard, and others," approved May 24, 1824, and the several acts extending, continuing, and reviving the same, with an amendment, in which the concurrence of the Senate was requested.

COMMANDER BOUTWELL'S COURT-MARTIAL.

Mr. JONES. I present a resolution of inquiry, and ask for its present consideration:

Resolved, That the Secretary of the Navy be directed to furnish the Senate with a copy of the record of the court-martial that tried Commander Boutwell, in this city, in June, 1858; also a copy of his letter of explanation, dated March 2, 1857, addressed to the Hon. J. C. Dobbin, the then Secretary of the Navy.

Mr. HALE. I must interpose an objection to the passage of that resolution; though I have no objection to its being considered now. Applications of that sort have been almost uniformly refused both in regard to courts-martial in the Army and in the Navy, on the ground that the Senate would not exercise a revisory judgment over the proceedings of those tribunals. I have asked for these records myself, in repeated cases, but it has been refused; and the practice of the Senate has been almost uniformly to refuse it. I know nothing at all about this case, but I do not want Commander Boutwell to be put in a different position from hundreds of others who have been tried by courts-martial in the Army and the Navy, in whose cases the Senate have almost uniformly refused to call for the proceedings of courts-martial.

Mr. JONES. I hope the Senator will allow it to go to the Committee on Naval Affairs, at least, that they may decide whether this call shall be

made or not. I move to refer the resolution to the Committee on Naval Affairs.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

An act for the relief of Elias Hall, of Rutland, Vermont; and

A joint resolution for the appointment of two Regents of the Smithsonian Institution.

SPECIFIC DUTIES.

Mr. PUGH. I move that the Senate take up House bill No. 303.

Mr. SIMMONS. I hope the Senator will allow me to have a resolution, calling for information, acted upon.

Mr. PUGH. I have no objection to that, if it leads to no debate.

Mr. SIMMONS. I presume it will not. I offered a resolution on the 23d of December, calling on the Secretary of the Treasury for information. I should like to have it taken up, and acted on now. I move to take it up.

The motion was agreed to; and the Senate proceeded to consider Mr. Simmons's resolution, which is in the following words:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate a plan for raising revenue, sufficient in amount to meet the ordinary expenses of the Government, by the imposition of specific, instead of *ad valorem* duties, according to the recommendation of the President in his annual message to Congress at its present session; and that he also furnish a schedule of all articles upon which specific duties have been levied under any of the revenue laws of the United States, and to add to such schedule such other articles upon which, in his judgment, specific duties may be safely and conveniently imposed, with the average value, for the last five years, of such of them in foreign countries and in the United States, as he has the means of ascertaining, with the rate per centum which was collected upon the value of the principal articles subject to specific duties under the tariff act of 1842.

Mr. PUGH. That resolution will certainly lead to debate; and I hope the Senator will not press it. I shall certainly vote against it myself. It is not a resolution asking for information, but a resolution directing the Secretary to report a particular tariff plan.

The PRESIDING OFFICER. (Mr. BRIGHT in the chair.) The resolution is before the Senate, and the question is on agreeing to it.

Mr. PUGH. I move to refer the resolution to the Committee on Finance.

Mr. HUNTER. I should like to hear it read again.

The Secretary read the resolution.

Mr. STUART. I shall move to lay the resolution on the table; and I wish to state, in a word, the reason. If the resolution were to pass the Senate, and be complied with by the Secretary of the Treasury, the bill that he would present could not be acted upon by the Senate under the Constitution, because it would be a bill for raising revenue, which could not be originated in this body. The whole work, therefore, would be useless; and, in that view of the case, I move to lay the resolution on the table.

Mr. SIMMONS. Will the Senator withdraw that motion for a moment?

Mr. STUART. Certainly; if the Senator wishes to explain his proposition.

Mr. SIMMONS. I do not wish to enter into any debate on this resolution. I supposed that its purpose was so obvious that no debate would be necessary. The President of the United States, in his annual message to Congress, has recommended a change in the mode of levying the duties, together with such an addition to them as will raise sufficient revenue for the wants of the Government, and this resolution calls upon the Secretary of the Treasury for a detailed estimate, according to the recommendation of the President. It was objected to on the day of its introduction by the Senator from Georgia, [Mr. Ivens;] not that he had any objection to getting the information, but he wanted time to consider the resolution. I have not called it up with a desire to make remarks upon it; but so far as I know, all who take any interest in this subject consider the information necessary and proper, and indispensable to lay before the Senate the views of the President, as well as those of the Secretary of the

Treasury, which he has communicated in the annual report. It is impossible for the Senate to consider any bill on this subject without this information; and as its preparation will require some time, I have thought it proper to call for the information, so that we can look over the plan before any measure shall come to us from the other House. Why it should be the disposition of any friend of the Administration to prevent a plan drawn out in detail, in conformity with the recommendation of the President, seeing the light and coming within the observation of the Senate, is more than I can perceive.

The Secretary of the Treasury has recommended a change in the tariff. He has recommended Congress to adopt not the best mode in his judgment, but the second best. He says the best mode of increasing the revenue would be to resort to the free list, as it is called, composed of articles not produced in this country; but as he has no idea that such a plan would be adopted by Congress, he takes an intermediate plan, and recommends the addition of about four per cent to the present rates of duty on articles coming into competition with those produced in the United States, and about six times as much, or twenty-five per cent on those that do not come into competition, a sort of compromise between imposing all the burdens on the raw materials used in the country, and imposing five sixths of them on that description of goods. I should like to see a plan drawn out, for I know it is in the power of the Secretary to give this information, and I do not believe that there is anybody here authorized to say that he does not wish to do it. If there is, that would present another question. I believe that he would be very ready and very willing to furnish this information. I think it would be prudent at least to call for it in season, before we come to act on any general measure of this character. If it could be obtained within a day or two after the bill came in, it might be more proper to postpone it; but that cannot be expected; these details cannot be furnished without some considerable labor.

Mr. STUART. If the Senator will allow me, I will state that if he will modify his resolution so as to confine it to the statistical information he desires, I shall have no objection, and I presume the Senate will have none to its passage. It is to that part of it which directs the Secretary of the Treasury to furnish a bill, that I object.

Mr. SIMMONS. A plan, not a bill.

Mr. STUART. Well, a plan. Strike that out, and confine his inquiry to the information, and I presume there will be no objection to it.

Mr. SIMMONS. I am willing to modify it in any way so as to meet the object. But I do not know how the statistics will furnish you with information as to the increase of duties that would be necessary to give us sufficient revenue to carry on the Government. What I want is a revenue plan, which, in the judgment of the Department, will raise sufficient revenue to meet the wants of the Government, and indicate the changes which the President recommends. This I ask.

Mr. STUART. If the Senator will allow me a word, I will say that the resolution in its present form assumes that the present tariff is insufficient in the opinion of the Secretary. The Secretary may not deem the present tariff insufficient to raise a sufficient amount of revenue; but this resolution assumes that it is so, and that he thinks so. Now, I say, if he furnishes a plan, it must be a plan of a law which the Senate could not act upon. I am entirely willing, however, that the Senator shall get the information he desires; and if he will modify his resolution, by striking out that part in regard to a plan, there will be no objection, I presume, to its passage; at least I shall have none.

Mr. HUNTER. Permit me to suggest to the Senator from Rhode Island, to strike out that part of the resolution which calls on the Secretary for an expression of opinion, and so amend the resolution as to call for facts only, and there will be no objection to it. He is entitled to the facts, and that is all, I presume, he can want.

Mr. SIMMONS. One suggestion at a time, if the Senator from Virginia pleases; I am now attending to the Senator from Michigan; I will hear him afterwards. The Senator from Michigan says his objections to the resolution is, that it assumes that the present law will not give sufficient revenue, and that it takes it for granted such is the opinion of the Secretary of the Treasury. I only take it

for granted because he has so informed Congress in his annual report. He has told us that the present law is inadequate; he gives you details, and tells you how much you will be deficient—\$7,000,000. I want him to suggest such an alteration of the rates of duty, or forms of imposing duty, as will meet the deficiency that he says will take place. I do not assume anything about it. The Secretary of the Treasury has stated in his annual report that there will be this deficiency, and the President has so stated in his message. They recommend different plans to supply that deficiency. We have got the plan of the Secretary; and I want the Secretary to furnish one in accordance with the recommendation of the President to supply the very deficiency which both of them say will exist. I do not assume, and the resolution does not assume, anything.

Mr. STUART. The Senator will pardon me again; I dislike to interrupt him, but I wish him to understand me. The Senator in his resolution calls for this plan, assuming that the present tariff is insufficient; and he calls for a plan which shall adopt specific instead of *ad valorem* duties. The Senator is aware that the Secretary of the Treasury is opposed to specific duties entirely.

Mr. SIMMONS. Certainly; I so stated.

Mr. STUART. Now it is rather improper to call on the Secretary to furnish a plan to which he is opposed. If the Senator will modify his resolution so as to call upon the Secretary for a plan, striking out all the proposed directions, which, in his opinion, will supply a sufficient amount of revenue, I shall not object to that. I am willing that the Senator shall have the extent of any inquiry he desires; but he lays down a rule of action for the Secretary, to which the Secretary is known to be opposed.

Mr. SIMMONS. I want to say one word—

Mr. PUGH. I gave way to the Senator from Rhode Island, on the supposition that he had offered a resolution calling for information, which would give rise to no debate. It is evident we shall not see the end of this tariff discussion soon, and I move to lay it on the table.

The PRESIDING OFFICER. The Senator from Rhode Island is entitled to the floor. He yielded it to the Senator from Michigan.

Mr. BIGLER. I hope the Senator from Rhode Island will consent to let the resolution lie over.

Mr. SIMMONS. I do not want to go beyond the morning hour. I had hoped the resolution would pass without debate. I did not intend to say a word on it. I did not intend to elicit any debate by any observations of mine. The Senator from Michigan now suggests that the Secretary of the Treasury is opposed to the plan for which this resolution calls. That he has told us in his report. I stated in the commencement that the Secretary had recommended his plan in his report, and stated what it was, and that the President had recommended a different plan; and this resolution simply calls for the plan recommended by the President, drawn out in such form and with such additions as the Secretary of the Treasury may think proper to insure the revenue. I do not see any disrespect either to the President or to the Secretary. If it was proper to offer a resolution calling on the President for his plan, I could take that course; but that is not the way we act. We do not call on the President for such things.

Mr. SEWARD. Will my honorable friend allow me to make a suggestion to him, which will perhaps reconcile this matter? Would it not answer the purpose to substitute the word "scheme" for "plan?"

Mr. SIMMONS. I will agree to that.

Mr. SEWARD. It is not intended, I suppose, to commit the Secretary to anything that may be proposed. I suggest that we adopt the word "scheme" instead of "plan."

Mr. SIMMONS. I will adopt the word "scheme" if it will suit everybody else, though I do not like "scheme" so well as some other word. It does not strike so well on the ear.

Mr. BIGLER. I desire to state to the Senator from Rhode Island that he allow the resolution to go over for the present—postpone it.

Mr. SIMMONS. I am willing to do almost anything to accommodate people who are in a tight place.

Mr. BIGLER. I move to postpone it until tomorrow.

The motion was agreed to.

MISSOURI LAND FUND.

Mr. PUGH. I move to take up the bill to which I called the attention of the Chair before—House bill (No. 303) giving the assent of Congress to a law of the Missouri Legislature for the application of the reserved two per cent. land fund of said State.

Mr. COLLAMER. If the gentleman wishes to call up that bill on the idea that it is not going to give rise to debate, I beg leave to inform him that he is mistaken. I have said before, and I say now, that as far as in me lies, I shall endeavor to oppose that bill.

Mr. PUGH. The bill has passed the House of Representatives, and has been reported by the committee, and must be acted on at some time. If the Senator is disposed to present his views on the bill, I have no objection. I think the bill may as well be disposed of. Perhaps no answer will be required to what he may say; or perhaps a short one will suffice. It is a bill which ought to be passed, in my judgment.

Mr. COLLAMER. If it is to be taken up, I must go into the debate on it. I am not ready to do it this morning.

The motion to take up the bill was not agreed to.

WRITS OF ERROR.

Mr. BAYARD. I move that the Senate take up the bill (S. No. 4) to authorize writs of error in all cases prosecuted by indictment. I shall follow that by motions as to other bills reported by the Committee on the Judiciary, that I think ought to be acted upon; and I shall move that they be made the special order for Monday next. I do not think that any of them—certainly not more than one—will consume half an hour, and probably not ten minutes, in their discussion; and yet they are bills of importance to the administration of justice.

Mr. HUNTER. I hope we shall not fix as early a day as that. We have an appropriation bill which was reported yesterday, which I should like to have disposed of. Probably I shall not be able to get it up sooner than Monday. Tomorrow is private bill day.

Mr. BAYARD. Then I move to take up the bill now.

The motion was not agreed to.

WILLIAM E. KENDALL'S SURETIES.

Mr. SEWARD. Senate bill No. 238 was yesterday taken up; and, on the suggestion of the honorable Senator from New Hampshire, [Mr. HALE,] who wanted time to look at it, it was postponed until to-day. There is no objection to it now, I believe, in any quarter; and I ask that it be taken up. If it involves any debate, I shall withdraw the motion; but it is necessary to be passed at this session, if ever.

Mr. TRUMBULL. I do not see the Senator who objected to that bill yesterday in his seat; and on listening to the report it struck me that the principle on which the bill was founded was utterly wrong.

Mr. SEWARD. The honorable Senator who made the objection yesterday, withdrew it this morning. If the Senator desires to debate it, I certainly shall not press it at this time.

Mr. TRUMBULL. I shall certainly vote against the bill. I have not examined it particularly, because I supposed some Senators were looking into it who objected to it yesterday. I wish to look into it.

Mr. SEWARD. Very well. I withdraw the motion.

SALARIES OF MINISTERS.

Mr. MASON. I ask the Senate to take up the joint resolution (S. No. 56) authorizing the Secretary of State to pay the salaries of the ministers resident to the Argentine Confederation, Costa Rica, and Honduras, which was reported from the Committee on Foreign Relations on the 11th of January.

The PRESIDING OFFICER. The hour for the consideration of the special order has arrived, and it must be taken up, unless the Senate otherwise direct.

Mr. MASON. We have a minute or two left yet, and the letter from the Secretary of State will explain the whole matter.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

It proposes to direct the Secretary of State to pay, out of any balance now in the Treasury of former appropriations "for salaries of envoys extraordinary, ministers, and commissioners of the United States," the salary allowed by law for ministers resident of the United States to the Argentine Confederation, Costa Rica, and Honduras.

Mr. MASON. I ask for the reading of the letter of the Secretary of State, which I send to the Chair.

The Secretary read the following letter:

DEPARTMENT OF STATE.

WASHINGTON, December 14, 1858.

SIR: I have the honor to state that, pursuant to the ninth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856, the President has accredited a minister resident to the Argentine Confederation, who has been instructed to proceed to Buenos Ayres; a minister resident to Nicaragua, who has been instructed to proceed to Costa Rica; and also a minister resident to Guatemala, who has been instructed to proceed to Honduras.

There having been no appropriation for the salary of a minister resident to the Argentine Confederation, Costa Rica, or to Honduras, I have the honor to request that, pursuant to the act above mentioned, authority, by joint resolution of Congress, or otherwise, be given to pay the compensation for the ministers to those countries out of any balance of former appropriations in the Treasury "for salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, and Sandwich Islands."

I have the honor to be, sir, your obedient servant,
LEW. CASS.

HON. JAMES M. MASON,

Chairman of Committee on Foreign Relations, Senate.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time. On the question of its passage, the Presiding Officer declared that the "noes" appeared to prevail, from the sound.

Mr. STUART. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

Mr. HALE. I hope the chairman of the Committee on Foreign Relations will explain it.

Mr. MASON. The resolution is simply to provide for the payment of ministers who have been accredited to the three Central American States. It was done under an existing law, by the President. The law referred to in the letter of the Secretary of State gives to the President authority, instead of sending a new minister to one of those countries, to send any minister who is at one of them, to another upon a new mission. For instance: Mr. Lamar was sent as minister to Nicaragua, and after he was there the President directed him also to be accredited to Costa Rica, a neighboring State. The law authorized it with a view to economy, the provision being that when that is done the additional mission shall receive half salary. There is no appropriation to pay these half salaries, and that is now asked by the Secretary of State. That is the object of the resolution.

The question being taken by yeas and nays on the passage of the joint resolution, resulted—yeas 43, nays 6; as follows:

YEAS—Messrs. Allen, Bates, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Chesnut, Clay, Clingman, Collamer, Davis, Dixon, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hammond, Houston, Iverson, Johnson of Arkansas, Jones, Kennedy, Mason, Polk, Pugh, Reid, Rice, Seward, Simmons, Slidell, Stuart, Wade, Ward, Wilson, and Wright—43.

NAYS—Messrs. Cameron, Chandler, Clark, Harlan, Toombs, and Trumbull—6.

So the resolution was passed.

COMMODORE STEWART.

Mr. HALE. There was a joint resolution reported yesterday from the Committee on Naval Affairs, authorizing the President to give Commodore Stewart the rank he had a few years ago. If it is to be done, it should be done quickly. I move to take up that joint resolution.

Mr. GWIN. I call for the unfinished business.

The PRESIDING OFFICER. The hour for the consideration of the special order has arrived, and it will require a vote of the Senate to postpone it.

Mr. HALE. This joint resolution will not take three minutes; and if it is to be passed, it should be at once.

Mr. GWIN. The Senator from Texas has the

floor on the railroad bill; and we want to dispose of it to-day. I should not object but for that reason.

Mr. HALE. Very well; let it go.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, the pending question being on the amendment offered by Mr. HARLAN, to strike out "34" and insert "37," in the amendment of Mr. Wilson, which is to strike out, in the ninth and tenth lines of the first section, the words, "the most eligible route, reference being had to feasibility, shortness, and economy," and insert, "the shortest practicable route between the parallels of latitude 34° and 43°;" so that the section will read:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the shortest practicable route between the parallels of latitude 34° and 43°.

Mr. PUGH. I hope the Senator from Texas will allow me a moment. I find that I am reported this morning to have said that I preferred the bill introduced by the Senator from Mississippi, [Mr. Davis;] and in the report of my remarks, perhaps there is something that would bear that impression. I only meant to say that I agreed with him in the general purposes for which the road was to be constructed, but I do not agree to the provisions of his bill. I shall vote for a bill to fix the termini with some definiteness, and, to some extent, the route of the road. I shall not leave it to the contractors or the Postmaster General.

Mr. HOUSTON. Mr. President, if it had not been for the lateness of the hour last evening, at which the honorable Senator from Georgia [Mr. Iverson] concluded his remarks, I should then have taxed the Senate for a short time; but as the usual hour had arrived for our adjournment, I thought it proper to defer what I had to say until this morning. Before proceeding to notice the remarks of the honorable Senator, I desire to afford him an opportunity of giving a more explicit explanation to one expression which he used in relation to myself. When he referred to the course which I had pursued in the Senate on former occasions, he spoke of my "antecedents." If the gentleman will be so kind as to explain to me the full scope of that observation, I shall be better enabled to compass my view of the subject. I should be glad if the Senator would think proper to explain what he meant by my "antecedents," as he twice used that term in the course of his remarks.

Mr. IVERSON. Well, sir, I meant simply this: as far as my observation of the Senator's political course had gone—and it covered a number of years—I understood him upon all occasions, in season and out of season, to be crying hosannas to the Union; and I meant, in connection with that, the remark which I made, that when, in the face of the northern aggression, in the face of the rapid and powerful march of the spirit of abolitionism in the northern States, and the dangers to which the institutions of the South were subjected by it, I heard a southern man constantly singing praises to the Union, and denouncing everybody who should call it in question under any circumstances, I suspected that he was endeavoring to make himself a popular man in the North, for the purpose of reaching high political position.

Mr. HOUSTON. Mr. President, the honorable Senator need not repeat the whole of his exposition of that particular remark of his, for he has heretofore been very explicit; and I intend, in the course of my observations, to advert to that particular part of his speech. He has not instanced any particular occasion to which he intended to apply the term "antecedents;" no vote, no action of mine, by which I have gone out of the way for the purpose of lauding the Union, or condemning any gentlemen who had thought contrary to me on that subject. I have combated

opinions that I thought heretical, and I am always ready to combat them—whether they be in accordance with northern or southern views; but not for the purpose of making personal assaults or reflections on gentlemen. If my antecedents are looked out, it will be found that they have been entirely consistent. I know to what the gentleman must necessarily have referred, as he made the remark in connection with his allusion to the recent defeats which I have sustained. The reference must have been to my vote for the organization of Oregon, my vote for the admission of California, and my vote in opposition to the Kansas-Nebraska bill. All these votes were in strict accordance with the instructions that I derived from my own State, and under the Constitution of the Union and the Democratic measures of this Government; so that in them I am sustained. But if my advocacy of the Union has caused my immolation, politically, as the Senator says, I exult and triumph in that as the most glorious antecedent of my existence; one that I hail with pride and consolation as an American; because I have always looked to the Union as the sheet-anchor of our safety and our national grandeur and prosperity. If for that I have been stricken down, I rejoice at it; I shall consider myself a blessed martyr; and I should endure that martyrdom a thousand times were the alternative submitted to me of office or abandonment of the Union.

But, sir, the Senator suspects that I or any southern man who advocates and sings paeans to the Union in pursuit of the Presidency. I can assure the honorable gentleman that it is the last thing in this world that I would accept, if it were tendered to me; and for his satisfaction, and that he may not hereafter anticipate any rivalry on my part, in any aspirations that he may have, I withdraw myself from all competition by the assurance, that if every political party of this Union were to tender to me this day the nomination for President, I would respectfully decline it. I have higher, nobler, tenderer duties to perform. I have to create a resting-place for those who are dear to me as the people of this Union, and who form part of them. These are the duties I have to perform. If there is aught of public service that remains to me unfinished, I am not apprised of it. My life has been meted out to sixty-five years; and forty-five years of that life devoted to my country's service, almost continuously, should entitle me to an honorable discharge. I claim that discharge from my country. I claim that, having performed every duty which devolved upon me with fidelity, I ought to be permitted to retire from this Chamber in accordance with my heartfelt desires, with a constitution, thank God, not much impaired, and with clean hands and a clean conscience, to the retirement where duties are demanded of me as a father. So, the defeat of which he speaks was no disappointment; and, by way of explanation, that the gentleman may be more perfectly satisfied with my position, I will say, that had my lamented and honorable colleague, General Rusk, remained with us, by the providence of God, on the 4th of March last I should have vacated my seat and retired to the walks of private life. A man who has combated so many difficulties as myself, who has been engaged in constant commotion, in turbulence, and in scenes of upheaving difficulties, should seek a respite at the close of his life, if his span should be meted out a few years, to create a homestead for his family, and a place of rest for himself. So, sir, I hope the gentleman, on this point, will be perfectly satisfied that I have no aspirations ungratified; I have no expectations, as a recompense, to look for, for my devotion to the Union. It is an inherent principle in me; I gave evidences of it many years ago. I have periled everything for that and for the protection of the frontier of the honorable gentleman's State, in early life, when disunion was a word not known in the vocabulary of politics in America. That was an evidence that I gave then, of devotion to the Union; and I need not point to the spot in the South which I watered with my blood to defend this Union. What I have done since, I care not to recount; but I know that, without reference to the Presidency of the United States, I was engaged in struggles that tended to the perpetuation of this Union, as I believe, though I was then in a separate community of men. We gave national

existence to Texas, that she might become a part of this great Confederacy. I there gave renewed evidence of my devotion to the Union, and to the institutions of the United States. Sir, there a spark flashed upon the world, the consequence of which has created a revolution that is still onward, and will continue to affect this whole globe. Until time shall merge in the ocean of eternity, its effects will not be arrested. It has opened a world, and we came forward and were incorporated into this Union. It was not a small territory; it was an empire and a Republic of itself, which had passed through every crucible of trial and of difficulty that would test men's souls and try their nerves. This was not to secure the Presidency of the United States; nor did it look very possible then that aspirations of that kind influenced me or any other Texan. Certainly it is not so plausible as to suppose that, by contriving the separation of these States, the honorable gentleman might have aspirations to gratify, which, it might be presumed, could not be so well compassed in the Union, considering the intractable character of the northern people. Their affinities might not be such as to be commanded readily in advancing the gentleman to the Presidency, and he might think it expedient to have a dissolution of the Union, and a new confederacy formed, in order that he might turn a jack and secure the game to himself. [Laughter.]

Sir, I trust I have always had higher and holier aspirations than those connected with self. If my ambition were not inordinate, it ought to be gratified and fully satisfied with the number of positions that I have filled, as responsible and important, relatively, as that of the Presidency of the United States; surrounded by difficulties, overwhelmed by menacing millions, without a friend to succor or sustain us. Sir, I have had to wade through difficulties and through scenes of anguish and of peril with a gallant people—none have ever been tested to the same extent—without resources, new, unhoused, surrounded by all the inconveniences and perils of a wilderness, surrounded by savage tribes, with the feelings of nations alien to us. Sir, we have had these perils to pass through; and loyal to one section of the country, I was loyal to all. When Texas was annexed to the United States, it was not to a southern confederacy, nor in anticipation of one; she was annexed to the Union; and as a Union man, I have ever maintained my position, and I ever shall. I wish no prouder epitaph to mark the board or slab that may lie on my tomb than this: "He loved his country; he was a patriot; he was devoted to the Union." If it is for this that I have suffered martyrdom, it is sufficient that I stand at quits with those who have wielded the sacrificial knife.

But, sir, it has not estranged me from the people I represent. The gentleman says I have no right to represent them on this floor; that I have been repudiated. That forms a justification for him, I suppose, when speaking of the entire South, to embrace the little section of Texas and represent that too, while he excludes the actual representative from any participation in the duties of his station. I admit the great ability of the gentleman, and his entire competence for the task. He speaks of the whole South as familiarly as if he were speaking for it; and, in contradistinction to the whole South, he speaks of Georgia as "my own State." Well, sir, that may be all right; Georgia may have but one man in it for aught I know. [Laughter.] I have not been there for two years; but it did seem to me, having heard of distinguished personages there, some that have occasionally illumined the Senate by the corruptions of their genius and their profound ability, that really Georgia had some other representatives on this floor and in the other House than the honorable Senator himself.

Can the gentleman suppose that any little mar, as he would think it to be, in not relevating me to a situation in this body, would inflict the slightest mortification on me? Not at all. I do not believe that it was intended in the act to compliment me, by any means. I believe it was designed to pretermit and to rebuke me; and the means to do it were afforded, because the persons who were then in power and controlled the presses and political influences in the State had been pampered, and nourished, and cherished by the means which my late colleague, General Rusk, and myself, procured for the State, the \$5,000,000

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granted by Congress, of which there remains to-day not one bit of gold dust in the treasury of Texas. We gave them the means of controlling the political condition of that State, thinking we had placed men in power who had claims upon its confidence and respect. Whether it was a wayward fit, or whether it was a considered thing, I care not. It afforded me an opportunity of retiring to the situation that I desire; and it has not alienated my affections in the slightest from the people of Texas. They have no honors to confer that I would accept; still they are the people that I need not say I love. I cherish them, and their interest is to me a dear interest, because with their destiny my posterity are identified.

These are the reasons that control me, Mr. President, and they shall ever control me. Those men had no power to inflict mortification on me, and their act was exceedingly grateful to me because it solved a problem which had never been solved before. It had been insisted upon that Texas could not get along without my services; but they have demonstrated to me that they can get along without my services, and I am exceedingly glad of it, because it shows their increasing prosperity. [Laughter.] But, sir, whilst the constitutional term which remains unexhausted to me shall endure, I will continue faithfully to discharge my trust to them, and I have made a gain if they should perchance have made a loss, and I will avail myself of that advantage without leaving the Senate with a single regret, or, I hope, a harsh or ungentle feeling towards one gentleman within the scope of my view. I would not cherish a wish of unkindness to the honorable Senator from Georgia; and if truthfully he can reconcile the course which he has adopted to himself, he will meet with no rebuke from me. But rebuke and vindication are different things.

It is possible that I may be able to extend courtesy to the gentleman in my seclusion or retirement at home, in my humble way of life—for none of the blandishments of wealth or elegance have ever surrounded me in life. Hardy and rugged in my nature, both physically and intellectually, I have always been ready to meet and combat the inconveniences of life. I have known how to abound, and I have known how to want. I have known what it is to feel exultation, and I have realized abasement. Whatever Providence has allotted me, that I have learned to be contented with, so long as my honor is untarnished. The honorable gentleman may find it, ere a single year runs out, convenient in an excursion to Texas, after some political events have taken place in Georgia, to call and spend a social time with me, realizing that fortune is a capricious jade, and that politics are "mighty unsartin." [Laughter.] Should the gentleman come, I promise him the bread of peace, the reception of welcome; but still he cannot indoctrinate me with the principles of disunion. That I announce. That is a subject that shall be ruled out of our social intercourse, while it meets my unqualified condemnation without attaching it to the gentleman himself. [Applause in the galleries.]

THE PRESIDING OFFICER. Order!

Mr. HOUSTON. I take the Globe, and expect to have them all filed away, and I may occasionally try to refresh my reminiscences, and regale myself by adverting to some scenes that have been exciting in the Senate of the United States, and throughout the nation. I shall hope that they are things that have been, but are not; for no sound will be so delightful to me in retirement as to hear that the Union is more closely bound together every day, cemented by affection and reciprocal kind offices; and that that criminalization and recrimination which has existed heretofore, has died away; that all agitation has subsided, and is forgotten; that like one great family in a grand migration to a happier condition of national existence, we are marching hand in hand, and that our people feel one common cause, one common home, and one common fraternity throughout the broad Union.

But, Mr. President, notwithstanding the gen-

tleman's characteristic amenity and politeness, his great amiability of disposition, and his bland kindness of demeanor, I am satisfied that, when he gave utterance to these sentiments, he could not have been in earnest, and that they were merely an ebullition of the moment—nothing more. He says:

"The Senator talks about the Union and sings hosannas in its praise. I have heard those songs sung before; and I must say that I have never heard them sung by a southern man without suspecting at once that his eye was upon the Presidency of the United States."

Sir, that would argue, if I were disposed to be suspicious—but I am very unsuspecting in my nature—that the gentleman who is ready to draw deductions from the conduct of others, was always looking at that prize himself, and that on the least indication, as he believed, of a similar feeling in others, he was ready to detect it and set it down to their account rather as an offense than as a commendable quality. Again:

"It may require a great deal of charity, looking at the antecedents of that Senator, and the remarks he has made here to-day, to suppose, although his political life is about to end, that he has not lost sight of that long and lingering hope of his—the great folly of his life."

Now, sir, I might call on the gentleman for some evidence of that, but I will not do it. I do not believe it is tangible, and I do not wish to occupy time unnecessarily; but, really, I have never endeavored to chalk out a course of policy in my life, with reference to the Presidency, that seemed half so significant as to premise the dissolution of the Union and the formation of a southern republic; for that clearly indicates ulterior views on the part of the Senator, with a mind that was suspicious—not with me! Again:

"Sir, it is this very intensity of feeling which the Senator from Texas has so long exhibited for the Union, over and at the sacrifice of the interests of his own section, that the people of his State have decided to put him in retirement; and, for one, I cannot but rejoice at that decision."

I should like to know what sacrifice of the interests of my country I have ever caused. Was it for sacrificing my country that I was immolated? or that I was pretermitted is a better expression, for I consider it no sacrifice without some loss of life; and I am not hurt. [Laughter.] The cry was "abolition, and the three thousand preachers," because I advocated their right of petition to the Senate of the United States. These were the charges made against me: opposition to the Nebraska bill, voting against the repeal of the Missouri compromise. I am satisfied that it was done, not altogether regardless of the circumstances that then existed, for it was known that about the time the Nebraska bill was introduced, when it was not contemplated to repeal the Missouri compromise, in Providence, Rhode Island, I made a solemn declaration that I would vote against the bill, and resist it while I lived. Then the alternative was suggested, "let us bring in the repeal of the Missouri compromise, and Houston either is bound to retract what he has avowed publicly, or to vote against the repeal of the Missouri compromise, and that will put him down, by raising the cry of abolition against him. He will have to vote with gentlemen who are ultra in the North, and that will put him down, by identifying him with them. Besides, the Administration of the Government, with all its patronage, with all the newspaper press, and with the cry of Democracy, shall overwhelm this man, and he is no longer an obstacle; and if we have suspected he had his eye on the Presidency, this will kill him at home, and then he will be killed abroad." There is a consolation in that part of it, and I am much obliged to them for it.

I do not interfere with politics out of the House or in the House, any more than I can help; but I see that it is complained that the northern Democracy is routed and broken down. I announced in the discussion of the Nebraska bill, that if you dared to repeal the Missouri compromise, it would be giving the adversaries of the Democracy in the North a weapon with which they would discomfit and beat them down; that it was not sustaining the northern Democracy; that it was literally butchering them. Has it not been so? And what

has the South gained by it? The result is that within a brief space of time, two States that would have been Indian territory, will be added to the North. It has placed Missouri in such a situation that she must of necessity yield to the surrounding influences, and add another State to the North. I shall not enlarge upon this; but that is what the South has gained. I forewarned them of the impending evil, and for that I was stricken down, so far as political influences could be brought to bear, I was pretermitted; and these were the offenses that I had committed. But the southern vision is becoming clear; the beam is being taken out of their natural eyes, and they are beginning to comprehend fully the extent of the benefits flowing from that kind of dispensation. I opposed that repeal. I could not agree with gentlemen who advocated the measure of repealing the Missouri compromise, sanctified by so many Democratic associations, by the approval of Monroe and his Cabinet, of Jackson, of Polk, and of all the illustrious men; approved by all; rejected by none; not even a mooted question in the community. Its repeal was concocted here, and from here it was radiated throughout the country with the *edict* of a Democratic Administration, as a Democratic measure.

But did that sanctify that curse to the South? No, sir; it could not convert it into a blessing; that was impossible. If some gentleman of the North, who is considered ultra in politics—the gentleman from Massachusetts, or from New York, or from Ohio—had introduced a provision to repeal the Missouri compromise, what reception would the proposition have met in the South? There was not a man in the whole South who would not have grasped his weapon of war and rushed to the scene of combat, and been willing to have fallen upon that line in vindication of southern rights. Well, sir, did it sanctify it as a measure of blessing to the South, that it was introduced not by a southern man, but by a northern man with southern principles? When he introduced it, it was adopted by the South and by both the existing political parties which had but a few years before solemnly abjured the reiteration of the slavery question, in their political conventions. Their solemn pledge was disregarded; the torch was applied to the magazine of agitation; and what has been the condition of the country from that moment to this but agitation unnecessarily produced, for political ends and to manufacture Presidents? That was all of it, and the South is yet the sufferer; and I pray God that deeper calamities may not fall upon her. That measure is the initiative of misfortune to the South.

These may have been my antecedents; but they are such as I am proud of; and I only regret I did not triumph and enforce them with ability sufficient to have produced a trembling in this Chamber, to make gentlemen weak in the knees who resisted the conviction that flashed upon every mind.

I am sure I need not dwell upon this subject; but I will make a further remark to the honorable gentleman, who on a former occasion classed me as a party by myself. From that I rather derived some consolation, because I knew that according to my estimate, I could not have been in bad company if I were by myself, [laughter,] and that no difficulty could arise between myself and my companions. [Renewed laughter.] We should harmonize perfectly. I see discord in other political parties; I see a great want of harmony; I see "hards" and "softs," politically in the same party, not exactly harmonizing; some going a little too far, some not going far enough; some going one road, and some another; some rather kind to banks, and others a little friendly to internal improvements, beyond the standard that General Jackson fixed.

I am a Union man. The great champion of the Union was Andrew Jackson. To him descended from the fathers of the Republic, in a direct line, the principles upon which he stood; and his declaration, "The Union; it must and shall be pre-

served," will never be forgotten. Sir, that will tingle in the ears of patriots for ages to come. All the combinations of aspirants or political demagogues cannot defeat the great object and aim of our forefathers, and of the men who rise in the vista between them and us. I have never, in my life, seen an Andrew Jackson Democrat who was not a firm and decided Union man. He was not a man to make hypothetical cases, and say that in such and such events, in case such and such things would be done, the Union would be dissolved. It is easy to make a man of straw and prostrate him. The honorable Senator from Georgia, however, says the people of Georgia would not even wait for overt acts. He thinks they would begin before it came to that. I think there was no danger to be apprehended from the anti-slavery agitation so long as it was confined to such people as those who originated it in the North—a lady or two, and a gentleman or two, here and there. They became objects of importance from the fact that the South, choosing to agitate the matter, came in conflict with them, and gave them prominence, and swelled them into something like a political party, and, after a while, they became imposing in their attitude. But, sir, there were more free-soilers made by the repeal of the Missouri compromise than had ever existed before on the face of the earth. By whom was that repeal brought about? Who produced it?

Sir, I am not afraid of disunion. I do not think there is any danger, though gentlemen may talk. There are a great many very gaseous gentlemen in the South who have a great deal of time to play the demagogue, and to become important street-corner politicians, to talk about it; but there are thousands of men at home at their work, who know nothing and care nothing about what is said in such places and by such persons. These men contrive either to be sent to public assemblies on occasions that can give expression to their opinions, or they send themselves voluntarily, and they assume to represent what is considered an important class in the community. But, sir, they are not going to bring about disunion. An attempt was made in a portion of the southern country to start a great southern league, to prepare the public mind for forcing the southern States into a revolution at any time that might be thought proper; but that league was an abortion; it failed; it may have had one small branch, but it tapered down to the mere point of nothing. That was said to be a great effort. From the fuss it made throughout the South, you would have thought it embodied some great principle; that the South were in imminent danger of destruction, but it happened that the South got along very well, and the southern league died. That is the way these leagues will go whenever they start, and are brought to the attention of the people. When the people reflect, they will be fully satisfied that it is not a league for the benefit either of them or of their posterity.

I cannot for a moment believe that the wisdom of this nation will ever, so long as time lasts, abandon the road of security and safety to it, or that it will ever forget the wise teachings of the fathers. What do you think of the great political leader who will boldly assert that the boys, nowadays, have more wisdom than the framers of the Constitution and the fathers of the Revolution had? Such a sentiment has been enunciated by the author of the southern league; but how much regard is to be paid to his sanity, or how much respect to his patriotism or his opinions? Sir, what shall be thought when a man profanely derides the memory of our glorious ancestors who established this Union, and consecrated it by their wisdom and by their loyalty and by their devotion to human happiness, and who had the prospective glory of a nation of free-men before them. The idea that an American tongue should be wagged to detract from their high renown and manifest wisdom, is sacrilege.

The honorable gentleman supposes that I meant to make a martyr of him, and that I imputed to him treason, and wanted to crucify him. Sir, I never thought of such a thing. I meant to make no application of my remarks on that point to him; but I wanted to impress him with my personal kindness of feeling, and to show that I had no hostility. I did not wish to evince, either in tone, in language, or in sentiment, any personal hostility to him. It was his opinions that I com-

bated; not his personal amiable qualities, nor his blandness, nor his personal attractions or embellishments; but I wished to attack what I thought was the heresy of his positions; not to impugn his honor, his truth, or his candor. I could not do that, for he is exceedingly candid. [Laughter.] It is really strange that he should suppose that I would crucify him. I have no doubt he thinks he is right; but I would rather that he should live for a thousand years, that he should live until experience shall correct what I think are his errors; but I would not cut short his life a single moment, or send him to his long account with the sin of any predilection he might have for disunion upon his head. I would not think of it, Mr. President. [Laughter.] I am sure there is no single quality that I more admire than forbearance; and though that gentleman has thought proper to say that I charged him with treason, I beg leave to say that he was not in my mind's eye at the particular moment that I used the expression in regard to treason. I was referring then to a crisis over which busy memory was employed, thinking of the scenes that had passed between that moment and the moment I was addressing the Senate; what vast changes had taken place; a new world of associates, and all things contrasted with that day, wonderful to contemplate. I never once thought of inflicting crucifixion upon the gentleman, nor did I think of charging him with treason, though I believe the sentiments he has enunciated might bear that construction, if we were to come down to the Constitution and its intent and spirit. He says it is treason to the South to do so and so. Well, sir, the honorable gentleman is not unconscious of his importance. I am satisfied that he is fully impressed with the exalted position which he occupies, and I cannot say that I ever wish that he shall not be renewed in his position here; but if he shall not be, I promise him a hospitable reception at Cedar Point, where we can talk over the present, talk over the past, and enjoy the fish of the bay and the game of the forest.

Mr. President, I tell you that the honorable Senator is not altogether without some aspirations; he feels that he is not only capable of great things, but that they might be thrust upon him, for he says:

"I am free to declare, that if I had the control of the southern people"—

Well, now, that shows that there is good material there out of which to make a Governor, and if he had never thought about the control of them he would not, in the heat of debate, suggest it here. There is something deliberate and calculating in this:

"I am free to declare here, that if I had the control of the southern people, I would demand this of Congress"—

He thinks that the South should have everything. He does not define exactly what it is, but she should have an equal share of everything, without specifying any particular thing—as I now hope she has; and he says:

"I would demand this of Congress at the organization of every territorial government, as the terms upon which the South should remain in the Union. I would hold our 'right' in one hand and 'separation' in the other, and leave the North to choose between them. If you would do us justice, I would live with you in peace; if you denied us justice, I would not live with you another day."

Now, sir, I want to know when the North has denied us justice? and I want to know whether words spoken are to be taken for acts done? Is it to be a cause of quarrel between the North and South that a number of intemperate individuals at the North express ultra notions, about which the masses in the North do not agree themselves? Is the language of such individuals to be set down to the charge of the North as meriting the reprobation and condemnation of the whole community? and are they, for that reason, to be declared aliens, and to be ostracised? Can we control the expressions of persons in the North? There is no constitutional prohibition, that I know of, against the expression of opinion; every man has a right to express his opinions in this country; and, much as I may be at variance with gentlemen in regard to their views, I do not consider the expression of them an act of treason to the South. The South very freely exercises the same privilege; and if the North had the same disposition which is evinced by some portions of the South, they could with good reason complain of the constant talk of dissolution, and use that as a

pretext for sloping off themselves. I do not believe that the expression of opinions is a violation of the Constitution; I do not think it is sufficient ground to keep up an eternal quarrel. An overt act of encroachment on our rights would place us in a different position. I can see no use in presenting hypothetical cases continually, and saying that if such and such things were done that never have been contemplated or thought of, they would be good ground for separation. When those things occur, it will be time enough to examine the point; we shall be as well prepared then as we are now; but to make preparation for an event that is not at all probable may be the means of precipitating us into difficulties from which nothing would ever extricate us. When an act is done, there may be something in it; but gentlemen may express themselves as they please.

I was censured, and it was brought up as a cause of challenge against me in a canvass through which I passed, that I had said that if John C. Fremont, or any other citizen under the Constitution of the Union, were elected President, I would not deem it cause for going into revolution or division. That was the sentiment I declared, and it was brought up in judgment against me. I repeat the sentiment—I would judge the tree by its fruit. The American people have the right to select any citizen who is qualified under the Constitution for President of the United States; and whilst he discharges his duties under the Constitution, I would render him allegiance as faithfully as if he had been the man of my own choice, however adverse he might be to me. So long as he discharged his duties by executing the laws of the country and supporting the Constitution, I would sustain him.

Mr. IVERSON. Mr. President, I heartily rejoice that the Senator from Texas, in the generous moderation which he has exhibited upon the present occasion, has said nothing to which I feel called upon to make any reply. That Senator's relations and mine of a personal character, as he knows well, have been long friendly and cordial; and I regret, perhaps more than he, that anything should have occurred to mar the kind feelings which have subsisted between us. But, sir, when yesterday the Senator thought proper to indulge in language which I considered exceedingly ungenerous and harsh towards sentiments which I had uttered on this floor, I could but feel that I was called upon to repel the charges he made, and to carry the war even into Africa; but the kind personal feelings which the Senator has exhibited towards me to-day, together with the very exalted compliments he has thought proper to pay me, have disarmed me and suppressed even the temporary feelings into which I was betrayed yesterday after the speech of the Senator. I rejoice that I have it in my power, on the present occasion, to express my regrets that I should yesterday, by what I considered a harsh attack made on my sentiments and myself, personally, have been betrayed into any language which was calculated to wound the sensibility of the Senator from Texas.

Mr. WARD. Mr. President, I very much regret that this question has come up at this time, and that allusion has been made to the State from which I come. It is not my purpose, now, to enter into a discussion upon the subject of secession and disunion. When that question comes up properly, Texas will be found to act promptly and efficiently. I am free to say, that I believe there is no people in this Union who revere the Union more than the people of Texas; and in connection with that, I must say they have a like respect for the rights which they claim under the Constitution as a State.

Mr. President, I shall not pretend to discuss this matter at length, nor would I have risen at this time had not the political position of Texas been alluded to in reference to this subject. And here I would call the attention of my honorable colleague. Allusion having been made to Texas as to her political aspect, I feel that I should be doing injustice to my State, as well as to myself, as one of her representatives, if I did not state what I consider to be her true condition in that respect. I am sorry the question has been sprung at all; but I must either submit to my colleague's views, as facts put forward before the Senate, or I must meet them. I do not expect to meet them by long arguments, but merely to state facts as they exist. My honorable colleague, in speaking of his position, (and I regret to refer personally,

but as it has a political bearing, it is legitimate,) in answer to the allusion made by the honorable Senator from Georgia, says that "his defeat in the State of Texas did not rest upon his political course in Congress, but that it was from an expenditure of means which he had the honor to procure, in part, for the State, which were improperly used by the Democratic party in procuring his defeat." This is news to me.

Mr. HOUSTON. My colleague will permit me to remark that that was not what I said, nor what I meant. I did not say that the Democratic party had done so.

Mr. WARD. You said the party in power?

Mr. HOUSTON. I said the party in power.

Mr. WARD. Then, sir, I claim that to be the Democratic party in Texas.

Mr. HOUSTON. I mean the Austin State Committee.

Mr. WARD. In reference to the political aspect of Texas, and the course which has been pursued by my honorable colleague, I can say that he is personally popular in that State, and has many warm political friends; but he must allow me to differ with him as to his course as their representative in Congress. I am free to say that his course did not meet the approbation of the people of Texas; and but for that fact, and his digression from the Democratic faith, he would have retained his seat, in my humble opinion, upon this floor. This much is due to the people of Texas, and I say it in the very best feeling—for personally we are friendly—but I know these to be the facts of the case; and as I was in the Legislature during that period, it has been brought forcibly to my mind, and the Legislature intimated its charge against him by resolution. The acts to which he alludes as having been charged upon him by the honorable Senator from Georgia, which excluded him from this body, are within my recollection; and they are as stated. I say this much to place Texas in a proper light before the country, be it right or wrong. I claim that it is right; but these are the facts of the case.

I shall not, on this occasion, use an argument to prove the political position of Texas. Texas has answered for herself. What are the facts in the case? Why, sir, they elected a Governor by a large majority of ten thousand votes, who spoke the sentiments of what is known as the southern State-rights party, in the strongest language possible. They elected a Senator to succeed my honorable colleague, speaking the very same sentiments, and who has ever done it. In 1855, they elected a Representative here who claimed to be a Democrat, when he was, in fact, the nominee of the Know Nothing party. After serving one term, he went home and put his name before the people again, after having made long speeches in the other end of this Capitol against the interests of the South; in one of which he said "that he had rather see Kansas burned to ashes, and the earth rocked by an earthquake like a cradle, and every slave swept from the fields of the South, than to see this Union dissolved." This sentiment was arraigned against him in his canvass on the next race, and what was the consequence? The people swept him from the political field of that country, so far out of it that he has never been there since.

These are the views entertained by Texas in relation to State-rights, and the rights which they claim under the Constitution; which they claim as rights, and not as favors. If they are rights, we demand them. If we have no rights, the sooner we know it the better. I am opposed to the discussion of this question. Discussions have ended where they commenced. They consume time and money to no purpose. I believe that when unconstitutional aggressions are made upon our rights, action is the thing—dignified and prompt action. Let us define what our rights are, and act upon them.

Mr. HOUSTON. I really regret that my colleague has found it necessary to object to anything that I have said; for it was not my intention, but the furthest from it in the world, to raise any controversy with him. I admit what he says with regard to the gentleman who is now Governor of the State of Texas. I suppose he is a very clever gentleman; I have very little personal acquaintance with him; but his antecedents, I think, were of the character stated—he was a State-rights man. I furthermore believe that the Lieutenant-Governor was also of the same politics. But, sir,

the question of State-rights, or what are more commonly called southern rights, was never raised in the canvass over the State that I ever heard of. If that question has ever been made there, I have not heard of it. The question that decided the contest was Nebraska and anti-Nebraska; and such was the heated condition of it, that it was really exciting. An anecdote will illustrate this. There was a man who had a very fine son whom he had not seen for some time. He hailed him one day and said, "Come in, my good fellow, come in." "I have not time," was the reply. "Come in; the old woman has a fine boy ten days old; come in and see him; and I have got the biggest name for him you ever heard of in your life." "What is it," he inquired. "Anti-Nebraska," was the reply. "Yes," said he, "Anti-Nebraska. He is a greater man than General Jackson or Bonaparte ever was." [Laughter.] He went in; and in the Bible he had inserted "Anti-Nebraska." It shows you the inflamed state of the public mind, caused by the Nebraska bill and the repeal of the Missouri compromise. That was the issue, and also my action on the petition of the three thousand preachers.

I did not intend to impugn the principles of my colleague. I know that his life is one of spotlessness and patriotism; and I have never thought of impugning him; and on reflection he will admit, I presume, that State-rights has never been made an issue in our State. He will admit, also, that the chairman of the Democratic committee was but a few years in the State when he was elected chairman of the Democratic State committee, and that that gentleman had been a disunion editor in Mississippi, and was a member of the Nashville disunion convention. He will admit that, I am sure, and that is all I want admitted. In our State that has never been made an issue; but whenever the question arises of union or disunion, then it may be tested fairly. I do not know how it will come out, but I can guess. I assure the honorable Senator, however, that my intention was not to cast the slightest reflection on him; but I said that since the money of which I spoke was granted to the State, the application of it had been placed in certain hands, and that in a few years it was exhausted, and politics had taken a different turn within that time. There was no charge, that I know of, exhibited against me, but that of voting with gentlemen of the North who were obnoxious to the reprobation of those in the South. That is the whole of it. I had no intention of reflecting either on the Executive of the State or the general politics of the State, for they did not enter into the election. Nor did I intend to reflect, in the slightest degree, on my honorable colleague, for he is very acceptable to me.

Mr. WARD. I do not wish my honorable colleague to understand that I take a position in favor of dissolving the Union in round terms; but I do say, in connection with that, if we are to compromise all the rights we have under the Constitution, or permit them to be violated, we will take the rights we have as States in preference to the Union; because it will be no Union without those rights. We are disposed to cling to the Union as long as the Union will protect and preserve our institutions. We claim this protection; and if it is disregarded by the Federal Government, I say it is no Union, and there is no pleasure in it. I voted for the annexation of Texas, and voted for it with all my heart. I was anxious for the alliance. I was proud the day it succeeded. But while I entertain these feelings, does it argue that our rights as southern States are to be compromised, and we are still content to bind ourselves to that Union which is oppressing us? I say, when that day comes, I shall regret it as much as any man on this floor; but, rather than submit to the repeated violation of our constitutional rights, it is better to be out of the Union.

Mr. HOUSTON. I have no hypothetical cases, no supposititious cases, to put to the Senator at all. I have only this to remark, that I hope my honorable colleague does not suppose I would submit to any infraction of our rights. I make no distinction between southern and northern rights. Our rights are rights common to the whole Union. I would not see wrong inflicted on the North or on the South, but I am for the Union, without any "if" in the case; and my motto is, "it shall be preserved."

Mr. WARD. I will only remark to my hon-

orable colleague, that there is a difference of that "if" between us.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa to the amendment of the Senator from Massachusetts.

Mr. GWIN. I will suggest to the Senate that in my judgment it would be better, temporarily, to withdraw that amendment, in order that the Senator from Pennsylvania [Mr. BIGLER] may have an opportunity of amending the bill in regard to an important portion of its details, which will not affect the question of locating the route. I think that the friends of the measure will find it to the advantage of the bill to have the details as to the means to be applied to the building of the road perfected in accordance with the views of those who intend to advocate the measure, before the question in regard to the location of the route is voted on. I therefore hope this amendment will be temporarily withdrawn, until the Senator from Pennsylvania will have a vote on the proposition which he has submitted.

Mr. COLLAMER. I had intended, Mr. President, to wait until this bill was perfected and put into its ultimate and final shape, before expressing any particular opinion in relation to it; but in the remarks of the honorable Senator from Illinois, [Mr. DOUGLAS,] yesterday, he suggested that if amendments—the amendment under consideration, for instance—were adopted, if the bill were not left in all its essential features as the committee reported it, it would be a failure; and these amendments, however designed, would necessarily, if adopted, effect the defeat of this bill. Now, sir, after remarks of that kind made by that Senator, who was a member of the committee that framed and reported the bill, and especially after the remarks made by the honorable Senator from Iowa, [Mr. HARLAN,] in regard to the position that he considered the Senators from my part of the country occupied in relation to this measure, and the responsibilities that rested on them, I felt myself no longer at liberty to keep entire silence about it.

The great object and purpose, Mr. President, professed to be had in view, and desired to be effected, as I understand, is a connection with the coast of the Pacific at San Francisco; a railway communication which shall connect the Golden Gate, the great emporium of the commerce of the Pacific, with the Atlantic portion of the United States. That is the point to be effected; but if the bill is so shaped that in the opinion of any Senator it will not and cannot effect that great purpose, certainly he must vote against it, following his own convictions. I shall endeavor to confine the range of my remarks to comparatively a few points.

The first one is this: What are the provisions of this bill in relation to the route which the road is to take? I do not think that saying it is to start between the mouths of the Big Sioux and the Kansas rivers on the one end, and that the other termination is to be at San Francisco, determines the fact that this road will actually be effected between those two points by the means which this bill points out. That, in my mind, depends very much on the route it may take; and, to my view, the terminations do not at all define the route to be taken. I remember a good old gentleman who insisted upon it that there was one great excellency of the town in which he lived: that you could start from there and go anywhere in the world. He seemed to think that the peculiar excellency of his place. I think just so about the starting here between the Big Sioux and the Kansas; you can go anywhere on earth.

We have to examine this bill for the purpose of seeing what security we have for the route to be taken, and first, whether it really furnishes any sufficient security at all. I must acknowledge that after an examination and a re-examination of this bill, since the dialogue between the honorable Senator, the chairman of this committee, [Mr. GWIN,] and the honorable Senator from Illinois, [Mr. TRUMBULL,] a few days ago, I have found myself at a loss about the meaning of it, and I am still at a loss on further examination. We are told in the first section of the bill that the President is to contract for the carrying of the mail, and other transportation service of the United States, "on the most eligible route, reference being had to feasibility, shortness, and economy." These

words have been repeated and dwelt upon by gentlemen over and over again. I ask how is the President to know, by what means is he to come at the point of ascertaining which route is the most feasible, practicable, and economical? Is he at liberty, by the words of the bill, to make a contract without knowing where the road is to go? Is it intended, by this bill, to be made his duty to make a contract for a route without knowing where on earth it is to be located except at its termination? If so, these words are a delusion, a fraud, and a deception. They carry the idea that the President is to make a contract on some route that is feasible, that is economical, that is practicable; and yet gentlemen tell us, "no, he is to make a contract," and the men who construct the road are themselves afterwards to make the road where they please between these termini.

Well, if they are to make the road where they please, how is the President to carry out the provision which directs him to make a contract for transportation on the most feasible route? Both these things cannot be true; and they are not true. In the nature of things, they are both incapable of being true; and therefore it is a deception and a delusion. If the first section be intended to carry out the idea which is suggested, it should read thus: "that the President is authorized and directed to make a contract to carry the mails, &c., upon such route as the said contractors shall themselves select." Does it read so? Certainly not. Does it mean so? If it does, it is duplicity—intentional duplicity. No, sir; notwithstanding all that gentlemen have said, the true meaning of that language is to leave the matter in the control of the President. It is to be construed in connection with the fifth section, to which we are referred on this topic; but that, after all, means the same thing; for, in the fifth section, after providing for bids to be put in, it says that the President shall make a contract "in pursuance of the provisions of this act for the construction of said road." He is to make a contract which is to be in pursuance of the provisions of this act; and what are the provisions of this act? That he shall contract for transportation on the most feasible route. Who is to determine that? Certainly he cannot make a contract for a feasible route without knowing what the route is; and when he knows what the route is, he must decide whether it is feasible, or he will not perform his duty according to the bill. That is the fair construction of this bill. If it does not mean that, it means this: that the men who take this contract are to go where they please with the road, and make the line through the valuable lands as far as they please, and take as much of them as they please. I take it that no one can suppose that is really meant, or that any man in his senses can expect to vote for a bill like that. No, sir; the true construction of it, the whole being together, is, that the President shall make a contract on a route that he regards the most feasible; and those who put in bids are to make their bids to carry into effect this provision of this bill.

Having said this much in relation to this part of the bill, I wish to call attention to another point connected with it, and that is, how much are we to pay? When we talk in this bill about various routes, I presume we mean routes across the country from here to the Pacific. Now, what are we to pay to those who may build the road when it shall be constructed? The second section provides that the contract shall contain a "limitation that the price to be paid" for transportation "shall not in any event, either of peace or of war, exceed the sum which in time of peace has been heretofore paid for similar service of equal amount upon any existing route." That is to say, we are to pay as much (for I take it they will never bid for any less than we offer) as it has cost heretofore to carry provisions from here to Utah, and from Utah to California. The bill declares that it is not to exceed what we have heretofore paid upon the existing routes; so that, after all, if we get a road made which shall transport anything for us, we are to pay as much as the transportation costs now. I do not see exactly how we are to gain much by that, unless it is in speed. However, I do not wish to detain the Senate in relation to that point, but I come to the question, where is this road to be?

Clear it is, that this bill as it stands here now, this bill as we now have it before us, intimates

that you may have this road in any part of the country between the two oceans, between the termini mentioned, north or south. But upon what ground is it sustained? We have had more than one, two, or three speeches from the honorable Senators from Texas, for instance, directly for the bill, and against confining it more than it is. It has been argued before us by the hour, with learning and ability, that they want this bill passed, to make a road down on the thirty-second parallel. They tell us that is the best place for it, that that is the shortest, the cheapest, and the best route. Then may we not suppose that this bill is to effect that? It is advocated for that purpose. I think the ground taken by the honorable Senator from Illinois, [Mr. TRUMBULL,] the other day, has much in it which we should call to mind. As I have already contended, this contract will be made, if at all, for some particular route, and it ought to be; and the President cannot execute his duties under the first section of the bill which directs him to make a contract on the most feasible route, unless he has a particular one selected.

Now, the question is where, under this bill, will that be likely to be? I know this bill puts it afloat, delivers it over to the chapter of accidents. Nothing can be told by it, and I understand it is considered the great excellence of the bill that it is thus submitted to the chapter of accidents; because it is going to secure votes from the very uncertainty which it contains, and we are warned against giving certainty to it for fear we shall lose votes. That is, we are told, in effect, "if you will settle anything honestly, and tell what you mean, you cannot get votes for it; it is only by cheating people that you can get along at all."

Well, sir, where will the road be likely to go under this bill? Where do gentlemen expect it will go? Two years ago we passed an act providing for an overland mail from the Mississippi to San Francisco. It was granted under the avowed purpose of feeling the way for settlements, making it the road for emigrants, establishing and promoting settlements all along the route, so far as it was capable of being done; and it was considered that the best way would be to leave it to those who should bid for carrying the mail, to select their own route. They were deeply interested in it, it was said, and would be likely to seek and find out and pursue a route where some sort of settlement could probably be obtained; but what was done? The great leading feature of that measure was like this; but what came of it? How did it result? Was that line established on any route that any bidder pointed out? No, sir; it was established on a route on which, as the Postmaster General tells us in his report of last year, there was no bid for it, where nobody wanted it to go; but he fixed it there, and then the parties said they would go there, inasmuch as he ordered it. When that mail was once carried through, there came forth what I suppose we have all of us read, the very elegant production of the honorable Senator from California, [Mr. GWIN] congratulating the world on the success of the great enterprise. I supposed the enterprise was to be one which was to promote the object professed to be had in view at the time the act was passed; namely, the settlement of the country. I hold in my hand the report of the gentleman who came over with that mail on its first trip, in which he gives us the distances of the various positions along the line, and the condition of the country, mile by mile, over the route; and I wish to call attention to it. He came from the Pacific this way. We all know that the great desert of this country lies west of the Colorado. It lies in California, beginning at the head of the Gulf, and spreading wider and wider as you go up the Colorado and its branches; and there is the very greatest difficulty probably in getting across the desert part of the country. As they come to that point, and are approaching towards Fort Yuma on the Colorado, from the west, I wish to call attention for a few moments to his journal:

"Palm Springs, 9 miles; Carriso Creek, 9; Indian Wells, (without water,) 31; Alamo Mucho, (without water,) 25; Cook's Wells, (without water,) 22; Pilot Knob, 18; Fort Yuma, 10."

Thus, before you get to the Colorado river, there are spaces of fifteen, twenty, twenty-five, and thirty miles at a stretch, without water. Now we pass the Colorado, and, without going into

particulars, I will say we get to Tucson, which is nearly half-way between the Colorado and the Rio Grande. Let us follow the line for a moment from Tucson:

"Tucson to Seneca Springs, (without water,) 35; San Pedro, (without water,) 24; Dragon Springs, (without water,) 23; Apache Pass, (without water,) 40; Stein's Peak, (without water,) 35; Soldier's Farewell, (without water,) 42; Ojo de Vacca, 14; Miembre's River, 16; Cook's Springs, 18; Pecacho, (without water,) 52; Fort Fillmore, 14; Cottonwoods, 55; Franklin, 22—Total, 360 miles. Time, 82 hours."

Of these three hundred and sixty miles, there are three hundred short of water, except at distances of thirty or forty miles from point to point. Now, we pass over the Rio Grande, and get into Texas, coming this way:

"Franklin to Waco Tanks, 30; Canódrus, 35; Pinery, (without water,) 53; Delaware Springs, 24; Pope's Camp, 40; Emigrant Crossing, 65; Horse Head Crossing, 55; Head of Concho, (without water,) 70; Grape Creek, 22; Fort Chadbourne, 30—Total, 428 miles. Time, 116 hours and 30 minutes."

For four hundred miles of this distance there is no water within thirty miles, from stretch to stretch. This is the official return of Mr. Bailey. How can a man stand and talk to me about having established a mail route through such a region which is to become an emigrant road, and to encourage the settlement of the country? And yet, with great care, the Postmaster General reported, a year ago, that, on a careful meteorological observation, it was actually found to be warmer down on that route than anywhere north of it, which he thinks quite sufficient to induce its establishment there; and, after overriding all the bids, he established this very route as the route of emigration. With a bill which certainly can carry this road there, and when influences did carry the mail route there, who can doubt where this railroad will go under the present bill? and what is the purpose, when speech after speech is made; after all we have experienced under the provisions of that act, in which we are told that this is the very place for it to go?

I believe I am not over suspicious in my disposition; but, after what I have experienced under the act for a mail route, and after what I have heard said about this measure, and after I perceive what the nature of this bill is, I can merely say that I am utterly opposed to the passage of any bill which will attempt to make a road in such a place; and I will not vote for a bill under which it can be made in such a place. I am sensible that the honorable Senator from Mississippi [Mr. DAVIS] has submitted an amendment by which he proposes to go from State to State; and he is in favor of this very thirty-second parallel route. What does that mean? It is to make that route, I suppose, from the end of the proposed Texas road until you strike, if you please, the Gulf of California, or the Colorado river that empties into it. There you will strike the line of California, and come to the great desert. Has anybody any idea of going further on that route? No serious man ever thought of it. We are told, to be sure, by the honorable Senator from Texas, that from Fort Yuma to San Diego is about two hundred miles; but every man knows that it is perfect mountains of desolation; a mere bed of rocks. Nobody ever thought of going there. No, sir; the object is to make a road on the thirty-second parallel, and to make it, if you please, to the Gulf of California, or to Fort Yuma, on the Colorado, where you strike navigable water; and one gentleman assures us that, really, that country is connected now; that Guaymas, down there, is connected with San Francisco by steam navigation. So it is with China—that is, steamers can run there; so they can to China; and I suppose it is just as much connected with one as with the other. It is strongly intimated that it is not going any further, and this bill is only wanted to get it there.

And why is it that all at once we find a recommendation from the President to take possession of Sonora and Chihuahua? Because they run down on the Gulf—lie on the side of the Gulf of California. It is that we may, as the papers state, get a chance to make a road across the bridge of Mexico, as it is called, between the two oceans, and land lower down at Mazatlan. Why is it that we find all at once one of our armed vessels—the sloop-of-war St. Mary's—at Guaymas, very opportunely there, it is said, to protect surveyors? What surveyors? I suppose to protect the railway, to get it ready by the time we take posses-

sion of that country, so that we can make it. I do not say that there may not properly be at some time a railroad from the Gulf of Mexico to the Gulf of California; but I simply say our purpose now is to go to San Francisco, not to make that other connection; and if that is not our purpose, if really gentlemen do not entertain any such purpose, then this bill is merely looking one way and rowing another. It is intended under the pretense of keeping our eye constantly on the game, to lose sight of the direction of the gun altogether.

I have to be sure, understood, and do now understand that the great mass of the people in the Atlantic part of the United States, and especially the northern portion of them, have a desire for a railroad connecting San Francisco with the Atlantic region of the country. They expect it to be built, desire it to be built; but if any man has really supposed that that road, when built, could sustain itself by its freight and passengers, he must be more demented than any man I have ever heard of, who undertook to talk about it. A road may be made from a coal mine, or a stone or marble quarry, to the place of shipment, and may sustain itself; but no road was built for the carrying of passengers and freight that ever was maintained by the business between the termini. You cannot build a road two hundred miles long, and you cannot find a road of two hundred miles in America, to-day, that can maintain itself by the mere business between its termini. It is the way business that sustains the roads. Here there is no business after you get some two hundred miles from the borders of Missouri; and the idea that we are to be deluded into a notion that a road can be built to sustain itself, or that we can get capitalists to put money into that road with the hope of getting the interest of it back again in the business it shall perform, is all childish and chimerical.

But, I agree with the honorable Senator from New York, [Mr. SEWARD,] one the members of this committee, in his speech. There is a great object here; and when great objects are to be effected, important means must be used. The provisions of this bill are lame and inefficient to the purposes designed; and yet, after all, I say this: gentlemen have struck out this plan, and if they will confine the road to a central route with a fair latitude, such as is proposed by the present amendment, I shall vote for the bill; not because I believe it will build a railroad to San Francisco, but because I believe it will begin it. Before a road is ever made between these two great sections of the continent, this Government will have to spend money; but out of pure respect and deference to the opinion of those gentlemen who have most examined the subject, and have presented this bill; and out of deference and respect to the wishes of the people in that section of the country to which I belong, I will say I will not defeat it. If, however, you leave it to float as broadly, and deliver it over to as many chapters of accidents as it now contains in the shape it now possesses, I cannot vote for it for any consideration.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa to the amendment of the Senator from Massachusetts.

MR. COLLAMER. Allow me one moment. I wish to add a single word to what I said before, and it is in relation to the line on the thirty-fifth parallel. That line may possibly, in my view, be executed until you strike the Colorado. Beyond that, it is the same route as the one that goes on the thirty-second; it has the same desert, and has the same impassable difficulties.

MR. GREEN. I merely desire to correct the Senator from Vermont. The route on the thirty-fifth parallel to the Colorado has been fully explored, and found to be a good one. West of the Colorado, it is not the same as the route of the thirty-second parallel; it is three hundred miles north of it. The one—the southern route—goes to Fort Yuma; but the route on the thirty-fifth parallel, after it crosses the Colorado, goes up to the Mohave river. I suppose the Senator meant to be understood as saying it was the same character of country.

MR. COLLAMER. The same character of country, and it strikes into the same route as it passes on.

MR. GREEN. It never touches the same route until it strikes the Tejon pass. There they meet, and from that up is found to be as good a country as there is in any portion of California for the construction of a railway. One word more. This proposed amendment limits the selection to but one single route, and it is equivalent to saying it shall be that alone—the route on the forty-second parallel. As I remarked yesterday, it is exceedingly uncertain whether that route be passable or not, when you get as far west as the Sierra Nevada.

MR. BRODERICK. Mr. President, it was my intention to have remained in my seat and silently to have listened to the discussion of this bill, and I would not have taken the floor now, but for remarks made yesterday. I have been following the lead of my colleague, willing and anxious to vote for any proposition he might recommend to the Senate, to secure the construction of a Pacific railroad; but as I intend to vote for the amendment which has been offered by the Senator from Iowa, [Mr. HARLAN,] it would be as well, perhaps, for me to explain the reason for that vote. The Senator from Illinois [Mr. DOUGLAS] stated yesterday, that he considered that amendment as fatal to the bill. I do not. I shall vote for it in order to carry out the great purpose of the bill. Sir, if this bill is not a cheat, the road under it will never follow a southern route across the thirty-second parallel of latitude. It will be seen by an examination of the map, that after it reaches the Pacific on the thirty-second parallel, it will have to run up through the State of California to the thirty-eighth parallel—that is, six degrees of latitude northward; and from St. Louis, by that route, the distance is very nearly three thousand miles. I would ask Senators, particularly those on this side of the Chamber, whether they intend to vote for the construction of a railroad by the Federal Government, through the State of California, a distance of more than six hundred miles to San Francisco, and to appropriate \$12,500 a mile for that purpose. I do not believe that such a proposition would receive a vote on this side, even from the Senators representing southern States, who are in favor of a Pacific railroad; for it is known that one half of them are opposed to the construction of any railroad to the Pacific.

I have sat here quietly, and heard descriptions given of two routes which have been much spoken of; one that is to find its terminus at Guaymas on the Pacific, and the other, the northern route, which is to find its terminus at Vancouver, or Seattle. Of those two routes, I prefer the southern route terminating at Guaymas rather than the northern route to Vancouver, for the reason that by it, the distance to San Francisco is practically much less; and the voyage from Guaymas to San Francisco can be made more easily than the voyage from Vancouver to San Francisco. But, sir, I am opposed to both those routes, and really in favor of building a railroad to California. If I favored a road to Mexico, I should select the route along the thirty-second parallel of latitude; but as I am not in favor of a road to Mexico, but in favor of a road to California, I am for the middle route—the only practicable route to California. For the purpose of informing the Senate as to the character of the land on this route, between the Missouri river and the South Pass, I will read from a report made by Mr. Lander, a very sensible gentleman, now in the employ of the Government, who explored the route, and who, I believe, has the confidence of the Administration.

"An experience of over fifteen years of the building, workage, wear, depreciation, and renewal of railways, has rendered it evident to me that no estimate of the cost of a permanent road over a route of nearly two thousand miles of broken surface can be deemed reliable, and that the desideratum of overland communication by rail and steam power must take place by those irregular but progressive steps by which the practical talent of this nation has so repeatedly solved the various experiments and necessities of progress.

"The route to the South Pass by the main Platte valley permits the adoption of modes of construction which will cover the liability last referred to, for it can be developed by railways without material reduction of the natural surface of the earth."

I desire especially to call the attention of the Senate to what follows:

"A railroad suited to military and mail transportation can reach the waters of Salt Lake and the Salt Lake City in three years from the time of its commencement, if forwarded with the usual energy of American movements, and under a proper programme for overcoming the difficulties of construction.

"From the mouth of the Platte river to the base of the Black Hills, a distance of over five hundred miles, as before described, the route of the South Pass is a flat plain of gravel substrata, rising at an inclination of about eight feet per mile, and without a break in surface towards the mountains. The lower end of the river valley is fairly wooded with the cotton-wood. Nearer the mountains, the foot hills are well timbered with cedar, yellow pine, and fir. Excellent building stone is abundant along the line, and large coal fields occur at various adjacent points, and at the eastern extremity. Upon this flat plain rails can be laid without grading. The superstructure can progress at the rate of one mile per day, or faster, if circumstances justify the additional expense. A light railroad, over which trains can pass with facility, and even at high rates of speed, would thus reach Fort Laramie in less than three years, and become the initiative or preliminary step toward the building of a railroad of a more ponderous class, either for the transportation of Pacific commerce, or as adapted to the increased business of the line when developed by settlements.

"By extending the cheapest practical means of moving military supplies and troops to Fort Laramie, laying an iron road which can be worked by locomotives and superseped wagons, without embracing the more elaborate triumphs of steam power, and gaining many attendant advantages, we also take the simplest and most effective step towards solving the experiment of an overland railroad to the Pacific. There is no invidious selection of a route by legislation, because the only route graded and ballasted by act of nature is adopted. This route is of national position for military defense in time of war; because, while providing means of transportation to Utah, California, and Oregon, it is located at a distance from the frontier, and cannot easily be assailed by an enemy.

"No practical engineer or railroad superintendent would advise the immediate furnishing of this road throughout its length to Fort Laramie. It should be provided with turn-outs and watering stations, but with no costly or ponderous works to entail cost. The first one hundred miles nearest Missouri river might easily be provided with a small equipment for daily service. The trains could on occasion work the whole length of the line. The line could be kept in surface throughout its length without daily workage of locomotives; for it would afford like conveniences to those of a canal or of navigable waters to local emigration by being provided with light freight cars, these cars to be drawn by the animals of the population seeking location for settlement along the line. For the low tolls charged for the use of such cars, the company could afford to keep the line in surface. Thus, for mail and military use, the route would always be ready for the passage of trains up the road. It would be for the interest of the population to protect it, without reference to the other modes of protection hitherto stated. The danger of destruction of a military railroad is the very least of the many arguments made against it. Although a permanent railroad is a class of fine peculiarly pregnable to the most insignificant means of attack, a common line of superstructure, light rail, flat chair, hook spike, and plain cross-tie, extended over a flat gravel plain, is readily renewed, and if the line of communication is broken, can be relaid at a few hours' notice."

Having traveled lately from San Francisco to the Missouri river, I can give an equally favorable account of the land lying near the forty-second parallel of latitude upon the other side of the South Pass, and from there until it strikes the eastern boundary of California. By this route from St. Joseph through Noble's Pass to Benicia, which is thirty miles from San Francisco, the estimated distance is one thousand seven hundred and twenty-five miles. It is thus divided: From St. Joseph to Fort Kearny, two hundred and twenty-five miles; from Fort Kearny to Fort Bridger, five hundred and ninety miles; from Fort Bridger to Benicia, nine hundred and ten miles; making in all one thousand seven hundred and twenty-five miles. This is the direct route across the continent from St. Joseph to Benicia, in California.

Mr. President, I should like very much to see a Pacific railroad bill passed at this session; and if the amendment of the Senator from Iowa does not prevail, I am willing to accept the bill reported by the committee as it stands; but I think, if we are not to be cheated, we had better confine this road between the thirty-seventh and forty-third parallels. The South is not very anxious for a railroad, even along the thirty-second parallel of latitude; for New Orleans is as near to San Francisco, by the Tehuantepec route, as she would be if such a road were constructed from San Francisco to Fort Yuma, and then around by the way of St. Louis to New Orleans. And, sir, I think that, within the next two or three years, the time between New Orleans and San Francisco, by way of the Tehuantepec route, will be brought within ten or eleven days.

I regret very much that I have felt constrained to say anything in regard to the bill. I expected my colleague to have defended it, because he made, or at least he read to the Senate some days since, a very long, printed speech, occupying nearly two hours; but since that time he has not been as watchful as he was before the reading of his speech. I suppose he took it for granted that his speech convinced every Senator upon this

floor of the necessity of building a road to the Pacific. I hope it has. It convinced me of the necessity of going for a road; but as I am very anxious to build a road to California, and not to Mexico, I favor the middle route; for my colleague knows as well as I do that north of San Francisco three fourths, if not four fifths, of the people of the State of California reside. From Fort Yuma, where the southern route strikes the boundary of California, it is, I think, over seven hundred miles to San Francisco, you could not construct a railroad there within a shorter distance. If the middle route is selected, it will reach Genoa, in Carson Valley, or it will reach Noble's Pass; thence along the Sacramento Valley to Sacramento, and thence to San Francisco. From Genoa, in Carson Valley, to Placerville, in California, it is but seventy-five miles, over the old emigrant route. At Placerville there is a fine city, with a population, I suppose, of from six to eight thousand. It is one of the most populous and flourishing cities outside of San Francisco, Sacramento, and Marysville, in the State of California.

Now, if it is the intention of Congress to build a road to the State of California, this is the route to select; and, if built, there is surely enterprise enough on the part of the people of California, with liberal appropriations from us, to continue it to San Francisco. There is a railroad already constructed from Sacramento to Folsome; and it is in the process of further construction northward toward Marysville.

As I have said, I intend to vote for the amendment offered by the Senator from Iowa; for I know if any bill is passed it will have to be passed by the Senators on the other side of the Chamber. At least one half on this side is committed against it. It is because I am sincerely desirous to see a railroad constructed from the Missouri river to San Francisco that I shall favor the amendment of the Senator from Iowa.

Mr. GWIN. Mr. President, I should like to ask my colleague if he intended to charge me with any want of vigilance or delinquency in the discharge of my duty?

Mr. BRODERICK. None, sir. I consider that my colleague has exerted his whole strength on this bill.

Mr. GWIN. I have not spoken upon the bill since I opened the discussion, because I believe that too much speaking destroys bills. I have not answered objections that have been brought against this bill, because I thought that, by wasting the time in debate, we should be kept away from a vote, and that we can perfect the bill more by amendments that may be offered, than by any explanations which may be made. The bill before the Senate was elaborated and prepared by men of great experience in this body. Many of the members of the committee that reported it have been on select committees that have prepared Pacific railroad bills for many years past. It was brought here for the express purpose of being amended and perfected by the action of the Senate. If I have not addressed the Senate, there have been many occasions when I thought I could have corrected errors into which Senators had fallen; but I have, in my experience here, found that the best way to pass a bill is to come to a vote upon it; and especially is this the case with a measure like this, which has been for many years under discussion in this body.

Now, in regard to the amendment before the Senate: As I have said on many occasions before, there is no route to California that would suit my constituents so well as the one on the forty-second parallel, because it strikes the heart of population on both sides of the Rocky Mountains, and it is the very route above all others, on which the road ought to be built, if it is practicable. At the same time, in the bill reported by the select committee, they have taken the ground, and it is my own deliberate judgment, that we should not restrict capital in selecting the best route to California. When we establish the two termini at a central portion of the Confederacy on each side, it strikes me that the central route has such advantages that, if it is what is represented by my colleague, the road will inevitably be built there, and it is not necessary to put any further restriction upon it.

Mr. BRODERICK. I would ask my colleague if he knows a Senator representing a southern

State on this side of the Chamber, or on the other, who will vote for his bill if the road is to be constructed along the thirty-second parallel of latitude? for that road, after it reaches the Pacific, will have to traverse six degrees of latitude through the State of California to reach San Francisco. Four fifths of the people of California reside north of San Francisco; and, if the road is not to terminate there, of what use will it be to California? I should rather vote for a road to Mazatlan, or to the city of Mexico; it would be of as much service to California as the proposed southern road.

Mr. CLARK. Mr. President, I shall not detain the Senate more than a moment; but I wish to make a suggestion in regard to what was said by the Senator from Illinois, on the other side of the Chamber, [Mr. DOUGLAS,] yesterday. He said that if this amendment were adopted and the route restricted, this bill would be defeated. I understand to-day the junior Senator from California to say that he has no hope of the bill being passed by the Senators on the other side of the Chamber; but it must be carried by the support of the Senators on this side of the Chamber.

Mr. BRODERICK. Yes, sir.

Mr. CLARK. I now simply wish to answer the gentleman from Illinois by expressing my conviction that unless this road is limited in the way proposed, it can get but little support on this side of the Chamber, and will be killed—the very fate which he deprecates. It may be killed in either event; but I am satisfied that unless the road is limited and confined, the bill must die here.

Mr. MASON. For one, sir, I feel indebted to the honorable Senator who has just taken his seat, for the disclosure that has been made. I understand from him, so far as he is supposed to represent the opinion of the other side of the Chamber, that unless this road is limited to some line north of the parallel of 37°, on his side they will not vote for it. That means this, if it means anything; that the road is not to be made on the most advantageous terms to subserve the military purposes of the United States; but if made at all by the aid of the votes of gentlemen on that side, it must be made to subserve northern interests. I am indebted to the honorable Senator for the disclosure, and I trust that all Senators on this side will take warning and be governed by it.

Mr. DOUGLAS. I have but a word to say in reply to the statement of the Senator from New Hampshire. I am opposed to this restriction, for the reason that I think it will not only defeat the bill, but will give a plausible excuse, if not a substantial reason, for all southern men to vote against it. If we are to have but one road, in my opinion it ought to start on this side, at a central point between the North and South, and terminate on the Pacific at a central point. There is no question as to the point on the Pacific. All agree that the road should go to San Francisco. The only dispute, then, is as to the starting point in the Mississippi valley. There is a starting point named in the bill, or rather a certain limit given for its selection. Then the two termini being fixed, a further dispute arises as to what course the road shall pursue from the one terminus to the other. I am willing to leave the route, after the termini are fixed, to the contractors or capitalists who are to invest their money in the work.

If the starting point on the Mississippi valley is such that it is equally accessible to the North and to the South and to the center, in my opinion that is all we have a right to ask as northern men. Nor do I think that the North suffers in consequence of the route that may be pursued after the termini are fixed. The North has as much interest as the South that the route between the termini shall be the best and most eligible that can be laid down. If that be to bend South, let it go there; if it be to curve northward, let it take that curve; if it be a direct line, let the direct line be pursued. I am not willing to leave the political action of this Government to mark the route. We have had experience enough of wagon roads by circuitous routes that have been prescribed by the political Departments of the Government. Leave it to the contractors, to the capitalists who invest their funds, to mark out the route from one terminus to the other. I am willing to abide by the route they shall select, whether it be northern, southern, or central, so that the termini are central and accessible alike to all sections.

But, sir, I have a special objection to this lim-

itation, not merely because it excludes the southern route and the northern route, but because it excludes the Albuquerque route. The Albuquerque route is so far south as to avoid, in a great measure, the snow argument. The Albuquerque route, according to the information before us, has, perhaps, as large a portion of timber, of grass, of water, of productive soil, and all the elements to sustain a railroad, as any route across the continent. I am not prepared to say that it is the best route. If the recent information we have about the gold discoveries in Kansas and Nebraska, in the Three Parks, and on both slopes of the Rocky Mountains, be true; if those deposits of gold are as extensive and as inexhaustible as they are represented to be, my opinion is that those gold mines will settle the route beyond all controversy, if you leave the contractors to select it.

A SENATOR. What gold mines?

Mr. DOUGLAS. I mean the gold mines in Kansas and Nebraska, upon the branches of the South Platte, upon the branches of the North Platte, upon the Laramie river, upon the streams flowing into Green river, all heading between the thirty-eighth and forty-second parallels. I say, if the representations we have in regard to those discoveries are well founded, in my opinion they will determine the route on which the contractors will take in the road to the Pacific. If, on the contrary, they shall turn out not to be well founded, and it shall be discovered and sustained that the route of the thirty-fifth parallel is better, I am willing that the road shall go there.

We are interested in having the best route between the termini, and what do we care as to the degree of latitude that route may run over between the termini, so that the termini are accessible? If it is best, it is best for us as well as for everybody else. I think it is fair and just to leave the route open between the termini to be determined by the laws of physical geography—by the mountains and the valleys, by the climate, by the deposits of the precious metals, by the soil, by the laws of God, as they are marked out upon the surface of the earth. I do not wish, by law, to give an advantage to the North or to the South. I hold to that principle of legislation which treats all sections alike by the law, and leaves climate, soil, production, self-interest, the will of the people, to work out the result under our equal legislation.

Sir, I have no fears of the divergence of this railroad, if it starts from the Missouri river, down to Guayamas, on the Gulf of California. A Californian may have fear of that, and a Senator from California may justly fear it; but a man representing the great lakes has no cause for such apprehensions. If it shall be diverted to Guayamas, it will be a straight line from the lakes to the Gulf of California. That would draw the whole trade of the mines of Mexico to the lakes, and to the northern cities. If you diverged north, it might tend to draw northern trade south; but if your divergence is south, it draws the trade of the southern regions north. I would not prescribe either of these results by law. I would make our legislation fair, equal, and just, towards all sections, fixing the starting point where it is accessible to all alike; then leave the route to find its own course, according to the geography of the country and the natural advantages that would control the selection. I believe that if you go to circumscribing the boundaries within which it shall run, and prescribing certain parallels of latitude, and say that it shall not go south of 37°, even if the best route is there, you drive off southern votes; and if you prescribe by law that this route shall not go, in any event, north of 43°, how can you ask the Senators from Minnesota to support it, when you provide by law that they shall not be connected with it? Minnesota is north of 43°, and a large portion of Wisconsin is north of 43°. The upper peninsula of Michigan could not be connected with a road south of 43°. The great line of the lakes runs up through Lake Superior, aiming at a route to Puget Sound. You are now asked to provide by law that that extreme northern section shall be excluded from the benefits of this road; and also to provide by law that the extreme southern section shall be excluded. In my opinion, by these legislative exclusions you furnish grounds for reasonable men to believe that they are not to be allowed to share those advant-

ages which nature has given them. I believe in extending to every section of this Union every advantage that nature has provided for it. Make your legislation fair, equal, just; and then, if the Almighty has discriminated against either, let him complain of the laws of God, who chooses to do it; but it is not my train of thought or disposition.

Mr. BRODERICK. The Senator from Illinois is mistaken in regard to the northern route. The people now inhabiting Oregon and Washington Territories, who have left the Atlantic and western States, traveled over the middle route as far as the South Pass, and then deflected to Vancouver, or up the Columbia river. The distance from the South Pass to Vancouver is short of eight hundred miles. The distance by the extreme northern route, from Lake Superior to Vancouver, I believe is two thousand one hundred miles; the Senator from Minnesota [Mr. Rice] says one thousand eight hundred miles. I believe California has a population of half a million of souls; and the Territories of Oregon and Washington have about fifty or sixty thousand. If you build the road to California, you can deflect from Bridger's Pass, or the South Pass, to Oregon and Washington, and it will require a road of but eight hundred miles in length to connect with those Territories.

Now I will ask the Senator from Illinois, if he intends to vote for a road through California from Fort Yuma to San Francisco, when he can find a direct route across the continent, which, if it be adopted, will save the necessity of voting for any other road through the State of California? The distance, I think, is eight hundred miles from Fort Yuma to San Francisco. The Senator from Illinois and the Senator from Missouri are both mistaken about the roads along the thirty-second and thirty-fifth parallels of latitude. They both find a connection at Los Angeles, in California.

Mr. GREEN. No.

Mr. BRODERICK. I have a map before me showing that they connect at Los Angeles, and proceed from thence through the Tejon Pass to San Francisco.

Mr. GREEN. I admit that if you run both roads to that town they will connect there, but the route of neither touches it.

Mr. BRODERICK. I have before me a map made out from the reports of the different engineers.

Mr. GREEN. It is not from the reports. It is a map so marked as to show where they may reach the Pacific; but it is not the route as surveyed.

Mr. BRODERICK. Neither of these routes can reach San Francisco without passing either through San Bernardino or Los Angeles, and there is only a distance of twenty-five or thirty miles between them.

Mr. GWIN. Does the Senator say there is no route that will enter the Tulare valley except by Los Angeles?

Mr. BRODERICK. Or through San Bernardino; and it is a distance of only about twenty-five miles at the furthest, from Los Angeles to the valley that passes through the county of San Bernardino.

Mr. GWIN. The surveys show practicable passes north of the Tejon Pass.

Mr. BRODERICK. Well, sir, I have a map before me, made up from the surveys of the engineers, or explorers, sent to explore the two routes. The Albuquerque route runs down nearly to the thirty-second parallel of latitude.

Mr. GREEN. No.

Mr. BRODERICK. I think it goes between the thirty-second and thirty-third.

Mr. POLK. It does not go south of 35°.

Mr. GREEN. Will the Senator look at the map, and name the point where it comes down that low? He is altogether mistaken.

Mr. BRODERICK. I find, on looking at the map, that it comes down to the thirty-fourth parallel. But, independent of that, I would ask my colleague a question. He may be better informed about the distances through this country than I am. I know more about the populous regions of California than I do of the country lying between Los Angeles and San Francisco. I would ask him how far the road will have to travel through California if it strikes it on that line?

Mr. GWIN. According to the railroad surveys,

the surveys of Lieutenant Williamson and Lieutenant Parke, there is a perfectly practicable pass a little north of the Tejon Pass. The name of it is pretty hard to pronounce, and I will not mention it now; but it is perfectly practicable to enter the Tulare valley through it. The route on the thirty-fifth degree, that is the Albuquerque route, would go directly from the Colorado river to this pass in the mountains; it would never get as low as 34°; but would go up the Mohave river, and cross into the Tulare valley, northeast of the Tejon Pass, without even crossing the coast Range at all. I will state, though, to my colleague, that the impression which has been made on his mind originates from the fact that the San Geronimo is the very best pass. It is an open pass that runs by San Bernardino, six miles wide, through which you can ride at full gallop on a mule. It is the widest and best pass discovered through the mountains, and hence all the surveys that have looked in that direction to the Pacific ocean, have looked to reaching San Pedro, and the routes are marked in that way on the map; but the other pass to which I have alluded is as perfectly practicable.

Mr. BRODERICK. My colleague has not answered my question. I want to know the distance.

Mr. GWIN. I cannot tell the distance now, without looking at the surveys. The distance from the Colorado to Tejon Pass is marked down on the surveys of the two engineers I have named, and from there to San Francisco, running either to the right or to the left, to the east or the west of the Tulare lakes. I cannot state the distance exactly, but it is on all the surveys.

Mr. BRODERICK. Well, Mr. President—

Mr. SEWARD. Will the honorable Senator from California indulge me with an opportunity to make a motion to adjourn? ["No, no; let us vote."]

Mr. GWIN. Let us have a vote to-day.

Mr. SEWARD. Let us take the vote to-morrow. The debate is not ended. I move to adjourn.

Mr. CLARK. I ask the Senator from New York to withdraw the motion.

Mr. BIGLER. I call for the yeas and nays on the motion to adjourn.

Mr. SEWARD. I withdraw the motion.

Mr. PUGH. I renew the motion that the Senate adjourn.

Mr. CLARK. I am much obliged to the Senator from New York.

The PRESIDING OFFICER. The Senator from California had the floor.

Mr. BRODERICK. I merely wish to state that in the event of the failure of the amendment of the Senator from Iowa, I shall vote for the bill as it is. I will vote for the amendment of the Senator from Massachusetts, and the amendment of the Senator from Iowa to that. As I did not wish to humbug any Senator by the bill, I did not care about recording my vote without stating the reasons for it.

Mr. CLARK. I was opposed, Mr. President, to the motion to adjourn, and I hoped the Senator from New York would withdraw it, as he has done, because I am perfectly aware that it was said by the honorable Senator from Connecticut [Mr. FOSTER] yesterday, that unless we come to a vote soon, this bill will be defeated, and if we adjourn from day to day, and this discussion goes on from day to day, it will certainly lead to its being defeated. Hence I was anxious to submit what few remarks—and they are very few—I have to make, at this time; and I may say that I should have said nothing further, had it not been for the remarks of the honorable Senator from Virginia, [Mr. MASON.] I did not mean to be drawn into this debate until all the amendments had been offered and voted on; and then, if there had been a satisfactory bill perfected, I intended to give it my support. If the bill had not been satisfactory, I intended to announce to the Senate my reasons for not supporting it, and I should have voted against it. But since the remarks that I made a little while ago have been received by the Senator from Virginia as hostile to the South and to southern interests, I desire to state briefly to the Senate the motives that induced me to make those remarks, and to explain a little more fully my views in regard to this bill.

The Senator from Wisconsin [Mr. DOOLIT-

LE] has brought in an amendment, that the President be authorized to proceed to survey three routes, and contract for three roads. I am one of those who believe it entirely impossible to make three railroads, or, if not impossible, entirely undesirable; and I am not so sure as I could wish to be, that one road is desirable. I am certainly sure that not more than one road is desirable; for after all the talk about carrying your mails, and about the defenses of the country, and about the freight on this road I am free to say, here in the Senate to-day, that if you had the road made to your hand, if you had it equipped and in running order, as the country is, you could not form a company in the United States strong enough to run it, or that would dare to run or undertake it; and hence there is no necessity for, and no probability that there will ever be, three roads made.

Well, sir, if you cannot have three roads, what is the next best thing? Here are the southern gentlemen saying that they must have the southern route; here is my friend from Wisconsin saying he must have the northern route. I believe myself that the northern route is the best route. I am from the north country, the extreme North-east, away up in the cold latitude. I am partial to it; as partial to it as the gentlemen over the way are to the extreme South. I could wish for a northern route leading to Puget Sound—I believe that to be the best route—but I do not now believe it feasible or practicable to secure a road over it. I would say to the gentleman from Virginia, I will come down into the latitude of your own State, where you live, and make this road there as a peace offering. Is not that fair? You gentlemen from the South, I might say, can reach it as well as we gentlemen from the North. We like our northern route; you like your southern route; now, meet us half way and we will have a road. While you insist on your southern route, we insist on our northern route, and the middle-men insist on their middle route, and you can have no road at all. Then is not my proposition a fair one? A threefold cord is not easily broken. I am for twisting up these routes into a threefold cord and putting them through; and I am met by saying that the southern people are to have no voice in this matter. They are to have just as much voice as we northern men have. We meet you half way in a fraternal spirit, and we meet you for this purpose; not for carrying the mail, not for carrying munitions of war, but we meet you half way in a great political point of view, to put a band around the center of the country that shall bind it forever together. Will you accede to that proposition?

I said that I could not vote for any bill that was not restricted as to route. Why? In the first place, I will not, by my vote, give to the President the power, I will not give him an opportunity, when we expect a route in the center, of going north; or, when we expect it on northern ground, of going south; or, when we expect it on the southern route, of going north. Somebody by this bill has got to be cheated; worse than that, two parties out of three have got to be cheated. The northern men expect it will go north by some management; the southern men expect it will go south by some management; the middle men expect it will go on the middle ground by some management, or without management. Now, it cannot go on more than one route; and hence two parties are to be cheated, or certainly disappointed. Now, we offer to put it on the middle ground, define it, fix it, and nobody will be cheated, and nobody disappointed; and then, if it cannot command the support of the country, let it fail; but do not let the bill pass under a hope which is destined to prove a delusion. This is all I wish to say, sir: I think I have made myself explicit.

Mr. SEWARD. I move that the Senate adjourn.

Mr. MASON. I hope the Senator will withdraw that motion, that we may have an executive session of a few minutes.

Mr. SEWARD. I withdraw the motion.

Mr. DOUGLAS. I do not agree to the position assigned to me and to others by the Senator from New Hampshire. I do not admit that anybody is to be cheated by the location of this route by the President of the United States. My understanding is, that the termini being fixed, the route is to be marked, not by the President, not

by the Cabinet, but by the contractors. If the bill is equivocal on that point, let us make it certain by saying that the contractors shall mark their own route between the termini, making it clear and specific. On that point, then, we come right back to the question, is any man to be cheated? Every section is interested in having the best, shortest, easiest, quickest route between the termini. It may be that the shortest route in miles will not be the quickest in time. That will depend upon grades and upon other circumstances. We are interested in having the shortest, quickest, best route between the termini; and I know of no body of men on earth who are so certain to secure these results as the contractors and capitalists who put their money into the enterprise. Hence, I reject these parallels and substitute in lieu of them the interest of the road, which is the interest of all the sections connected with it. This is the point upon which I place my objection to these limitations. The Senator from New Hampshire says he will take the thirty-seventh parallel, and run it straight through.

Mr. PUGH. Will the Senator allow me to make him a suggestion? We did that with the overland mail route precisely? We left every one of the contractors to bid; they all did bid; the Postmaster General rejected all their bids; and instead of that made a new route for himself, that Congress never intended to make. I voted for that overland mail, expecting it to commence at St. Louis and go to San Francisco. I never intended this horse-shoe, running down for the benefit of Memphis and all that, and therefore I will not trust any contractors when they are at the mercy of the Postmaster General.

Mr. DOUGLAS. I have only to say that I have no apologies to make for the conduct of the Postmaster General in marking out a route different from that contemplated by the law. I have made no complaints, and I have no apologies to make. In my opinion, (and I should not have referred to it but for the suggestion of the Senator from Ohio,) the law with reference to the overland mail route was not carried out as it was understood by Congress.

Mr. IVERSON. I should like to interrupt the Senator, and ask him how he knows that Congress intends so and so? I was favorable to that bill; I do not remember whether I voted on it, but I did not understand that the mail was to be carried over the northern part of the country. I might have understood, and many members who voted for that bill might have understood, that the Postmaster General was to have a margin. How did the law fix the matter? The law did not fix it.

Mr. PUGH. The law said it was to be according to the bids.

Mr. DOUGLAS. I will answer both the gentlemen. My understanding of that law was, that the contractor, after the starting-point was determined, was to find his own route to the Pacific. I understand that the contractor bid on a route which he desired to follow; that the Postmaster General overruled him, and compelled him to go on a different route. If that be true, in my opinion, that was not a fair execution of that law as it reads; and I draw the intention of Congress from the law itself. But my object is not to arraign the Postmaster General because of the mode in which he executed the law. I do not choose to go into the question whether he has acted properly or not. I did not intend to allude to it; but I do say that the mode in which that law was executed is sufficient to put us on our guard, and to lead us to make this bill so specific that we shall not have cause to complain when it shall be passed and put into execution. Hence I shall vote for amendments to say specifically that the route between the termini shall be marked out by the contractors, and by them alone; and not allow any officer of the Government to come in and say, "you shall go down there, or you shall go up there," when the law intends to allow the contractors to follow their own route. That is all I intend to say on this point. As I will not prescribe the limits by law, much less will I allow an executive officer to mark them out for us; but I will let self-interest and capital find out where the best route is. I think in that there is no danger of either party being cheated.

Mr. MASON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; the vote, on a division, being—ayes 22, noes 17.

Mr. CHANDLER. I move that the Senate adjourn.

The PRESIDING OFFICER, (Mr. STEWART in the chair.) That motion is not now in order.

Mr. TRUMBULL. Is not a motion to adjourn in order?

The PRESIDING OFFICER. Not at this time.

Mr. TRUMBULL. I appeal from the decision of the Chair, and ask for the yeas and nays on the appeal.

The PRESIDING OFFICER. The Sergeant-at-Arms will clear the galleries.

The galleries were cleared, and the Senate spent some time in executive session. When the doors were reopened, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 13, 1859.

The House met at twelve o'clock, m. Prayer by Rev. SAMUEL ROGERS.

The Journal of yesterday was read and approved.

CHAPLAINS.

Mr. CURRY, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy, during the present session, be requested to communicate to this House the number of chaplains appointed in any branch of the naval service since 1813; the religious denomination to which each person so appointed was attached, so far as it can be ascertained; whether chaplains, by any Navy regulation, or any act of commanders of vessels or stations, are required to use a particular uniform or clerical dress, including a gown, or to read prayers, or to comply with any particular forms or ceremonies of Divine service; and whether there is any evidence on file in the Department tending to show that non-Episcopal ministers are required by officers of the Navy to use the Episcopal liturgy.

CASE OF JUDGE IRWIN.

Mr. HOUSTON. I rise to a privileged question. I am instructed by the Committee on the Judiciary to have a certain number of witnesses subpoenaed and brought before that committee. Upon examining into the subject, however, I suppose the committee must get permission of the House before it can exercise an authority of that sort. I therefore propose the following resolution:

Resolved, That the Committee on the Judiciary be authorized to send for persons and papers, and examine witnesses on oath, in relation to the charges made against Hon. Thomas Irwin, judge of the United States district court of the western district of Pennsylvania.

The resolution was agreed to.

EVANS'S GEOLOGICAL REPORT.

Mr. DAVIS, of Indiana. I rise to a privileged question. I wish to call up the motion made by the gentleman from Tennessee [Mr. JONES] during the last session of Congress, to reconsider the vote by which the geological report of Dr. Evans, of the Territories of Oregon and Washington, was ordered to be printed.

Mr. WASHBURN, of Illinois. I rise to a question of order. Is not there a special order assigned for this day?

The SPEAKER. It is in Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I ask the gentleman from Indiana to give way a moment that I may offer a resolution calling for information from the Departments.

Mr. DAVIS, of Indiana. I want to dispose of this question now. I appeal to the gentleman from Tennessee to withdraw the motion to reconsider, and that will save considerable time of the House.

Mr. JONES, of Tennessee. I am opposed to printing that work; and, if I withdraw the motion, I suppose the printing will go on.

Mr. DAVIS, of Indiana. Certainly.

Mr. JONES, of Tennessee. Then I decline to withdraw it. The gentleman can call up the motion, and let the House dispose of it.

Mr. DAVIS, of Indiana. I shall occupy but a moment of the time of the House in presenting the facts in relation to this report. I think it ought to be printed. In 1851, the Government ordered Dr. John Evans to make this survey of Oregon and Washington Territories. Dr. Evans went on, in pursuance of the order of the Government, and made the survey and reconnaissance

of those Territories. He has made his report to the proper Department; and the President of the United States, at the last session of Congress, transmitted that report to this House. It was ordered then, upon my motion, to be printed. The gentleman from Tennessee subsequently submitted a motion to reconsider that vote; and there the question now rests. That survey has cost the Government now about forty-four thousand dollars. It was ordered by the Government. Dr. Evans has performed his duties well, ably, and faithfully.

Mr. BARKSDALE. What will the cost of publication be?

Mr. DAVIS, of Indiana. The cost of printing fifteen hundred copies, the usual number, is estimated by the Superintendent of Public Printing to be \$7,140. The question then is, will the Government, after having ordered this survey, and the report has been made, refuse to publish it.

Mr. BURNETT. I wish to make an inquiry with a view of raising a point of order. My recollection is that this is the question upon which we were voting when the House adjourned at the close of the last session, and that the particular question upon which we were then voting was a motion to lay the motion to reconsider upon the table. Is that so? If so, it cuts off discussion.

Mr. DAVIS, of Indiana. There was such a motion made, but it was withdrawn.

The SPEAKER. The fact was, that the gentleman from Tennessee [Mr. JONES] moved to reconsider the vote by which this document was ordered to be printed. Subsequently, the gentleman from New York [Mr. BENNETT] called up the motion to reconsider; and pending the question upon the motion to reconsider, and not upon the motion to lay upon the table, the hour arrived which was fixed for the adjournment of the two Houses of Congress. No motion was made to lay upon the table.

Mr. NICHOLS. If the gentleman will yield to me a moment, I will answer the question of the gentleman from Kentucky.

Mr. DAVIS, of Indiana. I yield for that purpose.

Mr. NICHOLS. This question involves the printing only of the regular numbers, without reference at all to extra numbers.

Mr. DAVIS, of Indiana. I was going on to make that statement when I was interrupted.

Mr. HUGHES. I should like to know whether the \$7,140 covers the entire expense of the publication of the work? Does it pay for engraving maps, drawings, &c.?

Mr. DAVIS, of Indiana. It does. I was about inquiring, when interrupted, whether the Government, after expending \$44,000 in getting up this work, which is itself invaluable, will feel itself justified in withholding \$7,000 for its publication? The Committee on Public Lands of the last session, and the Committee on Public Lands of this session, have recommended the publication of this work. The Commissioner of the Land Office and the Secretary of War have made a like recommendation.

Mr. BARKSDALE. Is the manuscript of the work all ready for the Printer?

Mr. DAVIS, of Indiana. It is; as the chairman of the Committee on Printing will bear me witness.

Mr. DAVIS, of Mississippi. The Government is now embarrassed. It is doubtful whether we can provide for the wants of the Government for the next fiscal year without a loan. Would it, therefore, not be better to permit the manuscript to remain where it is, on file, until the Government is in better condition to meet the expenses. Would the manuscript be injured in a few years?

Mr. DAVIS, of Indiana. I have no evidence that the Government will be any more able two years hence to print this document than it is now. On the contrary, sir, I think that the indications are, that it is now better able to print it than it would be then. It would be bad faith, to say the least of it, not to order the printing of the report of this geological survey of Oregon and Washington Territories.

Mr. BURNETT. Mr. Speaker, with the gentleman's permission, I will state that I occupy this position on the subject of printing books by order of Congress: Congress has heretofore become the publisher of a large number of works that are

worthless, and I am opposed to printing any more of them. While the gentleman has stated his case—and I presume that it is his intention to move that the motion to reconsider be laid upon the table—yet, sir, he does not tell us any particulars which justify us in ordering the printing of this report of a geological survey. He tells us that the Secretary of War and the Commissioner of the General Land Office recommend its publication. He tells us that the survey has cost over forty thousand dollars, and that the printing of fifteen hundred copies would cost \$7,140. He tells us all this, and yet, sir, he does not tell us that the work contains one particle of information valuable to the country; that there is in it anything valuable either to the Territories of Washington and Oregon, or to the people of the remaining portions of the Union. I am opposed, on principle, to the publication of books by the Government. We publish fifteen hundred copies now, and it will not be long before we are asked to print extra copies. This has been the history of all such works which have heretofore been published. The usual number, when printed, has been invariably followed by orders to print extra copies. Why should we publish a single copy of this document? Where will this information go? Who will read it? How many will consult and examine it? It is true that it may be said that \$7,000 is a small sum; but the reasons which have been stated for the publication of this work are not such as commend themselves to my approval.

Mr. DAVIS, of Indiana. I did not yield for a speech, but for a question. The gentleman from Kentucky inquires whether this document contains any valuable information? I answer that it does; and information, sir, that, until the making of this report, was never brought to the attention of the country. Let me, in this connection, ask the Clerk to read an extract from the report of the Commissioner of the General Land Office. It will, I think, satisfy the scruples of the gentleman from Kentucky.

The Clerk read as follows:

"The report of Dr. Evans discloses the results of his reconnaissance and explorations, during four years and a half, highly favorable. Rich coal fields of semi-bituminous coal have been found in various places on Puget Sound, at Goose bay, and other navigable waters, and in other inland places, of an inexhaustible extent; he has also discovered, on a large tributary of the Columbia river, mountains of limestone, marble, gypsum, &c.

"The services rendered by the geologist to the country, in the exploration of vast ranges of Oregon and Washington Territories, and some of their localities, hitherto unvisited by scientific explorers, have been highly commended by repeated legislative resolutions in Oregon and Washington Territories, and greatly appreciated by persons engaged in commercial, agricultural, and mining pursuits, who have urged the importance of geological explorations by Dr. Evans; and, considering his labors eminently useful in a scientific point of view, as well as of subserving the interests of the Pacific shore, by indicating the localities of the country possessing mineral and agricultural wealth to our enterprising citizens, whose commendations of Dr. Evans's explorations, in the opinion of this office, are worthy of the approbation and fostering care of this Government.

"The upshot of the matter is briefly this: either what has been done in the way of exploration and development of coal deposits under appropriations by Congress is to go for nothing and remain useless, or be brought to light in proper form, as proposed by further appropriations, to close the business and make the results available.

"The effect of the latter measure would be to open up new sources of trade to active industry in the extraction and sale of coal on the Pacific; thereby furnishing the material for propulsion, essential in our rapidly growing steam commerce on the Pacific, at cheap rates, instead of the enormous cost of the article imported from the east.

"Even in this respect the measure will contribute eminently to the advantage of that distant portion of our territory, whilst it will subserve the interests of the whole country."

Mr. DAVIS, of Indiana. The Secretary of the Interior, in a letter of the 30th ultimo, writes thus:

"I have formed the opinion that the publication of the report would tend to develop the agricultural and mineral resources of the Territories bordering on the Pacific."

The Secretary of War writes in this wise:

WAR DEPARTMENT,

WASHINGTON, January 25, 1858.

SIR: In reply to your request for my views respecting the publication of the report of Dr. John Evans, I have to state that the examination of Dr. Evans extended over lines twenty-four thousand miles in length, embracing the regions traversed by the route explored for a Pacific railroad near the parallel of 47° north latitude; that collections have been made along all the lines passed over of the prevailing rocks, minerals, and soils, which, in connection with other information gathered, exhibit the character and capabilities of the regions explored, their fitness for occupation and settlement, the facilities they afford for the construction of rail and common roads; all of which I regard of very great value, not only in connection with the project of constructing a

railroad to the Pacific, but with the military operations of the country.

The itineraries and topographical sketches of Dr. Evans likewise give useful information. For these reasons, I esteem the publication of this report to be important.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

HON. JOHN G. DAVIS, House of Representatives.

Mr. RUFFIN. I wish to ask the gentleman what is the estimated cost of the publication?

Mr. DAVIS, of Indiana. For printing the usual number of copies, fifteen hundred, the estimated cost is \$7,140. That is the motion we are now considering.

Mr. RUFFIN. I ask the gentleman whether it was not stated last session that the cost would be \$26,000?

Mr. DAVIS, of Indiana. That was for printing five thousand copies. It is a matter for the future consideration of the House, whether extra copies will be ordered.

Now, Mr. Speaker, I am not much in favor of having books printed by order of Congress, as you will bear me witness; but I think that this is an exception to the rule. I have examined the matter carefully, at the last session of Congress and at the present session. Having said this much, I move—

Mr. JONES, of Tennessee. Before the gentleman makes his motion, I desire to ask him one question. I understood him to say that the making of this survey and report has cost the Government \$44,000, and that the report contains very valuable information. Will the gentleman who made this survey and report take the copyright, if we give it to him; or will any publisher in the world print it? If so, it can be had, so far as I am concerned, with great pleasure.

Mr. DAVIS, of Indiana. I have not presented that question to Dr. Evans, and I do not intend to do so. It is none of my business. My business is to present this case, as a member of the Committee on Public Lands. I have done so, and now, in conclusion—

Mr. REAGAN. I desire to know from the gentleman whether the work is finished, because I understood from Dr. Evans, at last session, that he had stopped the work in consequence of the printing not having been ordered by Congress.

Mr. DAVIS, of Indiana. The work is finished. It is contained in one volume.

Mr. SMITH, of Virginia. I should like to know the size of the work. Of how many pages is this volume to consist?

Mr. DAVIS, of Indiana. I have the information here, but I cannot put my hand upon it. I understand that the volume is to be about the size of Dr. Owens's geological report.

Mr. NICHOLS. I will answer the question of the gentleman from Virginia, if he will permit me.

Mr. SMITH, of Virginia. I shall be glad to hear the gentleman.

Mr. NICHOLS. The book makes four hundred and fifty pages of letter press, twenty-five of engravings, and two maps. That is the extent of the work.

Mr. SMITH, of Virginia. Well, is it finished?

Mr. NICHOLS. It is finished, and is now in the office of the Superintendent of Public Printing.

Mr. BARKSDALE. I understood the gentleman from Indiana to state that he did not know whether the work was finished. I desire the gentleman from Ohio to state whether it is or not.

Mr. DAVIS, of Indiana. I stated emphatically that the work is complete. It is now before the Committee on Public Lands.

Mr. RUFFIN. As I opposed this matter in committee, I want to state in the House my reasons for doing so. I hope the gentleman from Indiana will not make his motion without giving others a chance to be heard.

Mr. DAVIS, of Indiana. I should be very glad to accommodate the gentleman, but I see that the matter is going to open up a discussion that will consume the whole day.

Mr. RUFFIN. I promise to detain the House but a few minutes. I think that, as a matter of courtesy, I ought to be heard.

Mr. MAYNARD. I understood the gentleman to state, a short time since, that the expense of the printing would be \$7,140, and no more. I would

like to ask the gentleman from Ohio what was the cost, per volume, of printing the Pacific railroad reports?

Mr. NICHOLS. They averaged nearly one hundred thousand dollars per volume, counting the extra and regular numbers.

Mr. DAVIS, of Indiana. I move to lay the motion to reconsider on the table.

Mr. SMITH, of Virginia. On that I call for the yeas and nays.

Mr. JONES, of Tennessee, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. ANDREWS, and CRAIG of Missouri, were appointed.

The House divided; and the tellers reported ayes thirty-seven; more than one fifth of the members present.

So the yeas and nays were ordered.

Mr. PHELPS, of Missouri. For the purpose of having a test vote on this question, will the gentleman from Indiana withdraw his motion to lay on the table, and let the vote be taken on the motion to reconsider? That will save time.

Mr. DAVIS, of Indiana, declined to withdraw his motion.

The question was taken; and it was decided in the affirmative—yeas 94, nays 87; as follows:

YEAS—Messrs. Adrain, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Coffax, Conins, Corning, Covode, James Craig, Curtis, Davis of Indiana, Daves, Dewart, Dinwiddie, Dodd, Durfee, English, Eustis, Farnsworth, Fenton, Giddings, Gilis, Goodwin, Grainger, Gregg, Lawrence W. Hall, Harlan, Haskin, Hatch, Hoard, Horton, Howard, Hughes, Huyler, Keim, Kelley, Knapp, Jacob M. Kunkel, Leach, Leidy, Lovejoy, Matteson, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Murray, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Scott, Searing, Judson W. Sherman, Samuel A. Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Thompson, Underwood, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Woodson—94.

NAYS—Messrs. Anderson, Atkins, Barksdale, Bishop, Bockock, Bonham, Bowie, Boyce, Branch, Buffinton, Burnett, Caruthers, Caskey, Clay, Cobb, John Cochran, Cockrell, Cox, Crawford, Curry, Davis of Mississippi, Dean, Dowdell, Elliott, Foley, Foster, Garnett, Gartrell, Gilmer, Greenwood, Groesbeck, Robert B. Hall, Harris, Hawkins, Hickman, Hopkins, Houston, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Kilgore, John C. Kunkel, Landy, Lawrence, Leiter, McQueen, Humphrey Marshall, Samuel S. Marshall, Miles, Miller, Millson, Moore, Isaac N. Morris, Niblack, Pendleton, John S. Phelps, Powell, Ready, Reagan, Ruffin, Sandidge, Savage, Henry M. Shaw, John Sherman, Shorter, Robert Smith, William Smith, Stallworth, Stephens, Stevenson, Thayer, Tompkins, Trippe, Vallandigham, Vance, Watkins, White, Wilson, Winslow, Wood, Wortendyke, Augustus R. Wright, and Zollcoffer—87.

So the motion to reconsider was laid on the table.

Pending the vote,

Mr. BLISS said: I desire to state that I have been detained at home by the illness of myself and family. During that period I have paired off with Mr. WARREN. But I understand the terms of that pair to extend only to political questions, and I am, therefore, at liberty to vote on this question. I vote "ay."

Mr. FLORENCE asked leave to vote, having been out of the Hall, attending to business of his constituents, when his name was called.

Mr. DEAN objected.

Mr. FLORENCE. If I had been in the Hall when my name was called, I would have voted "ay."

The vote was then announced as above.

MARTIN PATTEN HADINE.

Mr. DAVIS, of Mississippi, by unanimous consent, introduced a bill for the relief of Martin Patten Hadine, of Pontotoc county, Mississippi; which was read a first and second time, and referred to the Committee on Public Lands.

CIVIL APPROPRIATION BILL.

Mr. HUGHES, by unanimous consent, introduced a bill to repeal section nineteen of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1859," approved June 12, 1858; which was read a first and second time, and referred to the Committee on Expenditures in the State Department.

PACIFIC RAILROAD.

Mr. UNDERWOOD. I ask the unanimous consent of the House to introduce a bill for the

construction of a railroad from the waters of the Gulf of Mexico to the waters of the Pacific ocean, in order that it may be referred to the select committee on the Pacific railroad, and printed.

Mr. STEPHENS, of Georgia. I object to that bill, and to all others; and insist on the regular order of business.

NAVAL APPROPRIATION BILL.

The SPEAKER stated that the regular order of business was the consideration of House bill (No. 712) making appropriations for the naval service for the year ending June 30, 1860; the pending questions being the motions to refer the same to the Committee of the Whole on the state of the Union, and to the Committee on Naval Affairs, on which the gentleman from South Carolina [Mr. KEITT] was entitled to the floor.

Mr. KEITT. I move the previous question.

Mr. GARNETT. I ask my friend from South Carolina to allow me to move an amendment to the motion for reference to the Committee on Naval Affairs. I wish to move an amendment instructing that committee to inquire what reductions in the appropriations can be made without detriment to the public service.

Mr. KEITT. If I yield to the gentleman for that purpose, shall I then be entitled to the floor?

Mr. RITCHIE. I object to the gentleman's yielding the floor, unless he yields it entirely.

Mr. GARNETT. I will renew the demand for the previous question, if my friend from South Carolina will yield to me.

Mr. KEITT. Well, I yield the floor to the gentleman to make his motion.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair: will not the previous question cut off the instructions?

The SPEAKER. The Chair thinks not.

Mr. GARNETT. I now offer the amendment I have indicated, and move the previous question.

The previous question was seconded, and the main question ordered.

The question being first upon the motion to refer the bill to the Committee of the Whole on the state of the Union, upon which the yeas and nays had been ordered, it was taken; and decided in the affirmative—yeas 97, nays 78; as follows:

YEAS—Messrs. Ahl, Arnold, Atkins, Barksdale, Bishop, Bowie, Branch, Caruthers, Caskie, Cavanaugh, Chapman, Clay, Cobb, John Cochrane, Cockerill, Comins, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edie, Elliott, English, Eustis, Fenton, Foley, Garnett, Gartrell, Gilmer, Greenwood, Gregg, Lawrence W. Hall, Robert B. Hall, Hickman, Hopkins, Houston, Howard, Hughes, Huyler, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Landy, Leidy, Leiter, McKee, Samuel S. Marshall, Mason, Miller, Milson, Morrill, Freeman H. Morse, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, Phillips, Pike, Ready, Reagan, Reilly, Ricard, Ritchie, Royce, Sandidge, Savage, Seales, Scott, Searing, Henry M. Shaw, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, William Stewart, Tappan, Underwood, Vallandigham, Vance, Elihu B. Washburne, Israel Washburn, Watkins, White, Woodson, Wortendyke, and Augustus R. Wright—97.

NAYS—Messrs. Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bocock, Brayton, Buffinton, Burlingame, Burus, Case, Chadlee, Ezra Clark, Horace F. Clark, Colfax, Covode, Curtis, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dodd, Durfee, Faulkner, Foster, Gilman, Goodwin, Granger, Grow, Harlan, Harris, Haskin, Hoard, Horton, Keim, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Lawrence, Leach, Lovejoy, Matieson, Maynard, Miles, Montgomery, Morgan, Edward Joy Morris, Isaac N. Morris, Mott, Murray, Olin, Parker, Pettit, Potter, Pottle, Purviance, Robbins, Roberts, Ruffin, John Sherman, Judson W. Sherman, Robert Smith, William Smith, Spencer, Stanton, Thayer, Thompson, Tompkins, Wade, Waldron, Walton, Cadwalader C. Washburn, Wilson, and Zollieffer—78.

So the bill was referred to the Committee of the Whole on the state of the Union.

REPORTS FROM COMMITTEES.

The SPEAKER then proceeded to call the committees for reports, commencing with the Committee of Elections.

Mr. HOWARD, from the Committee of Ways and Means, reported back the memorial of J. W. Cochrane, and moved that the committee be discharged from the further consideration of the same, and that it be laid on the table and printed.

The motion was agreed to.

On motion of Mr. MARSHALL, of Illinois, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the petition of Edward Haydin and James Atwell, and that the same be referred to the Committee on Military Affairs.

Mr. MAYNARD, from the Committee of Claims, made adverse reports on the petitions of Eli Hart and Captain Daniel Harbaugh, and on the report of the Court of Claims in the case of J. H. Waggaman; which were severally laid upon the table, and ordered to be printed.

Mr. MAYNARD. I wish to make a statement to the House in connection with the case on which I am now about to report. It appears that on the 8th of January, 1849, Congress passed a law allowing this claim. It further appears, from a letter received from the Treasury Department, that as late as 1856, the money remained undrawn in the Treasury, and yet the matter has been referred to the Committee of Claims at every Congress, from that time until now. I report back the petition of Charles Waldron, and move that the Committee of Claims be discharged from the further consideration of the same, and that it be laid on the table.

The motion was agreed to.

Mr. KUNKEL, of Pennsylvania, from the Committee of Claims, reported a bill for the relief of James Collier; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. GOODWIN, from the same committee, made adverse reports on the petitions of Reuben B. Heacock, Aaron S. Thumber, Lucy G. Gray, and Amos Wilmot; which were severally laid upon the table, and ordered to be printed.

He also, from the same committee, reported a bill for the relief of D. H. Johnson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

On motion of Mr. GOODWIN, the Committee of Claims was discharged from the further consideration of the petition of the surviving children of Jabez B. Rooker; and the same was referred to the Court of Claims.

Mr. EUSTIS. I ask the unanimous consent of the House that Senate bill No. 495 may be taken from the Speaker's table, and referred.

No objection being made, Senate bill (No. 495) authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

Mr. DAVIDSON, from the Committee of Claims, reported back, with a recommendation that it do pass, Senate bill (No. 374) for the relief of George J. Knight; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

He also, from the same committee, reported a bill for the relief of Samuel Perry; which was read a first and second time, and, with the report, ordered to be printed.

Mr. ARNOLD, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 212) for the relief of Joseph C. G. Kennedy; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

Mr. MARSHALL, of Illinois, from the same committee, reported adversely on the report of the Court of Claims (No. 170) in the case of J. L. Worden; which was laid on the table.

He also, from the same committee, made an adverse report on the petition of Zetes Newell; which was laid on the table, and ordered to be printed.

Mr. JOHN COCHRANE. I am instructed by the Committee on Commerce to report a bill to authorize, the registering of the schooner Enterprise, of Wilson, New York, and to ask that it be put on its passage.

The bill was read a first and second time.

Mr. JOHN COCHRANE. The Secretary of the Treasury, upon application made to him, approves of this bill. The facts are simply these. The schooner was built by the person for whose benefit this bill is introduced. It was sold to a Canadian and a mortgage taken, but with the title still in the mortgagee. The schooner was subsequently sold under Canadian laws, and was purchased by the original mortgagee to preserve his own title, and he now asks for an American registry.

The bill was then ordered to be engrossed and

read a third time; and being engrossed, it was read the third time, and passed.

Mr. JOHN COCHRANE. I am instructed by the same committee to report back a joint resolution (No. 39) to authorize the Secretary of the Treasury to sell a certain plat of land in the city of Petersburg, Virginia, belonging to the United States, and to ask that it be put upon its passage.

The bill was read.

Mr. JOHN COCHRANE. Application was made in reference to that matter to the Treasury Department for information, and a letter was received in reply, which I ask may be read.

The letter was read, and is as follows:

TREASURY DEPARTMENT, December 24, 1858.

SIR: I have to acknowledge the receipt, this day, of your letter of the 22d instant, transmitting form of a proposed joint resolution, authorizing the Secretary of the Treasury to sell a portion of the custom-house lot at Petersburg, Virginia, which is herewith returned.

The portion of the lot which it is proposed to sell and convey is not required for the public service, and the Department perceives no objection to the sale, provided a fair and proper price can be obtained.

Very respectfully,

HOWELL COBB,
Secretary of the Treasury.

To Hon. JOHN COCHRANE,
Chairman Committee on Commerce.

The resolution was then ordered to be engrossed, and read a third time; and being engrossed, it was read the third time, and passed.

Mr. JOHN COCHRANE. I am instructed by the same committee to report back joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas, with an amendment thereto, and to ask that it be put upon its passage.

The resolution was read.

The amendment recommended by the Committee on Commerce was to add to the bill the following proviso:

And provided further, That the consent, in writing, of the contractors and their sureties for the construction of said custom-house for such alteration, shall be first had and delivered to the Secretary of the Treasury.

The amendment was agreed to.

The resolution, as amended, was then ordered to be read a third time.

It was read the third time, and passed.

Mr. JOHN COCHRANE, from the Committee on Commerce, made adverse reports on the following resolutions and bill:

The resolution of the Legislature of the State of California, praying for an appropriation;

The concurrent resolution of the Legislature of the State of California asking for an appropriation to build and construct a breakwater in said State; and

A bill (H. R. No. 704) for the construction of a marine hospital at Cairo, Illinois.

The Committee on Commerce was discharged from the further consideration of the resolutions and bill; and they were laid on the table.

On motion of Mr. JOHN COCHRANE, the Committee on Commerce was discharged from the further consideration of the following cases, and they were laid upon the table:

The memorial of John Brooks and others, citizens of Bridgeport, Connecticut;

The memorial of citizens of Oswego county, New York; and

The memorial of three hundred citizens of Chautauque county, New York.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported back resolutions of the State of Georgia, requesting Congress to appoint a commission to inquire into the limits and extent of the southern pine belt, and moved that they be referred to the Committee on Public Lands; which motion was agreed to.

He also, from the same committee, reported a bill for the survey of the harbors of San Diego and San Pedro, in the State of California; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report and accompanying papers, ordered to be printed.

He also, from the same committee, reported a bill for the survey of Galveston harbor, the mouth of the Brazos river, Matagorda Pass, Aransas Pass, and Brazos Santiago, State of Texas; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report and accompanying papers, ordered to be printed.

CLERKS TO COMMITTEES.

Mr. JOHN COCHRANE offered the following resolution:

Resolved, That the standing committees of the House, which, at the last session thereof, were authorized to employ clerks, be authorized to employ clerks for the present session, at the same rate of compensation; and that their compensation be from the date of their service.

Mr. DEAN objected.

FISHING BOUNTIES.

Mr. HOUSTON. If the gentleman from New York will give me his attention, I will propound an interrogatory to him. Will he tell the House what has become of the Senate bill for the abolition of fishing bounties, which was referred to the Committee on Commerce at an early day of the last session? Does that committee intend to bring that bill before this House, and give the Representatives of the people opportunity to say whether or not they will do away with this heavy tax upon the pockets of the people? Is it the design to suppress this bill?

[Loud cries of "Order!"]

Mr. WASHBURN of Illinois. I call the gentleman to order. The chairman of the Committee on Commerce, unless by order of the committee, has no right, under the rules, to state what has been its action.

Mr. HOUSTON. I beg the gentleman's pardon. I thought the Speaker, and not the gentleman from Illinois, was here to preserve and control the order of the House.

CHANGE OF VESSELS' NAMES.

Mr. COMINS, from the Committee on Commerce, reported back Senate bill (No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved 5th of March, 1856, with the recommendation that it do pass.

The bill was read *in extenso*.

Mr. COMINS. I desire to say a few words before a vote is taken on this bill. It is well known that frequent applications are made to Congress for the enactment of special laws authorizing the Secretary of the Treasury to change the names of vessels in certain cases. So frequent were these applications in the early part of the Thirty-Fourth Congress, and so great oftentimes was the delay in getting bills through both Houses, it was deemed expedient that a general law should be passed authorizing the Secretary of the Treasury to change the names of vessels, in certain cases, and under such rules and regulations as he might adopt. It was under these circumstances, prompted by the requests of many merchants, that the law of 1856 was passed. It was supposed the Secretary of the Treasury would adopt stringent regulations, and act with extreme caution in each and every case which might arise. But such does not appear to be the case. In reply to a resolution which I had the honor to offer on the 16th of March last, with especial reference to the change of name, and loss, of the late Central America, alias the George Law, by which hundreds of our fellow-citizens found a watery grave, the Secretary of the Treasury has submitted the following letter:

TREASURY DEPARTMENT, April 8, 1858.

SIR: For reply to the resolution of the House of Representatives of the 16th ultimo, requesting the Secretary of the Treasury "to communicate to the House of Representatives the number of vessels, the names of which have been changed under the act of March 5th, 1856, entitled 'An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases'; also, by whom such vessels were owned at the time of the change of name, and how many of such vessels have been lost or foundered at sea; and also the reasons assigned for changing the name of the late United States mail steamship 'George Law' to that of 'Central America,'" I have the honor to transmit herewith a statement prepared by the Register of the Treasury, containing all the information called for by the resolution in the possession of this Department.

There were no specific reasons assigned for changing the name of the steamer "George Law;" but due notice of the application for change of name was published once a week for four weeks in the New York Shipping and Commercial List, in compliance with the regulation of the Department, under the act of March 5, 1856, authorizing the Secretary of the Treasury to change the names of vessels in certain cases.

I am, very respectfully,

HOWELL COBB,
Secretary of the Treasury.

Hon. J. L. ORR, Speaker House of Representatives.

It appears, by the letter of the Secretary of the Treasury, that the regulation which he adopted was, that due notice should be published once a

week for four weeks in certain newspapers, and that no special reason for a change of name was required. But it is due to the Secretary of the Treasury to state, that immediately after he was informed of the impositions which were being practiced upon him, he countermanded his regulations, and has, since that time, refused, in most cases, applications under the act of 1856, and expressed a desire that the law of 1856 should be repealed.

The Committee on Commerce have unanimously recommended the passage of the Senate bill which I have just reported.

Mr. STANTON. I confess, Mr. Speaker, that I can see no reason why we should take this subject out of the hands of the Secretary of the Treasury. In times past, we have been annoyed by constant application for leave to change the names of particular vessels; and I never could see the reason why some general law could not be made authorizing it to be done without a special act of Congress. This power has been held by the Secretary of the Treasury for some years, and I do not know that any evil has resulted from it.

Mr. WASHBURN of Illinois. I will state to the gentleman the reasons why it has been determined by the Committee on Commerce that this law should be repealed. Under the law, as it at present exists, there have been a great many applications for the change of name, that have come within the rule laid down by the Secretary of the Treasury. I hold in my hand a statement showing the number of vessels, the names of which have been changed, that have been lost. The number is very large. When an old vessel gets a bad name, its owners come to the Secretary of the Treasury, and have its name changed. False lights are held out to the public, and people are induced to intrust themselves and property to these vessels, which, had the vessels retained their original names, they would not have done. The Secretary of the Treasury, the merchants and ship-owners of New York, who have seen the ill effect of this law, are all unanimously in favor of its repeal. When occasion arises for the change of names of vessels, it can be done here in Congress. There has never been any trouble in regard to that matter.

Mr. STANTON. If there be any reason why care should be taken in changing the names of vessels, and if there be any well-founded objection to the change, that objection is much more likely to be known to the Secretary of the Treasury than to Congress. If a ship-owner has a special reason, owing to the character of a ship, for a change of name—if the change be sought for the purpose of practicing a fraud upon the public—the facility for imposing on Congress is a thousand times greater than for imposing on the Secretary of the Treasury. Congress always passes such a special bill without anybody knowing anything about it; but it will not be so easy to impose upon an officer whose special duty it is to inquire whether a good reason for the change exists or not. If any fraud is practiced in regard to the change of names of vessels, it is for that very reason that we should leave the matter to the Secretary of the Treasury. But I should be glad to know why a ship may not be lost as well under one name as under another? If it turns out that ships whose names have been changed are lost, will the gentleman from Illinois explain to me why they would not have been lost if they had retained their original name, so that I may understand the objection to change of names?

Mr. WASHBURN, of Illinois. The gentleman will recollect the loss of the Central America; does he know the original name of that vessel?

Mr. STANTON. Yes, I do.

Mr. WASHBURN, of Illinois. What was it?

Mr. STANTON. The George Law.

Mr. WASHBURN, of Illinois. Exactly; and would the gentleman, with the reputation that the George Law had, have intrusted his life and property in the Central America, had he known her original name?

Mr. CLARK, of New York. Will the gentleman from Illinois permit me to say a word here? For one, I have no objection to the passage of this bill; but yet I am conscious that this general law is sought to be repealed because of a fright into which some have fallen because of the loss of the Central America. Now, I know something

about that case; and I can inform my friend on the Committee on Commerce that the ship called the Central America, which had been previously called the George Law, was as stout and staunch a ship as floated on the ocean. She was not an old ship. She was about three years old. Her name was changed merely from the caprice of her owner. Very many times before her name was changed, she carried a larger number of passengers than she carried on the ill-fated occasion when she became involved in a gale and went to the bottom. It does seem to me that very possibly some provisions of law ought to be enacted which would render it impossible for frauds to be perpetrated on the public by changing the names of ships. I have no objection that it shall be enacted in a law, that in respect of old ships their names shall not be changed. In regard to the Central America, that ship was a new one; was staunch; was well built; but she perished in a gale. Now, whenever we legislate under fright, we legislate wrong. I can see no reason why a ship that is staunch and strong is any more likely to perish under one name than under another.

Mr. RITCHIE. Why, then, are the names of vessels changed?

Mr. CLARK, of New York. Because it very often happens that the owners of a ship, from mere fancy, desire to change her name. And I appeal to the experience of the House whether any special application for the change of name of a ship has ever been refused. Now, I do not object to the passage of this bill, but I do insist upon it that the gentleman from Illinois shall not, in speaking with respect to a calamity that has fallen everywhere, and nowhere with more severity than on those who lost nearly two million dollars of capital in the shipwreck, characterize what was a new ship as an old one. But the subject-matter is too trifling to induce me to interpose my objection to the passage of a bill which would never have been suggested but for the fright into which some gentlemen have fallen.

Mr. STANTON. I have no objection in the world to the passage of this bill, except for the inconvenience which would result to Congress from the constant applications of persons to have the names of vessels changed. We all know that every man who wants to get the name of a ship changed, no matter for what purpose, whether honestly or dishonestly, could come here and get a special law, if there was no other mode of doing so; because no such application was ever refused in this House. There seems to be no reason why the application should not be granted, and therefore no member interests himself in the matter. I think, myself, that this is a very small matter; and I ask the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered; and, under its operation, the bill was read the third time.

Mr. COMINS moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; which was on the passage of the bill.

Mr. JOHN COCHRANE called for tellers. Tellers were ordered; and Messrs. JOHN COCHRANE, and CLARK of Connecticut, were appointed.

The House divided; and the tellers reported—ayes 78, noes 42.

So the bill was passed.

Mr. COMINS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NEW REVENUE-CUTTERS.

Mr. LANDY, from the Committee on Commerce, reported a bill authorizing the President of the United States to procure two steam revenue-cutters, one to be stationed at the port of Philadelphia, and the other at the port of New Orleans; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported adversely upon the following resolutions and memorials; which were laid on the table, and the committee

discharged from the further consideration thereof:

Resolutions of the James River and Kanawha Company in regard to the plan of Charles Ellet for supplying water in the Ohio river;

A memorial from the Legislature of the State of Minnesota, asking an appropriation for the improvement of the St. Croix river;

A memorial from the State of Minnesota, for an appropriation for the improvement of the Mississippi river, from the mouth of the Minnesota river to the Sauk Rapids; and

A memorial from the State of Minnesota for an appropriation for the Mississippi river at Beef Slough Bar.

WISCONSIN IMPROVEMENTS.

Mr. WASHBURN, of Illinois. I am instructed by the Committee on Commerce to report back House bill (No. 717) making an appropriation for cutting a channel between the head of Big Surgeon bay and Lake Michigan in the State of Wisconsin, and House bill (No. 720) making appropriations for the improvement of the St. Croix river, the boundary between the States of Minnesota and Wisconsin, with a recommendation that they do not pass. The reason of this report is, that we have a general bill which will embrace these improvements. I move that the bills be laid upon the table.

The motion was agreed to.

INSPECTION DISTRICT AT MEMPHIS.

Mr. WASHBURN, of Illinois. I am also instructed to report back, with a recommendation that it do not pass, a bill providing for the establishment of an inspection district at the city of Memphis, State of Tennessee.

I will merely remark that that provision is embraced in the general bill, known as the steamboat bill, which was referred to the Committee of Ways and Means at the last session, and which I shall at an early day ask the House to take up and pass. I move that the bill be laid upon the table.

The motion was agreed to.

CHANGE OF REFERENCE.

Mr. WASHBURN, of Illinois. Two bills were referred to the Committee on Commerce, providing for donations of public lands; one for the construction of a dam and lock at the rapids of the Minnesota river, in the State of Minnesota, and the other for the construction of a canal around the falls of St. Anthony, and removing obstructions in the Mississippi river, in the State of Minnesota. The Committee on Commerce deem the Committee on Public Lands the proper committee for the examination of the subject. They ask, therefore, that the committee be discharged from the further consideration of those bills, and that they be referred to the Committee on Public Lands.

The motion was agreed to.

ADVERSE REPORTS.

Mr. WADE, from the Committee on Commerce, made adverse reports on the following petitions; which were laid upon the table and ordered to be printed:

The petition of certain citizens of Ohio, praying an appropriation for repairs of the harbor of Vermillion, Ohio;

The petition of certain citizens of New York, praying for an appropriation to defray the expenses of meteorological observations;

The petition of Hiram Walker, of Illinois; and The petition of W. D. Buell, of Ohio.

Mr. COBB. I move to proceed to the consideration of the business on the Speaker's table.

Mr. STEPHENS, of Georgia. I insist on the regular order of business—the call of the committees for reports.

Mr. COBB. I believe the morning hour has expired, and that my motion is in order.

The SPEAKER. The morning hour has expired.

Mr. STEPHENS, of Georgia. I hope, then, the House will vote down the motion of the gentleman from Alabama, in order that all the committees may be called.

CODIFICATION OF THE REVENUE LAWS.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the

state of the Union. I make the motion because the bill in relation to the revenue laws has been made the special order for to-day, and, until it is disposed of, it impedes the progress of the appropriation bills.

Mr. COBB. I withdraw my motion for the present.

Mr. HATCH. I desire to propound a question to the chairman of the Committee on Commerce. A bill has passed the Senate for the deepening of the channel over the St. Clair flats, in the State of Michigan, and has been sent to this House.

The SPEAKER. That bill is upon the Speaker's table.

Mr. WASHBURN, of Illinois. I ask that it may be taken up and referred to the Committee on Commerce.

Mr. STEPHENS, of Georgia. I call for the regular order of business.

The SPEAKER. The question is upon the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIDSON. What is the special order in the Committee of the Whole?

Mr. STEPHENS, of Georgia. The special order is the consideration of the codification of the revenue laws. If the House refuse to go into the Committee of the Whole, and refuse to proceed to the business upon the Speaker's table, all the committees will be called, and they can make their reports to-day. I hope the House will allow the committees to be called.

Mr. PHELPS, of Missouri. The bill for the codification of the revenue laws is made the special order for to-day, and for each succeeding day until it is disposed of. I am desirous that some disposition should be made of that bill in the Committee of the Whole, so that we may proceed with the consideration of the appropriation bills. If that bill was out of the way, I should have no objection to going on with the call of committees for reports.

[A message was here received from the President of the United States, by J. B. HENRY, his Private Secretary, notifying the House that he had, this day, approved and signed a bill making appropriations for the support of the Military Academy, for the year ending June 30, 1860; and also communicating a message in writing.]

The question was then taken; and it was decided in the affirmative—yeas 124, nays 39; as follows:

YEAS—Messrs. Barksdale, Billingshurst, Bingham, Bliss, Branch, Bullinton, Burlingame, Burns, Case, Caskey, Challice, Chapman, Ezra Clark, Horace F. Clark, Cobb, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dimmick, Dodd, Dowdell, Durfee, Edmundson, Elliott, Fenton, Florence, Foster, Garnett, Giddings, Gilman, Gilmer, Goodwin, Grainger, Grow, Robert H. Hall, Harlan, Harris, Haskin, Hickman, Hoard, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lamar, Landy, Lawrence, Leach, Leiter, Lovejoy, McRae, Humphrey Marshall, Mason, Matteson, Maynard, Miles, Milson, Montgomery, Moore, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Parker, Pettit, Peyton, John S. Phelps, Phillips, Pike, Potter, Pottle, Powell, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Savage, Seales, Henry M. Shaw, Shorter, Robert Smith, William Smith, Stanton, William Stewart, Talbot, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Waldron, Wallon, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Winslow, Wood, and Zollicoffer—124.

NAYS—Messrs. Ahl, Anderson, Bishop, Boeck, Bonham, Burnett, John B. Clark, Clay, James Craig, Crawford, Davidson, Dewart, English, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Hatch, Hopkins, Houston, Hughes, Huyler, Jewett, George W. Jones, Jacob M. Kunkel, Samuel S. Marshall, Niblack, Pendleton, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, Vandandigham, Vance, White, and Augustus R. Wright—38.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BURNETT in the chair,) and resumed the consideration of the bill for the codification of the revenue laws of the United States, and for other purposes.

Mr. CLARK, of New York, obtained the floor.

Mr. HOUSTON. I believe I was entitled to the floor.

The CHAIRMAN. The gentleman from Alabama did not claim it.

Mr. HOUSTON. I did not intend, at this time, to make a speech upon this question.

Mr. CLARK, of New York. I yield to the gentleman with pleasure.

Mr. HOUSTON. I only desire to make one suggestion. This is a very long bill, embracing many chapters and sections; and I would suggest, as far as my judgment of the proper mode of maturing this bill is concerned, that the committee take up the bill by sections, and amend it by striking from it, or adding to it, as we proceed; and, while we are progressing with the bill, in that way we can engage in pertinent and germane discussion upon the amendments that may be proposed upon the body of each section as we reach it. If we continue the general discussion upon the bill of the length of this one, it is very clear to my mind there is not sufficient time of the session left to mature and act upon it as we might and would desire to do. Therefore I hope the committee will read it by sections, and discuss it as we progress with the reading. If we do that, it will not take more than two or three days to complete the bill in a manner satisfactory to the committee.

Mr. BARKSDALE. With the permission of the gentleman from New York, I desire to ask the chairman of the Committee on Commerce, [Mr. JOHN COCHRANE,] who reported this bill, whether this bill affects the tariff, directly or indirectly, and whether it is intended to affect it?

Mr. JOHN COCHRANE. I will answer the question.

Mr. CLARK, of New York. I will explain the general features of this bill, if opportunity is afforded me.

Mr. BARKSDALE. My question was directed to the chairman of the Committee on Commerce, who reported this bill.

Mr. CLARK, of New York. I presume I shall not occupy my entire hour. Gentlemen will then have an opportunity to ask and answer questions.

Mr. BARKSDALE. I desire to have an answer to that question from the chairman who reported the bill.

Mr. CLARK, of New York. I yield, to enable the chairman of the Committee on Commerce to answer that question affirmatively or negatively, and no further.

Mr. JOHN COCHRANE. I shall not, Mr. Chairman, consent to answer in that way.

Mr. CLARK, of New York. I then decline to yield.

The CHAIRMAN. The gentleman from Alabama [Mr. HOUSTON] makes a suggestion that the bill be considered by sections. Is there any objection to that course of proceeding?

Mr. NICHOLS. I object.

Mr. CLARK, of New York. I regard this bill as one of exceeding importance—of an importance much greater than that of any subject which has engaged the attention of this House since I have had the honor of a seat upon this floor. It reaches, Mr. Chairman, all the interests of the country concerned in its commerce; it affects directly more than five millions of tonnage, and besides, contains provisions relative to the revenue and its collection, which are of a character entitling it to the careful consideration of every member of this House. The chairman of the Committee on Commerce [Mr. JOHN COCHRANE] has informed us that our revenue laws require revision. This is true; the evils resulting from the complicated condition of the legislative enactments of the country running through the past half century, have long been observed by courts, by those connected with the collection of the revenue, and by professional men who are called upon from time to time to determine, for the guidance of others, what is the existing law upon any of the subjects embraced under the general head of revenue laws. If this was merely a codification of the revenue laws of the country, for one, I should interpose no objection. Those laws need codification, but I very much doubt whether this House is exactly the body to codify the revenue laws of the country. I think this work should be done by a commission, or at least by a committee specially charged with the important, delicate, and accurate duties which devolve upon those who at any time attempt to reduce to a code the laws and regulations of commerce. But this is more than a codification. This bill proposes not merely to reenact existing revenue laws, but to introduce into our commercial

system new enactments bearing upon our navigation laws, and laying tonnage and other taxes for purposes and establishments entirely new to the legislation and policy of the country.

Mr. Chairman, I take it for granted that my friend from New York did not intend, in proposing this bill, to facilitate at this stage of the session the repeal of the navigation laws. I shall leave that subject to those gentlemen who may consider their constituencies at least equally interested in the maintenance of the present system, simply remarking that, in my judgment, there are provisions in this bill which can be so construed as to repeal the navigation laws of the country to some extent, and, perhaps, to open the coasting trade to foreign shipping. I do not propose now to speak to that subject, because slight amendments, in various parts of this bill, will remove many objections which have presented themselves to my mind. I design to confine my remarks to one single chapter, namely, that which is found at page 251 of the bill, and which relates exclusively to the marine hospitals and health laws. I think I can show that no part of that chapter ought, under any circumstances, to become a law, now or at any other time. This chapter (10) is not a codification of any existing revenue laws. It does, it is true, repeal existing laws; but it embodies no provisions having relation to the collection of the revenue. It affects the revenue, because it sequesters from the Treasury a large sum of money; and affects the ship-owner, because it levies upon him a tax which is to go to support office-holders, whose places are for the first time created by this bill. It affects the revenue, because it diminishes it. It affects those of our citizens engaged in commerce upon the sea, and upon our inland waters, for it throws new burdens upon them. It imposes upon the tonnage of the country, whether employed in the foreign trade, the coasting trade, or the fisheries, at this, the moment of extreme depression, taxes and obligations to which they have heretofore been strangers.

This chapter is entitled, "Respecting marine hospitals and health laws." I am not aware of the extent and accuracy of the information had by gentlemen upon this floor as to the present practical operation of our system of marine hospitals; nor, sir, do I propose to discuss at length that subject to-day, for I have not the time. I have some acquaintance with the matter; and I will only say, to sum up the results of my observation, my study, and my inquiry, that our present system of marine hospitals is a fraud upon the sailor, and a fraud upon the country. But I suppose that the system has existed too long to be at this moment changed; I suppose that there are too many persons interested in its maintenance; that by means of it too large a sum of money is annually drawn from the Treasury and squandered or distributed throughout the Union to render it possible that a system which, beginning perhaps in right, has become fearfully wrong, should be at once abandoned. I object, sir, however, to any legislation having in view the perpetuation of this system, or of its mischiefs.

In order, Mr. Chairman, that I may render my remarks intelligible, I will briefly call the attention of the House to the existing condition of the laws relative to the relief of sick and disabled seamen, and marine hospitals. As long ago as 1798, it was deemed a measure of sound policy to provide that there should be deducted from the wages of the mariner, twenty cents per month, to secure a fund for his temporary support when sick and disabled. It is very difficult for me to reconcile the theory upon which this original legislation was based, with any of my notions on the subject of the power of Congress over the commerce of the country.

I think that it is not the business of Congress, nor the business of the Federal Government, to provide hospitals for the sick and disabled. But in respect of mariners, it seems to have become the policy of the country; and, at this moment, I do not propose to attempt to interfere with it. In the early life of our commerce, when the State institutions, and those of private charity—which can alone, as you will find if you will examine the subject, provide safely and securely for the care of the sick and disabled of any class—were few in number, and of slender resources, there may have been some necessity for this kind of legislation. I will not deny that in all commer-

cial countries there has been a national interest attached to the condition of the mariner, which rendered him the subject of special legislation as connected with the commerce of the country; and there may be something in the suggestion. The fund which the legislation of 1798 provided for the relief of the sick and disabled sailor, was not drawn from the general Treasury, but is, and has been, exacted from him by force of law, from that time down to the present hour. He pays it because he cannot help it. He pays it, sir, because the owner and master, under this law, are authorized to take it from his wages. But the advocates of this monstrous system of marine hospitals, say constantly that the sailor pays it willingly. Sir, his remonstrances are in vain. It is taken from him by force of law, for the ostensible purpose of providing for his support when sick and disabled. The money comes into the Treasury as a trust fund, and how is that sacred trust administered? It is squandered by the Federal Government in ways to which I shall presently refer; for I intend to call the attention of the House to the statistics on the subject, and when they shall have been examined, I do not believe that one single man upon this floor will vote for the perpetuation of a system which at the present hour brings dishonor upon the legislation of the country.

This original act, sir, was amended in 1799, (March 2,) when the President was, for the first time, authorized to divert the fund thus realized from this tax levied out of the wages of sailors, and expend it in a district other than that in which the same had been enforced. The act of 1798, in terms, provides that the moneys collected in every district, shall be expended within that district. The policy of the law was, that the moneys collected from the seamen at the port of New York, for instance, should be expended for the support and maintenance of sick and disabled seamen at that port. The act of 1799 authorizes the President to divert that fund from its original purpose, and permit it to be expended in the State in which the district where the money is collected is situated, or in an adjoining State, except as to the moneys collected in the States of Massachusetts, New Hampshire, Rhode Island, and Connecticut. By this act, the Secretary of the Navy was directed to deduct twenty cents per month, from the pay of officers, seamen, and marines, in the Navy, and in respect of the fund, the officers, seamen, and marines of the Navy were put upon the footing of seamen of the merchant service. The act of May 3, 1802, broke down all the barriers which had been, by previous legislation, set up for the protection of this fund, and for its just appropriation to the purpose for which it was originally intended to be raised, and created one general fund, extending the provisions of the act of 1799 to the boats, rafts or flats, on the Mississippi river, bound to New Orleans. The act of March 1, 1843, extended the provisions of these acts to the coasting trade, and at this hour, every part of the country is interested, one way or the other, for or against the maintenance of the system and its abuses, to which I will now proceed to call the attention of the House.

I submit it to the consideration of this House, whether it is the legitimate business of this Government to undertake to erect hospitals, and to provide for the sick and disabled of any class? I doubt the capacity of Congress to do it well, independent of the question of its constitutional power; but, sir, if any class of the sick and disabled is to be maintained at the public expense, the sailors, probably, compose that class.

At this point, I wish to inquire of the chairman of the Committee on Commerce whether the provisions of this bill, applicable to marine hospitals, have received the approval of the Secretary of the Treasury?

Mr. JOHN COCHRANE. I will answer the question of my colleague, and in this wise: the proposition which my colleague is now discussing was originally placed in this chapter by the Department of the Treasury, under the administration of a former incumbent. The percentage of tonnage has been diminished by the Committee on Commerce—

Mr. CLARK, of New York. I must interrupt my colleague. Let him answer, categorically, whether this chapter has, or has not, received the approbation of the Secretary of the Treasury?

Mr. JOHN COCHRANE. What I stated was necessary, preliminary to my answer; and I say now, in sequence of what I have stated, that the Secretary of the Treasury has announced upon this floor—

Mr. CLARK, of New York. I object to any further explanation.

Mr. JOHN COCHRANE. When the gentleman asks me a question I will endeavor to answer it. Am I not, I will ask him, now answering his question?

Mr. CLARK, of New York. I desire that my colleague shall inform the House whether the bill which the Committee on Commerce has reported, in respect of this new legislation meets with the approbation of the Secretary of the Treasury, or otherwise?

Mr. JOHN COCHRANE. In order to answer that question—

The CHAIRMAN. Does the gentleman yield to his colleague?

Mr. CLARK, of New York. I decline to yield further at this time.

Mr. JOHN COCHRANE. Then I hope my colleague will not question me again, when he declines to yield the floor for an answer.

Mr. CLARK, of New York. I think I gave my colleague an ample opportunity to answer the very simple question, whether the bill which he reported has or has not met with the approbation of the Secretary of the Treasury. Now, in respect of this chapter, I take the liberty to say that it is hardly possible that it has met with the approbation of the Secretary of the Treasury. And, sir, I base my assertion that it has not met with the approbation of the Secretary of the Treasury upon his report on the finances at the last session of Congress and at the present session.

Mr. JOHN COCHRANE. Will the gentleman allow me, in another attempt, to give him, in answer to his question whether the Secretary of the Treasury approves of this bill, inclusive of that part of it in which he is engaged, the Secretary's language? That language, as near as I am able to repeat it, is this: that "he approves of the bill." There may be some errors in it which his judgment might not approve; but he is anxious that the bill, as it stands, shall pass, rather than that it should be defeated.

Mr. CLARK, of New York. I acknowledge that there are some good provisions in this bill. There are very many sections of it for which I wish to vote; and I sincerely hope that the bill will take a course which will afford me the opportunity to vote for many ameliorations of our navigation and revenue laws, which I find in the first two hundred and fifty pages of this bill. My question to my colleague related solely to the chapter to which I propose to confine my observations. Now, I think that the Secretary of the Treasury disapproves of our whole system of marine hospitals. He disapproves of it as being unjust to the sailor, and a wrong to the country in respect of its expenditures. In explanation of this expression of opinion, I will read a clause from the Secretary's report of 1857-58. At page 19 of that report, the Secretary uses this language:

"Your attention is particularly invited to that portion of the engineer's report which refers to the subject of marine hospitals. Each year's experience adds to the objections which have been presented to Congress to the system of building and maintaining these hospitals. The relief afforded is not more ample, whilst the expense is much greater, than exists under the old system. The information which is communicated on this subject must attract the serious attention of Congress; and should lead, in my judgment, to a radical change. The amount now annually drawn from the Treasury to supply the deficiency in the fund for the relief of sick and disabled seamen exceeds the sum raised out of the wages of the seamen for this purpose. It was not so formerly; and the fact is in no small degree attributable to the increased and unnecessary expenditures growing out of the building and keeping up of marine hospitals. Besides, there is no fund disbursed by the Government which possesses higher claims for a just and economical expenditure than the one under consideration. The law compels the collection of this money from the wages of the seamen, and the Government undertakes to expend it for their benefit and protection. The trust is a sacred one, and can only be faithfully discharged by exercising the greatest care and economy in its disbursement. I renew the recommendations of my last report on this subject."

The Secretary's report of 1856-57 (at page 27) seems to recommend the abandonment of the whole system of marine hospitals, and that we should return to the economical system which the authors of the act of 1798 designed to provide for the administration of this sacred trust.

Mr. Chairman, there is attached to the Secretary's report on the finances the report of the engineer in charge of the public buildings. It will be found at page 105 of the report of 1857-58. There, sir, the monstrous facts are all collected; and any gentleman who examines it will see that this trust fund, originally intended to provide for the support of sick and disabled seamen, is now misapplied to the maintenance of a set of perhaps sick and disabled politicians. He will there find that of this fund, thus wrung from the hard earnings of the sailors, a good share of it finds its way into the pockets, and provides for the solace of others than him. He will find that as the consequence of that desire which seems to have become almost universal of building a custom-house where there is a port of entry, of building a post office where a mail can go, and of building an hospital, even where there is not a sailor to enter it—nearly every dollar of the fund has been diverted from its original purpose, and sustains, at this hour, an army of doctors and nurses and porters and gate-keepers and commissioners and clerks, almost as numerous as those who apply to become the recipients of their own bounty. To such an extent, Mr. Chairman, has this abuse extended, that you will find that in one place \$11,000 a year and upwards is stated to have been appropriated to the maintenance of seamen, and of course to the payment of a corps of liveried officials, where it is not reported that one single dollar of hospital money was collected from those who have availed themselves of this bounty.

Sir, the result shows that it cost, the last fiscal year, to maintain these hospitals, and to provide for the comparatively few sailors who receive assistance, \$190,000 more than the whole sum derived from the deductions from the wages of sailors. Originally this was otherwise. So long as the fund was economically and, I may add, honestly administered, so long there was a surplus; and the first departure from sound policy on this subject occurred when, finding a surplus in the Treasury, Congress went to work, as it always does, to find some means to spend the money. The first appropriation for the construction of these hospitals was made, I believe, from the surplus fund accumulated out of these seized earnings of the mariner.

Now, I cannot illustrate the existing state of things in respect of our marine hospitals better than by having read, from the report of the Secretary of the Treasury, a letter addressed to him in the month of October last, by the collector of the port of Burlington, Vermont, showing that we have a marine hospital in Vermont which cost \$39,111 27, and which requires \$4,000 to furnish it, where \$250 per annum will suffice to support all the sick and disabled seamen within that district, under the system of taking care of disabled sailors which would prevail but for our destructive extravagance. Two hundred and fifty dollars per annum, economically applied, appears to be an ample sum to provide for sick and disabled seamen in that district, where we have expended nearly forty thousand dollars for a hospital, and where it is necessary that we should expend thousands per annum in order to maintain it! The Clerk will please read the letter which I send to the desk, and which will be found in the report of the Secretary of the Treasury on the finances for the fiscal year 1857-58, at page 106.

The Clerk read the letter, as follows:

CUSTOM HOUSE, DISTRICT OF VERMONT.

COLLECTOR'S OFFICE, BURLINGTON, October 12, 1858.

SIR: There is a subject, involving a large annual expenditure by the Government in this district, which I suppose the Department has now under consideration, and upon which (although not interrogated) it may not be improper for me to address you. I called the attention of Governor Hubbard, your special agent, to it, on his recent visit to this district. I refer to the marine hospital recently erected in this town. It was built at an expense of some thirty thousand dollars, and from all I can learn, if organized and carried on, it must cost the Government from seven to ten thousand dollars per annum, all of which, from my knowledge of the necessities of disabled seamen in this district, I consider a useless and extravagant expenditure. From an examination of the records in this office in reference to past expenditures for that purpose within the district, I find that \$250 per year is a reasonable estimate for future disbursements, under our present system of taking care of disabled sailors. Most who apply for relief are residents of the district, and are now taken care of among their friends and relatives in a manner far more satisfactory to themselves

than they ever can be by strangers, in the best regulated hospital.

Pardon me, sir, for intruding my opinions upon you, but such being my honest convictions, I have felt it my duty thus frankly to express them, under the supposition that the matter of furnishing and organizing the hospital was discretionary with the Department.

I am, sir, very respectfully, your obedient servant.

J. B. BOWDISH.

Hon. HOWELL COBB, Secretary of the Treasury.

Mr. CLARK, of New York. Mr. Chairman, the table of receipts and expenditures, which will be found in the same report, (p. 142,) exhibits the great discrepancies in the receipts and disbursements of the hospital money, and conclusively shows that the system is too extravagant to last. The following is the statement:

	Total expenditures.	Hospital money collected.
Maine.....	\$13,079 54	\$5,902 27
New Hampshire.....	754 35	206 83
Vermont.....	186 05	141 80
Massachusetts.....	31,788 25	19,808 20
Rhode Island.....	3,266 96	1,124 38
Connecticut.....	1,216 73	3,255 31
New York.....	30,653 23	47,894 13
New Jersey.....	771 28	4,338 82
Pennsylvania.....	16,355 98	7,910 83
Delaware.....		1,020 23
Maryland.....	4,889 21	6,754 25
District of Columbia.....	214 74	496 71
Virginia.....	6,192 80	6,949 53
North Carolina.....	8,649 97	2,169 08
South Carolina.....	4,926 64	2,430 99
Georgia.....	7,960 31	638 51
Alabama.....	12,399 06	4,219 70
Mississippi.....	10,166 67	282 73
Florida.....	12,758 11	2,703 58
Louisiana.....	38,259 78	16,640 09
Texas.....	4,867 13	1,240 86
Missouri.....	17,359 82	5,337 41
Arkansas.....	11,864 41	
Ohio.....	14,312 97	4,353 64
Michigan.....	12,335 95	2,280 84
Indiana.....	7,945 83	406 50
Illinois.....	11,532 12	2,490 57
Iowa.....		60 00
Wisconsin.....	5,275 70	978 88
Kentucky.....	16,268 78	2,018 45
Tennessee.....	1,751 41	811 30
California.....	46,503 45	8,684 94
Oregon.....		109 44
Washington Territory.....	514 00	501 02
	\$355,920 53	\$164,161 82

Mr. Chairman, the letter from Collector Bowditch furnishes a practical and truthful illustration of the abuses which this system of marine hospitals engenders. But the chapter of the bill to which I speak, so far from yielding to the remonstrances of the Secretary of the Treasury, and of the engineer in charge of the accounts of construction, (A. H. Bowman,) against this system, perpetuates it, and by its very terms provides a fund by which the perpetuation of this monstrous system is to be secured. Gentlemen of the committee will find the provision for the perpetuity of this system in the twenty-sixth section of this chapter, (page 265 of the bill.) That section provides a fund, the amount of which I do not feel prepared accurately to estimate. I am satisfied, however, that those who have attempted to estimate it place it at a sum far too low. This twenty-sixth section provides that the moneys collected by means of the imposition of a tonnage due of three cents upon every registry of an American vessel, of an additional tonnage due of three cents upon every entry, (not to exceed two in one year,) of a tonnage due of five cents to be imposed upon every foreign vessel arriving at our ports, together with such countervailing, discriminating, or other tonnage duties as may be levied and paid on ships or vessels, and the duty of five per centum paid on the issue of registers to American built vessels sold to foreigners and repurchased by citizens of the United States, and all that proportion of all fines, penalties, and forfeitures accruing to the United States for violations of the provisions of the revenue, registering, navigation, and passenger laws, and certain other fees are all gathered together into one vast fund, and forever appropriated by the twenty-sixth section of this bill. The last clause of the section is this: "be, and are hereby, appropriated for the relief of sick and disabled seamen." We need trouble ourselves no further after the passage of this bill in looking after the gross expenditures of these marine hospitals. The law executes itself. The Secretary of the Treasury, for the time being, may take this fund and may, at his pleasure, follow out this policy of building hospitals to enrich those who live in their neighborhoods, and creating those establishments for the purpose of providing places

for doctors and nurses and all the classes of men, other than sailors, who live upon these expenditures from the public Treasury.

Now, sir, I stand opposed to all such legislation as this. I insist that Congress shall not surrender the immediate and annual supervision, which, under the existing system, will be exercised as often as it shall become necessary to appropriate for the deficiency of these expenditures, which swell from year to year, and will continue to increase until the whole plan shall be abandoned. Sir, I observe in the estimates of appropriations that we are called upon to provide \$150,000 for the deficiency for the past fiscal year. But this bill provides a sufficient fund for any ordinary extravagance. It is said that there will never be a deficiency again. Here is a vast fund to be collected periodically from the commerce of the world, to provide for the perpetuation of a system which, I have been informed since I came into the House this morning, received the universal condemnation of the Thirty-Fourth Congress. But, sir, the Treasury is to be relieved. My honorable friend from New York [Mr. JOHN COCHRANE] stated, in opening this debate, that not one dollar was to be drawn from the Treasury. Hence, these Treasury sentinels that I see around me need not be alarmed. I say to my friend from Tennessee, [Mr. JONES,] cease your vigilance, and cease your anxiety, for the chairman of the Committee on Commerce says that not a dollar is to come out of the Treasury, to support this lavish and reckless system.

Mr. JONES, of Tennessee. They take the money before it gets into the Treasury.

Mr. CLARK, of New York. Yes, sir; it is seized on its way to the Treasury, and immediately misappropriated.

But where is this fund to come from? By the bill as it was first presented, this burden was taken off the mariner and imposed upon the ship-owner, as a tonnage due. If, Mr. Chairman, it may be questioned whether Congress has the right to force from the earnings of any man a sum that is to provide for the support of another, well may we hesitate before we adopt the theory that it is the business of Congress to levy taxes upon one class of citizens for the purpose of providing for the sick and disabled of another. The only pretense or justification of the policy upon which the legislation of 1798-99 rests, is that the money belongs to the sailor, and that all you do is to guard him against that traditional recklessness which results from the hazards to which his life is constantly exposed. But, sir, the amendments which have been introduced by my colleague since this bill was made the special order, have, if I understand them aright, (and if I am wrong, my friend, the chairman of the Committee on Commerce, will correct me,) provides that these tonnage dues, although paid in the first instance by the ship-owner upon the entry of his ships, and, as tonnage dues, are to be reimbursed by deduction from the earnings of the mariner. Am I right?

Mr. JOHN COCHRANE. I believe my colleague is right.

Mr. CLARK, of New York. If I am right, while the Secretary of the Treasury substantially recommends an abolition of the whole system of marine hospitals, because it is wrong while the bill as originally reported proposes to take this burden from the mariner and impose it upon the ship-owner, the amendment throws it back upon the poor mariner. Now, if my learned friend—and I can say to the House that for years I have been familiar with his accuracy and his faithfulness to every subject committed to his charge—can tell me the amount which will be raised under the provisions of this bill to be appropriated to this particular purpose, I shall feel under obligations to him.

Mr. JOHN COCHRANE. I will do so with great pleasure. The amount that will probably be raised under the provisions of this bill the first year after it goes into effect, will be \$418,981; for all subsequent years at the rate of \$344,961 annually.

Mr. CLARK, of New York. Mr. Chairman, I think that statement is too moderate; and I think I can show that is far below the true sum. Yet, if it be accurate, while \$355,000 is the whole fund expended during the last fiscal year for the support of sailors and the maintenance of those hospitals,

* Total cost, including site, \$39,111 27.

\$418,000 is, under the provisions of this bill, to be taken from the earnings of the mariner for the ensuing fiscal year. I say this is all wrong. I say that no argument that is respectable can be advanced in support of the proposition that, at this time of extreme depression of our shipping interests, you should levy this new and untried tax. I say there is no argument which can be adduced, which can sustain this forcibly taking away of the sailors' earnings to provide, not for them, but for the maintenance of a corps of officials, a body of men of whom I design not to speak of disrespectfully; but I say that they belong to that class of men who live in idleness, and upon the labors of others; a class of men with whom I have no sympathy; a class of men the number of which I would not increase by even one single one, unless some inexorable necessity presents itself in order to execute some necessary and constitutional law.

When my friend [Mr. JOHN COCHRANE] opened this case, his statement caught my ear, that this bill, although touching and codifying the revenue laws, in no degree affects the revenue officers of the United States or their emoluments. It interferes with no Federal office-holder. I heard him say this; and while it might have pacified some anxious men, it alarmed me. At the outset of his speech he said that he did not propose, while codifying the revenue laws, to interfere with any existing office, or any existing salary. Although our revenue has fallen off nearly one half, and although he, residing in New York, where I reside, knows that more than half a million dollars is wantonly expended every year in support of political profligates and political strikers, yet for all this, he proposes no decrease of the number of officers, and no diminution of salaries.

Mr. JOHN COCHRANE. If my colleague will allow me at this point, he will confer a favor by permitting me to suggest that, although this bill interferes with no salary, and with no officers or corps of officers, yet a bill has been in preparation by the Secretary of the Treasury, and is now ready to be reported to the House, which does interfere with those salaries and with that corps of officers; and it reduces, as I am informed by the Secretary of the Treasury, those salaries, in the aggregate, nearly half a million of dollars.

Mr. CLARK, of New York. That is one step in the right direction. I hope that bill will come along, for there is some necessity for it; but for this, *not the least*. This is demanded by no public necessity. We hear no voice from the country in support of it. The poor sailor has not asked that any further sum than that already exacted should be taken from his wages to support these hospitals and these office-holders; nor, from the mode in which this charity is administered to them, are you likely to hear, save in remonstrance.

I will state to the House an instance which occurred a few days since in New York. A sailor, in Water street, was sick. It was reported to the appropriate liveried official, who sits warm and comfortable in some snug department of the custom-house, that there was a sailor about to die whose life had been spent in the commercial marine, and who was entitled to relief from this bounty. The gentleman intrusted under the collector with the administration of this charity to a sailor out of the sailor's money, said, "Bring him here; he must come here." "But he cannot come—he cannot." "He must come here," replied the official. "I must examine him." It was represented that he was a mile or two off, in Cherry street, and that it might hazard his life to bring him all the way down to Wall street, where the custom-house is situated. But the decree was inexorable; and the friends of the man took a carriage and brought him down. The officer of the revenue saw him, and gave him a certificate entitling him to admission. The carriage went; but, before he had reached the asylum, his spirit had fled to the God that gave it.

That is the way this charity is doled out to the men from whose hard earnings you have been wringing a fund for the last half century, and the abuses of the administration of which you are now seeking to perpetuate. The fact was stated to me this morning by a gentleman who is now here urging the passage of this bill because of some proper amelioration of the revenue laws which is to be found in some of its earlier provisions.

I ask my friend, the chairman of the Commit-

tee on Commerce, where and when arose the public demand for this new enactment relative to the marine hospitals, and touching the imposition of new taxes upon the tonnage of the country?

Mr. JOHN COCHRANE. Does the gentleman desire an answer?

Mr. CLARK, of New York. I prefer that the gentleman should answer hereafter. There is another subject-matter embraced in this chapter of the bill, which I regret exceedingly, I have not the time fully to treat now, because the legislation proposed is more unjust and objectionable, if such be possible, than that which has reference to the increase of this hospital fund, and to the perpetuation of these abuses. I refer to what is called the apprentice system. We have now no apprentice system ordained or regulated by law. At the present, the system is voluntary, and is of mutual interest of the owner of the vessel and to the apprentice. This chapter of the bill proposes to enact a system by which a man who is the owner of a ship must carry apprentices in proportion to tonnage. It is involuntary, being enforced by penalties. The owner cannot, in pursuance of it, select his own apprentices, as he can now; but a new corps of Federal office-holders is intervened between him and his business, to regulate the one and restrict the other. I should like to hear from any gentleman upon this floor some argument in support of this apprentice proposition, which is, at least, new to the policy of this country.

Mr. SHERMAN, of Ohio. Where is that?

Mr. CLARK, of New York. Chapter ten, page 251. You will find in sections eight and twenty-four, chapter ten, the provision for the appointment of commissioners by the Secretary of the Navy. The number is unlimited. He may appoint to these offices; he may assign the appointees to such ports as he sees fit; he may prescribe regulations for the conduct of the business; but there is no limit but his discretion as to the numbers of the commissioners or the amount of their salaries. It is not to be presumed that he will appoint more than one man for any one port; but under this bill he has the power to put a Federal officeholder into every port, and to select the persons whom the owners of ships shall carry, and to whom as apprentices they shall intrust their property. And how is the expense to be borne? Whence is the fund to be derived which is to support this new band of Federal office-holders? I will tell you. The provision for raising the fund is carefully stowed away in the twenty-second section, page 263. It comes not from the Federal Treasury. My watchful friends need not to be alarmed.

We have got to the point when it is proposed to sequester the revenues of the country on their way to the Treasury, and then no such men as those whom I see before me, and who honor themselves by their constant vigilance over the expenditures of the Government, need be feared. This twenty-second section directs that whenever a vessel shall be entered at any port, there shall be paid by the master the sum of five cents per month for every man employed on board. Thus it is proposed to repeal the act imposing the tax of twenty cents a month upon the mariner, and in its place to levy a tax upon tonnage, and then to direct that this tonnage tax shall be deducted from the wages of the mariner. And as to the apprentice system, it is proposed to resort to a tax upon wages to support the officials which its adoption warms into life; and heretofore wrongfully taken from the wages of the sailor, the sum of five cents per month upon their wages must henceforward be wrongfully taken from the master. Such is the scheme of this bill.

This fund of five cents per month is not to be deducted from the wages of the mariner, and the tax which creates it is imposed directly upon the master of the ship. Then what is the theory? An apprentice system is created, wrong and oppressive in its character, unjustifiable, without precedent, violative, in my judgment, of every private and every constitutional right. And the transaction is not improved because the tax which maintains the system is a direct tax upon the master. Where is the justification? Mr. Chairman, what is the amount to be raised under the apprentice system?

A MEMBER. Does it go into the hands of the Navy?

Mr. CLARK, of New York. It goes into the hands of the Secretary of the Navy, not as a part of the public funds, but to establish the new Treasury which you will find created in section twenty-three, page 264. It is there declared that this fund, with the penalties and forfeitures provided for in the previous sections, shall constitute a *separate and specific fund*, out of which the expenses shall be borne. Thus we have one Treasury for public purposes, and we have, by this act, another Treasury presided over by the Secretary of the Navy, who has unlimited and discretionary power to dispose of the money in the language of the eighth section, page 566, "according to his decision."

Now, sir, this feature which provides for a separate and specific fund to support a specific establishment is novel, and the absolute power of disposition of it may be grateful to the dispenser. But I am not prepared to give my assent to any such scheme. Follow the plan out, and upon the same reasoning you may impose upon tonnage the burden of your Navy, with its extravagant and unwarranted expenditures. You may have some specific fund out of which your Navy expenses shall be borne. Then we shall no longer be troubled with motions to refer the bill reported by the Committee of Ways and Means to the Committee on Naval Affairs, with a view to stricter examination and scrutiny. Sir, this plan involves an abnegation of the legislative power of Congress over the funds raised by taxation of the people.

But the answer will be made that this is a private purpose; a commendable charity. Then let men administer the fund themselves. If this apprentice system is a private benefit, let its expense be voluntarily assumed; but if a public burden, let it fall upon the public Treasury. It is the first time, sir, since I have had the honor of a seat in Congress, when it has been proposed to levy a tax upon any particular class of men to support either office-holders or any other class. It is the first time that it has been proposed to levy a direct tax upon any single branch of commerce to support any set of men—young or old, apprentices or masters.

Sir, these matters must all be left to private charities or municipal institutions, where you ought to leave the administration of these hospital moneys, which, for the last fifty years, have been taken from the earnings of the sailor. You have no right—I deny your right, I deny your power—under the Constitution of the United States, to levy a tax upon any particular branch of industry for the particular benefit of any other particular branch of industry, or any particular class of men. Until I hear some argument in favor of a system, which, if left voluntary, may be a good one, but which cannot be enforced upon that particular branch of commerce without prejudicing the rights of the persons engaged in it, and impairing the security of the capital employed in it, I will say no more.

There are, Mr. Chairman, other objections to this apprentice system, which are of a different character, which address themselves not to the constitutional power of Congress to permit these invasions upon commerce, but have reference to the mode in which the duties enjoined upon the office-holders to be created by this bill are to be executed; and to such objectionable features I will for a moment refer.

Mr. Chairman, the system of apprenticeship prescribed by this bill is substantially this: the Secretary of the Navy appoints some official to select in the community the beneficiaries of this bounty created by the tax imposed upon tonnage; when he has selected them, the ship-owner must take them on board, in numbers proportioned to the tonnage, or must pay a penalty of fifty dollars for each apprentice in respect of which he is deficient.

But the bill is silent as to the age at which these persons must be apprenticed. There is no provision that the ship-owner shall take them at sixteen, or seventeen, or eighteen years of age. For aught I can see, the support of infancy may be imposed upon him. Sir, it occasioned me a good deal of surprise to find that by this bill, while the owners of ships are bound to carry apprentices, there is no limit as to their ages, or provision as to their compensation. They are to be males,

I admit; but whether they are to be nine, or ten, or eighteen, or nineteen years of age, is not prescribed by the bill. All is left to the large and liberal discretion of the gentlemen who are to be appointed to intervene between the ship-owner and his business.

A MEMBER. Is there any restriction as to the sex of the apprentice?

Mr. CLARK, of New York. I believe that infant girls cannot be apprenticed to ship-owners under this bill; but infant boys may be.

Mr. Chairman, I was still further surprised when I found that not only is the ship-owner to carry apprentices, but he is to educate them; he is to cause them to be instructed in all the arts of navigation; he is bound to teach them reading, writing, and the general rules of arithmetic; he is obligated to clothe and provide for them in sickness and in health, at sea and upon land. And when his ships are laid up, or lost, or sold; when the commerce of the country shall, perhaps, upon some occasion, become paralyzed, (and it is almost paralyzed now,) he is bound to take better care of them than the laws of the States require that the father should take of his children. Upon what foundation rests the power of Congress to make the ship-owner provide a home for the poor and friendless boys which the commissioner may find in the streets of our commercial cities?

[Here the hammer fell.]

Mr. BURLINGAME. I do not rise, Mr. Chairman, for the purpose of trespassing at this time on the attention of the committee at any great length; but simply to indicate one or two amendments which I design, at the proper time, to offer to this bill. I design to move to strike out the following words in the second section of the bill:

"But citizens of the United States, sole owners of foreign-built vessels, shall have a right to have the bill of sale of such vessels recorded in the proper collection district and certified by the collector in lieu of registering, and to engage in the foreign trade, upon complying with the laws of the United States in relation to master and crew, and the payment of an annual tonnage duty, in advance, of one dollar per ton, United States measurement; and any such vessel, engaged in the foreign trade without payment of said tonnage duty, or continuing it after the year for which the tonnage duty was paid, shall be liable to seizure and forfeiture to the United States."

In the third paragraph, for the words, "two thirds," I propose to substitute the words "three fourths;" and in the fifth paragraph, I propose to strike out the following words:

"Fifth. Ships and other vessels purchased by any citizen or citizens of the United States under and by virtue of any lien, or mortgage, or incumbrance whatever, duly and legally enforced by any court of the United States, or any State court having jurisdiction thereof, either by mesne or final process thereof."

It will be perceived by the members of the committee that here are three methods indicated by which a foreign-built vessel may become entitled to an American register. An American citizen may purchase a foreign-built vessel, and by the payment of a dollar per ton per annum, he may have for her an American register. When a foreign-built vessel shall be wrecked in our waters, and shall have repairs put upon her to the amount (according to this bill) of two thirds of her value, when repaired she will be entitled to an American register. And again, an American citizen may purchase by virtue of any lien, or mortgage, or other incumbrance whatever, enforced in the courts of the United States, or of any State having jurisdiction. That the committee may know how far these provisions of this bill are a departure from the law as it stands at present, I need but call its attention to the law as it now exists. Under the present law, I know but one way by which a foreign-built vessel can be Americanized. That is by being wrecked in American waters, and having repairs put upon her to three fourths of her value when repaired.

Now, it will be understood that the law, as it stands, was passed for the protection of the ship-building interest of this country; and the question now arises, shall we, when our commercial interests are depressed, as the gentleman from New York has very properly said, as they are at this time, is it wise in us, by this bill or any other, to take such action as will operate as a partial repeal, or, at any rate, as a great relaxation of the navigation laws under which our commercial marine has grown to be almost the first, if not the first, in the world, if we have reference to the enrolled tonnage? It is true that our enterpris-

ing ship-building interest might survive the innovations proposed by this bill; but what will alarm it most will be this invasion of the principle of protection, and I believe that the provisions of this bill even menace those interests, and would subject them to great hazard; for I am instructed by a letter received by my colleague, [Mr. DAVIS,] yesterday, from the president of the Board of Trade of Boston, one of the largest ship-owners of this country, and a man well informed in such matters, that he can build ships in the British provinces thirty per cent. cheaper than they can be built in the United States. If this be true of the British provinces, much more is it true of England herself, where labor is cheap, where capital is cheap, where iron is cheap; those things entering as elements into the construction of ships.

It may be asked by the freighting interest of this country, if this be true, why not abrogate the navigation laws, and allow us to purchase cheap-built ships of England? In answer to that suggestion which they may make, I will simply say that the agricultural interest, the freighting interest, has as large a stake in the success of our commercial marine and keeping it up, as any other interest in this country; for if you wound the shipping interest by the abrogation of the navigation laws, then men will stop building ships; the tonnage of the country will sink; and it is a law that when the tonnage of the country falls, freights go up. It is, therefore, for the good of the freighting, the agricultural interest of the country, to hold up the hands of our commercial marine, and to keep it in honorable competition with the commercial marine of the world, so that the tonnage of the country may be large, and freights low.

Sir, at the present time our shipping interest is but feebly protected. The entries and clearances at our ports show us that more than half of our foreign trade is carried on by foreign vessels. It is true that England has repealed or greatly relaxed her navigation laws; but while she has given us some advantages by the modification of those laws, she is pouring forth the bounty of the Government liberally in another direction—a direction which we have not yet to any great extent taken. Do you not know, sir, that England is at the present time animating her shipping interest by the large bounty of \$5,000,000 per annum? Do you not know that under the inspiration of that governmental aid, more than one thousand six hundred steamers are moving over the ocean, bearing the trade of every part of the world to the shores of England? And what cares she, so that she have the commercial dominion of the world, who may have the political dominion? Do you not know (and a great change has taken place in this respect recently) that from the West India Islands, lying immediately off our coast, she has now ten branch lines of steamers, radiating from St. Thomas, and controlling the trade of Mexico, the trade of Central America, the trade of the West Indies, and the trade of Brazil, to an alarming extent—that trade which, up to 1850, we, by means of those clipper ships born of the genius of our country, were fast winning to ourselves? Do you not know that five years, aided by these steamers, she has increased her trade two hundred and twenty-five per cent., while our trade has not materially increased?

The difference between our trade and the English trade with Brazil is this: our trade consists largely of imports from Brazil, while that of England consists largely of exports to that Empire. Sir, you cannot send a letter to Brazil, except by a British steamer; you cannot send a letter to the West India Islands, save by a British steamer; you cannot send a letter to Australia, save by a British steamer. England, by her steam marine, is unquestionably taking possession of the ocean. She confronts us to-day with the alarming fact that her foreign trade amounts to over sixteen hundred million dollars, while ours amounts to only about seven hundred million. It is true that our commercial marine equals in tonnage that of Great Britain; but when you look to the quality of the tonnage, you find that we have, in opposition to her sixteen hundred steamers, but fifty-seven, and those are now being withdrawn from the ocean. There is scarcely an American line of steamers now running, because the aid of the Government has been withdrawn from, or has not been extended to, them. We have but fifty-seven steamers in opposition to the

sixteen hundred and sixty-nine steamers belonging to England; and when you add to these her war-steamers, you find that she has more than two thousand. So that, unless this Government shall adopt a new policy, unless this Government shall cease its war upon the commercial interests of the country, and shall give its aid to our enterprising ship-building interests, we must allow our commercial renown to be dimmed, and we must fall far behind other nations, and that speedily. France, too, at this time, is offering a bounty of \$3,000,000 to her commercial marine, while we pay little more than \$1,000,000 per annum to ours.

We have had great advantages over England lately. She has been engaged in troublesome wars—war in the immediate East, and war in the furthest East, and from the fact that she abrogated her navigation laws, we had an opportunity to do a large carrying trade for her, and to such an extent that during the year 1857 two hundred and forty-six American vessels entered into the port of London, and as many more, probably, into the port of Liverpool. Now, the last news from England is, (having recovered from the effects of the war,) that the shipping interest there is moving, by public meetings, for the purpose of regaining and again controlling all their colonial and Indian carrying trade. I have the proceedings of a meeting held in London so late as the last of December, in which this matter, not of the restoration of the navigation laws—for they did not exactly expect that—but of restrictions on our commerce, was taken into consideration. They desired that the Queen should, by an order in council—a thing which she has the right to make under the British act of 1833—put such restrictions on our commerce as should practically drive us from the carrying trade of England. Is this the time, when our great rival is rousing herself, and determining by her iron steamers to take possession of the commerce of the world, is this the time to wound, by this bill or any other, the commercial interests of this country? I trust not.

I did not propose to address myself at any great length to this bill. I have indicated the amendments which have occurred to my mind; but I wish to have it distinctly understood, that by indicating those amendments I am not to be considered an enemy of this bill. On the contrary, I am its friend, especially of so much of it as is a codification of existing laws. From the slight examination I have been able to give this bill, I have ascertained through what amazing labor it has reached its present perfection. It is true, as the chairman of the Committee on Commerce said, that five years have been spent upon it; that Secretaries of the Treasury have worked upon it; that the best experts in the land, those best instructed in such matters, have worked upon it; that men whose interests were affected have given it their sanction; and when the members of this committee shall do what I undertook to do with this bill—take the existing laws and trace them through to this codified result—then only will they be ready to pay their full homage to the industry and fidelity of the Committee on Commerce, and especially to the chairman of that committee, who, by his connection with the custom-house in other days, has had peculiar facilities for learning the routine which must be gone through with in the administration of the revenue laws.

I desire, by the passage of this bill, that the laws may be made clear, that the country may be relieved, and that the commercial interests of the country may be relieved, in the first place, from judge law; in the second place from Department law; and in the third place, from custom-house law. These interests are put at hazard by the conflicting opinions of those who administer the existing laws. It is most desirable, then, that so much of this bill as is a codification of existing law should pass.

If I understand the bill, it proposes not so many changes as the gentleman from New York [Mr. CLARK] would have us suppose. One or two of these he elaborately examined. In the first place, it proposes to change the rule by which the tonnage of American ships shall be ascertained. Our present rule was derived from the ancient English law. It is an unjust rule. It does not mathematically ascertain the carrying capacity of our ships. The tonnage of our ships, if measured by the cor-

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rect rule, would largely exceed its present amount. I believe the committee have simply incorporated into this bill the present English rule of measurement, which was adopted by them in 1853, and which has been ascertained in practice to be a good rule. Why, then, shall we not adopt it if it ascertains the exact carrying capacity of vessels? Why not be exactly right, rather than be approximately right?

In one other respect this bill changes the existing law; and that is, in respect to the collection of hospital moneys. To that question the gentleman from New York [Mr. CLARK] addressed himself ably and elaborately. If I understand the bill, it proposes to change the mode by which the money shall be collected. According to the present law, it is collected by the owners of vessels from the sailors. It has been ascertained that it cannot be collected in that way; and this bill proposes to charge those dues, not in the first place to the sailors, but to the tonnage of the country, and make that tonnage responsible. In that way it can be collected. According to the statement of the chairman of the Committee on Commerce, only about half of the sum necessary for hospital purposes was collected under the present system. But I have no particular feeling in relation to that part of the bill. I feel, with the gentleman from New York, a love for the sailor. My whole heart goes with him, and my vote shall ever be found upon his side. I thought, when the gentleman from New York [Mr. CLARK] was making his speech, he assailed rather the administration of the law than the law itself. I was touched by the monstrous conduct of the official in the case he brought forward to illustrate the bad administration of the present law. I, with him, will denounce that man, and would point the finger of scorn at him as long as I could find him; but because he was a bad man, and would not admit the poor sailor to the rights to which he was entitled, when sick and disabled, is that a reason why there should be no law? If the gentleman from New York can propose any practical amendment by which the rights of the sailor may be secured, I assure him that I will give that amendment my hearty support.

In another respect this bill changes the present law. The present law requires that three fourths of the sailors on board of a coasting vessel shall be American citizens, and in our foreign trade two thirds; and if the vessel do not carry that proportion of American citizens, the ship is subject to pains and penalties. This is ascertained to be physically impossible. I believe that the highest estimate made only counts about ten out of a hundred sailors in our service as American citizens. So you see that it is physically impossible to have them; and that portion of this bill having reference to this matter, if it shall pass, will relieve the consciences, at least, of those who have been in the habit of making singular custom-house oaths. So much, then, of the bill is, good.

Next, sir, we come to the apprentice system, upon which my friend from New York has just now poured out such a volume of objection. I have not given this part of the bill the examination I intend to before casting my vote. It is, it seems to me, a burning shame, that only ten men in every hundred of those who navigate our mighty commerce are American citizens. This is a method by which it is proposed to relieve that evil. There is nothing involuntary on the part of the apprentice. It does him no harm. Every kind of guard is furnished—indeed, it is stated that there are too many guards—for his protection. It may be that the ship-owner will think so, but I do not think that there can be too many. I would amend the bill as suggested by the gentleman from New York, and fix the age beyond or under which an apprentice should not enter upon a ship; and, sir, with that change, so far as apprentices are concerned, the bill meets with my hearty approval, unless, indeed, something shall be developed against it of which I have now no knowledge. I confess that the involuntary part of it seems to

me to be a little harsh, and I do not know that there is such an overwhelming necessity in the country to Americanize our sailors as to justify the putting of this part of it upon our ship-owners.

But may not there be a compensation resulting from this part of the bill to the ship-owner? Does he not get the steady services of an American boy, not for one year, but for more than one year? Is he not relieved from the payment of wages? Does not the tonnage of the vessel receive an abatement from what is charged upon it, according to the present law, for the hospital fund? There are large compensations which will flow to the ship-owner under its provisions. But at present I shall not commit myself for or against that portion of the bill.

Mr. BRANCH. Before the gentleman leaves that point, I would like to ask him a question. As I understand the policy of our laws, they afford protection to the ship-builders by prohibiting the use of foreign-built ships in the United States, except under heavy burdens. There is also protection afforded to the ship-owner in giving him a monopoly of the coasting trade. Protection, too, is afforded to the American sailor, by requiring that a certain proportion of sailors employed on each vessel shall be American citizens. Do I understand the gentleman from Massachusetts to say that the ship-owner, after he has taken advantage of the protection afforded to him by the law, deprives the American sailor of the protection that the law affords to him, by making false oaths at the custom-house? Is that the common practice of ship-owners of this country? Are they in the habit of thus depriving American sailors of the protection which the law extends to them?

Mr. BURLINGAME. I make no charge. I only state what I have heard is the practice. I understand that at the present time it is utterly impossible to meet the requirements of the law in this respect. I do not know how the captain gets round the law; but I learn that he does it in some way or other. The sailors, I believe, take the custom-house oath; and they may represent themselves to the captain to be American citizens, when in reality they are not. I seek for light on this question myself. There is the gentleman from Maine, [Mr. MORSE,] who is a practical ship-builder and ship-sailor, and probably the only one in the House; and he may tell us something on this point.

Mr. MORSE, of Maine. It is not the owner or the master who takes a false oath, but the sailor goes to the custom-house, gets his protection, and when he carries it to the master, the master is obliged to receive it.

Mr. BRANCH. I seek only for information. I represent no ship-owners. I want information; and I seek it in good faith. I understand now from the gentleman from Massachusetts and the gentleman from Maine—whether there are false oaths or not—that, under the practice, foreign sailors are allowed to come in and deprive the American sailor of the protection afforded him by the laws of the country.

Mr. BURLINGAME. If there is any fault, perhaps it should be charged to the custom-house officers. There is such an evil in our practice as has been referred to, and so far as my vote will go, I will give it to remedy it. I think this bill marches in the right direction.

Mr. FOSTER. I merely wish to say this: when ships are in foreign ports, oftentimes they cannot obtain the proportion of American sailors required by law, and they are forced to return and undergo the fine [Mr. BURLINGAME. Of fifty cents per ton] imposed by the law. There was a case of a ship which returned to New York under those circumstances. I would have called the attention of Congress to it, if this bill had not been brought up.

Mr. BRANCH. Then the result is, that while the ship-builder and ship-owner get the protection the law designed for them, the poor sailor, whether by the fault of the captain or of the custom-house officer, or of the foreign sailors, is deprived of the protection the law assigned for him.

Mr. BURLINGAME. That is the evil which I wish corrected; so that no hardship may fall anywhere.

Mr. MORSE, of Maine. I wish to say in this connection, as my colleague [Mr. FOSTER] has left that matter unexplained, that our ships have often to pay a fine in consequence of being obliged to bring home crews from abroad, of whom two thirds are not American citizens. This is often done. I know of one ship that has twice paid in New York a fine of fifty cents per ton for this violation of the law; and as her tonnage was one thousand tons, the fine amounted to \$500 each time. If it can be shown that American sailors could not have been obtained, the fine is usually not imposed. But in these cases, although it was utterly impossible for the ship to have obtained American sailors, the proper course, perhaps, was not taken to prove it; therefore the fine was imposed. This bill, I believe, proposes to relieve ship-owners from this fine.

Mr. BURLINGAME. And so far it is an improvement on the present law.

Mr. GILMAN. I can give an instance of the hardship of the law. I know a vessel whose crew deserted at Elsinore. The captain could not bring her home without getting a foreign crew. Of course, when she arrived at the custom-house at Boston, he was obliged to pay the fine, rather than have the vessel exposed to delay and loss of property.

Mr. BURLINGAME. There is another provision of this bill which meets my hearty concurrence. It is that which requires a special license for a ship trading to the western coast of Africa. I will not dwell on this provision; but I believe that under it, when a special license is asked, the collector of the port will send inspectors to examine the ship, and to ascertain the motive of her voyage. This is not a substitute for the law as it at present stands. It does not change the law at all. But, if I understand it, this comes in as an auxiliary to the present law.

There are other portions of this bill which meet with my approval. There are still other portions of it which I have not yet fully examined, and to which I am not prepared to say whether I will sustain them or not. But I will present to this bill, and hope the members of the House and of the committee will meet it in a like spirit, an attitude of fairness. I desire that, substantially, it may pass; and I trust that whoever shall submit his criticisms upon it, will not do so in a spirit of hypercriticism, but with an honest and sincere purpose of perfecting the bill. I presume that those who are most in favor of the bill are perfectly willing to submit to many amendments; to submit to have it amended even so as to make it a simple codification of the revenue laws. I, for one, am willing, if we cannot otherwise pass the bill, to submit to amendments going as far as that; and, if I understand the gentleman from New York, [Mr. CLARK,] such is his attitude toward the bill. He does not desire to destroy it.

Mr. CLARK, of New York. There are a few good things in the bill.

Mr. BURLINGAME. The gentleman says there are a few good things in it. I may perhaps differ from him somewhat, and say that there are many good things in it. And if, in regard to the chapter about apprentices, he will draw up an amendment that will perfect the system, and secure the rights and interests of the poor sailor, whose interests he and I and the whole House have at heart, I will go heartily for his amendment. If he cannot vote for the bill without striking out all that relates to apprentices, and if it will be necessary to do so to save the rest of the bill, I will perhaps go with him in that amendment. But it was not my purpose, Mr. Chairman, to enter upon an elaborate discussion of this bill. I may, when it is being read over by sections for amendment, find many things in it which I will desire to amend. It is a bill so long, and comprehending so many complex provisions, that we must take much of it on faith. I shall certainly examine the bill as carefully as I can. I shall listen

attentively to all that is said on the subject in the House, and shall shape my action in such a way as may best lead to the perfection and passage of the bill.

Mr. COMINS obtained the floor, but yielded to

Mr. CLAY, who moved that the committee rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the special order, being a bill (H. R. No. 487) for the codification of the existing revenue laws of the United States, and for other purposes, and had come to no resolution thereon.

EMPLOYÉS AT NAVY-YARDS.

Mr. GARNETT, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to this House the number of hands employed at the several navy-yards in each fortnight of the year preceding the 1st of December, 1858.

FORT SNELLING.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House, whether, under the articles of agreement entered into by and between Major Eastman and William King Heiskell, on the part of the United States, and Franklin Steele, of Fort Snelling, in regard to the sale of Fort Snelling, the sum of \$30,000, which was due by the said articles of agreement on the 10th day of July, 1858, has been paid to the Government, and if so, when; but if not paid as stipulated, what action has been taken by the War Department in regard thereto, and whether the possession of the said reservation, or any part thereof, has been delivered to the said Steele, or whether it is still in possession of the Department.

Mr. BURNETT. I object.

CONSULAR AGENT AT JAFFA.

The SPEAKER laid before the House a communication from the Secretary of State, inclosing a communication to the Committee on Foreign Affairs, in regard to the claim of the late consular agent at Jaffa, for alleged consular expenditures; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

CARMICK AND RAMSEY.

The SPEAKER also laid before the House a message from the President of the United States, transmitting a report of the Comptroller, with a copy of a letter from Messrs. Johnson & Williams in relation to the decision on the Carmick & Ramsey claim, which papers had been omitted to be sent to the House some days since with the other papers on the subject; which was referred to the Committee on the Judiciary, and ordered to be printed.

CONSUL AT BREMEN.

The SPEAKER also laid before the House a letter from the Secretary of State, inclosing a communication to the chairman of the Committee on Foreign Affairs, in relation to increasing the compensation of the United States consul at Bremen; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

CHARLES REY.

The SPEAKER also laid before the House a communication from the Secretary of State, relative to an appropriation for the relief of Charles Rey, United States consul at St. Martins; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

CONTINGENT EXPENSES IN KANSAS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, inclosing a report of the Comptroller of certain contingent expenses incurred in the Territory of Kansas, and asking an appropriation therefor; which was referred to the Committee of Ways and Means, and ordered to be printed. Also a statement from the Treasury Department, showing the disbursement of the contingent fund of said Department for the year ending, June 30, 1850; which was laid upon the table, and ordered to be printed.

OFFICERS OF THE NAVY.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the House of the 23d ultimo, a statement showing the number and names of persons in the Navy not actively employed, the length of time such persons have been out of active employment, the amount of salary received by them, and the reasons for there not being actively employed on sea duty; which was laid on the table, and ordered to be printed.

And then, on motion of Mr. BURNETT, (at four o'clock and twenty minutes, p. m.) the House adjourned.

IN SENATE.

FRIDAY, January 14, 1859.

Prayer by Rev. S. P. HILL, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, made in compliance with a resolution of the Senate, directing him to report such changes in the laws regulating postages and the Post Office Department as in his opinion would make that a self-sustaining Department; which, on motion of Mr. HALE, was referred to the Committee on the Post Office and Post Roads; and a motion by Mr. YULEE to print the report was referred to the Committee on Printing.

ADJOURNMENT TO MONDAY.

Mr. HALE. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. HAMLIN. I hope not.

Mr. CHANDLER. I call for the yeas and nays.

Mr. HUNTER. I hope not. Is it in order to offer that motion without unanimous consent?

The VICE PRESIDENT. The Chair supposes it is analogous to a motion to adjourn.

Mr. HUNTER. I hope the Senate will not pass it. This day, I presume, will be given to private bills, and I want to ask the Senate to-morrow to take up the appropriation bill which has been reported. Unless we get on with the appropriation bills, we shall be too much hurried at the close of the session.

Mr. IVERSON. Is the question on the motion to adjourn until Monday debatable?

Mr. HUNTER. It is a debatable question. A motion to adjourn simply is not; but a motion to adjourn over is debatable.

Mr. IVERSON. I only want to know whether it is so, that I may debate it. With the Senator from Virginia, I am opposed to the motion, and desire to present some views to the Senate why it ought not to pass, but I did not know whether it was debatable or not. I do not want to trespass on the rules of the Senate.

The VICE PRESIDENT. It appears to the Chair that the motion is debatable within certain limits; but if the question is made, it appears to him, on reflection, that it may not be at this time in order. It is not like a motion to adjourn.

Mr. HUNTER. If I have a right to object, I do object.

The VICE PRESIDENT. The Chair, as at present advised, will sustain the objection.

Mr. HALE. What is the objection?

The VICE PRESIDENT. That it is not at this time in order.

Mr. HALE. Why not?

The VICE PRESIDENT. The rules require the Chair, as soon as the Journal is read, to call for petitions, and then for reports of standing committees.

Mr. HALE. The practice has been different ever since I have been in the Senate.

The VICE PRESIDENT. The Chair understands it has been ruled differently.

PETITIONS AND MEMORIALS.

Mr. BIGLER presented the memorial of J. J. Lints, praying compensation for his services as custodian of the public property connected with the improvement of the harbor at Erie, Pennsylvania; which was referred to the Committee on Claims.

Mr. CLARK presented the petition of P. B.

Templeton, asking compensation for reporting in the case of Doctor George A. Gardiner, who was tried for defrauding the Government; which was referred to the Committee on Claims.

Mr. IVERSON presented the petition of James and Theodore Walters, praying that certain lots in the city of Washington may be conveyed to them; which was referred to the Committee on Public Buildings and Grounds.

Mr. MASON presented the petition of E. George Squier, praying to be allowed the balance of salary and outfits due him as chargé d'affaires to the Republics of Central America; which was referred to the Committee on Foreign Relations.

Mr. FITZPATRICK presented the petition of Tilman Leak, praying that certain moneys, paid by him for land which had been previously sold and patented by the United States to another person, may be refunded, with interest; which was referred to the Committee on Indian Affairs.

The VICE PRESIDENT presented a petition of members of the Board of Agriculture of the State of Indiana, praying that the bill now before Congress, granting land for the establishment of agricultural colleges in the States, may become a law; which was ordered to lie on the table.

Mr. DOOLITTLE presented the petition of Cerinia S. Reynolds, widow of Thomas Reynolds, a soldier in the war of 1812, praying remuneration for losses and sufferings during the war; which was referred to the Committee on Claims.

Mr. HARLAN. I present two petitions of citizens of Iowa, praying the establishment of a new land district in that State; and as the Committee on Public Lands have acted on that subject, I move to lay the memorials on the table.

The motion was agreed to.

Mr. CAMERON, presented a petition of citizens of Northumberland county, Pennsylvania, praying the enactment of a law granting pensions to the officers and soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. DAVIS presented resolutions adopted at a meeting of the Merchants' Exchange Association of the city of Washington, in favor of a charter of incorporation for a company to construct a railroad from the navy-yard, along Pennsylvania avenue, to Georgetown; which were referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CAMERON, it was

Ordered, That the memorial of C. L. West and others, on the files of the Senate, praying that the benefits of the acts passed August 31, 1852, and April 22, 1854, giving an addition of twenty per cent. to certain limited salaries, may be extended, be referred to the Committee on Claims.

CONTRACTS FOR LIVE-OAK TIMBER.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish the Senate copies of all contracts and advertisements for contracts made for live-oak timber since March 4, 1857; to state by what authority they were made; to furnish schedules of all proposals made under the advertisements of May 2, 1857, and June 14, 1858; to give the names of the lowest bidders to whom contracts were awarded; to state whether any contracts were abrogated, when, and for what reason; to state if any contracts were made for live-oak timber in the month of September, 1858, and if so, with whom and by what authority; to state whether the present contractor or contractors, if any such exist, have complied with the terms of his or their contract, in making deliveries of timber in the time specified; to state what quantity of live-oak, if any, and the description thereof, were lying in the Norfolk, Philadelphia, New York, Charlesown, and Kittery yards, at the date of the advertisement for proposals, of June 14, 1858, and to whom the same belonged; and, if such timber was so lying in said yards, whether it was the property of private individuals, and if so, for what purpose it was there, and by what authority; to state whether the whole, or any portion, of said timber, if such existed, was furnished according to contracts made under proposals issued May 2, 1857; whether the whole, or any portions, of the same, was rejected; whether it, or any portion of it, was received under any subsequent contract; to state whether the time allowed for delivering the timber, in the advertisement for bids, of June 14, 1858, was the usual and customary time.

UPTON AND CO.'S CLAIMS.

Mr. CLINGMAN. I submit the following resolution:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of making an appropriation to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by paying the claims on file, ordered to be assessed by Messrs. Upton and Summey and Washington and Mason, commissioners, under the Cherokee treaty of 1835.

Mr. HALE. I rise to a question of order on that resolution. That is as much out of order as it is to move to adjourn over.

The VICE PRESIDENT. It requires unanimous consent. The Senator from North Carolina asks unanimous consent for the present consideration of that resolution.

Mr. HALE. I have not a word to say on that ground.

The resolution was agreed to.

REMOVAL OF INDIANS.

Mr. SHIELDS. I submit the following resolution; and ask for its consideration at the present time:

Whereas the Sioux Indians in the State of Minnesota have a larger tract of country as a reservation than is necessary for their use; and whereas the Winnebago Indians, in the counties of Blue Earth and Waseca, in the same State, occupy "a territory now entirely surrounded by white settlements, and which reservation is near the center of the most densely populated district of the State." Therefore,

Resolved, That the Secretary of the Interior be respectfully requested to inform the Senate whether it is competent or expedient to take any steps at the present time to remove the Winnebagoes from their present position and locate them upon a portion of the Sioux reservation or elsewhere, and secure to each head of a family of both nations a tract of land sufficient for a farm; and if so, whether any, and what, legislation is necessary to enable him to effect that purpose.

Mr. HALE. I have no objection to the resolution, but there is an affirmation of fact in it which I am not advised of; and I do not like to pass a resolution affirming a thing to be a fact which I do not know to be so. I have no objection to the inquiry, but there are two direct affirmations of fact there that I know nothing about. I suggest that it be amended in that particular.

Mr. SHIELDS. I ask for information in relation to these facts.

Mr. HALE. I shall not interpose any objection; but it is objectionable, because it affirms distinctly that those Indians have more land than is necessary for them. I do not know it. I will not interpose, however, but I think it is objectionable.

Mr. CLAY. I object to its consideration.

The VICE PRESIDENT. Objection being made, the resolution lies over.

BILLS INTRODUCED.

Mr. FITZPATRICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 512) to establish a line of mail steamers from New Orleans, or Mobile, to sundry ports therein mentioned, on the Gulf of Mexico; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

REPORTS FROM COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 215) for the relief of the executor of Brevet Brigadier General James Bankhead, late of the United States Army, reported it without amendment; and submitted an adverse report, which was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Joseph Probst, praying the payment of certain Continental scrip received by his father in payment for his services as a soldier in the revolutionary war, with interest, asked to be discharged from its further consideration.

He also, from the same committee, to whom was referred the memorial of John Beeson, praying a warrant for land on which he had settled in Oregon, and from which he was driven; also, for indemnity for losses resulting from the expulsion; asked to be discharged from its further consideration.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 783) entitled "An act to authorize the registering of the schooner Enterprise, of Wilson, New York;" and a joint resolution (H. R. No. 39) to authorize the Secretary of the Treasury to sell a certain lot of land in the city of Petersburg, Virginia, belonging to the United States; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill (S. No. 2) to repeal

an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved 5th March, 1856; which thereupon received the signature of the Vice President.

REPORTS FROM PRINTING COMMITTEE.

Mr. DOOLITTLE. There is a report on the table from the Committee on Printing, in relation to correspondence respecting the capture of William Walker by Commander Paulding, which it is necessary the Senate should pass upon.

Mr. FITCH. I have been seeking the floor that I might move that all the reports made by the Committee on Printing on the 12th instant be concurred in.

The Senate proceeded to consider the report of the Committee on Printing in favor of printing the report of the Secretary of the Navy, communicated the 23d December, with the correspondence relative to the capture of William Walker by Commander Paulding; and the report was agreed to.

The Senate proceeded to consider the report of the Committee on Printing against printing the report of the Secretary of the Senate showing the names of persons employed in his office.

Mr. CLAY. I should like to have some explanation of that from some member of the committee. I should like to ascertain why there is an adverse report?

Mr. FITCH. The document is quite a short one, and is simply for the action of the Senate. We thought it utterly unnecessary to incur the expense—although it might be small—of printing the document, and multiplying copies, as we do with Executive documents. If it is required for the use of the Senate, it is easily accessible; and beyond the Senate it is of no earthly use. It contains only the names of the employees of the Secretary's office, and their salaries.

The report was concurred in.

The Senate proceeded to consider the report of the Committee on Printing against printing fifty thousand copies of the addresses on the occasion of the removal of the Senate from its old Chamber; and the report was agreed to.

The Senate proceeded to consider the report of the Committee on Printing in favor of printing the message of the President relative to a decree and regulation respecting United States consular courts in China; and the report was agreed to.

The Senate proceeded to consider the report of the Committee on Printing in favor of printing the report of the Secretary of War in relation to the application of certain land in the harbor of New York, belonging to the United States, to the use of the revenue department; and the report was agreed to.

JAMES F. MORTON.

Mr. DIXON, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the following resolution, reported it without amendment:

Resolved, That there be paid out of the contingent fund of the Senate, to the widow of James F. Morton, late superintendent of furnaces, the sum of \$150 for funeral expenses, and an amount equal to one quarter's salary of the deceased.

Mr. DIXON. I ask the Senate to consider the resolution at once.

The resolution was, by unanimous consent, read the second time, and considered as in Committee of the Whole.

Mr. TRUMBULL. It is very ungracious to object in any way to a resolution of this kind, and I do not mean to do so; but several resolutions of this character have been passed since I have been in the Senate; and, if such appropriations are to be made, I think it would be a great deal better to have a general law providing that, when any one of the family of any of our employés dies, the funeral expenses shall be paid by the Government. This way of doing it is, to me, very objectionable; though I will not make any objection in this particular case, unless some other gentleman does. A resolution similar to this passed a few days ago; and I now call attention to it, that we may have no more such resolutions.

Mr. HUNTER. It seems to me that we had better raise the question on this resolution. The Senator from Illinois is right. If this is done, it ought to be a general rule. I ask for the yeas and nays.

Mr. CAMERON. I hope there will be no objection to this resolution. It is for the benefit of some very poor people—the family of a laborer below here. He has died and left his family without anything. We have paid the expenses of the funeral of other officers before, and I hope there will be no objection to the payment of this small sum now.

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. HUNTER. If this pass, it will establish a general principle. We may as well know what we are doing. I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. COLLAMER. I have sat here and seen passed in this body appropriations, if you call them such, in the same way and out of the same fund—one a few weeks ago, in the case of the late Assistant Doorkeeper, Mr. Holland; and now when we come to the case of the family of a poor man, who worked down in the lower apartment, below the Senate Chamber, it seems to me it does not become us to hesitate and palter very much about so small a matter.

The question being taken by yeas and nays, resulted—yeas 33, nays 17; as follows:

YEAS—Messrs. Allen, Bates, Bell, Bigler, Bright, Brodcrick, Cameron, Chesnut, Clark, Clingman, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Hale, Hammond, Harlan, Kennedy, Mason, Reid, Sebastian, Seward, Shields, Simmons, Stuart, Wade, and Wilson—33.

NAYS—Messrs. Brown, Chandler, Clay, Davis, Fitzpatrick, Green, Hunter, Iverson, Johnson of Tennessee, King, Polk, Pugh, Rice, Slidell, Trumbull, Ward, and Yulee—17.

So the resolution was passed.

COMMANDER H. I. HARTSTENE.

Mr. HAMMOND. The Committee on Naval Affairs, to whom was referred the petition of H. I. Hartstene, a commander in the Navy, praying that certain expenses incurred on account of the bark Resolute may be allowed in the settlement of his accounts, have directed me to report a joint resolution, which I ask may be considered now.

There being no objection, the joint resolution (S. No. 70) for the relief of Commander H. I. Hartstene, of the United States Navy, was read twice by its title, and considered as in Committee of the Whole.

It directs that the accounting officers of the Treasury allow and pay the sum of \$2,008 60 to Commander H. I. Hartstene, on account of extra expenses incurred by him in restoring the bark Resolute.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REDICK M'KEE.

Mr. SEBASTIAN. The Committee on Indian Affairs, to whom was referred the joint resolution (S. No. 63) authorizing the settlement of the accounts of Redick McKee, have instructed me to report it without amendment. There is no written report, because it comes within the class of cases heretofore allowed.

Mr. GWIN. I hope that joint resolution will be considered now. Precisely similar ones have been passed in other cases. It is merely providing for the settlement of the accounts by the Commissioner of Indian Affairs.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the joint resolution (S. No. 63) authorizing the settlement of the accounts of Redick McKee. It authorizes the Commissioner of Indian Affairs to audit and adjust, on equitable principles, his accounts as late Indian commissioner and agent for California; and appropriates a sum not exceeding \$8,611 77 for that purpose; but nothing in the act is to authorize the payment of any claim or contracts entered into by him, or drafts drawn by him, wherein other parties may have claims against the United States.

Mr. CLAY. I should like to have some explanation of this resolution. It would seem to me, on the mere reading of it, that it is a work of supererogation, on the part of the Senate, to authorize the Secretary of the Interior or the Commissioner of Indian Affairs to settle accounts on just and equitable principles. I should suppose he would do that at any rate; but I should like to have some explanation; I should like to know what the Secre-

tary of the Interior says on the subject, and have some reason assigned why these accounts have not been settled.

Mr. GWIN. Mr. McKee was one of the Indian agents originally appointed for California; and in expectation of certain appropriations being made, he made engagements there for the purpose of supplying the force that was engaged with him in negotiating Indian treaties. That exceeded the amount of the appropriation. One of his colleagues, one of the other Indian agents who had precisely similar accounts, got a bill passed through the Senate and the House of Representatives, unanimously, two years ago, to have his accounts adjusted. There are equally as much equity and justice in this claim as in that. I hope the Senator will not object to it, but that the Senate will pass it at once.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. CAMERON. I ask the indulgence of the Senate to move to take up the bill (H. R. No. 544) in relation to a railroad along Pennsylvania avenue, in the city of Washington, District of Columbia. I presume it will take but a short time to consider it.

Mr. IVERSON. I hope the motion to take up that bill will not prevail. It must necessarily give rise to discussion. It cannot pass this body without very considerable discussion, although I do not desire to take part in the debate on it myself. This is a day which is ordinarily set apart for the consideration of private bills; and if this motion of the Senator from Pennsylvania does not succeed, I shall move to take up the Private Calendar. I think, if we mean to do anything for private claimants, it is high time we had commenced. The session is half through, and not a single private bill, with one exception, has been disposed of by the Senate. There are more than one hundred private bills on the Calendar, many of which I know, from personal information, are of a pressing character, which are just and necessary to be passed. I think the Senate ought to proceed to the consideration of those bills, and devote at least one day of each week (Friday) to them. This bill is on the Calendar, and is no more, in fact, than a private bill itself, for it proposes to grant monopolizing privileges to a private company. I hope the motion to take it up out of its order will not prevail.

Mr. HALE. Before I vote on this motion, I want to ask a question of the Senator from Tennessee, [Mr. Johnson.] I am told that, in the early part of the session, he introduced a resolution for which I am very anxious to vote, and I think a majority of the Senate are. I refer to a resolution in favor of retrenching and reforming the expenditures of the Government. I think it is time that should be called up, and I shall vote for that in preference to any other business, unless the honorable Senator has abandoned it.

Mr. BROWN. For the very reason assigned by the Senator from Georgia, I hope the Senate will proceed to the consideration of this bill. That it is to give rise to debate is, I think, a very sufficient reason why we ought to take it up now. Certainly, the Senate is as much at leisure to consider it now as it will be at any time during the session. I want the question disposed of in some way. I should not complain if the Senate refused to give this franchise to any company; but there is a struggle going on about it, and the longer we postpone the bill the more feeling will arise out of it. To-day is as good a time as any to take up this question and dispose of it. If it should be postponed to next week, you would still discuss it; and, unless the Senate is determined to do nothing on the subject, but to leave it as it is, this is the very best time to dispose of it. I am perfectly willing to lay the whole subject on the table, or to take up the bill, and then test the question whether anything shall be done in regard to it by a motion to lay it on the table, so as to satisfy outside people what you are going to do.

Mr. CAMERON. This bill passed the House of Representatives last winter; it has undergone the examination of the Committee on the District of Columbia in this body, and has been approved by every member of that committee. Some of my constituents are concerned in it, and I have had

charge of it during the whole winter. I believe I do not trouble the Senate often. I have no claims here at all belonging to my State. I have no legislation here that I can reach. The great interests of my State are constantly put by. This whole matter is for the benefit of members of the Senate and of the House of Representatives, of the people of the District of Columbia, and of every citizen in this Union who comes here. Passenger railways are found to be a great convenience and great comfort in the cities where they are now used, and so they will be here. I want this question disposed of. A great many persons are contending for the right, under the impression that it is going to be a good speculation. It is very easy to talk about monopolies. That is a word that everybody has learned by heart, as a parrot learns to talk. Everything that is brought in that is unpleasant to a particular gentleman, is said to be a monopoly, and therefore it must not be examined. Now, Mr. President, if this is to be a monopoly, let us look into it; let us see where the wrong is, and who are going to monopolize, and who is to receive injury. I believe that all will receive benefit from it. I will not say anything more unless the bill itself is attacked, and then I shall be ready to explain it.

Mr. IVERSON. I can see no reason why this particular bill should have precedence of other private bills on the Calendar. There are many bills introduced for individuals which have priority over this bill, and which were introduced long before this bill came to the Senate. I characterized this as a monopoly. It is nothing more than the gratuitous grant of a privilege which the Government holds in its hands, to private individuals for their particular benefit; and because it is a gratuity on the part of the Government, they are to have a preference over other private claimants who have just demands upon the Government for money which the Government has withheld from them, and this bill is to be taken up and discussed and passed in preference to them. There is no justice in such a proposition. Under what obligation is the Government to these individuals who come here and ask this extraordinary privilege? I do not say I am opposed to the bill. I am rather inclined to vote for it as a matter of public convenience to the citizens of Washington; but surely it can be considered as nothing more than a gratuity to those individuals, and a gratuity of a very extraordinary character, for everybody understands that the privilege which is to be granted to them will give them immense fortunes. It is a monopoly of a very decided and very enormous character—one which, if put up for sale at public auction to the highest bidder, would command a very large price to the Government. Now, I want to know why the gentlemen who come here and ask this extraordinary privilege from the Government, in order to make fortunes for themselves, should be entitled to precedence in the consideration and attention of the Senate over just private claimants who come here and ask a little pittance of the Government, to do them justice on the claims which they have presented, and on which action has been had by the various committees? I trust the motion will not prevail; but that, if the Senate proceeds to the consideration of private bills, this will stand on the footing of all other private bills, and come up in its order on the docket.

Mr. CAMERON. Every bill that is acted on here must have preference over some other bill; one must come before another. I do not understand, still, the argument of the gentleman about its being a monopoly. This railway is to be made by private enterprise, to be sure; but it is to be for the benefit of the public. No individual enters into any enterprise unless he expects to derive some profit from it; and especially when he puts his money into it. Now, why shall we refuse to consider the bill and examine it? The gentleman's argument might be very well against the bill itself, but not against taking it up. There was a little while ago before the Senate a proposition which was of small amount, to pay for burying a poor man in our employment, and yet an objection was made to that, and I believe by a gentleman on the other side of the Chamber. He occupied the time of the Senate while he was making the objection. We must do that on all occasions, when we defend or oppose a bill. If the Senate will permit the bill to come up, his argument then can apply very well. If the Sen-

ate vote it down, I shall submit, of course; but I want it disposed of now. It will probably not take so much time as it will on any other occasion.

Mr. MALLORY. This, I understand, is the day devoted to the consideration of private claims. There are some upon your Calendar which have been at the doors of Congress for a quarter of a century, doubtless founded in justice, and demanding the attention of the Senate. We are now called upon, however, to take up a particular bill, and set all these aside; and the Senator making the motion furnishes us with no special reason for so doing. The Senator from Georgia has correctly characterized this bill as granting a monopoly. It does propose to confer a special privilege on three specified individuals by name, for the term of twenty-five years; and will put large fortunes in their pockets, or the pockets of anybody who may receive that donation. The bill, in its present shape, does not commend itself to the Senate in such a manner as to lay aside the countless claims that are here demanding our attention, and proceed to consider that specially. I trust the Senate will not take it up. If it is taken up, the probability is that it will entirely absorb the remainder of this day, and private claims will be deferred for another session.

Mr. BIGLER. There is evidently a misunderstanding—

The VICE PRESIDENT. It is the duty of the Chair to call up the special order at this hour.

Mr. IVERSON. Is it in order to move to postpone the special order, and proceed to the consideration of the Private Calendar?

The VICE PRESIDENT. It is.

Mr. IVERSON. Then I make that motion.

Mr. GWIN. I hope that motion will not prevail, but that we shall proceed with and close the discussion on the Pacific railroad bill, and come to a vote. Let us at least have an opportunity of seeing whether the discussion is to go on or not. I call for the yeas and nays on this proposition.

The VICE PRESIDENT. The Chair will state the question. The Chair, at one o'clock, called up the special order; the Senator from Georgia moves to postpone it, and all prior orders, with a view to take up the Private Calendar; and on that motion the Senator from California asks for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK. When, last week, a motion was made to postpone this special order and take up the Private Calendar, objection was made by the Senator from California; and he asked the Senate to consider the subject of the Pacific railroad bill. The Senate then did proceed to the consideration of the bill; and the Private Calendar was made to yield. He now asks that it be made to yield again. I ask the Senate if it is quite fair to those parties who have come here with claims, and have urged them through the last session, and through this session, and through sessions before, that their claims should be continually rode down by this railroad? Here are widows upon your Calendar, here are various other claimants upon the Calendar, who have been asking, year after year, that their just claims be allowed by the Senate. They have no agents, perhaps, here to enforce their claims, or they may have agents to enforce them; but somebody should speak for them in the Senate; and I ask the Senate whether they will not devote one day in the week—ay, sir, one day in half the session, (for we have not given them one day yet, and half the session has gone,) to the consideration of these private claims? I hope the special order will be postponed, and private claims considered. It seemed to have been understood through the week that to-day we were going to take up the Private Calendar; and whenever any Senator proposed to take up a private bill, it was said, "let it go over to Friday, Private Calendar day;" and bills have gone over in that way. Now Friday comes, and it is proposed to postpone the Private Calendar. I hope the Senate will take up the Calendar, and postpone the railroad bill.

Mr. CAMERON. I will save my friends all trouble by saying that I intended to get my bill through before the time arrived for considering private bills. That hour having arrived, I withdraw my motion until another day.

Mr. HALE. Is the motion that I made some time ago in order? Cannot I renew it, and move that when the Senate adjourn, to-day, it be to meet on Monday next?

Mr. BIGLER, and others. There is a question before the Senate.

Mr. HAMLIN. I submit to the Chair that there cannot be two questions before the Senate at the same time. There is a motion now pending, and surely it is not competent to submit any other motion except one prescribed by the rules.

The VICE PRESIDENT. That is the opinion of the Chair. At this time, the motion is not in order.

Mr. HALE. Before that decision is made, I wish to state what the uniform practice has been. There is always something pending; but a motion to adjourn over has always been considered in the nature of a privileged question, and it has heretofore been made in the morning hour. We have had a new dispensation of the law this morning. I do not mean to say that it is not right, but only that it is new; and if the Chair shall decide that the motion is not now in order, that, together with the former decision, will be tantamount to saying that it shall never be made. I should like some of the older members to inform the Chair as to the practice, if the Chair is in doubt.

The VICE PRESIDENT. The Chair will state to the Senator from New Hampshire, that he never knew the question to be made before this morning. He is informed by the Secretary that it has been ruled by previous Presiding Officers not to be in the nature of a motion to adjourn; not to be a privileged motion.

Mr. GWIN. I do not want to oppose the consideration of private bills; I do not want to interfere with them in any way whatever; but I do not wish to be considered as wanting in diligence in pressing this great question of the Pacific railroad to a final vote, and having it disposed of by the Senate. It seems to me the best plan we can adopt will be to dispose of it to-day. I wished it done yesterday. I am willing to sit here until the question is entirely disposed of. We have had a long discussion on it, and I am anxious to have a vote. It is not because I desire to interfere with private bills—that I insist on that, for I want them disposed of; but it seems to me we have progressed with the discussion of the railroad bill to such a point that we can come to a vote to-day.

Mr. IVERSON. I will give the gentleman from California bond and good security, (and I think every Senator will sign the bond,) that nobody will suspect him of want of vigilance in prosecuting the Pacific railroad bill, even if the Private Calendar shall be taken up to-day and shall push that bill aside. He has manifested too much anxiety for the passage of the railroad bill to create any suspicion of the least negligence in his duty in this respect. I trust the Private Calendar will be taken up, and that we shall do something towards considering the claims of individuals.

Mr. TOOMBS. We have scarcely done anything else this session but discuss the Pacific railroad. It has been discussed mainly and almost exclusively by its friends. I hope we shall go on and get through with it. It is time we were going into the business of the country. We have a great deal of necessary legislation to do. So far as this great multitude of just claims of which gentlemen speak are concerned, there is a great mistake; the Government pays all legal claims, or ninety-nine out of a hundred of them, and of all that batch on your Calendar nineteen out of twenty are only appeals to the sympathy or generosity of Senators here to pay public money without any merit. We ought to devote the time we have left—and it is but little—to the public business, and dispose of those questions which we have been debating. It is the habit of the Senate to debate, from day to day, what is called a great question—the Pacific railroad bill. It is a magnificent question, but perhaps I do not use the term in the sense the Senator from California understands it. I am anxious that the Senate shall go on to vote; pass it if you can, or let us defeat it if we are able. I think the private bills can wait until the weightier matters of public business are transacted.

Mr. DOOLITTLE. I concur entirely with what has fallen from the Senator from Georgia. I think we shall gain time by pushing the Pacific railroad matter until we come to a decisive vote; and I am willing to say to those who wish to advocate private bills, and are anxious to have them disposed of, that I am willing, after the Pacific railroad bill shall be disposed of, to set apart each

Friday in the session to the consideration of the private claims, and to them exclusively.

Mr. BAYARD. I shall be reluctantly compelled to vote against this motion. I admit that there are some claims on the Calendar, within my knowledge, which ought to be passed; and there are others that no doubt ought to be disposed of; but still I think the Pacific railroad bill ought to be decided. It has been before us; it obstructs the general business of the Senate; it has occupied a great deal of time; and if we keep at it continuously until we dispose of it, I think we can dispose of it soon. It is on that ground, because I think the general business of the Senate, connected with the general interests of the country, will be facilitated by keeping one subject continuously before us until it is disposed of, that I feel constrained to vote against this motion.

Mr. HAMLIN. I hope the Senate will deem it wise to proceed to the consideration of the Private Calendar. These various claims are separate; they are distinct; they can embody no great vote in the Senate like a great public question for their consideration; and it has, therefore, always been deemed wise by Congress to appropriate certain specific days for their consideration. The railroad bill has overstepped everything, like a Colossus, for the whole session; and God only can tell how much longer it will last; I think the whole session. I see no more hope of approaching the end of the question than I did the first day of the session. We have almost forty different propositions here; and they are to be taken up *serialim*, and acted on and amended; and substitute after substitute is to come up to be perfected. Now, sir, I have sat here and listened to the debate; I have not opened my lips on that great question; I do not propose to do so; but I hope that, great as it may be, and important as it is, the private claims which have merit and justice, in my humble judgment, and vastly more of merit and of justice than though they were regulated by strict legal principles, will receive the favorable consideration of the Senate. There are hundreds of them on the Calendar which appeal to the head and to the heart for the action of Congress; but, if there is not merit in them, let us consider them and reject them. If they have merit, let us yield them that favorable action to which they are entitled.

Mr. THOMPSON, of Kentucky. I rather concur with the Senator from Maine who has just taken his seat. As to these various propositions about the Pacific railroad, I suppose that here among ourselves the thing ought to be pretty well understood by this time. The forty propositions are nothing else than meanderings and routes to get out of the responsibility of undertaking what we ought not to undertake to do. Coming flatly down to the point, there is not a man, I presume—of course I mean nothing personal to any man who has dilated on the subject—who seriously thinks we can pass any such measure at this time. This magnificent scheme of a Pacific railroad reminds me of the man who went to the jockey's to buy a horse, and they asked him \$5,000 for it. Said he: "All right, but I have not got the money; in addition to that, if I had, it is too high a price; I have thirteen reasons for not buying it." "Just stop; the first reason is quite enough." [Laughter.] We have not got the money to make the road, and the thing is to go overboard at last, and you mean to meander out of it. Let us attend to the private claims, and let every man find his own transit bridge and his own loophole. I am for a Pacific railroad whenever you fix it to suit me and everybody else, but it will never be fixed right. We all know that is going to be the termination of the thing. There has been enough ridiculous obstruction to the public business from it already, I think, to justify us in laying it by; and notwithstanding what my friend from Georgia [Mr. IVERSON] says, those widows who are petitioning for pensions and other claims have a small chance. Everybody is for a road; I am for a road, too, but I want to be understood in the right sense.

The question being taken on Mr. IVERSON's motion by yeas and nays, resulted—yeas 24, nays 32; as follows:

YEAS—Messrs. Bates, Benjamin, Brown, Cameron, Clark, Clay, Crittenden, Fessenden, Fitzpatrick, Green, Hamlin, Houston, Hunter, Iverson, Johnson of Arkansas, Polk, Pugh, Reid, Sebastian, Shields, Sidel, Thompson of Kentucky, Wade, and Yulee—24.

NAYS—Messrs. Allen, Bayard, Bell, Bigler, Bright, Broderick, Chandler, Chesnut, Clingman, Collamer, Dixon, Doolittle, Douglas, Foot, Foster, Gwin, Hale, Hammond, Harlan, Johnson of Tennessee, King, Mallory, Mason, Rice, Seward, Simmons, Stuart, Toombs, Trumbull, Wilson, and Wright—32.

So the Senate refused to take up the Private Calendar.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; the pending question being on the amendment offered by Mr. HARLAN, to strike out "34" and insert "37" in the amendment of Mr. WILSON, which is to strike out, in the ninth and tenth lines of the first section, the words, "the most eligible route, reference being had to feasibility, shortness, and economy," and insert, "the shortest practicable route between the parallels of latitude 34° and 43°;" so that the section will read:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the shortest practicable route between the parallels of latitude 34° and 43°.

The question being taken by yeas and nays, resulted—yeas 19, nays 35; as follows:

YEAS—Messrs. Allen, Broderick, Cameron, Chandler, Clark, Collamer, Doolittle, Durkee, Fessenden, Foster, Hale, Hamlin, Hartan, Jones, King, Pugh, Simmons, Trumbull, and Wade—19.

NAYS—Messrs. Bates, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Chesnut, Clay, Clingman, Crittenden, Douglas, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Polk, Reid, Sebastian, Seward, Sidel, Stuart, Thompson of Kentucky, Toombs, Ward, Wilson, Wright, and Yulee—35.

So the amendment to the amendment was rejected; and the question recurred on the amendment of Mr. WILSON.

Mr. CHANDLER. Mr. President, the State of Michigan has instructed her Senators to vote for a Pacific railroad; she has also instructed them to vote for a northern Pacific railroad. I am willing so far to deviate from those instructions as to vote for a central route; but I am not willing to deviate so far as to take the extreme southern route. I would vote for a Pacific railroad on the central route, because I deem it to be the best route, and, at present, the only practicable route for a railroad to the Pacific.

The Senator from Illinois [Mr. DOUGLAS] made two propositions yesterday that seemed to me to be utterly incompatible with each other. He said:

"I am willing to leave the route, after the termini are fixed, to the contractors or capitalists who are to invest their money in the work."

And again he said:

"Make your legislation fair, equal, just; and then, if the Almighty has discriminated against either, let him complain of the laws of God who chooses to do it; but it is not my train of thought or disposition."

The Senator proposes to donate to certain speculators twenty sections of land, worth, by experiment, ten dollars an acre; for wherever railroads have run through good land, they have increased the value of that land to ten dollars per acre in every instance. He also proposes to give, in addition to the twenty sections of land, \$12,500 per mile in money, to a set of speculators, and then turn them into this domain, and say to them, "go where you will; do what you please; run through this valley; do not cross that mountain; range anywhere; take all the land of this nation, if you see fit;" and then the laws of God have settled it! He had better have said, leave it to the demon of avarice, rather than to the laws of God. What have the laws of God to do with a set of speculators who will take this road to build? Why, sir, look for a moment at the proposition. You are to give twenty sections of land, or twelve thousand eight hundred acres per mile; you are to donate to these speculators \$12,500 in cash. Computing the land at ten dollars per acre, which is a low estimate for these valuable lands through the valley of the Kansas, for instance, you give \$140,500 per mile to these men, making it their interest to run the

road in such a direction as will secure for them the most valuable lands, and abandon it when they approach the deserts.

Sir, this bill is not intended to build a railroad to the Pacific; it should be entitled a bill to prevent that railroad from ever being built. I will vote for no such bill. It is not a bill to build a Pacific railroad; it is a bill that will squander millions upon millions of the public money, and cause the railroad to be abandoned the very moment it strikes poor lands or expensive cuts and diggings. Under this bill a road might possibly be built two hundred or three hundred miles from the Pacific; it might, perhaps, be built from the western border of Iowa or Missouri down to the thirty-fourth parallel, or so far as your good lands extend on this side; and, if so, what would be the result to the pockets of the speculators? They are to get \$140,500 per mile, or \$14,050,000 for every one hundred miles. They will run their road through valleys, through rich lands, on a cheap route, where they can build and equip it for \$25,000 per mile, thus making the cost of the road per hundred miles, \$2,500,000. As the receipts are \$14,050,000 in the pockets of the speculators, they will make \$11,550,000 for every one hundred miles of road they build through your good lands, and when they reach the difficult portions of the road they will act like a guide who was employed to conduct railroad engineers on a certain track; he conducted them to his own door, invited them to take dinner, and said he had carried that railroad as far as he wanted it to go. So it will be with these speculators, whom you propose to turn into your public domain and tell them to take what they please; to range where they choose; to go north or south, east or west, to follow the good lands in a serpentine track. Sir, you will never build a Pacific railroad under this bill, and I will not vote for this or any such bill.

The question being taken by yeas and nays on Mr. Wilson's amendment; resulted—yeas 23, nays 31; as follows:

YEAS—Messrs. Bates, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foster, Green, Hale, Hamlin, Harlan, Johnson of Tennessee, King, Polk, Pugh, Sebastian, Simmons, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Bell, Benjamin, Bigler, Bright, Brown, Chesnut, Clay, Clingman, Crittenden, Douglas, Fitch, Fitzpatrick, Foot, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Kennedy, Mallory, Pearce, Reid, Rice, Seward, Slidell, Stuart, Thompson of Kentucky, Toombs, Ward, and Wright—31.

Mr. BIGLER. I now move to amend the bill as I indicated the other day, by striking out the fourth, fifth, sixth, seventh, and eighth sections, and inserting what I send to the Chair.

The PRESIDING OFFICER (Mr. STUART in the chair.) The Chair will inform the Senator from Pennsylvania, that there is an amendment pending, proposed by the Senator from Texas, [Mr. WARD,] to the first section, which is in order previously to his. The amendment of the Senator from Texas will now be read to the Senate.

The Secretary read the amendment; which is in section one, lines seven, eight, nine, and ten, to strike out the words:

"From a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy."

And to insert in lieu thereof:

"From some point between the forty-ninth parallel of north latitude and the southern boundary line of the United States, to the nearest eligible point on the Pacific coast, in the State of California, reference being had to feasibility, shortness, and economy."

Mr. GWIN. I think that has been voted on once.

The PRESIDING OFFICER. The Chair is informed not.

Mr. GWIN. That was the amendment of the Senator from Missouri [Mr. Polk] that was voted down.

Mr. BIGLER. Besides, I mean to insist on my right to offer my amendment. The amendment of the Senator from Texas was laid on the table informally, as was mine. His amendment could not be pending, because there was an amendment to an amendment which we have voted on this morning. The Senator first getting the floor has the right to offer an amendment. We have voted on two amendments, one of which was an amend-

ment to an amendment. The Chair recognized my motion.

The PRESIDING OFFICER. The Senator will allow the Chair to make a statement, and he thinks the Senator will concur with him. This being an amendment to amend a portion of the bill which the Senator from Pennsylvania proposes to strike out, as the Chair understands, it is first in order.

Mr. BIGLER. To what section does the amendment apply?

The PRESIDING OFFICER. The first section.

Mr. BIGLER. I do not propose to strike out that section, but to strike out the fourth, fifth, sixth, seventh, and eighth sections.

The PRESIDING OFFICER. Then, strictly, the Senator from Pennsylvania is in order.

Mr. PUGH. I should like to know whether amendments are not first in order to the first section. I want to amend the first section.

Mr. GREEN. I submit to the Chair that it is first in order to perfect the first section before we pass from that. The amendment of the Senator from Texas is applicable to the first section; I have one applicable to the first section; and the ordinary mode of proceeding is to perfect the first section before we go to the second, and so with the third, fourth, and so on in regular order.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Missouri that while that is the practice in the House of Representatives, it has not been in the Senate. Amendments have been held in order as they are presented to any portion of a bill.

Mr. GREEN. I had no reference to any special rule, but to the ordinary parliamentary law.

Mr. BIGLER. The parliamentary rule is clear that you have a right first to perfect any part of the bill proposed to be stricken out.

The PRESIDING OFFICER. The Chair decides that the amendment of the Senator from Pennsylvania is in order, and it will be read.

The Secretary read the amendment of Mr. Bigler, which is to strike out the fourth, fifth, sixth, seventh, and eighth sections of the original bill, and in lieu of them to insert:

Sec. 4. *And be it further enacted*, That, in making said contract, it shall be stipulated that said road shall be divided into three grand divisions of equal length, to be known as the eastern, western, and middle, and said divisions shall be divided into sections of twenty-five miles each; and that in consideration of the stipulations and undertakings in said contract, there shall be, and is hereby, appropriated and set apart a quantity of lands equal to the alternate sections of public lands, for the space of twenty miles on each side of said road, and for the full extent of the said eastern and western divisions, said lands to be selected from the sections to be designated in the public surveys by odd numbers, and to be held and conveyed as herein provided; and in all cases when the United States may have disposed of said lands, or any part thereof, or from any cause cannot convey a legal title thereto, the deficiency may be made up from any unoccupied and unappropriated public lands within the distance of forty miles on either side of said road: *Provided*, That all mineral lands within the State of California be, and the same are hereby, excluded from the operation of this act; and, in lieu thereof, a like quantity of unoccupied and unappropriated agricultural lands, nearest to the line of the road through said mineral lands, may be selected in alternate sections.

Sec. 5. *And be it further enacted*, That the party with whom the contract aforesaid may be made shall proceed, without delay, to locate the general route of said road, and furnish a detailed survey and map thereof to the President, who shall cause the public lands, to the extent of forty miles on each side of said road, through the eastern and western divisions, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable. And the provisions of the act of September, 1841, granting preemption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to the lands thus surveyed, excepting those herein set apart and appropriated for the use of said road: *Provided*, That, so soon as a contract is made, in pursuance of the provisions of this act, for the construction of said road, it shall be the duty of the President to cause the public lands, for forty miles on each side of so much of said road as the contracting party shall indicate, to be withheld from settlement, sale, or occupation, until the lands shall have been surveyed and the alternate sections selected as provided for in this act.

Sec. 6. *And be it further enacted*, That, in making said contract, it shall be stipulated that none of said lands are to be conveyed to the contracting party until one section of twenty-five miles is completed and in successful operation, when the President shall convey to the said contracting party three fourths of the land pertaining to the section so completed, retaining the one fourth as security for the completion of the middle division; and in like manner the President shall convey to the contracting party three fourths of the lands pertaining to each section on the eastern and western divisions of said road until said divisions are finished. And it shall be further stipulated and provided that, whenever one section of twenty-five miles of said middle division is completed, the President shall convey to the contracting party the lands retained on the sections first

completed on the eastern division and on the sections first completed on the western division, and so on, in like manner, till the middle division shall be completed, and all the lands retained on the eastern and western divisions shall be conveyed to the said contracting party; and said contract shall require that the United States mails shall at all times be carried on said road, under the direction and control of the Postmaster General; and all other Government transportation provided for in this act shall be performed under the direction of the proper departments, respectively, and the compensation therefor, at the prices specified in said contract, shall be regularly paid from the Treasury of the United States quarterly, or at such times as may be agreed upon.

Sec. 7. *And be it further enacted*, That the President be, and he is hereby, authorized and directed, so soon as one section of twenty-five miles of said eastern or western division is made and put into successful operation, to cause to be issued to said contracting party bonds of the United States, bearing not exceeding five per centum per annum interest; which interest shall be payable semi-annually, and the principal payable nineteen years from the date of their issue, to the amount of \$12,500 for each mile of the same; and in like manner, when another section of twenty-five miles of said divisions is made and put into successful operation, an equal amount of bonds shall be issued and delivered to said contracting party, and so with each succeeding section, until the whole road shall have been completed through said divisions: *Provided*, That the entire amount of bonds hereby authorized to be issued on account of said road shall in no event exceed, in the aggregate, the sum of \$16,000,000, it being the intent of this act to advance to the contracting party \$12,500 for each mile of road completed and put into successful operation on said eastern and western divisions; which sum of money thus advanced, together with the interest thereon, is to be repaid to the United States by the said contracting party in the transportation and service provided for in this act; and no compensation, other than the lands appropriated and bonds authorized to be issued by this act, shall be made to the contracting party for transportation and service rendered under their contracts, until the value of such transportation and service shall be equal to the aggregate amount of the principal and interest of said bonds: *Provided*, That all the iron necessary to construct said railroad, and which may compose the track of the same, shall be of American manufacture.

Sec. 8. *And be it further enacted*, That the President be, and he is hereby, authorized and directed, so soon as one section of twenty-five miles of said middle division shall be completed and put in successful operation, to cause to be issued to said contracting party bonds of the United States maturing thirty years after their date, bearing interest not exceeding five per centum per annum, to the amount of \$25,000 per mile, and so on, in like manner, for each section of twenty-five miles, until said middle division shall be completed; which bonds shall be a first lien on said road from its eastern to its western terminus, and be reimbursable, together with the interest, in transportation and mail service; the bonds issued as hereinbefore provided shall be first paid, after which the whole amount of compensation for service to the Government shall be applied toward the cancellation of the principle and interest on the bonds issued on the middle division, until the whole amount thereof shall be paid in full.

Sec. 9. *And be it further enacted*, That should said contracting party neglect, refuse, or in any way fail to prosecute the work undertaken by them in a manner to secure the completion thereof in compliance with the contract, or should violate the terms of said contract, then all rights of said contracting party to said road, right of way, lands, or other property pertaining thereto, including such amount of the deposited stocks, if any, that may remain unexpended, shall be and become forfeited, and the United States may enter upon and retain the same.

Mr. WILSON. I propose to amend the first section, and I intend to move two or three further amendments, to secure the object the Senator from Pennsylvania has in view in presenting it.

The PRESIDING OFFICER. The amendment proposed by the Senator from Pennsylvania, is not to the first section of the bill.

Mr. WILSON. But I propose to amend the first section of his amendment.

The PRESIDING OFFICER. That is in order.

Mr. WILSON. I move to strike out after the word "division," in the third line, the words "of equal length," and to insert after the word "middle," in the fourth line, the words "the eastern division shall be five hundred miles in length, and the middle and western divisions of equal length."

I will state the object which I have in view in moving this amendment. The difficulty, as is admitted on all hands, of building this road, is in regard to the central and western portions of it. The first five hundred miles on the eastern division, which ever way you choose to go, run through one of the finest and richest countries on the globe. If you start as this bill will allow you to start, on the Missouri river between the forty-second and forty-third parallels, you can pass through eight and a half degrees of latitude until you strike the frontiers of Texas. You can pass one hundred miles on the front of Nebraska, two hundred miles on the front of Kansas, one hundred miles through the Indian territory, a rich and beautiful country. Here are five hundred miles of territory where the land would sell to-day at auction,

without a railroad, for more than five dollars per acre on an average. I have been over this land, and I know that some of it to-day, in large lots, is selling for thirty or forty dollars an acre. The contractors under this bill, on the eastern division, can build the road, and they will receive twelve thousand eight hundred acres of land, and \$12,500 in money to the mile; and they can sell their land at from five to ten dollars an acre without any trouble. They will get from six to seven million dollars in cash, and as many acres of land for making a road, such as I have suggested; and they can make on that branch of the road, from fifteen to thirty million dollars. You can get a body of men in this country, who will take a contract to construct such a road for five hundred miles, and make an immense fortune when they have done it. All the security you have by this bill, is the security of a road that is not worth anything to you or to them. They will thank you to take it off their hands. This is your only security under this bill.

Now, I propose to divide the grant. If they go towards the mountains over the central route on the thirty-ninth or fortieth parallels, they pass up the Kansas or Platte rivers over a rich and beautiful country. If they go by the way of Albuquerque, they pass over a rich country for five or six hundred miles until they strike the Canadian river. If they pass up north, and they are about as likely to connect with the comet of last autumn as to go in that direction, they pass through good land there. In any way they choose to go, the road is to pass through rich country for the first five hundred miles. Now, let us call that the first division; give them the alternate sections of land on that division, and take the \$12,500 a mile which the bill proposes to give them on that first division, and put it on the western and central divisions where it will cost an immense sum of money to build the road. Let us pile this money on the Rocky Mountains and on the Sierra Nevada; let us put the money where we need it. Unless on the western and central divisions there be a temptation to go on, we shall not get a road there, because they can build the railroad for the lands in the eastern division and make an immense fortune, and they will stop when they have completed that division. Let us give them the twelve thousand eight hundred acres of land per mile for the first five hundred miles, and let them start wherever they please. Then let us add the \$12,500 per mile that the bill proposes to grant on the eastern division, to the central and western divisions, and make those about equal. If you look over the map, you will find that if you should pass over the central route you pass through mountains; so, if you take a route to the South Pass you have to go through a hard portion of country for building a railroad. The western portion of it, in California and through the Carson valley in that direction, is a section of country where it will cost money to build a road. I think we should put the money there, for the first five hundred miles on the eastern division will be an easy and cheap portion to build.

If the amendment which I have now offered shall prevail, I mean to follow it up by proposing that we give no money to the first section, but that we add what is proposed for that to the other sections, and not give the land in the middle division, which is of little value, which is reported to be worthless by your surveyors, not arable land. I shall propose to give the land over the eastern and western sections, and \$40,000 to the mile in the middle section, which may be half enough to build it. I think this is in perfect harmony with the amendment of the Senator from Pennsylvania, in harmony with the sentiments he has expressed in his speech, and certainly it carries out the idea that I entertained and expressed here, that the difficulty in this matter was to get the security that you would carry the road through. We can easily start; the temptation is great to commence this road in any direction, but under this bill the temptation is greater to stop when they have got into the poor country, where it costs an immense sum of money to build the road, to keep laborers there, to carry the material necessary to construct the road there, and where the land has not one twentieth part of the value that it has on the first four or five hundred miles. I offer this proposition in good faith, to carry out the objects indicated by the Senator from Pennsylvania.

Mr. BIGLER. If I can secure the attention of the Senate for a few minutes, I think I can present the object which I have in view in the amendment so clearly, that we need not misunderstand each other hereafter. I see the object which the Senator from Massachusetts has in view, and I shall speak of it presently.

One of the objections presented against the original bill was, that whilst the inducements were perhaps quite sufficient to secure the construction of the eastern and western divisions or parts of this proposed road, the aid offered was entirely insufficient so far as regards the middle division, or mountain range. The object of my amendment is to overcome that objection. By the original bill the contractors who construct the road from the eastern terminus to the mountain range, and from the western terminus to the mountain range, would receive title to all the land, except one fourth of one section of twelve miles, which would be twenty-four thousand acres, and receive the bonds in full, which would be about three hundred thousand dollars on each section. At that point the work could be abandoned, there being no obligation on the contractors to pursue the work further, and no sacrifice if they should not do so. The amendment which I propose is to have this effect: that one fourth of the land on the western as well as on the eastern division is to be retained as a guarantee for the completion of the middle division; that which lies through the sterile or barren country.

In the next place, I propose to increase the amount of compensation in money on the middle division, instead of giving the lands; and no lands will be given on the line of the middle division. The reason of this policy, to my mind, is that those lands, until some improvement of this kind shall be made, will be of no value. They offer no inducements to the pioneer; they will not invite population; and you have to invert the order of progress and civilization, and put the railroad in advance. Hence it will require money; it will require prompt means; and the lands will not answer the purpose. If these lands be valuable, it is because they are mineral lands—those which the Government has not been willing to give.

Now, as for the amendment of the Senator from Massachusetts, in the main, I agree, that if my proposition is defective at all, it is that the inducements offered for the middle division are yet insufficient; that perhaps the land and the bonds which are to be issued on the eastern and western divisions are more than equal to the provisions which I have proposed for the central division; but I suggest to the Senator from Massachusetts whether the remedy he proposes is the proper one. Although the lands, especially on the eastern division, are more valuable than they are in the mountain region, and will doubtless be very valuable at no remote period, the Senator must take notice that we must commence this work, and it never can be begun on lands; there must be capital in hand, or capital at command when a portion of it shall be completed.

If additional security for the completion of the middle division is necessary, I suggest to the Senator from Massachusetts that, instead of his proposition, which would take away from the eastern division all opportunity of getting money except from the lands, it would be better to retain a larger proportion of the land on the eastern division. I have provided in my amendment that one fourth of the land on the eastern division shall be retained as a guarantee for the completion of the middle division. Would not the Senator from Massachusetts better accomplish his end by proposing to retain one half of the land on the eastern division for that guarantee? There are many considerations that would constrain me to favor this suggestion rather than that which he proposes. I think he at once cripples the enterprise, by taking away from it immediate means.

Then, again, there is another influence to be considered. If the lands be reserved on the eastern and on the western divisions, until the road shall have been constructed through those divisions, and until the work shall be commenced on the central division, you see that those lands must necessarily derive great value from that improvement. The company could not part with them, and all the settlements that would be drawn into that region would be giving value to the country, and would be increasing the guarantee which the

Government would have that this work would be ultimately completed. I therefore am very decidedly of the opinion, that if my amendment is to be altered with the views which the Senator from Massachusetts has, it would be better to reserve, on the eastern division, one half the lands, as a guarantee, and, if needs be, one half on the western division. I make this suggestion to the Senator, and I hope he will prefer it, because his amendment will prevent the company, on the completion of a section, from receiving any bonds. It will be a serious impediment in the way of commencing the work.

Mr. DOOLITTLE. If there is to be no further discussion on the question now pending, of course I have no objection to the vote being taken. I desire to have the vote, and not to make speeches, and I will give way for that purpose. I have some amendments that I propose to offer, but I hope the vote may be taken.

Mr. WILSON. In deference to the suggestions that have been made by the Senator from Pennsylvania and others, I will modify my first amendment; but I intend to move some others to carry out the object. I propose now that the words "of equal length" shall be stricken out in the third line; and after the word "middle," in the fourth line, to insert "the eastern and western divisions shall be five hundred miles in length each, and the remainder shall be called the middle division." If this be adopted, I shall go on further to propose that we impose such restrictions on the eastern division as will give us the benefit of having all the good lands between here and California go to the construction of the road. On the western division there is a little good land. Then I shall move to strike off the money grant on the eastern division, or else retain a large part of the land—at least one half of it—until the other divisions are made. Every man who knows the condition of that country, knows that which ever way you choose to go on the eastern side, there will be millions' worth of land granted. I desire to save that land, to be used for the purpose of carrying a railroad across this continent. I am for putting that money upon the western and upon the middle divisions.

The amendment to the amendment was agreed to.

Mr. DOOLITTLE. I propose, also, to move an amendment to the first section of the amendment of the honorable Senator from Pennsylvania, by inserting at the end of the section the following proviso:

Provided, also, That any contract which may be entered into shall, before it takes effect, be submitted by the President to the Congress of the United States, and shall take effect from and after its ratification by act or joint resolution of Congress.

I do not desire to discuss the question, but simply to call the attention of Senators to the proposition. It is, that after proposals shall be made by the bidders, and the President shall make the contract, the subject shall come before Congress, that we may see what the contract is, and vote for or against it, as we like. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. This is another effort to take the selection of the route from the discretion of the President. The votes taken this morning refusing to limit the line of this road, I regard as decisive of the fate of the bill. A majority of the members of the Senate favorable to the construction of a Pacific railroad are opposed to leaving the matter entirely at the discretion of the President. I shall not go over the argument made by the Senator from Vermont [Mr. COLLAMER] yesterday, or that which I had the honor to submit to the Senate a few days ago, to show that the bill, as reported by the Senator from California, leaves the selection of the route entirely to the discretion of the President. It is not left to the contractors, as I understand the bill. It has been proposed to limit the route, so that we may know, if but one road is to be built, that it shall be a road which will be national in its character, and calculated to accommodate the whole country. An effort has been made to limit it across the continent within certain parallels of latitude, first between 37° and 43°, and, upon the failure of that, between 34° and 43°. By a union of the opponents of any railroad bill, (who I believe to a man

voted against those amendments,) with a few friends of the bill, the amendments have been voted down. The friends of the Pacific railroad have been unable to perfect the bill in such a shape that they can vote for it; and I am free to say that it cannot receive my support in its present shape.

I was almost ready to move to lay the whole subject on the table when I saw that a majority of the Senate were disinclined to fix any limit as to where the road shall be built. But, sir, I have still some hope that a limitation may be put on the route, or that provision will be made for reporting the contract which may be made, to Congress for satisfaction. In that event, Congress would have some control over it; but after the experience we have had of the manner in which executive officers of this Government construe their authority under laws similar to the bill reported by the Senator from California, unless some such amendment as this be adopted, it is manifest the bill can receive no considerable support in the Senate; for those persons who have voted against a limitation will, the great mass of them, vote against any limitation whatever; some for constitutional reasons, and others, perhaps, from considerations of policy; at any rate, for reasons satisfactory to themselves. Therefore, I trust the amendment will be adopted.

Mr. THOMPSON, of Kentucky. I hope this amendment will be adopted. I do not pretend to disguise my opinion that, so far as I am concerned, I regard this whole Pacific railroad business as a magnificent humbug, and nothing else. Take the northern, southern, or middle route, and if we had the road made over any of those routes, and given to us to-morrow, it would cost, as some Senators admitted here, \$10,000,000 to run it. The news is just as good and fresh, and letters are just as sweet, when they come around by the Isthmus, as they would be if they came across in this way. I have no faith in the project of building a railroad over mountains and through deserts where there is neither wood, nor water, nor population, nor anything else, to sustain it. I believe the southern portion of Kansas now is about the geographical center of the territorial possessions of the United States, and we have not even got a railroad out that far. The Government has broken down, and is in debt, and it is getting deeper in debt every day. To give away your domain and give away your money for this purpose, is all nonsense. Without this amendment, the Executive is to have almost unlimited power to make a contract, as if he was cutting a canal across the Isthmus of Suez, making a march across the continent greater than the march Napoleon made with his grand army to Moscow; and it will be just as disastrous to us. It will be as disastrous as was the retreat of Cyrus and his Persians. When you start out the President on this business, and tell him to make a trade, why should not Congress overlook the trade? I know the present Executive; I have nothing to say against him, standing here, as I do, a sort of solitary monument to the genius and conservatism, and, I trust, common sense, of the old Whig party. [Laughter.] I am left alone by myself, still cherishing their notions and their feelings. In regard to this railroad, you propose to make him an autocrat to make a contract that will bankrupt the country. John Law, with his banking notions, and all the bankrupt notions that ever came over the country, could not come up to it.

Why, sir, your ocean telegraph scheme that you all voted for two years ago, and that I opposed, is but a bauble to this thing; it does not begin to equal it. You are going to turn the President loose, and let him make pretty much such a contract as he pleases. Well, sir, the President is a clever old gentleman, and nice enough in every way to me; but I never heard that he was a good trader, or a good survivor, or much of a geographer; nor do I think, looking at him, that he would do exactly to make this sort of trade. He will, I fear, fall into the hands of jobbers and speculators and traders. Your President will be worse than the man who went down to Jericho, and fell into the hands of robbers. [Laughter.] I suppose this bill is to be pressed as an indorsement of the Cincinnati platform, which contains a Pacific railroad plank. Well, sir, the Cincinnati platform is a very nice business. We all know how such things are got up—by a par-

cel of young fellows in county meetings. They are got up by different interests. Youngsters on a frolic, taking it for a "bust," go there, and they substitute a sort of second constitution to overrule and control us here. I know that in my own county in Kentucky, they had a Democratic caucus, and absolutely indorsed the Dred Scott decision before I ever got to see it in Washington here, [laughter;] and they indorsed the Cincinnati platform, I believe, before that was in print. They go along tumbling in this way, until, I believe, everybody in my State has gone in for a Pacific railroad.

Sir, the sense and the conservatism of the Senate should stand as a barrier against popular clamor and nonsense. There is nothing in this road; and it has been living here now longer than it ought to live. My friend from Texas [Mr. Houston] said, the other day, that he was rather a dead man. I know I am a corpse too; I am to be laid out on the 4th of March, and I see several other gentlemen who are in equally bad health. [Laughter.] But for the sake of the country, and for the sake of sense, I ask the Senate not to sanction an illimitable, unlimited, and nonsensical thing like this. If there is a man here who has a particle of the spirit and genius of the old Whig party in him, I ask him not to turn loose your magnificent autocratical President to make such a contract as this. Why, sir, the loan of England for carrying on the French war will hardly come up to what this will amount to by the time you carry it through. Let Congress have a chance to look at it, at any rate as this amendment proposes. We might get tired of the trade on looking over it. I am for Congress looking over it, and I am for that on the simple ground that I believe everybody in my country at present is for the road, but they do not know anything about it. [Laughter.] They are blinded by its magnificence; they are taken with its grandeur; they are sort of moon-struck by its shining and brilliant qualities. Sir, the road ought to be killed, and killed outright; but if it is not, gentlemen should not give the President the unlimited power to commit us to a great expenditure, and the result may be, to march off the population of the country in that direction.

I heard the gentleman from Georgia [Mr. Toombs] say the other day that, considering the way our people were taxed, it had got to be a serious question whether the Government was worth as much as it cost. Well, sir, through your tariff, you are raising now, from twenty-five millions of people, \$75,000,000. From nine to ten millions of them are negroes, women, and children; and one half of the others are loafers and insolvents. [Laughter.] When you come down to the people who really pay, it is a vast amount of money to the Federal Government. Those people have to educate their children, to pay their State taxes, their county taxes, and their school tax. Though it is said to be within the Saxon blood that we always rebel at taxation, we are the most roundly and soundly and insidiously and clandestinely taxed people now on the face of the earth. [Laughter.] That is the fact. I know South Carolina used to cry out against it, and talk about getting out of the Union. No wonder; she is raising cotton, and getting heavily taxed. I will not say, as an English statesman said of the English people, that we are taxed while living, taxed in our clothes, taxed in our light, taxed in our victuals, taxed in our glass, and taxed when we die, because we have to be buried in woolen. We have run this thing far enough, without making a railroad through an Indian country three thousand miles from here. It is worse than the Atlantic telegraph. But if we are to make it, I do not want Mr. Buchanan to make the trade for me. We have a better trader in my country, who will take anything, from a negro plantation, or bales of cotton, down to a horse or a hog contract. [Laughter.] The President, in virtue of being the President, is not endowed with any trading properties. I have nothing to say individually against him; but I doubt whether he can do his own marketing as sensibly as any other body that is going about.

Let Congress look in to this matter, and let us quit this everlasting pandering to popular clamor and popular taste. Why, I read in a paper this morning about propositions for seven new Territories. We are to fix them up and sustain and support them. It seems to have become a com-

mon notion that it is our mission (if I may use the expression) to propagate and send forward and colonize and Christianize and people waste places. I think we ought to attend to home affairs, and think of those things afterwards.

Now, sir, without pretending to go into this subject at all, I make these desultory remarks. The Executive power has increased, and is increasing, and ought to be diminished. I know it has been flaunted at the head of some banners in this country. I admit that if this amendment be put on, I cannot go for the bill; and if others be put on, I cannot go for it then; because, while I cannot trust the judgment of the President, I would not trust the humbuggery of Congress. [Laughter.]

Mr. GWIN. I will say to the Senators from Illinois and Vermont, that the intention of the committee in drawing this bill was to exclude the President from having any power in locating the road; and any amendment that either of those Senators will prepare for the purpose of accomplishing that object, and making the language plainer than it is in the bill, certainly will receive my support; and, I believe, that of every member of the committee. That was the intention of the committee in framing it.

Mr. WILSON. I hope the amendment of the Senator from Wisconsin will be adopted. It is the only security we shall have that the different sections of the country will have a fair opportunity for the location of the route. The Senator from Illinois [Mr. Douglas] yesterday gave us the doctrines of squatter sovereignty on this bill. We had then the same doctrines which we have heard him proclaim so often about fairness to all sections, and leaving them "perfectly free." Well, sir, a few years ago, the people who went into the Territories were to be "perfectly free" to settle their own institutions, according to the Constitution and the Supreme Court's interpretation of it, and we know how much that amounts to. Now the contractors are to be perfectly free in this case to settle this question. They are to be perfectly free to do the will of the President. That is all the freedom they have got; and everybody knows that the President is to make this bargain, and according to the terms of this bill he will dictate the route. If you had selected the route within certain degrees of latitude, we should have been willing to have it made anywhere within those degrees; but the Senate has voted down that limitation. As has been said, the opponents of this bill, joining with those who wanted a peculiar route, have voted that proposition down. Now, the proposition is made that after the President makes the bargain for the location of this road across the continent according to the terms of this bill, the contract shall come here that we may have an opportunity to pass upon it. I shall vote for that proposition.

The question being taken by yeas and nays; resulted—yeas 34, nays 25; as follows:

YEAS—Messrs. Allen, Bates, Bell, Benjamin, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foster, Green, Hale, Hamlin, Hammond, Harlan, King, Mallory, Mason, Pearce, Pugh, Simmons, Thompson of Kentucky, Toombs, Trumbull, Wade, and Wilson—34.

NAYS—Messrs. Bigler, Brown, Chenut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Foot, Gwin, Houston, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Polk, Reid, Rice, Sebastian, Seward, Shields, Sidel, Stuart, Ward, and Wright—25.

So the amendment to the amendment was agreed to.

Mr. WILSON. I now propose to amend the sixth section of the amendments of the Senator from Pennsylvania, by striking out in the fifth and sixth lines the words "three fourths" and inserting "one half;" in the seventh line, by striking out "one fourth" and inserting "one half;" and in the ninth line, by striking out "three fourths" and inserting "one half." This will reserve one half the lands on the eastern and western divisions for the purpose of completing the central division. My object is, as I have stated, to use these valuable lands at the ends of the road to build the difficult part.

Mr. DAVIS. I should like to know from gentlemen who are making these propositions what they mean by the divisions. I should like to know beyond what meridian of longitude the first division goes.

Mr. WILSON. The first division goes whichever way the road is located. It may be started

and go within the same degree of latitude or not vary more than one. You may start, for instance, at Sioux City and pass down to the frontiers of Texas within about one degree of longitude, if they go in that direction to make the southern road. If you go west, the first division will be five hundred miles from some point between the Big Sioux and the Kansas westward. If you go northward, by the Missouri river, it will be five hundred miles northward. There is no difficulty about the divisions.

Mr. DAVIS. That does not bring us to the consideration of the real question. This is playing on paper with facts that do not exist in physical geography. If we go north or south, and keep east of the ninety-ninth meridian of longitude, we keep in a country susceptible of cultivation, and where the land may be worth something. If we go west of that meridian, we pass into a country where the land is worthless for cultivation, and where it will not be sold perhaps for a century to come. Therefore, I say, that if we attempt to divide this line into divisions, into fixed regions where the land will build the road, and regions where it will not, we must do it in reference to the face of the earth—not the opinions gentlemen may have in relation to the language they will put in the bill. Fix it by meridians of longitude, by something that will determine the fact which is connected with the language employed. I have no doubt that if Congress were to decide that the road must start at the mouth of the Big Sioux, and were to leave it to private capitalists then to project that route, they would run either north or south, as far as they could go, if you would give them land and money for every mile they built, for exactly in that region of country it would be profitable for them to build the road, and the land would bring them a return for it. The moment they go west, the moment they pass out of the cultivable region, which region gradually closes upon the Missouri river until it crosses it, they pass into a country where the land will not contribute at all to the construction of the road.

Mr. WILSON. The Senator from Mississippi has made a very good argument, I think, in favor of making this reservation. He says that if private contractors have the control of this matter, they will run as far as they can on the good land. If they take the southern route they will have good land. They will have tolerably good land if they take the northern route, or the central route. The first five hundred miles, go which way you will, is good land. You may start and go to the mountains by any route, and, as a general rule, the land for the first five hundred miles is good. I admit that for the last hundred miles of that distance the land is not of the best quality; but it is generally good land. If you go towards the South Pass, or any of the passes, or towards Albuquerque, you get pretty good land. The proposition I wish to make is, that we reserve one half that land as a security for the building of the central division of the road, where the land is worthless; or nearly so. If this amendment be adopted, when I come to the next section of the amendment of the Senator from Pennsylvania, in regard to the money, I shall propose to give \$10,000 a mile on the eastern, and \$15,000 on the western divisions, and \$40,000 a mile on the middle division, which will be the longest and most difficult section, where the lands are nearly worthless, and where the road passes over mountains and deserts. The object I have in view is to prevent the contractors taking five hundred miles of good land, and then throwing the road upon our hands.

Mr. BIGLER. I suggested, when the Senator offered his first amendment, to substitute that which he offers now. If I understand him now aright, he offers this in addition to his first amendment, and the effect of it will be that for the eastern and western divisions, there will be left but one half the lands. That is all the aid which the Government proposes to give. It takes away the ready means which I think I have shown are indispensably necessary to commence an enterprise of this kind.

Mr. WILSON. Will the Senator from Pennsylvania hear me?

Mr. BIGLER. Certainly.

Mr. WILSON. We have agreed to divide the road into divisions. The eastern and western divisions are each to consist of five hundred miles,

and the remainder makes up the middle division. Now, the proposition is to reserve one half the lands on the eastern and western divisions until the contractors begin to build the middle division, and then I propose that instead of giving \$12,500 a mile on the eastern division, which will be on the best lands, we give \$10,000. The Senator said they must have money. I propose to give them \$10,000 a mile, and one half of the lands on the eastern division. On the western division, which is a more difficult one, I propose to give them, instead of \$12,500, \$15,000 a mile, and one half the land. Then I come to the middle section, where you propose to give them \$25,000 to the mile, which is not one half what the road will cost there, and you admit, all of you, that the lands are nearly worthless in the middle section, over the mountains and deserts, and there I propose to give \$40,000 to the mile. Now, I say to the Senator from Pennsylvania, and I say to any Senators who will take the map and examine this matter, that they will decide that these amendments are amendments to build the road over any line.

Mr. BIGLER. The Senator and myself have nearly the same views on this subject, but I so far misunderstood him before as to suppose that he was pressing a reduction of the amount of lands, in addition to withdrawing all the money. I had suggested and urged that if my proposition needed any amendment, it needed just this which he now proposes, to reserve one half the lands because they will become very valuable. So far as that amendment is concerned, and the limitation of the cash advance to \$10,000 a mile on the eastern, and \$15,000 a mile on the western divisions, instead of my proposition as it stands, I accept that as a modification of my amendment.

Mr. DAVIS. I understood the Senator from Massachusetts, as the Senator from Pennsylvania just expressed himself, as proposing to withdraw the money and leave only one half the lands; but it does not at all vary my objection to the proposition as stated. What is our purpose? Is it to build a road across the continent or not? If the purpose be, as avowed, honestly to make the attempt to build a road across the continent, then let us address ourselves to it as a practical question. What will you effect by this proposition? By way of making it quite clear, I will suppose that you start at the mouth of the Big Sioux; then you give one half of an extraordinary grant of land, being a much larger grant than it has been usual to make, and \$10,000 a mile, to do what? To build a road through a cultivated and populated country; to run, if you go north, through Kansas into Iowa, through Iowa into Minnesota, and to stop when you reach the region of sterility. If you go south, it is to run through Missouri and through Arkansas, until you reach the State of Texas, which, as a Republic, was the owner of its own land, and where, therefore, our land donation terminates. It is then to give \$10,000 a mile to build the road north or south—say from the Big Sioux—not to connect us with our Pacific possessions; not to contribute means to the Government to perform its duty of military protection there; but to give some company \$10,000 a mile to build a road through a country where one half the amount of lands stated in this bill would be a large consideration to them to build it. I venture to say you would readily find a company who would take a charter to build a road there, with the right of way over the public domain and one half the amount of land per mile which is given in this bill. The \$10,000 might induce them to build it until they reached a certain point of difficulty where the \$10,000 would not suffice; and then, the land being valueless, they would abandon the work. In every possible view I can take of it, it is an extraordinary grant of land contemplated to meet extraordinary difficulties, applied to a country where we have no particular interest in having a road built, and where the road would be built for one half the amount of land proposed to be granted in the bill.

Mr. PUGH. It seems to me that the Senator from Mississippi has fired a capital shot against the original amendment of the Senator from Pennsylvania; but this amendment is an improvement of that. The original amendment of the Senator from Pennsylvania gives them three fourths of the land in possession on the eastern as well as on the western division, and \$12,500 a mile in addition.

Mr. DAVIS. The Senator from Ohio perhaps falls into an error. Though a member of the committee, I did not belong to that portion of the committee which reported the bill, but, as a minority, reported a substitute.

Mr. PUGH. Well, I say the Senator's objection is a good objection to the original proposition, but the Senator from Massachusetts proposes to amend that proposition. Instead of letting the company have three fourths of the land on every section, and only retain one fourth, he proposes to retain one half; instead of giving them \$12,500 a mile on the eastern division, he proposes to give only \$10,000 a mile; so that I think the amendment to the amendment is certainly desirable, and ought to be adopted. Whether, after that, the amendment of the Senator from Pennsylvania will not be open to the criticism of the Senator from Mississippi, is a matter I very much doubt; for I fear we shall never get anything but the eastern division. So soon as the contractors shall have built a road through the fertile lands of Kansas and Nebraska, whether they run it south, parallel with the Missouri boundary, or run it northwest, or in any direction, I am apprehensive that as soon as the land ceases to be good, that will be the end of the road; and I am very much afraid that the bill is so drawn that we can get nothing else out of it. That is the reason I shall vote for the amendment proposed by the Senator from Massachusetts.

Mr. RICE. Mr. President, I ask if it would be in order to move an amendment as a substitute for the pending amendment?

The PRESIDING OFFICER. It would be.

Mr. RICE. I have heard a good deal said here in favor of a southern route, and a good deal in favor of a central route. The advocates of each claim that their respective routes are the best. I am now for testing the sincerity of the gentlemen who have expressed those opinions. I therefore wish to offer an amendment. ["It is not in order."] It is suggested that it may not be strictly in order; but if it is in order to jump over four or five sections, and offer an amendment commencing at the other end of the bill, I think it certainly must be in order to go back and commence at the beginning. I ask that my amendment be read.

The PRESIDING OFFICER. Is the Senator's amendment to the original bill?

Mr. RICE. Yes, sir.

The PRESIDING OFFICER. Then the Chair will suggest that it is not in order at the present time.

Mr. RICE. Well, I ask to have it read for information.

The Secretary read the amendment; which is, in lines seven, eight, nine, and ten, of the first section of the original bill, to strike out the words "with reference to the route to be selected," and insert:

From a point between the thirty-second and forty-ninth parallels of latitude on the eastern border of any of the Territories of the United States, to any point upon the Pacific Ocean or Puget Sound, the terrain to be selected by the contractor.

The PRESIDING OFFICER. The question now before the Senate is on the amendment of the Senator from Pennsylvania, as modified by the suggestion of the Senator from Massachusetts, which the Senator from Pennsylvania has accepted.

Mr. RICE. After that amendment shall be disposed of, will it be in order to move my proposition?

The PRESIDING OFFICER. Yes, sir.

Mr. RICE. Then I give notice that I shall move it.

Mr. SIMMONS. How does the amendment of the Senator from Pennsylvania stand as modified?

The PRESIDING OFFICER. The Secretary will read it.

The Secretary read the amendment.

Mr. DOOLITTLE. I understand that the amendments of the Senator from Massachusetts have been accepted by the Senator from Pennsylvania. I desire to offer an amendment.

Mr. BIGLER. I did not accept all the propositions of the Senator from Massachusetts.

Mr. WILSON. I am informed by the Senator from Pennsylvania that he does not accept my amendment proposing a money grant of \$40,000 in lieu of \$25,000 to the mile, for the central

division. I offer that amendment. The original amendment gives no land, but appropriates \$25,000 a mile, in money, for that section. Every man in the country knows that is inadequate. It cannot be built for less than \$50,000 a mile at least. I propose to give \$40,000 over the middle division. I therefore, move to amend the amendment by striking out, in line nine, of section eight, "\$25,000," and inserting "\$40,000."

Mr. BIGLER. I hope that amendment will not be adopted, and I have a word or two to say before the vote is taken. The Senator proposes to increase the amount granted for the central division to \$40,000 a mile. He has retained for that division, in addition, half the lands granted for the eastern and western divisions. The eastern and western divisions together will be very much longer than the central division. You will have, on his proposition, far more money than the price he fixes for a road. I differ entirely with him as to its costing \$50,000. It can never be built for less than seventy or eighty thousand dollars a mile; but he proposes to pay \$40,000 of that directly from the Treasury, and then to give one-half the land reserved on both the other divisions. At his own estimates of the lands he would have at least sixty or seventy thousand dollars a mile. It should be remembered that it is not expected that the Government will contribute all the money. The Government is to aid the people of the United States in making this road, and not to contribute the entire amount. I think my amendment as it stands is abundantly strong. I am not willing to go further.

Mr. WILSON. I am surprised at the remarks of the Senator from Pennsylvania. I thought we were going to authorize the President to negotiate with a company for constructing a railroad across the continent. Now, we have decided that we shall reserve one-half the lands on the eastern and western divisions; and give, on the eastern division, \$10,000 a mile in cash, and half the land; and, on the western division, half the land, and \$15,000 a mile; which, I think, a very fair distribution. We come now to the central division over the mountains and deserts, the difficult part of the work; for there is no difficulty in building the road from the Missouri river on any route for five hundred miles; there is no difficulty in building it from the banks of the Sacramento into the country four hundred miles. Now we come to the great backbone of the continent, the mountains and deserts, where the land is worthless, and here is a proposition to grant \$25,000 a mile there to build a road, which, in my judgment, cannot cost less than \$50,000 a mile. I have simply proposed to put it at \$40,000; for I want it to be understood that, when this contract is made by the President, it is especially made to build the central portion of this line, and not to build the outside. I want the bargain strong, I want the security ample, that every mile of the central division over mountain and desert shall be completed; and I want to hold the security in our own hands, in order to insure it.

Mr. BIGLER. I trust this will be the last occasion on which I shall say a word on this subject; but really the Senator from Massachusetts presents only one view of this case. He says I now take the position that the middle division must be constructed for \$25,000 a mile. Why, sir, what becomes of half the lands reserved east and west of the middle division?

Mr. WILSON. The lands reserved on the eastern and western divisions of this line, I admit, go towards it, to some extent; but it may be, and I think it will be, that on the western division the lands and money they get will not be sufficient—on the eastern they will be more than enough. We all calculate that the central part will cost from fifty to seventy-five thousand dollars a mile. What you want to put in here is enough to carry the road through. I think you will have great difficulty in making a bargain with capitalists; with men who have money, or can raise money; men who will give you security that they will build the road, even if you allow \$30,000 a mile.

Mr. CAMERON. I have been desirous from the commencement to aid, to the extent of my power, in the work of making a railroad to the Pacific ocean; and I have listened to the discussion with a great deal of interest. I came to the conclusion long ago that we should have no road

in the present generation, desirable as it may be. The road will cost a great deal of money. Gentlemen talk about the price of roads here, as if we had never heard of the cost of railroads. The proposition of the Senator from Massachusetts is the only one I have heard, which looks towards making a road. As he has said, on the eastern and western side of the desert, the road may be made, in some reasonable time, by a grant of a small sum of money from the Government, and the public lands; but through that desert, you can hardly count the number of millions it will cost to make the road. One hundred thousand dollars a mile will not begin to make it. I have had some experience in making railroads, and I know what they have cost in this country, and in other countries. To make this road through the desert, is like making a tunnel for a thousand miles through a mountain. You can work only at the extreme points, and you must carry your men, and your material, and your provisions through. The cost is increased by every mile you progress, because you are further from your materials, and further from your provisions.

This road can be made only by the money of this Government. There is no individual enterprise under heaven which can make it. No set of individuals, and no corporation that ever was imagined, can make the road for that thousand miles. The Treasury of this country, with the energies of this people, may make it; but the money must be put out without stint, and the \$40,000 a mile, proposed to be offered, is a small sum towards it. I will vote for that, or any other reasonable sum, because I desire to see a railroad made connecting our eastern and our western coast. I shall vote, ultimately, for any bill that is at all likely to accomplish that object, to show that I am sincerely desirous of making a road, and not because I suppose the road will be made while I live.

Mr. MALLORY. Mr. President, I had at one time intended to say something upon this subject, but I have determined to say nothing. If there is sufficient information before the Senate, I propose to kill this bill; but I have been drawn forth by one single remark of the Senator from Massachusetts. He says that, in his judgment, it will take from fifty to seventy thousand dollars a mile to build this road in the desert, which he characterizes as a desert of mountains and arid lands. The Senator of course values his opinion, and he seems to have investigated the subject; but I desire to ask him if he means to give it to the Senate as his opinion that the road can there be built for \$75,000 a mile?

Mr. WILSON. I doubt it. At any rate I think it cannot be built for much less than \$75,000 per mile through the deserts and mountains.

Mr. MALLORY. He knows as well I do that the road from Dunkirk to New York, built through a country already inhabited, where you could collect laborers together at every hour, and discharge them as you pleased, and where provisions and all the appliances and appurtenances for building a railroad were at every footstep of the route, cost \$93,000 a mile. He certainly does not intend to inform the Senate that in his judgment a railroad through this desert country can be made for \$75,000 a mile. I concur in everything said by the Senator from Pennsylvania, [Mr. CAMERON,] as to the cost of this road. He might go further, and say that there has not been information furnished to the Senate upon this subject sufficient to justify a road commissioner in New England, in building ten miles of turnpike. There is no information yet before us to show that we can approximate within \$100,000,000 of the cost of the construction of this road through the desert, or within a quarter of a century of the time of its completion.

Mr. SEWARD. There is great danger, I think, of exaggerating the expense and cost of this improvement, and no great hazard in adopting the estimates which were made by the committee. I think, on the average, that the appropriations made by the bill, of land and money, will be adequate to build the road. Those appropriations were proposed in the bill upon conference with engineers—with men experienced and capable.

I agree that the bill has been very much improved, in addition to the previous amendments, by those of the honorable Senator from Massachusetts, concurring with and adopting the proposition of the honorable Senator from Pennsyl-

vania. But it is very clear to my mind, that if you appropriate \$40,000 per mile for the middle division, you may make the contract much more desirable than is necessary, in order to insure the completion of the road. I think it is best to be prudent in that respect, because, from an amendment already adopted by the Senate, to which it seems likely the Senate will adhere, the whole of this question will come back to Congress to be acted upon again before a spade will be struck in the work.

I think the honorable Senator from Florida has misapprehended the facts in regard to the cost of the construction of the New York and Erie railroad from Dunkirk to the city of New York. That is a road, the main trunk of which is four hundred and sixty-eight miles long. What the whole construction of that great and stupendous enterprise may amount to, I do not pretend now to recollect; but I know that, in addition to the main trunk, the road has constructed or adopted several branches, extending its aggregate length a very large number of miles. I know that it never cost \$90,000 per mile on an average for the construction of the road, or anything like that sum. I know, also, that, owing to the embarrassments under which the company labored in constructing the road; owing to the disastrous revolutions which occurred in 1837, leading to an entire suspension and abandonment of the work; the company going into liquidation, and many other circumstances of that kind, large portions of the original work were abandoned after they were one third or one half completed; and then changes of the route were made, which circumstances have all tended to increase the aggregate cost of the road. But I have no idea that it cost, per mile, half the sum the Senator states to make the road, if you include only the legitimate and necessary expenses.

Mr. President, while I am up, I wish to say that I desire the commencement of this enterprise. In any shape in which it can be put, the bill will not be in the form in which I would put it, and the road will probably not take the route which I think best; but every effort was made in the committee which prepared this bill to frame a measure which might reasonably hope to obtain the favor of a majority of Congress; and all the debate which has occurred hitherto has satisfied me of the correctness of the conclusion at which I arrived in the committee: that if we can have a railroad bill at all, it is safest to adhere to the original proposition. That, however, is for my own action. I have so acted throughout; but I have consented to adopt such amendments as seemed to improve the bill, and not to hazard it.

Mr. WILSON. I find, on a reference to official returns, that the New York and Erie railroad, to which the Senator from Florida has referred, is four hundred and sixty-five miles in length, and cost \$27,500,000, being about sixty-one or sixty-two thousand dollars to the mile. The great New York Central road cost fifty-two or fifty-three thousand dollars to the mile; the Hudson River road about seventy thousand dollars; the road from Philadelphia to Baltimore about seventy-five thousand dollars; and the great line from Baltimore to the Ohio river, about fifty-five thousand dollars a mile. Thus we see that to build these great lines of road costs some money.

As I trust we are engaged in an honest effort to insure the construction of a road to the Pacific, as we are for the substance and not for the show, I hope that we shall put in the bill such provisions as will secure that result. Therefore, I propose to allow \$40,000 a mile, which will be about forty million dollars for the middle division on the central route, two thousand miles in length altogether, and the whole sum cannot exceed \$52,000,000. It is an addition to the committee's proposition of about fifteen thousand dollars a mile for one thousand miles, supposing the road to be two thousand miles long; being an addition of \$15,000,000 to the whole proposition.

Mr. SIMMONS. If I understand the Senator from New York, he says that, on consultation with railroad men, it was understood that the provision of the original bill granting \$12,500 a mile in money and certain sections of land, would secure the building of the road. Did I understand him correctly?

Mr. SEWARD. Yes, sir.

Mr. SIMMONS. What has embarrassed me from the outset in regard to this bill, is, that I

cannot see, if we are to appropriate land and money to build this road—and that seems to be everybody's opinion—why we should make a contract with anybody, and in that contract stipulate that when the road is made we shall pay twelve dollars a bushel for carrying corn, and sixty dollars a barrel for carrying flour. We are to build a road with our own means, and then to make a contract with somebody to superintend the outlay of the money we furnish; and by this contract we are to agree to give them a sum that would entirely bankrupt the Government if we had a war; and we are only going to build a road for war purposes. In my judgment, a contract made under the provisions of this bill, for carrying stores and munitions of war for the defense of the country, would cost more than one hundred million dollars per annum to maintain thirty thousand troops on the Pacific. If we are to have the road, I agree that we ought to build it; and if there is a road to be built, it ought to be by the Government.

Besides, when we make a contract with this company, if one shall be formed, we cannot change it, and it would be bad faith to change it; and yet it is such a contract as that which we made with the French Government when we were in trouble, and which could not be kept without annihilating the independence of this country. That was the character of our treaty with France; we could not carry it out consistently with our obligations to other nations, and it had to be abrogated. I think the contract proposed to be made by this bill will be more onerous to this country, in time of war, than any that ever was contemplated.

The bill provides for a railroad through California; but the State of California, according to the constitutional notions of Senators on the other side, may refuse to create a kind of artificial person—a corporation, to do this great work, and can defeat the whole of it. What right has a corporation which may be created for the purpose of building a railroad along the Missouri river, to construct one in the State of California? None whatever. They have no right in the Territories of the United States, unless you give them the authority; and according to a decision which has been much talked about lately, there is nobody but the United States Government that can confer such authority in the Territories. In all the decisions that have ever taken place in the Supreme Court of the United States, prior to the one to which I have just alluded, it was decided that the Federal Government possesses in a Territory the same powers which a State Government has within a State, and also the powers of the national Government in a State; that it exercises the conjoint powers of each. I think I heard that a dozen times in the debates last winter. Then why have we not authority to create a corporation to build a railroad in the Territories of the United States? But what assurance have we that that will be done? This bill proposes to make a contract when we have no assurance that a corporation will ever exist with which the contract can be made.

Now, if we want individual enterprise to connect itself with this Government in the work of building a railroad across the Territories of the United States, cannot we create a corporation for the purpose? Is not this Government bound to do it, if that agency is necessary? I doubt whether it is good policy to connect individuals with this enterprise; but if it be, let us create companies to construct the road. I believe we engaged with private enterprise in the work of the improvement around the falls of the Ohio at Louisville. We took stock in the company to encourage the enterprise. Well, if there is any advantage whatever in connecting individual enterprise with the Government in that way, let it be done by the action of the Government.

There is another point in this bill on which I should like some information. I can hardly understand where this road is to terminate. One man says it is to go from the line of the States, on the eastern slope, to the boundary line of California. Others say it is to go to San Francisco. Well, if it goes to San Francisco, you are to get rid of constitutional scruples by uniting with artificial persons in the work. No man whom I have heard speak here has expressed his belief that there will be a dollar of individual capital put into this enterprise, and yet you are to make a con-

tract with those who are to build the road, and you are to give them \$140,000 worth of land, and ten or twelve thousand dollars in money, per mile, and then, if there should happen to be a war before they get it done, we are to pay them sixty dollars a barrel for carrying flour, and when we get into trouble, and want the road, we cannot alter the contract.

There is no kind of use in inviting these speculators into this concern, when you have no expectation that they will bring you a dollar to invest in the work. I had supposed that somewhere in the course of this debate that point would be reached, and I am astonished that for a week past the question has been debated without such a suggestion having been made. I said the other day that at some time or other I intended to move to strike out all that part of the bill proposing to make a contract on the terms I have mentioned, and I expect to do so whenever it shall be in order. The Senator from Illinois [Mr. Douglas] told us yesterday how easy it was to get over all difficulties as to the route. His plan was to let the route be selected by the contractors; the capitalists who, he says, are to put their money into the enterprise. Well, sir, the fact is that nobody pretends that any individual is going to put any money into it. Somebody is to be cheated, and that somebody will be the United States, and the Treasury of the United States. The Senator from Georgia [Mr. Toombs] suggests that it is set for that. I will not say that, for I do not believe it is contemplated here to do any such thing.

I am in favor of a Pacific railroad. I was a member of the Committee on the Post Office and Post Roads, when that committee made a report in favor of building a railroad to the Pacific, before we acquired our present possessions there from Mexico, and I had a great hope that, at some time or other, the work would be done. I then supposed that it would be done in my lifetime, but now I have no hope of that, even if I should live to be a hundred years old. Still, I concur in the view expressed by the Senator from Mississippi, that the road ought to be made if it can be done at any reasonable cost, not exceeding \$150,000,000. I believe we owe it to the country; we owe it to our defenses. I never yet heard a man so scrupulous about the powers of this Government as to say that the Congress of the United States had not the power to appropriate money for the national defenses; and this is a great means of national defense. If we had had such a road as this last year, we should have saved a great deal of money in the transportation for the Utah expedition.

I was told by General Jesup that it cost us sixty dollars to carry a barrel of flour to Utah, only half way to California; and at the same rate it would cost over a hundred dollars to carry it to the Pacific. If we were to be involved in a war with a maritime Power, and intended to secure the defense of California, we could not transport provisions enough across this road to sustain an army of forty thousand men there annually for the cost of building the road, if a contract should be made according to the bill, which provides for paying the old prices of transportation. I have no kind of doubt but that if we were involved in a war, and this road was in the hands of Wall-street jobbers, they would require you to pay double what it cost them.

Here the Government of the United States, in point of fact, proposes to build the road itself, and yet we are to make contracts with local corporations—one in Texas, one in Ohio, another in Indiana, another in Illinois, another in Missouri, another in California. What kind of contractors will you be dealing with? Who would bring them to any account? What right have we to bring them within the jurisdiction of the courts of the United States? You will have to carry them into the local courts; and they may buy up the courts, as they have bought up the Governments of some of the States.

I am seriously anxious for this road. I am willing to go a great way to secure its construction. I should be willing to appropriate, annually, the proceeds of the sale of the public lands, and \$5,000,000 in stocks; but I do not think we have any right to make any appropriation at all according to our present knowledge, unless gentlemen know a good deal more about it than I do, and I have been studying it for fifteen years. We

have no right to make any appropriation whatever upon which to base a contract involving \$100,000,000, when we cannot tell now, for our lives, within one hundred miles of where the road will go, and do not know what it will cost; and have nothing on which to base our action, except some conjectural estimate. I think the better plan would be to adopt the proposition which was suggested by the Senator from Wisconsin, [Mr. Deolittle,] to send out three corps of engineers to investigate the different routes. Appoint efficient men; let them go to work, survey the routes, and make the estimates, mile by mile, and let us know before we make any bargain what it is to cost; or let us at least have some reasonable approximation to the cost. I am willing to do that.

A good deal has been said in the course of the debate about sectional views and sectional notions. Well, sir, for my part, if I thought a road on the thirty-second parallel would be the most expeditious, and the cheapest way to defend the Pacific coast, I would vote for that road in preference to any other; or, if I thought the northern route were the best for that purpose, I would vote for it; but it does not look to me at all reasonable that we should go so far around, although I know the shortest distance between two points is not always the quickest.

But, sir, I say the Congress of the United States has not sufficiently examined this question to decide on anything further than on sending out men to survey and explore the various lines and locate a route. I am told that a road on the southern route, from El Paso to the Colorado, will not be more than five hundred miles; and although I think a central route would be the best, yet, if Texas ever gets her road completed to El Paso, I shall be ready, if I am in the Senate at the time, to vote to extend it from there to the southern part of our Pacific possessions. I will give as much as will build it and carry a mail there. I think a railroad to our Pacific possessions will have to be about two thousand miles in length, or at any rate, one thousand six hundred or one thousand seven hundred miles. If that road be built on the fortieth or forty-first parallel it will be five or six hundred miles from the route on the thirty-second parallel. In New England you cannot drive out anywhere without crossing a railroad track. In fact, when I am at home, I am afraid to drive out except on Sundays, when the cars do not run. Here is a space of five or six hundred miles between the two railroads; and it would be space enough if the land was good for anything.

If it were now in order I would move to strike out all after the enacting clause of this bill, and insert a simple provision to appoint commissioners, and appropriate money to pay them; and then let us wait for the information they can give us, and know what can be done, and decide what ought to be done. We cannot agree upon details now. If you undertake to put this scheme afloat, and make a contract under it, there will be a great scramble; there will be more sectional strife than ever was made over any question in this country before; nobody would know whether you had the best route. Suppose the President should come to the conclusion that the southern route was the best, and purpose to make a contract for a road on the thirty-second parallel; could it be expected that such a contract would be confirmed by Congress? It would not get twenty votes. Let us know beforehand what we are to.

Where are these contractors? Who is to bid for this contract? Is there a corporation in existence within the limits of the United States that is authorized to bid for it? I do not believe there is. Who is to make the corporation to build the road? What is to be its character? Would you take up one of those private corporations that are got up in half an hour, without any capital or character, made up purposely to build the road? What security does this bill give that they will perform their part of the contract? I do not see any. If there is to be a corporation for this purpose, I hope the Congress of the United States will create one; and we can create one as Mr. Webster created an exchequer, without having anything of a corporation in it—just authorize them to sue and be sued; and that is about all the special power a corporation needs. Then, if they have got any money, let them put it into the

enterprise, and let us put in as much as they do. I will agree that the United States shall take half the stock, if it is necessary to have a corporation for that purpose. I think that would be the best course, if we are to resort to that plan at all. Much as has been said about corporations created by the United States, there has never been anything that came within hail of the extravagance, the fraud, and the folly, that State corporations have manifested. We make contracts to build steam frigates, and I have no doubt, on the whole, we get them built as well as individuals could do. Why will it not be the same with a railroad?

Where is the money to come from to construct this road? Let us look at the question in a pecuniary point of view. Is there a State of this Union that has not ample use for all its pecuniary means? Is not the want of money everywhere throughout this country, in every State of the Union, the greatest check to our onward march to prosperity? Everybody knows that it is the high price of capital which is obstructing enterprise. I saw not long since a young man from Iowa, who was in my State trying to negotiate for money, and he said that on improved property (four mills) he had to give twenty-five per cent. per annum; he could not negotiate on more favorable terms; and I dare say, gentlemen from the new States will tell you that it is a common thing there to give from two to four per cent. a month on good security for money. Our great want is a lack of money, a lack of active capital. The enterprise of the new States outstrips their ready money. The money always is in the old hives, as honey is with the bees.

Now, if money must be hired to construct this road, I say it should be hired by the Government. Our people are in no condition to plant \$100,000,000 worth of personal property in this enterprise. It would embarrass the whole operation of the country. When we import an excess of forty or fifty million dollars in a year, it bankrupts the country; it destroys confidence; everybody sees that we have more to pay than we have to pay it with, and everybody is shy about letting money go. If the people plant \$150,000,000 in fast property in this work, it will drain every dollar of money from the active pursuits of life; and it will be the most idle disposition that could be made of the people's money. The money needed for this work must be obtained from countries where they have abundance of capital, and are willing to lend it for three or four per cent. per annum. I do not believe there is a railroad corporation in the United States, and hardly a State in the Union, that can hire money in Europe for double the price that this Government can. I have noticed, within a few years past, that the ten per cent. bonds of the State of California have ranged at from fifty-five to eighty in the market, and that is a State which digs out from forty to sixty millions of gold every year. I think the quotations of the six per cent. of the State of Virginia vary from eighty-five to ninety-five. The stock of the United States at five per cent. brings a premium; and if you put out a loan for thirty or forty years, you would get a premium for it at four per cent. As long ago as 1825, I knew a four and a half per cent. loan of this Government to be negotiated above par.

If \$100,000,000 are to be hired for this purpose by any corporation that may be created, they cannot get the money for twelve per cent. per annum, unless you add to their credit the faith of the United States. The ten per cent. bonds of the State of California bring her but seventy dollars on the hundred. She pays fourteen per cent. a year on what she gets, and agrees to pay thirty per cent. in addition to the principal, when the bonds become due. As I said in the debate on the fishing-bounty bill, there is no business in this country that can stand such interest as that. The net earnings of the labor of this country that are laid up, do not average two and a half cents per day without any accumulating interest; we do not save a great deal. I think the United States could get the money for this purpose at four per cent. The three per cent. stocks of England are now at ninety-seven, and there is not a nation in the world which has bonds out that was ever clear of debt, except the United States. We did pay up once, and I hoped we should keep clear of debt, as an example to the world. But this is an enterprise that I think would justify an indebtedness on our

part; and I think we can hire the money to build this road at one third the rate of interest that any State or any corporation can hire it for, in my judgment. I do not mean to disparage the credit of the States; but if you were to go abroad to-day, with the paper of almost any of the States, rich and wealthy and honorable as they are, and press upon the market a little more than capitalists are ready to take, their bonds would go down even below their present prices.

I never knew but one State whose stocks sustained themselves at par, and that was the State of Massachusetts. I have never seen her five per cent. stock quoted below par in any revulsion of trade; and the reason is that the amount of their debt is limited, and it was all consolidated many years ago; and the people consider their interest about as certain as the Bank of England; but if Massachusetts had continued to put stock, year after year, into the market, they might have gone down to sixty. We have all sorts of stocks held in Europe, and when our creditors there stopped taking them a year ago last September, we were bankrupt in sixty days. I saw a gentleman, a very intelligent man, who was a great friend of American enterprise, who was resisting the accounts given in London of the indebtedness of this country. They claimed that it was £100,000,000 sterling, and he limited it to £80,000,000. It is supposed that we owe about one hundred and fifty millions on the continent—about seven hundred and fifty million dollars; and the result is that no corporations which we can get up in this country can obtain money in England, or on the continent, for ten per cent.; but this Government can get it, for four per cent.

My trouble about this bill is, that we are creating an artificial person to build the road who cannot get the money to do it with. If we are to find the money, I do not see why we should wish to make an onerous contract and take a great burden for the work we shall have done on this road, when we must make it ourselves. I think the first step we ought to take is, to get a thorough and perfect survey, with an accurate estimate of the cost; that kind of survey which people make when they mean to build a road; not mere reconnaissance, but a detailed survey—take the levels; see what the grades will be; where tunnels will be needed; where the track will have to be roofed over to avoid the snows and the cañons.

I do not believe any part of the route of this road is so difficult as the country through which we have built railroads in New England. I judge so from the circumstance that Colonel Pope has taken a train of wagons over this wilderness country, and arrived safely at the Pacific ocean. Take the condition of New England as it was when the pilgrims landed there; they could not have got from Boston to the Hudson in years. They never could have got through with a team, and I do not believe they could get through on foot in a year. This country cannot have all those natural obstacles to travel of which we are told. If it were so, we should not find a mail coach coming through from San Francisco to St. Joseph in twenty-four days. It must be an easy route to get over compared with what the country which is now settled was at first. New England was a more rugged country, in my opinion, than any part of this region. Take the road which Massachusetts has built from Worcester to Albany. Riding in those cars, and looking at the country ahead of you, you would not think it possible to get through; but you wind around a little brook through the hills, and you get along very comfortably. This region of country cannot be anything near as bad for railroad traveling as was that originally. We have tested the experiment to some extent in this region, and now we want to get an honest calculation of what the grades will be; where the tunnels will be; and we want an estimate such as an engineer makes when private capital is invited to construct a railroad forty miles or a hundred miles long. With such an estimate before us, and in no other way, can the Congress of the United States act understandingly on this subject. That is my deliberate judgment, and I hope the Senator from California will consent to adopt the suggestion which I have made.

A provision has been inserted, by a very large majority, requiring that any contract which may be made with any of these corporations, even if they were solid ones, shall come back to Con-

gress. In the mean time, an opportunity will be afforded for reflection; and it may be that, in view of the onerous burdens which this bill imposes on the Government, the whole thing will be defeated. I do not know now that you could get a majority for a bill for a road on any particular route, even if it was known to be a good one. Have a survey of the various routes, and give us an opportunity for a comparison of views, and that will qualify the opinions of many persons; and we shall be in favor of taking the best route, the cheapest route, and the one best calculated for the national defense. We can sell this land better than any private corporations can sell it. We can give a better title than they can. I have not found out as yet how they can give title out of the jurisdiction of the corporations themselves; but I will not go into that, because I am no lawyer. Still I know enough about corporations to know that they want to be looked to. Before we invest a corporation with forty millions of real estate, we should look into its character and prospects. If the road is to be built, there is nobody so well qualified to do it as we. We can obtain the capital necessary for the purpose at one third what anybody else can obtain it for. As I said in the outset, if it is necessary to invite individuals into the enterprise, let us make up a company and join with them, and have some supervision of them, and hold them to the contract when it shall be made; and, if they do not come up to it, forfeit the capital they put in.

I do not want to vote for the amendment proposing \$40,000 a mile. That would be \$40,000,000 for a thousand miles of road across what is spoken of as the desert portion of the country. That is \$15,000,000 more than the whole bill, as reported, and we are told it was expected it would be built for \$25,000,000 and the land grant for the whole two thousand miles. Here is a proposition to appropriate \$40,000,000 for one thousand miles. I cannot vote for it. I cannot vote for the original bill, and I never did intend to vote for giving away so much land and money to build a railroad, without having the entire control of the corporation or individuals who might build it, or else build it by the Government.

I have remained here ten days in the hope that there was some probability of coming to a practical result in regard to this bill; but I am thoroughly convinced that the only thing we are now prepared to do is to appropriate money enough to have scientific corps go on these three routes, survey them, and make reliable estimates, and report them to us at the earliest practicable moment, and then we can select the route, and appropriate the money, gradually to complete the work by the Government. If the Senator from California will consent to that, I will agree that he shall draw up a bill to carry out that purpose, and propose what amount of appropriation he pleases, and I will vote for it; but I cannot vote for this proposition.

Mr. MASON. I think, Mr. President, all will agree that the subject of this railroad has been left in the hands of the friends of the road, and exclusively in their hands for the last two weeks, and I think those gentlemen who are the friends of some road, are satisfied that the subject is too crude for the consideration of the Senate. It has taken a great deal of time, and is likely to take more. I certainly am no friend to the road; that is to say, I am not a friend to the road being made by the Federal Government in any form. I here declare frankly that if a proposition were made to begin on the James river, or the Potomac river, in Virginia, and thence to carry it through Kentucky and Missouri to Kansas, and from the western borders of Kansas to the Pacific ocean, I should feel myself bound to vote against it. Begin where it may, and end where it may, I cannot vote for it. But I submit to my honorable friends on this side of the Chamber, and to the Senator from California, who has shown that this was his special plan of building the road, believing as I certainly do that they earnestly wish it should be done, the expediency now of committing the bill to the committee that brought it in after the interchange of opinion we have had amongst us, and let the committee see if they can devise any plan which will be put to a vote by a majority of the Senate. I shall therefore move presently that this bill be committed with the amendments, to the committee that brought it in; and if that should be done, I shall ask the Senate

to go into executive session, because there is executive business which it is of importance to us to transact. I move that the bill, together with the pending amendments, be committed to the committee that brought it in.

Mr. JOHNSON, of Arkansas. I hope very much that will not be done yet. There are several other amendments that have been offered, and several more that it is desirable should be offered and voted upon. I believe it to be desirable that we should ascertain, if it is possible to do so, by votes in the Senate, what project, if any, will be countenanced by this body. I have serious doubts whether any at all will be; but I am very certain that if we now refer it to another committee, that committee will be in the dark as to the projects which many gentlemen entertain and are prepared to offer. I hope the Senator will let us have a few more votes on the bill. I am particularly desirous that we should have the bill before us a little longer, in consequence of the fact that my colleague and myself are instructed as to our vote by the Legislature of Arkansas. They have relieved us of the trouble of thinking or debating on the subject at all. They have furnished us a straight line to pursue. We very much desire to submit the proposition which they have instructed us to support. We do not wish to debate it. We do not think that this enterprise will find its life in the debate here; and we do not wish even to discuss it.

I am exceedingly anxious that my colleague shall have an opportunity to offer his amendment, and that it shall be acted on, and either adopted or voted down. If it shall be sustained by the Senate, there will be but little trouble left in debating it as the programme upon which the road shall be built. If it shall be rejected, there will then be at least two of us here who will be free to pursue that course which good policy, in our judgments, may dictate. I hope very much that the Senator from Virginia will not insist upon recommitting the bill now. If he does insist upon it, I sincerely hope that the Senate will not consent that it shall be committed until we have had a few more votes. After that I should be willing to support the motion; but I want to know something, as far as it is to be ascertained, of the opinions and impressions of the Senate before it goes back to the committee.

Mr. MASON. I would say to the honorable Senator from Arkansas that if he or any other Senator desires to submit amendments, it is no uncommon practice of the Senate to lay those amendments on the table and have them printed and committed to the committee. That is by no means an uncommon practice, and I am sure it can be pursued on this occasion.

Mr. JOHNSON, of Arkansas. My colleague is not in his seat, and in his behalf I wish to give notice, that he has an amendment prepared in accordance with the instructions which we have received from our Legislature, fixing the thirty-fifth parallel as the line of the road. I wish to give notice of that now.

Mr. MASON. The Senator will allow me a moment. After the bill is committed it is not an unusual practice in the Senate, for any Senator who desires it to offer an amendment, and by a vote of the Senate to commit that amendment also to the committee for consideration.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. DAVIS. I shall vote against this proposition to commit, and I desire, very briefly, to state my reasons. The Senator from Virginia says that our information is entirely too crude for action. If so, it is because Senators will not read the reports which they have ordered to be printed. We are possessed now as fully of information in relation to the geography of that country as we are of any portion of the country inhabited even before the Revolution.

Mr. MASON. Will the honorable Senator indulge me for a moment? The Senator misapprehended the suggestion that I made. I certainly did not say, and I do not venture to say, that the information of the Senate is too crude to enable them to act on the subject; but I did say (and I referred to the condition of things before the Senate to sustain me) that it was very manifest that the information of Senators, as to where this road should begin, or where it should end, more especially where it ought to begin, and the opinion

of Senators in what way the road should be made, to what extent the General Government should contribute to it, and whether it should contribute directly or indirectly—that the state of opinion was so crude, as shown by the condition of the subject in the hands of its friends, that I thought the best way, carrying out the suggestion *fas est ab hoste doceri*, was that it should go to its friends to see if they could propose some measure on which they could agree; not that the information was crude, by any means.

Mr. DAVIS. I am happy to receive the explanation of the Senator; and I will merely remark, in addition to what I have already said, that not only is the description of the geography very complete, but Congress has also published the meteorology of that country, collected by many years of observation at every military post. Though we may speak here of lands of fertility, the tables present the fact that there is a sterile country, go where you will, very soon after you have passed the ninety-ninth meridian. About five hundred miles due west from the suggested starting-point at the mouth of the Big Sioux, there is a country where military posts have been maintained for a number of years, and where, from the aridity of the climate, it has been found impossible even to raise their vegetables—a waste.

Then, again, sir, this subject has been considered by the committee; and having been considered somewhat maturely by the committee, a majority reported the bill which is before the Senate; a minority, in numbers I believe nearly equal to the majority—I have forgotten the difference—a large minority, however, not assenting to the bill, and some portion of that minority concurring with myself in a substitute which changed the whole character of the proposition. It is quite clear, from the manner in which the argument has been conducted here, that it does not spring so much from a concurrence of opinion among those who desire to build a road at all, as it does from those interests which will intervene whenever the question may be revived—local interests.

Then, again, there are some who step forward as advocates of the construction of a road, and wish to charge the Government with it, and they have already overloaded it with amendments which will increase the cost of the road to an extent that it would be altogether improper we should ever entertain. Many of the propositions which are presented, to my mind, at least, offer inducements to any company which may undertake to construct this road, not to take the shortest and most direct route, but the most circuitous route which they could adopt; and just in proportion as you increase the amount of money per mile, so do you increase the inducements to the company to make the route circuitous, winding about wherever valleys were to be found, where they would command money for the land they would receive, and thus not answering the purpose of the Government at all, but induced to adopt a course which would defeat the object of the Government, and promote only the interest of corporations.

These are differences which cannot be composed in the committee. Let the committee report back what they may, the same questions will be raised, and I do not see why the committee should be charged—having already exhausted the subject, I believe, so far as they can act—with bringing in another bill that we may revive the long discussion which has already been heard before the Senate, and which has consumed a large portion of our time. I hope that, for good or for evil, for the adoption or the rejection of the proposition, the Senate will take some definitive action upon it.

Mr. CAMERON. I wish to say a single word in reply to what fell from the Senator from Virginia. It is a rule which I adopted very long ago, never to take the advice of my adversaries. The Senator has told us frankly, that he is not in favor of this bill. His intention—and that will be the effect of his motion—is to kill the bill. No Senator here imagines that if we refer this bill again to the committee, it will ever come into our hands during the present session. There are other people, I imagine, outside of this Capitol, who are acting against this bill, who are not so frank and so honest as the Senator from Virginia, as to tell you they want the bill killed. I think, however, some of them do desire to have it killed, effectually killed, so that it shall not come up again dur-

ing this Administration. This portion of the Cincinnati platform, I take it, never was intended to be built; and I believe those who are really desirous of making a road, as I am, can discuss this question now as much as it is to be discussed, and determine it while it is yet in our hands.

Mr. SEBASTIAN. Before the Secretary proceeds with the call of the roll, I wish to ascertain whether I understand this question rightly. Is it to commit the bill with all the amendments that are pending?

The PRESIDING OFFICER. Yes, sir.

Mr. SEBASTIAN. Then it is in order, I suppose, to offer an amendment before that vote is taken, so that it may be embraced in the reference, if the motion shall prevail?

The PRESIDING OFFICER. The Senator may present the amendment informally.

Mr. SEBASTIAN. I offer it with the view that it may go to the committee, if the motion succeeds; if not, as an amendment which I shall present hereafter.

Mr. HALE. The remarks of the Senator from Pennsylvania [Mr. CAMERON] have directed my mind to a source of light to which I have not been in the habit of looking lately; and if it is in order, I should like to have that part of the Cincinnati platform which relates to this matter read by the Chair. [Laughter.]

Mr. SEBASTIAN. I ask that my amendment be read.

The Secretary read the proposed amendment; which is, to strike out in lines seven and eight of the first section, the words "a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers," and insert, "Fort Smith, on the western boundary of the State of Arkansas."

Mr. WILSON. The Senator from Mississippi [Mr. DAVIS] makes a suggestion that there ought to be a limitation on the amount of money, if I understand him correctly. The proposition that has been adopted grants \$10,000 for the first five hundred miles, and \$15,000 on the western division; and now the proposition is to grant on the middle division—which will be about a thousand miles long, more or less—\$40,000 a mile. We have reserved, at \$2 50 an acre, alternate sections of land enough to amount to \$16,000, which, added to the money grant, would make \$56,000 a mile for the central portion. The whole amount of money we propose to grant is \$52,000,000; and I am willing to amend the whole proposition so that the amount of money granted for the whole shall not exceed \$52,000,000. Therefore, I should like to have a vote on the amendment to strike out "twenty-five" and insert "forty," and then I should like to move an amendment that the whole amount of bonds issued shall not exceed \$52,000,000.

The PRESIDING OFFICER. The question is on recommitting the bill.

Mr. WILSON. I will move that amendment when in order.

Mr. BIGLER. I suggest to the Senator from Massachusetts that he will find at the close of section eight a restriction on the amount: "provided it shall not exceed \$34,000,000." That is the amount as it stands in my amendment now. If there is any alteration to be made, it can be made by changing those figures.

Mr. DAVIS. In reply to the remark of the Senator from Massachusetts in reference to my position, I will merely say to him—I had been over the subject so often I did not think it necessary to be so very full—that I object to the allowance of large sums of money per mile, leaving the contractors to make the money as much as they please, by making the road as long as they can. I prefer that the Government should act just as a prudent proprietor would—

Mr. DOOLITTLE. Perhaps the honorable Senator from Mississippi did not hear the Chair announce the fact that the question under consideration is not the amendment, but whether we shall recommit the bill.

Mr. DAVIS. Yes, sir; my remarks have exact application to that. They are upon the propriety of committing the bill. I think the Senator will see the application before I get through.

I was going on to say that my objection was to allowing so much per mile, leaving the contracting party the right to make the road as long as he pleases, and thus to involve the Government in any amount of expenditures that he pleases. I

did not propose any given sum per mile as a limit to which I could consent; I was not objecting to the sum per mile alone, but to the whole manner of appropriating money. I believe that we can get a road across the intermediate territory by giving aid to the extent of \$10,000,000; and, acting for the Government as I would act for myself, I am not willing to give one dollar more than the lowest sum which I believe will secure the object we desire to attain. I am, therefore, opposed to all the provisions which have been introduced with a view to offer bids to companies to stretch roads where they will be of no value to the Government, in order that they may get large sums of money provided for them in special localities, at least to encounter some mountain ridge which every intelligent man in the country has an opportunity to know is impracticable, and thus the end of the Government is finally to be defeated.

Now, sir, if I am correct in this, the Senate is in as good a position to decide the question now as it will be at any future period, and the committee cannot aid them by any proposition which they can hereafter submit. Every phase of opinion is before the Senate now, in the form of amendment and substitute, and they have all been illustrated in argument upon this bill. I think we are ready now to act as well as we shall be during this session; and either an indefinite postponement or a vote upon the bill I consider preferable to committing it again to the committee.

Mr. BENJAMIN. I move that the Senate adjourn.

["No! No!"]

Mr. JOHNSON, of Arkansas. I should like to submit a motion that when we adjourn to-day it be to meet on Monday.

["No! No!"]

The PRESIDING OFFICER, [Mr. STUART.] Is the motion to adjourn withdrawn?

Mr. BENJAMIN. I withdraw it for that purpose.

Mr. JOHNSON, of Arkansas. Of course every gentleman here is willing to submit to the Senate. I beg leave to move, that when the Senate adjourns it be to meet on Monday next.

Mr. HUNTER. Is that in order without unanimous consent?

The PRESIDING OFFICER. It will require unanimous consent, in the opinion of the Chair, to act on it while this motion is pending.

Mr. JOHNSON, of Arkansas. What motion?

The PRESIDING OFFICER. The motion to recommit the bill.

Mr. JOHNSON, of Arkansas. We can move to postpone the further consideration of the bill, and I make that motion. We can then take it up again. I ask the Senate to sustain me in that. I move to postpone the further consideration of the bill until to-morrow.

Mr. DOOLITTLE. I ask the honorable Senator from Arkansas to allow the vote to be taken on the motion to recommit. Then he can renew his motion.

Mr. JOHNSON, of Arkansas. That will not be permitted. There has been already a motion to adjourn, and I move now to postpone this bill until to-morrow.

The motion was not agreed to.

The PRESIDING OFFICER. The question now is on the motion to recommit the bill.

Mr. SEWARD. Before the question is taken, I wish to say that I shall vote against the motion to recommit. The experience I have had on this committee for several years, quite satisfies me that no new or modified bill can be prepared and submitted by the committee in time to obtain the favorable action of Congress at this session.

Mr. WILSON. In accordance with a request made by the Senator from Pennsylvania, [Mr. BIGLER,] I withdraw the motion I made to strike out "twenty-five" and insert "forty," in his amendment; but it is contrary to my own judgment.

The Secretary proceeded to call the roll.

Mr. FITCH. The Senator from Florida [Mr. YULEE] is absent in consequence of sickness in his family, and I agreed to pair off with him.

The result was announced—yeas 23, nays 29; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Crittenden, Fitzpatrick, Hammond, Houston, Hunter, Johnson, of Tennessee, Mallory, Mason, Pearce, Reid, Rice, Sidel, Stuart, Thompson of Kentucky, Toombs, Wade, and Ward—23.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Davis, Dixon, Doolittle, Douglas, Durkee, Foster, Green, Gwin, Harlan, Iverson, Johnson, of Arkansas, Jones, King, Polk, Pugh, Sebastian, Seward, Shields, Simmons, Trumbull, Wilson, and Wright—29.

So the Senate refused to recommit the bill.

Mr. MASON. The vote just taken I think indicates the purpose of the Senate to continue this bill before it; but it is too late, I suppose, to continue it this evening. I move to postpone the further consideration of it until to-morrow, with a view to go into executive session.

Mr. BIGLER. I hope the Senator will allow us to vote on this amendment.

Mr. PUGH. I ask for the yeas and nays on the motion to postpone. I would rather go on with the bill now.

Mr. TRUMBULL. I hope the motion to postpone until to-morrow will not prevail. We have just now got to the point of voting on the bill. It seems to me we can do more in thirty minutes now, than in three days if we adjourn. We have got to a position where a vote can be taken to-day. If there are to be more speeches, I shall vote to adjourn; but if the Senate is disposed to vote, let us do it. We certainly understand the amendments. We have talked about them long enough; let us vote. I think we can settle in thirty minutes whether we shall have a railroad or not.

Mr. COLLAMER. I wish merely to say, in answer to the remarks of the honorable Senator from Illinois, that it is utterly impossible for me—I do not know how it may be with other men, who have intuitive perceptions, perhaps—to vote on this bill after it shall be amended, without having it printed, and having a chance to examine it. I had supposed that I had all the amendments printed, and I read them; but I did not find this one of the honorable Senator from Pennsylvania at all, and I do not believe one half the members have ever seen it. That has been amended in important particulars, and some further amendments are proposed to be made in it. After we have amended the bill, I want to have it before me in a printed form, that I may know exactly upon what I am called to vote.

Mr. TRUMBULL. I did not mean that we necessarily should pass the bill to-night; but we can pass upon the several amendments.

Mr. COLLAMER. I am satisfied with the gentleman's explanation. I am willing to go on with the amendments now; but as to passing on the bill finally, until it shall be printed as amended, and we can see what it is, I do not believe in it.

Mr. TOOMBS. We have given about a month to those gentlemen who are the friends of the bill. I have not participated in this debate, and I did not intend to do so, until I saw some serious purpose to inflict this evil on the country. At that stage I intended to give my views. I have as yet seen no such purpose. I think we have given them plenty of time to discharge all their obligations to the Republic, and to show the sincerity of their professions. I know some gentlemen are not ready, because they have not got votes enough for their special projects. Some might be willing to keep it open for another term; it might answer very well the year after next. If there is any desire on the part of the opponents of the bill to have a test question, I move to lay it on the table to test the sense of the Senate.

Mr. BIGLER called for the yeas and nays; and they were ordered.

Mr. RICE. Mr. President—

The PRESIDING OFFICER. The Chair will suggest that this is not a debatable motion.

Mr. RICE. I am not going to debate the motion, but I merely wish to give a reason why I shall vote for the motion to lay on the table. ["Order."] Is not that in order?

The PRESIDING OFFICER. No.

The question being taken by yeas and nays, resulted—yeas 27, nays 30; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clark, Clay, Clingman, Crittenden, Fitzpatrick, Green, Hale, Hammond, Houston, Hunter, Iverson, Johnson, of Tennessee, Mallory, Mason, Pearce, Reid, Rice, Sidel, Stuart, Thompson of Kentucky, Toombs, and Ward—27.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Collamer, Davis, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Harlan, Johnson, of Arkansas, Jones, King, Polk, Pugh, Sebastian, Seward, Shields, Simmons, Trumbull, Wade, Wilson, and Wright—30.

So the motion was not agreed to.

Mr. JOHNSON, of Arkansas. I ask if it is

in order to move that when we adjourn it be to meet on Monday next?

The PRESIDING OFFICER. The Chair understands the Vice President to have decided, this morning, that it is not in order while there is a motion pending before the Senate. The Chair does not feel at liberty to overrule that decision.

Mr. JOHNSON, of Arkansas. What motion is now pending?

The PRESIDING OFFICER. An amendment to this bill.

Mr. JOHNSON, of Arkansas. Then I believe we are pretty effectually tied up. [Laughter.] The Senate will not consent to postpone this bill until to-morrow; and the Senate will not consent, I believe, to do anything else but consider it. They will not consent to lay it on the table, and finish it; and I am very certain they do not intend to adopt it. I presume, in this state of things, a motion to adjourn would be the proper one.

Mr. TRUMBULL. If the Senator from Arkansas will allow me, I will move to lay the bill aside for two minutes, to allow time to the Senator from Arkansas to interpose his motion.

["Agreed, agreed."]

Mr. BROWN. I hope not.

Mr. CLINGMAN. I move that the Senate adjourn.

Mr. DOOLITTLE. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. DOOLITTLE. I withdraw the call for the yeas and nays.

Mr. CLINGMAN. If it is in order, I will withdraw the motion, rather than consume time by taking the yeas and nays.

The PRESIDING OFFICER. The Chair hears no objection, and it is withdrawn.

Mr. TRUMBULL. Is my motion now in order?

The PRESIDING OFFICER. Yes, sir. The Senator from Illinois moves to postpone this bill for two minutes.

Mr. IVERSON. I rise to a point of order. I understood the Chair to say that the question was upon an adjournment, and that the yeas and nays had been ordered upon it.

The PRESIDING OFFICER. The motion to adjourn has been withdrawn.

Mr. IVERSON. Have I the floor?

The PRESIDING OFFICER. Yes, sir.

Mr. IVERSON. Can I make a motion?

The PRESIDING OFFICER. Yes, sir.

Mr. IVERSON. Then I move that the Senate adjourn.

Mr. JOHNSON, of Arkansas, called for the yeas and nays; and they were ordered.

Mr. THOMPSON, of Kentucky. When a motion is made to adjourn for two minutes, can a motion to absolutely adjourn supersede that? Does not the decision of the Vice President this morning prevent that?

The PRESIDING OFFICER. The Chair thinks the motion is in order. The Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 26, nays 31; as follows:

YEAS—Messrs. Bigler, Broderick, Brown, Chandler, Chesnut, Clark, Clingman, Collamer, Davis, Doolittle, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Gwin, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson, of Tennessee, Pugh, Reid, Wade, and Ward—26.

NAYS—Messrs. Allen, Bayard, Bell, Cameron, Clay, Crittenden, Dixon, Douglas, Foster, Green, Hale, Johnson, of Arkansas, Jones, Kennedy, King, Mallory, Mason, Pearce, Polk, Rice, Sebastian, Seward, Shields, Simmons, Sidel, Stuart, Thompson of Kentucky, Toombs, Trumbull, Wilson, and Wright—31.

So the Senate refused to adjourn.

Mr. JOHNSON, of Arkansas. I move to postpone the further consideration of the Pacific railroad bill, with a view to make the motion I before indicated. I move to postpone the railroad bill until to-morrow.

Mr. BROWN. That motion, I believe, is debatable.

The PRESIDING OFFICER. Yes, sir.

Mr. BROWN. Then I think the debate on the Pacific railroad question had better go on upon that point, in regard to postponement.

Mr. JOHNSON, of Arkansas. I am very sorry to hear the Senator say so. There are certainly some motives ulterior. I do not wish to give them to the Senate now.

Mr. BROWN. I wish to make a suggestion

in all seriousness. At the present stage of the session, and in the present state of public business, the practice of dropping Saturday out and leaving the public business unattended to, is all wrong; and I do not only wish by my vote, but by my words, to enter my protest against it. Whilst claimants are here hanging around the Capitol with tears in their eyes, importuning you to transact their business, you deliberately adjourn over from Friday to Monday, in the fifth or sixth week of a short session; and this, after giving up ten days to the holidays. I simply protest that this is wrong entirely in reference to the public business, and in reference to that great duty which we owe to those who have claims against the Government. If we could prolong this session beyond the 4th March, I would say that it was all right; let us take our playtime in the winter and work in the hot days of summer; but that cannot be; on the 3d of March we must adjourn.

Now, is it right, I appeal to Senators, to be giving up, day after day, in this way, leaving the public business unattended to, leaving the interests of private claims unattended to, wasting the time which belongs to the public, after this fashion? I do hope that the motion of my friend from Arkansas will be voted down; that hereafter, on each legislative day during the remainder of this session, we shall devote ourselves diligently to the business which belongs to us as the Senate of the United States.

Mr. JOHNSON, of Arkansas. I confess that I am astonished at my friend from Mississippi. It may be a fever that has been growing on him for some time; but he has certainly a very high and excited fever upon him now upon the subject of public business. There is an amount of industry concentrated in him now that I have never known got into the whole State of Mississippi before. [Laughter.] I have served with him on the floor of the other House, and in this body, altogether for twelve years, and he was an experienced man when I first knew him in the other House. [Laughter.]

Mr. BROWN. I am not as old as that.

Mr. JOHNSON, of Arkansas. I never did know a time until within the last year or two, when he commenced spurring on for the purpose of getting the public business transacted; and I assure him that I never have known a period when it seemed to progress so indifferently as it does at the present time, and hence his spurring has all been of no avail. [Laughter.] I hope we may have the question on postponing the California railroad bill only for two minutes.

Mr. HAMLIN. The question which was put a few minutes since and negatived, I am inclined to believe was not a direct vote on the question of adjourning over, and I am disposed to think that there are some Senators who are so much devoted to the question before the Senate, the railroad bill, that they voted against an adjournment while they were really in favor of holding a session to-morrow. I think a test vote can now be taken. I therefore renew the motion to adjourn, the effect of which will be to call us here to-morrow; and we shall now decide on this vote directly whether we want to come here to-morrow or not, and I think we can test the question in that way. I renew the motion to adjourn.

Mr. JOHNSON, of Arkansas. I should like to ask the Senator a question; that is, whether or not it is the understanding that if a majority are disposed not to adjourn over to-morrow, we shall adjourn now to meet to-morrow? ["Yes."]

Mr. HAMLIN. I so understand.

Mr. JOHNSON, of Arkansas. Of course that will end the contest. If we do not adjourn now, the design of the Senate is to adjourn over to Monday; and those of us who are for adjourning to Monday will vote against adjourning now, for the purpose of carrying on the public business, which I now announce is the real object of adjourning over.

Mr. HAMLIN called for the yeas and nays; and they were ordered.

Mr. JONES. I have paired off with the Senator from Louisiana, [Mr. BENJAMIN.]

Mr. TOOMBS. I want to follow the advice of the Senator from Mississippi, and stay here to do our duty. I shall vote "nay."

Mr. WILSON. I will say ditto to the Senator from Georgia.

The question being taken, resulted—yeas 21, nays 31; as follows:

YEAS—Messrs. Bigler, Broderick, Brown, Chandler, Clark, Collamer, Doolittle, Durkee, Fitch, Fitzpatrick, Foot, Gwin, Hamlin, Harlan, Houston, Hunter, Iverson, Polk, Simmons, Stuart, and Wade—21.

NAYS—Messrs. Allen, Bayard, Bell, Cameron, Chesnut, Clay, Crittenden, Dixon, Douglas, Foster, Green, Hale, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Mallory, Mason, Pearce, Pugh, Reid, Rice, Sebastian, Seward, Shields, Thompson of Kentucky, Toombs, Trumbull, Ward, Wilson, and Wright—31.

So the Senate refused to adjourn.

Mr. JOHNSON, of Arkansas. I now move to postpone the further consideration of the Pacific railroad bill until to-morrow, with a view to make a motion to adjourn over.

Mr. COLLAMER. A few moments since it was announced that the last vote was to be a test vote; that all who voted in favor of adjournment, did so with a view to come here to-morrow to go to work; and that those who voted against it, it was expected would vote for proper measures to adjourn over to Monday; but that issue has been disclaimed all around. Gentlemen have announced that they did not vote on that ground. Then this has been no issue at all. Now I wish to inquire whether a motion that when we adjourn, we adjourn till Monday, is one of those debatable questions which can be objected to and lie over? It is not a motion to adjourn, and the Chair decided this morning that that was so. A motion to adjourn till Monday, I take it, will not be in order, because that is contrary to the rule. The rule is to adjourn from day to day. A resolution may be passed that when we adjourn it be to Monday; but that is a change of the rule *pro tanto*, and is subject to objection, and must lie over if it be objected to. Such I understand to be the decision of the Chair, and the rule. Now I wish merely to say, Mr. President, that the gentleman from Arkansas will not effect his purpose if that be so, and that I understand to be the rule. If that be the rule, I shall certainly object to any motion to adjourn over until Monday. It therefore must lie over, and the object cannot be effected in that manner. I do it in all conscientiousness. I believe the condition of the public business is such that we ought to work to-morrow.

The PRESIDING OFFICER. The present occupant of the Chair understood, as he remarked a while ago, that the Vice President gave such a decision this morning; and he will not feel himself at liberty to overrule that decision. The Senate may do so, if they choose.

Mr. HALE. If I understood the Vice President's decision, the Chair is mistaken—and I ought to understand it, for it was ruled on me. The Vice President ruled that the motion was not in order immediately after the Journal was read, because the rule said that he should receive petitions. I afterwards renewed it, and the Vice President then decided that it was not in order whilst there was another motion pending; and that is all the Vice President decided.

Mr. PUGH. I ask the present occupant of the Chair to submit that question to the Senate. The decision made this morning was as the Senator from New Hampshire said, and it certainly is contrary to what has been our practice since I have been a member of the Senate. I suggest that the sense of the Senate be taken, whether it is in order to move that when the Senate adjourns, it be to Monday.

Mr. JOHNSON, of Arkansas. My original motion, that when the Senate adjourns it be to Monday, has never been withdrawn by me. It was ruled out by the Chair, and I beg leave now to appeal from the decision of the Chair.

Mr. BROWN. I understand that the hour or the day to which the Senate shall adjourn, is completely under its control; and that, even pending a motion to adjourn, it is competent for the Senate to fix the hour to which it will adjourn. That has been my understanding in the other House, and my understanding here; and if I move to adjourn now, the Senator from Arkansas has a right to interpose his motion, and move to fix the hour to which we shall adjourn, and take the sense of the Senate upon that first, and then my motion follows. I have always understood that to be the rule in the Legislature of my own State, and when I was a member of the House of Representatives, in the other wing of the Capitol, and here. If it

be not so, the Senate has not the control of its own action; because, by taking advantage of a privileged motion to adjourn, the Senate may be forced to a conclusion against its will.

Mr. MASON. I desire only to say, with great deference to the Chair, that I think the Chair misconceives the ruling of the Vice President, and I agree entirely with what fell from the Senator from New Hampshire. He ruled that only during the morning hour the motion could not be put; and he ruled further, that it could not be put when a question was pending, and no more, according to my recollection.

Mr. SIMMONS. We were in precisely the position now that we were when the Chair ruled this morning that this motion could not be entertained; because there is a motion now pending—an amendment to the Pacific railroad bill.

The PRESIDING OFFICER. Will the Senator from Rhode Island allow the Chair, for the information of the Senate, to ask the Secretary to read the 11th rule of the Senate?

The Secretary read it as follows:

"11. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a certain day, to commit, or to amend; which several motions shall have precedence in the order they stand arranged; and the motion for adjournment shall always be in order, and be decided without debate."

Mr. SIMMONS. That is precisely as I supposed.

The PRESIDING OFFICER. The Chair understands the Senator from Arkansas to appeal from the decision of the Chair, that a motion to adjourn from to-day until Monday is not in order while there is other business pending before the Senate.

Mr. JOHNSON, of Arkansas. Yes, sir.

Mr. MASON. Will the Chair indulge me a moment?

The PRESIDING OFFICER. Certainly.

Mr. MASON. I understand the motion last made by the Senator from Arkansas was a motion to postpone the bill under consideration until to-morrow.

The PRESIDING OFFICER. The Chair begs pardon. The Senator has presented his original motion to adjourn until Monday, and the Chair has decided it out of order.

Mr. BIGLER. A single word on this point. Unless there is a written rule on this subject, one of the clearest principles that belong to the whole system applies to it. A motion such as the Senator from New Hampshire has made comes in the order of original resolutions, and all the principles and rules apply; and it is competent for any Senator to object to its consideration.

Mr. IVERSON. I want to ask a question of the Chair. Is it or is it not a standing rule of the Senate that the Senate shall adjourn from day to day? If that be the rule, can a motion to adjourn to a different day, thus obviating the standing rule of the Senate, be made unless you give a day's notice, because do you not change the standing order?

Mr. BIGLER. It is an original resolution and nothing else.

The PRESIDING OFFICER. The question now before the Senate is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. BAYARD. If I understand the position of this motion as it now stands, the Senator from Arkansas has withdrawn his motion to postpone the bill under consideration, and moves that when the Senate adjourns it be to Monday. Then, I have no doubt that the decision of the Chair is right in that state of things; but, if the business is first postponed, that it is in order then for any Senator to move, without giving previous notice of the motion, that when the Senate adjourns it adjourn to a subsequent day, I hold to be certain. Certainly that has been the settled usage of the Senate since I have been a member of the body. I have known many cases in which the Senate have been closely divided on the propriety of adjourning over, but this is the first time I ever heard such a point as this raised. Gentlemen may complicate the usages of the Senate a great deal by a decision to the contrary; but I never heard before that a motion to adjourn over to another day was not in order.

Mr. JOHNSON, of Arkansas. Will the Senator allow me one suggestion at this point? I think we can get rid of the whole question by a

motion to adjourn. I will make it if he will allow me. ["No, no!"]

Mr. BAYARD. I do not understand the rule of order of the Senate to require that you shall adjourn from day to day. The standing order of the Senate fixes the time of meeting at twelve o'clock, until that is altered; but I do not know of any standing order that requires that you shall adjourn from day to day; and certainly the usage of the Senate under our rules, (and that is the best exposition of the rules,) has been invariably, since I have been a member of this body, that a motion to adjourn over, if made when no other subject was before you, was always in order without previous notice.

The PRESIDING OFFICER. The decision of the present occupant of the Chair is based on the 11th rule, which has been read, that while there is a subject under debate these motions which are enumerated in the rule are the only motions that can be received. That is the express language of the rule. From that, an appeal has been taken. The other question alluded to by the Senator from Delaware, the Chair has not touched. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

The question being put, the decision of the Chair was sustained; there being, on a division—yeas 25, noes 18.

Mr. HALE. I renew the motion of the Senator from Arkansas, that this bill be laid aside for two minutes.

Mr. DOOLITTLE. To relieve ourselves from this difficulty, by unanimous consent, I presume it will be consented that the bill be postponed to allow a direct motion to adjourn over to Monday to be made, and the sense of the Senate to be taken upon it.

Mr. COLLAMER. I move that the Senate adjourn.

Mr. JOHNSON, of Arkansas. I ask for the yeas and nays. I am opposed to abandoning the public business in this way.

The yeas and nays were ordered, and taken.

Mr. THOMPSON, of Kentucky, when his name was called, said: I wish to say but a word. My mind has undergone a very rapid change since you commenced taking the vote. The public affairs seemed then to be murky and discolored; but I never saw a more gorgeous and beautiful sunrise break on my vision. Under this new light, I shall vote "nay." I am willing to sit here now and work all night. [Laughter.]

[The honorable gentleman alluded to the illumination of the Senate Chamber by the gas, which burst upon the assembled Senators for the first time, affording a soft and beautiful light, scarcely distinguishable from the light of day.]

The result was announced—yeas 24, nays 25; as follows:

YEAS—Messrs. Bigler, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Doolittle, Douglas, Durkee, Finch, Fitzpatrick, Foot, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson, of Tennessee, Mason, Polk, Simmons, Stuart, and Wade—24.

NAYS—Messrs. Allen, Bayard, Bell, Chesnut, Clay, Crittenden, Foster, Green, Hale, Johnson, of Arkansas, King, Mallory, Pearce, Pugh, Reid, Rice, Sebastian, Seward, Shields, Thompson, of Kentucky, Toombs, Trumbull, Ward, Wilson, and Wright—25.

So the Senate refused to adjourn.

Mr. PUGH. Now I hope we shall take a vote on the proposition of the Senator from Arkansas to lay aside this bill for two minutes.

Mr. JOHNSON, of Arkansas. I believe the motion to adjourn over until Monday can now be voted upon.

The PRESIDING OFFICER. The Senator from Arkansas moved to postpone the bill for a time, which has transpired.

Mr. BIGLER. It can be done by common consent.

Mr. JOHNSON, of Arkansas. I should like to know what will be in order? I will make a motion to suit the Chair.

The PRESIDING OFFICER. The Senator can make a motion to postpone the bill until tomorrow.

Mr. JOHNSON, of Arkansas. I make that motion.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. JOHNSON, of Arkansas. I now move

that when we adjourn to-day, we adjourn to meet on Monday next.

Mr. IVERSON. That question is debatable.

The PRESIDING OFFICER. Yes, sir.

Mr. IVERSON. I call for the yeas and nays, at any rate. I will not trespass on the Senate.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Broderick, Cameron, Chesnut, Clay, Crittenden, Foster, Hale, Johnson, of Arkansas, King, Mallory, Mason, Pearce, Pugh, Sebastian, Shields, Stuart, Thompson, of Kentucky, Toombs, Trumbull, Ward, and Wright—24.

NAYS—Messrs. Bigler, Chandler, Clark, Collamer, Doolittle, Douglas, Durkee, Fitzpatrick, Foot, Green, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson, of Tennessee, Polk, Reid, Rice, Seward, Simmons, Wade, and Wilson—23.

So the motion to adjourn over was agreed to.

On motion of Mr. MASON, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 14, 1859.

The House met at twelve o'clock, m. Prayer by Rev. GEORGE W. SAMSON, D. D.

The Journal of yesterday was read and approved.

COAL FOR THE NAVY.

Mr. KUNKEL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish to the House of Representatives, at as early a day as practicable, a statement of the quantity of coal used by the Navy since the introduction of it into the service; also, the amount of commissions paid to the different coal agents since the year 1852, and by what authority of law such officers are appointed.

EMPLOYMENT OF STENOGRAPHERS.

Mr. HARRIS. I am instructed by the select committee appointed to investigate the accounts of the late Superintendent of Public Printing, to submit the following resolution:

Resolved, That the select committee appointed to investigate the accounts of the late Superintendent of Public Printing be authorized to employ a stenographer, at the usual rates of compensation.

Mr. HOUSTON. I shall not object to that resolution, if the gentleman will modify it so that there shall be no more trouble about compensation. At the last session of Congress the Committee on the Judiciary employed a stenographer, and so did other committees. Before the stenographer was employed by the Judiciary Committee an understanding was had with him, as I supposed, as to the amount of compensation he was to receive; and when I was called upon, as the chairman of the committee, to certify his account, I found that other committees of the House who had employed stenographers, were certifying for a much larger amount than I certified for or had contracted for. Now, I shall object to this resolution, unless it shall be so amended as to provide distinctly what compensation shall be paid to the stenographer. It should be four dollars or four dollars and a half a column, or the amount paid to the reporters for the Globe.

Mr. SMITH, of Virginia. Make it four dollars a day.

Mr. HOUSTON. The objection to paying by the day is this: that you cannot tell what a day is. Sometimes the stenographer is only employed for half an hour in the morning, sometimes an hour, and never more than two hours. The compensation allowed should be the same as that paid to the reporters for the Globe.

Mr. HARRIS. The committee have no desire to pay an exorbitant rate of compensation; they are disposed to make the best bargain they can under the circumstances. It is evident that we shall be obliged to employ a stenographer. We have no objection to amend the resolution so as to authorize us to pay the same rate of compensation paid for reporting by the proprietor of the Globe.

Mr. HOUSTON. That will be satisfactory.

The SPEAKER. The resolution will be so amended.

Mr. HOUSTON. I have not been instructed by the Committee on the Judiciary to propose any such resolution, but I presume it is an oversight in myself, in not calling the attention of the committee to the subject. On Tuesday next the case of Judge Irwin will be taken up by the committee. We have some ten or a dozen wit-

nesses ready to be examined at that time. I move to amend the resolution so as to give the Committee on the Judiciary the same power.

Mr. HARRIS. I have no objection to the Committee on the Judiciary having a stenographer; but I hope he will not delay or embarrass my resolution by such an amendment.

Mr. MORGAN. I would ask the chairman of the Committee on the Judiciary whether they have not, up to this time, employed a clerk.

Mr. HOUSTON. There is a clerk to the committee, but not such a clerk as can take down evidence given before the committee. If the House has the least disinclination to my amendment, I will not delay the resolution of the gentleman from Maryland by offering it. But if we are not allowed a stenographer, that closes up the examination; because no ordinary clerk, and no extraordinary clerk, unless he be a stenographer, can take down the evidence as it is given before the committee. I presume there is no objection to the amendment.

No objection was made.

The resolution, as amended, was then adopted, as follows:

Resolved, That the select committee appointed to examine the accounts of the late Superintendent of Public Printing be authorized to employ a stenographer, at the rate of compensation paid for reporting by the proprietor of the Globe, and that the Judiciary Committee be authorized, in like manner, to employ a stenographer in the investigation of the case of Judge Irwin.

REPORTS OF COMMITTEES.

Mr. HATCH. I ask the unanimous consent of the House to introduce a resolution calling for information.

Mr. CHAFFEE. I call for the regular order of business.

Mr. HATCH. I hope the gentleman will allow me to introduce a resolution calling for information merely.

Mr. STEPHENS, of Georgia. Is not the bill in reference to the claim of the States of Georgia and Alabama, for depredations committed by the Creek Indians, the special order of to-day?

The SPEAKER. It is in Committee of the Whole House.

Mr. STEPHENS, of Georgia. I move to postpone that special order until this day week.

Mr. RITCHIE. I take it that that motion is itself out of order.

Mr. WASHBURN, of Maine. I have no objection to the suggestion made by the gentleman from Georgia, but I believe it requires unanimous consent to postpone a special order, unless it is done under a suspension of the rules.

The SPEAKER. The Chair thinks the opinion of the gentleman from Maine is correct.

Mr. RITCHIE. Will not next Friday be objection day?

The SPEAKER. It will not.

Mr. RITCHIE. I object to the motion; and call for the regular order of business.

The SPEAKER. Reports from committees are in order, beginning with the Committee of Elections.

JAMES P. COOK.

Mr. PHILLIPS, from the Committee of Elections, reported a bill for the relief of James P. Cook; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

FRANCIS A. GIBBONS AND OTHERS.

Mr. MAYNARD, from the Committee of Claims, reported back a bill (C. C. No. 16) for the relief of Francis A. Gibbons and Francis X. Kelley; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM A. HAMILL.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported a bill authorizing the Secretary of the Treasury to grant a register for the schooner William A. Hamill; which was read a first and second time.

Mr. JOHN COCHRANE. I ask that the bill be put on its passage.

The bill, which was read, provides that there shall be granted, under the direction of the Secretary of the Treasury, a register for the schooner William A. Hamill, lying in the port of Baltimore, and now owned by Robert Dorritie, a citi-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2d Session.

TUESDAY, JANUARY 18, 1859.

NEW SERIES....No. 25.

zen of the United States; provided it shall be proved she was enrolled as an American vessel, and that she was owned in whole by citizens of the United States at the time she was stranded upon a reef near Abaco, one of the Bahama Islands.

Mr. RITCHIE. I object to the bill. The committees are now being called for reports, in order that they may go upon the Calendar, and not to put bills upon their passage. I object to this bill being put upon its passage. It is not a private bill.

Mr. JOHN COCHRANE. I do not understand the rules to require such a course.

The SPEAKER. Reports are called for of a private nature; and if the gentleman had made his objection when the gentleman from New York proposed to report this bill, the Chair would have sustained the gentleman's objection. This is not strictly a private bill. It has been received, however, and read twice.

Mr. RITCHIE. I object that it is not a private bill. I do not think it is too late.

The SPEAKER. The objection comes too late.

Mr. JOHN COCHRANE. The facts stated in the bill to be proved before it shall go into effect, have been proved to the satisfaction of the committee, and to the satisfaction of the Secretary of the Treasury, whose approval of the bill I now hold in my hand.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

STEAMERS AMERICA AND CANADA.

Mr. EUSTIS proposed to report back, from the Committee on Commerce, Senate bill (No. 493), authorizing the issue of registers to the steamships America and Canada, and to change the names of said ships.

Mr. RITCHIE. I object, if it is not a private bill.

The SPEAKER. The Chair is of opinion that it is not a private bill.

Mr. RITCHIE. When the House has gone through with the call of the committees I do not care what it does.

Mr. COBB. I ask leave to report some resolutions from the Committee on Public Lands, in reference to a railroad. I do it for the purpose of facilitating the transaction of business.

Mr. RITCHIE. I object.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that he had examined and found truly enrolled an act (S. No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the name of vessels in certain cases," approved March 5, 1856; when the Speaker signed the same.

ADVERSE REPORTS.

On motion of Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following cases, and that the same be laid upon the table:

The petition of John H. Midmer, and sixty-four others, citizens of New Jersey, against further traffic in, and monopoly of, the public lands; and in favor of laying them out in farms and lots of limited size, for the free and exclusive use of settlers not possessed of other lands.

The petition of William S. Colquhoun, praying for bounty land on account of services in the war of 1812; and

The memorial of the trustees of the university at Athens, Ohio, praying for the grant by Congress of a township of land.

THERESA DARDENNE.

Mr. RUFFIN, from the Committee on Public Lands, reported back Senate bill (No. 434) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children; which was referred to a Committee of the Whole House, and, with the accompanying papers, ordered to be printed.

JOHN DONNELSON AND OTHERS.

Mr. RUFFIN also, from the same committee, reported back Senate bill (No. 54) to revive and extend an act entitled an "Act for the relief of the representatives of John Donnelson, Stephen

Heard, and others," approved May 24, 1854, and the several acts extending, continuing, and reviving the same; which was referred to a Committee of the Whole House, and, with the accompanying papers, ordered to be printed.

HANNA AND HUBBARD.

Mr. RUFFIN also, from the same committee, presented an adverse report on the petition of A. Hanna and James Hubbard; which was laid on the table, and ordered to be printed.

MECHANICS' LIENS ON BUILDINGS.

Mr. WRIGHT, of Georgia. I am directed by the Committee for the District of Columbia, to which was referred Senate bill (No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia, to report it back with a recommendation that it do pass. There is a great necessity for the passage of this bill; and it will probably be lost for want of action unless put upon its passage now.

Mr. STANTON. That is not a private bill, I think.

The SPEAKER. The Chair is of the same opinion.

Mr. RITCHIE. Then I object to its being reported till after the committees have been called. I will not object to it then.

ADVERSE REPORTS.

Mr. HOUSTON, from the Committee on the Judiciary, presented adverse reports on the petitions of W. McKinzie and others, of Ohio, and of Thomas C. Ware; which were laid on the table, ordered to be printed, and the committee discharged from the further consideration thereof.

UNITED STATES COURT AT TRENTON.

Mr. HOUSTON. I am also instructed, by the same committee, to report a bill to compensate the State of New Jersey for the use of court-rooms for the United States court in the State-House at Trenton, in said State.

Mr. RITCHIE. Does the Chair decide that to be a private bill?

Mr. HOUSTON. It is a bill to pay the State of New Jersey \$1,100 for the use of court-rooms for two years and nine months. It seems to me to be a private bill.

The SPEAKER. The Chair is of opinion that it is a private bill. If it were to pay an individual instead of the State of New Jersey, it certainly would be a private bill.

Mr. HOUSTON. I ask to have the bill put upon its passage. The papers accompanying it show this to be a just claim. For the precise accommodations that are covered by this bill for two years and nine months, the Government is now paying to the State of New Jersey \$800 per annum.

The bill was read a first and second time.

It directs the payment to the treasurer of the State of New Jersey of the sum of \$1,100, being at the rate of \$400 per annum, in full for the payment of arrears of rent alleged to be due on account of the occupation of rooms in the State-House at Trenton by the United States courts, from April 1, 1855, to January 1, 1858.

Mr. STANTON. Unless there be something peculiar in this case, it seems to me that the bill ought not to pass. It has been customary for the courts of the United States to occupy court-houses in all the States of the Northwest, and, I think, the North, without any charge for rent. If this thing is now to be allowed, we will have plenty of claims of a similar nature from other States. If there was any contract or legal obligation entered into, that will make a difference.

Mr. HOUSTON. There was an appropriation for the payment of rent for some years preceding the period covered by this bill. After the 1st of April, there was no appropriation, but the courts continued to occupy the rooms which they had previously occupied. From the 1st of January, 1858, the Government made a contract with the authorities of the State of New Jersey, by which an annual rent is to be paid. This bill is in-

tended to cover the period of time from the 1st of April, 1855, to the 1st of January, 1858.

Mr. STANTON. For which, as I understand it, there was no contract to pay rent.

Mr. HOUSTON. I am not certain that there was, in terms, a contract, but there was an understanding in regard to the payment of rent; and rent was paid for the period preceding the 1st of April, 1855. As a matter of course, the State of New Jersey regarded that as a contract, or as a settlement of the terms. After April, 1855, there was no appropriation made, though the court-rooms were occupied.

Mr. STANTON. I ask the gentleman if he knows any other instance in which the United States ever paid rent for court-rooms occupied in State-Houses?

Mr. HOUSTON. I cannot answer the gentleman very satisfactorily, but I know that the United States courts are now paying rent in almost all the States, in some shape or other, where they have not court-rooms of their own.

Mr. STANTON. If this principle is established we, in Ohio, will have claims of a like nature which we will bring up in good time.

Mr. UNDERWOOD. And we, in Kentucky, also. I move to lay the bill on the table.

Mr. MAYNARD. I ask the chairman of the Judiciary Committee whether he knows of an instance where a court-house has been furnished for the use of the Federal courts, in which rent has not been invariably paid—whether that is not the uniform practice?

Mr. HOUSTON. It is my impression that rent is paid in all these cases; but I cannot answer the question definitely. In this case, however, I will say this, that the Government, under a quasi contract with the State of New Jersey, paid \$200 per annum, as the papers accompanying this bill show, for the use of the rooms up to the 1st of April, 1855. At or about that time the State of New Jersey added to the accommodations of the court by warming the rooms, furnishing lights, providing jury-rooms, and granting the use of the State library. All of these things the Committee on the Judiciary believe ought to entitle the State to compensation of at least \$400 per annum. The State of New Jersey certainly had a right to suppose that she would be paid for the use of her rooms, because she had been paid under the same circumstances up to April 1, 1855; and the Secretary of the Interior states, in a letter which accompanies this bill, and which I will ask to have read if there is any difficulty in the case, that if the account had been presented and an appropriation had been made, he would have paid the rent just as he had paid it up to 1855.

Mr. ADRIN. Coming from New Jersey, I suppose I have a right to say a word upon this subject. From the statement of the chairman of the Judiciary Committee, it appears that rent was paid to the State of New Jersey for the use of the court-rooms at Trenton, up to the 1st of April, 1855, and from that time no rent has been paid. But there was an understanding—an implied understanding between the Government of the United States and the State of New Jersey, that rent would still be paid, and the State of New Jersey went on, under that understanding, and afforded additional accommodation to the United States courts at Trenton, furnishing fuel and lights.

It has been remarked here that the Government ought to have the use of court-rooms in all the States. I deny it. The Government of the United States has no right to go into a State—to Trenton, in New Jersey, or anywhere else—and use rooms there belonging to the State, without making proper compensation for the use of them. It is not right or just. Besides that, it appears that the Government has been in the habit of paying rent in this case, and the State of New Jersey has gone on and afforded additional accommodations, with the impression and belief that the Government would still continue to pay rent for the use of the rooms. I hope, therefore, that the bill will pass.

Mr. UNDERWOOD. Mr. Speaker, I will not debate this question further. I desire only to ob-

serve that the State of Kentucky, from the foundation of the State up to the present day, has been furnishing to the United States the same sort of accommodation that has been furnished by the State of New Jersey in this case. And, so far as any liabilities are incurred in favor of the State for such services as these, the usage and custom has generally been to cover them all by payments authorized by law to be made, and which payments are made by the marshals.

Without any further remarks, and without referring to nearly one half of the States of this Union which have rendered similar services, and which, if you establish this as a precedent, will have to come here and be paid also, I move to lay the bill upon the table.

Mr. GREENWOOD. I would like to say a word in reply to the question of the gentleman from Tennessee, [Mr. MAYNARD.]

The SPEAKER. The motion of the gentleman from Kentucky is not debatable.

Mr. CLAWSON demanded tellers.

Tellers were ordered; and Messrs. CHAFFEE, and CRAIG of Missouri, were appointed.

The House divided; and the tellers reported—ayes 55, noes 68.

So the House refused to lay the bill upon the table.

Mr. RITCHIE. I move to refer the bill to a Committee of the Whole House on the Private Calendar; and on that motion, I demand the previous question.

Mr. WORTENDYKE. I hope the gentleman will withdraw the demand for the previous question until I can say a word or two.

Mr. RITCHIE. No, sir; I want to stop this debate in some way.

The previous question was seconded, and the main question was ordered.

The question was taken on Mr. RITCHIE's motion, and it was disagreed to—ayes 62, noes 67.

So the House refused to refer the bill to a Committee of the Whole House.

Mr. STANTON. This bill, I take it, makes an appropriation. Is it in order to put it on its passage before it has been considered in a Committee of the Whole House?

The SPEAKER. If the objection had been taken before the bill was ordered to be engrossed, the Chair would have sustained it.

Mr. STANTON. I think the objection can be made now.

The SPEAKER. The bill has been engrossed. The question being "Shall the bill pass?"

Mr. OLIN demanded the yeas and nays.

The yeas and nays were not ordered.

The bill was passed.

Mr. HOUSTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HEIRS OF LOT HALL.

Mr. DAWES, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Lot Hall, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF ANDREW RUSSELL.

Mr. LOVEJOY, from the same committee, made an adverse report on the memorial of the heirs of Andrew Russell; which was laid upon the table, and ordered to be printed.

DANIEL DAVIS.

Mr. FENTON, from the Committee on Private Land Claims, reported a bill authorizing the Secretary of the Interior to issue a land warrant to Daniel Davis; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

THOMAS L. DISHARON.

Mr. BLAIR, from the same committee, reported back a bill (S. No. 317) for the relief of Thomas L. Disharoon; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. FAULKNER, from the Committee on Military Affairs, made adverse reports upon the several petitions of Seth Harmon, Laurinde Jones,

Philo Bordon, Anna Hull, Asahel Bordon, Amos Jones, George K. McGunnele, and George M. Weston; which were laid on the table, and the reports ordered to be printed.

Mr. BONHAM, from the same committee, made adverse reports upon the several petitions of Frederick Stephens, J. M. Brown, and José Maria Valdez; which were laid on the table, and the reports ordered to be printed.

WILLIAM B. WHITING.

Mr. MARSHALL, of Kentucky, from the same committee, reported a bill appropriating \$700 to William B. Whiting, to be used in experiments under the direction of the Secretary of War; which was read a first and second time, and, with the report, ordered to be printed.

JAMES VAUGHN.

Mr. BUFFINTON, from the same committee, reported a bill for the relief of James Vaughn; which was read a first and second time, and, with the reports, ordered to be printed.

JOSHUA FISH.

Mr. STANTON, from the same committee, reported a bill for the relief of Joshua Fish; which was read a first and second time, and, with the report, ordered to be printed.

FORTRESS MONROE.

Mr. STANTON, from the same committee, made an adverse report on the propriety of purchasing additional ground for military practice at Fortress Monroe; which report was laid on the table.

JOHN KELLY.

On motion of Mr. CLARK, of New York, it was

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of John Kelly, in relation to Divine service on board of ships, and that the same be referred to the Committee on Naval Affairs.

ILLINOIS IMPROVEMENT FUND.

Mr. CLARK, of New York. I am directed by the Committee on the Judiciary to report a bill to surrender to the State of Illinois the two per cent. improvement fund, reserved in the act for her admission as a State.

Mr. RITCHIE. I object; as it is not a private bill.

ADVERSE REPORTS.

Mr. CURTIS, from the Committee on Military Affairs, asked that that committee be discharged from the further consideration of the several memorials of Henry O. Reilley, Daniel Ballard, and Edward J. Glascomb, and that said petitions be laid on the table.

It was so ordered.

PURSEY'S CLERKS, ETC.

Mr. BOCK. I am instructed by the Committee on Naval Affairs to report back a bill (H. R. No. 336) for the relief of B. W. Palmer and others, with an amendment of the Senate thereto, passed at the last session of Congress. I ask that the amendment be read, and then I shall ask the House to vote upon it. I wish the attention of the House to the reading of the amendment, and then I shall make a few words of explanation.

Mr. RITCHIE. If this is out of order I shall object to it. Is it a private bill?

Mr. BOCK. The bill which passed the House was a private bill. It was for the relief of a particular individual. It went to the Senate, and the Senate substituted for the bill a clause including an entire class. Now I submit to the Chair, whether a private bill, originating in this House and sent to the Senate, can be made a public bill by any such amendment? The Senate have amended it with a public provision; and the only way to get it before us for consideration is to take it as a private bill.

Mr. RITCHIE. I object to it, for the reason that it is not a private bill.

The SPEAKER. In the opinion of the Chair the character of the bill is determined by the original paper. If the bill which went from this House be a private bill, it must be considered as a private bill now, however it comes here amended by the Senate.

Mr. HOPKINS. Does the committee propose to make it a public or a private bill? If it be their

recommendation that we shall concur in the Senate amendment, then I think it is a public bill.

Mr. BOCK. I reported it as a private bill; the House passed it as a private bill; but the Senate returned it with an amendment, which I admit is not of a private nature; still, this is the House private bill.

Mr. HOPKINS. That may be; but does the gentleman report the bill, with the recommendation that the amendment be adopted?

Mr. BOCK. I do.

Mr. HOPKINS. Then it is a public, and not a private bill?

The SPEAKER. The bill and amendment will be read.

The Clerk read the bill, as follows:

That the excess of salary paid to B. W. Palmer and others as pursers' clerks at certain navy-yards, under the estimates made in the naval appropriation bills since the year 1853, be confirmed and made legal: *Provided, however, that nothing herein contained shall be construed into a repeal of the existing laws regulating the pay of pursers' clerks: Provided, further, that the salary of the clerks aforesaid shall not exceed \$500 per annum.*

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause, and insert in lieu thereof, as follows:

That the accounting officers of the Treasury be, and they are hereby, authorized and directed to allow all payments made since the 1st day of July, 1854, to the clerks or assistants to pursers at the navy-yards at Charleston, New York, Philadelphia, Washington, Norfolk, and Pensacola, at the rate of \$750 per annum, and to allow all payments made since said 1st day of July, to first clerks to commandants and clerks of the yards at Kittery and Philadelphia, at the rate of \$1,300 per annum, and that the pay of said clerks shall hereafter be \$1,300 per annum, and of the pursers' clerks or assistants shall be \$750 per annum, commencing with the current fiscal year.

Mr. RITCHIE. I object to the consideration of this bill and amendment for two reasons: first, it is not a private bill; and secondly, as it makes an appropriation, it must, under the rules, have its first consideration in the Committee of the Whole House.

Mr. JONES, of Tennessee. Does the Chair decide that the bill is a private bill?

The SPEAKER. The Chair thinks that the original bill is a private bill.

Mr. JONES, of Tennessee. Is that amendment, making a public provision, in order to a private bill?

The SPEAKER. The amendment is a Senate amendment, and not an amendment reported from a committee of this House; and the Chair is of the opinion that in determining whether a bill is a public or a private bill, he must be controlled by the character of the original proposition. If that proposition is a private bill, the Chair must regard it as such, though it may be returned with an amendment from the Senate of a public nature. The House may refuse to concur in the amendment. Here the Senate amendment is unquestionably of a public nature.

Mr. JONES, of Tennessee. I move that the bill and amendment be referred to the Committee of the Whole on the state of the Union.

Mr. BOCK. The gentleman has not the floor for that purpose.

Mr. RITCHIE. My second objection still applies, and that is, that as this bill makes an appropriation it must have its first consideration in a Committee of the Whole House.

The SPEAKER. The Chair observed the reading of the bill, but was unable to see that it makes an appropriation.

Mr. RITCHIE. It then only changes the salaries under the laws, and I was under the impression that it appropriated an additional sum of money.

The SPEAKER. It only recommends the recognition of payments already made.

Mr. RITCHIE. I move that the bill and amendments be referred to a Committee of the Whole House, and on that call for the previous question.

The SPEAKER. The gentleman from Virginia is entitled to the floor.

Mr. HOUSTON. I rise to a question of order. For the purpose of the action of this House, of course the bill of this House on its face, shows whether it is a public or a private bill, but when a bill of a private nature is sent to the Senate and is returned with an amendment to substitute an entirely new bill of a public character, then I understand it to be the duty of the Speaker to rule according to the matter immediately before the

House. The matter now before us is the amendment of the Senate.

Mr. BOCKOCK. I think that the gentleman, instead of stating a point of order, is discussing the question.

The SPEAKER. The Chair would be glad to hear the gentleman from Alabama.

Mr. HOUSTON. If it be necessary, in order to make my statement, I will take an appeal from the decision of the Chair. It is true that the House bill has not passed so that we cannot amend it; for by disagreeing to what the Senate has done, we thereby bring up the House bill; but the Chair will observe that in that course of procedure we pass upon a public bill upon a private bill day, and may send a public bill to a Committee of the Whole House on the Private Calendar, which is inconsistent, and, if I may be permitted to say it in all respect, an absurd thing. A public bill cannot go upon the Private Calendar under the rules, and such a bill has no right to any consideration to-day. The matter we are to consider is now presented by the amendment of the Senate, and that makes public provisions. I lay it down as my opinion of the principles that ought to control the ruling of the Chair, and which will facilitate the progress of business here, that the decision ought to be with reference to the pending question. If that be not done, it will be competent for the Senate to utterly evade the operation of the rules of this House by attaching to private bills all manner of public and general provisions of legislation. Nor do I care whether the amendments are germane or not. The principle of ruling I have stated is the fair one, one most in compliance with our rules, and, sir, the best calculated to insure decorum in our deliberations and regularity in our proceedings. If it be not carried out in practice, we will have our public and private bills blended and mixed, and the result will be delay occasioned by confusion one with the other. There will be no end to embarrassments and difficulties on that account. I renew the point of order, if the Chair will receive it.

Mr. BOCKOCK. It will hardly be necessary for me to make any suggestion to the Chair in answer to the remarks of the gentleman from Alabama, for I know the precision with which the Chair makes his decisions. I believe that he has made no suggestion which can give the Chair the least difficulty. He has said that the Chair ought to determine this matter by the proposition pending before the House.

What, sir, is the proposition before the House? Here is a bill reported in the House, and passed by this House. It went to the Senate, and the Senate incorporated an amendment on it. Now, the question is whether the character of this bill is to be determined by the bill itself, or by the Senate amendment? Does the amendment put in by the Senate control the character of our bill, or does our bill control its own character? Here are two conflicting propositions, conflicting in their nature, pending before the House. One is of a public, the other of a private character. If a public bill cannot go upon the Private Calendar, no more can a private bill go upon the Public Calendar. The argument of the gentleman from Alabama is, that because the Senate puts an amendment of a public character upon a private bill, therefore that private bill undergoes a change, becomes of a public character, and must go on the Public Calendar.

Mr. HOPKINS. I would make this suggestion to my colleague: So far as the bill is concerned, this House has done with it; and the only isolated question now addressed to the House is whether it will concur in the amendment. Then the question is whether the amendment is of a private or of a public character.

Mr. BOCKOCK. The House has not done with the bill, for it is in the power of the House at this moment to lay the bill and amendment and every thing on the table. The bill itself, is, therefore, yet in the power of the House. The Chair is to rule whether this is a private or a public bill. If the Chair decides that the Senate amendment gives tone to it, then the private bill becomes a public one; otherwise the bill goes on the Private Calendar. I do not think that because the rules of the Senate differ from ours, that throws any doubt on the question, whether it is on the character of our own bill, and not on the character of the Senate amendment, that we are to decide.

Suppose that, by accident, a private bill was pending before the House, and that on the motion of some gentleman, an amendment of a public character was attached to it—no point of order being made upon it—would that fact make the bill a public one? I presume it would not. I presume it is the bill itself that governs its character, and not the amendment.

Mr. HOUSTON. If I may be permitted, I will say one word on the last illustration of the gentleman from Virginia. He supposes the case that the House shall put upon a private bill an amendment of a public character, and asks whether that would make the bill a public bill. I say to the gentleman, and I think the Chair will sustain me in it, that if a committee of the House should report a bill for a private claim, and at the same time attach to it a provision of a public character, the Chair would not hesitate to rule that to be a public bill. The gentleman's supposition, however, is based upon the failure of the House to administer its rules and to exclude from a private bill a provision of a public character. But to take up the gentleman's own illustration, and to carry it a little further. Let me suppose the case of a private bill being reported to the House, but with a section embodying a general public provision in it—acknowledged to be such, as in this case; and I presume I do not mistake the judgment of the Chair, in saying that the Chair would rule that to be a public bill.

But, Mr. Speaker, we are arguing the law of the case, as it should be administered in the rulings of the Chair and of the House. It is necessary for the House to vindicate its own integrity in the legislation of the country. It is the duty of the House, as I regard it, to prevent the Senate from foisting upon our bills provisions that are obnoxious from their want of relevancy and germaneness to such bills. It is time that we should exhibit to the Senate a determination not to be forced out of order, in violation of our own rules, and not to consider propositions as amendments to appropriation and other bills which, under the rules of the House, would be promptly ruled out of order if presented here in the first instance. The suggestion made by the gentleman from Virginia [Mr. HOPKINS] seems to me very pointed, and I had almost said conclusive. This House has passed from the bill as it was before us; we have acted upon it; and, so far as our action could make it so, that bill is a law of the land. The Senate, however, having a right to pass upon it, attached to it provisions that are acknowledged to be of a public nature.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, informing the House that the Senate had passed joint resolutions of the following titles, in which he was instructed to ask the concurrence of the House:

A resolution (No. 70) for the relief of Commander H. J. Hartstene, of the United States Navy; and

A resolution (No. 63) authorizing the settlements of the accounts of Redick McKee.

Mr. KEITT. I ask the House, as a matter of courtesy, to take up the resolution for the relief of Commander Hartstene, just sent in by the Senate, and put it on its passage. It is merely to refund to him the necessary expenses incurred by him in delivering up the British bark *Resolute*.

Mr. JONES, of Tennessee. I object. I voted against sending that vessel to England. I voted against everything connected with it; and I intend to do so now.

Mr. MILES. I hope the gentleman will withdraw his objection.

Mr. JONES, of Tennessee. If the vote be taken on the resolution by yeas and nays, I will not object.

Mr. MILES. Certainly; the yeas and nays will be given.

Objection being made, the resolution was not taken up.

PURSEYERS' CLERKS—AGAIN.

Mr. HOUSTON. I was illustrating, or endeavoring to do so, the principle of the suggestion made by the gentleman from Virginia—

Mr. SEWARD. Is debate in order?

The SPEAKER. Debate is not in order.

Mr. HOUSTON. Then I appeal from the decision of the Chair; and I presume debate on that is in order.

The SPEAKER. The Chair had, perhaps, better make a ruling before the gentleman from Alabama appeals.

Mr. HOUSTON. Ah! I hope, then, I shall not be under the necessity of appealing.

The SPEAKER. The Chair is of opinion that this House must receive and consider this bill as a private bill. The original bill is that which must give character, in the judgment of the Chair, to the proceeding. Were it otherwise, it would enable the Senate to determine in what light and character our bills should be considered when they sent them back.

For instance: we send a private bill to the Senate. They desire to defeat it. They put on a public bill as an amendment to it. Under the rule contended for by the gentleman from Alabama, when they send it back here the House is compelled to consider it in a different way from that which the original bill required.

Again: to consider this amendment of the Senate to a private bill as a public bill, the Chair is required to assume that the House will adopt the amendment. To illustrate this, suppose this bill is sent to a committee, according to the view of the gentleman from Alabama, it must go to the Committee of the Whole on the state of the Union; a vote is taken upon the amendment, and it is rejected, and then the bill is left in an improper committee. The assumption is that the House will adopt the amendment, and so assuming, the gentleman from Alabama insists that the bill shall be sent to the public committee instead of to the private committee.

Mr. RITCHIE. I believe I originally raised the point of order. I now withdraw it, believing that the Chair is clearly right.

The SPEAKER. The gentleman from Alabama renewed the point of order.

Mr. HOUSTON. I desire to answer the last suggestion of the Chair, and for that purpose, I appeal from the decision of the Chair.

Mr. SEWARD. I object to debate if it is out of order.

Mr. HOUSTON. The gentleman had better inform himself whether debate is in order or not.

The SPEAKER. The gentleman from Alabama appeals from the decision of the Chair, deciding that the report is in order, and he has a right to be heard upon the appeal.

Mr. HOUSTON. Yes, sir; and I suppose that most of the members of the House knew that fact. I will first answer the last suggestion made by the Speaker. The Speaker says that suppose this bill and amendment were referred to the Committee of the Whole on the state of the Union, because the amendment of the Senate, which is in the nature of a substitute, embraces matter of a public character; and suppose the Committee of the Whole on the state of the Union should disagree to the amendment, then the bill would be in the wrong committee. Now, will not the Chair acknowledge the fact that whenever the amendment is acted on in committee, no further action can be taken on the bill? The bill will then have passed from the jurisdiction of the House, so far as action is concerned, and there will be no need of further consideration of it either in a private or a public committee. The amendment is all that we are called to act upon, and it is clearly of a public character.

Mr. MILLSON. I desire, with the gentleman's permission, to set him right upon the facts, and I think we shall save a great deal of time if gentlemen will only inform themselves of the merits of the proposition before the House, before they proceed to debate it. Why, sir, this is a matter involving, perhaps, the smallest and most insignificant expenditure that has come before the House this session, and yet it has already led to considerable discussion on three several days. But I merely rose to direct the attention of the gentleman from Alabama to certain facts. Concurring altogether in the correctness of the decision of the Chair upon the supposition that the Senate have sent a public bill—

Mr. HOUSTON. I do not think the gentleman's argument is very appropriate in my speech. If he wants to correct my facts, of course, I will allow him to do so; but I certainly cannot allow him to make an argument

Mr. MILLSON. Concurring in the decision of the Chair, as to the correctness of the point decided, even on the supposition that this amendment of the Senate is a public bill, I want to show the gentleman from Alabama that it is not a public bill at all.

Mr. HOUSTON. It is acknowledged that it is a public bill; and therefore, I do not wish to be interrupted by the gentleman upon that point.

Mr. MILLSON. I want to show the gentleman that it is not a public bill, and that it is not acknowledged to be so.

Mr. HOUSTON. I cannot consent to be interrupted.

Mr. MILLSON. The facts will show that it is a private bill.

Mr. HOUSTON. I understand that it is conceded—although the gentleman from Virginia may not concede it—that this amendment of the Senate is a public bill, or would be if it were a distinct bill of itself; and I will proceed with my answer to the Speaker's suggestion.

I say, then, that being a public matter, its discussion must be in the Committee of the Whole on the state of the Union, because you cannot discuss it in a Committee of the Whole on the Private Calendar. Then, when you discuss and dispose of the amendment of the Senate in the Committee of the Whole on the state of the Union, the difficulty that the Speaker suggested does not arise; because, when the amendment is rejected by the Committee of the Whole on the state of the Union, the bill is passed, so far as this House is concerned; there is no other vote to be taken on it by the Committee of the Whole. We are considering only the amendment; and, as that amendment embraces matters of public concernment, it must go to a committee where that public matter can be examined into.

But I desire to notice the other suggestion of the Chair. The Chair says that if we were to decide on the character of a bill of this sort by the matter that might be attached to it by the Senate, it would put it in the power of the Senate to do—what? To control the character of our bills. For instance, the Chair said, if you send them a private bill which they desire to defeat, they can attach to it a public provision, and thereby send it to the Committee of the Whole on the state of the Union, where probably it could not be reached or discussed. Now, does it not occur to the Chair that if the Senate desire to defeat a private bill so strongly as to attach to it a public bill for the purpose of delaying its progress through the House, they can reject the bill altogether? If the Senate can defeat a private bill by attaching a public provision to it, they can certainly defeat it on a square vote, by laying it upon the table or rejecting it. So then, with all due respect to the Chair, I do not see that the illustrations given by the Chair have that sort of cogent application and convincing control of this question, which ought to influence the minds of the members of this House.

I desire to say further, Mr. Speaker, that although this seems to be a small matter, and may be a small matter in amount, yet the principle is a large one. Look at your appropriation bills. It seems to be acknowledged, on the part of this House, that you cannot make a point of order on an amendment attached by the Senate to one of our bills, and thereby rule it out, although it may be in direct violation of our rules. The Senate, therefore, have the right or the power, as the practice of this House demonstrates, to run over our own rules, and make us violate them every day we are in session, if they see fit to do it. I think it is high time that the House should take a stand upon that question. It is time that this House should, either by a point of order or by some other course, say distinctly to the Senate that their general legislation upon appropriation bills will not be further tolerated. For one, I am ready to vote against all such amendments. I am ready to sustain the Chair in ruling all such amendments out of order, under our own rules. I am ready to give any legitimate vote in this House by which we can get rid of these obnoxious amendments which the Senate places upon our bills.

Mr. MILLSON. I shall move to lay the appeal on the table; but before I do so, I wish an opportunity to state the facts of the case, that the House may see the entire correctness of the decision made by the Chair.

This bill originated in the House, upon the pe-

tion of B. W. Palmer, who was a purser's clerk in one of the navy-yards. Some years ago the pay of purser's clerks at the smallest navy-yard, Kittery, was fixed by law at \$750 per annum. Afterwards the Department, intending to give to the purser's clerks at the more important navy stations the same pay granted by law to the purser's clerk at Kittery, asked Congress to appropriate \$750 a year for those purser's clerks. Congress voted the money; and the \$750 thus appropriated by Congress to these purser's clerks was paid them.

Mr. MORGAN. I rise to a point of order. The gentleman is not debating the appeal at all, but the merits of the bill.

Mr. MILLSON. If the gentleman will do me the favor of waiting a little, he will see that the statement is a necessary part of my argument; and the gentleman ought to know me well enough to be assured that I never seek by indirection to do what I cannot do under the rules of the House.

But, sir, the Fourth Auditor having ascertained that this change in the compensation of pursers' clerks was only made by an appropriation in an appropriation bill, and not by a distinct law changing the old salary, refused to allow those payments, and called upon those pursers' clerks to refund the money they had received. They accordingly petitioned Congress to legalize those payments, and to continue the payment at the same rate of compensation, \$750. The prayer of the petitioners was deemed reasonable by a committee of this House, and they reported a bill. On the motion of the gentleman from Ohio, [Mr. SHERMAN,] that bill was amended by striking out the prospective increase, thereby confining the bill to the legalization of previous payments. The bill then went to the Senate. The Senate restored the features of the bill which had been stricken out in this body; and finding that there were one or two other officers, at particular localities, who had also received under the estimates of appropriation a larger amount than was authorized by the general law, they added those men to this bill. The bill then came back to the House. Usually the House considers the Senate's amendments without reference to a committee. But again the gentleman from Ohio moved a reference of this bill to the Committee on Naval Affairs. When it was examined, and the members understood the whole case, they all saw that the amendment of the Senate was correct, and they reported back the bill with a recommendation that the House concur in the amendment of the Senate.

Now, then, that this is not a public bill is proved by this consideration: the amendment simply adds to the original bill, not a general class of pursers' clerks, nor all the pursers' clerks at navy-yards, but particular pursers' clerks at particular navy-yards. And the other officers embraced in it are not a general class of commandants' clerks, but only two selected clerks at Kittery and Philadelphia. It only adds a few more individuals to the persons who were provided for in the bill which passed this body.

Now, having made this statement of facts, without intending to go into any argument upon the subject, I think it is somewhat ridiculous, and calculated to place us in a ridiculous position before the country, that upon a case so plain, involving so very slight and insignificant an expenditure, not even proposing an increase of expenditure—for under the operation of this bill not a dollar more will be paid to these parties than they have been paid for years past—so much earnestness and zeal should be manifested. It does not propose to add to the public expenditures one dollar, but only legalizes payments heretofore made under the permission and sanction of Congress itself, and continuing them at the same rate. I say that in making such earnest and strenuous opposition to such a bill as this, when other bills involving an expenditure of millions of dollars are frequently passed without any or with only slight examination, we occupy no very enviable position, and incur the risk of provoking derision by this extraordinary fit of economy at the expense of humble clerks. I now move to lay the appeal upon the table.

Mr. MAYNARD. I call for the yeas and nays. The yeas and nays were refused.

The motion was agreed to; and the appeal was laid on the table.

Mr. BOCK. When I reported this bill this

morning, it was my intention to make a few words of explanation, and then ask the House to pass upon the amendment. But I am afraid the discussion this morning has got the House into rather a bad temper, and that it will be a little unsafe for me now to ask the House to pass this bill. I will make a few remarks, and then, if it is thought best, I will move to postpone its further consideration until next Friday morning.

Mr. GIDDINGS. I would suggest that the gentleman move that the House resolve itself into a Committee of the Whole upon the Private Calendar, and leave this bill to go over until next Friday.

Mr. BOCK. With a few words of explanation, in order that they may go into the Globe for the information of members, I will accede to that suggestion.

Mr. RITCHIE. I would suggest to the gentleman the propriety of allowing the committees to be called through, and leaving this bill to be called up after the call of the committees is terminated.

Mr. BOCK. After I shall have spoken five minutes, I will leave it to go over until next Friday.

I ask the attention of gentlemen, in a spirit of candor, to what I shall say. The remarks I intended to make, by way of explanation, have been in a great measure anticipated by my colleague over the way. I will, however, proceed; and perhaps I shall be able to reach the minds of some members that my colleague may have failed to reach.

The law of 1842 made the pay of pursers' clerks \$500 per annum. In 1852, the purser's steward, occupying the position of purser's clerk, at Kittery, in Maine, was allowed \$750. The Department could see no reason why the purser's clerk at Kittery, in Maine, should receive \$750 per annum, while the pursers' clerks at the other yards received only \$500; and estimated for all of them at the rate of \$750 per annum. That was paid from 1853 down to 1857, and at that time the Fourth Auditor, on looking into the matter, came to the conclusion that, although this money had been appropriated and paid to these pursers' clerks, yet it was not done in accordance with law; and the pursers were ordered to refund to the Government this money which had been paid to these clerks. The House will see the inconvenience likely to result from that state of things. The pursers had paid this money to their clerks, believing that the appropriation bills made the law for the case. The clerks accordingly received the money, and, in most of the cases, doubtless have spent it. The clerks were unable to refund it to the pursers, and the loss of course then fell upon the pursers themselves. The accounting officer of the Government was ordered to check against the account of the pursers for the amount paid on this account, from 1853 down to 1857, inclusive. This bill is for the purpose of legalizing the payments thus made by these pursers to their clerks.

There is, sir, another feature in the bill. By the act of 1853, the pay of clerks to the commandants of yards was fixed; at all the yards except Kittery, in Maine, and Philadelphia, at \$1,200 per annum. The Department not understanding this, estimated to pay the clerks to all the commandants, at all the yards, including Kittery in Maine, and Philadelphia, the same amount. That has been paid under the appropriation bills, and has gone into the pockets of the clerks, and doubtless has gone from their pockets a long time ago. Under this state of things, the Fourth Auditor, on looking into it, determined that that money was not paid according to law, and ordered the accounting officers to check against the commandants at Kittery and Philadelphia, for the amount thus paid. The object of this clause of the Senate amendment, is to put all the clerks to commandants of yards upon an equal footing. It proposes to legalize the payments which have been thus made. And it goes one step further. It proposes to continue in future, the rate of pay that has been given under the appropriation bills since 1853. That is all it does. It does not give a single man one dollar more than he has received under the appropriation bills from 1853 to 1857. It merely legalizes the payments already made, and provides for their continuance.

I now ask the attention of the gentleman from

Ohio, [Mr. SHERMAN,] who, like all of us, was in pursuit of an economical administration of all branches of the Government. When this bill was reported, my friend was opposed to it until he could get time to look into it; and it was on his motion that some features of the bill were stricken out. It went to the Senate; and when the Senate's substitute came here, it was, on motion of my friend, referred to the Committee on Naval Affairs. It was taken up in that committee, and fully and thoroughly investigated; and on motion of the gentleman himself, and by the unanimous vote of the committee, I was instructed to report it back with the recommendation that it do pass. The gentleman will verify the statement.

Now, Mr. Speaker, if I move to postpone the bill to next Friday, will it come up then, or will it go to the Speaker's table?

Mr. RITCHIE. I suggest to the gentleman to call the previous question, and put the bill on its passage. It has been here for some time, and ought now to be disposed of. If we postpone it we shall have all this discussion to go over again.

Mr. BOCOCK. I call for the previous question. The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, demanded the yeas and nays on the amendment of the Senate.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee. I move that the bill and the amendment be laid upon the table.

The House was divided; and there were—ayes 43, noes 68—no quorum.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and CHAFFEE were appointed.

The House divided; and the tellers reported—ayes 53, noes 71.

Mr. STANTON called for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. Will it not be in order now to call for the yeas and nays on the amendment?

The SPEAKER. The Chair thinks not. The yeas and nays have been already refused.

Mr. STANTON. Is it in order to move to go into Committee of the Whole House on the Private Calendar?

The SPEAKER. It is not; the main question having been ordered.

Mr. STANTON. I hope the call for the previous question will be withdrawn, and let us go into committee.

The SPEAKER. The previous question was seconded and the main question ordered.

The question was taken on the motion to lay on the table; and it was decided in the negative—ayes 80, nays 86, as follows:

YEAS—Messrs. Atkins, Avery, Barksdale, Bliss, Branch, Brayton, Bulfinch, Burnett, Chaffee, Chapman, Horace F. Clark, John B. Clark, Cobb, Colfax, James Craig, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dodd, Dowdell, Durfee, Fenton, Foley, Giddings, Granger, Greenwood, Groesbeck, Grow, Hickman, Hoard, Hopkins, Houston, George W. Jones, Kelsey, Lawrence, Leach, Leiter, Lovejoy, McQueen, McRae, Humphrey Marshall, Matteson, Maynard, Miller, Moore, Morgan, Mott, Murray, Pendleton, Pettit, Peyton, John S. Phelps, Phillips, Fottle, Ueary, Reagan, Ricard, Robbins, Ruffin, Russell, Seales, Scott, Henry M. Shaw, Stanton, William Stewart, Talbot, Thayer, Tompkins, Tripp, Valandigham, Walbridge, Waldron, Walton, Cadwalader C. Washburn, White, John V. Wright, and Zollacoffer—80.

NAYS—Messrs. Adams, Anderson, Andrews, Bingham, Blair, Boccock, Bonham, Bowie, Boyce, Burlingame, Burns, Case, John Cochran, Cockrell, Comins, Corning, Covode, Cox, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dewart, Dimmick, Edie, Edmundson, Eustis, Florence, Foster, Garrett, Gooch, Gregg, Lawrence W. Hall, Robert B. Hall, Harlan, Harris, Baskie Hawkins, Horton, Jenkins, Jewett, Keitt, Kellogg, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Leidy, Samuel S. Marshall, Mason, Miles, Milson, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Niblack, Olin, Parker, William V. Phelps, Pike, Potter, Ritchie, Royce, Searing, John Sherman, Judson W. Sherman, Shorter, Robert Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Elihu B. Washburne, Israel Washburn, Wilson, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—86.

So the House refused to lay the amendment on the table.

The question recurred on concurring in the amendment of the Senate.

Mr. HOUSTON. Is it in order to ask for the yeas and nays on that?

The SPEAKER. The yeas and nays have been refused.

Mr. HOUSTON. There has been a vote since that time.

The SPEAKER. The Chair does not think that that changes the matter.

Mr. HOUSTON. I hope that by unanimous consent the yeas and nays may be taken on concurring in the amendment.

Mr. COX. I object.

Mr. SMITH, of Virginia. Do I understand that this bill does not involve an increase of expenditure?

Mr. BOCOCK. As I have said several times before, this bill gives no body any higher salary than has been paid since 1853.

Mr. STANTON called for tellers on the amendment.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of Missouri, were appointed.

The House divided; and the tellers reported—ayes 54, noes 79.

So the amendment of the Senate was not concurred in.

Mr. STANTON moved to reconsider the vote by which the amendment of the Senate was rejected; and also moved to lay the motion to reconsider on the table.

Mr. FLORENCE demanded the yeas and nays on the latter motion.

The yeas and nays were not ordered.

The question was taken; and the motion to reconsider was laid on the table.

The question recurred on concurring in the Senate amendment to the title of the bill.

Mr. JONES, of Tennessee. If that amendment be laid on the table, will it carry the whole subject there? That will be a disposition of it, and we will not be forced to have a committee of conference upon it.

The SPEAKER. The Chair is of opinion that it would not carry the bill with it. A bill may be a very good one without any title.

The question was taken; and the amendment to the title was not concurred in.

ADVERSE REPORTS.

Mr. SHERMAN, of Ohio, from the Committee on Naval Affairs, reported back joint resolution (S. No. 20) authorizing the Secretary of the Navy to pay to the officers and seamen of the expedition in search of Doctor Kane the same rate of pay that was allowed to officers and seamen of the expedition under Lieutenant De Haven, with a recommendation that it do not pass.

The bill was laid on the table, and, with the report, ordered to be printed.

Mr. DAVIS, of Massachusetts, from the same committee, presented adverse reports in the following cases:

The petition of Francis C. Belman;
The petition of Charles W. Babbitt;
The petition of John Baxtor;
The memorial of William Fleming and others, of Pennsylvania;
The memorial of Sparhawk Parsons; and
The memorial of James Dotner.

The petitions and memorials were ordered to be laid on the table, and, with the reports, printed; and the committee was discharged from the further consideration thereof.

Mr. MORSE, of Maine, from the same committee, presented an adverse report on the memorial of John Holland; which was laid on the table and ordered to be printed.

UNITED STATES CONSUL GENERAL AT JAPAN.

Mr. HOPKINS, from the Committee on Foreign Affairs, reported back, with a recommendation that it do pass, joint resolution (S. No. 45) authorizing Townsend Harris, United States Consul General at Japan, and H. C. I. Herskin, his interpreter, respectively to accept presents from the Queen of England.

Mr. BOCOCK. I move that it be referred to a Committee of the Whole House.

Mr. HOPKINS. It makes no appropriation. It simply authorizes these gentlemen to accept gold snuff-boxes from the Queen of England as a mark of gratitude for assistance rendered by them to Lord Elgin in his negotiations between Great Britain and Japan.

The joint resolution was read the third time and passed.

ADVERSE REPORTS.

Mr. RITCHIE, from the Committee on Foreign Affairs, presented adverse reports on the petitions of Jonas P. Levy and Sophia A. Irwin; which were severally laid on the table, and, with the reports, ordered to be printed; and the committee was discharged from the further consideration thereof.

THOMAS W. WARD.

Mr. BRANCH, from the same committee, reported back Senate bill (No. 427) for the relief of Thomas W. Ward, late United States Consul at Panama; which was referred to a Committee of the Whole House; and, with the report, ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. SHAW, of North Carolina, it was

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the petition of the heirs of John Montgomery, and that the same be referred to the Committee on Revolutionary Claims.

ADVERSE REPORTS.

Mr. JEWETT, from the Committee on Invalid Pensions, made adverse reports on the following petitions; which were severally laid upon the table, and ordered to be printed:

The petition of Mary A. Allred;
The petition of William Dailey;
The petition of Eli A. McFadden;
The petition of James Denny;
The petition of John Camp;
The petition of William Grant;
The petition of Benjamin Allen; and
The petition of the orphan children of Francis G. Button.

Mr. CHAFFEE, from the same committee, made adverse reports on the following petitions; which were severally laid upon the table, and ordered to be printed:

The petition of Elizabeth Mullinax;
The petition of Catherine Kincade;
The petition of Michael Lantier;
The petition of Alexander Vanter and Elizabeth Breeding;
The petition of James Monroe;
The petition of Samuel Stouffer;
The petition of Anthony Casle or Caslos;
The petition of Roan Sage, the heir of Jesse Kinney;

The petition of Charles Grumph;
The petition of Michael R. Clark;
The petition of Mary Perrigo;
The petition of Elizabeth N. Denton;
The petition of William Sutz;
The petition of Simon Smith; and
The petition of John Cunningham

EZEKIEL JONES.

Mr. CHAFFEE, also, from the same committee, reported a bill for the relief of Ezekiel Jones which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SARAH HILDRETH.

Mr. FLORENCE, from the same committee, reported a bill for the relief of Sarah Hildreth; which was read a first and second time, and referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. FLORENCE also, from the same committee, made an adverse report on the petition of William McKenzie; which was laid upon the table, and ordered to be printed.

On motion of Mr. CASE, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Elizabeth J. Holmes; and the same was laid upon the table.

Mr. ANDERSON, from the Committee on Invalid Pensions, made adverse reports on the petitions of Joseph Fyles and Gilbert Cooper; which were laid upon the table, and ordered to be printed.

MOSES GROOMS.

Mr. ANDERSON also, from the same committee, reported a bill for the relief of Moses Grooms; which was read a first and second time, referred to a Committee of the Whole House

on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES G. HOLMES.

Mr. EDIE, from the Committee on Patents, reported a bill for the relief of James G. Holmes; which was read a first and second time.

Mr. MILES. I hope that bill will be put upon its passage. I cannot imagine that any member of the House would object to it.

Mr. EDIE. I move that the bill be referred to a Committee of the Whole on the Private Calendar, and be printed.

Mr. JONES, of Tennessee. I understand that that is a bill to extend a patent.

Mr. EDIE. No, sir; it refers the case to the Commissioner of Patents.

Mr. MILES. It merely refers the case to the Commissioner. I will state to the House that Mr. Holmes failed to apply for an extension of his patent within the time prescribed by law, in consequence of the serious illness of his wife. He got to the Commissioner's office a few days too late; and all that he asks, and all that this bill—which I understand has been unanimously reported by the Committee on Patents—provides, is, that the Commissioner shall examine the case, and decide whether he is entitled to an extension of his patent, just as if he had applied for it in time.

Mr. JONES, of Tennessee. Is there a motion pending to refer the bill to a Committee of the Whole House?

The SPEAKER. There is.

Mr. JONES, of Tennessee. I hope it will be referred.

Mr. MILES. I desire to have the bill put upon its passage, and would like to take the sense of the House upon it.

Mr. WASHBURNE, of Illinois. Let the bill be read.

The Clerk read the bill.

It provides that James G. Holmes, patentee of a patent for an improvement in chairs for invalids, dated September 14, 1844, for fourteen years, now expired, be authorized to apply to the Commissioner of Patents for an extension of said patent for seven years, under the rules and regulations now in force for the extension of patents, as if he had made application previous to its expiration, as required by law.

Mr. JONES, of Tennessee. I understand that a patent was granted in this case; that the fourteen years have expired, and that the improvement is now public property.

Mr. MILES. No, sir; that is a mistake. The gentleman is not correctly informed of the facts.

Mr. JONES, of Tennessee. Has the patent not expired?

Mr. MILES. No, sir.

Mr. JONES, of Tennessee. Then, if it has not expired, why cannot the patentee apply to the Commissioner and get a seven years' extension?

Mr. MILES. What I mean to say is, that the fourteen years have not expired.

Mr. STEWART, of Maryland. I think I can satisfy my friend from Tennessee that this bill ought to pass. Mr. Holmes obtained a patent for his chairs. Before the expiration of the time of the duration of that patent, he made application to the Patent Office for a renewal, under the act of 1836, which authorized extensions for seven years. He was told at that time that it was too early; that his application was premature. He therefore delayed it until a short time before the expiration of the patent, and, unfortunately for him, sickness in his family then rendered it impossible for him to appear before the Commissioner until it was too late to comply with the law. He therefore memorialized Congress for relief, and his memorial was referred to the Committee on Patents. I take occasion to say, that we are very strict in regard to the extension of patents. We have an unbending rule which we think meets every case. We have no disposition to interfere with private rights or to extend monopolies, but simply to carry out the law of 1836. Considering this a meritorious case, the petitioner having by misfortune been prevented from complying with the law, the committee instructed my friend from Pennsylvania [Mr. Edie] to report a bill to refer the matter to the Commissioner of Patents, in order that he might take it up and dispose of it under the act of 1836.

Mr. JONES, of Tennessee. The point with

me is, that we have no power or authority to give a patent in this case. The Constitution provides that Congress may provide by law to secure to authors and inventors exclusive use of their works and inventions. The law provides that a patent can be obtained upon application to the Patent Office, and that they can get that patent for fourteen years. From reading this bill, I understand that the patentee in this case applied for and received his patent in 1844. Of course that patent expired in 1858. Upon its expiration, the right to use that invention becomes common to every person in the country; and once becoming public, and being within the right of every one to use, I consider that Congress has no power, either by special act or by instructions to the Commissioner, to take it from the public and give it to any particular individual.

Mr. STEWART, of Maryland. The Supreme Court have decided that if, after a patent has expired, although it may be renewed afterwards by an act of Congress, or by the Commissioner, any individual rights have accrued between the expiration of the patent and the time of renewal, they will not be affected by the extension. But they have not decided that it is not proper or competent for the Congress of the United States to pass a law of this kind.

Mr. JONES, of Tennessee. I ask the gentleman if this patent is not now public, and if every person in the country has not a right to use it? If so, what right have we to deprive them of it by bestowing it upon an individual?

Mr. MILES. If the gentleman will permit me, I will say that this is not the extension of a fourteen years' patent. The first patent which Mr. Holmes took out upon his chair would expire in 1858; but that first patent was really of so little value that it amounted to nothing until he made an additional improvement, for which he took out another patent. That, of course, was for seven years. Now, under the act of 1836, he had a right to renew that patent for another seven years. For that he made an application; but he was informed by the Commissioner that he was too early—that he could not attend to it at that time; but he appointed a time when he would attend to it. Owing to a detention consequent upon sickness in his family, Mr. Holmes came a few days too late to make the application. If he had come in time he would have got the renewal.

Mr. JONES, of Tennessee. My understanding of the patent law is, that when an inventor obtains a patent for fourteen years, he can, upon making out his case previous to the expiration of the fourteen years, obtain an extension for seven years. But if he makes an additional improvement upon that patent, and applies to the Commissioner for a patent, upon that improvement, he gets an original patent for fourteen years upon it. This is now a public right, which I hold we have no authority to take away.

Mr. EDIE. I merely wish to state to the House the reason why I did not ask to put this bill upon its passage. We have submitted no report with the bill. But the same bill has been submitted to the Senate with a report; and though the committee is unanimously in favor of this bill, I thought it best to let it go to the Committee of the Whole House, and when the Senate bill comes in, then to make the motion upon that bill which the gentleman from South Carolina [Mr. Miles] now makes upon this.

Mr. JONES, of Tennessee. There is another corresponding case, about looms and machinery for weaving figured work, in which the patents have expired, and applications are pending to renew them. This case will be cited as a precedent.

Mr. EDIE. The fact stated by the gentleman from South Carolina, that this gentleman was put off by the Commissioner of Patents, and that at the time the Commissioner appointed for him to come, he was sick and unable to come, is true. This bill only gives to the Commissioner of Patents the power to do what he would have done had Mr. Holmes come at the time appointed by the Commissioner.

Mr. WASHBURNE, of Illinois. I demand the previous question.

Mr. EDIE. I withdraw my motion, and move to put the bill upon its passage.

Mr. WASHBURNE, of Illinois. I renew the motion that the bill be referred to a Committee

of the Whole House, and printed. Upon that I call the previous question.

Mr. STEPHENS, of Georgia. If gentlemen will allow me to interrupt these proceedings, I wish to move that the special order for to-day, being the claims of the States of Georgia and Alabama for depredations by the Creek Indians, be postponed until Friday next. I understand the gentleman from Pennsylvania withdraws his objection.

Mr. RITCHIE. I withdraw my objection.

The motion was agreed to.

The previous question on Mr. WASHBURNE's motion was then seconded, and the main question ordered to be put.

The question being upon the motion to refer to a Committee of the Whole House, and that the bill be printed,

Mr. JONES, of Tennessee, called for tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINGTON were appointed.

The House divided; and the tellers reported—ayes 58, noes 67.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

Mr. RITCHIE demanded tellers on the call for the yeas and nays.

Tellers were ordered; and Messrs. KELLOGG and BOYCE were appointed.

The yeas and nays were not ordered; the tellers having reported only nineteen in the affirmative.

Mr. WASHBURNE, of Illinois, moved that the bill be laid upon the table.

Mr. JONES, of Tennessee, called for tellers.

Tellers were ordered; and Messrs. WRIGHT of Tennessee, and CHAFFEE, were appointed.

The House divided; and the tellers reported—ayes 42, noes 81.

So the motion was disagreed to.

Mr. KEITT. I hope, now, that the bill will be put upon its passage.

The bill was ordered to be engrossed, and read a third time.

Mr. WASHBURNE, of Illinois. Is the bill engrossed?

The SPEAKER. It is not.

Mr. WASHBURNE, of Illinois. Then I object.

The SPEAKER. The bill goes, then, upon the Speaker's table.

Mr. KEITT. Is the matter debatable? I wish to take up the time in which it may be engrossed.

The SPEAKER. It is not.

Mr. KEITT. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

Mr. RITCHIE. I move that the motion to reconsider be laid upon the table.

Mr. KEITT. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. STANTON. I do not see the necessity of our waiting here until the bill is engrossed, and I move, therefore, that the House adjourn.

Mr. MARSHALL, of Kentucky. I call for the yeas and nays.

Mr. ATKINS. I hope the motion to adjourn will be withdrawn until I can offer a resolution for reference.

Mr. STANTON. Let us dispose of the matter before us before we go to any other.

Mr. HICKMAN. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. MORGAN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. COVODE. I hope we will not adjourn over until Monday. We have little time to spare.

The question was taken; and it was decided in the negative—yeas 14, nays 152; as follows:

YEAS—Messrs. Bennett, Blair, Bliss, Bowie, James Craig, Hickman, George W. Jones, Jacob M. Kunkel, John C. Kunkel, McKibbin, Potter, Powell, William Smith, and Wood—14.

NAYS—Messrs. Ahl, Andrews, Arnold, Atkins, Barksdale, Bingham, Biscoe, Bonham, Boyce, Branch, Brayton, Bruntton, Burnett, Burns, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Cobb, John Cochrane, Colfax, Conjins, Corning, Covode, Cox, Crawford, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Dowdell, Durfee, Edie, Farnsworth, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Giddings, Gillis, Gilmer, Goehy, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Haskin, Hatch, Hawkins, Hoard, Hopkins, Horton, Houston, Howard, Huyler, Jewett, Owen Jones, Keitt, Kellogg, Kelsey, Kilgore, Knapp,

Lawrence, Leach, Leidy, Leiter, Lovejoy, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Matteson, Maynard, Miles, Miller, Millson, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Niblack, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pottle, Purviance, Ready, Reagan, Ricard, Ritchie, Robbins, Royce, Russell, Seales, Henry M. Shaw, John Sherman, Shorter, Singleton, Robert Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—152.

So the motion was disagreed to.

Pending the above call,

Mr. JONES, of Tennessee, stated that Mr. Goode had been detained in his room for the past week by sickness.

Mr. PHILLIPS stated that Mr. LANDY, his colleague, had been called home by indisposition in his family.

The question recurred on the motion to adjourn. Mr. JONES, of Pennsylvania, demanded tellers on the motion to adjourn.

Tellers were ordered; and Messrs. Cox and Kellogg were appointed.

The House divided; and the tellers reported—ayes 65, noes 66.

So the House refused to adjourn.

The question recurred on the motion to lay on the table the motion to reconsider.

Mr. KEITT. I withdraw the motion to reconsider.

Mr. WASHBURNE, of Illinois. The yeas and nays were ordered.

The SPEAKER. That does not affect the matter.

The bill (being now engrossed) was then read a third time.

Mr. EDIE moved the previous question on the passage of the bill.

Mr. JONES, of Pennsylvania. I move that the House do now adjourn.

Mr. JONES, of Tennessee. I want the yeas and nays on the passage of the bill. It contains a bad principle.

Mr. CLAY demanded tellers on the motion to adjourn.

Tellers were ordered; and Messrs. WASHBURNE, of Illinois, and PEYTON were appointed.

Mr. STEPHENS, of Georgia. If the House adjourn now, in what condition will the bill be?

The SPEAKER. It will go to the Speaker's table.

Mr. STEPHENS, of Georgia. I move to reconsider the bill.

The SPEAKER. That motion is not in order, pending the demand for the previous question.

Mr. STEPHENS, of Georgia. I hope the previous question will be withdrawn.

The SPEAKER. There is also a motion pending to adjourn.

Mr. STEPHENS, of Georgia. Then I hope the House will vote down the motion to adjourn.

The House divided; and the tellers reported—ayes 65, noes 74.

So the House refused to adjourn.

The previous question was seconded, and the main question ordered.

And then, on motion of Mr. CLAY, (at fifty minutes past three o'clock, p. m.), the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 15, 1859.

The House met at twelve o'clock, m. Prayer by Rev. H. N. Sipes.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, through Mr. DICKINS, its Secretary, notifying the House that the Senate had passed a joint resolution (S. No. 56) authorizing the Secretary of State to pay the salaries of the ministers to the Argentine Confederation, Costa Rica, and Honduras; in which he was directed to ask the concurrence of the House.

SURVEY ON MISSISSIPPI RIVER.

Mr. ATKINS. I ask leave to introduce a joint resolution, simply for reference.

There being no objection, the joint resolution, directory to the Secretary of War, respecting cer-

tain surveys in Tennessee and Kentucky, was introduced, and read a first and second time.

Mr. ATKINS. I ask that it be referred to a select committee of five.

The joint resolution was read.

It authorizes and directs the Secretary of War to order, as early as practicable, a survey to be made by the engineer corps of the Government, with E. A. Crandall, J. N. Steele, William Conner, Joseph Mitchell, S. W. Cochran, and Joseph Keitt, as a supervisory board on the part of the States of Tennessee and Kentucky, of the eastern bank of the Mississippi river from Kentucky city to the State line between the States of Tennessee and Mississippi, for the purpose of ascertaining an approximate estimate of the cost and expenditure of money necessary to the construction of a levee to prevent the overflow of said river upon the adjacent lands, which was caused by the construction of levees on the western bank of said river in the States of Missouri and Arkansas, under the swamp land act of September 28, 1850, and to make his report to Congress.

Mr. GREENWOOD. I move the reference of the resolution to the Committee on Military Affairs.

Mr. HOUSTON. I do not see why it should go to either the Committee on Military Affairs or a select committee. I do not understand why the Secretary of War should be directed to have what seems to be a private survey made at Government expense. I move its reference to the Committee on Public Lands.

Mr. ATKINS. I have no objection to its reference to the Committee on Military Affairs, as suggested by the gentleman from Arkansas.

Mr. SMITH, of Virginia. The bill, I believe, was referred at the last session to the Committee on Public Lands, and was reported against by that committee. Is not that so?

Mr. ATKINS. I desire to state, in reply to the gentleman from Virginia, that a joint resolution, similar to this, was introduced by myself at last session, and was referred to the Committee on Public Lands. There was this difference between them, that the survey in that resolution was to commence at Hickman, while this is to commence at Kentucky city, in the State of Kentucky. I trust that it will be referred to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois. If the gentleman desires to have it referred to a select committee, I hope it will be so referred.

Mr. SMITH, of Virginia. I move its reference to the Committee on Public Lands.

The SPEAKER. That motion is already pending.

Mr. ATKINS. I move to lay that motion on the table.

Mr. HOUSTON. On reflection I do not believe that it has any more connection with the Committee on Public Lands than it has with the Committee on Military Affairs. I do not see where it should go.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Tennessee will be permitted to have the matter referred to a select committee. He has examined it, and desires to have it examined further. It is an important matter; and I hope it will be sent to a select committee.

Mr. STEPHENS, of Georgia. I concur with the gentleman from Illinois. As I understand it, this proposition is altogether a new idea. I am perfectly willing that its friends shall have charge of it, and shall report to this House. The Committee on Military Affairs, and the Committee on Public Lands, have nothing at all to do with it. So far as I am concerned, I am against it at present; but I am perfectly willing that the friends of the measure shall have an opportunity of showing its necessity. I, therefore, trust the House will allow a select committee to be organized to take charge of this matter.

Mr. ATKINS. I am very much obliged to the gentleman from Georgia and the gentleman from Illinois for their kindness. But, as there seems to be a good deal of opposition to it in certain quarters, I will adopt the suggestion of the gentleman from Arkansas, and have it referred to the Committee on Military Affairs.

Mr. SMITH, of Illinois. I have no objection to the resolution introduced by the gentleman from Tennessee, but I submit that it is not broad enough. The same reason exists for extending the survey

to the State which I have the honor, in part, to represent. It will be as valuable to that portion of the country as to any other portion. The farm lands are inundated and the crops injured by overflow every third or fourth year. I am in favor of anything that will benefit that section of the country; but I want the survey to include other portions, that are alike entitled to the protection of the Government. I ask the gentleman to include my State. There may, also, be a portion of Missouri to which it should be extended. But I feel that I have no right to speak for Missouri. She is ably represented here. The district which I represent, however, is as much entitled to this survey as the States provided for in the resolution of the gentleman from Tennessee.

Mr. CHAFFEE. I move the previous question on the reference.

Mr. BONHAM. Will the gentleman withdraw it for one moment. I trust the House will adopt the suggestion made by the gentleman from Georgia.

The SPEAKER. As the Chair understands, the motion of the gentleman from Tennessee was withdrawn.

Mr. ATKINS. It was subsequently renewed by the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. If the gentleman from Tennessee desires this to go to the Committee on Military Affairs, I will withdraw my motion.

Mr. JONES, of Tennessee. I move to lay the whole subject on the table.

Mr. STEWART, of Maryland. I thought the previous question was called.

The SPEAKER. It was called.

Mr. STEWART, of Maryland. Then I hope the previous question will be seconded.

Mr. KUNKEL, of Maryland, demanded the yeas and nays upon the motion to lay on the table.

The yeas and nays were not ordered.

The question was taken; and the House refused to lay the joint resolution upon the table.

Mr. HOPKINS. If the gentleman from Massachusetts will withdraw the demand for the previous question, I will make the motion to refer the joint resolution to a select committee, as it is apparent to us all that it does not appropriately belong to any standing committee.

Mr. CHAFFEE. I withdraw the demand for the previous question, but I hope that the gentleman from Virginia will renew it.

Mr. HOPKINS. I move that the joint resolution be referred to a select committee of five; and on that motion I demand the previous question.

The previous question was seconded; and the main question ordered.

The question being first upon the motion to refer the joint resolution to the Committee on Military Affairs,

Mr. GREENWOOD demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion was disagreed to.

The question recurred on the motion of Mr. HOPKINS; and being taken, the motion was agreed to—ayes 88, noes 39.

So the joint resolution was referred to a select committee of five.

Mr. HOPKINS. I hope the Chair will not appoint me on the select committee, but will appoint the gentleman from Tennessee, [Mr. Atkins,] who first submitted the motion, as chairman of the committee. I could not serve if appointed.

TRANSPORTATION OF EUROPEAN MAILS.

Mr. FOSTER. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of authorizing the Postmaster General to contract with any company or companies for the railroad transportation of the mails to and from Europe, from the city of Bangor, in the State of Maine, to the city of Halifax, in the British province of Nova Scotia, for a term not exceeding twenty years after the line of railroad between the two points shall be completed, upon receiving satisfactory security that such line shall be completed within six years; with leave to report by bill or otherwise.

Mr. LEITER. I object.

ANGELINA BOWMAN.

On motion of Mr. LEIDY, the papers in the case of Mrs. Angelina Bowman, reported on ad-

versely by the Committee on Military Affairs at the last session, were taken from the Speaker's table, and recommitted to said committee.

RESOLUTIONS OF ARKANSAS.

Mr. GREENWOOD, by unanimous consent, presented the following joint resolutions of the Legislature of the State of Arkansas; which were severally laid upon the table, and ordered to be printed:

Resolution in favor of a railroad to the Pacific, near the thirty-fifth parallel;

Resolution in favor of a modification of the Indian intercourse act, so as to allow the transportation of ardent and vinous liquors through the Indian nations west of the State of Arkansas;

Resolution in favor of a grant of land to construct a railroad from Fulton, on the Red river, via Fort Smith, Van Buren, Fayetteville, and Bentonville, to the Missouri line, in the direction of Springfield, Missouri, or some point on the western boundary of said State;

Resolution in favor of the passage of a law by Congress to permit actual settlers on all the lands reserved to the United States, within all the railroad surveys within that State, the privilege to make entries and purchase the same at the graduated prices now fixed by Congress for graduating the price of the public lands; and

Sundry resolutions in relation to mail service.

Mr. KILGORE. I ask leave to offer a resolution.

Mr. PHELPS, of Missouri. I call for the regular order of business.

Mr. SEWARD. I desire to present resolutions of the State of Georgia.

Mr. CHAFFEE. I insist on the regular order of business.

JAMES G. HOLMES.

The SPEAKER stated that the regular order of business was the consideration of House bill (No. 748) for the relief of James G. Holmes, the pending question being, "Shall the bill pass?" upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 57; as follows:

YEAS—Messrs. Ahl, Andrews, Arnold, Barksdale, Bennett, Bishop, Blair, Bliss, Bockock, Bonham, Bowie, Boyce, Branch, Brayton, Bryan, Burdine, Burns, Caruthers, Case, Caskie, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Clay, Cobb, John Cochran, Cockrell, Comins, Cox, Crawford, Curtis, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dewart, Dimmick, Dowdell, Durfee, Eustis, Farnsworth, Foley, Garnett, Gartrell, Gillis, Gilman, Gilmer, Goodwin, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Hatch, Hopkins, Horton, Howard, Hughes, Huyler, Keitt, Kellogg, Kelsey, Kilgore, Jacob M. Kuinkel, Lamar, Lawrence, Leidy, Leiter, McKibbin, McQueen, McLahe, Humphrey Marshall, Matteson, Maynard, Miles, Miller, Moore, Edward Joy Morris, Freeman H. Morse, Niblack, Olin, Parker, William W. Phelps, Potter, Robbins, Savage, Seales, Scott, Searing, Seward, Shorter, Robert Smith, William Smith, Spinner, Stephens, Stevenson, James A. Stewart, Tappan, Thayer, Tompkins, Trippe, Underwood, Wade, Walton, Israel Washburn, Wilson, Wood, Woodson, and Augustus R. Wright—108.

NAYS—Messrs. Anderson, Bingham, Bullfinch, Colfax, Burton, Craig, Curry, Davis of Indiana, Dawes, Dean, Dodd, Fenton, Foster, Giddings, Gooch, Granger, Greenwood, Groesbeck, Harlin, Hickman, Hoard, Houston, Jenkins, Jewett, George W. Jones, Knapp, Leach, Lovejoy, Millson, Montgomery, Morgan, Morrill, Isaac N. Morris, Murray, Palmer, John S. Phelps, Phillips, Pike, Potter, Ready, Regan, Ricard, Ritchie, Royce, Rufin, Russell, Sandidge, John Sherman, Stanton, William Stewart, Miles Taylor, Thompson, Valandigham, Vance, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, and John V. Wright—57.

So the bill was passed.

During the call of the roll,

Mr. JONES, of Tennessee, stated that Mr. WATKINS was confined to his room by sickness.

Mr. LEACH stated that Mr. WALBRIDGE was detained from the Hall by sickness.

Mr. FLORENCE, who was not within the bar when his name was called, asked leave to vote.

Mr. PHILLIPS objected.

Mr. MILES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FRENCH SPOLIATION BILL.

Mr. STEPHENS, of Georgia. Does the French spoliation bill come up to-day by force of the motion by which it was postponed until this time?

The SPEAKER. It may come up. If the call of committees for private business be completed, then the call of committees for public business

will be in order; and that is the first business under that call.

Mr. STEPHENS, of Georgia. I will move, with the consent of the House, to postpone that matter until next Tuesday two weeks.

Mr. KEITT. If the motion of the gentleman from Georgia is carried, will that give any advantage in taking up the bill?

Mr. STEPHENS, of Georgia. None.

Mr. KEITT. Then I do not object to it.

Mr. HATCH. Is not that bill upon the Speaker's table?

The SPEAKER. It is not.

Mr. HATCH. Then where does it come from?

The SPEAKER. It was reported by the Committee on Foreign Affairs last session. A motion was made to refer it to the Committee of the Whole on the state of the Union, and its further consideration was postponed, upon motion, to the 15th day of January.

Mr. HATCH. Is there not such a bill upon the Speaker's table?

The SPEAKER. There is such a bill from the Senate upon the Speaker's table.

Mr. BARKSDALE. Would a motion to refer the bill to the Committee of the Whole on the state of the Union be in order?

The SPEAKER. That motion is already pending.

The motion of Mr. STEPHENS was agreed to.

So the further consideration of the French spoliation bill was postponed until Tuesday two weeks.

MARTIN LAYMAN.

Mr. COBB. Some ten days ago, I reported from the Committee on Public Lands, a bill for the relief of Martin Layman.

Mr. CHAFFEE. Is this the regular order of business?

The SPEAKER. The Chair understands that the gentleman from Alabama desires to call up a motion heretofore made, to reconsider some vote taken by the House some days since.

Mr. CHAFFEE. Is that in order?

The SPEAKER. The Chair does not know any reason why it is not. It is in reference to a private bill.

Mr. CHAFFEE. Then, I do not object.

Mr. COBB. I was about to state that, some ten days since, I reported a bill for the relief of Martin Layman, as directed by the unanimous vote of the Committee on Public Lands. That committee passed upon the case last session, and ordered me to make a favorable report. Not having an opportunity to report it at that session, it was again referred to us this session, and, by the unanimous consent of the committee, I reported it a few days since, and asked to put it upon its passage. But the Committee on Public Lands being very near the head of the list of committees, it was called among the first, and I believe, in all probability, that many gentlemen were induced to object to putting the bill upon its passage, from a desire that the call of committees might be proceeded with, in order that their committees might be reached. The bill was then referred to a Committee of the Whole House, and I made a motion to reconsider that vote. I could have called up the motion before, but I did not want to embarrass the business of the House or delay the call of committees. The committees having been nearly called through, that objection no longer exists, and if I can have the attention of the House I will not detain them more than five minutes with a statement of the facts of the case, and then they can dispose of it in three minutes.

The bill authorizes Martin Layman to enter the southwest quarter of section thirty-six, township twenty-nine north, range twenty-four west, in the Minneapolis land district, in the State of Minnesota, upon payment of the usual minimum of \$1 25 per acre, and directs the Commissioner of the General Land Office to issue a patent therefor.

It also authorizes the superintendent of public schools in the State of Minnesota to select an equal amount of other lands in said State for the use of public schools, in lieu of the lands so granted.

When I reported the bill, and asked to put it upon its passage, the request was refused, and the bill was referred to a Committee of the Whole House. I made a motion to reconsider, and the

gentleman from Ohio moved to lay the motion to reconsider on the table. As I know the gentleman from Ohio is disposed to do justice to all, and is willing that all men shall have equal rights, I am satisfied he will not object to this bill now. Martin Layman lives upon the thirty-sixth section of school lands in the State of Minnesota. It is far West; and, of course, I cannot be influenced by any personal consideration. I want justice done to an old man now in the decline of life, and I therefore move to reconsider the vote by which this bill for his relief was referred to a Committee of the Whole House. He settled upon this land before the survey was made by which it was ascertained to be school land. It was sold to Martin Layman in 1854.

Mr. STANTON. Is this a unanimous report from the Committee on Public Lands?

Mr. COBB. It is. There have been two reports, both of them unanimous.

Mr. STANTON. Then I think that the House could afford to vote a quarter of a section of land under these reports without further discussion.

Mr. COBB. If it be desired, then, I will make no further remark.

Mr. SMITH, of Virginia. I want the explanation.

Mr. COBB. Very well; I will make it short. Dumas sold and quit-claimed his interest in the land to Martin Layman for the sum of \$1,000. In January, 1854, Layman moved upon the land with his family, and has continued to reside there ever since. No person or persons whatever have made any claim thereto against Mr. Layman, who has raised a crop upon the eighty acres broken by Dumas every year since he has resided there. He has fenced the eighty acres with a substantial board fence. He has likewise built one division rail fence, and has also fenced forty acres besides with a post and rail fence, and broken thirty acres of the same, and had a crop thereon for two years. Mr. Layman has built on the land a large frame barn, with a stone basement, and has a kitchen to his house, with a cellar under it. The amount he has expended in and about the improvements upon the land cannot, it is alleged, have been less than \$2,200. The whole amount actually expended and paid out by him for the purchase and improvements exceeds the sum of \$3,000. The plot of survey was not approved until after the settlement of Dumas and the purchase of the land by Layman. Martin Layman, the proof shows, has acted in entire good faith.

The bill makes ample provision for another school section. And it is an act of justice, sir, to pass this bill for Layman's relief. He is a poor man, with a wife and twelve children dependent upon him for support. He alleges in his petition, and the proof shows it, that when he removed from the State of Illinois to Minnesota, some four years since, he sold his farm in that State, and with the proceeds purchased the "claim" in question; that he has since expended, from time to time, every dollar he could raise and spare, in improving said land, in the firm belief and conviction that in so doing he was securing for himself, in his old age, and his family, a comfortable homestead; and that to be denied now the privilege of purchasing the same from the Government would be to deprive him of his all, and to throw him upon the world, in the evening of his days, to commence life anew, poor, if not penniless.

Mr. MORRIS, of Illinois. I call for the previous question.

The previous question was seconded; and the main question ordered.

Mr. SMITH, of Virginia. I desire to put a question to the gentleman from Alabama.

Mr. COBB. I hope there will be no objection. This case is like an old dollar that has lain and rusted; the more you rub it the brighter it will get.

Mr. SMITH, of Virginia. Is there provision made for another school section? Unless there is some such provision, the bill will interfere with the school fund in that State.

Mr. COBB. There is ample provision. Another quarter section can be selected as good as this.

The motion to reconsider was agreed to.

The bill was then ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. COBB. I know that Mr. Layman heartily thanks the House for this act of justice.

J. T. LLOYD.

Mr. WINSLOW, from the Committee on the Library, reported back the memorial of J. T. Lloyd, and moved that it be laid upon the table.

The motion was agreed to.

HIRAM POWERS.

Mr. WINSLOW, from the Committee on the Library, reported back Senate bill (No. 476) to authorize the President to make advances of money to Hiram Powers.

The bill was read.

Mr. WINSLOW. I will occupy the attention of the House but a few moments in explaining the bill. Some years ago \$15,000 were appropriated to be expended under the direction of the President of the United States, in procuring statues of Franklin and Jefferson, for the ornamentation of the Capitol. Last Congress the sum was reapportioned. The President has, in pursuance of that authority, made a contract with the distinguished American artist, Powers, by which these statues are to be executed, and delivered in this country for \$20,000. By the terms of the contract an advance is to be made of \$2,500, and of further sums from time to time as the work progresses, upon the certificate of our consul at Genoa. By the provisions of an old statute, I believe the act of 1823, the authority of an act of Congress is required. And now, sir, having thus briefly explained the bill, I ask the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WINSLOW moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN KETCHUM AND RICE H. BROWN.

On motion of Mr. HUGHES, it was

Ordered, That the papers of John M. Ketchum and the papers of Rice M. Brown be taken from the table, and the former be referred to the Committee on Invalid Pensions, and the latter to the Committee on Military Affairs.

NAVAL INFORMATION.

Mr. WINSLOW. Mr. Speaker, I ask the unanimous consent of the House to introduce a resolution of inquiry, under instructions from the Naval Committee. It is essential that the committee have such information to enable them to report advisedly upon matters referred to them by the House.

Consent was given; and the following resolution was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish the House with the following information: names of the navy-yards, and their localities and areas; outlay on each up to the present time, including cost of sites and improvements thereon; at what yards line-of-battle ships and frigates can be constructed, including the mean depth of water in the approaches from sea; the character of the defenses of the yards severally; the yards at which engines, boilers, and machinery for steam frigates, may now be constructed; the distance of the Atlantic coast-yards apart; the number and character of the docks at which such ships as the Franklin and Niagara can be docked; main water at the Philadelphia docks, with annual cost of dredging; and annual expenses classified to the several yards.

REDUCTION OF NAVAL EXPENSES.

Mr. HOWARD. I ask the unanimous consent of the House to introduce another resolution on the same subject.

The resolution was read, as follows:

Resolved, That the Committee on Naval Affairs be requested to report to this House what legislation, consistent with the interests of the service, is feasible and necessary to reduce the expenses of the naval department, and particularly in the bureau of construction, docks, yards, &c.; and whether any of the yards or docks now in use, or now in process of construction, can be abandoned; and that said committee have leave to report, by bill or otherwise, at any time; and that they be requested to report such other measures as may contribute to economy and accountability in said establishment.

Mr. FLORENCE. It appears to me that that resolution had better go to the Department. I do not know what information the Naval Commit-

tee can communicate, unless they get it from the Department.

Mr. HOWARD. The resolution calling for information is already adopted. This resolution is giving the committee power to act and to report at any time.

Mr. FLORENCE. I have no objection to it.

There being no objection, the resolution was considered and agreed to.

STEAMBOAT BILL.

Mr. WASHBURN, of Illinois. I desire to say to the House that I shall, at an early day, move to go into the Committee of the Whole on the state of the Union for the purpose of taking up the steamboat bill, as it is called, which was reported by that committee at the last session. I desire, in the mean time, to have a substitute printed, that it may be laid on the desks of members, and that they may be prepared to act upon it.

Mr. CLARK, of New York. I object.

Mr. WASHBURN, of Illinois. Do I understand the gentleman to object to the printing of the substitute?

Mr. CLARK, of New York. Has the substitute received the sanction of the committee?

Mr. WASHBURN, of Illinois. It has not.

Mr. CLARK, of New York. Then I object.

The objection was subsequently withdrawn; and the substitute was ordered to be printed.

CODIFICATION OF REVENUE LAWS.

Mr. JOHN COCHRANE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That all debate on House bill No. 487 be closed in one hour after the consideration of the same shall have been resumed in the Committee of the Whole on the state of the Union.

PACIFIC RAILROAD BILL.

Mr. UNDERWOOD. I ask leave to introduce a bill which I have asked on one or two occasions before to introduce. It is a bill to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the navigable waters of the Gulf of Mexico to the navigable waters of the Pacific ocean. I wish to have it printed and referred to the select committee on the Pacific railroad.

Mr. GARNETT. I object.

COMMITTEE OF THE WHOLE.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CHAFFEE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. PHELPS, of Missouri. The reason I have submitted this motion is that this is not objection day, and no progress would be made in the consideration of private bills. It is therefore useless to go into a Committee of the Whole House on the Private Calendar.

Mr. DEWART. I desire to inquire what will come up next in committee after the bill for the codification of the revenue laws is disposed of?

The SPEAKER. The President's message.

Mr. FLORENCE. If by unanimous consent the House will agree to make this objection day, then there would be some utility in going into a Committee of the Whole House on the Private Calendar. I ask that unanimous consent may be given for that purpose.

Mr. CRAIGE, of North Carolina. I object.

The question was taken on Mr. PHELPS's motion; and it was agreed to—ayes eighty-one, noes not counted.

CODIFICATION OF THE REVENUE LAWS.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH, of Tennessee, in the chair,) and resumed the consideration of the bill (H. R. No. 487) for the codification of the revenue laws, on which the gentleman from Massachusetts [Mr. COMINS] was entitled to the floor.

Mr. COMINS. It is a very common remark, Mr. Chairman, when speaking of laws which seem to have become fixed and unchangeable, that,

like the laws of the Medes and Persians, they are incapable of being repealed. If this saying will not apply to the revenue and navigation laws, which, from 1792 to the present time, have so often been changed and amended, it will apply to the obnoxious provisions of those laws, which, indeed, seem to have become fixed and irrevocable.

After frequent appeals by the President; after repeated demands on the part of the Secretary of the Treasury, prompted by the urgent solicitations of merchants and those engaged in navigation, that Congress should give its attention to these things, the Senate, on the 19th of January, 1853, instructed the Secretary of the Treasury to prepare a draft of a general revenue collection code, with a view of superseding all existing laws on the subject, and which should embrace all necessary provisions for regulating the foreign and domestic commerce of the United States. In compliance with the resolution of the Senate, the Secretary of the Treasury, on the 11th July, 1854, submitted a bill subdivided into fourteen chapters, under appropriate heads, and covering two hundred and ninety pages, entitled "A bill for the codification of the existing revenue laws, and for other purposes."

The Committee on Commerce of the House, to which the whole subject was referred, reported back the bill which had been drafted by the Secretary of the Treasury with sundry amendments, and with a recommendation that it pass.

In the early part of the Thirty-Fourth Congress, the same bill was introduced by Mr. Fuller, of Maine, and again referred to the Committee on Commerce, which, after further consideration and amendment, was reported back to the House, with an earnest desire that it should become a law. The long session of the Thirty-Fourth Congress being the one immediately preceding a presidential election, it was, as I fear it always will be during such sessions, impossible to get much attention to the business interest of the country.

At the commencement of the present Congress, after a further revision by the Secretary of the Treasury, it was again referred, and although it has been in the especial charge of the chairman of the committee, the honorable gentleman from New York, [Mr. JOHN COCHRANE,] I have given to it that attention which my position as one of the Representatives of the second commercial city in the Union, seemed to demand. It was, upon consideration, agreed in committee to omit for the present the first two chapters of the bill as originally drafted by the Secretary of the Treasury. The first chapter related to the establishing of collection districts, and designating the ports of entry and delivery in the same. The second chapter related to the appointment of officers for the collection of customs, provided for their compensation, arranged and classified the districts, prescribed the duty of the Secretary of the Treasury in some cases, and gave him almost unlimited power in others. The opinions of the members of the Committee on Commerce were conflicting with reference to these two chapters, and it was unanimously agreed, that, for the present, they should be omitted altogether.

The bill now before the House, relates to the registry of vessels and regulating the coasting trade; the government and regulation of seamen in the merchant service in the United States; the duties of officers of the customs and masters of vessels on entry of vessels from foreign ports; entering and unloading goods, cargoes, baggage, and stores; appraisement of imported merchandise; warehousing under bond of imported merchandise; obtaining statements of foreign commerce of the United States; seizures, suits on duty bonds, prosecution for the recovery of fines, penalties, and forfeitures, their distribution and remission; revenue cutters, their officers and pilots; marine hospitals and health laws; importation of drugs and medicines; and the examination of custom-houses, depositories, and other public officers, prohibited importations, and other miscellaneous provisions.

The various chapters, sections, and provisions of this bill have been so well and ably explained by the chairman of the committee, that it would be useless for me to consume the time of the House in speaking to its details. I believe more labor and consideration has been bestowed upon this measure by the Committee on Commerce,

that it might be well matured and perfected, than has been bestowed upon all other bills, not of a political character, which have been reported during the past four years. And yet, I fear, from indications of hostility by some, and of indifference on the part of others, during the consideration of this subject when first called up in Committee of the Whole, that, from a want of information which personal application and study alone can give, and from a want of confidence in heads of Departments, and in committees, which is becoming more and more apparent in the action of Congress, this bill will be again postponed.

If it is not passed before the close of the present session, I cannot conceive how any member of a committee can hereafter be induced to take it in charge. It has been under consideration for six years. Undoubtedly it may be improved. I think it should be further amended. That is what we are in Committee of the Whole to do. It was with this understanding that I agreed to have the bill reported. Therefore, I urge upon the committee to amend and perfect, but not destroy it. If it does not become a law before the close of this Congress, there is little chance that it will for at least two years to come. Each new Secretary of the Treasury, should there be changes in the Cabinet, must give it an examination. An entire new Committee on Commerce, perhaps, but which will not, probably, in any event, be organized for a year, and which will not for a year after that get into working condition, must go through its pages. In the mean time, the importing merchant, and those engaged in navigation, must continue to rely upon enactments, the provisions of which are repugnant to, and inconsistent with, common sense.

One of the acts which work great injustice to ship-owners, and which is repealed by this bill, is the law of 1817, which imposes a duty or tax of fifty cents per ton upon vessels of the United States returning from foreign ports with a crew two thirds of which are not citizens of the United States. Every practical man knows that it is wholly and absolutely impossible to comply with the provisions of this law. A vessel may leave the United States with a full American crew; but, in case of a loss of men by sickness or death, or from any unforeseen casualty, she returns one man short of the complement required by law, although unable to obtain a single American seaman at the foreign port last visited, she forfeits a sum varying according to her tonnage. It may be said this law is not enforced. It is enforced. Applications for a remission of these duties are constantly before Congress. It has been my fortune to have charge of these petitions in the Committee on Commerce. We have been successful in only one or two cases. They often fail from inaccuracies in the papers made out by the American consul, and from other causes.

The case of the ship John L. Dimmock, of Boston, which sailed from Mobile, Alabama, in March, 1856, bound for Falmouth, England, with a crew constituted according to law; all her officers and two thirds of her men being citizens of the United States, or persons not subjects of any foreign Power, is now pending before the Committee on Commerce. In the prosecution of her voyage she proceeded from Falmouth to the Baltic. Whilst at a port there, a portion of her crew deserted. She returned to Boston on the 8th of September, with a crew, less than two thirds of which were American citizens. There were no American seamen at the Baltic ports. It was impossible to obtain them. Her only alternative was to remain abroad or return to the United States with a foreign crew. The master of the John L. Dimmock not having complied with the provisions of the law of 1817, the collector of Boston imposed a tonnage duty of \$544 upon his ship. This duty was paid under protest, with the expectation that it would be remitted by Congress. Through defects in the consular papers, this sum will be forfeited. The exaction and retention of this money, under the circumstances, is, in my judgment, little better than a fraud upon the owner of the vessel.

The repeal of the unjust act of 1817, and the abolition of certain papers called "protections," required to be produced at the custom-house, to establish the citizenship of seamen, but which in many cases are bogus papers, is an important feature in this bill.

The provision in this bill for the admeasure-

ment of vessels is a great improvement upon the law of 1799 upon this subject. By the pending bill, every ship or vessel must be rated exactly, according to her carrying capacity.

Under the law of 1799 a vessel cannot commence discharging until she has been in port seven days, at the option of the owner of the cargo. The law reads five days. But, by the construction put upon it by some collectors, it is made seven. I think this is the construction put upon it by the collector of New York. The pending bill makes it obligatory upon owners to receive their goods within five running days. The difference in time, though apparently unimportant, is often of vital importance to the ship-owner. My own opinion is, that the time should be reduced to three days. The law of 1799 was passed under a state of things entirely different from that which now exists. Then the merchant received his invoice by the same vessel which brought out his merchandise; now he receives his invoice by mail steamers from Europe, and by overland mail from India, a long time in anticipation of the arrival of the vessel, and there can be no necessity for delay in the reception of the goods.

By the law of 1793, all canal and river boats, if masted, are required to be registered. The enforcement of this act has been the source of great annoyance and expense to all who are engaged in the canal and river navigation. By a section in the first chapter of this bill, this law is so modified as to be acceptable to those engaged in this branch of navigation.

Under the law of 1799, appraisements of imported merchandise can be made by foreign merchants, residents in the United States; by the pending bill, appraisers must be citizens of the United States; a change which is demanded by the manufacturing interests of the whole country, and which must meet the hearty approval of every American citizen.

But, Mr. Chairman, I will not multiply points; those I have named, though important, and demanded by the exigencies of the times, are of less consequence than those which can only be understood by a close and careful reading of the bill, and by a comparison of its provisions with those of laws which are repealed by it, and which are as oppressive as they are complicated.

Why adhere with such pertinacity to ancient laws, so confused, so complicated, and so unjust in their provisions as those by which our mercantile marine is governed? Why should this great interest be longer hampered and embarrassed? The necessity for consolidating, amending, and reforming the collection and navigation laws, has been urged over and over again. The codification and amendment of these laws is not only demanded by the shipping interest, but it is demanded by the entire transportation interest of the country. It is not confined to ocean transportation, but it is demanded by the railroad, the canal, the lake and the river interest.

I am in favor of this bill, with proper amendments, upon general principles. I wish to see a broad and national policy adopted in everything that relates to the great interests of the country. We are called a progressive people. But, sir, we are far behind Great Britain and France in all that gives encouragement to national industry. I give my support to this bill upon the hypothesis that it will benefit those engaged in navigation. There is no business which has suffered so much during the last few years as the shipping interest. It is to the indomitable energy and perseverance of the American character, as exemplified especially in the American merchant, and not in the cooperation of the Government, that our tonnage now numbers over five million tons. From this immense investment of \$300,000,000, no net income has been received during the past two or three years. There is no species of property that pays so poorly. A line of American steamers, created and organized at a vast expense and labor, and which was a credit as great to the enterprising proprietor as it was an honor to the nation, has been driven from the ocean.

There are at this time but two American steamships (Fulton and Arago) upon the Atlantic, engaged in European transportation, either in passengers or merchandise. Those of the Collins line were long ago hauled off, and are all for sale. The staunch and magnificent Vanderbilt—the pride of America—and which was as ample and

liberal in her interior accommodations as she was grand in her outward appearance when she floated so majestically upon the broad and beautiful Potomac, is, too, hauled off—not from any distrust of her strength or safety; not from any want of speed, for that has never been surpassed; but because she does not pay.

The red smoke-pipe, emblematical of British nationality, is the well-known signal of the steamships and propellers which to-day monopolize the quick carrying trade of Boston and of New York with the British empire and the European States.

England looks sharply to the interest of her mercantile marine. No premier could retain power an hour, under the Crown or Parliament, who should look with disfavor upon any material interest of that empire. Sir, I hope the day is not far distant, when no American statesman can reach power who is false to, or looks with indifference upon, the great industrial interest of his own country.

I should not like to say this bill might not be improved in several sections. There are, undoubtedly, imperfections in it. There are many things I would have otherwise. I am not satisfied with those sections of the bill which relate to the registry of foreign built vessels, by virtue of a lien or mortgage, or otherwise. If these provisions are likely to interfere with the ship-building interests of the country, they should be amended, or stricken out. I shall be governed to a great extent by the judgment of those who represent ship-building districts, with reference to this part of the bill. True, there are a large number of vessels built annually, in the district which I have the honor to represent; but they are all first-class ships, and have a character so well established that they require no protection. They will bring a higher price in any foreign port than any foreign-built ship will bring here.

I do not regard as vital the objection raised by the honorable gentleman from New York [Mr. CLARK] to that section of the bill which authorizes the Secretary of the Navy to appoint commissioners to superintend the shipment of apprentices. But I shall be most happy to listen to any amendment upon this point the honorable gentleman may think proper to submit. These commissioners must be appointed by some power; and I would as soon vest it in the Secretary of the Navy as to place it in the hands of a district judge, a United States commissioner, or any other Federal officer. I suppose the gentleman from New York goes upon the principle that no good can come out of Nazareth. Well, sir, I have sometimes been of this opinion myself. But I hope, before the public career of the gentleman from New York is brought to a close, we shall all be persuaded that much good can come out of Nazareth.

In my judgment, this whole matter of apprenticeship should be reviewed with much care before it is adopted; and no man should serve on this commission who has not been a ship-master, in good standing, at least three years.

Not wishing to embarrass this bill in the House, I had hoped it would be made so perfect in committee that it would require no further amendment. At a proper time, before it is taken out of the Committee of the Whole, I hope, by general consent, there may be an amendment to the seventeenth line of the eighteenth section, in the second chapter. I had supposed this was to have been changed. By a provision of an old law, masters of vessels are required to bring home American seamen from whatever foreign port they may be requested by the United States consul, for the sum of ten dollars for each man, without regard to distance, or the length of time they may be on board. The absurdity of retaining this provision will be readily seen when it is observed that the thirteenth section of the same chapter requires the master of every American vessel to advance three months' extra pay for every American seaman discharged at a foreign port. After having paid from thirty-six to forty-five dollars for every such discharged seaman, it would seem that the duty of the ship-owners to these seamen, and to the Government, had been fulfilled. And if required to again take them on board and bring them home, they should receive a fair and reasonable compensation therefor.

It is still more absurd to pay ten dollars for the transportation of a seaman from Liverpool

to Boston or New York, and pay no more for bringing him from Calcutta, Java, or Canton. I am aware gentlemen will say Jack works his passage. This is not so; and this argument should not be received. It is seldom, if ever, that the services of seamen are made available under this law. The amount should be, by general consent, changed from ten dollars, as it now stands, for the voyage, however long or short, to thirty cents per day, from the time said seamen are put on board by the American consul until delivered at the American port. Some of our Boston ship-owners rate the rations of their men as high as fifty cents per day. Thirty cents is the minimum. I trust this amendment will prevail, for there can be no objection to it.

The Secretary of the Treasury, impressed with the responsibility which rests upon him, and with a commendable desire to do justice as between the merchant and the Government; and who has imposed upon him, and invested in him, the duty and authority to decide the legal meaning of all revenue laws, and whose decisions are conclusive and binding upon the officers of the customs, is urgent, and justly so, that this bill should pass. In his last annual report, he calls the attention of Congress to this subject, in the following paragraph:

"I deem it my duty to call the attention of Congress to the bill for the revision and consolidation of the revenue laws, reported by me in obedience to a resolution of the House of Representatives at the last session of Congress. For the reasons then suggested, I deem it important that the bill should receive the favorable action of Congress at the present session.

To show with what solicitude this measure is regarded by business men, I desire to read a letter, which, though it refers especially to the act of 1817, (which is repealed by this bill,) is expressive of the desire which pervades the business community, and which has been manifested by all with whom I have corresponded and conversed upon this subject—that a code should be adopted which can be as readily understood and interpreted by the merchant and the ship-master, as by the attorney or the court:

BOSTON, March 31, 1858.

DEAR SIR: The laws regulating and governing the employment of seamen in the mercantile marine imperatively demand revision and amendment. As they now stand, they are to a great extent impracticable, whether regard be had to a compliance with their requirements or the execution of their provisions; and when those provisions are in an occasional instance executed, they almost inevitably work a gross injustice upon the ship-owner.

By the act of March 1, 1817, a duty of fifty cents per ton is imposed upon vessels of the United States entering a district of one State from a district in another State, except it be an adjoining State on the sea-coast, or on a navigable river or lake; and also on vessels of the United States arriving from foreign ports, unless the officers, and at least three-fourths of the crew, in one case, and two thirds of the crew in the other case, be proved citizens of the United States, or persons not the subjects of any foreign Power. The same act provides for an abatement of this duty only in cases where a failure to have such proportions of American seamen results from sickness, death, desertion, or capture on the voyage.

The terms of this act bear with great hardship upon the navigation of the country, for the reason that the supply of American seamen is in ordinary times entirely inadequate to the demand. They do not exist, and hence cannot be employed. From this state of the law, and from the fact, another great evil results. To enable a vessel, clearing from the United States, to return to a home port, without being subjected to an onerous tax, it must be proved that two thirds of her crew are citizens, either native or naturalized, of the United States. To do this, certain papers, called "protections," are produced at the custom-house, to establish the citizenship of the seamen. Now, it is a fact so notorious as to require no proof, that in the vast majority of cases, these papers do not truly describe the persons whom they purport to represent. The crew list is made up to meet the "protections," of which every shipping-master constantly keeps a supply on hand. A system of continual fraud is thus practiced upon the Government, which the officers of the Government are compelled to connive at from the very nature of the Government's exactions, and which the ship-owner and the ship-master are forced to become parties to, from the very necessities of the case. The law holds out to them the alternative of an American crew or the forfeiture of the privileges of an American vessel. They cannot obtain the former, for the seamen do not exist. They cannot submit to the latter, for it destroys their business, and drives them from the ocean. The consequences which might be calculated upon ensue.

But this law does not stand alone. A more recent enactment, if that enactment has been correctly construed by the Government authorities, adds to the difficulties thrown in the way of American commerce by the act of 1817. By the act of February 28, 1803, the discharge of seamen in foreign countries was limited to certain cases therein specified; and, as in all these cases the payment of three months' extra wages by the master was required as a condition, the right of discharge was practically reduced to narrow limits. But the act of July 20, 1840, confers upon the consuls and commercial agents of the United States authority, upon the

application of both the master and any mariner of the vessel under his command, to discharge such mariner, on such terms as will, in his judgment, save the United States from the liability to support such mariner, provided the master shall assent thereto. Now, a vessel of the United States arrives in a foreign port. It may be for the interest of the seamen to be discharged then. Wages may be higher; or some other cause may exist which, in their opinion, makes a discharge desirable. They have a right, under the law, to such a discharge, if the master assent. If the master withhold such assent, the seamen become discontented, perhaps mutinous, and probably his voyage is broken up. If he do assent, then he may be unable to procure a "protected" crew; and, on his return to the United States, is subjected to a tonnage duty. In either event, therefore, he is almost certain to suffer. Now, what ship-owners, and these interested in the commerce of the country—and who is not?—want, is the application of a principle which is recognized in every other branch of business, to the branch in which they are engaged. The farmer is at liberty to employ what labor he pleases; the manufacturer, the merchant, the artisan, are not restricted to American citizens in their various departments of enterprise; why should the ship-owner be an exception? Why should a restrictive law be made of him which places him at a disadvantage with the ship-owner of foreign countries? With very few exceptions the ships of other nations arriving in the ports of the United States are exempt from duties of every name and nature; and yet our own ships are constantly exposed, and not unfrequently subjected to an exaction exorbitant in amount, and in every respect unnecessary, impolitic, and unjust.

There is a propriety in requiring American vessels to be officered by American citizens; and to the law in this regard no objection is intended to be made; but a repeal of so much of the act of 1817, and all other laws, as imposes a tonnage duty on vessels of the United States, for a failure to be navigated by crews composed of a certain proportion of American seamen, is, in my judgment, imperatively demanded, and ought not to be delayed.

If this, however, cannot be accomplished, then the provision of the act of 1817 should be extended so as to authorize the remission of the tonnage duty in cases when proper proof is produced that the failure to have the required proportion of American seamen during the whole voyage results from the discharge of the whole or a portion of the crew by mutual consent, under the authority of the act of 1840, before cited.

Very respectfully yours, DANIEL DRAPER.

Hon. LINUS B. COMINS, Washington, D. C.

Mr. Chairman, if this bill does not pass, instead of a simple, compact, and intelligible code, with such provisions of existing systems as are applicable to, and such additions as the interest of the most extensive and diversified commerce of the world demands, the merchant, the ship-master, the attorney, the officers of the customs, and above all the Secretary of the Treasury, whose duty it is to supervise the whole, must depend for their guidance upon complex acts and confused and cumulative laws, until, finally, all are involved in litigation, to be settled only by the legal experience and the acumen of the tribunal.

Upon a careful examination, and more especially from the confidence which I place in chambers of commerce, boards of trade, and commercial men, who have examined it; and from convictions produced by an extensive correspondence with those whose interests are affected by it, I am constrained not only to give my assent to this bill with proper amendments, but to urge its passage upon the House.

The great difficulty has been to harmonize conflicting interests. I believe this has been done, as much as is possible, by this bill. All revenue laws, all navigation laws, I might, perhaps, say all laws, from their necessity, are in conflict with some individual interest. It always has been so, and always will be. There is, from the nature of things, antagonism between the law and the interest which it restrains or governs. Those laws are most acceptable which are most in harmony with the general interest of the whole. It is to this end the Committee on Commerce have aimed in reporting this bill.

I rest my support of this measure upon broad and national grounds. Whatever benefits the navigation interests of the country benefits all other interests. Upon this principle, when perfected, I shall vote for this bill; and upon this principle I would vote for any measure, whether it be a revenue collection bill, a navigation bill, or a tariff bill, the ultimate effect of which would be to encourage, sustain, and develop the great industrial interests of the country.

Mr. GIDDINGS. I wish to give notice that at the proper time I shall offer the following amendment:

After the word "same" in line eight, section fifty-seven, page 52, insert the following:

And the eighth, ninth and tenth sections of the act, entitled, "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the 1st day of January, 1808."

Mr. JOHN COCHRANE. I rise to a question

of order. I submit that it is not in order now, at this stage of the debate, to propose an amendment to any part of the bill.

The CHAIRMAN. The gentleman only gives notice that at the proper time he will offer the amendment.

Mr. JOHN COCHRANE. Then I was mistaken.

Mr. GIDDINGS. I will ask the Clerk to read the ninth section, which will give the committee a proper view of the question which I wish to bring to the attention of every member, for I wish a direct vote upon it.

The Clerk read the section, as follows:

"Sec. 9. And be it further enacted, That the captain, master, or commander of any ship or vessel of the burden of forty tons or more, from and after the 1st day of January, 1808, sailing coastwise, from any port in the United States, to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of color, for the purpose of transporting them to be sold or disposed of as slaves, or to be held to service or labor, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of color, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of color, with the name and place of residence of every owner or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain, master, or commander, together with the owner or shipper, shall severally swear or affirm to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States from and after the 1st day of January, 1808, and that, under the laws of the State, they are held to service or labor; whereupon the said collector or surveyor shall certify the same on the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorizing him to proceed to the port of his destination. And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or commander having first made out and subscribed duplicate manifests, of every negro, mulatto, and person of color, on board such ship or vessel, as aforesaid, and without having previously delivered the same to the said collector or surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of her destination, take on board any negro, mulatto, or person of color, other than those specified in the manifests, as aforesaid, every such ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the use of the United States."

Mr. GIDDINGS. Mr. Chairman, we are assured that this bill contains a general codification of our revenue laws. The amendment which I propose to bring to the consideration of the House is to free the Federal Government from this traffic in human flesh; to say our flag shall not be prostituted for the purpose of protecting cargoes of human flesh—cargoes of men, women, and children—on the high seas. It is a question whether northern men, whether Republicans are willing to involve themselves in the guilt of what we, as a nation, have denounced as piracy; or whether we will wash our hands of that crime? And here, sir, I mean nothing offensive to our southern friends. I speak of the slave trade as I view it. They regard it differently. It is a question between them and the people whom they represent. The law prohibiting the African slave trade has denounced the traffic on the African coast as piracy; but does any man suppose that the crime consists in the longitude in which it is committed? No, sir; it is simply the dealing in human flesh; the trafficking in the image of God that the Christian world has long denounced. Are we, as a nation, willing, at this noon tide of the nineteenth century, that the civilized nations of the earth should understand that the Congress of the United States, sustain and uphold this traffic in immortal souls? And, sir, it is a question which I would impress upon every man, whether Republican or Democrat. I would ask our Democratic friends to come up to this work, not as Democrats, but as men, as Christian statesmen. I would ask our southern friends—for many of them, I know, look upon this traffic with all the abhorrence with which northern men regard it—will you now, to preserve your own institutions, to yourselves and your States, release us from all participation in this iniquity? It is a question which comes home to you. We do not ask you to surrender any rights of your States in the proposition which I have made. We do not even ask you to stop dealing in slaves. We do not seek to control you or to interfere with you. But we protest against your holding us responsible for the iniquity and crime of the domestic slave trade.

The original law of 1808 was a compromise. It prohibited the foreign traffic in slaves, and authorized the domestic traffic. The popular sentiment at that day was against the traffic in any shape; and so strong was this sentiment throughout the Christian world that, in 1814, this Government, through her representatives, John Quincy Adams, Henry Clay, (himself a slaveholder,) Albert Gallatin, James A. Bayard, and Jonathan Russel, entered into a compact with Great Britain, which was read to the House at the last session, and I will now ask the Clerk to read again, the tenth article of our treaty at Ghent.

The Clerk read as follows:

Whereas, the traffic in slaves is irreconcilable with the principles of humanity and justice; and whereas, both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object.

Mr. GIDDINGS. I desire to say to the House and to the country, that as a nation we thus stand pledged to the civilized world, to the Christian nations of the earth to abolish the traffic in slaves. When gentlemen say, as I have heard it asserted here, that this compact was limited to the foreign slave trade, I meet them by the fact that one of the negotiators of the treaty, Mr. Adams, announced upon this floor that it had reference, not to the foreign slave trade, which had then been prohibited, but to the *traffic in slaves*—to the crime, and not to the place of committing it.

Here, then, we stand before the country pledged as a nation to abolish the *traffic in slaves*, and to-day I come home to this House and ask, will you redeem that pledge? Will Republicans redeem that pledge? Will Republicans wash their hands of this iniquity? I mean what I say, sir; I have sought for the last ten years to get this question before the House in a legitimate manner, but never have I succeeded until this moment; and now I rejoice in being permitted, before retiring from this Hall, to give to our southern friends an earnest of the intention I have heretofore manifested. I am prepared to meet this question now; and particularly am I prepared to meet it when the provisions of the laws prohibiting the African slave trade are set at defiance, and when the whole southern press announces that they cannot be suppressed in those States; and when they are now importing African slaves into those States, setting the laws at defiance; and while they are doing that, we, the northern representatives, are sustaining a coastwise trade in slaves—a trade which every statesman will admit is fraught with greater horrors than the African slave trade itself.

Mr. SMITH, of Virginia. I wish to ask the gentleman a question. What does the gentleman think of the Coolie trade, and the French trade in Africans?

Mr. GIDDINGS. I think it is just about on an equality with the coastwise trade. I am glad he has propounded that question. If the law authorized the sale of himself, I would repeal it; if it were the sale of his wife and children, I would repeal it. God knows I would go as far as any man upon earth. [Laughter.]

Mr. SMITH, of Virginia. Will the gentleman allow me to ask another question?

Mr. GIDDINGS. I cannot permit the gentleman to use up my time; but I will give him an opportunity to propound a categorical question, but not time for observation.

• Mr. SMITH, of Virginia. I would suggest to the gentleman that it would be well for him to consider the interesting fact that thirty-five vessels from the free States are engaged in the slave trade, to five from the South.

Mr. GIDDINGS. That is the very thing I wished to hear. I do not seek to shield northern pirates from the punishment which is their due. I would lay my hands upon northern pirates as soon as I would upon southern pirates. I am not sectional in my views. [Laughter.]

I was remarking, when interrupted by my friend from Virginia, that while the power of this Government is set at defiance by the South, and all its functions are rendered impotent to prevent the foreign slave trade, God forbid that northern men should sustain the domestic traffic. That is my view; and the question coming up legitimate, ly, if we proceed to reform the navigation laws of our country and leave this matter of the coastwise slave trade as it is now, every member of this body who refuses to vote that the law shall be repealed,

in substance and in truth, votes to continue it, and becomes involved in all the iniquities and all the bloodshed produced by that law.

Had I time, I would point out the horrors of this traffic. I had not been in this city forty days of my first term of Congress, when a man, in order to avoid the effects of this traffic, threw himself from the bridge on Twelfth street into the canal, and drowned himself. I would refer to the case alluded to by Mr. Adams, where a woman, imprisoned with her children in a slave pen, then not far distant, with none but the eye of God upon her, looked back to her home, with all of its endearments, from which she was separated, to the scenes and friends of her childhood, pondered upon her wretched fate until her mind was wrought up to that state of excitement that reason failed her, and she, becoming a maniac, took the lives of the children of her body, and then laid violent hands upon herself. Her spirit took its flight, and she appealed to Heaven against the men who come here and look without emotion upon this accursed traffic, and preserve this law in force. Sir, I would point gentlemen to that scene immortalized by one of our northern bards, in which a young woman fleeing from her pursuers reached the long bridge, and seeing no escape from them, jumped upon the parapet of the bridge, and plunged beneath the waves. Her soul ascended to her God and our God, and took an appeal against men here who are callous to the laws of humanity, and against those who give their sanction to horrors which no language can describe or depict.

I have another thing in view. I know I am unpopular in my views. Everything is unpopular upon this floor which has not reference to political matters. I want to make this a political question. I say to the gentlemen upon the other side that I desire to make an issue with the Democratic party of Ohio upon sustaining this very slave trade. Will they go with me upon that? I think they will. It will do us good, and them no hurt. Their story is told any how. I desire throughout the whole North to see this made an issue. Even in Pennsylvania, the State of my own nativity, I would see the question made directly to the people there, to see who will sustain this commerce in human flesh, and who are opposed to it. I am in earnest upon this subject. I do not know as you believe it, Mr. Chairman, but I believe it is a fact that my name has been suggested as a candidate for the Governorship of Ohio; and if I should be nominated, of which I do not think there is any real prospect, I want to make this issue directly with my opponent, and with the whole Democratic party; and I want to see my friend there from the metropolitan district of Ohio [Mr. Cox] driven from under the bush. I want to see him compelled to stand out and say whether he is in favor of continuing this slave trade, or whether he is against it.

Mr. COX. If the gentleman will allow me, I will say I do not understand that the Democratic party, North or South, are committed in favor of the slave trade; and the gentleman knows it well.

Mr. GIDDINGS. Well, I am glad he has announced it, and I want to hold him up to his constituents as denouncing the slave trade, and he will be buried so far out of sight that the hand of political resurrection will never reach him. He is an excellent gentleman, and if he repents we will receive him into the Republican ranks; though, like Paul, he has been persecuting the saints. [Laughter.]

As I was remarking, I desire that this question shall go home to the people. I desire to see my colleagues of the Democratic party upon this floor vote for my amendment, and not against it. God knows that I do not rejoice in the death of any sinner. [Laughter.] I would rather that they should repent and come with us. I want them to come out, however, and stand boldly upon their true position, whatever it is. I am in sober earnest. I ask gentlemen from the South, I ask gentlemen who are actuated by honest motives, and who stand boldly for what they believe to be right, to bring these men out. Will you do it? Let us put them upon the record. Let us have a vote upon this amendment. Let it go into the House, where the yeas and nays may be called on it. Let gentlemen take their position as they please. This is a legitimate party question. I hope gentlemen will meet it manfully.

Mr. Chairman, I feel humbled by the position

of my country when I call upon statesmen, members of this body, to stand out in their proper character while acting for the nation, for posterity. For twenty years I have labored to get gentlemen to take their true position; yet I am sure that we shall find members of this body endeavoring to avoid a vote on this amendment by yeas and nays. If they do that, let the fact be known. I hope, however, that it will be allowed to go to the House. I say to southern gentlemen, you want to know who are your friends; and so do I. [Laughter.] It is for your benefit that you should know them, and it is for our benefit to know them also. I believe it will be good for the souls of all of us. I believe it will do them good. I know that this looks as if I were making light of the question. It is not so. In my heart, in my conscience, I feel that it is a serious, a high, and an important question; one as serious as was ever propounded to this Congress, or ever will be. It goes right home to the conscience of gentlemen. We do, each of us, maintain this slave trade, or we do not; and I ask members to do themselves justice, and speak boldly their own words, and give their own votes. I rejoice in having this opportunity of clearing my own skirts of the iniquity of this commerce in human flesh, as I do by the submission and advocacy of my amendment. I expected to leave the service of my country in this body without having that opportunity, until my friend from New York [Mr. JOHN COCHRANE] reported this bill. I rejoice that I have had the opportunity of laying this amendment before the House. I ask southern gentlemen and northern gentlemen to come up and maintain the right of the people of the free States to be exempt from all participation in the crime and wickedness of this coastwise slave trade, and strike from our statute-book the law which authorizes it.

Mr. COX. Mr. Chairman, as my friend from Ohio has seen proper to refer to me in the course of his remarks in reference to his amendment, allow me to pay my respects to him for a few moments. The other day, when the gentleman spoke in the Committee of the Whole on the state of the Union, he gave expression to ideas to which I believe the people of his State and mine will not yield their assent. That speech, which was not unlike his speech of to-day, was rather for the purpose of a warning and a threat to his own Republican friends, than as a challenge to the Democratic party.

The CHAIRMAN. The time for general debate has expired.

Mr. COX. I hope I may be permitted to proceed.

Mr. JOHN COCHRANE. I will yield to the gentleman from Ohio to go on with his remarks, if there be no objection, and it is not taken out of my time.

Mr. WASHBURNE, of Illinois. I wish to make a remark. The general debate is closed. This is a long bill; and I tell the gentleman from New York, that if he does not insist upon the strictest enforcement of the rule that members shall be confined in their remarks to the pending amendment, he will never get through ten pages of his bill.

Mr. JOHN COCHRANE. It is my intention to do so when the committee gets to that stage of the bill.

Mr. COX. I hope the rule will not now be enforced upon me. I will move an amendment, or ask unanimous consent to go on with my reply.

The CHAIRMAN. Is there objection?

Mr. MORGAN. Does the gentleman from New York waive his right to close the debate in a speech of one hour?

The CHAIRMAN. He does not.

Mr. MORGAN. Then I insist upon the enforcement of the rule.

Mr. KELLOGG. I hope the gentleman will withdraw his objection. The gentleman from Ohio [Mr. Cox] ought to have leave to reply to his colleague.

Mr. MORGAN. I must insist upon my objection.

Mr. JOHN COCHRANE. I am willing to yield to the gentleman from Ohio, provided it is not taken out of my time.

Mr. MORGAN. As there seems to be a general desire that I shall withdraw my objection, I do so. After the conclusion of the gentleman's remarks I will insist upon it.

Mr. COX. Mr. Chairman, I prefer to reply to the remarks of my venerable friend now, because I do not want them to go unanswered to the people of Ohio. He has endeavored to place his colleagues here in the position of sustaining the slave trade; when he knows, as well as any man in this House, that the Democratic party, North and South, have, by their solemn action in the last Congress, voted that it was inexpedient and unjust to reopen the slave trade; and when he knows that the great body of the people, North and South, is opposed to that trade. And, sir, when he tenders that issue to the Democratic party in Ohio, or elsewhere, he tenders an issue that cannot be made up before the country. The gentleman knows full well the legislation on the subject; and, so far as I know, we have laws stringent enough at present against the slave trade; for they make it piracy.

Mr. GIDDINGS. I have referred to the coastwise trade.

Mr. COX. The gentleman undertook to place the Democratic party in a false position. He undertook to convey the idea in his speech that the party to which I belong was a pro-slavery party, when he knows, sir, better than any other man, that that party is neither a pro-slavery party nor an anti-slavery party; that it has always planted itself upon the doctrine that Congress should not interfere in relation to that subject, either to establish or to prohibit it; and that by no congressional contrivance should it compel territorial or State Legislatures, in any way to establish, prohibit, regulate, or interfere with, the institution of slavery. It leaves that subject to the people to deal with as they may think proper; to deal with it by the popular ballot, by the voice of the majority, which is the largest reach of popular and personal liberty.

I know the theory of the gentleman. It is based on an equality which he finds in the Declaration of Independence. He misinterprets that declaration as he misinterprets the Democratic policy; for I say that the highest refinement of personal liberty is that which is called popular liberty. It includes all other liberties. The right to cast a ballot in respect to local affairs is the sacred emblem and instrument of true republicanism. That little quiet right, which every man exercises when he drops his ballot, as the snow flake, may seem nothing in and of itself, but it becomes, by combination, the voice of a great people. It becomes an avalanche of power, which makes our constitutions, which protects property, conscience, reputation, life, and personal liberty. Popular liberty is the doctrine of the Democratic party; and the gentleman cannot lay down any doctrine which would subordinate the rights of popular liberty to his philanthropic ideas in regard to personal liberty.

Mr. Chairman, allow me simply to say this here: the gentleman has seen proper to say that he was spoken of as a candidate for the governorship of our State. I am sure I mean no disrespect to him when I say, that I hope he may be nominated, and that his friends will have the courage to stand on his doctrines as he enunciated them. I know that during the last canvass in Ohio a large segment of the Republican party, in my part of the State, held, with the distinguished ex-Governor Corwin, to the idea, that the Philadelphia platform did allow the admission of slave States. Yes; and they quoted the vote of the honorable gentleman himself on the Crittenden-Montgomery bill to sanction the doctrine. [Laughter.] Now, my friend, who is a sort of Jove on the Republican Olympus, hurled two epistolary thunderbolts against Governor Corwin, but never got a response from him. Let the gentleman come to Central Ohio, and we will give him a hearing and a warm welcome. Let him come there with his theories on personal liberty, and we will give him time to ponder on the philosophy of old Aristides, who said that he yielded to the popular will in every regard, even when it drove him into exile. [Laughter.]

But, Mr. Chairman, I will not detain the House further. The gentleman planted himself, in his speech the other day, on the idea of negro equality with the white man. True, he did not come up to it exactly in his printed speech, but he did so on the floor. I notice, that in his printed speech he has interpolated the idea that he was not willing quite that the African should vote in

our elections. Now, let him come up manfully and carry out his own ideas of equality. We will meet him on that, as we will meet him at all times in regard to all his ideas.

Mr. GIDDINGS. The gentleman has totally misunderstood me.

Mr. COX. Is the gentleman in favor of allowing the negroes of Ohio to vote?

Mr. GIDDINGS. I have expressed no opinion on that subject. [Laughter.] But if the negro have equal intelligence and morality and virtue, I would give him all the rights that I would give to my friend. I judge men by their virtue and intelligence, and not by their complexion.

Mr. COX. Is my colleague willing to give to Africans in our State the right to vote?

Mr. GIDDINGS. I am willing to give that right to all men of equal knowledge, morality, and virtue.

Mr. COX. Will the gentleman come out and answer my question categorically?

Mr. GIDDINGS. I will. I say that so far as the negroes equal the members of the Democratic party, in knowledge, morality, and virtue, I will give them leave to vote.

Mr. COX. I have heard the gentleman state this insult before in one of his letters; but why does he not come up to his general position and say whether he is or is not in favor of African equality and negro suffrage in Ohio?

Mr. GIDDINGS. I repeat what I have just stated; I put the negroes and the Democrats on the same footing.

Mr. COX. Answer the question, sir. The gentleman talked about my hiding under the bush. Let him come out, if he dare, from his covert! [Laughter.]

Mr. GIDDINGS. I say that I do not interfere in this question as to superiority between the Democrats and the negroes.

Mr. COX. He talks of his Democratic colleagues skulking under the bush. He himself now shirks. He dare not answer my question. I will not press the gentleman further. My respect for him will not allow me to put him to the torture further. He never could get the nomination for the governorship if he had answered my question categorically; and I am anxious he should be nominated. [Laughter.]

Mr. GIDDINGS. So far as the Democratic party is concerned, I repeat that I judge the Africans by their intelligence and virtue. I do not enter into the quarrel between them with the Republicans. I do not mean to put them on an equality with the Republicans.

Mr. COX. The gentleman does not answer my question. I therefore will not press him further.

All that I wished was to put the Democratic party right in regard to this matter of slavery; and they are right on it. The gentleman may go on and get the nomination for the governorship, and make his alliance, if he can, in northern and southern Ohio, and we will meet him at Philippi.

Mr. STANTON. Mr. Chairman—

Mr. HOUSTON. We have had enough of this discussion, and I object to its proceeding any further.

Mr. STANTON. I wish to know from my colleague whether he is in favor of allowing the people of a Territory, before they are organized, to decide whether they will or will not have slavery in it?

Mr. HOUSTON. I object to further debate.

The CHAIRMAN. The gentleman from Ohio is not in order. The gentleman from New York [Mr. JOHN COCHRANE] is entitled to the floor.

Mr. JOHN COCHRANE. In rising, Mr. Chairman, to speak to the merits of this bill, and to review what has been said in the debate upon it, I do not propose to follow the example of those who have departed from the issue under consideration. I had no idea, when proposing to the consideration of the committee the bill before it, that we were to embark on a sea either of abolitionism, or of slavery discussion. I had no idea that a simple question of the codification of commercial laws was to launch us on that vast ocean of discussion which has agitated this Union for these many years, or was to convulse us with laughter, or depress us with dismay.

I shall be permitted, I hope, sir, to proceed in order to close the debate upon the subject proper, and which is catholic to the interests of this country in their whole connection.

Mr. BARKSDALE. I desire to ask the gentleman from New York whether this bill affects the tariff directly or indirectly?

Mr. JOHN COCHRANE. I answer categorically, that it does not. The bill has special reference to those vast interests which constitute and cement the mutual obligations, not only of this people, but of all other people. It is a bill having reference alone to the laws which it purports to codify and amend—the laws regulating the details of those commercial transactions connected with foreign imports and domestic exports.

Mr. MORSE, of Maine. Before the gentleman from New York proceeds with his general remarks, in closing this debate, I wish to say that his resolution, putting a stop to debate, got through the House without my notice, although I thought I was attentive, as I generally am, to the business of the House. We have had three long speeches in favor of this bill, and only the comments of one gentleman against it. I desire before the debate is finally closed, and we are brought to a vote upon it, inasmuch as my constituents have very important interests involved in it, to submit a few observations upon the bill. It proposes some six radical amendments of existing law; it is not a bill merely for codification. And I was in hopes that the gentleman would not press it to a vote until those of us who desired to express our views in regard to it had had an opportunity of doing so. If he presses it to a vote now, I shall be compelled to vote against it.

Mr. JOHN COCHRANE. It has not been my purpose to press for action upon this bill until those gentlemen who desired to speak upon it had had an opportunity of expressing their views. It has been my purpose, on the contrary, that those who entertained opinions against the bill, either as a whole or in its special parts, should have ample means and opportunity of expressing those opinions. I supposed that there were no more speeches desired either to be heard or made, and I believe so still. And with every consideration for the gentleman from Maine, I would say that although the general debate is now closed, yet when we come to vote upon amendments, there will be ample opportunity for him to express whatever views he may entertain.

Mr. MORSE, of Maine. I would ask the gentleman how long a member can speak upon an amendment?

Mr. JOHN COCHRANE. Five minutes.

Mr. MORSE, of Maine. The gentleman himself occupies two hours—an hour in opening, and an hour in closing the debate—and generously grants us five minutes!

Mr. JOHN COCHRANE. I think it is the temper of the committee that this debate should be brought to a close, and in obedience to its manifestation, which I thought I perceived, I offered the resolution to close debate. I heard no objection to it at the time. Had I heard any, certainly courtesy would have demanded that I should have yielded to it, and have expanded the time allowed to any reasonable limit that could have been desired. I may add, and I hope without offense, that we evidently had arrived at a period when the committee had departed by unanimous consent from the consideration of the merits of the bill, and had embarked on a voyage to the undiscovered, and I may say the undiscoverable land where slavery and abolition on the same soil thrive; and I think it was indeed high time that the debate should be closed. Indeed, sir, ample evidence is there to my mind that all debate upon the merits of the question had been exhausted. I cannot, however, but regret that the close of the debate has denied, however inadvertently, to the House, the benefit of the intended remarks of the gentleman from Maine.

I propose now, sir, to detain the committee but a brief period, with as concise an exposition of my views regarding the debate which has been had upon this bill as it is possible for me to present. There can be no question that this is a grave and important subject. There is not a gentleman here who can lay his hand upon his heart and declare that this is not the most important of all the subjects that can be presented to the consideration of an American Congress. I challenge gentlemen to a denial of the fact. I treat them to a full apprehension and just consideration of the proposition which I announce. Is this not an important subject? Is there any more important

subject? The debate which has occupied the attention of the committee to-day, wandering in departure, as it has, from the merits of the bill, sinks into utter insignificance beside it. Why, talk, sir, of the merits of an institution at the South, or of the opposition of abolitionism to that institution at the North? These are elements of distraction to the Union. Commerce is the alone element of its cement. Deprive this people of their commerce, and of its combining influences, and in ninety days from the hour of the irregular debate which has preceded me, you will produce a dissolution of this Union, and a scattering of these States which compose it into their original fragmentary elements. Sir, what is it that constitutes a people? What composes and adjusts its institutions? What elevates a nation above all its fellows, and gives it a preponderating influence in the councils, and control in the affairs of the world? What, I ask, if it be not their commerce, their consequent wealth, and the multitude of their richly-laden argosies, the potential magnitude of their navies? If this be so, is that a diminutive or insignificant subject, I ask, which proposes laws to that commerce, to regulate it in all its ramifications, to the full fruition of its catholic influences, and without which laws, and without which regulations, even commerce must fall to decay, and the nation itself be shorn of its power and glory?

It is, sir, upon this principle that I press this question upon the consideration of the committee to-day. When gentlemen tell me that the time is not sufficient to allow a consideration of this code, I answer them with the question, where are the hours which have glided away since the convening of the first session of this Congress? Where are the days which have elapsed since the report made of this bill and its location upon the desks of members? Gentlemen require now that more time shall be given. Time—for the comprehension of what? The comprehension of laws that have existed since 1785. The comprehension of innovations upon those laws? Oh, no! sir; but simply of the repeal of such of those laws as are become useless, and of features in this bill necessary to supply defects in the original laws, created because of the implied repeal of those I have referred to.

It has been announced by my honorable friend from New York, [Mr. CLARK,] to whose speech I listened with pleasure and attention, that if this code (as it has been baptized) had been presented to the consideration of the House, sanctioned by the authority of a commission, it might have been received upon the faith of that commission. Evidently this opinion refers to the manifest impossibility that every member of this House should examine it; or, if perchance examining it, that he should fully understand a subject which in many of its parts descends into professional technicalities and special phraseology. Let me for one moment apply myself to this judicious remark of my honorable friend from New York. I grant you that the work of a commission appointed by this House should be received with great respect, nay, bowed to with that entire deference that it should be received, acted upon, and passed.

Now what is the position of this bill here to-day? Why, sir, in 1853, the question was propounded to the then Secretary of the Treasury, Mr. Guthrie, "Shall the existing revenue laws be revised; and if so, what provisions will you propose?" In 1854, the question thus propounded was answered in the affirmative by that able officer; and a collection of laws which he had made was deposited upon the desks of honorable gentlemen. Since that time, and up to 1858, have gentlemen of various employments been engaged upon that collection of laws—experts, collectors of the customs, naval officers, surveyors, district attorneys of the United States, two Secretaries of the Treasury, and two of the Committees on Commerce of the House; and here is now presented their united work before this committee—the result of their joint labors; and now, of a necessity, you have that painfully prepared work under consideration. If you were to propound anew the question, "Shall there be a commission?" and to offer a limit to the time during which it should sit, no gentleman would propose as great a number of individuals of greater acquirements, or more profound attainments, than possessed by those I have named; and certainly no gentleman could

ask that a longer period than five years should be given for the work of codification. Here, then, we stand at this moment of time; in effect, brought broadly within the proposition executed of my friend from New York, [Mr. CLARK,] that a commission shall proceed, amply qualified and provided with full time to consider, and with an auspicious opportunity to place the result of their deliberations before the House for its judgment.

I do not mean to say that this bill is, in all its parts, unobjectionable. Had the work of collection and codification been confided to me, I, perhaps, in the exercise of an individual judgment, would have produced quite a different result. Though, in some of its parts, it may be offensive, and that not greatly offensive, to the views of some individuals, yet, as I stated before, as a whole, it has received the approbation of all interests, and of all gentlemen qualified to judge, and authorized, either by qualification or position, to pronounce judgment in the case. The criticisms which were bestowed upon many parts of this bill by my colleague from New York, [Mr. CLARK,] were in some respects just, and had my sanction, not only at the time they were addressed to the House, but had previously commanded my favorable attention. I speak now more particularly of that part of the bill which has been pronounced the apprentice system—a system for which, under ordinary circumstances, I would cast my vote; but which yet, in many of its features, is perhaps imperfect and ineffective.

The causes proclaiming the want of such a system must be obvious to all. It has been stated that it is requisite to our Navy that there should be a nursery for seamen. Many views have been entertained by different gentlemen upon this floor regarding the constitution of that nursery, and its management. Some rely upon our cod-fisheries, some upon our coastwise trade, others again upon our whale-fisheries. Yet the result proves that neither nor all are competent to the attainment of the object. The facts are, that, at the present time, no statement in reference to the percentage of American seamen in the American marine service makes it more than ten per cent.; while the probability is, that it does not exceed two per cent. And if there is not in the merchant service a greater proportion of American seamen than two out of every one hundred employed, I ask gentlemen here what the result denotes? It is, in my judgment, significant of the fact that the nurseries relied upon for seamen for the American Navy are totally inadequate to the accomplishment of the object. Then it is clear that such a nursery is still requisite. How are you to produce or implant such a nursery, if not by recourse to an apprentice system—a system which shall draw from the teeming population of our large cities and towns that multitude of youth running in riot, at once the architects and the victims of ruin?

It is suggested by my colleague that all this should be done at the public expense. What is public expense, if not the expense of those most directly interested therein? It is not the expense of A, B, and C, possessed of no controlling interest, and in nowise affected by the means resorted to, or by the object to be attained. In its true and proper meaning in this connection, the public expense is the expense of that class of men whose interests alone are affected. I do not mean to confine these remarks to ship-owners merely. It is a more general and catholic view which, in this sense, should be extended over the land. It should in some degree affect the Treasury which is composed of contributions by all. Yet the direct control of it should be lodged in those immediately interested; otherwise the system, when adopted, must fall into decay, and eventual ruin.

But while taking the position that an apprentice system is necessary, I also avow, in my place, that such a system is not entirely germane to a bill, the object of which is, as I have expressed it, a collection of revenue laws; and I am unwilling that opposing views upon such a question, not necessarily pertinent to the laws which we have under consideration, should in any degree be permitted to affect the integrity of those laws, or to diminish the prospect of their passage. I therefore, at this present stage of my remarks, give notice that, at the proper time, I shall move to strike out that section of the bill referring to, or in any wise proposing, an apprentice system.

To another branch of the subject shall I now

direct myself. It is to that part criticised at large by my colleague from New York, [Mr. CLARK,] and as I deem with great injustice, unwittingly, no doubt, and with some degree of inaccuracy of statement. To that inaccuracy I shall allude, and, if satisfactorily demonstrating to my colleague his error, he will doubtless correct it. It is in reference to what is found in the first section of chapter ten, page 251, which is to this effect:

Be it enacted, &c., That in lieu of the deduction prescribed by law from the wages of mariners, for the purpose of providing for sick and disabled seamen, and of certain fees now imposed by law, there shall be levied and collected from each steamship or other vessel, on the registry thereof as provided by law, and on each renewal of such registry, except in case of a coasting registry, an hospital duty of three cents per ton; but such duty shall not be collected of such steam ship or other vessel more than twice in each calendar year; and there shall also be paid on each registered steamship or other vessel of the United States, arriving in the United States from any foreign port or place, an hospital duty of three cents per ton; but such duty shall not be collected of such registered steamship or other vessel more than twice in any one calendar year: Provided, That the master or owner of any steamship or other vessel engaged in the foreign or coastwise trade is hereby authorized to retain the amount of such hospital duty, for which such steamship or other vessel is liable, from the wages of each seaman employed on board thereof, in proportion to the time and wages of such seaman.

Now, Mr. Chairman, I hope that I may have the patient attention of the committee. In the first place, I will say that it is not proposed to change in any particular the principle or the policy of the existing law. It is but proposed to increase the hospital fund. I will now proceed to show how it is not proposed to alter or modify either the principle or policy of the present law.

Mr. CLARK, of New York. I ask my colleague if he does not propose this: that the fund which has been heretofore raised by deduction from the wages of mariners shall henceforward be raised by means of impositions upon tonnage?

Mr. JOHN COCHRANE. The answer to my friend's question is this: the assumptions of his premises are not justified by the law as it stands. As the law is, the exaction is not primarily from the sailor, but upon the ship-master or owner. The law is to this effect:

"That from and after the 1st day of September next, the master or owner of every ship or vessel of the United States, arriving from a foreign port into any port of the United States, shall, before such ship or vessel shall be admitted to entry, render to the collector a true account of the number of seamen that shall have been employed on board such vessel since she was last entered at any port of the United States, and shall pay to the said collector at the rate of twenty cents per month, for every seaman so employed, which sum he is hereby authorized to retain out of the wages of such seamen."

So, then, if this language speaks plainly, the conclusion is inevitable that the master or owner is primarily liable for the twenty cents per month, and the payment which is the condition precedent for the entry of his vessel—the payment, by the master or owner, of twenty cents per month for each seaman employed. If he does not pay it, the vessel cannot be entered; and, without entry, where is the use of either tonnage or shipping to ship-owner or master? So, then, sir, it appears that my proposition is true, unalterably true. Now, when this bill is compared with the old law, where, I ask, is the change? Is it wherein it imposes a hospital rate upon tonnage? Who represents the tonnage? It is the ship-owner. He is liable; and he it is who also is liable under the present law. At what rate under the present law? At the rate of twenty cents per month for each seaman employed by him. At what rate under this bill? At the rate of three cents per ton. Where, then, is the difference between the ship-owner or master being liable at the rate of twenty cents per month for each seaman in his employ, and the ship-master or owner being liable at the rate of three cents per ton for every ton of his vessel? None. Then the question, in this aspect, resolves itself to this simple consideration: is there reason for increasing the fund? is there reason for changing the rate? I will proceed briefly to answer these questions according to the statistics which have been previously alluded to in the course of this debate.

It seems that in the fiscal year ending the 1st of July, 1857, there was expended by the United States, for the benefit of sick and disabled seamen, the sum of \$343,934. There was collected from the class (the sailors) who ought to have contributed the same in its entirety, the sum of \$167,325; leaving to be paid by the people of the United States, for the benefit of the sailors pri-

marily, and secondarily for the benefit of the ship-owners, a class exclusively interested in the toil and labor of the sailor, the sum of \$176,609; and, sir, at this present session this House will be called upon to make an appropriation of a similar nature, and of nearly the same amount, to supply the existing deficiency in the hospital fund of the present fiscal year.

Now, sir, whence the abuse which swells this fund to this amount? Is it the fault of the law now proposed, or is it the fault of the law of 1798? Clearly not; and my friend, when he sought to load this bill with the odium of that abuse, inflicted an injustice upon the bill.

I agree with my colleague in his condemnation of abuses; and when he proclaims his opposition to them upon this floor, and undertakes the herculean task of cleansing the Augean stables that reek and groan with the corruption of patronage, I will yield to his exclamation, come on! and I will follow him where he chooses to lead. But when embarking in that crusade, I do not forget that it cannot affect the merits of the bill upon which this controversy is raised. I do not forget that this bill and the present law are innocent of these occasions. The most practicable and infallible laws of man's device are subject to abuse. Laws and principles are perfect when they accommodate themselves to the perfection of reason, though their administration is often imperfect and corrupt. I admit freely the abuse which has prevailed in the dissipation of Treasury funds for erecting marine hospitals at points where there are few sailors to be relieved, and while exposing other points destitute or miserably provided with accommodations for the sick and disabled that there abound. I admit such abuses and proclaim that the people are wronged, and their representatives defrauded.

Mr. CLARK, of New York. Will my colleague permit me to ask him whether it would be necessary to impose these tonnage dues but for the necessity that exists to sustain the system of marine hospitals?

Mr. JOHN COCHRANE. I answer my friend with a great deal of pleasure, that not one penny of the money collected and contributed for the relief of sick and disabled seamen, ever has gone, or, under the proposed law, ever will go, to the erection of marine hospitals.

Mr. HOUSTON. I desire to ask whether, under the existing law, the money does not ultimately come out of the pockets of the sailors?

Mr. JOHN COCHRANE. It does undoubtedly.

Mr. HOUSTON. And whether, under the proposed law, the money will not also come out of the pockets of the sailors?

Mr. JOHN COCHRANE. I answer distinctly in the affirmative, to both of these questions.

Mr. CLARK, of New York. On that point I desire to call the attention of my colleague to the bill, and he will see that no practicable means are provided whereby the owner can get the money back from the sailor.

Mr. JOHN COCHRANE. I must throw myself on the indulgence of the committee, and my friends, if hereafter I decline to be interrupted by questions. I have but a few brief moments left in which to present the merits of the bill. I have thus far had but one hour in which to present them, while many of my friends on the floor, in effect, declare that twelve months have not been adequate for them to consider its provisions. I therefore trust that I will be allowed to proceed with these remarks, imperfect as they are, and still to endeavor to satisfy the committee that the work of the commissioners, at which they have labored now for five years, is not obnoxious to the objections that have been raised against it. Sir, the refutation of the proposition of my friend from New York is contained in this language of the amendment proposed to the bill by the Committee on Commerce:

Provided, That the master or owner of any steamship or other vessel engaged in the foreign or coastwise trade, is hereby authorized to retain the amount of such hospital duty for which such steamship or other vessel is liable, from the wages of each seaman employed on board thereof, in proportion to the time and wages of such seaman.

Mr. CLARK, of New York. My friend certainly does not mean that the owner of the ship may retain the money from each of the seamen.

Mr. JOHN COCHRANE. My friend does

not read accurately, or has not had his attention directed sufficiently long to the text of the amendment, to receive its full force. I will, therefore, again direct his attention to it; and after that, I must peremptorily decline, and shall certainly insist on exemption from further interruption. The pertinent portion of the amendment is this:

"The wages of each seaman employed on board thereof, in proportion to the time and wages of such seaman."

I am sorry that even this unmistakable language of the section is not satisfactory to my friend from New York; and it is with the severe weight of this sorrow upon my bosom that I proceed with the remainder of my remarks, knowing that, however convincing they may be to my other friends on the floor, my friend from New York will remain unsatisfied still.

It, sir, became the bounden duty of this Government, on finding that the contributions for the relief of the sick mariners were not sufficient to supply the deficiency, to devise the requisite remedy. They have done so, and they intend to supply it by this process. I will now refer the committee to the details from which the commission have been able to propose this section. The total tonnage of the United States amounts to four million nine hundred and ninety thousand eight hundred and forty-three tons.

Mr. MORSE, of Maine. Over five millions.

Mr. JOHN COCHRANE. This is the last return.

Mr. MORSE, of Maine. There is a later one than that.

Mr. JOHN COCHRANE. The tonnage at present may somewhat exceed that amount. It is supposed that our tonnage increases annually about twelve thousand tons. I know it has been stated in some quarters that it amounts to over five millions. But these are the figures that have been taken from statistical returns deposited in the proper Department. Of this amount, two million four hundred and sixty-three thousand nine hundred and sixty-seven tons is registered tonnage, or tonnage engaged in the foreign trade. The balance, two million four hundred and seventy-six thousand eight hundred and seventy-five tons is coastwise or enrolled and licensed tonnage. It is proposed by the bill that this tonnage shall be taxed three cents to the ton, and that the tax be levied on all the tonnage upon its registry. The bill calls primarily for the registry anew of all the tonnage of the United States. That is one of the elements of increase which we contemplate. We have counted, secondly, on the renewal of each register not more than twice each year; thirdly, on the arrival of each registered steamer or other vessel of the United States from foreign ports, twice each year; fourthly, on each foreign vessel arriving in the United States, not to exceed twice a year; and fifthly, on the renewal of each coasting vessels' register, three cents per ton on every such arrival and renewal of register. It is necessary here to understand that the registry of each coasting vessel must be renewed annually, for the registry, by its own limitation, expires at the end of each year.

Now for all these elements. I have made up a table of estimates which have been approved by the Department. It is founded on statistical returns to the Department, as well of our shipping to foreign ports, or coastwise shipping, as of the annual arrivals of foreign vessels in ports of the United States, and of the annual arrivals here of our own vessels from foreign ports. These figures, at the rate of three cents per ton, will give the sum of \$418,981 for the first year of the operation of the law, the same amount that I stated in answer to my colleague some days since. For the second and all subsequent years, the same table gives \$344,961, annually. So you will perceive, sir, that according to the estimates based upon the statistics of the Department, the tonnage contributed would approach, in some degree, the sum which this Government is annually expending for the relief of sick and disabled seamen. I do not mean to be understood that it is precisely the sum. It, in fact, exceeds it, according to this computation, by some thousands of dollars the first year, though no more than equalling it in other years. But that which is computed now of expenditure, is sure to be exceeded hereafter by the growing wants and with increasing commerce of the country; and it may be supposed that any excess of one year will be carried over to the credit of the

ensuing year by the officers of the Government intrusted with the dispensation of the funds.

Sir, were our ancestors right in establishing and enacting a law of this description? Is there no reason for the protection of the sailor?—he who, because of his devotion to the interests of the shipowner, has become emasculated for the land, is the very child of the sea; he who, of proverbial recklessness and of traditional providence, whenever he sets foot upon the earth is the victim of the land-shark, the plundered of every marauder and robber-ruffian of the street? Our progenitors thought it reasonable, they thought it their duty to care for such men as they would care for the lunatic and the helpless. They thought, too, that he for whose benefit the sailor labored; he in whose cause he contracted these helpless habits—the shipowner or master—was of all others the one who should be charged with the collection of the fund for his benefit, and with its distribution. Great and beneficial as commerce is, true and catholic to the interests of all, faithful adherent as it must and ever will be to the whole interests of all the nations, yet commerce should be loaded with this condition, to care that those who have suffered in its service shall not want in the days of their destitution. Sir, such is the argument for the law as it stands, and the same argument inures to the benefit of the law that is proposed. I therefore say that as our predecessors have pronounced, so pronounce I; and as all reason pronounces, so will this committee affirm. The reason is a just and laudable reason which stimulates care for those made helpless in consequence of their labors for the common weal. While honorable gentlemen are pensioning those who have performed services for their country of at least questionable benefit, loading thus the Treasury with a heavy pensionary fund, it is, to say the least, equally wise and patriotic to pension those who now engage for the public good upon the wild and turbulent main.

Sir, I might proceed with this argument much further. I might wisely refer to the particular provisions of this bill, which appeal to the minds and to the judgments of all. I might declare here, upon my honor as a legislator, my faith and individual reliance that no better law than this can be now presented to the House for its action. It satisfies me, and I am content to proclaim here, on the authority of the present incumbent of the Treasury Department, that although there are errors in this law which meet with his disapprobation, yet—and I can hardly impart to the language the emphasis of its author—yet he prays and implores this House that if they wish the revenues of the country to be collected, if they wish the duties of his Department to be performed, if they wish the reputation of this land to be conserved, they will pass the law as it is proposed.

We have now an army of law, covering a track of time more than sixty years. Who is there here who will undertake to pronounce upon those laws? Who is there upon our judicial tribunals who has succeeded in expounding them? The voice of Story, which I have repeated to this House, and the voice of Grier, in solemn judgment, have proclaimed that the revenue laws of this land are but a vain delusion, a "tinkling cymbal," without consistency or unity, destitute of all fixed rules and possibility of determination.

Now, gentlemen may say that because this is a long bill, they cannot act upon it. If this be a reason for rejecting a law, God save the Republic! I trust, in truth, sir, that there is no reason of such description gathering its ominous weight here to-day. It is impossible that gentlemen should understand the technicalities and the references in detail of this bill to the subjects to which it relates. I am doing them no injustice when I say this. The most astute and profound lawyer in the land would not be able to comprehend the formulas of the customs and of the collection of the revenues. It would require familiarity with the purlieus of the custom-house, with the decks of ships, and with the wharves of cities, to enable each to understand the details of the bill. He who would make the attempt would be justly chargeable with a folly little less than that of the fabled animal which perished in its attempt to comprehend and attain unnatural dimensions.

I find, Mr. Chairman, that if I pursue the thread of my argument, I shall arrive at the limit

of my time without having finished all that I designed to express. It were better, therefore, that with as few remaining remarks as possible, I should bring my vindication of this code to a conclusion. Yet I cannot forbear mentioning one other subject of deep and abiding interest to the shipping interest of the whole land. If there were no other provision in this body of laws, yet, for the sake of this one, it should become a law by the sober, rational judgment of this committee. I allude to the provision for the improved admeasurement of vessels—a provision which appeals to ship-owners, to ship-masters, and to all others, for their approval. At present, our marine models are suffering and our ships-owners are suffering, because of the unjust and ruinous method of ship admeasurement which prevails. I will not enlarge upon this subject more than to refer gentlemen again to that part of the speech which refers to it, which I made in producing this subject before the committee.

I should, however, say that the provision has the cordial approbation of the Secretary of the Treasury, and is asked for with earnestness by merchants throughout all our coasts. Sir, the nature of the act which we are discussing is the most interesting and grave which can present itself to the representative body of any people upon earth. It appertains to a body of laws which refer to the integral existence of the people intended to be governed by them. Without them the commerce of the country would perish in a day; without them, the prosperity of your country would be blighted, and this union perish within the period of the annual orbit of the earth about the sun. Commerce, sir, is that which is the vitality and constitutes the existence of the nation; commerce is that in which consists civilization, which invites religion, and administers to science and art. Without these proposed laws, this element must perish; without these laws, prosperity must decay, and the nationality of all people must languish and dissolve. Therefore, with all the sanction and power with which commerce may appeal to the judgment of men, is it that this body of laws is presented to the consideration of the committee.

Sir, there is a destiny moving forward upon this people, and that, too, with a fatal celerity. It is the destiny of local dissensions and factious strife. It is only to the benign, genial, and generalizing influences of a national commerce, that we can look to escape the quicksands and shoals of utter ruin. Past this destiny of the future, and over a peaceful sea, are we to be piloted by those who stand at the helm of our ocean marine, and thence give rank and position to our country, and make laws for the world. Sir, what is it the public mind is now most busy about, if it be not about our commercial relations with the nations of this continent reposing at the South; if it be not about those relations with the nations of the Levant, and in the far East? Through such channels flow our staple products, in ceaseless commercial exchange, as ever and beneficently flows light through the circumambient atmosphere. Part, then, with this support of national existence, and you extinguish the only remaining light of this western hemisphere; you extinguish the rays of ancestral patriotism, and reduce the American Republic to the isolated position of the far away Grecian Republic.

Sir, it is under the guidance of such laws that your vessels traverse the Atlantic, and plow the waves of the Gulf; that they seek the far distant eastern and western South American coasts; and distribute and convey every where American commerce—the greatness and the glory of the American name.

It is under such auspices that the bill comes before you to-day. Thus is it that in its relations it is intimately identified with high patriotism, with the good of the people, and with the interest and prosperity of the country at large; and I trust that the House, as the Representatives of that people, and the agents of that prosperity, will undertake these various provisions and deal fairly and faithfully with them, according to the demands of the trust that is reposed in it.

I do not propose to state the details of this bill in their enumerated order. I leave that for the time when the bill is in order to be read section by section, at which time I propose to do so in answer to objections which gentlemen may urge

to its various parts. I hope that a fair vote will be taken upon such amendments as may be offered, and that as the committee may determine favorably so the House will agree, and the commercial interests of the country, now intent upon our action in breathless attention, will not be permitted to languish longer in disappointment, but be encouraged by the gratifying intelligence of the passage of this act.

Mr. JONES, of Pennsylvania, obtained the floor.

Mr. COMINS. If the gentleman will give way, I will move that the committee rise.

Mr. JONES, of Pennsylvania. I merely wished the floor for the purpose of making a few remarks, and then making a motion. After that, I will yield to the motion to adjourn.

The CHAIRMAN. No debate is in order until the Clerk reads the first section.

Mr. JONES, of Pennsylvania. I move to strike out the enacting clause of the bill.

Mr. PHILLIPS. If my colleague now yields to the motion that the committee rise, will his motion come up when the consideration of the bill is resumed?

The CHAIRMAN. It will.

Mr. JONES, of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. COMINS. I move that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SMITH, of Tennessee, reported that the committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (H. R. No. 487) for the codification of the existing revenue laws of the United States, and for other purposes, and had come to no resolution thereon.

RESOLUTIONS OF THE STATE OF GEORGIA.

Mr. GARTRELL, by unanimous consent, presented the following resolutions; which were referred as indicated below, and ordered to be printed:

Resolutions of the Legislature of the State of Georgia, asking for the establishment of a daily coach mail line from Atlanta, via Roswell, Alpharetta, Cumming, to Dahlonega, in said State. Referred to the Committee on the Post Office and Post Roads.

Resolutions of the Legislature of the State of Georgia, asking for the establishment of certain mail routes. Referred to the Committee on the Post Office and Post Roads.

Resolutions of the Legislature of the State of Georgia, asking Congress to refund to said State the expenses incurred in the Indian wars from 1794 to 1796, the war of 1812, the Indian disturbances of 1817 and 1818, and the removal of the Creek and Cherokee Indians in 1836 and 1837, and praying that the officers and soldiers engaged in said several wars, their widows and orphans, may have secured to them the benefit of the bounty land law. Referred to the Committee on Public Lands.

EXECUTIVE COMMUNICATIONS, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Clerk of the House, inclosing packages purporting to be evidence in the Nebraska contested-election case; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of War, inclosing a communication to the Committee on Foreign Affairs relative to the memorial of G. H. Goundie, United States consul at Zurich, asking for increased compensation; which was laid on the table, and ordered to be printed.

Also, a communication from the War Department, containing statement of contracts for 1858; which was laid on the table, and ordered to be printed.

Mr. DEWART. I move that the House adjourn.

F. A. GIBBONS AND F. X. KELLY.

Mr. MAYNARD. I ask the gentleman from Pennsylvania to withdraw the motion to adjourn until I can make a statement. Yesterday I reported a bill for the relief of Francis A. Gibbons and Francis X. Kelly. That bill was, during the last Congress, reported by the Committee of Claims to this House and to the Senate. The bill of this

House was referred to the Committee of Claims, from which I reported it yesterday. That bill was taken up in the Senate, passed, and transmitted to this House. It was passed here, and then, being approved, it became a law on the 18th August, 1856; and the money had been paid under it. My motion is to reconsider the vote by which the bill was referred to a Committee of the Whole House, and ordered to be printed; with a view to have it laid upon the table.

The motion to reconsider was agreed to. The Committee of the Whole House was discharged from the further consideration of the bill, and it was laid upon the table.

ISRAEL JOHNSON.

On motion of Mr. COLFAX, it was

Ordered, That the Court of Claims be requested to return the papers in the case of Israel Johnson; and that, when returned, they be referred to the Committee on Indian Affairs.

SCHOOL LANDS IN ILLINOIS.

Mr. MORRIS, of Illinois, by unanimous consent, introduced a bill granting to the trustees of schools in township two north of the base line, of range nine west, to the fourth principal meridian, in the county of Adams, and State of Illinois, the right to select other lands in lieu of the sixteenth section, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

RESOLUTIONS OF RHODE ISLAND.

Mr. BRAYTON, by unanimous consent, submitted resolutions of the Legislature of Rhode Island, in relation to half pay to officers of the Revolution; which were laid on the table, and ordered to be printed.

Mr. UNDERWOOD. I rise to renew the motion I made this morning, which was objected to by my friend from Virginia, [Mr. GARNETT,] who, I am sorry to see, is not now in his seat. It is merely to introduce and refer a bill.

Mr. GREENWOOD. I object.

Mr. DEWART's motion was then agreed to; and the House accordingly (at fifteen minutes to four o'clock, p. m.) adjourned.

IN SENATE.

MONDAY, January 17, 1859.

Prayer by Rev. E. A. KNIGHT.

The Journal of Friday last, was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in pursuance of law, statements showing contracts made under the authority of the War Department during the year 1858; which was ordered to lie on the table.

COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate reports of the Court of Claims, made in pursuance of law, adverse to the claim of James H. McCulloh, executor of James H. McCulloh, deceased; the claim of the heirs of Dr. James Thatcher; the claim of Henry W. Morris; the claim of Almanzon Huston; and the claim of the heirs of George Yates; which were referred to the Committee on Claims.

CREDENTIALS.

Mr. SEWARD presented the credentials of Hon. HENRY WILSON, elected a Senator by the Legislature of Massachusetts, for the term of six years, commencing on the 4th day of March, 1859; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented the memorial of J. C. P. DeKraft, praying to be allowed mileage for a journey from New York to San Francisco, performed under an order from the Navy Department; which was referred to the Committee on Naval Affairs.

Mr. YULEE presented the memorial of Kunhardt & Co., and Gelpecke, Keutgen & Reichelt, agents of steamship lines between New York and certain ports in Europe, praying a modification of the laws relating to exportation for the benefit of drawback; which was referred to the Committee on Finance.

Mr. THOMSON, of New Jersey, presented a

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2D SESSION.

WEDNESDAY, JANUARY 19, 1859.

NEW SERIES...No. 26.

petition of citizens of Patterson, New Jersey, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms and lots of limited size for the free and exclusive use of settlers not possessed of other lands; which was laid on the table.

Mr. CLARK presented a memorial of citizens of Manchester, New Hampshire, praying that the pay of the officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

He also presented the petition of Elizabeth Os-good, daughter and sole heir of Joseph Fogg, a quartermaster in the army of the Revolution, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. BROWN presented the petition of property-holders in the District of Columbia, praying an amendment of the laws relating to landlord and tenant; which was referred to the Committee on the District of Columbia.

He also presented the petition of merchants and other citizens of the District of Columbia, praying an extension of the jurisdiction of justices of the peace in the recovery of debts, and the allowance of fees to justices of the peace in cases for riots, assaults, &c.; which was referred to the Committee on the District of Columbia.

Mr. DOOLITTLE presented a petition of citizens of New Jersey, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms and lots of limited size for the free and exclusive use of settlers not possessed of other lands; which was laid upon the table.

Mr. COLLAMER presented the memorial of Emily L. Slaughter, praying for a pension due her as the widow of Commander A. G. Slaughter, United States Navy, from the 9th September, 1853, the date of his decease; which was referred to the Committee on Pensions.

Mr. HALE presented the petition of Mary Willard, formerly widow of Aaron Young, a soldier in the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

Mr. SEBASTIAN presented the petition of Thomas C. and Edward Q. Smith, praying compensation for supplies furnished emigrants on the route to California; which was referred to the Committee on Indian Affairs.

Mr. RICE presented the petition of citizens of Wabashaw and Olmstead counties, Minnesota, praying for a mail route from Wabashaw, via Waconda, West Albany, and Read's Ford, to Rochester; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of citizens of Anoka, Minnesota, praying for a mail route from Anoka, via Cedar Valley and St. Francis, to Cambridge, and from Cambridge, via Lexington, to Princeton; which was referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. IVERSON, it was

Ordered, That the memorial of Elizabeth Spear, widow of Thomas Williams, praying to be allowed a pension, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Mary Elizabeth Larnard, submitted a report, accompanied by a bill (S. No. 513) for the relief of Mary Elizabeth Larnard, widow of Brevet Major Charles H. Larnard, late of the United States Army. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Postmaster General, made in compliance with a resolution of the Senate directing him to report such changes in the laws regulating post-ages and the Post Office Department as in his opinion would make that a self-sustaining De-

partment, reported in favor of printing the usual number of the manuscript report; and it was so ordered.

Mr. FITCH, from the same committee, to whom was referred a resolution to print additional copies of the report of the Superintendent of the Coast Survey for 1858, reported the following resolution:

Resolved, That there be printed, in addition to the usual number, five thousand copies of the report of the Superintendent of the Coast Survey for the year 1858, for distribution by said superintendent; that the same be printed and bound, with the charts and sketches, in quarto form; and that the printing of said charts and sketches shall be done to the satisfaction of the Superintendent of the Coast Survey.

Mr. COLLAMER. I wish to make an inquiry of the chairman of the Committee on Printing. This resolution provides for printing five thousand copies in addition to the usual number. I wish to inquire whether any of the usual number, except one, passes into the hands of the members of the Senate at all?

Mr. FITCH. The usual number, I think, supplies Senators with perhaps not more than two copies. Heretofore it has been customary for the Senate to print a certain number of additional copies for the use of Senators. The question was debated at some length at the last session. The committee, I believe, at the last session, reported in favor of printing twelve hundred copies for the use of the Senate. They have reported none for the use of the Senate now, but only a certain number for the use of the Coast Survey office.

Mr. COLLAMER. All, I understand, are to be deposited in the Coast Survey office.

Mr. FESSENDEN. I should like to look at the report for a moment.

Mr. STUART. Then I object to the consideration of it to-day.

HOUSE BILLS REFERRED.

The following bill and joint resolution, received from the House of Representatives on Friday last, were read twice by their titles, and referred to the Committee on Commerce:

A bill (No. 783) to authorize the registering of the schooner Enterprise, of Wilson, New York; and

A joint resolution (No. 39) to authorize the Secretary of the Treasury to sell a certain lot of land in the city of Petersburg, Virginia, belonging to the United States.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills and joint resolution, in which the concurrence of the Senate was requested:

A bill (No. 788) authorizing the Secretary of the Treasury to grant a register for the schooner William A. Hamill;

A bill (No. 789) to compensate the State of New Jersey for the use of the court rooms for the United States court, in the State-House at Trenton, in said State;

A bill (No. 793) for the relief of James G. Holmes; and

A joint resolution (No. 45) authorizing Townsend Harris, United States consul general, at Japan, and H. C. J. Henskin, his interpreter, respectively, to accept a snuff-box from her Majesty the Queen of England.

The message further announced that the House had passed the following bills of the Senate:

A bill (No. 235) for the relief of Martin Layman; and

A bill (No. 476) to authorize the President to make advances in money to Hiram Powers.

The message further announced that the House had passed the resolution of the Senate (No. 54) for changing the plan of the custom-house at Galveston, Texas, with an amendment, in which the concurrence of the Senate was requested.

Also, that the House had disagreed to the amendments of the Senate to the bill of the House (No. 336) for the relief of B. W. Palmer and others.

ENROLLED BILL SIGNED.

The VICE PRESIDENT signed an enrolled bill (S. No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved 5th March, 1856.

POST ROUTES IN NEW JERSEY.

Mr. THOMSON, of New Jersey, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the propriety of establishing a post route from Bordentown, by way of Georgetown, Sykesville, Wrightstown, and Pointville, to Brown's Mills, in the county of Burlington and State of New Jersey.

J. B. DE TREVILLE.

Mr. CHESNUT. I submit the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Senate be directed to request the Court of Claims to return to the Senate the petition and papers of the heirs of Captain J. B. De Treville.

Mr. IVERSON. I prefer that that resolution should lie over for the present. It will be remembered that some time ago a similar proposition was brought in, to bring back papers, and it was objected to by myself, and I gave reasons why I thought it was irregular. If the Senator will allow the resolution to lie over, I will look into it, and see if I can consent to it.

Mr. CHESNUT. I supposed the resolution would not pass without some reason being assigned for it. The reason is, that this case has been referred to the Committee of Claims in the other branch of Congress, and the parties desire to submit these papers there, where the question is now under consideration. This is the reason which induced the application to be made here. If the Senator desires that it shall lie over, I have no objection.

The VICE PRESIDENT. The resolution will lie over.

WESTERN BOUNDARY OF MINNESOTA.

Mr. SHIELDS. I present the following resolution, and ask for its consideration at the present time:

Resolved, That the Committee on Territories be requested to inquire into the expediency of making provision for running and marking that part of the western boundary of Minnesota which is not defined by the natural landmarks, and the distance, being supposed to be about one hundred and thirty miles; and of reporting in favor of an adequate appropriation for that purpose.

Mr. STUART. I suggest to the Senator that a bill of that character was reported at the last session, from the Committee on Public Lands, authorizing the running and marking of the western boundary of Minnesota. It may allude to the same subject.

Mr. SHIELDS. Is that bill now before the Senate?

Mr. STUART. Yes, sir.

Mr. SHIELDS. I will ask the honorable Senator if the bill provides an appropriation for this object?

Mr. STUART. I am not able to answer that question now, not having the bill before me. I suppose the bill provides for running and marking the boundary; and I suggest to the Senator, if he desires an appropriation in it, he can move to amend it when it comes up.

Mr. SHIELDS. I will then move the reference of the subject to the Committee on Public Lands.

The motion was agreed to.

REMODELING THE SENATE CHAMBER.

Mr. HALE. I have a resolution to present. I do not ask for its consideration now; but I shall call it up soon:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the practicability and propriety of reconstructing and remodeling the interior of the northern portion of the Capitol extension in such manner that the Senate Chamber may extend to the wall of the building on the end and one or both sides, so as to have the advantage of windows and fresh air.

PALM OIL TRADE.

Mr. SEWARD submitted the following reso-

lution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury communicate to the Senate, as fully as it may be in his power to do, the number of American vessels which are engaged directly in the palm oil trade on the coast of Africa, the average number of their voyages annually, their tonnage, the nature and values of their exports and imports, and the amount of duties derived from them by the Treasury of the United States.

PRINTING OF A BILL.

On motion of Mr. SEWARD, it was

Ordered, That the bill (S. No. 497) making appropriations to facilitate the acquisition of the Island of Cuba by negotiation, be printed for the use of the Senate.

JAMES MACCABOY.

Mr. WADE. I move to take up the bill for the relief of James Maccaboy, which I do not find on the Calendar, but it has passed once or twice and has received the sanction of two committees. It is a small affair. He is a very poor man, and this bill ought to be acted on. I hope there will be no objection to its consideration.

The VICE PRESIDENT. It requires unanimous consent at this time to take up that bill.

Mr. WADE. I suppose so.

There being no objection, the Senate proceeded to consider the bill (S. No. 283) for the relief of James Maccaboy. It appropriates \$500 for losses and injuries sustained by him while engaged in the performance of his duty in the public service.

The bill was read the third time, and passed on the 21st of May last, and a motion by Mr. HENDERSON to reconsider the vote on passing the bill was entered.

The VICE PRESIDENT. The question is on reconsidering the vote by which the bill was passed.

The motion to reconsider was rejected.

GALVESTON CUSTOM-HOUSE.

Mr. WARD. I desire to make a motion that the Senate take up the joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas, which has passed the other House with an amendment. My object is to have it referred to the appropriate committee.

The motion was agreed to.

The amendment of the House is to add, at the end of the resolution, the following words:

"And provided further, That the consent, in writing, of the contractors and their sureties for the said custom-house to such alteration shall be first had, and delivered to the Secretary of the Treasury."

Mr. WARD. I move its reference to the Committee on Commerce.

Mr. STUART. I would inquire does the Senator object to the amendment?

Mr. WARD. I do not.

Mr. STUART. Then the Senator had better let the amendment be concurred in and the bill passed.

Mr. WARD. I approve of the amendment, but my colleague does not.

Mr. HOUSTON. I am opposed to it for various reasons, and am prepared to state them if the gentleman wishes it.

Mr. STUART. Let it be referred then.

The joint resolution and amendment were referred to the Committee on Commerce.

LAND DISTRICTS.

Mr. STUART. I desire to call up for consideration a bill reported from the Committee on Public Lands, (S. No. 449,) authorizing the transfer to State authorities of the books, papers, &c., of discontinued land districts, under certain circumstances. It is very necessary that a general law of this character should be passed, in order to enable the executive department to carry out the provisions of existing laws, which compel them to discontinue certain land offices when the public land in the district falls below a certain number of acres.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to make it the duty of the Secretary of the Interior, in all cases where the public lands shall have been entirely sold and disposed of in any land State, to cause the remaining land office or offices in that State to be discontinued, and all the books, papers, &c., pertaining to the public lands in that State not required to be transmitted to the seat of Government, to be delivered over to the Secretary of State, or such other officer as may be

authorized to receive them, reserving to the United States the right of access to, and copy of, such books and papers, free of cost, whenever the same may be deemed necessary for the public use.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAND ENTRIES IN LOUISIANA.

Mr. BENJAMIN. A bill which passed at the last session of the Senate has been returned from the House with an amendment. It is merely a correction of a clerical error. I move that the bill be now taken up, in order that the amendment may be concurred in. It is the bill (S. No. 327) to affirm certain entries of land in the State of Louisiana. It is a private land claim. There was a clerical error in the bill, which the House has corrected.

The VICE PRESIDENT. The Chair will state to the Senator that he does not find the bill on the table, but will cause search to be made for it.

COMMODORE STEWART.

Mr. HALE. There was a joint resolution reported the other day with reference to Commodore Stewart. As he will not live many years, if we mean to pass it we ought to pass it at once. I move to take it up.

The motion was agreed to; and the joint resolution (S. No. 69) conferring the rank of senior flag officer on the active-service list of the United States Navy on Captain Charles Stewart, was read the second time, and considered as in Committee of the Whole.

It authorizes the President of the United States, by and with the advice and consent of the Senate, to confer on Captain Charles Stewart, of the United States Navy, in recognition of his distinguished and meritorious service, the commission of senior flag-officer of the United States Navy on the active-service list.

Mr. PUGH. I should like to inquire of the Senator from New Hampshire what is the purpose of this resolution? I understand that Commodore Stewart is now the senior officer of the Navy.

Mr. HALE. Not on the active list, but on the retired list.

Mr. PUGH. Is the object of the resolution simply to put him on the active list?

Mr. HALE. Yes.

Mr. PUGH. Then I shall not object to it.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading, and was read the third time.

Mr. DOOLITTLE. I should like to make a single inquiry of the honorable Senator who reported the resolution. Does this affect Commodore Stewart's pay or his rank?

Mr. HALE. It simply transfers him from the retired list to the active list, and does not alter his pay at all.

Mr. DOOLITTLE. Does it at all affect the rank or pay of other officers who stand as captains in the Navy?

Mr. HALE. I am not entirely certain as to that. I wish it would have that effect; but I am not certain it will. It will make him senior flag-officer, and may give him the pay of the senior officer, which position is now occupied by one of the retiring board, who ousted him from it. I think it will have that effect, and I hope it will, but I do not know.

Mr. DOOLITTLE. But will it have the other effect of putting him into another office, and then allowing the officer whom he ousts to take another place and other positions?

Mr. HALE. The only difficulty is that since Commodore Stewart was ousted, by his juniors, from his place, the names of our post captains have been altered. They had been champing with impatience on account of the name of their grade, and wanted to be admirals; but Congress, at the last session, compromised with them, and told them they might be flag-officers, in virtue of which the Secretary of the Navy has authorized them to have an admiral's flag. I believe some of them have gone to the engravers, and have had "admiral" engraved on their cards, which they distribute in foreign ports, not here at home. This is the way the thing stands. This resolution does not confer any additional rank, but simply restores Commodore Stewart to the active list.

Mr. SHIELDS. I ask for the reading of the resolution.

The Secretary read it.

Mr. HUNTER. If I understand this proposition, it is one not only to create a new office, but to legislate a man into it. Now, sir, without meaning to disparage Commodore Stewart's services at all—I admit that they are all that they have been described to be—I am unwilling in this way to create a new office in the Navy; and not only to do that, but to legislate a particular individual into it. That is the effect of the joint resolution, if I understand it.

The VICE PRESIDENT. The question is on the passage of the joint resolution.

Mr. CLAY. I ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 37, nays 14; as follows:

YEAS—Messrs. Bates, Bell, Benjamin, Bigler, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Foot, Foster, Green, Gwin, Hale, Hamlin, Hammond, Harlan, Houston, Iverson, Jones, Kennedy, Polk, Pugh, Seward, Simmons, Sidel, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Ward, Wright, and Yulee—37.

NAYS—Messrs. Allen, Bright, Chesnut, Clay, Clingman, Fitzpatrick, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Reid, Rice, Trumbull, and Wade—14.

So the joint resolution was passed.

PRIVATE BILL DAY.

Mr. IVERSON. It is not likely that any business of consequence will be taken up to-day, it being understood that some other proceedings of a solemn character are to take place; but, as we have some time yet, I move to take up the resolution that was laid on the table a few days ago by the Senator from Pennsylvania, [Mr. BIGLER,] appointing Friday and Saturday of each week for the consideration of private bills during the residue of the session. If it is objectionable, I shall be willing to let one day be stricken out, and ask that only one day be appropriated to this object. I ask that the resolution be taken up, so that we may see whether the Senate are willing to devote one day a week to private bills.

The PRESIDING OFFICER, (Mr. FITZPATRICK in the chair.) It is the imperative duty of the Chair to call up the special order at this hour, unless the Senate otherwise direct.

Mr. IVERSON. I move to postpone the special order for the present.

The motion was agreed to.

Mr. IVERSON. I now move to take up the resolution of the Senator from Pennsylvania.

The motion was agreed to; and the Senate proceeded to consider the following resolution, which was submitted by Mr. BIGLER on the 10th instant:

Resolved, That for the residue of the present session, Friday and Saturday of each week, after the expiration of one hour from the time of the meeting of the Senate, shall be set apart for the consideration of private bills, in the order in which they stand upon the Calendar.

Mr. STUART. I understand that this resolution sets apart two days in each week for private bills. I think it had better be confined to one. I move to strike out the words "and Saturday."

Mr. HUNTER. Certainly, one day a week is as much as we can spare for private bills.

Mr. BIGLER. I intended to modify the resolution.

The amendment to strike out "and Saturday" was agreed to; and the resolution, as amended, was adopted.

GOVERNMENTAL EXPENDITURES.

Mr. JOHNSON, of Tennessee. I hope the Senate will take up a resolution which was left as the unfinished business some days ago, in reference to retrenchment and reform in the expenses of the Government. It will meet with no opposition, I think, and will not consume time.

The motion was agreed to; and the Senate resumed the consideration of the following resolution, which was submitted by Mr. JOHNSON, of Tennessee, on the 4th of January:

Resolved, That so much of the President's second annual message as relates to a reduction of the expenditures of the Government of the United States, which is in the following words, to wit: "I invite Congress to institute a rigid scrutiny to ascertain whether the expenses in all the Departments cannot be still further reduced; and I promise them all the aid in my power in pursuing the investigation," be referred to the Committee on Finance, and that said committee be hereby instructed, after first conferring with, and obtaining all "aid" and information from the President and

heads of the Departments, as indicated in the President's message, to report a bill reforming, as far as possible, the expenditures and all abuses, if any, in the application of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenditures to an honest, rigid, economical administration of the Government.

Mr. HUNTER. When the resolution was before under consideration, I moved to amend it by striking out "the Committee on Finance," and inserting "a select committee."

Mr. JOHNSON, of Tennessee. I thought the Senator had agreed to withdraw that amendment.

Mr. HUNTER. I was willing to withdraw it if the resolution was modified so as to give more time than this session for the investigation.

Mr. JOHNSON, of Tennessee. There was an amendment offered by the Senator from Michigan, [Mr. STUART,] embodying that proposition.

Mr. HUNTER. If that is done, I shall not object.

Mr. JOHNSON, of Tennessee. If the Senator from Virginia will withdraw his amendment, the Senator from Michigan can offer his, and I will accept it.

Mr. HUNTER. I withdraw mine.

Mr. GWIN. I renew the amendment for a select committee. I am opposed to its going to the Finance Committee, and I ask the yeas and nays on the question.

Mr. STUART. The Senator from Tennessee accepts the amendment which I offered, which makes it a part of the original resolution. Then the Senator from California moves to strike out "the Committee on Finance," and insert a "select committee."

Mr. GWIN. The amendment of the Senator from Virginia was to strike out the Finance Committee and refer it to a select committee, composed of seven members.

Mr. STUART. That was withdrawn.

Mr. GWIN. That amendment I renew.

Mr. STUART. But my proposition has been accepted.

Mr. GWIN. If the amendment I proposed be voted down, that can be put on.

Mr. STUART. The Senator from Tennessee having accepted my proposition, it is now part of the resolution.

Mr. GWIN. I hope the Senator will withdraw that until we vote on the proposition whether this investigation shall be referred to the Finance Committee or to a select committee. If it is referred to the Finance Committee, that provision can be added; but that amendment destroys the effect of my proposition. Let what the Senator from Michigan has proposed be read.

The Secretary read Mr. STUART's amendment; which is, to add to the resolution the following proviso:

Provided, That in case said committee shall not be able fully to comply with this resolution during the present session of Congress, the duty shall be extended to the next and subsequent sessions, for the purpose of more mature and complete action.

Mr. GWIN. That proposition contemplates that the committee having charge of this investigation shall be made perpetual. Each session of Congress establishes its own standing committees, and select committees are always created by resolution at each Congress. I hope the Senator will withdraw that amendment, until we decide whether the reference shall be to the Committee on Finance or to a select committee.

Mr. STUART. I do not desire to withdraw it at all. I think it is the best shape for the resolution. The mover of the resolution has accepted it; it is now a part of his resolution; and the question is presented to the Senate on the motion of the Senator from California, whether it will raise and perpetuate a select committee to do what the Committee on Finance can do.

Mr. GWIN. That is the very thing I do not ask to do. I move the amendment; and then, if we adopt the select committee, I shall move to strike out that latter part of the resolution. I ask for the yeas and nays on the question whether it shall be the Finance Committee or a select committee.

Mr. JOHNSON, of Tennessee. I do not see that the modification of my resolution at all affects the right of the Senator from California to move his amendment. As the resolution now stands, it proposes to make it the duty of the Committee on Finance to make this inquiry and report to the Senate. I understand that simply a

motion to strike out the Committee on Finance and appoint a select committee would attain the Senators' end.

Mr. GWIN. I make that motion.

Mr. JOHNSON, of Tennessee. I hope the Senate will not agree to it. The Finance Committee is the committee that has the moral influence to carry its measures; it has the power and can present measures to the Senate that will receive its consideration, and no doubt its sanction; and I hope the Senate will not strike out "the Finance Committee" and insert "a select committee." It is not worth while to repeat the arguments urged the other day on this point. They were cogent; they were clear and conclusive that the Committee on Finance was the proper committee to make this investigation, and report to the Senate. I hope the investigation will not be committed to a select committee.

The PRESIDING OFFICER. Will the Senator from California make his motion?

Mr. GWIN. I move to strike out "the Committee on Finance" and insert "a select committee, to consist of seven members."

Mr. SIMMONS. I hope that amendment will prevail. I think Senators are mistaken as to the moral power of the Committee on Finance on the subject of retrenchment. It is the money power they exercise, not a moral power, that gets their bills through here. They dispense the whole patronage of this Government. I prefer a select committee for various reasons. We endeavored to make retrenchments at the last session on the subject of collecting the revenue. We cut down the appropriations from \$6,000,000 to \$4,500,000 for eighteen months' service, and it was carried in this body by four to one, almost everybody being for it; but when it went to the House of Representatives and was modified and made \$5,400,000, it was engineered through the Senate. There was but a single Senator on the Administration benches who voted against it, and that was the Senator from Tennessee, who has introduced this resolution. He is the man of all others of this body who will look after these retrenchments, and he is not on the Finance Committee.

Now, I have no idea of passing the resolution and giving eighteen months to the Committee on Finance to examine the question, and then end in cutting off fifty cents a day from the pay of some clerk in a Department. If we want to retrench we must attack the lions, the large items. That is where the money goes. As to clerks, I am for paying them liberally; but if our money is wasted at all, it is squandered in contracts. We want a special committee for that. The Committee on Finance has as much as it can do to dispense the money which is now about all used for patronage. They watch that; I wish they would watch a little more vigilantly than they do; but there is no member of the Senate, that I know of, who has had this subject for so long a time under consideration as the Senator from Tennessee who has offered the resolution. I think he says he has been considering it fourteen years, and he has devoted his time and his energy to it; and he ought to have aid, because we must see that his individual efforts have produced nothing in fourteen years. We have been going on, spending more and more money every year, and nothing can be done in the way of reform without vigorous and efficient exertion.

The Committee on Finance say they supervise the appropriation bills. Why, sir, look into the proposition that the Senator from Virginia [Mr. HUNTER] has made to bring the mail service up. He has been on this Committee on Finance for, I think, twelve years. About fourteen years ago we revised the Post Office establishment. We provided in that law, as clear as language could make it, that, in all future lettings of contracts for carrying the mail, they should be let to the lowest bidder in every instance without reference to the mode of transportation, and looking only to good security. That law was not to take effect until July; but a new Administration came in on the 4th of March, and, although the bids were made, Mr. Cave Johnson, then Postmaster General, put out a circular that all the lettings for contracts should be bid for under this new law, and that no consideration would be given to different modes of service. For the eastern section, the seven States comprising New England and New York, the lettings were made that year un-

der the new law for four years; that is, the contracts were given to the lowest bidders for carrying the mail without reference to the mode of transportation, whether on horseback or in coaches, and the contracts in that section of country were let for four years under that law.

Next year he came to the southwestern section where Mr. Postmaster General Johnson lived; and, without any alteration in the law, he issued another circular saying that he would make a difference between service on horseback and in post coaches, and between two-horse and four-horse coaches; and he let all the mail contracts which came around again during his term, in the same way, changing the law and entirely doing away with everything he had done in order to get the contracts cheap in New England. As to the contracts let in New England and New York in 1845, I have been at the trouble of going to the Department, and seeing how much was saved. I took the amount bid for the service then, and compared it with the previous contracts, and found that there was a saving of from forty to sixty per cent.; and when he left the Department, the next contracts went up thirty or forty per cent. You see the difference when they complied with the law and when they did not, as plain as you can see that our expenses have accumulated. That has been practiced ever since, with a law so plain that a man who runs may read and understand it; and yet the Postmaster General is paying millions upon millions annually for carrying the mails in a way that the law does not justify, and cannot be made to justify. He knew it did not justify it, because he let it for one quarter of this country in the way I have stated. I went to him and told him the law had not taken effect, and that he should not put it upon our section until the law took effect. He said there was poison in that law, and those of us who voted for cheap postage should take our own medicine. It was principally votes from the free States that reduced the postage, and he put this part of the law upon us before it legally took effect. We all agreed that after the law took effect, the contracts were to be let in that way. Everybody knew that; but with all the vigilance of the Finance Committee, they have made appropriations to supply deficiencies in the Post Office Department to the extent of two, three, and four millions a year. I never heard anything about this feature of the law from that time until now, when the President asks us to alter the law, and make the officers conform to an economical system. I expect we shall have to alter the law or pass a declaratory act. That law reads exactly as he wants the law to read to make an economical administration of the service. All that need be done is to pass a resolution that the Post Office law passed in 1845, contains a provision which is exactly the one that the Postmaster General is asking us to legislate into being, and the President is asking us to legislate into existence. That is precisely the law now, and has been for fourteen years, but it has never been discovered.

I do not think the Committee on Finance are half as vigilant in looking out to prevent great contracts and the squandering of money as they profess to be in the Senate. The Post Office Department certainly costs a million a year more—I have no doubt it costs two or three millions more—than it would if the contracts were let according to law. Jobs are given out just as money was appropriated to custom-house officers last year; it was managed through; and if it goes to "the party," it is about all that can be done for the party—give them money. These appropriations do nothing for the country. If we obtained anything for the money, I should suppose we were doing something to improve the country; but we do not get anything for it. It goes out for contracts and jobs here and there; and the expenditures of the Government have got up to \$75,000,000 a year, and there ought to be somebody to look into these things.

Now, it is proposed to add \$3,000,000 a year to the letter postage in order to get the Post Office Department out of the brambles where they have put it without law. Three million dollars, I see by the Postmaster General's recent report, is to be put upon letter postage in addition to its present burdens. The letter postage now pays more than \$100 for one that printed matter pays. The average is \$1 60 a pound for every pound of letters we

carry, but we do not get half a cent a pound on printed matter; and yet this is the plan that is to be resorted to. You carry papers everywhere within thirty miles of the place of publication for nothing, and I believe get half a dollar a year for carrying three hundred newspapers anywhere over the country within five hundred miles. It is merely nominal. We carry all the printed matter, that costs Congress \$2,000,000 to publish, for nothing. Who is to be made to bear this burden? Who are the pack horses to carry it? Those whose business requires them to write letters, and they now pay tenfold what it costs to carry their letters. This is to be done because it is said each service should pay for itself! Let anybody examine and see if the letter correspondence does not more than pay for itself. It pays tenfold what it costs, and there is not a man within the hearing of my voice who does not know it; and yet the proposition now introduced into the Senate, in order to economize, is to tax it from forty to sixty per cent. more than it now is!

This is not the time to go into that point, and I merely call the attention of the Senator from Tennessee to these enormous outlays for jobs. I hope that this resolution will be referred to a select committee, and let them investigate these things. It will save us a vast deal of legislation. We shall find out where the money goes. Let them report it, and the waste will be stopped by merely a report without any legislation whatever.

Mr. HUNTER. Mr. President, the Senator from Rhode Island seems to think that the Committee on Finance have been responsible in past time for not introducing proper legislation in regard to Post Office matters. Now, I apprehend that all legislation in regard to the Departments should come from the appropriate committees. That is a matter for the Committee on the Post Office Department, and any interference in the way of legislation on the part of the Finance Committee has generally been considered as a usurpation and as intrusive; and on that account they have not, of late years especially, introduced legislative measures upon the appropriation bills. Indeed, the only thing that would justify them in doing so would be the fact that there was an evil crying so loudly for relief that there was no doubt that the measure which they might suggest would be such as would command the assent of both Houses of Congress. It is manifest that all such legislation as the Senator from Rhode Island refers to, should come, not from the Finance Committee, but from the committees which are connected with the various Departments. That is all I wish to say.

So far as this particular duty is concerned, it does seem to me that it would be better to send it to a select committee, although I said I should withdraw all opposition if you would give time enough to the Committee on Finance to do something towards the task which is proposed to be imposed on them. It is not my purpose to say anything on that matter. I think there is a good deal in what the Senator from Rhode Island says in regard to the special fitness of a select committee.

Mr. SIMMONS. The Senator from Virginia seems to apprehend that I thought the Committee on Finance ought to have recommended legislation. I said no such thing. I say, that when the Committee on Finance recommend appropriations of millions of dollars to pay for mail service, I think it is their duty to see whether the law justifies the outlay; and if they find that the Post Office contracts, the mail lettings, are let contrary to law, it is their duty not to make an appropriation, but to correct the evil. This has been growing for twelve years, and we have been voting millions on millions under it without the slightest authority in law for making those contracts at this moment. That is what I said.

Mr. HUNTER. In regard to that, I would suggest to the Senator from Rhode Island that it is impossible the Finance Committee could do that. The estimates are not made for this or that particular contract, but for the service generally. How can they discriminate? How can they ascertain? After a contract is made, are they to refuse to pay? On the contrary, the legislation to put a stop to that should come from some other committee. It is impossible that we could refuse to pay a man that had executed the service, whether this law was in existence and binding on the Department or not, is as obvious to other

members of the Senate as to the Committee on Finance.

Mr. SIMMONS. I only wish to say a word; I do not mean to protract this debate. If the Senator agrees with me in the proposition that is now made to refer this question to a select committee, let us not injure the object we both have in view by debating an outside question. But what I understand by these mail contracts is, that they are advertised in the public papers, and when a contract is advertised for carrying the mails in a different way from what the law justifies, I suppose the Committee on Finance should be apprised of it; but I do not say anything about it, as I never was on that committee. I should suppose, however, that they would know when there was a large increased expenditure, so that an appropriation was called for; and I should think it would be natural for them to look at the law and see if the law had been complied with in advertising for contracts. The Postmaster General, after having left the eastern section, when he came to his own section, without leave or license from any law, departing from his own construction of the law, advertised that he would make a difference between post-coaches, and give old bidders who had contracts preference in all such things; thus driving off all competition, when the law was intended to let everybody compete for the routes. I say that the contracts in New York and New England, made under the old law, were as much as sixty per cent. higher than the ones made under this new law by Cave Johnson himself, the same Postmaster General, but he afterwards practically altered the law, and then they went back to the old sum.

Mr. YULEE. Did I understand the Senator to say that the Postmaster General had advertised that he would give preference to the old contractors in awarding contracts upon bids?

Mr. SIMMONS. I can have the exact language read to the Senate—not that he would give more money, but that at the same price he would give a preference to old contractors. I make no complaint of it, but what I complain of is, that he said he would give an additional price if the mails were to be carried in post-coaches over any other mode, and make a distinction between two and four-horse coaches, which was against the law.

Mr. YULEE. I think the Senator is mistaken even in that.

Mr. SIMMONS. Perhaps I am.

Mr. YULEE. Certainly he is mistaken in the other allegations; but I would say to the Senator, that it has grown to be very much the custom to make allegations and imputations upon the Post Office Department and the Postmaster General, which, upon inquiry, Senators would find to be unfounded. I would suggest to the Senator, if he has any ground of complaint, that, if he will introduce a resolution referring to the specific ground of complaint, and send it to the Committee on the Post Office and Post Roads, they will make a rigid inquiry, and report. I am satisfied that in every particular in which the Senator has made charges just now against the practices of the Post Office Department, he is mistaken.

Mr. SIMMONS. I will not reply now, because I have not got the books before me; but at the first opportunity I will read the advertisements, and show the chairman of the Post Office Committee that I am correct.

Mr. STUART. The question before the Senate, Mr. President, is simply as to whether it will be better, with a view to the result we all desire, to employ the Finance Committee or a special committee. It seems to me that there are two or three reasons so obvious and so conclusive, that they ought to settle this question. First, the Committee on Finance has a permanent clerk, and in the long vacation has nothing else to do than follow the directions of the committee in making the necessary investigations as to where reform can be introduced. In the next place, on every appropriation bill the estimates which furnish the basis of all investigation go to that committee. They have them before them. If they appear to be very large upon a given subject, they can inquire more easily, with more facility than any other committee, how has this happened? How does it happen that this large amount of money has been required for this particular service? An investigation into the law will answer; and if the case represented now by the Senator from Rhode

Island should be presented, the committee would then be in possession of the facts. I do not agree with that Senator, that it has been incumbent upon the Committee on Finance to make an investigation in regard to Post Office laws. I agree with the chairman of the Committee on Finance, that that has been the duty of the Committee on the Post Office and Post Roads, to see whether any further legislation were necessary. I do not assume that it is; but I say that whether it is or not, is a legitimate question to be inquired into by that committee.

But again, sir; it is not supposed by any Senator that this great work of reform in the expenditures of the Departments of this Government can be accomplished at this session. Very little can be done about it; something can be done about it. Something can be done at this session, and something at the next, and something at subsequent sessions; but I say that, whether it be done now or at any subsequent session, there is no other committee which has before it such facts within the scope of its usual inquiries, and is so placed at the very threshold of reformation, as the Committee on Finance, and if, in its investigations, it shall think that a law authorizing a present expenditure ought to be repealed or modified, it can present it. They would present it, and then cause the additional fact to which I referred the other day, that being presented by that committee it has more moral power in this body than from any other committee that can be named.

Again, sir, a special committee would be subjected to the charge of being a mere Buncombe committee, getting up facts for electioneering and other purposes. The ingenuity of men is applied frequently in this way.

For these various reasons, it seems to me, without detaining the Senate at all upon this question further, that a glance at these few facts will go to prove that if there is to be a permanent system introduced of retrenchment in the expenditures of the Government, the vote of the Senate instructing the Committee on Finance to make and to continue this inquiry, is the better mode of effecting it. They have the means; they have a permanent clerk in vacation; they have the facts before them at each session where they must be observed. This is not true of any other committee, or of any single Senator who does belong to that committee.

Mr. CHANDLER. Mr. President, it seems to me that this subject is of sufficient importance to demand immediate action. We have been informed by the chairman of the Committee on Finance that that committee has no time to attend to this investigation during the present session. The appropriation bills are all before that committee, and it seems to me that a proposition to commit the inquiry to them is intended to stave off this examination into the extravagance and corruption of this Government. I hope that a special committee will be appointed, and that the honorable Senator from Tennessee will be its chairman, and that his argus eyes and his entire time will be devoted to that committee for the residue of this session.

Sir, the proposition to refer the subject to the Committee on Finance looks to the continuation of the abuses that now exist. It seems to me to be a proposition to extend indefinitely the present extravagant expenditures of the Government, while the sending of it to a select committee looks to an immediate abrogation of these extravagant expenditures. I believe that the honorable Senator from Tennessee, as chairman of a select committee, would make a report upon which we could act before the termination of this short session. If he has not time to probe this matter to the bottom, give him more time; let himself and his committee sit in the interim, and let them probe not only the extravagance, but the corruptions that exist. We need only refer to the newspaper press to see that these corruptions are almost innumerable. I want him to examine them, and examine them at once. I want him to probe them to the bottom, and report to the Senate, and I know he is the man to do it. I trust a special committee will be appointed.

Mr. HALE. I believe, sir, the only time that ever this subject of the extravagance of an Administration in power attracted the attention of the people, was in the year 1828, when the Administration of John Quincy Adams was put

down for its outrageous extravagance. It was the great cry raised throughout the country, and they spent the enormous sum of between twelve and thirteen million dollars annually. Upon the profuseness and prodigality of that expenditure, a party was called into existence which overthrew Mr. Adams's Administration. Well, sir, Mr. Buchanan is an economical man, and pledges himself to give his aid to this investigating Committee, if one should be raised, to ferret out all abuses, and to bring the country back to an economical administration; but he gives you, in his annual message, (I have taken the trouble to send for it,) one datum that he is not going to have introduced. It is said that comparisons are odorous and odious; and Mr. Buchanan does not want to have that test applied to his administration, for he says:

"Comparisons between the actual expenditure at the present time"

Which in another page he tells us amounts to \$81,000,000—

"Comparisons between the actual expenditure at the present time, and what it was ten or twenty years ago, are altogether fallacious."

If we find an Administration expending some twelve or even twenty millions, and another expending eighty millions, and we undertake to institute a comparison between them, he says it is altogether fallacious.

Now, sir, I have no idea that the Finance Committee will do anything at all about this matter. I do not know that I am obliged to tell my reasons why I think so; but such is my belief; and I do not believe a select committee will do a great deal. The thing that seems to stagger gentlemen from entering on this task is because it is so herculean; because the expenditures have become so enormous all around us in every department of the Government. Notwithstanding what the honorable chairman of the Committee on the Post Office and Post Roads said, I say to you, and the report of the Postmaster General admits it, he has administered his Department in violation of what he says now he believes to be the law. The Postmaster General says, in his late communication, that he believes the law now is, that proposals for carrying the mails should be issued without making a discrimination between the different modes of carrying in single wagons and post-coaches; and the remarks of the honorable Senator from Rhode Island in that respect are vindicated by the confessions of the Postmaster General himself.

It was so when you established the post road from the Mississippi river to California. The law was utterly set at naught there; all the bids and all the provisions of law were violated. The heads of the Departments do it constantly, and they rely upon party discipline and a party majority to see them safe here, and they generally find that that is a safe arm to lean upon. Your heads of Departments nullify your laws; they disregard them; and I tell you that it is utterly impossible here to pass any laws for the retrenchment of the expenditures of this Government that will be carried out unless they accord with the notions of the heads of Departments. If they like the law they will carry it out, and if they do not they will not; and they will come here and appeal to a party majority to sustain them. That has been the fact, and is the fact, and will be.

Now, sir, I want a select committee in this case; and I want a select committee not to be deterred from beginning the work because they may not have time to go over the whole ground. If you get any committee, the Finance Committee, or a select committee, or a committee of this whole body, and if they say they will not investigate because they cannot go over the whole ground, they will never begin. Let a select committee be raised and begin, and I will point them to a place that will give them work enough for this session; and I hope they will do it, and not refrain from doing it because they cannot go over the whole of it; and I will tell you where I would begin: I would begin with the Lieutenant General of the Army, an office about as requisite for the administration of the Government as it would be to have a town clerk of the weather in the city of Washington. [Laughter.] I will show you that he is receiving an annual compensation of \$18,000, for doing nothing. I shall ask them to begin there, and then to look at a document printed here about a year ago, showing the total annual compensa-

tion received by the officers of the Army in this city. You will find colonels, lieutenant colonels, and I do not know what not, whose whole campaign, for years and years, consists in going from the Departments to dinner, and from dinner to bed, performing that service for years, and drawing thousands and thousands and thousands out of your Treasury, for forage and servants, and commutations in all sorts of ways, by which—

Mr. SHIELDS. Will the honorable Senator permit me to ask him what disposition he would make of the officer whom he has just tried to create—senior flag-officer?

Mr. HALE. I would let him live, sir, in the grateful affections and the memory of his country, and die, when his time comes, redeemed from the odium and reproach which the naval board undertook to fasten upon him. That is what I would let him do. [Applause in the galleries.]

I only mention this as one of the things that a select committee, if it is required, may look into, and ought to look into. I see that the honorable Senator from Mississippi [Mr. Davis] is doing me the honor to listen to me, though it may be to reply with a scorching—I do not know what it will be—no matter, sir. [Laughter.] I had the honor last year to introduce a resolution into the Senate calling the attention of the honorable Committee on Military Affairs to the question, whether the law could not be so framed that the country might know what these officers get; whether, instead of fuel, and commutation for servants and horses, and forage—*forage* upon the Treasury, that is all, sir, [laughter]—a specific sum might not be given, as has been done in the Navy, so that we might know what we pay these gentlemen.

Well, sir, that committee have not reported, I doubt not for good, and just, and wise purposes; but I do hope, if this select committee is raised—and it seems to be the opinion universally that, if it is raised, and you should be in the chair when it is appointed, you would appoint the Senator from Tennessee at the head of it—these matters will attract its attention. I mention these things, and express the hope that the honorable chairman of the Committee on Military Affairs, who I believe, notwithstanding the bad influences of a military education, is honest and intelligent, will favor the select committee with some suggestions that may retrench the enormous and useless expenses of the Government in this particular. I shall go for a select committee; but I shall go against continuing their powers beyond this session, because I want them to do something, and not refrain from doing something because they cannot do everything.

Mr. DAVIS. The Senator from New Hampshire need not have had any apprehension of my replying to him. I assure him that such was not my purpose; I merely want to relieve him. The subject to which he refers has been under consideration, though it is not involved in the mystery which he describes, and no one knew it better than the Senator from New Hampshire. He called on me this morning to know where the report was which gave him what every officer received, when all this commutation was changed into money. I sent for the report, but the clerk was out of my committee-room, or I should have laid it before him, when he could have seen what every officer received. It is now reported annually to Congress; there is no mystery about it; but there is very great difficulty in fixing a salary. The Senator speaks of it as a very easy matter. He reminds me, somewhat, of a merchant who sent a supercargo abroad. When he came back he rendered his account, and in it was "horse hire," which the merchant disallowed, as not necessary to a supercargo. The next time he returned, his account was examined and no "horse hire" found in it. He was commended for not having any horse hire in the second account, but he told him: "You do not see it in the account, but, nevertheless, there is horse hire there," [laughter]; and so it is of the servants of whom he disclaims so loudly. They are found in the return of every officer of the Army; they are not found in the case of the Navy, and yet they exist. Every officer who goes on shipboard has the benefit of services rendered to him by the Government, and servants kept on board for the benefit of the officers. In the Army, it appears, stands out, not only in the pay account, but in the annual report

which is made to Congress of which the Senator is advised.

The PRESIDING OFFICER. The question is on the amendment striking out "the Finance Committee," and inserting "a select committee, to consist of seven members." On this question the yeas and nays have been asked.

The yeas and nays were ordered; and, being taken, resulted—yeas 34, nays 24; as follows:

YEAS—Messrs. Bayard, Bell, Bigler, Brown, Chandler, Chesnut, Clark, Clay, Collamer, Crittenden, Dixon, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hamlin, Hammond, Hunter, Iverson, Jones, Kennedy, King, Pugh, Sebastian, Simmons, Thompson of Kentucky, Thomson of New Jersey, Trumbull, and Wade—34.

NAYS—Messrs. Allen, Bates, Broderick, Chingman, Davis, Doohite, Douglas, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Mallory, Polk, Reid, Rice, Seward, Shields, Slidell, Stuart, Toombs, Ward, Wilson, Wright, and Yulee—24.

So the amendment was agreed to.

Mr. GWIN. I now move to strike out that portion of the resolution which was offered by the Senator from Michigan, and accepted by the Senator from Tennessee, in these words:

Provided, That in case said committee shall not be able to comply with this resolution during the present session of Congress, the duty shall be extended to the next and subsequent sessions, for the purpose of more mature and complete action.

Mr. JOHNSON, of Tennessee. In the discussion of this resolution, it has been conceded, I think, by pretty much every Senator, who has spoken upon it, that a great deal cannot be done during the present session. The provision now proposed to be stricken out was submitted to me by the Senator from Michigan, and I thought it was the best under the circumstances; that whether a select committee or the Committee on Finance undertook the investigation, the work could be commenced; but had no idea that it could be completed during the present session. Hence the amendment, as the resolution now stands, was accepted. I think it would be best to continue it in that shape.

I wish to say in this connection—and I rose more for that purpose than any other—that I have introduced no resolution to create a select committee. I am not the mover of a proposition of that sort, and if my proposition has been taken out of my hands by others, of course they entitle themselves to the courtesy that the mover of the resolution is always entitled to in selecting the chairman of the committee. I am satisfied in my own mind that the appointment of a select committee will result in doing no good. The Committee on Finance to-day, is in possession of more information necessary to an investigation of this sort, and the accomplishment of an end of this kind, than a select committee could be possessed of in the course of the next twelve months. If that committee could not complete their labors with the information they have, they could commence the work, and the Senate could indicate a determination that it was to be continued. I am in hopes that the Senate will not strike out what is now proposed to be stricken out by the Senator from California. In the event of the adoption of the resolution in its present form, that Senator has entitled himself to the honorable distinction of being chairman of the committee. I have introduced no resolution to appoint a select committee.

Mr. GWIN. I only wish to strike out this clause because I do not want to perpetuate the committee. All our committees expire at the close of this session, and they are reappointed at the beginning of the next session. I take it for granted, if a select committee is appointed, that a majority of the Senate, having indicated their desire to have this investigation, will, on a motion being made, renew this committee. My only object is to prevent the creation of a committee during this session of Congress that shall be in existence at the beginning of the next session. I want the general rule to prevail. In regard to my being chairman of the committee, I never dreamed of such a thing, and would not serve in such a position, because I have plenty to do on the Committee on Finance, and that is the very reason I do not want it to go to that committee. I think they have enough to do now; and, being a member of that committee, I would not serve upon this special committee under any circumstances.

Mr. SEWARD. I hope that this part of the resolution will be stricken out. If we are to have

a thorough investigation, I think it can only be made by the Committee on Finance; but the Senate has decided otherwise, and decided that a select committee shall be appointed. I do not want to add another standing committee to the Senate, a committee on retrenchment, and have that converted into a sinecure office. The committee who will have charge of this subject should have time to make an examination, and it will be time enough to decide whether they shall deserve to be continued in their trust at the next session, when we shall see what they have accomplished at the end of this one; and we shall be better able to judge at the next session whether the examination ought to be continued, or whether it must be abandoned as hopeless.

Mr. PUGH. I should like to ask the Senator from Tennessee whether I understand him to say that he will not serve as chairman of a select committee?

Mr. JOHNSON, of Tennessee. I cannot serve as chairman.

Mr. PUGH. I voted for a select committee to secure the Senator's services, and I move to reconsider the vote by which it was adopted. I would rather have the Committee on Finance, unless he is to be chairman of the select committee.

Mr. JOHNSON, of Tennessee. I cannot serve, because I believe it will do no good. I am in earnest in the proposition, and I want to give it that direction which will make it beneficial to the country.

Mr. PUGH. I move to reconsider the vote on the amendment of the Senator from California, providing for a select committee.

The PRESIDING OFFICER. The first question is on the present amendment.

Mr. HAMLIN. I submit to the Chair that the motion submitted by the Senator from Ohio is first in order, most clearly. It is to reconsider the vote of the Senate which has just been taken. I may be willing to vote with the Senator to reconsider if the resolution stands before the Senate precisely as it stood when I voted upon that amendment; but if it is changed by striking out the last clause, I may then be unwilling to reconsider. It is a privileged question; it is entitled to be considered before any amendment, or anything is done with the proposition before the Senate. Such, I think I may say, is the uniform practice of the Senate, and I appeal to all Senators to say if I am not right.

Mr. SEWARD. Perhaps the honorable Senator from California will consent to let the motion for reconsideration have precedence.

Mr. GWIN. No. I want to perfect the resolution as a majority of the Senate indicated. They wish to have a select committee, and I want this proviso stricken off.

The PRESIDING OFFICER. The opinion of the Chair is that the Senator from Ohio has a right to enter his motion; but after that motion is submitted it is no longer a privileged question. The question first pending is the amendment offered by the Senator from California to strike out the last proviso. If the Chair errs, he will be happy to be corrected by the Senate.

Mr. HAMLIN. I am very certain that the Chair is wrong in its decision; but I do not want to take an appeal from it. I am very certain, however, that the decision is not in accordance with what has been the uniform practice of the Senate, and there is good reason for the practice. This is a privileged question; we want to take it now before we vote to change the proposition, or before we vote to see whether we shall change it or not. An amendment has been carried, and a proposition has been made to reconsider that vote, and the first question before the Senate is on its reconsideration. There can be no doubt about it.

Mr. JOHNSON, of Tennessee. I would remark, in connection with what has been said on this question of precedence, that I think the motion to reconsider is clearly in order; and even after the motion is made and entered, it is subject to be called up by the mover, or any member of the Senate, at any time. It is a privileged motion. A motion to reconsider is moved, and that motion is before the Senate, and can be called up at any time.

The PRESIDING OFFICER. The Chair will submit the question to the Senate. Is it the pleas-

ure of the Senate to entertain the motion of the Senator from Ohio at this time?

Mr. DAVIS. Let it be done by unanimous consent—which dispenses with all rules in this body.

The PRESIDING OFFICER. The Chair hears no objection. The question is on the motion to reconsider the vote on the amendment which has been adopted.

Mr. GWIN called for the yeas and nays; and they were ordered.

Mr. KING. I shall vote for this motion to reconsider. I voted for the select committee from my confidence in the Senator from Tennessee, whom I supposed would be placed at the head of the committee, although I had considerable deference to his wish that it might be referred to the Finance Committee; but as that gentleman informs the Senate that he declines to serve on this committee, I am clearly of the opinion that the Finance Committee is the proper one.

Mr. HAMLIN. I voted to adopt the amendment, and I shall now change my vote. I shall do it for two reasons: first, I have conferred with the Senator from Tennessee, and he assures me that it is his wish that the subject shall go to the Committee on Finance. He is the mover of the resolution; and I feel a desire, so far as I may in accordance with my own judgment, to act in co-operation with him. I do it, secondly, because I see the whole thing is designed to have the go-by entirely. Strike out the Committee on Finance, put in a select committee, and then strike off the power which they have in the last clause of the resolution to continue their researches beyond the session, and you have a committee to act for a few days, and they will do just nothing. Let the Committee on Finance have charge of this matter; charge them with the continuation of the subject from session to session; and from the relations which they bear to the Government, we will hold them, and we will hold the Government, responsible for all that they ought to be responsible for; and we shall be willing to assume that part of the responsibility, as a legislative body, which belongs to us. The responsibility, I am willing to admit, is divided. I know we are the legislative department; and at the other end of the avenue is the executive department. Such at least is the theory of our Government, although I believe in practice it is right the other way; they legislate and we execute. They tell us the amount of money they ask for, and then we indorse it. They execute in point of fact, and we indorse their execution. When we do so; when we go beyond what our own judgment tells us is right, we ought to be held responsible for it.

I want this committee to tell me what the appropriations are for the purpose of executing laws in existence; I want them to tell me what are the appropriations made without the authority of law, and at the mere instance and suggestion, not of a Department, but of some subordinate officer in a Department, some clerk of the third or fourth degree. I believe the Finance Committee is the committee to do that; and we see plainly that, if it is to be referred to a select committee, and the power contained in the last clause of the resolution is stricken from them, just nothing at all is to be done. Let that committee which bears the relation to the Administration that the Finance Committee does, have charge of this matter. Hold them responsible for the discharge of their duty; and then hold the Government responsible for the expenditures they make. For that reason, I shall vote to keep the resolution as it is, and refer it to the Committee on Finance.

Mr. BROWN. I shall vote against the motion to reconsider, for the reason that I think a select committee can more appropriately discharge this duty than the standing Committee on Finance. That committee is already overwhelmed with business. It is utterly out of the question for them to give this subject the consideration which its importance demands. As for the argument that you cannot perpetuate the existence of a select committee beyond the close of the session, it holds equally good in reference to the Committee on Finance. When the session closes, the committee ceases to exist; and yet you can have a sort of quasi perpetuation of the existence of the committee; and that just as well in the person of a select committee as in that of one of the standing committees.

The PRESIDING OFFICER. Will the Senator suspend his remarks to receive a message from the House of Representatives?

Mr. BROWN. Certainly.

DEATH OF HON. T. L. HARRIS.

The following message was received from the House of Representatives, by Mr. J. C. ALLEN, its Clerk:

Mr. PRESIDENT: I am directed by the House of Representatives to communicate to the Senate the proceedings of the House on the announcement of the death of THOMAS L. HARRIS, late a member of that body.

The resolutions of the House of Representatives were read.

Mr. DOUGLAS. Mr. President, for the first time during my public service, it becomes my mournful duty to join in an official tribute of respect and veneration to the memory of a deceased colleague from my own State. The message from the House of Representatives has announced to the Senate the death of THOMAS L. HARRIS, a well-known Representative from the State of Illinois. His declining health—the result of severe exposure in the military service of his country—had long since impressed upon his family and immediate friends the stern necessity of preparing their minds and hearts for this afflicting bereavement. With a constitution broken, and sinking, slowly but certainly, under an incurable disease, and while calmly awaiting a result which he was conscious was inevitable and rapidly approaching, he retained and displayed the indomitable energy, courage, and fortitude, which had characterized his whole life, and enabled him, until the hour of his death, to perform his whole duty to his family and to society—to his State and the Union. He died at his home in Petersburg, Menard county, Illinois, on the 24th of November last, of pulmonary consumption.

The history of THOMAS L. HARRIS may be studied and his example followed with safety and honor by the youth of our country. Born in Norwich, Connecticut, on the 29th of October, 1816, he was only two years of age when his father died, leaving him and a younger brother dependent upon a widowed mother for support. By his own exertions, with the labor of his own hands, he obtained the means to acquire an education, and graduated with credit at Trinity College, Hartford, Connecticut, in 1841. During his senior year in college, he became a student-at-law in the office of Governor Toucey, now Secretary of the Navy, and pursued his studies with assiduity and success. In December, 1841, he removed to Amherst county, Virginia, where he continued the law, while teaching school to obtain the means of support. In 1842 he was admitted to the bar in Virginia, and the same year removed to Petersburg, Menard county, Illinois, where he commenced the practice of his profession, and resided until the period of his death. He rose rapidly in his profession, and had already acquired an enviable reputation as a lawyer, when the Mexican war broke out and called him to another field of duty. In May, 1846, he raised a company of volunteers and was elected their captain. He joined the fourth regiment of Illinois volunteers, under the command of Colonel Baker; and on the 4th of July, of that year, was elected major of the regiment. After reaching Mexico, the absence and sickness of the colonel and lieutenant-colonel devolved the command of the regiment upon Major HARRIS; and in this position he displayed, in an eminent degree, the qualities of the soldier and the officer—courage, energy, promptitude, and discipline. He soon became conspicuous, winning the applause of his superiors and the confidence and love of those under his command. At Vera Cruz, as well as Cerro Gordo, after the fall of General Shields, when the command of the brigade devolved upon Colonel Baker, and that of the regiment upon Major HARRIS, in consequence of the sickness of the lieutenant-colonel, the gallantry of my friend became historical, as appears by the official dispatches of General Scott, commanding in chief, and those of Major General Patterson and Colonel Baker, under whose immediate orders he acted.

During his absence in Mexico, Major HARRIS was elected by the people to the Senate of Illinois, notwithstanding the district had previously given a decided majority in opposition to the political

party to which he belonged. Returning from the war, surrounded with honors which his fellow-citizens all took pride in awarding to him, and which he bore with a modesty in harmony with his character, he again engaged in the practice of his profession with that earnestness of character which was a part of his nature. But he had become an object of too much public interest to be allowed to remain long in private life. In 1848, he became the nominee of the Democratic party (with which he was always thoroughly identified) for Congress, in a district which had uniformly given a decided Opposition majority, and was triumphantly elected, upon the distinct issue of non-intervention by Congress with slavery in the States or Territories. His course in Congress was bold, manly, and unequivocal; always adhering strictly to the principles on which he was elected. He supported, by vote and speech, the legislation of 1850, known as the compromise measures; and never failed to defend the authors of those measures and the principles involved in them, whenever and wherever assailed.

In 1854, when sectional strife raged with its greatest fury, and men of less nerve quailed before the storm, Major HARRIS again became the candidate of his party for Congress in his district, which had been changed so as to conform to the new apportionment, and was then represented by a political opponent. In this contest, he stood forth the bold and fearless champion of the principles embodied in the Kansas-Nebraska act; and in that distinct issue, he was elected by about two hundred majority over his popular antagonist. Maintaining in Congress, with ability and fidelity, the principles on which he was elected, he for the third time became the chosen leader of his party, by a unanimous vote, in 1856; and, after an arduous and severe canvass, pending the presidential election of that year, he was reelected by about two thousand majority. The course which Major HARRIS felt it his duty to pursue on the important and exciting questions which engrossed the attention of Congress during the last session, is familiar to the Senate and the country. Whatever diversity of opinion may exist, here or elsewhere, in regard to the merits of that controversy, all will unite in bearing testimony to the ability, fidelity, and gallantry, with which he maintained and defended his conscientious convictions.

When Congress adjourned, he returned to his home in the beloved State of his adoption, worn down and exhausted by excessive labors, and sinking slowly under the effects of a disease which even his energy and will could no longer resist. He received the unanimous nomination of the Democratic party for reelection to Congress, and was reelected on the 2d of last November by about four thousand majority. Contrary to the advice of his physician, and in opposition to the urgent and affectionate remonstrances of his friends, he insisted upon being carried to the polls, that he might pay the last tribute to his political faith, and perform his last duty to his country. He lived to receive complete returns of the election in the entire State, and to write affectionate letters of congratulation to those with whom he had uniformly acted on public questions, and in whose success he cherished a deep and heartfelt interest. While the country at large will mourn the loss of a brave and true man, whose patriotic services in the field and in the councils of the nation gave promise of a brilliant and useful future, we of Illinois, who knew him best in all the relations of life, can alone fully appreciate the extent of our loss.

Major HARRIS left a wife and four small children, to whom he was tenderly, ardently, devotedly attached. Of them, their affliction, their loss, I will not attempt to speak. God alone can pour consolation into their hearts.

I offer the following resolutions:

Resolved, That the Senate receive with sincere regret the announcement of the death of Hon. THOMAS L. HARRIS, late a member of the House of Representatives from the State of Illinois, and tender to the relatives of the deceased the assurance of their sympathy with them under the bereavement they have been called to sustain.

Resolved, That the Secretary of the Senate be directed to transmit to the family of Major HARRIS a certified copy of the foregoing resolution.

Resolved, That in token of respect for the memory of the deceased, the Senate do now adjourn.

Mr. SHIELDS. Mr. President, in rising to second these resolutions, I beg leave to add a few words to the remarks of the honorable Senator from

Illinois. After the eloquent and appropriate observations of that Senator, to which we have just listened, it only remains for me to touch briefly upon some incidents in the life of the late THOMAS L. HARRIS, which occurred, as it were, under my personal observation. I was a citizen of Illinois when the deceased became a resident of that State in 1842. He was a member of the legal profession, and as such soon succeeded in establishing in his new home an enviable reputation at the bar for diligence, probity, and ability. He was a man of clear intellect, cool courage, and a high sense of honor. In the practice of his profession, in the legislation of his State, on the battle-fields of Mexico, or in the Hall of the House of Representatives of the United States, whenever or wherever duty summoned him to act, he obeyed the summons in the spirit of an honest and gallant and high-souled man—a man true to his duty, his conscience, and his country.

In the spring of 1846, the State of Illinois raised and equipped four gallant regiments of volunteers to serve in the war with Mexico. THOMAS L. HARRIS received the appointment of major in one of those regiments—a regiment which formed a part of the first brigade, which I had the honor to command. In the summer of that year, we sailed for Mexico, and landed at Brazos de Santiago. Upon our arrival in that country, to our great regret, we found it necessary to encamp for a time on the lower Rio Grande to await our supplies. Placed in a low, unhealthy region of country, this temporary camp proved extremely disastrous to our unacclimated troops. Disease and death invaded our ranks and made sad havoc among our raw levies. The sound of the muffled drum, the requiem of some lost companion, was the doleful music that day by day assailed our ears and smote upon our hearts. It was during this trying period that THOMAS L. HARRIS exhibited those qualities of gentleness and humanity that always accompany true courage in a refined and noble nature. He forgot himself in his devotion to others. Day and night he traversed the camp, from tent to tent, cheering, encouraging, and consoling his suffering companions. It was in the discharge of these humane duties, at that time and place, that he contracted the seeds of that disease which undermined his health and strength, and pursued him down to an untimely grave. Upon the arrival of our supplies, we were able to ascend the river and select a more healthy position; and here I was appointed to another command which separated me for a time from that brigade. Early in the spring of 1847, we came together again, at the siege of Vera Cruz. During the pendency of that siege, the deceased acquitted himself with conspicuous courage and gallantry. He commanded a select detachment from the brigade, in a general attack upon the enemy's outposts, and performed the service with resolution, sagacity, and intrepidity.

Late in the evening of the 17th of April of the same year, our brigade of New York and Illinois volunteers halted at the foot of Cerro Gordo, to be ready to take an early part in the expected engagement of the next day. On the ground near where we happened to halt lay three pieces of artillery—a twenty-four pounder and two twenty-four pound howitzers, which the engineers had brought there in the hope of having them placed in battery on the summit of an adjoining hill, to be ready to open upon one of the enemy's batteries next morning. Night had fallen before the attempt could be made; and the darkness of the night, and the precipitous nature of the ascent, made them begin to think of abandoning the undertaking as hopeless and impossible. But the volunteers were not accustomed to consider anything impossible that had been positively ordered to be done. They manifested the utmost anxiety to try their strength on the twenty-four pounder; and as it could do no harm to gratify their wishes, I detailed five hundred men, under the command of Major HARRIS, to make the experiment. The experiment was made; and, to the astonishment of us all, proved completely successful. In the darkness of night that huge cannon was hauled up a rugged acclivity, the very sight of which might have deterred them from even making the attempt, had they been only able to see it in the full light of day. This little battery of three pieces of artillery did effective service in the battle next morning. Our historians make mention of

this as a remarkable feat, and tell us it was performed the night before the battle; but, in justice to the memory of the dead, I take this occasion to tell the Senate and the country by whom it was performed.

Early on the morning of the 18th, our brigade received orders to advance across rugged, broken pedregal, attack the reserve of the Mexican army under the immediate command of Santa Anna, and seize the Jalapa road, in order to cut off his retreat to the capital. This movement was executed with rapidity and success. The attack was so sudden and unexpected, that Santa Anna had barely time to effect his escape by flying into the adjoining woods, leaving his carriage, baggage, money, and plate, in the hands of the volunteers. The surprise was so complete that the whole medical staff of the Mexican army were surrounded and captured in their hospitals before they had the slightest suspicion that our troops were in that vicinity. Throughout this sharp and spirited engagement there was no officer or soldier of that brigade who exhibited more dauntless courage and brilliant intrepidity than the gallant man whose untimely loss we this day deplore.

Mr. President, I considered it due to our past relations to refer to these incidents of his life, because they happen to be within my own knowledge. It was like a debt due to the memory of a deceased friend, which the occasion called upon me to discharge. It was a sacred offering which I deemed it my duty to depose upon the tomb of a deceased companion; and having performed this sad, but sincere and earnest duty, I cannot think it necessary to refer to his public services as a statesman. These are part of the history of the country. They have been handsomely alluded to by his distinguished colleague, the Senator from Illinois. It is sufficient to say, that the deceased brought to the conduct of public affairs, on all occasions, the same resolute and noble spirit which he was accustomed to exhibit in the suffering camp or on the field of battle. May his spirit rest in peace!

I second the resolutions.

Mr. DAVIS. Mr. President, it is the custom of our body, upon the announcement of the death of one of our brethren, either of this Chamber or of the other, that the fact should be noticed not merely by those who belong to the same immediate section, or who hold very near political or personal relations to the deceased, but that it should also be responded to by those who do not stand exactly in such relations. It is a usage worthy to be preserved. It speaks to the heart and to the mind of that which makes us really one people—fraternity. It speaks, also, to history of that which I trust is long to remain, by the coöperation of men from every portion of our wide expanded country, the one great object—the common good of the whole. It belongs, too, to the civilization of the age, whilst we raise the little heap over the remains of the departed, that we should smoothe every trace of controversy which has existed in life, and leave upon the grave only the flowers of affection and the cypress of sorrow.

But mine, sir, is not the performance of that mere formal task. I come bringing the heart's offering. Such is my willing contribution to the pile which affection and justice are rearing to the memory of the deceased. Each revolving year but impresses me more and more with the sense of obligation for benefits conferred, and the inadequacy of the return I have been able to make to my fellow-men for the kindness which they have bestowed. This is an instance of that species of regret. To the deceased I am indebted for services which friendship only gives—a friendship which I had no right to claim or even to expect from him; services rendered on more than one occasion, and rendered, too, when it was least likely I should ever know it. It is with me a matter of deep regret that I never sufficiently manifested to him the gratitude which I felt, and yet feel. My language would fail me if I were to attempt to express all that I believe of him, and all that I think is a just tribute to his memory. My heart feels what my tongue cannot express. If it be permitted to spirits in the land of the departed to note the acts of those they have left behind, I trust the tribute which I offer to his mem-

ory will not be unwelcome to his spirit: it is the tribute of the heart, which I cannot express.

Truly, has our path of late been strewn with monitors to the living of the vanity of life's toils and troubles. One after another of those who have been connected with us in the labors of legislation, pass away; and as we look back on those, the most distinguished, are we not solemnly warned how ephemeral are all our efforts, how vain are the cares which engross the mind, and the struggles which occupy us day and night, to weave that web which the next breeze may bear away forever. Thus do we go on toiling singly and together, alas, but to blow the little bubbles of our temporary struggles, which the next wave of the tide of time would bear to oblivion. The present is an instance which comes to me with peculiar impressiveness. The Senator from Illinois has well described how his exposure in the camp, and his toil in the council hastened his death. In this earnest and excited labor he is but another instance of the many which surround us, how far ambition, even leading to misplaced exertions, robs youth of its spring time, and hastens us on prematurely, to the languid step, the hollow cheek, the dimmed eye, which wintry age alone should bring. Around us, I say, Senators, are strewn the wrecks which such an encounter with the storms of life has daily made. Around us they stand as monitors to the living, and though silently, yet forcibly do they appeal to the living for that tribute which is due to the dead, the offering which patriotism brings when it approaches the altar where man has sacrificed himself to his country.

The deceased, both in peace and war, showed that he realized that obligation of the citizen of the Republic which denies that he shall consider himself as living for his family only. True to his friends in private life; true to his country in official position; true to himself, may we not venture to hope that he has gone to his God to receive the reward which justice gives to truth and manliness? Studious and conscientious, he was remarkable for the accuracy of his knowledge; and this gave to him especial value in council. Long will he be remembered by those who went to him as a sort of walking lexicon of current events, and often must he be missed by them when they require his aid and counsel. To his friends sorrow and regret must long remain. Others may look upon his career as fulfilling the measure of his mission; his friends must still deplore his early loss. The winter of man has no returning spring; the flowers wither and fade, never to bloom again. In this instance the muffled drum has beaten the last march of the soldier; the lamp of the statesman is extinguished. It but remains, then, for the tear of affection to fall upon his grave; for the prayer of patriotism to follow the spirit of the departed, and give to him that which patriotism claims for the man who lived for his country and died as became it.

The resolutions were unanimously adopted, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 17, 1859.

The House met at twelve o'clock, m. Prayer by Rev. BYRON SUNDERLAND, D. D.
The Journal of Saturday was read and approved.

SPECIAL COMMITTEE.

The SPEAKER announced, as the special committee, to which was referred House joint resolution (No. 47) directory to the Secretary of War, respecting certain surveys in Tennessee and Kentucky, Messrs. ATRINS, CORNING, CLARK of Missouri, UNDERWOOD, and KELLOGG.

NEW MEMBER QUALIFIED.

Hon. THOMAS J. BARR, of New York, elected to fill the vacancy occasioned by the resignation of Hon. John Kelly, appeared and took the usual oath to support the Constitution of the United States.

NIGHT SESSIONS.

The SPEAKER stated the question first in order to be the motion of the gentleman from Missouri, [Mr. PHELPS], that the rules be suspended for the introduction of the following resolution:

Resolved, That during the ensuing two weeks it shall be in order each day after to-day for the Committee of the

Whole on the state of the Union to take a recess until seven o'clock, p. m., after which hour general debate may be indulged in: *Provided*, That no vote shall be taken at such evening-sessions, except on motions that the committee do rise and the House adjourn.

The motion was agreed to; and the rules being suspended, the resolution was entertained.
Mr. PHELPS, of Missouri, called the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. PHELPS, of Missouri, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HANNIBAL GRAHAM.

On motion of Mr. KEITT, it was

Ordered, That the Committee on Public Buildings and Grounds be discharged from the further consideration of the petition of Hannibal Graham, and that the same be referred to the Committee of Claims.

TERRITORIAL BUSINESS.

Mr. STEPHENS, of Georgia. I offer the following resolution:

Resolved, That the three days, Tuesday, Wednesday, and Thursday, the 25th, 26th, and 27th of this month, be, and the same are hereby, set aside for the consideration of territorial business.

Mr. MORGAN. I object to the introduction of the resolution, unless there is a condition attached to it that, during the three days named, there shall be no provision considered for the admission of new States.

Mr. STEPHENS, of Georgia. Then I move that the rules be suspended.

Mr. MORGAN. I do not object to the usual resolution. I only object to that portion of the gentleman's resolution which may include the admission of new States.

Mr. STEPHENS, of Georgia. That I propose to leave to the decision of the House.

Mr. MORRIS, of Illinois. I hope the gentleman will not press his resolution now. If he does, others may ask to offer and press other propositions. There is another matter which will be called to the attention of the House to-day.

Mr. STEPHENS, of Georgia. I have no objection to its being postponed, provided it will come up the first thing next Monday.

The SPEAKER. It will.

DEATH OF HON. T. L. HARRIS.

Mr. MORRIS, of Illinois. Mr. Speaker, by appointment of my colleagues, I rise to the performance of a difficult and painful duty; difficult to present the one to whom I am to refer as he was; difficult to imprint upon the mind his character, his genius, and his virtues, as exhibited in an eventful life; painful, as I am to speak of him whom a family, society, a State, and a nation mourn; painful, as a star of the first magnitude has been stricken from the bright constellation of American statesmen and patriots; painful, as the loss we deplore is to be measured by an infinity of time.

When, sir, I look upon the chair, immediately in front of where I stand, the melancholy reflection rushes back upon me with all its chilling and startling effect that he who once filled it is reposing with the dead! Since our last adjournment, Major THOMAS L. HARRIS, a Representative on this floor from the sixth congressional district in the State of Illinois, has paid nature's great debt, and passed from life unto death. He soon followed to the charnel-house the lamented member from Mississippi, General John A. Quitman, who, living, was his friend and companion-in-arms, and who, gone, his fellow-traveler through the dark valley which stretches out beyond the bourne of time. Thus, two of the brightest moral and intellectual lights which shone within the circle of these seats, have gone out in darkness forever, and our hearts may well be shrouded in mourning.

Perhaps it has never before fallen to this branch of the national Legislature to weep the death of two such distinguished men; and their departure to the bright land of spirits discloses to us the vanity of all earthly things, and "what shadows we are, and what shadows we pursue." "Man cometh forth like a flower, and is cut down; he fleeth also as a shadow, and continueth not." When tossed upon the white-capped waves of a

rough sea, there is no time more profitable to him than the moment he is performing the last mournful funeral rites over beloved friends, who have gone down as sand-drops into eternity. Then he realizes that he too must soon pass the uttermost verge of life, which skirts the entrance into another world, and close his eyes upon earth forever. Oh, sir, what a lesson of wisdom we are taught by the sad and afflicting bereavements which have overtaken us! How should they still the pulsations of anger, and lead us to cultivate the feeling that we are brothers in life, and must be companions in the grave. I know full well that this sentiment actuated the deceased; that there was a mutual high appreciation of each other, which is no matter of astonishment when we reflect they were of the same type of men. In manly attributes; in the mildness and modesty of true bravery; in gallant bearing; in the courteousness of the gentleman; in the generous impulses of the heart; in physical and moral courage, two qualities rarely found united in so eminent a degree in the same persons, they were alike.

Illinois, therefore, asks for herself the right to mingle her sympathy with Mississippi, and to drop a tear upon the tomb of her illustrious dead. The broad and mighty river which sweeps by her western border pours its waters along the shores of the sunny State he loved so passionately and served so faithfully, and is symbolical of that current of public grief which reaches from one to the other; we claim a common inheritance in his great name and chivalrous deeds, and the right of bringing to his sepulcher the grateful tributes of affection and regard. There is an attribute of humanity common to us all—that of sorrow, when the great and good pass away; and Mississippi mourns a HARRIS, while Illinois mourns a QUITMAN.

The eulogiums passed upon General Quitman a few days ago, and which he so well merited, wrought out from the rarest treasures of the mind, and enriched with a literary fragrance, will rest upon his life and the consecrated spot of his entombment as the mellow sun-light upon the world when night is stretching out its dark curtain over it; and no true son of Illinois will ever desire to dim the bright effulgence or efface the gorgeous drapery, but rather to add additional radiance and beauty to them. I hope the time will never come when our estimation of sterling character and distinguished public worth shall be bounded by the narrow limits of a State, but that we shall always see everywhere, all over our extended land, men of shining qualities to challenge our admiration and insure our gratitude. Mississippi, sir, can create no feelings of envy or jealousy in the bosom of Illinois, which can induce us to depreciate her illustrious citizen on account of the place of his residence; still I will not attempt to conceal the fact that we feel a just local pride in the recollection of our own HARRIS; and I only regret that I cannot do more to perpetuate and embalm his memory than drop a green sprig into his grave as I pass around it in the cortege of mourners; that I have not words to do justice to his character, or present a more faithful portraiture of those merits which adorned his useful and brilliant, but, alas! too short, career. We can see, we can realize in our associations with the truly meritorious, scenes and characteristics which we cannot describe. There are a thousand little streams, striking off at tangents from the main current, which rise at the same fountain and flow to the same point, that are difficult to dot on life's map, especially in what must necessarily be a very brief eulogy; and yet they are parts of one beautiful and harmonious whole.

It was at the instigation of Major HARRIS that the Illinois delegation in the Cincinnati convention cast their votes in that body for General Quitman as the candidate for Vice President; and had he been standing here where we have so often seen his erect and manly form, at the moment his death was announced, none would have been more anxious than he to do justice to the great worth and intrepid valor of that deceased officer. How truly may it be said of them, "they were lovely and pleasant in their lives, and in their death they were not divided."

Major HARRIS was a native of Connecticut, and grew up to the stature of manhood among the hardy and enterprising New Englanders. He was born at Norwich, in that State, on the 29th day of October, 1816, and received a collegiate educa-

tion at Washington (now Trinity) College, Hartford, solely by means of his own exertions; for he was not nurtured in the lap of luxury or wealth, but knew what it was to eat the bread of penury and toil. Naturally of a bold and daring spirit, he could not be confined to the mere details of a monotonous life. His was a higher destiny and nobler aim, and a divinity shaped his course. His place of nativity offering no sufficient inducements for the development of those rare qualities and endowments which distinguished his after life, the great conservative West, which stands as a bulwark between the extremes of views in the nation, seemed to invite him to its locality, and its democratic sentiment to be congenial to his own. Turning from the scenes of his childhood and the associations of youth, endeared to him by a thousand ties of hallowed recollection, poor, friendless, without patronage, and depending upon himself, he went out into the great world, unaided and alone, the architect of his own fortune. Directing his footsteps as a stranger to a strange land—to the Mississippi valley—that extensive field of generous rivalry, where honor and distinction are achieved by those who are capable of grasping and worthy of holding them, and are not conferred by family or wealth; where no arbitrary conventional rules exclude from public places the meritorious poor; Illinois was so fortunate as to receive him as her adopted son, and she nourished him as a favorite child.

In 1842, at the age of twenty-five, he settled at Springfield, the capital of that State, but soon after removed to Petersburg, Menard county, where he commenced the practice of his profession, and at once took his position at the head of an able bar. Perhaps no man was ever more remarkable for his indomitable energy and untiring industry. In his investigation of subjects he did not skim over them, as the sea-bird over the waves, scarce dipping its bosom in their snowy crests, but explored their remotest and most mysterious chambers, and brought to light whatever hidden treasures were useful or valuable. He was eminently a practical and philosophical man, and indulged in no vain or idle words, or sought to decorate his subject with mere tinsel of language, though he frequently strewed the pathway of debate with brilliant and sparkling gems. Blessed with a clear, methodical, and logical intellect, he chose rather to deal in facts than ornament or illustrations; and was, moreover, a most forcible reasoner. His eloquence was the eloquence of unadorned truth, and he never failed to impress it upon his hearers. They could not escape the force of his arguments or the sincerity of his convictions. He did not drive with the impetuosity of the storm; but like a placid river, smoothly, quietly, steadily, and surely, moved on. Nor was his thunderbolt dashed against the trembling oak, or the lurid sheet of lightning that wrapped it in flame, but the steady rays of a meridian sun, drawn to a focus by a converging glass, and burning with an intense melting heat. If, however, engaged in an intellectual controversy with an adversary worthy of his powers, his mind was like an agitated lake, with brilliant flashes of light playing all over it, and acted with the velocity of lightning. His conclusions were reached as if by intuition. Perhaps no one was ever more fortunate at reparation; and his sarcasms were withering and terrible. When aroused, they fell upon his antagonist like a thousand spears tipped with fire. He was always self-possessed, and equally at home at the hustings, the bar, and in the legislative hall, and was the ornament of each.

Superadded to his mental endowments was a gentleness of manners and an integrity of character that made him at once the favorite of the people. Within three years from the time of his settlement in his new home, he was elected a member of the State Senate, but never entered upon the duties of that office, owing to the war between the United States and Mexico, which opened to him a new field of action. Burning with an ardent patriotism, and impressed by a sense of obligation to his country to redress its wrongs, vindicate its honor, and bear forward its flag, he preferred the tented field to the legislative hall, and resigned his senatorial position. Possessed of no titled parchment to give him rank or command, he enrolled as a private, but was soon after promoted by his fellow-soldiers. Merit like his could not long be kept concealed. He was elected major of his

regiment, and served a part of the time as colonel. That he was a courageous warrior, as well as able statesman, the battery he planted upon the hill opposite Cerro Gordo the night before the battle, (a work which the Mexicans regarded as impossible, and almost superhuman,) and his many other acts of personal bravery, well attest. Indeed, he combined in himself many of the elements of a great captain. Fearless even to a fault, fertile in expedients, skillful in strategy, quick to comprehend, and bold and prompt to execute, he saw at a glance the position to occupy, and bravely marched to it. No officer was ever more beloved by his troops. His kindness to them, his attention to their wants, sharing with them as he did all the hardships of the campaign, and never asking them to go where he was not willing to lead the way, caused them to regard him with the most tender affection; and in after life, when he became a candidate for political offices, they gave him the most convincing proof of their attachment. Many a one of these hardy soldiers will make a pilgrimage to the quiet little graveyard where rest the remains of their beloved commander; and the tear will steal from the eye, and the heart will pour forth its grief, over all that is mortal of THOMAS L. HARRIS. Never, while the pulsations of life shall beat, will his virtues be erased from the tablet of their memories, but a recollection of him will be the cherished jewel in the casket of the soul.

But, Mr. Speaker, it was not alone on the tented field, in the deadly breach, on the blazing height,

“Where leaden mail and iron hail”

poured forth their work of death, that the deceased shone most conspicuously, or was known to his admiring countrymen. As a statesman and legislator, he possessed abilities of a high order, which were called into constant and active requisition. Upon his return from the Mexican war he was nominated for Congress by the Democratic party of the district in which he lived. He entered upon the canvass under the most discouraging circumstances. A large majority of the district was opposed to him in political sentiment. No Democrat had ever represented it on this floor; and his opponent was a man of acknowledged powers as a debater, of high standing, and everywhere regarded as the ablest lawyer in the State, and possessed the confidence of his friends. Not a doubt of his success rested upon their minds, while Major HARRIS was thought to be leading a forlorn hope. Nothing daunted, however, he undertook the herculean task assigned him; and after a most animated and arduous contest, victory perched upon his standard. He was elected by one hundred and six majority; while at the same election General Taylor carried the district against the Democrats by fifteen hundred.

In 1850, he ran again, and was defeated by the disaffection of a prominent Democrat. In 1852, not desiring to stand a canvass, the Democracy ran another, and were beaten. In 1854, he defeated his former competitor, the Hon. Richard Yates, by a majority of two hundred, in one of the most vigorous campaigns on record, upon the issue of the Kansas-Nebraska bill—the principles of which he defended with dauntless firmness in the closing and most exciting period of his public life. In 1856, he was successful over John Williams, Esq., a citizen of long residence and high respectability in the district, by two thousand two hundred majority; and in November last, was elected by four thousand two hundred and forty majority over the united vote of a combined Opposition; thus proving he was more and more appreciated as he became better and better known. He was the cherished idol of his immediate constituents, and of his State; and, had he been spared, would have been the recipient of its highest favors. It may, indeed, be said of him, he was the man whom the people delighted to honor.

But a merciful God, “who doeth all things well,” and “whose ways are not man’s ways,” hath cut him down in the vigor of his manhood, and at the moment of his greatest usefulness and brightest promise, and called him to a more glorious sphere of action; where the “just made perfect” dwell in sweet harmony together, and “death is swallowed up in victory.”

It would be a work of supererogation, Mr. Speaker, to undertake on this melancholy occa-

sion, a recital of his labors in the national Congress. They properly belong to the historian, and constitute the brightest flowers in the chaplet which adorns his memory. Those who entered this House contemporaneous with him, and have witnessed the ability and integrity which he brought to the discharge of every public duty, only know how to appreciate his loss to the nation. His senior in years, but his junior here, I only served with him in a legislative capacity during the last session, but even that brief period was sufficiently long to enable me to learn his value to his country. Rarely has it fallen to the lot of any man to possess so many public and private virtues. A true and faithful soldier of principle, neither the hope of reward, or the frowns of power could swerve him from the line of duty—where that bade him to go, he went; where it bade him stop, he stopped. I firmly believe, sir, if death had stared him in the face, he would have marched up to its destructive battery with a brave heart, unblenching eye, and steady nerve, rather than to have yielded one jot or tittle of his integrity. *Justus propositi tenax.* He knew no expediency; was free from the tricks of the politician, and relied upon truth, justice, and the intelligence of the people for his vindication. With him the past is well, and the future secure. Always sincere, positive, frank, open, manly, noble, there was no deceit in him. He never betrayed a friend or a trust, or deceived an enemy, if enemy he had. As you left him, you found him; corruption never ventured to stretch out its tempting and polluting hand toward him. He was above suspicion, and office was only held by him as a means of serving the public. He never would have accepted one at the price of dishonor, for he soared in an atmosphere above the mere gambling politician, who is always a sycophant at the foot of power, and betrays every confidence in turn which may be confided in him. His was a pure and laudable ambition, springing from a disinterested patriotism, and imparting a healthy vigor and purifying influence to the body-politic.

During the memorable struggle of the last arduous session, when the furious passions of the human heart were bursting through this Hall, and excitement was raging like a hurricane through the land, he surveyed the scene with a calm and dauntless eye, and played his part as a moral hero. Though feeble in health and fast wasting away, he was rarely absent from his post of labor; the amount of work he performed, for one in his condition, as chairman of the Committee of Elections, was truly astonishing. When all of us knew he should have been in his room under the care of a physician, day after day found him in his seat here, nor would he relinquish his task when he was no longer able to walk to the Capitol. Well, sir, do I remember the time when the *test* vote on the admission of Kansas under the Lecompton constitution was to be taken. It was a moment of great anxiety and peril, and the result was to determine the policy of the Government towards her distant settlements, perhaps for all the future. The whole nation was awaiting the result in breathless suspense, for no question had ever before so intensified public feeling. I went to his room that morning, as I had often gone before, and found him in his bed, pale, feeble, and emaciated. The day was cloudy and damp, and I was fearful if he ventured out his disease would at once terminate fatally. I consequently urged him to permit me to find some one who would pair off with him. He declined; I urged again and again, and pleaded his condition to induce him to consent. “No,” said he, with a firmness and tone I shall not soon forget, “if I never give but one other vote, that one shall be given to-day in favor of self-government, and popular liberty;” and he did give it, under a conscientious and fixed belief he was discharging a high and sacred duty. Conveyed hither in a carriage, as he entered this Hall, supported by the honorable gentleman from New York [Mr. HASKINS] and myself, with the dark outlines of death already marked upon his features, all eyes were turned towards him in melting sympathy, and many supposed, while he himself was almost persuaded, he was fulfilling his dying obligation to his country.

I mention these facts, Mr. Speaker, not from any wish or design to intimate an opinion on the merits of the controversy to which I refer, for it is far from my intention to do so on this occasion;

nor to awaken unpleasant reminiscences; but I could not suppress them and do justice to the heroic character of my departed friend. This noble, self-sacrificing act, similar to the one he performed on the 2d day of November last, when he was carried to the polls on an expiring bed to give his last vote in support of the same great cause, stamps him at once as an inflexible patriot, whose care was for the welfare of his countrymen; and I may, with great justice and propriety, add, we shall seldom look upon his like again. He was, indeed, one whom Providence seemed to present as a model, the richest and rarest specimen of its creation, impressed with a delicacy of coloring, beauty of outline, and grandness of proportion necessary

"To give the world assurance of a man."

But all his labors of life are over. Consumption laid its slow and wasting hand upon him, and the lamp of his existence gradually expired. On Wednesday, the 24th day of November, 1858, at six o'clock in the morning, in the bosom of his family, and surrounded by friends, he bade adieu to earth; and

"Nearer to the chambers where the mighty rest,
Since their foundation came a nobler guest;
Nor e'er was to the bowers of bliss conveyed,
A fairer spirit or more welcome shade."

Although the deceased was not a member of any Christian denomination, he practiced every Christian virtue, believed in the great truths of the Gospel, was free from human vices, and died in the triumph of a Christian faith, at peace with all, and without any fear of the future. The only regret he expressed at leaving the world was the separation from his family. Just at the moment his spirit was about to wing its departure, with a look of sublime trust and confidence, betokening that all was well with him, he raised his eyes heavenward, and then turning them with touching sorrow to his despairing wife, said to her: "Wife, trust in God—He will befriend you," repeating even twice. These were his last words; and who can doubt that as he bowed his head in death his soul was impressed with the resigning sentiment:

"God of the just—Thou gavest the bitter cup;
I bow to thy behest, and drink it up."

The moral character of Major HARRIS was never subjected to one single reproach; and his uniform exemplary conduct was the admiration of all who knew him. He was at once a philosopher and Christian; a soldier and statesman; a philanthropist and patriot; and lived as all men wished they had lived when they come to die. The loss of such a one is a great national calamity; and I hazard nothing in saying it is so regarded by every member of this House. We all realize that a strong man has fallen; that one of the truest, the purest, and best of citizens and patriots is lost to society and to his country; that a statesman is gone, who, while his nationality was never doubted, was strictly a States-rights man, never distrusting the people, but believing them the safest depository of power, and always in favor of extending to them the largest liberty compatible with constitutional obligations. Such was his Democracy.

But, Mr. Speaker, there are incidents and associations connected with the life of the departed of more intense and thrilling interest to others than any we can feel; and holier ties have been severed than bound him to us. Subsequent to his location in Illinois he married Mary J., the intellectual and accomplished daughter of James Dirckson, Esq., an old and highly respected citizen of Berlin, Worcester county, Maryland; and what is our bereavement compared to that which has befallen her and those little ones he left behind? It is, sir, as the grain of mustard seed to the mountain; the rain-drop to the ocean; the snow-flake to the storm. The blow fell upon them with crushing and overpowering effect. They saw death enter the sanctuary of their home and stretch out his cold, dark winding-sheet towards him, upon which was written "no hope! no hope!" and henceforth to each the world was void, with not a single oasis in all its wide and dreary extent to gladden the eye or rejoice the heart.

As they look out upon it now, they no more behold the sunlight of their affection. They saw him sink into that boundless eternity which lies beyond the grave, and then clouds and darkness gathered over their pathway. He was of more

value than all the earth besides to them; for it was in the domestic circle where he shone the brightest and was the most beloved. An intelligent and esteemed lady, who knew him well, once remarked of him, that he was the best husband and father she ever knew. This observation tells the whole story! To go further would only be to invade the sacred precinct of the fireside, and aggravate those sorrows which have torn from their very roots the heart-strings of life. I would not, sir, for the world, add one additional pang to the anguish which has crushed a family's hope. Their grief is too hallowed for remark—their loss too great to be measured; and may He who "tempers the wind to the shorn lamb" be to them a father and a friend. I received, sir, but a few days ago, a most kind and pathetic letter from his sorrowing and afflicted widow; and, although it was intended for my eye alone, I am sure she will pardon me—I know the House will pardon me—if I read two or three sentences from it. None can so truthfully testify to his virtues and his worth as she who was the partner of his toils; the recipient of his confidence; the object of his love; the joy of his life; and the ministering angel who stood by him in his dying hour, to cheer him with the consolation of that glorious immortality which awaits the ransomed in the celestial world.

"If you, [she remarks,] seeing and knowing him only as a friend, can speak his praises, how much more can I, his wife, before whom every thought, every wish of his heart was laid bare as the noon-day sun—I who have for years dwelt in the light of his smile, been to the daily recipient of such thoughtful kindnesses as nature like his only are capable of bestowing? As son, husband, father, and friend, there was nothing wanting. In each and every relation in life his character was one beautiful whole. To those he employed, I have never known him to speak even harshly. His children knew him only as another playmate, the leader of fun and frolic; and yet he had only to speak, and have the most perfect obedience. To me, his wife—I can write no more. Memories of happy hours, now fled forever, come thronging before me. Sir, this is a heavy sorrow. It is very difficult to see the 'silver lining to the cloud.'"

One fact, Mr. Speaker, connected with myself, has caused singular emotions in my mind. Twelve years ago, when a member of the Legislature of my adopted State, one of my colleagues in that body, a most worthy and good man, was cut down by the hand of death; and now another in the National Congress has fallen before the same ruthless destroyer, while I have been kindly spared. The death of Major HARRIS, under all the circumstances, quite overpowers me, and I know not whither to turn for consolation. He was my friend; "faithful and just to me;" and I shall not soon have such another. I feel, sir, deeply feel, my lone, solitary condition; that I tread life's deck without his supporting arm to sustain me. His friendship welled up from the overflowing fountains of the heart, and was as pure as the waters which gushed from Horeb when touched by the rod of Moses. But he has gone; gone with all his virtues; with all his noble and generous impulses; with his spotless integrity; with his manly attributes; with his warm and genial attachments; with his high endowments; with all the great and good qualities which adorned his character; gone! down to the cold and silent grave! and we cannot bring him back again! With him the great struggle is over; the drama of existence ended, and the curtain fallen to rise no more forever.

"He's closed his day of battle toil,
His course on earth is done;
Let him slumber in the soil
To freedom's cause, nobly won."

But though he has passed through the narrow house appointed for all the living, and is now upon the other side of life's boundary, he has left to us the pleasing and consoling belief that he has realized the truth, *in celo quies*.

Mr. Speaker, I offer the following resolutions:
Resolved, That this House has heard with deep regret of the death of the Hon. THOMAS L. HARRIS, late a member of this House from the State of Illinois.

Resolved, That, as a testimonial of respect for the memory of the deceased, the members of this House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of the House upon the announcement of the death of Hon. THOMAS L. HARRIS, be communicated, by the Clerk, to the family of the deceased.

Resolved, That as a further mark of respect for the memory of the deceased, this House do now adjourn.

Ordered, That the Clerk communicate the foregoing resolutions to the Senate.

Mr. CLARK, of New York. Mr. Speaker, I rise, sir, for the purpose of seconding the resolutions proposed by the honorable gentleman from

Illinois in remembrance of his deceased colleague; and if, sir, I consulted alone the feelings of a heart oppressed with an unusual grief, I would rather go weep in solitude and silence. No words that I can utter can lessen the weight of the calamity that has fallen upon the country and upon ourselves. No language which I can employ can brighten the fame which has been eclipsed by the hand of death.

But it is my privilege, sir, to prolong for a few moments the contemplation of the character and virtues of him of whose untimely loss this stricken assemblage is already apprised. It was my fortune, sir, to have first met Mr. HARRIS at the late session of Congress, and to have had my eye first rest upon him when, in yonder Hall, upon occasion of the announcement of the death of a distinguished son of South Carolina, he rose in his place and spoke of the deceased Senator in the language of just and merited praise. I shall never forget, Mr. Speaker, the impression wrought upon my mind when looking upon him as he then stood before us, I saw that premature age had settled upon the brow and form of youth. I remember well how he alluded exultingly to our national progress and to the men who had watched and guarded our early destinies, and reminded us of the mournful truth that from time to time one after another of these great lights disappear from their watch over our political safety. I heard him, in his clear and strong voice, say

"'Tis sad, in the moment of glory and song,
To see while the hill-tops are waiting the sun,
The glittering band that kept watch all night long,
O'er love and o'er slumber, go out one by one."

"And the crowd of bright names in the heaven of fame,
Grow pale and are quenched as the years hasten on."

I remember, sir, how, in tones of solemn earnestness, he told us all, at the very threshold of our session, that, in a few short months, or years at most, our strifes and struggles would be over; and how he advised us all to seek alone that honorable fame which flows from a faithful discharge of the duties of life, and thus secure a record of which our children need never be ashamed.

Mr. Speaker, it may have been the force of the imagination, but I thought I saw reposing upon his brow, and gleaming in his eye, the presentiment of early death.

I never made his acquaintance until the allotment of our seats threw us in proximity; but from the first hour I knew him, I began to derive that high appreciation of his character which the review to which we have listened shows to have been accurate and just.

I leave to those who are more familiar, the recital of the details of his eventful life, and shall speak of him as we saw him in our midst but a little while ago. Here in the presence of those who knew him so well, and who witnessed his daily walk, it is needless to use the language of eulogy, or to speak of the living patriotism which throbbed in every pulsation of his heart. He must have impressed us all alike. Who among us fails to remember his uniform calmness and dignity; his fixedness of purpose; his inexorable resolve; and his exhibition of all the varied traits that go to form the honest, earnest, able man? He appeared to be governed in his course by a sincerity that admitted of no question; by a zeal unusual, and by an integrity upon which suspicion never even cast its glance. His acts all seemed to be regulated by the teachings of well-defined reason, and what is more than all, his pathway seemed to be illumined by the clear light of conscience.

I am not informed, Mr. Speaker, of the extent to which religious impressions had molded the character of our friend; but I may be permitted to refer to an incident in our personal intercourse which illustrates the man, and gives strong assurance that his feet were guided by light from on high.

During the midst of the exciting scenes of the session, I was one day informed that he was so ill that he would probably never rise from his bed. I had never visited him, but impelled by a strong sympathy for one who had demeaned himself so well, I called at his residence. It was in the dusk of the evening. The servant who received me at the door answered to my inquiries that he was very low, and that it was deemed inadvisable to permit him to hold much conversation. I entered his apartments, and had scarcely seated myself, when

Mr. HARRIS, wrapped in a dressing gown, came in from an adjoining room. He looked the picture of a dying man. His manly form appeared as it was always borne; but his pallid countenance, his sunken cheek, and the unusual luster of his eye, betokened to my mind the near and sure approach of the hour of death. I took him by the hand, and in obedience to that impulse of the human heart which, upon such occasions, compels the concealment of apprehension or alarm, while stating my hope for his immediate recovery, I accompanied my remark with some expressions indicating my belief that his situation was not such as I had feared. He pressed my hand in return, and placing upon me his deep and dark eye, said, with a manner and bearing I have not the power to describe, and which my memory can never forget: "You need not deceive me, sir; I am perfectly conscious of my condition. I know that I cannot live but for a little time, at any rate; and I am ready at any moment." I sought to cheer him. He replied that he was not in despondency; that his wife and little ones at home were alone the source of his anxiety; that, as for death, he was ready to meet it then, or at any time. He said a few words touching the engrossing subject of public interest, in respect of which our opinions accorded; and I retired from his apartment with feelings I had never known before. For I had stood for the first time in my life in the presence of a man who, I am sure, was *not afraid to die*. Whatever was the degree of physical courage with which nature may have endowed our friend—and his life attests that it was far above the ordinary standard—I think I can with confidence assert that no living man could have deported himself as he did, *who was not sure* that he had settled with his God the entire account of the acts and errors of his life.

Mr. Speaker, our colleague was a man of unquestioned talents, and of refined and intelligent education. A son of New England, it was in one of her beautiful valleys where he was first taught those principles of human conduct which the sons of New England carry engraven upon their hearts, in whatever spot upon the earth's surface their lot may be cast—principles to which they constantly defer in hours of difficulty and doubt—and which become at times more familiar and more endeared as the evening of life draws near.

He was a man of nerve and of daring. Follow him from the humble home where his youth was nurtured to that great State whose honor and whose fame he upheld upon the field and in the halls of Congress, and every step in his career is signalized by the exhibition of all the graces of honorable manhood. And when we see him, impelled by that adventurous spirit which sometimes overleaps the barriers of ordinary prudence and seeks the country's honors on their broader fields, surrender the trusts of a profession in which he had already acquired not undistinguished fame, to march beneath the banner of his country, and expose himself to the dangers and hardships of war, till he had sowed the seeds of that disease which has torn him from her councils ere youth's first flush was scarcely flown—how true it seems that

"It was his own genius gave the final blow,
And helped to plant the wound that laid him low."

He was kind and generous as he was brave. Like our venerated colleague from Mississippi, who was his companion in arms, his companion in this Hall, and who is now his companion in the grave, warm and strong sympathies bound him to his fellow-men. Like his noble compeer, wherever he saw the torch of civil liberty borne by weak and struggling hands, he would go to the rescue, indifferent alike to its honors and its hazards.

He was a statesman, as was his friend by whose side it was also my fortune to sit while he too lent the last labors of his life to the service of his country. I have often thought, Mr. Speaker, that traces of similarity marked the characters of those two men. Both were northern men. Each was a model of the true Representative of the American people. Each was conscious of his dignity and mindful of his prerogative. Either could break asunder the chains of party when, in his judgment, the pressure of its discipline partook of tyranny or partook of wrong; and neither would yield of his own convictions to the opinions of

others. Presidents and cabinets, parties and men, were each and all powerless when they would restrain their constitutional freedom or control their personal independence. The presence of such men, Mr. Speaker, in the councils of the nation, in my judgment, rendered our liberties more secure.

Mr. Speaker, I am unable from personal observation, to say whether Major HARRIS was or was not, in technical phrase, eloquent in debate. But, sir, I have observed sufficiently, to know that he possessed in an uncommon degree two of the essentials of human eloquence, namely, sincerity and truth. His reasoning was straightforward and direct. It disdained all the ignoble arts of the seeker for popular applause. His endeavor was to find the truth, disrobed of the prejudice and error which often environ it, and his pursuit was uniformly crowned with success. He saw its beautiful edifice lift before him, bearing the impress of its high and holy origin. That edifice, Mr. Speaker, is ever simple and unadorned. No deformities mark its fair proportions. No misplaced columns keeps its transcendent beauties from view. And when the eye first rests upon it, one can no more doubt the architecture to which it belongs, than the first morning when the scaffolds all removed, the morning light for the first time fell upon the temples of genius and of art.

Mr. Speaker, I will comment no further upon those excellencies of mind and heart and character, which invaluable as they were to his country and to those who survive him on this field of his fame, are now lost to earth, save as grateful remembrances to those who inherit his honors and his name. But I am involuntarily borne to that western State where his gentle wife mourns with keener and peculiar grief, the loss of our colleague and friend. But I forbear—for our affliction is not to be mitigated by the contemplation of that which the providence of God has poured upon his young and defenseless household. Nor will we tarry by that fresh-made grave, where, by the side of children who have gone to Heaven before him, our colleague rests from the love and the labor of life. For there

"No marble marks his couch of lowly sleep;
But living statues there are seen to weep.
Affliction's semblance bends not o'er his tomb;
Affliction's self deplores his early doom."

Mr. Speaker, I second the resolutions.

Mr. LAMAR. Mr. Speaker, the kind allusions that have been made to the memory of my late colleague, General Quitman, may seem to require from me a response equally kind and cordial. But, sir, apart from the promptings of a returning courtesy, the impulses of my own heart forbid my allowing this occasion to pass without placing on record my estimate of the high qualities, both mental and moral, which distinguished the character of the gentleman whose death has been just announced.

The incidents of his youth were unknown to me until they were detailed here to-day by his colleague; for my acquaintance began with the fully-developed and maturely-ripened man, in the full fruition of those high honors which he had earned on the tented field and in the national councils; and which, allow me to say, he wore with becoming grace and dignity, and with increasing reputation. I had supposed, however, that his elevated style of thought, his polished taste, his flowing courtesy of manner, above all, his moral refinement, were the offspring, as usual, of early mental culture. If, therefore, he sprang from an obscure origin, without advantages of position or the possession of fortune, it only shows what native force existed in him.

"The rank is but the guinea's stamp,
The man's the gowd for a' that."

Through your kindness, sir, I was associated with Mr. HARRIS at the last session of Congress on the Committee of Elections, of which he was chairman; and although, during the progress of our labors, many questions arose on which we differed widely and felt deeply, from the beginning he impressed me as a man scrupulously honest and upright in his intentions, incorruptibly pure in his moral principles, never sacrificing truth or right for consideration of interest—in short, a statesman, animated by a lofty spirit of enlarged patriotism. The condition of his health, when I knew him, was such as to forbid any

active participation in the debates of this House, and therefore gave him no opportunity for any brilliant display of his oratorical powers. In his colloquial discussions, however, in the committee-room and elsewhere, I could not fail to discern the movements of a well-trained and powerful intellect, enriched with varied information, and gifted with no ordinary insight into the philosophy of politics.

But the feature of his character most to be remembered was his moral force—that peculiar, silent, but vital power of will, which enabled him, when about to enter upon a career with a full conviction of its justice, to pursue it in calm defiance of all opposition. This quality, sir, is perhaps more essential to successful and magnificent efforts than even the brilliant endowment of genius. That which the world calls genius is often but little more than the happy facility of expression—the power of embodying in fine words those choice and subtle thoughts which lie deeply but inarticulately in the universal consciousness. He, however, who has this central power of the soul, this spiritual force, underlying all his other faculties, and imbuing them with its own fiery essence, cannot well fail of greatness. You need not measure the stretch of his imagination, or the grasp of his intellect, or the size of his brain. His hand will be felt on the age in which he lived, and his influence impressed upon generations yet to come.

This quality of Mr. HARRIS's character was most conspicuously exhibited in the last session of Congress, when his convictions of duty forced him into a position of antagonism to his former political associates, and to the Representatives of that entire section of our Confederacy to which he had been endeared by grateful recollections of common battles fought, of common dangers shared, and of common victories won in their defense. Amid the most agitating scenes of that memorable session, when the grim spirit of sectionalism dragged forth on this floor its materials of passion and prejudice and fanaticism and fierce debate, the pale face of HARRIS could be seen, calm, unmoved, but with dauntless courage and deathless energy, stamped upon its every lineament. If he was ever stung to the heart by the bitter speech of those from whom he supposed he had the right to expect only words of kindness, he allowed no murmur to escape his lips; but self-poised in the counsels of his own mind, seemingly oblivious of self, of friend, and of foe, alike, he marched right on to the attainment of his object, doing nothing rashly, nothing doubtfully, nothing feebly.

This same spirit was exhibited in his fierce conflict with that grim monster which had clutched him in its inextricable grasp. But it was no ignoble struggle on his part for life, merely for the sake of living. Every step of his career proved that he carried his life in his hand—the pledge of his truth, of his honor, and of his country's cause.

There is another aspect, however, in which his character may be viewed; and while it lacks nothing which commands our respect, it has much of that which wins our confidence and love. Mr. HARRIS was a man of delicate sensibilities, of warm and generous friendship, of refined affections. He had not alone the courage to fight; but he had that higher, nobler, more godlike attribute, the magnanimity to forgive.

I should have been untrue to the impulses of a friendship now rendered sacred, had I failed to pay this tribute to the memory of THOMAS L. HARRIS. And, sir, let sneering cynics prate about the cold formalities of these proceedings; you know, and we all feel, that this is an occasion of solemnity and sadness. For what friend of that noble man can think of his death for one moment without recollections of pleasures forever fled, mingling with regrets for every unkind expression, for every unjust and injurious suspicion, and for every opportunity of kindness neglected? Who, sir, is not ready to sanctify such an occasion by saying to his fellow-members, "if there be one man here whose character I have mistrusted, to whose motives I have done injustice, or whose spirit I have struck an unnecessary blow, I here confess and beg forgiveness?" Nay, sir, may we not even rise higher, and realize the truth of that beautiful conception which I have seen expressed somewhere, that in that bright reversion of the skies, to which all

good men aspire, "they will find that here on earth they were working each for the other's cause; that every well-delivered blow which, with an honest purpose, any mortal ever struck, even for a narrow object, was indeed stricken for the universal cause of good; and that they who now deem themselves antagonistic by creed, profession, or country, will hereafter, when looking back over the world's wide harvest-field, find that, in unconscious brotherhood, they have been helping to bind the self-same sheaf?"

Mr. WASHBURN, of Illinois. Mr. Speaker, as the colleague, and as one of the members from Illinois, longest associated here with Major HARRIS, whose death has awakened our sensibilities, and whose loss we all so much deplore, I desire to ask the indulgence of the House for a single moment, while I gratefully add my testimony to that which has been so justly borne to the character and services of the distinguished man, whose memory is destined to live in the affections of the people of my own State.

My acquaintance with my late colleague was made many years ago. Natives of the same New England, and of nearly the same age, we both made Illinois the home of our adoption. Residing in different parts of the State, but pursuing a common profession, we met for the first time at the supreme court of the State, in the year 1843. That acquaintance was not renewed till we met here, as members of the Thirty-Fourth Congress, representing the same Commonwealth. Attached to different political organizations, our social relations, ever kindly, finally ripened into a friendship, the memory of which I shall fondly cherish.

Educated to the legal profession, as a lawyer, Major HARRIS was able, conscientious, and successful; as a soldier, he was brave, generous, and intrepid; as a statesman, he was enlightened, practical, and just; as a legislator, he was governed by just principles, elevated sentiments, and patriotic views. No Representative ever more vigilantly guarded or more ably defended the rights and interests of his own constituents, or looked with greater care to the welfare of the whole country. All who have had the honor to serve with him in this body, will bear willing and cheerful testimony to the intelligence, zeal, and efficiency which he brought to the discharge of his official duties.

As a politician, he was ardent and unyielding in his convictions; in the advocacy of his principles, he was bold, persistent, and uncompromising; but no man ever questioned the honesty of his purposes or the sincerity of his views; and I am gratified in being able to say that his political opponents always yielded to him the homage of their fullest confidence in his integrity and patriotism. As a man and as a citizen, he was distinguished for those characteristics which make the deepest impress upon mankind. His mind was quick, active, vigorous. His traits of character were all positive; he was no half-way man; whatever position he took, whatever cause he espoused, he embraced it with the whole energy of his disposition. After once making up his mind upon any subject, no man was ever left in doubt as to his position. With him there was never a struggle between honor and servility. In the whole course of his life, he never knew dishonor. It is related that while one of the most distinguished founders of the French Revolution was awaiting his execution, in the prison of the Carmes, as expressive of his own sublime conviction, he wrote with his own blood, upon the walls of his dungeon, this last sentiment of his heart:

"Potius mori quam fedari."

But it were unnecessary for our late associate to transmit that sentiment by any last act of his own, for he had engrained upon the daily walk and conversation of his whole life that with him it was ever "rather death than dishonor."

Though in feeble health at the adjournment of the last session of Congress, Major HARRIS hoped to return here this session with recruited health and renewed strength. His vigorous intellect and unconquerable will seemed to rise above the insidious and painful disease which was wasting away his life. But alas! those hopes so fondly cherished by himself, his family, and his friends, were doomed to disappointment. His voice was never more to be heard in these Halls, but was

to be hushed forever in the stillness and silence of the grave. He went home but to die in the quiet country village where he had lived so long, and where he was known so well. His last thoughts were consoled by the approbation of a constituency whom he had so faithfully served; and he was surrounded by family and friends, whose presence served to sooth the bitter pangs of approaching death. And when the hour of his existence came finally to strike, it was at the close of our western autumn, when the serenity of the heavens invites us to the contemplation of the last days of that splendid season about to expire.

But he is gone! Struck down in the pride of his manhood, in the full tide of his usefulness, and in the maturity of his intellectual strength and vigor. Though dead, he shall yet reign in the recollection and admiration that surround his memory.

"The hand of the reaper
Takes the ears that are hoary;
But the voice of the weeper
Wails manhood in glory."

Mr. ADRAIN. Mr. Speaker, I rise to add but a few words to those which have already been so feelingly and justly uttered, on the decease of one who was well known to us all. The death of Major THOMAS L. HARRIS was not unexpected, for he had long been a suffering but uncomplaining invalid, and seemed ready, at any moment, to be snatched away. During the last session of Congress, we all remember his pale, emaciated, but expressive countenance, and the sad and hollow cough, which told too certainly of

"That dire disease whose ruthless power,"
finally terminated his earthly existence. And although expecting at any moment to hear of his decease, yet when the sad tidings ran along the electric wires from one part of the country to the other, alas! alas! they came too soon, causing many a heart to vibrate with emotions of deep regret and sorrow. It was fondly hoped that he might have been spared once more to have resumed his seat in this Hall, and been greeted with the warm and heartfelt congratulations of his many true friends on his triumphant reelection, as a faithful and able Representative of the people. But we may now look around for him in vain. He is with us no more. His seat is vacant, only to be filled by some strange and unfamiliar form, while he who so lately occupied it lies cold and motionless in the silent grave. But his noble spirit, I humbly trust, freed from all earthly fetters, is now rejoicing in another and far better assemblage, that of the pure and happy beings above, who know no sorrow, disease, suffering, or death.

It is not my purpose, Mr. Speaker, to enter upon any detailed account of the life and character of the deceased. I shall notice but a few traits in his character, and speak of him simply as I knew him in this Hall, for the first time last winter. His early life and history have been related by his feeling and bereaved colleague, [Mr. MORRIS,] from the State of Illinois. My first acquaintance with the lamented HARRIS, grew out of an act of kindness on his part to myself. Having occasion at the commencement of the last session of Congress, to consult some member from the State of Illinois, in regard to a matter of professional business, I singled him out, and with the greatest promptitude and pleasure, he rendered me all the advice and aid that were needed. And from that time forth down to the close of the session, I was more or less thrown into his society, both in a social and business way, and had therefore a full opportunity of forming some estimate of his true character.

It must have been perfectly apparent to every member of this body that he possessed, in a very remarkable degree, great decision and energy of character. And if it had not been for these master qualities, it would have been utterly impossible for one in his delicate state of health to have discharged all the varied and laborious duties which devolved upon him. He was chairman of one of the most important committees—that of elections—the duties of which he performed with great industry, fairness, and ability. Before that committee several highly important and difficult election cases were brought, which required the greatest amount of labor, and he gave to them all a full and thorough investigation; and his reports

to this House are marked with evidences of great industry and talent. And, in addition to all this, he took an active and prominent part in discussing important questions which here arose; and was the leading and master spirit of those with whom he was associated in the discussion and management of a most grave and delicate subject, which deeply agitated this House and the whole country. And during the whole period of his labors, he was greatly enfeebled by a wasting disease, and at times reduced so low as almost to forbid the hope of recovery; yet, with an iron will which seemed to bid defiance to all physical weakness and decay, his powers would soon recuperate, enabling him again to be at his post of duty.

"All his soul
Was full of resolution, which expires
Never from valiant men, till their last breath."

And as an evidence of his strong and resolute purpose in defense of those great principles, of which he had been such a fearless and able advocate, he insisted upon being carried from his death bed to the polls to discharge that high and inestimable duty of every American citizen, the right of suffrage.

Major HARRIS was not only distinguished for great decision and energy of character, but also for strong logical powers of mind. This was clearly manifested in all his speeches and reports to this House. He dealt mostly in facts and argument; and consequently appealed to the reason and judgment of men. And yet he was by no means deficient in imaginative power, whenever he chose to bring it to his aid to illustrate or adorn his argument. He was a ready, impressive, and able speaker and debater. His perceptions were clear and rapid, always seizing hold of the strong points of a case; and his language was invariably well chosen and happily adapted to the subject. His speeches were never long, spun out in frothy and unmeaning words; but short, directly to the point, and most effective. And in this respect, his example might well be imitated by us all. And there was no member of this body, who, in my opinion, whenever he rose to speak, was listened to, or deserved to be listened to, with a greater degree of respect and attention; and none who more clearly and forcibly elucidated any position that he took.

Such are a few of the leading traits in the character of the deceased which attracted my notice. And having thus very briefly spoken of his mental powers, I might refer to his social and moral qualities. I will simply say, however, that in all my intercourse with him he was frank, manly, honorable, upright, kind, and true; and as a friend, warm and generous, and steadfast as the needle to the pole. Such was Major HARRIS, whose heart was pure and noble, as his mind was clear and strong. And having greatly admired his character, and formed for him a strong personal attachment, I may be permitted to mingle my tears and sorrow over his early grave with all who respected and loved him.

The death of such a man is not only a great loss to his family and to his friends, but to the whole country. It will be deeply felt in the legislation of the country, for no one possessed of his high qualities of mind and character can be removed from the present stage of action without leaving a void behind not easily filled. And it is deeply to be lamented that, during the adjournment of Congress, death, with its cold and relentless grasp, has carried off two of the most useful, prominent, and distinguished members of this body. The brave, gallant, and courteous Quitman first fell before the grim destroyer; and then came the noble, fearless, and able HARRIS, whose death we now mourn, and to whose memory we are paying fitting tributes of respect. But death pays no regard to persons, their position, age, or character; but all fall alike indiscriminately before the march of the dread monster.

"The prince who kept the world in awe,
The judge, whose dictate fixed the law,
The rich, the poor, the great, the small,
Are level'd; death confounds them all."

But, alas! alas! death too often "loves a shining mark," and singles out as his victims the highest and the best, the most valued and honored. And I think I may safely say that no two men could have been taken from this body whose talents, industry, public experience, and fidelity in the

discharge of duty, were more needed and will be more missed than those of General Quitman and Major HARRIS.

But Major HARRIS, Mr. Speaker, was not only a resolute man, an able debater, and distinguished statesman, but a true-hearted patriot and soldier. He was ready to serve his country on the field of battle, as well as in the national halls of legislation. And when but a few years ago the clarion note of war roused every patriotic heart, he was among the first to rush to the loved standard of his country, in defense of her rights and her honor. And during that brilliant contest with the Mexican foe, when American skill and valor were so gloriously displayed, Major HARRIS shone most conspicuously as a true and gallant soldier. And it was in that memorable war that the seeds of his disease were first laid, whose bitter fruit is an untimely death.

In pausing, Mr. Speaker, in our legislative duties, to pay that respect which is due to the much lamented dead, may these sad and touching occasions, not be without a profitable lesson to us all. In truth, their highest benefits are to the living, and not to the dead. No eulogy, however feeling or eloquent, can ever reach the leaden ear of death, or call back that vital spark which once lit up and animated the mortal frame.

"Can storied urn, or animated bust,
Back to its mansion call the fleeting breath?
Can honor's voice provoke the silent dust,
Or flattery sooth the dull cold ear of death?"

Let, then, these solemn and impressive occasions remind us, the living, more forcibly of that all-important truth, the uncertainty of life and the certainty of death—death that comes at all hours and at all seasons.

"Leaves have their time to fall,
And flowers to wither at the north-wind's breath,
And stars to set; but all—
Thou hast all seasons for thine own, O death!"

And whenever the season of our departure comes, whether in winter's frost or summer's heat, in the discharge of private or public duty, at home or abroad, may we be ready to leave this life with all our duties faithfully performed, at peace with the world and our Maker.

Mr. STEWART, of Maryland. Mr. Speaker, on this mournful occasion when we are engaged in paying the last sad tribute of respect to a departed associate in this Hall, I should not do justice to my own feelings, if I failed to bear at least some brief testimony to the many virtues of the deceased. I trust I shall be pardoned for the oblation.

But a few years ago, I met Colonel HARRIS for the first time, in the House of Representatives, vigorous, buoyant, and active in the busy scenes of life. Another very short period, and I mingled with him on a still more exciting theater, where I had the pleasure of hearing him, in rapturous strains, pronounce a warm and eloquent encomium on the brilliant services of a living brother soldier whose glorious warlike deeds he earnestly recounted, and whose further distinction he was then anxious to promote.

Both then in full life; now, alas! numbered with the countless nations of the dead!

A few days since this Chamber was vocal with grateful offerings to the shade of the illustrious Quitman, and the memorable incidents in his life were most feelingly portrayed.

The scene had again changed; but the voice of his former eulogist was silent. Alas! we now commemorate his merits and dwell with melancholy pleasure upon his manly virtues! The indomitable Quitman and the gallant HARRIS are both forever gone. How admonitory such striking illustrations of the uncertainty of human life!

Colonel HARRIS, although a distinguished citizen and favorite of another State, was connected with the district that I have the honor to represent by the nearest and dearest of social ties.

Besides, he was well known to a considerable portion of my constituents, to whom he became endeared by the frankness and kindness of his manners, and who will long and fondly cherish his memory.

In my own intercourse with him I found him courteous and agreeable, and I but give utterance to the impulses of my nature in sympathizing with his warmest friends in their bereavement.

How evanescent, shadowy, and gossamer-like,

are all the pursuits, purposes, and calculations of mortal man! How vain, and yet how fair! But irreversible and fast-fixed by the throes of God are the decrees of fate.

The frail human body is but animated dust, which, disunited from its godlike occupant, the soul, perishes and dies, whilst the existence of the promethean spark, the soul itself, runs parallel with the immortality and perpetuity of God Almighty himself.

This is a consolatory reflection, considered in reference to departed friends. How elevating the thought, which, in the goodness of God we may entertain, that the disembodied spirit of the lamented HARRIS, although forever separated from the turmoil of this life, is in that upper and better world, more congenial to its full development; where freed from the incumbrances of mortality, it may forever mingle, in its pure essence, amid its unclouded and resplendent glories, and infinite and unfathomable mysteries!

The question was then taken on the resolutions, and they were unanimously agreed to; and thereupon (at two o'clock and five minutes, p. m.) the House adjourned.

IN SENATE.

TUESDAY, January 18, 1859.

Prayer by Rev. JOHN LANAHAN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, communicating, in obedience to law, a plan and estimates for reducing the expenses of the collection of the revenue of the Government; which, on motion of Mr. STUART, was referred to the Committee on Finance.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 7th instant, a list of all the vessels, of all kinds, belonging to, or employed in connection with, the Navy of the United States, together with a list of all the officers of the Navy, with their compensation, together with his opinion whether the number of such officers, or their compensation, or that of any class of them, can be reduced without injury to the public service; which was, on motion of Mr. MALLORY, referred to the Committee on Naval Affairs; and a motion by Mr. HALE to print the report was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of April 13, 1858, the report of the officers appointed by him to make the examination of the iron, coal, and timber of the Deep river country, in the State of North Carolina; which was ordered to lie on the table; and a motion by Mr. MALLORY to print the report was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. CLINGMAN presented the memorial of J. P. C. Davis, on behalf of the owners of the schooner E. S. Rudderow, which was wrecked on the coast of Florida while freighted with Government stores, praying indemnity for the loss of the vessel; which was referred to the Committee on Commerce.

Mr. SEWARD presented the petition of Asa Sprague, and others, of the State of New York, praying that persons entitled to pensions under the act of 24th of April, 1816, may be allowed the same from the date of that act; which was referred to the Committee on Pensions.

Mr. IVERSON presented a memorial of certain Cherokee Indians and their descendants, praying to be allowed the benefits of certain treaties made between the United States and the Cherokee nation; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the joint resolution (S. No. 61) giving construction to the act entitled "An act to extend an act entitled 'An act to continue half pay to certain widows and orphans,' approved February 3, 1853," approved June 3,

1858; reported it without amendment, with a recommendation that it do pass.

Mr. GREEN, from the Committee on Territories, to whom was referred the bill (S. No. 498) for the relief of the city of Omaha, in the Territory of Nebraska, reported it without amendment, and adversely.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred a resolution instructing the Committee on Naval Affairs to inquire into the expediency of providing for the construction of a supply of steam engines suitable for the propulsion of vessels of war, in order that the Government may at all times have in depot a supply of such engines adequate to probable wants, whenever the occurrence of war shall render necessary a rapid and large increase of the Navy, submitted an adverse report, which was ordered to be printed.

CATALOGUE OF DOCUMENTS.

Mr. HAMMOND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of causing to be published, immediately after the close of each session of Congress, a catalogue of all the documents and books, additional copies of which have been ordered by the Senate.

CONTINUANCE OF POSTAL SERVICE.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to report as to the expediency of providing by legislation for the continuance of the postal service between Charleston and Havana, as now conducted, after the 30th of June next.

PURCHASE OF CUBA.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if in his opinion it be not incompatible with the public interest, to communicate to the Senate any and all correspondence between the Government of the United States and the Government of her Catholic Majesty, relating to any proposition for the purchase of the Island of Cuba, which correspondence has not been furnished to either House of Congress.

PRINTING OF REPORTS.

Mr. YULEE. I offer the following resolution, and ask for its present consideration by the Senate:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of providing for the printing, in advance of the day appointed for the assembling of Congress, of the reports of the heads of Departments accompanying the annual message of the President, omitting the reports of heads of bureaus and other appended matter not material to the usual legislation of the session.

This is a resolution of inquiry to a committee, and the occasion of its introduction I will state to the Senate. Up to this moment, the session being more than half expired, the committees of the body are not in possession of the reports of the heads of the Departments. The committee with which I am associated find it impossible to proceed to the consideration of material matter connected with the legislation of the Senate for the want of the report of the Department with reference to whose business their attention is more particularly engaged. We have made very considerable effort to procure it, without success as yet, and but five or six weeks remain of the session. Upon inquiry, I find that the probability is, we shall be delayed a week or two yet before we can receive it; and it is because the reports of the Departments alone will make four volumes of seven hundred pages of printed matter, the greater part of which is without any utility, will never be read or referred to, and can be of no possible use in the legislation of this body. I have obtained from the Superintendent of Printing a list of documents appended to the various reports; and among them I find a document relating to camels, the use of dromedaries, &c.; and a variety of other documents of as little use to the practical legislation of the Senate, in the printing of which all the material matter connected with the annual Executive message is delayed from reaching the hands of the committees.

To remedy an inconvenience of the same nature to the legislation of the body, a resolution was passed on the 7th of January, 1846, directing the printing, in advance of the convocation of Con-

gress, of the annual estimates; and a similar law was passed in 1850, for the printing of the report on commerce and navigation. I see no reason why the reports of the heads of Departments, without those of the bureaus and the appended matter which may be material to the legislation, may not be printed in advance as well as the other documents to which I have referred. The object of this resolution is to direct the Committee on Printing to inquire into the expediency of such a provision.

The resolution was considered by unanimous consent, and agreed to.

ACCEPTANCE OF PRESENTS.

The joint resolution of the House of Representatives (No. 45) authorizing Townsend Harris, United States Consul-General at Japan, and H. C. J. Henskin, his interpreter, respectively, to accept of a snuff-box from her Majesty the Queen of England, was read twice by its title.

The VICE PRESIDENT. It will be referred to the Committee on Foreign Relations.

Mr. STUART. I think there will be no objection on the part of the Senate to passing that joint resolution now. It is one of the ordinary character.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which proposes to authorize the persons designated to receive respectively a snuff-box from her Majesty the Queen of Great Britain, as an acknowledgment of valuable services rendered to her Majesty's ambassador, Lord Elgin, in his negotiations in Japan.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. PUGH. I ask for the yeas and nays on the passage of the resolution. I do not pretend to make any special objection to this one. I oppose them all. I am opposed to the principle of any officer of the United States receiving any present from any foreign Power; and I desire to record my vote against it.

The yeas and nays were not ordered.

The resolution was passed.

JAMES G. HOLMES.

The bill (H. R. No. 798) for the relief of James G. Holmes was read twice by its title.

Mr. REID. The Committee on Patents and the Patent Office have examined this case and reported upon it, and I ask the indulgence of the Senate to permit it to be put upon its passage.

Mr. FITZPATRICK. I desire to know of my friend from North Carolina if this is for a renewal of a patent?

Mr. REID. It merely enables the patentee to file his application *nunc pro tunc*, without prejudice, which he failed to do in consequence of the sickness of himself and family at the proper time. It is a small matter, and the committee have unanimously reported in favor of it.

Mr. FITZPATRICK. I dislike to interfere with matters of that kind, but I have uniformly voted against all renewals of patents. It involves a question of some importance.

Mr. CHESNUT. I hope the gentleman from Alabama will withdraw his objection. It is a question of very small matter, but it is one of peculiar merit. It is not often that a patentee from South Carolina appears here, and I hope he will withdraw his objection.

Mr. FITZPATRICK. I simply wish to state that, on principle, I am opposed to all renewals, and I shall vote against the bill. At the solicitation of my friend, however, I shall say no more.

The VICE PRESIDENT. Does the Senator object to the consideration of the bill?

Mr. FITZPATRICK. No, sir.

The VICE PRESIDENT. Then it is before the Senate as in Committee of the Whole; and the Secretary will read the bill.

The Secretary read it. It is intended to provide that James G. Holmes, who obtained a patent for an improvement in "chairs for invalids," dated September 24, 1844, for fourteen years, which has now expired, shall be authorized to apply to the Commissioner of Patents for an extension of his patent for seven years, under the rules and regulations now in force for the extension of patents, as if he had made application previous to its expiration as required by law; and

the Commissioner is directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extensions are decided; but the application for the extension must be made within thirty days after the approval of this act, and the decision of the Commissioner must be rendered within ninety days from the filing of the application in the Patent Office. Nothing in this bill is to be so construed as to hold responsible in damages any persons who may have manufactured chairs containing the patentee's improvement, between the expiration of the patent and the approval of this act.

Mr. YULEE. Is there any report accompanying the bill? If so, I should like to hear it.

Mr. REID. If the Senator from Florida will listen to me for one moment, I will state briefly the principle of this case. Mr. Holmes, the patentee, applied verbally to the Department to renew the patent some twelve or eighteen months before the patent expired; but he was then informed that his application could not be entertained so long before the expiration of his patent. Just before the expiration of his patent, he intended to come on here and file his application; but his family became sick, which prevented him from doing so; and he subsequently became sick himself. He, however, sent on to his attorney here to file the application; and the application, as his attorney informed him, was just ten days too late. Although the patent had not expired, the time within which application should have been made had expired ten days. The consequence was that he could not file his application; and he only wishes to file it now, *nunc pro tunc*, without prejudice, that the Commissioner may investigate the case; and if he was entitled to an extension, then that he shall be still entitled to it; but if he was not entitled to the extension then, he will not be entitled to it now. It is because he was sick and could not make his application that the committee have thought proper to allow him to file his application now, as he would have had the right to do then.

Mr. YULEE. That is all very well, Mr. President, if it presents the whole case; but I will inquire whether the Patent Office has been applied to for information on the subject, because there may be another side to the question. This man has had the patent for fourteen years, and an extension to twenty-one years is a long time.

Mr. REID. The committee applied to the Commissioner of Patents upon the subject, and have had all the evidence which it was possible for them to have; and several days ago the Senate committee reported this identical bill. The House has taken up and passed the same bill, and I am satisfied it is proper.

Mr. HALE. I hope this bill will pass. In the first place, I am very much in favor of the article that is patented. It is an easy chair. In the second place, South Carolina troubles the Patent Office but very little; and I think it would be very ungracious to oppose this application from South Carolina now. I hope it will pass.

Mr. REID. Certainly; for I believe the President of the Senate has in his room the very chair invented by this gentleman.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills, from the House of Representatives, were severally read twice by their titles and referred as indicated below:

A bill (No. 788) authorizing the Secretary of the Treasury to grant a register to the schooner William A. Hamill—to the Committee on Commerce.

A bill (No. 789) to compensate the State of New Jersey for the use of the court-rooms for the United States court in the State-House at Trenton, in said State—to the Committee on the Judiciary.

NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill in relation to the printing of post bills, blanks, printing drafts, &c., of the Post Office Department.

AMENDMENT OF RULES.

Mr. GREEN gave notice of his intention to

move the following, as an additional rule for the Senate:

Rule No. —. All questions relating to the priority of business to be acted upon, shall be determined without debate.

BILLS INTRODUCED.

Mr. IVERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 515) to amend the judiciary acts in relation to service of process in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. POLK, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 514) to establish an assay office in the city of St. Louis, in the State of Missouri; which was read twice, and referred to the Committee on Finance.

RESTORATION OF NAVAL OFFICERS.

Mr. HALE. I ask the unanimous consent of the Senate to introduce a joint resolution (S. No. 71) authorizing the President to restore certain officers of the Navy to their former places; which I wish to have read, and referred to the Committee on Naval Affairs.

Mr. MALLORY. Let it lie over. I object to its consideration, and even to its reference at this time.

Mr. HALE. What is the objection of the Senator from Florida?

The VICE PRESIDENT. The Senator objects to its further reading at this time, or reference.

Mr. MALLORY. If the objection will prevent its reference to the Committee on Naval Affairs to-day, I make the objection; if not, it can go.

The VICE PRESIDENT. The objection has that effect.

INDIAN ANNUITIES.

Mr. SEBASTIAN. The Committee on Indian Affairs, to whom was referred the bill (S. No. 503) authorizing the President, with the consent of any Indian tribe, to expend their money annuities for educational, agricultural, and other objects, that will best contribute to their prosperity and advancement, have instructed me to report it back, with a recommendation that it pass. I will ask the unanimous consent of the Senate to consider this bill now. It is a bill having for its object one single act only. It is plain in its provisions, and so obviously necessary that I presume there will be no objection at all to it. Its immediate passage, too, is one of urgent necessity. I hope I shall have the consent of the Senate to consider the bill now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, the object of which is indicated by its title.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

J. B. DE TREVILLE.

Mr. CHESNUT. Yesterday, I submitted a resolution which, by reason of an objection, could not then be acted on. I move that that resolution be taken up.

The motion was agreed to; and the resolution was adopted, as follows:

Resolved, That the Secretary of the Senate be directed to request the Court of Claims to return to the Senate the petition and papers of the heirs of Captain J. B. De Treville.

ORDER OF BUSINESS.

Mr. WILSON. I ask the Senate to take up the resolution of inquiry, submitted by me a day or two ago, in relation to Mr. Butterworth.

Mr. POLK. I object.

The VICE PRESIDENT. The Chair still calls for reports from committees.

Mr. POLK. If reports are all through, I have no objection to the consideration of the resolution of the Senator from Massachusetts.

Mr. WILSON. I move to take up the resolution I indicated.

Mr. GWIN. I want to move to take up the unfinished business, in order that we may go through with it to-day, and dispose of the Pacific railroad bill. I hope the Senator will permit us to take it up at this moment, and have a vote to-day. I am very anxious to dispose of it. It has been for some time before the Senate.

Mr. WILSON. In order to accommodate the Senator from California, I yield to him until to-morrow morning.

Mr. GWIN. I move that the Senate proceed to the consideration of the Pacific railroad bill.

Mr. DOOLITTLE. In yielding, as I do, that the railroad bill shall be taken up as the business to be disposed of by the Senate, first in order, I desire to call the attention of the Senate to the first special order upon the Calendar, and to give notice, that as soon as the railroad bill shall be disposed of, I shall move that that special order and the subjects which are connected with it may be taken up and disposed of. I refer to the case of Commodore Paulding. It is well known that Commodore Paulding is prosecuted in the courts of the United States, in the city of New York, that suits are pending against him, involving large amounts of property, and that it is necessary that that matter should be acted upon at an early day, that the Government may justify the course of Commodore Paulding, and defend him against those prosecutions. I yield, however, to the motion of the Senator from California.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (No. 463) authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed certain enrolled bills, and they were signed by the Vice President; as follows:

- An act for the relief of Martin Layman;
- An act to authorize the President to make advances of money to Hiram Powers; and
- An act authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had approved and signed, on the 17th instant, the following acts and resolution:

An act to repeal "An act to authorize the Secretary of the Treasury to change the names of vessels in certain cases," approved 5th March, 1856;

An act for the relief of Elias Hall, of Rutland, Vermont; and

A joint resolution for the appointment of two regents of the Smithsonian Institution.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, the pending question being on the amendment of Mr. BIGLER as amended.

Mr. GREEN. I propose to amend that amendment in the twenty-first line of the sixth section, by adding after the words "Postmaster General," the words "when he shall deem it proper." It is to be added to that provision which requires the Postmaster General, when twenty-five miles only of the road shall be completed, to have the mails carried on it at the ruling rate. It seems to me that that ought to be left to the discretion of the President.

Mr. GWIN. There is no objection to that. The amendment to the amendment was agreed to.

Mr. GREEN. I have another small amendment to propose; in the twenty-fifth line of the same section, to strike out after the word "regularly," the rest of that section, and insert, "deducted from the amount loaned by the United States." It provides now that compensation shall be paid for the service this road may perform for the use of the Government, and that this compensation "shall be regularly paid from the Treasury of the United States quarterly, or at such times as may be agreed upon." My amendment will make it, "shall be regularly deducted from the amount loaned by the United States."

The amendment to the amendment was agreed to; and the question recurring on the amendment of Mr. BIGLER as amended, it was adopted, as follows:

Strike out the fourth, fifth, sixth, seventh, and eighth sections of the original bill, and insert in lieu thereof:

SEC. 4. *And be it further enacted*, That, in making said contract, it shall be stipulated that said road shall be divided into three grand divisions, to be known as the eastern, western, and middle: the eastern and western divisions shall be five hundred miles in length each, and the remainder shall be called the middle division; and said divisions shall be divided into sections of twenty-five miles each; and that, in consideration of the stipulations and undertakings in said contract, there shall be, and is hereby, appropriated and set apart a quantity of lands equal to the alternate sections of public lands, for the space of twenty miles on each side of said road, and for the full extent of the said eastern and western divisions, said lands to be selected from the sections to be designated in the public surveys by odd numbers, and to be held and conveyed as herein provided; and in all cases where the United States have disposed of said lands, or any part thereof, or from any cause cannot convey a legal title thereto, the deficiency may be made up from any unoccupied and unappropriated public lands within the distance of forty miles on either side of said road: *Provided*, That all mineral lands within the State of California be, and the same are hereby, excluded from the operation of this act; and, in lieu thereof, a like quantity of unoccupied and unappropriated agricultural lands nearest to the line of the road, through said mineral lands, may be selected in alternate sections: *Provided also*, That any contract which may be entered into shall, before it takes effect, be submitted by the President to the Congress of the United States, and shall take effect from and after its ratification by act or joint resolution of Congress.

SEC. 5. *And be it further enacted*, That the party with whom the contract aforesaid may be made shall proceed without delay to locate the general route of said road, and furnish a detailed survey and map thereof to the President, who shall cause the public lands, to the extent of forty miles on each side of said road, through the eastern and western divisions, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable. And the provisions of the act of September, 1841, granting preemption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to the lands thus surveyed, excepting those herein set apart and appropriated for the use of said road: *Provided*, That so soon as a contract is made, in pursuance of the provisions of this act, for the construction of said road, it shall be the duty of the President to cause the public lands, for forty miles on each side of so much of said road as the contracting party shall indicate, to be withheld from settlement, sale, or occupation, until the lands shall have been surveyed, and the alternate sections selected as provided for in this act.

SEC. 6. *And be it further enacted*, That, in making said contract, it shall be stipulated that none of said lands are to be conveyed to the contracting party until one section of twenty-five miles is completed and in successful operation, when the President shall convey to the said contracting party one half of the land pertaining to the section so completed, retaining the one half as security for the completion of the middle division; and in like manner the President shall convey to the contracting party one half of the lands pertaining to each section on the eastern and western divisions of said road until said divisions are finished. And it shall be further stipulated and provided that, whenever one section of twenty-five miles of said middle division is completed, the President shall convey to the contracting party the lands retained on the sections first completed on the eastern division and on the section first completed on the western division, and so on, in like manner, till the middle division shall be completed, and all the lands retained on the eastern and western divisions shall be conveyed to the said contracting party; and said contract shall require that the United States mails shall at all times be carried on said road, under the direction and control of the Postmaster General, when he shall deem it proper; and all other Government transportation provided for in this act shall be performed under the direction of the proper Departments respectively, and the compensation therefor, at the prices specified in said contract, shall be regularly deducted from the amount loaned by the United States.

SEC. 7. *And be it further enacted*, That the President be, and he is hereby, authorized and directed, so soon as one section of twenty-five miles of said eastern or western division is made and put into successful operation, to cause to be issued to said contracting party bonds of the United States, bearing not exceeding five per centum per annum interest; which interest shall be payable semi-annually, and the principal payable nineteen years from the date of their issue, to the amount of \$10,000 for the eastern, and \$15,000 for the western division for each mile of the same; and in like manner, when another section of twenty-five miles of said divisions is made and put into successful operation, an equal amount of bonds shall be issued and delivered to said contracting party, and so with each succeeding section, until the whole road shall have been completed through said divisions; which sum of money thus advanced, together with the interest thereon, is to be repaid to the United States by the said contracting party in the transportation and service provided for in this act; and no compensation, other than the lands appropriated and bonds authorized to be issued by this act, shall be made to the contracting party for transportation and service rendered under their contracts, until the value of such transportation and service shall be equal to the aggregate amount of the principal and interest of said bonds: *Provided*, That all the iron necessary to construct said railroad, and which may compose the track of the same, shall be of American manufacture.

SEC. 8. *And be it further enacted*, That the President be, and he is hereby, further authorized and directed, so soon as one section of twenty-five miles of said middle division shall be completed and put in successful operation, to cause to be issued to said contracting party bonds of the United

States, maturing thirty years after their date, bearing interest not exceeding five per centum per annum, to the amount of \$25,000 per mile, and so on, in like manner, for each section of twenty-five miles, until said middle division shall be completed; which bonds, together with those hereinbefore authorized to be issued, shall be a first lien on said road from its eastern to its western terminus, and be reimbursable, together with the interest, in transportation and mail service; the bonds issued as hereinbefore provided being first paid, the whole amount of compensation for service to the principal and interest on the bonds issued on the middle division, until the whole amount thereof shall be paid in full. *Provided*, That the aggregate amount of bonds issued under the provisions of this act shall not exceed the sum of \$34,000,000.

Mr. WARD. I move to amend the bill in the first section by striking out the words "from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy;" and inserting, in lieu thereof:

From some point between the forty-ninth and thirty-second parallels of north latitude, to the nearest eligible point on the Pacific coast, in the State of California, reference being had to feasibility, shortness, and economy.

Mr. SEBASTIAN. I wish to submit to the Chair, before the vote is taken on that proposition, a question of order as to whether, after the Senate adopts a motion to strike out and insert, it is in order to move to strike out the matter inserted and insert other words.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Chair will inform the Senator that it would not be. If a motion to strike out and insert prevails, it will prevent a subsequent motion to strike out any part of the matter inserted.

Mr. SEBASTIAN. Is it competent for me, then, to move a division of the question?

The PRESIDING OFFICER. It is not divisible. The Senator may move to amend it.

Mr. SEBASTIAN. I have given notice of an amendment which, at the proper time, I intended to bring before the Senate. It is not my object to discuss the merits of it at all; but I ask the Secretary to read it; and I move to insert the substance of my amendment in lieu of the provision proposed to be inserted by the amendment which has just been moved. I propose it as an amendment to the amendment.

The PRESIDING OFFICER. The Secretary will read the amendment proposed by the Senator from Arkansas.

The Secretary read it. It is to strike out the words "from a point on the Missouri river between the mouths of the Big Sioux and Kansas rivers," and insert, "from Fort Smith, on the western boundary of the State of Arkansas."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas to the amendment of the Senator from Texas.

Mr. SEBASTIAN and Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. GWIN. Is that an amendment to the amendment of the Senator from Texas?

The PRESIDING OFFICER. Yes, sir.

Mr. GWIN. If that is voted in, then it will come up afterwards for final decision.

The PRESIDING OFFICER. The question will still be on the amendment as amended.

The question being taken by yeas and nays, resulted—yeas 3, nays 48; as follows:

YEAS—Messrs. Brown, Mallory, Sebastian—3.
NAYS—Messrs. Allen, Bates, Bell, Benjamin, Bigler, Bright, Broderick, Chandler, Clark, Clay, Clingman, Collamer, Davis, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Houston, Iversen, Johnson of Tennessee, Jones, King, Polk, Pugh, Reid, Rice, Seward, Shields, Simmons, Sidel, Stuart, Thompson of New Jersey, Trumbull, Wade, Ward, Wilson, Wright, and Yulee—48.

Mr. JOHNSON, of Arkansas, had paired off with Mr. BAYARD.

So the amendment to the amendment was rejected; and the question recurred on the amendment offered by Mr. WARD.

Mr. HOUSTON. I move to amend the amendment by striking out "thirty-two," and inserting "thirty."

Mr. SEWARD. I ask for the yeas and nays. ["No!" "No!"] Why not have the yeas and nays? I want them simply for the reason that I think so important a vote as this should stand forever; and I want to record my vote.

The yeas and nays were ordered; and, being taken, resulted—yeas 21, nays 32; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Clay, Clingman, Crittenden, Fitzpatrick, Hammond, Houston, Iversen, Johnson of Tennessee, Mallory, Reid, Rice, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toombs, Ward, and Yulee—21.

NAYS—Messrs. Allen, Bates, Bell, Bigler, Bright, Broderick, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Green, Hale, Hamlin, Harlan, Jones, Kennedy, King, Polk, Pugh, Seward, Shields, Simmons, Trumbull, Wade, Wilson, and Wright—32.

So the amendment to the amendment was rejected, and the question recurred on the original amendment of Mr. WARD.

Mr. GREEN. I propose to amend the proposed amendment of the Senator from Texas. My recollection of that amendment is that the first part of it is to strike out the words, "from a point between the mouth of the Big Sioux and Kansas rivers." I propose to leave that part of the amendment as it is, and then to strike out the last of the amendment, and insert the following:

"The eastern terminus of which shall be at the most convenient and eligible point on the western boundary of the State of Missouri, and with two branches to said road as follows: one on the south, commencing not south of Fulton, in the State of Arkansas; and the other on the north, commencing not north of the Big Sioux river, and all connecting at the most practicable point not further west than 102° of west longitude."

Mr. President, I presume the object and intention of my amendment will strike every one at once without explanation. It is simply to accommodate all sections of the Union—the center with the main trunk; the North with the north branch; (and I am perfectly willing that the northern Senators shall designate their own point for that); the South with the south branch, (and I am perfectly willing that southern Senators shall accommodate themselves with that.) I do not believe that three roads can be sustained, owing to the extent of country which will be always unproductive. I stated the other day that there must be from five hundred to one thousand miles of unproductive country that could not support a road. I find that that statement is called in question, because five hundred or one thousand consecutive miles of such land, all in one body, cannot be found. My statement did not go to that extent. I meant to say that there is a space equal to five hundred, or from that to a thousand miles, that must ever be unproductive. Being thus unproductive, it affords nothing to support a railroad. The great wants and necessities east and west of it, both for the Government and for commercial interests, will justify the Government in assisting in the construction of the road. When you get eastward and westward, let it radiate so as to accommodate all sections of the Union. These three branches may be supported because they will run through a country affording something to sustain a road. This presents the whole case, and it needs no argument to illustrate it. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHIELDS. If I understand the amendment of the honorable Senator from Missouri, it will not, as it is worded, give a northern road; nor do I understand it exactly as giving a southern road. It is only one road with two branches. If the honorable Senator will change his amendment so that it will give us a northern road, commencing from a point of departure on the western boundary line of Minnesota, and terminating anywhere he chooses at the Pacific; and a southern road, commencing where it is intended on the western line of Texas, and terminating where he pleases on the Pacific, I shall vote for it.

Mr. GREEN. The colleague of the Senator from Minnesota has an amendment, of which he has given notice, providing for three distinct roads; three through roads. I before remarked that I did not believe the character of the country would justify three roads, nor would the wants of the Government justify us in assisting in their construction; but I do believe they will justify one road. That one I want to make as central to business and population as we well can. As a matter of necessity, there will be a little divergence, depending on the topography of the country. The termination, however, on the Pacific is a fixed fact in the bill. So of the termination on the east. I want it reduced to a certainty, so that nobody will even be able to imagine a doubt.

My amendment will limit the eastern terminus of the main trunk of the road to the State of Missouri.

It may look selfish in me to offer such a proposition; and, but for the fact that my State is so favorably situated, surrounded by good sisters North and South, I should hardly have the hardihood thus to present it. Then, the main trunk being central, the route of the road of course will depend on the surveys and the topography of the country, the advantages and the disadvantages of the various lines being considered; for I do not regard it as very material in the interior what route is taken, provided it be the best, but the termination I do consider material. Its accommodation to the Government and the people depends upon its termination. Thus, having the main trunk central, and a northern branch running some two hundred and fifty miles before it connects, it may start from any point that northern Senators prefer. I have named in my proposed amendment the mouth of the Big Sioux, because I believe that would point in all directions in the North. So of the southern branch I have proposed, commencing not further south than Fulton, for that will point in all directions to southern cities and southern communities, thus accommodating all. I think now the Senator will understand precisely the scope and object of my amendment.

Mr. SHIELDS. I think I do understand it. I think I understand that the honorable Senator is pretty well satisfied with a great central route that will start from the western part of Missouri, and will be better satisfied if he can get a southern route and a northern route starting from the western part of Missouri too. That is his idea, as I understand it; but for my own part, I repeat what I said at first: I am willing to go for a central route starting from the western part of Missouri, that is, a fair central route; or I am willing to go for three routes, a central route, a southern route, and a northern route; but I am not exactly prepared to go for a central route that has two branches, both from the western part of Missouri.

Mr. GREEN. I expressly remarked that I was willing to have the northern branch located by the Senator himself, and the southern branch by any of the association of southern Senators. Whatever they agree on, I shall be willing to carry out. I expressly give a latitude which excludes the idea of confining the branches to the State of Missouri, and if you want to designate a particular point, I am willing to do so, and say the mouth of the Big Sioux shall be the northern point. So of the southern branch; I am willing to say Fulton, Fort Smith, or whatever point is preferred by southern Senators, shall be its terminus.

Mr. DOUGLAS. I think I can make a suggestion that will obviate the difficulties between the two Senators. A grant of land has already been made for a railroad from St. Paul to substantially the southwest corner of the State of Minnesota. Now this branch, proposed by the Senator from Missouri, from the mouth of the Big Sioux, would leave a gap of some forty or sixty miles between the mouth of that river and the southwestern boundary of Minnesota. If he will insert in the amendment, instead of "the mouth of the Big Sioux," "the southwest corner of the State of Minnesota," it will accommodate my friend from Minnesota; or say "a point on the western boundary of Minnesota." This will save that gap of forty or sixty miles, not now provided for by the amendment.

Mr. GREEN. To accommodate Senators I will change my proposition for the northern termination by striking out "the mouth of the Big Sioux," and inserting whatever they agree upon.

Mr. SHIELDS. Say "Breckinridge, in Minnesota."

Mr. GREEN. I should object to going up so far as that. I should not object to going up to the southwestern boundary of Minnesota; but it would not do to go up so far as is now suggested. The mouth of the Big Sioux would suit me, and to connect with the southwestern corner of Minnesota would suit equally well; but I should not be willing to let it run clear up to the forty-ninth parallel; for I do not think that would be treating the roads of Iowa and Illinois quite fairly.

Mr. SHIELDS. Will not the honorable Sen-

ator be willing to let us take the line which has been surveyed by the Government—the northern line—which has been ascertained to be practicable by exploration and survey? Give us a real *bona fide* northern route, if we are to have one. I do not expect we are to have any. We have a railroad grant extending from St. Paul to Breckinridge. Let us continue that road on to the Pacific. I shall be satisfied with that.

Mr. DOUGLAS. If the Senator wants a *bona fide* northern route, the branch proposed by the Senator from Missouri and the provisions of his amendment will not accomplish that object at all. A *bona fide* northern route would be from the western border of Minnesota, say the town of Breckinridge, which he has designated, being at the junction of the Bois de Sioux river with the Red River of the North, or the Ojibway, as it should properly be called, and thence to Puget Sound. If we are to make three roads, that should certainly be one of them. I am by no means certain but that the proposition which has been made by the other Senator from Minnesota, [Mr. Rice,] for a grant of land on three roads, setting apart the alternate sections for railroad purposes and granting preemption rights at a nominal price on the other alternate sections, would be the best proposition—I am not certain but that I shall vote for that as a substitute for this. Then, one of the roads ought to start where the Senator from Minnesota [Mr. Shields] indicates; but if we are to take only one route and that a central route, the branch that goes north to Minnesota should run so as to accommodate the railroads in Iowa and Illinois and further east, and I cannot consent to turn that branch into a northern road to the exclusion of my State. The proposition, as the Senator from Missouri has it, suits our interests very well. It does not quite accommodate those of Minnesota, and I am willing to modify it so that it shall accommodate Minnesota, by going to her southwestern boundary, and running a straight line; but if you take a different route and make a crooked line, I cannot consent to it.

Mr. PUGIL. It seems to me that this amendment really makes the bill worse in its very worst feature. It has been conceded on all hands that it will take all the money we can give, and a great deal more, to make the main stem of this road through the desert and the mountain passes. Yet the proposition now before us is to make two branches precisely where we do not want them; that is, where Senators have said they do not want them; where there is no interest for the Government to give a cent towards them. They will be made. The road from Missouri westward to the hundred and second meridian will be made, and the road from Minnesota will be made to the junction, and so will the road from Arkansas. These are roads through Kansas and Nebraska, where the land is valuable; where men will build it for the alternate sections. Why give them \$10,000 per mile to build these roads? We do not want them. What we want is the stem; and the effect of this proposition will be to make three roads, at the expense of the Government, through the fertile country, and not to have the part of Hamlet at all. I shall therefore vote against the amendment; and if it is carried I shall certainly vote against the bill.

The question being taken by yeas and nays, resulted—yeas 9, nays 45; as follows:

YEAS—Messrs. Broderick, Fitch, Green, Johnson of Arkansas, Mallory, Polk, Rice, Sebastian, and Wade—9.

NAYS—Messrs. Allen, Bates, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Chandler, Chesnut, Clark, Clay, Clingman, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Gwin, Hale, Hamlin, Hammond, Harlan, Houston, Hunter, Iversen, Johnson of Tennessee, Jones, Kennedy, King, Pugh, Reid, Seward, Shields, Simmons, Slidell, Stuart, Toombs, Trumbull, Ward, Wilson, and Wright—45.

So Mr. GREEN's amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Texas, [Mr. WARD.]

Mr. SEWARD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ALLEN. Let the amendment be read.

The Secretary read the amendment; which is to strike out, in lines seven, eight, and nine, of section one, the words:

"From a point on the Missouri river, between the mouth of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy."

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And insert, in lieu thereof:

From some point between the forty-ninth and thirty-second parallels of north latitude, to the nearest eligible point on the Pacific coast, in the State of California, reference being had to feasibility, shortness, and economy.

Mr. RICE. "I move to amend the amendment, after the word 'California,' by inserting the words, 'or on Puget sound.'"

Mr. BRODERICK. I do not see my colleague in his seat.

Mr. GWIN. I am here.

Mr. BRODERICK. I see that my colleague is present. I want him to inform the Senate that this amendment will take the terminus away from San Francisco; and, as I believe my colleague and myself both wish to make San Francisco the terminus of this road, I hope he will exert his influence upon the Senate; and if I have any friends here, I hope they will vote against this amendment; because I do not care about having the terminus further south than San Francisco. For that reason I shall oppose the amendment.

Mr. RICE. Mr. President, neither the Territory of Oregon nor Washington is represented upon this floor. I would therefore call upon the friends of those Territories, if they have any here, to see that their rights are protected.

Mr. DOOLITTLE called for the yeas and nays on the amendment to the amendment; and they were ordered.

Mr. DOUGLAS. I would suggest to the Senator from Minnesota to add to his amendment the words "or some intermediate point." I think the mouth of the Columbia river ought to be open. Oregon ought not to be excluded.

Mr. RICE. I accept the modification.

Mr. DOOLITTLE. Mr. President, I do not rise to discuss this amendment, but simply to call the attention of the Senate to the map. The original amendment of the Senator from Texas requires the road to be built on the shortest, as well as on the most feasible route; and any one acquainted with the map knows that when absolutely the shortest route to California is required to be taken, the northern route may not stand a fair chance to be considered, unless this amendment be adopted to include Puget Sound. Therefore I shall vote for the amendment to the amendment.

Mr. DOUGLAS. Was the modification I suggested accepted?

Mr. RICE. Yes, sir; and if in order, I would like further to modify it by striking out the word "shortest."

The PRESIDING OFFICER. The Senator also embodies in his amendment a proposition to strike the word "shortest" out of the original amendment.

Mr. BRODERICK. Before the vote is taken, I wish to call the attention of Senators who favor the northern route to this amendment. The Senator from Texas the other day told us that the distance from the Texas boundary to the boundary of California was but five hundred miles, I think.

Mr. WARD. Five hundred and thirty-nine miles.

Mr. BRODERICK. Now, the Senator from Minnesota says that the distance from St. Paul to Vancouver is some eighteen hundred miles. I would ask the Senator from Minnesota if he believes that the northern route will be considered at all, if a southern route of five hundred and thirty-nine miles can be found?

Mr. RICE. I will answer the Senator's question. I know that the odds are against us in distance, and I am fearful that the chances are against us here; but believing as I do that the northern route is the only route upon which a railroad can be built, and with moderate means be sustained, I am willing to take the odds and chances.

Mr. BRODERICK. Well, sir, I am not. I shall favor the middle route, which is nearer than the route named by the Senator from Minnesota. It is but one thousand seven hundred and twenty-five miles from St. Joseph, in Missouri, to Benicia, in California, by the way of Noble's Pass.

If this amendment prevails, it will be virtually voting for a southern route, for the Senator from Texas says that it is only a little over five hundred miles from Texas to the boundary of California; and if a road of five hundred miles distance can be found, I should like to know the contractors who would propose to build a road for one thousand eight hundred miles. I hope Senators who favor the northern route will see that this proposition will not secure it.

Mr. DOUGLAS. There is evidently a misapprehension as to the distances as well as to the terms of this amendment. The amendment as proposed is very vague on one point. It strikes out the starting point on the Missouri river, and then says, the road shall commence at some point between the thirty-second and forty-ninth degrees of latitude. Some point where? How far east? The Mississippi river? The Missouri river? Is it on the prairies? Is it on the Rocky Mountains? It does not state on what eastern line it is to start. It is entirely vague on that point. The Senator from California is under a misapprehension that it means the western border of the existing States in the Mississippi valley. Then he says it is only five hundred and thirty-nine miles from the western border of Texas until you strike the eastern border of California; but this does not stop at the eastern boundary of California. It is six hundred, or seven hundred, or eight hundred miles from there up to San Francisco, and you must add that to the five hundred miles from Texas to California. That would make about thirteen hundred miles from the western border of Texas to San Francisco.

Mr. BRODERICK. The amendment, as I understand it, does not provide for carrying the road to San Francisco, but to the eastern boundary of California.

Mr. DOUGLAS. I understand it is to the Pacific ocean. It is to cross through the State of California to the Pacific. Hence you must add to the distance to California on the Texas route, the space between Fort Yuma and San Francisco. But the amendment is so vague that it is impossible to tell what it means; for this reason: It says the road is to start somewhere between the thirty-second and forty-ninth parallels, and run west to the Pacific; but how far east is it to start? At New York, Cincinnati, the Mississippi river, the Rocky Mountains, or where? No eastern line is fixed by the amendment as it is. You cannot compute any distance until you find out where your eastern line is. That is the difficulty with the amendment as it now stands.

Mr. BRODERICK. Contractors have already taken a contract from the State of Texas to build a road to El Paso. From El Paso to the eastern boundary of California, the Senator from Texas says, is but five hundred and thirty-nine miles. Then, if you go direct from there to the Pacific, it will make San Diego or Guaymas the terminus of the road, one or the other, and the distance from there to San Francisco by land is, as I stated the other day, some seven hundred miles. So that, if the Senator from Illinois wishes to make San Francisco the terminus, he had better vote against this amendment, for it contemplates making some point on the Pacific, south of San Francisco, the terminus.

Mr. DOUGLAS. The Senator does not catch the idea that I intended to convey. By this amendment there is no eastern terminus fixed. The bill fixes it on the Missouri river; but when that eastern line is stricken out, you can begin under this amendment at Portland, Maine, or at New York, or at Richmond, or Chicago, or Charleston, or Lake Superior. I presume that whoever offered the amendment intended to fix some place in the Mississippi valley; but it is not there. I am suggesting, therefore, that if you do not know how far east you are going to start, you cannot tell how long the distance will be until you strike the Pacific ocean.

Mr. BRODERICK. I will inform the Senator from Illinois that the Senator from Texas introduced the amendment.

Mr. DOUGLAS. Then I wish to call his attention to the fact that it is necessary to put in some eastern line.

Mr. WARD. The amendment which I offered, and which is now before the Senate, does not contemplate Government aid through the States. It leaves the termini open for capitalists to select, so as to have the benefit of roads already built and in prospect being constructed through the States. In my judgment, when we reach our Pacific possessions by Government aid, through the Territories, on the most eligible, the shortest, and the cheapest route, we shall have exhausted all the authority we have, under a strict construction of the Constitution, to build a road by Government aid at all.

Mr. DOUGLAS. The Senator's explanation makes his idea perfectly intelligible; but, by an oversight, no doubt, the amendment does not confine the road to the Territories of the United States. His idea is to begin on the western borders of the States; but his amendment provides that it shall run to the Pacific ocean at some point in the State of California.

Mr. BRODERICK. Will the Senator allow me to interrupt him for a moment?

Mr. DOUGLAS. Certainly.

Mr. BRODERICK. I understand that the amendment does not provide for carrying the road to the Pacific ocean; but to the eastern boundary of California.

Mr. DOUGLAS. Let the Secretary read it. I have just read it.

The PRESIDING OFFICER. If there be no objection on the part of the Senate, the amendment will be read.

Mr. BRODERICK. I formed my opinion from the remarks of the Senator from Texas.

The PRESIDING OFFICER. The Secretary will read the amendment of the Senator from Texas.

The Secretary again read the amendment.

Mr. DOUGLAS. It will be seen that it provides for the road running through the entire State of California, to the Pacific ocean, excluding the idea that it is to be confined to the Territories. As the idea of its being confined to the Territories is expressly excluded, I want to know how far east it is to run? The Senator from Texas may modify it by saying, "from the western border of the States in the valley of the Mississippi to the eastern border of the Pacific States;" that would make it specific. Trouble has arisen from that uncertainty, which was a mere oversight, of course, in preparing the amendment.

Mr. RICE. I propose a further amendment, in order to make this proposition conform to the amendment which I laid on the table the other day. It is, after the word "latitude," to insert, "on the eastern border of any of the Territories of the United States."

The PRESIDING OFFICER. The Chair understands the Senator from Minnesota to modify the amendment he has already moved. The Secretary will read the amendment of the Senator from Minnesota, as modified.

The Secretary read it, as follows:

Insert the words:

From some point between the forty-ninth and thirty-second parallels of north latitude, on the eastern border of any of the Territories of the United States, to the nearest eligible point on the Pacific coast in the State of California or on Puget Sound, reference being had to feasibility, shortness, and economy.

Mr. DOUGLAS. That will not quite accomplish the object. I suppose we might begin on the eastern border of the Territory of Utah and still be on the west side of the Rocky Mountains.

Mr. RICE. The Senator had better propose a modification that will meet his views.

Mr. DOUGLAS. I was only making a suggestion to find out what it means. If it means to run the road from the western border of Texas, Arkansas, Missouri, Iowa, or Minnesota, to some point on the Pacific ocean in the State of California, that will express the idea. I was trying to get at what idea was intended to be conveyed by the amendment.

The question being taken by yeas and nays on Mr. Rice's amendment to the amendment, resulted—yeas 9, nays 43; as follows:

YEAS—Messrs. Benjamin, Brown, Doolittle, Fitch, Mallory, Rice, Shields, Stuart, and Toombs—9.

NAYS—Messrs. Allen, Bates, Bayard, Bell, Bigler, Broderick, Chandler, Chesnut, Clark, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Douglas, Durkee, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hammond, Harlan, Houston, Iversen, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Polk, Pugh, Reid, Sebastian, Seward, Simmons, Slidell, Trumbull, Wade, Ward, Wilson, and Wright—43.

So the amendment to the amendment was rejected; and the question recurred on the amendment of Mr. WARD.

The question being taken by yeas and nays, resulted—yeas 24, nays 30; as follows:

YEAS—Messrs. Bates, Bayard, Bell, Benjamin, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Hammond, Houston, Hunter, Iversen, Johnson of Arkansas, Johnson of Tennessee, Mallory, Polk, Reid, Sebastian, Slidell, Thompson of New Jersey, Toombs, and Ward—24.

NAYS—Messrs. Allen, Bigler, Bright, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Harlan, King, Pugh, Rice, Seward, Shields, Simmons, Stuart, Trumbull, Wade, Wilson, and Wright—30.

So the amendment was rejected.

Mr. DOOLITTLE. I design to offer two or three amendments to the bill, the first of which is in relation to the lands that are reserved for railroad purposes; the second is as to the alternate sections, the even numbered sections; and the third is in relation to the security which the Government of the United States is to hold for the moneys advanced. The first amendment is in section five to insert the word "that" in the eleventh line between "excepting" and "those," and also to insert after the word "road" in the twelfth line, "shall not be subject to settlement at preemption at less than \$2 50 per acre," and after the word "settlements" in line seventeen, to strike out "sale," and to strike out all of the section after the word "occupation" in the seventeenth line, so that the clause will read:

"And the provisions of the act of September, 1811, granting preemption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to the lands thus surveyed, excepting that those herein set apart and appropriated for the use of said road shall not be subject to settlement at preemption at less than \$2 50 per acre: *Provided*, That so soon as a contract is made in pursuance of the provisions of this act, for the construction of said road, it shall be the duty of the President to cause the public lands for forty miles on each side of so much of said road as the contracting party shall indicate, to be withheld from settlement or occupation."

Mr. BENJAMIN. Is that amendment in order? I understand that the Senator from Pennsylvania [Mr. BIGLER] offered, as an amendment to the bill, after the third section, to strike out four or five sections; and that amendment has been adopted. The fifth section, offered by the Senator from Pennsylvania, having been amended, has been adopted; and now the Senator from Wisconsin proposes to go back to that section and amend it again. Is that in order?

The PRESIDING OFFICER. (Mr. STUART.) The Chair inquired of the Secretary whether the amendment was offered to the original bill or to the matter which has been inserted on the motion of the Senator from Pennsylvania. If to that amendment, it is not in order.

Mr. BENJAMIN. If to the original bill, it cannot be in order, because that has been stricken out. If to the amendment of the Senator from Pennsylvania, it cannot be in order, because that has been already amended and adopted.

The PRESIDING OFFICER. It is not amendable at this time. The amendment is not in order.

Mr. DOOLITTLE. If this amendment be not in order, I shall offer the same amendment when the bill comes back to the Senate; but I have another amendment which I propose to offer, and that is, to add certain additional sections after the sixth section of the bill, which has been already amended by the amendment of the Senator from Pennsylvania; the substance of which is to apply the provisions of the homestead bill, as pending before the Senate, to the even-numbered sections for forty miles on each side of the road.

The PRESIDING OFFICER. The Chair is informed that the sixth section of the original bill was also stricken out.

Mr. DOOLITTLE. This is to insert matter after the sixth and before the seventh section.

Mr. BIGLER. The seventh section was also stricken out.

Mr. DOOLITTLE. Then I propose to add it after the ninth section.

The PRESIDING OFFICER. It will be read. The Secretary proceeded to read the amendment; and it is to add, as an additional section:

SEC. —. *And be it further enacted*, That any person who is the head of a family, and a citizen of the United States, who shall have declared his intention to become a citizen of the United States according to law, shall, from and after the passage of this act, be entitled to enter one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed, upon the even-numbered sections, within forty miles of said railroad route, excepting the sixteenth and thirty-sixth sections in each township reserved for school purposes: *Provided*, That the person applying for the benefit of this section shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, and that it is *bona fide* his intention to settle and make his or her homestead upon the same; and upon making the affidavits above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry: *And provided further*, That if, at the expiration of such time, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove, by two credible witnesses, that he, she, or they, have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof; then, in such case, he, she, or they, shall be entitled to a patent, as in other cases provided for by law: *And provided further*, In case of the death of both father and mother, leaving an infant child or children under fourteen years of age, the right and the fee shall inure to the benefit of said child or children; and the executor, administrator, or guardian, may, at any time within two years after the death of the surviving parent, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

Mr. PUGH. (before the Secretary had concluded the reading of the amendment.) I suggest that it is unnecessary to read that amendment. The Senator has told us that it is the homestead bill. I am in favor of the homestead bill, but I do not want to put it in this bill by way of a rider. You might just as well add the Lord's prayer.

The PRESIDING OFFICER. The reading can be dispensed with by unanimous consent.

Mr. BIGLER. I object.

The PRESIDING OFFICER. The reading will be continued.

Mr. PUGH. We have heard it several times.

The PRESIDING OFFICER. The Senator from Pennsylvania has a right to have the amendment read.

Mr. BIGLER. I withdraw the objection. I intended to object to the amendment, not to dispensing with the reading of it.

The PRESIDING OFFICER. The Chair hears no objection to dispensing with the reading of the amendment. The question is on agreeing to the amendment.

Mr. TRUMBULL. I do not propose to detain the Senate, but I regard this amendment as a very important one. I look at it in a very different light from the Senator from Ohio, who regards it as a rider intended to defeat the bill, as I understood him.

Mr. PUGH. I did not say it was intended to defeat the bill, but I thought it had no connection with the bill.

Mr. TRUMBULL. I think it is the very provision that will build this road. If you will give to actual settlers every other section on the line of the road across the continent, you will settle the country; people will flock there. If you give one hundred and sixty acres of land to every man who will go and settle upon it, you will have a population along the line of the road by the time the road is built, and something for it to do to sustain itself. I believe the very best way to build a road across the continent is to give away at least one half the lands to those who will go and settle upon them. I am in favor of the homestead bill, as applied to all our public lands, and especially as applied to the lands along a railroad route to the Pacific. We have had some little experience in the building of railroads in Illinois—

Mr. BIGLER. Will the Senator allow me one moment? I am disposed to raise a question of order on this amendment. It was impossible to hear the reading distinctly, and I am not certain that it is in any way connected with the railroad. If it is an independent proposition to attach to this bill the homestead bill which is now pending

before this body, I suggest to the Chair whether such a motion is in order. It has no connection with the subject; it is not germane to it; it is entirely dissimilar, and a very important subject; quite as much so as the railroad. It is proposed to put it on here as an amendment in the shape of a single section. I raise the question of order for the consideration of the Chair.

The PRESIDING OFFICER. The Chair overrules the point of order. It is competent for any amendment to be made to a bill, even to add another bill on an entirely distinct subject.

Mr. TRUMBULL. I apprehend that it is entirely germane to the bill. This bill provides for a certain disposition of the public lands along the route of the road, and surely nothing can be more appropriate, or more clearly in order, than to propose to make a different disposition of them. This is a provision to give away the alternate sections of the public lands to the actual settler—a very valuable provision, and one which will insure the building of the road, in my judgment.

I was about to say that we have had some little experience in Illinois in regard to the construction of railroads through regions of country which were not well settled. Our great central railroad, as it is called, at the time it was located and constructed, passed through regions of country where there were no inhabitants at all. You might travel for many miles without being in sight of a single dwelling, at the time that road was located. The policy of the persons who constructed that road seems to have been to make money out of the lands. They withheld the lands from sale until the road was completed. They are now selling them. The result was, that when the road was finished, there was no population along the line of road; there was no business for the road to do; and hence it was not so profitable an investment as many supposed it would be; and, even up to the present time, that road is scarcely paying running expenses. Now, if we are to have a railroad to the Pacific ocean, let us adopt that policy which will induce settlement along the line of the road for its protection. We can build it more cheaply in this way; and when the road is constructed, we shall have something for it to do. I trust the amendment will be adopted; and upon the question of its adoption I should like to have the yeas and nays.

The yeas and nays were ordered.

Mr. DURKEE. Mr. President, I concur with the remarks of the Senator from Illinois. It strikes me that this is a proper method to aid in the construction of this great enterprise. A railroad to the Pacific will be worth nothing to us, unless the country is settled; and I would extend the provision still further. I move an amendment to the amendment of my colleague, to insert "one hundred miles" instead of "forty miles," as the breadth of the country to be granted to actual settlers.

Mr. DAVIS. As I understand the proposition, it is merely to grant alternate sections of land along some route which is to be selected for the construction of a railroad. If it is intended by Senators to confine that grant to the mountain region, or the general section of country which we term desert, the only objection I see to it is that it would make population too sparse; that the expense of military defense would be far greater than the value of the land, if people could be induced to go and settle upon it. If it be desirable to establish settlements in that region of country, I submit to Senators whether it would not be better to grant whole bodies of land, or certain amounts of land, in given localities, to persons who would take possession of it, limiting them to very small amounts per head, so as to constitute within themselves the power of their own defense? I think we are wandering off from subjects of the highest importance, and directing our attention simply to the question of what will contribute to the profits of a railroad after it is built? It may be a very good policy apart from the railroad; but I think it has no connection with the subject. Apart, however, from the question of constructing a railroad to the Pacific, it may be good policy—I doubt if it is, however—to invite settlement into the wilderness; that unpromising wilderness where the small spots of fertile land are separated from the rest of the country by intermediate desert; but if that be a good policy, I believe it would be sounder to give them the whole

of such spots or valleys of land, and in such small quantities as would constitute a self-protecting and self-sustaining population.

Mr. HAMLIN. Mr. President, I have voted on all occasions, when an opportunity has been presented to me so to vote, to settle this question during this session. I have done so from no hostility to a Pacific railroad. I am myself in favor of giving the aid of the Government in the construction of a road across the continent. It is desirable, from all considerations, it seems to me; but from a settled conviction upon my mind, that there was no feasible project presented to the Senate for its consideration, and that there was no probability of arriving at any result, I have voted to postpone or to lay this bill upon the table whenever such a motion has been presented. Twice, I think, I have given distinct votes to settle the matter for the session in that way; but I repeat again, I have given those votes from no hostility to a road, but simply for the reason that I did not believe any project which could be presented here could receive the favorable action of the Senate at this session, and I thought there were questions of public importance that demanded our time.

One reason which led me to believe so was that I thought it utterly impracticable to construct a railroad across this continent through forests or over deserts. I think so now; but looking to one of the main objections which have rested on my mind, I think the proposition which is offered by the Senator from Wisconsin serves in a manner to obviate and clear it away. A railroad across this continent, whether it shall go all the way over fertile lands, or through forests, is a thing that could not be maintained; if it were built to-day, the Treasury of your country could not send the locomotive across it. How foolish, then, would it be to construct a road which could not be used. I believe that in the progress of time we shall have a road across the continent. I have not participated in that extreme zeal which has been manifested by many gentlemen here, though I have been in favor of this road a great deal longer, in point of time, than many, if not as earnestly. But, sir, I believe that when a road is constructed it must be constructed gradually; and it may be that where the lands are fertile and through country which is good and arable, the road may be constructed mainly from the proceeds of the land through which it runs; but if it crosses the desert of which we are told, the time will come when the power of the Government must be added to anything which can be derived from the land.

I do not know precisely how far this amendment goes. I know that in the substitute which the Senator from Wisconsin has prepared, he proposes to grant to the actual settler a certain portion of land; to the contractor a certain portion; and then to reserve one half of the good lands, to be used in aid of those sections of the road where there are no lands which are cultivable. I do not know whether this amendment covers both propositions, or whether it only refers to granting the land to actual settlers. That is all my friend tells me. Well, sir, that will receive my vote; because it will carry along with the road a population without which you can neither build nor maintain the road; and I do not believe we are to see a road built much faster than a population settles in that part of the Territory which is capable of good cultivation. This process may not construct a road quite as soon as all would desire; yet, in my humble judgment, it is the only thing which can finally build the road, or finally maintain it.

I have myself voted in this body against what has been known as the homestead bill. I see no occasion to change my mind upon that subject. I do not think I should vote for what is called the homestead bill to-day, because it has in its scope a much broader object than this amendment. A road across the continent is of national importance; is desirable; and I am willing to vote for the homestead principle being applied to the line of the route, because I believe the road can never be constructed without it, though I might not be willing to adopt that principle as a general law.

Viewing the matter in this light, I shall give my vote for this proposition; and the substitute which was offered by the Senator from Wisconsin, containing the other provisions to which I

have alluded, will also receive my vote. If we are to perfect a bill here which is to receive the sanction of the Senate, and which is to be a practical thing, I believe we have got to unite along with it that which will carry population forward with the road. It is necessary to its support; it is necessary to its protection; it is necessary to its maintenance; and I do not believe any road can be constructed much faster or much further than you carry a column of population along with it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin [Mr. DURKEE] to the amendment of his colleague, [Mr. DOOLITTLE.]

Mr. DURKEE. I ask for the yeas and nays. The yeas and nays were not ordered.

The amendment to the amendment was rejected; and the question recurred on the amendment of Mr. DOOLITTLE.

Mr. REID. Mr. President, I have forbore to say anything in regard to this bill up to the present time; and I now rise for the purpose of protesting against this whole scheme of a Pacific railroad. With other gentlemen, I am free to say that I desire to see a railroad connection between the Pacific ocean and the eastern portion of the country. I desire, however, to see that improvement made as other improvements of a similar character have been made through other portions of our country. As the country becomes settled, as there may be a demand between the intermediate points for railroad communication, railroads will be built; and whenever the population and resources of the intermediate country will sustain a road, it will be built as railroads are built in other portions of the Union. Until that time, in my humble judgment, if you had a railroad already constructed, it could not sustain itself.

You here propose to undertake this immense work; and what guarantee have you that it is ever to be completed, or that when completed the Government is ever to avail itself of the benefits that might arise from it? Here is a work that will require a capital of some two hundred million dollars perhaps, and the only security you ask at the commencement is \$500,000. A deposit of \$500,000, that is to be drawn out soon after it is deposited, is all the security you have that that road will be constructed. It is true there is a provision in the bill which says that after the eastern and western divisions of the road are constructed, the bonds issued for those divisions shall create a lien on the whole road; but suppose the contractors go on and complete the eastern and western portions of the road as provided by this bill, and during that period the contractors have contracted debts, and under an execution for these debts their interest is sold, what security have you then for the payment of the bonds that you have issued to construct the road, or for conveying the mails, or transporting the troops and munitions of war of the United States? You have no security whatever. According to the provisions of this bill, when the eastern and western sections of the road are completed, an execution may be levied on the road, or the contractors may convey it, and then the road is gone, and you are left without any redress. Does not every one see that this is the natural tendency of things? It is a matter of speculation, and will be undertaken as such, and in my humble judgment, will be used as such throughout. The money that you pay under this bill, and the lands that you give, are the inducement, and whenever that inducement fails they will avail themselves of the speculation and leave you to look out for yourselves. Is not this the result of all such speculations in which the Government embarks?

Mr. President, in olden time, a proposition to go into a sovereign State of this Union by Congress and construct a railroad would have been looked upon as monstrous; but here you authorize a contract for building a railroad in the sovereign States of this Union without the permission of those States; and, pray, where do you get the power? Although under the Constitution, Congress has the right to establish post offices and post roads, it has always been maintained most clearly that Congress had not the right to make or enter into a contract for making a post road. Congress has never undertaken to construct a post road. Here, though, you claim the power of making a road, and using the money of the Federal Government in making a contract for transporta-

tion upon that road, upon a vague contingency that at some time a war may occur, and you may have a necessity for transporting troops or munitions of war to California—a mere contingency, the happening of which may never occur; and yet you are professing to be straight-out State-rights, strict constitutional constructionists.

We hear frequently in this body an alarm about extravagance. Retrenchment and reform is the order of the day; but yesterday we had it. The Senate vote almost unanimously that they are in favor of retrenching and reforming the expenses of the Government; but here comes up the Pacific railroad bill, which, if adopted, will in the end cause the expenditure of hundreds of millions of dollars; and I suppose the same gentlemen who vote for economizing the expenditures of the Government, will turn round and vote to increase them by this means. They not only vote to increase them in voting appropriations for a railroad to the Pacific, but they go for submarine telegraphs, homestead bills, additional pension bills, heaping upon the Government an increase of the public expenditures to the extent of millions upon millions. This is said to be all fair and legitimate, and yet gentlemen proclaim to the country that they desire to retrench and reform the expenditures of the Government. If a little picaune claim of a poor old soldier is before us, it answers to talk about economy, retrenchment, and reform; but when it comes to millions and hundreds of millions, it is all very legitimate, upon a vague supposition that at some time, or in some way or other, a war may occur, and we may have to transport troops to the State of California. That very precise case may occur with regard to any other place in the United States, or to any other location that you may name.

This, Mr. President, in my opinion, is a departure from the good old rule of construction. I do not think the framers of the Constitution of the United States ever contemplated that the Congress of the United States should interfere in such schemes as the building of railroads. As I have said, I desire to see a railroad to California placed in precisely the same position that other roads are placed in. That railroad will be built whenever the necessities of the country require it to be built, by State and private enterprise, as other improvements have been constructed; and until that time, even if it were completed, it would be unprofitable to the Government and to everybody else. I say above all, if you desire retrenchment and economy, this is one of the schemes that you should avoid, for in the end it is to throw the entire expense of the road upon the Federal Government, and the Federal Government will never derive much if any benefit from it. It is not guarded in that way, as it should be. It is perfectly obvious to any one who will examine this bill, as I before remarked, that the parties may sell the road, they may dispose of it, and leave the Government without any remedy; we may lose all that we have invested in it. This is the view I take of the case, sir.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Wisconsin, [Mr. DOOLITTLE.]

Mr. BELL. I would inquire of the honorable Senator from Wisconsin what proportion of the lands on the route of the road he proposes to extend the provision to?

Mr. DOOLITTLE. The even-numbered sections; one half the sections on each side of the road will be open to the provisions of the homestead principle under this section.

Mr. BELL. One half the entire lands?

Mr. DOOLITTLE. Yes, sir.

Mr. BELL. And the other half is to be granted for the purposes of the railroad. Thus the entire amount of public lands will go.

Mr. DOOLITTLE. I will state in a single word precisely what I understand to be the provisions of the amendment. The amendment is like the present bill, so far as the railroad lands are concerned, reserving the alternate sections upon each side of the road for twenty miles. The amendment does not affect that. It simply provides that the provisions of the homestead bill, which is pending before the Senate, shall be applied to the even-numbered sections for forty miles on each side of the road. In effect, the even-numbered sections for forty miles wide are given to the actual settlers who may go upon, occupy, and cultivate the land for five years.

Mr. President, I do not rise for the purpose of advocating this proposition, and I will make no extended remarks, but I have simply one word to say in reply to what fell from the Senator from Pennsylvania, who said that this amendment is not germane to building a railroad. I humbly submit it is the only way you can build a railroad; and after you can get it built, the only way you can ever run it, by having people along the line; the only way you can defend it. As to the defense of California, or Oregon, or Washington, the way to defend that country is to send people there, and they will defend themselves.

Mr. BELL. I will ask my friend another question. The eastern terminus of this road is fixed between the western boundary of Missouri, and the southwestern boundary of Minnesota. Are there not settlements already extending far west on the line of any road which may be attempted to be constructed there? Are there not dense settlements?

Mr. DOOLITTLE. This only applies to lands which are unoccupied, and have not been entered.

Mr. BENJAMIN. I desire to ask one or two questions of the honorable Senator who offered this amendment, before the vote is taken upon it. The amendments put upon this bill have been so numerous and so complicated, that I must confess I have lost my bearings, and do not know where we are in the bill; and if it were in order, I should think the most sensible and reasonable proposition would be, to refer this bill to a committee for the purpose of ascertaining its present condition, and reporting back to the Senate where we are. Leaving that consideration, however, out of view, I would ask the Senator who offers this amendment, what width of land on each side of the road, the bill, as it now stands, gives outright to the contractors who are to build the road? Is it twenty miles on each side, or forty miles on each side?

Mr. DOOLITTLE. My amendment does not affect the bill as it stands, in that respect; but the bill as it stands, as I understand it, gives the alternate sections on each side of the road for twenty miles. In other words, it gives twenty sections to each mile of railroad.

Mr. BENJAMIN. Now, I understand the proposition of the Senator is to open the reserved sections belonging to the Government to the provisions of the homestead bill, to the extent of forty miles on each side of the road.

Mr. DOOLITTLE. The even-numbered sections, to the extent of forty miles on each side of the road; or, in other words, to open forty sections to each mile of the railroad, to the operation of the provisions of the homestead bill.

Mr. BENJAMIN. The land which is to be granted under the provisions of the bill—granted outright to the contractors—I understand to be the odd-numbered sections.

Mr. DOOLITTLE. Yes, sir.

Mr. BENJAMIN. The proposition of the Senator is to open the even-numbered reserved sections to the provisions of the homestead bill, not only to the extent of twenty miles, but to the further width of twenty miles on each side, making a width of forty miles on each side of the road. I want to get at this, whether or not, under the provisions of this amendment, connected with the original proposition contained in the bill itself, we are not making a present, either to the settlers or the contractors, of the entire body of public lands, from east to west over the continent, for a width of at least forty miles—twenty miles given outright on each side to the contractors, and then forty miles given on each side to settlers?

Mr. BIGLER. Will the Senator allow me one moment? The Senator is mistaken, so far as the land allowed to the contractors is concerned. The land will extend to about one half the distance, five hundred miles at each end; but for the middle division, which will be about one thousand miles, the Government retains the lands.

Mr. BENJAMIN. The lands that are retained by the Government, as I understand, are expressly stated to be those lands which nobody would have; but the lands that anybody would be willing to have at any price whatever are the lands that are given away. I understand that to be the theory on which the bill now stands before the Senate. We are to give away to the contractors, for a width of forty miles, twenty on each side of

the road, one half of all the lands in alternate sections; and then, having done that, we are to give away to anybody that will settle upon it the other half; or, in other words, Congress is now to give up, from the eastern to the western extremity of the continent, upon all the unsettled region, a width of forty miles of the public lands. I want to understand the proposition, and place it so that the country and the Senate can well understand it. The honorable Senator who moves this proposition tells us that, in his judgment, it is the only way in which this road can be built. The Senator is mistaken. I can tell him a better way still. It is, in addition to the law, to give everybody who will go there a sum of money and a support for a few years, with some other incidental advantages, and he may take my word for it he will have a much more efficient method of building this road. [Laughter.]

The question being taken by yeas and nays, resulted—yeas 19, nays 33, as follows:

YEAS—Messrs. Broderick, Chandler, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Johnson of Tennessee, King, Rice, Seward, Shields, Stuart, Trumbull, Wade, and Wilson—19.

NAYS—Messrs. Allen, Bates, Bayard, Bell, Benjamin, Bigler, Brown, Chensutt, Clark, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Sumner, Iverson, Jones, Mallory, Mason, Polk, Pugh, Reid, Sebastian, Thomson of New Jersey, Toombs, Ward, Wright, and Yulee—33.

So the amendment was rejected.

Mr. DOOLITTLE. The other amendment to which I referred probably will not meet with opposition on the part of any member of the Senate. It is to insert in the twenty-third line of the seventh section, after the word "act,"—

The PRESIDING OFFICER. The Chair will inform the Senator that the seventh section of the original bill has been stricken out.

Mr. DOOLITTLE. I will state the proposition, and, perhaps, there will be no objection. It is to insert:

Provided, That until the same shall be repaid, according to the provisions of this act, the sum or sums remaining unpaid, with the interest thereon, shall be and remain a lien or charge on the whole line of the said road, in the nature of the first mortgage to the United States.

If there be no objection, I ask to have it considered. By the original bill, \$12,500 a mile are to be advanced in the bonds of the United States; but there is no security whatever that the company who have charge of this road will not mortgage it to somebody else.

Mr. BIGLER. If I am not very much mistaken, that provision is in some part of the amendment which I have offered. I think the Senator will find an express provision that the amount advanced shall be a first lien on the road from one terminus to the other.

Mr. DOOLITTLE. My attention was called to the original bill.

Mr. BIGLER. It is in the bill as amended.

Mr. PUGHL. I move, in the eighth line of the first section, to strike out the words "San Francisco in," and insert "the eastern boundary of," so as to read "to the eastern boundary of the State of California." I do not think the Government of the United States can justify itself for building a railroad in a State. It was very good Democratic doctrine in the days of Jackson and Madison that we could not do so. I am willing to aid in building this road through the Territories; but I will no more vote to build it in the State of California than I will in the State of Missouri. It seems to me it would be well to know whether what was understood to be Democratic doctrine a good many years ago continues to be so; and I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BROWN. I shall vote for the amendment proposed by the Senator from Ohio; but not for the reason which he seems to indicate. If I understand him, he denies the right of Congress to make appropriations from the national Treasury to build a road in a State; but is willing to yield to the position that they have a right to make appropriations for building roads in the Territories. He says he would no more think of building a road, by appropriations from the National Treasury, in California, than he would in Missouri. That is right; but what higher right have you to make appropriations for building railroads in a Territory than you have in a State, with the consent of the State? I can under-

stand very well how Congress cannot, without the authority of a State, go within its limits to make improvements of any kind; but, if the State consents, then she occupies the precise position of a Territory, whose consent you do not require.

Mr. BAYARD. Will the Senator allow me to ask him a question?

Mr. BROWN. Certainly.

Mr. BAYARD. In what mode can the Senator deduce the principle that the Congress of the United States can derive jurisdiction and authority through the consent of a State?

Mr. BROWN. That is further on. I was coming to that point. I undertake to assert this, if you have the right to make appropriations from the national Treasury, for works of internal improvement in a Territory, you have the same right in a State, with the consent of the State. Why have you not? If you make the appropriation at all, you assert your power over the Treasury; you assert your power to make the appropriation for the specific object named; and the only reason why you cannot appropriate in a State as well as in a Territory is, that by going into a State you violate its sovereignty; but if the sovereignty of the State consents, nay, if it asks you to make the appropriation, then I should like my friends from Ohio and Delaware to apply their legal acumen to the problem, and answer me why it is that, the sovereign having consented, you cannot as well make an appropriation in a State as in a Territory?

I take other grounds, and assert that this is an authority over the Treasury not delegated to Congress, and therefore not to be exercised either in a Territory or in a State. It might be asserted that the Legislature and Governor of a State could not speak for the sovereignty, and that a mere act of the Legislature inviting you to make a railroad in a State, would not get clear of the difficulty; but suppose a State should assemble in convention, and make it part of her constitution that Congress be invited to build a railroad through her whole limits: then I want to know—that is the point I make to gentlemen; the State having thus consented, in her highest sovereign capacity, asked you to make the appropriation—why it is that you cannot do it, if indeed, it be true that you have the right to make such appropriations in the Territories? Sir, when you agree that you can make an appropriation from the national Treasury to build a railroad in a Territory, you yield the whole constitutional question; and after that, in the States it depends simply on the consent of the State, and if a State consents, the whole power becomes complete.

I note the suggestion made by my friend from Delaware, that the consent of a State even though given through a convention of her people speaking in their highest and most august capacity, cannot enlarge or diminish the power of Congress. That is simply an argument which answers the suggestion that you can make appropriations in Territories but cannot in the States. If it be true that you can make appropriations to build railroads in the Territories, then I assert as a sequence, that you can make appropriations in a State if the State consents to it, because your power over the Treasury is not greater in the one case than in the other. I deny it in both.

Mr. GWIN. Mr. President, I will not go into this argument; but I simply wish to observe that the Government is not to make one foot of this road anywhere, in States or Territories. It is not proposed that the Government shall make the road, or any portion of the road. It is proposed to grant alternate sections of land, and I suppose that is not unconstitutional. If so, that violation of the Constitution has been made for the benefit of Mississippi, and Alabama, and Louisiana, and Arkansas, and I believe all the new States except California. The only contribution the Government gives is the amount of the land, and that, I suppose, can be done in the States as well as in the Territories. The residue of the aid given by the Government is in the shape of an advance, which is to be repaid by services. The Government builds no portion of the road, and I will state at once to the Senator from Ohio, that although in California we take as much care of our State sovereignty as other States, we shall not object to this. There will be no outrage committed on us at all by this bill.

Mr. PUGH. I did not hear the Senator's last remark.

Mr. GWIN. We are State-rights people in California, but we do not object to this road at all.

Mr. PUGH. I know you would not object to it. [Laughter.] The fact is, I do not see how any State-rights man, in California or out of it, can justify two or three provisions of this bill. If this were a bill merely to give to the State of California the alternate sections of land on each side of the road, as we have done in the States of Illinois and Iowa, there would be something in that; that is to say, the proposition would be plausible, and stated in terms, it might not be susceptible of contradiction, although when you came to reduce it to practice it is all land-stealing, as we find it, but still it is very plausibly put. But this is no proposition to give California alternate sections; it is no proposition to give California an acre of land within her limits. It is not like other railroad bills. In addition to the extraordinary grant of land, not made to the State, but to a corporation, you now go on and put \$15,000 of the public money for every mile, in that portion of the road which lies in the State of California. Why not do it with every other State?

I have a word to say as to the suggestion that because the people of California do not object to it, therefore it is constitutional. It is very fortunate for us that that argument was made in the days of James Madison, and this is the answer I want to make to the Senator from Mississippi on the subject of the consent of the States. Mr. Madison said—I quote now from Jackson's veto of the Maysville road bill; he is reciting what Mr. Madison said at a former day:

"Regarding the bill as asserting a power in the Federal Government to construct roads and canals within the limits of the States in which they were made, he [Mr. Madison] objected to its passage, on the ground of its unconstitutionality, declaring that the assent of the respective States, in the mode provided by the bill, could not confer the power in question; that the only cases in which the consent and cession of particular States can extend the power of Congress, are those specified and provided for in the Constitution; and superadding to these avowals, his opinion, that a restriction of the power 'to provide for the common defense and general welfare,' to cases which are to be provided for by the expenditure of money, would still leave within the legislative power of Congress all the great and most important measures of Government, money being the ordinary and necessary means of carrying them into execution. I have not been able to consider these declarations in any other point of view, than as a concession that the right of appropriation is not limited by the power to carry into effect the measure for which the money is asked, as was formerly contended."

When I have one of the fathers of the Democratic church with me, I will not debate the point any longer with the Senator from Mississippi. That was the doctrine formerly; but, to be sure, we get a great many new tenets brought into the church. We have got, I believe, to specific duties of late years, and I do not know how many more heresies may creep into the Democratic family. I want to know whether this doctrine which was held by Jackson and by Madison is to be overruled for the sake of the Pacific railroad. The Senator from Mississippi thinks there is no difference between constructing roads through the Territories and through the States. Probably, if that were a new question, I might agree with him; and yet we do know the fact that this Government has always made a very great distinction in its action towards the Territories and towards the States. I believe it began with the dictum of Chief Justice Marshall in the case of the American Insurance Company vs. Canter, that we were a local and a national Legislature combined whenever we governed the Territories. But be that as it may, so far as carrying this road into the State of California is concerned, it is, in my judgment, a deliberate infraction of the Constitution. Whether it can be justified in the Territories is a question not at present involved in my amendment.

Mr. RICE. I desire to offer a substitute for the bill. I know it is not in order to consider it now; but I submit it that it may be before the Senate at the proper time. I think that is in order.

The PRESIDING OFFICER. The Senator may offer it by unanimous consent; but it cannot be considered now.

Mr. RICE. I do not ask for its consideration now; but my object is to have it before the Senate that at the proper moment it may be considered.

The PRESIDING OFFICER. The Senator can send his amendment to the chair.

Mr. RICE. I do not ask to have it read now. The PRESIDING OFFICER. The chair understands the Senator merely as laying the amendment on the table informally for the present.

Mr. RICE. Yes, sir.

Mr. BELL. Mr. President, I yield to no member of this House in earnestness and zeal in support of some proposition, could one be digested by the Senate, for the construction of a railroad to the Pacific ocean. I have offered no obstructions in the way of this bill. I have submitted no amendment to it. I have voted upon all the propositions which have been offered. I have listened attentively to the debate on the question since it has been resumed, after the Christmas holidays. I have heard the various expressions of opinions from the different sides of the House, and I am now constrained, however reluctantly, to come to the conclusion that we are likely to spend a considerable portion of the time of the Senate on this bill without any beneficial result. I fear that it will be a fruitless consumption of time at this session. While it is evident from the expressions on both sides of the House, and from the votes which have been taken, that there is a majority of the body in favor of a railroad to the Pacific, and who are favorable to the contribution of a large portion either of the public revenue or of the public lands, or of both, to accomplish this great object, yet there is not a majority who are agreed either as to the route to be pursued, or as to the extent of the aids or privileges which are to be granted to this road.

Sir, I have expressed my opinion so unequivocally that I trust no gentleman, however favorable to this project, will suppose for a moment that I would give it the go-by at this time, except upon the grounds which I have already stated. I have said that I regard it not only as a gigantic project; but as one for which there is a political necessity, if we mean to hold our possessions and dominion on the Pacific coast. I have said that I regard it as practical, not at a small cost, I admit; but I have assumed that science, and a sufficient amount of capital could overcome every obstacle. We have expended nearly, or perhaps upwards of half a million dollars already in getting the information which we desired, and thought was proper to be acquired as preliminary to such a measure as this. We have obtained an immense amount of information. Scientific gentlemen of the first class, belonging to the engineer corps of the Army, have reported that more than one route is practicable. They do not state the estimate of the cost with any exact certainty, though some of them have attempted to do so. I have said that in the experience of this country, particularly if we should be so unfortunate—and it is not likely that we shall be exempt from such a state of things—as to be involved in war with any powerful maritime nation, it would be economy in the Government to expend \$150,000,000 to secure this work. Upon one occasion, seven years ago, I announced my opinion in this House that it would be demonstrated in process of time to be good economy. I said then that if the eastern and western coasts of this continent were to adhere together in political and social connection, and if the question were to be whether we should incur a debt or contract a loan to contribute \$200,000,000 to the construction of such a connection between the Atlantic and Pacific States, it would be true economy, and would be found to be so.

I do not pretend to go into these considerations now. I make these statements as a pledge of my sincerity in the past in advocating such a road, and to show that it has been my hope, during the brief term for which I shall occupy a seat in the Senate, to aid in the construction of this road by every means in my power. I did hope to be able to contribute to it; but that hope has vanished. I do not believe, if we were to occupy another week—which we can scarcely spare from the consideration of other business—that we should come to any practical decision, or agree upon the provisions of any bill which would be likely to be carried out or be acceptable, or that would obtain the vote of a majority of this House.

Again, I am strengthened in this position, and in making the proposition with which I shall conclude my remarks, by the further consideration that when we shall have passed this bill, it seems to me we shall approximate but in a very slight degree to a final decision of this question either

by the Senate or by Congress; for it is to be presented again to the consideration of the next Congress. Though both Houses should concur in the passage of this bill now, the road will not be advanced, for we have reserved in the bill the right of confirming what we now agree to—the right of accepting any proposition which may be made under the provisions of the bill. Therefore, even if we pass the bill now, we gain nothing in point of time in reference to the commencement of this great project. We do not avoid future contentions on the subject; nay, they may be more intense than ever. The same sectional and local jealousies and interests that exist now will continue to exist during the next Congress and perhaps forever. I do not allude to any of the present ascription existing between one great section and another, but to the natural and inevitable jealousies and rivalries of local and sectional interests in regard to a measure of this kind. We have a northern sectional interest and a southern one connected with this road. That cannot be avoided. There will be great difficulty whenever the question is presented for a final decision, as to what line, what route, shall be adopted for the construction of this road, if Congress shall ever come to the conclusion that the country must and will have one. These disturbances to a harmonious decision, these sectional and local interests, will still exist. However, the time may come, and that at no great distance, when the country will be coerced into a decision in favor of an attempt, at least, at the construction of this road.

I wish now to say a word or two in reference to the vote I gave a few moments ago against the proposition of the honorable Senator from Wisconsin, [Mr. DOOLITTLE.] In my opinion, if we build this road, we can build it with greater economy; we can build it with more certainty; it will add to the further practicability of what I already regard as practicable, with skill, science, and capital, that settlement be encouraged to extend with it; and we ought to combine with the provisions of any bill which shall pass Congress, the idea of extending settlement with it as it progresses, by every means reasonably within our power and discretion. We gave an entire section of land to each head of a family who might emigrate to Oregon, when the settlements there were weak and feeble. We designed it for a beneficent purpose, and a great political purpose, and an economical purpose; the building up of a population there who could defend themselves, especially against the Indian tribes in their neighborhood. I remember that a question arose at the last session, in relation to some proposition with reference to the new territory that we denominated Arizona. The proposition was to give to settlers a large portion of lands, perhaps the alternate sections—I do not know the exact shape of the proposition—at all events, it was to invite settlers there by making donations of land to settlers. I objected in open Senate to the proposition, inasmuch as it was likely to deprive the Government of the means of constructing a road to the Pacific by contributing a portion of the public domain for that purpose. I was answered by the honorable Senator from Louisiana, [Mr. BENJAMIN,] who said, "no, it is a favorable proposition; we can never construct the road, unless with the progress of settlement; that is what we want; and there will be abundance of land in that country, if it is taken in the proper direction, to contribute all that will be useful to be contributed in lands towards the railroad, and having these settlements will reduce the cost and make the construction of a road more feasible and practicable." For this reason, whenever Congress comes to decide it, I think a majority will see clearly that it is true policy to encourage settlement, even by donations to settlers, if you please, (if the preëmption usually granted in the settlement of our new Territories is not sufficient,) of a certain proportion of the lands lying upon the railroad route, in order to have a population to grow the provisions for the support of the hands that work on the road, and defend themselves against the numerous hostile tribes that may be in its neighborhood.

Now, sir, having made these remarks, I submit the proposition which I designed to offer, if no gentleman objects to my doing so. It is not a very well digested proposition as to language; but, in substance, it will be seen that it embraces pretty much every important idea suggested the other

day by the honorable Senator from Rhode Island, [Mr. Simmons,] with one exception. His idea was—I only differ from him on that point—that this Government should construct the road by its own officers, by its own agency. It is in that respect only that in substance my proposition differs from his. I want to try every experiment, to make every effort, to see whether or not it cannot be constructed by private individuals, associating their own capital with the aids which the Government can bestow, by cooperation with companies or associations of men that may be authorized, and relieve the Government from the weight of patronage and the greater expense that would be likely to accrue under the management of the Government in the construction of the road than would arise when selfish interest, the interest of individuals and associations was principally concerned in avoiding extravagant and useless expenditure. That is the only important difference between the proposition I make and that thrown out by the honorable Senator from Rhode Island. His proposition would necessarily require a much longer time. He wants a minute survey, not a mere reconnaissance, not a general survey of the routes on which bids may be offered, but such a minute survey that, in less than eighteen months or two years, I cannot perceive how the officers would be enabled to make any report. Unless some gentleman requests me to withdraw my proposition for the present, I move to commit this bill, with all the amendments, to the select committee which reported it, with instructions to report forthwith what I send to the Chair.

The Secretary read the proposed amendment of Mr. BELL, which is to strike out all of the bill after the enacting clause and insert—

That it shall be the duty of the Secretary of the Interior, upon the passage of this act, by advertisement in two newspapers in each State and the District of Columbia, for a period of eight months, to invite separate proposals for the construction and working of three railroads, from the valley of the Mississippi to the Pacific ocean, within the territory and jurisdiction of the United States; one commencing at some suitable point on the western boundary of the State of Minnesota, running thence on what may appear the most eligible route to Puget Sound, in Washington Territory; one, commencing at some suitable point on the western boundary of the State of Missouri or Iowa, thence pursuing what may appear to be the most eligible route within the thirty-fourth and forty-third parallels of north latitude, to San Francisco or Benicia, in the State of California; one commencing at some suitable point on the western boundary of the State of Arkansas or Texas, thence pursuing what may appear to be the most eligible route to San Francisco, in the State of California; the said railways to be constructed in a substantial and workmanlike manner, with all necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering places, and all other appurtenances, including the furniture and rolling works or stock, equal in all respects to a first-class railroad when prepared for business, with rails of the best quality weighing not less than sixty-four pounds to the yard, and a uniform gauge; and such advertisement shall further set forth, that the person, or association of persons, or company, making such proposals shall state, as distinctly as may be, the points selected as the eastern and western termini of the road he or they propose to construct, and the line or route selected as the most eligible on which to construct it, reserving the privilege of making such deflections and departures from it as may be found, in the progress of the work, to offer greater facilities and advantages; and that he or they shall specify the terms and conditions on which he or they propose to construct the road, classified as follows:

First. The time within which the road is to be commenced and completed.

Second. The amount, or extent and description of the aids, facilities, and privileges which will be expected or required from the Government, whether consisting of lands or money, or both; and if in part of money, whether in the shape of a loan or otherwise; and if a loan, when and how to be refunded.

Third. The rate of charge, respectively, for conveying the mail weekly, semi-weekly, tri-weekly, and daily, when the road is completed, and the rate per mile for such portions or divisions of the road as may be completed and in use before the completion of the whole; and the rate of charges on all military and naval supplies, troops, and munitions of war of all kinds, for the transportation of the same on said road throughout the entire line, when completed, and on any less portion or section of the same, as the wants of the Government may require.

Fourth. The time or period beyond the completion of the road at which the party or parties to any such proposals will surrender said road, with all its equipments and appointments, to the United States; should the Government desire such surrender; whether after twenty, forty, or sixty years of exclusive possession and enjoyment; and if any greater than twenty years is proposed, at what reduced amount of aid and facility will be required from the Government, in consideration of such extension; such proposals will undertake to construct the road; and what reduction of charges for conveying the mails and transporting military and naval supplies, troops, and munitions of war of all kinds, will be made, in consideration of such extension.

Fifth. The guarantee proposed for the faithful execution of any contract which may be entered into with the United

States for the construction of the road, and against excessive fare for the transportation of passengers and exorbitant charges for carrying freight of any description.

Sec. —. *And be it further enacted*, That the Secretary of the Interior shall cause it to be further set forth in said advertisements that the party or parties to proposals for the contemplated central and southern railroads shall make separate proposals for the construction of said roads, from the eastern termini to some suitable point on the eastern boundary of the State of California, or in respect to the southern road to some suitable point on the southern boundary of the State of California.

Sec. —. *And be it further enacted*, That all proposals shall be sealed and addressed to the Secretary of the Interior, who shall, previously to the commencement of the first regular session of the next Congress, open the same in presence of the other heads of Departments, and shall transmit copies of the same to the two Houses of Congress as soon as organized; the originals to remain on file in the Department of the Interior.

Sec. —. *And be it further enacted*, That the sum of \$— be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to carry the provisions of this act into effect.

Mr. BELL. It will be seen by those gentlemen who have attended to the reading of my proposition, that there is no form of project adopted in my own mind, nor is there any probability existing in my mind, that the Government should undertake the construction of three roads, particularly at the same time, perhaps for half a century to come, though it is quite probable that, in time, there may be three roads. It is for the purpose of giving the friends of every route that has been pointed to in this debate, by amendments or otherwise, a fair opportunity of having it presented to the public and to Congress; and if a sufficient number of persons having capital and responsibility, shall think proper to make any bids at all, let the friends of the various routes have an equal chance of presenting their claims to Congress in an imposing and responsible manner.

The honorable Senator from Wisconsin, the other day, thought the public lands alone, situated upon the route which was his favorite, would be sufficient to construct the road; not only so, but that he could invite sufficient settlement, by giving as a donation one half the land with a little more money—\$10,000 a mile, as I understood him the other day. Now, sir, if there be a practicable line, on which a road of this importance can be constructed so cheaply, so unexpectedly cheap to all those gentlemen who have given the subject their attention heretofore, it ought to be presented to Congress, and it will go very far to make that the only route adopted by Congress, if Congress concludes only to make one road. I agree that the snows of the North are not so great an objection as they would be on the central route, and perhaps on the southern one.

Well, then, the central route will have every advantage, having this substantial and responsible indorsement, whether it is to proceed from Sioux City or the mouth of the Kansas, by the South Pass or by Bridger's Pass, or whether it shall go down to the Tejon Pass, in the Sierra Nevada mountains, in California, or shall pass over the pass near the head of the Sacramento. Everything will be fair; every means of influencing the attention and bringing forward the support of capitalists, by making a proposition of this kind, will be opened. They are not limited in the amount of money. If they require fifty millions, or one hundred millions, or one hundred and fifty millions to aid them in constructing any one of these roads, they may ask it; and so of the southern route. No southern gentleman can complain that the claims of the southern road will not be fairly presented. It will have the indorsement of men who look to their own interest with lynx eyes. It is the responsibility of men that commit their fortunes, or a large portion of their fortunes, if any shall do it, to these roads. That is the best test of which is the best route. After the flood of light shed on all these routes by the numerous scientific engineers who have been sent over the country at such immense cost, those engineers, I doubt not, would give their skill and their knowledge on points not detailed in their reports, to any individuals or companies who may think proper to make a proposition of this sort.

Every other objection which can be conceived is avoided in this proposition. I propose to require guarantees for their not being simply speculative bidders, getting into the enterprise, making a job of it, and selling out to some company who have the means, and may lead us into a disastrous enterprise. We ask guarantees for that.

We ask guarantees against extortion; and we put the option to them of holding such a road for various terms. I do not like to use the word "operate" in this connection, because I believe it is not of standard authority; but I do not know any other word to express the idea. We ask how much it will cost if they operate the road for twenty years, and they make their bids on that hypothesis, and what less sum of money, for what less amount of credit of the Government in the shape of bonds, they will take if we allow them to retain it for forty or sixty years. It does not forbid them after all—though I did not care to incorporate that into the provision—from saying, in conclusion, that with all these aids from the Government, with this extent of privilege which we have specified, and the aids in land and money, they cannot undertake such an enterprise unless the Government would guaranty to them \$5,000,000 annually, or \$10,000,000, or some remuneration, in operating this road over a desert country which can never admit of dense population, and which furnishes no advantages of way-passengers or way-freight. When the bids are laid before Congress, Congress will have the very best test as to what are the cheapest and most eligible and practicable routes, and the lines which will be most likely to be accomplished.

If this subject should be taken up by the capitalists of the country, and we could have the confidence of their *bona fide* intention, and their determination, if possible, to secure the work, I do not believe, and I am ready to state it freely, not only from what I have seen here to-day, but from what I could infer *a priori* from my knowledge of human nature and the diversity of local interest connected with this subject, that we shall ever get along, probably, without adopting two roads and having them progress *pari passu*. It is possible we may have to adopt three; but I hope not. I hope, at least for the present quarter of a century, one road will be regarded as sufficient. Whether that shall be the northern, the central, or the southern, will be decided, probably, (if Congress can ever be got to harmonize or concur in the view that we had better construct one,) by some such test as I propose to apply.

Mr. GWIN. Mr. President, I shall not enter into the policy of recommitting this bill, but I wish to make a suggestion to the Senate. If, in the opinion of the Senate the bill ought to be re-committed, and a substitute such as the Senator from Tennessee has offered be reported, I hope the Senate will order it to a new committee. The select committee that reported this bill endeavored to make its provisions as perfect as they could. They devoted a great deal of time to it, and came to the conclusion, after very elaborate examination, that it was more likely than any other plan which could be presented, to harmonize and bring to its support the majority of persons in the Senate in favor of a Pacific railroad. I do not believe that that committee could improve the bill, or that they are the proper persons to frame a new bill; and I therefore hope that if it is referred to a committee, it will be to a new committee, to see if there can be a committee formed who can report a bill which will secure the votes of a majority of this body. The Senator from Tennessee was one of the most efficient members of the select committee, and he is aware of the fact that we exerted ourselves to report a bill that we thought would command a majority of the Senate; but if a majority of the Senate is in favor of recommitment, I think it had better go to another committee; to members who are not committed to any of the plans which have been already presented to the Senate.

Mr. BELL. That would be inconsistent with the principle on which I made this proposition. My object in making this proposition, after I had utterly despaired of the success of any plan, or that it was possible to concur in the provisions of any bill for constructing a road during the present session, even if we sat here upon it to the latest period of the session, was to recommit the bill to the select committee which reported it—any other committee would be parliamentary, though not so strictly appropriate—with instructions to report the proposition which I have presented forthwith to the Senate.

Mr. CLAY. I suggest to the Senator this question: what is the necessity of referring it to that committee, with instructions to report it back

forthwith? It looks to me like going up the hill and coming down again. Why not move his proposition as a substitute for the bill now pending?

Mr. BELL. I cannot do it. The honorable Senator will see that this is the parliamentary mode of getting clear of all the amendments pending, and those which may be offered; it concludes the question at once. If the majority of the Senate should think with me that we are wasting time; that it is not likely any bill to construct a railroad will pass the Senate; and that we shall consume day after day without any good result; the friends of the measure, numerous as they are, not being able to agree among themselves, then my proposition is to recommit with the instructions to have moved. Now is the time to amend my proposition if it commends itself to the Senate at all; for when it is reported back, it will be put to a vote whether they will pass it. It overrides all amendments; and in no way could you get the question before the Senate but by moving to recommit with instructions to report this proposition.

Mr. FESSENDEN. It is now about the usual time of adjournment, and I should like to have that proposition printed, in order that the Senate may see it. They probably will not act on it until it is printed. I move that the Senate adjourn.

Mr. BELL. Let it be printed.

Mr. FESSENDEN. I move that it be printed.

The PRESIDING OFFICER. The Chair will ask the indulgence of the Senate to correct a misapprehension which exists in the Senate, and perhaps in the Chair himself, as to the condition of this bill. By reference to the Journal of last session, it is ascertained that this bill was reported to the Senate. It is not now in Committee of the Whole. The Chair makes this suggestion, lest the Senator from Wisconsin [Mr. DOOLITTLE] might be misled. The only way of reaching his proposition, which was submitted some time ago, will be to reconsider the vote by which the amendment of the Senator from Pennsylvania [Mr. BIGLER] was adopted, if that be desired.

Mr. FESSENDEN. I do not wish to interfere with the motion to print this amendment. I supposed it would be printed as a matter of course.

Mr. SEWARD. I suppose the Senator will give way for a motion to print.

Mr. GWIN. If the Senator will waive his motion to adjourn for a moment, it would be very convenient for us to have the bill of the select committee, as it has been amended by the amendment of the Senator from Pennsylvania, printed; and I make that motion, to print it in the form in which it is now presented. I move to print the bill as amended, and the amendment of the Senator from Tennessee.

The PRESIDING OFFICER. If there be no objection on the part of the Senate, the order to print the bill as amended, and the proposition of the Senator from Tennessee, will be made. The Chair hears no objection.

Mr. DOOLITTLE. I understand that the amendment which I offered some time since was, in fact, in order.

The PRESIDING OFFICER. It was not in order, the Chair will inform the Senator. The only way, as the Chair suggested, of reaching the Senator's object, would be by a motion to reconsider the vote by which the amendment of the Senator from Pennsylvania was adopted.

Mr. FESSENDEN. I renew my motion to adjourn.

Mr. DAVIS. If the Senator from Maine will withdraw that motion for a moment, I merely want to call the attention of the Senate and the Presiding Officer to the fact that on the part of the minority of the select committee which reported the bill, I reported a substitute as the view of myself and those who concurred with me, being the minority of the committee. That substitute has never been reached. Amendments have been offered, one after another, and I certainly desire the expression of the Senate upon the substitute presented by the minority, before we are cut off by the proposition to commit, with a "forthwith" annexed. The views presented by the report of the minority are quite the reverse, in some respects, of those in the majority bill. Among others, we carefully abstained from entering the limits of a State, carefully guarded it so that no power should be assumed by the Federal Government

to construct a railroad or to create a corporation, except in the intermediate territory lying between the Atlantic and the Pacific States. This presents the opposite view to the bill of the majority of the committee, and I think I have the right, at least, to have the expression of the opinion of the Senate upon it before it is committed in the form of the proposition of the Senator from Tennessee.

Mr. IVERSON. The remarks of the Senator from Mississippi require at my hands a short explanation in regard to the minority report. The Senator characterized it as a report of the minority of the committee. I take this occasion to say that I did not concur in the substitute which the Senator from Mississippi presented. He misunderstood me. I did not concur in that, and I am not in favor of it. It appropriates \$10,000,000 out of the Treasury for the construction of this road. To that I am unequivocally opposed. I do not believe the Government has any power under the Constitution to appropriate a dollar out of the Treasury for the construction of this or any other road, or any other work of internal improvement. That is my opinion. I did not, therefore, concur in the Senator's bill; I do not believe it is a bill which ought to pass. I did concur with him in many views which he expressed in the committee, and has probably embodied in his bill; but as to the substitute he has offered, I must say it does not present my views.

Mr. DAVIS. The Senator from Georgia has enjoyed an opportunity of stating that he did not concur in the bill which I have reported, when I believe I have not said he did.

Mr. IVERSON. I was in the minority of the committee, and therefore supposed I was included in the Senator's remark.

Mr. DAVIS. I thought I had the Senator's authority, as one of the minority, to report that bill; but whether I had or not, I said it was the bill of a minority of the committee. The Senator, therefore, has merely defended himself before he was accused.

Mr. IVERSON. The Senator said that the minority of the committee reported a bill; that it contained the views of the minority. I was in the minority, and therefore was in that category; hence I wished to set myself right. The Senator was mistaken in supposing that I gave authority for reporting the substitute. To be sure, I preferred his bill to that of the committee.

Mr. DAVIS. Then there was only one for it. I was that minority, and I shall stand by it.

Mr. BELL. If the honorable Senator from Mississippi desires my motion to be postponed until the question can be taken on his amendment, I will withdraw it with great pleasure. But I saw that there were other amendments. Still, I will not press my motion until he gets the sense of the Senate on his proposition, if such be his desire.

Mr. DAVIS. I shall yield most cheerfully to any decision the Senate may make. I answered my whole purpose in calling the attention of the Senate to the fact that the views which I entertained were in a printed substitute, which came in with the bill, and on which I desired a vote of the Senate. If, however, the Senate, having their attention called to the fact, choose to pass over it, and not to take a vote on the proposition, but to accept the substitute now offered in a parliamentary form by the Senator from Tennessee, I shall yield very cheerfully.

Mr. BROWN. I have no idea that we are going to pass this bill; and I suppose I feel as very many other Senators do—that we are wasting a good deal of precious time upon it. I do not think it would be fair, at this late hour of the evening, when a good many Senators have retired from the Chamber, to demand a vote upon laying the bill upon the table. I make that motion, however, and ask the yeas and nays on it. When they shall have been ordered, I am quite willing that the Senator from Maine shall press his motion to adjourn, and let us, when the bill comes up to-morrow, everybody being notified that we are going to take a vote to lay it on the table, be present and vote for it or against it. If we are determined to go on with it and have a final test vote on its passage, let us do that. If we have made up our minds, as I think we ought to have done by this time, that we cannot pass the bill, let us have a test vote in full Senate. I therefore, at this hour of the evening, submit a motion to

lay on the table; and ask for the yeas and nays on that motion.

The yeas and nays were ordered.

On motion of Mr. FESSENDEN, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 18, 1859.

The House met at twelve o'clock, m. Prayer by Rev. F. SWETZEL.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate by ASBURY DICKINS, their Secretary, notifying the House that the Senate had passed the following joint resolution and bills of that body, in which he was directed to ask the concurrence of the House:

A resolution (No. 69) conferring the rank of senior flag-officer on the active service list of the United States Navy on Captain Charles Stewart;

A bill (No. 283) for the relief of James Maccaboy; and

A bill (No. 449) authorizing a transfer to State authorities of the books, papers, &c., of discontinued land districts under certain circumstances.

NEBRASKA CONTESTED ELECTION.

Mr. BOYCE. I rise to a privileged question. The Committee of Elections have instructed me to report the evidence on the contested election case from Nebraska, and to ask that the same be printed and recommitted to the committee.

It was so ordered.

Mr. VALLANDIGHAM. I demand the regular order of business.

Mr. JEWETT. I ask the unanimous consent of the House to introduce a bill for reference only.

I hope there will be no objection. I want to have the bill referred to the Committee on Military Affairs.

Mr. VALLANDIGHAM. I insist on the regular order of business.

CHANGE OF REFERENCE.

Mr. ADRIAN. I hope the gentleman will waive his call for the regular order of business for a moment. The petition of Mrs. Eliza M. Evans was referred by mistake to the Committee on Revolutionary Pensions instead of the Committee on Revolutionary Claims. I ask that the petition be withdrawn from the one committee and referred to the other.

Mr. NICHOLS. If objection be made in one case it ought to be made in all; and I therefore object.

Mr. ADRIAN. I hope I shall be allowed to have this petition referred to the right committee. I should really like to know what gentleman objected to my application, for I did not hear. I hope the gentleman, whoever he may be, will withdraw his objection. I simply ask a change of reference.

The SPEAKER. The regular order of business was called for and insisted on by a gentleman on the right, and objection was afterwards made to anything being done except the regular order of business by a gentleman on the left of the Chair.

Mr. ADRAIN. I hope, then, the gentleman on the left will withdraw his objection, and allow this petition to go to the right committee. It was referred to the wrong committee by mistake.

The SPEAKER then proceeded to call the committees for reports, commencing where the call was suspended on Thursday last—with the Committee on Commerce.

CLERKS TO COMMITTEES.

Mr. JOHN COCHRANE. I am instructed by the Committee on Commerce to offer the following resolution:

Resolved, That the standing committees of the House, which at the last session thereof were authorized to employ clerks, be authorized to employ clerks for the present session, at the same rate of compensation; and that their compensation be from the date of their service.

Mr. DEAN. I object to that.

Mr. JOHN COCHRANE. I report the resolution from the Committee on Commerce. I ask that it be adopted, and move the previous question upon it.

Mr. MORGAN. Is that resolution received?

The SPEAKER. It is reported from the Committee on Commerce, as the Chair understands.

Mr. VALLANDIGHAM. Was that subject referred to that committee?

Mr. JOHN COCHRANE. No, sir; it was not.

Mr. MORGAN. I understand that the Committee on Commerce are in no great trouble, for they have got three clerks, as I understand, now.

Mr. JOHN COCHRANE. My friend is quite mistaken.

Mr. SMITH, of Virginia. I would suggest to the gentleman who objects, that these clerks are already in employment, and we ought not to starve them out. I would suggest to the gentleman from New York, if he made the objection, that it is very hard upon these men who are now engaged in the public service and have nothing to live upon.

The SPEAKER. The Chair thinks the report cannot be made if objected to the subject-matter not having been referred to the Committee on Commerce.

Mr. SMITH, of Virginia. I would inquire who made the objection?

Mr. HASKIN. I object.

ISSUE OF REGISTERS TO STEAMSHIPS.

Mr. EUSTIS. I am instructed by the Committee on Commerce to report back, with a recommendation that it do pass, Senate bill (No. 493) authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships. I ask that it be put upon its passage.

I will state, for the information of the House, that these steamers, although built in Canada, are, in point of fact, American-built vessels. The certificates accompanying the bill show that the engines, boilers, machinery, &c., were built at the West Point foundry, in the State of New York, at a cost, exclusive of transportation, of \$112,000.

These steamers were built of timber from New York, the frames and planking were of Ohio growth, the joiner's work was made in New York, and put up by New York mechanics, at a cost of \$150,000, the furniture and fittings of the cabins were manufactured at Buffalo, in the State of New York, at a cost of \$50,000. The boats were modelled by George Collier, a New York builder, but have since been brought round from the lakes by the way of the St. Lawrence, to New York, have had new bottoms put on them, have been fastened, caulked, coppered, and extensive additional work done, at a cost of \$70,000, making a total of at least \$412,000. All this appears from the sworn certificates attached to the bill.

These steamers were purchased by the Louisiana Tehuantepec company, now engaged in transporting mail and passengers between the city of New Orleans and the Isthmus of Tehuantepec, and are not entitled to American registers under the strict letter of the law. The owners, in view of the facts already stated, and struggling as they are, in the infancy of a great enterprise of national importance, confidently rely upon Congress for that special legislation, which can alone relieve them under the actual condition of things.

I will state further, that a communication on this subject was addressed to the Secretary of the Treasury, and that officer has made a favorable answer, which I will ask the Clerk to read.

The Clerk read the letter, as follows:

TREASURY DEPARTMENT, January 14, 1859.

SIR: I have to acknowledge the receipt of your letter of the 12th instant, and in reply to so much of it as refers to the bill passed by the Senate, authorizing the issue of registers to the steamships America and Canada, to state that the Department perceives no objection to its passage.

The bill is herewith returned.

Very respectfully, your obedient servant,

HOWELL COBB,

Secretary of the Treasury.

Hon. JOHN COCHRANE, Chairman of Committee on Commerce, House of Representatives.

Mr. EUSTIS. I demand the previous question. The previous question was seconded, and the main question ordered.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. EUSTIS moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FISHING BOUNTIES.

Mr. MILLSON. As a member of the Committee on Commerce, I ask leave to offer the following resolution:

Resolved, That the Committee on Commerce be, and they

are hereby, directed forthwith to report to the House the bill of the Senate, which was referred to them on the 7th day of December last, entitled "An act repealing all laws or parts of laws granting allowances or bounties to vessels employed in the bank and other cod fisheries," in order that this House shall determine for itself, whether it will agree or disagree to the legislation proposed by the other House of Congress.

Mr. WASHBURN, of Illinois. From what committee is that a report?

Mr. MILLSON. I offer it as a resolution of instruction to the Committee on Commerce.

Mr. DAVIS, of Massachusetts. I object to the resolution.

VIRGINIA MILITARY DISTRICT, OHIO.

Mr. RUFFIN, from the Committee on Public Lands, reported a bill allowing those holding lands by entries in the Virginia military district, Ohio, which were made prior to the 1st day of January, 1852, to have the same surveyed and patented; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ADVERSE REPORTS.

Mr. RUFFIN also, from the same committee, made adverse reports in the following cases; which were laid on the table, the committee discharged from the further consideration thereof, and the reports ordered to be printed:

The petition of O. P. Strickland; and

The petition of J. B. McCendon.

REGISTERS AND RECEIVERS.

Mr. COBB, from the same committee, reported a bill to amend the act of 20th April, 1818, to compensate registers and receivers of land offices of the United States; which was read a first and second time.

Mr. COBB. When I have had read a statement which I hold in my hand, I propose to put the bill on its passage.

Mr. WASHBURN, of Illinois. I want to hear the bill read.

Mr. COBB. Certainly. The bill will be read of course. The Committee on Public Lands have reported the bill unanimously, and I presume there will be no objection when the House shall understand the object of the bill.

The bill was read. It provides that the act entitled "An act for changing the compensation of receivers and registers of land offices," approved April 20, 1818, shall be so construed by the proper accounting officers of the Government as to restrict the aggregate amount allowed as compensation for registers' and receivers' commission on moneys received at any land office, in any one calendar year, to the sum of \$2,500 each; and that the registers and receivers shall not receive for any one quarter, or fractional quarter, more than a *pro rata* allowance of said maximum of \$2,500; the commissions to commence and be calculated from the time they enter upon the discharge of their duties.

Mr. COBB. Now, Mr. Speaker, the House will see at once the object of the bill. I will now ask that this statement be read, which will show what has been the practice under the law as it now stands; that at a single land office there has been drawn from the funds received as much as \$10,000 in a single year. I think that practice ought to be stopped. I ask the Clerk now to read the statement which I send to his office.

The statement was read, as follows:

The following statement presents a case in point, illustrative of the many abuses growing out of the present system of computing the registers' and receivers' compensation for commissions, as set forth in the Commissioner's report for 1856, pages 19 and 20:

J. H. B., late register at Plattsburg, Missouri, for second quarter, from the 1st April to 30th June, 1856, date of his resignation, received the maximum of.....	\$2,500
C. B. B., late register, for third quarter from 1st July to 30th September, 1856, received his maximum of commissions of.....	2,500
J. H. B., under a temporary appointment, for the fourth quarter, 1856, from 8th October to 31st December, 1856, received his maximum of commissions of.....	2,500
J. H. B., under a confirmed appointment, for the first quarter, 1857, from 18th February to 31st March, 1857, received his maximum of commissions of.....	2,500

Making the aggregate amount paid to registers at said office for commissions alone, for the year commencing April 1, 1856, and ending March 31, 1857, of.....

\$10,000

Whereas under our proposed restriction, it could not have exceeded the sum of \$2,500.

Mr. COBB. The House will readily perceive without argument from me, that such a practice ought to be stopped. The act of 1818 provided that the maximum to be received as commissions by any register or receiver should not exceed \$2,500.

Mr. CRAIG, of Missouri. Will the gentleman allow me to ask him a question?

Mr. COBB. I do not want to get into any controversy in reference to this matter. I have not mentioned any name in this statement, because I did not want to provoke any controversy in reference to any person.

Mr. CRAIG, of Missouri. There is no controversy about it. I merely wanted to know the name of the person he refers to in the statement which has been read, by the initials "J. H. B." The statement refers to a land office in my district. Several of my constituents have held the office of register in that office. I desire to know to which he alludes in his statement?

Mr. COBB. If the gentleman will refer to the records in respect to the registers and receivers in the Plattsburg district, he can ascertain the name of the person to whom he refers. I do not care to mention names.

Mr. CRAIG, of Missouri. Is the name James H. Birch?

Mr. COBB. The gentleman can find what the name is by consulting the record.

Mr. CRAIG, of Missouri. If that be the name, I will state that the record shows that he did receive the amount of money stated, but if he refers to any other gentleman who has held that office, I deny the statement.

Mr. COBB. Very well. I will now state that under the law of 1818 the maximum of the compensation to be received by any register or receiver, as commissions, is \$2,500. The Committee on Public Lands propose now to correct the abuse which has grown up under that law by providing that the amount of compensation for such service for any land office shall not exceed \$2,500. I ask to put the bill on its passage, and call the previous question.

Mr. JONES, of Tennessee. I do not wish to obstruct the passage of that bill, if I understand the object of it. I merely wish to make an inquiry. I believe that the present law provides that registers and receivers shall receive a salary of \$500 each per annum and a commission upon all moneys received in the office from sales of the public lands not to exceed a compensation, in the aggregate, of \$3,000; but I understand that under the practice, a register may remain in office three months, and receive the full salary contemplated by the law for a full year; then another may be appointed, who may also receive the full salary; and so on to the end of the year.

Mr. COBB. That is the very thing which we propose to correct by this bill.

Mr. JONES, of Tennessee. If that is the effect of this bill, it is right. Provision ought to be made by which not more than \$3,000 shall be paid as compensation for the services of register during any one year.

Mr. COBB. I am very glad the gentleman from Tennessee agrees with me for once.

Mr. JONES, of Tennessee. I am very happy to congratulate the gentleman that he is right for once. [Laughter.]

Mr. COBB. Very well; then the gentleman from Tennessee and I have no controversy. I call the previous question upon the engrossment of the bill.

Mr. CLARK, of Missouri. I ask the gentleman from Alabama to withdraw his demand for the previous question for a moment to allow me to make a statement.

Mr. COBB. I will withdraw my demand for that purpose.

Mr. CLARK, of Missouri. I am in favor of the object of this bill, but I do not think the object will be accomplished by the bill as it now stands. The fault is not so much with the officers as it is in the appointing power. When a register has served for a part of a year, and has drawn the maximum compensation, and another register is appointed for the balance of the year, I do not believe that the person who comes in as register for the balance of the year has the right, under the law as it now stands, to draw also the maximum compensation for a year. But I think that some of the registers should be allowed the per-

quisites of their office. In some of the land districts in the State of Missouri, and some of the other western States, where the land has been principally sold, and several offices have been consolidated into one, the registers and receivers do not have business sufficient to produce a salary such as to justify them in keeping the office. I cannot at this moment prepare an amendment which will meet my purpose, because I have not before me the list of the fees for searches in reference to titles, for the delivery of patents, and other office business required to be done. I therefore move to recommit this bill to the Committee on Public Lands, in order that I may be able to submit to that committee a list of the perquisites which I wish to have embodied into my amendment.

Now, sir, in the State of Missouri, the office now complained of and four others have been consolidated into one. Five land districts have been thrown into one. The register gets but \$500 salary. He has charge of the books necessarily belonging to his office, thousands of field notes, and an immense mass of correspondence requiring three or four clerks. Yes, sir, he receives a salary of only \$500. That office contains the sources of title for half of the State of Missouri. This, as well as other offices in the western States, who have no land to sell, and therefore no commissions to receive, ought, in addition to their \$500 salary, to be allowed some perquisites, that they may receive some such just compensation; there ought to be a fee table prepared; and in order that I may have an opportunity to present one for the consideration of the members of the committee, I move that this bill be recommitted to the Committee on Public Lands.

Mr. NICHOLS. I do not know that it is necessary to refer this bill, if it be correctly understood by the House; but having read it twice, I do not understand that the object the gentleman from Alabama has in view is accomplished by the bill. I understand that the object he has in view is to prevent more than \$2,500 being paid per year to any register or receiver as commissions. I submit now that the proviso limited the amount paid to various registers and receivers, who may be appointed during the year, does not accomplish his object, for the language of the bill applies simply to those, as I conceive, who may have the office for the time being; and if they resign, or are removed, and new men are appointed, the gentlemen who follow may come in under the same provision. I think that a proviso that in the aggregate not more than \$2,500 as commission, shall be paid to those who may hold the office during the year, is what is necessary. If that proviso be put to this bill, I think it ought to be put upon its passage. That is all I have to say.

Mr. COBB. If the gentleman listened to the bill, he saw that the necessity for that proviso was obviated by the provision for the payment of the salary quarterly, and that not more than the maximum should be paid.

Mr. NICHOLS. I do not think that a sound construction of the bill, as it is, would obviate the objection I now make to it.

Mr. COBB. It has been drawn up at the Land Office, with express view to the accomplishment of the very object the gentleman desires.

Mr. NICHOLS. That does not commend it to my consideration. Bills drawn up at the Departments have very little favor with me. I prefer that they should be examined by gentlemen here, who are just as competent to consider their legal bearing as any gentleman in the Land Office.

Mr. COBB. The Committee on Public Lands investigated it thoroughly, and we deem ourselves competent to judge of its bearing. But, so far as the gentleman's proposition is concerned, I agree with him.

Mr. NICHOLS. I have no doubt about the competency of the Committee on Public Lands, and I do not reflect upon them at all. I have merely made a suggestion. If it be the sense of the House that the bill does accomplish the object, I am in favor of then letting it be put upon its passage. But, sir, as a lawyer, I suggest that, in my opinion, it does not carry out the purpose announced by the gentleman from Alabama.

Mr. COBB. I think it does. I want to stop the abuses I have stated; and if the gentleman thinks that purpose can be better accomplished

by the addition of another sentence, I have no objection to it.

Mr. NICHOLS. If the gentleman says that it will stop abuses, then let it be put upon its passage. I do not wish to put any obstacle in its way.

Mr. COBB. We think it will stop abuses.

Mr. NICHOLS. Then go ahead.

Mr. CLARK, Missouri. I move that the bill be recommitted to the Committee on Public Lands.

Mr. COBB. I call the previous question. We have the whole subject of the increase of the pay of registers and receivers before us, and the gentleman can submit his proposition and let it come up separately and distinctly.

The SPEAKER. If the previous question be sustained, the first vote will be on the motion to recommit, and if that fail, the question then will be, "Shall the bill be ordered to be engrossed and read a third time?"

The previous question was seconded, and the main question ordered.

The motion to recommit was disagreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. HOUSTON. I should like to ask my colleague one question about this bill. I understand from the reading of the bill that it allows the registers and receivers at the land offices to receive as much as \$2,500 as commissions, and then \$500 as salary. Is that the law he proposes to construe?

Mr. COBB. It is the law of 1818.

The bill was again reported.

Mr. COBB. I call the attention of the gentleman from Ohio to the words *pro rata*.

Mr. NICHOLS. I do not interpose any objection to the passage of the bill. I think it could be made more explicit; and that is what I have said.

Mr. WASHBURN, of Illinois. I have a proviso which I ask may be read and received.

The proviso was read, as follows:

Provided, That the aggregate amount of salary paid to all the officers that may be appointed during any one year shall not exceed \$2,500.

The SPEAKER. The proviso can only be received by unanimous consent.

Mr. BARKSDALE. Is the object of this bill to lessen the pay of registers and receivers?

Mr. COBB. It does not reduce the legitimate fee of any officer; it only proposes to correct abuse that has crept in under the act of 1818.

Mr. CRAIG, of Missouri. If I am allowed to answer the inquiry of the gentleman from Mississippi, I will do so.

Mr. MAYNARD. Does the bill propose to lessen the salaries?

Mr. COBB. It leaves the salaries the same as they were left under the act of 1818. I would restate the motives for the passage of the bill, but that the previous question has been called.

The SPEAKER. The Chair does not understand that the previous question has been moved.

Mr. COBB. Then I move the previous question.

Mr. BARKSDALE. I ask the gentleman to withdraw that motion for a moment.

The motion was withdrawn.

Mr. BARKSDALE. I desire to ask the gentleman from Alabama a question with regard to this bill. It may be very clear to him, but I do not understand it. I desire to ask the gentleman from Alabama the object of the bill?

Mr. COBB. Did the gentleman hear me when I reported the bill?

Mr. BARKSDALE. I did not.

Mr. COBB. Then I will inform him that the object is to stop the abuse of speculation that has been going on in the country for many years under the act of 1818. If the gentleman had heard the statement that was read, he would have seen that at one office in one year the register received upwards of ten thousand dollars. The act of 1818 never contemplated that they should receive at any one office more than \$2,500 a year. This bill is to restrict the compensation to that sum. It is to fix the construction of the act of 1818, and to leave the salaries exactly as they were fixed by that bill. It does not change them a particle.

Mr. BARKSDALE. If the object of the bill be to reform any abuse, then I am willing to vote for it.

Mr. COBB. I knew that the gentleman would be in favor of it. That is all it proposes.

Mr. BARKSDALE. But I am not willing to lessen the compensation of registers and receivers.

Mr. COBB. It does not do that.

Mr. DAVIS, of Indiana. I move the previous question, on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois. I wish that my proviso may be received.

The SPEAKER. The bill is on its passage, and has passed that point where the amendment could be received.

Mr. WASHBURN, of Illinois. I do not wish to embarrass the passage of the bill; I only thought it better to make it a little more certain.

The SPEAKER. The gentleman's proviso can be appended to the bill by the unanimous consent of the House only.

Mr. WASHBURN, of Illinois. Then I ask that it may be appended by unanimous consent.

Mr. EDIE. I object. That proviso is in the bill already.

Mr. LEITER. According to it, all the officers would only receive \$2,500 a year, in the aggregate.

The question was taken; and the bill was passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

PATENTING OF LANDS IN OHIO.

Mr. STANTON. I rise to a privileged question. I move to reconsider the vote by which a bill allowing those holding lands by entries in the Virginia military district, in Ohio, that were made prior to the 1st of January, 1852, to have the same surveyed and patented, which was reported from the Committee on Public Lands was referred to the Committee of the Whole on the state of the Union. My object is to have it referred to a select committee of three. It is of no sort of interest to anybody except the members who represent that district. The gentleman who introduced the bill, and myself, think that some amendments to it are desirable, which will be satisfactory to all interested. If the House will have the goodness to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union, I will move to refer it to a select committee of three.

Mr. RUFFIN. I reported the bill, and should like to know the object of the gentleman from Ohio.

Mr. STANTON. The gentleman who introduced that bill, and I, have had a consultation about it, and we think that some amendments are required for the protection of the titles of the settlers. There is no body in the world interested in it except the members who represent that district.

Mr. RUFFIN. It is not to go back to the Committee on Public Lands?

Mr. STANTON. No, sir; to a select committee of three.

Mr. RUFFIN. I have no objection in the world to that.

Mr. COBB. I will state to the gentleman from Ohio, for his information, that the report was ordered to be made some time ago. The bill was referred to the Committee on Public Lands. It proposes to cede to the State of Ohio all the military reservation granted by Virginia. The committee had that question under consideration, and ordered the gentleman from North Carolina [Mr. RUFFIN] to make a report upon it. It authorizes the Secretary of the Interior to sell to the State of Ohio a particular tract of land, for school purposes.

Mr. STANTON. The bill to which the gentleman from Alabama has reference has no connection with this. The one applies to vacant land, and this applies to land that has been entered. The two have no connection.

The question was taken on Mr. STANTON's motion; and it was agreed to.

So the motion by which the bill was referred to the Committee of the Whole on the state of the Union was reconsidered.

Mr. STANTON. I now move that the bill be referred to a select committee of three, with power to report at any time.

Mr. BURNETT. I do not understand why

the committee should be authorized to report at any time. I hope the gentleman will modify his motion in that respect.

Mr. STANTON. The only object of it is that if the bill be once reported to the House, it will not take a moment to pass it.

Mr. STEPHENS, of Georgia. I rise to a question of order. The House cannot agree to the motion of the gentleman from Ohio authorizing the select committee to report at any time.

The SPEAKER. The Chair is of opinion that a single objection is fatal to the proposition.

Mr. STANTON. Then I waive that part of my motion, and move that the bill be referred to a select committee of three.

The motion was agreed to.

CLAIMS FOR BOUNTY LANDS.

Mr. COBB. I am directed by the Committee on Public Lands to report a bill predicated on that portion of the President's message which was referred to that committee.

The bill providing for satisfying claims for bounty lands, and for other purposes, was read a first and second time.

It provides that the act entitled "An act granting further time for satisfying claims for bounty lands, and for other purposes," approved February 8, 1854, and the act entitled "An act to provide for satisfying claims for bounty lands for military service in the late war with Great Britain, and for other purposes," approved January 27, 1842, and also the two acts approved January 27, 1835, therein and thereby revived, shall be revived and continued in force without restriction or limitation as to time.

Mr. COBB. Those who have examined the public documents are aware that this question is submitted, by the Executive, to the consideration of Congress. I have here a long letter from the Department, but I think I can make a statement to the House of the objects of the bill, which will consume less time than the reading of the letter. Under the act granting bounty land to the officers and soldiers of the war of 1812, those who enlisted for five years, or during the war, were entitled to bounty lands, and in case of their decease it went to their descendants or legal representatives. There are some fifty or sixty cases of that kind, and all warrants issued and not located under the provisions of the act of June last, when the law expired, are entirely worthless. The Department recommend that that law be revived, in order that all these cases may be disposed of. The act has been twice revived since I have been a member of Congress; and this bill proposes to extend it indefinitely, in order that the cases of the descendants of this meritorious class may be disposed of.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LAND ERRONEOUSLY SOLD.

Mr. COBB. I am instructed by the Committee on Public Lands to report a bill, also predicated on the President's message. It is a bill to amend an act entitled "An act authorizing repayment for land erroneously sold by the United States."

The bill was read a first and second time.

It provides that the act of Congress authorizing repayment for land erroneously sold by the United States, approved January 12, 1825, be amended so as to authorize the Secretary of the Interior, upon proof being made to his satisfaction that any tract of land has been erroneously sold by the United States, so that, from any cause whatever, the sale cannot be confirmed, to repay to purchaser or purchasers, or to the legal representatives or assignees of the purchaser or purchasers thereof, the sum or sums of money that may have been paid therefor, out of any money in the Treasury not otherwise appropriated.

The bill further provides that, whenever any tract of land has been erroneously sold as aforesaid, and the sum or sums of money which may have been paid for the same shall have been invested in any stock held in trust, or shall have been paid into the Treasury of the United States to the credit of any trust fund, it shall be lawful,

by the sale of such portion of said stock as may be necessary for that purpose, or out of such trust fund, for repayment of the purchase money to be made to the parties entitled thereto.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

SIXTEENTH AND THIRTY-SIXTH SECTIONS.

Mr. COBB, from the Committee on Public Lands, reported a bill to authorize settlers upon the sixteenth and thirty-sixth sections, who settled before the survey of the public lands, to preempt their settlements; which was read a first and second time.

Mr. COBB. I desire to have that bill, which is also predicated upon Executive recommendation, put upon its passage.

The bill which was read provides that, where settlements with a view to preemption which have been made before the surveys, shall be found to have been made upon sections sixteen or thirty-six, said sections shall be subject to the preemption claims of such settlers; and, if the section shall have been, or shall be, reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands in like quantity are appropriated in lieu of such as may be patented to preëmptors. The bill appropriates other lands to compensate for deficiencies for school purposes, where the sixteenth or thirty-sixth sections are fractional in quantity, or wanting by reason of the townships being fractional, or from any natural cause whatever.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LAND DISTRICTS IN WASHINGTON.

Mr. COBB also, from the Committee on Public Lands, reported back, with a recommendation that it do pass, Senate bill (No. 375) to create two additional land districts in the Territory of Washington; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying papers, ordered to be printed.

COMPENSATION OF SURVEYORS.

Mr. COBB. The Committee on Public Lands also instruct me to report back House bill (No. 416) to authorize augmented rates for surveying the public lands in the Territory of Washington. The committee think these surveyors are getting along very well there at their present rate of compensation. They do not think it necessary to increase the rates until the Government finds it cannot get its surveys made at the present prices. I therefore ask that the bill may be laid on the table, and the committee discharged from its further consideration.

The motion was agreed to.

SCHOOL LANDS IN NEBRASKA.

Mr. COBB. I am also instructed to report back from the Committee on Public Lands a bill referred to it, on the motion of the Delegate from the Territory of Nebraska, to authorize the entry of land for school purposes, in Sarpy county, Nebraska Territory, with the recommendation that it do pass. My friend from Nebraska is anxious that it should pass; but if it will come up in the Committee of the Whole on the state of the Union during the time set apart for territorial purposes, I will allow it to go there. It is to allow the school commissioners of Sarpy county, Nebraska, to locate other lands in lieu of their school sections, fractions of which have been taken from them by certain reservations allowed by the Indian commission. They simply ask that they may have other lands for those taken from them, upon the unoccupied lands of the Government. I ask the Chair whether, if this bill be referred to the Committee of the Whole on the state of the Union, it will come up during the time set apart for the consideration of territorial business?

The SPEAKER. The Chair cannot answer that question.

Mr. COBB. Then I think the bill had better be passed now. It will not take more than a few minutes. I ask that the bill be read.

The bill was read. It provides that, whereas by

a treaty between the United States and the Omaha Indians, said Indians ceded their land in the Territory of Nebraska to the United States, a reservation was made on a part of section thirty-six, in township fourteen north, range five, of which a large part has been preempted, the commissioners for the public schools in Sarpy county shall be authorized to locate six hundred and forty acres of land upon any of the unoccupied lands belonging to the Government in said county.

Mr. COBB. I think the bill ought to pass; and I hope there will be no objection.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. COBB also, from the same committee, reported back House bill (No. 742) to authorize the Legislative Assembly of the Territory of Nebraska to provide for leasing school sections sixteen and thirty-six, in said Territory, for the benefit of common schools; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MINNESOTA BOUNDARY LINE.

Mr. COBB. I now report another bill from the Committee on Public Lands, founded upon that part of the President's message referred to our committee, to run, mark, and establish the western boundary of the State of Minnesota.

The bill was read a first and second time.

Mr. COBB. I wish to put that bill on its passage, though as the second section makes an appropriation I cannot do it if any gentleman objects. The object is to make provision for running and marking that portion of the western boundary line of Minnesota, which is not marked by natural boundaries, designated in the act to enable the people of that State to form a constitution and State government. It is believed the distance is about one hundred and thirty miles. The second section makes an appropriation of \$5,000 to carry out the object. If there is any objection it must go to the Committee of the Whole on the state of the Union.

Mr. GROW. Oh no, let it be passed now.

There being no objection, the bill was ordered to be engrossed and read a third time; and, being engrossed, was accordingly read the third time, and passed.

GRAND CHENIERE ISLAND.

Mr. COBB. I have a case here in which my friend from Louisiana [Mr. SANDIDGE] is interested. He has been to me frequently to have it taken care of. I report back from the Committee on Public Lands, House bill (No. 683) recognizing the survey of the Grand Cheniere Island, State of Louisiana, as approved by the surveyor general, and for other purposes.

Mr. HATCH. Has the morning hour expired?

The SPEAKER. It has.

Mr. HATCH. Then I move that we go to the business on the Speaker's table. I do this for the purpose of referring Senate bill for the improvement of St. Clair flats to the Committee of the Whole on the state of the Union. By the arbitrary ruling of this House, this bill must go there, and I desire that this only step which can now be taken for its passage should be taken. I hope gentlemen will not oppose it, as there will be another occasion when they will have an opportunity to manifest their opposition, for it never can be put on its passage, except its friends can secure a vote of two thirds of this House. I say this, so that the people in the lake State may know the difficulties to be overcome in its passage.

Mr. COBB. Will the gentleman withdraw that motion until I may put this bill upon its passage?

Mr. HATCH. It will consume too much time.

Mr. COBB. Then let me have a motion to reconsider entered, so as to keep the bill before the House.

The motion was entered.

Mr. HATCH. My object is to have taken up the first bill from the Senate upon the Speaker's table, in order that it may be referred to the Committee of the Whole on the state of the Union. It is a bill making an appropriation for deepening the channel over the St. Clair flats.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

PRINTING OF CERTAIN PAPERS.

Mr. FAULKNER. I ask the gentleman to suspend that motion a moment, in order that I may submit a request from the Committee on Military Affairs, unanimously agreed to; which is, that certain documents be ordered to be printed, without which they will be unable to proceed in their investigation.

Mr. PHELPS, of Missouri. I hope that request will be granted. It is a public document, appertaining to public matters.

Mr. FAULKNER. I ask that the report of the First Auditor, exhibiting in detail the matters connected with the Washington and Oregon war debt, be ordered to be printed; and also to report a bill for the better organization of the general staff of the engineer and ordnance corps; and that it be ordered to be printed and recommitted to the Committee on Military Affairs.

There was no objection, and it was ordered accordingly.

Mr. HATCH. Is my motion in order?

The SPEAKER. It is not; the motion of the gentleman from Missouri takes precedence.

Mr. HATCH. I hope the House will vote that motion down.

Mr. STEPHENS, of Georgia. I ask that the minority report of the Committee on Territories, on the Oregon bill, be received and ordered to be printed.

The SPEAKER. The majority report has already been ordered to be printed.

Mr. STEPHENS, of Georgia. It has. I wish all the papers before the House, in order to prepare members for the question when it comes up. There was no objection; and

Mr. GROW, from the Committee on Territories, submitted a minority report on the Oregon bill; which was ordered to be printed.

NAVY-YARD CHARGES.

Mr. SHERMAN, of Ohio. Mr. Speaker, I have received from W. B. Allen, a citizen of New York, of the highest standing and character, a written communication making specific and detailed charges against certain civil officers in the Navy Department, which, if true, would justify impeachment. I have also received a letter from a member of this House, stating that, as a matter of common occurrence, certain officers in the navy-yard at Brooklyn have sold employments and offices in that yard. I have been shown affidavits and certificates of workmen which, if true, would prove this charge to be well founded. My attention has been called to a printed statement in a Philadelphia paper containing somewhat similar charges in regard to the navy-yard at Philadelphia, and to contracts in that city. I therefore am compelled by a sense of duty to ask the unanimous consent of the House to offer the following resolution:

The Clerk read the resolution, as follows:

Whereas D. B. Allen, a citizen of the State of New York, specifically charges that certain officers in the Navy Department, in awarding contracts for the construction of vessels of war of the United States, have been guilty of partiality, and of violation of law and their public duty; and whereas grave charges have been made that money appropriated for navy-yards and for the repair of vessels of the United States, has been expended for partisan purposes, and not for the purposes prescribed by law: Therefore,

Resolved, That a committee of five members be appointed to examine, 1. Into the specifications and bids for, and the terms of, the contract for the work and labor done, or materials furnished for the vessels of the United States, constructed, or in the process of construction or repair, by the United States, since the 4th day of March, 1857, and the mode and manner of awarding said contracts, and the inducements and recommendations influencing said awards. 2. Into the mode and manner, and the purpose, in which the money appropriated for the navy and dock-yards, and for the repair and increase of vessels, has been expended. That said committee have power to send for persons and papers, and have leave to report by bill or otherwise.

Mr. SHERMAN, of Ohio. If it is the desire of the House, I will have these communications read; but in my judgment, the public service will be best advanced by referring them, without reading, to the select committee.

The SPEAKER. Is there objection to the resolution?

Mr. HUGHES. I hope the committee will postpone this matter until the Oregon bill is reported. After that I shall not object.

Mr. FLORENCE. Do not object. We do not want to stifle inquiry.

Mr. HUGHES. I do not want to stifle inquiry. I want the Oregon bill reported to the House, and I intend to object to everything which requires unanimous consent until it is reported.

Mr. PHELPS, of Missouri. I hope that no objection will be made to the introduction of the resolution; and I hope, further, that there will be no debate on it now.

Mr. HUGHES. It is suggested to me that this matter will facilitate the introduction of the Oregon bill, and therefore I withdraw my objection.

Mr. WINSLOW. I think that justice demands that these papers shall be read. Let us know on what we are acting.

Mr. SHERMAN, of Ohio. I desire to state that I have omitted one clause of this letter, because it names persons without giving specific facts to base the charges upon; but I have the original document, which I will produce to the committee. The rest of the communication I ask to have read.

Mr. SMITH, of Virginia. I suggest that if the resolution be adopted, these papers should be referred to the select committee. We do not want to have an *ex parte* case put upon the record. I do not want any prejudgment of the case in that way. It is altogether out of the question to have these papers read now, and I therefore move that, in conformity with the suggestion of the gentleman from Ohio, these papers be referred to the select committee.

Mr. WINSLOW. I withdraw the call for the reading of the papers.

Mr. SHERMAN, of Ohio. I move the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. SHERMAN, of Ohio. I move that the papers be referred to the select committee.

Mr. HOUSTON. I take it for granted that the last motion made by the gentleman is not a proper motion. I have been paying no especial attention to the proceedings that have just taken place, but it seems to me that the papers should not be referred.

Mr. BOCKOCK. I rise to a question of order. I do not understand that any debate is in order.

Mr. HOUSTON. I move to reconsider the vote by which the papers were referred to the select committee.

Mr. SHERMAN, of Ohio. I withdraw that motion.

Mr. HOUSTON. My reason is this: that the parties who make these charges are competent witnesses, and can go and give testimony before the committee. It is proper that they should be made witnesses, and should be subject to the ordinary test of examination before they make evidence to commit or impeach the integrity of any body. These *ex parte* papers ought not to go, under the indorsement of the House, either to the committee or to the country, as evidence. The letters are written by persons who are competent witnesses in the case, and who will, if the committee just raised does its duty, be before that committee, and have their evidence taken.

Mr. SHERMAN, of Ohio. I withdraw that motion.

EXPENSES OF COLLECTING THE REVENUE.

The SPEAKER laid before the House reports from the Secretary of the Treasury, in compliance with the third section of the act of June 14, 1855, submitting a plan for reducing the expenses of collecting the revenue; which were referred to the Committee on Commerce, and ordered to be printed.

EXPLORATION OF THE AMOOR RIVER.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting a communication to the Committee on Foreign Affairs, in relation to the memorial of T. McB. Collins, praying compensation for, and reimbursement of expenses in making explorations of the Amoor river; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. CLAY. The letter of the Secretary of State on the subject of the exploration of the Amoor river is, I presume, in answer to a note

addressed by me to the Secretary of State. The matter of the compensation of the commercial agent was referred to the Committee on Foreign Affairs, and was by that committee placed in my hands to be reported upon. Why this communication was sent to the House, I cannot imagine.

The SPEAKER. The Chair would state to the gentleman from Kentucky that, within the last two or three years, the practice has generally been for all the Executive Departments, in communicating with committees, or any member of committees, to make their communications through the House.

Mr. CLAY. That may be the case; but I beg to state, at the same time, that the practice of the Departments toward me personally, as a member of the House, has been very different. However, it is a matter of no consequence. I move that it be referred to the Committee on Foreign Affairs.

The SPEAKER. That order has been made, and the communication ordered to be printed.

REPORTS FROM COURT OF CLAIMS.

The SPEAKER also laid before the House a communication from the Court of Claims, transmitting certain bills, and certain adverse reports.

The bills sent in were considered as having been read a first and second time, and referred, under the rules of the House, to the Committee of Claims; and the adverse reports were ordered to be placed on the Calendar, and printed.

POST OFFICE ESTIMATES.

The SPEAKER also laid before the House estimates of the Postmaster General for the service of the year ending June 30, 1860; which were referred to the Committee of Ways and Means, and ordered to be printed.

PUBLIC BUILDINGS IN TERRITORIES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, submitting plans for the public buildings in the Territories, with estimates of the cost of the same, sent in compliance with a resolution of the House of May 13, 1858; which were referred to the Committee on Territories, and ordered to be printed.

CLERKS TO COMMITTEES.

The SPEAKER also laid before the House a letter from the Clerk of the House of Representatives, in answer to a resolution of the House, relative to clerks to committees.

Mr. WASHBURN, of Illinois. Let the letter be read.

The letter was read. It states that so far as the Clerk is officially advised, there are but two persons now regularly employed as committee clerks, namely: Mr. R. Cochrane, clerk to the Committee of Ways and Means, who holds his office under the act of February 13, 1856, and Mr. A. H. Evans, clerk to the Committee of Claims, who holds his office under the act of February 18, 1843; that these gentlemen discharge the duties of their respective offices in person, and that he understood verbally and indirectly that several of the standing committees have clerks in their employment, but that he has no positive knowledge as to their number or names.

The letter was laid on the table, and ordered to be printed.

EMPLOYEES IN THE CLERK'S OFFICE.

The SPEAKER also laid before the House a communication from the Clerk of the House of Representatives, giving, according to the provisions of the act of 1842, a list of persons employed in his office.

The letter was laid on the table, and ordered to be printed.

PATENT OFFICE AFFAIRS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a report from the Commissioner of Patents, called for by a resolution of the House of January 7, 1859.

Mr. JONES, of Tennessee. I suppose that is in answer to a resolution calling for information about the agricultural board?

Mr. PHELPS, of Missouri. If this is to give rise to debate, I will insist on my motion.

The SPEAKER. The Chair thinks proper to withdraw it, if it is likely to give rise to debate.

Mr. JONES, of Tennessee. I have no idea of debating it, but I wish to move to refer the report to the Committee of Ways and Means, and have it ordered to be printed. I will make this remark: I make the motion to refer to the Committee of Ways and Means for the reason that, as I understand it, there is no law on this subject, save the annual appropriation of \$60,000 to enable the Secretary of the Interior to collect agricultural statistics and to distribute seeds throughout the country; and, as the Committee of Ways and Means are in the habit of reporting that item of appropriation, I think it right that they should have this communication referred to them, so that they should know how to make their estimates.

The motion was agreed to.

The question recurred on the motion of Mr. PHELPS, of Missouri.

Mr. HATCH. If this motion be voted down, will it then be in order to move to proceed to the consideration of the business upon the Speaker's table?

The SPEAKER. It will be in order.

Mr. HATCH. Then I hope this motion will be voted down.

CODIFICATION OF THE REVENUE LAWS.

The question was then taken on Mr. PHELPS's motion, and it was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH, of Tennessee, in the chair,) and resumed the consideration of the special order, being House bill (No. 487) for the codification of the existing revenue laws of the United States, and for other purposes; the pending question being upon the motion of Mr. JONES, of Pennsylvania, to strike out the enacting words of the bill.

Mr. JOHN COCHRANE. Will not the effect of that motion, if carried, be to send the bill to the House without the amendments?

The CHAIRMAN. The effect of the motion, if carried, will be to cut off all amendments.

Mr. GIDDINGS. I do not know that I correctly understand the inquiry of the gentleman from New York. Do I understand the Chair to say, that, if this question is carried in the affirmative, it will cut off all votes on pending amendments?

The CHAIRMAN. If the motion carries, it will cut off all the amendments, and present the bill to the House without amendment.

Mr. GIDDINGS. Then there will be no mode of getting the amendment, of which I gave notice, before the committee.

Mr. JONES, of Pennsylvania. I wish to know whether if the committee proceeds to amend the bill, and after having discussed and amended it for several days—

Mr. JOHN COCHRANE. I object to debate.

Mr. JONES, of Pennsylvania. I have a right to make any inquiry of the Chair.

Mr. JOHN COCHRANE. I object to it.

Mr. JONES, of Pennsylvania. I wish to know whether at another stage—

Mr. DEAN. I object to debate.

Mr. HOUSTON. I hope the gentleman who made the motion to strike out the enacting clause of the bill will withdraw it, and let us make an effort to go through this bill, and see if it is not possible to perfect and pass it.

Mr. PHILLIPS. I object to debate.

Mr. HOUSTON. Give us at least an opportunity to make an effort to go through the bill, and amend it.

Mr. DEAN. I ask that the rules may be enforced.

The CHAIRMAN. Debate is not in order.

The question was taken on Mr. JONES's motion and it was disagreed to—ayes 9, noes not counted.

So the committee refused to strike out the enacting words of the bill.

The Clerk then proceeded to read the bill by sections, for amendment.

Mr. BURLINGAME. I move to amend the second section of the bill by striking out all after the word "fisheries," in the fifth line, as follows:

"But citizens of the United States, sole owners of foreign-built vessels, shall have a right to have the bill of sale of such vessels recorded in the proper collection district and certified by the collector in lieu of registering, and to engage in the foreign trade, upon complying with the laws of the United States in relation to master and crew, and the payment of an annual tonnage duty, in advance, of one dollar per ton, United States measurement; and any such vessel,

engaging in the foreign trade without payment of said tonnage duty, or continuing it after the year for which the tonnage duty was paid, shall be liable to seizure and forfeiture to the United States."

Mr. WASHBURN, of Maine. I understand that there is no objection on the part of the Committee on Commerce to the striking out of that part of the section, and I hope the amendment will be agreed to.

Mr. MILLSON. I hope the committee will not strike out those words. This is one of the sections of the bill which I heartily and entirely approve. I wish, sir, the section had gone further. I wish the committee had gone to a greater extent in removing those shackles upon trade which have fettered it so long, and which are a reproach to the civilization of the present century. Any other description of property may be purchased by an American citizen and used at home, but although an American citizen may be sole owner of a foreign-built vessel, it is proposed to prevent him from using his property in the foreign trade. I hope the committee will retain this section.

Mr. WASHBURN, of Maine. I move to amend the amendment by striking out the last four lines. I make the motion for the purpose of saying that I think this legislation is entirely out of place in this bill. This is a bill "for the codification of the existing revenue laws of the United States and for other purposes," and not for the purpose of establishing laws and regulations in reference to the commerce of the United States; it would be just as proper to ingraft a tariff bill on this bill, as this provision. The gentleman from Virginia acknowledges that this section establishes a new system. In fact, it breaks down the navigation laws of the United States. Now, if Congress is disposed to do this thing, let them do it openly, squarely, boldly, and not indirectly in a bill which purports to be for the codification of the existing revenue laws of the United States. I hope the amendment of the gentleman from Massachusetts will prevail.

Mr. MILLSON. If the gentleman proposes to strike out all the new provisions of this bill, there will be but very little of it remaining. Some of the new provisions I very strongly object to, and I hope they will be materially changed, at least, if the bill is to pass. But if the bill is to pass, the section which has just been read, and which it is now proposed to strike out, would console me in a great measure for the other more objectionable provisions which I have just referred to.

The gentleman says it proposes to strike down the navigation laws. Sir, it makes but little change in those laws. I wish it did provide for striking down the navigation laws. I would go for such a proposition, and I have no doubt that the progress of public sentiment will be such that there will be a universal demand for the removal of the restrictions which now rest upon our coasting trade; and not only that, but which impose burdens upon our whole commerce. Other nations have relaxed this system. England has thrown open her coasting trade for the competition of the world, by repealing her navigation laws; while here the effort is made to render those laws still more rigorous. This section makes very slight progress towards the result which I regard so desirable, and I hope there will be no hesitation in taking so short a step.

Mr. WASHBURN, of Maine, by unanimous consent, withdrew his amendment.

Mr. MORSE, of Maine. I renew the amendment offered by my colleague from Maine. The gentleman from Virginia [Mr. MILLSON] thinks this section will be an entering wedge towards striking down the navigation laws of this country, and he offers us the example of England, who has repealed her navigation laws for the very purpose of enabling her to compete with the world in the carrying trade. I suppose the gentleman knows that there is now an almost universal cry over England for the restoration of those laws, or something equivalent to them; that the ships of Prussia and northern Europe have entered into her coasting trade to so great an extent as seriously to injure even British navigation. These ships have to-day a large share of the carrying trade between British America and the mother country. A few years ago there were nearly as many tons of American shipping engaged in carrying lumber from the British American Provinces and the United States to Europe, as there were in

the export cotton trade. But both British and American tonnage has, to no little extent, been displaced by the cheaper built and cheaper sailed ships of Germany and the north of Europe, where labor meets with but a poor reward for its toil. I have seen these ships within the last three months loading for Europe, in the lower British Provinces, where, four years ago, they were almost entire strangers, and the American and British flags almost the only ones seen. These vessels are built and sailed much cheaper than ours. They pay their masters only about twenty dollars per month,—no more than seamen's wages in this country—and their seamen only about five dollars—good navigators and good seamen, too; and the difference in fare, or provisioning the ship, is said to be nearly as great.

Now, sir, the effect of this relaxation of our navigation laws, and the Americanizing of foreign ships, so far as our external trade is concerned, as you propose to do by this bill, will be to invite the investment of American capital in these foreign vessels for certain branches of trade, to the exclusion of American labor, and American-built ships. It is the entering-wedge to the repeal of a system that began with our existence as a nation, and has given us the largest and best commercial marine in the world. If you wish to cripple this great interest—an interest that ought to be the pride of the whole country, North and South, East and West—pass this bill as it is, and you will make one great stride towards the accomplishment of your object. It is now heavily oppressed, and but barely staggers under the lethargy that has so long hung over the commercial world, and it is no time to try experiments upon it, to see how heavy a blow it can bear and continue to live.

Let me tell the gentleman from Virginia, that for the last four years the entire registered tonnage of the country engaged in the Atlantic foreign trade has not averaged more than enough to pay its running expenses and insurance. Its owners have received no returns upon their heavy investments, while their property is constantly depreciating. If any of them have saved themselves, or made prosperous voyages, it was because their ships were on long voyages in distant seas, and not in the Atlantic trade between this country and Europe; for this, as I said, taken as a whole for the last few years, has been a loss to the shipowner. With this gloomy picture before us, is it a time to commence experiments to see how much lower it can go and live? Commerce is not, in its nature, a local or sectional interest; an interest in which the West or South has no concern because it is mainly in the hands of the North; but it is a great national interest, conferring advantages upon all branches of industry, and honor upon the whole country. But, sir, if this hazardous experiment is to be made—if you have determined to try it, then let us try it on its own merits singly and alone, where we can have ample time, and a full and free discussion of the whole question, and not crowd it into a bill like this, and then allow only five minutes to speak upon it.

Mr. MILLSON. I did not say that this proposition was to be an entering wedge for the destruction of our navigation laws. I said it was but a single step. I do not know what may succeed it. I hope it may be an entering wedge, but I fear it will not be. I fear that instead, this system may be extended to a much greater length. The gentleman refers to the cry which he says is raised in England at this time for the restoration of the navigation laws. From whom does this cry proceed? I doubt not there was a cry raised against the repeal of the navigation laws before that result was accomplished, and I can well believe that that cry has not ceased. It is the cry of the protected interests against the general weal. It is the cry of the few against the interests of the many. It is the cry of the silversmiths of Ephesus when their craft was in danger, and their mallet images were preached against, and who called out, "Great is Diana of the Ephesians!" This cry may be heard now in England; but it is a cry that is likely to remain unheeded. If I may use the words of another I would say, that "if, like children, they cry for the moon, like children they must cry on."

Sir, the navigation laws of England were relaxed for the benefit of the general commerce of the country. They have there thrown off the

shackles which oppressed the many for the benefit of the favored few. The gentleman, it seems to me, would hardly express the opinion, though he intimated it, that the navigation laws of England are likely to be restored. I presume he has no such expectation. No, sir; at this moment the British Government, in this respect, occupies a sublime position before the world. She has destroyed every vestige of her protective system. There is not a vestige left; there is not a semblance of protection remaining in all British legislation; not one.

Mr. COMINS. Will the gentleman inform me whether there is not a heavy duty levied upon Virginia tobacco?

Mr. MILLSON. The gentleman from Massachusetts ought to know that the article of tobacco is taxed by England as a luxury, and not to protect the growth of the article in her own dominions. So far from it, she even prohibits, by heavy penalties, the cultivation of tobacco in Ireland. Her object is revenue alone. The case is exactly opposite to protection.

I repeat, there is not a vestige of the system of protection left in England. The duties levied there are for revenue, and not for protection. Under this new system she is rapidly advancing in greatness and power. Gentlemen here, while complaining of this, urge that we should adopt a policy by which we may compete with her. It is strange that while England is growing stronger by abandoning protection, we should insist on making the attempt to rival her growing power by returning to protection. What a strange commentary on protection!

Mr. KEITT obtained the floor.

The CHAIRMAN. Debate on the amendment is exhausted.

Mr. MORSE, of Maine. I withdraw the amendment.

Mr. KEITT. Mr. Chairman, I think that it is impossible to reach any practical result, any action on this bill at this period of the session, with so many measures of importance crowding upon us, and with so little time left. I think it unwise that we should consume day after day in the discussion of this measure in detail, when it must be clear to everybody that no practical result will be reached in the way of passing the bill. The bill is one embracing two hundred and eighty-nine pages, with countless details, originating questions of an exciting character, leading to protracted debate, and which forbid the idea, during the rest of this session, of the House coming to any conclusion on it. I move to strike out the enacting words of the bill, leaving the matter to be originated in the next Congress, which will begin with a long session, and when the House can, if it chooses, in detail, go over this bill and perfect it. I move to strike out the enacting clause.

Mr. JOHN COCHRANE. Mr. Chairman, I am quite aware that this motion is not debatable, but I trust that I may have the indulgence of the committee in being suffered to say a word or two before the motion is put, in reply to what has fallen from the lips of my friend from South Carolina. I do not mean to detain the committee, nor do I mean to urge strenuously upon this committee a course which may be incompatible with the interests of the country, or the temper of the committee. I can but say that the bill has been presented to the consideration of the committee fairly; that it claims its deliberations fairly; that it comprehends and alludes to questions of as great importance as any that can be presented to this committee now or at any other time, and that the time of the House cannot be more profitably employed than upon this bill. If the bill is to be passed, its details must be examined. Without an examination of its details, this bill cannot pass now or at any other time.

Now, sir, referring this committee to its duty to the country, to its duty to itself, I am content that a test question should now be made in this committee of its sense, whether it will pass or attempt to pass or will reject the bill. For one, I am ready for the question.

Mr. SMITH, of Virginia. Was not the motion to strike out the enacting clause voted down a little while ago, and can it be now renewed?

The CHAIRMAN. Business has intervened since the question was last put, and it is now in order to renew the motion.

Mr. COMINS. I hope the motion made by the gentleman from South Carolina will not prevail. I think that it is the duty of the House to devote a few days to the consideration of this bill, with a view of amending and perfecting it; and not, in this summary way, dispose of a bill upon which so much labor has been bestowed.

Mr. WASHBURNE, of Illinois. I call for tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINTON were appointed.

The question was taken; and it was decided in the affirmative, the tellers having reported—ayes 75, noes 52.

So the committee agreed to strike out the enacting words of the bill.

Mr. PHILLIPS. I move that the committee rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. SMITH, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill (No. 487) for the codification of the revenue laws of the United States, and for other purposes, and had directed him to report the same back with the recommendation that the enacting words be stricken out.

Mr. JOHN COCHRANE. I call for the previous question.

Mr. GIDDINGS. Is not a motion that the bill be recommitted with instructions now in order?

The SPEAKER. The gentleman from New York has called the previous question. If the House refuses to strike out the enacting clause, a motion to recommit will be in order.

Mr. GIDDINGS. The report of the committee is to strike out the enacting words of the bill. Now, is it not a rule clearly laid down in the Manual, and the rules of the House, that a motion to recommit is in order any time from the reporting of the bill until it is passed? I refer to rule 120 of the House and the accompanying note.

The SPEAKER. Will the gentleman state the precise point which he desires to submit?

Mr. GIDDINGS. I want to make a motion to recommit this bill to the Committee of the Whole on the state of the Union, with instructions. The question comes up in this order: The Committee of the Whole on the state of the Union have reported back this bill with the recommendation to strike out the enacting words. The question now comes up upon agreeing or disagreeing to that recommendation. Is it not in order, then, at this time, to move that the bill be recommitted, with instructions? That is the point I wish to make. I think that the motion to recommit is in order at any time before the passage of the bill.

The SPEAKER. The Chair is of the opinion that the question must be first taken on the report of the committee. If the House non-concurs in its recommendation, then it would be in order to move to recommit the bill to the Committee of the Whole on the state of the Union, to a standing, or to a select committee of the House, with or without instructions.

Mr. GIDDINGS. With all possible respect, I must say that I think that the Chair is in error. I had conceived that it was in order at any time to move to recommit a bill after the report and previous to its passage; that it could be recommitted to the Committee of the Whole on the state of the Union, or to a select or standing committee.

The SPEAKER. The gentleman will perceive that there is an insuperable difficulty in the way of his making his motion to recommit in the present condition of the report. That report has been submitted to the House; and upon that the gentleman from New York demands the previous question.

Mr. GIDDINGS. I appeal to the gentleman to withdraw the call for the previous question.

Mr. JOHN COCHRANE. I would do so with great pleasure; but I am as anxious to save the time of the House as the committee was to save its time.

Mr. GIDDINGS. I have a deep interest in this bill, and I want to see it acted on. I ask the gentleman to withdraw the call for the previous question, and to let me have a vote on my proposition to recommit with instructions.

Mr. JOHN COCHRANE. I am very sorry that, under the circumstances, I cannot feel it con-

sistent with my sense of duty to withdraw the call for the previous question.

Mr. GIDDINGS. Then I hope that the House will vote it down, in order that we may have a vote on my proposition. Let us meet the point like men.

The SPEAKER. The previous question exhausts itself on the recommendation of the committee. It does not extend to the third reading of the bill.

The previous question was seconded.

Mr. GIDDINGS. I ask for the yeas and nays on ordering the main question; and call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. CHAFFER and BOYCE were appointed.

The House divided; and the tellers reported—ayes 24; noes not counted.

So the yeas and nays were not ordered.

The main question was ordered; which was on concurring in the recommendation of the Committee of the Whole on the state of the Union to strike out the enacting words of the bill.

Mr. JOHN COCHRANE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 108, nays 84; as follows:

YEAS—Messrs. Anderson, Andrews, Atkins, Barksdale, Bingham, Bratton, Burlingame, Case, Ezra Clark, Horace F. Clark, Clay, Colfax, Comins, Covode, Cragin, James Craig, Crawford, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Gorton, Foley, Foster, Garnett, Gartrell, Gilman, Gilmer, Goodrich, Granger, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Keim, Keitt, Kellogg, Kelsey, Knapp, Lawrence, Leach, Leiter, McQueen, McKee, Samuel S. Marshall, Matteson, Maynard, Miles, Miller, Montgomery, Morgan, Merrill, Isaac N. Morris, Freeman H. Morse, Ohn, Parker, Parker, Pendleton, Pettit, Phillips, Pike, Pottle, Purviance, Ready, Ritchie, Robbins, Royce, Sandridge, Savage, Seales, Aaron Shaw, John Sherman, Singleton, Robert Smith, Stanton, Stephens, Stevenson, William Stewart, Talbot, Tappan, George Taylor, Thayer, Thompson, Tompkins, Tripp, Vance, Walbridge, Waldron, Walton, Israel Washburn, Watkins, Whiteley, Wilson, Wood, and Wortendyke—108.

NAYS—Messrs. Adrain, Ahl, Barr, Bocoock, Bowie, Boyce, Branch, Bryan, Buffinton, Burnett, Burns, Caskie, Cavanaugh, Chaffee, John B. Clark, Clawson, Cobb, John Cochrane, Cockrell, Corning, Cox, Curry, Davidson, Davis of Iowa, Dimmick, Dowdell, Elliott, English, Eustis, Farisworth, Florence, Giddings, Greenwood, Lawrence W. Hall, Hatch, Hopkins, Houston, Huyler, Jackson, Jewett, George W. Jones, Lovejoy, Macley, Humphrey Marshall, Milton, Moore, Mott, Murray, Niblack, Nichols, Peyton, William W. Phelps, Potter, Powell, Reagan, Ruffin, Russell, Scott, Seawright, Seward, Judson W. Sherman, Shorter, Samuel A. Smith, William Smith, Spimer, James A. Stewart, Miles Taylor, Underwood, Vallandigham, Wade, Cadwalader C. Washburn, Ellihu B. Washburne, White, Winslow, and Augustus R. Wright—84.

So the House concurred in the recommendation of the Committee of the Whole on the state of the Union that the enacting words of the bill be stricken out.

Mr. PHILLIPS moved to reconsider the vote by which the enacting words of the bill were stricken out; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported as correctly enrolled:

An act to authorize the President to make advances of money to Hiram Powers;

An act authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships; and

An act for the relief of Martin Layman; When the Speaker signed the same.

A GOVERNMENT LOAN.

Mr. HOUSTON. I ask the unanimous consent of the House to introduce the following resolution.

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to negotiate a loan to supply such temporary excess of expenditures over receipts as now exists, or is estimated to exist on the 30th June, 1860.

Mr. JONES, of Pennsylvania. I object.

SPEAKER'S TABLE.

Mr. HOUSTON. With a view of taking up the bills on the Speaker's table, I move now to proceed to the consideration of the business on the Speaker's table.

The motion was agreed to.

JOINT RESOLUTIONS OF GEORGIA.

Mr. SEWARD, by unanimous consent, presented joint resolutions of the State of Georgia, in reference, respectively, to the appointment of a commission to examine and report on the extent, durability, and value of pine forests in Georgia; to a naval depot at Brunswick, Georgia; and to certain mail routes; which were laid on the table, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, through Mr. J. B. HENRY, his Private Secretary.

PRESIDENT'S ANNUAL MESSAGE.

The question was taken on Mr. PHELPS's motion.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and resumed the consideration of the President's annual message, on which the gentleman from Ohio [Mr. Cox] was entitled to the floor.

TERRITORIAL EXPANSION.

Mr. COX. Mr. Chairman, I would not have sought the floor when I did, had I not been expecting daily a telegraphic dispatch which would have called me home, and perhaps unfitted me for saying what I wished, in relation to the questions of a foreign nature connected with our territorial expansion.

There is a logic in history which is inexorable as fate. A writer in the time of the first Stuart, gave as the number of the kingdoms of Christendom, five-and-twenty. But there was no mention of three of the principal nations, Russia, Austria, and Prussia, in their present condition; nor of twelve other nations out of the twenty now enumerated in Europe; nor of the thirty petty sovereignties now extant in Germany. Within two centuries, the transatlantic continent has changed its territory and rulers beyond all the caprices of fancy; yet by a law as fixed as that which returns the seasons or rolls the stars.

The disquieting aspect of cisatlantic politics signifies the consummation of territorial changes on this continent, long predicted, long delayed, but as certain as the logic of history!

Some of these changes in Europe have been through decay, dissolution, and disintegration. Spain was once the Peru and Mexico of the Old World. The ancestors of the Hidalgo were enslaved in the mines of Spain by Rome and Carthage. But now, Leon, Aragon, Castile, Navarre, Toledo, Galicia, and Granada, once separate kingdoms, have lost their isolated glory, and are only known as the props of the "worm-eaten throne of Spain." The stronger races of Europe have consolidated their power by extending its sphere and absorbing the weaker neighboring nations. England, Ireland, and Scotland, by union, have transplanted their colonies and multiplied their strength; and Russia has clasped the half of Europe and Asia in its strong embrace, until, from the furthest West we perceive the conflict of their civilization in the furthest East!

These are but illustrations of a law from which America is not exempt. Not more surely will northern Africa, and indeed the countries whose boundaries are coincident with the Mediterranean, become French; western and northern Asia become Russian; and southern and central Asia become English, than this continent become American! The law which commands this is higher law than congressional enactment. If we do not work with it, it will work in spite of us. This law may be expressed thus:

That the weaker and disorganized nations must be absorbed by the strong and organized nation. Nationalities of inferior grade must surrender to those of superior civilization and polity!

Whether the races of this continent be in a tribal condition, as our Indians; in a semi-civilized and anarchical condition, as are the Central and South American and Mexican races, they must obey this law of political gravitation. This law drives them to the greater and more illustrious State for protection, happiness, and advancement? Whether the United States go and take them, or they come and ask to be taken, no matter. They must whirl in; throw off their nebu-

lous and uncertain form, and become crystalized into the higher forms of civilization.

The largest expression of this law of annexation, is: That no nation has the right to hold soil, virgin and rich, yet unproducing; no nation has a right to hold great isthmean highways, or strong defenses, on this continent, without the desire, will, or power, to use them. They ought, and must, inure to the advancement of our commerce. They must become confiscate to the decrees of Providence!

In carrying out these designs, we have, from time to time, added territory from France, Spain, and Mexico. We have endeavored to add other territory, which the jealousy of France, Spain, and especially of England, has prevented. It is not my purpose now to rehearse our history in this regard. We may have kept step with our interests and our destiny; but at this juncture, standing on the threshold of this new year, we are only marking time, not moving forward! It is well to inquire whether there is not now upon us, as the assembled expression of this nation, a peculiar duty with respect to this element of our progress. My judgment is, that we are to-day, derelict. We are not up to the enterprise of the nation. If we consider just now the elements of our people, martial, mechanical, intellectual, agricultural, and political, who will doubt but that there are a dozen locomotive Republics already fired up and ready for movement?

The Executive has done his duty. He has boldly followed out his Ostend ideas. He has urged upon us a duty, which being undone, leaves him powerless, and leaves the national enthusiasm and expansion a prey to adventurous raids and seditious propagandists. Had the Thirty-Fourth Congress aided President Pierce in the Black Warrior matter, we should now have representatives from Cuba on this floor!

The President has called our attention to the territory upon our south. Not New Granada—she will come in time. Not Venezuela—she is even yet more vital than New Granada; but the country north of these, and lying between them and us, must be absorbed. For this absorption we must contend, not so much with the people, whose interests will be enhanced by the absorption, but with Spain, France, and England, who have no interests comparable with our own. These interests and antagonisms I propose to consider in this order: First, Cuba; second, Central America; third, Mexico.

As to Cuba, the reasons for its acquisition are well understood by the country. The message has succinctly and ably presented them. Its geographical position gives to the nation which holds it, unless that nation be very weak, a coin of vantage as to which self-preservation forbids us to be indifferent. Our Mississippi, foreign, and coast-wise trade, now \$200,000,000, and in ten years to be \$500,000,000, are within its compass; while the island is of little use to Spain, save as a source of revenue, it is to us of incalculable advantage. The nature of the colonial office in Cuba—its power to harm, us remedilessly, unless we go to Madrid for remedy; and the final stopping of the slave trade, are reasons well urged by the President. Our unsettled claims, and the many other difficulties growing out of our relations to Spain, demand settlement, but receive none.

How long shall we continue in this condition? During the pleasure of Spain? Is there no redress? Is our every attempt to be construed into a usurpation? What impediments have we to meet? There is one which has since Mr. Polk's time, proved insurmountable—Spanish pride. It is well said by an old poet, that

"Spain gives us pride, which Spain of all the earth
May freely give, nor fear herself a dearth."

Since then, there has been no curtailment of that pride. True, Spain has now little to be proud of but her recollections. Poor, sensitive, corrupt, she holds to the punctillio of dignity without its substantial energy. If Spain will not sell Cuba to us, because she feels that she will thereby sell her honor, we must insist on her changing its policy. She should keep the island aloof from French intervention. She should preserve its independence.

Above all, Spain should abolish her present infamous tariff. Her export tariff is an anomaly in commerce, and her tariff on imports is still more barbaric. Her export duty, which is a direct tax

on the producer of her sugars and tobacco, does not so much affect us as the tax which she loads on our flour, pork, beef, and lard. We have tried in vain by diplomacy to unloosen these shackles. Nothing but the sword can cut them off.

Up to 1809, Spain imposed restrictions on Cuba, by which no trade at all was allowed with any foreign nation. After this, and on the revival of the Spanish merchant-marine, the differential duty on goods imported in foreign bottoms was enacted. It was intended to crush out the trade with the United States. This continued till 1834, when this Congress passed retaliatory laws. No countervailing acts, however, could move the meanness of Spanish restriction. American flour and other staples for which Cuba must look to a foreign market, are excluded. Thus a balance of trade, averaging \$10,000,000 per year, is kept constantly against us. The duty in Cuba on flour imported from Spain is only \$2 50 per barrel; from the United States, in American or other foreign bottoms, it is \$10 81. So that, if flour be worth five dollars in Cincinnati, the cost to the Cuban consumer is sixteen dollars per barrel! This enormous tax on flour prevents its use in the island, except by the wealthy few—the thirty-five thousand Spaniards. The body of the poor and oppressed Creoles are compelled to use the dry and insipid Cassava root as a substitute for bread. This tariff on flour, added to an infamous tonnage-tax, operates as a prohibition on flour. With a moderate duty, or if Cuba were annexed, this consumption, as it is estimated by our economists, would be a million of barrels! It would be enjoyed by us exclusively—inure to the benefit of the farmers of my State and yours. That is evident from the fact that no other country could compete with us in that staple; for no other country is so near to Cuba, or so prolific in breadstuffs.

We exported to Cuba, in 1857, only 45,145 barrels of flour, worth \$324,410; in 1858, 17,905 barrels, worth \$105,069. Of other articles, beef, pork, lard, ham, and bacon, and including flour, we had, in 1857, but \$1,863,783; in 1858, but \$1,228,119. Whereas, had a liberal commercial economy, like that of Belgium, Holland, or Great Britain obtained, we should have had, at least, \$10,000,000 of produce exported. This would nearly have balanced our trade in sugar and coffee, and on these we have fixed no prohibitive tariff! Thus our commerce is crippled under the blows of this Spanish oppression. Why even the Spanish Crown would be better helped, by a more liberal policy. Such a system in this era of commercial freedom, is a shame to civilization, and if international law were rightly written, it would, itself, be a cause of honorable war!

But I have little hopes that Spain will sell Cuba, or that the Cubans understand the nature of the blessings which attend annexation. They will not perceive that they become, by annexation, coequal with New York and Ohio, in a common league for the common weal. They fear for their church and domestic institutions, as if they were any part of Federal concernment.

I was surprised to meet an impediment raised by a distinguished Senator from South Carolina in his Barnwell speech. I trust it is not shared by many southern men. He objects to taking Cuba; first, because it may involve a war, whose consequences he states to be fearful. He leaves us in doubt as to these consequences. Does he mean the reduction of Cuba to the condition of Hayti? A terrible consequence. That may follow; but that is rather an English than a Spanish threat, and hardly capable of execution in a time when Spain and France are reviving the slave trade to cheapen tropical produce. His second objection is more salient. I quote it entire:

"If we had Cuba, we could not make more than two or three slave States there, which would not restore the equilibrium of the North and South; while, with the African slave trade closed, and her only resort to this continent, she would, besides crushing out our whole sugar culture by her competition, afford in a few years a market for all the slaves in Missouri, Kentucky, and Maryland. She is, notwithstanding the exorbitant taxes imposed on her, capable now of absorbing the annual increase of all the slaves on this continent, and consumes, it is said, twenty or thirty thousand a year by her system of labor. Slaves decrease there largely. In time, under the system practiced, every slave in America might be exterminated in Cuba as were the Indians. However the idle African may procreate in the tropics, it yet remains to be proven, and the facts are against the conclusion, that he can, in those regions, work and thrive. It is said Cuba is to be 'Africanized,' rather than that the United States should take her. That threat, which

at one time was somewhat alarming, is no longer any cause of disquietude to the South, after our experience of the Africanizing of St. Domingo and Jamaica. What have we lost by that? I think we reaped some benefit; and if the slaves of Cuba are turned loose, a great sugar culture would grow up in Louisiana and Texas, rivaling that of cotton, and diverting from it so much labor that cotton would rarely be below its present price."

This objection is two-fold. The inter-state slave trade with Cuba, in case of annexation, he thinks, would make several free States, by the demand and consumption of negroes; and even if it would not, Cuba would not give the South the preponderance in the Union; and secondly, sugar he thinks would be cheap to the whole Union; while a few thousand sugar planters, who just thrive on the bounty they now get, would be ruined. As to the argument about Kentucky, Missouri, and Maryland, becoming free through Cuban annexation, I leave that to the members from those States. As to the sugar, I say, that an argument of that kind addressed to a free-trade people by a free trader, should go far to weaken the moral of his great and frank speech, as it does the economy of his politics. To the people of my State, such an argument will only quicken their ambition to acquire Cuba; not alone because of the millions to be gained by an increase of our exports thither, which are taxed prohibitively, but because we pay a tax on Cuban sugar, which is harsh, protective, and indefensible, in any epoch of a depressed exchequer. In 1857, there were, in all, of sugar and molasses, imported from Cuba into the United States, \$40,093,466 worth. The tariff on these sugars was \$12,023,039 80. Ohio paid one tenth of this, or about twelve hundred thousand dollars, which is equal to her immense school tax, and nearly half a million more than she pays for her State government, and nearly one half of the expenses of all her counties. By our tariff of 1857, we reduced the tax on sugar six per cent. and the panic reduced the importation enormously. During the year ending June 30, 1858, our sugars from Cuba amounted to only \$18,620,022, giving a revenue of \$4,468,805 28, at twenty-four per cent. *ad valorem*.

Since 1847, when Mr. Polk proposed annexation, this nation must have paid over sixty millions sugar tax! Ohio has paid of that sum \$6,000,000. My district has paid one twentieth part of \$6,000,000, or \$300,000; an annual tax of \$30,000—all for what? That one of the prime necessities of life should be fostered into premature growth, to aid a few sugar planters in the South! If Cuba cannot be annexed, to break this servility, by which the many are made tributary to the few, then we must remodel our Democracy and economy. My State Legislature, in 1854, passed a resolution, at my solicitation, requesting Congress to abate this tax. There is no reason for its existence.

"But," it is said, "we must protect Texas and Louisiana in their few sugar plantations! If Cuba comes in, away goes the tax!" Every man, woman, and child, in my State, will say, "away with it! Welcome Cuba and free sugar!" "But," says the Senator, "if Cuba be Africanized and kept out, it will keep up the price of sugar, and a great growth will spring up, rivaling cotton." What then? Ecstasy! "Negroes will be in demand. Cotton, too, will be kept high!" What an argument for a Senator of all the United States, every one of whose interests are his own! The Union in a cotton-pod! [Laughter.] Its growth dependent on the growth of the cane! If, by this logic, Cuba is to be kept out, let us know it. Already the republican mouth grows juicy at the prospect with Cuba in the Union! [Laughter.] It matters not if sugar be made by slaves. That little delicacy of Exeter-Hall sentimentality is becoming obsolete. Even our Quakers are willing to drink cheap damnation in their coffee-cups, and eat it on their buckwheats!

My most distinguished constituent, the Governor of my State, and a candidate for the Presidency, will soon outvie your southern Hotspurs in the race of annexation, if thus you dress your laggard logic. In a speech at a Yankee festival in my city, where the Pilgrims were praised for many a virtue which they had not, and their intolerable intolerance was glossed over by the fervor of the hour, Governor Chase is reported to have advocated the policy of "leaving to every one the absolute control of all matters of domestic concernment," and an "indefinite expansion of em-

pire." If this does not include Cuba, I will ask his friends opposite, to say what is excluded, by his concluding remark, that as the last result of the enlarging empire both of American government and American principles, he summons "the parliament of man to sit on the destinies of the world."

I did not dream that I should ever have to welcome the Ohio aspirant for the White House into the support of its present occupant. I did not dream last fall that I should represent him so nearly. I warn gentlemen from the South to observe these signs, and prevent this grand larceny of Democratic thunder, by considering the proposition which some gentlemen last session called national grand larceny! Call it by what name you will, I am ready to answer the call of the President, if for nothing else, for the benefit of our \$200,000,000 of yearly trade, which must pass under the range of Cuban cannon. I am ready to vote for the bill of the gentleman from North Carolina, [Mr. BRANCH,] looking to the purchase of Cuba; and I am not very particular as to the amount of money with which to fill the blank in his bill. In case of our failure to purchase by honorable negotiation, I would favor its seizure in case of foreign war, or of a European intervention.

As to Central America, I do not desire to enter so fully into our relations with this region. That has been ably done by my friend from Virginia, [Mr. JENKINS.] We know well the impediment existing in the way of our acquisition there. The Clayton-Bulwer treaty—the diplomatic blunder of the century—stands as a huge gorgon in our path. The policy of its abrogation is conceded; but "how not to do it," seems to have been the practice. The present Executive, in his message of December 8, 1857, bewailed this condition of things. He inherited, as did President Pierce, this treaty of peace, which has proved a treaty of offense. England and the United States have been quarreling over its construction, when its destruction was the most pacific course that could have been adopted. Collateral treaties may be made which will prevent the consequences of an abrupt abrogation of this treaty. Diplomacy is now, we are told, working to this end.

But there is in the American mind a chronic distrust of England. It is well grounded in her laxity of faith. When her interests can be subserved, she breaks any compact; and only adheres to it when demanded by her interests. Whether the treaties to be made with Honduras, Costa Rica, and Nicaragua, throttle this banding of Bulwer, or whether we are to lose still more by British dilatory diplomacy, remains to be seen. One thing is remarkable, that we have not advanced since 1849, when Nicaragua, in the Hiess-Selva treaty, proposed to "confer on us the exclusive right" of an interoceanic canal, or highway. Had that treaty been confirmed, we might have had day-to-day forts and free cities along its route and at its termini, with full right to protect Nicaragua by all the strength of our Navy and Army. A year later, and that wily diplomatist, Bulwer—who, for his tact, is sent to the Bosphorus to teach Russia her rôle in the East—comes forward with his *projet*. Our Government nibbles coyly at his bait; but, like a foolish fish, at last leaps for the fly, is barbed, and hauled in to flounder for the amusement of the world. Would that Mr. Clayton had weighed the meaning of Snell-fungus's philosophy: "It is always time to cut your throat; but if your throat is once cut, there are certain difficulties in the way of reconsidering your determination." From that time till now, we have been following Mrs. Chick's advice to Mrs. Dombey, "making an effort" to get rid of this incubus.

Crampton and Webster tried in 1852 to unravel the web. Then Webster and Molina tried it with the aid of Costa Rica. Then Wheeler and Escobar, acting for Nicaragua, made an effort, which our Government failed to accept. Then Clarendon and Herran, for Honduras, sought to untie the knot; and thus led the way to the Cass-Yrisarri treaty in the fall of 1857, which began *de novo*. Then, a fair treaty was made, allowing us the protectorate of the transit; but through foreign influence it was so modified by Nicaragua as to be unacceptable to our Government. Now, Sir Gore Ouseley, having ceased to be a diplomatic myth here, has gone to the south, where, we

trust, something may be done to cancel that part of the Clayton-Bulwer treaty by which we agreed with England to cut our throats, by never "occupying, fortifying, or colonizing, or assuming or exercising any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." We trust that such an arrangement may be made to this end; but my reading of history is vain, if we do not find thrown about this abrogation some clog which the American people will not bear.

The truth is, that we have slept so long, and dreamed so transportingly of our destiny over these regions, that meanwhile Japan and China are opened; Frazer's river becomes an Eldorado; and English and French navies, quitting the attempt on Cronstadt, and firing of the red storm of the Euxine, display their guns on this continent. Their *entente cordiale*, as Clarendon said it would be, is extended to this hemisphere; and here we have them! They are, by their presence, if not by their diplomacy, ignoring the far-famed doctrine of Mr. Monroe, which had, when first given, as general a meaning and as practical a use as it ought now to have a specific application. His doctrine was, that the American continents by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization or influence by any European Power.

Let controversy contend as to the meaning of this doctrine. I know that when Yucatan was about to be taken by England, and when English arms were furnished her for an independency of Mexico, which would have been a dependency on England, Mr. Calhoun then tried, in an able speech, to limit the application of that doctrine to the surroundings out of which it grew, namely, to the intervention of the holy alliance to recover the revolted American States for Spain, and the Russian occupation on our northwest. But the declaration has a larger meaning. It has become settled policy. In 1823, Mr. Jefferson tersely laid it down thus:

"Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe; our second, never to suffer Europe to intermeddle with the cisatlantic affairs."

Yet this doctrine is sneered at, as if Monroe's ghost were invoked to do a kind of constable's duty, to warn all foreign intruders from this continent. So far as emigration is concerned, this continent is open as day; but no flag, no polity, no institutions, no colonies, no protectorates of Europe, can exist here, without endangering the peace, infringing the rights, or disturbing the order and prospective interests of this continent. Whatever may have been the occasion of the Monroe declaration, its cause is as eternal as liberty, and its consequences will be as progressive as our nation. I care not for its traditional emphasis. Democrats, at least, can afford to let that go. Is it sound doctrine for the present? If so, it ought to be the enthusiastic sentiment and genius of this Government. If so, let it be no more the jeer of Europe, the swagger of America, but a fact as much a part of our historic life as the Declaration of Independence, which was its precurrent source. That doctrine is the law of self-preservation. General Cass, in his recent letter, has given it proper direction. That doctrine was intended to guard this continent against the incursion of any alliances, "holy" or unholy. It looked to that law which I have laid down, by which the interests and honor of this hemisphere were to be guarded by none but ourselves. We do not want to be foreclosed against its occupation, fortification, and annexation. In the present feeling of this country, no treaty can be made and made to stand, if it does not break down all protectorates of England and all interference of France. The Senate of the United States dare not confirm such a treaty. The present Executive will not present it. The present Secretary of State will not sanction it.

Does England want Honduras, Yucatan, the Belize? What are they to her? Nothing; except as she can use them to block up the progress of this nation. Does she want free passage over the Central American States? That she can have under our auspices and with safety! What does she with the Valorous and the Leopard in the Caribbean sea? Why do her officers spy for arms in the American steamer Washington? Is it only

filibusters she is after? I do distrust her. If she seems to acquiesce in our view for a time, may we not attribute it to that popular will which compels her aristocracy to more prudence in reference to America? She pretended to settle all in the Clayton-Bulwer treaty; yet that treaty was a delusion and a snare. While that treaty is yet warm, England drives the Nicaraguan forces out of San Juan del Norte; then she pirates that entrepôt from an independent State; anoints a hybrid savage as a king; gives to a few Jamaica negroes, dressed like the Georgia major without his spurs, the constabulary baton, and builds congeries of negro huts, which she nicknames after the Earl Grey. She performs the same office for Honduras, by what Clarendon called the "spontaneous settlement" of the Bay Islands; and then claims from us good faith in keeping the compact which she breaks! Along comes Sir Gore Ouseley to maintain the delusion, in spite of Lord Napier, who goes home. What more? She approves of the Cass-Yrissari treaty by fomenting difficulties in the way of its ratification. She pretends to Mr. Dallas, through Malmesbury, that Belly is a French adventurer for whom she has no sympathy; yet, in acts, gives to him French and English protection, through the alliance. It is not safe to trust her. Her treaties are ropes of sand. Her international law is too elastic for use by any but herself. Her designs are steeped in fraud; and all complications with her are dangerous and entangling. Thank God! we have a Secretary of State whose life is marked with signal ability in anticipating, demonstrating, and frustrating her designs. This nation will sustain him in his declaration that—

"The establishment of a political protectorate by any one of the Powers of Europe over any of the independent States of this continent, or, in other words, the introduction of a scheme of policy which would carry with it a right to interfere in their concerns, is a measure to which the United States have long since avowed their opposition, and which, should the attempt be made, they will resist by all the means in their power."

Behind this rock the present Administration are entrenched. There is no feeling in this country worth calling patriotism, which does not stand squarely up to this high and strong position! Why should not this Congress, by some definite action, stand by the popular sense and the Government? I am ready either to give the moral force of a resolution such as that now referred to the Committee of the Whole, to abrogate the Clayton-Bulwer treaty; or I am ready to go further, and to clothe the President with extraordinary powers, and to give him means, or the authority to procure means, by which his recommendations may be acted on and acted out.

But it may be said, why so much risk of war with the combined powers of Europe; why so much anxiety for the Isthmus or Central American route? Not because we are in danger of being cut off from its dominion. That will come if these Central American States remain independent of European constraint. Not because it is the only feasible mode of transit for the great oriental trade between the oceans; for in time there will be rapid and safe transits on our own soil. Not so much because we ought to have and hold the hundred and fifty millions of trade with these Spanish American tropical lands, instead of but ten millions which we now have. But nature never made so narrow an obstacle; one so easily severed, and on which such great commercial and economical results depended, as that at Darien or Nicaragua. She buried mountains and valleys beneath the wave to narrow that neck, and thus expand the bounds of interchange, and encircle the earth with a white zone of argosies.

If New Granada shall be ours—as it should be within a twelvemonth, unless the Congress of Bogota show more honesty and wisdom in settling the claims of our Panama sufferers, than is likely; if New Granada would follow the advice of Gonzales, her attorney general, and enhance her interests by applying for admission to our Union; and if Venezuela would follow the wise inclinations of her patriot chief, General Paez, whose exile here has made him love the land of his home, the more for the prospect of uniting its fortunes with ours; then, indeed, these Central American States, now the football of European diplomacy, must either come to us, or be powdered into nothingness between the industrial movements of the surrounding States. Once

let the agriculture of Venezuela be smiled upon by a protecting Government, and her magnificent ports would soon fill with the keels of her elder commerce. Let northern energy blend with her undirected labor; and the gold mines of Upata would gleam with their olden treasures. Let Panama break from her vassalage to her irresponsible rulers, and that mart of the golden age of Spain and her viceroys will team with a wealth which no buccaners in a thousand caravels can bear away. These accomplished, and the intermediate States of Nicaragua, Costa Rica, Salvador, Honduras, and Guatemala, will follow, as surely as the sheaf of the summer follows the seed of the spring. The trade of all tropical America would then fall to us naturally by our proximity, and by the variety of our productions with which to barter. These tropical wastes ought to give us coffee, indigo, and cocoa, which are failing in India, as well as the cabinet woods, so much in demand. In return, they will take our flour, pork, machinery, fabrics, and a thousand other articles which they need, and which every State of this Union produces. Our trade, which now counts its hundreds, will then count its millions.

If this Congress has optic nerve enough to look a few years ahead, it will at least start a policy which will secure all the isthmean highways which are so indispensable to our development and power. Its first duty is to repel every attempt of the remotest influence, come from what quarter it may, which may impede this procession of events or arrest our inevitable and legitimate aggrandizement. No nation with one harbor, much less a nation with a coast strewn with harbors like ours, can be long prosperous within, that does not prosper and grow without. When a State, which is commercial by situation, forgets the work of outbuilding its empire, it loses its inner vitality. The day that marks its failure to meet every rising opportunity of advancement abroad, marks its sure decline at home. As with the individual, so with the State; if its ambition be dead and its hopes of expansion smoulder, its dissolution is speedy and sure. While its intellectual and physical energies are tense and grasp a large range; its internal and foreign empire will become consummate because it has the everlasting law of growth!

We have illustrated that law with reference to our southern neighbor, Mexico. The effete and wasted portions of Mexico, being one half of her area, lying next to us, became nutriment to our stalwart strength. The very dirt of the ground became assimilated with our energy, and lo! from our Mexican purchases \$70,000,000 of gold per year are sucked into every conduit of American life, to enhance its happiness, and give added comfort to its homes. It was once objected that the soil of California, New Mexico, and Arizona, was poor; a land of sand and centipedes; that there was no homogeneity in the people.

True, she has six million Indians, with Spaniards in plenty and pride, and of mixed people, not a few. But are they worse than the Indians of our own soil? On the contrary, they are far better. They are tractable, stout, and laborious. Spain managed them with but a handful of soldiers for three hundred years. She managed them, too, under every provocation to revolt. Had an American protectorate been the sequence of Scott's occupation, a few months of protection would have given their industry its reward and peace its blessing. Then, too, we should have no apprehension to disturb our present relations with Mexico.

To these relations I propose to call the attention of the House. In the discussion I need only remark, historically, that on the discovery of this continent there was but one nation in North, and one in South America, which seemed to be possessed of any civilized advancement. Peru, under the Incas, whose white robes betokened the almost divine simplicity of the people; and Mexico with a society that was Arcadian in its simplicity, and a polity wonderful in its complications. The State, the priesthood, the cultivators of the soil, the rulers, and the ruled, lived in peace under a lovelier sky than that of Naples, and a richer soil than that of ancient Latium. Let it be remembered that this prosperity and contentment were not alone the result of good laws, but of good land; of good manners, but of good mines. There was, in the Aztec tongue, no language of

cupidity, though gold roofed the temple and jasper built the altar.

I need not repeat that this isolated case of civilization on this northern continent was mostly the result of the unparalleled climate and soil. That climate and soil remain. Three hundred years of misrule have not impaired the salubrity of the one, nor detracted from the wealth of the other.

The Spanish rule at length was thrown off for a Republic like ours. The inborn strength to throw it off, after so long a trial, showed a spirit of freedom which received its plaudits from this nation at the time. In February, 1821, at Iguala, Mexico declared her independence. On the 4th of October, 1824, she adopted her constitution. England was first to recognize this progress, and as usual, for her profit. The lower clergy and the masses, consisting of Indians, were its creators and its beneficiaries. The upper clergy never sympathized with this severance from Europe; and until the revolution of Ayutla, consummated by Comonfort, they never became a power in politics. His policy touched their estates. They struck back. His law of desamortization confiscated \$18,000,000 of their property, which passed to private individuals. They struck back, even at this compromise confiscation. Comonfort reeled under their blow; reeled from the Puros to the Moderados; and from the Moderados to the Church and its conservative defenders, into whose arms he and his anti-Church policy fell! We need not wonder at these changes when we remember that a magnificent and organized hierarchy held \$300,000,000 of property; with a revenue of \$20,000,000, being \$5,000,000 more than the best annual Government revenue.

Mr. Cushing said, at Richmond, that these party names of Liberal, Constitutional, Pure, Moderate, Central, and Federal, so often appearing in our Mexican news, "were but the watchwords of contending factions, efficient alike only to waste their common country." Hardly true; it must be remembered that in Mexico, as in all nations, there will be parties founded on interest or hope, conservative or radical, with intervening moderate shades. There is in Mexico, well-defined, a Central, Federal, or Conservative party, under whose rally men of wealth and of the Church, and of improgessive temperament naturally gather. This party would centralize power in the federal Government, and thereby become aggressive in the States. It would lean towards a strong government; and hence its eye is ever on tradition and Spain. It would to-day hail Spain or France as its master to attain its end. Santa Anna, Zuloaga, and Robles have been its executive representatives. Miramon assumes the same position just now. The natural antagonists of this party are the Puros, the Moderados, Constitutionalists, Democrats, or call them what you will. Federal restraint to them is irksome; Europe and kingcraft hateful; and the Church despotic and avaricious. In the language of Mr. Gadsden to Alvarez, in June, 1855, "they would limit the central power to that alone which is exterior; and thus they should seek, like the United States, to grow without anarchy into strength and prosperity." Their aspiration is for a republic like our own. They need and deserve our sympathy. Juarez is their Executive—a pure Indian, whose descent is from Montezuma. Degollada, their general, and Mata, their minister, seeking recognition here. This party have a majority of the States and nine-tenths of the people of Mexico with them. They have the revenues. They hold the ports. Their President is *de jure* and *de facto* Executive. A little more patience, Mr. Forsyth, and you would have recognized it thus, and not (as you did) otherwise! *De jure*; for, by the constitution of Mexico, adopted by an extraordinary congress, at the capital, February 5, 1857, it was provided, by section seventy-nine, that—

"In temporary default of a President of the Republic, and in the vacancy before the installation of the newly-elected President, the president of the supreme court of justice shall enter upon the exercise of the functions of President."

And, article thirty-two:

"If, from whatever reasop, the election of President shall not have been made and published by December 1st, upon which the change is to take place, or if the newly elected is not able to enter promptly upon the exercise of his functions, the term of the preceding President shall nevertheless cease, and the supreme executive power shall be deposited *ad interim* in the president of the supreme court of justice."

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When, therefore, on the 11th of January, 1858, General Comonfort vacated the Presidency, the constitution devolved the office upon Benito Juarez, the president of the supreme court of justice. *De facto*, for he holds the field, and has the money and the masses. The federal army, it is true, was not at his command. Felix Zuloaga was illegally named dictator by a clique at the capital, January 22, 1858; and having the army, and holding the capital, Juarez transferred the administration to Vera Cruz. There was no such officer known as dictator, and Zuloaga has paid the penalty of usurpation by deposition. There can be but one executive, and Robles, who assumed Zuloaga's place, was not that officer. The constitution under which Juarez acts is the only organic law, and that does not recognize the junta which elected Miramon, to whom Robles yielded his fates.

This constitution is the rallying cry of the Liberals; to its defense the nation is committed; by it alone is order possible. To sustain its upholders is clearly the duty, as it is the interest and desire, of the United States. President Buchanan has well considered these facts. In the success of the constitutional party he places all his hopes of redress for the innumerable outrages to our citizens. If this party fail, and there "being abundant cause for a resort to hostilities against the Government now holding possession of the capital," I am ready, for one, to vote for any system of reprisal, or to grant the Executive the necessary power to take possession of any portion of Mexico, as a pledge for the settlement of our claims.

I say that I am ready to vote for such reprisal or occupation. But I have considered these parties in Mexico with the view of qualifying this declaration. I believe that it would be best, at once, to recognize the Juarez constitutional government, by the most solemn assurances of sympathy and protection. The late news makes this step *imminently urgent*. This can be done; first, by the prompt recognition of Mata, who is here seeking such recognition; secondly, by the sending of a naval force to the Gulf, where we are unrepresented. This force should be accompanied by a commissioner to treat with the Juarez government; to counteract the influence of the allied fleets now aiding Miramon and Robles, and threatening Juarez; and with the latter to cement an alliance, and to obtain such a settlement of our claims and difficulties as will comport with our interest and honor. I have the surest authority for saying that such an arrangement would give us, not only a firm union with Mexico, not only postal and extradition and right of way treaties, not only a foothold in the northern Mexican States, which can be made permanent without war, but it would foil every attempt of the European alliance to control the affairs of Mexico. It would crush the Robles-Miramon government, elevate and organize the democratic American sentiment, and give us an alliance of peace, which is the precursor of a magnificent commerce!

If, however, we seize Sonora and Chihuahua, without an understanding with the constitutional Government, what will be the result? Poor and miserable as is the condition of Mexico, she would likely declare war. Such a declaration would come from the Robles-Miramon faction. It would draw to that faction the strength of the nation. It would, perhaps, crush Juarez and his party, and leave us no better off than if we had pursued a more politic and pacific course.

Again, if we delay to recognize the constitutional Government, it will soon be in power at the capital as it is in the provinces. It can then say to us, "Oh, yes; you would not help us in our extremity, when your advantage should have prompted you, and your sympathy would have been of service. We can get along without your aid now. Touch not a foot of our soil, on the penalty of an endless difficulty."

Wisdom, interest, the law of American progress, and the predominance of our Union on this continent, all urge the course I have indicated.

Juarez waits our action. Shall we miss the golden opportunity?

If we fail in our efforts with him, then I am willing at once to take Sonora and Chihuahua, whichever party succeeds.

I believe that the list of American claims and cruelties, which has even provoked the English press to wonder at our forbearance, is warrant enough for such possession. There are even yet higher grounds for such seizure. The French Minister, De Gabriac, rules in the Miramon councils. A French fleet rides before Sacrificios. The French admiral was very ready to back Spain in her demands. To break this French power is our imperative duty. If it be not broken, our line of extension southward to Central America will be broken irrevocably.

Such is the condition of parties in Mexico. I need not discuss it further. The contest now is between the democratic element and the conservative element. The latter has its eye ever on Europe, and averse to the United States. Its rule has proved the most distracting and disastrous ever yet known in the annals of the South American Republics, where the earthquake and the revolution alike awake the same sad cry of anguish, and receive the same defiant, destructive answer.

I need not have pictured this land of beauty and order as it was once, to heighten the contrast of its present condition. After thirty-eight years of debilitating spasms, we find, to-day, the spectacle of Mexico helpless, bleeding, dying; the Turkey of the western world; and capable of no effort even of resistance to the Spanish fleet, much less to the French or English. Rapacity, crime, chaos, craft, license, and brutality; indolence only active to wrong; and industry quickened only for vice; laws made for their infraction and order to be contemned. Mountain cries unto valley for relief; and from hacienda to city goes up the agony of despair. This is unhappy Mexico, in whose fate no nation ever can have the interest we have felt such a nation conquer us. *Who shall intervene?*

Were it only the natives who suffered, we might stand aloof, and say, "they have made their bed; let them lie in it." But even this would be culpable indifference. Good neighborhood does not thus do its office. The artisans of the city of Mexico are out of employment, and hungering for food. Let this one fact speak volumes! In the three pawnbroking establishments of the city called *Monts de Piedad*, the last year, there were 68,000 borrowers, out of a population of 185,000; \$912,000 were loaned, and \$869,000 paid for its use. With an army of 11,700 men, of which 5,800 are officers; and a debt of \$120,000,000, and an expenditure by two Governments; with but one eighth of her arable soil cultivated, and her mines unworked, or, if worked, the treasures at the mercy of the red guerilleros who infest every avenue of intercourse; with every one of her twenty-two States and six Territories parading an array of contending forces and ambitious guerilla chiefs; Garza and Vidaurri conferring in the North to move down and check the Federalists of the interior; Pesquiera about to move on Mazatlan; Alariste on the plains of Apam; Camafion, from Metamoras de Izucar, waiting to besiege Puebla; Blanco in Michoacan; Irbide in the Bahia; Marquez repulsed from the Puente Calderon, around which gather the combating forces under Miramon, Rocha, and Degollado; Mejia defeated by the liberal forces under Puebla and Huerta; the environs of the capital swarming with the Liberal soldiery; this was the picture of a few days ago.

The scene changes. The Federal chief Echegaray betrays Zuloaga, and, in collusion with Robles, makes the latter chief. Echegaray in turn is imprisoned at Puebla; is about to be shot; when, lo! an insurrection in the city of Mexico saves him, and Zuloaga rushes to the English flag for protection. In this complication, a junta is called to settle the difficulty; and who should be chosen but Miramon, a dashing young general, flushed with his successes over the Liberals, and

who moves toward the city under the fluttering pennons of his cavalry. Meanwhile, young Alvarez and Villalva lead their speckled Pintos down on the warm lowlands for pillage; while Juarez, dignified and statesmanlike, holds his rule in Vera Cruz, the commercial metropolis. Mexican conducts go down to the sea under the French flag, to get his revenues, to help one party by robbing the other; while the fleets of the three great nations of Europe gather on her coasts, and beg, from their gaping gun-mouls, the results of spent plunder! It is as if Dives should besiege Lazarus with a bowie knife and revolver, and bid him disgorge the furtive crumb, as indemnity for the past and security for the future! Fifty generals and a nation of seven millions, not knowing what may be their fate! The Agiotistas hold the money and oppress with it. The generals murder and pillage in gross, and the bandits in detail. Indians never before in arms rush to them for self-preservation. Foreigners, ever at the mercy of these fickle factions, find no protection in their flags, and no hope but in passive submission to forced loans and open robbery. This is the spectacle of mutilated Mexico to-day. To-morrow it may be worse!

I repeat it, *who shall intervene?* Some one must. Our interest is paramount. Why this interest? Not only our proximity to Mexico; not alone the number of our citizens domiciliated in the country, but a common interest in the development, the retouching, as it were, into its primeval color and grace, of that elder beauty which Spain tarnished and anarchy has torn to shreds. Our interest lies first in Mexico's erect and orderly independency. If that be no longer possible, then that no Power but our own shall guard its weakness and administer its estate. This is the only programme which this nation can tolerate, and by which it dare abide and survive or grow!

As to our proximity: the reasons on this head for our intervention are well set forth in the President's message. I cannot add to its force. I therefore quote it:

"But there is another view of our relations with Mexico, arising from the unhappy condition of affairs along our southwestern frontier, which demands immediate action. In that remote region, where there are but few white inhabitants, large bands of hostile and predatory Indians roam promiscuously over the Mexican States of Chihuahua and Sonora, and our adjoining Territories. The local governments of these States are perfectly helpless, and are kept in a state of constant alarm by the Indians. They have not the power, if they possessed the will, even to restrain lawless Mexicans from passing the border and committing depredations on our remote settlers. A state of anarchy and violence prevails throughout that distant frontier. The laws are a dead letter, and life and property wholly insecure. For this reason the settlement of Arizona is arrested, whilst it is of great importance that a chain of inhabitants should extend all along its southern border, sufficient for their own protection, and that of the United States mail passing to and from California. Well-founded apprehensions are now entertained that the Indians and wandering Mexicans, equally lawless, may break up the important stage and postal communication recently established between our Atlantic and Pacific possessions. This passes very near to the Mexican boundary throughout the whole length of Arizona. I can imagine no possible remedy for these evils, and no mode of restoring law and order on that remote and unsettled frontier, but for the Government of the United States to assume a temporary protectorate over the northern portions of Chihuahua and Sonora, and to establish military posts within the same; and this I earnestly recommend to Congress. This protection may be withdrawn as soon as local governments shall be established in these Mexican States, capable of performing their duties to the United States, restraining the lawless, and preserving peace along the border."

A temporary protectorate will effectually, if not nominally, give us these States of Sonora and Chihuahua. They are very sparsely populated, there being only about three hundred thousand persons to their two hundred and twenty-three thousand seven hundred and ten square miles. These lands are represented as delightful in climate and rich in resources, agricultural and mineral. They have been described as the land of the blessed in Oriental story. Summer and winter, table land and valley, are nearer akin than in most places in the world. Silver is in their streams, in lodges with crests elevated above the ground. Spain demonstrated their riches; but the nomadic Apaches swept over this Eldorado, and left but a

memory of its treasures which American enterprise is already vitalizing into a reality.

Is it objected by southern gentlemen that these States must become free, and not slave States? I hope not. You have been claiming your constitutional rights. Where is there a word about the equilibrium of the States in that instrument? Under it you have equality of right, and no right of equality in the number of States. This equality is not of arithmetic, but of political ethics. The moment you claim equilibrium of States, that moment your honor is compromised and your loyalty to the Constitution is questioned.

Do you say, "We will favor this protectorate if Tamaulipas and New Leon are included?" Very well; try that. I will vote for it, or vote to include any other State where you think you can raise coffee and sugar, and can outvie with the North in the race of colonization and power. I will gladly vote for a protectorate over an independent federation of States north of the Sierra Madre.

Mr. MILLSON. I want to know under what authority the gentleman from Ohio represents southern gentlemen as desiring all these Mexican States?

Mr. COX. I have not so represented them. I say, southern gentlemen may, perhaps, not exactly wish to take Sonora and Chihuahua, lest they might become free States, and not slave States. It was a suggestion made to me by a southern gentleman, and I said to him, "Come along; we will put in Tamaulipas and New Leon. We will drive them hand in hand." For myself, I am willing to give protection to northern Mexico; if not for annexation, for a free trade which will be of mutual advantage, and will be a practical absorption. It will at least prepare these States for admission. Let Monterey be the nucleus of Zacatecas, San Luis, Queretero, Tamaulipas, Coahuila, New Leon, Chihuahua, and Sonora—all the States between the Rio Bravo and the Gulf of California; all natural allies in the interests of the United States. Let them cluster in upon upon our ensign—not star by star, but in a galaxy. By that, you do at once what will in time be done by the natural laws of development. Besides, you raise our present feeble trade of seven millions to twenty-eight, which Great Britain enjoys. You can thus enhance every inch of soil, and every shining particle of ore, in these regions.

Mr. GIDDINGS. Will my colleague allow me to put a question to him?

Mr. COX. No, sir; I have not time. We will meet and talk the matter over after my friend shall be made Governor. I do not wish to get out of the line of my argument.

By this programme we shall have, in time, with all of Mexico, a practical annexation, which will allow free trade and safe intercourse, to our mutual advantage.

As to the question of protecting our citizens already in Mexico, and demanding reparation for wrongs done them, this should be a capital cause of intervention in Mexican matters. Senator Mason's bill is rightly predicated on this cause. If Spain could make the liberals pay for the murder and spoliation of Spanish subjects at San Vincente, Chiconcuague, Durango, and elsewhere, in Comonfort's time, why are we asleep over the rights of our citizens? I have before me a list of these claims, but a very imperfect one. Each claim is a *casus belli*. Here are some dozen cases of illegal seizure of American property. I saw it noticed that some eleven millions were already calculated at our State Department. We have grievances beyond money. The sentences in relation to illegal marriages is a wrong to those who were married without the established Church, and degrades to crime the holy relations of parentage and wedlock; the infamous surveillance of the post office over American letters, refusing to deliver even the United States consular correspondence unless it were first inspected by Mexican authorities; and worse still, the rude, cruel, and brutal arrest and imprisonment of Chaplin, Stocker, Ainsie, and Garcia, whose stories are enough to make the Haynaus of Austria pale beside the imbruted and unbridled scoundrelism of Mexican officers. The story of Ainsie, seized on American soil, sixteen months in the prisons of Sonora, wearing the *barra de grillas*; and that sad, saddest of all stories, the massacre of his brother-in-law, Crabbe, and his confederates, whose char-

acters have been blackened to rob their murder of its heinousness; these should move the very stones to mutiny.

In this matter the United States have but one duty. These sufferers were our citizens. Where ever that character of citizenship is to be found, the individual bearing it is clothed with the nationality of the Union. Whoever the man may be, whether native-born, naturalized, or semi-naturalized, he can claim the protection of this Government. It may respond to that claim without being obliged to explain its conduct to any foreign Power; "for it is its duty to make its nationality respected by other nations and respectable in every quarter of the globe." This doctrine was illustrated in the Koszta case. What difference is there between a dungeon in Guaymas, where Ainsie lay in chains, and the Austrian brig Huzzar, which held the body of the Hungarian?

The outrages upon our citizens are not confined to Mexico. In every Spanish-American State they are common. In Callao, in Paraguay, in New Granada, in Cuba, in Costa Rica, in all places where the slanders of the Madrid press against the "peddling traders of the North" enter, we have to meet persecution, imprisonment, illegal seizure of property and person and an unflinching espionage; and that, too, under taunts more galling, because we know how easy it would be to punish such outrages. We should examine the list of claims on Spanish-American States to appreciate the divine forbearance of our inactivity. A settlement with Mexico would be a general settlement with Spanish America.

This duty of intervention becomes at once imperative and dignified, when we remember that, by such an act, we not only protect our citizens, but we save Mexico. We not only save her from Spain, France, and England, but from herself. This is no conquest of Cortez. It is the salvation of a people whose interests will be bettered by our aid. Without such aid, the fairest part of this continent will be a ruin—only the worse because, like the Parthenon, its fragments will remain to show the beauty and richness of her former condition.

In conclusion, the policy I have indicated with respect to this continent, and the application of which to Cuba, Central America, and Mexico, will be of such benefit to them, will enable us to conform to that law of growth by which alone we have become great, and by which alone we shall become greater. This is the policy of other nations, and they have met obstacles to accomplish it. We shall accomplish it, but we shall have them as our obstacles. England has swept with her power from the Shannon to the Indus. She is content, and so are we, to see her greatness repeated in the offspring of her loins. Yet she daily calls our attempt to expand by the rudest terms. France has twice threatened Europe with continental conquest, and now organizes the Arabs of Northern Africa, the granary of the Roman world, for her march upon Egypt and her domination of the Mediterranean. Russia, the great land animal, is piercing Asia at every vulnerable point with her lances, and is pressing for an empire of which there is no adequate prophecy in the Scriptures. Even Spain joins her arms and her priesthood with France, and is waging against Cochin China a war which her journals call the civilizing spirit of the age, impelling the force of Europe to break down the barriers which divide that race from humanity.

Yet all of these nations except Russia, which has ever been kind and tolerant toward us, are this day in league to prevent the stretch of our influence over our continent. England, holding half of North America, is jealous of our growth, and would choke us at the isthmian neck. France would crush out the sympathies of the white republic of St. Domingo for the United States, by her Chevalier Reyband, chargé at Hayti; and she used that burlesque of emperors and that ape of manhood, Boulouque, to Africanize the island, to overthrow Santa Anna, and to break down the Cazenau treaty for a free port and steam depot, and for advantages to our citizens in the mines, sugar lands, and mahogany forests of that island! France again appears in the Sandwich Islands; at the Isthmus, with M. Bolly; and at last in Mexico, aiding the Spaniards, and in sympathy with the Spaniards of Cuba, to foil us in every attempt to adjust our national relations with that country.

Every steamer brings us a lecture from Exeter, Hall on our slave propagandist filibusterism. And may we not go for its commentary to Copenhagen, to Ionia, to Gibraltar, to Malta, to the Cape of Good Hope, to the Red Sea, to Jamaica, to New Zealand, to China, and to the sheiks of all India. Why, the British regime in India was a system of torture more exquisite than regal or spiritual tyranny ever before devised. The Sepoys vainly tried to copy its atrocities.

Were we left alone, we might be content to let France alone. No American would whisper a "nay" to her making the Mediterranean a French lake. Her genius and vivacity can make its waves glow with the light of other days. That sea on which navigation had its birth—the maritime world of Greece, Carthage, Rome, Tyre, Sidon, Turkey, Egypt, Persia, Venice, and Genoa—the sea of Homer and David, Jonah and St. Paul, Ulysses and Neptune; washing the base of Ararat and Olympus; with a world's history on its bosom, and whole nations in its bed; the American can well say, let its guard be the gallant sons of France! He could say it without envy, and with heartiness, if France would keep her navies out of the Gulf of Mexico and the harbor of San Juan.

We have made no remonstrance against England on her ceaseless round of empire—bloody, cruel, and rapacious as it has been—subsidizing the riches of Asia to her commerce and her greed. We know the law by which these powerful white races move. It will be irresistible. France, England, and Russia, are tending to a common focus at the Isthmus of Suez, as France, England, and the United States are at Darien. Starting from opposite points, extra-European conquest converges here! England seeks passage across Egypt or Syria, for India and Australia, and pounces on Perim, as she did on Gibraltar and San Juan. France, marching her army of Algeria, presses toward the prize to realize the great Napoleon's dream of Egypt, and urges her canal at Suez as she is striving to do at Nicaragua. Russia, semi-oriental, marches through Western Asia and Persia down upon the confines of English power and French ambition, and finds her rivals in the field. What fine reproaches they can hurl at each other and at us, for the lust of dominion, when they gather at this focus of the former civilization! What shocks of contending forces will there and then be encountered! Let them come and strive. Let Russia push its caravans across the steppes of Tartary until the trade of Kiachta and Irkansk rival Canton and Shanghai. Let France divorce Asia from Africa by marrying the Red sea to the Mediterranean at Suez. Let England work its iron way to India from Beyrout to the Euphrates. Let the steam engine labor for the millions of Asia under any engineer; but let America alone in her armies of occupation to open the Isthmus, and control the steam and commerce center of our own hemisphere.

No change of dynasty, or of form of government, can check this ultimate condition of European expansion and collision. Such a change may affect the relations of these countries to ourselves. The illiberal policy of France to this country may return to plague its inventor, the usurper of France.

I have never heard his hated name since the 2d of December, that I could repress the prayer, which now I pray with something of a Red Republican fervor, that France may have barricades on the Boulevards; the throne in flames, as that of Louis Philippe in the Place du Caroussel; the dynasty he seeks to perpetuate cut off, or flying from the rage of a Red Republic; more citizens and less soldiers, and both fraternizing to the music of the Marseillaise; exiles returning from their homes in pestilential swamps, amidst gay and festive welcome; prisons breaking; the press free; the Palais Justice open, and the tri-color of a new Republic flashing from every part of France and topmost on the Hotel de Ville, made sacred by the heroic eloquence of Lamartine. This would be a fit retribution from God for crimes and perjuries; and not at all unfit as the reward of an intermeddling policy with the republican interests of the New World!

Let us be decided! These European Powers cannot, and do not, have peace. The bugles of truce sounded at the conference of Paris. Heralds proclaimed peace in every capital. But the

war harness is not off. It is burnished anew, and the weapons within reach? England, trembling at the one hundred thousand soldiers across the channel, and the naval wonders at Cherbourg, commences to build coast defenses. Russia acquires Villa Franca, and stirs insurrection in Ionia against England. Mazzini issues his rescript to the secret societies and open Republicans of Italy to be ready and one as the thought of Italy and God. The coin of "Emanuel, King of Italy," is circulated through the peninsula. An actress moves the people of Venice to insurrection by a recitative which reminds them of their patriotism. Austria arms, and Piedmont proposes to repel. France sends more troops to Rome. Austria grows. France obtains from the Swiss a strong strategic post, and Austria grows again. Naples insults Napoleon to please Austria. England writes bitterly against Naples, and does not spare the prosecutor of Montalembert. England shakes with a new reform movement—John Bright striving to Americanize her by popular sovereignty. Turkey is unsettled in Europe and in Asia. Russia moves on, immense and great—the envy of all. A lighted match may flash this magazine into a terrific blaze, whose thunder will make all Europe quake. The alliances of to-day, in Europe, for her own balance of power, may be dissolved by a popular breath to-morrow. As a consequence, they cannot be relied on to pursue us to any fatal end.

Already England has pushed this alliance with France to its snapping point. The English people will not permit their aristocracy to carry it so far as to make it an offense to the people of this commercial nation. Not but that the English Government would like to aid France in checking our career; but trade is powerful for peace, and peace with us means cotton in England. Let England find cotton elsewhere, and our southern friends may be assured that her intercourse with us will be no longer peaceful. Gentlemen need not flatter themselves either, that cotton is their peculiar staple. Why is England trying every appliance to reach central China? To clothe in fabrics the four hundred millions of Chinese? No. They are thus clothed, and mark it, by cotton, which is the stupendous growth of their own great central valley, estimated now to produce more than double the cotton raised in all our southern States put together. This valley being England's, Manchester and Stockport can snap their fingers at Charleston and Mobile, and English audacity will begin a new career of rapacity and insolence toward us. Her jealousy of us is *intus et in cute*.

Our reliance must be on our own strength and growth. If we cannot enact the Monroe doctrine into international law we can create and consecrate it as a national sentiment. Let it be the national genius. Let it be the power of Aladdin's lamp. You remember the story. The old lamp from its friction evoked from the cave a mighty spirit; awed by its terrors, the poor youth only ventured at first to employ its powers in familiar affairs; but gradually accustomed to its presence, he employed it to construct palaces, to amass treasures, to baffle armies, to triumph over foes, to wield the elements of air and light and heat, until, at the close of the story, the poor youth becomes the sovereign of a peaceful empire assured to his remote posterity.

This story, Mr. Chairman, is the type of our political genius. By it we have fortified ourselves in our domestic interests. Our domestic and territorial policy is fixed under its guidance. It is the instrument of that progress which must keep pace with steam and telegraph, until we are assured of an empire with which kingcraft dare not meddle; or meddling, find it a power to baffle its force of arms, and its fraud of diplomacy. We have become a Colossus on this continent, with a strength and stride that will and must be heeded. With our domestic policy as to local governments established, we can go on and Americanize this continent, and make it what Providence intended it should become, by a perpetual growth, and an unsevered Union—the paragon in history, for order, harmony, happiness, and power!

CONSULAR AND DIPLOMATIC BILL.

Mr. PHELPS, of Missouri. I desire now to move to lay aside the consideration of the President's annual message, for the purpose of taking up House bill (No. 666) making appropriations for the con-

sular and diplomatic expenses of the Government for the year ending the 30th of June, 1860. Debate can go on, under the order made by the House yesterday, on the President's message to-night or any night during the ensuing two weeks. If this bill be taken up, I hope discussion will be confined to its subject-matter. The President's annual message is a matter on which we may discuss such topics as gentlemen may think fit. I now move to lay aside, for the present, the President's annual message.

Mr. HOUSTON. I desire to inquire*of the gentleman from Missouri, whether the resolution for having evening sessions was adopted yesterday?

Mr. PHELPS, of Missouri. It was.

Mr. HOUSTON. Then, if we propose to take a recess to-day, it seems to me that it is time to do so now.

Mr. PHELPS, of Missouri. We can make some progress on the consular and diplomatic bill; and it will be then before us.

The question was taken; and the President's annual message was laid aside temporarily.

The committee then proceeded to consider the consular and diplomatic bill.

After the bill had received its first reading,

Mr. SHERMAN, of Ohio, said: I desire now to move to strike out the proviso at the end of the bill.

Mr. PHELPS, of Missouri. Let me remark to my friend from Ohio, that the bill has received only its first reading. It will now be read by clauses for amendment.

The Clerk proceeded to read the bill for amendment.

Mr. COLFAX. I desire to ask the chairman of the Committee of Ways and Means whether the mission to Persia has been established by law?

Mr. PHELPS, of Missouri. It has been established in the same manner as all other missions are established, by the Constitution of the United States. It is for Congress to say whether or not it will make an appropriation for the mission to Persia. If the gentleman will examine the law, he will find that there is no specified authority for the appointment of ministers to many of the nations. As to the propriety of making an appropriation for the mission to Persia, that is a question which will address itself to the members of the committee. As to the law, I will point the gentleman to the Constitution of the United States, to the opinions and expositions of jurists that the Constitution itself is authority or warrant for the appointment of all diplomatic agents. But it may be a matter of sound discretion whether the President of the United States should make an appointment of a minister to any foreign nation, unless Congress shall have made an appropriation to pay the salary of that minister.

I desired, Mr. Chairman, when I sought the floor, merely to invite the attention of the committee to the fact that the greater portion of these appropriations are for the payment of the salaries of officers who are already in the discharge of their duties. There is also an appropriation for the payment of the expense of running the north-west boundary line. There is another for the payment of such expenditures as have accrued, or may accrue in the execution of the act of 1819, prohibiting the slave trade. It will be recollected by the members of the committee, that some time during last summer, a vessel having a number of slaves on board was captured and carried into Charleston. Legal proceedings were instituted for the purpose of having the vessel condemned. The captors are, by the law of 1819, entitled to a bounty of so much per head on every African in that captured vessel. Other expenses have been incurred in the same matter—the taking care and feeding of these Africans. Finally, the question presented itself to the President of the United States what should be done with these Africans? Was it not expedient, under existing laws, to send them out of the country? Entertaining that opinion the President ordered the Africans to be carried back to their own country; it being arranged that when transported to Liberia, they should be placed under the charge of the Colonization Society, and in consideration of a sum specified in a contract for that purpose, the Colonization Society is to take care of them for twelve months after they are landed in that country.

But, again, Mr. Chairman, it is not expected that the whole of this sum of money will be absorbed in the payment of expenses already incurred. For several sessions of Congress past a small sum of money has been appropriated for the purpose of enabling the President to carry out the provisions of the act of 1819. I am advised that the appropriation for the current year is already exhausted, and it was deemed expedient by the Committee of Ways and Means to recommend to this House that an additional sum should be appropriated for the purpose of defraying any expense which might arise during the ensuing fiscal year.

The amount of money proposed to be appropriated in this bill, is \$1,001,870. The estimates amounted to \$1,076,870. A reduction has been made in several items, which may be explained as we reach them.

Mr. HICKMAN. I propose, at this time, to make a few remarks upon the subject of the tariff.

Mr. CRAWFORD. Is it the object of the gentleman from Pennsylvania to make a speech touching this bill?

Mr. HICKMAN. No, sir; but I prefer at this time to say what I have to say.

Mr. CRAWFORD. I have no wish to interrupt the gentleman from Pennsylvania, but I desire to know when this bill is to be voted upon? I desire that it shall be voted on when the House is full. If the gentleman from Pennsylvania proceeds now and should occupy half an hour, it will then be time to adjourn. I wish to know if the chairman of the Committee of Ways and Means intends to press this bill to a vote this evening?

Mr. PHELPS, of Missouri. No, sir.

Mr. MARSHALL, of Kentucky. I would like to know whether there has been a rule adopted confining the debate to the bill under consideration, or whether we can speak upon any subject?

The CHAIRMAN. The Chair understands that general debate is in order upon this bill. The gentleman from Pennsylvania is entitled to the floor.

THE TARIFF.

Mr. HICKMAN. Mr. Chairman, when Congress met, in December, 1857, the commercial revulsion of that year was upon the country in its fullest power. The President, in his annual message, described it thus:

"We find our manufactures suspended; our public works retarded; our private enterprises, of different kinds, abandoned, and thousands of useful laborers thrown out of employment and reduced to want."

He spoke, also, of a great reduction of the national revenue, occasioned by a very great reduction of foreign imports. He expected the country and the Government soon to recover from their financial embarrassment; but, not so soon that a balance in the Treasury, of nearly eighteen million dollars, on the previous 1st of July, would outlast the pressure, for he suggested that a loan might be required by the Treasury before the close of the session.

The Secretary of the Treasury had also been made aware of the revulsion, but he spoke more hopefully than the President. The pressure upon the people he treated as temporary, also, and that "the mode of providing for it should be of a temporary character." Authority to issue Treasury notes for an amount not to exceed \$20,000,000, was asked, only to meet a possible, but still temporary deficit in the Treasury. In his own language:

"The fact that such temporary exigency may arise, from circumstances beyond the foresight or control of this Department, makes some adequate provision to meet it indispensable to the public security."

This possible recourse to Treasury notes was a provision of caution, not of fear; for in the same paper he has ciphered out a balance in the Treasury, at the end of the year then running, of near half a million, without recourse to loans or notes; and the fiscal year following the year in which we now are, he then expected to carry through without other help than the ordinary sources of income, with nearly two millions to spare.

The President, in the message referred to, discussed the causes of the revulsion, but he proposed no remedy and no relief for the pressure upon the community; he only recommended relief for the Treasury, and with something more of

forecast than the Secretary advised, that it should take the permanent form of a loan.

The Secretary also discussed the causes, but standing more stiffly upon the policy of international trade, which was charged with responsibility for the great catastrophe, he refused, for reasons without number, to countenance any measure of relief to the people. The Government being one of very limited powers for beneficent uses, according to his construction of the Constitution, and the pressure being of very limited duration, the proper agency of the Government in such a case, he seemed to think, was to lecture the banks, corporations, and the people generally, upon "undue expansions of credit, improvident speculations, habits of extravagance, and fluctuations of prices," with an earnest exhortation to more "prudent courses and steady habits," for the time to come. And the chairman of the Committee of Ways and Means, a sort of second Lord of the Treasury—what he thought of the pressure and the exigency, whether he regarded them as temporary, or as "a peculiar frenzy," does not appear, otherwise than that as he also declined to bring before the House any measure of relief for the one, or supply for the other.

Well, the session of Congress went through, and the financial year rolled round. The Treasury notes were issued. Within a fraction of twenty millions of them were outstanding at its close; and all their avails, and all the ordinary sources of revenue for the year, and all of the \$17,750,000 in the Treasury at its beginning, except \$6,250,000, were exhausted. The exigency had then lasted about nine months, and it had outlasted all the revenue from ordinary sources, amounting to \$46,500,000 and \$31,000,000 besides; paying off, in the mean time, a little less than four million dollars of the public debt. So that the Government went behind, in account of receipts and expenses for the year, no less than \$37,000,000. The Secretary, it seems, missed, in his calculation of the year's expenditures, nearly seven million dollars, and of its income from ordinary sources alone, \$11,000,000; an error in calculation and prophecy working against the Treasury a balance, at the close, of \$17,750,000.

So much for the exigency of the year; and so much for the foresight of the Secretary. Twenty-seven millions of balance against the ordinary revenue of the year, and nearly eighteen millions of mistake in the perspective account of its receipts and expenditures from ordinary sources and for ordinary objects.

How stood the other side of the revulsion—the pressure upon the people of the country—at the end of the year 1857–58? The Secretary has furnished some of the data for another purpose; but they seem as well, and better, to answer this inquiry. The price of pig iron at New York, he says, went down from January, 1857, till January, 1858, nineteen per centum; the decline from April till December, 1857, being twenty-six per centum. The decline in bar iron from January, 1857, to January, 1858, he puts at thirteen per cent. But agricultural products, it appears by his tables, suffered even more, from July 1, 1857, to July 1, 1858. The great staple of the northern, middle, and western States—wheat flour—fell twenty-four per cent.; their hay twenty; and their wool sixteen. The molasses, sugar, rice, and tobacco of the South and Southwest, thirty-four, twenty, thirteen, and twelve, respectively, and hemp thirty-six. All this he ascribes to the revulsion, and rightfully. The force of these figures, and the range of the facts which they indicate, need not be dwelt upon. The average of such a decline of prices in the articles enumerated, in a single year, is greatly more than the ordinary profits upon their production. The loss must have cut deeply into the means of their producers and left them heavily in debt, besides paralyzing the productive power of the time immediately following.

The effects upon the manufacturing industry of eastern Pennsylvania may be stated safely in general terms, to have been the suspension, during the summer of 1858, of one half of the iron works, in number and productive capacity; a general breakdown of the cotton manufacturers of Philadelphia at the time of the crisis, with a depression in every branch of industry, corresponding to its special dependency upon the real causes of the revulsion, and in all of them very great.

But I need not argue the extent or the weight of the pressure of the year against merely imaginary dissentients—and I am sure there are no real ones, who will deny the distress and suffering of the time under consideration. Even the Secretary, I think, does not really intend to undervalue the revulsion by the columns of figures and arguments which he arrays to prove its magnitude, and to account for it in our own country, by showing that it spread over England, and saying, without showing, that it overspread all Europe as well. All that he can mean by his array of data, items, and logic, is to show that it was inevitable, because it is universal, and, therefore, could not be the fault of the tariff of 1857, or of that of 1846, either.

The truth is that the revulsion of 1857 did not overspread the continent of Europe, or affect it further than the continent was commercially involved with Great Britain and the United States. France and Germany lost some of their bills receivable, and a large share of the custom which they had from us in 1856 and the preceding years. Our imports for the fiscal year 1858 fell off no less than \$78,000,000, affording the business of Europe that much less of a market, and not only at reduced prices, but with a change in the merchandise from the most costly of their fabrics to the cheaper and less profitable ones. The official returns of the commerce of France show that since 1845 the balance of trade has been more than five hundred million dollars in her favor, and that the demand for French goods had come from the United States and Australia through the gold discoveries. The British Board of Trade reports, moreover, show that during the first half of the year 1858 the declared value of imports from France was more than seven million pounds sterling; while the declared value of exports to France from the United Kingdom was not more than two million pounds; and that the empire drew in six months from Great Britain \$25,000,000, in gold, received from Australia and the United States.

In the last six years France has expended nearly thirty millions sterling a year in the construction of railroads; she had, also, the burden of the Crimean war to sustain; she had one failure of the silk crop, and two partial failures of her harvest; yet she went lightly through the disastrous year of 1857–58, suffering only what she must suffer by the revulsion of England and the United States.

Of Germany, generally, I cannot now speak from equally certain data; but I am clear that our trade with her for her jewelry, cutlery, and cloth, and the disturbed commercial relations of England, will sufficiently account for all her troubles in the time of which I speak.

Look closely into this history, and I think you will find that the shock of the commercial explosion of 1857–58 spent its chief force where it had its causes—in Great Britain and in her commercial dependencies, which she had well nigh exhausted. A curious problem this for political economists, that the two gold-producing nations should break for want of the metal, while those who must receive it from them were only disturbed in their prosperity to the extent of their commercial involvements with them! The one the only free-trade nation of the Christian world, and the other the nearest approach to it.

But I must leave the year whose fortunes and misfortunes are beyond dispute; and, for the present, I must also leave the dispute about their causes to consider the present year and its prospects. We are told both by the President and Secretary that a better day is coming; the President now, as a year ago, something less sanguine than his minister of finance, thinks that "the effects of the revulsion are slowly, but surely passing away." The Secretary is confident that his long-deferred hope is ripening; that there are signs "of certain and speedy return of prosperous times." He tells us that we have now "a large margin for an increase of importations when the business and necessities of the country shall demand it." His estimates for the remaining quarters of the current year, and for the year 1860, "are based," he says, "upon the opinion that a reaction in the trade and business of the country has commenced." But this may be a fancy; an over-fond hope of the Secretary, springing from that "regret" which he expresses, "that a public necessity requires a revision of the tariff of

1857," a necessity of the Treasury to which he is manifestly reluctant to conform its policy; preferring now, as he did a year ago, Treasury notes to import duties.

He tells us that "there seems to be a concurrence in the public mind upon the subject." This is an illusion. The suspended banks have resumed specie payments, and some of the suspended factories have partially resumed operations. The survivors of the merchant class are at their counters; and the farmers are carrying their produce of the year to market. But what, and how much are they all doing? The banks of New Orleans, in the last week of November, had a circulation of \$7,000,000 on a specie basis; \$14,000,000. Those of the city of New York, \$7,500,000 of circulation upon \$27,000,000 of specie. The banks of Philadelphia less than \$3,000,000 upon a specie basis of \$6,500,000; and Boston \$7,000,000 of circulation to \$9,500,000 of specie. For six years before the crisis, the circulation of the banks of New York was, to their specie, as nineteen to seven; those of Massachusetts as six to one; and those of Pennsylvania more than three to one. This, sir, is indeed a resumption of specie payments, but it is not a resumption of business. It is circulation subsiding upon its solvency.

By the Secretary's own showing, the revival of the farmers' business is at the expense of about one fourth of the price of his commodities, which carries with it an equally large decrease in the demand of the market. The merchants must be doing less business, and less profitably, on a diminished importation, amounting to \$78,000,000, and a general stagnation in home industry and in the movements of money. As to the manufacturers, who are again at work, the explanation is not in the least an assurance of the Secretary's hopes. They suspended in 1857; importation fell off; a large share of the exports went to pay off foreign debts due, and over due; and the sheer necessities of the home demand have given them such a revival or remission of their lethargy, as a fever patient has in the morning after a very bad night. It seems nothing promising to the country, and, least of all, to the Treasury.

But the Secretary gives us figures for his expectations; but such figures as indicate the desperation of his necessities. He has chosen the customs at New York for the months of October and November, 1857—the first and second months after the suspension of the Philadelphia banks, and during which all the banks in the Union suspended—for the basis of a comparison favorable to the corresponding months of the year 1858; the two lowest months of the lowest quarter of the year that put the Treasury \$27,000,000 out of pocket. On such a point of fact rests the expectation that the customs for the second, third, and fourth quarters of the current year will yield the Treasury \$37,000,000.

Now, sir, the Secretary, on the 8th of December, 1857, expected \$33,000,000 from the customs for the corresponding three quarters of last year. They yielded but \$23,250,000. Give him two or three millions of margin to cover the deficiencies of the two months of 1857, which he uses now to hoist his hopes for the rest of this year, and he will get from imports, \$26,000,000; from the public lands and miscellaneous sources, according to his own estimate, \$1,500,000; which, added to the known results of the first quarter, ending September 30, 1858, will give a little less than forty-two and a half millions for the revenue of this year (1859) from ordinary sources. The Secretary's estimate looks for near fifty-three and a half millions. His over-calculation of the revenue expected for the year 1858, amounted to \$11,117,285 exactly. There is nothing in the facts of our present condition to warrant the hope that he has not overgone the receipts of the present year to the same extent.

In December, 1857, he told us that \$20,000,000 of Treasury notes would certainly put him through the year; but, in the June following, he asked a loan of \$20,000,000 more. In December, 1858, he asks for authority to reissue the \$20,000,000 of Treasury notes; and, as before, he is opposed to the policy of making a loan, or, as he says, "adding this amount to the permanent debt by funding the notes." But how this year, any more than in the last, will he work through without more debt? Contemplating the use of that half

of the \$20,000,000 loan, authorized last June, which has not yet been negotiated, the use of the \$20,000,000 of Treasury notes, which he must redeem before he can issue them again, he expects a balance in the Treasury, on July 1, 1859, of \$7,063,298. From this estimated balance, however, it seems that a deficit in the Post Office Department, which will be required in the present fiscal year, though in the statement it is added to that of 1860, amounting to \$3,828,728, must be deducted, leaving the estimated balance in the Treasury, on July 1, 1859, at \$3,234,570. But if the revenue from ordinary sources shall fall \$11,000,000 below the calculations of the Department, it will be bankrupt to the amount of \$8,000,000 at the end of the year, with the loan of June, 1858, all exhausted, and the \$20,000,000 of Treasury notes all reissued and outstanding.

The Secretary will repeat himself upon us; he will be down upon us with an unexpected exigency, temporary but trying, for more money before the session is over. The addition of one per centum to the schedules C, D, F, G, and H, of the present tariff, recommended merely to recover the convenience of decimal divisions and to add \$1,800,000 to the revenue, will not come in time, and would not mend the matter much if it should.

But I must leave the Treasury to its guardian angels, who will, doubtless, find the ways and means of providing for its wants, and give the rest of my hour to pressing concerns of the people; leave what the minister of finance calls the "public necessity," for the necessities of the public.

The condition of the industrial interests of the country cannot be better described in general terms than it was done by the President in his annual message of December, 1857, and repeated in that of 1858. His words are:

"In the midst of unsurpassed plenty in all the productions of agriculture, and in all the elements of national wealth, we find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want."

A year has gone round since this portrait of the country was painted; and while the lines and colors have settled and softened, they remain as deep and as dismal as at the first; and we are now obliged to add some other features which must be put upon the canvas to make the picture a faithful and complete likeness for to-day. The national Treasury has gone, virtually, \$40,000,000 in debt; the country has discovered that it owes \$500,000,000 abroad; that during one year of this revulsion \$42,000,000 of her products have been sunk in the payment of the interest on that foreign debt, and such balances as stood due against her in her international trade; that, in the seven years preceding the crash, she had been exporting an average of \$38,000,000 of her specie per annum, to pay the balance of her exchanges of commodities and interest upon permanent debts; that while a surplus of exports over imports, in the year 1847, amounting to only \$12,000,000 at *ad valorem* valuations, brought her \$22,000,000 of specie as a balance of the exchange, a surplus of exports over imports, in 1855, under the like valuations, reaching to \$42,000,000, cost her the loss of \$33,000,000 of her gold; and that the protection of the tariff in operation stands at an average of twenty and a half per cent.; within a half per cent. of that of the year 1842, with all the distresses of that year repeated, and even less hope of remedy. In that year of level twenty per cent. import duties, they yielded \$18,000,000 of revenue against \$33,000,000 of expenditure; and the loan and Treasury notes amounted to \$15,000,000 nearly.

The rehearsal of the experiences of that year is a copy in large of the pattern. We have \$42,000,000 from customs, which ought to be reduced to \$37,000,000, at least, for the additions received from the warehoused goods and importations held back to profit by the reduced duties of 1857, against an expenditure of \$81,000,000, and a Treasury-note issue of \$20,000,000 on the top of a surplus in the Treasury, expended within the year, of above \$11,000,000.

Then, as now, an *ad valorem* tariff of twenty per cent., born of similar notions, and brought about by a similar clamor, was found to be not only destructive to the industrial interests of the country, but so ruinous to the revenue, that, as the Secretary says of the present exigency, "the imposition of additional duties was the only rem-

edy." It might have been said then, that the compromise act of 1833 could not have had any agency in producing the result. And the Secretary, if he had been in office then, might have demonstrated his assertion by the nation's prosperity in 1835-36 under that act; and he might have found the whole mischief in the banking system, its inflated prices, currency, and credits. I leave him to worry this idea through whole pages of his report, content with his substantial admission that "the imposition of additional duties is the only remedy" for the derangement of our finances. That granted, the addition must, of course, be made adequate. Beyond the requirements of the Government, there is no constitutional authority, and no prudential warranty to go, in the levying of taxes or duties upon the people, or upon any of the subjects of revenue.

The causes, whatever they were, which have embarrassed the Treasury, are the same which have overwhelmed the country. But it must not be forgotten that, in the order of dependency, the revulsion falls first upon the people, and next, as a consequence of their inability to purchase and consume foreign imports, the revenue runs down to the point of bankruptcy. The President perceives the order of succession in these disorders, and states it clearly. He says:

"The same causes which have produced pecuniary distress throughout the country, have so reduced the amount of imports from foreign countries that the revenue has proved inadequate to meet the necessary expenses of the Government."

This sentence has something in it; something of common sense, something of statesmanship in it; and just here, therefore, and for this reason, he and his Secretary part company in their recommendations to Congress. Each of these high officers, with a degree of comity not usually observed between belligerents, seems willing, in his State paper, to allow the Administration to remain as a house divided against itself. It is fortunate that neither of the peers makes his opinions on this subject a test of political orthodoxy, or the other might find himself among the proscribed.

The Secretary lays down certain "theoretic principles on which a tariff act should be framed," to provide "the only remedy;" which, so far from recognizing the dependency of the revenue upon the industrial prosperity of the country, brings him to regret the necessity of looking to it, and to complain, too, that we have never yet had such a tariff as his principles require.

Sir, we have had, since 1789, sixteen general tariffs; and as the compromise act divided itself into six more, we have had, in effect, about twenty-two in seventy years. None of these, it seems, not even the last modification of the compromise, which lasted but two months, answers the "theoretic principles" of the Secretary. Their mistake was, that they all had something of protection in them. They all felt and addressed themselves to the necessity of keeping the people able to pay money into the Treasury; and herein, it seems, they were at fault. The author of the "theoretic principles" is aware that "the early legislation of the country contemplated other objects," other than he aims at, "such as fostering our then infant manufactures," and that "Congress has never since abandoned the idea of protection." But he would have, if the public necessities would only allow it, "a tariff strictly for revenue."

Unfortunately for the principles of the Secretary, but fortunately for the interests of the country, there never can be, in a nation of mixed agricultural and manufacturing capabilities and pursuits struggling for a better development, as we are, such a thing as a tariff strictly for revenue, which is not still more strictly for protection. A sheriff's execution can be levied upon the property of the defendant without regard to his income, for his bankruptcy is not inconsistent with its object; but the finances of a nation depend upon the prosperity of its subjects, and a financier must not hope to reap where he has not sown. Protection lies at the bottom of revenue. Customs depend upon imports; importation upon home industry, home productiveness, home prosperity, the ability to buy. The foundation must be well laid, or the structure will tumble. The President and the rest of the world, that knows anything, know this, both theoretically and by the most conclusive experience. The "theoretic principles" of the Secretary alone are ignorant of its truth.

This difference of doctrine accounts for all the

differences that there is between the policy suggested by the President and that of his minister. The President would increase the present rate of duties, for several purposes, all of them excellent and necessary. He would do it to meet our annual expenditures; to avoid an increase of our national debt; to preserve our national credit; to afford incidental protection to our manufacturing interests, and to give a fresh impulse to our reviving business. Of these aims, the last mentioned is the one which, if secured, will bring the rest to the happiest issue. It is the source and the primary condition to all the others; for, as it is well said in the message:

"Capital has again accumulated in our large cities. The rate of interest there is very low; and so soon as it is discovered that this capital can be profitably employed in commercial and manufacturing enterprises, and in the construction of railroads and other works of public and private improvements, prosperity will again smile throughout the land."

There spoke the statesman of a better day. And were there nothing else left of him, these boldly frank and honestly maintained principles might justify the confidence we gave to him in so large a measure in 1856. And if these are to be the last words of commendation I shall ever find cause to utter, I will not withhold them. Let the Chief Magistrate only stand by the pledges he keeps, as persistently, through good report and evil report, as he has warred against those which he has broken, and the nation will keep the credit account of his Administration as fairly and as distinctly as it has posted up its charges against him.

But a principle of business, a law of public affairs, must be fitted with a policy to give it operative efficiency. Here, again, the President is safe for practice, as he is sound in sentiment. In assessing and collecting the duties, he recommends the substitution of specific, for the present *ad valorem* duties, wherever they can be properly applied. He gives his reasons. They are: first, because specific duties are "the best, if not the only means of securing the revenue against false and fraudulent invoices;" adding, that "such has been the practice adopted for this purpose by other commercial nations." Second, "specific duties would afford the American manufacturer the incidental advantages to which he is fairly entitled under a revenue tariff." This reason for their preference, he follows with an effective and well-put blow at *ad valorem*s:

"The present system is a sliding-scale to the manufacturer's disadvantage. Under it, when prices are high and business prosperous, the duties rise in amount when he least requires their aid. On the contrary, when prices fall, and he is struggling against adversity, the duties are diminished in the same proportion, greatly to his injury."

Heartily indorsing these views, allow me to add certain other reasons for adopting specific duties wherever they can be applied; reasons which concern the revenue, as well as the industrial interests of the people.

First, for the revenue. They simplify its collection. Duties assessed upon the pound, the yard, the number, are alike simple and certain to the officers of the customs. It becomes a question of the simplest arithmetic, in place of one of the most complex and difficult assessment. They are better for revenue. A committee of the House of Commons, appointed in 1852, to inquire into the constitution and management of the board of customs, reported that "conclusive evidence has been furnished, both by merchants and officers of customs, to your committee, that *ad valorem* duties, however good in theory, operate badly in practice. The gross amount of them, in 1850, was only £188,833, while during the same period the number of seizures was four hundred and twenty-one." And in this connection the committee speak of "the great difficulty of assessing duties varying on different classes of the same article, because the natural desire of the importer is to introduce articles of the very highest quality under the lowest rate of duty."

The extent to which Great Britain has carried the system of specific duties, as against that of *ad valorem*s, is their testimony to their superiority for the purposes of revenue, strictly regarded. The gross amount of the customs of the United Kingdom for the year 1851, was £22,194,142. The share of the *ad valorem*s was £188,833 only; while more than twenty-two million pounds were collected under specific duties. The tariff of Great Britain is not what the Secretary would call pro-

tective; it has not that radical use in its constitution, yet, it levies £117 of specific duties to one of *ad valorem*. Great Britain has need of revenues, and takes the best way of securing them; a like necessity seems to be fast coming upon our own Government; and I commend her example to our free traders, who look to the Treasury only to find their duty to the country and their duties from imports. Again, the chief uncertainty in the estimates of revenue arises from the fluctuation of the prices of imports. Our customs have varied in a single year, from thirty-nine to forty-nine millions, from sixty-four to fifty-three millions, and from forty-seven to fifty-eight millions, under the same tariff, when there was no revulsion at work; because iron has fallen within the year, from £8 10s. to £4 15s.; at the higher price yielding \$12 83 duty per ton, and at the lower but \$7 25.

The quantity imported is a much less unstable subject for calculation than the price; and a fiscal officer ought to look to the difference between specific duties, which can be affected only by quantity of imports, and *ad valorem*s, which are subject to incalculable variations by both these chances.

Enormous deficits, and equally enormous surpluses, in the Treasury, are the reproach, as well as the mischief, of our system. Specific duties are a specific remedy for these evils. The Secretary has not ventured directly, or, to send home one of his own phrases, "in a bold and manly way," to attack this recommendation of the President, for which he may have had two reasons: one a point of decorum; the other an apprehension of defeat. I will not say which decided him, but I may say that he has the advantage of both the decency and the dodge.

Under cover of an assault upon home valuations, which specific duties would dispense with, he labors to disprove the alleged frauds, false invoices and under-valuations, charged by his superior against *ad valorem*s. He says that the proof of under-valuations is made to rest upon such facts as the excess of the valuation of our exports over that of our imports in the last three years. Now, as far as I am informed, nobody ever looked there for the proof, except the man who wished to refute the allegation. The proof rests upon such evidence as would establish it in a court of justice; upon such facts, for instance, as that quoted from the report of the committee of the House of Commons, that there were four hundred and twenty-one seizures for under-valuation in a quantity of imports which paid but £188,833 customs for the year 1852—one seizure to every £450 of revenue; and it rests pretty safely, besides, upon that "natural desire of importers to introduce articles of the highest quality under the lowest rate of duty," which has made custom-house oaths a byword ever since *ad valorem*s have been in vogue.

The Secretary had a better reason at the end of his pen for the difference between our exports and imports during the last three years when he stated, along with other things of no moment, that "the payment by our citizens of their debts in Europe, which for two years past has been largely done, affected the comparative amounts of exports and imports." He tells us that the imports of ten years, under the tariff of 1846, greatly exceeded the exports, as if that disproved under-valuation; not adverting to the fact that, during those ten years, we were piling up these debts, of which the surplus exports of the last two or three years were paying the interest; and that, as we borrowed goods and merchandise instead of money, the excess in valuation is accounted for without, in the least degree, helping him in his argument. On the contrary, if he will set off those excess imports against that debt, he will find that the charge of under-valuation is abundantly sustained.

He quotes the four years of the tariff of 1842—a tariff largely mixed with specific duties—to show that an excess of exports may occur where there is less chance for under-valuations. My answer is, that an excess of exports may occur under any tariff, when the country is either paying its foreign debts, or doing a thriving business, with the balance of trade in its favor. He does not meet either of these possible and, under the circumstances, very probable causes; for the one may have operated at the beginning of the term, and the other at the close.

The Secretary has not vindicated the *ad valorem*s successfully against the charge of fraud; nor has he done that other thing at which he indirectly aimed; he has not floored the President on the charge, nor struck specific duties through the home valuations, set up as their proxy for the nonce. And he has not argued either well or successfully for the interests of the Treasury, or for a tariff strictly and most available for revenue, either.

It is all right, sir, I suppose, that the revenue shall not escape the frauds and losses of a system which inflicts them in still greater measure upon the country.

Let us look for a moment at some of the mischief to the industry and welfare of the people under *ad valorem*s, which the President has not adverted to.

Besides the injury to the manufacturers, which their sliding-scale operation produces, giving him protection when he does not want it, and withholding it when he does want it, the system tends to his prejudice, by favoring the introduction of inferior qualities of goods, which specific duties would prevent. For when the same rate per pound, per yard, or per dozen, falls upon a class of articles, the best of the kind bear it best, and most lightly, to the importers; because it is a less proportion of their market value.

Let me give a fairly illustrative instance: railroad engineers put the wear and tear of foreign iron at ten per cent. per annum, and among their expenses they calculate and set apart this amount for renewals; but an authenticated statement in my possession shows that the rails manufactured in eastern Pennsylvania, and used in the construction of the Pennsylvania Central road, have worn only one per cent. per annum, in a period of six years.

The manufacturer is injured, almost thrown out of a market glutted with merchandise of inferior quality, thus favored by low cost and ratably low duties; and the purchaser, tempted by low prices, suffers more than he knows, and long before he has the means of knowing it.

This law of trade, resulting in a policy of depravity and ruin, rules throughout the subjects of *ad valorem* duties, and it must do so from the nature of things.

I plead for specific duties as I would plead for honest dealing and good merchandise, in behalf of the consumer. And for the manufacturers of the country, I make bold here to say that, if you will but protect our market from the trash thrown upon it; if you will compel the foreigner to send his best materials and best work to our shores, any tariff, however low, which will meet the necessities of the Treasury, will content them. If England will send her best iron and her best cutlery to us, Pennsylvania will drive them from the continent.

Of our textile fabrics I am not prepared to-day to speak from equally well authenticated data; but I dare to speak for them as confidently; and I would not speak less earnestly.

In all things that may make a nation industrially independent of foreign labor, our own country is richly endowed, and is ready, with willing hands and stout hearts, to achieve it, as our fathers achieved our political independence, if we will but afford her a reasonable opportunity to do so.

One of these days you may have your commerce swept from the seas. Then you will have your blankets and broadcloths at war prices, as in 1812. The silks and laces and toys we can spare. The cottons and iron we will soon produce under such an embargo as a maritime war would give them; but the woollens, both in material and in fabrics, were long ago extinguished by a wretched mistake of the tariff of 1846 with respect to them; and it is full time now to begin to build them up.

Of the "theoretic principles" which the Secretary submits as the true basis for constructing a new revenue tariff, and for revising an old one, I have not the time now to speak as they deserve to be spoken of; it is enough to say of them that their rage for the destruction of our manufactures is not greater than their mischievous malignity toward our agriculture. They propose to tax, in preference to others, such articles as are not produced in this country; and among articles produced here, those in which the home product bears the least proportion to the quantity imported are held to be "the fittest for taxation."

Under these rules, tea, coffee, and guano, must be taken out of the free list, and saddled with a heavy burden of duty; sugar, now protected by a twenty-four per cent. duty, and rice, which stands at fifteen, must be cut down to something like port charges; and beef, potatoes, wheat, wheat flour, butter, pork, lard, unmanufactured hemp, and unmanufactured tobacco, now standing in our tariff at the highest rates, must be surrendered to their fate, without defense, because they are the largest interest of our farmers, and most nearly adequate, under the existing protection, to supply our domestic market.

The coarse wool of South America, not grown in our climate, would also be taxed, like the guano, at the highest rates; while the finer wool, which we do raise, would be proportionally sacrificed. The same principle puts the dye stuffs used in manufacturing up to the highest mark of taxation. And so the farmer would find no home market for his wool at the factory, but must meet the competing foreign article at the fireside.

It seems to me, sir, that neither North nor South will endure this doctrine. But as it is not offered for practice now, I leave it. The Secretary and I are both compelled, by our respective exigencies, to drop it for the present.

I have but one word to say to the Secretary's defense of the tariff of 1857, from the charge of an agency in producing the revulsion of that year. It had not time to operate, he thinks, between June and October; but if confidence has so much to do in reviving business now, as he supposes, (and I agree with him that it has,) the destruction of confidence might very well have had a large agency in deranging and suspending it in the three months which that act stood threatening the destruction which sooner or later must have followed its practical operation.

His proposal to tinker it with a single per cent. addition to some of its schedules, and the transfer of some of its articles to the higher list, does not require to be tested. Such a tariff, so amended, has been tested and condemned every time that a better one has failed. The Secretary has shown distinguished consideration and respect for the iron interest, which I may be understood by some to represent here, and therefore deserves some worthy acknowledgments from me. This, however, is a misapprehension of my position. I speak not principally, much less exclusively, for the capitalist and the manufacturer. I do not believe that these interests suffer alone, or most, by revulsions; the agriculturist loses early and largely by the sinking fortunes of the largest class of his consumers, and I would therefore shield him from insolvency and ruin.

The foreign trade in his breadstuffs and provisions is to him, at this day, the merest delusion and the source of his greatest sacrifices. It is capable of close proof, that the men who would manufacture the iron, alone, which we import, with their families and dependencies, would at home consume every dollar's worth that the farmer now sends abroad; and if our policy would but open the market here, which the production of all we use of cotton and woolen fabrics would afford, the tillers of the field would get from them a tenfold larger market than all the outside world will ever open to them. Foreign trade, generally, to our farmers, certainly regarded as a measure of prosperity, is a mere prejudice which we derive from that little dot of an island over the water, whose geographical insignificance can be relieved only by making herself "the workshop of the world, and her people a nation of shopkeepers." Our industrial vassalage to Great Britain must continue till we change our opinions and our practices from English to American.

But there is a more formidable, if not a more tenable, ground of opposition to such a tariff as we ask for, than I have been considering. The non-manufacturing States complain that the burden of import duties falls unequally upon them. Allowing the terms "burden" and "tax" to be applied to duties without comment, I have this to say to the South: in the first place, the planting States are obliged, and I trust they are willing, also, to bear their due share of the burdens of the Government. When the public debt, due at the close of the late war with Great Britain, was to be provided for, they were as forward and as zealous as Pennsylvania in levying the revenue upon those commodities whose home production would be

thereby fostered. There was something of a pledge, fairly implied in this act, that they would not afterwards destroy the interests which they then encouraged. But at what expense to themselves did they then foster, and since sustain, the policy of protection? Taking the relative proportion of the populations in the North and South, and their different characters as consumers of foreign imports, the South has not borne one third of the imposts which have, up to this day, paid our debts and current expenses. In the year 1832 or 1833, Mr. Clay, in the Senate, told Mr. Calhoun that the South had not borne more than one half of its fair proportion of these burdens, in the shape of import duties.

But suppose the staple States to have paid their proportion of them: have they not had ample compensation in cash saved to them by the operation of that provision of the Constitution which forbids the imposition of export duties? In the convention which framed the Constitution, the members from South Carolina and Virginia resisted export duties, expressly on the ground that they were the exporters of the Confederacy, and their industry, though the proper subject of that taxation, would be unequally burdened. Mr. Mason, of Virginia, hoped the northern States did not mean to deny to the southern this exemption; he said it would thereafter be as desirable to the North as to the South.

But this prediction has not been fulfilled. The exports for ten years previous to July 1, 1856, were, of cotton and tobacco, \$973,500,000; add to this one third of the agricultural and one third of the forest exports, and you have for the South \$1,247,500,000 of exports. The North, posting to her account all the exports of manufactures, two thirds of the agricultural, two thirds of the forest, and all of the sea exports, amounts to only \$579,000,000—\$100,000,000 less than the half. On all this difference of exports, near seven hundred million dollars' worth of domestic products, the South, by the operation of the prohibitory clause in the Constitution, has had exemption from export duties. Is there not in this ample compensation for all the difference she paid during the same ten years upon the foreign products she consumed under import duties? This, it seems to me, is an equitable and adequate set-off, in conscience and in justice, that should rule the affairs of the Union.

Here, then, we find a compensation of trade to warrant the claim we urge upon our sister States; and we might rest it here, but there is even higher ground than the justice it finds for insisting upon the pledges of 1816, and the fair balance of the account of burdens and benefits under the system essential to the life and growth of the North. That ground is the harmony of interests necessarily subsisting between all the departments of industry in a community of States. It is apparent that a well-balanced relation of inter-dependency holds between the manufacturing and agricultural welfare of the nation. It is apparent, also, that these are closely and effectively adjusted to the requirements of the national finances. Here the true interests of the planter, the navigator, and the merchant, are as deeply involved as those of the farmer and the artisan. And there is, over and above all, something to be expected from the spirit of patriotism—something that will not be refused to the claims of brotherhood.

Mr. KEITT obtained the floor, but yielded it to Mr. REAGAN, who moved that the committee rise.

Mr. DAVIS, of Mississippi. I understand that a resolution was adopted yesterday morning that we are to have evening sessions.

The CHAIRMAN. It is optional with the committee.

Mr. DAVIS, of Mississippi. Then I move that the committee take a recess until seven o'clock this evening.

The CHAIRMAN. The question will be first upon the motion to rise.

Mr. KEITT. I yield for that motion only, and not for a motion to take a recess.

The question was taken on Mr. REAGAN's motion; and it was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly

the annual message of the President of the United States, and had come to no resolution thereon. Also, that the committee had had under consideration a bill (H. R. No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1860, and had come to no resolution thereon.

And then, on motion of Mr. JONES, of Tennessee, (at four o'clock and forty minutes, p. m.) the House adjourned until to-morrow.

IN SENATE.

WEDNESDAY, January 19, 1859.

Mr. BRIGHT rose, at twelve minutes past twelve o'clock, the Vice President not having appeared, which his usual remarkable promptitude rendered noticeable, and said: Mr. Secretary, in the absence of the Vice President, I believe it is usual for the President *pro tempore* to take the chair. It is now the usual time of meeting, and I move that the Senator from Alabama, [Mr. FITZPATRICK,] the President *pro tempore* of the Senate, take the chair.

Mr. HAMLIN. Not without an election; it must be by vote of the Senate.

Mr. GWIN. I do not think the Senator from Alabama is President *pro tempore* of the Senate. He has not been elected this session.

Mr. BRIGHT. Well, I move that the Senator from Alabama take the chair.

The SECRETARY. Senators, it is moved and seconded that Mr. FITZPATRICK take the chair in the absence of the Vice President.

The motion was agreed to; and Mr. FITZPATRICK took the chair, and called the Senate to order.

The Journal of yesterday was read and approved.

Mr. DOOLITTLE subsequently rose and said: Mr. President, I desire to ask leave of the Senate to say a single word, by way of apology, which I owe to the President of the Senate, the Vice President of the United States. I was requested by the Vice President to inform the Senate, at the hour of meeting, that he was indisposed. I was engaged in the Supreme Court, supposing I should certainly be disengaged before the hour of twelve should arrive; but I was detained a few minutes beyond that time. I state this by way of an apology, which I owe to him.

PETITIONS AND MEMORIALS.

Mr. STUART presented the petition of A. Edwards, late register of the land office, at Kalamazoo, Michigan, for the reimbursement of money paid by him for extra clerk hire; which was referred to the Committee on Public Lands.

Mr. FOSTER presented a petition of citizens of New York and New Jersey for the passage of a law to prevent all further traffic in, and monopoly of the public lands of the United States, and that they be laid out in farms of limited size, for the free and exclusive use of actual settlers; which was laid on the table.

Mr. GWIN presented the memorial of Francis Aethmann, praying the return of tonnage and light duties illegally exacted and paid by him on Peruvian, Danish, and German vessels; which was referred to the Committee on Claims.

Mr. SEWARD presented the petition of citizens of New York, for the passage of a law to prevent all further traffic in and monopoly of the public lands of the United States; and that they be laid out in farms and lots of limited size for the free and exclusive use of actual settlers only; which was laid on the table.

Mr. SEWARD. I submit the proceedings and resolutions of a meeting of the veterans of the war of 1812, in the city of New York, which was very largely attended, in which very strong and urgent expressions are given of their sentiments in favor of the passage of the pension bill, for the relief of the officers and soldiers of the war of 1812, which has been passed by the House of Representatives, and is now before the Senate for its action. I ask that they be referred to the Committee on Pensions.

They were so referred.

Mr. IVERSON presented the memorial of Frances Steeley, a widow, and formerly the widow of David Delk, a soldier in the Creek war, who was killed in battle, for a pension; which was referred to the Committee on Pensions.

Mr. PUGH presented the petition of D. Davis,

for compensation for extra services as a watchman in the office of the Commissioner of Indian Affairs; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That George W. Torrence have leave to withdraw his petition and papers.

On motion of Mr. GWIN, it was

Ordered, That leave be granted to withdraw the petition of citizens of California, presented January 19, 1858, and the petition of citizens of California, presented April 27, 1858, and the accompanying papers, relating to the Indian war debt of that State.

On motion of Mr. SHIELDS, it was

Ordered, That the heirs of Sylvester Day have leave to withdraw their memorial and papers.

REPORTS OF COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to whom was referred the report of the Secretary of the Treasury, communicating a plan and estimates for reorganizing the collection districts, and the appointment and compensation of collectors of the revenue, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 492) to amend "an act for the punishment of crimes in the District of Columbia," approved March 2, 1831, reported it without amendment.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred a petition of business men of the northwestern lakes, praying that an appropriation may be made to ascertain whether Professor Ballot's rule, by which the approach of storms may be foretold, is applicable to the lakes, presented May 6, 1858, and a petition of the same, presented May 18, 1858, asked to be discharged from their further consideration, and that they be referred to the Committee on Commerce; which was agreed to.

Mr. MALLORY, from the Committee on Claims, to whom was referred the memorial of William C. Pease, a captain in the United States revenue service, praying to be reimbursed an amount of public money lost by him while on deposit in bank, and which he has been compelled to pay out of his private funds, submitted a report, accompanied by a bill (S. No. 516) for the relief of William C. Pease. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SEBASTIAN. The Committee on Indian Affairs, to whom was referred the memorial of George Eitelmann, praying relief on account of injuries received while employed as a laborer at the Sioux agency, and asking for a pension, have instructed me to make an adverse report. The papers, I think, constitute an equitable claim upon the Indian Office for a small sum; and, with that view, I move to refer the papers to the Secretary of the Interior.

The motion was agreed to.

Mr. SEBASTIAN. The same committee have instructed me to report back the letter from the Second Auditor, containing a large amount of information respecting the Indian disbursements, with a report in favor of printing the document. The committee could scarcely, under the circumstances, as this communication is required by law, make any other report than in favor of the printing. Still, I think it is a matter of questionable utility. I will make the report, and allow it to lie on the table. I shall not call it up, unless some Senator is anxious for the printing of the document.

The report was laid on the table.

Mr. GREEN, from the Committee on the Judiciary, to whom was referred the petition of John Dickson, assignee of Hugh Glenn, asked that that committee be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

BILL INTRODUCED.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 517) regulating the times and places of holding the courts and reorganizing the divisions of the district of the United States Court, for the district of Iowa, and for other purposes; which was read twice by

its title, and referred to the Committee on the Judiciary.

POST ROADS IN MINNESOTA.

Mr. SHIELDS. I submit the following resolution, and ask for its present consideration.

Resolved, That the Committee on the Post Office and Post Roads, be instructed to inquire into the expediency of establishing a weekly mail from Fort Dodge, Iowa, to Jackson, in Minnesota; and a semi-weekly mail from Jackson, Minnesota, to Sioux Falls, in Dakota Territory; and a semi-monthly mail from New Ulm, in Minnesota, to Jackson, in Minnesota.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COLLAMER. Mr. President, I do not know that I distinctly understand the object of the Senator in this resolution. Congress have power to establish post roads, but we never exercise the power to establish a mail from day to day, and from week to week. Such a thing is unprecedented. That lies entirely with the Department. I object to the resolution unless it is explained or amended.

Mr. SHIELDS. It is merely a resolution of inquiry, which will go to the Committee on the Post Office and Post Roads. I have offered the resolution, in conformity with a petition which has been presented to me. I admit that the honorable Senator is correct in his objection to a portion of it, but the Committee on the Post Office and Post Roads will understand that.

Mr. COLLAMER. As I look upon it, it is not a proper resolution to be referred to that committee. It is a subject which should be presented to the Postmaster General. We have invested him with that power, and it belongs to him, and not to us.

Mr. SHIELDS. I will make it satisfactory, I trust, to the honorable Senator, by striking out all that relates to a daily mail, and retaining only so much as relates to the establishment of roads.

Mr. COLLAMER. If it be amended as the Senator suggests, I shall not object to it.

The resolution was amended, and adopted, as follows:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Fort Dodge, Iowa, to Jackson, in Minnesota; and a post route from Jackson, Minnesota, to Sioux Falls, in Dakota Territory; and a post route from New Ulm, in Minnesota, to Jackson, in Minnesota.

WIDOW OF GENERAL RILEY.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be requested to inquire into the propriety of reporting in favor of allowing Arabella Riley, widow of the late General Bennet Riley, the same pension which has been allowed to the widows of other general officers who died in actual service under similar circumstances.

COMPILATION OF MILITARY LAWS.

Mr. SHIELDS submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate procure for the use of the Senate, its officers and committees, as many copies as may be necessary of Callan's Compilation of the United States Military Laws from 1776 to 1858.

POST ROUTES IN MICHIGAN.

Mr. STUART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing a mail route from Niles, in the State of Michigan, through Ripstone and Bainbridge, to Watervliet, in the same State; and also from Buchanan, in the State of Michigan, through Weesaw Lake and Royalltown townships, to Saint Joseph, in said State.

EXPORTS TO CUBA.

Mr. PUGH. I offer the following resolution; and if there be no objection, I hope the Senate will consider it now:

Resolved, That the Secretary of the Treasury be requested to furnish the Senate a description of all articles exported to the Island of Cuba from the several ports of the United States, for the last five years, specifying the estimated value of such articles, together with a description and estimate of the articles imported into the United States at the several ports from that island.

There being no objection, the Senate proceeded to consider the resolution.

Mr. POLK. I do not know that such a thing is practicable, but if it is, I suggest to the mover

of the resolution to amend it so that it shall show not merely the aggregate, but the yearly amount of the exports and imports.

Mr. PUGH. The idea was that the Secretary would give us not only the tables of each year, but the various ports of exportation and importation.

Mr. POLK. I think the resolution does not make that obligatory. I move to insert the words "for each year," before the fifth line.

Mr. PUGH. I accept the amendment.

Mr. COLLAMER. I desire to substitute the word "list" for "description." We do not want the designation of the articles, but a list of them.

Mr. PUGH. I want to know what the articles are. I do not want a mere statement of the value in amount, but a designation of the manufactured articles.

Mr. COLLAMER. A list of the articles would give that.

Mr. PUGH. I have no objection to the use of that word.

The PRESIDENT *pro tempore*. Does the Senator accept the amendment?

Mr. PUGH. Yes, sir; I accept it.

The resolution, as modified, was adopted, as follows:

Resolved, That the Secretary of the Treasury be requested to furnish the Senate a list of all articles exported to the Island of Cuba, from the several ports of the United States, for each year for the last five years, specifying the estimated value of such articles, together with a list and estimate of the articles imported into the United States, at the several ports, from that island.

HENRY R. SCHOOLCRAFT.

Mr. SEBASTIAN. I ask the unanimous consent of the Senate—an indulgence that I do not often appeal to—to enable me to move to take up and consider the bill (S. No. 443) for the relief of Henry R. Schoolcraft. I suppose it will lead to no discussion.

Mr. COLLAMER objected at that particular stage of business, and the motion was not considered.

COURT-HOUSE AT RUTLAND.

Mr. COLLAMER. I am directed by the committee, to whom was referred a joint resolution, (S. No. 63), to report it back to the Senate, together with a communication of the Secretary of the Treasury in regard to it, and recommend its passage. It is a joint resolution concerning merely an exchange of some part of a lot of land on which the United States court-house stands in Rutland, Vermont. It is entirely a local matter of no general interest, which I wish may be put upon its passage at this time. Among the papers is a communication from the Secretary of the Treasury in regard to it, approving of it; and as it is a mere matter of form, I desire to have it put upon its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 63) authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States court-house stands in Rutland, Vermont, in exchange for other land adjoining said lot. It empowers the Secretary of the Treasury to convey to John B. Page, of Rutland, so much from the east side of the lot of land on which the United States court-house and post office in Rutland stand as in his opinion will not be required for the use of the Government, in exchange for other land of equal area on the north side adjoining the Government lot, without cost to the Government, and to give and receive deeds to and from John B. Page for the land so given and received in exchange.

Mr. CLAY. I did not observe who offered the resolution; but I would suggest that it should go to the Committee on Commerce. It seems to me that it is proper it should be acted on by some committee.

Mr. COLLAMER. The resolution has been considered by the Judiciary Committee. They communicated with the Secretary of the Treasury in regard to it, and there is a letter among the papers from him, in which he says it ought to be done, and he is ready to do it.

Mr. CLAY. Then I have no objection to it.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RESTORATION OF NAVAL OFFICERS.

On motion of Mr. HALE, the joint resolution (S. No. 71) authorizing the President to restore certain officers of the Navy to their former places, was read a second time, and referred to the Committee on Naval Affairs.

INVALID PENSION APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the invalid pension bill. It has been before the Senate for several days. I have been waiting for other business to be disposed of that I might have an opportunity to call it up; but as there is no likelihood of that, I feel constrained to make an effort to get up the bill for consideration this morning.

Mr. BENJAMIN. We are not yet through with reports from standing committees.

Mr. HUNTER. If the Senator insists on my giving way for reports, the effect will be that this bill will be crowded out by the special order which comes up at one o'clock. I want to try the sense of the Senate on taking up the bill before that comes up, if he will allow me to do so.

Mr. BENJAMIN. I yield to the Senator.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 662) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th June, 1860, which was reported from the Committee on Finance, with amendments.

The first amendment of the Committee on Finance was to strike out "forty" in the twelfth line, and to insert "sixteen;" so that the clause will read:

For pensions under the acts of the 18th March, 1818, 15th May, 1833, and 7th June, 1832, \$16,000.

The amendment was agreed to.

The next amendment of the Committee on Finance was to insert the following as new sections:

Sec. 2. *And be it further enacted*, That from and after the 1st day of July, 1859, the present agencies for the payment of pensions be, and the same are hereby, abolished, and the duties heretofore performed by the agents shall be discharged by the officers named in the sixth section of the act entitled "An act to provide for the organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August 6, 1846, and in the manner prescribed by that act: *Provided, however*, That said officers shall not be allowed any additional compensation for the discharge of the duties imposed on them by the said sixth section of the act aforesaid as herein prescribed.

Sec. 3. *And be it further enacted*, That in all cases of application for the payment of pensions to invalids under the several laws of Congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility as such shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such disability at the time of making the affidavit, shall accompany the application of the first payment, which shall fall due upon a day in the fiscal year for which provision is made herein, to be declared by the Secretary of the Interior, and at the end of every two years thereafter; and if, in a case of continued disability, it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment.

Mr. HUNTER. The amendments to this bill are substantially contained in the last two sections. The first of these sections proposes that we shall enforce the sixth section of the Sub-Treasury law, and require the persons therein named to pay these pensions without additional compensation. Of course, that has made it necessary to move an amendment reducing the amount some twenty-four thousand dollars. The second section revives the old law of 1819.

Mr. PUGH. Before the Senator proceeds to explain that section, I hope he will allow me to ask him what officers those are?

Mr. HUNTER. I will answer the gentleman presently. The second section renews the old law of 1819, which required the biennial examination of invalid pensioners, in order to protect the Government from fraud.

To answer the inquiry of the Senator from Ohio, and show what officers those are, I will ask that the sixth section of the Sub-Treasury law be read.

The Secretary read it, as follows:

"Sec. 6. *And be it further enacted*, That the Treasurer of the United States, the treasurer of the Mint of the United

States, the treasurers, and those acting as such, of the various branch mints, all collectors of the customs, all surveyors of the customs acting also as collectors, all assistant treasurers, all receivers of public moneys at the several land offices, all postmasters, and all public officers of whatsoever character, be, and they are hereby, required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as allowed by this act, all the public moneys collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered by the proper Department or officer of the Government to be transferred and paid out; and when such orders for transfer or payment are received, faithfully and promptly to make the same as directed, and to do and perform all other duties as fiscal agents of the Government which may be imposed by this or any other acts of Congress, or by any regulation of the Treasury Department made in conformity to law; and also to do and perform all acts and duties required by law, or by direction of any of the Executive Departments of the Government, as agents for paying pensions, or for making any other disbursements which either of the heads of those Departments may be required by law to make, and which are of a character to be made by the depositaries hereby constituted, consistently with the other official duties imposed upon them."

Mr. HUNTER. In regard to the second amendment, I would ask that the law of 1819, which it is proposed to renew, be read. I will state that that is an amendment which has long been sought for by the Interior Department, to protect the pension system against frauds. I recollect—indeed, I have his letter now—that the former Secretary of the Interior, Mr. McClelland, pressed it very warmly. I believe the recommendation has been renewed by the present Commissioner of Pensions. I ask the Secretary to read the law of 1819, which it is proposed to renew.

The Secretary read it, as follows:

"An act regulating the payments to invalid pensioners.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases of application for the payment of pensions to invalids, under the several laws of Congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility as such shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such disability at the time of making the affidavit, shall accompany the application of the first payment which shall fall due after the 4th day of March next, and at the end of every two years thereafter; and if, in a case of continued disability, it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment: *And provided also*, That this act shall not extend to the invalids of the Revolution who have been, or shall be, placed on the pension list pursuant to an act of Congress entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war," approved the 18th day of March, in the year of our Lord one thousand eight hundred and eight [eighteen]."

"Approved, March 3, 1819."

Mr. STUART. I am decidedly in favor of these provisions; but I wish to address an inquiry to the chairman of the Committee on Finance. It has been held at the Treasury Department, or in some of the Departments, that these provisions of law, being ingrafted upon an appropriation bill, expired at the end of the fiscal year; and I wish to call the attention of the chairman to that fact, so that these amendments may be made to continue until repealed. I presume he designs them to be so, and I would suggest to him the propriety of adding that the provisions of these sections shall remain in force until otherwise provided by law, or some similar language which will put that beyond doubt.

Mr. HUNTER. I will accept that amendment if the Senator will be kind enough to submit it.

Mr. HALE. I hope nothing of that sort will be done. If that amendment be adopted it will upset the practice of this Government for years. There have been a great many amendments to general laws made in this way. The question has been raised, but I never heard of any court deciding in the way in which the Senator from Michigan says it has been decided. On the other hand, the question was raised directly in some of the State courts, and an attempt was made to get rid of these provisions, and it was decided that they were in force. Some of the most important and salutary reforms that are made by the legislation of this country, have been made in this way; and if Congress attempts to introduce a provision of this sort into the bill, it will be a legislative sanction to a most mischievous construction of the law.

Why, sir, I may state an instance. The law, which, I believe, everybody now thinks was a wise one, (that is, every humane and Christian man,) abolishing flogging in the Navy, was a provision added to an appropriation act, and upon it this question was raised before the supreme court of the State of Massachusetts. Some brute had applied the cat-o'-nine-tails to a sailor after that law was passed, and being brought up before the courts for it, he attempted to shield himself from the punishment which was due to him on the ground of the construction which is now suggested by the Senator from Michigan: that it being a proviso to an appropriation bill, it died with the appropriation. The question was very elaborately argued before the court, and the court repudiated it, as I think every sensible man would do. A great many provisions have been made in this way, and if Congress now undertakes to make such an amendment as is proposed, it will be giving a legislative construction to these amendments, and there are a great many of them, this is not the only one. It will be a very mischievous precedent to say that these provisions that have been inserted upon appropriation bills, expire with the appropriation. I think it will not be found that any respectable judicial tribunal has ever made such a decision as that. You will find that there are a great many salutary measures that have been put in from the necessity of the case on these appropriation bills, because they are bound to go through. Their specific gravity carries them through; and a great many salutary measures have been hitched on to them with the certainty that by being on an appropriation bill, they would be carried; and if we adopt such a construction as this, I think it would have a tendency to indicate that such was the opinion of Congress, whereas the practice has been uniformly the other way.

Mr. HUNTER. I think, sir, the decision was this, that if the amendment to an appropriation bill showed by its own terms that it was designed to be a permanent act of legislation it was so construed; but there have been decisions, and I think a decision of the Supreme Court, that where, from the nature of the case, the legislation was temporary, and designed to apply to that bill only, it expired with it; but still I do not see any mischief that could arise from adopting the amendment of the Senator from Michigan, which he offered from abundant caution, and I am very willing to vote for it. I do not think it will do any harm, and it may do good.

Mr. STUART. I did not, when up before, say that the courts had ever made any such decision. I said that the Departments had so decided. Now, sir, as the Senator from Virginia has said, no civil can grow out of this amendment. No court would ever undertake to determine that because Congress, from abundant caution, as the Senator from Virginia remarks, or any other reason, had chosen to say that these laws should remain in force until repealed by Congress, that therefore other laws that did not contain that language should not.

Since addressing the Senate before, I recollect that there were two cases raised on appropriation bills, in relations to amendments made in the House of Representatives to compel the payment of annuities to Indians *per capita*, and in each case the Department decided that the amendments ceased at the end of the fiscal year, so that a third effort was necessary to ingraft that principle upon the laws of the land so as to make it permanent.

Now, this is a mode of paying pensions, and it is stated that they shall be paid in a particular manner, that certain evidence shall be required before their payment. There is danger, therefore, that it may be said that this is a mode of payment applicable to this year only. It is to avoid such a construction that I desire to say that this section and the preceding one shall remain in force until repealed by Congress, so as to make these, as they are intended to be, the permanent rules upon which pensions shall be paid, until Congress sees fit to change them. I submit that no such evil as that suggested by the Senator can arise. I offer the amendment.

Mr. GWIN. I move that this bill be laid aside, in order that we may proceed with the consideration of the unfinished business of yesterday.

Mr. HUNTER. I do not think it will take

long to consider this bill. At any rate, the Senate decided by a vote to suspend all prior orders in order to take it up.

Mr. FESSENDEN. I am opposed to putting in anything that is clearly unnecessary into the provisions that we make; and I view the proposed amendment of the Senator from Michigan as of that character. The first of those sections simply repeals laws. Will the Senator contend that a section repealing a law is to operate for one year only? It does away with the law, and then it provides that the duties performed before by officers appointed under the laws repealed shall, in future, be performed by others. Then look at the next section. It is of a similar character. It provides that persons receiving a certain class of pensions shall be reexamined every two years. Of course, it would not expire with a law which operates for only one year. The case is as complete, in both these instances, as it possibly could be; and no court, and no sensible head of a Department, or executive officer of a Department, could possibly give any other construction to it than the one which appears upon its face.

Now, sir, I am opposed, with the Senator from New Hampshire, to putting in words that are unnecessary and which may lead to improper inferences, although I agree clearly with the Senator from Michigan upon that subject, that a court would not make a false construction in one case because Congress had thought it wise to use language in another which clearly was not necessary. Under the circumstances, however, believing and knowing in fact as every man must, that the idea of the Senator from Michigan is a correct one; that from the nature of the thing itself, the provision is a permanent one, and no court and no Department could construe it otherwise, I hope that the amendment will not be made; because I am utterly opposed to heaping upon these provisions, which are clear in their terms, unnecessary verbiage.

Mr. STUART. I am also opposed to it. If there is anything I like it is conciseness in language, both in acts and in speeches. I will withdraw the amendment.

The PRESIDENT *pro tempore*. The question is on the sections which have been read.

Mr. HAMLIN. I desire to have a little information upon that matter. I have not been able to turn to the law to which the amendment refers.

Mr. PUGH. It was read.

Mr. HAMLIN. I was not in at the time. If I am right in my recollection, that act provides for the appointment of assistant treasurers in certain localities. I ask the chairman of the Committee on Finance, who reported this bill, if it does not confine it to the officers who are known as sub-treasurers?

Mr. HUNTER. No, sir; it does not. It extends to collectors, land receivers, and postmasters. It is merely enforcing the sixth section of the sub-Treasury act. Perhaps the shortest way would be to have that section read again; the Senator will then understand it.

Mr. HAMLIN. I hope the Senator from Virginia will allow this bill to go over until to-morrow. I would like to look into it. I do not know that I shall interpose any objection to it, but I should like to have it lie over until to-morrow morning.

Mr. HUNTER. I do not want to refuse any such request that is made; but I think, if the Senator will read that section, he will be satisfied. If, however, it be the general sense of the Senate, I will allow the bill to go over, if the Senate will agree to take it up to-morrow at one o'clock.

Mr. GWIN. I hope it will go over until to-morrow.

Mr. HUNTER. Will the Senator agree to make it the special order for one o'clock to-morrow? If it is the general understanding that it shall be taken up at one o'clock to-morrow, I will not object to its going over.

Mr. HAMLIN. I will agree to that.

Mr. GWIN. Say half past twelve o'clock.

Mr. HUNTER. I am afraid that those who want to make reports will not agree to that hour, but they will be willing to fix one o'clock.

Mr. GWIN. I have no objection.

The PRESIDENT *pro tempore*. That will be regarded as the sense of the Senate, unless objected to. The Chair hears no objection.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts:

- An act for the relief of Martin Layman;
- An act to authorize the President to make advances in money to Hiram Powers; and
- An act authorizing the issue of registers to the steamships America and Canada, and to change the names of said steamships.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 551) to protect the land fund for school purposes, in Sarpy county, Nebraska Territory;

A bill (No. 669) for the relief of the Mobile and Ohio Railroad Company;

A bill (No. 683) recognizing the survey of the Grand Cheniere Island, State of Louisiana, as approved by the surveyor general, and for other purposes;

A bill (No. 801) to fix and regulate the compensation of receivers and registers of the land offices under the provisions of the act approved April 20, 1818;

A bill (No. 802) providing for satisfying claims for bounty land, and for other purposes;

A bill (No. 803) to amend an act entitled "An act authorizing repayment for land erroneously sold by the United States;"

A bill (No. 804) to authorize settlers upon sixteen and thirty-sixth sections, who settled before the surveys of the public lands, to preempt their settlements; and

A bill (No. 805) to run and mark and establish the western boundary of the State of Minnesota.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; the pending question being on the motion of Mr. BROWN to lay the bill on the table, upon which the yeas and nays had been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 38; as follows:

YEAS—Messrs. Bates, Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Fitzpatrick, Hammond, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Reid, Slidell, Stuart, Thomson of New Jersey, Toombs, and Yulee—20.

NAYS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Harlan, Johnson of Arkansas, Jones, Kennedy, King, Polk, Pugh, Rice, Sebastian, Seward, Shields, Simmons, Trumbull, Wade, Ward, Wilson, and Wright—38.

So the Senate refused to lay the bill on the table.

THE PRESIDING OFFICER, (Mr. STUART in the chair.) The question recurs on the motion made by the Senator from Tennessee, (Mr. BELL,) to commit the bill to the special committee, with instructions.

Mr. DAVIS. The position which the proposition of the Senator from Tennessee occupies towards the substitute which I had the honor to report, is one which is adverse to the exact expression of my opinion in the case. If the Senate should reject the substitute, if they should choose to pass nothing but the bill, with the incumbencies which have been put upon it, then I will agree with the Senator from Tennessee in submitting it to a committee, with instructions to make a report in the shortest time possible. Therefore, I say, by presenting his proposition in what, with all courtesy, I must say, seems to me to be a little irregular manner, coming in in advance of my opposite or conflicting proposition to the original bill, he deprives me of the ability to vote for his motion; though if the substitute were lost, I should then concur with him in the view which he presents.

Mr. GWIN. I hope the Senator from Tennessee will withdraw his proposition to recommit until we can act upon the resolution offered by

the Senator from Mississippi, because it was a part of the proceedings of the select committee. If that shall be voted down, as the Senator from Mississippi has stated, the question can come up probably with greater force in favor of the Senator's proposition to recommit.

Mr. BELL. I am willing to defer, with great pleasure, to the views of the gentleman; but I submit that my proposition is perfectly regular and parliamentary. It was to cut off debate and questions on other amendments, which I supposed were about to occupy the time of the Senate for a day or two longer. Considering that it was to be a profitless discussion, from the manifestations of the great variety of opinion in reference to the provisions of this bill, I thought it was as well to make this proposition and see if we could agree upon it; but at the request of the Senator from Mississippi, and of the chairman of the select committee, I withdraw it for the present, with pleasure, and I hope a vote may be taken on the amendment offered by the Senator from Mississippi.

Mr. DAVIS. I am anxious to have a vote on it.

THE PRESIDING OFFICER. The motion of the Senator from Tennessee being withdrawn, the question recurs on the amendment proposed by the Senator from Ohio, [Mr. PUGH.]

Mr. GWIN. I hope the Senator from Ohio will withdraw that amendment, in order to enable the Senator from Mississippi to offer his substitute.

THE PRESIDING OFFICER. The amendment of the Senator from Ohio is in section one, line eight, to strike out "San Francisco in" and insert "the eastern boundary of;" so that it will read "between the mouths of the Big Sioux and Kansas rivers, to the eastern boundary of the State of California."

Mr. GWIN. Is it not in order to offer a substitute for the bill while that is pending?

THE PRESIDING OFFICER. Not while there is an amendment pending to the original bill.

Mr. SIMMONS. I do not see the Senator from Ohio in his seat, but I take it this amendment cannot be voted upon without some debate. It strikes at the whole structure of the bill, and, in fact, it will produce the same result that I understand the proposition of the Senator from Mississippi will, so far as confining this road within the Territories is concerned. It involves the same principles, excepting with regard to the details, as to the amount per mile that shall be paid. As I understand the substitute of the Senator from Mississippi, it proposes to provide for a road from State to State. This brings up that question, perhaps, precipitately. I admit that the amendment is legitimate, because the Senator from Ohio may like this bill, if it be amended as he proposes, better than the bill of the Senator from Mississippi. I shall vote against this amendment, and I trust I shall be pardoned for giving the reasons why I mean to do so. I think that, if the Senator from Ohio declines to withdraw his proposition, the debate may as well go on here as anywhere.

The Senator from Mississippi, when he indicated the character of his amendment, stated that he regarded this as a work of national defense; and as such he supports it. That is the ground on which the Senator from Ohio supports this bill, so far as the Territories are concerned, because this road is part of the system for the national defense of the country, and, as such, legitimately calls upon the Government for its aid. If it be such, I ask the Senator from Ohio if he means to confine the powers of this Government within the Territories, so far as the defenses of the country are concerned? If his doctrine be correct, that this Government has no power to carry its national defenses within the limits of the States, then he will confine the defensive power of this Government within those limits where we have no population to defend. Is it not so? I cannot draw any other consequence than that. This is a defensive measure. I take it from the position of the Senator from Mississippi, he having occupied the War Department, he is as well qualified to tell us what the character of this work is, and what is its purpose and object, as any member of this body. I thought he made it as clear as noonday that it was essential to the national defense. If it be essential to the national defense, I

ask any State-rights man on what grounds he objects to its going through the States. It appears to me to be conclusive. I would not vote for any bill designed for the national defense which invited speculators, and made it depend on speculators whether the work should be constructed or not. That is my objection to the proposition of the distinguished Senator from Tennessee. If this be a bill for the national defense, it should be conducted and carried on by the national means, without any connection with corporations in any form.

I now come to notice a suggestion that was made, as I understood, by the Senator from Delaware, [Mr. BAYARD,] that, under the Constitution, we could appropriate money within the States, by the consent of the States. I think that Senator, distinguished lawyer as he is, cannot have considered the constitutional question. I do not see him in his seat, but I understood him to say that the Congress of the United States had the same constitutional power to appropriate money for the defense of the country within the States, by their consent, as within the Territories. I say we have the power without the assent of the States; but getting the assent of the States does not at all relieve the subject of the constitutional difficulty that I have in agreeing with the proposition of the Senator from Ohio; and I will tell you the reason: it has been decided by the Supreme Court of the United States, on a question of conflicting jurisdiction, that the power of a State extends over anything within its limits that exists by its authority or is introduced by its permission. Therefore, if you carry a railroad into a State, the power of a State, if you ask permission, is over it, and the jurisdiction of that State is over that railroad, and they can tax your railroad to their heart's content.

No man will pretend to tell me, that if this road is necessary for the defense of the country, it is safe for the Congress of the United States to subject it to be taxed to death by any State through which it may pass. They would tax it out of existence; for, if you must ask their consent, their entire jurisdiction is over it as much as if it were built by a corporation created by them. This new-fangled doctrine, that the Government of the United States cannot prosecute the defenses of the country without asking the assent of anybody, is ruinous to the Government. It dwarfs the power of this Government down, so that it is unfit to carry on the objects for which it was created; and much as I desire a Pacific railroad, I will vote for no bill that has any such provision in it. If the road is not designed for the defense of the country, and is not necessary for the defense of the country, whether we have the power or not, it is certainly impolitic to build any such road. It is on no other ground that you can defend the Congress of the United States for such an outlay of money. That, I believe, will be consented to on all hands; and it does not relieve this at all to get the consent of the State of California. If this road be built with the consent of California, it will be within the jurisdiction of that State, so far as it lies within their limits, and they can put such conditions as they please on it, tax it, stop it, control it in any way they please. I know that is not the object of any friend of this bill.

I am aware that this subject is not without its difficulties. I know gentlemen in this body, and elsewhere, have serious difficulties about using the power of this Government for the construction of any national work; but it is as well to meet it now as at any time. That doctrine must give way to the public necessities of the country. Men may have Cincinnati platforms to build railroads on, and other party platforms, but they will not build a railroad. They are not made to make railroads, but to make Presidents, and do very well for that. I do not complain of any platform that any party sees fit to make; but when you come to make a railroad, the only platform on which you can make it for the national defense, is the national Constitution. No matter what opinion you may have about State rights, if it be for the national defense, there can be no strict constructionist of the country who will doubt the power of this Government to make it wherever it is needed, through State and Territories. It would be the most absurd doctrine in the world that we could not provide for the na-

tional defense within the States; that is where the people are; and I hope that, with that view of it, the Senator from Ohio will withdraw his amendment.

Mr. PUGH. Oh, no.

Mr. SIMMONS. Then it comes to this: that after debating the question for three weeks, here is a project in regard to which the powers of this Government are so dwarfed down that you are undertaking to put upon it the armor of national power, and it is clattering about the Senate, and nobody can tell what you are going to do. You confine your road where there is nobody to defend, except the Indians; where there are no white men; where the road will not be worth a straw for your purposes. If it is a defensive measure, it must connect with means of transportation in the center portions of the country, and go to the tide-waters of the Pacific, so that we can connect with our naval forces in that ocean, and supply that coast with means of defense. I do not mean to say that, in carrying on the national defenses, we may not cooperate with State energy and State aid. Where there are existing means of transportation, we have a right to use them as other people have. I do not pretend to say that we have got to make all the roads; but I say that the State of California is so situated, and has so sparse a population, that she is not likely to make a railroad from her eastern boundary to the Pacific ocean. If you go across the continent, you will have five or six hundred miles of road to build in that State; and from the point where the El Paso route reaches California, there will be eight hundred miles before you get to San Francisco. In fact, it will take forty years to build that road through Texas, if they go on at the rate they have been.

This will defeat the whole purpose of this appropriation and the object everybody has in building the road, so far as I have heard it avowed here. We must go back to the old doctrine, that we have a right to do whatever is necessary for the national defense.

The Senator from Ohio told us, yesterday, that it was Democratic doctrine in the days of Mr. Madison and General Jackson that you could not build a road through a State. I would ask the Senator if either of those Presidents ever doubted the power of the Government to carry on the national defense anywhere? If this be for the national defense, General Jackson would go as far as any living man to carry it on. I know he never had any great scruples about power when he was engaged in defending the country; and I think he was fined for exercising power where the civil authorities said he had not the right to do it; and yet he is quoted as having constitutional scruples against providing for the national defense within the States, by means of a road confessedly for that purpose. I do not believe in having any man's memory brought up here who has done as much as General Jackson did in defending the country, and urged as opposing a measure of this kind. I do not pretend to have read his whole history; but I doubt if he ever thought of such a thing. I differ with the Senator from Ohio about that. I know there was a great deal of controversy in the time of the war of 1812, whether the States had a right to raise troops for their own defense, unless they put them under the officers of the General Government, to act in conjunction with the power of the United States. I believe that the people of the United States intended to give this Government the entire war power, and every incident to the war power; and if this be necessary at all, it is as an incident to the power of this Government to defend the people of the country, and the territory of the country, on the coast of each ocean and in all the intermediate territory, wherever there is a white man. I should regret very much to see any such contracted view obtain the votes of a majority of the Senators upon this floor. No man can pretend that we want a railroad in the barren desert country to defend anybody who is there; but we want to reach our own people, who are on the other ocean. I trust the Senate will not agree to this amendment.

Mr. BENJAMIN. Mr. President, I am glad that the Senator from Ohio has offered this amendment. I had intended to offer it myself when the proper time should come. I have heretofore spoken upon the general merits of a proposition

for giving the aid of this Government to the construction of a railroad across the continent, and I do not propose now to enter into that general discussion, but to confine what I have to say exclusively to the constitutional point before us.

It is exceedingly difficult, sir, to institute an argument upon that point, because we have not agreed as to facts so far. When gentlemen who are opposed to this bill treat it as a bill intended to call into requisition the entire Treasury of the United States for the purpose of building this road by the direct action of the Government, they are met by the chairman of the select committee with the assertion that there is no intention that the Government shall build the road at all; that the road is to be built by private individuals; and that the Government is merely to exercise its constitutional power in contracting for the conveyance of the mail and munitions of war. But other friends of the bill have frankly avowed, and the honorable Senator who has just addressed the Senate is one of them, that this is a mere idle pretext, and that the true intent and meaning of the act is, that the Government of the United States is to build the road with its own capital.

Mr. SIMMONS. Will the Senator allow me to explain?

Mr. BENJAMIN. Certainly.

Mr. SIMMONS. I said I believed the right way to build it was by the funds of the Government. I did not say that it was an idle pretext for others to urge other views.

Mr. BENJAMIN. I did not attribute to the honorable Senator any reflection on the motives of others; but I did attribute to him what I considered to be his individual views of the motive of the bill, that, in truth and in fact, this bill is nothing else than an attempt to construct a railroad with the funds of the Government alone; that no man could pretend, I think was the language of the Senator himself, that those who would undertake the building of this road would put any of their own money in it; and the Senator asked us—I distinctly recollect his question—if we were going to give the necessary lands and the necessary money to insure the construction of this road, why should we, after building the road, or furnishing the means for it, then pay the contractors for carrying the mails and munitions of war; and why it was we should not at once meet the question in front, provide for the building of the road by the Government, and then administer it by Government officers; carrying the mail and munitions of war upon our own road, built with our own funds?

Further, sir, several Senators who have defended this bill, have distinctly stated, over and over again, in the calculations made by them, that it was necessary to give aid by the Government, equivalent to the cost of the road. The Senator from Massachusetts, [Mr. Wilson,] gave us the other day, long details as to the cost of a construction like this, changed the details of the amendment offered by the Senator from Pennsylvania, [Mr. BIGLER,] and provided that certain portions of the land to be granted at each end of the road, should be reserved, for what purpose? Because he said the land grant was more than sufficient to cover the entire cost of building the two terminal divisions of the road, and that a reservation of a portion of the land ought to be made to enable us to build the central division of the road.

I mean, then, to treat this question, so far as the Constitution of the United States is concerned, as a proposition that the Government shall build the road with its own means. Taking that to be the true meaning of the bill, I approach the constitutional question; and here, sir, I agree thoroughly with what has just fallen from the Senator from Rhode Island. I agree that if this is an exercise of the war power, you want no consent of any State to exercise that power. I agree that if the true intent of this bill be the defense of the country, the Congress of the United States is invested by the Constitution with adequate power for that defense, independently of the consent of any State; and that brings me back to the question, is that the bill; is this bill brought forward for the sole purpose of defending the country, or is this the pretext under which a great commercial road is to be built?

Why is this road required for the defense of the country? Senators tell us—the distinguished Senator from Mississippi, [Mr. DAVIS,] hitherto

one of the firmest champions of State rights and the strictest construction of the Constitution—puts it upon the ground that you require a railroad for the transportation of munitions of war, of troops; and calculations are brought forward, the accuracy of which I have no reason to question—I am not familiar with the subject—for the purpose of satisfying the Senate and the country that provisions and munitions of war could be transported at vastly cheaper rates by this railroad than by the present means at the command of the Government. I admit it.

Mr. COLLAMER. But the bill provides that we shall pay the same rate for transportation that we pay now.

Mr. BENJAMIN. Undoubtedly it does; but that does not touch the constitutional argument as I am going on with it; and I wish to speak to that alone.

Now, the first question that would suggest itself to any intelligent man in examining this power of the Government, so far as the defense of the country is concerned, would be this: Are we at war? Is our Pacific frontier threatened by any nation capable of exciting in us a moment's alarm? Nobody will pretend that that is the case at present. Are we, then, going to construct this road with a view to the defense of the country, in the view of future emergencies? If so, let me ask Senators around me if it is not a truth, known to all, that, for the sum that it will cost you to keep up this road for one year after you shall have built it, you can now put upon the Pacific coast, in time of profound peace, by your vessels, all the munitions of war that you would require for a quarter of a century of war upon that coast? If you wish to provide against future danger to the Pacific coast, and look upon this bill purely as a bill for the defense of the country, then collect your arms and munitions of war now, in time of profound peace, and send them around the Horn in vessels, and you will accumulate there all that is necessary for the defense of the country at a cost, I repeat, less than one year's necessary expenditure for keeping up this road, after it shall have been built.

Mr. President, disguise it as we may, this is not the purpose of the bill. Disguise it as we may, this is a flattering unction that men lay to their own souls; something that they make use of for the purpose of stilling the qualms of conscience, in relation to constitutional power. We do not require this road now for national defense. We shall not require it in the future for national defense. So far as the transportation of arms and munitions of war is concerned, I have already given my opinion upon the point. But it may be said that men could be transported over this road. To be sure, men might be transported over this road, and men might be transported over it with greater rapidity, and in greater numbers, than they could be marched across the continent, in time of war; but remember that this road, which it is said is required for the defense of the country, according to the admissions of all its advocates, is not the work of a day or an hour, nor is it the work of one year, or of five years; and long before your road can be built, you will have a population upon your Pacific shores ample, over and over again, for the repulse of any attack that any civilized Power on earth can bring to bear against those distant shores, provided you have in advance the munitions of war requisite for the arming of your population.

Why, sir, is it not obvious to us all, that the population of the Pacific coast, long before this road can be built, will reach the population that the thirteen original colonies could raise for the purpose of opposing the entire power of Great Britain in the early days of the Revolution. Do you fear, does any man here fear, an expedition from France, or from England, or from both combined, that can conquer our Pacific shores some fifteen or twenty years hence, when this road shall be built, provided you have accumulated there the necessary stores and provisions of war with which to supply the people there engaged in your defenses? No man fears that. Besides, in the event of a war, and in the event of a necessity for accumulating troops upon our western coast, could we not march men across the continent, if we have the munitions there, just as soon as Great Britain or France can send them from European countries?

The war power, sir, is the basis of this exercise of authority by Congress in the construction of this road, simply because a railroad is a convenient means of transportation. It is true that a railroad is a convenient means of transportation, and therefore, in one sense, may be considered as a defensive power in every State of the Union; but why select California for building a railroad at the expense of the General Government, if this road is to be built by the General Government? Is Texas more defensible than California? There are no railroads through Texas now by which you can carry arms to the frontiers of Texas or to the seacoast in case of an attack by a hostile fleet. Are there no portions of the country which are unprotected to which it would be convenient to be able to carry men and munitions of war in time of hostilities between this country and foreign nations? Where will this latitudinarian construction of the Constitution, by which a commercial railroad is to be built under the pretext of exercising the war power, land us? What is the power that this Government could not exercise under pretexts so flimsy, in my humble judgment, (and I say it with entire respect to those who have the opposite opinion,) as those which are used in support of this bill?

The object, the stated object, is to increase population upon the coast of California. Well, sir, instead of passing this bill, pass a bill by which you will give to every man that will go and settle in California, a sum of money to go there with. Will any Senator vote for that? Pass a bill to provide for the support of a certain number of men on the coast of California for the next ten years, say that every emigrant who will go there, to the number of one hundred thousand, every able-bodied man shall have a hundred dollars to pay his passage, and shall be provided with one, two, or three hundred dollars a year for the next ten years, and you will get an army there, an army adequate to the defense of the frontier, and at a far inferior expense to that which you propose by the provisions of this bill. And yet which of us would pretend that the General Government had the power in time of profound peace to offer a premium to the citizens of the Atlantic States for settling upon the coast of California?

I have heretofore voted, and voted conscientiously, in favor of the grant of a homestead upon remote frontiers to persons who would go there as actual settlers. As the Senator from Tennessee [Mr. BELL] said the other day—whether I voted for the measure to which he alluded or not I cannot remember, but I know I was in favor of it—I did so with a view to the cheap defense of distant and sparse settlements against Indian tribes, predatory and insurgent bands. It is our duty to protect our citizens; and I thought it could be done in that way cheaper and better than by sending an army there to do it; the expense per man would be less; and if the proposition now was to grant on any unprotected frontier upon the western coast, to anybody who would go there and settle, a certain portion of the public land, with a view to accumulate a force there, if it were shown to me that that was the most economical way of defending the country, I would do it, and willingly vote for it instead of sending an army.

But, Mr. President, this railroad is a commercial road. It is advocated as a commercial road by all those who speak in its favor. It is spoken of as a road that is to promote the settlement of the country. It is spoken of as a road by which an increase of population is to be carried to the shores of the Pacific. As such, I ask where is the power of Congress to build this road through the States? I know that the power has always been exercised—as the honorable Senator from Mississippi told us the other day—to erect military roads in the Territories of the United States, and I think justly and necessarily so. The Territories, having no natural routes by which the troops could have access to the points where their protection was required, depended on the General Government for the opening of roads, and it was nothing more than a wise administration of the war power so to open those roads as to make them equally accessible for the commercial, as well as for the military communications between the different parts of the Territory. But here the defense of the country, the uses of the road under the war power, every man who looks at the case dispassionately and calmly must confess, are entirely

subordinate to the uses of the road for commercial purposes, and for promoting the emigration of our people from the eastern to the western shores of the continent. If you have the power to build this road in the State of California, you have the power to build similar roads in every State of the Union; and the entering wedge will be put in, and Congress will be asked year after year to build railroads in different States of the Union, all of which will be called for under the war power; and that power which was formerly used by the Government of the United States in the construction of roads in the different States, and which, after a long and arduous struggle, finally fell beneath the attacks of the Democratic party, is now, under their auspices, to be renewed. All the former corruption that crept into the administration of public affairs, so far as improvements in the States were concerned, is again to be introduced, and, after a long struggle, will again fall before the indignation of the people; and all that we have done will be lost; all the work that may have been accomplished will be given up. This Pacific railroad will be in twenty years from now, if it ever is commenced by the Government, just where the Cumberland road is now—half finished; abandoned after having cost an immense sum of money to the Government; after having caused corruption in all the branches of its administration; after having given origin to a gigantic monopoly, to which the old Bank of the United States was but an infant; after all this, the whole scheme will be abandoned, because it will be reprobated by the indignant voice of almost the entire people of the United States.

Mr. President, we have no power to build this road in the States. Confine your bill to the Territories of the United States, and argue it, if you please, as a military road through the Territories; and then upon the practicability and advantage of establishing such a road in the Territories, arguments may fairly be adduced; but to say that we are going to build this road in the States as a measure of defense, is—I say it with all due respect—an evasion of the constitutional difficulty.

Mr. DAVIS. Mr. President, I have been very much gratified by the remarks of the Senator from Louisiana. If he has killed the road, he cheers us by coming as a convert to strict construction in opposition to internal improvements. It is true he shows somewhat of zeal which is apt to be exhibited by new converts, which may outrun a little the limit of discretion, and undertake sometimes to arraign not only the opinions but the motives of others. But new converts are always zealous, and I welcome him to the ranks of the strict constructionists, who are all henceforth to oppose internal improvements. We are to have no more great schemes for rivers; no more grants to roads for the benefit of companies within the States; and are to come down to the old radical Democratic school, and vote for nothing which is not to execute some duty imposed by the Constitution, and warranted by some grant within it. I hope that the Senator's zeal will not wax cool on some other occasion, when he does not happen to find his interest running on all fours with his new convictions; and that we shall not find him on some other occasions, as heretofore, voting for measures which savor of all that he points out as objectionable in this, even in the view which he takes of it.

With this introduction, I proceed to notice some of the remarks offered by the Senator. He says it is quite easy to secure, on the coast of the Pacific, all the supplies which will be required for twenty-five years to come. Is it so? Has the Senator studied the difficulty of preserving powder for twenty-five years? Does he know the impossibility of telling of what material gunpowder is made, unless you follow it through the mill? Has he marked the amount annually condemned and thrown away because of the impurities contained in the salts out of which it is manufactured? Has the Senator kept an account of the deterioration of provisions? Has he forgotten, within twenty-five years, the vast improvements made, not only in ammunition, but in the weapons with which it is employed? What, I would ask the Senator, would be our condition to-day if pork and flour, reduced to the condition it would be after twenty-five years' storage on the damp coast of the Pacific; if powder, in the condition it would be if it were kept twenty-five years, and origin-

ally made of imperfect material; if arms of the old standard of twenty-five years back, were our whole reliance for the defense of our possessions on the Pacific? This is the condition in which the Senator puts himself for the future, unless he claims that we have reached that exalted wisdom which secures us from all errors of the present to be developed by the future.

He says this road is not required for national defense; and then proceeds, in an easy method—having got the supplies there that will not deteriorate, supplies that remain good for a quarter of a century—to march the men across the continent. If the Senator has acquired some knowledge by which the munitions of war and supplies for men are to be preserved indefinitely; if he has fixed the standard of arms so that no future change will be required on the breaking out of a war, then, perhaps, he has also acquired the power to smooth down the mountains, and fill up the cañons which nature has made, and to march men across places where, when the last explorers were there, a route could not be found. It may not be generally known to the Senate, and I call their attention to the fact, that there are, to-day, across this continent, within the limits of the United States, but two roads practicable for wagons. I have had occasion, in another position, to call the attention of Congress to the fact, also, that the permanent want of supplies upon those routes rendered it impracticable to pass large trains in rapid succession; that the whole means of sustaining the draught animals would soon be exhausted, and you would reach the point where your communication overland would cease. These men are not to be marched across the continent, I suppose, without having provisions with them. They are not to take a march of sixty days on what they can put in their knapsacks. I take it, therefore, the Senator contemplated a wagon road, over which he proposed to march these men. There are two within the limits of the United States to-day, not counting that of the thirty-fifth parallel, which, so far as I can learn, is not yet practicable for loaded wagons.

Then the Senator, progressing in his strictures, asks why do we select California? I take it for granted, the Senator asks that question sincerely, and therefore, I must infer that he has been very inattentive. For one, at least, I have on every occasion, stated that the reception of the case arose in the intermediate desert, which prevented the construction of roads and caused the want of a continuous population that made emigration easy. I have said from the beginning, so far as I have been connected with this question, and others have said it much more forcibly, that the state of the country, that the hand of nature had impressed upon it difficulties which could only be overcome by Government aid. I have looked upon it as really evading the question, as shrinking from the responsibility imposed upon us, when gentlemen have said "why not build this road as roads are built elsewhere," presuming that their intelligence made them perfectly aware, that the means which had rendered it feasible to build them elsewhere did not here exist.

Some persons may have argued for this as a commercial road; some persons may have looked upon it as important because of its commercial relations; but is it fair to say that those who have contended for it as a means of military defense, are using this merely as a pretext, and seeking really to provide for commercial connections? Is it fair to assume that those who have endeavored to demonstrate its military necessity, are using this merely as a pretext, and seeking to establish such a road for the benefit of commerce, the benefit of travel, or for any other than the purpose avowed?

Neither, sir, is it fair to assume that any one here has argued that this road had but a single object, that it had but a single means of support, and that the Treasury was to be relied upon entirely for its construction. Quite otherwise; it has been announced by its friends that this road was not to be built out of the Treasury; it has been announced by the friends of this road that it was to derive means for its construction from other sources than the Treasury of the United States. Of course I did not expect what I said on the occasion to be noticed; but I did, in the progress of this debate, state that it was because it was to derive its support from travel and from

commerce, as well as from the uses to which the Government would apply it, that I considered the Government ought to give but one portion of the sum that would build it. Neither is it simply for military purposes; the Government has other uses for it.

Then as to the isthmus routes and the ocean route around the Cape. In time of peace, these are available to us; but is there a Senator here whose intelligence will permit him to say that, if we were engaged in a war with a maritime Power, those routes would remain open to us before we constructed a navy to sweep the seas? Is it not known to every one that the smallest character of war vessel lying sheltered in some port, would bide her time, cut off your transports, cut off your mail vessels, and it would only be in such fleets of transports as were covered by armed vessels of the United States, sufficient to protect them, that there would be the least safety in sailing down the coast. Then, sir, in time of war, how are we to keep up our connection, how are we to have the mere correspondence which the Government requires? I know of no method that exists in the present condition of the country. If art and science hereafter shall contribute to make that fertile which is now sterile, and population continuous from end to end shall exist upon the route, it may then be possible by the old and slower modes of travel to accomplish the object even without a railroad. In its present condition, I say it is not.

The Senator is one of a number of those who have seen fit not merely to be grappling with the subject in its physical difficulty, or its legal or its constitutional difficulty, but who seem disposed to press their opinion by arraigning the opinions of others as though they were Sir Oracle at whom no man should bark. We heard yesterday that States and Territories stood upon the same platform in this relation, if the States would but consent to allow roads to be run within their limits. Is this so? This is but a new phase of that doctrine of squatter sovereignty which, from the time I first took my seat in the Senate, I have been battling with and intend to oppose to the end of time. Is it true that the Federal Government can walk within the limits of a sovereign State and there take land and exercise jurisdiction as within a Territory? Is it true that the restrictions of the Constitution limiting them simply to the construction of forts, arsenals and dock-yards, and that by the consent of the State, mean that by the consent of a State they may do anything within its limits? If so, why enumerate the objects? Why narrow them down to special things, and those things such as were known to be most usually necessary? Can the United States own a tract of country across a State, and there build upon it a railroad? I hold that they have no power under the Constitution to acquire it, and the consent of the State can give them none. Can the Government of the United States create a corporation and send this artificial person to exist within the limits of a State? I, and those from whom I have drawn my political opinions, have too long held the reverse to make it necessary to argue it now. That question came up distinctly upon the old United States Bank; it has been decided by the people; it is needless for me to reargue it.

Then, sir, I say there is a broad distinction. The grants of the Constitution restrict the Government to special purposes. If they attempt to hold land within the limits of the States, even for those specific and most needful purposes enumerated in the Constitution, they are required first to get the consent of the States. I say, then, the consent of a State can give no power to the Federal Government which it could exercise for the construction of a railroad within the limits of a State. It might be very convenient as a means of military defense; it might be necessary as a means of military defense; and still I say this Government has no power, even when you prove the necessity to exist, to invade the limits of a sovereign State, there to set up its artificial creature, and exercise a jurisdiction which the Constitution does not give. Over the Territories I hold the case to be widely different. The first Territory we held, the Northwest Territory, was derived from a State by the grant of a State. Then Georgia gave the wide domain of the southwest territory. The United States received those Territories from a sovereign power, holding entire

jurisdiction and control over them. The United States took, by the grant, just so much as it was capable for the United States to receive, not all which the States possessed, because the Federal Government was not a reservoir into which sovereign powers could be poured. They took only so much as it was within the capacity of the Federal Government to hold; so much as is consistent with the grants and limitations of the Constitution. Within that limit, I say, they hold powers in a Territory which they could not possess within the limits of a State. Therefore my opinion is, that we may exercise the power to construct a railroad as we do other roads within the limits of a Territory, without thence deriving the power to do the same thing within the limits of a State.

Welcome to the discussions of the Senate those extremes of strict construction which have been exhibited on this bill. We heard it announced yesterday that you could not give a dollar for such a purpose; and yet, sir, there has not been a Congress from the foundation of the Government that has not appropriated money to build military roads in the Territories; there has not been a President who has not signed such bills. My colleague, who made the argument yesterday, and who I do not now see, must himself repeatedly have voted such appropriations to build military roads within the Territories of the United States. We are now doing it. As the day goes on, the work progresses under appropriations made at the last session. Standing behind this shelter of every Congress which has been held under the Constitution, of every President who has executed the laws of the land, even behind the votes of my colleague himself, I feel somewhat secure in asserting that there is a distinction between the power to construct roads within a State and within a Territory, and that there is a power recognized and fixed in the Federal Government to construct roads within the Territories of the United States. The exercise of this, of course, must be within discretion. It is possible for a corrupt Government to say, for a corrupt man to say, "I wish to build this road for military purposes," when really he does not desire it for that end; but it is a low suspicion which assumes that this will be the means by which we shall get appropriations to effect that which it is not really the desire of those who seek them to attain.

In Mississippi, roads were constructed when we were a Territory, by the Federal Government. Nay, more than that, when we became a State, by contract with the United States, we reserved a certain percentage on the lands to be sold within the State, for the construction of roads. This was after we had become a sovereign; and we have been annually deriving that percentage from the sale of the public lands, for the construction of roads and other internal improvements within the limits of the State. In the war of 1812, General Jackson, to whom my honored friend from Rhode Island, though a political opponent, made such handsome reference, constructed several roads from Tennessee to the lower part of Louisiana. He even built a great work across a bayou, which had been once the main channel of navigation by the Spaniards, who early came to that Territory, and thus closed a channel which it has been from time to time the effort of certain interests to cause to be reopened. Roads were cut through the wilderness, roads were built in the populated country; they were built for the purposes of the Government, in the defense of one of its commercial cities.

We are told, however, by another Senator who spoke yesterday, the Senator from North Carolina, [Mr. Kemp,] that he cannot consent, upon a vague supposition of necessity, to allow the Government to appropriate its Treasury to the construction of a railroad. Nor would I; but that vague supposition which is described is exactly the supposition on which the Senator will vote this year, as he did last, to construct and maintain a Navy, to construct and maintain fortifications, arsenals, dock-yards, and other public works. We build ships-of-war, not because war was declared yesterday, not because war will be declared tomorrow, but because it is a supposable case that they will be needful for the public defense. We construct fortifications, not because we have a particular war in view, but because they are needful whenever war may occur. It has been demon-

strated, upon estimates which have not yet been questioned by any one competent to revise them, that the construction of the needful fortifications and store-houses, the maintenance of the garrisons, and munitions necessary for the defense of the Pacific coast, would cost many fold times the sum which would construct the proposed railroad across the continent.

Mr. REID. Will the Senator permit me to interrupt him?

Mr. DAVIS. Certainly.

Mr. REID. The Senator has just stated that there is a direct grant of power for those things in the Constitution. For the other, there is none. That is the difference.

Mr. DAVIS. There is no direct grant of power in the Constitution to build ships, no direct grant of power to build fortifications.

Mr. REID. There is a direct grant to construct forts. I allude to the clause with reference to jurisdiction over places purchased for that purpose.

Mr. DAVIS. There is a reference to it, not a direct grant of the power.

Mr. REID. If the power were not conferred, how could it be possible that the framers of the Constitution would assert its existence? Would they extend the jurisdiction of the Government over a thing which they did not confer on the Government the power to do?

Mr. DAVIS. The power is conferred, I answer my friend from North Carolina, but not conferred as he supposes in a specific grant; it is conferred in the power to maintain an Army and Navy; it is conferred in the obligation to provide for the common defense. There is no specific grant of power, I say, to build forts or to build ships. The specific grant to which the Senator refers, is the power to take, by the consent of a State, jurisdiction of the site on which a fort may be built.

Mr. REID. That power is shown to exist in the Constitution by the fact that its language gives the Federal Government a control over the subject. The express recognition of the power is as conclusive as an express grant.

Mr. DAVIS. My friend must see that the framers of the Constitution were not conferring, as one of the means of providing for the common defense, specifically the power to build a fort. The jealousy was not as to the fort; the jealousy was as to the exercise of Federal jurisdiction within the limits of a State; the jealousy was as to permitting the General Government to become a land-holder within a State.

Mr. REID. I understand the Senator to say that the Federal Government has not the right to construct a railroad in a State. I maintain that the Federal Government has not the right either to construct itself, or to employ another to construct, a railroad within the limits of the States of the Union; that is the position I maintain.

Mr. DAVIS. I am very glad, then, to have misunderstood the Senator, and to find that we agree. I was going on to say that the means which necessarily belong to a grant of power, follow in its train. It was not necessary for the framers of the Constitution to say, when they gave to Congress authority to maintain an army, that they should also have authority to furnish them with boots and shoes, with coats and hats. These followed as consequences; common sense pointed to them as necessary incidents; therefore they are not enumerated.

But we were told yesterday, in the course of the debate, by one of those with whom it is generally my pride so fully to concur, that the framers of our Government never contemplated the building of railroads by the United States. I concede that, if there is any force in it; and, if it were asserted now that the framers of our Constitution never contemplated the plowing of the vast rivers of this continent by steamships, it would be another truth; but I do not see what relation it has to the subject. They did not anticipate steam as a motive power; they did not know that our rivers were thus to be navigated; they did not know that our plains were thus to be traversed; but it was part of their wisdom; it bears almost the stamp of inspiration, that they used such general language as is found in the Constitution itself, applicable to every necessity of the Government from that time to this, yet so specific that the friends of strict construction have always stood behind their language as an impenetrable barrier.

The argument has run on from day to day by those who have intended to kill this bill by a side-blow, and upon the supposition that the work was to cost a great deal more than the bill allows, and that it was to be built within the limits of a State. I have bided my time until this discussion ended, and I should be permitted to offer a substitute which sets forth upon its face exactly what it is intended to do, which avoids all conflict between the powers of the Federal Government and those of the State, leaving the link which is constructed by that substitute, if it be built, to be extended anywhere and everywhere within the limits of the States by charters given by the States themselves to companies erected by them, attempting no provision for even one mile of the road which should enter within the limits of a State. When the proposition was made to lay the bill upon the table, it seemed to me to be a method by which a substitute which I had offered when the bill was first introduced, and have patiently waited for an opportunity to explain, was to be smothered, and I was to be left in the attitude of advocating a bill thus killed, and which was in many respects the antagonist of that which I proposed to the Senate to adopt. I am glad, however, that some view—I do not know what—had sufficient force to prevent this method of smothering the proposition before the Senate had an opportunity to examine it. I do not know, Mr. President, that I shall have an opportunity ever to get the vote of the Senate on the substitute which I propose. If I am to have an opportunity to have a vote on it, I would rather make some remarks on it than now.

Mr. PUGH. I was about to say, when the Senator from Louisiana rose, that I was willing to waive my amendment until the Senator from Mississippi brought up his proposition. After the amendment of the Senator from Mississippi is voted on, I shall offer it again.

Mr. BENJAMIN. I wish to say a very few words in reply to the answer made to the observations I addressed to the Senate, by the honorable Senator from Mississippi. The Senator from Mississippi displays a sensibility which is honorable to him in relation to his constitutional views upon the bill now before the Senate. It is natural that that Senator should feel a sensitiveness upon the subject, because he cannot disguise from himself the fact that his views upon the particular proposition now before us differ entirely from those entertained by those with whom he has hitherto been in the habit of associating politically upon this point, and he therefore makes an animated defense of his views, and turns upon me something of an *argumentum ad hominem*. Now, Mr. President, I may be a new convert; but I am not a new convert on the subject now before the Senate. I never have maintained, and I think I never shall maintain, the power of the General Government to construct internal improvements in the States; and I do not consider that, maintaining as I do the power of the General Government, under that clause of the Constitution which authorizes it to regulate commerce, to see that the harbors and rivers and ports of the country are in a condition to accommodate the commerce of the country. I say, I do not see that maintaining that power to exist in the General Government, is at all incompatible with a denial of the power to build roads in the States.

Mr. DAVIS. If the Senator will allow me, I will say that his remarks, so far as they were directed to the position taken by me, and he made a direct reference to myself, drawing attention to me, could not have been with the understanding that I wanted to build a road within a State.

Mr. BENJAMIN. Undoubtedly not. I do the Senator full justice on that point. I had examined, and was aware of the provisions of his substitute; but it is impossible for us to discuss a question of this kind, where a bill is maintained by gentlemen on principles so entirely opposite to each other, as those maintained by the Senator from Mississippi, and the other gentlemen who are defending this bill, it is impossible to make remarks in relation to the arguments used in defense of the bill which shall not do injustice to one Senator or another, according as the Senator may suppose the answer to be directed. I did not answer the proposition of the Senator from Mississippi, when I was speaking of the power to build a road in a State; but in connection with the argument used by the Senator from Rhode Island,

and that used yesterday by the colleague of the Senator from Mississippi, I expressed a concurrence of opinion; and said that if this is a war power which we are exercising, if we are going to defend the country by a railroad against foreign invasion, the Congress of the United States has the same power to build the road for the purposes of common defense in the States as in the Territories. I believe so yet; and I have cast my eyes over the provisions of the Constitution for the purpose of meeting the argument of the Senator from Mississippi. So far as this power of acting in the different States is concerned, the Senator is mistaken when he says that there is no power in the Constitution of the United States to build ships. The language is express.

"The Congress shall have the power to provide and maintain a navy."

Surely that is a power to build ships.

Mr. DAVIS. The Senator, I think, could not have heard me. My voice is not always equal to the room. My reply to the Senator from North Carolina was, that there was no specific grant of power to build a ship; but that it was derived from the power to maintain a navy, as in the case of forts, from the power to maintain an army and provide for the common defense.

Mr. BENJAMIN. The language of the Constitution is, that "Congress shall have power to provide and maintain a navy." That is surely as express a power to build ships as language can give; or, at least, it is so in my judgment. Then again, the Senator refers to the grant of power as given in the Constitution, in relation to the erection of forts, magazines, &c., and he draws from the expressions of the Constitution in relation to that power, the inference that the General Government has not the right to go into the States for the purpose of acquiring lands for the common defense, without the consent of the States. I do not think that the clause is susceptible of that construction fairly. That clause of the Constitution has reference to the exercise of exclusive jurisdiction. It says, "that the Congress shall have power to exercise exclusive jurisdiction over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals," &c. This is the grant of the power of exclusive legislation; and it is under this power that we daily pass laws covering our forts, fortifications, and other similar constructions; but surely, under the general powers of providing for the common defense of the nation, of arming and using the militia, of providing and maintaining a navy, of raising and supporting an army, the Congress of the United States has the power, if it be necessary for the defense of the country, to build a railroad. I imagine it would hardly be contended that if an enemy were upon our shores, in any location, and that enemy could not be reached, except by cutting through a dense forest in a State, the Congress of the United States had not the power to cut the road through the forest, in order to reach the enemy, without the consent of the State. That is a necessary incident of the war power; and it was from that that I deduced this conclusion, if you were building this road for the defense of the country, you have the same power to build it in a State as in a Territory; but if your road is a great commercial road, and if its uses for the defense of the country are purely subordinate, then it is an abuse of the power which the Constitution has conferred upon Congress.

Now, sir, I did not pretend to say, and the Senator from Mississippi did not do justice to my argument when he answered me as if I had said, that this railroad would not be a very useful adjunct in time of war; that it might not be very necessary in time of war; but I said that its warlike purposes were entirely subordinate to commercial and traveling purposes. Let me give another example, if the Senator will permit me. No man will doubt that the Congress of the United States has the power to transport munitions; provisions of all kinds, for the uses of the Navy, for the uses of the fortifications, for the uses of the Pacific shore. No man will doubt that transports may be employed for that purpose. Now, what would be said of a proposition by which, for the purpose of securing necessary transportation in time of war, Congress should propose to advance a certain amount to ship-builders to construct a thousand vessels which would be neces-

sary for transportation in case we had a war, and should give a certain annual stipend to the owners of those vessels for the purpose of keeping them in repair, with a view to be able to use those transports in the event of a war? That would undoubtedly be very useful; it might be very necessary in the event of a war twenty years hence, to have at our control a thousand or two thousand transports of this kind; but would any gentleman contend that, under the war power, we could advance money for the building of those ships, and for the keeping of them in repair, and leave them in the hands of the owners to be used for commercial purposes in the interval?

My proposition is that, although a thing may be useful in time of war, you cannot, under that grant of power in the Constitution which authorizes you to defend the country, provide that which may be necessary in time of war, when its use in time of war is entirely subordinate to commercial purposes in time of peace; when it is not intended for the use of the Government at all, except in the event of a war. I think that the building of a fleet of transports would come as clearly within the war power of Congress as the building of this road; and the building of a fleet of transports that should belong to private individuals, and should be engaged in commerce until war should come, would be as clearly within the war power as the building of this road.

The Senator from Mississippi says we have all voted for grants of land to build railroads in the States. Undoubtedly we have; and he says further that the Congress of the United States granted land to his State when it was admitted into the Union, for the purpose of building railroads in the State. That, also, is true; but upon considerations entirely independent of those offered by the defenders of this bill. When we granted lands for the purpose of building railroads in the States, we granted those lands upon this hypothesis, and this alone—at least such was the basis upon which my vote was placed: that the Government was the proprietor of large bodies of land in the States; that it was its duty to dispose of those lands for the best interests of the country; that it could not sell the lands unless means of communication to them were provided; and that it was doing no more than a private individual would do who was the owner of those lands, if it agreed with anybody who would build a road to them, to give half the land for the advantage done to the other half in its increased value, we thereby disposing of the lands as a prudent private owner would do. On that basis I voted for a grant of alternate sections, and with a provision in the bills that the reserved sections should be sold at double the minimum price, in order that the Government should be able to dispose of the lands without loss.

Again: when the Senator's State was organized, when the territorial administration gave way to a State organization, there was a large body of the lands of the United States within the limits of the State of Mississippi. Those lands belonging to the Government were, by some, supposed to be exempt from taxation by the State. Many men thought those lands were liable to State taxation. Under these circumstances, as a compromise of the question, the Congress of the United States, in organizing State governments out of the land which had been acquired by treaty from foreign nations, has been in the habit of giving a certain portion of the public lands within the State for purposes of internal improvement and the establishment of public schools, as a compensation for the abandonment by the State of the right to tax the remaining public lands. That compromise has been almost universally sanctioned by both Houses of Congress; but we have never yet undertaken, that I know of, since the destruction of this whole system, at the time of the veto of the Maysville road bill, to build roads in the States for the mere purpose of exercising the war power. We never yet have undertaken, in advance, in the States, to provide the means of communication by which troops could reach an exposed point in case of war. We have only provided roads in the Territories of the United States to enable us to move our troops, to defend our people in the Territories where no roads exist, and where the troops could not move without them. In organizing and establishing those roads, we had in view to facilitate the intercourse between different parts of our Territories; and in my judgment it was

wise and statesmanlike to do so; but surely the proposition is now, for the first time, maintained, that, under the war power of the General Government, you may, without a threatened war, long before you can anticipate the existence of hostilities, enter into a State to build a road, as being necessary for the defense of the State. I say that if this power is once conceded, the entering-wedge has been granted which will be made use of by the advocates of corruption and profligate public expenditure, and we shall see no end to the propositions before Congress to build railroads in the States for the defense of the States.

Mr. DAVIS. Mr. President, the Senator from Louisiana makes an argument upon a supposed case, and his argument rests upon the theory of an abuse of the power to provide a Navy. Does the Senator not remember, for he certainly does know, that the laws exist, and he is surely to some extent responsible for them, which do indirectly the very thing which he has portrayed here as the height of offending to which it was possible for Congress to go? What are the navigation laws but the maintenance of that very fleet of transports, engaged in time of peace in the business of commerce, to be used in time of war? What is the policy on which those laws were founded, and how are they maintained to-day if it be not to provide for the wants of the country, and especially for its routes in time of war? They have been called a nursery of seamen; a means proper and essential to the maintaining of a Navy; that we should, by navigation laws, encourage the construction and sailing of vessels upon our own coast, giving them that benefit which would exclude all foreign vessels from the same line of trade. This may be what the Senator considers, as in the case of the railroad grants for which he voted, exactly what a prudent proprietor would do; but prudent proprietors seldom have made such grants as Congress has; and I think prudence, if it be annexed to the character of a proprietor taking a retrospective view, will show the Senator that he has voted for many for which he must find some other foundation to justify him than the one he has assumed.

As to the compromise in relation to taxing public lands within the limits of a State, it goes somewhat back of the theory of the Senator, and connects itself with the old system of sale upon credit as well as upon the asserted right of the States to tax. It is interwoven with practice as well as theory—a practice much older than that to which he refers. The reference which was made to it by me was to show the distinction; that we had gone on to make roads during the territorial condition; made roads in peace and in war; made roads for purposes of defense, and for purposes of communication; and when we lost the power, by its passing from a territorial to a State condition, we then followed it by a certain percentage which was to be devoted to the making of roads thereafter.

Mr. GREEN. Mr. President, I am not at all offended; on the contrary, I am much pleased, at the fact that the Constitution has been invoked even as an argument against this road; though I am decidedly in favor of the road. It satisfies me of one thing, at least: that the Constitution will ever stand as the great charter to guide us in our public relations, and that our attention will be called to it, time and time again, to keep us from deviating too far from the original principles on which this Government was established. But, in the construction and application of the powers of the Government, it is but natural that we should entertain some differences of opinion. Let us see, however, whether the Constitution does inhibit us, or, in other words, (for that is not the correct manner in which it ought to be stated,) whether it does authorize us in the exercise of the power contemplated in the bill. I make this correction in the phrase I was about to adopt, because we have not general power unless restrained; we have only special power when granted. We must look at the body of the grant, and see whether a fair and reasonable construction of the grant will authorize us in assuming jurisdiction and power over a given subject.

The Senator from Louisiana has indicated those principles of strict construction which are certainly most essential to the keeping of the General Government within legitimate powers; but, in undertaking to make it so strict, as to limit the power

of Congress in providing means for the defense of the country, I think he has gone a little too far. He has exercised, and justified himself in the exercise of, the power to deepen the mouth of the Mississippi river; he has voted large appropriations for dredging machines; as he says, because the Constitution declares that Congress shall have the power to regulate commerce. Does the power to regulate include the power to create or facilitate? Most unquestionably not, by the same rules of strict construction to which he appeals as an opponent of this bill. The power to regulate, is to prescribe rules for the government of; but the power to facilitate and the power to create are entirely different questions. If, however, he chooses to adopt the other alternative, and say that the power to regulate commerce includes the power to provide means for its facilitation, then I answer that the same argument will justify the construction of a railroad across the continent. The Constitution makes no distinction in the power. It confers it over the subject of commerce, whether that commerce be by sea or land, whether it be external or internal, whether with foreign nations or with Indian tribes.

There is an existing commerce over the continent. Now, if it be true that the power to regulate includes the power to facilitate, or provide the means for the facilitation of; and if it also be true that a proper construction of the Constitution gives the same power over commerce, whether by land or by sea; and, if a third postulate may also be admitted, that there is an existing commerce across the continent, then it inevitably follows that we have the power, (whether it is prudent, or proper, or wise to exercise it or not,) under the same process of reasoning, to make a railroad, and provide any means we please to expedite the commerce across the continent, to remove the obstructions of the mountains as he would remove the obstructions at the mouths of the Mississippi. There can be no alternative in this construction, and I only present it as seeming to me to conflict with those strict, rigid rules of construction which he has invoked to tie our hands, and to prevent us in the consummation of this important work.

But, says he, (and I fully and most cordially agree with him on this point,) the power to defend the country, to provide the munitions of war, and the means for the military defense of the country, must be the same in the States as in the Territories. Congress possesses a power over the Territories more enlarged in some respects than it has in the States; but the military power of the Federal Government is just the same in a State as it is in a Territory, with one single exception. We have the same right to build a fort in a State that we have in a Territory, without the consent of the State. We have the same right to build an armory in a State that we have in a Territory, without the consent of the State. We have a right to manufacture arms in a State as well as in a Territory, without the consent of the State. We have a right to make a military road in a State as well as in a Territory, provided a necessity exists, without the consent of the State. But when the question of jurisdiction over that work comes up to be considered, the jurisdiction must be granted over places purchased by the consent of the State, for what purpose? The same over them as over this Federal district. The Constitution says that Congress shall "exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." That is not a grant to enlarge the military power of the Government; it is a grant to maintain a jurisdiction, and I believe if I had time, I could refer you to a decision of the courts in this respect. The power to provide the means to carry out any constitutional end, does not depend upon the consent of a State. I think the case of the United States vs. Osborne is directly in point.

Mr. PUGH. Do you consider that a sound decision?

Mr. GREEN. I consider it the affirmation of that principle, a sound principle; and I have never yet seen any one who would call it in question, that where Congress has the power to do a constitutional act, Congress has the power to provide the means necessary and proper to accomplish that end, and those means may be exerted in a

State without the power of the State to tax. The extent of that decision was that it does not require the consent of a State to enable Congress to make use of constitutional means to accomplish constitutional ends. But to give to the United States exclusive jurisdiction, that is, to cut off the jurisdiction of the State, to deprive the State of any jurisdiction, and make the power of Congress exclusive, does require the consent of the State. For instance, you erect a fort in a certain locality. You erect it because it is necessary for the defense and protection of the country. You purchase or condemn the land you want for the purpose, or you can take it without purchase, making proper compensation to the individual sufferer on general principles of equity and justice. You can take it by force, but justice demands of you to make adequate compensation. Having taken it by force or by purchase, you take it because it is necessary as a means to defend the country. Still it gives you no exclusive jurisdiction; but the State in which it is situated has the same jurisdiction over it that it had before, except so far as this: that being property of the United States, and a means of accomplishing a constitutional end, it is not subject to the taxing power of the State; but if a crime be committed there it is punishable under the State law. So of various other cases which I could illustrate. This is the distinction between the exclusive jurisdiction of Congress with the consent of a State, and the right of Congress to make use of land in a State without the consent of the State.

Is this road necessary and proper for any constitutional purpose? The general military power of the Federal Government is a conceded grant. The last clause of the eighth section of the first article of the Constitution says:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Whether you build a fort or an arsenal, whether you provide for the manufacture of arms, or do anything else, it resolves itself into this: the end being expressly authorized by the Constitution, are the proposed means necessary and proper? That addresses itself to the judgment of Senators and the judgment of members of Congress; to the agents and officers of the Federal Government. It is utterly impossible to draw a line so fixed, so exact, so definite, that all must exactly agree upon it.

Again: the necessity and the propriety of it may depend upon contingencies and circumstances that may exist at one period of time, and may not exist at another. The Senator from Louisiana said, and said truly, that with between three and four millions people we maintained a successful contest with Great Britain, and achieved our independence. From this fact he infers that the people on the western slope of the Rocky Mountains can likewise defend themselves against all the Powers of the world. How fallacious is this reasoning! It applies only to this point of propriety and necessity. He says it is not necessary, because there is, or soon will be, a self-sustaining power in that people. I am free to admit that the time may come when it will not be necessary for Government purposes to have this road across the continent; but the time now is, and, I think, will continue for many years to come, when it is necessary to have this military road. What was the power of England in 1775, compared with what it is now? At that time England, I think, had only about eight million inhabitants; I may not be correct as to the number. Her military provision was of the most ordinary kind, compared with what it is now. The Power of France was then jealous and hostile. England now has some thirty million inhabitants; and France, with thirty-six million inhabitants, is in close alliance with her. The improvements in fire-arms, in military tactics, and in the means of warfare generally, have been more than quadrupled since that time, even with a like given number of men; while the number of inhabitants and the physique of the army have more than doubled. These allied Powers, in one sudden attack and descent upon California would overrun, occupy, and hold it beyond our power ever to expel them, if we do not anticipate coming events, and make provision to defend it now, while we may.

This, as I before remarked, addresses itself to the necessity and propriety of the measure. But I will go even so far as this: if it be our duty to defend that country, and if coming events cast their shadows before us, and if we intend to defend it, and if we cannot defend it without making this road, we should be justified in expending \$100,000,000 for that purpose, and even in making it exclusively out of the Treasury of the United States. But still the question of making it exclusively out of the Treasury of the United States addresses itself to the propriety and necessity. Is it necessary and proper? If we can make the road without the \$100,000,000, if we can make it through the process of disposing of part of the public lands and rendering some assistance in anticipated payments for services to be performed, that is as far as we ought to go, for we can only go to the extent that is necessary.

The Senator from Louisiana says it is not proposed to make a road to Texas. That is true; not because our power is not as great to make one to Texas as to California, if the same degree of necessity existed; but there is a habitable country from here to Texas, and we see the course of events. The necessity depends upon the course of events, upon the face of the country, upon the population and settlement of the country, and the other ordinary means of communication. Hence, we can with propriety say, it is not necessary for the Government to appropriate money to make a railroad from here to Texas; for the ordinary circumstances attending human progress and the adaptation and fitness of the country insure to us that it will be made as quick without the aid of the Government as with it. Let that same argument apply to California. There is not a reasonable man, who has studied the character of the country, who knows the height of the mountains, the depths of the valleys, the rigor of the climate and the barrenness of the soil, who will hesitate a moment in saying, that without some extraordinary aid, that road never can be built. Hence the necessity of Government aid; and it addresses itself to us with strong force and strong power.

Perhaps the question may be asked, Does my constitution depend on the necessity? I answer, yes. The means to execute a constitutional end, by the Constitution, are made to depend upon the necessity and propriety. It says, in so many express words, what constitutional ends you may accomplish, and the means to reach those ends are to be necessary and proper. They may be necessary and proper at one time, under one state of circumstances, and not be necessary or proper at another time and under a different state of things. It opens no door to fraud and corruption; it breaks down no barrier to protect your public Treasury. I take it for granted that Senators, and members of Congress generally, will be honest in their views with reference to the necessity and propriety of every given measure; and I take it for granted still further, that if they are not honest, no constitutional barrier will restrain them.

Now, sir, I see no difficulty in this argument; but, says the Senator, the same necessity may exist for the transportation of supplies. Yes, and if you make out a corresponding case of the absence of transports, I will justify legislation to provide transports. There never has been a war upon the coast; there has never been an expedition to any foreign ports, in which the Government did not either build, buy, or hire, transports. They have done it in the expedition to Paraguay. Transports must be had; and if we had no commercial marine; if the character of our people did not adapt them to coastwise and foreign commerce, and we had no ships of transport, and it was indispensably necessary to provide the means to carry this transportation coastwise, in order to provide the Army, then the necessity contemplated in the Constitution would exist, and you would have the right to vote money to make those transports, or purchase them. Just so it is with the road. By the same process of reasoning, you have no right to make a road; that is, the necessity does not exist—and your right depends on that—in places where the ordinary course of human events will make it in reasonable time to meet the wants of the Government.

The power of granting land to assist in the construction of roads depends entirely on a different

grant of power. It does not depend on the power of Congress to defend the country. I have voted, and others have, to appropriate portions of the public lands for railroad purposes; because we have an express grant of power "to dispose of and make all needful rules and regulations respecting the public lands and other property of the United States." It is by virtue of that grant of power that I have exercised the right and expect to do it again, to vote public lands for railroads; not because of their military adaptation to meet the wants of the country, but because, in the disposition of the public lands, I believe it to be wise, just, and proper. But when the military power of the country is invoked, when provision is to be made to keep our country in a state of readiness at all times to be prepared to defend our people and our shores and our soil, if I see no reasonable human probability of thus defending them without resorting to an appropriation of money out of the Treasury, I will vote that appropriation; and I will appeal to the Constitution, which says to me, "you may and must provide means necessary and proper to accomplish this constitutional end." The Senator may, on the same principles of strict construction, arrive at a different conclusion, because he may not think it either necessary or proper; but I beg of him to remember, while I concede to him the right thus to form his opinion, he is not to characterize us as breaking down the barriers of the Constitution because on that point we differ from him; we believing it both necessary and proper, and he not thinking it either necessary or proper.

Mr. PUGH. Mr. President, I shall not reply to the Senator from Rhode Island, because the Senator from Mississippi and the Senator from Louisiana, although they differed with each other, conclusively answered his proposition; but I think my Democratic brother from Missouri is in danger of straying into very wild paths, and will be entirely out of the fold if he is not very soon recalled. Now, sir, it is first asserted by him that the power to provide for the common defense is a universal power, applicable within the States and within the Territories, and to be exercised in all its relations, even to the third and fourth degree of incidental powers, without the least regard to the wishes of a State.

Mr. GREEN. I hope the schoolmaster will quote the scholar correctly, at least, if he is going to correct him for his improprieties. I certainly never said you might go down into degrees of necessity.

Mr. PUGH. I will show the Senator that he got into degrees, and very bad ones, before he was through.

Mr. GREEN. State the inference and my words correctly.

Mr. PUGH. We must not be deceived by mere words. There is no general power to provide for the common defense. There is no war power, as gentlemen speak of it, in the Constitution. If there ever was an instrument that dealt in specific words, it is the Constitution of the United States. There is power to levy taxes. I will give you the words:

"To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

That is to say, as it has been settled from the days of the Federalist down, it is a power to levy taxes for the purpose of providing for the common defense and general welfare; but there is no substantive power of itself under which Senators can interpolate the right to do whatever they please, and call it for the general defense. So about the war power. What is that?

"To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

What is that? You have a right to declare that the emergency has arisen in which the relation of your citizens to the subjects of foreign Powers, differ from what they are in ordinary cases. If a citizen of the United States, upon the high seas, attacks a vessel belonging to a British subject, and commits robbery or violence in time of peace, it is piracy; but put a declaration of war before him, and that is a declaration that in that particular status the relation of the parties are altered.

But what is the proposition of the Senator from Missouri? That there is a universal power to provide for the common defense, and a universal

war power that is to extend to all circumstances, and for all time, and to anticipate all contingencies. Why, sir, the framers of the Constitution were more jealous than that. They have given you a power to raise and support armies. That is the nearest approach you can get to the common defense. They have given you power "to raise and support armies;" but they have said that "no appropriation of money to that use shall be for a longer term than two years." It is the only restricted power in the Constitution.

And yet, sir, although you cannot keep an army up beyond two years without an act of Congress, under the pretense of the common defense, you can appropriate untold millions for untold ages, and assume the control of the property, and the sovereignty of the States. I say it is the most monstrous doctrine. It exceeds any Federalism that was ever taught in the days of Hamilton and Adams.

Now, sir, I grant you that in time of actual hostilities, when the armies of the United States, or the military commanders, pressed by invasion, pressed by insurrection, find it necessary to resort to anything to repel the invader, that would be proper enough. They can build a fort, they can build a camp, or a ditch, or a wagon road, or a railroad; but when the emergency passes, the act must cease. Then it has got to stop. You cannot keep a railroad there after the war is over, and after the enemy has retired you cannot exercise jurisdiction over it; you cannot run trains upon it; you cannot lease it to those who will run trains. While an emergency like that exists, it is precisely the case of Andrew Jackson at New Orleans when he declared martial law. He had a right to declare it, because the emergency was so imminent, the state of hostility was such that it was necessary, but when the crisis passed, the declaration ended. But, sir, you cannot begin in time of peace, and, upon the supposition that war is to be declared hereafter, go on to make railroads or anything else except as authorized by the Constitution. The Constitution has said that we may purchase, with the consent of the States, real property for the construction of forts, dock-yards, and certain other specified public buildings. That we may do. Beyond that we have no power whatever; it cannot be done.

Now, as to the case of the Territories. As I said, that is not particularly involved in this amendment, and I am very free to say that all the arguments so handsomely urged by the Senator from Louisiana bear very strongly on my mind; and the only justification or excuse or palliation that I could ever give for voting for this proposition, even if it were confined to the Territories, is this: that here is a desert which never will be settled, so far as we can now ascertain, where there never will be population to support any ordinary method of communication, and that it is necessary for us to pass it in order to reach the settled portions of the Pacific coast. That is all the argument I have ever made to myself for voting for any part of this bill.

Nor do I see how my friend from Missouri can justify himself in voting to construct this road for a distance of two or three degrees of latitude in the State of California; but he very carefully puts it out of the State of Missouri. Why not bring it to St. Louis? Why not bring it to Washington city? He says that he put it upon the ground of necessity. Well, sir, if the Constitution is reduced to every man's idea of necessity, it is worse than old John Selden's principle of equity. He said equity was according to the length of the chancellor's foot. We might as well abolish the Constitution; nothing is left of it if such notions are to prevail.

Mr. GREEN. I will answer the question of the Senator from Ohio. It all resolves itself into the question of necessity. I think the necessity exists; he thinks not; but I deduce my power from that same clause from which he deduces his power to vote \$20,000 to Mr. Ellett to bottle up the waters and increase the flood of the Ohio.

Mr. PUGH. I never had any such proposition. The Senator is mistaken. He not only misreads the Constitution, but he misreads my bill.

Mr. GREEN. I recollect that the session before last you made a speech for it, and I replied to you.

Mr. PUGH. I did not bring in such a bill. I brought in a bill to provide for the survey of the

THE CONGRESSIONAL GLOBE.

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Ohio river: that was the whole bill. I think it is very likely the Senator's speech did not fit the bill. He can read the bill; it is in print now.

Mr. SIMMONS. When I ventured to make an objection to this amendment, I had no idea of bringing into review the whole question of the propriety of building a railroad to the Pacific, and the proper means of doing so. I am not going over that ground. I understand the Senator from Louisiana to have concurred with me in opinion as to the constitutional question, that if we could build this road under the war power, our authority went to the length for which I contended. The Senator from Ohio says there is a limitation to the power to raise and support armies. I agree to that, and it is because it would be dangerous to civil liberty to have a standing army kept up continually; but is there any limitation on the power of Congress to provide and maintain a Navy? Is an appropriation for that purpose limited to two years? By no means; and is it not as indispensable to communicate with the Pacific ocean to maintain our Navy there, as it is to maintain an army? When the Constitution was made, I agree we had no territory on the Pacific ocean, and I do not suppose the framers of it ever contemplated that we should have any; but I ask the Senator from Ohio if we can maintain a Navy without some means of communicating through our own territory with the place where it is located.

The Senator from Ohio said he would not answer my argument, because the Senator from Mississippi and the Senator from Louisiana had answered me. Well, sir, I understood the Senator from Louisiana to agree with me so far as the constitutional power went, and that was all I undertook to argue. Now, I wish to call the attention of the Senator from Mississippi to two or three remarks of his; but before I do so I will observe that no Senator who has spoken has referred to the power of the Government of the United States to establish post offices and post routes, and the uses of this road for that purpose have been entirely overlooked. We are now annually expending \$2,000,000 for postal service and the transportation of the mails to the Pacific. We have a right to establish post roads in any of the States. I do not know whether we have a right to build railroads as post roads or not, and I shall not go into that question; but if we build a railroad for the defense of the country, I do not believe anybody will dispute our right to have the mails carried on that road.

But the Senator from Mississippi, in replying to some observations of the Senator from Delaware, and others on that side of the Chamber, who said that we could build this road in the States with their consent, attacked the doctrine of popular sovereignty which he said he had been contending against for a long time, and intended to resist through his life. I do not know that that is involved in this question. I cannot perceive its relevancy to this proposition, and therefore I shall not comment on it. He went still further, however, and said that the power of this Government to create a corporation to transact any business within the power of this Government to do, had been decided not to exist. How did he say that question had been determined? He said the question was made in reference to the Bank of the United States, and it was determined by the popular vote in an election of President.

Now, I should like to know if that is not popular sovereignty? I ask the Senator from Ohio if he does not know that the power of this Government to establish corporations has been decided to exist by the Supreme Court of the United States, time and again? And does he contend that a mere presidential election can overrule a decision of the Supreme Court? A President might have been elected without any reference to this question, of the same character as the one who was elected with reference to it. I alluded to the decisions of the Supreme Court of the United States on this very question of corporations, and said that if the jurisdictions of the respective

States extend over them they can defeat the purposes of the General Government by taxing the corporations which it creates out of existence. The Senator does not escape that point by saying that you cannot make a corporation; because the Government of the United States has created them, and they have been invariably sustained by the Supreme Court of the United States; and I do not believe the Senator from Mississippi will venture to hold that a popular vote can overrule a decision of the Supreme Court on such a question. I do not know that I am understood by the Senator.

Mr. DAVIS. I did not hear the Senator; I will come nearer to him.

Mr. SIMMONS. I am sorry to repeat; but I will do so with great pleasure, because, in almost everything he said, I most heartily concur. I would never invade a State to construct any such work as this, if I did not think it indispensably necessary and proper for the defense of the country, or for the conduct of the public business of the country, the transportation of the mails, and affording those facilities which the people have a right to require to guard against probable danger. The Senator from Mississippi, in allusion to the States, said that asking their consent to construct such works was a recognition of popular sovereignty, which he had been contending against and intended to contend against. I said I did not perceive exactly how that was involved in this question.

Mr. DAVIS. It will give me great pleasure to explain what I meant. It was the doctrine of putting States and Territories on an equality to which I referred. I did not call it popular sovereignty, but called it, as I always do, "squatter sovereignty."

Mr. SIMMONS. I did not know but that they were the same thing. I have not much disposition to defend that doctrine, call it by what name you please; but it has an abiding place in the history of the country, in the words I used, and I did not know but that they were synonymous with the term the Senator employed. But the Senator went on to say that the Government of the United States had no authority to create a corporation to carry on a work within the just powers of the Government; that is, which the Government itself was authorized to construct.

Mr. DAVIS. Within the limits of a State?

Mr. SIMMONS. I mean that. He said Congress cannot create a corporation which shall operate within the limits of a State.

Mr. DAVIS. Exactly; that is my opinion.

Mr. SIMMONS. Now I ask the attention of the Senator to a matter of history. Such corporations have been created by this Government; and they have uniformly been sustained by the decisions of the Supreme Court of the United States. He said that the question had been submitted to the people, and their decision had been overruled by the people. Does he mean to say that, in a mere party election, the decision of a people, or a vote, whether this man or that man shall be President, can overrule the decision of the Supreme Court of the United States on the constitutionality of any question?

Mr. DAVIS. Certainly not. The decision of the Supreme Court gave validity to the charter of the national bank until it expired by its own limitation. The decision of the people then rose in its majesty, and the Supreme Court never had a chance to hear the case again.

Mr. SIMMONS. There may be a little difference in our views about what the history of the country was. At the first election after the expiration of that charter, the Whigs triumphed by an overwhelming majority, and they triumphed on this very issue being presented to the people. Does the Senator recollect the triumph of 1840—the first presidential election after the bank charter expired? Was it not overwhelmingly in favor of a national bank? and was not that the leading issue before the country?

Mr. DAVIS. I would ask the Senator if the great contest did not occur in 1832?

Mr. SIMMONS. The great contest in 1832 was on the recharter of the old bank; and if that was to come up to-day I would vote against it myself. When men have had a bank for twenty years they have no sympathies with the business people of the country, and they ought not to be rechartered if you can get along without them; but when General Jackson vetoed that bank charter he stated that, if he had been applied to, he would have given the form of a bank bill that he would approve. Does that go against the constitutional power?

I say General Jackson was right in vetoing the bill, if he had then stopped his hostility to the old bank, and had not ruined the people by removing the deposits, &c. General Jackson, in his veto message, vetoing that recharter, stated in the concluding paragraphs that, if he had been consulted by Congress, he would have given them a plan of a bank that he would approve. Does the Senator from Mississippi intend to put forth that veto message as having assumed that Congress had not the constitutional power to charter a corporation? By no means; it will not justify any such construction. The charter expired by its own limitation; and on the very first appeal to the people on that question, they decided in favor of a national institution of that kind. That is the true history of it; and so far as there is anything to be gained from the history, it confirms the opinion I expressed, and is in direct opposition to the one expressed by the Senator from Mississippi.

Mr. JOHNSON, of Arkansas. I presume it is evident to gentlemen of the Senate that we can get no vote to-day on the bill before us. We have reached a period of abstractions where, I think, a limitation on debate is very needful. I hope now, very much, that we may be permitted to have an executive session for the purpose of getting up some business that is really important, and I am assured should be done in that session to-day. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. DAVIS. I should be very glad if we could dispose of this bill. I think there will hardly be a termination of the debate very soon, if we protract it in this way.

The PRESIDING OFFICER. The Chair will suggest that the motion is not debatable, except by unanimous consent.

Mr. DAVIS. If there be any objection to the remarks I am making, I will stop. ["Go on."] I will merely say that from the wide range the debate is taking, we have very little prospect of bringing it up in time to transact the public business before the Senate, unless we go on steadily to a conclusion at this time or to-morrow; and my belief is, that we had better proceed to-day until we bring the bill into such a position as will enable us finally to act on it either to-day or to-morrow.

Mr. JOHNSON, of Arkansas. I renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; there being on a division—ayes 20, noes 17; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 19, 1859.

The House met at twelve o'clock, m. Prayer by Rev. S. TUSTIN, D. D.

The Journal of yesterday was read and approved.

SELECT COMMITTEE.

The SPEAKER appointed as the select committee, to which was referred the bill (H. R. No. 800) allowing those holding lands by entries in the Virginia military district, Ohio, which were made prior to the 1st day of January, 1852, to have the same surveyed and patented, Messrs. STANTON, COCKERILL, and MILLER.

GRAND CHENIERE ISLAND.

The SPEAKER stated that the business first in order was the motion made yesterday by Mr. COBB, to recommit to the Committee on Public Lands House bill (No. 683) recognizing the survey of the Grand Cheniere Island, State of Louisiana, as approved by the surveyor general, and for other purposes.

Mr. COBB. I withdraw the motion to recommit, and ask that the bill be read. The House will see that it ought to pass.

The bill was read. It provides that the anomalous survey of the Grand Cheniere Island, in the southwest district of Louisiana, as approved by R. W. Boyd, surveyor general, be confirmed, and that the people residing thereon at the date of this act, and who according to the preemption laws now in force would be entitled to a preemption, shall be allowed such right on the lands referred to; but such right shall be confined to the subdivision of land upon which the parties reside, and shall exceed in no case one hundred and sixty acres.

Mr. COBB. The object of this bill is to provide for a little strip of land surrounded by swamps which cannot be surveyed in the usual manner—north, south, east, and west. Here is a map of it, from which gentlemen will see that it can only be surveyed by being cut up into little fragments of from forty to one hundred and thirty acres.

Mr. HOUSTON. My colleague speaks of this land as a swamp. I would like him to state whether this bill conflicts with the swamp land act.

Mr. COBB. Not at all. I did not state that the land was swamp, but that it was surrounded by swamps.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MOBILE AND OHIO RAILROAD.

Mr. COBB, from the Committee on Public Lands, reported back, with an amendment, House bill (No. 669) for the relief of the Mobile and Ohio Railroad Company. The bill enacts that whereas the State of Mississippi, by its act approved January 23, 1852, and the State of Alabama, by its act approved December 1, 1851, did transfer to the Mobile and Ohio Railroad Company the lands granted to said States under the provisions of the act of Congress, approved September 20, 1850, to aid in the construction of a railroad from Mobile to the mouth of the Ohio river, the transfer of the lands made by the said States to the said company are hereby recognized, ratified, and confirmed; and the bill also extends the time granted by the act of Congress to the said company to complete the road, to September, 1865.

The Committee on Public Lands reported an amendment to the bill, to insert, after the word "confirmed," the words "and the titles to all bona fide purchasers of said company are also hereby confirmed."

Mr. COBB. I will state the objects of that bill as briefly as possible, as it is my desire to facilitate business, and not to consume the time of the House by unnecessary remarks.

In the year 1850, the Congress of the United States made a grant of lands to the States of Mississippi and Alabama, to aid in the construction of a railroad connecting Mobile with Chicago. The Legislature of Mississippi and Alabama went on and gave the lands to this company on the condition that they should build the road. A question arose in Mississippi, which, as I understand, brings this bill here. Some court in Mississippi decided that the Legislature of that State could not vest the title in the railroad company. They therefore decided to come here and ask Congress to confirm the grant of the land by the Legislature.

I do not think any man in this House would tolerate such a decision as has been made in this case for a moment. The grant of land was made to the State, clear and distinct, and they had the right to give up the land to the company upon the condition that they should build the road. Under this grant, the company have gone on and completed a large portion of the road which is to form the connecting link between Mobile and Chicago. I have no doubt that the grant was perfectly valid.

Still, in order to avoid all difficulty, it has been thought best to have it confirmed by Congress.

I care nothing about the extension of time which the bill provides for. I have no doubt myself that the company will be able to complete the road within the year; but I presume there will be no objection to the extension which is provided for. The committee have decided that it should be made to provide against all contingencies. I do not regard the amendment which has been reported as of any consequence, believing that the grants made by the company would be confirmed by the courts; but I hope the House will pass the bill, and allow us to pass to other business. I call the previous question upon the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

The amendment reported by the Committee on Public Lands was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. JONES, of Tennessee. I call for the yeas and nays upon the passage of the bill.

Mr. BARKSDALE. I call for tellers upon ordering the yeas and nays.

Tellers were not ordered.

The yeas and nays were ordered.

Mr. BARKSDALE. I ask the unanimous consent of the House to make an explanation in relation to this bill. I do not think it is understood by the House.

Mr. MORGAN. I object, for the reason that I am opposed to this whole affair, and I should want an opportunity to reply.

Mr. BARKSDALE. There would be no opposition to this bill if it were understood.

The SPEAKER. Debate is in order, the previous question not having been called on the passage of the bill.

Mr. BARKSDALE. I was under the impression that the previous question had been called. In 1850, Congress passed an act making a grant of land to the States of Alabama and Mississippi, to aid in the construction of the Mobile and Ohio railroad. In 1852, the Legislatures of Mississippi and Alabama passed acts conveying the lands to the company, and the company entered upon the possession of it. A portion of it has since been, and is still, mortgaged; a portion of it has been sold by the company, and a portion is still in their possession. Certain parties in Mississippi became trespassers upon the lands, and the county instituted suits against them for trespass. Upon the trial of this case the circuit judge in Mississippi decided that the transfer of the lands by the Legislature was illegal and void, and that the suit could not be maintained.

The object of this bill is to ratify the transfer of these lands by the Legislatures of Mississippi and Alabama, and to carry out the policy of those States in giving the company entire control of the land.

I desire to state farther in this connection, that the Legislature of Mississippi, at its last session, passed unanimously a resolution requesting Congress to pass an act confirming the transfer which has been made by the Legislature. If the bill is not passed, the House will see at once that the credit of the company will be seriously impaired, and that the parties who have purchased lands of the company, or who have mortgages upon them, will suffer serious inconvenience.

Mr. NICHOLS. Will the gentleman allow me to ask him a question?

Mr. BARKSDALE. I do not think it necessary to make any further explanation of the bill.

Mr. NICHOLS. I merely wanted to ask what was the ground of the decision of the court to which the gentleman has referred?

Mr. BARKSDALE. I have not that decision before me, and I do not know the precise grounds of the decision. It was made, however, by an enlightened judge; and I understand that the transfer by the Legislature was pronounced illegal and void, because it was not in accordance with the terms of the grant made by Congress.

Mr. MORGAN. I want to ask another question or two. I want to know what amount of land was granted; what is the length of the road; how much of it has been completed; and what extent of time this bill provides the grant to run beyond that in the original act?

Mr. BARKSDALE. I cannot see the pertinency of the questions asked by the gentleman from New York, but I will answer them with pleasure, so far as I am able to do so. I understand that about eleven hundred thousand acres of land was originally granted to the States of Alabama and Mississippi to aid in the construction of this road. My colleague, [Mr. McRAE,] who is one of the directors of that road, will answer how much of the road has been constructed.

Mr. McRAE. With the permission of my colleague, I will answer the questions of the gentleman from New York, [Mr. MORGAN.] This grant of Congress was similar to all the other railroad grants. The grant made to the State of Mississippi, for the construction of the Mobile and Ohio railroad, gave alternate sections within six miles of the road, with the privilege, where the land had been previously sold, or otherwise disposed of, to go out nine miles beyond the six to make up any deficiency.

Mr. MORGAN. Will the gentleman allow me to interrupt him a moment. My object is to know whether the company are going on in good faith to build this road?

Mr. BARKSDALE. They are. They are at work on the road now.

Mr. McRAE. I will say in answer to the gentleman's question, that two hundred and thirty-eight miles of the road are completed at the lower end, from Mobile through the State of Mississippi; that about eighty miles are completed in the State of Tennessee; that the company are pursuing the work energetically; that they have contracted for the iron necessary for the entire completion of the road; and that they believe they will have it completed within the time limited by the act of Congress for its construction. There is, perhaps, a doubt on that subject, and therefore they ask for an extension of the time.

Mr. NICHOLS. I wish to ask one other question of the gentleman now upon the floor. I ask whether this bill is intended to accomplish anything more than to confirm the act of the State Legislature?

Mr. BARKSDALE. Nothing more than that.

Mr. NICHOLS. That was not before understood.

Mr. BARKSDALE. I call for the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The question was taken; and it was decided in the affirmative—yeas 135, nays 34; as follows:

YEAS—Messrs. Adams, Ahl, Anderson, Andrews, Atkins, Barksdale, Bennett, Bingham, Blair, Bliss, Bonham, Bowie, Branch, Branton, Bryan, Buffinton, Burlingame, Burns, Curnickers, Case, Chaffee, Chapman, Horace F. Clark, John B. Clark, Clawson, Clay, Cobb, John Cochran, Colfax, Comins, Corning, Covode, Cragin, James Craig, Crawford, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dick, Dodd, Dowdell, Durfee, Edie, Eustis, Fenton, Florence, Foley, Foster, Garrett, Gartrell, Gilman, Gosch, Granger, Greenwood, Gregg, Lawrence W. Hall, Harris, Haskin, Hatch, Hopkins, Howard, Huyler, Jackson, Keim, Keitt, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, Machy, McKibbin, McKim, Samuel S. Marshall, Matteson, Maynard, Miles, Montgomery, Moore, Isaac N. Morris, Freeman H. Morse, Murray, Niblack, Nichols, Parker, Pettit, Peyton, John S. Phelps, William W. Phelps, Pike, Potte, Powell, Purviance, Reagan, Ricand, Robbins, Royce, Russell, Sandidge, Savage, Scott, Seward, Aaron Shaw, John Sherman, Shorter, Sickles, Robert Smith, Samuel A. Smith, Stanton, Stephens, Stevenson, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tripple, Underwood, Walbridge, Waldron, Walton, Edwin B. Washburne, Watkins, White, Wilson, Wood, Woodson, Wortendyke, and Augustus R. Wright—135.

NAYS—Messrs. Beccor, Borce, Caskey, Burton Craine, Dewart, English, Giddams, Goode, Harlan, Hickman, Hoard, Hugler, Jewett, George W. Jones, Owen Jones, Lawrence, Lovjoy, Milson, Morgan, Morrill, Olin, Palmer, Phillips, Ritchie, Ruffin, Seale, Henry M. Shaw, William Smith, Spinner, Tompkins, Vance, Wade, Cadwalader C. Washburn, and Winslow—34.

So the bill was passed.

Pending the above call,

Mr. PHILLIPS stated that his colleague, Mr. LANDY, was detained from the House by illness in his family.

Mr. FLORENCE said: Mr. Speaker, I am requested to state that my colleague, Mr. REILLY, is detained from the House by the serious illness of a member of his family.

Mr. BARKSDALE stated that Mr. WRIGHT of Tennessee, and Mr. LAMAR, were both confined to their rooms by sickness.

Mr. AVERY stated that he was not within the

bar when his name was called, but that if he had been he would have voted in the affirmative.

The vote was then announced as above recorded.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had passed a bill of the following title, in which he was directed to ask the concurrence of the House of Representatives:

A bill (No. 503) authorizing the President, with the consent of any Indian tribe, to expend their money annuities for educational, agricultural, and other objects that will best contribute to their prosperity and advancement.

And also, that it had passed, without amendment, a House joint resolution and a House bill of the following titles:

A joint resolution (No. 45) authorizing Townsend Harris, United States consul general at Japan, and H. C. J. Herskin, his interpreter, respectively to accept a snuff-box from her Majesty the Queen of England; and

An act (No. 798) for the relief of James G. Holmes.

PRÉEMPTION RIGHTS.

Mr. COBB. I am instructed by the Committee on Public Lands to report a bill to amend the act granting rights of préemption to settlers on the public lands of the United States. A copy of the bill has been laid upon the desk of every member, in order that they may examine its provisions for themselves; unless it is now considered or some time fixed for its consideration, it is difficult to tell when it will come up for action.

The bill was read a first and second time by its title.

The Clerk proceeded to read the bill.

Mr. WRIGHT, of Georgia. The Clerk is not reading the bill I have before me.

Mr. COBB. The committee have stricken out the first part; the words stricken out are these:

"That the provisions of the act of Congress of the 4th of September, 1841, relative to préemption rights, and the acts amendatory thereof, and the provisions of the act of Congress of the 23d of May, 1844, 'for the relief of citizens of towns upon the lands of the United States, under certain circumstances,' be and the same are hereby, extended to the unsurveyed lands of the United States."

The part stricken out relates to town sites. There has been a great deal of fraud in these things; the committee, sir, are determined to put down abuses and frauds wherever they may be shown.

The SPEAKER. Is this bill an original bill, or is it reported back from the Committee on Public Lands?

Mr. COBB. I report it from that committee as an original bill.

The bill was read *in extenso*. It directs that in all cases where the right of préemption shall be claimed to land not subject to private entry, the claimant shall file his declaratory statement within three months, and make the proof, affidavit, and payment required, within twelve months from the date of settlement, when, at such date of settlement, the plat of survey, including the land claimed, shall have been received at the district land office; but when at such date of settlement the plat shall not have been received, the claimant shall file the declaratory statement, and make proof, payment, and affidavit within the respective periods of three and twelve months after the receipt of the plat at the district land office. And where settlements have already been made on lands of which the plat of survey has heretofore been received at the district land office, the declaratory statement shall be filed within three months, and proof and payment be made within twelve months, after the passage of the act; provided, that if, at the time the actual survey of the lands has been made in the field, two or more settlers shall be found on the same or adjacent quarter sections, each shall be permitted to enter his improvements, as near as may be, by legal subdivisions. And in case of a conflict of claims between such settlers, and a decision that both have settled before the survey, and either claimant shall receive under the decision a quantity less than one hun-

dred and sixty acres of the land claimed, such claimant may be permitted to enter other vacant and unclaimed adjacent land, by legal subdivisions, to complete the quantity of one hundred and sixty acres, on furnishing proof, satisfactory to the register and receiver, that such adjacent subdivisions have no settlement or improvement thereon; and provided further, that if, at the date of survey, it shall be found that the dwelling-houses of two or more settlers are on the same quarter-quarter section, they shall be entitled to a joint entry of said quarter-quarter section, and each to a separate entry of other subdivisions, as hereinbefore provided; that the sections of other legal subdivisions of land reserved to the United States, alternate to other sections or subdivisions granted, or that may be hereafter granted to the use or in aid of the construction of any railroad, canal, or other public improvement, shall be, and they are, declared subject to settlement and sale under the préemption laws; and all entries, by préemption, of any lands in such reserved sections, or other subdivisions, which, in other respects, have been regularly made, and have not heretofore been canceled at the General Land Office, shall be, and the same are confirmed; provided that such confirmation shall operate only to divest all title of the United States; that no préemption right shall be allowed to lands that have never been offered at public sale when the settlement thereon shall have been made within thirty days of the date fixed by the proclamation of the President for the commencement of the sale of said lands; and in case a settlement shall have been made within three months, and more than thirty days before said date fixed by proclamation, the claimant shall prove a continued residence and inhabitation on the tract claimed for a period of not less than thirty days next preceding his application to pay for the land; and in all other cases of préemption in un-offered lands the applicant shall prove a continuous residence and inhabitation on the tract claimed for a period of not less than three months; that the eleventh section of the act of September 4, 1841, be so modified that appeals from the decisions of the district officers, in cases of contest between different settlers for the right of préemption, shall hereafter be decided by the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior within one year thereafter; that this act shall not delay the sale of any of the public lands of the United States beyond the time appointed by the proclamation of the President for such sale. The provisions of this act shall not be available to any person who shall fail to make the proof and payment, and file the affidavit required by law, before the day appointed for the commencement of the sale aforesaid; and nothing in this act shall be construed as authorizing the sale of reserved sections or subdivisions, by préemption, where the settlements have been made after the date of reservation, for a price less than that fixed by the law for the sale of such tracts at ordinary private entry; and that all special acts and resolutions to be carried out and applied in specified States and Territories, and all laws and parts of laws which are inconsistent with any of the provisions of this act, shall be, and are superseded and annulled.

Mr. WASHBURN, of Illinois. Mr. Speaker, I have decided objections to the passage of this bill at this time. It is a change of all the préemption laws of the United States, and is one of the most important subjects on which we can legislate.

Mr. COBB. I intend, so far as the consideration of this bill is concerned, that the House shall have ample time to consider it. If the House were fully aware of the frauds perpetrated by those pretending to be préemptors they would, at once, perceive the necessity for the passage of this bill. Parties emigrate to the western country where these public lands lie; go out and live one day and one night in little shanties, that they carry out on one-horse wagons, and then claim préemption rights. Sometimes four men go out and build little cabins for each of them, and then come back and swear for each other. They thus get the land, sell to speculators, and leave the country. Thus it is, that if you go to the west you will find that, although there are no settlements, the whole land of the country is owned by speculators. It is to put an end to that sys-

tem, to break up these frauds, that this bill is reported, which requires actual *bona fide* settlers to remain on the lands at least three months, to show that they intend to cultivate and improve them, thereby adding to the wealth of the nation.

If the House considers it good policy to keep up this system that I have described, which promotes and encourages iniquity, let it vote down the bill that I have reported; but if the House wishes to put down these frauds, and to let the lands of the General Government inure to actual settlers who will be willing to cultivate them, let it pass this bill.

Mr. REAGAN. I desire to call the attention of the gentleman to the first section of the bill. I understand him to state that the bill is for the benefit of actual settlers and cultivators of the soil.

Mr. COBB. That is so.

Mr. REAGAN. I ask the gentleman whether, if a number of persons settle in a town and engage in other pursuits than agriculture, they would not, under this bill, be entitled to préempt public lands?

Mr. COBB. I struck out that part of the bill.

Mr. REAGAN. But you did not strike out the proviso.

Mr. COBB. If the gentleman had paid attention to the statement made by me, as chairman of the Committee on Public Lands, he would have no difficulty in the matter. I now move to postpone the further consideration of the bill till the third Tuesday in February, in order that the House may have time to understand it.

Mr. GROW. I hope the gentleman will withdraw that motion, in order that I may offer an amendment.

Mr. WALBRIDGE. I wish to suggest to the House that, in my opinion, this is one of the most important bills that has been brought before the House this session. It is a revival, or entire overhauling, of all the préemption laws of the country, from its foundation down to this time. It repeals everything in relation to the préemption rights of the people that is inconsistent with the provisions of this law. I have not had sufficient time to examine the bill; and I imagine that no member of the House has had time to give it the thorough examination it needs. I therefore move that the bill be referred to the Committee of the Whole on the state of the Union; and on that I move the previous question.

Mr. GROW. I hope the gentleman will withdraw the previous question, and let me offer an amendment to go with the bill.

Mr. COBB. I have moved to postpone the bill till the third Tuesday in February.

Mr. GROW. Is an amendment in order while a motion to postpone is pending?

The SPEAKER. It is not.

Mr. GROW. Then I hope the gentleman from Alabama will withdraw the motion, in order that I may offer an amendment.

The SPEAKER. The same difficulty presents itself in the motion of the gentleman from Michigan, [Mr. WALBRIDGE.]

Mr. GROW. I hope both gentlemen will withdraw their motions, and let me offer this as an additional section to the bill.

Mr. WALBRIDGE. I withdraw my motion.

Mr. COBB. The gentleman can offer it when the bill comes up again.

Mr. GROW. But I desire that it shall be printed, and go with the bill.

Mr. COBB. Well, I have no objection to the printing of it, and to the gentleman's giving notice to the House that he intends to offer it. But it will get up a controversy here to-day, and therefore I do not want it.

Mr. GROW. I hope the gentleman will allow me to offer this as an additional section.

Mr. NICHOLS. I object to everything except the pending question. I want to have the question taken on the motion of the gentleman from Alabama, and I hope it will be voted down.

Mr. JONES, of Tennessee. Is the motion to refer pending?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. Is it not in order to make such a motion, pending the motion to postpone?

The SPEAKER. The Chair thinks it is not. The question is on the motion of the gentleman from Alabama.

Mr. KILGORE. I move to lay the bill on the table.

Mr. COBB. I withdraw the motion to postpone.

Mr. WALBRIDGE. I now renew the motion to refer it to the Committee of the Whole on the state of the Union.

Mr. GROW. I now ask to offer my amendment, that it may be printed with the bill.

The SPEAKER. The pending motion, which takes precedence of all others, and which must be disposed of, is the motion to lay the bill on the table. The question is on that motion.

Mr. STEPHENS, of Georgia. I ask the yeas and nays upon it.

The yeas and nays were ordered.

Mr. COBB. If the gentleman from Indiana [Mr. KILGORE] will withdraw his motion, I will withdraw mine.

The SPEAKER. The gentleman from Alabama has not the floor.

Mr. KILGORE. I withdraw my motion, and hope the bill will be referred to the Committee of the Whole on the state of the Union.

Mr. COBB. I agree to that.

Mr. GROW. I hope the motion to refer will be withdrawn, that I may offer my amendment, and have it printed.

Mr. WALBRIDGE. I have no objection. I withdraw the motion.

Mr. GROW. I offer the following amendment as an additional section of the bill:

Be it further enacted, That from and after the passage of this act no public land shall be exposed to sale by proclamation of the President, unless the same shall have been surveyed, and the return of such survey duly filed in the Land Office for ten years or more before such sale.

Mr. WALBRIDGE. I now move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I move to lay the bill upon the table; and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 120; as follows:

YEAS—Messrs. Ahl, Anderson, Avery, Buffinton, Caskey, John B. Clark, Crawford, Davis of Mississippi, Dewart, Dick, English, Eustis, Florence, Garnett, Gillis, Gilmer, Goode, Greenwood, Groesbeck, Hughes, Jewett, George W. Jones, Owen, Jones, Lawrence, Leidy, Maclay, McQueen, Miles, Moss, Nichols, Peyton, Phillips, Pike, Reagan, Ricard, Rich, Ruffin, Seales, Henry M. Shaw, Underwood, Vance, White, and Whiteley—44.

NAYS—Messrs. Adrain, Andrews, Barksdale, Barr, Bennett, Bingham, Blair, Bliss, Bonham, Bowie, Boyce, Branch, Braxton, Burlingame, Burnett, Burns, Caruthers, Cavanaugh, Clawson, Clay, Cobb, John Cochrane, Colfax, Comins, Cowde, Cox, Cragin, James Craig, Curry, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dodd, Dowdell, Durfee, Edie, Fenton, Foley, Foster, Garrett, Gilman, Gooch, Granger, Gregg, Grow, Lawrence, Hoard, Hopkins, Horton, Houston, Howard, Jackson, Keim, Keitt, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, McKee, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Niblack, Olin, Palmer, Parker, John S. Phelps, William W. Phelps, Potter, Pottle, Purviance, Robbins, Royce, Sandridge, Scott, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Robert Smith, Spinner, Stanton, Stephens, Stevenson, William Stewart, Talbot, Tappan, George Taylor, Thayer, Thompson, Tompkins, Tripp, Vallandigham, Wade, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Watkins, Wilson, Wood, and Woodson—120.

So the House refused to lay the bill upon the table.

Mr. HATCH. I understand that the morning hour has expired.

The SPEAKER. It has expired.

Mr. HATCH. I move, then, that the House proceed to the consideration of the business on the Speaker's table. I make the motion for the purpose of having referred to the Committee of the Whole on the state of the Union a Senate bill appropriating money to deepen the channel over the St. Clair flats, in the State of Michigan.

Mr. DAVIS, of Indiana, demanded tellers.

Tellers were not ordered.

The motion was agreed to—yeas 76, nays 52.

So the House proceeded to the consideration of the business upon the Speaker's table.

ACQUISITION OF CUBA.

The SPEAKER laid before the House a message from the President of the United States, transmitting a report from the Secretary of State, in answer to the resolution of the House of the

10th instant, requesting the communication of the correspondence between the Government of the United States and the Governments of France and England respecting the acquisition of Cuba; which was referred to the Committee on Foreign Affairs, and, with the accompanying papers, ordered to be printed.

ARMY REGISTER.

The SPEAKER also laid before the House a communication from the War Department, inclosing a transcript of the Army Register for 1859; which was laid upon the table, and ordered to be printed.

CHAPLAINS IN THE NAVY.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in reply to the resolution of the House of Representatives, of January 13, 1859, in reference to chaplains in the Navy.

Mr. JONES. I ask for the reading of that communication.

The communication was read, as follows:

NAVY DEPARTMENT, January 17, 1859.

Sir: I have the honor to acknowledge the receipt of the resolution of the House of Representatives, dated 13th January, 1859, requesting the Secretary of the Navy, during the present session, "to communicate to this House the number of chaplains appointed in any branch of the Navy service since 1813; the religious denominations to which each person so appointed was attached, so far as it can be ascertained; whether chaplains, by any Navy regulations, or any act of commanders of vessels or stations, are required to use a particular uniform or clerical dress, including a gown, or to read prayers, or to comply with any particular forms or ceremonies of Divine service; and whether there is any evidence on file in the Department, tending to show that non-Episcopal ministers are required by officers to use the Episcopal liturgy."

Transmitted herewith is a statement marked A, showing the number and names of chaplains appointed in the Navy, since 1813, so far as can be ascertained from the files of the Department.

The commanding officer of a vessel or station has no authority to establish the uniform or dress of any officer of the Navy. The regulation of the Navy Department, of 3d March, 1855, in relation to the uniform for chaplains, is "black coat, single-breasted, with one row of nine black covered buttons on the breast. In performing Divine service, the chaplain may wear the black gown and white cravat, or the uniform prescribed in the regulations."

The Navy Commissioners' regulations of 1818, approved by the President, under an act of Congress, in prescribing the duties of chaplain, provides that "he is to read prayers at stated periods;" but the Department is not aware that this has ever been construed other than to offer prayers at stated periods. However this may be, to put at rest any doubt, an order has been recently issued which establishes this to be the true construction.

There is, I think, no evidence on the files of the Department tending to show that non-Episcopal ministers are required by officers of the Navy to use the Episcopal liturgy. I am, sir, very respectfully, your obedient servant,

ISAAC TOUCEY.

Hon. JAMES L. ORR.

Speaker of the House of Representatives.

The communication was referred to the Committee on Naval Affairs, and ordered to be printed.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled bills, reported as correctly enrolled a joint resolution authorizing Townsend Harris, United States consul general at Japan, and H. C. J. Henskin, his interpreter, respectively, to accept of a snuff-box from her Majesty the Queen of England; and an act for the relief of James S. Holmes; when the Speaker signed the same.

ST. CLAIR FLATS.

An act (S. No. 321) making an appropriation for deepening the channel over the St. Clair flats, in the State of Michigan, was then taken from the Speaker's table, and read a first and second time.

Mr. HATCH. I desire to ask if this bill, under the rules of the House, must not necessarily go to the Committee of the Whole on the state of the Union?

Mr. PHELPS, of Missouri. Necessarily so, as it makes an appropriation.

The SPEAKER. The rules require the bill to be considered in the Committee of the Whole.

Mr. HATCH. Then I move that the bill be referred to the Committee of the Whole on the state of the Union, and printed; and on that motion I demand the previous question.

Mr. JONES, of Tennessee. The usual course is for bills of this character to be referred to the Committee on Commerce.

Mr. WASHBURNE, of Illinois. I move that the bill be referred to the Committee on Commerce.

Mr. HATCH. That would only delay the bill, and probably complicate it with other bills, and give the friends of the \$5,000,000 French spoliation bill an opportunity to get ahead. If the gentleman from Illinois desires this bill to pass, he should not oppose this reference.

The SPEAKER. The motion of the gentleman from Illinois is not in order, as the gentleman from New York has demanded the previous question.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from New York that he allow the bill to be referred to the Committee on Commerce.

Mr. HATCH. It would only delay the passage of the bill. It must necessarily go to the Committee of the Whole on the state of the Union; and if gentlemen want to pass the bill, the only way is to send it there now, for it must travel through that valley of death before it can see salvation.

Mr. WASHBURNE, of Illinois. My friend can only get the bill passed by a suspension of the rules; so it makes no difference where it goes.

Mr. HATCH. If the gentleman is correct, then the greater necessity of sending this bill at once where it must finally go, instead of delaying it for the action and report of the Committee on Commerce. He knows well that after that report, if they should report favorably, the bill, by an arbitrary rule of this House, must go to the Committee of the Whole on the state of the Union. Then why delay it, if you mean to pass it? The motion to suspend the rules to put this bill on its passage cannot be made until after it is referred to the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. Is a motion now pending to refer the bill to the Committee on Commerce?

The SPEAKER. It is not; and cannot be made pending the demand for the previous question.

Mr. JONES, of Tennessee. Then I hope the previous question will be voted down.

The previous question was seconded, and the main question ordered.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HATCH moved to reconsider the vote by which the bill was referred, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I hope the gentleman from Missouri will give way to allow the bill next in order on the Speaker's table to be taken up and passed. If he will allow the title to be read, I presume there will be no objection.

ELIZA M. EVANS.

Mr. ADRAIN. I ask the gentleman to give way for a moment. The petition of Mrs. Eliza Evans was, a few days since, by mistake, referred to the Committee on Revolutionary Pensions. I merely ask that it shall be withdrawn from that committee, and referred to the Committee on Revolutionary Claims.

There being no objection, the petition was accordingly withdrawn and referred.

UNITED STATES COURTS IN ALABAMA.

Mr. PHELPS, of Missouri. I will yield for the bill to which the gentleman from Alabama has referred to be disposed of.

Mr. PHILLIPS. How many bills are there upon the Speaker's table?

The SPEAKER. Some ten or a dozen.

Mr. HOUSTON. The bill is to provide for holding the courts of the United States in the State of Alabama; and if gentlemen will hear it read, I do not suppose there will be a single objection. The necessity for it arises in consequence of the ill health of Judge Sales, who holds his court alternately at Mobile and Huntsville. The bill authorizes Judge Campbell, of the United States Supreme Court, to hold court there during Judge Sales's illness. I ask for the reading of the bill.

The bill was read.

Mr. HOUSTON. I presume the reading of the bill will furnish sufficient explanation; and I hope it will be passed without objection.

The bill accordingly received its several readings, and was passed.

COURT OF CLAIMS ADVERSE REPORTS.

Mr. MAYNARD. I wish just at this point to move to reconsider the vote by which an adverse report of the Court of Claims was yesterday referred to the Committee of the Whole House on the Private Calendar, for the purpose of having it referred to the Committee of Claims.

The SPEAKER. The Chair will say to the gentleman from Tennessee, that the law requires that adverse reports from the Court of Claims shall go to the Committee of the Whole House on the Private Calendar.

Mr. MAYNARD. I move, then, that the Committee of the Whole be discharged from the further consideration of the case, in order that it may be referred to the Committee of Claims.

The SPEAKER. The law requires that adverse reports of the Court of Claims shall be sent to the Committee of the Whole House on the Private Calendar. They go there without a vote upon the part of the House. The Chair is of the opinion that the committee can only be discharged through the channel of the committee itself.

Mr. MAYNARD. Has not the House control of it?

The SPEAKER. It is not before the House in such a shape that it can be reached.

ST. PAUL AND LAKE SUPERIOR MAIL ROUTE.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to introduce a bill to establish the St. Paul and Lake Superior overland mail route to the Pacific.

Mr. HUGHES. I object.

WATER FOR THE DISTRICT.

Mr. BOWIE. I ask the consent of the House to introduce a bill, the object of which is to give certain powers to the corporations of Washington and Georgetown, for supplying the said cities with water from the Washington aqueduct.

Objection was made.

Mr. BOWIE. Then I give notice that I shall introduce the bill as soon as an opportunity presents itself.

CONSULAR AND DIPLOMATIC BILL.

Mr. PHELPS, of Missouri. I now insist on my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and ask the vote first on my motion to close debate upon the consular and diplomatic appropriation bill in one hour after its consideration shall be resumed in committee.

The motion was agreed to.

Mr. PHELPS, of Missouri. I now ask for a vote upon my other motion.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and resumed the consideration of the bill (H. R. No. 666) making appropriations for the diplomatic and consular expenses of the Government, for the year ending June 30, 1860, upon which the gentleman from South Carolina [Mr. KEITT] was entitled to the floor.

REVOLUTIONARY CLAIMS.

Mr. SMITH, of Virginia. I ask the gentleman from South Carolina to allow me to give notice that on Monday next I shall call up House bill No. 234, the object of which is to settle the accounts and claims of officers and soldiers of the war of the Revolution.

ACQUISITION OF CUBA.

Mr. KEITT. Mr. Chairman, the expediency of acquiring Cuba has been brought prominently before us in the recent annual message of the President. For more than thirty years, the instincts of the people of the United States have gathered around that island, and have exacted from different Administrations assurances of its conquest or purchase in certain political or social contingencies. That its acquisition is surrounded with embarrassments, is true; but it would be strange if any great object in life was attained without some risk or sacrifice.

Is the importance of Cuba to us commensurate with the efforts necessary to obtain and hold

it? The answer to this inquiry will result from an examination into its geographical position, its resources, and its political and commercial connection with this country.

What is its geographical position? A glance at the map will show you that Cuba is within easy reach of the coast of Florida—situated between that State and the peninsula of Yucatan. It is the gate to the Gulf of Mexico, and commands both it and the West India seas. It is so propitiously planted, that, in the hands of a strong naval Power, it would make the Gulf of Mexico a *mare clausum*. Thus it keeps ward and pass over our commerce from New Orleans to New York, and from New York and our other ports, through the Isthmus transits, to our possessions on the Pacific coast. And what is the value of that commerce? It already reaches \$500,000,000 annually, and is enlarging with such rapid strides that the resources of arithmetic will ultimately fail to compute it. One of the richest and fairest regions of the earth, too, uses the Gulf of Mexico as an outlet for its productions. The Gulf is the reservoir of the Mississippi river and all its magnificent tributaries; and hence it receives the almost fabulous commerce of the region drained by these. The country thus drained, is equal to half of Europe in extent, covering twenty-five degrees of latitude and thirty-five of longitude on the great circles of the globe. It extends from the summit of the Alleghany to the summit of the Rocky Mountains, embracing climates of every variety, and productions of every kind. Already nearly ten millions of people inhabit it. What intellect is audacious enough to predict how numerous its population will yet be? The highways of commerce, too, are changing, and the hoarded wealth of the East, now startled from the sleep of centuries, will, in its transit to the West, cover the waters of the Gulf of Mexico. You may unite the Atlantic and Pacific shores with bands of iron, but this commerce will still seek the Gulf; for water is the master of commerce.

The geographical position of Cuba is also important to us in a military point of view. Mr. Stevenson, in 1837, while Ambassador at the Court of St. James, in a letter to Mr. Forsyth, Secretary of State, said that—

"The possession of Cuba by a great maritime Power would be little less than the establishment of a fortification at the mouth of the Mississippi, commanding both the Gulf of Mexico and Florida, and consequently the whole trade of the western States, besides deeply affecting the interest and tranquility of the southern portion of the Union."

Mr. Buchanan, while Secretary of State, used the following language in his instructions to Mr. Saunders, in 1848:

"Cuba, in the possession of Great Britain, or any strong naval Power, might prove ruinous both to our foreign and domestic commerce, and even endanger the union of the States."

John Forsyth said, in 1822, while at the Court of Madrid, that "the possession of Cuba gave the command of the Gulf of Mexico." Mr. Adams, in 1823, in his instructions to Mr. Nelson, says:

"Its [Cuba] commanding position with reference to the Gulf of Mexico and the West India seas, &c., gives it an importance in the sum of our national interests with which that of no other foreign territory can be compared."

Lieutenant Dahlgren, an accomplished officer of the Navy, in his report on fortifications, says:

"The true and only key, however, to the defense of these shores, and to the immense interest there collected, is the Havana. The island to which it belongs enters its western extreme in the Gulf, leaving but two passages for vessels, so narrow as to be commanded with the greatest facility; these are the great thoroughfares of trade and the mail steamers from New Orleans to California and New York. Hence, if the use of the Havana be even at the disposal of an enemy while in the hands of a neutral Power, each and all of these interests could be with difficulty defended, even by a superior naval force, and never guaranteed against severe losses. While from it, as a United States port, a squadron of moderate size would cover the southeast and Gulf coasts, protect the foreign and inshore traders, and secure the lines from New York or New Orleans to the Pacific States by way of the Isthmus, its occupation would necessarily be the object of every expedition, military or naval, preliminary to any attempt on the southern trade or territory."

The importance of the acquisition of Cuba, in a military point of view, is somewhat diminished by the application of new motive power to vessels, and the consequent modification of the system of naval warfare. But still it is of great use as a muniment of protection to our southern coasts and our inshore traders.

The expediency of acquiring Cuba is also connected with the question of her resources. What are they? The Island of Cuba runs from east to

west through its main extent, and is computed to be some seven hundred miles in length, with a maximum breadth of seventy-nine miles, and a minimum one of twenty-three miles. Its area is variously estimated between forty thousand three hundred and eighty-eight and thirty-four thousand two hundred and thirty-three square miles. Of the thirty million seven hundred and forty-one thousand acres included in the superficies of the island, there are not more than eight million under cultivation. This computation is founded upon the authority and figures of Arboleya's work on the Island of Cuba.

The main agricultural productive energies of Cuba turn upon the cultivation of the sugar-cane, coffee, tobacco, vegetables, and fruits, together with the breeding of cattle, under our generic name of stock. Its productions are the result of the cultivation of sugar estates—in number, 1,485, of which 893 are worked by steam; coffee plantations, 1,813; tobacco plantations, 1,102; fincas, or grazing-farms, 9,930; estancias, or rural farms, 25,292. Arboleya, in his tables for 1852, enumerates the productions of Cuba for that year as follows:

Gross produce of sugar-houses.....	\$34,059,780 00
Coffee.....	2,576,000 00
Tobacco.....	3,963,000 00
Other products, (of all kinds) fruits, &c.....	4,850,000 00
Potatoes and beans.....	165,000 00
Forage, (green).....	24,000 00
Classified and appraised fruits.....	548,000 00
Other incidental fruitage.....	16,200 00
Sugar canes, (for market).....	600,000 00
Casava, (sort of hominy).....	36,000 00
Starch.....	30,000 00
Forage, (dried).....	7,515,000 00
Cotton.....	800,000 00
Cocoa.....	15,000 00
Rice.....	750,000 00
Sago.....	30,000 00
Palma Christa oil.....	40,000 00
Exported wood and timber.....	300,000 00
Madder.....	80,000 00
Consumption of home timber, (estimated).....	1,000,000 00
Wood for fuel.....	1,000,000 00
Mineral coal.....	280,000 00
Straw hats.....	150,000 00
Other products not calculated.....	180,522 00
Total agricultural products of the year.....	53,014,000 00

The total animal products of the same year, (1852,) he enumerates as follows: For the bovine races, \$20,652,732; for the equine races, \$7,667,010; for the other animals, \$5,247,350; total, \$33,567,092.

A more reliable exponent, however, of the wealth of Cuba, will be found in an examination of the imports and exports of the island. The following is an authentic table for the year 1853:

	Imports.	Exports.	Total.
Spain.....	\$7,756,905	\$3,298,871	\$11,055,776
United States.....	6,719,733	12,131,095	18,850,828
England.....	6,195,921	8,322,835	14,518,757
France.....	2,177,222	3,293,389	5,470,611
Hanseatic Towns.....	1,115,940	1,474,018	2,589,959
Belgium.....	998,511	466,306	1,464,817
Spanish American States.....	1,677,476	514,831	2,192,308
Denmark.....	485,422	403,065	888,508
Netherlands.....	88,876	246,651	335,528
Italy.....	69,022	651,275	720,298
Sweden and Norway.....	47,756	16,309	64,065
Russia.....	-	253,688	253,688
Austria.....	-	138,036	138,036
Warehouse.....	457,010	-	457,010
	\$27,789,800	\$31,210,405	\$59,000,205

But large as these tables are, they do not represent the full commercial transactions of the island. To prove that the actual value of the commerce of the island reaches a higher figure than that stated above, it is sufficient to say that it does not include the amount represented by the introduction of slaves; nor is allowance made for the system of bribery in universal use among the fiscal agents of the Government. Saco, the best informed Cuban whom I know, sets down the number of slaves clandestinely introduced, at ten thousand a year. These, at \$400 each, the minimum price, represent a commercial transaction of \$4,000,000 per annum.

The general system of smuggling, which is notoriously known to exist in the ports of Cuba, and the equally notorious tendency to willful and convenient blindness on the part of the fiscal agents, warrant the best informed writers in calculating the amount cut off from the lawful revenue at one fourth of the whole amount; or, in round numbers, at \$17,000,000.

Now, the official returns give, for imports and exports, a basis of commercial transactions, reaching the sum of \$59,000,000, adding to which the probable \$21,000,000, represented by the trade in

slaves, the process of smuggling, and the bribes of contraband; we have a fair hypothesis of a total commerce, amounting to \$80,000,000. Yet a large number of people go further, and maintain a still bolder opinion. Some think that the commercial transactions of Cuba reach the *bona fide* amount of \$100,000,000 per annum. They assert upon a calculation on the duration of a slave's life and labor in Cuba, and the demands of the plantations and smaller farms, that more than ten thousand slaves are introduced every year.

They also contend that the necessities of life introduced by Spanish vessels represent nineteen and one half per cent.; that the less useful articles by the same vehicle, represent twenty-three and one half per cent. By foreign vessels, that the former stand at twenty-seven and one half per cent., and the latter at thirty-three and one half per cent. The productions of Spain, under the foreign flag, pay fourteen and one half per cent., whilst the same articles, under the national flag, pay but seven and one half per cent. In addition to which there is, in every case, a *balanza* or equalization duty of one per cent. They consider the *ad valorem* duties of the tariff as exorbitant; especially as the appraisements of that tariff are frequently twice as high as the actual original price. The necessary consequence is, that many articles of merchandise are held to pay to the custom-house eighty, one hundred, or even one hundred and twenty per cent. on its value under the color of entrance duty in the island. Such abuses in the administration of the Government, they maintain, compel the most honorable merchants to resort to smuggling and fraud. There is not, therefore, due accuracy in the returns of the Government.

The resources of Cuba are daily increasing, too, under the impetus of improved communications. A web of railroads is spreading over the island; and, under their inspiration, higher energies are awakened, new enterprises stimulated, and vast accessions of wealth introduced. There are three hundred and eighty-six miles of railroad completed, or under contract, and intercommunication is now easy throughout the western department of Cuba. The eastern and central departments are still almost inaccessible; but they, too, are now trembling under the march of events, and the almost impossibilities of communication will soon yield to the spirit of civilizing improvements. How great the wealth which will follow in the track of these facilities, our western regions attest. So great are the resources of Cuba now, and under the double influence of increased communications, and the established ascendancy of law and order, their augmentation in the future is almost unlimited.

The political and commercial connection between Cuba and the United States is of great importance, and cannot be safely overlooked in the calculations of our policy. The traditions of the Republic for almost half a century, and the liberal and unbroken policy of each succeeding Administration, for more than thirty years, attest the delicacy and importance of this connection. The leaders of all parties and all Administrations of the United States, have agreed to the importance of acquiring Cuba, and have declared that this Republic would not allow the transfer of the island from Spain to any other European power. So highly did the Government value the political connection between Cuba and the United States, that John Quincy Adams, in 1823, while Secretary of State, said, in his instructions to Mr. Nelson, then Minister to Madrid, that the island was necessary, even to preserve the Union.

Mr. Everett, in a confidential dispatch to the Secretary of State, in 1827, said he had informed the Spanish Minister of State, "that it was with the United States a settled principle that the island [Cuba] must in no event pass into the possession or under the protection of any European Power other than Spain."

Mr. Van Buren, in 1829, in his instructions to Mr. Van Ness, said:

"The Government of the United States has always looked with the deepest interest upon the fate of those islands, but particularly of Cuba. Its geographical position, which places it almost within sight of our southern shores, and, as it were, gives it the command of the Gulf of Mexico and the West India seas, its safe and capacious harbors, its rich productions, the exchange of which, for our surplus agricultural products and manufactures, constitutes one of the most extensive and valuable branches of our foreign trade, render it of the utmost importance to the United States that no

change should take place in its condition which might injuriously affect our political and commercial standing in that quarter."

Mr. Stevens, in 1837, in his letter to Mr. Forsyth, said that, in confidential conversation with Lord Palmerston, he had reminded him of the declaration of our Minister to the French Government, in 1826, "that the United States could not see with indifference Porto Rico and Cuba pass from Spain into the possession of any other Power."

In 1840, Mr. Forsyth, then Secretary of State, instructed Mr. Vail, our Minister to Spain, in these words:

"The United States have long looked with no slight degree of solicitude to the political condition of the Island of Cuba. Its proximity to our shores, the extent of its commerce with us, and the similarity of its domestic institutions with those prevailing in portions of our own country, combine to forbid that we should look with indifference upon any occurrences connected with the fate of that island. The Spanish Government has often been apprised of the wishes of the United States, that no other than Spanish domination should be exercised over it, and scarcely need be told that our policy, in that respect, has undergone no change."

In the same dispatch he says, in relation to the occupation of Cuba by Great Britain, in either of the two modes which he suggested as likely to be resorted to by the latter Power:

"Whether attempted to be brought about by one or the other of the means alluded to, or by any other process, the United States can never permit it. The Spanish Government is to bear in mind this fixed resolution on our part, and be given to understand that it is taken upon long and mature deliberation, and at all costs, to govern the conduct of the United States."

Again, he says upon this subject:

"Should you have reason to suspect any design, on the part of Spain, to transfer voluntarily her title to the island, whether of ownership or possession, and whether permanent or temporary, to Great Britain or any other Power, you will distinctly state that the United States will prevent it at all hazards, as they will any foreign military occupation for any pretext whatsoever."

Mr. Webster, in a confidential dispatch to General Campbell, United States consul at Havana, in 1843, said:

"The Spanish Government has long been in possession of the policy and wishes of this Government in regard to Cuba, which have never changed, and has been repeatedly told that the United States never would permit the occupation of that island by British agents or forces upon any pretext whatsoever."

In 1844, Mr. Upshur, in his instructions to Mr. Irving, said:

"In the event that Spain shall so far yield to the pressure upon her, as to cede to Great Britain any control over Cuba, the fact will necessarily have an important influence over the policy of this Government."

Mr. Buchanan, in 1848, in his instructions to Mr. Saunders, thus defined the position of the United States in respect to Cuba:

"But we can never consent that this island shall become a colony of any other European Power. In the possession of Great Britain or any strong naval Power, it might prove ruinous both to our domestic and foreign commerce, and even endanger the union of the States. The highest and first duty of every independent nation is to provide for its own safety; and acting upon this principle, we should be compelled to resist the acquisition of Cuba by any powerful maritime State, with all the means which Providence has placed at our command."

Mr. Marcy, the late Secretary of State, in his instructions to Mr. Buchanan, in 1853, said:

"For many reasons, the United States feel deeply interested in the destiny of Cuba. They will never consent to its transfer to either of the intervening nations, or to any other foreign State. They would regret to see foreign Powers interfere to sustain Spanish rule in the island, should it provoke resistance too formidable to be overcome by Spain herself."

To Mr. Soule, he says:

"While the United States would resist, at every hazard, the transference of Cuba to any European nation, they would exceedingly regret to see Spain resorting to any Power for assistance to uphold her rule over it. Such a dependence on foreign aid would, in effect, invest the auxiliary with the character of a protector, and give it a pretext to interfere in our affairs, and also generally in those of the North American continent. In case of collision with the United States, such protecting Power would be in a condition to make nearly the same use of that island to annoy us as it could do if it were the absolute possessor of it."

I will only add the testimony of Mr. Jefferson. In a letter to Mr. Monroe, dated 24th of October, 1823, he says:

"I candidly confess, I have ever looked on Cuba as the most interesting addition which could ever be made to our system of States. The control which, with the Florida point, this island would give us over the Gulf of Mexico, and the countries and isthmus bordering on it, as well as those whose waters flow into it, would fill up the measure of our political well being."

Thus have the efforts of successive Adminis-

trations and the resources of diplomacy concurred to illustrate the political importance of the acquisition of Cuba.

Our commercial connection with the island is no less suggestive and imposing. The sum of our commercial transactions with Cuba, in 1853, amounted, in round numbers, to \$19,000,000, as derived from the returns of the fiscal agents of Spain in the island. It has been steadily increasing since then; and with the fetters struck from our commerce with her, no one can calculate the point to which it would ascend. Nor is this commerce limited to any portion of the Confederacy; every interest and every State are embraced in it.

There were imported into Cuba, in 1853, the following schedule of articles, with their value according to the revenue tariff:

Provisions.	
Liquors and wines.....	\$2,631,841 00
Meats, (salt, jerked, &c.).....	1,625,657 00
Groceries.....	86,545 06
Fruits.....	275,340 77
Grains.....	4,199,978 00
Fisheries.....	599,285 05
Other provisions.....	1,765,624 00
Manufactures.	
Cotton shirtings and stuffs.....	3,080,874 00
Linens and cloths.....	2,198,592 00
Woolens.....	487,187 03
Silks.....	583,145 02
Furs.....	703,892 01
Miscellaneous.	
Timber and building materials.....	1,868,960 00
Metals.....	583,020 06
Cattle.....	39,890 04
Railroad materials.....	273,491 07
Sugar-house and engine materials.....	496,163 05
Articles not included in the preceding divisions.....	6,093,376 00

Thus Cuba imported in 1853, provisions to the value of \$11,378,270; manufactures, \$7,053,622; and other articles, \$9,277,900.

Can any one look over this schedule of imports and say that every interest and every State in the Union is not deeply interested in the trade with Cuba? Have the South and West no interest in the \$20,000,000 of provisions and metals and lumber annually imported? Have the North no interest in the \$7,000,000 of manufactures annually carried into the island? Of the whole importation, amounting to \$27,789,800, the United States contribute \$6,719,733, or within a fraction of one fourth.

We are deeply interested, too, in the exports from Cuba. These, in 1853, amounted in value to \$31,210,405; of which the United States received \$12,131,095, or more than a third. In that year the following were the chief exports from the island:

Brandy or Rum, (pipes).....	14,294
Cotton, (pounds).....	138,625
Sugar, (boxes).....	1,637,192
Coffee, (arrobos of 25 pounds).....	442,730
Wax, (arrobos).....	45,946
Mahogany and other wood, (value in dollars).....	448,434
Molasses and battery sirups, (hogsheads).....	303,331
Leaf tobacco, (pounds).....	8,039,797
Cigars, (thousands).....	237,350

These are articles which cheer the homes of every grade of population within the limits of the Republic. Smite Cuba from the geography of the world, and how much of comfort would be abstracted from the people of every portion of our Confederacy?

But it is not alone in the articles of export and import that Cuba concerns us. We are deeply interested in the mode in which commerce is conducted. Whence come the vessels in which these productions are carried from one port to another? The following table gives a significant answer, and tells the interest we have in it: Brazilian 2; Italian 6; Russian 7; Austrian 8; Spanish American 13; Prussian 17; Swedish and Norwegian 17; Danish 20; Netherlands 24; Belgian 45; Hanseatic Towns 57; French 126; English 348; Spanish 901; United States 2,307. Out of a total of 3,918 merchant vessels engaged in 1853 in carrying the exports and imports of Cuba, the United States contributed 2,307. The total amount of tonnage for that year was 713,330. The tonnage of the Spanish vessels was 162,877; of foreign vessels 550,453. The proportion of the United States can only be approximated, as there are no complete data. According to the returns made to the Treasury Department, the commerce of the United States with Cuba for 1851 and 1852 was carried on in shipping, rated as follows: Cleared the United States, American vessels, 254,018 tons; foreign, 29,703.

Entered the United States, American vessels, 249,307, tons; foreign, 33,030 tons. Thus deeply implicated in our commerce with Cuba is this large and increasing branch of industry.

The geographical position, resources, and political and commercial relations of Cuba with the United States, thus unfold the importance of acquiring the island. That there are drawbacks I readily acknowledge; but are they superior to the advantages? The character of these drawbacks will be seen from an examination into the character of the population, the interior economy of the island, and the attitude of foreign Powers. Cuba is divided into three departments; the western, central, and eastern. The population of the western department, according to the latest estimates, numbers: whites, 225,500; free colored, 88,300; slaves, 320,500. The middle or central department: whites, 153,000; free colored, 42,500; slaves, 50,500; and the eastern department: whites, 87,060; free colored, 74,770; slaves, 65,100. These tables give an aggregate of population: whites, 465,560; of free colored, 205,570; of slaves, 436,100. The total population, 1,107,230. There are conflicting statements, but they do not vary very materially. The American Statistical Annual for 1852 puts the population at 1,218,130; thus subdivided: whites, (native and European,) 605,560; free colored, 205,570; slaves, 436,100.

In 1775, the population of the United States, without the guide of a census, was estimated at fully 3,000,000. In that year the population of Cuba was 170,370. Our last census, in 1850, shows our population to be 23,000,000, in round numbers. According to the indications of bills of mortality, and the working of the principles on which the new science of social statistics is based—all of them controlled by the laws of modern hygiene, as well as of political economy—Cuba, with a deduction for the intrusive addition of our emigrant laws to our own population, and by the rule of proportion, should show, for the period we have traversed, an increase of population amounting to 1,303,333.

This population is distributed under three divisions, fenced round with strong distinction. The lowest division consists of the colored population, the large majority of which are slaves. The second is made up of free men; but men who represent the most motley and heterogeneous compounds imaginable in the class of hybridism. A score of antipodal castes; a score of conflicting human elements; a score of clashing, not blending characters, and types *de facto*, constitute this Cuban social organization, in which the European Spaniard rudely taboos the natives and owners of the soil, and claims and exercises precedence over the disinherited *filii terræ*, and even over the foreigners, protected by pretended treaty stipulations; and settled in the island, with their family admixtures of every degree of parentage. The third, and what they call the "hierarchy"—the highest class of society in the order of rank and station—is composed of the large landholders, the wealthiest merchants, and the principal functionaries of the colonial government. Most of these—Creoles in a large number excepted—move in perfect accord with, and due subservience to, the political views, intents, and interests, of Spain.

It is objected that the number of free negroes in the island would make its incorporation into our Confederacy troublesome, if not dangerous. It is yet to be revealed that the African can withstand the domination of the anglo-Norman race; or that he will not readily lapse into appropriate submissiveness. If Cuba were acquired, this population would be tractable and safe, or its residence in the island terminated. In no event could it occasion serious social disturbance. No tenable objection can be derived from the laws which regulate slavery in Cuba. No matter how stringent, or even savage, they may be, they would immediately be relaxed, under the influence of our system. It is a distinctive peculiarity of the anglo-Norman race that it fixes its impress upon every people with whom it comes into contact. This is, in an eminent degree, the peculiarity of the people of the United States. Through the living entail of blood they have inherited the essential elements of character which distinguished each subdivision of the Caucasian race; and thus they assimilate others to them with greater facility. Under the alchemy of this influence, our

system of slavery would easily be substituted for that of the Spanish in Cuba.

But is the system of slavery in the island as severe and barbarous as it is often represented to be? In speaking of the servile population of Cuba, the Chevalier Lobé, with the experience of twenty-five years residence in the island, says:

"The condition of the slave at the present day is incomparably better than it was a few years ago. Indeed, this *minor-in-law*, is positively better clad, fed, and treated in the colony, than he ever had been before. The obvious interest which the master feels in his preservation, increasing in proportion with the difficulty of fraudulently introducing his brethren, has resulted in the fact, that the physical condition of the slave is infinitely more comfortable in Cuba, more humane in fact, than that enjoyed by white men, so styled free, though they may be crowded in the manufacturing dungeons, set in motion by steam, over the civilized world."

This is the testimony of a European, a high public functionary in Cuba, and one imbued with all the prejudices which may be legitimately ascribed to one of his class, against the institution of negro slavery.

The interior administration of the island interposes no difficulties to its acquisition, but rather facilities for it. The administration of justice, even at the present day, is a miserable farce. There are tribunals to inquire into the concerns of those who have the exclusive right of resorting to them—such as the military, the provincial militia, the seamen, the officers of the fisc, the post office, the clergy, the nobles, and the individuals belonging, *ad hominem*, to the royal household of Spain. Thus justice is subservient to the titled and wealthy, while the obscure and indigent are the victims of oppression. The power of the Captain General also runs through all the interior administration of the island. During the period of his authority he enjoys, from Spain, the rank of field marshal, as well as the dignity of the vice royalty. Consequently both the exchequer and the navy of the island are under his control, although there are both an admiral and an intendant appointed nominally to manage under him.

The central authority of the island is now but a modification of what was formerly the ancient office of the Captain General, whilst his secretaryship has been converted into a real government machine, which extends over the whole of Cuba. In consequence of this change, the civil secretary general is the soul of the great administrative institution, whilst the military secretary, who was formerly his superior in the official hierarchy, has *de facto* sunk below his confere, and takes cognizance of none but military affairs, or of such as are directly connected with his department.

The result of this state of things is, that the civil secretary general is a sort of president of the Cuban cabinet, having under his control the heads of divisions, erected into ministers for the various branches of the administration confided to them. At the apex of this organization is the Captain General, the *supreme head of the State*, without whose positive will nothing can be decided and nothing performed in the colony. Like his sovereign, he has the right of pardon to felons, &c., condemned by the tribunals of the country, and of putting his *veto* even on such royal ordinances as he may deem detrimental to public interest. Indeed, he is so far and so thoroughly the representative of the sovereign power, that he is invested with the prerogative of the *alter ego*, and, like her Catholic Majesty, possesses the power of estopping the action of the laws that control the Castilian monarchy whenever, in his wisdom, he may deem it expedient temporarily to suspend their course. And yet, if we happen to have the slightest difficulty with the insular administration; if the innumerable abuses which daily grew out of its action or decisions should press upon our honor or our interests, this *supreme* representative of the supreme authority of Spain has no power to abate the abuse, safeguard the honor, or indemnify the interests. "We have nothing to do with this," is the answer given to American representatives; "you must go to the Mother Government" across the Atlantic, through the intricacies, the delays, and the subterfuges of foreign departments, the only resort left to us, for the redress of now accumulated wrongs.

Thus, the administration of justice is confined to the privileged, and the hierarchy of power excludes the large majority of the natives from distinction and authority. A moral phalanx of opposition, consisting of the planters and traders

of the secondary rank, and many of the inferior office-holders, has thus been constituted; powerful through its numbers, talents, and energy—an opposition, however, unuttered and unspoken, from the fact that they cannot command the voice of a press to comment on the doings of a superior authority, as dark, remorseless, and irresponsible as ever was the tribunal of the dreaded Ten within the limits of Venice. These, with the large body of the Creoles—the white children of the soil, who are excluded by the iron policy and the hoary despotism of Spain; the white sons of the soil, who are doomed to live undistinguished, with a brand and mark of inferiority on their brow, "unless they have learned to betray"—these are the progressives and revolutionists of the island; who, in bitterness of heart and brokenness of spirit, await some day of deliverance.

MR. RITCHIE. I desire to ask the gentleman from South Carolina whether, because a country has a government of which he does not approve, he therefore has the right to seize upon it?

MR. KEITT. I will answer that question at the proper time.

But the administration of the island illustrates its oppressiveness most signally in the expenditures of the public revenue. Authentic tables show that the receipts into the treasury of the island for 1849, 1850, 1851, and 1852, consisting of the revenue and special deposits, amounted to the sum of \$53,991,714. Of this sum, \$3,219,894 was expended in the cost of collection; \$1,271,167 in the cost of public worship; and \$626,713 for the administration of justice; while \$21,913,951 were expended for the support of the army, and \$7,122,976 for that of the navy. Can any one look at this table of expenditures and say that Spain holds Cuba otherwise than in the iron grasp of power? Her spies are in almost every household to catch the first whisperings of revolt, and she has more than thirty thousand soldiers there to tread the people down into subjection. This is the administrative economy of the Island of Cuba. There is nothing, then, in the population or Government machinery of the island to seriously embarrass its acquisition.

Have we anything to apprehend from Great Britain and France in our efforts to acquire Cuba? We can acquire it only by one of two modes: purchase or conquest. If Spain would sell the island, the great Powers of Europe could not interfere. But will Spain sell Cuba? There is no probability that she will, because Cuba is one of her sources of revenue, especially for the maintenance of her navy, the support of her colonial defense, and the defrayal of her diplomatic and consular service on the continent of America. The great families of Spain, also, have large estates in the island, and her beggared nobility are sent there to repair their shattered fortunes. You must remember, too, the declaration of Luzuriaga, in the Spanish Cortes, that "Spain can never either alienate or sell Cuba under any conditions or terms, because such sale would be tantamount to the barter of her honor." Against such sale, also, the traditions and the pride of Spain protest. Protest those traditions, still instinct with the grandeur of that period when the Spanish empire was so world-wide that Argensola, in dedicating his splendid chronicles to the monarch, could with justice say: "I depose this work at the feet of your majesty, over whose dominions the sun never sets." Protests that pride, as haughty now as on the day when Grimaldi told the minister of victorious France, urging Spain to sell Louisiana to us: "The king, my master, is accustomed to conquer and defend territories at the point of the sword, but never to sell them." No; Cuba will not come to us by purchase.

Can we acquire it out of the condition of purchase, without war with Great Britain and France? They have compacted with Spain to guaranty and maintain her sovereignty over the territory of the island; and the gathering of their navies in the waters of the Gulf and West India seas, indicate no disposition to recede from the guarantee. The proposition was made to us to enter into this compact, but it was rejected by Mr. Fillmore's administration. In connection with this question, we must also recollect this declaration made by a public functionary of the Netherlands, Chevalier Lobé, in 1856:

"In Europe, France and England already stand forth as visible instruments of Providence; for, united as one man,

they have assigned bounds to the ambition of the Czar. In America, those Powers, as they have declared in the face of the world, will also maintain the principles of impartial and severe justice, shielding the weak against the violence and the attempts of iniquitous invaders."

As if in proof of this declaration, Lord Clarendon, about the same time, said in the British Parliament, in substance, "that action should not be circumscribed by Europe, but that such protective action, resolved upon by England and France, by virtue of their close and cordial alliance, should be extended over the whole globe." In view of this declaration of Lord Clarendon, Chevalier Lobé further says:

"We respectfully beg England and France, as also those other nations, which secretly or publicly have given in their acquiescence in those magnanimous sentiments, well to ponder the fate which the cabinets of St. Petersburg and Washington have in store for the nations of the Spanish race on the American continent."

But there are mysteries of policy which lie behind the stipulations of treaties, and the declarations of ministers, and which shed light upon this inquiry. Louis Napoleon is striving to create and establish a splendid colonial empire, by enslaving and binding together the West India Islands. To do this, he must hem in, or cripple the power of the United States; and this he hopes to accomplish through the coöperation of Great Britain. With a splendid tropical empire, he would be the rival of the United States in the markets of the world, and would clutch the scepter now passing into our hands. With his power consolidated, and every region tributary to him, his arm would be invincible. Moscow has already been avenged in the Crimea; Waterloo would then find its day of retribution.

The policy of Great Britain in resisting our occupation of Cuba, is only explicable upon the theory of subservience to France. In fifty years her vast colonial possessions in the East will be stricken from her grasp; and she cannot redress the balance of her power by increasing her empire on this continent. Her restless and embroiling diplomacy, too, is fast arraying the world against her. During the last twenty years she seems to have even lost sight of the end of diplomacy, which is to keep up the relations of peace and ward off the chances of war. Especially is it its duty to smooth asperities; at least, not to press upon them. Reconciling interests with honor, and in fairness, its object should constantly be to avoid, within human power, anything that may drive Governments to resort to the *ultima ratio*—the ever dangerous logic of warfare. The mind of every agent should be thoroughly imbued with the idea that a resort to force is the penalty of national wrong; and that it becomes lawful only when all peaceful efforts to vindicate the right and to secure redress have proved abortive.

But, is this theory realized in British diplomacy? How often do we find her agents not quenching the flames, but applying the incendiary torch? How many questions have arisen which the finger of British diplomacy has touched, for no other purpose, it would seem, but that of bristling it with difficulties? There are exceptions, it is true, and the United States cheerfully testifies to one in the person of the present British Minister at Washington. He connects the present with the earlier past of British diplomacy, when its character and spirit were widely different, and its annals bore the record of high and brilliant names. But it is none the less true that England, for a quarter of a century, has set up and pursued a system of armed diplomacy. Nor is it less true that she is arraying the world against her. We are her natural ally, and why should she resist our occupation of Cuba at the hazard of war? The answer can only be found in her cordial alliance with France, and her subservience to the latter Power.

And have we not causes of war with Spain sufficient to justify us in the judgment of history? Have not our rights been invaded; our honor touched, and our flag insulted, while all redress has been denied? Our commercial relations with the island are vital and complicated, and yet the system of its administration is so adjusted as to embarrass us at every point. Nor, while the present system of administration continues, is it possible to avoid difficulties. In consequence of our intimate relations with the island, and the special powers exercised by the Captain General, it would

seem that in general matters of business, and in particular cases of emergency, approach to him should be conceded to our consular representative at Havana. And yet such is not his prerogative. One of the long standing subjects of the just complaints of our Government, is the obstinate refusal to allow our consul direct access, in official intercourse, to the supreme authority of the colony.

If this be ever done, it is done *ex gratia*, and not in deference to a right secured to him by the comity of nations and our treaty compacts. I have said that the position of the Captain General over the island, is that of a supreme ruler over any other Government. By a system of inference, if not of parallel, he seems to think, that as the representative of one Government, accredited to another, does not directly address the chief of the State, but approaches him through the channel of his minister, so the consular agent of the United States has no right immediately to communicate with him; but that he must do so vicariously through the medium of his colonial secretary. And yet there seems to be a distinction made in behalf of the British consul, who, unless I greatly err, enjoys the special privilege of a direct official intercourse with his vice royalty.

But not only in the form and right of communication is this distinction made between our and other consular agents. It is likewise and offensively extended to the very title with which our Government sees fit to invest its consular representative at Havana. In order to understand the injustice of a course so strikingly derogatory, both to the commercial importance and dignity of the United States, we must refer back to the growth of foreign commerce with the island of Cuba. It is barely thirty-four years since a public act of Ferdinand VII. opened that commerce to the world, in spite of the obstacles and intrigues of the commercial boards of the Peninsula. Previous to that period, the ports and the territory of the island had been walled up against the commercial contact of nations, under the unrelaxing rigors of a monopoly, solemnly as it was shamefully sanctioned by the congress of Utrecht. But with the prevalence of the more liberal spirit, and sounder views of such functionaries as Arango and Ramirez, England and France and the Netherlands, in 1824, and subsequently, pressed forward to this new avenue of trade, and by virtue of a comparative freedom of commerce, secured the privilege of sending and maintaining consuls general at Havana.

This privilege is to every other nation, and particularly to the United States, formally and persistently denied. "We will," says Spain, "allow you to trade in our ports. We will, in our colonial territories, allow you to appoint guardians of the rights and of the property of your citizens; but this permission must be vouchsafed with such distinctions and discriminations as we may be pleased to impose. Your Congress may create the office of consul general for Cuba; your President, in the discharge of his duty, may commission a consul general for the 'ever-faithful' city; but your agent shall not come within its walls; he shall not receive his exequatur under any other title than that of plain consul. The higher title and broader prerogatives of the 'consul general' are intended, not for you, but for our royal cousins of France, England, and the Netherlands." *Sic volo; sic jubeo; stat pro ratione voluntas.*

Such, sir, would seem to be the import of the conduct of Spain translated into words. This implied insult to our importance and dignity is inflicted in the face of the fact that we stand higher than either England or France, and, indeed, higher than Spain herself, in our contributions to the prosperity of the island. The commercial transactions of Great Britain in 1853, carried on by three hundred and sixty-eight vessels, amounted to \$14,000,000; those of France, in one hundred and twenty-six vessels, contrived to halt up to \$5,000,000; those of the United States, represented by two thousand three hundred and seven vessels, swelled into \$19,000,000. Yet Spain allows to the former the consul general, which may be an empty honor, but one for which, empty honor though it be, we ought to "cavil with her on the ninth part of a hair" as a matter of right. She allows it to them, while to us it is denied. She allows it to the Netherlands even, while to us it

is denied. She allows it to the Netherlands, the whole value of whose annual commerce with the island falls far below the actual cost of many a one of the fifteen hundred sugar plantations which our enterprise and activity, through our consumption, make contributive to her treasury. She allows it to the Netherlands, with her imports of \$88,876, and her exports of \$246,661, making up the pitiful total of \$385,585, represented by twenty-four vessels, with an extravagant calculation of twenty-seven thousand two hundred tons; whilst she contemptuously refuseth to the United States, with their \$7,000,000 of imports and \$12,000,000 of exports, wafted to and fro by two thousand three hundred and seven vessels, with their two hundred and fifty-four thousand and eighteen tons of merchant shipping.

And how is this insulting discrimination made? Is it merely under a withholding of the comity of nations? Is it under the exercise of the municipal power, which every Government possesses, of giving a consular exequatur, for just such consular privileges as it shall choose to designate? Under none of these, sir, is this insult offered to a people whose rank in the hierarchy of nations it is now too late to question. But it is offered in direct and systematic violation of treaty compacts. The nineteenth article of the treaty of San Lorenzo, of the 27th of October, 1795, amply and conclusively provides for the case. That article stipulates that our consuls shall be put on the same footing with those of the most favored Governments. But, providentially for the cause of international obligations, Spain had parted, under the law of contingency, with her municipal rights, long before the privilege was actually extended to England, France, and the Netherlands. They never secured the individual prerogative of a consul general, until the opening of the colonial commerce in 1824; whilst we, sixty years previously, in 1795, had stipulated for a franchise, which is now obstinately denied, not only to the requirements of our commercial, but denied also to the honor of our public character. Trifling as this question of the mere rank of a consul may be in the abstract, it points to an inherent relation with the pride and importance of our people. Individuals may hold off from the vindication of individual character and individual rights, and they may not suffer from the forbearance; but no people, especially that which is called the American people, dare overlook attempts at insult or indignity, and hope that its influence and its honor can escape unscathed.

And if, for these indignities and wrongs, we submitted our disputes with Spain to the arbitration of the sword, and tore Cuba from her grasp, what nation could rebuke us, or charge us with territorial spoliation? Could England do it? Are the annals of the world defaced? Has the story of the desolation and woes which have followed in her remorseless tread passed away from the memory of man? Have the records of her own high courts of impeachment, doing, at times, compulsory homage to justice, been destroyed? Have the shrieks of millions of victims ceased to appeal against the enormities of this habitual violation of all sanctities? Has the blood of those millions of victims, shed in the prosecution of her insatiate and still insatiable ambition, been to her a regenerating baptism, that has so washed away her political leprosy, that to us—to us, who have more than once foregone the integrity of our rights, that we might indulge the boast of generosity—that to us she should fling the night-shade imputations of unjustifiable acts of spoliation and gross and flagrant crime? We are the subverters of rights; we the oppressors of the earth; and England is the witness and judge of our guilt! She never robbed, pillaged, and murdered in every quarter of the globe. She never carried desolation on both sides of the Atlantic and Pacific waters. She never burnt Carthage, sacked St. Jago, and pillaged St. Domingo, in time of peace. Her sea-robbers and land-pirates, under secret commissions, never scattered terror along the coasts. They never, in their personality of freebooters, created a specific race of marauders, which the ignorant Spaniards converted into *Filibusteros*—a name—her own name—which she now so generously confers upon those of us whose greatest wrong is to have followed her suggestive example. The waters of Deptford never witnessed the congees and bowings of the Hawkinss and

Drakes; touching with their red hands—red with the blood of despoiled thousands—the dainty fingers of the virgin Queen, or laying at her feet the crimson trophies of arson, murder, and theft. Oh, no; Americans alone are filibusteros; Americans alone are trampers of the rights of nations; alone agents of spoliation and perpetrators of crime. Heavens above! England mouthing “principles of justice between nation and nation, scrupulously observed!” and her officials again inaugurated in the Bay Islands’ encroachment. England imputing to us constructive spoliations, and her armaments crowding every sea in search of spoil and conquest! Is she oblivious, or mad, or both? Or, in charging us with the guilt of “spoliation and flagrant crime,” does she herself claim an easement for her virtue, in the example of the harlot of Holy Writ, who “catcheth, wipeth her mouth, and saith, I have done no harm?” If England would rebuke us, she must burn up the history of the last three hundred years, stifle the cries of the pillaged East, and unloose the cincture with which she has bound the empire of the earth. Then, when her robes are cleansed from blood, her records unsullied by usurpation, and her fame assoiled from stain, she may rebuke us for guilty ambition and territorial wrong.

But, it is not for the mere purpose of expansion that our hand must be laid upon Cuba; it is a stepping-stone in the pathway of our progress; and it must be ours, or we must stumble against it. The commerce of the world is bursting old barriers and hunting new outlets. Great Britain is binding the world in a cincture of little Gibralters, as citadels of her power and safeguards of her commerce. Her hand is laid upon the rock of Perim; and she will raise it into a miniature Gibraltar to command the possible outlet of the Mediterranean through the Red sea, as she now holds the huge Gibraltar to master the inlet to the former waters. She is averse to the commingling of the blue waters of the Mediterranean with the red waters of the Erythrean sea through the canal of Suez; but her aversions do not extend to the commingling of the billows of the Atlantic with those of the Pacific through a like canal, joining San Juan del Norte with San Juan del Sur. By such an appliance she well knows our commercial interests, our Pacific possessions, and our future enlargements, are all to be affected. Instinct with this generous idea, she immediately modifies her system of geodetic surveys. Her geographical scruples are incontinently removed, and her hydraulic theories as rapidly changed. On the bare suggestion of a hungry French adventurer—whose name smacks eloquently of his instincts, one Monsieur Belly—Lord Malmsbury finds no difficulty in the construction of a Nicaraguan canal, though England strongly objects to the canal of Suez. But, as such an appliance is decidedly to affect our Pacific possessions, our general commerce, and consequently our enlarging prosperities, his lordship equally found that the protectorate of the canal by France, England, and Sardinia, might not ungracefully come under the stipulations of the Clayton-Bulwer treaty—an instrument which, under the sincerest respect to the memory of the dead, I believe to be the best “spring to catch woodcocks” ever contrived by vulpine cunning on the one, and blinked by overweening confidence on the other, side of an international negotiation.

But, sir, I trust that both these splendid enterprises of science and energy will be accomplished in our age. I trust that this nineteenth century, which has inscribed the annals of Time with a record of gigantic fights among the nations of the earth, will witness the triumph of the work of civilization in the darker places of the western and of the eastern hemispheres. The genius of man, daily weaponed by new discoveries, is in our days a very conqueror, commanding creative means, attracting continents, and uniting seas. The Macedonian, whose arms changed the channels of the commerce of the world, once entertained the idea of restoring what, even in his days, had been the canal of Pelusium, which had linked the Red sea to the Nile, and then of establishing a communication with his city of Alexandria, which he had reared at once into a seat of learning and an emporium of commerce. Death balked him in his giant purposes.

In our day, I trust that the spirit of humanity, which is an undying spirit, will dare, in spite of

all obstacles, through the triple power of science, wealth, and common sense, freely expressed, to restore Egypt to the civilizing arts of life which she once dispensed. There are holy crusades to be carried on, in peace, in behalf of human civilization, and they must have every facility and every way for their workings over the world. I trust, therefore, that that spirit, in very defiance of England’s obstacles, will open the Isthmus of Suez to navigation, and shorten by one half the way of the enlightened West to the barbaric East. But especially do I trust that, by the opening and fostering and the protecting at all hazards of the Isthmian highways, which the finger of God, within our own hemisphere, has irrevocably marked out for our tread, we shall still more reduce the distance that severs us from the Cathays and Taprobanas, the “Ormuz and Ind,” of which the instincts of the middle ages had dreamed, and which our own hardy and indefatigable explorers have settled into realities.

Still, I do not see how we may intervene in the question of Suez, save in the honest tribute of our wishes, and the investment of individual means.

But however we may shelter the matter under the hints of a Monroe doctrine, the naked and obstinate fact is, that we do not want, and we cannot allow, the European nations to come to this continent to cut through, or regulate, or protect our isthmuses. The transection of the Isthmus of Suez has been the subject of long and stormy Cabinet councils of all the Governments of Europe. For its execution, their unanimous consent had to be obtained. Ours, on which of them we may settle, are subject to no such condition. The same Providence, which, in its unsearchable decrees brought the American race to this continent; the same Providence which raised them from dependence into self-sustaining ability; the same Providence which had confirmed their political power, when the original colonists of this continent were compulsorily resigning theirs; that same Providence points out to us how we are to shape our system of development and exhaust our destiny of greatness. It points to the obvious ways of transit in our onward path, which nature and necessity, which the law of progress, the demands of commerce, and the requirements of civilization have forelaid for us upon the continuations of our own soil. It controls the convictions of every mind, and stirs up the echoes of every heart, and each echo answers in the words of the Lombard leader: “God has marked it out for me; woe be to him who touches God’s gift to me!”

To achieve our destiny, the waters of the Gulf of Mexico must be *mare nostrum*. To this the traditions of the Republic—traditions that are the living testimony of the past, that can no longer speak otherwise for itself—and the necessities of progress, now conspire. The commerce of the world is breaking through old barriers and seeking new channels. Up to the beginning of the period within which we derived our colonial existence, and from which we strugglingly, yet not ignobly, rose into the dignity of a people whose voice is not unheeded in the councils of nations, Asia had been the great seat of trade; but its transactions, bound to the delays of a tedious and unsafe sea navigation and land carriage combined, were mostly restricted to the southeast of Europe and the waters of the Mediterranean.

But the New World, the more obvious passage to the east, lay in the unexplored trackways of the west. From the western coast of Europe was that new world discovered, and from the period of its discovery it has reacted on the destinies of both Asia and Europe. From the days of Phenicia to those of Venice, at the time of the discovery of America, the Mediterranean sea, together with the land routes which joined it to the Arabian and Persian Gulf, had constituted the narrow space which limited the international trade of the world of the sixteenth century. Within that space civilization had, for thousands of years before, taken its roots. Mankind, within the measure of their resources, had then and there wrought wonders which the discovery of this continent, the peopling of its wastes, the planting of its colonies—especially the colonies of the Hollandish, French, and English stocks—are now reproducing, in broader forms, in farther reaches, and far brighter promise. But especially had Asia

exercised an influence on the destiny of trade, which, with the discovery of our continent, passed away, never to be retrieved. The eager hand of Young America is, even at the present day, reaching to pluck the jeweled collar from the neck of her whom the earliest traditions greet as the dowager of the earth, and to plant upon her youthful brow the diadem which, with the primogeniture of birth, once proclaimed Asia the mistress of the commerce of the world.

Yes, sir; with the exception of India, galvanized into reëxistence by the calculating violence of England, and it may be China and Japan, lately started into a new life, by the intrusions of the four most powerful nations of the west, Asia is buried in deepest lethargy; and its participation, once so active, in the operations of trade, has almost entirely ceased. Even has the southeastern extremity of Europe come within the influences of that torpor. On the very confines of the three known divisions of the world, which were once the most active theaters of thrifty-trade; those very confines where the highest development of commerce had been witnessed, and where it seemed destined to go on in unmeasured extent, ignorance, scantiness, and poverty, have been substituted for the energy and wealth which had marked them for the dwelling place of political power. With the discovery of this continent, sir, Italy, not subjugated like Greece, her foster mother in all the useful arts of social and political life, lost her preëminence and her prosperity in the commercial scale, when, with the discovery of America, the principal sources of that prosperity were suddenly closed. The very genius of her son was fatal to her, whilst the discoveries of his daring spirit brought her down from the height of that commercial preëminence.

With the mastery of commerce, (which she had held in her hands for nearly six centuries,) her other elements of greatness disappeared. Yet they merely disappeared in a change of place. Other fields for its resources were opening at the very time which marked her decay as the controller of the trade of the world, and heralded our advent into the family of nations, together with the history of our prosperity and commerce. Other theaters for its action had been prepared in the future colonies and States of the American continent. The scepter of modern commerce was resigned by the reluctant hand of Italy; but resigned to be greedily snatched at by Portugal, Holland, and Spain, by which it was alternately swayed, until intrinsic causes of decadency, and a fatal combination of circumstances, put it in the hands of England; from which, with the declaration of our independence, we have wrested it for a perpetual heirloom in the great family of American States.

DIPLOMATIC AND CONSULAR BILL.

The hour fixed by the House for the close of debate upon this bill having arrived,

The CHAIRMAN announced that the bill would be read by clauses for amendment.

Mr. COLFAX. I move to amend by striking out the word “Persia,” in the following paragraph of the first clause of the bill:

“For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Persia, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, and Paraguay, \$24,000.”

My reason for making this motion, is, that we have no minister at Persia, nor do I see any necessity for having any there, at present. Certainly at a time when the Treasury of the Government is bankrupt and unable to pay its debts, and when the people expect retrenchment of us, we should not enlarge the diplomatic expenses of the country, except for some controlling reasons.

It is true that the subject of this Persian mission was some time since suggested to the other branch of Congress, and, if I am correctly informed, it has thus far failed to receive the approbation of that branch of the Government which is so peculiarly connected with the executive branch of the Government in the conduct of our diplomatic affairs. I move to amend the bill as I have indicated. If the amendment shall be agreed to, it will then become necessary to reduce the amount of the appropriation.

Mr. PHELPS, of Missouri. I desire only to explain the reasons of the committee in recommending an appropriation for the Persian mission. The attention of Congress was called to this subject during the last session of the preceding Administration, and also a year ago last December by the President, in his annual message, in which he stated that he believed it would be productive of friendly relations between the United States and the Persian Government, if a minister should be sent to that nation. At that time no treaty had been ratified and proclaimed between the United States and Persia. Prior, however, to the last session of Congress, a treaty had been negotiated by Mr. Spence, who was our Minister to the Ottoman Porte, and stationed at Constantinople, with the Persian minister. That treaty was submitted to the Senate at the last session of Congress, and was ratified by that body. The Committee of Ways and Means, believing that the President was the better able to judge of the necessity of a mission there, and believing also that he was duly impressed with the necessity of introducing economy in the public expenditures, entertained the opinion that no minister would be sent to that nation unless there was a necessity for that purpose. As I remarked yesterday, it was a question of expediency for this committee to determine this point. This mission has been recommended by the Committee on Foreign Relations of the Senate. It has been recommended by the Executive; and, sir, under all the circumstances, the Committee of Ways and Means did not feel disposed to take upon themselves the responsibility of withholding an opportunity for the House to express its opinion on the subject.

Mr. CURRY. I think the time for debate has not expired.

The CHAIRMAN. There are three minutes left.

Mr. CURRY. I desire to say, Mr. Chairman, that the very reason given by several gentlemen of the Committee of Ways and Means is conclusive that this provision for a mission to Persia ought to be stricken out; because the Minister to Turkey has already found it within his power not only fully to discharge all the *onerous* duties of that position, but also to do everything a minister to Persia could do; and that is to make a treaty with that nation and the United States. There is not one cent of commerce, either of exports or imports, between Persia and us, as shown in the report on commerce and navigation.

Mr. PHELPS, of Missouri. One word, sir, of explanation. The Committee of Ways and Means preferred, on this subject, that the House should act upon it understandingly; that members should have an opportunity to decide on it; and therefore, embraced this appropriation in this bill. The matter is before the committee for its decision. I may furthermore add, that the committee were advised that a minister was about to visit the United States from the Shah of Persia. It was expected, because of that event, that probably ordinary courtesy would require us to send to Persia a minister to return the compliment.

Mr. BOBOCK. I call for tellers.

Tellers were ordered; and Messrs. BUFFINTON and Cox were appointed.

The question was taken; and the tellers reported—ayes seventy-eight, noes not counted.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will proceed with the reading of the bill commencing at the nineteenth line.

Mr. MORGAN. I wish to ask a question. I would ask the chairman of the Committee of Ways and Means whether these assistant secretaries of legations at London, Paris, &c., are not new officers?

Mr. PHELPS, of Missouri. They are not. They are provided for by the act of 1856.

Mr. COLFAX. I would like to ask the chairman of the Committee of Ways and Means how much there was estimated for the Persian mission? The appropriation in the bill ought to be reduced that amount.

Mr. PHELPS, of Missouri. The appropriation then ought to be reduced \$10,000.

Mr. LOVEJOY. Twelve thousand dollars, I think.

Mr. PHELPS, of Missouri. No, sir; the act of 1856, after enumerating the salaries which shall be paid to ministers to certain nations, provides that

there shall be paid to ambassadors to all other nations \$10,000, and for ministers resident, \$7,500.

Mr. CURRY. But before we get to that, I want to move to strike out "Buenos Ayres."

Mr. PHELPS, of Missouri. I understand that we have passed from that paragraph.

Mr. CURRY. We have not.

Mr. PHELPS, of Missouri. I understand that the second clause of the bill was read and passed by. I have no desire, by any rule of the House, to interpose an obstacle to the offering of the gentleman's amendment. The vote was taken, as was stated, upon striking out the appropriation for the Persian mission. The next section of the bill was read and was passed, there being no amendment proposed to it. If we go back in one instance, we must in another.

Mr. CURRY. The last vote was on striking out the provision for the Persian mission. That was in line eleven; and now I propose to amend in line twelve. If it be in order, I propose to say a few words on my amendment.

The CHAIRMAN. The gentleman's amendment will be received.

Mr. CURRY. Now, Mr. Chairman, I believe that our whole mission system is one grand humbug, and that it is intended more to provide places for placemen, and to extend the patronage of the executive department, than to enlarge the commerce of this country, or to cultivate friendly or social relations with other Governments. Some of them might, for special purposes and for special exigencies, be retained; but the true system, in my opinion, is that which was practiced in the early history of this country, when commissioners were appointed to visit different Governments throughout the world. Mr. Monroe was commissioner to four or five Governments of Europe, and did more business than three dozen ministers plenipotentiary at the present day. Now, sir, in the present embarrassed condition of the Treasury, it is proposed to establish another new mission—that to Buenos Ayres. We have a minister to the Argentine Confederation; and, as I understand it, Buenos Ayres was one of the States of that confederacy. I know that it did not join the confederation of 1852. Yet, sir, our minister to the Argentine Confederation can easily discharge all his duties, inclusive of those necessary for Buenos Ayres. Nobody doubts this.

Now, Mr. Chairman, although I do not expect to accomplish much reform here in this matter, still, I desire to state it, as my opinion, that your missions to Portugal, Sardinia, Naples, Rome, Belgium, Austria, and to other Courts, are of no possible utility whatsoever to the Government; and that these men who are drawing attendance on such Courts are simply drawing their salaries without conferring any particle of benefit on the country.

I have here a table of the commerce between this country and those countries which I have enumerated; and in some instances the whole of such commerce would not pay even the salaries of the ministers sent to these countries. Consular agents can discharge all the duties that are required; and if a special treaty is to be made with any of the foreign Governments, it will be much cheaper and much more in accordance with republican principles, to depute a man specially to attend to that duty.

Mr. PHELPS, of Missouri. I will make a word of explanation, in reply to the remarks of the gentleman from Alabama. So far as the general spirit of his remarks is concerned, I have nothing to say about it. That is a matter for the discretion of Congress. With regard, however, to this mission to Buenos Ayres, which he says is a new mission, I would cite him to the appropriation made at last session, and at prior sessions, for the same mission.

Mr. CURRY. Will the gentleman allow me to ask him whether there is now a minister to that country?

Mr. PHELPS, of Missouri. I will answer that question in a moment. In regard to this mission to Buenos Ayres being a new mission, I will say this: I hold in my hand the consular and diplomatic appropriation bill of the last session; and I find that it contains an appropriation for the minister to Buenos Ayres. The same has been the case for several years past.

With regard to the point which the gentleman makes, that one minister to the Argentine Con-

federation might discharge the duties of minister to Buenos Ayres also, I concur with him in that opinion. But provision for this is made in the diplomatic act of 1856, which governs this matter. Under it, when one person discharges the duties of two missions, he receives the full salary of one, and half the salary of the other. That is what will be done in this case. If Mr. Yancey, who is our minister to the Argentine Confederation, shall also discharge the duties of minister to Buenos Ayres, he will be entitled to his full compensation of \$7,500 per annum for the one, and half of that sum for the other. It is in this view that the estimates are made up. In Central America, for instance, we have one person accredited to two Governments. Mr. Clark, of Kentucky, is accredited to the Governments of Guatemala and Honduras; and another gentleman is accredited to the Governments of Nicaragua and Costa Rica. These ministers are in the receipt of \$7,500 a year for the one mission, and half of that sum for the other. This is the condition under which the salaries are drawn.

Mr. CURRY. Will the gentleman allow me to ask him if any mission has ever been discontinued in the history of the Government, except to a country like Poland, that was stricken from the history of nations?

Mr. PHELPS, of Missouri. I desire to refer to the section of law controlling the matter. By the act of 1856, which remodeled our consular and diplomatic system, it is provided:

"That when to any diplomatic office held by any person there shall be superadded another, such person shall be allowed additional compensation for his services, in such superadded office, at the rate of fifty per centum of the amount allowed by this act for such superadded office, and such superadded office shall be deemed to continue during the time to which it is limited by the terms thereof, and for such time as shall be actually and necessarily occupied in making the transit between the two ports of duty, at the commencement and termination of the period of such superadded office so limited, and no longer."

The question was taken on Mr. CURRY's motion to strike out "Buenos Ayres;" and it was agreed to.

Mr. LOVEJOY. I move to strike out the following section of the bill:

"For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Persia, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, and Paraguay, \$214,000."

Now, I would like to inquire of any one who knows, whether any of these missions are established by law in that sense that it is obligatory on Congress to send ministers to any of these places? In other words, supposing all these appropriations for ministers to be stricken out, I want to know whether we violate any law or not? I would like to know from the chairman of the Committee of Ways and Means, how many of these missions are required by any existing law?

Mr. PHELPS, of Missouri. I believe that all of these offices are filled at this time. Appointments of ministers have been made, I believe, to all of these nations that are here mentioned.

Mr. LOVEJOY. But is there a law requiring them to be appointed?

Mr. PHELPS, of Missouri. There is no law requiring an ambassador to be sent to any particular nation. The President possesses the power, by virtue of the Constitution, of sending them. Congress appropriates the money that is necessary to pay the salaries of the ministers; and these salaries are fixed by existing law.

Mr. JONES, of Tennessee. I ask the chairman of the Committee of Ways and Means whether the money has not already been appropriated to pay all the ministers now appointed up to the 30th of June next, and whether that is not long enough to allow them to get home, if we now refuse to make any appropriation for another year? [Laughter.]

Mr. LOVEJOY. I am in earnest in respect to this. I made some remarks, precisely to this point, a year ago; and I still insist that I have no conception of the use that any of these ministers are to this country. I do not know what interest of the country would suffer if there were not another appointment of this character made. I know that some individuals may suffer. I know there would not be so many places to be filled by those who have been repudiated by the people.

The autocrats of the dinner-table might not find places if this law were repealed; but still the country would suffer no detriment. The consuls can take charge, and do take charge, of all the commercial interests.

I therefore move to strike out this entire section, and would be glad if the yeas and nays could be taken upon it in the House.

Mr. CLARK, of New York. I ask the gentleman from Illinois to modify his motion, so as to leave in the minister to Spain. At this particular juncture, it is necessary that we should have a minister there.

Mr. LOVEJOY. I have no objection to make to that modification.

Mr. CLARK, of New York. Then I will vote for the gentleman's proposition.

Mr. MAYNARD. Before the question be taken, on the motion of the gentleman from Illinois, I would like to make the clause as perfect as possible; and will move that in lines fifteen and sixteen, the words "\$214,000" be stricken out, and the words "\$175,000" inserted.

I make the motion for the purpose of obtaining from the chairman of the Committee of Ways and Means information in reference to a feature which I see obtains in several parts of this bill. On referring to the estimates for appropriations for the next fiscal year submitted to us at the commencement of the session, you will find upon page 71, that there was appropriated for the salaries of ambassadors and ministers plenipotentiary, for the year ending June 30, 1859, the sum of \$274,000. It is estimated that on the 30th of June 1859, there will remain unexpended of that appropriation, the sum of \$100,000, which, as I understand it, leaves the sum of \$174,000 as the amount necessary for the current fiscal year. I do not know why it has been thought necessary to increase that amount to the sum of \$214,000, which is asked for in the estimates, and reported in this bill for the next fiscal year. The same thing also occurs in the item for salaries of consuls. The amount appropriated for these salaries for the current year was \$173,750, of which it is estimated that there will remain unexpended on the 30th of June next, the sum of \$33,750, leaving a balance of \$140,000, as the amount needed for the current year. And yet it is estimated that \$240,000 will be required for the next fiscal year, and that sum is provided in this bill. There are several other items of the same character.

Mr. PHELPS, of Missouri. One will answer for the purpose of explanation. The gentleman has made a mistake. If he will turn to page 53 of the estimates, he will find that the sum of money required for the salaries of ministers therein specified would be \$314,000; but it is estimated that, on the 30th of June next, there will remain an unexpended balance of \$100,000. That unexpended balance being deducted from the \$314,000, will leave the sum specified in the bill. The page of the estimates to which the gentleman refers is a little deceptive, the unexpended balance of \$100,000 having been there deducted from the amount required, and leaving \$214,000; and, without reference to a previous page of the estimates, (page 53,) it would not appear that the amount required is really \$314,000. The gentleman will perceive, by turning to page 53, to which I cite him, that \$314,000 is the sum required for the payment of the salaries of the ministers therein named; but the Secretary reports that there will probably be an unexpended balance of \$100,000 at the close of this fiscal year, and that amount has been deducted from the whole amount required in the statement on the page to which the gentleman has referred.

Mr. MAYNARD. I would ask the gentleman from Missouri whether, as a matter of fact, the salaries of ministers and consuls have been increased in the aggregate, or whether it is proposed to increase them during the coming year?

Mr. PHELPS, of Missouri. It is not proposed in this bill to increase the salary of any minister or of any consul—that is to say, the Committee of Ways and Means propose no such increase. Their salaries are regulated by law. The Committee of Ways and Means only propose to appropriate such sums of money as are requisite to pay persons holding office the salaries prescribed by law, and have deducted from the amount which will be required for that purpose the unexpended

balance which will probably be on hand on the 30th of June next.

Mr. MAYNARD. I did not suppose that the salaries of individuals had been increased. My inquiry was, whether the aggregate amount had been increased by providing for new missions or consulships?

Mr. PHELPS, of Missouri. There are no new consulships provided for. The number of salaried consulates is fixed by law. Consuls may be appointed at other places than those named in this bill, but they will receive no compensation but the fees of office.

Mr. MAYNARD. That is the information I desired, and I will now withdraw my amendment.

Mr. STANTON. I move to amend the amendment of the gentleman from Illinois, by striking out all after the word "Spain," in the eighth line, down to the end of the fourteenth line.

I make this motion, Mr. Chairman, for the purpose of calling the attention of the House, and especially of gentlemen upon the other side, to the proposition that if they expect to make any essential reduction in the expenditures of this Government, they have to do it by some radical, striking change, in some of the Departments of the Government. This idea of keeping up your diplomatic corps, and your Army, and your Navy, and all your army of office-holders, and going on with your contracts and such expenditures, and saving by sixpences, with a view of reducing the expenditures of the Government, is all idle. It cannot be done. The question is, what can you best dispense with? Where can you best cut off some branch of the public service which now requires a large expenditure, and which can be dispensed with with the least practical public inconvenience? Now, I confess to you, sir, that I know of no arm of the public service that is more emphatically useless than this diplomatic service—none in the world. For commercial purposes, our consuls discharge all the duties that are required. The diplomatic ministers discharge no duties of a commercial character. If you have any treaties of importance to negotiate, you always send a special minister, or else have it negotiated with a foreign minister here in Washington. You never intrust your ordinary diplomatic agents with serious and important negotiations; and there is really no necessity for those agents.

Now, I intend to withdraw my amendment and vote for the amendment of the gentleman from Illinois, [Mr. Lovejoy;] and I want to see how much sincerity there is in the talk that we hear in this House about a reduction of the public expenditures. Gentlemen over the way are horrified at the idea of a large tariff. Sir, you cannot get rid of it unless you reduce the expenditures of the Army and Navy and the diplomatic service, and others of a similar character. The lopping off, as the Committee of Ways and Means propose to do, of \$700,000 from an appropriation of \$16,000,000 for the Army, is a picayune business after all. You cannot make any material reduction by such movement as that. Now, I want, as a matter of curiosity, to see how many members of the House are willing to come up to what is a substantial reform, retrenchment, and reduction of what is, in my judgment, a wholly useless and unnecessary public expenditure.

Mr. CRAWFORD. Mr. Chairman, I should be exceedingly gratified if it were possible to meet the gentleman from Ohio, and reduce the expenditures of this Government. I would be glad if we could do it in this bill. I hope we shall be enabled to make some reduction before we have concluded the five minutes' debate to which we are entitled in amending the bill and perfecting it. But, sir, we can accomplish no practical good by striking out all of this section after the word "Spain," or by recalling our ministers from abroad.

Now, the gentleman from Ohio will recollect that in 1856 a bill was passed by Congress regulating the appointment and payment of our foreign ministers, and changing the existing law on the subject.

Mr. STANTON. I desire to say to the gentleman from Georgia that, if I understand this bill, it does not make it obligatory upon the President to appoint a single foreign minister. It confers the power to make appointments, but makes no provision for the payment of their salaries;

and I imagine that if we refuse to make any appropriation for their payment, nobody will be very likely to desire the appointment.

Mr. CRAWFORD. That power has been exercised. We have now ministers at all these points; and the mere refusal of this Congress to appropriate a sufficient amount of money to pay these officers of our Government abroad, would not bring home a single man whom the President of the United States has appointed. By the act of 1856, it is provided that all envoys, ministers, residents, commissioners, &c., included in schedule A, shall be entitled to a certain rate of compensation. Now, that compensation is fixed by law. These officers have been appointed; they are now abroad; and the only question with me, as a member of this House, is whether, after the law has said they shall be entitled to a certain amount of money, I will refuse to appropriate the amount necessary for carrying that law into operation? Now, sir, here, in this bill, we have reported that these officers shall be entitled to the amount of \$214,000. The law of 1856 provides exactly how much they shall receive. It is not in the power of the Ways and Means Committee to lessen the sum to which these gentlemen are entitled. If it were possible, we would have been glad to reduce the amount. But the amount is provided by law, and we have no power to change it. The President, if we refuse to make this appropriation, will not call home a single minister; and the only effect of the motion of the gentleman from Ohio would be, that Congress would be called upon at its next session to provide the means by which the payment of the salaries of these ministers could be made. We could effect no good result by withholding this appropriation.

Mr. STANTON, by unanimous consent, withdrew his amendment.

Mr. SCALES. I move to amend by striking out the seventh line of this section. It is admitted, I believe, on all hands on this side of the House, as well as on the other side, that there is a necessity for retrenchment and reform in the expenses of the Government. The President of the United States has, in his annual message, invited Congress to a rigid scrutiny into the expenses of all the Departments of Government, for the purpose, if possible, of reducing the expenses. I am here to respond to what the gentleman from Ohio, over the way, [Mr. Stanton,] has said; and I will say that there has been, and will be before this House, no bill in which that reform and retrenchment can more properly be commenced than in the bill now before this committee.

The gentleman from Alabama correctly told us this morning, of a time in the history of this Government, when we had but few ministers plenipotentiary abroad; when our commercial interests abroad were mostly attended to by commercial agents; and when the whole cost of our diplomatic service did not exceed \$100,000. Now the salaries of our ministers and consuls amount to nearly five hundred thousand dollars.

I say then, if we are to bring about any retrenchment and reform, now is the time to begin. If the House refuse to do it now, I shall despair of their doing it at any time. I invoke the aid of the Democratic party; I invoke the aid of the Committee on Foreign Affairs; I invoke the aid of the Committee of Ways and Means; I invoke the aid of every one who is in favor of this work of retrenchment and reform, to commence with this bill. I withdraw my amendment.

Mr. LOVEJOY. I modify my amendment so as to strike out the whole paragraph, and insert:

For salary of envoy extraordinary to Spain, \$12,500.

Mr. BUFFINTON called for tellers on the amendment.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and BUFFINTON were appointed.

The committee divided; and the tellers reported—yeas 53, noes 68.

So the amendment was not agreed to.

Mr. GARNETT. I move to strike out the word "Rome," in the eleventh line.

Mr. PHELPS, of Missouri. I make the point of order that the proposition to strike out the whole paragraph having been negatived, it is not now in order to move to strike out any particular item of that paragraph.

The CHAIRMAN. The Chair doubts whether the point is well taken.

Mr. GARNETT. I then move to add words to the end of that paragraph.

Mr. BURNETT. With all deference to the gentleman from Missouri, the chairman of the Committee of Ways and Means, I hold that his point is not well taken. I do not understand, under the rules of this House, that when a motion to strike out an entire section has been negatived, it is then out of order to move to amend that section in reference to any particular item, or to strike out any particular provision.

Mr. GARNETT. I learn from a friend who is at my side, that it was ruled the other day, in opposition to the point of order raised by the gentleman from Missouri.

The CHAIRMAN. The Chair decides the point of order not well taken, and overrules it.

Mr. GARNETT. Then I move to strike out the word "Rome" in the eleventh line.

Mr. LEITER. I rise to a point of order.

Mr. GARNETT. I do not yield unless the gentleman takes an appeal from the decision of the Chair.

The CHAIRMAN. The point of order has been decided. Does the gentleman take an appeal from the decision of the Chair?

Mr. LEITER. I do; and I desire to say a word on it. I hold that it is in order to perfect a paragraph even after the motion to strike out the entire paragraph.

Mr. REAGAN. Then the Chair has decided as the gentleman desires.

Mr. LEITER. Then I yield. I thought the Chair had decided the point of order against the gentleman from Virginia.

Mr. GARNETT. Mr. Chairman, I move to strike out the word "Rome." I voted against the motion to strike out the whole clause, for the reason that I was not prepared to go for so radical a reform as to discountenance all foreign missions. For my own part, I think that some of them are necessary and proper. I think that there are others, however, which, like the Persian mission just stricken out, are neither more nor less than jobs; neither more nor less than pleasant places to be disposed of by the Administration which may happen to be in power to its friends and admirers. Among them is this mission to Rome, which was created for the first time some years ago, when we had plenty of money in the Treasury, and when it was desired to make some pleasant place, for a supporter of the Administration which happened then to be in power.

What, Mr. Chairman, are the commercial relations of the United States with Rome? Exports, none. Imports for the last year, \$2,500. Your minister there has a salary, I believe, of some eight thousand dollars.

Mr. PHELPS, of Missouri. It is \$7,500.

Mr. GARNETT. And incidental expenses will run it up to nine or ten thousand dollars. It would be a profitable operation for us to turn over the whole of this commerce to that minister, and to tell him to take it all for his salary. We would make money by that operation. The year before, the import commerce was larger. I want to be fair about this. The year before the revolution, the imports amounted to \$55,000; and what was it made up of? Essential oils, \$19,000. They were for perfumery, I suppose. Rags, \$15,000. And, sir, we are, forsooth, to keep a minister there to attend to such matters. The empire of Great Britain, with one or two islands inhabited by Catholics, maintain no ministers there, and she gets on well. France and England do not keep missions at Naples, a greater commercial place by far than Rome to this country. They have done without ministers there for years past. Have their interests suffered? I admit that they did not discontinue ministers there because they did not want them, but that they discontinued them because they disapproved the system of government prevailing there. Yet, sir, a delicate and difficult matter, the Cagliari affair, was successfully settled with Naples on the part of Great Britain, with nobody to act for the latter but a consul; the consul who has since been sent to the city of Richmond, in Virginia. I say that this mission to Rome has no purpose, no use, except to afford patronage to the Administration. I say that the salary paid to the minister there, includ-

ing incidental expenses, is more than the commerce with Rome is worth to us in profits; more, indeed, than the whole amount of commerce, profits and all, during the last year. Therefore, I ask the committee, if it is really in favor of reducing the expenditures, to do away with that mission.

Mr. BURNETT. I propose to move an amendment to the amendment by striking out all except Great Britain, France, Russia, Spain, and Mexico.

Mr. GARNETT. I see that the gentleman and myself agree in the main; and I suggest to him the expediency of taking separate votes on each mission it is proposed to do away with; that we strike them out in the detail, instead of in the aggregate.

Mr. BURNETT. Then I withdraw my amendment for the present.

Mr. PHELPS, of Missouri. I do not design detaining the committee with any lengthened remarks in reply to the gentleman from Virginia. He certainly misapprehends the duties of an ambassador. If it be his duty only to attend to commercial affairs, then consuls and commercial agents will do as well. I merely make this explanation, and oppose the amendment.

The question was taken; and the amendment was agreed to.

Mr. CURRY. I move to strike out Switzerland.

The question was taken; and the motion was agreed to.

Mr. BARKSDALE. I move to increase the amount of the aggregate appropriation \$1,000.

Mr. Chairman, I am as much in favor of an economical administration of the Federal Government as any gentleman on this floor. There are a great many abuses in the administration of the Government which can be and ought to be reformed. And, sir, I am glad to observe the spirit of economy which seems to animate the other side of this House. I admit from the declarations we have heard to-day, that they have commenced a reformation of some of the abuses which they have countenanced; abuses which they have aided in fastening upon the country. What extravagant appropriation has been made, sir, which did not receive the sanction and the support of the other side of this House?

Mr. STANTON. What one can the gentleman name?

Mr. BARKSDALE. The river and harbor appropriations.

Mr. COLFAX. We have had no such bill for years.

Mr. BARKSDALE. There is the French spoliation bill, which was supported, when it passed, by the other side of the House.

But, sir, in my estimation, they have not commenced to reform in the right place, or in the right way. I believe that ministers ought to be appointed to foreign courts; and why? Because, sir, we should have agents to watch the political movements of foreign Governments, and to ascertain how our interests are affected by those movements. We should have agents, duly commissioned by this Government, to foreign nations, to shield and protect the rights of our citizens. This practice has been observed since the foundation of the Government, and has been sanctioned by our wisest statesmen. Treaties of amity and commerce have been made by our foreign ministers, which have redounded to the best interests of our people. Why, sir, a treaty has recently been made with China, which will vastly extend our commerce with that Empire. What estimate can be made of the benefits to accrue from that treaty?

Mr. CURTIS. Let me ask the honorable gentleman whether that was made by a consul, or a minister?

Mr. BARKSDALE. It was made by a commissioner acting as a minister; a commissioner discharging the functions and having the rank of minister, and not by a consul.

Mr. CURTIS. I thought the gentleman referred to Japan. The treaty with that empire, lately made, was made by a consul.

[Here the hammer fell.]

Mr. STANTON. Mr. Chairman, I am obliged to the gentleman from Mississippi for his speech. I trust that gentlemen upon this side of the House

will appreciate it, and learn something from it. They will now see what obligations the other side feel themselves under, when this side have helped to pass appropriation bills for them. It may sometimes happen that gentlemen upon the other side of the House are a little short, and hard pressed for votes to pass the ordinary appropriation bills. It has occasionally happened that gentlemen upon this side have given them the necessary votes. They now see how that obligation has been recognized. They see how they are treated for those acts of courtesy. I hope they will take a lesson from it.

Mr. FLORENCE. They only have assisted to pass ordinary and necessary legislation. They were acts of justice, as well as of courtesy.

Mr. STANTON. The gentleman from Mississippi, who is after charging on this side of the House that they had voted for extravagant appropriations, has failed to put his finger on one particular. He pointed out two measures which have not passed at all. But out of this \$80,000,000 of Government expenditure last year, he has not laid his finger on one extravagant appropriation that this side of the House has voted for.

Mr. BARKSDALE. Do I understand the gentleman from Ohio to admit that, as an act of courtesy, he has voted for extravagant and unnecessary appropriations?

Mr. STANTON. No, sir; I have not done so.

Mr. BARKSDALE. That was the statement.

Mr. STANTON. I have voted against all of them. I said that some gentlemen on this side of the House had voted for appropriations. I did not.

Several MEMBERS, (on the Republican side of the House.) Not for extravagant appropriations.

Mr. STANTON. Not for extravagant, but for some appropriations. I did not intend to be included in that category which the gentleman alluded to, and which I alluded to. I have not voted for any of the appropriations as a general rule. I have gone on the idea that you were responsible for the expenditures of the Government, and that you should vote the appropriations. If you did not choose to do it, the Administration, for my part, should do without them.

Mr. BARKSDALE. Is not the gentleman a part of the law-making power?

Mr. STANTON. Yes, sir.

Mr. BARKSDALE. And of the power that appropriates for the expenses of the Government?

Mr. STANTON. Yes, sir.

Mr. BARKSDALE. And is it not his duty to assume his full share of the responsibility?

Mr. STANTON. Grant all that, sir. Whenever you place me in the condition to control the expenditures of the House; whenever you place me, and those with whom I act, on committees, and give us majorities, and enable us to control the legislation of the House; then I am ready to assume my full share of responsibility. But I do not choose to make myself a scape-goat by voting for appropriations for which I may be afterwards arraigned.

Mr. HOUSTON. I desire to say to the gentleman from Ohio, that I regard the principle just announced by him, as an improper principle to govern his action and mine. I think that in legislating on appropriation bills, as well as on all other matters, those who have notions of economy corresponding with others; those who think the Government expenditures too large; those who believe the appropriations wrong, ought, from this side and from that side, and from all sides, vote conscientiously, and defeat such appropriations. The responsibility rests on Congress and on the Administration together.

Mr. STANTON. This Republican Government of ours can only be carried on through the instrumentality of parties; and the people hold the party in power responsible, and justly so, for the expenditures of the Government.

Mr. MAYNARD. Is this debate germane to the question before the committee?

Mr. STANTON. Perfectly.

Mr. BARKSDALE. I withdraw my amendment.

Mr. STANTON. I have the floor.

Mr. LOVEJOY. I object to the withdrawal of the amendment. I want to say a word upon it.

The CHAIRMAN. Debate upon it is exhausted.

Mr. FLORENCE. Well, let us vote on it.

The amendment was withdrawn.

Mr. CRAWFORD. I desire, Mr. Chairman, to move to strike out the whole of this section, from the eighth line down to the seventeenth, and I do so for the reason—

Mr. BURNETT. I rise to a question of order. That motion has been already made and disposed of.

Mr. CRAWFORD. I take issue with the gentleman from Kentucky, and state to him, that since that motion was made, the words "Rome," and "Switzerland," have been stricken out of the section.

I make this motion, Mr. Chairman, for the reason that I want to get through, if possible, with this section. Four hours would not be sufficient time in which to discuss all those various questions arising out of it in regard to our foreign ministers; and if we continue this discussion to-day, we will not get through this bill for perhaps the next ten days. In the House every gentleman can have an opportunity of recording his vote upon the propriety of maintaining any particular mission, or striking out any particular part of the bill. In regard to this, I am perfectly willing that responsibility should rest upon gentlemen. The law of 1856, fixes the salaries of these various diplomatic offices, and they are all filled. The only question for this House to determine is, whether they shall make or withhold appropriations for their payment. So far as I am concerned, I am perfectly willing to vote for the repeal of the law of 1856. Let my friend from Kentucky [Mr. BURNETT,] my friend from Virginia, [Mr. GARNETT,] my friend from Ohio, [Mr. STANTON,] or let members from any side of the House come up and move to repeal the act of 1856, and I will go with them. But I do not desire that the proposition should be made here, or that the Committee of Ways and Means should be charged with recommending extravagant expenditures, which they have no power to control. What power over the question has that committee got? It appears to me that these gentlemen are commencing at the wrong end of the line. Let them begin with the repeal of the law under which these appropriations are made, and I will go with them. Have we power to control the President in making these appointments? We have not; and every well-informed gentleman will admit that when the appointments are made the salaries must be paid. The only question, therefore, is, whether we shall appropriate the money now, or appropriate it hereafter. The appointments are not made in virtue of any power that we possess. No man on this floor is more desirous than myself of retrenching the expenditures of the Government, and I am ready to vote for the repeal of the law authorizing the appointment of ministers to any Court where they are not absolutely required. Let the gentleman from Virginia [Mr. GARNETT] introduce his proposition to that end, and I will support it.

Mr. BURNETT. I apprehend, Mr. Chairman, that I have a right to perfect this section of the bill before the gentleman's proposition to strike out the whole clause is put. That is parliamentary. I move to strike out of this clause the ministers to all the Courts except Great Britain, France, Russia, Spain, Mexico, China, and Paraguay, and to reduce the amount to \$100,000.

Mr. HOUSTON. The gentleman from Kentucky proposes to make a motion of his own. I desire to say a word in reply to the gentleman from Georgia, [Mr. CRAWFORD,]. Have I not a right to debate the amendment of the gentleman from Georgia?

Mr. BURNETT. I will only occupy the floor for a moment or two, and will then yield to the gentleman.

Mr. HOUSTON. When the gentleman shall have debated his amendment, it will not be in order to reply to the gentleman from Georgia. That is the only reason why I ask the floor now.

Mr. BURNETT. I want the Chair to decide whether I am entitled to the floor?

The CHAIRMAN. The gentleman is entitled to the floor. The Chair thought he had yielded to the gentleman from Alabama.

Mr. BURNETT. No, I did not.

We hear a good deal said here, Mr. Chairman, on the subject of economy and retrenchment. The gentleman from Georgia has seen proper, before

I had said one word on this bill, to appeal to the gentleman from Kentucky and the gentleman from Virginia to pursue a certain line of policy. Now, I say to the gentleman from Georgia, that the power to appoint a minister is claimed to be a constitutional power that is vested in the President, and which he can exercise at any time that he thinks proper.

Mr. SEWARD. Not unless the mission is established by law.

Mr. BURNETT. Yes, sir; it is claimed he can.

Mr. SEWARD. I dissent from that.

Mr. BURNETT. The only means that Congress possesses of reaching the abuse of this power, is by refusing to vote the money. Let us refuse to vote the money to pay those men who are sent abroad to Courts where we do not need ministers; and how can we do it, except when the consular and diplomatic appropriation bill is before us? I ask the gentleman from Georgia, [Mr. CRAWFORD,] when he talks to me about the act of 1856, whether there is anything in that act binding this House to appropriate money for missions that are unnecessary?

Mr. CRAWFORD. Will the gentleman allow me to answer?

Mr. BURNETT. No, sir; the gentleman declined to yield to me when he had the floor. I know, sir, that the power to appoint ministers has been claimed, under the naked constitutional power, by various Presidents, and has been exercised by them in the appointment of ministers, in the absence of law. I do not pretend to say that this is a correct constitutional position, but I say that the power having been exercised, the only way in which we can correct the evil is by refusing to vote money for missions which are useless and unnecessary. Sir, I have no charge to make against the Committee of Ways and Means, but I say that unless the Committee of Ways and Means, and the Executive Departments of the Government cooperate in good faith with those who are really in favor of economy, and of correcting the abuses of this Government, nothing practical can be done in the way of reform. This House can do nothing without the aid and cooperation of the Executive Departments and of the Committee of Ways and Means. The gentlemen of the committee may talk about members opposing their bills in a factious spirit. I, sir, only act upon the convictions of my own judgment, as to whether expenditures are necessary or not.

And why do I make this motion? Because the missions that I propose to strike out, are unnecessary. As was well remarked by the gentleman from North Carolina, [Mr. SCALES,] and also by the gentleman from Alabama, [Mr. CURRY,] we do not need these missions. They are not demanded by the interests of our Government, and if we intend to economize at all, let us adopt the suggestion of an enemy upon the other side of the House, and show our faith by our works.

[Here the hammer fell.]

Mr. PHILLIPS obtained the floor.

Mr. CRAWFORD. With the permission of the gentleman from Pennsylvania, I would like to read two lines to the gentleman from Kentucky who has just taken his seat.

Mr. PHILLIPS. The gentleman must excuse me. I must decline to yield for that purpose. Mr. Chairman, if there were no other way of attaining the object which the gentleman from Kentucky has in view, I might support him in the motion he now makes; but there is another mode of attaining the same end. Let him withdraw his amendment at this time, and move in the House to repeal the law which provides for the payment of these salaries. Let gentlemen reflect for a moment that they owe a duty to the country as well as to their party. Whenever an appropriation bill comes before the House a lecture is delivered from the other side of the Hall.

Mr. BURNETT. I would ask the gentleman, if we cannot as easily effect the object I have in view by refusing to appropriate the money for these salaries as by repealing the act of 1856?

Mr. PHILLIPS. I answer, no; and if we could effect it, we would effect it in the wrong way. The Constitution of the United States gives the President power to appoint ambassadors, and there is no law which regulates that power. An act was passed in 1856 to regulate the compensation of those ambassadors, and while the gentle-

man cannot take away from the President the power of appointing them, he can, by amending the law of 1856, put the salaries at a mere nominal amount—an amount so low that the appointments will not be sought after for the purpose which he has mentioned.

But, sir, I do protest against this mode of legislation. The rules of the House require that the Committee of Ways and Means shall report appropriations for expenditures under existing laws. They cannot legislate; they dare not disregard the law. The gentleman asks me if he will not effect his purpose by the motion he has made. I tell him, no; and his own reflection will satisfy him that he could not do it in a satisfactory manner. Where would his amendment leave the matter? The President has the power to appoint these ministers; we cannot restrict that power. The law of 1856 remains on the statute-book providing what salaries the officers thus appointed shall receive. Would not the amount fixed by that law be due to the officers appointed by the President? And would the gentleman dare, when he comes here another year, to withhold from these officers the salaries that would be due to them under that law? There is time enough to effect this reform.

Mr. JONES, of Tennessee. I desire to ask the gentleman a question. Does the law to which he refers, fixing the salaries, require the President, contrary to his own judgment, to send a minister to any court? If we make these appropriations, is it not still in the discretion of the President and of the Senate when, and to which one of these courts, they will send ministers?

Mr. PHILLIPS. I have already said that the discretion rests with the President. If the President does not think it necessary, he will not expend the money for these salaries. But I say that the defeat of these appropriations will not repeal the law of 1856. Let the gentleman from Kentucky introduce a bill to repeal that law, or modify it. Let him give notice of such a bill now. Let him put upon the statute-book a permanent law reducing the salaries of these ministers, and then these appropriations will not hereafter be made.

Mr. STANTON. I would like to ask the gentleman whether, if the law of 1856 were repealed, and the President were to appoint a minister, it would not be obligatory upon us to pay him a reasonable compensation?

Mr. PHILLIPS. I have already said that you may fix the compensation at a mere nominal sum. The power is in your own hands; but exercise it in the right way. For one, I should be ashamed to legislate in this way, if there was any other mode by which the same object could be accomplished. And no gentleman will rise in his place and tell me that the object sought by the gentleman from Kentucky cannot be reached in the mode I have pointed out.

Mr. REAGAN. I desire to ask the gentleman from Pennsylvania, if he intends to assert the principle assumed by the gentleman from Kentucky, that because the Constitution confers this power on the President, it authorizes him to act under that power without reference to any legislation of Congress?

Mr. PHILLIPS. I mean to say that the powers of Congress are restricted by the Constitution.

Mr. REAGAN. I am sorry to hear a Democrat say that.

Mr. PHILLIPS. Then the gentleman had better learn a different style of Democracy. I say Congress, so far as they can—

Mr. REAGAN. I do not refer to Congress, but to the President.

Mr. PHILLIPS. Allow me to say—

[Here the hammer fell.]

Mr. DOWDELL. I desire to offer an amendment to the amendment.

The CHAIRMAN. There is an amendment to the amendment already pending, and no further amendment is in order.

Mr. FARNSWORTH. I move that the committee do now rise.

Mr. PHELPS, of Missouri. I would remind the committee that provision has been made for holding evening sessions for general debate, if it be desired by a majority of the committee. I hope that by unanimous consent this bill will be laid aside for the present, and another bill will be taken up. The committee can then take a recess until seven o'clock. If gentlemen desire to make

speeches upon subjects other than the bill now before us, I hope the opportunity will be afforded them.

Mr. FARNSWORTH. I insist on my motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill (H. R. No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1860, and had come to no resolution thereon.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the President's annual message. The committee can then take a recess, and meet to-night for discussion.

In making this motion, I do not intend to displace the consular and diplomatic appropriation bill. It will come up again to-morrow; but if we go into committee now, the President's message will be under consideration to-night.

Mr. McQUEEN. I move that the House do now adjourn.

Mr. STANTON. I desire to know if there are any gentlemen who desire to speak to-night?

The question was taken; and the House refused to adjourn.

Mr. PHELPS, of Missouri. I now insist on my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and resumed the consideration of the consular and diplomatic bill.

PRESIDENT'S MESSAGE.

On motion of Mr. PHELPS, of Missouri, by unanimous consent, the bill was laid aside informally, and the President's annual message taken up for discussion.

Mr. MARSHALL, of Kentucky, obtained the floor, but yielded to

Mr. HOWARD, who moved that the committee take a recess until seven o'clock, p. m.

The motion was agreed to; and thereupon the committee took a recess until seven o'clock, p. m.

EVENING SESSION.

The committee resumed its session at seven o'clock, p. m., (Mr. BARSDALE in the chair.)

Mr. MARSHALL, of Kentucky. Mr. Chairman, when the member from Maine, who sits on my right, [Mr. WASHBURN,] finished his speech, a few days since, upon the mission and duty of the Republican party, I tried to obtain the floor to improvise a reply to it. Failing in that effort, I have waited the publication of the speech, and have given it an attentive perusal. It is a *representative speech*. It assumes a tone of suggestive advice, which denotes at once the solicitude of the counselor and the reserved authority of the commander. Replete with promises of rewards to the faithful and of penalties to the disobedient, the very style of that speech asserts the prerogative of leadership and discards the equality of fellowship. It was written out in advance of its delivery, and was merely read here *pro forma*. It was meant for the country. It was pronounced with a deliberateness and precision of emphasis which made its general tone authoritative; indeed, the member spoke *ex cathedra*. His frequent use of the terms "oligarchy" and "oligarchic" served a different purpose than merely to string together unusual words; they pointed out the connection of this speech with one delivered at Auburn, somewhat more than a year since, by a distinguished leader of the Republican party, who represents the State of New York in the other wing of the Capitol. Both are minerals from the same mine; particles of the same system; music from two instruments, but composed by the same master; emanations from one intellect, only diversified in the effectiveness of the production, by being published through different channels.

Though the principle enunciated has been ex-

pressed heretofore, its repetition now by the member from Maine, serves to prove that his speech is a representative speech, duly studied and prepared; and that it was intended as the bugle note from certain leaders of the Republican party, summoning the people of the free States to another sectional effort in the next presidential election, to be made under the auspices of extremists who essay to lead and control the Republican organization, and to convert it to their own uses. I make no doubt, from this beginning, that we shall hereafter be entertained with new editions of the Rochester speech from the same distinguished author, reading us the second lesson, which treats of homogeneity of material as a necessity to the vitality of systems and States. Under this view it may be as well to reply at once to the whole theory of the Senator from New York, and to embrace in one speech all I have to say about the policy of maintaining a political organization upon the bases proposed by him, and offered here to public discussion by the members from Maine and Ohio. I confess that I am not discontent that the occasion has been presented for a public debate, in which the schools of American politics may be classified and arranged intelligently for popular examination; and the lines which divide them may be clearly defined, so that men, who have principles, may see the policies which are suggested and the courses which are to be pursued. They may thus, at last, learn to stand by their principles, and come up to a patriotic discharge of their duty.

I shall offer no apology for any want of polish that may appear in the preparation of my remarks upon this occasion. I shall not study antitheses, weigh phrases, or call poetry to adorn the presentation of my views. I want to reach the hearts of my countrymen; and I know the easiest way to my object, is to speak with the simplicity of truth and the directness of candor. My only aim is to bring their minds to the earnest contemplation of the future which awaits the country, and to urge them to avoid the calamities to which we shall be subjected if they lend willing ears to unwise counselors, who fail to present and do not promise to pursue any scheme of practical statesmanship.

I shall address myself in the first place to the people of the free States. I am not of the class the gentleman from Maine calls "the slavery propaganda." I am a citizen of a slave-holding State, was born and reared where the institution of slavery exists, and I have noted well the workings of the system upon the social and industrial habits of the people among whom I live. I am not exercised about the extension of slavery. I would not legislate affirmatively to compel its extension, any more than I would to prohibit it by legal enactments. I am one of those who believe that more harm than good has been done by agitations upon this subject, and that the continuance of such agitation, both North and South, can produce no other effect than to alienate from each other people who should be united, and to jeopardize institutions which secure to the people of this country a larger share of liberty, political equality, and freedom in the pursuit of happiness, than has been granted to any other community. I would not reopen the slave trade with Africa; on the contrary, I should oppose that proposition with whatever influence and talent I possess; and there does not live in the free States a citizen who would discountenance infractions of the policy which forbids that trade sooner than I would, or press the sanctions of legal penalties for a violation of the laws upon that subject further than I would.

It were useless to discuss the oft-mooted question whether slavery is an evil. My observation of its effects upon society has brought my mind to the conclusion that benefits spring from it, and some evils follow in its train. But this speculative theorem has nothing in it of the practical, with which the American statesman, in my opinion, can deal. There should be some limit to agitation which disturbs society, by constantly seeking a disarrangement of the basis on which it rests. The people of the free States, when once convinced that no practical benefit can flow from the efforts of men, who, professing philanthropy, in fact seek political power, and the gratification of personal ambition through the instrumentality of such agitation, will surely withdraw from this

class their countenance—at least so far as to direct them to some other means of becoming famous than at the expense of the peace and harmony of the Government under which we have lived and prospered together for nearly a century. With this introduction I enter upon the argument.

The following propositions characterize the speeches to which I am replying, to wit:

1. The great problem to be solved under our system is, whether our Government shall be a confederacy of republics, or of oligarchies—of democracies, or of aristocracies.

2. Whether the States shall advance under the bounding spirit of freedom, or languish under the blighting influences of slavery.

3. Whether we shall reduce the Declaration of Independence to a practical governmental truth, or leave it to fill a niche in the temple of political philosophy merely.

I ask my countrymen to examine for themselves how the decision of either of all these theorems is to be attained in practice, and, if attained, how can they affect their country in its career? When gentlemen characterize the slaveholding States as oligarchies rather than as republics or democracies, this epithet is applied with intent to obtain a leverage in the minds of the laboring masses of the free States by *producing there discontent*; and through that discontent either to urge those masses to interfere with "these oligarchical institutions" of the slaveholding States, despite constitutional obligations, or to assume an exclusive control over the destinies of embryo States that may become hereafter members of the Union. The first of these objects politicians emphatically deny. They say, on the contrary, they would *protect the right of the master in the States where slavery obtains*. As to the second, they admit that, being opposed to the extension of slavery in the Territories, they feel that everything in the power of the people of the free States should be done to prevent that extension.

I know the people of the free States do not like the system of slavery; I know they are opposed to an extension of slavery. I neither seek to change their opinion, nor to prevent its free expression. But just at this point, let me ask, have the people of the free States the *power*, through congressional action, to prevent the extension of slavery to the Territories? This question is one, not of negrophilism, but of constitutional right and political expediency. It is not to be fairly decided by mere impulse of feeling, but its decision rests on the constitutional sanctions under which we live, and upon which the States and people of this country have established their political relations to each other. It is not a question of ethics or philanthropy; but one of political rights and power only. Now, I ask my countrymen of the free States if this question has not been heard and decided often enough to be considered settled? It was decided in 1850, by the legislation of that date, after a struggle of three years. It was decided in 1852, by the Whig and Democratic parties voluntarily adopting, in national conventions, resolutions to stand by the principles of the compromise of 1850. Southern men seem to have thought they were again deciding this question when they voted for the Kansas-Nebraska act in 1854. Northern men who voted for that act were willing to regard it as a *judicial question*. How far the right to carry a slave into a Territory extends, has been since *judicially* decided by the highest constitutional tribunal we have.

We are told that the Dred Scott case has been misinterpreted; that this point was not before the court; what the "slaveholding judges" said was mere *obiter dicta*; and finally, that the political power of Congress cannot be controlled by a coordinate department of the Government. But these exceptions to the decision will not avail. The Supreme Court is a *constitutional* tribunal, to last as long as the Government of the United States; and it has pronounced its opinion on the point in question, not only unmistakably as a court, but with such force in the separate opinions of its members, both from free and slave States, that there is no longer any doubt of the views of the tribunal. It is the supreme law until that decision shall be reversed.

The American party placed its *dictum* also on record through its national council against the

continuance of this agitation. How can a point be settled if this has not been settled? I present the action of Congress, whereby this asserted power was repudiated and its exercise refused. I present the action of the people through national conventions, indorsing, accepting, and guarantying this congressional decision, and pledging the country to stand by and sustain it. I might cite a later case, in which men of all parties came together to vote for the Crittenden-Montgomery amendment—a bill drawn upon the principles of the legislation of 1850, which commanded the majority of this House at its last session. After so many and so often-repeated declamations of tribunals, courts, Congress, and people, what must we think of the pertinacity which now seriously proposes "to fight our battles o'er again?" I respectfully submit to the people of the free States that it is an overdraft upon their prejudices, which should be protested by their patriotism and intelligence.

It is nothing more nor less than an effort to *abolitionize* the Republican party; for it places in their mouths new dogmas of the most radical stamp, which far surpass anything that party has heretofore professed as cardinal. Sir, we were told, two years since, at least by the Americans who were then acting with the Republican party, but claiming to be Americans, that the mission of the Republican party would be ended when the destiny of Kansas should be settled; that it originated in, and was limited to, opposition to the introduction of slavery into Kansas. This was its only purpose. Because the people of the free States were indignant at the repeal of the Missouri compromise act of 1820, they then determined slavery should not make any advantage from a proceeding which they deemed aggressive and marked by bad faith. Now the destiny of Kansas is sealed; the Republican organization has no further mission to perform, consistently with the design in which it originated. Men have now an opportunity to halt and to take a new observation. At this point of time and opportunity I address myself to the Americans of the free States particularly, under hope that they will seriously consider *their* duty; and that they will now choose definitely between the conservatism of Americanism and the radicalism and abstractions of an abolitionized Republican organization.

Heretofore, I have understood their position and the tendencies which controlled them. I could easily comprehend that a man, professing all the material tenets of the American doctrine, at the same time felt all the opposition to the repeal of the Missouri compromise act, which was so general a sentiment among the people of the free States. I can see how such a man, adhering to the American cause, thought there was no inconsistency in maintaining the other proposition likewise. I can understand how he became committed to a current whose velocity he could not resist and whose direction he could not control, until he stood before the country apparently so Republicanized that the light of his Americanism shone as a farthing candle only, compared with the intensity of his Republicanism. But, sir, the vote of Kansas on the Lecompton constitution has settled all doubt as to the will of the Kansas people. Hereafter no party, and no considerable body of any party, out of Kansas, will seek to interfere in the disposition of the slavery question by Kansas. The will of the Kansas people will be carried out, and Kansas will come into the Union, as a State, under such constitution as shall express the voice and command the acquiescence of the people who are to live under it. That contest is closed; even the distinguished Senator from New York announces that it is closed; the leading Democrats of the South recognize it as closed. I hope I may be pardoned for an expression of my own thankfulness that it has been so settled as to vindicate the great principles of non-intervention and popular sovereignty, which were canonized by the legislation of 1850.

In this exigency, what should become of the Republican organization? If the avoidance of slavery extension to Kansas, because that would have been violative of the provisions of the Missouri compromise act, was the sole cause of the origin of that organization, shall it cease when its real mission has been fulfilled? Or shall it erect new altars before which its members shall

be called to worship? adopt new banners, which its masses shall be required to follow? The latter course is palpably the determination of those with whom the gentlemen from Maine and Ohio act. And that determination on their part is a summons to all the Americans of the free States; conservative men of the free States, to choose now between a political array guided by these leaders, upon mere abstractions to radical sectional purposes, and to ultimate overwhelming defeat, and that moderate practical school of politics which seeks harmony between the different sections of the Republic, by recognizing the rights of all sections, and by working for the general good, with a patriotic zeal that comprehends the interest of each part of the country as the greatest good of the whole.

The theory of the Senator from New York may be summed up thus:

1. Slaveholding States are oligarchies, and, as such, are not consistent with that republican equality which should exist between men who live under democratic institutions.

2. Slaveholders, being oligarchists, prefer an aristocracy to a democracy; and their efforts in the history of the Government of the United States proving them to be aggressive, cites all who love democracy rather than oligarchy and aristocracy, to present an opposition to slaveholders.

3. History and example prove that there must be homogeneity of labor in a country governed under one political system; therefore, we must ultimately all be free, or all be slaves; and this fact being accepted as axiomatic, the corollary from it is, that all free people in the free States should unite in one effort to put down slaveholders in this Government, or, at least, to assume control of its policy and future destiny, regardless of the views, interests, or wishes, of slaveholders.

4. There being no sentence in the English language it would be politic to embody exactly the result to flow from the practice upon the foregoing political views and purposes, we had best rest the new organization on the general principle, "all men are created equal, and are endowed by their Creator with certain unalienable rights, amongst which are life, liberty, and the pursuit of happiness." This will be like Napoleon, who "assumed the empire to protect the liberties of France." Now, I respectfully submit to the people of the free States that these propositions disclose an intent to practice, under a vague generality, upon a theory of absolute hostility to slavery, as it exists in our country, which is at war with the compromises of the Constitution, the character and original basis of the Government of the United States, and which can by possibility prove successful only upon a dismemberment of the Union, and the ruin of that political edifice which was constructed by our forefathers for the benefit of their posterity.

I need not multiply words to exhibit the character and purpose of this school of politics. It is exposed as plain and undisguised abolitionism by the very statement of its own dogmas. It is the abolition element of the Republican party seeking to lead and control that organization to its own purposes, and, under its name, to revive and pursue a theory heretofore repelled and repudiated by the good sense and patriotism of the people of the free States.

The answer to this whole theory may be briefly summed up thus: our forefathers, inhabiting the British colonies in America, by common effort, achieved independence and formed a Confederation. In most of the colonies which then combined, slavery was an existing fact. In the subsequent establishment of the Government under the Constitution of the United States, this fact was left where it was found, to be controlled by the separate municipalities in which it existed; no further note being taken of it in the Constitution than the provision touching the extradition of fugitives from service, the power to repress the slave trade, and the representation accorded to three fifths of the colored population. This last provision was a compromise made by slaveholders with statesmen from the North, who insisted upon the representation of the whole of that population. The explanation of this effort on their part is found in the single fact that representation and direct taxation were established as correlatives by our Constitution; and the northern statesmen of that day were solicitous to expose

as large a surface of their neighbors as possible to the burden of maintaining the Government. The practice of supporting Government by a tariff of duties on imports shut off the slave population from a direct taxation upon their value, and left in operation only their political representation; a result which, examined alone, seems to leave no corresponding equivalent to the North, but which has in fact secured fortune and power to that section, through the encouragement given to mechanical and manufacturing industry which has found its permanent home in the midst of the North, under the well-directed energy of that people.

When gentlemen from the free States at this day criticize the institutions of the slave States as oligarchic or aristocratic, will they answer if they are more so now than they were when the Confederation existed, or when the Constitution was adopted? And if, finding fault with these features, they would make them cause for a crusade against slaveholders, will they not admit that their position involves a censure upon those men who in the ancient time entered into those constitutional obligations with these oligarchies that established the very relations which exist to-day? How can those relations be changed without disunion, or usurpation of power within the Union? If these men will avow disunion as their purpose, the patriotism of the people of Maine even will soon dispose of their theory and of them. If they will avow usurpation of power contrary to constitutional obligation, will not the people whom they address spurn their counsels and maintain their own plighted faith to brethren and countrymen? There is no concession in the Constitution by which these gentlemen or their constituents can legitimately interfere with the institutions of a State which are republican in form, or in any manner control a State in the adoption or rejection of a given system of domestic labor. They declare that they do not seek to interfere with slavery in States where it exists—that there they would extend to it all the protection secured by the Constitution. They aver that they only seek to prevent its extension to Territories. The argument already adverted to proves that this proposition is itself a suggested usurpation of power not conferred on Congress. I have already cited to this point the results of several contests—contests in which these very leaders were actually and actively engaged, and in which they were defeated. Their theory has been rejected not only because it recommends usurpation, but it has been condemned by men who refuse it on grounds of general political expediency.

There is another consideration bearing on this view of my subject which of itself should secure the rejection of this theory, and which exposes it as a mere abstraction seized on by politicians fatally bent upon mischief. Our country has extended from east to west until its boundaries in that direction rest upon the Atlantic and Pacific oceans. The State of California and Oregon have determined against the introduction of slavery into their borders. Minnesota has rejected it. Kansas has also substantially settled the question for herself. Texas has already determined its future by the voice of her people, and the resolutions of annexation. The Indians own and occupy the region between Kansas and Texas. Utah and New Mexico were created by the act of 1850. In the case of Utah, I well remember the Wilmot proviso was offered to the bill as an amendment, and received only some forty-eight votes. I cite this fact to show that, after the passage of the New Mexico bill in 1850, with the guarantees it contains, there was but an inconsiderable number of Representatives here, even from the free States, who continued to urge the power of Congress which the gentlemen claim, and the expediency of its application to Utah. In the free States, who that ever professed that ardent love of the Union which should distinguish a genuine American, will to-day or hereafter join a crusade, whose professed object is to pull down and to tear away the principles which were established in 1850, and which constitute the chief glory of that conservative Administration which, under the auspices of Fillmore and Clay and Webster, assisted by the patriotism of Dickinson and other Democrats, gave peace to a distracted and divided country?

I have adverted to the political status of the Pacific slope, to that of Texas, Minnesota, Kan-

sas, and the Indian Territory, and to the guarantees to New Mexico and Utah contained in the act of 1850, to bring before the popular mind the fact that they cover every inch of territory within the present boundary of the Union except that inconsiderable section embraced by the Gadsden purchase, known as the Mesilla valley. Having no further power of continental expansion in an eastern or western direction, let us look to the north and south. Passing the present cordon of free States, we find the whole north in the hands of Powers quite able to hold their possessions, and a climate, too, entirely uninviting to the establishment of slavery. Any professed expectation of its spread thither will be condemned by ordinary intelligence as entirely apocryphal. Looking to the south, we find a people of a different race from our own, involved in anarchy and civil wars, and unable to respond to any national obligation. We find a climate and productions where slavery might be advantageously employed in the development of the resources of the land. Should it be the fate of our country to be compelled to absorb a portion of Mexico, or even the whole of it, there is no probability of its being done at any early day. When it is done, shall we be told by the people of the free States that *they stand on guard* to prevent the States in that direction from introducing slavery, if the people inhabiting them may desire to do so? Why, even these advocates of the theory of the Senator from New York do not pretend to control the action of States; and whenever any part of Mexico enters our system, it will be absorbed by States. The idea of a protectorate over a part of a State which the President has advanced, implying, as it does, paralysis to the administrative functions of the State, will never obtain. But, if those States come into our Union, it will only happen when they come as Texas did, with institutions already organized, upon the character of which no question can arise here.

Looking, then, at our present condition and our capacity of future expansion, I respectfully submit that there is no excuse for the renewal of slavery agitation. This country needs no legislation about slavery. The power of Congress requires no assertion on this distracting theme; because the guarantees of existing law are already applied to every foot of ground within the present boundaries of the Union. Where will these Republican leaders find territory on which to make tangible application of their peculiar dogmas? If any such place exists, I appeal to the Democratic party, which now holds the power both in this and at the other wing of the Capitol, to bring forward bills at once to establish territorial governments therein, consistently with the principles which have been decided heretofore in this forum, and in the judicial department of the Government; principles upon the preservation of which alone I do honestly believe the harmony of the American Union can be preserved. I wish that the sluices of possible future agitation may be closed, and that the bitter waters of sectionalism may be stayed forever.

Mr. Chairman, I have nothing further to add, in order to attest my steadfast opposition to the dogmas asserted by those to whom I have been replying; nothing which could point out more clearly than what I have said, the broad and salient fact that there can be no coalition between the politicians of that school and men who think as I do. When the gentleman from Maine abandons his obnoxious abstractions and sectional views, and shall be ready to march upon a platform of broad, Union-loving, and practical statesmanship, that shall discard negrophilism, and exhaust its benevolence and its wisdom in some effort to restore the country to prosperity and to serve the interests of the white men who inhabit it, we may combine; but on his idea, resistance will last while I live.

The gentleman gave me to understand that if we could not stand by the Republican principles as he expounded them, Maine and New York and other States would go into the possession of the Democratic party. Sir, I have long suspected there was but a single point of difference between Republicans like the gentleman from Maine and the Democrats. He confirms my supposition by the declaration that, if an opposition cannot be framed upon the ideas announced in his speech touching slavery, we may expect an exodus of his whole tribe to the Democratic party. This means, I suppose, that on this question of the

power of Congress over slavery alone, they differ; or, at least, that if the Republicans cannot win power on their own basis, they consider the present Democratic party their next best chance. I cannot contradict the gentleman, nor dissuade him from his inclinations. I can only say to him that not even such a misfortune as a painful separation from him can produce a modification of my principles; and when he arrives in the Democratic camp, I can only wish the leaders of that organization much joy of the acquisition of a new patch to their political quilt, which already exhibits nearly every color of the rainbow.

The gentleman from Maine denounces an opposition to Democracy based upon any other theory than his own, as "a contrivance which would go to pieces immediately on being launched by the American people." He proposes, more sensibly, I suppose, to administer the Government of this country upon the single principle he has announced, being the first sentence of the Declaration of Independence, accompanied by a running commentary upon the wickedness of African slavery. When the American people install an Administration upon his idea, there will be very little chance of its failure by a quarrel over the spoils; for there will be none to administer; more likely an opportunity of "lashing southern men into the Union," as has been promised among the interesting exercises of such an occasion.

Mr. Chairman, I think that I do not estimate improperly the great volume of American sentiment. I have seen the political storm blowing with fearful violence before to-day. I have seen the gentleman from Maine, and others of his peculiar school, marshaling their hosts to the struggle over these same issues, and I have seen them fall back, beaten, discomfited, and overwhelmed. They never fail to claim everything; they seldom win anything by their own unaided force. In the elections which transpired last fall, they claim the return of a large Republican strength; whereas, I understand the fact to be, that a large proportion of the returns belong to the exertion of more conservative men, and will come here to represent more conservative and practical principles than those enunciated by the members from Maine and Ohio. It will remain for the opening of the next Congress, to determine the extent to which the Republicanism of the gentlemen will exert a power. I predict that it will never repeat the success which once it achieved in this Hall, by reason of the course pursued then by the Democratic leaders. I cannot bring myself to the belief that the party to which the gentleman would yield the lead of the Opposition, numbers more real strength to-day, than when it supported Mr. Hale for the Presidency.

To exhibit this fact, no more is wanting than that the Americans and conservative men of the free States, who do not intend to be led into another sectional contest, and who do not desire to roll this stone of Sisyphus forever, shall take their proper position, renew their devotion to principles which demand adoption for the good of their country, and refuse hereafter, calmly and steadily, to fuse with any and every species of radicalism. The first thing to be done—the first step to be taken—must be taken by the people at home. They should meet in primary assemblies, confer freely with each other, sift and examine the proposed bases for future action, select, each man for himself, the principles of administration he is willing to espouse, and then stand by these to the close. If a conservative national ticket can be formed which will represent the ideas that succeeded in 1850 in quieting the agitation of that year, and which were so well received by the whole country last year, because they were built upon the same sound and national basis, then there will be room to hope for the return of this country, from its present awful condition, to an era of well regulated prosperity; but on the basis of the gentleman from Maine, and the Senator from New York, there is no reason to hope; and, indeed, it is creditable to the good sense of the country that there is no room for hope.

Why, sir, is it not shocking to hear a sectional contest for the Presidency deliberately planned and proposed in this Hall? What must be the hallucination which conceives that the American people will, in cold blood, divide themselves by a sectional line upon a sectional question, having nothing practical in its issue, and no foot of ground

in the Republic on which an application can be made of the result? It is a mere abstract dogma; a dead and extinct dogma; a dogma that cannot be reduced to practice in American statesmanship, that these gentlemen advocate as the basis of organization. Suppose they were indulged, do they not know that in fourteen, if not fifteen, States, they could not find supporters enough to muster an electoral ticket? Ah! they reply, what care we for that. I know not what they care; but I ask my countrymen of the free States, if they should not have a care and avoid the poisoning a presidential contest upon such points as will justly alarm a whole section of the Confederacy for the security of its rights and property? We hear these gentlemen say they do not intend to strike at slavery in the States. What, then, does the rationale of the argument of the Senator from New York mean, when he teaches that in this country we must all be free or all be slaves; that we must be reduced practically to a homogeneous basis, and have but one system of labor? What should the people of the slaveholding States understand by it, were their countrymen of the free States to go to work deliberately to elect a President upon a basis like that suggested by the Senator from New York? Sir, they could have but one understanding of its meaning. They would be forced to the unwilling conclusion that superior numbers, greedy and avaricious of power, had enlisted in a crusade against their constitutional rights, and had determined upon an administration with a view to hold them, if not in absolute duress, at least with the sword of Damocles suspended over their heads. Thus forewarned, they might not abide the torture of suspense, and they might sever relations which no longer preserved even a decent semblance of political equality.

It is because I feel an abiding assurance that the masses of the people in the free States do not desire to afford, by their action, any just ground for alarm to their neighbors and countrymen, and especially when they can effect no purpose thereby, unless it be to exhibit a hostility that can find no constitutional channel for expression, that I announce my conviction here to-day, that the new party which the gentleman from Maine will be able to lead into the field under the banners of the Senator from New York, will not be much, if any larger, or more respectable than the old Abolition party, as it existed in 1852. Other men will decide that the mission of the Republican party ended with the Kansas imbroglio, and that the vote on the Crittenden-Montgomery amendment—the last and noblest act of its career—pledged them to the principles of 1850, by which, for the sake of the Union, they will hereafter steadily abide.

I was not much surprised, Mr. Chairman, to hear the intimation from the member from Maine, that when, from any cause, Congress could not conveniently apply the Wilmot proviso to the organic act of a Territory, his party would next rely upon the territorial people to apply it themselves by territorial legislation. This is the easy and natural gradation. This second mode of affecting the rights of slaveholders in the Territories is of Democratic origin. I remember that in the canvass of 1856, I denounced this *squatter sovereignty* as being in all its practical bearings as hostile to the fair enjoyment of the rights of the slaveholder in the Territories as the Wilmot proviso. I remember to have said, that if the Kansas-Nebraska bill received such a construction as to authorize this idea of "popular sovereignty"—and it was this to which Mr. Buchanan pledged himself when adopting the Cincinnati platform—I would not give "the toss of a copper" between him, as the embodiment of this idea, and Mr. Fremont, as the embodiment of the idea of "congressional sovereignty" applying the prohibition through the Wilmot proviso.

This frank remark was repeated from Lexington to Louisiana, by the members of the Democratic party, as something perfectly heretical; and, had I belonged to the Democratic church, I suppose I should have been excommunicated with as much facility, for such an objection, as the distinguished advocate of this idea of "popular sovereignty" has been, within the past year, for adhering to the idea. After the presidential election, it was confessed on that side of the House that the Kansas-Nebraska bill did receive two constructions, differing at the North and South, but south-

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ern Democrats declared that the difference was "immaterial." In the midst of that discussion, the honorable member from Tennessee [Mr. Jones] came forward and made a speech in advocacy of the idea which has been since so much denounced by southern Democrats; yet I see he holds his place in the very empyrean of Democracy. I then presumed, from the facts exhibited and the wide latitude for differences of opinion given in that party, that it was probably true that the whole party concurred in the declaration to which I have alluded. Testimonies of like character have since then been afforded by other leaders of that party, engaged in the actual administration, which serve to confirm and strengthen the opinion that in the Democratic party differences of opinion are immaterial.

When the member from Maine announces that his party deems this squatter sovereignty the next best abolition specific to the Wilmot proviso, I suppose his other declaration should not excite so much surprise; to wit, that if Maine cannot have his idea as the basis of organization against slavery extension, she will throw herself into the arms of the Democracy upon the squatter sovereignty idea as the next best chance of affecting slavery in the Territories adversely. I am still of the opinion that there is not room "for the toss of a copper" between squatter sovereignty and the Wilmot proviso; or, to speak more plainly, between territorial prevention of enjoying a right and the congressional prohibition of the use of it. And it does seem to me that a party containing elements both for and against this idea of popular sovereignty, cannot be firmly attached to any particular set of opinions on the subject, or must have a capacity to admit into its organization every variety and shade of opinion. Can it be there is nothing material in the difference of opinion upon this point between Mr. DOUGLAS and Mr. DAVIS; the one holding to the doctrine of his Freeport speech, and the other denouncing it as fatally heretical?

There is a looseness of thought on this point which in my estimation is remarkable. A gentleman insists on the doctrine of non-intervention by Congress in the affairs of Territories, and lauds this principle to the skies. Here he parts, *tolo calo*, from the member from Maine, who insists on the right of congressional intervention in the affairs of Territories. He establishes a territorial government by Congress. He insists that under such a government the territorial inhabitant may legislate upon every subject, limited only by the Constitution; and that within this range, he may legislate, not to exclude slavery, but to prevent the master from enjoying the rights incident to his relation of master. He thus "holds with the hare and runs with the hounds." He is against the views of the northern Free-Soiler, yet reaches the same result by a different process; he is with the slaveholder, yet cuts him off from the enjoyment of the rights granted to him. The error of this construction of powers is exposed by the very fact that its premises and conclusions are inconsistent with each other; that it offers a theory one way and reduces to practice another way. It is high time we had reached tangible, solid ground on this point. I hold the doctrine enunciated in 1850, which was heralded to the world as the true policy by Clay, Webster, Fillmore, Dickinson, and their collaborators. It is this: the General Government, being one of derivative powers only, will not interfere or intervene to shape the destiny of the embryo States of the Union; there shall be no central influence exerted by it to invite, or prohibit, or hinder, any particular system of labor or any sort of political institutions in the Territories, further than to see that they are republican in their form, upon the admission of the State into the Union. It will confine itself to the honest exercise of the agency delegated to it for the common benefit of all the principals under whose power of attorney it acts. That power of attorney is the Constitution of the United States, which expresses the grants of power to the agent and the prohibitions, and the

Government must keep within the limitations expressed, or implications necessarily springing from what has been expressed, to carry out that which is within the object of the expressed grant.

2. Perfect freedom in the several local *sovereignities* to manage their own affairs in their own way, provided the right of conscience is left free, and the form of the republic is preserved, is guaranteed by the Constitution.

But the territorial government is in no sense a *sovereignty*. It derives its life and being from Congress, and is incapable of exerting a power incompatible with the duties belonging to Congress under the Constitution. It is plain Congress cannot delegate what it does not possess, and that the creature cannot perform what was denied to the creator. Congress institutes the territorial government; Congress defines and limits its power; Congress is bound by the Constitution, and may give to the territorial government all the power to do for the territorial people whatever Congress could do. It is plain Congress can extend the grant no further. If Congress cannot prevent the slaveholder from going to the Territory with his slave as property—and the Supreme Court says it cannot—then Congress cannot make a territorial government, and endow it with the power to prevent him. If Congress cannot affect the right of the slaveholder after he reaches the Territory "by unfriendly legislation," then Congress cannot create an instrument by which the same thing can be rightfully done; and any attempt to do it by such instrument should be controlled and thwarted by Congress in the fair and just administration of its own duty. It results from this view, that Congress should preserve a constant supervision of the territorial legislation, and that, whenever that legislation travels beyond the proper limitation of territorial power, Congress should abrogate it.

I have heard it frequently asked, "Does an American citizen lose his rights by becoming an inhabitant of a Territory?" I answer that the Constitution of the United States guarantees to him his right of conscience; the free exercise of his religion; freedom from arrest, unless by warrant of law; the writ of *habeas corpus*; and trial by jury. These are of his constitutional rights, of which he can nowhere be deprived. But when he enters a Territory over which a territorial government has been instituted by Congress, his political rights—his right of participation in legislation, and the limitations on the extent to which he may exercise that right—depend entirely upon the nature and organization of that territorial government, which is *his constitution, pro hac vice*. What would be thought of a man talking of the exercise of his rights in Virginia, contrary to the constitution of Virginia? Or of one who would talk about "his rights as an American citizen," who enters a bank corporation, where his powers and responsibilities are defined by a legislative charter? The territorial government is nothing but a legislative charter. It need not conform to the idea of popular participation in the legislation of the Territory. Instances are repeated in our history where it has departed from this idea—as in Michigan and in Indiana. I think it best, when no paramount objection exists, that Congress should allow the territorial people the widest range of power in matters concerning themselves alone; but this is necessarily within such boundaries as limit Congress itself, and must not be incompatible with the duty Congress owes to the members of the Confederacy.

If these points are well taken, there can be no true foundation on which to rest the doctrine of "popular sovereignty" in the Territories, according to the view of that subject taken by the Senator from Illinois. The territorial people may be wayward; they may be "unfriendly" to this or to that system; but at least Congress can repress their efforts to do wrong, and may abrogate their legislation, where it infringes upon rights which Congress cannot invade.

The people of a Territory, in forming their State constitution, have the unqualified right to admit

or to reject slavery, and they should be admitted into the Union without question as to the manner in which they have exercised this right.

This, Mr. Chairman, is a full view of my opinions, both upon the Wilmot proviso, which I reject, and on squatter sovereignty, which I reject also, and on the principles of the legislation of 1850, on which I have stood for years—indeed through my whole public course. I occupy different ground from that maintained by either the Senator from New York or the Senator from Illinois. My view invests Congress with all the power delegated to it by the Constitution, and admits the right of Congress to delegate the trust to a territorial government, Congress remaining the constant supervisor of the action of such government. It reserves all the rights of the States and the people. It denies the power of the squatter to take unbridled license over the rights of citizens, yet owe no responsibility anywhere. It holds comity between all the people, regards and preserves the rights of all sections, and maintains those balances which are essential to the efficacious operations of our political machinery.

I have said that I do not think there is any necessity for renewed agitation of questions affecting slavery. The existing status of the law and legislation on the subject, satisfy me; and in the future I mean to abide by the principles already decided. I do not ask a man to say he likes the Dred Scott decision, or that he believes it is right. I ask him to obey it until it shall be reversed, and not to make war upon rights which are decided to be mine by the competent tribunals. I am asked why I fix the period of framing the State constitution as that at which a citizen may exercise rights I deny to him while in the Territory. I answer: when the people of a Territory come to the formation of a State constitution, they are not acting under the territorial government; they do not derive their power from Congress; they are American citizens (or should be) with all their rights as members of an original society, forming a social and political compact with each other. Therefore it is that at this exact period we say they have the right to form institutions to suit themselves. They are not now fettered by modifications of political right; they are now free and sovereign.

Whether the State can be established or not depends on the assent of Congress, given either precedent or subsequent to the formation of the constitution. Why is the assent of Congress necessary at all? Because a territorial government established by Congress has possession of the place on which the State is to arise, and because a State and a territorial government cannot both be in possession of the same place at the same time. If Congress does not assent, the State must continue in abeyance, or it can only be established by revolution. Let me illustrate by one or two references. Congress would not establish a territorial government in California; the military intendant gave way; the State was immediately established. At Topeka, an assemblage formed a constitution for Kansas; Congress would not give up the territorial government; the State could not be brought into existence. At LeCompton, another effort was made, and Congress consented to take away the territorial government upon a condition, which, not happening, the State could not arise. When Congress gives its assent precedent, as by an enabling act, the State comes into existence on the instant; because the consent of Congress has already paved the way for the State.

I have gone far more into detail than I should have done, to elucidate my views upon these questions of power, because I hope to point out to the people the material differences existing between the political parties, and the differing practical results which must flow from an adoption of one or the other of them. On the one side, I resist the extent of power claimed for Congress by the northern politician of the school of the Senator from New York; on the other hand, I resist the loose construction of powers advocated by the Senator from Illinois, which takes me from the

jaws of one beast, only to deliver me to another still more voracious. I would rather trust my fate to a regular tribunal than to a mob. I would as lief die under the despotism of a tyrant, as under the heels of an anarchical multitude. I prefer to follow Clay and Webster and Fillmore, and to find my views sustained even by *obiter dicta*, and extra judicial opinions from so august a tribunal as the Supreme Court of the United States. Mine is the safer path to follow. Twice, a resort to the principles I profess has calmed the storm. Under this breakwater, our good old ship of State lies at her moorings safely and snugly; under any other management, she is exposed to the beatings of the billows, and her glorious old timbers creak from bowsprit to taffrail. Give us peace, Mr. Chairman; give us harmony; and give us the Union as our forefathers transmitted it. We know how to secure all of these blessings to ourselves and our posterity. If we are so mad in the race of partisan politics and sectional prejudices as to throw them away, the impartial pen of history will record of our country and ourselves that the prize of priceless value to mankind was lost by degenerate sons of noble sires.

But, let me address one other observation or two to gentlemen in all sections of the Union, before I take my seat. Have American politics dwindled to this little measure, that they present nothing else worthy of consideration except slavery and points touching slavery? That question has absorbed our attention for nearly a quarter of a century; and let me ask, in all kindness, what good result has been accomplished by it? Are we more philanthropic than were the men who preceded us? Have we stricken the shackles from a single slave? Has we reformed the views of the people anywhere? Has either section of the Union won any trophy, of the slightest value, out of this protracted contest?

Ah! Mr. Chairman, look upon our country! Blessed with an extent of soil equal to the area of all Europe, of unsurpassed fertility, of unequalled salubrity, tilled by a hardy yeomanry, and an intelligent gentry whose energies are daily applied with skill and industry; with a mechanical class, whose hardy arms and inventive brains have pressed us forward in the great race of improvement to a point beyond which we have none ahead of us; with a commercial class inferior to that of no other country for tact, vigilance, punctuality, and powers of combination; with a navigating class who ride the ocean with a daring, and who keep ward over their trusts with a fidelity that knows no fear nor self-indulgence, why are we in our present condition? Look at the homes and faces of our people: they are happy, sir; yes, they are happy, and they are yet in the enjoyment of individual immunity from the misery which hangs upon us, as a people, like the pall of night. Our revenues are exhausted; our commerce languishes; our industry is discouraged; our debt has accumulated, and is accumulating; foreign Powers environ us by unfriendly policies; extravagance marks the path of our administrative career; our flag droops; the flame at our American altars flickers in the socket. I make no reproaches. God knows, and we all know, where the fault is. The people know it, and they should demand a change of policy. All I ask of my countrymen is this: Have we not enough to inspire men of patriotic feeling in all parties to a united effort upon some national and patriotic basis?

Mr. SCOTT obtained the floor.

Mr. GOODE. With the consent of the gentleman from California, I desire to ask the permission of the committee to publish a speech on the distribution of the proceeds of the public lands. I will not trouble the committee to listen to a speech upon such a subject if they will give me consent to publish it.

No objection being made, permission was accordingly given.

PROCEEDS OF PUBLIC LANDS.

Mr. GOODE. The public domain is so extensive, its intrinsic value is so great, its conjectural value is so much exaggerated, that it naturally attracts attention. Very naturally, too, it enters into political discussion, and becomes an element of party contest. The Opposition party, in traversing the general policy of Government, object to the mode of disposing of the public lands, and of administering the land fund, in

the hope of impressing the public mind with a necessity for a change of Administration to result in their own elevation; whilst the malcontent Democrat, and impatient aspirant for public honors and official emolument will adopt views and advocate opinions calculated to secure the votes of the Opposition, to be added to a fragment of the Democratic party, thus to form a majority and defeat the regular candidate of the Democratic party, overthrow its policy, and conquer Democracy by the strength of the Democracy.

Few subjects afford topics better suited to popular declamation, and all the selfish uses of the demagogue; and accordingly, for long, long years, it has occupied a conspicuous position in the political arena. In 1832, it was brought forward by Mr. Clay as an issue in the presidential canvass between himself and Andrew Jackson. It was presented in the phase of a plan for the distribution among the States of the proceeds of the sale of the public lands. It was addressed directly to the principle of avarice, and to the hungry cupidity of indebtedness, and urged with all the force of consummate ability and eloquence. Mr. Clay was defeated; his plan for distribution was condemned by the judgment of the American people, and Andrew Jackson was reelected to the Presidency. From that time to the present day, it has been made to challenge the attention, and court the favor of the public, with occasional, though casual, and slight success; it has been generally and steadily condemned by the matured judgment of the country.

During the year 1858, it was made an issue and a test in the gubernatorial election in the State of North Carolina. A Democrat, learned, accomplished, and eloquent, espoused the doctrine of distribution, and declared himself a candidate against the regular nominee of the Democratic party. Every nerve was strained to elect him; all was done which could be achieved by him and his friends, together with the entire conglomerated Opposition party. It was all "love's labor lost." He was defeated by an overwhelming majority of more than fifteen thousand votes.

At the last election it was made an issue in the district which has honored me as its Representative. I was returned by a large majority; but it is probable the issue will be renewed. Circumstances have thus induced me to bestow some attention on the subject; and I propose now to submit the result of my investigations.

After full examination and deliberate reflection, I have reached the conclusion that Congress has no constitutional authority to distribute among the States the proceeds of the sales of the public lands. And if invested with such authority, it would be unwise, unjust, and impolitic to do so. I shall consider it first as a constitutional question.

The powers of Congress are derived through the Constitution of the United States. Congress has no power which is not derived through that instrument.

Congress has the same power over all money brought into the Treasury, under the constitutional action of Government. Its power over all is identical. No discrimination is drawn between the different sources of revenue. Its power over money drawn from the sales of the public lands, is identical with that over money drawn from taxes. It may appropriate either, or both, to constitutional objects. It cannot rightfully appropriate either to any object not contemplated by the constitution. If it can appropriate to the uses of the individual States the proceeds of the sales of the public lands, it may also appropriate to the same uses any money derived from taxes.

The Constitution provides that—

"Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States."

This clause invests Congress with power to raise money by the exercise of the taxing power; but for specific objects only, namely, to pay the debts and provide for the common defense and general welfare of the United States. It cannot raise money by taxes for any other objects than these. It cannot constitutionally appropriate money raised by taxes to objects in which only a single State has a special and particular interest. But

if it cannot appropriate to such an object money which is raised by taxes, neither can it appropriate to such an object money which is derived from the sales of the public lands; because there is no clause in the Constitution which discriminates between moneys drawn from these different sources.

Latitudinarians have insisted that the words, "to pay the debts and provide for the common defense and general welfare of the United States" themselves convey substantive grants of power; but history proves that the clause, as adopted by the Federal convention, was, "for payment of the debts and necessary expenses of the United States." In this form it was referred to a committee of revision, who, to improve the style, adopted the present form of expression, "to pay the debts and provide for the common defense and general welfare of the United States." (See Elliot's Debates, volume 1, page 287.) This truth, supported by the fact that the words "common" and "general" were adopted from the old Articles of Confederation, and had received a legislative construction, in which they were acknowledged to be a limitation on the powers of Congress, fully justifies the construction of the Democratic State-rights party; that they are placed in the Constitution as a limitation on the powers of the present Government. This limitation restraining the action of Congress to objects of a general character, in which the States have a common interest, leaves the advocates of distribution without a plausible argument to support the doctrine that Congress may appropriate money derived from taxes to a separate State, to accomplish objects in which such State alone has a special or particular interest.

But if Congress have no right to distribute money drawn from taxes, and there be no discrimination between different sources of revenue, it follows that Congress have no power to distribute among the separate States the proceeds of the sale of the public lands. Indeed, if the reading of the Constitution maintained by the latitudinarians were correct, and if it were true that the clause to "pay the debts and provide for the common defense and general welfare of the United States," conveyed substantive grants of power, it could not be shown in fairness of language and just construction that to distribute money to a separate State, to be expended on the objects of that State in which she alone felt a special and particular interest, was a constitutional expenditure of public money, intended "to provide for the common defense and general welfare of the United States." *Special and particular* being, in the very nature of things, essentially different from *common and general*.

The authority for distribution has been claimed under the clause which declares that—

"Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States."

It is said that the authority here is plenary, and limited only by the discretion of Congress. But such a construction would make the Federal Government an absolute despotism.

This clause invests Congress with the same power over the territory as over other property belonging to the United States, and no more. If its authority over the territory be limited only by the discretion of Congress, the same will be true as to all other property belonging to the United States. If it may sell the territory and give away the proceeds, it may sell any other property and give away the proceeds; it may sell the Capitol at Washington, and all the magnificent public grounds and buildings; it may sell the navy-yards, forts, fortifications, ships-of-war, munitions of war, or any other property belonging to the United States, and generously and graciously give away the proceeds to grateful mendicants!

This proceeding would create a necessity for other public buildings, ships-of-war, forts, fortifications, &c., to be supplied by an exercise of the taxing power, which process might be repeated until all the property of all the people of all the States should pass under the tyranny of Federal despotism.

But cautious and matured statesmen will reject so dangerous a construction of the Constitution, and determine that the authority granted in this clause, like the powers granted in every other clause, are subject to the general limitations of

the instrument; and that whilst Congress may dispose of the territory or other property belonging to the United States, the proceeds must be applied to objects contemplated by the Constitution, in providing for "the common defense and general welfare of the United States."

An argument has been drawn from the deeds of cession, conveying from the several States to the United States their unappropriated lands. It has been urged that, according to the terms of those deeds, the lands were pledged first to the payment of the debt of the Revolution, then to be held in trust for the benefit of the separate States. It is obvious that, if such a trust were created, it must have been by express provision of the deeds; because there are States now members of the "Federal alliance between the States," and now regarded as beneficiaries by the argument, which were then not in being, and could not have been parties to the instruments. By consequence, they can claim nothing under them which was not expressed on the face of the instruments. If the deeds were susceptible of a construction supporting a resulting trust, resting on implication, such resulting trust must inure to the exclusive benefit of the grantors, and would not vest an interest in such States as were not parties to the transaction. Instead of justifying the distribution of the proceeds of the sales of public lands among all the States of the Confederacy, it would establish an exclusive right in the States which ceded the lands.

But the deeds of cession will be searched in vain for any clause to support such a trust. No clause can be adduced even pledging the lands specially for the payment of the debt of the Revolution, but generally for all debts of Government; and if such clause could be produced, a fair statement of the proceeds of the land sales would prove that it has not extinguished that debt. Nor can any clause be produced, creating a remainder or reversionary interest, either for the benefit of all the separate States, or for the benefit of the grantors. On the contrary, these grantors did "cede, transfer, and forever relinquish," to the United States, "the right, title, interest, jurisdiction, and claim," which they held in the lands conveyed, "to be held and considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation or Federal alliance of said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure; and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

Here is an express stipulation on the face of the deed that the land money shall be held as a common fund to defray the general charge and expenditure, and that it shall be applied to no other use or purpose whatsoever. It is to be remembered that the deeds of cession were made before the adoption of the Constitution, when the Government was administered by the Continental Congress, under the Articles of Confederation. At that time the expenses of Government were borne by quotas paid by the several States into the general Treasury. When Congress had occasion for money, they determined the amount necessary to be raised, and apportioned it among the several States, according to a rule established in the Articles of Confederation, and required each State to pay its quota of this general charge. The deeds of cession provide that the land money shall be kept as a common fund, to be applied in aid of the States in defraying this general charge constituting the expenditures of the Federal Government, relieving the people from paying taxes to meet the quota of the State in defraying this general charge of the General Government.

It was found in practice that the system of quotas was too uncertain a source of revenue to be relied on for the maintenance of a stable form of Government; and this, perhaps, more than any other cause, led to the overthrow of the Confederation and the adoption of the Constitution—investing Congress with power to levy and collect taxes, duties, imports, and excises, to pay the debts and provide for the common defense and general welfare of the United States. Leaving the land money where it was, pledged as a common fund to aid in defraying the general charge and expenditure of the Federal Government, and thus relieving the people of the States to that ex-

tent from paying the tax necessary to supply the wants and defray the general charge of administering the Federal Government, making no distinction between the land fund and money drawn from taxes.

If the deeds of cession be open to a construction creating a remainder in favor of the States not parties to the instruments, but which have come into being and been admitted into the alliance of States since the dates of the instruments, it is respectfully submitted they would be open to such construction through all time, creating a similar lien in favor of all such States as shall be created in centuries, formed from the very lands which shall have been divided in kind or by sale, and admitted into the Union. And it will devolve on the Federal Government to provide a fund to pay to each State hereafter admitted a sum proportionate to the amount which shall have been paid to the States constituting the present Confederacy, and which shall be the recipients of any present distribution.

In reasoning deduced from the phraseology of an instrument, it is legitimate to refer to the motives of the parties. This is a mode of construction universally established. Language is a magnificent endowment to enable man to express the thought or announce the will. Every rule of construction is designed to reach the true intent and meaning of the instrument. In the interpretation of written language, it were folly to reject the light which is shed by the known or even probable motive of the writer.

In the absence of an express declaration, it would be difficult to doubt the object which actuated the parties to the deeds of cession; and that object was to provide a fund to relieve the necessities of the Continental Congress, and support the Union.

The parties to the deeds of cession were the United States, associated under the Articles of Confederation administered by the Continental Congress, by whom the war of the Revolution had been conducted, and its overwhelming pecuniary responsibilities had been contracted. Hopelessly involved in debt; harassed by perpetual, importunate demands of its creditors; without money or resources; without credit; dependent on reluctant contributions from the several States for the means indispensably necessary to meet the daily current expenses of Government, this party sought most earnestly to establish a fund to meet these engagements of the Federal Union. For this purpose, and under such circumstances, they made application to the several States to convey to the United States their unoccupied, unappropriated western lands.

The several States owning such lands were the other party to the deeds of cession; and, in response to such application made by the United States, and under such circumstances, they did convey to the United States their unappropriated lands. Can the object be matter of doubt? Each State had a strong motive and a strong interest in maintaining the Federal Union. The aggregated strength of all was essential to the safety of each, and the protection of all against aggressions from abroad. The bond of union was important to repress domestic dissension and intestine feuds; whilst it was reasonably expected that the great interests of foreign commerce would be most advantageously arranged by the common councils of the Union. To secure these objects, the land States had a motive to convey their unappropriated lands to the United States, to provide a fund to relieve the pressing necessities of the Continental Congress, and insure the continuance of the Union; and, accordingly, in the principal deed of cession, it is expressly declared that the grant was made for the common benefit and support of the Union.

It is submitted that this clause excludes the conclusion that the lands should be distributed among the separate States. What motive had Virginia to grant her lands to promote the several interests of the individual States? Considered as separate, independent, sovereign communities, unconnected by the bond of Union, the States were to each other objects of jealousy and apprehension. The reciprocal jealousy and hostility of neighboring nations, have been evinced through all history. England and France are distinguished examples of national antipathy. Rome and Carthage, though separated by the Mediterranean, yet existed in

sufficient proximity to engender reciprocal, immortal hate. Athens, Sparta, Corinth, and the several republics of ancient Greece, though united by the Achaean League into an alliance offensive and defensive, as related to foreign Powers, yet indulged in implacable intestine feuds, often expiated by flagrant war.

This spirit of jealousy is known to have existed among the communities which composed the original American Confederacy, not to an extent to prevent a hearty coöperation in the war of the Revolution, but it was developed, acknowledged, and proclaimed immediately on the achievement of our national independence. It was the cause with some for withholding constitutional quotas of money; it embarrassed the action of the Continental Congress; it impeded and imperiled the adoption of the present Constitution of the United States. By several of the States it was openly professed against Virginia herself, in connection with the very question of her unappropriated lands; and it can hardly be supposed that even Virginia could become so sublimated with magnanimity, or so steeped in folly, as to convey her lands for the separate advantage of her rivals, to augment their strength and power, which might be perverted to her own destruction! Such an inference were absurd, and we are forced to the conclusion that she intended to do what she expressly declared she intended—to make the cession for the "support of the Union."

These remarks are applicable to each State which made a deed of cession to the United States; and it is thus shown that all the parties to the transaction contemplated the benefit and support of the Union, which excludes the idea of a distribution among the States, either of the lands or of the proceeds of the sale of the lands. If it be true that the Constitution makes no distinction between moneys in the Treasury, whether derived from taxes or the sale of lands, any distribution of the land money to the several States is a virtual appropriation of money derived from taxes.

The constitutional objects of the General Government demand the annual application of a given amount of money, to be drawn from the common Treasury. That common Treasury should be supplied with the means of defraying the expense of a fair and economical administration. The supply in the Treasury should not exceed that amount, or any excess should be small. If the Government derive money from several sources, as, for example, from the sale of lands and duties on imports, the aggregate sum should not much exceed the necessities of Government. Any large excess is an unjust burden on the tax-payer, and an arbitrary confiscation of the property of the citizen. If any part of this necessary supply be wastefully squandered, or applied to objects not contemplated by the Constitution, a corresponding deficiency necessarily results, and the tax-payer is compelled to pay a corresponding sum to supply that deficiency.

The whole amount of money flowing into the Treasury, both from the sale of lands and duties on imports, should equal the wants of an economical Administration. If such part of the money as is derived from the sale of lands be withdrawn from the Treasury, and distributed among the States, it would follow that the whole amount necessary to an economical administration must be derived from duties on imports, which are taxes. Now, if the land money be distributed with a knowledge of the fact that it must create a deficiency in the Treasury, to be supplied by duties on imports, it is equivalent to a distribution of money derived from taxes. It should, therefore, be retained in the Treasury; and if an excess of revenue accumulate, let the taxes be reduced, let the duties on imports be diminished until the aggregate of revenue shall only equal the necessities of an economical administration.

The Constitution provides that taxes shall be uniform throughout the United States; and if the Government were supported by direct taxes, the rule might be executed according to the intentment of its authors; but the policy of Government has been, perhaps wisely, to collect taxes in the form of duties upon imports. These duties are imposed by constitutional majorities in the two Houses of Congress; who, rejecting the rule of horizontal or uniform *ad valorem* duties, have exercised a discretion in discriminating between duties on different articles, and on articles consumed

by different classes, and in different portions of our country. It is believed that many articles consumed chiefly by a large portion of the population of the South have been subjected to disproportionate duties; and thus a disproportionate tax has been paid by the South.

But if this view of the subject be unsupported by fact, and an equal tax has been imposed on articles consumed by all classes, still that rule will embrace all persons belonging to both the black and white races—each person constituting a unit and an equal subject of taxation; whilst in the distribution, two thirds of the black race will be excluded from the computation, and thus, in the collection of revenue, five whites and five blacks pay as much into the Treasury as ten white persons at the North. But, in the distribution, the five whites and five blacks are counted as equal to eight persons at the North. So that the North secures over the South twenty per cent. advantage in the distribution.

In laying and collecting duties on imports, Virginia is computed as a State with a population of 1,426,661 souls, according to the census of 1850. And as throughout her borders, the average standard of comfort is as high as in any northern State, it may be assumed that she pays her full proportion of money collected for the Treasury. But as in arranging the schedules of duties, the commodities for the most part, consumed at the South, are taxed at a higher rate than those which are consumed at the North, it affords a strong presumption that she pays into the Treasury a larger sum than any northern State, with equal population. The distribution policy adopts the ratio of Federal numbers, and rejecting from the computation two-fifths of our slaves, reduces Virginia to a State with only 1,232,648 souls; so that in the collection of duties her population is estimated as 1,426,661 souls, whereas, in the scheme of distribution, she "would be estimated as 1,232,648, thus losing the sum which would be allotted to about 200,000 souls."

But if the land money be retained in the Treasury as a part of a common fund, to meet the constitutional wants of Government, any excess in the Treasury may be removed and avoided by a corresponding reduction of the taxes; that is, by reducing duties on imports, by which Virginia will secure her fair and equal share of the reduction as a State with a population of 1,426,661 souls, instead of receiving her distributive share of the land money as a State of 1,232,648 souls, thus securing an advantage of at least twenty per cent.

This policy, also, avoids the expense incidental to the collection of revenue to supply the deficiency, the expense of distributing the land money among the States, and it saves the interest on the whole sum from the date of collection by the Federal Government, to the date of disbursement by the State Legislatures. It also effects a far more just and equitable disposition of the fund, by leaving the money of the people in the pockets of the people; leaving each individual citizen to enjoy the honest earnings of his own industry, instead of collecting it into the Treasury, at a great expense, to be distributed to the State Legislatures, who may apply it to objects in which the taxpayer has no interest, or may even have an adversary interest.

If the subject be considered with reference to the amount to be received by the several States, the policy of reducing the tariff will be entitled to preference over the distribution policy. Indeed, it is denied that a fair statement, exhibiting the receipts and disbursements incident to the administration of the public lands would exhibit an excess of receipts, after satisfying the just liabilities of the land fund. On the contrary, it is believed that the land fund is largely indebted to the Treasury; and of this none could entertain a doubt, if the lands be charged with the cost of war, by which they were acquired, and the cost of the Indian wars, which they undoubtedly occasion. Even excluding these items, there are other very heavy expenditures undoubtedly chargeable to the land fund, such as purchase-money paid to foreign nations, and money paid for extinguishing the Indian titles; the expense of Indian treaties and Indian annuities; the removal of Indians from the lands; the cost of surveying the entire area; the expense of the land and Indian bureaus, and the land offices near

the public lands; which, together, constitute an amount far exceeding the sum of the land sales.

It appears from a table furnished me from the General Land Office, that on the 30th June, 1857, the whole amount received on account of sales of public lands was \$180,868,997, and the cost of public domain, to same date, was \$107,986,722—leaving a balance in favor of the land fund of \$72,882,275. But this does not embrace any sum paid for extinguishing Indian titles since January 1, 1850, nor any sum paid as interest; nor the amount paid on account of the debt of the Revolution. To show the items of which it is composed, I exhibit the table itself:

Cost of Public Domain to June 30, 1857.

Amount paid France for Louisiana.....	\$15,000,000 00
Amount paid Spain for Florida.....	5,000,000 00
Amount paid to Georgia for Alabama and Mississippi north of 31°.....	1,250,000 00
For Yazoo claims under Georgia.....	4,282,151 12
For extinguishing Indian titles to January 1, 1850.....	35,589,066 00
Mexico for California.....	15,000,000 00
" for Gadsden purchase.....	10,000,000 00
Cost surveying public lands to June 30, 1857.....	10,863,938 95
Cost of selling, managing, &c.,.....	11,001,076 08
	\$107,986,722 15
Amount received to June 30, 1857.....	180,868,997 23
Balance in favor of land fund.....	\$72,882,275 08

But it appears from the report of the Indian bureau, presented to the present Congress through the Secretary of the Interior, that the number of acres acquired is 581,163,188; and that the true cost of extinguishing the Indian titles to the present time is \$49,816,344, being \$14,816,344 above the sum stated in the table furnished from the Land Office; to which add \$100,000,000, paid on account of the debt of the Revolution, and we have an aggregate of \$114,816,344 chargeable on the land, exclusive of interest; from which deduct the balance in favor of the land fund, as stated from the Land Office, \$72,882,275 08, and we have the true balance due from the land fund to the Treasury, of \$41,934,068 92, exclusive of interest.

If to this be added the expense of the Indian wars occasioned by the lands, this balance would exceed eighty million dollars, exclusive of interest. And if an interest account be stated on the principles which would control a commissioner in chancery in stating the account of an executor, the balance against the land fund would approach two hundred million dollars! All this is exclusive of near twelve million dollars paid in the form of interest on the sums above enumerated, and justly chargeable to the land fund.

The debt of the Revolution is charged to the land fund, because it was asserted by Mr. Clay, and has ever been insisted by distributionists, that the lands ceded by the States were pledged to its redemption, after which they insist a lien attached in favor of the States. I agree the public lands were pledged to the payment of the debt of the Revolution, not specially, by any clause in the deeds, but generally; because, under the Articles of Confederation, they were pledged to defray the general charge and expenditure; and under the Constitution they stand pledged for the payment of all the debts of Government. Pledged "to pay the debts and provide for the common defense and general welfare of the United States."

Distributionists insist on the annual division among the States of "the net proceeds" of the sales of the lands. These are shown to be infinitesimally small, and indeed far less than nothing. Even the gross amount of sales at the present time will not equal the annual expense of the Indian bureau and the General Land Office. The gross amount of sales for the current year are stated at \$2,116,768, while the expense of surveys and of the Land and Indian bureaus for the year is estimated at \$2,702,419; leaving a deficiency of land money equal to \$585,651.

In ordinary times, and in a natural course of trade, the reduction of duties made by the tariff of 1857 would equal about sixteen million dollars annually, of which Virginia would derive her full proportion, considered as a State with a population of one million four hundred and twenty-six thousand six hundred and sixty-one souls—her distributive share being about nine hundred and forty-four thousand one hundred and seventy-four dollars.

Even the gross amount of the land sales for the

last fiscal year was only \$2,116,768. If it were all divided among the States, Virginia would receive her proportion as a State with a population of one million two hundred and thirty-two thousand six hundred and forty-eight souls, and her distributive share would be about one hundred and sixteen thousand six hundred and one dollars. But it has been shown that the expenses incident to the management and sale of the public lands for the last fiscal year exceeded the sum of the sales by \$585,651. So that there would be nothing to distribute.

The Democratic policy contemplates a still further, and indeed progressive, reduction of duties. The rapid growth of the country, and consequent expansion of its commerce, must rapidly increase the amount of revenue derived from any rate of duty established by law, producing in a short time an excess of revenue; when the Democracy will again press a reduction of duties; and this process it is expected to continue, until commerce shall be emancipated from the grinding burdens by which it has been oppressed, and the consumers and agricultural community shall procure the necessities and conveniences of life at a rate of duty merely nominal.

In this policy, efficient aid is expected from the salutary influence of the Independent Treasury. Collecting the revenue in the precious metals, their accumulation in the Treasury occasions uneasiness in the commercial mind. The mercantile interest become apprehensive of a money pressure or commercial revulsion, and earnestly advocate a reduction of duties, to diminish revenue, and set free the metallic currency to flow in the ordinary channels of commerce, and perform the functions of money. Thus, an enlightened and powerful body of men, often heretofore found in combination with the manufacturing interest, imposing heavy duties on imports, and greatly increasing the cost of commodities consumed by the farmer, become united with the agricultural interest in an earnest effort to reduce the tariff. To this cause, perhaps, may be ascribed the fact, that Representatives from Boston and New York were the active collaborators with Representatives from the South in reducing the tariff at the last Congress.

An impression seems to prevail among distributionists that there is a large sum of money, already in existence, derived from the sales of the public lands, applicable to the payment of the public debt of the States, and which might be applied in relief of the heavy State tax now paid by the people. So far as Virginia is concerned, if it be intended to refer to the sum formerly tendered as her distributive share, under a former act of Congress, it is believed to be about forty-one thousand dollars; which, divided among her citizens, would not equal five cents *per capita*!

If it refer to any other sum, now in existence, subject to distribution, it is not known that any such sum exists. If it refer to a line of policy, to be adopted by the Federal Government, to set aside the future proceeds of the sales of the public lands to be divided among the several States, it stands exposed to all the objections already stated; and it becomes important to inquire whether, under the proposed policy, the money would be applied, in fact, to relieve the people from payment of the heavy tax by which they feel themselves oppressed.

It is respectfully submitted that no such effect would ensue. The plan proposes to distribute the money among the Legislatures of the several States. The share of Virginia would be handed over to her Legislature, and subjected to the legislative will. A majority of the Legislature would determine the disposition to be made of the money. If we reason to the future from the past, we may conclude it would be appropriated, in some form, to works of internal improvement; and it is not improbable it would be effected under the influence of combinations, more apt to increase than diminish the debt of the State, and the ultimate burdens of the people. It is difficult to conceive of a mode of distributing the funds among the citizens *per capita*, which would not involve a degree of expense altogether inadmissible; nor is it known that any such scheme has been meditated. It must be handed over to the Legislatures, who will do with it as to them may seem meet.

Considered with reference to taxation, the

powers of the Federal Government are limited only by the objects of appropriation. To accomplish a constitutional object—as for example, to prosecute war—Congress may raise money without limit. But under the clause already quoted, Congress can raise money only for the purpose of paying the debts of the Government and accomplishing such objects in which the States have a common interest.

Considered with reference to objects of appropriation, the powers of a State Legislature are far more ample. Perhaps to present an actual barrier to the exercise of their discretion, in selecting an object of appropriation, it might be necessary to produce some positive enactment of the Constitution.

In a State Legislature, the effective restraint on the power of taxation consists in frequent elections and a direct responsibility to the people; but if they may derive money from the Federal Government to accomplish objects indiscriminately, the responsibility and the restraint are effectually removed, and there is no practical check. If the Federal Government, under its power of taxation, may raise money *ad libitum*, to place at the disposal of the State Legislatures, who are free from restraint as to the objects of appropriation, it effectually evades the only limitation on its own power of taxation, which is the limitation as to objects of appropriation, restraining it to paying the debts, and providing for objects in which the States have a common interest. Thus is the taxpayer exposed to the unlimited action of two Governments, each subjected to strict limitation in our scheme of Government, but each eluding its limitation by combination in the exercise of their powers.

An interested local majority in a State Legislature, animated by the most selfish motive, may be restrained from gross injustice to the minority by the responsibility which attaches to the imposition of taxes on their own constituents; but if the Federal Government may impose the tax, and hand the money to the State Legislatures as the means of accomplishing their objects, the Legislatures are relieved from this responsibility, and proceed to execute their most unjust and extravagant purposes.

A local and interested majority in Congress, coming from the North, representing a manufacturing community, and owing no responsibility to a southern constituency, may even advance their own popularity at home by imposing unjust taxes on the South, protecting the manufacturers of the North, and enabling their own Legislatures of the Northern States to carry into effect local objects, with money unjustly exacted from the South.

Let the subject be examined with more special reference to the condition of things within Virginia. The people of the fourth congressional district are large tax-payers, as well to the State as Federal Government. They have, perhaps, a well-grounded apprehension of the enlargement of their public debt, and consequent increase of their taxes. They yield a ready and patriotic assent to any wise and necessary extension of public credit; but they would avoid unwise and prodigal expenditures. Against these they have an effective security in the responsibility of the Legislature to the people. Many hundred miles of railroad have already been projected—not yet placed in process of construction, and as to which the initiative is not yet taken.

In determining on the propriety of commencing these works, it would seem to be proper to leave the Legislature under the salutary influence of a sense of responsibility to their constituents. If the works be demanded by public necessity, they will be undertaken. If not required by the wants of the country, the odium which attaches to an increase of taxes may operate to prevent their commencement. But if the members of Assembly are authorized to expect to receive the money from the Federal Government under the process of distribution, they will not only press forward unnecessary and visionary schemes, but each member will feel that he will advance his own popularity at home by bringing forward some local work, to invite and absorb the expenditure of money among his own constituents. Combinations would be formed by which many of those works would be carried through; and if, under the influence of a commercial revulsion, the sales of the public lands should fail to yield the amount

required, then, in the *hardest times* and under the most adverse circumstances, the people would be required to pay the money in taxes collected by the sheriff.

Thus it is shown, that the scheme for distribution stimulates to extravagance and prodigality as well in the State Legislatures as in Congress—both being relieved from their just responsibility to the people and the limitation on their powers, contemplated in our scheme of government.

The argument most relied upon by the friends of distribution is founded on the assumption that Congress has prodigally given away the public lands to the new States, in gross violation of the principles of justice and the spirit of the Constitution. This argument is presented with all the earnestness of a strong conviction, and is believed to control the opinions of many who urge it. It is certainly entitled to a candid consideration.

It is not my purpose to defend all which has been done. All certainly has not received, and could not have commanded, the sanction of my suffrage; but in my opinion, the facts have been perverted and the evil exaggerated.

When a territorial government has been established in a wild, uncultivated country, sparsely inhabited, it has been usual for Congress to make liberal appropriations in land towards public improvements, to induce immigration and settlement, and render the lands more salable. This practice has obtained since the foundation of the Confederacy. Perhaps it has been carried to an extreme; but the object has been to increase the market value of the unsold lands; and it is believed that most of the appropriations thus made to Territories have been so disposed as to add to the aggregate value of the public property. Indeed, so strongly has been felt the necessity for this policy, that Congress habitually supports the territorial government from the Treasury of the Union; prompted not less by a regard for the general welfare, than by a spirit of parental care for the infant Republic. And when, under the fostering care of Government, the embryo State has attained to a degree of importance to justify an application for admission into the Union, as an independent, sovereign State, on equal terms with the older States, Congress has felt justified in entering into stipulations and contracts with the new State, by which considerable quantities of land have been set apart to aid in the erection of public buildings, the construction of public roads and improvements, and for educational purposes. These have not been considered gratuities, but grants on good and valuable considerations, if not on fair and full equivalents. First, it occurs that all the lands granted by the Federal Government are so disposed of as to contribute to increase the value of the unsold lands. Next, it is stipulated that the new State, on being recognized as sovereign, shall bind herself to recognize the title of the United States, and to abstain from taxing the public lands so long as they remain the property of the United States, and for five years after alienation.

Distributionists have contended that the right to tax would not, under the circumstances, attach to the new States. But it is respectfully submitted that the right to tax is inherent in sovereignty, and can be avoided only by treaty stipulations and such contracts as touch the honor of the negotiators. All the old States have the right to tax all lands within their borders, except where that right has been waived by contract. The Constitution provides that the new States shall be admitted on terms of equality with the old. By consequence, they have the right to tax, of which they can only deprive themselves by contract.

This stipulation to abstain from taxes is a great concession on the part of the new States. It may extend through centuries. In several instances, it has already extended through a term of about forty years. It comprehends the entire body of unsold public lands—usually much more than half the territory of the State. Within the boundaries of the land States there was an area, at the date of their admission, of unsold public lands, equal to about four hundred million acres. If four hundred millions be estimated at \$1 25 per acre, and subjected to the rate of tax paid in Virginia, of forty cents on the hundred dollars, it would yield the annual sum of \$2,000,000. In several of the land States the tax is at this time more than forty cents on the hundred dollars.

It has been stated in the House of Representatives, by a chairman of the Committee on Public Lands, that excluding swamp land—ceded as a nuisance, grants for military services, with public and private reservations, to which the United States never had title, the whole amount of public lands granted to the new States does not exceed thirty million acres. If this be true, the whole grant, by an annual tax equal to \$2,000,000, would be absorbed in a term of about twenty years.

Whilst it has been shown that, in several of the land States, the waiver of taxes has already run through a term of about forty years, two hundred and eighty-four million acres remaining unsold in the land States and exempt from taxes, as late as 1853.

Extensive grants have been made to particular States of what are known and described as swamp lands, of which we have heard the loud complaint of the distributionist—to some extent, perhaps, a just complaint. These were lands held by the United States within the limits of the particular States. As the name imports, they were “swamp lands;” frequently, periodically, habitually covered by water, forming lakes, stagnant pools, fetid bogs, throwing off poison, generating disease and death! A black, horrid, pestilential nuisance! There they stood, the property of the United States, within the geographical boundaries and constitutional jurisdiction of the several States, unsold, unsaleable, undrained, undrainable, never to be sold, and never to be reclaimed, so long as they remained the property of the United States; excluding immigration, driving away the inhabitants, and destroying the lives of the people.

In this condition of things, the States applied to Congress to drain the lands, and to remove the nuisance, or to surrender to them the property and jurisdiction over the soil. Who shall say it was the duty, or the right of Congress, to spurn their remonstrance, and retain the lands as a perpetual nuisance? Who shall say that in such a condition of things the several States would not have been justified in rising up to assert their high, inherent, and sovereign prerogative? In my opinion Congress did right to make the grant; but did wrong in failing to stipulate for a fair equivalent when the lands were drained and put to sale.

But it cannot be successfully maintained that any pecuniary loss was suffered by the United States, or by any one of the States of the Union, or by any part of the people of any one of the States of the Union—because the market value of the lands in their then condition was equal to just nothing at all.

The last, perhaps the loudest, complaint of the distributionist, is connected with the grants of alternate sections of public lands to incorporated railroad companies, to aid in the construction of their works of public improvement. This, I agree, should be condemned. I hold it to have been the duty of Congress to secure to the United States equivalents for the lands granted. But was it an unmitigated evil—“evil, and only evil continually?” It will be remembered that the price of public lands is \$1 25 per acre. In the land States most of the lands had been surveyed and offered for sale for years. They were unsold for the want of purchasers; other points presenting higher objects and more powerful attractions to the emigrant and to the pioneer. Suddenly, individual sagacity and enterprise, stimulated by the keen instincts of speculation, project a railroad through the public lands, connecting distant points of commerce and different centers of trade.

A railroad company is incorporated, and applies to Congress for aid in constructing their work through the public lands, and make such representations as induce a grant of alternate sections lying along the whole line of improvement; but, at the same time, it is provided by law that the sections retained by the United States, shall not be sold for less than \$2 50 per acre. The grant is accepted; the work put in process of construction; a real and a speculative value is at once imparted to the lands; and the retained sections are sold readily and promptly for \$2 50 per acre; thus realizing to the United States a sum equal to the price demanded for all the land in its original condition of wildness, with greatly increased market value added to the public property in the vicinity of the improvement throughout its entire length of way. Have the United States sustained a pe-

cuniary loss? Has any part of the family of man suffered an injury from the procedure? The principles of government have been violated, I admit; and for that I opposed the grants in Congress. There are some points of resemblance between this case and the case of the swamp lands. They both occasioned no pecuniary loss to the United States; in both great works of public usefulness were accomplished; and in both many members were animated by patriotic considerations of high public interest.

PACIFIC RAILROAD.

Mr. SCOTT. Mr. Chairman, I feel myself under the necessity of deviating from a rule of conduct that I had laid down when I became a member of this body; which was, never to trespass upon your attention or to consume your time, unless it was in the discussion of questions which were under the immediate consideration of this House. But, sir, a pressing sense of duty constrains me to infringe upon this rule, as I am desirous of inviting, in advance, the earnest and zealous consideration of this House to a question fraught, as I believe it to be, with great interest to every State in this Confederacy as a separate and independent sovereignty and as a part and parcel of this great Union. Nor do I wish to be considered as a particular or special advocate of any one interest, or the supporter of any peculiar section. I do desire, however, to present this question in its broadest and most comprehensive sense, and to illustrate the effect and bearing of its success upon the whole country.

This question of a Pacific railroad has been fully and freely discussed by some of the wisest, most learned, and distinguished statesmen of our country; and we find a great variety and strange diversity of opinion involved in these discussions. This conflict of sentiment and clashing of opinions arise more from the desire of the respective advocates to carry out their particular wishes and their particular views relative to where this road shall be located, than from any doubt as regards the policy or the constitutional right of this Government to aid in its construction. In 1856, we find the three great parties which then divided the masses of this country in their political sentiments, incorporating in their various platforms a plank recognizing, acknowledging, and urging the policy of the immediate construction of a Pacific railroad; and there is not now a member within the hearing of my voice, who considers himself a party man, and who fights either under the banner of Republicanism, Americanism, or Democracy, who was not committed, by the action of their respective national conventions held at Philadelphia, Baltimore, or Cincinnati, to the support of this measure. I believe that we have now in this body a decided majority in favor of the road; and if it was not for the jarring of certain interests, and the warring and rivalry unfortunately existing between the two sections of our common country, a bill could be easily passed for the construction of a Pacific railroad. We all listened last session, with much pleasure, to the gentlemen from Washington, [Mr. STEVENS,] from Wisconsin, [Mr. BILLINGHURST,] and from New Mexico, [Mr. OREGON,] upon this subject; and the only fault that I could find with their arguments was, that they were the advocates of particular routes.

Now, Mr. Chairman, as I said before, I stand here to-day not to advocate or to advance the interest of any particular route, but to urge upon this body, and to force upon the attention of the country, the necessity of a railroad connection between the Atlantic and Pacific; and while I am free to confess that I may be influenced in a measure by the affections which I bear my own State, I can with the same degree of sincerity assert that I am equally influenced by the love which I bear towards the whole united and entire Confederacy of thirty-two free and independent States. For, sir, I contend that all statesmen form their opinions upon the history of the past and the present, and that the safest and surest conclusions are those that are based upon the collected wisdom brought and acquired by the test of the experience of the past.

Then let us turn our minds to the past. Let us dive into the history of our own Republic, and let us learn wisdom and sagacity at the shrines of our great ancestors. The greatest practical

danger to which our country seems now to be exposed, is the overthrow, by rival factions, of our Government and our Union. Even at the very origin of our Confederacy, serious apprehensions were entertained of the danger of the disintegration of the western States from the Union. The difficulty arose at that time by the interposition of the mountain barrier of the Alleghenies between the Atlantic slope and the valleys of the Ohio and Mississippi; although this Allegheny range, having no more than twenty-five hundred feet in average height, would be considered but hills by the side of the Rocky Mountains, and the side of the Sierra Nevada; yet it constituted, in the early days of the Republic, such a formidable obstacle to commerce and intercourse between the eastern and western States, as to threaten a separation between these two portions of the Union. At that time the intercourse of the western States with the rest of their sister States was down the Ohio and Mississippi rivers to New Orleans, and thence by sea with the various sea-ports of our Atlantic coast.

But Spain, in 1799, refused us a depot and transit to and from New Orleans; and so important and essential was this deemed to the perpetuity of the Union, that the most distinguished and conservative statesmen of that period favored the seizure of New Orleans by force of arms; and this doubtless, would have been consummated if Spain had not receded from this commercial embargo. And even after this channel of intercourse was secured by the bold and leading spirits of that day, to be a blessing to generations then and yet unborn, Mr. Jefferson, with that wisdom and sagacity which has rendered his name immortal, determined upon the acquisition of Louisiana, so that this great route and channel of American commerce and intercourse should be secured and protected from foreign aggression by being brought within the limits of the Union. But even after the acquisition of Louisiana, when the Alleghenies still continued to divide the eastern and western States geographically, Aaron Burr seized upon this part, and formed a conspiracy, which was believed by many to be in successful progress when it was timely discovered, to detain that vast domain lying on the valleys of the Ohio and Mississippi from the Atlantic slope, and to unite it in one great empire with Mexico; thus showing, even at that early day, that it is commerce, free intercourse, interest, and affection, that must and can only unite the States of a common confederacy.

The history and formation of the American Constitution show that it was mainly accomplished to provide for the common defense, and to establish free and unrestricted intercourse between all the States; but if that commerce and intercourse be free only under paper clauses of the Constitution; if it exist only in name, and be rendered impracticable by mountain barriers and deserts, the great object for which the Constitution was framed will have failed to that extent, and the dangers of dissolution will have been vastly augmented. A State that is separated from her sister States by impassable barriers in our own territory; that must conduct her commerce with other States, and they with her for thousands of miles over both ocean and through foreign territories, subject to so many casualties in war and in peace, as far as her commerce and intercourse are concerned, may nominally be a member of the American Union, while in point of fact, she is deprived of nearly all the great advantages designed by the Constitution. Yes, sir, I again assert it; the Constitution itself is a mockery spread over her, whilst the rights and advantages designed for her by that instrument are withheld or suspended.

Nor do I go too far in the assertion; for if we look to the origin of the Constitution, the commercial difficulties which preceded its formation, the commercial embargoes which existed among the States, the unity and freedom of commerce secured by that instrument, the debates in the convention which framed the Federal Government, the bold seizure of New Orleans whilst it belonged to Spain, the danger of the disintegration of the Union at that period, the acquisition of Louisiana by Mr. Jefferson in 1803, and the crushing out of the Burr conspiracy a few years afterwards, we will find, on all of these memorable occasions, that the actual, practical freedom

of inter-State commerce and intercourse was deemed essential to the preservation of the Constitution and the Union. Even in the Farewell Address of the Father of his Country, the great danger of the Union, apprehended by him and his illustrious co-peers, was the formation of geographical parties, and geographical republics, from the different States of our common Union; for at that day the voice of faction or treason assailed not the domestic institutions of any of the States, and no danger from the Union was apprehended from that source; but it was geographical parties that then caused such serious apprehension, giving rise to a supposed diversity of interest and intercourse; in fact, it was mountain barriers that were supposed then to constitute the most serious obstacles to the preservation of this Union. For a long period of time it is reciprocal interest, founded upon a free and widely extended intercourse, that constitutes the safest and most enduring bond of a common confederacy.

It is true there are other causes calculated to perpetuate our Union. The love of our common country constitutes one of these bonds. The glories of the past, the present, and the future, are calculated to maintain the Union; but after all, in a series of years or centuries, it is a common interest, founded upon a widely-extended commerce and intercourse, that is best calculated to preserve us as a great and united people. How can you have such commerce and intercourse not only with California, but with the rest of your Pacific possessions, without a railroad? Why, Mr. Speaker, in less than ten or fifteen years, the time required to construct this road, you will find a new power developed in this confederacy; you will find California, Oregon, Washington, New Mexico, Arizona, Chihuahua, Sonora, Utah, probably all States of this Union, and all States who are to be benefited by this road; and when that day arrives, as it will surely come, we will then have the political power and ascendancy to build the road ourselves, but, perhaps, at the cost and sacrifice of the Union; for by your delaying too long the construction of this great national highway, you may give rise to those same geographical parties that constituted the principal danger of disunion in the early days of the Republic.

You ought not to hazard the incalculable blessings of this Government by another year's delay on a question so momentous as this. If you remain longer in this fancied security, if you still indulge in this treasonable apathy, you may be roused from your slumbers when the fatal words, "it is too late," may resound from the shores of the Pacific to the Atlantic. Geographical parties are not yet formed, but who will dare to impeach the wisdom and foresight of the founders of our Government, by declaring that there is no danger of the creation of such parties; let them once be formed, let one portion of the Union tear itself from the other, thus defacing and mutilating the noblest fabric of Government ever devised by the wisdom of man, and the power and prestige of our Government is gone, and these now happy, and free, United States will become a parcel of separate republics, who will be ever and eternally wrangling and warring with each other. Why, sir, if the State of California thought so lightly of this Union as many other States of this Confederacy, she would have discovered it long ago, from your neglect and indifference. But, because the love for this Union beats so warmly in the bosoms of her people, is that a reason why you should incite her to disloyalty by isolating her from the rest of the States? Between her and the valley of the Mississippi interpose not only the frowning barriers of nature, in mountains higher than the Alps, with deserts also, and a vast territorial domain, embracing many hundred millions of acres which is the property of this Government; but this great domain is occupied, to a vast extent, by Indian tribes, many of whom are hostile, savage, and uncivilized; no States have been formed within its boundaries, and, to a great extent, there is not even territorial organization. Hence the impossibility of making this road by private enterprise alone and unaided. It is the Government of the Union and the people of the Union, who, together with California, would all participate in the advantages of this great work, and, therefore, it is this Government that should aid largely in its construction.

Let us look at this road, first, in a governmental

point of view. What is now the spectacle presented to the civilized world? We find two of the most powerful nations of the globe contending for a prize of more importance to them, in a national point of view, than ever was won on the field of battle; for the result of the labors of each will award to the victor a triumph that will make all their great achievements and glories sink into comparative insignificance beside the splendor and grandeur of this their last but greatest victory that the pen of history ever recorded. Our country has already had her corps of engineers traversing the great country lying between the valleys of the Mississippi and the Pacific, until various routes have been reported as practicable by our hardy and enterprising officers. England has recently sent out her engineers to survey a route from Lake Superior, through its own territories, to the Pacific. This road will run through the valleys of the Saskatchewan and Red River of the North, and will tap the gold mines of Frazer river, and divert the trade of the Pacific, through the lakes, to Quebec. And let not the enemies of a railroad to the Pacific hug to their bosoms the delusive hope that this road is impracticable; for I tell them that, not later than last August, I had an interview with Sir Edmund Head, Governor General of Canada, at Toronto, and he informed me, from maps that he had in his possession, that the road, he believed, could be constructed and used with as much facility as the Grand Trunk railway could be, which now runs through the same degree of latitude.

Thus do we behold two of the greatest commercial and maritime Powers struggling for the ascendancy. What are there relative positions on this question? Whilst we are split into factions, whilst contending interests are waging a fierce and unrelenting war, or to use a more homely phrase, whilst certain members in this House are playing the "dog in the manger," and because they cannot eat the bone will let none others have it, England, with a united front and a firm resolve, is marching on to consummate this great work. Is it not a shame on us as Americans to allow our rival in greatness, who possesses none of the advantages which Providence and nature, in their beneficence and plenitude, have showered down on us, to wrest from us a triumph that would make the American name a proud boast? But, sir, if pride, if love of country, if a desire to do justice to one section of our own Union will not move us, if you will persist in the mere cold calculations of dollars and cents, we will then consider this subject in a financial point of view, and see whether this country would not be advanced in power and wealth by the construction of this road, and whether her commerce and trade would not be immeasurably enhanced. Very few have any conception of the importance and magnitude of the trade now going on between this country and China, and hence I have carefully collected certain statistics to which I beg leave to call the attention of the House.

United States commerce with China from 1821.

	Exported.	Imported.
From 1821 to 1830.....	\$36,744,581	\$32,954,994
" 1831 to 1840.....	12,749,263	61,223,223
" 1841 to 1850.....	17,640,184	57,000,000
" 1851 to 1856, six years, 14,561,301		60,157,895

Thus showing in thirty-six years a balance of trade against us of \$149,635,841.

Now let us look at the tea trade, and see how rapidly it has increased in a short period of years, both in our own country and England, and we find that the tea exported from China to Great Britain, from 1844 to 1856, inclusive, being thirteen years, was 836,745,700 pounds, averaging 64,365,000 pounds per annum, being over two and a half pounds to each person in Great Britain. In 1844, ten years after the abrogation of the East India Company's charter, 50,613,000 pounds were imported into Great Britain. In 1856, 91,035,000 pounds found its way from China to the same place, showing an increase of ninety per cent. in thirteen years, and very probably at this time is one hundred per cent. We find, in 1849 to 1856, inclusive, a period of eight years, the United States imported from China, 253,465,000 pounds of tea, being an average per annum of 31,683,125 pounds, being a little over a pound to each inhabitant. In 1849, the imports of tea was 18,072,000 pounds. In 1856, it was 40,296,000 pounds.

Let us look at the silk trade. In eight years,

say from 1849 to 1856, inclusive, the following was the exports from China to England of silks, in bales:

In 1849.....	17,328
In 1850.....	16,134
In 1851.....	22,143
In 1852.....	23,040
In 1853.....	25,571
In 1854.....	61,948
In 1855.....	50,486
In 1856.....	55,489

273,033

The value of which amounts to over one hundred million dollars.

Mr. GILMAN. Before the gentleman from California takes his seat, I desire to ask him a question. I understand him to urge the building of a Pacific railroad in order that China and East India produce may be transported across the continent, saving the carriage of teas, silks, and other costly articles across the Isthmus, or round Cape Horn. Now, I would like to know of the gentleman whether he deems it practicable to take teas from our swift clipper ships in the harbor of San Francisco and transport them across the continent to any of the eastern States? In other words, whether the article is sufficiently valuable to bear that length of land transportation?

Mr. SCOTT. In answer to the interrogatory of the gentleman from Maine, I say this: that I do not believe the cost of transportation would permit the carriage of heavy articles; but I do believe that, taking into consideration the length of time required for water transportation, and the damage sustained by costly articles in such transportation, silks and other costly articles, which constitute the trade of the east, would bear transportation across the continent by railway.

I could go on further, and elaborate this question; I could bring additional statistics to satisfy any reasonable man that the construction of this road would pour a torrent of trade and wealth into the heart of this country; but I will call the attention of this House to one point more in connection with the immense commerce lying on the Pacific, waiting for some hardy and enterprising nation to develop it. On the 16th of March last, I introduced a resolution, requesting the Secretary of State to furnish to this House all information that might be on file in the State Department, relative to explorations of the Amoor river. In compliance with that request, the report of Mr. P. McD. Collins to the Department was furnished to us. We find in that report that the trade now locked up on the Amoor river amounts to upwards of twenty-one million dollars; and to this may be added, to use the language of Major Collins, "the trade that would spring up along the Amoor and its tributaries, and also the Tartaries, northern China, the Bukarias, and Thibet, sufficient of themselves to swell the trade to many millions more." Russia is our natural ally, and would readily form a treaty of commerce with us, by which we could almost exclusively reap the benefits of this trade.

But, sir, with millions upon millions of commerce involved, with the loss of time and risk in rounding the Horn, with only communication of one section of this Union to the other over a foreign soil, still Congress seems to be indifferent to all these questions, and supinely permits them to rest. And with all these inducements, with all these allurements, sufficient to stir the blood and create emulation with every true American, we are told, first, that it is impossible to construct the road; that mountain barriers and barren deserts prevent it. I deny this, and I am sustained in the denial by the reports made by as scientific, accomplished, and reliable surveyors, as ever directed a compass or held a level. Five routes have been surveyed, all of which have been reported practicable, and can be made at an expense ranging from ninety to one hundred and twenty million dollars. Those who are skeptical and those who are doubtful on this subject, will only have to examine the ten volumes embracing the various reports of our engineers and surveyors who have explored the whole face of the country over which these routes run, to be satisfied of the feasibility of the construction of this road.

Again, we are told that \$100,000,000 would bankrupt the Government, and ruin the country. If this Government and country was going only to last a few years, there might be some plausible

ity in the idea; but, sir, do we come here to legislate for a year, for ten years, or for a hundred years? No, sir; we come here to legislate, as I hope, for centuries yet to come; for the darkest hour and the darkest day that ever hovered over mankind will be that hour and that day when this Union ceases to exist. We are not to look at the temporary pecuniary embarrassments which it may possibly cause the Government; but to the great benefits that it is to confer upon generations of mankind yet unborn. Sixty-nine years ago we were only about three million freemen; now we are nearly thirty million—seven million more than Great Britain, the mother land.

The following table shows the comparative population of the United States at different periods from 1790 to 1860:

1790.....	3,929,827
1800.....	5,345,925
1810.....	7,239,814
1820.....	9,638,131
1830.....	12,868,020
1840.....	17,069,453
1850.....	23,191,876
1860, probably.....	30,000,000

By this calculation we will have, in a hundred years hence, (a mere hour in the existence of a great nation,) nearly one hundred million in population. It is for those who are to come after us that we should, as statesmen and patriots, labor. With a boundless and vast domain, embracing within its limits millions upon millions of miles of rich and productive land, that is alone occupied by the roving Indian and the wild buffalo; with a population that is annually increasing upon us at the rate of a million, does it not become our solemn duty to open a channel to this rich domain, that our fellow-countrymen may have a home, and may, by their indomitable, hardy, and undaunted spirit, make this, which is now a waste and a wilderness, bloom and blossom as a garden? Yes, sir; there are many gentlemen who raise their hands in holy horror at the bare idea of giving \$100,000,000 for a Pacific railroad, who would cheerfully vote two or three hundred million dollars for Cuba or for Mexico. Now, I go with gentlemen for the acquisition of Cuba by purchase; and God knows that we Californians are eager for Chihuahua and Sonora, and will take the contract from the Federal Government to establish a protectorate over those two benighted and misgoverned States. But I cannot see by what mode of reasoning any gentleman could or can arrive at the conclusion that \$200,000,000 would not impoverish the Government as soon, if Cuba was purchased with it, as if it was used for a Pacific railroad. I believe that, commercially, politically, socially, nationally, and in every other respect, the benefits which would accrue to this Government from a railroad to the Pacific would be equal in all respects to the acquisition of Cuba. I believe that charity begins at home; that we should make as much of that as a nation, which we have already in our possession, as we can.

I am as much of an economist as any member of this House, but there seems to be a wide difference in economy. If a desire to prevent waste; to prevent extravagant expenditures; to prevent squandering of the public moneys; to reduce this Government to a just but economical administration of her affairs, then I am an economist. But if I understand by economy that you are to be parsimonious, narrow-minded, illiberal, and contracted in your views on governmental expenditures; that you are to let the public gold and treasure of this country be a great bugbear, by harping on it eternally to frighten the people, and to injure really the prosperity and onward progress of this country, then I am not an economist. I am for enlightened economy. I am for appropriating money freely, whenever I believe that such an appropriation will contribute to the might, the power, and grandeur of this Government; whenever it is for a noble, a glorious, and a philanthropic purpose; whenever it will redound to our national greatness; and whenever it will add additional luster and fame to my native land, as a Power among the great nations of the earth.

Again: it is urged by the opponents of this measure that it will not pay; and I have heard gentlemen on this floor say that they would not take this road after it was constructed, with rolling stock and all, and run it for \$10,000,000 per annum. To those gentlemen I have only this to say,

(for the time allotted to me will not permit me to go into a discussion relative to this part of the subject,) that we do not ask them or the Government to take stock, but merely give us the right, by the passage of a bill, to ascertain whether capitalists are not willing to invest their means, and whether contractors will not undertake, with a reasonable aid of money and bonds from the Government, to build it. If a bill was to pass that was not sufficient in its provisions to hold out inducements for capitalists to invest, then it would be a failure and the road would not be built. The bill which was introduced by my honorable colleague in the other branch of this House [Senator Gwin] only proposes a loan on the part of the Government in the issuance of her bonds, (which are to be repaid in the transportation of troops, munitions of war, mails, &c., to Government,) and also the donations of alternate sections of land; and I believe that, as far as the main features and leading principles of that bill are concerned, most of the friends of this measure acquiesce in it, although they may not concur in some of the minor points involved in it, and to which I am willing to give way, so that a road or roads may be built.

But, sir, if gentlemen will forever war against this measure, because they believe it will not pay, and therefore will not be built even if Congress was to pass a bill giving lands and money, I ask them in all frankness, how are we ever to test the sincerity or the truth of their belief, unless you give us an opportunity to discover whether capitalists are willing to undertake its construction? But, Mr. Speaker, it is not my intention now to dwell on this portion of the question; for when a Pacific railroad bill is presented to this House, and is fairly before us, I will then proceed to participate in the debate itself, and to discuss the various features and provisions of whatever bill may be up. My only object now, is to take a general, national, and patriotic view of this subject, hoping and desiring, in my humble way, to rally the friends of this measure to energetic action; and if I accomplish this, my aim and object will be attained.

It has been so often said on this floor, that California is a drain upon the national Treasury, that a prejudice has doubtless arisen in the minds of many to their far distant sister State. I am free to confess and bold to admit that you have been kind and liberal to us in the past; and for that kindness and for that liberality you have the thanks and gratitude of the six hundred thousand inhabitants of my State. By your generosity, you have caused a State, powerful in all her wealth, grand in all her riches, and magnificent in all her proportions of greatness, to spring up, as if by magic, on the shore of the Pacific. You have done this; and by doing it, you have not only conferred benefits on her, but you have added to the luster and glory of the American name. But, sir, as long as she is permitted to stand as an equal among her sister States, I have nothing to say in regard to the noble returns which she has made you for this generosity. But, when she is taunted and jeered as a burden upon them; when she is pointed to as a drain upon your Treasury, and sneered at as a begging pauper, who, although clad in gold, and glittering in gems, is ever praying, ever demanding for more, I hurl back the false charge, and point you to the noble manner in which she has repaid your kindness and returned you interest upon every dollar that you have invested in her. Look at the revenue that she has paid into your Treasury; look at her one hundred and thirty million acres of public lands, abounding in fertility, and which soon will be in the market. Look at the \$80,000,000 which she is annually pouring into the lap of trade and commerce, giving an impulse and an impetus, which your flourishing cities and commercial marts fully attest the incalculable value of, and then tell me if she does not demand a higher consideration at the hands of her sister States? Sir, from the year 1849 to 1858, a period of eight years, she has paid alone, as customs, nearly twenty million dollars, as the subjoined table shows:

San Joaquin, from December 12, 1850, to June 30, 1858.....	1,967 45
San Diego, from January 13, 1850, to June 30, 1858.....	41,273 54
Monterey, from April 1, 1850, to June 30, 1858.....	16,131 86
Sacramento, from May 7, 1850, to June 30, 1858.....	7,044 39
San Pedro, from May 1, 1850, to June 30, 1858.....	616 37
	\$19,819,087 58

Besides this, she has poured \$500,000,000 on this side from her inexhaustible mines in the same period of time; and, young as she is, she has contributed as much as any of her older sister States to advance the honor, to preserve the nationality, and to add to the glory of this country. She has borne in patience and forbearance, since her admission into this Union, your neglect and your indifference on this Pacific railroad question; nor does she to-day threaten a dissolution of the Union if you refuse to grant her demands. Her loyal heart is too big for that, and her devotion to these confederated States is too sincere, too true, for her to wreck their destinies, although her own onward march in the great future which awaits her may be retarded by your action.

As long as peace lasts, it is a mere matter of commercial greatness, of accumulation of wealth, and an increase of population, and the development of resources with her, and she desires this road to advance her interests in these respects. But when peace no longer exists, but war, in all its horrors, shall burst upon us, it is then that every one will see the imperative necessity of this road. It is then that California, one of the sovereign powers of this Confederacy, may call in vain for help from the Government, which is bound by the Constitution and by every solemn obligation to shield and protect her from the invasions of a foreign foe. It is then that we will behold a spectacle revolting to every American—a portion of our Union in the hands of a foe, and the other portion utterly powerless to render her assistance. When that day does come, as it probably will, where then will be the fierce opponents of this bill, when six hundred thousand American freemen shall be at the mercy of a foreign foe; when the spirit of indignation shall ring throughout this land; when a foreign flag shall wave fluntningly and boastfully over one of our States, conquered and subdued, because deserted and abandoned by her sister States, who were bound in honor, in love, and in true affection, to stand by her in the hour of affliction; when that day does arrive, as it may arrive in the course of human events, woe betide the opponents and enemies of this bill; for the bold, free, and generous feelings of this nation will be fully aroused, and will curse the niggardly course of those who, by their canting on economy, and by their dissensions on routes, have entailed such a disgrace and such a national calamity upon us.

But, Mr. Chairman, I am not influenced by a selfish motive in advocating the construction of this road, nor are my views relative to its importance to my State confined alone to her. I believe, as truly as I believe in my own existence, that a Pacific railroad would do more to cement and perpetuate this Union than any other measure that could be adopted by Congress. For it is the hope of the patriot, that the sectional passions which threaten this Union, upon a question regarding the local institutions of one section, may be crushed out by the intelligence and patriotism of the people. But when this is done, is there not imminent danger that the same geographical parties which threatened the Government at its origin, and many years afterwards, may again disturb the hopes of the sage and the statesman. You have it in your power this very session to obviate this danger, and prevent the formation of geographical parties which I spoke of in the former part of my remarks, by bringing the Atlantic and Pacific within a week of each other, and uniting the whole within the valley of the Mississippi.

By constructing such a road you will not only prevent the formation of geographical parties, but is there not great reason to believe that by thus uniting the North and the South in a rapid and constant commerce and intercourse with their sister State upon the Pacific, you will have struck a mortal blow at those sectional passions and prejudices which now threaten the duration of

this Government? By the construction of this road, the North and the South will equally participate in the greatness, the power, the glory, and the commerce, extending from the Atlantic to the Pacific. It is, then, through California, that the North and the South will unite in securing for our whole country, the commerce and intercourse of China, of Japan, and the Amoor river. It is thus that our annual product of gold, which has already reached nearly sixty millions, would nearly be doubly increased if we only had this road, and would flow from the Pacific through our own territory, resting at various points, giving an impetus to commerce and intercourse, causing flourishing towns and cities to arise as if by magic on the route, giving a new demand to agricultural products, with suitable exchangeable articles, thus filling the hand of labor with its appropriate reward. By this road would come the teas, the silks, the spices, and other costly articles of Asia, whilst a vast portion of inter-European and Asiatic commerce would necessarily pass over this route.

Let the North and the South alike enjoy, through the instrumentality of this route, the advantages of such a commerce and intercourse with California and Asia as will be supplied by this road, and we will have formed a new link of union through all the States, more substantial and more enduring than any ever created since the formation of the Constitution. What section of the Union would then separate herself from another and from their common sister upon the Pacific, if such a road united her with them, and the trade of China and Japan? for they would indeed be bound together by a common interest; and a frequent intercourse would engender, as it has engendered in my own State, a warm feeling of affection between those who hail from the different sections of our Union.

The patriots and statesmen of our country have devised various means and enacted important laws in the different periods of our dangers heretofore, which would crush out the most dangerous of our sectional questions, and preserve and perpetuate the Union. Thank God that glorious Union still lives, and the flag of our country still floats over us from the Atlantic to the Pacific; but this sectional danger still exists, and if it can be terminated by anything which the wisdom of man can devise, it is by uniting the South to the North by a common railway to the Pacific. And when this great route of American and universal commerce and intercourse shall have, for all practical purposes, removed the mighty mountains and deserts which now separate the two oceans, those dark clouds which now hang over us will be swept away in a sunburst of glory and power, and will make us indeed a free, happy, and united people.

I had also desired, Mr. Chairman, to urge the necessity of the aid of Government for the construction of a telegraphic connection from the Atlantic to the Pacific; but the short space of an hour will not allow me to enter into the discussion of that subject, and I must content myself by merely publishing an able communication which my friend, Major P. McD. Collins, has kindly furnished me at my solicitation. It is as follows:

"Leaving Moscow, up to which point east, a telegraphic communication is already in operation to London, a line would be constructed by way of Vladimir and Nijni-Novgorod to Kazan; as this point is upon the Volga, through which a very extensive commerce flows towards Persia, Georgia, Turkestan, and countries to the east of the Caspian Sea by way of Astrakhan, a lateral line would naturally be constructed to intersect, certainly as far as Astrakhan on the high road to Persia and Cabul. Pursuing its main course east by way of Perm, it would pass through Ekaterinburg and Tobolsk the heart of the great mineral regions of the Ural Mountains; from thence having fairly entered Siberia, it would pursue its way by Omsk, the capital of Western Siberia, Tomsk, and Krasnoyarsk, to Irkutsk, the capital of Eastern Siberia, three thousand five hundred miles east of Moscow. This whole extent of country is traversed by a 'post road' along or near which the wires would be easily and cheaply cared for. Irkutsk being the great center of Eastern Siberia, in fact of Northeastern Asia, where concentrates the commercial and mineral interests of a vast country, the line would be supported by local interests alone; but when the recent change in the state of the country to the east is taken into consideration, a vast field is opened for new and important enterprises.

"Kachia and Mia-mat-tschin are situated about six hundred versts to the south of Irkutsk; at these points concentrate the Russo-Chinese commerce, now large but rapidly to be augmented under the Mouraief-Igoen treaty, by which the sovereignty of the Amoor river and country, have passed from the Chinese to the Russian Czar.

"Leaving Irkutsk, the wires would make a sudden detour

Statement showing the amount of Customs Revenue paid into the United States Treasury, from California, from September 30, 1849, to September 30, 1858:

San Francisco, from November 12, 1849, to September 30, 1858.....	\$12,653,653 00
Southern, from July 1, 1850, to June 30, 1858.....	96,392 86

to the south of Lake Baikal, and, reaching Kyachta, would be extended to Pekin, forming another lateral branch of one thousand miles, under the joint protection and patronage of the red and the white Czars, bringing Pekin and St. Petersburg so near to each other that the two Emperors could converse upon the affairs of the Tartar nations who intervene between the Japan and Caspian seas, without the intermediation of ambassadors. The whole of the great island-world of the Pacific, the fifth great division of the globe, lying so much more convenient to the shores of China than to British India, would favor the plan of a telegraphic communication via Hong-Kong to Pekin, thus opening up the whole of this division of the world to European communication, and, from the nature of the country, to the west of Canton, towards India, presenting, perhaps, the only practicable route of telegraph to Europe via Pekin and Moscow. But this being only another lateral branch to the great trunk telegraph, we must hasten on to the East. Leaving Kyachta, the line would cross the Stanovoi range of mountains at a favorable point to Chetah, the capital of the province of Trans-Baikal, upon the waters of the Mississippi of Northern Asia," the Amoor; following the course of the Ingodah, the Schiekah, and the Amoor, we will find ourselves upon the shores of the Pacific, opposite the island of Sak-hah-lin, at De Castries. Up to this point, from Moscow, the way is now open, traversable, and practicable, since the annexation of the Amoor by Russia, presenting no greater difficulties than through much of our own western country.

"Having reached the mouth of the Amoor, or, more properly, De Castries, we must cross the head of the Gulf of Tartary to the Island of Sak-hah-lin, and following along its shores, or crossing to Cape Aniva or Ratmanoff, the wires would be suspended across the Okhotsk limb of the Pacific ocean, using the Kurile Islands as poles on which to suspend the wire in order to reach Kamtschatka. Here we may consider ourselves fairly on the high road to San Francisco, and, by this time, so thoroughly up to the importance of the work that no small obstacle will deter us in our progress. But, to retrace our steps a moment: after reaching the southernmost point of Sak-hah-lin, another lateral line south, crossing the Straits of La Perouse, would traverse Jesso to Hakodadi, at which point our North-Pacific whaling fleet would concentrate for orders, news from home, and dispatch of the season's catch. Crossing Sangar, it would communicate with the imperial city of Jeddo, thus bringing Japan into the telegraphic embrace.

"Having reached Petropaulovsk, in Kamtschatka, we find again a chain of convenient island posts, the Aleutian, and ocean-shore upon which to cross with our wires to Sitka, (New Archangel,) the capital of Russian America. From this point looking upon the globe, it will be perceived that we have been in the main a steady eastern course from Moscow, there being not more than about six degrees of variation in latitude, over a longitudinal course of one hundred and ninety degrees east. The whole distance over a country under the jurisdiction of Russia, cutting the capitals of her great interior provinces. The route could be changed at various points to meet contingencies, to shorten distances, increase or diminish submerged cable, but in the main, taking into consideration the progress of Russia upon the northern limbs of Asia, the Amoor is most certainly the proper highway for a telegraph. Behring's Straits, or Cape Pakatschinsky, crossing to the American continent to the south of Norton's Sound, or by Alyashah, might be taken into consideration; but, in the main, that would be a question of dollars and cents in the comparative cost in maintaining the line over the respective routes.

"Having reached Sitka, I trust we will not be troubled with much apprehension in completing the line via Vancouver's, (Fraser's river,) Washington, and Oregon, to Sacramento and San Francisco; for we have but the intervening space of 18° to contend against; this I concluded would be very quickly accomplished, under the joint and separate action of the three Powers, Russia, England, and the United States.

"Having reached San Francisco, the metropolis of the Pacific, we may reasonably conclude that the march of empire has already placed wires to the Mississippi river, from whence the lightning is now flashing to St. John's, illuminating the round world with its intelligent gleam.

"The most of the main route has been traversed and found practicable. The lateral lines to Astrakhan and Cabul, Pekin and Jeddo, are known to be practicable from the relations and observations of eminent Russian travelers. Thus under the march of civilization, both from the east and from the west, concentrating upon the Asiatic world, with the outward pressure of four powerful nations, three from the Old and one from the New World, of necessity, this world-encircling telegraph, by way of Moscow, Irkutsk, and the Amoor river, to the American continent, and San Francisco, must become a fact accomplished at no very distant day."

Mr. THOMPSON obtained the floor.

Mr. ANDREWS. I ask the gentleman to yield to me for a moment.

Mr. THOMPSON. I will, if it be the understanding that I shall have the floor to-morrow. I do not wish to address the committee to-night.

The CHAIRMAN. The Chair can recognize no such arrangement in respect to the floor.

Mr. THOMPSON. Very well; then I will yield the floor unconditionally.

Mr. ANDREWS. I had intended this evening to have made some remarks upon the report made by the gentleman from South Carolina [Mr. Boyce] at the last session, relative to the tariff, but as it is getting late, with the consent of the committee, I will publish my remarks.

Mr. BURNETT. I object to the order by this committee of the publication of speeches not delivered when gentlemen are able to deliver them. I did not object to the request of the gentleman from Virginia [Mr. Goode] just now, because he

was physically unable to deliver his speech; but I will never give my consent otherwise to the publication, in the Globe, of speeches, by order of this committee, which are not delivered.

Mr. GILMAN. I desire to ask the gentleman from Kentucky if it has not been the practice of the House to publish speeches under such circumstances?

Mr. BURNETT. There are a good many abuses which have existed for a long time, and one of those abuses is the publication and sending to the country that which purports to be speeches delivered in this House that nobody here ever hears. I will not give my consent to the continuance of such a practice.

Mr. GILMAN. With the permission of the gentleman from New York, I will say that the gentleman from Kentucky well knows that, during a full session of the House of Representatives, gentlemen upon this floor often deliver their speeches without an audience. Sometimes the subject has been exhausted; and a gentleman wishing to address his constituents through the medium of the press delivers his speech in a full House without being listened to by any one. His object being to address the country, he does not ask for the ear of the House.

Mr. ANDREWS. I will say to the gentleman from Kentucky that I have not before asked such a favor, and would not have done so now but for the fact that I did not like to inflict a speech upon him and other gentlemen of the House at this late hour.

Mr. BURNETT. I would be the last man to deny to any man in this House what courtesy demanded at my hands. But I will say right here, that the reason why I vote against these night sessions is because their effect is, in my judgment, to degrade the character of the House of Representatives. It converts Congress into a mere debating club, in which political essays are read, intended for home consumption, and are then published in the Congressional Globe at the expense of the country. I think it is a bad practice, and ought to be stopped.

Mr. GILMAN. I will ask the gentleman from Kentucky whether, upon the delivery of a speech upon the floor of the House of Representatives, he is not addressing his constituents and the country as much as if he were to present his speech here and have it printed without being delivered?

Mr. BURNETT. Yes, sir; when I make a speech upon this floor I address my constituents, because they constitute a part of the country, and in the remarks which I have had the honor to make here, I have always endeavored to say something, and always to publish just such remarks as I have delivered in the hearing of this House.

Mr. ANDREWS. And I have always listened with pleasure to the gentleman's remarks. I will now proceed with mine.

Mr. Chairman, hostility to the protection of American labor and industry, veiled under the delusive but attractive name of free trade, has been one of the cardinal doctrines of the Democratic party; and it is, in fact, one and the same, in purpose, upon which slavery is based. There are thousands of Americans who fail to perceive this truth, and are therefore wasting their energies in building up with one hand what they are aiming to throw down with the other—are clamoring for free soil with the North, and for free trade with the other, although one is the fixed antagonist of the other; they have, however, much less interest in discovering the fact than citizens of foreign birth.

Mr. Boyce, of South Carolina, submitted, at the last Congress, a report in favor of abolishing all duties upon importation of foreign goods, and for raising revenue by direct taxation. This is, without doubt, the honest and manly way of presenting the question. If a tariff is designed solely, or even mainly, for revenue, it will not bear defense. Direct taxation is the only simple, equal, uniform mode of raising taxes. If we are to have a tariff at all, it must be justified as a means of stimulating the employment of domestic labor—giving, so far as the policy of the Government can contribute to that end, steady work and liberal wages to all who are able and desire to earn their living by honest toil. This should be the direct and principal object; not an incidental one, a mere make-weight for taxation.

I, for one, sir, do not pretend to support a tariff

as a means of raising revenue, and I honor the frankness of Mr. Boyce in taking ground for direct taxation, instead of pretending, as most of his party do, to argue that we must have a tariff for revenue; and if it gives some incidental protection to labor, we cannot help it, and do not care for it; fair play requires that they should take one side or the other. If we are to have protection at all let us have it, because it is wise and just and profitable; let it give us that openly, not incidentally, timorously, and ineffectually, but thoroughly, avowedly, and in the face of day. In this report Mr. Boyce makes such an argument as he can against the justice and expediency of the protective principle, and he states what seems to him an inconsistency in the conduct and reasoning of the friends of the American system; of defending domestic labor against subjection to the policy of England. He says:

"It is a singular fact that while we hear so much on this point of protecting American industry, no one, not even the most zealous protectionist, has taken objection to the free introduction of foreign labor."

I admit the fact; I agree, that we are not hostile to immigration; more than that, I would do what I could to promote its increase. I desire to keep up and increase the rate of wages on this side the Atlantic, and thus to increase the temptation for people to flee from the low wages of Europe, and share in the better rewards that await them here. I even admit more than Mr. Boyce states. For myself, I desire to be entirely consistent, as I believe he is, for himself and for the party he represents. There are but two sides to this question, and no middle ground. Those who are with Mr. Boyce for free trade, are bound to go with him for the extension of slavery and to discourage immigration; nor can one of these objects be promoted without aiding to accomplish the other, though, perhaps, I should in fairness state that the opposition of the party to immigration is confined to white foreigners—it does not extend to raw Africans—they are willing to import them.

It is now thirty years since South Carolina wanted to go out of the Union because we adopted the thoroughly protective tariff of 1828; and, by way of inducing that peppery little State to stay, we compromised that tariff away by reducing the duties, year after year, till 1842. South Carolina had fought the system, and continued to fight without intermission ever since. She, the representative State of the South, devoted to the slave system with an intensity that none other equals; her statesmen aimed avowedly at preserving an equilibrium in the House of Representatives, where relative population is taken into account, and numbers make power; this could not be done. But in the Senate, Florida, with a population not equal—all told, white and black—to that of the city of Rochester, where I reside, balances the State of New York, which State contributes more for the support of the Government than all the other States put together, and yet she cannot obtain one dollar to improve her channels of commerce, when millions are lavished upon other and southern States which have no commerce of consequence.

Here was a chance for maintaining an artificial equilibrium; the negative of the Senate was as effective as the negative of the Senate, the House of Representatives, and the President combined.*

* It will be seen that the white inhabitants of the Republican States outnumber those of the Democratic States in the proportion of two to one:

Republican.		Democratic.	
Maine.....	581,813	Maryland.....	417,943
New Hampshire.....	317,455	Virginia.....	894,800
Vermont.....	313,402	North Carolina.....	533,008
Rhode Island.....	143,875	South Carolina.....	274,563
Connecticut.....	363,099	Georgia.....	591,572
Massachusetts.....	985,450	Alabama.....	426,514
New York.....	3,048,325	Mississippi.....	295,718
New Jersey.....	465,509	Louisiana.....	225,491
Pennsylvania.....	2,258,160	Texas.....	154,034
Ohio.....	1,955,050	Arkansas.....	162,189
Indiana.....	977,151	Missouri.....	592,004
Illinois.....	846,034	Minnesota.....	786,896
Michigan.....	395,071	Kentucky.....	761,413
Wisconsin.....	304,756	California.....	200,000
Iowa.....	191,881	Florida.....	47,203
Minnesota.....	200,000	Delaware.....	71,169
13,520,650		6,422,412	

The above figures, show that the Republican is preëminently the party of the white men of the Union, while the Democratic only maintains its power at all by three million blacks held in slavery, which it represents in Congress and the electoral college, although it will not allow them to vote either for electors or Congressmen.

The problem was a simple one: postpone as long as possible the admission of every Territory which formed itself into a free State; require of it a population at least as large as that which entitles a district to one member of Congress in an old, long-settled community; admit, on the other hand, a slave State, as Florida and Arkansas were admitted, at the earliest possible moment, without regard to the number of people to be represented; represent land and the owners of land in the Senate; when no more States could be carved out of the Union, make slave States abroad by filibustering, as was done in Texas; as was tried and failed in Central America; as is being tried in the northern provinces of Mexico; carve fresh slave States of these and others, and thus keep up the balance of power in the Senate. Such has been the policy.

For this we had the war with Mexico; for this we have tolerated, if not encouraged, the piracy of Walker in Central America; for this our Government, under the dictation of South Carolina, is watching hourly for an opportunity to quarrel with Spain, and to seize the Island of Cuba. In the progress of this policy it became palpable that the immigration from Europe was the great impediment to its success; more than sufficient to add two fresh Senators yearly to the strength of the free States; and if free States were admitted on the same easy terms in respect to population as the slave States. Every immigrant planted himself in the north and west, where labor was respected, where there was work and encouragement for mechanics and artisans. And it is remarkable that though they added to the nominal representation of the free States, yet they voted with surprising uniformity for the so-called Democracy, and aided to send Representatives and Senators to Congress, who always voted with the South against protection to domestic industry, and against any restriction upon the extension of slavery.

The continental revolution of 1848, on the other hand, expatriated hosts of intelligent and patriotic men, especially from the German States; men who could appreciate the advantages they found here, and could communicate them to their brethren at home; men of fondness for freehold ownership and cultivation of the soil, and also to a great extent of skill labor, diversified labor, labor that used machinery, and employed itself in higher departments of handicraft industry. They had sympathies with the arts of manufacture, the growth of which is abhorrent to the slave policy, and has no encouragement from the creed of free trade. Above all, their sympathies for freedom were as old as the days when Germania defeated Varus and the legions of Rome; an abhorrence of being themselves enslaved, or of witnessing the enslavement of others, that has run in the Teutonic blood from the remotest generations, and is as irradicable as the blue eyes and the flaxen hair that has marked the Saxon since the dawn of history. It was this that startled South Carolina with the prospect of free States in Texas and the southern States in which Germans have settled in any numbers. It is this which in Missouri renders emancipation no longer a dim possibility of the remote future, but an event no longer doubtful, but briefly postponed.

Remember, now, that in 1854 we were startled with intelligence of the triumph of a new party of Know Nothings, among the earliest, in Richmond, Virginia, and Mobile, Alabama, where there were few or no citizens of foreign birth.

Think you, sir, it was fear for the Protestant faith; or abuses in regard to the naturalization laws; or the competition of foreign mechanics, as was the case in so many of our northern cities, (whose American sentiments have no sympathy with slavery extension,) that brought into sudden existence the new party in those southern towns. Was it, could it have been, any effect resulting, or apprehended, from the increase of adopted citizens among them, that gave rise to the South American party? Not at all. It was the strength that foreign immigration was giving to the Free-Soil sentiment, which was breaking away from and breaking down the Democracy of those States. This was the terror to the slave power; such was the southern motive for repelling immigration from Europe to the North, where it had tended; and invoking this spirit in the free-trade policy, which refuses to recognize any propriety in main-

taining higher wages for labor, and thereby inviting immigration.

While enjoying the winter sunshine of this delightful climate, so soft and invigorating; its autumn (not winter)

"Lingering in the lap of Spring;"

so favorable to success and prosperity, especially in agriculture, I cannot but be impressed with the reflection, how vastly a few terms of Free-Soil administration of this Government would change the condition of this District and the adjacent States of Virginia and Maryland; how its influence would spread bloom, beauty, and fertility over their exhausted and sterile fields; I believe that but this one thing is needful to double the value of the property of this city and the farm lands of those States. Would that their noble-hearted and hospitable citizens saw their great pecuniary advantage in this particular, and could regard the experiment worthy of attention, upon their soil and their pockets. I am confident that Virginia, teeming with population, rich in agricultural, commercial, and mineral wealth, and magnificent manufacturing facilities, would truly become again what her extent of territory and advantages entitle her to be, the honored Old Dominion, among her sisters of the Confederacy. Think of it!

There is no reason in the world why cotton should not be spun and woven in Georgia and South Carolina, alongside of the fields where it grows. Those States have the water-power necessary to drive the looms running to waste in a thousand streams; they have timber and stone, for building, which is now worthless for want of any market; they have spare labor enough to work up, a dozen times over, all the cotton they can raise, for it requires four times as many negroes to pluck the cotton during the brief season between the bloom and frost as it does to cultivate it during the rest of the year; and, of course, the greater part of their time is wasted for lack of profitable employment. The saving of transportation and waste in the raw cotton would more than pay for all the labor of spinning it into yarn. Why, then, is it not done? Simply because slaves cannot be trusted with the management of machinery; and in regions devoted to slave labor, with scattered population and few towns, free laborers are not to be found.

The result is that slave States raise cotton, tobacco, and rice, which they export; and every shoe, every hat, every wagon, everything which the cunning fingers of a mechanic have been employed upon, is imported from the free States, or from Europe through the free States; for they have neither ships, nor sailors, nor commerce, of their own; and a diversity of home labor is irreconcilable with the slave system; thus they obstinately continue to raise a few crops, which must be sent a great distance to be manufactured and consumed. And, though they purchase everything but food, the purchases of a community made up of slaves are not as great per head, including the owners, as those made for northern jails and poor-houses. Returning nothing to the land, they wear it out in a few years, by remorseless use, desert the reduced soil, which grows up into pine barrens, and remove to fresh States, to wear them out in turn.

Such has been the history of the migrations from Virginia to Carolina; from Carolina to Alabama; from Alabama to Texas; compelled by the exigencies of the slave system to do nothing but farm labor themselves, they want the free States to do the same. They reason that England cannot buy their cotton, unless we of the North will buy of England cloth, iron and other fabrics to enable her to pay them. Now, sir, we are averse to this unprofitable traffic, and if we can help ourselves, we desire to manufacture the wool and cotton ourselves, and we have mountains of coal and iron in the mining and manufacture of which we ask to be permitted to earn remunerative wages. We ask to have the home market secured to us that we may not be broken down by the low-priced labor of Europe, while we are learning to do this well, and cheaply; England learned to do so by encouragement and protection to her manufactures until they had reached a point beyond danger from competition, and now she can afford to encourage free trade among other nations, for including her own supply, she manufactures \$1,000,000,000 value, and exports one half that

amount. Her wonderful progress in manufacturing skill was learned from protection, and now it is not needed, being able to challenge competition. We have, by such protection as we have had, learned to manufacture coarser descriptions of cotton so much cheaper than England, that we undersell her in India, China, and South America, notwithstanding the much lower wages she pays.

But, say the South, expend your labor in raising products for export to Europe, to pay for your goods; and thus for the purpose of maintaining a foreign market for their crops, they would force us to the culture of breadstuffs, to feed the foreign laborer, while he does for us what we much prefer doing for ourselves. So long as their policy controls us, we must go on scattering ourselves wider and wider, over the West, removing further and further from the customers whom they would provide for us on the other side of the Atlantic, and compelling the emigrant to be a competitor with the farmer for the sale of produce, when, if permitted to engage in the mechanic arts to which he has been bred, he would be a most valuable customer; a customer just in proportion to the wages he earns; for directly, or indirectly, every man furnishes a market for others precisely equivalent to the market offered to his own labor; every man kept at full work himself gives work to others to the same amount, provided that they all do not work at the same trade. When a shoemaker earns a dollar, that surely goes to the baker, farmer, and carpenter, and everybody with whom he deals; and he deals with everybody but his fellow shoemaker; the most of his earnings goes ultimately to the farmer, who has raised the necessities of life, and the raw material for manufacture; but make him a farmer instead of a shoemaker, and you have put two men under the necessity of going to England for a market, instead of allowing them to furnish one to each other at home, to their mutual comfort and profit to the entire cost of transportation both ways.

In illustration of the principle just stated, permit me to call the attention of this House to the statement as to Gienham Factory, Fishkill, Dutchess county, taken from Hudson's Report, 461, page 58:

Capital, \$140,000; amount of wool used in 1841, 170,335 pounds; number of men, women, and children employed, 170.	
To yield 170,335 pounds of wool at three pounds per head, requires 56,778 sheep, which, at one dollar per head, is	\$56,778
The land required to keep these sheep, at one acre for three sheep, summer and winter, at \$20 per acre, which in that region is a low valuation, gives 18,926 acres, and	378,520
Farming capital in sheep and land for their keep.	435,298
Add to this the land necessary to raise flour, beef, pork, vegetables, rent, &c., for the 170 operatives and those dependent upon them	70,000
Total	\$505,298
Or nearly five dollars of farming to one dollar of manufacturing capital.	

It is plain that we have farmers enough, from the fact that they raise more than is consumed at home, and have to send the surplus abroad. They want customers, not competitors; and the emigrant did not come here for the purpose of engaging in a calling which he finds already overdone, and thus of obtaining the benefit of cheap farm produce. If the farmer will be, or if the South will suffer him to be, a customer to his trade, whatever that may be, can anything be more evident than that it is the greatest possible discouragement to emigration to compel the emigrant to be a farmer for want of other employment? Does it need any demonstration that the policy of looking to the exportation of produce and the importation of manufactures has this tendency?

Mr. Boyce and the politicians of the South are not mistaken upon this point. They see that free trade and slavery are identical in interest, and both discourage immigration; and they are content with the service of that foreigner who sustains the free-trade doctrines for this end. Now, sir, the leading pursuit of this country, the one in which the great part of the people earn wages, is agriculture; and yet it is the pursuit in which wages are the lowest. Keep them up in that, render that calling remunerative, and you may be sure that its wages will be spent in purchasing the labor, or products of the labor, of the mechanic and manufacturer. He wants customers at home; one in his neighborhood is better than

fifty in Europe; for, being better paid for his labor, he has more to spend; and besides, somebody must pay the difference between the cost of transportation in both directions; it is a dead waste of labor that profits nobody. If the farmer must feed the manufacturer, then it is their mutual interest that it should be done here rather than in Europe.

Therefore I regard it the true policy of this Government so to legislate as to prevent those who do not propose to immigrate and share their lot with us from interfering with the market for our labor by sending their labor here in the shape of manufactured fabrics. One of two things we must do; namely, either import the labor already performed in the manufactures of foreign countries, or we must import the laborer from foreign countries to perform it. When he is imported, we have imported once and forever; it is folly to keep the artisan on the other side of the Atlantic and import his labor piecemeal—a roll of cloth, a box of hardware, a cargo of railroad iron, a case of hats or shoes—and so by little and little ferrying over the ocean the products of his life-long toil; we, on the other hand, carrying to him his flour and meat. Why all this fruitless and expensive labor? Simply to prevent the man coming here to build up free States and to secure that ascendancy in the councils of the nation which shall administer the Government for the interest of free labor.

Under the effects of a protective tariff our manufactures were built up; large numbers of persons were employed; the demand for farm produce was increased; the farmer found a constant and profitable market, and could afford to be a large purchaser of manufactured articles, for luxury as well as comfort; and it was true; as it ever will be, that the competition among our own manufacturers kept prices low; that the nearer the producer and consumer are brought to each other the better for both, and that all the interests of the country are benefited. Such was the effect of the old tariff. Since its repeal we have been giving employment to foreign capitalists and foreign laborers, and feeding them with bread taken from the mouths of our own laborers. Suppose, sir, that the views of Mr. Boyce should be carried out; that all the duties on imports should be removed, and prices be thus reduced, (which is contrary to our experience;) how does that benefit the laborer, who in consequence is deprived of work? He will have no means to purchase at the reduced price. You must first furnish him with the money, if you give him no chance to earn it. I say, sir, give him work to do by protecting his labor, and he will purchase what he requires, and surround himself and his family with the comforts and independence becoming an American citizen. Sir, this free-trade dogma, from first to last, is a cheat and a fraud upon the public credulity.

Sir, the annual expenses of the Government have now reached the fearful amount of nearly ninety million dollars; and under the doctrines of expansion, indicated by the President, and urged on this floor, namely, the acquisition of Cuba, Central America, and Mexico—in fact, the taking to ourselves everything that may be “lying loose round,” that expense will not diminish; certainly, such a process, at the risk of war threatened by the gentleman from South Carolina [Mr. Kerr] with most of the great Powers of Europe, is rather incompatible with reduction and economy; and the question arises, how will we meet this vast expenditure? Direct taxation under the Constitution, upon the basis of representative population, is out of the question. Why, sir, a large number of congressional districts in some of the States would not sell for a sum sufficient, negroes and all, to pay the taxes for five years, when under that system the value of property shall be reduced, as it must be, to the standard of coin; for the tax upon each congressional district in the United States will be over three hundred thousand dollars per annum. In fact, the President and Congress have repudiated this resort, and the necessity for a tariff is admitted. I rejoice that even necessity has driven the Government to this admission, as between the alternative of tariff and direct taxation.

The gentleman from Ohio [Mr. Cox] catches ferrid glimpses of the future, and prophesies that England will acquire the vast and fertile cotton-

growing valleys of China to which the sixty miles square of cotton lands in the United States “is as nothing.” When that event shall happen, then our southern friends will demand a home market for that product, and clamor again for a protective tariff, as they did at an earlier period of our history. In the mean time I cannot doubt the present necessity will not be lessened by any economy in the policy of this Government. With this I am content, looking to the wisdom and patriotism of a Republican Administration, which shall surely succeed this, for the enactment of such measures as shall restore, not only adequate revenue, but also business and prosperity to the people.

Mr. KELLOGG obtained the floor.

Mr. PURVIANCE. I hope the gentleman will yield to a motion that the committee rise.

Mr. KELLOGG. I will for that purpose, but none other.

Mr. PURVIANCE. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker *pro tempore*, Mr. VALLANDIGHAM, having taken the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly certain resolutions relative to the President's message, and had come to no resolution thereon.

And then, on motion of Mr. GILMAN, the House (at a quarter to nine o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, January 20, 1859.

Prayer by Rev. H. C. McDANIEL.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message of the President of the United States, communicating, in answer to a resolution of the Senate, of the 14th of June last, requesting a list of the claims of citizens of the United States against foreign Governments, a report of the Secretary of State, with the documents accompanying it; which was laid on the table.

Mr. BENJAMIN subsequently said: Mr. President, whilst my back was turned for a moment this morning, a communication of the Department of State was, as I understand, laid on the table. That communication was addressed to the Senate in response to a resolution passed at my instance at the last session. It contains a statement of all the claims of citizens of the United States against foreign nations, as I understand—a document that I deem to be absolutely necessary to the discussion of our foreign relations, which will probably take place very soon in the Senate. I move that it be printed; and whilst so moving, I desire to state that when that subject shall come up I shall offer a bill which I have in my hand as a substitute for the bill reported by the honorable chairman of the Committee on Foreign Relations, [Mr. Mason,] whom I do not see in his seat this morning; and I ask the unanimous consent of the Senate that this bill be printed as a proposed substitute for the bill (No. 500) authorizing the President of the United States to use the public force of the United States in the cases therein specified, which has been reported from that committee.

The PRESIDING OFFICER, (Mr. FITZPATRICK.) The motion to print the communication of the Department will go to the Committee on Printing.

Mr. BENJAMIN. I merely ask that this bill be printed informally, as a substitute to be offered hereafter, for the bill of the Senator from Virginia.

The motion to print the substitute was agreed to.

COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate a letter from the clerk of the Court of Claims, returning, in compliance with a resolution of the Senate, the petition and papers in the case of Captain John B. De Treville; which was ordered to lie on the table.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT signed the following enrolled bills and joint resolution, which had heretofore received the signature of the Speaker of the House of Representatives:

A bill for the relief of James G. Holmes;

An act to provide for holding the courts of the United States in the State of Alabama; and

A joint resolution authorizing Townsend Harris, United States consul general at Japan, and H. C. I. Henskin, respectively, to accept a snuff-box from her Majesty the Queen of England.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives yesterday, were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (No. 551) to protect the fund for school purposes, in Sarpy county, Nebraska Territory;

A bill (No. 683) recognizing the survey of the Grand Cheniere Island, State of Louisiana, as approved by the surveyor general, and for other purposes;

A bill (No. 801) to fix and regulate the compensation of receivers and registers of the land offices, under the provisions of the act approved April 20, 1818;

A bill (No. 802) providing for satisfying claims for bounty land, and for other purposes;

A bill (No. 803) to amend an act entitled “An act authorizing repayment for land erroneously sold by the United States;”

A bill (No. 804) to authorize settlers upon sixteenth and thirty-sixth sections, who settled before the surveys of the public lands, to preempt their settlements; and

A bill (No. 805) to run and mark and establish the western boundary of the State of Minnesota.

MOBILE AND OHIO RAILROAD.

The bill (H. R. No. 669) for the relief of the Mobile and Ohio Railroad Company, was read twice by its title.

Mr. BROWN. I ask the indulgence of the Senate to put that bill on its passage now. It is a matter in which the Government has no interest, the title to the land having long since been transferred to the State of Mississippi; but the State gave the lands to a railroad company, and they sold them before the title was perfected in the State. Some of our courts have ruled that a title purchased from the railroad company is not perfect; and all that is designed by this bill is to quiet the titles of private purchasers from the railroad company.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

As the State of Mississippi, by its act approved the 28th January, 1852, and the State of Alabama, by its act approved December 1, 1851, transferred to the Mobile and Ohio Railroad Company the lands which were granted to those States under the provisions of the act of Congress approved the 20th September, 1850, to aid in the construction of a railroad from Mobile to the mouth of the Ohio river, the transfers of those States to the company are by this act recognized, ratified, and confirmed, and the title of all *bona fide* purchasers from the company are also confirmed, and the time limited by the original act of Congress for the completion of the railroad is extended. The company is allowed until the 20th December, 1865, to complete the road.

Mr. STUART. Is there any report accompanying that bill?

Mr. BROWN. It is a House bill.

Mr. STUART. I understand that.

The PRESIDING OFFICER. There is no report that the Chair is aware of.

Mr. STUART. I think that is a matter which ought to be examined. I understand that the Senator from Mississippi has made a statement about it; but still I hope he will allow it to lie over until to-morrow.

Mr. BROWN. I stated, but I will state it again for the benefit of the Senator from Michigan, that the title has long since passed from the Government into the hands of the States of Mississippi and Alabama, and they gave the land to the railroad company, for whose benefit those States received it from the Federal Government. The company have gone on to sell the land; but some of the courts have ruled that the title of the purchaser is not perfect, since the State gave it to the railroad company before she had her own patent from the General Government. She has her patent now, and all that this bill is designed to do is simply to perfect the title.

Mr. STUART. The danger in the case is sim-

ply this: this is one of those railroad grants which hangs upon the condition prescribed in the bill. If the State to which the grant is made complies with the conditions upon which Congress grants the land, then the title passes; otherwise not. Those are the terms of the original grant. Now, the character of this bill is such as to confer absolutely on those States all the land which was granted in the original act. One of the terms of the grant is, that unless the road be completed within ten years, the title fails. It will be seen that this bill proposes to extend the time limited in the original act to 1865, but does not make the title of the lands to depend upon the completion of the road in 1865; it gives the title absolutely. This is one of a large class of cases; and if Congress begins now to ratify these grants, and to make them absolute, without any performance of the condition of building the road, what is the consequence? You give the companies to whom the State has granted the land the entire benefit of the grant, without imposing on them the construction of the road. You therefore not only do great injustice to the national Government, but equal injustice to the States to which the grants were made.

I am speaking, I confess, very much in the dark on this question, for there is no report with the bill. The Senator states that the State has its patent. My understanding is, that the General Government gives no patent in railroad grants at all until the road is made. A bill was passed here some time ago authorizing patents to be issued; but whether it has ever passed the House of Representatives or not, and met the approval of the President, I am not aware. We passed that bill in the Senate upon the ground that, although the law making the grant gives the title, yet that there was no evidence of title to put on record, and that these railroad companies had been interfered with by speculators, who frighten those who desire to purchase of them, by saying, look at the records of the county, and you will not find any evidence that the company owns the land. Instances of this sort have occurred in Illinois.

Then, again, the purchasers were told to beware, because there is a condition in the law that the railroad, when constructed, shall carry the mails, and the treasure, and the troops of the United States; and if they ever failed to do that, the purchasers would lose their titles. Thus a cloud was thrown over the title, and the Committee on Public Lands reported, some time ago, a bill, which was passed here, authorizing the issuing of a patent whenever the terms of the grant had been complied with, so as to settle that question; but, as I understand, that has never passed into a law. Now, I think that this bill should lie over to be examined.

Mr. GWIN. Let it go to the Committee on Public Lands.

Mr. STUART. If the Senator from Mississippi is correct, there is no evil growing out of it.

Mr. BROWN. The Senator is chairman of the Committee on Public Lands, and if there is any degree of difficulty in this bill, I have no objection to its going to the committee. I do not want it to lie on the table, but I move its reference to the Committee on Public Lands; and on that motion I desire to say one word. I may have gone too far in saying that there was a patent issued, but I had not gone so far as to say that the title had been confirmed in the State.

Mr. DAVIS. I think the objection stated by the Senator from Michigan is complete upon his premises. I believe, however, he is somewhat mistaken in the case. This bill relates only to that portion of the road which has been constructed. No grants have passed except where the road has been constructed, and the conditions fully complied with; but I am willing to have it examined.

The bill was referred to the Committee on Public Lands.

ORDER OF BUSINESS.

Mr. GWIN. I want to make an appeal to the Senate to take up the railroad bill to-day, and dispose of it. If we take it up now, I think we can certainly dispose of it during the day. The public business behind this measure is absolutely suffering, and I cannot be responsible any longer for pressing this measure on the Senate after to-day. I hope it will be taken up and disposed of. It has been before the Senate now for weeks; and

if it is taken up to-day, and if we vote on the various propositions, we can dispose of the subject. I hope the chairman of the Finance Committee will let us vote on it, and I pledge myself to him I will never call it up again. Others may do it, but I will not. All I want is to have this day for a final disposition of it.

Mr. HUNTER. I wish to say to the Senator from California that the pension appropriation bill can be passed directly. The Senator from Maine [Mr. HAMLIN] has assured me he will make no further objection. It was understood yesterday that it was laid aside by consent, to be taken up again this morning. Allow me to take that bill up, and it will be out of the way in fifteen minutes.

Mr. GWIN. Very well.

The PRESIDING OFFICER. Petitions are now in order.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented the petition of Jacob V. A. Wemple and George Westinghouse, praying that the Commissioner of Patents may be authorized to hear and determine their application for an extension of a patent for an improved grain separator; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of Lewis C. Underwood, praying to be allowed the right of preemption to a certain tract of land; which was referred to the Committee on Public Lands.

Mr. YULEE presented the petition of Charles C. Waldren, manager and superintendent of a company established for the purpose of connecting the United States with Cuba by means of a subterranean telegraph, praying that the President of the United States may be authorized to contract with him for the transmission of Government dispatches; which was referred to the Committee on Naval Affairs. And, in connection therewith, he submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs inquire into the expediency of connecting the fortification and naval station at Garden Key (Fortugas) with the lines of telegraph now constructing to Key West and Cuba.

Mr. DOUGLAS. I am requested to present the memorial of Henry O'Reilly, John J. Speed, jr., and Tal. P. Shaffner, proposing to complete a telegraph connection between the Atlantic and Pacific States, by the commencement of the next session of Congress, in December. The memorialists state that if the Senate pass the bill reported from the Committee on Military Affairs, at the last session, they pledge themselves that one line of telegraph to the Pacific shall be opened for the transmission of messages by the opening of Congress at the next session. I move that it be referred to the Committee on Territories.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the letter from the Secretary of State, communicating a copy of a letter from the minister resident of Bremen, inviting the attention of the Government to the proposition of a citizen of Bremenhaven, (Mr. J. H. Eits,) for testing his invention for preventing the destruction of vessels by fire, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 788) authorizing the Secretary of the Treasury to grant a register to the schooner William A. Hamill, reported it without amendment, and with the recommendation that it do pass.

Mr. CLAY. The Committee on Commerce, to whom were referred two petitions of business men on the northwestern lakes, praying that an appropriation may be made to ascertain whether Professor Ballot's rule, by which the approach of storms may be foretold, is applicable to the lakes, have instructed me to make an adverse report. I wish to call the attention of the Senate to the fact that the same committee, during the last session, reported adversely on these same petitions, and in violation of the rule of the Senate, which, as I understand, inhibits the taking from the files and referring back to the committee, any matter which has once been reported upon adversely, these papers have been recommitted, and yet no additional testimony has been submitted.

Mr. CLAY. The Committee on Commerce, who were instructed by a resolution of the Senate of May 28, 1858, to inquire into the expediency

of making an appropriation to preserve the works heretofore commenced to protect the harbor of San Diego; also to survey the rivers and harbors in the State of California, have instructed me to ask to be discharged from its further consideration, on the ground that it is inexpedient at this time to legislate on the subject.

Mr. BENJAMIN. The Committee on the Judiciary, to whom was referred the joint resolution (S. No. 62) explanatory of an act approved March 3, 1855, entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," have instructed me to ask to be discharged from its further consideration, on the ground that the resolution had already been reported upon adversely by another committee of the Senate at the present session, and the Judiciary Committee did not think it expedient to exercise appellate power over the action of another committee of the Senate.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Navy, communicating a statement of contracts made under the cognizance of the bureau of yards and docks, during the year 1858, reported adversely thereon; and the report was agreed to.

Mr. GREEN, from the Committee on Territories, who were instructed, by a resolution of the Senate, to inquire into the expediency of equalizing the salaries of the Governors of New Mexico and Oregon, reported adversely thereon.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of Ruth Ellen Greland, submitted a report, accompanied by a bill (S. No. 519) for the relief of Ruth Ellen Greland, widow of John H. Greland, deceased.

The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James Varney, a soldier in the war of 1812, praying to be allowed a pension on account of a disability contracted in the service, reported adversely thereon.

He also, from the same committee, to whom were referred the petitions of Samuel Warner, Henry Schoonover, Jacob Riffel, Isaac Cutright, Isaac White, and George Butcher, severally praying a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of William B. Herrick, a surgeon in the Army during the war with Mexico, praying to be allowed a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Sarah Hutton, daughter and heir of Jane Baker, praying to be allowed a pension on account of the services of Thomas Baker, in the war of the Revolution, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Carl Becher, of New York, asking an increase of pension, reported adversely thereon.

SENATORIAL ELECTIONS.

Mr. COLLAMER. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 481) to prescribe the time and manner of holding elections for Senators of the United States, to report it back with an amendment, in the nature of a substitute. I am further instructed by the committee to move that the bill be made the special order for an early day—say Tuesday next, at one o'clock.

The motion was agreed to.

JANE PERRY.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 518) for the relief of Jane Perry; which was read twice by its title.

Mr. SEWARD. I ask leave to state briefly that when I was not in the Senate, or when my attention was diverted, a report of the Committee on Pensions, adverse to a similar bill, was, at an early day of the session, concurred in with a great many other adverse reports; and that, as I desire to have a hearing on the subject, on the merits of the case, I introduce this bill for the purpose of reinstating the question. I move that the bill be referred to the Committee on Pensions.

The motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders and take up the invalid pension bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 662), making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1860, the pending question being on the amendment offered by the Committee on Finance to insert the following as a new section:

SEC. 2. *And be it further enacted*, That from and after the 1st day of July 1859, the present agencies for the payment of pensions be, and the same are hereby, abolished, and that the duties heretofore performed by the agents shall be discharged by the officers named in the sixth section of the act entitled "An act to provide for the organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August 6, 1846, and in the manner prescribed by that act: *Provided, however*, That the said officers shall not be allowed any additional compensation for the discharge of the duties imposed on them by the said sixth section of the act aforesaid as herein prescribed.

Mr. HUNTER. The Senator from Maine informs me that he withdraws his objection to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Committee on Finance, to insert the following as an additional section:

SEC. 3. *And be it further enacted*, That in all cases of application for the payment of pensions to invalids under the several laws of Congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility as such shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such disability at the time of making the affidavit, shall accompany the application of the first payment, which shall fall due upon a day in the fiscal year for which provision is made herein, to be declared by the Secretary of the Interior, and at the end of every two years thereafter; and if in a case of continued disability it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment.

The bill was reported to the Senate as amended.

Mr. TRUMBULL. As I understand the bill, as amended, it dispenses with pension agents. I am glad to see a bill brought in here to dispense with some of the supernumerary officers of the Government; but in doing that, and in casting their duties on other officers, it occurs to me that it may be necessary to have a provision requiring additional security. These pension agents disburse large amounts of money. We have no sub-Treasurer in the State of Illinois; and suppose some postmaster should be selected to perform these duties, and thousands and tens of thousands of dollars should be placed in his hands to be paid out to pensioners: the men who went security on his official bond as postmaster never contemplated such a duty as this being imposed on him, and might be very unwilling to stand as security for its performance. His bond may not be sufficient. Perhaps this may all be regulated by the Department; but it seems to me it would be proper to put in the law a provision requiring additional security. I suggest it. If it is sufficiently guarded, I have no objection to the bill, and it has my support, as any other bill will have which has a tendency to dispense with the supernumerary officers of the Government.

Mr. HUNTER. We supposed the security was given in the original bond for the discharge of the duties imposed on them by law; and these duties were imposed on them before they gave the bond under the sixth section of the sub-Treasury law. We are providing that that law shall be enforced. It was with reference to that law that they gave their bonds. I presume that will secure it. If it will not, I have no objection to any other provision that will insure it. It seems to me the original bond is security.

Mr. TRUMBULL. The bond probably would not be in a sufficient sum to afford security in such a case. The bond taken from postmasters is not in a very large penalty, I apprehend; and this bill may place in the hands of such officers a considerable amount of money.

Mr. HUNTER. It has been suggested by my friend from Michigan, that the Department fixed

the amount. The law does not fix it; but the Department will require such bond as is necessary.

Mr. HAMLIN. There is another suggestion which I think is worthy of the attention of the chairman of the committee who has reported this bill, and it applies to the first amendment. It provides that the persons designated shall perform the service without additional compensation. Well, let me assume, what I presume will be the case in some instances, that the duty is imposed upon a collector of the customs, he being one of the officers named in the section of the law to which this act refers: what constitutes the compensation of a collector now? Fees of office and commissions on moneys collected and paid out. There is an existing law, which says, that upon all moneys which go into the collector's hands to be paid out, he shall have a percentage. This bill says there shall be no additional compensation for this service; but he will claim the percentage on disbursing this money, under the law that now exists, because that law regulates the mode and manner in which he is to be paid for all moneys that go into his hands. I think, under that clause as it stands, if the duty is devolved on a collector, he will come in, claim his commission, and have it allowed; and thus you will only transfer the office from one person, who gets his pay by a commission now, to another who will get his commission under this bill. I am not prepared, at this time, to say what is the percentage allowed in either case. With collectors the percentage varies. When the amount is large, the percentage is less; when the amount is small the percentage is larger. If there be a reformation in this matter, the bill ought to be so guarded as to effect the object which the Senator from Virginia seeks to accomplish by it. I doubt very much whether the provisions he has proposed will do so.

Mr. HUNTER. I had supposed the section was so explicit that these officers could not, by any possibility, receive any additional compensation for the discharge of these duties; but if the Senator from Maine will suggest any language that is more explicit—I confess I cannot—I am willing to adopt it. The object is to prevent their getting any additional compensation.

Mr. GREEN. The Senator from Maine is a little mistaken about the compensation of collectors. They get no pay for money which they pay out, except in one single instance, and that is for light-house expenses, and there they get \$400 and no more. Their compensation is made up of fees on collections, with a certain limitation prescribed in the law. The law positively prohibits them from receiving any compensation for moneys paid out, except the light-house establishment, and there it is limited to \$400.

Mr. STUART. I should like to hear that part of the section, fixing the limitation alluded to by the Senator from Maine, read.

The Secretary read it, as follows:

"*Provided, however*, That the said officers shall not be allowed any additional compensation for the discharge of the duties imposed on them by the said sixth section of the act aforesaid, as herein prescribed."

The amendments made as in Committee of the Whole, were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

PACIFIC RAILROAD.

Mr. GWIN. I now move that the Senate proceed to consider the Pacific railroad bill.

Mr. SHIELDS. I have to appeal to my honorable friend from California, to allow me to call up a bill, as there are a few minutes of the morning hour still left. I allude to the case of Laurent, one of the hardest cases that ever came before the Senate.

Mr. GWIN. Permit me to suggest to the honorable Senator from Minnesota, that to-morrow is private bill day, during which the Senator's bill may be reached. But if that should be improbable, one hour is to be devoted to the reception of reports and other kindred business, and then the Senator may have time to call up the bill which he moves the Senate now to consider. I hope the Senator will defer his motion until to-morrow, that we may devote this day to the railroad bill. If he assents to my suggestion, to-morrow he shall have my support for the motion which he now makes.

Mr. SHIELDS. This is a very hard case; but if the Senator will give me his assistance to-morrow, I will yield to him now.

Mr. STUART. I am in favor of the motion made by the honorable Senator from California, but I ask the indulgence of the Senator and the Senate for a few minutes, while I state what I may not have an opportunity to state again. I am, and have been always since the subject has been agitated, decidedly in favor of the construction of a railroad to the Pacific. This bill has occupied a large share of the time of the present Congress. After consuming a very considerable amount of the time of the last session, a motion was made which disposed of it for that session. It has occupied almost all the time of the present session, and acting under the belief that it would be impracticable to agree among the friends of the measure upon the details of a bill which could be passed, I have, whenever a motion has been made within the last week the effect of which was to finally dispose of the bill, voted for it. My object in rising now is to place myself beyond the possibility of misapprehension in consequence of those votes. I have not said a word upon this subject before. I have sat here a silent listener during the whole of this session, ready to vote and anxious to vote on any proposition made connected with this subject. I shall do that hereafter. I do not believe that a proposition can be submitted which will call forth from me any remarks. In saying this, sir, I must not even by inference be supposed to find any fault with gentlemen who have seen fit to debate it. I am simply explaining my own position. I shall continue to-day or hereafter, according to the pleasure of the Senate, to give assiduous attention to this measure and in the hope that something can be agreed upon by which such a work will be constructed. But, sir, there may be questions submitted to the Senate hereafter which will induce me to give a vote which will look to the disposition of the subject. These votes, like those that have been given heretofore, will not be indicative of any want of favor for this or any similar measure.

The motion to take up the bill was agreed to, and the Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad from the Missouri river to San Francisco, in the State of California.

Mr. PUGH. With the unanimous consent of the Senate, I ask leave to withdraw my amendment for the present, in order to enable the Senator from Mississippi [Mr. DAVIS] to have a vote on his substitute.

The PRESIDING OFFICER. The Chair hears no objection. The amendment is withdrawn.

Mr. DAVIS. I now ask the Senate to consider the proposition which was some time since submitted by me. It is to strike out all after the enacting clause of the bill, and insert a substitute.

The substitute is as follows:

That the President of the United States be, and is hereby, authorized and directed to advertise for proposals to establish railway communication across the territory of the United States, and thus to connect the States of the Atlantic and the Pacific, and to contract for the transportation, upon said railroad, of the United States mails, troops, seamen, munitions of war, supplies for the Army and Navy, and all other Government service.

SEC. 2. *And be it further enacted*, That the party contracting to establish said railway communication shall be required to construct the railroad in a substantial and workmanlike manner, equal in all respects to railroads of the first class, with all the necessary drains, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including equipment and rolling stock. And the said railroad, with all its appurtenances and equipment, shall be finished and put into complete operation within the period of ten years from the execution of the contract.

SEC. 3. *And be it further enacted*, That, to aid in the construction of said road, there shall be, and is hereby, appropriated and set apart the alternate sections of public land, for the space of six miles on each side of said road, to be held and conveyed as herein provided. The alternate sections hereby appropriated shall be those designated in the public surveys by odd numbers; and the contracting party receiving lands under the provisions of this act shall be required to sell, and unconditionally convey, one half of the same within five years from and after the issuing of the patents for the same, and the remaining half within ten years from the issuing of the patents; and all said lands not so alienated shall revert to and become the property of the United States.

SEC. 4. *And be it further enacted*, That the party with

whom the contract aforesaid may be made shall proceed without delay to locate the general route of said road, and furnish a detailed survey and map thereof to the President, who shall cause the public lands, to the extent of forty miles on each side of the said road, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable; and the provisions of the act of September, 1841, granting pre-emption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to the lands thus surveyed excepting those herein set apart and appropriated for the use of the said road.

Sec. 5. *And be it further enacted*, That in making said contract, it shall be stipulated that the said road be divided into sections of twenty-five miles each, and that none of said lands are to be conveyed to the contracting party until one section is completed and put into successful operation, when the President shall convey by patent to the contracting party three fourths of the land pertaining to the section so completed, retaining the other fourth as security for the completion of the next section of twenty-five miles; and when the next is completed, the President shall, in like manner, convey to the contracting party three fourths of the land pertaining to that section, together with the reserved one fourth on the previous section; and so on with each succeeding section, conveying three fourths and retaining one fourth as security for the completion of the next until the last section of the road is finished and put into operation, when the President shall convey to the contracting party the residue of the lands hereby appropriated.

Sec. 6. *And be it further enacted*, That the land of the United States, for two hundred feet in width, along the entire line of said road, is hereby set apart and dedicated for railroad and such other purposes, not incompatible with this grant, as Congress may authorize and direct; and the party contracting for said road may take any earth, stone, timber, or other necessary materials, for construction and keeping in repair of the road, within the said two hundred feet, subject to such regulations as Congress may provide.

Sec. 7. *And be it further enacted*, That the contracting party for, or owners of, said road may at any time construct one or more additional tracks, within the two hundred feet set apart for the right of way; and it shall be the duty of said contracting party, or owners of said road, to permit any other railroad, which shall be authorized to be built by the Legislature of any Territory or State, in which the same may be situated, to form connections with it on fair and equal terms.

Sec. 8. *And be it further enacted*, That the President be, and he is hereby, authorized to enter into contracts for the transportation, under the direction of the proper Departments, on the said road, when completed, and for any available part thereof, while said road is in course of construction, for the period of twenty years, of the United States mails, and all military and naval supplies, troops, seamen, passengers, and freights of all kinds, for Government purposes, with the limitation that the price to be paid shall not exceed that which the Government would necessarily pay by any existing means of transportation, nor in time of war be higher than the rates stipulated for in time of peace.

Sec. 9. *And be it further enacted*, That in any case where the passengers and freight shall be greater than the transporting capacity of the road, the Government shall have priority of right for all purposes of transportation.

Sec. 10. *And be it further enacted*, That, for and in consideration of the advantages thus to be secured to the United States in the use of said road, and further to aid in the construction of said road, \$10,000,000 are hereby appropriated, to be advanced upon the following conditions and provisions, to wit: As a guarantee of the faithful performance of the contract hereinbefore described, the contracting party shall deposit with the Secretary of the Treasury the sum of \$500,000, in bonds or certificates of stock of the United States, which may be subsequently withdrawn, in sums of \$10,000, as the work progresses, on production of vouchers showing, to the satisfaction of the Secretary of the Treasury, that an amount equal thereto has been expended in the construction of said road. When one twentieth part of the line of said road, located as hereinbefore described, is completed and put in successful operation, the President shall cause to be advanced to the contracting party one twentieth part, less ten per centum, of the whole sum of money herein appropriated. And, in like manner, when each succeeding section of equal extent is completed and put in successful operation, an equal amount shall be advanced to the contracting party, until the whole road is completed, when the ten per centum reserved shall be advanced to the contracting party, as hereinbefore provided.

Sec. 11. *And be it further enacted*, That until the sum of money thus advanced to aid in the construction of the road shall have been repaid to the United States, no dividends shall be declared to the stockholders of said road, nor other sum be retained by the contracting party than that which may be necessary for the maintenance and successful operation of the road.

Sec. 12. *And be it further enacted*, That until the said contracting party or owners shall have fully reimbursed the United States for the advance of money herein authorized to be made, they shall keep books in which shall be entered regular statements of all disbursements, expenditures, and receipts, setting forth specifically the objects of said expenditures, and the sources whence said receipts are derived, together with a particular account of all accidents that may occur affecting property or persons, or causing delays upon the road; which books shall be open at all times to the inspection of the President of the United States, or any person authorized by him to examine the same, and to the members of each House of Congress; and the contracting party or owners shall make a report thereof annually to the President of the United States, on the 1st day of October in each year, accompanied by a minute and detailed exhibit of the expenditures and profits of said road for the year preceding, to be attested by the oaths of their secretary and treasurer; which report shall be transmitted to Congress at the commencement of each session.

Sec. 13. *And be it further enacted*, That should said contracting party neglect, refuse, or in any way fail, to prosecute the work undertaken by them in a manner to secure the completion thereof in compliance with the contract,

then all rights of said contracting party to the said road, right of way, lands, or other property pertaining thereto, including such amount of the sums of money advanced, if any, that may remain unexpended, shall be and become forfeited, and the United States may enter upon and retain the same. In the event of such forfeiture, to be determined by the President of the United States, he shall proceed to relet that portion of the road remaining uncompleted under such forfeited contract, and provide for the disposition of the work in such a manner as will secure the earliest completion of the road in conformity with the provisions of this act: *Provided*, That he shall not stipulate, on the part of the United States, for any higher or other terms than are authorized and provided for in this act.

Sec. 14. *And be it further enacted*, That the proposals for establishing the railroad communication, and performing the service hereinbefore described, shall be opened by the President of the United States after due notice, in the presence of the Cabinet and such persons as may choose to attend; and he is hereby authorized and directed to enter into contracts for establishing the railroad communication, and for the transportation provided for in this act with the party whose proposal shall be by him deemed most advantageous to the United States, for the full and complete performance of said contracts, in compliance with the provisions of this act. All questions of damages and forfeitures by reason of any breach of said contracts shall be determined by the express terms and conditions of the same: *Provided*, That this act shall be taken and considered as part of any contract that may be made in accordance with its provisions, in like manner as if the same was set forth in said contract.

Mr. SEWARD. Will the honorable Senator from Mississippi be good enough to state the general effect of his amendment?

Mr. DAVIS. The general effect of the amendment will be to appropriate \$10,000,000 and ten sections per mile of land, to construct a railroad across the territory lying between the States of the Atlantic and the Pacific, leaving parties who propose to construct the road to name whatever location they please, and submit their proposals to the President. The other conditions, as to transportation, are like those of the bill. In relation to the receipts of the road, however, there is this difference: that, instead of requiring the proceeds of the road to be paid into the Treasury to remunerate the Government for its advances, this requires only the net proceeds to be paid in, so as to prevent the hazard of the failure of the company for the want of means to carry on the road; and, above all things, to secure the Government from having the road forfeited and thrown upon its hands. The \$10,000,000 in this case, as the unnamed sum in the bill as amended, is to be refunded to the Government, in the form of net proceeds to be paid into the Treasury, and in the form of advantages secured for the transportation of the Government.

These are the main differences between the two propositions; the substitute enters not the limits of a State. It does not assume to give authority to any company, or to create any company, for the construction of a road within the limits of a State. It has no termini indicated; leaving it to free inquiry as to where a road, with a given sum of money, can be built, that given sum having been determined by the belief I entertain that it would build a road at one point across the territory; and I leave others to determine whether it will build it elsewhere.

Having satisfied myself that there was one line on which a road could be built with this grant, then I say it is not proper that the United States should give one dollar more. We are here as agents; agents of the people to whom this money belongs. Is there a Senator who would add to the amount for which he could have a service performed, in order that he might induce some one to perform a work elsewhere than a particular place which was found to be most practicable and economical? It is to be remembered that we have no right to be liberal; we have no right to appropriate money for the benefit either of individuals or of sections. We are restricted to the appropriation of money to answer the ends of the Government; and if a given sum will attain the service which the Government requires, we are in honesty bound not to appropriate more. I am quite aware that when this proposition was first submitted, my friend from Vermont, [Mr. FOOT,] with whom I had served on the committee, and to whom I always listen with the greatest respect, proposed to offer another proposition in the form of an amendment, that, if this southern road was built, there should also be a northern road on similar conditions. As I have said nothing about a southern road, one of two conclusions was inevitable—either that he supposed I must think of the southern road, or that he knew, if a given amount of money only was appropriated,

and contractors were left to go wherethey pleased, they must locate it on the southern route.

Mr. FOOT. The honorable Senator will allow me to state here, that at the time I made the remark to which the Senator alludes, I was under a misapprehension as to the character of the Senator's bill. I supposed it did locate the road, or the termini at all events, so that inevitably it would construct a southern road and exclude all other lines.

Mr. DAVIS. I can very well understand that the Senator might have fallen into that error, because it had been imposed upon me as an official duty some years since to announce, as the conclusion I derived from certain explorations, which route was the most practical and economical. In accordance with the directions of Congress, and in the performance of that official duty, I gave my opinion to Congress, and that opinion was in favor of the route which the Senator supposed I had indicated in the substitute.

The first question, it strikes me, which meets us in the consideration of this question, is the necessity for a railroad across the continent. If there be no necessity for the railroad for Government purposes; if it be merely to facilitate migration across the continent, to encourage settlement along the line of the road, without contributing in any degree to the ends for which the Government was instituted, without enabling it to perform the duty which was imposed upon it; without, I say, being necessary to the full execution of its duty, then I hold there is no constitutional power to build it. Therefore, in the front ground with me, the question is, is the road necessary? I hold it to be necessary in time of peace; necessary for that intercourse which alone can hold the different parts of our wide-expanded Republic together. Separated as we are by an intermediate desert, fronting as we do upon different oceans, looking out to the teeming population of Asia on one side and the active people of Europe upon the other, it must ensue, whenever our Pacific possessions are peopled, that they will have different interests; they will have an opposite commerce; and if they are required to come to a foreign country, to look over an impassable mountain, to learn here by what laws they shall be governed; and if our commerce is to continue as separate, as opposite, as it will be unless these two parts are more nearly linked together, the finger of destiny points inevitably to a separation of the two parts of the United States, fronting on these two great oceans.

In the history of man, and history is said to be philosophy teaching by example, we find no instance where a country has maintained the integrity of its territory if that territory was riven by a chain of mountains. We find the warlike and semi-barbarous hordes of Asia running over the south of Europe; at one time a single military hero covering all the vast plains which lay beneath him; but soon we find those conquering regions separating from the people from whom they emanated, and in but a short time thereafter the States they had conquered again divided into the geographical limits they had before the invasion. And so, at a more modern period, Napoleon carried his conquering armies over the Alps and over the Pyrenees; but those barriers which the hand of nature had placed again demanded the separation of the country into its original parts; and soon after the conquest we find France again reduced to the base line between those mountain ridges, and there to-day she stands as before her imperial conquests.

Then looking north, along the Rhine, where the division was merely conventional, where there was no great barrier that of itself separated men, you find that the soil has been drenched, and may be said to have been fertilized, with the blood of contending armies.

Thus inevitably do we reach the conclusion that mountains divide a people, and rivers unite them. But we are not divided merely by a mountain ridge, along each base of which, and up the slopes of which, a teeming population may hereafter live; but we are divided by a system of mountains; and in addition to this system of mountains we have intermediate desert plains, where, save here and there some irrigable spot, agricultural man can never reside. Then the question presents itself, shall we share the fate which history points to all nations which preceded us?

Shall we allow our territory to be divided? Shall the United States commence her downward step by losing the rich possessions she now holds on the Pacific as the inevitable consequence of that separation which mountains and deserts demand? Or shall we use the power which science and art and the progress of civilization have conferred upon man, overcome the physical obstacle, bind these two parts together, and hold this country one and indivisible forever? These are questions which I think it belongs to the statesman to consider. Though it may be easy in cant phrase to speak of the impropriety of using the power of the Government to make a railroad, and of leaving it to be done as such roads have been made from here to Baltimore, and from here to Fredericksburg; is there a man of sound judgment and patient inquiry who does not know that he speaks of that which is an impossibility; and that, wait as long as we may, he will see the day when separation will occur long before he sees the population which can build that road from its own resources?

But, Mr. President, a point has been specially directed against myself in the course of this debate; and I may say here that it has been my misfortune, of those with whom I generally act, and those who represent the same population with myself, to stand alone. I believe I stand upon the undying rock of truth. I believe I stand upon the interests of the country. I believe I am propelled by a high duty devolved upon me; and though assailed by my friends on the one side, and by my old political opponents on the other, I trust I shall stand unmoved. What, sir, is the argument so constantly directed against the military necessity of this road? It is that the period is rapidly arriving when the population on the shores of the Pacific can defend itself; that the ocean and isthmus routes afford now the means of transporting by sea what we propose to transport by land. Unless they shall develop an agricultural capacity not yet believed to exist there, unless the people there shall be drawn into a different pursuit, and, instead of being tributary to the wealth of the Atlantic slope and the Mississippi valley by consuming the products of agriculture, shall become an agricultural people themselves, the day can never arrive when they will maintain from their own agricultural resources the population which will be necessary to defend that coast.

Take the most remote period to which the eye of prophecy may think proper to look, and still you find staring you in the face the necessity that you must draw your resources from the valley of the Mississippi. In any contingency of war it is hardly needful to argue that it would be impossible to draw those resources from that valley by sea. I say it is impossible in any condition of the country that I can foresee. I grant that it is in the power of the American people to construct a navy to sweep the ocean down to the cape, and up the ocean beyond the possessions of the United States; but this would cost millions, where thousands would suffice with a more economical mode of transportation. Are we ready, through the long years of peace, to maintain a navy of such a size as this? Are we ready to invest the whole Treasury of the Government in vessels as perishable as those which it is proper for us to construct? Or shall we employ but a small part of that money in achieving for ourselves the whole end which this vast navy would attain?

Again, sir, upon those routes proposed to be traversed by sea and by short land connection, we pass into tropical climates; on most of them we cross the equator twice. Within the limits of the United States, so far as I am at present informed, we have thus far found but one kind of flour which could thus be transported and delivered in good order. It is not so bad with other supplies; but something of the same kind appertains to all the supplies required for the Army and Navy on the Pacific coast. It is needless, therefore, to speak of the accumulation of vast stores, which are to serve us in future contingencies; but if that could be done, it would be easy to prove that the cost of accumulating and maintaining these stores would exceed the cost of constructing the means of transportation which is required.

Besides, under any condition which we can anticipate, those routes could not be kept open in time of war. At the commencement of a war, we

should be separated; our Pacific coast, with its sparse population, with its inferior agricultural resources, would be thrown upon its capacities for defense, and be lost to the United States. When Rome commenced losing her territory, decline was set upon her brow and rapidly followed until she sank into that fall from which the Roman empire never rose. Whenever the United States begin to lose their territory, whenever an invading army can land upon any portion of our coast and capture the territory of the United States and hold it, the prestige, the pride, the power, and the progress of the United States are at an end. Thenceforward the hand of ages and decay will be laid upon us, and we shall sink, the unworthy representatives of the glorious institutions we inherit.

But, sir, there are other relations. War is not conducted merely by assembling men, and furnishing munitions and provisions. That which is termed the sinews of war, the ability of the country to raise the means of supply, lies behind all the military power of a Government. Now, I submit to any one, whether, if the shipments of gold from California and the Pacific coast were arrested for sixty days, there would be a banking institution in the United States which would not be necessarily closed? whether credit would not be paralyzed? whether the capacity of the Government to raise the means by which it could maintain its Army would not fall with the prostration of private credit and private prosperity? If continued communication, by which we constantly derive the precious metals from that region of the great deposit, is essential to retain, for sixty days, the prosperous condition of our country, how are we to look to all the heavy burdens and the pressure of war, in the face of the loss of that which, even in time of peace, would paralyze the country?

To all this it may be answered, as it has been stated before—and I am replying rather to what has been said—that if this be true in some degree, still, the vast expenditure entailed is a reason why we should not attempt this work; and in order to heighten the argument, gentlemen always announce that it is to cost two or three hundred million dollars. The original bill, I think, proposes \$35,000,000. The substitute which I offered proposes \$10,000,000. Then the gentlemen must derive those two or three hundred millions of expenditure from the same source on which they have so largely drawn for their topography—their imagination—and the opinions that follow in the train of their own desire. Ten million dollars is the sum proposed in the substitute; \$35,000,000 is the sum proposed in the bill; and an untold amount is now fastened upon the bill in the form of an amendment. I was answered the other day that the amendments but endeavored to effect what the bill had not so very well specified.

Here it is to be remarked that the original bill reported by the committee was to construct a road across the continent. The amendments are to construct three roads—a link of five hundred miles at each end, and an intermediate link. There can be no obligation in law or morals on a man who takes the contract for the eastern or western link, to build the middle. This is quite different from the original bill. The original bill was for a contract extending across the continent; and if it did not provide the means which insured the completion of that contract, it should have been amended so as to effect that object, instead of departing in the other directions and contriving, by the amendments, to put it in such a position as to enable contractors to take the two routes where it would be profitable to build roads, and then to abandon the work. Taking the bill as it now stands amended, I hold that any contractor, looking to his own interest, may agree to take the road from the eastern terminus, five hundred miles, in the direction which he pleases, either with the land or the money which the amendments propose to give him. He would run it through a settled and fertile country. If he went north, he could extend it beyond the five hundred miles; and after he passed the limit of the five hundred miles, still penetrating the fertile regions of Minnesota, he would get \$25,000 a mile instead of \$10,000, which he would get at the start, and still be in a region where the land grant alone ought to build the

road. When he passed that region, when he crossed the ninety-ninth meridian of longitude, he could have no possible inducement to go one step further. If, on the other hand, the contractor should look to the south, it would be possible for him to go five hundred miles, building his road with very great profit; getting \$10,000 a mile, which would more than buy the iron, and getting ten sections of land per mile—which sections of land, I suppose, may be taken at ten dollars an acre—most of it in that region of country; and when he reached the end of the five hundred miles, he would then run on with \$25,000 a mile, intersect the Texas road across the plains of Texas, unite the \$25,000 to the Texas land grant and \$6,000 a mile; and thus go on with \$31,000 and sixteen sections of land per mile, until he got to the Rio Grande. When he reached the Rio Grande, he would then have twenty sections of land and \$25,000 a mile to cross the country from there to the Colorado, and from thence to enter the State of California, and build it to San Francisco.

Now, when gentlemen say this bill will not build the road, I differ from them. I do not believe it will build the road if contractors start north with it; but I have not the least doubt it will build the road if the contractors run south; but it will build it at a charge on the Treasury which I feel we have no power in justice or in reason to impose upon it. I never can vote for the bill as it stands. I do not doubt that any contractor who looked to the bill with the intent to cross the continent, would run south from the initial point here described, until he intersected the Texas road, combine with the Texas company, then go to the Rio Grande, and conduct it to the Gila, and thence up to San Francisco, along the coast. If I were very anxious to get a road for the South; if I believed it was within my province, in the honest discharge of my duty, to vote more money from the Treasury than was necessary to execute the proposed work, I should find in this bill such an assurance as I could scarcely doubt would effect that object.

But mingling always with the idea I have of the necessity of the work, the idea of limiting what is to be done under that necessity, to just so much as will perform that work, I have offered this substitute, believing it will execute all which I desire to see achieved; that is to say, made at one point. I believe it will give us railroad connection to the Gulf of California, and in time to the Bay of San Francisco. I will speak of that, however, hereafter. So much for the argument of vast expenditures.

Now let us see how the \$10,000,000, the sum limited, is to be advanced. Only upon the execution of a certain part of the work; then it is to be advanced *pro rata*, retaining ten per cent as security for the further prosecution of the work; and this on the line to which I have particularly directed my examination, has the effect that every mile which is built increases the necessity for building the remainder; makes it the interest of the contractor not to stop but to go on, not merely by the reserved fund but by the character of the country through which he is to pass. He begins at the western end to connect as soon as he can with the Rio Grande, and he begins at the eastern end as soon as he can to get to the navigable waters of the Pacific ocean.

I find myself unable to enter into the full examination which I proposed; I must necessarily abridge it; but I ask Senators to consider for a moment the comparative advantages and cost of the work on the basis which I propose. In time of national peace to put down a rebellion that extended merely to the attacks of foraging parties upon our trains, it has cost us about as much to transport the food of the little army sent over to reduce the Mormons to order, as I propose to contribute to the building of this road. If this road had been built, it would not have been necessary to have made that expedition across the country, if indeed it could have been possible that the Mormons would have taken the attitude of rebellion at all. South of where the Mormons reside, and the line of this road, there are Indians, who for their warlike character, and their numbers, are probably more than equal to all the Mormon population; and it is perhaps not unreasonable to anticipate another campaign, where the

roads would be more difficult to pass, and another campaign where the cost of transportation would exceed that of putting down the Mormon rebellion. In time of war, it is provided in this substitute, that the cost of transportation on this road shall not exceed that which is paid on existing routes in time of peace. Thus we get the advantage of a uniform standard, paying no more in peace than we do now if we transport on this road; paying no more in war than we now pay in peace.

These are the main advantages which I offer as balancing the amount which it is proposed to advance. In this state of the case, however, I am met by the question, have we the constitutional power? If we have not the constitutional power, then I have argued for a necessity military and politically, argued for advantages in peace and in war wholly to no purpose. If the Constitution does not confer the power, there is an end of the question. It is necessary, therefore, to meet that point before entering into any discussion as to routes.

The substitute which I propose is confined to the Territories. I know it has been argued here that there is no difference between a State and a Territory. I hold to the other doctrine. I hold that a State is sovereign within its limits; that the power of the General Government to enter with an artificial person—a railroad corporation for instance—the limits of a State, does not exist as a constitutional right, and cannot be derived from the consent of the State. When I said the other day that the Federal Government had no power to create a corporation, my worthy and intelligent friend from Rhode Island [Mr. SIMMONS] recalled me, in the course of his remarks, to the fact that General Jackson had once said he could have given the form of a bill for a bank which would have been free from the constitutional objections to that to which he applied his veto. Thence he argued that General Jackson had admitted the power of the Federal Government to create a corporation which could enter a State. I know there has been much speculation as to what General Jackson meant. I rather think nobody knows exactly what he did mean; but it is not a necessary consequence of that position of his that he meant a corporation with power to enter the limits of a State. There are other means by which a bank of exchange might be established. The Federal Government might establish a corporation in the District of Columbia, with authority to connect itself with corporations existing in the States, and a bank of exchange might thus be established all over the United States. I do not know what his plan was; I only notice it here to say, that the conclusion derived is not one justified by the premises. His plan was not given, and he merely said that it might be free from the constitutional objections of the plan to which he attached his veto.

Within the Territories, I hold our relations to be different. The United States have derived territory either by cession from the States, or by acquisition as a Government, and they have, as a consequence of the grants of the Constitution, the authority to do in that territory whatever is within the power of the Federal Government. They cannot do all which a State could have done over the territory before the State ceded it, because the State was a sovereign; the Federal Government has only those powers which have been delegated to it. All of those powers it may exercise upon a territory when it derives it either by cession from a State or by acquirement from any other sovereign Power, receiving by the deed of cession, by the sale, or by the annexation, whatever power it was competent for the Federal Government to receive and execute. All else remains in other depositories, and those depositories not rendering it possible to exercise it until the people inhabiting the territory shall become a State. Then they will be invested with all the sovereign power which the States in the mass received, but could not use at the date of the cession, annexation, conquest, or purchase. Within the Territory, we find that from the foundation of the Government, the United States Government have always exercised the power to construct roads, to establish a corporation, being the corporation of a territorial government itself, to support it, paying its Governor and its Council, or when it rose to the

higher grade, paying its Legislature, thus exercising all the powers within the Territory which belong to those who hold it in trust under a specific authority.

If the view which has been taken of this subject from the foundation of the Government be correct, (and it is hardly needful for me at this day to vindicate it,) there is power in the Federal Government to appropriate money for the construction of a road within a Territory; not an absolute, unlimited power, because every power which the Government holds is for some object enumerated in the Constitution. The power to appropriate for the construction of the military roads within a Territory has been so long admitted, so uniformly acted upon—acted upon at the last session, and no doubt may be acted upon this—that it is hardly needful for me to argue it now.

But it is said you cannot construct a railroad, though you can construct any other character of military road. If gentlemen had said this Government could not administer a railroad, they would have been putting themselves somewhat upon the ground taken by Mr. Monroe, when he vetoed the Cumberland road bill upon the ground that we could not erect toll-gates within a State. If they had said we could not establish a corporation and go on to administer a railway, I should grant there was force in the objection, and should have admitted that I entertained the same difficulty, that I reached the same conclusion; but the construction of a road, whether it be of dirt, stone, or of iron, must belong to the same general power of the Government, and if it exists for one, it must exist for the other and for all.

Having asserted, as I believe, the power, it only remains for me to say that I was very happy to discover in the course of my examination that it was not required that the General Government should build this road out of the public Treasury; that it need only contribute, and contribute in proportion to the interest it had in comparison with others in the construction of the road; and it is this commercial connection, this connection with the interests of the country, which has subjected the proposition to the criticism that the road was to be built for commercial and not military purposes. If to be built for commercial purposes, it has been asked, why was the distinction drawn between a contribution in part and a contribution of the whole? It was because it was to be built for specially enumerated purposes, and because those purposes were set down at a certain value; and, finally, by comparison the amount fairly chargeable to each was eliminated, and the residuum alone is contained either in the original bill or in the substitute. No one believes that either amount of money will build the road, if that alone is to be contributed.

I was met yesterday with the argument that if the Federal Government had the power to contract one species of military work for defense, it had the power to contract any other. It was argued that the Federal Government, having the power to construct forts, could go into a State and take land *ad libitum* for the purpose, and therefore could go into a State and take land to build a railroad, if it was necessary for military uses. The language of the Constitution, which is relied upon, is found in the clause referring to sites for magazines, arsenals, dock-yards, and other needful buildings. It employs this expression; that Congress shall have power "to exercise like authority," that is, exclusive legislation, "over all places purchased by the consent of the Legislature," for such needful building. It was argued as though this was a grant of exclusive legislation by the consent of the Legislature of the State; whereas the language is, "purchase by the consent of the Legislature;" and this distinction was so broad to those who early construed the Constitution, that it was always made applicable, and is now by law made applicable, to those cases where consent has been obtained, and where fortifications are to be erected. It is prescribed that an appropriation for the construction of a fort cannot be used until the consent of the State within which it is to be constructed, has been obtained. Knowing the jealousy which was felt by the States of the invasion by the Federal Government of their territory; knowing the jealousy with which they watched the exercise of power by the Federal Government within their limits; forseeing what

would necessarily arise in the conflicting jurisdiction, which must exist where permanent works were constructed and held by the United States, and the laws of the State still prevailed, they guarded it in the manner prescribed in the Constitution. It was not anticipated that these works were to be otherwise than upon sites purchased by the consent of the Legislature of the State, and therefore the language used is, "purchased by the consent of the Legislature." The Federal Government might purchase otherwise; but it was not anticipated that such works as these should be constructed without the consent of the State; and the laws are in conformity with that known intent.

But the Senator from Louisiana [Mr. BENJAMIN] asked whether the United States could not cut a road in a State? Certainly; they can cut a road whenever they find it needful to pass through the forest. They can throw up a temporary entrenchment to protect their troops in a night's encampment. This belongs to the duty of defense and the right of way. They can use it; but when they have used it, it is at an end; they have no claim upon it, no control over it. The bridge they have built may be burned to-morrow, and they have no redress from the person who committed the act. It would be entirely a thing under the State authority, and a right to pass through could only be derived from the consent of the State, and thus it has been both in the practice and legislation of the country. You allow expenditures constantly for the construction of cantonments and temporary works where the consent of the State has not been asked, where it is not expected ever to obtain it, where, in fact, it is not desired; but permanent works, such as are described in the Constitution—forts, magazines, arsenals, dock-yards, and other needful buildings—were intended to be built within the limits of a State only by the consent of the State itself.

How, then, is it in the Territories? Must the United States go to the corporation it has established within a Territory, and there ask permission to build a fort? Must they there ask the consent of the territorial government to have jurisdiction over the fort when it is built? The proposition answers itself. It has only to be stated; and thus in the Constitution itself are gentlemen pointed to the difference between constructions within the limits of a State, and within the limits of a Territory. The substitute, I repeat, is confined to the Territories alone. It has no relation to a road within any State otherwise than as building it across the Territories may indicate a future purpose when the States shall contribute to insure its extension eastward and westward.

If it be constitutional to construct a railroad when it is necessary for military defense, we must take the responsibility in this, as in all other cases, of relying upon the discretion of the agents of the Government, that they will not pervert that which is necessary and use it where it has no such application. If gentlemen are to be frightened from undertaking a public work because of the abuse which it is possible may result from it, I would ask what appropriation have we ever made from which we should not have been likewise restrained. We have made an appropriation to extend the Capitol. Does the exercise of that power involve the right to go on and build a house that will cover the District of Columbia? And yet, the absurdity which is resorted to in order to prove the impropriety of this measure, would be as applicable in the one case as in the other. Government is a practicable thing; it must be executed by men. If those men are dishonest, and if they are seeking constantly to break the restraints of the Constitution, and to legislate so as to violate the just obligations imposed upon them, why refer to the language of the Constitution at all? It cannot restrain a man who has no honest purpose; and if he has an honest purpose, he cannot use the necessity of one case as a pretext for another.

If, then, it be admitted that there is constitutional power, and that it is expedient upon the limited scale which I have proposed to exercise, it remains to consider the practicability of the route. I believe, in this view of the case, I can show one route to be practicable; I can show that the amount proposed to be appropriated in the substitute, will insure the completion of a road

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upon that route; and if built on that route, it will have connections upon the east and west to answer all the purposes of the Government. That is the basis of my calculation. If there be other routes more practicable than this, others on which the road can be constructed more economically, let those others take advantage of the specific sum to build the road wherever nature has indicated the place it can be most practically and economically constructed.

In the outset of this question, however, the authority upon which the conclusion of the practicability of a particular route was based, was doubted; the evidence was said to be insufficient, such as it was said no prudent company would accept, if they were about to locate a railroad. The Senator from Massachusetts, [Mr. WILSON,] particularly, made those remarks. Now, sir, it is a fact that these explorations were made by officers of the Army, educated to the purposes of engineering, and that they belonged to that class, without which, I believe, not one great work of public improvement in the United States has ever been conceived and executed. If there is one great work of public improvement in the United States which has been conceived and executed without the aid of some member of this particular class, on whose evidence I rely, I am not aware of what that work is. The Senator from Massachusetts would have found, by turning to his own State, that the system which exists in it was initiated, and the surveys conducted, and the work progressed usually to completion, in the hands of military engineers. I can refer to some of the names: William Gibbs McNeil, George W. Whisler, Daniel Tyler, Joshua Barney, Isaac P. Trimble, John M. Fessenden, Childs, Barnes, and a great many others. At a very recent period, the professor of civil engineering, in their own University of Harvard, was an officer of the Army, who resigned his position to take that professorship. They are the men over this whole land who have inaugurated the great works of civil engineering which have been executed in it. They were the teachers. It is their pupils who now rise in rebellion against them, and, anxious for employment, arraign the masters for incompetency to do the work which they taught them to perform. I could refer to almost every State, and bring out the fact that their works of internal improvement were inaugurated and generally conducted by those who either were at the time, or had been military engineers. So much for the character of the evidence on which I rely and the capacity of the men.

In that connection, too, I may say that they were men who had been educated in the service of their country; men who looked to future connection with the service of their country; men in whom local prejudice had been smothered by education, by habit, and by future prospects. I will not allude to the region in which they were born; I leave others to do that; because it matters not to me whether they came from Maine, or New Hampshire, or Massachusetts, as they did, or whether they came from Georgia, South Carolina, or North Carolina, as they did not. I believe they had the intellectual endowment, the education, the character, and the purpose, which makes their reports more reliable than any we could have obtained from any other source; and it so happens that when these barometrical observations which have been criticised were made, and have subsequently been subjected to the test of the level, the difference is so small that a contracting party would not care for it one way or the other, showing that a method which is not usually relied upon, in the hands of men trained and skillful, was brought to such perfection as to answer the purposes of the level actually put upon the ground.

It will be seen before I get through, however, that I do not rely upon their testimony alone; but I shall adduce the testimony of others who may have more weight with some, although not so much with myself, upon whom I rely for the same opinion. Foreseeing how much I should be embarrassed in this discussion—embarrassed by the difficulty of speaking—I had prepared some notes

upon the different routes with a view to their comparison. I suppose I shall have to hurry over them very imperfectly. Perhaps they may answer my purpose. I know that the Senate are already getting weary of the subject. Perhaps it is as well for them that I am unable to consider it as fully as I desire.

I will first present some views in relation to the route near the forty-ninth parallel, being extracts from the office examinations, from the report of Captain McClellan, of Governor Stevens, of Geologist Gibbs, and of Lieutenant Abbot. Some of these have been made since the report sent to Congress by myself, in accordance with a law which it had enacted; but instead of shaking my confidence in the conclusions which I then reached, they have served to confirm them. Difficulties which I supposed not to be insurmountable, have, by subsequent examinations, proved to be so. For instance, in that report it appeared that I supposed that after reaching the Columbia river, the descent along the plain of that river would be easy. Recently a gentleman connected with the missions established on the Columbia river, in conversing with me in relation to that country, informed me that instead of the mountains sloping gently down to the river, so as to favor the construction of a railroad near the Dalles and Cascades, they rise precipitously, leaving channels which seem to have been the result of volcanic action. The river tears by these rocky cliffs, that almost overhang it, with such velocity as to render the navigation exceedingly dangerous, and, at some stages, impossible. The mountains are composed of basalt that is hard to cut, but which crumbles rapidly by exposure to the air, so as to be liable to slide and block the road. I derive the same information from other sources. It appears that they have not been able to get a wagon road down the river bank from the Dalles to Fort Vancouver; but they are compelled to use a very bad pack trail, which winds along the faces of precipices, on ledges so narrow that animals are sometimes precipitated to the bottom and killed. An appropriation made by Congress to make a wagon road from Fort Vancouver to Fort Dalles, was expended upon a short portage at the Cascades; the road proving impracticable without enormous expense. Therefore, I say, so far from finding it less difficult, the difficulty has been magnified, and we are thrown back to the consideration of whether those passes where the snow accumulates twenty feet deep, and which were declared to be impracticable on account of the length of the tunnels to be cut, do not at last afford the only route by which we can reach the Pacific on that parallel of latitude.

I wish particularly, however, to call the attention of the Senate, on account of remarks which have been made here, to the character of the soil in this region of country. It will be remembered that the geologist, Dr. Evans, had not made his report at the time of sending in the preliminary report in which my opinion was presented. It was said then in the Official Review:

"Previous geological examinations over portions as far west as about longitude 101° or 102°, show that the uncultivable region begins in about the same longitude on this route as in the latitude of the Arkansas.

"From the geological information respecting the region between the meridian of 101° and the Spokane Plain, imparted recently by Dr. Evans, from the report of Mr. Gibbs upon the section west of the Spokane, and after a close examination of the reports, the following general conclusions have been arrived at respecting the soil of the region traversed by the northern route, in part,

"The river-bottoms, in part, (where the soils of the different strata become mixed,) and the valleys among the mountains, form exceptions to this general condition of sterility. As, for instance, it is Lieutenant Donelson's opinion, that upon the Missouri the soil is such that the settlements might be continuous upon its banks up to the mouth of the L'eau-qui-court river, longitude 93°; from that point to Fort Union, about one fourth could be settled. Above Fort Union, Lieutenant Grover says, 'on the lower portion of the river, (between Fort Benton and Fort Union,) there are many quite extensive bottoms, well adapted to agricultural purposes. There is a good deal of arable land, also, in the vicinity of Fort Benton, and in the Sun river valley.' The proportion of cultivable bottom lands on this section of the river is much less than one fourth."

It has been heretofore assumed that the valleys

were arable, and they have been so treated generally. This shows the fallacy of that assumption. Then, after crossing the Cascades:

"From the main cascade chain, the generally sterile soil extends eastward over the dry region until the rain that falls upon the Cœur d'Alene, Bitter Root, and other mountains, begins to be felt; we then have grazing. The soil improves in quality as the mountains are approached, the valleys of which are represented as fertile, perhaps influenced in some degree by the nature of the mountain debris that have been washed upon them. The Columbia river and its affluents, in their lower courses within the limits above mentioned, are stated to carry gravel and sand, but no fertilizing matter."

All the valleys in this region on which reliance was placed, are sometimes overflowed by the Columbia.

"Lieutenant Mullan says of the St. Mary's valley, which has been considered as a kind of standard, 'the soil of the valley of the Bitter Root (St. Mary's) is fertile and productive, well timbered with pine and cotton-wood, but whose chief characteristic and capability is that of grazing large herds of cattle, and affording excellent mill sites along the numerous mountain streams.'"

"Dr. Suckley, referring to the Hell Gate, Bitter Root, Clark, and Columbia rivers, and to the Dalles, says: 'there are a few pieces of excellent land along these rivers. The valley of Clark's Fork is heavily timbered with pine; there is no grass.'"

"Within the limits of Washington Territory, between the Cascade and Rocky Mountains, there are seven thousand three hundred and fifty-six Indians. Within the same Territory, west of the Cascades, the areas being as three to one about, there are six thousand nine hundred and three Indians. This may give some indication as to the capabilities of the soil for supporting animal life."

Then there is a statement of the amount of cultivable land from St. Paul to Seattle:

"So that of the two thousand and twenty-five miles from St. Paul to Seattle, on Puget Sound, we have only a space of about five hundred and thirty-five miles of fertile country; the remaining fourteen hundred and ninety miles being over uncultivable prairie soil, or mountain land, producing only lumber, with the limited exception of occasional river-bottoms, mountain valleys, or prairie."

This is the land we have been told, in the course of this debate, time and again, was of such extreme fertility that men could build a road through it from the sale of the lands alone.

I will next give some extracts from the report of Captain McClellan, who examined the western section of this route:

"The Yakima unites with the Columbia in a vast sage desert, extending to the north and northeast as far as the eye can reach; and the desolate, dark gray color of the sage is unbroken by the verdure of grass or trees. The Columbia is here about four hundred yards in width, with sand and gravel banks thirty feet in height; a placid current; here and there a cluster of willow bushes border the stream, usually destitute of vegetation. In the Yakima, at its mouth, are three islands covered with good grass—all that is to be found in the vicinity. Neither stone nor timber occurs in the neighborhood. The valley of the Yakima soon becomes more contracted by low hills, which gradually close upon it, and soon increase in height as the stream is ascended. To the commencement of the pine timber, a distance of nearly one hundred miles from the mouth, the average width of the valley is about six miles, occasionally reduced to four or five hundred yards by spurs closing in on both sides, and sometimes widening out to ten miles. Cotton wood and willow fringe the stream; grass is generally confined to the water's edge, but is not in sufficient quantity to adapt the valley to grazing purposes on a large scale. In some of the small lateral valleys good bunch grass is found, as well as on the summits of the highest ridges of hills. But the winters are too severe for cattle to thrive in the open air, the whole country being covered with snow; and, in addition, the bunch-grass is of so scanty a growth to be cut for hay. During the winter the Indians drive their horses and cattle to the most sheltered spots, where they feed on wild sage and willow."

"As far up as Ketetas, the wild sage covers the valley in all parts a little back from the water. The general character of the soil is sandiness, or exceeding lightness, occasionally gravelly, or covered with loose stones. It might in many places answer well for small grains, when compared with the greater part of the territory. By reference to the mass, it will be observed that Mr. Gibbs returned from the mouth of the Yakima to Wenass by a trail to the north of the river valley. From the point where he left the Yakima, his trail passes through a wide valley for some twenty-four miles; this valley is somewhat undulating, and is very barren, being almost entirely destitute of grass, having no timber; but one little pool of water, sixteen miles after leaving the Yakima, and that brackish; it is covered with the usual growth of sage."

He goes on to describe the country on the east side of the Cascade region, proves it to be a desert, irreclaimably a desert, and so it continues, according to all these reports, until you reach the mountain where this great plain of sterility is covered by the debris from the mountains, washed

down upon little valleys, where by its elevation it begins to catch some of that moisture which passes over from the Pacific ocean. There, for the first time, they reach a spot which can be cultivated without irrigation. The rest is a desert. And here, in general connection, I may say that this extends from the Cascade mountains eastward up to the elevations of the Rocky Mountains, southward across the Snake river, and westward over the valley of the Des Chutes, with here and there a little spot where the washing of a mountain has deposited some soil on the sterile surface that lies beneath it, and where the moisture rolling down in little streams which serve to irrigate such spots, will render it possible for agricultural man to reside. Beyond that it is a mere grazing country; and whenever we meet these descriptions of bunch grass and grama grass, rely upon it, Senators, you have struck a region where there is no moisture for crops. It may be marked throughout our continent as an invariable attendant of that aridity of climate which forbids the hope of its ever being cultivated with success. To show how utterly hopeless it is to extract anything from this country, I will read a few lines more from Captain McClellan's report. He says:

"The Indians are harmless and peaceable; with the exception of the Yakimas, they are very poor. Their food consists of salmon, berries, and potatoes. The entire absence of game renders it difficult for them to obtain good clothing; during the whole trip I did not see a single deer, elk, or bear; nothing larger than a wolf. Wolves, badgers, squirrels, and a few gray marmots, were the only quadrupeds."

The soil is represented as barren everywhere, and is so admitted except where specially indicated to the contrary in the report of Governor Stevens; and in that report he speaks only of valleys here and there, fertile spots found in the long line of march. Whether in his subsequent report, which I regret to say Congress has refused to print, there is additional information expanding the region of fertility, I do not know. It was not sent in at the time these reports were furnished to Congress, and I understand Congress has since refused to print it. The report of the geologist, Mr. Gibbs, I will refer to next. He says:

"The country around Vancouver, that is in the region we have generally supposed to be the best, and thence back to the foot of the mountains, is gravelly and poor, except that on some of the small streams there are narrow skirts of rich black soil. The small prairies lying near the branches of the Cathlamet are, however, exceptions. These appear to have been formerly the beds of lakes, and retain, to some extent, a wet and marshy character, the soil being clay. The Columbia bottom below Vancouver is of a fine sandy loam. Much of that on the immediate banks of the river is subject to overflow during the freshets, a double misfortune, as the deposits of the Columbia are not fertilizing, and the temperature of the water destroys growing crops."

This is the opinion of geologist Gibbs, who is good authority among men of learning. Speaking of the country of the Spokanes, the same geologist says:

"That portion of the Cascade range which crosses the Columbia sinks into an elevated plateau, which extends as far as the limit of vision to the eastward—this is the Spokane plain. On it we could see no indication of water; not a single tree, except on the mountain spur; not one spot of verdure. It was of a dead, yellowish hue, with large clouds of black blending into the general tinge. It appeared to be a sage desert, with a scanty growth of dry bunch-grass, and frequent out-croppings of basalt. Descending by a very steep trail, we reached the valley of the Columbia on the 21st. Through a valley about a mile in breadth, in which not a tree is to be seen, and seldom even a bush, and which is bordered by steep walls of trap, lava, and sandstone, often arranged in a succession of high plateaus or steps, the deep, blue water of the Columbia flows with a rapid, powerful current; it is the only life-like object in this desert. The character of the valley is much the same as far as Fort Okinikane. It occasionally widens out slightly; again it is narrowed by the mountains pressing in. Sometimes the trail passes over the lower bottom; at other over very elevated and extensive terraces; and in a few places over dangerous points of the mountains. At one of the latter, three miles above the En-to-at-kwu, two of our mules were instantaneously killed by falling over a precipice, and two others seriously injured. The difficulty of the trail at this point may be imagined from the fact that we were occupied from eleven o'clock, a. m., until dark, in passing the train over a distance rather less than two miles."

"In this portion of the valley a few small groves of pine are met with; but the general character is entire absence of trees and bushes. In places only is the grass good; but we found no great difficulty in so regulating the marches as to obtain enough for the animals. The soil is so very sandy that it is not probable it can ever be applied to any useful purpose. Granite, gneiss, and syenite, occur in the valley in large quantities and of excellent quality."

"The country through which we passed to the east of the Cascade range may be described as generally barren and unfit for agriculture, and poor for grazing purposes. There are two small tracts which are exceptions to this rule; but

I know of none which would be considered good in our western States."

"The soil of these plains is generally thin and sterile, and covered with oxide of iron from the decomposed basalt; but in the swale, along the margin of the small streams, it is a rich, black mold. Bunch grass grows plentifully upon them, and they afford a good range for the horses of the Indian tribes to which they belong. It is, however, to be considered, that in all the stock ranges of this country the scattered growth of the wild grasses renders necessary a large comparative extent of country. These plains, except on the northern skirts, are destitute of timber, and are swept by high and piercing winds."

Perhaps I have read enough on this subject. The Columbia River Pass is described also in the same manner in which I have described it heretofore, when referring to the visit of those gentlemen from that country. Here is, however, a more exact description of it by Lieutenant Abbot:

"The Columbia river forces its way through the Cascade range by a pass, which, for wild and sublime natural scenery, equals the celebrated passage of the Hudson through the Highlands."

Here it may be remarked that a railroad was made along the Hudson, but it was because, on account of the great expanse and quiet character of the river, it was possible to build in the river itself; to turn from the mountains, and, on trestle-work standing in the water, to construct a railroad. This pass, however, is a chasm through which the Columbia river pours with immense velocity. It is stated boats can pass within a few feet of the basalt columns on the bank without danger of striking sunken rocks, so closely does deep water border upon the shore.

"For a distance of about fifty miles, mountains, covered with clinging spruces, firs, and pines, when not too precipitous to afford even these a foothold, rise abruptly from the water's edge, to heights varying from one to three thousand feet. Some of the ridges are apparently composed of compact basaltic conglomerate; others are immense piles of small rocks, vast quantities of which have been known to slide into the river, overwhelming everything in their course."

Lieutenant Derby, with an appropriation of \$25,000, made for the construction of a wagon road from Fort Vancouver to Fort Dalles, made a careful examination, and he has reported the road impracticable without enormous expense. Lieutenant Abbot, in mentioning the fact, says:

"The officer in charge of the work, Lieutenant G. H. Derby, United States topographical engineers, made a careful examination of the route, subsequent to my reconnaissance, and he has reported the road impracticable, without enormous expense. I think a careful survey would show the same to be true with reference to a railroad."

Then he goes on to describe the country in the valley of the Des Chutes, showing that there is a great belt of desert country extending north and south, east and west, probably including all that great region which lies between the great chain of the Rocky Mountains and the first chain of mountains which obstructs the passage of currents of air from the Pacific ocean.

Leaving that, however, I pass to the route of the forty-first parallel, which has been described in the Senate as having peculiar advantages. From the Rocky Mountains to the Sierra Nevada, the country on this route consists of alternate mountains and plains, or valleys—valleys utterly barren. The office examinations of the railroad explorations, show these facts:

"The greater part of the surface of these valleys is merely sprinkled by several varieties of *sombré artemisia*, (wild sage), presenting the aspect of a dreary waste; though there are spots more thickly covered with this vegetation; yet, the soil is seldom half covered with it for a few acres, and is nowhere suitable for settlement and cultivation. Immediately west of Great Salt Lake, there is a desert plain of mud, clay, and sand, impregnated with salt, seventy miles in width from east to west, by its longest line, and forty at a narrower part, further south."

Captain Beckwith, who succeeded Captain Gunnison in the exploration, describes the cañons which were necessary to be passed on this route. He says:

"For ninety-six miles below the mouth of Canoe creek to seventeen miles above Fort Reading, the course of the Sacramento lies entirely through heavily timbered mountains, which rise precipitously from the river banks to the height of from fifteen hundred to two thousand feet above the stream. Its course is winding, with all varieties of curves greater than a right angle, and it is seldom entirely straight for two miles consecutively; but its general courses are more uniform."

"The foot of the mountains along the stream is often obstructed by fallen rocks to such an extent as to prevent its passage on horseback; and it is also obstructed by fallen timber and dense thickets of bushes."

"At many points, but for short distances only, the way is obstructed by rocks in place. The road will require to be carried on the side of the mountains, a few feet above the stream at high water, throughout this entire section to the open valley of the Sacramento, whence it can be continued on the open plain."

What, think you, is it to cost for that side cut, estimated at from one hundred and fifty to two hundred thousand dollars a mile, and that with stone a greater part of it not in place, and therefore liable constantly to slide in on any road which may be constructed, any excavation which may be made, and, therefore, I say might have been pronounced, and with the facts we now possess, must have been pronounced, an impracticable route? He goes on to describe this region of country as a desert, and says:

"The two cañons of the Sacramento, fourteen and nine miles in length, and the very sinuous course of the river for the space of ninety-six miles through heavily-timbered mountains rising precipitously from the stream, form the principal characteristic unfavorable features of the route; the cost of constructing a railroad along which cannot be properly estimated until minute surveys are made."

There is something very peculiar in this route. Instead of finding on this parallel the Sierra Nevada rising with a sharp back-bone, as was expected, viewing it from the east and west, always rising and presenting a sharp ridge against the sky; instead of finding it as it was supposed to be, a mountain with a back-bone, a single crest which might be passed by deep cutting or by tunnelling, it turns out to be a great plain, forty miles wide, having its own little streams and lakes, separating two ridges of mountains which stand upon the two sides of this wide plain, like parapets to guard it. It is the ascent and descent over the ridges which bound this plain that constitute the immense difficulty. It was, therefore, that the engineer, with very great discrimination, having ascended this plain, looked for a stream with which he might descend it. Therefore, he searched until he struck the fork of the Pitt river, on the Sacramento, followed that down, and keeping to the stream, passed through this cañon of ninety-six miles as the only practicable mode of descending from his elevation, some five thousand seven hundred feet, to get upon the plain of the Sacramento, as it lies at Fort Reading. What the grade will be on some of the descents, I do not know. I think it could have been ascertained if the profiles had been published; and here I may mention, in connection with the publication of the railroad reports, a fact, that I deem it proper in this place to notice. When the explorations were sent in, when the maps were prepared, and after delay had worn out my patience in expectation of ever seeing them engraved, an estimate was sent to Congress of the amount it would cost to engrave them, in order that Congress might make an appropriation to permit the War Department to engrave the maps which would go with the reports, and serve to explain and illustrate them. When that came before Congress, however, they chose, in their kindness, to make the appropriation, but to leave it in the hands of the Superintendent of Public Printing, and those maps have not yet been engraved, and the part of them which has been engraved has not yet been printed, and the country is robbed of the profiles and detailed maps which would have served to give them that clear understanding of the geography of this region, which must have relieved the Senate from so much imaginary construction of the face of the earth.

But I have been told that this route which was surveyed is not the one which is meant; that instead of going through these cañons of the Sacramento, some insist that the descent should be directly to Fort Reading. That would make over five thousand seven hundred feet of descent to be overcome in a space so short that the average grade would be over one hundred and twenty-five feet to the mile. This, of course, includes some lifts where the grade would be vastly greater; but the difference of elevation between the crest of the ridge over which you descend to the valley of the Sacramento, at Fort Reading, calls for an average grade of one hundred and thirty feet for forty-five miles; the space over which you have to overcome this distance. Therefore I say it was wise and prudent in the engineer; seeing how close he had come upon the valley, and how great his elevation was to seek some stream by which he might circuitously descend to the valley, at Fort Reading.

In this connection I have had the good fortune to get some information from a report of the surveyor general of the State of California, being the first reliable information we have in relation to the route that passes through what is called Carson's valley. It will be remembered that that was not crossed by

either of the exploring parties, and it may be well for me here to state the reason. The party going west, and which was then commanded by Captain Beckwith, finding their resources only equal to the exploration, if they were not compelled to make any attempt from which they would afterwards have to retire, instead of attempting to cross from Carson's valley over the mountains, upon satisfying themselves that it was impracticable for a railroad, turned north to find some better line. They had heard of Noble's Pass. They found it, and found that it was nearly, if not quite, impracticable for a railroad. They went on to another, the Madelin Pass, through which they passed, finding the easiest grade which that chain of mountains presented. Anxious, however, to satisfy the public, and fully discharge the duty imposed, another party on the Pacific was subsequently directed to make that exploration across the line of travel into Carson's valley. The party were detained in the examination of the Des Chutes valley until November, and then found the snow so deep on the mountains that they were compelled to abandon the attempt to cross over into Carson's valley, so that it was not until I found this report of the surveyor general of the State of California, that I had any positive information; though before the conclusion was inevitably reached, that if in November the mountains were covered with snow so deep that engineers could not explore it, it was useless to inquire whether a railroad could be constructed there or not. This report of the surveyor general, however, puts an end to all further speculation of the subject. He gives the elevations passing up by both routes, one on what is called Johnston's Cut-Off, and the other by the old route. I refer to his report, printed in 1856. The distances are according to a survey made in 1855, by an engineer named Goddard.

I know nothing of the character of the engineer or the surveyor general. I hope the Senators from California will not understand me as speaking for either of them. My opinion in relation to the engineer, however, is favorable, from the work which he presents. It seems to hold together very well. It appears that for sixty miles to the junction of these two roads, Johnston's Cut-Off and the other, you gain an elevation of four thousand feet. On the old Carson trail it is forty-five miles, thence to the summit at an altitude of nine thousand feet, the average grade is one hundred and eleven feet. You may generally double an average grade in a rolling country. On Johnston's Cut-Off it is thirty-six miles to the summit; the altitude is six thousand seven hundred and fifty feet, decidedly less, which would give an average grade of eighty feet. To descend from the summit to Carson's valley by the old route, requires an average descending grade of two hundred feet per mile for twenty-one miles; and by Johnston's Cut-Off, an average descending grade of one hundred and forty feet per mile for twelve miles. The descent and the ascent upon both these routes, doubling the average grade, show that it is impracticable to run a railroad otherwise than by stationary engines, and, therefore, that it is better to attempt the construction through the cañon than to cross this mountain, unless it be by a tunnel, which is represented to be about two and a half miles long, without any lateral opening. There is no estimate for the cost of that. I find none that has ever been submitted. I think it was an examination rather for a stage road, for which it was found practicable and highly useful, and no means, therefore, by which to judge at all of the expenditure which would render it possible to pass it by railroad.

In relation to the climate of this route, I would say that I believe it worse than that on the forty-ninth parallel. I believe it has more snow upon it; that occasionally it has as intense cold; that the liabilities to loss of life, and the interruptions to the working of a road, are greater upon it from cold and snow than they would be upon the forty-ninth degree of latitude.

Captain Stansbury, who passed the winter of 1849-50 in Great Salt Lake City, says:

"I had hoped, from the representations which had been made to me of the mildness of the two previous winters, that we should be able to keep the field the greater part, if not the whole, of the season; but, in the latter part of November, the winter set in with great and unusual severity, accompanied by deep snows, which rendered any further prosecution of the work impracticable."—(Page 120 of Report.)

"The winter season in the valley of Great Salt Lake was long and severe. The vicinity of so many high mountains rendered the weather extremely variable: snows fell constantly upon them, and frequently to the depth of ten inches in the plains. In many of the cañons it accumulated to the depth of fifty feet, filling up the passes so rapidly that, in more than one instance, emigrants who had been belated in starting from the States were overtaken by the storms in the mountain gorges, and forced to abandon everything, and escape on foot, leaving even their animals to perish in the snows. All communication with the world beyond was effectually cut off; and, as the winter advanced, the gorges became more and more impassable, owing to the drifting of the snow into them from the projecting peaks."

"We remained thus shut up until the 3d of April."—(Page 123.)

One Senator, however, informed us that the thirty-seventh parallel was the place, and insisted on running a road straight across on that line. That is an old story. We used to have it running straight across and over a very level country; which level country, when subjected to instruments, proved to be ten thousand feet above the level of the sea, with tunnels of such length as no man yet has ever undertaken to cut. But we have some additional evidence in relation to the climate of that route, and not drawn from the railroad reports, of which, perhaps, Senators are getting somewhat weary. I refer to the report of Captain Marcy, of the recent expedition which he made south of this line, trying to find his way down into New Mexico. He says, in his letter dated "Taos, New Mexico, January 23, 1858," describing his route:

"For two hundred miles I encountered from two to five feet of snow, requiring great labor on the part of the escort to break a trail for the animals, and for several days I only marched about three miles per day. In consequence of this, my rations were consumed ten days before I reached the valley of the Rio del Norte, and it became necessary to subsist my command upon mules that became exhausted and could perform no further labor."

The exposure and loss of his party encountered by Colonel Fremont in the same region of country are well known to, and must be remembered by, the Senate. Captain Marcy, in his letter to Major Porter, on the same expedition, dated June 12, 1858, says:

"Our trace is along the valley of the Grand river to the junction of the Bunkaroo and Compadre, both of which we forded, and ascended the latter about fifteen miles. We found no snow in these valleys, and the atmosphere was mild, with much of the grass green."

"Several lodges of Utah Indians were met with upon the Compadre, who informed us that the major part of their band had gone to Snake river upon a buffalo hunt, and had taken with them nearly all of their best horses. I held out every inducement to persuade them to sell some of the remaining ones, but did not succeed in purchasing one."

"They seemed to be amply supplied with rifles and blankets, which they said had been presented to them by their agent, in New Mexico. I also made an effort to hire one of them to accompany us, as a guide, as far as the 'Kutch-tope' Pass, supposing he would know the best route to avoid the deep snows; and, as an inducement, I offered him the value of two horses; but he most peremptorily declined, saying 'the snow was very deep in the mountains; that we would all perish; and that, for his part, he was not disposed to die in that way.' He also said it would be much more wise for us to turn about and go back, or stop and winter with them."

"Our interpreter replied to him that we were men, and not old women; that we intended to go on, and had no fears as to the result."

"We purchased some deer-skins from these Indians, which were distributed among the soldiers, to repair their shoes and make moccasins, as many of them were nearly barefooted."

"On the 22d day of December, we left the valley of the Compadre, and taking a southeast course, entered the mountains, where we at once encountered snow, which increased in depth as we ascended, and upon the top of this was a hard crust, that cut the mules' legs severely, and greatly augmented the difficulty in travelling."

"On the 24th the snow had become so deep that, finding it impossible for our jaded animals any longer to break the track, I placed forty men in the advance who waded slowly through it, alternating from front to rear as they became exhausted, and in this manner a path was beaten over which the pack mules with difficulty passed. The snow continued to increase in depth as we advanced, but the men struggled most manfully on. They were cheerful, and there was not a word of complaint from any one of the soldiers."

"We then followed slowly on until the 31st, making about five miles a day. This brought us to a small creek which our guide informed me had its rise on the Kutch-tope Pass. Here we had the misfortune to encounter a snow storm which added about fourteen inches to the heavy body of snow already upon the ground, and increased very greatly the difficulty of breaking a track through it."

"The following morning dawned upon us with gloomy auspices, far from promising a happy new year; yet we struggled on, and by the severest toil made about two miles during the entire day. The snow was now from four to five feet deep, and the leading men were obliged in many places to crawl upon their hands and knees to prevent sinking to their necks. They could only go a few yards at a time before they were compelled, in a state of exhaustion, to throw themselves down, and let others take their places."

He goes on to describe the sufferings of his men; but I have read enough to show that this is a country where the obstructions are such that I presume no one, speaking fairly on the subject, would say it is a fit route for a railroad. He says further:

"The route we passed over, from Camp Scott to the valley of the Rio del Norte, traverses for almost the entire distance a very broken and mountainous region, over which I regard it as wholly impracticable to carry a wagon road without the expenditure of a vast amount of labor. It would, however, be a good route for summer travel with pack mules, as grass, water, and wood, are abundant upon the whole route. The estimated distance from Camp Scott to Fort Massachusetts is five hundred and ninety-three miles."

That is in the region of country where the Senator from New Hampshire [Mr. CLARK] proposes to run this road as the only line which he could favor. In order that I may not have been misunderstood in all these heights, I will repeat that the altitude of the pass El Sangre del Christo is ninety-four hundred feet; and that of the Coocha-to-pee, ten thousand and thirty-two feet; and here we find a party of soldiers compelled to relieve each other, to crawl on their hands and feet, in order that they might break the snow sufficient for the packed mules to follow.

Passing on to the thirty-fifth parallel route, where it has been said we have the best soil, and the greatest abundance of timber and water, and therefore the best line for a road, I will first notice the soil of this region. I read from the office examinations of the field-work of the railroad explorations:

"Grass being found on the north bank of the Canadian, in longitude 98° and extending westward in greater or less abundance to the Sierra Nevada, indicates that the change from fertility to barrenness begins in that latitude, at least north of the Canadian. Cactaceae also make their appearance with grama grass. South of it, however, the geological formation is that of a good soil, to about longitude 98°. At this point the change to uncultivable land is complete, except in the river bottoms, which are more or less fertile, but not the great body of the land. Not far south of the route good soil extends westward to the termination of the Wichita mountains. Some portions of the upper valley of the Canadian, the upper valley of the Pecos, the valleys of the Rio Grande, Zuni, Colorado Chiquito, San Francisco, Colorado of the West and its tributaries, possess a fertile soil, requiring generally irrigation to make it productive. That portion of the southwest corner of the Great Basin traversed by this route, and over which the explorations of Lieutenant Williamson extended, is well constituted for fertility, its barrenness resulting from the absence of rain. Generally the uncultivable plains have an abundance of nutritious grass, though there are extensive tracts where little or none is found—the two greatest being from the Antelope Hills to Tecumcari creek on the Canadian, two hundred and fifty or two hundred and sixty miles, and from the lower part of Santa Maria river, to the Mohave river, two hundred miles."

Upon this route, I think, with the exception of that near the forty-ninth parallel, the interior is better supplied with such timber as will serve to construct a railroad, than is the case on the other routes. I am inclined to believe, from all the additional information on the subject, that the interior of the country on the route of the forty-ninth parallel is better supplied with timber than any other, and some day it will no doubt be proposed, and proposed properly, to connect the head of navigation on the Missouri with the head of navigation on the Columbia by a railroad, if it can be built, and by a great wagon road if it cannot. I believe it is practicable for a link of that length to build a railroad; and when the commerce of those rivers has been developed, if we can ever secure the passage of the Cascades by steamboats, a railroad of that length will pay the company who build it, being approachable at its two termini a large portion of the year for that sort of transportation, which will be cheaper than a railroad, even if the railroad were built from the Mississippi river.

There are some portions of the thirty-fifth parallel route where the timber will have to be carried a considerable distance. That is so of all of them; and in the comparison it is hardly necessary to speak of that, because it is the case with all. On this route, there is a smaller portion of the distance, I think, where fuel cannot be got, than in any other; but "from the Aztec Pass to the Sierra Nevada, four hundred and twenty miles, no fuel for railroad purposes will be found, and that for working parties will be scanty in some places. From the point of leaving the Colorado to the Mohave river, one hundred and fifteen miles, no fuel is to be had," and no water. That portion of the difficulty on this route has been constantly overlooked; no mention has been made of it.

Gentlemen have spoken of it as though they had passed all difficulty and reached a point where all was smooth. They seem to be clinging to the old error, that the Mohave river is a tributary to the Colorado, and that when they reached the Mohave, they have passed into the Colorado valley, an error long since exploded—exploded by these very explorations. It is shown that there is a high ridge, rising to four or five thousand feet above the sea, between the termination of the Mohave river and the Colorado, and that the Mohave river sinks, never to rise again, having an expansion for some distance from the point where it sinks, a sort of pool, and then disappearing.

Mr. GREEN. I wish to request the Senator to describe the route from Fort Yuma, west of the Colorado, his own favorite route.

Mr. DAVIS. Shall I do it now, or will the Senator wait until I am ready for it?

Mr. GREEN. Any time you choose.

Mr. DAVIS. If the Senator will only wait until I get to that, he will have it; he is in too much haste. As to water on the thirty-fifth parallel route:

"The exact distances over which water is not found at certain seasons, or permanently, are not stated. It does appear, however, that a resort to unusual means will be necessary east of 100° longitude. Between that and the Pacific there are spaces destitute of it, where, from the known character of the geological structure, there is no doubt that sufficient supplies can be obtained either by deep common wells, artesian wells, or reservoirs."

"These larger supplies of timber and water, west of the Rio Grande, are attained at the expense of great elevation and somewhat rugged ground."

On the particular point to which I was referring when the Senator from Missouri interrupted me, I wish to state the fact that the party of exploration, when they left the Colorado, had to divide the little party of Captain Whipple into three parts to get water enough when they stopped at night in crossing to the Mohave river.

Mr. GREEN. Let me ask another question. Has any party ever explored from the mountains westward, by the Mohave river, through the Tejon Pass?

Mr. DAVIS. I believe they have explored all the routes and all the passes.

Mr. GWIN. I think I can explain to the Senator, if he will permit me.

Mr. DAVIS. Certainly.

Mr. GWIN. The party of Lieutenant Whipple, when they left the Mohave, instead of going up to the pass just above the Tejon Pass, to which the Senator refers, turned down and went through the Cajon Pass. The junction between the point where Lieutenant Whipple left the Mohave river and the Tah-ee-chay-pah Pass has never been surveyed by any party as yet; but I have never heard that there was any difficulty in approaching that pass from the Mohave river. Inasmuch as Lieutenant Williamson had surveyed this pass, and the Cajon Pass had never been surveyed, Lieutenant Whipple, in order to do the most service, surveyed that pass. They turned from the Mohave and went through the Cajon Pass, the other pass having been surveyed by Lieutenant Williamson; but he did not make a connection with the Colorado river, nor did Lieutenant Whipple make a connection from the Mohave river to these passes in Sierra Nevada.

Mr. DAVIS. There is no difficulty about the Tah-ee-chay-pah Pass. After ascending the valley of the Mohave, and knowing the pass, there was no necessity of examining the simple plain that lay between the two. The difficulty is between the Colorado and Mohave rivers. The supposition left undetermined by Lieutenant Whipple was, that the Mohave river emptied into the Colorado. He left the field with that supposition; it thus appears in his preliminary report. I doubted whether it was so, and Lieutenant Parke was ordered to examine and settle that question. He did examine it; and instead of its emptying into the Colorado, he found an elevation of four to five thousand feet between the last water of the Mohave and the bank of the Colorado. Lieutenant Parke's examination completed the exploration of that portion of the route; and it gives all the information the Senator can desire in relation to that point, about which, I believe, nobody has ever expressed any doubt.

I will now go to the route on the thirty-second parallel, as the Senator from Missouri is anxious to get to it. I hope he does not expect me to make it quite smooth, or suppose that I will find

water at convenient distances, cultivable land, and timber continuously along the route. I know of no such route across our Territories. I wish I did. If there was a route where it was thus made easy to build a railroad, I should feel a security for the future which I do not possess; and it would bring in its train not only the construction of such a work, but it would bring with it that continuous population which is needful to bind the two parts of the country together. I know of no such line. I believe it is a herculean task, attempt it where you will; go on what parallel of latitude you may, all you can do is to take the least of most serious obstacles. I reached the conclusion that the difficulties were least on the thirty-second parallel; not that they were light. There have been various modes of connecting this line south of the Gila with the Rio Grande.

The office examination says:

"After ascending from the bottom lands of the Rio Grande, in traversing the region examined by Lieutenant Parke between these two rivers, from Doña Ana to the Pimas villages, one appears to be traveling on a great plain, interrupted irregularly and confusedly by bare, rugged, abrupt, isolated mountain masses, or short ranges, seemingly, though not in reality, without system. Winding around these isolated or lost mountains, or using a few passes through them, a railroad may be constructed with easy grades. Except through the mountain passes, the surface is so smooth as to require but little preparation to receive the superstructure of a railroad; and even in the two most difficult of the passes, (where in one case, deep cutting or a tunnel at the summit, near the surface, in rock, with heavy side cuttings and high embankments for short distances, and in the other a short cut of sixty feet—probably through rock—are proposed by Lieutenant Parke, to attain grades of forty-six feet and ninety feet per mile, or less by increasing distance,) the natural slope of the ground may be used for a railroad for temporary purposes, and until the road itself can reduce the cost of materials and supplies to the lowest rates."

The resurvey shows that the two most difficult passes may be avoided.

Mr. DOOLITTLE. I will inquire of the Senator where he commences on that route; at El Paso, on the west line of Texas?

Mr. DAVIS. This exploration begins just above El Paso. It goes on to speak of the country from the Rio Mimbres to San Pedro, destitute of running water one hundred and fifty-two and a half miles. Then comes the Valle de Sauz, seventy-two miles, where water is always found. Then, from San Pedro to Tucson is fifty-three miles. It goes on and gives the points of water in regard to which this remark was made, and which I believe still to be correct:

"The most unfavorable condition, towards the termination of the dry season, has been presented above. At other seasons, lakes and springs will furnish water at much shorter intervals; but the first step in the construction of the road will be building wells between the points of abundant supply."

It has been argued, and I think successfully, that if the road were built, they could go from one supply of water to another; but that has never satisfied my mind of the difficulty which presents itself in building the road. I do not see how the road is to be built, how working parties are to be sustained, with the distances which are found upon every route which ever has been surveyed. After the road is built, it would be possible to run the locomotives over very great distances; and, though it would not be most desirable, it would be feasible, if water failed at intermediate points, that you could still go on. The reason why the construction of wells is presented, is not so much for the working of the road, as the absolute necessity of having water in the construction of the road. The greatest distance between the springs is forty miles. In relation to the timber on this line, the points of supply are presented here:

"For ties, the lumber of the Sacramento and Guadalupe mountains, and, if necessary, from the eastern portion of the route, must first supply them; then the mountains at the sources of the Rio Mimbres, should it be found economical to resort to them, and the source of supply for the road along the Gila, which will be pointed out presently. Lumber will come from the same points."

There is no timber along that section; none over a large portion of the plains. Then beginning at the Gila, where the Senator from Missouri wishes, seven miles above the Pimas villages:

"We have now reached the Gila, seven miles above the Pimas villages, the elevation above the sea being one thousand three hundred and sixty-five feet. From this point to its junction with the Colorado, the valley of the river is highly favorable to the construction of a railroad. There will be no necessity for embankments against freshets, but trifling occasional cutting and filling; and in those instances where the hills close in upon the river, there is

ample space for the road without heavy cutting. The elevation at the mouth of the river being one hundred and eight feet and the distance between the two points two hundred and twenty-three miles, we have a general slope of five and six tenths feet per mile, which, from the favorable character of the ground, may be assumed as the grade of the road.

"Water and fuel for working parties are sufficient, though no grass. Logs may be driven down the Gila from the Mogoyan mountains, at its source, from the Pinal Lleno, and down the San Francisco and Salinas rivers, from the pine forests on the former, and the mountains at the source of the latter."

Mr. GREEN. Will the Senator permit me to interrupt him?

Mr. DAVIS. Certainly.

Mr. GREEN. He misunderstands the point to which I directed his attention.

Mr. DAVIS. But I will treat of it when I come to the other route.

Mr. GREEN. But from the manner in which the Senator spoke of me, I thought he was supposing he was answering my question.

Mr. DAVIS. I will give way to the Senator, if he wishes to take up the line of argument; but if he chooses that I shall go on, I should like to do so.

Mr. GREEN. Certainly.

Mr. DAVIS. I cannot consent to explain a question like this, of physical geography, by the interjections of the Senator from Missouri:

"But it may be found more economical to receive all the supplies of lumber needed, from the western portion of the road, either from the San Bernardino mountains and Pass, or from the harbors of San Pedro or Diego, or, should it be found desirable to establish one, from the depot near the mouth of the Gila."

Sensors will perceive that I am here explaining the basis on which I entertained an opinion, which opinion governs my vote in this case. I have no controversy with anybody. I do not expect to prove that there is water where nature has given none. I do not expect to satisfy gentlemen that their routes are not as good as they wish them; but I am dealing with the facts as they are contained in the reports, to justify me in the opinion which I have officially expressed, and on which I am now acting in my proposition to grant a given sum to make a railroad. I have not encountered all this labor as a mere matter of controversy with anybody.

"The most favorable point for crossing the Colorado is at the junction of the Gila, where the river is narrowest, six hundred and fifty feet wide, and has bluffs on both banks."

"The direction that the road should take across the desert intervening between it and the foot of the Coast range, depends, in part, upon the position of the pass by which it crosses this mountain chain. There are two passes known and explored. Warners, the more southerly of the two, will require five miles of excavation in granite and mica slate for the full width of the road, the grades varying from one hundred and thirty to one hundred and ninety feet per mile."

Here I wish to say that, since this examination was made and the altitude announced, as upon the result of Lieutenant Williamson's exploration with the barometer, it has been examined and reported upon by the level by a civil engineer, and the difference is between three thousand seven hundred and ninety-five and three thousand six hundred and twenty-nine feet, Mr. Poole, the civil engineer making it three thousand six hundred and twenty-nine, whereas the topographical engineer, by the barometer, had made it three thousand seven hundred and ninety-five—the thousands are the same, the hundreds are a little different. I mention this to show the accuracy with which these barometrical altitudes have been determined:

"The distances from the mouth of the Gila, over the desert, to the entrance of this pass, is eighty miles; thence to San Diego is one hundred and fifty miles. The San Geronimo or San Bernardino Pass, on the contrary, is remarkably favorable. It is an open valley, from two to five miles wide, the surface, smooth and unbroken, affording in its form and inclination every facility and no obstruction to the building of a railroad."

And over this plain of eighty miles, to which the Senator from Missouri calls my attention, I will say to him that, with the exception of the period when a pool of water was found, to which they gave the name of New river, it has been considered as a desert *jornado*. It is certainly destitute of water; but it is evidently a delta formation, and not a desert in the sense of being unproductive if it had water. It is all of it alluvial soil, and clearly once belonged to the Colorado, and was habitually overflowed by it; but the formation of the banks of that stream, having sufficient moisture and tenacity to catch the sand driven by the

winds upon it, has at last made a barrier, stopping the overflow of the Colorado, and the long drought upon the alluvial land on the plain west of it has rendered it entirely sterile. Thus, I am informed, it is now all along the Rio Grande, the moment the cultivation of a field is abandoned, left for but a few years without irrigation; sterility settles upon it, and it becomes wholly unproductive; but it can be revived again. It is surrendered to aridity, not to the encroachment of sand as along the Nile, and therefore rendered worthless for other purposes, but it becomes sterile from the want of moisture.

"The elevation of the mouth of the Gila is one hundred and eight feet, and the grade across the plain nearly horizontal. Approaching the pass, we have for ten and a half miles an ascending slope of forty feet per mile; then for six miles, one of eighty-nine feet per mile. We are now at the point one hundred and thirty-three miles from the mouth of the Gila. The natural slopes along the line of survey are sufficiently practicable for a railway."

I have spoken generally of the lumber. It is spoken of more specially in this report:

"The worst case having been discussed, it remains to be said that good ties and lumber can be obtained from the Guadalupe and Hueco mountains, from the head waters of the Rio Mimbres, from the Pinal Llano, Salinas river, and head waters of the San Francisco, and from the San Bernardino, mountains of Sierra Nevada or Coast range, which sources of supply may be found to materially obviate the necessity of transporting lumber from the two ends of the road."

Such is the general report. Over this line there is an amount of territory which must ever remain unproductive, unless that hope which has become less and less in the progress of years, should hereafter be realized, and we shall be enabled by boring artesian wells to obtain water. When that is done, fertility will result wherever there are the necessary elements in the soil itself. Until that time all those routes are broken by a wide belt of desert. The reports show a fewer number of miles through this desert region on this line than any other, and also show that the longest distance between the points which can be supplied with certainty from permanent water is forty miles.

Upon a careful, thorough, and rigid examination of the information collected by the exploring parties, it appears that the route near the thirty-second parallel possesses advantages greater than any other surveyed, and fulfills the requisition of Congress for "the most practicable and economical route from the Mississippi river to the Pacific ocean." It is the shortest route; its length being from one to four hundred miles less than the two shortest of the other routes; it is likewise the shortest route to San Francisco, being one hundred miles shorter than any other. The vast uncultivable belt through which all the routes must pass is crossed by the route of the thirty-second parallel where the width is least, its length through this region being two hundred miles shorter than upon any other line.

The mountain region on this route has the least elevation, and the table lands preponderate to a greater degree than on the other routes.

It is the most economical route; the estimated cost to the Pacific being from eighteen to twenty million dollars less than that of any other, and to San Francisco \$10,000,000 less; the cheapness of construction being due to the great extent of plains and table lands where the road-bed preparation required is slight.

The mountain passes are open and their natural slopes admit of temporary use without costly preparation. The winters are so mild that no difficulties, impediments, or dangers from snow and ice are to be apprehended, and this admits of the use of very steep grades.

On all the routes, unusual means must be resorted to for supplies of water at the distances usual on railroads. The intervals between the large permanent supplies on the route of the thirty-second parallel, are not too great for the working of a railroad. Additional supplies at shorter distances, may be collected by tanks or wells.

In the uncultivable belt that separates the Mississippi from the Pacific, extensive areas of arable soil are to be found. The route of the thirty-second parallel is neither less favorably situated in this respect, nor in population and mineral wealth, than those in other latitudes, nor is the supply of building materials and timber materially less on this route than on the others, excepting an interior portion of the route near the

forty-ninth parallel, where a dense growth of firs is found for the space of one hundred miles.

The route of the thirty-second parallel is not only the shortest and cheapest, but the character of its construction is such that it could be executed in a vastly shorter period. It is obvious that a road on any of these routes, with the exception perhaps of the forty-seventh parallel, must be built continuously from the two extremities, and an obstacle that arrests its progress at any point defers the commencement of all the work in advance. The tunnels and much of the other work on the more northerly routes in the most desolate regions are such as could not be commenced until a road was constructed up to those points, and would then require a long period for their completion.

On the southernmost route, on the contrary, the progress of the work will be regulated chiefly by the speed with which cross-ties and rails can be delivered and laid, the nature of the country being such that throughout the whole line the road-bed can easily be prepared in advance of the superstructure. The few difficult points, such as the Pass of the Guadalupe and Hueco mountains, and the passes between the Rio Grande and Gila, would delay the work but an inconsiderable period.

This peculiarity of the ground presents another advantage in the fact that temporary tracks could be laid upon the natural surface of the earth to almost any extent, to serve for the transportation of materials and supplies.

The comparison instituted in the office when the field work of the various explorations was brought in, was to fulfill the requirements of Congress, to find the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean. I am not engaged now in the investigation of that exact question. It is simply a question of crossing the Territories; but as it may connect itself in any action of Congress, I have prepared a table which contains somewhat more succinctly than it is found in volume seven of the railroad reports, and with some additional information since volume seven was issued, so as to show the distances by the proposed railroad routes, of the sums of the ascents and descents, the comparative cost of the different routes, the number of miles through arable land, the number of miles through land generally uncultivable, the arable still being found in small areas, the altitude above the sea, and the highest point.

In this connection I wish to refer to the testimony of a civil engineer who has been over both the thirty-fifth and thirty-second parallel routes, and looked at them with a view to the construction of a railroad. He was first connected with a party of exploration of the route near the thirty-fifth parallel—Albert H. Campbell. I intend to read from a letter which I find addressed by him to the Hon. GUY M. BRYAN, of Texas, in relation to the Pacific railroad, published in 1858. On the first page he sets forth the total indifference to him as to which of the two routes may be selected, and the absence of any pecuniary motive to influence him one way or the other. He says:

"I have no pecuniary or landed interest in the El Paso route, and consequently have no motive for my preference, except an honest conviction, derived from personal observation, that it is emphatically the most practicable, cheapest, and shortest route between the Mississippi river and the Pacific ocean; and the country through which it passes, as a whole, will compare favorably with any other route in agricultural and pastoral resources, and in mineral wealth, and that it is the only route that can be successfully worked during the entire year."

"It is practicable to construct a railroad along the Albuquerque route, as reported by Captain Whipple; but I maintain, and am willing to leave the decision to the ablest impartial railroad engineer in the country, that it cannot be done without an immense outlay of treasure in preparing a road-bed, and exceeding, by at least twenty-five per cent., the cost of constructing a road of equal length over the thirty-second parallel."

Again, he says that fertile "mountain valleys and river-bottoms exist upon all the routes, and the difference in the areas found in the different latitudes is not sufficiently great to be of any considerable weight in determining the question of choice of route."

He goes on to speak of the character of the surveys, and then shows, on what he has evidently based his judgment, that it was impossible to work a road on the thirty-fifth parallel during the entire year. Of the climate, he says:

"In regard to the climate of winter on the Albuquerque

route, I am satisfied that it will be found too cold to work a railroad successfully for at least three, if not four, months of the year. The recorded experience of six winters at Fort Defiance, only twenty miles in latitude north of Campbell's Pass, and about the same elevation (as I observed when I went to that post in November, 1853, through Campbell's Pass, though the Army Meteorological Register, page 641, puts it down (or rather up) to 7,200 (7) feet above the level of the sea) must be taken as conclusive of the fact of its being at times extremely cold."

At Albuquerque, according to the meteorological report of the medical department of the United States Army, the maximum and minimum temperatures, respectively, were, for the winter months of 1849 and 1850: in December, 53°, 5°; January, 49°, 13° below zero; February, 57°, 17°. For 1850 and 1851: in December, 52°, 5° below zero; January, 57°, 8°; February, 59°, 7°. For 1852 and 1853: in December, 63°, 21°; January, 65°, 19°; February, 66°, 13°. For 1853 and 1854: in December, 66°, 20°; January, 63°, 5°; February, 67°, 15°; and in December, 1854, 58°, 19°.

At Fort Defiance, about twenty miles north of Campbell's Pass in latitude, and from three to five hundred feet higher, the maximum and minimum temperatures, respectively, were: For the month of December, 1851, 62°, 4°; eighteen inches snow. For 1852 and 1853: in December, 50°, 2°; January, 53°, 7°; February, 56°, 6°. For 1853 and 1854: in December, 57°, 8°; January, 49°, 20° below zero; February, 54°, 2°. For 1854 and 1855: December, 65°, 10°; January, 59°, 17° below zero; February, 61°, 13°. For 1855 and 1856: December, 56°, 25° below zero; January, 54°, 8° below zero; February, 51°, 3° below zero."

My friend from the hyperborean region of Iowa, will consider it cold whenever it sinks below zero anywhere. A great error has been committed in supposing that because the thirty-fifth parallel route is in a southern latitude it must be a warm country. Elevation has as much to do with the thermometer as the parallel of latitude on which a spot is found. Here is an elevation of seven thousand feet above the sea, and a country entirely deprived of moisture. The air from the ocean has deposited all the moisture it possessed in passing the mountain ranges, before it reaches this plain. Over it, then, the hollow winds howl with a degree of cold scarcely less intense than that found in any portion of the country. But going through with this table, the writer says.

"The table above will give a fair idea of the climate of the country. The winter of 1855-56 was more severe than any one known for many years. The wintry weather commenced on the 1st of November, 1855, and has continued up to the present time, (March 14, 1856.) The Rio Grande, at Albuquerque, was frozen over, and with ice sufficiently strong to bear a horse and carreta. Those Indians who live habitually to the north of Fort Defiance, were obliged to abandon that portion of the country and move south, with their flocks and herds, in quest of grazing, on account of the depth of snow, which, in the mountains, at whose base the fort is situated, was over two feet in depth, in March, 1856." (Correspondence, J. Leatherman, assistant surgeon United States Army; Smithsonian Report, 1855, page 287.)

Speaking of the immense exposure encountered on this elevated plain in winter, Mr. Campbell says:

"The imagination can readily picture the terrible calamity which would inevitably befall a train-load of passengers en route for the Pacific if an accident of a similar kind should stop their progress midway upon one of those desolate artemesia districts; between the Ojo de Gallo and the Little Colorado, and between the valley of the Big Sandy Fork and the sink of the Mohave, where no human habitation can ever exist between the permanent water stations."

He treats the supply of water, then, pretty much as I have noticed it in other reports. He notices the fact that Captain Marcy, after having traveled over the thirty-fifth, and then seeing the thirty-second parallel route, testified in favor of the thirty-second as an emigrant route. He cites the opinion of Major Emory as to the route on the thirty-second degree. He says:

"In an allusion to the subject of a railroad, (on page 51, first volume Mexican Boundary Report,) he [Major Emory] emphatically declares, of the advantage gained by the last, or Gadsden treaty, that it 'has secured what the surveys made under the orders of the War Department demonstrate to be the most feasible, if not the only practicable, route for a railway to the Pacific.'"

I will say of that officer, that he is the first who made an examination of that country, and reported its topography so accurately as to elevation, latitude, and longitude; that his report stands to this day uncontradicted by subsequent exploration, while other maps of the same, or anterior date, have been swept out of existence by the fallacies that were found written upon them. Having made the exploration at that early day, he has again returned to the same section of country and engaged in the survey of the Mexican boundary. I hold that his opinions, therefore, have the peculiar value which belongs to the accuracy he has shown in all his work heretofore, and the double opportunity he has had to judge of this particular section. I may also say that he was,

at one time, in the office of examination, and that while in that office he had all the reports submitted to him, and, therefore, had the general view of the subject before he went into the field for the Mexican boundary survey.

There has been a great deal of argument to prove the abundance of water in the line of the thirty-fifth parallel. I do not know that any one has undertaken to prove that the thirty-second was overflowed. The difference between them is that the thirty-second has no very great elevation. After mounting those plains on the west of the Rio Grande, it runs with very little variation, and consequently a low sum of ascents and descents, until it gets to the Colorado. Then it crosses another plain to the mountains, passes through the mountains on a natural grade, and ascending towards San Francisco through the valley of the Santa Clara and Salinas, finds a route which avoids all those difficulties of going through the Tejon, or other passes, which requires them to descend into the valley of the San Joaquin. On the other hand, the route of the thirty-fifth parallel in the belt of country which lies between the Rio Grande and the Colorado, mounts upon an

elevated plain of from six to seven thousand feet, and continually passes into depressions, so as to give it the greatest sum of ascents and descents, and finally comes within about seventy miles, I think, of the Colorado river standing on this plain five thousand feet above it. This is the reason why Lieutenant Whipple, instead of going down directly, and making that short line, which is so often spoken of, went down Williams's Fork to get the easy grade which he obtained by following the channel of that river, keeping in the valley of Williams's Fork. Thus he made his great detour to the south, and returned again up the Colorado river before crossing it.

The table to which I have alluded presents, in a more condensed form than I can do it otherwise, the distances, the sums of ascents and descents, and the comparative cost of each route. It does not matter whether this comparative cost is too high or too low, for the same standard is applied in all. The object was to approach as near to accuracy as possible, and the accuracy believed to be attained was the accuracy of comparison, not a positive sum of the cost of the number of miles of route. I now submit this table to the Senate:

Table showing the lengths, comparative costs, &c., of the several routes explored for a railroad from the Mississippi to the Pacific.

Routes.	Distance by proposed rail-road route.	Sums of ascents and descents.	Comparative cost of different routes.	Number of miles of route through arable land.	Number of miles of route through land generally uncultivable, arable soil being found in small areas.	Altitude above the sea of the highest point on the route.
	Miles.	Feet.				Feet.
Route near forty-seventh and forty-ninth parallels, from St. Paul to Seattle.....	1,955	18,654	\$135,871,000	535	1,490	6,044
Route near forty-seventh and forty-ninth parallels, from St. Paul to Vancouver.....	1,800	17,645	125,781,000	374	1,490	6,044
Route near forty-first and forty-second parallels, from Rock Island, via South Pass, to Benicia.....	2,299	29,120*	132,770,000	899	1,400	8,373
Route near thirty-eighth and thirty-ninth parallels, from St. Louis, via Coe-che-to-pa and Tah-co-chay-pah Passes, to San Francisco.....	2,325	49,985†	Impracticable.	865	1,460	10,032
Route near thirty-eighth and thirty-ninth parallels, from St. Louis, via Coe-che-to-pa and Madelin Passes, to Benicia.....	2,535	56,514‡	Impracticable.	915	1,620	10,032
Route near thirty-fifth parallel, from Memphis to San Francisco.....	2,366	48,521‡	113,000,000	916	1,450	7,550
Route near thirty-fifth parallel, from Memphis to San Pedro.....	2,090	48,862‡	99,000,000	690	1,400	7,550
Route near thirty-second parallel, from Gaines's Landing to San Francisco, by coast route.....	2,174	38,206§	94,000,000	984	1,190	5,717
Route near thirty-second parallel, from Gaines's Landing to San Pedro.....	1,748	30,181§	72,000,000	558	1,190	5,717
Route near thirty-second parallel, from Gaines's Landing to San Diego.....	1,683	33,454§	72,000,000	524	1,159	5,717

* The ascents and descents between Rock Island and Council Bluffs are not known, and therefore not included in this sum.

† The ascents and descents between St. Louis and Westport are not known, and therefore not included in this sum.

‡ The ascents and descents between Memphis and Fort Smith are not known, and therefore not included in this sum.

§ The ascents and descents between Gaines's Landing and Fulton are not known, and therefore not included in this sum.

In volume seven of the railroad reports, a table will be found with which this very generally corresponds, the difference being that, the surveys having commenced at different points, one for instance at Council Bluffs, and another at Fort Smith, these have been extended so as to show more exactly their connection with the Mississippi river. The ascents and descents between Rock Island and Council Bluffs are not known; therefore, they are excluded in the sum. From St. Louis to Westport they are not known, and are not included. From Memphis to Fort Smith they are not known; and from Gaines's Landing to Fulton they are not known, and not included. Otherwise they give the sum of ascents and descents. It is substantially an abridgement of the table in volume seven, with some additions to it. It is based, too, on the supposition that the reported practicability of the Cœur d'Alene Pass is correct, and thus it has reduced the total sum on the forty-ninth parallel, according to the revised report of Governor Stevens. It is a slight reduction on the line of the forty-ninth parallel route. No additions have been made for those difficulties which, in addressing the Senate, I have stated had come to my knowledge since he made his report, because that is a species of information which not being derived from instrumental survey, is not accepted, and enters into no estimate and no figures.

If, Mr. President, I have (though I know much less perfectly than I had hoped) established my position, that the route of the thirty-second parallel is the most practicable and economical, I have only to add to what I have said, that looking to the grant of land made by Texas, and to the conjoint interest which would be brought to bear for the extension of that road to the Rio Grande, by a company formed to build a road from the Rio Grande to the Colorado, I believe the sum of money and the grant of land, the smallest proposed by any one, which is contained in this substitute I offer, will secure the construction of the road across that piece of territory, will secure the extension of the road of Texas to the Rio Grande, either under the existing or some other company which will become possessed of the endowments that Texas has given, and that having reached the Colorado, California will charter a company to extend it to San Diego, to San Pedro, or perhaps, in the first instance, to San Francisco. Most probably, that company, if they are chartered to go to San Francisco, will make their first terminus at San Pedro, and thus command a readier return for their investment in the road than if they awaited its final completion to San Francisco.

I have endeavored, during the progress of this debate, to ascertain how much of the land in the valley of the Santa Clara and the Salinas would

inure to the benefit of a company undertaking to build a road. It is all known to be of the highest fertility, and blessed with a climate not inferior to any within the limits of the United States. If it is possible for the company constructing this road to obtain even one-half of the amount of land proposed along that line, I rely upon the accuracy of Lieutenant Parke's estimates, together with the trade which would flow upon it, to establish the fact that the road will be built there by the land grant alone. Whenever California shall charter a company to build this road within her own limits, and that company shall come to Congress and ask for a grant of land to construct it, I think that we cannot doubt that the interest of the United States in the construction of that road to the great harbor and naval depot on the coast of the Pacific will warrant Congress in making a grant of land to such a company. Thus, I reach the conclusion that the Texas road will be drawn on to make a junction with the road built in the Territory, and that built to the Colorado will extend itself to the Pacific, and the eastern terminus of the Texas road will connect itself with all the roads which ramify throughout the United States, coupling, in a very short time, St. Paul and Galveston together; that it will answer all the purposes of commerce there as elsewhere; that it is, in fact, when you take into account the sinuosities, the ascents and descents, the shortest route we have across our own territory.

If it is to be attained by this small sum of money, I insist that all who desire the construction of a road across the territory with its feasible extension through the States to answer all the ends of the Government and people of the United States, are bound to sustain the proposition which I have submitted. If this will not effect it upon any line, I say the error is in the estimates which have been made, and in the power of the Texas company to extend its road to the Rio Grande, on which I speak with no more information than everybody else possesses. I do not believe it is possible upon any other route, and it is therefore that I have, even at the expense of being tedious, referred to the exploration of other routes. I say it is not possible with twice or three times the sum to build a road on any other route. I would not have consumed the time of the Senate by referring to these routes and assembling as it were the data on which my former conclusion was based, if I had not believed that intimately connected with it was the proposition I made of a sum of money the Government can well afford to pay to obtain that railroad service which the Government requires. We have within the year probably expended as much as the whole sum ever to be drawn from the Treasury by this company in transportation to the interior of the United States, and if the present indications of Indian disturbances do not soon pass away, it is probable that in another year we shall expend a like sum for military transportation, and such things are to continue until by means of rapidly approaching them, they shall be intimidated and peace shall be made the guarantee which we derive from the construction of a road which will enable us at any time to approach any portion of our territory.

I had intended to make some more extended remarks on the political relations of the work, and upon the constitutional question which has been involved; but I am physically compelled to abandon the further discussion of the subject. My opinions on subjects kindred to this, expressed on other occasions, and briefly alluded to to-day, will, I hope, satisfy Senators of the constitutional ground upon which I stand; and I trust those who hold with me to strict construction, and to binding the Federal Government by the fetters of the law and the letter of the Constitution, will find that the difference between themselves and me consists rather in the facts on which we found our opinions, and the necessity which I believe to exist for such a communication as this.

Mr. GREEN. Mr. President, it was with no intention to interrupt the Senator from Mississippi, that I put a question to him in the course of his remarks.

Mr. DAVIS. Let me say to the Senator from Missouri, that I do not feel in the least aggrieved. I was suffering at the time, and therefore was averse to any interruptions.

Mr. GREEN. I supposed, and for that reason I put the question, that he desired to have his

attention called to the points that would institute a fair comparison between two routes, one of which he favored and the other of which he condemned. I thought he did not do justice to the one, and I thought he gave an over-measure of praise to the other. I, however, have no cause of complaint as to his opinions. I am well satisfied that no railroad bill will pass this session; and my only objection is, that Senators should undertake to exalt the one and prejudice the other. The Senator from Mississippi knows that the route on the thirty-fifth parallel has never yet been surveyed through. When other information comes in not of an official character, it is disregarded so far as it applies to that route; but when it comes as to the thirty-second, he reads a letter addressed to a certain distinguished gentleman of Texas, unofficially, and he takes great pains in reading it. It is not, I think, dealing fairly with the subject. Mr. Beale made a report; other pioneers have made reports; other travelers have made reports; showing that the line of the thirty-fifth parallel is practicable. Others believe that on the thirty-ninth parallel a good pass can be found in the mountains, a good route for a road, and a good connection made with the Mississippi.

I am not here to speak for, or against, any route. It is not in my purpose; but I am determined that no prejudice shall by a partial view of the subject, be raised against the thirty-fifth parallel or the forty-second parallel, which on the present information we have, approximate nearest to the great center where we want the road.

The Senator says if this road had been made, \$10,000,000 might have been saved last year. Suppose his road had been made and you wanted transportation to the Army of Colonel Johnston against the Mormons, would it have answered any purpose to save the \$10,000,000? Not one solitary dollar. You would have to go down to the thirty-second parallel, starting from Gainsville, where they get no supplies unless they are transported by land or water, and from that go over to El Paso through the Llano Estacado, a barren desert waste, worse than the Jornada del Muerto, as that Senator well knows; yet he says that would be saving \$10,000,000 to the Government. When they had reached El Paso they would have been a thousand miles from Utah, with no possible means to make a contract for transportation because they would have been at a point where nobody would have had the means to transport. It would cost two dollars to one that it did cost, if the Senator's road had been made to transport supplies to the Mormon expedition.

Now, if we are making a road to meet the wants of the Government, let us look at practical things as they are. We want it, as I have remarked a dozen times in the course of this discussion, in a central position. If it were possible, owing to the base of the mountains and the character of the country, to make it in an exact geographical center to meet the population and settlement, I would say that ought to be the point. If that be not possible, I must approximate to it as near as I can, and that is the whole of my position. If no road can be constructed that will meet the wants of the Government, then I am against any road with Government aid, leaving it to individuals to make such as their commercial communications may require. If it is a road of commerce only, let commerce make it. If it is a road of trade only, let trade make it. If it is a road for the wants of the Government, let it be so located as to meet those wants. Why, sir, from the information before us, there is a broader expanse of country west of the Colorado that is a barren desert, nothing but drifting sand, in which a man can hardly live when the wind blows anything like a hurricane, on the thirty-second parallel, than on any other as yet surveyed.

Mr. DAVIS. What authority do you rely on?

Mr. GREEN. I rely on the explorations made by Mr. Beale and others, who have crossed through the Colorado, gone over the Mohave, and from that through the mountains of the Coast range in California.

Mr. DAVIS. That is on the thirty-fifth, is it not?

Mr. GREEN. That is better; but I rely on the report of Lieutenant Michler to prove the character of the country on the route of the thirty-second, and the report of Lieutenant Michler is an

official document. Where do you find the same expanse of barren waste as you do on the thirty-second? But says the Senator a second exploration shows that many of those grades can be reduced. I think he told us the grades, perhaps, passing through some parts of New Mexico, the southern part of it proposed to be called Arizona, reached as high as from one hundred and thirty to one hundred and eighty feet to the mile.

Mr. DAVIS. No such thing—the least like it.

Mr. GREEN. Well, have we had a second exploration of the thirty-fifth parallel? I may ask, have we had the first exploration of the thirty-fifth parallel?

Mr. DAVIS. I can give you two maps that will show three explorations on the thirty-fifth parallel.

Mr. GREEN. I know that; and perhaps forty on part of the thirty-fifth parallel, but show me one that went through; and yet the complaint you raise is upon that part that they never did go through. These are facts.

Mr. DAVIS. Does the Senator say that from the sink of the Mohave to the Colorado has not been explored?

Mr. GREEN. Not by any report before us.

Mr. DAVIS. It is before you, printed.

Mr. GREEN. Which?

Mr. DAVIS. Lieutenant Parke's.

Mr. GREEN. In the railroad survey?

Mr. DAVIS. Certainly.

Mr. GREEN. I should like to see it.

Mr. DAVIS. And Lieutenant Whipple's; the two perfect the report.

Mr. GREEN. Yes, sir; they approached the Mohave river, but from that up to the head of it they never did explore. Now, Mr. President, I am not saying this for the purpose of improving the chances of the thirty-fifth parallel route, or of lessening the chances of the thirty-second, but I am saying it merely for the purpose of preventing a prejudice existing for the one or against the other. I am satisfied that no railroad bill will pass this year. As it will not, let public sentiment remain without prejudice; and if more surveys are required, and further explorations are necessary, let us have them. But I will repeat that even if the road had been made on the thirty-second parallel, it would not have met the wants of the Government in the difficulties through which we have lately passed. The grades upon the northern line are low; the grades on the thirty-second are generally low; but to take the maximum of ascents and of descents will produce a fallacious impression of the amount, because the great point to be gained in railroad engineering is not the amount of descents and the amount of ascents, but the grade at which they run. You may go by a gradual grade up to the height of ten thousand feet, and by a gradual grade down to the level of the sea, and yet have gradual ascents and descents; whereas you may only go up one thousand feet, and from the character of the country be compelled to make use of grades very high and almost impassable.

These are fallacious tests. We must look into them, and as we cannot have definite action now, let us have no prejudice. I want none against the thirty-second; I want none against the thirty-fifth; I want none against the thirty-ninth, the forty-second, the forty-seventh, or the forty-ninth. Leave them all open; but the Senator has taken certain parts of reports from his honest judgment on the subject, most of which are a repetition of what he gave in the first volume of his report on the railroad surveys. I was well aware of what his opinion was. I have nothing to say against his opinion, so far as his right to entertain it is concerned; but I have this to say, that he does not do full justice to the other routes according to my understanding of the facts involved. We ought not to confine ourselves merely to official reports of surveys. We ought to take in all the information we get. He has deemed it proper to take in other information on the thirty-second, and to the prejudice of the thirty-fifth. I will take any other information for the benefit of the thirty-fifth.

Mr. DAVIS. I will give the Senator the only document he could refer to—and I challenge him to read it—Beale's report, and the two maps, to find where he deviated five miles from the line of the road. Here it is.

Mr. GREEN. I have read it. There is nothing new in that.

Mr. DAVIS. What is there new, then, to bring in?

Mr. GREEN. I was remarking that the Senator had referred to other things outside of the official report, to the prejudice of the route on the thirty-fifth parallel, and for the same reason we had a right to refer to other things outside of official reports for the benefit of the thirty-fifth. We have it and have read it, and the country is in possession of it.

Now, Mr. President, if it be believed by a majority of the Senate, that a road from El Paso to Fort Yuma will meet the wants of the Government, let them vote it. I believe that it starts nowhere and ends at a similar place. We have no guarantee that the eastern end of it will be made; we have no guarantee that the western end will be made, and who will vote \$10,000,000 out of the Treasury to make a link without any assurance or any probability, or any possibility of connection between the east and the west? I cannot; yet if the Government deems it proper to take hold of the subject and make a road through on the thirty-second parallel, let them make it. I think we can better meet the wants of the Government in a central position; others think they can better meet the wants of the Government in a northern position; each one is so tenacious of his opinions, that he is determined to vote for none but his own. Thus all must fall, unfortunately, until the public sentiment of the country shall become aroused, until the people shall say that we must yield a little, and sacrifice a few of our predilections for the consummation of a great public good; and when we arrive at that point under the coercive power of public sentiment, then, and not till then, will the Pacific railroad be constructed.

Mr. DOOLITTLE. Before the question is taken on the substitution of the bill offered by the Senator from Mississippi for the bill pending before the Senate, I suppose it is in order to offer amendments to the proposed substitute.

The PRESIDING OFFICER. It is in order.

Mr. DOOLITTLE. I desire to call the attention of the Senate to certain amendments which I propose to offer to the substitute of the honorable Senator from Mississippi. I think that the Senate must be well satisfied by this time that the friends of the establishment of a communication by railway between the Atlantic and Pacific coasts cannot agree, at present, upon any one route. It is true that while, for one, I am an advocate for the building of a road on a northern route, I am free to confess that if but one route of railroad is to be constructed, it should be the central route, and I voted for a proposition which would confine the building of a single route, if it should be a single route of railroad communication, to the central route.

It was objected, however, by Senators on this floor that that was unfair and unjust towards the southern States of this Confederacy; and why? The proposition was to limit the route between the south line of Virginia and the north line of Pennsylvania, between the thirty-seventh and forty-second parallels. Was there any injustice in this towards any section of the Confederacy? None whatever; but if there be one route to be constructed, I insist that it is but just to the sections in this Confederacy that there should be some limit somewhere.

I am willing to offer an amendment to the proposition of the Senator from Mississippi, which will test the sense of the Senate on this question. The Senate has already decided, by a very large majority, and about the sense of the body on that point there can be no doubt, that whatever contract is to be entered into by the President, under any bill that shall pass this session, must be submitted to the Congress of the United States for its ratification before it shall have any effect whatever. Now, sir, is there anything unfair in the proposition which I am about to make? Let us, when we offer the proposals for contracts for a railway communication, offer them to be taken upon three routes—upon the northern, north of the forty-second parallel; upon the middle, between the thirty-seventh and forty-second parallels; and on the southern, south of the thirty-seventh parallel. Let us take proposals from capitalists upon all three of these routes, and then have the President of the United States submit them to the consideration of Congress.

Upon this floor, each of those routes has its

earnest and eloquent advocates. There are men upon this floor, as there are thousands upon thousands of men in the United States, who believe that each of these routes has precedence over every other. Why is it not fair, then, to try them? I ask the Senators from Texas and the Senators from Mississippi what is there unfair in taking the proposition upon all three of these routes, and let them be submitted to the Congress of the United States, to find out what is the opinion of capitalists and railroad contractors and railroad builders, upon the practicability of these three routes. Perhaps they are all practicable. The friends of each contend that the particular route which they favor is practicable. They have their preferences; let us try them all; that is the only sensible course to be pursued in this juncture of affairs, as it seems to me, and therefore I offer, as one amendment to the substitute proposed, to add to the first section of the substitute:

"Upon three routes within the territories of the United States, one north of the forty-third parallel of latitude, and one between the thirty-seventh and forty-third parallels, and one south of the thirty-seventh parallel of latitude."

Sir, what harm can it do to try it on all three? What will it cost us to try it? Nothing at all, but advertising in a newspaper. It will not cost anything to the Government of the United States. Let us advertise for proposals upon all three routes; let the contract—if the President chooses to enter into it—on all three be entered into, and submitted to Congress; and let Congress pass on all three, and choose between these routes. If we are to have one road, let us choose the central, if that be the best route. If we may have all three, Congress may determine to act on all three, and to enter upon contracts for all three—the Texas route, the central route, and the northern route. It will then be open to their consideration.

The honorable Senator from Mississippi advocates a railroad communication with the Pacific, on the ground that it will be necessary to our national defence. Sir, if you build the road for which he contends, from El Paso to Fort Yuma, which is upon the navigable waters of the Colorado, entering into the Gulf of California, how is California defended, how is Puget Sound defended, how are Washington and Oregon defended against the invasion of any great naval Power? After you have reached the navigable waters of the Gulf of California, the same objections will arise. The fleets of France, or of England, if you were engaged in war with them, would sweep our commerce from the sea; and from the head waters of the Gulf of California around to San Francisco, is further than it is to go to the Gulf of Mexico and use the various routes across Mexico.

Mr. President, I submit this proposition, intending to follow it by another proposition which shall add to this substitute the same provision which has been added to the original bill, in relation to bringing back the contract which may be entered into for ratification and approval by Congress.

Mr. IVERSON. I have heretofore, Mr. President, advocated a bill to aid by grants of land in the construction of two railroads to the Pacific, one a northern and one a southern road. It is true that, in the remarks which I submitted on that point, at the last as well as the present session, I put my plan upon sectional grounds and supported it mainly upon sectional arguments. I have nothing to take back at all that I have uttered on that subject. I stand by every word and every line that I have presented to the Senate. But there are other reasons of a general character in favor of the proposition for two routes, an extreme northern and an extreme southern route. I do not rise now to inflict upon the Senate any remarks of my own upon that general subject; but I have some authorities here that I think far superior to anything I could present. I received this morning a letter from a gentleman residing in Canada, who, I suppose, is a British subject, who writes to me on this very question; and he presents some plain, practical, common sense views. He seems to have understood the subject well, because he has been over the whole ground.

BERTIE, CANADA WEST, January 15, 1859.

SIR: While on a visit to a friend in Buffalo, (an American,) where I often go, the subject of the Pacific railway was brought up, and I was requested to write you and state such facts as I chose, bearing on it.

Excuse a stranger for addressing you. I do it, because

you advocate a northern and a southern railway, the only ones practicable. A central one might be built, but for five or six months in the year it would be impassable, because of the deep and shifting character of the snows on the mountains.

I am now a very old man. Forty-five years ago, I wintered in the Rocky Mountains, near the line of 49°, and have ranged along from the bounds of New Mexico to the upper Hudson Bay possessions, wintering along from the pass called, by you, the South Pass up to and into our possessions. I have been delayed in camp by the deep snows for weeks, along from latitude forty to forty-five or forty-six, utterly unable to move because of snows many feet deep, often drifted to a height of ten or twelve feet, shutting up the outlets or passes entirely. This state of things occurred every winter while I was in the wilderness between those latitudes.

Many winters I passed on the head waters of the Missouri, in the region of the Great Falls, and not far from the line of 49°, and can safely assert that deep snows are unknown there.

Over a northern and southern range of three or four hundred miles, south of latitude 49°, and extending a long way east and west to the sea, little snow ever falls; south of those lines there are immense falls of snow and most intense cold; not so north; we all understood this, to us, unaccountable fact. No railway, which is known as the middle route, can ever be operated in the winter among the mountains. Your position, as I understand it, is the true one. Nature is in alliance with you. She has kindly provided a friendly zone at the north, and one at the south, for these two highways from ocean to ocean.

I do believe that the cold, at and around the region included between the latitudes of thirty-six and forty-two or forty-three, would be found so intense in winter as to freeze up a locomotive while in motion, and that they could not be run. It is of interest to the whole human family that these roads should prove a success, and that no vain efforts to violate nature should defer to coming generations the completion of them. My friend will mail this to you.

I am yours, &c., ALEX. MCGONAGLE.

Senator IVERSON, Washington.

These are the views of a plain, sensible, practical man, who has had personal experience in relation to this region of country, and I commend them to the Senate. I also present a long, interesting, and able letter from Lieutenant Matthew F. Maury, of the Observatory; a man more distinguished than any person on this continent for scientific knowledge and attainments, and probably not surpassed by any man on the face of the earth:

OBSERVATORY, WASHINGTON, January 4, 1859.

MY DEAR SIR: My last was dated about two weeks ago. I have often wished that the question, pure and simple—railroad or no railroad to the Pacific—could be put to the popular vote of the nation. Never, since the Memphis convention of 1849, should I have had any doubt as to the result. The vote would be largely for the road.

While all admit the importance of one or more such railways, there has been such a diversity of opinion as to routes and plans, that no one route has as yet met with friends enough to carry it through in spite of its rivals; and I do not think it ever will.

Two roads, at least, are necessary. At least two roads; one at the north, and one at the south are required for the common defence. At least two roads—one at the south the other at the north—are necessary, socially and commercially; the markets of China, Japan, and the Amoor, will be brought nearer to us, by many days' sail, than it is possible for one road to bring them. This may sound paradoxical; yet I hope, before I am done, to explain the paradox to your satisfaction.

Let us first consider the importance of two roads in their military aspect. Vancouver Island commands the shores of Washington and Oregon Territories; and whether the terminus of the northern road be on Puget Sound or at the mouth of the Columbia river, the munitions sent there in war could be used for no other part of the coast, for Vancouver overlooks them.

They could not, on account of Vancouver, in its military aspects, be sent from the northern terminus to San Francisco and the south; nor could the southern road—supposing only one, and that at the south—send supplies in war from its terminus, whether at San Diego, San Pedro, or San Francisco, by sea either to Oregon or Washington. Vancouver would prevent; for Vancouver commands their coasts as completely as England commands those of France on the Atlantic. So completely is the military curtain which a juxta island affords to a coast, that you never heard of France on the Atlantic sending succor by sea to France on the Mediterranean, or the reverse, in a war with England. The straits of Fuca are as close as the straits of Gibraltar.

In preparing for the national defenses of the Pacific, this fact, and the circumstance that Vancouver's island is in the hands of a foreign Power, are well calculated to impress peculiar features upon any system that may be adopted for that coast.

But I promised to explain why two roads—one at the south, the other at the north—will bring the markets of Asia much nearer to us than either road singly would make them. Before, however, I go into that explanation, let us clear away some of the ideal obstacles which error has placed in the way of a northern route to the Pacific.

Most men of our age were educated under the belief that parallels of latitude and terrestrial climates are correlatives; that we might tell the temperature of any unknown country or region of country, if we knew its latitude, &c. Humboldt and Dove exploded this idea with their isothermal lines. For example, they show that the mean annual temperature of North Cape, latitude 70°, in Europe, is the same as that along the north shore of Lake Superior, in latitude 50°. So here is a difference of 20° of latitude, without any difference in the average annual temperature of the two places.

There is a difference in the length of day and night at the two places; and, so far as climate is affected by difference in the length of day and night, climate is to that extent, and no farther, an affair of latitude. But, with difference in length of day and night the relations between climate and latitude cease. The thermometer and hygrometer then become the true exponents of climate. Every region, indeed, tells the whole story of its climate by its flora.

Let us get rid, then, of our old notions concerning the relations of latitude to climate, and with unbiased minds lay out this north temperate zone, which we inhabit, into two grand thermal bands, and then study the flora of these bands. After we shall have done this, then I think we will be able to agree, at least among ourselves, as to the necessity of two routes to the Pacific. Moreover, we can, by so dividing the country, select those routes that will be the best, agriculturally and commercially; and when we shall have finished this investigation, you will find that these two routes lie exactly where the best plan of national defense requires them: the northern route commencing at the western boundary of Minnesota and going to Puget Sound, with a branch, in the course of time, to the mouth of the Columbia; the southern route commencing at El Paso, in Texas, and going thence to San Pedro or San Diego, and San Francisco. I speak of these routes as *the* routes, which commerce and agriculture, as well as war, require. The elements indicate them; great interests call for them; and the people will have them. I place the climatology of these routes, with the agricultural and commercial resources of the regions through which they pass, in the same category, because commerce is based on difference of agricultural productions, and difference of production is an affair of climate altogether. Therefore, in studying climates and routes we must study variety of production, and cannot help looking at them in their commercial aspects.

The Army Meteorological Observations, Blodgett's Climatology of the United States, and Dove's Isothermal Maps, enable us to divide that portion of the northern temperate zone occupied by the United States into two grand and characteristic thermal bands. The fauna and the flora of these two bands differ; the people differ; their climates differ; and therefore I call them grand and striking subdivisions.

Speaking in a general way, the United States lie between the mean annual isotherms of 35° and 70°. Take a school map of the world, and let us draw with a pencil these isotherms across Europe, Asia, and Africa also. Beginning at the west coast, with the pencil at Sitka, draw it with a free hand thence through the mouth of the Red River of the North, touching the north shore of Lake Superior, crossing the St. Lawrence below Quebec, and thence to St. John's, Newfoundland. Now, beginning in Europe, near Christiana, draw your pencil up towards the Gulf of Ouega, then draw through Preuberg to Kiachta, Marghen, and the mouth of the Amoor. You can now see sufficiently near for our present purpose, how the isotherm of 35° runs. The mean temperature of all places south of this line is more than 35°.

In like manner we may sketch off roughly the annual isotherm of 70° through the new world and the old. It starts from San Diego, crossing the Colorado at its mouth, and then passing down through Chihuahua (city) to Austin, in Texas; it goes by New Orleans and Pensacola to the sea—striking the African coast near Mogador, it goes through Cairo, Ispahan, Delhi, to Canton. The mean temperature of all places to the north of this line, is less than 70°. Now let us divide the belt included between these two isotherms, into two nearly equal thermal bands, by tracing likewise, with a free hand, the isotherm of 52°, the mean (nearly) between 35° and 70°. Beginning near Cape Oxford, on the west coast, this isotherm passes up towards the Baites; then down a little to the west of Salt Lake, to Santa Fé; then up to Council Bluffs; on the Missouri, and then through St. Louis and Louisville, to Baltimore. Taking it up in England, it passes thence through Belgium towards Zurich; then up towards Olmutz, and so on through Varna, Derbent, Kokan, and Peking. This line divides this belt thermally and geographically into two bands of nearly the same size. They include the garden spots of the earth. In them man laid his first hearth-stone, and from them the lights of civilization and Christianity have shed their first and their brightest rays.

Let us, for the convenience of reference, call the northern band the upper band, and the southern one the lower.

We are now prepared to cast the eye over them, and to generalize concerning the commercial and agricultural aspects of the two routes.

The plants which give physiognomy to the fields and forests of these bands, are: for the upper band, conifers, the willow, the beech, larch, fir, alder, elm, hickory, birch, cranberries and pasture grasses.

For the lower band, the characteristic plants are thick leaved evergreens and arborescent grapes, the cypress, cedar, ash, and magnolia with roses.

The chief commercial plants—besides the cereals, which are common to both—are, for the lower band, the orange, the vine, the fig, peach, date, pomegranate, citron, the melon, St. John's bread, the sweet potato, rice, indigo tobacco, hemp, cotton, tea, sugar, and naval stores. For the upper band: buckwheat, hay, Irish potatoes, turnips, apples, pears, plums, with herbs and flocks among its fauna.

With these two grand divisions of the temperate zone thus delineated, and with this description of their characteristics, we may now proceed to cast the horoscope for that portion of the country which lies between the Mississippi river and the Pacific ocean. To read its future for present purposes we have only to glance the eye over the well developed parts of each band, both in the Old World and the New; then we shall see that an upper-band railway to the Pacific is a "fact," which philosophy, teaching by example, compels us to regard as "fixed."

A mere glance at a map of the world will show you that most of the railways, both in England and America, are in this upper band; that in it are the great commercial centers of the world, as New York, Liverpool, London, and the German ports of Europe. That it is to the cities of this band, as Leipzig, Nijni-Novgorod, Kiachta, &c., that the people, both of Europe and Asia, annually resort to hold their great fairs.

Contemplate the people of this band in their industrial

aspects also, and you will see that it is the ship-building and seafaring region; the home of the fisherman, the sailor's fatherland; and the place for factors, factories, and operatives.

The industry of this band is marked by minute subdivisions of labor and great diversity of pursuit among its inhabitants, a sure sign that their occupations are, to say the least, not so exclusively agricultural as are the occupations of those who inhabit the lower band. After thus drawing our lines and consulting the lights displayed within them, it will, I am persuaded, require no great art of divination to satisfy you that a railroad along this upper band to the Pacific may be looked upon "as a fixed fact." I tell you *one is obliged to be built there*. By thus passing these two bands in review, we are further reminded that the people of the north temperate zone, in spite of legislative enactments, tariffs, and protection, have obeyed the laws enacted by nature for the geographical distribution of labor; that, according to these laws each band has been occupied and replenished; and that man, though the same in both bands, has in each heeded those physical conditions by which he finds himself surrounded, and directed his labors to those pursuits which promise the best returns.

This circumstance reminds one that railways feeding given areas in the upper band should be much more apt to have full freights both ways, than the railways feeding like areas in the lower band. The latter carry away tobacco, hemp, cotton, rice, sugar, &c., and may bring back in a single car the manufactured articles for which a whole train load of cotton has been exchanged. Hence, as a rule, railroads in this band carry more than they fetch. The same raw and bulky articles go into the upper band to be manufactured, and when manufactured, they are put on the rails for distribution and for market, thus increasing freights for this band both ways.

Each one of these thermal bands in the United States wants its road from sea to sea, and each must have it. Each wanted its system of roads between the Atlantic ocean and Mississippi river, and each has it, whether Congress would or not, and so it will be between the "grand ocean" and the Mississippi river.

Look at the steel engraved map in Appleton's Railroad Guide, and you will see how these systems of roads have been formed. Until last summer, Virginia would stretch no railroad line from any of her fine harbors into the valley of the west. North Carolina had no harbors, hence the blank space on that map between Ohio and Georgia.

On the other hand, there was the great chain of lakes; then there was the Baltimore and Ohio, and the Pennsylvania Central railroads, which were commenced at a very early day and pushed forward with vigor. Now see what a network of roads these have called out, reaching to and beyond the Mississippi, and stretching due east, to connect with these.

While Virginia would not, and North Carolina could not, South Carolina and Georgia went to work with their system of roads, which has already stretched itself towards the setting sun, far beyond the Mississippi.

Texas has given a most magnificent grant of lands and loan of money to her Southern Pacific railway, which will extend the southern system as far as El Paso, within six hundred miles* of the Pacific. Roads from New Orleans, Vicksburg, Memphis, and other points, are to join the Texas road. Memphis and El Paso are in the middle of the lower band. Hence, you perceive this band has its road well under way, and it is high time Uncle Sam should take hold and extend it westward, if he means to help.

Unfortunately, this road has had troubles to an extraordinary degree, but it is a long night that has no day, and it now begins for the first time to see the light of real day. The dawn is promising.

So, too, in Minnesota; St. Paul is in the center of the upper band, and there is a railroad already under way from St. Paul to Pembina. A branch from this road leading to the Pacific will most fairly represent the system in the upper band. St. Paul is in the middle of it, and the distance by an air line, from the western limits of Minnesota to Puget Sound, is eight hundred and seventy miles, leaving only (say) one thousand five hundred miles of road to be provided for by the General Government, in order to secure both of these roads. Indeed, if the southern road be extended to the California line, California will take care of it thence to San Francisco, so that by providing for the construction of some five hundred miles, Government can now secure one at the South. Ten years ago, when this question of a road to the Pacific began first to be agitated, Government would have had to provide for it all the way from the Mississippi to the Pacific. So it was held, and that would have required a single road about two thousand miles long. Now, Government aid along fifteen hundred miles will give us two.

These bands give a complete quietus to all objections to the northern road on the score of climate. In other parts of the world roads abound in just such climates. The road from St. Petersburg to Moscow, and the Prussian roads, with others in the same band in Europe, are even in a higher latitude than the St. Paul road will be, yet climate is no objection to them. Neither is it to the Canada railways, nor to any others as far north as the rails have been laid. We all expect to see the day when Russia will be extending her system of rails into Siberia, and none of us—for in that manner all of us have unbiased minds—anticipate any difficulty on the score of climate.

Rain maps for these bands show that the average annual amount of rain along the northern route and until you pass the Rocky Mountain range—after which the climate is mild like that of England—is less than it is along any railway in the Atlantic States, or in the Mississippi valley, or, indeed, in any part of the world. They show that the average amount of precipitation—snow and rain—in winter, for that part of the route which lies between the Pacific range of mountains and St. Paul, is less than three inches!

Thus, I think, the question of climate, of terrific snow storms, and impassable drifts along this route, may be considered as disposed of.

We return now to the paradox that by these two roads to

the Pacific, the markets of Asia will be much nearer to those of the Mississippi valley than either road alone could bring them. To explain this, it is only necessary to remind you how the winds blow and the currents set that control the routes of sailing vessels—the burden cars of the sea—between the eastern shores of Asia and our west coast.

The route to Asia lies through the north east trade winds. These winds blow between the parallel of 30° north and the Equator; and vessels that take this route usually run across the broad Pacific between the parallels of 18° and 25° north, where the trades are strongest. Returning they take the great circle route—the shortest distance—and keep well up to the north; for now the "brave west winds" of those extra-tropical regions, which would have been adverse for the outward voyage, are fresh and fair for the homeward run. So you perceive that a vessel trading under canvas between our Pacific States and China describes on every round voyage an ellipse; coming out of the Straits of Fuca, or the Columbia river, for instance, her course is first to the southward, as though she were bound around Cape Horn, and until she gets into the northeast trade winds. Her course is then west until she enters the waters of the China seas. She then hauls up to the north and west for her port. On the return voyage her course in coming out of her Asiatic port, is to the north and east until she gets fairly within the "brave west winds." With these she steers to the eastward, following the great circle route, and gradually shaping her course to the south of east until she reaches our own shores again. If she be bound to San Francisco, her route, until she gains the offings of the Straits of Fuca, would be the same as though she were bound into Puget Sound, or the Columbia river.

Thus you perceive that, on the outward voyage, San Francisco is on the way side from Puget Sound and Columbia river to China, whereas, Puget Sound and Astoria are on the way side of the route from China and Japan to California.

To see how one road only would work, let us first suppose it at the north, running from St. Paul to Puget Sound. Let us now follow a package of merchandise, say of ginseng, that is sent over this road from Memphis, to be bartered in China for tea. The ginseng would first go north, up the Mississippi river, to get to the road. Thence it would cross to the Pacific; arriving at Puget Sound, it would then be shipped for China. Now, it must come back to the south again to get into the tradewind region. Thus, you observe it would have to go more than a thousand miles up the Mississippi, out of the way; and when it reaches the Pacific, it would have to return again as far to the south, and further, than it was when it started. Being exchanged for tea in China, it would be nearest for the tea to stop at Puget Sound, take the northern railway and come south on the Mississippi, instead of coming south by sea along the Pacific coast.

Now let us, in imagination, place the road at the south instead of the north, and take a bale of furs to illustrate the route of trade and travel from the upper band. The fur, we will suppose, is sent from St. Paul. It comes down the Mississippi to get to the road. That would not be out of the way for the fur, for it is bound south for the northeast tradewinds at any rate, and it would be in a national point of view, perhaps, more desirable to have it go south by the Mississippi, than by sea in the Pacific. But when the silk, for which it has been exchanged in China, on St. Paul account, arrives on its return off the entrance of the Straits of Fuca, it has to turn out of its way. Instead of finding railway transportation to take it through from Puget Sound across the Minnesota, it has to run away to the south. Perhaps a week after it might have been in St. Paul by a northern road, it arrives by sea in California, and is carried by rails to Memphis. Now it has to double upon itself—to go north and recross every parallel of latitude that it crossed after turning out of its way from Juan de Fuca.

This doubling will require two or three weeks of time, besides much additional risk and expense. With two roads there will be no doubling; hence two roads will bring China and Japan and Russia very much nearer to the Mississippi valley than one can do. The distance saved will be in furlongs, nearly twice the length of the Mississippi river, and in time, some two or three weeks.

Whether the Government, therefore, aids in the building of these roads or not, these circumstances will of themselves call for the construction of at least two roads to the Pacific—one at the north, the other at the south. Northern capital and southern capital will assist in both.

I have thus endeavored to make clear the paradox with which I set out; and I hope I have succeeded in showing, to your satisfaction, that at least two railways—one at the north, the other at the south—are required to the Pacific.

There are no toll-houses on the lakes, and none on the Gulf of Mexico. The commercial voice of these two waters, could it be heard, would be raised—each trumpet-tongued—in favor of these two routes.

The nearest way from Brazil and the Amazon, as well as from the West Indies, to China, would then be by the south Pacific railway.

I did not intend to write you so long a letter, but the interest I feel in the subject of it has carried me away. I intended to pass with you the compliments of the season, and to wish you and yours a happy new-year, and ask you to believe me,

Yours truly,
M. F. MAURY.
D. A. ROBERTSON, Esq., St. Paul, Minnesota.

These authorities are much better than anything I could say.

Mr. GWIN. I wish to make an appeal to the Senator from Wisconsin to withdraw his amendment, and let us vote directly on the substitute of the Senator from Mississippi. I believe that if his substitute be not adopted, we can get a vote on the bill as it is before the Senate; but if the substitute be adopted, the Senator from Wisconsin can then move to amend it in such form as will suit his views. I hope he will withdraw his amendment for the present, and let us see whether the Senate will adopt the substitute. I am very cer-

tain that it will not be adopted, but I may be mistaken. If it is not to be adopted, the time which we may spend in amending it will be wasted.

Mr. DOOLITTLE. As I understand the rules of order, if the substitute be once adopted we cannot afterwards amend it.

Mr. GWIN. Oh, yes; we are now in Committee of the Whole.

The PRESIDING OFFICER. The Senator is mistaken. The bill is before the Senate. It was reported from the Committee of the Whole at the last session of Congress.

Mr. GWIN. Well, sir, let us take a vote on the proposition of the Senator from Wisconsin. I ask the yeas and nays.

The yeas and nays were ordered.

Mr. BROWN. Before the vote is taken, I have a word or two to say. I have no intention of making a speech. I understand, from the course which the debate has taken, that the constitutionality of this measure is made to depend on its necessity for the purposes of military defense. I yield very much to that argument; but I have resting on my own mind a very clear and distinct conviction that when you undertake to justify an appropriation from the national Treasury on the ground of necessity, that necessity must be direct and absolute, or it must be so probable that, in the mind of a reasonable man, it is likely to occur. A remote and contingent necessity does not, and in my judgment cannot, justify the exercise of a doubtful constitutional power.

And, sir, in addition to this suggestion, I have to say that where appropriations are made on the ground of necessity, they must not exceed the occasion which requires the exercise of the power. If there be a direct and immediate necessity for building this road as a means of national defense, I agree that Congress can make the appropriation; but I believe no one has pretended that any direct or immediate necessity does exist. Then is there such a contingent necessity as, in the judgment of the Senate, is so likely to occur, that you are called upon to make the appropriation? I think all will admit that if there be a contingent necessity at all, it is very remote and very uncertain. It may occur next year, or ten years hence, or it may never occur. But, admitting that there may be a remote contingency—a remote probability that the road will be necessary—does the amount called for to construct the work bear any reasonable proportion to that remote and uncertain contingency? I have said heretofore, and now repeat, that if every necessity which gentlemen may imagine has arisen or can arise, justifies the exercise of this power, I do not see where it is to stop; I do not see but that one may suppose there is a necessity for building a railroad to any point that you may name, for military defense, and therefore you have the power to do it, if the judgment of that particular individual is to prevail.

In this case I see no direct or immediate necessity; I see no remote necessity which justifies me in giving a vote in favor of this proposition; and, if I did, I should still say that the amount of money required to construct the road is of too great magnitude to justify me in giving it to meet the necessities of the case.

My friend from Missouri [Mr. GREEN] the other day wanted to know of me where I got the power to construct a fortification. Well, sir, I will take the fortification in Virginia which he mentioned—Fortress Monroe. It is necessary for the defense of the town of Norfolk which lies above it. But suppose the town of Norfolk was worth \$10,000,000, and it would require \$100,000,000 to construct the fortification; then I would rather give up the town than construct the fortification; because the expenditure would so far exceed the necessity of the case as not to justify me, under the Constitution, in voting for it. That is putting the case as a mere matter of dollars and cents. I agree to the proposition that, wherever an appropriation is necessary, absolutely necessary to the national defense, you must have the power to make it; but I see no such absolute necessity in this case. I go further, and admit that, if the necessity is so probable that by applying a just and fair discrimination to the case, it appears to be a necessity likely to arise, then you may make the appropriation, provided the amount of money asked for does not greatly exceed the necessity

* Geographical miles, of sixty to a degree of latitude.

of the case. But I cannot agree that every supposed, ideal, or imaginary necessity, justifies appropriations from the national Treasury.

And now, Mr. President, upon another point; that is, the point of difference between the powers of the Government over the Territories and the States. I have stated heretofore, and now reiterate, I hope more distinctly than I have expressed it before, because I want to be understood on the point, that if it be admitted that Congress has the power to make an appropriation to construct a railroad in a Territory, I know of no reason why Congress cannot make appropriations to construct railroads in the States, except this, that by going into the States you violate the sovereignty of the States. I hold that a State is the guardian of its own sovereignty; and if the State, by memorial, expressed through a convention of its people, invites the Federal Government to make a road, I do not see but that the whole difficulty is avoided. You do not go into the State according to the argument, simply because, in doing so, you violate its sovereignty. If the State waives the right, it seems to me the argument is avoided. I strike the question lower down. I deny the right of the Federal Government to exercise this sort of authority over the Treasury except upon the grounds that I have already stated—that is, a necessity immediate or so proximate that a prudent man would prepare to meet it. I deny your right as much to construct an unnecessary road in a Territory, as I deny it to construct an unnecessary road in the States. And I assert that the necessity must be immediate and pressing, and not remote and contingent; and that the appropriation must bear some proper relation to the necessity of the case.

I content myself with asserting that if you have the power to make appropriations for the construction of a railroad in a Territory, you have the same power to make appropriations to construct railroads in a State, when you have the consent of the State expressed through its sovereignty. I yielded the point the other day, as a debatable one at least, that the Legislature and Governor cannot speak for the sovereignty of a State; but if the State in convention shall make it a part of her organic law, that a railroad may be constructed within her limits, then, for the life of me, I cannot see how the sovereignty of the State is outraged by the Federal Government doing that which the sovereign invites her to do. I do not see that the rights of my State are violated at all by your doing what she, speaking through a convention of her people, invites you to do.

In has been suggested, in the course of the argument, that the consent of the State could neither enlarge nor diminish the powers of the Federal Government. That is simply a truism. Indeed it cannot, in any proper sense. And yet, it is true, you may do that within the limits of a State, with the consent of the State, which you cannot do without it.

It has been said, in the course of the argument, that the Federal Government must have the assent of the State before you can establish arsenals, dock-yards, navy-yards, &c., within the limits of the State. I dare say that if railroads had been known when the Constitution was established, they would have been included in the same catalogue. Railroads belong to the same class as navy-yards, dock-yards, arsenals, &c.; and if they had been known at the day when the Constitution was framed, I dare say they would have been enumerated. I put railroads in the same category with dock-yards, arsenals, &c. You can establish a navy-yard within a State, by the consent of the State; so you may establish an arsenal with the consent of the State; and so if you have the power to make the appropriation at all for a railroad; if you have the power over the Treasury which authorizes you to make the appropriation, I hold that you can make it as well in a State, with the consent of the State, as in a Territory. But I say again, I strike the question lower down, and deny the power to use the national Treasury for this purpose, except in such cases as I have named; that is, in cases of direct or immediate necessity, not in cases of remote and contingent necessity; and then your appropriation must be confined to the necessity of the case; and if it exceeds it, I hold it is as much a violation of the Constitution to make the appropriation as to usurp a clear and distinct power.

It may be necessary to have a Navy; but will anybody pretend that because you must necessarily have a Navy you can therefore build a thousand ships? Would not that be a violation of the Constitution—as clear a trespass on the power given you as would be the usurpation of a distinct right? You have the right to have an Army; but suppose you should propose to band the whole population into an Army: would not that be a violation of the Constitution, as much as to usurp any given power? I hold that even your granted powers are to be exercised with due and proper discretion and with proper regard to the necessity of the case in hand.

This is all, Mr. President, that I have to say on those two points. My friend from Georgia [Mr. IVERSON] said, a little while ago, that he reiterated and reaffirmed all that he had said the other day upon a question rather remote to this, but which some how or other came to be lugged into the debate. I shall not avail myself of my privilege on this occasion to discuss the question thus incidentally drawn into the discussion; and yet I do for some special reasons, perhaps special to myself, feel some anxiety at no distant day to express my views on the point thus incidentally introduced. I content myself at present with saying that having listened to the speech of the Senator from Georgia, I indorse it cordially, warmly, and enthusiastically. He spoke like a true Southron as he is, upon all that related to the powers of the Government over the Territories. While I do not choose to embarrass this debate by giving any views of my own, I feel justified in saying this much in justice to my friend and to myself. On some other bill, and when the point shall be more germane, I shall express my opinions as to the rights, powers, and duties of the Federal Government in regard to the Territories.

Mr. MASON. It is after four o'clock, and I think the indications are that we shall not act on the bill this evening. I move, therefore, that the Senate adjourn.

Mr. GWIN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 27, nays 21; as follows:

YEAS—Messrs. Benjamin, Broderick, Cameron, Chandler, Clark, Clay, Collamer, Dixon, Durkee, Fessenden, Fitzpatrick, Foster, Hamlin, Houston, Johnson of Tennessee, Kennedy, Mason, Polk, Reid, Simmons, Slidell, Stuart, Toombs, Trumbull, Wade, Ward, and Wilson—27.

NAYS—Messrs. Bell, Bigler, Brown, Clingman, Davis, Doolittle, Douglas, Fitch, Foot, Green, Gwin, Harlan, Iverson, Johnson of Arkansas, King, Pugh, Rice, Sebastian, Seward, Wright, and Yulee—21.

Thereupon the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 20, 1859.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

SPECIAL COMMITTEE.

The SPEAKER announced, as the special committee under the resolution of Mr. SHERMAN, of Ohio, to inquire into charges made against certain officers of the Navy Department, and at certain navy-yards, Messrs. SHERMAN of Ohio, BOCK, RITCHIE, GROESBECK, and READY.

Mr. RITCHIE. I desire to be excused from service on that committee. I have now so much business to attend to, that I cannot well see how I can undertake any other.

Mr. WASHBURN, of Illinois. I hope the gentleman will not insist in his application.

Mr. STANTON. I hope the gentleman will state his reason for asking to be excused. I should be sorry to excuse him, except for good reasons.

Mr. RITCHIE. I have more business in my hands now than I can well attend to.

Mr. WASHBURN, of Illinois. The gentleman can get rid of some of that, and attend to this.

Mr. RITCHIE. I withdraw my request to be excused.

Mr. FARNSWORTH. I ask the unanimous consent of the House to submit a resolution.

Objection was made.

Mr. HOUSTON. I ask the unanimous consent of the House that the Committee on the Judiciary may be permitted to hold sessions during the sitting of the House. We have now some sixteen or seventeen witnesses here in reference to a pending matter before that committee. Unless we have

the permission I ask for, it will be impossible for us to get through with these witnesses in any reasonable length of time.

Mr. FARNSWORTH. I call for the regular order of business.

Mr. HOUSTON. I hope the gentleman will withdraw that objection. The Committee on the Judiciary want to get through with their business as rapidly and with as little expense to the House as possible, and it is not right to object.

Mr. FARNSWORTH. I was cut off myself by an objection from offering a resolution. However, on the gentleman's statement, I withdraw my objection to him.

The SPEAKER. There being no objection to the request of the gentleman from Alabama, it will be considered that it is ordered accordingly, and that permission is extended to the Committee on the Judiciary to sit during the session of the House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that the Senate had passed a resolution (S. No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States court-house stands in Rutland, Vermont, in exchange for other land adjoining said lot; in which he was directed to ask the concurrence of the House.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported as correctly enrolled an act to provide for holding the United States courts in the State of Alabama; when the Speaker signed the same.

PREÉMPTION RIGHTS.

The SPEAKER. The first business in order is the motion of the gentleman from Michigan, [Mr. WALBRIDGE,] to refer to the Committee of the Whole on the state of the Union the bill granting rights of preemption to settlers on the public lands of the United States, which was yesterday reported from the Committee on Public Lands by the gentleman from Alabama, [Mr. COBB.]

Mr. WALBRIDGE. Mr. Speaker, since I submitted the motion to refer, yesterday, I have carefully examined the provisions of this bill, and have been unable to discover anything particularly wrong in it. It has, undoubtedly, some very good provisions, and ought to pass. I am not prepared to say, at this time, that the bill ought not to become a law; on the contrary, from my examination, I am disposed to think that it ought to be passed. I have one objection to it, however, and that is to the sixth section. That section repeals all special acts in reference to preemption rights. It is a sweeping repeal of everything in relation to preemptions which is not in accordance with the spirit of the bill. I withdraw my motion to refer, and move to strike out the sixth section, which is as follows:

"Sec. 6. And be it further enacted, That all special acts and resolutions to be carried out and applied in specified States and Territories, and all laws, and parts of laws, which are inconsistent with any of the provisions of this act, shall be, and are hereby, superseded and annulled."

Mr. COBB. I have no objection to the gentleman's motion to strike out the sixth section, inasmuch as some gentlemen think that section will conflict with some individuals who have had special acts passed for their relief. That section is immaterial to the bill, and I interpose no objection to its being stricken out.

Mr. REAGAN. I desire to move that the proviso to the first section be stricken out. That proviso is as follows:

"And provided further, That if, at the date of survey, it shall be found that the dwelling-houses of two or more settlers are on the same quarter-quarter section, they shall be entitled to a joint entry of said quarter-quarter section, and each to a separate entry of other subdivisions, as hereinbefore provided."

Mr. COBB. I suggest that there is no necessity to strike out all of the proviso.

Mr. REAGAN. I propose to strike out the whole proviso. If I understand the object of preemption laws, it is that they shall give to persons engaged in the occupation and cultivation of the soil, and in the development of the resources of the country by those means, certain privileges. They are given a sort of gratuity of land; at least the law gives certain advantages to those who set-

the upon, occupy, and cultivate, the lands of the Government. Now, if this proviso be left in the bill, towns and villages may be built up on these lands under preemption rights by persons who are engaged in other pursuits than the occupation and cultivation of the soil. They will, under this proviso, be entitled to take preemptions upon the public lands when they may be engaged in other pursuits, and living in towns or villages, and when, indeed, they do not come within the scope of the preemption system. I can perceive no good in the proviso; but I can think it will greatly enlarge the scope of the preemption laws.

Mr. COBB. The object the gentleman has in view is a very good one, and I agree with him in it; but if he will examine the entire section he will see that his amendment may work great injustice. By striking out the entire proviso, he will do great injustice. By striking out after the word "section," in the forty-fourth line, it would permit those who live upon a quarter section jointly, to enter jointly, which they ought to be entitled to do. I trust the gentleman will modify his amendment as I suggest.

Mr. REAGAN. The chairman of the committee will perceive that the other portions of the bill will cover the object he has stated. If they do not, then let this proviso be stricken out, and an amendment be offered to cover those who may be now excluded, but who are entitled to preemptions under the spirit of the law. I do not wish a proviso inserted under which every citizen of a village or town may be entitled to preempt land upon which he is not at all located.

Mr. COBB. For the sake of facilitating the passage of the bill, I shall not resist the motion of the gentleman from Texas. The bill contains very few provisions. It has been well matured. The subject has been examined by the Secretary of the Interior, and he is satisfied with the bill. In fact, the bill originated in the Department of the Interior, and was sent to the Committee on Public Lands.

The bill has been laid upon the desks of members, and every gentleman has had an opportunity of examining and understanding it. The first section provides that the settlers on land may, after the occupancy of it for, say, three months, have the right to preempt it. Some gentlemen suggest that the period of occupancy should be six months. You, Mr. Speaker, must have traveled to the West and become familiar with the abuses that are practiced under the present preemption law; and if you have a conscience, as I believe you have, you must have deplored the amount of perjury that is committed under this law, in distant Territories. You may have traveled with a friend in Minnesota, and noticed that for distances of twenty miles there was not a solitary settlement, while every foot of ground was probably claimed by speculators. Was that the spirit of the preemption act which requires actual settlement and cultivation to entitle a settler to preempt a quarter section at \$1 25 an acre? Or was not the object of the preemption law to encourage the *bona fide* settlement and cultivation of the public lands? If the latter was the object, it has been entirely thwarted by the manner in which settlements have been recognized. At present, men swear to everything that the law prescribes to be sworn to. I do not mean to say anything disrespectful to the people of the West; but if we have become so degenerate in this age as to be ready to swear falsely in land cases, it is our duty as legislators to so fix the laws as to guard against the commission of fraud by perjury. That can be done, we think, by fixing the time for occupation at three months continuously, before the settler is entitled to preempt. As I stated a moment ago, it is quite usual for four men A, B, C, and D, to take a load of sheathing and plank, put it on a two-ox wagon, and, with this lumber, put up four shanties on four different quarter sections, stay there but one night, come back next morning, and swear for each other that they were actual settlers and occupiers. It has been said that a western house is a house on wheels, running from quarter section to quarter section, so as to enable men to preempt. Is that the object of the preemption law? I think not.

Mr. REAGAN. What I want to provide against is the giving to persons who are settling in towns and villages the privilege of preempting

quarter sections which they are not really engaged in cultivating.

Mr. COBB. The gentleman and myself will not fall out about that. I only want to correct the abuses that are practiced. I know this to be a fact, that men who live in villages go out and stay one night on a quarter section of land, come back to the village, and continue to live there, and yet preempt land which they do not cultivate; while real settlers who would go out, make valuable improvements, and raise their families on the land, find that all the land in the country is taken up, and have to go further on, and locate on lands too poor to be taken up by these speculators.

As to striking out this sixth section, I have no objection to it; and even if the gentleman insists on striking out the other provision, which he thinks might be used to give the land to speculators, I have no objection to that. My object is to get at the gist of the thing; and if we make but one step towards reform, now let us make it.

Mr. GROW. I desire to make an inquiry, with the consent of the gentleman from Alabama.

Mr. COBB. I am going to move the previous question.

Mr. GROW. I desire to inquire, with the consent of the gentleman from Alabama, if the amendment that I proposed yesterday, preventing the sale of the public lands, under the proclamation of the President, until the lands shall have been surveyed for ten years, is a pending amendment to this bill? I do not propose to occupy the time of the House in discussing it now.

Mr. COBB. If it is the pleasure of the House to sustain the previous question, they can then vote on the bill, and either pass or reject it. I hope they will not send it to the Committee of the Whole on the state of the Union.

Mr. CAVANAUGH. I hope the gentleman will withdraw the demand for the previous question. This subject ought to be ventilated.

Mr. JONES, of Tennessee. Is there a motion pending to refer the bill?

The SPEAKER. There is no such motion pending.

Mr. JONES, of Tennessee. Well, if the previous question is insisted on, I shall move to lay the bill upon the table.

Mr. COBB. Well, I will withdraw the previous question, and leave the matter with the House.

Mr. CAVANAUGH. I desire to know if it would be in order now to move to strike out, in the twenty-sixth line, the words "twelve months," and insert "five years?"

The SPEAKER. No further amendment is in order.

Mr. PHELPS, of Minnesota. I wish to say a word in regard to the amendment proposed by the gentleman from Texas, [Mr. REAGAN,] believing that he entirely misapprehended the object of the proviso which he proposes to strike out.

Mr. REAGAN. Let me state to the gentleman, before he undertakes to show that I am wrong, that the first section provides for precisely what the gentleman from Alabama desires, without the proviso.

Mr. PHELPS, of Minnesota. The proviso which the gentleman proposes to strike out is intended to carry out the previous provision of the bill. Gentlemen must recollect, in order to understand fully the provisions of this bill, that preemption rights are guaranteed to settlers on the public lands before the public surveys. Now, two settlers may have located on the same quarter-section, and the object of this proviso is merely to enable them jointly to preempt the forty acres on which they are jointly living, and other land outside of that quarter-quarter section, so that each settler may have one hundred and sixty acres. This seems to me to be entirely just.

Mr. REAGAN. That is all right; but it is provided for in the body of the section, without the proviso.

Mr. PHELPS, of Minnesota. But in order to make a preemption, it is necessary to erect a house, and two settlers may have erected their dwellings on the same quarter-quarter section. For that reason, this proviso is eminently just. It makes the other provisions of the bill consistent; and as the existing preemption laws embody the same principle, it merely carries out the just pol-

icy of the Government. I think the proviso should be retained as a part of the bill.

Mr. JONES, of Tennessee. Mr. Speaker, the first section of this bill, I believe, proposes to amend the preemption laws; and, with the exception of the second proviso, which the gentleman from Texas [Mr. REAGAN] proposes to strike out, it seems to be all for the settlers for the purpose of cultivation; but it does seem to me, that the second proviso which the gentleman proposes to strike out is intended, or will have the effect at least, to cover all locations or preemptions upon town sites where they may have built towns, and each man may have his preemption. Now, sir, I have no objection to any amendment of the law providing for the benefit of the settler—the man who proposes to make the cultivation of the soil his vocation. But, sir, it seems to me that the second section of the bill will not be calculated to promote the benefit or interests of the agriculturist—the cultivator of the soil. Sir, the second section proposes to extend the preemption policy of the country to the reserved sections upon the lines where the alternate odd sections have been given by this Government to the railroads.

Mr. COBB. The preemption is granted at \$2 50 per acre.

Mr. JONES, of Tennessee. Exactly; I know that. I am opposed to the raised price of the reserved sections. I would cut down the price to fifty cents to actual settlers. But, sir, I do not know that there is any specific time fixed for advertising the sale of public lands. I suppose it is not less than sixty or eighty days in any case.

Mr. COBB. Not less than ninety days.

Mr. JONES, of Tennessee. Now, sir, the price of these lands has been increased to \$2 50 an acre, in consequence of the grant of half of them to the railroads. They are not subject, at present, to preemption; they are not subject to private entry after the railroad sections shall have been selected, until, after ninety days' notice by the President's proclamation, they shall be again brought into market and offered at public sale; and such as will not bring \$2 50 an acre at public sale are then subject to private entry, as I understand, at \$2 50 per acre.

Mr. COBB. At \$2 50 per acre.

Mr. JONES, of Tennessee. The President, by proclamation, issued ninety days before, gives notice that upon a certain day he will bring into market the reserved sections upon any given line of railroad. At any time, not under thirty days before the time fixed by the proclamation for such sale, those lands may be preempted and taken up at \$2 50 per acre, and are, of course, withdrawn from sale.

Mr. COBB. The preemptor must have resided continuously for three months on the surveyed lands. The thirty days refers to the unsurveyed lands.

Mr. JONES, of Tennessee. I understand that. Under this bill, if the lands are preempted for more than thirty days before the time fixed by proclamation for their sale, the preemptor has a right to take them at \$2 50 per acre without their being offered for sale at all. Now, who is it that will probably get preemptions for all the most valuable lands upon these lines of railroads? Is it persons from my country, or from yours, or from any of the States—farmers who are in quest of lands for settlement and cultivation? No, sir; there will probably be railroad contractors all along the lines, and they will have hands at work upon the road, and thirty days' settlement—not cultivation—will give those contractors and their hands a right to preemption, and they can take up all the reserved lands upon the line before the time when they are to be offered for sale. Now, sir, it is that provision of the bill which I think is not exactly in accordance with sound policy. If you will fix your preemption laws, and see that the man who preempts it shall go and live upon the quarter section, or that he shall make at least one crop upon it, or that his business shall be that of farmer or agriculturist, and that he preempts the land for settlement, then I will go as far as the furthest; I will give the settler the public land at any price that you may choose to fix—I do not care how low.

I will reiterate upon this occasion what I have before stated, that if my policy in regard to the public lands should prevail, I would repeal all laws authorizing or requiring the public lands to

be offered at public sale. I would repeal all laws authorizing or permitting any of the public lands to be located by private entry by non-occupants and cultivators. I would, from this day forward, sell the public lands to no person unless he should be the actual occupant of the piece of land entered by him. I would never sell an acre to a non-resident; I would keep it for settlement exclusively by farmers and cultivators of the soil, and that at a very low price. I hold that at whatever price the Government parts with its land, that is the price the cultivator should pay. I never would permit a capitalist or cultivator to purchase a single acre unless upon the condition of occupation and cultivation.

I think this Government has no right, or if it has the right, it is an unjust policy to the great body of people who give the lands their value, that they should be put into the market, and be bought up by the capitalists and speculators in large quantities to be held by them until the cultivator wants them. Sir, without his labor, without cultivation, the lands would never be worth anything. It is the cultivation that gives them their value. Then I say that, when this Government parts with its land, it should part with it to the actual settler and cultivator at a very low price—at ten cents or fifteen cents per acre if you please, or at any other price which it is within the ability of any one who wants to cultivate the soil to pay. I move to refer the bill and amendments to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. BLAIR. I ask the gentleman from Tennessee to withdraw that amendment for a moment.

Mr. JONES, of Tennessee. The motion does not preclude discussion.

Mr. BLAIR. I do not want to discuss it. I want to offer a substitute for the bill.

Mr. JONES, of Tennessee. I have no objection to the substitute being offered, and then let the bill and amendments go to the Committee of the Whole on the state of the Union. I will withdraw the motion temporarily for that purpose.

Mr. BLAIR. I then move to strike out all except the enacting clause, and insert what I send to the Clerk's desk.

Mr. PHELPS, of Minnesota. I think I have the right to move to perfect the original bill before a substitute is offered.

The SPEAKER. There are already two amendments pending to the original bill.

Mr. GROW. I desire to move an amendment to the substitute. I move to amend by adding the following:

Be it further enacted, That from and after the passage of this act no public land shall be exposed to sale by proclamation of the President, unless the same shall have been surveyed, and the return of such survey duly filed in the Land Office for ten years or more before such sale.

Mr. JONES, of Tennessee. Now let the bill and amendments go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair would suggest to the gentleman from Pennsylvania that the amendment which he now offers was offered by him yesterday, and is now pending.

Mr. GROW. That was to the original bill. I offer this to the substitute, which I think I have the right to do.

Mr. COBB. I object to the substitute on the ground that it is not germane to the original bill. I ask the Chair whether it is germane?

The SPEAKER. The Chair has not heard the substitute read.

Mr. COBB. I make that question of order, and ask that the substitute be read.

The substitute offered by Mr. BLAIR was read, as follows:

Strike out all after the enacting clause, and insert as follows:

That any person who is the head of a family, and a citizen of the United States at the date of the passage of this act, shall, from and after the passage of this act, be entitled to enter one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

Sec. 2. And be it further enacted, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, and is not the owner of any estate in land at the time of such application, and has not disposed of any estate in land to obtain the benefits of this act; and upon

making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of five years, the person making such entry, or, if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they, have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof; then, in such case, he, she, or they, shall be entitled to a patent, as in other cases provided for by law: *And provided further*, In case of the death of both father and mother, leaving an infant child or children under fourteen years of age, the right and the fee shall inure to the benefit of said infant child or children; and the executor, administrator, or guardian, may, at any time within two years after the death of the surviving parent, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

Sec. 3. And be it further enacted, That the register of the land office shall note all such applications on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Sec. 4. And be it further enacted, That no land acquired under the provisions of this act, shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

Sec. 5. And be it further enacted, That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven by two or more respectable witnesses upon oath, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry, for more than six months at any one time, then, and in that event, the land so entered shall revert back to the Government, and be disposed of as other public lands are by law.

Sec. 6. And be it further enacted, That if any person now a resident of any one of the States or Territories, and not a citizen of the United States, but at the time of making such application for the benefit of this act shall have filed a declaration of intention, as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as provided for in this act, such person shall be placed upon an equal footing with the native-born citizen of the United States.

Sec. 7. And be it further enacted, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands patented under the provisions of this act as they are now entitled to receive when the same quantity of land is entered with money to be paid by the party to whom the patent shall be issued: *Provided, however*, That all persons entering land under the provisions of this act shall, as near as may be practicable in making such entries, be confined to each alternate quarter section, and to land subject to private entry: *And provided further*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights.

Mr. COBB. I rise to a question of order; and it is this: that the amendment of the gentleman from Missouri [Mr. BLAIR] is not germane to the pending bill.

The SPEAKER. The Chair sustains the point of order, and rules the amendment out of order.

Mr. BLAIR. I take an appeal from that decision. I simply wish to say to the House that the bill reported from the Committee on Public Lands is a bill disposing of the public lands, or a portion of them; and that the substitute I offer makes a different disposition of them, and is, I conceive, both germane and in order.

Mr. HUGHES. I demand the previous question on the motion to refer.

The SPEAKER. The question must be first taken on the appeal from the decision of the Chair. The title of the bill reported from the Committee on Public Lands describes its character; it is a bill to amend the acts granting rights of preemption to settlers on the public lands of the United States. The amendment of the gentleman from Missouri is the homestead bill, and proposes to give every man who is the head of a family a quarter section of land. The Chair does not perceive the slightest similarity between the regular sale of the public lands and the giving them away as a gratuity. The policy is a very different one where the sale is regulated by law from that where the lands are given away. It would be as competent for the gentleman to amend the original bill reported from the Committee on Public Lands by proposing to give all the public lands for school purposes in the several States, or to make any other like disposition of them which the fancy or caprice of any member may indicate.

It is on that ground the Chair rules the amendment out of order. The question now is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. MILLSON. I suppose that is debatable, and to save the time of the House I move that the appeal be laid upon the table.

The question was taken; and the motion was agreed to.

So the appeal was laid on the table.

The previous question on the motion to refer was seconded, and the main question ordered.

The question recurred on the motion to refer the bill to the Committee of the Whole on the state of the Union, with the proposed amendments, and that they be ordered to be printed.

The House was divided; and there were—ayes 81, noes 73.

Mr. COBB demanded tellers.

Tellers were ordered; and Messrs. SEWARD and CHAFFEE were appointed.

The question was put; and the tellers reported—ayes 76, noes 62.

Mr. STANTON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 90, nays 92:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Barksdale, Bishop, Bococek, Boyce, Branch, Bryan, Burnett, Burns, Burroughs, Caruthers, Caskie, Chapman, John B. Clark, Cocke, Cokerill, James Craig, Burton Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dewart, Edmundson, English, Eustis, Faulkner, Garnett, Garrett, Gregg, Groesbeck, Harlan, Harris, Hawkins, Houston, Hughes, Jackson, Jewett, George W. Jones, Keitt, Lawrence, McClary, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Millson, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Nicklack, Nichols, Pendleton, Peyton, John S. Phelps, Powell, Ready, Reagan, Ricard, Ritchie, Ruffin, Russell, Sandidge, Savage, Seales, Seward, Aaron Shaw, Shorter, Robert Smith, Stephens, Stevenson, Talbot, George Taylor, Miles Taylor, Tripp, Underwood, Vandaligham, Watkins, White, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and Zollieffer—90.

NAYS—Messrs. Andrews, Bingham, Blair, Bliss, Bowie, Braxton, Buffinton, Burlingame, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Cobb, John Cochrane, Colfax, Comins, Covode, Cox, Cragin, Curtis, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Durfee, Edie, Farnsworth, Fenton, Florence, Foley, Foster, Giddings, Gilman, Gilmer, Goode, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Hatch, Hoard, Hopkins, Howard, Huyler, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, Lovejoy, Matteson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mont, Murray, Olin, Palmer, Parker, Pettit, William W. Phelps, Potter, Purviance, Royce, Scott, John Sherman, Singleton, Spinner, Stallworth, Stanton, James A. Stewart, William Stewart, Tappan, Thayer, Thompson, Tompkins, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—92.

So the House refused to refer the bill and amendments.

Pending the call, Mr. STEWART, of Maryland, stated that his colleague, Mr. KUNKEL, was too unwell to attend the sittings of the House.

Mr. HUGHES. I move that the bill be laid on the table.

MEMBER ELECT FROM ILLINOIS.

Mr. SMITH, of Illinois. Mr. CHARLES D. HODGES, the member elect from Illinois to fill the vacancy occasioned by the death of Hon. T. L. Harris, is present, and desires to be sworn in.

Mr. HODGES was then qualified by taking the usual oath to support the Constitution of the United States.

PERSONAL EXPLANATION.

Mr. REAGAN. I ask leave to make a personal explanation; and, before I begin, I desire the Clerk to read the paragraphs from the Globe which I have marked.

The Clerk read as follows:

"Mr. PHILLIPS. I have already said that the discretion rests with the President. If the President does not think it necessary, he will not expend the money for these salaries. But I say that the defeat of these appropriations will not repeal the law of 1836. Let the gentleman from Kentucky introduce a bill to repeal that law, or modify it. Let him give notice of such a bill now. Let him put upon the statute book a permanent law reducing the salaries of these ministers, and then these appropriations will not hereafter be made."

"Mr. STANTON. I would like to ask the gentleman whether, if the law of 1836 were repealed, and the President were to appoint a minister, it would not be obligatory upon us to pay him a reasonable compensation?"

"Mr. PHILLIPS. I have already said that you may fix the compensation at a mere nominal sum. The power is in your own hands; but exercise it in the right way. For one,

I should be ashamed to legislate in this way, if there was any other mode by which the same object could be accomplished. And no gentleman will rise in his place and tell me that the object sought by the gentleman from Kentucky cannot be reached in the mode I have pointed out.

"Mr. REAGAN. I desire to ask the gentleman from Pennsylvania, if he intends to assert the principle assumed by the gentleman from Kentucky, that because the Constitution confers this power on the President, it authorizes him to act under that power without reference to any legislation of Congress?"

"Mr. PHILLIPS. I mean to say that the powers of Congress are restricted by the Constitution.

"Mr. REAGAN. I am sorry to hear a Democrat say that.

"Mr. PHILLIPS. Then the gentleman had better learn a different style of Democracy. I say Congress, so far as they can.

"Mr. REAGAN. I do not refer to Congress, but to the President."

Mr. REAGAN. I thought the gentleman from Pennsylvania [Mr. PHILLIPS] was present; but I do not now see him in his seat. By the printed debates of yesterday it would appear I was informed by him that he meant to say that the powers of Congress are restricted by the Constitution. In the portion of yesterday's debate, which has been read, I am placed in the attitude of saying that I am sorry to hear a Democrat make such a remark; that I am sorry to hear a Democrat assert that the powers of Congress are restricted by the Federal Constitution. Those who heard the debate know well enough that I did not assume that position. I was controverting the position, that I thought he was assuming, that under the naked power given by the Constitution to the President of the United States, he could go on and appoint ambassadors and consuls without the aid of legislation by Congress. I had understood that the gentleman from Kentucky [Mr. BARNETT] assumed that because the Constitution granted the President the right to appoint foreign ministers and consuls, it was unnecessary for Congress to legislate on the subject. I understood the gentleman from Pennsylvania to take the same ground. It was that point I rose to controvert.

Mr. MORGAN. I do not like to have another speech made here on a subject disposed of yesterday. I object. I think it is wrong. It is nothing more than one speech made here to explain another.

Mr. FLORENCE. My colleague is temporarily absent; and I suggest that this matter can all be gone over when we return to a discussion of the consular and diplomatic bill. Then my colleague will be here, and can make whatever explanation may be necessary.

The SPEAKER. Is the objection insisted on?

Mr. REAGAN. I do not wish to debate the question. I trust that the House will not allow me to be placed in the attitude of being wrongly reported and ridiculously reported. In saying my position is made ridiculous, as it appears in the debate of yesterday, I mean to impute no fault to the reporters, or any one else. It may have resulted from the confusion and misapprehension of the desultory debate, or from a misunderstanding on the part of the gentleman from Pennsylvania [Mr. PHILLIPS] and myself of what each other said.

Mr. FLORENCE. I have no desire that the gentleman shall be placed in any false position.

Mr. REAGAN. I have only a word more to say. Is the objection to my proceeding insisted on?

The SPEAKER. It has not been waived.

Mr. REAGAN. Has any gentleman a right to prevent my going on with a question of privilege?

The SPEAKER. This is not a question of privilege.

Mr. REAGAN. Not a question of privilege to correct an improper official report?

The SPEAKER. It has never been so regarded. It has been the practice, when a gentleman has not been placed correctly in the debates, and he desired to set himself right, to allow him that privilege by courtesy. If the gentleman makes a correction in the House, it is by the courtesy of the House, and not because of any privilege of his as a member here.

Mr. REAGAN. I trust, then, that there will be no further objection to my going on.

The SPEAKER. The gentleman asks the unanimous consent to proceed. Is there objection?

Mr. MORGAN. Yes, sir; I object.

Mr. PHILLIPS. The gentleman, yesterday, immediately after I made my remarks, stated that he had misunderstood me. I hope that he will be allowed to proceed.

The SPEAKER. The gentleman will have an opportunity to put himself right in the Committee of the Whole on the state of the Union, when the discussion is again renewed.

Mr. WRIGHT, of Georgia. Does the Chair decide that this is not a question of privilege?

The SPEAKER. The Chair so decides. It has never, in a single instance, been held that it was a question of privilege.

Mr. WRIGHT, of Georgia. It is difficult for me to perceive, then, what would be a question of privilege. I dislike to appeal from the decision of the Chair. I do not know whether I have the right to take an appeal.

The SPEAKER. Any gentleman upon this floor has the right to take an appeal from any decision of the Chair.

Mr. WRIGHT, of Georgia. It occurs to me that it is absolutely necessary to the character of the gentlemen of this House that this should be considered a question of privilege, that when a gentleman is placed incorrectly upon the record, he should have the opportunity to make a correction. No member should be forced into a false attitude before the country. I think that the gentleman from New York is the only gentleman who objects.

Mr. MORGAN. If the gentleman from Texas says that he is not correctly reported, that his speech is not correctly reported, there is no man here who will object to his going on; but I do not understand him to claim any such thing. He has made one statement, and now he wishes to make another to explain it. I object.

Mr. EDIE. I object to any further debate on the question.

PREEMPTION RIGHTS—AGAIN.

The SPEAKER. The Clerk will read the pending amendment which was moved by the gentleman from Texas.

The Clerk read as follows:

Strike out these words:

"And provided, further, that if, at the date of survey, it shall be found that the dwelling-houses of two or more settlers are on the same quarter-quarter section, they shall be entitled to a joint entry of said quarter-quarter section, and each to a separate entry of other subdivisions, as hereinafter provided."

Mr. CAVANAUGH. I hope the gentleman from Indiana [Mr. HUGHES] will withdraw his motion to lay upon the table.

The SPEAKER. Debate is not in order, as the previous question has been called.

Mr. HUGHES. I demand the yeas and nays upon my motion to lay upon the table.

The yeas and nays were ordered.

Mr. STEPHENS, of Georgia. I hope the gentleman will withdraw his motion to lay upon the table. This question was tested yesterday, and a majority voted against the motion to lay upon the table. I am anxious to get on with the business of the House.

Mr. HUGHES. A moment ago this bill and the amendments were nearly referred to the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. A great many voted to refer, who would not vote to lay upon the table.

Mr. CRAWFORD. Has the morning hour expired?

The SPEAKER. It has.

Mr. CRAWFORD. If we are to spend half an hour with a call of the yeas and nays, I will move that the House proceed to the business upon the Speaker's table. I hope the gentleman from Indiana will withdraw his call for the yeas and nays.

The SPEAKER. If the motion that the House go to the business upon the Speaker's table be not insisted on, the question will be taken on the motion of the gentleman from Indiana.

The motion was not insisted on.

The question was taken; and it was decided in the negative—yeas 56, nays 123; as follows:

YEAS.—Messrs. Anderson, Arnold, Atkins, Barksdale, Bishop, Boeck, Bonham, Boyce, Branch, Burnett, Burns, Caruthers, Caskey, Cockerill, James Craig, Burton Craig, Davis of Mississippi, Dewart, Dumick, Edmundson, English, Eustis, Garnett, Groesbeck, Hughes, Jewett, George W. Jones, Keitt, Lawrence, Macay, McQueen, McRea, Humphrey Marshall, Samuel S. Marshall, Miles, Miller,

Millson, Montgomery, Pendleton, Peyton, Reagan, Ricaud, Ritchie, Ruffin, Savage, Scales, Seward, Samuel A. Smith, Stevenson, Talbot, Underwood, Watkins, White, Whiteley, Winslow, and Zollicoffer—56.

NAYS.—Messrs. Ahl, Andrews, Bennett, Bingham, Blair, Bliss, Bowie, Brayton, Buffington, Burlingame, Case, Cavanaugh, Chaffee, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cragin, Crawford, Curry, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edie, Fenton, Florence, Foley, Foster, Gartrell, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Hatch, Hawkins, Hoard, Hopkins, Horton, Howard, Huyler, Jackson, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, Lovejoy, Matteson, Maynard, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Niblack, Olin, Palmer, Parker, Pettit, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Purviance, Robbins, Royce, Russell, Sandidge, Scott, Searing, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, Robert Smith, Spinner, Stallworth, Stanton, Stephens, James A. Stewart, William Stewart, Tappan, George Taylor, Thayer, Thompson, Tompkins, Trippé, Vallandigham, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Wortendyke, and Augustus R. Wright—123.

So the House refused to lay the subject upon the table.

Pending the above call,

Mr. SANDIDGE stated that his colleague, Mr. DAVIDSON, was absent from the Hall because of sickness, and that he had paired off with Mr. CASE.

Mr. CAVANAUGH. Is an amendment now in order?

The SPEAKER. It is not; the previous question is not exhausted.

The question was taken on Mr. REAGAN's amendment; and it was agreed to.

The question recurred on the amendment of Mr. WALBRIDGE to strike out the sixth section; which was agreed to.

The question then recurred on the motion of Mr. Grow, to add to the bill the following words:

Be it further enacted, That from and after the passage of this act no public land shall be exposed to sale by proclamation of the President, unless the same shall have been surveyed, and the return of such survey duly filed in the Land Office for ten years or more before such sale.

Mr. CAVANAUGH. I ask the gentleman to substitute five for ten years.

Mr. GROW. I prefer it as it is. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CURTIS. I should like to ask the gentleman a question.

Mr. BURNETT. Debate is not in order.

Mr. CURTIS. Then I ask for the reading of the amendment.

The amendment was again read.

The question was taken; and it was decided in the affirmative—yeas 97, nays 82; as follows:

YEAS.—Messrs. Andrews, Atkins, Avery, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffington, Burlingame, Burroughs, Cavanaugh, Chaffee, Chapman, Horace F. Clark, John Cochrane, Cockerill, Colfax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edie, Farnsworth, Fenton, Florence, Foster, Giddings, Gilman, Gooch, Granger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Jewett, George W. Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Matteson, Miller, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, William W. Phelps, Phillips, Pike, Potter, Purviance, Ritchie, Robbins, Royce, Savage, John Sherman, Judson W. Sherman, Spinner, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—97.

NAYS.—Messrs. Ahl, Anderson, Arnold, Boeck, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskey, John B. Clark, Cobb, Cox, James Craig, Burton Craig, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, Eustis, Foley, Garnett, Gartrell, Gilmer, Goode, Gregg, Lawrence W. Hall, Hawkins, Hodges, Hopkins, Houston, Hughes, Huyler, Jackson, Leidy, McQueen, McKee, Samuel S. Marshall, Maynard, Miles, Millson, Montgomery, Moore, Pendleton, John S. Phelps, Powell, Ready, Reagan, Ruffin, Russell, Sandidge, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, George Taylor, Trippé, Underwood, Vallandigham, Vance, Watkins, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—82.

So Mr. Grow's amendment was agreed to.

Mr. NIBLACK stated, during the above call, that he had paired off with his colleague, Mr. CASE, who was confined to his room by indisposition.

Mr. GROW moved to reconsider the vote by which the amendment was agreed to; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CURRY moved to lay the bill upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 83, nays 95; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Boccock, Bonham, Bowie, Boyce, Branch, Burnett, Caruthers, Caskie, John B. Clark, Clay, Cobb, James Craig, Burton Craige, Crawford, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, Foley, Garnett, Gartrell, Gilmer, Goode, Gregg, Hawkins, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, McQueen, McRae, Samuel S. Marshall, Maynard, Miles, Milson, Montgomery, Moore, Peyton, John S. Phelps, Phillips, Reid, Reagan, Ruffin, Russell, Sandidge, Savage, Seales, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Underwood, Vallandigham, Vance, Watkins, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—83.

NAYS—Messrs. Andrews, Bennett, Bingham, Blair, Bliss, Brayton, Burlingame, Burroughs, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edlie, Farnsworth, Fenton, Florence, Foster, Giddings, Gilman, Gooch, Granger, Grow, Robert B. Hall, Harlan, Hatch, Hoard, Horton, Howard, Huyler, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, Lovejoy, Matteson, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, William W. Phelps, Pike, Potter, Purviance, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—95.

So the House refused to lay the bill upon the table.

Mr. BARKSDALE stated, during the call of the roll, that he was necessarily absent from the Hall when the vote was taken on the amendment of the gentleman from Pennsylvania, [Mr. Gnow,] or he should have voted against it.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. REAGAN. I ask the consent of the House to offer an amendment to the bill, that will remove the objections of many members to it, and enable them to vote for it.

Mr. CAVANAUGH. Are amendments now in order?

The SPEAKER. Amendments are not in order.

Mr. REAGAN. I ask the unanimous consent of the House to offer an amendment.

Mr. GROW. I object.

Mr. JONES, of Tennessee. I ask for the reading of the engrossed bill.

The SPEAKER. The House has not yet ordered the bill to be engrossed.

Mr. GROW called for tellers.

Tellers were ordered; and Messrs. Boyce and Burfinton were appointed.

The House divided; and the tellers reported—yeas 85, nays 74.

Mr. STANTON. I demand the yeas and nays on the engrossment of the bill, unless the gentleman from Tennessee will withdraw his demand for the reading of the engrossed bill.

Mr. DEWART. Is it in order to move to refer the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not in order, as the previous question is not yet exhausted.

Mr. GROW. I appeal to the gentleman from Tennessee to withdraw the demand for the reading of the engrossed bill, or we shall be obliged to have the yeas and nays called in order to afford time for the engrossment of the bill.

The yeas and nays were ordered.

Mr. SHERMAN, of Ohio. Is it in order to move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not.

Mr. SHERMAN, of Ohio. I hope, then, that by general consent we shall go into the Committee of the Whole. It will only be a waste of time to call the yeas and nays now.

Mr. GROW. We may as well dispose of the bill now.

Mr. SHERMAN, of Ohio. The question will come up again in the morning, and by that time

the bill will have been engrossed. It is manifest that there is a majority of the House in favor of the bill.

Mr. HOUSTON. I object to debate, and ask for the question on the engrossment of the bill.

The question was taken; and it was decided in the negative—yeas 91, nays 95; as follows:

YEAS—Messrs. Andrews, Bennett, Bingham, Blair, Bliss, Brayton, Burlingame, Burroughs, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Covode, Cox, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edlie, Farnsworth, Fenton, Foster, Giddings, Gooch, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Hatch, Hoard, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, William W. Phelps, Pike, Potter, Purviance, Ritchie, Robbins, Royce, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—91.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Boccock, Bonham, Bowie, Boyce, Bryan, Burnett, Burns, Caruthers, Caskie, Chapman, John B. Clark, Clay, Colb, Cokerill, Corning, James Craig, Burton Craige, Crawford, Davis of Indiana, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, Florence, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, Owen Jones, Leidy, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Milson, Montgomery, Moore, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Underwood, Vallandigham, Vance, Watkins, White, Whiteley, Winslow, Woodson, Augustus R. Wright, and Zollicoffer—95.

So the bill was rejected.

Mr. LAWRENCE stated, when his name was called on the above vote, that he had paired off with Mr. MILES.

Mr. DAVIS, of Mississippi. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. GROW. I demand the yeas and nays on the latter motion.

Mr. DAVIS, of Mississippi. I withdraw my motion.

Mr. ATKINS. I renew it.

Mr. GROW. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ATKINS. I withdraw the motion.

ADVERSE REPORT.

The SPEAKER stated that reports were in order from the Committee on the Post Office and Post Roads.

Mr. SCOTT, from the Committee on the Post Office and Post Roads, made an adverse report in the case of James A. Gallagher; which was laid upon the table, and ordered to be printed.

PREEMPTION RIGHTS—AGAIN.

Mr. MARSHALL, of Kentucky. I rise to a privileged question. I move to reconsider the vote by which the bill in relation to preemption rights was rejected, and to lay the motion to reconsider upon the table.

Mr. BARKSDALE. I desire to ask the Chair if that motion is not made too late?

The SPEAKER. It can be made any time today or to-morrow.

Mr. GROW. I demand the yeas and nays on the motion of the gentleman from Kentucky.

The yeas and nays were ordered.

CALL OF THE HOUSE.

Mr. WINSLOW. I move that there be a call of the House.

The motion was agreed to.

The roll was accordingly called.

Mr. SINGLETON stated, during the call of the roll, that Mr. LAMAR was confined to his room by sickness, and had been for several days; and that Mr. JENKINS was absent from the House on account of sickness in his family.

The names of the absentees were then called, when it appeared that the following members had failed to answer to their names:

Messrs. Abbott, Adrain, Billingshurst, Case, Caskie, Chapman, Horace F. Clark, Clemens, Curry, Damrell, Davidson, Dimmock, English, Eustis, Faulkner, Gillis, Hickman, Hill, Houston, Jenkins, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Landry, Letcher, Maclay, McKibbin, Miles, Nichols, Pottle, Rensy, Reilly, Roberts, Seward, Judson W. Sherman, Sickles, William Smith,

Tappan, Miles Taylor, Ward, Warren, and John V. Wright.

During the call of the roll, Mr. PETTIT stated that Mr. CASE was detained at his rooms by indisposition.

Mr. DAWES stated that Mr. DAMRELL was detained at home by sickness.

Mr. KELSEY stated that Mr. POTTLE had been in the House this morning, but had been obliged to leave, on account of serious indisposition.

Mr. JONES, of Pennsylvania, stated that Mr. REILLY was detained from the House by sickness in his family.

Mr. TAYLOR, of New York, stated that Mr. WARD had been unwell for the last week, and was still indisposed.

One hundred and eighty-eight members having answered to their names,

Mr. BOCKOCK moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

COMMITTEE OF THE WHOLE.

Mr. PHELPS, of Missouri. Is it in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair supposes that, as that motion is to suspend the rules for that purpose, it is in order.

Mr. PHELPS, of Missouri. I submit the motion, then, with a view of having the committee take a recess.

Mr. HUGHES. What will be the pending question when this matter comes up again?

The SPEAKER. The motion to lay on the table the motion to reconsider the vote by which the bill was rejected.

Mr. STANTON. If the motion to go into the Committee of the Whole on the state of the Union succeeds, when will this bill come up again?

The SPEAKER. The motion to reconsider may be called up at any time.

Mr. STANTON. Then the bill will go to the Speaker's table until it is called up by the motion to reconsider.

The SPEAKER. The bill is rejected; the motion to reconsider is, however, pending; and if the House shall agree to it, it will again bring the bill up.

Mr. STANTON. What I want to know is the position of the bill, and when it will come up if the House now goes into the Committee of the Whole on the state of the Union?

The SPEAKER. That depends upon the action of the House; if the motion to reconsider should be withdrawn, or should be negatived by the House, the bill would stand rejected and would not come before the House again. If the motion to reconsider should prevail, it would restore the bill to the position it occupied before the question was taken by which it was rejected; and the question would recur, "Shall the bill be engrossed and read a third time?"

Mr. STANTON. I think I understand the Chair so far. Now, I want to know when the motion to reconsider will come up?

The SPEAKER. Whenever any member of the House shall call it up.

Mr. PHELPS, of Missouri. I ask for the vote now upon my motion.

PROPOSITIONS TO INTRODUCE BILLS.

Mr. JEWETT. Before the question is taken upon that motion, I ask the unanimous consent of the House to introduce a bill to repeal all laws authorizing the sale of Government property at Harrodsburg, Kentucky, and for other purposes. I ask to introduce it merely for reference.

Mr. TALBOT. I object.

Mr. CAVANAUGH asked leave to introduce a bill making a grant of land to the State of Minnesota to aid in the construction of certain railroads therein.

Objection was made.

Mr. LOVEJOY asked leave to introduce a bill for the relief of settlers on certain public lands in the State of Illinois.

Mr. HUGHES. I object.

Mr. PHELPS, of Missouri. I insist on my motion.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and resumed the considera-

tion of the President's message, upon which the gentleman from Illinois [Mr. KELLOGG] was entitled to the floor.

Mr. PHELPS, of Missouri. If the gentleman from Illinois will yield for that purpose, I will move that the committee take a recess until seven o'clock this evening.

Mr. KELLOGG. I yield for that purpose.

Mr. PHELPS, of Missouri. I then submit the motion.

The motion was agreed to; and thereupon the committee took a recess until seven o'clock, p. m.

EVENING SESSION.

The committee resumed its session at seven o'clock, p. m., (Mr. STEVENSON in the chair.)

Mr. PURVIANCE. As one of the Representatives of Pennsylvania, I have had in my charge for some time a bill to increase the duties on foreign imports, which, on Monday a week ago, I attempted to bring to the notice of the House, by a resolution appended to proceed forthwith to its consideration.

I intended testing the sense of the House on the great question which concerns so many of my constituents, and to ascertain whether there is any party in the House, on the Democratic side of it, ready to sustain the President's recommendation in favor of specific duties. We are now in the seventh week of the short session, and without any report from the Committee of Ways and Means on what I consider the most important of all subjects connected with the true interest of the country. President-making is the order of the day, and speeches are made indicating platforms for parties to govern the future action of this mighty nation. I tell gentlemen they have no right to speak for any but themselves; and it is well the gentleman from Maine declared he spoke only for himself. His platform may do well enough for the State he represents; but I say to him, in the spirit of kindness, he must permit Pennsylvania to make her own platform, demanding, and insisting upon it, that protection shall be one of the planks, which she will hereafter never consent to surrender. She has hundreds of millions of mineral wealth, which the God of nature intended should be developed; and we fearlessly and publicly proclaim it that we will act with no party that will turn its back upon the great policy to which we are devoted.

In the Democratic party, on that question, the people of Pennsylvania have no faith, as they have inscribed upon their banners "free trade;" and although they promise and pledge fidelity to this interest in the Keystone State, they have so often broken their pledges that the people of Pennsylvania no longer depend upon them. It was this, sir, more than anything else, that caused the recent avalanche of condemnation of the Democratic party in that State, and which brings to the next House an almost united Opposition delegation. That delegation was elected on a Union ticket—a union of the elements of opposition to Democracy; the same union which, to some extent, was formed in 1856, without which Mr. Buchanan's majority would have been over one hundred thousand; and the same union which must be depended upon in 1860, to elect an Opposition President. The Democracy of North and South profess to differ on the tariff, on Lecompton, on the purchase and annexation of Cuba, on internal improvements; and yet, as Democrats, they unite on the same nominees for official station. A representative President upon all questions cannot be elected by any one party. A representative President upon a single question might be elected, I admit, if a matured public opinion in that direction was sufficiently strong to do it; but as parties are at present organized, it is evident to all that no such election could be effected. It could not be done in Pennsylvania, as the vote of 1856 clearly shows; Mr. Buchanan's vote being two hundred and thirty-six thousand, Colonel Fremont's about one hundred and twenty-seven thousand, and Mr. Fillmore's about one hundred and eight thousand. It could not be done in New Jersey and Illinois, as shown by the vote of both of these States in 1856, both having cast their electoral votes for Mr. Buchanan; and yet, at the same time, by a fusion of the Opposition elements, Opposition Governors were elected.

Whilst we have never yet elected a President upon any one distinct issue, we have elected a number by a fusion of the elements of opposition to the principles of an existing Administration. It was the case with Mr. Jefferson, who was elevated to power, not on any distinctive principle of his own, but by a fusion of those who were opposed to the prominent measure of the administration of the elder Adams; such as the alien and sedition law, and other prominent measures. So in the case of General Harrison, by a fusion of the friends of a rigid economy and of a protective tariff, with a host of clamorous soldiers and sons of soldiers of the war of 1812. So in the case of General Taylor, by a fusion of the friends of protection in the North with the soldiers North and South who had served under him, together with a numerous band of worthy Democrats who were dissatisfied with the mode of administering the Government by Mr. Polk. Again, in the case of Mr. Pierce, by a fusion of dissatisfied Whigs with the entire Democratic party, who were out, and desired to be in. And again, as still more prominently exhibited in the case of Mr. Buchanan, by a fusion of Whigs, Americans, and Democrats in many parts of the Union, and especially in Pennsylvania and New Jersey.

The battle which decided perhaps the fate of most of Europe was won by the force of allied Powers; and the chaplet that decked the brow of the world's mightiest hero was torn away by the power of combination.

The tyranny and despotism of the mother country was overcome and destroyed by the flowing and fusion of French and American blood. Without this power of combination the sun of England might have set forever at Waterloo, and the reverberation of the last feeble echo of liberty might have been heard upon the hills of Yorktown. Side by side in these great struggles were commingled the voices of soldiers speaking different languages, the blood of patriots of different nations struggling for the attainment of one common end—the disenfranchisement of millions then and yet unborn.

It was by the power of combination in this House, of men holding opposite political tenets, that one of the greatest of wrongs was prevented, and a constitution (unjustly sought to be enforced upon an unwilling people) set aside and condemned, and the purity of the ballot-box maintained.

The attempt to nullify the revenue laws by a portion of the people of South Carolina, was promptly met and suppressed by a combination of able statesmen of different political opinions, at the head of whom were Jackson and Webster; the proclamation of the one, and the speeches of the other, on that question, remaining, long after they have gone, the enduring monuments of their fame.

Democrats widely differing on the same questions—tariff and free trade, Lecompton and anti-Lecompton, fillibuster and anti-fillibuster, Cuba and anti-Cuba, for and against the opening of the African slave trade, for and against internal improvements, for and against popular sovereignty, and for and against the Union—commingle in the same national conventions; join hands in the nomination of the same candidates, and present a united front in their election. It is here, in Congress, where they quarrel about measures, each man representing what he believes to be the peculiar views of his own constituents regarding platforms and party professions, made in conventions with about as little reverence and respect as the people of Pennsylvania now cherish for James Buchanan.

In 1844, the Democracy of the Keystone State inscribed upon their banners "Polk, Dallas, and the tariff of 1842," and contended that Mr. Polk was a better friend of that tariff than Mr. Clay. Buchanan and Dallas helped along the delusion; and when they both secured office and power, they basely betrayed a confiding people. The one boldly, but basely, struck it down by his vote as Vice-President; whilst the other played the part of a cringing Secretary to the President who recommended its destruction. The combination of indignant Democrats with the insulted Whigs of the Keystone State two years after the deed was done, carried General Taylor by a majority of thirteen thousand over General Cass, whose supporters professed to be the especial friends of a protective tariff. Had James Buchanan been the candidate at that time, for his recreancy in this

particular, I verily believe, he would have been beaten in his native State, greatly beyond the vote given against General Cass. The people of Pennsylvania, at their recent election, by a fusion of opposition elements, secured a triumph almost without a parallel, beating the Administration in every congressional district but two, and electing the Opposition State ticket by twenty-eight thousand. The successful ticket was a Union ticket—a union of all who were opposed to the course which Mr. Buchanan had pursued, not on Lecompton only, but his other measures. His Utah war; his reckless and extravagant prodigality; his refusal or neglect of the interests of the miner, mechanic, and manufacturer; his known leaning and inclination towards the purchase and annexation of Cuba, together with the generally conceded opinion of his inefficiency in administrative ability, were the controlling causes which led to the great anti-Administration triumph in Pennsylvania; and I have to say, once for all, to gentlemen who are disposed to make platforms, that it is only by the combination of all the elements of opposition that success can be expected. We have Whigs, Americans, Democrats, and Republicans, who sympathize on most of the questions named, and who are willing to concentrate their strength in a union movement, without which Pennsylvania cannot and must not be counted in any presidential contest that is hereafter to come off. We have an opposition strength sufficiently great to carry the State, when united; but divided, a plurality would control, and thus twenty-seven electors be thrown away. Let us, on this subject, be admonished by the past; be controlled by circumstances as they may be developed in the future; making no platforms, lest in the mean time they may give way; and, when the proper time arrives, we will call together the patriots of the land and invoke their union in one mighty effort to restore this country to what it was in the days of the earlier Presidents.

Thus much in reply to the speech of the gentleman from Maine.

And now I turn to the message. Although the President thrusts upon us his Kansas policy, and persists that he was right and the public judgment wrong, it strikes me that that part of his message is undeserving of any answer in the shape of argument. Upon that question he has been arraigned, tried, and justly convicted of having perpetrated a gross and unwarrantable outrage upon the rights and liberties of a free people, for which he can make no atonement short of an acknowledgment of the wrong—an admission that he was driven to it from a fear of offending his acknowledged masters, and a promise in the future to follow his own convictions of the right, regardless of threats or denunciations from any quarter. His own shrewd party friends admit that he has committed a great political mistake, by which he has disabled most of them for life, and especially so in Pennsylvania, to an extent so great as to justify one of my colleagues [Mr. DEWART] to move that the defeated Democratic candidates for 1858, in the Keystone State, be placed on the pension roll—on the invalid list, I suppose—at the rate of ninety-six dollars a year. Whether my colleague intended to include in the benefits of this motion our colleague from the Berks district, who was suddenly summoned by the President to tear himself away from the affectionate embrace of a constituency for whom he had promised, and doubtless intended, to do so much, to attend to some derangement in our foreign relations with Austria, is not exactly known; but it is believed the motion would include our departed brother.

The President reiterates his argument in favor of the Lecompton constitution. Silence pervades the Hall. Since the people have condemned, no voice is to be heard to condemn them, but the President. No voice is heard in reply; and the President is therefore left to talk the matter over to himself, and seems to be well pleased with the undertaking; and if asked his reasons, would perhaps reply as once did a very worthy old gentleman, who was addicted to the same habit, and who declared he had two reasons for it: first, that he always liked to talk to a man of sense; and secondly, that he always liked to hear a man of sense talk.

But my purpose is not to discuss Kansas, but to ask the attention of the committee for a short

time to some views I intend to submit on that part of the President's message which relates to specific duties, a subject in which my constituents and the people of my State are deeply interested. A revenue system is admitted to be indispensable to the maintenance of the Government, and must from necessity be based upon *ad valorem* and specific duties. To prevent frauds, specific duties should, in every instance, be adopted, if practicable, and especially upon articles of weight, of like quality, should such duties be invariably applied.

The remark of the honorable gentleman from Virginia, [Mr. MILLSON,] that the civilized world had abandoned the protective policy, and especially specific duties, demands a reply. That honorable gentleman sees, in the passage of the pension bill, a necessity for returning to specific duties, and calls upon the friends of free trade to beware of the signs of the times, as indicating a return to the protective policy. I trust the gentleman is correct in his supposition, and sincerely hope his prediction may be verified; but that gentleman must allow me to say, for one, that I voted for the pension bill irrespective of any connection it might have with a tariff. I voted for it because I believed it was but rendering justice to a meritorious class of my constituents, who exposed themselves to the perils of war and climate to defend me and mine, when I was unable to defend myself.

To the soldiers of the war of 1812 we owe a debt of gratitude which can never be repaid by the idle declamation about duty and patriotism requiring them to serve their country. Duties ought to be equal, reciprocal, and not onerous and partial; and the soldier who served from patriotism, if you please, is nevertheless entitled to some remuneration for loss of time, health, business, and worldly prospects, and is no more bound to surrender these for our benefit and advantage than we would be bound to give the public our time free of remuneration. Republics are said to be ungrateful; but by no vote of mine shall such a sentiment be permitted to become a maxim. That very patriotism which prompts the soldier to deeds of valor which imperil his life, is more than half sustained by the assurance, which flashes upon him amidst the carnage of war, that the widow and orphans he leaves behind him will not be neglected by the country for which he is offering his life as a sacrifice. Deprive him of this consolation, and you make him a coward who would otherwise be brave; a coward, not in the fight, but as to the consequences—the desolation and destitution which would be inflicted upon those he leaves behind.

But, sir, it is not my purpose to talk of a bill upon which we have deliberately acted, other than to disclaim motives which honorable gentlemen have thought proper to impute; which, so far as I am concerned, have no foundation.

The civilized and scientific portion of the world, as the gentleman from Virginia tells us, have not favored, and do not favor, the protective policy, but have cordially embraced the free-trade doctrines of Adam Smith, and other political economists. Our Government, from its earliest organization down to President Polk, maintained the right and policy of protection; and none of our earlier Presidents ever had the smallest scruple as to the constitutional power to do so. The various powers delegated to Congress—to make and regulate coin, to make and unmake navies and armies, war and peace, to regulate commerce, to lay and collect imposts, and to provide for the general welfare of the nation, together with numerous others not necessary to mention—confer ample authority to regulate the internal commerce of the country; upon the stability and prosperity of which mainly depends that of the foreign commerce of any country, as I shall presently endeavor to show. The annual messages of Washington, Jefferson, Madison, Monroe, and Jackson, contained recommendations in behalf of the protective policy, as exhibited by the following extracts. I know the Democracy of the present age is not in the habit of looking upon anything which comes from Washington as of much account—regarding him, in his day and generation, only as a clever sort of man, and tolerably good surveyor, but entirely too much of an old fogey. As to Madison and Monroe, they too, in the eyes of the progressive Democracy, were but a pair of Virginia donkeys,

behind the age in which they lived, and only fit for country squires. For Jefferson and Jackson they used to entertain some little reverence; but now they have discovered that both of these men were not civilized, not scientific, and therefore semi-barbarian. They were, however, all sworn to support the Constitution of the United States; and coincided in their interpretation of that instrument, and made their annual recommendations in accordance with their convictions of what it meant, and of the powers it conferred.

Washington's First Annual Message.

"The advancement of agriculture, commerce, and manufactures, by all proper means, will not, I trust, need recommendation."

Washington's Eighth Annual Address.

"Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts in every way which shall appear eligible."

Jefferson's Second Annual Message.

"To cultivate peace, and maintain commerce and navigation in all their lawful enterprises; to foster our fisheries as nurseries of navigation and for the nurture of man; and protect the manufactures adapted to our circumstances; to preserve the faith of the nation by an exact discharge of its debts and contracts; expend the public money with the same care and economy we would practice with our own, and impose on our citizens no unnecessary burdens; to keep, in all things, within the pale of our constitutional powers, and cherish the Federal Union as the only rock of safety; these, fellow-citizens, are the landmarks by which we are to guide ourselves in all our proceedings."

Jefferson's Fourth Annual Message.

"Whether the great interests of agriculture, manufactures, commerce, or navigation can, within the pale of your constitutional powers, be aided in any of their relations; in fine, whether anything can be done to advance the general good, are questions within the limits of your function, which will necessarily occupy your attention."

Jefferson's Sixth Annual Message.

"Shall we suppress the impost, and give that advantage to foreign over domestic manufactures. On a few articles of more general and necessary use, the suppression, in due season, will doubtless be right; but the great mass of the articles on which impost is paid are foreign luxuries, purchased by those only who are rich enough to afford themselves the use of them. Their patriotism would certainly prefer its continuance and application to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of Federal powers."

Madison's Second Annual Message.

"To a thriving agriculture, and the improvements relating to it, is added a highly interesting extension of useful manufactures, the combined product of professional occupations and of household industry. How far it may be expedient to guard the infancy of this improvement in the distribution of labor by regulations of the commercial tariff, is a subject which cannot fail to suggest itself to your patriotic reflections."

"Besides the reasonableness of saving our manufacturers from sacrifices, which a change of circumstances might bring on them, the national interest requires that, with respect to such articles at least as belong to our defense and our primary wants, we should not be left in unnecessary dependence on external supplies. And whilst foreign Governments adhere to an existing discrimination in their ports against our navigation, and an equality or lesser discrimination is enjoyed by their navigation in our ports, the effect cannot be mistaken, because it has been seriously felt by our shipping interests."

Madison's Seventh Annual Message.

"In adjusting the duties on imports to the object of revenue, the influence of the tariff on manufactures will necessarily present itself for consideration. It will be an additional recommendation of particular manufactures when the materials for them are extensively drawn from our agriculture, and consequently import and insure to that great fund of national prosperity and independence an encouragement which cannot fail to be rewarded."

Monroe's First Annual Message.

"Our manufactures will require the continued attention of Congress. The capital employed in them is considerable, and the knowledge required in the machinery and fabric of all the most useful manufactures is of great value. Their preservation, which depends on due encouragement, is connected with the high interests of the nation."

Monroe's Third Annual Message.

"It is deemed of great importance to give encouragement to our domestic manufactures. In what manner the evils adverted to may be remedied, and how far it may be practicable in other respects to afford to them further encouragement, paying due regard to all the other great interests of the nation, is submitted to the wisdom of Congress."

Monroe's Fifth Annual Message.

"It may fairly be presumed that, under the protection given to domestic manufactures by the existing laws, we shall become, at no distant period, a manufacturing country on an extensive scale. Possessing, as we do, the raw materials in such vast amount, with a capacity to augment them to an indefinite extent; raising within the country almost of every kind to an amount far exceeding the demand for home consumption, even in the most unfavorable

years, and to be obtained always at a very moderate price; skilled, also, as our people are, in the mechanic arts, and in every respect calculated to lessen the demand for, and the price of, labor; it is manifest that their success in every branch of domestic industry may and will be carried, under the encouragement given by the present duties, to an extent to meet any demand which, under a fair competition, may be made on it.

"It cannot be doubted that the more complete our internal resources, and the less dependent we are on foreign Powers for every national, as well as domestic purpose, the greater and more stable will be the public felicity. By the increase of domestic manufactures will the demand for the rude materials at home be increased; and thus will the dependence of the several parts of our Union on each other, and the strength of the Union itself be proportionally augmented."

Jackson's First Annual Message.

"The general rule to be applied in graduating the duties upon articles of foreign growth or manufacture is that which will place our own in fair competition with those of other countries, and the inducements to advance even a step beyond this point are controlling in regard to those articles which are of primary necessity in time of war."

"We must ever expect selfish legislation in other nations, and are, therefore, compelled to adopt our own to their regulations in the manner best calculated to avoid serious injury, and to harmonize the conflicting interests of our agriculture, commerce, and manufactures."

Mr. Calhoun's views on the subject are not less emphatic in favor of protection. I quote from his speech in 1816:

"He dwelt on the great importance of the article, and the expediency of encouraging its production in our own country, and enforced particularly the necessity of encouraging all those articles at home for which we now depended on the West Indies."

"He believed the policy of the country required protection to our manufacturing establishments."

"He had asserted that the subject before them was connected with the security of the country. It would, doubtless, by some, be considered a rash assertion; but he conceived it to be susceptible of the clearest proof, and he hoped, with due attention, to establish it to the satisfaction of the House."

"Neither agriculture, manufacture, nor commerce, taken separately, is the cause of wealth; it flows from the three combined, and cannot exist without each. Without commerce, industry would have no stimulus; without manufactures, it would be without the means of production; and without agriculture neither of the others can subsist. When separated entirely and permanently, they perish."

In pursuance of these recommendations, Congress has repeatedly enacted tariff laws, discriminating in favor of American industry. All the great manufacturing countries of the world have done the same, excluding the foreign fabric from competition with their own, on the principle of self-defense, and that all Governments have within themselves the elements of their own protection, a principle which underlies their very organizations, and without which they could not maintain an existence.

It is my purpose to show that this elementary principle should, in a Government like ours, more than in most others, develop itself in a settled policy in an American system to become as permanent and enduring as our own leaden hills and iron mountains. It is to this end I desire to contribute my mite before the close of my congressional duties. It is my purpose to prove, what I believe I can clearly demonstrate, that protection is not only the true policy of this Government, but that it is the only policy under which burdens, whether public or private, can be lessened.

In assuming this duty, I start with premises which I challenge the advocates of free trade to refute. I shall sustain these premises and positions by facts and figures drawn from the past history of the country, and claim legitimate deductions tending directly to the support of the great postulate I have just announced.

I maintain first, that a country whose exports consist of manufactured products, is in a more flourishing condition than one whose exports are of the raw material. The relative position of this country and Great Britain will test the truth of this assertion. In 1857, the exports of manufactured goods by the former was only \$30,000,000; whilst that of the latter amounted to the enormous sum of \$600,000,000, embracing one hundred and seventy-seven million yards of cotton goods to this country, amounting to \$13,000,000. Here is \$600,000,000 thrown by a single nation into foreign commerce; thrown there by a manufacturing people who are wise enough not to export their raw material, but to work it up into all imaginable shapes before they launch it upon the mighty deep. This fact alone, startling as it must be admitted, carries with it a still more startling sequence, to wit: the manufactures of Great Britain in a single year require twenty ships for one required by us, to transport their manufac-

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tured fabrics. It is true, beside our \$30,000,000 of manufactures exported, we sent abroad some three hundred millions, but of raw materials and coin, leaving us still with but half the exports of Great Britain, and presenting the melancholy spectacle of the nine tenths of that consisting of the raw material taken to England for purposes of manufacture and to be returned, and purchased by us; we paying the cost of transportation both ways, and the cost and profit of manufacture.

The nation whose exports of manufactured fabric has grown to \$600,000,000 per annum, has increased its domestic commerce in the same ratio, so that Great Britain's domestic commerce, so far as manufactures are concerned, would be say ten times greater than ours. Her engine power is six hundred million, equal, in a population of twenty-one million, to thirty men to each inhabitant. The immense machinery propelled by this power, requires that species of raw material, such as ores, &c., that cannot profitably be imported, and calls for the importation only of that class of raw materials, such as cotton and flour, which can enter into profitable combination with other raw materials and their labor. It is this power of combination which England exhibits in her manufacturing system, the reduction of the crude or raw material to the smallest bulk, which produces such diversity of pursuits and employments, and creates a domestic commerce in manufactures greater than any other nation, and which enables her to maintain a foreign commerce in the same, greatly beyond that of the United States.

The second position which I assume in the argument is, that domestic commerce produces and maintains foreign commerce. England, France, Belgium, Sweden, Denmark, and Northern Germany, have accumulated wealth and power from their internal trade, which enables them to maintain an extensive foreign commerce. So take Massachusetts, a State proverbial for its sterility of soil, is nevertheless amongst the wealthiest in the Union. Its domestic commerce has been immensely large, and almost wholly attributable to the manufacturing interest. One of her members of Congress, some years ago, mentioned the fact that that State had consumed, in a single year, more flour in the item of paste—used for stiffening manufactured goods—than England had purchased from us in any three given years—this being under the operation of the protective policy. Add to this the large amount consumed by the operatives, and you have in the State of Massachusetts a market in one year, equal to England in four. You have a domestic commerce, swelled by the erection of manufacturing establishments, the carrying of raw material to and fro, the purchase of provision from the adjoining and western States, paid for in the exchange of manufactured goods, producing wealth, and, as a consequence, ability to purchase such of the foreign fabric as is not manufactured at home, as well as luxuries, the growth and production only of other countries. Thus it is that the domestic commerce of Massachusetts greatly contributes to swell the foreign commerce of the country under the protective policy; but now under the opposite and most ruinous system of free trade, the shipping interest is broken down; the importations have greatly fallen off, occasioned mainly by the ability of the consumer to buy being greatly abridged; and that abridgement the result of a destruction of domestic commerce—the only true source of wealth of every nation.

The chief excellence of domestic commerce consists in relieving the producer of the tax of transportation in giving him a home market for, and increasing the value of his products. If we possess the raw material in great abundance for the manufacture of any one article, such as for example is the case with iron, we should not be satisfied merely with the manufacture of what we use ourselves, but should make a most vigorous exertion to obtain the mastery of the world, and become, as I believe we might be, the furnishing nation for this great staple, instead of inviting its importation from abroad, and pursuing the sui-

cidal policy of laying the British iron, which is but an admixture of their pauper labor and their farmers' produce, directly alongside of the American barn-yard. Free trade as applied merely to an exchange of articles, the growth alone of the countries making the exchange, may do well enough, but to extend it so far as to allow England to furnish us with iron, even though she should contract to take in exchange wheat, would be fatal to our prosperity, and would be literally "selling flour by the ton, and buying it back in iron by the pound; and thus, exhausting and impoverishing the soil to obtain the iron we consumed."

Could the United States but secure to herself the domestic commerce, which iron alone is capable of producing, it would not only enrich the States, but would greatly swell our foreign commerce. From 1824 to 1834, the product of iron in the United States rose to two hundred thousand tons, and the price of produce doubled. From 1834 to 1842, when without protection, there was no increase of production, although an increase of twenty-five per cent. in the population. From 1842 to 1848, the domestic production of iron quadrupled, and the demand for cotton doubled. With protection the production of iron increased; without it the reverse was always the case. With protection, domestic and foreign commerce always flourish; without it they invariably languish, and finally ruinously decline. Cotton has shared the fate of iron. Whenever protection exists the demand for cotton has increased, from which I am prepared to argue that free trade throughout the world would ruinously affect the manufacture and consumption of cotton. Twenty years ago France consumed two hundred thousand bales of cotton, she now requires four hundred thousand. Germany then required one hundred thousand, now four hundred thousand. Sweden, then six thousand bales, now she requires sixty thousand. These are highly protective countries and show an increase in their consumption of raw cotton in twenty years of five hundred and fifty thousand bales per annum. The additional demand of Belgium, Denmark, Russia, Austria, and Spain, will make about seven hundred and twenty-five thousand bales, as the quantity added to the consumption in the protected countries of Europe. In our own country the addition in our home consumption for the six years following the protective act of 1842, was three hundred thousand bales. From this it is evident that as protection increases, the demand for cotton increases in a like ratio. Strike from the countries named, the protective policy and you lessen the demand in each, because you lessen the domestic commerce of each, and the ability of the people of each to consume the manufactured article. Increase the home consumption, as was the case under the tariff of 1842, and you, of necessity, withdraw a portion of the crop from the foreign market, and necessarily enhance the price of the residue. The less cotton the producer sends to the foreign market, the more money he receives. From 1830 to 1832, the annual amount exported was about two hundred and eighty million pounds, which brought the sum of \$28,000,000. In 1843, the amount exported was a billion and twenty-six million of pounds, for which but \$66,000,000 were realized. The first was during the existence of the high tariff of 1828, the last under the low tariff of 1846. Under the latter almost four times the amount of cotton brings but a little over double the sum realized from quarter the amount of cotton sold under the former tariff.

This cannot be attributed to the over production of cotton, because the increase of population has kept pace with the increased production of cotton. The cause is to be traced to the destruction of the domestic commerce of the country, by which the ability of our people to buy has been, if not wholly destroyed, greatly abridged. If this is not the cause, let the planter tell me why it is he is now giving two pounds of cotton for one, for the same amount of money. Flour and grain have been equally affected by the same

cause. The war of 1812 created temporarily a home market, but that over, and protection discontinued, universal ruin pervaded the farming interests, prices of products having sunk so low for want of a market that sales were seldom if ever made, and when made the producer realized but little benefit from them. Under the tariff of 1824, the home demand increased greatly on a greatly increased population, and the prices were uninfluenced by the foreign market. From 1828 to 1831, wheat averaged \$1 72 per bushel, and flour \$5 84 per barrel. From 1832 to 1835, flour averaged \$5 72 per barrel. During this period the country was prosperous almost beyond parallel in our history either before or since. I say this because between 1830 and 1834, while we imported \$438,000,000, exceeding by fifty per cent. the average for 1822 to 1830, we contracted no debt, but on the contrary paid off the whole debt of the Revolution.

The whole country had become a living hive, and an internal commerce grew up which called into requisition the miner, manufacturer, mechanic, and farmer, giving all constant work at fair remunerative prices. The importations were little over a hundred millions per annum, with a greatly increased domestic commerce which enabled us to pay, not only for our imports, but to liquidate the previous indebtedness of the nation. From 1837 to 1840, our importations were unstable; in 1837, \$189,000,000; in 1838 down to \$113,000,000; in 1839 up to \$162,000,000; and in 1840 down to \$107,000,000; amounting, however, in the aggregate to \$571,000,000, which, with a domestic commerce destroyed, was sufficient to drive the whole country into bankruptcy and requiring the passage of a bankrupt law. This same instability marked the free trade period from 1817 to 1827. From 1843 to 1847, under the protective act of 1842, the importations were uniform and regular. In 1843, \$108,000,000; in 1845, \$117,000,000; in 1845-46, \$121,000,000, with a domestic commerce increased and increasing, and with a degree of prosperity unexampled in the history of the nation, except the period already referred to under the tariff of 1828. From 1843 to 1847, cotton and woolen manufactures doubled, and the domestic production of iron more than trebled. A Pennsylvania, elevated to power by pledges to preserve the principles of the tariff of 1842 intact, in an evil hour struck a fatal blow upon the happiness and prosperity of his own poor but devoted constituents, and, although in Pennsylvania burned in effigy for the treachery, he has been the recipient of favors ever since at the hands of the so-called Democratic party, whilst tens of thousands of his Democratic constituents have been doomed to suffer all the privations which poverty is ever sure to entail upon its victims.

In 1849-50, our imports were \$178,000,000; in 1854, \$366,000,000; in 1855, \$360,000,000; in 1857, \$369,000,000; and in 1858, \$180,000,000—the same instability and fluctuation which existed during every former free trade period. Here, in four years, you have over eleven hundred millions of importations, with a crippled domestic commerce—the legitimate fruits of a policy made to subserve the interest of a single product, cotton, and that, too, founded, as I have shown, upon an entire mistake as to the supposed advantages accruing to that staple through the policy of free trade.

By the means of association and combination, the physical power of a nation may be increased to an extraordinary extent, as already shown in the case of Great Britain, whose miners and engine-makers, numbering about one hundred thousand, with an engine-power equal to six hundred millions, thus multiplying the physical force of each man six thousand times. Pennsylvania is eminently calculated for this association and combination, having within her limits iron-ore, coal, limestone, water-power, salt, and lumber, beyond that of any other section of the Union. But from what source is the capital to come if you refuse to the enterprising capitalist here protection against the money combinations of Europe? It

is a fact not to be disguised that, in 1846, British manufacturers did raise a large amount of money and send it here to assist in breaking down the tariff of 1842. Occupying the position of one of an investigating committee as to the alleged corruption in passing the tariff of 1857, I am prepared to say that, but for the fact that our duties were limited to a particular tariff, testimony could have been elicited of British interference in the passage of the tariff of 1846, to an extent well calculated to awaken alarm for the safety and perpetuity of American institutions. This interference consists mainly in flooding the country with free-trade documents, the employment of agents to manufacture British or free-trade doctrines, to establish papers, and aid, by the corrupt use of money, the election, in State and national elections, of men pledged to favor the free trade vagary. American capitalists cannot guard against this state of things, and therefore require permanent protection.

Again: it is notorious that the British iron-masters, on more than one occasion, agreed to reduce the price of iron to a ruinous point, and there maintain it until the American establishments should be broken down. The American capitalist asks for permanent protection to guard against the effect of these combinations. Under the tariff of 1846, the revenue on iron increased \$415,240 per annum, which showed an increase in the importation of British iron of about one million and a half per annum in value. It is believed the amount greatly exceeds that sum—the duty being *ad valorem* upon a fraudulent foreign invoice. Iron worth fifty dollars per ton invoiced at thirty, would cheat the Government six dollars per ton. It is to remedy this, that specific duties, such as existed under the tariff of 1842, are demanded, and, as a corrective, absolutely required. In a single county in western Pennsylvania—Clarion—under the auspices of the tariff of 1842, there were some thirty furnaces in successful operation, yielding an annual average of a thousand tons each, making, in the aggregate, a product worth \$1,000,000, the whole of it made up of the labor of our own people, and the agricultural products of the farmers of that and the adjoining counties. The domestic commerce created by the iron manufacture of this single county was immense; the mining and hauling the ore; the cutting and coaling the timber; mining and hauling the coal; the purchase and carrying of provisions; and carrying the pig metal to market in boats constructed in part for that purpose, and afterwards used for carrying coal further down the Ohio river. The metal is yet, to some extent, raw material, requiring the application of man, horse, and engine power to bring it into castings, bar and sheet iron, and nails, again requiring the consumption of agricultural products and use of coal, thus stimulating a commerce between persons pursuing different branches of business in the same community, leaving no balance of trade against either, but constantly revolving in the same orbit the exchanges which enrich the whole.

The producer of pig iron pays the farmer thirty dollars for flour; the farmer pays the identical money to the foundry-man for that indispensable comfort, a stove; and this same money is returned to the producer of pig iron, and again paid to the identical farmer for his pork, who pays it in turn for nails, the maker of which latter article returns it to the producer of pig iron, for the raw material furnished him. And now how stands the account? Thirty dollars has purchased sixty dollars of produce, has paid for sixty of manufactured iron, as well as sixty of the raw material; the money, in the mean time, performing no other office than that of the standard of value for the articles exchanged, and capable of performing the same rotary duty *ad infinitum*. Now, how is it with cotton? Take a bale of four hundred pounds, say worth thirty dollars; it is, in its raw state, put upon a steamer and sent to a foreign port and sold for cash to the cotton manufacturer, who pays it to the British farmer for flour, and the latter pays it to the British foundry for a stove; thus sustaining the domestic commerce of Great Britain, but creating no dependency between the cotton planter and those who get his money, as in the case of American manufactures. In 1849, we exported raw cotton to the value of \$66,000,000; and upon the supposition that its manufacture would in-

crease its value four fold, we would have had an addition to the wealth and business of the country of \$198,000,000, which sum was given to the British capitalist as a bounty for purchasing raw cotton, at rates lower than the planter would be obliged to sell, if he would but assist in the inauguration of a policy which would lead to the manufacture of but half his crop in the United States.

The power to regulate commerce is not, it is to be remembered, confined to foreign commerce, but is to be exercised so as to create and sustain the domestic commerce of the country. It is high time that the few cotton-growing States should see that the domestic commerce of the northern and some even of the southern States would be greatly more injured by free trade, than the former possibly could be by a protective tariff.

Take the four great cotton-growing States, South Carolina, Georgia, Alabama, and Mississippi, which, by the census of 1850, produced one million eight hundred thousand bales of cotton, of four hundred pounds each; to which add their wheat, Indian corn, and wool; and it makes a product in value of but \$78,334,206; whilst the wheat, Indian corn, and wool of Pennsylvania, Ohio, Indiana, and Illinois, amounted in value to about eighty-six million dollars. The whole of this, or rather the surplus beyond actual home consumption, together with the oats, rye, beef, and pork of these States, with proper protection to the iron-interest, might be transformed into this great staple, leaving the sea-board market exclusively for the other grain-growing States. Each home market, as it springs into existence, betters the chances for a rise in the value of agricultural products. Supply can only keep pace with demand whilst the latter is exclusively controlled by consumption. The greater diversity of pursuit amongst a people the better the market; and the nearer the market to the product the greater the profit to the producer. To lessen the weight and bulk of the raw material as near the point of its production as practicable, and thus lessen the transportation tax, should be the governing policy of a nation as well as an individual. The farmer who would take his corn fifty miles to market, when, by feeding it to hogs, he could lessen its bulk and increase its value in the shape of pork, would be pronounced, if not insane, at least unwise. So a nation which would send abroad \$100,000,000 in value of agricultural products in a raw state, instead of diminishing its bulk and lessening its weight by converting it into iron or any other staple in demand, would be guilty of great injustice to its own operatives, and become justly obnoxious to the charge of having depleted its own strength.

The country which furnishes its own supply of manufactures of all kinds, is invariably least in need of money; and yet, strange to say, has, generally speaking, the greatest supply of the precious metal. This results from the fact that the same money is constantly revolving, as a standard of value merely, sometimes paying for a hundred products of different varieties, and again returning to the source from which it emanated. The same money goes to a foreign country for the purchase of a foreign product, leaves ninety-nine points untouched in the rotary circuit of domestic commerce; and ninety-nine additional foreign products purchased stops the rotary motion entirely, as soon as the purchase of the foreign product exceeds the raw material exported to pay for it.

Again: the country which manufactures most not only develops its own resources, but greatly augments its own wealth; the difference between the raw material and manufactured article being sometimes four fold, contributing to swell the aggregate wealth by producing, with those who receive it, the ability to feed, clothe, and house themselves in a ratio proportioned to the increased wealth which this difference confers. The marble has but little intrinsic value while in the quarry; but after passing through the manipulations of the artist, it finds way into our hearths, mantels, and monuments, and thus contributes to enrich the intermediate handlers of the raw material, and adds to the general wealth of the country.

Take, for example, the amount of coal in one single locality in my colleague's [Mr. Ritchie] district, to wit: that which passed, during the last year, through the locks of the Monongahela slack-water navigation, being twenty-five million

six hundred and ninety-six thousand six hundred and sixty-nine bushels, upon which tolls were paid amounting to \$34,553 49. Here is a product, valueless in the ground, costing half a million to bring it to the surface, which sum is paid to a highly industrious and meritorious class of people—the colliers; from whose hands it passes to the enterprising boatman, who employs his hands and pilots to navigate his heavy-laden craft to Cincinnati, Louisville, and New Orleans, making an aggregate of value at the first-named place of \$2,000,000; which, of course, is increased as it increases its distance to market. This, it is to be remembered, is but one locality, the figures of which are obtained because of the boats passing locks where they are registered. Other localities yield in the same proportion; and, when united, help to swell the commerce of the beautiful Ohio river. And yet, sir, this is but an epitome of the great coal trade of the Keystone State. To this you may add the amount of coal consumed by the manufacturing establishments of the county of Allegheny—say one hundred—consuming on an average one thousand five hundred bushels per day, being four million and a half per month, and over fifty million per annum, worth, in the domestic commerce of the country, \$4,000,000; making the single item of coal in one county, per annum, worth some five or six million dollars.

But this is but one ingredient in the great manufacturing caldron which is perpetually throwing out its wealth in the shape of manufactured products. Here, at this point, (Pittsburg,) the cotton of Alabama and Mississippi, the pig iron of Ohio, Virginia, Kentucky, and Pennsylvania, the lumber and sandstone of the Allegheny, the copper ore of the Michigan region, and wheat of the Far West, meet, to be converted into a thousand shapes—into cotton cloth; bar, sheet, and cast iron; nails, sash, boards, and plank; glass and copper and flour; engines and machinery of every description; steamboats; munitions of war; implements of husbandry; the most of the flour consumed by the operatives: all this carried upon your railroads and rivers and seas, swelling the tonnage upon them all, and greatly contributing to swell the foreign as well as domestic commerce, of the country. But, sir, this is not all. The raw material which is concentrated at this point, in addition to the immense amount of machinery required, employs thousands of operatives, male and female, to convert it into the articles enumerated; and to this is mainly to be attributed the great population of the single county of Allegheny, which, by the census of 1850, numbered one hundred and thirty-eight thousand souls—within a fraction of half the white population of South Carolina, which had only two hundred and eighty-three thousand at that time.

Now, I maintain that this state of things demands a settled policy to protect it against the combinations of capital on the other side of the water. It demands it of right, because it is the great element of vigor which we possess; it is where the strength of this mighty Samson lies, and ought not, and cannot, be surrendered, unless through treachery and desertion on the part of those who ought to be its friends.

There is another interest to which I desire to give a passing notice—the manufacture of salt. In western Pennsylvania over a million bushels are annually produced; on the Kanawha, in Virginia, the same; in the Muskingum and Hocking valleys, one million eight hundred thousand; and at Syracuse, and other points in New York, over three million bushels per annum. A single company in western Pennsylvania has invested over three hundred thousand dollars in the manufacture of this great staple; and, with a policy on the part of the Government which would invite the employment of additional capital, there is nothing to prevent the United States from furnishing its own supply, without being dependent, to any extent, upon the foreign product.

The home market which these different classes of consumers would afford to the agriculturists of our own country, now very considerable, would be greatly increased. I have not before me the figures, but believe I am not far out of the way in estimating that two thirds of the people of Allegheny county are connected with, and dependent upon, manufacturing, mining, and mechanical pursuits, leaving the surplus agricultural products of the remaining third greatly deficient in furnishing

support to the former, and requiring, to my own personal knowledge, the agricultural products of the adjoining counties to supply the difference. A few such counties in every State would consume the surplus agricultural products of each, and a home market would be everywhere brought to the door of the producer. If such were the case, in the event of war the country would be independent, and capable of making a vigorous fight. In peace our people would be prosperous and happy, having at their command the comforts and enjoyments of civilization.

Association in close proximity with pursuits of varied kinds, and inventive genius stimulated to its utmost point, and with the results of that genius brought into constant and practical adaptation to the wants and comforts of all, civilization would expand, and the already onward march of this great nation to the highest pinnacle of fame would not only be accelerated, but permanently secured.

A brief summary of the positions I have assumed, and I have done.

1. That the nation which exports the manufactured products instead of the raw material, attains the greatest wealth and confers upon its citizens the greatest independence.

2. That it is the true policy of every nation to manufacture its raw material as near the point of its production as practicable.

3. That the manufacture of the raw material at home maintains a sound currency, prevents fluctuations, and averts bankruptcy.

4. That domestic commerce is the true basis of a country's prosperity, and that it is the basis upon which foreign commerce must mainly depend.

5. That domestic commerce is best promoted by diversity of pursuits; by a division of labor into as many parts as will furnish needful exchanges for the whole.

6. That where there is no domestic commerce, as would be the case were the States purely agricultural, instead of being independent we would become dependent upon foreigners for our supplies of the necessary articles of comfort.

7. That it is necessary to extend the aid of Government to build up and maintain the domestic commerce of the country.

8. That such power is delegated to Congress, is constitutional, and has been exercised by our most enlightened Presidents.

9. That under the exercise of this power, the country has prospered; whilst under the opposite doctrine of free trade it has languished and declined.

10. That it is our policy to manufacture at home, so that in time of war we may not be placed at the mercy of a foreign country for supplies of articles of necessity and comfort.

11. That in proportion as a country develops its resources, and diversifies its pursuits, it increases not only in wealth, but advances in civilization.

Mr. THOMPSON. Mr. Chairman, I sincerely regret that gentlemen have been unwise enough to commence the discussion of party platforms on this floor. I think the gentleman from Maine on one side, and the gentleman from Kentucky, on the other, are both agreed in a radical error, but deducing from it different consequences. Both substantially claim that the Republican party is a party of *one idea*, with the single mission of resisting the aggressions of the slave power; one says its work all lies yet before it, and therefore it must remain true and steadfast to this central idea; the other insists that its work is done, and therefore it should disband. I deny the *fact* as asserted by the gentleman from Maine. I deny the *inference* of the gentleman from Kentucky. The Republican party, as I understand it, has a distinct line of domestic and foreign policy, embracing all the great interests of the country, which it proposes to carry forward—on finance, trade, commerce, internal improvement, economy in the Administration, as well as in respect to the government of our Territories, and upon which it invites the coöperation of all patriotic and good men, north and south, east and west, without expecting that all its adherents should concur to an iota in every item of its catholic creed.

Sir, it is the glory of the Republican church, and its strength also, that it admits of unity in

diversity; banded together in a common aim, and yet various in the character of its civic equipments; constructing no narrow planks or platforms, to operate as instruments of exclusion and elements of disunion and distrust. I deny any man's right to make a new platform for our party. Such an attempt would be assumption, by whomsoever undertaken. The northern press has not thought it wise or expedient to attempt it. Will any man show me his commission from the sovereign people to turn out any such piece of political carpentry? We stand upon what is before the country, without addition or subtraction. For myself, I trample all new platforms under my feet. They answer in politics to the history of creeds in the church; marks, often, of the narrowness and bigotry of the hour, from which all that is progressive is excluded; fetters on the free spirit of the age. I trust the path the Republican party travels will be neither "too narrow for friendship, nor too slippery for repose;" that it does and will embrace a brotherhood sufficiently liberal and enlightened to march in various uniforms, with different yet friendly banners to the music of the Union and the Constitution. I see no reason to repudiate any principle or expedient on which I acted at the last session. That action has been approved by the country; let us rest in that. I have no right to speak for Maine; but New York loves to strike hands with Kentucky and North Carolina and Maryland, and any of her sister republics, north or south, in the great work of national purification and reform.

We are not to be narrowed down and hedged in to the single question of how we are to govern the Territories, and what is the extent of congressional power over them? Nor is this the sole test and touch-stone of Republicanism; for it is only at this single point that, what is so much insisted on, is of any practical application. Beside, that battle is already fought in all latitudes covered by the old compromise line, and of which southern statesmen cannot complain, inasmuch as the compromise originally passed by their votes was repealed by them in 1854, to give the people an opportunity of acting their own pleasure on the subject of their domestic institutions; and which pleasure, long thwarted, has at length been signified, and this was all the South *professed* to desire. South of that line the question remains as if it had not been disturbed, except that the reopening of this subject in 1854, and its issues, has tended to make the sentiment very general at the North that no more slave States ought to come into the Union, although this is not included in the Philadelphia platform, nor is it a test of Republicanism. Still, should men of these sentiments colonize territory south of that line, invited by this action of southern statesmen, who prefer their doings to that of members of Congress, sworn to obey the Constitution; and should the result turn out as in Kansas, while the North will be satisfied, those at the South who desired other results may not have occasion greatly to admire this wonder-working repeal of 1854. So confident am I of the expansibility and invincibility of free-soil and free-labor principles, that I care nothing for ordinances, provisoes, or any other congressional and parchmented fencings. Brush them all away, and yet liberty, like an oak that grows stateliest in storms, will send out her grasping roots in the soil, and throw up her towering branches to the sky, mightier for her stern wrestling, affording shelter and shade to the nations. Mere statutes cannot protect liberty; her vitality and vigor spring out of the strong hearts of the people. Statutes are only her expression, not her bulwark or defense.

For myself, I have no tenacity as to party names; I go for things—for the combination and unity of all good and true men from all sections of the country, after the example of this House at the last session, and of several of our States at the recent elections, where, by such combination for a common object, we succeeded, and where, without it, we should have been defeated infallibly, and shall be again whenever such unity is repudiated and abandoned. It is idle to talk of "allies" in this connection, because every man, acting in behalf of a great national object, is an ally of every other; and yet, altogether, we are one. I think the gentleman from Kentucky unfairly charges on the Senator from New York the dictation of the views

of the gentleman from Maine. The Rochester speech, as I understand it, proposes no political interference by the General Government in the institutions of the southern States. It announces, in principle, the antagonism of the two systems of free and slave labor, but predicts a period in the future when the people of those States will, of their own accord, adopt the one and repudiate the other. Here is his language:

"It remains to say on this point only one word to guard against misapprehension. If these States are to again become universally slaveholding, I do not pretend to say with what violations of the Constitution that end shall be accomplished. On the other hand, while I do confidently believe and hope that my country will yet become a land of universal freedom, I do not expect that it will be made so otherwise than through the action of the several States coöperating with the Federal Government, and all acting in strict conformity with their respective constitutions."

How absurd the misapprehension; how needless the alarm excited on this subject.

I turn to other topics. A progressive people will not sustain or long tolerate an unprogressive Government. The law of development is the principle of our national life, and this law will have its operation in spite of all statutes that would hinder, and all policies that would thwart it. The course of all free Governments proves that they have steadily progressed from the lower to the higher, from the crude and immature to the more complete, and have followed no course successfully, and stood upon no policy any longer than it was suited to the wants of the public and gave full expression to its instincts and needs. Measures which the age has outgrown fall away from it, or are retained by constraint only to fetter its movements and derange the action of its forces. And no Power can hold on to a useless and worn out policy without being cast off with it; hence all national and governmental measures are essentially empirical in the philosophical sense. Politics has no eternal principles beyond which the State cannot go; no stereotyped form of procedure which it is sacrilegious to pass. Democracy has an advancing and changing life; it therefore constantly demands and creates new forms of expression, instrumentalities of its higher culture. The wisdom of the past is admirable as a guide, but no limitation upon the future; it may light us to new paths, but cannot interdict them to our footsteps.

The policy and measures of a people, in their foreign and domestic relations, are distinguishable from those principles upon which the Government itself is based. The equality of man; the supreme power of the people; the derivative power of the executive, legislative, and judicial departments; the responsibility of these to the public; the sanctity of the Union and of the Constitution, whose Federal links clasp us together, in every letter and line of it; these and the like are foundation stones—immutable principles in which our national life is rooted; but what shall be the precise shape of that vast machinery which the nation wields, and through which it displays the energy of its forces, and makes known its sovereign behests, is always a matter for counsel and deliberation, compromise, concession, guided by the lights of the hour and the exigencies of the occasion. This is the field for the wisdom of statesmanship—the arena for the display of political science, which, in a progressive age, rests necessarily not so much in principles as in measures, which the ever shifting interests of a nation may demand should be modified or changed. What is best for the nation, in its circumstances? is the great problem for those who guide her counsels, and woe to them if they mistake—for mistake here is crime. This is what Burke asserted concerning measures of State, and in which he has been so widely misunderstood.

And now, sir, let me say, that I propose to examine briefly some leading features in the policy of the present Administration, in the measures it advocates and sustains; and in the light of the principles I have announced, I shall hold it responsible, with ample power and dominant majorities, not only for all the new evils it practices, but for all the old abuses it tolerates. They are its own by adoption, whenever and however they originated; for no party can escape the penalty of public condemnation, that shelters itself beneath precedents it has the power to alter, and skulks behind the judicial fortresses which the practices

of a past age have erected. In that day the fetters that now so gall, may have been wisely forged; the cankers that now go corrode, may have been the symptoms of health. Every epoch must justify its measures to itself, for it can take nothing from the past but by re adoption. And before noticing one or two branches of foreign policy, I propose to consider what is the character of our domestic relations in—

1. The Indian department.
2. Our fiscal system.
3. Our bankrupt policy.
4. Our revenue and protective system.
5. Economy in our administrative departments.

No nation, except the British and French, for a brief period, and the Spanish for a longer, have had this problem, of dealing with the savage upon their border, to work out; to manage and mold the encounter of the untamed child of the forest with the semi-barbarous white; shrewd, adventurous, daring, unscrupulous; wearing his grotesque and centaurian civilization, half Christian, half Indian, more as a garment than as a life. The Frenchman, with the easy flexibility of his nation, instead of meeting savage life with a rude shock, insensibly melted and blended them together so that it was hardly possible to say what was civilized, and what was barbarian. The French emigrant, trader, and trapper, sat in the wigwam with the same nonchalance as he trod the Boulevards, and smoked with the chieftain, or married his squaw, as if it was all a regular and anticipated procedure! From the mouth of the St. Lawrence to those of the Mississippi, through the chain of the great lakes, and down the Father of Waters, the trapper and Jesuit paddle peacefully with the Indian. The result of this policy, with hardly an exception, was salutary, benign. If it barbarized the Frenchman, it civilized the savage and created in the contact, and by the half-breeds of the union, a race in which the elements of improvement seemed to reside. It gave to the Indian a desire for property, and a taste for agricultural life. It was a peace policy. But with the English, whose measures we have adopted, and the Spaniard, it was a war policy. It looked to punishment, vengeance, extermination. It roused in the Indian all his traditional propensities, and stimulated all his passion for plunder and blood. It denied his rights and his nationality; cheated him of his lands, repelled his efforts at enlightenment, treated him as a wild beast, and provoked and maddened him to skulk round the cabin of the pioneer, that in the scalping of a victim, the sword of the white might exterminate or scatter a whole tribe or nation! I have no time for particulars with which the pages of our Indian policy is crimsoned; but there they stand, all over its history.

We are called on now to vote a recompense for depredations to individuals of different States, which this policy has occasioned, and for wars of reprisal and extermination. All along our borders life has been sacrificed, the midnight brand applied, and property destroyed; to be followed in turn by those sure and overwhelming disasters of the Indian, which a civilized nation will assuredly inflict upon him; and this same line of procedure is maintained; collision and blood follow contact everywhere. The war policy, the cut-throat system, is the great engine we are now employing to civilize the Indian. What did Spain reap from this policy for more than two hundred years? The race she found was in a transition state from ruder to better life. They had architecture, painting, wealth, and other evidences, of progress. Through Central and South America they were conquered and enslaved; but the element with which we deal in these higher latitudes is of rougher and tougher material. It disdains to take on the yoke or wear the fetter. It will break, but not bend. Its fiber has no element of pliability, and refuses submission or toil. But we have been often told—the evidence is around us now, sounds in our ear, both in the Senate and on this floor—that our Indian policy should be, must be that of peace. Feed the Indian and not fight him; fill his stomach with bread, and he will have “no stomach” for the fray.

Our war policy, beside being the most unphilosophical, barbarous, inhuman, and looking only to the complete annihilation of the Indian tribes, is the most expensive one that could be pursued!

One fourth the sum drawn out of our bankrupt and borrowing Treasury to pay for Indian wars, would, if expended in a peace policy, blunt the edge of every knife, and bury in eternal amity every tomahawk west of the Mississippi. Claims for untold millions are now unadjusted for impromptu and spontaneous Indian wars; our frontiers in Washington, Oregon, and Texas, are liable to perpetual inroads and alarms; and yet the war policy is persisted in. No comprehensive and pacific scheme is announced or proposed in its place! It has but one sad, fearful end! Slaughter! Slaughter! Slaughter! Is the political wisdom of this great political nation foundered and wrecked on this Indian problem? Are jobs and contracts and plunder for munitions of war to swallow, in their remorseless jaws, every principle of rectitude, every sentiment of humanity, every politic and peaceful effort for the adjustment of this crying evil, and our Administration to go through the mockery of feasting and frolicking with a few painted braves, who are annually brought here to see their great father, while at the same time the inexorable decree for the annihilation of their tribes is being carried steadily forward, until, in a few years, no redskin will hunt buffalo on the prairies, and the last wigwag will be struck on the shore of the Pacific?

2. Our fiscal system. What is that? It is called, in the party catechism, the “Independent Treasury.” I call it a myth; a cheat; a double-distilled humbug; the shadow of a shade. It originated in an effort to dispense with banks in a commercial age; in the charlatan enterprise of doing without promises to pay; of discarding, in all governmental affairs, the credit system; of receiving hard money only; holding the hard money, and disbursing the identical hard money. If this is not done universally, nothing is done. It was predicted at the time by the most eminent statesmen, then living, that no such system could be carried out in a country of such wide latitudes and far-reaching interests, where payments were to be made thousands of miles from the place of principal collection, saving immense risk and expense to debtor and creditor; that paper exchanges and faith of man in man, of the Government in its citizens, of the citizen in the Government, could not be discarded without great danger as well to the material as moral interests of the nation. But the swell of the popular surges that swept away the bank of the United States were too high and headlong to be resisted. The credit system was to be broken down, so far as the Government could break it; and it was even vainly supposed that by its accumulation of specie it could command and control all the banks of the several States.

Well, sir, what might have been effected, we cannot tell. The experiment has never been tried. The Treasury relies still, and must always rely upon and use the ordinary exchanges of the country to make its payments. The system so much desired, and so loudly lauded ever since, has lost all its substance; preserves the shell of appearances, while its life and soul are not there. It is a sort of Democratic idol, without head, hands, or feet; a black, square monster, banded, ribbed, and riveted, at whose Midas shrine the party bow and worship; the Dagon of Tammany Hall, where it should be removed, as a perpetual memento, to soothe the spirits of the gentle satchels, and certify them continually that nothing is impossible in politics.

Sir, in the face of all this transparent humbug, the affairs of the Government are, and must be, carried on by the use of a more sensible agency. A fiscal system could be adopted, suited to the wants of the age, harmonious with the great commercial relations and interests, amidst which it must have its play, and aiding, not impeding, that system in the States, that have now so limited and fortified their systems of banking, that they are as safe as the ingenuity of man can make them.

This independent Treasury is only a flag of hostility, a declaration of war by the Government upon all promises to pay. It demands the pay without the promises, and deals with its citizens upon the principle that every man is a knave. Sir, the “promise to pay” has effected the most stupendous changes in the history of modern civilization; it is written on the forefront of all those movements that create new empires on this con-

tinent; it blazes on the door posts of the settler's cabin; it lifts its wand and “Lo! the desert and solitary place are glad;” the lowing of the cattle is heard on the hill-side, and the corn waves in our valleys; it fells forests, builds churches, schools, and dwellings; sends the plowshare through the bosom of the virgin soil; spreads the canvas of commerce on the ocean, and the network of railways on the land; it stimulates thought, enlarges intelligence, widens the explorations of science, and gives to society its cementing elements of brotherhood and faith; and, sir, the people that use it, pay what they promise. They are ennobled to fulfill; the rule is that of performance, notwithstanding partial and local aberrations and the distrust which a miserly policy creates. I am in favor of the promise to pay, and I scorn and condemn that miserable subterfuge, at once a hypocrisy and a blunder, that despises credit while it is borrowing millions, and repudiates a policy at one moment, and for party ends, in which it constantly lives and moves and has its being.

Here is the last bugle-note sounded over this mythic remnant of an unprogressive barbarous age: “The operations of the independent Treasury system,” says the Secretary of the Treasury, “have been conducted, during the last fiscal year, with the usual success; another year's experience confirms the opinions I expressed in my former annual report,” &c. And in addition to all this, our sagacious Secretary, who, in fiscal affairs, has never yet been able to see to the end of the next week before him, proposes that each State should imitate this grotesque blunder and folly, by getting up an iron chest of its own for the hoarding of State revenues in imitation of the General Government. Sir, we have all heard of the man of the “Iron mask;” I think we have found his brother, or the man of the “Iron boxes.”

3. Bankrupt law for corporations. But our paternal Government has not yet exhausted all the riches of its wisdom, on this pet of the past. It has been found that with all the accumulations it could muster, it could not yet seriously interfere with the fiscal affairs of our great commercial centers, like New Orleans, Charleston, Philadelphia, New York, and Boston; that it simply abstracted and held so much specie, as if it was stricken out of the country, but that the enormous influx of gold from California and elsewhere rapidly filled up the vacancy, and that no danger exists that a relative specie basis will not be preserved. The commercial system of the country laughs at this monster and defies him. A new expedient is therefore concocted. The President asserts, and his Secretary indorses it with a wide show of statistical argumentation, that the people need protection against themselves; against their own extravagance of borrowing, lending, and speculation. That they are not to be trusted with these dangerous fiscal instrumentalities, or permitted the use of banks, except under the risk and penalty of having them grasped by the strong hand of the Federal Government, and wrenched away with all their values and resources, the moment any partial or general derangement in trade affects them or their customers; for it is the customer of the bank, as I shall show, against whom this war of power and empiricism is waged. The President says in his first message:

“Congress, in my opinion, possesses the power to pass a uniform bankrupt law applicable to all banking institutions throughout the United States, and I strongly recommend its exercise. This would make it the irreversible organic law of each bank existence, that a suspension of specie payments shall produce its civil death.”

The Secretary indorses and advocates it to show that it is a darling and cherished measure. It is again recommended in the message to this Congress, although reported against by the Judiciary Committee; and these measures advocated by an Administration that believes Congress has no power to charter a bank, (which I do not care to dispute,) and modestly proposes to step in and place these creatures of the several States, and owned by private citizens of those States, having no element of Federal interest about them, and no item of Federal jurisdiction in them, under the control of a Federal officeholder the moment they suffer any of those derangements to which the commercial and monetary interest of our citizens are liable; so that any aberration is to be pun-

ished with death; they are not to be effected by reverses, on penalty of annihilation. Now, sir, first, I deny the policy of this course of procedure if it were feasible; it is the shallowest quackery that any statesman could propound; second, I deny the constitutional power of Congress to pass any such law.

1. As to its policy. Look at the results of such a measure if it could be carried out. What would have been its effect in the great crisis of 1857? The President says truly in his message:

"No Government could have prevented the late revulsion. The whole commercial world seemed for years to have been rushing to this catastrophe."

And yet he would have every moneyed institution which bowed to this storm in the commercial world, not uplifted and aided to recover its usefulness to the community, but torn up by the roots, and thrown into the fiery furnace of Federal vengeance; and this, too, when it was a victim and not the agent of the ruin.

But take a bank, located in any of our small towns, north or south, as a specimen. With a capital of \$200,000, it accommodates say three hundred farmers or planters in their purchase of stock or grain; perhaps a mill, and two manufacturing establishments, employing one hundred operatives each; fifty mechanics, three or four merchants, and the usual population of such a town. Everything seems healthy, flourishing, prosperous. But a crisis comes which "no Government could prevent," "the whole commercial world" being in it, and the bank is to be wound up. Why? Because it fails to pay specie, on demand at its counter, dollar for dollar. Why does it so fail? Because the community to whom its loans are made cannot pay specie to the bank for their indebtedness, or, indeed, any money, for a time; and so they are in the grasp of a Federal receiver. He opens the scene by demanding of the population I have just named specie for their notes, dollar for dollar; and, in default, every man is sued; judgment obtained, and half the three hundred farms, the mill, the two factories, three stores and their contents, are all in the hands of the marshal, to be sold at auction to the highest bidder. But where are the buyers? On the supposition we make, the whole country, as in 1857, is in the like condition, with some small exceptions of hoarded specie stored away in miserly pockets. This residue of specie would buy the town. Every man owing a dollar would fall a prey to the accidental owner of coin; and a scene of universal and irredeemable bankruptcy, ruin, misery, and horror, would supervene, which the mind sickens to contemplate.

Sir, I tell you, in such a state of things your bankrupt law for corporations would be a dead letter. The people would rise in their wrath, and hang your receivers and marshals on the first lamp-post. With beggary staring them in the face, wrenching the bread from the mouths of their children, and tearing the shelter from over their heads, all the Federal bayonets on this continent could not enforce your law in the single city of New York; so that in a general crisis it would be useless, and in partial and local instances it is unnecessary; because, in the case of an unsound bank here and there, no derangement of the currency takes place, and such institutions are safely left to the legislative and judicial action of the States that created them. The policy is unwise in every aspect of it. First, it would result in universal ruin, if successful. Second, the people would not submit to it. Third, in a general panic it would, therefore, be useless. Fourth, in partial instances it is unnecessary, and belongs to the States themselves.

2. Congress has no constitutional power to pass any such law—it is rank, undisguised Federalism, of the extremest school. It stands upon a thin frame-work of implication, founded upon other implications still more unsubstantial. The power of Congress is derived in this respect from the people of the States. They, the States, are sovereignities; but this term has no application to the Federal Government; it takes only what is "nominated in the bond." "Congress shall have power to establish uniform laws on the subject of bankruptcies throughout the United States," is the foundation of this power. How broad is it, and what, if any, are its necessary implications?

Can it reach out its arms and grasp any particular State interest, and bring it within the vortex of party and class legislation? Can it select, at pleasure, banks, railroad companies, manufacturing companies, partnerships, in fine any of the agencies of associated wealth, and fix a Federal lasso about their necks, under pretense of passing uniform laws?

I claim that this term "uniform" means not simply that the laws shall have one shape, form, and substance in respect to themselves, but shall have a uniform application to all business and persons, individual, associated, or corporate, throughout the United States, who are traders or merchants. This is its clear and obvious meaning; otherwise the door is open here for the most odious and alarming class of legislation, to be applied to planters only, or lawyers only, or politicians only, as well as to banks, or corporations only. So the framers of the Constitution understood this power from the example of Great Britain, where such laws were in operation for three hundred years; so the States who adopted the Constitution understood it; and so Congress has construed this power by their action, in 1841, in the passage of the only bankrupt law ever enacted under it. Congress may "levy imposts and excises;" but they shall be "uniform," throughout the United States, says the Constitution. How uniform; upon a particular class importing or holding property? No; but upon that property, into whose hands soever it may pass, or by whomsoever held, in any state of the Union; for if a class of persons may be selected under the Constitution, why not of a particular district? And thus one State, or its peculiar interests, as of iron; or cotton, or sugar, be compelled to pay all the taxes of this "uniform" system, and by the same rule of logic that justifies the application of bankrupt laws to corporations only, or any other exceptive class.

When public men rush into this Federal vortex, which gulfs all State rights and State institutions, they may recommend in their fatuity, that all railroad corporations, as the Secretary of the Treasury has done, or all steamship corporations, or all cotton growing or cotton consuming corporations shall be made subject to such law; but I trust Congress will never become so politically insane. What! does the Executive not only desire to grasp our banks, and destroy our trade, but to control our means of locomotion, and compel us to stay at home at the imperial pleasure of some Federal receiver? Could this be effected, the French Emperor might envy the craft and address of a Yankee rival. Sir, I might lay the whole stress of my objection here; that the system proposed is not uniform, that it does not apply to traders; but I take higher ground than this. I plant my foot on the lofty and unsundered attributes of State sovereignty. These corporations are the creatures of State laws; in their inception, progress, and operation, they are guided by State wisdom and state control. Let not Federal authority lay its meddling fingers on anything that belongs to them, except so far as the States have consented, otherwise there will inevitably result a shock in the system indicative of confusions, jurisdictions, and the fierce jar of opposing forces wrestling for mastery. I am jealous as any man of this insidious spirit of Federal incroachment, this invasion of power upon the domain of right, this clutch of the servant upon the reserved wealth of his master.

I know it is affirmed that Congress, having power to "coin money and regulate the value thereof," may by implication grasp hold of, and manage anything used by the States or people as money. But what has this implication to rest on. Congress may coin money, (not issue bills,) and regulate the value of such coin; nothing else. All the General Government can do is to refuse to take the currency of the States in national transactions; here her power ends. She has no right to say that I shall not receive the promise to pay of a bank of my State, any more than from one of my neighbors for goods sold and delivered.

I know, indeed, that these recommendations, though twice made, have not yet met with formal adoption by the party; but if unrebuked and unexposed, the time will come when, lying dormant for a season, like viper's eggs, the warm sun of party success will quicken them into life and

vigor, and they will come forth and throw their coils around these State interests, until their poison shall enfeeble, and their strength strangle them to death! They shall touch no interest of my State, with my consent. The insane war on the monetary interests of the people began in 1837, by the Government, and rebuked again and again, is renewed in every form of which its authors are capable. Those in power are incessantly tampering with the currency; advocating at one time a national bank, and then insisting on its repeal; having at one moment great faith in State banks, and at another no confidence whatever in such institutions; using at one period the currency of State institutions, and at another discrediting it, and resorting to one exclusively metallic. They have been smitten with a perpetual unrest, which seems to have settled with all its disquietudes on the present Executive, who benevolently informs us that the "existence of banks, and the circulation of bank paper is so identified with the habits of our people, that they cannot be suddenly abolished without much immediate injury to the country;" foreshadowing, however, that in case of ill behavior, Congress should prohibit altogether their issuing the "promises to pay."

Sir, I should like to look upon an Administration that would seriously enter upon this trifling task. I denounce it all as a systematic conspiracy to control all the moneyed interests of this country; to clutch the purse-strings of all private as well as public wealth; and sweep into the train of Federal consolidation the distinct agencies of individual and State enterprise. But I can only indicate outlines at this time, leaving full discussion to some other occasion.

4. Our revenue and protective system. On this subject, I am free to confess that I sympathize to some extent with those who desire the lowest duties on imports, compatible with the wants of the Government. In this age, no interest, trade, or calling should be protected for the sake of protection; it is, to some extent, a tax on the rest of society. The theory of free trade can never be refuted, provided you discard the idea of separate, hostile, or dependent nationality. The principle as such is unanswerable, standing alone.

But the difficulty is, it does not stand alone. It is controlled and modified by countervailing national legislation, by revenue necessities, by the balance of trade, and other disturbing forces, that place it among the class of political expedients which a people may alter, increase, or diminish, as the best interests of the times may demand; and if, in such increase or diminution, discrimination can be made which will operate incidentally as a protection, so let it be; provided always, if it be not so large as to stimulate an outlay which a slight or even considerable change in the necessities of Government might destroy. Our manufacturing interests are not benefited so much by high as by steady tariffs. It may as well be admitted at the outset that American manufactures cannot meet those of other countries on terms of equality that pay only one third or one fourth the wages we are compelled to disburse; their profit must exceed ours by all this difference. I take it for granted we shall never resort to direct taxation for the support of the national Government, however beneficial such policy might be. If adopted, it would doubtless diminish the amount one half in a single year! For what congressional district could, or would, pay the two hundred and fortieth part of \$80,000,000 per annum—or about three hundred and forty thousand dollars for each district. Its collection would create civil war and dissolve the Union *eo instanti*. The people will pay indirectly what they would not directly.

But, sir, on this matter of raising revenue, we are now at a stand; wastefulness, speculation, jobbing, and the cormorant brood that feed and fatten on Executive favor, have emptied the public Treasury so fast that some policy of replenishment must be adopted, or bankruptcy of this great corporation is the inevitable result. What a spectacle! with \$70,000,000 income; more than sufficient for the economical support of Government, in a time of peace, to be compelled to borrow \$29,000,000, per annum! Individually, I would cut down expenditures, dismiss an army of office-holders in every administrative department, and inaugurate a system of close and rigid economy; this is an essential preliminary step.

Still, if a revenue must be raised by imposts, on what principle should it be levied and adjusted.

1. Imposts raise revenue by *indirect taxation*. As a consequence, those who participate in the benefits of Government should bear its burden, and these burdens should be so distributed that the greatest numbers should pay, other things being equal. This is the radical idea of a tax.

2. Imposts *regulate trade* and prevent extravagant and enormous importations, especially of luxuries, which drain our country of its specie, in which alone our foreign debt is liquidated, and generate habits of wastefulness and folly among our people. Regard should be had, therefore, to this result. Any duty, the slightest, has some effect on the balance of trade. No statesman will lose sight of it in large levies; large importations and small exportations will soon beggar a nation; better clothe the President and members of Congress in negro cloth, than bow the neck of this nation before the shrine of foreign luxury and trade. It subjects us to a servitude of the most humiliating character; it mortgages the energy and enterprise of the country, to fill the pockets of our foreign lords.

3. Imposts operate as a protection to home industry in respect to the articles on which they are levied, where articles of the same character are produced at home. The free-trade school claim that incidental protection even is an evil; because, just to the extent of that protection is an unjust tax levied on the rest of the community. But this assumes two very important items in the account: 1. That increased home manufactures do not create additional home markets. 2. That the consumer of the article has only the same ability to pay the cost and tariff that he had before such new manufactures were established. It can be demonstrated, I think, that both of these assumptions are unfounded; that new home markets are instantly opened, and that the producer of articles sold, and the consumer of articles bought, is far better able to pay both original cost and tariff, than he was before to pay only the price without such market. It is entirely fallacious to look only to the amount to be paid without counting upon the increased ability to pay.

Again: the free-trade school reject specific and prefer *ad valorem* duties. I can divine no reason for this but that the latter are in fact rendered less protective, in consequence of the wide latitude for frauds which it opens. This specific duties will greatly remedy. I am in favor of the President's recommendation here, and will do what I can to carry it out.

The example of Great Britain, and the enormous national wealth she has accumulated by a strict adherence to the protective policy, in virtue of which she has become the workshop of the world, importing raw material and exporting manufactured goods to the extent of \$600,000,000 per annum, is worth ten thousand theories and speculations on that subject, and demonstrates this general truth in political economy: that a nation that exports its raw material will grow poor; while a nation that exports manufactures will grow rich by all the difference of the industrial forces and their values expended on the articles.

It is true of a neighborhood, State, or nation, and is susceptible of easy demonstration, all free-trade theories to the contrary notwithstanding. England's free trade to-day, is simply that she shall be free to crowd her manufactured articles on our markets, and take what she pleases of our raw material in return, and hard money for the balance, as in the case of tobacco and other articles, subject to tariffs, beyond even the original cost of the article to the planter. We pay her tribute as really as if in a state of colonial subjection and vassalage. What avails our political emancipation, our windy fourth of July glorifications, over our escape from her power, if we lay the wealth of our country, the bone and muscle of all our industry and enterprise and capital, willing offering on her commercial altars? Well might the patriotic spirit of Henry Clay chafe, like a caged eagle, to see his great country reduced to such humiliating conditions!

5. More rigid economy in the administrative department of Government. I have already adverted to this, and have no time for details, which are at hand in every bureau of the Government. Take some of our custom houses as a specimen.

I extract the following from Mr. Boyce's report on free trade:

Amount of revenue collected, and expenditures at certain custom-houses, for the fiscal year ending June 30, 1857.

Location.	Revenue collected.	Expenditures.	Excess of expenditures over revenue
Belfast, Maine.....	\$5,052 05	\$6,012 87	\$960 82
Waldoboro', Maine....	1,368 02	7,547 14	6,179 12
Wiscasset, Maine.....	130 93	7,359 09	7,228 16
Burlington, Vermont..	8,581 70	16,285 47	7,703 77
Barnstable, Mass.....	1,462 75	11,953 20	10,490 55
Sandusky, Ohio.....	567 84	4,372 66	3,804 82
Ellsworth, Maine.....	954 96	5,032 09	4,077 13
Portsmouth, N. H.....	5,530 54	10,984 49	5,453 95
Buffalo, New York....	10,140 53	16,896 51	6,755 98
Oswego, New York....	6,149 09	18,214 58	12,065 49
Newark, New Jersey..	384 30	1,595 55	1,212 55
Pensacola, Florida....	478 73	3,012 62	2,533 89
Perth Amboy, N. J....	1,531 73	4,471 79	2,940 06
Astoria, Oregon.....	4,173 64	21,254 51	17,080 87
Machias, Maine.....	608 71	2,605 72	1,997 01
Plymouth, Mass.....	395 12	3,216 04	2,820 92
Bridgeport, Conn.....	805 44	1,766 24	960 80
Annapolis, Maryland..	180 75	929 20	748 45
Peoria, Illinois.....	210 20	363 60	153 40

Sir, no country can live and flourish under such a cruel, wasteful, suicidal, domestic policy. Corruption and venality are rotting down from the surface into her vitals, and will soon exhibit unmistakable signs of the havoc they are making; and yet the President is talking complacently of *buying Cuba* at hundreds of millions, and extending a *protectorate*—an armed, efficient protectorate—over Mexico and all the Gulf States, and gentlemen here are so inflated with this restless spirit of manifest destiny, that they are hardly to be kept from spontaneous combustion. Young America is become burglar and pirate, and is not content to sit on the Rocky Mountains and wash his feet in the Gulf of Mexico, but he must grasp Cuba, to sweeten his sugar-tooth, and have cheap sirup on his cakes! It is not the first time this moral and political insanity has seized us to steal what we could not buy, and did not want, and had no means to pay for. What can foreign nations do but despise our bluster, and treat all such gasconading as it deserves? Gentlemen seem to talk here about our expansion, as if we should suffocate at once, unless we could kick up a row with all creation! Too poor to pay our expenses in a time of profound peace, we are to organize an expensive army and naval equipment to buy or conquer new dominions. Where is the money to come from? I will tell you what is expected; from plunder of the conquered countries! Vain expectation! They may be plundered indeed, as they now are; but it will be only the old system of Roman pro-consular devastation, filling the pockets of governors, and swelling the fortunes of a licentious soldiery, debauched by such services from their integrity; but no stray copper will ever, even by accident, reach the coffers of the Republic.

Sir, contiguous islands and States will fall into us as surely as time rolls on. All the navies of the civilized world cannot prevent it; but let them ripen first with the fruits of self-government; let their people desire the benefit of our laws and institutions; let them be educated to take their places as independent States in our Federal system; let the American spirit breathe over, and burn in them, and then they will come, not as rough fragments torn from the side of some decaying monarchy, or tossed in the wild uproar of civil commotion, with no element of adhesiveness, and no tendency to repose; but as new planets, orderly, harmonious, they will fall into their appointed spheres, and sweep round the central orb that attracts them, part and parcel of a stupendous system that moves among the nations, like the sun in the heavens; glorious in the train his influence commands, and enriched not so much by his inherent grandeur, as in the multitudinous splendors of surrounding constellations.

Mr. PHELPS, of Minnesota. Mr. Chairman, I desire to call the attention of the committee for a few minutes to the bill which was pending in the House to-day. I regard the bill as one of vital importance to the people of Minnesota, and the land States and Territories of the West; and as such should demand more of the consideration of this House than I fear it will receive. It is too much the habit of Representatives on this floor to underrate and overlook the growing importance of the "Mighty West." They seem to regard

our public lands as the legitimate subject for private speculation, forgetting that the present prodigal system of disposing of them indicates a narrow and selfish statesmanship, taxing posterity with burdens grievous to be borne. Oblivious to its fatal consequences, we have adopted a policy by which we are squandering the patrimony of the American citizen by inviting the wealth of the country to absorb the fertile public lands of the West, and thus compelling the poor, who shall seek homes and independence in the new States, to pay tribute to the grinding exactions of the wealthy landholder—making the rich richer and the poor poorer, and speculating upon the producing labor of the country.

It is true that the bill, in its present shape, is not just such a one as I would desire. I would have preferred to see the bill modified in some of its provisions; and, had further amendments been in order, I should have endeavored so to amend it that the time allowed to the preëmptor in which to pay for his land should be extended from one to two, three, or even five years. That modification, it seems to me, would meet the wants of the mass of those enterprising settlers who seek to better their fortunes by emigrating to the West. The bill, however, in the main, is correct, and does not materially vary existing laws. It enacts them in a code, as it were, so that all may know what the laws are which govern the preëmption system, remedying some of its prominent practical defects.

The first provision, to which I have already alluded, and which I would desire to modify, is that which requires the preëmptor to pay for his land within one year. This provision, however, connected as it is with another, subsequently added by the amendment of the gentleman from Pennsylvania, [Mr. Grow,] makes the bill more satisfactory, because it will protect to the actual settler the land yet unsold in our new States and Territories.

The second section of the bill to which objection was made, is one which provides that the lands reserved by the Government of the United States on account of railroad grants shall also be subject to the preëmption system. To this particular section, objection was made, for the reason that it would enable speculators to occupy and preëmpt the lands thus reserved by the Government. This is the class of *speculators* we want at the west; men who preëmpt, after a legal residence thereon, the public domain in limited quantities. And I would like gentlemen who object to this section to tell me if it is not the policy, or at least if it should not be the policy, of the Government that the lands of the United States should all into the hands of actual settlers? In my opinion, the opposite policy has too long obtained in this country. We have hitherto permitted large tracts of our most valuable lands to fall into the hands of speculators—into the hands of non-residents—men who will not occupy or cultivate them. Now, however, a contrary policy has been inaugurated, and I hope will be carried into effect by the acts of this and subsequent Congresses, a wise and beneficent policy, extending and enlarging the preëmption system as far as it can possibly be extended.

Permit me to contrast the private entry system, by which the greater portion of the lands of the Government are now disposed of, with the preëmption policy. When once land is subjected to private entry, there is then no limit to the amount which a single individual may enter. The man who has his pockets filled with land warrants, may go to your local land office and locate township after township. This infamous appropriation of the public land by one man is not the only evil which flows from this system. This system prevents these rich and fertile acres from yielding of their abundance to supply the wants and necessities of man. Broad miles of prairie and woodland are a dead weight upon the prosperity and growth of the State. The speculator appropriates, for a selfish aim and object, what is the laborer's heritage. But, sir, there are other and more important objections to this private entry system. Wherever a large tract of land is thus held by a non-resident, it operates as a pest-house to surrounding improvements. What true father or citizen will settle for life near where speculation has cursed the soil? He can

have no home that is worth the name. He is isolated—shut in by this land-robber on the one side, and that land-robber on the other. He neither has, nor hopes to have, the benefit of common schools, in which he may rear his children to intelligence and virtue. The music of the church bell he may never expect to hear. He can have no towns, or roads, or privileges, unless the wants of the agriculturist, the wants of labor, compel the emigrant to pay the price the speculator may demand.

In the mean time that isolated settler grows old; his children are sent forth uncultured, and deprived of the softening influences of education or religion. This prodigal land robbery reaches still further—the State feels the blow, and instead of being enriched by the non-resident landholders, suffers in the retarding of its development and progress. I thank God for one consequence sometimes flowing from this land greediness. It operates like the selfish wish of Midas, to whom was granted the desire that all he touched might turn into gold. His cupidity gratified, he starved with heaps of the gold he so longed for all about him. These men, having thus repelled settlement by their unlawful avarice, find that their lands do not advance in price as they hoped, and they perhaps are compelled to sell at a loss.

All this time the progress and the prosperity of the State are kept back; settlement seeks less favored localities; and while the speculators have cursed the soil this Government has afforded them the opportunity to curse, they have not promoted their own prosperity. It is surrounding settlement and improvement that mainly make land valuable.

I have seen the fatal effects of the private entry system, in the west, to such an extent that I cannot refrain from calling the attention of the committee and the House to this subject. In the States of Michigan, Illinois, Indiana, and Wisconsin, to-day, large tracts of the public lands are held by non-residents; by men who have no interest in common with the people there; almost, in certain localities, to the exclusion of the settler; and the poor man who comes from the east to seek a home in the west, is compelled, if his right to preëempt is not guaranteed to him, to buy that home of this class of men, at five, ten, fifteen, and even twenty dollars an acre, just as they may choose to exact. From this cause, the western States are now laboring under most serious embarrassment. They have not progressed as they should have progressed. There are communities in the west in which you will find large tracts almost entirely uninhabited; not because the soil is unfertile, nor because such tracts are destitute of advantages, but because the speculator has preceded the settler, as he can precede him when land is subject to private entry, with his carpet-sack full of land warrants, and has taken up all the fair portion of the country, and left the settler who comes after him with his ox-team and canvas-covered wagon, containing his household goods and gods, to make his home only on the refuse land.

Mr. Chairman, there is, in my own State, a very prominent and very marked illustration of this prodigal system. There is a belt of land between the St. Croix and the Mississippi rivers, beautiful, rich, and fertile. It was early brought into market, early subjected to the system of private entry. The result was that it was located by speculators; and now you may travel over it, and you will find here and there, at the distance of three or four miles, a straggling house, without the convenience of schools or churches, or any other convenience; while right across the river, on the western bank of the Mississippi, there is land of precisely the same character, which was settled under the preëemption system; there, sir, we have counties as populous as the oldest-settled agricultural counties in Illinois, or Indiana, or Wisconsin, and which were settled up within the incredibly short space of three years. The contrast of the two systems is so striking as to impress the most casual observer. The large county of Mower, in our State—as fine an agricultural county as there is in the State—was brought into market in 1855, in advance of settlement, and was mostly sold at private entry, and has to-day scarcely five hundred inhabitants outside of the towns, while the adjoining counties of the State, under the preëemption system, are

populous and prosperous. Travel over this county, and you will find but few and widely-scattered houses, while in the other counties there are the numerous habitations and homes of industrious citizens.

It is to such stubborn facts as these, I wish to bring the attention of the committee. In the spring of 1855, I traveled through the central portion of what is now the State of Minnesota, and there was then scarcely a house in sight. Occasionally you might have seen the canvas-covered wagon of the settler, but there were no tilled fields, nothing in the way of agricultural improvement. In the fall of that same year, I traveled over precisely the same tract of country. It had grown up into a populous settlement. You could travel for miles, and as far as the eye could reach, you see homes and busy settlers. Would this have been so, Mr. Chairman, if the speculator could have gone on to these fair lands with his land warrants? No, sir; every acre of that land would have been located.

The postponement of the land sales, ordered in 1855, saved Minnesota, and made her the prosperous State she is to-day. Three-fourths of the population and wealth of the State is on that portion that was proclaimed for sale and subsequently withdrawn by the President. The small portion of the State sold at that time, in 1855, then the most populous, and really, the most desirable land in the State, is now the least improved of any portion then proposed to be sold. The cause of this prosperity and progress was, because the preëemptor could enter only one hundred and sixty acres of land, and that for occupation and settlement. The settler could go there happily confident, that in a space of time unknown in other new States, he would have surrounding him all the conveniences of civilized life. He knew he must have neighbors who had like aims and purposes with himself.

The contrast of the two systems is also strikingly illustrated by the present condition of the northern part of Iowa, and southern part of Minnesota. Minnesota is further north than the State of Iowa. Gentlemen may, perhaps, call it more inhospitable. No one would seek Minnesota in preference to Iowa, other things being equal. But cross the imaginary line that divides Iowa and Minnesota, and see the striking difference that exists between the prosperity and progress on either side of the State line. The lands in Iowa were subject to private entry, and were located by speculators; and you can travel for miles and not find a place to get a mouthful of eat, or a drink of water; while on the other side of the line you find fine farms and happy homes.

The preëemption policy has worked wonderfully well in Minnesota. It has enabled her to increase in population and prosperity more rapidly than any other State in the Union; and therefore it is, that I believe that this policy should be the general policy of the Government in its disposition of the public lands. This bill proposes to carry out legitimately, fairly, and honestly, the provisions of the preëemption law. But it is said there are frauds committed under that law. Well, I will grant that there are some frauds committed under it. Still, the evil is not half so great to the State or people, as to permit land to be located by private entry, and have it all thus taken up by non-resident speculators.

But, Mr. Chairman, the law is not so defective as gentlemen represent it to be. One case of perjury, or one act of fraud should not be magnified into a general condemnation of the preëemption system. Is that the correct way to test the policy of the preëemption law? It seems to me that it is not. It is to be tested by its principles, by its general working, and by the fruits it produces.

But, again, Mr. Chairman, this bill reported from the Committee on Public Lands, is framed with a view to prevent and guard against the very evils of which gentlemen complain. It is said that men go on the land, and after remaining on it for perhaps a night, they preëempt it. That may be true; but this bill requires that the settler shall remain on the land for three months continuously before he is entitled to preëempt. In that respect this is an improvement upon existing laws. I would say, sir, that I am informed that the original bill was prepared under the supervision of the Commissioner of the General Land Office and the Secretary of the Interior, both gentlemen of

practical experience, and in whose opinions and judgment I have the greatest confidence.

I would call the attention of the committee to the fact that we at the West desire to build up prosperous States. We believe that men, intelligent and independent freeholders, constitute the State. Men who till the land they own will never abate one jot or tittle of that true independence which will give importance to the State. Such men and such States add to the strength and greatness of the Republic. We cherish the principle of free labor, and trust that the policy of the Government will not compel those who are engaged in forming empires at the West to pay tribute to non-resident landholders. We have scope and verge enough at the West for a few more States, and it may be as well for gentlemen to remember that God has ceased to make land, but has not ceased to make men. Men are constantly multiplying on the face of the earth. We must therefore husband the land which we have left, so as to provide homes for those who are to come after us.

Mr. TAYLOR, of New York. I am anxious to give my support to this bill, and I would therefore like the gentleman to explain the effect of the amendment that was offered by the gentleman from Pennsylvania, [Mr. Grow,] both on the interests of the West and on the income of the Treasury.

Mr. PHELPS, of Minnesota. I will come to that very shortly. This preëemption system is not so much for the good of the West as it is for the good of the East. Whence comes the population that swells our numbers? It comes from the East. It is composed of those who find that the hive in the East is over full, and who, full of hope, and aspiring to independence, seek new homes in the West. And it is as much the duty of the older States to protect the lands of the West, as it is ours. You are, in fact, more interested in them than we are. You reap most of the advantages from them, for you send those there who build up the States of the West. There is but little more desirable land left. Why not reserve this to reward the toil of the enterprising poor? Those now living at the West have lands enough. We only desire to keep homes for those we have left behind. It is not possible that those who know of the fertile prairies and woodlands of Minnesota, will remain among the rocks of New England, or cling to the barren and exhausted pine plains and worn out hillsides of the Atlantic and middle States. We do not wonder that some of our eastern friends are opposed to the preëemption policy and small farms, for it would take nearly a township of such land as they have in their States, to afford a comfortable living to a man with a large family. But, in all seriousness and candor, you should help us to preserve the public lands, because it is the patrimony of the East as well as of the West. We desire that the land shall not go into the hands of non-residents, because that would prevent the progress, development, and growth of our State. You should not desire it to go into their hands, because you thereby deprive your children of the inheritance that should be theirs.

True, I am in favor of a homestead bill. I am in favor of any bill that gives land to every man who desires it. I am, sir, most heartily and devotedly in favor of a homestead bill. I desire to see a law passed that shall give to each head of a family, after five years' residence thereon, free of cost, one hundred and sixty acres of the public lands. It is but a just reward to those hardy pioneers, who boldly go to the western frontier and build up these States, which proclaim the greatness and expansive strength of our free institutions. Sir, it was not the policy of the founders of this Government to make a profit out of our lands; and, in these later days, I trust we shall not adopt that most opposite policy of not only selling them, but affording an opportunity by which the wealthy are enabled to speculate upon the necessities of the poor. But, if we cannot get that, let us get the next best thing. The preëemptor who goes out to seek a home is willing to pay his \$1 25, or \$2 50 an acre (if the Government has provided him with a railroad) for the land on which he settles, and the Government should cheerfully allow him to have it on these terms. The extinguishment of the Indian title to these lands has only cost the Government, on an average, eight and a half cents

an acre. Why, then, should the Government be unwilling to give a preference to the settler; and why should it care whether their money is paid to-day or to-morrow, this year or next year? Should the little matter of time affect this question? No; there is a higher consideration—a consideration above dollars and cents—and that is, the interest of the people of the country, that their children should have homes. The man who labors for another, and on another's farm, should himself aspire to be a freeholder; for he who tills his own land, and who owes allegiance to himself alone and his country, is really free. We desire to have our western States built up by such freemen, and we ask Congress not to adopt a policy which would thwart that aim.

The amendment to this bill, to which the gentleman from New York [Mr. TAYLOR] has alluded, and which provides that the land shall not be brought into market under the President's proclamation for ten years, is a proposition in which I most heartily concur. It is in accordance with the spirit of our institutions. It is one which I trust—if this bill shall ever come up again—will receive the authoritative sanction of the House, and become a law.

The opposition of the gentleman from New York is based on the idea that this amendment will deprive the public Treasury of money; but I will say this to the gentleman: there are, at this moment, eleven million four hundred and ninety thousand acres of unlocated land warrants afloat in this country; and does the gentleman suppose that the public lands will be paid for with money at the rate of \$1 25 per acre, when they can be as well paid for with land warrants, which are selling at from seventy-five to eighty-five cents per acre?

Mr. TAYLOR, of New York. I ask the gentleman from Minnesota whether \$1,200,000 has not been received from the sales of public lands during the last fiscal year?

Mr. PHELPS, of Minnesota. I will state to the gentleman that a large proportion of this money received into the public Treasury from the sale of Government lands has been paid for graduated lands, for which it would not pay to buy land warrants. But in my State, and in every State where the land is sold at \$1 25 an acre, the invariable custom is to locate the lands with land warrants, for it is economy to do so. I would say to the gentleman still further, that the amendment upon which he bases his opposition to the bill will only apply to a few of the States and Territories. It is practically but a small portion of the unsold land of the Government that falls within the operations of this amendment, and that, sir, in States that demand this protection upon the highest and most patriotic considerations. It tends to protect the labor and enterprise of first settlers.

Mr. TAYLOR, of New York. I wish to correct the gentleman in one remark of his. He speaks of my "opposition" to the bill. I object to that. I am not opposed to the bill. I supported it throughout, until that amendment was offered, which did not convince my judgment. I then voted against the bill, and to lay it on the table. My object now in interrupting the gentleman—for which I beg his pardon—is to satisfy my mind about the correctness of that amendment, so that, if I can do so, I may give my support to the bill.

Mr. PHELPS, of Minnesota. I would say, then, in reply to the gentleman from New York, that if I have afforded him any light or knowledge in regard to this matter, and if I can induce him to aid and support the system, which we think will be so beneficial to Minnesota, I shall have done as much as, and perhaps more than, I expected. I will tell him that in all the new States and Territories, the Treasury will not be relieved by the sale of the public lands within the next ten years.

For myself, personally, I would have preferred, perhaps, that instead of ten years the limitation should have been five years; hoping, thereby, to induce some who may now vote against, to vote for, and pass this bill; but I do so desire that something should be done to protect the new western States from the present injurious policy of hastening the sale of the public lands, that I will accept any proposition looking to that object.

It would seem the true position of the western settler is not considered. Are not the early settlers of a new State entitled to some degree of favor

at the hands of the Government? Do their deprivations, toil, and enterprise to extend our institutions, to develop the wilderness, to make the waste places teem with the evidences of an advanced civilization, to set the streams to the music of the water-wheel, give these pioneer men no consideration at the hands of a Government whose prosperity they do so much to promote? Shall the Government cripple the energies of these men, by forcing on the public sales, and, like a relentless creditor, follow them to their western cabins for their last cow, or team, when these very men have expended their all, and are making the hunting-ground of the Indian, whose camp fires are not yet extinguished, valuable and productive to the Government?

These States are yet in their infancy; and we should do all we can to protect their interests and their prosperity. We can best do this by protecting the hardy pioneer, who, through privations and sufferings and toil, is striving to make himself a home and a competency in the West. These are the men whose interests we should protect; and, by passing this bill, we do protect them.

So far as my personal opinion goes, I would say this: I do not believe the public lands of the United States were ever intended or designed to be a source of revenue to the Government. It is an anomaly in the history of nations. There is no other nation in the world that makes its public lands an estimated and legitimate source of revenue. And should we—a free people, desiring free homes—set such an example?

Mr. CAVANAUGH. England charges for the public land in her colonies.

Mr. PHELPS, of Minnesota. My colleague suggests that England charges for her lands. She donates her lands in large tracts for the purpose of promoting settlement. She has already donated a large tract of land on the borders of our State.

Mr. TAYLOR, of New York. England charges one pound an acre for all the public lands in her colonies and islands.

Mr. PHELPS, of Minnesota. I would state, in reply to the gentleman from New York, [Mr. TAYLOR,] that it appears from the Hudson's Bay reports, published by the British Parliament, that the British Government expend every dollar they receive from the sale of public lands in our bordering British Provinces in the northwest, in building roads, bridges, and improving the country. The Government really derives no actual revenue from the land. And should a less liberal land policy be adopted by our Government? This Government has paid but a small price for its public lands, and it should be willing to donate them for the purposes of settlement; because thereby not only will the prosperity of the Government be promoted, but its revenues will be increased. Without people we should have no revenue. We might enact the highest possible tariff that any gentleman on the other side of the House might desire; and if we had no people who would settle our lands, there would be no revenue collected. The object of the Government should be to promote the prosperity and the peopling of the country; and when they have promoted that end, they have done that for the country which will be for its greatest advantage.

The amendment of the gentleman from Pennsylvania [Mr. Grow] does not affect the Treasury of the United States materially, as I think I have shown. Is it not good policy? Is it not the true policy of this Government to donate the public lands to settlers? But if gentlemen are not prepared for that, is it not justice to afford all possible facilities to the settlement of the country, especially as it costs the Government nothing? This bill would tend to accomplish this desirable object—not by asking the Government to pay a cent; not by asking the Government to reduce the price of the public lands one solitary penny; no, sir; it only gives the settler time to pay for his land. I would say to the gentleman from New York that it does not give him ten years' time. Under this bill, the settler who goes upon the public lands is compelled to pay for the land he seeks to preempt within twelve months from the time he makes his settlement. And is it anything but just to give the settlers twelve months in which to earn the means of paying for their lands? Permit me to say it is not just even; it should give them a longer time.

The gentleman from New York is mistaken if

he supposes that the Government is to be defrauded out of any money. I will say to him, also, that the whole of the western part of the State of Minnesota, with the exception of a small tract brought into market in 1855, has been settled, by preemption, and by preemption alone. Settlers who desired to make homes have gone there. They are not speculators. They have settled in good faith, and have, I believe, actually paid for their lands more rapidly than in any other new State or Territory settled before or since.

If, then, the Government derives no present advantage from the sale of the public lands; if the present system only tends to absorb the land warrants now in existence; and if, in fact, this bill only allows one year's extension of time for the payment for the lands already settled upon, what becomes of the objection which the gentleman has raised to this bill and this amendment, which has so frightened gentlemen?

I desired that these facts should come before the committee and the House, as they may influence, to some extent, the action of the House. I have been connected myself with the public land system in Minnesota, and I believe the preemption system is the only proper way to dispose of the public lands; and I do not desire to be found wanting in my duty to a principle, and a policy which, I think, has done so much for the country in the past, and which, if carried out, will do so much for the country in the future. I will now yield the floor to my colleague.

Mr. CAVANAUGH. Mr. Chairman, through the kindness of my colleague, who has yielded a portion of his time to me, I will detain the committee a short time in the discussion of the bill to which my colleague has alluded. I, sir, know something about the preemption system in the West. I have seen it in all its phases and forms. Sir, the West has grown up in a wondrous manner. It has grown up, as it were, by magic. Take my own State for an example, if you please, for the last nine years. Why, sir, nine years ago the census of that State, then a Territory, was taken, and its population amounted to four thousand and some odd hundreds. Now, it is a sovereign State of this Union, numbering over two hundred thousand free, intelligent, and independent people—people who have gone there from the north, from the south, from the east, and from the west, carrying with them the institutions of the several States from which they emigrated; carrying with them the Bible, the rifle, the ax, the school-house, and the church; carrying with them, also, the appliances of civilization. And we have gathered up and plucked from the broad prairies of the far northwest, an independent and sovereign State—the youngest born, I admit, of this Confederacy, but which is, we can say, in the language of our State motto, *L'Etoile du Nord*—"the Star of the North." From a struggling Territory, we have formed a great State, adding another jewel to the already splendid crown that girds this western hemisphere! How has it been done? By your speculators, or by your actual settlers? Certainly not by the gentlemen who fight the bulls and bears on Wall street; not by the gentlemen who sell goods on India wharf in Boston; not by the individuals who deal in cotton on the levee in New Orleans; but by the brawny and strong arms of the laboring men who have gone there and rescued that Territory and its broad acres from a wild, but luxuriant growth, and brought them into cultivation; who have made those fertile prairies of ours bud and blossom like a rose, and our vast valleys vocal with the hum of the industry of an honest yeomanry. I am, sir, on this question of the public lands, perhaps, intensely radical. I make no speeches for Buncombe, on this or any other question. I belong to the people, have sprung from them, and am here as their Representative. I have no ulterior views to subserve. I speak the honest sentiments of my constituents, and I speak the honest sentiments of my heart, when I say that these public lands of ours belong to the people only, and to the men who will cultivate them.

My colleague has alluded to the land system in our own State. He has alluded to the county of Mower, lying directly west of the one in which I reside. I have traveled over that county from north to south, from east to west. I know every quarter section and every forty acres within the limits of that county; yet, sir, I can ride for

twenty miles there, and not see a house or habitation. The lands are all entered; and entered by whom? Has the Government of the United States, has the public Treasury of this Union, received its \$1.25 per acre for these lands? Sir, the land-warrant dealers of New York, Boston, and other cities, have plastered that fair county of ours over with land warrants, and land warrants owned by non-residents.

In the able and honest report of your conscientious Commissioner of the General Land Office, I find the following figures: That during the fiscal year ending June 30, 1858, there were received, for sales of public lands, in cash, \$2,534,192 20; located with military bounty land warrants, five million eight hundred and two thousand one hundred and fifty acres. Now, sir, I ask any gentleman upon the floor of this House, where is the accession to the revenue of the country from the sales of the public lands? If the present tariff is not sufficient to meet the expenditures of the Government, I say, increase it in a statesmanlike manner to meet the exigencies which may arise. Tax your importations of foreign goods, if necessary; but do not tax the man whose strong arms have cut down your forests, cultivated your fields, and added the great States of the West to this Confederacy. Do not tax him in raising the revenues of the Government. By whom are new States founded? Is it by the gentlemen who roll in their splendid carriages down this Pennsylvania avenue of ours? Are new States and Territories formed by your gentlemen in New York who dwell in brown-stone-front palaces in Fifth avenue? Are new States added to this Confederacy by gentlemen who deal in cotton in the public marts in New Orleans? I believe, sir, that States and empires are not founded by such men. States and empires, whose foundations are laid broad, deep, and lasting, are planted by the man who takes his wife and his little ones with him, and identifies himself with the interests and progress of his new home. He has given them to posterity and the country, as hostages of his sincerity. They are founded by the men who come out of your southern, northern, and your eastern States, seeking new homes, erecting new altars—not to strange gods, but to the same God—worshiping at the same shrine, speaking the same language, feeling the same sentiments that you and I do; but they go out to plant new States and new Territories—seeking wider fields for the exercise of their industry, energy, and enterprise.

Mr. Chairman, I have had some experience in this preemption system. As my colleague has well said, there may be perjury; and I look upon the present system of preemption of the public lands as offering a premium for perjury. I have myself seen ten, fifteen, or twenty men enter one of the public land offices of the United States, knowing that they were committing perjury; and yet no officer, however honest, upright, or conscientious, would be permitted to go behind their oath or withhold from them their entries of the public lands. This class of individuals are owned by the outside non-resident speculator—a curse to any State and Territory in the Union.

And now, sir, in reference to the vote on this bill to-day, with an overwhelming majority of this side of the House voting against my colleague and myself, voting against this bill, I say it frankly, I say it in sorrow, that it was to the Republican side of the House to whom we were compelled to look for support of this just and honest measure. Gentlemen from the South, gentlemen who have broad acres and wide plantations, aided here to-day, by their votes, more to make Republican States in the North than by any vote which has been cast within the last two years. These gentlemen ask us to come here and support the South; yet they, to a man almost, vote against the free, independent labor of the North and West.

I, sir, have inherited my Democracy; have been attached to the Democratic party from my boyhood; have believed in the great truths, as enunciated by the "fathers of the faith," and have cherished them religiously, knowing that, by their faithful application to every department of the Government, this nation has grown up from struggling colonies to prosperous, powerful, and sovereign States. But, sir, when I see southern gentlemen come up, as I did to-day, and refuse, by their votes, to aid my constituents, refuse to place

the actual tiller of the soil, the honest, industrious laborer, beyond the grasp and avarice of the speculator, I tell you, sir, I falter and I hesitate.

Mr. VALLANDIGHAM. How many of the Democratic party, from the North and Northwest, voted with the gentleman and his colleague for the engrossment of the bill?

Mr. CAVANAUGH. Indeed I cannot tell. It was so unanimous upon this side of the House against the bill, against my colleague and myself, that we might feel compelled to go for support to my friend from Illinois, [Mr. KELLOGG,] and to gentlemen upon the other side.

Mr. VALLANDIGHAM. Then the Democratic members from the North and Northwest also voted generally with the Democratic members from the South. But it is not at all a question between the South and the other sections of the Union.

Mr. CAVANAUGH. To the gentleman on the Republican side of the House, who voted with my colleague and myself, I accord cheerfully the praise. I trust that as they have commenced, they will continue to pursue, the line of policy that will result in giving free homes to honest and industrious settlers.

Mr. KELLOGG. I would like to ask the gentleman a question. It seems to me that the northern Democracy are a little anxious to get right on this subject. I would like to ask my friend from Minnesota whether he knows of any Republican who voted against it?

Mr. CAVANAUGH. I do not. I suppose that there are none. I will say here, that in all my votes in this House, in the past as well as in the future, no matter from what side of the House the question may come, if it meets with the approval of my conscience, I shall cast them, though I do so against the overwhelming majority of my own party.

Mr. VALLANDIGHAM. That is the duty of every honest Representative.

Mr. CAVANAUGH. I was not sent here to represent the Democratic party merely. My fidelity to that party cannot be questioned. But I am also here with my colleague to represent the interests of two hundred thousand people of the Northwest; and when I fail to represent them honestly and faithfully, it is the simplest process for them to tell me that I have not discharged my trust. They can, in that event, make their voice known through the ballot; and their suffrages will fall silently as the snow-flake, but with the power and strength of majesty.

Mr. VALLANDIGHAM. I do not understand that anybody has censured the gentleman and his colleague for being in company with the Republican party on this question. I rose only to vindicate myself, and others with whom I voted. I presume, of course, that he designs to cast no censure upon us.

Mr. TAYLOR, of New York. I hope the gentleman will give me credit for an honest anxiety to be placed right on this bill. I supported it throughout, until the adoption of the amendment of the gentleman from Pennsylvania, [Mr. Grow,] which did not meet my approbation. With his indulgence, I will give him one reason why I opposed the bill after the adoption of the amendment I have referred to. And that \$17,529.35 acres, were sold at \$1.25 per acre, making \$1,150,166 73; 2,987,379.11 acres sold at graduated prices, producing \$966,691 27; making a cash total in all of \$2,116,768 02; while, on the contrary, there were 5,802,150 acres located by land warrants. Under the present condition of the Treasury, I thought that it was not right to cut the Government off from a receipt like that I have stated. This was one reason. I also doubted the policy of making the period so long. I am anxious to support the bill if my objection can be removed.

Mr. CAVANAUGH. I do not go too far when I say that nobody here doubts the honesty of motive influencing the action of the gentleman from New York. His conduct as chairman, or member, of the Committee on Printing, I do not now recollect which, whereby he has exposed such stupendous—I will call them stupendous—frauds, robberies, and corruptions in the public printing, has been often commended. I am proud to indorse him, and I am glad to know that he has voted with us.

Mr. Chairman, I am opposed, entirely, to the

bill introduced by the gentleman from Alabama, [Mr. COBB.] I think that any law repealing the preemption laws of the country ought to provide a grant to every actual settler, free of cost, of one hundred and sixty acres of land. I may be considered an agrarian. If that be agrarianism, then I admit the charge. I say, and utter it here distinctly, that, in my opinion, no man upon this broad earth should be entitled to an acre of the public lands, unless he is willing to cultivate and improve and enhance their value.

Mr. PHELPS, of Minnesota. Will not my colleague go for this bill if he cannot get a home-stead bill?

Mr. CAVANAUGH. I will reply to my colleague's question, that, as a *dernier resort*, as a choice of evils, I would of course select the least. If I cannot get such a bill as I desire, I will take this bill with all its imperfections upon its head. Neither gentlemen from New York, Louisiana, Alabama, nor from your own State of Kentucky, Mr. Chairman, nor from any State of the Union, ought ever to have been allowed to enter an acre of land in Minnesota, unless it was their intention to occupy and to cultivate it. Men have been fascinated by land speculations during this universal mania for the acquisition of public lands. They have sent out their land warrants to my State, and have located them over the counties of Dodge, of Mower, of Houston, of Fillmore, and of other counties; land warrants which they purchased for eighty and ninety cents per acre. What amount has been added to the revenue of the Government from the entry of public lands? Why, sir, the Government has been so mean and so penny-wise, as not only to enter on public lands with land warrants, but also to deprive our land officers of their honest fees.

Mr. MILLSON. If the gentleman will allow me I will ask him a question. How much revenue does Minnesota derive from the United States lands within her limits?

Mr. CAVANAUGH. I think five per cent. on all the lands sold since her admission.

Mr. MILLSON. That is not an answer to my question. How much revenue does the State of Minnesota derive from the United States lands unsold?

Mr. CAVANAUGH. Not a dollar, that I know of.

Mr. MILLSON. I do not suppose it derives a dollar. Does Minnesota derive any revenue from lands purchased by non-residents?

Mr. CAVANAUGH. It does not.

Mr. MILLSON. Do you not tax the lands of non-residents?

Mr. CAVANAUGH. We have generally to sell the lands for taxes.

Mr. MILLSON. And then you get the lands yourselves.

Mr. CAVANAUGH. Tax titles do not amount to much.

Mr. MILLSON. Well, I really do not see what injury is done to the people of Minnesota by the sale of lands to non-residents. They derive a revenue from them.

Mr. CAVANAUGH. I will state the injury that is done. Suppose that I own a hundred and sixty acres of land on which I am settled; I fence, improve, and cultivate that land. My honorable and distinguished friend from Virginia is, let us suppose, a speculator, and locates his land adjoining mine. By the improvement of my land I enhance the value of my friend's land; and if I wish to extend the area of my farm and to buy the adjoining land, I will have to pay five, ten, fifteen, or twenty dollars an acre for it—a value given it, not by its owner's industry, but by mine.

Mr. MILLSON. But the State levies the tax in proportion to the enhanced value.

Mr. CAVANAUGH. No, sir; these lands are taxed as wild lands, at the rate, I believe, of two dollars for every forty acres. The gentleman is reposing in his quiet, pleasant home in Virginia, surrounded by all those appliances of wealth and civilization of which I know the gentleman has just as keen an appreciation as any one in this Hall; yet he will allow his lands to be idle, while my energy and my industry and my money enhance the value of his land.

Neither am I willing, sir, to confine the giving of the public lands only to the native born of these States. Every man, no matter what his

nationality, who comes to our common country, and swears allegiance to our Constitution, I hail and welcome as an accession to the wealth and industry of the nation; no matter what climate has bleached or browned his cheek. I do not stop to inquire if he speaks the Norse, Celtic, or Teutonic tongue. Enough for me to know that he is a man; and, though foreign born, is attached to our institutions from choice and affection.

I speak, Mr. Chairman, warmly in favor of this measure of giving the public domain to the actual occupant. I speak warmly for my own State and people. In all my feelings and sentiments I am thoroughly western, and particularly devoted to the interests of Minnesota.

If defeated now, I console myself with the reflection that the time will come, and shortly too, sir, when the opinion now advocated by me will be triumphant in this land; for I cannot believe that God rules this world alone by imperial ukases, Executive proclamations, or acts of Congress.

[Here the hammer fell.]

Mr. AVERY obtained the floor; but yielded to Mr. VALLANDIGHAM, who said: Before I submit a motion that the committee do now rise, I desire to make one remark on the subject which has been debated for the last hour. I voted twice against laying the bill referred to on the table, and though not quite satisfied with the second section, would have voted for its engrossment had it not been for the amendment of the gentleman from Pennsylvania, [Mr. Graw,] which now constitutes its sixth section. I am opposed to that amendment, and therefore voted against the engrossment. I am in favor of the preëmption system. I think it a wise policy. It goes a great way; though no further than is fair, towards affording protection to a large and valuable portion of actual settlers. When, however, you propose to extend that system yet further, in this country where all competition ought, as a general rule, to be free, and not only give to them the right of preëmption, but, for a period of ten years, prohibit all the other citizens of the United States, whose joint property these public lands are, though themselves actual settlers also, from entering into competition for their purchase in the public market, you go further, in my judgment, than justice, equality, and sound policy, permit. You may be generous, but you are not just.

Mr. PHELPS, of Minnesota. I would ask the gentleman whether the provision he alludes to does not allow land to be preëmpted at all times during the ten years?

Mr. VALLANDIGHAM. Certainly; but that does not meet the objection which I now urge against the amendment.

Mr. PHELPS, of Minnesota. I would enquire of the gentleman still further, whether he or his constituents, or anybody who desires to make their home on the public lands, cannot go and settle on one hundred and sixty acres and preëmpt it?

Mr. VALLANDIGHAM. Again, certainly. But this amendment is a sentence of interdict to the enjoyment of equality, as regards these lands, except on condition, or under penalty, if you please, of emigration. Sir, all the citizens of this country cannot emigrate continually westward, as empire takes its course steadily in that direction, and new Territories and States are organized. The amendment imposes a heavy burden and an unjust restriction upon the citizens of the older States, and holds out a large bonus to the Territories and new States—a bonus which they do not need, inasmuch as in this migratory age, and among our migratory people, their population is swelling rapidly enough already. Giving to the preëmptor the sole right to the public lands for ten years, to the exclusion of the rights of all others, even actual settlers not preëmptors because not coming within the provisions of the preëmption laws, it gives virtually to him also a credit for ten years upon the price of his land; thus cutting off, during that long period—almost a lifetime in this fast age—all revenue to the Government from the public lands which shall not have been surveyed ten years previous to the proclamation of sale. Sir, this is no fit time for such a suspension. And to this consideration I might add also that the effect of this measure must be to prohibit for ten years, except under the same restriction, the location of any of the yet outstand-

ing land warrants, amounting to some eleven million acres.

I have yet another objection. The benefits of this provision must inevitably inure to the railroad companies, to whom such profligate and exorbitant grants of land have been made; and to the individual speculators also, who have already absorbed so many thousand acres of the public domain. Cut off from the public market, all who desire to buy, but who are not ready or willing to emigrate, or, emigrating, cannot comply with the preëmption law, will be forced to purchase from one or other of these classes. Thus this bill becomes really an act for the benefit of railroad corporations and speculators, at the expense of all others except the preëmptor.

Mr. PHELPS, of Minnesota. Will the gentleman allow me to inquire whether it interdicts any other class than a new class of speculators who, like the land-devouring locusts they follow, have already settled upon and eaten out the prosperity of the West? By his remarks he admits that evil has been done to the West; and it is to this evil, and to prevent, if possible, its repetition, I call the attention of gentlemen.

Mr. VALLANDIGHAM. Unquestionably it does. It interdicts men who reside in the district which I have the honor to represent—men who, migrating to Ohio in early times, have accumulated somewhat of a fortune, I grant, by the cultivation of the soil—farmers whose sons are growing into manhood and their daughters into womanhood around them. They are the men, rather than speculators, who buy land in the West for the purpose of giving it to their sons and their daughters when they shall have attained to majority. The result also, let me add, of the present system, is the increase of population and prosperity in the new States and Territories; because, where once a parent has made a location of lands for the benefit of his elder son, for example, that son, in course of time, migrates to and occupies the lands so purchased, cultivates them, and causes them to yield the fruits of the earth; and other sons and neighbors and friends, all around, are, in time, induced to follow. Thus there is an annual drain from the older to the newer States and Territories, of the better part of the population.

Now, to my knowledge, this constitutes a large portion of those who, in the State of Ohio, (or at least in that part of it which I represent,) are accustomed to purchase western lands.

In view of this disability upon the other citizens of this Union, for the benefit of a part of the actual settlers, superadded to the already abundant protection to such settlers by the right of preëmption, as also because of the resulting benefit to speculators, I felt myself obliged to vote against the bill.

I have but alluded to the suspension of all revenue from the public lands for ten years, important as that consideration is against the bill; and indeed, should have said nothing upon this subject, but for the remarks of the gentleman from Minnesota. I thought that since he had spoken with some severity (I am sure meaning no offense) of those who opposed this measure, it was but just and proper that I, as one of that number, and especially as one who was born and yet lives within what a few years ago was the West, and is yet a portion of what is still called "the great West," should put on record these reasons in vindication of the vote which I gave, and to which I expect to adhere. I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. MILLSON having taken the chair as Speaker *pro tempore*, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

And then, on motion of Mr. STEVENSON, (at ten o'clock, p. m.,) the House adjourned till to-morrow.

IN SENATE.

FRIDAY, January 21, 1859.

Prayer by Rev. C. C. MEADOR.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, in

answer to a resolution of the Senate of the 7th instant, respecting the services of Joel Harris, of Virginia, in the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

He also laid before the Senate a report of the Secretary of State, communicating, in obedience to law, a list of clerks and employes of that Department for the year 1858; which was ordered to lie on the table.

He also laid before the Senate a message from the President of the United States, transmitting a digest of the statistics of manufactures according to the returns of the seventh census, prepared under the direction of the Secretary of the Interior in accordance with a provision in the first section of an act of Congress approved June 12, 1858, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859;" which was ordered to lie on the table.

ACQUISITION OF CUBA.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

I transmit herewith a report from the Secretary of State, in answer to a resolution of the Senate of the 18th instant, requesting the President, if not incompatible with the public interest, to "communicate to the Senate any and all correspondence between the Government of the United States and the Government of her Catholic Majesty relating to the purchase of the Island of Cuba, which correspondence has not been furnished to either House of Congress." From this it appears that no such correspondence has taken place which has not already been communicated to Congress. In my late annual message, I stated in reference to the purchase of Cuba, that "the publicity which has been given to our former negotiations on this subject, and the large appropriation which may be required to effect the purpose, render it expedient, before making another attempt to renew the negotiation, that I should lay the whole subject before Congress." I still entertain the same opinion; deeming it highly important, if not indispensable to the success of any negotiation which I might institute for this purpose, that the measure should receive the previous sanction of Congress.

On motion of Mr. SEWARD, the message was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. KING presented a memorial of citizens of New York, praying that the pay of the officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

Mr. HARLAN presented the petition of F. Ferguson and others, praying that land may be granted to the Territories of Nebraska and Kansas, to aid in the construction of certain railroads; which was referred to the Committee on Public Lands.

Mr. FOSTER presented the petition of Franklin Kelsey, of Middletown, Connecticut, asking an appropriation to enable him to build the model of a steamboat on new principles, in order to test the value of his invention; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented the memorial of citizens of Charlestown, Massachusetts, praying that the pay of the officers of the Navy may be increased; which was ordered to lie on the table.

He also presented the memorial of members of the Society of Cincinnati, praying the settlement of the claims for half pay for life promised by the act of Congress of October, 1780, to the officers of the Continental army who served to the end of the war or until the time of their reduction; which was referred to the Committee on Revolutionary Claims.

Mr. WILSON. I ask that the memorial be printed, as there are some statements they would like to go before the country.

The VICE PRESIDENT. The motion will go to the Committee on Printing.

Mr. SHIELDS presented the petition of Eli Davis, Charles H. Kreamer, and Timothy Mallahan, praying compensation for their services as doorkeepers or day-watchmen at the Post Office Department; which was referred to the Committee on the Post Office and Post Roads.

Mr. BIGLER presented the petition of citizens of Pennsylvania, praying an increased and specific duty on iron; which was referred to the Committee on Finance.

He also presented the memorial of citizens of Erie, Pennsylvania, praying that the pay of the officers of the Navy be increased; which was ordered to lie on the table.

Mr. MALLORY presented the memorial of Lieutenant T. A. M. Craven, of the Navy, praying additional compensation for his services while in command of the expedition to make an exploration and verification of the surveys for a ship canal to connect the waters of the Atlantic and Pacific by the Atrato and Truando rivers; which was referred to the Committee on Naval Affairs.

Mr. CLAY presented a memorial of citizens of Mobile, Alabama, praying the removal of the Choctaw and Dog river bars; which was referred to the Committee on Commerce.

Mr. CAMERON presented a memorial of citizens of Philadelphia, praying that the pay of the officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

Mr. MASON presented the petition of the Alexandria, Loudoun, and Hampshire Railroad Company, praying authority to extend a branch of their road into Georgetown, District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. HALE presented the petition of the administrator of John Denman and George Townley, praying for the liquidation and settlement of a certificate given to said Denman and Townley by a commissary, in the Revolution, for cattle furnished for the army; which was referred to the Committee on Revolutionary Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CHESNUT, it was

Ordered, That the heirs of John B. De Treville have leave to withdraw their petition and papers.

On motion of Mr. HAMMOND, it was

Ordered, That the memorial of Charles Brenan, John McCully, and the administrator of Francis McCully, on the files of the Senate, be referred to the Committee on Claims.

Mr. FITCH. I ask leave to withdraw the resolutions of the General Assembly of Indiana, of 1842, asking the passage of a law to authorize the inhabitants of reserved townships in that State to enter a section of land for the use of schools, with the view to have them referred to the Committee on Public Lands of the House of Representatives.

It was so ordered.

REPORTS OF COMMITTEES.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of George Robbins, a soldier in the war with Mexico, praying a pension on account of a disease contracted in the service, submitted a report, accompanied by a bill (S. No. 520) for the relief of George Robbins. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom were referred the resolutions of the Legislature of California, relative to the payment of the bonds of the State, issued for paying the expenses of the suppression of Indian hostilities, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Francis Aüttmann, praying the return of tonnage and light duties illegally exacted and paid by him on Peruvian, Danish, and German vessels, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860, reported it with amendments.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 72) concerning the conveyance of the mails between New York and Liverpool, and between New York, by the way of Southampton, and Havre and Bremen; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. JOHNSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a

bill (S. No. 521) to provide compensation to certain persons who have acted as pension agents; which was read twice by its title, and referred to the Committee on Pensions.

REMODELING THE SENATE CHAMBER.

Mr. HALE. A few days ago I submitted a resolution of inquiry, simply, to the Committee on Public Buildings and Grounds to know if some improvement cannot be made in this Hall. Since then, there has been another defect developed, and that is, if there is a shower it beats upon the roof so that we cannot hear. That is the case at this moment. I think it is the most unhealthy, uncomfortable, ill-contrived place I was ever in in my life; and my health is suffering daily from the atmosphere. I move to take up that resolution.

The motion was agreed to; and the resolution was adopted as follows:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the practicability and propriety of reconstructing and remodeling the interior of the northern portion of the Capitol extension in such manner that the Senate Chamber may extend to the wall of the building on the end and one or both sides, so as to have the advantage of windows and fresh air.

RETRENCHMENT AND REFORM.

Mr. HUNTER, from the Committee on Finance, reported the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to inform the Senate whether such a system might not be adopted for the selection of new military posts, and for the sale of those which, from time to time, become useless for military purposes, as to furnish the means for providing barracks and quarters for the Army.

Resolved, That the Secretary of the Navy be directed to inform the Senate, whether, in his opinion, it would be expedient to transfer the revenue cutter service from the Treasury to the Navy Department, and in what manner that transfer can be made so as to perform most effectually the service required of it, and to contribute at the same time to our coast defense.

Resolved, That the Secretary of War be directed to inform the Senate whether the United States Army might not be so posted within the line of settlement as to diminish largely the cost of transportation and subsistence, and at the same time perform whatever service might be necessary in suppressing Indian outbreaks and disturbances.

Resolved, That the Secretary of War be directed to inform the Senate whether the number of superintendents, agents, and sub-agents, of the Indian service, could be diminished, and to what extent, if the Indian affairs should be transferred from the Department of the Interior to that of War.

THOMAS LAURENT.

Mr. SHIELDS. If there be no further morning business, I ask the consent of the Senate to take up a bill which I proposed to take up yesterday. I believe it was called up, and is still pending. It is the bill (S. No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent.

Mr. HAMLIN. This is private bill day; and I think we had better proceed with the bills in their order on the Calendar. I suppose this case has merit; but I may ask the Senate to take up the bill No. 335 next, and somebody may ask the Senate to take up the bill No. 336. I know of no particular reason why this bill should be taken up out of its order. Let us go on with the Calendar in order.

Mr. SHIELDS. I dislike very much to consume a day that has been set apart for private business by giving reasons why this case should be taken up. I called it up on a former occasion, but objection was made, and it was permitted to remain. I think I can satisfy the honorable Senator that it is one of those cases that appeal to the justice of Congress. If he knew the nature of it as I do, he would not interpose the slightest objection.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

It proposes to require the Secretary of War to pay to Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent, or to his legal representatives, the sum of \$15,000, being the amount paid by that firm to Major General Winfield Scott, in the city of Mexico, for the purchase of a house in that city, out of the possession of which they were since ousted by the Mexican authorities.

Mr. CLAY. I should like to hear the report in that case read.

The Secretary read it.

Mr. CLAY. It appears to me from the reading of that report that this is properly a case for the Court of Claims, and I do not see why it has not been referred to that court. It seems to me it ought to go there; and, if in order, I move that it be referred to the Court of Claims.

Mr. SHIELDS. I will state to my honorable friend from Alabama, the view I take of the case. Where there is no dispute about the facts; where all is as clear as any court by any investigation can make it, then it is not necessary to refer it to that tribunal. I do not like, as this day is appropriated to private business, to consume the time of the Senate. I will state, however, a few facts which I think will satisfy the honorable Senator and others who may have a doubt about this claim.

It is a case that has been examined by the Committee on Military Affairs, as the report shows, with which I had no connection until I came into the Senate this time and read the papers. Benjamin Laurent and Thomas Laurent were two Englishmen, residents in the city of Mexico. They were doing a mercantile business in that city for twenty-four years previous to the entry of the American army into that capital. During our war with Mexico, the Mexican Government issued a decree to confiscate all the church property of the Republic; they occupied a house that was the property of the church—a convent. The commissioner of the Government called upon them and told them that they would be ousted from the house if they did not purchase it at the appraised rate and retain it for business. They did so, and agreed to pay \$25,000 for the house. Before, however, the deed from the Government was executed, before the Government conveyed the property to these parties, Santa Anna returned to Mexico, assumed the chief power in the Government, had a new decree published, abrogating the former decree, and preserving the church property from confiscation and sale. Thus, they had entered into an agreement to purchase this house for \$25,000, but had not yet paid the money on it; and subsequent to that the decree was abrogated, and the property reverted to the church; and therefore their money was not paid to the Mexican Government.

Thus stood affairs when the American army entered the City of Mexico. General Scott issued a decree, as his letter before me shows, confiscating all the moneys of the Mexican Government for the use of the American army. Believing that these parties owed \$25,000 to the Mexican Government in accordance with this sale, not having time to investigate the subject, he compelled them to pay the money to him; and as they were to pay part of the \$25,000 in Mexican bonds, he estimated that the whole amount was equivalent to \$15,000 in cash down; and he compelled them to pay him \$15,000 cash, and he put them in possession of this house, promising that he would make the sale good. The moment the American army left the City of Mexico they were thrust out of the house; their business destroyed; they were charged with having paid \$15,000 to the Americans; they were subjected to the enmity of the Mexican Government for that; and their business was broken up. One of the brothers came to this city and applied to Congress for redress; he remained here and died in this city from the disappointment arising from his treatment in Mexico, and in this country in not receiving his pay. The other brother is here now.

As the letters, which I hold in my hand, of General Scott, shows, he seized the \$15,000 as prize of war, as the property of the Mexican Government, when it was, as the proof shows, really the property of these individuals, for they had not received the house for which they were to pay the Mexican Government. He put them in possession of the house, and a Mexican notary gave a deed, as appears in the papers, giving them what he supposed to be a title. The Mexican Government, when the American army left the city, treated that as null and void, as the act of a conqueror, turned them out of the house, and thus they lost their property and lost their money; their business has been destroyed in Mexico, and they have been forced to leave that country, and now they come here for this amount.

Mr. HUNTER. At the hour of one o'clock, private bills will be in order. I move to lay this bill on the table for the present. I want to report

resolutions asking for information from the Committee on Finance.

The VICE PRESIDENT. There is a motion pending to refer this bill to the Court of Claims.

Mr. HUNTER. That will give rise to debate.

Mr. SHIELDS. If it does, I agree that the gentleman shall make his report.

Mr. STUART. It must give rise to debate. There cannot be a doubt about that.

Mr. HUNTER. I only ask that it be postponed informally.

Mr. SHIELDS. Very well, sir.

The VICE PRESIDENT. If there be no objection, that will be done. The Chair hears no objection.

Mr. HUNTER reported a series of resolutions, which are given in a preceding column.

Mr. SEBASTIAN. As it will be some time before the order of the day is taken up, and, I believe, the morning business is through with, I move that the Senate now proceed to the consideration of the bill (S. No. 443) for the relief of Henry R. Schoolcraft.

The VICE PRESIDENT. The Chair will state to the Senator from Arkansas that the bill which was taken up on the motion of the Senator from Minnesota was, by consent, informally postponed, and the question recurs on that if the Senator insists upon it.

Mr. SHIELDS. Yes, sir. I call it up again.

The VICE PRESIDENT. The question before the Senate is on the motion of the Senator from Alabama, to refer the bill, with the accompanying report, to the Court of Claims.

Mr. CLAY. I will only say a word in reply to what fell from the Senator from Minnesota. Admitting the facts to be as presented by him, still I think it is very questionable whether this Government is under any legal or moral liability for the payment of this amount. But, conceding that there is some legal or moral liability, which I am not prepared to do, it seems to me that, from what has been developed in the Senate itself, the amount claimed is more than double the amount which is properly due, or, at least, the amount which is shown to be due by the evidence adduced. I understand, from what the Senator said himself, that General Scott only accounted for \$7,000 of this money; and yet the parties claim \$15,000. If only \$7,000 went into the Treasury of the United States, admitting that the Government is bound to pay back what it got, certainly \$15,000 is more than is due. What has been developed, though, has satisfied me more fully of the correctness of my motion to refer this case to the Court of Claims. Manifestly, there is some contest as to the amount which the Government received. Manifestly General Scott only accounted for \$7,000 of the money. He only acknowledged the receipt of that much in his settlement with the Government. Under these circumstances, it seems to me there can be no question that it ought to go to the Court of Claims. Even if this were a just claim; even if it were verified by sufficient evidence, I think it would be a very bad precedent on the part of the Senate to adopt the bill. What is the use of establishing that court, if it is not to get all the evidence which can be procured, either for or against a claim? What is the use of establishing that court, if it is not to give the Government some opportunity of obtaining testimony on its side? What is the use of the court, if a mere *ex parte* showing in any case, however good, can overslaugh them, and give Congress jurisdiction in this case? I think it ought to go to the court, and hence I must insist upon that motion; and I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SWIN. I should like to ask the Senator a question. I have not examined the law; but it has been suggested to me that these are foreigners, and cannot bring suits in the Court of Claims.

Mr. CLAY. I am not prepared to answer that question. I do not remember the exact terms of the act establishing the court. If that be the case, however, I shall ask that the bill lie over until I can examine it, because I have only heard what was read at the desk, and am not prepared really now to enter into the merits of the case. Perhaps the Senator from Delaware [Mr. BAYARD] can answer the question propounded whether foreigners have the right to bring suits in the Court of Claims.

Mr. STUART. Certainly they have.

Mr. CLAY. I supposed so.

Mr. BAYARD. I do not know whether I might not vote for this claim if it came before me with the facts prepared in a manner which I thought requisite to the proper judgment of it. It seems to me the danger involved is that it really proceeds upon no tangible principle of liability on the part of the Government, that I can ascertain from the report. There are important principles connected with the liability of any Government for the acts of its officers whether during war or peace. There is nothing in this report that shows me that the American Government would be liable for the acts of the commanding general in Mexico, under the circumstances stated. It may be that it would; but I would rather have the principle settled. I think one of the great objects of establishing the Court of Claims was to endeavor to arrive at some general principles which should exercise a controlling influence over the future action of the Government in regard to such claims. It was to get rid of the system which had prevailed of allowing claims on caprice in individual cases. The personal feelings of Senators, however creditable to the heart of the individual, ought certainly never to be the foundation of the action of a deliberative body. There ought to be some general, specific, tangible ground which shows that the Government is liable under the circumstances to the party, either legally or equitably; for if not we have no right to dispose of the money of our constituents merely on grounds of compassion or hardship in particular cases.

Now, sir, in this case, if the Government received \$15,000 under a confiscation, and made a sale which was not confirmed, and the parties took no interest in the property under the sale, there might be some ground for the claim; but on the face of the report it appears that the Government of the United States received \$7,500 and no more, I know not why. If the money was collected from these parties under military authority, still if it was collected on behalf of the Government by a legal act, beyond all question the Government would have a right to have an accountability for the whole sum. Seven thousand five hundred dollars only was accounted for. Why is it that the other \$7,500 has not gone into the Treasury of the nation, if we are responsible for it? The distinction, the standing of General Scott is a reason with me why, if he transgressed the laws of the United States without the authority of his Government, he should be held responsible. If he was the cause of wrong to these parties, and is personally liable, I am for one not unwilling to assume on behalf of the Government a liability which does not belong to the Government arising out of his acts. I am not prepared to say that the Government is or is not responsible. That point involves very important principles, and I think, therefore, the case ought to go to the Court of Claims in order to let us have some tangible ground to decide upon, if we are to give relief in this case.

But to show how loosely these things are done here, I will mention that this bill proposes to give interest on this, a doubtful claim, from the year 1847 down to the present time. Was that from the evacuation of Mexico? No; I think the evacuation of Mexico by our troops was in 1848. Well, sir, we are to give interest to these parties, though on the face of the papers it appears that they were in possession of the property, and there is nothing to show that they had to pay damages for that possession, but simply that they lost possession after the American army left. This may be right, but there is nothing on the face of the report to explain it to us. The allowance of interest is contrary to the entire usage of Congress in general. There have been excepted cases; but in general, as regards the action of Congress where they pass on claims against the Government, they do not allow interest; yet it is made part of the bill as it now stands.

I submit that the case altogether involves principles too important to allow us to act upon it as an individual case merely, because it is in that way that we eternally make precedents which are cited against us as the ground of future action, until the abuse becomes so great, that we are compelled to reject our own precedent action in a variety of cases.

Mr. CLARK. Mr. President, I want to say one word, not in regard to the merits of this claim,

but in regard to the position in which you will place the claimant if you send him to the Court of Claims. He has submitted his petition to this body. The Senate have taken jurisdiction of that petition; they have sent it, as I understand, to the Committee on Military Affairs. The committee have investigated it; they have reported in his favor; and now the report comes up here for action, and instead of acting definitely on that report, as we now in my opinion should do, it is proposed to send him to the Court of Claims. If you send him to the Court of Claims, he will be obliged to go through with an examination there. After he has got a decision in his favor, yououst the jurisdiction of the committee and send him to the Court of Claims. He goes down there, he goes through with an examination there, and then the Court of Claims make a report here. Whether that report is favorable or unfavorable, you send him again to a committee. Now, why not take the report of our committee in the first instance? No matter what the report of the Court of Claims is, you will send him to a committee again when that report is made. If it is unfavorable, the chances are that he will be thrown aside without being heard. If it is in his favor, and thus he has two reports in his favor, then you will re-examine his case, and perhaps send him somewhere else. I think you have imposed sufficient hardship on him when you have sent him through one committee and he has got a report, without sending him to the Court of Claims and then back again to another committee. I do not know anything about the merits of this claim; I have not examined it. I only speak of the position in which you put the claimant by this motion. It seems to me you impose a hardship on him. It might have been well that the claim should have gone to the Court of Claims in the first instance. I do not undertake to say how that is; but if your committee took jurisdiction and investigated the claim, it seems to me the Senate now should examine their report, and decide upon it.

Mr. BAYARD. I am unable to see the force of the objection of the honorable Senator. We constituted the Court of Claims with a double aspect: first, that we might arrive, by means of the decisions of that court, after research and hearing both sides, at something like general principles, to guide us in our determinations on claims against the Government of the United States; and next, because the system of investigation, purely *ex parte*, on the loosest character of testimony, that had been adopted by committees antecedent to the establishment of this court, was unsatisfactory to members of the Senate. For these reasons, and with a view to obtain testimony on both sides, we required that all matters of claims, excepting only mere gratuities, should be heard before the Court of Claims. Now, sir, we violate that altogether by acting on such bills as this in this way. There is no class of claims which may not be taken from the jurisdiction of the court, according to the argument of the Senator from New Hampshire. On that principle, if by accident, in the hurry of business, a claim is presented and referred to a committee and they report on it, though it may be clearly within the cognizance of the Court of Claims, we may be told that it is a hardship to send this case to the Court of Claims, because the committee have reported. And yet the very object and intent of the law was that we should not have to rely on a mere *ex parte* examination. We appoint, in that court, an agent on the part of the Government, who, as their attorney, with his assistants, is bound to investigate the cases as against the petitioners, and to have testimony on the side of the Government. If the doctrine be true, that because a claim is referred to a committee without the notice, probably, of a single individual Senator but the man who presents it, and they choose to report on it, we ought to act without full testimony, the whole scheme and intent of Congress in constituting the Court of Claims is to be passed by, and the parties are to have relief on the old system of *ex parte* statements.

Mr. SHIELDS. I am satisfied that my honorable friend from Delaware, and my honorable friend from Alabama, if they had considered and investigated this case, would not interpose the slightest objection upon the principle that they themselves lay down. Now, I will ask the honorable Senator from Delaware, if it was not a le-

gitimate act of General Scott, upon entering the city of Mexico, and displacing the Mexican Government, to seize, as prize of war, all the money belonging and appertaining to the Mexican Government that he found in the city of Mexico? That is correct. That was a legal act under the general laws of war.

Mr. BAYARD. I will answer the honorable Senator. Generally, I should say, yes.

Mr. SHIELDS. Now, sir, if by accident, by misapprehension, General Scott, in carrying out that great act of a conqueror, happened to seize private property from an individual, believing it to be the property of the Mexican Government, is it not the duty of this Government to restore that property to the private individual?

Mr. BAYARD. That is a more doubtful question. I am not prepared to admit that.

Mr. SHIELDS. The Senator admits, as every lawyer will, that General Scott, under the laws of war, as the conqueror of Mexico, displacing the Mexican Government for the time being, had a right to seize the public moneys of the Mexican Government. He believed this was public money. I have explained the reason why he seized it as such. Here is his letter, which I shall have read in a moment. He seized \$15,000 of the money of these parties; he compelled them to pay that amount, then placed them in possession of a house, out of which they were turned the moment the American army left Mexico.

The honorable Senator says that General Scott only accounts for \$7,500 to the Treasury of the United States. Sir, that is a matter between the Government of the United States and its general. If he has taken the money, and has not accounted for it to his own Government, is it not a matter between his Government and him as the officer and agent, and military representative of that Government in Mexico? Is a private individual to be put off by saying: "The general who commanded the American army has taken your property; but because he has not accounted for that property to his own Government, you are not to receive payment?" Is that an answer? Is that the way this Government will treat a private individual who, at the time, was in the power of our army and our commander there, and dared not open his mouth, but had to pay whatever money the officer commanding said he should pay? Will you tell him that, because that officer has not accounted for the whole of that money to the Government, he is not to receive it? I do not recognize such a doctrine as either law or honesty. Here is General Scott's letter, acknowledging the receipt of \$15,000. I will ask to have it read, to settle that point.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, which is the Private Calendar.

Mr. SHIELDS. I believe this bill is on the Private Calendar.

The VICE PRESIDENT. The special order for this hour, is the consideration of the bills on the Private Calendar, in their regular order.

Mr. STUART. I hope the order will be executed as it was made, and that the Calendar will be taken up regularly.

Mr. SHIELDS. I ask the Senate to terminate this case. I think it can be disposed of very soon.

The VICE PRESIDENT. Does the Senator move to postpone the special order with a view to continue the consideration of this bill?

Mr. SHIELDS. Yes, sir.

Mr. STUART. On that question I shall ask the Senate to take the yeas and nays.

The VICE PRESIDENT. It is moved and seconded that the Private Calendar be postponed, for the purpose of continuing the consideration of Senate bill No. 334; and on that the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. IVERSON. I desire to ask the Chair the effect of this motion. The motion is to postpone the Private Calendar, for the purpose of continuing the debate on the bill which is now under consideration.

The VICE PRESIDENT. That is the motion. Mr. IVERSON. If that motion prevails, when we get through with that bill, do we go back, as a matter of course, to the Private Calendar?

The VICE PRESIDENT. The Chair then begins with the Private Calendar.

Mr. IVERSON. I dislike very much to inter-

fere with the wishes of my friend from Minnesota; but this bill is likely to produce a good deal more debate, and it is not fair to take up one case on the Private Calendar in preference to another that is before it. I think the miller's rule ought to be applied, "first come, first served." I was willing to let this bill be taken up before the hour of one o'clock, but I cannot consent that it shall go beyond it.

Mr. SHIELDS. I recognize the justice of that rule, and withdraw my motion for the present.

The VICE PRESIDENT. By unanimous consent it may be withdrawn, the yeas and nays having been ordered. The Chair hears no objection. The Private Calendar will now be taken up in its order.

PERSONAL EXPLANATION.

Mr. BRODERICK. Mr. President, I rise to a personal question. Some three or four days ago, an article appeared in the New York Tribune, in which words were put into my mouth that I never uttered. When I first saw the article, I consulted several Senators in regard to it. Some advised that I should call the attention of the Senate to it; others advised that I had better see the writer of the article, and request him to contradict it. The Senator from Illinois, [Mr. DOUGLAS,] and the Senator from Alabama, [Mr. FITZPATRICK,] advised me to see the party, and induce him to contradict the article. I called on the Senator from Massachusetts, [Mr. WILSON,] and asked him if he knew the author, to request him to contradict it. The person, I believe, informed the Senator from Massachusetts, that he would do so yesterday; but on examining the Tribune of yesterday, I find no contradiction of it. The statement was false in every particular. I never uttered any language of the kind. I call the attention of the Senate to it because it was not contradicted in the paper in which it first appeared. I dislike to pay any attention to personal attacks; I never do so when I alone am attacked; but as this communication involves a reflection upon the Senate, I thought it my duty to call the attention of the Senate to it.

Mr. WILSON. The Senator from California, on Wednesday last, called on me, and asked me if I knew the correspondent of the Tribune. I informed him who that gentleman was, and he stated that that correspondent had done him great injustice, and that he thought of mentioning the subject before the Senate, as it placed him in a false position. I saw Mr. Carter, the correspondent of the Tribune, and said to him that the Senator from California felt aggrieved at the remark, and entirely disavowed having used such language as was attributed to him. He said he made the statement on current rumor, but that, as the Senator from California disavowed it, he would, with the greatest pleasure, make the correction; and he left me with the impression that the correction would be made, and, as I have not seen him since, I do not know why it has not been done.

JANE SMITH.

The PRESIDING OFFICER. (Mr. HALE in the chair.) The first bill on the Calendar is the bill (S. No. 87) from the Court of Claims, for the relief of Jane Smith, of the county of Clermont and State of Ohio.

Mr. IVERSON. I do not see the Senator from Louisiana [Mr. SLIDELL] in his seat to-day. This is a bill to which he has objections. He indicated them at the last session, when it was called up, and the bill was then postponed for his accommodation. It is proper that the Senate should be advised of the character of this bill, reported by the committee of which I have the honor to be chairman, in order that they may decide whether they will consider it to-day or whether they will postpone it. For my own part I think it would be better to postpone it until the Senator from Louisiana is here, to give him an opportunity to be heard, as I know he is opposed to the bill. It allows interest on a pension, and it is understood that if this bill is passed and the principle is settled, it will involve the payment of about two million dollars to satisfy interest on pensions. The Senator from Missouri [Mr. POLK] reported the bill, and can perhaps explain it better than I can.

Mr. POLK. I think the Senator from Georgia is under a mistake as to the character of the bill.

My recollection is that it does not propose to allow interest on pensions, but it proposes to take the time at which a party is entitled to a pension, under a specific act, back to a period anterior to the passage of the act. The question is upon the construction of the act of Congress that gives a pension to widows of revolutionary soldiers who were married after 1800. I think the Senator from Georgia is mistaken about the character of the bill.

Mr. IVERSON. It is so long since I have looked into the case that I have not a very distinct recollection of the principles and results involved in it; but I recollect distinctly that the Senator from Louisiana, when the bill was called up at the last session, remarked that it involved the expenditure of about two million dollars, and that it ought to be well considered by the Senate before it was passed. I think it will be safer and better to let the bill lie over for the present until the next private bill day. In the mean time, I will speak with the Senator from Louisiana on the subject. I move to postpone the bill until to-morrow.

The motion was agreed to.

LUCINDA ROBINSON.

The next was the bill (S. No. 88) from the Court of Claims for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont.

Mr. POLK. That is a bill of the same character.

Mr. IVERSON. I move that it be postponed until to-morrow.

The motion was agreed to.

SAMUEL HOLGATE.

The Senate resumed the consideration of the bill (S. No. 89) from the Court of Claims for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, the question being upon its passage.

It provides for the payment of \$996 01, being in full for certain planks and boards and other property of Samuel Holgate, deceased, seized by Commodore McDonough, on Lake Champlain, in the year 1814.

Mr. CLAY. I should like to have the report read.

Mr. WADE. I will state that this is a decision of the Court of Claims.

Mr. CLAY. They sometimes decide wrong.

Mr. WADE. The Committee on Claims also sanction it.

The Secretary read the decision of the Court of Claims.

The bill was passed.

CREEK DEPREDACTIONS.

The next bill on the Calendar was the bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. CLAY. I ask that that be postponed for the present.

The PRESIDING OFFICER. It will be passed over informally.

NAHUM WARD.

The next was the bill (S. No. 93) from the Court of Claims, for the relief of Nahum Ward.

Mr. POLK. There is an adverse report there; and when we were calling the docket for the purpose of disposing of cases in which adverse reports had been made, this was allowed to stand on the Calendar at my request, the Senator from Ohio [Mr. PUGH] not being in his seat; but I suppose that we may as well dispose of it now.

The PRESIDING OFFICER. The question will be on concurring in the report of the committee.

Mr. STUART. I think the question should be on the indefinite postponement of the bill.

The PRESIDING OFFICER. The Chair will put the question in that form.

The bill was indefinitely postponed.

MOSES NOBLE.

The bill (S. No. 109) from the Court of Claims, for the relief of Moses Noble, was read the second time and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Moses Noble, agent for the brig Good Hope, and the schooners Delta, Jasper,

Sardine, Five Sisters, Commonwealth, and Two Brothers, for the benefit of the persons entitled thereto, the sum of \$1,704 68, being for fishing bounties to which those vessels became entitled in the fishing season of 1852.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATHAN WEEKS.

The bill (S. No. 113) for the relief of the heirs of Lieutenant Nathan Weeks, deceased, was read the second time, and considered as in Committee of the Whole.

Under its provisions the proper accounting officers of the Treasury will be directed to pay to the lineal descendants of Nathan Weeks, deceased, who was a lieutenant in the Rhode Island regiment, commanded by Colonel Angell, on the Continental establishment, during the war of the Revolution, and who was killed in the battle of Monmouth, New Jersey, on the 28th of June, 1778, the seven years' half pay of a lieutenant of infantry, amounting to \$1,119 72.

Mr. CLAY. Read the report in that case.

The Secretary read the report of the Committee on Revolutionary Claims, from which it appeared that it was satisfactorily proved that Nathan Weeks was a lieutenant in Colonel Israel Angell's regiment, of the Rhode Island line, in the Continental army, and that he was killed in the battle of Monmouth, in New Jersey, in 1778, leaving only one son, John Weeks, then a minor. It appears from the public documents that he received a bounty land warrant; but there is no evidence that the minor ever received the seven years' half pay of his father, under the resolution of August, 1780. Indeed, the proof to the contrary is satisfactory. The petitioners also ask the payment of a sum of money which they allege was due to him at the time of his death. The revolutionary records here afford no evidence of this. It is stated in a certificate of the Secretary of State of Rhode Island that, in the records of his office, there appears to be entered opposite to his name the figures £36 10s.; but by whom made does not appear. The committee do not consider this as sufficient evidence of a debt, but are well satisfied that the petitioners are entitled to the seven years' half pay of a lieutenant of infantry, and report a bill for its allowance.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES BELL.

The bill (S. No. 125) for the relief of the legal representatives of James Bell, deceased, was read the second time, and considered as in Committee of the Whole.

It provides for the payment to William Cameron, administrator to the estate of James Bell, late of Chambly, in the province of Lower Canada, deceased, for the use and benefit of his heirs and legal representatives, and to such other persons as may show themselves legally entitled thereto, the sum of \$329 31, being the balance of principal found due to the representatives of Bell upon the settlement of their accounts at the Treasury, under an act entitled "An act for the relief of the heirs of James Bell, deceased," approved the 30th day of June, 1834, with interest on that balance of principal from the 30th of June, 1834, till paid; and the further sum of \$14,536 20, being the amount of interest accrued on the principal debt of \$6,056 34, from the 23d of April, 1794, till the 30th of June, 1834.

Mr. WRIGHT. I ask for the reading of the report in that case.

The Secretary read the report, as follows:

The Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, late of Chambly, in the province of Lower Canada, deceased, beg leave to report:

That they have examined, with great diligence and care, the claim presented by the memorialists in their petition and accompanying documents, and find that it is just, and sustained by satisfactory proof. This claim was brought to the attention of Congress as early as 1794, when a report in its favor was submitted to Congress by the committee to whom it was referred. Subsequently a favorable report was made to Congress on this case by Albert Gallatin, then Secretary of the Treasury. From this period until the death of Mr. Bell, in 1814, the claim was constantly prosecuted; but after his death it was neglected by his children, until they learned that the statute of limitation enacted by Congress was no longer rigidly enforced, when they again brought it forward in the shape of a memorial to Congress.

Few cases brought to the attention of the committee have commended themselves to their sense of justice more strongly than this. On the faith of a proclamation issued by Washington himself, and addressed to the people of Canada, at the time of its invasion by General Montgomery, Mr. Bell not only furnished the troops with supplies of arms, provisions, clothing, munitions of war, timber, and cordage, for the construction of a flotilla, but joined the army in person, and led the volunteers, raised and equipped at his own expense. The fort was captured, and Mr. Bell was wounded; but his enthusiasm in the cause of liberty did not abate. His ample means were all at the disposal of the American army, and were contributed freely to insure the success of the expedition under the orders of Montgomery. After the fall of that gallant leader under the walls of Quebec, and the retreat of the army, Mr. Bell was taken prisoner, and would have been executed as a traitor but for the influence of certain powerful friends in Scotland, which was successfully exerted with the British general in his behalf. Through their instrumentality he was released, but his fortune was gone, and the remainder of his life was passed in seeking the payment of his claim against the Government. In 1814 he died in poverty, leaving his claim as a legacy to his children, who have been pursuing it for the last quarter of a century.

In 1834, an act was passed by Congress for the relief of Mr. Bell's heirs. This act directed the accounting officers of the Treasury to settle the several accounts of James Bell on equitable principles, for moneys advanced, services rendered, and for stores, materials, and supplies furnished, &c., with a proviso, however, inserted by the Senate, that the sum allowed should not exceed \$5,727 03. In pursuance of this act, the account was settled, and found to amount to \$27,147 54, which was made up of \$6,056 34 principal, and \$21,091 20 interest. There was thus left due to the heirs a balance of \$329 31 principal, and \$21,091 20 interest.

That the claim was one on which interest was legitimately due, a reference to its character very clearly makes manifest. In almost all cases of like character interest has been paid by Congress. But should principal and interest both be paid, the committee doubt very much whether the memorialists will even then receive a sum equal to that which their ancestor expended in the first place. Your committee, however, do not feel authorized, in the computation of interest, to go further back than 1794, (eighteen years after the supplies were furnished and services rendered,) from the fact that they have no evidence before them that the claim was ever presented for payment until that time. This will reduce the interest, as above stated, about one third. In the course of Mr. Bell's long imprisonment, and the compulsion he was under to keep his vouchers out of the sight of the enemy, by whom they would have been used as evidence against him, many of them, according to the proof before the committee, were lost or destroyed. It is therefore believed that a large portion of the original claim remains unsubstantiated, in consequence of the loss and destruction of the vouchers. For this reason, among others, the committee are of opinion that the \$329 31, with interest thereon from the time of the former settlement, together with the balance of interest then remaining unpaid, are justly due the memorialists. They, therefore, report a bill in conformity with this view of the case, and annex to their report the reports of several committees, both of the Senate and House.

Mr. FESSENDEN. I move to strike out the last section, providing for interest. I do not know but that it would be right enough on general principles to allow interest in this case, but interest was stricken out of Holgate's bill, and I do not see any reason why it should be given under the circumstances here, any more than there.

Mr. DURKEE. This claim is for supplies and munitions of war, furnished during the Revolution.

Mr. FESSENDEN. I have only to say, that in the case of Holgate, that has just passed, which was investigated by the Court of Claims, where the claim was followed up for years, precisely in the same way that this has been, and where the property was taken out of the parties' hands, violently, and disposed of by the Government, the Court of Claims refused to allow interest. I see no sort of distinction why interest should be given in this case and not in that, both being just claims against the Government. As interest by the practice of the Government, has not been allowed in the one case, I say it should not be in the other. I confess, that I do not think the rule of the Government in reference to interest is a just one. I think that the Government should be subjected to precisely the same rules that individuals are, in regard to the payment of interest. I see no reason why the people of the United States, who are so abundantly able to pay their just debts, should not pay interest in cases where individuals would be bound to pay it; but nevertheless, the decision is otherwise, and the practice has been otherwise, and it is not just to make distinctions between cases. Mr. Bell has been dead a long time; he is past all hope of receiving any benefit here, and I presume the great amount of this matter will go to agents, as in nine cases out of ten. I am inclined to think there will be no injustice done in striking out the interest.

Mr. CLARK. I agree, Mr. President, entirely

with the Senator from Maine, that interest should be allowed by the Government where they refuse or neglect to pay a claim, and it is properly prosecuted, in the same way that it should be allowed by an individual. I think the rule of the Departments, or the rule of the Government, refusing interest in such cases, is entirely wrong. I also think that it is never too late to begin to do right; and if we have been wrong heretofore, the sooner we set ourselves right the better; and we cannot do it on any better class of claims than on those which relate to the Revolution. Where a man in the early history of the Government, in the early struggles of the Republic, when the Government was poor; rendered his services, or furnished supplies, or furnished his money, and has been continually presenting his claim, and is now to be paid, it seems to me we should give him some just measure of interest. I hope the clause will not be stricken out.

Mr. FESSENDEN. It is of course a matter of indifference to me. I entertain the same opinion with the honorable Senator from New Hampshire; but the practice ought to be uniform, one way or the other. If we can begin with a new precedent that we will pay interest in all cases upon claims from the time they were presented to Congress, I have no objection; we are able to do it; but I should think we had better go back and reconsider the vote passing Mr. Holgate's bill just now, and put interest into that in the same way; and so with many others that pass here every session. With reference to old claims such as this—I cannot say how it is with regard to this individual claim—my experience and observation here have convinced me that the injustice that will be done by refusing interest is merely nominal. I do not think much of the money paid by the Government ever goes to the claimant. Nineteen cases out of twenty probably of this description, although justly due in point of fact, are hunted up and prosecuted for the benefit of the agents of claims; and, therefore, I do not feel that by refusing to pay interest there is a great deal of actual injury done; though I believe it is a sound principle of justice. Having said this, I shall make no further objection to it except simply to say that I shall vote to strike out the interest.

Mr. CLAY. The Senator from Maine has anticipated me in some of the objections that I intended to raise to this bill. In respect to interest, as he very properly says, interest never runs against the Government; and I believe that is a rule with all Governments. In ours, if we were to undertake to liquidate all the interest that has accrued on the claims which have been recognized by the Government, the Treasury would be exhausted in a short time; indeed, we could not raise the money to meet the demands which would be made against the Government. A claim which certainly is far better than this, has just been passed by the Senate, disallowing interest. The Court of Claims disallowed it on argument before that court, and the Senate confirmed that decision by its action to-day. But this case is not only obnoxious to the objection that the interest exceeds ten times, at least, the amount of the principal claimed, for the Senate certainly have not looked at the bill; I am sure they have not heard the reading of it properly—but it is obnoxious to another objection, which I will suggest directly.

But I will call the attention of the Senate to the fact, that the amount of balance of principal found due to the representatives of Bell, on the settlement of their accounts at the Treasury under the act "for the relief of the heirs of James Bell, deceased," approved 30th of June, 1834, was but \$329 31. Then the bill goes on to say:

"With interest on the said balance of principal from the 30th day of June, 1834, till paid, and the further sum of \$14,536 20, being the amount of interest accrued on the principal debt of \$6,056 34, from the 23d day of April, 1794, till the 30th day of June, 1834."

There is a balance of \$329 of principal found to be due at the Treasury in 1834, under the act for the relief of these heirs, and then here is interest claimed on that balance from that day until the present time, and the further sum of \$14,536 20 interest on \$6,056 34 from 1794 to 1834.

There is another thing to which I wish to call the attention of the Senate, and that is that this bill manifestly on its face is not for the relief of the heirs of James Bell. That is a mere pretext; it is

a mere screen to hide the real purpose of this bill, which is a bill for the relief of those who are speculating upon the legislation of Congress under the pretense of repaying a debt to a meritorious soldier and patriot, who advanced his money for the relief of the Government during her times of trouble and necessity. Here it is:

"For the use and benefit of his heirs and legal representatives, and to such other persons as may show themselves legally entitled thereto."

There is the real purpose of the bill. It is not for the heirs, it is not for the children of this deceased patriot and soldier, who expended his money and hazarded his life so generously in the defense of the country, but it is for some claim agent who has fished up this claim and preferred it to Congress. I doubt whether an heir of James Bell is cognizant at this day of the fact that this bill is pending before Congress. I doubt whether an heir of the deceased ever authorized its prosecution before Congress; but one of the claim-agents who are ever hanging around this Capitol, who feed upon public plunder, and who are eternally speculating upon the legislation of Congress, has preferred the claim; and in order to secure the money, and to prevent its eluding his grasp, here is put in "and to such other persons as may show themselves legally entitled thereto." It is perfectly patent on its face that this bill is not for the relief of the heirs of James Bell; that it is not to reimburse them for moneys advanced by their ancestor; but that it is really to afford a good speculation to some agent who has bought it for a cent on the dollar, or even less.

Mr. CAMERON. It is right, perhaps, that I should correct the Senator from Alabama in regard to a statement which I am sure he made under a misapprehension. The person who is the administrator of this estate bears the same name as myself, though he is no relation of mine. I know something about the case. It has been here ever since I first came to the Senate. I know a brother of his was here some ten or twelve years. This man struggled here in poverty eight or ten years. He had some little property when he came here, but he has consumed it all in hunting up the claim. The grandfather pursued it while he lived; the son of the grandfather pursued it; and now it has come down to the third generation. I have no doubt that speculators will have some share under the bill; but to avoid that, I move that the words commented on by the Senator be stricken out, so that it be confined entirely to the heirs of James Bell.

The PRESIDING OFFICER. There is an amendment now pending.

Mr. CLAY. I ask for the yeas and nays on the amendment proposed by the Senator from Maine, to strike out interest.

The yeas and nays were ordered.

Mr. MALLORY. Mr. President, as the yeas and nays are to be called, I deem it but proper to say one word. I shall vote for the amendment to strike out the allowance for interest on this claim, because I do not regard this as a case in which interest is justly due; but I beg leave to differ entirely with my friend from Alabama, in his assertion that the Government does not pay interest upon claims, or that the Senate has at any time recognized a rule of that kind. On the contrary, I hold that the Government is equally bound with an individual, bound by the same sense of justice under all circumstances, to pay interest where it may be due. The Senator from Alabama proceeds on the idea that the Government is always ready to pay its just claims, and that if it does not pay them, it is because of the *laches* of the claimant himself. In such cases, of course interest is not allowed, on the presumption that our Government is always ready to pay. But so far from there having been any such rule in this regard, as has been stated, the rule is directly the reverse. We have the opinion of the Attorney General of the United States, so late as 1851, that the Secretary of War might, in a claim before his Department, legally pay interest. There is no law whatever, governing the point. There is a departmental usage which has grown up in the Treasury, and other Departments of this Government, by which interest on claims has not been allowed; but if it were necessary to show that Congress has from time to time paid interest upon claims which have been acknowledged but were not paid at the time they were due, I could

adduce numerous ones. With these few remarks, and simply protesting against the principle laid down that the Government is not liable for interest in any case, I shall vote for the amendment.

Mr. CLARK. I agree, Mr. President, that the practice of the Government should be uniform. I agree, too, that it has been hitherto the practice not to pay interest to any great extent; but if that principle has been wrong, it is no reason why we should not begin now, and attempt to establish a uniform practice to pay interest. It is said that it is to be presumed that the Government is always ready to pay its debts. I admit that. Suppose you take the presumption to be that the Government is ready to pay its debts, it is not a conclusive presumption; and when the claimant has overthrown that presumption, and has shown distinctly that the Government was not ready in his case, and that it was the fault of the Government that he did not get his money, then the Government ought to pay interest; and that I understand to be this case. I understand the committee to have investigated it, and to say that the interest ought to be allowed, and therefore I shall go against striking it out.

It is no objection to my mind that this money may not all reach the hands of Mr. Bell, or his heirs. The question is not so much where the money is to go, as whether we owe the money and discharge the debt. If we owe the money to his heirs and we pay it over to them, we discharge the debt; and if other persons have aided those heirs and have become legally entitled to it, the bill provides that they shall have a portion of it, and why not? The Government has nothing to do but to discharge its own duty; and it discharges that duty by paying the debt. No matter whether it goes to this man or somebody else who is entitled to receive it; if the proper party gets it the Government has discharged itself of the debt which it owes to this person or his heirs.

Mr. DURKEE. Mr. President, allow me to call the attention of the Senate to the fact that this debt was acknowledged by an act of Congress in 1834; but the appropriation was insufficient to discharge the claim, as appeared on auditing the same at the proper Department. This bill provides for paying the balance, including interest.

It seems to me if interest is to be paid on any claim, this is one that should not be overlooked in that respect, as it is for supplies furnished the army during the revolutionary war.

Interest has only been cast from the time that the claim was presented for payment and acknowledged due by the Secretary of War, who recommended an appropriation by Congress for its payment.

Mr. CLAY. I will say in reply, that Congress has once liquidated the debt to the extent of its estimate of the amount due, as appears by the act of 1834. Five thousand seven hundred dollars was appropriated to pay it, and the parties were then authorized to go before the Secretary of the Treasury and have the amount estimated, and it appears that over and above that there is a balance of \$329 that is now claimed. But it is not simply that balance which is asked, although all that Congress, after investigating it in 1834, allowed, has been paid; but we are asked to allow interest on that balance, and then in addition, over and above what was recognized at the Treasury Department, interest on the original debt from 1794, amounting in the aggregate to over fourteen thousand dollars. There is a claim that we have just passed for the heirs of Lieutenant Weeks, where interest has been accruing since the revolutionary war, for it appears that he was killed at the battle of Monmouth. There was no interest claimed by, nor allowed to, his heirs. In this particular instance where the debt has been once settled after being examined at the Treasury Department, we are asked to go back behind their settlement and pay interest to the amount of \$14,000 from 1794.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine to strike out the interest.

Mr. FESSENDEN. My motion only goes to strike out the additional \$14,000, (not to strike out the interest on the three hundred dollars,) because I consider the debt liquidated up to 1834.

Mr. POLK. I do not exactly understand the extent to which the amendment of the Senator from Maine goes. I should like to have it read.

The PRESIDING OFFICER. The Secretary will read the amendment.

The Secretary read the amendment; which is to strike out the following words:

"And the further sum of \$14,535 20, being the amount of interest accrued on the principal debt of \$6,056 34 from the 23d day of April, 1794, till the 30th day of June, 1834."

The question being taken by yeas and nays, resulted—yeas 37, nays 7; as follows:

YEAS—Messrs. Bell, Benjamin, Bright, Broderick, Brown, Chesnut, Clay, Clingman, Collamer, Davis, Fessenden, Fitzpatrick, Foot, Green, Hale, Hammond, Harlan, Houston, Iverson, Johnson of Tennessee, Jones, Kennedy, King, Mallory, Mason, Polk, Reid, Rice, Sebastian, Seward, Shields, Stuart, Toombs, Trumbull, Wade, Ward, and Wilson—37.

NAYS—Messrs. Clark, Crittenden, Dixon, Doolittle, Durkee, Foster, and Wright—7.

So the amendment was agreed to.

Mr. CLAY. I move now, further to amend the bill by striking out all after the word "thirty-four," commencing with the words "with interest thereon." Under the amendment proposed by the Senator from Maine, we have stricken out the interest estimated from 1794. I now propose to strike out the interest from 1834, when the balance was ascertained. I would not move to strike it out if it had not been for the fact that this subject had once undergone investigation by Congress, and they passed an act appropriating \$5,700 to pay the claim. The act quoted in the report says, "Provided, the sum to be allowed shall not exceed \$5,727 03," which was appropriated for that purpose. The Treasury Department, it seems, investigated the claim, and it appears, by their report, that a balance of \$329 was due. This proposes to pay interest on that sum. Inasmuch as Congress once determined the amount which, in their wisdom and justice, was due, and that amount has been paid, I do not think interest ought to be paid on this balance, or, indeed, the principal either, but I would not haggle about the principal, as it is so small in amount. I move to strike out the interest. The words to be stricken out are:

"With interest on the said balance of principal from the 30th day of June, 1834, till paid."

Mr. TOOMBS. Does it appear by the report that there was any application for this balance after 1834?

Mr. CLAY. None at all.

Mr. TOOMBS. If it was claimed then, and has been continuously claimed since, the interest ought to be allowed. If not, they have no claim to interest. If they applied, and were not paid, they ought to have interest; but if they did not apply, they ought not to have it.

Mr. CAMERON. I know myself that these people have been pursuing this claim for twelve or thirteen years. I think that shows application.

Mr. TOOMBS. It depends entirely on the application. If they applied for the balance, I think interest is due on it.

Mr. DURKEE. Application was made, so far as application could be made, to Congress to appropriate the money from time to time.

The amendment of Mr. CLAY was rejected. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MRS. HENRY R. SCHOOLCRAFT.

Mr. SEBASTIAN. There is a bill for the relief of Mrs. Henry R. Schoolcraft that has just passed the House of Representatives now lying on the Secretary's table. I hope I shall be indulged by the Senate in taking up that bill, and passing it now. I ask the unanimous consent of the Senate for that purpose.

There being no objection, the bill (H. R. No. 813) for the relief of Mrs. Henry R. Schoolcraft, was read twice and considered as in Committee of the Whole. It requires the Secretary of the Interior to cause a copy-right to issue securing to her, her heirs, assigns, and legal representatives, the exclusive right to republish the book entitled "History, statistics, condition, and prospects of the Indian tribes of the United States," heretofore published under the order of Congress, and to make and publish any abridgment or compilation thereof, for the term of fourteen years from the passage of this act; and also requires the transfer and delivery to her of all the plates, the property of the United States, used in the printing of the book. This is to be accepted in full satisfaction

of all manner of claim for compensation for work, time, or money expended in the collection of materials for the book, by Henry R. Schoolcraft.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time and passed.

JOSE DE LA MAYA ARREDONDO.

The next bill on the Calendar was the bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo.

Mr. YULEE. That bill can be passed over. It is a bill from Florida.

The bill was passed over.

W. Y. HANSELL AND OTHERS.

The bill (S. No. 135) for the relief of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell, was read the second time, and considered as in Committee of the Whole.

It provides for the payment of \$30,000, being the balance of the sum of \$60,000 reserved in the treaty between the United States and the Cherokee nation (negotiated on the 29th of December, 1835) for the payment of these claims, and misapplied by the Commissioner of the United States to the payment of other claims; the sum to be distributed in the following manner: To W. Y. Hansell, \$11,146; to W. H. Underwood, \$9,035; to the legal representatives of Samuel Rockwell, \$10,144.

Mr. STUART. That is a large sum of money; and I should like some explanation by reading the report, or something else. Perhaps the chairman of the committee can give the necessary explanation.

Mr. TOOMBS. Read the report.

The Secretary read the following report:

The Committee on Indian Affairs, to whom was referred the petition of W. Y. Hansell, William H. Underwood, and Samuel T. Becker, administrator of Samuel Rockwell, beg leave to report:

The claim of the petitioner is for three years' professional services as attorneys and counselors to the Cherokee nation of Indians.

By the tenth section of the treaty of 1835 it is provided that "the United States also agree and stipulate to pay the just debts and claims against the Cherokee nation, held by citizens of the same; and also the just claims of the citizens of the United States for services rendered to the nation, and the sum of \$60,000 is appropriated for this purpose."

A question having early been made as to the construction of this section of the treaty, the Secretary of War submitted the same to the Attorney General during the Administration by which the treaty was made, and on the 20th April, 1857, the Attorney General communicated his opinion thereon, in which he says: "I construe the clause as though the phraseology had been 'and also the just claims of citizens of the United States for services rendered to the nation, for which purpose the sum of \$60,000 is appropriated.' This, says the Attorney General, I think, is the precise grammatical effect of the language used, and in a case of doubt the grammatical construction should be preferred, unless plainly repugnant to the probable intent. In the present case the grammatical construction will produce no injustice, whereas the extension of the appropriation to both classes of cases enumerated in the clause might do great injustice. It is, moreover, in accordance with the statement of Mr. Schermerhorn, who informs us that the sum of \$60,000 was named in the first draft of the article, exclusively with reference to the last description of claims." (See Opinions of Attorneys General, vol. 3, page 208.)

The same construction has been given by the Judiciary Committee of the Senate, to whom this claim has been heretofore referred.

The committee also find that the board of commissioners, on the 20th November, 1838, referred this claim to certain distinguished citizens of Georgia, to ascertain the proper amount that should be awarded for their professional services, under the following instructions:

"The claimants being dissatisfied with the amount allowed on their claims, and the board of commissioners, relying on your competency, from your long practice as attorneys in the courts of Georgia, to decide upon the merits of the several claims, hope that you will take them into consideration, and report to them your opinion hereon at as early a day as practicable. Any three of those selected will be competent to make the desired report."

On the 10th December of same year, the following report was made:

"The undersigned, in compliance with your request, in the submission of the matters of account of Messrs. Hansell, Rockwell, and Underwood, against the Cherokee nation for professional services rendered as counsel for the Indians, have the honor to report that, after a careful examination of the several items and charges in the accounts submitted, and a comparison with charges by professional gentlemen in the middle section of Georgia, and due consideration thereon, they are unanimously of the opinion that Mr. Hansell should receive the sum of \$24,585; Mr. Rockwell should receive \$22,920, and Mr. Underwood the sum of \$38,692—subject to be diminished by the sums heretofore paid them, respectively."

This report was signed by Nathaniel C. Sayre, Edward Tracy, Hiram Warner, Washington Poe, and Henry G. Lamar.

Instead of acting on this report, the board of commissioners referred it to the Secretary of War, who decided that he had no authority to act on the same, and the parties were finally driven to Congress.

The committee believe that the parties are justly entitled to the relief prayed for by them, and they report a bill for the sums still due and unpaid. They beg leave also to refer to the report made by Mr. Berrien, from the Judiciary Committee of the Senate, and to adopt the same as part of their own report.

Mr. TOOMBS. I will state to the Senator from Michigan a few of the main facts in this case. In 1830, the State of Georgia extended her jurisdiction over the Cherokee nation of Indians. Thereupon there grew up a great controversy between Georgia and the Indians and the United States. The Supreme Court of the United States interposed for the purpose of testing the legality of that extension of the criminal jurisdiction of the State. These gentlemen were leading counsel in the State, and were employed by the Cherokee nation to vindicate their rights in the local courts, where they were indicted under our criminal laws for murders and crimes of various sorts, and in the Supreme Court of the United States to test our right to subject the Indians to our jurisdiction. They were employed very much against the policy of the State, and against the general feeling, to the destruction of their professional gains, which were very great. Two of them are now living. They were three of the most eminent gentlemen of the legal profession in the State. When the treaty of New Echota was made, this fund was provided for their payment. The report shows why it was not paid.

The purpose for which they were employed, was in opposition to the policy of this Government under the lead of General Jackson, who was carrying out, and I think very properly, as far as he could, the policy of Georgia to extend her jurisdiction over the Cherokees, and force them to go west of the Mississippi. These gentlemen were resisting that policy by defending the Indians against prosecutions in the State, and asserting their rights to independent sovereignty within the State of Georgia; but I am quite satisfied, although not at all concurring in the policy of the Indians, but agreeing with that of General Jackson and my State at the time, that under the treaty of New Echota these gentlemen ought to have been paid, and the money ought not to have been diverted to other purposes.

Mr. STUART. I only wish to make a single inquiry of the Senator from Arkansas, [Mr. SEBASTIAN.] The report which has been read, does not show the diversion of this money. Can the Senator state how the fund appropriated by the treaty has been diverted? The bill asserts that the fund appropriated by the treaty has been diverted, but the report does not show how; indeed it says nothing about it.

Mr. SEBASTIAN. I will state for the information of the Senator from Michigan, that the report, which bears my name, is one which was, in point of fact, not written by myself, but by the late General Rusk, when a member of the Committee on Indian Affairs. Still, I have a general knowledge of the case; and, after a very careful examination of it, we were satisfied of the fact that the appropriation in the treaty of \$60,000 for the purpose of paying for the services of these gentlemen was specific in its character; the Attorney General of the United States had so declared; but, though it was to pay for this character of expense, the fund was diminished so that these gentlemen have not been paid the full amount specified in the treaty as compensation for them. The Senator's question I cannot now answer. I have forgotten the details; I cannot answer the question specifically. It has been investigated fully and repeatedly before the Committee on Indian Affairs; but the report, though it appears in my name, was, in point of fact, drafted by the late Senator from Texas.

Mr. STUART. The Senator will allow me to interrupt him—and I call the attention of the Senator from Georgia to the question I am about to put.

Mr. SEBASTIAN. The Senator from Georgia is more able to give an answer, perhaps, than I am myself.

Mr. STUART. I understand the construction given by the Attorney General to be, that \$60,000, according to the treaty, was due to the claimants who were citizens of the United States

as distinguished from those who were members of the Cherokee nation themselves.

Mr. TOOMBS. Yes, sir.

Mr. STUART. But is it not true that the liability assumed by the United States was only \$60,000?

Mr. TOOMBS. Yes.

Mr. STUART. Then the importance of the question I ask: what has been done with this money? The bill assumes that it has been diverted, but the report does not show any diversion at all.

Mr. TOOMBS. It was paid to claimants against the nation who were not citizens of the United States. The \$60,000 clause was put in by Mr. Schermerhorn and the other commissioners to pay these people, to provide for the claims of citizens of the United States. For that purpose the fund was reserved, but the Government diverted the \$60,000 to pay debts that were due to Indians, by which these people were defrauded out of the \$60,000. That is the history of it.

Mr. STUART. The Clerk has put in my hand a report of Mr. Berrien, which was not read, and which contains this language:

"Subsequent commissioners were appointed, who disagreed in opinion upon the claim; and ultimately, on the suggestion of the Secretary of War, the commissioners referred the account to seven professional gentlemen of Georgia, with power to any three to act, five of whom united in an award, which was laid before the commissioners. In the mean time, the commissioners had diverted a portion of the fund reserved for the payment of these claims to others, leaving only some eight thousand dollars of that fund expended, which sum the last board of commissioners, acting under the award, directed to be paid to the memorialists, it being the whole amount of the reserved fund which remained under their control."

It states that the fund was diverted, but does not show how.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAPTAIN CHARLES G. RIDGELY.

The bill (S. No. 144) for the relief of Captain Charles G. Ridgely, of the United States Navy, was read the second time, and considered as in Committee of the Whole.

It makes provision for the payment to Captain Charles G. Ridgely, of the Navy of the United States, of \$6,000, for extraordinary expenses incurred when he commanded the United States squadron in the Pacific ocean, in the years 1820 and 1821, in receiving and entertaining on board of his ship the head officers of the Governments in whose ports he was, who were compelled to seek a temporary refuge under the flag of the United States, and for other extraordinary expenses which he incurred in the execution of the orders of the Navy Department.

Mr. FESSENDEN. I should like to hear the report in that case.

The Secretary read the report; from which it appears that during the years 1820 and 1821, whilst Captain Ridgely was in command of the American squadron in the Pacific ocean, and when war was raging in Peru and Chili, the Spanish Viceroy, having been deposed, sought a temporary refuge, with his suite and attendants, on board of the United States frigate Constellation, under the command of Captain Ridgely; that he incurred considerable expenses in entertaining these guests; that, on other occasions, he received distinguished Spaniards on board of his squadron, owing to the prevailing unsettled state of things; and that, whilst he was affording them a protection, dictated by humanity, and warranted by his instructions from the Navy Department, he incurred extraordinary expenses in entertaining them; and that he also performed other services, during his cruise, not falling within the ordinary duties of the commander of a squadron, but demanded by the unsettled condition of public affairs, and the consequent necessity of protecting the substantial interests of his country.

Upon referring to the Navy Department for a knowledge of the instructions under which Captain Ridgely sailed, for the purpose of ascertaining whether his conduct was justified by them, the committee found that a large discretionary power was given to the commanding officer, upon such a distant and delicate duty. The Secretary of the Navy directed him, among other things, as follows: "In touching at the ports of Chili and Peru, and all others in South America, you will

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ascertain whether the trading or whale ships of the United States are molested in the prosecution of their voyages, and the causes of such molestation, and afford to them all particular relief, in cases of need; and, at all the ports you may visit, make such display of the ship under your command as shall be best calculated to produce impressions favorable to the interests of the United States." "You will visit all the United States ships and vessels you may meet, with a view to ascertain their situation, and whether they have been interrupted in their lawful pursuits; afford them aid, protection, and security, consistently with the laws of nations and the respect due to the existing authorities, wherever and whenever such protection and aid shall be needed, and can be afforded."

The two following examples are selected among the services performed by Captain Ridgely under these general instructions, which appear to fall legitimately within their scope. In 1821 a revolution took place at Lima, in Peru, and that city fell into the hands of General San Martin. Immediately preceding the fall of the city, the Viceroy of Spain, General Pezuela, an old gentleman of seventy years of age, and who had been Viceroy of Peru for twelve years, was deposed, and made his escape on board an American merchantship, called the General Brown. He was accompanied by his son-in-law, a colonel in the service of the King of Spain, and by his confessor. In a day or two after this event, the frigate Constellation arrived, and Captain Ridgely found a determination existing, on the part of the commander of the fleet of Chili, to capture the General Brown, with the intention of sacrificing the life of this venerable Viceroy, and listened, from humanity and policy, to the appeal for protection on board of his ship for the governor who had for so many years presided over the country, and who might, perhaps, be soon called upon to resume his power. All the other ports of Peru were at that time under the Government of Spain, and prudence, therefore, required that a kind feeling towards the American flag should be maintained in those ports. These persons were received on board of the frigate by Captain Ridgely as his guests, and entertained at his expense, until an opportunity was afforded of placing them in safety.

Upon another occasion, Mr. Prevost, then at Lima, exhibited to Captain Ridgely a letter which he had received from the master of a large merchant ship, belonging to New York, with a very valuable cargo on board, stating that his vessel was taken possession of by the authorities of Guayaquil, and calling for assistance from the civil and military powers of his country. The revolution of Guayaquil at that moment, and the absence of all regular government, required a speedy and effectual interposition. Although Mr. Prevost was not, perhaps, strictly accredited, according to diplomatic etiquette, to the authorities of Guayaquil, yet he was known to be an agent of the American Government, and Captain Ridgely promptly repaired with him to the relief of their countrymen in distress. The union of civil and military interference was too influential to be resisted, and the vessel was released, but the expenses of maintaining Mr. Prevost fell, of course, upon Captain Ridgely, and are properly chargeable to the United States.

These two cases will serve to illustrate the general character of the services rendered by Captain Ridgely, under his instructions. The price of provisions is represented to have been enormous. Captain Clack certifies that, at the time when the Viceroy was received on board, flour was selling for \$100 per barrel, and other articles proportionably high. Although no precise data exists in the case from which to compute exactly the expense sustained by the commodore, the committee endeavored to ascertain it, and believe that \$6,000 would not be more than a fair allowance.

Mr. POLK. I have been told by the Senator from Maryland [Mr. KENNEDY] that, since the report of the bill, perhaps, the party who is named as the beneficiary of it has died, and it

will be necessary to amend it for the purpose of giving his representatives the benefits of the bill. If there is an executor or administrator, I suppose it had better go to him.

Mr. KENNEDY. There is an executor, a son-in-law of Commodore Ridgely, who asks that it may be so amended as to let his legal representatives enjoy the benefit of it.

Mr. POLK. I move that that amendment be made, by inserting in line three, after the word "to," the words, "the legal representatives of." The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in; and the bill ordered to be engrossed and read a third time. It was read the third time.

Mr. DOOLITTLE. I rise simply to inquire, for I do not profess to have any knowledge on the subject, whether there are any precedents of this kind existing in the history of the Government, which justify such an expenditure of the money proposed to be repaid?

Mr. POLK. When this claim was before the committee, it was stated that similar appropriations had been made heretofore by Congress.

The bill was passed; and its title was amended so as to read: "A bill for the relief of the legal representatives of Captain Charles G. Ridgely, of the United States Navy."

JOHN DUNCAN.

Mr. JONES. I ask the unanimous consent of the Senate, if it is necessary, to take up the bill (H. R. No. 336) for the relief of John Duncan. I have a letter from a distinguished member of the House of Representatives, who says:

"As you hope for salvation, moral, political, physical, and eternal, do pass John Duncan's private pension bill."

I hope the Senate will pass it. I want to save myself.

Mr. IVERSON. It is with a great deal of reluctance that I rise to oppose the motion of my friend from Iowa.

Mr. JONES. I merely wish to move to recede from the amendment of the Senate. It is to give a poor blind man sixteen dollars, instead of eight dollars pension. He is entirely blind, and very poor.

Mr. IVERSON. What bill is it?

Mr. JONES. A House bill for the relief of John Duncan.

Mr. IVERSON. If I can get any pledge from the Senate that they will not follow the gentleman's example, and ask to take up other bills out of order, I will not object in this case.

Mr. JONES. The Senate shall promise that. [Laughter.]

The PRESIDING OFFICER. The Chair hears no objection.

The Senate proceeded to consider the amendment of the Senate to the bill (H. R. No. 336) for the relief of John Duncan. The Senate passed the bill at the last session with an amendment striking out "sixteen dollars" and inserting "eight dollars," as the amount of the pension per month, in which the house non-concurred.

Mr. JONES. I move that the Senate recede from its amendment.

The motion was agreed to.

JOHN ERICSSON.

Mr. GREEN. I beg leave to call the attention of the Senate to a motion to reconsider, which I made at the last session and which now stands on the Calendar, on the bill for the relief of John Ericsson. I beg to call that up simply to have a decision. I am willing to withdraw the motion because I am satisfied; but if anybody objects I cannot withdraw the motion. It is the bill (S. No. 90) for the relief of John Ericsson. It was passed; I moved to reconsider it at the suggestion of a friend. I have examined it, and I think I was wrong, and I always wish to correct every wrong I make.

The PRESIDING OFFICER. The Senator from Missouri asks unanimous consent to take up the bill for the relief of John Ericsson. The bill

will be taken up unless objected to. The Chair hears no objection. The question is on reconsidering the vote by which the Senate passed the bill.

Mr. GREEN. I ask leave to withdraw the motion to reconsider.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. GREEN. The bill stands passed.

The PRESIDING OFFICER. Yes, sir.

JAMES SUDDARDS.

The bill (S. No. 148) for the relief of James Suddards, was read the second time, and considered as in Committee of the Whole.

It proposes to provide for paying to James Suddards, passed assistant surgeon, United States Navy, the sum of \$413 14, being the difference of compensation to an assistant surgeon and a passed assistant surgeon from the 17th of May, 1854, to the 9th of March, 1856.

Mr. STUART. I should like to hear the report in that case.

The Secretary read the report; from which it appears that the petitioner was commissioned as assistant surgeon, United States Navy, May 19, 1849, and was entitled, by the act of 1823, to an examination for promotion to the grade of passed assistant surgeon May 17, 1854, having been in the Navy five years, and seen two years' sea service. In 1851 he was ordered to the Pacific station, where he was detailed on duty until May, 1855, when he was ordered home. In March, 1856, he passed a satisfactory examination, and received his promotion. He now asks to be allowed the difference of compensation between an assistant surgeon and a passed assistant surgeon from the 17th of May, 1854, to 19th March, 1856, which he lost in consequence of having been employed on foreign service at the time he was entitled to his examination and promotion. An act was passed at the last session of Congress for the relief of Surgeon Thomas B. Steele, under precisely similar circumstances.

Mr. STUART. I hope the Senate will give their attention to this case, and see whether they are prepared to adopt this principle. The report refers to a case which it is said was passed, probably passed without attention being called to it. This man being abroad on service as an assistant surgeon beyond the time when by the law he might have an examination for promotion, if he had applied for it, now comes and asks this Government to pay him as a surgeon, from the time when he might have applied, if he had been at home, and had seen fit to do it. Now, sir, I think that is the most remarkable proposition I have ever seen presented. It is assuming that he would have applied if he had been at home, and that if he had applied, he would have been admitted; neither of which is susceptible of proof.

Mr. IVERSON. I do not think it so very extraordinary a case as the Senator from Michigan seems to consider it. There are two cases upon the docket; one of which is Dr. Suddards's, and the other Dr. Howell's: both of which the Committee on Claims instructed me to report. Both Houses of Congress have established this precedent in the case referred to in the report. It is nothing more than this—the whole case is in the compass of a nutshell—Mr. Suddards was an assistant surgeon, and by the act of Congress he was entitled to an examination at a particular day; having served five years in the service, and been two years at sea; he was entitled to an examination to be passed up to the position of surgeon at a certain time. At that time he was absent upon actual service at sea. It was no fault of his that he was not examined at the time. He was absent upon service at sea, under the direction of the Government; and he could not be here, therefore, to ask for his examination.

The Senator says that he might or might not, have applied for his examination, if he had been here. The fact that the very moment he came home he did apply for his admission, and was examined and passed, is evidence, it seems to me,

to any reasonable man that he would have applied if he had been here at the time he was entitled to have applied, and that if he had applied he would have passed the examination, and would have been promoted. Now, sir, it was no fault of his that he was absent at the time; it was the fault of the Government. He was carried out, by its orders, to sea, and could not be here. There were other assistant surgeons, who were here at home, doing nothing at all; they were here lying on their oars, walking about, going into grog-shops, and other places in the city of Washington; and they, because they were here in this idle manner, had the opportunity of examination, were passed to promotion, and have gone on the list of promotion, and have received pay all this time.

In the case of Dr. Howell, which is next in order on the docket, at the very first examination that took place under the order of the Secretary of the Navy, after he came home from sea, he applied for examination, was examined, and passed, and he was put on the roster next to a man who was here at the time, who was not at sea, and who was examined and passed two years before him. That man has drawn his increased pay all that time, and he happened to get it because he was here doing nothing, while Mr. Howell was serving his country abroad, upon the coast of Africa, in the most dangerous position, perhaps, to which anybody is exposed.

Mr. STUART. I hope the Senator will allow me to ask him a question.

Mr. IVERSON. Well, sir.

Mr. STUART. According to this bill, and according to the report, I understand that an assistant surgeon must have been five years an assistant, and must have seen two years' sea service, in order to entitle him to an examination.

Mr. IVERSON. That is the fact.

Mr. STUART. Then how does it happen, as the Senator supposes, that a man who is here in Washington doing nothing, gets promotion? It might be in this very case that the two years' sea service that entitled him to the promotion was part of the very service which kept him abroad, and that without that he could not have been promoted at all.

Mr. IVERSON. No, sir. If you will hear the letter of the Secretary of the Navy on the subject, and the decision of the Attorney General, you will perceive that at the time the law gave him the right to examination, he was entitled to it in consequence of the services previously performed by him. That is the fact. The committee would not have reported it, if that had not been the truth. The opinion of the Attorney General, who decided the question as to pay in this case, and the report of the Secretary of the Navy, show that if he had been here, he would have been entitled to an examination at the time this bill proposes that his pay shall commence. He could not have been entitled to it, if he had not served the five years. He had actually served the five years, and he had been two years at sea anterior to that time. Afterwards, he was one or two years at sea in addition to the time required by law. These are the facts. I feel no particular interest in the case.

Mr. SHIELDS. The Senator from Georgia is clearly right. It seems to me the Senator from Michigan has presented a very singular argument in this case. As the report of the Senator from Georgia shows, this man, under the law of the United States, had a clear right to promotion after five years' service and two years at sea, but being absent, being in the service of his country and on duty, he was unable to avail himself of this clear legal right until he returned. That is the way I understand it. On his return he was examined, and received the appointment of surgeon. Now, it strikes me, that from the time when he was clearly entitled to promotion as a surgeon until the time when he was afterwards appointed, being necessarily absent on duty, he is entitled to the pay of a surgeon.

Mr. BAYARD. Mr. President, the view which I take of this case is, that if a man enters into the Army or Navy of the United States, he is equally in the service of the country, whether he is ordered abroad or remains at home; and if the Departments do their duty, I think we have no right to censure a man for remaining at home; it is no evident fault of his if the Departments do not

choose to order him abroad. But in the Army and Navy, as well as in civil life, I suppose a man who enters into the occupation, takes the exigencies of the occupation which he enters into. He takes his chance of success connected with it, all its difficulties, with the embarrassments that may arise in the course of his service. Whenever the time arrives at which he is promoted, he is entitled to the increased pay. Until he is promoted, I do not feel myself disposed to go back and give him back-pay.

Mr. BENJAMIN. I objected to the passage of this bill, I remember, at the last session of Congress; and I wish to call the attention of the Senate to this fact, that there are three or four or five of these cases.

Mr. IVERSON. If the Senator will allow me, I will state that he is mistaken. There are but two of these cases, one for the relief of Suddards and one for the relief of Howell.

Mr. BENJAMIN. What is the bill for the relief of Carrington, an assistant surgeon?

Mr. IVERSON. I do not know. It is not from my committee.

Mr. BENJAMIN. It is from the Committee on Naval Affairs. A bill for the relief of Robert Carter, assistant surgeon, is another. That makes four. I do not know how many more there may be. I want to call the attention of the Senate to this point, that if we intend to allow assistant surgeons promotion at the end of five years' appointment and two years' sea service, let us pass a general law to that effect; but the idea of taking up the case of each assistant surgeon, one after the other, and giving him back pay for a time when he was not a surgeon, as if he had been a surgeon during that time, is in reality repealing the general law for the regulation of the naval service, and making exceptions of each officer as he comes up. If he is entitled to his full appointment as surgeon, after being at sea two years and having been in the Navy five years, let a bill be reported from the Naval Committee to make that the general rule. The idea that we are to pay a man the full pay of a surgeon when he was only an assistant surgeon, because, if he had been home, and if he had passed an examination, he would have got the rank of surgeon, is, I agree with the Senator from Michigan, going further than the Senate ever yet has gone.

The bill was reported to the Senate without amendment.

The PRESIDING OFFICER. The question is, "Shall the bill be engrossed and read the third time?"

Mr. IVERSON. I ask for the yeas and nays. Let the question be settled.

The yeas and nays were ordered.

Mr. BELL. I think the honorable Senators who have objected to this bill, if they will examine the subject, will find that Congress has passed several bills precisely upon the same grounds.

Mr. BENJAMIN. Only one.

Mr. BELL. If I do not misremember, there was not a dissenting voice in the Committee on Naval Affairs when the question was presented. It was before that committee, I am sure, more than once. The Senate will understand that the pay of surgeons is increased by the length of time they are employed in the public service; and if an officer is not promoted regularly at the time at which, by the general regulation, he may properly apply to be promoted, there is a loss of pay, a loss of the compensation to which he seems to have a claim by regulations existing when he enters the service. The honorable Senator from Florida can state the question better to the satisfaction of the Senate than I can, because he is more familiar with the regulations on this subject. If an assistant surgeon be at sea, say upon a three years' tour of service in the Pacific, or in the Mediterranean, and during the interval of his absence the time occurs when, according to the regulation and the law—these regulations are laws—he would be entitled to promotion, then, by his detention in the public service, by that accident to him, beyond his control, or under the orders of the Navy Department, by reason of which he is not at home to make his application for examination to receive his promotion, he loses the compensation to which he is, by regulation, entitled. It is not his fault; it is no negligence of his. On the contrary, he is in the performance of his duty strictly. He cannot leave the public

service. If he were to apply for it, he would not be permitted to do it.

Mr. STUART. I hope the Senator will allow me to ask him a question. If I am correct, it is not necessary that an assistant surgeon should wait any particular time for his examination; but the rule is the same in the Army and in the Navy. He may have his examination when he chooses, and if he passes that examination, then, whenever he has had two years of sea service, he is entitled to promotion. But it is not necessary that he should wait until the end of the five years to have his examination.

Mr. BELL. I do not suppose it is, but I refer to the Senator from Florida to know how the fact is. I did not hear the bill read, and I was not attending to the reading of the report; but I know we have relieved in one case, and I thought it was upon a sound principle.

Mr. MALLORY. I partly agree with my friend from Louisiana; but just such bills have heretofore been passed by Congress without much dissenting opinion, and the only reason for passing them, that I can conceive of, is this: The assistant surgeon being entitled to his examination, may be by possibility kept away, and preference given to another who will obtain his examination, and get rank and precedence over the one that is kept away. It is interfering, congressionally, to protect the officer against Executive or departmental favoritism. It cannot by possibility be so in the Army. It very rarely occurs that an officer does not pass this second examination. He is examined first when he enters the service generally, and when he comes to the second examination it is very rare indeed that he does not pass it. The presumption always is that he will pass it, and I can see no way in which you can secure the right of the officer to his rank, to precedence, to that examination to which the law entitles him, than by dating his rank and pay from the time when he is entitled to the examination. If you do not do that, you place it in the power of those who are in the Department to keep A on the coast of Africa, and bring B home, when exactly the reverse should be the case, in regard to the rights of the parties themselves. I send the law to the Clerk, and ask him to read it.

The Secretary read the following sections of the act of May 24, 1828, "for the better organization of the medical department of the Navy of the United States:"

"Be it enacted, &c., That from and after the passing of this act, no person shall receive the appointment of assistant surgeon in the Navy of the United States unless he shall have been examined and approved by a board of naval surgeons, who shall be designated for that purpose by the Secretary of the Navy Department; and no person shall receive the appointment of surgeon in the Navy of the United States until he shall have served as an assistant surgeon at least two years, on board a public vessel of the United States, at sea, and unless, also, he shall have been examined and approved by a board of surgeons constituted as aforesaid."

"SEC. 2. And be it further enacted, That the President of the United States may designate and appoint to every fleet or squadron an experienced and intelligent surgeon, then in the naval service of the United States, to be denominated 'surgeon of the fleet,' who shall be surgeon of the flag ship, and who, in addition to his duties as such, shall examine and approve all requisitions for medical and hospital stores for the fleet, and inspect their quality; and who shall, in difficult cases, consult with the surgeons of the several ships, and make records of the character and treatment of diseases, to be transmitted to the Navy Department; and who, in addition to the compensation allowed to surgeons at sea, shall be allowed double rations while acting as surgeon of the fleet, as aforesaid."

"SEC. 3. And be it further enacted, That assistant surgeons who shall have been commissioned less than five years, shall each receive thirty dollars a month, and two rations a day; after five years' service, they shall be entitled to an examination by a board of naval surgeons, constituted as aforesaid, and having been approved and passed by such board, they shall each receive an addition of five dollars a month, and one ration a day; and, after ten years' service, a further addition of five dollars a month, and one ration a day."

Mr. MALLORY. The Senate will perceive that the suggestion thrown out by the Senator from Michigan does not pertain. The officer is entitled to his examination only after he shall have seen five years' service, and not before; and it is not in his power to go before a board of examiners at any time he may please, or may regard himself as competent.

Mr. IVERSON. I ask the Senator from Florida, if he is not compelled to go before a board when the Secretary notifies him of the assembling of a board.

Mr. MALLORY. Certainly; he has no choice. I concede that there may be an evil in these special laws. I am perfectly willing that the Senate,

on the yeas and nays, shall indicate its will on this subject. Similar laws have been passed, and as I conceive, the only way, although this does not come from the Naval Committee, of protecting an officer against departmental injury and loss of his rank, which no money can compensate for, is by this manner of dating his rank back to the time when he was entitled to his examination. That may be reached however, without giving him the accompanying pay.

Mr. STUART. I did not suppose, when I raised this objection, that it would consume so much time; but I have no objection to the fullest attention of the Senate being drawn to this case, for the purpose of precedent. Now, I suggest to the Senate that the third section of the act of 1828 is not to be construed as insisted by the Senator from Florida. The third section, it will be seen, by reading it carefully, is for the purpose of giving an examination to an assistant surgeon which shall increase his pay, without giving him any promotion. It is not for the purpose of promotion at all.

Mr. MALLORY. Rank, not promotion.

Mr. STUART. They are the same thing, for the purposes of this argument. What I said is true; he may pass his examination at any time before the board, and then when he has seen the service, and an opportunity for promotion has arisen, he can have it; but this third section authorizes him to receive additional pay while remaining an assistant surgeon. The first section is the one which confers the right of rank.

"That, from and after the passing of this act, no person shall receive the appointment of assistant surgeon in the Navy of the United States, unless he shall have been examined and approved by a board of naval surgeons, who shall be designated for that purpose by the Secretary of the Navy Department; and no person shall receive the appointment of surgeon in the Navy of the United States, until he shall have served as an assistant surgeon at least two years on board a public vessel of the United States, at sea; and unless, also, he shall have been examined and approved by a board of surgeons constituted as aforesaid."

The compliance with that section at any time, entitles him to that rank. Now the third section is:

"That assistant surgeons who shall have been commissioned less than five years, shall each receive thirty dollars a month, and two rations a day; after five years' service, they shall be entitled to an examination by a board of naval surgeons, constituted as aforesaid, and having been approved and passed by such board, they shall each receive an addition of five dollars a month and one ration a day; and, after ten years' service, a further addition of five dollars a month and one ration a day."

The third section relates to their pay and rations alone, and not to the rank. One further suggestion, and I have done. It does not follow that before this individual had seen the very service upon which he was ordered, he could have passed his examination if he had applied. He may have required the very experience and practice that he got on this voyage, to enable him to pass the examination before the board.

Is this as strong a case as would be presented if an officer dies at sea, and an officer at home on another station is entitled to the promotion to fill his rank; but he does not ascertain the death perhaps for two years, so that in fact he does not get the promotion until the end of two years, which he was entitled to on the day of the death. Can he then come in and ask Congress to give him back pay? That would be a stronger case than this, because he would not require an examination; law fixed his right at the moment of the other officer's death; but here you assume that he would have passed his examination if he had applied, and you assume that he would have applied if he had been at home.

Mr. IVERSON. It is an old saying, that there are none so blind as he who will not see. The Senator from Michigan insists upon supposing that the service which this man rendered, and which prevented him from being here and applying for his examination, constituted his right to the examination. The proof is, that he would have been entitled to his examination in 1854, if he had been here to have taken the examination. He had served five years prior to 1854; he did not come back until 1856. Now, of course it must appear that he did not require the period between 1854 and 1856, to give him the five years' service, and yet the Senator insists that that may be the case.

Mr. STUART. Notwithstanding the Senator's want of respect for me and my argument, I ask

him, when did the officer have his two years' sea-service that entitled him to examination?

Mr. IVERSON. Prior to 1854; prior to the time when this pay commences.

Mr. STUART. And he had served five years?

Mr. IVERSON. Yes.

Mr. STUART. Then why did he not apply?

Mr. IVERSON. He was not here to apply. He was on the coast of Africa. That is the very reason why we propose to give him the additional pay.

Mr. MASON. There really seems to me to be an equity in the provisions of this bill. I have listened attentively to what has been said in the debate, and it certainly does not present this case as I understand it. The assistant surgeons are by law entitled to promotion after five years, if they stand the examination that is required. They cannot get that examination if they are afloat and abroad. We know very well, in the naval service, that, with very few exceptions, if there be any, they prefer service at home to service abroad; and it is to be presumed, therefore, that the most active and meritorious of these officers are those who are on service abroad. In the absence of a provision in the general law, placing them on an equality with their associates, their absence abroad disables them from being entitled, as the law proposed they should be. I think there is an equity in it; and I shall vote very cheerfully for the bill.

Mr. KING. Mr. President, we talk here about economy and retrenchment in the expenses of the Government, and yet, upon every occasion, every pretext, it seems to me, is sought to increase the pay of public officers, and to increase their numbers. The law provides that in case of assistant surgeons, where they have been examined at the end of five years, as I understand it, as read by the Senator from Michigan, they shall have an increase of pay and additional rations, and, at the end of five years more they shall have a further addition. These cases come singly; and it seems that the argument for this bill is that, upon some previous occasion, some assistant surgeon has, through the influence of his friends, been enabled to get a similar allowance from Congress, and now there are four such bills on the Calendar. If there is any justice in any one of them, the same justice should be applied to all, and a bill should be brought in here to increase the pay of the assistant surgeons. That is my judgment about it, and if not, there is no reason why there should be any allowance in this case. If the allowance to one assistant surgeon brings in four, there is no doubt that the allowance of these four will justify an allowance to all of them. We should do so if there is any propriety in this; but I shall vote against the bill.

Mr. TOOMBS. I will only say in addition to what has been said by the Senator from Michigan, that this bill is to give a man pay to which he is not entitled. He was in the service of his country, where he ought to have been. It seems he could not be examined at the time. Then he was not entitled to the money; that is all. Let us take the case of a lieutenant in the Army. They are promoted according to their seniority universally in our service. Somebody is killed over in Japan, in the marines, or anywhere else. The next man in order is entitled to the place, but he does not hear of it for two or three years. Is he to come here for a special law, saying: "I would have been promoted by the usage of the service; I would have had a captain's pay if I had known of the death; and I ask for my captain's pay while I was performing my duty as a lieutenant in the service." Everybody knows that an officer of this grade is entitled to a certain pay until he is a surgeon. Everybody knows he is not entitled to the pay of a surgeon until he is one. That is the answer, in my mind, to the whole proposition.

Mr. FITCH. I know but little of the merits of this individual case; but the supposition of the Senator from Michigan, and the Senator from Georgia, if it was applicable to this case, would be fatal to it. It is not, however. The surgeons and assistant surgeons of the Navy know but two grades of promotion; assistant surgeon and surgeon. All those of the same rank and the same date of commission, that is those of the same rank who have served the same length of time, are upon the same footing. The death of one gives the one

below him no preference whatever. He may step into his place, but it carries with it no additional pay, no additional compensation of any kind, and therefore the supposed cases of deaths in the line of the Army and Navy which are referred to are not applicable in this case. If a captain is killed, a lieutenant cannot come here and ask two years' pay and promotion.

Mr. STUART. That is not the argument. The Senator misapprehends my argument. That was only brought up as a parallel case on principle. It was not supposed that these surgeons were promoted by the death of another one—not at all.

Mr. FITCH. The argument, I think, went to this: that this gentleman, because of his absence, was no more entitled to his additional pay—that pay which would have been given to him if he could have presented himself for examination, and for promotion—than would be an officer in a case where death had made a vacancy, which would be filled by an inferior by promotion. The pay here is owing to the date of service, not to the promotion through several gradations, for there are no such gradations in this branch of the public service. The pay is owing to the number of years the individual may have served; and he is fairly entitled to the commencement of the extra pay when he has served that number of years.

The question being taken by yeas and nays, resulted—yeas 10, nays 26; as follows:

YEAS—Messrs. Bell, Bigler, Fitch, Hale, Iverson, Jones, Mallory, Mason, Polk, and Shields—10.

NAYS—Messrs. Bayard, Benjamin, Broderick, Cameron, Chesnut, Clay, Clingman, Collamer, Davis, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hamlin, Harlan, Johnson of Tennessee, King, Reid, Seward, Stuart, Toombs, Trumbull, Wilson, and Wright—26.

So the bill was rejected.

ELI W. GOFF.

Mr. FOOT. I move to take up the bill (H. R. No. 353) for the relief of Eli W. Goff, for the purpose of moving its recommendation to the Committee on Commerce. The claimant informs me that he has additional testimony which he desires to lay before the committee.

The motion to take up the bill was agreed to; and it was recommended to the Committee on Commerce.

ADJOURNMENT TO MONDAY.

Mr. CLAY. I move that when the Senate adjourns it be to meet on Monday next.

Mr. IVERSON called for the yeas and nays, and they were ordered, and being taken, resulted—yeas 24, nays 22; as follows:

YEAS—Messrs. Bayard, Bell, Benjamin, Broderick, Cameron, Chesnut, Clay, Clingman, Dixon, Durkee, Fessenden, Fitzpatrick, Hale, Jones, Mallory, Mason, Pugh, Seward, Toombs, Trumbull, Ward, Wilson, Wright, and Yulee—24.

NAYS—Messrs. Bigler, Brown, Chandler, Clark, Collamer, Crittenden, Davis, Doolittle, Fitch, Foot, Foster, Hamlin, Harlan, Houston, Iverson, Johnson of Tennessee, Polk, Reid, Rice, Shields, Stuart, and Wade—22.

So the motion was agreed to.

EXECUTIVE SESSION.

Mr. MASON. I move that the Senate proceed to the consideration of executive business.

Mr. CAMERON. I move that the Senate adjourn.

Mr. MASON. There is some executive business which ought to be transacted, and it will take but a short time.

Mr. CAMERON. I withdraw the motion to adjourn.

Several SENATORS. Oh no; let us adjourn.

Mr. PUGH. In order to determine the question of those who are in favor of setting here and performing the public business, or coming here to-morrow to do it, I ask the yeas and nays on it, as it seems to be an issue between an executive session and an adjournment. I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 34, nays 10; as follows:

YEAS—Messrs. Bayard, Benjamin, Bigler, Brown, Chesnut, Clingman, Collamer, Crittenden, Dixon, Fitch, Foot, Hale, Harlan, Houston, Iverson, Johnson of Tennessee, Jones, King, Mallory, Mason, Polk, Pugh, Reid, Rice, Seward, Shields, Sidel, Stuart, Trumbull, Wade, Ward, Wilson, Wright, and Yulee—34.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Clay, Doolittle, Fessenden, Fitzpatrick, Foster, and Hamlin—10.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 21, 1859.

The House met at twelve o'clock, m. Prayer by Rev. J. Aiken.

The Journal of yesterday was read and approved.

ACQUISITION OF BRITISH AMERICA.

Mr. FARNSWORTH. I ask the unanimous consent of the House to offer the following preamble and resolution:

Whereas that country called "British America," lying coterminous with the United States for three thousand miles, and comprising some three million square miles of territory; and especially those parts of it known as Nova Scotia, New Brunswick, the Canadas, (East and West,) and that region upon the Pacific, embracing the Island of Vancouver, and the Fraser river, commanding the Straits of Fuca and the finest harbor on the Pacific coast, lying below 54° 40' north latitude, (our title to which was formerly officially declared to be "clear and indisputable,") is very valuable from the fertility of its soil, its forests of valuable timber, its deposits of coal, its rich mines of gold, copper, and other minerals, its navigable waters, and its fisheries, both ocean and inland; and whereas the same embraces the mouth of the St. Lawrence, and for the most part both its banks, and also skirts the lakes Ontario, Erie, St. Clair, Huron, and Superior, and the rivers Niagara, Detroit, and St. Clair, which lakes and rivers drain a large number of the States of this Union, and greatly affect the commerce of many more; and the inhabitants of those States are thereby necessarily restrained in their communication with the ocean, and may be entirely suspended, thus crippling our commerce; and whereas the Island of Newfoundland commands both channels into, and out of, the mouth of the St. Lawrence; and the shoals, commonly called the banks of Newfoundland, on the eastern coast of said island, are the most extensive and productive fisheries in the world; and whereas the city of Halifax, in Nova Scotia, with its fortifications and its shelter for armed fleets, commands the commerce between Europe and America by its contiguity to the Gulf stream, which there runs close to the shore, and through which such commerce must and does necessarily pass; for which reason said city may be denominated the gateway of the northern seas, and the sentinel of the valley of St. Lawrence; and whereas said country is not only "almost within sight of our shores," but absolutely joins us; our commerce with it is "very great, and our citizens are in the habit of daily and extended personal intercourse with it;" and with that country, "under the dominion of a distant foreign Power, this trade of vital importance to these States, is liable to be destroyed in time of war;" and some of the fairest cities and villages of our country battered down and destroyed by cannon planted upon that territory, or from ships floating upon those rivers and lakes; and whereas "the truth is, that in its existing colonial condition," that country "is a constant source of injury and annoyance to the American people," and "from its geographical position it commands the mouth of the St. Lawrence, and the immense and annually increasing trade, foreign and coastwise, from the valley of" not only "that noble river," but the great inland seas of the northwest also; and "whilst the possession of said country" would be of vast importance "to the United States, its value to Great Britain is comparatively unimportant;" and whereas the inhabitants of said country are, most of them, well fitted to become desirable associates and brethren with us in this great Confederacy of States: Therefore,

Resolved, That the Committee on Foreign Affairs be requested to inquire into the expediency of setting on foot measures to acquire the said territory from Great Britain by honorable treaty, and that they report to this House by bill or otherwise.

Mr. GARNETT. I object to that resolution.

EMPLOYMENT OF A STENOGRAPHER.

Mr. SHERMAN, of Ohio. I am instructed by the special committee on Navy contracts to offer the following resolution:

Resolved, That the special committee on Navy contracts and expenditures have leave to employ a stenographer, at a compensation not exceeding the rate paid the reporters of the Congressional Globe, and that said committee have leave to sit during the sessions of the House, and to report at any time.

Mr. HUGHES. I object to the resolution.

Mr. SHERMAN, of Ohio. I am willing to modify the resolution so as to meet the objection of the gentleman, if he will state what it is.

Mr. HUGHES. I object to that part of the resolution which gives the committee the right to report at any time.

Mr. SHERMAN, of Ohio. I will modify the resolution by striking out that part of it.

The SPEAKER. Is there objection to the resolution as modified?

Mr. JONES, of Tennessee. I object.

Mr. BOCK. I hope the gentleman from Tennessee will withdraw his objection. It will be impossible for the committee to get through their work unless they have leave to employ a

stenographer. They have a great amount of writing to do, and have much other business to attend to.

Mr. JONES, of Tennessee. I withdraw the objection.

The resolution was agreed to.

Mr. JONES, of Tennessee. Does not the privileged question which was pending yesterday, come up to-day as the unfinished business?

The SPEAKER. The Chair supposes not, as this is private bill day, and private business takes precedence.

The SPEAKER then proceeded to call the committees for reports of a private character.

JOHN PEEBLES.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported back, with a recommendation that it do pass, the bill from the Court of Claims (No. 88) for the relief of John Peebles.

Mr. MARSHALL, of Illinois. I ask that that bill be put upon its passage at this time, and for this reason: The amount appropriated by the bill is only twenty-five dollars, and it would cost more than that sum to have the papers in connection with the case printed. The claim is unquestionably just, and the report of the Court of Claims is a unanimous one. I have examined the claim and have no doubt of its justice.

The bill was read. It directs the Secretary of the Treasury to pay to John Peebles, out of any money in the Treasury not otherwise appropriated, the sum of twenty-five dollars in full for his services as a surveyor, under the direction of John Cuthbert, timber agent for the southern district of Alabama.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

The SPEAKER. The Chair would suggest that the bill and report had better be printed, as it is a report from the Court of Claims; and, if not printed, it would break the series—all other reports from the court having been printed.

Mr. MARSHALL, of Illinois. Very well, sir; I move that the bill and report be printed.

It was so ordered.

NANCY M. JOHNSON.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported back with a recommendation that it do pass, bill from the Court of Claims (No. 89) for the relief of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased.

Mr. MARSHALL, of Illinois. I will state to the House that this report of the Court of Claims was unanimous. The report covers two bills, of which this is one, allowing an equal sum to two different parties. I have examined the report, and am satisfied that the claim is just; and it will probably save time if the bills are put upon their passage now.

The bill which was read directs the Secretary of the Treasury to pay to Nancy M. Johnson, administratrix of Walter R. Johnson, the sum of \$1,250, in full, for the services of the said Walter R. Johnson, as a member of the board of examiners appointed by the Secretary of the Interior, under the provisions of an act of Congress approved March 3, 1843, entitled an "Act to modify an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," approved July 7, 1858.

The report was then read.

There being no objection, the bill was ordered to be engrossed and read a third time; and, being engrossed, was accordingly read the third time, and passed.

EMILY G. JONES.

Mr. MARSHALL, of Illinois, also, from the same committee, reported an act (C. C. No. 90) for the relief of Emily G. Jones, executrix of Thomas P. Jones, deceased.

Mr. MARSHALL, of Illinois. I will say that this bill is included in the report which was read upon the consideration of the last bill. It is a case involving the same principles and facts precisely. I ask that it may be put on its passage.

There being no objection, the bill was ordered to be engrossed, and read a third time; and, being engrossed, was accordingly read the third time, and passed.

THOMAS ALLEN.

Mr. MARSHALL, of Illinois. I am instructed by the Committee of Claims to report back the bill (C. C. No. 87) for the relief of Thomas Allen, with a recommendation that it do pass. The committee are unanimous in their report; but as it involves a larger amount than the bills just passed did, it had better, perhaps, go to the Committee of the Whole House on the Private Calendar.

The bill was accordingly referred to the Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

DAVID MYERLE.

Mr. ARNOLD, from the Committee of Claims, reported back Senate bill (No. 120) for the relief of David Myerle; which was referred to the Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

Mr. MARSHALL, of Illinois, by unanimous consent, had leave to submit a minority report in the above case, to be referred with the bill, and ordered to be printed.

CAPTAIN J. H. ESTES.

Mr. DAVIDSON, from the same committee, reported a joint resolution to authorize the Postmaster General to settle the accounts of Captain J. H. Estes, upon principles of equity and justice; and asked that it might be put on its passage.

Mr. MARSHALL, of Illinois. I think that bill ought to go to the Committee of the Whole. I also, in that case, desire to submit a minority report. I have not yet prepared it; but if there be no objection, I move that the bill be referred to a Committee of the Whole House on the Private Calendar, and, with the report, be printed; and that the minority also have leave to submit their views, to be referred with the bill and printed.

There being no objection, the motion was received and agreed to.

PRESBYTERIAN CHURCH OF HANOVER.

Mr. MAYNARD, from the same committee, reported a bill for the relief of the corporation of the First Presbyterian Church of Scotland at Hanover, New Yorktown, Westchester county, New York; which was referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

A. C. DAVENPORT.

Mr. MOORE, from the same committee, reported a bill for the relief of A. C. Davenport; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

Mr. MOORE, by unanimous consent, had leave to submit the views of the minority of the committee in the case of George T. Knight, reported some days since, to be referred with the bill and printed.

SOCIETY OF FRIENDS IN INDIANA.

Mr. COBB. I am instructed by the Committee on Public Lands to report back Senate bill (No. 46) granting the right of preemption in certain lands, to the Indiana Yearly Meeting of the Society of Friends. The committee are not able to see the necessity of making a particular exception in this case, and therefore report adversely thereon. I move that the bill be laid on the table, and the committee be discharged from the further consideration thereof.

The motion was agreed to.

COMMITTEE DISCHARGED.

On motion of Mr. DAVIS, of Indiana, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of petitions of citizens of Lake county, Ohio; and of Mary Spencer and others, of New York; of a bill (H. R. No. 677) to grant bounty lands to the company of Captains Britton and Davis, in the land to the company of Captains Britton and Davis, in the war of 1812; and of a bill (H. R. No. 369) to extend the provisions of a certain act granting bounty land to certain officers and soldiers in the military service of the United States; and that the same be laid on the table, and, with the reports, printed.

WILLIAM YEARWOOD, SR.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported a bill for the relief of William Yearwood, sr., of Tennessee; which was read a first and second time.

Mr. DAVIS, of Indiana. I ask that the bill be put upon its passage.

The bill was read. It directs the Secretary of the Interior to issue a land warrant for one hundred and sixty acres of land, to be located pursuant to the provisions of an act of Congress approved February 11, 1847, to William Yearwood, sr., father of William Yearwood, jr., first lieutenant in Captain Lowry's company of the second regiment of Tennessee volunteers, in the Mexican war, who was wounded in the battle of Cerro Gordo, and who died of his wounds in April, 1847, leaving neither wife nor children.

Mr. SMITH, of Tennessee. The bill sufficiently explains itself. I hope the House will put it upon its passage.

Mr. DAVIS, of Indiana. I suppose there is no objection to the passage of the bill. By the act of 1847, granting bounty land to the officers and soldiers of the Mexican war, we gave bounty land to the non-commissioned officers, privates, and musicians, and their relatives, but not to the commissioned officers. This William Yearwood, jr., was a first lieutenant in the second regiment of Tennessee volunteers. He was in the battle of Cerro Gordo, and fought bravely, and was mortally wounded in that battle. He died of his wounds a few days after. His father claims bounty land for the service of his son. The committee is of the unanimous opinion that this is a meritorious case, and that the gratuity ought to be awarded to the father. I move the previous question on the passage of the bill.

Mr. LOVEJOY. Is it in order to put these bills on their passage without going to a Committee of the Whole House?

The SPEAKER. The Chair thinks so. There is no appropriation in the bill.

Mr. MORGAN. I ask whether that bill does not introduce an entirely new principle? I ask whether there ever was a grant of this kind before? In this case the soldier had no wife and no child, and the father comes in and claims his land. Has there ever been a case of this kind?

Mr. COBB. If this man had been a private soldier, his father would have been, under the act, entitled to bounty land; but, as he was an officer, his father cannot get it, because officers were not provided for in that act. But afterwards, a subsequent act provided for them, and the officers got the bounty land. I think this is a fair case, and ought to pass.

The main question was ordered; and under the operation of the previous question the bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. DAVIS, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, notifying the House that the Senate had passed the bill of the House for the payment of invalid and other pensions of the United States for the year ending 30th June, 1860, with sundry amendments, in which he was directed to ask the concurrence of the House.

COMMITTEE DISCHARGED.

On motion of Mr. GARNETT, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following cases of application for bounty land, and that the same be laid on the table:

The memorial of Tillotson Munger, Lewis Perdy, and forty others, of Michigan, officers and soldiers of the Black Hawk war; the memorial of John Conlter and five others, of Ohio; the memorial of Antoine de Little; and the memorial of Lois Blodgett, heir of Arba Blodgett, deceased.

CHANGE OF REFERENCE.

On motion of Mr. BENNETT, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of a bill (S. No. 389) providing for the allotment of land to certain New York Indians, and for other purposes; and that the same be referred to the Committee on Indian Affairs.

J. C. FERRY.

Mr. SCOTT, from the Committee on the Post Office and Post Roads, reported a bill for the relief of J. C. Ferry, for carrying the mail, for one quarter, from Pittsburg to Franklin; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

THOMAS LIVINGSTON.

Mr. DAVIS, of Iowa, from the same committee, reported a bill for the relief of Thomas Livingston and his securities; which was read a first and second time.

Mr. DAVIS, of Iowa. I ask that the bill be put upon its passage. It explains itself.

The bill was read. It directs the Postmaster General to release Thomas Livingston and his securities from the further performance of his contract for carrying the mail on route 10527, from Plattsburg to Maysville, in the State of Missouri, said contract having been entered into by error and mistake of said Thomas Livingston.

The report was read. It appears from it that Livingston being an ignorant and illiterate person, employed another person to draw up his bid for carrying the mail on this route for \$270 per annum, intending not to carry the mail between Plattsburg and Maysville, but between Plattsburg and Stewartsville.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

CONFIRMED PRIVATE LAND CLAIMS.

Mr. BLAIR, from the Committee on Private Land Claims, reported back a bill declaratory of the meaning of a clause contained in the second section of the act entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," approved January 2, 1858; which was referred to a Committee of the Whole House, and with the report, ordered to be printed.

He also, from the same committee, reported back, with sundry amendments, an act (S. No. 279) for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes; which was referred to a Committee of the Whole House, and, with the amendments and report, ordered to be printed.

HENRY R. SCHOOLCRAFT.

Mr. RUSSELL, from the Committee on Indian Affairs, reported a bill for the relief of Henry R. Schoolcraft; which was read a first and second time.

Mr. RUSSELL. I ask to have the bill put upon its passage.

The bill was read. It directs the Secretary of the Interior to cause a patent to issue, securing to Mrs. Henry R. Schoolcraft, to her heirs, assigns, and legal representatives, the exclusive right to publish the book entitled "History, Statistics, Condition, and Prospects of the Indian Tribes of the United States," heretofore published under order of Congress, and to make and publish any abridgment or compilation thereof for the term of fourteen years from the passage of this act; and he is further required to transfer and deliver to said Mrs. Schoolcraft all the plates, the property of the United States, used in the printing and illustration of said book; provided, that the same be accepted in full satisfaction of all manner of claim for compensation for work, time, or money expended in the collection of materials for said book by Henry R. Schoolcraft.

Mr. JONES, of Tennessee. I move to amend, by striking out the word "patent," and inserting "copy-right."

Mr. McQUEEN. I understand that the bill has passed the Senate; and if we adopt that amendment the bill will have to go back.

The SPEAKER. This bill has not passed the Senate. It is a House bill.

Mr. McQUEEN. A bill for the same purpose has passed the Senate.

Mr. RUSSELL. Both bills are the same in all respects.

Mr. JONES, of Tennessee. I would inquire whether the Senate bill is on the Speaker's table?

Mr. McQUEEN. If it be, I move that the bill be taken up and passed in lieu of the House bill.

The SPEAKER. The Senate bill is not on the Speaker's table.

Mr. GIDDINGS. Is it too late to object to taking up this bill?

The SPEAKER. The Chair thinks that an objection would not be available.

Mr. GIDDINGS. I protest against the practice of taking up and passing bills when they are

reported, and passing over all the cases that are on the Calendar.

The SPEAKER. The question is first on the amendment.

Mr. NICHOLS. I would like to have the report read, if there be one. I want to know something about the value of the plates, and what they cost the Government.

Mr. CRAIG, of Missouri. The plates are worth nothing to anybody but her.

Mr. McQUEEN. I shall state, for the information of the gentleman from Ohio, that the Government will publish no more copies of this book. The plates will be thrown away, and will be of no use to any one but Mrs. Schoolcraft. She only asks that the plates may be transferred to her.

Mr. NICHOLS. Well, if it be only the transfer of the plates, I have no objection; for that will make it certain that the Government will publish no more of this work. I think that will be beneficial.

The question was taken on Mr. JONES's amendment, and it was agreed to.

The bill was ordered to be read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McQUEEN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. COLFAX moved to amend the title of the bill, so as to make it read "A bill for the relief of Mrs. Henry R. Schoolcraft."

The amendment was agreed to.

JOSEPH E. JOHNSON.

Mr. LEITER, from the Committee on Indian Affairs, reported a bill for the relief of Joseph E. Johnson, administrator on the estate of Almon W. Babbitt, deceased; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN JOHNSON.

Mr. LEITER also, from the same committee, reported a bill for the relief of John Johnson, of Ohio; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

INDIAN DEPREDATIONS IN NEW MEXICO.

Mr. LEITER also, from the same committee, reported a bill providing for the examination of claims for Indian depredations in the Territory of New Mexico; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ISRAEL JOHNSON.

Mr. COLFAX, from the same committee, reported a bill to compensate Israel Johnson for services performed, by direction of the Indian agent, at the treaty ground at the Forks of the Wabash, in 1833; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JULIUS MARTIN.

Mr. GREENWOOD. I am instructed by the Committee on Indian Affairs to move that they be discharged from the further consideration of the petition of Julius Martin, of California, and that the same be laid upon the table. I will state that the case has been before the Committee on Military Affairs, who have reported a bill.

The motion was agreed to.

LIEUTENANT COLONEL CRAIG.

Mr. FAULKNER. I have been instructed unanimously by the Committee on Military Affairs to report back, with a recommendation that it be put upon its immediate passage, a bill (H. R. No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort in the Mexican boundary commission.

The bill directs the Secretary of the Interior, in the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, to grant to his legal representative the same allowance for his personal expenses as was made to other officers of the Army of his grade in the said commission;

the same to be paid out of the surplus fund now in the Treasury heretofore appropriated to cover the expenses of said commission.

The report of the Committee on Military Affairs, which was read, shows that Colonel Craig, who, for gallant services in the Mexican war, was promoted to the rank of colonel by brevet, was, upon urgent solicitation, induced to accept the command of the company of United States troops detailed as a military escort to protect the boundary survey commission from the attacks of Indians, on the assurance that he would not, by taking command of a force inferior to that to which his rank entitled him, lose the pay and emoluments he would otherwise receive; that in the faithful discharge of his duty, Colonel Craig lost his life; but that in the settlement of his accounts, his widow and legal representative has been allowed only the pay of a captain, being \$804 85 less than he would have received if he had been in command of such a force as his rank and commission entitled him to.

The report shows further that he accepted the position on the assurance that he would not be subject to this loss, and also with the further assurance that he would be allowed the same amount for his extraordinary personal expenses as might be allowed to other officers of the Army of his grade put on duty in the commission; but that the Secretary of the Interior has not been able to allow this, inasmuch as Colonel Craig had not been turned over to his Department by the formal order of the Secretary of War.

A letter from Senator Toombs, appended to the report, was also read, in which he testifies to the fact that Colonel Craig only accepted a position on the commission at the urgent solicitation of the Department, and on the assurance referred to in the report.

Mr. JONES, of Tennessee. I would inquire of the chairman of the Committee on Military Affairs if Colonel Craig did not receive the pay and commutation of his rank while in this service; and if he did, what will the present bill amount to?

Mr. FAULKNER. I will state in reply to the gentleman from Tennessee, that Colonel Craig received pay as a captain in that service. The sole object of the bill is to allow him for his personal expenses the same amount as has been allowed to every officer of his rank who was engaged upon the Mexican boundary survey.

Several MEMBERS. Move the previous question.

Mr. FAULKNER. Very well, sir; I move the previous question.

Mr. JONES, of Tennessee. Will the gentleman answer my other question?

Mr. FAULKNER. The amount to be allowed for personal expenses under this bill is about five thousand dollars.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. JONES, of Tennessee, demanded the yeas and nays upon the passage of the bill.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee, moved to lay the bill upon the table.

The motion was not agreed to.

The bill was then passed.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CLERKS TO COMMITTEES.

Mr. FAULKNER. I have been instructed by the Committee on Military Affairs to report a resolution, but I do not know whether the Chair will regard it as a private claim, coming within the rule governing reports to-day. There was referred to the Committee on Military Affairs, a few days ago, the petition of T. V. Jordan, clerk of that committee, claiming that he had been rendering services as clerk to that committee from the beginning of the session, and had received no compensation; and that no provision had been made for that purpose. The committee have instructed me to report the following resolution in response to that private petition:

Resolved, That the standing committees of the House, which at the last session thereof were authorized to employ clerks, be authorized to employ clerks for the present ses-

sion, at the same rate of compensation, and that the compensation be from the date of their service.

Mr. JONES, of Tennessee. Can that resolution be made as a report from a committee? I desire to inquire of the gentleman from Virginia, whether services have been rendered by that clerk to his committee, and if so, by what authority he has been appointed?

Mr. FAULKNER. The resolution which I have presented, is reported by the Committee on Military Affairs, in response to a private memorial referred to our committee, and is, therefore, in order.

As to the inquiry by the gentleman, by what authority this clerk has been appointed, I will say that he has been appointed by authority of the committee, and who, but for the exercise of that authority, would have been unable to discharge their duty to the House and the country. They assumed the responsibility of making this appointment, because they had no doubt that whenever the proper opportunity presented itself, this body would sanction the appointment, as it has sanctioned such appointments always heretofore.

I think there is no point of order which can be properly sustained upon this resolution, and if so, I ask the House to act upon this resolution without further delay. These committees have been compelled to employ clerks during the present session. This resolution provides for only the committees which were authorized to employ the clerks at the last session by express order of the House.

Mr. MORGAN. I ask the gentleman from Virginia if there are not some of these clerks whose services can very well be dispensed with during the present session of Congress? I will refer him, as a single instance in point, to the Committee of Elections. I ask the chairman of the Committee on Military Affairs what earthly use the Committee of Elections has for a clerk the present session? I suppose there are others which are equally useless. I ask the gentleman to name the committees to be provided for under his resolution, so that we may know which need clerks and which do not. I have no objection whatever to the appointment of clerks to such committees as really need their services; but I object to the appointment of clerks who have no other duties to perform, except to act as secretaries to the chairmen and other members of the committees.

And there is another practice to which I wish to allude. I do not know that it has prevailed in this House, but I understand it does in the other end of the Capitol. It is the practice of appointing relatives, brothers, brothers-in-law, or cousins of the chairman of the committee, who is authorized to make the appointment. I say there is no propriety in pensioning out men in this way.

Mr. FAULKNER. I have no authority to speak for any other committee which is embraced in this resolution, except the Committee on Military Affairs. I know that no improper motive has ever actuated that committee in the appointment of a clerk. No relatives have been provided for there.

Mr. MORGAN. Certainly not; I make no such charge. I had no reference in what I said to the Committee on Military Affairs.

Mr. FAULKNER. Whether the Committee of Elections is a committee which, from the business before it, finds it necessary to employ a clerk, I am unable to say. I proceed upon the assumption that no chairman of any committee in this body, if he was satisfied that the business before his committee was not sufficient to justify them in the employment of a clerk, would make such an appointment, even if he was authorized to do so by the House. Certainly, in regard to the Committee on Military Affairs, I speak with confidence when I say that if we could, consistently with the discharge of our duty to the House and country, dispense with the services of a clerk, we would do so.

Mr. MORGAN. If the gentleman will name the committees embraced in his resolution, we can then determine which of them need clerks, and which do not.

Mr. FAULKNER. I cannot name them, because I do not know which of the committees were authorized to employ clerks at the last session.

Mr. REAGAN. Then, if the gentleman re-

porting the resolution does not know the extent of its effect, I think it is a good reason why the House should reject the resolution; and I hope it will be rejected. But the gentleman states, in answer to the point of order raised by the gentleman from Tennessee, that the claim is based upon a private petition; I ask whether that is a memorial which has ever passed through this House, and been duly referred to that committee for its action; or whether it is an application, by the person expecting to be directly benefited, made directly to the committee? Because, although it is true that these clerks have many privileges in and about this Capitol, I do not understand that they can authorize a committee to report upon a petition which has never been presented in this House.

Mr. FAULKNER. I can answer the question of the gentleman from Texas. The petition was presented at the Clerk's table, as all petitions are, and was referred, under a rule of this House, to the Committee on Military Affairs; and that committee have made this report, in accordance with the petition which was sent to them by this clerk, under the rules of the House.

Mr. REAGAN. Then I make this question of order, that this petition was not properly referred to the Committee on Military Affairs. It is no part of the duty of the Committee on Military Affairs to provide for the appointment of clerks of the committees of this House, and for the payment of their salaries. The petition ought not to have gone to that committee.

Mr. FAULKNER. It comes within the province of the Committee on Military Affairs to provide for the appointment of a clerk to that committee.

Mr. STANTON. I hope the House will allow this resolution to pass. It is evident that these committees cannot get along without clerks.

Mr. JONES, of Tennessee. I ask the gentleman to have the resolution again read.

The resolution was read.

Mr. STANTON. The necessity for such a resolution, exists in the fact that under the rules of the House no clerk of a committee can be paid without it. The resolution will not provide for any clerks that are not needed. It refers to the committees which were authorized to employ clerks at the last session, and gentlemen will recollect that the House was very careful in allowing no clerks to committees then where they were not needed.

Mr. JONES, of Tennessee. I understand that the petition is from the person who has been employed by the Committee on Military Affairs. The resolution is to authorize the appointment of a clerk of each of several committees of the House. Now, I want the report read, in order that we may see if the resolution is conformable to the petition, and so that the Chair will have the question fully before him when he comes to decide the question of order.

Mr. FAULKNER. I send up the petition, and ask that it may be read.

The petition was read as follows:

To the Senate and House of Representatives of the United States:

The undersigned, on behalf of himself and others similarly situated, begs leave to state that he has been employed and acted as clerk to the Committee on Military Affairs, from the commencement of the present session of Congress; and that, although he has diligently discharged all the duties appertaining to said service, he has received not one dollar of compensation from the Government, nor has any provision been made for the payment of clerks to committees. Your petitioner, therefore, prays that provisions be made by law or resolution for the payment of your petitioner and other clerks who have been employed in the service of said committees by authority of the said committees, which have been usually allowed clerks.

THOS. V. JORDAN.

Mr. MORGAN. Now, one word in reference to this resolution. I have no objection whatever to the Military Committee having a clerk, or any other committee which needs the services of a clerk; but what I desire is, that the committees shall be named, so that we may leave out those which are unnecessary. There are boys employed in some of these committees, who are incompetent to discharge their duties as clerks. They are mere places for pensioning boys and others who have no services to perform.

Mr. FLORENCE. I can speak for the Committee on Naval Affairs, and the Committee on Invalid Pensions. There are neither boys nor relatives employed by those committees, nor can

they discharge their duties properly to the country unless they have clerks. But what objection is there to the employment of boys as clerks, if they come up to the standard of personal, physical, and intellectual qualification? and suppose a relative is appointed? What does the Bible say? Is not he who does not provide for his own household worse than an infidel?

Mr. JONES, of Tennessee. I do not understand that this resolution is before the House until the Chair decides whether it is in order.

The SPEAKER. The Chair rules the resolution in order.

Mr. FLORENCE. I presume that the right of petition is not to be denied; and I take the ground that the gentleman from Tennessee [Mr. JONES] is the very last man upon earth who should deny to any poor clerk the right to petition Congress for compensation for the services which he rendered. As a generous gentleman, as he is, Mr. Jordan not only asked for compensation for himself, but for the other poor clerks who have been living in this extravagant place from the commencement of Congress to the present time. If the Committee of Elections do not want a clerk, is it to be presumed that the very excellent, the very consistent, the very economical gentleman, who is its chairman, would ask for a clerk?

But it is said that boys have been employed as clerks. Now, sir, I do not know why a boy cannot perform the duties of a clerk as well as a man. If the gentleman knows of any boy being employed as clerk, let him intimate to the House who he is. Then we can determine whether that clerk lacks competency, and whether he does not come up to the Jeffersonian standard, of being honest and capable and faithful. If not, I will be the first man in this House, if I can get the floor, to move that the committee dispense with his services, and that a man shall be appointed who will come up to that standard.

Mr. REAGAN. Mr. Speaker, I have no objection to the Committee on Military Affairs being allowed the privilege to employ a clerk. I have no doubt that that committee deserves a clerk, and I will endeavor to obtain a clerk for them. But, sir, we have seen enough of the irregular mode resorted to of forcing upon Congress the necessity for making appropriations. Here are gentlemen who come and intrude themselves upon the committees of the House by the consent, or without the consent, of the committees, and who make that unlawful intrusion, before the House has given its consent, the pretext, the basis for a petition to us for the creation of an office to give them a salary. Can that petition be introduced here in that irregular way, and referred to a committee that has not proper control of the subject? Can that committee here, under such a state of things, report provisions creating offices for a number of persons? I think that the whole thing is wrong, irregular, improper, and leading to the establishment of a dangerous principle, that ought to be scouted from this House by men who are looking to economy and retrenchment. What sort of economy is this? What sort of a load is the Democratic party already bearing, and how is such action as this to bear upon the public mind? Now, I will assist the gentleman from Virginia in getting a clerk for his committee, and will enable any other gentleman to get a clerk for any committee that needs a clerk. What I object to is the manner in which this thing is now proposed to be done. When it is done, I want it done openly. I want the sanction of the House before the intrusion of a clerk into a committee-room is made the pretext for a petition, in order to force the House to give him a salary.

Mr. FAULKNER. Mr. Speaker, I cannot see or appreciate the objection of the gentleman from Texas to the mode in which this matter has been brought to the consideration of the House; the only object being to test the sense of this House whether they will allow certain committees heretofore allowed clerks, clerks for the present session. This proposition was submitted the other day by the chairman of the Committee on Commerce, [Mr. JOHN COCHRANE,] and it was then ruled to be out of order, because the subject was not within the jurisdiction of that committee. The technical objection was taken, and the effort to get at the sense of the House was accordingly frustrated. Now, the sole purpose of this resolution is to place it within the power of the House,

without objection from a single gentleman overruling the matter, without any technicality to interfere, to say what is its decision on the subject. The whole object of the proceeding is to bring the question before this body, and to let it determine whether these committees shall have clerks or not. I merely desire to read, before I set down, the names of the committees which will be entitled to clerks under this resolution. They are the Committee on Military Affairs, the Committee of Elections, the Committee on Foreign Affairs, the Committee on the Judiciary, the Committee on Territories, the Committee on Commerce, the Committee on the Post Office and Post Roads, and the Committee on Public Lands. Those are the only committees which would be entitled under that resolution. I call for the previous question on the passage of the resolution.

Mr. JONES, of Tennessee. I submit the question to the Chair that this is not such a private bill as is contemplated by the rule, or such as would give it the preference to-day. I understand the Chair to decide that the committee had jurisdiction of the question, and were therefore legitimately authorized to report the resolution. I now submit the further point of order, that this is not a private claim, nor such a one as is contemplated by the rules of this House, and for which this day is set apart. In fact, it is no claim at all; for by the resolution we are now about to create the claim.

The SPEAKER. The rule provides that Fridays and Saturdays of every week shall be set apart for the consideration of private bills and private business in preference to any other, unless otherwise ordered by a majority of the House. The Chair is of the opinion that the resolution is properly before the House—that technically it is properly before the House.

Mr. CRAWFORD. Is the motion that the House resolve itself into a Committee of the Whole House in order before the call for the previous question is seconded?

The SPEAKER. It is.

Mr. CRAWFORD. Then I submit that motion.

Mr. STEPHENS, of Georgia. Does the special order, the Georgia and Alabama claim, come up first in order in the Committee of the Whole House to-day?

The SPEAKER. It does.

Mr. DAVIS, of Illinois. If that is the case, then I hope we will go into committee.

Mr. MARSHALL, of Kentucky. What becomes of the motion to reconsider, which was pending at the adjournment yesterday, on the pre-emption bill?

The SPEAKER. It goes over. Private business to-day takes the precedence of that motion.

Mr. MARSHALL, of Kentucky. I withdraw my motion to reconsider.

S. F. HOOKER.

On motion of Mr. HOARD, it was ordered that the Court of Claims be requested to return the papers in the case of Samuel F. Hooker, and that they be referred to the Committee of Claims.

TARIFF.

Mr. MORRIS, of Pennsylvania. I ask leave to present resolutions from the Legislature of Pennsylvania, in relation to the tariff. I move that they be laid upon the table and ordered to be printed.

Mr. PHILLIPS. Had they not better be referred to the Committee of Ways and Means? Objection was made to their introduction.

ALABAMA AND GEORGIA CLAIMS.

Mr. CRAWFORD. I ask the question to be put on my motion to go into a Committee of the Whole House.

The question was taken; and it was agreed to; there being, on a division—ayes one hundred and one, noes not counted.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, Mr. SHERMAN, of Ohio, in the chair.

The Chairman stated the question first in order to be the special order; which was a bill (H. R. No. 367) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians, on which the gen-

tleman from Ohio [Mr. LEITER] was entitled to the floor.

Mr. CRAWFORD. I ask the gentleman to yield to me until I give notice of an amendment which I propose to offer.

Mr. LEITER. I yield for that purpose.

Mr. CRAWFORD. I call the attention of the committee to the substitute which I shall propose for the second section of the bill now under consideration. I send it to the Clerk's desk, that it may be read for the information of the House. I hope gentlemen in favor of the bill will accept it as a modification of the bill.

The Clerk read the substitute, as follows:

SEC. 2. *And he is further enacted*, That the Secretary of War be, and he is, authorized and required to settle the claims of the citizens of the said States of Georgia and Alabama for the losses aforesaid, as set forth in Executive Document No. 127, referred to in the first section of this act, upon satisfactory proof of the identity of the persons therein entitled to the same: *Provided*, That the payment to be made shall not exceed the sum of \$349,120, less the sum paid heretofore to the said State of Georgia upon the claim of H. W. Jarnagan & Co.: *And provided further*, That said sum shall be in full satisfaction and payment for all claims for damages for property lost by the act of the Creek Indians in 1836, 1837, and 1838, or taken for Government use.

Mr. LEITER. Mr. Chairman, I shall now ask the indulgence of this committee for a few moments; for I think that in a short time I can say all that is necessary to be said upon this bill. But before I enter upon the discussion of the matter, I must be allowed to make a few remarks in regard to the manner in which the proposition was received, and the manner in which it was treated, when it was first read in the Committee of the Whole House. One objection came from the gentleman from Wisconsin, [Mr. WASHBURN,] which in my judgment is not a valid one. It is an objection which should not have been made here, and an objection which should not have been allowed to be made. That objection, however, was a very impotent one; that the Committee on Military Affairs had at one time considered this bill, and had come to the conclusion that there was no merit in it. When the gentleman was called upon for the evidence of that fact that he could furnish to this House and the country, he failed to furnish it. Now, sir, I take it that the action of a committee can only be brought to the notice of the House by a report from that committee. That source is the only way we have of knowing what was done in a committee. The matter must be reported to the House. Any action of a committee, or any proceedings before a committee, whether it be upon a memorial or upon any other matter, cannot properly reach the House except through the channel of a report; and there being no such report, we have no legitimate means of knowing what took place in the Committee on Military Affairs on this subject, and that gentleman should not have allowed himself to make any such statement as he did.

If the Committee on Military Affairs differed with the Committee on Indian Affairs in regard to this question, why did they not report the result of their deliberations to this House? That, sir, is, in my opinion, a full and complete answer to that part of the argument which has been made against this bill, by that gentleman, on this point.

What, then, sir, is this bill? It appears from the arguments of gentlemen, and from the evidence read to the committee on a former occasion, that in 1825 a treaty was made between the United States Government and the Creek Indians, by which the United States became possessed of all the lands belonging to the Creek nation in Alabama and Georgia, except certain reserved lands that were to be held by the heads of Indian families; but the Indians had a right to dispose of these lands so reserved to white citizens. The gentleman from Wisconsin [Mr. WASHBURN] has raised an objection to that treaty. He charges that the Government of the United States defrauded the Indians; and that, owing to this fraud on the part of the Government, these depredations were committed. And his argument is, that because of that fact, the citizens of the United States who have suffered from the action of the Government, ought not to be paid for the losses they have sustained. That, sir, it seems to me, is a most extraordinary argument. Admit that the Government acted wrongfully, and then deny the responsibility of its wrongful acts, and thus escape the consequences incident to your action. I hold that,

if, as the gentlemen who oppose this bill say, the Government acted wrongfully, the Government is responsible in good faith, and according to fair dealing, for all the consequences resulting from its wrongful act; and I shall be the last man who will ever raise his voice against the payment by this Government of all damages resulting from its own acts, whether those acts were right or wrong. I say, therefore, that if the Government brought this calamity and its loss of property upon those persons, it is not in the mouths of the enemies of this bill to take ground against the payment of these losses sustained under the circumstances; and to me it is exceedingly painful to see them place themselves in such an unenviable position.

But, to go a little further on in the history of this matter, we find that in 1832, another treaty was made with these Indians, by which the Indians ceded all their lands east of the Mississippi river to the United States Government, except certain reserved lands which they were authorized to sell, and of which they soon divested themselves, and became a poor, miserable, wandering band of marauders. Now, sir, it is strange indeed, if the Government is not to be called on to pay these claims, if the facts, as detailed by the opponents of the bill, are true. From 1832 to 1836, there was no particular difficulty between the Indians and the white citizens; but, if I understand the history of the case correctly, in 1836, when the Indians had divested themselves of all their lands, they commenced their depredations upon the white citizens, and plundered them of their property. Now, sir, it was the business of the Government to keep these Indians in subjection. According to the intercourse act, the citizens had no right to raise a hand against these Indians. And yet we are met here with the argument that one thousand and three American citizens in the States of Georgia and Alabama were driven from their homes by fifty Indians. Why, sir, if there had been but ten Indians, the citizens would have had no right, under the intercourse act, to have raised a hand against them. They were bound to look to the General Government for eventual indemnity, or they would have betrayed a want of confidence in the pledges of the Government.

Now, sir, I agree with the report made by my colleague on the Committee on Indian Affairs, that these claims come clearly within the seventeenth section of the intercourse act; and I think I can show this committee that the Government is bound to pay every dollar of the losses sustained by these citizens. Let us see what the seventeenth section is, and what action has been had in regard to it. I will read the seventeenth section of the intercourse act, although it has been read here before, because I think it important to the view of the case which I take, that it should again be brought to the attention of the committee. Before reading the section, however, I desire to make this additional remark: that we had a treaty of amity with these Indians at the time these depredations were committed. I claim, therefore, first, that this section covers the ground of these claims, and I shall show afterwards that the Government has recognized these as valid claims. The seventeenth section of the intercourse act is as follows:

"Sec. 17. And be it further enacted, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty, to the party so injured, an eventual indemnification: *Provided*, That, if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided, also*, That, unless such claim shall be presented within three years after the commission of the in-

jury, the same shall be barred. And if the nation or tribe to which such Indian may belong, receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and, if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended."

Now, the question may be asked why these persons did not at the time these depredations were committed, apply to the President of the United States, the Indian agent, or Indian sub-agent, for remuneration by the Government. The best reason why these gentlemen did not apply, is that there was no such Indian agent or sub-agent there. The Government of the United States had, in solemn treaty made with the Indians, agreed to keep Indian agents, or Indian sub-agents, or some person through whom its business might be transacted with these Indians. No such agent or person was there; and that is the reason why these citizens could not obtain remuneration by a compliance with the seventeenth section of the Indian intercourse act. Therefore, I say that the claim upon the part of the opposition to this bill, that these persons are not entitled to relief because they did not comply with the intercourse act, like all the other arguments against this bill, falls harmless to the ground.

Next, what view of the question did the Government itself take at the time? Why, instead of requiring these claimants to go through all this routine of obtaining affidavits and proof to be presented to the Indian agents or sub-agents, General Jackson, the great man of that time—God bless his memory!—always tenacious of the rights of the people, called the attention of the Congress of the nation to the calamity that had fallen upon these American citizens. He submitted to Congress the propriety of making reparation for the injuries that had been done, and Congress promptly responded to his recommendation.

A commission was appointed. For what purpose? For what purpose was it appointed, if it was not intended the claim should be paid if these citizens had a right to claim anything at our hands? Why appoint this commission, and why go through this foolish, trifling procedure, if no purpose was to be served by it? It was not the way business was done at that time. The President of the United States saw that the Government had not discharged its duty to the people of that district; and ready as that great and wise man was, always ready at all times to do justice to the people, he recommended that this mode of procedure should be adopted. In order to avoid all the routine which had to be gone through with in order to secure relief under the intercourse act, the United States had the right to waive, and did waive, the necessity of that routine, so that the citizen could receive the benefit of this legislation by the simplest means. Then I say it was eminently proper and statesmanlike to have this commission appointed to go there. Instead of each individual being obliged to make out a statement of his claim, the Government had the right to send the commission there, and in one job, in one proceeding, settle the whole matter, and bring the question clearly and fairly before the country.

The commission appointed by the Government was sent out to investigate and ascertain how much the people had suffered, and make their report. They made their report; and now gentlemen deny the obligation of the Government to pay. Since that time, from year to year, this claim has been pending, in one shape or another, before Congress. It has received the sanction, from year to year, of the committees to whom it has been referred, as the history of the legislation of the country proves; and yet, it has been one of these unfortunate claims, involving the private interests of citizens upon the Government, that for twenty years never could get a hearing in this House. And there, again, the opposition claim the benefit of their own wrongful acts in causing this delay, and now plead it in bar. This case should have been disposed of years ago. That it has not been, was not because of a want of disposition on the part of Government to pay, but because of the difficulties by which they were surrounded in doing business. Who can do anything here? Every gentleman knows that it is next to impossible even to reach a case in its regular order. I have been almost surprised that we have suc-

ceeded in getting this bill into a condition where we can have a hearing at all; that it should be in a condition where a single objection should not defeat it.

It is claimed that this destruction of property was the result of war; and that, therefore, the Government is not bound to indemnify the citizen for property destroyed during war. I think it is perfectly easy to prove that a war did not exist with these Indians; but, sir, before I get through, I intend to show that, even if we had a war, this Government is bound to pay every dollar claimed by these citizens. Put it in its very worst aspect; admit, if you please, that there was actual war, and I maintain still that the Government was bound to pay. If there was war, then I claim that the Government is bound to pay for the property of the citizens taken for the aid and subsistence of our Army, which was the case here, as abundantly appears in the proof; and gentlemen must know it if they have read the evidence, which I have no doubt they did.

I take it that war cannot exist in theory; I take it that war is a fact; that war must consist of such a state of facts as include all or some of the incidents of war. Now, I ask gentlemen who are opposed to this bill to tell me if there was a war at that time between the United States and the Creek nation; when and where that war was declared; for what purpose, and on account of what grievance? Where was the first battle fought? Who won or who lost the first battle? Can any gentleman tell me where it was that the army of the United States and the army of the Indians were arrayed in hostility against each other? Can they tell me where a single soldier or Indian was killed in battle in that war? Why, it must have been a most extraordinary war where there was nobody killed and nobody hurt, and where there was no declaration of war and no peace was made?

And yet we are told that there was a war, and that, therefore, the Government is not bound to indemnify citizens for losses sustained during those troubles with the Indians. If it be proved to me that these troubles with the Indians in Georgia and Alabama amounted to a war, I will have learned so much that I never knew before. It is compared by some gentlemen with the Black Hawk war. Why, as I understand it, there was fighting in the Black Hawk war. Did not the Army of the United States go to the scene of operations, and attack the Indians, and defeat them? Was not there fighting there between the soldiers and the Indians? Certainly there was. There was an incident of war in that case. But as to this war in which there was no fighting, or attempt at fighting between the United States and the Indians, I say it was no war at all; and all your arguments on the war basis must fall harmless and without effect before this committee. In my judgment all intelligent, investigating men must come to the conclusion that there was no war, because the circumstances connected with this case lack all the incidents of a war.

Now, Mr. Chairman, the action of the Government itself is conclusive on this question. Government has paid to the citizens of Georgia a portion of these very assessments made by the commissioners. The sum of \$21,000, or thereabouts, was paid to the State of Georgia, being the claim of Jarnigan & Co., who was in the list of these other claimants. Why should Government have paid this claim if it was not a just and proper one?

But, Mr. Chairman, there is another point which deserves the attention of the committee, and it is this: The Government of the United States paid to the friendly Indians \$80,000 for property of theirs that was destroyed on the same occasion. Now, I should like to know from some gentleman how much better an Indian is than a white man; and how much more right an Indian should have than a white man? If it was right to pay the Indians for property destroyed for them, is it not right and proper that the white man, the American citizen, should be paid also for his property destroyed under the very same circumstances for him?

But there is still another argument that is urged against this bill; that is, that the property destroyed and stolen by the Indians was not the property of these claimants, but of a portion of the Indians themselves.

It was said in the outset of the argument on

that side, that the Indians had become poor, that they were starving, and had nothing to live upon; and that the citizens had defrauded and robbed them of all their property. But now it is set up, on the contrary, that all the property for which claims are made, to the amount of nearly half a million of dollars, was theirs. It appears to me from that, if there were any foundation for this argument, that property ought to have been sufficient to sustain them, and keep them from starvation. But there is no foundation for it, and no truth in the statement. The property did not belong to the Indians, but to the white citizens. It is true that the Indians were in a deplorable condition; and this property was not theirs, but that of the white citizens residing in that district of country. One thing is very certain, and that is, that it was not the property of the United States. It did not belong to the General Government. These foraging parties were sent out to seize whatever they could lay their hands on. They took horses and cattle; they entered the farm houses, and carried away whatever they found in them which could help to sustain man or beast. Who were the owners of all this property? If these claimants were not, no one can tell who was. There has been no other claim to it set up; and, therefore, these must be considered valid claims until some one sets up a higher and a better title.

We find, Mr. Chairman, from the evidence in this volume, that orders were given by the United States officers in command, that the friendly Indians who joined the United States troops should subsist on whatever they could find in the country. The Government knew very well that it had nothing there for these troops and Indians to subsist upon. Here is the statement of the officers on this point, to the effect that the Indians went out in forage parties and brought in large numbers of cattle; and that as soon as the cattle were brought into camp, an indiscriminate slaughter of them was commenced, and hundreds of them were shot down, not by the hostiles, but by the friendly Indians—by the United States soldiery, in fact; for, whenever the Government of the United States admits Indians into the ranks of the Army, from that moment the Indian becomes an American soldier. If, then, that American soldier went out and took the property of citizens, I ask whether the Government should not refund to the citizen its value? Is it not bound by the Constitution to pay for it?

But we are told that there is no way of telling how much property was taken. Do you intend to escape payment of a just claim because your officers neglected to do their duty? I hope such a plea as that will not be allowed to weigh upon Congress; and yet there is no other construction but that to be put upon the language of some gentlemen who have spoken against this bill.

I suppose, Mr. Chairman, that every gentleman on this floor has read these documents, and understands the case thoroughly. I suppose that every point of it is fully and perfectly understood by every gentleman of the committee. I did intend to have read extracts from the statements of the officers showing the extent of the depredations, and showing, in some instances, to whom the property belonged. There were but a few instances in which the officers named individuals, but they did specify localities; and these claimants being from these localities, the presumption is a fair one that the property was theirs.

But, Mr. Chairman, we are met with another argument, and that is that the Government of the United States regarded this as a war, and made an appropriation of \$125,000 for carrying it on. What was done with that money I do not know, nor do I care. It is also said that the Government of the United States regarded this as a war, for the reason that land warrants were issued to soldiers engaged in it. In my judgment, such an argument as that avails nothing. If I refer to a single instance that is within the recollection of every gentleman here, I think all will come to the same conclusion which I have come to. Bounty land warrants were issued to soldiers who were enrolled in 1836, 1837, and 1838, on our northern frontier on the Canadian line. We had no war there. There was no war on the part of the United States with Great Britain or any other Power. But soldiers were ordered there to suppress threatened troubles, and these soldiers have received land warrants. And yet I ask any gentleman in the

opposition here to tell me whether he believes we had a war in 1837 or 1838, along our Canadian frontier? There was no such war; but nevertheless bounty land warrants were drawn by the soldiers who were engaged along that line.

That is an answer to the argument, so far as the point about land warrants goes to prove that there was any war. It was not necessary that there should have been a war, in order to entitle the men who served there to land warrants. I understand, too, that the land warrants issued for the service during these Creek Indian disturbances did not designate it as a war, but as Creek disturbances. But, be it war or no war, it can make no difference to me. Troubles and destruction of property followed these Indian disturbances. Large amounts of property were taken and destroyed by the allies of the United States, and converted to the use of the United States; and, therefore, I hold that the United States are as much responsible for it as if a record had been kept by its officers of every dollar's worth of the property, and of the name of its owner. The Government itself selected its own tribunal. It sent there its own men; men of its own appointment and selection; men having the capacity to discharge the duty devolving on them. These commissioners went there, made their investigations, and reported the result of their proceedings. I say that facts connected with this examination are sufficient to fasten on this Government the responsibility for these claims. I have no doubt, sir, that if this case had received the attention of Congress, it would, long since, have been provided for; but it takes us a long time to do nothing here; it takes, occasionally, a whole day of hard labor to do nothing.

But, Mr. Chairman, I promised the committee that I would occupy just so much of its time as would enable me to get through with what I had to say on this subject; and knowing, as I do, that there are gentlemen on that side of the House who understand this question much better than I do, I prefer that, debate being limited, they should have the time that is left, and that gentlemen on this side of the House, who have said but little on the subject, and that little, as I think, badly, should have the chance to adduce such arguments as they may see fit, so that we may arrive at the truth. All that we ask is, that right and justice be done, and that the Government be held to just that kind of responsibility to which a private citizen is held. That is all we ask. All the interest that I feel in this is, that the claim shall receive that kind of consideration which its importance deserves. If gentlemen on this side of the House or on that side differ with me as to the conclusions on which I rely, it is no fault of mine, and I will find no fault with them. If they believe that I am wrong, and that the claimants under this bill are wrong; if the case be, as some say, a stupendous swindle, then, I say, give us light. Give us the evidence. Satisfy my mind that the claim ought not to be paid, and I pledge you my word, that even now, to-day, and henceforth while I am in Congress, I will oppose the bill as strenuously as I ever advocated it. But with the view that I entertain, that these claims are honestly due and should long since have been paid, and that the Government has been derelict in its duty in not sooner paying them, I must pursue the course that I have heretofore pursued.

Mr. PURVIANCE. I desire to ask the gentleman from Ohio a question. By the provisions of the treaty, any portion of the tribe that refused to abandon their possessions, were permitted to remain. I desire to know, therefore, whether the collision out of which the disturbances arose, did not accrue between the citizens of Georgia and the Indians who refused to abandon their lands?

Mr. LEITER. I will say, in the first place, that there was no collision. The citizens of the United States living in that country and the Indians never had a collision, any more than I should have if a highwayman entered my house in the night time and attempted to rob me of my property, or destroy my life, or the lives of my family. The Indians were not in hostile array against the whites. They were not engaged in war, but in private plunder. The gentleman from Pennsylvania labors under a delusion if he supposes that there was anything which approximated to a war.

Mr. PURVIANCE. The gentleman misunderstood me.

Mr. LEITER. No, sir, I did not. I am going to answer the gentleman's question. I say, sir, that there was no collision. The disturbances and trouble grew out of the fact that the Government had not provided Indian agents and had not discharged its duty towards the Indians, or towards the citizens either. The Indians were permitted to remain there and commit depredations. Instead of being removed, they were permitted to remain skulking about the country and plundering the citizens; and the citizens had a right to look to the Government, under the intercourse act, for indemnity for the losses thus sustained by them. The lands reserved to the heads of Indian families had been sold by the individual Indians, under the authority vested in them by the treaty stipulations. If any wrong has resulted, as I have already said, it was in consequence of the wrongful act of the Government of the United States. I repeat to my friend from Pennsylvania, that there was no war, regular or irregular.

Mr. DAWES. I would ask the gentleman from Ohio if he supposes that the Government is bound to indemnify a man when a highwayman breaks into his house and plunders him?

Mr. LEITER. No, sir; but if the Government has said that when a man stops you on the highway and demands your money or your life, if you make no resistance, but hand over your pocket-book to him, the Government will indemnify you, then I say the Government is bound to pay you.

Mr. DAWES. I understood the gentleman to say that, by the intercourse act, the whites were prohibited from resisting the Indians. I want to know if the Government has passed any law to prevent a man from defending himself?

Mr. LEITER. No, sir; but the Government has passed a law, that if Indians commit depredations upon a citizen, and the citizen redresses his own grievance, and himself takes vengeance upon the Indians, then the Government will not pay him for his losses.

Mr. DAWES. The Government, then, has passed a law that a man shall not take vengeance; but I ask the gentleman if there is any law of the United States that a man shall not defend himself and his property?

Mr. LEITER. No, sir; but I say this to the gentleman from Massachusetts: that the Indians are a peculiar kind of people; they are regarded by the laws of the United States as foreigners, and not as citizens of the United States. They are a kind of independent people, with a sort of protectorate on the part of the United States Government over them; and the laws that regulate civilized communities, in the States or anywhere else, have no application whatever to the intercourse between the citizens of the United States and the Indians—not the least in the world. The Government of the United States had undertaken, by treaty, to remove all of these Indians, except those who had reserved lands, and to remove those as soon as they had disposed of their lands. Why did it not remove them? If the Government had done its duty, these claimants would have been spared the losses and calamities that befell them.

Mr. PURVIANCE. I ask the gentleman from Ohio whether the collision did not grow out of an attempt on the part of citizens of Georgia and Alabama to intrude upon those Indians who remained there under the treaty?

Mr. LEITER. No, sir; there is not a word of evidence tending to show that fact in this whole volume; and I say, upon the responsibility of my friend from Georgia, [Mr. TRIPPE], that it is not the fact.

Mr. DAWES. I want to ask the gentleman from Ohio what is the difference between these claims and the claims that were allowed by the commission and paid by the Government of the United States?

Mr. LEITER. The claims already paid—amounting, I believe, to \$25,000—were provided for by the legislation of 1816. These claims should have been provided for by the act of 1834; but inasmuch as the Government had no Indian agents there, and no one to attend to the wants of these people, so that they might present their claims properly, why, the whole matter was submitted to the President of the United States, and by him to Congress.

If any other gentleman desires to ask me any further questions, I will yield to him for that pur-

pose; because I take it that gentlemen who ask questions do it in good faith, for the purpose of arriving at the truth, and I will endeavor to answer them candidly. As no other gentleman seems desirous of interrogating me, I will now yield the floor, thanking the committee for their attention.

Mr. GRANGER. Mr. Chairman, this bill is of too much importance to be passed without great caution.

It involves, in the first place, the payment of large sums of money; and if allowed, will most assuredly commit the Government to the payment of similar claims, to the amount of many millions more.

The claim is a doubtful one at best, and we should be very careful not to incur any needless or improper expenditure of money, when we have not a dollar to spare.

If we undertake to pay such claims while we are every day borrowing and shinning to meet pressing demands, we shall soon have all we can attend to.

I ask the friends of the Administration (and I am one of them, so far as I think they are entitled to my confidence) not to allow this additional load on the Treasury, by opening the door to the payment of such large and doubtful claims.

It would seem, by the terms of the bill, that by the usual rules of taking testimony this claim would be hopeless.

In the second section of the bill we find these remarkable words:

"That the Secretary of War be, and he is hereby authorized, without regard to existing rules and requirements, to receive such evidence as is on file in the Departments of the Government, and any further proof which may be offered tending to establish the validity of these claims."

Mr. CRAWFORD. I desire to say to the gentleman that the section to which he addresses his remarks will be stricken out. I have submitted a substitute for it.

Mr. GRANGER. It is a part of the bill, and I want to recognize it in my remarks. It is there; but if the gentleman is going to strike it out I am very glad of it, and will help him do it.

Now, sir, when we reflect that the "evidence on file in the Department" actually embraced the amount of twelve or thirteen hundred thousand dollars, most of which was entirely disregarded by the commissioners appointed to examine and report upon it, we are struck with the very accommodating phraseology of the bill. And in the same section of the bill, it very prudently provides, "that payment to be made by the provisions of this bill shall be in full satisfaction of all these claims."

So, if we will pay them off this time, they will agree not to come again for the same claim. Encouraging, quite!

Now, sir, what are these claims? They are of two sorts. One is for private property taken for public use.

And the other is, for the payment for Indian depredations on the people of Georgia and Alabama, and date back some twenty-odd years ago.

The pay for the private property taken for public use, I understand was settled and paid for long ago.

As for the claim for Indian depredations on the people of Georgia and Alabama, true or false, they are not claims for which the United States are responsible.

They do not come within the range of their liability, and it is not our duty to pay them. They are entirely inadmissible, and ought to be rejected at once.

Sir, I remember something about these direful depredations on the good people of Georgia and Alabama by the Indians.

Mr. Chairman, the mistake is, the complaint comes from the wrong side.

It was the white people, and not the Indians, that were the aggressors; and if a fair settlement could ever be had, I have no doubt a large balance would be found in favor of the Indians.

These Indians had a clear and undoubted right to their lands when these depredations commenced.

They had held them from time immemorial, long before Columbus was born; and they claimed their title was from God.

They held various well-written treaties with the United States, by which their rights and obligations were well defined.

We had, by these treaties, not only admitted and recognized their entire independence and perfect right of soil and sovereignty, but we have bound ourselves to guaranty and defend those rights forever.

Such was the condition of things when their white neighbors, who now come here and ask us to pay for Indian depredations, began in the face of those treaties a system of aggression and depredation which has resulted, as no doubt was intended, to drive them away.

The Creeks and the Cherokees were in quiet, peaceful possession of their ancient homes when their white neighbors began to crowd and covet their fine lands, their well-cultivated farms, and their rich gold mines.

Then commenced that cruel system of encroachment and aggression on these quiet and peaceful Indians, with a view to deprive them of their country and get possession of their lands.

They refused to go, and said they would sooner perish on the graves of their fathers.

Mr. Adams, while he was President, strove to maintain the treaties and protect the Indians. He sent a battalion of troops there for that purpose; but his successor withdrew the troops, and told the Indians they must leave.

They remonstrated, but all in vain.

The chiefs were repeatedly at the President's, holding up the treaties and claiming protection under them. But General Jackson's mind was made up, and go they must.

It was on a time like that, when the President felt the cutting sarcasm of the Indian chief.

To the President's remark, "You cannot live with the whites; you had better go west, where you can have a plenty of lands, and we will see that you are not molested;"

The chief replied: "Not be molested, you say. Whom will you give for bail?"

At length General Scott was ordered there with four thousand men, to force them off and gain possession.

His lofty mind disdained the task.

But as a soldier he must obey.

His reply to a friend, who suggested conscientious scruples, was: "Yes, I will go, and if I cannot get them away without spilling their blood, I will stop and make a communication to the Government." "Yes, I will go; for if I do not, some one else will." "But I am no butcher."

He marched his army to their vicinity, and left his troops and went among them; not as an enemy, but as a friend. He pointed out to them the inevitable course of events, and advised them to leave, and offering them all the aid in his power. His mild and friendly advice accomplished what his arms could not.

And thus they went away, invoking the blessing of Heaven on the head of General Scott.

And now, sir, at the end of some twenty-five years, the charge is here that those abused and plundered Indians have depredated on the people of Georgia and Alabama to a vast amount, and we are modestly asked to foot the bill.

And, sir, what is the bill? After trumping and swearing up the amount to twelve or thirteen hundred thousand dollars, and including that amount in the bill, we are now told, if you will not agree to that, just pay us \$350,000 for heating the poker.

And, if you refuse to do that, we will leave out with you, provided you will just instruct the referee not to be very particular how he takes the testimony.

Sir, I hope and trust this claim will be rejected, and the key turned against any such claim hereafter.

Mr. SMITH, of Virginia. I do not rise to make a speech. I have not given this subject very great consideration; but if I understand it, this claim embraces two items, one for the actual consumption of the property of these claimants by the troops of the United States, and the other for depredations committed by the Indians, who, it is alleged, were at the time in the custody of the United States.

Now, sir, I believe the gentleman from New York, who has just spoken, is conscientious in all he does, however wrong may be the conclusions to which he may come. I know that gentleman, and I am willing to accord to him entire conscientiousness in all his official, as well as in his private, actions—even in an omnibus. I de-

sire, therefore, to put a question to him. The question I wish to put to him is this: suppose the Government were carrying a band of Indians through his township, and while spending the night there, the Government officials should abandon their position, and the Indians should be turned loose upon his property: would not he recognize the obligation of the Government to make good all his losses? The Indians were in the charge of the Government, and the Government was therefore responsible for their acts. But suppose they should commence by burning down his house, shooting his cattle, and robbing his storehouse: would he not hold the Government responsible to make good the depredations committed by them?

Mr. GRANGER. Well, sir, in reply to the gentleman from Virginia I would say that it would depend wonderfully upon circumstances. [Laughter.] In the first place, I have always lived near strong and powerful Indian tribes, and we have never had any quarrel with them. We treat them honestly, and they are quite as honest as we are. [Renewed laughter.] In the next place, if they should come in first, and commence this system of plunder without good provocation, if I had not plundered their wigwag first, I think I should "lick" them for it. [Laughter.]

Mr. SMITH, of Virginia. The gentleman does not answer my question. I am here, as an American Representative, to do my duty according to my conscience and according to my belief. I submit to the gentleman from New York that he has not answered my question; and that he may clearly understand it, I will repeat it to him. I ask the gentleman for a distinct answer in that spirit of candor with which I am sure he is pleased to act on all occasions.

I say, suppose the United States, through their officers, had two thousand five hundred Indians in charge, marching them to the West; suppose they were to camp in his township, and the officers were to abandon their position, leaving the Indians there without provisions or means of support; suppose that in consequence these Indians should commence to depredate upon him and upon others in the township in which he lives: I ask the gentleman whether he would not consider the Government bound by the clearest obligations of right to make reparation for the depredations committed?

Mr. GRANGER. I answer the gentleman, that it is a case that never did arise and never will arise, and I do not see the necessity of answering it.

Mr. GIDDINGS. I rise to a question of order. My question is, that there are now but some fifty minutes of the time allotted to the general debate upon this bill left, and I object to that time being taken up in catechising the gentleman from New York, when the friends of the bill will have the closing speech of an hour.

Mr. SMITH, of Virginia. I am on the floor according to the rules of order, and I object to this interruption.

The CHAIRMAN. The gentleman from Virginia is entitled to the floor; but the gentleman from Ohio has the right to rise to a question of order, and it is the duty of the Chair to sustain it. The Chair overrules the question of order.

Mr. SMITH, of Virginia. I now put this question in a distinct form, and I ask the gentleman from New York to answer it.

Mr. GRANGER. The supposition is not a parallel case to anything connected with the bill, and I do not see the propriety of answering mere suppositions.

Mr. SMITH, of Virginia. I put the question in that form, because a supposition sometimes involves the best argument and demonstrates the clearest conclusions. I maintain this is a parallel case. In this particular case, I understand that the Government of the United States had undertaken to remove those Indians. It had displaced them from their lands, with the exception of certain reservations. Those reservations had been disposed of. The lands had been taken up by white settlers under the invitation of the Government. The troops placed there by the Government had strangely been withdrawn, leaving the Indians without control, and without the means of support. Of course, trouble and perplexity arose. The Indians commenced a series of depredations upon the white men who had gone to that coun-

try and entered upon the cultivation of the soil, making the barren desert smile and blossom as the rose.

These, as I understand it, are the facts of this case. I think they are understood by the committee, and I submit the question, so far as I am concerned, without further remark, believing the House will do justice without any sort of hesitation.

Mr. GIDDINGS. I did not intend to address the House again upon the subject of any private bill; but, sir, I feel some degree of interest in this case. Some twenty-five years ago my predecessor, (Mr. Whittlessey,) who was one of the ablest chairmen of the Committee of Claims who ever presided over that committee, reported, clearly, distinctly, and fairly, against this claim. That committee had obtained for itself an enviable fame. From 1794 the Committee of Claims had turned their attention to claims against the Government. All claims against the Government were, at that time, referred to that committee. They kept a regular record of all their proceedings. Their decisions were duly entered upon their journal; with the reasons therefor; and the yeas and nays were recorded whenever demanded. That committee took for their guidance the precedents of revolutionary days. They referred to the greatest intellects of the age in which the Revolution occurred, and particularly were they guided by the opinions of Alexander Hamilton. There were then a vast number of claims arising, of every description, touching losses sustained during the revolutionary war.

Now, sir, I will say that I have no interest in this particular case. It is the principle alone to which I have bestowed my attention. I ask that this case shall be governed by rules which have governed all like cases for the last fifty years. If these claims come within those rules, then, I say emphatically, pay them. If not, then I am opposed to dealing out justice with a partial hand. Does any advocate of this bill ask for these claimants anything more than the same measure of justice which was dealt out to the same class of cases arising during the Revolution? I say give them no more and no less.

Mr. SMITH, of Virginia. I call the attention of the gentleman from Ohio to the fact that Mr. Whittlessey's report was founded upon the assumption that the Indians were in a state of war with the Government.

Mr. GIDDINGS. I will answer the gentleman. The advocates of this bill may take their choice, either to regard the Indians at that period in a state of war or peace with the Government, and then I will show that the Government is not responsible in either case. Is not that fair? Call it war or peace. For war I will give you the same rule of action, the same measure of damages and justice that I will give—

Mr. SMITH, of Virginia. If the gentleman will allow me, I will not take a minute of his time. What I wish to state is this: The Revolution was a state of war. This claim, on the contrary, is not founded upon a state of war; I make the distinction.

Mr. GIDDINGS. I shall meet that. It is one of the purposes for which I rose. I will meet this case whether it be considered in reference to peace or war. I would deal out the same measure of justice to these applicants, that I would to all other claimants; the same measure that has been dealt out to all other claimants of past times.

Mr. Chairman, this is a question on which a statesman ought not to have any feeling. So far as the law is concerned, I will say that I do not care what the law is if it be administered to all citizens alike. The same measure of justice ought to be dealt out to all men alike. A man must abide, of course, the proceedings here upon private claims. It is immaterial what the rule is, provided all receive the benefits of that rule alike. I turn again to the history of this thing. I would advise young members of this House, and with all due deference to them, to direct their attention to an examination of the State papers collated in the volume of claims. The more and more my experience has grown here, the more and more I have become convinced of the value of such an examination. If there is a question arising here under the pension law, or in a claim for a grant of pension—indeed there is hardly a claim which can arise at this day for which you will not find

in that book ample precedents, full and emphatic precedents. It is always at hand, and I advise gentlemen to look into it, and to make themselves familiar with its contents.

Gentlemen, sir, have stated that this property was taken for public uses. I will give a specimen of Mr. Alexander Hamilton's view of the taking of property for public uses. During the Revolution, and at a time, the memory and deeds of which go home to every American heart, while the British were in the occupancy of Boston, General Sullivan (he being in command of one of the detachments of the Army) felt it to be his duty to dislodge them from a certain position. The British occupied certain houses belonging to citizens of Boston; and it was impossible to dislodge them except by the destruction of those houses. The order was given, and the houses were destroyed. They were set on fire by our troops. The owners of those houses—Mr. Frothingham being the particular one—applied to this House for relief, alleging that his property had been destroyed for the benefit of the public. Mr. Hamilton took that case under consideration, and he distinctly and clearly laid it down that this was not property taken for public uses; that it was property lost in the common fortune of war; that it was in the chance of war that this property was destroyed. He held that the army of the British being there was the misfortune of the citizens who owned the property. I say, too, that it was the misfortune of the citizens of Alabama and Georgia that their property was taken and destroyed by the Indians.

Now I come to the reason of this rule. All nations, in time of war, regard every citizen of one nation at war with every citizen of the nation with which it is in conflict; otherwise the citizens would shrink from defending their property; and, sir, they are held responsible for their own property in order to induce them to defend themselves. I will state to my colleague, [Mr. LEITER,] who has discussed this question with ability, two facts which occurred within a stone's throw of his own residence. I call his attention to the destruction of property and the murders of 1832, when this nation declared war against Black Hawk. Then it was the duty of this Government to have protected and shielded the frontier. When these Black Hawk Indians were upon their reservation they rose and murdered our people, and burned their dwellings. Did the losers in these cases ever call for compensation?

Mr. LEITER. Had we then a treaty of amity with these Indians?

Mr. GIDDINGS. We had.

Mr. LEITER. Had we an intercourse act like that we have now, regulating the relations of the whites and the Indians?

Mr. GIDDINGS. We had an intercourse act similar in its provisions to the existing intercourse act. My colleague must not expect to escape there. I am not to be diverted from my line of argument. I will state to my colleague another historical fact. The people of the peninsula, in Ohio, were, on the 16th of September, in 1812, driven from their dwellings. They had to leave their meals smoking upon the tables; they had to leave all of their property upon that frontier; they left their hogs and sheep and oxen, and all the cattle there were killed either for the support of the enemy or of our own troops. That was done almost in sight of my colleague's dwelling. Did those people call upon the Government for compensation? If they did, did they ever get any? You, Mr. Chairman, yourself represent these people. I saw the smoke of their fourteen dwellings ascending at one time. One afternoon every dwelling was burned. I know what were their sufferings; and when gentlemen tell me that their people have suffered, I point them to the sufferings of these men I have alluded to, in years gone by. Look at the citizens of Brownstown, and at the citizens of Detroit. When the people in Detroit, at the surrender of Hull, had all their horses and cattle, their wagons and carts, taken from them by the enemy, they appealed to this body for relief. We refused to give them compensation. There stands the record. Gentlemen will find it in the volume which I have mentioned. I will not go into the details of the millions and millions of dollars which were lost by similar fortune of war. The claimants there have as meritorious a case as those provided for in this bill. So well was this thing understood, however, that they

never applied. Yet, sir, if you allow the claims provided for in this bill, then I will endeavor to induce these people of my State who suffered, or their descendants, to also apply for compensation for their losses. I will deal out to them the same measure of justice that I would deal out to others.

There is the gentleman [Mr. Hatch] who now represents the Buffalo district. I do not know whether he was old enough to remember when the British crossed over there from Canada and burned every dwelling in the city of Buffalo. The people of that city sent their petition here asking for relief. They alleged that our commanding officer had burned Lewistown, and that in return the British had burned Buffalo. They called upon us for compensation. They sent their petition here, founded upon the same principles as this. A commission was appointed to inquire into the amount of the losses, and it was found to be nearly three million dollars. Did this House ever allow it? No, sir; they never allowed a dollar of it. Men and women and children were turned out amid the storms of winter, houseless and homeless. Their all was destroyed by the enemy. Yet, sir, we sternly refused to give them one dollar. And why did we do it? They had suffered the fortune of war. I know that the predecessors of the gentleman over the way came to this House on that very question. Albert H. Tracy, one of the ablest lawyers in western New York at that day, was elected upon that issue alone. Year after year he strove in this House, with all the power and all the ability and all the influence he could command, to get those claims allowed; but they never were allowed. And shall we now establish a new precedent? If gentlemen are in favor of the establishment of a new precedent, are they also in favor of going back and paying all the claims I have stated? If this precedent is established, and we do justice, we certainly will.

Mr. LEITER. I should like my colleague, before he finishes his present train of argument, to point out what incidents of war there were in these Creek disturbances.

Mr. GIDDINGS. I promise my colleague, and others that that shall not escape me. I am now on the point of war. After the war of 1812, and when all these sufferings had taken place, the Congress of the United States felt themselves called upon to do something. Our officers had impressed provisions, horses, cattle, wagons, carts, implements, and teamsters. Some of these claims it was felt ought to be allowed. The law of 1816 was passed. I will ask my friend from New York [Mr. POTTLE] to read the portion of that law which I have marked. Those provisions embrace all the principles upon which the law was passed. This claim comes under the fifth class if it is allowable.

Mr. POTTLE read as follows:

"When any property has been impressed or taken by public authority for the use or subsistence of the Army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof, deducting therefrom the amount which has been paid, or may be claimed, for the use and risk of the same while in the service aforesaid."

"This provision relates to every species of property taken or impressed for the use and subsistence of the Army, not comprehended in any of the preceding classes, and which shall have been in any manner destroyed, lost, or consumed by the Army, including in its scope all kinds of provisions, forage, fuel, articles for clothing, blankets, arms, and ammunition; in fact, everything for the use and equipment of an army."

"In all these cases, the certificates of the officers or agents of the United States taking or impressing any of the aforesaid articles, authenticated by the officer commanding the corps for whose use they were taken or impressed, and, furthermore, of the officers and agents under whose command the same were destroyed, lost, or consumed, specifying the value of the articles so taken or impressed, and destroyed, lost, or consumed, and, if any payment has been made for the use of the same, and the amount of such payment, [must be furnished;] and if no payment has been made, the certificate must state that none has been made."

"Before any other evidence will be received, the claimant must make oath that it is not in his power to procure that which is above specified; and, further, that the evidence which he offers in lieu thereof is the best which he is able to obtain."

"Under this provision, no claim can be admitted for any article which has not been taken by the orders of the commandant of the corps for whose use it may be stated to have been taken. For any taking not so authorized, the party's redress is against the person committing it."

Mr. GIDDINGS. This law of 1816 was intended to cover all cases for which this Government was bound, and for which it would hold itself responsible. The law of 1817 extended

these provisions to depredations committed by Indian tribes. And now, sir, for all claims for Indian depredations, or for losses sustained from our own Army, or from the enemy, during war, contrary to the articles of war, we rely upon the law of 1816.

Here, Mr. Chairman, I would call the attention of gentlemen to another fact. When the Army goes upon the frontier, its officers and soldiers will have provisions, if they can be found. I speak of it because I have tried it, and therefore I speak knowingly. [Laughter.] Soldiers, while in the service of the country, feel that they are authorized to enter the farmer's field and take his green corn, and his grain, and whatever they may want, to subsist themselves. Sometimes they extend their claim to take the domestic fowls of the farmer. There is no portion of the country which has not been subjected to these acts of our troops. There never was an army which went out into the service that did not freely and unhesitatingly take whatever they wanted, where they thought there was a chance to escape punishment. The officers, generally, wink at them. In the peninsula in your district, Mr. Chairman, to which I have already referred, the troops went on their way, supplying themselves with the best provisions they could find. The Indians, also, supplied themselves from the people there. The Indians, I understand, who were employed in this war, or in these Creek hostilities, took provisions and furniture from the white people. That is the common casualty of war to which all portions of the country have been subjected. I asked, some days ago, to be pointed out wherein this particular case differed from all others of losses by Indian depredations in time of war. I do not understand my colleague as placing it upon any other ground than the intercourse act.

Mr. LEITER. I hold that this claim comes clearly within the provisions of the intercourse law. The action of the Government, by which this amount was ascertained, brings it within the intercourse law, and the matter of war has nothing to do with it.

Mr. GIDDINGS. My colleague will readily perceive that when he attempts to put his hands into the pockets of my constituents and to take money from them to pay for losses sustained from Indian depredations, they would ask by what authority that was done?

Mr. LEITER. I will tell you.

Mr. GIDDINGS. I will thank the gentleman to tell me. When you tax the people of other States, who have lost themselves by Indian depredations, when you tax them on what they have earned since their losses, to pay this claim, I should like to have my colleague, or some other gentleman, tell me the reason for it.

Mr. CURTIS. Will the gentleman allow me?

Mr. GIDDINGS. Make it short, and I will hear you.

Mr. CURTIS. I wish to make a point that I think ought to be fairly discussed. It is this: in this instance, the claim is not placed upon the ground that the loss was done by a foraging party, but that it was done under the order of the quartermaster to take property for public uses.

Mr. GIDDINGS. Then the claimants are entitled under the law of 1816, and need no action of this House. If General Jesup ordered these things to be taken, then payment can be obtained for them at the Treasury.

Mr. CURTIS. So I say; but suppose the Department will not pay?

Mr. GIDDINGS. If they are entitled under the law of 1816, they can get all they are entitled to. If they cannot get it at the Departments, I will give it to them by action here. That is what I proposed in my opening remarks.

Mr. CURTIS. But suppose the quartermaster has given the order, and the Department refuses to pay: ought we not to pay?

Mr. GIDDINGS. Now, Mr. Chairman, I certainly mean to treat this subject fairly. The authority which I have had read to the committee clearly shows that these rules were adopted by the special order of President Monroe. He and his Cabinet appointed a board, and that board defined the rules which should govern such claims; and he and his Cabinet approved those rules, and we have acted under them from that day to this. Although the law of 1816 expired two years

afterwards, yet Mr. Whittlesey, Mr. Russell, Mr. Chambers, Mr. Lewis Williams, and all the men who presided over the Committee of Claims from that day to 1846, ever adopted as their rule the equity of the law of 1816, in cases of this class. Now, I would give to these claimants exactly the same measure of justice that has been dealt out to others. The rule was adopted by the highest authorities of the land. It was Democratic authority—if Democracy has anything to do with these claims—the authority of President Monroe and his Cabinet. Never, until 1846, were those provisions departed from by the Committee of Claims of this body. These claims were referred to the Committee of Claims, when my immediate predecessor, Mr. Elisha Whittlesey, presided over that committee; the claims were referred to him, and he made an able and emphatic report against them.

Now, sir, my colleague [Mr. STANTON] has prepared an amendment giving these men all that they are entitled to under the equity of the law of 1816, and I hope it will be adopted. I am willing to go that far. I have no hostility to those claims. On the contrary, I would discharge every obligation that this Government owes to those people, as to all others. But it strikes me that if we overturn this rule, we shall open up all the claims of the past, and the men who in former years have been denied the measure of justice that it is proposed to grant by this bill, will come here for relief.

Mr. WOODSON. Will the gentleman from Ohio answer me one question?

Mr. GIDDINGS. Certainly, sir.

Mr. WOODSON. I understand him to say that an amendment has been prepared, giving to these claimants all that they could be entitled to under the equity of the act of 1816. I ask him if he is willing to give them all they could get under the act of 1834—the intercourse act?

Mr. GIDDINGS. I was just coming to that, and I will leave the question, so far as war is concerned, at this very point. My colleague [Mr. LEITER] based his whole argument upon the intercourse act of 1834. That law was limited in its operation; so that if the claimant did not apply within a specified time, he could not apply at all. My colleague complains that these persons were not able to make their applications within that specified time; and here I want the ear of my colleague, because he imputes this to the fault of the Government. I ask him whether, if the President and his Cabinet, and General Jesup and all the commanding officers of that military force, had stipulated to pay these men from the Treasury without authority of law, he would have granted the money?

Mr. LEITER. I will answer my colleague very readily. I say this: that, for one, when I am instrumental in sending out a Government agent, I will abide by his action to the very last cent.

Mr. GIDDINGS. O God, save my colleague! [Laughter.]

Mr. LEITER. Yes, sir; if I send out my individual agent to do business for me, while he acts within the scope of his authority I will pay every cent of the liabilities he incurs.

Mr. GIDDINGS. Here is my hand, and my heart too, on that.

Mr. LEITER. Let me ask my colleague a question. When you send out an army do you furnish them with provisions, or do you give them directions to steal their way through, as it is represented was done in this case?

Mr. GIDDINGS. Keep cool, my colleague. [Laughter.] Now, I will tell my colleague most emphatically that this nation is a nation of law, and I would hold the President as strictly within his constitutional powers as I would my own servant at home to my orders. Suppose, for instance, that General Jesup, or any other officer of the Army, should come and take my colleague's feather bed, when there was a sick man in camp, or his looking-glass, or his family pictures, would he call on the Government to pay him for them? Just answer yes or no?

Mr. LEITER. If it was necessary he should have them; then I should look to the Government for indemnity.

Mr. GIDDINGS. My colleague seeks to get out at a mighty small place.

Mr. LEITER. I do not believe any officer would take such things as family pictures, be-

cause they never could be needed. The gentleman supposes a case that could never come up.

Mr. GIDDINGS. My colleague comes now to the very principle, and I ask the House to notice it. It is, that while an officer is acting *within the scope of his authority*, we are bound by his acts; that if we do not furnish him with provisions he has a right to order them to be taken, and that his certificate for the provisions so taken is binding upon the Government. That is the correct principle, and there is no shrinking from it. But, sir, I deny that General Jesup had a right to do that which the law had given him no power to do. I deny that the President, or his Cabinet, or any officer of this Government, can transcend their authority and bind my constituents by such acts of usurpation. Now, this officer had a right to take from the citizens whatever was necessary to support his army. If they were not furnished with proper provision—if they had not meat and bread, he had a right to impress it; and if he could not impress meat and bread, then he had a right to take from the hen-roosts and corn-fields enough for the support of his men, if there was none that he could get by purchase, and his certificate to those facts would bind the Government and bind us.

Mr. LEITER. I would ask my colleague if he has read the evidence in this case, and if it does not appear that the troops had nothing but salt pork, and very little of that.

Mr. GIDDINGS. Had they bread?

Mr. LEITER. I do not recollect, but I believe so.

Mr. GIDDINGS. My colleague has admitted the whole; for they had pork and bread, which was all we had stipulated to give them; and therefore the taking of even a single ear of corn was a violation of law by the officer who did it. I am glad that my colleague has propounded his questions. I am glad to have an opportunity of explaining to the committee the effect of the law, as I have understood it since I have been a member of this House; and, sir, it was with this view, I again repeat, that these very claims were so emphatically repudiated by the Committee of Claims more than twenty years ago.

And now again I will come to the intercourse law, upon which my colleague relies; and I say to him that not one section or sentence of that act authorizes this Government to take from the pockets of my constituents a dollar to pay to the constituents of any other Representative on this floor, in consequence of any violation of the intercourse law. Am I understood? The intercourse law provides that when Indian depredations have been committed under certain circumstances, the person who has been injured may apply to the proper authorities, state his claim, bring his proof, under certain regulations, and the amount shall be deducted from the annuities of the Indians. I ask my colleague to point me to a single sentence in the intercourse act which authorizes the President, or any authority, to take money from the national Treasury and pay it to persons who have been injured by Indian depredations.

Mr. LEITER. I have read a clause in the seventeenth section of that act, which provides that, where there is no treaty of amity with the Indian tribe, the amount shall be paid out of the Treasury.

Mr. GIDDINGS. That is where there was no treaty of amity.

Mr. LEITER. Well, if the Government fails to furnish the proper means by which provision may be made for obtaining satisfaction under the intercourse act, is not the Government responsible for its own negligence?

Mr. GIDDINGS. I will answer the gentleman's question by asking another. If the President has failed to do his duty, does that give him authority to put his hand in the pocket of my constituents to correct his own misconduct? My colleague asks, if these claims were not paid in consequence of the failure of the President to provide the proper means, whether I would withhold compensation? I answer by the question which I have put.

Mr. LEITER. If our agent failed to perform the duty which we devolved upon him, then I think we ought to be responsible; because the Government should be responsible for the acts of its agent, he acting within the scope of his authority. If it was the duty enjoined upon the President to keep Indian agents in that country, and

he did not keep Indian agents there, whose fault was it?

Mr. GIDDINGS. Not the fault of my constituents, certainly. If the Government did not send agents there it was not my fault, nor the fault of the whole people of the United States.

My colleague says that these Indians were attached to the Army of the United States, and were to be sustained as a part of the Army. Well, sir, if they had been regular soldiers in the Army, the same rule would apply. But again, my colleague admits that there was a treaty of intercourse and amity with these Indians; and he admits that where such a treaty exists, the national Treasury is not held for depredations committed by such Indians.

Mr. LEITER. I supposed the facts of this case was understood, but I find that I shall have to refer my colleague again to the testimony. I quote from the testimony of Major Collins, page 7, of the report:

"Major Collins testifies that he served with the regiment of friendly Indians under 'Jim Boy,' from the time they took up arms until they were discharged from the service of the United States. That they 'had no rations supplied by the Government until a surrender was made; that they drew a little provision, which was given them to get it out of the wagons, to enable them to move quicker, as they intended moving to Fort Mitchell, where stores were supplied for the subsistence of the army. All former supplies we had were such as were left by the unfortunate settlers; of this the Indians felt authorized to use, and did so freely wherever they could find any. The Indians said they were to have all the property they could find, according to the proposition made to them by the Commander-in-Chief, General Jesup, and was accepted by him, it being their mode of warfare. They accordingly continued to kill a great many cattle—more than was actually necessary for the subsistence of the whole army, which they said they killed to starve the hostiles.'"

Mr. GIDDINGS. That brings us right back to the question whether war did exist; and it comes back to the principle which I have already asserted, that if such supplies are taken for which the Government is responsible, they must be by order of the commanding officer. Now, Major Collins testifies that they had no provisions. Where is the certificate of General Jesup, the officer in command, that they were authorized to take these provisions of the citizens? I will read again from the law which governs this subject:

"Before any other evidence will be received, the claimant must make oath that it is not in his power to procure that which is above specified; and, further, that the evidence which he offers in lieu thereof is the best which he is able to obtain.

"Under this provision, no claim can be admitted for any article which has not been taken by the orders of the commandant of the corps for whose use it may be stated to have been taken. For any taking not so authorized, the party's redress is against the person committing it."

I repeat, that the Committee of Claims, from the days of the administration of Mr. Monroe until the present day, have invariably rejected all claims for indemnity for provisions taken by the army under such circumstances, unless accompanied by the certificate of the commanding officer authorizing the property to be taken.

Mr. LEITER. I must again refer my colleague to the testimony upon this point, for I see he does not understand it. Colonel Hogan, who probably knew more about this affair than any other man connected with the Army, testifies in his letter of September 18, 1837:

"Of the cattle that were killed for the subsistence of the Indian forces under my command, no marks or numbers were taken. Indeed, such a course was impracticable. I was ordered by General Jesup to subside the force in the best manner I could, and I had forage parties out every day hunting up corn and fodder and beef. As soon as the Indians would drive up a gang of cows, calves, or oxen, before I was aware of their being in any part of my camp, which was very extensive, having from thirteen hundred to fifteen hundred Indians scattered all over the hills about the Big Springs, those Indians, who were most in want of provisions would commence shooting them down. In this way an immense number of cattle were destroyed, and a great many more than were required for the actual subsistence of the whole army. To prevent a general destruction of cattle was utterly impossible, and equally so to obtain a list of marks and brands."

There you have the evidence that it was utterly impossible to obtain a list of the marks and brands of the cattle, so as to make reparation for them.

Mr. GIDDINGS. That is the certificate of Colonel Hogan; but it is not testimony that the taking of this property was authorized by the officer in command.

[Here the hammer fell.]

Mr. LEITER. I should like to ask my colleague one question.

Mr. DEAN. I object to further debate.

The bill was read by sections for amendment.

Mr. STANTON. I offer the following amendment:

Strike out all after the enacting clause, and insert:

That the accounting officers of the Treasury be, and they are hereby, authorized to audit and settle the claims of certain citizens of Georgia and Alabama, for losses sustained by the Creek Indian outbreak in 1836, 1837, and 1838; and that, in the settlement of said accounts, said officers shall be governed by the provisions of the act entitled "An act to authorize the payment of property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes," approved April 9, 1816; and that the claims so audited and allowed shall be paid out of any money not otherwise appropriated: *Provided, however,* That the claims so audited and allowed shall not, in the aggregate, exceed the sum of \$320,000; and that all payments made to any of said claimants, under former laws, shall be deducted from the amount found to be due.

I supposed, Mr. Chairman, when I addressed the committee on a former occasion, that all claims of this description, arising out of these disturbances, had been already audited and paid. I am informed, however, that such is not the case; and am satisfied that there are still other claims to which parties are entitled under the law of 1816, if they had permission to avail themselves of it. I am, therefore, disposed to regard this as a case arising during Indian hostilities—a *quasi* war—in which the parties are entitled, in fairness and justice, to be placed in precisely the same position as all other parties have been in past times, who suffered injuries in time of war. I therefore offer this amendment, as bringing them precisely and specifically within the provisions of that law; and as dealing out to them the same measure of justice as has been extended to other persons, in other sections of the country, during the whole of our past history. The terms of the law do not extend beyond the losses sustained in the war of 1812; and the Department would not be authorized, under that law, to allow these claims. I desire to bring these claims on the precise level with all other cases under similar circumstances. They have no right to claim any more; and if we pay them any more, we overturn the principle established by the Government, and open the Treasury to a flood of claims which will be withheld no longer.

Mr. STEPHENS, of Georgia. The amendment of the gentleman from Ohio seems, on its face, to be equitable and just. He refers in it to the act of 1816. Since the passage of that act, Congress passed, in 1834, a law in regard to Indian depredations. As I understand this whole claim and its merits, I am prepared to vote for the gentleman's amendment, if he will make the acts of 1832 and 1834 applicable to this case. I am willing to go for it then, but I am not willing to have the claim decided under the act of 1816.

Mr. STANTON. You cannot make the laws of 1832 and 1834 applicable to this case. Those laws allowed the losses to be stopped from the annuities of the Indians. These claims must be paid out of the Treasury, a thing not recognized by the Indian laws.

Mr. STEPHENS, of Georgia. If these claims come within the equity of those acts, I would, so far as I am individually concerned, go for taking them out of the Indian annuities. It becomes a question between the Government and the Indians. If the gentlemen think it wrong to make the Indians pay these losses, I say that the men who have lost their property ought not to be made bear the loss. If the Government has a tender feeling towards the Indians, let the Government itself pay the debt, and not leave the citizen to endure the loss.

Now, Mr. Chairman, it is growing late, and I think it possible that if we adjourn now this bill can be put into such a shape before to-morrow, as that gentlemen on all sides can vote for it. I will not support it on any other principle than that of justice and right. That the bill may be so fixed up, and that some substitute for it may be proposed to-morrow, I move to strike out the enacting words of the bill, and let it be so reported to the House. If the friends of the measure cannot agree to such a substitute as will meet the approval of a majority of the House, let it be lost.

Mr. LEITER. Will the gentleman withdraw his motion for a moment, that I may call the attention of the committee to the action of Congress on this question?

Mr. STEPHENS, of Georgia. You can do that to-morrow.

The motion to strike out the enacting clause was agreed to.

Mr. MAYNARD. I ask that, by unanimous consent, the committee may be discharged from the petition of the heirs of George Yates, which was reported back adversely from the Court of Claims and referred to the Committee of the Whole House on the Private Calendar, so that it may be referred to the Committee of Claims.

There being no objection, it was so ordered.

Mr. STEPHENS, of Georgia. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SHERMAN, of Ohio, reported that the Committee of the Whole House had had under consideration the special order, being House bill No. 367, and had instructed him to recommend that the enacting words of the bill be stricken out; also, that the committee had directed him to report back an adverse petition from the Court of Claims on the petition of the heirs of George Yates, with a recommendation that it be referred to the Committee of Claims.

The petition was so referred.

Mr. STEPHENS, of Georgia. If the motion be made now to recommit this bill to a Committee of the Whole House will that not be the first business in order to-morrow, if the House adjourn now?

The SPEAKER. It will.

Mr. STEPHENS, of Georgia. Then I move to recommit it; and I will state to the House that my intention is to call it up in the morning. I think it probable that some substitute can be agreed upon in the mean time which will meet the general approval of the House. I therefore move to recommit the bill to a Committee of the Whole House, and move that the House do now adjourn.

TARIFF RESOLUTIONS OF PENNSYLVANIA.

Mr. MORRIS, of Pennsylvania. When I arose some time since to offer resolutions from the Legislature of Pennsylvania there was a privileged question pending. I now ask leave to present resolutions on the tariff question, of the Legislature of Pennsylvania, and move that they be read, laid on the table, and ordered to be printed.

Mr. JONES, of Tennessee. I ask for the regular order of business.

Mr. STEPHENS, of Georgia. Then I must insist on my motion to adjourn.

Mr. SMITH, of Virginia. Will the gentleman allow me the privilege of —

Mr. WASHBURNE, of Illinois. Regular order of business.

STATISTICS OF MANUFACTURES.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, stating that he had transmitted to the Senate a digest of statistics of manufactures, according to the returns of the seventh census, prepared under the direction of the Secretary of the Treasury, in conformity with the provisions of the civil expenses appropriation bill, approved June 12, 1858.

The message was laid on the table, and ordered to be printed.

IMPORTS AND EXPORTS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury in answer to a resolution of the House of Representatives of 20th December, 1858, relative to imports and exports from Great Britain and France to the United States for a series of years.

Mr. STANTON. I move that the communication be referred to the Committee of Ways and Means, and ordered to be printed.

It was so ordered.

EMPLOYÉS OF STATE DEPARTMENT.

The SPEAKER also laid before the House, a communication from the Secretary of State, transmitting a list of clerks, and other persons employed in the State Department; which was laid on the table, and ordered to be printed.

RESIDENT MINISTER TO JAPAN.

The SPEAKER also laid before the House, a letter from the State Department to the chairman of the Committee of Ways and Means, asking that an appropriation be made for the salary of a

minister resident at Japan; which was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. SMITH, of Virginia. The gentleman from Georgia is willing that I should offer—

The SPEAKER. The regular order of business was called on the right and on the left.

And then, on motion of Mr. STEPHENS, of Georgia, (at four o'clock, p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 22, 1859.

The House met at twelve o'clock, m. Prayer by Rev. M. ALIG.

The Journal of yesterday was read and approved.

PENNSYLVANIA TARIFF RESOLUTIONS.

Mr. MORRIS, of Pennsylvania. I ask leave to present to the House certain resolutions of the Legislature of the State of Pennsylvania; and move that they be laid on the table, and ordered to be printed.

Mr. FLORENCE. I would suggest to my colleague that he ask for the reading of the resolutions, and then move to refer them to the Committee of Ways and Means. They are the expression of the Legislature of the State in reference to a very important subject, and a subject that is attracting a good deal of attention at this time.

Mr. JONES, of Tennessee. A subject we do not want here.

Mr. FLORENCE. Very well; the Legislature of Pennsylvania sends the expression of its opinion here. I hope that that opinion may be read here, and referred to the proper committee having charge of the subject in this House.

Mr. MORRIS, of Pennsylvania. If it be the wish of the House, I hope the resolutions may be read.

Mr. FLORENCE. I trust they may.

The Clerk commenced to read the resolutions.

Mr. GARNETT. I rise to a question of order. I desire to know whether the reading of these resolutions is a matter of right? If not, I object to it.

Mr. BARKSDALE. I trust the gentleman from Virginia will withdraw his objection. I am opposed to the principle of the resolutions; but I think they ought to be read.

Mr. FLORENCE. I rise to a point of order. The reading commenced by unanimous consent, and it should not be interrupted.

Mr. BARKSDALE. I desire to say that when a State, through its Legislature, desires to be heard in Congress, that request ought to be granted. I am opposed to the object of these resolutions; but it strikes me they ought to be read, and I hope my friend from Virginia will withdraw his objection.

Mr. CURRY. I would like to ask the gentleman from Pennsylvania [Mr. Florence] whether there is an agreement on the subject of these resolutions between the Democrats and Republicans of Pennsylvania?

Mr. FLORENCE. I have nothing to do with Pennsylvania Republicans, as such. I am a Pennsylvania Democrat, and am not responsible for the acts of anybody else. I trust that my votes in the House and my record here will substantiate this declaration.

Mr. MORRIS, of Pennsylvania. This is the respectful expression of the opinion of a sovereign State, presented to the Congress of the United States. The reading of such resolutions is usual in the Senate of the United States, and I do not know why its reading should be denied here in the House of Representatives. Resolutions of the Legislatures of other States have been generally read here on other subjects, and certainly there is no reason why there should be an exception made to the reading of these resolutions.

There was another reason why the voice of Pennsylvania should be heard in this Hall, on the subject of these resolutions. She had suffered more than any other member of the Union from the mischievous legislation of Congress on the tariff, and she had a right to be heard when she asked reparation of the body which had inflicted upon her the wrongs of which she complained. I cannot, moreover, understand, sir, why such strenuous opposition should be made to these resolutions because of their subject-matter, relating, as they do, to a question of equal import to the

Government and people. I trust that no further objection will be made to their reading.

Mr. WASHBURN, of Illinois. By the rules of the House, cannot the reading of a paper on which the House is called to vote be required by any member?

Mr. MILES. I move the previous question on this matter.

Mr. JONES, of Tennessee. I rise to a question of order.

The SPEAKER. There is already a pending question, which must be disposed of.

Mr. JONES, of Tennessee. The question which I submit is, that the question before the House is on the printing of these resolutions, now before the House. As a question of order and of right, a member has the right to call for the reading of them, to know what it is we are going to vote upon.

The SPEAKER. The Chair supposes that, under the practice of the House, any member has the right to call for the reading.

Mr. STEPHENS, of Georgia. I trust that the gentleman from Virginia will withdraw his objection to the reading of the resolutions. The matter has now taken up more time than the reading would have occupied. For myself, I am perfectly willing that the resolutions of the Legislature of any State in the Union shall have a hearing here. I think that it is a matter of courtesy that these resolutions should be read. I trust, therefore, that the gentleman from Virginia will withdraw his objection.

The SPEAKER. The Chair is of opinion that the resolutions must be read if any gentleman calls for their reading.

The resolutions were read, as follows:

Whereas the experience of the past and present most fully demonstrates that it is a wise and beneficent policy of the General Government which dictates the imposition of duties on such products of foreign nations as come in such direct contact with those of our own country as to injure and prostrate the trade on our own soil, and among our own citizens; for want of such aid the artisans and laborers, in many departments of trade, are compelled to abandon their accustomed pursuits; especially do our own coal and iron interests suffer: Therefore,

Resolved by the Senate and House of Representatives of Pennsylvania in General Assembly met, That our Senators in Congress be instructed, and our Representatives requested, to labor for the passage (at the present session) of such an act as will not only tend to increase the revenue by the imposition of duties, but afford ample encouragement to all the interests of the country injured by the productions of the cheap labor of other nations; but more especially to urge an increase of duties on coal and iron, in which so large a portion of our own people are deeply interested.

Resolved, That the views of the President, expressed in his late annual message, in reference to the advantage of definite, or specific, over *ad valorem* duties, as more uniform, less liable to frauds, and affording the most certain and uniform amount of revenue, needs our hearty approval.

Resolved, That the Governor be requested to forward to each of our Senators and members of Congress a copy of the above preamble and resolutions, informing them of their adoption.

Mr. McQUEEN. I ask my friend from Pennsylvania [Mr. Florence] whether the principles of these resolutions are in the Cincinnati platform?

Mr. FLORENCE. Not exactly as set down in these resolutions.

Mr. MONTGOMERY. Substantially, they are.

Mr. JONES, of Tennessee. I move that the resolutions be laid on the table, and ordered to be printed.

The motion was agreed to.

UNITED STATES COURTS IN KENTUCKY.

Mr. BURNETT, by unanimous consent, introduced a bill to provide for the holding of a term, annually, of the circuit and district courts of the United States, for the district of Kentucky, at Paducah, in that State; which was read a first and second time, and referred to the Committee on the Judiciary.

WASHINGTON GENERAL HOSPITAL.

Mr. BURNETT also, by unanimous consent, introduced a bill to establish a general hospital for the District of Columbia, and to provide for the transfer thereto of the buildings and grounds now occupied by the Washington Infirmary; which was read a first and second time, and referred to the Committee for the District of Columbia.

MARINE HOSPITAL AT HICKMAN.

Mr. BURNETT. I ask the unanimous consent

of the House to introduce a bill to establish a marine hospital at Hickman, Kentucky.

Mr. MORGAN. I object.

INDIANS IN MINNESOTA.

Mr. CAVANAUGH. I ask the unanimous consent of the House to offer the following resolution:

Whereas the Sioux Indians, in the State of Minnesota, have a larger tract of country as a reservation than is necessary for their use; and whereas the Winnebago Indians in the counties of Blue Earth and Waseca, in the same State, occupy "a territory now entirely surrounded by white settlements, and which reservation is near the center of the most densely populated district in the State:" Therefore,

Resolved, That the Secretary of the Interior be respectfully requested to inform the House of Representatives whether it is competent or expedient to take any steps at the present time to remove the Winnebagoes from their present position and locate them upon a portion of the Sioux reservation, or elsewhere, and secure to each head of a family, of both nations, a tract of land sufficient for a farm; and if so, whether any, and what, legislation is necessary to enable him to effect that purpose.

Mr. MORGAN. I object to the resolution.

SPOILIATIONS ON AMERICAN COMMERCE.

Mr. SICKLES. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States be requested to communicate to this House the aggregate amount of indemnity claimed by citizens of the United States for spoiliations upon American commerce prior to A. D. 1800; and now unsatisfied; also, the names and residence of the claimants; specifying the original claimants now living, and those who claim as heirs or devisees; and also those who claim as underwriters, or the assignees of underwriters; and also those who are the assignees by purchase, or otherwise, of the original claimants.

Mr. PHILLIPS. I object to the resolution.

Mr. HUGHES. I desire to call the attention of the Chair to the fact that I called for the regular order of business before the gentleman from Kentucky introduced his bills.

The SPEAKER. The Chair did not hear any call from the gentleman from Indiana.

IMPORTATION OF AFRICANS.

Mr. KILGORE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States be, and he is hereby, requested to report to this House what information has been received by him, if any, in regard to the recent importation of Africans into the State of Georgia, or any other State of this Union; and what steps have been taken to bring to trial and punishment the persons engaged in this inhuman violation of the laws of the United States, and to prevent similar violations hereafter.

Mr. STEPHENS, of Georgia. That resolution might give rise to debate. If the gentleman will move the previous question upon it, I will not object.

Mr. KILGORE. I demand the previous question.

The previous question was seconded and the main question ordered; and, under the operation thereof, the resolution was agreed to.

Mr. LOVEJOY. I ask leave to introduce a bill.

Mr. PHELPS, of Missouri. I call for the regular order of business.

Mr. LOVEJOY. It is always called for just at a certain point, and I shall insist upon it in future. Just as soon as it gets around here, the regular order of business is always called for. [Laughter.]

CLAIMS OF GEORGIA AND ALABAMA.

The SPEAKER stated that the business in order was the motion made by the gentleman from Georgia, [Mr. STEPHENS,] to recommit to the Committee of the Whole House a bill (H. R. No. 367) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. STEPHENS, of Georgia. It is not my purpose to protract the debate upon this question. My object yesterday, in making the motion that I made, was to stop the debate, because I thought it had exhausted the subject, and believed the House was very well informed upon the general merits of the question. I wished, however, sir, to put the bill in a shape that would suit the views of a number of gentlemen who participated in that debate, and expressed views different from those embodied in the report of the committee; and I must confess that I belong to that class myself. While I believe that there is great merit and justice in the claims, the language of the bill which we had before us did not suit me, and I thought that during the night it might be put in a shape

that would meet the views of a majority of the House.

Now, sir, I intend to withdraw the motion to recommit, and bring the House directly to a vote upon concurring in the recommendation of the Committee of the Whole House to strike out the enacting words of the bill. If the House—as I trust it will—will not concur in that recommendation, I shall move to strike out the entire bill, and insert what I hold in my hand.

Several MEMBERS. Let it be read.

Mr. STEPHENS, of Georgia. I will first give the points to the House, and then the amendment shall be read. It simply provides for the payment of all losses inflicted on the citizens by the troops of the United States, and the Indians under their command. That comes within the principle laid down yesterday by the senior member from Ohio, [Mr. GIDDINGS,] as I understood it. I understood him to say that he was willing to provide for all that class of claims which are for losses sustained by citizens in property seized or pressed by officers of the Government, or by Indians under the command of officers of the Government. That is certainly just and right.

Mr. CURTIS. Does the gentleman include that which would be considered the havoc of war—that is, the foraging of the Indians or soldiers, without the orders of their commanders?

Mr. STEPHENS, of Georgia. The first class of cases—the one that I have mentioned—does not include the havoc of war.

Mr. GIDDINGS. The gentleman has alluded to what I said I was willing to do. I did say, on yesterday, that I was not only willing, but that I desired, that these claimants should have the same relief that was granted under the law of 1816 to all other claimants. If there are any of that class of claims that have not been paid, I desire that they shall be paid.

Mr. STEPHENS, of Georgia. This clause of my amendment covers that class. Then, sir, I provide further—and on this point I wish the House to be thoroughly informed—I provide that all other classes of depredations by the Indians, upon the property of the citizens of the United States, shall be settled upon the principles of the intercourse act of 1834.

Mr. GIDDINGS. No; the gentleman misunderstood me on that point.

Mr. STEPHENS, of Georgia. No, sir, I am now explaining my amendment. I understood the gentleman from Ohio, yesterday, and on a previous day, to say that he approved the principles of the intercourse act of 1834. The other gentleman from Ohio, [Mr. STANTON,] who moved an amendment, yesterday, I believe also approves of the principles of the intercourse act of 1834. These citizens did not come within the terms of that act. Hence, to apply the principles of that act to those citizens, and put them on the same footing with other citizens who did come within it, requires additional legislation. Now, sir, I insist that upon principles of right, upon principles of justice, upon the principles of the settled policy of the Government, the act of 1834 is right; and all I ask is that these claimants shall be brought within its letter and spirit, by that additional legislation which is necessary.

The gentleman from Ohio on my right, [Mr. LEITER,] when I suggested this to him yesterday, said that, under this Indian intercourse act of 1834, this money would have to be taken out of the annuities coming to the Indians. That is true. By the intercourse act, I believe it would be right to take the money awarded for these depredations out of the annuities coming to the Creek Indians. These Creek Indians are now receiving from the Government, annuities to the amount of \$49,000. I think it would be right to stop their annuities until the damages occasioned by the members of their tribe are paid for.

Inasmuch as these depredations were committed by vicious and lawless members of the tribe, not sanctioned by the tribe, not sanctioned by even the chiefs of the tribe, I am myself willing to forego the withholding of these annuities from the tribe, the great body of which, preserved amity with our Government. But, when the question comes up between our own citizens and the Indians, if I am forced to that position, I shall certainly side with my own countrymen. And right here, I will state that the Government has already paid these friendly Indians \$80,000 for the depredations com-

mitted by the hostiles upon them—for the friendly Indians were depredated upon, as were the citizens of the United States; and will you not measure out to your own citizens the same justice which you measured out to the savage? I ask only that you shall elevate the citizens of our country to the same level with the savages, so far as the justice of this question is concerned. To my mind it seems but right. I do not complain that that \$80,000 was paid to the Indians, but I say that upon the same principle of justice, the same description of claims upon the part of our own citizens should be paid.

Again, the State of Georgia paid the sum of \$21,000 to some citizens, for property destroyed at that period. That claim was brought here, and Georgia has been indemnified by the General Government. I wish to except that amount from the claims for which this bill provides.

Now, sir, I will send this substitute to the Clerk's table to be read, and then I will answer any question which may be propounded.

Mr. HOWARD. I wish to ask the gentleman whether this \$80,000, of which he speaks, was paid out of the annuities due the tribe, or out of the Treasury of the United States?

Mr. STEPHENS, of Georgia. It was paid out of the Treasury of the United States?

Mr. STANTON. The difficulty about applying the principles of the Indian intercourse act to this case, as I understand it, is this: the policy of the Indian intercourse act is, that there shall be deducted from the annuities of the whole tribe, an amount sufficient to cover the depredations committed by individuals of the tribe upon the property of white citizens. It is to make the tribe at large security for the good behavior of all the individuals of the tribe. The effect is, that when you retain from such annuities the amount of damages sustained by depredations committed, or robberies made, or trespasses committed, by individuals of the tribe, the tribe are able to withhold from the guilty parties their proportion of the annuities to the amount of damage done; thus visiting upon them the effects of their misconduct as members of the tribe.

Now, this case cannot be brought within the principles and the equity of the Indian intercourse act, for the reason that the claim was not set up at the time, and it is impossible now to visit upon the offending members of the tribe the effect of their misconduct. It is impossible for you, upon any principle of justice, now when the succeeding generation of Indians are receiving the annuities to which they are entitled by treaty, to withhold these annuities for crimes alleged to have been committed by their ancestors. It is, therefore, in my judgment, not only impracticable, but unjust, to place these claims within the provisions of the Indian intercourse act.

And, sir, there is another reason. Those claims never did come within the meaning and the spirit of the Indian intercourse act, because that simply contemplates depredations committed by individual Indians while the body of the tribe remained at perfect peace, and were seeking to perpetuate those friendly relations.

Now, sir, the evidence in this case shows that these depredations were committed while in a state of hostilities, or quasi war, to say the least of it. I think the charges upon the books of the Treasury will show that that was a pretty serious war, about 1836, 1837, and 1838. But, in my judgment, it comes properly within the spirit of the provisions of the act of 1816, regulating a state of war; and therefore the act of 1816, making provision to indemnify citizens for depredations committed and property destroyed while in a state of foreign or domestic war, seems to me to be the one which is strictly applicable to this case. I can understand very well that the application of this law to this case would work very great injustice to particular individuals, as always happens in a state of war when the Government refuses to become responsible for the depredations committed and losses sustained. My colleague [Mr. GIDDINGS] enumerated cases of this kind yesterday, in which great hardships were sustained under these circumstances; but there are cases where citizens must take their chances in the fortunes of war. So far as my vote is concerned on this bill, I am for bringing these citizens within the provisions of the act of 1816.

Mr. STEPHENS, of Georgia. A few words

in reply to the gentleman from Ohio. He is mistaken when he supposes that these troubles were anything like a general war with the tribe. All the old leading chiefs disapproved of it, and did their utmost to suppress the disturbances. General Jesup, in his letter, states that he does not believe more than one hundred and fifty of these Indians committed depredations. The spirit of the nation at large was so much for peace that it brings the case clearly, in my opinion, though not within the words, I admit, yet it does bring it within the spirit of the Indian intercourse act of 1834.

Now, one word upon that point: the gentleman says we cannot put it upon the equity of that act, because the claim was not presented to the agent in conformity to law. Why, sir, there was no agent there. I have said that those claims do not come within the letter of that act; and to meet this emergency the Government sent down two commissioners there to take evidence; and what we now ask this House to do is simply to confirm the awards of these Government commissioners, who stood in the place of the superintendent of Indian affairs, or Indian agent, contemplated by the act of 1834. All we ask is, that these citizens shall be compensated for their losses, as others who sustained losses during the same troubles have been compensated.

Mr. STANTON. Troops were there. There was, sir, an army there, under the command of an officer of the United States, and in a hostile attitude against the Indians. A large portion of the claims is for depredations committed by soldiers in the service of the United States. The Indians were in arms, in resistance to the troops of the United States. I take it that that makes a war. It is not, therefore, a case within the spirit or letter of the Indian intercourse act. It is not a spoliation by one or by half a dozen Indians. It is strictly, in my judgment, a case that would come, if anywhere, within the provisions of the act of 1816; within its equity and spirit. If the gentleman had the benefit of the Indian intercourse act of 1834, it would not avail for these claimants so far as spoliations committed by troops of the United States are concerned.

Mr. STEPHENS, of Georgia. That is the reason why I added the additional clause to my substitute.

Mr. STANTON. When you show that spoliations have been committed by our troops at war with Indian tribes, it unmistakably marks it a case of hostility, and not a case of depredations committed in time of peace. What I wish to say in reply to the gentleman's proposition to give him the benefit of the Indian intercourse act, is this: it is not just to give these claimants the benefit of the Indian intercourse act, and then not deduct the damages from the annuities of the Indians; because it is unequal. In all other cases where there have been spoliations committed, and the claimants have been relieved under the intercourse act, the Treasury has contributed nothing. As the citizens of his State have never contributed for the payment of spoliations committed by Indians in other sections, it is unjust and unequal now to ask us to contribute for spoliations of that kind committed in his State.

Mr. STEPHENS, of Georgia. The Indian intercourse act of 1834 expressly provides, that if there be no annuities given to the Indians, the losses shall be paid out of the Treasury of the United States. That is the express term of the intercourse act.

Mr. STANTON. Did not the men who were engaged in that Florida war receive bounty land?

Mr. STEPHENS, of Georgia. Some gentlemen argue that this is a war because the Government troops were down there. The tribe was not at war at all. The Government troops were sent there to protect the settlements against these marauding parties of Indians. It was never recognized by this Government as a war; and when the volunteers who went out applied for bounty lands, they were refused. But, sir, a portion of this tribe of Indians, after these depredations were committed, went down and joined the Seminoles; and it was then, that, under the title of the Seminole war, these volunteers were given bounty land. This is the history of this matter. I want the House to understand that the Government never did recognize it as a war. They refused applications for bounty land to the soldiers who

served there. I ask for the reading of the bill which I sent up.

Mr. STANTON. What will be the effect of striking out the enacting clause? Will it leave my amendment pending?

The SPEAKER. It will be to defeat the bill. Mr. STEPHENS, of Georgia. If the House refuses to strike out the enacting clause, I propose to substitute for the bill now pending what will now be read by the Clerk.

The Clerk read, as follows:

That the Secretary of War be, and he is hereby, authorized and directed to settle the claims of the citizens of Georgia and Alabama, for the losses sustained by them during the Indian disturbances of 1836, 1837, and 1838, and which is set forth in Executive Document No. 127, and reported to the second session of the Twenty-Fifth Congress, upon satisfactory proof being rendered of the identity of the persons therein named, or their legal representatives, so far as the same falls within the equity of the principles of the act entitled "An act to regulate trade and intercourse with the Indian tribes," passed June 30, 1834, without charge on the Indian annuity, and also for all losses for property destroyed by Government troops or the Indians under their command: *Provided*, That the payment to be made shall not exceed the sum of \$349,120, less the sum paid heretofore to the State of Georgia upon the claim of Henry W. Jarnagin & Co.: *And provided further*, That said sum shall be in full satisfaction and payment for all claims for damages for property lost by the act of the said Creek Indians, in the years aforesaid, or which may have been taken for Government use.

Mr. STEPHENS, of Georgia. That substitute limits the amount to the award of the commissioners.

Mr. WASHBURN, of Illinois. This involves an appropriation of money from the Treasury, and I take it that under the rules it must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. It will be time enough to raise that question when my amendment is before the House.

The SPEAKER. The Chair cannot perceive the force of the gentleman's point. He thinks that the amendment would be in order; but he will decide the question when it arises.

Mr. RITCHIE. I desire to understand one thing from the gentleman from Georgia. These claims, as I understand, amounted to more than a million dollars. The bill only provides for the payment of three or four hundred thousand dollars. Now how is the Secretary of the Treasury to know which claims to pay? The fund will not pay all, and are those to be paid which are first presented until the fund runs out?

Mr. STEPHENS, of Georgia. As the documents will show, there were claims presented to the commissioners amounting to twelve hundred thousand and odd dollars. The commission made an award of only three hundred and forty-nine thousand and odd dollars. Twenty-one thousand dollars of that has been paid to Jarnagin & Co., and the remainder remains unpaid. I simply propose to pay the award of the commissioners, and reject all the other claims.

Mr. JONES, of Tennessee. Mr. Speaker, there are several classes of claims provided for in this bill. Some, I think, it would be right to pay, and all the others I would not be willing to pay. The bill provides for the payment of several classes for losses sustained by the destruction of property. I think that the Government ought to pay where provisions were taken for the use of the troops of the United States, by the troops and Indians in the service of the United States; but, sir, I am not willing to pay where losses were sustained by the destruction of property. I am not willing to pay for that class, and for this reason: when the Creek Indians made their treaty, ceding their lands in Alabama, and providing that they should go west, they reserved certain lands in Alabama to many of their chiefs, warriors, and head men. Before the Indians left for the west, the white people went upon those reservations to purchase them up. They bought, and settled upon some of them, before the Indians had left. Then, there were difficulties with the Indians; and the Indians overpowered them, I suppose, because they were the most numerous. The white men were driven from the reservations; and they now come here asking for payment for the losses they sustained in consequence of their expulsion. I think that they ought to have remained out of the country until the Indians had left it. If they had done so, we would then have had none of these claims here.

Mr. STEPHENS, of Georgia. One word in reply to the gentleman from Tennessee. All the

classes of cases he has referred to are not included in my substitute. I only propose to pay for those classes of losses which will fall within the equity and principle of the act of 1834. I call the previous question.

Mr. PHILLIPS. I ask the gentleman to withdraw his call for the previous question for a moment.

Mr. STEPHENS, of Georgia. I withdraw the call.

Mr. PHILLIPS. If I understood the gentleman's amendment, from the reading of it at the Clerk's desk, there is one point on which I would ask him a question. I wish to know whether it is intended by that amendment that proof of the loss sustained is to be dispensed with, and that the award of the commissioners is to be held as conclusive? The amendment merely provides for proving the identity of the claimants. If it is intended to act upon the award of the commissioners, then I understand the amendment. If it is not so intended, then I hope that the gentleman will insert a proviso that the payment shall be on proof of loss and the identity of the claimant.

Mr. STEPHENS, of Georgia. The Secretary of War will take either the proof now reported or any other proof of the loss; but the loss must be established, or else payment cannot be made.

Mr. STANTON. I wish to make an enquiry of the gentleman from Georgia. Suppose the enacting clause shall not be stricken out, will he allow my amendment to come in, so that the sense of the House may be tested as to which they will adopt—his or mine?

Mr. STEPHENS, of Georgia. I am content that the House shall decide between them. If the enacting clause be not stricken out, I am willing that the vote shall be taken; first upon his amendment, and then upon mine.

Mr. GIDDINGS. I wish to suggest one thing. I know that what I suggest the gentleman intended to embrace, and that is, that there shall be a proviso added that nothing herein contained shall be so construed as to pay for property which has been heretofore paid for.

Mr. STEPHENS, of Georgia. I am willing to accept that as a modification of my proposition.

Mr. GIDDINGS. I would suggest, also, that it distinctly appear that the payment shall be made under the same rules which are established by the executive department under the law of 1816.

Mr. STEPHENS, of Georgia. I do not know what those rules are. I think that my amendment is sufficiently guarded now. I suppose those rules are adapted to that law, and they might not suit this bill. I do not, therefore, care to adopt them.

Mr. GIDDINGS. I merely wish that these claimants shall have the same measure of justice that has been dealt out to others. I would have that appear in the amendment, and then I will vote with him. That is all I ask.

Mr. STEPHENS, of Georgia. The House will understand that the gentleman wants to put it upon the principle of the act of 1816, which refers to the war of 1812; when I want to put it on the act of 1834, long subsequently. There we differ. I call for the previous question.

Mr. COBB. I ask the gentleman to withdraw his call for the previous question for a moment.

Several MEMBERS. Oh, no; let us have a vote. Mr. STEPHENS, of Georgia. There seems to be a disposition that I shall insist on the call for the previous question.

Mr. COBB. Then I shall vote against the bill. The previous question was seconded, and the main question ordered.

Mr. DEAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 77; as follows:

YEAS—Messrs. Bingham, Bliss, Bocoek, Brayton, Buffinton, Burnett, Ezra Clark, Clawson, Cobb, Clark B. Cochran, Cockrell, Corning, Cox, Cragin, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Durfee, English, Farnsworth, Fenton, Florence, Foley, Garnett, Giddings, Gillis, Goode, Granger, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Haskin, Board, Hodges, Horton, Hughes, Huyler, George W. Jones, Owen Jones, Kellogg, Kelsey, Kuapp, Lawrence, Leach, Leidy, Lenoxy, Samuel S. Marshall, Matteson, Miller, Milson, Montgomery, Morgan, Morrill, Isaac N. Morris, Oliver A. Morse, Mott, Mott, Pottle, Palmer, Parker, Pendleton, Pettit, Phillips, Potter, Pottle, Powell, Purviance, Ritchie, Robbins, Royce, Seales, Searing, Henry M. Shaw, John Sherman, Sickles, Singleton, Robert Smith, Spinner, Stevenson, William Stewart, Tal-

bot, Thompson, Tompkins, Underwood, Vallandigham, Vance, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Winslow—98.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bonham, Branch, Bryan, Burlingame, Case, Cavanaugh, John B. Clark, Clay, John Cochrane, Colfax, James Craig, Crawford, Curry, Curtis, Davis of Maryland, Davis of Mississippi, Dewart, Dowdell, Edmundson, Foster, Garrett, Gilmer, Gooch, Greenwood, Lawrence W. Hall, Harris, Hatch, Hawkins, Hopkins, Houston, Howard, Keim, Kilgore, Lamar, Leiter, Maclay, McRae, Humphrey Marshall, Maynard, Moore, Edward Joy Morris, Niblack, Nichols, Peyton, John S. Phelps, William W. Phelps, Pike, Reagan, Ricard, Russell, Sandidge, Savage, Scott, Seward, Aaron Shaw, Shorter, Samuel A. Smith, William Smith, Stallworth, Stanton, Stephens, James A. Stewart, George Taylor, Thayer, Tripp, Walton, Watkins, Whiteley, Wood, Woodsoil, Wortendyke, and Zollicoffer—77.

So the bill was defeated; the enacting clause being stricken out.

Pending the call,

Mr. STEPHENS, of Georgia, said: Mr. Speaker, there seems to be some misunderstanding in reference to the effect of the motion to strike out the enacting clause.

Mr. MORGAN. I object to debate.

Mr. STEPHENS, of Georgia. I will only state that, by voting to strike out the enacting clause, gentlemen vote for the defeat of the bill, and that my amendment cannot then be offered.

Mr. MORGAN. I object to further debate.

The SPEAKER. The effect of the motion to strike out the enacting clause, if agreed to, will be the defeat of the bill.

Mr. COMINS stated that he had paired off with Mr. HILL on this bill, some days ago.

Mr. KEITT stated that he had paired off with Mr. CHAFFEE, and that he had intended to except this bill, but not being certain whether he had or not, he would refrain from voting.

Mr. SHAW, of North Carolina, stated that his colleague, Mr. RUFFIN, was detained at home by sickness.

The vote was then announced as above recorded.

Mr. COBB. I rise to a privileged question. I move to reconsider the vote by which the enacting clause was stricken from the bill. I am perfectly well satisfied, sir, that a large portion of this claim is correct. I have investigated the matter, and I am satisfied of that fact. When the claim was presented here some years ago, I denounced it as fraudulent, for then it was attempted to cover all the claims which had been presented to the board of commissioners to the extent of some twelve hundred thousand dollars. In my examination of the award of those commissioners, I find that they have not embraced any claim which ought not to have been allowed; and as the gentleman from Georgia [Mr. STEPHENS] now proposes a bill founded upon that award and guarded, as it ought to be, I shall vote for it. It does not embrace any of the fraudulent claims which I have heretofore denounced. I voted against the bill, or for the motion to strike out the enacting clause, because I wanted to put myself right before my constituents, and the gentleman would not yield for that purpose. I have now submitted the motion to reconsider, and I shall vote with the gentleman from Georgia. My action now will be consistent with my former action. I wish to make this explanation, not only to place myself right here, but right before my constituents. Somebody a while ago stated that I voted to strike out the enacting clause of this bill because I was prejudiced against one of my constituents. I should like that gentleman to rise here now, and say whether he will stand by that remark. I pause for a reply. Nobody responds. Then nobody says it.

I will refer now, Mr. Speaker, to a document which contains all the details of this case. It shows in detail the claims presented to the board of commissioners. I will read some of them, and when I do so I shall have put myself right before the House and the people I represent.

A claim was presented to these commissioners for \$2,130 41. What did they allow? One thousand four hundred and twenty dollars and twenty-eight cents. Another claim was presented for \$2,448. What did the commissioners allow? Four hundred dollars. I am referring to page 36. Another claim was presented for \$12,230. The commissioners did not allow anything, and therefore that claim will be excluded by the provisions of this bill. Another claim was for \$1,632, and the

THE CONGRESSIONAL GLOBE.

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commissioners allowed nothing; another for \$763, and they allowed \$266; another for \$3,709, and they allowed nothing. Under these circumstances, I am satisfied that I might do great injustice to a meritorious class of citizens if I refused to vote for a bill providing just indemnity to them, and which protects the Government from the frauds which might have been perpetrated under former bills which I have denounced at home as being base and corrupt. I am now prepared to vote for this bill, and I make this motion to reconsider in order to bring the matter before the House for investigation. If gentlemen will examine the record, they will find that the commissioners had claims presented to them amounting to \$1,272,722 30, and they allowed only \$349,120 37. And that is all that I understand the friends of the bill now claim; because they put a clause in the bill, restricting the amount to be paid under it to the award of the commissioners.

I am ready now to vote for the bill, in order to do justice to a meritorious portion of the citizens of Georgia and Alabama; though I have condemned, upon former occasions, the allowance of claims that were unjust. But the amount is now cut down to what I think is, in all probability, justly due, and I am willing to vote for it.

Mr. HOWARD. I would inquire of the gentleman whether we have anything to do with these claims that were rejected by the commissioners, inasmuch as this bill limits the payments to those claims that were allowed by the commissioners?

Mr. COBB. That is what I say. The bill is limited to the awards of the commissioners.

Mr. HOWARD. Then I do not understand the point of the gentleman's speech.

Mr. COBB. I believe the just claims ought to be paid. But I wanted to place myself right on the record, so that I shall not be accused of acting inconsistently in voting for this bill, when I have heretofore denounced bills pending here as being corrupt when they provided for the payment of over one million dollars. The amount is now reduced to the award of the commissioners, \$349,000, and I believe that ought to be paid. I now move to reconsider the vote by which the enacting words of the bill were stricken out.

Mr. WASHBURN, of Wisconsin. I move to lay the motion to reconsider upon the table.

Mr. STEPHENS, of Georgia. I will ask the gentleman to allow me to make a motion, which, I think, will suit the present temper of the House; to postpone the consideration of the motion to reconsider until Saturday next, and let my amendment, in the mean time, be printed.

Mr. COBB. I hope that will be done.

Mr. JONES, of Tennessee. We had better take the question now.

Mr. STEPHENS, of Georgia. I will take occasion to say, in reply to the gentleman from Alabama, that I did not yield the floor to him when he requested it, because I thought he could so much better explain his consistency to his constituents than to the House.

Mr. COBB. I could do it much quicker here than I could do it at home.

The motion to reconsider was laid upon the table—ayes 80, noes 68.

WITHDRAWAL OF PAPERS.

On motion of Mr. SMITH, of Virginia, leave was granted for the withdrawal from the files of the House of the papers in the cases of Dr. Charles Taylor, Colonel Francis Taylor, and James Broadus, for the purpose of reference to the Court of Claims.

WILLIAM HAZZARD WIGG.

Mr. KEITT. I wish to ask the indulgence of the House to allow a bill upon the Private Calendar to be taken up and passed. I am sure there will be no objection to the bill, and it will accommodate me very greatly if the House will allow it to be passed now, as it will not be in my power to attend for some time. The bill is for the relief of William Hazzard Wigg. It passed the Senate unanimously, and has been unanimously approved by a committee of this House.

Mr. HUGHES. I call for the regular order of business.

Mr. SMITH, of Virginia. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, with a view to take up the bill proposing to form a Territory of the western portion of Utah, known as the Territory of Nevada.

Mr. PHELPS, of Missouri. I was about to submit the motion myself that the House go into the Committee of the Whole on the state of the Union. I hope the motion of the gentleman from Virginia will be agreed to.

Mr. MARSHALL, of Illinois. Would a motion to go into a Committee of the Whole House on the Private Calendar take precedence?

The SPEAKER. It would.

Mr. MARSHALL, of Illinois. Then I submit that motion.

The SPEAKER. If the gentleman from Illinois will permit it, the Chair would like to relieve the Speaker's table of certain private bills, and to have them referred to the appropriate committees.

Mr. MARSHALL, of Illinois. I have no objection to that.

REFERENCE OF SENATE BILLS.

The first bill on the table was Senate bill (No. 452) for the relief of John R. Nourse.

Mr. CURTIS. I ask that that bill be put on its passage.

Mr. JONES, of Tennessee. I object.

Mr. CURTIS. There is no appropriation in the bill.

Mr. JONES, of Tennessee. What is the bill for, then?

Mr. CURTIS. Simply to release a judgment against Mr. Nourse.

Mr. JONES, of Tennessee. That is the same thing. I object.

The SPEAKER. The Chair only asked the consent of the House to take up bills for reference. The Chair will therefore withdraw the bill.

The following Senate bills and joint resolutions were then, by unanimous consent, severally taken from the Speaker's table, read a first and second time, and referred as indicated below:

A resolution (No. 63) authorizing the settlement of the accounts of Redick McKee. Referred to the Committee on the Judiciary.

An act (No. 283) for the relief of James Maccaboy. Referred to the Committee of Claims.

A resolution (No. 70) for the relief of Commander H. J. Hartstone, of the United States Navy. Referred to the Committee on Naval Affairs.

An act (No. 90) for the relief of John Ericsson. Referred to the Committee of Claims.

An act (No. 125) for the relief of the legal representatives of James Bell, deceased. Referred to the Committee on Revolutionary Claims.

An act (No. 89) for the relief of George Ashley, administrator *de bonis non* of Samuel Hoggate, deceased. Referred to the Committee of Claims.

An act (No. 109) for the relief of Moses Noble. Referred to the Committee of Claims.

An act (No. 144) for the relief of the legal representatives of Captain Charles G. Ridgely, of the United States Navy. Referred to the Committee on Foreign Affairs.

An act (No. 135) for the relief of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell. Referred to the Committee on Indian Affairs.

An act (No. 113) for the relief of Lieutenant Nathan Weeks, deceased. Referred to the Committee on Revolutionary Claims.

A resolution (No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States courthouse stands, in Rutland, Vermont, in exchange for other land adjoining said lot. Referred to the Committee on the Judiciary.

PRIVATE CALENDAR.

The question then recurred on the motion of

Mr. MARSHALL, of Illinois, that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. Grow in the chair,) and proceeded to the consideration of the Private Calendar.

WILLIAM HAZZARD WIGG.

Mr. KEITT. Before the committee proceed to the consideration of the bills upon the Calendar in their order, I ask them, by unanimous consent, to take up Senate bill (No. 52) for the relief of William Hazzard Wigg, which is simply to correct a clerical error.

Mr. JONES, of Tennessee. I think we had better proceed with the Calendar in order. If we take this case up out of its order, we shall have other applications of the same sort.

Mr. KEITT. No, sir; I will not make another application.

Mr. JONES, of Tennessee. The gentleman will not; but other gentlemen will. I think we had better go on in order, and I therefore object to the proposition.

CYRUS H. M'CORMICK.

The first case upon the Calendar was an adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick.

Mr. UNDERWOOD. I do not know much about the condition of this claim; but if the committee will give their consent, I propose that it be passed over for the present.

Mr. FARNSWORTH. I object.

Mr. MARSHALL, of Illinois. I move that the report be laid aside, to be reported to the House with the recommendation that the decision of the Court of Claims be confirmed. Then, when it comes before the House, if it is a case which needs further investigation, it can be referred to one of the standing committees of the House.

Mr. JOHN COCHRANE. For the purpose of enabling the committee more intelligently to act upon this report, I ask that the opinion of the court be read.

Mr. SMITH, of Virginia. I would be glad if this case could be passed over for the present.

The CHAIRMAN. That proposition has been made, and objected to.

Mr. SMITH, of Virginia. I will say that Mr. McCormick called my attention to this case, and requested that it might be passed over for the present. Mr. LETCHER ought to be here. He has given his attention to this claim, and perhaps has some course to suggest in reference to its disposition. I therefore ask that the case be now passed over.

Mr. MARSHALL, of Illinois. If that be the sense of the committee, I certainly have no objection to it.

The CHAIRMAN. The reading of the report is called for.

Mr. UNDERWOOD. Before the report is read, I merely wish to make a statement to the gentleman from Illinois, and in the hearing of the committee. I hope that he will withdraw his motion. I understand that Mr. LETCHER, who is now sick and confined to his room, and therefore unable to be present, has given this case his attention. I do not know myself what disposition ought to be made of it. If he were here he could, and I suggest that it go over for the present.

Mr. SMITH, of Virginia. I move that it be passed by informally.

The CHAIRMAN. The gentleman from New York calls for the reading of the report, and he has the right to have it read.

Mr. JOHN COCHRANE. I understand that the gentleman in whose charge this case is, is confined to his room by illness, and therefore I presume the case ought to go over. I withdraw my call for the reading of the report.

Mr. FARNSWORTH. I insist upon my objection to its being passed over. The case stood last session where it now is—at the head of the

Calendar. Mr. McCormick, and those who represent him here, left the session pass away, notwithstanding that fact, without any action upon the case. I am satisfied, from an examination of the report, that there is nothing in it. Mr. McCormick failed to get a renewal of his patent through the Commissioner; and then he placed his case before the Court of Claims, and that court has decided that it had no jurisdiction of the case. That is the report upon the Calendar, and that is the whole of the case.

Mr. WASHBURN, of Illinois. Is not this same party before the Commissioner of Patents to get his patent indefinitely extended, and with some prospect of success?

Mr. FARNSWORTH. I know nothing of that, except what the newspapers state. He is there, they state, to get something; but I do not know exactly what it is. This is a matter in which my constituents are deeply interested, and I want to see it disposed of at once.

Mr. KELLOGG. I desire to hear the printed report read.

Mr. SMITH, of Virginia. I submit the proposition that it be passed over. It will save time if the House will consent, under the circumstances which have been stated, to let the case go over. I can hardly suppose that there will be objection to that proposition. If we pass it over we can go to other matters. It is only time wasted to have the report read.

Mr. KELLOGG. I am satisfied that it is time that Mr. McCormick's improvement should go to the general benefit of the people. He has been abundantly paid for it. He has reaped from it all that he is entitled to. I desire that the report be read. Let us see what there is in it, and then dispose of the case.

Mr. KELSEY. Is there anything more in this report from the Court of Claims than this, that they have no jurisdiction over it?

Mr. KELLOGG. I am not advised of the full measure of the report. When it is read we can see what it is. My only object is to get a vote on this case. I move, therefore, that the case be laid aside, to be reported to the House with the recommendation that the House affirm the adverse decision of the Court of Claims. But I ask first for the reading of the report.

The decision of the court was read as follows:

"Opinion of the court delivered by Chief Justice Gilchrist. The court are of opinion that the claim is not founded upon any law of Congress or any regulation of an Executive Department, or any contract, express or implied, with the United States, or upon any legal right.

"It is simply a petition to Congress to pass a law, which it is in the discretion of Congress to enact or not, as they shall deem best. The court have no authority to regulate the discretion of Congress, or to recommend any legislation. There is in no sense any claim upon the United States, except such as may be addressed to their views of what is on the whole proper. Consequently, the court have no jurisdiction to order testimony to be taken."

Mr. SMITH, of Virginia. If that is the whole of the court's opinion, it is manifestly a case that ought not to have been sent there; and, therefore, we ought to address ourselves to an examination of the whole subject. I move, then, that it be passed by for the present. To pass it by will not affect the rights of anybody.

Mr. BURNETT. I object.

The adverse report of the Court of Claims was then laid aside, to be reported to the House with the recommendation that it be affirmed.

WILLIAM NEILL AND OTHERS.

An adverse report (C. C. No. 39) upon the petition of William Neill and others.

Mr. COX. I have no objection to the decision of the court being affirmed. I have given every attention to this case, and I think now the parties themselves are satisfied with the decision. I make the motion that it be laid aside.

The report was then laid aside, to be reported to the House with the recommendation that it be affirmed.

CHARLES J. INGERSOLL.

A bill (H. R. No. 197) for the relief of Charles J. Ingersoll.

Mr. KELSEY obtained the floor.

Mr. JONES, of Tennessee. I move that that bill be laid aside, to be reported to the House with the recommendation that it do not pass.

Mr. KELSEY. I believe I was recognized first.

The CHAIRMAN. The gentleman from New York is entitled to the floor.

Mr. KELSEY. I am satisfied with the proposition of the gentleman from Tennessee, if it will bring us to a direct vote on this bill. This is an old acquaintance of mine. It was upon the Calendar during the first session of the Thirty-Fourth Congress. There is one reason why the bill ought not to pass. I think that the rule should be laid down, and adhered to invariably, that whenever a particular House decides a case in reference to a contested seat, they should also decide the question whether the contestant should be paid or not. It seems to me they are the most proper judges of what they will do. It is a question peculiarly addressed to their discretion, and this is a case in which we should not depart from that rule. I think that the claim ought to be rejected, for the reason that it was not presented to the Congress that decided the case of the contested seat, nor, if I am correctly informed, until a good many years afterwards. That of itself would be sufficient, in my judgment, to condemn it. But there are other reasons connected with this bill, that induce me to oppose it. I will not now go into a history of the case. I am willing that the advocates of the bill should present their side, and then let the House vote on it as soon as possible.

Mr. WASHBURN, of Maine. I have been on the Committee of Elections, before which this claim has come, for two Congresses, and I am satisfied, after an examination of the case, that the bill ought to pass. It was a real contest, a contest in which Mr. Ingersoll claimed the seat occupied by Mr. Naylor. It was an earnest contest. It passed through the whole of the first session, and into the second session of that Congress.

Mr. KELSEY. How many years after that contest was decided was it before any claim was presented on behalf of Mr. Ingersoll?

Mr. WASHBURN, of Maine. I cannot answer that question, but I am confident that it was not a great while. I will say to the committee, and to the gentleman from New York, that I think that this claim has been investigated by a dozen committees, composed of men of all parties, and that it has never yet failed to get their approbation. The gentleman has stated, that if there was any justice in a claim, it should be recognized and paid by the House that decided the contest. Why this was not so decided, I do not know; but I know that it may often happen that a just claim of this kind cannot be acted upon by the House which decides the question.

Remember that in the last Congress, when the seat of Mr. Hall, of Iowa, was contested by Mr. Clark, the Committee of Elections came to the conclusion that the latter had not made out a case against the sitting member, although they were satisfied—that is, the majority of them, and so stated in their report—that, if the testimony which could have been produced had been produced, Mr. Clark would have been entitled to the seat. They were satisfied that he had made his claim honestly and in good faith; and although they felt bound to report against his right to the seat, yet they reported a resolution giving him pay for the time he was here. When that resolution came before the House, a motion to lay upon the table failed, and it would have been passed inevitably by a decided majority but for the fact, the report only having been made three or four days before the close of the session, that the tariff bill came up, and the House was anxious at once to proceed to its consideration. A motion was carried to proceed to the business upon the Speaker's table, and this resolution went upon the table, from which it could not again be taken up.

Mr. KELSEY. Did the committee that reported on the contest report a resolution to pay Mr. Ingersoll?

Mr. WASHBURN, of Maine. The committee were disposed to report such a resolution, but Mr. Ingersoll, from personal deficiency, declined to have such a resolution then brought before the House. If the gentleman will go back to the history of that case, he will find that it was a real contest, and that it occupied the House for a long time. Mr. Ingersoll came here with credentials, and so did Mr. Naylor. I hope that the bill will be laid aside, with the recommendation that it do pass.

Mr. JONES, of Tennessee. This is an application on a bill to pay the person named in it the per diem and mileage of a member of Congress, while he was engaged in contesting the seat

of another gentleman who had received the certificate, and was admitted to his seat upon the floor of the House of Representatives.

Mr. STEPHENS, of Georgia. I wish to correct the gentleman in that. Mr. Ingersoll had the official certificate, and Mr. Naylor had the certificate of the judges of the election. He had the official certificate, and in my judgment was entitled to his seat.

Mr. JONES, of Tennessee. I stand corrected by the gentleman from Georgia. This was a contest before he of myself held a seat upon this floor. I have acted upon one rule, one principle, in all cases of this character. I have, sir, uniformly voted against paying any contestant who failed to oust the sitting member. I think that it is a sound principle, and I cannot, in this instance, depart from it. I do not think the man who comes here and contests the right of another to a seat should be paid, unless he succeeds in displacing the sitting member. I do not think, sir, that I have any right to pay him as a member of Congress, because he never was a member of Congress; and I cannot vote to pay him because his rights or his interests required him to come here and contest a seat upon this floor.

Mr. SEWARD. Mr. Chairman, I happened to be in the Thirty-Third Congress, and looked into this case. I examined it with a good deal of care; and, as I recollect the facts, they are these: Mr. Ingersoll came here with the certificate of the Governor of Pennsylvania, as an evidence of his right to sit upon this floor. Mr. Naylor came with the certificate of the election judges. The case was postponed until the New Jersey case was decided. I think that it was not settled until the last session of that Congress. Mr. Ingersoll, in the mean time, was kept here at great expense and trouble. Now, I put it to my friend from Tennessee, [Mr. JONES,] because I know that he is a conscientious man, whether a man, coming here with the certificate of the Governor of his State, showing that he was entitled to a seat upon this floor, and the House having delayed action on the case, a man who was kept waiting here by the House, and who ultimately had the decision of the House against him—I ask him whether such a man, with such a certificate, ought not to be paid?

Mr. JONES, of Tennessee. I may think that this was a hard case; but the Constitution makes the House of Representatives the judge of the qualifications and election of its own members. It is for the House to decide who are its members; and in my opinion, whenever a contest is decided, the House making the decision, ought also to decide whether anything ought to be paid to the contestant or not.

Mr. SEWARD. The gentleman has not answered my question. I take the ground that the certificate of the Governor was *prima facie* evidence that the party is a member of Congress, and ought to be sworn in. Mr. Ingersoll came here in good faith. He claimed a seat in this House, and showed his certificate from the Governor of Pennsylvania. I think that we cannot, and ought not, to deny this claim.

Mr. PHILLIPS. I was a member of the Committee of Elections at the last session. I reported this bill; a report accompanied the bill; as it embraces my views on the subject, I ask that it be read.

The report was read, from which it appears that an election was held on the second Tuesday of October, 1833, in the city of Philadelphia, at which the Hon. Charles Naylor and the Hon. Charles J. Ingersoll were candidates for Congress from the third district. The return judges of the election met at the usual time and place, but a difficulty occurred in the course of their proceedings, which resulted in a difference of opinion among them, they being equally divided, three of them giving to one candidate the certificate of his election, while the other three furnished a like certificate to his competitor. The Governor of Pennsylvania, by his usual proclamation issued shortly afterwards, declared Mr. Naylor to be duly elected; and the succeeding Governor, a year afterwards, though before the assembling of the Twenty-Sixth Congress, in like manner declared Mr. Ingersoll elected. At the commencement of the first session, both these gentlemen claimed the seat; Mr. Naylor was, of course, received as the sitting member, and Mr. Ingersoll contested his right.

The case occupied several months in its investigation; many witnesses were examined on both sides by authority of the Committee of Elections, and just at the close of the first session two reports were presented from the committee; five members thereof, constituting a majority, reported that Mr. Naylor was entitled to retain his seat; while three of the remaining four members of the committee reported that frauds had been proved, and against the legality of Mr. Naylor's return. The majority report was adopted on January 15, 1841, the second month of the second session of that Congress; and the memorialist, Mr. Ingersoll, now asks to be paid the usual mileage and compensation during the time that the contest was pending and undetermined.

Mr. PHILLIPS. Mr. Chairman, when this case was referred to the Committee of Elections at the last session, I may say there was no difference of opinion among the members of the committee. The only objection that seemed to exist, was that many years had elapsed since the occurrences took place out of which the claim arose. But the delay was explained in part, by the fact that the memorialist became himself soon after a member of Congress, and remained so for six years, and during all that time would not permit his claim to be presented.

This case, sir, is not like any case that may be presented under the existing law. The members of the committee will recollect, that at that time contests were made before the House of Representatives or their committee here. Since that time the law has been so changed, as that the contestant need not leave his place of residence; and, therefore, there seems no reason why the contestant should be now paid, while there was then every reason why a contestant who had made a contest in good faith, should receive his *per diem* allowance. Now, I appeal to the justice of the members of this committee. I am not afraid—and I hope my confidence is well founded—that they will be governed by partisan prejudices in this matter.

Mr. KELSEY. Will the gentleman permit me to ask him a question?

Mr. PHILLIPS. Yes, sir.

Mr. KELSEY. I would inquire of the gentleman from Pennsylvania whether the House before which this contest between Ingersoll and Naylor was had, did not refuse to pay Mr. Ingersoll?

Mr. PHILLIPS. They refused to suspend the rules for the introduction of a resolution to pay him. But let the gentleman answer me whether he does not intend to vote for claims that other Congresses have rejected? If he is willing to pin his faith upon the sleeves of others, let him say so; and while I differ with him in his rule of action, I shall expect him to abide by it.

Mr. KELSEY. I am not willing to vote for any claim that addresses itself peculiarly to the discretion of a preceding Congress, which preceding Congress has rejected it. This claim rests upon no legal right, but upon the discretion of the House.

I hold, that where there is a contest in good faith, the House that passes upon that question ought also to decide upon the question of paying the contestant. I would pay the contestant in all cases where the contest was made in good faith; but where the House that has heretofore decided upon the contest has refused to pay, I would not review their decision and reverse it.

Mr. PHILLIPS. The Committee of Elections have repeatedly reported in favor of this claim. The committee has never, so far as I know, been divided by party influences in the consideration of it; and there has never been a minority report against the claim. The gentleman cannot, therefore, doubt the justice and merits of the claim, according to the precedents of the House. If the rule had been adopted years ago, that the man who contested a seat should not be paid, I think it would have been a wise policy; and, in presenting this report, I suggested that I was only following in the beaten track of the precedents of the House.

I would ask the gentleman from New York if he did not vote to pay Governor Reeder, who contested the seat of the Delegate from Kansas, in the last Congress? I would also ask him if he did not vote to pay Mr. Archer, the contestant of the seat occupied in the last Congress by the present Clerk of the House? The gentleman made no

objection to the principle then. Now, according to my view, the man who contests a seat, under the present state of the law, ought not to be paid at all.

Mr. KELSEY. Will the gentleman hear my answer to his question?

Mr. PHILLIPS. Certainly, sir.

Mr. KELSEY. I did vote to pay Governor Reeder; but that House had decided the question between the contestant and the sitting Delegate, and the case came within the rule I have laid down. We decided the main question; and we decided the collateral one also, as to paying the contestant.

Mr. PHILLIPS. It strikes me that the gentleman strains at a gnat and swallows a camel when he votes for compensating Governor Reeder and refuses compensation in this case.

Now, what were the facts in this case? Two gentlemen came here, each with a certificate from the Governor of Pennsylvania, (there had been a change of Governors,) and each with a certificate from the same number of return judges. Mr. Naylor was received as the sitting member, and his right to the seat was contested in good faith by Mr. Ingersoll. The delay in the decision of the question was not caused by the memorialist; that is not even intimated. And I believe that this is the only claim of this description that remains unpaid, with the exception of one of recent occurrence, which we shall reach further down on the Calendar.

I will remind the gentleman from New York, that the case of Mr. Botts, of Virginia, is one on which the payment was not made by the Congress that decided the question of the contest, but by a subsequent Congress. Now, I would ask the gentleman from New York whether, if he is satisfied that other Congresses acted wrongly in not paying this claim when they have paid others of a similar character, he will not now, even at this late day, do this tardy act of common justice?

Let me show the gentleman where he places himself. This is a claim upon the Government. He says that the Congress which decided the contest is the only tribunal that should decide the question. Well, then, let him plant himself upon the doctrine that when a claim has once been rejected, that decision shall be final, and Congress shall not reverse it. I understand very well the distinction which he draws; but there ought to be some principle upon which we are to act. Here is a man who comes here in good faith—the faith of the transaction is not questioned or impugned. From the anxiety of the committee who had it in charge to obtain all the testimony bearing on the case, it was not decided by the House until the second month of the second session of the Congress; and then, four out of the nine members of the Committee of Elections declared it as their opinion that the allegations of Mr. Ingersoll were sustained. Now, I ask if the precedents here do not all authorize the payment of this claim? This claimant, who is a constituent of mine, does not come here to ask a favor at the hands of the House; he comes to ask it as a right.

Mr. BOCK. By the leave of the gentleman from Pennsylvania, I will say that the rule is clearly a correct one—and I think the gentleman will concur with me—that where a man comes here to contest a seat in this House, if he does not succeed, he ought not to be paid for it. But there seems to be a distinction between this and the usual casts coming under the rule I have named; which difference grows out of the apparent conflict about the *prima facie* right to the seat. It seems that three of the judges of election certified that Mr. Naylor was entitled to the seat, and three that Mr. Ingersoll was entitled to it. The Governor then in power gave the certificate to Mr. Naylor, who was admitted without objection to his seat in the organization of the House. Subsequently, another Governor granted a certificate to Mr. Ingersoll. That statement made by a gentleman who preceded me, throws a doubt on the question as to whom the *prima facie* right to the seat belonged. I ask the gentleman from Pennsylvania, if, by the laws of his State, the judges are not bound to report to the Governor then in power; and whether the Governor then in power is not bound to make a return to the House of Representatives; and whether the action of any subsequent Governor is not supererogatory? If that is so, then Mr. Naylor had the *prima facie* right to the seat.

Mr. PHILLIPS. The gentleman from Virginia is correct; but the duty of the Governor is only ministerial. He can only go upon the returns of a majority of the return judges. In this instance there were no such returns. In this case the returns were in such confusion that the judges of election could not agree which candidate had been elected. The election took place during the disturbances which you, Mr. Chairman, [Mr. Grow,] will very well remember as the "buck-shot war." Mr. Ingersoll came here as the contestant, in good faith. Some of the committee said he was right in his allegations. I refer the gentleman to the report of the committee, in which he will see that the case has had a proper examination. The only question is, whether the House will follow the precedents which have been followed ever since the organization of the Government, and give Mr. Ingersoll the compensation. I answered the gentleman just now that this question was decided by the Congress in which it arose. I should have said that it was not decided at all by that Congress. The House only refused to suspend the rules to take up the resolution, which required a two-thirds vote.

Mr. KELSEY. Will the gentleman tell me what was the vote of the House on that occasion?

Mr. PHILLIPS. I cannot. I do not remember the numbers; but I think the vote was very large against the proposition.

Mr. KELSEY. It was eighty-six against; to forty-nine in favor of, suspending the rules.

Mr. PHILLIPS. It is quite likely. This is the only case which I find, involving the same principle, which remains unpaid. It is the last case remaining under the old law. I concur with the gentleman from Virginia, [Mr. Bock,] as a general rule, contestants failing to obtain their seats should pay their own expenses.

Mr. JOHN COCHRANE. I will ask this question: whether the Governor of Pennsylvania, under the laws of Pennsylvania, had any authority to give the certificate of election to any candidate whose election was not certified by a majority of the judges of the election?

Mr. PHILLIPS. I have already answered that question in the negative.

Mr. JOHN COCHRANE. Then he had no right to give a certificate to Mr. Naylor.

Mr. PHILLIPS. Under the circumstances, it may have been right for him to give a certificate to one of the parties. Certainly, having given the certificate to Mr. Naylor, he was very properly admitted by the House as the sitting member. This is a case which certainly appeals strongly to the justice of the House, and I trust that it may be reported back to the House, with the recommendation that it do pass.

Mr. GIDDINGS. I will detain the committee but a moment. I believe that there are but three or four of us who have been members of this House as far back as this Naylor and Ingersoll case occurred. It is well known, I believe, that Mr. Ingersoll remained in Philadelphia, in the practice of the law, while this contest was going on here, and until it was decided. Mr. Naylor came into Congress with the regular certificate of the Governor, and was admitted by the House without hesitation. Mr. Ingersoll's claim was not regarded by the Whigs of that day as a very strong one. This has been made a question between political parties to such an extent that it has entirely broken down the old rule, which I think was the proper one—that the Congress deciding the contest should decide the *per diem* of the contestants. It is the only correct rule, which should obtain in Congress; for that Congress knows well the merits of the claimants; but, as I said, in the contest between parties, we have been drawn away from the original practice. There was another case—that of Mr. Botts, of Virginia—which was as nearly parallel to this as anybody could possibly imagine. I believed that Mr. Botts came here without any real merit in his claim, and, although a strong Whig at the time, I voted against his obtaining a seat and against his compensation. I did not believe he had any right whatever, in justice, more than Mr. Ingersoll had.

Mr. PHILLIPS. I desire to ask the gentleman if he does not know that the claim of Mr. Botts for compensation was rejected by the Congress which decided his right to a seat, and that it was passed five or six years afterwards?

Mr. GIDDINGS. I will come to that presently. I would do justice, and only justice between these two parties. I was going on to say that I did not believe Mr. Botts or Mr. Ingersoll had one iota of equitable claim upon this Government. I think it was wrong to depart from the good old rule which I have mentioned. I believe it was wrong to have paid Mr. Botts, but the committee will recollect that yesterday I advocated equal justice to all men.

Mr. COVODE. I would like to know whether by paying a claim that is not just, because another that is not just has been made, is doing equal justice to all men?

Mr. GIDDINGS. I will answer my friend from Pennsylvania. I have always protested against this departure from the original rule. That was my principle; but Congress has departed from it. They have set the old rule at naught. Charles J. Ingersoll is now the only man on the list of contestants who has not been paid. Now that is an odious distinction which I do not want to have made, even in wrong. I would deal out to this man even injustice.

The question being on the motion of Mr. JONES, of Tennessee, that the bill be laid aside, to be reported to the House with a recommendation that it do not pass,

Mr. WASHBURN, of Maine, demanded tellers. Tellers were ordered; and Messrs. DAVIS, of Mississippi, and WALBRIDGE were appointed.

The committee divided; and the tellers reported—ayes 49, noes 70.

So the motion was not agreed to.

The question recurred on the motion of Mr. WASHBURN, of Maine, that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The question was taken; and the motion was agreed to.

R. L. B. CLARK.

Mr. WASHBURN, of Maine. I ask that the committee, at this time, by general consent, take up the bill for the relief of R. L. B. Clark, to pay him his *per diem* and mileage for contesting the seat of Mr. Hall.

Mr. DAVIS, of Mississippi. I object.

LEEF AND M'KEE.

The next bill on the Calendar was a bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark.

The bill was read. It authorizes and instructs the Secretary of the Treasury to pay to Henry Leef and John McKee, out of any money in the Treasury not otherwise appropriated, the amount of actual loss which may be shown to his satisfaction to have been sustained by them, in consequence of the act of Alexander H. Tyler, formerly consul at Bahia, in seizing, detaining, and sending home the vessel Mary Teresa, the property of Henry Leef, in the year 1848.

The report was read as follows:

The Committee on Commerce, to whom was referred the petition of Henry Leef, a citizen of Maryland, and John McKee, a citizen of New York, beg leave to submit the following report:

The petition in this case was originally presented to the House of Representatives on the 6th July, 1848. On the 26th January, 1849, Mr. Grinnell, from the Committee on Commerce, made a favorable report on said claim, accompanied by a bill; and on the 26th February, 1850, Mr. Daniel, from the same committee, also made a favorable report. Neither of these reports was acted on by the House. The committee have carefully examined the documents referred with the petition, and compared them with the facts as narrated in these reports, and find they are correctly stated therein. From these "it appears that Henry Leef is a citizen of the United States, engaged in business in the city of Baltimore as a ship-owner and merchant, and that, in the month of July, 1847, he became the owner of a vessel which had been wrecked in Chesapeake bay, condemned, and sold at public auction, in the city of Baltimore. This purchase and ownership was immediately made known to the Government of the United States, together with a request for information and instructions from the proper Department as to the requisite and necessary formalities of clearance, &c., to enable Henry Leef to send this vessel to a foreign port for sale.

"By letter, dated 15th July, 1847, Henry Leef was informed by the Secretary of the Treasury that the vessel, being of foreign build, could not receive papers of any description under the registering or licensing laws of the United States. And he was further referred to the consul of the country to which it was proposed to send the vessel, residing in Baltimore, for information as to the proper formalities and evidence of ownership. The vessel was accordingly loaded with flour, partly in Baltimore and partly in Richmond, Virginia, and cleared in conformity with the requisite and usual formalities, not only in respect to the laws of the United States, but also to those of Brazil, the place of her destination. She reached the port of Pernam-

bucco in November, 1847, where all the requisite and usual formalities of entrance, &c., were complied with, and the customary facilities of the consul of the United States rendered. After landing a portion of her cargo, she proceeded, with a view to a more favorable market, to the port of Bahia, where she safely arrived, and where the usual formalities were complied with, in respect to the United States consulate at that port. It further appears that the consul at this port pronounced her to be confiscated to the Government of the United States, in consequence of her not being furnished or presenting the necessary registers or papers to prove her nationality, notwithstanding the fullest and most satisfactory proofs of ownership and citizenship, duly authenticated, were presented to the said consul, and by him returned to the Secretary of State of the United States.

"Accordingly, the said vessel, 'the bark Mary Teresa,' was taken possession of by the consul of the United States in Bahia, Alexander H. Tyler, on the 20th January, 1848, and, under his directions and authority, arrived in the port of Philadelphia in the month of May, 1848, and was delivered up to the authorities of the United States there; after which, the particulars of the case having been received at Washington, the vessel was released by the authorities of the United States, and the proceedings of the United States consul explicitly disavowed; all which proceedings of the authorities of the United States have involved the petitioners, Henry Leef and John McKee, the supercargo of said vessel, in serious damage and loss, fully set forth in their details in the papers accompanying the petition."

"In reply to a communication addressed by your committee to the Secretary of State, a copy of the correspondence which took place at the time between our consul, Mr. Tyler, and our minister at Rio, and our then Secretary of State, has been furnished, by which it appears that our Minister, Mr. Todd, entirely disapproved of the course and conduct of Mr. Tyler in seizing and detaining the vessel. Mr. Tyler, however, having determined to carry out his design to treat the vessel as confiscated to the Government, on the 19th of January, 1848, Mr. McKee, as supercargo and representative of the owners, addressed a letter to Mr. Tyler, in which, after reciting the action of the consul, in reference to said vessel, he says: "I have no recourse but to abandon her, which I hereby do to you, as consul of the United States and as the representative of the Government thereof; hereby solemnly protesting against you, as consul of the United States and the representative of the Government thereof, for the value of the said bark Mary Teresa, owned by Henry Leef, of Baltimore, of two hundred and fifty-one tons burden, and for all damages accruing to all and every person concerned in said vessel or cargo, which I estimate at thirty thousand silver dollars."

It thus appears that a wrong has been done to two of our citizens by the representative agent of the Government in a foreign land while in the exercise of his functions, and acting in behalf of, and in the name of the United States.

In a letter of Mr. Buchanan to Mr. Grinnell, dated 11th July, 1848, in answer to the question whether the Government was liable "for the illegal acts of its officers?" he replies in the negative; but concludes with the remark: "Such, undoubtedly, is the general rule; but very strong and peculiar cases may present exceptions. It is, however, for the legislative branch of the Government to decide, in its discretion, whether, under the circumstances, the case of Henry Leef be of this character."

Without intending to enter into any discussion as to the extent of this liability of the Government for the acts of its agents, the committee concur with the opinion of their predecessors here referred to, that this is a case in which Congress should interpose to grant relief.

There is a wide distinction between the case of an officer of the Government doing an illegal act while in the employment of an individual, and acting for him, as for the improper service of a writ at the suit of a citizen, and the act of such an officer while in the discharge of an official duty as the agent of the Government, and proceeding in its name and for its use. In the case before us, the action was intended solely for the benefit of the Government, to enforce its laws; and if the ship had been finally condemned, her value would have gone into the Treasury of the Government.

The committee have examined a large number of cases in which the Government has acknowledged its liability in analogous cases, and select the following cases as sufficiently conclusive of the past action of the Government:

March 31, 1814. Act to reimburse Samuel Ellis, marshal District of Maine, amount of judgment recovered against him for seizing certain flour.

February 27, 1815. Act to reimburse Joshua Sands, collector at New York, amount of judgment recovered against him for seizing certain vessels.

May 19, 1824. Act to reimburse Archibald Clark, collector at St. Mary's, amount of judgment recovered against him for detaining ship Apollo.

July 14, 1832. Act to pay the amount of certain judgments recovered against the marshal for the district of Pennsylvania, for seizing certain teas, to the parties interested therein.

March 2, 1833. Act to reimburse Cyrenius Hall, collector at Sandusky, amount of judgment recovered against him for seizing a vessel.

June 30, 1834. Act to reimburse W. C. H. Waddell, amount of judgment recovered against him, as marshal, in seizing certain brandies.

July 7, 1833. Act to reimburse David Gelin, collector of New York, amount of judgment recovered against him for seizing the ship American Eagle.

The only other case necessary to refer to, is that of John O'Sullivan, whose vessel was seized by John M. Forbes, the commercial and political agent of the Government of the United States at Buenos Ayres. The case was referred to the Secretary of the Treasury, Mr. Woodbury, by the Senate, and, after his report thereon, an act was passed providing for compensation, July 3, 1836. Mr. Woodbury's report will be found in Document No. 5, Twenty-Third Congress, second session, and is dated December 8, 1834. The liabilities of the Government for the acts of its agents, as therein maintained, "extend only to such acts as arise from gross negligence in discharge of official duties, or from omission to perform them; and, even in these cases, the per-

sons suffering should either resort to the agent early, and, in a suit with him, establish his liability, and the amount of damage, or resort only to the Government, and make out a very clear case, so that redress might be had by the Government on his personal responsibility on his official bonds and securities, if any exist;" and the report concludes, "in many cases, the Government has refused to indemnify the claimants themselves, the original sufferers, unless first showing, with clearness, gross neglect or wrong by the officers in the discharge of their official obligations." Mr. Woodbury was of opinion that the parties had been guilty of laches. He says: "The vessel was sold in this country in the beginning of the year 1824. The first petition presented to Congress was not until the year 1823." In the case now presented to the consideration of the House, the parties have been prompt in the pursuit of their rights. The vessel arrived at Philadelphia in May, 1848; and, as soon as the Government ordered her discharge, to wit: in July, 1848, the petition was presented to this body.

It would seem to be a proper policy, as well as a duty of the Government, to protect its officers from liability whenever they act in good faith in the assertion of its rights. Sir William Scott, in the case of the *Acteon*, in adjusting a question of damage arising out of an illegal capture, says: "It does not appear that Captain Capel is chargeable with having acted from any corrupt or malicious motive; and if, as I believe to be the case, he has acted, from a sense of duty and obedience to orders, I can have no doubt he will be indemnified upon a proper representation to Government."

The committee are of opinion that the facts of this case bring it within the admitted exception to the rule as laid down by Mr. Buchanan. It is both a strong and peculiar case. The consul at Bahia was the sole representative of the Government at Bahia. There was no appeal from his decision in the custody and management of the vessel. It is better that the Government should hold itself responsible for his acts, than, by denying its responsibility, to unite that resistance which the common law justifies in the protection of property against trespassers.

The subject is one of great importance to the protection of our commerce, as is evidenced by petitions in this case from our principal commercial marts, signed by their most distinguished merchants.

Our Government has not failed to demand indemnity from foreign countries when the rights of our merchants have been violated by their officials, and it would seem that a like indemnity is due to those who have suffered from our own.

Your committee, therefore, following the act of July 2, 1836, in the case of O'Sullivan, report the accompanying bill, and recommend its passage.

Mr. HUGHES. The report that has been read presents to the House the facts in this case. There is no counter-report. The report makes out a very clear case, and a very just claim. The gentleman from Louisiana, [Mr. EVANS,] who made this report, is not in the House; and I move that the bill be reported to the House, with a recommendation that it do pass.

Mr. SMITH, of Virginia. I rise for the purpose of expressing my decided dissent from the principle of the report, and of the bill, which is the consequence of that report. It involves a very important principle; it is true, to the commerce of the country; but it also involves a very important principle in relation to the Treasury. Are we to settle, by affirming the principle of this bill, that every public agent, no matter what his unlawful conduct, has a right to fix the liability on the Government of the United States. Many of the cases referred to in this report, claimed to be precedents for our favorable action in this case, are altogether on a different ground. They show only that where an agent of the Government acted illegally, and trespassed on the rights of individuals, the question was fairly investigated where the whole merits of the controversy could be looked into, and the public agent who was sought to be made responsible for his illegal conduct would, for his own interest, see the necessity of vigilantly defending himself.

But what protection is there here for the Government? Who is to protect it by the intervention of a jury? Who is to protect it according to the rules of evidence? Who is to protect it in the cross-examination of witnesses? Nobody but a committee of this House, acting on *ex parte* testimony, without any of the usual precautions for the eliciting of the truth. I will state to the Committee, also, that this is not the only case where the same principle is involved. Not at all. There are other heavy claims now pending before the House, involving the responsibility of the United States, through their agents, for very large amounts. Gentlemen should not lightly dispose of this case, because their action involves a very large amount.

Mr. WASHBURN, of Illinois. I am not aware that there are other cases of this kind. There is certainly no other before the Committee on Commerce, and I do not know that there is any before the House, involving the principles that are involved in this.

Mr. SMITH, of Virginia. Sir, there is a case in this House in which public agents on the plains

are sought to be held accountable, and in which it is attempted to make the Government of the United States responsible for the acts of those agents. There is one single case here of this kind, to the amount of some hundred thousand dollars. The whole matter rests upon the question, is the Government of the United States responsible for the illegal, unlawful, or mistaken conduct of its public agents? The report that has been read states that there is no necessity to go into that question; but, as I conceive, the only question in this case—and one involving a very great principle—is, shall we recognize the doctrine that in every case in which a party may be aggrieved by the erroneous or illegal conduct of a public agent of this Government, the Government is, *per se*, responsible to the citizen aggrieved?

Mr. HUGHES. Suppose the citizens of a foreign country, or the agents of a foreign Government, commit depredations on our commerce: would the gentleman from Virginia hold it to be the duty of this Government to demand satisfaction, and to protect its citizens?

Mr. SMITH, of Virginia. Certainly.

Mr. HUGHES. And is not the obligation still stronger when the depredations are committed by the agents of our own Government?

Mr. SMITH, of Virginia. I ask the gentleman, who has been a judge, and is a lawyer of no medium ability, whether the Government which employs an agent authorizes him to do illegal acts? In other words, is a man, or a Government, responsible for the illegal acts of an agent?

Now, in this particular case, the consul of the United States, at Bahia, in seizing this vessel, was acting rightfully or wrongfully. That is clear. If he was acting rightfully, then there is no claim for damages. If he was acting wrongfully, then he, and not the Government, is responsible. But if a public agent is acting according to his instructions, and commits a trespass on the rights of another, and if he is sued for damages, and, on a careful, thorough examination, a jury finds against him, then that individual, if he comes to Congress and presents a proper case, may expect to be relieved by a law passed for that purpose. That is the character of many of the precedents referred to in this report.

I, however, know nothing of the case. I simply rose in my place, as one of the Representatives of the people, to protest against the assumed doctrine of the liability of the Government for the acts of its agents, when they are done in violation of law, and when he commits a wrongful trespass on the property of a citizen.

Mr. MAYNARD. I would like to ask the gentleman a single question: whether he, as a lawyer, will undertake to say, that when my agent, acting within the scope of his instructions and on the subject-matter about which he is employed, transcends the authority I have given him about that particular business, and violates the rights of my neighbor, I am not legally responsible for his acts? I ask that now, as a simple question of law.

Mr. SMITH, of Virginia. The gentleman mingles in his question that which is appropriate and that which is inappropriate. I am surprised that a lawyer should so confound the two sorts of responsibility. A public agent, acting within the scope of his authority, is, of course, to be protected. A public agent, acting outside of the scope of his authority, and committing a trespass, is personally liable, and has no right to fix the responsibility upon the Government.

Mr. MAYNARD. I ask the gentleman whether there is any distinction, either in law or in morals, between a private and a public agent, so far as holding the principal responsible for the acts of the agent is concerned?

Mr. SMITH, of Virginia. Undoubtedly not. If I employ an agent to consummate any particular policy that I have marked out for him, and if he injures another, while acting within the scope of his authority, I am responsible. But when I employ a man, and do not authorize him, in his dealings with another, to knock him on the head, I should be sorry to fix on myself the responsibility for murder.

Now, does the Government of the United States, when it employs a consul in a distant port to perform consular duties, authorize that consul, under color of authority, to commit a gross trespass on the rights and property of a third person?

The Government is no more responsible in the one case than I am in the other. Neither the Government nor the individual is responsible for the unlawful conduct of its agent.

Mr. MAYNARD. If the gentleman concedes the principle that the Government is liable for the acts of its agent precisely in the same manner and to the same extent as a private individual is responsible for the acts of his agent, then he and I stand together; and on that principle we agree.

Mr. HUGHES. I have only a general knowledge of this case. I am not familiar with the details. But the knowledge I have of it leads me to the conclusion that the claim is just, and that it ought to be paid. I regret that the gentleman from Louisiana, [Mr. EVERIS,] who reported this bill, is not here to advocate it before this committee. I trust, however, that other members of the Committee on Commerce will take his place, and perform that duty. My purpose in rising now is simply to reply to some of the objections urged by the gentleman from Virginia; and I do believe that if the gentleman from Virginia had given to this case a proper examination, he would not have been found objecting to it here to-day. I may say, in the commencement, that it is hardly necessary I should proceed to answer the argument made by the gentleman against this claim; for in his concluding remarks he declared that he knew nothing about it. I had come to the conclusion that he knew nothing about it before he so frankly made the acknowledgment before the committee.

Mr. SMITH, of Virginia. I stated, Mr. Chairman, that I knew nothing more about it than what I gathered from the reading of the report, and I should like to know if the gentleman from Indiana knows anything more?

Mr. HUGHES. I will try and enlighten the gentleman before I have done. This claim, Mr. Chairman, addresses itself to the justice and equity of the Government. This claimant simply asks at the hands of the Government what he deems to be his right, leaving the Government itself to be the judge in the case. This committee has shown in its report a long line of precedents, in which that which this claimant seeks has been uniformly extended by the Government to other claimants. The gentleman from Virginia speaks as though the Government did not have a double duty to perform. He looks to the question of liability alone; and asks, repeatedly, whether the Government is liable for the acts of its agent. I wish to remind the gentleman that the petitioner is a citizen of this Republic, and is entitled to the protection of the Government. It is the high and bounden duty of the Government to protect the commerce of the country, not only against those who perpetrate outrages upon it, in the name of foreign Governments; not only from the agents of foreign nations, but from its own agents. This claimant is entitled to that protection. He has been injured by the act of a public agent of the Government; and the character and official weight of the Government has been brought to bear against him. He comes here and appeals to the equity and justice of Congress to extend to him that protection which it would not hesitate to extend if the wrong had been done by the agent of a foreign Government.

Shall the Government abnegate its duty? Shall it decline to protect its commerce and its citizens, and take shelter behind the plea that the wrong done was the act of its agents? Shall it say that it is not responsible for the wrongful acts of its agent, even though he bring the official character and influence and weight of his Government to crush down the private citizen? Shall it say, let the party go the courts and sue?

Well, sir, if that doctrine is to obtain here, we ought to hear no more about reclamations against Spain, about the taking of Cuba, and about erecting the standard of war and summoning our volunteers around it, because the commerce of this country has suffered depredations from foreign nations. Away, sir, with that kind of justice which would enforce the rights of the citizens of this Government at the cannon's mouth against Governments abroad, and deny them common, simple justice here at home. I differ with the gentleman's law. As to the facts, he has stated none upon which I can make up an issue with him. He has ignored all the facts of the case, and told us he knows nothing about them.

Mr. SMITH, of Virginia. Allow me to say one word. I heard the report read, and, assuming all the facts to exist as stated, I argued that those facts developed a principle important in its character as subjecting the United States to liability for the wrongful acts of its various agents; and I said that it was a principle too important in its consequences to be lightly recognized and adopted by the Government of the United States. If the gentleman can make anything out of that, let him do it.

Mr. HUGHES. The gentleman stated some facts that do not appear in the report. He stated that there were other cases of this kind pending. I call upon him to name a single case.

Mr. SMITH, of Virginia. I stated that there were other cases involving the same principle—that the Government of the United States is responsible for the wrongful acts of its agents. I merely mentioned that as a fact, because I desire the members of this House to be cautious how they establish the principle involved in this bill.

Mr. HUGHES. I understood the gentleman's argument exactly. Other cases behind the curtain were held up *in terrorem* over this committee, to keep them from doing justice in this case. I call upon the gentleman to specify what those cases are. A member of the committee which reported this bill has told us that there are no such cases before his committee; and the gentleman from Virginia, when interrogated, is unable to specify a single case of this kind before Congress.

Mr. SMITH, of Virginia. I am rather surprised that the gentleman, when I state a fact, should question it.

Mr. HUGHES. I do not do that.

Mr. SMITH, of Virginia. Yes, you do. I say it is a fact. That is all. I would not say it if I did not know it. But why go into other cases on a question of this sort?

Mr. HUGHES. That is well said. Why go into other cases? Why not let this case rest upon its own merits?

Now, I wish to call the attention of the gentleman from Virginia and of the committee to some of the facts stated in this report:

"The committee have examined a large number of cases in which the Government has acknowledged its liability in analogous cases, and select the following cases as sufficiently conclusive of the past action of the Government:

"March 31, 1814. Act to reimburse Samuel Ellis, marshal, District of Maine, amount of judgment recovered against him for seizing certain flour."

Then follows a long list of cases. The precedents are uniform. These are facts read in the hearing of the gentleman from Virginia, and yet they appear to have made no impression upon his mind.

Mr. SMITH, of Virginia. Let me call the attention of the gentleman to the fact that the great body, if not all, of those cases are cases in which the officer acting wrongfully was sued in a court, and by the verdict of a jury of his countrymen had the responsibility fixed upon him, and appealed to Congress to protect him against that verdict. If the man who is now seeking this relief had sued this consul, and upon a judicial investigation in a court, surrounded by all those precautions which the law has interposed for the purpose of securing a rightful result, had established this result by a jury of his countrymen, then he might have come here with a higher degree of plausibility than exists at present, and appealed to the justice of Congress for relief. But he did not choose to go into this preliminary inquiry; and I say to the gentleman that that fact tells against him; it is a rightful inference that there is something rotten in his claim.

Mr. HUGHES. The gentleman requires, then, that an issue shall be made up and tried before a jury, to inform his conscience as a chancellor in the case, before he can vote for the claim. How many cases are there before this committee that require to be examined into by a jury, as to the facts, after a standing committee of this House has made the examination provided for by the forms of doing business here? The gentleman is going to start technical objections, to make sharp points, to interpose sharp practice, to defeat a citizen who is seeking justice at the hands of his Government. That is the difficulty; there has been no jury in the case. Well, the Committee on Commerce is my jury. They have examined the facts in this case, and have reported favorably, and there is no counter report.

Mr. CLARK B. COCHRANE. I wish to inquire of the gentleman whether it appears from the evidence that the act of the consul was willful, or whether he had simply made a mistake in administering the functions of his office? If he made a mistake, the Government is clearly liable; but if it was a willful act, then the Government is not liable; for, as a matter of course, the Government can never be made liable where the acts of its agent are lawful. It is only in cases where the act of its agent is unlawful that the Government can be made liable. If the act is within the scope of the authority, and is not a willful act, the Government is liable. If it was a willful act, and without authority, then the Government is not liable.

Mr. WASHBURN, of Illinois. With the permission of the gentleman from Indiana, I would say to the committee that the gentleman from Louisiana [Mr. EVANS] had charge of this case in the Committee on Commerce, and made the report which has been read; but I have some recollection of the case. The testimony is not printed with the report; but I believe there was no allegation in the testimony of any willfulness on the part of the consul.

Mr. CLARK B. COCHRANE. I see this in the report:

"It further appears that the consul at this port pronounced her to be confiscated to the Government of the United States, in consequence of her not being furnished or presenting the necessary registers or papers to prove her nationality, notwithstanding the fullest and most satisfactory proofs of ownership and citizenship, duly authenticated, were presented to the said consul, and by him returned to the Secretary of State of the United States."

Now, if the consul acted willfully, it can only be inferred from this general language of the report. I therefore ask the question, whether the testimony in the case disclosed that the act was willful? If it did not, then, most clearly, the Government is liable. There can be no question about that.

Mr. WASHBURN, of Illinois. It is my impression that there was no such point made in the testimony.

Mr. CLARK B. COCHRANE. Very well; then I am satisfied.

Mr. HUGHES. I can answer the gentleman by reading a single sentence from the report:

"The committee are of opinion that the facts of this case bring it within the admitted exception to the rule as laid down by Mr. Buchanan. It is both a strong and peculiar case. The consul at Bahia was the sole representative of the Government of Bahia. There was no appeal from his decision in the custody and management of the vessel. It is better that the Government should hold itself responsible for his acts, than, by denying its responsibility, to invite that resistance which the common law justifies in the protection of property against trespassers."

Now I have this to say in regard to these technical objections that are interposed here. In the first place, wrong was done by our consul in a foreign port, from whose act and whose decision there was no appeal. He perpetrated that wrongful act in consequence of the fact that he had too technical a mind. He wanted a formal register; and the papers, made out and certified in due form, could not be produced.

Mr. DAVIS, of Mississippi. As it seems to be getting very dark, if the gentleman will give way, I will move that the committee rise.

Mr. HUGHES. I will consult the pleasure of the committee. I have no desire to detain them, if it is their pleasure to rise.

Mr. DAVIS, of Mississippi. Then I submit the motion that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. GROW reported that the Committee of the Whole House had, according to order, had under consideration the Private Calendar generally, and particularly adverse reports of the Court of Claims, (Nos. 11 and 30,) which he was instructed to report back to the House, with the recommendation that the decision of the Court of Claims be concurred in; that the committee had also had under consideration House bill No. 197, which he was instructed to report back to the House, with the recommendation that it do pass; that the committee had also had under consideration House bill (No. 208) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark, and had come to no resolution thereon.

Mr. WASHBURN, of Maine, moved the previous question upon concurring in the adverse re-

ports reported from the Committee of the Whole House.

The previous question was seconded, and the main question ordered to be put.

The decision of the Court of Claims was then concurred in by the House, in the following cases:

An adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick; and

An adverse report (C. C. No. 30) upon the petition of William Neill and others.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the decision of the Court of Claims was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. PHILLIPS moved the previous question on House bill (No. 197) for the relief of Charles J. Ingersoll.

The previous question was seconded, and the main question ordered to be put.

Mr. KELSEY moved that the bill be laid on the table.

And then, on motion of Mr. CLAY, (at fifteen minutes past three o'clock, p. m.) the House adjourned.

IN SENATE.

MONDAY, January 24, 1859.

Prayer by Rev. J. MORSELL.

The Journal of Friday last was read and approved.

CAPTAIN CHARLES G. RIDGELEY.

Mr. HALE. Mr. President, I rise this morning for the purpose of making a privileged motion. On Friday, I voted in the majority for the bill for the relief of the legal representatives of Captain Charles G. Ridgely, of the United States Navy, and I now move to reconsider that vote. I wish to have the motion entered; and I move further that the Secretary be instructed to inform the House of Representatives that a motion to reconsider is pending, and ask a return of the bill. I understand the bill went to the House of Representatives on Saturday.

The motion to reconsider was entered, and the motion to request the House of Representatives to return the bill was agreed to.

INDIANA SENATORIAL QUESTION.

The VICE PRESIDENT. The Chair will lay before the Senate, a memorial from the Legislature of Indiana.

The Secretary proceeded to read it, as follows:

To the Honorable the Senate of the United States:

The State of Indiana, by her Senators and Representatives in General Assembly convened, would respectfully represent to your honorable body, that as she is not now, and has not been for some time, represented in the Senate of the United States, it is her wish and desire that the Hon. Henry S. Lane and the Hon. William Monroe McCarty be admitted to seats in the Senate of the United States, as the only legally elected and constitutionally chosen Senators of this State, and that they were so legally elected and constitutionally chosen on the 23d day of December, 1858, in compliance with the provisions of the following concurrent resolution, which preceded and prescribed the rule of such election, to wit:

"Whereas, the State of Indiana has been, and is now, unrepresented in the Senate of the United States; and whereas there is now no law other than the Constitution of the United States, and of this State, providing for a choice by the Legislature of this State; and whereas, it is essential that this Legislature should choose such Senators at its present session:

"Be it resolved by the Senate, (the House of Representatives concurring therein,) 1. That the Senate and House of Representatives shall, upon the passage of this resolution by either House, proceed immediately to the choice of persons to represent this State in the Senate of the United States, and that a majority of each House shall be necessary to such choice. 2. That each person who shall receive a majority of the votes given in both Houses of the Legislature, shall be declared duly elected to represent the State of Indiana in the Senate of the United States; the person first chosen shall be declared elected from the date of the election herein provided, and shall serve as such Senator until the 4th of March, 1863; and the person next chosen shall in like manner serve as such Senator until the 4th of March, 1861. 3. The Secretary of the Senate, and the Clerk of the House of Representatives, shall immediately upon the choice, as herein provided, by the respective Houses, certify the same to the Secretary of State, who shall certify the same, under the seal of the State, to the Vice President of the United States; and also furnish to each of the persons so chosen, as herein provided, when application is made by such person or persons, or others for them, copies of their election or choice as such Senators. 4. The said Secretary of State shall furnish with the certificate, as herein provided, a copy of this resolution, and the vote of each House thereon."

Mr. STUART. I think it is hardly worth while

to read that document here. I move its reference to the Committee on the Judiciary.

Mr. HALE. Let it be read.

Mr. TRUMBULL. I ask for the reading of it. The VICE PRESIDENT. If there be no objection, the Secretary will proceed with the reading.

The Secretary continued as follows:

Your memorialist, as one of the sovereign powers that compose the Union, to the existence of which it is essential that equal and exact justice should be measured out to all, in order to secure the harmony of the whole and perpetuate the mutual confidence that should actuate each in its intercourse with the others, would invoke your attention to the fact that her commission has not been awarded to any persons other than those herein named, since a vacancy has occurred in her representation in your honorable body. To the end that your memorialist may be more fully understood, it is but just and proper that a concise statement of the facts upon which your memorialist bases the propriety of the course which she has taken in the premises be now submitted for the consideration of your honorable body. In doing this, it will be necessary to go back a little in your own as well as her history. In January of the year 1855, a regular session of the General Assembly of this State, in accordance with the provisions of her constitution, was convened at Indianapolis. As her constitution provides that the sessions of the General Assembly shall be held biennially, no other regular session would occur until January, 1857. On the 4th of March, 1855, a vacancy was to occur in the Senate of the United States by the expiration of the term of one of her Senators. To supply this vacancy, it was the duty of the General Assembly of 1855 to provide, by choosing some one of her citizens to serve as such Senator. That General Assembly adjourned upon the expiration of the time allowed by the constitution without having elected, chosen, or designated, any one to act as her Senator in your branch of the national Legislature. Thus your memorialist was without her constitutional representation in your body. There was not any other session of her General Assembly for two years, although provision is made in her constitution for an extra session whenever, in the opinion of her Executive officer, it may be deemed necessary to convene the Senators and Representatives.

In January of the year 1857, the General Assembly of your memorialist was again convened. On the 4th of March, 1857, and before the adjournment of this session of the General Assembly, another vacancy was to occur in your honorable body by the expiration of the term of the only remaining Senator of your memorialist. Your honorable body will now perceive that it was clearly the duty of this General Assembly, at its present session, to provide that a choice should be made of the two citizens of your memorialist to supply the vacancy that had already, in part, and soon would entirely, occur in your branch of the Congress of the United States. In this connection, it may not be improper to inform your honorable body that there had been no statutory provision, by the Legislature of your memorialist, regulating the choice or election of United States Senators by her General Assembly, since the adoption of her present constitution. Hence, any election which should take place would of necessity be governed by the provisions of the Constitutions of the United States and of this State. In addition, also, to the binding force of the Constitution of the United States as the supreme law of the land, the Legislature of your memorialist did enact that among the laws governing this State, should be, first, the Constitution of the United States. (See Revised Statutes, volume 1, page 351.) Then as your memorialist was without any law on this subject other than that contained in the Constitutions as above named, it would be unnecessary to direct the attention of your honorable body to the provisions of section three, article one of the Constitution of the United States, as also section four of the same article. Your memorialist would further represent that, since the requirements of the Constitution of the United States, in the choice of Senators of the United States, as above referred to, are upon the Legislatures of the several States, the constitution of Indiana clearly defines her Legislature, and declares of what it shall consist. (See constitution of Indiana, article fourth, section one; see also section eleven of article fourth, which is further descriptive of what is essential to constitute it a body capable of transacting legislative business.)

Mr. HUNTER. I suppose the best disposition of that document would be to refer it to the Committee on the Judiciary.

The VICE PRESIDENT. Several Senators have asked for the reading of the paper. If objection is made, the Chair will put it to a vote of the Senate. If no objection be made, the Secretary will proceed with the reading.

Mr. BAYARD. What is the motion?

The VICE PRESIDENT. There is no motion before the Senate.

The Secretary continued as follows:

From what has been shown of the law, it will be obvious at once that the only rule by which your memorialist could be governed in the choice of persons to act as her Senators will be found in that provision of the Constitution of the United States which requires such choice to be made by the Legislature; and as the terms "legislature" and "legislative power" have been defined by the organic law of this State, it will be no difficult matter to ascertain wherein that law has been complied with or disregarded in any case that may have been, or will be, presented for the consideration of your honorable body.

Your memorialist is now prepared for the assertion that the persons now assuming to represent her in the Senate of the United States are not now, and have not been, since the action of certain members of her General Assembly, in February, 1857, upon which action it is claimed that said persons were elected Senators in the United States Senate for

Indiana, the legally-elected or constitutionally-chosen Senators of Indiana; and in support of her denial of the right to act as such Senators for her, and in her behalf, your memorialist would earnestly invoke the attention of your honorable body to the following facts:

The session of the General Assembly, which convened in January, 1857, succeeded the general election of 1856, at which time an election for Governor and Lieutenant Governor was held. Section four of article five of the constitution of Indiana provides that the result of this election shall be published by the Speaker of the House of Representatives, in the presence of both Houses of the General Assembly. On Monday morning of January 12, 1857, a message was received by the Senate from the House of Representatives, inviting the Senate to attend in the Hall of the House at "half past" two o'clock, for the above purpose. (See Senate Journal, page 41.) The Senate convened at one o'clock, p. m., and immediately took up the message of the House, and was proceeding to amend the same, when the President of the Senate laid before the Senate a communication from the Speaker of the House of Representatives, in which said Speaker informs the Senate that he would proceed "in-stanter" to open and count and publish the vote for Governor and Lieutenant Governor, whereupon the President of the Senate announced that his connection with the Senate as their Presiding Officer had terminated, and immediately, without adjournment, or motion therefor, and, as your memorialist affirms, and verily believes, in violation of section ten of article four of her constitution, left the Senate, followed by twenty-three of the Senators. The remainder of the Senators occupied their seats and proceeded with business; but, upon a call of the Senate being laid, it was ascertained a quorum, or two thirds, was not present, the Senate could make no disposition of the business then pending. A resolution embodying this fact was introduced, and spread upon the journal, and the Senators present continued in their seats until the return of the absent Senators preceded by the incoming Lieutenant Governor and ex-officio President of the Senate, when the pending questions were taken up in their order, and disposed of as though no interruption had taken place. The President of the Senate left the chair and Hall of the Senate at five minutes before two o'clock, upon receipt of the communication of the Speaker of the House of Representatives, which communication your memorialist affirms and believes to have been wholly unauthorized by the House of Representatives, as the journals of said House contain no record of such authority or change in the time for that duty from the time named in the resolution sent to the Senate. (For a record of these facts, see Senate Journal, pages 41 to 46, inclusive.)

It is further a part of this proceeding, that while in the meeting thus unauthorized, the President of the Senate and Governor elect did at first preside during the counting of the vote, but upon the conclusion of that ceremony appointed a Senator to occupy the position of presiding officer, who thereon and there assumed, without motion, leave, or desire therefor on the part of said meeting, the power to adjourn said meeting to the 2d day of February following, and did so adjourn it. On February the 2d, said meeting was again convened, and, as before, by leaving the Senate, as on the former occasion, without a constitutional quorum, and without adjournment or motion therefor. (See Senate Journal, pages 221 and 222.) At this last-named meeting, the Lieutenant Governor adjourned, as the Senator on a former occasion had done, the meeting to the 4th day of February. On Wednesday, the 4th of February, the President of the Senate again left the chair, and with a number of Senators left the Senate Chamber, as on former similar occasions, in the midst of its deliberations and without adjournment. At this unauthorized meeting the persons who have since claimed to be the Senators of your memorialist, claim to have been elected, and upon that claim have been permitted to act as such Senators by your honorable body to the present time.

It will thus be apparent to your honorable body, that this unauthorized meeting, at which the present incumbents claim to have been elected United States Senators, was originated in violence and continued by insubordination. The constitution of this State in section four of article five, under which those who contend for the legality of the meeting above named, imposes a duty upon the Speaker of the House of Representatives alone, and does not, by any fair construction, enjoin upon the Legislature any obligation at all, much less even remotely contemplate the organization of a joint convention of the two Houses. But in the latter clause of section five of the same article, in case of two persons having an equal and the highest number of votes, provision is made for deciding the question by a joint vote of the General Assembly. Now, it is only necessary, in order to ascertain whether a joint convention is contemplated in this article, to inquire, as a duty is here devolved on the General Assembly, what the constitution means by the term General Assembly. To answer this question, it is sufficient to refer to sections one and two of article four of the constitution, which should be read in connection with section eleven of the same article. But if the meeting, originated as herein described, had no legislative power, your memorialist would respectfully submit whether a mere adjournment of such meeting could, by any possibility, confer upon it authority sufficient to legalize the act under which the present incumbents hold the honor and exercise the power of United States Senators for the State of Indiana? But again: if this meeting had not originally belonged to it the power of legislation; if it was not at first a legal organization, was it not less so when an effort was made to perpetuate its existence by an individual who had been called to preside over its deliberations—by the Presiding Officer of the Senate, at a moment when his power to preside as such officer ceased and had expired? Yet such was the case; for the President of the Senate, who had the power when the Senate was in session in its own Chamber to call any Senator to the chair temporarily, at this unauthorized meeting, which was not a Senate, appointed, when he had no longer the power himself, a Senator to conduct its deliberations. This Senator assumed to adjourn the meeting to a distant day; at which the meeting assembled, and was again, in like manner, adjourned to another day; at which last named day the wrong, of which your memorialist complains, was inflicted upon her.

Your honorable body will at once perceive that no motion, concurrent or joint resolution, for electing Senators, or other proposition for that purpose, had been previously made or attempted. The Senate had never been invited by the House, or the House by the Senate, to join, participate in, or consent to, any such election or elections. The object, if there was an object, was studiously concealed; at least, so far as the journals of either House show. The election thus held, by which the present incumbents claim their seats, was without the knowledge, consent, or participation, of a quorum of either House of the General Assembly; and, notwithstanding a majority of the members, *per capita*, of the two Houses may have assented to and taken part in the proceedings of said meeting, any election thus had could certainly have no binding force when the meeting itself was void. That there was not a quorum of the Senators present in the above meeting, if additional evidence is wanting, your memorialist would refer your honorable body to the protest of the twenty-three Senators who did participate in it, against the action of the majority of the Senators who remained in session during the absence of the protestants. (See Senate Journal, pages 480-81-82-83.) Again, if the action of the majority of the Senators, who remained in session after the minority had unceremoniously deserted the Senate Chamber, was illegal and void, as the protestants allege, your memorialist will leave your honorable body to characterize the acts, doings, and resolves of the minority out of the Senate Chamber. But the friends of the proceeding against which your memorialist now complains, should have been stopped by their own acts, distinctly and deliberately performed on two separate occasions: the first was in 1855, as will be seen by reference to Senate Journal of that year, page 323, wherein they introduced a resolution for the election of a United States Senator, with the following preamble:

"Whereas there is no law on the statute-book providing for the election of United States Senators, and in the absence of any statutory provision it is competent for the Legislature to prescribe by resolution the manner of appointment, and the person to be appointed; therefore (the House of Representatives concurring therein) resolved," &c.; for which preamble and resolution they gave an undivided vote.

Again, in 1857, (see Senate Journal, pages 196 and 197,) they distinctly avowed that an election of United States Senators by each House in their separate and independent capacity, was a legal and constitutional manner of electing, and that at the proper time they would so proceed to elect United States Senators. This resolution was passed by their undivided vote, on the 23d of January, 1857, after the second adjournment of the unauthorized meeting to which reference has heretofore been made, and but six days before its last session, when the present incumbents claim to have been chosen Senators.

The above are substantially the facts, and the circumstances accompanying and surrounding the pretended election of the sitting members; and the chief reliance which they had, and have, in support of their right, is a choice of a majority of the two Houses in joint convention.

Your memorialist would earnestly invite the serious consideration of your honorable body to the main points: First, Does the constitution of Indiana provide for a joint convention for the election of United States Senators? Second, If so, was this meeting, at which the sitting members were chosen, such a constitutional joint convention? The answers to these questions your memorialist will cheerfully leave with your honorable body, under the light of the facts and circumstances herein detailed.

But, aside from the facts herein embodied, your memorialist would further advert to the position assumed by those who contend for the right of the sitting members, on the ground that your honorable body has already acted in the premises, and decided the question at issue in favor of the incumbents. Your memorialist would not question the right of your honorable body to decide any and all questions of this character upon the facts adduced at the time of such decision; for such is the authority conferred upon your honorable body by the organic law of the nation. That you so decided the present question is obvious; but your memorialist would respectfully suggest that the legislative power of Indiana was, at the time you so decided, as fairly and fully before your honorable body, protesting against the right of the sitting members to admission as her Senators, as that legislative power was then demanding such admission. A majority of the House of Representatives, but not a quorum, and a minority of the Senate of Indiana send to your body two persons whom they call Senators, while a minority of the House of Representatives and a majority of the Senate follow up this action with a solemn protest, declaring the action of the former outside of, and in conflict with, the constitution of this State. This fact, when taken in connection with the provision of the constitution, which requires two thirds of each house to constitute a quorum, and in view of the additional fact that no resolution for so electing Senators, was ever agreed upon or adopted by both or either of the Houses, appears to the mind of your memorialist conclusive that the sitting members were not commissioned in accordance with the requirements of the Constitution of the United States, or the will of the Legislature of Indiana. That there were no other claimants contesting the seats awarded to the incumbents, your memorialist regards as a matter of no vital moment; but that such decision, founded only upon what may be regarded as "*prima facie*" evidence, should be held as conclusive, and a bar to the admission of evidence of a higher character in support of the right of a sovereign State of the Union to an equitable and constitutional representation in the Senate of the United States, is a consequence to which your memorialist cannot assent. At that time it was a question whether the applicants for admission should be allowed the benefit of the evidence presumed from the possession of credentials attested by the seal of the State, without inquiry as to the validity and regularity of such authentication, or whether such authentication, if indeed, it appeared regular, was even essential. Now, however, the issue is one of broader and deeper significance. For, one of the component, independent sovereignties of the Union declares that which has been chosen as her act never to have been done by her, and respectfully submits

the question whether she will be permitted herself to select, among her own citizens, the persons whom she chooses to represent her in your branch of the Federal Legislature, or whether unauthorized parties, acting in a revolutionary manner, and in conflict with her organic law, but assuming to act for her, in her name, and on her behalf, shall be permitted to choose her representatives?

Your memorialist would here express an entire and undiminished confidence in the disposition of your honorable body to carry out and exemplify in all your decisions affecting the rights of States, as well as individuals, the spirit contained in the words of the preamble to the Constitution of the United States. In the full assurance that that will predominate in this in all other important issues, your memorialist apprehends no conflict between the national and State sovereignty, but will cherish, to the end, the assurance that justice and equity will prevail throughout, and eminently characterize the result of the application herein made. With this view of the matter your memorialist cannot regard, as any serious obstacle to an equitable adjustment of her right, the decision already made in behalf of the incumbents. That decision was made upon "*prima facie*" evidence of an inferior order, while now your memorialist comes in her own proper person with the unquestioned and unquestionable authority of an act of her Legislature. Your memorialist fully appreciates the fact that your honorable body is the only tribunal before which such questions can be tried, and that from its decisions there is no appeal, there being above and beyond it no higher or even equal power. But your memorialist would seek no other tribunal, or question the right to the exercise of the power in the decision that has been made, but relying on that sense of justice which underlies all of our institutions, but demands in the tribunal of your honorable body a review or rehearing, such as the meanest suitor would not be denied in the highest judicial court known to the laws of the land. It may not be inappropriate for your memorialist to suggest that any other course on the part of your honorable body might be productive of the most alarming consequences; for if any number of the States of the Union should be so unfortunate, as your memorialist, as to have conferred upon individuals whom they had not chosen, credentials of election as United States Senators, and your honorable body, upon such credentials, would admit them as members, it would not be a sufficient answer to such States, when applying for redress and demanding their rights, that the Senate of the United States had once passed upon the question, and that her power was already exhausted on the subject.

Your memorialist holds to the doctrine that the power lodged in your honorable body to do justice to, and deal equitably with, those who delegated to you that power, can never be exhausted, however often it may have been exercised, until such justice has been done in the most complete and ample manner. Any other view of that power would make it an irresponsible, independent authority, fully armed for vengeance and wrong, but powerless for the accomplishment of those wise and beneficent purposes for which it was established. Recognizing in the economy of both State and Federal Government the principle that everything salutary depends upon the consent of the governed, your memorialist cannot regard the argument of a want of power in your honorable body to review and revise its decisions as at all in harmony with the spirit of our institutions, or consonant with the almost unlimited power delegated to the national Legislature. Such a concession, on the part of the several States, would be equivalent to a surrender of their rights, without which they would cease to be sovereign powers, and descend to the condition of colonists; wherein they would be compelled to the support of a Government in which they would be without representation. With that unfeigned devotion to the Union of these States which has hitherto marked her ready and willing acquiescence in the expressed will of the national sovereignty, and which, she cherishes the assurance, will ever characterize her attachment for its undivided dignity and honor, your memorialist confidently presents and asks for admission as her legally-elected and constitutionally-chosen Senators the persons herein named, whose title to the honor and claim to the position is thus solemnly authenticated by the highest and most august tribunal known to the constitution of the State of Indiana.

Resolved by the Senate, (the House of Representatives concurring therein,) That the foregoing memorial, certified by the President and Secretary of the Senate, and by the Speaker and Clerk of the House of Representatives, be, and it is hereby, directed to be forwarded to the Vice President of the United States, to be by him laid before the Senate of the United States.

We, John R. Craven, President *pro tempore* of the Senate of Indiana, and James H. Vawter, Secretary of the Senate of Indiana, hereby certify that the above and foregoing memorial passed the said Senate on Wednesday, the 12th day of January, A. D. 1859, by the vote of a majority of all the Senators elect of said Senate.

In witness whereof, we hereunto affix our hands, this 15th day of January, A. D. 1859.

JOHN R. CRAVEN,

President of the Senate.

JAMES H. VAWTER,

Principal Secretary of the Indiana Senate.

We, Jonathan W. Gordon, Speaker of the House of Representatives of the State of Indiana, and Richard J. Ryan, Clerk of the House of Representatives of the State of Indiana, hereby certify that the above and foregoing memorial passed the said House on Friday, the 14th day of January, A. D. 1859, by a vote of a majority of all the members elect of said House.

In witness whereof, we hereunto affix our signatures, this 15th day of January, A. D. 1859.

J. W. GORDON,

Speaker of the House of Representatives.

RICHARD J. RYAN,

Clerk of the House of Representatives.

Mr. TRUMBULL rose shortly before the reading was completed, and said: That document seems to be somewhat lengthy. I now move to dispense

with the further reading of it, and that it be referred to the Committee on the Judiciary, and printed, unless some one wishes to have it all read.

Mr. FITZPATRICK. Under the rule of the Senate, it appears to me, the motion to print should go to the Committee on Printing.

The VICE PRESIDENT. The motion to print a document coming from the Legislature of a State, is not referred to the Committee on Printing.

Mr. FITZPATRICK. I believe that is a fact, where the document comes from a State. I was not aware of that.

The motion to print, and to refer to the Committee on the Judiciary, was agreed to.

Mr. SEWARD. Mr. President, I offer the following resolution. It relates to a privileged question. If there be objection, I will waive its consideration until to-morrow:

Resolved, That the Hon. Henry S. Lane, and the Hon. William M. McCarty, who claim to have been elected Senators from the State of Indiana, be entitled to the privilege of admission on the floor of the Senate, until their claims shall have been decided.

The VICE PRESIDENT. The Senator from New York asks unanimous consent for the consideration of the resolution.

Mr. BROWN. I object.

Mr. SEWARD. I beg pardon of the Vice President; I did not ask unanimous consent. I was misunderstood. I give notice that I will call up the resolution to-morrow morning.

The resolution lies over.

COAL AND IRON DUTIES.

Mr. BIGLER. I present resolutions of the Legislature of Pennsylvania in favor of a protective tariff, an increase of the duties on coal and iron, and approving the views of the President of the United States, in his late annual message, in reference to specific duties. I ask that they may be read, and referred to the Committee on Finance, and that they be printed.

The Secretary read them, as follows:

Whereas, the experience of the past and present most fully demonstrate that it is a wise and beneficent policy of the General Government which dictates the imposition of duties on such products of foreign nations as come in such direct contact with those of our own country as to injure and prostrate the trade on our own soil and among our own citizens: for want of such aid, the artisans and laborers, in many departments of trade, are compelled to abandon their accustomed pursuits; especially do our own coal and iron interests suffer: Therefore

Resolved by the Senate and House of Representatives of Pennsylvania in General Assembly met, That our Senators in Congress be instructed, and our Representatives requested, to labor for the passage (at the present session) of such an act as will not only tend to increase the revenue by the imposition of duties, but afford ample encouragement to all the interests of the country injured by the productions of the cheap labor of other nations; but, more especially, to urge an increase of duties on coal and iron, in which so large a portion of our own people are deeply interested.

Resolved, That the views of the President, expressed in his late annual message, in reference to the advantage of definite or specific over *ad valorem* duties, as more uniform, less liable to frauds, and affording the most certain and uniform amount of revenue, meet our hearty approval.

Resolved, That the Governor be requested to forward to each of our Senators and members of Congress a copy of the above preamble and resolutions, informing them of their adoption.

W. C. A. LAWRENCE,
Speaker of the House of Representatives.
JNO. CRESWELL, JR.,
Speaker of the Senate.

Mr. CLAY rose but yielded, at his request, to **Mr. CAMERON.** I also have received, and I have the honor to present to the Senate, counterparts of the resolutions of the Legislature of Pennsylvania, instructing their Senators, and requesting their Representatives in Congress, to endeavor to procure such a modification of the revenue laws as will change the mode of collection upon their great staples from *ad valorem* to specific duties, and thereby, as they believe, prevent frauds, increase the revenue, and give protection to American labor. The resolutions were adopted with great unanimity, showing some sudden changes in the opinions of men, and proving the wonderful power of the people in this country over their representatives through the ballot-boxes. The vote in the Senate was unanimous—the whole thirty-three voting in the affirmative. In the House of Representatives, of the one hundred members only two voted against them; and they, as I understand from their speeches, did not object to the principle of protection, but to the propriety of legislative instructions to members of Congress.

I cordially approve these resolutions, and will

cheerfully obey them; and I will add, that we will have, as I believe, the hearty aid and support of every Republican in both Houses of Congress. But all these are not enough to pass a law. It is true, the President of the United States, in his annual message, recommended all that is here asked. He, in his present high position, is potent for good or evil. The Legislature thinks that he, knowing so well the wants and interests of his fellow-citizens, is favorably disposed to help them. I trust he is; for if he will only exhibit, in their behalf, a small portion of that energy which he used so vigorously during the last session, to settle the Kansas question in favor of the Leecompton constitution, he will very soon have the tariff question out of Congress, and see busy hands and cheerful faces all over that great Commonwealth to which he owes his elevation. He has but to say the word, and his friends here, and in the other end of the Capitol, will, as they have done hitherto, come to his support. It will not do for him to tell the industrious, but now idle, men of Pennsylvania, that he cannot control his Cabinet upon a question of policy affecting so vitally their interests, and so necessary to his impoverished Treasury. The working men of Pennsylvania read, and think and act upon their own conclusions. They have seen his power here, on other occasions; and they will not be content now with his mere recommendation in a passing paragraph of his annual message. Let him act for them as they have acted for him, and he will be rewarded by their prayers and the blessings of their families, when he goes home to find a resting place among them.

All that the Opposition party can do here in this question will avail nothing against the majority. All the committees are in the hands of the confidential friends of the President. These committees prepare and arrange the whole business of Congress; and no question of such importance as a change of the revenue laws can be effected without their sanction. I am particular in stating these facts, for the reason that I have seen, in a paper at Harrisburg, edited and controlled by a confidential friend of the President, an article charging the Republicans here with a wish to prevent the passage of a new tariff bill this session, so as to operate upon the future elections of our State. I desire to say, in reply to it, that the friends of protection will support any bill that the Administration may propose, that will give to us specific duties, wherever they are practicable, and that will produce revenue enough to support the Government. If nothing be done this session, the responsibility will rest with the Democratic party, as now organized, under the lead of Mr. Buchanan.

The Republicans and others, with whom I act, desire to see the debts of Government paid off. Proud of the national honor, they are unwilling to see this great country using such shifts as temporary loans, unredeemable Treasury notes, and other expedients, such as only a small country shopkeeper might be expected to adopt, in the hope that Providence will work a miracle for the especial benefit of this Administration, by a sudden revival of trade to fill their empty coffers. Trade will not revive till capitalists see that the policy of the Government is such as to insure a return from investments to be made in manufactures, and their handmaid, commerce. We wish to see the Government conducted upon the most economical manner. We wish it to return to the cash system; for we believe that a public debt is a great evil, leading to extravagance, waste, and corruption; and for this purpose we desire a change in the tariff that will, with specific duties, bring into the Treasury, during the next fiscal year, a sum sufficient for its ordinary demands, and such a surplus as will, in a reasonable time, pay off the debt incurred during the last year; the only debt, I believe, ever contracted by this country in time of peace. The miners and manufacturers of Pennsylvania ask no special benefit from the Government. They ask only that the revenue for its support be collected from imposts wisely laid; that there be no debts incurred, and that the duties be so laid and collected, as not to foster the foreign manufacturers and traders to the injury of our own laborers and artisans and capitalists.

Mr. CLAY obtained the floor.

Mr. BIGLER. I hope the Senator will allow me a moment.

Mr. CLAY. I did not know, when the Senator from Pennsylvania [Mr. CAMERON] asked me to give way, that I was to yield to a stump speech. I thought he had a petition to present. I will give way to the Senator [Mr. BIGLER] to reply.

Mr. CAMERON. Will the gentleman let me say a word?

Mr. CLAY. No. Your colleague wishes to speak.

Mr. BIGLER. I do not intend at this time to reply to my colleague, nor shall I detain the Senator from Alabama but for a moment. I merely desire to say, that I believe the resolutions embody the sentiments of a majority of my constituents, and that it is my intention to carry out their spirit so far as I may have the power to do so. At no remote period, and I trust on a proper occasion, I shall take the opportunity of expressing my views at length on this whole subject.

I do not doubt the sincerity of my colleague on this subject of the tariff. I have no doubt he is exceedingly anxious for a readjustment of it such as he indicates; but I have a clear opinion that the worst friends of a proper and prompt readjustment of the tariff are those who are constantly attempting to give the question the aspect of a partisan issue; who are drawing it into parties and struggles, and confounding it up with the ordinary politics of the day, or asking what they know cannot be granted.

I listened to the remarks of my colleague with some surprise. I can see no necessity for coupling this subject with the course which the Executive saw proper to pursue with reference to the admission of Kansas as a State into this Union. The President is doubtless sincere in all he has said on the subject of the tariff, and will stand by the views which he has expressed, so far as it is proper that he should interfere; but, sir, no man can misunderstand the imputation fairly implied in the remarks of my colleague. It was worse than to say in plain language that the message of the President, so far as it relates to this question of readjusting our revenue system, is not candid. Nor, sir, could I understand the necessity for his allusions to the sudden and peculiar change in the sentiments of public men. Why, sir, this is by no means singular; and I could give instances, were it necessary. But I do not intend to dwell upon that point at present. I shall have accomplished my object when I say to my colleague, so far as relates to myself, that I am ready to unite with him, in good faith, in accomplishing what I believe to be the will of a majority of the people whom we represent; and to do that all the better, I am willing to treat the question of raising the tariff as a business affair, affecting the Treasury and the great industrial interests of the country, without attempting to invest it with the character of a struggle between the two great parties of the country.

Mr. CAMERON. It would seem to me, Mr. President, that my colleague supposed I doubted his sincerity, and that I have insinuated that he has changed. I intimated no doubt, and did not refer to any change on his part. He says also that he is surprised at what I have uttered. There we differ entirely, for I am never surprised at anything my colleague says or does. On this question of protection there have been sudden changes, and I will take his record to prove that he has changed most miraculously. Now, all I ask is, that he and other gentlemen who represent the President here shall act in good faith. Let me repeat, that on this subject the Opposition has no power. This revenue question is in the hands of the Administration, through its confidential agents in the House. They will let us pass a bill or not, as they think proper. I am a Pennsylvanian; not like my colleague, who said, when this question was up in 1857, that he was a national man; that he went to make a tariff to suit the country. I go first for Pennsylvania, and always for Pennsylvania. There is that feature in southern gentlemen here which I always like to see. They stand up for their own section; and if we, as Pennsylvanians, would battle as bravely and as boldly and as gallantly for Pennsylvania as they do for their South, we should have very little trouble in getting what we ask.

Mr. President, the people of Pennsylvania, the working people, who are no politicians, who only go into this question when forced into it by political leaders, desire to get it out of politics and out

of Congress; and I will go with anybody here to pass such a law—let the modification be as moderate as it may—to take this question out of Congress, and give rest to the vexed people of Pennsylvania. I, too, at the proper time, will make my remarks in full upon this subject; and I will be ready to hear and rebut, if necessary, all that my distinguished colleague may say respecting it.

The motion, to refer to the Committee on Finance, and to print, was agreed to.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of citizens of Sullivan county, Indiana, praying a change in the mail route from Bowling Green to Sullivan, or the establishment of a mail route from Sullivan to Hymera; which was referred to the Committee on the Post Office and Post Roads.

Mr. BROWN. I present the petition of Jay Cooke and others, of Philadelphia, praying the privilege of laying down and using a double track railroad through certain streets in Washington city. The Committee on the District of Columbia have had charge of this subject, and have made two or three reports. This memorial, however, contains matter in addition to that which has been considered by the committee heretofore; and for that reason, I move its reference to the Committee on the District of Columbia.

The motion was agreed to.

Mr. BROWN. I also present the memorial of Mary Chase Barney, sole daughter and survivor of Samuel Chase, of Maryland, one of the signers of the Declaration of Independence, praying to be allowed a pension. The memorialist further represents that she was raised in affluence, and lived comfortably until she has grown old, and by a change of fortune she has been reduced in circumstances to that point that she finds it necessary to call upon the Government for assistance. I believe this is the first application from a direct descendant of one of the signers of the Declaration of Independence for relief of this character. I think myself, that if there be any class of cases other than those absolutely disabled in the military defense of the country, entitled to the bounty of the Government, they are heirs of the immortal band who signed the declaration of our national independence. Without commenting on it, I commend it to the careful attention and consideration of the Committee on Pensions; to whom I beg leave to move its reference.

The motion was agreed to.

Mr. BIGLER presented the memorial of Joshua Taggart and others, constables at Philadelphia, praying compensation for services and expenses in ferreting out and bringing to justice the perpetrators of the theft of specimens of coin, taken from the United States Mint in August, 1858; which was referred to the Committee on Claims.

Mr. HALE presented the petition of James McCutcheon, an inmate of the Military Asylum at Harrodsburg, Kentucky, praying that his pension may be continued; which was referred to the Committee on Pensions.

Mr. HALE. I also present the petition of William Pettibone and several others, practical bookbinders in the city of Washington, complaining that the law of Congress, I think of the last session, has been violated by a set of men from whom we ought to look for anything except violations of law—members of the Cabinet.

The petitioners complain that the law requiring the binding of the Departments to be done by practical bookbinders has been disregarded and violated by the heads of the Departments. If it is so, it is an evil example to all others in like manner to offend. I move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

The VICE PRESIDENT. It is the duty of the Chair to call up the special order at this hour.

Mr. STUART. I hope that by unanimous consent the special order may remain until we can present petitions and reports and get through the morning business.

The VICE PRESIDENT. The Senator from Michigan suggests that by unanimous consent the special order be postponed informally, to receive memorials and reports. The Chair hears no objection.

Mr. STUART presented additional testimony in support of the claim of Sheldon McKnight;

which was referred to the Committee on the Post Office and Post Roads.

Mr. FITZPATRICK presented additional testimony in support of the claim of Tilman Leak; which was referred to the Committee on Indian Affairs.

Mr. FESSENDEN presented a memorial of citizens of Portland, Maine, praying that the pay of officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

Mr. HARLAN presented a petition of citizens of Van Buren county, Iowa, praying that a law may be passed granting a pension for life to all the officers and soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented the petition of David Merry, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. IVERSON presented additional papers in support of the claim of Rezin Orme; which were referred to the Committee on Claims.

Mr. BURKEE presented the petition of J. W. Cochran, praying that an appropriation may be made for the purpose of testing a new instrument for gauging or measuring the interior of casks or other irregular-shaped packages containing liquids, for the use of custom-houses; which was referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (C. C. No. 88) for the relief of John Peebles;

A bill (C. C. No. 89) for the relief of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased;

A bill (C. C. No. 90) for the relief of Emily G. Jones, executrix of Thomas P. Jones, deceased;

A bill (No. 810) for the relief of William Yearwood, senior, of Tennessee;

A bill (No. 812) for the relief of Thomas Livingston and his securities;

A bill (No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort on the Mexican boundary commission; and

A bill (No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

A bill (H. R. No. 813) for the relief of Mrs. Henry L. Schoolcraft; and

A bill (H. R. No. 336) for the relief of John Duncan.

REPORTS OF COMMITTEES.

Mr. CLAY. The Committee on Commerce, to whom was referred the memorial of the Charleston Chamber of Commerce, relative to the improvement of Maffit's Channel, ask to be discharged, because a bill for that purpose is now pending before the Senate.

The VICE PRESIDENT. When a committee makes a report asking to be discharged, it saves a double entry to put the question at the time. If there be no objection, the Chair will put the question.

The committee were discharged.

Mr. BAYARD, from the Committee on the Judiciary, to whom were referred the memorial and papers of Ann Gratiot, widow of the late Brevet Brigadier General Charles Gratiot, United States Army, praying to be paid the amount of his pay, subsistence, emoluments, and allowances as colonel and chief of engineers of the Army from the day of his dismissal to that of his death, asked to be discharged from its further consideration, and that it be referred to the Court of Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 233) for the relief of Samuel C. Phagin and others, reported it without amendment; and submitted an adverse report, which was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Mary Willard, formerly widow of Aaron Young, a soldier in the war of 1812, praying a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the memorial of Fannie White, a military storekeeper, praying a pension, reported adversely thereon.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Navy, communicating the report of the officers appointed by him to make the examination of the Deep river country, in the State of North Carolina, required by a resolution of the Senate, reported adversely on the motion; and the question was stated to be on concurring in the report of the committee.

Mr. CLINGMAN. This subject was brought here at the instance of the chairman of the Committee on Naval Affairs, [Mr. MALLORY.] I hope this report will go over until he comes in. I may or may not have something to say on the subject; but the report was called for at his instance, and I do not see him in his place.

The VICE PRESIDENT. It will lie over.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Navy, communicating, in answer to a resolution of the Senate, a list of all the vessels belonging to or connected with the Navy; also a list of all the officers of the Navy, with their compensation, reported in favor of the motion; and the report was agreed to.

He also, from the same committee, to whom was referred the motion to print the message of the President of the United States, communicating, in answer to a resolution of the Senate requesting a list of claims of the citizens of the United States against foreign Governments, a report of the Secretary of State, reported in favor of printing the same; and the report was agreed to.

FURNISHING THE CAPITOL.

Mr. BRIGHT, from the Committee on Public Buildings and Grounds, reported the following joint resolution; which was read, and passed to a second reading:

A joint resolution (S. No. 73) for procuring furniture for the north wing of the Capitol.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for procuring the necessary furniture for the Senate Chamber, the audience rooms, the committee rooms, the rooms occupied by the office of the Secretary of the Senate, and other rooms of the north wing of the Capitol in the occupancy of the Senate and its appendages, the superintendent of the Capitol extension be directed to make a survey and ascertain what articles of furniture will be needed, with the materials, designs, and dimensions of the same, and that he be, and is hereby, authorized to publish the proper specification and descriptions of the articles that may be required, and invite sealed proposals to be made to him within thirty days from the date of the first publication of the same, for the manufacture and construction of the said articles of furniture, to be opened at the appointed time in the presence of the bidders or other persons; and that a contract or contracts for such furniture shall be made with the lowest and best bidder, reference being had to the quality of the material, superiority of workmanship, and the time in which the same shall be completed; and that proper security shall be taken for the faithful and prompt execution of the work; and that, for the purpose of paying for the said furniture as it may be completed and delivered to the satisfaction of the said superintendent, such sum of money as may be required therefor be, and the same hereby is, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. JOHNSON, of Tennessee. I should like to inquire of the chairman of the committee who presents the resolution, who is the superintendent of the Capitol extension?

Mr. BRIGHT. Captain Meigs is the superintendent.

Mr. JOHNSON, of Tennessee. Cannot we insert some other person instead of Captain Meigs?

Mr. BRIGHT. That is a matter for the Senate to determine. The committee agreed on Captain Meigs.

The VICE PRESIDENT. Does the Senator from Indiana ask unanimous consent to consider the joint resolution?

Mr. BRIGHT. I ask that it may have a second reading, with a view to call it up at the earliest possible period.

Mr. JOHNSON, of Tennessee. I object to it.

The VICE PRESIDENT. It has been read the first time. It cannot be read a second time now, objection being made.

THE ECHO SLAVES.

Mr. CRITTENDEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish to the Senate, if, in his opinion, it be not incompatible with the public interest, the report made to him by Thomas Rainey, the special diplomatic agent of the United States to the coast of Africa, relative to the Africans captured from the slave brig Echo, and sent to Liberia in the United States steam-frigate Niagara.

BILLS INTRODUCED.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 532) to provide for the transfer of jurisdiction over certain claims against the United States from the Treasury to the Interior Department; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 524) to extend certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, to the service of volunteers or State troops of California; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 523) to provide for the sale of reservations of land granted to individual Indians in certain cases, and to regulate the disposition of the proceeds thereof; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 525) for the relief of Elias Yulee, late receiver of the land office in Washington Territory; which was read twice by its title, and referred, with the accompanying memorial and papers, to the Committee on Public Lands.

ACQUISITION OF CUBA.

Mr. SLIDELL. I am instructed by the Committee on Foreign Relations to make a report on the bill introduced by myself (S. No. 497) making an appropriation for the acquisition of the Island of Cuba by negotiation. The committee have instructed me to report back the bill with the recommendation that it pass, with one or two trifling verbal amendments, that do not at all affect the general character of the bill. As this is a subject of great importance and of great interest, I ask the indulgence of the Senate to be permitted to read the report in this case. It has been usual on occasions of this kind, when the subject has occupied the public mind, and is considered one of vital importance, that the report should be read; and I will state also, that this, so far from being a useless expenditure of the time of the Senate, will probably prove an economy of time; for if I am permitted now to read the report, it will dispense with the necessity, when the bill comes up for consideration, of making those preliminary remarks which I should otherwise find it necessary to submit. I therefore ask the indulgence of the Senate to be permitted to read the report.

There being no objection, the honorable Senator read the report.

Mr. SLIDELL. I move that the report be printed; and I also desire that the bill shall be made the special order of the day for some day next week. I will say Monday next.

Mr. POLK. I beg to submit a motion that there be printed two thousand extra copies of the very lucid and able report just read by the Senator from Louisiana, as coming from the Committee on Foreign Relations.

The PRESIDING OFFICER. (Mr. STUART.) The motion to print the extra number will go to the Committee on Printing.

Mr. MASON. Mr. President, being a member of the committee from which this report emanates, I think it due to myself, and perhaps otherwise right, that I should say a very few words upon the certainly able report which has been submitted by the Senator from Louisiana. The report, in parliamentary phrase, is properly styled the report of the committee; but I presume it does not follow, in parliamentary interpretation, that all who concurred in the presentation of the report, concur equally in the reasons assigned there for the conclusion which is arrived at. This question of the acquisition of Cuba, is a great question; perhaps the greatest that has been pre-

sented for more than one generation to the consideration of Congress.

If I understood the report correctly, as a part of the reasoning upon which this acquisition is recommended to Congress, it is said to be the policy of this Government, by successive acquisitions of territory, to enlarge its boundaries. I do not mean to go into any debate, but more to exclude any possible conclusion in reference to my position now or hereafter upon similar questions. I am not one of those who consider it the policy of this Government to enlarge its dominion by successive acquisitions of territory, for the purpose of such acquisition only; and if that were the only reason for acquiring Cuba, I should be one of the very last to give in to the policy.

I agree, Mr. President, that there is a political necessity devolving on this country to become the owner of Cuba; but in announcing that opinion, I would connect with it a regret that there should be such a necessity imposed upon us. I am not prepared, at present, to say that the necessity is upon us, but that Cuba must ultimately be a part of the United States of America, I do not entertain a doubt; and it may be that the honorable Senator who has made this report is correct in the conclusion that he has attained, that the necessity is now upon us.

I reserve my opinion as to future action, but I concurred very cheerfully in the presentation of the bill, and of the report to the Senate, because, amongst other reasons, the President of the United States, to whom belongs, by constitutional right, the conduct of our foreign intercourse, and who is required by the Constitution, from time to time, to give to Congress information in reference to the state of the Union, has informed us, in his annual message, that he would deem it fruitless to renew any negotiation for the purchase of the island, unless there was given to him a power, if the contingency required it, to meet a portion of the expenditure in advance of any ratification by the Senate; and he has said that he thought it due to the subject and the country that the question should be presented to Congress. I would not be, therefore, instrumental in withholding the subject from Congress. I do not mean to go into any debate. I wish rather to exclude any conclusion that, in assenting, as I cheerfully did, to the presentation of this report, I meant to acquiesce in all the reasons which it contains. If it should become necessary, at a future day I may give my views at large on the subject.

Mr. SEWARD. Mr. President, I am authorized by the honorable Senator from Vermont, [Mr. Foor,] who, like myself, is a member of the Committee on Foreign Relations, to say, that he, with myself, dissents from the report which has been submitted by a majority of the Committee on Foreign Relations, and also from the bill which has been reported by that committee; and to submit, by way of expressing the views of the minority, a bill, which we offer as a substitute for the bill reported by the committee, which I ask to have printed in the same manner with the report of the committee; and after the bill shall have been read, I shall ask the indulgence of the Senate to indicate something of my views upon the subject, although not very much at large. I ask for the reading of the bill.

The Secretary read the substitute, as follows:
A bill concerning the relations between the United States and Spain.

Be it enacted, &c., That the President of the United States, at the beginning of the next annual session of Congress, communicate to the Senate, if in his opinion not incompatible with the public interests, the condition of the relations which shall then be subsisting between the United States and Spain, and of any negotiations that may then be pending for the cession of Cuba to the United States, together with such statements of the condition of the Treasury, and also of the effective condition of the Army and Navy of the United States, as may enable Congress to judge whether, at that time, it will be necessary to adopt any extraordinary measures to maintain the rights and promote the interests of the United States, connected with or growing out of their relations to Spain.

And be it further enacted, That the President, if, in his discretion, he shall deem it necessary, in view of the condition of negotiations with her Catholic Majesty which shall be pending, during the next recess of Congress, may convene either the Senate or Congress in extraordinary session by proclamation.

Mr. SEWARD. Mr. President, the bills which engage the attention of Congress generally originate either in the Senate or in the House of Representatives. But this measure is ushered into our presence by a message from the execu-

tive palace. It is, therefore, in its origin an executive measure. Its nature corresponds to its parentage. It proposes to relax constitutional and legislative restraints upon the executive power, and to transfer control over the Treasury, together with the power of negotiation in foreign affairs, from Congress and from the Senate to the President of the United States. It is not an isolated executive measure of this kind, but it is one of a series of such measures which the President of the United States has introduced at the present session in the same way. One of this series proposes that Congress shall authorize the President to move the Army and the Navy of the United States into adjacent States of the Republic of Mexico and establish a protectorate there. Another asks our consent to invest the President of the United States with the power to make war in his own discretion and at his own pleasure against all, or nearly all, the Spanish-American States on this continent.

A measure thus disparaging to the intelligence, the virtue, and the independence of the national Legislature, a measure so dangerous to the civil and religious liberties of the American people, it must be expected, will receive at the hands of Congress a careful scrutiny. It is not my purpose at this time, to bestow that scrutiny in its full extent, upon the bill which has been reported in accordance with the recommendation of the President of the United States; but I do intend to indicate some of the considerations which have brought me to the conviction that this bill, under no circumstances, ought to receive the favor of Congress.

The bill has a financial aspect. It has also a broad political character. In regard to the financial aspect, I call the attention of the Senate to the fact that the bill proposes to appropriate now, at this time, out of the Treasury of the United States, \$30,000,000, to be placed under the control of the President of the United States, to be paid by him to Spain, whenever she shall have consented to accept any treaty which he may make with her, for the cession of Cuba to the United States, without waiting for a ratification of that treaty by the Senate of the United States. This appropriation of \$30,000,000 necessarily involves now a pledge, a guarantee, virtually a grant, or appropriation of so many more millions of dollars as the President of the United States, without any recourse to the Senate or to Congress, and consulting only his own mere ambition, caprice, or pleasure, shall agree to give for that island; and this last amount is altogether unlimited.

The bill contains no limitation, and the President recommends no limitation. It is a bill then for just so many millions as the President shall choose to write in the treaty. What will be the number of those millions? The report of the majority of the committee says, that it will probably be \$125,000,000. This calculation is based upon the fact that Spain refused \$100,000,000, ten years ago, and that Cuba has increased in value \$25,000,000, according to the estimate of the majority of the committee. This estimate is inconclusive, and, therefore, unsatisfactory. The amount which Spain will ask, if we suppose her to accede to this treaty, will be all that she can get, and the amount which the President will give, if it be his purpose to acquire the Island of Cuba at all events and under all hazards, will be the least that Spain will consent to take. It may then just as well and as accurately be estimated that the sum to be written in the treaty will be \$200,000,000 or \$250,000,000 or \$300,000,000, as that it shall be only \$125,000,000.

I will assume that it authorizes the President to contract a debt to Spain, without again consulting Congress or the Senate of the United States, for the sum of \$250,000,000. This proposition comes at a time when our revenues are reduced to \$50,000,000, and there is a confessed deficiency for the year of \$30,000,000. It is immaterial whether we borrow this \$30,000,000 to pay to Spain, as the bill proposes, or whether we pay it out of the receipts of the revenues flowing into the Treasury, and borrow the money to supply the place of what we thus abstract. It proposes nothing less than to authorize the President of the United States to create at once and absolutely a debt of \$30,000,000, and indirectly a further debt of \$220,000,000, in addition to a deficit, which is virtually an existing debt against the Treasury

of \$30,000,000; making \$60,000,000 of new debt certain, and \$220,000,000 contingent. This, added to an already funded debt of \$60,000,000, will raise the national debt to \$280,000,000. This is to be done under extraordinary circumstances. We have at this moment no financial system—no system of revenue. We have, indeed, a tariff law which brought last year into the Treasury over \$40,000,000, and this year is expected to bring in \$50,000,000; but a revenue law which leaves an annual deficit cannot be said to constitute a fiscal system. Congress, after being in session now near two months, has utterly failed to devise any kind of revenue system whatever. Nor has the Executive Administration submitted to Congress any system for this emergency. This statement is strictly true, if you consider that the President recommends one system in his annual message, and that the Secretary of the Treasury, his own responsible minister of finance, submits to us another and widely different one.

This great increase of the public debt, we are asked to make at the very hour when, in compliance with the Executive recommendation, we are proposing to authorize him to build the Pacific railroad, at a cost of not less than \$125,000,000 more; and simultaneously with this, in the same message, we are also asked to authorize the President to move the Army into Mexico, which can cost nothing less than \$100,000,000 more; and at the same time, in pursuance of recommendations of the same weight and authority, we are asked to authorize him to employ the Army and the Navy against just so many Spanish-American States on this continent as he shall choose, which can require nothing less than \$100,000,000 more; so, without any financial system at all, we are to have a great debt created by this Congress of the United States, on the recommendation and application of the President to strengthen the arm of the Executive, while weakening the power and the constitutional force of the Senate and the House of Representatives, a debt of \$500,000,000.

The honorable Senator from Rhode Island [Mr. Simmons] the other day spoke in glowing terms, and yet most justly, of the credit of the United States, and showed that, with the small debt that we now have, a nominal debt, we can go into the market, and with a five per cent. stock borrow money at a premium, or, perhaps, borrow money on a four per cent. stock, anywhere in the markets of the world. That is because we are novices, inexperienced, untried, and unknown in the money market, except for paying such small debts as we have made. But, sir, when we shall have shown that we can increase our debt in forty days, for that is the period which remains of this session, from \$60,000,000 to \$500,000,000, I beg leave to express the opinion that the rate of interest will be found to rise in proportion to the liberality with which we propose to borrow. In that case, you will find your revenue derived from all sources scarcely more than enough to pay the interest of the debt which you shall thus have created, leaving no funds whatever for carrying on the ordinary operations of the Government.

This, however, it might be said, is a fanciful picture, because the bill appropriates only \$30,000,000, and not the whole \$250,000,000, which I have supposed. Nevertheless, sir, it appropriates the whole amount which the President shall write in the treaty. We give him a blank draft on the Treasury, and authorize him to fill up the amount for himself. I have supposed he will fill it up with \$250,000,000. But I am told that we can retreat from this contract with Spain if we find it too expensive, and abandon the measure without paying the additional sum which the President may write in the treaty. Slowly and carefully, Mr. President, let us consider. Certainly, we cannot retreat from it without forfeiting the \$30,000,000 which will have been paid. That condition will operate as a constraint upon Congress to appropriate all the remaining millions which the President may stipulate, and it will equally operate as a constraint upon the Senate to ratify the treaty, whatever sum may be stipulated by its provisions.

Again, sir, no one can suppose that the President would pay the \$30,000,000 in advance to Spain, without securing possession of the Island of Cuba. When he has once obtained the Island of Cuba, and paid \$30,000,000 as an advance upon the consideration money of the purchase, the

treaty will be a contract executed, and Spain and the whole world would laugh with derision at the pretense that we could rescind the contract and repudiate the remaining debt on the ground that we had then looked into our Constitution and had found that we had violated it in passing the law by which we had authorized the President to make the improvident bargain.

Sir, this is a plan of financial management to which I am a stranger. It is the province of the Congress of the United States to take care of the public Treasury, and to see that every dollar that is received remains there until, by appropriation bills limited to single objects, and each bill enduring for only two years, the money is expended by agents, under their own direction and authority, for objects appointed, fixed, and certain. The effect of this measure is to surrender the control over a large portion of the national treasure and resources, practically, over all that is valuable in the Treasury, to the President of the United States, without retaining any effective security for his wise and faithful administration of it.

I have said that the bill has also a political aspect. It proposes to bring into the United States a foreign country, seven hundred miles long, and seventy miles wide, containing one million five hundred thousand human beings, subjects of government, occupying practically every foot upon its sidewalks in its cities, and every acre of mountain and plain and valley in the rural districts of that island—a population different entirely from the citizens of the United States; different in language, different in race, different in habits, different in manners, different in customs, and radically different in religion; a population that will, practically, forever hold the power to exclude all American immigration, at least to exclude it as effectually as the old States of Europe exclude our migration there, and as effectually as our old-established States practically exclude immigration from outside of their borders. This population, then, is to be the ruling population of that island. What rights will citizens of the United States enjoy there? The one million five hundred thousand souls are divided: one half whites, two hundred and fifty thousand free blacks, and four hundred thousand slaves. What institutions of justice, of freedom, of religion, and public worship, will obtain or remain there? I need to know. If I were willing to leave these great questions to the President of the United States, I have no right to do so. I have a voice, one of sixty-four voices, to determine whether such a country shall be brought into the United States, and on what terms and conditions. Joined with my colleague, we have one of thirty-two voices on these mighty questions! The power to speak involves a constitutional responsibility to express the voice of the State of New York upon such a measure, and on all its important details, before it shall be adopted.

I have already shown that the consent of the Senate to the passage of this bill will operate as a constraint upon the Senate to ratify whatever treaty the President shall make hereafter. If this be true, (and no one, I think, can controvert it,) then I am asked to resign a constitutional, senatorial power, to the President of the United States, and to shift from my own shoulders to his a constitutional responsibility.

To do this is a derogation of the independence of the constitutional power of the Senate of the United States, and a practical subversion of the constitutional check which requires that every treaty shall receive the votes of two thirds of this body, or be absolutely void. It practically delegates to a bare majority of the Senate, and to a majority of the House of Representatives, the treaty-making power of this great empire.

Sir, if there ever was an occasion on which I should adhere tenaciously to this right, and insist upon retaining this power, it would be in such a case as this. I want to see the treaty which shall bring the Island of Cuba into the United States. I want to know the status which that country is to occupy. Is it to be a territory of subjects, of political slaves? a province, governed by armies and navies, as Spain now governs it? I may ask the President of the United States when he has executed the treaty. Is it to be a State? I may ask the President of the United States when he has executed the treaty. Who are to be the electors of the State? What is to be the status of the

white population? Are they to enjoy universal suffrage? What is to be the status of the free-negro population? What is to be the status of the slave population? We who have disputed so earnestly, often so vehemently, year after year, year in and year out, over the question whether the institution of slavery shall be introduced into the Territory of Kansas, are expected by the President, in his simplicity, to allow him to determine for the North and for the South, for the free States and for the slave States, at his own absolute pleasure, the terms and conditions upon which Cuba shall be annexed to the United States, and incorporated into the Union. I say nothing of the present incumbent of the executive office. I say that men never chose, nor did God ever send on earth, a magistrate to whom I would confide this great question, having a constitutional right to decide it myself.

I need not say, sir, that all our treaties of annexation contain stipulations guarantying rights to the countries annexed, to be incorporated into the Union, and determining the future political rights, power, and authority of the inhabitants of those countries. This bill, then, is in derogation of the power of the Senate to determine by treaty for itself what the safety, honor, and welfare of the country demand in regard to the political organization and government of the Island of Cuba, if it shall be acquired.

Sir, I have always received as a political maxim the declarations made by our predecessors in regard to the acquisition of Cuba. Every rock and every grain of sand in that island were drifted and washed out from American soil by the floods of the Mississippi, and the other estuaries of the Gulf of Mexico. The island has seemed to me, just as our predecessors have said, to gravitate back again to the parent continent from which it sprang. I have supposed that political necessities would determine that ultimate conclusion; and I know that to political necessities all actions of governments must bend, and all sentiments of nations must accommodate themselves. I have, nevertheless, been taught, with the same maxim, this other rule, that the acquisition of Cuba is a question of time, of necessity, and of opportunity. It was just as clear sixty years ago, when we acquired Louisiana, as it is now, that Cuba, in the language of John Quincy Adams, gravitates to the United States, as the apple yet hanging on its native trunk gravitates to the earth which sustains it. Yet it certainly is true that Cuba was not then acquired, nor attempted by extraordinary means to be acquired; and the reason was, that the time, necessity, and opportunity, had not then presented themselves. In fact, the time is determined by the coincidence of necessity and opportunity; and that coincidence is the result of a decline of European power on this continent, and of a development of the growth of American power on the same continent. Our forefathers said, all our predecessors have said, that when the juncture shall arise that there should be just that necessary decline of the political European power on the continent, and just that development of American power here, which makes Spain unable to keep, and ourselves able freely to obtain, the island, then it would be hopeless and idle to refuse to receive Cuba, even if it were undesirable. They have said more, and I subscribe to it, that we may safely hold our souls in patience so long as Spain can keep it, and no other and stronger European Power can, or dare, take it from her. What I have to say now is, that the time and opportunity do not now serve, in my judgment, any more than they have served for the last sixty years. We may be nearer, as, indeed, I doubt not we are, to the acquisition of Cuba; but we have not arrived at the point at which the acquisition must necessarily be made, or can be made, consistently with the conditions of peace, prudence, justice, and the national honor.

Ten years ago the President of the United States declared that Cuba was to be acquired only by treaty, by purchase, and not by war. The present President of the United States reaffirms that proposition now; so that the only question to be considered is whether it can be purchased now. Well, ten years ago, the President of the United States offered \$100,000,000 for it; and the answer to the proposition was conceived in terms so decided, so unequivocal, so utterly forbidding all hope, that it was never afterwards renewed; and

silence has been observed about it ever since, in order to preserve the good understanding and the good nature of the parties. The message of the President sent here on Friday last, shows us that, down to this hour, the proposition has not been mentioned to Spain for a period of ten years. The same message assures us even that it will not now be mentioned to Spain, unless some peculiar and extraordinary measures are adopted to require him to bring it again to her attention:

Spain holds the island now more tenaciously—with a stronger and safer grasp than that with which she has held it at any time within the last fifty years. It is now a period of repose in Europe and in the Western world. Spain having gone through the crisis of surrendering up her territorial empire in its largest proportions, has entered upon a new career of material progress and improvement. Her agriculture, her manufactures, her army, and her navy, are in a flourishing, prosperous, and improving condition. Heretofore, Spain has held the island of Cuba in the midst of conflicts between the two great Powers of Western Europe, England and France, liable to lose it to one or the other belligerent at any moment. To-day, England and France are not only allies, but they are united in the policy of maintaining Spain in the enjoyment of the Islands of Cuba and Porto Rico, the last remnants of her once world-wide empire. Spain exhibits, more decidedly than ever within the last twenty years, the habits of acquiescence and loyalty by her people toward her existing institutions. She seems to have passed the period when the country was rent, convulsed, and distracted by the contests of democratic and monarchical factions. At present she is apparently in a condition of profound repose and contentment. If there was any doubt about this subject, all doubt is now removed by the answer which we have already received from the authorities of Spain, to this very proposition of the President of the United States, in the very form in which it is proposed that we shall adopt it. Our mail of this morning brings us the answer of the Spanish Government and Legislature to our advances, even before we have taken the first step. In the Spanish Chamber of Deputies, M. Ulloa asked the Government—

"If it intends to reply to the message of Mr. Buchanan, inasmuch as in that message is a paragraph on the subject of annexing Cuba to the United States, which contains a new and really grave insult to the Spanish nation.

"Marshal O'Donnell declared that the Government was disposed to demand due satisfaction for such an insult.

"In its relations with the United States, as in those with all other countries, it has always endeavored to be circumspect, moderate, reserved, but always dignified and firm, as the Government of a great people ought to be.

"The period of discouragement caused by war and disunion has ceased in Spain. Our country is now positively in an era of development and veritable restoration. If the power of Spain be not great enough to menace, it is strong enough to defend the integrity of the territory of the monarchy, and to preserve the dignity of the Spanish name without stain.

"In whatever circumstances the Spanish nation may find itself, it will, in the future, as in the past, never be insensible to its honor; ~~never~~ will it abandon the smallest portion of its territory; and a proposition having that tendency will always be considered by the Government as an insult to the Spanish people. [Applaudment.]

"The sentiment of nationality, which was supposed to be weakened, and which, unhappily, was slightly weakened by our intestine discords—this sentiment, the source of high deeds and of generous and heroic aspirations, displays now new vigor, and is increasing in such a way that, whilst we will never be aggressive and never aspire to dominate, we will never allow any encroachment to be made on the inheritance left us by our fathers. [Applaudment.]"

M. Olazaga, in his own name, and in that of several other eminent members representing the different political parties, then proposed this resolution:

"The Congress declares that it has received with satisfaction the declaration of the Minister of Foreign Affairs; and that it is disposed to give to the Government its constant support, in order to maintain the integrity of the Spanish dominions.

"The resolution was unanimously adopted, and ordered to be inscribed in the archives."

Now, sir, after having shown that there is not the least earthly prospect of acquiring the Island of Cuba by or in consequence of the passage of this bill, what follows? It follows that the question whether Cuba is desirable, and ought to be attained, is not at all in debate. It is an idle, a visionary, and mischievous abstraction. There is no such question here; but the question which is presented is, whether the Congress of the United States shall authorize the President of the United States to offer an indignity to Spain. That is all.

Mr. SLIDELL. Will the Senator from New York permit me to interrupt him?

Mr. SEWARD. Certainly.

Mr. SLIDELL. The danger that he deprecates has already arrived. The cause of quarrel exists already, according to the extract he read from the speech of General O'Donnell; the insult has been given by the President, and immediate reparation is demanded. Therefore, we cannot very well aggravate that insult. It has passed from our power.

Mr. SEWARD. I have an answer for the honorable Senator. I propose to leave the President the constitutional power which he enjoys, of instituting treaties with Spain for the purchase of the Island of Cuba, in the Caribbean sea, and with all other Powers for all other islands in all the oceans throughout the globe. I propose to leave him the right and power of sending to Congress messages announcing beforehand the treaties he proposes to make, and leave him to answer, on his own responsibility to the people and to the world, for the wisdom and the temper, the moderation and the dignity, with which he executes these great trusts. I propose, on the other hand, to reserve my own authority, my own constitutional power, and to maintain the dignity of my own official functions, and not at all to become a party to an insult which the President of the United States may be supposed to have already offered to Spain. I cannot consent to go to his aid, though it may be necessary to draw him out of the dilemma in which he finds himself involved by a rashness which I did not advise.

Sir, I will not stop to inquire as an abstract question about the wisdom of a great nation offering insults and indignities to other nations. I will not stop now to inquire about the virtue, the morality, and the honor, to say nothing of the dignity of such a course. But I will say this, that it is not wise to offer an indignity to a foreign power if you are to gain nothing by it. So much may at least be conceded to me. And now, what is to be obtained by insulting Spain? Nothing; but only this: we must expect that she will be provoked to war to resent the indignity; and when the war has come to resent the indignity, then the prize of Cuba may be attained as indemnity for the expenses of the war. Sir, if we desire to acquire Cuba by negotiation, let us negotiate. The President disclaims and disdains to seek it by war directly. Are we to understand him and a majority of the committee here, that they ask us to bring Spain indirectly into a war in order that we may conquer Cuba? That would be to impute to the President and to the committee bad faith, which I must utterly disclaim.

These considerations satisfy my mind that it is not expected, that it is not intended, that Cuba shall be acquired in consequence of this proceeding; but that it is supposed that some other advantage, some domestic and local benefit, will be secured to the President of the United States by provoking a debate on this subject in Congress. Sir, I do not so much undervalue the intelligence of the American people as to apprehend any such result. The proposition seems to be an empty one, an idle one, a ludicrous one; and if it were not for violating the respect due to the President of the United States and the majority of the committee who sanction it, I should say a ridiculous one. There is a play which we have sometimes seen at the theater, in which the heroine is an honest housewife who has a propensity for buying everything at auction, and she is always able to assign at least one good reason for it, namely, that, though the article bought is not wanted at the time, yet it is cheap, and it will be so handy to have it if it shall ever be wanted. So, one day she bought a huge door-plate sold at an auction of a neighbor's furniture, on which was inscribed in large letters the name of "Thompson," spelled with a "p," although her own name, as well as her husband's, was Foodle. When the indignant Mr. Foodle called her to account for the expense, "why," she said, "how do you know, my dear, that we shall not one day have a child, and that that child may not be a daughter, and that that daughter may not be married to somebody, and just as likely as not that somebody will be a man named 'Thompson,' and his name may be spelled with a 'p,' [laughter,] so it will then just fit exactly. I could not help buying it, because it was so cheap, and it will be so handy, you know, to

have it in the house." That, sir, is exactly the value of this great presidential demonstration, made, I think, to retrieve the sinking and wasting fortunes of an Administration that has disappointed its own immoderate desires not more than the less sanguine expectations of the American people.

Mr. BAYARD. Mr. President, there may be many things which the honorable Senator from New York may consider unattainable, wild, or extravagant, that may yet be perfectly practicable; and so, too, it may be that there may be many objects which the honorable Senator may consider attainable, and which yet may turn out not to be within his reach. The question is as to the propriety of passing a bill, in accordance with the recommendation of the Executive, which is founded upon the probability, under that recommendation, of the acquisition of Cuba by the United States. Believing, myself, that the future interests, not only of this country, but of civilization and of human progress, are deeply involved in the acquisition of Cuba by the United States, even the chance of an advancement towards that acquisition I should be willing to encourage when it came from any source entitled to decent respect. Now, sir, it may be that this bill, when it passes, will not enable us to acquire Cuba; but, in the judgment of the Executive, such a recommendation has been made. I can see no injury to the country if we pass the bill and fail to attain the object; but it is an object of importance to the country, and the ultimate benefit of it will fully sanction us, in my judgment, in the passage of the bill.

The honorable Senator from New York has said this is an insult to Spain; at least he has implied in his remarks that it is an insult to Spain, by reading the proceedings in the Spanish Cortes, or Parliament. The question is not whether they choose so to treat it. I have lately had occasion to read something of Spanish communication to this country, and I know that Spanish action and Spanish words very often widely differ. Notwithstanding all that has been read, it does not follow that we may not acquire Cuba peacefully from Spain by purchase. There is, under the law of nations, or any principle of it that I am aware of, no real indignity to a nation to offer to purchase or exchange with her any territory whatever, that may be in her possession. If there is no real indignity, the declaration of the Spanish Cortes that it is an indignity on the part of the Government of the United States to offer to purchase Cuba, I consider as merely idle. The question is, whether it is wrong, whether we are violating the laws of nations, and the courtesy due to another nation, when we propose to purchase from her a country, the acquisition of which is desirable to us, and which will never be the source of any real benefit to her? I can see no injury in this. I can see no indignity in the offer. It does not follow that we are to carry it out by war. It does not imply disrespect to the nation in making the offer itself. She has the right to refuse; we have the same right to propose. As there is no real indignity in it, I can see no reason why, in accordance with the recommendation of the President, as the object is one of great importance to this country, in my view, we should not make the offer, because, in the judgment of the honorable Senator from New York, it may be that that offer will fail.

Mr. FOOT. Mr. President, although a member of the committee from whom the report and the bill now before us emanated, I do not feel myself called upon, at this time, to say more than merely to express my unqualified, yet respectful, dissent from the views of the majority of the committee, as embodied in the bill which they have reported this morning, and recommended to the favorable consideration of the Senate, and to declare my entire and hearty concurrence in what has fallen from the lips of my associate on the committee, the honorable Senator from New York, upon the general policy of the question before us, at some length, and with his usual ability. I came in entertaining some expectation that I would submit some general remarks upon the question before us this morning. I shall not do so; reserving, however, my opinions and views upon the general policy of the question before us, for a more full and elaborate expression when the whole subject shall be before the Senate specially for their consideration.

Mr. TOOMBS. Mr. President, the speech of the honorable Senator from New York is remarkable, certainly, for two things. The first is personal to himself; and I am very happy to congratulate him and the country that at last he has concluded that economy is an element in national policy, which heretofore he seems generally to have ignored. The importance of the question itself, and its incidents, seem to have aroused his mind to that point which I consider an improvement in a legislator. The next important and remarkable feature in the speech of the Senator is, that he comes to no conclusion upon the main question. He throws out a number of objections to the proposed mode of action; but he declines, or he fails to express, any opinion upon the merits of this great question of national policy, now about to be inaugurated. He takes ground neither for it nor against it, as a question of national policy, but confines himself simply to objections to the mode now proposed for the acquisition of Cuba. On that point I have only this to say: it may not be the best mode; and my purpose in rising now is not so much to argue the question fully, as to answer some objections to the particular mode which is proposed by the Committee on Foreign Relations, in conformity to the recommendation of the President of the United States; and to express my hearty concurrence in it as a measure of great and enduring national policy.

The Senator intimates, in the first place, that if it is not a violation of the Constitution, it is surrendering the constitutional rights of this body. In what respect? The question of the right of the Government of the United States to acquire territory by purchase, or by war, or in any other mode it may see proper, according to the law of nations, is, I presume, no longer open to observation. It has been settled by the concurrent judgment of all parties, and by a construction of the Constitution now no longer open to dispute. Then if the right to acquire a country by purchase is a conceded point in our public policy, it is not in derogation of any of the rights of the Senate of the United States that we should appropriate this money. We propose to appropriate money by law, as we have done frequently before. I know there is a constitutional inhibition against the President, or anybody else, using money, unless it be appropriated by law; but, inasmuch as this is a constitutional object, we propose to do that very thing. Conceding that the policy of acquiring Cuba by purchase is a wise policy, the question is submitted to the Congress of the United States, both the Senate and House of Representatives, whether, if it be a wise and proper object, deserving of appropriations of the public money, we shall enable the President of the United States to inaugurate it by this appropriation.

I see no objection in the Constitution to it; the gentleman has failed to point out any provision of the Constitution which conflicts with our appropriating money in advance of a bargain, for the purpose of making the bargain. No such point was raised in the early history of our country; none in our war with Mexico. I recollect that on two occasions a bill was introduced, and voted for generally, until it was incumbered by an internal domestic question, authorizing the President of the United States to use, in one case two, and in another three, millions of the public money, for the purpose of securing a peace with Mexico, connected, as the proposition undoubtedly was, and as it was understood by all parties, with the acquisition of territory; but it was incumbered and blocked up in the first instance, and probably in the second, by uniting to it a condition as to what should be the position of that territory when it was purchased by the United States. But considering that question as having passed beyond consideration, and being conceded by the practice of the Government, in conflict with none of the provisions of the Constitution, I shall proceed to advert to the incidental abnegation, as the gentleman seems to suppose it to be, of the rights of this body as a portion of the treaty-making power.

It is a mistake in the Senator from New York to suppose that an appropriation of money for the purpose of purchasing a foreign territory commits the Government to the confirmation of any treaty which may be made to accomplish the purpose. I know not how it can be so viewed. I do not consider that those who voted for granting the

two or three millions of dollars that Mr. Polk asked, for the purpose of making a treaty with Mexico, thereby committed themselves, even as Senators, to the treaty of Guadalupe Hidalgo. It was not so considered here. It was regarded that their constitutional right as Senators could not be surrendered; that it was incapable of surrender. This is a legislative act proposed to be passed, because the executive and legislative departments believe that it is a proper policy to appropriate this money for the purpose of negotiating a treaty, in order to purchase Cuba. If afterwards a treaty is made, the terms of which are obnoxious in reference to its amount, or contains any provision which is disagreeable to the honorable Senator from New York, he has full and ample constitutional power, as a member of this body, unimpaired in any way, to reject it or accept it, as in his judgment will best promote the public interests. It is very true, as the Senator says, that if the \$30,000,000 be expended by the Executive, who alone, by our Constitution, can inaugurate treaties, we shall lose the money unless the treaty be confirmed. That is to be taken into consideration. It is a fair consideration for Congress whether the amount is too great, considering the object in view, to run the risk of a treaty being made which may be rejected. It is liable to no other objection whatever. We have simply to consider whether the amount is so great in view of the object sought to be attained, that we are unwilling to run the risk of the loss of \$30,000,000, rather than enable the President, in the use of his constitutional power, (for he alone can address foreign nations,) to inaugurate a system of negotiation by which he hopes to acquire Cuba. I do not; but as that is a question more intimately connected with the value of the acquisition, I will advert to it in another portion of my remarks.

The Senator from New York has gone into a history of our present and prospective indebtedness, and the deficiencies of our revenue system. I shall not undertake to discuss the difference between us upon either of those points. As to our revenue system, I consider it equal to the wants of the country. The question is not with this Republic now, where are we to get money from? but our financial system for the last fifteen or twenty years has been an effort how not to raise it. Even when you have drawn tariff bills with the express view of putting down surpluses, of reducing the revenue, of getting less of it than an ordinary system would bring, you have failed in the effort. Most of the nations of the world have been driven to extraordinary shifts, certainly in war and often in peace, to know how to raise the wind—in what manner to raise money enough to carry on their Governments. The man who could invent a new tax, even in England, has been awarded great financial talent.

But in this country, the whole ingenuity and talent of all sides, especially of gentlemen holding the political opinions of that Senator, have been devoted to the problem how not to raise money enough. Such is the wealth of the country, such are its vast productions, that the question is not one of raising enough for the economical wants of the Government, or even for the extravagant wants of the Government; but the question with that Senator and his friends is, how to raise revenue so as to benefit particular branches of industry at the expense of other branches of industry. We should have no trouble at all about raising revenue, if that was the object; we should have no difficulty about knowing what rate of taxation would produce a sufficient amount for us, or would bring in a greater amount or a lesser amount than was necessary; but we have complicated it by schemes to lay taxation in such a way as to benefit particular interests, so that persons come to Congress and seek by legislation to obtain benefits in their own private pursuits. That is the difficulty we have.

I take it for granted, that many of the objects of expenditure to which the Senator has alluded, may be dispensed with. He speaks of \$125,000,000, or \$150,000,000 for a Pacific railroad. That is a fact not yet accomplished, and I do not suppose it ever will be. I agree that in every argument of public policy, the expense is a material element, and it ought to be considered by the legislative department of the Government, and more especially when he himself, I

think, has satisfied the Senate and the country—those who were not satisfied before—that it is utterly worthless for all pecuniary purposes or commercial transactions. That \$125,000,000, therefore, I propose not to spend at all. That is a very easy way of getting rid of that \$125,000,000. If it were a wise expenditure, if it were an expenditure which would be advantageous to the nation, I should not consider, even in our present circumstances, that it was too great; but as I see no advantage to the public commensurate to the expenditure, and no commercial advantages of any sort, I simply propose to get rid of that \$125,000,000, by letting it stay in the pockets of the people.

Then, as to the amount the Government will give for Cuba. The Senator has carried it to \$250,000,000. I think that is more than it is worth. I do not think the Government will be likely to pay that sum. I do not know what it will pay; but, looking upon the acquisition as a matter of such vast advantage to the country, to every portion of the Union, to every interest in the United States, I am willing to risk the \$30,000,000, for the purpose of buying it at a fair and legitimate price, and if a treaty should come to me proposing to pay \$250,000,000 for it, I will weigh that amount of money in one balance, and the great advantages of the acquisition to the Republic in the other, and decide accordingly.

The Senator seems to object to this acquisition with reference to its political aspects. I do not see that they are changed at all by this measure. Admit that there is force in the idea of the Senator from New York that he wants to know the status of the seven hundred and fifty thousand white people, the two hundred and fifty thousand free negroes, and the four hundred thousand slaves in Cuba, he will still have that question before him when the treaty shall be made and come up here for ratification. This bill does not propose to affect it at all. It will stand then where it would stand if you made the treaty without the bill. It does not limit it; it does not restrain it. It is in that respect different from the effort of the gentleman and his political friends when they sought to couple the acquisition of territory from Mexico with certain conditions that did greatly affect the internal harmony of the Republic. This proposition does not do that. It leaves that matter precisely where it would be left without the bill. If the treaty fixes it, it leaves it with the treaty. If the treaty leaves it open, the bill leaves it to the people of the United States who have been heretofore, and, I doubt not, will ever be, able to manage these questions as they arise. So far as I am concerned, though representing the weaker portion of the Republic, I am content to make this acquisition and leave it to the wisdom and patriotism of my countrymen to settle on fair and just principles what shall be the status of the bond and the free in the Island of Cuba. I am not afraid to meet the issue. I require nothing in this bill, I require nothing in the treaty, on that point. When we acquire the Island of Cuba, the annexation of which I look upon as important to the country, I am content that my own countrymen shall settle the status of all the people there according to the Constitution of the United States.

But I will remark to the honorable Senator that I consider that question as already settled; I have no difficulties upon it. I consider that it has been settled by the American people; a settlement with which I am content; which I do not believe he will be able to shake; which I believe will stand unshaken when he and I shall have passed away from the stage; that will outlive him and outlive the country itself. It is that, while the territory stands as a dependency of this Republic, it shall be open to settlement by all the people of the Republic, North and South, East and West, with ample constitutional protection to all property held in any of the States; and when it takes its position among the free and independent States of this Union, it will then settle for itself what shall be the status of all colors and of all races within its borders. That is the principle on which I think this question has already been settled by the verdict of the American people, and I am content to stand on that principle; and hence I feel no difficulty about the acquisition. I am willing tomorrow to accept Cuba; for I deem it advantageous to the Republic. I will accept Canada as readily, if it can be fairly and honorably done.

I will accept Central America, and such portion of Mexico, as, in my judgment, would be advantageous to the Republic; and I leave external questions unfettered by our internal broils. I leave it to the wisdom and patriotism and justice of the American people to settle their own internal difficulties here. Hence I will not trammel this great constitutional power of the Executive to deal with foreign nations, with our internal questions, and I will not manacle my country; I will not handcuff the energies of this mighty nation, by tying up our foreign diplomacy and foreign intercourse, and mingling with it our own internal dissensions. At least, to all the rest of the world let us present ourselves as one people and one nation; and whatever are our domestic troubles, let us settle them internally. I should suppose that those who have power, those who have majorities, those who have mighty numbers, would be willing to confront on this principle a section of the country which has nothing but the Constitution, right, and reason, to rely upon.

Then, sir, let us dismiss these questions; they have not arisen; they ought not to arise. We ought to consider whether it is to the advantage of the United States of America, as now constituted, to acquire this territory. If it is, let us acquire it, if it can be fairly and honorably obtained, and let the future take care of itself. Probably, wiser and better men will have that to settle afterwards. The people may have other agents here, more faithful to their trust than either of us, to settle these great questions in the future. I will do my duty to-day; and I shall trust to the virtue and wisdom of the country to settle all these questions rightly when they shall arise.

As to the diversities of population, which the Senator urges as an objection, we have had them at all our acquisitions. We had diversities of language and race when we acquired Louisiana, when we acquired Florida, when we acquired Texas, and when we acquired California. At every acquisition of territory made by the Republic, we have had exactly the same difficulties of race, of language, and of conditions of people different from our own, all of them different possibly from the people of any State of the Union; but we have molded them into one American people. What has become of the Spanish race in Florida? What has become of them in Louisiana? What has become of them in Texas? Where are they in California? In both Houses we find that noble State, the last acquisition to our Union, represented by American citizens, and everywhere, throughout the whole of our acquisitions, twice, yea thrice larger than the original limits of the Republic when the Revolution was concluded, we find the English language spoken; and, as a general rule, they are represented by American citizens, even of our own race. It will be the case again.

We got free negroes, we got slaves, we got Spaniards, and we got Frenchmen when we acquired Louisiana. We shall get Spaniards, and Englishmen, free negroes, slaves, and coolies, when we acquire Cuba. Our institutions are sufficient for all. We can Americanize them upon the great principle that we will give them a bulwark which has been sufficient for all these difficulties, and it will ever be sufficient as long as we are true to ourselves. We have stricken down the bonds of political slavery, and we have given those people our institutions; we have given them justice; we have given them equality; and by that means we have no strife, no trouble. We have not kept one soldier to maintain our dependencies throughout the whole of our acquisitions, from 1803 to this hour. It requires twenty thousand men to keep Cuba now from throwing herself into our arms. It requires political machinery to prevent the people of Central America—as we all know who have any acquaintance with the interior of our political system, especially our foreign affairs, for the last ten years—from throwing themselves under our protection, and getting the benefit of our institutions. It is simply a question for ourselves; we have no trouble with them at all. Our institutions are broad enough, and strong enough, and good enough, to hold all this continent. This acquisition will not require an increase of our military establishment; it will not require an increase of our Navy, so far as our people are concerned; and if we are safer as to external relations, so much the better. We have

no soldiers in Florida to keep down the Spaniards; none in Louisiana to keep down the Frenchmen and Spaniards; none in California, none in Texas, none in New Mexico, to keep down the Spaniards. We send soldiers to protect those people against the Indians, but we have not sent a single soldier to preserve the fidelity or allegiance of a single human being whom we have brought within the great fold of our Republic; and we shall never need one as long as we pursue the same line of policy.

It is a mistake to suppose that, by a bill like this, we are delegating the treaty-making power. We do no such thing. It is the President's duty to originate all treaties, all contracts, with foreign Governments. They know us only through the Executive. The Executive believes, and it may be true, that to have a portion of the price in hand for this valuable acquisition will be advantageous to the happy termination of a treaty for this purpose. If this be so, I will consent to let him have it. If it fails, I am where I am. As to the idea which has been thrown out of its being an insult to Spain, I do not so regard it. I do not think very much of the honor of a man who does not exactly know the place where it is touched. As for all this bluster of Spain supposing herself to be insulted, it amounts to nothing. If she were to offer to buy from this Government Massachusetts or Georgia, I should not consider myself at all insulted, if it was not done in an improper manner, by way of bully or bravado. We have already made purchases from Spain. In 1819, we purchased Florida from her, but we heard nothing about the offer in that case being an insult. Perhaps they did make a little fuss beforehand—there may have been some kicking up then; but she took the money, and we bought the territory, and the thing was closed. Spain sold at one time an empire larger than the then States of the Union to France, though they said they were going to stand by every inch of sand and every drop of water within their territory. The uncle of the present Emperor of France sold to the United States an empire worth a thousand times this island. I do not count the Mexican purchase, because I admit that was rather a forced sale—a sale on execution, as my friend from Louisiana [Mr. BENJAMIN] suggests. We fixed the damages ourselves, and were exceedingly moderate. I have always been ashamed of the moderation we exhibited on that great occasion, because I think it did injustice to us and the people whom we conquered. They had a right to our institutions, and we ought to have given them to them, and they are suffering at this day for our not having done it.

I say these purchases have not been unusual. Young, thriving, vigorous nations are purchasers; the weak, the feeble, the decrepit, are sellers. It has always been so; it always will be so. When nations begin to decay, they sell their territory, or it is taken from them by conquest; or even sometimes before decay, with a prodigal administration, improvident rulers sell their territory, as Charles II. of England sold Dunkirk. Decayed nations always sell, and generally do a good thing by it; because what they do not sell is usually taken away from them for nothing. When they have lived out their day and generation, about the wisest thing they can do is to part with their dominion, which they can no longer hold. Events will have their course, and that gravitation of Cuba towards us, of which Mr. Adams spoke, continues, like the gravitation of the earth, gaining accelerated motion every day it moves; and what was gravitating fifty years ago, is now coming with terrific power against that island. The same law of gravitation operates in politics as well as in the natural world.

We are told, I suppose, by way of terror—the last point I think the honorable gentleman made was that England and France had guaranteed that the island should not be taken by force from Spain. I have seen the same intimation; and, if I relied on newspapers, I might show that they have said that we should not have it with or without the consent of Spain. That is one of the main considerations why I desire the American Senate and House of Representatives to-day to declare what their policy is. I desire that England and France shall know from these Halls that we are a Power in our own right, and that, if we make a contract with Spain, no threats of war from either of them, or from both of them, will deter us for

one moment. I am ready to say to them: if you have any of that work on hand, we will meet you at any moment you please. I will not surrender the independence which we have won, and which we have held for seventy years, to England and France. They recognize Spain as an independent sovereignty. We have won ours, and they recognize us. Then, if we make a contract with Spain for the purchase of contiguous territory, useful to us, beneficial to us, I defy France and England to interfere. I would glory in that vindication of our nationality. I would rather they would than not. I want to know whether we are independent or not. I want to know whether we are sovereign or not. I want to know whether a usurper of ten years' standing, who maintains his power with half a million troops, shall dictate to free America whom she will treat with and whom she will not. I desire to see the American who is base enough to have his conduct or his vote or the policy of his country controlled by any such motive.

I am ready to throw back the defiance across the Atlantic to England and to France, and tell them I will purchase where I list, of free people, and I will be ready to meet them whenever they attempt to defeat or to interfere with this great right, belonging to every free and independent people. We are able to maintain our independence against England and France thrown in the scale with Spain, at any moment. At all events, I am ready, even in the first three quarters of a century of our existence, to stake that existence rather than be deterred from pursuing a national policy by the threats of two such Governments.

Now, sir, is this acquisition desirable? Is it a matter on which we ought to risk so much money as \$30,000,000 for the chance of opening more favorable negotiations? I think it is. I know of no portion of the earth that is now so important to the United States of America as the Island of Cuba is. We speak of the trade of India; and some of the friends of a Pacific railroad tell us that, when that railroad shall be constructed, it will bring the trade of Asia to our continent, and that we shall get at least the profits of the transportation of the wealth of the Indies. Sir, this wealth is at our feet; but they know it not.

What, to-day, is the value of the East Indies? Formerly those nations who had a monopoly of its trade, were great and powerful and rich. Why? They had then a monopoly of silks and of teas, and more than all, the Western Powers were then rude and engaged in war. The steam engine had not then been invented. Their labor was cheap, because of excessive population, and those peculiar products were important; and beyond all, Asia had the tropical products. The commerce of the East Indies then engaged the great tonnage and gave rise to the great wealth of the world. Then the monopoly of the spices was valuable, and was a cause of war with the Dutch people, out of which they made untold millions. At that time, the West Indies were unknown; or if not unknown, those great productions which were raised in the East Indies, were not cultivated there. Sugar, and coffee, and all the tropical productions, were then confined to the East Indies; and the possession of that trade made nations rich and powerful. Now it is different. I have no idea that the trade in teas and silks would justify our making a railroad two hundred miles long. If you could fill up the ocean, and lay a perfectly level railroad to-day from San Francisco to Shanghai, it would be no benefit in this view, because you can now bring products from Shanghai to New York for ten dollars a ton when freights are low, and for twenty dollars a ton at the customary freights. As the Senator from Massachusetts fully and satisfactorily demonstrated the other day, it would be impossible to carry freight over a railroad to the Pacific. I say then, that such a road cannot advance us in obtaining the control of the trade in those products; but we have all the wealth which ever came from the East Indies, to-day at our feet in the West Indies, and the only question of foreign policy which is worthy of the consideration of American statesmen, is the tropical empire lying at our feet; and it ought to be declared to be our settled policy—not by force, not by violence, not by depriving the rightful possessors of their present possessions—to be the American policy to unite, as fast as it can be

fairly and honestly done, all the tropics under our flag.

We have now the command of one of the great elements of human commerce, cotton. We have now the command of the bread of the world. We have their bread and their clothing. Give us Cuba, give us the West Indies, and we shall command all the other wants of the human race; we shall control their commerce in everything; we shall control their tonnage, and it will be of more value even to the northern people than to the South. It will bring a competitor in tropical fruits and sugar to a portion of the southern States. Cuba is exactly in the condition the most favorable possible to break off all commercial restrictions for the benefit of New England and the entire North. She does not grow beef except to a very small extent, and pork not at all; she has no manufactures; she has no iron. She raises everything that the North wants, and she would be the best customer in the world for every article of their industry. There is no production in New England that cannot find a market in Cuba. There is just the point for an exchange of commodities from which the most beneficial commerce the world ever saw will result. Therefore, I say, the manufacturing States, the grain-growing States, have the greatest interest in this acquisition. They can get there sugar and coffee and West India fruits, which they can sell to all the world, and increase their exports. They can exchange products with Cuba without duty, with entire internal free trade, and there will be built up a home market for their manufactures, such a market as can be found in no other habitable part of the globe. Here is a natural exchange of products, arising from locality and climate and soil. It will be nature's commerce; beneficent, prosperous, beneficial to all engaged in it. It does not need laws; it does not need restrictions; it requires no ingenuity to show that that commerce will be a beneficial one to all concerned in it, especially to the northern and middle States; it will not benefit the South to the same extent.

Some may think that we go for it because by this means we shall have one more slave State in the Union. I know that the Senator from New York at the last session alluded to the comparative number of slaveholding and non-slaveholding States; but I never considered that my rights lay there; I never considered that I held my rights of property by the votes of Senators. It is too feeble a tenure. If I did, I have shown by my votes that I have not feared them. Whenever any State, Minnesota or Oregon, or any other came, no matter where from, if she came on principles which were sufficient in my judgment to justify her admission into this great family of nations, I have never refused her the right hand of fellowship. I did not inquire whether you had seventeen or eighteen free States. If you had fifty it would not alter my vote. The idea of getting one slave State would have no effect on me. But Cuba has fine ports, and with her acquisition, we can make first the Gulf of Mexico, and then the Caribbean sea, a *mare clausum*. Probably younger men than you or I will live to see the day when no flag shall float there except by permission of the United States of America. That is my policy. I rose more with a view to declare my policy for the future, that development, that progress throughout the tropics was the true, fixed, unalterable policy of the nation, no matter what may be the consequences with reference to European Powers.

Mr. HALE. Mr. President, I do not intend to occupy the attention of the Senate a great while; but if I do nothing else before I sit down, I hope to be relieved from the censure which the honorable Senator from Georgia has made on the Senator from New York, and that is that he has not expressed plainly his views on the main proposition. I am opposed to it utterly, totally, and entirely. I remember, sir, for it is some years since this matter of acquisition has been talked of in this country, that it was first inaugurated under the genius of what was called "manifest destiny;" but I see that manifest destiny has been ridden to death; we have got rid of it, and now succeeds to "manifest destiny," "political necessity." I want to examine that a little. I do not know but what it is necessary that this should come under the auspices of "political necessity," because I believe the doctors who taught in the school of

"manifest destiny" only contend that manifest destiny extended over the whole continent, and now we are to leave the continent and go to sea; we must have a new era and we are to take "political necessity;" and I suppose that is the reason of the change. I am opposed to them both. I was opposed to "manifest destiny," and I am opposed to "political necessity." I am opposed to them for this reason. "Manifest destiny" always traveled South. [Laughter.] Although it was the mission of "manifest destiny" to take in the whole continent, he never seemed to remember that there was a north side of it. He was always traveling South. [Laughter.] We could not get him to turn his eyes North. So wanting in fidelity to his mission was "manifest destiny," that was to overrun this whole continent, so engrossed was he in looking South, that whilst his mission had been proclaimed, and he was attending to southern interests, the Administration actually sold out a part of one of the northern States, the State of Maine. "Manifest destiny" was so taken with the southern aspect, that he actually let the Administration trade off a part of one of our own States. Well, sir, for that I never forgave "manifest destiny."

But again, we had another case. The Senator from Georgia has a magnificent imagination, to say nothing else; but, sir, we had an empire big enough to gratify the ambition of the most ambitious man, lying on the Pacific coast, running from the Rocky Mountains to the Pacific—one that we required neither purchase to obtain, nor war to keep—our own, "our own indisputable soil;" a soil so clearly ours that this very man now at the head of your national affairs, the present President of the United States, as Secretary of State, would not consent to enter into a negotiation with Great Britain about that splendid western empire of ours, because if he consented to go into arbitration, or to discuss an arbitration, it would admit that there was a doubt about it, while there was not any doubt, and the Administration would not admit that there was any doubt as to our right; it was "clear and indisputable." However, "manifest destiny," that was to overrun the whole continent, was looking so constantly southerly, that the Administration did not sell out that time, but gave away—gave away with a mere dash of the pen—that magnificent empire from the Rocky Mountains to the Pacific ocean, and from 49° to 54° north latitude.

Mr. DURKEE and others. "Fifty-four forty."

Mr. HALE. Yes, sir; we were to have up to "54° 40' or fight," and we gave every inch of that away. It was done with a mere dash of the pen. Then, there lay off the Pacific coast another splendid island, occupying not far from the same relative position to the Columbia river that Cuba does to the Mississippi—Vancouver's Island—and that was down below 49°; but, with a mere dash of the pen, we threw in this gigantic empire for nothing, and gave them Vancouver's Island to induce them to take it.

This is the history of "manifest destiny" in north latitude. I have said this, and I want to say it again and again, and it ought to be repeated, and I call Senators to notice the fact, that whenever we have had to deal with "manifest destiny" or "political necessity" in any treaty relating to our northern boundary, it has been to cut off; and, if we could not sell out, we gave away, whilst we have been continually traveling south for acquisitions. This may be all accidental; probably it is; but, if you ever read Pickwick, sir, you remember that, as Sam Weller says, it was a most astonishing coincidence. [Laughter.]

These are the general reasons, but I want to call particular attention to the position Mr. Buchanan took on this subject when he was Secretary of State. I read from his letter to Mr. Saunders—that famous letter in which he offered \$100,000,000 for Cuba:

"The fate of this island must ever be deeply interesting to the people of the United States. We are content that it shall continue to be a colony of Spain. Whilst in her possession we have nothing to apprehend. Besides, we are bound to her by the ties of ancient friendship, and we sincerely desire to render these perpetual."

I am not skilled in the diplomatic history of this country, but I think it will be found to be a fact that Spain, our earliest ally, has maintained her treaty stipulations of peace, amity, good will, and friendship with us from the time when, in

1778, she extended to us the right hand of friendship, when we were struggling for a name and a place in the family of nations. Then, in our feebleness, in our infancy, in our poverty, nay, in our very destitution, when we had neither a name to live, nor an arm to defend ourselves with, she came to our aid; she lent us money and men and ships, and she rendered us service when it was needed; and from that day to this, Spain has maintained, in unbroken succession, the position and the relation of an ally and a friend, and Mr. Buchanan, in his letter to Mr. Saunders, recognized that. He says we are bound to her by the ties of "ancient friendship"—nothing new, but by the ties of ancient friendship, when her friendship was worth something, "and we sincerely desire to render these perpetual."

Well, sir, I know that it may be said to be sentimental, and possibly beneath the character of the Senate, to adduce any considerations of this kind as having anything to do with our national policy; but, for myself, I am content to admit, and to avow here, that they are considerations potent and powerful and all-weighty with me. I hate, I very much hate, to disturb these ancient relations of amity, friendship, peace, and good will, that commenced so long ago, and have been continued and maintained so long. If the Administration, of which our present Executive was Secretary of State, were sincere in the position which they took, that so long as this island remained in the hands of Spain we had nothing to wish, and nothing to hope, and were sincerely desirous that it should remain so, what has altered the state of things since? Sir, if there is anything due to the ties of ancient friendship, I can imagine that Spain might appeal to us, and tell us that, when we were weak and feeble and defenseless and helpless, when we were struggling for our very existence, she, then in the zenith of her power and her wealth, reached out her hand to aid and to save and to protect us. Now, sir, it may be that in the visitations of Providence, as the Senator from Georgia said, decrepitude and old age and decay are coming upon her. Her colonial possessions have departed one by one; all her possessions upon this continent have been wrested from her, and she holds now but one little gem of what was once her mighty coronet, and she may appeal to Senators, if there is any sentiment in your hearts, and ask you, in the name of justice, in the name of gratitude, in the name of all the ties which should bind such an ally as her to the United States—if when misfortune has fallen upon her; if when feebleness has come, and her possessions, one by one, have been rent from her; if when lawless expeditions, year after year, are fitted out from our shores to wrest this, her last possession in the western world, from her, is the United States to join this piratical cry and go full chase with those who would rob our own, our ancient, and our venerated ally of her possession here? No, sir; I will never do it; and I confess that I sympathize, and sympathize deeply, with the feelings which have been manifested in the resolutions which have been read by the Senator from New York, as those which have been passed in her legislative assembly. Why, then, the necessity for such a measure as this, when it is absolutely clear and demonstrable and demonstrated that it can have no practical effect? It can only have a tendency to wound, to injure, and to insult the feelings of Spain; possibly, nay, probably, it may have the further effect of giving vitality and new life to those piratical expeditions which are fitted out from your shores to go and take Cuba.

If the Senate of the United States shall countenance such a proposition as this, I say it may have this effect, and our good faith may be distrusted, and well distrusted, if we are putting out empty proclamations against those who would fit out expeditions lawlessly from our shores to take Cuba, while at the same time we are, by our acts here in the Senate, resolving that it is desirable to acquire the island, and authorizing the President of the United States to pay the sum of \$30,000,000 to consummate so desirable an object. Sir, will not the men who fit out these expeditions say there is no sincerity in your reproof. "We know they vote \$30,000,000 to the President to enable him to buy it; and we know if we go, and are successful in seizing it, that we shall only

have done that which the Government desire to have done."

Now, sir, I again dissent from that whole policy which says it is American policy to be continually annexing foreign nations to us. I am for improving what we have got; I am for developing our own resources; and I am for applying the means that we have to the improvement of what we have got. I should like to know where the constitutional power comes from. It is said there is no power to build a railroad to the Pacific ocean unless it be a war measure. I should have said this if I had got the floor on the Pacific railroad, but I will say it now: I am utterly opposed to that whole doctrine, that we have no power to make a railroad from here to the Pacific ocean unless it can be demonstrated that it is absolutely necessary and indispensable as one of the means of carrying on war. Sir, the Government of the United States have power to make peace as well as to make war; and if, as the proclamations of war usually say, the purpose of entering into a war is to procure an honorable peace, the country ought to have some energy to do something to foster and nourish and develop its interests in peace as well as in war. But, sir, this modern doctrine that you can expend anything and everything for war measures, and nothing for peace, I utterly dissent from. Here you may spend \$150,000,000, if it is necessary, for purposes of war; but if you are asked for fifty cents for any of the great purposes of peace, of commerce, of the arts, this gigantic Government is seized with paralysis, and cannot move a finger for any of the purposes of peace, or any of its arts, or any of its interests; but it is omnipotent for all the purposes of war.

Mr. GWIN. As the gentleman is on the subject of the Pacific railroad, I wish he would give way and let us take up that bill and go on with it. [Laughter.] It is a better subject than this, a great deal. [Laughter.]

Mr. HALE. I can only say to my friend from California, as the Archbishop said to Gil Blas, I wish you all manner of prosperity, and more taste than to interrupt me again, [laughter;] but I will give way.

Mr. BAYARD. I move that the Senate proceed to the consideration of executive business.

Mr. SLIDELL. I hope the Senator from Delaware will permit the question to be taken—the mere formal question of making this subject the special order for Monday next.

Mr. BAYARD. If that question can be taken, I withdraw the motion for the present.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The question is on printing the report of the committee.

Mr. SEWARD. Will the Senator include the printing of the bill presented by the minority?

Mr. SLIDELL. Of course.

The motion, as modified, was agreed to.

Mr. SLIDELL. I now move to make this bill the special order for Monday next.

Mr. DOOLITTLE. Before the vote is taken on that motion, I desire also to have the resolution which I offered at the close of the last session, which is germane to this question, printed and laid on the tables of Senators.

The PRESIDING OFFICER. The Senator may make that motion after the question now presented is determined. The question is on making this bill the special order for Monday next, at one o'clock.

The motion was agreed to.

Mr. DOOLITTLE. I now move to print the resolution which I offered at the last session, and which is germane to this subject, in part.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. BAYARD. I now move that the Senate proceed to the consideration of executive business.

Mr. DAVIS. I hope the Senate will renew the consideration of the Pacific railroad bill. I feel that it is incumbent on me to call their attention to the fact that the Senator from California, [Mr. GWIN,] who so long had charge of the bill, announced his expectation that the subject would be concluded on Thursday last; and said that he would not press it again upon the Senate. I consumed so much of that day that I feel really responsible to him. I trust the balance of this day will be given to the final settlement, so far as the

Senate is concerned, of its action on the Pacific railroad bill. Let us vote upon it, get it out of the way for good or for evil, and then go on to something else.

Mr. BAYARD. I hope the Senate will proceed to the consideration of executive business. It will not detain them long, yet I think it essential—more essential than the disposition of the Pacific railroad bill.

Mr. HALE. I move that the Senate adjourn. The motion was not agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 24, 1859.

The House met at twelve o'clock, m. Prayer by Rev. J. ASHWANDEN.

The Journal of Saturday was read and approved.

CHARLES J. INGERSOLL.

The SPEAKER stated the business first in order to be the consideration of the bill for the relief of Charles J. Ingersoll. As the bill related to private business, however, with the consent of the House it would go over until Friday.

Mr. PHILLIPS. I suppose it will come up then?

The SPEAKER. It will come up the first thing in the morning.

Mr. PHILLIPS. Then I have no objection.

The bill was accordingly postponed.

TERRITORIAL BUSINESS.

The SPEAKER stated the business next in order to be the motion of the gentleman from Georgia, [Mr. STEPHENS,] submitted on Monday last, to suspend the rules to permit him to introduce the following resolution:

Resolved, That three days, Tuesday, Wednesday, and Thursday, the 25th, 26th, and 27th of this month, be, and the same are hereby, set aside for the consideration of territorial business.

Mr. STEPHENS, of Georgia. I will modify the resolution so as to make it the 1st, 2d, and 3d of February.

Mr. MORGAN. I object to the resolution in this shape, unless a provision is added that no proposition for the admission of a State into the Union shall be taken up during that time.

Mr. STEPHENS, of Georgia. I will state that I cannot agree to the modification proposed by the gentleman from New York. There is but one proposition to admit a State, that I know of, which is Oregon. I wish to take up that bill just as soon as it can be done. I am perfectly willing, however, if the gentleman will allow the resolution to come before the House, that he shall submit his proposition as an amendment; and if the majority of the House shall adopt it, I have nothing to say.

Mr. MORGAN. I prefer to take the course I have indicated. I know what will be the result.

Mr. STEPHENS, of Georgia. I pledge myself, if the rules are suspended, that the gentleman shall have an opportunity of introducing his amendment.

Mr. MORGAN. I object to the resolution.

Mr. PHELPS, of Missouri. I would inquire whether two days will not be sufficient?

Mr. STEPHENS, of Georgia. When the resolution is before the House, it can be amended so as to only include two days, if the House think proper. I think, myself, that two days will not be sufficient.

Mr. SMITH, of Virginia. Is not this resolution day? I understand that the resolution is in order.

The SPEAKER. This is resolution day; but it is still competent for any gentleman to move to suspend the rules to introduce a resolution.

Mr. STEPHENS, of Georgia. Before the vote is taken on the motion to suspend the rules, I will move that there be a call of the House; and on that motion ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 74, nays 89; as follows:

YEAS—Messrs. Ahl, Anderson, Avery, Barr, Boyce, Burns, Caruthers, John B. Clark, Cobb, John Cochrane,

Cockerill, Colfax, Corning, James Craig, Crawford, Curtis, Davidson, Davis of Mississippi, Dewart, Edie, Edmundson, English, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hughes, Huyler, Jackson, Jewett, George W. Jones, Owen Jones, Lawrence, Leidy, McKibbin, McKee, Matteson, Miller, Milson, Moore, Isaac N. Morris, Niblack, Nichols, Pendleton, Pettit, John S. Phelps, Reagan, Sandidge, Savage, Scott, Seward, Aaron Shaw, Shorter, Singleton, Robert Smith, William Smith, Stephens, James A. Stewart, William Stewart, George Taylor, Vallandigham, Vance, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and Zollcoffer—74.

NAYS—Messrs. Andrews, Bennett, Bingham, Bliss, Brayton, Buffinton, Case, Ezra Clark, Clawson, Comins, Covode, Cox, Cragin, Curry, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Dowdell, Durfee, Farnsworth, Fenton, Florence, Foster, Giddings, Gillis, Gilman, Gilmer, Gooch, Granger, Grow, Harlan, Harris, Haskin, Horton, Horton, Howard, Keim, Kellogg, Kelsey, Knapp, Leach, Leiter, Lovejoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Peyton, Phillips, Pike, Pottle, Powell, Purviance, Ricard, Robbins, Roberts, Royce, Russell, Seales, Searing, Henry M. Shaw, Sickles, Spinner, Stanton, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, and Wood—89.

So the House refused to order a call of the House.

During the call of the roll,

Mr. CLAY stated that when his name was called, he was engaged in one of the committees of the House.

Mr. SCALES stated that his colleague, Mr. RUFFIN, was detained from the House by sickness.

Mr. WORTENDYKE stated that Mr. ADRAIN had been called home by sickness in his family. He had made that statement to the House last week, but it failed to appear in the Globe.

The question then recurred on the motion to suspend the rules.

Mr. STEPHENS, of Georgia. I further modify my resolution by making it provide for two days instead of three. Some gentlemen think that two days will be enough; and I therefore will put it Tuesday and Wednesday of next week.

Mr. MORGAN. My objection still applies.

The SPEAKER. So the Chair understands. The question was taken; and it was decided in the negative—yeas 105, nays 71; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barr, Bishop, Bocoock, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, Cox, Cragin, James Craig, Crawford, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, English, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Horton, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Lawrence, Leidy, Maclay, McKibbin, McQueen, McKee, Humphrey Marshall, Samuel S. Marshall, Maynard, Miller, Milson, Moore, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Roberts, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, James A. Stewart, George Taylor, Thayer, Vallandigham, Vance, Watkins, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and Zollcoffer—105.

NAYS—Messrs. Andrews, Bingham, Bliss, Brayton, Buffinton, Burlingame, Case, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Curry, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Davis, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Gooch, Granger, Harris, Haskin, Board, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Pottle, Ricard, Ritchie, Robbins, Royce, Judson W. Sherman, Stanton, William Stewart, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, and Wilson—71.

So the rules were not suspended, two thirds not having voted therefor:

Pending the call of the roll,

Mr. KEITT stated that he had paired off with Mr. CHAFFEE.

Mr. BOCOOCK. I was out upon a special committee when my name was called. I would like to say that I very seldom miss a vote here. I missed a vote once before this morning for the same reason; and, as I shall be engaged on that committee several days, it is probable that I may miss others hereafter.

The SPEAKER. Under the practice of the House, the gentleman is entitled to vote.

Mr. BOCOOCK then voted as above recorded.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on En-

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THIRTY-FIFTH CONGRESS, 2D SESSION.

TUESDAY, JANUARY 25, 1859.

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rolled Bills, reported as truly enrolled an act (H. R. No. 366) for the relief of John Duncan; and an act (H. R. No. 813) for the relief of Mrs. Henry R. Schoolcraft; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, requesting a return to that body of a bill (S. No. 144) for the relief of the legal representatives of Charles G. Ridgely, of the United States Navy.

PRIVATE BILLS.

Mr. KELSEY. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That on Saturday next, immediately after reading the Journal, the House will go into the Committee of the Whole and take up the Private Calendar as on objection day; and when objection is made to the bill, the member making objection shall have five minutes' time to state such objection and oppose the bill, and five minutes' time shall be allowed to answer objections and advocate the bill. The question shall then be taken on pending amendments, if any, and then on reporting the bill to the House, without further debate: *Provided*, That no case shall be considered as aforesaid in which there is an adverse report from the Court of Claims, or from a committee of this House.

Mr. WASHBURN, of Illinois. I hope the gentleman will modify his resolution, and make it five minutes instead of ten.

Mr. KELSEY. I will so modify it, to meet the views of gentlemen.

Mr. PHILLIPS. I object to the resolution. Mr. KELSEY. Then I move to suspend the rules.

Mr. DEAN called for tellers.

Tellers were ordered; and Messrs. Boyce and KELSEY were appointed.

The House divided; and the tellers reported—ayes 108, noes 40.

Mr. REAGAN called for the yeas and nays. The yeas and nays were ordered.

Mr. MILLSON. I call for the reading of the resolution again. I want to see whether it allows more than one person who objects to a bill to speak to his objection.

The resolution was again read.

Mr. SMITH, of Virginia. I thought the resolution specified ten minutes instead of five.

The SPEAKER. The gentleman from New York modified his resolution so as make it read "five minutes," which he had a right to do.

Mr. JONES, of Tennessee. That resolution would preclude any amendments from being offered when a bill is taken up, would it not?

The SPEAKER. The Chair cannot answer.

Mr. JONES, of Tennessee. It says the vote must be taken upon pending amendments, and then upon reporting the bill to the House.

The question was then taken; and it was decided in the affirmative—yeas 131, nays 62; as follows:

YEAS—Messrs. Andrews, Barksdale, Barr, Bennett, Billingham, Bingham, Bliss, Boyce, Bratton, Buffinton, Burlingame, Burns, Case, Ezra Clark, Horace F. Clark, Clawson, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Davies, Dean, Dick, Dodd, Durfee, Edie, English, Estes, Farnsworth, Fenton, Florence, Foley, Foster, Gilman, Gilmer, Granger, Grow, Harlan, Harris, Haskin, Hatch, Hoard, Hodges, Horton, Howard, Huyler, Keim, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leidy, Leiter, Lovejoy, Maclay, Humphrey Marshall, Matteson, Maynard, Monigomerie, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, William W. Phelps, Pike, Potter, Pottle, Powell, Purviance, Ready, Ricard, Ritchie, Roberts, Royce, Russell, Sandidge, Savage, Searing, Seward, Aaron Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson and Wortendyke—31.

NAYS—Messrs. Ahl, Avery, Bishop, Bocoek, Bonham, Branch, Burnett, Caruthers, Caskie, John B. Clark, Clay, Cockerill, Cox, Burton Craige, Crawford, Curry, Davis of Mississippi, Dewar, Dowell, Edmundson, Elliott, Garnett, Gartrell, Gillis, Goodch, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones,

McQueen, McRae, Miller, Millson, Moore, Peyton, John S. Phelps, Phillips, Reagan, Scales, Henry M. Shaw, Samuel A. Smith, Stallworth, Stevenson, Talbot, Miles Taylor, Vallandigham, Watkins, White, Whiteley, Winslow, Augustus R. Wright, John V. Wright, and Zollinger—62.

So the rules were suspended, and the resolution was introduced.

Pending the call,

Mr. PHELPS, of Minnesota, stated that his colleague, Mr. CAVANAUGH, was detained at his room by severe illness.

Mr. BARKSDALE. I was necessarily absent when my name was called. If I had been in my seat, I should have voted for the resolution of the gentleman from Georgia.

Mr. KELSEY. I call the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. JONES, of Tennessee, called for the yeas and nays upon the adoption of the resolution.

The yeas and nays were refused.

Mr. JONES, of Tennessee, moved to lay the resolution on the table.

The motion was not agreed to.

Mr. JONES, of Tennessee. Is it in order to change the standing rules of this House without one day's notice?

The SPEAKER. It would not be ordinarily.

Mr. JONES, of Tennessee. But this is a resolution which will have that effect.

The SPEAKER. According to the usual and uniform practice of the House, a suspension of the rules to introduce a resolution carries with it the right to have that resolution considered.

Mr. MILLSON. I rise to a question of order in this connection. I think the rules were suspended to allow the gentleman from New York to introduce a resolution which allowed ten minutes for debate. As I heard the resolution read just now, it allows only five minutes.

The SPEAKER. The gentleman from New York modified his resolution before the vote was taken, and it was so read and announced by the Chair.

Mr. MILLSON. I did not hear it.

The resolution was then agreed to—ayes 108, noes 42.

Mr. KELSEY moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXPENSE OF INVESTIGATIONS.

Mr. PHELPS, of Missouri. There is an investigation going off before the Judiciary Committee which has brought a number of gentlemen here as witnesses. There is also another investigation going on before the committee appointed under the resolution introduced by the gentleman from Ohio, [Mr. SHERMAN,] and witnesses have been summoned to give their attendance. There is no money out of which the expenses of travel and attendance of those witnesses can be paid. Some of them are now waiting for their pay. I therefore ask unanimous consent to introduce the bill which I send to the Clerk's table.

Mr. SEWARD. I object.

Mr. PHELPS, of Missouri. Then I move to suspend the rules for that purpose.

The bill, which was read, appropriates the sum of \$10,000, out of any money in the Treasury not otherwise appropriated, for the payment of the expenses of the several investigating committees of the House of Representatives during the present session, and directs that the same be added to the miscellaneous item of the contingent fund of the House of Representatives.

Mr. SEWARD. Can that bill be introduced under the rules of the House without previous notice?

The SPEAKER. If the rules are not suspended, it would require a previous notice. But the motion of the gentleman from Missouri is to suspend the rules.

Mr. SEWARD. Even if notice had been given

under the rules, the bill could not be introduced without a suspension of the rules. But no notice has been given. If, therefore, the bill can be introduced under this motion, it follows that one motion obviates two objections to its introduction, each of which would otherwise require a separate motion to suspend the rules.

The SPEAKER. Under what authority is it that a member is required to give one day's notice?

Mr. SEWARD. The rules of the House.

The SPEAKER. And the gentleman from Missouri moves to suspend those rules.

Mr. SEWARD. But when the rules are suspended, notice is required; and the rules must be suspended after notice has been given.

The SPEAKER. The motion is to suspend the rules so as to enable him to introduce the bill.

The question was taken; and the rules were suspended, two thirds voting in favor thereof.

The bill was introduced, and read a first and second time.

Mr. SEWARD. The bill makes an appropriation; and I insist that it must go, for its first consideration, to the Committee of the Whole on the state of the Union.

Mr. PHELPS, of Missouri. I move to suspend so much of the rules as requires the first consideration of this bill to be had in the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. REAGAN. I desire to propose an amendment to that bill, and I am satisfied that the gentleman from Missouri will accept it when he hears it read. It is to the effect that no part of the money appropriated by that bill shall be paid as constructive mileage, where the ground is traveled over only once for summoning several witnesses. The amendment will save the Treasury a great deal of money. As I understand the practice of the House, it is wrong in that respect.

Mr. HOUSTON. So far as one of the committees of the House is concerned, I wish to say that there is not allowed to witnesses any constructive mileage.

Mr. REAGAN. Not to witnesses, but to the Sergeant-at-Arms.

Mr. HOUSTON. I have no objection to the amendment, but I think it ought to be more definite.

Mr. HUGHES. I wish to inquire of the gentleman from Missouri, [Mr. PHELPS,] the chairman of the Committee of Ways and Means, whether it is intended to apply any portion of this money to the payment of witnesses who appear before the committee on the part of the defense? If it is, I wish to introduce an amendment to exclude that right.

Mr. REAGAN. I ask the gentleman from Missouri to accept this proviso:

Provided, That no portion of this sum shall be paid for constructive mileage for summoning witnesses.

Mr. PHELPS, of Missouri. I have no objection to that proviso.

Mr. HUGHES. I hope the gentleman from Texas will accept my amendment as a modification of his.

Mr. REAGAN. Send it up, and let it be read. The amendment was read, as follows:

Provided, That none of the money appropriated by this act shall be used for the purpose of paying the expenses incident to the defense of parties implicated before any of the committees of this House, nor for constructive mileage to witnesses.

Mr. HOUSTON. That amendment, as matters stand before the Committee on the Judiciary at present, would reach no witnesses there; but I believe the amendment is wrong, for the reason that sometimes it is necessary; and whether it be necessary or not, the practice has grown up before committees of the House to hear witnesses who have been summoned by the committee at the suggestion of the parties whose conduct is implicated and undergoing investigation, and with a view to ascertain the truth of the case. I can very well imagine why witnesses might be called by the committee at the suggestion of the parties

thus implicated. There is nothing ordinarily before the committee to show who are witnesses for the prosecution and those who may be for the defense. Suggestions are made to the committee, and the committee orders all the witnesses to attend. They are ordered as witnesses before the committee, with a view to develop the whole case, and not merely to fasten a conviction or to establish a defense. They are called, and should be called, only for the purpose of examining into and ascertaining the truth in the case, before the committee shall bring it before the House.

Mr. GROW. Is it in order now to move to substitute for the pending amendment the following?

Provided, That the fees of the Sergeant-at-Arms be adjusted by the Committee of Accounts.

Mr. REAGAN. I would state to the House that the amendment which the gentleman from Indiana has had read, does not meet my view at all.

The SPEAKER. The Chair was not aware of the fact that the gentleman from Texas desired to occupy the floor, and did not consider that he was occupying it.

Mr. REAGAN. I merely yielded to the gentleman from Indiana that he might have his amendment reported, so that I might see if it covered the ground I desire to occupy. I now say that it does not cover that ground, and I therefore ask for action on my amendment.

Mr. PHELPS, of Missouri. I believe that all these gentlemen are occupying the floor through my courtesy.

The SPEAKER. The Chair does not so understand. The gentleman from Missouri did not claim the floor.

Mr. PHELPS, of Missouri. I was on the floor, and stated that I should move the previous question.

The SPEAKER. The Chair did not hear the gentleman from Missouri.

Mr. PHELPS, of Missouri. I have no objection to the amendment of the gentleman from Texas, and am willing that it shall be incorporated in the bill; but I think, for the reasons stated by the chairman of the Judiciary Committee, that the amendment of the gentleman from Indiana should be rejected. I am willing, however, that both the amendments should be received and voted on; and I now move the previous question.

Mr. HUGHES. I wish to state the reason why I offered the amendment. I think I can show the House that the amendment is proper.

The SPEAKER. The Chair desires to understand where the gentleman from Indiana proposes that his amendment should come in.

Mr. PHELPS, of Missouri. I will hear the reasons of the gentleman from Indiana.

Mr. SEWARD. I desire to know who has the floor?

The SPEAKER. The previous question is demanded; but the Chair is endeavoring to ascertain where the amendment of the gentleman from Indiana is to come in.

Mr. HUGHES. I have the floor, I believe, by permission of the gentleman from Missouri.

The SPEAKER. The Chair desires to ask the gentleman from Indiana how he proposes to offer his amendment—as a substitute for the amendment of the gentleman from Texas?

Mr. HUGHES. No, sir; as an additional proviso.

The SPEAKER. The gentleman from Missouri demands the previous question.

Mr. HUGHES. He has withdrawn it to enable me to explain my object in offering my amendment.

Mr. PHELPS, of Missouri. I withdraw it for that purpose.

Mr. HUGHES. I will briefly state the reason why I offer this amendment. When investigating committees are raised by the order of the House for the purpose of making a preliminary investigation to ascertain whether or not charges ought to be preferred against some parties, these parties go before the committee, and occupy more time, and create more expense in anticipating charges, than the prosecution does. I maintain that an abuse is growing up here in the payment of expenses incurred by parties who come before these committees for the purpose of defending themselves. Let them wait until the preliminary investigation has taken place, until charges are pre-

ferred, and they are arraigned at the bar of this House; let them then have compulsory process to compel the attendance of their witnesses, and then, if it must be so, it will be time enough to pay their expenses. Why, sir, the very first witness, probably, who will present himself before one of these committees will be a witness sent there by the parties accused for the purpose of covering up the very abuses sought to be discovered, and the House has to pay the expenses of such witnesses.

Mr. PHELPS, of Missouri. I think this matter can all be arranged. The chairman of the committee conducting the investigation would not certify an account unless he believed that the amount was justly due to the individual, nor would the committee sanction the summoning of improper witnesses. I believe the House now understands the matter, and I move the previous question.

Mr. JONES, of Tennessee. I wish to inquire if the amendment of the gentleman from Texas is pending?

The SPEAKER. It is.

Mr. JONES, of Tennessee. I desire to ask the gentleman to modify his amendment.

Mr. SEWARD. I object to debate, unless the previous question be withdrawn. I want to offer an amendment myself.

Mr. JONES, of Tennessee. Then I hope the previous question will be voted down, for I desire to ask the gentleman to modify his amendment.

Mr. PHILLIPS. I desire to make a suggestion to the gentleman from Indiana.

Mr. SEWARD. I object to all debate.

The SPEAKER. No debate is in order.

Mr. PHILLIPS. I do not intend to debate.

The SPEAKER. No suggestion is in order if it is objected to; and the gentleman from Georgia objects, as the previous question has been demanded.

Mr. SEWARD. I do, because I wanted the floor myself, and the Speaker gave his ear to other gentlemen, who have occupied it alternately ever since.

Mr. PHILLIPS. I merely want the gentleman from Indiana to modify his amendment, so that it will accomplish what he desires.

Mr. SEWARD. I object to any debate, unless I can have a chance myself.

The previous question was seconded; and the main question ordered to be put.

The House divided; and there were—ayes 38, noes 104.

Mr. HUGHES called for the yeas and nays.

The yeas and nays were not ordered.

So the amendment to the amendment was not agreed to.

The question then recurred on the adoption of the amendment.

Mr. REAGAN. I ask the consent of the House to modify my amendment, so that it will read as follows:

Provided, That hereafter no more than ten cents shall be paid to the officer summoning the witnesses for each mile necessarily actually traveled.

Mr. SEWARD. I renew my objection, unless the previous question is withdrawn altogether.

Mr. REAGAN. Is it in order to move to suspend the rules, so as to enable me to make that modification?

The SPEAKER. The Chair thinks not. The House is acting under the previous question.

The amendment was then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. PHELPS, of Missouri, called for the previous question upon the passage of the bill.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, for the purpose of giving the gentleman from Texas an opportunity to modify his amendment.

Mr. PHELPS, of Missouri. I think the amendment adopted is substantially the same as that which the gentleman from Texas wishes to offer.

Mr. SEWARD. I object to debate.

Mr. JONES, of Tennessee. Is not debate in order upon a motion to reconsider?

The SPEAKER. Not with a demand for the previous question pending.

Mr. JONES, of Tennessee. The motion to reconsider goes behind the demand for the previous question, and is debatable, as I understand it.

The SPEAKER. It is the constant and uniform practice of the House, as the gentleman from Tennessee is very well aware, not to consider any debate to be in order upon a motion to reconsider when a demand is pending for the previous question.

Mr. JONES, of Tennessee. I know that has been the practice, but I am equally sure that it has been wrongly so held.

The SPEAKER. The House has always acquiesced in the practice.

The motion to reconsider was not agreed to.

The previous question was seconded, and the main question ordered upon the passage of the bill.

The bill was then passed.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMMITTEE OF THE WHOLE.

Mr. PHELPS, of Missouri, moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SEWARD called for tellers on the motion.

Tellers were ordered; and Messrs. SEWARD, and DAVIS of Maryland, were appointed.

The House divided; and the tellers reported—ayes 75, noes 51.

So the motion was agreed to.

The rules were therefore suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BURNETT in the chair,) and resumed the consideration of the

CONSULAR AND DIPLOMATIC BILL.

The CHAIRMAN stated the question pending to be upon the amendment of the gentleman from Kentucky, [Mr. BURNETT,] to strike out the entire clause making appropriations for the salaries of ministers abroad, and to insert as follows:

For salaries of envoys extraordinary, ministers, and commissioners of the United States, to Great Britain, France, Russia, Spain, Mexico, China, and Paraguay.

Which amendment was, by unanimous consent, withdrawn.

The question then recurred upon the motion of Mr. CRAWFORD, to strike out the whole paragraph, as follows:

“For salaries of envoys extraordinary, ministers, and commissioners of the United States, at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Persia, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, and Paraguay, \$214,000.”

Mr. PHELPS, of Missouri. There was a motion pending when this subject was last under consideration in committee. That motion is not yet disposed of.

The CHAIRMAN. The pending question is the amendment of the gentleman from Georgia.

Mr. LOVEJOY. How many ministers does that propose to leave?

The CHAIRMAN. None.

Mr. CRAWFORD. None are left. I offered that amendment for the purpose of getting the bill into the House, where we can have the opportunity of getting a vote by yeas and nays on the proposition. It is not my purpose to deprive those officers of the amount that will be necessary to pay them their annual compensation as provided for in the act of 1856, which provides that these ambassadors and envoys, when appointed, shall be entitled to compensation for their services, respectively, at the rate per annum therein specified. This section of the bill provides only for the amount which is due to these officers under the law of 1856. I made the motion to strike out with a view of seeing whether or not it is the purpose of the House to comply with the law of 1856, or to refuse to make appropriations for the payment of the officers appointed by the President.

Mr. CURRY. I would like to ask the gentleman whether appropriations have not already been made for their support up to the close of this fiscal year?

Mr. CRAWFORD. I answer the gentleman that appropriations have been made for the present fiscal year. The President has the right, first

under the Constitution, and then under the law as it stands, to appoint these ministers to foreign Courts; and the gentleman from Alabama knows, as well as I do, that the President will not recall a single man from abroad, but that these ministers will remain at their posts. The only question for the House is, whether, the President possessing and exercising the constitutional power of appointment, the men appointed by him shall not receive the annual compensation provided for in this bill. If the gentleman from Illinois desires to accomplish the object which I suppose he has in view, it would be better for him to move to repeal the law of 1856, or to deny to the President the power to appoint these ministers to foreign Courts. I say that these officers are as important to the welfare of the country as any other branch of the public service. The amount of money paid to them is scarcely sufficient to pay their expenses to the Courts to which they are sent. I am not sure but that the mail agents of the United States, who see to the delivery of the mails throughout the country, receive a greater amount of pay than the ministers to foreign Courts. Two hundred and fourteen thousand dollars is the amount contained in this item, and that is according to the rates fixed by the law of 1856. As I said before, not a single man will be called home, whether the appropriations are made or not. With a view, therefore, of getting the question before the House, where we can have a vote upon it by yeas and nays, I have moved to strike out this entire clause.

Mr. MARSHALL, of Kentucky. I should have no objection to the course indicated by the gentleman from Georgia—as I generally agree with him—if it were not that the motion to strike out the entire section will prevent any amendment of the section. I agree with the gentleman from Georgia that the law of 1856, to which he has adverted, prescribes the salary of ambassadors and ministers who are provided for in this law. But it goes no further. The Executive of the United States, by virtue of the Constitution, has the right to appoint public ambassadors and ministers and consuls wherever, in his opinion, he thinks they are required. He can do so without regard to the law. It is not within the law-making power to restrain or to enlarge his powers.

Mr. CURRY. Will the gentleman allow me to ask him whether, according to his construction of the Constitution, there is any other way of reaching this question, except by refusing the appropriation?

Mr. MARSHALL, of Kentucky. I answer the gentleman, distinctly, that there is no other mode, I imagine. I do not believe that the day will ever arrive when the Congress of the United States will come to such an issue with the President of the United States as to refuse to a public servant a fair salary when he has discharged the duties imposed upon him by the Executive of the United States, acting within the constitutional range of his power. This whole thing rests on the President. If he unnecessarily enlarges the sphere of his patronage, by appointing ministers to Courts where we think there is no necessity for them, then the vote of Congress refusing a supply for their payment is a vote of censure on the Administration. Gentlemen who now refuse to vote appropriations for the mission to Persia, the Argentine Confederation, and other new missions, can only escape the proposition that they thereby censure the President, by saying that the recommendation comes from the Committee of Ways and Means—not from the President. The right way to meet this thing is for the House to refuse to appropriate for new missions, if they choose; and let the President take the responsibility of making the appointments.

Mr. SMITH, of Virginia. Is the appointment to Persia included?

Mr. MARSHALL, of Kentucky. That is exactly the point I am arguing to.

Mr. SMITH, of Virginia. I would respectfully inquire of the gentleman from Kentucky, whether or not the President is waiting for the expression of the will of Congress on this question, before he undertakes to act? I desire information on the subject.

Mr. MARSHALL, of Kentucky. I am glad that a gentleman of the Democratic party should come to the proper source to know the views of the Executive. I will give him, with great frankness, all the information in my power on this sub-

ject. I have no idea that the President of the United States stops a moment in the proper discharge of his duty, on a point which he knows appertains to his own executive functions alone, to wait for the expression of opinion from this body. If he wants a minister to Persia, it is very natural that he should desire to have the salary of that minister provided for according to the law. He will not draw any salary till he gets to his post; and if no appropriation be made, he will be at the post without drawing salary. I object to the motion to strike out, because that prevents the action of the House, and forces us to strike out or retain the whole section.

[Here the hammer fell.]

Mr. LOVEJOY. I move to amend the amendment.

Mr. REAGAN. Will the gentleman allow me at this point, to make an expression?

The CHAIRMAN. The gentleman from Illinois has the floor, and all debate on this amendment is closed.

Mr. REAGAN. I ask the gentleman from Illinois to give me a moment's time to state—

Mr. LOVEJOY. No, I cannot. I move to amend the amendment by excepting Great Britain, Spain, and Sardinia. Last winter the burden of the objections raised on the other side of the House, against any effort at economy and retrenchment, was that we did not do it in the right way. The then chairman of the Committee of Ways and Means sympathized professedly with every attempt at retrenchment, but said we must go to the law; and the substance of the remarks of the gentleman from Pennsylvania, [Mr. PHILLIPS,] the other day, was precisely the same, that we did not begin at the right end. I do not believe that we can get hold of any end that will suit that side of the House; that is the trouble; yet the gentleman from Kentucky [Mr. MARSHALL] partly admits that this is the only way to effect our object. If the Executive choose to disregard the expression of the will of the House in regard to these missions, let him do it. The constitutional power of the President is not imperative. It is simply permissive. It allows but does not require him to appoint any foreign ambassador.

Now in regard to the general subject, I believe that this whole matter of diplomacy has outlived its original purpose. It grew up in Europe, and we have copied it from these monarchical Governments. When one man ruled a nation, and one woman ruled that man, it might have been proper to send my Lord the Duke of Buckingham, all glittering with jewels, as a diplomatist to this Court. But that is all past. And now what does this diplomacy amount to, as carried on at present, so far as the interests of this country are concerned?

Ab uno disce omnes. Take France. What has the diplomatic corps been engaged in at France during the present year? Settling the question about gilt buttons and small clothes, playing gentleman usher to Americans abroad, introducing them to the august presence of his Imperial Majesty, and then entering into a contest leading to disruption on the important question who appeared to the best advantage in the halls of Terpsichore. We are paying for this \$25,000 a year. And this, we are told, is for the dignity of the nation. Now, I insist upon it that this mission to France has done us no good, and is doing us no good. When we have any really important work to be performed, we send a special agent, and never trust to these accredited ministers. There is not an instance, at least not more than one or two, I think, in the whole history of the Government, where a treaty has been negotiated by the resident minister to any Government on the globe.

Mr. MORRIS, of Pennsylvania. I desire to inform the gentleman that there have been instances of the kind. I can point him to two.

Mr. LOVEJOY. Well, we will take two. We will say that there have been two instances in the whole history of the Government. A special commissioner was sent to China—Mr. Cushing—to negotiate a treaty. He did negotiate a very good one, I believe.

He was succeeded, as I recollect, by the gentleman from Kentucky, [Mr. MARSHALL,] whose State papers, as I understand it, are very much better than his political principles, as he has avowed them on this floor. [Laughter.] Mr.

Reed succeeded Mr. MARSHALL. He went there on the Minnesota, at a cost of \$1,000 a day to sail the vessel. He stayed less than a year, and came home. Perhaps, however, I may be mistaken in dates. Dr. Parker, who had lived there for twenty years, and knew the language and habits of the people, and all the peculiar characteristics of the nation, was secretary of legation during the absence of these principal ministers; and instead of continuing him—a suitable man, who knew the language, and was, from his long residence, ability, and private worth, fully qualified to discharge the duties of the office—he is removed, and a new man is sent out there—some broken-down politician, who does not remain there more than a year. Thus the mission subserves no purpose, only to reward partisans, and allow them to make a pleasure trip to the Old World.

[Here the hammer fell.]

Mr. REAGAN. Mr. Chairman, there was a collateral question raised here the other day during the discussion on this bill which has been reintroduced by the gentleman from Georgia [Mr. CRAWFORD] and the gentleman from Kentucky, [Mr. MARSHALL,] this morning, upon which I raised a question the other day, calling the attention of other gentlemen to the point; and, inasmuch as I raised that question, and inasmuch as attention has been prominently called to it again, I desire now to state the views which I entertained, and which induced me to propound an interrogatory to the gentleman from Pennsylvania, [Mr. PHILLIPS,] when I understood him to assert the power of the President to make appointments, under the authority of the Constitution, without reference to legislative action by Congress.

In view of what occurred the other day, I am rather gratified that the gentleman from Georgia and the gentleman from Kentucky have, this morning, placed the matter in so prominent a view as to attract attention to this question, although it comes up now only as a collateral question. They have assumed in the debate, this morning, that the President possesses authority, under the grant of power in the Constitution, which stands above the authority of Congress, to control the appointment of foreign ambassadors, ministers, and consuls. That presents the naked question, and comes to the point that I should have called attention to if I had been in a position to state my objections the other day. And now I ask the question: Do these gentlemen believe, or will this Congress sanction, the idea that the power of the President, under the naked grant of authority in the Constitution, stands above, and paramount to, and controls the action of Congress?

In propounding this interrogatory, I do not forget the earnest, deep, powerful discussion which took place in the early days of the Republic in reference to the power of the President of the United States to remove Cabinet officers without authority of law. I know it was assumed by Hamilton, and other advisers of General Washington, and by subsequent American statesmen, that the power of the President to remove an officer was granted by the Constitution; and that he could, of necessity, exercise the power without any authority of Congress. That doctrine is now attempted to be applied in reference to the power of the President to appoint foreign ambassadors, ministers, and consuls, without the authority of Congress; and it is assumed here this morning, gravely in debate, by distinguished gentlemen, that that power stands paramount to the power of Congress over the question. Now, sir, when I come in conflict, in my understanding of the Constitution, with great men who have given it a different construction than that which seems to me to be right, I do it with a great deal of diffidence; but I do it because I feel that the responsibility of every member here requires him to state his position on such questions. I look upon this Government as a Government of law. I look upon the Constitution as granting powers which are to be exercised in accordance with law, and not without law. I look upon it that, where authority is granted in the Constitution, Congress must provide the means of carrying out the grant of power in the Constitution. And this, sir, is nothing but another step towards Federalism; another step towards centralization; another step, not merely to place Congress above the authority of the Constitution, but to place the single power of the President above the power of Congress. Though this question

has come up incidentally, I have felt called upon to call attention to it.

[Here the hammer fell.]

Mr. LOVEJOY's amendment was rejected.

Mr. BOCOCK. Is the amendment now pending the original amendment of the gentleman from Illinois?

The CHAIRMAN. No, sir; the amendment of the gentleman from Georgia, [Mr. CRAWFORD.]

Mr. BOCOCK. To strike out the whole clause?

The CHAIRMAN. Yes, sir.

Mr. BOCOCK. I believe, sir, that we have a right to perfect the clause before that question is put.

The CHAIRMAN. The gentleman has that right.

Mr. BOCOCK. Then, in order to do so, I move to strike out the word "Denmark." I wish to say, Mr. Chairman, that doctrines have been promulgated here, by distinguished members of this House that, as a Virginia strict-constructionist and State-rights Democrat, I have heard, not without regret; and it is for that reason that I desire to make some remarks. I deny utterly the proposition, as stated by the gentleman from Georgia, and the gentleman from Kentucky, that the President of the United States has unlimited power to make appointments of ambassadors and other foreign ministers, and that we have no control over the subject. I say, sir, that that was not the doctrine in the early history of this body, and in the better days of the Republic. They were jealous then of Executive power.

I find that in 1798 a bill was introduced to regulate our foreign intercourse. To this bill, Mr. Nicholas, of Virginia, a stern and unflinching Republican, moved an amendment, the object of which, as he stated it, was "to reduce our diplomatic establishment to what it was before the late increase." After this statement of his purpose, it is said that—

"He then went into a detail of the proceedings of the First Congress, in order to show that it was admitted on all sides by that body that the Constitution vested the power of specifying and limiting the salaries of foreign ministers and consuls. He read the speeches of Mr. Lawrence, Mr. Sherman, Mr. W. Smith of South Carolina, Mr. Sedgwick, Mr. Huntington, and several others, from the Congressional Register, by which it appeared that there was but one opinion on their power under the Constitution, and showed from hence that the only reason why the House did not undertake to enumerate and fix the salaries of foreign ministers in detail arose merely from the want of information as to the places where they should be fixed. He also showed that he was supported in his construction by the President himself, in his late application to extend the appropriation to cover the appointment to Berlin, which would not have been requisite had the House not possessed a discretionary power on the subject."

The same view of the power of Congress was held by Mr. Gallatin, Mr. Pinkney, and other Republicans, in the same debate, while H. Gray Otis, and other Federalists like him, contended strenuously and successfully for presidential prerogative.

I have not examined the debate in the First Congress under the Constitution to which Mr. Nicholas referred, but it was not controverted in 1798, so far as I have seen, that he correctly described it.

In 1826, in the famous debate on the proposed Panama mission of Mr. Adams, the Democratic Republicans put forth the same doctrines as those of Mr. Nicholas in 1798.

A debate occurred about the same time on the "Rules of the Senate," in the course of which Mr. Van Buren, then Senator from New York, spoke of the alarming disposition which had manifested itself to concentrate power in the hands of the Executive, and to limit the popular branch. He says:

"The same disposition to limit the popular branch was forcibly illustrated in the discussion of the foreign intercourse bill in 1798. It upon that occasion contended, and successfully, too, that the House of Representatives had no discretion upon the question of appropriation for the expenses of such intercourse with foreign nations as the President saw fit to establish; that they would be justly obnoxious to the charge of gross delinquency if they hesitated to make provision for the salaries of such foreign ministers as the President, with the assent of the Senate, should appoint. What would be the feelings of real and unchanged Republicans in relation to such doctrines at this day?"

Mr. Van Buren then proceeded further to condemn this doctrine with marked severity.

In the able debate which occurred during General Jackson's administration on the subject of the Turkish mission, this claim of power for the

House of Representatives was again repeated and enforced by distinguished Republicans from Virginia and elsewhere. Mr. Woodbury, Senator from New Hampshire, whose soundness as a constitutional expounder all Democrats acknowledge, in the course of that debate said, he never supposed that the enumeration of ministers, judges, &c., in the Constitution, gave power to appoint any particular minister or judge, till a law or specific appropriation created a particular office. From the beginning of the Government the power to restrain and limit the President in this respect has been practically employed. At first, it was the practice to limit the President by restricting the amount of money which he should use for diplomatic purposes. They appropriated in advance a certain amount, and limited him to that. At a subsequent time they actually enumerated the missions—as does, to some extent, the law of 1856—and fixed the salary at each mission; and at different times, when the President has wished to establish a new mission, before he has done so, he has applied to Congress (as President Buchanan has done in relation to the mission to Persia) for authority to do it, by an appropriation in advance.

[Here the hammer fell.]

Mr. CRAWFORD. I desire to set myself exactly right on this question. The Constitution provides that the President—

"Shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present shall concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointment is not herein otherwise provided for, and which shall be established by law."

Now, sir, the President has the power, by and with the advice and consent of the Senate, to appoint ambassadors, public ministers, consuls, and judges of the Supreme Court. That is one distinct and separate power given him. Then, to include such as were not named, he has the general power granted to appoint all other officers whose appointment shall be provided for by law. That part of the paragraph which limits the power of appointment, to the officers whose appointment shall be provided for by law, has no reference to ambassadors and other foreign ministers. Now, this is my first proposition: that the President has the power, under the Constitution of the United States, to appoint ambassadors and other foreign ministers, without the authority of Congress.

Mr. KELLOGG. With the consent of the gentleman from Georgia, I wish to ask a single question. I will detain him but a moment. I understand the first proposition of the gentleman from Georgia to be that the President has the absolute right, under the Constitution, to appoint ambassadors and foreign ministers.

Mr. CRAWFORD. By and with the advice and consent of the Senate.

Mr. KELLOGG. Very well. I understand him, also, to hold that the President has the same power, by and with the advice and consent of the Senate, to appoint judges of the Supreme Court, without the consent of Congress. Now, I ask if he has not, under the same power, the authority to appoint as many judges of the Supreme Court as he may think proper, provided he can get the consent of the Senate to confirm such appointments?

Mr. CRAWFORD. Not at all; for that is regulated by law.

Mr. KELLOGG. The language is the same. Mr. WASHBURN, of Illinois. I ask my colleague, does it not specify the number of judges of the Supreme Court?

Mr. KELLOGG. I think not.

Mr. CRAWFORD. The number has been fixed by Congress.

Mr. KELLOGG. There is no difference in the language contained in the Constitution in reference to the two cases.

Mr. CRAWFORD. I said that the President of the United States had the power to appoint those ministers, and that he had appointed them. Their compensation has been fixed by law, and the bill reported to the House simply covers the compensation provided by law. Now, sir, in reference to the countries which the motion of the gentleman from Illinois proposes to strike out, Great Britain, France, and Spain, the law provides that those who come within schedule A, Great Brit-

ain and France, shall receive salaries of \$17,500 a year. Those embraced in the second class, which includes Spain, Austria, Prussia, Brazil, Mexico, and China, are to receive salaries of \$12,000 a year. The authority under the Constitution having been exercised by the President, the right of these ministers to receive the money constituting their salaries is fixed, and the refusal to make this appropriation will not change it. How do you escape the obligation arising under the law by simply withholding the appropriation? If you do refuse to pay them, you simply refuse to pay what Congress has already said shall be paid.

Mr. BOCOCK. I withdraw the pending amendment, which is to strike out "Denmark," and move to strike out "Holland."

Now, Mr. Chairman, I wish to continue the remarks in which I was somewhat summarily cut off by your hammer. I think the question of the gentleman from Illinois, over the way, [Mr. KELLOGG.] has thrown some light on the point I was about to discuss. When the Constitution of the United States provides that the President of the United States shall have the right to appoint ambassadors, foreign ministers, judges of the Supreme Court, &c., they stand all upon the same ground. The Constitution means that the President shall have the right to fill these offices, so far as they may be created or recognized by law. If he has not full discretion over the number of judges of the Supreme Court, which he may appoint, why is it that he has full discretion over the number of ambassadors and ministers? Of what avail is this claim of power for the President? Suppose the gentleman from Georgia be correct in his position, that the President has the right to appoint these ministers without authority of law: they cannot be paid until the House of Representatives shall pass upon the question of paying them. Compensation, under our system, is a part of the essence of an appointment. We have control of that subject, and therefore we may control the question of appointment.

We have, I say, the right, sitting here as the representatives of the people, by passing or rejecting appropriations, to determine whether a particular appointment is in accordance with law, and proper to be made, or not. If we have the right to control the matter, it is both just and expedient that we should say in advance what we will do. If we do not think a mission should be filled, by so declaring in advance, we give notice to the appointing power, so that it may regulate itself accordingly.

It has been admitted by wise men, on all sides in politics, that the constitutional authority on the part of the President to appoint judges, ambassadors, &c., is limited to filling offices established by law. It has been said that the domestic offices must be regulated by domestic, while the foreign offices must be established by international, law.

But this does not remove the difficulty which I have stated. The power of the President is not complete without action on our part; nor is an appointment of this kind, like a treaty, declared to be supreme law, which may not be gainsayed. We have as much right to judge of law and expediency in making the appropriation, as he has in making the appointment. Certainly, the question of precise compensation is not closed until the House of Representatives passes upon it; in passing upon it, it has full discretion to determine whether or not the appointment is of any value to the country, and what it is worth. Suppose we say that a minister to Persia would be worth nothing to us, and so declare in advance of an appointment: that is a declaration on our part that such office ought not to be filled.

But here I come to the main point of the argument submitted by the gentleman from Georgia, [Mr. CRAWFORD.] who contends that, as the appointments have been made, and the salaries fixed by the law of 1856, we should not lessen the obligations of the United States if we did not vote this money. The gentleman from Alabama [Mr. CURRY] has already suggested that appropriations have been made to pay these officers up to the 1st of July next; and the question which we discuss is, whether we must, in advance, commit ourselves to all these appointments, and declare them necessary and proper for the future, by appropriating money to enable the President to keep them filled after the 1st of July next. But, says the gentle-

man from Georgia, there stands the law upon the statute-book; and if the President proceeds to make these appointments, you are bound either to appropriate the money now, or to pay their salaries hereafter. I say that the law-making power which made the act of 1856 is entirely competent to repeal or amend it. If it were in order to move it as an amendment to an appropriation bill, we might declare any one of these missions as abandoned; we would have the right to say that the mission to Switzerland or Denmark is not a proper mission, and ought not to be filled; we would have the same authority to do that which Congress had to pass the law of 1856. It would have just the same binding authority. If we strike out appropriations for these purposes, we but declare to the President, in advance, that we do not consider it proper to send ministers to those Governments. That is it. They come here and ask us to invite the President to make these appointments, by giving him the money to do it with. We, on the contrary, say that the Congress of the United States, which has the control of the public purse, has the right to say to the President, in advance, that we do not want these appointments made; that we do not think they are useful to the country; and that we are unwilling to pay the men anything if he sends them there. It is a declaration on our part, in advance, before any services are rendered, and before there is any claim upon us. This declaration on our part would scarcely be disregarded. The law of 1856 does not require the President to make these appointments. It only authorizes him to do so. By refusing the appropriations, we would request him not to exercise that authority.

Mr. MARSHALL, of Kentucky. This is a matter of importance, and I am rather surprised to see the question raised in this House, at this day, in relation to the constitutional power of the President over this subject. No one has contested the proposition which the gentleman from Virginia [Mr. BOCOCK] advocates. Nobody has contended that the law-making power, the Senate and House of Representatives, do not possess the right of fixing the salary of these individuals.

The proposition which we contended for, was that the President had the right to appoint an ambassador, and to do it upon his own recognition of the public interest, without the appointment being provided for by law in the first instance. I understand, that if we cut off the salary, we thereby press upon the Executive our desire that we do not want the office; but I also understand, that if the President thinks the office necessary, he can go on and make the appointment, although we had cut off the salary.

If the gentleman will look at the law of 1856, he will see that it provides a specific salary to the ministers to Great Britain and France; and, in another clause, a specific salary to the ministers to Austria, Prussia, Spain, Brazil, and some other Powers; and, in still another clause, "to all other countries, each \$10,000." Now, the objection which we have with the frame-work of this bill is, that it specifies the amount of salaries, and the names of places, to which the President has not yet invited our attention; and, therefore, it becomes a suggestion from the Congress of the United States to the President to make those appointments. I am willing to vote to appropriate such an amount of money as will cover the missions to all the places specified in the act of 1856; and to make a surplus appropriation of \$10,000 for each of the ministers that the Executive, upon his own responsibility, may think proper to appoint to other countries; but I am not willing to suggest to the President that we desire an appointment to any country to which a minister has not yet been appointed.

Mr. PHELPS, of Missouri. I understand the gentleman from Kentucky to state that the bill proposes to appropriate money for ministers to other places than those recommended by the President of the United States. I will say to the gentleman that he is misinformed.

Mr. MARSHALL, of Kentucky. Oh, no; but to places other than those specified by law. I am willing to make a surplus appropriation, if it is upon the recommendation of the President.

Now, I want to say a word to gentlemen who are making objections to the exercise of this appointing power by the President. The President of the United States has the right to appoint ambassadors, ministers, consuls, and all other offi-

cers provided for by law. Suppose we come to the conclusion, in times of high party excitement, to cripple the Administration of this Government, and say we will make no appropriation for appointing a minister to Great Britain, and make an appropriation to send only a consul to Liverpool; does the gentleman from Virginia [Mr. BOCOCK] hold, and does he intend to maintain, the doctrine that, by such an expression of opinion by us, the President is restrained, and ought to be constitutionally restrained, from appointing an ambassador, if he sees that the public interest requires it? I understand the gentleman to say that he does advocate such a proposition. The practical workings of that principle, instead of making the Executive a coördinate branch of the legislative department of the Government, would be to bring him at the footstool of party, and make him a mere creature in the hands of men who control parties in this Hall.

Mr. BOCOCK. I would ask the gentlemen if he knows of any single case in which the President of the United States has ever appointed a foreign minister without the consent of Congress previously given, either expressly or impliedly?

Mr. MARSHALL, of Kentucky. I say to the gentleman that I have no idea that Congress, in the early days of the Republic, ever suggested to the President of the United States whom he should appoint, or to what place he should appoint. In the appropriation bills they placed an amount of money in gross in the hands of the President to conduct our foreign relations, leaving to him entirely to appoint when he chose and whom he chose.

[Here the hammer fell.]

Mr. BOCOCK, by unanimous consent, withdrew his amendment.

Mr. SHERMAN, of Ohio. I understand the proposition of the gentleman from Georgia to be to strike out all from line eight to line sixteen, inclusive, as follows:

"For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Portugal, Switzerland, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, and Paraguay, \$214,000."

Before that question is put, I desire to amend the clause proposed to be stricken out. I move to amend it so that it shall read as follows:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Spain, Brazil, Mexico, China, Peru, Turkey, and Nicaragua, \$105,000.

I will detain the House but a few moments. I think we ought to cut off a number of our representatives at foreign Courts; but I do not think we ought to cut them all off; and, therefore, I propose to amend the amendment of the gentleman from Georgia, [Mr. CRAWFORD.] We need a minister at Great Britain, at France, and at Russia. We have now complicated relations with Spain, and need a minister there. A minister at Brazil can attend to all our relations with South-American States upon the Atlantic side. I have also included a minister at Mexico, and one at China. Our commercial relations with China and Japan are increasing every year. We ought to have a minister upon the Pacific coast of South America, and therefore I have put in one for Peru. We should have one at some place in the Mediterranean, and I have inserted one for Turkey. We should have a minister at Nicaragua to attend to our relations with the Central American States. These are all the ministers we want at any Government in the world. I hope the amendment of the gentleman from Georgia will be amended by inserting these nations.

I have the law of 1856 before me, and have carefully computed the amount of their salaries as fixed by law; and that amount I have inserted in the amendment. There is no minister at Nicaragua, nor can there be, unless we make a law establishing one. Nicaragua is not mentioned in the law of 1856. I think it well that we should have a minister there, and for that reason I have inserted a minister for that place.

Mr. CRAWFORD. Let the gentleman look at the third line of the law of 1856, which says, "to all other nations \$10,000 each." If Nicaragua is not a nation, then it is not provided for; otherwise it is.

Mr. SHERMAN, of Ohio. The law of 1856 makes the salaries of ministers to England and France, \$17,500; to Russia, Spain, Austria, Prussia, Brazil, Mexico, and China, \$12,000; and "to all other nations \$10,000 each." The salaries are fixed, but the law does not say that we shall have ministers to all nations. If the argument of the gentleman from Georgia is good, then we should have ministers to about fifty other nations.

Mr. FARNSWORTH. I would like to inquire of the gentleman from Ohio whether that act repealed the act of March, 1855?

Mr. SHERMAN, of Ohio. This is a revision of our whole consular and diplomatic system. This law was prepared with great care by the Committee on Foreign Affairs in the Thirty-Fourth Congress, of which I was a member. It was drafted at the State Department. There is no provision in this law that requires a minister to be sent to the various countries, but it simply fixes the salaries, in case ministers are appointed according to law. If we make appropriations for them they will, as a matter of course, be appointed according to law.

Mr. FARNSWORTH. By the act of March, 1855, the President is required to appoint ministers.

Mr. SHERMAN, of Ohio. That is repealed by the law of 1856, which embraces the whole subject. It is expressly repealed by the thirty-third section.

Mr. STEPHENS, of Georgia. I am opposed to the amendment offered by the gentleman from Ohio, and am entirely opposed to the views submitted by him and others on this subject of foreign missions. I do not believe that the service of our foreign ministers ought to be restricted. On the contrary, my deliberate opinion is that it ought to be increased, and that the salaries, in almost every case, ought to be increased. That is due to our dignity as a nation. What my colleague [Mr. CRAWFORD] remarked, I believe to be true, although the gentleman from Virginia [Mr. BOCOCK] controverted it, namely, that the mail route agents and messengers receive more pay, by almost double, than that provided in this bill for the entire diplomatic service of the country.

Mr. BOCOCK. Is that what the gentleman from Georgia understood me to controvert?

Mr. STEPHENS, of Georgia. Yes, sir.

Mr. BOCOCK. I said nothing at all about the matter.

Mr. STEPHENS, of Georgia. This bill embraces, I believe, all our diplomatic and consular servants abroad; and I find that the payments of our foreign ministers sum up to only \$214,000.

Mr. LOVEJOY. That does not include the consular salaries.

Mr. STEPHENS, of Georgia. No; it is for the payment of our ministers.

In this country, Mr. Chairman, where the annual expenditures have amounted to \$70,000,000, and where we will, perhaps, appropriate again a like sum, I present that naked fact, that the entire diplomatic service of the country does not cost the fourth of one million dollars.

Another striking fact I would call the attention of the committee to, and it is this: that the judiciary system, the legislative department, and the executive department of the country—the intellectual part of it, if you please; the head of the organism of the Government—do not cost, in the aggregate, \$5,000,000. There is no other Government on earth that presents such a spectacle. In my judgment, if the salaries of your President, and your judges, and your legislators, bore a proper comparison with the whole expenditures, these expenditures would fall to one half less. It is the contracts; your Army contracts; your Navy contracts; your book contracts; your post office overland mail contracts, and all these things, that swell the expenditures to such an amount as must bankrupt the Treasury unless we can stop the evil. But I think that gentlemen in this House have commenced at the wrong place. It is not by striking down the appropriations for your foreign diplomatic service, or by cutting down the salaries of the members of the House or Senate, or of any of our officers, that a saving is to be effected. My judgment is, that all the salaries are too small. The aggregate of them all, as I stated, does not amount to \$5,000,000—a mere drop in the bucket as compared with the enormous expenditures of the Government.

Now, a word in reply to the remarks of the gentleman from Ohio, [Mr. SHERMAN.] He spoke of the necessity of creating by law a mission to Nicaragua. I concur in every word that the gentleman from Kentucky [Mr. MARSHALL] has said on this point. It requires no law to create a mission. If I am not mistaken, the mission to China was instituted by President Tyler without the authority of law; and we all see the important results that have flowed from it.

Mr. MARSHALL, of Kentucky. It was recognized by law afterwards.

Mr. STEPHENS, of Georgia. Certainly. The gentleman from Kentucky is right in saying that the appointing power is with the President, and that he may exercise it even without consulting the Senate. The Senate may refuse to ratify the appointment, but the appointing power is there.

Mr. BOCKOCK. The words of the Constitution are, that the President shall "nominate, and, by and with the consent of the Senate, appoint." He cannot appoint without the consent of the Senate. The language of the Constitution is expressed on that subject.

Mr. STEPHENS, of Georgia. I suppose the President would not make a nomination, unless he supposed the Senate would confirm it. But I take it for granted the President would not hesitate to nominate, and, if the Senate were not in session, send out a commissioner, if the public exigencies required it, leaving to the Senate to confirm his action afterwards.

[Here the hammer fell.]

Mr. SHERMAN, of Ohio, called for tellers on his amendment.

Tellers were ordered; and Messrs. BUFFINTON and PEYRON were appointed.

The committee divided; and the tellers reported—ayes 63, noes 61.

So the amendment of Mr. SHERMAN, of Ohio, was agreed to.

Mr. CLARK B. COCHRANE. I move to increase the appropriation \$1,000.

Mr. CRAWFORD. What is the state of the question now? What effect had the amendment of the gentleman from Ohio on my amendment?

The CHAIRMAN. The question now is upon the amendment as amended; and the Chair does not think that any further amendment would be in order at this time.

Mr. CRAWFORD. I desire to say to the committee that, as the amendment of the gentleman from Ohio has been sustained by the committee, and as it affects the very same object that I had in view, which was to pass this particular section of the bill, I shall not insist on my amendment, but will withdraw it.

Mr. FARNSWORTH. I object to its being withdrawn.

Mr. SHERMAN, of Ohio. I call for the question on the amendment as amended.

Mr. CURRY. I desire to ask the Chair whether the proposition of the gentleman from Ohio was offered as an amendment to the amendment of the gentleman from Georgia?

The CHAIRMAN. That was the understanding of the Chair.

Mr. GROW. The gentleman from Georgia moved to strike out the whole section. The gentleman from Ohio had a right to perfect what was proposed to be stricken out. It was not an amendment to the amendment, but an amendment to the original text, before the vote was taken on striking out.

Mr. CURRY. Then, to carry out the amendment of the gentleman from Ohio, which has been adopted by the committee, it is necessary that we should adopt the amendment of the gentleman from Georgia.

Mr. GROW. No, sir; it is not.

The CHAIRMAN. The amendment of the gentleman from Georgia was absorbed in the amendment of the gentleman from Ohio. The question now is on striking out and inserting.

Mr. CRAWFORD. I will withdraw my amendment. I am content with the amendment of the gentleman from Ohio, which has been adopted. That accomplishes the purpose I had in view.

The CHAIRMAN. The gentleman would require unanimous consent to withdraw his amendment.

Mr. SHERMAN, of Ohio. I object; and ask for the question on the amendment as amended.

Mr. GARNETT. I rise to a question of order.

As I understand it, the question now before the committee is on the amendment as amended. I wish to inquire of the Chair what it is that will be stricken out if we agree to the amendment as amended? Is it the clause as it stands in the bill as reported by the Committee of Ways and Means, or that clause as amended by the votes of the committee the other day?

The CHAIRMAN. The pending proposition is to strike out the whole clause, and insert the proposition as offered by the gentleman from Ohio.

Mr. GARNETT. Precisely; but what is the whole clause that will be stricken out? Is it the whole clause, as it stood originally in the bill reported by the Committee of Ways and Means, or is it that clause as amended by the Committee of the Whole the other day?

The CHAIRMAN. The Chair understands the proposition to be to strike out the whole clause, and insert.

Mr. GARNETT. Then the point of order I wish to raise is this: if the committee adopt this amendment as amended, the consequence will be that when we go into the House, we shall not be able to get separate votes on the motions to strike out Persia, Rome, and other places which were stricken out by the committee the other day. The only question before the House will be on striking out the whole clause, and inserting the proposition of the gentleman from Ohio. I therefore hope that, if the committee meant anything practical by the votes of the other day, they will vote down the motion to strike out and insert.

The CHAIRMAN. The Chair does not understand the gentleman from Virginia as having made any point of order.

Mr. GROW. I will raise a question of order, in order that I may understand how this question stands. The gentleman from Georgia, as I understand it, made a motion to strike out the whole section. The rule gives each member a right to perfect what is proposed to be stricken out before the vote is taken on striking out. I understand the gentleman from Ohio to propose to perfect what the gentleman from Georgia proposed to strike out. If so, then the question as it stands now on the motion of the gentleman from Georgia is, whether we will strike out the section, as perfected by the motion of the gentleman from Ohio. If the Chair decides that the gentleman from Ohio could not perfect what the gentleman from Georgia proposed to strike out, I shall take an appeal from his decision.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from Pennsylvania.

Mr. GROW. Does the Chair decide that the gentleman from Ohio could not perfect the section proposed to be stricken out by the gentleman from Georgia?

The CHAIRMAN. The Chair decides that the motion of the gentleman from Ohio was in order. The gentleman from Georgia having first made a motion to strike out the entire section, the gentleman from Ohio proposes to amend that proposition so as to strike out and insert.

Mr. GROW. That is as I understand the matter.

Mr. NICHOLS. I do not understand this question, and I know that there are a great many other gentlemen who do not. The proposition of my colleague has been adopted by the committee, and then the gentleman from Georgia rises and asks leave of the committee to withdraw his amendment. Now, the proposition of my colleague was an amendment to the amendment proposed by the gentleman from Georgia; and if that is withdrawn, then the proposition of my colleague falls with it, and that is the end of the question.

The CHAIRMAN. That would have been the case if the amendment of the gentleman from Georgia had been withdrawn, but objection was made to its withdrawal.

Mr. NICHOLS. Then it has not been withdrawn?

The CHAIRMAN. It has not.

Mr. NICHOLS. Very well. Now we can understand the question.

Mr. JONES, of Tennessee. Was not the proposition of the gentleman from Georgia to strike out the whole clause?

The CHAIRMAN. It was.

Mr. JONES, of Tennessee. Then the gentle-

man from Ohio [Mr. SHERMAN] had the right to propose to perfect that clause before the question was taken on the proposition of the gentleman from Georgia. It was not an amendment to his amendment, but it was to put that clause in a more acceptable form to the House before the question was taken on striking it out. Then, as the committee has the power to amend the proposition before the vote is taken on striking out, the amendment of the gentleman from Ohio to strike out a part of it has nothing at all to do with the proposition of the gentleman from Georgia; and, if the gentleman from Georgia has leave to withdraw his motion to strike out the whole clause, the amendment of the gentleman from Ohio does not fall with it as an amendment to an amendment, but will be reported to the House. The point I make is, that there is no connection whatever between the propositions of the gentleman from Ohio and the gentleman from Georgia.

Mr. CRAWFORD. That is my understanding, and I am ready to withdraw my motion and vote for the motion of the gentleman from Ohio, if the committee will permit.

Mr. MARSHALL, of Kentucky. I understand the original text here has been amended.

Mr. CRAWFORD. The original paragraph, from line eight to line sixteen, has been perfected by the gentleman from Ohio.

Mr. MARSHALL, of Kentucky. I understand that the other day the original text was amended by striking out "Persia," and by striking out "Rome." I understand, then, the gentleman from Georgia made his motion to strike out all the original text, and now I understand the amendment of the gentleman from Ohio is offered as an amendment to the amendment proposed by the gentleman from Georgia.

The CHAIRMAN. The gentleman from Kentucky will pardon the Chair for a moment. The proposition of the gentleman from Ohio was to strike out all that remains of this paragraph, except those Powers which he mentioned specifically, and that does not, in the judgment of the Chair, conflict with the action heretofore taken by the committee.

Mr. MARSHALL, of Kentucky. That is exactly the point upon which I desired information. If we shall vote affirmatively upon the proposition as amended, and adopt it, when we shall go into the House the vote will be upon that proposition as it stands; and if it is voted down the original text will be restored as it came from the Committee of Ways and Means; and therefore I say that by voting in the amendment of the gentleman from Ohio the committee virtually commits itself to make appropriations for paying the salaries of all the ministers reported by the Committee of Ways and Means.

Mr. SHERMAN, of Ohio. It seems to me that is a very simple proposition. The Chair will report the original bill back to the House, and will also report the amendments as made by this committee.

The CHAIRMAN. The Chair will report back the original matter, and then will report the amendments made by the committee.

Mr. MARSHALL, of Kentucky. I think the gentleman from Ohio is mistaken as to what the Chair will report.

Mr. SHERMAN, of Ohio. I ask the Chair if I have not stated it correctly?

The CHAIRMAN. The Chair will answer the gentleman's question according to the understanding of the Chair. The committee have, heretofore, stricken out a portion of this section, and the question is now upon the remaining portion. The gentleman from Georgia moves to strike out all that is left standing of the original paragraph. The gentleman from Ohio moves to amend that proposition of the gentleman from Georgia, by inserting the Powers which he specifically names in his amendment. The committee have both propositions. The committee adopted the amendment of the gentleman from Ohio, and the question now recurs on the proposition as amended; that is, will the committee strike out what was left standing in the original paragraph, and insert what is proposed by the gentleman from Ohio?

Mr. STEPHENS, of Georgia. I understand the object of my colleague [Mr. CRAWFORD] to be to obtain a direct vote upon the whole paragraph, by moving to strike it all out. If we vote

down the proposition, therefore, as amended, and take a vote upon striking out the whole, we shall then have a direct vote upon the general proposition; which, as I understand, is what the gentleman from Kentucky wants.

Mr. MARSHALL, of Kentucky. Exactly.

Mr. GARNETT. It seems to me a matter of great importance that the committee shall know what they are doing. Now, as I understand it, if the amendment of the gentleman from Ohio is adopted, striking out this whole paragraph, and inserting what he proposes, when the bill comes back to the House, the vote will simply be upon retaining the paragraph as it came from the Committee of Ways and Means, or upon adopting the sweeping proposition of the gentleman from Ohio; and we shall have no opportunity of striking out the appropriations for Rome, Persia, and some of the little Powers, which we almost all agree should be stricken out.

The CHAIRMAN. The Chair must say that his debate is taking a rather wide range.

Mr. PHILLIPS. I understood the gentleman from New York [Mr. CLARK B. COCHRANE] to move an additional amendment. I ask the Chair whether it is not in order further to amend this section before the vote is taken on the motion to strike it out?

The CHAIRMAN. The amendment of the gentleman from Ohio was to perfect the paragraph; the question is now upon the amendment as amended.

Mr. PHILLIPS. I wish to know if the section is to be considered as perfected by a single amendment?

The CHAIRMAN. In the opinion of the Chair no further amendment is in order.

Mr. BRANCH. Is there any debatable question before the committee?

The CHAIRMAN. There is not.

Mr. BRANCH. Then I object to all further discussion.

Mr. STEPHENS, of Georgia. I wish to make an inquiry of the Chair; because either I am mistaken, or the gentleman from Virginia is. If the committee now vote down the amendment of the gentleman from Georgia, as amended, will not the previous amendments made by the committee, the striking out "Persia" and "Rome," be reported to the House, where we shall have a direct vote on them in the House?

The CHAIRMAN. That is the understanding of the Chair.

Mr. CURRY. The gentleman from Georgia proposed to amend certain lines in the bill. Before the amendment of the gentleman from Georgia was submitted, the committee had stricken out several missions. Of course, the gentleman from Georgia proposed to amend only what was left in the bill; to strike out what was left. Therefore, it seems to me, if the amendment of the gentleman from Georgia shall be adopted, the Chairman must report back, when we go into the House, what had previously been done in committee, and which was not affected, and could not be affected, by the amendment of the gentleman from Georgia. Is not that so?

The CHAIRMAN. The Chair has already answered that question.

Mr. JONES, of Tennessee. If I understand this question, and recollect the action of the committee upon this clause of the bill, there was first a motion made to strike out "Persia." That was carried in the affirmative. There was then a proposition to strike out "Rome." That was carried in the affirmative. Then the gentleman from Georgia, on the Committee of Ways and Means, proposed to strike out the entire text which specified the ministers to foreign countries. The gentleman from Ohio, [Mr. SHERMAN], as he had the right to do, proposed further to perfect that clause by striking out certain other parts of it; not as an amendment of the proposition of the gentleman from Georgia, but by way of perfecting that clause. That has also been voted in the affirmative. Now, then, the question comes up upon the motion of the gentleman from Georgia, if he does not withdraw it, "Will the House strike out the entire section?" If the question shall be determined in the negative, then I take it that the Chairman of this committee, when we go into the House, will report each separate amendment, first to strike out "Persia," then to strike out "Rome," and then to strike out all that portion not included within

the amendment of the gentleman from Ohio. A vote will be taken upon each amendment separately. But if the motion of the gentleman from Georgia to strike out the entire clause shall be decided by the committee in the affirmative, the chairman will report to the House that the committee have instructed him to recommend to the House to strike out the whole clause, and then there will be no other amendment to vote upon. This committee cannot report to the House a recommendation to amend a section, and then to strike it out. You must either report a recommendation to amend a section or clause, or to strike out the whole of it.

If the committee are desirous to vote in the House upon the amendments which have already been adopted, the only way they can get to a vote upon them in the House, is now to reject the proposition of the gentleman from Georgia—a proposition I understand he is willing to withdraw. But if the majority of the committee are disposed to strike out the entire section, (and that is the vote they want to have in the House,) then they will vote for the proposition of the gentleman from Georgia now; and then that naked and isolated question will be reported to the House alone.

Mr. LOVEJOY. I rise to a point of order. This whole discussion is out of order.

The CHAIRMAN. It is all out of order; but the Chair has allowed it by general consent.

Mr. BRANCH. These discussions, I acknowledge, are very astute; but I do not see that they make the question any more clear than it was before, and I therefore desire to be considered as a standing objector to the consumption of any more time in its discussion.

Mr. SHERMAN, of Ohio. I desire simply to make a proposition to the gentleman from Georgia, [Mr. CRAWFORD], and that is, that he shall withdraw his amendment, by the consent of the committee, and that I shall then have leave to offer my amendment as an independent proposition, as, indeed, I should have a right to do.

Mr. JOHN COCHRANE. I ask for the reading of that portion which is proposed to be stricken out by the gentleman from Georgia.

The portion proposed to be stricken out was read.

Mr. CURRY. I rise to a point of order; and that is, that the Clerk has not read properly the amendment submitted by the gentleman from Georgia, because he included the countries which had been previously stricken out by the committee, and which, therefore, were not in the clause.

The CHAIRMAN. The Chair did not pay attention to the reading by the Clerk. The Chair understands that those places which had been previously stricken out are not included in the clause proposed to be stricken out by the gentleman from Georgia.

Mr. CURRY. But the Clerk included them in reading the amendment. The gentleman from Georgia did not propose to strike out what was not in the bill.

The CHAIRMAN. That is the understanding of the Chair.

The pending question being upon the amendment of the gentleman from Georgia, as amended, Mr. EUSTIS demanded tellers.

Tellers were ordered; and Messrs. GARNETT and UNDERWOOD were appointed.

The committee divided; and the tellers reported—ayes seventy-nine, noes not counted.

So the amendment, as amended, was agreed to.

Mr. STANTON. I move, *pro forma*, to amend by increasing the appropriation \$5,000. The gentleman from Georgia [Mr. STEPHENS] stated a moment ago, that, according to this bill, the diplomatic service of the country cost less than a quarter of a million dollars. I find that, in that, he is mistaken. It costs \$337,000. The diplomatic and consular service costs \$1,000,000; and the diplomatic service alone costs, as shown by this bill, \$337,000. I withdraw my amendment.

Mr. MORSE, of Maine. I move to strike out lines twenty-one and twenty-two, providing for secretary of legation and dragoman at Constantinople, and insert in lieu thereof the following:

For salary of dragoman of the legation to Turkey, \$1,000.

This amendment, Mr. Chairman, proposes to dispense with the secretary of legation to Tur-

key. I believe that if we were to call for the correspondence between the Turkish Government and ours, we should find that not one dispatch in a month passed between the two Governments; and it seems to me to be unnecessary to pay \$2,000 for a secretary of legation, when we have a minister there who ought, at least, to write one dispatch a month. We allow him a dragoman to translate that one dispatch. We have also at Constantinople a consul, and we allow him an interpreter; and it seems to me that our minister could get along very well without a secretary of legation. I am not one of those, Mr. Chairman, who think that they are accomplishing their duty by striking out a few thousand dollars from an appropriation bill. I do not approve of striking out the section for the salaries of ministers, because I have not sufficient knowledge of the diplomatic intercourse of the country to enable me to say that one half of our ministers abroad can be dispensed with. I do not believe that our relations with all other nations are now in that state of peace and quiet that we can entirely dispense with our diplomatic officers abroad. If we are able to get along without them, that is one thing. If we are to keep up diplomatic relations with foreign countries, let us do it; but if, on the other hand, we are to rely on special ministers at all times and in all places, let us establish that system. But, to undertake here, with no investigation, and with the little intelligence that the House seems to possess in regard to the necessities of our foreign missions; and to undertake to decide, off-hand, how many of them should be dispensed with, is a thing that I am not prepared for. I do not understand enough about it, and I will not vote for any such proposition till I do understand it.

But here is a proposition that I think I do understand. I know that for several years one man held at Constantinople the office of secretary of legation, of consul, of dragoman to the legation, and of dragoman to the consul. The offices are now divided; and it seems to me that we can dispense with one of these officers. Here is a distinct proposition where a couple of thousand dollars can be saved. If any gentleman can show that this secretary of legation is absolutely necessary at Constantinople, I will withdraw my amendment; for I do not go for striking down any officer that is necessary for the commerce of the country, or for the convenience of our citizens traveling abroad. Take Rome for example. We have learned within the last day or two that the city of Rome is almost in revolution. There are a great many Americans there—artists and travelers. Many Americans reside there. Our minister is required there to sign passports, and to take care of our citizens. It seems to me, that of all the cities on the Mediterranean, Rome is the place where we most need a diplomatic representative.

Mr. PHELPS, of Missouri. I am opposed to the amendment submitted by the gentleman from Maine; because it is an attempt, in an appropriation bill, to prevent the payment of the salary of a public official. The act of 1856 provides that when the secretary of the legation at Turkey shall act as dragoman, his salary shall be \$3,000 per annum. That act also gives to that legation a secretary. The office is already filled. When the secretary also discharges the duties of interpreter, or dragoman, the salary is fixed as in the bill.

The gentleman's reasons would be good if we had before us a bill proposing to remodel our diplomatic intercourse; but secretaries of legation are allowed by law to all our missions abroad. The reason why no appropriation is made for their salaries in this bill is, that there is an unexpended balance sufficient to pay them. But this has always been provided for in a separate appropriation, because the same person fills the offices of secretary of legation and dragoman, and by the act of 1856, is entitled to a salary of \$3,000.

The amendment was rejected.

Mr. SEWARD. I move to decrease the appropriation for the contingent expenses of all missions abroad from \$50,000 to \$13,500. There were thirty-four missions originally provided for in this bill. The committee have struck out, I believe, twenty-four of them—leaving only nine. The amount contained in the bill for contingent expenses, divided amongst the thirty-four, would give \$1,500 to each; and if only nine are retained, \$13,500 will be sufficient for this item. I there-

fore offer this amendment, to conform to the amendment already adopted.

Mr. STEWART, of Maryland. I am opposed to the amendment of the gentleman from Georgia. I have listened, with a great deal of patience, to the views which have been presented by various gentlemen in relation to our diplomatic system.

Mr. SEWARD. I ask the Chair to enforce the rule confining the debate to the pending amendment.

The CHAIRMAN. That is the rule.

Mr. STEWART, of Maryland. I confess, sir, that I cannot subscribe to the policy that is proposed to be inaugurated by the various amendments that have been offered since this bill has been under discussion. I understand that the chairman of the Committee of Ways and Means has reported this bill to the House for the purpose of carrying out a law already upon the statute-book. The President has to take the responsibility of making the appointments under the act of 1856. I have not heard from any member of the Committee on Foreign Affairs that these appropriations are injudicious; and that committee which has charge of our foreign intercourse, is better posted, I apprehend, in relation to the propriety of these appropriations than any other committee. I, for one, am not prepared, as a member of this House, in the present condition of our foreign relations, without some intimation from that committee that these appropriations, amounting in all to less than three hundred thousand dollars, are not necessary, to undertake by piecemeal to detract from the position which our Government now occupies in its relations with foreign Governments. You may strike out the appropriations for one mission, or for another mission, or for this dragoman, or that secretary of legation, but what will you accomplish by so doing? Are the people of this country prepared to have it said that we cannot afford to make the necessary appropriations to keep ourselves in a respectable and dignified position in our intercourse with other countries? You may go into your districts and tell the people that you have taken ground in favor of a proposition of that sort; and when they come to understand the character of this bill, they will tell you that it was a very small business, and would not accomplish anything. Our expenses are not to be reduced by any system of this sort. But, sir, I rose merely for the purpose of protesting against the policy which it is endeavored to inaugurate here, so far as our foreign intercourse is concerned. I think it probable that in some cases where we now have inferior or consular officers, it would be better to have full missions. We have lost, as the experience of the country has demonstrated, in ninety-nine cases out of a hundred, by the miserable policy of undertaking to restrain—

[Here the hammer fell.]

Mr. EUSTIS. I move to amend the amendment, so as to increase the amount to \$39,000. On looking over the bill, Mr. Chairman, I do not find any provision made for the salaries of the different secretaries of legation.

Mr. PHELPS, of Missouri. I will explain the reason of that to the gentleman from Louisiana. There is an unexpended balance of appropriations in hand (or will be at the close of this fiscal year) sufficient for the payment of the salaries of the secretaries of legation; and therefore no appropriation for that purpose is needed for the ensuing year.

Mr. SEWARD. I make the point of order, that gentlemen must confine their remarks to the pending amendment.

The CHAIRMAN. The rule requires that gentlemen shall do so.

Mr. EUSTIS. I simply rose for the purpose of obtaining some information from the Committee of Ways and Means with respect to the salaries of secretaries of legation. On looking over the bill, I found that no provision was made for the salaries of the secretaries of legation at London, Paris, and elsewhere; but the gentleman from Missouri has satisfactorily explained that, and I have nothing further to say. I now withdraw my amendment.

Mr. CLAY. I move to amend the amendment of the gentleman from Georgia by adding \$1,000 to the amount; and I desire to say a word or two expressive of my views as a member of the Committee on Foreign Affairs, in response to the call

which, it appears to me, has been made upon them by the gentleman from Maryland, [Mr. STEWART.] I would greatly have preferred it, had the honorable chairman of that committee made known his opinions; but as no other member of the committee seems disposed to do so, I am very free to give mine.

I am opposed to the whole of the propositions that have been made in this committee for contracting in any degree the miserable sum which is already given for the foreign intercourse of this country. I was opposed to that which was done, the striking out of several of these missions, a day or two ago; and I was opposed as well to the arguments offered by my friend from Virginia [Mr. GARNETT] in support of those propositions.

Mr. SEWARD. I want this debate strictly confined to the amendment pending.

The CHAIRMAN. The Chair is of opinion that the gentleman is confining himself strictly to the amendment.

Mr. CLAY. The principal argument advanced by the gentleman from Virginia, [Mr. GARNETT,] a day or two ago, and which has been made by almost every gentleman here, it seems to me, addresses itself more to the consular system of the country than to the diplomatic system. The gentleman remarked the other day, in reference to certain points, that because we had very little commerce there, because it amounted to but very few thousand dollars a year, therefore we should have no diplomatic representative there. These arguments, sir, may apply very well to our consular system, but they have no application to our diplomatic system. Sir, every gentleman of this committee, I take it for granted, knows, as well as I know, that some of the smallest Courts in Europe are, in a diplomatic point of view, among the most important in the world.

Mr. CURRY. I ask the gentleman whether here is any Court at Naples?

Mr. CLAY. I answer the gentleman that there is.

Mr. CURRY. I ask the gentleman whether there is any Court at Rome?

Mr. CLAY. I answer the gentleman that there is. I will inform the gentleman that the Pope is not only the head of the Church, but that he is also a temporal potentate.

Mr. CURRY. Does he ever send ministers abroad, except for special purposes?

Mr. CLAY. Yes, sir.

Mr. CURRY. Will the gentleman name a Court where he has a resident minister?

Mr. CLAY. I will inform the gentleman that he has a nuncio resident in almost every Court in Europe.

Mr. CURRY. Are not his nuncios always sent for special purposes?

Mr. CLAY. No, sir. The Pope of Rome is a temporal sovereign, as well as the spiritual head of the Church. It is well known that very often the most important negotiations in Europe are carried on at Rome.

Now, sir, it is not only the duty of the representative at a foreign country to attend to the diplomatic relations immediately connected with this country; it is not only his duty to make treaties, and attend to the other general business of the country; but it is also his duty to obtain information; it is his duty to obtain information from any source from which he can obtain it, without acting the part of a spy, and communicate that information to his own Government; and frequently the most important information is obtained from the representative at the most petty State.

But, sir, I am opposed to this whole miserable system. I agree entirely with my friend from Georgia, who says that if we are to reduce the expenses of the Government, we have begun at the wrong end. In my opinion we ought not to waste the time of the committee and the House upon such a matter. I am prepared to vote for every mission, for every solitary mission for which the Committee of Ways and Means have reported an appropriation. These, sir, are my views, and I believe they are the views of most of the Committee on Foreign Affairs.

Mr. LOVEJOY. I am opposed to the amendment; and I want to say that I do not think either the gentleman from Georgia [Mr. CRAWFORD] or the gentleman from Kentucky [Mr. CLAY] have spoken to the point at all. The point is not as to

the amount these ministers plenipotentiary and envoys extraordinary are to receive. That does not enter into the question at all. The question is as to the utility or inutility of these missions. The question is not whether this so-called paltry sum of two or three hundred thousand dollars provided for the payment of these salaries is needed by these ministers; but the question is whether there is any use in it. I think that a minute examination of the history of American diplomacy will show that, as at present conducted, it is utterly useless. These men do not know the language spoken in the countries to which they go. If you want to get information, send some letter writer, some confidential agent of the Government, who knows the language and who can learn what is going on. I believe there is hardly an American minister abroad who can speak the language of the country to which he is sent.

A MEMBER. You should except the minister at London.

Mr. LOVEJOY. Yes sir; but it would seem, from the newspapers, that the minister at St. James, and the one at Paris, have entered into a kind of commercial or stock-jobbing agency, for the collection of railroad securities. The minister you have at France cannot speak the French language, as I understand; and I doubt whether, aside from the English language, there is any of our ministers who can speak the language of the countries to which they are sent. The question is, whether the whole system is not utterly useless. Instead of abolishing your consular system you had better retain it, for that is useful, while these ministers plenipotentiary and envoys extraordinary—and some of them are most extraordinary envoys—are of no use whatever.

The amendment to the amendment was not agreed to.

The question then recurred upon the amendment of the gentleman from Georgia, [Mr. SEWARD.]

Mr. MILES. I move to amend the amendment so as to make the amount \$70,000.

Mr. Chairman, I have been very much surprised at the whole course of this discussion. I hope there is no member of this House who is more sincerely an advocate of prudent economy than myself; but I must say that I consider this attempt to diminish the expenses of this Government by cutting down the appropriations for foreign ministers, as a penny-wise and pound-foolish policy. Sir, in my judgment, economy, like charity, should begin at home. We should begin by reforming abuses—the excessive, reckless, extravagant expenditures within our own immediate control. I am opposed to these proposed amendments, either as a matter of economy or for the purpose of reforming our diplomatic system. As a matter of economy, it is a two-penny affair. For the purpose of cutting down these appropriations a few thousand dollars, you are wasting the precious time of the House, with now only some thirty working days left, and you will have to leave the abuses of greater magnitude untouched. It does seem to me, with all due respect to gentlemen, that the time you are wasting upon this matter is worth more than the \$200,000 which you propose to save. If, on the other hand, your object is to reform the diplomatic system, I say that this is not the way to do it. Let your Committee on Foreign Affairs be instructed to report upon the subject; let them draw up a report, as elaborate as is necessary, to explain to us the changes which may be desirable, and the reasons for those changes. Let that report be submitted to the impartial consideration of Congress, and then we will understand it and be able to come intelligibly to some adjustment of our foreign diplomatic service.

I dislike the flippant way in which this matter has been treated by some gentlemen in this House. I look upon our representation abroad as occupying a position of great importance to the dignity of the country, as representing not only socially but politically the people of the country. I consider not the *quid pro quo* which we get for this service, but I consider that our dignity as a people requires that we should be represented abroad. I consider all these as so many arguments which we should have missions, and a number of missions abroad. But if we are to determine the question as to which we can best dispense with, let us do it cautiously, deliberately, and intelligently.

Mr. PHILLIPS. I am opposed to the amendment of the gentleman from South Carolina, because it increases the amount beyond the sum asked for by those in authority, and those who have the disbursement of the money. I am as much opposed to an increase in salaries as any gentleman in this House, and with every proper horror of executive usurpation, I have an equal horror of congressional usurpation, and that is what has been attempted here to-day. If gentlemen who are disposed to withhold the appropriation did so upon the ground that the time for the service had not arrived, they could justify their position. But when gentlemen say they are willing to allow the law to remain upon the statute-book which provides salaries for the persons who fill these places, and yet are not willing to provide for the payment of those salaries, and declare that their object is to repudiate the debt which the law creates, I say those gentlemen practice a sort of economy for others, which they would be sorry to see practiced for themselves.

Now, the gentleman from Illinois [Mr. Lovejoy] objected, among other things, that persons were sent abroad who are not qualified; that they do not speak the languages of the Courts to which they are sent. The gentleman is too fast. When the gentleman gets into the Senate of the United States, if he ever gets there, then will be the time for him to sit in judgment upon the qualifications of those whom the Executive sends abroad; then will be the time to rate the Executive for sending improper persons on foreign missions; then will be the time for the gentleman to say to a gentleman who is nominated to the Senate that he is not qualified because he does not speak a particular language; and then, perhaps, he can better justify himself than he can here upon the floor of the House of Representatives, for reiterating slanders against the Minister to London; a man who has spent a long and honorable life-time in his own country, and some years abroad. He is now reproached, for the first time, in a general and irresponsible way, as being a stock-jobber, and with no better foundation than the idle rumors of newspapers.

The Committee of Ways and Means is charged with an ungracious task at best. The rules of the House provide that they shall not appropriate, in an appropriation bill, money for any purpose not authorized by existing laws. They report bills in accordance with that rule. I am surprised that gentlemen, who have not the courage to face the music and bring in a bill to repeal the law, will stand up here and seek to reduce the salaries of ministers, attack an appropriation bill and refuse supplies, to coerce the Executive, as they suppose, to do their bidding, when every obligation of duty requires them to vote the appropriation which the existing laws require. I tell those gentlemen to repeal the law fixing their salaries, or reduce them to a nominal sum. But while there is a law creating the duty of making this appropriation, or which recognizes it, I appeal to the members of this House to make that appropriation.

[Here the hammer fell.]

Mr. MILES, by unanimous consent, withdrew his amendment.

Mr. EUSTIS. I move that the committee do now rise.

Mr. PHELPS, of Missouri. I hope the vote will first be taken upon the amendment of the gentleman from Georgia; and then I will move that the committee rise, with a view to having a night session; and I appeal to my friends to abstain from any further debate on the amendment.

Mr. EUSTIS. If we could have a vote now, I would withdraw my motion; but I am satisfied that we cannot do it, and therefore I cannot withdraw the motion.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 666, and had come to no resolution thereon.

HOUR OF MEETING.

Mr. PHELPS, of Missouri. I ask the unanimous consent to introduce a resolution, that on Wednesday next and thereafter, until further

ordered, the hour of daily meeting shall be eleven o'clock, a. m.

[Cries of "No!" "No!"]

Mr. PHELPS, of Missouri. Then I move to suspend the rules for that purpose. I now propose, having made that motion, which will come up in order next Monday, I will say that several gentlemen have appealed to me to have a night session; and if the House will permit, I will move that the rules be suspended, and that the House resolve itself into a Committee of the Whole on the state of the Union, with a view to a night session. If, however, the House will now take a vote in reference to meeting at eleven o'clock, I should be much gratified.

MOTION TO RECONSIDER.

Mr. WALTON. I rise to a privileged question. I move to reconsider the vote by which Senate resolution (No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States court-house stands, in Rutland, Vermont, in exchange for other lands adjoining said lot, was, on Saturday last, referred to the Committee on the Judiciary. The SPEAKER. The motion will be entered.

WILKES'S EXPLORING EXPEDITION.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House the aggregate expenditure of whatsoever nature, including all salaries, whether special or by virtue of official position, in the Army or Navy, or otherwise, on account of the preparation or publication of the work known as Wilkes's Exploring Expedition; also, what number of copies of the said work has been ordered, how they have been distributed, what number of persons are now employed thereon, their names and their salaries, how long they have been employed, respectively, and the amount of the appropriation now remaining undrawn.

CUBA.

Mr. BRANCH. I ask the gentleman from Missouri, who, I believe, holds the floor, to yield to me a moment that I may get an order from the House. I am instructed by the Committee on Foreign Affairs to report back to the House a bill appropriating money to enable the President to settle and adjust our difficulties with the Government of Spain, and for other purposes. I ask permission to do so, and if allowed, I will report the bill with a report, and then move that they be recommitted to the Committee on Foreign Affairs. The object simply is to get the bill and report printed. I would also include in my motion the printing of the minority report.

No objection was made.

COMMITTEE ON DESKS.

Mr. MILES. I ask the unanimous consent of the House to allow the special committee on desks to report at any time, and to have the report printed.

Mr. TOMPKINS objected.

Mr. MILES. I move to suspend the rules.

The SPEAKER. A motion to suspend the rules is already pending.

COMMERCIAL AGENTS IN CANADA.

Mr. HATCH, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be requested to furnish, at his earliest convenience, the number of commercial agents appointed by the United States consul general of the Canadas, on the northern frontier, and the amount of fees received by them during the year 1858.

Mr. COVODE. I move that the House do now adjourn.

WAR DEPARTMENT APPROPRIATIONS.

The SPEAKER laid before the House a communication from the Secretary of War, stating the amount of appropriations applicable to the service of the War Department for the year 1857-58, with the amounts drawn therefrom; which was laid on the table, and ordered to be printed.

DEFENSES OF PUGET SOUND.

The SPEAKER also laid before the House a communication from the Secretary of War in answer to a resolution of the House in regard to estimates for the defense of Puget Sound and the entrance to the Columbia river, and recommending appropriations for the same; which was re-

ferred to the Committee of Ways and Means, and ordered to be printed.

KANSAS CONTINGENT EXPENSES.

The SPEAKER also laid before the House a letter from the Secretary of State, transmitting a communication recommending an appropriation for contingent expenses for the Territory of Kansas; which were referred to the Committee on Ways and Means, and ordered to be printed.

* J. F. HOSHER.

The SPEAKER also laid before the House a communication from the Court of Claims, with the papers in the case of J. F. Hoshier, in conformity with a recommendation made by the House of Representatives.

CHARLES G. RIDGELY.

The SPEAKER also laid before the House a message from the Senate, requesting the return to that body of a bill (S. No. 144) for the relief of the legal representatives of Charles G. Ridgely, of the United States Navy.

The bill having been referred to the Committee on Foreign Affairs, that committee was discharged from its further consideration, and it was ordered to be returned to the Senate.

INDIAN DEPREDATIONS IN NEW MEXICO.

The SPEAKER also laid before the House, a memorial from the Legislature of the Territory of New Mexico in regard to Indian depredations; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The SPEAKER also laid before the House, a memorial from the same in relation to the adjustment of private land claims; which was referred to the Committee on Private Land Claims, and ordered to be printed.

GEOLOGICAL SURVEY OF NEW MEXICO.

The SPEAKER also laid before the House, a memorial from the same in relation to a geological survey of the Territory of New Mexico; which was laid on the table, and ordered to be printed.

COMMITTEE OF THE WHOLE.

Mr. MORGAN. I ask the gentleman from Pennsylvania to withdraw his motion to adjourn? Mr. COVODE. I withdraw it.

Mr. MORGAN. I offer this resolution.

Mr. DAVIS, of Mississippi. I object.

Mr. MORGAN. Is it in order to move to suspend the rules?

The SPEAKER. There is pending a proposition to suspend the rules, so as to fix the daily hour of meeting.

Mr. PHELPS, of Missouri. I give notice that on Monday next I will press that proposition. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and proceeded to the consideration of the President's annual message.

Mr. DAVIS, of Mississippi, (at four o'clock and twenty minutes, p. m.) moved that the committee take a recess until seven o'clock, p. m.

The motion was agreed to.

EVENING SESSION.

The Committee met at seven o'clock, p. m., (Mr. STEVENSON in the chair,) and resumed the consideration of the President's annual message.

THE HOMESTEAD LAW.

Mr. JOHN COCHRANE. Mr. Chairman, I am induced by the interest of the subject to speak to the principles which, in my judgment, support, while they demand, a homestead law. Though not before us for immediate consideration, no theme is more intimately connected with the state of the Union, and none of deeper interest to the popular mind. The uncontrolled air and the irrepressible water have ever been enjoyed without obstruction by all generations of men. As free as the air, passes with every people for a proverb; and indefinite power approaches

some degree of certainty when illustrated by that of the imperious surge. It would, however, be an error to ascribe this freedom to the necessity of these elements to the existence of man. Earth is equally so; and yet nothing has been more the subject of human monopoly. Doubtless to their evanescent qualities alone are we to attribute their common and continued enjoyment. It were vain to ascribe to human benevolence what is possessed in spite of the spirit of human aggrandizement. And it is clear, as little of credit as it involves, that were air and water in any degree capable of restraint, insatiate man would compel them to exclusive uses. To the causes, therefore, first specified, is it that we owe even now the water that we drink, and the air that we breathe. But because of the liability of the earth to the dominion of possession, are we obliged to witness the unequal enjoyment of land. No distinction can be made between them, either in the necessity of each to the sustenance of animal life, or in the title of all to them, which that necessity confers. The withdrawal of the nourishment of either would exemplify by decay the inadequacy of the remainder to the vital functions. Atmospheric appliances cannot slake consuming thirst; nor can either air or water supply the absence of nutritious food. From the evident essential nature, therefore, of these elements of earth, air, and water, to the sustenance of human nature, may we safely infer the right of man to their unlimited enjoyment—a right referable not to the arbitrary adjudications of human tribunals, but to a decree inseparable from the Divine scheme of life. Sir, no higher source of title can be imagined; certainly no purer one.

It is not necessary that, to be recognized, the argument should be addressed alone to the moralist. It commands, however reluctantly, the attention, and will compel the judgment, of all. Upon it, sir, depends the ultimate vindication of all possessory right. Whether it is the luxury of an advanced civilization that we apply, or its necessities that we appropriate, they all terminate in a possession derived originally from necessity—the necessity of supporting life. This it is which secured to the savage the food of the chase, and through which is still to be traced the right of the epicure to his dinner. This it is which confided to its occupant the rude shelter of his hut; and without this the possession of the palace would even now be insecure. All original possession was a possession based upon the wants of man; and all additions thereto, of whatever nature, which go to the denomination of wealth, rest upon this derivative title. The inference, therefore, is as clear as it is legitimate. If consequential accumulations depend upon the basis of a remote necessity, the union of a subject capable of acquisition to a present necessity of its enjoyment for the purposes of life, presents a right of possession equal to any other.

And so the lands which, in an early antiquity would have been the lands of their occupant, because essential to his support, if otherwise unappropriated, should now, by the same just title, be the lands of the occupant to whose sustenance they are necessary. I do not pretend, sir, that such would be the judgment of our judiciary. Its decrees pursue the channels which time has worn for them. But the justice which actuates law and the rights which inspire its decrees, proceed from this fountain both of justice and law—the right of possession necessary to the relief of a vital want. And yet how widely has man departed from the spirit of that right on which rests the superstructure of all his systems of law! Unconsidered millions are suffering in want of the food derivable from that land which other millions have usurped. The water flows, and we all partake of it; the air pervades, and we all breathe of it. Both air and water are incapable of man's dominion. But the avaricious could aspire to, and the powerful monopolize, the earth and its riches; and this prolific source of natural supply has been opened to a confederated few, and closed to the many whose life was made to depend upon its cultivation. Then, all other considerations aside, sir, it were simply but an act of common justice to confer upon the poor and industrious the means of support designed for all by the beneficence of Providence, in common with the support of air and water. It is to be observed that the proposition does not incline to a violation even

of existing rights of property. It could operate only upon a domain as yet unaffected by individual appropriation, and would conflict with no investiture of estate. Without disturbing systems of acquisition or their tenure, the distribution of unappropriated lands, by the supreme power of the State, among meritorious beneficiaries, would but reenact the first approaches made to a division of lands, and disclose anew in present application the very root from which proceeds all predial title—possession for support. Nor could the operation result in an abstraction of any portion of public values or in an unwarrantable diversion of them. Those to be benefited would be selected from a class most painfully allied to poverty. The largest drafts for rural employment would extend to dependent paupers. Their removal would, of a consequence, produce a sensible diminution of poor-rates; while their transfer to fields of active labor and enterprise would add greatly to the productive wealth of the country. Then, both as dictated by an inalienable right and recommended by an enlarged and liberal expediency, should unappropriated lands be distributed among those in need of them and qualified for their improvement.

'Sir, I have thus far contented myself with a simple exposition of the title which nature confers upon her children to the free enjoyment of those primal elements in the constitution of life, placed within the reach, and evidently intended for all. But the subject has another and more deeply interesting view. It would be very difficult to imagine how the race, which from early time has roamed the parent earth, should in its varied career have escaped the influences of earth; how the scene of all human action, the prescribed bound of human aspiration, at once its cradle and its grave, could have failed of inspiring the character and controlling the destinies of the millions who moved upon it. There is certainly a mysterious connection between man and the earth whence he was taken; an occult tie between man and the earth to which he returns. To account for the more superficial relations, it were no more than necessary to instance the obvious effect upon character of occupation and pursuit; or to instance the accepted predisposing agencies of climate and locality. These are referable to the recorded observations of the accumulated ages. The patient toil and frugal care of the far-spread plain, contrasts with the impulsive energies and ardent enterprise of the dwellers on the hills. Not alone the habits are the results of geographical abode; the virtues themselves assemble beneath genial skies, and qualify with hereditary characteristics the various nations of men. The soft airs of the Campagna inspire not as Alpine currents. The enervation of the one is not more incongruous with exalted thought, than are the stimulants of the other incompatible with inglorious ease. Virtue, in its abstract sense, to be sure, submits to no material thralldom—does homage to no geographical variety; but, a product of the mind, its peculiarities and their intensity depend upon mental habitudes, more or less affected by local social habitation. The listless repose of the peasant of the plain contrasts not more with the vigor of him of the mountain, than, perhaps, does the immemorial patriotism of the one with the hereditary subservience of the other. The even pursuits of uneventful life remind of nothing that is lost—conspire for nothing to be won. Their limit is bounded by a sufficiency for the present, and all beyond is surrendered to the unprofitable or the unknown. It is the battle with adversity which inspires its soldier with the sense of liberties lost, and of privileges to be regained. An unsatisfactory present, perhaps a present of wrong, impels him to the future for relief, for redress. The content of fruition is repelled by the anxiety of adventure, and the penalty which attends upon and the tyranny which oppresses his daily life, contribute to those elevated virtues which nourish and confirm the soul of the patriot. And so it is observable that a plant of however slow growth virtue may be, it is developed only amid the toils and deprivations of life. The sloth of abundance demoralizes, deteriorates, ruins; the man degenerates into the animal, and lives and falls to decay as the

"Eat weed

That rots itself in ease on Lethe wharf."

The immortal fructifies in toil, and is purified

by labor. And it is herein that the inexplicable connection, providentially instituted, between the punishment and the amelioration of the race, is discoverable. It is only through the accomplishment of his destiny that man can arise to the dignity of his being. His temporal prosperity is proportioned to his obedience to the supreme law, "in the sweat of thy face shalt thou eat bread till thou return unto the ground." Inseparably connected with this fate seems to have been the parent earth. "Cursed is the ground for thy sake; in sorrow shalt thou eat of it all the days of thy life," is the doom which, denounced from on High, has bound man in indissoluble bonds to the earth he inhabits, and has established between him and it those relations which regulate, at their various stages, his position in the social scale. Indeed, it is only when these relations are sundered, and the hand of labor is restrained from its ordained subject-earth, that rudimental civilization relapses into primeval barbarism. "When thou tillest the ground it shall not henceforth yield unto thee her strength," was the anathema that expelled the primal Cain, "a fugitive and a vagabond on the earth." And, since then, the horde in whose devious track devastation treads; the tribe whose career is but an endless circle of violence and rapine; the innumerable savage bands which, in conflict with order, rage ever during war, rank far beneath the inception, nor attain even the earliest grades of a primitive civilization. Fugitive and vagabond, they acquire nothing from stationary toil. The impossibility of accumulation excludes the possibility of proprietary distinction; and the lowest grade of human existence is thus maintained only by a successful suspension of the natural relations ordained between man and the soil. Anarchy but feebly expresses such a condition. There can be no confusion where there has never been order. It would be impossible, therefore, to approach improvement till a point has been reached of which improvement may be predicated. The earliest attainment of this point is perceptible at that stage of history where man is disclosed as dependent, however remotely, upon the products of the earth. The herbage necessary to the preservation of pastoral life necessarily suggested the propriety of its possession; and thence the herd and the flock reposed in the protection of the owner whose pastures they grazed.

Here we witness the faint dawning of a civilization progressive, as with the approximate dependence of man on the products of the earth. The nomad was succeeded by the agricultural. To agriculture succeeded commerce; and both were connected, by immediate ties, with the resources of the land. Now began to be developed those systems of law requisite to the establishment of property rights, originating at the earliest cultivation of the earth; those politics essential to the government of men engaged in a commerce of values extracted from the earth; those social distinctions derived from the divisions of labor, introduced by the necessities of labor bestowed upon the earth; in truth, all those domestic regulations, social institutions, and educational methods, attendant upon and composing what is termed modern society. At the base of this immense superstructure were to be found the material products of labor upon land; and the magnitude of its growth was ever to be measured by the extent to which man participated therein. Thus has the original inextricable combination of man's punitive doom with his destined prosperity, pervaded the history of his social progress, and vindicated the inscrutable wisdom of the Supreme decree. And as long as the mass was admitted to this appointed expiation of predial labor, was its freedom preserved.

But, as power encroached upon the common heritage, tyrannous oppression supplanted the independence of husbandry. And, exactly as the primordial law was violated, by the exclusion of the general man from participation in the rights of terrestrial possession and enjoyment, was his social equality subverted, and his mental and moral strength prostrated. And the transfer of rights thus violated, though to the aggressor, was necessarily attended by a corresponding accession of power to the latter. Hence the historical spectacle of the throne located upon possession of land, and of the prince representing the source of all title thereto. And hence, also, the principle which so long sustained the feudal system of villenage, and its adjuncts, proceeding from the predial

slave upwards, through vassalage and feoffment, through the intermediate grades of subordinate tenures to the paramount lord of the land. This was sovereignty; possession of the soil; of the domain; not emblematic merely, but an actual reduction of the estate of the subject to the King; to the one powerful land monopolist—despot. The more general and successful this absorption, the more general and complete the slavery; and every infraction of the law, and every casual exception thereto, has been a corresponding advantage, immediate and positive, to the enslaved. To guard against popular independence, and to confirm the supreme power forever, barriers against the return of their estate to the people were erected by statutes of mortmain and *quia emptores*; and the requisite machinery for securing land to the titular lord was invented and applied in the laws of entail. The allodial tenure, or title independent of the throne, disappeared; and the concentration of all title in the prince completed, at length, the scheme of popular servitude. Such was the system of oppression, imported from the north, gradually into every part of Europe, where right was to be oppressed, or wrong to be established—a system dependent upon the removal of the land from the approach of labor, and its degradation to the monopoly of power. However successful its introduction among the Saxons, it is evident that their innate love of liberty directed against it a constant resistance. The struggle has not yet ceased. An intuition of liberal principles pervades every part of the common law—that astonishing monumental code of the traditional progress of the Saxon mind from feudal error towards the true basis of popular liberty. Indeed, the distinguishing characteristic of this race from all others is its avidity for land. Prompted by this superior love, they are insatiate in its pursuit; not so much in the spirit of accumulation as for the sovereignty it represents—a sovereignty not of concentration on the throne, but of distribution among the people, the smallest landed possession of each of whom, long since, was recognized as the true popular citadel, in the maxim incorporated into their laws, that *"a man's house is his castle."* Upon this principle depends the vitality of constitutional liberty; and the degree of its prevalence marks accurately the progress made by popular right.

It may thus be perceived how man's happiness consists in his admission to his original rights in the soil, and in the enjoyment of the fruits of his labor; and how, in exact proportion as those rights have been enforced, has the liberty of the race been enlarged. This great truth does not depend upon the force of an argument. No history is there of a period, however remote, or of a people, however obscure, that does not attest it. The land tenures which afflict Europe are traceable uniformly, through the mazes of feudal fictions, to the lord paramount. Opposed as is this tenure to the allodial or popular tenure—that true representative of the right of each in a separate allotment of land—yet, whenever and wherever its exclusiveness has been expanded by the introduction of additional representatives of the soil, has also been observed a corresponding melioration of the condition of the race. There is a very marked difference between the individual rights enjoyed by the Englishman of the days when Gurth was born thrall to Cedric the Saxon, and those secured to the Englishman of to-day; when, with a population of something more than two hundred and twenty-five to the square mile, one in every four hundred and twenty of the inhabitants of Great Britain is a land owner. A rapid comparison of the relative liberty extended to the subjects of the principal Crowns of Europe, and of their landed investitures, will result in the same conclusion. I presume that it will not be disputed, that nowhere in Europe is the type of the absolute idea more strongly defined than in Russia. And it is precisely here that we discover that the largest proportion of the population is excluded from the land, save, indeed, as predial slaves. In the sparse population of but a fraction over twenty-eight to the square mile, but one in seventy-three is endowed with the smallest landed interest. In Austria the proportion is more generous, a population there of nearly one hundred and forty-two to the square mile affording a proprietary interest to one in about every forty.

Notwithstanding that the reign of Louis Napoleon is an unmitigated despotism, it is this off-

spring of the unnatural condition of the politics of France, in subjection to the will of one powerful mind. Its Government is elective; and the voice of the people, perverted by artifices as it may be, has here a more positive expression than elsewhere in Europe. All that is wanting to its just expression is the opportunity of education in the principles of government; and this is being afforded now by the multiplication, since the revolution, of the proprietors of the soil. With a population of nearly one hundred and seventy-three to the square mile, one in every eight is a proprietor of land. Perhaps the most striking illustration of the principle contended for is presented by Ireland—a country whose servitude has been truly and generally gauged and appreciated. There, with the same population to the square mile which occupies Great Britain, only one in six hundred and eighty is admitted to an interest in real estate. It is unnecessary to prosecute the inquiry into more minute details. In the same tabular comparison of freedom to the individual, and of his admission to the soil, rank the Governments of Russia, Austria, Ireland, England, and France, each, from the last, impressed with a more decided oppression of its subjects, and with their more rigid exclusion from its domains. The monopoly of the lands of the Romagna by six proprietors, accounts for and increases the abject character of Italian servitude; and if to this is added the statement that the proportion of land owners in the whole of Europe, to its population, is but one in every twenty-one, and that their proportion to the population of the United States, is as one to every three and nineteen one hundredths, the equal difference between the liberties of the two continents exemplifies, with irresistible effect, the proposition that the freedom of a Government and of its institutions is in exact proportion to the fee title of the people in the soil which they occupy.

It is to be remembered here that this comparative statement proceeds upon the assumption of but one tenure of lands—the feudal tenure—the one most unfavorable to individual development. But the prevalence in the United States of the allodial tenure is, in itself, full admission of the necessity there is of access to land for the preservation of the independence of the race. By this, the entirety of the estate is conferred on its possessor. It is with him in full sovereignty—undivided, unrestricted. With it, the paucity of the citizen's investiture is complete and invulnerable. Without it, the inalienable and sovereign rights of the person are exposed and endangered. On this combination of imprescriptible personal right, with an allodial right to land sovereignty, rests the whole theory, and depends the perpetuity of American freedom. And the more nearly our practice approaches this theory, the more congruous become the various elements of our political existence; the more extensive the participation of our population in the soil, the surer and broader and deeper-laid will be the foundations of our Government. Simply then, sir, as an expedient of wise statesmanship, should we so order, that our unappropriated domains be distributed in proper proportions among our landless citizens. But, whether it were wise or not, the land is theirs; and there is no justice in the attempt to withhold it from them. Not an acre of land was there originally ceded by any of the original States, that was not limited for the use and benefit of the United States then, or in prospect, "and for no other use or purpose whatever." And all the lands since acquired, whether by purchase or conquest, range indisputably within the same broad trust. It admits, therefore, of no cavil that the public domain is what it of right ought to be—the property of the people of the United States, to be used and disposed of for their benefit indiscriminately.

There is, however, sir, another view of which this subject is capable, and inferior to none of those derived from discretionary considerations. It has, within a few years, come to be questionable what solution awaits that fearful problem in self-government in process of construction by the large cities of the land. The penetration and consequent connection of the most distant regions of country by railroads is hastening population into commercial centers. Rapid as has, in consequence, been the growth of large villages, the usual evils of a crowded population have kept pace

with the increase. When, therefore, we reflect that full one quarter part of the whole population of the Union dwells in our cities and villages, we shall be at no loss to measure the extent of their aggregate corruption and depravity. There, as into a common reservoir, flow constant supplies of vice from the moral wastes of the land. Thither hasten the scheming speculator, the artful impostor, the knave, all promiscuously buffeting the angry sea of conflicting interests and contributing to the seething fermentation of passion and of crime. Such the orgies whose lurid light penetrated even the darkened visual chamber of him whose inspiration portrayed, in never-dying numbers, the reign of vice:

"In luxurious cities, where the noise
Of riot ascends above their loftiest towers,
And injury, and outrage: and when night
Darkens the streets, then wander forth the sons
Of Bellal, flown with insolence and wine."

Crime is increasing at a fearful rate throughout the land. Its refugees are maintained amid populous throngs, and our cities are its sanctuary. To stay its devastating tide, they must be depleted of their teeming population; and, to this end, inducements should be offered to those who barely survive the confinement of cities, upon a scanty pittance, to seek for the health and competence which the open country promises. The distribution of limited quantities of arable land to these would materially contribute to the desired object. Nor least, sir, among the national benefits to be anticipated from such a measure, would be the practical appropriation, by the equitable beneficiary, of a domain, now in the process of division among land speculators and jobbers. This class, under pretext of public improvements, and the national benefits projected by railroads, have already appropriated to their own uses more than thirteen million acres of the public domain, and are still importuning the public ear for additional gratuities. Year after year the dint of their solicitation is applied; and each year records its successive appropriation. manifold are these attractions, both to public speculator and to private monopolist. A vast extent of prolific lands, rank with vegetation and teeming with life; there they lie; the huge Promethean liver of the body politic; ever increasing under the ravenous appetite of the vultures that prey upon them. A way with it, ye erudite doctors of the national health, and restore it to those functions of nutrition for which nature designed it. So shall the plunderer be eluded, and the people be endowed with their own.

I have thus, sir, endeavored to prove the justice of a land distribution law by the natural title of every man to that portion of land necessary to his subsistence; by the necessary and intimate relation of land cultivation to his temporal prosperity, and his political independence; by his dependence upon a predial title for social elevation, moral attainment, and civil sovereignty; and by the certain relief from the inexorable results of increasing crime and public corruption which it promises. I will now proceed to the proof that the proposed allotment will conduce immeasurably to the material wealth of the country, and to its aggrandizement in power and glory. It is to be premised, however, that the period assumed is ten years for the results here claimed. I believe that it is an incontestable fact, that of the various nationalities that compose our population, the native is of most permanent location. I do not mean by this that it is least affected by the tides of emigration. Perhaps no people are more accessible to our adventurous mobility than the American. This, however, is to be understood only of the scions of families, and not of the families themselves. While characteristic enterprise leaves no region unexplored by American youth, an equally characteristic stability attaches the aged to the home scenes of their early endurance and trials. On the other hand, it may be asserted with equal truth, that the tendency of the whole of our foreign population is to migration; to a continuance of the emigrating effort which lands them on our shores, until it shall have brought them to those agricultural regions most attractive to their taste, and best adapted to their habits. Not that necessity and want do not force thousands upon the scanty and precarious livelihood of our large cities and towns, but that when relieved by the free proffer of a homestead at the West of the restraints of their limited means, those who now congregate, under the pressure of

necessity, within reach of city alms, in obedience to the instincts of their early life, will very generally seek an agricultural home.

I may, then, sir, with safety, assume that the alien population will, at the auspicious opportunity, with unanimity, adopt as their home the arable lands of the West. This portion of our inhabitants is constituted of the immigration previous to the year 1850, in number 2,240,535, and of those which have immigrated since then, namely, 2,394,157. Thus, of the foreign element that it is presumed would, sooner or later, embark in pursuit of free homesteads, if offered, we have 4,634,692 persons. Or, allowing six, the usual number of persons among this people, to a family, 772,448 families. Of the 3,598,193 families of native white and free colored persons in the United States, it is not an unreasonable presumption, when reflecting that there are but 16.82 houses to every 100 white and free colored persons in the United States, that 1,500,000 of them would be induced by the superior attractions of the West and a free homestead. These families, allowing the standard number of persons to every two of them, would comprise 8,250,000 persons. If these suppositions are but an approximation to facts, the provisions of a land distribution act would be availed of by 2,272,448 families, one half of which would be aliens; or by 12,884,692 persons, two thirds of whom would be Americans. Now, the unappropriated lands of the people of the United States, designated the public domain, amount to 9,062,500 quarter sections, of 160 acres each. The donation of one quarter section, therefore, to each of the 2,272,448 families last referred to, would leave still unappropriated and disposable 6,790,052 quarter sections, or 1,086,408,320 acres of land. The average price demanded and received by the Government for the public lands is \$1.25 per acre, at which standard of value their present estimated worth would be \$1,712,500,000. But the reduction, at irregular intervals, of one quarter of this vast area to tillage, together with the introduction through the whole of those facilities of locomotion and transportation attendant upon possession and modern agricultural cultivation, would necessarily affect favorably the value of the whole. Though comparatively a new country, yet abounding in such fertility of soil easily subdued, and blessed with a climate of unequalled salubrity, and capable of being so readily annexed by internal communication to the great domestic and foreign markets, it is no speculative opinion which would assign as the measure of increased value to the whole, through the agricultural occupancy of one quarter thereof, the average value per acre of the improved and unimproved lands included in the farms of the United States. This average value is \$11.14 per acre. It may, therefore, be reasonably assumed that the disposable lands remaining after deducting the actual appropriation, by settlers, under the provisions of a homestead law, would be worth ten dollars per acre; and as that remainder would be 1,086,408,320 acres, its value, thus compensated, would be \$10,864,083,200, or \$9,151,538,200 more than is the present value of the entire domain.

But, sir, let us now suppose the 2,272,448 quarter sections occupied under the beneficent provisions of a homestead law by these 2,272,448 families, we should thus be presented with the gracious spectacle of as many farms occupied by thrifty farmers, possessed of competency, and blessed with prosperity. No one will doubt that those of these families of American nativity would, apart from the products of the earth, be reasonably provided with a surplus beyond the bare means of subsistence, and that those of foreign birth would not be deficient may be asserted upon the highest authority—that each emigrant, man, woman, and child, landing at the port of New York, brings into the country, on an average, \$100 each, in coin. It may, therefore, be presumed that each farm would be fitly provided with farm-houses, out-buildings, and farming implements. As the average number of acres (203) to each farm in the United States exceeds, by a very few acres, the number assigned to each of the farms proposed for actual occupation, it will probably be safe to adopt as their average value the ascertained average value of the farms of the United States, and to affix to their farming implements the same average price; the first being \$2,258 per farm, and the last \$105 per farm; we have, thus, for the average

value of the farms and farming implements of the farms, within the States, the sum of \$2,362 per farm. Then the aggregate value of the 2,272,448 donated farms, and their respective farming implements, would be \$6,548,548,176. These do not by any means, sir, comprise all the additional material wealth to be derived from the practical operation of the principle I contend for. It is learned from accurate data that the revenue paid by each consumer of foreign fabrics or products is \$2.43. When you elevate from a state of inactive dependence a whole class of men, women, and children, to one in which success inspires the wish, and confers the means, of appropriating foreign merchandise, you create an increase of revenue to the Government exactly proportioned to the increased consumption of dutiable articles. Thus the 12,884,692 persons, beneficiaries of land distribution, would become contributors to the revenues of the country in the sum of \$31,209,792, annually. Nor is this all. These persons, from non-producers, would at once be included among the producing classes of the country, and so be each a tributary to its annual productive wealth. When we, therefore, revert to the fact that the average annual producing power of each individual in the United States is \$50.20, we would have, as another of the affluent results of the proposed system, an increase of \$646,811,538 to the annual production of the country.

Let us now collate these items of national wealth, thus promised by the acceptance of a rule of land division among our meritorious citizens and aliens, and learn what is the result that may be reasonably expected from its adoption. First, then, there is the enhanced value of the public lands remaining after the abstraction of those donated exceeding the present value of them all by..... \$9,151,538,200 00
Value of farms donated and farming implements..... 6,548,521,176 00
Revenue derivable from the occupants of donated lands, 31,209,792 56
Increased annual productions, 646,811,538 40
Total..... \$16,378,080,706 96

Suppose, however, sir, that, supported as this enormous increase is, by the statistical experience of the past, we nevertheless abate one half of the sum total, and still would the expectations of the sanguine advocate of the scheme be gratified with a real addition to the national resources of \$8,189,040,353.48. Sir, it is needless for me to dilate upon the advantages to flow from so just a measure in the presence of the figures I have given. Yet, could I, without imputation, be permitted to push my inquiries further, I would instance the colleges and schools that would, in a few short years, ornament and enrich a region thus seized from nature, to be conferred upon civilization; the railroads and canals that would penetrate the wilderness, and bear in rapid exchange the products of a newly recovered country with the foreign manufacture. I would review and collate all the incidental accumulation which attends upon national growth; the accretions of labor in its thousand employments and results; the affluence of mechanic wealth, of the manufactory, of the furnace, of the counting-room; and I would afford some idea of the magnitude of the values so important in themselves, and overwhelming in combination, by indicating that each of those who would contribute to these interests would, if the statistics of the present are a safe guide, pay to his local government \$4.24 of taxes for its support, or an accumulated tribute of \$54,631,094.08 for the 12,884,692 persons assigned to, and in the occupancy of, the donated domain.

But, sir, incredible as these results seem, they are but the exponents of a material gain to the annual store of our national wealth; they are but the measure of those vast internal resources which characterize the enterprise and the ability of a people. Inasmuch as from these may be derived an estimate of national greatness, they would reliably demonstrate that of our future; and, doubtless, they would be competent to the extent that wealth is an attribute of greatness, or a just index of relative nationalities. But, above and beyond all this, for the assertion of national influence, is the complexion of popular character, the energy and enterprise, the capacity and disposition of the race. These evidently are quite independent

of external appliances or artificial aids. They have their sources in, and are the product of, the physical and mental structure of the man. They emanate from that peculiar combination of the physiological with the spiritual, which distinguishes and separates the various people of the earth. These, though implanted by a superior and infinite power, receive, through successive generations of nations, as we have seen, the influences of climate and habitation. Original predisposition thus succumbs to habits; and complex individual characteristics eventually are absorbed in national traits. It is, therefore, sir, of great importance to national greatness that due regard should be had to these diverse sources of human character. Inferiority of physical development, of a necessity, affixes a limit to mental and confines the area of moral improvement. The existence, therefore, of a national physique of power, both of endurance and resistance; the procurement of a structure simply of nerves and bones and muscles, which shall preserve, by its occult galvanism, the benevolence and the enterprise, the virtue and the energy of the highest type, is a primary desideratum, and without which, topographical influences, though lasting as the centuries, are obviously ineffectual.

Now, the characteristics of race are easily to be distinguished, and their combinations are of ascertained results. Of the European family, the Teuton stock has been of accepted superiority. Its predominating qualities conferred upon the Saxon race its precedence, and still maintain its position in the front of the civilization of the world. It was the descendants of this portion of the human family who contributed in largest proportion to our colonial population. Its proverbial enterprise and indomitable energy supplied the means of subduing the wilderness. Admirable, however, as was this parent stock, its virtues shone with increased luster in its succeeding generations. The representatives of other races had effected extensive colonization upon our shores. A common experience produced sympathetic feelings; a common danger compelled unanimity of sentiment. Those sandered by tongue and opposed by habit, consequently assimilated more nearly in the scenes they all composed; and an intermingling of races became the result, not more of necessity than inclination. Thus was it, sir, that the men of the Revolution, in whose veins flowed the blood of the Saxon and the Celt in kindred affinity, were an order of men superior to those imported to enslave them. And thus was it that national freedom germinated from the inherent virtues of a people animated with the patriotism, and inspired with the combined earnestness, of the coalescing nationalities. Sir, that invigorating process has not yet ceased. Steadily has the current of emigration set upon these shores. Large masses of men, of various language and extractions, have domiciled, at intervals, in our midst; and gradual, though efficient, has been the universal blending of races. And continuously, through the future, will this human tide flow on. Its annual volume (at the greatest four hundred and sixty thousand five hundred people) will soon be resumed, and, with progressive acceleration, will proceed in the march towards a composite order of men, the type of whose civil prowess the world will never before have witnessed.

But, to encourage the just development of the qualities of such a people, it is requisite that an appropriate theater should be provided for them. Hitherto has the replenishment of population been chiefly confined to the territorial area between the Atlantic and the Mississippi. And the magnitude of its extent, its grand geographical features, its variety, and the sublimity of its scenes, certainly have furnished a worthy seat for the education of that superior race which have possessed and now occupy it. But, vast as is the space, it has already proved inadequate to the restless march of American civilization. Many years since were the western waters passed, and cities and towns now exist and flourish many miles beyond them. The ceaseless activity of American mind encounters all obstacles and invades every field. The adventurous emigrant follows rapidly wherever land and a home invite; and it is obvious that the migration of an army of Americans and Germans, of Irish and Scotch, such as a free distribution of lands would inevit-

ably and immediately precipitate, would require a country vast in extent, prolific of resources, and abounding in salubrity of climate and fertility of soil. Such a country stretches between the western limits of our most western States and the waters of the Pacific. There it lies, plain and mountain, slope and table land, a spectacle of nature, in beauty and grandeur unequalled by any other on earth. The meridian line which terminates the States of Louisiana, Arkansas, Missouri, and Iowa, on the west, is the eastern limit of those great plains or savannahs, which are broken only at the foot of the Rocky Mountains. Confined by these lateral boundaries, they extend north and south one thousand miles in width, from the Texan to the Arctic coast. Of an undulating surface, they are spread gracefully to the eye, without interruption of abrupt mountains, timbered space, desert, or lake, and bounded only by the horizon. The soil is of a fine calcareous mold, covered with nutritious perennial grasses, among which chiefly prevails the gramma, or buffalo grass. Far into the interior penetrate the affluents of the Mississippi, the Missouri, and the St. Lawrence—navigable rivers, irrigating, but not draining, the neighboring surface. From their margins extend many broad bottoms, adapted to farming purposes. Here rain never falls, and storms are of rare occurrence. A climate more favorable to health, longevity, and intellectual and physical development, the world does not afford. Every variety of grass, grain, and vegetable, grows spontaneously. The grape, and every kind of fruit, flax, hemp, cotton, and the flora, attain extraordinary flavor, perfection, and beauty. Over this vast extent roam, in throngs estimated at one hundred million, the buffalo, elk, deer, mountain sheep, and other animals common to our western regions. Here, then, repose in unoccupied silence, the pastoral regions of America—the seat of a future empire of industry and commerce—stretching away, in its longitude, through the temperate zone into the arctic circle on the north, into the tropical zone on the south, and flanked by the Atlantic and Pacific—the arable and commercial maritime regions of the continent. Beneath the whole, as if to give to man the last assurance of perpetual dominion, bituminous coal is interstratified with calcareous and sandstone formation. Such, sir, is the country, in itself equal to the area of the twenty-four States east of the Mississippi, that awaits the appearance of a race fitted and prepared to achieve the empire of which it is the destined seat. It is hardly necessary that I should enlarge upon the peculiarities of that additional reach of land which, adjoining this on the west, extends, in mountain formation of vales and table lands, sixteen hundred miles broad, from Tehuantepec, four thousand five hundred miles to the arctic circle.

Such, sir, is but a compendious description of what constitutes three fifths of the area of the continent, and of what one day, and that no very distant day, is surely to be the theater of all that is grand and impressive in human history and national existence. And whose, then, should be the tread first to awake its undisturbed solitudes, if not the tread of more than twelve millions of native and alien emigrants which, I have contended, would follow upon the passage of a land distribution law; whose the presence that, in the ranks of social, industrial, and commercial life, should marshal the vast resources of that wonderful land, if not the presence of a people whose interfusion of blood would create a new order of mind, energy, and physical capacity, in the human race. Sir, it is there that the greatness of empire is to be accomplished. The sea-board regions are even now nursing the infant strength of that people, whose future composition from many stocks is to accomplish the looked-for unity of race, and whose peaceful exploits shall fill the whole earth. There it lies, under temperate skies, in its undulating savannahs, its alluvial bottoms, its invigorating waters; a land prepared, of all lands, for the race, of all races, to enter upon and enjoy. Importing to themselves of the foreign commerce of their maritime flanks, they will ply an interior commerce that will astonish the senses, and make tributary the wants of a world. The means by which the social life of the modern day is extended and developed, must work out there, upon an unequalled theater, astonishing results. Railroads will extend an impenetrable web over un-

measured distances, and carrels penetrate ever-continuing plains. The wealth of the earth, prodigally yielded, will be munificently bestowed, and in the central region of the continent will at length be witnessed the industry and the commerce, the intelligence and the arts, that shall decide and establish the character of the people of America.

But, sir, I know that there are those who, while the earnest and constant friends of the homestead law, are as earnest in their opposition to the extension of its benefits to aliens. I do not now mean to arraign that large mass of our fellow-citizens who for these years past have indorsed their faith by political action, and made the birth-right of an American the test of a political party. These principles have been subjected to the severe ordeal of a popular trial; and the result, I think, has shown that whatever may be the convictions of individuals upon this subject, they are not of such general prevalence as to inspire a party with either political effectiveness or permanent duration. This appears to have been the decision of the recent past; but, whether so or not, I would, sir, in this connection, address my argument to higher considerations than those which have ordinarily resisted the admission of the foreigner to the privileges of the elective franchise. The useful inoculation of the old colonial stock with the blood of the collateral branches of the race and its consequences, have already been adverted to; and the continuing process, in the vastly multiplied proportion I have signified upon those fields for human development, so admirably and so wonderfully spread before us in the map of the great West, has already been traced to its inevitable consequences in the wealth and power of an empire race, in their empire home. It is unnecessary, therefore, that I should occupy your attention further with this view of the subject.

But there is another, quite as essential to a full comprehension of the effects of foreign emigration, in the population of our country. It is clearly of the utmost importance, a due regard having been had for the character of our population, that its increase should be secured at the most rapid rate. It is not for me, sir, to enlighten the House with proof of the inefficiency of the natural multiplication of the species, to populate the continent within any assignable period, to the point of power and prosperity. No recorded instance through these means can be found of either national inception or maturity. But it is obvious to all experience, both ancient and modern, that the settled country, the populous city, and the expanding census, are invariably attributable to the introduction of a foreign population to the aboriginal, and to its procreating increment. It is, I believe, admitted that the proportion of the natural increase of the population, to that by importation, is as low as one to three. The population of the colonies at the time of their abjuration of the parental authority, was three million two hundred and thirty-one thousand nine hundred and thirty white and free colored persons. That population would, in 1850, have multiplied to but seven million five hundred and fifty-five thousand four hundred and twenty-three, if dependent alone upon the increase of births over deaths. But, through the offices of a kindly emigration, not of individual additions, but of the consequently enlarged ratio of natural increase, did our population, in 1850, reach nineteen million nine hundred and eighty-seven thousand five hundred and sixty-three white and free colored persons. If, by this, we assign to the original colonial population, and to its natural increase, seven million five hundred and fifty-five thousand four hundred and twenty-three, and to foreign emigration to 1850, two million six hundred and twenty-six thousand six hundred and eighty-six, we shall have born upon the soil, but of foreign extraction, nine million seven hundred and ninety-five thousand four hundred and fifty-four, for those by whose numbers we are this day enriched and strengthened. If, therefore, such has been the accelerated progression communicated to our populousness by the intermarriage with the native population of even the comparatively few foreigners that had reached our shores during the seventy-four years terminated by 1850, what must it be when stimulated by the vastly increased emigration of the subsequent time, continued in fluctuating waves through future years, and encouraged by the high social standard, the

peaceful prosperity, the topography, and the climate, of our empire beyond the Mississippi.

I have now accomplished my purpose. I have presented the various reasons which should control in favor of a land distribution law; reasons, sir, which embrace the whole circle of truth, and its obligations, and its benefits to man. Indeed, after all that can be said, there is presented but the simple right of all to partake by law of what is the conceded constitutional and natural right of all—the common lands of the people. That there should be an equality of enjoyment by all, may not be questioned; but what shall be the character of the future possession? What the species of labor, whether slave or free, which the citizens shall choose as the implement of individual fortune or national prosperity? manifestly are questions providentially reserved, by our institutions, to the future, and to those whom they are more immediately to affect. They belong not to us. The liberty accorded to the slave-owner renders his decision for or against slave labor dependent upon the issue of its competition with white labor; and whatever that decision may be, its authority will be paramount to political necessities and beyond statutory enactments; it will be the supreme law of local civilization. Sir, I am no visionary theorist, speculating upon an imaginary future. I would be the last to indulge in such ruinous fancies. I believe I have spoken the words of soberness and truth; that I have traced effects that are as certain in the future as their causes are endowed with a present existence. It becomes us to scrutinize the subject with an earnestness commensurate with its magnitude, and to decide at once—as sooner or later it must be decided—that the people shall be admitted to their natural inheritance.

FISHERY BOUNTIES.

Mr. DAVIS, of Massachusetts. Mr. Chairman, the official organ of the Administration has furnished its readers with a reprint of a speech, made at the other end of the Capitol, in which the author attempts to show that the law granting bounties to fishermen ought to be repealed. This speech, which the editor of the organ indorses, was addressed not only to the body in the presence of which it was spoken, but to the people of the country. As the subject-matter of which it treats has now become interesting to this House, and especially as no debate upon the bill which has come to us from the Senate has yet transpired here, while repeated efforts have been made to get the bill before us for a vote, I may be pardoned if I take the views contained in this speech as substantially the expression of those entertained by the friends of repeal in this branch of Congress. I am, furthermore, constrained to avail myself of the privilege and courtesies of the occasion, because my constituents are largely interested in the bounty question, and will expect me to lay before the House my objections and theirs to the passage of any measure that will injuriously affect their interests. It is not my intention, sir, to go much into the details of the fishing question at this time. All I desire is to offer, as briefly as possible, a general reply to the arguments contained in the speech to which I have alluded.

The speaker begins by quoting the saying of Fisher Ames, which was, that "the catching of cod is a very momentous concern;" and he arrives at the conclusion that considering the "peculiar, extraordinary, and exclusive" favor with which cod catchers have been treated, the Congress of the United States is not far behind that statesman in its estimate of the importance of the fishing business. The speaker then does justice to the integrity of character of Mr. Ames, but seems hardly disposed to agree with the sentiment that the catching of cod is a very momentous concern. He then proceeds to dilate upon the question in its sectional aspect, showing that the Northeast is mainly interested in continuing the bounty which, from his stand-point, appears unjust to other sections of the country. Then he treats the subject as if the primary or only object of the framers of the system was to increase the commerce of the country, or its resources, by encouraging a heavy consumption of dutiable salt, all of which may be true or not without affecting my present judgment in favor of the maintenance of the system. And he compares the increase in

the cod fisheries with the natural growth of our foreign commerce as if he supposed it were possible, under any circumstances, for an interest so limited in all respects as from necessity this must be, to compete with the other branches of the ever-growing, always-expanding commercial resources of our country. Then he speaks of the exports of dried and pickled fish having fallen off; but fails to note, in explanation of this, that our own markets present a constant and increasing demand for the article. Then he places fish against the list of articles of export which have increased, most naturally, with every step of our progress as a producing people, which is elevating the importance of the export trade in fish relatively above its sphere, as will be plain to all men upon reflection. And he finally sums up by suggesting that the fisheries, as a source of wealth, have failed, without mentioning that the value of nearly three million dollars are annually drawn from our waters by the fishermen of one State of the Union, which is no trifling addition to the results of the productive interests of the country.

What the speaker has said in reference to the fisheries as a nursery for seamen is no argument for the repeal of the bounties, but rather in favor of the allowance. It is true that the herring and mackerel fisheries were comparatively, if not wholly, unknown in 1792; but it so happens that many, if not a majority, of this class of fishermen are the recipients of bounty under the existing law, and for the reason that they conform to its requirements before the mackerel season commences, and, taking one year with another, they get their due proportion of the bounty. The cod fishermen begin their year's work in January or February, and pursue it until late in June or early in July, and then they are fitted for the mackerel voyage. But under the law granting bounties they make no bounty time out of the period in which they are engaged in mackerel fishing. If they do, they are at fault, and should know the law. Our revenue officers are the proper guardians of public justice, so far as it relates to the payment of bounties under the act of 1819. The speech to which my attention has been called asserts that certain custom-house officers have asked to have the fishermen watched, to keep them from defrauding the Government. I had not heard of that before, but am far from believing that any necessity demanded such a thing at their hands. The law of 1813 expressly fixes the penalty for every breach of its provisions in reference to the collection of bounties by fishermen. Its language is:

"And if at any time within one year after the payment of such allowance, it shall appear that any fraud or deceit has been practiced in obtaining the same, the boat or vessel upon which such allowance shall have been paid, if found within the district aforesaid, shall be forfeited; otherwise, the owner or owners having practiced such fraud or deceit, shall forfeit and pay \$100, to be sued for, recovered, and distributed, in the same manner as forfeitures and penalties are to be sued for, recovered, and distributed, for any breach of the act entitled, &c."

If the collectors of the customs hear of frequent violations of the law granting bounties, a strict fidelity to duty on their part might end in enriching the Treasury, rather than in depleting it. I commend them to a greater degree of watchfulness in the discharge of their public duties.

In the discussion of this question from time to time, much has been said in reference to the salt tax. The speech to which I now particularly refer, most elaborately and adroitly introduces the old and mystifying argument. I discern that part of the argument altogether. I have a theory of my own touching this question. The object originally was, as I believe, to pay a bounty to the fishermen to encourage them in the prosecution of a poor but important branch of industry. It is called "bounty" in the law which authorizes the payment of the annual allowance; and the efforts made by the gentleman, in his speech, to show that it is not a bounty which we pay, but only drawback or export duty, are fallacious, or at least unimportant, in my view of the case. I believe that the remission of the duty on salt was a convenient way to foster the fisheries at a time when the country was less prosperous and poorer than it is now. It was a convenient method and not an inexorable and inexplicable law which first sought to identify the salt tax and fishing bounties as one interest, in the opinion of the legislators who established the system of granting bounties. I may be in error about this matter. I care

not to wade through the ramifications of the question to ascertain whether I am or not. We are to legislate for the present and for the future, and I prefer to let the past take care of itself. Lawyers stand upon precedents. I am not of that craft. But I prefer to take a practical view of the question as I understand it, in its bearings upon current and prospective results. In dealing with questions of expediency, the records of congressional legislation are just the poorest guides in the world. To establish a just claim or a principle, they are necessary. To fix a system of policy we may with propriety consult our own knowledge and judgment as they bear on our present necessities, or we can save a very considerable sum of money to the people by resigning our places and seeking other occupation than that of mere ransackers among the archives, in order that we may ascertain, from what others have done in the past, our duty in the present. If we go back to 1792, and take our cue from what was said and done by the legislators of that day, we shall find some difficulty in adapting ourselves and our responsibilities to the exact routine and circumstances of those times, and still keep up with the progress of our own. I think that gentlemen who desire to repeal the bounties will hardly stand by the doctrines of Jefferson in their minutest bearing, or even the Declaration of Independence, and execute the spirit and letter of that instrument; at least, they will prefer to construe it for themselves. And if a difference as regards the true intent and meaning of an instrument so plain as is the Constitution of the United States, is tolerated among men sworn to support it, surely I shall be excused if I refuse most positively to be bewildered by the piles of legislative and oratorical references to the salt tax, which I find in connection with the fishing bounty question.

Now, sir, the sum total of this whole business seems to me to be this: we established the policy of encouraging the fisheries as long ago as 1791, while Mr. Jefferson was Secretary of State. A memorial of the Massachusetts Legislature of 1791 was referred to Mr. Jefferson, and he made an elaborate report in favor of protecting and encouraging the fisheries. I believe that it was wise then to foster this interest. I believe that it is still our duty to protect it. The system, in my judgment, is to be defended, only as one of policy. The Government has been generous to the fishermen. You may call them pensioners on the Government, if it pleases you. It matters but little what you say about granting aid to them, if you finally encourage and aid in upholding the interest which is vital to their welfare. We did not originate the bounty system. We copied after the example of England in the spirit of our action. We have continued the system, with slight intermission, (from 1807 to 1813,) to this time. We have acted in reference to the matter as other maritime nations have done before and do now. The act of 1813 was repealed, or would have been in 1817 by the force of its own language, had not the act of February, 1816, been passed, which kept certain provisions of the old law still in force, such as the division of the bounty among the crews, although payable to the owners; but such provisions of the act of 1813 as have not been repealed by subsequent legislation, are now taken in connection with a law "amending and in alteration" of an act, a few extracts from the provisions of which I desire now to read. I refer to that part which provides for the division of the bounty money among the crew of the vessel. After fixing the amount which shall be paid per ton, and the dates within which the bounty time shall run, the law says:

"From which allowance aforesaid three eighth parts shall accrue and belong to the owner of such fishing vessel and the other five eighths thereof shall be divided by him, his agent, or lawful representative among the several fishermen who have been employed on such vessel during the season aforesaid, or a part thereof, as the case may be, in such proportion as the fish they may respectively have taken may bear to the whole quantity of fish taken on board such vessel during such season."

And my personal acquaintance with the mode of conducting this business among the principal fishing firms in the town where I live, is sufficient to warrant me in saying that, where a fisherman goes a part of the year in one vessel, and from his own choice or for his own convenience goes in another vessel to perform service during another period of the year, he receives his proportion of

the bounty *pro rata* from the owners of both vessels in which he may have been during the season. Just at this point I desire to read the law under which these bounties are paid and have been paid since 1819:

"Be it enacted, &c., That from and after the passing of this act, there shall be paid on the last day of December annually, to the owner of every fishing boat or vessel, or his agent, by the collector of the district where such boat or vessel may belong, that shall be qualified agreeably to law for carrying on the bank and other cod fisheries, and that shall have actually been employed therein at sea for a term of four months at least of the fishing season next preceding, which season is accounted to be from the last day of February to the last day of November in every year, for each and every ton of such boat or vessel's burden according to her admeasurement as licensed or enrolled, if more than five tons, and not exceeding thirty tons, \$3 30; if above thirty tons, \$4; if above thirty tons, and having had a crew of not less than ten persons, and having been actually employed in the cod fisheries at sea for a term of three and a half months at least, but less than four months of the season aforesaid, \$3 50: *Provided*, That the allowance aforesaid on any one vessel for one season shall not exceed \$360."

That is the the law under which the bounties are paid to the fishermen to-day. How does that effect anything or propose anything but a direct bounty on the tonnage of the vessels seeking bounty under this law? I quote it as it stands, and it is the last act referring to this question that that can be found upon the statute-books. Nothing is said about salt in this last act; and I presume, sir, that the legislators who framed the law understood that they were granting a bounty to the fishermen, without reference to the law in relation to the salt duties.

Now, what is all this clamor in relation to the fishing bounties made for? "To establish justice," say the friends of repeal; it is a "sectional" matter, this paying of bounties, and cannot be tolerated any longer. How a law can be called sectional that applies to all the States of the Union, I cannot discover. It is no fault of the New England fishermen that Alabama declines to prosecute the business. Nor is there any provision of the bounty law that gives a Massachusetts or Maine cod fisherman any advantage that would not accrue to him if he lived in any other State. It is no more sectional than the bounty land act or pension laws. It is broad, general, and open to all sections of the country equally. But if it seems to be sectional, and consequently unjust, suppose we go further for justice sake, and let each State pay her postal expenses. Massachusetts men do not complain so far as I know; but, while we annually add to the national fund in excess of our postal expenses, in round numbers, \$180,000, (or taking the year 1857, in exact numbers, \$178,649 73,) Alabama takes out more than that amount—according to the report for 1857, \$189,213 08. Is that just? Why should the people of Massachusetts be taxed with the expenses of carrying the mails for the people of Alabama? But Boston is a great commercial city, some one says, and the foreign mails depart from that point; hence your large receipts. That is our business, if we show it to be; but let us admit that your suggestion would afford a very satisfactory explanation, if the present law did not require the prepayment of postage in all cases. But if it is true, as has been suggested to me, that the merchants of the West and of the South send their foreign letters under cover to the merchant in Boston to be remailed there, which I question, that would not alter the fact as it stands. The returns at the Post Office Department show the exact receipts accruing at the several postal branches in every State in this Union, as well as foreign postage; and if every State in the Union were a separate government, it would not alter the case at all; it would only show the advantage which each particular locality has over others by virtue of its position in a commercial point of view. Now, in other States, the expenses are largely in excess of the receipts. In Virginia, for instance, \$199,554 11; in Louisiana, \$523,514 50; more than the fishing bounties have ever amounted to in a single year, I believe. Every State south of Mason and Dixon's line has received annually a very large amount of money in excess of its postal receipts. But five States in this Union—Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania—pay their own postal expenses, according to the returns of the Post Office Department; while the States, except those which I have named, received, in 1857, from the national Treasury, \$2,643,581 37. That is a snug little sum of money to be divided

among the States; and, instead of Massachusetts receiving her proportion, her people are taxed to make this amount up.

The gentleman, in the speech to which I have made particular reference, thinks that great injustice is done to the beef and pork-packers. In what manner, I beg to ask? The fishermen furnish sailors for the Navy; they furnish sailors for the commercial marine. The pork and beef-packers stay at home, and are satisfied with the business of providing an article of food for them, upon which they get their profits. The one class is necessary to the other. The one is more fortunately and more profitably employed than the other. Let the matter be understood, and I venture to say that the pork and beef-packers will be perfectly content to furnish the fishermen with their beef and pork without complaining of the fishing bounties which, if regarded as a direct tax upon the people of the United States, would trouble each individual citizen to the amount of less than three cents. It is a poor compliment to the generosity and patriotism of the American people, to suppose that they are burdened by their acts of appreciation of the services of the fishermen, when it costs each man, woman, and child in the country less than three cents a year, if the bounties were paid by direct taxation. And here, as well as anywhere, I will say one word as to the objection to the bounties on the ground that it is unconstitutional to grant bounty.

There is a class of statesmen who argue that there is no grant of power in the Constitution authorizing Federal appropriations for any purpose. That there is any specific power for granting bounties, I do not pretend; but there is just as good authority for paying bounties to fishermen as there is for granting pensions, Indian appropriations, money for internal improvements, land grants, or a hundred other things that are regularly provided for by congressional legislation. I will not consume time in my remarks upon this point. The fishermen must take their chance, so far as the constitutionality of the bounty grant is concerned. Great diversity of opinion exists among constitutional lawyers, as to grants of power under the Constitution. I read for myself, and so far as nice technicalities are concerned, I shall not be troubled. The Constitution of the United States was made for common people, in my judgment; but if others think it was intended only for lawyers to discuss and interpret, I have nothing to say that will disturb that fraternity. Such discussions, however, have raised the charter of liberty above the people who sustain it. If there is no grant of power justifying the payment of fishing bounties, I have not the power to make it. At all events, the system is as old as the Constitution itself; and upon that I place my trust. Professor Hare says there are more than four hundred million solar systems floating around outside of us. I will take his word for it at present, rather than undertake to count them myself. So long as the earth keeps a respectable distance from the sun, I will take my chance of being jostled off in the whirl among the lesser lights.

The gentleman who has undertaken the herculean task of convincing the people's Representatives, and the people themselves, that the fishing bounties are a nuisance and ought to be abated, falls into many and grave errors. He pleads for the whale, the mackerel, and the herring fishermen; but he forgets, or does not know, that the first are a most fortunate class of seamen, often realizing great profits from their voyages; and the second are cod as well as mackerel fishers, and that the last are not numerous as a distinctive class. He forgets, too, that there are many of the heroes of 1812, who, though burdened by the weight of years, and whose locks are stained by the ocean spray or whitened by their three-score years and ten, are yet to be found at their posts on board these fishing vessels, not because nature with them is so lenient, but because necessity knows no law. Many such men are recipients of the bounty, and I know them well, and have from my youth up. They are good men, good neighbors, good friends; themselves enduring sacrifices made in their youth for the cause of the country. I would not have their old hearts shrink in view of the ingratitude of the Government; when we could most fittingly add greatly to our consideration of their services. It is pleasant for us to

come here at meridian and sit in comfortable chairs, and tread upon Brussels carpets; we have elegant accommodations, and altogether we can make ourselves comfortable and happy, with the aid of the civilities which everybody seems ready to bestow upon us. We can gaze upon marble statues, and wander through spacious chambers, and we can take our \$3,000 a year with becoming fortitude and complacency; but in the midst of all our tranquility we should afford one thought to the men who are to protect us when our rights and privileges are invaded.

The speech of the Senator to which I have mainly referred in my remarks, compares the whale fishermen as seamen to the bay fishermen, giving the former the benefit of his sympathies. The whale fisherman is a whale fisherman and not much more than that at any time. If he is long on board ship, he is a tolerable sailor; but he is always a better whaler than a sailor. A whale ship has three masts, to be sure, and is square-rigged; but whaling vessels are not always square-rigged, nor have they always three masts. There are very many fore and aft schooners engaged in catching whales in the Atlantic ocean. And all three-masted vessels are not ships, nautically classifying them. There are three-masted schooners. And all two-masted vessels are not schooners. There are hermaphrodite brigs and brigantines and barks with three masts, and top-sail schooners so near a brig in their rig that a man must be considerable of a sailor to distinguish the difference. And all ships have not twenty-odd sails rising one above another; and, although I am neither a cod-fisherman nor a sailor, I can tell the bounty-repealing gentleman something about vessels that I learned from the fishermen when I was a boy. There is not a boy in a fishing vessel on all the New England waters, that would not laugh at you if you should question his knowledge of the rig of any sailing vessel that floats upon the ocean. Little boys of nine and ten years, in fishing towns, are daily to be seen climbing about upon the masts of the square-rigged vessels that happen to be lying in the port where they live. When a boy or a green hand goes on board a ship, intending to become a sailor or to go on a voyage to sea, he is never asked if he can go aloft, or if he has been aloft, but he is ordered by the mate to go, and he does not hesitate. He is not ordered to the top-sail-yard, but to the royal-yard, and, if need be, to the sky-sail mast-head and there performs his work. That is a boy's business in large ships, and whether it blows a gale of wind or only threatens, he must go when and where he is ordered. A fisherman would understand the ropes in a square-rigged vessel the moment he set his foot on board a ship, and any master in Christendom would feel proud as well as safe in command of a crew of such men. I have said that there is a difference between the rig of a ship and of a schooner; but the fisherman will not need instruction about that or get it from any one in either branch of Congress, I will guarantee. The old Constitution won great fame in the last war; but it was not her timber-heads, nor her planks, nor spars, nor sails, nor rigging, that gave her her great renown; nor was it the common faith that she could do much without a crew. It was two hundred and forty Marblehead fishermen and an almost equal number of Newburyport and Gloucester fishermen that made her name historical.

But, Mr. Chairman, it has been said in another place, upon the authority of naval officers, that "all the advantage that a cod-fisherman has over a mere land-lubber is in having learned to rough it, to walk the deck, and escape sea sickness," and that they would rather take a raw recruit who had learned nothing than take a cod-fisherman whom they would have to unlearn before they could teach him. This is an opinion of the Jack Bunsby style, I think. I do not desire to know who the officers were who gave such an opinion, but I must regard them in the light of the Barnabas Binnacles and John Junks of the service, altogether amazingly nautical people, no doubt; but in the business of the sailor, the fishermen know more than they can ever learn. I may have seen such officers, but if I have, I will be bound that my attention has been attracted by their grace of motion as they whirled through some fashionable crowd to the dulcet strains of the polka redowa; they are of the stripe that are sometimes seen at the head of the management of a rural picnic or

ladies' tea-party, or, perchance, employed on board a Government ship in carrying pleasure parties around our harbors in the summer season; but I dare say that their ears have never been frost-bitten, nor their hands much damaged by hard service in the line of their duty. It would be grossly unjust to hold the many gallant officers of the Navy responsible for the opinions of these nautical paragons, and I would be the last man to do it. I only say that there are no land-lubbers among our fishermen. We can, however, find a specimen or two without going far beyond the pay-roll of our naval officers. At this moment of time there are a hundred vessels engaged in fishing on George's Bank, from the town of Gloucester alone. It is the most dangerous spot in the winter season on our whole Atlantic ocean. No shipmaster dare go there from choice. None but the bravest mariner will go. I should like to have a few of the fancy officers of the Navy try a season in that locality side by side with the fishermen. If one of them should catch a halibut or a cod or two, he would, for once in his life, do some service to the race, if he did not satisfy himself fully that "the catching of cod is a very momentous concern," and that the fishermen are tolerable sailors after all.

But the fisheries have increased under the bounty system, while the salt duty has been reduced greatly, and hence the bounty tax has become more onerous, says the gentleman. It is true that the fisheries have increased; not greatly, but to some extent. That is what we give the bounty for; and it is no argument against the system at all. The fisheries of Massachusetts have increased very considerably, and who objects to that? Surely not the farmers of the West. If we are rendered better able to purchase and pay for your produce, you are benefited as much as we are. Besides, you want the Army to protect your frontiers. We, in Massachusetts, do not need an army at all. We can regulate and pay the expenses of all our municipal affairs. We can buy our own garden seeds, and print our own agricultural books. We gladly contribute our votes and influence towards appropriating money to defend you, if you need defense. Upwards of \$17,000,000 was asked for to support the Army for the current fiscal year. Not a soldier is quartered within our borders. Hardly an officer of any grade comes from our State; they are scattered over the old States generally; but you will find them mainly in Virginia and the South, as will be seen if we examine the Navy and Army Registers.

Why should we not complain of this vast expenditure for the support of a branch of the service in which we have no peculiar or local interest? Look, too, at the list of naval officers of the United States. Virginia has one hundred and eighteen officers of the rank of captain, commander, and lieutenant, I think, while Virginia has no sailors that can be counted. Massachusetts, with a population quite equal to that of Virginia, has only thirty officers of the same grades, and she furnishes almost all the sailors. South Carolina has twenty-three officers of the same grades, and not many sailors that I know of. Is this not sectional? Massachusetts, with a population of a million and a half, has only thirty officers of the three highest grades in the Navy of the United States. Look at your Indian appropriation bill of nearly \$3,000,000. What have we in Massachusetts to do with the Indian tribes, except as a national question. We have not a dangerous Indian in our State. Yet we do not complain of any of these things. It is no hardship for New England men to be national in every respect.

Now, there is a disposition to increase the pay of the officers of the Navy. I, sir, have given as liberal votes as any man in this House, and I may be very willing to vote to increase the pay of the officers of the Navy; but you cannot have my vote for that purpose, nor can you reasonably expect the votes of New England Representatives in favor of increasing the pay of naval officers, (most of whom are residents of Virginia and the South,) to the amount of \$535,000 annually, when at the same time you propose to take a portion of that amount away from the fishermen of Massachusetts, Maine, and New England generally. If you do this, I shall begin to feel something of the force of your sectional proclivities and arguments which I have not felt hitherto. The officers of

the Navy are pretty well paid already. The pay of a lieutenant would support half a dozen fishermen and their families in affluence, and there is no comparison to be made as to the necessities and labors of the two classes. The one is enrolled in the service, to be sure; but it costs the Government all the more for that. His salary is constantly running on. A naval officer has little else to do but to enjoy and make himself agreeable. He has some troubles; but so far as I have observed, they are chiefly consequent upon his ambition for promotion and desire for higher pay. He can resign his commission at pleasure. He is as independent and leisurely as the Government is capable of making him. The fisherman is not in the regular service, I know, and is much more valuable for that. It costs the Government little or nothing to keep him alive. In time of peace he is not sporting on his dignity or his salary. He is at sea, helping to enrich the country by his labor, and earning his living every day.

I have said that there are one hundred vessels on George's Bank at this time. Those vessels are fishing for cod and halibut, and carry one thousand men. The Government gives each of these men eighteen dollars a year, or thereabouts. A full captain gets \$4,500 a year for sea duty, and \$3,500 for waiting orders. You pay him for brains; but if you want muscle for a sea fight, you expect to get it for about fifteen dollars a month during the period of danger and hardship, and then let the fishermen and sailor run for luck. And so far as the history of the Government affords evidence, you have found the fishermen ready for the service; and many of them are better sailors actually to-day, and possess as much native ability, as the officers who command them. If you think the fishermen would not enlist on board your ships-of-war if you needed them, you doubt the truth of history. If you say that they are not bound by any agreement to do it, I say there exists no necessity for their being so bound. They would be no more likely to stand back and look on in case of war than your officers would be to resign their commissions, which they have a clear right to do if they choose. The fishermen would flood the decks of your ships, and would ask authority of the Government to fight on their own account, if you had no ships for them. They have done so heretofore, and that is the reason why I have faith to believe they would be as ready again. I have heard them talk. I have spent my life in their midst.

Mr. Chairman, it is as clear a proposition as anything can be, that we shall have no further use for an army, so far as the defense of our borders from an invading force is concerned—not much, at any rate—in case of war with a foreign Power. Our future wars, if we have any at all, must be maritime altogether. We have plenty of citizen soldiery for any emergency that may arise; but where are your American sailors, I beg to ask? In 1857, only eight thousand one hundred and nine seamen were registered under the law of 1796. This is a startling fact. In the commercial marine, you find one hundred and fifty thousand sailors, nearly all foreigners from every quarter of the globe. In seventeen years, we have, of native and naturalized citizens, registered one hundred and fifty-three thousand eight hundred and ninety men. In 1841, we had nine thousand and fifteen registered. Of the seven thousand eight hundred and eighty-nine native seamen registered last year, four thousand one hundred and seventy-four were Massachusetts men, and one thousand three hundred and two were Maine men. These are from the fishing districts. The great commercial metropolis of New York registered but six hundred and forty-five, only thirty-eight more than Pennsylvania, which is not considered a great maritime State. The remainder of the number was scattered among the Atlantic States. Here we see that the number of seamen registered last year under the law of 1796, is really less than that of 1841, as, indeed, it is less than that of many years since 1840; and while our commerce has increased in the same time fourfold, we may well pause and consider if it is a good time to strike the blow that is aimed at the fishermen. In 1841, we added 118,893 71-95 to the tonnage of the country; in 1851, a period of ten years after, 298,293 60-95 tons; in 1854, 534,616 tons, the intermediate years showing a steady increase; and in 1855, 598,450 tons. Last year we added less

to our tonnage; but we know that this was consequent upon the revulsion in all branches of business throughout the country, the commercial particularly. Taking into consideration the wonderful increase in American tonnage, in connection with the fact that we register fewer seamen now than we did ten or fifteen years ago, it will, perhaps, bring us to a proper sense of appreciation in regard to the fishing interest, and all other interests which are calculated to add to the number of our seamen.

Now, I appeal to any man of nautical experience to say if the fact that we are filling our ships with foreign seamen, who supply the places of those who have died out of one hundred and fifty thousand registered in the last seventeen years, is not a little startling in view of our necessities both in the commercial and national marine service. I tell you, gentlemen, that if it seems inconsistent to pay bounty to fishermen and not to sailors, as has been suggested, instead of doing less than you now do to encourage this class, it would be wise to increase your bounty or allowance and give it to the sailors employed in the commercial marine, rather than take away the benefit which now accrues to the Government from the bounty system. Years are consumed in training up the hardy seafaring man. We educate a sailor for about twelve dollars a year under the bounty system. It costs us more than eight hundred dollars a year to educate a sailor at the Naval School at Annapolis. Nowhere on this round earth can we find such iron men as the great body of American fishermen are; and where is there more patriotism and general intelligence diffused among the masses than amongst this class of our citizens? Abuses exist in the fishing business, and wrong-doers are found among the fishermen as everywhere else; but I speak of them generally and, I believe, truly.

Mr. Chairman, I did not intend to go into this fishing question very deeply at this time. I have no idea that any man who reflects will at present vote to strike a blow at the fishing interests. When the reciprocity treaty was ratified, the Government injured the fishermen in some respects and benefited them in others. They can now fish as near to the shore as they choose. Before, they were prohibited from approaching nearer than three marine miles. But it is hard to compete with the free importation of fish from the British Provinces. Our vessels are expensive. The long voyages from our shores to the fishing ground render it necessary that we should have good vessels. We have to compete with the cheap mode of living and carrying on the fisheries in the Bay of St. Lawrence by British fishermen. Mr. Marcy, when Secretary of State, said distinctly, that the bounties paid to our fishermen would, in a measure, make up for the disadvantages accruing to them from the reciprocity treaty. Take away the bounty and you will most seriously damage a most important branch of commercial and industrial enterprise.

My views in this regard, were submitted in brief in the last Congress. I will not renew the expression of them now. One word on this sectional feeling which is appealed to by the friends of repeal—I scout it; I hate it most heartily; I never gave a sectional vote in my life. I have my views respecting questions of grave import often considered here, and I sustain them by my vote. I would always do it come weal or woe. It is my duty to my constituents, and I do it with the full approval of my deliberate judgment upon all occasions. But upon general subjects of legislation, I see no reason why I should not give a hundred votes, if I had them, to benefit Alabama, or South Carolina, as readily as I would give them to benefit my own State. While I live under the common Constitution of the Confederacy, I shall stand by the interests of all the States. Such has been my course since I have been a member of this House, and will be to the end of my official term. And long after I shall have quit this place, I trust I shall be animated by the same desire for the common good of the people North or South, East or West, and no sentiment of mine would more justly represent the people who sent me here, than that which I have here and now avowed.

OUR FOREIGN AFFAIRS.

Mr. AVERY. Mr. Chairman, the country has great cause of congratulation, sir, that the fretful

elements of domestic discord do not now disturb us. Issues which aforesaid thrilled and animated the public mind, seem, at least for a season, now to slumber. Kansas, for once, is quiet. I am gratified that the interesting and complicated questions of a foreign character, can now justly claim the consideration of the American Congress. Never did it seem to me that the matters which pertain to our foreign policy more peculiarly press themselves upon the attention of the representatives of the American people, than now. Great interests are at stake. In my judgment those interests are jeopardized. It behooves us, as sentinels upon the watch-tower, to look to it well that they be not sacrificed. Much has been said upon these questions, and but little done; the time for action has come. No stand-still policy suits our people. It is not adapted to their destiny. They are a progressive people, and demand a progressive policy.

Look, sir, a moment to our present surroundings. Upon our north, the border dominions of Britain frown upon us forever, peacefully, quietly, to be sure, and quite as neighborly, too, as some of our own northern sister States. Cast your eyes to the south; how stands the case there? Does the American patriot see no cause of apprehension lest foreign intervention may build about us in those regions walls which will shadow our destiny? Mexico, that land so blessed by all the bounteous gifts of a prodigal nature, is rent and torn by annual revolutions, now in the midst of one threatening the downfall of her nationality, rival military chiefs contending for military mastery, with no positive Government of any kind, the opposing factions holding forcible possession of different States of the Republic. The President tells us in his recent message that—

"No American citizen can now visit Mexico on lawful business, without imminent danger to his person and property. There is no adequate protection to either; and in this respect our treaty with that Republic is almost a dead letter."

Our political relations between that Government and this are suspended, whilst England, France, and Spain are all openly intervening with her domestic interests; with no ability to pay her debts, and no Government against which to enforce them, inasmuch that the President recommends, as a final resort, a protectorate over a portion of her territory, as a means to enforce our rights and redress our wrongs. My friend from Ohio [Mr. Cox] has thrown a flood of light upon the condition of that country. I listened with profound interest to his very interesting speech the other day.

But, sir, far above and beyond our interests with demoralized and dismembered Mexico, great as I acknowledge them to be, stand the questions of our relations with Cuba and the Central American States. They form, now, in my judgment, the foremost questions for the consideration of American statesmen. I cannot hope, sir, in what little I propose to say upon these topics, to be able to awaken any new interest, or to shed upon them any new light; and my apology for doing so is that I feel, concerning them, such deep solicitude.

And first, as to Cuba. There she sits, enthroned in the sea, a most lovely island, justly called the "Queen of the Antilles," almost in sight of our own shores; in length, some six hundred and fifty miles; in breadth, averaging some sixty or seventy; with an area of some thirty-five thousand square miles—more than three fourths as large as the sovereign State of Tennessee. Look, for a moment, to her commerce. For the year 1851, her exports amounted to over thirty-one million dollars; her imports, over thirty-two millions. The value of imports into Cuba, from the United States, in 1851, was over six millions, nearly all of which was in American bottoms. The exports to all the Spanish dominions was over thirteen millions. The exports to the United States was over seventeen millions; a greater amount than was received from any other country, save England and France. The trade between the United States and Cuba, in 1852, amounted to over six and a half millions imports, and nearly eighteen millions exports; and, in 1853, about the same. In 1850, the number of slaves in Cuba, according to the census returns, was over four hundred and thirty-six thousand. The value of her agricultural productions amounted to nearly

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sixty millions. These facts faintly give some idea of the varied resources of the country, her growing commercial importance, the mutual trade between us, the great commercial relationship we sustain towards each other. It is unnecessary, however, to elaborate these items of resource, of a commercial character, as they have been so elaborately and eloquently interwoven into this debate by my distinguished friend from South Carolina, [Mr. KEITT.]

Sir, the acquisition of Cuba is no new question. Long ago it engaged the consideration of the first statesmen of the age; at a time, too, when its necessity was not half as pressing as now. Mr. Jefferson, in 1823, in writing to Mr. Monroe, then President, in the following strong language favored it:

"I candidly confess I have ever looked on Cuba as the most interesting addition which could ever be made to our system of States. The control which, with the Florida point, this island would give us over the Gulf of Mexico, and the countries and isthmus bordering on it, as well as those waters which flow into it, would fill up the measure of our political well-being."

Mr. Adams, in the same year, as Secretary of State, said:

"Cuba's commanding position, with reference to the Gulf of Mexico, and the West Indies, &c., gives it an importance in the sum of our national interests with which that of no other foreign territory can be compared."

Mr. Everett, in 1852, while Secretary of State, in his reply to the French Minister, in opposition to the proposed convention between England and France and the United States, to commit us against its acquisition, clearly looked forward to its accomplishment.

President Buchanan, some years since, when he graced the floor of the American Senate, warmly advocated it, and, I am proud to say, as shown by his recent message to Congress, has not relaxed in his ardent desire to consummate this great and vital measure. In this connection he says:

"The Island of Cuba, from its geographical position, commands the mouth of the Mississippi, and the immense and annually increasing trade, foreign and coastwise, from the valley of that noble river, now embracing half the sovereign States of the Union. With that island under the dominion of a distant foreign Power, this trade, of vital importance to these States, is exposed to the danger of being destroyed in time of war, and it has hitherto been subjected to perpetual injury and annoyance in time of peace."

"The publicity which has been given to our former negotiations upon this subject, and the large appropriation which may be required to effect the purpose, render it expedient, before making another attempt to renew the negotiation, that I should lay the whole subject before Congress. This is especially necessary, as it may become indispensable to success, that I should be entrusted with the means of making an advance to the Spanish Government immediately after the signing of the treaty, without awaiting the ratification of it by the Senate. I am encouraged to make this suggestion by the example of Mr. Jefferson previous to the purchase of Louisiana from France, and by that of Mr. Polk in view of the acquisition of territory from Mexico. I refer the whole subject to Congress, and commend it to their careful consideration."

Sir, I heartily concur with the President upon these points. I think that Congress should, at this session, respond heartily and cordially to these recommendations. I, for one, am prepared to stand by him, and sustain him in every honorable way to accomplish this measure. I am desirous that no impediment shall be thrown in the pathway of a speedy negotiation. That every facility shall be afforded to further its accomplishment. And, sir, when all just and reasonable propositions shall have failed, when every just overture shall have been spurned upon the part of Spain, I am prepared to go as far as the furthest in any honorable policy looking to its accomplishment in some other manner.

Paramount to every other reason which may be urged in favor of the acquisition of Cuba, stands the great question of its necessity as a means of national defense. That necessity, sir, which is recognized by the wisest expounders of international law, as justifying nations as well as individuals.

Did Cuba bring with her no commerce; had she no resources, no soil, no climate, no productions; were she a wild, barren waste upon the waters, her geographical position would still decree that

she should be part and parcel of this Government. She commands the ingress and egress to the Gulf of Mexico. She is the key to our whole southern commerce, vast as it is. This subject has grown in magnitude and importance with the spread and growth of the great South and West. The rapid settlement of the great valley of the Mississippi, with her many and mighty tributaries, press upon our consideration its paramount importance. What a boundless commerce is borne upon the bosom of the great father of floods, every box, every bale, every pound of which is wafted by the white-winged messengers of commerce under the very port-holes of foreign fortifications, with the range of foreign, and may be hostile, guns! Is it not, then, a matter of national necessity that she should be ours? In the hands of an avowed enemy, what havoc could she not make of our commerce—the rich productions of every State bordering on the Gulf and the Mississippi, and her tributaries comprising half this Confederacy, and to which States alone belong the production of the great staple of the world, placed at the mercy of a hostile Power?

Sir, put any one of the enlightened principalities of Europe—Great Britain, France, Russia, or any of them—in the same relative position towards Cuba which this Government sustains, and Cuba would have long since ceased to be a province of Spain. She would long ago have been subjugated to the commercial and political interests of that country to which she was thus contiguous.

Nations as well as individuals are allowed, by the wisest writers on international law, to adopt measures of self-preservation, to provide for their own safety against danger, remote as well as immediate. You will find this doctrine clearly laid down by that most conservative and able jurist, Chancellor Kent, in volume one, page 23, of his Commentaries.

The doctrine, too, is plainly recognized in the celebrated paper known as the Ostend manifesto, promulgated by Mr. Buchanan, Mr. Mason, and Mr. Soule, in 1854.

This is the language of that paper:

"But if Spain, dead to the voice of her own interest, and actuated by a stubborn pride and a false sense of honor, should refuse to sell Cuba to the United States, then the great question will arise, what ought to be the course of the American Government under such circumstances? Self-preservation is the first law of nature, with States as well as with individuals. All nations have, at different periods, acted upon this principle. Our past history forbids that we should acquire the Island of Cuba without the consent of Spain, unless justified by the great law of self-preservation. We must, in any event, preserve our own conscious rectitude and our own self-respect. Whilst pursuing this course, we can afford to disregard the censures of the world, to which we have been so often and so unjustly exposed. After we shall have offered Spain a price for Cuba, far beyond its present value, and this shall have been refused, it will be time to consider the question, 'does Cuba, in the possession of Spain, seriously endanger our internal peace and the existence of our cherished Union?'"

This, sir, is the doctrine enunciated by the present enlightened Chief Magistrate of our Republic, every word of which I indorse and defended upon every occasion where I had the honor to address my fellow-citizens. The great idea is here boldly advanced, that nations as well as individuals have the right to use such means as they may deem necessary for their own self-preservation, and that it may not only be a present but a prospective danger. This doctrine, too, was triumphantly vindicated by the American people in the election of James Buchanan to the Presidency of the United States.

Why, sir, this notion of taking Cuba upon the ground of self-preservation was by no means then a new one. Enlightened statesmen thought seriously on the subject more than forty years ago. So long ago as 1816, General Jesup, then a colonel in the American Army, in a very able letter written from New Orleans to Mr. Monroe, then Secretary of State, (and who seemed to favor the idea,) amongst other things uses the following strong and significant language:

"From the situation in which our country is now placed in relation to the great European Powers, policy, commercial and political, as well as military, points out the neces-

sity of taking immediate possession of Cuba; and, from the numerous aggressions, and the uniform hostility of Spain, such an act would not be inconsistent with the soundest political morality. It is an act which may be justified by every principle which governs the most upright nation. The Spaniards are already the aggressors, and have been throughout the whole period of our history since the peace of 1763. The country in question is necessary to our defense, and in the possession of Great Britain, or any other maritime Power, would be dangerous to our repose."

"The people of this country are anxious for the event."

Sir, with what ten-fold force will not every argument employed in this letter, more than forty years ago, now apply?

What, let me ask, are our relations with the Spanish Government? What have these relations ever been? Have we not been the subject of continual wrongs and outrages ever since we have been a Government? Is Spain not perpetually perpetrating upon our people, our commerce, and our flag, indignities which long since merited, and should have met, a just and righteous chastisement? What now, sir, at this present time, are we told by the President, are our relations with that most insolent and tyrannical Power?

The President says in his message that—

"Spanish officials, under the direct control of the Captain General of Cuba, have insulted our national flag; and in repeated instances, have from time to time inflicted injuries on the persons and property of our citizens."

"Even what had been denominated 'the Cuban claims,' in which more than a hundred of our citizens are directly interested, have furnished no exception. These claims were for the refunding of duties unjustly exacted from American vessels at different custom-houses in Cuba, so long ago as the year 1844. The principles upon which they rest are so manifestly equitable and just, that after a period of nearly ten years, in 1854, they were recognized by the Spanish Government. Proceedings were afterwards instituted to ascertain their amount, and this was finally fixed according to their own statement (with which we were satisfied) at the sum of \$128,635 54. Just at the moment, after a lapse of fourteen years, when we had reason to expect that this sum would be repaid, with interest, we have received a proposal offering to refund one third of that amount, (\$42,878 41,) but without interest, if we would accept this in full satisfaction. The offer is, also, accompanied by a declaration that this indemnification is not founded on any reason of strict justice; but is made as a special favor."

This, sir, is the official information coming to us from the President, of the insult that is added to injury, by the Spanish Government. Are outrages like these to be tamely borne? Sir, have these insults and injuries been redressed? Has our national honor in these instances of indignity, insult, and outrage, been vindicated? In no single instance, but in the case of the Black Warrior, has any reparation been made. How are we treated when appeal is made to the Captain General of Cuba?

Why, sir, whilst he is a despot in his own dominions, whilst he has the power to inflict unheard of injury upon our people, our commerce, and our flag, he has no power to redress. The President informs us that—

"Instead of making our complaints directly to him at Havana, we are obliged to present them through the Minister at Madrid. These are then referred back to the Captain General for information; and much time is thus consumed in preliminary investigations and correspondence between Madrid and Cuba, before the Spanish Government will consent to proceed to negotiation. Many of the difficulties between the two Governments would be obviated, and a long train of negotiation avoided, if the Captain General were invested with authority to settle questions of easy solution on the spot, where all the facts are fresh, and could be promptly and satisfactorily ascertained. We have hitherto vainly urged upon the Spanish Government to confer this power upon the Captain General, and our Minister to Spain will again be instructed to urge this subject on their notice. In this respect, we occupy a different position from the Powers of Europe. Cuba is almost within sight of our shores; our commerce with it is far greater than that of any other nation, including Spain itself, and our citizens are in habits of daily and extended personal intercourse with every part of the island. It is, therefore, a great grievance that, when any difficulty occurs, no matter how unimportant, which might be readily settled at the moment, we should be obliged to resort to Madrid; especially when the very first step to be taken there is to refer it back to Cuba."

"The truth is that Cuba, in its existing colonial condition, is a constant source of injury and annoyance to the American people."

This policy, in my judgment, sir, is pursued by Spain with cool and deliberate purpose. She clothes her Captain General of Cuba with all tyrannical

nical power to harass and annoy, to injure and insult, and yet withholds from him corresponding authority to redress those wrongs. If this Cuban colony be made an engine of oppression and wrong, it should be clothed with the ability to right those wrongs. We are told by the President that repeated efforts have been made on the part of our Government to remedy this monstrous evil, but of no avail.

Sir, we are doubtless the most forbearing nation upon earth. I am not so sure that we have not had quite cause enough to warrant us in enforcing by the strong arm of power what we have failed to accomplish by milder means. I am not altogether certain but that the sentiment indicated by my distinguished friend from Mississippi, [Mr. DAVIS,] in the resolution he offered to the House the other day, is right; that it is time we should take these matters into our own hands, and if these manifold wrongs cannot be righted in any other way, right them ourselves.

Well, sir, how do the people of Cuba stand affected towards this question? What is their feeling? Take away the Government officers, the pampered beneficiaries of ignoble place, the minions of power, the tools and slaves of tyranny; take these away, and the great mass of the people of Cuba look forward with delight to its accomplishment. Recent dispatches tell us that while the Spaniards proper are aroused to some degree of excitement at the message of the President, a counter feeling of satisfaction pervades the Cuban masses. This feeling of opposition, too, where ever it exists, does not so much proceed from a fixed hostility to the contemplated annexation of Cuba to the United States, as from a national pride peculiar to Castilian blood, that brooks not the idea of being bought and sold. Sir, why should the people of Cuba not desire to change their allegiance? Do they not live under the most tyrannical Government upon earth? Are they not ruled with the iron rod of a military despot? Are they not kept in servile subjection by the most powerful standing army in the world, according to population? Does not their overburdened taxation go alone to swell and keep alive the pampered, bloated, and tottering aristocracy of corrupt Spain? Do not all these facts argue trumpet-tongued to the people of Cuba themselves in favor of its annexation, and that this their beautiful gem of the ocean should soon add another star to our constellation of States?

Sir, what other bold and true American sentiment do we find enunciated in the Ostend manifesto? We find there this language:

"That, should the Cubans themselves organize an insurrection against the Spanish Government, and should other independent nations come to the aid of Spain in the contest, no human power could, in our opinion, prevent the people and Government of the United States from taking part in such a civil war, in support of their neighbors and friends."

This, sir, I take to be the settled sentiment of the country; for upon these declarations Mr. Buchanan went before the country, and was triumphantly elected President.

A great truth is here enunciated. I know, sir, and you know, and every honorable gentleman upon this floor knows, that in such a contest in Cuba as this, (and it is now seriously threatened,) the great heart of the American people would irresistibly beat responsive to their struggle. We well know that strong American arms would be uplifted all over the land to strike the tyrants down, and liberate the oppressed.

But, sir, are there no legal barriers in the way? Is there not a wall of fire, through which these bold spirits would have to pass to accomplish their noble purpose? How, I ask, could this great, this spontaneous heart-throb of the American people, in a cause like this, have practical effect? Stand there not upon the statute-books stern laws imposing heavy penalties upon those who are swayed by these natural outbursts of American feeling? Are not now armed fleets, both British and American, crowding our waters and searching our vessels to seize upon every suspected violator of these laws? Sir, I have bestowed upon this subject much thought. And with an eye steadily fixed upon the rights, the interests, the prosperity, the proud advancement of my country, I must say if this construction be given to the neutrality laws, and it be the proper and correct construction; if it confer power upon British as well as American armed vessels

to intercept and seize American emigrants, either with or without arms, upon the high seas, then, sir, I shall begin to think the illustrious and lamented Quitman was right in urging their repeal. Who dare tell me that the immortal Crockett was a lawless marauder, when, a martyr to Texan liberty, at the Alamo he fell?

Sir, have not, in the fresh recollection of gentlemen upon this floor, revolutions in neighboring States arisen; ay, in Cuba herself? And have not the brave spirits, who sympathize with the oppressed, under the forms and sanctions of law, been hunted down upon the land and upon the sea? Under these very forms of law, has not the body of a Governor of a sovereign State been demanded—demanded, too, whilst in the discharge of his executive duties, sitting in the very citadel of State sovereignty, where her laws are executed, and her government directed—laws, sir, which the illustrious Clay said were the result of the pernicious influence of foreign ministers over the legislation of the country? Sir, it was one of the noblest commentaries upon General Quitman's life, that he chose to disrobe himself of the mighty mantle which the people had imposed upon him, and, resuming the place of a private citizen, submit to an arrest, to avoid the shock that would naturally be felt by this conflict between Federal power and State sovereignty. In my judgment, a heavier blow was never struck at southern rights, southern interests, the advancement, the fulfillment of our great American destiny, than when Commodore Paulding perpetrated upon our people his high-handed outrage under the pretext of these same forms of law. And, sir, I want no better evidence of the truth of this declaration, and of the correctness of the vote I gave the other day upon the resolution of thanks to Commodore Paulding, than that every solitary Abolitionist and Republican voted for it, and against censuring him.

In close connection with the Cuban question stand our Central American relations and kindred interests in the Gulf of Mexico. Although a little more remote from us than Mexico or Cuba, yet those Central American States stand in the direct pathway to our possessions on the Pacific. It is of the most vital interest to our people and to the commerce of the world that this great thoroughfare should be uninterrupted. This uninterrupted intercourse is now seriously threatened, if not fatally impaired. We are informed by the President that the complications between Great Britain and the United States, arising out of the Clayton-Bulwer treaty of April, 1850, have not been finally adjusted. This is much to be regretted; for no act of Government policy or diplomacy has so militated against the natural march of American advancement as has this fatal treaty. It should be abrogated by our Government. The manacles with which it fetters the giant limbs of American progress should be torn asunder. England has already the advantage of us in those rich and fertile regions of the South. By her diplomacy and policy she already claims control of more than one third of Central America. I fear she is now endeavoring to weave around us a still closer net. After the very able and interesting speech, the other day, of my friend from Virginia, [Mr. JENKINS,] nothing has been left me to say upon this branch of my subject.

Sir, I do not like at all the prospect that is presented to us in our southern seas: The great maritime Powers of Europe surely mean something by their manifest interference. In examining the correspondence that has recently been communicated to Congress on these subjects, what do we find? Why, sir, we had every reason to believe, we had every official assurance, that this question, this very delicate question of the right of search, was settled. But, sir, we see by this correspondence that this search on the part of British men-of-war has been transferred from supposed slavers to supposed filibusters. I look, sir, upon this as a far greater outrage upon the rights of American citizens and the freedom of our flag than has heretofore been perpetrated. Permit me, sir, for a moment to call your attention and the attention of this House, and especially gentlemen representing American interests, and a proud constituency, a little to the detail of this correspondence.

In the note of Captain W. Cornwallis Aldham, of her Majesty's ship *Valorous*, to Commander

McIntosh, of the American squadron, we find this language:

"In reply, I must express my great regret that you should consider the act of visiting an American merchant vessel within this port, which is under the protection of Great Britain, for the purpose of obtaining the information which is usually required by all civilized nations from vessels entering their harbors, or those under their protection, or in any friendly port, in the same light as the delaying, boarding, and examining of an American vessel on the high seas in search of slaves or pirates; and I still more deeply regret that my acting in accordance with established usages in this respect should cause you to apprehend any such grave danger as that to which you allude."

Sir, we have the declaration here boldly made by a British officer, by authority and under instructions from his Government, that this port was under British protection. Sir, this was news to the gallant McIntosh, it is doubtless news to us, that Great Britain had assumed the protectorate and control of that port and those waters. Commander McIntosh, very justly and properly repudiated, upon the part of his Government, the idea, as being in direct contravention of the Clayton-Bulwer treaty. Captain Aldham claims that his visit to the Washington was only one of courtesy, for the purpose of obtaining information required by all civilized nations from vessels entering their harbors. Let us see what was the intention of this friendly, courteous visit for the purpose of obtaining such information as was usual amongst civilized nations. As it is short, I will quote the whole letter of Captain Jarvis, of the United States ship *Savannah*, to Commander McIntosh, on this subject:

UNITED STATES SHIP SAVANNAH,

SAN JUAN DEL NORTE, November 20, 1858.

Sir: I have the honor of informing you that, since I wrote you this afternoon, I have the following information: Two officers from one of the British ships in the harbor boarded the Washington within fifteen minutes after she came to anchor, and asked Captain Churchill the following questions: "Where from?" "How many passengers have you?" "How many days out from New York?" "Did you stop at any port on your way out?"

These questions were answered; they then wished to look at his passenger list. Captain Churchill referred them to his purser. On looking over the list, which they received from the purser, they asked "How many passengers have you?" He answered by stating the number. "Are they all Americans?" "No; they are of various nations." "Are they armed?" "Not any to my knowledge." "Did the American officers who boarded you examine your hold?" "No." Mr. King, the first mate, who was present at the interview, remarked that if they (the officers) wished any information on the subject, they might obtain it by applying to one of the American ships-of-war in the harbor. They replied "that their instructions were to obtain their information direct."

The above is all the information I have received, and I shall await your further instructions upon the subject.

I am, sir, very respectfully, your obedient servant,
JOSEPH R. JARVIS, Captain.

Flag Officer JAMES MC. MCINTOSH,

Commander-in-chief Home Squadron.

Sir, is this not a most beautiful specimen of an visit for the interchange of courtesies "for the purpose of obtaining information only which is usually required among civilized nations?" As well might you class a band of armed soldiery as courteous visitors, who would rudely intrude upon the privacy of your mansion, search your chambers, and catechise you as to whether your guests were gentlemen or harbored and concealed outlaws. Bear in mind, sir, this vessel had already been boarded and searched by American officers, and these British patrols of the sea knew it. But, sir, as they said themselves, they were acting under instructions "to get their information direct." Instructions from whom? Why, of course, from their own Government. Instructions to do what? Why, sir, that they should not be satisfied with any secondary evidence. But they must go on board themselves, in person; search, examine, get their information direct as to the character, mission, and private business of American vessels and American citizens.

What a state of facts, these, to go to prove a social, friendly, courteous visit. When came those harbors to be British harbors, or those provinces under British protection?

What further does the British captain say about boarding another American vessel, the *Catharine Maria*?

"Having received a notification from the authorities of the Nicaraguan and Costa Rican Governments that a hostile force had landed, or were about to land, in the river Colorado, with a request that I would aid in preventing it, I immediately dispatched Captain Wainwright in the *Leopard*, to ascertain if such was the case.

"Captain Wainwright left this port late in the afternoon of the 18th instant; and, it being dark, mistook the entrance of the river, and anchored two or three miles to the southward of it. At daylight he weighed and anchored off the river, and in his own boat, accompanied by two others,

pulled into the river, examining the banks on either side to see if there were any traces of a landing having taken place. In proceeding up the river he observed the Catharine Maria at anchor, and, as he neared her, perceived some persons on board with whom he was acquainted. He immediately went alongside in his own boat only, and, going on board, requested to be informed if they had heard, or had seen, anything resembling marauders or filibusters in the neighborhood."

In the first place, this prying British officer examines the banks minutely under instructions, to see if there were any traces of landing.

Sir, supposing there had been traces of landing. Supposing Captain Wainwright, you had found that native-born American citizens had landed on these shores, what, let me ask, did you propose to do about it? Hunt them down and capture them? Sir, by what authority are these things tolerated? Instructed to inquire and search, to see if anything resembling marauders were on board American vessels, or had landed on this American soil. Sir, who constituted these British gentlemen, clothed with a little brief authority, judges to decide whether or not American citizens, peaceably pursuing their lawful business upon the common highways of the world, were marauders? What are marauders? They are plunderers, rovers in search of booty, plunder. Who placed these gentlemen in judgment upon the rights and liberties of freemen? When, I ask, were British men-of-war, and British officers, under a British flag, in British uniforms, panoplied with the power to patrol American seas, board and search American vessels, pry into the private character and business of American citizens?

Sir, I do not know how these proceedings strike most members upon this floor, but, for myself, I am bold to say, that they seem to me high-handed usurpations of power and authority, of indignity and outrage, not paralleled in the whole history of this question of search. Sir, it is an espionage upon the rights of American citizens which should not be tolerated.

The autocratic policy of England and France is now openly putting itself in the pathway of American advancement. By the edict of the French Emperor, an independent American State has been extinguished. The Republic known as the Dominican Republic (the western part of the Island of Hayti) has been, by French intervention, blotted out. Napoleon has declared that the existence of this Republican American State, was incompatible with the policy of negro supremacy. No longer ago than the 14th of December last, we find in the *Courrier de Paris*, the following threatening language in connection with the idea of the Americanization of Central America:

"Europe, meanwhile, cannot tolerate the semblance of such an enterprise. The same considerations which led them to undertake the war in the East exist here with an equal force, and they are sustained by motives of general interest which there would be danger in forgetting. By her situation Central America is destined to become the point of the concentration of the commerce of the world, and to let the United States take possession of it would be to yield to them the monopoly of the future transactions between Europe and the entire Orient."

"It has been said for some days past there is a project for a mixed monarchy for the Island of Cuba, and that of Porto Rico, which would give to those possessions an independent existence, a nationality of which they have always been deprived. It is possible, also, that in the near future Mexico—alas! for her internal convulsions—will become more calm; she can then follow their example, and an intimate alliance between the three kingdoms would suffice to protect them against the aggressions of their powerful neighbors. This plan is said to be irresistible, and Spain, the first who has taken the initiative, would not hesitate a moment to put it in practice. Perhaps for herself it is not to be regretted, for she does not at present succeed in maintaining her dominion over Cuba by example, but has to aid it by a display of force which renders that rich colony a burdensome charge upon the mother country."

"There has been a question, likewise, but with more foundation it appears, as to a confederation between the diverse States of Central America; and it is also added that the Presidents of those five Republics ought to assemble in Congress at Guatemala, at the end of this month, for the purpose of laying the bases of that union. France boldly encourages that combination, and will even name a delegate to assist at the conference."

Although the British press is more cautious and less threatening; although sometimes we see a sentiment thrown out in her prints that American expansion is no matter of concern to her, yet the same hostile feeling pervades England as well as France, to the spread and supremacy of American institutions and American policy on the American continent.

Listen to the significant language of the London Post, of 18th December last:

"The Monroe doctrine is, we are told also, to be enforced

in the negotiations which are in progress in Central America. The Monroe doctrine is practically a mere by word. It gratifies the self-love of the American people to tell them that the power of the Republic is destined to reach, at no distant day, from the St. Lawrence to the mainland of South America. But have the Powers of Europe no voice in the matter? Can it be a matter of indifference to them that the most important military and commercial position in the world should fall under the exclusive control of the United States? The true policy of Mr. Buchanan would be to build up the weak States which occupy the Isthmus, to place the neutrality of the route under the guarantee of the great commercial Powers of the world, and not to covet territories which can only be more valuable to the United States than to other countries, just as they afford facilities for the extension of the desolating curse of slavery."

Here, sir, the great fact is let out that European Powers are to have a voice and assert their supremacy in these matters. And that we are to have no facilities afforded us for the extension of the "desolating curse of slavery."

Sir, the self-same policy quickened by the ardent desire to put down in America slavery and slave labor, which impelled the alliance of England and France against Russia, stimulates them to an alliance against us. The Crimean war was a war to pull down Russian ascendancy and supremacy in Russian seas and upon Russian borders. English and French combinations now openly conspire to put down American supremacy and ascendancy, and to assert their own, on American seas and upon the American continent.

Sir, how are we to understand these bold and threatening interferences on the part of these foreign Powers? Is Napoleon to give direction to the conduct of affairs on the American continent? Are we to sit idly by when it is boldly proclaimed by French authority that the strong arm of foreign Power is ready and prepared to rear out of Cuba, Central America, and Mexico, a great monarchical empire? Sir, if these things be so, then perish forever the boasted Monroe doctrine. Away with the pitiful provision of Clayton and Bulwer even, that neither Great Britain nor America should exercise control over or colonize any portion of Central America. Sir, does it take any great political seer to discover that foreign intervention is building about us walls, as I said in the outset of my remarks, which would shadow our destiny; that their foundations are being laid.

I stand here to-day to lift my voice, feeble though it be, in vindication of the rights of American freemen upon the great highways of commerce. I stand here, by my voice and by my vote, ready to strike down such barriers as interpose in the bright pathway of American prosperity and advancement. I am battling as best I can for what I regard as the dearest interests of our common country. I may err; but if I do, I am consoled with the proud reflection that I am erring on the side of my country, in behalf of a great American sentiment—on the side of southern rights, southern interests, and southern honor.

Sir, the same arguments that are now urged against American progress, have been urged against the acquisition of every foot of territory this Government has ever acquired—territory, every square acre of which is as priceless to us now as the proud sovereignty of independent States. But, thanks to the wisdom of Democratic policy, this great Government of ours, over every opposition, at home or abroad, on the land or on the sea, has gone on prospering and to prosper, as I trust in God it will continue to do until the American standard will float from the battlements of Cuba, and American civilization and enlightenment illumine the dark places of the American continent; until, in the fulness of time, we shall have filled the measure of our grand, our ultimate destiny; that destiny written by Deity himself concerning the great future of the nations of the earth.

GOVERNMENT OF THE TERRITORIES.

Mr. KELLOGG. Mr. Chairman, from the discussion of the last few days, it is apparent that the political parties are preparing for the conflict of 1860. The gentlemen on the other side of the House, who doubtless speak authoritatively for the real unalloyed Democracy, (I mean the Administration Democracy,) have presented us an issue for that campaign—the subjugation of Mexico, Central America, and the acquisition of the Island of Cuba. This proposition is entitled to great merit for its modesty.

It is true that the question of the acquisition of territory has always been a popular one, and, in

my judgment, will be when it is a mere question of just and honorable acquisition. But it is no matter of dark destiny, as has been often said; it is but the result of one of the traits of character of the American people.

There is not a farmer or planter in the country but desires to possess his neighbor's farm; not a manufacturer who does not desire to increase the number of his spindles; nor a ship-owner who is not anxious to multiply his tonnage; nor is there a commercial man who does not propose to extend his business relations. This is a leading trait in the American character. Why should we not expect, then, that it should become a trait of character in the policy of the Government, and a popular political issue? Then it is not blind destiny, but the natural inclination of the mind of the great mass of the people. But, sir, the people will not accomplish their object by other than just and honorable means; they will not rob Mexico, nor steal Central America; Cuba cannot be bought, and gentlemen well know it. Conquer it we will not, while it is a dependency of Spain; but should the time come, and I believe it will, when Spain cannot retain it, and it should be about to fall into the hands of other Powers, then, sir, we will reach out our hands and pluck the ripened fruit; but until that occurs, it is worse than useless to talk about its acquisition.

Mr. JENKINS. I want to ask the gentleman from Illinois a civil question. I want to know whether, when the fruit is plucked in the manner he describes, he will vote to admit Cuba into the Union as a slave State?

Mr. KELLOGG. When that question arrives, it will afford me great pleasure to answer the gentleman. I say to him now, and to his friends, that I propose, by all constitutional, legal, and honorable means, to prevent the extension of slavery to the Territories.

Mr. JENKINS. I want to know whether the gentleman declines to answer my question now? If he does, I want it to go on the record.

Mr. KELLOGG. The question was, whether I would vote for the admission of Cuba as a slave State? I would use every effort in my power to procure its admission as a free State; but if its acquisition under the circumstances I have mentioned were dependent upon its admission or non-admission, I would not hesitate to admit it even as a slave State. But every honorable effort should be made to secure its becoming a free State, on its introduction into the Union. That, I think, is sufficiently clear and explicit.

Mr. JENKINS. I will trouble the gentleman with one further question.

Mr. KELLOGG. Very well; I will listen to the gentleman.

Mr. JENKINS. The gentleman admits that a case might arise under which he would vote for the admission of a slave State. I want to know whether, in saying so, he speaks for the Republican party?

Mr. KELLOGG. I am happy that the gentleman has asked me that question. I am one of that class of men and Representatives who deny the right of any man under God's sun to speak for me or for the Republican party. I speak as the Representative of the fourth congressional district of the State of Illinois.

The gentleman from Kentucky [Mr. MARSHALL] assures us that the honorable gentlemen from Ohio and Maine are issuing peremptory orders to the Republicans with the air of commanders. Sir, if they are mustering the Republican forces, he is certainly *marshaling* the battalions of Americanism, and that, sir, in a tone and manner that indicates that he expects to be obeyed. He declares no union can be effected between these parties. I was not aware that any effort had been made; I did not know that any one was authorized to treat on that subject. If gentlemen have been looking in that direction, let me advise them to go to the people and ask their consent to the arrangement.

Sir, we had quite enough of trading last winter. Night after night, during the last session, self-styled political leaders and eastern journalists were treating, trading, and chaffering over the Republican vote of Illinois; and on this floor, the gentleman from Massachusetts advised and appealed to our voters to rally around the leaders of our opponents. And when the struggle came, and our prairies were lighted up by the

fires of political conflict, we found ourselves compelled to wrestle against the influence of eastern journals, which should have sustained and supported us. But, Mr. Chairman, the voters of Illinois were not to be swerved from their purpose; they nailed their flag to the mast, and, in that hand-to-hand fight, wrested Illinois from the Democracy, and have placed it with reasonable certainty within the ranks of Republican States. We have now enrolled one hundred and twenty-five thousand six hundred good and true Republican voters in Illinois, who will not submit to be led by any man; but when the bugle sounds, declaring the true principles of the Republican party, they will, to a man, be at their posts, there to stand the shock of friend or foe. And, sir, let me say to the gentleman from Kentucky, let his party be careful of political associations, lest it lose its manhood. I would suggest to him that, during the late campaign in Illinois, while stereotyped letters from a prominent Senator of his party were being read at every school-house and other meeting in central Illinois, in favor of Judge Douglas, he, attended by priest and bishop, was making demonstrations for the Catholic vote of the city of Peoria. And, sir, in this manner was fought the hardest political battle of the age.

But I will pass from this to a subject that I more particularly desire to consider at this time.

Mr. Chairman, a few days since I presented to the House a resolution embracing some of the principles that, in my judgment, should characterize our policy in the government of the Territories, and had hoped that I could have procured a vote that would have indicated the sense of the House on that proposition. I have thought, and still think, that the increasing importance of the territorial questions to this Government, entering, as they do, largely into the legislation of each session of Congress, should have secured for it an early consideration, with a view to the adoption of some well-defined course of policy for the government of the Territories in their rapid development into independent sovereign States, fitted for the companionship of our Confederacy; but objections to its reception have thus far prevented me from obtaining a record of the sentiments of gentlemen on the propositions contained in the resolution offered. I therefore propose to present to the committee, and to the country, some of the changes that, in my judgment, should be made in the policy of the territorial governments.

The first proposition is, that all territorial officers now appointed by the President should be elected by the people of the Territory.

The extension of the elective franchise, and not its restriction, has been the cherished policy of our national and State institutions from their earliest history, and has become more firmly established as time has added confirmation of its justice and propriety; and just in proportion as has the element of free, self-government been developed in our Republic, so has its safeguard and sure support—the voting power of the people—been extended. This is not less noticeable in successive congressional action, in the establishment of territorial governments, than in the changes that have been adopted in that relation in the several States. Early in the history of our Government, when the settlers on the public domain began to show signs of political life, governments were established for their benefit and protection. But little of that government was intrusted to the people to be affected by it; the executive, the legislative, and the judicial powers of these governments were placed solely in the hands of the appointees of the President; and thus were governed the dependencies of a nation whose highest boast was, that the people ordained their own laws, and selected from amongst themselves their rulers; and in the Territories where were being molded new empires under the auspices and guardianship of the nation, no element of self-government was found; their laws were enacted, adjudged, and executed by the Governor and judges appointed by the President, and all of them were subject to removal. In this manner were set on foot all the early territorial governments of the country.

The first departure from this policy was the authorization of the inhabitants of the Northwest Territory, in 1792, to elect members of Assembly, who, together with the Governor and

legislative council, should compose the legislative department of the territorial government, whenever there should be five thousand white male inhabitants, over the age of twenty-one years, in a Territory; thereby requiring at least twenty thousand inhabitants before the people had any voice in the affairs of their own government; and even then but little, as the Governor and Council were appointed by the President, and subject to removal at his pleasure. Here was found the first germ of the elective franchise, in directing the government of the people outside of the States, which has been extended from time to time, until now, the law-making power, save in the veto of the Governor, is within the control of the people; they elect their Territorial Legislature, which is intrusted with all legitimate legislative power, not inconsistent with the Constitution and the organic law, yet subject to the supervisory power of Congress. It is hard to conceive why it always should not have been so; but if there were originally reasons for this restriction of popular rights, they have long since ceased, as is fully proved by congressional action, and the results of a more liberal policy.

Congress having recognized the propriety of placing the law-making power in the hands of the people of the Territory, as a matter of good policy, then, sir, I ask, why not carry out this work of progression, and permit the people to also choose from among themselves their own Governor, judges, and other territorial officers? With what propriety can it be said, that a people sufficiently numerous and worthy to require the ordinary machinery of a republican form of government, and to be intrusted with the law-making power, should not also be intrusted with the selection of officers to adjudge and execute the laws they themselves have made? Sir, I deny the propriety of such a distinction; it is at variance with the very elements of the theory of our institutions, and I maintain that it is our duty as Representatives of the people of the States, to inaugurate territorial governments, when required, for the safety and well-being of the inhabitants that shall, in their principles, effects, and consequences, assimilate as nearly as possible to our independent State governments. When the principle of self-government is recognized, and yet remains in the subordinate condition of a territorial government, and while we are molding new governments, of whatever character they may be, for the protection of our own people, it is our highest and most sacred duty to impress upon them the image of true republican institutions, not only in form, but in the essential qualities of their natures, and first among these is the principle of self-government, through the elective franchise.

The propriety of the election by the people of county officers, members of both branches of the Legislature, having been fully conceded by congressional action and the approbation of the people of the nation, it is now only a question of degree or extent to which the people exercise this privilege in the Territories. I assume that any people who may safely be intrusted with the legislative branch of the Government, which is unquestionably the most important department, may, and, in fact, should, be intrusted with the other departments, by the election or appointment of the officers thereof. Why may not the voter who selects his representative to fashion and make the laws by which he is to be governed, also select the officers who are to adjudge and execute such laws. Certainly no higher degree of judgment is required in the latter, than in the former case. Most clearly, it is more consistent with the theory of our institutions, and the doctrines of a liberal self-government of the people.

Again, sir, the people who now make up the population of the Territories have exercised this right, are familiar with its workings, and are competent to its enjoyment; they have but passed the imaginary boundary of the States, where all these rights were enjoyed as rights and not as privileges; they have elected their own Governors, judges, and all the complement of officers that make up the official corps of an independent State; the system has thus far worked well; they were competent to aid in carrying on the entire machinery of a State government; and will it not seem strange to them when they are told that having emigrated from the State of New York, Illinois,

or other States, to the Territory of Kansas or Nebraska, they are not as honest or capable as before their emigration? or will it be said that the higher position and duties of a territorial Governor or judge is above the comprehension of the sturdy settler, who, with the full appreciation of his rights as an American citizen, makes his home on our public domain, under the sanction and at the invitation of the General Government, and there hopes and helps to lay the foundation of republican institutions that shall rival the most favored State in the Confederacy? And sir, to that end I would impose on him the duties of such a work, and not withhold from him the means of its accomplishment. They are capable of electing their own officers, or they are not qualified for self-government.

Then, sir, I propose to extend the elective franchise to the election of all territorial officers, not upon the principle of sovereignty in the Territories, but upon the clearly-defined principle of sovereignty in the Federal Government, to be controlled and carried into effect by the direct action of Congress, or by the territorial government under and by the sanction of Congress, and upon the principle of deputing that power to the people of the Territory as a matter of just and wise policy. And thus would I secure these rights and privileges to the people for their own and the nation's good, and at the same time preserve the harmony of the Government from the erroneous idea of two conflicting sovereignties, one in the people of the Territory, and the other in the Federal Government.

But, sir, while this view of the matter might be a sufficient reason for adopting the policy suggested in the resolution, yet there is another reason that must commend itself to every unprejudiced mind, which is the correction of the monstrous abuses that have crept into the system of executive appointments in the Territories, and which unchecked have driven on boldly over the dearest rights of the people until the country demands a correction of these abuses, and the adoption of some measure that will be a guarantee against them in the future, and secure the curtailment of executive patronage.

The centralization of power is doubtless one of the most dangerous tendencies of our Government, and the most insidious and progressive in its character. It finds firm root and abundant nutriment in the Executive patronage of our Republic; and in proportion as it becomes strong, so in proportion it becomes corrupt. And such has been the increase of that tendency in the territorial appointments, that the people of this nation demand a corrective. And whatever gentlemen may think of this measure, on either side of this House, I tell them there is a just alarm in the minds of the people on this subject, and that they will demand of their Representatives that the elective franchise shall be sustained and extended wherever and whenever it may come in conflict with Executive appointments in the distribution of powers for the purpose of keeping power within the reach of this people, rather than placing it in the hands of an irresponsible Executive. But, sir, this change is not to be made without a struggle. The Executive and the party in power will not willingly give up and abandon one of the darling prerogatives of power—the Executive patronage.

In all Governments the appointing power has been dangerous to liberal institutions and popular rights, and in none more so than in this; and here, as elsewhere, it is fearful and jealous of incroachments. Hence when a proposition was made to extend the voting power in the Territories, the Government organ, the Union of this city, which, doubtless, is a faithful exponent of the views of the Administration, alarmed at so direct a blow from the ballot-box, aimed at the very flower of the prerogatives of the Executive, sounded the alarm, and demanded of the faithful to resist to the uttermost any relief to the people of the Territories from the power of Executive appointments; and wild with excitement at the mention of a change in the government of the Territories that would abridge the power of the Executive to interfere in the affairs of the people, it howls forth the slanderous cry that no evil has resulted from Executive appointments in the Territories; and in its paroxysm of rage declares our Government an experiment that has heretofore always failed, and, like one conscious of his own guilty deeds,

grows pale at the thought of exposure and the demand for reformation.

But, sir, these wailings will be unavailing; their too-soon discovered alarm will make the people more eager to know the extent of the wrongs that have been committed through the agency of the increasing patronage of the Federal Government.

Mr. Chairman, I propose to read an extract from the Washington Union of December 22, 1858, the day after I proposed to the House the introduction of the resolution before mentioned:

"ABSOLUTE POPULAR GOVERNMENT IN THE TERRITORIES.—A resolution has been offered in the House of Representatives, proposing the enactment of a law referring the appointment of Governors, judges, and other territorial officers to the people of the Territories at the polls. This is the *ne plus ultra* of the theory of squatter sovereignty. Blackstone lays it down that every wise law is the result of the experience of mankind in practical life, and is founded upon some good and sufficient reason; and that it follows as a sound principle of legal construction and judicial interpretation, that when the reason of such a law ceases, then the law itself should become defunct, the maxim being, *cessante ratione, cessat et ipsa lex*. It cannot be urged in excuse for such a law as is now proposed, that any evils have resulted from the present mode of appointing the chief officers of the Territories, which demand an abandonment of it; or that the mode of appointment now proposed would correct such evils as do prevail, and would not itself be attended with like or greater evils.

"We cannot imagine a single evil that the proposed mode of appointing territorial officers would avoid, or a single practical advantage that it would accomplish. It lacks the most essential ingredient of every wise law—that of being founded upon sound practical reason. It is the suggestion of mere theory, regardless of experience and reckless of practical consequences. It is the proposition not of statesmanship, but of mere idealism; unless, indeed, it be the cunning artifice of demagogism. It is the quintessence of French Red-Republicanism, not proposed to be introduced into the Government of stable and firmly-planted society in old States, where it would be comparatively innocuous; but into new, infant, immature, unstable, and rickety communities, where conservatism exists in no form, and where the sustaining hand of Federal conservatism, stretched out to steady, strengthen, and to save, comes as a godsend."

It is here boldly declared that the patronage of the Executive has been judiciously bestowed, and no evils have resulted from it which could have been remedied by the people in the manner now proposed. Sir, has the past of the Territory of Kansas faded from the remembrance of the Government organ? Does it suppose that the people of this nation have forgotten that Governor Reeder was abandoned by the President, because he, like a true man, resisted frauds and outrages upon the ballot-box and the right of free suffrage that were a disgrace to any people on earth; and that he was deprived of power, and a successor appointed to do the bidding of the oppressor? Here was an instance among many, where the exercise of Executive patronage was false to the best interest of those who should have been protected and sustained by the power and influence of a territorial Executive. But no sooner did he manifest a disposition to sustain the people in their legitimate rights, than his place was filled by another; and thus the wrongs against which he struggled were sanctioned, and received the countenance of that power which then held in its hands the destinies of the country. Could this have been done had the people of that Territory elected their own Governor, and he not subject to removal by the President, but firmly fixed in the gubernatorial office and sustained by those who elected him?

But, sir, is the case of Governor Geary also forgotten; a case more palpable than the former? When the Toombs bill, so-called, that had met the approval of the Democratic members of the Senate after its modification by the Committee on Territories, in 1856, by striking out the clause requiring a submission of the constitution that might be formed by virtue of its provisions to the people, for their approval or rejection, had failed to secure a favorable consideration in the House of Representatives, though the entire Democratic party were in favor of it, the same principle was embodied in a bill proposed in the Kansas Legislature providing for the well-known Lecompton convention. In that bill, like its progenitor, the Toombs bill of the Senate, there was no provision requiring the constitution, when formed, to be submitted to a vote of the people. And it was well known that, like its parent, it was designed to produce a constitution that, whatever might be its provisions, was to be enforced upon the people without their assent or the expression of their opinion; which intention of the friends of the Toombs bill is clearly demonstrated by the declarations of the Senator from Georgia [Mr. TOOMBS]

who introduced it. The following is his language. (See Congressional Globe of last session, Appendix, page 127:)

"The principles on which that measure was based were these: first, that all the legal voters of the Territory should have a fair opportunity, free from force or fraud, to elect a convention, and to make a constitution; and then that they should come into the Union under that constitution, without referring either the constitution to the people, or the question of admission again to Congress."

Governor Geary, well knowing the wishes and sentiments of the people of Kansas, whose Governor he was, and being well advised that a most gross fraud and outrage was designed to be perpetrated by the action of the convention to be called, vetoed the bill, mainly and almost entirely for the reason that it did not require a submission of the constitution to be formed to a direct vote of the people for confirmation or rejection of those whose constitution it was to be. And yet for this firm adherence to the rights and most reasonable requirements of nine tenths of the inhabitants of Kansas, he, too, was for that act compelled to relinquish the office of Governor, having thereby incurred the displeasure and the frowns of power.

Why, sir, did the Executive of this great nation of self-governing people interfere with its unrestrained and relentless removing and appointing power to thwart and override the known and acknowledged will of the people? Why simply, sir, to make that free people subservient to the dictation of the then dominant political party, which was binding all its energies to aid in the extension of the institution of slavery over a country whose people abhorred its moral, social, and political effects. And, sir, are these not evils that should be corrected, and are these not reasons that should demand the reform proposed?

Nor does the record of unparalleled Executive outrage stop here. When the Lecompton constitution had been formed, Governor Walker met the full force of Executive displeasure, and was compelled to retire from his official position like his predecessors; not because he warred upon the elective franchise; not because the people demanded his removal; but, sir, because he pledged his word that the people should have an opportunity to vote for or against that aggregation of frauds and vile political heresies, the Lecompton constitution.

Stanton, the acting Governor of Kansas for a season, having called the Legislature together in order that, through its action, the people might have an opportunity, by a direct vote, to make a record of their will relative to that constitution, was consigned to the new-made grave of those, within the removing power of the President, who dared to assume that the people of a Territory had a right to make and pass upon their own constitution, preparatory to becoming a State.

To propose to remedy this system of aggression upon the rights of every freeman, and an insult to the common sense and common honesty of mankind, by placing the territorial officers within the keeping of the people whose interests are to be effected, and whose rights are to be guarded, by them, is, in the opinion of the President, expressed through his organ, "the suggestion of mere theory regardless of experience, and reckless of practical consequences;" and, from the same Executive, through the same organ, his utter abhorrence of the voting power is declared in the following language:

"We seem always to forget that our system of popular government is an experiment; one that has been often tried in the eventful history of mankind, under circumstances fully as favorable and promising as those which surround us, but which has always failed until now. We are but three quarters of a century old in government—a very small portion of the infancy of a nation—and we already have concluded that our success is complete. Nay, in the pride of our overweening confidence, we are presumptuously applying the most severe tests to our institutions; tests which, but for their extraordinary vigor, would already have shattered them to pieces. We cannot imagine a more severe trial to popular institutions than the enactment of laws which do not spring from the exigencies of practical, outdoor life, are not called for by any experienced evil, and promise no practical advantage; but are the mere suggestions of abstract theory, the deductions of a crazy idealism working itself into a frenzy of philanthropic innovation, in the closet. This sort of legislation was pursued in France for a few memorable years, and ended in a catastrophe which will astonish and appal mankind to the end of time."

Sir, it is here said that a severe test is to be applied to popular institutions by adopting the "idealism" of extending the voting franchise in the Territories, and that this kind of legislation was pursued in France, and ended in a catastrophe

which astonished and will appal mankind until the end of time.

Sir, the elective franchise has ever been the basis of free popular institutions; and its extension to American citizens, wherever they may be found, in State or Territory, will be the safeguard of liberty, and the assurance of constitutional rights. Sir, it is the test of republican and popular institutions, and that by which their permanency and stability are secured.

It is that element in a Government at the mention of which tyrants tremble, and corrupt executives grow pale: it is that which restricts the appointing power, and prevents the means of the accomplishment of evil and corrupt practices. Why, then, should not the present Administration fear and tremble at the suggestion of this mode of reformation?

It is said this kind of legislation was tried in France, and produced most appalling results. I admit this kind of legislative policy has appalled some portion of mankind before this. It appalled the minions of King George, and the Tories of the Revolution; it has ever appalled, and ever will appall, the opponents of popular institutions and true republican government, and it appalls the friends of centralization of power. Sir, it is opposed to the sentiment promulgated in the Toombs bill, which contemplated setting on foot a State constitution in Kansas without reference to the will or wishes of the people, as clearly enunciated in the speech of Senator Toombs that I have referred to and read.

But, Mr. Chairman, this doctrine of the Union is not new; it is the doctrine of the Democratic party, as shown by the extract above referred to, and again fully declared by Senator BAKER during the last session of Congress, in the discussion upon the bill to admit Kansas as a State into the Union. Referring to the subject of a popular vote, he says:

"I do not pretend to know anything on this subject which may not appear in the Journal of Debates. I shall not hold the Senator to anything that does not appear there; but this I will say, that I was present when that subject was discussed by Senators before the bill was introduced, and the question was raised and discussed whether the constitution, when formed, should be submitted to a vote of the people. It was held by those most intelligent on the subject, that in view of all the difficulties surrounding that Territory, the danger of any experiment at that time of a popular vote, it would be better that there should be no such provision in the Toombs bill; and it was my understanding, in all the intercourse I had, that that convention would make a constitution and send it here without submitting it to the popular vote."

Here, sir, was a caucus, a meeting of senatorial chiefs of Democracy, solemnly declaring, as party leaders, that the dangerous experiment of a popular vote was not to be tolerated, that the people were not to be trusted. And thus it is ever with power, jealous of its prerogatives, and prating of the danger of experiments when liberal political doctrines are proposed. Sir, I am glad the issue is made; I am glad that the robe that has so long concealed the real purposes of the Administration is at last thrown boldly aside, and the doctrine clearly proclaimed that the extension of the voting power is an "idealism," a dangerous experiment, that should at once be put down by the Democratic power of the nation. This, sir, makes the issue plain; this marks the line between the friends of popular institutions and sycophants of power so plain that no one has a right to be mistaken. The guise that is worn is no longer deceptive. The doctrine of "popular sovereignty," couched in unmeaning generalities, that foisted into power the present Chief Magistrate of the nation, is now thrown by as an over-worn garment, or as an oft-told tale not worthy to be repeated; and now that it is proposed to disrobe it of its deceptive powers, and to give it distinctiveness of character, and make it the real helper of popular institutions and popular rights, it stinks in the nostrils of Democracy, and is denounced as a dangerous innovation upon republican institutions.

Mr. Chairman, these are some of the evils I would correct; this is the doctrine I would see adopted in our territorial policy, not only because it is just and right to the people of the Territories, and one of the vital elements of our free institutions which has been fully tested in the States, and by the very men to whom it is now proposed to extend it in their new homes, and who have lost nothing of their fidelity to the institutions of the country by their emigration, but because it

is one of the most fitting and appropriate means to arrest the steady yet rapid onward march of increasing Executive power, in its baleful and corrupting progress.

And, sir, I call on all who, with honest purpose, have professed to be friends of popular sovereignty and popular institutions, to come forward and aid in giving effectiveness of character to a proposition which heretofore has been the instrument only of personal aggrandizement, without one effort to make it practically, and in fact, what it promises to the ear, and to declare themselves for or against this measure.

The next proposition, Mr. Chairman, is that there shall be donated to every actual settler in the Territory one hundred and sixty acres of public land, on such conditions and under such restrictions as shall secure an actual cultivation and permanent improvement thereof. The object of this provision is to promote a permanent settlement of the Territories by such persons as shall be desirous of uniting their interests with the interests of the country in which they propose to make their homes, and to induce an emigration thither which shall be individual and voluntary in its character, each seeking to advance his own interest by that industry and enterprise that so eminently characterize the prosperous and successful of our fellow-citizens, and to correct, by inducements to industry, many of the evils of the irregular, speculative, and transitory character of the emigration to the Territories under the present system of territorial settlement. The object of the Government, doubtless, is to induce the settlement of the public domain by those who will reduce the lands to cultivation, and by the productions of the earth add to the general wealth of the nation—our Government having no interest in the sale or disposition of the public lands at whatever price they may bring, either high or low, unless such sale shall in some manner contribute to the happiness of the people or the wealth of the country, which can only be done by their productive qualities being developed. Should the Government receive millions for her lands from the purchaser, and the lands remain unoccupied, not one dollar would be added to the general wealth, nor one more home for the people be provided; and the only effect would be, that the money would pass into the coffers of the Government to be again disbursed, and the land be held by the purchaser as it was before held by the Government. The great object, then, should be, in any policy that may be adopted, to induce the cultivation of the soil and permanent homes for the people.

The Government holds the vast domain, not for its own use or speculative purpose, but for the people of the nation. This has been the object of the Government in its land policy from the commencement of legislative action on that subject. And while it has been productive of good results, yet many evils have crept in to thwart its most cherished purpose; and so complete has become the system of land-jobbers that, at our public land sales, unless the settlers are sufficiently numerous to protect their rights by physical force, they buy, if at all, at the favor and on the conditions prescribed by the bands of speculators who infest the country, and who buy large tracts of land and hold it at prices that prevent the settlement of the country by those who are unable to compete with the moneyed influence and artfully-planned conspiracies of land operators. And the hard-laboring and industrious pioneer is thus, not unfrequently, brought, when least able to protect his rights, in immediate competition with the wealthy speculator and the unprincipled land pirate. I admit that no system will be entirely exempt from the frauds of the designing, but many of the evils that now exist can be avoided.

I then, sir, as one of the means to effect this object, propose a donation of a quarter section of land to the *bona fide* settlers. It will as nearly as any other mode dispose of equally to the whole people the benefits of our vast domain. Owned as it is by the entire country equally, and held for the benefit of the people of each State, it should, with the same equality, be dispensed in its benefits. How better, then, can we accomplish this object than by saying to the people of every portion of the whole country, pointing to our mighty western possessions, with their swelling rivers and rich prairies, with undulating plains and waving forests, smiling a welcome to the husbandman, and

promising a rich reward to the toiling—here are homes for the million; this is the patrimony of the people; it is yours; make ye homes and found republics. The enterprising of every portion of the Union who are desirous of bettering their condition by emigration will then have an equal opportunity of drawing from the great store-house of nature an annual reward for the labor they bestow, untrammelled and unrestrained by the influence of capital in the hands of the few, and the monopoly of the landed interest in the old States. Against this proposition no cry of North or South or of sectionalism can be raised. The northern and southern emigrants are promised in the exact same proportion of the Government bounty, requiring in each case only the industry and enterprise of the person to secure the desired results; and in this consists the great leading distinction between the system of donation of lands and the old system of sales. The one makes the public lands the object of individual industry and individual reward, while the other involves the moneyed interests of the country, and is controlled by capital; and to such an extent has this system of land speculation been carried on of late years, that our land system has become a mockery in view of its original intention. And the freehold of the country is held, controlled, and sold, as a matter of trade and commerce, by the jobbers and land brokers. Commerce and the manufacturing interests require the agency and power of capital and Government aid; and to that end does the Government impose protecting duties, and lavish money in the protection of commerce. With this, sir, I find no fault. It is just and right that it should do so to a reasonable extent. So intimately blended are the producing, manufacturing, and commercial interests of the country, that a direct aid to one is an indirect aid to the others; and if the producing interest is indirectly benefited by the advancement of the manufacturing and commercial interests, and are hence dependent one upon the other, then a direct aid and expansion of the producing element would be an indirect benefit of the other interests.

Mr. Chairman, the true theory of our Government is, in all practical ways to individualize, and not monopolize, interests. Ours is a Government of individualities, bound together for the mutual benefit and protection of all; and just in proportion as individuals are prosperous, so will be the prosperity of the nation. And for that reason I propose, so far as the policy of the Government can effect it, to induce every individual, in his own right, to become an owner of the soil. What higher boast could a nation make, than that the people in their own right held the freehold of their homes? It would make them loyal to the Government, for in fact, and not in theory alone, would it be their Government. And, sir, who are more worthy to be encouraged than those who are willing to endure the hardships incident to a new country, and to convert the wilderness into fitting abodes and habitations of men? They are a class of people who toil, and who add to the common stock of a nation's wealth; they extend your borders, and defend the frontiers; they pay their proportion of Government burdens equally with the merchant prince of the old States; they fight your battles in the hour of peril, and shrink at no sacrifice in their country's cause. And while you pay an annual bounty of many hundred thousand dollars to the hardy fishermen of New England, and levy duties on articles consumed by them, for the benefit of eastern manufacturers and southern sugar-growers, you are asked in vain to permit those whose only capital is their labor, to appropriate, not the Government's land, but the people's own land, to their own individual use and occupation, to make that labor (their capital) available.

Sir, when capital, or pretended capital, concentrates for the purpose of building railroads, and asks for public lands, millions of acres are yearly granted to soulless corporations, with a reckless extravagance that ought to alarm and startle the country; but when the settler asks his own moiety of the common patrimony, that he may build a home for his family, he is told to go buy in the market. And now, sir, to-day, before this Congress, there are being urged grants of lands to railroad companies in the Territories, with a haste and anxiety prompted by the fact that it is daily made more apparent that the wants of actual set-

tlers will demand it for occupation, and thus daily and hourly they are competing for their own with moneyed corporations and the legislation of Congress. Give land to the settler, and you give homes to the honest poor. Give homes to the industrious, and you give security and wealth to the nation, for in the pockets of the people should be found the wealth of the Republic. I would, sir, if in my power, make every quarter section of land in the Territories the habitation of a free-man. I would dot it all over with smiling homes, the abodes of comfort. Then, sir, the country would reap a thousand fold the value of her lands. And then, in due time, would spring up the improvements of the age; first school and church, then town and city, with railroads, commerce, and manufactures in their due proportion, and in each new State would be the elements of an empire. And, sir, it would give security and stability to your political institutions, the landholder having the means of prosperity within his power, secured to him by the Government, realizes that he is an integral part of it; that her prosperity is his prosperity; that her permanence is his security; and that he has a direct interest in her advancement. He is as jealous of her honor as of his own, and will protect it as surely. And, sir, it is a palpable fact, that in our cities, and proportionably in our towns and counties where there are found the most landless persons, where men have no permanent homes, there is found the field of operation of the corrupt and the designing; there the elective franchise is but lightly held; there the demagogue plots his foul work, and there national interests and national honor are the playthings of unprincipled politicians.

Look you, sir, to our large cities, where the swaying masses of unlocated life sweep onwards, politically, regardless of anything and everything but their own passions or vile political venality. And each succeeding political campaign shows more clearly the growing danger to our institutions from this element of political power; and hence it is becoming more and more apparent that the permanence of our institutions must, to a very great extent, depend upon the virtue and integrity of our agricultural and country districts, where industry is rewarded, and labor, the great element of wealth and power, is made honorable, and the intelligence and virtue of the people nurtured and promoted. Homes, sir, independent homes, however humble, are the nursing mothers of morality and virtue, and the bulwarks of free republican institutions. Augment them, sir, by the policy of your laws; augment them by the liberality of the Government, until we can proclaim to the nations of the earth that this is a nation of homes. Then you may dismantle your fortresses and disband your armies; save millions to the Government; and return to the original theory of the Republic, that her sure defense is the willing hearts and hands of the people, surer and stronger than the appliances of standing armies, or the monuments of masonry which compose our fortifications.

Sir, there are hundreds of thousands in our country, worthy inhabitants, who are laboring from day to day for a scanty allowance, barely sufficient to support their families; who are dependent on their labor for sustenance; and who, while adding to the aggregation of wealth in the hands of the rich and intolerant, are sinking their identity in the great mass of dependents that are accumulating in city, town, and country. That class the Government should aid and succor. They, sir, have no agents about these lobbies, urging, with the energy of wealth, high protective duties for their benefit. No rich Army contract finds its way to their hands. No well-paid office gladdens the heart of the laborer and his scantily-fed family. He pays a tax on all he consumes, without complaining. Sir, will not the Government extend to him and them the means of adding to her own and their prosperity, by saying: till the land that nature spreads out in boundless quantities before you?

But, Mr. Chairman, there is still another reason that commends itself to my mind. It is the practical protection and protective policy to the great free labor interest of the United States; not to the North or South alone, nor to East or West, but to that element and interest wherever it may be found. It enables it to assert its right to the high position to which it is entitled in the political

economy of our Government. Sir, it gives it manhood and vigor; it enables it to declare its own superiority over its great antagonist, slave labor; meets that great question of the day at the threshold, and, by the power of its own intrinsic merit, defies and overthrows it, not by the political organizations and wrangling disputations of party chieftains; not by the power of Executive interference; but by the moral and political power that free labor engenders in the hearts and souls of free men that have known and felt its reward and dignity.

To accomplish this, I would induce emigration from the South of the free, laboring men of the South, who, by the effects of a land-monopoly system inseparable from the institution of slavery, are landless and dependent, to the Territories, where, with an equal right to the soil, they would, with their own labor, thus honorable, become the molders of their own fortunes; and proud of their own creations, they would spurn the chains that had restrained their energies; and, being now independent, would hate oppression in any form, and would cherish those institutions which tend to elevate and ennoble mankind. Think you that, in a Territory where the laborer and his family are tasting the sweets of the fruits of his own toil, where his own rights are acknowledged, where he teaches his children the precepts of justice and humanity, slavery and oppression can find a safe abode? No, sir; the common sense of mankind responds, it cannot; and if ever the slaveholding States permit this question to be fully met and discussed, its demonstration will be as a light to the path of the laboring man to a land where slavery is not tolerated. Sooner or later, that proposition will call forth the latent energies of the non-slaveholders in the slave States, which, when once aroused, will prove more potent than any agency of a political character, from whatever quarter it may come. Sir, the strong man may be bound for a time, but, ere long, he will break the bands that have bound him, and stand erect in the pride of his own manhood. In this, the North will have no agency; but in the settlement of the common Territories of the country, she demands that her teeming population shall bear their just part in the organization and shaping of their moral and political destinies. The twenty million inhabitants of the northern States will send their due proportion of emigration to any new country or territory, wherever it may be opened for settlement, whether in Central America or within the Territories of the United States. Adopt the policy I have indicated, and, in my judgment, slavery would find its own safe habitation within the present slave States.

With this belief, I say to all those who desire the acquisition of more territory, whether it be south or north, if it can be honorably and justly acquired, I have no objections. But, Mr. Chairman, it must be for freedom, and not for slavery; and, in the plan I have proposed, I believe that guarantee is sure. Settle any country with free laborers; give them the means of prosperity, by the exercise of a due degree of energy and industry; and they will abhor slavery, because of its great moral and social wrong. Where the people have made their own homes and erected their own altars; where the father and the son have toiled for their own independence, and, by their success, made glad, happy firesides; where liberty is loved and freedom venerated; there, sir, you may pile mountain high Dred Scott decisions; there you may send your slave code from congressional halls; yet slavery will not be, it cannot live, in such an atmosphere. The people will not resist your laws, but there will be no victims for their vengeance. This is the element that has driven it from many of the States, once slaveholding, but now free; it is the element that is now rearing monuments to mark its power in Missouri, and is the hope of her freedom.

The property element is the most sensitive of any element in our political economy; it shrinks instinctively from the approach of danger; it trembles when political elements are stirred. Men will face danger themselves, but they will not hazard their property. Stocks vibrate at the first symptom of a panic, and go down at the first cry of civil commotion. Think you, then, that the master will trust his slaves where the moral sense of the community is formed by free laboring emigrants of the North and South? I believe not. The

planter emigrates but seldom; his movements are tardy; his investments are large; time is required for preparation to emigrate; and like the capitalist of the North, but few comparatively seek new habitations in the early settlement of a country; while the young, the enterprising, and the industrious, non-land and non-slaveholders, flock to the new country to better their condition, and to acquire permanent estates. This is the course of natural ordinary emigration, and any other character of emigration; unnatural in its progress, and not prompted by motives of individual interest, but in the hands of plotting, scheming men, designed to effect some political purpose, or to accomplish some object not for the interest of the masses, subserves no good purpose either to the Territory or country.

But, sir, aside from this result, the policy is a just one; it is the natural offspring of our institutions; it induces a natural, not a forced, emigration; it tends to the elevation of the worthy and industrious; opening avenues of success to the humble, yet enterprising citizen, and is in accordance with the true theory and genius of the Constitution and spirit of a free Government; it develops the physical resources of the country and moral power of the people, and induces a high equality, without which a republican Government cannot produce the full measure of the fruits of its mission. And while, in addition to this, it administers a corrective to the doctrine of the extension of slavery, it so much the more commends itself to my approbation.

Are gentlemen wanting in confidence of this result? I would point them to the history of the State of Illinois on the subject of slavery. It will be remembered that, under the operation of the ordinance of 1787, and the action of Congress after the adoption of the Constitution of the United States, slavery was prohibited in all the North-western Territory, which included the Territory, now the State, of Illinois. And while it should be admitted that the slaves held by the old French settlers prior to that ordinance, were permitted to be held still as slaves under a claim of treaty stipulations; and while, for the time, the system of indentured servants was adopted, both in violation of the spirit and letter of law, yet so marked was the policy of the Government in relation to that Territory, against slavery, that it fixed the character of emigration to that country. The non-landholder and the non-slaveholder rapidly emigrated to Illinois, to avoid an institution that had, in the slave States from which they removed, been ruinous to their interests; while the slaveholders, more slowly, but steadily, emigrated, with their slaves, to Missouri, where slavery was established; and comparatively but few, save slaveholders, located there in the early years of that Territory.

In this manner was fixed the character of emigration by the policy of legislation, which, though different in terms from that now proposed, tended to and contemplated the same results. And this if adopted will, in my opinion, produce the same distinctive character of emigration, and result in the same consequences; which are, that while the Territory is equally open, with all its advantages, to every citizen of the United States, irrespective of his location or pursuits, yet, sir, discourages, and, I trust, will prevent the importation of slaves and the institution of slavery, a State institution only, which attaches to the State government, and not to the people personally, into the Government Territories.

The emigration to Illinois, until after the adoption of her State constitution in 1818, and, in fact, until 1825, was, by a large majority, from the slaveholding States; and yet, while many of the leading politicians of that young State were anxious that it should become a slave State, and plied the political machinery under their control to effect that object, yet the very people who had known from practical experience the effect and working of the institution of slavery, both in a social and political view, by a large and decided majority, voted Illinois a free State. And thus, in fact, the emigrants from slave States, having realized and felt the benefits of free institutions in the reward of industry, are now found the advocates of freedom.

The character of emigration to Missouri being different, yet both voluntary and natural, it became a slave State. Afterwards, in 1823, the restless, aspiring politicians, knowing then, as now,

the political power of slavery, again agitated the question of adopting the institution of slavery in that State. That could only be done by a change of the State constitution; and, to accomplish this, it was necessary that two thirds of each branch of the Legislature should concur in a law submitting the proposition of a call of a convention to amend the constitution to the people. This majority was found, and the question submitted, when it was fully and freely discussed; but the laboring people, the masses, who had homes, and a direct interest in the well-being of the country, rose in their strength and again, by a decisive majority, declared against slavery; and thus, I trust, put forever at rest that question in our State. And this is illustrative of a fact which I believe exists: that, while many of the politicians of the country are in favor of slavery, the great mass and heart of the people are opposed to it, and demand its non-extension, and will not be satisfied with the very extraordinary position of the northern Democracy, that the institution of slavery is merely a question of convenience and self-interest; or, in the language of Judge DOUGLAS, in his New Orleans speech, recently delivered, is a matter of climate and interest. He says, speaking, of slavery:

"In my opinion, the people will want it, and will have it if their climate and productions are favorable to its profitable use. Consequently, the existence of slavery in a Territory is a question to be determined by climate and necessity and self-interest, and not by congressional legislation."

To him, and to that part of the Democracy that he represents, the question of slavery extension is a matter of no interest; and of entire indifference to him, or them, whether the Territories of our common country are free or slave.

Sir, this is not the voice and sentiment of the people; they are an affirmative people, as their fathers were, and will not be content much longer, when the question is made by the two great political parties, to fold their arms and say, we have no interest in this great matter. They are beginning to see that it is their duty to range themselves on the one side or the other, and not indirectly throw their political power on the side of slavery extension, when they are at heart opposed to it. This complex and deceptive policy will not survive but a little longer, and when the sentiments of the people shall be made known, and their Representatives fearless of party political consequences, speak and vote them on this floor, the slavery question will be settled in a day.

The next proposition in the resolution offered, is, that the people of a Territory shall provide for and pay the current expenditures of such territorial government.

This proposition seems to be suggested as the natural result or consequence of the two former. Having provided the settler with a generous donation of land from which to produce an annual return, and which, from the character of our territorial possessions and the fertility of the soil, is realized abundantly the first season of improvement and cultivation, I am unable to see any just reason why the current expenditures of such territorial government should not be borne by its inhabitants, the General Government providing for the erection of public buildings and ordinary public improvements, by appropriations of money or donations of land for that purpose; also, by appropriations of land for school purposes, as has become the settled policy of the Government, making a permanent fund for educational objects, the burden for governmental purposes will certainly not be more onerous than were the same burdens in the States from which they may have removed; and, having the power to elect their own officers and fix the amount of their salaries, they alone will be to blame that the expenses of such government are not restricted to the reasonable governmental wants of the people, in view of their number and localities.

It is true that, under our present system of territorial governments, the expenditures are large and would be burdensome to the people of a sparsely-settled Territory. But, sir, they are unreasonably large. Why, the pay of territorial officers generally, and in fact always, far exceeds the pay of like officers in the States where there is any similarity in the amount of duties to be performed. We pay the Governors in Kansas and Nebraska \$2,500 per annum, and the judges

\$2,000, when the same duties, and really twice as much, are performed by like officers in many of the States for a much less amount. Where the offices are eagerly sought after with that remuneration, and the duties thereof discharged with as much ability and fidelity, may we not then assume that the same correction would be made and the same results follow from the action of the people if they had the power in a Territory as in a new State? When they have the control, and are responsible for their action, they will only incur such expenditures as they can reasonably meet and which will be found abundant to carry on their government.

If your constituents ask you, gentlemen, why this difference? answer them truly, and tell them that in one case the people arrange and judge of those matters for themselves with a just regard for the duties to be performed and a reasonable compensation therefor; while in the other, the places are to be filled by the appointees of the party in power, with a view to mold the political character of the new State, and for the further purpose of rewarding political partisans who have been repudiated by the people at the ballot-box; but having done some service for the party they are taken from the political battle-field from among the dead and dying, by the President, to the great political hospital, the appointing power, and soon find themselves provided for in some well-paid office in a Territory. And, sir, so disastrous have been the political conflicts of late to the Administration, that many new Territories are to be organized to supply the pressing wants of the Executive.

Mr. Chairman, I am opposed to the doctrine and principle of dependencies; and would divest our territorial system of it as much as possible. In Great Britain it serves the purpose of providing for the wants of that portion of the nobility who cannot provide for themselves; in our country it is made a sure retreat for the disappointed political aspirant, or it serves to propitiate some vigorous party leader by the appointment of his retainers. Relieve the people of this policy, give them the choice of their own officers, make these officers accountable to the people who elect them, require the people to assume the responsibility of their own government; and you will assimilate the territorial government to our popular State institutions, and induce in the Territories a vigorous and manly growth. Sir, pursuing this policy, I would be just to the people of the States as well as the Territories, and require that the latter should remain under a territorial form of government until the character of their institutions should be indicated, and until their population should be equal to the number required for one member in Congress under the ratio of congressional representation; so that, when admitted as a State, their political power in the councils of the nation would not be greater than the same number of people in the States.

This policy was clearly indicated in the early days of the Republic, so early as the organization of the different Territories in the Northwest, then so called. Even when the ratio was thirty thousand, and afterwards thirty-three thousand, there was a provision in the ever-memorable territorial ordinance of 1787, which was applied from time to time to successive new Territories, as follows:

"And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its Delegates, into the Congress of the United States, on an equal footing with the original States. *Provided*, The constitution and government to be formed shall be republican and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interests of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of inhabitants in the State than sixty thousand."

Thus clearly indicating the opinions and policy of the men of that age, yet providing for an exception to the general rule, if any contingency should arise that might seem to require it.

The reason for naming that number doubtless was the belief that, in the then ordinary course of emigration and settlement of a new country, sufficient time would elapse before that number would be reached to give permanency to the settlements, and, at the same time, a clear right to the people to congressional representation by the number of inhabitants. And this policy does not seem to have been departed from but in a very

few instances, as will appear from the following statement, believed to be correct:

Population of the several States, the ratio of representation, and the number of Representatives allowed to each at the time of their admission respectively.

States.	When admitted.	Population.	Ratio of representation at time of admission.	Representatives before next apportionment.
New Hampshire.	June 21, 1788	141,899	-	3
Massachusetts.	Feb. 6, 1788	378,717	-	8
Rhode Island.	May 29, 1790	69,110	-	1
Connecticut.	Jan. 9, 1788	238,141	-	3
New York.	July 26, 1788	540,120	-	10
New Jersey.	Dec. 18, 1787	184,139	-	6
Pennsylvania.	Dec. 12, 1787	434,373	-	10
Delaware.	Dec. 7, 1787	59,086	-	1
Maryland.	April 28, 1788	319,728	-	10
Virginia.	June 20, 1788	748,308	-	10
North Carolina.	Nov. 21, 1789	393,751	-	10
South Carolina.	May 23, 1788	249,073	-	5
Georgia.	Jan. 2, 1788	82,546	-	3
Vermont.	March 4, 1791	85,539	-	3
Kentucky.	June 1, 1792	73,077	-	3
Tennessee.	June 1, 1796	77,262	33,000	1
Ohio.	Nov. 29, 1802	41,915	33,000	1
Louisiana.	April 8, 1812	76,556	33,000	1
Indiana.	Dec. 11, 1816	63,597	35,000	1
Mississippi.	Dec. 10, 1817	75,512	35,000	1
Illinois.	Dec. 3, 1818	34,630	35,000	1
Alabama.	Dec. 14, 1819	144,317	35,000	4
Maine.	May 15, 1820	298,335	35,000	7
Missouri.	Aug. 10, 1821	66,580	35,000	1
Arkansas.	June 15, 1836	52,240	47,000	1
Michigan.	Jan. 26, 1837	206,000	47,000	1
Florida.	March 3, 1845	54,477	70,680	1
Texas.	Dec. 29, 1845	250,000	70,680	3
Iowa.	Dec. 28, 1846	81,920	70,680	1
Wisconsin.	May 29, 1848	210,536	70,680	3
California.	Sept. 9, 1850	107,000	70,680	2
Minnesota.	May 11, 1858	136,464	93,420	2

And in the instances that seem to have been exceptions to the general rule, which are but three, (Illinois, Arkansas, and Florida,) Arkansas had largely over the number then required for one member in Congress. Illinois, at the time of her admission, lacked three hundred and eighty only of the ratio of representation then established; and Florida numbered fifty-four thousand four hundred and seventy-seven inhabitants when admitted; yet the congressional ratio was then seventy thousand six hundred and eighty. Thus, in one instance only has there been really a substantial departure from the rule requiring a sufficient number of inhabitants for one Representative. The reason for this exception might have been as marked then for Florida, as it now is believed to be for Kansas; all of which reasons for exceptional cases would be avoided by the proposed change of policy. And I may here assume, that at the present time, one hundred thousand will become permanent inhabitants of a Territory, as soon as would sixty thousand at the time that number was adopted as the rule. It is certain that equality of representation and political power can alone be secured but by adhering to the general rule; and it should not be departed from only where the reasons for such departure are clear and manifest.

Mr. Chairman, I have but little expectation that these propositions will meet with favor from those in power; but, sir, they will commend themselves to the common sense and honest judgment of the people; and whether they are adopted by this House now, or not, the time is not far distant when our constituents will require their enactment.

THE POSITION AND TENDENCY OF PARTIES.

Mr. ATKINS. Mr. Chairman, it may not be altogether unprofitable at this particular juncture to review briefly some of the leading events of the history of parties, and to analyze some of their peculiar characteristics. The time seems auspicious.

The American statesman who would progress safely in the science of political government, is not unlike the mariner who explores an unknown sea. Even in the midst of the most placid waters, under the most auspicious sky, and with the most prosperous gales, he should cast anchor and take his reckoning of both wind and current.

WHITHER ARE WE TENDING? is a question often propounded in political circles. It is generally

asked by politicians whose little barks have been shipwrecked upon the shoal of expediency; for the man who pursues principle, although he may for a time sink beneath the wave of popular sentiment, will surely rise again. Right principles never lead to wrong results. I have no solicitude whatever to know whither we are tending, so far as the great national party, with which I stand identified, is concerned. Its past history is to my mind a sufficient guarantee of what its future will be. But whither are the Opposition parties tending, for there are several factions of them?

The history of American politics presents two distinguishing and leading facts. One is, that there have never been but two political parties in this country formidably contending for the mastery at the same time. The other is, that the Democratic party has always been one of these, while the Opposition party has changed its name and principles to suit the temper of the times. The one is a party of expediency, while the other is a party of principle; the one advocates the interests of the few at the expense of the many; the other advocates the greatest good to the greatest number; the one sustains the interests of favored classes, the other sustains the interests and rights of the people. The one is founded in high Federal aristocracy; the other is the offspring of Democracy; the one is styled the "people's party," while the other is the party of the people. The grounds of difference between these two parties were plainly defined by the respective administrations of the elder Adams and Thomas Jefferson; a difference so broad and deep that it struck to the very basis of government itself. It is refreshing in these days of political degeneracy to return to the original fountains of political lore, like pilgrims to the Holy Land. Our views of Federalism and Democracy become more vivid and distinct the nearer we approach the primitive days of the Republic.

The Adams or Federal party favored a strong consolidated and central Government; a Government or nation of *people*, viewing the States in the light of dependencies or provinces; while the Jeffersonian or Democratic party regarded the central Government as a *Union* of free, sovereign, and independent States, as a limited derivative sovereignty, as a commissioned agent, with no powers only those expressly delegated and nominated in the Federal Constitution. The one adhered to a strict construction of that instrument, the work of great, good, and patriotic men; the other would construe it latitudinously—finding a grant of power to ingraft upon the policy of the country almost any measure which expediency might suggest, or ambition demand, although in clear violation of its letter and spirit, and often of doubtful utility.

Of these I might mention various instances, long since exploded, and against which the fiat of the American people has been unmistakably pronounced. The shades even of a United States Bank and distribution, and their kindred brood of political heresies, do not now enter within the walls of this Capitol. But I will forbear to exhume these buried memories over which the mantle of oblivion has been long since thrown by the hand of the nation, further than they may serve to illustrate the argument I am about to submit.

As a Representative of a southern constituency, with a heart whose every pulsation beats jealously for the honor of my beloved section, in the Union, or out of it, should I live to see that evil hour, there is one truth of which I am most earnestly convicted, and that is, that the South "owes the Iliad of all her woes" to this libertinous-latitudinous construction of the Constitution. And I declare here to-day, if this Union is ever dissolved—if that "bright particular star" shall disappear from its central position, and go darkling through chaos, no more to light the nations of the earth in their march to civilization and constitutional liberty, the historian must date its decline to this unfortunate and fatal principle.

Mr. Chairman, it is my purpose to show that the Democratic party has administered this Government successfully and prosperously, and in strict accordance with the Constitution. And that the inequality that has, from time to time, crept into the Federal legislation of the country, has been effected by the Opposition party during the occasional intervals when it was in power, and when the Democracy failed to have a working majority—that inequality being always un-

just and oppressive to the South. In other words, that the Democratic party has always come boldly up to the maintenance of southern rights and southern honor. True, in almost every contest in which the equality of the southern States with their northern sisters has been brought in question, a small portion of the northern Democracy have hung fire, and, in some few instances, taken shelter in the camp of the enemy—but still the records of the country testify that the great body of it has been firm and true to the integrity of the Constitution, while the Opposition, I care not by what name they are designated, are the unyielding enemies of our constitutional rights and equality. I allude to the northern wing of the Opposition; the southern wing of the late Whig party was largely in the minority, and though it had the good of the country in view, yet it was so weak and powerless it fell an easy victim to the corruptions of its more powerful northern allies. And though for some time they presented the strange anomaly of acting together, yet the two parts were vitally repugnant to each other—the lesser was borne along by the greater body through the prejudice and influence of the party name and party machinery, until southern Whigs could go no further, without dishonoring their section and degrading themselves. In that long list are found the names of some of the purest patriots—the wisest statesmen—and the most exalted intellects of the land.

The same is true of the American party, which is only another form of opposition to the Democracy, with this difference—that there is a wing of it in the South which boldly proclaims its purpose to affiliate and unite with the Black Republican party in the overthrow of the Democratic party, and are no doubt daily laying their plans, and making their treaties of amity and union. But I will treat of this hereafter.

What has been the effect of Democratic policy upon the history of this Republic, whether commercially, politically, or socially? How have the rights of the South fared under Democratic Administrations? And what has been the policy of the Opposition in reference to the same great interests?

It has always been a cardinal principle of the Democratic party to oppose all monopolies and class legislation; not only because they are wrong in principle, but because they invariably operated unequally upon the people. For this service the South should be peculiarly grateful, as the discrimination is always against that section. What southern statesman does not know that the North has always had the advantage of the South in the laws and treaties regulating the commerce of the United States with foreign nations? What natural law of commerce, or in other words, what rule of justice compels southern merchants to buy ships of northern shipbuilders, instead of purchasing in the cheapest market, although it be a foreign one? What natural law of commerce compels our cotton to go by New York before it can be shipped for Liverpool, submitting to the most onerous coasting freights, when it would be nearer its port of destination at Charleston or Savannah, if it did not have to take that circuitous route? Why do our northern merchants and northern ports, reap almost the entire benefit from the tonnage of the United States?

The House will remember how the gentleman from Massachusetts [Mr. BURLINGAME] was exercised a few days since for fear that this monopoly, which, by our navigation laws, is secured to New England merchants, would be restricted. The gentleman admitted that "ships could be built thirty per cent. cheaper in the British Provinces than in the United States, and he contended that every interest demanded protection in this respect; for, if the building of ships stopped, the tonnage of the country would sink, and it was a law that when the tonnage of the country fell, freights went up." Here is a monopoly of thirty per cent. that the South and West have to pay to New England commerce by way of protection. Just think of it, the southern and western people, under the operation of our navigation laws, are denied the privilege of buying or employing foreign bottoms, but are forced to pay tribute to New England cupidity. It is the worst form of protection. No wonder that southern commerce languishes under such odious discriminations!

No wonder that New England's rock-bound coast has become an Arcadia, when southern labor and capital are forced by law to be expended in enriching and adorning it.

Millions have been paid our northern seamen in the shape of Government bounty for catching codfish. Money actually taken out of the pockets of all the people, and especially the South, to pay a certain class of men to catch fish and sell them to us. I am glad to find that a Democratic Senate has passed a bill repealing the law, and I trust that the House will concur in that judgment, in wiping from the statute-book an act that imposes an unjust tax upon the southern people, for which they do not receive even the cold thanks of the beneficiaries, but rather their curses. The partiality in Federal legislation for the North, is evinced again, in the immense sums of money that are lavished upon northern rivers and harbors; it is seen again in the large and munificent land grants that have been voted by Congress upon northern railroads; it is seen in the disproportionately large number of custom-houses, court-houses, and other public buildings—the North has nearly three, while the South has one; and half of them exist only on the statute-book, having no "local habitation." At the origin of the Government, the South had two ports that surpassed New York as commercial marts, but by a regular system of favoritism, New York has been made the great commercial emporium of this country. Look at the immense outlays of public money in erecting her public buildings—the untold millions spent upon her harbor and shipping—her immense army of officeholders who must necessarily live upon the Federal Treasury—the princely and extravagant donations made in establishing her ocean mail lines—all tending to make that city the great heart of the trade and commerce of this country, not only with foreign nations, but even among the States, one with another.

If Tennessee would purchase a State bond of Georgia, the first step is to ascertain its value in New York. Why do nearly all of our European importations first land at this great center, thence to radiate all over the nation? Have we not skillful navigators and experienced merchants? Look to the statute-book, and you will find the true cause in your laws upon commerce and navigation. The same is true of all your splendid schemes of internal improvement. The North has got nearly the lion's share.

But, sir, I ask to be indulged just here, in calling your attention to another marked and striking instance of the inequality of Federal legislation in favor of the North; the more grievous and burdensome on account of its universality, affecting every branch of industrial pursuit for the benefit of one—the manufacturing. I allude to the effect of a protective tariff upon the people at large, and upon the South especially. Does any sane man, no matter of what latitude, at this late day, deny that every kind of a tariff is a *tax*? Does anybody deny that this tax is collected from the hard earnings of the great mass of the people under the specious name of revenue, by which the favored few are protected and enriched, who need no protection? And will any one deny that any sort of a tariff affording incidental protection, does not operate unequally and oppressively upon the South and West, the producing sections, for the benefit of the North and East? If he does, I would advise him to go back to the political primer and learn anew political economy. Of course, the higher the tariff, the more burdensome to the people of the South, who pay largely over their share of the duty. Of all the Machiavelian schemes to pamper the lordly aristocrats of the North and East, at the expense of their toiling millions who are not operatives, and to grind to dust the interests of the South and West, I must say it is to be found in the operations of a protective tariff. But I do not mention this subject with the view of entering into an argument upon its details, further than to show its injustice to the South, and for the additional purpose of reminding the country that the Democratic party has always opposed this, and all kindred measures of class legislation, such as bankrupt laws, United States Banks, &c., &c., as subversive of that principle of equality, without which liberty is imperfect.

But I have said that the South pays largely over its proportionate share of the revenues collected

by duties upon imports. Where is the proof? In the first place, the South has only about two thirds the population of the North; or, in other words, the North has fifty per cent. more population than the South. The North has eighteen millions, while the South has only twelve millions, including slaves.

The report of the Secretary of the Treasury shows that the United States, in 1857, exported, in round numbers, "\$279,000,000, excluding gold and foreign merchandise, reexported. Of this amount, the sum of \$158,000,000 was the clear product of the South—articles that can only be raised in the South. We have \$80,000,000 worth of exports, the productions of the forest, provisions, &c. Suppose that one third of them are of southern products: there is for the South \$185,000,000, while the North has only about \$95,000,000 of exports." The total amount of imports for the same period is \$333,000,000, which is more than half paid for by southern exports. When we take into consideration the excess of population in the North, and the excess (nearly one hundred per cent.) of exports from the South, and that the North has grown rich off of the South, in being the factor of the South—exchanging its products for foreign importations, we must conclude that the fault lies in our system of imposts, and that it operates most unequally upon the South—making its people the tax-payers, and those of the North the tax-gatherers.

According to population, the South should pay sixty-six cents to one dollar for the North—whereas, as our exports pay for our imports, the South pays as 185 to 95, nearly one hundred per cent. Add the excess of northern population, and we have for the South to pay in the ratio of 218 to 95 for the North. It is a safe calculation to say, that the South pays two thirds of the revenue that supports this Government, while more than three fourths of it is expended upon the North. Is there justice or uniformity in this? The Constitution says that "all duties, imposts, and excises, shall be uniform throughout the United States." As before observed, the North has managed to become the factor of the South, and, in exchanging its products for foreign importations, heavy reductions are made upon them by way of commissions, &c., when the foreign importation in turn, under the operation of the tariff, is made to pay a heavy duty upon its arrival at the custom-house, when it is bought by the merchant, and from him by the southern planter; or, to express it differently, is returned to the planter, with still another per cent. Thus it is, that southern labor and capital, under the operation of Federal legislation, are made to contribute largely over their share to the maintenance of the Government; and, at the same time, enrich the commercial men and manufacturers of the North, exacting tithes where none are due, to fill the coffers of a bloated aristocracy. And yet a crusade is preached from the hustings and the pulpit, in almost every town and hamlet in the North, against the slave labor of the South, not knowing, in the frenzy of their fanaticism, that they are smiting the hand that feeds them.

Notwithstanding the liberal policy of the Democratic party towards each State and section of this Confederacy, applying as it well could the principle of equal and exact justice to all, it has, nevertheless, in its attempts to do justice to the southern States, been met at every step with the most relentless and determined opposition by a party in the North, which, whatever other principles it may have entertained, and by whatever other name it may have been recognized, is deeply imbued with the sentiment of anti-slavery. It has resisted the commercial progress and the territorial expansion of the South from the origin of the Government.

The liberal mind would have supposed that this bitter enmity should have been spared the South, having been the principal actor in the Revolution—having baptized its fields with the best blood of its sons, and consecrated them to the genius of American liberty; and having consented to ordain a Constitution and enter a Union of confederated States, each sovereign and independent over its own internal affairs, consisting of both free and slave. But so bold and reckless has abolitionism become, after having warred upon slavery in every possible form, having almost completed its serpentine work of encircling the South, it boldly

rears its hydra-head, and with its hissing tongue tells the South that it intends to storm its very citadel. SEWARD, the great representative man of northern abolitionism, proclaims upon the floor of the Senate that the battle has been fought and won, and that henceforth the southern States will hold the relation of conquered provinces to our northern sister States, or neighbors; that the slave States must be abolished, and that our tobacco, cotton, rice, and sugar-fields must be tilled exclusively by free labor. What, emancipate our slaves? Of course, turn them loose among us. I will not contemplate so horrid and revolting a picture; and yet such are the designs of abolitionism.

Twenty years hence, or sooner, there will be the constitutional number of free States required to amend the Federal Constitution, when the solid bulwarks of the Supreme Court are to be undermined and reconstructed upon an abolition basis, and the institutions of the South will be at the fanatical mercy of abolitionism. This view proceeds upon the idea that no more slave States are to be admitted—abolitionism swears it; the heavens may fall, but another slave State will never be admitted into this Union, if abolitionism can prevent it. Has not the door of the Union been slammed in the very face of the slave constitution of Kansas—and, strange to say, southern men rejoice at it? The original twelve slave States, with a magnanimity that challenges our admiration, did not insist upon uniformity of laws and institutions, but were content that Massachusetts should regulate her own internal affairs to suit herself. To have acted otherwise would have been false to their high character, and to the gallant heroes who fell upon the memorable field of Bunker Hill, and to the brave spirits who met the advanced guard of the British army upon the plains of Lexington and Concord. And yet this great high-priest has spoken at Rochester, and the oracle is caught up throughout all Abolitionism, that slave labor and free labor are incompatible in this Confederacy of States, and that the Democratic party, being the "natural ally of slavery, must be overcome." Sir, who of the many reckless, defeated, and disappointed politicians of the South are ready to assist in breaking down this Democratic party, that SEWARD says is the natural ally of slavery, and thus enable these Free-Soil traitors to tear down the temples of the South, and desecrate her altars with their unhallowed hands? But, for fear I may do the distinguished Senator from New York injustice, I quote from his speech, made at Rochester, some time in the autumn of 1858. He is represented, in his own party newspapers, in speaking of the collision between the system of free labor in the North and slave labor in the South, to have said:

"Shall I tell you what this collision means? They who think that it is accidental, unnecessary, the work of interested or fanatical agitators, and therefore ephemeral, mistake the case altogether. It is an irrepressible conflict between opposing and enduring forces, and it means that the United States must and will, sooner or later, become either entirely a slaveholding nation, or entirely a free labor nation. Either the cotton and rice fields of South Carolina, and the sugar plantations of Louisiana, will ultimately be tilled by free labor, and Charleston and New Orleans become marts for legitimate merchandise alone, or else the rice-fields and wheat fields of Massachusetts and New York must again be surrendered by their farmers to slave culture and to the production of slaves, and Boston and New York become once more markets for trade in the bodies and souls of men. It is the failure to apprehend this great truth that induces so many unsuccessful attempts at final compromise between the slave and free States, and it is the existence of this great fact that renders all such pretended compromises when made, vain and ephemeral."

In order to break down the Democratic party at the North, abolition orators describe it before the people as a party identified with the slave power, and that the ulterior object is to plant slavery in the free States. Such was the idea in Mr. SEWARD's speech. The Senator has been greatly imposed upon as to the future aims of the southern people. No such desire exists in any slave State. Nor do I understand it to be the mission of the Democratic party to go about planting slavery, or preventing its being planted by the people wherever a majority of them may desire to do so. I understand it, however, to be the true principle of that party, to interpose no restrictions upon the rights of the people of a State, upon that subject, one way or the other. Nor does the Democratic party deny the right of the people of a Territory, when they come to ordain

a State constitution, to exercise complete sovereignty over that and all other domestic questions.

Slave labor and free labor are opposing forces, says Mr. SEWARD. Let us look at this question for a moment. Republicans say that slavery sits like a vampire upon the energies of the South, and retards her progress. They do not believe it when they say it; for opposition to slavery with them has become a trade—a profession; they get office by it; as was well said a short time since by the gentleman from Virginia, [Mr. JENKINS,] "they get their bread by it." The northern masses are made to believe that slavery is the Pandora's box of all their ills. New England operatives will yet learn that without cotton they are without bread. If the South withhold her cotton from New England manufactures, public sentiment may be revolutionized. Without cotton, the product of slave labor, the manufacturing thousands of the North, the lords of the loom, would be utterly prostrated in business.

I will not speak of the social condition of the laboring classes in the North—it is deplorable enough; but I will speak of the society and institutions of the South, where this much-abused system of slave labor is established. Where will you go to find society more refined and at the same time more simple and republican? All white men in the South are upon the same platform of social and political equality—the only distinctions recognized are those of merit, intellect, and an honest name—the highest honor is in the grasp of the poorest man. The tendency of slave labor is to elevate the poor man in a social point of view. White men in the South do not perform menial service.

Mr. KELLOGG. I understand the gentleman to say that this cry of anti-slavery is a political trade in the North. I ask him if it is not that by which gentlemen in the South get office also?

Mr. ATKINS. If there are any such gentlemen in the South I do not know any of them. They do not live in my region of country, I can assure the gentleman. Can the gentleman say as much for his region?

Mr. KELLOGG. Oh, yes, truly I can.

Mr. ATKINS. The gentleman from Illinois [Mr. KELLOGG] has just referred to the non-slaveholders of the South, and, if I understood him correctly, has advanced the idea that they constitute an element of opposition to slavery. Sir, he does not know them; they would spurn all intimations of the gentleman of their want of devotion and loyalty to southern rights and southern institutions. No slaveholder would defend the honor and equality of the South and the institution of slavery itself, if menaced, sooner than would that portion of our southern citizens. They are true and patriotic, and thoroughly imbued with a sense of southern equality.

Had I the time, I would be glad to discuss, at some length, the relative nature of labor and capital in the South and in the North. They operate adversely in the North, while in the South they are identified. In the North it is the interest of capitalists that the price of labor should be low—the lower the price the greater amount of it can be had for a given sum of money. In the North, capital is not permanently invested in labor, but only for a limited space of time—while in the South capital seeks a permanent investment, and in a word, a man's capital thus invested is labor. Hence, it is to the interest of a man owning slaves, that the price of labor should be high, because that makes the price of his products correspondingly high; hence they are identified. So with his non-slaveholding neighbor; his capital consists in his labor, and it is to his interest, of course, that labor should command remunerative prices. But I might refer to some statistics which place this view of the subject beyond doubt; they amount to demonstration; suffice it the difference in the wages of nearly all the mechanical tradesmen ranges from twenty-five to fifty per cent. higher in the South than they do in the North, which establishes the fact that slave labor is an auxiliary to free labor.

It does not necessarily imply that all free labor is white labor, for, according to this theory, the labor of free negroes is free labor. Hence, SEWARD, and be it remembered he is the Great Mogul of his party, would have our negroes freed and placed upon the same basis with our white citi-

zens. Just in this connection I desire to refer to the speech of the able and distinguished Republican member from Maine, [Mr. WASHBURN,] delivered in the House on the 10th instant. You remember, sir, how boldly he proclaimed the tenets of the Black Republican creed, and in what unmeasured terms he denounced the "slave-struck Democracy," as he called them. In a word, the whole drift and scope of the gentleman's argument was to prove that all men, whether white or black, are equal. He quotes these celebrated words from the Declaration of Independence, that have rendered the name of Jefferson immortal:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

Can any man suppose that Jefferson had reference to negroes, when he was the owner of a large number at the time that he penned the sentiment, and died holding them in slavery? To suppose that he did, is to maintain an absurdity.

He then denounces the Lecompton constitution because it recognizes "the right of property in a slave." In his indignation, he pays his respects to the application of Oregon, free Oregon, for admission as a State into the Union, simply because its constitution does not recognize free negroes, who are citizens of other States, the "right to maintain suits at law." He desires them to be recognized as citizens, of course.

Speaking of the demands of the Democratic party, he quotes from the President's message the following:

"The Supreme Court of the United States has decided that all American citizens have an equal right to take into the Territories whatever is held as property under the laws of any of the States, and to hold such property there under the guardianship of the Federal Constitution, so long as the territorial condition shall remain. This is now a well-established position."

The gentleman then says:

"It requires the acceptance of this 'position' by the Democratic party as one not to be denied, or even brought in question. It insists that the inhuman and impious declaration of the slaveholding judges of the Supreme Court of the United States, that those who bear 'God's image cut in ebony' have 'no rights which white men are bound to respect,' and may be treated as outlaws and hunted as wolves, shall be received as a sacred and indubitable verity."

"It demands the admission of Oregon into the Union as a State, with a constitution which denies to colored persons, although they may be citizens of sovereign States under the Constitution thereof, the right to maintain suits at law for the vindication of any right, or the redress of any wrong."

"It counsels its allies of the straight Whig school to renounce all the cherished ideas and oft-repeated declaration of the Whig party, and, by unavoidable implication, to stamp as weak or hypocritical the great chieftains of that once powerful organization—Clay, Webster, and others, whose names will stand conspicuous and eternal in the firmament of their country's history; and, wallowing in the mire of an inconceivable degradation, as a northern Whig journal has recently asserted, that—"

"The declaration that all men are endowed with an inalienable right to liberty, and that this right is self-evident, is contradicted by natural reason, by natural religion, and by the sacred Scriptures, and leads not only to infidelity, but also to anarchy and atheism."

The principle embodied in the above quotation from the President's message, I take to be orthodox with all good Democrats, North and South. Slaves are property, and under the "guardianship of the Federal Constitution" the owner can hold them in the Territories with or without legislation, whether "friendly or unfriendly." The Supreme Court has substantially so decided.

The gentleman styles the present Democratic organization as a slave oligarchy, as the sham Democracy, and most feelingly holds up the Black Republican party as the true Democratic party. Quite Democratic. So abstractly Democratic is he, that he can see no difference between a white man and a black African; at least such is his theory.

Sir, the doctrine of the political equality of the white man and the negro implies social equality—amalgamation. And this doctrine of equalizing labor—making it all free labor—in other words, abolishing slavery, are only different terms to express the same idea of negro citizenship—equality. Sir, do they want negro judges, jurors, legislators? If Maine, or any other State, chooses to degrade themselves by the adoption of any such Black Republican ideas, let them do it; but I beg that they will not attempt to obtrude them upon other communities.

The following sentiment, artfully woven into

the gentleman's speech, too plainly tells what his entire party is eventually looking to. The gentleman should endeavor to inform himself better as to the purposes and aims of this "Lecompton Democracy." He knows, or ought to know, before he asserts it, that neither the Democracy, nor the entire southern people, expect to plant slavery in a solitary free State of this Union, as before observed. Knowing, as he must, that no such propagandism is anticipated or intended by the southern people, his language, "prepare for its gradual removal," was intended to have a peculiar significance.

The South is already aware that the day is regarded as not far distant when the North will have the requisite number of free States to amend the Constitution and "prepare for its (slavery) gradual removal." When that day comes, if it comes in your day and mine, it will be one full of retribution to you as well as calamity to us. The South will not shrink from it.

But the gentleman pleads most eloquently that his party shall not be disintegrated—that it shall not lower its piratical flag—that it shall not resolve itself into a mere do-nothing Know-Nothing Opposition party to the Democracy. He seems to have some fears that the Northern anti-Lecompton Democrats and Americans will demand terms of coalition that will dilute the savory principles of Republicanism as he expounds them. In speaking of those who may hereafter constitute the Republican party, or its successor, should it fail to come up to the demands of abolitionism, he says:

"And I do not believe that it will be constituted hereafter of those only who are now within its ranks, but that it will embrace, also, all Americans and anti-Lecompton Democrats who did not mean to submit to the subjugation of freedom, or the overthrow of our political institutions. Upon these over-shadowing issues, there can be but two opinions or parties, and those who are not with the slaveholders' party must be with that of their opponents."

Again he says:

"And, sir, I venture to predict that within ten years from this time, it will have the support of a large majority of the people of the slave States."

How hopeful is this champion of the Republican party! His faith can remove mountains. He must feel that he has the nucleus of a party there now. Will he be so kind as to tell us who so treacherous to the South as to embrace Black Republicanism? But he has great horror of the South's extending her institutions into any other Territories, and appeals to all, North and South, who are opposed to this "slavery propaganda," to unite in making bitter and relentless war upon the Democratic party, because, as he says, it favors southern expansion. Sir, if these things be in "the green tree, what will they be in the dry?"

I am proud to acknowledge that, under the Democratic principle of State rights and popular sovereignty, the South may grow and expand. Under the benign influence of this party, with a genial climate that rivals the sunny climes of Italy or France, with a soil rich and productive as the fabulous fertility of the Nile, and with a population whose spirit and energy "could conquer a world," the South may yet achieve a still nobler destiny. What would our power, as a nation, be to-day, if it had not been for this principle of expansion, so dear to the great Democratic heart?

When we come to glance at the map of our territorial acquisitions, the injustice and inequality to which the South would have been subjected, and from which it was partially saved by the policy of the Democratic party, is startling. In order to comprehend more fully the enormity of northern selfishness, see the Old Dominion—the mother of great ideas and great deeds, in the prodigality of her munificence, and in the virgin purity of her patriotism, with a magnanimity to which the history of the world furnishes no parallel, cede to the North the Northwest Territory, an empire of itself, comprising the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. For this munificent donation—a free-will offering to these people—they send to this Congress some Representatives who affect to scorn what they are pleased to denigrate the slave oligarchy of Virginia. Well may this venerated old mother exclaim,

"How sharper than a serpent's tooth it is
To have a thankless child!"

And, yet, when the wise statesmanship and forecast of Jefferson seized upon the lucky mo-

ment to wrest the Louisiana purchase from the grasp of Napoleon, this same northern party denounced him as a propagandist and a usurper. There was a splendid acquisition, the richest in soil, the most splendid in production, the most delightful in climate, and the most fruitful in resources of any land beneath the sun; with the noblest rivers, embracing the great Father of Waters, upon whose bosom navies might proudly float. Who so insane—who so struck with judicial blindness as to regret the free navigation of the Mississippi river, without which the South must have ever been a blighted province, shorn of her commerce?

The advantages of that territory can scarcely be computed. Every farmer who lives within the great valley of that noble river, has cause to bless the American progress of the Democratic party, without which, that immense empire would have been to-day a French colony. It was the Democratic party that gave you Florida with its health-giving breeze. And when the lone star of Texas, coruscating with the glories of San Jacinto, veered from the orbit of its nationality, and settled amid the American galaxy, this same anti-slavery party of the North, had their hearts not quailed them, would have quenched it in blood, and blotted it from the firmament of States. Annexation was opposed by the old Whig party in the South; but only as a party move, which resulted most disastrously to its prospects and future. But the national Democracy inscribed the honored name of Texas upon their banners, and bore her triumphantly into the Union. Who, now, but an Abolitionist, will gainsay the wisdom of that policy? There she lies upon our southwestern border, like a huge giantess slumbering in her strength, who, if the bloodhounds of fanaticism approach too nearly, will arouse to the most determined and desperate resistance. We can no more do without Texas, than the moon can do without the luster of the stars that smile in her face as

"She walks in beauty like the night."

Where is the enlightened statesman who will admit that the Mexican territorial acquisitions—the crowning glory of that most successful and brilliant administration of the model President, were inexpedient and unwise. Since the mines of California and New Mexico have been opened up to American enterprise and industry, every department of human pursuit throughout our whole country has been quickened, and the whole commercial world strides along upon a more extended scale. California gold is silently producing revolutions in the commercial and financial world that contradicts all calculations of the political economist, and upsets the best-established theories of the wisest statesmen. Sceptics may doubt and sneer, but they are confounded at the amazing results it has produced in the progress of human thought and action. Energies have been aroused and latent efforts put forth which had lain dormant throughout the long night of ages past. In the whirl of prosperity and sudden fortune which has broke upon us, men can scarcely believe their senses. In a word—Democracy has acquired every foot of territory that has been added to the nation, and has taken every step in the march of American progress, while the opposition parties have resisted and opposed our expansion, preferring rather American repression.

That mission is not yet fulfilled; the dim vista that separates the present from the future, but hardly conceals from the view still grander and nobler results.

The time may not have arrived when we ought to acquire other territory, but it will come. Destiny forces it upon us—*what is to be will be*, and human power cannot prevent it. You can no more repress the energies of this people than you can check the headlong cataract, or turn the course of the mighty river. Cuba, rough diamond in the Spanish crown, will some day dazzle the eye, bright, polished, and sparkling in the diadem of American States. English diplomacy, nor French bluster, can wrest from the American people this gem of the ocean wave, colored as it is, with the blood of the lamented Crittenden. It is ours, geographically, commercially, naturally, and the very sovereignty of America, sooner or later, requires its annexation.

There is not an interest in this country that would not be beneficially affected by the acquisition of this island; but more especially would it contribute to the interests of the people inhabiting the valley of the Mississippi river. Every description of produce now raised in that fertile valley would be enhanced in value by finding a market in Cuba; while the great staple of that island, sugar, under American culture and by free trade, would be supplied to us at greatly reduced rates. The people of the United States would save, annually, millions in the simple article of sugar. But the island becomes doubly important to this country in view of our hundreds of millions of commerce between the Atlantic and Pacific shores that pass beneath the Spanish guns. A people so near our own shores, and long weighed down by the iron yoke of Spanish despotism, awed into submission to the most tyrannical laws by a hireling soldiery, it is not unnatural that they should seek deliverance from a Government which, instead of affording them protection, operates as an engine of oppression. American prosperity and Cuban independence alike suggest the necessity of early action.

European diplomacy is endeavoring to entangle us with our southern neighbors, but American progress must cut the Gordian knot of Mexican misrule, and Central American despotism, and rebuke the unwarrantable intervention of the English Queen and the French Emperor. These countries must and will be *Americanized*, in spite of the intrigues of foreign despots, by the moral power of our great example; if not, by the terrible vengeance of the sword. To such an alternative we have to come; I would prefer not, but sooner than see those transits closed by the armaments of the Anglo-French alliance, to intercept our commerce and our free passage to the Pacific shores, and thus laugh to scorn our boasted American principle of the Monroe doctrine, I would counsel and appeal to the arbitrament of the sword, the last argument of nations. Sir, I am not of that school of politicians that would repress the application of the great principle of liberty and justice to classes or to States. I have no fears that those eternal principles will become diluted by expansion. I am not alarmed for fear this country will break in two on account of its great magnitude—that very magnitude presupposes remoteness of parts and diversity of interests, and those parts and interests will naturally beget a jealousy towards the more central and powerful that cannot fail to preserve in beautiful proportion the entire whole. The isolated position of California and Oregon, far off on the Pacific shores, renders them ever watchful and jealous of the Atlantic States and those lying to the North, and demonstrate to-day, by their sound conservative national Democracy, their sympathy for the weaker section of the Union, and the rights of the States.

But to return in chronological order. When, in 1850, the South meekly asked an equal participation in the Mexican territorial acquisitions, purchased by the common blood and treasure of the country, there was in the path of American progress, a monster more terrible than European guns—the infernal spirit of anti-slavery, who stood up in all his effrontery and opposed her just and constitutional demand, and thrust in her face Wilnot provisos. But the Democracy, with true constitutional devotion, denounced all such unjust discriminations against any portion of this Confederacy, and proclaimed the principle of non-intervention and popular sovereignty. It is true that, to the genius and statesmanship of the illustrious sage of Ashland, more than any other man, is the honor of that triumph due; but, it must be remembered, that he had then been set aside by the Whig party for the availability of General Taylor, and that the great Kentuckian was without a party, and had to rely upon the willing support of the Democratic party.

And, again, in 1854, who but the Democratic party stood up for the same great principle in the Kansas and Nebraska act? The great body of the Whigs in the South, who loved principle more than they did party, gave the measure their hearty support. Again, when Kansas, with a legally-made constitution, knocks at the door of the Union and asks that she be allowed a seat in this great sisterhood of States, she is indignantly refused by every Abolitionist and Black Repub-

lican, because she has recognized domestic slavery in her constitution. The South, in this instance, as in 1854, furnishes a corporal's guard who vote and act with the anti-slavery party. But no southern Democrat, I am proud to say, is found upon that list; but, to a man, with more than half the southern Americans, support the measure. And where stands the northern Democracy in this test of their fealty to the constitutional rights of the South? Of the northern Democrats in the Senate, only three voted against it; while in the House, from the North, only twelve Democrats are found to finally record their vote with the Opposition.

Thus you see, after all the hue and cry of the division in the ranks of the Democracy, there were but a very few who stood out finally. But it is urged that the policy of the Administration upon this issue has been condemned in the recent elections in the North. The Democracy, in the last northern elections, for the first time, had to contend against the complete fusion of the Black Republican and Know Nothing parties. And even against that unholy alliance our strength, as shown by the popular vote in each of the three great States, New York, Pennsylvania, and Ohio, is larger than it ever was before; showing, conclusively, that the policy of the Administration has been approved by the honest masses of the party. But where is the man of any other party in the North who stood by the South in this contest? Echo answers, where? But how has the policy of the Administration been received in the States South where elections have taken place? The popular majorities have been largely increased. In Missouri, where an effort has been made to introduce the emancipation question along with anti-Lecompton, the Administration party has been sustained by the uprising of the people by unprecedented majorities. Democrats and Americans have united and swept anti-Lecompton and emancipation from the soil of Missouri.

But some Americans of the South complain that the South has lost Kansas, as a slave State, and that squatter sovereignty has been substituted for popular sovereignty. At the same time that these partisans make these complaints, they sustain most enthusiastically the very men who voted against the repeal of the Missouri compromise; the very men who voted to keep Kansas free territory, and who opposed her admission as a slave State. Beautiful consistency! Complaining because Kansas is not a slave State, and yet hurrah for the very men who, by their votes, would not give her even a chance to be a slave State; and denounce those who did give her the opportunity to have slavery! These same consistent patriots affect to be wonderfully horrified at the doctrine of squatter sovereignty. They cry out squatter sovereignty, and at the same time denounce the Administration which is opposed to that odious doctrine. They are down on squatter sovereignty, but they are ready to excuse anybody (but a Democrat) for entertaining the heresy. They denounce squatter sovereignty, but sustained Millard Fillmore, who sustained congressional intervention. They cry out squatter sovereignty, and at the same time sustain their leaders, who voted and acted with Free-Soilers in the territorial organization act of Kansas and Nebraska, and who were in open harlotry with the Abolitionists against the admission of Kansas, because she had slavery.

Nor can they say that they are ignorant of the Black Republican tendency of this party. Have not some of the South American journals recently boldly declared their willingness to fuse with the Black Republicans? And is it not understood in this city, that efforts, unceasing efforts, are constantly made to bring about a harmonious coalition? Do not the Journals of Congress tell the tale too plainly, that there is a party in the South acting, not talking only, but acting with the Black Republicans, with the view to overthrow the Democracy? And was not this northern American party politely bowed out of the late New York State Black Republican convention, after it had become demoralized by a proposition to fuse, and after it had lowered its flag and subscribed to the anti-slavery plank of Seward's platform? I say bowed out, for they were indignantly refused a voice in the nomination of the ticket. Did not the Senator from New York, [Mr. SEWARD,] during the great debate of the last session, congrat-

ulate his party, that their prospects were brightening, and that even in the South a party was forming, upon whose aid he could confidently rely? To whom had he reference? Of course to those who think and vote with him upon those great issues of southern rights. As a member from Tennessee, it was with deep mortification and regret that I heard the gentleman from Massachusetts [Mr. BURLINGAME] eulogize a Tennessee Senator, [Mr. BELL,] knowing, as every one does, the inveterate hatred which the Massachusetts Representative bears the institutions of my State.

The Richmond Whig, a leading anti-Lecompton American journal, having argued that the slavery question is settled, says:

"There is now, therefore, no reason under heaven why the Opposition, North and South, East and West, may not unite in support of the same policy, and the same candidates, in 1860. And we go for such union, with all our heart and soul."

The Louisville Journal has been for a year or two advocating the election of Black Republicans over sound and national Democrats.

"In view of the existing state of things, the necessity for a reconstruction of parties is apparent," say some of the American papers of the South. The signs of the times very clearly indicate that the discordant elements of the Opposition are going through another smelting process, of which Black Republicanism, northern Know Nothingism, and Anti-Lecompton southern Americanism, constitute the component parts. And the honest masses will soon be called upon by the professed patriots of this new organization, to unite with them in putting down the time-honored Democratic party, that has stood the shocks and changes that have swept over this country from the days of Jefferson down to the present moment. What is to be the name of this new party is, perhaps, the most difficult and perplexing question connected with its partition—*a party traveling about in search of a name, like Japhet for a father.* But, judging from those who have kindly offered their services to stand at the baptismal font as god-fathers for the founding, it is very evident that the South will find as little sympathy from it as from the bitterness of her sectional foes. The same pen with which Horace Greeley and James Watson Webb invite WILLIAM H. SEWARD and HENRY WILSON to a Black Republican jubilee, over the defeat of the Kansas-Lecompton constitution, indites, in terms of warm commendation, letters of invitation to distinguished South American Senators.

For the want of a better platform, opposition to the Kansas policy of the Administration, and support of the Crittenden-Montgomery substitute, has been suggested as the basis of union; hoping, in the course of time and the progress of events, that they may be able to insert other planks, if the American leaders dare risk going further in that direction before their southern constituencies. That portion of the American party whose patriotism rises above the love of party, and who have stood firmly by the Democracy from the beginning of this Kansas episode, seeing the irreconcilable divisions that exist between themselves and the northern wing of that party, and those of the leaders of the South, who shout in its train, and who, through the pride of ambition and hatred to Democracy, would bargain away our dearest interests, have no alternative left them but either to disfranchise themselves, or to act at once with the Democratic party in resisting the storm of anti-slavery that threatens to desolate the South in 1860. You will either have to vote for the Democratic candidate or Black Republican candidate in the next presidential election. "Choose ye between them." Will they longer blindly follow in the lead of such supplicants at the footstool of abolitionism? From every mountain and valley—from every city and hamlet—the indignant and patriotic shout comes up—no! never!

"It is a base abandonment of reason to resign your right of thought."

The American party is totally denationalized. Its northern end is abolitionized, while the southern wing of it is disintegrated. With this deplorable picture staring in the face the honest men of that now defeated and disbanded party, they must decide to what flag they shall rally; they must either march in the ranks of that party which "carries the flag, and keeps step to the music of

the Constitution and the Union," or they must range themselves under the black banner of sectionalism and abolitionism, upon which is written "eternal hatred to the South." Are you ready to be tied hand and foot, and handed over to the embittered foes of your section? If you would not, I charge you, by the rights and honor of your beloved South—by the sovereignty of fifteen States—by the Constitution your fathers made and transmitted to you—by the glorious memories that cluster thickly around the Union itself, to beware of the coils that are now set to entrap you, and make you the unconscious instruments of an unholy ambition.

Let us be united in the South. The union of the South will encourage our northern friends to stand by us in the future, as they have in the past. Instead of denouncing the northern Democracy, and preferring Black Republicanism, thereby weakening our means of defense, and strengthening our enemies, it is the duty of every southern patriot to rebuke and silence all opposition to the northern Democracy. They have fallen like grass before the scythe in defense of our rights; and can we expect them to continue to offer themselves in the breach if we will not defend ourselves? But, with the South united, we will have friends enough in the North to meet the fierce onsets of abolitionism in 1860, and once more roll back the tide of battle upon their discomfited and flying legions. Let the motto be written upon your banner, "The union of the South for the sake of the South and for the sake of the Union."

And though the Democratic party is beleaguered upon the one hand in the North, as evidenced in the late elections by a fusion of Republicans and Americans with a party of strong sympathizers in the South, of which Tennessee and Kentucky furnish the chief exponents and leading spirits, while on the other hand stand opposed to it, the extremists of the South, who are threatening to form new political associations and "Leagues," doubtless with the view of finally precipitating a dissolution of the Union—I must be allowed to express my entire confidence that the national Democracy, aided by the conservative men, who will naturally gather about it, and finally enter into it, and be a part of it, will triumph—gloriously triumph—over all these jarring factions, and once again safely guide the ship of State through the tempestuous billows that would seem to threaten her destruction. It has been the fate of this great party to meet with reverses always just after a presidential triumph, and the weak and timid and dissatisfied spirits, for a time, seem to abandon its fortunes. But there is a recuperative power and energy in the Democratic masses, and when once again they begin to get in motion, as they always do when any great crisis arises, their success is certain and overwhelming.

Sir, may we not hope that the good genius that has so long watched over and protected and preserved to the country the Democratic party, may still point out the forbidden paths and continue to direct us in the way of truth. Let no new and fatal doctrine be ingrafted upon our creed. Let us steer clear of gigantic schemes to deplete the Treasury and bankrupt the nation, by building Pacific railroads, and thus set up a monopoly in this country, to a company whose children's children would suck the life-blood of the Republic. Let us avoid high protective tariffs that eat up the substance of agriculture, and destroy all incentives to honest industry. Let us return, as well as the growth and expansion and necessarily complicated machinery of our great country will allow, to the utmost simplicity and economy consistent with the public weal in the administration of the Government. Let us guard with a watchful vigil every avenue leading to or from this great political fabric, that no rude hand shall enter and strike a fatal blow that will despoil any of its fair proportions. Let us perform the high trusts committed to our hands, with a scrupulous regard for the letter of our instructions, and return our commissions unsullied to the people from whence they emanated.

One other word, and I conclude. Sir, the South has a solemn duty to perform; the duty of rebuking the spirit of lawless aggression and disregard for law which we see manifested in the recent importation of Africans to our shores. Were I today in favor of repealing all laws preventing the African slave trade, I would nevertheless be op-

posed to subjecting the South to the approval of a violation of our laws and treaties by giving countenance to smuggling in cargoes of wild Africans. I am aware, sir, that Abolitionism would be delighted to make up an issue with the Democracy upon this question. But that wish will not be gratified. Much as I hate and loathe this Abolition party, let it come in whatever shape or form it may, whether it comes like the daring robber, or noiselessly like the cunning and stealthy approach of the thief, I declare here to-day, as a southern man, my unqualified opposition, as a matter of expediency, to the reopening of the African slave trade, could it be done legally. Not that I have any sickly sentiments of Black Republican negrophilism that would suggest its immorality; not that I think it shocking to humanity and outraging to the moral sense of Christendom; for I believe slavery is a moral, social, and political blessing, and has done more, and will yet do more, under Providence, to enlighten, civilize, and Christianize the world, than any human institution beneath the sun. No, not that I would not as soon purchase a slave from the King of Dahomey as from a Virginia planter; but I would deplore it on account of the effect it would have upon the South itself.

If the African slave trade be reopened, northern cupidity will land them by the thousand upon our southern coasts; soon the South will be overrun with wild savages; our present docile, contented, happy, and Christian slaves, will either lapse into barbarism or be forced to flee their homes, to which they are now so much attached. Of course it is visionary to suppose that this trade will be opened by any act of Congress repealing the laws interdicting it; but the duty which the South has to perform, if she would maintain her high position in the eye of the world and in her own estimation, is to promptly frown down all efforts that are being made, in contravention of law, to that end. Viewed politically, the South can never hope to regain her lost equilibrium in the councils of the nation—the scepter of power has departed forever. Why, then, make an impracticable demand, as some few of our southern citizens are doing? Sir, the South plants herself proudly and fairly upon her constitutional rights; and if she falls, she will fall in defense of right, of truth, and her own spotless honor, and not by the error of her own aggressions. The Democratic party controls the politics of the southern States, and it will set its face against all violations of law, let them come from any of our people, North or South. Respect for law is the first duty of a free people; disrobe it of its sanctity, anarchy prevails, and liberty itself is endangered.

Mr. DAVIS, of Mississippi, obtained the floor, but yielded it to

Mr. SMITH, of Tennessee, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and Mr. SMITH, of Tennessee, having taken the chair as Speaker *pro tempore*, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

And then, on motion of Mr. MORRIS, of Pennsylvania, (at nine o'clock and thirty-five minutes,) the House adjourned.

IN SENATE.

TUESDAY, January 25, 1859.

The Secretary called the Senate to order, and said: Senators, I am requested by the Vice President to inform the Senate that he is unavoidably absent to-day, and may be so for a few days.

Mr. BRIGHT. Mr. Secretary, I move that the Hon. BENJAMIN FITZPATRICK, of Alabama, be the President *pro tempore* of the body.

The motion was unanimously agreed to; and Mr. FITZPATRICK took the chair.

The Journal of yesterday was read and approved.

Mr. BRIGHT. I move that the Secretary be directed to apprise the President of the United States and the House of Representatives that, in the absence of the Vice President, the Senate have

chosen the Hon. BENJAMIN FITZPATRICK President *pro tempore* of the Senate.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the report of the Secretary of War, communicating, in obedience to law, a statement of the appropriations applicable to the service of the War Department, for the fiscal year 1857-58, the amount drawn from the Treasury by requisitions during the same period, the balances on the 1st July, 1858, and the appropriations carried to the surplus fund; which, on motion of Mr. STUART, was ordered to lie on the table, and be printed.

CAPTAIN CHARLES G. RIDGELY.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that he had been directed by the House of Representatives to return to the Senate, in compliance with its request, the bill (S. No. 144) for the relief of the legal representatives of Captain Charles G. Ridgely, of the United States Navy, which passed the Senate and was sent to the House for concurrence.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (C. C. No. 88) for the relief of John Peebles—to the Committee on Claims.

A bill (C. C. No. 89) for the relief of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased—to the Committee on Naval Affairs.

A bill (C. C. No. 90) for the relief of Emilie G. Jones, executrix of Thomas P. Jones, deceased—to the Committee on Naval Affairs.

A bill (C. C. No. 810) for the relief of William Yearwood, senior—to the Committee on Public Lands.

A bill (No. 812) for the relief of Thomas Livingston, and his securities—to the Committee on the Post Office and Post Roads.

A bill (No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort on the boundary commission—to the Committee on Claims.

A bill (No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives—to the Committee on Finance.

SECRECY OF EXECUTIVE SESSIONS.

Mr. PUGH. I ask the attention of the Senate for a few minutes to a question of privilege. I have observed in several newspapers, published in the city of New York, what purported to be narratives of the proceedings of the Senate in executive session on Friday last. These publications are all of the same general character and equally deserving of censure; but the most objectionable is a telegraphic letter published in the New York Herald of Saturday; and as that has been affirmed to be substantially true, by one of the newspapers published in this city, I will send the paragraph to the Secretary's desk to be read.

The Secretary read it, as follows:

"In executive session to-day an angry and exciting discussion arose between Judge Douglas and Senator Fitch, when words were used which it is thought must lead to a duel. The debate occurred on the question of confirming Potter, of Ohio, as collector of Toledo. Mr. Pugh opposed Potter's nomination, as the man displaced was his friend. He said if the President desired an issue with him, [Pugh] he was ready for it. He denounced the appointment, and called on every Senator who was his [Pugh's] friend to vote against it. Douglas responded, saying he would vote with the Senator from Ohio. He then branched off on to the Illinois appointments, and said they were dishonest, corrupt, and incompetent. Senator Fitch interrogated Douglas, and said it was untrue. Douglas again reiterated what he had said. Fitch again said it was untrue. Cries of order were then made. Douglas continued the debate. Fitch replied to Douglas with great bitterness, and said that Senators knew how to prize anything coming from that quarter. Cries of order were again made. Douglas then replied and was called to order. Motions were then made that Douglas be allowed to go on in order. Jeff. Davis opposed it, and said, turning to Douglas, he had listened with indignation to the language used, and it was that of a highwayman and bravo. The debate was continued some time, when a motion was made and the Senate adjourned. It is said the lie was given and most severe personal remarks made."

Mr. PUGH. Mr. President, I owe it to others as well as to myself—to the President of the United States, to the Senators from Illinois and Indiana and Mississippi—to declare that that is a

partial, discolored, and therefore a false report. I shall say no more at present in that regard; but I give notice, that unless the rules of the Senate for the transaction of executive business are hereafter enforced, and such breaches of privilege as this prevented, I shall not hold myself under any obligation of secrecy when thus misrepresented. If the debates of the Senate in executive session are to be reported and made public, we ought, at least, to have the right of correcting and revising them, even if we have not the advantage of our own experienced and accurate reporters.

Mr. FITCH. I perfectly coincide with what the Senator from Ohio has said as to the impropriety of the publication of what occurs in executive session; but the fact is, all our proceedings here appear to be known, or if not known, surmised, and newspaper articles are based upon them within twenty-four hours after the adjournment of a secret session. It is wrong. It is not for me to point out the method of correction, but perhaps an appropriate remedy for one difficulty too apt to occur in secret session, would be to have a sworn reporter, and let everything said in executive session be reported and preserved by him, as a record to be referred to hereafter, with no view, of course, to printing it. This might operate as a check upon personalities between Senators, and prevent any Senator making grave charges against any gentleman who is not here, and cannot be here, to defend himself. A knowledge that the injunction of secrecy might be removed, and the charges made public, would possibly prevent many from being made. But if everything said or done here is to be bruited to the four winds almost immediately, I hope never to see another secret session of this body.

Mr. DAVIS. Mr. President, though I concur with the Senator from Ohio that this report is incorrect, and it may be proper to characterize it as he did, a more important consideration lies beyond. It is quite evident there has been a criminal breach of the confidence of the Senate. It is quite evident that that letter could not have been written by one who did not get at least a portion of his information from a person enjoying the confidence of the Senate in its executive sessions. I think, therefore, that it is due to the Senate that inquiry should be instituted to know by what means events occurring in executive session go forth and get into the newspapers of the country. In addition to that, it is due to myself to say, that if such a controversy as is described did exist, or ever should exist, I trust no one who knows me will believe that I would interpose to play, what is there described as my denunciation of another, the part of a bravo over one of the contestants. It is not true that I attacked the Senator from Illinois in his controversy with any one. What I did do is known to the Senator, and I suppose I may say, if, with some feeling of indignation in relation to such a transaction, I used language which was even improperly severe, it was not directed personally against the Senator from Illinois. I made no individual attack whatever. [Mr. DOUGLAS nodded assent.]

It is a very embarrassing thing indeed for one to notice reports of the newspapers of the country in relation to events of which he cannot consistently speak, and to know that they must have emanated from those with whom he associates as honorable men, and who, as such, now should stand forth, throw off the cloak of secrecy, and avow themselves authors of such a statement, if there be any one who is responsible for it. I cannot say what I did, or what I did not do, in executive session; I cannot answer to such allegation without being reduced to the attitude of those who give information in relation to the secret proceedings of the Senate. It is injurious to every member of the body, for the suspicion to exist that information emanates from one of our number; and it is due to the body, I say, as a whole, that they should purge themselves from such suspicion, and that each should direct himself to the effort of finding out the criminal, whoever he may be, who has in this case violated our confidence and his obligations.

Mr. DOUGLAS. Mr. President, while I concur entirely with the Senator from Ohio in characterizing these reports as unfair, untrue, and unjust, I feel it due to myself, also, to say that I did

not understand, and never since conceived, and should not have believed even, if the Senator from Mississippi had not done both me and himself the justice which he has done on this occasion, that the Senator from Mississippi intended any personal disrespect to me, or any unfairness, in any discussion that may have taken place. I do not think it incumbent on me to say anything further upon this occasion.

Mr. GREEN. I rise to present a memorial; but before I do it I think it but justice to the Senate that I should make a statement in reference to certain facts existing in relation to this Chamber. I think it proper that every Senator should expurgate himself as far as possible. For myself, I intend to disclose nothing but what I have a right to disclose. With reference to the occurrence of Friday I say nothing; but while the subject was up, (and I mention it in order that Senators may take such action as they think proper,) I discovered some object in the northeast corner of the lobby. I called attention to it, and sent the Doorkeeper, Mr. Bassett, up to make an examination. Mr. Bassett went up, and found a little trap-door open, of which he never had any prior information. When he came back and reported to me, I sent for the Vice President and told him the fact. He knew nothing of it, and he instituted an inquiry. The next day, (on Saturday,) when I came to my committee-room, I was informed that they had examined that room—it is right under the northeast corner of the lobby—into which the trap-door led, a little, dark room, with no outlet except the trap-door. What that room is for, what purpose it is to accomplish, I do not know; but they found in it two black cats. [Laughter.] I do not believe that the black cats reported our proceedings; but I think it proper that the committee having charge of this building should examine every nook and corner, to ascertain if there are any more trap-doors, or cats, or eavesdroppers, or places where they can be stowed away. If we intend to have a secret session at all, let it be secret; but if we intend to throw the doors open to the public, let us do it manfully, and not have a pretense of secrecy.

I make this statement because it is a matter of fact of which others have knowledge as well as myself; and I hope some committee will be appointed to investigate, and see whether workmen have been bribed to construct certain nooks and corners in which men may secrete themselves, or not. It may be—we know nothing of it—or it may not be; but it will exculpate the workmen, as well as exonerate ourselves. There is certainly in that northeast corner a cat-hole. [Laughter.]

Mr. MASON. I was not present when the Senate was in executive session on Friday, and I have no knowledge, of course, of what took place there; but, in reference to what has fallen from the honorable Senator from Ohio and the Senator from Missouri, about the necessity of making some provision to preserve the rules of the Senate in executive session, I entirely agree with them. I presume there are few Senators who believe that we could discharge the duties imposed on the Senate in executive session unless we were alone. The Senate is then in deliberation on matters connected generally with our foreign intercourse, which makes it important that their deliberations should be private; and yet no one who has been in the Senate even for a few years can be ignorant of the fact that, in some way, our deliberations are made public in the most public manner through that class of the press that finds part of its estate in catering to the depraved appetites of the public. In some manner, the proceedings of the Senate are made tributary to that class of the press; how, I do not know; but I do know, I am satisfied, that it is not by means of any eavesdropping of those who ought not to be present.

It will be in the recollection of some Senators now present, that within the last five or six years, when there was depending before the Senate a treaty in executive session, that occupied their deliberations for five or six weeks, the proceedings of each day were reported with sufficient accuracy to the press, to satisfy all who read them that they came from somebody who was present at our deliberations. The debates were reported; and though not accurate, yet with sufficient correct-

ness to satisfy me and others that it was done by somebody who was present. The yeas and nays upon the various propositions that were made, were reported, and were sometimes entirely accurate; at other times not entirely accurate. The thing had attained to such a pass, that upon my motion the Committee on Foreign Relations were instructed to inquire and report to the Senate in what mode their deliberations were thus exposed; and by the direction of the committee I addressed a letter to each Senator, conveying a copy of the resolution of the Senate, with a request to be informed if they could give the committee any information that would direct their inquiries, or enable them to ascertain in what way this thing got abroad, and a reply was received from every Senator in the negative, and we were thus frustrated.

Now, I do not know what the remedy is, but that there ought to be one I do not doubt. The Senate, to a great extent, however, is responsible for the failure heretofore to punish in the proper manner a delinquent when ascertained. Some years ago, since I have been a member of the Senate, we had one of the letter-writers for newspapers or some one who had the information, it would appear, who refused to testify, and who was kept in a sort of quasi custody, and then dismissed, and we had a pretty round bill presented for his expenses. The Senate, in that instance, was in fault. I will only say to Senators what is my impression of the duty devolving on the Senate, on an occasion like this, and we have had others such, and that I will go with him who goes furthest in taking any responsibility to ascertain who has been delinquent, and to bring him to the punishment that is due to that grave offense.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the memorial of S. S. Wood, commissioner, and W. P. Kirkland, solicitor, appointed on behalf of the residents and non-residents of Greytown, or San Juan Del Norte, in Central America, who suffered by the bombardment of that city by the United States ship Cyane, on the 13th of July, 1854, praying the appointment of a commission to investigate the charges upon which the city was destroyed, and to examine into losses sustained, with a view of making such reparation as may appear just and proper; which was referred to the Committee on Foreign Relations; and a motion by him to print the memorial was referred to the Committee on Printing.

Mr. GREEN presented a memorial of the executive committee of the National Typographical Union, praying the establishment of a bureau of printing on the plan proposed in the bill reported from a select committee of the House of Representatives at the last session of Congress; which was referred to the Committee on Printing.

Mr. TRUMBULL presented a petition of members of the bar of Knox county, Illinois; a petition of members of the bar of Marshall county, Illinois; a petition of members of the bar of Woodford county, Illinois; and a petition of members of the bar of Peoria, Illinois; praying that the said counties may be attached to the southern judicial district of the State, and that provision be made for holding terms of the circuit and district courts of the United States at Peoria; which were referred to the Committee on the Judiciary.

Mr. HOUSTON presented the petition of Sarah G. Bryant, widow of Charles G. Bryant, who was killed by the Indians while in the military service of the State of Texas, praying a pension and arrears of pay; which was referred to the Committee on Pensions.

Mr. RICE presented the memorial of William Henry Forbes and others, guardians of minor children of the mixed bloods of the Sioux Indians, praying the enactment of a law to make the scrip issued under the act of July 17, 1854, transferable, and to confirm titles to land located under said scrip; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. CLAY. The Committee on Pensions, to whom were referred the petition of Ezra Clark, praying that his pension may commence from the date of his discharge; the petition of John Vree-

land, praying to be allowed a pension on account of the services of his father during the Revolution; the petition of Thomas M. Folk, praying an increase of pension; and the memorial of Harriet Ward, praying that her pension may be made to extend back to the time of her husband's death, have instructed me to report them adversely.

I will state again to the Senate that every one of these cases has been reported upon adversely hitherto, and they have been referred back to the committee without additional evidence. It is a great abuse, and in violation of one of the rules of the Senate. I move that the Senate concur in the adverse reports.

The motion was agreed to.

Mr. CLAY, from the same committee, to whom was referred the memorial of Elizabeth Spear, widow of Thomas Williams, submitted a report accompanied by a bill (S. No. 526) for the relief of Elizabeth Spear. The bill was passed to a second reading, and the report was ordered to be printed.

Mr. SEWARD, from the Committee on Foreign Relations, to whom was referred the report of the Court of Claims adverse to the claim of Jonas P. Levy, submitted a report, which was considered by unanimous consent; and in concurrence therewith,

Resolved, That the committee be discharged from the further consideration of the case, and that the claim be rejected.

On motion of Mr. SEWARD, it was ordered that the report be printed.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the petition of J. Hosford Smith, praying permission to import, free of duty, three iron steamers, to be registered as American vessels and employed in the coasting trade, submitted an adverse report; which was agreed to.

Mr. FITCH, from the Committee on Printing, who were instructed to inquire into the expediency of printing the reports of the heads of Departments accompanying the President's annual message, in advance of the meeting of Congress, submitted an adverse report; which was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Rebecca A. Correll, widow of Isaac Correll, deceased, late a private in company D, eleventh regiment United States infantry, praying for a pension, submitted a report, accompanied by a bill (S. No. 528) for the relief of Rebecca A. Correll. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, reported a bill (S. No. 529) to repeal an act entitled "An act for the relief of citizens of towns upon the lands of the United States, under certain circumstances," approved May 23, 1844; which was read, and passed to a second reading.

Mr. SHIELDS, from the Committee on Revolutionary Claims, to whom was referred the memorial of Sarah A. Sarle and Elizabeth Pinneger, heirs-at-law of Thomas Arnold, an officer in the revolutionary war, praying to be allowed half pay, submitted an adverse report; which was agreed to.

He also, from the same committee, to whom was referred the petition of inhabitants of Yates county, New York, praying that a pension be granted to Martha Brown, widow of Silas Brown, a soldier in the Revolution, submitted an adverse report; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 472) for the relief of Henry G. Carson, administrator of Curtis Grubb, deceased, reported it with an amendment.

Mr. SHIELDS. I am also instructed by the same committee, to whom was referred the memorial of Haym M. Salomon, to submit a report, accompanied by a bill (S. No. 530) for the relief of Haym M. Salomon.

I will state that it is a very interesting case, and one that I hope the Senate will consider as speedily as possible. It has undergone the investigation of a great many committees, and always with favorable results. The report contains an immense amount of curious information as to the spirit and self-sacrifice of this individual, at the time of the revolutionary war.

The bill was read, and passed to a second reading; and the report was ordered to be printed.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President of the United States had this day approved and signed an act (S. No. 478) to provide for holding the courts of the United States in the State of Alabama.

UNITED STATES CONSUL AT HONG KONG.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be requested to communicate to the Senate the papers relating to the claim of James Keenan, United States consul at Hong Kong, China, for moneys expended by him for the relief of destitute American citizens; also, the papers relating to his claim, for moneys expended in defending himself in suits brought against him in the colonial court of Hong Kong.

SPECIAL AGENT TO BRITISH COLUMBIA.

Mr. GREEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interests, to transmit to the Senate a copy of the report of the special agent of the United States, sent to Vancouver's Island and British Columbia.

NOTICES OF BILLS.

Mr. FITCH gave notice of his intention to ask leave to introduce a bill to change the relations of the United States Government to the several Indian tribes within its possessions.

Mr. HOUSTON gave notice of his intention to ask leave to introduce a bill for the incorporation of the two judicial districts of Texas into one.

BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 527) to detach certain counties from the northern judicial district in the State of Illinois, and to annex them to the southern judicial district of said State; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 532) for the relief of the widow of Charles Pearson; which was read twice by its title, and referred, with the accompanying papers, to the Committee on Claims.

Mr. MASON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 531) to allow Edward O. Cooper, being a citizen of the United States, the exclusive right to occupy the island or key of Navassa, in the Caribbean sea, for the purpose of obtaining and selling guano therefrom; which was read twice by its title, and referred to the Committee on Foreign Relations.

DISTRIBUTION OF DOCUMENTS.

Mr. FESSENDEN. The Committee on the Library, to whom was referred the bill (H. R. No. 583) providing for keeping and distributing all public documents, have directed me to report it back to the Senate with an amendment; and I ask that it may be considered now. It is a matter to which I suppose there will be no objection, and it is important that the bill should be passed.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It charges the Secretary of the Interior with receiving, arranging, safe-keeping, and distributing, all printed Journals of the two Houses of Congress, and all other books and documents, of every nature whatever, already or hereafter directed by law to be printed or purchased for the use of the Government, except of such as are directed to be printed or purchased for the particular use of Congress, or of either House thereof, or for the particular use of the Executive or of any of the Departments; and for this purpose the Secretary of the Interior is to be directed to set apart a proper room or rooms in the Patent Office building to be used for this and no other purpose; and the Superintendent of Public Printing, Public Printer, binder, or contractor, or any other person whose duty it shall be by law to deliver any of the same, is to deliver the same to him there.

It also provides that it shall be the duty of the Secretary of the Interior to obtain and remove from the other Departments and offices, and from the congressional library, and other places where

the same are now kept, all such Journals, books, and other documents now on hand and described in the first section; and for this purpose, it appropriates so much as is necessary of the unexpended appropriation made in the following clause of the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1858," approved March 3, 1857, to wit: "For expenses of packing and distributing the congressional Journals and documents, in pursuance of the provisions contained in the joint resolutions of Congress approved the 28th of January, 1857, \$22,000."

A register of such Journals, books, and other documents, is to be kept under the authority of the Secretary of the Interior, showing the quantity and kind of each at any time received by him in pursuance of this act; and he is to cause to be entered in such register, at the proper time, when, where, and to whom, the same, or any part of them, have been distributed and delivered, and to report the same to Congress at the first session of each Congress.

The books and documents are to be delivered out by the Secretary of the Interior only on the written requisition of the heads of Departments, Secretary of the Senate, Clerk of the House of Representatives, Librarian of Congress, and other officers and persons, private and corporate, who are by law authorized to receive the same, except where by law the Secretary of the Interior is required, without such requisition, to cause the same to be sent and delivered; and in either of such cases the Secretary of the Interior is to cause the same to be sent and delivered, the expenses thereof, except when otherwise directed, to be charged on the contingent fund of the Department.

All such Journals, books, and other documents, are hereafter to be distributed according to and for the purposes now prescribed by law, except that the distribution of the same to the Governors of the States and Territories and to the judges of the courts of the United States and other officers and public bodies within the States or Territories shall be wholly under the control of the Secretary of the Interior; and the joint resolution approved March 20, 1858, supplementary to the joint resolution of January 28, 1857, respecting the distribution of certain documents, is repealed, except so much of it as strikes out the words "by him" at the end of the third section of the joint resolution of January 23, 1857, and substitutes in place thereof the words "to him by the Representative in Congress from each congressional district, and by the Delegate from each Territory in the United States." This distribution is first to be made at the instance of the Representatives in Congress from districts in which such public documents have not already been distributed, so that the quantity distributed to each congressional district and Territory shall be equal.

That the tenth section of an act entitled "An act to establish the Smithsonian Institution for the increase and diffusion of knowledge among men," approved August 10, 1846, is to be repealed; and it is explained that by this act the distribution of all works mentioned in the first section as public documents is intended and directed to be made, except the "Exploring Expedition" conducted by Commander Wilkes.

All books, maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of State according to the laws regulating copyrights, together with all the records of the Department of State in regard to the same, are to be removed to, and be under the control of, the Department of the Interior, which is now to be charged with all the duties connected with the same, and with all matters pertaining to copyright, in the same manner and to the same extent that the Department of State is now charged with the same; and hereafter all such publications, of every nature whatever, shall, under present laws and regulations, be left and kept with him. The Joint Committee on the Library may, at any time, dispose of duplicate, injured, or wasted books of the library, or any other matter in the library not deemed proper to it, in such manner as such committee may deem best; and all such books and documents, when received at the proper offices, libraries, and so forth, as provided by law, are to be kept there and not removed from such places.

The committee report the bill with an amendment to strike out all after the word "Interior," in line eight of section five, to the word "States," in line eighteen inclusive, and insert:

And the joint resolution, approved March 20, 1858, supplementary to the joint resolution approved January 28, 1857, "respecting the distribution of certain documents," is hereby repealed; and the third section of the said joint resolution of January 28, 1857, is hereby amended by striking out the words "by him," in the last line, and inserting the words "to him, by each of the Senators from the several States respectively, and by the Representative in Congress from each congressional district, and by the Delegate from each Territory in the United States."

The words proposed to be stricken out are:

"And the joint resolution approved March 20, 1858, supplementary to the joint resolution of January 28, 1857, respecting the distribution of certain documents, is hereby repealed, except so much of it as strikes out the words 'by him,' at the end of the third section of said joint resolution of January 28, 1857, and substitutes in place thereof the words 'to him by the Representative in Congress from each congressional district, and by the Delegate from each Territory in the United States.'"

Mr. STUART. It is impossible to have any understanding of that matter from the reading of the amendment. I wish the Senator would explain it.

Mr. FESSENDEN. I will explain it in a few words. These documents were formerly distributed by the Secretary of the Interior. A joint resolution was passed at the last session substantially changing the former act, and providing that they should be distributed by the Secretary of the Interior to such institutions as might be designated to him by each of the Representatives and Delegates in Congress. This makes a change simply in that, and repealing all of it except so much of it as refers to the distribution, and providing for the designation to him, not only by the Representatives and Delegates, but by each Senator. There are documents enough to be distributed to allow each to designate the proper institutions, and this amendment merely adds the Senators to the Representatives. That is all the effect of it. Certain documents, the ordinary documents published here, are usually sent to certain institutions; and this proposition declares that they shall be designated severally by the Senators and Representatives to the Secretary of the Interior.

Mr. STUART. I have no objection.

The amendment of the committee was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed.

The bill was ordered to be read a third time; and it was read the third time, and passed.

PRINTING OF A REPORT.

Mr. MALLORY. I move that the Senate take up the report which was submitted yesterday from the Committee on Printing, in relation to printing a report from the Secretary of the Navy. I believe it is a privileged motion. It will not occupy the attention of the Senate five minutes. I desire to have a few copies of the document printed for the use of the Senate. It is a report of the officers appointed by the Secretary of the Navy to make an examination of the coal, iron, and timber in the Deep river country, North Carolina.

The motion was agreed to; and the Senate proceeded to consider the adverse report of the Committee on Printing.

Mr. MALLORY. I submit a motion that the Senate non-concur in the adverse report against printing this document, and that the Senate order the report to be printed. In doing so, I beg leave to state, very briefly, that this report was made by the Navy Department, in obedience to a call of the Senate, without any expense whatever. It comes before us entailing no expense. The object of printing it is to distribute throughout the United States a knowledge of the Deep river country, and of the adaptability of it for the construction of large machine shops; and I would merely remark that the ability of the country to establish these large foundries at all points in the States at large—north and south, east and west—constitutes a portion of the power of the country. This portion of the country is shown by the examination to be peculiarly susceptible of this improvement. The national machine shops now, if put in the most thorough condition, can only produce ten engines per annum. The Secretary of the Navy here reports against the expediency of establishing any such depot at this point at the

present time; but the report of the examiners, which is an able, though a short one, shows the importance of the country in this light. My motion is only to print a limited number for the use of the Senate, to preserve this information so that we may have it. The cost of printing is \$359. It is a very small matter.

Mr. STUART. I should like to hear from the Committee on Printing some reasons for their report before we upset it.

Mr. FITCH. The reasons were simply these: The committee have adopted a general rule not to report in favor of printing any document of that character, brought here by a resolution or even based upon the past action of Congress, if it does not look to prospective legislation. The accompanying letter of the Secretary of the Navy shows that no such prospective legislation is contemplated by him in this instance; he reports adverse to the establishment of any machine-shops there; and therefore, seeing nothing which could be brought before Congress on the subject—not perceiving that any legislation could be based upon it, we, in conformity with our established rule, reported against the printing.

Mr. CLINGMAN. I have a single word to say on this question. On looking at the letter of the Secretary of the Navy, I find that he states that there are now four establishments where work of this kind is done; and that, in view of the present condition of the Treasury, he does not deem it expedient at this time to recommend an addition to their number. It was as well known last April that we had these four establishments, and that the Treasury was not in affluent circumstances, as it is known now; and yet the Senate then ordered this proceeding. Now, in reference to the line of action which the Committee on Printing has adopted, I wish to bring a circumstance to the minds of Senators. It will be recollected that some four or five weeks ago the Senator from Pennsylvania [Mr. CAMERON] asked the Senate to order the printing of a memorial of certain iron manufacturers, adopted at an iron convention held in the year 1849. It was a mere voluntary assemblage of individuals, gotten up to impose upon Congress by enormously exaggerated statements, to induce us to pass a protective tariff. That convention was held ten years ago, and yet his motion met with the favor of the Committee on Printing, who have brought in a report in which they recommend the printing of that memorial. I should like to know what immediate action that looks to. That memorial is remarkable for its absurdities. They had much better have recommended the printing of the proceedings of the conventions at Cincinnati and at Philadelphia; for they are only two years old, and are drawn with some precision. In this instance the Senate ordered the examination to be made; it has been made by Captain Wilkes, a man of reputation, and by two of the chief engineers of the Navy, Hunter and Martin, who investigated the subject; and simply because the Secretary states facts that were well known a year ago, and says that at this time he does not deem it necessary to recommend the erection of an establishment in this region, the committee propose to suppress all the information by not printing it at all. I admit there has been great extravagance in printing. I think that the Pacific railroad report, which has cost, somebody said, about a million dollars, which we printed to distribute all over the country at large, was an extravagant proceeding. It would have been eminently right and proper to print the usual number; but not to distribute and give away such books. I am opposed to that.

But here the Senate have directed an examination to be made, and that examination is more favorable, I believe, than anybody anticipated. Captain Wilkes said to me that he had to restrain himself in the report; that he found an enormous quantity of the best ores of iron and of the best coals, lying within one hundred and fifty miles of the sea-coast, on a river. Both he and Martin say there is water there enough, at the lowest time, to transport anything when the works are completed; and, by the way, they are in such a state of completion now, that I see by the papers that coal and iron are being transported, and a railroad is in progress to the point. I say the report is as favorable as anybody on earth could have imagined or anticipated it to be; and yet the Com-

mittee on Printing do not think it worth while to publish it. It may turn out that at the next session, or two years hence, or three or four years hence, the Government may be disposed to make an establishment of that kind; we have now applications before both Houses of Congress for the establishment of national foundries, and the trifling expense of \$359 here has staggered the committee, while they find ample time to reprint a book that will cost, I suppose, two or three times as much.

I mention this just to show upon what system the Senate is desired to act. I am in favor of printing the usual number of important reports, but I would stop the general distribution of documents; and I think that they ought to be printed in the cheapest form. My own opinion is, that the Pacific railroad report might have been printed, to answer the purpose which the Government had in view in having it made, for one tenth the cost originally; and that there was no need of printing it for distribution. I have deemed it right to say this much.

Mr. TOOMBS. Mr. President—

The PRESIDENT *pro tempore*. It is the duty of the Chair to call up the special order at this hour, unless otherwise directed by the Senate. The hour of one o'clock has arrived.

Mr. FITCH. I trust this matter will be disposed of. It is a small matter, and with the consent of the Senator from Georgia, I should like to respond to my friend from North Carolina.

Mr. GWIN. The special order may be informally passed over for the present.

The PRESIDENT *pro tempore*. The Chair will understand that to be the sense of the Senate.

Mr. FITCH. I do not feel called upon to defend the action of the committee in relation to the report relative to printing certain iron statistics. Those statistics were understood to be general in their character, applicable to that particular interest everywhere, not solely in North Carolina, or Pennsylvania, or any other one locality; but the truth is, the report was made by the committee, at the solicitation of one of its own members, without any commitment, on the part of members of the committee, for or against the motion itself. This report, however, upon which we have now reported adversely, is quite a different thing. It is an advertisement of certain local advantages which a particular locality may be supposed, or is reported, to possess. It is an advertisement of certain coal mines and coal fields and iron mines in the Deep river country of North Carolina.

I am sorry that this discussion has arisen; for I designed saying nothing whatever on the subject, leaving the Senate to decide, without one word from me, beyond the adverse report; but as well might a Senator from Georgia, as well might a Senator from Illinois, or my colleague and myself, ask a report, under the auspices of certain departments of the Government, into the coal fields of Indiana, Illinois, or Georgia, and then come here and ask that the advantages of those coal fields should be advertised at the public expense.

Mr. TOOMBS. I hope the Senate will sustain the action of the committee in this case. I think they have acted on a very sound principle, and one that ought to be maintained by the Senate. It seems that the Navy Department sent a person down there to know the fitness of this very fine coal region on the Deep river, for establishing machine shops for the benefit of the Navy. The Government say, that for certain reasons they do not wish to put up any such shops there now. Then we have no need for any such information. If we have, it is in the Department, and can be got at any time. But, as the Senator from Indiana properly states, it is simply bringing to the attention of the country a valuable lot of coal mines, which I have no doubt their intrinsic merits will bring before the country. At all events, I am unwilling to pay for advertising them. I think they will be brought to the notice of the country in other ways, and are probably worth its notice.

But the chairman of the Naval Committee has said that we have Government establishments where we cannot make more than ten engines in a year. I wish we had not a place where we could make any. They are all abuses. We make them worse than anybody else, and I should be very willing to have all these things done where they could be done best, have them done by contract

by those people in the United States who would make the best engines for the least money; and we have plenty of places in the United States that can make thousands of them in a year. I hope this printing, this advertisement of this very advantageous locality on Deep river, will not be done at the public expense. I think very well of it, and I have paid some attention to it, but I think it should be left to private enterprise. The gentlemen who own those coal fields will advertise them, and bring them to the attention of capitalists or workmen. I am unwilling to pay for doing it.

Mr. MALLORY. The Senator from Georgia is mistaken when he says, that at the places where engines are made for the Government, they are made worse than they are everywhere else. His remark shows that he has not examined the subject. On the contrary, we have never made an engine in the Government establishment, that I know of, which has been a failure; and I should like to know where they have been made worse than they have been by contract. On the contrary, I assert directly the opposite: that when engines have failed, they have been made by contract, and they have failed because they were made by contract. It stands to reason that we can get our engines made best in Government establishments where it is the interest of every workman on the machinery to produce the best work; he has no contract, but his daily wages, as a matter of course, will induce him to produce the best work. But we are now getting these machine-shops; and I stated that, if we could get the national shops we now have in the best condition, we might produce ten engines per annum; but we cannot do it at this moment. That is the maximum we could produce. I hope to see the day when all the machinery for the Navy of the United States will be made in Government establishments; because, until we can make it ourselves, we can never have it well done.

This is a small matter of printing which will cost about three hundred dollars. For that sum we can secure the printing of this report, which is a very able one. The Deep river country has been examined by experts. I do not know whether it is private or public land; it never occurred to me to inquire as to that. I only know from the reading of the report that this is an exceedingly important section of the country, and that it affords means to develop our naval power. There are very few places which have the advantages of the Deep river country; and if we can preserve this information in our books of reports, and in the files of the Department, for the small sum of three hundred dollars, I think it would be well. I would dispute the generally bad policy of advertising public lands; but I do not look on it in that light. It is a portion of the country inland, away from the sea-board, accessible by river, and susceptible of defense. Very few portions of the country have been examined for such a purpose, and I think it would be a very wise measure to print the report.

Mr. CLINGMAN. I beg leave to say, in reply to a remark of the Senator from Indiana, that so far from this being necessary to advertise that country, it is wholly unnecessary for that purpose. Since this report was made, a copy of it was obtained and sent to the Governor of our State, and the Legislature ordered a large number of copies to be printed. We in North Carolina do not want it at all; but these copies will be sent all about the country. The Senate, however, has ordered the examination to be made. It is not, therefore, a private advertisement for the benefit of individuals. The Senate, on the 12th of April last, ordered this examination to be made. The examination has resulted more favorably than any one of the officers thought; at least, two of them, Captain Wilkes and Mr. Martin, told me they had no idea they would find such a condition of things as they have found. It may well be a question, as was said by the Senator from Florida, whether, in the course of a few years, you may not wish to establish there a national foundry, or a naval establishment of this kind, and for a trifling sum you will have the information within the reach of the Government. I will not occupy the time of the Senate.

Mr. DAVIS. I think, myself, there is some value in this report. In relation to the action of the Committee on Printing, I will only say, that

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the report favorable to the printing of the memorial from the iron masters did not receive my concurrence, and when it comes up I shall object to the printing of it. I now rise, however, to move to postpone the further consideration of this subject; and I will say to the friends of the measure, that I do not think they will lose anything by the postponement. I move to postpone the further consideration of this subject, and all prior orders, with a view to proceed to the consideration of a bill for the construction of a railroad to the Pacific.

Mr. JOHNSON, of Tennessee. I rise for the purpose of bringing the attention of the Senate to a proposition we had before us some days ago—a resolution providing for retrenching the expenses of the Government, and imposing certain duties on the Committee on Finance. As I understood, when that resolution was before the Senate, it went over as the unfinished business; and if this is not so, there is a privileged motion pending to reconsider the vote striking out the Committee on Finance, and inserting a select committee. This resolution can be disposed of in a very short time; and I hope the Senate will take it up and dispose of the subject.

Mr. SIMMONS. I hope the Senator from Tennessee will let it go over until to-morrow.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Tennessee, that one day having intervened since the consideration of the resolution, it loses its preference as unfinished business. There are two orders—perhaps three—ahead of that, as well as the Pacific railroad bill.

Mr. JOHNSON, of Tennessee. I move to take up the motion to reconsider; which can be called up at any time.

The PRESIDENT *pro tempore*. The motion first made has to be first put. The motion of the Senator from Mississippi is entitled to preference.

REGISTER TO A VESSEL.

Mr. KENNEDY. I have been endeavoring to get the floor the whole morning to ask the Senate to take up the bill (H. R. No. 788) authorizing the Secretary of the Treasury to grant a register to the schooner William A. Hamill. It is a bill of importance to no one except the proprietor of the schooner. It has been reported from the Committee on Commerce without amendment, and will not take the Senate, I am sure, three minutes to pass it. There can be no objection to it at all; and I trust I may be indulged to that extent.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to grant, under the direction of the Secretary of the Treasury, a register for the schooner William A. Hamill, lying in the port of Baltimore, and now owned by Robert Dorritie, a citizen of the United States, if it be proved to the satisfaction of the Secretary of the Treasury that she was built at May's Landing, New Jersey, that she was enrolled as an American vessel, and that she was owned in the whole by citizens of the United States at the time she was stranded on a reef near Abaco, one of the Bahama Islands, and that she is now owned by Robert Dorritie, a citizen of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PRIVATE PROPERTY FOR PUBLIC USE.

Mr. BRODERICK. I ask the consent of the Senate to enable me to move to take up a bill which has been long pending, to provide for taking private property for public use, allowing just compensation therefor. The bill was introduced by the honorable Senator from Louisiana, [Mr. BENJAMIN], just before the adjournment of the last session, after the *exposé* that was made in regard to a purchase for the site of a fort at the mouth of the harbor of San Francisco. I hope that this bill will give rise to no debate. I would not urge it at this time, if it were not that I know that the parties owning that property have their agents in

Washington, who are trying to urge upon the Secretary of War the necessity of purchasing the property at the very high price of \$200,000. I state to the Senate that the amount of property required for the fort will not cost more than \$5,000, and these parties are asking \$200,000 for this site. By the passage of this bill, the property can be condemned, and the Government can go on and build the fort. I hope that I shall have the co-operation of my colleague, because this is a very important bill, one that concerns our State vitally. This fraud was arrested by the prompt action of the Secretary of War during the last session, and I hope that the Senate will pass the bill now, so that it can go to the other House, and pass during the week, and become a law. The amount of money appropriated can then be expended for the fort.

Mr. DAVIS. I am afraid that this will bring on debate. It is not special, I understand, but general legislation on the subject, and involves questions in which nearly every Senator would feel more or less interest. The principles will probably have to be discussed at some length. I hope, therefore, the Senator from California will avail himself of another opportunity.

Mr. BRODERICK. Well, sir, I withdraw the motion for the present, to let the Senator take up his bill.

Mr. DAVIS. I desire to have the motion put which I presented.

Mr. DOOLITTLE. In yielding to the motion of the Senator from Mississippi to take up the Pacific railroad bill, which is the special order, I wish distinctly to intimate to the Senate that I desire, at a very early day, perhaps to-morrow, to call the attention of the Senate to the first special order in relation to Commodore Paulding. It is important that that question should be disposed of. Suits are pending against him in the city of New York, and it is important that the Senate should act on that question. I have reason to believe that the Senate will act favorably in that matter, and that he will be justified—at all events, so far justified by the action of Congress as to defend him against prosecution.

The motion of Mr. DAVIS was agreed to.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; the pending question being on the amendment of Mr. DOOLITTLE to add to the first section of the substitute proposed by Mr. DAVIS, the following:

Upon three routes within the territory of the United States: to wit, one upon a route north of the forty-third parallel of latitude; one upon a route between the thirty-seventh and forty-third parallels of latitude; and a third upon a route south of the thirty-seventh parallel of latitude.

Mr. DOOLITTLE. That amendment is one which was offered by myself; but on an appeal from the Senator from California, and giving to the matter further consideration, I am disposed to withdraw the amendment, in order to allow a vote to be taken directly on the proposition of the honorable Senator from Mississippi, with the understanding that I may renew, substantially, the same proposition, when I offer the bill which I have drawn up as a substitute for the original bill.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The amendment proposed by the Senator from Wisconsin is withdrawn. The question now is on the motion submitted by the Senator from Mississippi [Mr. DAVIS] to strike out all after the enacting clause of the bill, and insert what was presented by him to the Senate, the other day, as a substitute.

Mr. WILSON. Is it in order to move to amend the amendment by striking out all of it, and substituting another bill?

The PRESIDING OFFICER. It is in order to move an amendment of that kind.

Mr. WILSON. I move the bill, of which notice was given, as an amendment to the amendment proposed by the Senator from Mississippi, and also send to the Chair an additional section.

The proposition of Mr. WILSON is as follows:

That the President of the United States be, and he is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint five civil engineers, who shall be citizens of the United States, practically experienced in the laying out and construction of railroads, and who shall constitute a board of commissioners for the location of the route of a railroad for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and for all other Government service of the United States, through the region between the thirty-fourth and forty-third parallels of north latitude, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California.

SEC. 2. *And be it further enacted*, That, before entering upon their duties, each of said commissioners shall, before some judge or justice of the peace, take an oath faithfully to discharge the duties imposed on them by this act. They are hereby authorized to appoint a secretary, whose duty it shall be to record correctly all the proceedings of said board and faithfully preserve the same, and who shall take an oath to discharge the duties imposed on him by this act. Said commissioners shall have full power to summon and cause to come before them such witnesses as they may deem necessary, and to have them examined on oath; and if any witness shall testify falsely, with an intention to deceive said commissioners, such witness shall be deemed guilty of perjury, and shall, upon conviction before any jurisdiction having cognizance thereof, suffer the penalty imposed by law on that crime. The said commissioners forthwith, after their appointment, shall meet at the city of Washington and organize the commission, and proceed to execute the duties hereby confided to them, and within two years from the date of their appointment they shall complete and terminate the duties of the commission.

SEC. 3. *And be it further enacted*, That the compensation of said commissioners and their secretary shall be as follows: to each commissioner, at the rate of \$5,000 per annum; and to the secretary, at the rate of \$2,000 per annum; to commence from the date of their appointment, and to be paid out of any money in the Treasury not otherwise appropriated; and the President of the United States shall be, and he is hereby, authorized to make such provision for the contingent expenses of the commission as he may deem proper.

SEC. 4. *And be it further enacted*, That said commissioners, within two years from the date of their appointment, shall determine upon the location of the route of said railroad, and report their decision to the President; and upon the indorsement of the President, approving of the route so designated, the same shall become the route of said railroad, and the President shall announce the same by proclamation.

SEC. 5. *And be it further enacted*, That when the location of said railroad shall have been announced by proclamation of the President, the Secretary of War, the Secretary of the Interior, the Postmaster General, and the Attorney General of the United States shall constitute a board of commissioners to direct the construction of said railroad. They shall, from time to time, as they may deem expedient, issue proposals for the construction, by contract with the lowest responsible bidders, of sections of said railroad, none of which sections shall exceed twenty-five miles in length. They shall, annually, make a report of all their proceedings, under this act, to the President, who shall lay the same before Congress.

SEC. 6. *And be it further enacted*, That, for the purpose of constructing said railroad, the President of the United States be, and he is hereby, authorized, beginning at any time within twelve months after the date of his proclamation locating the road, annually to borrow, on the credit of the United States, such sums as are needful, not exceeding \$10,000,000 in any one year.

SEC. 7. *And be it further enacted*, That bonds shall be issued in sums of not less than \$1,000 each for the amount so borrowed, the principal of which shall be payable in thirty years from the date of issue, and shall bear interest not exceeding five per centum per annum, payable semi-annually, with coupon for the semi-annual interest attached; and the Secretary of the Treasury be, and he is hereby, authorized and directed from time to time, as the President may require, to issue such bonds, which shall be signed by the Register and sealed with the seal of the Treasury Department, for the payment of the amount so borrowed, in favor of the parties lending the same. And the said Secretary shall report to Congress, at the commencement of each session, the amount of money borrowed under this act, from the date of his last report, and of whom, and on what terms it shall have been obtained, with an abstract of all the proposals submitted for the same, distinguishing between those accepted and those rejected.

SEC. 8. *And be it further enacted*, That from and after the passage of this act until the location of said railroad is announced by the proclamation of the President, all the public lands between the thirty-fourth and forty-third parallels of north latitude shall be withheld from sale, but shall be open to preemption by actual settlers. After the date of said proclamation the proceeds of the sales of all public lands for a distance of one hundred and fifty miles on each side of said railroad, with the exception of so much of said lands as is reserved for purposes of education, shall constitute a fund for the construction of the road, and for the payment of the interest and the redemption of the principal of the bonds issued for said construction.

SEC. 9. *And be it further enacted*, That there be, and

is hereby, granted to the States and Territories that are, or may be, formed upon the lines of the herein-mentioned roads, for the purpose of aiding in the construction of railroads to the Pacific, from Lake Superior to Puget Sound, with a branch to the navigable waters of the Columbia, every alternate section of land designated by odd numbers, for twenty-five sections in width on each side of said road, and also from the western border of Texas to San Pedro and San Diego on the Pacific, one hundred sections of land to the mile; and in all cases where the United States may have disposed of said land or any part thereof, or from any cause cannot convey a legal title thereto, the deficiency may be made up from any unoccupied and unappropriated public land within the distance of fifty miles on either side of said road: *Provided*, That all mineral lands be, and the same are hereby, excluded from the operation of this act, and in lieu thereof, a like quantity of unoccupied and unappropriated agricultural lands nearest to the line of the road through said mineral lands may be selected: *And provided further*, That the sixteenth and thirty-sixth sections within the boundaries heretofore named, shall be set apart for school purposes, which shall be exclusively applied for said purposes and no other.

Mr. TRUMBULL. If I understand this question, the Senator from Mississippi has moved a substitute for the bill pending before the Senate, and now the Senator from Massachusetts offers a substitute for the substitute. I do not understand that that can be done. You may amend the substitute offered by the Senator from Mississippi; but can you substitute another substitute for that?

The PRESIDING OFFICER. The Chair will state that the motion of the Senator from Mississippi is, to strike out all of the bill before the Senate after the enacting clause, and insert what he has sent to the Chair. The Senator from Massachusetts proposes to amend that motion by moving to strike out and insert what he sends to the Chair; which is in order.

Mr. WILSON. I will simply say, Mr. President, that the proposition is to build, by the Government, a central railway, commencing at a point between the Big Sioux and Kansas rivers, and going between the thirty-fourth and forty-third parallels, to San Francisco, setting apart one hundred and fifty miles of land on each side of that road, the proceeds of which are to go to the construction of the road as a sinking fund, to redeem the bonds issued to raise money to construct the road. Then I propose that we give fifty sections of land to the mile, from Lake Superior to Puget Sound, for the purpose of building a railroad across that section of the country, on the forty-seventh or forty-ninth parallel. These are alternate sections, in harmony with the general policy of granting land for the construction of railroads. This proposition grants no money whatever for that northern line.

I then propose on the southern line, or the parallel of 32°, between El Paso and San Pedro, or San Diego, on the Pacific, to give one hundred sections of land to the mile, excluding mineral lands, to build a railroad from the Rio Grande to the Pacific. I think the land of very little value there, and I have therefore proposed that we give a large amount of it for the construction of a local road there. This is simply the bill which I have presented.

The main proposition is to construct a railroad commencing between the Big Sioux and the Kansas, and running between the parallels of 34° and 43° to San Francisco. It will allow you to go through the South Pass, if that is the best pass, through the Buffalo Pass north of it, which I am told is a better Pass than that, or through Bridger's Pass, or defect south and go by way of Albuquerque, if that is the best route. But the road starts on the Missouri river and ends at San Francisco; and for myself I am not particular whether it goes through the South Pass or goes by way of Albuquerque, if that be the best route; and it is to be constructed to San Francisco. The proposition is that the Government appoint surveyors, who shall locate the road, and to appropriate \$10,000,000 annually for the construction of the road. I do not believe that small grants of money and large grants of land are to carry a railroad across this continent to the Pacific.

Mr. POLK. I understand the Senator from Massachusetts to state that his bill provides for one central road, being confined between the parallels of 34° and 43°. I ask him if he does not also confine the terminus to the space between the mouths of the Big Sioux and the Kansas rivers? I ask the Senator why not allow the terminus also to float between 34° and 43°?

Mr. WILSON. I will say to the Senator from

Missouri that he is right in his construction of the proposition; but I think we had better adhere to it as it is.

Mr. POLK. I state to the Senator that part of it will unhesitatingly command my vote, if the terminus is allowed to be as free as the direction of the road.

Mr. WILSON. I understand the Senator. I prefer that the amendment should stand as it is.

Mr. SIMMONS. Mr. President, I intend to vote for this proposition to build a road by the Government; and as it is a substitute for the proposition of the Senator from Mississippi, I wish to call the attention of that Senator to one objection that I have to his bill, and why I prefer this. In the first section of his bill he authorizes the President to contract for a railroad across the territory of the United States, and thus connect the States of the Atlantic and Pacific. I suppose that is meant to include the Gulf States?

Mr. DAVIS. Yes, sir. It was a general description, and I suppose included all the waters that flow into the Atlantic, whether through the Gulf or directly.

Mr. SIMMONS. Now, I am against making any contract with any company or companies for building this road; and I am against his proposition; because, when you build the road, which I understand is between four and five hundred miles from the line of the State of Texas to the State of California, you are not then within that distance of the people on either ocean. You will have to go more than five hundred miles to get to that part of California which is settled—near San Francisco; and I suppose you will have to go more than five hundred miles to get to the settled parts of Texas—at least to get to the ocean.

The money appropriated by the Senator's bill is \$10,000,000; and the land, six sections, I believe, to the mile. That money is \$25,000 a mile for a road across there, for it is four hundred miles; but if you take a road through the center it is not \$6,000 a mile. That would carry the road on the shortest place, and it cannot be built anywhere else for that given sum of money. The bill seems to propose any kind of a route anywhere; but the sum is so fixed that it can go to but one place, and that is from El Paso to the line of California; and when you start a road between those two points and build it, you are not much nearer the people than you are now. It would do no good. I understand this road has to go through Texas some eight hundred miles; I have not the map before me. It is plain enough to me that a proposition to grant \$10,000,000 and so much land—which will make thirty or forty thousand dollars a mile for that short space, twenty or twenty-five thousand dollars of which would be in money—would be sufficient for the Texas route; but when you take it by any other route it is of no consideration whatever. Nobody would believe it could build a road. I do not believe that any private individuals, as I said before, will ever build a road across this continent; and I do not think a road for the purposes for which this is presented will be valuable at all unless it meets the oceans—unless it meets the settlements on each side. I have no objection to giving the alternate sections of public land to any company that may want to build a road, so that the grant is not too extravagant. I have not examined that part of it; but a central road through the country is of great national importance.

I am only going to say a few words about the commercial value of such a road. It is alluded to now in the midst of other debates, and it is said that nobody contends that this road will be of any commercial importance. Everybody believes it will be of great importance as a means of defense, and will save a great deal of money in the transportation of the mails. Now, it is said that railroad carriage is so much more expensive than water carriage, that you cannot use this road for carrying freight. The Senator from Massachusetts said that two cents per mile per ton was the lowest freight that was charged on railroads; and that was charged on coal. I recollect that when the western road was built from Worcester to Albany, it underbid sloops that carried flour from Albany to Boston; but it turned out to be rather a hard trade, and they stopped it.

In 1814, I remember to have seen twenty wagons come into Providence loaded with cotton from the State of Georgia, at a freight of twenty cents

a pound, and that was the cheapest way we could get our cotton, in time of war. I have some sons engaged in the cotton business, and I knew them to contract for cotton, in Memphis, Tennessee, last fall, and have it transported by railroad and steamboat to New York, for one cent a pound, and it was not more than one eighth of a cent more than it would cost by steamboat to go down to New Orleans and from there to New York by water. Hundreds and thousands of bales of cotton were ordered late in the last fall from Memphis, Tennessee, by railroad and steamboat to New York, at a cent a pound freight, as great a distance as the cotton traveled by wagons, in 1814, at twenty cents a pound. This is the practice; and the reason of it is this: there has been a declining tendency in the cotton market, and they could make bargains and guaranty the delivery of the cotton in New York in fourteen days, and it cost only one eighth of a cent more than if it went all the way by water. We can get cotton from Memphis, Tennessee, to New York now for less than common insurance. That is the difference internal improvements have made in supplying the people of this country with materials for clothing, since the war of 1812.

I have not estimated the cost per mile per ton to send cotton from Memphis to New York. I do not know how much the competition among the roads would consume of it. The cotton of which I speak, went up, I believe, pretty near to Canada before it got over to New York. It was fourteen days from Memphis to New York. But suppose railroad freight is two cents per ton per mile, and it will cost sixty dollars a ton, as the Senator from Massachusetts said, to carry freight over this railway. That is a very extravagant estimate. In my opinion it is twice as much as will be paid; but taking the highest estimate, I say that that would be three cents a pound upon silks. The average value of silks is six dollars a pound. Then it will not cost one-half of one per cent. to carry silk over this road, and that is thirty days' interest, and you save ninety days' water carriage. Aside from all your insurance, every cargo of silk that is going to New York can be got over this railroad to New York for less than the interest on the voyage, for less than the interest of the cargo, and save ninety days or one and one-half per cent.

Besides the saving of capital, besides the quick turning of your merchandise, you can order silks from China by the steamers, and draw a bill on London for six months, get it in New York, sell it, and make another voyage before the bill becomes due. Now you can hardly get your invoice before the time arrives for paying for it. Such things as these are of great consideration. This is an important avenue for commerce. Besides, we are to consider the eight million people in the valley of the Mississippi; and it will cost very little more to take goods from San Francisco to the valley of the Mississippi, than it will from New York; but if goods were to go clear across the continent and back, you would carry cheaper than by water. You get a railroad here built by the Government; we can lease it out, and the commercial trade will pay the running expenses, in my deliberate judgment, and the road can afford to carry your mails and your troops and munitions of war, which will more than pay the interest on the outlay. We now pay over two millions for carrying the mails, and I suppose last year ten millions for freight on munitions of war and troops, and I hope we shall not always have that.

But people are mistaken, in my judgment, in undervaluing such a communication as a mere means of money-making and commerce. Sixty dollars a ton will be a saving on the freight now paid on the immense amount of silk goods imported from China; and I suppose we shall have some commerce with the empire with which we have lately made a treaty—Japan. Sixty dollars a ton freight, is not the interest on the voyage from Shanghai to New York, on the value of the cargo. As a practical matter, if you could make the voyage across the Pacific ocean in steamers, from Shanghai to San Francisco, according to the rate of travel on the Atlantic—and the Pacific is a much better ocean, I am told, for steam navigation than the Atlantic—you would lay your goods down in New York in thirty-five days. I suppose the average voyage around the Cape of Good

Hope is one hundred and twenty or one hundred and thirty days. Therefore, I consider this of great importance in a commercial point of view, as well as a means of defense; and I cannot consent to fritter away the means of this Government by making contracts with little corporations upon a work which everybody that I have heard speak of it, thinks is of too great magnitude for individual enterprise to accomplish.

I will not enlarge on the means of getting the money; but, if the Government makes the road, we can make the details of the bill hereafter. We have got to pay for all the private property taken. I have seen no clause in any of these bills that guaranties to citizens that they will not be molested in their property. You cannot get across this continent, from the line of the States anywhere, without taking private property; and you must authorize whatever company you make to take private property, and you must provide compensation for it; but there is no such thing in these bills. Arizona has been under settlement, I suppose, for one hundred years. There are ranches there, and people are there mining; and if we authorize a company to take their property, we must provide the means of ascertaining its value, and making satisfaction. That cannot be done by a State corporation. No State in this Union can authorize a private company to go into the Territories of the United States and take private property there for public use. We must do it. But there does not seem to be any provision in these bills for any such purpose; and, without that, any individual owning the land in one of these cañons, as you call them, these low places where the road goes through, can stop the enterprise, and make terms to suit himself.

We shall have to take jurisdiction of this matter, and build this road; and here is a proposition to build one road by the Government, which is indispensable to its defense, and will be a saving of money in the ordinary times of peace, and will be of untold value in case of war. In such an event, nobody can estimate its value. It will connect the people on this side of the Rocky Mountains with the people on the other side, and its achievement will be a great thing. It may be too much to lay out in a single year, \$10,000,000, as the amendment of the Senator from Massachusetts proposes. I think that is more than can be judiciously laid out in one year. The proposition says the amount shall not exceed ten millions, and I hope less will be spent. That is a great amount to lay out in labor in a single year, and this is principally labor. Five or seven millions a year would be a great amount of money to spend judiciously. It would take an army of men to earn \$5,000,000 a year, and I do not think we are in a condition to be too lavish with our money. It is better to be a little longer in doing this work. I should want to do nothing but look at the map, and see where the population of this country had settled, without reference to any such work, to tell where to begin this road. That population has stretched out beyond the border of the State of Missouri some hundreds of miles further west than it has anywhere else. The population of the country indicates the eastern terminus of this road, where it has approached furthest to the west, and where the means of internal communication are now adequate. I understand that during the present winter they calculate to have railroad connection from St. Louis to St. Joseph's on the Missouri. Perhaps the Senator from Missouri can say whether I am right or not.

Mr. POLK. That road is very near completion. I do not know the exact day when it is to be opened.

Mr. SIMMONS. It is supposed that next spring the cars will be running on it. Thus we have railroad communication from New York to the Missouri river, with population a hundred, or a hundred and fifty miles beyond that. If the road is to be built through that section of country bordering on the Missouri, provision must be made of course for taking private property, and making just remuneration for it. I am no lawyer, but I doubt whether any State can create a corporation which can go into our territory and take private property within the jurisdiction of this Government. I know they ought not to be able to do it, and I do not think they can do it. Gentlemen spoke the other day of our want of power to go into the States with a national road.

I believe I am about as good a State-rights man as most Senators, and I do not know of any greater indignity that could be offered to a State than to undertake to let another State make a corporation to go within her borders. The States within whose immediate control and jurisdiction these corporations are, can hardly restrain them. If a railroad is made through any State in our part of the country, there is more loss than there is gain to the owners of land, for they carry in their train litigation and strife; and although I have always voted for these improvements, I have always regretted the necessity of having to let these private enterprises trample upon the rights of the owners of property. I would not permit any Government in the world to invade the rights of the people within the Territories of the United States, but the Government of the United States. We ought to take care of their rights. Here is a range on this route of some fourteen hundred miles through the Territories of the United States, several hundred of which are thickly settled, and we propose to let the dogs loose and tie the stones down; to let these people go in and take their property without any provision for their security. This Government ought to take care of them, and ought to be liberal with them, and if this proposition prevails, I hope that from this time onward there will be a reservation in every grant of land that we shall have a right to go through it, and take it at proper prices to be paid hereafter. Under the original bill, however, if the contract proposed to be made, shall be entered into, you cannot alter it. It presents to my mind a very dangerous experiment. If, however, the Government undertake to do this work and do it wisely, they can do justice by every man who owns a foot of land on the whole route, and we ought to guard it properly.

I will not enlarge on these objections. They multiply every time I read one of these bills. I say, that if a corporation, or a dozen corporations, should get hold of it, they can run riot, and lay waste every man's property from here to the Pacific without any means of redress provided. I say the Government is the proper power to build this road—and I would greatly prefer to build it by the Government—and I do not know of any other way in which you can control it, and keep it out of the hands of the Wall-street speculators.

Mr. JOHNSON, of Tennessee. It was not my intention, Mr. President, to consume a single moment of the time of the Senate in the discussion of this bill. Every vote that I have given, every motion that I have made since the discussion of the subject commenced, has been with the view of having speedy action, by the Senate, upon this bill; but perhaps I may as well, at this time, state two or three reasons why I shall vote against the bill upon its final passage. The question has assumed a shape which makes it incumbent on me to do so.

The amendment offered by the Senator from Mississippi [Mr. DAVIS] does not come up to what I would require in many particulars; but if that amendment were out of the way, I understand there is a proposition before the Senate to be acted upon, which was merely withdrawn for the purpose of testing the Senate upon the proposition of the Senator from Mississippi. The Senator from Tennessee [Mr. BELL] comes forward with a proposition in lieu of the original bill, authorizing the Secretary of the Interior to receive proposals for the construction of three roads from the Atlantic to the Pacific side of the continent. This proposition is so enormous, it proposes to fix upon the country so great an expenditure, that, situated as I am, I feel called upon to give some reasons why I shall vote against it. There are other considerations in connection with the original bill, and some positions said to have been assumed by the party to which I belong, that I think untenable and unauthorized; hence I shall assign some few reasons, not consuming much of the time of the Senate, why I shall vote against these propositions at the present session.

Mr. President, to the extent that I have been instructed in the doctrines of either of the parties of this country, I have been trained in the school of the strict constructionists; and, according to my understanding of the Constitution of the country, I look upon this measure as being

clearly unconstitutional. I know, in reference to works of internal improvement to be constructed by the Federal Government, it is difficult to determine where the power of the Federal Government begins and where it ends. It is somewhat difficult to determine what character of improvement is clearly within the Constitution, or, in other words, to determine what particular character of improvement is national and what is local. I know the distinction is hard to draw in many instances; for local works approach national works so closely that the line of division is scarcely within the reach of the human intellect; but there are some things which are certain. We cannot tell exactly when the light of day terminates, and the shades of night begin; but we can tell when it is mid-day, when the sun is at his meridian, and when midnight darkness is upon us. So we can determine the character of some of the works of internal improvement; we can tell when they are glaringly unconstitutional.

I have been taught, and it is my settled conviction, that in all questions of doubt, (admitting even that it was a doubtful question,) as to the constitutional power of Congress in reference to internal improvements, Congress should desist from the exercise of a doubtful power; and before its exercise Congress should look to the source of all our power to define specially the extent of the authority to be exercised by the legislative body. I have also learned that in doubtful questions of this kind we should pursue principle. Mr. Jefferson laid it down as a fundamental rule, in all doubtful questions, to pursue principle; and in the pursuit of a correct principle, you can never reach a wrong conclusion. What is the principle involved here? We assume, placing it upon the best ground on which it can be placed, that it is a doubtful power at least. Then, falling back upon the rule laid down by Mr. Jefferson, what is the principle? It is to call upon the source of all power before you exercise a doubtful authority.

If we continue the course of exercising doubtful constitutional powers, the Constitution will, in a very short time, cease, as it has, in a great measure, already ceased, to exist. I confess that I was somewhat refreshed the other day when the Senator from Louisiana [Mr. BENJAMIN] took up this question. I really felt gratified that the fact, the great fact, that a Constitution exists in this country, had not been altogether lost sight of, and that there was here and there a member of this body who still had a knowledge of the existence of the Constitution, and was disposed to recur to its provisions, and call the country to their proper exercise.

The Senator from Mississippi [Mr. DAVIS] congratulated himself upon the Senator from Louisiana coming over to the school of the strict constructionists; he congratulated himself upon the acquisition the Democratic party had made in receiving the accession of so distinguished an individual to the doctrines of a strict construction of the Constitution. Well, sir, I think we may congratulate the country on it; I think we may feel proud of the acquisition; but if the same rule laid down by the Senator, as applied to the Senator from Louisiana, be applied to himself, it would seem that when he is contending for the opposite construction of the Constitution, he is becoming a little latitudinous, and he is about to occupy the former position of the Senator from Louisiana. While I was gratified on the one hand to welcome the Senator from Louisiana into our ranks as a strict constructionist, I regretted extremely on the other to lose the Senator from Mississippi by his going over to the doctrines of the latitudinarians.

The power to construct this road is placed, by the friends of the bill, upon that provision of the Constitution which says that Congress shall have power to declare war. Because the power is conferred upon Congress to declare war, does the inference follow that Congress even has the right to declare war unless it is necessary and proper to do so? Does the fact that we have the power to declare war, imply that we must improperly exercise the power because it is conferred? Not at all.

But when it says that Congress shall have power to declare war, the Constitution goes on to say that Congress shall have power to raise an army. Why? Admitting that this is an express grant, it sinks into and becomes an incident to the power

to declare war. The raising and maintaining of armies is a necessary incident to a declaration of war; but it should be necessary and proper to declare war first, and then to raise your armies as incident to a declaration of war when made. When you raise your armies, the Constitution says that all appropriations for their maintenance shall not exist more than two years. Why? Because it was looked upon as a dangerous power. In the event of a declaration of war, the Constitution of the country makes the President of the United States commander of the Army and the Navy; in other words, it places the sword in the Executive hand, but it gives Congress the power to control appropriations, and prohibits Congress from making any appropriations for the support of the Army beyond two years.

Now, the question comes up, is it necessary and proper to declare war? Is it necessary and proper to raise and maintain an army in consequence of a declaration of war? If it is not necessary to exercise the war power, is it necessary to exercise any of the incidents that flow from the exercise of the war power? In the first place, we assume that it is not necessary to exercise the war power. It not being necessary to exercise the war power, of course it is not necessary to exercise any one of the incidents necessary or proper to carry the war-making power into effect. Let me read the provisions of the Constitution on this subject in connection:

"The Congress shall have power to declare war," *
 * "to raise and support armies; but no appropriation of money to that use shall be for a longer term than two years," *
 * "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

These are all express grants of power. Then the Constitution declares, in reference to the enumerated powers, that Congress shall have authority

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

In the first place, it is not necessary to declare war; it is not necessary now to exercise the war power. It not being necessary to exercise any one of these powers at the present time, it is not necessary and proper to construct the Pacific railroad as an incident to carry into effect the war power, when it is not necessary to exercise it. The President of the United States says on this subject, in his late annual message:

"Whilst disclaiming all authority to appropriate money for the construction of this road, [the Pacific railroad,] except that derived from the war-making power of the Constitution, there are important collateral considerations urging us to undertake the work as speedily as possible."

The President himself then disclaims all power on the part of the Federal Government to make this road, unless it is under the war power; but he says there are other reasons why this road should be made. Now, let me ask every man who is a strict constructionist, and is willing to abide by the spirit as well as the letter of the Constitution, if you restrict this measure to the war power, and the President of the United States disclaims the power to exist anywhere else, is it necessary and proper now to construct a railroad that is to cost \$200,000,000, in order to carry out the war-making power of the Constitution? What great emergency is upon the country? What great exigency exists? Why is it necessary to expend two, or six, or eight hundred million dollars in the construction of a road that is not essential to carry out the war-making power?

I cannot consent, that because the road will be a convenience in the event of a war, for carrying troops and munitions of war and all that pertains to an army, we have therefore the power to construct it, or to appropriate land and money to secure its construction as this bill provides, and then give it to the Territories through which the road may pass when they become States. If we can do it, why may we not begin at Maine on our extreme northeastern boundary, and construct a line of railroad to Boston, and from Boston to New York, and from New York to Philadelphia, and from Philadelphia to Baltimore, and from Baltimore to Washington, and from Washington to Richmond, and from Richmond to Lynchburg, and from Lynchburg to Knoxville, and from Knoxville to Chattanooga, and from Chattanooga to Memphis, and thence to Little Rock in Arkansas, a direct connection over a line stretching through the country? Would not such a line of

road be just as much a war measure, and be just as necessary and proper, as an exercise of the war power, as it is to construct a road from here to the Pacific ocean? If we have the power in the one case to construct a road from Little Rock or any place on the western boundary of Missouri, or any other point, to the Pacific ocean, and pay out money and public lands for it, is it not just as constitutional, is it not just as necessary and proper for the Government to come forward and relieve those States who are now groaning under the heavy debts that they have contracted for the construction of the roads I have mentioned? Can it not just as well do that as continue these roads to the Pacific, and surrender the line to the States through which it may be constructed? If we can make the road and surrender it in the one case, we can appropriate for one that is already constructed in the other.

I shall not undertake on this occasion to give any learned disquisition on the Constitution; I claim to understand it for myself. I shall exercise my privileges here according to my understanding of the Constitution of the country. I do not think the Constitution authorizes the construction of this road by the Federal Government. If, however, we now construct this road as a war measure, let me ask, after the road is constructed, what defense have you given to California by it? That appears to be the great object in view; and the idea is kept before the Senate and the country that our Pacific coast is in great danger, and that those of our citizens who have emigrated there will never be in a condition to protect themselves. It is said we must have a road by which men, munitions of war, and all those things necessary to the defense of a free people can be taken to California. Is there no gallantry, is there no patriotism, is there no love of country and the Union in the State of California as in the other States? I should think there was some there as well as here. I will not do that people injustice. I believe California is competent to defend herself. Give her the same means, the same instrumentalities that are exercised by the other States, and California will defend herself.

But suppose the road was constructed to California: our great danger, it is said, lies in apprehended descents from some great maritime Power. Some foreign Power is to attack our Pacific coast, and therefore a railroad is necessary to its defense. Suppose your road was constructed to day: would it protect California from any maritime Power? What would protect her from a British, or a French, or any other fleet that might be prepared to make a descent on her coast? Why, after your road is constructed, you must have forts, you must have harbors, you must have arsenals, you must have dock-yards, or else you have no defense. But suppose you pass to the other end of the line, and, without the road, construct forts and arsenals and dock-yards on the Pacific coast, as you have done on the Atlantic: are not the people of California as competent to defend themselves as we are? By the time we construct this road, which will not be less than twenty-five or perhaps a much greater number of years, they will be more competent to defend themselves against any foreign aggressions than we were when we succeeded in achieving the independence that we now enjoy.

It is not necessary, it is not proper to carry into effect any one of the expressly granted powers in the Constitution. If they need forts, if they need arsenals, if they need dock-yards, coming within the meaning and purview of the Constitution, as it has been acted on again and again, give them to California. The Senator from Rhode Island [Mr. SIMMONS] stated the other day that, if an army of thirty-five thousand men were placed on the Pacific coast, and they had to be supplied by means of this road from the Atlantic States, it would cost us over one hundred million dollars per annum to sustain them. Then we shall expend a much larger sum per annum for sustaining that force than your whole War Department costs, going upon the idea that California and the Pacific coast are never to be in a condition to defend themselves. I think the time will come, and long before this railroad is completed, when, on the other side of the mountains, on the great slope that leads to the Pacific coast, the people there will know how to make cannon as well as we do here; they will know how to manufacture powder, ball, and all the other implements necessary and proper for a

people to carry on a war successfully. We seem to go on the idea, in making arguments for this road, that they are never to be competent there to the construction of any of the implements necessary successfully to carry on a war.

The President disclaims the power existing in the Constitution unless it is derived from the war power. This is an honest difference of opinion. I do not believe it can be derived from that power. There have been some others who claim the power as arising from the power in the Constitution to regulate commerce. I do not think that provision in the Constitution which provides for the regulation of commerce, confers power on Congress to make or to create commerce. Some derive the power from that provision of the Constitution which authorizes Congress to establish post offices and post roads. I do not believe the language employed in the Constitution to be so meant. The debates of the convention do not show that Congress was to make and construct roads through the country. It meant, I think, simply and plainly, that where there were lines of communication, Congress might establish them as the governmental channels through which communications of this kind might go, but not to construct roads. They may establish and recognize them as post roads, but not construct them.

It seems, from the multifarious views taken of the constitutional power to pass this measure by its friends, that it has no specific or definite location. It is a kind of migratory power that is wandering about in the Constitution, seeking some place to make a location. Then I come back to the text that I started with: placing it upon the best ground possible, it is a doubtful question; and being a doubtful question, I, as a Democrat, favoring a strict construction of the Constitution, say Congress should desist from the exercise of the power; and before the power is exercised, if this Government is to be preserved a free Government, let us go to the States that made the Constitution, and ask them for an enlargement of our authority or to definitely and distinctly define what power Congress shall exercise in reference to works of internal improvement.

But to make this road a little more plausible, and, as it were, to hang it as a millstone around the neck of the Democratic party, the distinguished Senator from California [Mr. GWIN] referred to the national convention which sat at Cincinnati in 1856. He says that that convention passed a resolution favoring the construction of this road as a part of the Democratic platform; that it was laid down as a tenet of the Democratic party; that it was adhered to by the party, and recommended by the President; and hence all the Senators on this side of the Chamber are considered bound to go for this measure. In the first place, Mr. President, I do not understand the resolution alluded to, as the Senator from California understands it. On the first day of the sitting of that convention, Mr. Hallett, who by-the-by is generally a considerable man at gatherings of this kind, and is very expert as well as talented in the preparation of resolutions, introduced the following resolution:

"Resolved, That a committee of one delegate from each State, to be selected by the delegation thereof, be appointed to report resolutions, and that all resolutions in relation to the platform of the Democratic party be referred to said committee, on presentation, without debate."

On the third day of the convention, Mr. Hallett, as chairman of that committee, made this report:

"I have been instructed, as the chairman of the committee on resolutions, to report to this convention the platform of resolutions which they have adopted. I am also instructed by the committee to say, that the platform of the resolutions which relates to Kansas and Nebraska, and those propositions concerning the administration of the General Government, have been adopted by the committee with entire unanimity, every member from every State having signified his perfect acquiescence in these resolutions. There is another and very important class of resolutions, relating to the foreign policy of the country. While these resolutions have been recommended by the committee as a portion of the platform, it is proper to state, that they were not adopted with entire unanimity."

Mark this; and then he adds:

"I am also instructed to report a resolution, as recommended by the committee, concerning communication between the Atlantic and Pacific oceans."

He reports the resolutions in regard to the Pacific railroad, not as part of the platform. Then comes the platform of resolutions reported,

signed by "B. F. Hallett, chairman;" and this is added:

"The following is the resolution with respect to overland communication with the Pacific."

Then comes the resolution, an outside measure, not laid down as a tenet or article of faith, which was adopted by the Democratic party in that convention. This resolution was taken up, and Mr. H. Saulsbury, of Delaware, moved to lay it on the table. When we come to read this resolution, all that it did was to assert the duty of Congress to exercise all its constitutional power on the subject. It did not even assume that Congress had any power in the matter. If they had none, it was a nullity and meant nothing at all. The resolution was taken up, and Mr. Saulsbury, of Delaware, moved to lay it on the table. This motion prevailed—yeas 154, nays 120; and the resolution was laid upon the table. The convention then, after having completed the Democratic platform, proceeded to the nomination of their candidate for the Presidency of the United States. Mr. Buchanan was nominated. The nomination was over, the platform complete; the creed of the Democratic party, so far as that convention went, was finished. In the evening session, after the candidate for the Presidency was nominated, Mr. Shields, of Missouri, presented the following resolution:

"Resolved, That it is the duty of the Federal Government to construct, so far as it has constitutional power so to do, a safe overland communication within our own territory between the Pacific and Atlantic States."

Then the original resolution, which had been rejected, was offered in lieu of this, at the request of the Wisconsin delegation. The original resolution was adopted, in these words:

"Resolved, That the Democratic party recognizes the great importance, in a political and commercial point of view, of a safe and speedy communication through our own territory between the Atlantic and Pacific coasts of the Union, and that it is the duty of the Federal Government to exercise all its constitutional power to the attainment of that object, thereby binding the Union of these States in indissoluble bonds, and opening to the rich commerce of Asia an overland transit from the Pacific to the Mississippi river and the great lakes of the North."

Mark you, the President was nominated at this time, and this resolution was adopted merely as suggestive, it having once been rejected by a decided vote. It was not adopted as part of the platform, but simply as an outside, straggling resolution in the convention. The Vice President was then nominated; and in the acceptance of his nomination, hear what his language is, and this goes to show that he did not understand that resolution as being a part of the platform:

"The platform you have so unanimously adopted"—

—not the resolution that had been once rejected, and taken up and adopted as an outside measure; but—

—"The platform you have so unanimously adopted, I need not, as a State rights man, say I cordially approve and indorse."

What construction does the Vice President put upon this resolution? What construction does everybody else put upon a resolution which has been sent forth to the country as being a Democratic measure, as an article of the Democratic faith? I say, according even to the proceedings of that convention, it is no article of the faith of the party to which I belong. It is no tenet of my creed, and I consider myself a Democrat, and do not look on it as adopted by the convention. It is merely thrown out as suggestive; it is nothing more than mere apocrypha; it is no tenet, no article of our faith. I remember very well, that after the nomination was made, the question came up as to whether this plank had been laid down as part of our creed, and I know that in the section of country where I was during the canvass, it was repudiated and condemned by all as not being part of the Democratic faith. I know that Mr. Buchanan was not understood in that region as entertaining opinions favorable to the Pacific railroad and admitting its constitutionality. Although the opinion may have been expressed, and it may have lain hidden somewhere else, yet during that canvass it was not before the public mind as a measure of the Democratic party. On the contrary, I well remember the surprise with which, in my section, the people received news from the State of California, after the election was over, after victory had perched upon the Democratic standard, that Mr. Buchanan had written a letter to California, committing himself to the Pa-

cific railroad; and it was so surprising that some even looked upon that letter, being published after the election was over, as a hoax, as not authentic, as gotten up for the occasion. But let that be as it may, the letter was written in September, went to California and did its work there, if it did any. I do not know whether it influenced the election there or not, but it was not known in the region of country from which I come until after the election was over, and it took us by surprise. I know there are some in my section of the country who are for a Pacific railroad, without regard to the Constitution, without regard to the existence of the power anywhere, and who look upon it as a great measure. For myself, however, I prefer, on such questions, to consult the Constitution of my country.

Mr. President, even if the Cincinnati convention had laid it down as an article of the Democratic faith, as a tenet in our creed, I should like to know of what binding force resolutions and tenets and articles of faith laid down by conventions in modern times, are upon any party whatever? I think about this convention as I have thought about all conventions, from my earliest advent into public life to the present time. We know how these conventions are gotten up. We know the objection that was urged against the congressional caucus system in 1824, and we know that Andrew Jackson, being the people's man and a great advocate of popular rights, was brought forward as the most fit and suitable individual to break up the old congressional caucus system. Experience and observation, however, have satisfied my mind that the old congressional caucus system was infinitely preferable to your recent national convention system. In the one case, the members of Congress who made the nomination felt that they had some responsibility resting upon them, and when they went to their congressional districts they were responsible for the nominee who was put upon the country as a candidate for the Presidency. How have your national conventions been gotten up? I do not say it out of any disrespect, but I refer to it as a historical fact, that a large proportion of the persons who attend national conventions, go there without representing anybody. Little meetings, irresponsible caucuses get together, and appoint delegates to go to the conventions. They are men who, when they look to their congressional district, see that somebody represents it in Congress; when they look to their legislative district, they see that somebody represents it in the Legislature; they find the various places filled at home, and they go into a convention with their little amount of stock, to make the best and safest investment of it they can, and the candidate who can come forward, and, through his friends, hold out the greatest amount of appliances, fair or unfair, is the one who secures their support, and obtains a nomination.

Mr. President, I most sincerely hope the time will come when the people of the United States will have the constitutional right to elect their own President. Do they elect him now? No; they do not. Packed conventions are got up, and they, by the means to which I refer, make a nomination either on one side or the other. Democrats or Black Republicans, Democrats or Whigs, Democrats or Americans, make their nominations in conventions, and submit them to the American people. Although our people are in theory a free people, and are supposed to elect their President, the fact is that in practice, the conventions have made the choice before they are called upon to vote; and after these conventions, on the one side and on the other, have chosen a President, the freemen of this country are brought up to the ballot-box and taken through the ridiculous mockery of voting for electors for President. I have gone for the nominees of conventions, and I have been in conventions; but need I stultify myself; need I deceive myself; do I not see their tendency—an alarming, corrupting, and dangerous tendency? There was one distinguished man whom I greatly admired; whose remains now repose in a neighboring State to my own; who has a permanent abiding place in the affections of his countrymen, and especially of his own State. I allude to Mr. Calhoun; and his State is selected as the place for the action of another convention in direct opposition to the views which he entertained in reference to those conventions which

have been fixing Presidents on the country. Mr. Calhoun fought the caucus system; he fought the convention system; he contended for the great principle that the people should elect the President themselves, or that he should be elected in the manner pointed out by the Constitution. How is it done now? Have the people the constitutional power? No. We talk about free Government, and the exercise of the elective franchise; but the people have no power to elect a President. The Constitution of the United States confers the power upon the States to appoint a certain number of electors, in such manner as the Legislature may prescribe. All the States give the election of electors to the people save one, and that is South Carolina; and I regret that she has not done it; but the privilege of voting for electors is exercised by the people at the mere grace and favor and condescension of the State Legislature.

I hope the time will come when the American people can for themselves, in a constitutional way, settle who shall be their Chief Magistrate. Would it not be better that the organic law of the land should be so changed as never to take the election before the House of Representatives in the event of no one of the candidates receiving a majority of all the votes? If a dozen candidates run, and no one receives a majority of all the votes, yet the people have indicated at the ballot-box whom they prefer. Every State of the Union might run a candidate; the people might vote for few or many, as they saw proper; and the preference of the people would be indicated in reference to men, whom, by service, by association, by merit, and by their public acts, had got their esteem and confidence, even though in particular localities. Suppose a dozen should run, and no one should have a majority. Change your organic law, send the two highest back to the people, and let it be settled by them just as it is now settled by the House of Representatives. I would to-morrow prefer to see an election made by the House of Representatives, much as I repudiate that provision of our Constitution, rather than by an irresponsible convention. They do settle it; they do make Presidents; and we know it is practically so. It is not worth while to discuss the point, which will be the safest—men who have merit in their districts, and have found their way as Representatives of a free people to the other Hall, and there voting by States, or irresponsible national conventions.

I have gone thus far to show that I do not recognize everything that may emanate from an irresponsible convention, as having a binding force upon me as an article of the Democratic faith. I look on these conventions, in fact, as in violation of the spirit, if not the letter, of the Constitution of the United States. Why do I say so? One convention of one party meets and nominates its man, and the other convention meets and nominates its candidate. There are only two candidates before the country, and the people, as I remarked before, come forward and ratify what the conventions have done; but when we come to look to the Constitution of the United States and the views of those who framed it, we find that that instrument, after declaring the mode in which the President shall be chosen by the electors, goes on to provide:

"The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose."

The original provision was, that in the event of a failure to elect by the electors, no more than five names should go before the House of Representatives. The Constitution was amended, and the number narrowed down to three. What does this contemplate? What is the idea held out? What is the theory inculcated? It is, that you shall have a greater number to vote for than two; at one time five, and at another time three, according to the Constitution. But the convention system says no, the people shall only have two to choose from. I look upon the proceedings of conventions, especially when there are only two, as coming directly in conflict with the spirit, if not the letter, of the Constitution, by depriving the people of the benefit of choice from five or

three, as the case may be, when an election goes before the House of Representatives.

I repeat, I have acted with conventions because there have generally been but two in the country. Sometimes, to be sure, we have had an outside candidate nominated; but I have acted with my party and gone for the nominee of its convention. I do not, however, admit the correctness of the principle, nor do I admit the orthodoxy of the resolution laid down at the Cincinnati convention, which I look upon as irresponsible to a very great extent, and as being a resolution to control the Democratic party.

Mr. President, after this digression, I will return to the line of my argument. I shall go against the original bill, and against all the amendments. I may vote for some of them in lieu of the original bill, as a preference between the two. First, I conceive, under the war-making power, it is not necessary to exercise any one of the incidents necessary and proper to carry it into effect. In the next place, when you attempt to impose it upon me as a measure of the Democratic party, I do not recognize it as a measure of the Democratic party. I do not recognize it as a tenet or article of faith of the Democratic party as laid down by the Cincinnati convention.

But, if these two grounds were out of the way, I should be opposed to it on the ground of expediency. Instead of reading the sections of the bill, I shall read from the remarks of the distinguished Senator from California, in which he explains the sections of his bill, and take them as being more lucid and conclusive than the sections themselves. He says, in his speech made during the last session of Congress, in explanation of this bill:

"The fifth section requires the contracting party to proceed without delay to locate the general route of the road, and to furnish the President with a map of the same, who shall cause the public lands for forty miles on each side of the road to be surveyed, and the Indian titles thereto, if any, extinguished. It also gives the right of preemption to the lands not granted to the contracting party, but withholds them from settlement until the lands granted are selected."

Now, I propose in my way to examine that proposition. The President is authorized first to make a contract with a corporation or individuals, and then he is to cause all lands to be surveyed within forty miles on each side of the road. On this point, let me advert to some other features of the Cincinnati Democratic platform, if I may dignify it with that appellation. There are some things laid down in it which I approve heartily and cordially. It admonishes the country against monopolies; it admonishes the country against class legislation, in substance; it admonishes the country against corporations, and against the exercise of doubtful powers. Well, what do we find here? According to this interpretation of the fifth section of the bill, what does it provide? That you shall make a contract with parties, and if the contract is made, forty miles on each side of the road shall be surveyed.

Another provision of the bill grants to the party with whom the contract is made, each alternate section for twenty miles on each side of the road. It further guarantees that even where the Indian titles are not yet extinguished, this Government is to go forward and extinguish the Indian titles to promote and advance the interests of the company with whom a contract may be made. Is not this a monopoly? Is it not an enormous grant? If the land is of no account, they cannot make the road; if the land is good, it is too much to grant. What is the supposed length of this road? According to some surveys it is twenty-five hundred miles; but I believe by none is it less than two thousand. Let us take the shortest distance—two thousand miles. We are to set apart and commence extinguishing the Indian titles to the land for twenty miles on each side, giving each alternate section to the company. A grant of the alternate sections for twenty miles on each side would make a solid belt twenty miles wide and two thousand miles long. Well, if it is of no account; if it is barren, sterile, arid, unproductive land, they cannot make the road with it. If it is rich, fertile, good land, fit for the habitation of man, it is too much to grant. Two thousand miles long and twenty miles wide of the public land, are to go at one single sweep! Here is a grant to a company of forty thousand square miles of territory, equal to twenty-five million six hundred thousand acres

—think of it. We would go to war; we would fight France, England, and every other maritime Power upon God's habitable globe, if they were to make a demand on us for any of our territory; and here we propose to give away forty thousand square miles. There is not much difference between monopolies and corporations at home, and foreign Powers abroad, especially if they are monarchical. Here is a grant of country two thousand miles long and twenty miles wide—forty thousand square miles. Go to the State from which I come, with a population of a million, and what is the area of her territory? It is only forty-five thousand square miles. Go to the great State of New York, with a population of three millions, and what is her area? Forty-seven thousand square miles. Go to Ohio, with a population of two and a half millions, and her number of square miles is only thirty-nine thousand. Here, at a single grant, at a single dash of the pen, the Congress of the United States is to grant to a corporation a monopoly of enough territory to make a sovereign State larger than the great State of Ohio, and nearly as large as Tennessee or New York.

But, does the enormity of the thing stop here? No. After you have granted to them absolutely forty thousand square miles—and some portion of it is said to be the best land on the face of the earth, but other portions, I suppose, are not good—you grant them the preemption of the remaining sections. So says the Senator from California, in his interpretation of the sections of this bill. Think of it! Forty thousand square miles absolutely, and a preemption right to as much more! Take England, with her powerful navy, the great Power of the commercial world, and the principal Power of Europe, France and Austria not excepted, and the basis for her action is only fifty thousand square miles. England, proud and potent as she is, with a navy that keeps in terror the civilized world, has only an area of fifty thousand square miles upon which she operates; but, at a single grant, the Congress of the United States is prepared to give away the foundation of an empire to a railroad company, or a party with whom the Government may make a contract.

We see, then, Mr. President, how we are going on; we see where the legislation of this country is tending. I know that when I refer to such things, my strictures are attributed to early prejudice and training; but I speak great truths. The tendency of the legislation of this country is to build up monopolies. The tendency of the legislation of this country is to build up the money power. The tendency of the legislation of this country is to concentrate power in the hands of the few. The tendency of the legislation of this country is for classes, and against the great mass of the people. How much legislation is done here for the people? How much is done for individuals and classes? How much is done in all the States for classes, and how much for the people? Sir, of all your legislation here, a very small proportion is for the great mass of the people, while four fifths of it is for individuals and for classes.

But the bill does not stop with grants of land and a preemption right; it goes further. Here I may remark that I prefer the bill of the Senator from Mississippi to the original bill. The original bill merely proposes a beginning; the end no mortal man now sees or understands. The Senator from California, in his explanation of the bill, says:

"The seventh section provides that so soon as one section of twenty-five miles of the road is completed, the President shall cause to be issued to the contracting party \$12,500 per mile of said section in United States bonds bearing five per cent. interest, payable nineteen years from date; and in like manner to cause the same amount of bonds per mile to be issued for each succeeding section of twenty-five miles, when completed, until the whole road is built; provided that the aggregate amount of bonds issued shall not exceed the sum of \$25,000,000."

Will \$25,000,000 be a beginning, if the Government once embarks in a work of this sort? Does not every man here know that it will not? and then after you have given the benefit of the Government obligations for \$25,000,000, how are they to be paid? On this point the Senator from California says:

"It also provides that the amount of bonds thus issued, with the interest on the same, shall be paid to the United States by the transportation and service provided for in this act. The committee were of the opinion that the amount due for such service within nineteen years would be fully

adequate to pay the bonds, principal and interest, and hence they inserted that date for their payment; I may also be permitted to observe, that nineteen years being supposed to be the term of life of one generation, it was not inappropriate to apply, in the building of this great work, the old Jeffersonian doctrine, that each generation should provide for the payment of its own debts."

When we examine the letter of Mr. Jefferson here referred to, we find that he had been looking at some of the tables of mortality in Europe, and he found that of the adult persons existing at any particular period of time, in nineteen years the majority of those adult persons would have passed from time to eternity. Hence he fixed nineteen years as the duration of a generation of adults. These bonds are to fall due in nineteen years, presuming that by that time the price we are to pay for carrying the mail will more than liquidate the interest and the principal.

Well, suppose the road pays it; suppose we take the interest and the principal both out of the mail service: does not the Government still owe the money on the bonds? When your nineteen years have expired, the other doctrine that Mr. Jefferson wished to warn his countrymen against, leaving debts to posterity, stands untouched. Cannot we understand this thing? We may bamboozle each other if we will; we may attempt to bamboozle the people; but when we bring our minds to the proposition, we cannot be mistaken. The proposition is to give the \$25,000,000, and the Government is to be paid in mail service, interest and principal; but how is the Government to pay the bonds? Have you any clause in this bill saying where the Government is to get the \$25,000,000 from? You issue bonds, create debts, and provide no way in which the debts are to be paid. Is that Mr. Jefferson's doctrine? If that was the doctrine taught by the illustrious Jefferson, I confess that I have been so obtuse that I have not understood it; but precisely the reverse was the doctrine taught by him. We are doing the precise thing he admonished us against, even in this miniature proposition to expend \$25,000,000. Most of the estimates to construct the road put its cost at over one hundred million dollars. Does not every Senator here know, does not every man in the country know, that if the Government undertakes to construct this road, it will not stop at \$100,000,000, even if it stops at \$200,000,000?

But, Mr. President, this is not all. After taking out your \$25,000,000 in mail service, the duty on the iron for a railroad twenty-five hundred miles long, weighing sixty-eight or seventy-five pounds to the yard, is not to be paid; but the first service the road performs is to be used to liquidate the duty on the iron, instead of creating revenue on which the Government can subsist. Let me give you the explanation of that provision by the Senator from California:

"This section also provides, that if the railroad iron used in the construction of the road shall be imported, the duties of the same will not be required to be paid in advance, but the amount shall be deducted from the first service performed for the Government under the act."

Here is an absorption of the means that ought to be derived by the Treasury from the iron used in this road. Well, look at it. Forty millions of square miles are granted absolutely; forty millions more preempted; \$25,000,000 thrown out, and all the duty on iron taken from the Treasury of the United States, and yet you say it is no enormous proposition; it is going to save expenditure!

In another portion of the speech of the Senator from California, he says it is going to reduce the expenses of the War Department. From eighteen to twenty-five million dollars are now required for the War Department, putting it at the outside limit, and we think that is extravagant; but if the Government constructs this road, what will be the cost of it? Look at the history of railroads in the United States, and be not impatient in reference to the construction of railroads. Since 1823, the States have constructed about thirty thousand miles of railroad. We ought not to be impatient. I am a progressive Democrat, but I am for progressing within the prescribed limits of the Constitution and the law. Ought we to be impatient, when your States since 1823 have constructed thirty thousand miles of railroad? I believe the globe is only twenty-seven thousand miles round, and we, from 1823 up to the present time, have constructed enough railroad to bound the globe, and to start a tunnel through the center; and still we are impatient at our slow progress in the construction of railroads. There is some talk about

breaking the bands of the Union, and dissolving the Confederacy; but if the globe was cracked, and about to fall apart, we have constructed enough railroad to bind it clear around, and hold it together, if a railroad would do it. But it is said this road will reduce the expenses of the War Department.

If this road were constructed now—if it were laid down in the course of a night by enchantment, so that it would cost you nothing to construct it, it would cost you more than the entire expenses of the War Department to run the road. If you had a company that would construct the road in a night's time, and give it to you free of cost the next day, it would cost you more to run the road than it costs you to carry on the War Department now. Why, sir, you cannot protect the railroad. Suppose you put five men per mile on the road two thousand miles long: it would require ten thousand men. You might not want them equally dispersed, but average them at five men to the mile for two thousand miles, and you require ten thousand men; and in the manner in which we have been raising and supporting regiments by this Government, it has cost us \$1,000,000 for each thousand men. That was the estimate at the last session. Then you must take into the account the interest of the money, and the other expenses of keeping it up without way travel or way freight, relying on thro gh travel to sustain the line along such a trunk of railroad as that will be, if ever constructed; and all the railroad statistics of the country prove that railroads must rely on way travel, and way freight to be sustained. You must have people, you must have country, you must have commerce to sustain the road, and not arid and sterile deserts.

Mr. President, the true policy to secure the construction of a road from here to the Pacific is the one we have been pursuing elsewhere in the country. Encourage settlement; encourage the cultivation of the soil; and as your settlements advance, carrying along with them the arts of agriculture, mechanics, and science of every description, as they want these improvements, they will follow as a legitimate incident. Let your settlements go on progressively, and as these improvements are wanted, your settlements will build them. Do not be afraid of California. The Californians are a brave and gallant people; and if you put the question to them to-day—I think I might speak authoritatively—they will tell you they can defend themselves; they will tell you, if you put the construction of this road exclusively on the war power, that they do not ask it for that. When you leave out the commercial reasons, when you leave out the other reasons for the construction of this road, and put it on the war power, California will tell you that she can defend herself. If she wants a fort, an arsenal, or a dockyard, give it to California, as you have to the other States.

In many instances, when this question has come up, the Union has been introduced, and we are told this road is to be a bond of union. California and Washington city are nearly as close to each other as Georgia and Maine were in the revolutionary war, in point of time, and closer than New Orleans would have been to Washington, if she had been a part of the Confederacy in the Revolution. This road is to be constructed as a bond of union—a road running through a desert—a road to bring us a little tea, to bring us some silks. This is a great bond of union; and one powerful reason I heard given on this floor, why this road should not be constructed at this immense expense was, that the flavor of the tea we get from China, passing through the torrid zone, was not quite so good as it ought to be, and therefore we must have a railroad to cost two or three hundred million dollars to get our tea with a little better flavor. I do not think the people of this country will be injured much by the present flavor of the tea. There is enough of it used for all useful and wholesome purposes. But if this Union hangs together by no stronger tenure than the construction of a railroad which, as has been demonstrated, must go through an arid desert, I tell you it will go; and if California's remaining in the Union depends upon the construction of this railroad by the States on this side of the continent, I say, and I say it in good nature, let California go.

I do not believe any such thing of her. I believe she will stay. It is her interest to stay; and she will stay. Where would she go? Who would she take for a protector if she cannot protect herself? The Union—the Union is the constant cry, sir. I am for the Union; but in every little speech I have to make I do not deem it necessary to sing pæans and hosannas to the Union. I think the Union will stand uninterrupted; it will go on, as it has gone on, without my singing pæans to it; and this thing of saving the Union, I will remark here, has been done so often that it has got to be entirely a business transaction. Every now and then, as Addison used to say, great men come up in clusters; and there seems to come up a cluster of individuals who are exceedingly anxious for immortality, either in this or the other world; perhaps in both; and they must get up a great crisis; the different portions of the Union must be arrayed against each other; and it becomes necessary to save the Union. Hence there are compromises on one side and on the other; and they all come up and seem to make a sacrifice on the altar of their common country, and the Union is once more saved.

Well, sir, I have never considered the Union yet in danger. I do not believe all the factionists in this Government can pull it to pieces. I do not believe they possess power enough to dissolve the bands that bind this Government together—the bands of mutual interest, the bands of patriotism, the idea and association of a common suffering, the feeling of interest, to narrow it down to that sordid principle by which it is said most men are controlled, the sordid principle of self-interest. It cannot be dissolved. It is the interest of the States to stay in the Union; it is the interest of the States to keep the Union together; and when it gets their interest, they will go out, and you cannot keep them here.

Mr. President, I never intended, until one day this week, to say a single word on this subject; and I have spoken in a very desultory manner. I am against this railroad, for three reasons. The first two I have enumerated; the last one is understood.

I come now to the proposition offered by the distinguished Senator from Tennessee, [Mr. BELL.] The Senate, I hope, will pardon me for making use of a figure which used to be very familiar in my State, and had name and credit and authority with the citizens of that State. When we look on that proposition, it is to receive proposals for the construction of three roads, and after they are received they are to be opened and transmitted to the Congress of the United States. One section provides, that they must indicate in their bids how much money, how much lands, or how much of both, they will take to construct these roads; and there it ends. We start out with a bill to construct a road absolutely. The Senator from Mississippi, at the very outset, reports a bill in lieu of it. While we work along upon various propositions, we consume two sessions of Congress; and now we have reached the conclusion—and this is merely withheld to test the sense of the Senate on the proposition of the distinguished Senator from Mississippi. It is now withdrawn for the time being; but we are soon to have action on it; and what does it propose? Years ago it was thought necessary to make an appropriation to have surveys and explorations made. These explorations and surveys have been made; you have them all before you, of the different routes, costing in amount more than a million dollars. Now, having spent two sessions, and sessions before, in the discussion of this subject; after all this, we have reached the conclusion, that we will receive proposals and submit them to Congress, which amounts to just nothing at all. Does that seem to be disposing of the matter seriously?

It reminds me of the story related of Crockett and one of the judges of my State. How true it is, I do not know. In one of their canvasses, Judge Fitzgerald—not a judge at that time—got up and made a speech; and about the time he was concluding his speech, Crockett, in his ironical way, got him just by the edge of his coat, and said, "Look here, Fitzgerald; you are coming out at precisely the same hole you went in at." [Laughter.] I think this proposition brings us out just precisely where we commenced. Proposals and estimates are to be received, and then the subject is to come here the next session with propositions to build three railroads.

We are to build three railroads. No one will pretend to say that if the Government constructs all these roads they will cost less than \$200,000,000 apiece. Then we are to have three, which will amount to \$600,000,000. Where will the end be? What will it come to? Does not the President himself tell you in his own message, that if the Government saw fit to undertake these roads, it will result in corruption, fraud, speculation, and speculation; hence he thinks it ought to be done by a company incorporated by the States? I will read his language from his message:

"It is freely admitted that it would be inexpedient for this Government to exercise the power of constructing the Pacific railroad by its own immediate agents. Such a power would increase the patronage of the Executive to a dangerous extent, and introduce a system of jobbing and corruption which no vigilance on the part of Federal officials could either prevent or detect. This can only be done by the keen eye and active and careful supervision of individual and private interest. The construction of this road ought, therefore, to be committed to companies incorporated by the States, or other agencies whose pecuniary interests would be directly involved. Congress might then assist them in the work by grants of land, or of money, or both, under such conditions and restrictions as would secure the transportation of troops and munitions of war free from any charge, and of the United States mail at a fair and reasonable price."

The proposition of which I am now speaking, however, looks to the expenditure of \$600,000,000 on three railroads running from the Atlantic to the Pacific coast, the southern one going as far south as the western boundary of Arkansas and Texas. Two of them are to be north. I do not object to them on that account. I object to the enormity of the proposition—\$600,000,000! Do you remember the history of the legislation in reference to the Cumberland road? That was a miniature, a mere minnow, compared with this leviathan measure. Look at the legislation of that time; look at the corruption, the endless legislation, I was going to say, that took place on that subject. Now, you are to begin three roads two thousand miles long, six thousand miles in all, to cost \$600,000,000, and the Government is to embark in that. What will it cost? How much corruption, how much speculation, how much fraud, will ensue? Can any one tell? If we undertake a work of this kind, it will be nothing but a series of endless corrupting legislation; it will be a bottomless pit into which you may empty the revenues of this nation for the next fifty years, and you will still increase the centralizing power here.

What is now the debt of the Federal Government? Sixty-five millions; and we have a heavy public debt existing in another shape, not quite so centralizing in its influence. How much do your States now owe for railroads and other improvements? Go to your statistical tables, and see what your States owe. The people are burdened now. Municipal corporations are even taxed to death. How much do they owe? Take the States, and their indebtedness now runs up to over three hundred million dollars. Add to that the indebtedness of your various corporations, and it is over four hundred million dollars. It is true this is not quite so centralizing in its influence; but it is a great national debt that is imposed on the people, and the people have the interest and the principal to pay. After the States have exhausted their resources; after they have accumulated as much debt as they can bear, then the resort is from the States to the Federal Government, and the Federal Government is to be involved in a corresponding amount with just as much as the people can bear here. Do we not see where we are going? Do we not see the tendency of legislation?

Talk about dissolution of the Union! I never had any fears of a dissolution. My great apprehensions—and I think they are well founded when I look at the tendency of our whole policy—are that everything is tending to the center, and just in proportion as you increase the amount of money collected and disbursed by this Government, in the very same proportion you increase the centralizing power here. All parts of the nation look up to the Federal Government for contracts; they look up here for jobs; they look up here for cases of speculation and fraud; and the Government furnishes the means for them; while your States, instead of becoming more distinct and integral in their character, are sinking into mere petty corporations, sinking into insignificance, mere satellites of an inferior character, revolving around the great central power here at Washing-

ton. There is where your danger is. It is not in the centrifugal power being too great, but the centripetal influence is drawing all here.

I recur back to my proposition: let the States go on as they have been going on, settling up the new lands, making settlement after settlement, making improvement after improvement, as the wants of the country demand, and in the process of time our populations on each slope will reach each other, they will come together, and a union can be made without this Government being involved in bringing it about. If the time should come, as some have anticipated, when these States will be dissolved, so far from such a road as this being a cohesive tie, or having any adhesion in it, it would be no more than a rope of sand; its own weight would tumble it to pieces. Instead of being a tie, it would almost operate in the opposite direction. But, on the other hand, while it would not hold the States together if they were disposed to go off, we see in the expenditure of money for contracts, leading to frauds, the danger in reference to the power of this Federal Government.

I have occupied more time, Mr. President, than I intended, for my intention was not to have said a single word on this subject; but as the proposition has been brought forward, and assumed the shape it has, and especially as one seems designed for my own latitude, I have no disguises to make about it. I did not care about the bill passing without indicating what my course is; and, so far as the various propositions are concerned, I have, in my way, pointed out their dangers; but I do not think there is any probability of accomplishing the proposition offered by the honorable Senator from Tennessee. I think it is merely thrown in as a kind of safety-valve by which the question can pass off, and nothing be done with it; but if it is to be treated seriously, and fixed on the country, I think I have pointed out, to some extent, the consequences resulting from it. First, I am against its constitutionality. I do not believe it is necessary and proper, in order to carry out the war-making power, to construct a Pacific railroad now. In the next place, I am against it on the score of expediency; and at the present time it does not seem to me that the proposition ought to be entertained at all.

In coming forward with these propositions, I will remark, we ought to come forward with the ways and means by which the money is to be raised to meet the liabilities we are about to incur. I lay it down as a safe rule of legislation, and especially in a free Government, that when you are going to create a great national debt, it should be first submitted to the people, and let them consider it. Public opinion has not passed upon this project. I know gentlemen may say the country is for it. Sir, the great mass of the people of the United States have never entertained the proposition in its true light. It has not been discussed; it has not been understood. They do not know the enormous extent to which the proposition leads, and consequently they are not for it when they do not understand it.

When you are going to create a great debt, State or national, the sound doctrine is first to submit it to the people. They have the taxes to pay; and after they have determined that the debt shall be created, when you create the debt you should provide the ways and means by which it is to be paid. How is this debt to be paid? Is there any provision for its payment in the bill? Where is the money to come from? It must either come by direct taxation from the people, or indirectly by the operation of your tariff, and your tariff system is now adjusted so that the receipts are falling short of the wants of the Government. Where is the interest of the \$100,000,000 to come from, or the \$100,000,000 itself? Where is the \$25,000,000 proposed in this bill to come from? You get in debt and issue the obligations of the Government; Treasury notes, Government stocks, and high tariffs for protection, are to follow.

This Government was inaugurated in 1789, and since it has been in operation it has gone on and created debts, until now the debts of the State and Federal and municipal governments amount together to over \$400,000,000. Look at the debt of Great Britain, nearly \$4,000,000,000. At the same rate of creating indebtedness, before this country is half as old as Great Britain, we shall have a debt three times as large. We point our

children to the injustice of the British system; we point them to the British national debt, and tell them that it is a means by which an aristocracy is sustained on money extorted from the hard earnings of the great mass of the people. Sir, we are in our swaddling clothes as a nation; and before we are one tenth as old as England, we will have as much debt in proportion as she has. Should we not provide for these things? Cannot we reason from cause to effect? Can we not see the inevitable result? We are alarmed and horrified at the debt of Great Britain, but our march is more rapid than hers was in the creation of a great public debt. The entire national debt of all the European Government is about \$10,000,000,000. At the rate at which we are going, before we are as old as Great Britain we shall have a debt equal to that now owed by all the European Powers.

I ask, again, where is this money to come from? who is to pay it? Where is the wisdom of the Legislature in creating debts and providing no means by which they are to be paid? Is this the doctrine of Jefferson, who denied the right of the living to create debts, and hand them down as an inheritance to posterity? Is this the doctrine of Jefferson, who denied to the living, so far as soil was concerned, all title to it except the usufruct? Is this the doctrine that has been taught by the apostles of Democracy? Is this the doctrine that has been taught by the strict constructionists? Is this the doctrine that has been taught by the great Democratic party as it once was in the United States? If so, I am free to confess that my understanding of the teachings of the Democratic party has been wrong. I know that parties have got somewhat jumbled up, so that, as the saying is, we can hardly tell one from t'other, or t'other from both; but I trust that there is enough pure Democracy left to form a nucleus around which a constitutional party may rally—a party that is for standing by the Constitution of the country, and for making such alterations in that instrument as the wants and necessities of the people may point out, and as are authorized by the Constitution itself. I have sometimes despaired, it is true, and thought that a pure, unadulterated Democrat, was rather a scarce article; and I confess it is a little refreshing to strike one now that is sound in all his fundamentals. It is to me like an oasis in the desert to a wayworn traveler, seeking a little water with which to quench his thirst. When I come across one of these true men of the people, whose sympathies and talents and energies are devoted to the amelioration and elevation of the great mass of the people, it is as refreshing to me as an oasis in the desert is to the wayworn traveler. I have almost thought, at some times, that a man of that description was about as hard to find as an honest man in olden times in the days of Diogenes, when in mid-day he lighted a lantern to go in search of an honest man. I hope that there are a few more sincere, pure Democrats left than there were honest men in his day, according to his version of honesty.

Mr. President, let us reject these propositions; let us kick them out of Congress; let us get to the legitimate legislation of the country; let us give the people protection and legislation within the prescribed limits of the Constitution. All the legislation that is necessary is little. The requirements of the Government are few. Let us direct our legislation in that way which conforms to the wants of the people, and not to speculation. Let us take our legislation in that direction that will protect the great mass of the people in their honest vocations; and, if we do that, we need not legislate half as much as we do. The great fault and difficulty is that we legislate too much; and one half our legislation is an impediment and obstruction thrown in the way of the laws of nature, preventing our people from conforming their action and conduct to great fundamental laws. Let your Government take as little from the people as possible; permit them to enjoy their own industry; protect them in their pursuits; let the people become rich, and let your Treasury keep poor. I am glad it is empty. I am not sure that I shall vote to borrow a dollar. I think it is a fortunate thing for the country that it is drained, that it is reduced; for the idea has got predominant here—I was going to say irrespective of party—that the way to get popular and the way to get power is by the expenditure of large sums of money. That is the channel in which popularity runs here.

I am not a military man; I wish I was a good one; but I have heard the idea advanced that if you want to reduce a garrison, starve them out, and you will bring them to submission. Retrenchment and reform can never be brought about in this Government, unless it is headed by the Administration. I am glad the necessity has come for retrenchment. I am glad the necessity has arrived for reduction in the expenditures of the Government. Let the people learn that the expenditures of this Government can be reduced by taking taxes off them, instead of increasing their taxes; that the wants of the Government can be met by beginning at the other end of the line, and by reducing, retrenching, lopping, cutting off, unnecessary expenditures of the Government. I honestly believe here to-day that instead of creating more debt, instead of imposing additional taxes on the people, instead of extorting more from their toil and from their sweat, this Government can be administered upon \$50,000,000, in ordinary times, purer, better, and more efficiently than it is now upon seventy-five or eighty-one million dollars. The very depletion, the very reduction, would carry health, vigor, and honesty into the various departments of the Government; it would cut off sinecures; it would take off excrescences; it would remove hangers-on, dependents, who are swarming around the Government seeking for place and money and speculation.

The time has arrived for reform. We can see from the indications thrown out by the chairman of the Committee on Finance, in the resolutions that have been introduced, and we can see it from the indications in the President's message, and the depletion of the Treasury. We must begin at the right end of the line. I am in hopes that this depletion will be kept up, at least until the expenditures of this Government are brought down to that point at which they are honest, healthy, and economical. I know that sometimes when we get up and talk about expenditures, there are obstacles in our way. It may be said that I am a plebeian, and have made my way here from the ranks. Some gentlemen may say I contracted my prejudices there. I am a plebeian, and I am proud of it. I know there are others who can boast of more favored circumstances; that they have lived in the midst of affluence; that they have had parents who could extend to them all the facilities, all the comforts, and all the means seemingly necessary to give a man position in society in modern times. I know I cannot boast of these things; others may boast of them; I have no objection. All I regret is, that I had not a fair chance with them; but on the other hand, not to be egotistical, I thank God Almighty that he has endowed me with physical power, and with a tolerably healthy brain. I care more for the approval of my conscience, than for all this little, pettifogger flattering that runs around Senators, telling them "you have done this, and you have done that, and you are so well informed, you understood the subject," and all that sort of thing. I care not for that. The approval of the Author of my existence is far more flattering to me than all your fulsome stuff that may be heaped and brought about by influence and money.

It is very often said, "Oh, it is very easy to see why it is such a gentleman, such a Senator, or such a member is parsimonious; it is on account of his origin; he is contracted; he is limited in his views; he has not been raised so as to take a comprehensive and statesmanlike view of such things." Some proceed upon the idea that a man of this description is to be regarded as though he had been ensconced in a rock for a thousand years, like a toad that remains torpid and totally insensible of thought or action. The torpidity is on the other side; the stupidity is there, on account of the want of necessity to arouse to effort or action. While I am for an economical and rigid administration of the Government, I am not for a parsimonious administration. I am not for a narrow, contracted administration; but I am for an honest and liberal administration, upon principles that will come up to and meet the wants of the country.

I have said more, Mr. President, than I intended to say. I have indicated, I think, pretty clearly that I am against this bill, that I shall vote against it, and, if necessary, I shall speak against it. When I start, if I get clearly under way, I am very apt to go through. In doing so, I repu-

state that this is imposed upon me as a Democratic measure by the Cincinnati convention. I think this is a measure outside of a strict construction of the Constitution. I think it is inexpedient and wholly improper at the present time; and, this being my conviction, I leave the subject to the Senate.

Mr. DAVIS. Mr. President, I shall occupy the Senate but a short time.

Mr. JOHNSON, of Arkansas. I am very sorry that the Senator will take it up at all.

Mr. DAVIS. I feel it my duty to say a few words. I shall occupy as short a time as possible.

Mr. President, I shall not follow the Senator from Tennessee in the very wide range he has taken; for though he describes the bill of the Senator from California, or rather the bill of the committee reported by the Senator from California, as being both wide and long in its application to the public lands, it seems to me that the Senator himself in discussing that bill has drawn into it subjects which even its great length and its great breadth would not include. He has thought proper to speak at a time when an amendment offered by myself was pending, and has addressed his remarks to a bill to which that amendment was directly opposed. Thus he speaks as though his \$25,000,000, his \$600,000,000, of which he speaks as the expenditure for this road and the innumerable number of acres of land, all belonged to the substitute before the Senate. They belong to the bill which the substitute was intended to displace.

Mr. JOHNSON, of Tennessee. I intended, and thought I did make the exception of the Senator's proposition, and stated that, as between the two, I should vote for his, and that my remarks would be confined principally to the original bill and the substitute for it offered by the Senator from Tennessee.

Mr. DAVIS. I shall not notice the extraneous matter, and most of all that hardship of which the Senator complains as practically existing in the country, which prevents the multiplication of presidential candidates, a hardship which I do not feel, and in the zeal with which he arraigns it I cannot sympathize. I will say, however, that whilst I omit the general view of that point, I like the programme which the Senator presents as his plan of administration very well. He proposes to reduce the expenditures from seventy-five or eighty millions to fifty million dollars; and, if a pony race should occur, in which no parties are represented and everybody who thinks he is fit to administer the Government should be a candidate, I do not know but that I like the Senator's programme very well. I shall not yet pledge him my vote, however.

But, Mr. President, I should not have risen at all, but for the very kind manner in which the Senator laments my departure from the doctrines of strict construction and my wandering into the field of latitudinarianism. He shows such interest in me, and follows me with such kind instruction, that I feel it is due to him, that I should relieve him of some portion of the apprehension which he entertains. In so doing, I shall be compelled to show him that, whilst he lectures upon constitutional law, there are some parts of it which perhaps he has not maturely considered.

There are two kinds of enemies to the Constitution. One kind consists of those who disregard it, who trample it under foot, who would claim that it was no restraint upon the Government of the United States, who would seek to draw the States into one great central Government, and to overthrow the compact which binds the States together. Another kind, and scarcely less dangerous, consists of those who, sticking in the bark of the text, unwilling to acknowledge that anything grows out of the Constitution unless it is written down in it, destroy its vitality and drive the Government, by the necessity of the case, to assume functions which, under their construction, it would not have. Thus, the Senator says that he cannot find any warrant in the Constitution for using this, though it be a necessary means incident to the war-making power; and then refers to the Constitution, and reads the provision that Congress shall have power to declare war. Is that all? Why was that power given? It is the great duty of the Federal Government, and the States united themselves together under one head,

to provide for the common defense. The war-making power is expected to be exercised mainly for defensive purposes. It devolved on the General Government to provide for the general welfare; and the treaty and war-making power come under these general duties and grants conferred, to enable this general agent to perform the duties imposed on it.

But the grant did not stop there. If it had, the Senator might have argued with some plausibility that the right to maintain an army only arose after the declaration of war. If he had read the Constitution a little further and a little more closely, he would have found that Congress had the power to maintain an army and a navy; he would have found by a little further examination that he was in error when he supposed this army was put under the command of the Executive. He would have found instead of the men who formed this Government giving to the Executive the Army, as an instrument to work his will, they would not even grant him the poor power of making regulations to govern it. The men who formed this Government, jealous of any use of the sword by the Executive, retained in the hands of Congress the power of making the rules and regulations for governing the land and the naval forces, as well as that of calling out the militia; and whatever power the President possesses, save in his capacity of Commander-in-Chief, he derives from the laws of Congress, which have from time to time delegated certain powers to him, not by a constitutional or Executive prerogative. Congress has the control of the Army, and not the President, and I thank the wisdom of those who made our free institutions that it is so.

But the Senator says, if this be the result of the war-making power, we must wait until war is declared. A beautiful system of national defense, surely, the Senator would found upon his theory. You are not to make a road, though you need it for defense. You are not to build a fort, though you need it for defense. You are not to roll a grain of powder; to cast a shot or shell; to make a gun, great or small. You must wait until war is declared, and then you acquire this as an incident to the war-making power. His argument goes to the whole extent; that, as an incident to the war-making power, it only arises after the declaration of war. If I have not mistaken his language, I believe that is the substance of it; I am ready to be corrected, however, if I mistake.

Then he runs into the error of supposing that the Constitution having given to the President the military power, Congress have a check upon him in their power to withhold appropriations for a greater period than two years. I should have thought he was speaking of the British constitution; I should have thought he was treating of monarchical Governments, where the Crown holds the sword, and where the House of Commons voting the supplies had no other check than by limiting its appropriations from year to year. Our Government is differently constituted. Our Executive has no control of the Army save that which he derives from Congress. Even his Executive prerogative of nomination and appointment is fettered by law. He is tied down to follow in the path that Congress has chosen to indicate to him.

The Senator concludes (such is the line of his argument) that, as it is not proper now to exercise the war-making power, it is not proper to make this road if it attaches to the war-making power; and, he might, in the same view, equally have argued, as it is not a proper time for war, we had better close our armories, stop the manufacture of powder, desist from everything which tends to promote national defense—everything which is needful to provide for it. It all comes within the general category. The Senator draws his illustrations from familiar things. I will say that his theory is somewhat like the man who would not cover his house in dry weather, because he did not then need a roof; and his position would be that of the same man, who could not cover it when he needed, because then it rained. If he did not make this road before a war, he could not make it during the war until all for which it would be made had been lost.

The Senator's argument against expending money to make a road which is not necessary I concur in if he will omit all that portion of it which makes the necessity depend on the declar-

ation of war. If the road is not necessary, I would not vote one cent for it. If it is not one of the means which we are properly to employ, I would not vote a cent. If it be a proper means, if it be the most efficient means, if it be the most economical means, then, I ask, why those who do not go to his whole extent, but still go on from year to year making expenditures to provide for the common defense, should not adopt this mode, if it can be shown to be the cheapest which they can pursue?

As to the old argument of the abuse of power, it belongs to everything. Government is a practical thing. It is to be administered by men. Our Government was founded by honest men. It can only be administered by men both intelligent and honest. The abuse of any power which we possess might be arrayed as an argument against its exercise. I think it may be very well stated in this, as in other cases, that those powers which are most useful, most readily run into abuse. It comes within the maxim, the worst is the abuse of the best.

I will not discuss the various points in the Senator's argument in relation to the road, but will merely state some of them. He says it runs across a desert, and it is to be built by the people that inhabit the country. The one proposition denies the other. If the country is a desert, if it is sterile and arid, the people cannot live along it, who will build it. My own opinion is, that there is no road over the continent which ever will be built by the people who reside near it; and my own belief is, that if, at some remote period, a teeming population stretching out to the extreme limit of fertility from the valley of the Mississippi, and reaching out in the same manner from the Pacific ocean should ever build this road, it will be at such a remote period, that all the catastrophes which have been so often portrayed in this debate will probably first occur. Such a circumstance is only to arise at such a remote period that we do not anticipate it. So much for the constant argument of the people building it themselves.

Then the Senator speaks of the expense of surveys. I really did not understand whether he said the expense had been some million of dollars, or some millions of dollars.

Mr. JOHNSON, of Tennessee. A million, as I understand, has been expended in printing and making the surveys.

Mr. DAVIS. In printing, I believe, the whole sum the Senator stated has been, or may be spent before they get through; but the surveys are a different thing. The surveys, I think, cost about one third of a million, with all the reports. What Congress has spent in printing them is a different question, altogether unconnected with making the surveys themselves. I suppose the Senator thought that the expense of making the surveys would cost that amount, and that he was going to weigh it down a little more heavily with money, so as to increase its weight, for he used some kind of a figure by which he spoke of the weight of the railroad as tumbling the Union to pieces.

Mr. JOHNSON, of Tennessee. I do not think I said so.

Mr. DAVIS. I understood the Senator—in arguing against the proposition of somebody, that it was a bond to hold the Union—to use that language.

Mr. JOHNSON, of Tennessee. Will the Senator allow me to interrupt him?

Mr. DAVIS. Certainly.

Mr. JOHNSON, of Tennessee. I always make it a point, in answering a speech, to answer what was said. I think the Senator misunderstands me. I said it was argued, by some, that the construction of this railroad would be a great bond of union. I stated, in answer to that, that if the Union was going to be dissolved, the road would be no tie towards holding it together; that instead of its being a tie, if these States were prepared to be dismembered, the road would no more bind them together than a rope of sand.

Mr. DAVIS. I should not agree with the Senator in that. I hold that people are held together by their interests. I hold that the people of the Pacific slope will remain attached to the people of the Mississippi valley, so long as it is their interest, and perhaps a little longer from habit and affection; but that it is necessary to bind them together to give similarity to their commerce;

to prevent that diversity which will result from one looking exclusively out to the Atlantic, and the other to the Pacific; to prevent that obstacle which now exists to the intercourse between the two, by the circuitous route and the hazard to life resulting from crossing either of the isthmuses; I think it will contribute—it was not in answer to my argument, however, and therefore I will not pursue it, as I am anxious not to consume time—but I think it will contribute to hold the two together. I think it will contribute to that end, if it gives to them a greater similarity of commerce and greater similarity of policy. It makes the one more necessary to the other; and men who are governed by common sense, who look to the interest which their communities have, will look to the conjunction of material and political relation to bind them together.

Mr. BRODERICK. Mr. President, I did not intend to occupy any more of the time of the Senate upon this subject, until a few minutes since; but the extraordinary speech made by the Senator from Tennessee has induced me to take notice of it. I want the Senator from Tennessee, and every Senator within hearing, to understand that the State of California is no mendicant at the door of the Senate Chamber, asking for an appropriation of money to construct a railroad from the Mississippi valley to her borders. I might say that we demand it; and if there is any generosity in the Senate, they should give it to us. The State of California has sent between six and seven hundred million dollars to the Atlantic States; and what have you sent us in return for our money? Nothing. If the State of California, for fifty days, should withhold her money from you, the banking interests, the commercial interests, and the manufacturing interests of the thirty-one States on this side of the Rocky Mountains would be paralyzed.

I do not understand the Senator from Tennessee. He professes to be a very strict constructionist, and says he is controlled entirely by the Constitution. I understand that the Senator is in favor of the thirty million bill for the purchase of Cuba. If I am correct, I would ask him what clause in the Constitution he finds giving Congress the power to vote \$30,000,000 to the President, to be used as a corruption fund, to purchase Cuba with, and to expend two or three hundred millions more, if he deems it advisable? There may be such a clause in the Constitution; but the last time I read it I did not see any such clause there.

I am also surprised that the Senator from Tennessee should lay so much stress upon the proposed grant of public lands by the Government. I voted with him, at the last session, to give away to every man who would take possession of it, one hundred and sixty acres without paying a farthing into the Treasury; and now he is alarmed at giving twenty miles of land on each side of the road to the contractors who will build it to California. I voted, and will vote again, with him to give away the public lands to actual settlers; but I should like to reserve a sufficient amount to build this road, if possible.

I rose, sir, however, more for the purpose of taking notice of the speech made by the Senator from Mississippi [Mr. Davis] on Friday last. He said:

"I pass to the route of the forty-first parallel, which has been described in the Senate as having peculiar advantages. From the Rocky Mountains to the Sierra Nevada, the country on this route consists of alternate mountains and plains or valleys—valleys utterly barren. The office examinations of the railroad explorations show these facts."

Now, sir, I will read from the report of Lieutenant Beckwith, who explored this route. He speaks of it in this language:

"There is an abundance of good stone for bridges and building purposes, at short intervals, upon all parts of this line. Water is also found in abundance for railroad purposes throughout those portions of the Sierra Nevada, Wahsatch, and Rocky Mountains explored, and also at a few miles intervals in the basin, where it usually occurs in springs at the bases of the mountains, and in small streams descending from the higher peaks and ridges to the adjacent plains. And a simple reference to the map of the route will exhibit an important feature in the fact that in its remarkably direct course, for its great length, from the Missouri west to the Pacific, it follows the ascending and descending valleys of permanent rivers and their tributaries for more than two thirds of its entire length; and that water is abundant on all the intermediate spaces, affording the means of irrigation to a large extent wherever the lands are suitable for it; and that they will doubtless be found so wherever the sage plains are luxuriant, may be inferred from the rich aromatic

odor and resinous properties of that plant, and from the exceedingly nutritious character of the grass scattered through it. And it is a well known fact, that the Mormons produce some of their finest crops from reclaimed sage plains."

This is land that the Senator from Mississippi characterized as barren and sterile.

Mr. DAVIS. The fertility is where it is irrigated.

Mr. BRODERICK. You will find that there is plenty of water all along the route. I found it three times a day from the time I left Carson's valley until I reached the Missouri river. I found grass and water at morning, noon, and night. I continue to read from Lieutenant Beckwith's report:

"By reference to the map and accompanying tables of latitudes, it will be seen that the route explored conforms throughout to a remarkably straight line, deviating, west from Fort Bridger, only at the Timpanogas cañon, if that line be preferred to the Weber, and on the northern portion of the Sacramento river; and then only by three minutes and four minutes, respectively, from the line of the forty-first parallel of north latitude. The length of this route from the Missouri to the Black Hills may be safely estimated not to exceed six hundred and forty-seven miles, the distance given by Captain Stansbury from Fort Leavenworth to Fort Laramie, (outward journey,) and his distance from the Black Hills to Fort Bridger, three hundred and forty-seven miles, is given from actual measurement. From Fort Bridger to Fort Reading, by the line of the accompanying profile, the distance is one thousand and eleven and seventy-one hundredths miles, (which may hereafter be diminished by at least one hundred and six miles, as before pointed out), giving a total length for this line of one thousand eight hundred and ninety-nine and seventy-one hundredths miles."

If Mr. Beckwith is to be believed, there is some good land on this route.

Mr. DAVIS. I will say to the Senator that I have paid very high compliments to Lieutenant (now Captain) Beckwith's report. I think him a man of rare judgment, as well as pure character. So far as that land can be irrigated, it will be found productive; but he is aware that at Salt Lake, where the Mormons reside, they are able to produce nothing except where the land is irrigated; and that is one of the best valleys to be found between the Sierra Nevada and the Rocky Mountains.

Mr. BRODERICK. I will inform the Senator from Mississippi that I followed the beaten track along the Humboldt river to Salt Lake, and that I was never out of sight of water and grass more than six hours at any one time. The animals we used were in fine condition when we reached Salt Lake. They found water and grass in the morning, and from one to three o'clock in the day, and then at night when we encamped. So there is plenty of water and grass along the whole route.

The Senator from Mississippi also stated that Noble's Pass was impracticable. He used the following language:

"The party going west, and which was then commanded by Captain Beckwith, finding their resources only equal to the exploration, if they were not compelled to make any attempt from which they would afterwards have to retire, instead of attempting to cross from Carson's valley over the mountains, upon satisfying themselves that it was impracticable for a railroad, turned north to find some better line. They had heard of Noble's Pass. They found it, and found that it was impracticable for a railroad."

I will also read what the gentleman who explored this route says—a gentleman of knowledge and experience. This is from Mr. Noble, the man who explored the pass, and after whom it was named:

"There is a direct line through a level country to the northern end of Honey lake, which lies at the eastern base of the Sierra Nevada."

"From Honey lake, taking a spur lying north of Susan river, a very uniform grade, with a rise at no place more than eighty feet (and probably not fifty feet) to the mile, is found for thirty miles; when you strike a valley known as the Susan river valley, which is the commencement of a series of valleys continuing through the whole range of the Sierra, with a very slight difference of elevation."

"From Susan river valley, the route would pass between the lakes at the head of that river; thence close by the northern base of the 'Black butte,' which is about the summit of the Sierra; thence by the northern base of 'Mount Tom,' or Lawson's butte, crossing a tributary of Mill creek; and thence on an easy grade into the Sacramento valley, striking the Sacramento river at the northern border of the rancho of Major P. B. Reading, and near the mouth of Cow creek."

"From a point near the summit of the pass in the Sierra, there is a practicable route into the valley of the Umpqua, and thence by the Willamette to the Columbia river."

"In the whole line of route, there will be no grade of more than ninety feet to the mile, and in no instance anything like tunneling or heavy rock cutting required; except at a few points, the road is already graded by the hand of nature."

"No heavy bridging will be required along the entire line;

and no difficulty appears to be in the way of the construction of a road, except the unsettled state of the country."

"In starting from the Sacramento valley there is a fertile country, heavily timbered with pine and cedar, all the way through the Sierra as far as Honey lake."

"The Honey lake valley is one of the most beautiful to be found anywhere; and at various points through the mountains there is an abundance of water power."

"At the head of the Humboldt, there is timber sufficient for the purposes of the road in that vicinity; and from that point no difficulty, as to rock and timber, will occur all the way to the neighborhood of Fort Laramie, at comparatively convenient distances on the road."

"Excellent coal is found in abundance on the north fork of the Platte, about one hundred and twenty-five miles west of Fort Laramie; and it is reported to exist at Soda springs, and in the Goose Creek mountains."

"Good water is found at distances in no instance greater than twenty-five miles."

If this gentleman is to be believed—

Mr. DAVIS. I will say to the Senator, I do not know anything of the authority; but the profiles of this pass are to be found in the reports of Captain Beckwith; and I think it not at all improbable that he is reading the description of the Madelin Pass, and that it is misnamed.

Mr. BRODERICK. No, sir; the Madelin Pass is some one hundred miles from Noble's Pass. I read from a letter by Mr. Noble himself, which is now on file in the War Department, that he addressed to Mr. McDougall, who represented California in Congress in 1854. I merely rose for the purpose of reading to the Senate part of the report of Mr. Beckwith, and the letter of Mr. Noble; and I leave the question.

Mr. JOHNSON, of Tennessee. I do not want to occupy the attention of the Senate more than a few moments; but I never like to submit—of course I speak that kindly—to a misrepresentation of the position that I assume. I have no doubt the Senator from Mississippi answered what he understood my position to be. In reference to the expenditure for surveys, I will state what I intended to say. I have not been in the habit of speaking a great deal here, and do not speak with very great accuracy, fixing my mind as perfectly on the particular expression I am going to use as I would if I were more in the habit of speaking. I may have said millions, but my idea was, and I think I did say, that the surveys and printing had cost about a million dollars.

Mr. DAVIS. I will say to the Senator that before making any comment on that point, I asked him what he did say; and when he did say \$1,000,000, I treated it as \$1,000,000; but as to the printing I am sure he will not find anything stated by me about that.

Mr. JOHNSON, of Tennessee. It was my intention to say that the surveys had cost the Government over a million dollars. The surveys were made first, and the printing followed as a matter of course. It is part of the cost of the surveys. That is what I intended to assume. My understanding is, that the printing and surveys together, and obtaining the necessary information, have cost between ten and twelve hundred thousand dollars. So much for that.

Mr. DAVIS. The printing is not obtaining information.

Mr. JOHNSON, of Tennessee. It is a result growing out of the survey, and an expenditure caused by making the survey as a matter of course.

Mr. DAVIS. The Senator might as well include the long debate which has arisen on these surveys, and the cost of printing it in the Globe.

Mr. JOHNSON, of Tennessee. All printing ordered by Congress is incident to, and resulting from, the action of Congress, and it is a necessary incident that has grown out of the surveys to get the information before the country; but let that pass.

The Senator took another position. I understood him to say that I had made an argument that this road should progress with settlement; and that I had treated one portion of the road as being a desert, sterile and barren. He wanted to know how I would carry settlement there. That was not my position. I assumed that, as far as the lands were good and the country was good, on the one slope and on the other, by the encouragement of agriculture settlements would go on, and, after a while, they would make the connection that was necessary between the settlements on each side. That was my argument. I did say that, if these lands were barren and unproductive, they would be worth nothing if you granted them to the company; and, if they were fertile and val-

uable lands, you would be granting too much. That is what I said, and say now.

Then the Senator takes up the constitutional question, and answers a position which I did not assume. I read the provisions giving Congress the power to declare war, and power to raise and maintain an army. I referred to that provision of the Constitution giving power to repel invasion and suppress insurrection. I did say, though, that when the Army and Navy were called into actual service, the President of the United States had command of them. I say so yet. I say the Constitution makes him Commander-in-Chief of the Army and Navy, when they are called into actual service. If the President saw proper, he could go into the field and take the sword. So much for that.

Well, the Senator made a discrimination that perhaps, to minds as nicely balanced and as well trained as his, was perfectly clear, by which some ridicule was likely to follow. He asked, would I stand still and do nothing till war was declared? I read the provisions of the Constitution on this subject all together. It grants the power to declare war; and there is also an express grant of the power to raise an army; but what is the object of conferring this power? I put the question to the Senate, was it necessary as an incident to the exercise of the war power now to construct this road? What is there under the war power that now makes it necessary and proper to construct this road? That is the point. Is there anything? If it is necessary and proper to construct a road there, is it not equally necessary and proper to relieve the States from the burden that they have contracted and incurred in making the other links of the road? I can see no difference in principle as to the idea that you cannot make a road in a State, but can in a Territory. I confess I do not treat that argument with much seriousness. If it is necessary and proper to exercise any incident to carry the war power into effect, that power does not stop at the line between a State and Territory; you can exercise it anywhere; and if it is not necessary and proper to carry out the war power, you can exercise it in neither State nor Territory. That is my position.

But the Senator presses the idea that I deny the power to make a cannon or powder in advance of war. Is not that necessary to the very existence of the Government, and the proper perpetuation of the power in the Constitution? Is it necessary to construct a road? Is it necessary to buy provisions to sustain an army, even on the peace establishment, so far in advance of their being needed? Is it necessary to undertake works of agriculture to raise bread and meat all over the country? You might ask, "will you not make a barrel of corn, or will you not raise a bushel of wheat? We consider it necessary to have agriculture to sustain your army, to carry out the war power." Is not that a latitude that the framers of that sacred instrument never intended to be put upon it? What is the question before us? There is the constitutional power; and now look at the country and the condition of things, and say, is it necessary and proper to make this road as an incident to the war power? Mr. Buchanan says he is a strict-constructionist; and he says in his message, you should not exercise any power unless it is absolutely necessary to carry into effect an express grant. I ask the Senate, and I ask the country, is it necessary and proper, is it absolutely necessary, now to construct this road through a desert as a means to sustain and carry out the war power conferred in the Constitution of the United States? My honest convictions are that it is not.

But the gentleman, by way of being a little facetious, speaking of my reference to a change in the Constitution, alluded to the number of candidates that might be before the country in reference, as I understood him, to a distinguished office.

Mr. DAVIS. I was answering you, sir; the office you spoke of.

Mr. JOHNSON, of Tennessee. If that policy was carried out, as I understood him—I speak the substance of what I understood—it might open the field to a pony race, with a number of pony candidates running. Well, if national conventions are the only means to rule off ponies, and bring forward great men, in the future I hope that all improper appliances will be omitted. Open the door for a pony race! I think the people of the

different States are as competent to judge of their own citizens, and their qualifications and various merits, and their worth, as a national convention; and the chances are that they would be equally as pure and as good men as would be brought forward by a national convention or a congressional caucus. At this point, and I know I do it in a spirit of kindness, I assure the Senator I am willing to widen the field so that if he has any aspirations in that way, he may have a chance; I have none.

Mr. DAVIS. I have disclaimed in your favor already.

Mr. JOHNSON, of Tennessee. I increase your chance, particularly as I live in the South. But the idea seems to be, that you cannot come forward and discuss any great measure that has a tendency to popularize our free institutions, but you must be associated with the Presidency. That seems to have been the *summum bonum* of everything in this country. It is the climax of comparison and of aspiration; and whenever you make a move that has a tendency to popularize our free institutions, or carry the Government nearer to the people, it is said, "Oh! you are a candidate for the Presidency."

Mr. DAVIS. I ask the Senator now, as he is replying to me, whether he did not bring in that himself, and whether my remarks were not in reply to him on that point?

Mr. JOHNSON, of Tennessee. Bring in what? Mr. DAVIS. The whole subject of the mode of nominating a candidate for President.

Mr. JOHNSON, of Tennessee. Most assuredly I did; but I made no particular allusion to any set of individuals being candidates; the Senator did. That is the difference between us. I introduced the subject, and he alluded to the chances of particular individuals. That is all the difference. He brings cases up; I have a right to comment on those cases, in making a reply; and as I before told the Senator, I am not in his way. We have got to making Presidents in modern times, so that nobody knows who is safe. I do assure the Senator that I prefer to discharge my duty faithfully as an honest representative of the States or the people. Occupying that position—the Senate will pardon me for the expression, and I do not use it in a profane sense—when contrasted with being President of the United States, I say damn the Presidency; it is not worthy of the aspirations of a man who believes in doing good, and is in a position to serve his country by popularizing her free institutions.

The Presidency! I would rather be an honest man, an honest representative, than be President of the United States forty times. The Presidency is the absorbing idea, the great Aaron's rod that swallows up every other thing; and hence we see the best legislation for the country impaired, ruined, and biased. The idea of President-making ought to be scouted out of the Halls of Congress. Our legislation should be for the country, and let President-making alone. Let the people attend to that. Confer the great privilege, the constitutional right, upon the people to make their own Presidents, and not have them made by national conventions or by Congress; let the people make them themselves; and we shall have better Presidents, better Administrations, more economy, more honesty, more of every thing that tends to constitute an upright and correct Government.

But the Senator from California [Mr. BRODERICK] seems not to be satisfied with something that I said, and he wants to know what would become of the United States if it had not been for the six hundred millions of gold we had got from California. Now this was a country a good while before we got California, subjected to a great many trials, and went through the struggle of the Revolution which was consummated in 1815. He wants to know what we should have done—

Mr. BRODERICK. If the Senator will permit me one moment, to prevent him making a long speech on what I said, I will state it again. I stated this, that if the gold of California was withheld for fifty days, your banking institutions would go to pieces, as well as your manufacturing and commercial interests.

Mr. JOHNSON, of Tennessee. Well we had a good deal of manufacturing, a good deal of very successful banking and commerce, before California ever came into the Union.

Mr. SEWARD. Will the honorable Senator

allow me to ask him to give way for a motion to adjourn?

Mr. JOHNSON, of Tennessee. I shall be done in two minutes. Where does the gold from California go to? While they dig in their gold-fields in California, we dig in our corn-fields, in our cotton-fields, and in our rice-fields, on this side of the Rocky Mountains. South Carolina, Georgia, Tennessee, Alabama, Mississippi, and other States, might ask, what would you do but for our cotton. Cotton is just as necessary in commerce as gold. All that gold, when it goes to New York or any other point, goes abroad and we have run through our mints in seven years six or seven hundred millions of gold.

Where did it go? Turn to your tables of exports, and there you find it went off with your bags of cotton, your hogheads of tobacco, and tierces of rice. What would your country have done, but for rice, cotton, and tobacco? What would the country have done but for your manufactured articles? Gold is the peculiar product of California; cotton is the peculiar product of the South; hogs and horses are the peculiar products of the western States. You find that there is a reciprocity in trade. California brings her gold to the United States because she can do better with it here than anywhere else. If she could send it from San Francisco to England direct it would go there. Withhold gold from that point where it will command the greatest price! Withhold gold from going where it will command the greatest price! The Senator might as well attempt to lock up the winds or chain the waves of the ocean as to place gold beyond the influence of those laws which control the commercial world. Gold, like every other article of trade, will go where it is in the greatest demand. Gold will go where it gets the greatest price; so will cotton, tobacco, and every other article of commerce.

Let us reverse the argument, and ask what would California have done for flour, what would California have done for manufactured articles, if it had not been for the States on this side? What would she have done for iron? What would she have done for all those things that constitute her a great people? With the exception of gold, she would not have been much. While you are digging gold, you must have something to eat and to wear, and you send your gold off because you must use it to buy those articles somewhere else. That is all.

I did not intend to detain the Senate one third of the time I have. I merely wanted to answer the Senator's remarks.

Mr. HOUSTON. I have no speech to make, but one which I presume will be very acceptable to the Senate, and that is to move an adjournment.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 25, 1859.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

PUBLIC LANDS IN INDIANA.

Mr. NIBLACK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to this House the amount and the disposition which has been made of the five per centum of the net proceeds arising from the sale of the public lands lying within the State of Indiana, since the 1st day of December, 1816, and reserved for her benefit by the compact entered into between the United States and said State, under an act entitled "An act to enable the people of Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 19, 1816, and particularly the three fifths of the amount so reserved, as were, by the terms of said compact, to have been expended within the State of Indiana; whether said three fifths have been paid over to said State, and if not, the reasons why the same have been withheld.

Mr. STEPHENS, of Georgia. I object to anything else being done out of order. The House would not allow days to be set apart for the consideration of territorial business; and I shall, therefore, insist on the regular order of business, as that is the only way in which we can reach the Oregon bill.

The SPEAKER stated that reports were in order from the Committee on the Post Office and Post Roads.

MOUNT VERNON ASSOCIATION.

Mr. ENGLISH. I am instructed by the Committee on the Post Office and Post Roads to report back the memorial of the Ladies' Mount Vernon Association of the Union, asking the extension of the franking privilege to the regents of that association. The committee are of opinion that the franking privilege ought to be restricted and not extended. They have therefore directed me to make an adverse report on the memorial. I move that the report be laid upon the table, and, with the accompanying papers, ordered to be printed.

The motion was agreed to.

ADVERSE REPORTS.

On motion of Mr. ENGLISH, the Committee on the Post Office and Post Roads was discharged from the further consideration of the following memorials; which were laid upon the table, and, with the accompanying reports, ordered to be printed:

A memorial on the expediency of abolishing the Post Office Department;

The memorial of Oliver E. Woods, of Philadelphia, relative to a plan for increasing the efficiency of the delivery branch of the Pacific mail service;

The memorial of John W. Post, concerning mail balls; and

The petition of Rebecca J. Birdsall, praying for relief.

MAIL SERVICE IN THE GULF OF MEXICO.

Mr. ENGLISH. I am instructed by the Committee on the Post Office and Post Roads to ask that it be discharged from the further consideration of the memorial of Carlos Butterfield, praying the establishment of a mail line of steam communication between the principal American and Mexican ports on the Gulf of Mexico, and that the same be referred to the Committee on Commerce.

Mr. WASHBURN, of Illinois. I would like to ask the chairman of the Committee on the Post Office and Post Roads why his committee has not jurisdiction of that subject? My attention was called to it this morning; and I was told that it would be referred to the Committee on Commerce; but I regard the Post Office Committee as the proper one to consider it.

Mr. ENGLISH. If it was desired to establish the line at all, it would be for commercial rather than for postal purposes.

Mr. WASHBURN, of Illinois. I would ask if the memorial does not pray for the establishment of this line for mail purposes, as well as for commercial purposes? I understand that it does, and I think that the Committee on the Post Office and Post Roads had better keep jurisdiction of the subject.

Mr. ENGLISH. No doubt the Committee on the Post Office and Post Roads had jurisdiction of the subject; but the committee were of opinion that, if the line were established at all, it should be established for commercial and not postal service.

Mr. JOHN COCHRANE. The subject which has been presented to the attention of the House by the chairman of the Committee on the Post Office and Post Roads, has been submitted, in some degree, to my own attention; and I think, in reference to the general nature of the subject, and its bearings on the general interest and prosperity of the Union and its commerce, the proper committee for it to be referred to is the Committee on Commerce. The only difficulty in the case is that the call of that committee has passed, and it is a little questionable whether now, in the remaining part of the session, that committee will be again called. It is very sure that this subject ought to be introduced to the attention of the House, and that it devolves on the House to consider it in connection with the good and welfare of the whole Union.

Mr. DAVIS, of Mississippi. I desire to say that this report from the Committee on the Post Office and Post Roads has not my concurrence, as a member of that committee. A bill for this purpose could not have passed that committee, as I believe; and I consider that this proposition is an attempt to take a measure, which has been defeated in one committee, away from that committee and send it to another committee, in the hope that they may be induced to act on it more favorably. I therefore think it wrong that it should

be referred to the Committee on Commerce, and especially for the reason that I think this Congress has no power to establish at sea, or elsewhere, lines for commercial purposes only, with incidental postal advantages. It may be proper that commerce should be incidentally benefited by the postal system; but I hold that Congress has no power to legislate for commercial benefit without reference to postal service. I make these remarks now in order that my position may be understood, and that any action I may take hereafter may be properly apprehended. I dissent entirely from the object of the report, and from the report itself.

Mr. ENGLISH. I demand the previous question.

Mr. MILLSON. I call for a division of the question, so that the vote shall first be taken on discharging the committee, and then on the reference.

The previous question was seconded, and the main question ordered.

The Committee on the Post Office and Post Roads was discharged from the further consideration of the memorial.

The question then being on referring the same to the Committee on Commerce,

Mr. JONES, of Tennessee, moved to lay the memorial on the table.

Mr. JOHN COCHRANE demanded tellers.

Tellers were ordered; and Messrs. DAVIS, of Mississippi, and CRAIG, of Missouri, were appointed.

The question was taken; and the tellers reported—ayes 82, noes 38.

So the memorial was laid on the table.

SOUTH AMERICAN MAIL SERVICE.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported back the memorial of A. L. Bleecker, asking for the conveyance of the United States mail on the west coast of South America, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Commerce.

On that motion, he demanded the previous question.

Mr. JONES, of Tennessee, demanded a division of the question.

The previous question was seconded; and the main question ordered.

The motion that the committee be discharged was agreed to.

The question then recurred on the motion to refer to the Committee on Commerce.

Mr. JONES, of Tennessee, moved to lay the memorial on the table.

The motion was agreed to.

WEST INDIES MAIL, ETC.

Mr. ENGLISH also, from the same committee, reported back the memorial of John Gardner, for West Indies, Brazil, and Argentine mails, and moved that the committee be discharged from the further consideration thereof, and that the same be referred to the Committee on Commerce. On that motion he demanded the previous question.

Mr. JONES, of Tennessee, demanded a division of the question.

The previous question was seconded, and the main question ordered.

The motion that the committee be discharged was agreed to.

The question then recurred on the motion that the memorial be referred to the Committee on Commerce.

Mr. JONES, of Tennessee, moved to lay the memorial on the table.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. DICKINS, their Secretary, informing the House that, in the absence of the Vice President, the Senate had appointed BENJAMIN FITZPATRICK as President *pro tempore*.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by his Private Secretary, Mr. JAMES B. HENRY, notifying the House that he had approved and signed bills and joint resolutions of the House of Representatives of the following titles:

An act for the relief of John Duncan;

An act for the relief of Mrs. Henry R. Schoolcraft;

An act for the relief of James G. Holmes; and A joint resolution authorizing Townsend Harris, United States consul general at Japan, and H. C. I. Hersken, his interpreter, respectively, to accept a snuff-box from her Majesty the Queen of England.

MAIL SAFE AND MAIL BAG.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported a bill authorizing the Postmaster General to test the public utility of Foster's patent marine safe and metallic mail bag.

The bill was read a first and second time.

Mr. ENGLISH. That bill makes an appropriation; and I suppose it must, under the rules, be referred to the Committee of the Whole on the state of the Union. I make that motion, and also that the bill be printed.

The motion was agreed to.

FRANKING PRIVILEGE.

Mr. ENGLISH, from the same committee, reported a bill to abolish the franking privilege, and for other purposes; which was read a first and second time.

Mr. ENGLISH. I have no disposition to press a bill of the importance of this one upon the attention of the House, without time for proper deliberation and consideration. I therefore move that the bill be referred to the Committee of the Whole on the state of the Union, and be printed, informing the House, at the same time, that I shall ask them to take it up for final action at no distant day.

Mr. JONES, of Tennessee. Let us have it read and considered now.

Mr. ENGLISH. I do not think it would be proper to ask the action of the House upon a bill of this importance, without its being printed and time given for its consideration.

Mr. JONES, of Tennessee. It is the fashion to postpone the consideration of bills of particular importance to a day certain, and I ask the gentleman to do that.

Mr. ENGLISH. I should have no objection to that; but I think there will be no difficulty in getting the action of the House upon it at the proper time.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CLERKS IN THE POST OFFICE DEPARTMENT.

Mr. ENGLISH also, from the same committee, reported a joint resolution authorizing the employment of temporary clerks in the Post Office Department; which was read a first and second time.

The bill authorizes the Postmaster General to employ for a term not exceeding one year four temporary clerks in his Department, at a compensation to each clerk of not more than \$1,200 per annum.

Mr. ENGLISH. I send to the Clerk's desk a communication setting forth the reasons why these temporary clerks are needed. I ask that it be read.

The communication was read as follows:

POST OFFICE DEPARTMENT, CONTRACT OFFICE, January 20, 1859.

SIR: I have the honor to inclose herewith the letter of the Postmaster General, showing the necessity for temporary clerks; and he requests me to say that it is important to obtain an appropriation, if possible, by resolution or otherwise, at an early day, without waiting for the passage of the general appropriation bills, as every day's delay is injurious to the public business.

Very respectfully, your obedient servant,

WILLIAM H. DUNDAS,
Second Assistant Postmaster General.

Hon. W. H. ENGLISH, Chairman Committee on the Post Office and Post Roads, House of Representatives.

POST OFFICE DEPARTMENT, January 20, 1859.

SIR: On my application, under the pressure of the business of this Department, at the last session of Congress, an appropriation was made which enabled me to employ several temporary clerks up to the end of the last year. The money being then exhausted, the services of such clerks were necessarily dispensed with, although it was perfectly apparent that the public business could not be properly attended to without them.

Much extra labor is required in preparing for the lettings of new contracts in April next; and still more in examining and entering proposals, and preparing and sending out new contracts. The number of routes under advertisement exceeds two thousand. Each one must be carefully

entered in a register, with every separate post office, and the amount of its revenue. At least ten thousand bids will have to be indorsed, examined, and recorded; then acceptances sent out and recorded, and afterwards four thousand contracts; all by the 1st July next.

These labors cannot be duly performed by the regular clerks alone, in addition to their current duties, which, of themselves, are heavy and increasing; and there are many other demands, besides those above specified, for extra services, which are constantly arising. I am, therefore, again constrained to submit to Congress the necessity of appropriating a sum of money not less than five thousand dollars, (\$5,000,) out of which temporary clerks may be paid, as required by the exigencies of the public service.

I have the honor to be, very respectfully, your obedient servant,

AARON V. BROWN,

Postmaster General.

Hon. WILLIAM H. ENGLISH, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. HASKIN. Mr. Speaker, I move that this joint resolution be laid upon the table. I can see no propriety in increasing the expenses of that Department. It already costs the Government twice as much as it did under the last Administration, and I hope that my motion will be carried.

Mr. GREENWOOD demanded tellers.

Tellers were ordered; and Messrs. HASKIN, and CRAIG of Missouri, were appointed.

The House was divided; and the tellers reported—yeas 72, noes 70.

Mr. FLORENCE called for the yeas and nays.

The yeas and nays were ordered.

Mr. SPINNER. I desire to ask the chairman of the Committee on the Post Office and Post Roads a question. I desire to know how many hours a day these clerks are employed in the Post Office Department?

A MEMBER. From nine to three o'clock.

Mr. SPINNER. That is only six hours, while I work not less than fifteen hours a day.

Mr. ENGLISH. These clerks are not yet employed at all. The bill authorizes the Postmaster General to employ four clerks temporarily, not to exceed twelve months, and not to exceed in expense \$4,800.

Mr. SPINNER. That is no answer to my question. If the clerks cannot accomplish the labor desired in the few hours they are now employed, let them work more hours. If they would work as many hours as members of the House do, there would be no necessity for an increase of the force.

The question was then taken; and it was decided in the affirmative—yeas 103, nays 80; as follows:

YEAS—Messrs. Adrain, Andrews, Bingham, Bliss, Brocock, Branch, Brayton, Buffum, Burroughs, Case, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochran, Coffey, Conins, Covode, Curry, Curtis, Davis of Maryland, Davis of Indiana, Davies, Dean, Dick, Dodd, Dowdell, Durtee, Eastis, Farnsworth, Fenton, Garrett, Giddins, Gilman, Gilmer, Gooch, Granger, Harlan, Haskin, Hickman, Hoard, Hodges, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Letcher, Lovejoy, McKibbin, Samuel S. Marshall, Matteson, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Murray, Nichols, Ohio, Palmer, Parker, Pettit, Pike, Potter, Pottle, Powell, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Valandigham, Vance, Wade, Walbridge, Walborn, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Wilson, and Zollcoffer—103.

NAYS—Messrs. Ahl, Anderson, Atkins, Barksdale, Bishop, Bonham, Bowie, Boyce, Bryan, Burnett, Burns, Caruthers, John B. Clark, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Davidson, Davis of Iowa, Dewart, Edmundson, English, Florence, Foley, Foster, Garrett, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Horton, Hughes, Huyler, Jackson, Jewett, George W. Jones, Keim, Lamar, Landy, Leidy, Macley, McQueen, McRae, Mason, Miles, Miller, Mills, Moore, Nickack, Peyton, John S. Phelps, William W. Phelps, Reagan, Russell, Sandidge, Scott, Searing, Seward, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Watkins, White, Whiteley, Winslow, Wood, Wortendyke, and Augustus R. Wright—80.

So the resolution was laid on the table.

Pending the call of the roll,

Mr. FOSTER stated that his colleague, Mr. ABBOTT, was detained from the House in consequence of an injury received from a fall upon the ice.

Mr. STEWART, of Maryland, stated that his colleague, Mr. KUNKEL, was so much indisposed as to make it improper that he should be in attendance on the House.

Mr. HARRIS, of Maryland, stated that Mr. TRIPPE was too unwell to attend the House yesterday, and is still confined to his room.

Mr. PHELPS, of Missouri, stated that his col-

league was still too unwell to attend the sittings of the House.

Mr. COVODE said: I desire to explain my vote. I do not wish it to be understood that I desire to trammel the Administration; but as the Post Office Department was able to dispense with the services of at least one clerk from that Department, for weeks before the last election, and send him into my district in Pennsylvania, to operate against me, and to vote against me, when his family was residing in this city, I think I am not called upon to vote an increase of force for that Department.

The result was then announced as above.

Mr. HASKIN moved to reconsider the vote, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRINTING EVIDENCE.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary, to ask permission of the House that that committee, under the restriction of the same privilege to print granted at the last session, be permitted to have printed the evidence taken in the examination which is now progressing before that committee. The evidence will be somewhat voluminous, and the committee can, with the proper care and attention which were exercised last session, have it printed as the examination proceeds.

Leave to print was granted.

Mr. HARRIS. I ask that a similar order may be granted in the case of the special committee to investigate the accounts of the late Superintendent of Public Printing. It would greatly facilitate the business of that committee.

Leave to print was granted.

POSTAGE ON NEWSPAPERS.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported a bill regulating the payment of postage on newspapers and periodicals, and for other purposes; which was read a first and second time.

Mr. ENGLISH. I send to the Clerk's table a letter from the Postmaster General, in regard to that bill.

The SPEAKER. Does the gentleman desire to put the bill on its passage?

Mr. ENGLISH. Yes, sir.

Mr. MORGAN. Let the bill be read.

The bill was read. It declares it lawful for persons known as regular dealers in newspapers and periodicals, to receive by mail such quantities of either as they may require, and pay the postage thereon as they may be received, at the same rates as regular subscribers to such publications.

The second section declares that maps, engravings, lithographs, or photographic prints on rollers, shall be charged with postage by the weight of the package, at the rate of one cent the ounce or fraction of the ounce, to any place within the United States.

The third section declares that every person who shall receive or take any sum of money to be applied to the payment of postage on any letter to be mailed or received from the mail, and who shall omit to apply or use the money so received for the payment of such postage; and every person who shall receive any letter from another to be deposited in any post office, and fraudulently omit to deposit the same in such post office; and every person who shall take from the post office any letter addressed to another person for the purpose of delivering the same to such other person, and shall fraudulently omit to deliver the same; and every person who shall receive letters for others from the post office, either fraudulently or by mistake, and shall omit or neglect to return the same immediately to the post office or to the person or persons to whom they are addressed, shall, on conviction thereof, be fined, not exceeding \$100, or imprisoned not exceeding one year, or both, at the discretion of the court.

The fourth section declares that the Auditor of the Treasury for the Post Office Department shall have charge of all lands and other property that have been, or shall be, set off or conveyed to the United States in payment of debts due to the Post Office Department, and of all trusts created for the use of said Department in payment of debts due thereto; and gives the Auditor power, with the consent of the Postmaster General, to sell, dis-

pose of, and convey all such lands and other property.

Mr. ENGLISH. I ask the attention of the House to the reading of a letter from the Postmaster General, explaining the provisions of this bill, and the necessity for its passage.

The letter was read, as follows:

POST OFFICE DEPARTMENT, January 24, 1859.
SIR: Your note of the 23d instant, covering the inclosed proposed sections of a law, with the request for a report upon the necessity and expediency of passing such law, has been received.

In answer, I have to state that the first section is necessary, in order to enable regular dealers in newspapers and periodicals to receive the same in such quantities as they may require, at the same rates as regular subscribers to such publications, paying the postage on receipt. This is considered right and proper, for the reasons fully set forth in the memorial, now before your committee, from the publishers of New York. Where publications are thus sent to regular dealers for sale, the sales being greater some weeks than in others, it appears to be reasonable that they should be allowed to go at the lowest rates, and in such quantities, from week to week, as the dealers may require; without their being obliged to pay for a certain number of copies by the quarter. Besides, it would seem to be good policy to encourage the sending of such in the mails, instead of by express.

The second section is necessary, to enable the Department to charge by weight of package, including the roller and wrapper of engravings, &c. Under the existing law, no charge can be made for the weight of the wrapper on printed matter, when sent as such; hence the Department has been obliged to prohibit the conveyance of engravings on rollers, except at letter rates, notwithstanding parties sending have always been willing to pay at the rate of printed matter for the whole weight of the package.

I have added a third section in accordance with the Louisiana memorial transmitted by you in another letter of the 23d instant, and herewith returned, and recommend its adoption. This section also embraces provisions to meet cases of the fraudulent application of moneys received by persons to be applied to the payment of postage, of fraudulent neglect to deposit letters in the post office, or to deliver letters received for others from the post office, all which provisions are deemed necessary to perfect the existing law on that subject.

A fourth section is added, conferring certain powers on the Auditor of the Treasury for the Post Office Department.

The Auditor has, really, charge of all lands and other property held by the United States for the use of this Department, and actually disposes of the same; but much inconvenience and unnecessary labor are occasioned to that officer in being compelled to furnish the Solicitor of the Treasury with descriptions of the lands sold, and in requesting him to execute deeds therefor, &c. This section is regarded as necessary to avoid this inconvenience and consequent delay.

I am, very respectfully, your obedient servant,
AARON V. BROWN.

Hon. WILLIAM H. ENGLISH, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. ENGLISH. I call the previous question on the passage of the bill.

Mr. WALBRIDGE. It seems to me that this bill requires a little more examination than the House is able to give it on this occasion, if it be now put upon its passage. I therefore move that the bill be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The SPEAKER. The previous question has been demanded, and that cuts off the motion of the gentleman.

Mr. MORGAN. If the gentleman insists on the previous question, I will move to lay the bill on the table. Not one half of the members of the House can possibly tell what is in the bill.

Mr. ENGLISH. I withdraw the previous question, for the purpose of saying that I have no feeling on the subject, and that if it be the pleasure of the House to fix a day for its consideration, I have no objection.

Mr. WALBRIDGE. I now move that the bill be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ENGLISH. I now renew the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MAIL STEAMERS TO GREAT BRITAIN.

Mr. WOOD, from the Committee on the Post Office and Post Roads, reported a bill to establish a national line of mail steamships between certain ports of the United States and Great Britain; which was read a first and second time, and ordered to be printed.

Mr. ENGLISH presented an amendment to the bill, which took the same direction.

Mr. HORTON. I ask, from a minority of the Committee on the Post Office and Post Roads, to

report a bill as a substitute; and I ask that it may take the same course as the bill of the majority. It was so ordered.

Mr. DAVIS, of Mississippi. I desire to say that neither of these reports has my sanction as a member of the Committee.

CLERKS TO COMMITTEES.

Mr. HORTON. I am authorized by the Committee on the Post Office and Post Roads to report back the memorial of W. Lee, with the resolution comprehended in it, and to recommend the passage of the resolution.

The resolution was read, as follows:

Resolved, That the standing committees of the House which at the last session thereof were authorized to employ clerks, be authorized to employ clerks for the present session, at the same rate of compensation, and that their compensation be from the date of their service.

Mr. JONES, of Tennessee. I wish to inquire how that resolution comes before the House now? There was no motion pending to recommit it when the House went into the Committee of the Whole on Friday.

The SPEAKER. This is another resolution, based upon another memorial.

Mr. JONES, of Tennessee. From another committee?

The SPEAKER. Yes.

Mr. JONES, of Tennessee. Then I ask if the morning hour has not expired?

The SPEAKER. It has.

Mr. JONES, of Tennessee. Then I move that the House proceed to the consideration of the business on the Speaker's table.

Mr. STEPHENS, of Georgia. I hope the House will allow the Committee on the Post Office and Post Roads to finish their reports today.

Mr. PHELPS, of Missouri. I submit the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CRAIG, of Missouri. I hope my colleague will withdraw that motion. I wish to make a report from the Post Office Committee.

Mr. PHELPS, of Missouri. My colleague could not do it now, as there is a report from that committee already pending before the House and undisposed of.

Mr. STEPHENS, of Georgia. If we do not spend more time in receiving reports from committees, the call will not be got through with this session; and I trust the House will vote down the motion to go into the Committee of the Whole on the state of the Union.

Mr. MORGAN. I object to debate.

THE FRANKING PRIVILEGE.

Mr. ENGLISH. I rise to a privileged question. I move to reconsider the vote by which the bill to abolish the franking privilege was referred to the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I would suggest to the gentleman, that perhaps he had better postpone making that motion until to-morrow, because if he enters it now it will prevent the printing of the bill.

The SPEAKER. No; the gentleman does not move to reconsider the vote on the motion ordering the printing of the bill.

Mr. ENGLISH. No, sir; only the vote on the motion to commit.

Mr. STEPHENS, of Georgia. I demand the yeas and nays on the motion of the gentleman from Missouri.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 123, nays 63; as follows:

YEAS—Messrs. Andrews, Barr, Billingshurst, Bingham, Bliss, Branch, Brayton, Bulliton, Burns, Burroughs, Case, Caskie, Chapman, Ezra Clark, Horace F. Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Conins, Covode, Cragin, Crampton, Curry, Curtis, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edie, Farnsworth, Fenton, Foster, Garrett, Gilman, Gilmer, Goode, Goode, Granger, Harlan, Harris, Haskin, Hawkins, Hickman, Hoard, Hopkins, Horton, Houston, Howard, Jenkins, George W. Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Leitcher, Lovjoy, McQueen, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Peyton, John S. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Ready, Reagan, Ritchie, Robbins, Roberts, Royce, Ruffin, Seales, Searing, Henry M. Shaw, John Sherman, Judson W. Sherman, Wil-

liam Smith, Spinner, Stallworth, Stanton, Stevenson, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Ward, Cadwallader C. Washburn, Edith B. Washburne, Wilson, and Wood—123.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bockock, Bonham, Bowie, Boyce, Caruthers, John B. Clark, Clay, John Cochrane, Cockerill, Corning, Cox, James Cray, Davidson, Davis of Mississippi, Dewar, Edmundson, English, Florence, Foley, Garrett, Greenwood, Greer, Groesbeck, Lawrence W. Hall, Hagies, Harter, Jackson, Jewett, Lamar, Landy, Lawrence, Leidy, McKee, Miller, Niblack, Pendleton, William W. Phelps, Russell, Savage, Seward, Aaron Shaw, Singleton, Robert Smith, Samuel A. Smith, Stephens, James A. Stewart, Talbot, George Taylor, Vallandigham, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zolliecoffer—63.

So the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and resumed the consideration of the

CONSULAR AND DIPLOMATIC BILL.

The CHAIRMAN stated that the pending question was on the amendment of the gentleman from Georgia, [Mr. SEWARD,] to strike out, in lines twenty-three and twenty-four "\$50,000," and insert in lieu thereof, "\$13,500;" so that the clause would read:

For contingent expenses of all the missions abroad, \$13,500.

The amendment was rejected.

Mr. MORGAN. I would like to know why this amount of \$40,000 for the purchase of blank-books, presses, seals, flags, the payment of postages, &c., is needed. I was up at the State Department the other day, and I found there a large room filled with blank-books, presses, flags, and all these articles except postage stamps. I should think there are enough of them there to last for twenty years; but I will compromise on ten years, and move to reduce the amount.

Mr. PHELPS, of Missouri. If I understand the remark of the gentleman from New York, he gives, as a reason for reducing this appropriation, that there is a sufficient amount of money already appropriated for this purpose.

Mr. MORGAN. No, sir; I only state—and I have been so informed by the Department—that there are enough of the articles enumerated here now on hand to last for many years to come.

Mr. PHELPS, of Missouri. I have no such information. This appropriation is necessary for the purpose of procuring articles which are required in the transaction of the business of consuls. You must recollect that you have instructed your consuls to obtain information in reference to the trade and commerce of the respective countries where they are located, and that information is transmitted to the Secretary of State, and is to be found in the annual report on commercial relations; and this appropriation is necessary.

Mr. MORGAN. Well, I move to reduce the appropriation for these items to \$10,000. I make the motion in good faith, for I have not a particle of doubt that that is all that will be required. If I believed that more was necessary I certainly would not oppose it; but I believe that \$10,000 will be amply sufficient. I ask for tellers on my amendment.

Tellers were not ordered.

The amendment was disagreed to—ayes 45, noes 75.

Mr. MORRIS, of Pennsylvania. I move further to amend by reducing the appropriation to \$20,000. I move that amendment because, as far as I have any knowledge of this subject, no blank-books and no stationery are sent out from the State Department to the consulates of the United States; as far as I know, none are sent to any of the legations; and, therefore, if this appropriation for blank-books and stationery is for the use of the consulates, it seems to me that it has not been applied to the purpose for which it was intended. Hence, with the knowledge I have on the subject, I think this appropriation should be reduced, unless the chairman of the Committee of Ways and Means can give us some information showing how it is to be expended.

Mr. PHELPS, of Missouri. I am opposed to the amendment of the gentleman from Pennsylvania. The consular act provides that the consuls at the various stations shall make up certain records, and they have suitable blank-books made

up and furnished them for that purpose. In some cases they have been furnished by the State Department. They are also under that law entitled to the stationery necessary for the discharge of their public duties, to be furnished them, or they are to be paid for it if they furnish it themselves. The act of 1836 imposes upon the consuls of the United States duties other than those required by the preceding law. They are required to obtain all the information in their power in relation to the countries where they are stationed, and all the information within their power in relation to the commerce between those countries and this country, and to report the same to the proper Department.

And, sir, this stationery and these blank-books are not only furnished to the consuls receiving salaries from this Government, but they are furnished to many consuls who receive no salaries. It will be recollected that the act of 1856 remodeled the entire consular system. It provides that there shall be consulates at certain ports, with a fixed salary, where the consuls shall be prohibited from engaging in trade; and that all the fees received at such consulates shall be paid into the Treasury of the United States. It also provides for another class of consuls, who shall receive the fees of their office, and who shall also be allowed to engage in trade, but shall receive no salary. All these consuls are required to furnish the information to which I have referred; and to enable them to perform that duty, stationery and blank-books are furnished to them. But if the Government will look a little further, they will find that this appropriation not only embraces stationery, but flags, arms, and seals, the payment of postage, and other miscellaneous expenses, as well as blank-books and stationery. The sum here appropriated is no more than has heretofore been appropriated; and the amount heretofore appropriated has been found no more than is sufficient to meet the expenses payable out of the appropriation.

Mr. MORRIS, of Pennsylvania. The gentleman from Missouri has explained the appropriation, and I will withdraw my amendment. He says that blank-books and stationery are sent out to the various consulates at this time, which I know was not the case previous to the year 1856.

Mr. NICHOLS. I move to amend by adding the following proviso:

Provided, That no blank-books, seals, presses, or flags be sent to the consulates at Quebec and Havana.

Mr. Chairman, I trust the committee will see the propriety and pertinency of adopting that proviso. We are on the eve of great events. It has become a matter of history—in fact our venerable President recommends it, and asserts that "manifest destiny" requires—that the Island of Cuba belongs to us, and is a necessary acquisition to the United States. You know, also, Mr. Chairman, that history declares that measures are in their inception for the purpose of prosecuting this identical recommendation of the Chief Magistrate. My friend from Illinois, [Mr. FARNSWORTH,] the other day, rose to introduce a resolution looking to the acquisition of the Canadas.

Now, sir, I am a great believer in "manifest destiny." A caucus has been assembled in the other end of the Capitol, which has declared that the acquisition of Cuba must be accomplished. St. Tammany, also, has spoken, and has declared that the thing shall be done. Now, being, as I said, a believer in the doctrine of "manifest destiny," being in favor of filibusterism for Cuba, and in favor of the acquisition of the Canadas, and British North America, and being in favor of taking Greenland, as a sort of potato patch, [laughter,] and in favor of extending our jurisdiction over the "rest of mankind," supposing that my friends on the other side of the House are serious in their intention to acquire Cuba, and that my friends on this side are serious in their intention to annex the Canadas, gentlemen will see that it is useless to expend money upon consulates which in six months will have expired, because the country in which they are situated would belong to the United States. [Laughter.] These are my reasons for offering this amendment, which now, with the consent of the committee, I will withdraw.

There being no objection, the amendment was withdrawn.

Mr. HOPKINS. I move to amend by insert-

ing, between lines forty-three and forty-four, the following:

For salary of minister resident at Japan, from 19th January, 1859, to the 30th of June next, \$3,375.
For salary of minister resident at Japan, \$7,500.

I have simply to say upon this amendment, that it is offered in good faith, and in pursuance of the recommendation of the Secretary of State. The committee is aware that Townsend Harris, who recently negotiated a treaty with the Government of Japan, has been since appointed resident minister to that country; and I believe, though I am not certain, that his nomination has been confirmed by the Senate. If it has not, I presume it will be. This amendment is simply intended to provide for Mr. Harris a salary which the law now gives to ministers resident.

Mr. SHERMAN, of Ohio. I am opposed to this amendment for two reasons. First, I believe the President has no right to appoint this minister until an appropriation is first made. That question was discussed yesterday, and from the argument made by the gentleman from Virginia, [Mr. Boccock,] it is very clear that the President has no more right to appoint a minister to Japan than he has to make new judges of the Supreme Court. The President has appointed a minister to Japan, or in other words, he has made a minister out of a commercial agent, after the acts of the commercial agent have shown that a minister is not needed. This commercial agent negotiated a treaty, and he negotiated it under the law of 1856. By the law of 1856, the President of the United States may require our consuls at foreign ports to perform such diplomatic duties as may be necessary. By the law, these consular agents are paid fixed salaries, and the law imposes upon them such diplomatic duties as the President may direct. It seems to me that these commercial agents are competent to do all that is necessary to be done in Japan. We have no diplomatic intercourse with Japan except of a commercial character, and a commercial agent or consul is the appropriate officer to perform such duties. The salary is liberal under the law of 1856, and it seems to me it is well enough to let these commercial agents and consuls perform the duties imposed upon them by law. There is certainly no necessity now for sanctioning what I regard as an usurpation by the President, and create an office which I think does not exist by law.

Mr. HOPKINS. I would inquire of the gentleman, if he can refer me to a single instance in which Congress has passed any law authorizing the appointment to a mission, before the appointment of the minister had been made by the Executive? and whether the uniform practice of the Government has not been first to recognize the appointment by an appropriation to pay the salary? and secondly, if it be the purpose of this committee to break up the diplomatic corps and to transfer their duties to the consuls of the United States, whether he would refuse the same rate of compensation to those agents of the Government that he would give to those of the diplomatic corps?

Mr. SHERMAN, of Ohio. I will answer the last question first. Section twelve of the law of 1856, expressly authorizes the President of the United States to impose upon our commercial agents diplomatic functions; and it expressly prohibits them from receiving additional pay for performing such services. We all know that diplomatic services, required of consular agents, are of a slight character, perhaps only the writing of a single letter during the year, and that is all they are called upon to perform.

In answer to the first question, I will say to the gentleman that the mere appropriation of money by Congress for a minister to a foreign country is itself the law; and I believe, so far as my knowledge extends, that the appointment of a minister to China was the first in which a minister was appointed without a previous law or appropriation. This was done by President Tyler, for the special benefit of Caleb Cushing; and the Democrats of that time denounced it as a usurpation of authority. If you will look into the Congressional Globe you will find that the nomination of Mr. Cushing was resisted in the Senate. The assumption of power by Tyler in sending Cushing to China, without having first the authority of law, or the sanction of the Senate, created quite a strife in Congress. Now we are following a precedent denounced by Democrats

only a few years ago, and we are doing it without objection.

Mr. PHILLIPS. I move to amend the amendment by inserting at the end of the first paragraph the words "at the rate of \$7,500 per annum."

My object is to have an opportunity to say a few words in reply to views which were expressed yesterday by the gentleman from Virginia, [Mr. Boccock,] and reiterated to-day by a gentleman from Ohio. The Constitution of the United States is clear in giving this authority and power, and I may say it has never been distinctly questioned, or so distinctly questioned as now. And the authority referred to by the gentleman from Virginia, who I regret to see is not in his place, does not sustain, for one moment, the views he presented to the House. The speech of the Hon. Mr. Nicholas, of Virginia, upon that occasion, was confined exclusively to the question of compensation. No question was raised as to the right of the President to nominate and appoint where he pleased. Further on in that debate—and I showed it to the gentleman yesterday—a distinguished member of Congress (Mr. Nicholas) asserted, in his place, that when the President had made an appointment, and had communicated that fact to Congress, Congress might do all the rest, fix the salary, and make every arrangement, except to question the authority of the President to appoint the minister.

That authority was universally conceded, and conceded in express terms upon the occasion of that argument.

Now, when gentlemen ask what distinction would be drawn between the power to appoint judges of the Supreme Court and the power to appoint ambassadors, the answer is obvious. In the first place, a treaty has the effect of a law, and there is hardly an ambassador appointed who is not appointed under the provisions of a treaty. Therefore, we have a positive law for the appointment of almost every ambassador, and certainly for this minister resident at Japan. The President has power to appoint ambassadors, and power to appoint judges of the Supreme Court. But, say gentlemen, there is a limit to his power; may he appoint an unlimited number of judges? No, sir; that tribunal is controlled and limited by law; and Congress has, among its enumerated powers, the right to limit the number of judges of the Supreme Court. If any gentleman upon this floor will find among the enumerated powers of Congress any power thus to restrain the President in the appointment of diplomatic agents, let him point it out?

Mr. CLARK B. COCHRANE. I desire to ask the gentleman whether the President could appoint a judge of the Supreme Court under the Constitution, until Congress had executed the power by fixing the number?

Mr. PHILLIPS. Congress, says the Constitution, shall have power to make all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any Department or office thereof. Therefore, when the Constitution says that the judicial power of the United States shall be vested in the Supreme Court and in such inferior courts as Congress may from time to time ordain and establish, taking the two sections together, the power is given in express words, and Congress, in fixing the character of the Supreme Court in regard to the number of judges, had no power over their tenure of office.

The two cases are not at all similar. The President shall have power, by and with the consent and advice of the Senate, to make a treaty; the treaty is a law, and under that law the President shall have power to appoint an ambassador.

Mr. HUGHES. I rise to a question of order, as the gentleman from Pennsylvania is almost through. I make the point of order that the amendment to the amendment is not in order. I understand that, under the rules of the Committee of the Whole on the state of the Union, the vote must be taken on the pending amendment before any further discussion shall take place; and it is not competent for any member of the committee to move to amend the amendment.

Mr. PHILLIPS. Why not?

Mr. HUGHES. That is the way I understand the rules in Committee of the Whole on the state of the Union.

The CHAIRMAN. The Chair does not so understand the rule. The question raised yesterday had reference to a different state of things. The Chair understands that an original amendment is always liable to be amended.

Mr. HUGHES. Not under the five minutes' rule.

Mr. PHILLIPS. In the first place, I say that here is law—treaty law.

[Here the hammer fell.]

Mr. GARNETT. I regret that my colleague [Mr. Boccock] is not in his seat to reply to the answer which the gentleman from Pennsylvania [Mr. PHILLIPS] has made to his argument of yesterday, incontrovertible as I consider that argument to have been. I ask no better authority in support of it than the very clause of the Constitution which the gentleman from Pennsylvania has quoted. I will not enter on the question of precedents, although on that, too, the gentleman from Pennsylvania is wrong; for if he will refer to the speech made by Mr. Tazewell, of Virginia, he will find that there were a few instances where the President had undertaken to exercise this very power of appointing ministers without authority of law, and where that power was disputed and rejected. What does the Constitution say? That the President shall have power to appoint ambassadors, judges of the Supreme Court, and other public officers—all these powers standing on the same footing exactly.

How does the gentleman get over that? First, he says that a treaty is a law. Well, if it be a law binding on this House, then, of course, the President only acts in pursuance of the law. But I say, with the State-rights Republican party of old, that where a treaty depends for its execution on the action of the whole legislative power, the House of Representatives has a control over that treaty—a control which it may and will exercise, in its own discretion, when the public interests require it.

But the gentleman goes further, and quotes a clause of the Constitution vesting in Congress the power to make all laws that are necessary and proper to carry out the powers granted—not only to Congress, but to the other departments of the Government. Then it follows, that either this power of the President to appoint ambassadors without previous law authorizing it, is an express power or an implied power. If it be an express power, where is the clause of the Constitution? There is no such clause except the same clause that applies to the judges of the Supreme Court; and no one pretends that the President can appoint a single judge without definite authority of law. If it be an implied power, then it follows that, being an implied power—that is, a power which is necessary and proper to carry out some other power vested in the Executive Department—Congress must pass such laws as are necessary and proper to define that power, otherwise it cannot exist.

[Here the hammer fell.]

Mr. PHILLIPS withdrew his amendment.

Mr. HOPKINS. I would like to have a short letter from the Secretary of State read.

The letter was read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, January 20, 1859.
SIR: Mr. Townsend Harris having been appointed minister resident of the United States to Japan, I have the honor to request that an appropriation be made for his salary in that capacity, at the rate of \$7,500 per annum, namely, from the 19th instant to the 30th of June, 1859.... \$3,375
And for the fiscal year ending 30th of June, 1860.... 7,500
Total.....\$10,875

Any balance of the existing appropriation for the salary of the consul general at Japan, will, of course, be carried to the surplus fund.

I have the honor to be, sir, your obedient servant,
LEWIS CASS.

Hon. GEORGE W. HOPKINS, Chairman of the Committee on Foreign Affairs, House of Representatives.

Mr. REAGAN. I move to amend by striking out the clause under consideration. I do so, Mr. Chairman, for the purpose of calling the attention of the gentleman from Pennsylvania to a single point which he presented; but which, it seems to me, his argument has not yet met. I understood the gentleman from Virginia [Mr. Boccock] yesterday, not to controvert the power of the President to make appointments of foreign ambassadors and ministers. No one controverts that. But the point which the gentleman from

Virginia took, was that the President had no authority to appoint ministers unless specifically authorized by law. The clause of the Constitution having reference to that point declares that Congress shall have power to make all laws which are necessary and proper to carry into execution the foregoing powers, and all other powers vested by the Constitution in the supreme government of the United States, or any department or officer thereof.

I maintain that this clause of the Constitution is but the instrument which gives the power to the different and coordinate departments of the Government; but it does not clothe any department of the Government with power to act, except Congress itself; and the Congress, in the language of this clause of the Constitution, must pass the necessary acts to enable the other departments of the Government to carry into effect all the power vested by the Constitution in the Government of the United States, or any department or officer thereof.

Let the gentlemen come to the precise point. Let them meet the issue I have presented, and not insist that we are controverting the power of the President to make appointments. Let them come up to the Federal doctrine which they have asserted, and say that the President has the power to make appointments without the authority of Congress. That is the assumption. That is where the Constitution is to be overridden by this argument and discussion. This is but a collateral point; but I regret to hear Democrats announcing doctrines of the deepest Federal dye, which were exploded by the Democracy long and long ago.

Mr. CRAWFORD. I do not desire to reply to the gentleman from Texas at all; and I simply rise for the purpose of giving notice to the committee that I will object hereafter to any discussion on this particular subject, which has already, I think, been sufficiently discussed; and I shall ask the Chair to enforce the rule that the discussion shall be confined to the amendment proposed.

Mr. REAGAN withdrew his amendment.

Mr. JOHN COCHRANE demanded tellers on Mr. HOPKINS's amendment.

Tellers were ordered; and Messrs. SEWARD and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 62, noes 61.

So the amendment was agreed to.

Mr. HATCH. In line forty-four, in the clause providing for the salaries of consuls general, I move to strike out the word "Quebec." My object in making the motion is, to call on the Government to show what public necessity there is for a consul general in the Canadas. I did hope, sir, to have had a report from the Secretary of State giving the official information, upon which I could make a statement to the House at this time in relation to this consulship; but I have not got it, although I introduced a resolution calling for information. I desire to say that the consul general in Canada receives a salary of \$4,000 a year; and that he has appointed under him thirty or forty commercial agents scattered along the northern frontier; that those agents receive fees, and that those fees are taxed upon the internal trade between Canada and the United States. There are loud complaints from the people of the northern frontier on account of the harassing oppressions of these commercial agencies; and I want to know by what authority—if there be any authority—the Government quarters this train of commercial agents upon the internal trade between Canada and the United States? If there can be shown any public necessity for these commercial agents, then I claim that their fees should be paid out of the Treasury; and that the internal trade of the country should not be further burdened by such unjust impositions. And, sir, I want to say one word in reply to the remarks which I have heard made here—and made, I think, by the chairman of the Committee of Ways and Means—that offices cannot be abolished in this way. Now, sir, I do not know any other or better way to abolish an office than to abolish the pay of the office. If that will not fetch an officeholder, nothing will. I have such unofficial information from collectors on the northern frontier, who are enabled, from the certificates which these commercial agents give for the passage of imports from Canada, to justify legislation, and abolish this

office of United States consul general. I shall not produce it now, but prefer to wait for the response from the State Department; and then, sir, the information will be in official form before us, and the legislation can be initiated that is demanded. I will only add, that all these evils complained of spring from the reciprocity treaty, which is carried out in good faith on our part, whilst the British Government, as usual, takes advantage of our concessions to destroy the former prosperous trade of our cities and villages on the northern frontier with the Canadas.

Mr. MAYNARD. I oppose the amendment offered by the gentleman from New York. Mr. Chairman, I will say in the outset that I shall not stop to inquire whether the Constitution of the United States, in this regard, will execute itself; whether the President has or has not the power to appoint foreign ministers and consuls, without the action of Congress. I shall vote upon every question that arises on this bill precisely as I should if the whole diplomatic and consular relations between the United States and foreign countries were to depend upon my vote.

We are now providing a fund which is to support our diplomatic and consular corps for the year ending on the 30th of June, 1860, and not for the current year. That is already provided for. And I take it, as a matter of fact, that the opinion of Congress, expressed through this appropriation bill, either in favor of or against the appointment of any diplomatic or consular agent, would not be disregarded by the President—certainly not without the gravest reasons. If it were disregarded, and an appointment made in opposition to the expressed will of Congress, it would be time enough to consider the extent of the President's constitutional authority when the payment of the compensation of such appointee should be demanded as an item in a deficiency bill, some years hence.

I came here at the commencement of this session in the hope that some well-considered and carefully-devised scheme of retrenchment in the expenses of this Government might be agreed upon and adopted. It seemed to be necessary and proper in itself, and especially demanded at this time by the voice of the people throughout the country. But when I see gentlemen rise here and propose such measures of retrenchment and reform as we have been invited to consider during the consideration of this bill, I confess that the hope is very nearly extinct. Why, sir, these propositions to put an end to our whole intercourse with all the nations of the earth, either in detail—one gentleman having a prejudice against this mission, and another gentleman having a prejudice against another mission—or in a general, broad sweep at the whole diplomatic relations of the country, strike me as anything but wise and judicious statesmanship, a statesmanship which cannot disregard the experience not only of all other countries, but of our own country, ever since we have had a Government.

Charges are preferred against our diplomatic system, and against the mode of its administration. We have general charges and special charges. Charges with a show of reason, and charges without reason. It has been made matter of grave charge, for example, that our diplomatic agents are most of them unable to speak the languages of the different Courts to which they are accredited. Well, suppose they are; what then? I had been led to suppose, from my early reading, that one of the ablest diplomatic agents the country ever had was Benjamin Franklin; but not, if I am not mistaken, because he was able to speak, or read, or write any other language than his own. I have never understood that his influence at the Court of France was any the greater because he was able to speak passable French; his linguistic attainments not being limited to the use of very pure and excellent English. I might cite instances of other diplomats who have been very successful by the aid of our language alone. This is but a sample of the charges preferred by gentlemen. Most of the others are equally frivolous.

I am surprised that the gentlemen who propose these projects of economy and frugality, and press them with so much vigor and unctio, do not resign their seats, go home to their constituents, and save to the country the amount of their salaries. Certainly the country could dispense

with their services, valuable as they undoubtedly are, much better than those of our plenipotentiaries and consuls, lightly as they are esteemed; at least I think so.

Sir, I am opposed from principle to this sort of retrenchment and this sort of economy. It is the spirit of the niggard and the miser, and in the end would be very expensive. I doubt whether the country is able yet to afford it.

Mr. HATCH's amendment was not agreed to.

Mr. MORRIS, of Pennsylvania. I move to strike out the whole of the following paragraph:

"For salaries of consuls general at Quebec, Calcutta, Alexandria, Simoda, Havana, Constantinople, Frankfort-on-the-Main; consuls at Liverpool, London, Melbourne, Hong-Kong, Glasgow, Mauritius, Singapore, Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, Turk's Island, Prince Edward's Island, Havre, Paris, Marseilles, Bordeaux, La Rochelle, Lyons, Moscow, Odessa, Revel, Saint Petersburg, Matanzas, Trinidad de Cuba, Santiago de Cuba, San Juan, (Porto Rico,) Cadiz, Malaga, Ponce, (Porto Rico,) Trieste, Vienna, Aix la-Chapelle, Canton, Shanghai, Fouchou, Amoy, Ningpo, Beirut, Smyrna, Jerusalem, Rotterdam, Amsterdam, Antwerp, Funchal, Oporto, Saint Thomas, Elsinore, Genoa, Basle, Geneva, Messina, Naples, Palermo, Leipzig, Munich, Leghorn, Stuttgart, Bremen, Hamburg, Tangiers, Tripoli, Tunis, Rio de Janeiro, Pernambuco, Vera Cruz, Acapulco, Callao, Valparaiso, Buenos Ayres, San Juan del Sur, Aspinwall, Panama, Laguayra, Honolulu, Lahaina, Capetown, Falkland Islands, Venice, Stettin, Candia, Cyprus, Batavia, Fayal, Santiago, (Cape de Verdes,) Saint Croix, Spezzia, Athens, Zanzibar, Bahia, Maranhao Island, Para, Rio Grande, Matamoros, Mexico, (city,) Tampico, Passo del Norte, Tabasco, Paita, Tumbes, Talcahuano, Cartagena, Sabanailla, Omoa, Guayaquil, Cobija, Montevideo, Tahiti, Bay of Islands, Apia, Lathalia; commercial agents at San Juan del Norte, Port au Prince, San Domingo, (city,) Saint Paul de Loanda, (Angola,) Monrovia, Gaboon, Cape Haytien, Aux Cayes, and Amoor river—\$240,000."

Mr. Chairman, I make this motion on the ground that, if we are about abolishing our diplomatic service, we might as well abolish our consular service also, for one is dependent upon the other. Both are distinct and separate functions. We cannot invest a consul with diplomatic authority, because the etiquette which prevails abroad, and the law of nations, will not allow a consul, in Christian States, the privileges of a diplomatic agent. I am surprised to hear the arguments which are advanced here to secure economy by cutting down the diplomatic service of the country. I should like to ask gentlemen if there is any arm of the public service that has ever rendered more eminent benefits to the country than the diplomatic service? Is there any branch of the public service that has reflected more luster on it than the long roll of American diplomacy, illustrated by such men as Jay, Adams, Jefferson, Monroe, Franklin, Bayard, and in more recent times by the two Everetts, Cass, Legaré, Rush, Bancroft, Irving, &c.? Has not the American diplomatic service of the country produced one man whose writings upon international law are now standard works of authority, and are used as text-books in all the universities of Europe, and have been translated into all the modern languages—Mr. Henry Wheaton, formerly Minister to Denmark, and subsequently Minister to Berlin? And when gentlemen undertake to abolish the diplomatic service, let them remember that the only representatives of this country abroad will then be consuls, and, as such, subject to the local laws of the countries in which they reside. Consuls are subject to the criminal and civil jurisdiction of the countries in which they reside. Ministers are not. Your ministers have the right of exemption from all local law. They are above the laws of the countries in which they reside. They are surrounded by a personal and legal inviolability. They enjoy the right of ex-territoriality—the right of absolute freedom of their persons and dwellings, and living, as it were, in the political atmosphere of their own country in the midst of foreign countries. Such an inviolable character becomes the representative of a great country, for he is supposed to represent in his own person the independent dignity of his own nation. And will you so degrade the representation of this country in foreign countries, as to debar it of access to the sovereign of the country, when abuses have been perpetrated upon American citizens, and it has failed to obtain redress from the ministers and subordinates of that sovereign? Will you declare that there shall be no American representative abroad of such a rank as will entitle him to appear before a sovereign in person, to say to him that such and such outrages have been committed upon citizens of

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the country he represents, and ask him, face to face, to correct what his ministers are too feeble to do, or refuse to do? It is the duty of the United States, now more than ever, to make itself heard in all parts of the world. It is the duty of the United States to see to it that it is well represented. This is not the time for the United States to retire from the great scene of the world's theater, when England and France and all the great Powers of the world have their representatives abroad, invested with ample diplomatic authority to sustain their rights. Is this the time when the representation of this country should be shorn of its power, and confined to functionaries who, by the code of nations, are not clothed with diplomatic attributes and privileges, and are not entitled to speak for their country in the highest spheres of power?

[Here the hammer fell.]

Mr. CURRY. I am opposed to the amendment of the gentleman from Pennsylvania. My opposition to some, not all, of these missions, grows out of the fact of their unnecessary expense and their conceded uselessness. No member upon this floor has yet been bold enough to advance an argument in favor of sustaining *all* the appointments embraced in the original bill. They are so palpably sinecures, intended for broken-down politicians and disappointed candidates, and kept as patronage for mere party hacks, that no one has ventured to assign a single reason for the whole of them, unless it be the course of long observance. It is silly affectation to shut our eyes to the fact that many of those who are now, and have been, our diplomatic agents abroad, are men of very inferior ability; and no President would intrust to their hands a responsible, an important, or a delicate negotiation; and when a treaty important in its character is to be negotiated, special commissioners are generally sent for that purpose.

Nor can I appreciate or comprehend the character of the objection made yesterday to this reform in the diplomatic service, as growing out of its insignificance. A wrong appropriation is not justified by the smallness of the amount which may be embraced in it. If it is unnecessary for the public good, if it is a mere useless extravagance, if it is intended to provide places and patronage for greedy spoilsmen, it is wrong. Nay, more, it is robbery under governmental force to extort from the people what is not absolutely necessary for public use. It is pretended, however, that this is the wrong place to commence a reform. That is the cry of pampered luxury everywhere. Where shall we begin? It is said by gentlemen on every side, that we must institute a general system of reform and retrenchment. If that be so, and it means anything, this is a step in the right direction. If it means that there shall be *one* general law for reducing the expenses in the Army, the Navy, the Post Office Department, in the judiciary, and in this branch of public service, I say, with all possible respect, it is simply ridiculous; for it is expecting a reform by one general, comprehensive, sweeping law. Large appropriations, involving fat contracts and jobs, by means of lobby influence, outside pressure, and skillful engineering, can sometimes be got through this House. But, sir, these small appropriations are objected to on the score of their insignificance. I contend that we ought to commence the reform here. Here is the evil, the fungus, the excrescence, a pinchbeck imitation of the pomp and pageantry of royalty, and we should put the knife to it and cut it out. The whole system is wrong. I do not mean to say that I object to permanent missions to all these countries. In some cases they are needed.

[Here the hammer fell.]

Mr. MORRIS, of Pennsylvania, by unanimous consent, withdrew his amendment.

Mr. KEITT. I move to strike out \$40,000. I trust I am quite as ready as the gentleman from Alabama, to engage in any system of reform; and I know I am quite as willing as he to condemn the expenditures of the Government as enormous

and extravagant; but I am not prepared to apply the knife at this point. The gentleman from Alabama says that these missions are of conceded uselessness—of great extravagance. Well, which one of them is conceded as useless? Why, sir, the whole frame-work of polity of the civilized world is closely knitted together. You cannot at this moment touch the system at any point, without the others respond to it. There is not a Government in Europe, however insignificant it may be, in which we have not vital and important interests—interests which we cannot overlook. Sir, there are not two Courts upon the face of Europe, between which a war can occur to-morrow, without the interests of this country and of every other civilized country being affected.

The gentleman says that those foreign missions are alms-houses for broken down political hacks. If they are, whose fault is it? If they are places to which party mendicants are assigned, if they are infirmaries where your infirm and disappointed leaders are put, whose fault is it? Is it not the fault of your parties, the fault of your Administration? Is it the fault of the system? If you have important interests in any part of the world you should send proper and qualified men to take care of them. If you send inferior men, if you prostitute the place to greedy spoilsmen, is it any fault of the system? And should you not carry your reforming hand where reform is needed? Will you abolish these missions because, forsooth, some President, under the clamor of spoilsmen, or at the behest of party, sends there an unfit man? No, sir; that is not our policy. "Pinchbeck imitation," says my friend from Alabama, [Mr. CURRY.] What! shingle over your ministers with foreign decorations, and in rivalry of foreign pomp, at an expense of \$7,500 per annum! What foreign minister has ever made a dollar by his mission? What foreign minister has ever lived like a gentleman upon his salary? It is said to me that many of them live over wine stores. Well, if the appointments are such as are indicated, may be that is a good place for them. But, sir, it is absurd to say that a minister with \$7,500 a year, or with \$17,500 a year, can imitate foreign pomp at Courts where noblemen have hundreds of thousands of dollars per annum. No, sir. There is no justice in the allegation that our foreign ministers but mimic and ape the manners of foreign courts.

Mr. Chairman, I do not belong to that class of economists—although I am willing to reform this Government in that respect—who, instead of staying stars of the first magnitude of extravagance in the firmament, look through their little microscopes, and bore the world with invisible discoveries.

[Here the hammer fell.]

Mr. SICKLES. I am opposed to the amendment of the gentleman from South Carolina, although the observations which I have to make will take probably the same direction as his.

Mr. Chairman, the debate on this bill has disclosed a new class of reformers—a class of reformers who propose to diminish the expenses of the Government as its progress increases. The greater the territory we have to defend, the smaller the army they would have. The larger the family of nations and the more extended and intricate our intercourse with them becomes, the fewer diplomatic agents they would have. The more the expenses of living increase, they would proportionately diminish the compensation of public agents. I cannot join this class of reformers. I think the good sense of the country, as well as the common sense of mankind, will deride their schemes and reject their propositions. Sir, the compensation of the Minister to France, at this day, is not equal to the compensation of Benjamin Franklin when he appeared at the Court of Louis XVI. in homespun, and commanded the admiration of the Court of that monarch for the unostentatious dignity of his demeanor and the simplicity of his attire. And yet, if you go to Paris to-day, you will find thousands of your countrymen there who seek admission at the threshold

of the legation, while, in the time of Franklin, there were not, perhaps, ten whom he would have the pleasure to entertain.

I see that there has been particular assault made on the missions to the Italian States; and it is charged here by gentlemen that our representatives there are of no use. Gentlemen who make this argument surely do not read the newspapers, it would seem; for, are they unmindful of the fact that this very peninsula is now the object of the world's eye, and that it is, perhaps, to be, at no distant day, the scene of another European war? It is now the center of diplomatic movements. Russia, France, and Austria, have not only their diplomatic agents there, but they have their armies on the line of march to the Italian frontier. And yet it is said that the United States—the second, if not the first, commercial Power in the world—has no business on a theater where such events are to be transacted. To say nothing of history, gentlemen who present such views cannot even be familiar with the newspapers of the day. I have heard the argument made to-day that we get nothing for the meager pay of our diplomatic agents. Sir, the Minister to England and the Minister to France, during the Russian war, when they secured the triumph of the principle that "free ships make free goods"—which was the work of Mr. Mason and Mr. Buchanan—saved and secured uncounted millions to the carrying trade of the United States; enough to defray the expenses of our diplomatic intercourse for a decade of years.

After twenty years of negotiation, we made a treaty with Holland, throwing open to our trade the Dutch East Indies. England, Russia, and France had sought the same privileges in vain; but under the "favored-nation" clause in their treaties with Holland, as soon as our treaty had been concluded by Mr. Belmont—than whom this country never had a more faithful, patriotic, and accomplished negotiator—these countries were able to conclude treaties like ours. But mark the difference in the use these nations made of their success. They instantly sent as consuls general men of ability and energy, with salaries reaching, I believe, over ten thousand dollars per annum, who were able to divert the channels of trade and commercial intercourse in a direction advantageous to their respective countries; whilst the United States, who had opened this commerce to general competition, employed as their representative a "commercial agent," at a salary of \$500 a year, to reside at Batavia, and secure for us the fruits of our successful diplomacy. I have been informed that our "commercial agent," no doubt a respectable person, had never seen the United States. This was not the fault of the executive government, but the result of that neglect, or that parsimony, or that ignorance, which characterizes the legislation of Congress upon subjects of this character. If my time permitted, I would refer to our intercourse with South America, Japan, China, and other countries, for additional illustrations of this absurd policy, which looks to the attainment of a high political and commercial rank, and yet neglects the most obvious and necessary means of obtaining success.

Complaints made of some of our diplomatic appointments. Perhaps there may occasionally seem to be reasons for these criticisms. But although it is true that in this country diplomatic employment is not a career nor a profession, as in most European States, and that our representatives abroad are therefore not so familiar with the languages of modern Europe, nor so adroit in the *finesse* of diplomatic intrigues, nor, perhaps, as courtly in manner and etiquette and address as the European ambassador who has been twenty-five years in passing from the grade of an unpaid *attaché* in Ecuador to the rank of a plenipotentiary in a German principality, yet it is nevertheless a fact, everywhere acknowledged in Europe, that the United States are, and have been, represented abroad, from the time of the Revolution down to this day, by a body of men not surpassed in sagacity, energy, and solid attainments, by the diplomatic agents of any Power in the world. We

have now the question of Cuba before us. I tell the committee that, were it not for our niggard system of so-called economy, and if we had been represented on the Island of Cuba by a consul general—a first-class man, whom we could get for a first-class compensation—a representative whose ability and accomplishments would command, and whose emoluments would enable him to maintain a high political and social position, the acquisition of Cuba would have been anticipated ten years. It would have been at hand now, or far nearer than I fear it is. Look to England and France—how they are represented at Cuba, in the persons of their consuls general, and compare that representation with ours. Why, our last consul was obliged to resign his post and come home, because his mean compensation did not defray the ordinary expenses of a commercial agency.

[Here the hammer fell.]

Mr. KEITT withdrew his amendment.

Mr. SMITH, of Virginia. I move to amend by striking out the words "Buenos Ayres."

Mr. CRAWFORD. I raise the question of order, that we have passed that point in the bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SMITH, of Virginia. Then I move to reduce the appropriation to \$39,000. I have listened to the debate, Mr. Chairman, with the attention which its importance merits; and I confess that I do not really understand what is indicated by it. If I understand it, there is a purpose to reform our diplomatic system, and various motions have been made to carry out that object. My opinion is, that without regard to the amount nothing is justifiable that involves an unnecessary expenditure. I go for the most rigid economy. I do not care whether an item is large or small. I am opposed to it if the public service does not call for it. I am not governed at all by the amount of the item. If the money is needed—be it ever so large an amount—I will vote for it. If it is not needed—be it ever so small—I will vote against it. That is the position I take.

Now, in regard to the various propositions that have been presented, efforts have been made to discontinue various missions. The mission to Rome has been struck out; but that is manifestly an important mission. It is a location in the center of Italy, where many of our people congregate—gentlemen of fortune and intelligence, and those who are devoted to the arts. We want a minister there to represent our country and to protect our citizens who are sojourning there.

Nor is that all. Italy, at this time, is threatened to be made the theater of a gigantic continental war, and it may become a matter of the highest importance for us to have a minister there.

An effort is also made to discontinue the mission to the Argentine Confederation. Anybody who is familiar with the history of our relations with that republic ought to be aware that it is a matter of the highest consequence at this particular time, that that mission should be continued. We have important interests there; and that, of all others, is the last place where we should wish to discontinue a mission.

There is but one reform that I think ought to be made in the diplomatic bill, and I confess that I had an idea of suggesting it yesterday—and that is, that the mission to England shall be degraded to the second-class rate. You may think that that is an extraordinary proposition, but it is my patriotism that prompts me to it. What do the papers tell us, and what seems to be the fact? Why, that the British minister now or recently at this Government, is to be promoted, by being translated from this great Republic to a petty Court on the continent of Europe. I would not submit to such an indignity as that; and I confess that I am so filled with indignation when I hear that Lord Napier has been promoted by being transferred from this Republic to a petty Power like the Hague, that I would withdraw our minister to England. But, sir, I will not dwell upon that. I will only say that I think none of the amendments which have been offered here ought to be adopted.

[Here the hammer fell.]

Mr. PHELPS, of Missouri. I appeal to the committee to proceed with the bill, and let the debate be confined to the subject-matter of the amendments pending.

Mr. SMITH, of Virginia. I withdraw my amendment.

Mr. CRAWFORD. I move to strike out, in line seventy-nine, the words "one hundred," and insert "seventy-one," so that the clause will read:

For compensation of the commissioner, secretary, chief astronomer and surveyor, assistant astronomer and surveyor, clerk, and for provisions, transportation, and contingencies of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, \$71,000.

I find, by referring to the act of 1856, which provides for the carrying of this treaty into effect, that the salary of the commissioner was fixed at \$3,000 a year; the salary of the secretary, \$2,000; of the chief astronomer and surveyor, \$3,000; the assistant astronomer and surveyor, \$1,800; and the salary of the clerk, \$1,200. Those are all the offices created by that act, and the amount of the salary of each is specified as the amount I have stated. If the House desires to understand exactly the number of officers and persons actually employed in that service, by turning to Miscellaneous Document No. 6, which accompanies this bill, they will there find the whole matter disclosed.

The law provided for but six or eight officers to run this line. Besides those, there are employed an assistant and computer at \$125 a month; a recorder and meteorologist, at \$1,200 a year; and an interpreter at \$1,200. There are two astrological and reconnoitering parties at \$17,500; there are an assistant geologist, a surgeon, and a naturalist, at \$2,600; there are a quartermaster and assistant quartermaster, at \$3,000; there are eighty persons employed at seventy-five cents a day, who cost the Government \$21,000; then there is a hydrographical party, which costs the Government \$9,000; and the hire and subsistence of Indians, repairs, and monuments, cost the Government \$14,000.

Now, sir, the law to which I have referred provided only for the officers that I first mentioned, and fixed their compensation at the rates I stated. In that law of 1856, the sum of \$11,000 was provided for the pay of the officers; and, in addition thereto, the sum of \$60,000 was provided, in 1857, to run this boundary line. And now, in this appropriation bill for 1860, we are asked to appropriate the sum of \$100,000 to complete this survey. Now, I ask any gentleman to show me the law under the authority of which this immense number of offices has been created. There was no such authority in the act of 1856. If, therefore, the House desires, in good earnest, to strike at the expenditures of the Government, I ask them to strike at these offices, which are not authorized by the law of 1856, and to leave those officers whose appointment was authorized by that act to receive the amount to which they are entitled under it.

I find, also, that they have an astronomical party, which costs the Government \$4,800 a year, in addition to those I have already named.

[Here the hammer fell.]

Mr. PHELPS, of Missouri. I am opposed to the amendment offered by my friend from Georgia. The estimate submitted to us of the amount necessary to enable this line to be run was \$150,000 for the ensuing fiscal year. The Committee of Ways and Means recommend that but \$100,000 shall be appropriated for that purpose, thus reducing the estimate of the commissioner who represents our Government, and is now engaged in the survey of this work, thirty-three and one third per cent. The amount of the salaries prescribed by the act of 1856 is \$11,000, and if the sum recommended by the Committee of Ways and Means shall be appropriated, that will leave \$89,000 for the purpose of subsisting the parties engaged in this work and their numerous employees; if they were employed in an inhabited country, or in a country where the surveying parties could be kept in the field nine months out of the twelve, a smaller sum than we have recommended would, in my opinion, suffice; but you must recollect that it is the line of latitude 49°, along the Rocky Mountains to Puget Sound, which is to be surveyed. There is a necessity for these astronomical parties, because that line is a line of latitude, and there is more difficulty in running that line than there is in running a meridian line. Frequent astronomical observations have to be made, for there is a tendency of the line to diverge from the true

line. The commissioner gives as a reason why his estimates are greater than they were for the preceding year, that the services to be performed by his employees are in the neighborhood of the Fraser river gold diggings, and that in consequence of the recent discovery of gold upon that river, he will be compelled to pay higher wages to the men he may employ, and higher prices for those articles which may be necessary for his party.

In consequence of the depressed condition of the Treasury, the Government determined to reduce the expenditures of the commission to a less magnificent scale, and to employ no more persons than were absolutely necessary. The estimates are: for astronomical purposes, \$17,520; for surveying purposes, \$23,280; for laborers, who are employed at forty dollars per month, twenty-two in number, \$10,560. In these estimates the subsistence of the parties must be taken into consideration. The country through which they are to pass is, for the most part, broken or mountainous; there are no roads leading into it, and the provisions and supplies for the subsistence of the parties have to be carried from many miles distant upon the backs of mules and horses; and hence the necessity of the purchase of supply animals for that purpose.

[Here the hammer fell.]

Mr. BARKSDALE. I desire to offer an additional section to the bill.

The CHAIRMAN. It is not now in order.

Mr. CRAWFORD. I move to amend by reducing the amount \$500.

Mr. NICHOLS. The gentleman has already an amendment pending. It is not in order to move to amend his own amendment.

Mr. KEITT. To enable the gentleman from Georgia to submit his remarks, I move to reduce the appropriation \$500.

Mr. CRAWFORD. Now, Mr. Chairman, the object I had in view in moving my amendment, originally, was simply to get the matter before the House, so that we could have a vote upon it. I am very indifferent myself with regard to what course the House shall take with regard to it. Still, if they desire to reduce the expenses of the Government, I intend to give them an opportunity at just a point where they can do so with perfect safety.

The act of 1856 enumerates specifically the officers who may be appointed on this expedition. It says there may be appointed by the President, by and with the advice and consent of the Senate, a commissioner, a chief astronomer, a surveyor; and then it enumerates the inferior officers who may be appointed, such as assistant astronomer, assistant surveyor, clerks, secretaries, &c. But, in addition to those which the law authorizes to be appointed, I see they have got a recorder and meteorologist. Where is the authority for that? They have got an interpreter, at a salary of \$1,200. Where is the law of the land for that? Then they have got astrological and reconnoitering parties.

I ask the chairman of the Committee of Ways and Means for the authority in the law of 1856 for these parties, at a cost of \$17,520 per year. Accompanying the surveying party is a topographer, at a salary of \$1,500 a year. No topographer is mentioned in the act of 1856. Then there is a geologist and assistant geologist, at \$1,800 a year. I ask the chairman of the Committee of Ways and Means where is the authority for the appointment of a geologist in the act of 1856? There is a surgeon and a naturalist, at a salary of \$1,800 a year. Where is the authority for the appointment of a surgeon and naturalist? Then there is a hydrographical party, at \$9,000 for three months. Where is the authority for that? Here is the hire of Indians, repairs, monument, &c., \$14,902.

Now, Mr. Chairman, the only expenses which were authorized to be incurred were the salaries of the officers, \$11,000; and then add other expenses of \$60,000, which was the amount appropriated by the act of 1856, and you have \$71,000, which is all that ought to be appropriated, the amount asked for in these estimates being \$150,000. I ask a decision on my amendment, and I will not trouble the committee with further discussion in reference to it.

Mr. KEITT, by unanimous consent, withdrew his amendment.

Mr. CRAWFORD's amendment was then agreed to.

Mr. STEVENS, of Washington. I move to increase the amount \$50,000.

Mr. NICHOLS. I rise to a question of order. The committee have passed beyond the point where an amendment can be received to that paragraph.

Mr. PHELPS, of Missouri. The Delegate from Washington sought the floor before the committee passed the point. I hope he will be allowed to proceed.

Mr. NICHOLS. I insist on the point of order.

The CHAIRMAN. The Chair has no discretion upon the point of order. The amendment of the gentleman from Washington is not in order.

Mr. NICHOLS. I would like to accommodate the gentleman from Washington; but the gentlemen on the other side of the House, who are responsible for the bill, have been debating it now for about a week, and I decline to withdraw the point of order. They must settle their little family difficulties among themselves.

Mr. DOWDELL. I move to strike out the last paragraph of the bill; as follows:

"To enable the President of the United States to carry into effect the act of Congress of 3d March, 1819, and subsequent acts now in force, for the suppression of the slave trade, \$75,000: *Provided*, That so much of said appropriation as may be required to pay expenses already incurred, may be used from and after the passage of this act."

Mr. Chairman, this section should be stricken from the bill. Even if right, it is not in its proper place. The bill proposes to provide for the estimated wants of the service for the next fiscal year. The money here proposed to be expended is intended for the present year; for debts already incurred. But, sir, the appropriation is not right in itself, because for a large portion there is no law to authorize the expenditure. It is recommended by the President, in virtue of the second section of the act of 3d March, 1819, which is in these words:

"And be it further enacted, That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction, and to appoint a proper person or persons residing upon the coast of Africa as agent or agents for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States armed vessels."

Notwithstanding "a doubt immediately arose as to the true construction of the act" in the President's mind, nevertheless, following the bad precedents on the subject, he entered into a contract with the Colonization Society, by which he engaged to pay the sum of \$150 a head for the support, education, and instruction in the arts of civilized life, during the period of twelve months, of the captured Africans delivered in Liberia. The letter of the Secretary of State, addressed to the chairman of the Committee of Ways and Means, explains in detail how the sum asked for is to be applied. To meet the bounty of twenty-five dollars per head to the officers making capture, the sum of \$7,850 will be required; and \$150 per head, as above stated, to the Colonization Society, amounting, for two hundred and fourteen captives, to \$32,100, and for expenses of trial and support until delivered in Africa, the remainder of \$35,050. Thus is to be expended the sum of \$75,000, all to fall due during the present fiscal year, yet, as it now stands in the bill, appropriated for the year 1860.

Now, sir, I ask this committee to look at the law, and point out to me a single line, word, syllable, or letter, that authorizes the payment of the \$32,100 to the Colonization Society? Every cent of this amount is to be expended after the negroes shall have been delivered to the agent on the coast of Africa, for which there is admitted to be no provision in the act. To justify the course pursued, the President relies upon a construction given to the act by Mr. Monroe, who, himself, it appears, had doubts on the subject, which he recommended Congress to relieve by amendment. But Congress neglecting or refusing to amend, the power was assumed, and the illegal precedent was established.

I must protest against such assumption of power as exceedingly dangerous. Why, sir, suppose that the President should recommend that power be given to take forcible possession of Cuba, and Congress should neglect or refuse to do anything: shall he therefore presume acquiescence in the recom-

mendation, and proceed with the Army and Navy to execute his purpose? He would certainly have as much authority in the one case as in the other. Which ought he to follow, the law or the executive precedent? The law empowers him to appoint agents to receive the negroes delivered—nothing further. And yet we find a contract made, and we are called upon for the money, to support, clothe, educate, and Christianize two hundred and fourteen Africans for twelve months, in Liberia; provisions, clothing, school-books, and catechisms, must be provided; doctors, school-masters, and ministers, engaged for the service. It looks very benevolent; but where is the authority in the Constitution, or law, for it? I believe as strongly as any man in Christianizing the heathen, and wish all Christian missions God-speed, but hardly think the Federal Government should be converted into a missionary society. And further, sir, without the power to educate children in our own country, here it is proposed to take money out of the Treasury to educate black children in a foreign land. This is the contract. Shall we ratify it? And if for twelve months, why not for twelve or twenty years? The principle is the same. Sir, such a dangerous precedent, based upon such a broad construction of a law, should be immediately abandoned.

Now, sir, in order to show to what excesses this principle may be carried, and the danger of departing from the expressed provisions of law, I am by no means left to idle conjectures. What has been done under a similar construction may again be enacted; although, in the present instance, it is due to the President to say that he has wisely endeavored to guard and restrict the expenditure. When Mr. Monroe appointed agents to receive the first captured Africans sent back to the coast of Africa under this law, instructions were issued to them not to connect with the plans of the Colonization Society. Yet, I afterwards find that such instructions were not regarded, and the appropriations were used mainly to foster and cherish that society. Under the latitudinous construction given to the law, preparations, on a grand and magnificent scale, were made for the reception of the liberated Africans in Liberia. Ships were called into requisition to carry out, not the captured Africans, but a colony of one hundred and sixty-three men, women, and children, free negroes, as carpenters, laborers, cooks, nurses, seamstresses, and washerwomen, with ample provisions, clothing, and all the implements of husbandry, stores, cannon, muskets, powder, and ball, and munitions of war, to support, and receive, and provide for ten captured Africans, to be forwarded two years afterwards, who, shortly after landing, found their way to their original homes. Four were carried, in 1820, along with the free negroes; and there is no account given of them. So this vast agency, at enormous expense to the United States Government in the year of 1823, is left without a single ward to support and educate.

But the humane agents were unflinching in their zeal and efforts, to provide comfortable quarters, and keep them in readiness to receive such liberated Africans as might be in the future sent out by the Government to their care and guardianship. And the Government was not behind the agents in zeal; for we find that in 1824 additional supplies and large quantities of provisions were forwarded to the coast of Africa, to support the carpenters, laborers, nurses, washerwomen, and seamstresses, who were so humanely awaiting and anxiously expecting the Africans to be thereafter recaptured and sent to them. And in the year 1825, to further provide for their necessities, and to anticipate the wants of such as might be recaptured, materials for houses were shipped from the United States, and houses built for officers, agents, Africans, school-houses to educate the children, and a chapel to Christianize adults; ships purchased, granaries erected to receive supplies and stores. A stone pier was likewise built at the landing. We find also that an eye was directed to the contingency of native wars; and the more effectually to guard against invasion from the barbarous tribes around them, whilst supporting, educating, and Christianizing the black beneficiaries, fifteen pieces of cannon and three swivels were forwarded, and fortifications erected, and a regular guard enlisted for the service. Previously to this, there were on the ration list two hundred

persons, but then reduced to sixty-eight. To meet their wants in sickness, a wise and humane forecast had provided "ten dozen of porter, and ten gallons of Madeira wine." Did ever orphans before have such provident guardians? About this time instructions were given to the agent to employ the colonists "in labor and defense."

Let it not be forgotten that all these monstrous charges were at the expense of the United States Treasury, and incurred to carry out the second section of the act above quoted, in receiving fifteen liberated Africans—all that were on hand at this time. It turned out afterwards that these warlike preparations for defense were not in vain; for it appears that in the following year the employed colonists engaged in the native wars, and during the conflict, succeeded in recapturing one hundred and seventy Africans, which they kindly carried to the agency to support, educate, and Christianize, at the public expense, for the reason, I suppose, in the delay of the United States vessels to recapture on the seas, and send in liberated Africans, they needed employment for their school-masters and ministers who were comparatively without wards to educate and Christianize; likewise some one to consume the large quantities of provisions on hand. To do no injustice to the Government, I will state here that, in the year 1827, instructions were given to the agents to stop proceedings in reference to native wars and native captives. It was enough for the Government, without authority of law, to pay the salaries of its agents and officers, to provide munitions of war, and furnish provisions to enable the colonists to support, educate, and Christianize its own *cestui que trusts*, liberated by its officers on the high seas, without carrying its benevolence into the wilds of Africa. But let us proceed with the facts. In the year 1827, there were in the colonies no recaptured Africans. The agent, however, with prudent forecast, to provide for the comforts of such as might, in the course of time, be recaptured by our vigilant police on the seas, and sent to him, was employed this year in building a new town. And the carpenters and laborers were paid for their services in goods out of the public stores. Sure enough, two or three years thereafter ninety-one recaptured Africans were shipped to his care. But in the mean time the employes had consumed all the provisions which had been sent out by the Government. This, however, was no calamity, for he immediately purchased such goods as were needed, similar to those previously sent out by the Government, supposing, of course, that the accounts would be allowed at the Treasury. He calculated well; for although the Auditor, in his report to the Secretary, disapproved of the transaction, he nevertheless recommended payment in pursuance of a bad precedent. But new instructions were given of a more stringent character for the future.

Thus we see into what extravagance our Government was led, by departing from the plain provisions of the law in the first instance. After all these grand, magnificent, and continued appropriations and preparations year after year, there were recaptured and sent back to Africa, up to the year 1830, only two hundred and sixty persons, at a cost to the Government of the round sum of \$264,700, being more than one thousand dollars per head. The actual expense to the Government, the accurate amount of which we have no means of ascertaining, was much greater than these figures indicate. Our vessels of war were often in the waters near the coast, and aided in protecting the colony, besides the expenses incurred in carrying out the provisions of the treaty of Washington, which required us to keep, in that inhospitable climate, a squadron carrying eighty guns, in order to suppress the slave trade.

Now, sir, am I not justified in demanding a strict adherence to the law, when I see that in former times, by a broad construction, it has been made the basis of such enormous and unwarrantable expenditures? When I see that, under a simple direction to appoint agents residing on the coast of Africa, to receive the recaptured Africans, large amounts of money have been appropriated out of the Treasury to provision and protect a foreign colony, I shall certainly object to another step in the same direction. The Colonization Society, which has, as I have shown, been the recipient of so many favors from the Government, ought to have been able, after thirty-eight

years of bounty from the citizens of this country, to make these liberated Africans self-supporting upon their delivery from the Niagara. At all events, if there be a necessity for this appropriation, I contend there is no authority, by any fair construction of the law, to support these captives for twelve months.

At this point, I will again repeat that the President, although following to some extent the precedents of his predecessors, has evinced a laudable desire to limit the expenditures and confine the appropriations, by distinct agreement, to the amount specified in the contract. It will not, I hope, be considered out of place for me to say here, as this colony has been connected with the agency to execute this law, that the whole scheme has signally failed to meet the expectations of its founders. It furnishes additional evidence of the futility of all attempts to elevate the negro to the dignity of self-government, to make that straight which God has made crooked. Here we see a colony aided by the mistaken benevolence of our people to the amount of hundreds of thousands of dollars, receiving large supplies from the Government, and constantly protected by the Navy of this and foreign Governments, and under the guardianship of intelligent white men who labored for its prosperity, still unable to stand alone, but declining to its certain and final relapse to barbarism. From reliable authority I learn that, up to the year 1858, there have been sent to Liberia, including those sent to Cape Palmas by the Maryland society, eleven thousand free negroes and liberated slaves, and at the present time there remains but seven thousand six hundred, being a diminution of over three thousand by the excess of deaths over births, a loss of more than thirty per cent. What a sad commentary on the folly of those who have been striving to reverse the laws of God and who are now endeavoring to turn the world upside down to make white what He has made black! The whole affair, sir, is the lame and impotent conclusion of mistaken and misdirected philanthropy. In conclusion, I will take this occasion to say, without discussing the expediency of reopening the slave trade, a matter which properly belongs to the sovereign States whose industrial policy is to be affected by it, that the laws are highly offensive in defining that to be piracy upon the high seas which is not robbery, and in attaching the death penalty to an act which in itself is not necessarily immoral.

Mr. PHELPS, of Missouri. The gentleman from Alabama, finds fault with the introduction of this paragraph into an appropriation bill. It is the proper place for it. It is the proper place to provide for the expense incurred in the execution of the act of 1819 prohibiting the slave trade. Some two or three times, during my term of service in this body, have appropriations of six, eight, or ten thousand dollars been made for the purpose of enabling the President of the United States to execute the act of 1819. The President of the United States, in his annual message, calls your attention to the fact that a vessel engaged in the slave trade, was captured by one of the vessels of our Navy, that that vessel was taken into the port of Charleston, and that in pursuance of the law of 1819, it became his duty to take those captured Africans into his possession. The question arose, what disposition should be made of them. The act of 1819 authorizes the President—

"To make such regulations and arrangements as he may deem expedient, for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color."

It also authorizes him to appoint an agent or agents for the purpose of taking care of them. In pursuance of this law, and giving to it the construction given to it by a former President of the United States, which construction was recognized by Congress, the President appointed an agent to accompany these negroes to the coast of Africa, and they were placed on board of one of our naval vessels. A contract was also made by the President of the United States, as far as he had power to bind the Government, with the American Colonization Society, by which, when these negroes should be transported to Africa, they should be placed under the care and protection of the Colonization Society, and, for twelve months after their arrival there, should be taken care of, and their maintenance and support provided for. I ask you if this was not a humane course? I ask

if it was not the right course? Here were persons who, by a violation of the laws of the United States, were brought within our jurisdiction. The President of the United States was required to remove them without the jurisdiction of the United States. I ask if humanity did not require that we should see that their lives should be preserved? They were not restored to their native land, from whence they were taken; but they were removed to a colony founded by the benevolent people of the United States, and which, thus far, has been maintained by them. To turn them loose, as paupers, upon that poor people, unable to support themselves and their own Government, would have been a wrong to the people of Liberia. Therefore, I approve the act of the President of the United States, in making the contract which he did, and this appropriation is designed to defray the expenses of taking care of those captured Africans while in the United States, and while on board of our vessel-of-war, and to comply with the contract the President has made with the Colonization Society.

This, moreover, embraces another appropriation. By the act of 1819, twenty-five dollars per head is allowed for every African who may be captured.

Mr. CLAY. Will the gentleman allow me to ask him a question?

Mr. PHELPS, of Missouri. The gentleman from Alabama [Mr. DOWDELL] first desires to propound a question. I yield to him.

Mr. DOWDELL. I want the chairman of the Committee of Ways and Means to tell me why, if the President has a right to school, civilize, and support a number of Africans for twelve months, he would not have the same right to do so for twenty years; and if he has no authority to educate, clothe, and support our white children here, what authority has he to educate, clothe, and support black children in a foreign country?

Mr. PHELPS, of Missouri. Would the gentleman propose to turn loose a parcel of Africans who could not speak the English language and could not make their wishes known, among a people who do speak the English language? It is designed and intended that these captured Africans shall settle in the colony of Liberia. So far as these children are concerned, I ask the gentleman from Alabama whether he would not be willing to allow a small pittance for their schooling? I will now hear the gentleman from Kentucky.

Mr. CLAY. If this appropriation was intended by the Committee of Ways and Means for the specific purpose announced by its chairman, I desire to know why the language was not more express? I am opposed to all these laws on our statute-book in relation to the slave trade, and I will not vote a dollar for the purpose.

Mr. PHELPS, of Missouri. To that I reply, repeat them; but while a law is on the statute-book, it must be observed.

[Here the hammer fell.]

Mr. PHELPS, of Missouri. Let me explain.

Mr. SEWARD. I insist on the enforcement of the rule.

Mr. SINGLETON. I offer the following amendment as an additional proviso:

And provided further, That no part of said appropriation shall be used for the support or education of any Africans heretofore returned, or hereafter to be returned, to their native country, under the provisions of said act of 3d March, 1819, after the same are delivered into the hands of the agent or agents appointed to receive them from the United States.

Mr. CRAWFORD. I have an amendment to offer at a preceding point of the section; and I ask the Chair, whether my amendment does not take precedence of that of the gentleman from Mississippi?

The CHAIRMAN. The Chair is of opinion that, as it is all to the same section, it is immaterial which amendment comes first. Does the gentleman from Mississippi yield to the gentleman from Georgia?

Mr. CRAWFORD. Under that decision of the Chair, I do not desire the gentleman to yield.

Mr. SINGLETON. Mr. Chairman, I think that I am one of the last men in this House to repudiate any contract entered into by the President of the United States, if I felt that he had authority to make that contract. So far as I am concerned, I am perfectly willing that the expenses incurred in recapturing these Africans that

were on board the Echo, and the expenses incurred in supporting them while in the United States, and in sending them back to their native land, shall be defrayed by the Government. And why so? Because we have on our statute-book the law of 1819, which makes it the imperative duty of the President of the United States, under such circumstances, to return them to their native land. If, therefore, we expected the President to obey that law, and to discharge his duty under it, we must, as a matter of course, expect to meet whatever expenses may be incurred in the discharge of that duty. But that is not all. Not only is provision sought to be made for their return, but the President, in his annual message to Congress, uses the following language:

"Under these circumstances an agreement was entered into with the Colonization Society on the 7th of September last, a copy of which is herewith transmitted, under which the society engaged, for the consideration of \$15,000, to receive these Africans in Liberia from the agent of the United States, and furnish them during the period of one year thereafter, with comfortable shelter, clothing, provisions, and medical attendance, and cause their children to receive schooling, and all, whether children of adults, to be instructed in the arts of civilized life, suitable to their condition."

That is the portion to which I object. Whatever may be my charitable feelings in the matter, I belong to that class of politicians who believe in a strict construction of the Constitution of the United States. I agree with the gentleman from Alabama, that if you cannot take one single dollar out of the Treasury of the United States for the education of white children in your own country, you certainly cannot take money from the Treasury for the purpose of educating negroes in a foreign land. It is that feature in this case to which I object. I do not wish to be considered as putting myself in antagonism to the President on this subject, nor do I so regard my position. He entered into the contract only to the extent of his authority. It is still an inchoate contract, which Congress has the right to ratify or reject. Gentlemen say that the same construction was put upon the act of 1819, under the administration of Mr. Monroe, soon after its passage. It is true that Mr. Monroe did call upon Congress so to construe the act, and that Congress, not having responded to his call, he assumed that his construction was assented to, and that he carried it out in precisely the same spirit as Mr. Buchanan has done. I say, therefore, that the President of the United States is not to be blamed in this matter. I attach to him none, myself, for making this contract. But we are here for the purpose of protecting the interests of our constituents, and it is for us to say whether this construction of the act of 1819 is right or wrong. If we are to allow this latitudinous construction of a plain law, where is the matter to stop? Enterprising men throughout the country, not only from the South, but from every section of it, may be engaged in the slave trade; and there may be many instances of the capture of vessels freighted with these barbarians, like the case of the Echo. If we undertake to defray the expenses of educating their children and building school-houses for them in Africa, of providing medical aid, implements of husbandry, and employing all necessary means for taking care of them, I want to know what limit there will be to these expenses, and where the money is to come from? The Government of the United States is now incurring a heavy expense in keeping armed vessels upon the African coast, to prevent this traffic; and if it is carried on by a few of our citizens, against its wishes, surely the Government is not to blame, and should not be expected to be responsible for such acts further than she has expressly stipulated to become so. Let us satisfy the express requirements of the act of 1819, and be content therewith, without undertaking, by an unwarrantable assumption of power, to indulge in a sort of universal philanthropy.

Mr. MOORE. I move to amend by reducing the amount.

Mr. NICHOLS. I make the point of order that that cannot be done. I rise to oppose the amendment offered by the gentleman from Mississippi, [Mr. SINGLETON.] I have had very little disposition to say anything in regard to this bill. I have looked upon a great deal that has been said on amendments offered to it with very little favor. I believe that the bill should have been passed through the committee long since; but I believe that if there is any one provision in the bill which

will commend itself to the deliberate approval of the people of that section of the country which I, in part, represent, it is the paragraph that is now proposed to be amended.

If I understand the objection urged by gentlemen to this provision, they assert that the action of the President in regard to the return of the negroes taken in the slave Echo was unauthorized, to some extent, by law. There may be, in the contract made by the President with the Colonization Society, some items embraced that were not specifically provided for by law; but as to the return of the negroes, the obligation of the Government to suppress the slave trade, and the expediency of the act performed by the President, I apprehend that amongst a vast majority of the people of this Union there will be very little question. And I believe that this is the most meritorious provision in the bill, or, at least, equally meritorious as any other.

The gentleman from Mississippi objects to the word "education" embraced in the contract with the Colonization Society. That was a specification made by the society, but the object that moved the President in incurring the expense was the return of the negroes, and whether it was authorized by law or not, I care not. The Government was obligated by its treaty stipulations to suppress the slave trade. There was no doubt about the capture of this vessel. There was no doubt about the negroes being illegally upon the shores of this country. They were returned to Africa. It was right to return them there, and it would have been wrong to allow any person who had wrongfully taken them from their own country in violation of the treaty stipulations of this country and of the laws of the world, to enjoy any benefit or advantage from their own illegal action.

Sir, I care not what the Colonization Society stipulated with the President. I only know that it was his duty, under the law of nations and under the treaty stipulations of the Government, to return the negroes. I believe that, and I believe this to be the most meritorious appropriation in the bill. Shall we accomplish by indirection what the treaty stipulations of the Government forbid? No, sir; let us meet this question fairly. Let us vote the money to meet the obligation which has been incurred, and if there be a doubt about its legality, let us, by voting this appropriation, give it the sanction of legality on the part of the Government of the country.

[Here the hammer fell.]

Mr. CURRY. I move to amend the amendment by striking out the word "support."

Mr. Chairman, I do not consider it necessary, in this connection, to express any opinion as to the constitutionality of the law defining and punishing the slave trade as piracy, nor in reference to that portion of the law which provides for the safe-keeping and removal of captured Africans. Neither is it my purpose to object to anything which the President has done in sending the negroes of the Echo back to Africa, and appointing an agent "residing upon the coast of Africa," to receive the negroes and take them from the vessel which transported them. But there, sir, the law stops; the Executive has discharged his duty, and the Government has perfectly and completely fulfilled the law when it has delivered the captured negroes into the possession of the agent appointed to receive them, and whose previous residence in Africa the law most clearly contemplates. What I do object to in reference to this proceeding, is, that the President, by his contract with the Colonization Society, has provided for the support, schooling, and instruction of these negroes "in the arts of civilized life, suitable to their condition," for the period of one year after they have been delivered in Africa.

Now, I desire to know if the President can contract for their support and education for one year, why cannot he contract for ten years, or for twenty years, or during the life of the negroes? Where is the limit? I go further in reference to this matter; and I ask, as my colleague [Mr. DOWDELL] has done, what is comprehended under the terms "support," "schooling," and "instruction in the arts of civilized life?" Can you appropriate money to build school-houses and chapels in Africa? Does "medical attendance" include the furnishing of physicians and drug-stores? Can teachers and books be sent under

this law? The Fourth Auditor, in 1830, in a report to the then Secretary of the Navy, on this subject—(Executive Document, No. 1, second session Twenty-First Congress)—says:

"In the simple grant of power to our agent (by the act of 1819) to receive recaptured negroes, it requires broad construction to find a grant of authority to colonize them, to build houses for them, to furnish them with farming utensils, to pay instructors to teach them, to purchase ships for their convenience, to build forts for their protection, to supply them with arms and munitions of war, to enlist troops to guard them, or to employ the Army and Navy in their defense."

Mr. Chairman, the crown of our defense is in a rigid adherence to the Constitution and the laws, and the call of humanity must be very extreme that will justify a violation of law on the part of any individual, and lawlessness on the part of one man or of many is alike to be resisted by this House, and by the country.

But, sir, I object to another part of this contract. Mr. Monroe, at the time he first sent negroes to Africa, distinctly instructed the agent in carrying out the law "not to connect his agency with the plans or views of the Colonization Society." Now, if Mr. Monroe's authority be good upon one point, it is good on another. But this instruction was soon disregarded, and the agent of the Government was soon the agent of the Colonization Society, and to use the language of the Fourth Auditor, in the report already quoted from—

"It would be difficult to imagine an expenditure incident to the business of human life, which is not in principle embraced in the settlement, heretofore made of the accounts of the agents for the reception of liberated Africans at Liberia."

Lands have been selected and purchased by the society, in concert with the Government agent; vessels were bought; emigrants, military stores, provisions, and materials for buildings, were sent out from this country, and a standing army has been kept up in Liberia, or was for some time under this law, and all at our expense. This simple act, by a monstrous perversion of its plain and simple terms, has been construed to admit the building of school-houses and chapels, and paying teachers to civilize and Christianize the negroes, and teach them agriculture and the arts of civilized life. This Government, under this law, for twenty years or more, has contributed largely to the support and maintenance of these colonies on the coast of Africa. And now, by this contract, this society has been again selected as the receiving agent, residing upon the coast of Africa, and the Government has again formed a connection with that institution. What assurance can this country have, that, in this and in future cases that may arise, the money will not, as heretofore, be applied to the same illegal and unauthorized purposes? A like strained construction of every law will justify all conceivable excesses.

Now, Mr. Chairman, I wish that I had time to discuss that point a little, but I have not. I think there is no other principle better established or more worth being observed by this country, than to preserve law and order in all its forms and in every section of the country. I care not whether it be in the North or in the South; whether it be in the one section of the country or another, this violation of law is demoralizing in the extreme. I am not able to distinguish between a violation of law and order by a strained construction of a statute by a high executive officer, or whether it be a violation of law by a band of lawless men. It is true that mobs generally act under excitement, and may, therefore, be excused to a certain extent; but the construction of this law to authorize the support of these negroes for one year after arriving in Africa, is one which, by a parity of reasoning, would justify any conceivable interference of the Government in future.

[Here the hammer fell.]

Mr. NICHOLS. I have listened with a great deal of pleasure to the remarks of the gentleman from Alabama, [Mr. CURRY]. I understand him to place his opposition to this section upon a violation of law by the President or by the Executive Department. That is the point. Now, I ask him if the taking of these Africans in the first instance was not a violation of law—a violation of a higher law than the one which the gentleman says the President has violated?

Mr. CURRY. What higher law?

Mr. NICHOLS. The law of treaty with foreign nations; the law of humanity as well as the

law of nations. They were brought here upon our shores in violation of our own law, in violation of the laws of nations, and in violation of the law of humanity. They were thrown upon the hands of the President, and he returned them in accordance with the precedents which have been furnished?

Mr. CURRY. I ask the gentleman to show me any law upon the statute-book authorizing the President to support these negroes one day after they will land in Africa?

Mr. NICHOLS. I will answer the gentleman's question if he will first answer me whether there is any law authorizing the Executive to clothe them at all, or to feed them, before sending them back, other than the great law of humanity?

Mr. CURRY. Yes, sir, there is a statute law.

Mr. NICHOLS. Very well; grant it. Now I come back to the other proposition. They are here in violation of law; what was the President to do with them?

Mr. CURRY. The law made it the duty of the President to carry them back to Africa, but not to support them after they were there.

Mr. NICHOLS. Exactly. The difficulty with the gentleman is, that in the contract with the Colonization Society there was a provision for their education. Now, Mr. Chairman, I care nothing about that. The money expended was properly expended in accordance with the great law of humanity, to carry out treaty stipulations, and to preserve the dignity of the nation. If the provision for their education was improperly inserted in the contract, it should form no objection to the appropriation. I am for the appropriation. I am for giving the President this money; because I believe that everything which has been done in reference to this matter has been dictated by a high regard for the honor of this country, and for what humanity requires.

[Here the hammer fell.]

Mr. CURRY, by unanimous consent, withdrew his amendment.

Mr. CRAIGE, of North Carolina. I move to amend by adding as follows:

Provided, further, That no part of said sum shall be expended in the maintenance, education, or clothing, of the returned Africans after they were landed in Africa.

The CHAIRMAN. The Chair would suppose that that amendment in substance is now pending.

Mr. CRAWFORD. I move to amend by striking out "one hundred and seventy-five" in the forty-fifth line, and inserting "eighty-seven."

Mr. CRAIGE, of North Carolina. What has become of my amendment?

Mr. WASHBURN, of Illinois. I move that the committee do now rise.

Mr. PHELPS, of Missouri. I hope not.

Mr. WASHBURN, of Illinois. It is very evident that we shall have nothing but discussion here to-day. I insist on my motion.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1860, and had come to no resolution thereon.

VANCOUVER'S ISLAND REPORT.

Mr. HOPKINS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to transmit to this House a copy of the report of the special agent of the United States, sent to Vancouver's Island, British Columbia.

Mr. DEAN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of conferring additional powers upon the corporations of Washington and Georgetown, with the view of the introduction for general use of the Potomac water among the inhabitants of said cities, from the aqueduct mains or pipes now laid, or to be laid, by the United States, in the streets and avenues thereof.

MILITARY ASYLUM.

Mr. TALBOT, by unanimous consent, introduced a bill to authorize the sale of the Government property at the western military asylum at

Harrodsburg, Kentucky; which was read a first and second time, and referred to the Committee on Military Affairs.

GOVERNMENT PIERS AT CHICAGO.

Mr. FARNSWORTH, by unanimous consent, introduced a bill, of which previous notice had been given, to enable the owners of property fronting on portions of the Government piers at Chicago, to use the same for commercial purposes, and to keep the same in repair; which was read a first and second time, and referred to the Committee on Commerce.

J. D. OTT AND CO.

On motion of Mr. MAYNARD, it was Ordered, That the Committee on Claims be discharged from the further consideration of the memorial of J. D. Ott & Co., and that the same be referred to the Committee on Accounts.

CARMICK AND RAMSEY.

Mr. GROESBECK. I ask the unanimous consent of the House to present the account of Carmick & Ramsey, in order that it may be printed, and referred to the Committee on the Judiciary, to which the other papers in that case have been referred.

No objection being made, the account was presented, and ordered to be printed and referred as requested.

SELECT COMMITTEE ON DESKS, ETC.

Mr. MILES. I ask the unanimous consent of the House that the report of the select committee in relation to the desks and furniture of the House may be printed, in order that it may be laid on the desks of members for their information.

Mr. HOUSTON. I object.

Mr. RUFFIN. I move that the House do now adjourn.

The motion was not agreed to.

PUBLIC LANDS—ILLINOIS.

Mr. LOVEJOY, by unanimous consent, introduced a bill for the relief of settlers upon certain public lands in the State of Illinois; which was read a first and second time, and referred to the Committee on Public Lands.

SAFETY ON STEAMBOATS.

Mr. WASHBURNE, of Illinois. I ask leave to have printed a report, to accompany the bill for the better protection of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes, which has been referred to the Committee on Commerce.

No objection being made, it was so ordered.

And then, on motion of Mr. SMITH, of Virginia, (at four o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, JANUARY 26, 1859.

Prayer by Rev. J. R. NICHOLS.

The Journal of yesterday was read and approved.

LEGISLATURE OF KANSAS TERRITORY.

The PRESIDENT *pro tempore* laid before the Senate the following joint resolution of the Legislature of Kansas Territory:

Joint resolution asking for an addition of twenty days to the present session of the Legislative Assembly of Kansas Territory.

Whereas the organic act of Kansas Territory restricts the time for the regular sessions of the Legislative Assembly to forty days, including Sundays; and whereas, owing to the complex and conflicting condition of the laws of this Territory passed at the first, second, and third regular sessions of the Legislative Assembly, it becomes absolutely necessary to have a complete revision of said laws and extended additional legislation: Therefore,

Be it resolved by the Governor and Legislative Assembly of the Territory of Kansas, as follows:

First. That the Congress of the United States be, and the same is hereby, respectfully requested to so amend the organic act of the Territory as to extend the time of the present session of the Legislative Assembly to the term of sixty days.

Second. That the Governor be requested to forward a copy of the foregoing preamble and resolutions to the Presiding Officers of the Senate and House of Representatives of the Congress of the United States, and to the Hon. MARCUS J. PARKER, Delegate for Kansas, requesting early attention thereto.

A. LARZELERE,

Speaker of the House of Representatives.

C. W. BABCOCK,

President of the Council.

I hereby certify the above to be a correct enrollment of

joint resolutions of Council No. 3, and that the same passed the Council, January 11, A. D. 1859.

A. SMITH DEVENNEY,
Secretary of Council.

I certify that the above joint resolutions passed the House of Representatives, Tuesday, January 11, A. D. 1859.

B. P. AYERS,
Clerk of the House of Representatives.

Approved, January 14, 1859.

S. MEDARY.

Mr. HAMLIN. I move that it be referred to the Committee on Territories.

The motion was agreed to.

CREDENTIALS.

Mr. HAMLIN presented the credentials of Hon. WILLIAM PITT FESSENDEN, elected a Senator by the Legislature of the State of Maine for six years, commencing on the 4th day of March 1859; which were read, and ordered to be placed on the files.

PETITIONS AND MEMORIALS.

Mr. CAMERON. I am requested to present a petition signed by one thousand citizens of Blair county, Pennsylvania, asking for a modification of the tariff so as to protect coal and iron. At the request of the petitioners, I move that it be read.

The Secretary read it, as follows:

To the honorable Senate and House of Representatives in Congress assembled:

Your petitioners respectfully represent that the agricultural, manufacturing, and commercial industry of our country is now languishing, and labor prostrate; that the revenues of the Government are insufficient to meet the daily expenses; that there is no encouragement for the investment of capital, or employment for labor; and that all these evils will continue until Congress shall so modify the revenue laws of the Government as to give protection to the labor and capital of our own country.

That the revenue laws, as at present, and have been for the past twelve years, so arranged as to rather protect foreign labor and mechanics than our own, taxing the raw material higher than the manufactured article in many instances, as on iron and cutlery; as on tin plate and tinware; and the high duties on coarse wool, dye-stuffs, &c., used by our manufacturers, which we do not produce.

And further, that we, the people of Blair county, Pennsylvania, of all parties, believe that labor and revenue are identical; that the measures that prostrate labor destroy revenue; and that protection is a great national measure that should be permanent, and not subject to party influence and control; and that no section of our great country can prosper permanently, without fair and just protection from the inroads of foreign influence, capital, and labor.

And they further represent, that from the experience of the past, the specific principle should be adopted in lieu of the *ad valorem* on all articles coming in competition with our growth or manufacture; that the *ad valorem* principle is a sliding scale against our own productive industry; and, as a remedy for the evils complained of, that weights and measures be generally used, in all cases where it can be done, in adjusting the revenue articles of foreign growth and manufacture.

Your petitioners therefore pray that you will at this session of Congress so revise the laws as to give complete protection to the labor and capital of our own country, in preference to all others.

Mr. CAMERON. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. COLLAMER presented a petition of citizens of Cass county, Nebraska, protesting against a dismemberment of that Territory, and the annexation of any part thereof to the Territory of Kansas; which was referred to the Committee on Territories.

Mr. WADE presented a petition of residents of Trumbull county, Ohio, who were soldiers in the war of 1812; and a petition of citizens of Trumbull county, Ohio, not soldiers in that war, praying that a law may be passed granting pensions to the soldiers of that war; which was referred to the Committee on Pensions.

Mr. FITCH presented the petition of Israel Johnson, praying compensation for services and supplies furnished to the Miami and Pottawatomie Indians, by order of United States Indian agents; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN.

On motion of Mr. BIGLER, it was

Ordered, That Seneca G. Simmons have leave to withdraw his petition and papers.

CHANGE OF REFERENCE.

Mr. HALE. Yesterday, I introduced on leave a bill for the relief of the widow of Charles Pearson; which was referred to the Committee on Claims. Upon the suggestion of the chairman of that committee that it more appropriately be-

longs to the Committee on Patents and the Patent Office, I move that the vote by which it was referred to the Committee on Claims be reconsidered, and that it be referred to the Committee on Patents and the Patent Office.

The motion to reconsider was agreed to; and the bill was referred to the Committee on Patents and the Patent Office.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Richard Roman, a commissary of subsistence during the late war with Mexico, praying to be credited with an amount disallowed on the settlement of his accounts, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia.

He also, from the same committee, to whom was referred the petition of Seneca G. Simmons, praying to be released from liability for certain public money stolen from his possession in Mexico, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

He also, from the same committee, to whom was referred the petition of Simpson P. Moses, praying to be allowed the benefit of the second section of the act of July 21, 1852, fixing definitely the compensation of the collector at Astoria, in the settlement of his accounts as collector of the district of Puget Sound, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the joint resolution (H. R. No. 21) for the relief of Hall Neilson, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the memorial of Ann Scott, widow of William B. Scott, asking that authority be given to the accounting officers of the Treasury to allow her a commission upon the disbursements of her said husband, as pension agent, submitted a report, accompanied by a bill (S. No. 533) for the relief of Mrs. Ann Scott. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. HAMMOND, from the Committee on Naval Affairs, to whom was recommitteed the memorial of Samuel James, Ignatius Lucas, Charles Tiley, and Thomas S. Bingey, with the previous adverse report of the committee, reported adversely thereon; and the report was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was recommitteed the memorial of Joseph Humphries, submitted an adverse report, which was agreed to, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Franklin Kelsey, of Middletown, Connecticut, asking an appropriation to enable him to build the model of a steamboat on new principles, in order to test the value of his invention, reported adversely thereon; and the report was agreed to.

He also, from the same committee, to whom was referred the petition of Charles C. Walden, and the resolution of the Senate in relation to communication by telegraph between Key West and Cuba, asked to be discharged from their further consideration, and that they be referred to the Committee on Military Affairs and the Militia.

Mr. REID, from the Committee on Patents and the Patent Office, to whom was referred the petition of V. A. Wemple and George Westinghouse, praying that the Commissioner of Patents be authorized to hear and determine their application for an extension of a patent for an improved grain separator, reported adversely thereon; and the report was agreed to.

Mr. RICE, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 460) to authorize the establishment of a northern Pacific mail route, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 366) authorizing the establishment of a northern Pacific mail route,

asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 501) to establish the Lake Superior and Pacific overland mail route, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of B. B. Meeker, praying the establishment of an overland mail route from Lake Superior to Puget Sound, with a branch to the Pacific, in Oregon, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of citizens of Minnesota, praying the establishment of a mail route from St. Paul, to the navigable waters of the Columbia river, and to Puget Sound, asked to be discharged from its further consideration; which was agreed to.

DISTRICT BUSINESS.

Mr. BROWN, from the Committee on the District of Columbia, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That Saturday of the present week be set apart for the consideration of business relating to the District of Columbia.

LIGHT-HOUSES.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be instructed to inform the Senate what amount has been expended for the last five fiscal years respectively, for the support and repairs of light-houses, and also for expenses of construction of the same, distinguishing the expenses on the northern lakes from those on the Atlantic and Pacific coasts; also what charges are levied by other countries on vessels of the United States for light duties, what may be approximately stated as the annual amount thereof, and what would, in his opinion, be a sufficient charge per ton on vessels navigating on the Pacific and Atlantic coasts to meet the annual expenditure for construction, repairs, and support of light-houses on said coasts; and a like estimate in relation to light-houses on the northern lakes.

FORTIFICATIONS ON SAN FRANCISCO BAY.

Mr. GWIN. I submit the following resolution:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire into the allegations of fraud in the proposed purchase of a site for the fortifications upon the north side of the bay of San Francisco, and that the said committee be authorized to send for persons and papers.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution today.

Mr. STUART. I object to it. I think we ought to take a little time before we authorize the committee to send for persons and papers to California. I think the resolution had better lie over.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rules.

ATTORNEY GENERAL'S OFFICE.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of making such changes in the organization of the Attorney General's office as will improve its efficiency without increasing its aggregate cost to the Government.

COMMERCIAL AGENCY.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of restoring the compensation formerly attached to the commercial agency at St. Martin, under the act of March 1, 1855, or of increasing the salary of the commercial agent at that place to an adequate amount.

BILLS INTRODUCED.

Mr. FITCH, in pursuance of previous notice, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 534) to change the relations of the United States with the various Indian tribes within the limits thereof; which was read twice by its title, and referred to the Committee on Indian Affairs.

INDIANA ELECTION QUESTION.

Mr. SEWARD. I ask the Senate now to take up for consideration a resolution which I submitted two days ago, authorizing the admission

to the floor of the Senate of two gentlemen from the State of Indiana, claiming to be Senators in Congress from that State.

The resolution contemplates merely their admission, as a matter of respect to the State and courtesy to them, to the privilege of attending upon the floor of the Senate; conferring upon them no rights of debate or of argument, or to sit as members of the Senate.

Mr. MASON. I should like to hear the resolution read for information.

The Secretary read it, as follows:

Resolved, That Hon. Henry S. Lane and Hon. William M. McCarty, who claim to have been elected Senators from the State of Indiana, be entitled to the privilege of admission on the floor of the Senate, until their claims shall be decided.

The PRESIDENT *pro tempore* put the question on taking up the resolution, and declared that the yeas appeared to have it.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. IVERSON. I am very much inclined to vote for taking up the resolution, in order that we may lay it on the table for the rest of the session. I think we had better get rid of it in that way. If we do not take up the resolution now, it is open to be moved to be taken up every morning during the whole session; and I think, myself, the Senate owes it to its own dignity and to the question itself, to take up the resolution and decide it at once. If it be taken up—I believe I shall vote for taking it up—I shall move to lay it on the table for the remainder of the session, so that we shall have no further trouble with it.

Mr. MASON. I agree entirely with the Senator from Georgia. I would consider the resolution out of respect which I entertain properly to a State and to the Senator who offered it. I would consider it also for the respect which we entertain to the State to which it relates; but I think, with the Senator from Georgia, that the proper disposition of it is to lay it upon the table. I have certainly very great respect for all the States of this Union, and would give them the freest access to questions upon this floor; but those States must have some respect for the Senate and its past history. The Senate has finally decided upon the question which it seeks to reargue.

Mr. GWIN. I hope the call for the yeas and nays will be withdrawn. There will be no objection to taking it up.

Mr. SEWARD. I withdraw the call for the yeas and nays.

The PRESIDING OFFICER. The Chair hears no objection, and the call is withdrawn.

The motion to take up the resolution was agreed to.

Mr. TRUMBULL. Mr. President, I trust that the resolution will not be so summarily disposed of as to lay it on the table. It seems to me that it is due to one of the sovereign States of this Union, which has sent two persons here claiming seats upon the floor of the Senate as members of the Senate, that they should at least be permitted, as a matter of courtesy, to come within the Senate Chamber. We have adopted a very strict rule in regard to the exclusion of persons. Under the rules as they existed in the old Senate Chamber, I believe one, or perhaps both, of these gentlemen would be entitled to come upon the floor of the Senate.

It is not a resolution to authorize them to take any part in the proceedings of the Senate. They are sent here by one of the sovereign States of this Union; and while the matter is pending, it would seem to me that there would be a propriety in their being here, so that they could be consulted when the matter comes up in the Senate. It is settling no right, nor is it granting any privilege that presupposes a right. We allow a number of persons, under our present rules, to come inside of the Senate Chamber, who have no connection with the body. It is not, as the Senator from Virginia would seem to intimate, and I was quite surprised at the remark which he let fall, that this was a decided case. I was very much surprised, because, in looking into the history of similar cases to this, I have found the Senator from Virginia, after having voted that certain persons were members of Congress, subsequently, at a succeeding session—after having given that vote upon the report of a committee where the whole matter had been argued and discussed

for days—when, afterwards, persons came and claimed those seats by a subsequent election, that honorable Senator voted to rescind the vote which he had given at a former session in favor of the right of the parties who then claimed seats, and the resolution was rescinded; and I am a little surprised that now it should be taken for granted as a precluded matter.

Mr. SEWARD. State the case.

Mr. TRUMBULL. Mr. President, in the Twenty-Fifth Congress of the United States, at its first session, there appeared in the other wing of the Capitol, from the State of Mississippi, two gentlemen, Messrs. Claiborne and Gholson, claiming to be elected members of that Congress. When they applied for admission, objection was made to their being sworn in; but they were sworn in after some little discussion, and they voted for Speaker. Their credentials were then referred to the Committee of Elections in the House of Representatives; and that committee, through Mr. Buchanan, made an elaborate report, concluding with a resolution that Messrs. Claiborne and Gholson were entitled to seats as members of the Twenty-Fifth Congress. That resolution was discussed for days, and finally it was adopted; and Messrs. Claiborne and Gholson were declared to be members of the Twenty-Fifth Congress.

This was at a special session held in the fall of 1837, I think. At the regular session of Congress, which assembled in December following, two other gentlemen appeared in the House of Representatives, Messrs. Prentiss and Word, who had been elected at a regular election held during the fall. They presented their credentials, and claimed, not to be admitted upon the floor of the House of Representatives, but to be admitted as members of the Twenty-Fifth Congress. Their credentials were referred to the Committee of Elections; a report was made, and the matter was reinvestigated; and the doctrine of *res adjudicata*, that the House of Representatives was concluded by the vote which had been given at the special session, was treated as absurd as applied to a political body; and, on a resolution offered, if I recollect aright, by a gentleman now occupying a seat on this floor from the State of Tennessee, [Mr. BELL.] declaring that the resolution adopted at the prior session, which had declared that Messrs. Claiborne and Gholson were duly elected members of Congress, should be rescinded, I find the vote of the Senator from Virginia in the affirmative. It was rescinded; and Gholson and Claiborne were turned out of Congress by his vote, after he had voted at a previous session to give them their seats.

Now, sir, is this to be treated as a settled adjudicated question? and is that objection to be made to the proposition to extend this courtesy? Why, sir, I expect the gentlemen claiming seats from Indiana not only to be admitted within the bar of the Senate, but to seats on this floor, which they are as clearly entitled to as you or I. I expect they will participate in our debates; but that is not asked now. The memorial of the State of Indiana is pending in this body, and here is a mere act of courtesy to be refused to these gentlemen. I think it is a most extraordinary proceeding. This resolution is to be disposed of by laying it upon the table at once, as if it was a settled question; and the reason given by the Senator from Virginia is, that it is an adjudicated question. Adjudicated, sir! Between whom? If the Senate is to be governed by the narrow rules of law, by the technical proceedings in the courts of justice, even then it is not an estoppel. In order to plead one judgment in bar of another, it must be between the same parties, and the parties must have been properly before the court. Has the State of Indiana ever been before the Senate of the United States? When? It is true the right of the persons occupying seats was questioned at a former session of Congress; but questioned by whom? Not by the State of Indiana, nor by any department of her government; and I remember that it was made an argument in favor of the sitting members at the time, that the State of Indiana had made no objection through any part of her government. Certain Senators and Representatives of that State did object; but the State of Indiana, as a sovereign State of the Union, through her Legislature, did not then appear here. Have the cases of Messrs. Lane and McCarty been passed upon by the Senate? Never. They were not

here; they had no notice of this proceeding; they were not then elected members of this body.

But, sir, I did not mean to be drawn into an argument of the question at this stage of the proceeding. What I have said is only in reply to the idea thrown out by the Senator from Virginia, that this is a settled matter and is not to be inquired into. Why, sir, how can you tell, until you investigate it, what facts may be presented by the State of Indiana? How does the Senator from Virginia know but that we may have been imposed upon? That Senator voted with me at the last session of Congress, that persons occupying seats were not entitled to them. I have no doubt he entertains the same opinion still; and the respect I have for him for avowing and maintaining his honest opinions, induces me to believe he will vote so still. Sir, it is greatly to his credit that in the Twenty-Fifth Congress, after having cast a vote in favor of giving seats to certain gentlemen from Mississippi, when he found that they were not constitutionally entitled to seats, he reversed that decision. He will not have to reverse any decision in this case, if he shall come to the conclusion to rescind a resolution of a former session.

Having said this much, I trust that, without opposition, without discussion, this mere act of courtesy will be extended to the State of Indiana. I will say one other word. The Senate has not only admitted persons claiming seats within its bar at former sessions, but it has allowed them to discuss the question of their right to seats. Why, sir, I recollect that a few years ago one of the present Senators from Florida contested the right of a gentleman then occupying a seat here as Senator from that State, and the gentleman who so occupied the seat, Mr. Morton, according to my recollection, offered a resolution that the contestant be admitted, not only within the bar of the Senate, but upon the floor of the Senate, to advocate his right. How different was the magnanimity displayed on that occasion by the sitting member to what we see to-day? Then the sitting Senator himself came forward with a resolution asking that the gentleman who contested his right to the seat should not only be admitted within the bar of the Senate, but should be permitted to advocate his claim, and the Senate voted to give him that right. I am informed by gentlemen around me that I am mistaken as to the Florida case; that it was Mr. Mallory's, and not Mr. Morton's, seat that was contested. My recollection was that it was Mr. Morton's seat. However, it is immaterial as to the individual; the case exists. With these precedents before us, it would seem to me to be so unusual, and so disrespectful to the State of Indiana, and so discourteous, to refuse this request, that I cannot but think, on reflection, that this resolution will be adopted.

Mr. MASON. Mr. President, the Constitution of the United States makes the Senate, as it makes the House of Representatives, the sole judge of the returns of the election, and the qualifications of its members; and from its decision there is no appeal. Now, the election of the Senators from Indiana was contested at the late session; and according to my recollection, although I do not deem it material, we had memorials here from those who claimed to be the majority in the two Houses, or one House, of the Legislature. They were represented in some form; and very certain it is, the case was elaborately inquired into by the Judiciary Committee, upon the order of the Senate, and a report made upon it; and after a long and searching debate, by a vote of the Senate, (in which, by the way, I did not concur,) it was decided that the sitting Senators were entitled to their seats. The case is ended, in my judgment; and I do not consider that the Senate of the United States would be in the proper discharge of its constitutional duty if it permitted a subsequent election in the State of Indiana, or any other State, to be brought here to disturb that decision. It is for that reason that I shall presently move to lay this resolution on the table, that we may dispose of it, and go on with the regular business of the Senate.

Now, sir, in reference to what has been said by the honorable Senator from Illinois as to any vote that I may have given in the House of Representatives on an election in Mississippi, I will only say this to him: I gave that vote, whatever it was, more than twenty years ago; I have never

looked at the record since; I do not know whether he has correctly apprehended the facts which he says pertain to it, and which he has stated here; I have never looked back to it; I am uninformed about it; but if, at the special session in 1837, the House, by its vote, declared the sitting members entitled to their seats, and an election took place subsequently to that in the district, and the members thus subsequently elected claimed their seats; and if I voted as the honorable Senator says I did on that state of facts, I voted wrong in my present judgment. But what the facts were, I am uninformed, for I have never looked back at that record. I move to lay the resolution on the table; and on that question I ask for the yeas and nays.

Mr. SEWARD. I hope the honorable Senator will withdraw the motion.

Mr. MASON. I cannot withdraw it.

Mr. SEWARD. I appeal to the honorable Senator to be heard on my own motion.

Mr. MASON. I beg the Senator's pardon. Certainly, I withdraw it. I forgot that the Senator offered the resolution.

Mr. SEWARD. I knew that the honorable Senator misunderstood the posture of the question.

Mr. President, let us proceed in this matter carefully, a little slowly, and probably we shall act quite as safely. In the first place, let me disembarass the question of a difficulty lying at the threshold. The honorable Senator from Georgia [Mr. IVERSON] allows us to take up the question for consideration, for the purpose of more effectually suppressing the consideration of it, by laying it upon the table, a courtesy which is given to us at the expense of all the interest we have in the question itself. The ground upon which that extraordinary position is assumed by the honorable Senator from Georgia is, that the Senate may, every day in the session, from this on until the 4th of March, be disturbed with a renewal of the question. I am sure the honorable Senator from Georgia knows me well enough to know that I am the last member of the Senate who may be expected to pursue a factious course in appealing from the deliberate, well-considered determination of this body.

I desire to act out my entire responsibility in regard to the question of the Senators from Indiana. I desire to oblige, so far as a reasonable effort can go, the honorable Senator from Georgia and every other member of the body to act out his responsibility. When our duties in this direction shall have been performed, and a decision has once finally been made on the subject, then I shall acquiesce, leaving the review of the whole matter to the people to whom it belongs. Therefore, it is not necessary to resort to this extraordinary measure to suppress debate. If it be decided to-day, I shall not disturb the decision to-morrow.

Now, let me say, that questions are always the more wisely decided if we adopt the process of analysis, and lay entirely out of view all collateral and subordinate or future questions, and take up the precise one with which we have to deal in the present case. That precise question to-day is not whether these claimants are Senators for the State of Indiana; it is not the collateral and future question whether a decision made by the Senate at the last session admitting two other gentlemen is *res judicata* and conclusive. But the question is this small, simple, unimportant one, namely: whether two gentlemen from Indiana, sent here by the Legislature of that State with a claim of title to represent her, instead of two other persons who are here now as Senators upon the floor, shall be allowed the privilege of standing behind the backs of the two occupants of the seats which they claim, and of hearing and seeing on the floor of the chamber itself how the claim is disposed of. At this hour, these claimants representing the State of Indiana are in the galleries, looking down from among a great crowd of spectators, and listening to this debate whether they shall be allowed to appear here and move here and consult here in regard to the matter of establishing their claim. That is the whole of it.

Now, what is the nature of this extraordinary privilege? I have seen it conferred, since I have been a member of the Senate, by a vote, upon a patriot from Hungary; I have seen it conferred, by a vote of the Senate, upon the great apostle of temperance from Ireland; I have seen it, by the

vote of the Senate, bestowed upon foreign ministers; and until this year I have seen the poor privilege of a place on the Senate floor awarded to every person who had ever been a Governor of a State or a member of Congress, or who was a member of the Legislature of a State, or a minister abroad, or who held a responsible position in the Army or Navy of the United States. What will it cost the Senate of the United States to allow two gentlemen, coming with this claim, to be upon the floor and be silent? It will cost just the number of square feet that they will occupy. There are, in the Senate Chamber, three thousand two hundred square feet, that is, the contents of the floor; and the occupants of it are sixty-four in number. It will not crowd the Senate very much to allow two more persons, who cannot cover more than eight square feet, to stand upon the floor among us.

What else will it cost? Nothing. What harm can it do? Suppose that the decision under which the two occupants of those seats were admitted is *res judicata*: the appearance of these two gentlemen in this place will not disturb that decision. They can neither vote nor speak. They will be as silent here as they are in the galleries.

The PRESIDENT *pro tempore*. Will the Senator pause for a moment?

Mr. SEWARD. Certainly.

The PRESIDENT *pro tempore*. The hour of one having arrived, it becomes the duty of the Chair to announce the special order.

Mr. SEWARD. Probably the Senate is desirous to close this question. I shall occupy but a very few minutes more, and then they may make such disposition of it as they think proper.

Mr. MASON. Will you renew my motion?

Mr. SEWARD. I will settle that matter to your satisfaction. I will not undertake to move to lay it on the table myself. Shall I go on?

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate that the Senator shall proceed?

Mr. GWIN. I do not want to interrupt the Senator, but I should hate very much to have the Pacific railroad bill go over. I merely make that statement.

Mr. SEWARD. No one wants the Pacific railroad to go on more than I do; but I shall conclude what I have to say in a very few words, and then Senators can dispose of this question, and we can take up the Pacific railroad bill.

I have shown that this judgment of the Senate will not be disturbed. Let me advert, for one moment, to the mere propriety of this motion. The rules of the Senate, practically construed, and construed as they usually are applied, would admit these two gentlemen to a place on the floor without this resolution. The rules of the Senate are, that "Senators" are entitled to seats on the floor. It is made for Senators. The practical rule which has been adopted from the foundation of the Government to this time is, that upon all subordinate questions those who are *bona fide* claimants to be Senators are regarded as Senators. And so in the other House; those who are *bona fide* claimants to seats in the House are treated and regarded, for all purposes except deliberation, speaking, and voting, as members of the House of Representatives; and they are so treated throughout the whole period when their claim is pending. They may either be admitted in the first instance, and the question be acted upon, and neither party be allowed to speak or vote; or they may be admitted upon the floor, and the parties may be allowed both to speak and either vote; or there may be a prejudgment of the case, and one be admitted to vote and to speak, and the other wait for a reconsideration and final determination on that question. That is just what is proposed here.

This case has yet to be argued. It has yet to be reconsidered. The Senate has concluded itself against denying a reconsideration of its former judgment. It has received the memorial of the State of Indiana, presenting these Senators. It has received it respectfully. It has respectfully referred it to the Committee on the Judiciary; and the Senate itself, in doing this, knows nothing of the merits of the controversy. It does not know that to-morrow morning the Judiciary Committee may not report that the incumbents are not entitled to the seats, and that the applicants are. It is respectful to the State, and courteous to the applicants, and just and wise, if we would preserve

the public confidence in our fairness and impartiality, to admit these claimants to the privileges which I have respectfully asked in their behalf. Mr. President, I have done; I stand only waiting until some person opposed to me shall rise for the purpose of renewing the motion which I am not at liberty to do myself.

Mr. BAYARD. I have but a very few remarks to make on this subject; but, after those of the honorable Senator from New York, I deem it proper to say a word or two. There is a broad distinction applicable to all resolutions of this kind, in my judgment; and that is, where the claim is made to a seat in the Senate, founded upon a matter which the Senate will not judicially notice, we may admit the party to the floor of the Senate for the purpose of being present when his claim is discussed. I think it will hardly be doubted that the Senate of the United States will judicially notice their own action. They know the fact that, at the last session, on a contest, they decided, under the authority confided to them by the Constitution, that the two honorable Senators from Indiana, who are now sitting upon this floor, were entitled to their seats for the respective terms for which they professed to be elected. The Senate know, judicially, that there is no vacancy in the body from the State of Indiana; and knowing that, with all the respect that I am disposed, as much as any member of this body, to pay to the request or memorial of a State, whether it comes from the representation of her Executive or of her Legislature, I think we owe some respect to the decisions of the Senate, even though they may not have accorded with our own individual judgment.

Sir, in the better times of the Republic, as early as the year 1798, precisely, in principle, a parallel case existed. A Senator from my own State was appointed by the Executive, under the authority of the Constitution, as he supposed, the Legislature having met and adjourned after the vacancy occurred without making any appointment. When his credentials were presented to this body, his right to a seat upon this floor was objected to, and the Senate refused him permission to come upon the floor until a committee had reported whether he was or was not entitled to a seat. That was done because the basis of the claim was not any question of disputed fact; because the Senate would judicially notice not their own proceedings merely, but the fact that the Legislature of the State had been in session, and that there was no power in the Governor, under the authority confided to him by the Federal Constitution, to make the appointment after it had been in session and had adjourned. In that case, though, as in this, they referred the claim to a committee for a report on the subject, and the committee did report; they primarily refused admission to the Senate until that report was made; and when it was made they decided against the right of the party to a seat.

Now, sir, let me suppose a case which would make it stronger. The Governor of Delaware represents, within the extent of the authority connected with senatorial appointments, the State of Delaware, just as much as the Legislature represents the State, or as either of those bodies represents the State of Indiana; it is the action of the State in either case, and entitled to the same respect, and no more. Now, suppose that, after the decision of the Senate of the United States, the Governor of Delaware had chosen to make a second appointment, and sent the same or another person here to take a seat: would there be no disrespect to the Senate of the United States in thus revising their decision, on the part of the Governor? If the rule applies to a Governor, is there no disrespect to the Senate of the United States when the Legislature of Indiana, in defiance of the decision of this body, which is, that there is no vacancy in the representation from Indiana, chooses to make an election? I hold we are bound so to treat it. I hold, therefore, that until a committee have reported, showing that this decision is not final for the purposes of admission on this floor, we ought to adopt the rule that all the matters on which these seats are claimed, are matters which the Senate will judicially notice. The memorial has been read; we know the grounds of the claim, and we know the facts judicially—the only facts that would interpose to the right of these claimants to take their seats. Under these circumstances, in my judgment, it would not be

becoming to pass the resolution which is now before the Senate until there has been action of the Senate reversing (if such a thing be possible) the decision deliberately made, after a long contest, at the last session. I move to lay the resolution on the table.

Mr. BELL. I hope the gentleman will allow me to say one word. I wish to ask the Senator from Virginia a question.

Mr. BAYARD. If the Senator will renew the motion after he has made his remarks, I will withdraw the motion.

Mr. SEWARD and others. I hope not.

Mr. BELL. I will give the floor to the Senator from Virginia, or the Senator from Delaware, after I get through. I wish to ask whether the Senator from Virginia thinks that I ought to reverse the judgment which I expressed in the proceeding, in which I took an active part, in 1837, upon a case which virtually involves the precise question here? The question in 1837 was not whether those gentlemen were entitled to their seats temporarily, or upon an election for a special session; but whether they were Representatives, and to be recognized as Representatives, for the Twenty-Fifth Congress. The irregularities were all known. The question was referred to the committee, and they reported, after full consideration, that they were entitled to be members of the Twenty-Fifth Congress; and a resolution that was reported to that effect, was passed by a majority of that body. When the question came up again at the regular session of the same Congress, and when two other parties came forward and claimed to be the rightful Representatives of the State of Mississippi, in the House of Representatives, elected subsequently according to law, the members holding seats under the decision deliberately pronounced by the House of Representatives at the special session, interposed the decision of the body under the Constitution, and claimed it to be an estoppel, as a constitutional decision of the body which was irrevocable. They pleaded the former decision; they pleaded that the circumstances of the case were well known, and that they had been deliberately voted to be members of the Twenty-Fifth Congress. The question was, whether that decision must stand, right or wrong. Upon a question which I believe was proposed by myself, a resolution which I offered, the vote was equal, and the Speaker of the House decided it. The Speaker of the House, who belonged to the party having the majority, decided against it in the first place.

Mr. SEWARD. Who was the Speaker?

Mr. BELL. Mr. Polk. That was reversed afterwards by a majority, not by giving the seats to the parties who appeared and claimed to have been elected at the regular election in Mississippi. The House would not give them the seats, but determined to rescind the resolution of the special session. The House would not then give seats to the members who were legitimately entitled, according to the laws of the State of Mississippi, made in conformity with the Constitution of the United States, but remitted it back to the people to decide.

My honorable friend from Virginia has now declared that if he then voted as he is said to have voted on that occasion, he is clearly of opinion that it was a wrong vote, as I understand him. So far as the question is, whether the decision of the Senate in favor of the sitting Senators must stand upon the proposition that it is *res adjudicata*, the cases are precisely similar. That was a decision under the Constitution, as deliberate in all its forms, and founded upon an examination as valid. There cannot be any distinction drawn between that case and this on that ground. Now, I ask my friend from Virginia if I can turn around and say that I will not recognize the right of the State of Indiana to contest the decision of the Senate, either from respect to the Senate, or upon any other grounds. He says now, if I understand him, that he thinks his vote in the House of Representatives was a wrong one.

Mr. MASON. I hope the Senator will allow me to interrupt him for a moment. The Senator, as I understand, inquires of me how I would advise him to vote on the present question, having regard to a vote which he alleges he gave on a former occasion. Now, I would say to the Senator in the first place, that I have such respect for his years and for his experience compared with mine, that it would be more than presumption in me to

suggest any advice; but I should be more guarded in doing it from the manifestations which the honorable Senator has given—I say it with all respect—again—of a disposition now to vote wrong. I should be very guarded in any advice whatever.

What I said heretofore was this: I have never looked back since that case occurred in the House of Representatives, to anything that passed; I do not remember the facts connected with the case; it occurred more than twenty years ago; but if that case were exactly upon its facts as this is, and I voted to rescind a judgment given by the House upon an election properly and formally conducted under the laws of the State, thereby allowing the principle that the House could go back and inquire into what it had once settled, I voted wrong; and if the honorable Senator stands in that position, and I could venture to give any advice, I would say to him I think it is better to retract the error. But I utterly deny that that case was like this, because I have so much respect for that Senator's judgment, and some little for my own, that I hardly think we should have erred so far.

Mr. BELL. Well, Mr. President, I have a very distinct recollection of the main features of that case. I thought the first decision was an outrageous decision on the part of the House, in granting seats to the members who first claimed them. I thought it was doing violence, in fact, to the Constitution of the United States, supporting a gross irregularity, and one which I could conceive, would only be upheld and supported upon the ground of party feeling, and the misdirection of the judgment of the majority by which they were deluded into the support of a decision so unjustifiable.

Mr. DAVIS. If the Senator from Tennessee will allow me to interpose, I will say that I think he mistakes some facts in the history of the Mississippi case which has been brought into this discussion; and if he will permit me, I should like to make one or two statements of fact merely.

Mr. BELL. Certainly.

Mr. DAVIS. That case arose from the call of an extra session of Congress. The Constitution and laws of the State provided for an election in the November succeeding the expiration of the preceding Congress, so that between the 4th of March and the November election, Mississippi was without representation. It is even so now until October, it having been moved forward one month. When this called session occurred under the administration of Mr. Van Buren, a proclamation was issued for an election of Representatives to that called session. The people voted very generally I think, though some of them perhaps did not vote; but I think very generally the people did vote, supposing they were electing Representatives to the called session. When the case was presented before the House, it was decided. Mr. Buchanan was not in the House, and therefore did not make the report, as quoted by the Senator from Illinois.

Mr. TRUMBULL. I did not say that the present President of the United States made the report. A gentleman by the name of Buchanan appears as making the report on the Journal. I do not remember where he was from.

Mr. DAVIS. The question presented was, whether these members had been elected to the Congress. There being no contestants, there being no testimony save upon the one side, it was decided by the Committee of Elections that they were elected to the Congress; and they were admitted to their seats as members of the Congress. In the succeeding fall, at the regular time for the election, two others were chosen as members to the Congress instead of the two who had been chosen for the called or extraordinary election. When the question then came before the House, it was hardly a question which had been adjudicated, because before there had been no contestants; there had been no case presented save and except the certificate of the Secretary of State as to the number of votes cast, and for whom, at the called election. The House then decided that the members elected for the extraordinary session, though they had been decided at the previous session to be members of the Congress, could not retain their seats under the facts presented by the contesting members, whilst it was argued that the election in the fall had been affected by the decision of the House, that the sitting members were members for the Congress, and, therefore, was not

a fair expression of popular opinion. The House in this state of affairs, I think very wisely and very justly in relation to what was due to the opinions of the people to be represented, remanded the whole question back to the people, in order that an election might be held without the influence of the decision of the House, or the effect which belonged to an extraordinary election; and then the people elected their Representatives, who took their seats without further question.

Such, I think, is the history of the transaction, and such alone the question which was decided by the House of Representatives.

Mr. BELL. Does the Senator from Mississippi assume that no such resolution as I stated was passed at the special session, on the report of the committee that they were entitled to seats as members of the Twenty-Fifth Congress?

Mr. DAVIS. Yes, the committee reported, and the House adopted the report.

Mr. BELL. And that was deliberately rescinded afterwards by a vote of the majority.

Mr. DAVIS. Of course it was rescinded when the seats were declared vacant. The honorable Senator was then a member of the House. I was only a spectator.

Mr. BELL. What I said was, that the feature which made it similar to the present was, that that was an adjudication of the rights of parties by the House, under their constitutional power of being the sole judges of the election of their own members. Now, I will not assume that it is similar to the present case, for the question now is not whether the gentlemen who claim to be the Senators elect from the State of Indiana are entitled to their seats or not. I do not go into that. The question is, whether they are entitled to the courtesy of being admitted to this floor as members elect, contesting the seats of the sitting members. Now, as the precedent in 1837 establishes the position that the House did not consider themselves bound by any prior decisions which they saw fit to reverse, I do not see anything in the superior dignity of the Senate which would prevent them from reconsidering, if they think there is sufficient ground for reconsideration, a former adjudication and decision upon a like point. That is all I contend.

I may say, further, that I regret that this question has been presented here. I do not see any probability that there will be a different result in any course which the Senate may adopt at this or at the next session, in relation to this question. Therefore, I regret that it has been introduced; but when the question is presented to me, I must act as I think right. Shall I act, shall I vote, not only upon the main question, but when it is presented, whether we have the power to readjudicate it, or even in a matter of courtesy, shall I act contrary to the convictions which I held in 1837, on a similar question, and contrary to the decision of the House of Representatives ultimately? I think I cannot. That was all I wanted to declare.

Mr. IVERSON. I had intended to submit some remarks, as well in reply to the observations of the Senator from New York, as upon the general proposition; but I think that the discussion has proceeded far enough. The Senate, I am persuaded, is tired of it, and to end it, I move to lay the resolution on the table; and I give notice that I will not withdraw the motion on the application of either friend or foe.

Mr. SEWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 31, nays 22; as follows:

YEAS—Messrs. Allen, Bates, Bayard, Benjamin, Bigler, Brown, Chesnut, Clingman, Davis, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sidel, Stuart, Thomson of New Jersey, Toombs, and Ward—31.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—22.

So the resolution was ordered to lie on the table.

PRINTING OF A REPORT.

Mr. POLK. I desire to amend a motion I made on Monday morning in regard to the number of the report of the Committee on Foreign Relations on the subject of the acquisition of Cuba, that I moved to print. I named two thousand. I beg to make a motion for ten thousand.

The PRESIDING OFFICER. That motion,

under the rules, will go to the Committee on Printing.

INDIAN TREATIES.

Mr. FITCH. I have been furnished, by the Indian department, with certain Indian treaties, made during the administration of John Tyler and Martin Van Buren, and ratified. They have been acted upon by the department for years, it appears; and yet, by some omission, have never been published in our volumes of statutes. The request is, that they shall be printed with the current volume of Statutes at Large. I bring it before the Senate for the purpose of having it referred to the Committee on Printing, with instructions to direct their publication in that manner.

Mr. MASON. I suggest that the Senator had better instruct the committee to inquire into the fact, and act accordingly.

Mr. FITCH. Very well; I accept the modification. I move to refer it to the Committee on Printing.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. SEWARD. I move that the Senate proceed to the consideration of the unfinished business of yesterday, which, I think, is the Pacific railroad bill.

The PRESIDENT *pro tempore*. That is the business in order, unless otherwise directed by the Senate.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the Indian appropriation bill. It has been reported here some time, and I think we ought to take up that bill and dispose of it. I submit that motion.

Mr. SEWARD. I hope that motion will not prevail. I sincerely believe, trust, and hope, that we shall be able to dispose of the Pacific railroad bill to-day; I hope we shall be able to pass it; but, at all events, it is due to the Senate, due to ourselves, due to the country, that we make an effort systematically to come to a decision. I therefore ask for the yeas and nays on the motion of the Senator from Virginia.

Mr. BIGLER. I think it can be decided without the yeas and nays. Let us first try it without the yeas and nays.

Mr. SEWARD. Very well; let us try it without the yeas and nays, and see what the result will be.

Mr. SEBASTIAN. I cordially concur and unite with the Senator from Virginia in the policy which he so earnestly advocates here, at all times, of pressing the discussion and passage of the appropriation bills. I have no particular objection to the very early consideration of the Indian appropriation bill; but it has heretofore been customary to extend to the Committee on Indian Affairs the courtesy of allowing that bill to remain here until that committee should be prepared with the necessary amendments to offer to it. It is my expectation that I shall be ready by to-morrow; and, after that time, I shall interpose no objection to the consideration of the bill. I suggest to the Senator from Virginia to withdraw his motion, or to let the subject pass over until to-morrow, at which time I shall interpose no delay in the consideration of that bill, and shall be ready with all the amendments that will emanate from the committee over which I preside.

Mr. HUNTER. The bill was reported last week, and I thought I understood from the Senator from Arkansas, the head of the Committee on Indian Affairs, that they would be ready on last Monday. It has been laid over from time to time. However, if it can be the general understanding that we shall take up the Indian appropriation bill to-morrow, I will not push the motion now.

Mr. SEBASTIAN. I hope there will be that understanding.

Mr. HUNTER. I understand that the Senator from New York, if we do not get through with the Pacific railroad bill to-day, will not interpose it to-morrow.

Mr. SEWARD. No, sir; I have a great preference for the Pacific railroad over Indian tribes and Indian nations. I shall insist on the Pacific railroad bill to-morrow, and every day until it be disposed of.

Mr. HUNTER. Then I insist on my motion.

Mr. BROWN. I suggest to my friend and colleague on the Committee on Indian Affairs, that

we take up this bill. We need not dispose of it to-day. We can go on to the point where the Indian Committee can come in with their amendments, and then lay it aside until to-morrow.

Mr. SEBASTIAN. I have no objection to that. The motion of Mr. HUNTER was not agreed to.

PACIFIC RAILROAD BILL.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; the pending question being on the amendment of Mr. WILSON to the amendment of Mr. DAVIS.

Mr. KING. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POLK. I will state that my colleague, Mr. GREEN, informs me that he has paired off with the Senator from South Carolina, Mr. HAMMOND.

Mr. MALLORY. I have paired off with the Senator from New Jersey, Mr. WRIGHT.

The question being taken by yeas and nays, resulted—yeas 13, nays 32; as follows:

YEAS—Messrs. Cameron, Clark, Dixon, Foot, Hale, Harlan, King, Rice, Seward, Simmons, Stuart, Wade, and Wilson—13.

NAYS—Messrs. Bates, Bayard, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Chesnut, Clingman, Davis, Fitch, Fitzpatrick, Foster, Gwin, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mason, Pearce, Polk, Pugh, Reid, Sebastian, Shields, Sidel, Thomson of New Jersey, Toombs, Trumbull, and Ward—32.

So the amendment to the amendment was rejected; and the question recurred on the substitute of Mr. DAVIS.

Mr. SEWARD called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 18, nays 33; as follows:

YEAS—Messrs. Bell, Clingman, Davis, Fitch, Fitzpatrick, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mason, Pearce, Pugh, Reid, Sebastian, Sidel, Toombs, and Ward—18.

NAYS—Messrs. Allen, Bates, Bayard, Bigler, Broderick, Brown, Cameron, Chandler, Chesnut, Clark, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Kennedy, King, Polk, Rice, Seward, Shields, Simmons, Stuart, Trumbull, Wade, and Wilson—33.

So the amendment was rejected.

Mr. PUGH. I now renew the amendment which I proposed to the first section of the original bill, in lines eight and nine, to strike out the words "San Francisco in," and insert "the eastern boundary of," so as to make the clause read:

From a point on the Missouri river, between the mouths of the Big Sioux and the Kansas rivers, to the eastern boundary of the State of California.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOOLITTLE. I desire to move an amendment, by striking out all after the enacting clause of the bill, and to substitute the bill which I offered some days ago.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Chair will suggest to the Senator that that is not in order, pending the amendment of the Senator from Ohio.

The question being taken by yeas and nays on the amendment of Mr. PUGH, resulted—yeas 26, nays 23; as follows:

YEAS—Messrs. Bates, Bayard, Benjamin, Brown, Chesnut, Clingman, Davis, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mason, Pearce, Pugh, Reid, Sebastian, Shields, Sidel, Stuart, Toombs, Trumbull, Ward, and Yule—26.

NAYS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Kennedy, King, Polk, Rice, Seward, Simmons, Wade, and Wilson—23.

So the amendment was rejected.

Mr. POLK. I desire to offer an amendment.

The PRESIDING OFFICER. The Senator from Missouri will pause a moment. There is a special order in executive session, for to-day, at two o'clock, which hour has now arrived. At the last session, the Vice President in the chair, determined that in such a case it was the duty of the Presiding Officer to order the galleries to be cleared at that hour.

Mr. GWIN. I hope that will not be done.

The PRESIDING OFFICER. The Chair thinks it is a question which is not debatable. The Senator can do everything he desires after the galleries shall have been cleared.

Mr. SEWARD. I ask unanimous consent to move to dispense with the order for an executive session.

The PRESIDING OFFICER. The Chair thinks the motion cannot be made in open session.

Mr. GWIN. I appeal from the decision of the Chair.

Mr. SEWARD. It is the first thing I ever saw that unanimous consent could not do. I respectfully submit to the Chair to consider whether unanimous consent in this body cannot dispense with any rule?

Mr. HALE. I appeal from the decision of the Chair. I think the Vice President made some rulings the other day that, on a little reflection, he would reverse; and, if he would not, I think the Senate, on a little reflection, would overrule him.

Mr. DAVIS. Mr. President, I rise to a point of order. I say in open session that we cannot entertain the subject at all. It is only debatable in executive session.

Mr. POLK. I should like to state to Senators that the special order to which the Chair has called the attention of the Senate, was made on the motion of a gentleman who has paired off. He was in here a little while ago, and he informed me that he had paired off; and he will not be here, probably. I mean he paired off on the Pacific railroad bill.

Mr. TOOMBS. I object to all this. I interpose an objection to the unanimous consent asked for by the Senator from New York; and that gets rid of all these questions of order.

The PRESIDING OFFICER. The galleries will be cleared.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

PACIFIC RAILROAD.

The Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from some point on the Mississippi river to San Francisco, in the State of California.

The PRESIDING OFFICER. When the doors were closed the Senator from Missouri had the floor, to offer an amendment.

Mr. POLK. I move to amend the first section, by striking out the words "on the Missouri river, between the mouths of the Big Sioux and the Kansas rivers," and inserting:

From a point on the western boundary line of Iowa, Missouri, or Arkansas, between the forty-second and thirty-fourth parallels of north latitude.

I ask for the yeas and nays on the amendment. The yeas and nays were ordered.

Mr. HARLAN. I wish simply to say to the friends of the bill that, if that amendment be adopted, the bill will be defeated.

The yeas and nays having been taken, resulted—yeas 18, nays 33; as follows:

YEAS—Messrs. Bates, Bell, Brown, Clingman, Davis, Fitzpatrick, Green, Hammond, Houston, Iverson, Johnson of Tennessee, Mason, Polk, Reid, Sebastian, Thomson of New Jersey, Toombs, and Ward—18.

NAYS—Messrs. Allen, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Chesnut, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Jones, Kennedy, King, Pearce, Pugh, Rice, Seward, Shields, Simmons, Stuart, Trumbull, and Wade—33.

So the amendment was rejected.

Mr. HAMMOND. I move to lay the bill and the amendments on the table.

Mr. GWIN. I ask for the yeas and nays.

Mr. BELL. I hope the Senator from South Carolina will not press that motion. I have an amendment which I desire to offer and have a vote upon. I have not occupied the attention of the Senate but for a few minutes during this discussion. I will further remark to the honorable Senator from South Carolina, that my measure has been characterized in harsh terms, and the whole subject has been treated in such a manner that I think it becomes necessary for those who have taken the interest in it I have, to defend themselves.

Mr. HAMMOND. I withdraw the motion for the present.

Mr. BELL. I am obliged to the honorable Senator from South Carolina. Mr. President, a week ago, or more, I saw, or thought I saw, that no Pacific railroad bill was to be passed at this session; that, however honest and sincere many gentlemen who had advocated it were, I did not believe, nor am I under any persuasion now, that a majority will unite in favor of any proposition which can be thrown into shape, even for days to come, so as to meet the approbation of a majority of this body. I may be mistaken in that; but I was prevailed upon to withdraw a proposition which, at the time, if it had been allowed, would have closed the discussion in an hour or two upon this whole subject, for the present session; that is, if a majority of the body thought as I did—that we had spent time enough upon it, and that there was really no expectation that a railroad bill would assume a shape which would command the support of a majority of this body.

If I were at liberty to take a course on this subject which would meet the wishes of some of the friends of this bill, the honorable Senator from California among them, I would do so; but suppose the motion of the Senator from South Carolina should succeed: what opportunity would there be for me to explain my course on this subject as the author of the propositions I have presented? Or suppose the question should be taken directly on the passage of the bill: I should be equally cut off; and therefore I beg that I may be permitted to go on and explain my proposition. If it shall appear by the sentiment of the Senate that they prefer taking a direct vote on the bill afterwards, I will certainly be disposed to submit to the wishes of a majority of the body; but I am still of opinion that we shall agree upon no measure—the same opinion that I entertained when I originally offered my proposition, more than a week ago.

I was prevailed upon then to withdraw it, principally in consequence of the position of the honorable Senator from Mississippi, [Mr. Davis,] who had an amendment which conformed to his own views on this subject, which he had taken great pains to put in a shape that would accord with his principles; and, in his opinion, would, if adopted by the Senate, be a measure which could be carried out practically. When he appealed to me and to the Senate to be heard and have a vote on his proposition, I felt myself under a double obligation to do so, not only in reference to what might be expedient in the discussion of this bill, but in order to enable that honorable Senator to place himself before the country in the position which I knew he occupied. I withdrew it on that ground principally. I withdrew it to enable him to show that he stood upon a practical doctrine of the State-rights school; that he discriminated himself from the impracticable course of a portion of his party, who denounced him as having departed from the true doctrines of the general church in politics to which he belonged; and nobly, sir, has he vindicated himself. He has discriminated himself from the principal avowed by the Senator from Louisiana, [Mr. BENJAMIN,] and by his own colleague, [Mr. BROWN.] I had known, without the body of the Senate, that charges were urged against him in various quarters that he had departed from some of the cardinal outlines of the doctrines of State-rights generally held in the South; and I say he has nobly vindicated his own course, and placed himself on a ground of rational State-rights policy, as contradistinguished from the impracticable course of other members of his own party. He has done more: he has vindicated the vitality of the Constitution, and vindicated the wisdom of the framers of that instrument against a course of doctrine and of argument, and of practice to some extent, which would bring upon their memory the imputation of narrow policy. He has shown that they framed an instrument conferring the great powers of self-defense, the great powers of peace and war, and all the powers which are necessary to every efficient national Government. He has shown that there is vitality in the powers given by the Constitution, construed even by a portion of the State-rights party; but which is denied by the majority of them, perhaps, in this body.

In order to enable him to do that, I was induced to withdraw my proposition before; I design now to renew it. I do not propose to enter at large into the discussion of this question at the present time; but there are some points that I

feel myself called upon to mention. This measure has been denounced as a gigantic delusion, as a visionary, chimerical, impracticable scheme. It has been said that it would exhaust the Treasury; that the resources of the Government would not be adequate to administer this road if it should be built. Those gentlemen who have regarded a project of this kind as practicable and useful to the public interests have been assailed as extravagant in their views, and chimerical in their statesmanship; and it has been asserted that there was no just argument that could be presented to the mind of any sensible man to induce him to suppose that such a project could ever be carried out.

Another point, and this was urged by the honorable Senator from Louisiana, was, that although its friends proposed to support the measure as one which Congress has the authority to enact under the war power, that is a mere pretense; that it is really urged as a measure for the promotion of commerce, and that alone; and I think the honorable Senator assumed in the debate that it could not in any point of view be urged as a measure necessary for the national defense under the war-making power. Sir, I had supposed that in advocating such a measure as this, principally under the war power, it was not inconsistent with the exercise of that power, so far as it was proposed to be exercised by Congress, that we should ally it to commercial interests, and that we should have in view the commercial advantages which would arise from such a communication between the Atlantic and Pacific. Surely, if it be necessary as an incident to the war power, those who think it will be useful to the country, and a beneficent work on the score of the convenience and advantage which it would bring to the social and commercial intercourse between the Pacific and Atlantic slopes, may consider all these advantages. Another objection taken to this bill, principally by the honorable Senator from Louisiana, was, that although in terms the bill did not propose that the Government should directly construct the road, it was impossible that anything else could be contemplated than the construction of this great work by the Government itself, without the intervention of other agents, and that it would come to that.

Mr. BENJAMIN. Not the construction of the road by the Government itself, without the intervention of other agents, but without the assistance of other resources; that the whole of the money would come from the Government.

Mr. BELL. Then that part of the Senator's argument has not the force in it that I supposed it had; for, in the view that the honorable Senator urged, as I understood him, I would consider it rather objectionable myself. I agree with him that it would be improper for this Government, unless it was absolutely necessary, to undertake the construction of this road by its own officers and agents, without the intervention of the capital of persons or companies not connected with the Government; and on that point I desire to say a word, in reference to the argument of the honorable Senator from Rhode Island, [Mr. SIMMONS.] He seemed to think the road could only be constructed by this Government; that it would be futile to urge any measure which looked to its construction by private capital; that the only way it could be made available for the purposes he contemplated, would be for the Government itself to take hold of it; and that we should never have the road unless Congress constructed it. I understood the honorable Senator from Louisiana to take partly the same view of the intention of the promoters of this scheme.

Now, sir, in reply to those remarks of these gentlemen, I do not intend to preclude myself from taking the position that this Government has the power to construct this road as a means of military defense, without the intervention of private capital, or persons, or associations; but I should consider it a great and decided objection to such a project, that a work so gigantic as this would swell the patronage of this Government to a most alarming extent, and it would necessarily continue during a long period of time. While I consider it a necessary and essential preparation for the security of this country in the contingencies of wars, which are sure to arise unless there is some means of procuring an exemption from all foreign wars, I still hold that it is the duty of this Government to

exercise all its powers for the construction of the road, so as to guard against the effects of the corruptions that might arise from the overwhelming patronage which would be at the disposal of the Government in the section in which the road might run; guard against it by appealing to the virtue and intelligence of the people. But, sir, I disavow any intention of urging the execution of such a work by the Government directly; mainly upon the ground of the enormous patronage it would create; not alone the costs and charges it would bring upon the Treasury, but the addition of an amount of patronage which might well be feared in the future operations of this Government, particularly as the work would employ necessarily ten or fifteen years. I should fear it. I would never agree to such a proposition until all the means in our power had been adopted to ascertain whether it could not be constructed without the direct action of the Government.

But, sir, I do not think the provisions of the bill authorize the inference which has been drawn that it proposes to construct this road wholly out of the means of the national Treasury. We propose such terms to companies, corporations, or individuals, who may choose to engage in this enterprise, as we think are adequate and sufficient on the part of this Government. We propose to confer upon the company great privileges and advantages; to make certain donations of portions of the public lands lying upon the route, and to make contributions in money. The bill contemplates that, if capitalists think proper to embark their own private capital, they may undertake to construct the road with these aids. I have never heard an individual seriously advocate this bill who did not contemplate that capitalists would think proper, in consideration of the advantages conceded to them, the aids proposed to be given in lands and in money, to risk a portion of their own private capital. The object of these provisions, to induce private capitalists to embark in the enterprise, is mainly to secure a more economical construction of the road; for self-interest would undoubtedly dictate to those who had the immediate execution of the work the greatest economy in its construction. That is the main principle on which I consider that the bill was originally framed.

My amendment was predicated upon these objections. I wished to avoid the objection which might be made, if we proposed to construct the road directly by the Government. I wished to adopt some measure by which we could appeal to the cupidity, if you please, of capitalists, to make such a proposition as would leave them to say how much they would require from the Government before they would undertake such an enterprise as this.

The Senator from Rhode Island, while he was of opinion that the Government alone could undertake and execute such a work as this, was ready to suggest, though he did not make the proposition formally to the Senate, that the Government should authorize its officers to select the various routes, and present them to the next Congress, so that we might then consider and decide whether we would undertake to construct the road ourselves. He proposed that they should make not only a reconnaissance in the usual form, but a careful survey of the different routes, which would necessarily postpone the commencement of this work for two years longer, at all events. I wish to see the Senate adopt a proposition which will shorten the period within which it will be within the power of Congress to decide whether they will undertake the construction of this road, either by the Government directly or by employing or associating with them private capital.

Another objection suggested by the Senator from Rhode Island—and I thought there was something in it—was, that we propose by this bill to grant a certain amount, in lands and in money, to any company that may be disposed to bid for this work, without knowing that we are not actually proposing to offer a great deal more than will be necessary. The bill proposes to expend \$25,000 a mile for the space which intervenes between the boundary of the fertile country west of the Rocky Mountains and the fertile regions on this side of the Rocky Mountains; and he inquired, very properly, why not ask bids from those who may be disposed to cooperate with the Government in the prosecution of this work, and see how much

less they may propose to construct it for than we are voluntarily offering. As a measure of sound policy, as a measure of economy on the part of the Government, we ought to see whether we cannot make a better contract. We are acting a great deal in the dark, as to the feelings, the dispositions, and the interests of capitalists who may be tempted to embark in the enterprise, and who might make us a much more favorable proposition than we are now offering to them. Although, in my opinion, we are not offering a dollar too much, or an acre of land too much, yet there is certainly something in the suggestion; and as, under the bill in its present shape, a final decision is postponed until the next Congress, why not invite capitalists to make voluntary bids on their own terms, and then let us judge whether we shall accept them or not?

These were the general objects I had in view in presenting my amendment. I do not propose now to enter into the question of constitutional power. It has been over thirty years since I heard the first argument on that subject—and an able discussion it was—in the House of Representatives, and I think I have heard it repeated as many as a score of times since. I do not remember that I have ever heard any sentiment on the constitutional question evolved in this debate, which will not be found in the discussions on this subject from the year 1824, repeated very often, almost in the same terms, again and again, by the ablest men who have ever adorned the annals of our congressional legislation, and whose views are now to be found in the congressional reports. Some gentlemen have told us that they look upon the measure as a clear violation of the Constitution as it has been long settled.

Why, sir, every gentleman who is well read in the parliamentary history of the country for the last thirty or thirty-five years, must know that some of the ablest men from the South have always upheld the appropriation of public money for objects of this description, national in their character, not only under the war-making power, but under the postal power and the commercial power, and that, too, within the States. Who does not know that when a proposition was made, in 1816, to distribute the bonus of the United States Bank, the great leader of what is called the State-rights party of the South proposed to distribute it to aid in the construction of roads and canals, national works of internal improvement, and that he absolutely made a motion himself to strike out the words, "with the assent of the States," which were contained in the original proposition. That was Mr. Calhoun's doctrine as early as 1816. It is not necessary to go into the changes which took place in his opinions subsequent to that period. Whether any change ever did take place in his view of the constitutional power of Congress to make these appropriations, I do not know; but as to the question of their expediency, I may affirm that I do know, and that, except in regard to the improvement of the great rivers of the West—the inland seas, as he designated them—he opposed the exercise of the power on grounds of expediency. He may have maintained his original opinion as to the power, and may have changed only upon the ground of expediency. The late Mr. McDuffie, of South Carolina, maintained, with great force of argument, that Congress had the power to make these appropriations; and, for a time, he sustained the expediency of making them.

How comes it that it is now regarded as so monstrous that Congress should be called upon to make appropriations within the limits of the States? We know that Mr. Monroe, and, I presume, every member of his Cabinet, in 1817, sanctioned the doctrine of the power of Congress, not only to appropriate money for the improvement of rivers, but to aid in the construction of internal improvements within the limits of the States. I need not advert to the subscriptions that were made by the Federal Government, from 1824 to 1829, for canals—for the Louisville and Portland canal, for the canal connecting the Chesapeake and Delaware bays, and for the Dismal Swamp canal. Even when you come to that period which the honorable Senator from Louisiana had in his mind when he attributed to the Democratic party the credit, as he conceived it to be, of having put an end to these corrupting appropriations—the veto of the Maysville road by

General Jackson—General Jackson did not repudiate the power to appropriate money for the improvement of rivers, or for national works within the States. He vetoed that road upon the ground that it was a local road, not a national one. I believe that no further appropriations have been made for the construction of roads within the States since that time; but the power was not then considered as denied by the Constitution. From 1830, however, the time of that veto, up to this day, except within a few years past, liberal appropriations have frequently been made for the improvement of the rivers of the interior, and the harbors of the great lakes; and at no period has there been what may be regarded as a permanent, binding decision of Congress, which may be considered as settling the question against the power, although it is true that occasionally there has happened to be a majority in one House or the other that repudiated the power, under the Constitution, to make appropriations for rivers and harbors.

I am astonished that of late such extreme, and, as I think, impracticable doctrines—I mean impracticable in view of maintaining the efficiency and vitality of this Government—should be urged. I do not charge the honorable Senator from Louisiana with having assumed that ground; I exonerate him from it; but I observe that the honorable Senator from Mississippi, [Mr. Brown,] and other Senators in this House, have denounced, as a violation of the Constitution, the appropriation of moneys from the Treasury for a road of this character, within the limits of the Territories of the United States, beyond the jurisdiction of any State. They have denounced it as a monstrous proposition, that must engulf the Treasury and the resources of this country, if it is adopted and becomes admitted that Congress may appropriate money for the construction of this road through the Territories, where it does not touch the jurisdiction of the States. Not only do they contest it and oppose it upon the ground of inexpediency, as leading to extravagant expenditure, and, if you please, to the corruption which generally attends extravagant expenditure, but denounce it as a violation of the Constitution itself.

Sir, I will not go into all the authorities or evidence I might cite, to show that that power has been exercised by Congress again and again, in the construction of military roads, and in making donations to aid in constructing roads within the States. While I have said that I will not renounce the power of the Congress of the United States to construct a military road within the jurisdiction of the States under the war power, I would be the last to maintain or to support the exercise of any such power, except in the last resort, when no other means were presented. I would avoid all conflicts of jurisdiction between the United States and the States through which this road, or any other road that might be proposed to be constructed for military purposes, would pass; and I am of opinion that the true policy in all such cases is not to bring on a contest between the State jurisdiction and that of the United States where it can be avoided, and where the same great end that the Government would have in view in the construction of the work could be attained. I said to my friend from Rhode Island, in private conversation, that I saw no necessity for pressing the question of the power of this Government to construct this road through the States, for there could never be any impediment practically presented, and when, if we are disposed to vote the necessary means for the construction of this road, we can do it without coming in conflict at all with the jurisdiction and authority of the State of California. My friend from Rhode Island said they would be able to tax it to death, and he would not vote a dollar for such a work if it was to be liable to be taxed by the States through which it might pass. I suggested to him, and I would suggest to those who entertain his opinions, that if this bill shall pass inviting proposals for the construction of a road to San Francisco, and any company of capitalists in California or New York, or any other section of the Union should make proposals which the Government would accept, can any one doubt that the Legislature of California would promptly and cheerfully grant a charter to any individuals who should undertake the work for that portion of the road lying within their jurisdictional limits,

and exempt it from taxation, or commute the power of taxation on such terms as would not be objectionable to the projectors of the road? I say then there is no serious question arising upon this point. The bill as it is shaped may look to the construction of a road to San Francisco, but it must be taken fairly; and of course any company who shall make a bid under the bill will have in view the obtaining of a charter from the State of California, or any other State through which the road may pass, giving them the privilege of constructing it, and exempting it from taxation as long as may be desired.

Therefore, I say, there is no serious question on any one of these points. The question of constitutional power is interposed unnecessarily. The sole question for us to consider in contributing the funds of the Government to this work is, whether it is necessary as a measure of military defense. I shall say but little on that subject, conceiving that the honorable Senator from Mississippi [Mr. DAVIS] has demonstrated its necessity, with a clearness and force of fact and argument acquired by his own experience and knowledge of military affairs. He regards it as an indispensable measure for the defense of our Pacific coast. It cannot be argued away; it cannot be explained away. The honorable Senator from Louisiana, to be sure, has attempted to show that we could provide munitions of war, if that is all that is necessary, twenty-five years in advance; but the honorable Senator from Mississippi has demonstrated the impracticability of such a thing.

Various suggestions have been thrown out as to the increasing population and increasing strength and resources of California, and the contemplated States north of California, on the Pacific coast. Undoubtedly there will in time be a powerful empire in population and resources on the western slope of the Rocky Mountains and of the Sierra Nevada; but how long must be the period that will intervene until that time arrives no man can conjecture; but we all know that it must be a great length of time. The honorable Senator from Mississippi has demonstrated that it is impossible to supply certain portions of the necessary munitions of war and preserve them for any great length of time; and that, as to marching a large army across the plains, or carrying large supplies of provisions over, it is utterly impracticable, in peace or war, without this road; but that, of course, must be confined to a period of actual warfare, when our western coasts are threatened by powerful armaments—by powerful bodies of veteran troops.

Now, sir, the main ground on which I give this measure my support is, that it is not only a necessary, but an essential measure for national defense. If we conform to the maxim which has been handed down to us from Washington to this time, we should in time of peace prepare for war. I heard the late General Quitman, of Mississippi, in a public assembly, acknowledge the fact many years ago, that, from his knowledge of military operations, he regarded it as wholly impracticable to march an army to California across the intervening desert and mountains in any large body. All military men concur in this sentiment. Then I consider that we are bound to provide for this road under the war-making power. I consider it an imperative duty devolved upon this Government since the acquisition of our Territories on the Pacific. If we mean to do our duty by them, if we mean to hold them against any powerful maritime nation that may choose to blockade their coasts, to occupy those Territories, and to hold them until we build up a Navy adequate to compete with theirs, we must provide them a road of this kind. I admit there is one limit to all imperative duties—they must not be carried so far as to go beyond the resources of the country and impoverish the people; they must not cost so much as not only to exhaust the Treasury for the time being, but look to a perpetual exhaustion of it. If that would be the case here, the Government would be absolved upon the ground of necessity, because of an obstacle beyond the control of the legislative authority or the wisdom of statesmanship. Within that limitation, I maintain this Government should provide for a railroad, if it means to hold its Pacific possessions in the contingency of a foreign war; and who doubts that it will at some time arise? It is our bounden duty to provide such a road, if it is practicable, limited only

as I have described, so that it be not beyond the resources of the country.

I have said that I support this measure mainly upon the ground of necessity as a wise and necessary means for military defense, for the protection of our own territory, and our own people; but if I may advert to some of the arguments used by gentlemen on the other side of the question, I may say that the postal power may fairly and plausibly be brought in aid of the war-making power of the Government; and it was the postal power that for some twenty years in this Government was relied upon, together with the military power, to maintain the doctrine that this Government had a right to appropriate money for such purposes, even within the States. Gentlemen have said that there is no specific grant of power in the Constitution to construct a military road, and that as there is no such specific power, it is not given to Congress. The honorable Senator from Louisiana said, indeed, that a case of necessity might exist when this Government would have the power, as incident to the war-making power, to cut a road through a forest in a State, in order to reach the enemy, when they made a lodgment at any point in it. That is in actual war, *flagrante bello*. Well; if it exists then, I would ask the honorable Senator, and those who adopt his views, whether, with a wise and prudent regard to the future interest and safety of this country, looking not only to what may come, but what probably will come, we have not the power to construct roads to meet an enemy, particularly at the points where we may be most sure that one will assail us? How do you discriminate? Suppose a war is threatened, and your diplomatic relations may be considered as threatening? I do not speak of the present time, but I am putting a case that may exist. We may see war certain in the distance within one or two or three years. Shall we not be considered as having the power to provide against the contingencies of that war, and put ourselves in an attitude of defense to meet the storm when it does come? How can you discriminate between the three years that may intervene before war is to come when you anticipate it, and an actual breaking out of a war, in the construction of the Constitution as to your power to make a military road? When may we commence to meet the storm?

We speak of the cost of transporting munitions of war. Why, sir, even upon our own frontier in the last war with Great Britain, it will appear that a single piece of cannon sometimes cost \$1,000 to transport to the place where it was wanted, and it often took \$100 to transport a barrel of flour, and very often it would not reach the point where it was wanted until the necessity had passed away. How much more would be required to send provisions to California? I would speak, however, more particularly of munitions of war; for I contemplate the probability, or at all events the possibility, that the people on the western slope of the Rocky Mountains may be able to supply themselves with their own bread. I have already stated the impracticability of furnishing munitions and stores to a sufficient amount to meet the emergency that would exist in time of war.

Now, what is the postal power? The authority granted by the Constitution is simply to establish post offices and post roads—no more, if you construe it according to the letter. One gentleman says it gives to Congress the power merely to authorize post offices and post roads. What is the power we actually exercise? To carry the mails by our own agents, under contracts made by the Government, superintended by our own officers. The mails are carried by the agents and employes of this Government in every State, and no State is allowed the authority or jurisdiction of interrupting or obstructing the passage of the mails in any form. To undertake to do so, is a penal offense. What, sir, it may be asked, does the Government of the United States, within the limits of a State, assume jurisdiction and maintain its authority to force the mails through? Yes, sir, it is true; that is the practice of the Government. Suppose the States should undertake to obstruct their own highways, would it not be competent for Congress, in the execution of its duties under the postal power, to find a new way, to bridge streams otherwise impassable? If Congress should conceive that the interests of the Gov-

ernment in distant sections, required the progress of the mails to be unimpeded; could they not resort to the construction of their own roads? Have they not the same power to make it a penal offense to interfere with their own roads, as to interfere with the mails when authorized to be carried upon the roads of the States? Surely they would, if such a necessity arose; and yet no such power is granted specifically by the Constitution.

Again, where is the power to establish post offices and post roads, under the Constitution, to be exercised? Of course within the jurisdiction and limits of the United States. Whence do we derive the power to vote appropriations for carrying the mails by the Isthmus of Panama, by Nicaragua, by the Tehuantepec route, or by the Honduras route when that shall be opened? I will say nothing of the appropriation to aid in carrying the mails from this continent to Europe, or any distant parts of the world; but take the communications that are necessary to be kept up between this portion of the country and California, and where is the specific grant, under the postal power, to establish mail lines across any part of the Isthmus formed by the States of Central America? You have none.

Again, Mr. President, where is the specific grant of power in the Constitution to claim a monopoly of the business of carrying letters in this country? Gentlemen suppose they have guarded themselves in their State-rights doctrines at every point; and they call upon us to show where is the specific grant of authority as incident to the war-making power to construct a military road? I ask them where they derive the power to make it an offense against the laws of the United States to carry letters otherwise than through the regular mails established by the United States? I should like some gentleman to point it out to me; and yet you claim it, and have claimed and exercised it inexorably from the foundation of the Government. I should like some rigid State-rights man to tell me whence you derive that authority; and is there anything more latitudinarian in anything that has been proposed for the construction of these works? Nothing within my knowledge.

The authority to establish post offices and post roads is within the jurisdiction of the United States. The provision does not extend over foreign countries; it is not pretended. Then within the States, if you have power to establish post offices, can you not construct an office? You have a right to locate the office. There is a limitation to the exercise of all those powers. You cannot take private property for public use without just compensation. It requires no greater latitudinarianism to claim that this Government has power not only to appropriate in aid of, but actually to construct, military roads, than it does to contend that it may impose penalties for obstructing your mails through the States, and may punish all infractions of your laws connected with the post office establishment. To enable a postmaster to fulfill his duties under the laws of Congress, he must have some protection; he must have a shed, at least; he must have some ground on which to stand in the exercise of his duties; and hence the power to provide him an office. These are the minutiae of that argument; but the main point is, where do you find the power to do anything more than authorize the mails to be carried over certain roads, and authorize certain post offices to be established? Where do you find the power to carry that into execution in virtue of your own laws, by your own appointed officers?

Well, sir, some gentlemen have said, I believe, that but for their respect for the friends of this bill, they would say it was ridiculous for its advocates to pretend to place it on the plea of military necessity, or of political necessity, or on the ground that it was a necessary means of holding these two sections of the continent together by constructing such highways and railroads as were calculated to maintain amicable relations, good neighborhood, social intercourse, commercial intercourse, and political connection and confederacy.

The honorable Senator from Louisiana, has not made himself obnoxious to criticism in his arguments in that respect, though I think he has justly in reference to the exercise of the postal power of the country; but his colleague, [Mr. SLIDELL,] in his learned and able report upon the subject of the acquisition of Cuba, urged that

measure on the ground of political necessity; and I believe I may say that the honorable Senator from Georgia [Mr. TOOMBS] went far beyond the proposition as laid down by the Senator from Louisiana. On what ground does he place the demand for \$30,000,000 for the acquisition of Cuba? Upon the ground of political and military necessity. The argument always put by gentlemen who advocate that measure is this: it is a measure of necessity; Cuba is the key to the Gulf of Mexico; it is in such a position that in the hands of an enemy it would command or obstruct the commerce of the Mississippi, whether it descends the Mississippi river or its tributaries, or the waters which pour into Mobile bay. It is in a position which may obstruct the whole foreign exportation of the produce of the great and wealthy valley of the Mississippi. Therefore, it is not only a political necessity upon which that measure is based, but a commercial necessity also.

The honorable Senator from Georgia attempted to describe that necessity the other day, and he did it in such glowing colors, that it seemed almost irresistible to the minds of his hearers for the moment. He said that it was indispensable to the enlargement of the commercial resources of this country; and his imagination carried him under the same plea of commercial and political necessity, (and he might have said military necessity, for he incorporated in portions of his argument suggestions on all these points,) to the conclusion that we should have the whole of the Antilles, and every island in the Caribbean sea, and he hoped the time would come when not a foreign flag should wave lawfully within those waters, and the United States would cause it to be respected as a *mare clausum*. He spoke of those tropical regions as growing products which were exchangeable and always desirable as exchanges for our own. He carried that commercial necessity still further. He invoked the cupidity and avarice of our commercial interest. He attempted to show that the riches of the gorgeous East were all fabulous in respect to the generally and commonly entertained notion of the sources of wealth derived by those nations which rose to empire when enjoying the commerce of the East. It was not their gems, their myrrh, their spices, their incense, or their ivory, or what not; it was their sugar that constituted the foundation of their wealth, according to the honorable Senator from Georgia; it was the large profits derived from the carrying trade of the heavy, bulky article of sugar, that constituted the wealth so much boasted of, and which may almost be considered fabulous in the early period of the history of the connection of Europe with the East Indies. He proclaims that we have the Indies now at our feet; that they belong, by natural position, to us; that they belong, by the ordinary laws of trade, to any commercial people that has the power and resources to assert what naturally attaches to them by juxtaposition and locality; and that we ought to have all the islands of the West Indies. Is not that a plea of necessity under the commercial power? And yet the advocates of this bill are denounced on the ground that commercial advantages really constitute the main argument in favor of the construction of this road, and that the idea of military necessity is all a pretense; that it is trade and commerce, and not military defense that we are looking at.

The honorable Senator from Georgia did not fail to advert to the necessity of possessing Cuba upon the ground of its necessity to our military defense also. When is the critical time to come when we may exercise such a power under the plea of military necessity? Not now. Nobody pretends that we are at war with Spain now, or with England and France, who are understood to have guaranteed the possession of Cuba to Spain; but gentlemen think it likely, or possible, that war will break out, or that we shall some day be involved in war. What is that but the argument urged by the honorable Senator from Mississippi, [Mr. DAVIS], and other advocates of the Pacific railroad? Gentlemen surely forget themselves. The honorable Senator from Georgia is one of the sternest opponents of this measure, on the ground of the want of constitutional power, and the want of necessity. He says these people will be able to defend themselves. In process of time, they may. The arguments urged and relied upon by the advocates of a Pacific railroad do not differ

from those which he used in regard to Cuba, except that they are more confined to the military power than to the commercial power. The acquisition of Cuba is urged as a political inevitable necessity, as one we cannot disregard. It must come to the United States, and constitute a part of the great American empire, it is said. So we may say that we must hold the slope of the Rocky Mountains on the Pacific ocean. That is a political necessity. It may be considered, too, as a military necessity with the same propriety and plausibility that the acquisition of Cuba can be urged under the plea that it is necessary for the future and secure defense of the people of the United States.

It has been said that my proposition effects nothing; that it will require Congress again to go over the same old ground, and that we have now before us all the information that is necessary to act. It is said that \$1,000,000 have been appropriated for the purpose of making the explorations of the different routes to the Pacific ocean, so as to get the necessary information. I stated in my remarks when I offered my amendment, that I supposed the cost of those explorations had been about half a million dollars; but whatever it has been, the result has been to give to the country a volume of information with regard to the topography of that vast region, which we have recently undertaken to settle and pass over; a volume of scientific knowledge prepared by experienced and skillful and learned engineers, worth to the country, independently of its connection with the construction of this road, probably every dollar that it has cost. I am not certain that every part of the continent has yet been explored with that minuteness of scientific observation which it deserves; but if the explorations already made have demonstrated, as some contend they have, the impracticability of such a road as this, that fact is of importance to us.

The information is laid before us; we judge of the practicability of the road from the testimony afforded by these able and skillful, and, I may add, faithful engineers, for no person questions the candor and fidelity of their reports. If they have demonstrated the impracticability of such a road, it is worth the money. If they have shown that any road we are to build is to cost hundreds of millions of dollars, it is worth half a million to ascertain that fact in advance, before we undertake the construction of such a work. For myself, however, I give my support to some measure of this description, on the theory, or the presumption, or the probability, afforded by these very explorations, that one or more routes from the Mississippi river to the Pacific ocean are practicable. I have never supposed they could be constructed without considerable cost. The enterprise is a great and gigantic one; and I think it will take more money than is proposed either in the original bill, or in any amendment that has been offered to it; but I may be deceived in that.

I propose to get clear of most of the objections which have been taken, except the constitutional question; and I have provided against that, as far as practicable, in offering the amendment which I presented. It authorizes the Secretary of the Interior to advertise a sufficient length of time in the newspapers printed in each State of the Union and at the seat of Government, for proposals, giving notice to capitalists, private individuals, associations of persons, or companies, who may have authority, from the States in which they reside, to act in a corporate capacity. Let them have the full benefit of the explorations which have been made of the different routes at this vast cost. That has been done at the expense of the Government; it is past. Whatever may be the result, I have already said I consider them worth every cent that has been spent. These individuals, associations, or companies, may consult not only the reports of the engineers, but have the benefit of their counsel, and further, a more minute information than they could crowd into their official reports.

Any man who is disposed to embark in such an enterprise, can take the three lines and make separate bids on each; companies or associations of individuals may make bids on three several lines of communication from the western boundaries of the States in the valley of the Mississippi to San Francisco, or to Puget Sound, or to San

Diego; and separate bids for the line through the Territories, so as to avoid the question of interfering with the jurisdiction of the State of California. I provide for bids on three routes—one northern, one central, and one southern—and that the proposals shall be reported to the next session of Congress. As the original bill now stands, if we pass it, and the offers that are made are accepted, it still postpones the decision until the next Congress.

My proposition is to invite capitalists to bid upon each of the three several routes, stating what quantity of land, what amount in money, whether in the shape of a loan, to be repaid to your Treasury, or otherwise, they will require; for what length of time they would claim the privilege, under whatever bids they may make to the Government, to have the exclusive control and administration of the road; to make their several estimates in respect to that point; and when they are submitted to Congress, we shall have before us at the next session of Congress better and more reliable information as to what we ought to do, than we can have under any bill that we propose to pass now.

If the northern route, as the honorable Senator from Wisconsin [Mr. DOOLITTLE] supposes, be the cheapest and shortest route of all, that will be the line which Congress will adopt for the construction of a railroad, if they think proper to adopt any one under this proposition. If the central route shall prove to be the most practicable, or practicable at all, even though it might be at a greater cost than the northern road, it may be the pleasure of Congress, acting upon high national principles, acting upon what we profess to be our object in establishing a communication that will answer commercial purposes at the same time that it constitutes an essential work of military defense, to take the central route in preference to the northern one. They may be willing to give many millions more for such a road as that than they would for a northern road. So if the southern route should appear on the whole to be the cheapest and most practicable, and the one on which the road may be constructed in the shortest time, then it will be in the discretion of Congress to say the road shall be constructed there.

When I offered this proposition I distinctly stated that I did not propose, nor did I suppose it at all probable, that Congress, within any reasonable period from this time, would undertake the construction of three roads, but I did not exclude the possibility of Congress, in their discretion, agreeing to do such a thing. I did, however, throw out the idea that, considering the different sectional interests, the vast extent of our States and Territories, it was scarcely to be expected that any one road would be voted, but that probably, if Congress undertook to construct one, they would have to construct two. The sectional differences form what I fear to be insuperable difficulties in the way of a majority of Congress ever concurring in the idea of making one road on the extreme southern or the extreme northern boundary. I think that these two extremes would not agree to have only one road, and they would probably settle down on two roads to bring these two opposite divisions of the continent together. What they will cost I have no conception. If bids shall be made within such bounds as the Congress of the United States think will make it expedient in reference to the great object for which a road is desired, to accept the bids and to enter upon the construction of either one or two roads, then they will do it. But suppose the bids are so extravagant in amount that Congress cannot think of it, and they conclude it will be better to undertake the construction of it by the Government itself, or they may have such lights thrown on the subject as to show it is an impracticable undertaking; then they will have nothing to do with it. Suppose there shall be no bids that are reasonable and come within the scope of the presumed resources of this country, so as to justify Congress in undertaking the construction of such a work: what then? We are thrown upon the dilemma of either doing without such a necessary work, as some of us conceive it to be, or of constructing it with our own resources, at a cost which we may regard as much less than the cost that would be exacted from us if we accepted the bid of any private company.

In this way we are advancing a step to the final

result and it brings us to it, it seems to me, in the shortest time. The next Congress may have it in their power to decide this question, and order the work to be commenced, if bids are made; if no bids are made, they can determine whether the Government itself shall undertake it or abandon it in despair of ever getting a majority of Congress to unite either upon the construction of one, two, or as many more roads as may be proper. We shall approximate the conclusion of this question. It seems to me that after we have acquired so much information in regard to the practicability of these routes, and when every gentleman not prejudiced or not restrained by his doctrines in regard to the powers of this Government over the Treasury within the jurisdiction of the States, acknowledges our power and our duty to provide for this communication, it will be a strange anomaly in the history of a country with the means and resources of this, and with its aspirations to universal empire, if the project shall be totally abandoned.

I do not enter into the views of those who think it is the duty of this Government to extend its empire beyond its present limits, though I shall have no objection to Cuba being acquired honorably and peacefully, and in time of lawful war, if necessary to our defense, forcibly. I would give the value of a vast extent of our western empire in territory for the acquisition of Cuba. That has always been my sentiment. Never would I seek to wrest it from Spain by any means not sanctioned by the laws of international comity and honor. While Cuba continues in the possession of Spain, I do not fear any consequences or any deficiency of military defense. In a war with England or France, it might be necessary for this Government, in self-defense, to seize on that island temporarily, during the war at all events, to make adequate defense, to be restored to Spain on the conclusion of the war or not, as Spain might act. I feel no fears, I entertain no sense of the political necessity, nor of the military necessity, of seizing Cuba, as long as Spain is the Government holding dominion over that island.

I shall presently move to recommit this bill with instructions to report my amendment as a substitute. If, however, the more particular friends of this measure think they can pass the bill, I shall have no objection to their taking a vote on it.

Mr. GWIN. I hope the Senator will not make his motion, but will let us have a direct vote on the bill. We have got through with all the amendments and substitutes I believe, except one which the Senator from Wisconsin [Mr. DOOLITTLE] wishes to offer, which we can dispose of in a few moments, and one of the Senator from Minnesota, [Mr. RICE.] I hope we shall take a vote on those substitutes.

Mr. DOOLITTLE. I desire to present an amendment, of which I gave notice. I shall not take up the time of the Senate by making any remarks upon it whatever. It is the same bill which has been printed and laid upon the tables of Senators. The blank in the first section has been filled with the sum of \$3,500; and, in order to give the bill effect, a section has been added authorizing, for the purpose of making the surveys necessary, the expenditure of the sum of \$25,000 for each of the three roads. That is all the alteration, with one exception, in relation to the homestead provision. As originally presented, my amendment authorized it to be extended to the alternate sections for forty miles on each side of the road. On consultation with friends around me, I have altered that to twenty miles, so as to make it more acceptable to the Senate. I shall make no remarks. I hope the substitute I have offered will be adopted.

Mr. HAMMOND. I yielded the floor to the gentleman from Tennessee, to get in his amendment, and I suppose, by courtesy, I am now entitled to it. I therefore rise again, to move to lay this bill on the table. As, however, the Senate is thin, and the hour is late, I move that the Senate adjourn.

Mr. GWIN. I hope not.

The motion was not agreed to; there being, on a division—ayes 20, noes 23.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Carolina, to lay the bill on the table.

Mr. SEWARD. I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. KENNEDY. I will state that I have paired off with the Senator from Arkansas, Mr. JOHNSON.

Mr. FITZPATRICK. My colleague, Mr. CLAY, has paired off with the Senator from Rhode Island, Mr. ALLEN.

Mr. DOOLITTLE. I rise to state that my colleague has paired off with the honorable Senator from Georgia, Mr. TOOMBS.

Mr. WILSON. I have paired off with the Senator from Ohio, Mr. PUGH.

The result was announced—yeas 21, nays 26; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clingman, Crittenden, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mason, Pearce, Reid, Sebastian, Shidell, Thompson of New Jersey, Ward, and Yulee—21.

NAYS—Messrs. Bell, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Fitch, Foster, Gwin, Hale, Harlan, Jones, King, Polk, Rice, Seward, Shields, Simmons, Stuart, Trumbull, and Wade—26.

So the Senate refused to lay the bill on the table; and the question recurred on the amendment of Mr. DOOLITTLE; which is to strike out all after the enacting clause of the bill, and insert:

That the President of the United States be, and he is hereby, authorized and directed to nominate, and, by and with the advice and consent of the Senate, to appoint, three separate and distinct boards of engineers, each to consist of three disinterested and competent civil engineers, each of whom shall have been engaged in the active and practical business of engineering and superintending the construction and operation of railroads in the United States for a period not less than five years; the first to be denominated as the board of engineers for the northern Pacific railroad route; the second to be denominated the board of engineers for the central Pacific railroad route; and the third, the board of engineers for the southern Pacific railroad route; and that each member of said boards shall receive an annual salary of \$3,500 per annum, and shall hold their office for a term of four years, unless sooner removed by the President; and that, when organized, it shall be the duty of said several boards of engineers to survey and locate the general route of three lines of railroad upon three several routes following, viz.: The first of said boards of engineers, above mentioned, shall survey and locate a route beginning at a point on the west line of the State of Minnesota; thence by the most eligible route north of the forty-third parallel of latitude, and within the territories of the United States, to Puget Sound, with a branch to Vancouver, on the Columbia river, and a branch to Lake Superior, in the State of Wisconsin, to be denominated the northern Pacific railroad route. The second of said boards of engineers, above mentioned, shall survey and locate a route beginning on the west line of the States of Iowa and Missouri, between the mouths of the Big Sioux and Kansas rivers; thence on the most direct and eligible route between the thirty-seventh and forty-third parallels of latitude, to San Francisco, in the State of California; to be denominated the central Pacific railroad route; and the third of said boards of engineers, above mentioned, shall survey and locate a route beginning on the west line of Arkansas or Texas; thence on the most direct and eligible route south of the thirty-seventh parallel of latitude, and within the Territories of the United States, to the Pacific ocean, to be denominated the southern Pacific railroad route: *Provided*, That, before entering upon the discharge of their several duties, they shall be duly and severally sworn that they have no personal interest to be in anywise affected by the location of the route which they are about to survey and locate; that they have no interest, direct or indirect, in any lands or property situated in any of the States or Territories through which said route may pass; and that they will survey and locate the route of said railroad upon the most eligible route, reference being had to shortness, feasibility, and economy: *And provided further*, That said boards of engineers shall report said routes, together with general estimates of the cost, to the President of the United States, in time for him to lay the same before Congress on the first Monday of December, A. D. 1860.

Sec. 2. *And be it further enacted*, That after said surveys and locations shall have been made and reported to the President, and by him laid before Congress, as provided in the first section of this act, the President shall cause advertisements to be inserted in two newspapers in each State and Territory, and in the District of Columbia, for a period of not less than six months, inviting sealed proposals to be severally made for the construction of each of said railroads upon the several routes above named, and for performing the service herein required, as follows:

First. Proposals shall be severally made upon each route, and shall state the time in which it is proposed to construct and finish the entire road, and put the same into successful operation, which period shall not exceed fifteen years from the execution of the contract; also, what extent and portion of said road, beginning at the eastern and western terminus, and progressing continuously until finished, shall be completed and put in operation during each and every year; but no proposal shall be made by the same parties for the construction of more than one road, and shall designate the one intended as either the northern, middle, or southern Pacific railroad route.

Second. The time in which said party will surrender said road, with its rolling stock and all appurtenances thereunto belonging, to the United States, for the purpose of being transferred to the several States which may hereafter be formed out of said territory, as herein provided.

Third. At what rate per mile per annum, not exceeding \$500, it is proposed to carry the United States mails daily, both ways, on said road, under the direction of the Post Office Department, for the period of twenty years from the completion of the road, and also for the portion which may be in use while the said road is in course of construction; and at what rate per mile, for a like period, upon each section as it is completed, it is proposed to carry on said road, under the direction of the proper Departments, all military and naval supplies, troops, seamen, passengers, and freights of all kinds for Government purposes, with the limitation that the price to be paid shall not, in any event, either of peace or of war, exceed the sum which in time of peace has been heretofore paid for similar service, of equal amount, upon any existing route. After the expiration of said contract, said transportation, postal, military, naval, and for every other Government purpose, shall be performed on said roads, under the direction of the proper Departments, for reasonable prices, not exceeding those paid on other first class railroads, to be ascertained by Congress, in the event of a disagreement between the Government and the contractors or owners of said road.

Sec. 3. *And be it further enacted*, That said several proposals shall be opened by the President, after due notice, in the presence of his Cabinet and such persons as may choose to attend; and he is hereby authorized and directed to enter into contracts for the transportation provided for in this act with the parties whose proposals shall be by him deemed most advantageous to the United States, for the full and complete performance of said contracts, in compliance with the provisions of this act, upon each of said routes above named. And the parties with whom said contracts may be made, as a guarantee for the faithful performance of the same, shall severally deposit with the Secretary of the Treasury the sum of \$500,000 each, or the value thereof in bonds or certificates of stock of the United States, which may be subsequently withdrawn in sums of \$10,000, as the work progresses on each of said routes, on production of vouchers showing, to the satisfaction of the Secretary of the Treasury, that an amount equal thereto has been expended in the construction of said roads. All questions of damages and forfeitures by reason of any breach of said contract shall be determined by the express terms and conditions of the same: *Provided*, That this act shall be taken and considered as part of any contract that may be made in accordance with its provisions, in like manner as if the same was set forth in said contract: *And provided further*, That each of said contracts shall be subject to approval, and take effect from and after approval, by an act or joint resolution of the two Houses of Congress, after the same shall have been laid before them by the President.

Sec. 4. *And be it further enacted*, That, in consideration of the stipulations and undertakings in said contract, there shall be, and is hereby, appropriated and set apart the proceeds of the sales of the alternate sections of public land for the space of twenty miles on each side of each of said roads, from its eastern to its western terminus, to be selected from the sections designated in the public surveys by odd numbers. And in all cases where the United States may have disposed of said lands, or any part thereof, the deficiency may be made up from the sales of any of the odd-numbered sections of the public lands within the distance of forty miles on either side of said road: *Provided*, That all mineral lands be, and the same are hereby, excluded from the operation of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands nearest to the line of the road, through said mineral lands, may be selected in alternate sections.

Sec. 5. *And be it further enacted*, That the several boards of engineers shall proceed without delay severally to locate the general route of each of said roads, and furnish a detailed survey and map to the President, who shall cause the public lands, to the extent of forty miles on each side of said several routes, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable. And the provisions of the act of September, 1841, granting preemption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to the lands thus surveyed, excepting that those, the proceeds of the sales whereof are herein set apart and appropriated for the use of said road, shall not be subject to settlement and preemption, nor shall be subject to sale at a price less than \$2 50 per acre, without the consent of the party entering into such contract.

Sec. 6. *And be it further enacted*, That any person who is the head of a family, and a citizen of the United States, or who shall have declared his intention to become a citizen of the United States, according to law, shall, from and after the passage of this act, be entitled to enter one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, upon the even-numbered sections, after the same shall have been surveyed, anywhere within twenty miles upon either of said railroad routes, except the sixteenth and thirty-sixth sections in each township, reserved for school purposes.

Sec. 7. *And be it further enacted*, That the person applying for the benefit of the sixth section of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, and that it is bona fide his intention to reside upon and make his homestead upon the land so entered; and upon making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they, have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof; then, in such case, he, she, or they, shall be entitled to a patent, as in other cases provided for by law: *And provided further*, In case of the death of both father and mother, leaving an infant child or children under

fourteen years of age, the right and the fee shall inure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title under the purchase, and be entitled to a patent from the United States.

Sec. 8. *And be it further enacted*, That the register of the land office shall note all such applications on the tract book, and plats of said lands, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Sec. 9. *And be it further enacted*, That no land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

Sec. 10. *And be it further enacted*, That if, at any time after filing the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proved by two or more respectable witnesses upon oath, to the satisfaction of the register of the land office, that the person having filed said affidavit shall have actually changed his or her residence, or abandoned the said entry, for more than six months at any one time, then, and in that event, the land so entered shall revert back to the Government, and be disposed of as other public lands are by law.

Sec. 11. *And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands patented under the provisions of this act as they are now entitled to receive when the same quantity of land is entered with money, to be paid by the party to whom the patent shall be issued: *And provided further*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with the existing pre-emption rights.

Sec. 12. *And be it further enacted*, That in making said several contracts, it shall be stipulated that the said several roads shall be divided into sections of twenty-five miles each, and that none of the proceeds of the sales of said lands are to be paid to the contracting party until one section is completed and put into successful operation, when the Secretary of the Treasury shall, by his warrant upon the Treasury, pay over to the contracting party one half of the proceeds of the sales of the lands pertaining to the section so completed, and which was reserved for that purpose, retaining the other half until the completion of the entire road; and when the next is completed in like manner, to the satisfaction of said boards of engineers, the Secretary of the Treasury shall, in like manner, pay over to the contracting party one half of the proceeds of the sales of the lands pertaining to that section reserved as aforesaid; and so on with each succeeding section, paying one half and retaining one half as security for the completion of the entire road; and when the last section is completed and put in operation to the satisfaction of said boards of engineers upon said route, the Secretary of the Treasury shall pay over to the contracting party the residue of the proceeds of the sales of the lands set apart by this act for that purpose as fast as the same shall be received into the Treasury; and said contract shall require that the United States mails shall at all times be carried on said road, under the direction and control of the Postmaster General; and all other Government transportation provided for in this act shall be performed under the direction of the proper Departments, respectively; and the compensation therefor, at the prices specified in said contract, shall be regularly paid from the Treasury of the United States, quarterly, or at such times as may be agreed upon.

Sec. 13. *And be it further enacted*, That the President be, and he is hereby, authorized and directed, so soon as one section of twenty-five miles of either of said roads is made and put into successful operation, to cause to be issued to the contracting party entitled to the same, bonds of the United States, bearing not exceeding five per centum, per annum interest; which interest shall be payable semi-annually, and the principal payable nineteen years from the date of their issue, to the amount of \$10,000 for each mile of the same; and in like manner when another section of twenty-five miles is made and put into successful operation, an equal amount of bonds shall be issued and delivered to said contracting party; and so with each succeeding section, until the whole road shall have been completed: *And provided*, That the amount of bonds to be issued to the contracting party upon the completion of any section, in addition to said proceeds of the sales of said land, directed to be paid over under the provisions of the last preceding section, shall not exceed the amount of the expenditure by said contracting party as certified to the Secretary of the Treasury by said board of engineers having charge of said route: *And provided also*, That no more than two hundred miles per annum shall be put in operation: *Provided*, That the entire amount of bonds hereby authorized to be issued on account of either of said roads shall, in no event, exceed, in the aggregate, the sum of \$20,000,000, it being the intent of this act to advance to the several contracting parties \$10,000 for each mile of road completed and put into successful operation upon each of said routes; which sum of money thus advanced, together with the interest thereon, is to be repaid to the United States by the said contracting party in the transportation and service provided for in this act; and until so repaid, the sum remaining unpaid shall remain a lien and charge upon the said road, in the nature of a first lien or mortgage to the United States; and no compensation, other than the proceeds of the lands appropriated and bonds authorized to be issued by this act, shall be made to the contracting party for transportation and service rendered under their contracts, until the value of such transportation and service shall be equal to the aggregate amount of the principal and interest of said bonds: *Provided*, That all duties on railroad iron imported and laid down on said road or roads shall be charged to the several contracting parties and paid to the United States, by de-

ducting the amount from the credit to be given for the service first performed by said party under this act: *Provided further*, That if American manufactured railroad iron, of equal qualities, shall be offered to the said contracting party, which, including all items of cost of manufacture, sale, and delivery, shall not exceed the like cost of such iron if obtained from foreign countries, the American manufactured iron shall be preferred and used by said contracting party.

Sec. 14. *And be it further enacted*, That should said several contracting parties, or either of them, neglect, refuse, or in any way fail to prosecute the work undertaken by them in a manner to secure the completion thereof in compliance with the contract, or should violate the terms of said contract, then all rights of said contracting party to said road, right of way, lands, or other property pertaining thereto, including such amount of the deposited stocks, if any, that may remain unexpended, shall be and become forfeited, and the United States may enter upon and retain the same. In the event of such forfeiture, to be determined by the board of engineers in charge of said route, the President shall proceed to relet that portion of the road remaining uncompleted under such forfeited contract, and provide for the disposition of the work in such a manner as will secure the earliest completion of the road in conformity with the provisions of this act: *Provided*, That he shall not stipulate, on the part of the United States, for any higher or other terms than are authorized and provided for in this act.

Sec. 15. *And be it further enacted*, That the lands of the United States, for two hundred feet in width along the entire line of said several roads, is hereby set apart and dedicated for a highway for railroad and telegraph purposes, under the direction of Congress; and the said several contracting parties may take any earth, stone, timber, or other necessary materials, for the construction and keeping in repair of the several roads within the said two hundred feet. Any contract made in pursuance of this act for the building and keeping up of said several roads, shall provide for their construction in a substantial and workmanlike manner, with all the necessary drains, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class when prepared for business, with rails of the best quality, weighing not less than seventy-five pounds to the yard, and a uniform gauge throughout the entire length; also, for the construction of a telegraph line, of the most substantial and approved description, to be operated along the entire line of each of said railroads: *Provided*, The contracting party shall not charge the Government higher rates than they do individuals for like telegraphic service.

Sec. 16. *And be it further enacted*, That the several contracting parties building or owning said roads may at any time construct one or more additional tracks within the two hundred feet set apart for the right of way; and it shall be the duty of said contracting parties or owners of said roads to permit any other railroad which shall be authorized to be built by the Legislature of any Territory or State in which the same may be situated, to form connections with it on fair and equal terms.

Sec. 17. *And be it further enacted*, That whenever said several roads, or any part thereof, shall be surrendered to the United States, in pursuance of the provisions of this act, thereupon so much of the same as may be situated within any State shall, with its asset, vest in and become the property of such State, subject to the use of the United States for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose, restricting the charges for such transportation; and any other State through which said road may pass, admitted into the Union thereafter, shall acquire the same rights, subject to like restrictions and provisions: *Provided*, That said charges for transportation of freight and passengers, after the cession to said States, respectively, shall be arranged, as near as may be, so as to yield a net revenue only adequate to the maintenance of said road and equipments and the keeping the same constantly in good repair.

Sec. 18. *And be it further enacted*, That while the said several contracting parties or owners are in any manner indebted to the United States, they shall keep books, in which shall be entered regular statements of all disbursements, expenditures, and receipts, setting forth specifically the objects of said expenditures, and the sources whence said receipts are derived, together with a particular account of all accidents that may occur affecting property or persons, or causing delays upon the road, which books shall be open at all times to the inspection of the President, or any person authorized by him to examine the same, and to the members of each House of Congress; and the several contracting parties or owners shall report annually to the Secretary of the Treasury, on the 1st day of October at each year, accompanied by a minute and detailed exhibit of the expenditures and profits of said roads and telegraphs for the year preceding, to be attested by the oaths of their secretary and treasurer, which report shall be transmitted to Congress by the Secretary of the United States Treasury at the commencement of each session.

Sec. 19. *And be it further enacted*, That a sum of money not to exceed \$75,000 be appropriated out of any moneys in the Treasury not otherwise appropriated, to defray the expenses to be incurred in making said surveys and locations of said routes—the sum of \$25,000 for each route.

Mr. GWIN. I wish to make a single suggestion. There is a substitute by the Senator from Wisconsin, and one which the Senator from Minnesota proposes to offer. I hope we shall vote on these, and then come to an understanding that at one o'clock to-morrow we shall vote on the passage of the bill. These substitutes, I understand, are all that will be offered, and then let us to-morrow, at one o'clock, take a vote on the final passage of the bill.

Mr. MASON. I can come to no understanding about taking the vote on the passage of the

bill, because I really do not know what the bill is. Whenever the friends of the bill shall have placed it in such a form as they think proper, and submit it to the vote of the Senate, I shall ask that the bill be printed, so that we may see what it is.

Mr. GWIN. It is printed precisely as it has stood for several days.

Mr. MASON. If it is in such a form that we can see it, very well; but I protest against taking the vote until I can see what it is.

Mr. GWIN. I merely make the suggestion that we take the vote on the substitutes.

Mr. BELL. Will the Senator allow me to have a vote on my proposition?

Mr. GWIN. The proposition of the Senator from Wisconsin is now before the Senate.

Mr. BELL. Will he not waive it?

Mr. DOOLITTLE. I desire to have a vote on my proposition. If that be voted down, it will not affect at all the proposition which is offered by the honorable Senator from Tennessee.

Mr. BELL. Do you wish a vote on yours now?

Mr. DOOLITTLE. Yes.

The amendment was rejected.

Mr. BELL. I now move to recommit the bill to the committee, with instructions to report forthwith the substitute which I have presented.

The substitute of Mr. BELL is as follows:

That it shall be the duty of the Secretary of the Interior, upon the passage of this act, by advertisement in two newspapers in each State, and in the District of Columbia, for a period of eight months, to invite separate proposals for the construction and working of three railroads from the valley of the Mississippi to the Pacific ocean, within the territory and jurisdiction of the United States: one commencing at some suitable point on the western boundary of the State of Minnesota, running thence, on what may appear the most eligible route, to Puget Sound, in Washington Territory; one commencing at some suitable point on the western boundary of the State of Missouri or Iowa, thence pursuing what may appear to be the most eligible route, within the thirty-fourth and forty-third parallels of north latitude, to San Francisco or Benicia, in the State of California; one commencing at some suitable point on the western boundary of the State of Arkansas or Texas, thence pursuing what may appear to be the most eligible route to San Francisco, in the State of California; the said railroads to be constructed in a substantial and workmanlike manner, with necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering places, and all other appurtenances, including the furniture and rolling works or stock, equal in all respects to a first-class railroad when prepared for business, with rails of the best quality, weighing not less than sixty-four pounds to the yard, and a uniform gauge; and such advertisement shall further set forth that the person, or association of persons, or company making such proposals, shall state, as distinctly as may be, the points selected as the eastern and western termini of the road he or they propose to construct, and the line or route selected as the most eligible on which to construct it, reserving the privilege of making such deflections or departures from it as may be found, in the progress of the work, to offer great facilities and advantages; and that he or they shall specify the terms and conditions on which he or they propose to construct the road, classified as follows:

First. The time within which the road is to be commenced and completed.

Second. The amount, or extent and description, of the aids, facilities, and privileges, which will be expected or required from the Government, whether consisting of lands or money, or both; and, if in part of money, whether in the shape of a loan or otherwise; and, if a loan, when and how to be refunded.

Third. The rate of charge, respectively, for conveying the mail weekly, semi-weekly, tri-weekly, and daily, when the road is completed, and the rate per mile for such portions or divisions of the road as may be completed and in use before the completion of the whole; and the rate of charge on all military and naval supplies, troops, munitions of war of all kinds, for the transportation of the same on said road throughout the entire line, when completed, and on any less portion or section of the same, as the wants of the Government may require.

Fourth. The time or period beyond the completion of the road at which the party or parties to any such proposals will surrender said road, with all its equipments and appointments, to the United States, should the Government desire such surrender; whether after twenty, forty, or sixty years of exclusive possession and enjoyment; and, if any greater period than twenty years is proposed, at what reduced amount of aid and facility will be required from the Government in consideration of such extension to forty or sixty years, respectively, the party or parties to such proposals will undertake to construct the road; and what reduction of charges for conveying the mails and transporting military and naval supplies, troops, and munitions of war of all kinds, will be made in consideration of such extension.

Fifth. The guarantees proposed for the faithful execution of any contract which may be entered into with the United States for the construction of the road, and against excessive fare for the transportation of passengers, and exorbitant charges for carrying freight of any description.

Sec. — *And be it further enacted*, That the Secretary of the Interior shall cause it to be further set forth in said advertisement, that the party or parties to proposals for the contemplated central and southern railroads shall make separate proposals for the construction of said roads from the eastern termini to some suitable point on the eastern boundary of the State of California; or, in respect to the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2D Session.

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NEW SERIES....No. 39.

southern road, to some suitable point on the southern boundary of the State of California.

Sec. 1. *And be it further enacted*, That all proposals shall be sealed and addressed to the Secretary of the Interior, who shall, previously to the commencement of the first regular session of the next Congress, open the same in the presence of the other heads of Departments, and shall transmit copies of the same to the two Houses of Congress as soon as organized, the originals to remain on file in the Department of the Interior.

Sec. 2. *And be it further enacted*, That the sum of — dollars be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to carry the provisions of this act into effect.

Mr. GWIN. I simply call for the yeas and nays on the proposition.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 26; as follows:

YEAS—Messrs. Bell, Benjamin, Crittenden, Davis, Dixon, Doolittle, Fessenden, Houston, Mason, Pearce, Sebastian, Shields, Simmons, Stuart, Thomson of New Jersey, and Ward—16.

NAYS—Messrs. Bayard, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Chesnut, Clark, Clingman, Fitzpatrick, Foster, Green, Gwin, Hale, Hammond, Harlan, Johnson of Tennessee, Jones, Polk, Reid, Rice, Seward, Slidell, Trumbull, and Yulee—26.

So the motion was not agreed to.

Mr. HALE. I move that the Senate adjourn.

The motion was not agreed to.

Mr. RICE. I now offer my substitute. I will say to the Senate that there have been a few verbal amendments made, a few immaterial changes since it was printed. It is to strike out all after the enacting clause, and insert:

That the President be, and he is hereby, authorized and directed to cause the public lands, to the extent of forty miles on each side of the routes hereinafter mentioned, to be surveyed, and the Indian title thereto to be extinguished as soon as practicable. And upon the payment of five cents per acre, all persons entitled to the preemption laws, who have or may settle upon any of the lands within the limits above mentioned, (excepting those herein set apart and appropriated for the use of said roads and for other purposes,) shall be entitled to the provisions of the act of 1814, granting preemption rights, and the acts amendatory thereof.

Sec. 2. *And be it further enacted*, That there be, and hereby is, granted to the States and Territories that are or may be formed upon the lines of the herein mentioned roads, for the purpose of aiding in the construction of railroads, to the Pacific from the mouth of Sioux Wood river, on the western border of Minnesota, to Puget Sound, with a branch to the navigable waters of the Columbia; from the mouths of the Kansas and Platte rivers, uniting at a point at or east of the one hundred and third degree of longitude, to San Francisco; also, from the southeast corner of New Mexico to San Pedro or San Diego to the bay of San Francisco; every alternate section of land designated by odd numbers, for sixteen sections in width on each side of said roads and branches; but in case it shall appear that the United States have, when the lines or routes of said roads and branches are definitely fixed, sold any sections or parts of sections granted as aforesaid, or that the right of preemption has attached to the same, then it shall be lawful for any agent or agents, to be appointed by the Governors of said States or Territories, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tiers of sections above specified, so much land in alternate sections or parts of sections as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the rights of preemption have attached as aforesaid; which lands (thus selected in lieu of those sold, and to which preemption rights have attached, as aforesaid, together with the sections or parts of sections designated by odd numbers as aforesaid, and appropriated as aforesaid) shall be held by the said States or Territories, respectively, for the uses and purposes aforesaid: *Provided*, That the land to be so located shall in no case be further than twenty miles from the lines of said roads or branches, and selected for and on account of each of said roads or branches: *Provided further*, That the lands hereby granted for and on account of said roads and branches severally, shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatsoever: *And provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, be, and the same are hereby, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railroads and branches through such reserved lands, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

Sec. 3. *And be it further enacted*, That the lands hereby set apart to aid in the construction of said roads and to encourage settlement along said routes, shall be located as follows: those for the northern route shall be north of the forty-third parallel; those for the center route shall be located between the thirty-seventh and forty-third parallels; and

those for the southern route shall be located south of the thirty-seventh parallel of north latitude.

Sec. 4. *And be it further enacted*, That the said lands hereby granted to the said States or Territories shall be subject to the future disposal of the Legislatures thereof, respectively, for the purposes herein expressed, and no other.

Sec. 5. *And be it further enacted*, That the land hereby granted to said States or Territories shall be disposed of by said States or Territories in the manner following, that is to say: that a quantity of land not exceeding two hundred sections for each of said roads and branches, and included within a continuous length of twenty miles each of said roads and branches, may be sold; and when the Governors of said States or Territories, respectively, shall certify to the Secretary of the Interior that any twenty continuous miles of any of said roads or branches is completed, then another quantity of land hereby granted, not to exceed two hundred sections for each of said roads and branches, having twenty continuous miles completed, as aforesaid, and included within a continuous length of twenty miles of each of said roads or branches, may be sold, and so from time to time, until said roads and branches are completed; and if any of said roads or branches is not completed within twenty years, no further sales shall be made, and the lands unsold shall revert to the United States.

Sec. 6. *And be it further enacted*, That in any case where the passengers and freight shall be greater than the transporting capacity of the roads and branches, the Government shall have priority of right for all purposes of transportation.

Sec. 7. *And be it further enacted*, That the sixteenth and thirty-sixth sections, within the boundaries heretofore named, shall be set apart and reserved for school purposes, which shall be exclusively applied for said purposes, and no other: *Provided*, That this clause shall not apply to the States and Territories where the said sections have heretofore been set apart by any former act or acts.

Mr. GWIN. I ask for the yeas and nays on the substitute. ["No!" "No!"] I withdraw the call for the yeas and nays.

Mr. SHIELDS. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 29; as follows:

YEAS—Messrs. Bright, Collamer, Doolittle, Green, Houston, Johnson of Tennessee, Mason, Rice, Sebastian, Shields, Simmons, Stuart, Wade, and Ward—14.

NAYS—Messrs. Bayard, Bell, Benjamin, Bigler, Broderick, Brown, Cameron, Chandler, Chesnut, Clark, Clingman, Dixon, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Gwin, Hammond, Harlan, Hunter, Iverson, Jones, King, Polk, Reid, Seward, Thomson of New Jersey, and Trumbull—29.

So the amendment was rejected.

Mr. GWIN. Now I believe the amendments are all over. I wish it understood that we are to have a test vote at one o'clock to-morrow, and then I shall move an adjournment. ["Vote now."]

Mr. DOOLITTLE. Will the honorable Senator from California allow me to make an inquiry of the Chair, and that is, whether the amendment which I offered some days since, providing that the contracts, before taking effect, shall come to Congress to be approved by act or joint resolution, was offered in Committee of the Whole, or in the Senate; and whether it is in the bill as it now stands?

Mr. GWIN. It is now in the bill.

The PRESIDING OFFICER. The Senator from California is probably correct as to that fact. The Chair will answer the other question. The bill has been in the Senate all this session.

Mr. SIMMONS. I should like to inquire if the bill is open to amendment by an additional section?

The PRESIDING OFFICER. It is.

Mr. SIMMONS. I should like to prepare one by morning.

The PRESIDING OFFICER. Did the Chair understand the Senator from California to move an adjournment?

Mr. GWIN. The bill is now ready for a final vote. ["No!"] I shall not move an adjournment.

Mr. BRODERICK. I hope the motion of my colleague will prevail, and that the vote will be taken to-morrow at one o'clock. There are one or two Senators who will vote for the bill who are absent.

Mr. SEWARD. Let us adjourn, then.

Mr. MASON. I wish only to keep myself right on this question. I shall be a party to no arrangement to take a vote on this bill at any hour named to-morrow, or at any other time. I move that the Senate adjourn.

Several Senators. Take the vote now.

The PRESIDING OFFICER put the question

on the motion to adjourn; and fifteen Senators rose in the affirmative.

Mr. FESSENDEN. I call for the yeas and nays. I understood the Senator from Rhode Island to say he wished to offer an amendment which he has not yet prepared, and he ought to have time to prepare it.

Mr. POLK. I should like to know from the Senator from Rhode Island if that is what he stated. I did not understand that he had not the section ready.

Mr. SIMMONS. I wanted to add an amendment to the bill; but there seems to be more desire for a vote than to pass the bill, and I do not suppose I shall get an opportunity to write one. I shall vote against the bill unless it is amended—that is all.

The PRESIDING OFFICER. Does the Senator from Maine insist on the call for the yeas and nays?

Mr. GWIN. If he withdraws it, I think we shall adjourn.

Mr. FESSENDEN. I withdraw it for the sake of trying.

Mr. BRODERICK. The Senator from Illinois, [Mr. DOUGLAS,] who was a member of this committee, is absent; but if he were here he would vote for the bill.

Mr. GWIN. I think we shall adjourn.

Mr. BRODERICK. You voted against it before. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 26, 1859.

The House met at twelve o'clock, m. Prayer by Rev. G. W. BASSETT.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had passed a bill of the House of the following title:

An act (No. 583) providing for keeping and distributing all public documents, with an amendment, in which he was directed to ask the concurrence of the House. And also a bill of the House of the following title:

An act (No. 788) authorizing the Secretary of the Treasury to grant a register for the schooner William A. Hamill; without amendment.

MESSAGE OF THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

DISTRIBUTION OF BOOKS.

Mr. MORGAN. I ask the unanimous consent of the House to offer certain resolutions; and if any debate arise, I will withdraw them.

Mr. HUGHES. I call for the regular order of business.

Mr. MORGAN. I would like to have the resolutions read; and if gentlemen do not approve of them, I will not press the present consideration of them.

Mr. HUGHES. I do not object to their being read.

The resolutions were read, as follows:

Resolved by the Senate and House of Representatives in Congress assembled, That the Secretary of State and the Librarian of Congress be directed to deliver to the Secretary of the Interior all the extra copies of the Annals of Congress, Adams's Works, and American Archives, in their possession.

Resolved, That the Secretary of the Interior be directed to deliver to such literary institutions or public libraries as may be designated by each Senator, member of the House of Representatives, and Delegate in Congress, three sets of the Annals of Congress, one set of Adams's Works, and one set of the American Archives.

Mr. WINSLOW. I have no objection to the resolutions; but I will state that a bill has already been introduced into the House covering the whole matter.

Mr. MORGAN. It will be impossible, I think, to get that bill through.

Mr. WINSLOW. The Senate have passed a bill on the same subject; and I have no doubt the House will pass it also.

Mr. MORGAN. Well, I will withdraw the resolutions for the present, upon the statement of the gentleman from North Carolina.

REPORTS OF COMMITTEES.

The SPEAKER stated that reports from committees were in order, commencing with the Committee for the District of Columbia.

Mr. CRAIG, of Missouri. The Committee on the Post Office and Post Roads was making reports when the last call of committees was suspended, and I was upon the floor asking to be heard.

The SPEAKER. The 23d rule, at the commencement of the present session of Congress, was amended by adding thereto the following proviso:

"Provided, That whenever any committee shall have occupied the morning hour on two days, it shall not be in order for such committee to report further until the other committees shall have been called in their turn."

MAILS TO THE PACIFIC COAST.

Mr. CRAIG, of Missouri. Then I ask leave of the House to report, from the Committee on the Post Office and Post Roads, an act to provide for the transportation of the United States mails from the Atlantic to the Pacific coast. I wish to have it referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WASHBURN, of Illinois. I have no objection, but I desire to have a report from the Committee on Commerce printed. I hope there will be no objection.

The SPEAKER. The Chair cannot entertain two propositions at once.

Mr. GARNETT. I object.

Mr. CRAIG, of Missouri. Then I move to suspend the rules.

The SPEAKER. That motion is not in order to-day.

Mr. WASHBURN, of Illinois. I ask permission of the House to have a report printed.

Mr. HUGHES. I call for the regular order of business.

The SPEAKER. Reports are in order from the Committee for the District of Columbia.

Mr. GARNETT subsequently withdrew his objection to the reporting of Mr. CRAIG's bill; which was thereupon read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ENGLISH. I ask to present an amendment to that bill, in the nature of a substitute, for the purpose of having it reprinted.

Mr. CRAIG, of Missouri. I have no objection to that.

It was so ordered.

ROADS IN THE DISTRICT OF COLUMBIA.

Mr. DEAN, from the Committee for the District of Columbia, reported back, with a recommendation that it do not pass, a bill (S. No. 169) to relieve the corporation of Georgetown from the expense of making and repairing roads west of Rock creek; which was laid on the table.

PROVIDENT ASSOCIATION OF CLERKS.

On motion of Mr. DODD, it was

Ordered, That the Committee for the District of Columbia be discharged from the further consideration of the memorial of the Provident Association of Clerks of the city of Washington, and that the same be referred to the Committee on the Judiciary.

H. B. ROBERTSON.

On motion of Mr. DODD, it was

Ordered, That the Committee for the District of Columbia be discharged from the further consideration of the application of H. B. Robertson, and that the same be laid on the table.

TITLE TO CHURCH PROPERTY.

Mr. DODD, from the Committee for the District of Columbia, reported back, with a recommendation that it do not pass, a bill (S. No. 241) relating to the manner of holding and transmitting the title to certain church property therein mentioned; which was laid on the table.

PROPERTY IN THE DISTRICT OF COLUMBIA.

On motion of Mr. BOWIE, it was

Ordered, That the Committee for the District of Colum-

bia be discharged from the further consideration of the petition of citizens of the District of Columbia, asking for the passage of an act of Congress for the protection of property in the District; and that the same be laid on the table.

LITTLE FALLS BRIDGE.

Mr. BOWIE. I am directed by the Committee for the District of Columbia to report back, with a recommendation that it do pass, a bill (S. No. 414) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge; and to ask to have it put upon its passage.

Mr. STEPHENS, of Georgia. The bill appropriates money, and must go to the Committee of the Whole on the state of the Union.

The SPEAKER. It must be referred, except its reference be waived by the unanimous consent of the House.

Mr. JONES, of Tennessee. I do not waive its reference. Let it go to the Committee of the Whole on the state of the Union.

It was so referred, and ordered to be printed.

ENFORCEMENT OF MECHANICS' LIENS.

Mr. WRIGHT, of Georgia. The Committee for the District of Columbia, to which was referred Senate bill No. 182, entitled "An act for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia," have directed me to report the same back, with a recommendation that it do pass. If it be in order, I move that it be put upon its passage now. It is a very important bill to mechanics as well as to landlords, on whose property in the District there are incumbrances. There can be no debate upon it. Most of the States of the Union have already similar acts. It simply provides for recording liens for work done, and for enforcing them.

The first section declares that any person who shall hereafter, by virtue of any contract with the owner of any building, or with the agent of such owner, perform any labor upon, or furnish any materials, engine, or machinery, for the construction or repairing of such building, shall, upon filing the notice prescribed in section two of this act, have a lien upon such building and the lot of ground upon which the same is situated, for such labor done, or materials, engine, or machinery furnished, when the amount shall exceed twenty dollars.

The second section declares that any person wishing to avail himself of this chapter, whether his claim be due or not, shall file in the office of the clerk of the circuit court of the United States for the District of Columbia, at any time within three months after the completion of such building or repairs, a notice of his intention to hold a lien upon the property declared by this act liable to such lien, for the amount due or to become due to him, specifically setting forth the amount claimed. Upon his failure to do so, the lien shall be lost. The clerk aforesaid shall file and record such notice in a book provided for that purpose.

The third section declares that such lien shall cease to exist at the expiration of one year after the completion of the building or repairs, unless, before that time, an action to enforce the same shall have been commenced in the said circuit court by the person having such lien against the owner with whom, or with whose agent, the contract was made, unless such claim be not due at the expiration of one year after such completion, in which case the action shall be commenced within three months after the same shall have become due.

The fourth section declares that the complaint of the plaintiff shall contain a brief statement of the contract on which the claim is founded, the amount due thereon, the time when the notice was filed with the clerk, the time when the building was completed, if it be completed, with a description of the premises, and any other material facts, and shall pray that the premises may be sold and the proceeds of the sale applied to the discharge of the lien.

The fifth section declares that the summons shall be served as in other cases, or, instead of service by publication, it may be made by delivering a copy thereof to the person in possession of the premises. If the defendant shall have sold or disposed of the premises before the service of the summons, the court shall direct notice of the proceedings to be served on the purchaser, or his agent for the premises, who may thereupon, if

he desire it, be made a party defendant in the action.

The sixth section declares that the proceedings in an action to enforce such lien shall be the same as in other actions, except as otherwise provided in this act; and if judgment be rendered for the plaintiff, he may have execution issued against the premises, and thereupon the marshal shall proceed as upon other executions upon real property.

The seventh section declares that the liens created in pursuance of the provisions of this act shall have precedence over all other liens or incumbrances which attached upon the premises subsequent to the time at which the building was commenced or the materials were furnished. If, upon a sale of the premises on execution, the proceeds be insufficient to pay all such liens, the court shall order them to be paid in proportion to the amount, respectively, due to each, and any other property of the defendant, not exempt from execution, may be sold to satisfy such execution.

The eighth section declares that if the building be on any land lying outside the corporate limits of Washington city and Georgetown, the land upon which the same is erected, together with the space around the same, not exceeding five hundred square feet clear of the building, shall also be subject to the said lien, if the said land, at the time of the erection or repair of such building, shall have been the property of the person contracting for the erection or repair of the same. If the building be in Washington city or Georgetown, the ground on which the same is erected, and a space of ground equal to the front of the building, and extending to the depth of the lot or lots on which it is erected, shall also be bound by the said lien, subject to the foregoing proviso.

The ninth section declares that all or any number of persons, having liens on the same building pursuant to the provisions of this act, may join in one action, but their claims shall be stated distinctly as in a separate action, and the judgment shall show the amounts to which they are respectively entitled. If several such actions be brought by different claimants, and be pending at the same time, the court may order them to be consolidated.

The tenth section declares that, whenever any person having a lien, by virtue of the provisions of this chapter, shall have received satisfaction for his claim, and the cost of his proceedings thereon, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction, within six days after such payment or tender, enter satisfaction of his demand in the office of the clerk aforesaid; and upon failure to do so he shall forfeit and pay fifty dollars to the party aggrieved, and all damages which he may have sustained in consequence of such failure or neglect.

The eleventh section declares that any sub-contractor, journeyman, or laborer, employed in the construction or repairing of any building, or in furnishing any materials or machinery for the same, may give the owner thereof notice in writing, particularly setting forth the amount of his claim, and the service rendered for which his employer is indebted to him, and that he holds the owner responsible for the same; and the owner of the building shall be liable for such claim, but not to exceed the amount due from him to the employer at the time of notice, or subsequently, which may be recovered in an action.

The twelfth section declares that whenever any sub-contractor, journeyman, or laborer, shall recover any such claim from the owner of the building, the same may be set off by such owner in any action brought against him by the person who otherwise would be entitled to recover the same under the contract.

The thirteenth section declares that in all proceedings, commenced under this act, the defendant may file a written undertaking, with surety to be approved by the court, to the effect that he will pay the judgment that may be recovered, and costs, and thereby release his property from the lien hereby created.

The fourteenth section declares that any person, having possession of the same, who shall make, alter, repair, or bestow any labor, on any article of personal property, at the request of the owner or lawful possessor thereof, shall have a lien on such property so made, altered, or repaired, or upon which labor has been bestowed, for his just

and reasonable charges for the labor he has performed, and the materials he has furnished; and such person may hold and retain possession of the same until such just and reasonable charges shall be paid.

The fifteenth section declares that any person who is a common carrier, or who shall, at the request of the owner or lawful possessor of any personal property, carry, convey, or transport the same from one place to another, and any person who shall safely keep or store any personal property at the request of the owner or lawful possessor thereof, and any person who shall depasture or feed any horses, cattle, hogs, sheep, or other live-stock, or bestow any labor, care, or attention upon the same, at the request of the owner or lawful possessor thereof, shall have a lien upon such property for his just and reasonable charges for the labor, care, and attention he has bestowed and the food he has furnished, and he may retain the possession of such property until such charges are paid.

The sixteenth section declares that if such just and reasonable charges be not paid within six months after the care, attention, and labor shall have been performed or bestowed, or the materials or food shall have been furnished, the person having such lien may proceed to sell, at public auction, the property mentioned in sections fourteen, fifteen, sixteen, and seventeen of this act, or a part thereof, sufficient to pay such just and reasonable charges. Before selling, he shall give notice of such sale, by advertisement, at least once a week for three weeks, in some newspaper printed and published in the District of Columbia; and the proceeds of such sale shall be applied, first, to the discharge of such lien and the costs and expenses of keeping and selling such property, and the remainder, if any, shall be paid over to the owner thereof.

The seventeenth section declares that, where the property is of a perishable nature, and will be greatly injured by delay, or where the property bailed or kept be horses, cattle, hogs, sheep, or other live-stock, the person to whom the charges may be due, may, after the expiration of thirty days from the time when such charges shall have become due, proceed to dispose of so much of the property as may be necessary, as hereinbefore provided.

The eighteenth section declares that the provisions of sections fourteen, fifteen, sixteen, and seventeen of this act shall not interfere with any special agreement of the parties.

The nineteenth section declares the act entitled "An act to secure mechanics and others," &c., approved March 2, 1833, and all other acts and parts of acts inconsistent with the provisions of this act, repealed, and that this act shall take effect from the date of its passage.

The bill was read the third time, and passed.

POST OFFICE DEPARTMENT.

Mr. ATKINS, from the Committee on the Post Office and Post Roads, reported a bill to amend the acts in relation to the Post Office Department. The bill proposes to increase the rate of postage from three cents to five cents. The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

PUBLIC BUILDINGS AT MEMPHIS.

Mr. ATKINS also, from the same committee, reported back a bill (H. R. No. 695) to increase the appropriation for public buildings at Memphis, Tennessee; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SURVEY OF THE MISSISSIPPI.

Mr. WASHBURN, of Illinois. Some days since, on motion of the gentleman from Tennessee, [Mr. ATKINS,] a special committee was appointed to examine in regard to the survey of the Mississippi and the building of a levee. There have been several petitions on that subject referred to the Committee on Commerce; and I have been directed to ask that that committee be discharged from the further consideration thereof, and that the same be referred to the special committee, and one of them to the Committee on Public Lands.

Mr. GREENWOOD. Is this in order, Mr. Speaker?

The SPEAKER. It is not.

Mr. GREENWOOD. Then I object to it, and call for the regular order of business.

Mr. WASHBURN, of Illinois. I call for the regular order of business, too.

UNITED STATES COURTS IN ARKANSAS.

Mr. READY, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, a bill (S. No. 278) concerning the courts of the United States in the district of Arkansas; which was laid on the table, and ordered to be printed.

ADVERSE REPORTS.

Mr. HOUSTON, from the same committee, made adverse reports on the following resolutions and memorials; which were severally laid upon the table, and ordered to be printed:

A joint resolution of the Missouri Legislature, instructing her Senators and Representatives to ask for an appropriation to build a court-house and post office at Jefferson City;

The memorial of the citizens of Madison county, Tennessee, for an appropriation for a court-house, post office, and pension office, at Jackson, Tennessee;

Papers and proofs relating to the claim of Thomas C. Ware, for compensation for professional services in the case of the steamer Martha Washington;

The petition of Charles H. Carroll and others, asking that the heirs of Charles Carroll be released from a suit now pending in the circuit court of the United States for the District of Columbia, against Charles Carroll and Eli Williams;

A memorial for compensation of clerks, &c.; and

A resolution as to electing Senators, &c.

PUBLIC BUILDINGS.

Mr. HOUSTON also, from the same committee, reported back, with a recommendation that they do not pass, the following bills; which were severally laid upon the table:

A bill (H. R. No. 151) for the construction of a custom-house, post office, and court-house, in Appalachicola, in the State of Florida;

A bill (H. R. No. 196) for the construction of a suitable building for the accommodation of the circuit and district courts of the United States, and the several offices connected therewith, and the post office, at Hartford, Connecticut;

A bill (H. R. No. 310) to provide a building for the accommodation of the courts of the United States and the post office, at Tyler, in the State of Texas; and

A bill (H. R. No. 24) authorizing the construction of a building at Montgomery, State of Alabama, for a court-house and post office.

NATURALIZATION LAWS.

Mr. HOUSTON also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 699) to amend the naturalization laws; which was laid upon the table.

FEES OF THE SERGEANT-AT-ARMS.

Mr. HOUSTON. I have been instructed by the Committee on the Judiciary to report a resolution, which I will have read. I do not know but that the action of the House, the day before yesterday, in amending a bill, may have superseded the necessity of acting upon the report. The House, however, will determine that fact. I do not feel at liberty to withhold the report from the House.

The resolution was read, as follows:

Resolved, That the proper and legitimate construction of the 69th rule of the House of Representatives allows to the Sergeant-at-Arms only ten cents a mile for the number of miles actually traveled, by himself or his special messengers, in making arrests or summoning witnesses, regardless of the number of arrests made or witnesses summoned.

Mr. STEPHENS, of Georgia. I hope the resolution will be adopted. It can do no harm.

Mr. HOUSTON. I would rather it should be passed.

The resolution was adopted.

Mr. HOUSTON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

UNITED STATES COURTS IN ARKANSAS.

Mr. GREENWOOD. I rise to a privileged

question. I move to reconsider the vote by which bill (S. No. 278) concerning the United States courts in Arkansas was laid upon the table. I ask to have the motion entered.

The motion was entered, and passed over.

COURT OF CLAIMS.

Mr. CLARK, of New York, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, a bill (H. R. No. 659) to amend an act to establish a court for the investigation of claims against the United States, so as to permit creditors of the Government to sue in the district courts of the United States.

Mr. GROW. I move that the bill be referred to the Committee of the Whole on the state of the Union, and be printed.

Mr. CLARK, of New York. A report has been prepared to accompany this bill; but it has not yet received the technical approval of the committee. I ask leave to file that report, and have it printed and referred with the bill.

Leave was granted.

COMMENCEMENT OF ACTIONS.

Mr. CHAPMAN, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, a bill (H. R. No. 477) to limit the commencement of actions in certain cases; which was laid upon the table.

JUDICIAL DISTRICTS IN PENNSYLVANIA.

Mr. CHAPMAN also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 83) to divide the State of Pennsylvania into three judicial districts; which was laid upon the table.

FORGERY OF LAND WARRANTS, ETC.

Mr. CHAPMAN also, from the same committee, reported a bill for the punishment of forging or counterfeiting military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts; which was read a first and second time.

Mr. CHAPMAN. I ask that the bill be put upon its passage.

The bill was read.

Mr. HUGHES. I beg leave to suggest to the gentleman from Pennsylvania who reported this bill, that if I understood the reading aright, there is no language in the bill providing for the felonious intent; the words "knowing the same to be forged and counterfeited" are omitted.

Mr. CHAPMAN. I ask that the last paragraph of the bill may be read again?

The last paragraph of the bill was read.

Mr. CHAPMAN. Mr. Speaker, the omission of which the gentleman speaks was inadvertently made. I presume there will be no objection to the correction being made.

There being no objection, the correction was accordingly made.

Mr. CHAPMAN. This is a very important bill, and I may say that it has received the entire approbation of the Committee on the Judiciary. It provides for the punishment of the forging and counterfeiting of military bounty land warrants, and military bounty land warrant certificates, issued by the Commissioner of Pensions, the receipts for purchasing the lands of the United States, and the certificates of purchase issued by any register or receiver.

It provides also for the punishment of issuing or drawing any such instruments, knowing them to be counterfeit, and annexes a penalty for such act, of not less than three years' imprisonment, and not more than ten years. There is not, at this time, any statute of the United States for the punishment of such crimes, although there are laws providing for the prosecution of perpetrators of forgeries in other cases, such as forging Treasury notes, and papers relating to the procurement of pensions; but thus far there has been no law passed applicable to the forgery of military bounty land warrants. These instruments, being exclusively the creatures of law, resulting from the legislation of Congress in regard to the public lands, it is most important that the United States courts should have jurisdiction of this class of offenses. There is no jurisdiction at common law, and if resort be had to the State courts it is necessary that there should be legislation in the States or Territories, in order that

the State courts may have jurisdiction over the subject-matter. A difficulty of this description arose not long since in one of the Territories, now a State of this Union, and the United States authorities were very much embarrassed for want of this very legislation. Certificates of location in that Territory were forged, covering an extent of ten thousand acres of land. Three of the perpetrators were arrested, one of them escaped, and whether the others have since been tried or not I do not know; but it was necessary, in that instance, to resort to the local authorities. The hands of the United States authorities were tied, and they were unable to accomplish what they would have accomplished if this legislation had then been in existence.

This matter has earnestly been recommended by the Secretary of the Interior. In consequence of the opportunity the perpetrators of these offenses have had to escape justice, and the number of offenders who have been permitted to go unwhipped of justice, it is very important that this bill should become a law without delay. I demand the previous question on the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. CHAPMAN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COURTS IN WASHINGTON TERRITORY.

Mr. CHAPMAN. I am instructed by the Committee on the Judiciary to report back the memorial of the Legislative Assembly of Washington Territory, asking that courts may be held in each county of that Territory; with the recommendation that it be laid on the table. They propose to be discharged from the consideration of the memorial in consequence of the legislation of the last session, which, it is supposed, meets the purpose of the memorial.

The memorial was laid on the table, and the committee discharged from the further consideration thereof.

Mr. DODD moved to reconsider the vote by which Senate bill No. 241 was laid on the table; and moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNITED STATES COURTS IN ILLINOIS.

Mr. TAPPAN, from the Committee on the Judiciary, reported a bill to authorize the holding of the circuit and district courts of the United States in the city of Peoria, Illinois; which was read a first and second time.

Mr. KELLOGG. I ask to have that bill put upon its passage.

The bill was read *in extenso*.

Mr. MORRIS, of Illinois. If I understand the reading of that bill, I think it attaches to the northern district of Illinois certain counties which now form a part of the southern district. I do not propose to interfere with the gentleman's bill. I am willing that he should have a term of the United States district court held at Peoria; but, as a Representative of the southern district of that State, I am not willing that, for the purpose of effecting that object, he should take a part of the counties from the southern district and attach them to the northern district. I would like to have the Clerk read again that portion of the bill.

The Clerk read the bill again; which provided, among other things, that the counties of Fulton and Tazewell should be attached to, and become a part of, the northern district of Illinois.

Mr. KELLOGG. I would say to the gentleman that the counties of Fulton and Tazewell are the only ones changed. The county of Fulton was originally designed to be attached to the northern district; but by a mistake it was not done. The county of Tazewell is within a stone's throw of Peoria, and it was thought advisable to attach it also.

Mr. MORRIS, of Illinois. As those are the only two counties proposed to be attached to the northern district, I will make no objection to it.

Mr. HUGHES. I wish to inquire of the gentleman from Illinois whether there are any pub-

lic buildings in Peoria to accommodate the holding of the courts, or whether it is not necessary, after the passage of this bill, to provide suitable buildings for holding the courts?

Mr. KELLOGG. There are county buildings which will be used for that purpose, and it is not designed to ask for any money appropriation for the purpose of providing accommodations for the holding of courts, in the way of new buildings or otherwise.

Mr. HUGHES. Another question: What will be the probable expense of holding those terms of the court; that is in the way of jurors, fees, &c.?

Mr. KELLOGG. Not a dollar more than it costs now.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. KELLOGG demanded the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was passed.

Mr. KELLOGG moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CATHARINE ANSART.

Mr. VANCE, from the Committee on Revolutionary Claims, made an adverse report on the petition of Catharine Ansart; which was laid on the table, and ordered to be printed.

DANIEL BEDINGER.

Mr. VANCE also, from the same committee, reported a bill for the relief of the heirs of Daniel Bedinger; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DEXTER BARNES.

Mr. FENTON, from the Committee on Private Land Claims, reported a bill authorizing the Secretary of the Interior to issue a land warrant for one hundred and sixty acres of land to Dexter Barnes; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

TOBACCO TRADE.

Mr. WHITELEY, from the Committee on Agriculture, reported back a joint resolution (H. R. No. 38) upon the subject of the tobacco trade with foreign nations, with a recommendation that it do pass.

The resolution declares, first, that the trade in tobacco with Great Britain, France, Spain, Portugal, Austria, Brazil, and other foreign nations, is clogged with restrictions and limitations wholly inconsistent with that fair and reciprocal condition of commerce which ought to exist between the United States and those nations respectively; and is therefore unsatisfactory to the States of Virginia, Kentucky, Maryland, North Carolina, Missouri, Tennessee, Ohio, Connecticut, and other tobacco-growing States, in which that article is an important, if not the chief, staple of agricultural production.

Second, that it is the duty of the Federal Government to use its utmost powers of negotiation, or other constitutional means, to obtain a modification or reduction on the part of said foreign nations of the duties and restrictions imposed by them on the importation of American tobacco; and to this end to employ all the diplomatic and commercial powers which the Constitution has confided to it, in producing a more just and equal reciprocity in a trade so deeply involving the value of that portion of the agricultural labor of the country, in which at least one fourth of the Confederacy is concerned.

Third, that the treaties of the United States with China and Japan present a fair and fitting occasion for the enlargement and extension of the tobacco trade of the United States, and that it is the duty of the Government of the United States to use all its exertions within the limits of constitutional power, to foster and encourage the introduction of American tobacco as an article of use among the people of those nations.

Fourth, that diplomatic negotiations with England, France, Spain, and Austria, as well as with China and Japan, ought to be commenced as soon

as practicable by the Government of the United States, with the view of obtaining a modification of the existing systems of revenue and taxation of those nations in respect to American tobacco; and that, for this purpose, instructions ought to be given to our foreign ministers, consuls, and commercial agents to those nations, by the Executive of the United States, to use all their constitutional and legitimate functions in producing so desirable a result.

Mr. GARNETT. I understand one of these resolutions to suggest that we shall go into a system of retaliating restrictions on foreign countries, in order to force them to change their duties on our tobacco. I do not think that the committee ought to pursue it to a vote at this time.

The second resolution was again read.

Mr. GARNETT. I think that that resolution clearly alludes to modes other than diplomatic. It says, "all the diplomatic and commercial powers."

Mr. OLIN. That is the power of making war.

Mr. GARNETT. I am very willing that all proper measures shall be taken to have the duties imposed by foreign Governments on tobacco removed; but I am unwilling to vote for a resolution looking to retaliatory measures in regard to the tariff.

Mr. WHITELEY. There is no such intention.

Mr. MORRIS, of Pennsylvania. I suggest to the chairman of the Committee on Agriculture that he remove from these resolutions the speciality of legislation, and that they be altered so as to require the President to instruct our diplomatic agents to procure the removal of all duties which are injurious to American interests in any respect whatever. I should like to have the President requested to instruct our agents abroad to procure from foreign Governments the removal of duties upon American iron and other products. This is a special protection to one interest of the country. I have no objection to protection anywhere. I am for the protection of the tobacco and the cotton of the South, as well as for the protection of the iron and the manufactures of the North. I shall, therefore, vote for the resolutions; but, I think, that to be equally just to all the great interests of the country, they should have been made more expansive, and should have comprehended instructions to the diplomatic representatives abroad to procure the removal of all duties that militate against American interests.

Mr. STEPHENS, of Georgia. I do not think that the resolutions are liable to the exceptions taken by the gentleman from Pennsylvania, [Mr. MORRIS;] and the gentleman who introduced them assures the House that such was not the intention of the Committee on Agriculture. I do not see anything like protection in these resolutions. I move the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was passed—ayes 87, noes 39.

Mr. WHITELEY moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HOMESTEAD BILL.

Mr. KELSEY, from the Committee on Agriculture, reported back, with a recommendation that it do pass, a bill (H. R. No. 72) to secure homesteads to actual settlers on the public domain; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Leave was granted to Mr. KELSEY to file a written report to accompany the bill, and be printed.

Mr. GROW. I move to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union. Early in the last session I introduced this bill, which provides for granting homesteads on the public domain, and I also introduced a bill to provide that hereafter the sales of the public lands shall be confined to actual settlers for ten years after they have been surveyed. Those bills were both referred to the appropriate committees. Twice, during my term of service in Congress, a bill similar in all its provisions to this one, has passed the House of Representatives, and twice it has failed

in the Senate. As the propriety of granting homesteads to actual settlers on the public domain is a question that has been very fully discussed in the House for the last eight years, and in which I have taken not a little part; I do not propose, therefore, to trespass now upon its attention longer than to enable me to make a single remark in explanation of the reason of my motion; as I was engaged when the motion to refer was put, and did not know that the report was made.

In my judgment, the land policy of this country should be brought back to the principles of sound legislation on this subject, as laid down by General Jackson, in his message in 1832, that you should cease to look to the public lands as a source of revenue, and that they should be set apart and secured, in limited quantities, as homes for actual settlers. Believing that that should have been the policy in the first disposition of the public lands, I trust that this Congress will restore the Government to that policy, and that the public lands will hereafter be secured in limited quantities to actual settlers, instead of being left, as they now are, to be absorbed by the capital of the country in a vast system of land monopoly.

It is unnecessary, I trust, to argue with any gentleman on this floor that the deadliest, direst curse that can be inflicted on the new States or upon any country is a system of land monopoly. It palsies the arm of industry and paralyzes the energies of a nation. It has been tried in the Old World, and its fruits are written in the sighs and tears of its crushed millions. It has been tried there sufficiently long to satisfy the most skeptical that the condition of the new States will be greatly improved if you will secure and guard the settlers forever against a system of land monopoly in the public domain. By securing the lands to the actual settler, you will not only confer such a blessing upon the new States, but will add in the most substantial manner to the greatness and glory of the Republic. By the Constitution, Congress is made a trustee of these lands, to administer them in the way that will best promote the general welfare. How can this be done in any better way than by placing upon them actual settlers, who, by the cultivation of the soil, will develop its resources and convert the haunts of savage life into a home for civilized man, and "make the wilderness bloom and blossom as the rose?" By the present land system the settler is obliged to go far distant into the wilderness, or to pay to the speculator, who has purchased from the Government the more desirable locations, four or five dollars per acre in advance upon the Government price of the public lands. What is the injury thus inflicted upon the labor of the country and the development of its great interests? Under and by authority of your existing laws you permit to be abstracted from its hard earnings four, five, six, or eight dollars per acre, to be paid into the pocket of the speculator and non-resident landholder, to be squandered too often in reckless and prodigal extravagance.

Under the existing system, the actual settler gets his land in comparatively few cases at Government price; but that is not the greatest evil he has to encounter. By the lands being held by non-residents, the actual settlers are of necessity thrown further apart, thus making it more difficult to have schools and churches, and to surround their homes with all the adjuncts of a nobler and better civilization. Let the land system be so fixed that the actual settlers can take from the Government these lands as a homestead, by paying the expenses of the land office, or at the Government price as preëmtors, and they are secured thereby in the means of making compact settlements, opening and constructing public roads, and building school-houses, and churches, and even railroads, and of supplying all the wants of a thriving people and growing civilization; and you will require no grants of alternate sections to open the wilderness. Four or five dollars per acre would amount to the sum of eighty or a hundred thousand dollars in each township that you take from the settler, under the operation of existing laws, and pay over to the speculator. And this legislation you call just. It is of such legislation that the settler complains. Why not leave this large amount of his earnings in his own hands, with which he may open the avenues of trade, surround his home with comfort, and rear his children honored and respected members of society?

In addition to the justice of securing to the actual settler a homestead in order thus most effectually to develop the material interests of the country, it is required by every dictate of humanity. If you would elevate the race, make it wiser and better; the first and most important step in its advancement is to surround the fireside with comfort. It is in vain you attempt to beckon on the weary pilgrim of this world to a higher existence, and arouse in his bosom the nobler elements of his nature, unless you place within his reach the means for satisfying his present physical wants. I would not, however, have the Government converted into an almshouse to relieve all the distresses of men. It cannot, I grant, alleviate the manifold woes of the race; but so far as it is within its constitutional power, I would have it so administered that it should add as much as possible to the comfort, happiness, and welfare of the race.

In the disposition of the public lands you have it in your power to secure that object, to a great extent, by securing to the actual settler a choice of home on the public domain. At present the public lands are opened in large quantities, to be purchased by the speculator, who, of course, seeks the best locations in the newly-surveyed districts, and the actual settlers are thus pressed still further into the wilderness, unless they pay an enhanced price. Secure to the actual settler those lands nearer to civilization, and leave to him his earnings, with which to surround his home with comfort and make his fireside happy, and you will have overcome one of the greatest obstacles in elevating, purifying, and ennobling the race. The man whose days are dragged out in procuring a morsel to sustain life, and whose last prayer, as he falls heart-broken into his kennel of straw, is that he may never behold the light of another day, is a poor subject for the missionary of a purer and better state of existence.

"Go say to the raging sea, be still;
Bid the wild, lawless winds, obey thy will;
Preach to the storm, and reason with despair;
But tell not misery's son that life is fair."

If you would elevate and reform, begin with purifying the influences of the domestic fireside by first making it comfortable and happy. I hope the motion to refer will be reconsidered, and that this bill may be put upon its passage. I therefore move to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union; and upon that motion I demand the previous question.

Mr. STEPHENS, of Georgia. I hope the gentleman from Pennsylvania will withdraw that motion for a moment. I will make a motion which will be equivalent to it.

Mr. GROW. No, sir; I cannot withdraw the motion. I hope it will be carried, and that the bill may be put on its passage.

Mr. STEPHENS, of Georgia. I move to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois. I call for the yeas and nays upon that motion.

Mr. STEPHENS, of Georgia. I move to proceed to the business on the Speaker's table.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

NEWSPAPER POSTAGE.

Mr. ENGLISH. I move to reconsider the vote by which the bill relative to the postage on newspapers and periodicals was referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The motion will be entered, but cannot now be considered.

The question recurred on the motion to go into the Committee of the Whole on the state of the Union.

Mr. GROW. I desire to ask whether, if we go into committee now, the motion to reconsider which I have made will come up in the morning?

The SPEAKER. Not necessarily. The motion may be called up at any time.

Mr. GROW. Then I give notice, that I will call up the motion to reconsider at half past twelve o'clock to-morrow.

Mr. JONES, of Tennessee. I am not aware that there is any disposition to discuss this bill. We might just as well come to the vote now as at any other time, and I hope, therefore, that the

friends of the bill will vote down all other motions, and come to a vote upon the bill.

Mr. HUGHES. If we go to the business on the Speaker's table, what will be the business in order?

The SPEAKER. First, the disposition of executive communications, and then of certain bills from the Senate.

Mr. JONES, of Tennessee. With the understanding that the vote shall be taken on the motion of the gentleman from Pennsylvania to reconsider to-morrow morning, I am willing that it shall go over until that time.

The SPEAKER. It may be called up at any time.

Mr. JONES, of Tennessee. Very well, then; I withdraw all opposition to the motion of the gentleman from Missouri to go into the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. I trust, then, that the gentleman from Missouri will withdraw his motion to go into committee, and allow us to go on in calling the committees for reports.

Mr. PHELPS, of Missouri. I cannot withdraw the motion.

Mr. PHELPS, of Minnesota. Is the homestead bill now amendable?

The SPEAKER. It is not before the House at this time. A motion has been made to reconsider the vote referring it to the Committee of the Whole on the state of the Union.

Mr. PHELPS, of Minnesota. If the motion to reconsider should succeed, will the bill be open to amendment?

The SPEAKER. If the House reconsider the vote, and refuse to commit the bill, it will then be open to amendment.

Mr. WASHBURN, of Illinois. I hope the gentleman from Missouri will insist on his motion to go into the Committee of the Whole on the state of the Union.

Mr. PHELPS, of Missouri. I ask for a vote upon the motion.

The question was taken; and the motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STEVENSON in the chair,) and resumed the consideration of the

CONSULAR AND DIPLOMATIC BILL.

The pending question being upon the amendment of the gentleman from Mississippi, [Mr. SINGLETON,] to add, at the end of the bill, the following:

And provided further, That no part of said appropriation shall be used for the support or education of any Africans heretofore returned, or hereafter to be returned, to their native country, under the provisions of said act of 3d March, 1819, after the same are delivered into the hands of the agent or agents appointed to receive them from the United States.

The amendment was not agreed to.

Mr. BARKSDALE. I desire to move an additional section to the bill.

Mr. CRAWFORD. Before the gentleman makes that motion, I will move to reduce the appropriation in this clause of the bill from \$75,000 to \$45,000. I cannot give my support to this clause in the bill, because about thirty thousand dollars of this sum is intended to furnish a year's support to the Africans who were returned on board the Niagara to Liberia, and is to be paid to the Colonization Society. Neither can I give my assent to the construction of the act of 1819 which secures to these negroes support and maintenance for a year after their return. Indeed, sir, if that authority is given by that law for one year, there is no limit to prevent its being done for twenty. That act authorizes the President to employ the vessels of the United States in cruising either upon our own coast or that of Africa, for the purpose of preventing our citizens from carrying on the slave trade, and to use American vessels to seize and bring into port all slavers captured upon the high seas, such vessels to be sold, and the proceeds divided between the Government and the officers and men so capturing the same, upon their delivery of the negroes aboard to the marshal of the district into which they are brought, and the officers and crew to the civil authorities thereof. Next comes the section under which this money is sought to be appropriated; the negroes being in the custody of the marshal, the President is "authorized to make such regulations

and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States of all such negroes, mulattoes, or persons of color, as may be so brought within their jurisdiction; and to appoint a proper person or persons residing upon the coast of Africa as agent or agents for receiving them."

This section devolves upon the President the duty, in the first place, to safely keep them; next, to support them whilst in the United States; then, to remove them beyond our limits; and lastly, to deliver them to any person whom he thinks fit, upon the coast of Africa, when his obligation and his duty to them and ourselves both cease. These things are all required to be done intermediate the time of their delivery to our marshal here and their landing upon the coast of Africa. This construction corresponds with the reason for the law, and the objects and purposes to be accomplished by it. The Africans imported were wild, ungovernable savages, who could not be safely turned loose in our midst without great danger to the security of our own citizens; and hence the President was required, when they were brought in, to safely keep, support, and remove them as quickly as possible from among us.

The same reason which induced that section to be incorporated in the act, did not operate upon the President in the case of the Echo prisoners. Then the object was to protect the white man from the Africans; now the object was to prevent the Africans from being appropriated and made property by the white man. Then the whole South was unanimously against the slave trade, now it is becoming divided; and unless the war upon slavery is stopped, fifteen years will witness the trade open for the South, and our then Mexican possessions reaching to Guatemala certainly, and probably further south. But the question is as to the sum to be paid under this bill. So long as the law stands upon the statute-book, giving the bounty of twenty-five dollars apiece for all Africans thus brought in, and requiring us to support them while here, and then to pay their expenses back to Africa, I will vote that amount. As for the \$30,000 to be paid to the Colonization Society after, if I vote for that I am then bound by the President's construction of the law, and I cannot give any such construction. The other I will pay, but no more.

Mr. STEWART, of Maryland. I am opposed to the amendment of the gentleman from Georgia. I have listened with patience to the various commentaries made here in relation to this act of 1819. I look upon this whole question as one involving merely the consideration whether the President of the United States, in the execution of the act of 1819, has exercised a sound discretion. I have heard the explanation of my friend from Georgia, [Mr. CRAWFORD], assuming the act of 1819 to be within the purview of the Constitution—and on that question I do not mean to commit myself. Assuming it to be constitutional, then the question arises, in a case such as this, what is the duty of the Executive? Under the language of the act of 1819, it is the duty of the President of the United States, whenever Africans are brought in by vessels of the United States, to see that they are taken care of, and to provide that they are removed beyond the jurisdiction of the United States; and they are required to be delivered upon the coast of Africa to some agent—some "proper agent or agents," to use the language of the law itself. Who is a proper agent? What is the duty of the President under that part of the law? Suppose no proper agent can be found on the coast of Africa to receive them, what is the duty of the President of the United States? These Africans have to be kept and supported, and it may be one, two, or five years; and the Government of the United States may be involved in an enormous expense, if there is no proper agent or agents there to receive them.

Then may not I understand the act of 1819 to clothe the President of the United States with power still to take charge of and retain these negroes when transported to Africa, if there is no agent to receive them? I ask gentlemen what course should the President take under such circumstances? He is not authorized, under the act of 1819, to set them at large; but is to have them delivered to a proper agent, because, under the phraseology of that clause, they are to be supported until they are delivered over to such agent.

I say, therefore, that, under the act of 1819, it was the duty of the President of the United States to see that a "proper agent" was constituted to receive them; and if he was necessarily obliged to make a contract stipulating for their support, in order to carry out the provisions of the act of 1819, and he made a reasonable arrangement, under the act of 1819, I see no objection which can be made to the act of the President of the United States upon this subject.

The President seems to be between two fires, both in front and rear. He is blamed by some gentlemen of the North if he undertakes to carry out the fugitive slave law, and by some in the South if he assumes to carry into effect the act of 1819. I am opposed to all these superfine criticisms and complaints, whether from the North or the South. Without being the apologist of the President, I maintain that in carrying out the laws upon the statute-book he has acted in good faith and with reason and common sense. I am a State-rights man, of the strictest sect, and am against a loose construction of the Constitution, or any of the statutes now in force under this Government; but I submit it is not right, nor wise, nor according to the well-defined principles of law or common sense, to adopt those sublimated constructions and superfine notions, in relation to the conduct of the President under the act of 1819.

Mr. MOORE. I move to increase the appropriation \$1,000.

This question, Mr. Chairman, has been most thoroughly discussed; and I do not propose to follow the ground assumed yesterday by my colleagues. I think that the question involved in this case is an important one, not whether the slave trade should or should not be revived, but whether the President was authorized by the law of 1819 to enter into this contract. I admit that there have been precedents justifying the course pursued by the President; but precedents are of little worth when not sustained by law. And then there is a question above and beyond that: it is whether this Government shall connect itself with the schemes of the Colonization Society; and help to bolster up that rotten concern, the Republic of Liberia, which has proved by experiment to be a failure and an abortion. The President in his annual message tells us that there is no other point on the coast of Africa where these Africans could be carried consistently with the claims of humanity, except Liberia; that at any other point they would be liable to perish for want of food and to be again taken as the victims of the slave trade.

Now, the question comes up, whether, if the President's assumption be true, that Liberia is the only point that captured Africans can be returned to, that colony is to be kept up, at the expense of the Government, in all time to come, as a receptacle for returned Africans? For one, I protest against that; and if this appropriation be sanctioned now, we will be authorizing the President, and his successors, even though hundreds and thousands of Africans should be captured in a year, to enter into similar contracts for the safe-keeping, support, and education of such Africans, in Liberia. Is it not so? Is it for our Government to do the very work which the Colonization Society assumes to do? I am opposed to this Government lending its aid to, or taking any part in, this scheme of colonization. Instead of improving their own condition, and civilizing and Christianizing the natives of Africa, these free blacks in Liberia have themselves deteriorated, and are fast relapsing into ignorance, idolatry, and barbarism. Let all aid be withdrawn by the General Government, and also the contributions now made by the States of Virginia and Maryland, and by the Board of Foreign Missions, and by private individuals, and the so-called Republic of Liberia will soon be numbered among those that have passed away.

On the plea of humanity—which gentlemen invoked yesterday—the history of the passage of the Niagara, with these Africans on board, tells the tale that there was no humanity in sending them back at all; for, with all the kind treatment they received, fifty-seven of them perished on the return voyage. But as to this, the President is not responsible; for no one can deny that he had a right to send them to Africa, though—according to my view of the law of 1819—he was not imperatively required to send them there. He was required to send them beyond the limits of

the United States; and if he sent them to Canada—that asylum for so many fugitive slaves—or to any of the West India Islands, or anywhere else, beyond the limits of the United States, he was carrying out that law. But I merely throw out this suggestion. I certainly make no objection to these Africans being returned to Africa, but I do object to any appropriation of money for their support and education after their return.

[Here the hammer fell.]

Mr. MILLSON. I am surprised, Mr. Chairman, at the sensitiveness manifested by some gentlemen who have spoken in this debate. I fear that they entertain some vague, undefinable apprehension that with the execution of this law is associated some condemnation of the slave trade, and, therefore, of slavery. Gentlemen do not seem to appreciate the strength of their own position. To condemn the African slave trade is not to reproach slavery. Nothing can be more unlike; nothing more antagonistic. To uphold the slave trade is to surrender the defense of slavery. It is to abandon all those arguments by which the justification of the system of slavery now existing in the southern States becomes a demonstration. Sir, I do not see what the President could have done other than he has done. He is required by law to capture all American slave vessels having negroes on board taken from the coast of Africa. What is to be done with them? Are they to be brought to the United States, and distributed among our people as free negroes? Why, no part of the Union would complain more bitterly than the people of the southern States, if such a disposition were made of these negroes. Are they to be reduced to slavery? Are they to be surrendered to those who brought them, in violation of law, from the coast of Africa? Clearly not. That would be to allow them to profit by their own crime. Are they to be made the slaves of the Government? How can the Government of the United States hold slaves? What, then, could be done, but send them back? Independently of the law, which made this the special duty of the President, the obligations which usually rest on all Governments would make it their duty to restore to their own country those who have been forcibly taken away from it by the violence and rapine of their own citizens and subjects.

The gentleman [Mr. Moore] says that the President was not obliged to send these negroes back to the coast of Africa. The act expressly provides that he shall do so.

The objection, however, is to supporting them in the mean time. What was to be done with them? Are we required by the law to take them into our possession only to subject them to starvation? The law requires that they shall be supported. The same question was submitted to Congress by Mr. Monroe. He stated his construction of the law, and invited Congress, if it differed from him, to pass some other law repudiating his construction. Congress was silent on the subject. It acquiesced in the correctness of the construction put upon it by a Virginia President. And now the attempt is made to question the correctness of the course pursued by President Buchanan in exact accordance with the precedent thus silently acquiesced in by Congress.

I ask the Clerk to read a paragraph, which I send marked, from President Monroe's message to Congress.

The Clerk read it, as follows:

"On due consideration of the several sections of the act, and of its humane policy, it was supposed to be the intention of Congress that all the persons above described who might be taken under it, and landed in Africa, should be aided in their return to their former homes, or in their establishment at or near the place where landed. Some shelter and food would be necessary for them there as soon as landed, let their subsequent disposition be what it might. Should they be landed without such provision having been previously made, they might perish. It was supposed, by the authority given to the President to appoint agents residing on that coast, that they should provide such shelter and food, and perform such beneficent and charitable offices as are contemplated by the act."

Mr. MILLSON. Mr. Buchanan has done nothing more than Mr. Monroe did.

[Here the hammer fell.]

Mr. MOORE. I now withdraw my amendment.

Mr. CASE. I move to strike out the whole of this section. Mr. Chairman, this clause grows out of the history of the two slave ships Echo and Wanderer, which history is so startling as to in-

cite earnest attention to our laws prohibiting the slave trade—to the manner in which they have been executed, as well as to the question whether they should be enforced at all.

In the one case, some four hundred negroes were kidnapped and embarked from the coast of Africa, whose number was so diminished by the cruelties of their passage that less than half remained alive to be relanded on their native shore. In the other case, some three hundred Africans, perhaps, were landed on our coast, and, beneath a genial southern sun, have become so absorbed that their place is scarcely discoverable.

The last proviso of this section, we all agree, is to cover the expenses of carrying the Echo negroes to Liberia, and educating them under the direction of the President. To this, and particularly to so much of it as provides for their education, special objection is made. I was not in the Hall during the debate of yesterday on this section, nor have I read the Globe report of it; but I find in the Union of this morning an abstract of that debate which serves my present purpose. I find the gentleman from Alabama [Mr. DOWDELL] insisting that our Government is not a missionary society; and, with his colleague, [Mr. CURRY,] and the gentleman from Mississippi, [Mr. SINGLETON,] objecting to the education of these negroes, or instructing them in the arts of civilized life.

Now, sir, it is true that ours is no missionary Government; and, in my judgment, the action of the President, with regard to educating these negroes in Africa, is strikingly inconsistent with our conduct at home. Here, we have none of this educational missionary spirit as to negroes. Why should we try it abroad? At home, it is in many instances criminal for Africans to learn, and for white men to teach them. If these home laws are right, why should we have a different policy abroad?

Moreover, sir, this education of free negroes, and teaching them the arts of civilization, seems to be at war with the sentiment of the age—that sentiment sometimes embodied in State constitutions where they are excluded from the soil, and from all appeal to the courts, whereby the free negro is completely animalized and outlawed, so that if the policy were to be universally adopted, he would find no spot this side of Heaven on which to rest his foot—that sentiment which we are told has come down to us from revolutionary times, declaring that “the negro has no rights that the white man is bound to support;” or which was more forcibly expressed by a distinguished northern Senator when he told the citizens of Memphis that only as between crocodiles and negroes could the latter claim his preference! A sentiment which, I thank God, was uttered by no southerner.

Again, sir, the gentleman from Kentucky [Mr. CLAY] said yesterday, that he was opposed to these laws, and would not vote a dollar to carry them out. I, sir, though not opposed to them, have to blush at the insincerity they exhibit when compared with our home records. Why, sir, this very Union newspaper, from which I have read, contains an advertisement which is a striking commentary on our consistency—an advertisement of a man imprisoned as a runaway, who is described by his scarred hands, and his “much-scarred back.”

Now, sir, when hereafter we grow eloquent on “the horrors of the middle passage,” let us blush that almost beneath the flag that floats from this Capitol we have, not a middle passage, but a passage that tells its tale of suffering in scarred hands and much-scarred backs; and that such stories of misery are current advertisements in newspapers of our Federal capital. Sir, in some way, out of self-respect, we ought to be consistent. I shall ask for a vote by tellers on my motion.

Mr. KEITT. Mr. Chairman, I do not think, with the gentleman from Virginia, [Mr. MILLSON,] that any one on this side of the House is influenced by any apprehension that this appropriation reflects upon the institution of slavery, by uniting slavery and the slave trade. We do not object to \$45,000 out of the \$75,000 appropriated in this clause of the bill, because that amount is pledged as bounty by existing law; but we object to the remaining \$30,000, because there is no color of law for it. We protest against this Gov-

ernment, full-mounted upon the anti-slavery sentiment, riding against and riding over and riding down the restrictions of law. What authority had the President for receiving the negroes captured on board the Echo, and sending them to Africa? He has only the authority which is given by the second section of the act of 1819, in relation to the slave trade. It enacts:

“That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction; and to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents, for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, by commanders of the United States armed vessels.”

Now, sir, under this section the President is empowered to make provision for the “safe-keeping and support” of the captured negroes *within the limits of the United States*, and for their “removal” beyond such limits. Beyond the limits of the United States, he is only empowered to appoint an agent or agents to “receive” the negroes, &c.; and when such appointment and the delivery of the negroes are made, his power is exhausted. There is no power given to convert the Government into a huge grocery, to dole out provisions to captured negroes on the coast of Africa. The appropriation we object to, is the \$30,000 for supporting and educating these Africans which have been delivered in Liberia.

The lack of power seemed to be appreciated by the gentleman from Ohio, [Mr. NICHOLS,] yesterday, and he sought to eke it out by an appeal to humanity and civilization. Sir, humanity and civilization are indissolubly intertwined, and their initial point is in slavery, the ordinance of God which commands that our bread shall be eaten in the sweat of our face. Physical civilization must precede mental; and the former can only be achieved through labor and toil. Will these Africans be subjected to this indispensable training? No, sir; they will merely be encouraged in indolence and lethargy. The President has no right to usurp power on philosophical or sentimental abstractions; nor have we such right; but if we did act on such abstractions, a sounder and more robust humanity would have kept them here, where they could have been properly educated and elevated through the only ordeal which educates and elevates a people. We protest, then, against that portion of this appropriation which applies to the support, in Liberia, of the negroes which were captured on board the Echo.

The appropriation is, too, to a great extent, for the support of the Colonization Society. This concern has become not much more than a rickety stipendiary of the Government. It sprang up in almost a single night, under the hot and sickly vapors of a morbid sentimentality, and is now dying out, amid the scorn of some and the indifference of others. Outside of the prostituted charities of the Government, it is now, I believe, mainly supported by old maids whose tender bosoms—tender through age—are flooded with romantic kindness, and dilapidated politicians who are annually stimulated by doses of maudlin humanity. I will not consent that the restrictions of law shall be overridden for the benefit of this humanitarian concern.

Mr. Chairman, it has been said on the other side of the House, that the reopening of the African slave trade enters into this question. I do not so understand it. That question I will meet whenever it comes up. I deprecate its agitation because it is disturbing, and can now result in no practical action. Neither men nor parties can hurry it on to a successful and premature development; but to this development it will come in its own time and through its own inherent forces. When it becomes an economical question, it will touch the policy of the world; it will become imbedded in the policy of the South; and then it will force a solution through the momentum of its own power. I wish to await this hour; this hour when the question will transcend parties, and the policy of parties, and when it will grapple itself to the public feeling with hooks of steel. Now, to those who agitate on the one side and the other, I would say: stand aside and let destiny take its course. Every great economical problem forces itself upward and forces itself to solution. This will not be acquitted from that law. In the mean time, I

would sweep from the statute-book every interference with slavery; I would repeal the law declaring the slave trade piracy; I would withdraw our slave squadron from the coast of Africa; and I would leave slavery unintervened against, where ever the power of the country stretches. The power of the free States keeps the Government from intervening in our favor. I would disarm it from intervening against us.

Mr. RITCHIE. I think this question is likely to be debated as long as there is a question about disinterested benevolence. I therefore move to strike out the enacting clause of the bill.

Several MEMBERS. No, no; withdraw it.

Mr. RITCHIE. Well; I withdraw the motion.

Mr. CRAWFORD. I desire to have this question understood. I say to the Chair that the proposition which I submitted is likely to be lost sight of by the committee. I wish to have a vote upon my amendment. But, sir, gentlemen upon this side of the House are voting against amendments without knowing what they are voting on. I insist that when amendments are offered, they shall be stated by the Chair, and shall be voted on in their order.

The CHAIRMAN. The Chair will be most happy to do so.

Mr. WHITELEY. I move to strike out the enacting clause of the bill.

Mr. DOWDELL. I hope that motion will not be agreed to. If it is, the amendments which have been made in a former part of the bill will be lost, and we shall be compelled to vote for or against the bill. It may be well enough to strike out the enacting clause of bills of other descriptions, but I hope we shall not set here the precedent of striking out the enacting clause of appropriation bills.

Mr. LEITER. I ask for tellers upon the motion to strike out the enacting clause.

Tellers were not ordered.

The motion was disagreed to.

The question then recurred upon the amendment of Mr. CRAWFORD, to reduce the appropriation from \$75,000 to \$45,000.

The motion was agreed to—ayes 76, noes 38.

The question then recurred upon Mr. CASE's amendment to strike out the whole paragraph.

Mr. BONHAM. Before that question is put, I beg leave to make a remark.

The CHAIRMAN. Debate is exhausted upon the amendment.

Mr. SEWARD. If the section shall be stricken out, then there will be nothing to which I can attach an amendment. My amendment is an additional proviso to the section.

The CHAIRMAN. The Chair misunderstood the amendment of the gentleman from Georgia. He supposed the gentleman desired to offer an additional original section; whereas, it is a proviso to the existing section, which he has a right to amend before the question is taken upon the motion to strike out. Therefore, the proposition of the gentleman from Georgia, takes precedence of the motion to strike out.

Mr. SEWARD. I offer the following proviso:

Provided further, That all laws heretofore passed, prohibiting the slave trade, be, and the same are hereby, repealed. And that the policy of restricting the foreign slave trade, be left with each of the States, as affecting their own local policy.

Mr. BURNETT. I rise to a question of order. It is that the amendment is not germane to the bill under consideration.

The CHAIRMAN. The Chair sustains the question of order.

Mr. SEWARD. I appeal from the decision of the Chair.

Mr. STEWART, of Maryland. I move to lay the appeal on the table.

Mr. PHELPS, of Missouri. That motion is not in order. The question must be taken upon the appeal.

Mr. SEWARD. This whole section has no connection, really, with the main body of the bill.

The CHAIRMAN. The appeal is not debatable. The debate has been closed by an order of the House, except upon amendments; and therefore the question of appeal, which would otherwise be debatable, is not debatable under the order of the House.

Mr. SEWARD. The resolution closing debate does not affect discussion upon appeals at

all; and if the Chair makes a decision that it does, then I will appeal from that.

Mr. BURNETT. Two appeals cannot be entertained at the same time. The gentleman can raise that question when the question on his first appeal is decided.

The CHAIRMAN. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. DEAN. I move to lay the appeal on the table.

Mr. PHELPS, of Missouri. The question on the appeal must be put.

Mr. SEWARD. I do not intend, without having this question properly investigated, to be stricken down in the exercise of one of my constitutional rights.

Mr. BURNETT. I rise to a question of order again. The gentleman is not in order, and I insist upon order.

Mr. SEWARD. I am insisting on it myself. The question was taken; "Shall the decision of the Chair stand as the judgment of the committee?" and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. SEWARD. I move to amend by reducing the amount to \$30,000. I do not intend to be stopped from talking by any such outside movements. I am opposed to the appropriation of this amount of money.

Mr. JONES, of Pennsylvania. I rise to a question of order. It is that the section has already been stricken out, and no amendment can be made to it.

The CHAIRMAN. The section has not been stricken out.

Mr. LETCHER. I rise to a point of order. It is that the House having solemnly voted in \$45,000, it is not in order to change the amount now.

The CHAIRMAN. The point of order is well taken.

Mr. SEWARD. I now move to increase the amount to \$100,000.

Mr. LETCHER. I raise the same question of order on that amendment.

The CHAIRMAN. A sum certain has been fixed, and it is not in order to move either to increase or diminish it.

Mr. PHELPS, of Missouri. Is not the question now upon the motion to strike out?

The CHAIRMAN. It is.

Mr. BONHAM. Before that motion is put, I move to amend the section by striking out the words, "and any subsequent acts now in force for the suppression of the slave trade." In respect to the few remarks I propose to make, I desire to have the ear of the chairman of the Committee of Ways and Means. No other act, so far as I am aware, which has been passed appropriating money for the purpose of carrying out the act of 1819, has ever included these words. There is no other act passed since 1819, except that of 1820, which attaches the death penalty to the slave trade. Now, I would be glad to know of the chairman of the Committee of Ways and Means why these words are inserted, and what they contemplate? If it is intended to put into the hands of the President money for the purpose of better executing the act of 1820, this is not the place for it. If it is intended to enable the President, through agents, or otherwise, more effectually to suppress the trade, I submit to the committee that this is not the proper place. And indeed, sir, it is not proper that any money should be appropriated for such a purpose; for the President is already clothed with power. I should be glad to know from the chairman of the Committee of Ways and Means why this was put in.

Mr. SEWARD. I am opposed to the amendment, as I am opposed to the whole section; and I propose to give my reasons for it. I look upon the law for the suppression of the slave trade as mischievous and wrong. While I do not pretend to commit myself in reference to the policy of the slave trade as affecting the States whose interests would be touched by it, I am opposed to the whole law, because I think it wrong, and a violation of the Constitution.

The act suppressing the slave trade, actually subjects the property of citizens to forfeiture forever. If gentlemen look at the Constitution, they will find that there is no crime known to it, except treason, for which a man's property can be for-

feited, and then only for his life. And yet we are appropriating money here to carry out a law which forfeits the property of citizens forever, and deprives them and their children of it; thereby visiting the sins of the father (if it be a sin) on the children.

The Constitution of the United States never regarded the slave trade as piracy. A limitation was put in the Constitution, up to 1808, against interference with the slave trade, and Congress actually made the trade legal by permitting a capitation tax of ten dollars per head to be assessed on the importation of negroes into this country. Besides that, Congress has made that a crime, punishable by death, which was legalized by this very capitation clause.

Now, let us reverse this. Suppose we were to call on Congress to pass a law authorizing the President of the United States to employ a thousand marshals, and to pay them \$500,000 to go and arrest people who interfere with slaves in the South and run them off to the North: what sort of a howl would be got up here for thus taking money out of the Treasury? Your Navy is a police on the sea to interfere with people, and to arrest them in the absence of any affidavit, by which alone, under the Constitution, you can arrest a party for crime in this country.

Is it not true that a man cannot be arrested on land unless there be some specific charge made against him under oath? And yet, when you get to the high seas, your Navy is to be used as a police to interfere with the business of citizens, and to arrest them for a crime which is said to be piracy. I say that that does strike at the institution of slavery at the South. I want to have that law repealed. I want to leave this matter to be settled by the States as a domestic question. I doubt whether, so far as my State (Georgia) is concerned, she would be benefited by the foreign slave trade, because I think she has at present a sufficient supply of labor.

But there are other States that may differ from us in that respect; for instance, the State of Texas; and I want all the States to have the right, without the interference of Congress, to carry on the slave trade, if they wish. Is the slave trade any more piracy—is it any more piracy to take a negro on the coast of Africa and bring him to a southern State, than it is to take him away from a southern State and run him off to the North? Why not put both on an equality?

[Here the hammer fell.]
The question was taken on Mr. BONHAM's amendment, and it was rejected.

Mr. BARKSDALE. I indorse the speech just made by the gentleman from Georgia, but I desire to say that I regard this whole discussion as ill-timed and out of place. We have been debating this bill for the last five days—

Mr. KELSEY. What is the gentleman's amendment?

Mr. BARKSDALE. I intend to move to strike out the enacting clause of the bill.

The CHAIRMAN. That motion is not debatable.

Mr. BURNETT. I do not understand that there is any motion pending; I desire, therefore to—

Mr. BARKSDALE. Yes; I move to strike out the enacting clause.

Mr. BURNETT. I hope my friend from Mississippi will withdraw that motion for a moment, and I will renew it, if he wishes.

Several MEMBERS, (on the Republican side of the House,) "No bargains."

Mr. BARKSDALE. I will withdraw my motion, if my friend from Kentucky will renew it.

Repeated cries of "No bargains," from the Republican side of the House.

Mr. BURNETT. I cannot renew it, because I am going to offer an amendment to the section.

Mr. BARKSDALE. I withdraw my motion.
Mr. BURNETT. Do I understand the Chair to decide that the amount appropriated in this section cannot be increased or diminished?

The CHAIRMAN. Yes.

Mr. BURNETT. Then I move to strike out the last two lines of the section. I have listened to the discussion that has been indulged in here to some extent, with surprise and with regret. I regard the presentation of this subject of the reopening of the slave trade as unfortunate for the

section from which I come, and as in every point of view useless.

Mr. NICHOLS. I rise to a point of order.
Mr. LEITER. I hope my colleague will not raise his point of order. This is a family fight over there, and I want to let them have it their own way.

Several MEMBERS, (on the Republican side.) Let him go on.

Mr. NICHOLS. Then I will not make the point of order.

Mr. BURNETT. The act of 1819 has been referred to by gentlemen in this discussion, to show that there was no authority of law for using money in the education of these negroes on the coast of Africa. I will not touch that question; but I may be permitted to say, in this connection, to my friends who see proper to differ with me, that I think the law does confer on the President authority to do exactly what he has done. Add to that those principles of humanity which ought to govern and control the Executive of this great Republic, and I say that the appropriation asked for here ought to be made.

Now, on the subject of the slave trade. When the time comes to solve the problem referred to by the gentleman from South Carolina, [Mr. KEITT,] it will be time enough for southern gentlemen to move in the matter. There is no proposition here to repeal the laws on the subject of the slave trade.

Mr. SEWARD. The gentleman would not allow me to submit such a proposition.

Mr. BURNETT. No; because it was not in order.

Mr. SEWARD. It was as much in order as this section of the bill.

Mr. BURNETT. Let me repeat, that when the time comes for the solution of the problem in regard to the slave trade, it will be time enough then for southern statesmen to consider that question. But I do regard it as premature at this time; I regard it as placing the section of country from which I come in a false position before the country, and I enter my solemn protest against it.

Mr. SINGLETON. Mr. Chairman, this question is presented for our consideration by the President of the United States himself, in his annual message to this body; and we are called upon, either to affirm the construction put upon the law by him, or to say whether we shall give to it a different construction. It is not a matter, as the gentleman from Kentucky says, that has been dragged into debate unfortunately by members of his own party. An appropriation is asked for in this bill to carry out the contract made by the President with the Colonization Society, in Liberia. The President himself expresses doubts whether the construction given by him to the law is a proper one; and we are called upon to declare the meaning of this act of 1819. Why, then, should my friend say that we have forced this matter before the House?

So far as the slave trade is concerned, it has nothing to do with this debate. There is no necessity of expressing any opinion as to whether the slave trade should be carried on or not. I cannot see that it has any connection whatever with the subject under consideration.

Mr. GROESBECK. I should be glad if the gentlemen who oppose this appropriation would explain what they would have had the President do with these negroes after they had been landed on the coast of Africa?

Mr. SINGLETON. Do with them? Why, let him place them back where they came from, and they would be in no worse condition than they were before they were captured. This Government is already incurring sufficient expense in keeping up an armed squadron on the coast of Africa, to prevent the slave trade. What I desire is, that we shall abide by the law as found on our statute-book. Let us execute it to the very letter; let us give them all they are entitled to, but not proceed one step beyond. Suppose we affirm this construction of the law, and in the next election the Black Republicans elect the President, and Congress shall be prepared to register his edicts: what limit will there be to the amount to be expended for this purpose? If you can maintain and educate them for one year, you may do so for five, and if for five, then for an unlimited period. Look for a moment, at the scope of this contract. They are to be instructed in the arts of

agriculture. This, of course, involves the necessity of either buying or renting a farm to be cultivated; of supplying beasts of burden, implements of husbandry, seeds to be sown, and every other means and appliance requisite to a successful cultivation of the soil. Is it at all desirable that we establish a farming interest upon Africa's far-off shores? And yet, sir, the appropriation contemplates all this, besides the establishment of a system of common schools, depots of provisions, clothing, medicines, and other articles. Gentlemen ask, would you throw them back into their native land without food and raiment? I ask how much of clothing was found upon them when captured, and what granaries had they from which to draw sustenance and support? A set of cannibals, they lived and practiced upon the maxim of "let the morrow provide for itself." With this, however, I contend we have nothing to do. Our business is with the act of 1819, and how far it authorizes the making of contracts of this nature.

Up to the time of their delivery into the hands of the agents to receive them from our Government, we are to meet their expenses, but here are the clearly defined limits of our responsibility. If, as gentlemen say, the law of humanity comes in at this point and requires more of us, then I say its earliest dictates should have been obeyed, and we should never have sent them back, but given them into the hands of some good master who would have provided amply for them here at home.

Where is this matter to end, if a Democratic Congress undertakes to put a construction on the law such as is contended for? What a dangerous precedent do we establish?

Now, as was remarked yesterday by the gentleman from Alabama, [Mr. CURRY,] being in a minority in this Republic our safety, as a southern slaveholding people, consists in a strict construction of the laws and the Constitution. Our numerical strength has already departed, and we may soon be, in a measure, at the mercy of an Abolition majority at the North. Unless, therefore, we stand on our constitutional rights, and see that the laws are strictly construed, and that no forced construction is put upon them, wherein does our safety consist? I ask gentlemen to look to the future and answer this question. This is not an attack upon the President. I deny it emphatically. The President has himself expressed doubts about the law, and has only undertaken to carry it out according to Mr. Monroe's views of it; and it is our duty, being now called upon by the President himself, to express an opinion as to the purview and meaning of this law.

[Here the hammer fell.]

Mr. BURNETT. I propose, with the consent of the committee, to withdraw my amendment.

Mr. WINSLOW. I object; and move that the enacting clause of the bill be stricken out.

The motion was not agreed to.

Mr. HUGHES. I move to amend the amendment of the gentleman from Kentucky, by striking out the last line only. I will not attempt to speak while there is this universal disorder.

Mr. COBB, (in his seat.) You had better sit down, then.

Mr. HUGHES. If I had the faculty of making disorder that the gentleman has, I never would rise. [Laughter.]

The CHAIRMAN. The committee will come to order. Gentlemen are requested to resume their seats and preserve order.

Mr. HUGHES. Mr. Chairman, I have listened with interest, and not without surprise and regret, to the discussion that has taken place here in relation to this appropriation. There is an act of Congress which does authorize the President of the United States to support negroes such as those who have been referred to in this discussion, while in this country, and to remove them out of the country and return them to their native land. The spirit of that act is, that they shall be returned—

Mr. STANTON. I rise to a question of order. I submit that the gentleman must confine his remarks to his amendment.

Mr. HUGHES. It is very well to raise the question of order on me after a three days' debate, in which other gentlemen have been permitted to speak without regard to strict rules. It is quite consistent with the course that that gentleman

and his associates have always observed toward me upon this floor. I await the decision of the Chair upon the question of order?

The CHAIRMAN. The Chair supposes that the gentleman was discussing his amendment.

Mr. HUGHES. The supposition of the Chair is correct. [Laughter.] Now, sir, I wish to press the question put by the gentleman from Ohio, [Mr. GROESBECK,] what was the President to do with these negroes? Was he to return them to Africa and land them on the shores of Africa in a starving and dying condition? Do gentlemen mean seriously to urge upon this House the propriety of so construing the law that the President of the United States should land these negroes in a starving condition, without food and raiment on the coast of Africa?

Mr. BRYAN. I would ask the gentleman what was done by the President with William Walker and his men, who were taken from Nicaragua? And whether, if justice required these Africans to be returned to the coast of Africa, justice did not require William Walker and his men to be returned to Nicaragua?

Mr. HUGHES. I take great pleasure in answering that question. William Walker was a fugitive from justice, who had forfeited his bail bond, and was virtually, although perhaps not legally so, a pirate upon the high seas.

Mr. BRYAN. Was the President the judge of that, or the courts of the country?

Mr. HUGHES. Be that as it may, I have no sympathy with those who violate the laws, and I will never, by my vote, condemn those who execute the spirit of the law.

[Here the hammer fell.]

Mr. GARTRELL. I do not rise for the purpose of debating this amendment or any other amendment to the bill, but to appeal to gentlemen on this side of the House to take the vote and allow us to dispose of this bill. If it be in order, I move that the committee rise and report the bill to the House.

The CHAIRMAN. The motion is not in order while there is an amendment pending.

Mr. BURNETT, by unanimous consent, withdrew his amendment.

Mr. JOHN COCHRANE. I move to amend by striking out the last two lines of the paragraph.

The CHAIRMAN. The gentleman may speak in opposition to the amendment of the gentleman from Indiana.

Mr. HUGHES. With the consent of the committee, I will withdraw my amendment.

By unanimous consent, the amendment was withdrawn.

Mr. JOHN COCHRANE. Now, Mr. Chairman, I propose the amendment which I have already announced.

I have listened thus far with a great deal of interest to this debate, which has not occurred, in fact, upon the merits of the amendments proposed, nor, in fact, upon the merits of anything that is contained in this bill. It has taken a wide and singular range—a range of much greater interest to the people of this Union, probably, than to the Representatives of that people upon the floor of this House; a debate which is more exciting than instructive; a debate which can lodge us eventually in no safe harbor, and attain no practicable object. I fully concur with many gentlemen in this House, who have spoken with great reason and deliberation upon this subject, that, if this question is to be met here candidly and manfully, it should be met upon the issue directly raised—whether the slave trade shall be permitted, or whether it shall be suppressed—and not in debate upon a collateral question raised upon the phraseology of a paragraph of this appropriation bill.

Now, sir, what is the position of this committee at the present time? Simply this: under existing laws in force in the United States, certain acts have been, honestly and in good faith, performed by the Executive of this nation; and the Representatives of the people of these United States, relying upon the integrity and good faith of the Executive, are called upon to come forward and declare that appropriations shall be made to defray the expenses of these acts. Is not the question thus consistently and fairly stated? Are gentlemen ready upon this issue to pronounce upon another point than is involved in that issue; which is, shall the expenses of executing the laws of the United States, whether by mistake or not, be de-

frayed by the people of the United States, out of their Treasury? Sir, let anything further than that, in all consistency and in all reason, be remitted to the time when it may arise directly and fairly. That further subject, sir, I, for one, as coming from the northern section, if there be a northern section of this Union, shall be ready at any time, if that subject is proposed for the consideration of this House, fairly and manfully to meet. I am ready to take my position upon the question whenever it shall arise, whether the slave trade shall be suppressed, or whether it shall be permitted. I am sure that all other gentlemen here are ready to assume that responsibility, and meet the question when it is presented.

Mr. GROESBECK. Mr. Chairman, I do not care to postpone the issue whether the slave trade shall or shall not be reopened. I am ready to meet it now. I want no postponement. The slave trade is not to be reopened. And further, sir, I desire to say to gentlemen who have thrown out hints on this subject, that it is much more likely laws will be passed for the more faithful execution of those now upon the statute-book than for their repeal. But I do not propose to discuss any such question at this time. I rise merely to express my regrets at the occurrence of this debate. I regret that this act of humanity upon the part of the President towards these injured Africans, has invoked this discussion and these objections. I approve everything that the President has done in this matter. It was a kind and considerate act, and worthy of a Christian land. I would have considered it cruel—this nation would have regarded it as cruel—if he had turned these Africans adrift upon the shores of Africa. He did right; he did no more, sir, than make a reasonable provision for them for a reasonable time. The law requires that there shall be an agent on the shores of Africa to receive recaptured and returned Africans—to receive them kindly and hospitably, and not turn them adrift to starve or be again enslaved; but, sir, I decline to argue the question. Argument in such a case is out of place and in bad taste. I repeat it, sir, the President did right. As a Democrat, I thank him for it; and I thank him for it in the name of the nation.

Mr. JOHN COCHRANE. I will, if there be no objection, withdraw my amendment.

Mr. HOUSTON. I object; and I give notice that hereafter I shall insist upon the debate being confined to the amendments pending, and that a vote shall be taken upon the amendments as they are submitted.

The amendment was disagreed to.

Mr. HUGHES. I move to amend by inserting the words, "or which shall hereafter." Mr. Chairman, I was interrupted so often in my former five minutes' speech that I did not say all I desired to say. I wish now to say that I concur in every word which has fallen from the gentleman from Ohio, [Mr. GROESBECK,] who last addressed the committee.

Something has been said in reference to the Democratic party. Sir, I profess to be a humble member of that party; and it has been my pride, upon all occasions, to assert that it is not a sectional party, and that it never would become a sectional party. The Constitution of the United States is its platform, in its letter and in its spirit. I am one of those who have ever been ready to affirm that if that Constitution imposed manacles upon the limbs of every negro upon our soil, I am for it still; because it is the Constitution of the country. But, sir, that Constitution recognizes, by implication, the obligation upon the part of this Government of suppressing the slave trade, and whenever it comes to this, that there is any considerable part of the Democratic party of this country who will stand up, and, by indirection, foster and encourage that slave trade, then the Democratic party can no longer boast that it is not a sectional party; nor will there be any Democratic party at all; for from that time it will have ceased to exist. I say to gentlemen that, when I hear what seems to me an indirect advocacy of the slave trade upon this floor, I, like the gentleman from Ohio, wish to say that I am ready to meet that question now, and am ready to go for its suppression to the utmost extent, just as I am ready, in its letter and in its spirit, to stand up for all the rights of the South, so far as they are protected by the Constitution of the country. These are my views upon this question.

Mr. SINGLETON. I will say to the gentleman from Indiana that he is mistaken if he supposes that I advocated the opening of the slave trade in the remarks I made. I expressed no opinion upon the subject, one way or the other, because I did not consider this the proper time, upon this bill, to do so, and because it would not be germane to this bill. When the proper time arrives, I shall be ready to express my views fully upon that matter.

Mr. HUGHES. I am happy to hear the disclaimers, and feel that I have effected some good in calling them out.

Mr. BURNETT. I am opposed to the amendment of the gentleman from Indiana, and I desire to say to the gentleman from Mississippi that I yield to no man upon this floor in devotion to the rights of the States, and I will go as far as the furthest to repel Federal aggression whenever the time arrives to do so. I hold that it is the duty of the State-rights Democrats, hailing from the South, to withhold from bringing into this discussion any question connected with the African slave trade; for I care not what may be the objects and purposes of gentlemen; whether it is their intention or not to reopen a discussion upon that subject; whether they are in favor of or against reopening the African slave trade; that is not the question here. But the effect of this discussion goes to the country; and as the question will be presented there, we will be placed in a false position—a false position growing out of the discussion of this question here.

Now, sir, I am for maintaining the laws of my country; I am for enforcing the statutes upon our statute-book; and I am opposed to all this higher-law system, whether it be found in the North or in the South. And, sir, I agree with the gentleman from Ohio, that when the President sent this cargo of negroes to Africa, it was his duty to provide for them. I say that it was his sworn duty to do it; and in doing it he was, in my judgment, carrying out the act of 1819, as expounded by President Monroe.

Another thing. I stand here to-day for the purpose of voting this appropriation of money; and why? Because, sir, the law of 1819, in my judgment, authorizes it. And not only that. When the President sent these negroes, who had been torn from their homes, back to Africa, would gentlemen have had them turned loose naked, and to starve? That question has been asked here to-day. No, sir; it would have been a disgrace upon the American name and upon the character of our country.

[Here the hammer fell.]

Mr. SMITH, of Virginia, obtained the floor.

Mr. JONES, of Tennessee. I rise to a question of order. It is, that general debate upon this bill has been closed; and the rule allows gentlemen five minutes to offer and explain their amendments, but not to go into the merits of the bill. I hope the Chair will confine each gentleman to that rule.

The CHAIRMAN. The Chair would be most happy to enforce the rules of order, but he cannot anticipate the object of the gentleman from Virginia, [Mr. SUMNER], as he has not yet stated for what purpose he rose.

Mr. HOUSTON. Is there not an amendment to an amendment pending at this time?

Mr. SMITH, of Virginia. The amendment to the amendment was withdrawn.

Mr. HOUSTON. It was not withdrawn. I object to its withdrawal.

The CHAIRMAN. The gentleman from New York [Mr. JOHN COCHRANE] offered an amendment, and the gentleman from Indiana [Mr. HUGHES] proposed an amendment to the amendment, upon which he has been heard; and the gentleman from Indiana yielded a portion of his time to the gentleman from Kentucky, [Mr. BURNETT], and the Chair did not give the gentleman from Kentucky the entire five minutes in consequence thereof. So the amendment to the amendment has not been opposed.

Mr. HOUSTON. The gentleman from Indiana may not have occupied his five minutes, but the gentleman from Kentucky most certainly opposed the amendment. When he rose, he declared that he was opposed to the amendment. He did oppose the amendment, and he spoke against it. Then I say the spirit of that rule has been complied with, and I object now to further

debate of that amendment, unless the Chair overrules me on a point of fact.

The CHAIRMAN. The Chair makes no decision, because he does not know for what purpose the gentleman from Virginia rose. Even if the gentleman from Alabama is right, the gentleman from Virginia may desire to offer an amendment.

Mr. HOUSTON. But an amendment to an amendment is already pending, and therefore no other amendment is in order.

Mr. CLAY. Is this debate in order?

The CHAIRMAN. It is not.

Mr. SMITH, of Virginia. I am willing that the vote should be taken.

The question was taken on the amendment of Mr. HUGHES to the amendment; and it was not agreed to.

The question recurring on the amendment of the gentleman from New York,

Mr. JOHN COCHRANE asked leave to withdraw the amendment.

Mr. PHELPS, of Missouri. I object, and call for a vote.

The amendment was not agreed to.

Mr. SMITH, of Virginia. I rise for the purpose of submitting a motion to terminate, if possible, this debate. There are two modes by which it can be accomplished, and I shall be entirely satisfied with either. One is by reporting the bill to the House, and that will give the amendments already adopted a chance in the House. That proposition not being concurred in, the other mode is to strike out the enacting clause. Either of those modes will terminate the debate which I very much regret, and which I desire shall not continue. Will it be in order to move that the bill be reported to the House?

The CHAIRMAN. Not while an amendment is pending.

Mr. SMITH, of Virginia. Then I move to strike out the enacting clause; and I do trust the motion will prevail.

The CHAIRMAN. The Chair would suggest to the gentleman from Virginia, that an amendment is now pending.

Mr. BOCK. But a motion to strike out the enacting clause takes precedence.

The CHAIRMAN. The Chair suggested to the gentleman from Virginia, before he made his motion, that he was not aware, perhaps, that an amendment was pending to strike out this last section, upon which one vote was had by the committee.

Mr. SMITH, of Virginia. I am perfectly willing that the vote shall be taken.

Mr. BARKSDALE. I move to amend by striking out the words, "and any subsequent acts now in force."

The CHAIRMAN. That amendment has been already rejected, and is not in order.

Mr. BARKSDALE. Would a motion to strike out the whole section be in order?

The CHAIRMAN. That motion is now pending.

Mr. BARKSDALE. Then I move to strike out the words, "for the suppression of the slave trade."

It strikes me, Mr. Chairman, that this debate should not have taken place at all; and as it has occurred, I regret exceedingly the spirit and temper in which it has been conducted. I am satisfied that the President, in returning these negroes to Africa, violated the law. There is no authority in the law for the contract which he made to maintain them for a year. The provisions of the law are plain and simple, and required the President to return them to Africa, and deliver them to an agent there, and beyond that he had no authority to go. I believe, then, that the amendment offered by my colleague [Mr. SINGLETON] should have been adopted; and in adopting it, the motive of the President would not have been condemned, while his official conduct might have been.

I regret, Mr. Chairman, that gentlemen have seen fit to discuss the question of reopening the African slave trade. The discussion, in my judgment, is ill-timed and out of place. At the proper time and under proper circumstances, I shall be fully prepared to take my position upon it, and, as a southern man, I shall do it with reference to the effect it will have upon my constituents and my section of the Union. The discussion of a question of such vast magnitude should be conducted calmly and dispassionately, and not in the heat and passion of a debate like this.

I agree with the gentleman from Alabama, [Mr. CURRY], who spoke yesterday, that the safety of the whole country depends upon an efficient and faithful administration of the laws. And while in this instance I will not arraign the President's motives, I shall vote against the appropriation which he has asked Congress to give him.

Mr. NICHOLS. Mr. Chairman, this bill, I believe, has been under consideration, first and last, some six or seven days. I will admit that the debate on the other side of the House to-day, has afforded me a good deal of edification, and I have enjoyed it very much. But there is, sometimes, too much of a good thing. Now, in opposing the last amendment offered, I rise simply to make this suggestion: If gentlemen on the other side of the House will consent to take a vote on the proposition of the gentleman from Indiana [Mr. CASE] to strike out the whole section, I believe it to be the best thing that the committee can do. It will bring the committee to a practical issue. Let us, then, take the vote on that proposition, and then the bill can be returned to the House, and let gentlemen have an opportunity of voting upon the question by yeas and nays.

I do not undertake to speak for gentlemen on this side of the House, but I invite the attention of the committee to this one point. We have wasted too much time upon this bill.

A MEMBER, (on the Republican side of the House.) Who has wasted it?

Mr. NICHOLS. That is not the question. The country will judge as to where the discussion came from, and will place the responsibility on the right shoulders. I make this suggestion calmly and fairly, and for the purpose of terminating this difficulty. If there be any advantage anywhere by it, be it so. I now propose that the vote be taken on the proposition of the gentleman from Indiana, and gentlemen can have an opportunity in the House of putting themselves on the record by yeas and nays.

[Cries of "Question!" "Question!"]

Mr. CLAY. I rise, Mr. Chairman, for the purpose of making an explanation, which is, in some degree, personal, and is therefore a privileged question. I had occasion yesterday to make a remark that I was opposed to all the laws now on our statute-book, in regard to the slave trade. At that time the discussion on the bill which was pending, had not taken the wide range which it has since taken, and which has led to the expressions of opinion on different sides of this House in regard to the question of the suppression or the reopening of the slave trade. My own views on this subject might be misconstrued by the country, did I not make the explanation which I now intend to make. There is no man on this floor who is more opposed to a reopening of the slave trade than I am; and I believe that the people of the district whom I have the honor to represent, are as much opposed to it as I am. Yesterday, however, when I stated that I was opposed to the laws now on our statute-book with regard to that subject, I made the statement with deliberation. I am opposed, for instance, to that law rendering the slave trade piracy, because I believe the penalty to be so severe that the law will never be enforced. I do not believe that in the South white men are going to be hung up under this law. I do not believe that a Boston jury would hang up white men; and I think that other penalties might be provided.

But, sir, I am especially opposed to another law, or rather treaty stipulation on our statute-book, and that is the eighth article of the treaty of Washington. I regard it as an entangling alliance with Great Britain. I regard it as an alliance so entangling, that last year it produced all those outrages on our flag which occurred in the Gulf, and it is producing every day outrages on our flag on the coast of Africa. It is an entangling alliance which requires us to keep a force of eighty guns constantly on the coast of Africa.

Mr. KELSEY. I rise to a question of order. Mr. CLAY. If the gentleman will indulge me a moment I shall have done. I believe that alliance to be entangling, as I have said, and I hope to see the notice given to Great Britain—as provided for in another article of the treaty—which will put an end to it, and leave us to pursue our own policy without engagements with any other country whatever. I have felt this explanation to be due to myself.

Mr. BURNETT. I desire to ask my colleague if he is in favor of enforcing the laws now upon the statute-book as long as they exist?

Mr. CLAY. Most certainly I am; and the question I asked the gentleman from Missouri yesterday, was why he had not made the appropriation specific.

Mr. SMITH, of Virginia. I rise to a question of order. This debate is entirely out of order.

The CHAIRMAN. The debate is out of order.

Mr. BARKSDALE. With the consent of the committee I will withdraw my amendment.

Mr. HUGHES. I object.

The amendment was rejected.

Mr. MILES. I move to amend the amendment, by striking out the last three lines.

Mr. Chairman, I have, perhaps, listened with more regret to this discussion than any one else upon the floor, because I entertain peculiar sectional views. For I am, I must frankly confess, that hideous thing, as it seems to men of all parties, a sectional man. I stand here a southern man, and a Representative, in part, of a sovereign southern State. That South, that State, are of the weaker section, and we cannot but be sectional, because we must be united, in order to maintain ourselves. Sir, I do not class myself in the great national Democratic ranks. I will act with the Democratic party faithfully, honestly, truly, and heartily, where I can do so conscientiously and consistently with the rights and honor of my State and section. When they call on me to depart one iota, the half of a hair's breadth, from that course, I turn my back upon them and leave them forever. Yes, sir, I am willing to avow myself a sectional man. I come here to represent, in part, the State of South Carolina, and her rights and interests are first in my estimation and foremost in my heart at all times.

I, sir, am not prepared to advocate the reopening of the slave trade, but I am prepared to advocate with all my mind and strength, the sweeping away from our statute-book, of laws which stamp the people of my section as pirates, and put a stigma upon their institutions. It is impossible to escape the inevitable logic—the logic which the senior member from Ohio, [Mr. GIDDINGS,] I believe, uses; if the slave trade be now piracy, it always was piracy; if the slave trade be now a crime against morality and religion, it always was; and the pirates that you would hang to-day, stand on the same footing with my forefathers, who employed and encouraged their predecessors. I will never consent, if I can possibly help it, to allow this stigma to remain, which degrades and puts a slur upon the people of my part of the Confederacy. I believe, Mr. Chairman, that these are questions that ought to be left, as gentlemen have said, to time; and to be controlled, moreover, by the sovereign States themselves. I have very grave and serious doubts about the constitutionality of the laws for the suppression of the slave trade. I have very grave and serious doubts whether the constitutional power “to define and punish piracy” gives Congress the right to say that anything else shall be piracy than what the laws of nations had previously made so; and the word “define,” I think it may be very forcibly argued, was only intended to do away for the future with ambiguity, as to the precise definition of piracy, as commonly but perhaps somewhat vaguely understood at the time of the adoption of our Federal Constitution.

I say, sir, that I am not prepared to advocate the reopening of the slave trade. I do not know that I will ever come to that conclusion. It is a purely economical, and not a moral or religious question. If England and France continue covertly to carry it on, we may be forced, in self-defense, to do the same thing; and whether you call it the “coolie system,” or the “involuntary emigration system,” I, as one bred and reared where slavery is in full vigor and thoroughly organized, know that our system is infinitely more humane, infinitely more gentle, infinitely more Christian, than the coolie system ever can be.

[Here the hammer fell.]

Mr. GOOCH. Mr. Chairman, I do not regret the discussion which has arisen here upon this question. I by no means consider the time we have spent on that discussion as wasted time. I think it but foreshadows to the country a discussion which will hereafter be had in this House,

and I think it is but right that the people should know, when they elect their Representatives, what questions they may be called upon to discuss and decide here. I think, still further, that had the people in times past been forewarned of some questions which have been decided by their Representatives and Senators before they elected them to office, results might have been different from what they have been. I say, then, that I have no regrets to offer for this discussion.

It has been said by a gentleman upon the other side, that what they principally apprehend under this construction of the law is the use which may be made of it by a Republican President, when one shall be in power. I will say to the gentleman upon the other side, that so far as that is concerned, we will give to the law the same construction which two Democratic Presidents have given to it. We will give to the law that construction which the Democratic party in power for twenty years has acquiesced in. I will say to him still further, that so far as the Republican party is concerned, I, for one, believe that they will go not a step further in relation to the institution of slavery than they can find precedents for in the action of the Democratic party, and in the opinions of those who have been the leading Democratic statesmen of the country. I, sir, claiming to be a member of the Republican party, find all the precedents I want in the action and the opinions of the Democratic party, and of the leading statesmen of that party—in the opinions of such men as Jefferson, Madison, and many others, who thought themselves Democrats in their day, but could hardly retain a position in that party at the present time.

Now, sir, one reference to this provision which is now before us. The question is, whether or not the President of the United States was authorized to make a contract which provided for the support and maintenance of those men after they were landed on the coast of Africa? The law provides that there shall be an agent there. I ask gentlemen, an agent for what purpose? Why have an agent there if there is nothing to be done? If he has no power which he can exercise, if no contract can be made which shall authorize him to do a single act, why have an agent? All that is necessary, according to the construction of the law given by gentlemen on the other side of the House, would be to land these men on the coast of Africa anywhere; and certainly that can be done without the assistance of an agent.

Now, sir, I say that the construction given by the President is the construction given by President Monroe, and acquiesced in for twenty years, and that this construction is the correct construction. Gentlemen on the other side object, that to make this appropriation would be to authorize that construction. That, sir, is precisely the question I want to meet; that is the question I want to vote upon. For one, I am ready to make this appropriation, and thereby give authority to that construction.

[Here the hammer fell.]

Mr. BRANCH. Is it in order to move to lay aside this bill and take up another appropriation bill?

The CHAIRMAN. In the opinion of the Chair, that motion would not be in order.

Mr. BRANCH. Then I move that the committee rise.

Mr. HOUSTON. If the gentleman from North Carolina will withdraw that motion, I will move to strike out the enacting clause of the bill, with the understanding that the amendments which have been already agreed to shall be reported to the House. We can then go into the House and vote upon the bill.

Mr. BRANCH. I insist upon my motion that the committee rise, unless there is some way by which this debate can be stopped; because, in my judgment, a worse evil is arising from this debate than a mere consumption of time. I insist upon my motion.

Mr. HOUSTON. If the gentleman from North Carolina will withdraw his motion that the committee rise, I will move to strike out the enacting clause, which, with the understanding I have proposed, will accomplish the gentleman's purpose.

Mr. BRANCH. If the gentleman will give me any assurance that other gentlemen will not rise and move amendments and continue this debate, I will withdraw my motion.

Mr. HOUSTON. Of course I can give the gentleman no such assurance.

Mr. BRANCH. Then I insist upon my motion.

Mr. WINSLOW called for tellers on the motion. Tellers were ordered; and Messrs. PETTOL and NICHOLS were appointed.

The committee divided; and the tellers reported—ayes 64, noes 87.

So the committee refused to rise.

Mr. HOUSTON. I now move to strike out the enacting clause of the bill. I then propose, by the consent of the committee—

Mr. MORGAN. I rise to a question of order. Is this motion debatable?

The CHAIRMAN. It is not.

Mr. HOUSTON. I am not debating it. I do not know what the gentleman says, there is so much noise.

[The committee here informally rose; and

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act to authorize the Secretary of the Treasury to grant a register to the schooner William A. Hamill; when the Speaker signed the same.]

Mr. HOUSTON. Mr. Chairman, upon the motion to strike out the enacting clause, I demand tellers.

Tellers were ordered.

Mr. BONHAM. I rose before the Chair announced that tellers were ordered. I wish to make a few remarks.

Mr. HOUSTON. I object.

The CHAIRMAN. The question is not debatable.

Mr. BONHAM. I submit that it is in order to make remarks upon the gentleman's motion.

Mr. HOUSTON. No, sir.

The CHAIRMAN. The motion is not debatable.

Mr. GARNETT. I desire to make an inquiry.

Mr. GREENWOOD. I object to anything not in order.

Mr. GARNETT. I rise to a question of privilege, and neither the gentleman from Arkansas nor any other gentleman can prevent me from presenting it.

Mr. GREENWOOD. If the gentleman, under the rule, is entitled to what he asks, certainly I have no objection.

Mr. GARNETT. I would inquire if the enacting clause is stricken out, all the amendments heretofore made by the committee do not fall?

Mr. HOUSTON. In answer to that, I will say that the chairman of the Committee of Ways and Means can offer a substitute, embracing the same bill as amended by the committee. There is no difficulty upon that point.

Mr. CURRY. I inquire whether the chairman of the Committee of Ways and Means will do it?

Mr. HOUSTON. If not, my colleague can do it for himself.

Mr. PHILLIPS. Only by general consent.

Mr. JOHN COCHRANE. If the enacting clause is stricken out, can we, in the House, come to a vote upon striking out that last clause of the bill?

Mr. PHELPS, of Missouri. In answer to the inquiry which has been made, I will say, that if the enacting clause shall be stricken out, such amendments as have been adopted I shall myself offer, though I shall vote against them.

Mr. GIDDINGS. The gentleman is not in order, and I object to debate.

Mr. STEPHENS, of Georgia. I rise to a question of order. It is, that a motion to strike out the enacting clause entitles the party making it to a five minutes' speech, and that a five minutes' speech in opposition to that motion is in order.

Mr. HOUSTON. That has not been the practice for the last two sessions of Congress.

Mr. GROW. I think the gentleman from Alabama is mistaken.

Mr. HOUSTON. I think, this very session, the motion to strike out the enacting clause has been ruled not to allow debate.

Mr. GROW. I remember two cases.

The CHAIRMAN. The motion is not debatable.

The tellers having been previously ordered, Messrs. McQUEEN and UNDERWOOD were appointed.

The committee were divided; and the tellers reported—ayes 34, noes 94.

So the committee refused to strike out the enacting clause.

Mr. PHILLIPS. I propose now that we take a vote to strike out the section, and by striking it out we shall have a vote in the House to settle the matter.

Mr. CRAWFORD. That would force us to vote for, or against, the whole amount in the section.

Mr. FLORENCE. I will consent to nothing which will not permit us to have a vote upon the whole amount; and if we cannot have it in the House, we will have it in the committee.

Mr. BONHAM. I have an amendment to move, by way of a proviso, to the last clause of the bill, and lest gentlemen may suppose it is precisely the same amendment which has been rejected, I beg leave to inform them that it is not, and they will see that it is so when it comes to be read.

The CHAIRMAN. The Chair desires to say that he shall insist that debate be confined to the amendment proposed.

Mr. BONHAM. That is what I desire. I move to amend by adding the following proviso:

Provided, That no part of this sum shall be used for schooling "the children," or for instructing "the children and adults" in the "arts of civilized life."

If the House will hear me one moment, they will see that this is not the same amendment which has already been rejected.

I agree with the gentleman who last addressed the House, on the opposite side, in many of the views which he presented; and I should be glad to hear him come back to the question before the House. I believe with him, that the debate has taken a range which was not authorized. I am opposed to the precedent which he so much desires to have established; and if members will refer to the remarks of Mr. Monroe, they will find that he did not go to the extent to which Mr. Buchanan has gone.

I do not intend to impugn the motives of the President; I know them to have been good; but he has gone beyond the law, and I submit that he had no authority to contract with any body of men to school these negro children, or to educate the adults in "the arts of civilized life."

I go further than gentlemen on my own side. I hold that we owe no higher obligations, so long as the law is on the statute-books, than to send back these Africans, to support them while here, to provide for them, to place them in the hands of good and responsible agents, and to put them as near as we can in the same condition that they occupied before. I go, not only for the letter, but for the spirit of the law; and I think the spirit of the law does enable the President to place them back in Africa, and to provide for them, to a certain extent; but not to educate the children, and to teach the adults and children the arts of civilized life. That is the point that I make; and I trust that Democratic gentlemen on this side of the House will see it and appreciate it. I approve of that sentiment and feeling that have been spoken of; but at this point I submit to the gentlemen from Ohio and Kentucky, [Messrs. NICHOLS and BURNETT,] whether they are disposed to go further, and to have these Africans taught the arts of civilized life? There is no such authority in any law. President Monroe did not set a precedent for it. It is now, for the first time, that we have an instance of having an item in an appropriation bill for teaching Africans the arts of civilized life. This is the point. I trust the amendment will be adopted.

Mr. PHELPS, of Missouri. I have not sought the floor for the purpose of making a speech. I oppose the amendment offered by the gentleman from South Carolina, and ask a vote.

The question was taken on Mr. BONHAM's amendment; and it was rejected.

The question recurred on Mr. CASE's amendment to strike out the whole section.

Mr. NICHOLS called for tellers. Tellers were ordered; and Messrs. MASON and COCKERELL were appointed.

The committee divided; and the tellers reported—ayes 104, noes 26.

So the amendment was agreed to.

Mr. PHELPS, of Missouri. I move that the

committee rise, and report the bill and amendments to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STEVENSON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1860, and had instructed him to report the same to the House, with sundry amendments.

Mr. PHELPS, of Missouri. As some gentlemen have expressed a desire to have offered to the House an amendment which was adopted by the committee, and afterwards lost by the striking out of the whole section, I desire to give my friend from Georgia [Mr. CRAWFORD] an opportunity to offer it before I move the previous question.

Mr. CRAWFORD. I move to amend the last clause in the bill as it was amended in the Committee of the Whole on the state of the Union. I move that \$75,000 be stricken out, and \$45,000 inserted.

Mr. BURNETT. I am opposed, myself, to the education of those Africans, whether they be minors or adults; and I desire to ask the gentleman how he arrives at the fact that \$30,000 is required for their education?

Mr. CRAWFORD. By information received from the Secretary of State. He says that it will take \$30,000 for that purpose.

Mr. COLFAX. I appeal to the chairman of the Committee of Ways and Means to redeem the promise he made to me in committee, when I moved to strike out the appropriation for the mission to Persia. I asked him then what the amount would be that the whole appropriation should be reduced, and he said he believed \$10,000; but that we could wait until after other amendments had been acted on, and then the amount of the appropriation could be reduced. I ask him now to redeem his promise.

Mr. PHELPS, of Missouri. The committee afterwards took another view of the matter, and struck out the whole clause making appropriations for the salaries of ministers abroad, and inserted the text proposed by the gentleman from Ohio.

Mr. COLFAX. That was not done until four distinct votes had been taken on striking out various missions.

Mr. SHERMAN, of Ohio. I must object to this.

Mr. PHELPS, of Missouri. I move the previous question.

Mr. BONHAM. I ask the chairman of the Committee of Ways and Means to give me an opportunity of introducing an amendment, which I know Democrats on this side of the House will support.

Mr. BARKSDALE. I desire to ask the chairman of the Committee of Ways and Means to give me an opportunity of moving an additional section to the bill, which I am satisfied no gentleman will object to.

Mr. EUSTIS. I desire to ask the chairman of the Committee of Ways and Means whether he has brought the bill into the House for the purpose of continuing the discussion, or for the purpose of voting?

The SPEAKER. The previous question has been demanded.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn.

Mr. LETCHER. I desire to make an inquiry of the Chair. I desire to know how my colleague on the Committee of Ways and Means, the gentleman from Georgia, [Mr. CRAWFORD,] can move to amend a clause which has been stricken out altogether by the Committee of the Whole? I cannot understand how the consent of the chairman of the Committee of Ways and Means can make such an amendment in order, when the clause proposed to be amended has been stricken out.

The SPEAKER. It is only the recommendation of the Committee of the Whole that the clause be stricken out.

Mr. LETCHER. The clause is out, so far as the action of the Committee of the Whole is concerned.

The SPEAKER. It is entirely competent, in the House, to perfect the clause before the vote is taken on striking out.

Mr. LETCHER. Let me see if the Speaker and I understand each other.

Mr. WASHBURN, of Illinois. I demand the regular order of business—the vote on my motion to adjourn.

The question was taken; and the House refused to adjourn.

Mr. LETCHER. When the bill was reported to the House from the Committee of the Whole on the state of the Union, was not the clause stricken out?

The SPEAKER. It was not.

Mr. LETCHER. It was not?

The SPEAKER. It was not.

Mr. LETCHER. Then what was the condition of it?

The SPEAKER. There was a simple recommendation of the Committee of the Whole that the clause be stricken out.

Mr. LETCHER. We struck it out in committee by a direct vote.

The previous question was seconded, and the main question ordered.

Mr. STANTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, with a view to take a recess; so that we may have an evening session for debate.

The SPEAKER. That motion cannot be made if there is objection.

Mr. McQUEEN. I object. I am opposed to the evening sessions.

Mr. BARKSDALE. I desire to ask the unanimous consent of the House to offer an additional section to the bill.

Mr. MORGAN. As it is evident that nothing will be done this evening, I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, January 27, 1859.

Prayer by Rev. M. NOBLE.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, dated the 25th instant, with the accompanying papers, in compliance with the requirement of the act entitled, "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856; which, on motion of Mr. HUNTER, was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of the Senate and Clerk of the House of Representatives, in relation to the continuation of the compilation and publication of the American State Papers; which was read, and, on motion of Mr. CRITTENDEN, referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the following bills and joint resolutions; in which the concurrence of the Senate was requested:

A bill (No. 830) for the punishment of the crime of forgery or counterfeiting military bounty land warrants, military bounty land certificates of location, certificates of purchase, and receivers' receipts;

A bill (No. 831) to authorize the holding of circuit and district courts at the city of Peoria, Illinois; and

A joint resolution (No. 38) in relation to the tobacco trade of the United States with foreign countries.

The message further announced that the House had passed the bill of the Senate (No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed,

on the 25th instant, the following acts and joint resolution:

An act for the relief of John Duncan;
An act for the relief of Mrs. Henry R. Schoolcraft;

An act for the relief of James G. Holmes; and
A joint resolution authorizing Townsend Harris, United States consul general at Japan, and H. C. I. Herskin, his interpreter, respectively, to accept a snuff-box from her Majesty the Queen of England.

And on the 12th instant:

An act making appropriations for the support of the Military Academy, for the year ending the 30th of June, 1860.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bill; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 788) authorizing the Secretary of the Treasury to grant a register to the schooner William A. Hamill.

PETITIONS AND MEMORIALS.

Mr. STUART presented a petition of citizens of Michigan, praying that a grant of land may be made to aid in the construction of a wagon road from Saginaw to Sheboygan; which was referred to the Committee on Public Lands.

He also presented the petition of citizens of Ottawa county, Michigan, and residents of "Holland Colony," so called, for the establishment of a mail route from Grand Haven to Saugatuck; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of citizens of Ottawa county, Michigan, and residents of the "Holland Colony," so called, for the creation of a light-house, and a pier beacon light at the harbor of Black Lake, in that county; which was referred to the Committee on Commerce.

Mr. GREEN presented the petition of Hiram J. Graham, praying the organization of a new Territory, to be composed of Kansas, the southwestern part of Nebraska, and the eastern part of Utah; which was referred to the Committee on Territories.

Mr. HAMLIN presented the memorial of Isaac H. Randall, praying compensation for extra services performed by him while a master's mate attached to the Japan expedition, under Commodore Perry; which, with the accompanying papers, was referred to the Committee on Naval Affairs.

Mr. HOUSTON presented the memorial of William Vance & Brothers, praying the reimbursement of expenses incurred in furnishing outfits to certain volunteers for the Mexican war, who were marched to the place of rendezvous, but were not finally mustered into the service of the United States; which was referred to the Committee on Military Affairs.

Mr. CHANDLER presented a memorial of citizens of Michigan, in relation to the appointments of chaplains in the public service; which was referred to the Committee on the Judiciary.

Mr. JONES presented a petition of Ambrose S. Mead and others, citizens of Iowa, praying remuneration for property destroyed by a wandering band of the Sioux Indians, in the spring of 1857-58; which was referred to the Committee on Indian Affairs.

He also presented the petition of William Collicott, praying remuneration for loss sustained by him in the entry of land, through the errors of Government officers; which was referred to the Committee on Public Lands.

He also presented the petition of Warner L. Clark, son and one of the heirs of B. W. Clark, deceased, praying payment for supplies furnished at the request of General Henry Dodge, to white families taken into the fort at White Oak Springs, to prevent their falling victims to the Indians during the Black Hawk war; which was referred to the Committee on Claims.

ATLANTIC AND PACIFIC SHIP-CANAL.

Mr. GREEN submitted the following resolution:

Resolved, That the Secretary of the Navy be respectfully requested to transmit to the Senate, at the earliest day possible, the full detailed reports of the surveys made by Lieu-

tenant Craven of the Navy, and Lieutenant Michler of the topographical engineers, to verify surveys previously made, for a ship canal between the Atlantic and Pacific oceans, via the Atrato and Truando rivers; and that the same contain copies of the field-notes certified to by the respective officers, setting forth the measurement of distances, their direction; the heights and inequalities of the ground passed over, as determined by the spirit-level, with a description of the manner in which the surveys were made, measurements taken, and the instruments used; also, the result of any instrumental work that may have been done, together with the number of cubic yards of earth and rock to be removed to construct a ship canal, without locks, one hundred feet wide at the water lines, and thirty feet deep at low tide; also, the opinion of said officers if a lower pass exists through the mountains than that which they examined: these reports, however, not to include any estimates of costs, or the botanical, or other descriptions of the natural history of the country, until called for by Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MASON. I suggest to the Senator that the usual form is, that the Secretary be directed. I propose that amendment.

Mr. GREEN. I accept the amendment.

The resolution, as modified, was adopted.

POSTAGES AND EXPENDITURES.

Mr. HALE. I have a resolution which relates to a matter now pending before the Committee on the Post Office and Post Roads, and I ask that it may be read and considered at this time:

Resolved, That the Postmaster General be requested to communicate to the Senate the amount of postages received in each State and Territory of the United States, for each year, from 1840 to the present time; and also the amount paid in each year, for transportation in each of said States and Territories, indicating the rates of postage in each year, and the number of letters transmitted by mail each year, if practicable.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MASON. I think that resolution is liable to the same objection as the one which preceded it. I move the same amendment, that the Postmaster General be "directed." It is better to preserve the proper relation between the parties.

Mr. HALE. I have no objection to that amendment.

The resolution, as modified, was agreed to.

CANADIAN RECIPROCITY.

Mr. KING submitted the following resolution:

Resolved, That the Committee on Finance be instructed, when considering the revision of the tariff, or any revenue bill during the present session, to inquire whether the increased duties lately levied by the British Government for the Canadas upon all articles not enumerated in the schedule of free articles in the treaty between the United States and Great Britain, signed at Washington, on the 5th day of June, 1854, known as the reciprocity treaty with the British Provinces, onerous upon all such articles exported from the United States to Canada, and on many articles amounting to prohibition, are not inconsistent with the spirit and the principles upon which the said treaty was entered into by the high contracting Powers; whether any, and what, countervailing duties or regulations will be proper as a remedial measure; and whether notice to terminate the treaty on the earliest day authorized by its stipulations ought not to be given.

Mr. HUNTER. I suggest to the honorable Senator to allow that resolution to lie over until to-morrow.

Mr. KING. I have no objection.

The resolution lies over under the rule.

INDIAN CAMPAIGN.

Mr. RICE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish the Senate with a copy of the topographical memoir and map of Colonel Wright's late campaign against the Indians in Oregon and Washington Territories.

MAIL DETENTIONS.

Mr. HALE. I submit the following resolution; which I desire the Senate to consider at this time:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of authorizing the Postmaster General to contract for the establishment of a new post route by railroad conveyance between the cities of Washington and New York, or in some other mode providing for such conveyance of the mails as the public necessity requires.

I beg the indulgence of the Senate while I state the reasons which induced me to offer the resolution, with the concurrence of the committee to which I belong. There is very great, very unnecessary, and very vexatious, delay of the mails on the great route between this city and New York, by which all the communications of the country between East and West, North and South, pass. I will not go into the particulars of it; but

it is great and unnecessary. By the instruction of the Committee on the Post Office and Post Roads, I have had several conferences with the Postmaster General and the Assistant Postmaster General, Mr. Dundas, to whose charge this appropriately belongs, and they tell me they are utterly powerless to make any reform. I have seen some of the agents of the railroads, where they say the blame is, and the railroad people say that they are perfectly willing to make every convenient arrangement, but that the Postmaster General will not do it; and the result is, that the mails are delayed in New York and Philadelphia unreasonably and vexatiously. This is simply a resolution of inquiry.

The resolution was agreed to.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the resolution of the city council of Memphis, Tennessee, in favor of the establishment of an inspection district, and the erection of a marine hospital at that place, have instructed me to report it back adversely to the establishment of an hospital, and ask to be discharged from the further consideration of the other part of the resolution, provision having been made by a general bill, now pending before the Senate, in respect to that subject.

The report was concurred in.

Mr. CLAY, from the same committee, to whom was referred the amendment of the House of Representatives to the joint resolution (S. No. 554) for changing the plan of the custom-house at Galveston, in the State of Texas, reported in favor of concurring in the amendment of the House.

Mr. CLAY. The same committee, to whom was referred the bill from the House (No. 783) to authorize the registering of the schooner Enterprise, of Wilson, New York, have instructed me to make an adverse report.

Mr. KING subsequently rose and said: I would inquire whether the report the Senator has just made in regard to the registering of the schooner Enterprise was an adverse report?

Mr. CLAY. Yes, sir.

Mr. KING. What action is taken on it?

Mr. CLAY. It lies on the table.

Mr. KING. I hope that report may be deferred that I may examine the papers.

The subject was not further pressed.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the memorial of William Pettibone and others, practical bookbinders and residents of Washington city, praying the correction of an abuse in relation to the ruling and binding for the Executive Departments, believing that they have no proper relation to abuses in the binding and ruling of the Executive Departments, ask to be discharged from its further consideration, and that it be referred to the Committee on Printing.

The motion was agreed to.

Mr. BAYARD. The same committee, to whom was referred a communication from A. G. Miller, in favor of the enactment of a law to authorize the district courts of the United States to appoint commissioners, considering that there is no necessity shown for the law contemplated by the application, have instructed me to ask to be discharged from the further consideration of the subject.

The report was concurred in.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 804) to authorize settlers upon sixteenth and thirty-sixth sections, who settled before the surveys of the public lands, to preempt their settlements, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 551) to protect the land fund for school purposes in Sarpy county, Nebraska Territory, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 805) to run, mark, and establish, the western boundary of the State of Minnesota, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 803) to amend an act entitled "An act authorizing repayment for land erroneously sold by the United States," reported it without amendment.

Mr. FITCH, from the Committee on Printing,

to whom was referred the motion to print the memorial of S. S. Wood, commissioner, and W. P. Kirkland, solicitor, appointed on behalf of the residents and non-residents of Greytown, or San Juan del Norte, in Central America, who suffered by the bombardment of that city by Captain Hollins, of the United States ship Cyane, on the 13th of July, 1854, praying the appointment of a commission to investigate the charges upon which the city was destroyed, and also to investigate losses sustained, with a view of making such reparation as may appear just and proper, reported adversely on the motion; and the report was agreed to.

He also, from the same committee, to whom was referred the memorial of members of the Society of Cincinnati, praying the settlement of the claims for half pay for life promised by the act of Congress of October, 1780, to the officers of the Continental army who should serve to the end of the war, or until the time of their reduction, reported in favor of the memorial; and the report was agreed to.

Mr. BIGLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 353) for the relief of Eli W. Goff, reported it without amendment, and with a recommendation that it do pass.

Mr. SHIELDS, from the Committee on Revolutionary Claims, to whom were referred the papers in relation to the claim of Frederick Vincent, administrator of James Lecaze, submitted a report, accompanied by a bill (S. No. 537) for the relief of Frederick Vincent, administrator of James Lecaze, surviving partner of Lecaze & Mallet. The bill was read, and passed to a second reading; and the report was ordered to be printed.

RECOMMITTAL OF A REPORT.

Mr. MASON. I presented a petition a few days ago from Mrs. Fanny A. White, which was referred to the Committee on Pensions. She is a widow lady. I wrote to her and told her that some evidence must be sent with the petition. She replied, as such a lady would do, that she was utterly ignorant of the form of such proceedings, and would supply it. In the mean time the committee reported adversely. With the consent of the chairman of that committee, I ask that that petition be recommitted to the Committee on Pensions.

The motion was agreed to.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 535) conferring certain powers relating to alleys, on the corporation of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 536) to authorize the levy court to issue tavern and other licenses in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 74) for the relief of the administrator of Benjamin Wakefield, deceased; which was read twice by its title, and referred to the Committee on Naval Affairs.

INVESTIGATING COMMITTEES.

Mr. HUNTER. There is a bill before the Committee on Finance which we ask the Senate to take immediate action upon. It is for the payment of witnesses who have been summoned here before investigating committees of the House of Representatives; and they cannot go away until this bill is passed. I am directed by the Committee on Finance to report it back, and to ask the Senate, by unanimous consent, to take it up this morning. I report it with an amendment to be inserted as an additional section.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives.

It appropriates the sum of \$10,000 for the payment of the expenses of the several investigating committees of the House of Representatives during the present session, and directs that it be added to the miscellaneous item of the contingent

fund of the House; but no portion of this sum is to be paid for constructive mileage for summoning witnesses.

The additional section submitted by the Committee on Finance is as follows:

And be it further enacted, That hereafter the mileage or traveling allowance to the officer, or other person executing precepts or summonses of either Houses of Congress, shall not exceed ten cents for every mile necessarily and actually traveled by such officer or other person in the execution of any such precept or summons.

Mr. HUNTER. That is designed to put an end to an evil which has existed. If an officer summons ten men from the same place, by this amendment he is to charge only one mileage, and not ten, as has been done heretofore.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed. The bill was ordered to be read a third time; and it was read the third time, and passed.

PETERSBURG CUSTOM-HOUSE LOT.

Mr. CLAY. The Committee on Commerce, to whom was referred the joint resolution of the House of Representatives, (No. 39,) to authorize the Secretary of the Treasury to sell a certain plat of land in the city of Petersburg, Virginia, belonging to the United States, have instructed me to report it back with an amendment, and to recommend its passage; and as it is a matter of no interest, I suppose, to any one in the Senate, except the Senators from Virginia, I hope the Senate will act on it now. The amendment is one that all will agree to. I will state that the Secretary of the Treasury approves the sale of the land, saying that it is not necessary for the public service.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

It proposes to authorize the Secretary of the Treasury, in his discretion, if deemed by him consistent with the public interest, to sell, and by deed convey to the purchaser, a piece or parcel of land lying at the southeast corner of the custom-house lot in Petersburg, Virginia, to be so laid off and defined as to make the eastern boundary of that lot a straight line from its beginning on Tabb street, through to the lot belonging to Powell's Hotel Company; and the proceeds of the sale are to be applied, if necessary, to the completion and furnishing of the custom-house building, or grading and inclosing the lot.

The amendment which the committee reported, is in the form of the following proviso:

Provided, The Secretary of the Treasury shall fix the minimum below which the said lot shall not be sold.

The amendment was agreed to. The joint resolution was reported to the Senate, as amended, and the amendment was concurred in, and ordered to be engrossed. The joint resolution was ordered to be read a third time; and it was read the third time, and passed.

COMPENSATION OF LAND OFFICERS.

Mr. STUART. I am directed by the Committee on Public Lands to report back the bill (H. R. No. 801) to fix and regulate the compensation of receivers and registers of the land offices, under the provisions of the act approved April 20, 1818, and to recommend its passage. As this is a House bill, which is intended to correct very large abuses growing out of the commissions of land officers, I ask the indulgence of the Senate to consider it at this time. It is very short, and will take but a moment. It certainly ought to be passed for the preservation of the public interests.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It directs that the act entitled "An act for changing the compensation of receivers and registers of the land offices," approved April 20, 1818, shall be so construed by the accounting officers as to restrict the aggregate amount allowed as compensation for the registers' and receivers' commissions on moneys received at any land office in any one calendar year to the sum of \$2,500 each; and that the registers and receivers shall not receive for any one quarter, or fractional quarter, more than a *pro rata* allowance of the maximum of \$2,500; their compensation, both for sal-

ary and commissions, to commence and be calculated from the time they enter on the discharge of their duties.

The bill was reported to the Senate without amendment.

Mr. TOOMBS. I want to know how the bill affects the existing law?

Mr. STUART. I will explain it to the Senator. By the existing law, the commissions of a land officer for one year are limited to \$2,500, which, with the salary, makes \$3,000. A practice has grown up, in many instances, of this character: where the sales are large, a man holds his office for three months, within which time he gets his full amount of commissions; he resigns his office; his successor takes it and holds it three months, within which time he gets his full amount of \$2,500, and then he resigns; and the first man is appointed again, and he gets another \$2,500. The effect of this bill is to limit the receipts of the year to \$2,500, and *pro rata* for each quarter.

The bill was ordered to a third reading, read the third time, and passed.

ACQUISITION OF CUBA.

Mr. FITCH. The Committee on Printing, to whom was referred the subject of printing extra numbers of the report of the Committee on Foreign Relations on the bill to facilitate the acquisition of the Island of Cuba by negotiation, have directed me to report in favor of printing five thousand copies. There were two motions on the subject; first for printing two thousand, and second for printing ten thousand extra copies. I wish to call the attention of the minority of the committee for a moment to the fact that they moved no additional number except two thousand, in their first resolution, and the committee reported in favor of printing two thousand copies of the views of the minority.

Mr. SEWARD. I intended yesterday, if I could have got the floor when the subject was brought up, to move the same number, whatever it might be, of the minority report.

Mr. FITCH. I presume I shall have the assent of the Committee on Printing then at once to an amendment of their report, and I report in favor of printing five thousand extra copies of both the majority and minority reports. I make the motion to print five thousand copies of each.

Mr. HALE. I have but a word or two to say in opposition to this motion. We have been trying to talk economy; I do not know whether it means anything more than that. This report has been printed. I saw it in the city papers this morning. It is probably printed by this time, or will be in a day or two, in every principal newspaper in the whole United States. This number is not wanted for the use of the Senate; it certainly cannot be wanted for the public, for they get it in the newspapers; and it is a useless expense, and, it seems to me, an improper disposition of the public money. I am opposed to printing anything but the usual number.

Mr. IVERSON called for the yeas and nays; and they were ordered.

Mr. STUART. I ask for a statement or estimate of the cost of this printing.

The PRESIDENT *pro tempore*. The estimate will be read.

The Secretary read it, as follows:

OFFICE SUPERINTENDENT OF PUBLIC PRINTING,
WASHINGTON, January 26, 1859.

SIR: The cost of printing two thousand extra copies of the report of the Committee on Foreign Relations on the acquisition of Cuba will be \$35 72. At the same rate, ten thousand copies will cost \$175 60. The cost of printing two thousand extra copies of the views of the minority of the committee on the same subject will be \$4 32.

Respectfully, &c.,

GEORGE W. BOWMAN, Superintendent.

HON. GRAHAM N. FITCH, Chairman Committee on Printing, Senate.

Mr. FITCH. We report in favor of printing five thousand. The cost is certainly no objection. I think the importance of the subject is quite sufficient excuse for the action of the committee.

The question being taken by yeas and nays, resulted—yeas 34, nays 21; as follows:

YEAS—Messrs. Allen, Bates, Bayard, Benjamin, Bigler, Bright, Brown, Chesnut, Clingan, Davis, Douglas, Fitch, Fitzpatrick, Jr., Green, Gwin, Hammond, Houston, Hunter, Iverson, Jr., Johnson, of Tennessee, Jones, Kennedy, Mason, Pearson, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sill, Stuart, Thomson of New Jersey, and Ward—34.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster,

Hale, Hamlin, Harlan, King, Seward, Simmons, Toombs, Trumbull, Wade, and Wilson—21.

So it was ordered that five thousand extra copies of the majority and minority reports of the Committee on Foreign Relations be printed.

DISTRIBUTION OF DOCUMENTS.

Mr. PEARCE. The Committee on the Library, to whom a joint resolution (S. No. 68) for supplying the Choctaw nation with such copies of the laws, journals, and public printed documents, as are furnished to the States and Territories, was referred, have directed me to report it back with an amendment, and recommend its passage with that amendment. I ask for its consideration now. It cannot give rise to any debate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. The committee reported it with an amendment, to strike out the following words:

"And that such sum as may be necessary to defray the expense of carrying into effect this resolution be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated."

So that the resolution will read:

Be it resolved, &c., That the Choctaw nation of Indians, through such agent as they may designate, be furnished by the Secretary of the Interior with such copies or volumes of the laws of the United States, Journals of Congress, and documents printed by order of Congress, as are supplied to the States and Territories of the United States.

Mr. PEARCE. There is no necessity for the appropriating clause. There is a fund at the command of the Secretary of the Interior for the purpose of transporting books; and there are extra copies, also, at his command.

The amendment was agreed to. The joint resolution was reported to the Senate as amended; and the amendment was concurred in. The joint resolution was ordered to be engrossed and read a third time. It was read the third time, and passed.

Mr. SEBASTIAN subsequently moved to reconsider the vote on the passage of the resolution; and the motion was entered.

ORDER OF BUSINESS.

Mr. HUNTER. As the hour of one o'clock has arrived, I move to suspend all prior orders for the purpose of taking up the Indian appropriation bill.

Mr. GWIN. I will not consume time. It is known that we are now ready to vote on the Pacific railroad bill; and I simply call for the yeas and nays, to see whether the Senate will take up the Indian appropriation bill and lay the railroad bill aside.

The yeas and nays were ordered.

Mr. TRUMBULL. I hope we shall finish this railroad bill to-day. We have got now to the very point of voting on it. Let us vote on it.

Mr. HUNTER. I have no idea that it can be finished to-day. I think we had better dispose of the appropriation bills. If we do that, we can devote the rest of the time to the Pacific railroad. Let us pass the appropriation bills as they come.

Mr. BENJAMIN. I hope the Senate will not yield to the appeal of the Senator from Virginia. I hope we shall have some practical legislation this winter; and as the Pacific railroad recommends itself so eminently to practical men, I hope we shall have a vote on that.

Mr. HALE. Mr. President, I hope the motion of the Senator from Virginia will be agreed to. We should pay some regard to the injunction of Pope, "Lo! the poor Indian." I think the railroad bill is a very good thing, and sometimes answers a very good purpose—to occupy the time when we have nothing else to do; but now I think we should take up the Indian appropriation bill.

The question being taken by yeas and nays on Mr. HUNTER's motion, resulted—yeas 20, nays 32; as follows:

YEAS—Messrs. Bates, Bayard, Chesnut, Clingman, Crittenden, Fessenden, Fitzpatrick, Foot, Hale, Hammond, Houston, Hunter, Mason, Pearce, Polk, Pugh, Reid, Thomson of New Jersey, Toombs, and Wilson—30.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Dixon, Doollittle, Douglas, Durkee, Fitch, Foster, Gwin, Hamlin, Harlan, Iverson, Johnson of Tennessee, Jones, Kennedy, King, Rice, Sebastian, Seward, Shields, Slidell, Stuart, Trumbull, Wade, and Ward—32.

So the motion was not agreed to.

PACIFIC RAILROAD.

The Senate resumed the consideration of the

bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. BIGLER. I ask the consent of the Senate to make a slight alteration in section four, line twelve, by striking out the word "and" after the word "road." It now reads, "for the space of twenty miles on each side of said road, and for the full extent of said eastern and western divisions." The word "and," between "road" and "for," should be stricken out. I move that amendment, which is merely a verbal one.

The amendment was agreed to.

Mr. DOOLITTLE. When this bill was under consideration the other day, an amendment which I offered was ruled out of order, because it was decided by the Chair that, after the amendment offered by the Senator from Pennsylvania [Mr. BIGLER] had been adopted, the bill being in the Senate and not in Committee of the Whole, it was out of order to propose my amendment at that time. I propose to reach the point by offering it now as an additional section, and I will state what the effect of it will be. It will be that the lands to be reserved for railroad purposes will be open to settlement and preemption at twenty shillings per acre.

The Secretary read the amendment, which is to insert as an additional section:

And be it further enacted, That nothing in this act contained, shall withhold the land set apart and appropriated thereby for railroad purposes, from settlement and preemption at the price of \$2 50 per acre, under the provisions of the act of September, 1841, and the acts amendatory thereof, until said lands are sold and conveyed under the provisions of this act.

Mr. DOOLITTLE. On that amendment I ask for the yeas and nays. I shall not discuss the question. It is simply to prevent the lands which are reserved for railroad purposes from being monopolized by the contracting parties, and kept out of the market for a long period of time, and then sold at very high prices to the settlers, as they have been on the Illinois Central and other roads.

The yeas and nays were ordered; and being taken, resulted—yeas 38, nays 12; as follows:

YEAS—Messrs. Allen, Bates, Bell, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Crittenden, Dixon, Doollittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, Jones, King, Pearce, Polk, Pugh, Rice, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Toombs, Trumbull, Wade, and Wilson—38.

NAYS—Messrs. Clay, Clingman, Davis, Douglas, Fitch, Green, Hammond, Iverson, Kennedy, Mason, Reid, and Ward—12.

So the amendment was agreed to.

Mr. DOOLITTLE. I hope I shall not be charged with trespassing on the indulgence of the Senate, or desiring to take time in making remarks; but I have one proposition which I desire to submit, and take the vote of the Senate upon; and then, so far as any amendments that I have any disposition to offer are concerned, I have done.

It seems, from the votes which have already been taken by the Senate, that there is a determined disposition not to contemplate the entering into contracts for railroads on three routes. I propose, therefore, to offer an amendment, as additional sections to the bill as it now stands, which will cost nothing whatever comparatively, simply to authorize the Secretary of the Interior to receive proposals both upon the northern and upon the southern route, to be submitted to the next Congress. It is precisely similar to the proposition of the Senator from Tennessee, [Mr. BELL] except that it has reference to the northern route and the southern route, leaving the bill in its present shape so far as the central route is concerned. I submit this amendment, and I hope the Senate will adopt it. If propositions can be made on these routes, it is but just that those propositions should be received. They may shed some light on the action of Congress at the next session, when you come to act on any contracts which may be entered into by the President under the provisions of the present bill.

Mr. SEWARD. I am very sorry to differ with my honorable friend from Wisconsin on that subject, but I think that the adoption of his amendment will imply that the present bill will not

draw forth surveys on these two very routes. My own impression is that this bill cannot be executed until surveys and estimates have been made for all the routes; and, therefore, I shall not vote for the amendment.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The amendment will be read.

Mr. DOOLITTLE. It will not be necessary to read it at length. It is the same as the proposition offered by the Senator from Tennessee yesterday, with the single exception that it applies only to the northern and southern routes, and not at all to the central route.

The PRESIDING OFFICER. The reading may be dispensed with by the unanimous consent of the Senate.

Mr. DOUGLAS. I should like to hear it read.

The Secretary read the amendment, as follows:

Sec. 15. And be it further enacted, That it shall be the duty of the Secretary of the Interior, upon the passage of this act, by advertisement in two newspapers in each State and in the District of Columbia for a period of eight months, to invite separate proposals for the construction and working of two other railroads from the valley of the Mississippi to the Pacific ocean, within the territory and jurisdiction of the United States: one commencing at some suitable point on the western boundary of the State of Minnesota, running thence, on what may appear the most eligible route, to Puget Sound, in Washington Territory, with a branch to Vancouver; one commencing at some suitable point on the western boundary of Arkansas or Texas, thence pursuing what may appear to be the most eligible route to the Pacific ocean; the said railways to be constructed in a substantial and workmanlike manner, with necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering-places, and all other appurtenances, including the furniture and rolling works or stock, equal in all respects to a first-class railroad when prepared for business, with rails of the best quality, weighing not less than sixty-four pounds to the yard, and a uniform gauge; and such advertisement shall further set forth that the person, or association of persons, or company making such proposals, shall state, as distinctly as may be, the points selected as the eastern and western termini of the road he or they propose to construct, and the line or route selected as the most eligible on which to construct it, reserving the privilege of making such deflections or departures from it as may be found in the progress of the work to offer greater facilities and advantages; and that he or they shall specify the terms and conditions on which he or they propose to construct the road, classified as follows:

First. The time within which the road is to be commenced and completed.

Second. The amount or extent and description of the aids, facilities, and privileges which will be expected or required from the Government, whether consisting of lands or money, or both; and if in part of money, whether in the shape of a loan or otherwise; and if a loan, when and how to be refunded.

Third. The rate of charge, respectively, for conveying the mail weekly, semi-weekly, tri-weekly, and daily, when the road is completed, and the rate per mile for such portions or divisions of the road as may be completed and in use before the completion of the whole; and the rate of charges on all military and naval supplies, troops, munitions of war of all kinds, for the transportation of the same on said road throughout the entire line when completed, and on any less portion or section of the same, as the wants of the Government may require.

Fourth. The time or period beyond the completion of the road at which the party or parties to any such proposals will surrender said road, with all its equipments and appointments, to the United States, should the Government desire such surrender; whether after twenty, forty, or sixty years of exclusive possession and enjoyment; and if any greater period than twenty years is proposed, at what reduced amount of aid and facility will be required from the Government in consideration of such extension to forty or sixty years, respectively, the party or parties to such proposals will undertake to construct the road; and what reduction of charges for conveying the mails and transporting military and naval supplies, troops, and munitions of war of all kinds, will be made in consideration of such extension.

Fifth. The guarantees proposed for the faithful execution of any contract which may be entered into with the United States for the construction of the road, and against excessive fare for the transportation of passengers, and exorbitant charges for carrying freight of any description.

Sec. 16. And be it further enacted, That all proposals shall be sealed, and addressed to the Secretary of the Interior; who shall, previously to the commencement of the first regular session of the next Congress, open the same in the presence of the other heads of Departments, and shall transmit copies of the same to the two Houses of Congress, as soon as organized, the originals to remain on file in the Department of the Interior.

Sec. 17. And be it further enacted, That the sum of \$— be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to carry the provisions of this act into effect.

Mr. BIGLER. I am not certain as to the effect of this amendment. It seems to me, however, that it should be an independent proposition. It embodies in itself a distinct policy, and, if I understand it properly, it cannot be reconciled with the bill as it now stands. The bill which is pending authorizes the construction of a road on the best route, the western terminus being at San Francisco, and the eastern on the Missouri river, between the mouths of the Kansas and the Big

Sioux. It is for the contractors, under the bill as it stands, to decide what route they will take. How can we assume that they may not go by the thirty-fifth parallel, or even the thirty-second parallel? They will take the most eligible and the cheapest route, under the bill; they can take any route which, in their judgment, may best conduce to the purposes in view. Then, sir, how are we to understand the effect of this amendment? It authorizes surveys for a road which is provided for in the bill. I think the Senator from Wisconsin, probably, has not looked at the effect of the amendment fully. If his amendment is to be adopted, it ought to be for the survey of the best route; and it ought to supersede the entire bill, and let the inquiry be as well south as north; and for an intermediate route. I confess I should be willing to vote for it if I thought it consistent with the general proposition.

Mr. DOOLITTLE. I understood the amendment to be adopted confining the route between the thirty-fourth and forty-third parallels.

Mr. BIGLER. No, sir.

Mr. DOOLITTLE. I still desire to take the sense of the Senate on my amendment. Judging from the starting point of this road as fixed by the bill, it seems to me that it must of necessity go upon a central route, if any road is built at all; and the proposition which I submit is simply to ask for proposals upon the other two routes, both north and south. It will cost nothing to the Government to take these proposals, and when they are received and submitted to Congress, we may act more intelligently on the whole question at the coming session. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The Chair suggests to the Senator that, from the reading of the amendment, there is a blank in it for a sum of money which, perhaps, he would desire to fill up.

Mr. DOOLITTLE. The last section containing the blank is simply to be filled with the cost of receiving proposals. I suppose \$2,000 would be sufficient. I fill the blank by inserting \$2,000.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 18; as follows:

YEAS—Messrs. Bates, Bell, Bright, Brown, Chesnut, Clingman, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Green, Hamlin, Harlan, Houston, Iveson, Johnson of Tennessee, Kennedy, Pearce, Rice, Sebastian, Shields, Simmons, Stuart, Thompson of New Jersey, Toombs, Wade, and Ward—29.

NAYS—Messrs. Allen, Bayard, Bigler, Broderick, Chandler, Clay, Davis, Fitzpatrick, Foster, Gwin, Hunter, Jones, Mason, Polk, Pugh, Reid, Seward, and Trumbull—18.

So the amendment was agreed to.

Mr. DOUGLAS. I have an amendment that I wish to offer, to follow the sections before adopted on the motion of the Senator from Wisconsin, granting the right to preempt the lands granted at \$2 50 an acre. My amendment is:

And be it further enacted, That all lands situated within forty miles of the middle division of said road, on either side thereof, and not herein set apart and appropriated for the use of said road, shall be open to settlement and preemption at the rate of ten cents per acre, under the provisions of the act of September, 1841, and the acts amendatory thereof.

The object is, that in what is called the desert country, on the middle division, where there are very few lands worth anything, they shall be open to settlement at ten cents an acre, a nominal price, with a view of trying to get long lines of settlement along the road. You have stricken out of the bill the grant of lands to aid in the construction of the road along that division, on the ground that the lands there were worth nothing. I do not wish to have a barrier against settlement; and if they are not worth anything in aid of the construction of the road, let us throw them open to settlement under the preemption law, within forty miles of the road, at a nominal price.

Mr. POLK. Will the Senator state whether his amendment extends to the lands that are donated to the road, as well as the lands reserved by the United States?

Mr. DOUGLAS. It is confined to the middle division, excluding the divisions where lands are donated to the road.

The amendment was agreed to.

Mr. BRODERICK. Mr. President, I call the attention of my colleague to the amendment of the Senator from Wisconsin. It provides for a northern and southern route, and says nothing at all about the middle route. The middle route

is left out entirely. We have no assurance that the road will be built over the middle route, if the bill passes. The contractors may see fit to build it along the southern route and not across the middle route.

Mr. GWIN. That amendment was adopted without my having an opportunity to examine it; but I think the provision only requires a report upon the practicability of the northern and southern routes; leaving the contract to be made under the bill. Of course, though there may be a report in favor of the practicability of those two routes, the contract can be made on the other route, or on either of those routes. That is my understanding. I do not know, however, how that is, in point of fact.

Mr. FITCH. Being out of the Chamber when the amendment of the Senator from Wisconsin was offered, I voted on it from the statement of its purport by other Senators, and may possibly be mistaken. I should be very much pleased to hear it read, that I may see whether I was mistaken or not.

Mr. BRODERICK. I call the attention of the Senator from Wisconsin to the remarks I made a moment since. I say there is no provision made in his amendment for the middle route. It provides for a northern and southern route, and leaves out the middle route.

Mr. DOOLITTLE. Mr. President—

The PRESIDING OFFICER. The Chair will state to the Senator that this discussion is out of order; but it can proceed by unanimous consent. There is no motion pending. The Senator will proceed, if there be no objection.

Mr. DOOLITTLE. The bill before us provides at length for what is called the middle route; that is, beginning on the west line of Missouri, or Iowa, and going through to San Francisco. The termini, both ends of the route, are limited; and it seems to me of necessity it must be a central route, or somewhat central, to say the least. The provisions of the bill go on not only to provide for receiving proposals, but authorize the President to enter into a contract, so far as that route is concerned, which contract is to be submitted to Congress at the next session. The amendment which I have proposed is in the shape of additional sections to the bill, providing, in addition to what powers are conferred in relation to the central route, the route beginning on the west line of Missouri or Iowa, and going to San Francisco, that the Secretary of the Interior may also issue proposals, and ask contractors to state upon what terms they will agree to build roads upon the other two routes; and when these proposals are sent in to the Secretary of the Interior, he is simply authorized to open them, and report them to Congress, and not enter into any contract at all in relation to either of these other routes. That is the substance of the provision.

Mr. GWIN. I would make a suggestion to the Senator from Wisconsin. His amendment certainly embarrasses the bill; and I hope some gentleman who voted in favor of it will move a reconsideration, in order that we may have another vote on it. Several Senators, I am inclined to think, voted in favor of that amendment without understanding it. It will certainly be competent to receive propositions on all these routes under the original bill. Propositions can be made for the southern, the central, and the northern routes under the bill; and the amendment certainly complicates the question, and probably may endanger the bill, because it indicates directly that they shall report on the northern and southern routes, leaving out the central route. Suppose a contract is made on the northern or southern route, and there is no report on the central route at all: what position will we occupy? I hope this amendment will not be pressed now. It has been brought before the Senate this morning as an additional amendment, not as a substitute. It was a system before, when the Senator from Tennessee offered it as a substitute for the bill; but to ingraft it on this bill as an addition to it, I am afraid will embarrass and probably defeat the measure. I hope, therefore, it will be reconsidered, and taken off the bill.

Mr. BELL. I think the Senator from California is certainly mistaken as to the effect of the amendment offered by the Senator from Wisconsin, which has been adopted. It does not affect the provisions of the bill as it stood before at all.

It only supplies what might otherwise seem to be a defect if we wanted to hasten the commencement of the construction of a railroad at all. Suppose that no bids should be made under this bill for the central route.

Mr. BIGLER. It does not name the central route.

Mr. BELL. But two points are fixed on the east beyond which the terminus shall not go, north or south. Am I mistaken in that?

Mr. BIGLER. There is no fixed route.

Mr. BELL. But between two fixed points, which are designated, the terminus must be located.

Mr. BIGLER. That is the terminus, not the route.

Mr. BELL. Then the Senator from Pennsylvania is entirely in error when he says there is no provision for a central route. When you commence at some point between the two rivers prescribed by the bill, you may diverge northward three or four hundred miles, or diverge southward and go on the southern line; but still the eastern terminus is central, and you propose what is equivalent to a central terminus on the Pacific side, for it proposes to go to San Francisco.

Now, the proposition of the Senator from Wisconsin supplies what would otherwise appear to be a defect in the information which, under the provisions of the bill as it stood before his amendment, would be laid before Congress at the next session. Suppose there are bids upon the central route, and the President makes a contract under those bids: it is still in the discretion of Congress to adopt it or not. Suppose Congress hold that the contract is unreasonable and not proper to be carried into execution by the Government: where are you then? You are without any bids either upon a northern or a southern route; you have none that are satisfactory on the middle route; and perhaps no bid on the southern route; but the provision suggested by the Senator from Wisconsin proposes that the Secretary of the Interior shall receive bids, not make them. That is the only difference substantially; and I contend there is no incongruity in that. His amendment is, that the Secretary of the Interior shall invite bids from capitalists and others upon a northern route and a southern route, to be submitted to Congress at the next session.

If that amendment is permitted to stand, we shall have all the information upon the three several routes that have been indicated and spoken of in this debate before us at the same time. Congress will then have the whole subject within their control. If there should be no bid for the central route, or whatever route is provided for in this bill as it originally stood, then it would be well enough to have the information before us whether any northern route or southern route offered advantages and facilities in construction that would attract the attention of capitalists. This amendment supplies that defect. We may have no bids on any of the routes that have been indicated. We may have them under this provision in respect to all. The difference between the provisions of the bill in regard to the central route and the amendment is, that by the bill we make bids, we make offers to capitalists; but the proposition of the Senator from Wisconsin invites bids to come from capitalists with respect to a northern and a southern route. There is no pledge in either case to construct one or the other. I do not see why any member of the Senate should object to this amendment as an impediment to his support of this bill, for it certainly places it in the power of Congress to act with more safety, having a larger mass of information before it, in the selection of the route which shall finally appear to offer the greatest advantages and facilities, and may be constructed with the greatest economy.

Mr. HAMLIN. Mr. President, I do not know that there is any specific question before the Senate; but I desire to participate in this general discussion.

The PRESIDING OFFICER. The question may be stated by the Chair to be on ordering the bill to be engrossed and read a third time.

Mr. BELL. I consider the discussion in order. The whole question comes up on the bill.

Mr. HAMLIN. I think the suggestion which has been made by the Senator from California is one worthy of the attention of the Senate. There is a great number of Senators in this body who

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are favorable to the general proposition of the construction of a railroad across the continent. There is some disagreement of opinion as to the best mode of constructing it. There is a disagreement of opinion as to where the road should be located. You have before you a bill which confines the termini of the road. On the east, the terminus is on the Missouri river, between the Big Sioux and the Kansas rivers, I believe, giving a scope of some four or five degrees of latitude. You have the terminus on the Pacific designated, to wit, the city of San Francisco.

Now, sir, it has been urged in this body, and it is an objection which carries weight to my mind, that, with the limitations of the termini of the road in the bill, it is still so latitudinous and so broad, and gives to the Executive so much power, that it cannot receive our favorable consideration. That view was combated. The Senator from California undertook to tell us that there were no discretionary powers vested in the President; that there were limitations in the bill to prevent his acting in this manner. He took his own view of it. Now he gets up here to-day and tells us that this bill does not provide for the middle route. What is it, then? If you are to make a circuitous route, and have, in point of fact, a southern or a northern road, I want to know what becomes of the objection that has been made here in the Senate; and I want to know if it is not a frank and unqualified admission that discretionary power is in the hands of the President, to which we object? I think the objection of the Senator from California this morning is an ample support of what has been said by those who oppose the bill because the limitations in it are not sufficient. That is my judgment.

Mr. GWIN. Does the Senator allude to me?

Mr. HAMLIN. Yes sir; I allude to the Senator from California.

Mr. GWIN. I wish he would state what is his understanding of my remarks. Certainly, I never intended to say any such thing as he is quoting.

Mr. HAMLIN. I understood the Senator to say—I do not undertake to quote his words, but I undertook to state his position—that this bill did not confer upon the President of the United States any power; that it specified and defined certain things which he could do; and that it gave him no discretionary power in locating the road.

Mr. GWIN. What did I say this morning?

Mr. HAMLIN. The Senator, this morning, gets up and says, if we pass this bill, there will be no proposals for the central route, while there will be proposals for the northern and southern routes. That is an admission that this bill does not propose to build the road on a central route, as its friends have contended in this debate, and as has been understood all over the country.

Mr. GWIN. Of course the Senator does not wish to misstate my position.

Mr. HAMLIN. Certainly not.

Mr. GWIN. I had not read this amendment, but I stated that my impression was that it called for proposals on two routes, leaving out the central route; and, therefore, it was designating routes; whereas, heretofore, it has been the intention not to designate routes, although we designated the points within which the termini should be on this side and the other. This amendment designates routes; and as it leaves out the central route entirely, it might be, that no proposition being put in for that route, it might be excluded. That was my objection.

Mr. HAMLIN. The answer to that is, that this is a bill which provides for the central route; it provides for none other; the amendment provides for a road north of this and another south of this, leaving this to be the central road. Now, assume that this bill shall pass: the road must start on the east, between the two points I have named, the Big Sioux and Kansas rivers; and if there is any force whatever in the objection suggested by the Senator from California this morning against the bill as it now stands amended, it is an objection much stronger against the whole

bill; because it shows that there is no such limitation and restriction upon the Executive power as it is pretty generally conceded in this body ought to be imposed.

Suppose the bill shall pass with the termini fixed: all you have to do, under its provisions as now amended, is to receive proposals for two additional roads, one north and one south. Suppose the road should be started at the mouth of the Kansas river and should go all the way to Albuquerque, or go still further south, so that some portion of it might be regarded even as a southern route: what then? A strictly southern route, I suppose, would be between points lying south of the points named in this bill; a northern route would be between points north of those named in the bill; and if, instead of terminating the road at the point stated in this bill, you wanted a more southern termination, you would have, under this amendment, propositions as to the manner in which the connections could be made. I do not object to that; I am perfectly willing to vote for it. The main point which I suggest, and it is a point which will control my vote in this matter, is, that the Senator's own admission shows that he has a bill as broad and as latitudinous as language can make it; one which cannot receive the sanction of my vote, let that road go where it will; let the termination of it be where it may, if the termination of it were in the northeast corner of our territory or at the southwest; no matter where. If you are to have a road constructed under a bill which gives a latitude as broad as the continent, it gives such latitude as can never receive my vote.

Mr. SIMMONS. Do I understand that the bill is subject to amendment?

The PRESIDING OFFICER. It is open to amendment.

Mr. SIMMONS. I had intended to offer an amendment, trying to designate the route and controlling the powers of the company somewhat; but I find that the bill has been so amended that I do not understand exactly how it stands. Is the first section subject to amendment?

The PRESIDING OFFICER. The Chair thinks it is.

Mr. SIMMONS. I should like to strike the whole of it out; and I make that motion. I want to strike that out and put in a provision for the central route in the form contemplated in the amendment of the Senator from Tennessee, [Mr. BELL.] I understand the Senate have adopted the propositions contained in the amendment of the Senator from Tennessee as regards a northern and southern route; and now, if we strike out all this provision about contracts, and ask for information as to the central route, we shall get just where we ought to be. I think the Senators from California have justly apprehended the purport of this bill as it stands. It is a bill to begin anywhere between the mouths of the Big Sioux and Kansas rivers on the east, and go down to the southern line and through New Mexico to San Francisco, or up north to the forty-ninth parallel, and get to San Francisco in that way. You may make a road three thousand miles long under this bill. This is what I understand to be the bill as it is.

There are other objections to this bill. It is not a perfect bill to build any road. It contains no provision at all to guard the rights of owners of property along the entire length of the road; and to take it without payment is unconstitutional. It instructs the President to make a contract, and then makes the bill a part of the contract; and I want to know how Congress can alter it? It directs the President to make a contract; it leaves him no discretion about it; and it provides that after the contract is made, the parties who enter into it shall locate the route, and Congress cannot know where they locate it. If this bill passes, Congress would never know where this railroad is to be built, except the eastern and western end of it, until after they were committed to it to the tune of \$34,000,000, and as much more in land, and then the road will be located wherever the contractors see fit; and that is a fair interpre-

tation of the bill, and you have parted with all power to interfere with the contract. If this contract is made, and the bill becomes a part of it, you cannot alter the bill.

There is another objection. The committee who reported the bill have stated repeatedly that a road between these two termini can be built for \$25,000,000, and the quantity of land proposed to be donated. That information was said to come from railroad builders; but before we get through, without the slightest additional information, we have carried the money grant \$9,000,000 further as a gratuity to people to come forward and bid. I want to know if it is not inverting all the maxims of sound dealing, to say that you will give \$34,000,000 in money, and thirty-four million acres of land, and ask men how much more they will take, how much further compensation they will take, to build a railroad? Why do we not ask them on what terms they will build a road before we proffer anything? I am favorable to a road; and I supposed the amendments which were adopted were to distribute the money, so as to have more for the desert portion; but when you come to add it up, there is an increase of \$9,000,000. I move to strike out all the bill, except what we have just adopted on the motion of the Senator from Wisconsin, as to the northern and southern routes, and insert a provision for bids on the central route. Then we shall be just where we ought to have been before we began to legislate. We ought to have bids from responsible parties; and perfect surveys of the routes ought to accompany them, so that we should know what we were paying for, and what we were going to get, and how much we were going to involve ourselves in, before we undertook to allow anybody to put his sign manual, and bind the United States of America. If I can reach that in any form, I shall be content with the bill; otherwise, I mean to vote against it. I merely mention this. If I am compelled to vote against the bill, I shall give reasons for my position. I want to get a road; and I deliberately believe that this is the most judicious and prudent method to reach the information that is indispensable before we vote the money. I suppose that proposition is on the table; and if it can be so perfected as to make the series of routes complete, by adding what was offered two or three days ago, I shall be very happy to do so.

The PRESIDING OFFICER. The Chair understands the Senator from Rhode Island to propose to strike out all after the enacting clause of the bill down to the amendment offered this morning by the Senator from Wisconsin.

Mr. DOUGLAS. I shall vote against that motion; and I am inclined to think that we acted unwisely in adopting the amendment offered by the Senator from Wisconsin. We should either proceed with the bill on the theory of three routes, and then put them on equal terms, or bring it to one route, and preserve its central character. My object in rising now, was simply to correct what I conceive to be a misapprehension into which the Senator from Rhode Island has fallen. He says that the committee, after bringing forward the bill with the assurance that if it was passed it would make a road, have increased the sum \$9,000,000, without giving any reason for it.

Mr. SIMMONS. I did not say the committee had increased it; the Senate have increased it.

Mr. DOUGLAS. Well, the Senate have carried it beyond the committee's estimate \$9,000,000, and he did not see any reason why they did so. Without going into the question whether the limit placed by the committee on the amount of money, \$25,000,000, would have been sufficient to make the road, I wish to call the attention of the Senate to the fact, that the original bill, as it came from the committee, gave twenty sections of land to the mile, in addition to the amount of money specified. The Senate have made three grand divisions of the road; the eastern and the western are to be about five hundred miles each, leaving the middle division to be about fifteen hundred miles. The Senate struck off the land grant, as to that middle division; and consequently the bill,

as it now stands amended by the Senate, while it provides for \$9,000,000 more than it did before, grants eighteen million acres of land less than it did before. I merely wished to call the attention of the Senator from Rhode Island to that fact. Whether this bill gives greater inducements than the other, depends on the fact whether the eighteen million acres of land, which are deducted by the amendments made by the Senate, are worth the \$9,000,000 of credit which have been added.

I wish to say another word. I am not willing to appropriate money from the Treasury for the purpose of constructing this road; in other words, I am against a Government railroad. I am willing to make a contract for transportation, and to give any reasonable price for the transportation of the mails and munitions of war, and if it will encourage the making of the road to do so in the mode prescribed by this bill, I am willing to vote an advance of money and a grant of land; but if the object is the construction of a road to be built, owned, and managed by this Government, I am utterly opposed to it, and I wish to preserve that distinction in my action here. I do not intend to debate the question at length; but if the proposition is to make a road by the Federal Government, to be owned and managed by it, I am utterly opposed to voting a dollar. I am willing to make this grant of land, and to make a reasonable contract for the transportation of the mail—a contract that will insure our mails being carried to the Pacific for less money than we are now paying, perhaps not one half of what we are now paying, and a contract for the transportation of Army and Navy supplies and munitions of war, at rates below what we are now paying. If such a contract, costing the Government not a dollar, reducing the transportation from the present cost, will induce the construction of the road, I am willing to give that much encouragement to it.

Mr. SIMMONS. The Senator calls my attention to a change that was made in this bill, by adding \$9,000,000, and taking off eighteen million acres of land, and wants to know whether that increases the grant. I should think the Senator could answer that question himself. He has just made a proposition to sell that land at ten cents an acre, and that is \$1,800,000 against \$9,000,000. That is ciphered out mighty quick. The land in the desert, as I understand his amendment, is to be sold at ten cents an acre, if anybody will take it. That is the land that you have saved. The bill has disposed of it for one fifth part of the money we put in. Now I suppose the Senator is answered as to which provides for the most money. The bill now takes care of that; it puts away all the land we have retained, at ten cents an acre, and we do not expect to get that. That would not come to one fifth of the money we put in, especially if we have to borrow it at five per cent. for twenty years.

I do not suppose the Senator from Illinois understood what I alluded to. I asked the Senator from New York, the other day, if it was supposed that \$25,000,000, the sum originally proposed to be granted by the bill, would secure the building of the road? and he said that railroad men had assured the committee that that was sufficient. It was to these remarks I referred.

The Senator from Illinois says he is unwilling to build the road with Government money; and he tells us that this bill only proposes to advance \$30,000,000 in Government bonds. I call those bonds money, and we are never to get a dollar of it back. We shall owe the bonds when the railroad company have earned enough to pay for them; and they will earn it in three or four years at the rates we propose to give them for transportation. If I understand the bill, the mail service will cost us about \$2,000,000 a year, and the other Government transportation, at the rates that we now pay, will be more than \$10,000,000; and this is to go on for twenty years. After twenty years the bill says this company shall continue to enjoy the exclusive privilege of transportation for us; but then they must do it at reasonable rates, according to the prices charged on other railroads; and if our officers cannot agree with them, the matter is to be left to Congress. The bill secures twenty years of service at the present exorbitant rates, and says that after that this company shall continue to do this service for us at the common prices charged by other railroads. Why not

begin by not allowing them to charge more than the common prices of other railroads?

There is another provision in the bill to which I will call attention. It provides that in the State of California the mineral lands shall be excluded from the grant to the company. Here, however, is a chain of lands all along the route for twenty miles wide, and throughout the Territories it includes the mineral lands and all. Now, it comes out that it is calculated that the road will go through Arizona, where there is said to be a great deal of silver. We are to give all that away for the railroad.

I say, Mr. President, the more anybody examines this bill, the more it will be seen that it is a mere programme; it is not filled up for practical use. It is just like those railroad surveys that it is said have cost us \$1,000,000 to make and print. Before any bills granting money for this purpose can get my vote, I must know something about where we are going, and what is the probable cost. I believe we shall manage this road a great deal better than anybody else, for there will always be somebody here who will watch the chest, and I would prefer to have the road constructed by the Government.

Now, suppose the present owners of the Panama railroad should make this contract, as they may do; it will be to their interest to postpone the construction of this road as long as they can; for they have now a monopoly, and they will not want to build this line. They will be making excuses for forty years, as long as they can get \$120 for passage to California. They are the only concern I have ever known that built a railroad whose stock is at one hundred and twenty in the market to-day. It is managed with ability by men of power and capital. You cannot find such a road in the United States. It is out of your jurisdiction. People who have such tender scruples about voting money, can contract to carry the mails through all creation in everybody's territory except our own.

But, Mr. President, I will not detain the Senate. I say, that everybody who will look over this bill carefully, will see, throughout its provisions, great disorder and neglect of care. It does not seem to have regarded the rights of anybody except contractors. I like the suggestion of the Senator from Tennessee, about these contracts. I do not like to contract in this way; but I am not so wedded to any opinions about constitutional power or expediency, that I would interfere with a practicable plan that would accomplish the work in a business and workmanlike manner. I think the proposals which the Senator from Tennessee asks for in his proposition, are indispensable to our acting understandingly on such an immense project as this. It is a great work. It cannot be carried on with all the party doctrines of the country. It should be disconnected from them, and made as men make private contracts, where they involve their private property; and the only way we can get at anything definite, is by advertising for proposals, and letting everybody have an opportunity to make proposals; and then let us have them before us and consider them.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island, to strike out all after the enacting clause of the bill down to the amendment offered this morning by the Senator from Wisconsin.

Mr. SIMMONS. And to insert a proposition for bids for the central route on the same terms as those proposed on the northern and southern routes.

Mr. TOOMBS. You can insert that afterwards.

Mr. SIMMONS. That is what I mean.

Mr. FESSENDEN. That is, to go back to the proposition of the Senator from Tennessee, [Mr. BELL.]

Mr. SIMMONS. Yes, sir.

Mr. GREEN. I would suggest to the Senator that it would better answer his purpose to propose, in connection with striking out, to insert what he means to insert; because it would justify votes which would not be justified for a mere proposition to strike out, leaving it uncertain what was to be inserted.

Mr. SIMMONS. My proposition is to take bids for the central route in connection with the bids for the northern and southern routes, without any preference to either; and then we shall know

how we are acting. I have indicated where I should propose to make a railroad. I think that nature and civilization and population have defined the proper place; but I am not going to exclude others. Give them all a fair chance.

Mr. PUGH. How can the Senator accomplish that? We have inserted the amendment of the Senator from Wisconsin, and I do not suppose it is in order to insert this. It cannot be added to a motion to strike out other sections.

Mr. SIMMONS. If the amendment I propose prevails, it will be a simple proposition asking proposals from the public upon what terms they will build each of these three roads? Two of them are already provided for; and now I propose to provide for the third or central route.

Mr. HAMLIN. I think there is a point suggested by the Senator from Ohio that ought to be well considered before we vote on the motion now submitted. The Senate have agreed to the amendment in the precise words in which it was presented by the Senator from Wisconsin. Now, if we strike out all the rest of the bill save that, the Senate have voted for it in that shape, and it is not competent to amend it. That is the very point that will be sprung upon my friend from Rhode Island if we carry his proposition to strike out. I, therefore, suggest to the Senator that we may strike the words out, notwithstanding we have adopted them this morning, if, at the same time, we insert others. If the Senator will move to strike out the whole bill, and give notice that he will, after that is done, propose the amendment offered by the Senator from Tennessee, or any other amendment he may choose, meeting that point, his motion then will have no objection on the ground of order; and I suggest to the Senator that he so make his motion. If not, he will find himself in trouble on a point of order.

Mr. SIMMONS. I am perfectly willing to take a little hazard about it, if you will adopt both branches of my proposition. If it will not then be all that was offered the other day by the Senator from Tennessee, I do not understand it. I do not want to strike out the two routes we have got in. There are two thirds already obtained. I do not want to amend that. I only want to strike out the rest of the bill, and put in the proposition which was offered the other day in the precise language of this for the central route, and then it will provide for three routes.

Mr. BELL. There is no difficulty, because the amendment which the Senator from Rhode Island proposes may be added to that portion which he desires to retain, as an additional section. You can add to it, though you cannot alter regularly by parliamentary law in the Senate; but there is a way to get over all those difficulties. It is to recommit the bill, with an order to report back any amendment you want.

The PRESIDING OFFICER. The Chair understands the proposition of the Senator from Rhode Island, as finally submitted, to be this—and in that shape the Chair thinks it is in order—to strike out all of the bill after the enacting clause down to the amendment proposed this morning by the Senator from Wisconsin, and insert a proposition to receive proposals for the central route in the very terms of the amendment heretofore proposed by the Senator from Tennessee, [Mr. BELL.] That is in order.

Mr. BELL. Now, I suggest whether the Senator from Rhode Island cannot offer an amendment to the bill as it stands, by adding, to the amendment adopted on the motion of the Senator from Wisconsin, a provision authorizing bids on the central route. Then we shall get the sense of the Senate whether they are willing to include the central route also, and the question will come up on striking out all the rest of the bill as it stands.

The PRESIDING OFFICER. Such a motion would be in order.

Mr. SIMMONS. I should like to accommodate my friends. I move to strike out all after the enacting clause, and insert a bill in the very language of that offered by the Senator from Tennessee yesterday. That embraces all three routes.

The PRESIDING OFFICER. That is in order.

Mr. PUGH. We have voted that down once.

The PRESIDING OFFICER. That proposition is in order, in the opinion of the Chair.

Mr. PUGH. Has it not been rejected?

Mr. BELL. No, sir.

The PRESIDING OFFICER. The proposition to which the Senator from Ohio alludes was made in a different stage of the bill. Since that, the Senate have added additional sections. The Senator now proposes to strike them all out.

Mr. BELL. Besides, this is not a motion to recommit.

Mr. PUGH. I am not familiar with the rules. Would it not be in-order at this stage to move to strike out the enacting clause of the bill?

The PRESIDING OFFICER. The Chair thinks it would when this amendment is disposed of.

Mr. PUGH. I move to strike out the enacting clause of the bill.

Mr. SIMMONS. But my motion has precedence?

The PRESIDING OFFICER. Certainly.

Mr. SIMMONS. I call for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 38, nays 20; as follows:

YEAS—Messrs. Bates, Bell, Benjamin, Bright, Cameron, Chesnut, Clark, Clay, Clingman, Crittenden, Davis, Dixon, Doolittle, Durkee, Fessenden, Foot, Green, Hale, Hamlin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, King, Mason, Pearce, Reid, Rice, Sebastian, Shields, Simmons, Sill, Stuart, Thompson of New Jersey, Toombs, and Ward—38.

NAYS—Messrs. Allen, Bayard, Bigler, Broderick, Brown, Chandler, Douglas, Fitch, Fitzpatrick, Foster, Gwin, Harlan, Jones, Polk, Pugh, Seward, Trumbull, Wade, Wilson, and Yulee—20.

So the amendment was adopted. The bill, as thus amended, is as follows:

Sec. 1. *Be it enacted, &c.*, That it shall be the duty of the Secretary of the Interior, upon the passage of this act, by advertising in two newspapers in each State, and in the District of Columbia, for a period of eight months, to invite separate proposals for the construction and working of three railroads from the valley of the Mississippi to the Pacific ocean, within the territory and jurisdiction of the United States: one commencing at some suitable point on the western boundary of the State of Minnesota, running thence, on what may appear the most eligible route, to Puget Sound, in Washington Territory; one commencing at some suitable point on the western boundary of the State of Missouri or Iowa, thence, pursuing what may appear to be the most eligible route, within the thirty-fourth and forty-third parallels of north latitude, to San Francisco or Benicia, in the State of California; one commencing at some suitable point on the western boundary of the State of Arkansas or Texas, thence pursuing what may appear to be the most eligible route to San Francisco, in the State of California; the said railways to be constructed in a substantial and workmanlike manner, with necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering-places, and all other appurtenances, including the furniture and rolling works or stock, equal in all respects to a first-class railroad when prepared for business, with rails of the best quality, weighing not less than sixty-four pounds to the yard, and a uniform gauge; and such advertisement shall further set forth that the person, or association of persons, or company, making such proposals, shall state, as distinctly as may be, the points selected as the eastern and western termini of the road he or they propose to construct, and the line or route selected as the most eligible on which to construct it, reserving the privilege of making such deflections or departures from it as may be found, in the progress of the work, to offer greater facilities and advantages; and that he or they shall specify the terms and conditions on which he or they propose to construct the road, classified as follows:

First. The time within which this road is to be commenced and completed.

Second. The amount, or extent and description, of the aids, facilities, and privileges, which will be expected or required from the Government, whether consisting of lands or money, or both; and, if in part of money, whether in the shape of a loan or otherwise; and, if a loan, when and how to be refunded.

Third. The rate of charge, respectively, for conveying the mail weekly, semi-weekly, tri-weekly, and daily, when the road is completed, and the rate per mile for such portions or divisions of the road as may be completed and in use before the completion of the whole; and the rate of charge on all the military and naval supplies, troops, munitions of war of all kinds, for the transportation of the same on said road throughout the entire line, when completed, and on any less portion or section of the same, as the wants of the Government may require.

Fourth. The time or period beyond the completion of the road at which the party or parties to any such proposals will surrender said road, with all its equipments and appointments, to the United States, should the Government desire such surrender; whether after twenty, forty, or sixty years of exclusive possession and enjoyment; and, if any greater period than twenty years is proposed, at what reduced amount of aid and facility will be required from the Government in consideration of such extension to forty or sixty years, respectively, the party or parties to such proposals will undertake to construct the road; and what reduction of charges for conveying the mails and transporting military and naval supplies, troops, and munitions of war of all kinds, will be made in consideration of such extension.

Fifth. The guarantees proposed for the faithful execution of any contract which may be entered into with the United States for the construction of the road, and against excessive fare for the transportation of passengers, and exorbitant charges for carrying freight of any description.

Sec. 2. *And be it further enacted*, That the Secretary of

the Interior shall cause it to be further set forth in said advertisement, that the party or parties to proposals for the contemplated central and southern railroads shall make separate proposals for the construction of said roads from the eastern terminus to some suitable point on the eastern boundary of the State of California; or, in respect to the southern road, to some suitable point on the southern boundary of the State of California.

Sec. 3. *And be it further enacted*, That all proposals shall be sealed, and addressed to the Secretary of the Interior, who shall, previously to the commencement of the first regular session of the next Congress, open the same in the presence of the other heads of Departments, and shall transmit copies of the same to the two Houses of Congress as soon as organized, the originals to remain on file in the Department of the Interior.

Sec. 4. *And be it further enacted*, That the sum of — dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to carry the provisions of this act into effect.

Mr. PUGH. We have now undone all our work for the last six weeks, and I think we might as well make an end of it. This bill amounts to nothing in its present shape. We have undone all that we did before. I move to strike out the enacting clause of the bill.

Mr. GWIN. I am very much disposed to agree with the Senator from Ohio. It amounts to nothing; but little as it is, I am sorry to say, it is about as much as I expect to get from the Congress of the United States.

Mr. WILSON. I ask for the yeas and nays on the motion.

Mr. PUGH. It is suggested that the Senate is ready to take the vote on the engrossment of the bill. If so, I am willing to withdraw my motion; but I do not want the debate to run on upon particulars, when we undo all that we have previously done. If there be no debate, I will withdraw my motion.

The PRESIDING OFFICER. The question is on ordering the bill to be engrossed, and read a third time.

Mr. CRITTENDEN. On that question, I wish to say a word. I have taken no part in the debate on this bill or on any of the amendments which have been offered to it. Indeed, I have voted very frequently without understanding precisely the effect that would be produced on the bill by my vote. I wish now only to say that I consider a railroad to connect California with the Atlantic States as a thing very much to be desired, and to be accomplished at as early a period as we can properly do it. I hope for nothing from this bill; nor have I expected anything from it in any of the forms it has assumed; and it is very obvious to me that a work of this character undertaken now, in the present condition of the country, will be unprofitable in its results. I therefore have no expectation that at this time the capitalists of the country will contribute one dollar towards the accomplishment of such a work; and the whole burden must come upon the United States. That, however, would not deter me from undertaking the work. I think there is a national consideration, a national necessity, that makes it our duty to accomplish it as soon as we can, if we want to retain in their present union all the remote and distant portions of this Republic. It is a necessary bond of union. Reasons of a political character, independent of all others, demand that we should do this thing, and I am for obeying that demand. I do not know whether we were wise or not when we determined to acquire territory on the Pacific ocean; but when we determined to be a great nation, and to extend our possessions there, we undertook at the same time to make all proper communications and means of intercommunication between the parts, so that they might mutually be tributary to each other's defense and prosperity. We have incurred this obligation, and I am ready to fulfill it at any time that we properly can. I think this is a very unseasonable time. I think this bill will prove utterly ineffectual and inoperative in its present form, or in any form which it may assume at this session. It provides for contracting; it directs that the President shall contract—

Mr. GWIN. Oh, that is all stricken out.

Mr. CRITTENDEN. It directs that the President shall contract—

Mr. BELL. No, sir; it does not.

Mr. BENJAMIN. If the Senator from Kentucky will permit me, I will say, that the bill now provides, by legislation, that anybody who wants to build the road shall have power to make a proposition to Congress—I think that is all.

Mr. CRITTENDEN. Well, sir, I do not want any such thing as that; because, if the money is to go from the public Treasury, I do not want a mere proposal to handle this money.

Mr. BELL. There is no pledge of a dollar.

Mr. CRITTENDEN. Well, then, what do you want a bidder for? What do you want of a proposal? It is more of a sham than I supposed. It was a sham originally, and now it is confessedly a sham. You advertise for bids and proposals, and you want nobody to propose; and when anybody does propose, you have nobody to contract with him or say a word about it. What a dumb and ineffectual show is all this—a piece of fanfaronade from beginning to end! When we undertake this work, let us do it with the powerful and strong hand of this Government; and when, at a proper time, I see any effort of that sort made, I shall be ready to lend what aid I can to the measure; but this thing of trifling, of beginning a great work, and doing nothing, is calculated to discourage the whole country in what they have hoped for and expected.

Sir, I did not intend to make any argument on the subject, nor to provoke any discussion. I merely wished to say why I should now vote against this bill in any form which it is likely to assume at this session.

Mr. GWIN. I believe there is a blank in this substitute which has not been filled yet.

The PRESIDING OFFICER. There is a blank.

Mr. GWIN. When the proposition of the Senator from Tennessee was added to a bill that had some vitality in it, it was looked upon as a matter of small consequence with what sum the blank might be filled; and the Senator from Wisconsin proposed \$2,000; but now, as this is to be everything that is to be done by the Senate towards a Pacific railroad during this session, I think we ought to put in the blank enough at least to pay for advertising for these various proposals, and I do not think \$2,000 would do it. I suggest to the friends of this measure that they fill the blank with something that will enable the Secretary of the Interior to pay for the advertisements that are to be made.

While I am up, I wish to call the attention of those real friends of a Pacific railroad, who voted for this amendment, to the glee they have created among those who are opposed to any road at all. I wish them to bear in mind, that those who are opposed to a Pacific railroad, who have voted in this amendment with their aid, never expect any results from it at all. I hope, as there is a majority in the Senate in favor of a Pacific railroad, and as we have spent weeks in the discussion of this question, that we shall retrace our steps and agree upon a bill that will secure something like the commencement of this great work. This bill, in its present shape, is sending it over to a remote period.

I hope that now, since it has got in this form, it will be recommitted to some committee with instructions to report a Pacific railroad bill upon something like the principles of the former bill, and certainly that will be of more practical effect than the measure now before us. I must say that I have no hopes of any favorable results from this measure. With the best intentions on the part of those who have voted for it to-day, who are really in favor of a Pacific railroad, I must say that I have the most gloomy forebodings, if this is the only legislation we are to have at this session.

Mr. FESSENDEN. Mr. President, I wish to say a few words, not particularly in explanation of my vote, but with reference to the main question, although I do not intend to argue it, as I have not from the beginning. I have been a very attentive listener to the debates on this subject, and I believe there have been very few propositions made in connection with it on which I have not given my vote.

I am in favor of the general proposition of having a Pacific railroad attempted, for the simple reason that I believe the public opinion of this country has been unmistakably expressed in favor of it. I use language advisedly. I say I am in favor of having it attempted; that is to say, of having a calm deliberation of Congress, to see whether the project is feasible or not; and if so, to attempt something that will afford at least an appearance of a probability of success.

I have doubted from the beginning whether a

railroad to the Pacific ocean could be made in any manner or by any power except the General Government itself, and if it is to be made in that way, by the General Government with Government funds, and that is the only mode, it is very clear that we have hardly taken the first step towards the commencement of the work. That would imply a great national enterprise. It would imply a vast outlay of the money of the Government, and it would necessarily include the idea, before any operations were commenced, of a careful scientific survey of the country, to determine not only the proper termini, but to ascertain the best route for a railroad through the territory lying between our Atlantic border and the Pacific ocean; and it would include a great many other considerations—considerations which would call the attention of the statesman as well as of the practical scientific engineer, considerations of the largest kind—before we undertook anything like a commencement of the work.

Now, it is very plain that in the present state of public opinion, this cannot be done. I said that I had doubted whether it could be done in any other way; but I am not one of those who are disposed to set up his own judgment against the judgment of the great majority of those with whom he acts. It has been the expressed opinion of Senators around me, and of the majority of them, that the railroad can be built in another way. Very well, sir; I was willing to try it, and to make the experiment whether a bill could be framed which afforded a probability of success in any particular direction or under any circumstances that would be likely to be agreed upon here. If a bill of that sort should be framed, although I might doubt whether it would effect any purpose, I should be willing to make the experiment, pass it, and see whether we could receive any offers under it; whether any arrangement would be likely to be made under it which would be satisfactory to Congress, and that would present to us a probability of success. I will venture to say, from my own judgment and observation here, that there are not half a dozen men on this floor who believe that if this bill was passed by Congress to-day that it would be possible to build a Pacific railroad under it.

Mr. BELL. Which bill?

Mr. FESSENDEN. The bill as it was before the last amendment. I may be mistaken; but such is my belief from what I have witnessed here in reference to the matter. Other considerations than the mere idea of building a Pacific railroad have entered, in my judgment, into the votes of many gentlemen on this floor; but it may be possible that there are a larger number than I suppose who really believe that the bill, in the shape in which it was before we made the amendment proposed by the Senator from Tennessee, would actually be an effective bill for the purpose. I was not one of them; but, although not one of them, I was willing to take it as an experiment, if the bill should be amended in one important particular, with the view to obtain offers and see what the state of things was, provided it came back to Congress for its action afterwards, retaining the whole matter within our own control.

I doubted whether it would amount to anything, simply for the reason that it afforded no sort of guarantee for the completion of what is called the middle division of the road. The idea that a portion of the lands donated at this, and the other end of the road, would be retained as a guarantee for the completion of one thousand miles of railway through the desert, in my judgment is the weakest of all considerations that could be adduced, to make out the fact that we should have adequate security for completing the whole work. I therefore considered the bill, as it stood, simply as providing a mode by which somebody could make a contract for building five hundred miles of railway at this end of the road, pocket the money, pocket the proceeds of the lands, and stop there. That was my view of it; but still I was willing even then, as gentlemen were anxious to have a Pacific railroad bill of some kind passed, that it should go out by way of experiment—not for an executed contract—to remain subject to our revision.

But, sir, the difficulty in my mind, from the beginning, was that the bill fixed nothing but the termini; it fixed no route, and I was perfectly well satisfied, from my own examination, before I

heard the debate on the subject, that, if the bill was passed as it was first drawn, with the termini fixed and the route unsettled, we should have what I may call, without specifying further, a mere sectional road, and no other; and one that would not be calculated to effect any purpose, or the purposes of the whole country. Therefore I was in favor of the amendment proposed by the Senator from Massachusetts, [Mr. WILSON,] restricting the route within certain parallels of latitude, as proposed to be amended by the Senator from Wisconsin, [Mr. DOOLITTLE,] and that failing, I would have taken the amendment as originally proposed by the Senator from Massachusetts, which provided substantially that the road, the termini being fixed, should also be fixed in its course between certain parallels of latitude, which would have carried it over what was called the central route, and would have afforded something like an appearance of fairness with reference to its course and construction.

But, sir, that amendment was rejected, and the result is that the whole matter was left to the Executive to make a contract for a road from one of these termini to the other, from the terminus on the east to the terminus on the west, by such a route as he chose to make the contract for. Gentlemen may argue that this objection is obviated by the fact that when that contract shall be made, under the bill as it stands, it is to come back to Congress, and it will be for Congress to act upon. In my judgment that is no answer at all. It affords no substantial protection. Let the contract be made, and let the route be ever so sectional, so that you can engage all the power of a powerful section in it; make it satisfactory in that quarter, and then add the power of the Executive with the millions of dollars that will be involved in the contract, and I should have no hope of interfering by the power of Congress; for I have seen what those three things united could do in other cases. The result was, therefore, in my mind, that I would vote for no bill of any kind or description which left it to the present Executive of the United States to make a contract involving millions of dollars, even if it were to be sent back to Congress. You must strike that out of the original bill or I cannot vote for it at all. I, therefore, made up my mind, although favorable to a Pacific railroad, to vote against the bill as it stood; consequently when the Senator from Tennessee proposed his amendment which has sense and meaning in it, as far it does go, I was willing to take it as a substitute for the bill, for the simple reason that I should vote against the bill as the matter stood before.

I will add, before sitting down, that with my original idea on the subject, that if a Pacific railroad was to be built, it should be built by the General Government with the funds of the Government, and ought to be undertaken, as all such works should be, understandingly, with a thorough knowledge of what we were about to do, with a sense upon us of the great consequence of the undertaking, and of what was involved in it. I was in favor of the first section, with some alterations, of the amendment suggested in a bill proposed by the Senator from Pennsylvania, [Mr. CAMERON,] providing for a survey. I was willing to incur the expense of it; to make a survey, under the auspices of the Government, of the whole country, and a location of the proper route, and let Congress decide then whether they would undertake the road; but that was not proposed.

I might have avoided this explanation, perhaps; but I was unwilling, with reference to my own section of the country, to withhold my opinion of the bill as it stood, and of the important provision in it to which I have referred, and which forms an objection insurmountable in my own mind. Sir, I would vote for no railroad bill whatever, which left to the Executive power to contract, even although it came back to Congress; when it would return supported and sustained by all the power of the Executive, and necessarily involving the large expenditure of money connected with the proposed undertaking.

Now, sir, with these few words, I leave the subject. I shall not apologize for my vote for the amendment of the honorable Senator from Tennessee, for I am perfectly willing that we should make an offer to everybody to inform us on what terms they will contract to build a road, and then take these terms into consideration.

Mr. GWIN. I move to recommit this bill to a select committee of thirteen members, to see if we cannot make something out of it. I think the Senate have given an indication that they want three roads. If so, a select committee of the members of this body who are in favor of a Pacific railroad, could probably devise a plan that would produce more effect than the present bill, in my judgment, does; and therefore I make that motion.

Mr. TRUMBULL. Mr. President, I do not regard the votes which have been taken as an indication in favor of three roads at all, as the Senator from California does. The proposition for three roads has been repeatedly voted down in the Senate. I regard the bill, in its present form, as nothing more nor less than an intimation of the Senate that they mean to do nothing. It amounts to that. The enemies of a Pacific railroad have adopted this measure, not its friends; and the measure seems to have encountered the ridicule of a want of seriousness, and Senators assume that nobody is for this project; that it is got up for some ulterior object. That is one of the most effective ways in the world of destroying a good measure. I take it for granted that the gentlemen who have been voting for these various bills are serious, and think a railroad can be built to the Pacific ocean. I have no doubt about it. Why, sir, we have built in the State of Illinois, without Government aid, railroads enough in the last eight years to reach the Pacific ocean from the roads that are now constructed. We have two thousand miles of railroad in Illinois, built without a dollar of public aid, besides the Central railroad?

Mr. TOOMBS. No land?

Mr. TRUMBULL. No land. There was a grant to one road, the Central, but we have two thousand other miles of railroad built by private enterprise. It is to me a strange idea that this great country, this great Government, cannot build a railway across the continent to connect our possessions, when the roads are already built half way by private enterprise.

Although the bill, as it stood before the last amendment was made, did not, in every point of view, meet my approbation, I was prepared to vote for it; and by way of obtaining a vote on that proposition substantially, I will move instructions, as I suppose it is competent for me to do, under the motion made by the Senator from California, who moves to recommit the bill. I move to amend his motion so as to instruct the committee to report to the Senate the bill we have had under consideration, with a very slight alteration. I do not recollect all the amendments that we put upon that bill. One was an amendment offered by the Senator from Wisconsin, subjecting all the lands to sale at \$2 50 an acre to the actual settler; I have incorporated that. I have just taken the printed bill as it was printed by order of the Senate on the 18th of January, and annexed to it this amendment requiring the lands to be sold at \$2 50 an acre, which, I believe, includes all the amendments—except one which was offered by my colleague and was adopted, which I had not before me. If this motion shall prevail, that can be added afterwards, I suppose, if the Senate think proper to add it. I have made one other alteration in the first section of the bill, to remedy the difficulty of my friend from Maine. I have added to the first section of the bill these words: "between the parallels of 36° and 43° of north latitude," so as to commence the road between the mouths of the Big Sioux and Kansas rivers, and go to San Francisco between the thirty-sixth and forty-third parallels of latitude. I offer this as an instruction to the committee to accompany the motion of the Senator from California.

The PRESIDING OFFICER. The Senator from Illinois proposes to amend the motion of the Senator from California by adding the instructions indicated by him. The question is upon that amendment.

Mr. WILSON. I think, Mr. President, that some of the friends of a Pacific railroad are unnecessarily excited and alarmed at the adoption of the proposition which has been agreed to by the Senate. I voted against it, and should have voted for the original bill as it was amended, before it assumed its present shape; but I am free to say that I believe this proposition a better proposition than the original bill as amended. This is a proposition that the Government of this coun-

try shall ask for proposals to build railways to the Pacific over three lines. The Senator from Tennessee, in this proposition, has made certain conditions, and they are admirably put, giving full and ample security; and if this bill shall pass the House of Representatives in the form in which it has now been adopted by the Senate, we shall have, in less than ten months from this time, propositions made for the construction of railways over these three lines; we shall know what the construction will cost over each of these lines; we shall know all about the question; and then the next Congress, having these proposals before it, can act intelligently upon the subject.

I voted for the amendment making three divisions of the road across the continent. I believe we can build the eastern and western divisions by the land and money grants; but that we could carry a thousand miles of railway across the interior of this country for \$25,000 per mile, there is no man in the Senate who believes a word of it. If I could secure it, I should be glad to make a contract over that thousand miles for \$60,000 a mile. You cannot make any practical railroad man in this country believe that you can build a railroad a thousand miles, through mountain passes and over barren plains, in the center of this continent, where you have to carry men, materials, and provisions, for less than from sixty to seventy thousand dollars a mile. The railways of this country average about thirty-five thousand dollars a mile. Many of our best roads cost between seventy and eighty thousand dollars a mile. You must carry your workmen to the line of this road; you must support them there; you must carry your iron there; you must carry all your materials there; and the freight will be enormous.

I have great doubts whether a railroad to the bay of San Francisco can be constructed on the conditions proposed by the bill reported by the committee, even with the amendments which have been adopted. Some of the most experienced railroad men of the country entertain these doubts. I find these doubts expressed in the *American Railroad Journal*, published in New York, and edited by Mr. Henry V. Poor, a gentleman of great intelligence, whose opinions are entitled to great consideration. Referring to the various bills before Congress, Mr. Poor says, in the *Railroad Journal* for January:

"From the action of Congress so far, it is evident that this body still labors under several delusions, each of which, if acted upon, is sufficient to defeat the road. In the first place, a large donation of land is proposed. It unfortunately happens that the greater part of the land on any of the routes proposed is nearly worthless, and is insufficient in value to form the basis even of a credit upon which any considerable sums could be raised. That individual capital would be seduced into a railroad, unless based upon governmental aid, is preposterous. No person supposes that, for a long time to come, a railroad to the Pacific would be remunerative. There is no disposition on the part of those of our people who have money, to invest it, even in productive roads. With such a feeling prevailing, it is too much to suppose that the public are going to add to their losses by investing in a new enterprise, the unproductiveness of which is assumed in the outset.

"All this talk in Congress, therefore, about contractors building the road, receiving a large donation of land, and a pittance, in the shape of payment, for the carriage of the mails capitalized, is really little better than so much tomfoolery. It proves that the subject is either not understood, or that there is a willingness on the part of the members to deceive, or to be deceived—in other words, that they are thus far talking for *Buncombe*. If a railroad be necessary, there is no mode so equitable for raising means for its construction as upon the credit, and with the money, of the people of the United States. They are collectively to reap its advantages; and they should, in the same manner, bear the burden of its construction. No road can be built by any other means. To base its construction upon any other, is to start on a false hypothesis which must lead to a speedy break down, sousing the public mind, and destroying public confidence, and postponing for years the progress of this great work.

"The making grants of lands and money at the present session of Congress would not facilitate, but would really retard, the project, as it would undoubtedly lead to precipitate action, and to mistakes which could not be retrieved without serious losses. The first step to be taken in the present exigency is to ascertain the route to be adopted. To do this would occupy a corps of railroad engineers at least two, and perhaps three, years. If Congress would appoint such a commission, and place it immediately in the field, it might properly await the result of their surveys and examinations. In the mean time, a more emphatic expression of the popular will would be gained, and any action that might then be taken would have the benefit of far better light and information than we now possess."

I voted against the adoption of this amendment; but now, as it has been adopted, I shall vote against its recommitment. I shall vote for the bill most cheerfully, for it is a practicable proposition. It is an advertisement to the people of this coun-

try to make to the Government proposals for constructing a railroad over three lines to the Pacific ocean. They have got to state the terms on which they will do it; they have got to say what guarantees for the fulfillment of the contract they will give. The whole subject is specified in this bill, in the clearest and fullest manner.

Then, sir, we shall have propositions; they will come before Congress; the time spent this year has not been lost entirely; we shall come to the consideration of the subject another year with larger information, having before us the practical opinions, the practical propositions of railway constructors, of capitalists, and of men who are willing to do something to construct a railway to the Pacific ocean; and then we can act intelligently. If we had these propositions here to-day, is there a Senator who does not believe we should be able to act more intelligently than we can now act? Is there a man here to-day who would not like to have those propositions before us? If those propositions had been here, our debates would have been of an entirely different character; and if we are in favor of constructing a road, we should have determined before this time, over what line it should run, and what one of those propositions we would have accepted.

I, therefore, as a friend of a railway to the Pacific ocean, shall vote against the recommitment of this bill. I shall vote for its passage; and in so doing I believe I am voting for a proposition more likely to carry through a railway to the Pacific, than the adoption of the original bill as it came from the committee would have done.

Mr. HALE. Mr. President, I do not want to occupy the Senate long; but a remark that fell from the honorable Senator from Illinois [Mr. TRUMBULL] requires a single word from me. I voted for this proposition; and he says the enemies of the measure have killed this bill, considering that the adoption of the amendment is virtually killing it. I am in favor of a Pacific railroad; I am in favor of connecting the settlements on the Atlantic and Pacific coasts by a railroad; and I am glad to see the measure introduced, because I hope and trust that it may be inaugurating a new idea that shall be felt in the practical legislation of this country. The practical legislation of this country, for a good many years past, springs out of an insane and foolish aping by our Government of the abuses and absurdities of the country from which we came—England—in violation of the spirit of our Constitution, which is, that standing armies are dangerous to liberty. On the contrary, we have gone on expending moneys in time of peace for war purposes, until we present the ridiculous absurdity to the world of a nation professing to be devoted to the purposes of a higher civilization than the barbarous ages that preceded us, spending to-day, for war purposes, between thirty and forty millions a year.

I have noticed the commendable and praiseworthy zeal with which the honorable Senator from California pushes this measure, and I commend him for it; but I have never seen his hand holding backwards when there have been times to dip deep into the public Treasury for the purpose of foolish expenditure to increase the Army and Navy. Sir, you cannot have two opposite things at the same time. This Government must devote itself to the development of its resources, and its power, and of its capacities for the purposes of peace, of humanity, of science, and of all the arts that elevate humanity and minister to the progress of the race; or it may go on in blind and stupid adherence to the precedents which have been set us in the iron age of the world, spending our money year after year, increasing constantly and continually in keeping up a standing Army and increasing the Navy in time of profound peace.

Now, sir, if the men who are in favor of this measure really desire to see the energies of this giant Republic directed in the legitimate channel of improving the condition of the country, of developing its resources, of spending our means for something that will minister to the great purpose of peace and of human progress and advancement, let them begin at the right quarter and stop the leaks upon the Treasury which go out in such profusion for war purposes in time of peace. I have before me the amount of the whole expenditures of this Government from its beginning up to 1857, and I find that we have expended for

military purposes, \$484,000,000, and for naval purposes \$387,000,000, making about eight hundred million dollars that we have spent for war purposes, three fourths of it, at least, in a time of profound peace. Six hundred million dollars we have spent in time of peace to prepare for war, and are not half so well prepared for it as if we had not spent a dollar of the money, and we are now spending forty or fifty millions every year for the Army and Navy, which we are constantly increasing; and in addition to that, we are voting to put a great electioneering fund for the next presidential election, \$30,000,000, into the hands of the President, under the pretense that he is to go on a filibustering expedition after Cuba. I shall watch with some curiosity, some anxiety, to see how those gentlemen who favor this great project of peace and of commerce, and of social intercourse, the Pacific railroad, will vote when that gigantic scheme comes up to give \$30,000,000 to the President. I should like to see how these gentlemen will vote on the propositions for increasing the Navy. I have not seen the report of the Secretary of War, but I have no doubt we shall have propositions for increasing the Army.

I simply rise now to say that because I am in favor of a Pacific railroad; because I am in favor of giving public lands to agricultural colleges; because I am in favor of peace and progress and advancement in the higher purposes of the race, I am opposed to increasing the Army and Navy, and spending our Treasury for such purposes.

I say then, sir, I am a friend to the Pacific railroad; but I confess that I cannot claim the merit that my distinguished friend from Maine [Mr. FESSENDEN] claims—that he has listened to everything that has been said here, and has voted for every proposition that has been made in connection with this bill. I have not listened to all the speeches; and I think I am something the better for it, too. [Laughter.] I have not voted upon every proposition that has been made; but when I have been here, I have voted one way or the other; though, to tell the truth, I have voted sometimes, not knowing whether I was voting right or wrong. [Laughter.] I have felt, and I think a good many other gentlemen have felt with me, that the proposition has not yet come before the Senate in such a practical manner as to command the attention or approbation of an unsophisticated man who does not pretend to be versed in the wiles of those politicians who have other ends in view, as has been intimated by the Senator from Maine. I say I stand in that position, that I have not known sometimes how to vote and how not vote; and in such cases I have followed the leaders, and gone with them generally; though, once in a while, I have voted against the leaders. It is because I have not believed the project was presented in a practical, tangible shape, that I have not given that attention to the subject which the honorable Senator from Maine has.

But I think the amendment proposed by the Senator from Rhode Island is a wise one; it is a practical one. It is the way that men proceed in the ordinary transactions of business in everyday life. In the first place, you sent out and made a survey, and published big books about as large as ten great family Bibles, and distributed them. Having got that information, with an infinite lot of pictures with it, the next step ordinarily would be to issue proposals, to have somebody come in and say, with all the light which these ten folios shed on the subject, on what terms they would be willing to undertake to construct the road. We have made a survey, and now we ask for proposals. I never built a house, but I think I have understood from those who do build them that that is the ordinary way of proceeding, and I think it is making a step in the right direction. I would suggest to those young men who are impatient to take this trip to the Pacific ocean by rail-cars, that, if it is ever completed, it is not the thing of a day; it is not the thing of a year. Sir, it will be a great achievement if it be the result of a generation. I have no idea that it is to be built at once. I have no idea that there is to be a practical beginning made at once. But, sir, I believe that all the time, all the labor, all the expense, all the delay, has been well. I would include all the speeches, but I believe that would be an extravagance. When we have got these proposals, we shall have made two steps in the right direction. I protest against

the injustice that would set me down as an enemy to a road because I voted for this proposition; I voted for it because I want to have the thing come up in such a manner that I can vote as I have not been able to vote this session, and that is, understandingly. With these views, and with these purposes, I have given the votes I have thus far; and, on this ground, I shall vote to the end.

Mr. SIMMONS. Mr. President, I am not afraid that in voting for this bill as it now stands, I shall be subjected to any imputations. It is not necessary for me to repeat that I am in favor of a railroad to the Pacific, nor to state in what manner I am in favor of building it. I have already said that, in my opinion, the best method is to build it by the means of this Government, directly, and keep it within our control. I think the honorable Senator from Kentucky, [Mr. CRITTENDEN,] if he had heard the remarks which I made when I offered the amendment to strike out all of the bill after the enacting clause and insert a proposition for proposals, would have appreciated the motive of it. I said that, although I believed the only practical mode of building the railroad was by using the funds of the Government in an old-fashioned national way, I was not going to adhere so closely to my own views as not to allow a trial of some other proposition, and that I was willing to provide for receiving proposals, and see what they would be. That is what this bill does in its present shape. If it is necessary for me to give an opinion, my view is, that after these proposals have come in, the friends of building a railroad by means of a private contract will be satisfied that it is impracticable, and will come back to the right ground, and build it by the national resources. That is what I believe will result from it; and I do not believe they will be satisfied in any other way than by first trying their favorite method of building this road, by means of contracts made by the Government with private corporations. For that reason, I offered the proposition, when I was satisfied that the bill, as it stood, was such a bill as no friend of the railroad, who was also a friend of his country, that is, a friend of the Treasury, could vote for. I do not mean to say that gentlemen who support it do not think this is the most economical way; but I do not. For that reason, with the distinguished Senator from Maine, [Mr. FESSENDEN,] I had made up my mind to vote against the bill in that shape. I was willing that the friends of the measure should try every means within their power to make a bill that would suit the Senate; and finally, when I saw that nothing would do, I offered the proposition which has been adopted.

Now, the Senator from Illinois [Mr. TRUMBULL] proposes to instruct the committee to report the very bill which we have just stricken out by a vote of two to one. I suppose that is in order, and I have no objection to the question being taken in that form; but I believe the Senator from Kentucky will agree with me, that in order to reconcile those friends of a Pacific railroad who are for making a contract, to vote with us eventually, we must first let them see that their favorite measure is impracticable. That can be done in the recess, in my judgment. I agree with that honorable Senator that we have placed ourselves in such a condition that it is an imperious necessity that we should connect these two branches of our people together. It is due to them, and due to ourselves. The people of the country have passed upon the measure, and demanded it at the hands of Congress. Whether it be right or wrong, that is public opinion; and I think it is a sound public opinion.

I have great objections, as I have said two or three times, to contracting with corporations over whom we have no control; but I am willing to hear these various propositions. I hope the bill will not now be recommitted. When it was proposed some days ago to recommit the bill, with a view to improve it, every member of the committee, I believe, said they had made up their minds fully, and would report back the same proposition, so that there was no use in referring the question to them again. Now, we have had the subject under debate for six weeks; and I suppose every man in the Senate thinks we have got all the light out of it that can be got. Then why send it back to the committee again? I am satisfied that, before the amendment which I offered was adopted, the bill could not have com-

manded a majority of the Senate. There are a great many friends of a Pacific railroad, that I know of, who would vote against that proposition; and when the Senator from California uncovered the plan, and showed that under that proposition the road would begin at the eastern end of the middle route, and run around by the southern or northern route to reach California in a circuitous manner, that would have defeated it of itself. Those who were for a Pacific railroad were willing to take the responsibility of putting it between two parallels; but that was defeated. I do not designate these roads by geographical names; and if I could have my aspirations gratified, there would not be, in the nomenclature of any American statesman, a name indicating a section or portion of this country, as distinguished from the rest. I do not believe it is patriotic to call these sectional roads; and I do not think it is very patriotic to be talking about North and South always; but I believe nature has designed a central route, and it is demanded by the convenience of the whole country that it shall not go to one extreme or the other. If you are to have three roads, however, you may have one central and one on each extreme; and I am satisfied.

I know that this discussion has brought up some pretty angry questions before the Senate. I have not anticipated what will be done if one man or another one is elected President. I believe it will be time enough to take care of that trouble when it comes. I do not think, after having expended as much time as we have on this subject, it would be wise to put the Senate afloat on all these propositions again. We have already expended one half the session. Let us get this information, which I trust will satisfy every friend of making this road by private enterprise that that is an impracticable idea; or else it will satisfy those who think it practicable, that we are mistaken; and then we will vote for private contracts, if that be the best method. I doubt whether it is possible to frame a bill which shall guard the interests of the Government under private contracts. I want this railroad to be within the jurisdiction and power of this Government throughout all time, until the route becomes entirely settled throughout, and it can be put under State authority. I even doubt the policy of putting it under State authority; but so long as it is within the Territories of the United States, I want the entire and exclusive jurisdiction of it, and control over the rates of fare. I do not want any monopolists to get hold of this road, so as to be able to sport their coaches and trappings. That would become royalty, but does not suit republicanism. That is the way property is transferred from the hands of those who earn it to those who sport their splendid equipages. Capitalists go ahead of labor everywhere, and grasp up every green thing before labor has a chance to occupy a foot of your wild lands; and they will go ahead here, and they will make the road with your money, and then fix their own prices for transportation, and fix them as extravagantly, as you will allow when they transport for you, which is \$150 for a barrel of flour. I have some knowledge of what these corporations do in the States. They need the most powerful and rigid control over them when they are within State jurisdiction; and it is almost impossible to control them even there.

I hope the proposition to recommit this bill, with instructions to put back the old bill that we have stricken out, will not prevail. I will say to the Senator from Illinois, that I profess to be as good a friend to a Pacific railroad as he is, or any other man; and that I do not consider those who voted for my amendment as enemies to the bill. I should be very sorry to think that the Pacific railroad scheme had forty enemies in a house of sixty.

Mr. TRUMBULL. Allow me to say to the Senator from Rhode Island, that I did not mean that every person who voted for his amendment was an enemy to a road. What I meant was, that this substitute was adopted by the enemies of any road. The Senators who are opposed to building any road voted for it, I believe, without exception, or nearly so; and a few of the friends of a Pacific railroad also voted for it; and that was the way it was adopted; and therefore I made the statement, which was, perhaps, too general, that the substitute was adopted by the votes of the enemies

of the road. I am aware that some who are friends of a Pacific railroad also voted for that proposition.

Mr. SIMMONS. I am perfectly aware that when gentlemen have favorite schemes, they are very apt to regard all who vote against them as enemies to any plan to accomplish the object in view; but I think the Senator adopts a curious kind of reasoning. I believe that a very large majority of the members of the Senate are in favor of a railroad being built to the Pacific ocean; but large, and controlling as that majority is, there has been no vote in the Senate so decided as the one that substituted this bill for the other. I do not believe any proposition has been presented here which has not commanded the votes of men who entertained entirely dissimilar views as to the mode of building the road, and of some men who will not go for any road. I was satisfied that the bill as it was would not command a majority; and the time had arrived to propose some remedy before it was entirely disposed of; and hence I offered the substitute. I intend at some proper time, if this bill is passed, to introduce a joint resolution, similar to the one presented by the Senator from Massachusetts, authorizing the President, by and with the advice and consent of the Senate, to appoint five railroad surveyors, to survey and mark out these routes, and estimate the cost of the roads; so that when these proposals come in we shall have something else to look at. I wish to have a regular survey and estimate, so that when propositions from individuals come in we shall know from officers appointed by ourselves what is the probable cost of such a work, and then we shall be ready to say whether we will take any of the propositions; and without that, in my judgment, we shall not be ready. But I will not detain the Senate longer.

Mr. CAMERON. Mr. President, the unfortunate remarks of my friend, the honorable Senator from Illinois, [Mr. TRUMBULL,] make it necessary that I should say a word on this bill, though I had intended to be quiet, as I have been, during the whole of its discussion heretofore. I am in favor of making a railroad from the Mississippi river to the Pacific ocean. I have been in favor of it from the commencement, and I have voted for every proposition which I supposed looked towards making the road. At the last session of Congress, I had the honor of presenting a bill for the purpose of making a road. I have not presented it this year, because, from the discussion here, from the great variety of schemes, and from the long time during which the subject has occupied the attention of the Senate, I believed nothing practical would result from our legislation on this subject. I think now, though it may be vanity in me to say so, that my proposition was one which, if properly presented to the Senate, might have commanded some attention.

I am in favor of the proposition which we have adopted on the motion of the Senator from Rhode Island, mainly because I think it looks towards making a road. The bill, as it was before, to my mind, never could have produced that result. My notions in regard to making a railroad of this magnitude, through such a country, are different from those of most gentlemen. I have had some practical experience in making railroads. For twenty-five years I have been connected with the making of railroads in Pennsylvania.

Through my exertions the first railroad made by a private company in the State of Pennsylvania was made. We were told that that road of forty miles could be made for \$300,000. I remember traveling in the city of Philadelphia, to get subscriptions for that road, starting at the Delaware and going to every house until I reached the Schuylkill, asking men to subscribe one, two, three, four, or five shares. We got our \$500,000, and after a great deal of trouble we got the road made; but it cost us \$3,500,000 by the time it was done. Why, sir, all railroads in this country have cost immensely more than anybody who has not studied the subject would believe. I think this railroad can only be made by the Government and the Treasury of this great country. I do not believe private corporations can make a railroad of this extent. Railroads in this country are commenced and are used before they are finished; and for that reason we scarcely ever know what they actually cost.

The average cost of the seven thousand miles of railways in England has been \$183,000 a mile. They do not use their railroads until they are completed; they make them perfect. There is no machine which has been invented by man so expensive, if it be made to perfection, as a railroad. I think this road is going to cost a sum beyond what any private individuals can invest. I looked on the bill which was here before this amendment as a mere electioneering scheme, which would give to the Executive immense prospective patronage to control every corrupt man in the country who expected to get a job. This, on the contrary, sends out to the people an invitation to tell us what they will make a railroad for. When their propositions come here, we shall judge of them as men would judge when they were going to make a bargain for themselves.

That is the difference between the present bill and the one which we have just defeated by it. No harm can come to anybody by this project; but when a year goes by, if there are any individuals or companies in the country willing to make the railroad, their bids will come here, and we shall look at them properly; and if they offer such terms as we can adopt, and as we think will be profitable for the Government to adopt, we shall take their bids for one, two, or three routes, as Congress may determine.

The bill which I presented last year was in some degree like this; for I proposed that the President should appoint three engineers, who, with their assistants and other individuals, should go out and examine the three routes proposed, starting at the Mississippi and reaching the Pacific by the various routes, and make a careful examination of the ground; that they should bring to us an estimate of the cost of the road for every mile upon the route, so as to enable the President and Congress to determine whether it would be proper to make the road or not. What do we lose by that? The other bill required that after the President should make a contract, it should come here and be submitted to us. It would occupy the same time that this will; only that the President, in that case, would have had the power to say to this man and that man, "if you do so and so, you shall have a contract on this great road."

Now this question will be entirely in our own hands; and if we do not think proper to make the road there will be an end of it. I believe also that after these propositions shall have come here, we shall be satisfied that individuals will not make this road, and then the Government will go to work and make the road, as it should do. This Pacific railroad is a project worthy of a mighty nation; one on which the heart of everybody in this country should be centered, as well from its usefulness as the pride that should be taken in connecting by so great a line the extremes of this vast country.

I have only made these remarks because I thought them necessary from the improper position in which the remarks of my friend from Illinois might be supposed to place me. I want it distinctly understood, that so far as my judgment will allow me to go, I will vote for any project which looks towards making a railroad to the Pacific; and I desire that the decision shall be promptly made—promptly made in view of the great interests which that project involves; and also that we may devote ourselves to those measures of legislation which are now awaiting our action. With so brief a portion of the session remaining, I am anxious for the dispatch of business; that all obstructions may be removed from those accumulated bills on our Calendar and others that must necessarily be originated, in which so many of our constituents have so deep an interest.

Mr. MASON. Mr. President—

Mr. GWIN. Will the Senator allow me a moment? I wish merely to reply to a remark of the Senator from Rhode Island.

Mr. MASON. I have very little to say.

Mr. GWIN. I was afraid you were going to move an adjournment.

Mr. MASON. No, sir; you will have plenty of time after I get through; I have but little to say. Mr. President, I think the Senate will agree that this very great measure, as gentlemen are pleased to term it, has been left in the hands of its friends. I think the Senate will agree that those who stand as I do, opposed to any connection between the Government and this road in any form, have held

aloof, with some few exceptions, and have allowed the friends of the measure to see if they could perfect it. The Senate knows that one half the present session has been occupied in the endeavor of the friends of this measure to prepare a scheme that would be acceptable to them; and after one half the session has expired, where do we find ourselves? As was said by the honorable Senator from Rhode Island, in the possession of a proposition which has been carried by the most controlling vote yet shown in the Senate, and which the mover of the proposition says is no bill at all.

Now, sir, I almost feel myself at liberty to vote for the bill in its present shape, and for this reason: if I have rightly thought on this subject, and there ever should be any proposals to build the road, they will be of a character to satisfy the nation that it is not a fit subject for the Federal Government to take hold of. I cannot vote for it because I cannot see that, under the charter of our power—the Constitution—we have any authority whatever to touch the subject in any form; but if I could vote for it, I should do it under the belief that when any man of sense came to look at the provisions of the bill and found that he was required to propose not only to construct the road, but to work it afterwards, he would recoil from the proposition.

The bill requires that the contractor shall propose to construct the road and afterwards to work it. Well, unless I am very much deceived, those who are conversant with railroads and the cost of making them, would be very little disposed to take the road, if it was made, and undertake to work it without price. So we are indebted to the honorable Senator from Tennessee [Mr. BELL] for putting these two features in the proposition: that contractors shall propose not only to construct the road, but to work it after it is made. I cannot vote for it, however, for I cannot see that the Federal Government has any authority to touch the subject in any form.

Mr. President, for some reason, I will not undertake to say what, a large majority of the Senate look upon the scheme of building this magnificent road as one not only entitled to the greater share of their attention in their public duties, but they assume that it attracts the attention of the whole country. I do not know how that may be. Senators on the other side of the Chamber, and some on ours, have undertaken to say, and they may be right, that although there is a large majority of Senators here who are prepared to vote for a railroad, yet the strange phenomenon is presented that they cannot get a bill which will conciliate a majority. Now, what does that mean? The history of the measure has been written during this session. Why do they not agree? They do not agree because they cannot arrange among themselves upon the Atlantic terminus of the road. Well, what does that mean? It means that that large interest which they claim to represent, and I dare say, do represent, does not regard the road itself, and the advantages to result from the construction of the road, but regards the sectional advantages. It is not the road they go for, but it is the improvement of the country which the road will pervade. That is the reason they cannot agree.

Sir, their whole conduct here has demonstrated it. Propose a northern terminus, and the center and the South vote against it. Take a middle terminus, and both North and South vote against it. Take a southern terminus, and the other two vote against it. All agreeing, they say, that the road ought to be made; all agreeing, as they say, that it is a subject of great national importance to make the road, and it being a matter of no importance where the road begins or where it ends, provided it begins on the Atlantic and ends on the Pacific; yet it is impossible for them to conciliate a majority, because if it is a northern road the other two are against it, and if it is a southern road the intermediate section and the North are against it.

I hope the country will see, Mr. President, that these are the obstacles, not in the way of the constitutional right to make this road, but in the way of gentlemen who are prepared for this extraordinary expenditure of money. I trust, and they have my best hope, that they never will agree upon where this road shall begin. I do not believe they ever will. I think we have had some experience here during the whole of this session. My honorable friend from California, [Mr. GWIN],

who is the Ajax of it, got it in as the very first measure, by a majority of the Senate. He obtained for it precedence of the whole public business of the entire country, and has pressed it with energy and will, and with the success that attends energy and will, and where has it ended? After six weeks of a session of three months expended on it, where does it end? In a bill which that honorable Senator frankly admits will not be worth the paper on which it is written.

Now, I would say to that honorable gentleman that I do not think he will ever advance any further. I know that he, at least, is in earnest, and he has the Pacific terminus fixed at San Francisco. Nobody contests that, as far as I know. He does not sympathize with honorable Senators here from the Atlantic border, as to where the Atlantic terminus shall be. He is in earnest, and he is prepared to take any bill that will effect his object—his object being the construction of the road. Now, I would say to that honorable Senator, take this bill; let the Secretary of the Interior invite proposals for constructing and working this road after it is constructed, and, without claiming any spirit of prophesy, I will predict to him that one of two things will happen: he will either have no proposals at all to construct these roads, or he will have them from speculators who never expect to construct them. There never will come a proposal to construct and work one of these roads from men who have it in their power to give us security that they will perform the obligation they enter into; and if the bill passes, I think it will enlighten the country to that extent.

Mr. President, I do not know any form in which this bill can be put that will authorize me to vote for it. I am prepared to say here at once, that if you were to introduce a bill to commence this road on the Potomac river, and carry it through the whole breadth of Virginia and the tier of the southern States, and thence by the Gila or by any other route to the Pacific, whether it was to be constructed by Federal money or by Federal organization, I would vote against it, and I should forfeit, deservedly forfeit, the confidence of my constituency if I did not do so. So there is no form in which any bill can be presented which will conciliate my vote.

Other Senators who regard the working of this Federal machine in a light very different from that in which I regard it, may consider that the time has been wasted. I am rather disposed to think that if time has not been economized, constitutional right has, and we gain something even by the waste of time. I submit to the Senate, and I submit to the country, that we have gained this: we have gained information that will go before the American people to demonstrate that this great Pacific railroad, so worthy the liberal and enlightened age in which we live, so worthy of the great resources of this nation, as we are told, but, as I think, so fatal to the obligations of the constitutional compact, has received its death-blow at the hands of its friends. I think they will find, if they take the vote to-day, that this will be the day of its interment, I hope never to have a resurrection.

Mr. GWIN. The Senator from Rhode Island, [Mr. SIMMONS] said that I had uncovered the object of the bill in its former shape by stating that it was originally formed so as to give, or, at least, was advocated by me on the ground that it gave a power to the President of the United States to select any route he might choose. Well, Mr. President, that is not so. I have never said such a thing; I have never advocated such a thing. The Senator has misrepresented my whole object and my whole design in advocating this measure. I stated to the Senate that the original bill fixed termini that would favor the building of a central road, and give such an advantage to that route, that, if it was practicable, the road must be built there. I said that I wanted to leave money to select the best route, we fixing termini that would meet the wants of the country on each side of the Rocky Mountains.

Now, sir, in order to satisfy the Senator from Rhode Island on that point, I will state to the Senator from Illinois that, if he will change the instructions he proposes, by providing in the first section of the bill that the road shall be built between the thirty-fourth and forty-second parallels, I will vote for it, although I have been opposed to limiting the route, preferring that money should

select it. Inasmuch, however, as the Senators from Texas do not seem to have any inclination for a Pacific railroad, though I think they are as deeply interested in it as California, I am perfectly willing for them to build their line from their own resources. California is not able to do it, I confess.

The Senator from Virginia has appealed to the country that the opponents of the Pacific railroad have not occupied the time of the Senate. Some of us recollect that that Senator, six years ago, just about this time, taunted the friends of the Pacific railroad as he has to-day, saying that he had sat by and witnessed that internecine war among the friends of the measure that was its destruction. He knew it would happen now, and he has bided his time; he has waited for this very time; it was not necessary for him to speak before. If he had before spoken in the terms of bitterness he has used to-day, it might have been a warning in time to the friends of the Pacific railroad not to walk into the camp of the enemy as they have done to-day. Why, sir, that Senator tells you that he can almost vote for this bill as it now stands. That ought to warn every gentleman that it is not a plan to make a Pacific railroad. I would say to those gentlemen who have professed such great admiration for this measure, and have told us that it will build a Pacific railroad, that they have found themselves in the camp of the enemy, and that is a very bad place to be found in, in war or in peace. I do not think they will ever convert such gentlemen as the Senator from Virginia to their plan of building the Pacific railroad.

I was very much amused at the Senator from Rhode Island, in speaking against monopolies and speculators. Why, sir, he is the very child of monopoly. I have never known a man so devoted to a protective tariff, to build up privileged orders, as he has been. He has devoted his life to it. I served in Congress with that Senator many years ago. Wake him up in the night, and he will say "specific duties," [Laughter;] and yet he speaks against monopoly; he warns the Senate—

Mr. DOUGLAS. You do not mean that specific duties conflict with being an anti-monopolist, do you? [Laughter.]

Mr. GWIN. It used to be so. The honorable Senator from Rhode Island amused himself for considerable time by talking against monopolies. Why, sir, if ever there was a monopoly in this country that equaled the Bank of the United States, it was the tariff of 1842, that that Senator contributed as much as any man to make, and he would restore it in a moment, if he could.

Now, sir, I am free to confess that the Senator from Virginia has told us some very unpleasant truths to-day. One of them is that, from the present prospect, we are likely never to build a Pacific railroad; and I fear that the destiny of those of us who live on the other side of the mountains is to be very much as the Senator from New York predicted some time ago: that we shall beat down south into Mexico, while on this side of the mountains this portion of the Confederacy will also beat down south; and that ultimately we shall have a separation. If this road is not built, I am free to confess it is a mere question of time with us, and if the Treasury remains in its present condition very long, that time will soon come.

Sir, I have had hopes of passing a bill to build a Pacific railroad. I am taken by surprise to-day. The Senator from Maine said to-day that he did not believe there were six members of this body who were in favor of the original bill, or who thought it would pass. I confess, I am one of them.

Mr. FESSENDEN. The Senator misunderstood me. I have the report of my remarks before me now; and what I said was, that I did not believe there were more than six members who believed that if the bill should pass, a railroad would be built under it.

Mr. GWIN. I am one of those who believed the bill, as reported, would secure the building of a railroad. I have much more confidence than he has in the capacity of the country through which this road will pass, and the extraordinary results it will produce, not only on commerce, but on population. I have believed, ever since it was presented in the form in which it stood before this morning, that the bill would secure the construction of a railroad. I am very anxious to see if

there is not a prospect, a hope, of our agreeing on some plan that will be more effective than the one the Senate has voted in to-day. I have therefore made a motion to recommit the bill, and I am perfectly willing that the friends of the measure shall so prepare the bill as to give some vitality to it.

The bill, as it now stands, provides for receiving proposals for three roads. If you were to permit capitalists to make their proposals on any route they might choose, but providing for only one road, they would agree to build that one road for one half what they will now propose when they know they are to have two rivals. Here is a proposal for three roads. There are to be bids for three roads; and those who bid on any one route will do so in view of two rivals, not only for the patronage of the Government, but for the transit of passengers and freight. If the proposition were to invite bids on three routes, to be accepted for one, then it would be something like a proposition to build a road. But I do not wish to consume the time, and do not intend to obtrude myself on the Senate any more in connection with this question. I am, as the Senator from Virginia says, honestly in favor of a Pacific railroad. I am for it for national purposes, as a national connection.

Mr. WARD. I merely wish to say a word in answer to the allusion which the honorable gentleman has made to the Texas Senators on this floor. He has said that he had satisfied himself that the Senators from Texas did not want a road. Really, Mr. President, I think that is somewhat unfair.

Mr. GWIN. I mean after the fashion of the original bill, which left it open for the route to be selected by capital; as they were voting against the bill, to lay it on the table, and to amend it.

Mr. WARD. It is not to be presumed, because one Senator does not give in to the views and manner of constructing the road that another entertains, that he is, therefore, opposed to the enterprise. The honorable gentleman and other Senators on the floor have their own notions of building a road, and honestly entertain them. I have mine. I am as much for a road, according to my own notions of the propriety of building a road, as any other gentleman is who may differ from me. This is the difference.

Mr. HOUSTON. Mr. President, I hardly know what to say in answer to the Senator from California. This is a very unexpected demand upon me. I have sat here during the whole session, and made but one very short speech on the Pacific railroad, and did not intend to make another. I was satisfied to vote on the propositions as they were brought forward severally, and to give all the aid I possibly could towards the accomplishment of the construction of the Pacific railroad. I have no hesitancy in voting for it as a constitutional and national measure. I am not situated as are some gentlemen in the Senate, who cannot find authority in the Constitution for the construction of a Pacific railroad, and therefore are not prepared to vote for any measure that tends to accomplish that object.

Mr. President, it is some time since I read the Constitution, because I hear it so often discussed, and such a variety of commentaries on it, that I think it unnecessary to go to the original text. The expositors seem more learned than the framers of the Constitution, and therefore it is unnecessary for me peruse it. By reviewing my recollection of past events, however, I cannot recollect that I have anywhere found authority in the Constitution for the acquisition of any additional territory to that owned at the time of its adoption. I have not anywhere found constitutional authority for the acquisition of California; and as California was acquired without any constitutional authority, I should suppose the construction of the Pacific railroad was a mere consequence of that unauthorized act of this Government. It has become indispensable, in my opinion, to the well-being of this Government, and to the preservation of this Union, or of our connection with California, that a railroad should be constructed.

We have heretofore exercised the authority of constructing roads of a public character. How the honorable gentleman from Virginia voted on that question, I am not at this time advised; but certainly Congress has made appropriations for wagon roads for emigrant purposes, and the trans-

portation of the mails across the continent. I cannot see any difference between our power to construct a wagon road and a railroad. If for purposes of war it is necessary to have communication with California, it is proper to construct a railroad. My object is to place California in such a situation that when invaded by a foreign Power, or when any other emergency requires it, the aid of the Federal Government may be speedily and efficiently rendered to that State. That is the reason why I am prepared to vote for a Pacific railroad; and if commercial advantages follow incidentally in its train, they form no objection. I do not wish the road constructed for commercial purposes; but it is undoubtedly true that commercial advantages will incidentally flow from it.

With these views, I have been very anxious that a railroad should be constructed. I have not held back my hand. I should be doing great injustice to the constituency whom I represent if I were to be laggard on this occasion; but believing it more promotive of the object in view, I was willing to withhold any speaking on the subject, and to vote upon the several propositions presented, as I considered they tended towards the consummation of the object in view. Texas has made ample provision for the construction of a railroad for eight hundred miles. She has made the most liberal donation, not only out of her treasury, but out of her ample public domain; she has agreed to give twenty sections of land and \$6,000 in money per mile; and although all this has been done, she has been ruled out generally by the amendments proposed to this bill, for the purpose of absolutely excluding her from a fair participation in presenting the advantages which she may possess to the consideration of the nation. What did the ruling of her out mean? Was there nothing sectional in that? Was it intended to give a fair and impartial chance to all portions of the Union, and let them present their claims to the consideration of the Government? Why should not the Texas road come in competition with the roads in other portions of the country? Why not leave the terminus on the east to be determined by the eligibility of construction? For that I have voted.

I am as anxious for the construction of a Pacific railroad, for the purposes which are designed, as the honorable gentleman from California is; I desire it as earnestly as he does; but I desire it as a national object, and not as a sectional measure; and whenever we come to consider it as a national object, I am willing that Texas shall compare her claims to preference with any other portion of the country; and if she is not entitled to it by superior advantages to any other section, I would not desire that a national work should be turned aside from its true purpose to subserve her interests; but I think it is only right that she should have a fair opportunity of bringing forward her claims in competition with those other portions of the country. Hence I have been disinclined to promote several suggestions that have been made in relation to amendments to this bill; and I am still indisposed to do it, until I see that she is brought in fair and honest competition with other portions of the country. When that shall be done, I shall be prepared to vote for any measure that is fair and just; but not until then.

But I cannot see that my colleague or myself have adopted a course which indicated a disinclination to see this work accomplished; and now I most heartily, cheerfully, and cordially support this proposition of the honorable Senator from Tennessee, so far as it goes, to receive proposals on three routes, or twenty if you please. I will vote for it with great cheerfulness. It is the only practical step that has yet been proposed, to my apprehension, in relation to this whole bill. It has been manifest for days past that we were not going to adopt any railroad bill, and if we are to regard the work as one for future accomplishment, this is the first step that has been proposed to be taken in advance, and I am ready to vote for it. Are you going to determine to make a road without knowing any of the necessary antecedents to that determination? Is it not wise in us not only to calculate the cost, but to see the probabilities of effecting the object, and to adopt the means that will be best calculated for its accomplishment on the safest terms? I think it is; and I am disposed to regard this as the only practicable and feasible measure that has been proposed in relation to the

construction of this road; and hence I am prepared to vote for it cheerfully. If the Senator from California, or any other gentleman in this Chamber, can suggest a more feasible and practical plan than this, I will with great cheerfulness support that plan; but until such a one is brought forward and explained to my plain comprehension, I will not abandon this proposition, as I think it the most fair, the most wise, the most reasonable, and imbued with more intelligence than all the propositions that have been made on this floor in relation to the construction of a Pacific railroad.

It seems to me that the impatience of the honorable gentleman from California is so excessive that he absolutely wishes to construct a road before a route has been selected. He is determined to have a road right off, without giving time to make surveys, to grade it, or do anything else. He is intensely anxious for it, and is resolved to form a connection for fear California will be alienated from the Union.

Sir, California has no encouragement to leave the older States. She is an adopted child. She is dependent on them for her creation, and no State has received more liberally the munificence of the parent Government than California has. She has realized millions of benefits. And what, sir, of her gold that we are told about? She brings us gold, to be sure; but does she give it to us? I reckon not. Her citizens take the liberty of going on the public lands of the United States and digging gold, and they are paid for their industry. They have the material, and they would be very worthless if they did not work it, when it costs them nothing except a little labor. I do not think that places the older States under any obligations to California. As for the idea that she is going off, I do not think there is much in it; or if it should be attempted, it will be merely a little frisky fit, and we shall all meet at the city of Mexico about the time Texas will get there. I think it very probable that our extreme southern border will extend to the city of Mexico by the time California reaches it along the Pacific coast, according to the suggestion of the Senator from that State; and we shall be harmoniously reunited, and remain so without any further dissensions. It will be such a reconciliation that we shall not stand in dread of any future separation. I have no disposition to reflect upon California. I have always appreciated the advantage that she has been to this country in giving us the control of the Pacific ocean.

That advantage is greatly to be promoted, according to my apprehension, by forming an intimate connection between the Atlantic and Pacific by means of this projected railroad; and hence it is that I am anxious to see its accomplishment. I am ready to give any feasible plan my most cordial coöperation, though it is only that of a single vote. The State from which I come has indicated the most liberal disposition towards the policy of this great national object. Now let the nation step forward and contribute with the same liberal spirit that she has done in the accomplishment of more than half the distance from the natural terminus on the Mississippi to San Francisco, and the whole work will soon be accomplished. Let not Texas be challenged with remissness on this occasion, or with neglect of the interests that may result from a more intimate connection with California. We have intelligence enough to appreciate the advantages of it, and therefore we have insisted with some pertinacity on having a fair competition with other sections of the Union. I am ready to discard all sectional considerations, and look to the advantage to result to the nation, and not to any particular State, or section, or point. These are the feelings that actuate Texas and her representatives in the Senate.

THE PRESIDING OFFICER. The question is on the motion to recommit the bill with the instructions proposed.

Mr. SEWARD called for the yeas and nays, and they were ordered.

Mr. DOUGLAS. I shall vote against recommitting, for the reason that it is evident, at this period of the session, that it is impossible to mature another bill that can meet the approbation of the Senate. We have found that nearly everybody was for a Pacific railroad, but scarcely anybody was in favor of any bill that could be presented. The whole country was for it; all the

political parties for it; all the party platforms for it; but when you bring in any particular bill it receives the support of only a small minority. We have known for weeks—I knew after the first twenty-four hours I was in the Senate, this session—that it was utterly impossible to pass a railroad bill this year. That seems to be the indication. Then why send it back to a committee again, and interrupt all the other business of the session, for the few weeks we have left, when we have not a reasonable hope of agreeing upon anything that will pass? I am satisfied the railroad bill is killed; and let it be buried decently. When we come together at another session, we may, perhaps, by that time, be able to devise some plan on which we may unite; but I see no reason for the recommitment. If we cannot get a bill to-night, there is no reason to hope that the committee, who reported this bill, can agree upon one that will command more strength. I am sure the members composing that committee have no hope of devising one that will meet the assent of a majority of the Senate. I hope, therefore, we may pass upon it to-night, and dispose of it.

Mr. GWIN. I suggest to the Senator from Illinois, who moves the instructions, [Mr. TRUMBULL,] an amendment to the first section that the route of the road shall be between the thirty-fourth and forty-second parallels, instead of between 37° and 42°.

Mr. TRUMBULL. I am willing to make that change in the bill. The object in moving the instructions is to get a direct vote on the bill of the committee. I do not expect the committee to prepare any new bill at all. The motion now is to recommit the bill with instructions to report back the bill which the committee agreed upon, and which the Senate has amended. I have offered the bill as it was printed on the 18th of January, with the amendments, and with instructions to the committee to report it back in that shape. It brings a direct vote on that bill, and we shall see how much strength it has. I am willing to make an alteration so as to extend it to the latitude of thirty-four, as suggested by the Senator from California. I want to see what strength that bill has.

Mr. DOUGLAS. I will ask my colleague whether he included the amendment that was adopted on my motion to-day.

Mr. TRUMBULL. I did not, because it was not printed, and I did not have it. I am willing to include it, and will do so if he will offer it.

Mr. DOUGLAS. I wish that, then, to be considered as offered.

Mr. TRUMBULL. I will include that. I believe it lies on the Secretary's table. I wished to present that amendment also; and I mentioned it at the time, but was unable to procure a copy of it.

Mr. BENJAMIN. If this bill is to be recommitment with instructions, I want the instructions read. I cannot vote on this question of recommitment with instructions now. I want to discuss the instructions, and move amendments to them. If the motion is to recommit the bill, and let the committee then report something that they may agree upon, that they may think the Senate will pass, I am willing to vote to recommit it to oblige the friends of the measure; but if the motion is to recommit with instructions, and those instructions are the bill before us, I want those instructions read, that I may understand them, or printed, that we may see them.

Mr. WILSON. The Senator from Illinois [Mr. DOUGLAS] tells us that he will vote against the recommitment of this bill, for the reason that he thinks we can pass no railway bill at this session. Now, sir, I do not know upon what the Senator from Illinois bases such an opinion. In the first place, the bill that he is ready to vote for, is nothing more nor less than an authority to the President of the United States to make a contract, and come back to the next Congress, and ask that Congress if it will indorse the contract he may make. He must make a contract over one of these three lines; and when he has made it, he is to come before the next Congress, and it may be accepted or rejected. That is all that the bill of the Senator from California proposed. Now, this bill, as it stands, provides for advertising for propositions to build three roads, or any one of the three roads; and the propositions are to be laid before the next Congress. As

a railway measure, it is just as good as the other. Neither of them is a proposition to build a road. They are both propositions looking to see how roads may be built; that is all.

Now, sir, I hope the bill will not be committed, but will be sustained by the Senate. I believe it can be carried through the House of Representatives, and when, at the next session of Congress, we shall have these propositions before us, we shall have not speculations, but facts, to guide our action. I think the proposition as it now stands is a very good one. I think the bill as it is, if sustained by Congress, will advance the construction of a Pacific railroad, and, therefore, every friend of a Pacific railroad here ought to go against its recommitment, and sustain this bill as it is, carry it through the Senate, and then do what he can to carry it through the House of Representatives.

Mr. SEWARD. Mr. President, I had supposed that all Senators who approved of the original bill, or the bill as it was first amended, were agreed upon the policy of voting to recommit it with instructions, and under that view I was prepared to give a vote in silence for that motion; but the remarks which have been made by the honorable Senator from Illinois, on the opposite side of the Chamber, [Mr. DOUGLAS,] show that, although he is one of that number with which I am classed, he is voting against the motion; and for the purpose of being entirely well understood, I desire to state that I vote to recommit with instructions under this view, that the bill, as it is now, does not advance us at all towards the making of a railroad, and that the bill, as it stood before it received its last amendment, and as it will come back from the committee, will advance it. I am desirous to use every effort to secure the beginning of this work, and therefore I vote to refer it to the committee with the proposed instructions.

Mr. PUGH. I agree with the Senator from Massachusetts that there is no practical difference between this bill and the other. Under the other bill the contract was of no avail until it was submitted to Congress, and we had also added to it a proposition to invite proposals for two other routes. The present bill does the same thing; and the objection to both of them is stated truly by the Senator from California. You may get a proposition possibly for one of these routes that would be reasonable; but if you ask for propositions for three roads, every person who bids will take into consideration the fact that he is to have possibly two rival roads, and it makes the whole project utterly impracticable. I see no choice between the original bill and this bill. I expect nothing from either of them. The original bill was hobbled; I believe it had about two hundred thousand tons of American iron put on its back, with other things; and I believe nothing will come of this measure; and therefore I move to lay the bill on the table, and call for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. CLARK. I am requested by my colleague, Mr. HALE, to say that he has paired off with the Senator from South Carolina, Mr. HAMMOND.

Mr. FITCH, when his name was called, stated that he had paired off with Mr. HAMMOND.

The result was announced—yeas 23, nays 29; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Foot, Green, Hunter, Iverson, Johnson of Tennessee, King, Mason, Pearce, Pugh, Reid, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Yulce—23.

NAYS—Messrs. Bates, Bell, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foster, Gwin, Hamlin, Harlan, Houston, Jones, Kennedy, Polk, Rice, Seward, Shields, Simmons, Stuart, Trumbull, Wade, Ward, and Wilson—29.

So the Senate refused to lay the bill on the table.

THE PRESIDING OFFICER. The question is on recommitting the bill with the proposed instructions.

Mr. BENJAMIN. If the instructions are insisted on, I must ask that they be read. I do not know what they are at all.

Mr. TOOMBS. I ask for a division of the question, and then let the instructions be read when we come to them. Let us have the question first on recommitment.

THE PRESIDING OFFICER. The question is susceptible of division.

Mr. DOOLITTLE. I hope no friend of the

passage of a Pacific railroad bill will vote to recommit under this division of the question, because that is the death of the bill.

Mr. GWIN. It is dead now.

The question being taken on the recommitment by yeas and nays, resulted—yeas 17, nays 36; as follows:

YEAS—Messrs. Benjamin, Bigler, Bright, Broderick, Chandler, Davis, Douglas, Foot, Foster, Gwin, Harlan, Jones, King, Polk, Sebastian, Seward, and Trumbull—17.

NAYS—Messrs. Bates, Bayard, Bell, Brown, Cameron, Chesnut, Clark, Clay, Clingman, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Green, Hamlin, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mason, Pearce, Pugh, Reid, Rice, Shields, Simmons, Sidel, Stuart, Thomson of New Jersey, Toombs, Wade, Ward, Wilson, and Yulee—36.

So the motion to recommit the bill was rejected.

The PRESIDING OFFICER. The proposed instructions, of course, fall with the failure of the motion to recommit.

Mr. DOOLITTLE. I hope we may now take the vote directly on the bill as it stands before the Senate.

"Once more unto the breach, dear friends, once more."

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

Mr. WILSON. I ask for the yeas and nays on the passage of the bill.

Mr. GWIN. I think the friends of this bill have taken such great care of it, and it is such a magnificent bill, that they had better fill the blank. ["Oh, no!"] They have got a blank in the bill that ought to be filled.

Mr. WILSON. Did the Senator from California make a motion to fill the blank?

Mr. GWIN. No; I suggested to its friends they ought to fill it with something more than \$2,000. I do not think that will pay for the advertisements.

Mr. SIMMONS. Will the Senator indicate a sum?

Mr. GWIN. Not at all. There is nothing in this bill for me to take any interest in it.

Mr. WILSON. I propose \$10,000.

Mr. TOOMBS. I think \$2,000 will do.

Mr. BELL. Three thousand five hundred dollars will be ample.

Mr. TOOMBS. I will say \$3,000.

The PRESIDING OFFICER. If there be no objection, \$3,000 will be inserted.

Mr. KING. I suggest \$1,000.

Mr. SIMMONS. The largest sum must be put first.

Mr. KING. I think \$1,000 is enough.

The PRESIDING OFFICER put the question on the motion to insert \$3,000; and it was agreed to.

The PRESIDING OFFICER. Will the Senate order the bill to be engrossed and read a third time?

Mr. PUGH. I ask for the yeas and nays. We may as well have them on that question. ["No, no; let us have them on the passage."] Very well.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BRODERICK. I should like my colleague to indicate whether he wants this bill passed or not. [Laughter.] I am willing to follow him, and if he is not for this bill, I am against it. Therefore I should like him to inform me whether he is for it or not.

Mr. TOOMBS. I suggest to the honorable Senator from California to fix the title when we pass the bill.

Mr. BRODERICK. Well, I will withhold my interrogatory until the title comes up.

The PRESIDING OFFICER. The yeas and nays are asked for on the passage of the bill.

The yeas and nays were ordered.

Mr. BRODERICK. As I vote before my colleague, I should like to know whether he is for the passage of this bill or not. [Laughter.] In the remarks that fell from him a few minutes since, I understood he did not favor the bill. If not, I shall vote against it. I vote before him, and therefore I should like to know, before I am called, what he means to do.

Mr. GWIN. My colleague will never find out my opinion about this bill until my name is called.

Mr. BRODERICK. Then I shall reserve my vote. [Laughter.]

Mr. SEWARD. I have been in very considerable difficulty to know how I should vote on this bill, without the lead of the two Senators from California; and as the one will not state how he is going to vote until his name is called, and the other reserves his vote until after his colleague is called, I, as the second in this great work, must assume the responsibility myself. As this is the best bill I can get towards the construction of a Pacific railroad, after having tried every other expedient, I shall vote for this bill.

The Secretary proceeded to call the roll.

Mr. GWIN (when Mr. MALLORY's name was called) said: I wish to say that the Senator from Florida has paired off on a Pacific railroad bill with the Senator from New Jersey, Mr. WRIGHT, but I do not know whether that is a pair now, or not. [Laughter.] I wanted to announce to the Senate that these two gentlemen expected there would be a vote on a Pacific railroad bill, and they paired off; but as I do not consider this a vote of that description, I leave it to the Senate whether or not it is necessary to announce it.

Mr. FITCH. My pair with the Senator from South Carolina, Mr. HAMMOND, was specific only so far as the motion to refer was concerned; but our votes would have been in opposition on the final question. He would, doubtless, have voted against the bill; and notwithstanding it is only the ghost of what it ought to be, I should vote for it; but in his absence I do not feel at liberty to vote.

The result was announced—yeas 31, nays 20; as follows:

YEAS—Messrs. Bell, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Hamlin, Harlan, Houston, Jones, Kennedy, Polk, Rice, Sebastian, Seward, Shields, Simmons, Stuart, Trumbull, Wade, Ward, and Wilson—31.

NAYS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Fitzpatrick, Green, Hunter, Iverson, Johnson of Tennessee, King, Mason, Pearce, Pugh, Reid, Sidel, Thomson of New Jersey, Toombs, and Yulee—20.

So the bill was passed.

The PRESIDING OFFICER. The title of the bill will be read.

The reading of the original title of the bill was greeted with great laughter.

Mr. GWIN. Inasmuch as I think we have performed a great day's work, and consummated the greatest force that ever was known in any legislation, I move that the Senate adjourn.

Several SENATORS. Let us change the title of the bill.

Mr. BELL. I call the Senator from California to order. He has no right to denounce any proposition adopted by the Senate, in such terms.

Mr. GWIN. What does the Senator say?

The PRESIDING OFFICER. Senators must come to order.

Mr. GWIN. I say, and I repeat, it is a farce. The Senator from Tennessee knows where to find me.

Mr. BELL. I do not mean—

The PRESIDING OFFICER. The Senator from California and the Senator from Tennessee are not in order. The question is on the motion to adjourn.

The motion was not agreed to.

Mr. BELL. I move that the title be amended so as to read as follows—I have not had time to draw it out in such a manner that the Clerk can read it, perhaps:

"A bill to authorize and invite separate proposals for the construction of a railroad from the valley of the Mississippi to the Pacific ocean, upon three separate routes."

The title was so amended.

Mr. HAMLIN. I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 27, 1859.

The House met at 12 o'clock, m. Prayer by Rev. B. F. BITTINGER.

The Journal of yesterday was read and approved.

DIPLOMATIC AND CONSULAR SYSTEM.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting to Congress a report, dated 25th instant, with accompanying papers, received from the Secretary of State in com-

pliance with the requirements of the act to regulate the diplomatic and consular systems of the United States, approved August 18, 1856; which was laid upon the table, and ordered to be printed.

CONSULAR OFFICERS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting a communication to the Committee on Foreign Affairs, recommending further legislation for the relief of consular officers, and also recommending further legislation in regard to the judicial duties of certain foreign ministers and consuls; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

MILITARY RESERVATION AT ROCK ISLAND.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in reply to the resolution of the House relative to the military reservation on Rock Island.

Mr. WASHBURNE, of Illinois. I desire to have that communication read.

Mr. VALLANDIGHAM. I call for the regular order of business.

Mr. MORRIS, of Illinois. I ask the unanimous consent of the House to offer a resolution to which, I think, there will be no objection on the part of any gentleman.

Mr. DEAN. We had better have the regular order.

Mr. VALLANDIGHAM. I insist on the regular order of business.

Mr. FARNSWORTH. It is important that that communication from the Interior Department, in reference to the military reservation on Rock Island, should be referred to the Committee on Public Lands; and I ask my colleague to withdraw his call for the reading of it.

Mr. WASHBURNE, of Illinois. I will do so, if the reading is objected to.

Mr. FARNSWORTH. I move that the communication be referred to the Committee on Public Lands, and printed.

The SPEAKER. The regular order of business is called for on the right and on the left, and the Chair will withhold the communication.

Mr. PHILLIPS. I ask the consent of the House to have a bill from the Senate taken from the Speaker's table, and referred.

Mr. VALLANDIGHAM. I again insist on the regular order of business.

CONSULAR AND DIPLOMATIC BILL.

The House then proceeded to the consideration of the bill (H. R. No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1860, and the amendments thereto reported by the Committee of the Whole on the state of the Union, on which the main question had been ordered.

The first amendment reported by the Committee of the Whole on the state of the Union was, to strike out from line eight to line sixteen, as follows:

For salaries of envoys extraordinary, ministers, and commissioners of the United States, at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Persia, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, and Paraguay, \$214,000;

and insert in lieu thereof the following:

For salaries of envoys extraordinary, ministers, and commissioners of the United States, at Great Britain, France, Russia, Spain, Brazil, Mexico, China, Peru, Turkey, and Nicaragua, \$105,000.

Mr. COLFAX. I rise to a question of order. By the 127th rule of the House it is required that all amendments adopted in Committee of the Whole shall be duly entered by the Clerk on separate paper, as the same shall be agreed to by the committee, and so reported to the House. Now, sir, the Committee of the Whole, by four separate and distinct votes, struck out the missions to Persia, Rome, Buenos Ayres, and Switzerland, and the next day what remained of the section was stricken out, and the amendment of the gentleman from Ohio, [Mr. SHERMAN,] which has been read, was adopted. The question that I raise is, that those other amendments having been adopted by distinct votes in the committee, the

House has a right to separate votes on each one of them, before the vote is taken on the amendment of the gentleman from Ohio.

Mr. PHELPS, of Missouri. In reference to the point of order made by the gentleman from Indiana, there is no dispute between him and myself in relation to the facts, as I understand his recital of them. The original clause made an appropriation for the secretaries of the ministers at the several points. The committee struck out, one by one, several of the places named. The gentleman from Ohio [Mr. SHERMAN] then moved to strike out the whole paragraph, and insert what has been read to the House. The motion having been adopted in the Committee of the Whole on the state of the Union, the several preceding amendments to the paragraph were lost. Before the question on striking out was taken, it was in the power of the committee to amend the original paragraph, to make it as perfect as possible. The motion of the gentleman from Ohio was then put and carried, striking out the whole paragraph, as amended, and inserting what has been read at the Clerk's desk. The amendments first made to the original paragraph, therefore, could not be reported to the House.

Mr. COLFAX. Will the gentleman allow me to correct him in one question of fact? These amendments voted in on a preceding day were not in the text of the original paragraph when it was struck out, and could not have been there except by a reconsideration of the former action of the committee. After the motion of the gentleman from Ohio [Mr. SHERMAN] was made, the question was asked what would be the effect of it, if carried, upon the former amendments made by the committee to the paragraph? After considerable debate it was decided, by what seemed to be almost the unanimous consent of the committee, that the former amendments should be reported to the House, and the chairman of the committee, the gentleman from Kentucky, [Mr. BURNETT] announced that he would so report them to the House. I only desire that the facts shall be properly placed in the possession of the House.

Mr. PHELPS, of Missouri. I have only stated the result of what was the action in committee. Several amendments were made to the original text of the bill, after which a motion was made and carried to strike out the whole clause. Now, the universal practice of the House has been that, when an entire paragraph or section is stricken out, all the amendments made to the original text are carried with it.

Mr. COLFAX. The gentleman from Ohio distinctly stated that his motion was not to strike out the whole paragraph, but only so much of it as was not embraced in the amendments which had been made.

The SPEAKER. In determining the question of order, the Chair must, of course, be controlled by the record which is presented to him. The Chair is in no difficulty, therefore, in regard to the questions of fact. He can have no knowledge of what transpired in committee, except what has been reported. The Chair, however, is of opinion, from the statement made by the gentleman from Indiana of what occurred in committee, that the report was properly made by the chairman of the Committee of the Whole on the state of the Union of the amendment upon which the House is now called upon to vote, for this reason: it was certainly competent for the friends of the paragraph in committee, to propose any and every amendment which, in their judgment, would make the bill more acceptable to the committee. After the paragraph or section had been perfected, as far as its friends could perfect it, it was then perfectly competent to move to strike out the entire section or paragraph and insert additional words; and the fact that the committee did strike out and insert, shows that they were against the paragraph, even after all the amendments which had been made to the original text; consequently, every amendment which had been adopted by vote of the committee must fall when the entire paragraph was stricken out and other matter inserted in lieu thereof.

Mr. COLFAX. I only wish to place myself right in regard to this matter. When the motion of the gentleman from Ohio was made, in stating the amendment the Clerk read the entire paragraph, including "Persia and Rome," as the words to be stricken out; and the gentleman from

Ohio stated distinctly that he did not move to strike out those words. However, I will not press the matter further.

The SPEAKER. If the report of the Chairman of the Committee of the Whole on the state of the Union was not correct, the proper time to have made the point was when the report was made, when the bill should have been recommended, with instructions to amend the report.

Mr. OLIN. Would it be in order now to recommit the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. Not pending the operation of the previous question.

The first amendment reported from the Committee of the Whole on the state of the Union was non-concurred in.

Second amendment:

In line forty-four, insert as follows:

For salary of minister resident at Japan, from the 19th day of January, 1859, until the 1st of June next, \$3,335.

For salary of minister resident at Japan, \$7,500.

The amendment was concurred in.

Third amendment:

In the clause of the bill making an appropriation for the Northwest boundary commission, strike out \$100,000, and insert \$71,000.

The amendment was concurred in.

Mr. STANTON. I move to reconsider the vote by which the House refused to concur in the first amendment reported from the Committee of the Whole on the state of the Union.

Mr. PHELPS, of Missouri. We might as well have the vote, I think, upon the motion to lay the motion to reconsider on the table.

Mr. HOPKINS. What will be the effect of laying the motion to reconsider on the table?

The SPEAKER. It would carry the motion to reconsider only—not the bill.

Mr. HOPKINS. Then I submit the motion.

The House was divided on the motion to lay the motion to reconsider on the table; and there were—yeas 70, noes 77.

Mr. PHILLIPS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 89; as follows:

YEAS—Messrs. Ahl, Anderson, Avery, Barksdale, Barr, Bishop, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskey, John B. Clark, Clay, John Cochran, Cockrell, Comins, Corning, Cox, James Craig, Crawford, Davidson, Davis of Maryland, Dewart, Dowdell, Edmundson, Eustis, Farnsworth, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gooch, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Hughes, Jenkins, Jewett, Owen Jones, Keim, Landy, Leidy, Leitcher, Maclay, McKibbin, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Miles, Miller, Milson, Montgomery, Morrill, Edward Joy Morris, Freeman H. Morse, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Roberts, Royce, Russell, Sandidge, Scott, Searing, Seward, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Tabbot, Trippie, Vallandigham, Ward, Israel Washburn, Watkins, White, Whiteley, Winslow, Wood, Wortendyke, and Augustus R. Wright—99.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Bliss, Brayton, Buffinton, Burlingame, Case, Clawson, Cobb, Clark B. Cochran, Colfax, Covode, Cragin, Curry, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenion, Giddings, Gilman, Gilmer, Granger, Grow, Harlan, Harris, Hickman, Hoard, Hodges, Horton, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Matteson, Maynard, Morgan, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottier, Purviance, Ricard, Robbins, Rufin, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Robert Smith, Spinner, Stanton, James A. Stewart, Tappan, Thayer, Tompkins, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Wilson, John V. Wright, and Zolliecoffer—89.

So the motion to reconsider was laid on the table.

Pending the call,

Mr. BISHOP stated that his colleague, Mr. ARNOLD, was called home by sickness in his family.

Mr. AVERY stated that Mr. ATKINS had desired him to state that he was confined to his room by sickness.

Mr. DAWES stated that his colleague, Mr. CHAFFEE, was necessarily absent, and that he had paired off with Mr. KEITT.

Mr. DEAN stated that Mr. CLARK, of Connecticut, was detained at his room by indisposition.

Mr. RUFFIN made a like statement in reference to Mr. SCALES.

Mr. COMINS, and Mr. PHELPS of Minne-

sota, severally made a similar statement in respect to Messrs. HALL of Massachusetts, and CAYANAUGH.

The result was then announced as above.

Mr. HUGHES. I rise to a privileged question: I move to reconsider the vote by which the House concurred in the recommendation of the Committee of the Whole on the state of the Union, to strike out in line seventy-nine the words "one hundred thousand," and insert "seventy-one thousand."

The clause, as above amended, was as follows:

"For compensation of the commissioner, secretary, chief astronomer and surveyor, assistant astronomer and surveyor, clerk, and for provisions, transportation, and contingencies of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, \$71,000."

Mr. CRAWFORD moved to lay the motion to reconsider on the table.

The motion was agreed to; and the motion to reconsider was laid on the table.

The SPEAKER announced as the next amendment the one proposed by Mr. CRAWFORD: to strike out "seventy," and insert "forty," in the following clause:

"To enable the President of the United States to carry into effect the act of Congress of 3d March, 1819, and any subsequent acts now in force for the suppression of the slave trade, \$75,000. *Provided*, That so much of said appropriation as may be required to pay expenses already incurred, may be used from and after the passage of this act."

Mr. STANTON called for the yeas and nays. The yeas and nays were ordered.

Mr. BOCKOCK. Was not a proposition adopted by the Committee of the Whole on the state of the Union to recommend to the House to strike out that whole clause? I understand that the agreement was, that in the House a vote should first be taken upon that proposition; if that vote was negative, then that the question should be taken on the amendment to strike out "seventy" and insert "forty." Would not the question first come up on the recommendation of the Committee of the Whole on the state of the Union, rather than on the amendment of the gentleman from Georgia?

The SPEAKER. The Chair supposes that the only way in which the amendment of the gentleman from Georgia could be entertained at all, would be as an amendment to the original bill, which amendment must be put to a vote before the question is taken upon the recommendation of the committee to strike out the entire clause. It is an amendment to perfect the original clause.

The question was taken; and it was decided in the negative—yeas 48, nays 145; as follows:

YEAS—Messrs. Avery, Barksdale, Bockock, Bonham, Boyce, Branch, Bryan, Burnett, Caskey, Clay, Cobb, Crawford, Curry, Davidson, Dowdell, Edmundson, Eustis, Garnett, Gartrell, Goode, Hawkins, Hodges, Hopkins, Jackson, Jenkins, Leitcher, McQueen, McRae, Maynard, Miles, Moore, Peyton, Rufin, Sandidge, Seward, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stephens, Stevenson, Talbot, Trippie, Vance, Watkins, John V. Wright, and Zolliecoffer—48.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Barr, Bennett, Bingham, Bishop, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Caruthers, Case, Horace F. Clark, John B. Clark, Clawson, Clark B. Cochran, John Cochran, Cockrell, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edie, Farnsworth, Fenion, Florence, Foley, Foster, Giddings, Gillis, Gilman, Gilmer, Gooch, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Harris, Hatch, Hickman, Hoard, Horton, Howard, Hughes, Huyler, George W. Jones, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Miller, Milson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Pottier, Purviance, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Scott, Searing, Aaron Shaw, John Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, James A. Stewart, Tappan, Thayer, Tompkins, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Winslow, Wood, Wortendyke, and Augustus R. Wright—145.

So the amendment of Mr. CRAWFORD was not agreed to.

Pending the call of yeas and nays,

Mr. STEWART, of Pennsylvania, stated that, had he been in his seat when his name was called, he should have voted in the negative.

Mr. WOODSON stated that he should have voted in the affirmative, had he been in the House when his name was called.

Mr. DEWART. I would inquire whether it would be in order to move that the further consideration of this bill be postponed for two weeks?

The SPEAKER. Not while the House is acting under the operation of the previous question.

The SPEAKER stated that the question next recurred upon the recommendation of the committee to strike the following entire clause:

"To enable the President of the United States to carry into effect the act of Congress of 3d March, 1819, and any subsequent acts now in force for the suppression of the slave trade, \$75,000: *Provided*, That so much of said appropriation as may be required to pay expenses already incurred may be used from and after the passage of this act."

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 28, nays 163; as follows:

YEAS—Messrs. Avery, Bonham, Boyce, Bryan, Caskie, Cobb, Crawford, Curry, Davidson, Dowdell, Gartrell, Goode, Hawkins, Houston, McQueen, McRae, Maynard, Miles, Moore, Ruffin, Sandidge, Seward, Shortt, Stallworth, Stephens, Tripp, and John V. Wright—28.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Barr, Bennett, Bingham, Bliss, Bocock, Bowie, Branch, Bratton, Burlingame, Burnetts, Burns, Burroughs, Caruthers, Case, Chapman, Horace F. Clark, John B. Clark, Clay, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Daves, Dean, Dewart, Dick, Dodd, Durfee, Edmundson, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Giddings, Gilman, Gilmer, Gooch, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Harris, Hatch, Hickman, Hoard, Hodges, Hopkins, Horton, Howard, Hughes, Huyler, Jackson, Jenkins, George W. Jones, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, McKibbin, Humphrey Marshall, Mason, Matteson, Miller, Milton, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman B. Morse, Oliver A. Morse, Mott, Murray, Niblack, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pike, Pottle, Pott, Powell, Purviance, Reagan, Ricard, Robbins, Royce, Russell, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Thayer, Tompkins, Underwood, Vallandigham, Vance, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—163.

So the recommendation of the Committee of the Whole on the State of the Union to strike out the entire clause was not concurred in.

Pending the call of the yeas and nays,

Mr. KEITT, stated that he had paired off with Mr. CHAFFEE; otherwise, he would have voted in the affirmative.

Mr. BARKSDALE, said: I desire to say that yesterday I stated that I indorsed the speech of the gentleman from Georgia, [Mr. SEWARD.] Upon reading that speech this morning, I am not prepared at this time to indorse some of the positions assumed by that gentleman. I wish to make this explanation now. I was not in my seat when my name was called, and therefore do not vote on the question.

The result was then announced, as above recorded.

Mr. PHELPS, of Missouri, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred on ordering the bill to be engrossed and read a third time.

Mr. SHERMAN, of Ohio. I trust that the amendment of the gentleman from Illinois, to strike out "Persia," which was cut off by parliamentary tactics, may now, by unanimous consent, be allowed to be submitted.

Mr. PHELPS, of Missouri. Is debate in order?

The SPEAKER. It is not, as the previous question has not exhausted itself.

The bill was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time.

Mr. PHELPS, of Missouri. I call the previous question upon the passage of the bill.

Mr. SHERMAN of Ohio. I hope the previous question will be voted down, and that the gentleman from Indiana will, by general consent, be allowed to offer his amendment which was agreed to in the Committee of the Whole on the state of the Union, but which was cut off by parliamentary tactics.

The SPEAKER. It would not be in order.

Mr. SHERMAN, of Ohio. Would it be in order to move to refer this bill with instructions?

The SPEAKER. Pending the call for the previous question it would not.

The previous question was seconded.

Mr. SHERMAN, of Ohio, asked for the yeas and nays on ordering the main question.

The yeas and nays were ordered.

Mr. WASHBURN, of Maine. Will it not be in order to move to reconsider the vote whereby the bill was ordered to be engrossed?

The SPEAKER. The motion to reconsider was made by the gentleman from Missouri, [Mr. PHELPS,] and laid on the table.

Mr. STANTON. If the House refuse to order the main question, and the bill be recommitted, would it be in order to amend an engrossed bill by striking out anything? If so, I should be glad to know whether the House will order the bill to be engrossed over again, or how will the amendment get before the Senate?

The SPEAKER. There has been no case in which that question has been ever determined by the House.

Mr. STANTON. Suppose the bill should be recommitted, and should be reported back to the House with a recommendation to amend by striking out and inserting: can the question be taken a second time on engrossing? or will it be sent to the Senate with an engrossed amendment?

The SPEAKER. The Chair will decide that question when it arises.

The question was taken on ordering the main question; and it was decided in the affirmative—yeas 109, nays 79; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gilman, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Hughes, Huyler, Jackson, Jenkins, George W. Jones, Owen Jones, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, McRae, Samuel S. Marshall, Mason, Miles, Miller, Milton, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Ruffin, Russell, Sandidge, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Underwood, Vallandigham, Vance, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—109.

NAYS—Messrs. Andrews, Bennett, Bingham, Bliss, Bratton, Burlingame, Burroughs, Case, Clawson, Clark B. Cochrane, Colfax, Comins, Curtis, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Granger, Grow, Harlan, Hoard, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Maynard, Morgan, Morrill, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Spinner, Stanton, William Stewart, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—79.

So the main question was ordered; which was on the passage of the bill.

Mr. CRAWFORD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 88, nays 99; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Avery, Barr, Bishop, Bocock, Bowie, Burnett, Burns, Caruthers, John B. Clark, Clay, John Cochrane, Cockerill, Corning, Cox, James Craig, Davidson, Davis of Maryland, Davis of Indiana, Dewart, Edmundson, Eustis, Faulkner, Florence, Foley, Garnett, Gilman, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Hughes, Huyler, Jackson, Jenkins, George W. Jones, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leiter, Letcher, Maclay, McKibbin, Humphrey Marshall, Samuel S. Marshall, Miller, Milton, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Russell, Scott, Searing, Aaron Shaw, Henry M. Shaw, Robert Smith, Samuel A. Smith, William Smith, Stevenson, James A. Stewart, Talbot, George Taylor, Underwood, Vallandigham, Ward, Watkins, Washburn, Watkins, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—88.

NAYS—Messrs. Abbott, Barksdale, Bennett, Bingham, Bliss, Bonham, Boyce, Branch, Bratton, Bryan, Burlingame, Case, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Crawford, Curry, Curtis, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Dowdell, Durfee, Edie, Farnsworth, Fenton, Foster, Gartrell, Giddings, Gilman, Gilmer, Gooch, Grow, Harlan, Hoard, Horton, Howard, George W. Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McQueen, McRae, Matteson, Maynard, Miles, Moore, Morgan, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker,

Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Sandidge, Seward, John Sherman, Singleton, Spinner, Stallworth, Stanton, Stephens, William Stewart, Thayer, Tompkins, Tripp, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Wilson, John V. Wright, and Zollicoffer—99.

So the bill was rejected.

Pending the call of the roll,

Mr. McQUEEN stated that his colleague, Mr. KEITT, had paired off with Mr. CHAFFEE; but that, had he voted on this question, he would have voted "no."

Mr. BRANCH said: My vote, as it stands, (in the affirmative,) expresses my sentiment; but, with a view to move to reconsider, with the hope of saving this bill, I change my vote. I vote "no."

Mr. FOSTER said: I change my vote for the purpose of allowing the gentleman from Indiana to propose his amendment. I vote "no."

The vote having been announced as above stated,

Mr. BRANCH moved to reconsider the vote by which the bill was rejected.

Mr. MORGAN, Mr. COLFAX, and others, moved to lay the motion on the table.

Mr. BRANCH. I hope that motion will be allowed to stand over till to-morrow.

Mr. COLFAX. I hope the vote will be taken now, and let the will of the House be carried out.

Mr. BRANCH. The only way by which the will of the House can be carried out in regard to the Persian mission, is by a reconsideration. If the object of the gentlemen be to carry out the will of the House, they will allow this motion to stand over till to-morrow.

Mr. LETCHER. Will the gentleman from North Carolina allow me to interrupt him?

Mr. BRANCH. Certainly.

Mr. LETCHER. I hope that gentlemen on the other side of the House who desire to have a new bill introduced, will, at the same time, introduce their instructions to guide the Committee of Ways and Means in its preparation. It is utterly impossible for that committee, under the action of this House, to arrive at any conclusion in regard to the desire or wish of the majority of the body.

Mr. SHERMAN, of Ohio. Who has the floor, Mr. Speaker?

The SPEAKER. The gentleman from North Carolina, [Mr. BRANCH.]

Mr. SHERMAN, of Ohio. Then I object to any one else occupying the floor.

Mr. LETCHER. I have the floor, I think.

The SPEAKER. The Chair inquired of the gentleman from North Carolina if he would yield the floor to the gentleman from Virginia. The gentleman from North Carolina responded in the affirmative, and no gentleman objected.

Mr. BRANCH. I yield the floor entirely.

Mr. LETCHER. I do not know what object gentlemen desire to attain. If they wish to strike out certain missions or certain consulates from this bill, let them introduce their resolution here, and distinctly state what shape they desire this bill to assume when it shall come back from the Committee of Ways and Means. I can hardly apprehend that the gentlemen who are dissatisfied with this bill desire to send it back to the Committee of Ways and Means, leaving that committee in utter ignorance of the views of the majority of the House, and allowing it grope its way to find out what may or may not be acceptable.

Mr. SHERMAN, of Ohio. Will the gentleman from Virginia allow me to make a suggestion?

Mr. LETCHER. Yes, sir.

Mr. WRIGHT, of Tennessee. I object.

Mr. LETCHER. I hope the gentleman will withdraw his objection.

Mr. DAVIDSON. I object.

Mr. LETCHER. Why, what is the use of making a difficulty here about it, when what is wanted is to get at the desire of the House? Let us ascertain from gentleman what they want.

Mr. WRIGHT, of Tennessee. I object.

Mr. LETCHER. I hope the gentleman from Tennessee will withdraw his objection. Another bill of some sort has to come here, in spite of all that we can do. Why not, then, let us ascertain what sort of a bill will be agreeable to the House? Does the gentleman from Tennessee desire to embarrass us?

Mr. WRIGHT, of Tennessee. I withdraw my objection.

Mr. DAVIDSON. I object.

Mr. MARSHALL, of Kentucky. I rise to a point of order. The motion to lay on the table is not debatable.

The SPEAKER. There has been no such motion entertained by the Chair.

Mr. MARSHALL, of Kentucky. I thought the gentleman from Indiana [Mr. COLFAX] had submitted that motion.

Mr. MORGAN. I thought I was recognized.

The SPEAKER. The gentleman from North Carolina was on the floor.

Mr. MORGAN. I thought the gentleman had taken his seat, and the Chair called the gentleman from New York, and I moved to lay the motion on the table.

Mr. BRANCH. At the time the gentleman from New York made his motion, I held the floor; and at a subsequent point I yielded the floor, and the gentleman from Virginia [Mr. LETCHER] took it.

Mr. LETCHER. Now, all that I desire to do is to hear from the other side—from those who are dissatisfied with this bill—so as to see what they object to. We have to pass some sort of a consular and diplomatic bill. The Government has to have ministers and consuls at some points, and to make provision for those who are now abroad. Let us, therefore, by conference here, and by an interchange of sentiment, ascertain exactly what the grounds of objection to this bill are. There is no other way to get at it.

Mr. NICHOLS. I would like to ask the gentleman one question here. I put it to him in fairness and candor. He appeals to us as the Opposition party. I ask him who has the power in this House, and who is responsible for carrying out the President's recommendations?

Mr. LETCHER. So far as that is concerned, I think it would puzzle a Philadelphia lawyer to tell who has the power.

Mr. NICHOLS. That is all the admission I want.

Mr. LETCHER. I understand that there is an Administration majority here; but so far as Lecompton was concerned, so far as this bill is concerned, and so far as other questions that have arisen here are concerned, I have ascertained that there is not an Administration majority here; so that there must be an Opposition majority of some sort. What makes it up I do not know, nor does it boot much to inquire. What I desire to do is this: the session is drawing to a close. We have to pass these appropriation bills for the purpose of keeping the Government in operation, or a Congress has to come back here to do it at an early day after the 4th of March. If that extra session can be avoided; if we can understand each other now; if we can come to a conclusion as to the legislation that is necessary to be had, and can pass such bills as will keep the Government in operation, is it not the part of wisdom to do so, and to avoid the inconvenience of an extra session? So it strikes me.

Mr. NICHOLS. I wish to ask the gentleman another question. Some time since, gentlemen on this side of the House proposed that, if certain amendments which were adopted in committee would be allowed to be voted on in the House by yeas and nays, you should have our vote on your bill. The missions to Persia, Rome, Switzerland, and Buenos Ayres, were particularized. Objection was made on that side of the House. Now, I ask the gentleman from Virginia, why not give us a vote on striking out these missions?

Mr. LETCHER. I could not give you a vote upon them. As I understand the matter, the Speaker of the House decided that the proposition in the shape in which it was presented here was the only proposition that could be voted upon. That is my understanding.

Mr. PHELPS, of Missouri. With the permission of the gentleman from Virginia, I desire to say that, after certain amendments had been adopted by the committee—

Mr. LOVEJOY. I object to the interruption.

The SPEAKER. The gentleman from Missouri cannot proceed, as objection is made.

Mr. LETCHER. I am sorry to see the House in so objective a mood to-day. It seems to me that if there was less objection and more conciliation and desire to hear and to understand, there would be less difficulty in arriving at a sensible conclusion.

Mr. NICHOLS. That is it exactly. You have hit it, and I say here now—

Mr. HUGHES. I object.

The SPEAKER. Then the gentleman from Ohio cannot proceed.

Mr. NICHOLS. Well, let it go. If objection is to be the order of the day, get the bill through if you can.

Mr. LETCHER. I have no personal interest in this matter. God knows that nobody from my district is concerned; no one is in a foreign mission or consulship; and, so far as the defeat of the bill is concerned, it hurts no one of my constituents. I have said that I have no personal interest in it; but I have an interest in endeavoring to get the legislation of the session through, and to get it through in some satisfactory way. There are but five weeks of the session left. If the bills are to be defeated and new bills are to be brought in, the result will be that the session will expire without the necessary appropriation bills being passed. It seems to me that we might avoid much of this; that we might, by comparing views, understand each other in the course of an hour's time, and present a bill here that would be acceptable, if not to all, at least to a majority of the House.

So far as the mission to Persia is concerned, to which the gentleman from Ohio has referred, I care nothing about it. I would as soon it was out of the bill as in it. But we have to do something; and after all is done in this body, suppose you strike out these missions, and the bill goes to the Senate, is there a gentleman upon this or upon the other side of the House who entertains a doubt that when the bill comes back from the Senate, it will come back containing these very identical appropriations that have been stricken out here.

Mr. JONES, of Tennessee. Then I will vote against it.

Mr. LETCHER. Well, let him do it. But will he expedite business, or arrive at a vote against it then, by defeating the bill here and sending it back to the Committee of Ways and Means, without information as to what he wants?

Mr. JONES, of Tennessee. Let the majority of the committee make a report.

Mr. LETCHER. How are we to know what the majority of the House wants? Now, I ask the gentleman from Tennessee what bill would suit him?

Mr. JONES, of Tennessee. Take out these new missions to Persia and Japan, and I will vote for it.

Mr. EDIE. I object to the interruption.

Mr. LETCHER. The gentleman from Tennessee wants two missions stricken out. Now, how many does the gentleman from Indiana [Mr. COLFAX] want out, and how many does the gentleman from Ohio [Mr. SHERMAN] want out? Let us see how the thing stands?

Mr. COLFAX. I will answer the gentleman.

Mr. JONES, of Pennsylvania, (in his seat.) I object.

Mr. NICHOLS. Is an objection in order, unless the gentleman making it rises from his seat?

The SPEAKER. It is not.

Mr. LETCHER. I did not hear the remark of the gentleman from Ohio.

The SPEAKER. The remark was addressed to the Chair.

Mr. LETCHER. Now, we want to arrange this matter.

Mr. GIDDINGS. Will the gentleman from Virginia permit me to propound to him one question?

Mr. LETCHER. Certainly, sir.

Mr. GIDDINGS. This is an appropriation bill, and my action on it will depend upon his answer. I ask him if it is the intention of the Committee of Ways and Means to report a bill appropriating \$30,000,000 for the purchase of Cuba? If it is, I wish to stop the Administration where it is.

Mr. LETCHER. Why, Mr. Speaker, so far as that is concerned, I believe it is the Committee on Foreign Affairs that has Cuba in charge, and not the Committee of Ways and Means. If the Committee on Foreign Affairs introduce such a bill, and that bill becomes a law, I imagine that the gentleman from Ohio will agree with me that the Committee of Ways and Means have no alternative but to conform their action to the action of Congress.

Mr. GIDDINGS. I made a mistake as to the committee; but I wish to say that if it is the intention of the friends of the Administration to appropriate \$30,000,000 for the purchase of Cuba, I am willing to stop its proceedings here; and I, for one, will not help the Administration by my vote.

Mr. LETCHER. Well, then, all that I can say is—

The SPEAKER. It is the opinion of the Chair that the propriety or impropriety of the acquisition of Cuba is not a proper subject for discussion on the pending proposition.

Mr. LETCHER. I have but a word or two more to say upon this subject. I am somewhat surprised at the views presented by the senior member from Ohio on this subject. Whether the sum of \$30,000,000 shall be appropriated or not with a view to the acquisition of Cuba, has nothing to do with this consular and diplomatic bill. This bill should be passed or rejected upon its merits alone. But if, after the votes which have been taken to-day, the bill should be referred back to the Committee of Ways and Means, it would go back to that committee without the slightest indication of what changes a majority of the House desire to have made in it.

Mr. STANTON. If I understand the rules, aught, the Committee of Ways and Means could accomplish nothing without a reconsideration of the vote by which the bill was ordered to be engrossed; and that cannot be had, because a motion to reconsider has already been made and laid upon the table. The only course, then, is for a new bill to be introduced, as I understand it; and therefore, the motion of the gentleman from North Carolina may as well be laid upon the table.

The SPEAKER. The Chair desires to correct a statement which he made. The Chair is informed by the Clerk that the motion made by the gentleman from Missouri [Mr. PHELPS] to reconsider and lay upon the table related to the last amendment, which was adopted. The Chair inadvertently stated that a motion to reconsider the vote by which the bill was ordered to be engrossed had been laid upon the table.

Mr. STANTON. Then I understand that we can reconsider back to the engrossment of the bill, and then amend or recommit it.

Now, I have only this to say in reply to the gentleman from Virginia, [Mr. LETCHER:] I understand that the votes upon this side of the House against the bill were nearly all given upon the ground that there was an unnecessarily large number of missions provided for in the bill, including some new ones; that it proposed an increase in the foreign missions, and provided for at least half a dozen missions that are utterly unnecessary. And there will be no votes for the bill from this side of the House, if there are provisions in it that we do not approve. We hold that if bills which are exceptionable and do not meet our views are to be passed by this House, they must be passed by the friends of the Administration. If they are unexceptionable, and are made to conform to our views, we hold ourselves bound to vote for them. But if gentlemen incorporate into their bills, appropriations which I think unjust, improper, and unnecessary expenditures, I shall vote against the bills, and throw upon the other side of the House the responsibility of their passage.

Now, Mr. Speaker, there need be no difficulty about the matter if opportunity for a fair vote is given upon the striking out of such missions as are believed to be unnecessary. I think, myself, that the vote by which the bill was rejected, should be reconsidered, and that the bill should then be sent to the Committee of Ways and Means, with a view to its correction.

Mr. PHELPS, of Missouri. Gentlemen upon the other side of the House complain that they had not an opportunity to vote in the House upon certain amendments that were adopted in the Committee of the Whole on the state of the Union. I desire to call the attention of the House to the action had in that committee. Three or four different missions were stricken out; and then a gentleman on the other side of the House, versed and skilled in parliamentary tactics, after those amendments had been adopted by the votes of the committee, proposed an amendment to strike out the whole of that paragraph and insert that which the committee adopted. That is the action that

was had in the Committee of the Whole. It was well known that the amendments which had been, prior to that, adopted, were lost by that action.

Mr. SHERMAN, of Ohio. Will the gentleman yield to me for a moment?

Mr. PHELPS, of Missouri. I do, sir.

Mr. SHERMAN, of Ohio. The gentleman misunderstands the motion I made in committee. I moved, as is shown by the Globe, to strike out all that remained of the original paragraph, except certain missions. The question was raised; and the chairman of the Committee of the Whole on the state of the Union expressly said that he would report back to the House the amendments in regard to the missions to Persia and other countries, and then the amendment that I offered myself. I acted upon his statement made as chairman of the Committee of the Whole on the state of the Union; and I was absent this morning when this question arose.

Mr. PHELPS, of Missouri. I refer to the action of the House. Now, sir; there is no better established principle of parliamentary law than that when you have made an amendment to a section of a bill, and have stricken out a portion of it, and when, by a subsequent motion, you have stricken out the whole section, and inserted new matter, the preceding amendment is lost. That is a settled principle of parliamentary law. Then, when the action of the House was had upon the amendment adopted in committee on the motion of the gentleman from Ohio, [Mr. SHERMAN,] the House refused to concur in that amendment, thus showing that they approved of the text of the bill as it came from the committee, so far as this paragraph was concerned. An amendment was adopted in committee providing for a new mission at Japan; the House voted in that amendment, no gentleman calling for a division in this House on that amendment, although the mission is entirely a new one, not recommended by the Committee of Ways and Means; not recommended by the President; but adopted simply upon the recommendation of the Secretary of State, contained in a letter addressed to the chairman of the Committee on Foreign Affairs in this House.

The other amendment adopted by the House, reported from the Committee of the Whole on the state of the Union, was reducing the appropriation for carrying on the boundary survey on the northwest, from \$100,000 to \$71,000.

The House then refused to concur in the amendment reported from the Committee of the Whole on the state of the Union striking out the last clause of the bill, and left the paragraph as reported from the Committee of the Whole on the state of the Union.

Now, then, if this bill be recommitted to the Committee of Ways and Means, how can they reconstruct another bill which shall conform to the wishes of the House? They cannot conform it to the report of the Committee of the Whole on the state of the Union; for the House has decided that that report is unacceptable to them. The gentleman from Ohio [Mr. STANTON] says, if we can have a separate vote upon some of the missions—upon Persia, Switzerland, Rome, and perhaps one or two others, he is willing to acquiesce in the passage of the bill. Well, sir, as far as I am concerned, I am willing that such a course shall be taken. When the gentleman from Alabama [Mr. HOUSTON] proposed in committee to strike out the enacting clause, and asked whether votes could not be had in the House upon these several missions, for the purpose of expediting the business of the House, I assented to the proposition, and said I would myself make the proposition if the bill was carried to the House, though I should vote against the motion myself. I knew very well at the time that the report would be made which has been made, if the bill was carried regularly to the House with the amendments made in committee attached to it.

Now, Mr. Speaker, I know of no other course to be pursued except to adopt the motion to reconsider. But here another difficulty arises. I call the attention of the House to the fact, that when the gentleman from Virginia [Mr. LETCHER] was trying to ascertain from gentlemen on the other side of the House what modifications they desired, the gentlemen on this side who objected were the men who were found voting, side by

side with gentlemen on the other side, against the bill.

Mr. DAVIDSON. I hope the gentleman will exempt me from that statement.

Mr. PHELPS, of Missouri. I except the gentleman from Louisiana, certainly. I alluded particularly to the gentleman from Tennessee, [Mr. WRIGHT,] who is recorded as standing side by side with gentlemen on the other side, against the bill.

Mr. RITCHIE. It strikes me that the only objection on the part of gentlemen on this side of the House, is that they were not allowed to have separate votes on some of these missions. If the vote of the House can be reconsidered, so as to bring the bill in a shape where it can be amended and we can have separate votes upon these missions, I, for one, shall be very willing to vote for the bill.

Mr. BRANCH. Will the gentleman allow me for a moment? I wish to make a suggestion which I hope will meet the views of gentlemen all around the House. I have made the motion to reconsider, because I feel that there is a duty resting upon this House, and upon myself, as a member of the Committee on Foreign Affairs, that this bill shall not be allowed to fail.

Mr. RITCHIE. I will vote for your motion to reconsider with pleasure.

Mr. BRANCH. I made the motion with the hope of saving this bill. It was my intention to ask that the motion should go over until to-morrow, and in the mean time there would be an opportunity to consult with the Committee of Ways and Means, and with members who have opposed the bill, in the hope that by a comparison of views, some plan might be agreed on by which the bill could be passed. I hope the motion may be allowed to go over until to-morrow.

Mr. RITCHIE. I think that is a good suggestion, and I hope it will be agreed to.

Mr. BARKSDALE. I think I can make a suggestion by which, perhaps, an agreement may be arrived at, in reference to this bill. If the Committee of Ways and Means will report another bill, leaving out the mission to Persia, and leaving out that clause of the bill which provides for carrying into effect the arrangement made by the President with the Colonization Society, I think the bill will pass.

Mr. HOPKINS. I have risen to make a suggestion to the House, in the hope that there may be some rule of action agreed upon, which will do away with the postponement of final action upon this bill. It is true, as has been stated, that separate votes were taken in Committee of the Whole upon striking out several of these missions, which received a majority of votes.

We have already had a deliberate vote in the House, by yeas and nays, upon the last clause of the bill referred to by the gentleman from Mississippi, [Mr. BARKSDALE.] I propose, then, that this motion to refer be agreed to; and that separate votes shall be taken upon striking out each of the missions which were stricken out in committee; with the understanding that the yeas and nays shall be taken upon each one, if gentlemen desire, and then we may pass the bill. I myself shall vote, upon every motion to strike out, in the negative, as I did in committee.

Mr. HOWARD. I approve of the proposition of the gentleman from Virginia, who has just taken his seat; and, in this connection, I wish to state what controlled me in my vote upon this bill. In the Committee of Ways and Means I voted for reporting this bill to the House. I wish now to see the bill pass in the shape in which it came from the Committee of Ways and Means. Yet, sir, I voted against this bill. I felt constrained so to vote, because, although I agreed with the Speaker in his decision of the point of order made this morning upon the statement of facts presented, it is nevertheless true that a different statement of facts was presented in committee; which statement influenced many gentlemen on this side in the votes they gave upon the proposition of the gentleman from Ohio. The appeal was made to me, "will you enrap us?" Sir, my reply was: "no; I will take the whole responsibility rather than do it."

Now, I want them to have a vote upon those missions which were stricken out. I myself shall vote against every one of them, and then vote for the bill; and the bill will pass if the suggestion of the gentleman from Virginia is adopted.

Mr. PHELPS, of Missouri. I will say to the gentleman that I approve of his suggestion, as well as of the suggestion of the gentleman from Virginia, [Mr. HOPKINS.] Four missions were stricken out.

Mr. SEWARD. I object to the gentleman's speaking in the time of the gentleman from Michigan.

Mr. HOWARD resumed the floor.

The SPEAKER. Will the gentleman from Michigan allow the Chair to make a suggestion. There has been no vote taken upon the proposition to reconsider the vote by which this bill was ordered to be engrossed and read a third time. It is entirely competent for the House to reconsider the vote rejecting the bill. It will then be competent to reconsider the vote ordering the bill to be engrossed and read a third time. Then the House will be brought to a vote upon the bill in the precise shape in which it was when it was ordered to be engrossed.

Mr. HOWARD. I wish to state further, principally by way of explaining my own vote, that an appeal was made to me that the report which the Chairman of the Committee of the Whole on the state of the Union was to make should be reduced to writing and actually shown to members; not because it was supposed that there was bad faith upon the part of anybody, but because there were different views in relation to the parliamentary rules.

Mr. CRAWFORD. In reference to the course which the House has seen fit to take upon this bill, speaking for myself alone, I say I am prepared to take my full share of the responsibility. I understand this bill to be very strong in its separate parts. There is a shifting majority in the House in favor of particular sections; for instance, that portion of it to which myself and some of my friends have been particularly opposed during its consideration, I have no doubt, is the strongest feature in the whole bill, and will control more votes than any other particular clause in it. And, sir, if any arrangement can be made by which a vote shall be given with reference to the missions to Persia, Rome, and Switzerland, it will not succeed if it be within the power of those who are opposed to the last clause of the bill to defeat it. We desire, with reference to that particular clause, that its provisions shall come up in a separate and distinct bill. That the subject is strong enough to pass the House, I do not doubt. But there are certain members who have been voting against that clause for the purpose of recording their votes in opposition to the construction of the act of 1819, which provides for the return to Africa of the slaves taken from on board the slaver Echo. And if that is the only way by which we shall be allowed by the House to express our opposition to that construction, we will kill the whole bill before we will take it with that clause in it.

There is another class of men who oppose the bill. Some of the tariff men here will not, perhaps, vote for any appropriation bill at all, until the tariff is raised. Perhaps that will account for some portion of the opposition votes. I do not know whether this is so or not. But no arrangement can be made by which my vote can be recorded in favor of this bill, unless that clause can be placed in such a shape that I can approve of it. And I desire to say now, what I would have said yesterday, had I been allowed the opportunity, in reference to that particular clause; and that is, I am willing to pay the bounty of twenty-five dollars a head. That is the law of the land, and of course I am willing to sustain it. The officers and crew are entitled to it; and they will be entitled to it whether we incorporate it in this bill or compel them to come here at some future time to claim it. But I want this particular question to depend upon its own merits, and I shall be utterly opposed to any bill, though it be a bill making the entire appropriations necessary to carry on the Government, if it contain this clause. I am opposed to educating these Africans upon the coast of Africa, or anywhere else. This very question of opening the slave trade is one of the highest importance, and one which threatens to make and unmake parties in the country. It is a question, which grows stronger and stronger every day, and I believe the result of it will be the building up and tearing down of party platforms; and the only way by which it can be prevented is to cease

that war which has been made upon slavery for years past; and even that is doubtful—but that is the only remedy.

Mr. PHELPS, of Missouri. I would inquire of the gentleman whether the \$45,000 is not the exact sum stipulated to be paid to the Colonization Society for maintaining and educating these negroes?

Mr. CRAWFORD. I will say to the gentleman, in reply to that, that upon looking into this particular question, I was given, by the clerk of the Committee of Ways and Means, a statement from the Secretary of State, which stated that \$30,000 was the sum required. Now, I say, the question is between the gentleman from Missouri and the Secretary of State. If the Secretary of State has misled me, he is responsible for it, and the chairman of the Committee of Ways and Means knows full well that I would not give my support to that proposition. If the amount was \$45,000, instead of \$30,000, I would have moved to reduce it to \$30,000.

Mr. PHELPS, of Missouri. A contract was made by the President of the United States, with the Colonization Society, for the maintenance of those Africans, and, if \$30,000 is necessary for that purpose, it will be paid under the appropriation. The contract stipulates that so much per head shall be paid for the support and maintenance of those negroes for twelve months after their arrival in Africa, subject to a *pro rata* deduction from the price stipulated in the event of the death of any of them before they are landed in Africa.

Mr. CRAWFORD. I will say, in reference to that, that if the President shall appropriate the \$45,000 to the education and schooling of those Africans, it will be no fault of mine. I supported the amendment offered yesterday by the gentleman from Mississippi, that no part of it shall be used for that purpose. If the President does that, as a matter of course, the result will be that the bounty of twenty-five dollars a head, which the officers and crew of the capturing vessel are entitled to, cannot be paid. The President can take his choice between paying to American citizens, attached to the American Navy, the bounty to which they are entitled under the law, or appropriating it to the education and support of those negroes in Africa. If they are to be educated, it could be done better in this country than abroad. I would like to have a vote in this House, which would show how many Representatives upon this floor will vote for educating Africans in Liberia, whilst there are hundreds of poor whites in their own districts who could not get one dollar for such a purpose out of the Treasury. In the South, at least, we look upon white people as being as good as negroes, to say the least of it.

I would like to have a test vote on that particular question.

Mr. SMITH, of Virginia. Will the gentleman allow me?

Mr. CRAWFORD. Yes, sir.

Mr. SMITH, of Virginia. There is not one word in the bill that countenances the idea of educating these Africans.

Mr. CRAWFORD. But the gentleman from Virginia knows full well that a contract has been entered into for that purpose; and it is no escape for him and those who vote for this proposition that they do not know it is so, for I assure them it is so.

Mr. SMITH, of Virginia. With the permission of the gentleman, I will say this: The law is one thing, the administration of it another. If the law itself be unexceptionable, then no objection can be urged to it. If the Administration execute the law improperly, that is a subject for animadversion, and it will no doubt receive animadversion; but this is no way to bestow it. Let the gentleman read the section. It is this:

"To enable the President of the United States to carry into effect the act of Congress of 3d March, 1819, and any subsequent acts now in force for the suppression of the slave trade, \$75,000: *Provided*, That so much of said appropriation as may be required to pay expenses already incurred may be used from and after the passage of this act."

Mr. CRAWFORD. I ask the gentleman from Virginia how these expenses were incurred, and whether he is not informed as to the manner in which they were incurred?

Mr. SMITH, of Virginia. I answer the gentleman's question distinctly, that whether the expenses have been incurred in one way or another,

is a matter of no consequence. The question is: is this section right? is it proper for us to pass a law placing funds in the hands of the Executive for executing the legislation of Congress for the suppression of the slave trade?

Mr. CRAWFORD. I ask the gentleman whether existing legislation authorizes the President to enter into contracts to support, school, and civilize and Christianize these negroes in Africa, as has been stated by the gentleman from Missouri, [Mr. PHELPS?]

Mr. SMITH, of Virginia. I answer the gentleman by saying to him that that may be a maladministration of the law; but I put it to him whether that can be remedied in the way now proposed?

Mr. CRAWFORD. I think it can be; and it is for that reason I propose to do it. I say to the gentleman now, that if he votes for this proposition, and if it should be enacted into a law, it will give the same construction to the act of 1819 for the next half century, if the Government should last so long. If the section had appropriated \$5,000,000, would the gentleman from Virginia have voted for it?

Mr. SMITH, of Virginia. I would not have voted for it, because no such sum could possibly have been necessary. But here is a subject that has been investigated by a committee of the House. The amount is not large. I was for reducing it to existing liabilities; but I will not, because there is an excess of some \$30,000, throw away the whole bill.

Mr. CRAWFORD. I ask the gentleman whether, instead of bringing in only the captured negroes of the Echo, those of the Wanderer had been brought in, and to the number of twenty thousand more, and the President should make a contract for schooling, educating, and Christianizing them in Africa, he would vote to give effect to that contract?

Mr. SMITH, of Virginia. Why, the gentleman himself wanted to have \$45,000 put into the bill. That was to execute existing law, the gentleman says. That being his object, the gentleman commits himself to making similar provision for every vessel that comes thus freighted.

Mr. CRAWFORD. No, sir; I commit myself to no such thing. I commit myself to the payment of the bounty and the support while here, and the transportation back, just as I understand and construe the law, and as every court in the country would construe it. While other gentlemen commit themselves to a construction that is humanitarian and sentimental in character, I stand on the naked law itself, and obey its requirements.

Mr. SMITH, of Virginia. I will say this: that I certainly should not approve the expenditure of any portion of the public money for the purpose of educating Africans in Africa or anywhere else.

Mr. CRAWFORD. Exactly; and that is the reason why I voted against this bill.

Mr. SMITH, of Virginia. But I say that that is not the way of preventing it. This debate will prevent it.

Mr. CRAWFORD. I propose now to show why I agreed to pay \$45,000. I have, sir, before me the act of 1819. That act provides, in the first place, that the President of the United States shall employ the vessels of the United States for the purpose of capturing and bringing in such vessels as may be engaged in the slave trade; and in the next place it gives the President power to send these vessels on our own coast or on the coast of Africa to accomplish this purpose. It enacts, also, that a bounty of twenty-five dollars per head shall be paid to the officers and crews of the commissioned vessels of the United States for each negro, mulatto, or person of color, that shall be delivered to the marshal.

Now, the captors of this slaver were entitled to twenty-five dollars per head, on two conditions: one is that they shall deliver the negroes to the United States marshal where they land. The other is that they shall deliver the offending crew and offending officers of the slaver to the civil authorities of the United States. They have done both, performed the conditions, and, as a consequence, are entitled to the money.

Now, the question is, whether the officers and crew in this case, entitled to the bounty as they are, shall be paid. The law is on the statute-book, and it would be a violation thereof to re-

fuse to vote this \$45,000 to these men who are thus entitled. I did not make the law, but while it is the law I will execute it.

Mr. MILLSON. I ask the gentleman from Georgia whether it was not his purpose in submitting his amendment, to cut off all that part of the appropriation that was intended to pay the Colonization Society under their contract with the President?

Mr. CRAWFORD. It was intended to cut off that portion of it which the Secretary of State said was to be used by the Colonization Society for the purposes named.

Mr. MILLSON. Was that not the whole amount agreed to be paid for the shelter and support, as well as for the schooling, of these Africans?

Mr. CRAWFORD. So it was; but it was to be used in Africa, whilst the law makes it the duty of Congress to pay for the support and maintenance and keeping of these negroes from the time they are landed on our coast, until the President shall have sent them out of the country, and no longer.

Mr. MILLSON. I ask the gentleman if it was not his purpose to reduce the appropriation to the extent that was to be paid to the Colonization Society?

Mr. CRAWFORD. It was to reduce the appropriation simply to the extent that it was to be used for these negroes after they had passed from our country and had been landed in Africa.

Mr. MILLSON. So I said; but that was not the expression or understanding of many gentlemen who voted for your proposition; and what I wanted was to explain that.

Mr. CRAWFORD. I do not know the reasons for gentlemen's votes; but I desire to say, so far as I am concerned, that there is not in my mind the shadow of a doubt with regard to the liability of this Government to pay for the keeping of these Africans, to support and maintain them while in the United States, and to send them back to Africa and deliver them to our agent. I will vote for that, because it is to carry out existing law—not that I would make it; but at the same time, I find it on the statute-book, and it is my duty, as a matter of course, to vote for an appropriation to carry it out, so long as it is the law.

Mr. SMITH, of Virginia. I desire to know if I understand the gentleman aright? The gentleman will vote \$45,000 as the sum necessary to meet the existing engagements of the Executive.

Mr. CRAWFORD. No, sir; not the existing engagements; only so far as they follow the law.

Mr. SMITH, of Virginia. Yes, sir; the existing engagements or liabilities of the Government on account of this cargo of Africans sent back to Africa in the Niagara. He is willing to pay the amount that that transaction will cost, and that transaction as I understand it, was followed by a contract which embraces safe-keeping, provisions, shelter, and education.

Mr. CRAWFORD. Yes, sir.

Mr. SMITH, of Virginia. I understand, and the gentleman has himself told me, that the contract provides for all that.

Mr. CRAWFORD. The contract does, but not the law.

Mr. SMITH, of Virginia. The contract does. Well, now how can the gentleman separate those particular features under this appropriation? Does he not, in voting for the appropriation of \$45,000, vote for the whole of them?

Mr. CRAWFORD. No, sir.

Mr. SMITH, of Virginia. But under the original appropriation in the bill, there would be \$30,000 left to be expended in a similar way, and, I suppose, under another contract which may be made hereafter for the return of other captured Africans.

Mr. CRAWFORD. I repeat, emphatically, what I said before, that on referring to the law I find that after these Africans are brought here it is the duty of the President to provide: first, for their "safe-keeping." That does not imply "education." In the next place, I find that it is the duty of the President to provide for their "support" whilst here, as the next words show, "and their removal beyond the limits of the United States." Now, I call upon the friends of this measure to show me the word "support" after that point in the law. It is not there. He is authorized, as I have said, to provide for their

safe-keeping and support whilst here, and remove them to Africa; and if that were all that the President had done, the proposition urged by the gentleman could be properly considered by the House. But that is not the case.

Now, Mr. Speaker, this act was passed in 1819, and I am free to say that the South supported it and voted for it. What was their object? They voted for it for the reason that the negroes brought to this country were wild, uncultivated savages, and it was unsafe to turn them loose here. Why, sir, South Carolina, in 1760, was the first State, by her colonial Legislature, to pass a resolution for the purpose of putting a check to the slave trade. And what was the result of that action? South Carolina received a rebuke at the hands of the English Government; and, in addition to that, circulars were sent not only to her Governor, but to every other one throughout the colonies, warning them against a similar outrage; for thus it was then considered. In 1819, upon the passage of this act, the whole South was in favor of it; but now, in 1859, pressed as she has been for thirty years upon that subject, she stands to some extent divided; knowing, as she does know, that laborers from Europe and Asia are not adapted to the cultivation of her great staples of cotton, sugar, and rice, and that vastly more of labor can be employed profitably within her limits, many patriotic citizens are openly for a repeal of those laws prohibiting the importation of African laborers to such of the States as might desire to do so. The repeal of these laws depends upon the men of the North, and not upon us.

As I said before, South Carolina and other States early moved in this matter; but to-day we stand in a different position, and our opinions of slavery are different from what they were then. Then it was the custom of our private and our public men to excuse themselves for its existence among them; but "Abolition" movements, from 1820 to this time, have caused investigation and discussion of the subject until it is stronger in the South than ever before; and although its enemies have increased, it never had so many friends as at this time. No southern man condemns it as an evil, either moral or political; and so far from apologizing for it here now, as our Representatives did in 1820, we stand here its advocates and defenders. Moreover, we say to you of the North, who advocate the doctrines advanced both here and in another place, that if it is a war between the States and Territories for free labor or slave labor—that "all must be free or all must be slave"—you but hasten the day when, upon the plains of Arizona and the territory south of us, even to Central America, you will find the South equal to the necessity which you have imposed upon her, and a perpetuation of slavery, which time itself can scarcely compute. The question therefore rests with the North. Let us alone and we are content; if we are driven to the importation of African laborers it will be your fault, not ours.

Mr. BRANCH. I am satisfied that the House is now prepared to sustain my motion to reconsider the vote by which the bill was rejected; and I therefore demand the previous question on that motion. If the motion to reconsider prevails, I shall then move to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

Mr. SEWARD. I desire to know whether any consent is understood to be given, by which the parliamentary law is to be evaded in reaching a vote on this question? Because I shall object to anything that is not strictly in order.

The SPEAKER. The Chair is not aware that any such arrangement has been made by anybody.

Mr. MILLSON. I ask the gentleman from North Carolina to withdraw the call for the previous question. I desire to say a word or two.

Mr. BRANCH. I would do it for no gentleman in the House with more pleasure than for my friend from Virginia, but I am afraid of the effect of throwing open this debate again. It has been going on now for days and almost weeks, and I am reluctantly compelled to insist on the previous question.

Mr. MILLSON. I only desire to speak for about ten minutes, and I will then renew the demand for the previous question.

Mr. BRANCH. I must insist on my motion.

The previous question was seconded, and the main question ordered.

Mr. BONHAM. I would inquire of the Chair whether, if we reconsider both the votes which the gentleman from North Carolina intimates his purpose to move to reconsider, the bill can be reformed? I am informed by friends around me that it cannot.

The SPEAKER. The bill will be open to amendment if the House shall reconsider the vote by which it was ordered to be engrossed and read a third time.

Mr. BONHAM. Does it require a two-thirds vote?

The SPEAKER. It does not.

Mr. COVODE. I move that the whole subject be laid upon the table.

The motion was disagreed to.

The vote by which the bill was rejected was then reconsidered.

Mr. BRANCH. I now move to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and on that motion I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and it was decided in the affirmative.

So the motion to reconsider was agreed to.

The question then recurred, "Shall the bill be engrossed and read a third time?"

Mr. PHELPS, of Missouri. I now submit the motion, not with the purpose of myself voting for it, but for the purpose of giving the House an opportunity of voting on the several propositions to strike out the missions for Persia, Switzerland, Rome, and Buenos Ayres. I call for a separate vote upon each, and demand the previous question.

Mr. JONES, of Tennessee. I ask the gentleman to include the mission to Japan.

Mr. PHELPS, of Missouri. I cannot, because the House has already had a separate vote upon that.

Mr. JONES, of Tennessee. Then I will not vote for the bill.

Mr. STANTON. I hope the gentleman will include Austria in his motion.

Mr. PHELPS, of Missouri. The gentleman from Ohio will see—

Mr. SEWARD. I object to debate.

Mr. PHELPS, of Missouri. I withdraw the demand for the previous question, to enable me to reply to the gentleman from Ohio, who asks me also to move to strike out Austria. It seems to me that is asking too much.

Mr. STANTON. I understood that country to have been included in the gentleman's original motion.

Mr. PHELPS, of Missouri. It was not; and the motion was not even made as a separate motion in committee. However, I will include Austria in my motion; and now I demand the previous question.

Mr. CRAWFORD. I hope the gentleman will also allow us to have a vote upon the last clause of the bill.

Mr. PHELPS, of Missouri. I cannot, because the House has already voted by yeas and nays once upon that question.

The previous question was seconded, and the main question ordered to be put.

The question was first upon striking out from the tenth line of the bill the word "Austria."

Mr. MARSHALL, of Kentucky, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 120; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Bliss, Brayton, Buffington, Burlingame, Burroughs, Case, Clawson, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Granger, Grow, Harlan, Harris, Board, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Morgan, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Ricard, Robbins, Royce, Sandridge, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, and Wilson—71.

NAYS—Messrs. Adrain, Ahl, Anderson, Avery, Barksdale, Barr, Bishop, Boccock, Bonham, Bowie, Boyce,

Branch, Bryan, Burnett, Burns, Caruthers, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockeill, Comins, Corning, Cox, James Craig, Crawford, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, Eustis, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Gilles, Gooch, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, George W. Jones, Owen Jones, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, McRea, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Montgomery, Moore, Morrill, Edward Joy Morris, Freeman H. Morse, Niblack, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Ready, Ritchie, Roberts, Ruffin, Russell, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Vallandigham, Ward, White, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—120.

So the amendment was not agreed to.

During the call of the roll,

Mr. MOORE stated that Mr. CURRY had left the House on account of indisposition.

Mr. WHITELEY stated that he had paired off with Mr. EDIE.

The question then recurred on striking out, in the eleventh line, the word "Persia."

The amendment was agreed to.

The question then recurred upon striking out the word "Switzerland," in the eleventh line of the bill.

The amendment was not agreed to.

The question then recurred upon striking out from the eleventh line, the word "Rome."

Mr. EUSTIS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 76, nays 119; as follows:

YEAS—Messrs. Abbott, Bennett, Billingham, Bliss, Buffington, Burlingame, Horace F. Clark, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Fenton, Garnett, Giddings, Gilman, Gilmer, Granger, Grow, Harlan, Harris, Houston, George W. Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Maynard, Moore, Morgan, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pike, Potter, Pottle, Ready, Ricard, Ritchie, Robbins, Ruffin, Sandridge, Henry M. Shaw, John Sherman, Spinner, Stanton, William Stewart, Tappan, Tompkins, Tripp, Vance, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Wilson, and Zollcoffer—76.

NAYS—Messrs. Adrain, Ahl, Andrews, Avery, Barksdale, Barr, Bishop, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskie, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockeill, Comins, Corning, Cox, James Craig, Burton Craig, Crawford, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, Eustis, Farnsworth, Faulkner, Florence, Foley, Foster, Gartrell, Gilles, Gooch, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hawkins, Board, Hodges, Horton, Howard, Hughes, Huyler, Jackson, Owen Jones, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, McRea, Humphrey Marshall, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Niblack, Nichols, Pendleton, Pettit, Peyton, John S. Phelps, Phillips, Powell, Purviance, Roberts, Royce, Russell, Scott, Searing, Seward, Aaron Shaw, Shorter, Sickles, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Underwood, Vallandigham, Ward, Cadwalader C. Washburn, Israel Washburn, White, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—119.

So the amendment was not agreed to.

The question then recurred upon striking out, in the eleventh line, the words "Buenos Ayres."

Mr. PHELPS, of Missouri. I merely desire to say that this is not a new mission. It does not include any new appointment, and only \$2,700 additional appropriation.

Mr. SEWARD. I object to debate.

Mr. GROW called for the yeas and nays.

The yeas and nays were not ordered.

The amendment was disagreed to.

Mr. PHELPS, of Missouri. The House has stricken the Persia mission from the bill; and I now ask the unanimous consent to reduce the appropriation \$10,000.

Mr. SEWARD. I object.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PHELPS, of Missouri, moved the previous question.

The previous question was seconded; and the main question ordered to be put.

Mr. SHERMAN, of Ohio, demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 91, nays 93; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Avery, Barks-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2d Session.

SATURDAY, JANUARY 29, 1859.

NEW SERIES...No. 41.

dale, Barr, Bishop, Boccock, Bowie, Branch, Burnett, Burns, Caruthers, Chapman, John B. Clark, Clay, Clark B. Cochran, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Davidson, Davis of Indiana, Dewart, Edmundson, Enstis, Faulkner, Florence, Foley, Foster, Garrett, Gillis, Gooch, Goode, Greenwood, Greer, Groeschel, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Howard, Hughes, Huyler, Jackson, Jenkins, Owen Jones, Landy, Leidy, Letcher, Humphrey Marshall, Samuel S. Marshall, Mason, Millson, Montgomery, Morrill, Freeman H. Morse, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Ritchie, Russell, Scott, Searing, Aaron Shaw, Henry M. Shaw, Sickles, Robert Smith, Samuel A. Smith, William Smith, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Vallandigham, Ward, Israel Washburn, White, Winslow, Wood, Woodson, and Wortendyke—91.

NAYS—Messrs. Andrews, Bennett, Bingham, Bliss, Bonham, Boyce, Brayton, Buffinton, Burlingame, Burroughs, Case, Clawson, Cobb, Colfax, Covode, Cragin, Crawford, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Farnsworth, Fenton, Gartrell, Giddings, Gilman, Gilmer, Granger, Grow, Harlan, Harris, Hoard, Horton, Houston, George W. Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Lamar, Leach, Lovejoy, McQueen, McRae, Matteson, Maynard, Miles, Moore, Morgan, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ready, Ricard, Robbins, Roberts, Royce, Ruffin, Sandridge, Seward, John Sherman, Shorter, Spinner, Stallworth, Stanton, Stephens, William Stewart, Tappan, Thayer, Tompkins, Tripp, Vance, Wade, Walbridge, Waldron, Walton, Cadwallader C. Washburn, Elihu B. Washburne, Wilson, and Zollicoffer—93.

So the House refused to pass the bill.

Pending the call,

Mr. MORRIS, of Pennsylvania, said: I would like to ask the chairman of the Committee of Ways and Means, before I vote, whether he intends to introduce a bill to increase the duties on imports?

Mr. GARTRELL. I object to discussion.

Mr. DURFEE said: I prefer to see where the money is to come from before I vote for these appropriation bills.

Mr. NICHOLS. The only condition I insisted on having been performed, I vote in the affirmative.

Mr. BARKSDALE. I am sufficiently upon the record, Mr. Speaker. ["Order!" "Order!"] I vote in the affirmative.

Mr. NICHOLS. I will change my vote. I vote "no."

The vote was then announced as above recorded.

Mr. WASHBURN, of Illinois, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

Mr. FLORENCE. Upon that I demand the yeas and nays.

Mr. SICKLES. I move that the House do now adjourn.

JUDGE IRWIN.

Mr. HOUSTON. I appeal to the gentleman from New York to withdraw that motion.

Mr. FLORENCE. There is a question pending which will take precedence of anything the gentleman from Alabama desires.

Mr. HOUSTON. I desire to appeal to the House to allow me to make a report from the Committee on the Judiciary, which ought to be acted upon immediately. If gentlemen will hear it read they will interpose no objection.

Mr. DEAN. I call for the regular order of business.

Mr. HOUSTON. If the gentleman from Connecticut will hear the report, he will not object. Mr. WASHBURN, of Illinois. I have asked the House to permit me to have printed a report to accompany an important bill, and when I have done so, the regular order of business has always been called for upon that side of the House. I object.

Mr. SICKLES. I moved that the House adjourn.

Mr. HOUSTON. If it is in order, I ask for the reading of the resolution which I—

Mr. WASHBURN, of Illinois. I ask for the regular order of business.

Mr. HOUSTON. I ask the Chair if there is not something in the matter now under examination before the Committee on the Judiciary, in relation to charges against one of the judges of the United States, which involves such a question of privilege as will entitle it to come before the House?

Mr. DEAN. I withdraw my objection.

Mr. CLARK, of New York. If the gentleman from Illinois [Mr. WASHBURN] will hear the resolution read, he will withdraw his objection.

Mr. WASHBURN, of Illinois. If gentlemen would hear my proposition, they would withdraw their objection.

The question was taken on the motion to adjourn; and it was agreed to.

The House accordingly (at half past four o'clock) adjourned.

IN SENATE.

FRIDAY, January 28, 1859.

Prayer by Rev. WILLIAM NORWOOD.

The Journal of yesterday was read and approved.

PACIFIC RAILROAD.

Mr. GWIN. I rise to a privileged question; but before I make the motion which I intend to submit, I think it is due to myself, to the Senate, and to the Senator from Tennessee, [Mr. BELL,] to say that I misapprehended some remarks which were made by him immediately before we adjourned last evening, and to which I made a response entirely uncalled for; in fact, I did not hear a word the Senator said, but inferred from his excited manner, that it was something personal and offensive to me; when in fact he did not say, nor intend to say anything offensive to me. In fact, such remarks should not be made in the Senate, even if offense was intended. This is not the proper theater to create or settle personal difficulties. The Senator and myself are old acquaintances, with pleasant personal relations, and there is no cause for their interruption. I voted for the bill which passed the Senate yesterday, for the purpose of asking for a reconsideration, and I now make that motion; but as this is private bill day, I will not ask for its consideration. I shall call up my motion to reconsider to-morrow morning, and very briefly give my reasons for it. I think amendments which I shall suggest will be satisfactory to the friends of the measure.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

CREDENTIALS.

Mr. CHANDLER presented the credentials of Hon. KINSLEY S. BINGHAM, elected a Senator, by the Legislature of the State of Michigan, for the term of six years, commencing on the 4th day of March, 1859; which were read, and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the following bills and joint resolution; in which the concurrence of the Senate was requested:

A bill (No. 831) to authorize the holding of circuit and district courts of the United States at the city of Peoria, Illinois;

• A bill (No. 830) for the punishment of the crime of forgery or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts; and

A joint resolution (No. 38) in relation to the tobacco trade of the United States with foreign nations.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a petition of the soldiers of the war of 1812, residing in Orange county, New York, praying that the bill passed by the House of Representatives granting pensions to the soldiers of the war of 1812, may become a law; which was referred to the Committee on Pensions.

Mr. SEWARD. I submit a memorial of Foster B. Williams and other citizens of the city of Brooklyn, New York, in which they set forth that the city of New York and the city of Brooklyn are without any sufficient and necessary defenses against foreign invasion by troops on land,

and asking Congress to pass a bill making an appropriation of \$250,000, in pursuance of a recommendation of the Secretary of War, for the erection of earth works in the vicinity of New York. I ask its reference to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. HOUSTON presented a petition of citizens of Galveston, Texas, praying an appropriation for buoying and marking the channel in West Galveston bay; which was referred to the Committee on Commerce.

Mr. POLK presented the petition of George P. Siles, praying indemnity for books and office furniture, destroyed by the Mormons while he was judge of the United States court for the Territory of Utah; which was referred to the Committee on Claims.

Mr. HUNTER presented two communications from citizens of Loudoun county, Virginia, in favor of the passage of the bill, passed by the House of Representatives, granting pensions to the soldiers of the war of 1812; which were referred to the Committee on Pensions.

Mr. IVERSON presented the memorial of the watchmen employed in the Executive Departments at Washington, asking for an increase in their pay; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the memorial of members of the Senate of the State of Maine, praying an increase of the pay of the officers of the Navy; which was referred to the Committee on Naval Affairs.

Mr. BRIGHT presented the memorial of Charles F. Anderson, praying compensation for services and expenses in furnishing plans for the extension of the Capitol; which was referred to the Committee on Claims.

Mr. CHANDLER presented a petition of ship owners and others, connected with the commerce of the western lakes, praying an extension to the lakes of the system of meteorological observation, now used with such success on the ocean; which was referred to the Committee on Commerce.

Mr. THOMSON, of New Jersey. I present the memorial of Augustus S. Baldwin, a Lieutenant in the Navy of the United States. This gentleman suffered for some years from disability, contracted by severe service in the Arctic expedition, and afterwards from a wound which he received before Vera Cruz. He is perfectly restored to health, and is this day as strong a man as any one in this Chamber; and he asks some relief at the hands of Congress. I move its reference to the Committee on Naval Affairs.

It was so referred.

INDIANA ELECTION QUESTION.

Mr. DOUGLAS. I am requested by Colonel William Monroe McCarty, of Indiana, to present to the Senate an exemplification of the record of the Senate and House of Representatives of that State, in relation to a senatorial election in that State, and ask that it be referred to the Committee on the Judiciary, to which the memorial of the State has been referred. I will avail myself of this occasion to say that I was unavoidably absent when a resolution in relation to the gentlemen who are claiming seats here was under consideration and acted upon. If I had been here, I should have voted to give the applicants the opportunity of being heard on the floor, as has been usual in other cases.

The paper was referred to the Committee on the Judiciary.

REPORT ON MANUFACTURES.

Mr. SEWARD. The other day, at my instance, a communication from the President of the United States, containing a digest of the statistics of manufactures, according to the returns of the seventh census, was laid upon the table. I move that the usual number of copies be printed. That motion will, of course, be referred to the Committee on Printing.

The motion was so referred.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (No. 831) to authorize the holding of circuit and district courts of the United States, at the city of Peoria, Illinois—to the Committee on the Judiciary.

A bill (No. 830) for the punishment of the crime of forgery or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts—to the Committee on the Judiciary.

A joint resolution (No. 38) in relation to the tobacco trade of the United States with foreign nations—to the Committee on Foreign Relations.

PAPERS WITHDRAWN.

On motion of Mr. BIGLER, it was

Ordered, That Finley Patterson have leave to withdraw his petition and papers.

DUTIES ON IMPORTS.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of transferring from the free list to the schedules of dutiable goods such articles as will, by being subjected to import duty, materially increase the revenue, and serve to relieve the Treasury of its present embarrassment.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on the District of Columbia, to whom was referred the petition of the Alexandria, Loudoun, and Hampshire railroad, praying authority to extend a branch of their road into Georgetown, reported a bill (S. No. 538) to authorize the extension and use of a branch of the Alexandria, Loudoun, and Hampshire railroad within the city of Georgetown; which was read, and passed to a second reading.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 535) conferring certain powers relating to alleys on the corporation of the city of Washington, reported it without amendment, with a recommendation that it do pass.

He also, from the same committee, to whom was referred the bill (S. No. 536) to authorize the levy court to issue tavern and other licenses in the District of Columbia, reported it without amendment, and with a recommendation that it do pass.

He also, from the same committee, to whom was referred the petition of merchants and other citizens of the District of Columbia, praying an extension of the jurisdiction of justices of the peace in the recovery of debts, and the allowance of fees to justices of the peace in cases for riots, assaults, &c., requested to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom was referred the petition of property-holders in the District of Columbia, praying an amendment of the laws relating to landlord and tenant, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred two petitions of citizens of Washington, asking that the Metropolitan Railroad Company may be allowed to extend their road into the city of Washington, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Jay Cooke and others, praying the privilege of laying down and using a double track railroad through certain streets of Washington city, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred resolutions of the Merchants' Exchange Association of Washington, relative to a railroad along Pennsylvania avenue, in said city, asked to be discharged from their further consideration; which was agreed to.

Mr. BROWN. I will remark in reference to these petitions, that the committee reported at the

last session on the whole subject of this proposed railroad; and there is a bill on the Calendar, which I hope to have considered to-morrow. That bill proposes to grant the franchise to Vanderwerken & Co. If it be not the sense of the Senate to give it to those particular parties, the bill can be so amended as to give it to any of the other petitioners. The committee, therefore, thought it unnecessary to make any further report. They return the petitions, and ask that they be laid on the table; so that Senators may have the benefit of them in any discussion that may arise.

The petitions were laid on the table.

Mr. IVERSON, from the Committee on Claims, to whom was referred a bill reported from the Court of Claims, December 7, 1857, for the relief of John Peebles, with the opinion of the court on the claim, reported the bill (S. No. 539) without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported from the Court of Claims, on the 7th of December, 1858, for the relief of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased, with the opinion of the court on the claim, reported the bill (S. No. 540) without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported from the Court of Claims, December 7, 1858, for the relief of Emilie G. Jones, executrix of Thomas P. Jones, deceased, with the opinion of the Court on the claim, reported the bill (S. No. 541) without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported from the Court of Claims, April 2, 1856, for the relief of Asbury Dickens, with the opinion of the court on the claim, reported the bill (S. No. 542) with an amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred the memorial of Rezin Orme, praying compensation for services as a clerk in the office of the Second Auditor, reported it adversely; and the report was agreed to.

He also, from the same committee, to whom was referred the memorial of H. L. Gallaher, praying that his claim for work done upon the Washington aqueduct may be settled upon principles of justice and equity, asked to be discharged from its further consideration; which was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of John Gardner, agent of the American Timber Bending Company, praying that the Secretary of the Navy may be authorized to appoint a commission, to be composed of naval officers and constructors, to examine Blanchard's patent mode of bending timber for ships' knees, and if the same be found useful in building ships-of-war, that he be authorized to purchase the right to use it at all the navy-yards of the United States, submitted an adverse report; which was agreed to.

Mr. DAVIS, from the Committee on Printing, to whom was referred the motion to print the memorial of the Warren Baptist Association of the State of Rhode Island, relative to the office of chaplain in the Navy, reported against printing the memorial.

WILLIAM AND W. R. BAILEY.

Mr. IVERSON. I am instructed by the Committee on Claims, to whom was referred the petition of William and W. R. Bailey, for indemnity for losses resulting from depredations of the Mohave Indians, to report it back, with a recommendation that it be referred to the Court of Claims.

It was so referred.

Mr. POLK afterwards said: Was the action of the Senate taken on the report of the Committee on Claims with regard to the claim of William and W. R. Bailey, to refer it to the Court of Claims?

Mr. IVERSON. Yes, sir.

Mr. POLK. I move to reconsider that action of the Senate. I will state to the Senate that I am informed that there are other similar cases which are before the Committee on Indian Affairs, and I think that would be the more proper disposition

to make of it. These parties are in New Mexico; they wrote to me from Albuquerque; and to send their petition to the Court of Claims, I suppose, would be, in fact, to kill it entirely. I move, therefore, that the vote sending it to the Court of Claims be reconsidered for the purpose of moving that the petition be referred to the Committee on Indian Affairs, before which committee there are already similar claims, and which, I think, is the most proper committee for a petition of this sort.

Mr. IVERSON. I feel no interest whatever in this case. The petition was referred to the Committee on Claims; and, upon an examination of the claim as set forth in the petition, and the law under which it arises, the committee were clearly of opinion that it was a case coming within the jurisdiction of the Court of Claims, and that that was the proper tribunal to take it into consideration and to decide it.

There is no evidence whatever accompanying the petition as to the amount of loss which these parties sustained, and, of course, the committee could not indicate any amount to these claimants. Besides, if the committee undertook to decide upon the question as to the amount of loss, they must necessarily decide upon *ex parte* testimony taken by the parties, without any guard being thrown around to prevent the commission of fraud. If the case goes before the Court of Claims, that court will take testimony by way of depositions before commissioners appointed by them; and the United States will be protected, therefore, from any imposition in relation to the evidence. It is clearly a case where the amount is to be ascertained on testimony that ought to be carried to the Court of Claims, because they can take the testimony more safely and properly, for the benefit of both parties, than any standing committee of the Senate.

It is a claim, according to the petition, arising under the seventeenth section of the act of 1834, regulating the intercourse with the Indian tribes; it therefore comes under the provisions of an existing law, one of the very heads of jurisdiction committed to the Court of Claims by the act establishing that tribunal. It is a question of some doubt, about which there may be a difference of opinion, as to whether the claim really comes under that law or not. It seemed to the Committee on Claims, therefore, eminently proper that the case should be referred to the Court of Claims, which is composed of legal gentlemen, who would be better able to understand and decide whether the petitioners' claim came under that law, than any committee of the Senate.

It seems to me that, if the Court of Claims are to take jurisdiction of cases of this sort, this is one peculiarly adapted to that court. I do not think it is an argument against referring cases to the Court of Claims, of which that court has jurisdiction under the law, that the parties may not be able to go before the court to adjudicate their rights. That is their misfortune, if they are unable to do it; but it does not appear. I do not know that the Senator from Missouri has any evidence that these parties are so poor that they cannot come before the Court of Claims and employ counsel, or present the case themselves, *in propria persona*; and, certainly, we ought to have that proof before we take away from the court a case of which they have undoubted jurisdiction, and adjudicate it ourselves on *ex parte* testimony. It is, however, a matter of no consequence to me. If it is to be referred to the Committee on Indian Affairs, I have no doubt they will do ample justice in the case, as far as they will be enabled to ascertain it by testimony; but I will state to the Senator from Missouri that there is no evidence yet presented to the Senate on which any amount can be allowed.

Mr. POLK. I think it is very proper that there should be uniformity of action by the Senate in reference to claims of this kind. I have been informed that the claims before the Committee on Indian Affairs will be examined and acted on by that committee. This claim is eminently proper for the consideration of the Committee on Indian Affairs; and if that committee is to go on considering other claims of the same kind which have been referred to it, I think it altogether proper that this case should go to that committee also, and let it be acted on by it exactly as cases of the same kind now before that committee are to be acted on by it.

As to the ability of the parties to prosecute their claim before the Court of Claims, I will state, that the petition shows that these parties composed a portion of a company that was robbed, and part of which was murdered, by the Mohave Indians on the Colorado river, as they were going to California on the route of the thirty-fifth parallel. The petition shows that they were stripped of everything on that occasion; and that they were in the town of Albuquerque, New Mexico, supported by the charities of the people there. They were stripped of their clothing; their stock and their wagons were taken from them, and they were there clothed and fed by the citizens of Albuquerque. I think the Senator from Georgia claims too much when he claims that there must be more proof than that shown of the inability of these parties to prosecute their case before the Court of Claims.

I will state, also, that my recollection of the case is, that the petition contained a statement of facts, which facts were verified by the petitioners, and also by the affidavit of another party, and therefore there is proof, as I suppose. It may not be sufficient, perhaps; that is a matter for the committee to judge of; and perhaps the parties may have an opportunity to present further proof, as I have no doubt they can do. Besides, it should be borne in mind by the Senate that this case comes up under peculiar circumstances. Here is an emigrant party going to California; they are attacked by these Indians; quite a number of them are murdered; their property is taken from them; they are robbed; and in what condition are they to be required to present such proof as has been indicated by the Senator from Georgia in his remarks?

It seems to me that the reference of this case to the Court of Claims is a denial of any relief, and I think it ought to be allowed by the Senate to take the same direction with similar cases, and let it go before the Committee on Indian Affairs. There is no case of a claim that comes before any committee of the Senate, where indemnity is demanded, in which it is not necessary that proof should be presented; and if, because proof is necessary, the case ought to go to the Court of Claims, then every case that comes before the Senate of the character I have indicated ought to go to that court.

I do not know these parties; but I must say that I have sympathy for them. They were emigrants robbed by the Indians; part of their families were murdered; a few of them escaped, and they got back to the settlements in New Mexico, stripped of everything they had in the world. It presents a case, I think, which ought not to be dealt with in the manner in which the Senator from Georgia seems disposed to deal with it. I think the Senate ought to allow it to go to the Committee on Indian Affairs, and let it, at least, share the fate of similar cases now pending before that committee.

Mr. IVERSON. The remarks which I made a little while ago were intended more to justify the action of the Committee on Claims in reporting this case back with a recommendation that it be presented to the Court of Claims, than to indicate any opposition to its going to the Committee on Indian Affairs. I feel no interest whatever in the matter. As the Senator desires it to go to the Committee on Indian Affairs, and as they are willing to take jurisdiction and examine the case, I have no sort of objection to that course being taken.

The PRESIDENT *pro tempore*. Will the Senator from Missouri restate his motion?

Mr. POLK. It is that the vote referring this case to the Court of Claims be reconsidered, and that the case be referred to the Committee on Indian Affairs.

Mr. GWIN. I want to corroborate what the Senator from Missouri has said in regard to these depredations. There are other cases that were sent to me, and I have had them referred to the Committee on Indian Affairs. They are proper subjects for the investigation of that committee. That committee has investigated similar cases, and I hope the motion of the Senator from Missouri will prevail.

The motion to reconsider was agreed to; and the petition was referred to the Committee on Indian Affairs.

GALVESTON CUSTOM-HOUSE.

Mr. WARD. Before entering regularly upon the business of the day, I appeal to the courtesy of the Senate to take up the resolution relating to the custom-house at Galveston, which was returned from the House of Representatives with an amendment. The resolution and amendment have been referred to the proper committee; which has reported unanimously in favor of the amendment. My object is to have the joint resolution taken up, and have the concurrence of the Senate in the amendment.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas, which is to add, at the end of the resolution, the following:

And provided further, That the consent in writing of the contractors and their sureties for the construction of said custom-house, to such alteration, shall be first had, and delivered to the Secretary of the Treasury.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

Mr. HOUSTON. I am opposed to the passage of the joint resolution, and consequently to the amendment, because I believe its adoption would be the passage of the resolution. I am prepared to give the reasons why I am opposed to it. An appropriation was made, in 1855, of \$100,000, I believe, for the construction of a custom-house and Federal court-house and post office in the town of Galveston. The conditions of the contract were, that it was to be completed in the space of two years.

Mr. IVERSON. I rise to insist, that, the hour having arrived for the special order, it shall be proceeded with.

The PRESIDING OFFICER, (Mr. BRIGHT in the chair.) The hour for the consideration of the special order has arrived.

Mr. HOUSTON. I move that the special order be postponed until this subject is disposed of.

Mr. CLAY. I suggest a reason why we ought to dispose of this subject: the work on the custom-house, post office, and court-house, at Galveston, is now suspended, awaiting the action of Congress on this joint resolution, which proposes to change the plan. Some of the citizens of Galveston have appealed in a memorial, which is on file, for the change, and say that, unless it is made, the house will not serve the purpose for which it is being built, and indeed will be valueless. It is important that it should be acted on. I wish the Senate to dispose of it. I do not suppose any one will have anything to say upon it except the two Senators from Texas, who disagree about it.

Mr. HOUSTON. I move that the special order be postponed for the purpose of disposing of this matter.

Mr. IVERSON. I wish to propose a compromise with the Senator from Texas. I should like to know how long he is going to speak.

Mr. HOUSTON. No longer than will enable me to present the subject-matter to the consideration of the Senate. I have no disposition to enlarge on it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Texas to postpone the special order.

Mr. HALE called for the yeas and nays; and they were ordered.

Mr. HAMLIN. What the Senator from Alabama says is true in relation to this matter. The work is suspended; but the suspension of the work for one day further will not, in my humble judgment, amount to much. I do not believe that we ought to take this day; which has been set apart for private bills, and devote it to public matters. We have devoted but a single day for the whole session to private bills. I hope the Senate will confine itself to the regular order.

Mr. WARD. I believe the Senators from Texas have occupied as little time on private bills, or anything else, as any other Senators on the floor. I think we can soon dispose of this matter. I presume it will not take long; I hope not. It has been some time before the Senate, and I have declined heretofore pressing it. I hope it will be considered.

Mr. HOUSTON. Before the yeas and nays could be taken, I should have submitted the evidence on which this bill depends, and let the Senate vote directly on it. I have no disposition whatever to occupy the time of the Senate, nor am I particularly anxious to do so.

The question being taken by yeas and nays, resulted—yeas 23, nays 29; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Clay, Clingman, Davis, Fessenden, Fitch, Fitzpatrick, Houston, Johnson of Tennessee, Reid, Rice, Sebastian, Seward, Slidell, Stuart, Toombs, Ward, and Yulee—23.

NAYS—Messrs. Bates, Brown, Cameron, Chesnut, Crittenden, Dixon, Doolittle, Durkee, Foot, Foster, Green, Hale, Hamlin, Hammond, Harlan, Iverson, Jones, Kennedy, King, Mason, Pearce, Polk, Pugh, Shields, Simmons, Thompson of New Jersey, Trumbull, Wade, and Wilson—29.

So the Senate refused to postpone the special order.

The PRESIDING OFFICER. Private bills are now in order.

CHARLES G. RIDGELY.

Mr. HALE. On the last day when the Senate were in session on private bills, they passed a bill for the relief of Captain Charles G. Ridgely. He having died since the bill was introduced, it was amended so as to be for the benefit of his legal representatives. In justice to the honorable Senator from Maryland, [Mr. KENNEDY,] who had charge of the bill, and was not present when a motion to reconsider was made by me, I move to proceed to the consideration of that matter now, as it is a private bill which was up the last time that private bills were considered.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire to take up for consideration the bill (S. No. 144) for the relief of the legal representatives of Charles G. Ridgely, of the United States Navy.

Mr. HALE. It is a private bill which was passed last Friday, and there is a motion to reconsider pending.

The motion was agreed to; and the Senate proceeded to consider the bill, the question being on reconsidering the vote by which it was passed.

Mr. HALE. As I made the motion to reconsider, I want simply (and it will take but a few minutes) to present, from the document called "the Senate list of private claims," published by the Senate, the following abstract:

Claim of Captain Charles G. Ridgely, of the United States Navy.

Nature of claim.	When presented.	How presented.	Committee.	Report.	No. of report.	No. of bill.	Action.
Reimbursement of expenses incurred.....	2d sess. 23d Cong..	Memorial.	Naval Affairs.....	Adverse....	{ 34 } { 13 }	-	Laid on the table.
Reimbursement of expenses incurred.....	1st sess. 24th Cong..	Petition...	Foreign Relations.	Favorable...	-	-	Discharged.*
Reimbursement of expenses incurred.....	2d sess. 24th Cong..	Petition...	Naval Affairs.....	Bill.....	-	119	Laid on the table.
Reimbursement of expenses incurred.....	2d sess. 25th Cong..	Petition...	Naval Affairs.....	-	-	Discharged.
Reimbursement of expenses incurred.....	3d sess. 27th Cong..	Petition...	Naval Affairs.....	Adverse....	106	-	Rejected.
Equitable settlement of accounts for certain expenses incurred....	1st sess. 30th Cong..	House bill.	Foreign Relations.	Amendment	-	7	-
Equitable settlement of accounts.....	2d sess. 30th Cong..	House bill.	-	7	Rejected; reconsidered.
Reimbursement of expenses incurred.....	- 33d Cong..	Petition...	Naval Affairs.	Adverse....	181	-	-

* Manuscript report, June 13, 1836; leave to withdraw.

These expenses were incurred in 1820, nearly forty years ago, and Captain Ridgely has been here besieging the doors of Congress ever since, and there has never been favorable action of the Senate upon it; but the action has always been adverse, and the claim has been rejected several times. Since I have been a member of the Senate I have given some attention to bills of this sort, and I do not think there has been a single bill of this kind passed. I know they have been refused repeatedly. They were refused in the case of Commodore Elliott. It is possible that some one may have passed, but I think not; and I think if we pass this bill, which is for expenses incurred by a naval officer in entertaining gentlemen on board his ship forty years ago, we shall set a precedent, and open a gate at the Treasury, that will be of evil example. Having said this much, I leave the matter with the Senate.

Mr. KENNEDY. Mr. President, it is certain, upon the showing of the honorable Senator from New Hampshire, that he has made out a strong case against the claim of Commodore Ridgely. He has read the unfavorable action of Congress on this case, without a full reference, I believe, to any favorable reports.

Mr. HALE. The Senator will excuse me for a single moment. I have simply read from the Senate document a history of this claim, and I have read every word that appears in the document.

Mr. KENNEDY. I have before me, I believe, all the reports made on this case from 1836; and apprehending that it might come up to-day, I took the trouble to get one of the clerks to make me out an abstract from the Journal. I will begin first, by stating what this abstract is. In the Senate, at the Twenty-Fourth Congress, first session, there was a favorable report made by Mr. Clay, and a resolution reported and passed June 13, 1836, which I hold in my hand, and which I shall read directly. At the Twenty-Fourth Congress, second session, in the Senate, a bill was reported in favor of the petitioner. At the Thirtieth Congress, first session, there was a House bill reported in the Senate, with an amendment. At the Thirtieth Congress, second session, the bill was rejected; but that vote was reconsidered. At the Thirty-Fifth Congress, first session, there was a favorable report and bill; and at the Thirty-Fifth Congress, second session, the bill passed. In the House of Representatives, at the Twenty-Fourth Congress, second session, a favorable report (No. 113) was made. At the Twenty-Fifth Congress, second session, in the House, a favorable report (No. 459) was made. At the Twenty-Sixth Congress, first session, there was a favorable report, (No. 498.) In the Twenty-Ninth Congress there was a favorable report, (not printed;) and in the Thirtieth Congress, first session, a bill was reported and passed.

In looking over these reports I find that the first one in this body was made by Mr. Clay, then the chairman of the Committee on Foreign Relations, in 1836. I trust I may be indulged in reading a short extract from that report, which seems to have been the basis of all the action here. When the minds of the Senate are brought to a full consideration of this case; when they hear the ground upon which the claim was made, I feel perfectly confident that they will be willing to do that justice which, in my opinion, has been so long and so unjustly withheld. The report of Mr. Clay is a short one, only one page, and I will read the whole of it:

"That it appears that, during the years 1820 and 1821, whilst Captain Ridgely was in the command of the American squadron, in the Pacific ocean, and when war was raging in Peru and Chili, the Spanish Viceroy, having been deposed, sought a temporary refuge, with his suite and attendants, on board of the United States frigate Constitution, under the command of Captain Ridgely; that he incurred considerable expense in entertaining these guests; that, on other occasions, he received distinguished Spaniards on board his squadron, owing to the prevailing unsettled state of things; and, whilst he was affording them protection dictated by humanity and warranted by the amicable relations subsisting between the United States and Spain, incurred extraordinary expenses in entertaining them; and that Captain Ridgely performed other services, during his cruise, not falling within the strict line of his duty."

"Whilst the committee believe that there may be occasions when, without a neglect of the duties of humanity, (and some such occurred, as above stated,) the commanders of our squadrons on distant service cannot avoid incurring extraordinary expenses, for which they ought to be remunerated, the committee think that these occasions ought

to be always strictly examined, and that they should not be unnecessarily multiplied, nor at any time made for useless parade, nor for laying the foundation of a subsequent claim for extra allowance. The committee does not intend to say that this was done by Captain Ridgely; on the contrary, it has no reason to believe that he did anything which was not suitable to the case, the character of his country, and of his vocation."

"The committee is of opinion that Captain Ridgely ought to be reimbursed all expenses which he incurred in the instances referred to, not arising out of the regular line of his official duty; but the committee possesses no adequate data upon which it could recommend to the Senate to make him the specific allowance to which he is equitably entitled. This is the less necessary, as, in the opinion of the committee, it is competent to the Department of State or the Navy, out of the appropriations annually made for contingencies, to make him a just and proper allowance. The committee, therefore, propose the following resolution:

"Resolved, That Captain Ridgely is entitled to a just remuneration for the extraordinary expenses incurred by him on the occasions herein alluded to, after they are ascertained by the proper accounting officers; and that, as such remuneration may be made out of appropriations annually made, the Committee on Foreign Affairs be discharged from further considering the said petition."

That resolution passed the Senate. The papers were sent to the other House, and there the case fell for the want of time, the Calendar not being reached, and the bill not being taken up. At the following session, in 1838, a report was made in the House of Representatives, by Mr. Howard, of Maryland, based upon the resolution passed here; from which report I will read an extract:

"On the 13th of June, 1836, the Committee on Foreign Affairs in the Senate made a report, which concluded with the following resolution:

"Resolved, That Captain Ridgely is entitled to a just remuneration for the extraordinary expenses incurred by him on the occasions herein alluded to, after they are ascertained by the proper accounting officers; and that, as such remuneration may be made out of appropriations annually made, the Committee on Foreign Affairs be discharged from further considering the said petition."

"Upon a copy of this report being presented at the State Department, as the one whose contingent fund was supposed to be applicable to the payment of the claim, it appeared that the Secretary did not consider himself at liberty to appropriate any portion of the fund to that purpose. The following memorandum expresses his opinion:

"The Secretary of State has no power to pay any such claims as those of Captain Ridgely, nor any fund out of which they could be properly paid."

"J. FORSYTH."

"In consequence of this difference of opinion, it became necessary to apply again to Congress; and the Committee on Foreign Affairs, in the House of Representatives, on the 17th of January, 1837, made a favorable report, and accompanied it with a bill.

"The committee refer to and adopt that report, with the exception of that part in which an effort is made to fix upon the precise sum due to Captain Ridgely. They now prefer to leave the case to be settled by such proof as may be exhibited to the Secretary of the Navy, and propose, in the bill herewith reported, to authorize him to settle the account upon principles of equity and justice."

From delay in one House or the other, although these favorable reports have been frequently made, the case has never been acted upon finally, from 1836 until now. It is very true that this service was rendered in 1821; and for the authority under which it was done, I should like to read the instructions of the Navy Department to Commodore Ridgely. In 1821, the Secretary of the Navy directed Commodore Ridgely, among other things, as follows:

"In touching at the ports in Chili and Peru, and all others in South America, you will ascertain whether the trading or whale ships of the United States are molested in the prosecution of their voyages, and the causes of such molestation, and afford to them all particular relief, in cases of need; and, at all the ports you may visit, make such display of the ship under your command as shall be best calculated to produce impressions favorable to the interests of the United States." * * * * "You will visit all the United States ships and vessels you may meet, with a view to ascertain their situation, and whether they have been interrupted in their lawful pursuits; afford them aid, protection, and security, consistently with the laws of nations, and the respect due to the existing authorities, wherever and whenever such protection and aid shall be needed and can be afforded."

These are the instructions from the Navy Department to Commodore Ridgely on that service. Whilst performing that service, he found the States of Chili and Peru in a state of revolt, the Viceroy then having taken refuge upon an American ship, the General Brown, with a large amount of treasure amounting to five or six hundred thousand dollars or more. When Commodore Ridgely arrived with his vessel in one of those ports, he found a settled determination on the part of the revolutionists to capture that ship and sacrifice the life of this officer of Spain, with whom we were upon amicable terms and under treaty stipulations.

He extended his protection to the Viceroy, and received and entertained him on board his ship. Another very striking case occurred, which I will not take the time of the Senate to read, when, under the orders of the commercial agent on that station, he protected another American ship and gave refuge and protection to American commerce during a series of five, or six, or seven, or eight months. It is shown here by the papers that the expenses which were thus incurred were enormous; that the price of provisions of all sorts was very high; that flour was selling at \$100 a barrel, and rice at one dollar a pound. This gentleman, on the poor pittance he was receiving then as commander in the Navy, in vindicating the honor and in maintaining the dignity of his country, gave refuge to those who had sought the protection of the American flag. He was bound to do it by treaty stipulations; and yet he is to be deprived of his means to support the honor and dignity of the country, when his country is perfectly able to maintain its own honor and dignity without coming to its officers and taking from them their support. I appeal to the Senate if it is just, if it is right, or if it is proper?

The honorable Senator from New Hampshire has said it is setting a very bad precedent. Why, Mr. President, here is a list of precedents; and I believe almost within a week, or at least within a short time, we have done the very thing that is asked for now. There was a bill for the relief of Captain Fitch, passed March 3, 1831, to remunerate him for extraordinary expenses incurred in entertaining foreign dignitaries, simply champagne and wines and other things, in supporting the honor and dignity of his ship. A bill passed for Commodore Sloat of the same character; also, a bill for Commodore Perry, a bill for Commodore Shubrick, a bill for Captain Downs, a bill for Captain Patterson, and a bill for Captain Morgan. They are all of the same character as this. Many of them were simply for entertaining foreign dignitaries; but here was an officer of the American Navy, acting, as he conceived, under the orders of the Department in giving protection.

I have no particular interest in this case; but upon an examination of it, it struck me as being so manifestly just, and so entirely right to the dignity of the country that this claim should be paid, and should not be suffered to rest upon the heirs of Commodore Ridgely, that I felt compelled to make this statement. He gave a long life of brilliant service to the country. He never did anything to forfeit the esteem and regard of his country. I do not see why any one should object to this poor, miserable pittance, reported in the bill now, of \$6,000, without interest; which is not more than one half the sum indicated by distinguished gentlemen and officers, who were then under his command.

With this statement of the favorable action of the Senate, and with the statement of the precedents that have gone before it, I am perfectly willing to leave the case to the Senate, feeling confident that they are ready to do that justice which, in my humble judgment, has been already too long deferred.

Mr. HALE. I am not going to occupy the time of the Senate more than a single minute. I think it will be seen, though the honorable Senator from Maryland did not give us the dates, that the last precedent, by which an allowance of this sort was made from the Federal Treasury, was at least fifteen years ago. I think he will not find one within the last fifteen years.

Mr. POLK. I will state to the Senator from New Hampshire that a bill very similar to this passed last week, or perhaps the early part of this week—a bill for the relief of Captain Hartstene.

Mr. HALE. Ah! I am obliged to the Senator. Captain Hartstene was specially ordered to go on a visit of ceremony to the Queen of England and deliver up a ship; he was sent there to pay the compliments of the nation to her Majesty the Queen of England. As the Senator from South Carolina, [Mr. HAMMOND,] who is on the Committee on Naval Affairs, and reported that bill, knows, that was put precisely on the ground of being an exception to every case—his whole business being one of courtesy to the Queen; but I state what I think cannot be controverted, that claims of this sort in the last fifteen years have been uni-

formly rejected. I know there have been several instances of such allowances, but I think not one has passed within fifteen years. But, sir, not believing that the dignity of this country is to be maintained by paying for champagne for naval officers to drink in foreign countries, I will content myself with simply asking the yeas and nays, and let it go.

Mr. POLK. I wish to state to the Senate, as I had the honor of being one of the Committee on Foreign Relations that agreed to the report, and had the honor of presenting it, that I believe the report was the unanimous sense of that committee in regard to this claim. I will state next, that I think this claim is one much stronger than that of Captain Hartstene, though I voted for that. The Senator from New Hampshire says Captain Hartstene went on a mission of ceremony to deliver a ship to the British Queen; but, sir, what we paid Captain Hartstene for, was the entertainment which he furnished on board his ship, perhaps, to the British Queen, and to certain dignitaries of England and their friends. It was literally for champagne, I suppose, and such like matters. I have no objection to it; I voted for it; but I say this is a much stronger case. The proof in this case is, not that Captain Ridgely furnished champagne, but that he furnished flour to support this Viceroy, driven out of his country by the revolutionists as they called themselves, seeking aid and taking refuge on an American merchant ship where he was not safe. The revolutionists were going to make an attack on that ship for the purpose of taking him from that ship, and this American commander of a naval vessel, being in port, took him into his possession to secure him against this outrage that was about to be perpetrated upon him, and he furnished him and his suite, first, security, and next, entertainment at the same board at which he and his officers received their support, buying flour at \$100 a barrel at the time.

In answer to a remark made *sotto voce* by the Senator from New Hampshire, I will state that that is not the only case of expense, but he afforded similar entertainment to other refugees. Amongst others was an old, ancient, and venerable dignitary of the Church of that country. I do not wish to detain the Senate with an argument on this question. I have no interest in it, and know very little about it; but I will state that, in my opinion, it is a case that calls much more loudly for the interposition of the Senate than Captain Hartstene's case, though I believe that Captain Hartstene's case was one that justly merited the prompt redress at the hands of the Senate which it received; for just as soon as the report was made, the bill was put upon its passage, and it went through at once; and very properly.

Mr. PUGH. I wish to know how the committee arrived at \$6,000 as the proper sum.

Mr. POLK. I will state to the Senator from Ohio, there was an examination of the papers made. This case, as he has seen, has been before Congress, in the different Houses, for some time, and the committee put it down at about the lowest sum that they thought the facts would justify. I will state frankly, that the committee had not any exact scale of figures which they could apply to it with absolute certainty; but they gave what they considered a proper sum under the circumstances—the lowest that was estimated.

Mr. PUGH. I am satisfied. I think it a case of humanity, not ceremony.

The question being taken by yeas and nays, resulted—yeas 12, nays 29; as follows:

YEAS—Messrs. Bates, Chandler, Clark, Clay, Davis, Fessenden, Hale, Hamlin, Harlan, King, Trumbull, and Wade—12.

NAYS—Messrs. Allen, Benjamin, Bright, Broderick, Brown, Chesnut, Clingman, Crittenden, Dixon, Doolittle, Durkee, Fitch, Fitzpatrick, Green, Gwin, Houston, Iverson, Jones, Kennedy, Mason, Pearce, Polk, Pugh, Reid, Rice, Stuart, Toombs, Ward, and Yulee—29.

So the Senate refused to reconsider the vote passing the bill.

Mr. KENNEDY. There seems to be some difficulty apprehended by the Secretary, in regard to the return of this bill. In order to relieve it from any difficulty, I submit the following order:

Ordered, That the Secretary again communicate to the House of Representatives Senate bill (No. 144) entitled, "An act for the relief of the legal representatives of Captain Charles G. Ridgely, of the United States Navy," as having passed the Senate on the 21st instant.

The order was adopted.

DIPLOMATIC AND CONSULAR BILL.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1860; which, on motion of Mr. HUNTER, was read twice by its title, and referred to the Committee on Finance.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed an enrolled bill (H. R. No. 801) to fix and regulate the compensation of receivers and registers of the land offices, under the provisions of the act approved April 20, 1858, and the enrolled bill (S. No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia; and they were signed by the President *pro tempore*.

JANE SMITH.

The PRESIDING OFFICER. The first bill on the Private Calendar is the bill (S. No. 87) from the Court of Claims, for the relief of Jane Smith, of the county of Clermont, State of Ohio.

The bill was read the second time, and considered as in Committee of the Whole.

It proposes to pay to Jane Smith, the widow of John Smith, a soldier in the army of the Revolution, the sum of \$393 84, being for the arrears of her pension at the rate of eighty dollars per annum, from the 4th of March, 1848, to the 3d of February, 1853, to which she is entitled under the second section of the act of February 3, 1853, entitled "An act to continue half pay to certain widows, minors, and orphans."

Mr. CLAY. This is a bill to which I wish to call the attention of the Senate, and particularly the Senator from Georgia, [Mr. TOOMBS,] and the Senator from Michigan, [Mr. STUART,] and the Senator from Missouri, [Mr. GREEN.] It is a bill to pay arrears of pension. It is a subject which I remember those Senators discussed once here before the Senate, and the Senate, upon a direct vote on the merits of this question, rejected the proposition by a considerable majority. The sum and substance of it is briefly this: In 1848, a bill was passed enlarging the pension laws so as to embrace all widows who had married revolutionary officers or soldiers, subsequent to 1800. As the Senate, perhaps, knows, by previous acts of legislation, we had provided for all other widows of revolutionary officers and soldiers, beginning with those who were married before or during the Revolution, and who, it was said, shared in the toils, dangers, and privations of that war. Then we extended it to those who had been married prior to 1794, I believe. Then, by the act of 1848, we extended it so as to embrace all widows of revolutionary officers and soldiers who were married prior to 1800. That act was in force until 1853, when, by a little amendment to some bill, to which it did not appear to me to be at all germane, provision was made for those widows who were married subsequently to 1800. That provision is only a single section of four lines, and I hope the Senate will give it their attention. It is the second section of "An act to continue half pay to certain widows and orphans," approved February 3, 1853:

"That the widows of all officers, non-commissioned officers, musicians, and privates, of the revolutionary army, who were married subsequent to January, A. D. 1800, shall be entitled to a pension in the same manner as those who were married before that date."

Under this section, those who were married subsequent to January, 1800, claimed that they should be paid arrears of pension, beginning from the time the act of 1848 was passed. Unlike all other pensioners, as I maintain, who have ever been provided for by any pension law, they claim that this act was to have a retroactive effect, and that it was to date back from the passage of the prior act of 1848, which provided for those who had been married prior to 1800. They claim it in virtue simply of these words: "In the same manner." They maintain that this word "manner" implies time, as well as the mode of proof requisite to secure the payment and the amount which should be allowed. They said it meant time, too; and that, in order to carry out the law to its full meaning and effect, you should provide from 1848; in other words, that you must give them five years of arrears of pension. The then

Commissioner of Pensions, Mr. Heath, rejected the claim. He said, no; this is in violation of well-settled general legal principles; it is in violation of the policy of the Government, as indicated in all pension bills. It is absurd to maintain that these words, "in the same manner," implied time. They relate to the mode of proof. In order to entitle the parties to the pension they must show their marriage; they must show the service of their husbands during the revolutionary war; they must show that their husbands were pensioners of the Government in virtue of those services; they must show that their husbands are dead, and they must show that they themselves never received any pension; but it does not mean that they shall be paid back for five years, as if they had been pensioned by the act of 1848.

The Court of Claims, however, upon the two cases provided for by this bill, and the next one on the Calendar, have very strangely and absurdly, as it seems to me, construed these words, "in the same manner," to imply time as well as the measure of proof, and the mode of payment; and upon these two cases depend numerous others which will require in the aggregate, according to the estimate of the present Commissioner of Pensions, nearly one million two hundred thousand dollars; so that the Senate will see that this, although a small amount in itself, involves an important principle. If you pass these two bills, you might as well provide, in your pension appropriation bill, the sum of \$1,200,000 to liquidate all pensions of the same class; for they come within the same principle under the same act, and in equity are entitled to a like provision.

Now, sir, I say that it is in violation of all well-settled principles of legal construction, to maintain that these words, "in the same manner," entitle the parties to claim five years of arrears of pension; or, in other words, that this act has a retroactive effect, that it is retrospective in its operation, and entitles them to the arrears. According to universal legal construction, all laws, unless they specially provide for their retroactive effect, only take effect from the day of their passage. Where there is no constitutional provision on the subject, this is the universal law, as I understand; and it is so construed by all courts. Congress has clearly, by its legislation in respect to pensions, indicated its respect for this principle of law; for there is not another pension law on the statute-book to which there has ever been given a retroactive interpretation by the Pension bureau, or the Secretary of the Interior, except where it is so specially provided on its face; and in several cases which I might enumerate, if it were necessary, Congress did provide that they should relate back one, two, and, in some instances, three years previously.

Again, Congress has provided, by a general law embracing all pensions, all pension laws then in existence, and all that might thereafter be passed, that no pension should commence until the proof was completed under the law; and yet, though that act is upon the statute-book, unrepealed, the Court of Claims maintain that in virtue of the words, "in the same manner," in the act of 1853, despite that general law, these pensions shall be dated back to 1848; that they shall have five years' arrears of pensions. This false and fraudulent claim, as I think it, has been rejected by three Commissioners of Pensions in succession; by Mr. Heath, under General Taylor's Administration; by Mr. Waldo, under Mr. Pierce's; and by the present Commissioner of Pensions; and the question presented to Congress is whether they will overrule the decisions of those officers; whether they will overrule their own action hitherto in every other pension bill, in condescension to this absurd, irrational, and illegal construction of the Court of Claims, and will declare that these pension arrears shall be paid.

But, sir, furthermore, if the pensions were due under this act, and I believed that it was the intention of Congress that these pensioners should enjoy the bounty of the Government from 1848, I would vote against this bill, and I would introduce a bill into the Senate to repeal the law, or to give it a different construction; for what are these pensions after all but a mere gratuity? Gentlemen speak as though some vested right was created by virtue of this statute, and that Congress could not, without a violation of its pledged faith and honor, refuse to pay these arrears. Why, sir,

they are pure gratuities; and certainly Congress, like an individual, has the power and the right to withhold a gift as long as it is not paid. Hence, I say, that if the Senate should agree that this construction of the Court of Claims is just and right, I still think we ought not to vote for these bills, but should repeal the law. And at this time, when we are already more than sixty million dollars in debt, and when retrenchment and reform are preached on all sides of this Chamber, and a great desire to effect retrenchment and reform is profuse, I think it is a most inopportune time to tax the Treasury with \$1,200,000, to be paid out during this year. That is the whole sum and substance of the case, and it all depends on the construction of these simple words, "in the same manner."

Mr. HAMLIN. Mr. President, I shall be as brief as I can, although I think the statement which has been made by the Senator from Alabama, and the view which he has presented of this case, require that I should state the material facts which exist in it.

In 1848, Congress passed a law granting a pension to all widows of revolutionary officers and soldiers, who were married prior to 1800. In 1853, when the pension appropriation bill was under consideration in the Senate, and on consultation with the Senator from South Carolina then a member of this body, (Mr. Butler,) I drew a section with my own hand, under his direction, he sitting by, which the Senator from Alabama has read, which removed the restriction that before existed on all widows who were married subsequent to January, 1800; and it was adopted by the Senate. It went to the House of Representatives, and there, I think, it was rejected. It became a matter of conference between the two Houses. In this body, it was said that it was indefinite as to the time when it commenced. While a member of the committee of conference, I went with the section to the Secretary of the Interior, Mr. A. H. H. Stuart, of Virginia. I submitted it to him for his construction, because I wanted to know precisely what the construction would be that he would give to it. I meant, and I so stated in the Senate, and the friends of the measure so stated, that it should put the widows married subsequent to January, 1800, on the same footing with those married prior to 1800. The Secretary said, in precisely so many words, after a careful examination of it, that such would be his construction of that section as it then stood. I came back, and I so stated in the Senate. It was adopted by the committee of conference, and it became a law. Mr. Secretary Stuart passed out of office, and Mr. Secretary McClelland came into office. A gentleman from Connecticut, Mr. Waldo, became Commissioner of Pensions; and Commissioner Waldo gave to this bill the construction it now obtains; not Commissioner Heath.

Mr. CLAY. The gentleman is mistaken. I have the evidence at hand to show it was Mr. Heath's construction too, and I can read it.

Mr. HAMLIN. I had an interview myself with Mr. Waldo, and I understood from him that he gave that construction to the law. Whether it was Mr. Waldo or Mr. Heath is immaterial. I affirm that the law was passed with the understanding that it was to place the widows, married subsequent to January, 1800, on the same footing with those married before that time.

At the next session of Congress, or the next but one after this construction had been adopted, the Senate passed an explanatory section, affirming this law to be what I say the Senate understood it to be when they passed it. It went to the House of Representatives, and it was there rejected. Then these applicants went to the Court of Claims, affirming that they had the right under the law to these pensions from 1848; and the Court of Claims have decided that the law of 1853 did take effect from 1848, precisely as its friends claimed; and these claimants now come here and ask you to carry out the law as it was understood at the time and as it has been affirmed by the Court of Claims.

Again, even if that were a wrong construction, conceding for the moment that the construction claimed by its friends and given by the court is wrong, I appeal to the Senate, and I ask if these widows are not, under every consideration in the world, entitled to the same class of compensation

with those who were married before 1800? A woman was married on the last day of December, 1799; she gets her pension from 1848. Another woman was married on the 1st day of January, 1800, and she gets her pension, not from 1848, but from 1853. There is no rule by which you can draw an arbitrary line that does not work in justice. Even if the construction of the law given by the court were wrong, (which I do not admit, for I think the construction is right,) I think the consideration of the Senate ought to be favorable to this class of cases.

Again: a great number of these cases have passed the House of Representatives, and been sent here. Some of them have passed this body. Why allow some of these claims to pass, and reject others? I cannot say how many, but some of these claims that have been sent to the Court of Claims have been presented to Congress, and have passed both branches. I so understand from the Senator from Ohio, [Mr. WADE,] who has a personal knowledge of the claims which did pass. The House of Representatives, acting upon the cases as they were presented there, have passed a bill and sent it to us, and we have here in this body a general law meeting all the cases. That it stands upon our Calendar, No. 597 in the order of business. I do not know that it will be reached. That bill in the House of Representatives which gives to this law the construction for which I am contending, passed by a wondrous large vote; I do not recollect it, but I think one hundred and sixty, or one hundred and seventy, or one hundred and eighty, against thirty or forty. At all events, I think I am justified in saying, (I am only stating from recollection,) that that bill passed the House of Representatives by a vote of more than two to one; giving, in a general law, the construction which I ask shall obtain in this particular case.

This is the case. I have no special invitation to make to particular Senators in the Senate, who oppose all pension claims, or very nearly all; but I have an invitation to all Senators here to give to this matter a fair and candid consideration, and if it commends itself to their judgment, they will support it; if it does not commend itself to their judgment, of course they will not.

Mr. TOOMBS. Mr. President, it is not at all probable that we shall ever get through with what are called "just claims" against the Treasury of the United States, as long as we conduct business in the way we do. This question, I think, was presented to us at the last session; and on the attention of the Senate being called to it by the Senator from Michigan, [Mr. STUART,] it was very thoroughly argued, and then, when we had abundance of time, the Senate deliberately expressed its judgment against the allowance. If the Calendar, about which we are lectured by Senators and by the press and everybody else, was taken up every day, we should never get rid of a great many cases, because, no matter how often you reject some claims, they never die.

The history of this matter, given by the Senator from Maine, [Mr. HAMLIN,] is of itself sufficient to induce the Senate to put its foot on this proposition. When we were about passing a law, why should that Senator, or anybody else, go to the Secretary of the Interior to inquire of him whether or not he would give back pensions under it? If that was the intention, why did not the bill say so? If the bill had said so, the Senate would have understood it. Why use this particular phraseology, which is admitted to be at least doubtful, and which has received a construction from three or four of the persons authorized to construe it, against this allowance, when four or five words would have settled the whole business? I know of but one motive on earth; and that was to conceal its true intent and meaning from the legislative department. I do not know what other motive there could possibly have been. I know of no other reason for going to the Department, and inquiring how they would construe this act on the question of back pensions, when it was easy to say back pensions at once in the bill. But that is the way you legislate.

As the Senator from Alabama [Mr. CLAY] has said, the construction given to this act by the Interior Department has been the construction which has obtained from the beginning of the Government. A statute was passed, I think, in 1828, more than thirty years ago, providing that all pensions should commence only from the time when

the proof was made out. Here was a distinct, unequivocal rule of action prescribed by the legislative power to cover all doubtful cases, and that law cannot be changed without another law. If you wanted to change that law, why not say so in language equally express? That law said all pensions should commence at a particular time; and if this law meant to provide differently, it ought to have said so plainly and distinctly. Was there any reason why these persons who were not married until 1800, who did not participate in the hardships, in the sufferings, and in the toils of the Revolution, should be put upon a different footing from the widows who bore the brunt and the toil of the Revolution? Where is the principle in equity or justice that can commend such a proposition to the heart or judgment of any human-being?

The first principle on which it was proposed to grant pensions to revolutionary widows, was that, during the Revolution, they were deprived of the services of their husbands; that they suffered great hardships in every way; that they themselves, in many cases, partook of the privations of their husbands. Well, you gave them pensions, and said they should only date from the time when the proof was made out. But seventy years after the Revolution, when you came to include persons who were married, in profound peace, twenty-five years after the Revolution, when nine tenths of the wives of revolutionary soldiers had gone to their tombs, and when the profligate sons of worthy fathers got control of the legislation of the country, and not until then, you say they shall not only be pensioned, but they shall be pensioned on a different and more advantageous principle than that by which the patriots of the Revolution were paid for their toils and sufferings. I want to know if there is a reason why a single member of the Senate should give them that advantage. I want to know the policy and justice of doing it.

As I have said, at first, these pensions were limited to those who were married during the war. Subsequently, you brought it down to those who were married before 1794, on account of the extensive Indian wars we had about that period. Afterwards we brought it down to 1800, and it stood at 1800 for a long time. The Senator from Maine asks why those who were married on the last day of December, 1799, should be allowed pensions, while they are denied to those married on the 1st of January, 1800. The same objection is equally applicable to any time you fix. When you departed from the principle that only those who were partners in the sufferings of their husbands in the Revolution should be compensated, you destroyed every landmark, and from that has arisen all the difficulty.

I say, that the act of which we are speaking was never passed by Congress properly, in the real sense of the Constitution, and the history of it, which has been given, shows it. How was it enacted? It was put on in the Senate as an amendment to a House bill. The House of Representatives rejected it, and it went to a committee of conference, who agreed to it; and the result was, that the House of Representatives were compelled to reject an appropriation bill, or agree to give this construction to the law. I say, then, this provision was never passed properly; and such legislation is forced upon us continually. If, however, it was the intention to depart from the principle of the Government as settled for fifty years, it was due to the country, it was due to justice, if those people who were married after 1800 were to stand on a better footing than the matrons of the Revolution, that it should be done by a plain, express law. I agree with the Senator from Alabama, that the construction having been uniform, unvarying, in conformity to existing law, the construction of the Department is the right one, and that of the Court of Claims the wrong one; and we ought not to lose this \$1,200,000 on mere gratuities. It does not stand on any ground of contract. It is not *ex debito iustitiae*; it is *ex gratia*—a mere gift, and profligate enough at that. The construction now sought to be put upon the act of 1853 is, that these persons shall not only be pensioned in the same manner as those who were pensioned under prior acts, but in a different manner; that they shall have their pensions, not from the time of completing their proof, but shall go back to an anterior period,

overriding all other classes of claimants who ever did get the bounty of this Government.

I hope the Senate will adhere to its former judgment on this question. It is a mere difference of construction between the Department and the Court of Claims. I think the Department is right. The principle is important. By rejecting this proposition, we do no violence to anybody, we do no injustice. The very mode in which the original act was passed, shows that it never had the concurrence of the Representatives of the people, except technically; and, therefore, it is less entitled to the consideration of the Senate.

Mr. WADE. I do not rise for the purpose of arguing the law question involved in this case, for it is a pure law question, which has been properly submitted to the Court of Claims and settled by them. If a court ought not finally to settle this question, then on no question which we can submit to them ought their decision to be final and conclusive. It is not a question as to merit or demerit; but it is a question of the construction of a law that has been passed. Rights are vested under it, or they are not. The Court of Claims, after a full and satisfactory investigation of this whole subject, after arguments by lawyers on both sides, have come to a conclusion; and their reasoning is before us, and we can read it. I do not expect that the Senate will take any construction that I may give to this law, or any reasoning that I could offer upon it, as being superior to the able opinion of the court which is before us.

The Court of Claims took up this dry law question involving the construction of a statute, deliberated on it for a long period of time, not acting as we are doing, but confining themselves to the law and the principles of law, and they have come to the conclusion, I believe unanimously, that these pensions had a retrospective operation; that the law gave it to them. The court had not all the light, as to the intention of the law, which we have. They had to reason from the language of the law itself, as all courts are obliged to do, though legislative bodies are not so strictly confined. They could not go into the merits of the case, as developed by the Senator from Maine, and state precisely what was the intention of the law-makers at the time. They had not the benefit of that information; but without any such light, they came to a conclusion on the dry construction of these statutes as they stand; and I do not believe that any sound lawyer can now take the subject up and make out a case adverse to that which the court has made, successfully. I hope, if it is necessary, that the reasoning of the court on this subject will be read, as the very best law argument that can be made upon it. After we have sent such questions as this to be settled by this court; after we have put these poor widows to the cost and expense of litigating for two or three years their cases before the court whom we have constituted as the proper tribunal to settle such matters, it strikes me that it is not proper for us to refuse to carry out the judgment in their favor. The judgment was deliberately and fairly made. Nobody contends that it was anything else than fair. Your own solicitor stood between the rights of those parties and the United States before that court, to make the best plea in behalf of the Government that he could; and yet the court came to the conclusion that these persons are entitled to the relief sought.

I appeal to every Senator here, is it quite fair, because that judgment was adverse to the Government, that we shall turn right round and tell the parties we did not intend you should have the benefit of it, but we intended to play upon this principle: if we win, right; if you win, we still have the power to set it all aside. Sir, I will submit no case, with such a view, to this court or any other. If we submit a law question to a law court, provided by ourselves to be a court in the last resort, to settle a law question; if we have sent a man there and the decision is adverse to us, I will stand by it. If it is in favor of the Government, I will stand by that; but I do not think it is quite fair dealing to encourage suitors to litigate their claims through the court, and then turn right round and treat it as though no such decision had been made. I appeal to every Senator here who is a lawyer, whether the members of this court, eminent lawyers as they are, with the question precisely before them, argued before them, and considered judicially, would not be more likely

to come to a correct conclusion than we are here, in the manner that we investigate such questions?

It could give my own views of the construction of this law. I think the view of the court is right. I think the court could come to no other conclusion than that at which they have arrived; but I know that to argue the question would only be repeating the reasons that are much better set forth in the opinion of the court, and therefore I shall not attempt it. I feel no particular interest in this question, only I happen to know that there are several applicants here in needy circumstances, who have been at trouble and expense in litigating their cases through the court, and believing that they are fairly entitled to the benefit of the judgment they have won from the court, I think we ought to give it to them.

Mr. PUGH. Mr. President, this lady is one of my constituents, and it would give me sincere pleasure to be able to vote for her bill; but this question has been before the Senate now for three sessions, ever since I have been a member of the body, and I have examined it most carefully and thoroughly, and my honest conviction is, that there is no foundation, legal or equitable, for the claim. My colleague says that these parties were sent to the Court of Claims, and that, therefore, we ought to hold ourselves bound by the opinion of that court as an arbitration. Who sent them there? How did they get there? What business had the court with them? That is a court established to hear claims against the United States; and here are parties claiming arrears of pension, a gratuity, a gift, who go of their own motion into the court; and the court, beyond its jurisdiction conferred by the act of Congress, entertains the questions. Sir, the very fact that the Court of Claims heard the cases of these two hundred persons nearly, would be with me a strong argument for suppressing the court, because it seems to have acted according to what is said to be the maxim of a good judge, to amplify his own jurisdiction.

Then it is said the cause was thoroughly argued on both sides. Such is not my recollection. I once examined the record, and I think it was not argued at all on the side of the United States. It was submitted without argument by the solicitor. Perhaps he thought it was a good claim; I believe he said so. I do not call him to account for his opinion.

Mr. WADE. I can inform the gentleman how that is. There was no argument submitted on the part of the United States, because the solicitor in behalf of the United States gave it up. He could not withstand the reasoning on the other side, and so stated, and therefore gave it up. He came to the same conclusion as the other side.

Mr. PUGH. My colleague and I agree, then, as to the fact. I do not impute anything to Mr. Blair. He is a very good lawyer; I have great personal respect for him, and great respect for him as a lawyer; but I say the assertion that the court had the advantage of an argument on both sides is not correct. My colleague does not disagree with me in that respect, although it may be that Judge Blair thought the case could not be resisted. Now my colleague is well enough acquainted with the law to know that a decision made upon an argument of one side never carries any great authority.

I do not propose to go at length into this question; but I have a word to say to the Senator from Maine, because he has made to-day a statement which I think he has made three or four times before, in my hearing, that he drew this section in the act of 1853, and that he knew what he intended to accomplish, and, therefore, that is the meaning of the law. Why, sir, no Scripture is of any private interpretation, and, *a fortiori*, no statute. If there is anything well established and repeatedly decided, it is, that the intention of any one member of a deliberative body, even if expressed in a speech at the time, is no evidence whatever as to the meaning of a statute. I take that to be law, and I think all my legal friends around me will agree with me. Therefore, to get up and tell us what he intended by his amendment, and what private conversations he had with the Secretary of the Interior, does not advance the case an inch.

The Senator from Georgia told us our Government set out to give pensions to the widows of revolutionary soldiers who had married prior to

the year 1800, the idea being that those widows had at least participated, some of them, in the struggles and toils of the Revolution; others were reduced to poverty by the sufferings of their husbands—poverty caused by the Revolution; but the Government especially provided that, where those marriages happened after the year 1800, the whole substance and idea of the law had failed, and therefore they would give no pension.

In 1853, however, many years afterwards, upon the suggestion, or if it was not absolutely so made, it is fair to infer it from the language of the act, that probably there were but few of this class of widows, and that the distinction had better be effaced and they had better be put on the pension roll, it was carried; and the effect of the law, if I recollect the language of it, is, that they shall be put on the pension roll "in the same manner" as widows that were married before 1800. Now, with all due respect to the judgment of the Court of Claims, I venture to say that I never knew before that the phrase, "in the same manner," describing how pensions should be paid, could be construed to be retroactive, and cover five years of arrears of pension. It is a most preposterous decision, in my judgment; and yet, as my colleague has said, I feel strongly inclined to give this lady, because she is my constituent, every possible advantage; and if he can show me that we have referred this to the Court of Claims as arbitrators, I will abide the award of the arbitrators, be it true, or be it false; but merely because parties claiming arrears of pension chose to go into a forum not intended for them and get a decision in their favor, with no argument on the other side, and then come here and ask us to pay them, I cannot consent to agree to it. If I recollect aright, my colleague proposed an amendment at the session before the last, to pay all these claims, and I think they were \$1,200,000. Now, I will venture to say, despite the assertion of the Senator from Maine, that at the time the act of 1853 passed, there were not four men in either House of Congress who imagined that under the words, "in the same manner," they were voting over a million of public money.

Mr. CLAY. If the Senator will give me time here, I will prove that.

Mr. PUGH. I believe that I have said all that I intended to say.

Mr. CLAY. In the few remarks which I submitted to the Senate, I stated that the construction put upon this section was in violation of universal legal principles; that it was in violation of the universal course of Congress in respect to pensions; that it was in violation of the universal practice of the Pension bureau, at which no pension had ever been paid, except where the act specially so provided, for any time prior to the perfection of the proof; it was in violation of a general law of Congress, which declares that no pension shall be paid, except where the law so specially provides, until the proof is perfected; and that it shall commence from the time the proof is perfected. I stated that the claim now preferred had been rejected by three several successive Commissioners of Pensions. I did not state what I now have discovered, that the same claim had been rejected by the Committee on Pensions of the Senate, and after we reported against it, it was referred to the Court of Claims, and after their judgment in favor of it, referred to the Committee on Claims of the Senate.

But, sir, the Senator from Maine maintained that it was the understanding of the Senate, at the time the bill passed, that it was to date back. I understood him to go further and say that it was so stated. I understood him to say that he so asserted. Now, sir, I have looked over the debate, and I deny the assertion; and, on the contrary, I will show the Senate that such an interpretation was denied. I call the attention of the Senate to the act. Here is the amendment proposed by the Senator from Maine, and here is what he said upon it. I read from the Congressional Globe, the proceedings of January 3, 1853:

"Mr. HAMLEN. I have an amendment which I wish to offer to this bill, which I trust will give it strength. It is to add the following additional section:

"Sec. —. And be it further enacted, That the widows of all officers, [subsequently modified by inserting 'non-commissioned officers,'] musicians, and privates, who were married subsequent to January 1, A. D. 1800, shall be entitled to pensions in the same manner as those who were married prior to that day."

"The case which I design to meet, is apparent from the

reading of the amendment. The period of time when the widows of deceased officers and soldiers of the revolutionary war were entitled to a pension in case of marriage was, according to the first act, when the marriage took place before 1780. It was afterwards extended to 1791, then to 1794, and subsequently to 1800. By the law, as it now stands, if the widow of a deceased revolutionary officer, non-commissioned officer, musician, or private, were married on the 2d day of January, 1800, she would not be entitled to a pension; but if married on the last day of December, 1799, she would be entitled. I think there is no good reason for drawing a rigid rule on a particular day, but I think that if you give pensions to widows, you should extend them to all. I presented sundry memorials at the last session of Congress to cover this case, and I think the committee were favorably impressed with what the petitioners asked. I hope the amendment will be adopted, so as to place all these parties on the same footing."

That is all the Senator said in behalf of his amendment. I have looked through the debate, and I do not find that he had another word to say in its behalf. Thereupon Mr. Underwood, of Kentucky, said:

"If the first provisions of this bill pass as they are printed, without the amendment offered by the gentleman from Maine, I should like to know from the Senator who drafted it whether these pensions are to be paid for the intermediate time, after the lapse of the first five years, up to the time of the passage of this act?"

Mr. BORLAND, in reply to this question, said:

"I can answer the Senator. I drew the bill, and reported it, and certainly did not intend to authorize, nor do I believe that the wording of the act will authorize the payment of pensions for the intermediate time."

Now, what does that relate to? If the Senate will listen to the act, they will see that it was but tantamount to a denial on the part of Mr. Borland, the author of the original bill to which this amendment was offered, that it was contemplated to pay any arrears of pension; and the Senate will see that that construction given to the original bill, to which this amendment was offered, was assented to by the Senator from Maine, and all others who supported the amendment; and not one word was said on their part to contradict the inference which was certainly drawn by the Senate, that it was not intended to relate back. Here is the original bill:

"That all widows and orphans who were granted and allowed five years' half pay by the provisions of the act approved the 21st day of July, 1848:"

"be, and they are hereby, granted a continuance of said half pay, under like limitations and restrictions, for a further period of five years, to commence at the expiration of the half pay provided for by the aforesaid acts."

You see the act of 1848, originally was only intended for five years. About the expiration of the five years, Mr. Borland brings in this bill to extend it yet further; to extend it through life. Then, when the bill is read, Mr. Underwood propounds the question which I have just read. He says:

"If the first provisions of this bill pass as they are printed, without the amendment offered by the gentleman from Maine, I should like to know from the gentleman who drafted it, whether these pensions are to be paid for the intermediate time, after the lapse of the first five years up to the time of the passage of this act."

That is from 1848 to the passage of the bill pending. Mr. Borland says in reply:

"I can answer the Senator. I drew the bill, and reported it, and certainly did not intend to authorize, nor do I believe that the wording of the act will authorize the payment of pensions for the intermediate time."

Thus it is seen that when that bill was pending before the Senate, which made provision for the same class of pensioners who had been provided for by a prior act; and which provided that the pensions originally intended for but five years, should continue during widowhood, the author of the bill denied that he intended to pay arrears of pension to those who had not claimed it under that act. He denied that, as supposed by Mr. Underwood, it might be construed to relate back five years anterior to 1848. The Senator from Maine said not a word to contradict the construction given by Mr. Borland to the original bill; no other Senator, so far as I have seen, said a word to contradict it; and hence the Senate, in passing the amendment, thought they were not going to pay those who had not taken the benefit of that act, for the five years then spent; but that they would commence at the time of the passage of the act; and hence Mr. Underwood's question, to satisfy his mind whether it was intended to relate back. Mr. Borland, the author of the bill, denied it; the Senator from Maine said nothing; but he assented to that construction of the original bill.

Now, it just puts it in this condition: the act of 1848 provided for widows who were married

prior to 1800; the amendment to that act, which was offered by the Senator from Maine, provided for all who were married subsequent to January 1, 1800. Mr. Borland said that he did not intend by his supplementary bill to the act of 1848 to give those who had not taken the benefit of that act five years' arrears of pension; but he intended it to be prospective, not retrospective. The Senator from Maine did not say a word about the construction of his amendment; but can any one suppose that the Senate, in adopting that amendment, intended to put those who were married subsequent to 1800 upon a better footing than those who were married prior to 1800; and that, while they denied to those who were married prior to 1800 the five years' arrears of pension, they meant to give it to those who were married subsequent to 1800? I say such a construction is unjust, is absurd, and that it cannot be tolerated for a moment; and hence I say that upon the face of this debate, there was a denial of the purpose that this amendment should be retroactive, and the Senator from Maine cannot show anything to contradict that assertion.

Mr. HAMLIN. Mr. President, I shall occupy the time of the Senate but two or three minutes; I shall try not to occupy more than that time. I first want to correct a mistake into which the Senator from Georgia and the Senator from Alabama have both fallen in relation to the construction given at the Department to pension laws. They have both stated, if I have understood them aright, and I am sure the Senator from Georgia made that a point in this case, that no pension commenced at a period of time anterior to the time when the evidence in support of it was completed.

Mr. TOOMBS. Unless expressly provided in the act.

Mr. HAMLIN. Unless expressly provided in the act. The Senator from Georgia used that, and made this illustration: he said that a widow, who was deprived of the services of her husband during the war, could not get her pension to go back of the period of time when she completed her evidence. I do not understand such to be the case at all. That applies to invalid pensions, and none others. If there were a widow alive to-day in this country, whose husband served during the war, and she could make out her evidence to-day that she was married before or during the war, her pension would go back to the date of the law.

Mr. CLAY. The Senator is entirely mistaken.

Mr. HAMLIN. I am not mistaken, as I understand the law. I know the fact that I have obtained pensions myself which have numbered thousands of dollars for services in the revolutionary war. Now, sir, I did not state what was the intention of the Senate upon the passage of this bill, because my own opinions were one way or the other; and the Senator from Ohio [Mr. PUGH] is entirely mistaken in supposing that I undertook to say that the Senate have a particular construction to a law because such was my opinion. I said no such thing. I say the matter was discussed in the Senate; and I infer from that discussion that there was a general understanding that the law was to take effect from 1848. That is what I said, and I affirm it now.

I draw that section by the side of the late Senator from South Carolina, (Mr. Butler,) after objection was raised as to the time when it should go back. I am only stating from my recollection, now; but, if you examine the debates, you will find that the Senator from South Carolina opposed the section in the form in which I presented it, although he was in favor of the substance of it, because he contended that it might go back to 1836. I am very sure you will find that such was his language in the debate. There were a class of Senators who contended that it might go back to 1836. Among that number, I recollect distinctly, was the Senator from South Carolina. The Senate had adopted the amendment in that form. It was at his request, among others, that I did ask the Secretary of the Interior what was the construction of that section; and Mr. Stuart, who was then Secretary, said his construction would be that it referred to the law of 1848, and would therefore be limited by the law of 1848. Now, I repeat, by fair implication, when Senators pass an amendment which it was objected might go back to 1836, and when that objection was removed in the way it was, it is fair to suppose that they did understand it to go to 1848. If

you will examine the whole debate on that question, I think you will come to the same conclusion that I do; not that such is my opinion; but the whole debate leads to the conclusion that that was the understanding of the Senate. That is what I meant to say—no more.

Now, sir, this measure, in my judgment, commends itself to the consideration of the Senate on two grounds: first, from the opinion the Court of Claims has given; and, second, upon the principles of equity we ought to place these widows on the same footing with those who were married before 1800. I agree with the Senator from Georgia that the original rule had a good reason upon which it was founded. It applied to that class of widows who were married before or during the revolutionary war. If it had been confined to that class, I would never have voted to change it; but when you removed that limitation and gave pensions to a class of widows who were not married until after the war, you drew an artificial line, and made a distinction which you could not maintain. You could not fix an arbitrary line, which did not do justice to one section if it did justice to another; and for that reason I wanted to see that distinction abolished; and it was that reason that led me to believe then, as I believe now, that they ought all to occupy precisely the same position.

Mr. CLAY. But the Senator's proposition, according to his construction, would place those last married on a better footing.

Mr. HAMLIN. No, sir.

Mr. CLAY. Because I have clearly shown that the act of 1853, to which his amendment was offered, did not intend that the pensions of that class who had been pensioned by the act of 1848 for five years, should relate back.

Mr. HAMLIN. Let me ask the Senator if that was not to revive an act that already existed, and under which they had already received pensions?

Mr. CLAY. Exactly; but the question was, whether the pensions of those who had not taken the benefit of the act of 1848, would run back to the date of the passage of that act; and Mr. Borland denied it. Now if the Senate meant, by the amendment of the Senator from Maine, to give a retroactive effect, that pensions should date back to 1848, I say it put this class on a better footing than the original class provided for, who had not taken the benefit of that act.

Mr. HAMLIN. I answer, by saying no. I do not know how long that act had run back, but certainly five years; I do not know that it had not run ten years. They had already received that amount more than these would if they were confined to 1853. Suppose that law had existed only five years, and this section went back to 1848; it made them precisely equal in amount; but I think that that law had had an existence of more than five years, probably ten; I do not recollect.

Mr. CLAY. Just a word in reply to the Senator. I have looked to what the Senator from South Carolina said, and I cannot find that he said anything to sustain the assertion of the Senator from Maine, that the Senate understood his amendment as having a retroactive operation. On the contrary, what he said rather confirms me in the opinion that such was not the interpretation; and after glancing over the debate—I could not read every word; but I have glanced through it—I do not find a single word uttered that relates to the retroactive operation, either of the bill, or of the amendment proposed by the Senator, except what I read before. Hence, I say the Senate did not so understand it; and I maintain and believe that, if the Senate had so understood it, they would not have passed the bill; for the question propounded by Mr. Underwood in relation to another and more meritorious class, was very promptly answered by Mr. Borland, that it was not intended to relate back.

Mr. WADE. Mr. President, since I was up before I have procured the decision of the Court of Claims on this question. I do not think gentlemen have done that court justice in the summary manner in which they have condemned its opinion as being absurd. When we look at the objects of the law in question, it seems to me perfectly obvious that Congress, in the enactment of the law of 1853, intended to do no more and no less than to confer upon widows who were married subsequent to the 1st of January, 1800, the

same benefits which had been previously conferred upon those who were married prior to that date. If Congress meant anything by that law, they must have meant that, because they did not pass a new law throughout on the subject, but referring to the law of 1848, they simply admitted the widows married subsequent to January, 1800, to the same benefits which the act of 1848 gave to those married before that time. That was the sole reason why they did not go on and define more particularly what their pensions should be. I would ask the Senator from Alabama, as a lawyer, what operation can this law have, unless it goes back to the law of 1848? Did Congress, in the act of 1853, specify the rate of pension any more than the time when it should commence? Not at all. They simply referred to the act of 1848, and you must refer to that act for everything, or else you must say that Congress intended nothing by what they did. The act of 1853 does not say what rate of pension should be allowed to the widows who were married subsequent to 1800; it does not say at what time the pension was to commence; but, simply referring to the act of 1848, it provides that widows married subsequent to 1800 shall be entitled to pensions in the same manner as those who were married before that date.

Mr. CLAY. Will the Senator pardon me for answering him just here?

Mr. WADE. Yes, sir.

Mr. CLAY. The Senator asks me, as a lawyer, how I could construe those words, "in the same manner," as meaning anything else than that they should be paid for the same time as well as the same amount? I have stated that the construction which he proposes to give is in violation of universal legal construction and of the construction heretofore given by Congress. Here is the act of Congress to which I referred, and which I did not read before, but which the Senator from Maine challenged the production of, and said did not exist, as I understood him, which I think settles the question clearly. It is in these words:

"And be it further enacted, That the right any person now has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony, pursuant to the act hereby revived and continued in force."

There is an act of Congress, a general law embracing all pensions, and declaring that none of them shall commence until the proof is completed; and in the face of that act, I ask how the Senator can construe the amendment of which he is speaking, as relating back. It is evidently in conflict with an existing law of Congress which it does not repeal *in totidem verbis*, and which it does not repeal so distinctly as to indicate the purpose.

Mr. TOOMBS. If my friend will allow me, I will state to him that the same act has been twice reenacted in pension laws. It was passed in 1820, and also in 1822, in the very words which have been read:

"That the right any person now has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony, pursuant to the act hereby revived and continued in force."

Mr. WADE. I see no difficulty in all that. That was a law of Congress very properly prescribing that a pension should not go back prior to the making out of the proof. That was all right enough; but still it was as competent for Congress to alter that law in passing this act, and defining the time when the pension should commence, as it was to make that law at that time referring to the completion of the proof.

Mr. TOOMBS. I admit that, but it ought to be equally clear.

Mr. WADE. Well, it is equally clear. If Congress, since the law which has been read, have enacted a subsequent act, prescribing when this particular pension shall commence, and stating its amount, that of course, to that extent, repeals the prior law. I think we had better look at this law somewhat carefully. I shall not go into a very elaborate investigation of it. In fact, I am not prepared to do so; I have never given it much attention, nor felt more interest in it than I do in any question, to see that it is decided rightly. The law of 1848, was in these words:

"That the widows of all officers, non-commissioned officers, musicians, soldiers, mariners, and Indian spies, who shall have served in the Continental line, State troops, volunteers, militia, or in the naval service, in the revolutionary war with Great Britain, shall be entitled to a pension during such widowhood, of equal amount per an-

num that their husbands would have been entitled to if living, under existing pension laws; to commence on the 4th day of March, 1848, and to be paid in the same manner that other pensions are paid to widows; but no widow now receiving a pension shall be entitled to receive a further pension under the provisions of this act; and no widow married after the first day of January, 1800, shall be entitled to receive a pension under this act."

Now, when you come to strict, nice, legal construction, you will see from the reading of this law, that it did, in its general terms, include all widows of revolutionary soldiers, no matter at what time they were married. That is the scope of the first part of this section; but then comes a restriction that widows married subsequent to the 1st of January, 1800, should not be included within it. The restrictive clause merely shuts them out. Then, when Congress concluded to let those who were married subsequent to that time come into the benefits of this act, what had they to do? It was unnecessary for them to enact a new law on the subject defining the amount of pension they should receive. All that was necessary under the existing circumstances to be done, was to say that widows married subsequent to that time should be entitled to the benefits of that law. That was all Congress did; and unless you put this construction on it, the law is perfect nonsense, inoperative, meaning nothing.

I ask again, did Congress mean anything by this enactment? What pension was to be allowed to these widows? You must go back to the law of 1848 to ascertain. They are remitted to the rights given by that law. It would have been equally clear if Congress had simply repealed the latter portion of the act of 1848, which was the restrictive clause. All that was necessary was to remove that restriction, and then these widows would be plainly within the purview of that statute. Substantially, that is the same thing that was done. The restriction in the latter part of the enactment of 1848 prevented its being construed so as to include the widows married subsequent to January, 1800; and in 1853, Congress came to the conclusion that they would admit them to the same rights, and then they did it in this language:

"That the widows of all officers, non-commissioned officers, musicians, and privates, of the revolutionary army, who were married subsequent to January, A. D. 1800, shall be entitled to a pension in the same manner as those who were married before that date."

The judge who delivers the opinion of the Court of Claims well inquires what do Congress mean by "the same manner"? Did they mean anything by the law? They refer to the law of 1848; they repeal its restrictive clause, so as to put these widows on precisely the same footing with those who were receiving pensions under the law of 1848. "Manner" refers to all the particulars of the pension that were defined before; and, if you do not take that explanation, the law means nothing; it is incomplete; it does not tell what pension they shall have, nor when it shall commence, nor what the proof shall be, nor anything about it. It remits widows who were married subsequent to January, 1800, to the same rights that the act of 1848 gave to those who married prior to that time, and uses language perfectly adapted to such a state of things, intended to effect that purpose, intended to effect nothing else; and the court have argued it better than I could; and, if gentlemen will only hear their report, I defy any one here to overrule it by argument or authority.

I am requested to state, while I am up, that the law which has been referred to, limiting the time when pensions should commence, has reference only to invalid pensions, and no other. So I am told.

Mr. CLAY. Read the language of the act.

Mr. WADE. I do not think that is material; I only state it because it is suggested to me. I do not take issue on that point. I have nothing to say as to the explanation of the gentleman who drew the bill of 1853. I know very well that if I were sitting in a court of justice to decide rigidly on the construction of a law, I should have to shut all that out. They would not bear a member of Congress state what his motives were in voting for the law, nor would they refer to any speech that was made; but they would go to the letter of the law, and its strict construction. Taking this law as it is, I think they would come to the same conclusion with the Court of Claims. I say still, that in Congress, if there is any doubt about it, we have a perfect right to lay hold of these lights upon the subject, if we see fit to do

so, though courts are not admitted to do it. They cannot make the law; they must administer it just as they find it. We can go as broadly into all the equities of the case as we see fit; we are restricted by nothing; but I am not driven to that position. I am willing to rest the case upon the construction of the law as it appears to me as a lawyer; and what is infinitely more, as it appears to your own court, on a thorough investigation, with all the precedents they see fit to refer to, and they are numerous, to show that they were making no novel decision when they made this. They have cited cases from divers of the courts in the Union to show that they were driven to the construction they gave; and your solicitor, whom you appointed to stand between claimants and the rights of the public, on full deliberation, as a lawyer eminent in his profession and honest in his purposes, was compelled to say that this construction must stand.

My colleague says the solicitor did not argue it before the court. That is very true; he did not argue it, because he could not argue it. As an honest man, willing that justice should be done, coming to an honest conclusion, as every other lawyer must, that the construction claimed by these widows is the true construction, they gave it up; but the court did not so give it up; they must make their report to Congress, giving the reasons which impelled them to the decision they made; and they made one which has not been shaken by the reasoning of any gentleman who has spoken upon this subject.

I am not now speaking upon the merits of this case. Some gentlemen are opposed to all these pensions to the widows of revolutionary soldiers and others. I am not; I am willing that they should have pensions; I think they are entitled to them; but that is not the question before us now. Congress has given pensions for a great length of time. In 1848, they passed a law, which I have cited, for the benefit of widows married prior to 1800, as they had from time to time, by a great number of pension laws, admitted different classes to the same privileges; and finally, in 1853, they removed the restriction in the law of 1848, and remitted the widows married subsequent to January, 1800, to the same privileges which were enjoyed by those who were married before. It required no specification. If it had, as I have said, and as the court say, the law was perfectly ineffectual for anything. But it is as definite as it could be. It is said barely that those married subsequent to that date should be entitled to pensions in the same manner as those who were married before. "Manner" does not merely refer to the amount of the pension. It is not mentioned in this law at all. It does not merely refer to the time. It only removes the restrictions, and remits them to the same rights. They did it in that language, plain and easy to be understood.

As I said before, there is nothing in the argument drawn from the law that gentlemen have quoted, as to pensions commencing from the completion of the proof, because this law is made subsequent to that, and moves upon a different principle. If those who were provided for by the act of 1848 could receive no pension until the time they proved it, neither can these; for they have no enlarged rights. They are remitted to precisely the same rights, the same amount of pension, commencing at the same time, to be paid in the same manner, and proved in the same way. That is all you can make of it; all that Congress intended; and all that the court have done in giving effect to it.

Now, sir, your Committee on Claims, eminent lawyers, have had this subject under consideration, I believe, twice, and they have by their reports sustained the reasoning, opinion, and decision of the court. Are we now, loosely, without having our minds particularly called to it, to overthrow all this reasoning, and shut out all these people? I do not think it will be doing justice.

Mr. IVERSON. Mr. President, the Committee on Claims, to whom this bill was referred, and who reported it with a recommendation that it pass, did so more with a view to test the sense of the Senate, probably, than to indicate their own real advocacy of the bill. I had my doubts at the time the question was discussed in the committee, and I have them still. I find that lawyers disagree, and when lawyers disagree who shall decide?

The Senate, of course, must determine the question. It is a question of doubt, at least. It is a matter of construction, and it admits of very considerable doubt, and very eminent men in the Senate, on both sides, seem to have a great deal of doubt, and I have doubts myself. Well, sir, I am disposed to give to the United States the benefit of the doubt, more especially as it is understood that an expenditure of over a million dollars is involved if the doubt be resolved in favor of the claimants. But I think this question has been sufficiently discussed; we have been now two hours upon it; nearly the whole private bill day has been devoted to this one case, and if we go on with the discussion the probability is that no other cases can be considered. The Senate has given very little attention heretofore to private bills. I think great injustice has been done to claimants. There are other cases on the docket which I think deserve the attention of the Senate. In order to get rid of this discussion, I move to lay the bill on the table; and on that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Bell, Benjamin, Bigler, Chesnut, Clay, Clingman, Fitzpatrick, Green, Hannum, Hunter, Iverson, Johnson of Tennessee, King, Mallory, Pearce, Pugh, Reid, Rice, Stidell, Stuart, Toombs, Ward, and Wilson—23.

NAYS—Messrs. Broderick, Chandler, Clark, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Houston, Polk, Seward, Simmons, Trumbull, and Wade—18.

So the bill was ordered to lie on the table.

LUCINDA ROBINSON.

The PRESIDING OFFICER. The next bill on the Calendar is the bill (S. No. 88) for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont.

Mr. IVERSON. That bill is precisely the same, I understand, in principle, as the case just decided by the Senate. I move to lay it on the table also.

Mr. STUART. I suppose the bill should first be taken up; and inasmuch as the Senate has decided this question, I do not want to argue it with regard to the pension, but I want to submit to the Senate a few remarks in regard to what has been said with relation to the Court of Claims, and upon this bill I propose to say them.

The bill was read the second time.

It provides for the payment to Lucinda Robinson, widow of Eber Robinson, an officer in the army of the Revolution, of the sum of \$1,671 67, being for the arrears of her pension, at the rate of \$340 per annum, from the 4th of March, 1848, to the 3d of February, 1853, to which she is entitled under the second section of the act of February 3, 1853.

Mr. STUART. As I said, I do not intend to discuss this question as to the pension; but I will state a fact or two that have not been submitted to the Senate which are important in all this class of cases. When the law was passed, it was estimated that it would cost \$24,000 to execute it; but when a report was made to us at the last Congress, the estimates then were over two hundred thousand dollars annually to execute it. This is an important fact, for it shows that when Congress enacts laws to provide pensions for a particular class of persons, according to the history of our legislation, the estimates have not equaled in most cases a tenth part of the actual cost.

Only one word further, sir, and I shall have done with that branch of the subject. The laws which have been read by the Senator from Georgia and the Senator from Alabama, show that there is a general provision of law, unrestricted in its terms, which declares that all pensions shall date from the perfection of the proof, unless the statute itself fixes another time for their commencement. Such has been the practice of the Departments and such clearly is the correct practice. In deciding this case, therefore, unless the statute referred to, in itself, fixed a time when the pension should commence, the general law would intervene, and it would commence from the time the proof was perfected.

But, sir, it has been said by the Senator from Ohio, [Mr. WADE,] and that honorable Senator has frequently made the same argument, that when an individual is referred by Congress to the Court of Claims, and the judgment is in favor of the individual, Congress is morally bound to ex-

cute it agreeably to its decision. That, I think, is the fair statement of the Senator's position.

Mr. WADE. I intended to be understood that when it involves no principle of policy, but is a matter of pure law, I think it should bind Congress always, unless it is fraudulent.

Mr. STUART. I am obliged to the Senator for the qualification, because I understood his argument as I have stated; and I wish to treat it properly. I desire now to say, what I have taken occasion to say, perhaps less explicitly, before, that in organizing this court, Congress never intended to constitute it a court of law. The court is not even empowered to render a judgment. The extent of its authority is to investigate a case, and if it finds the claimant entitled to relief, to report to Congress a bill for his relief. It occupies, therefore, in point of authority, precisely the position of a committee of either House having jurisdiction of a case. Having investigated it, having decided that the claimant is entitled to relief, it presents its views in the form of a bill to the House, of which it is a committee. The Court of Claims presents its bill to the House which referred the case, if it were referred by either House, or if it were originally presented, I think they send a bill to each House, and that bill goes to the Committee on Claims. Such is the law.

Now, sir, I can appeal with success to the recollection of every Senator here, that, when this tribunal was organized, it could not have received the sanction of the Senate, probably not of a third of the Senate, if it had been proposed to organize it upon the ground of giving it authority to render a judgment in any case which should be final against the Government, or for the Government. The reasoning was this: When a case is referred to our committees, they are unable to hear the Government's side of the question; they hear the testimony that is adduced for the claimant, but the Government is not represented at all; and hence it was believed that the Government was being compelled to pay large amounts of money upon claims which, if they could have been investigated on both sides, would have been found to be without any foundation in justice. Therefore, this tribunal is not a court in the legal sense of the term, nor in the practical sense of the term. It was organized with an officer to represent the Government, under the name of a solicitor, with power to subpoena witnesses, so that the evidence for and against a claim may be presented, and an investigation, superior to that which could be obtained in Congress, be had; and when this investigation has been had, the bill and the facts, if the court find in favor of the claimant, are to be presented to Congress; and in that position it stands precisely like a bill reported to Congress from a committee, with just that much authority, and no more.

Now, sir, giving the benefit to my honorable friend from Ohio of his position—for, as I said, I intended to state it as he has—upon a mere question of law, the legal construction of an act of Congress, the Congress of the United States, never intended to transfer its power to that tribunal; and I think I may submit to-day, without danger of contradiction, that if the proposition were made to the Senate this hour, it could not receive ten votes in the Senate, after the experience that has been had.

Mr. WADE. I think the gentleman misunderstands me altogether as to my view of the conclusive efficacy of a judgment of this court. I never supposed that it was strictly binding in law on the Government, and it should not be. It is referred to us, and we have a discretion to overturn any decision they may make, I grant; and on the other hand, it cannot be conclusive against the claimants, for they can petition again for relief; but then its effect ought to be mutual. Did the Senator ever know a case where the court found adversely to a claim, where their finding was questioned at all? No, sir; the very moment they find against the claimant, he has no chance, and no man stands up for him for a moment.

Mr. FESSENDEN. The Senator is not exactly correct about that. There is a bill now pending here for the relief of the officers and crew of the United States armed brig General Armstrong, which has been reported from the Committee on Foreign Relations of this House favorably, though it was rejected by the Court of Claims and rejected by the Senate heretofore.

Mr. CLARK. If the honorable Senator from Ohio will allow me, I will state to him what is the method of proceeding with the Committee on Claims, to which these reports usually go. We take the reports of the Court of Claims and examine them, whether adverse or favorable to a claim. If the report is adverse upon a ground on which the court has jurisdiction, it is affirmed; but if it is upon grounds upon which the court has no jurisdiction, but Congress has, we examine the whole subject, and make our report to the Senate as the case seems to require.

Mr. WADE. I supposed that was so. I was on that committee for six years, and that was the course. We sometimes submit questions to that court that do not strictly belong to them under the law of their organization. They were instituted, as I understand it, to try legal questions. Sometimes we act upon questions of policy, sometimes on questions of generosity; and we should not, of course, substitute that court to determine what we should do in those cases; and if we should send them there for their opinion, it would be barely advisory. But when we have constituted a legal tribunal of the most eminent jurists in the country, and they have taken into consideration a case, and adjudicated it, putting a claimant to great expense to litigate his claim, it strikes me, though we have the power to set aside any judgment they make, whether it is within their jurisdiction or not, it is not a proper exercise of that discretion for us to overturn their legal judgment upon a matter within their jurisdiction, when we are unable to give any good reasons for doing so. They may have considered the subject for days, perhaps for months; they search authorities on legal points; they have the light of counsel, of argument, and of precedent, before them; and if in the Senate we take up the case, and in half an hour determine that they are wrong, it seems to me that it is not a proper exercise of our discretion.

We have the physical power to do it, I know; and I know as well that it is very rare—I do not remember a single instance—where the applicants have got a decision against them that we overturned it. It is a kind of game in which we do not intend to lose. We send a man before a court; send him out to take testimony; and it is cross-examined. One great defect in the original jurisdiction was, that there was no way of cross-examination; it was all *ex parte*; but now it is not. They send out a commissioner, and there is a rigid cross-examination, as in any other court. They investigate it precisely as the judges of the Supreme Court on the circuits would do, and they come to a conclusion. If it is unfavorable to the Government, we question it very sharply. If it is against the poor applicant, we say it is conclusive against him. That is what we have always said, I believe. Perhaps we shall not always say so. I may have gone too far in saying they have not been questioned; but, I believe, no one has been overturned. I believe the honorable Senator from Maine will not contradict me in the assertion that no decision adverse to a claimant has ever been reversed here, though it may be true that some are questioned.

Mr. STUART. Mr. President, I had not, I think, misstated the argument of the Senator from Ohio, although I have given him liberty to explain himself very fully. I used this term: that, in his opinion, Congress was morally bound to execute the determination of the court. I did not understand him to say that we had not power to overrule their determination; but I was arguing to show that it imposed no further obligation on us than the report of a committee.

When the Senator interrupted me, I had nearly concluded what I intended to say on this subject. The case referred to by the honorable Senator from Maine [Mr. FESSENDEN] is a case fresh in the recollection of gentlemen here; and the principles that were laid down by the court in its first decision, which was favorable to the claimant, shocked the country. A subsequent decision of the court, on a review, changed their determination, and they decided against the claim; and that claim is now before Congress demanding to be paid. But, sir, to be entirely fair with the Senator's argument, he states a fact which is but most natural in its application. It is undoubtedly true that when the Court of Claims decides against a claim, Congress does not undertake to review it.

What is the reason? Because the history of the country shows that the Government rarely gets a determination in its favor when it ought not to have it. The danger is on the other side.

Now, sir, in regard to the character of the court and of its officers, I would never speak of them except with the most perfect respect, not only for their position, but their ability; but there are always, within the Halls of Congress, many gentlemen who possess the highest abilities in the legal profession; and I have further to say, that an eminent lawyer, like an eminent physician, divine, mechanic, tradesman, or husbandman, is only made when he has eminent natural abilities; and the chances will be, in the history of this country, as they have been heretofore, that those members of the legal profession who attain seats in Congress, will find among their number many of the ablest legal gentlemen in the Confederacy. Hence there is no danger in Congress reviewing a question of law decided by the Court of Claims.

I have but one further remark to make, and I shall move to lay this bill on the table; and it is simply to state a distinction which is controlling with me: when a court, organized under the Constitution, decides a question, Congress will refuse to review its decision; because it is conclusive upon all parties, although Congress might not so decide; although you, as a Senator, or as a lawyer, might not so decide; yet such is the Constitution and law of the country. It is a case concluded; not subject to review. But that argument has no application to the Court of Claims.

I am sorry, Mr. President, that I have detained the Senate so long on this private bill day; but I have thought always, when these questions have arisen, that the character and intention and jurisdiction of the Court of Claims never ought to be misapprehended by Congress. I move to lay the bill on the table.

The motion was agreed to.

CREEK DEPEDATIONS.

The next bill on the Calendar was the bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama on account of losses sustained by depredations of the Creek Indians.

Mr. CLAY. Let that bill be passed over for the present.

The PRESIDING OFFICER, (Mr. FOSTER.) By common consent this bill will be passed over.

JOSÉ DE LA MAYA ARREDONDO.

The next bill on the Calendar was the bill (S. No. 26) for the relief of the heirs and legal representatives of José de la Maya Arredondo.

Mr. MALLORY. I ask that that may be passed over. It was introduced on a petition which I presented here. I will state that I make this request upon the statement of my colleague, that the parties interested in the bill, and who are to receive the benefit of it, have an understanding with him to this effect.

The PRESIDING OFFICER. The bill will be passed over if there be no objection.

GEORGE H. HOWELL.

The next bill on the Calendar was the bill (S. No. 149) for the relief of George H. Howell.

Mr. IVERSON. As the Senate had up, last Friday, the bill for the relief of Dr. Suddards, which involves precisely the same principle as this bill for the relief of Dr. Howell, and as the Senate gave an unequivocal expression of opinion against that bill, it is unnecessary to consider this bill; and I move to postpone it indefinitely.

The motion was agreed to.

JOSHUA D. TODD.

The bill (S. No. 153) for the relief of Lieutenant Joshua D. Todd, United States Navy, was read a second time, and considered as in Committee of the Whole.

It proposes to direct the proper accounting officers of the Treasury to pay Joshua D. Todd, the pay of a master in the Navy of the United States, from the 17th of June, 1844, to the 10th of August, 1846, after deducting therefrom the amount already received by Todd as passed midshipman during that period.

Mr. FESSENDEN. I should like to hear the report in that case.

The Secretary read the report, from which it appears that the petitioner asks to be allowed increased compensation for services rendered by

him, he having, while a passed midshipman of the United States Navy, performed the duties of a master, under directions from the Secretary of the Navy, from 17th of June, 1844, to 10th of August, 1846. Many cases of an analogous character have been referred to the committee, and in their consideration they have adopted, as their general rule of action, the policy of refusing to grant to the officers of the Navy any higher compensation than that allowed to them by law. There are, however, in the case of the petitioner, peculiar circumstances which make a deviation from the common rule just and proper. In the third section of the act of 17th June, 1844, all provisions of law granting to officers temporarily performing the duties belonging to those of a higher grade the compensation allowed by law to such higher grade were repealed. The general legislation remains unchanged; but, by act of 10th August, 1846, an exception was made in favor of passed midshipmen performing the duties of master under the direction of the Secretary of the Navy. It is to be presumed that this exception was established in consequence of the peculiarly responsible duties of masters as navigators of our ships-of-war. The service of Mr. Todd was performed in the interval between the enactment of the general repealing law and the establishment of the special exception in favor of passed midshipmen acting as masters. This fact, in the opinion of the committee, takes the case of Mr. Todd out of the ordinary principle which has governed them in refusing to recommend allowances for increased pay.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM F. CARRINGTON.

The next bill on the Calendar was the bill (S. No. 154) for the relief of William F. Carrington, passed assistant surgeon in the Navy of the United States; which was read the second time.

Mr. BENJAMIN. This bill and the next following it, are also bills in relation to the pay of assistant surgeons, which the Senate decided last Friday, by a decisive vote. I move that this bill be laid on the table.

The motion was agreed to.

ROBERT CARTER.

The bill (S. No. 155) for the relief of Robert Carter, passed assistant surgeon in the Navy of the United States, was read the second time.

Mr. BENJAMIN. I move to lay the bill on the table.

The motion was agreed to.

MISSOURI TWO PER CENT. FUND.

The bill (S. No. 157) to provide for the payment to the State of Missouri of two per centum of the net proceeds of the sales of the public lands therein, heretofore reserved under a compact with that State, was announced as the next in order.

Mr. FOOT. It will be recollected that when a motion was made to take up this bill some days ago, (I think on last Friday,) my colleague [Mr. COLLAMER] expressed a desire to be heard at length upon the bill. I know that he wishes to be heard on it whenever it is taken up. I have to state that he is confined to his lodgings at this time by severe indisposition. I therefore think it but an act of courtesy to him, his desire to be heard on the question being known to the Senate, as expressed by himself on Friday last, to postpone it. I move that it be postponed until next Friday.

Mr. GREEN. Personally, I will extend every courtesy to the Senator from Vermont that is due to him; but, when a State's rights are involved, I do not think I can do it. This matter has already been too long delayed. The bill has passed the House of Representatives in this form; it is a clear case, in my estimation, and I do not think any wrong will be done to the Senator from Vermont, or to the public interest, by considering the case at present. Longer delay may prejudice the rights of a State; and I hope, therefore, the subject will be considered at once; and I am willing, out of courtesy to the Senator who is sick and absent, to pair off my vote so far as that is concerned, and even to pair off my argument, for I think I can answer any argument he may make on the subject.

Mr. POLK. I would extend all courtesy to

the Senator from Vermont; but it will be recollected by the Senate that this bill was brought in from the House of Representatives, and was referred to the Committee on Public Lands, and reported from that committee at the last session. There were at least two efforts made then to get the bill up; and I recollect that in both instances it failed because of the objection of the Senator from Vermont, who is now absent. I think the proposition made by my colleague is a very reasonable one—to pair off on his vote with the Senator from Vermont.

Mr. FOOT. I have stated the grounds of my motion; and it is not within my recollection, after an experience of some years here, that a motion of this kind, founded upon a cause like this, has not met the acceptance of the Senate. I do not know of an instance.

Mr. GREEN. The misfortune of a Senator ought not to prejudice the rights of a State. If there were any assurance given that this subject would be considered and acted on, I would extend every courtesy; but we have no assurance of that kind. The Senator may be sick the rest of the session; and, if he should die, he never would be here to attend to the opposition to the passage of this bill. If it be a mere matter of argument, or of vote, all of that can be counteracted by votes on the opposite side. I consider it so plain a case that it cannot prejudice any Senator, or any State of the Union, to consider it now, in the absence of the Senator from Vermont. I should be the last, I trust, to consent to withholding any courtesy due to the honorable Senator from Vermont, who is detained from his seat to-day; but I believe this to be a very important bill. If it be not reached this session, although it has passed the House of Representatives, it will be lost. That Senator's single objection before, when he had a right, by a word, to stop the passage of the bill, prevented its passage; and now, when a simple objection will not stop the passage of the bill, I want it to be considered, and let the majority of the Senate decide it. I take no advantage of the absence of the Senator; but I do ask the consideration of the Senate to this matter, lest it may not be reached at all, and the prior action of the other branch of Congress be lost.

Mr. IVERSON. I wish to ask the Senator from Missouri one question, which will determine my vote on this motion to postpone. Has the House of Representatives passed a similar bill at this session?

Mr. GREEN. Certainly.

Mr. POLK. I intended to move to substitute that bill in place of this one.

Mr. IVERSON. Of course this is an appeal to our courtesy, and I must, under the circumstances, vote in favor of the postponement, because I am satisfied that all House bills will hereafter be acted upon. We can act upon every House bill hereafter; while I am very sure that we shall act upon only very few more of the bills originating in the Senate, because the Senator from Virginia, the chairman of the Committee on Finance, has given me notice to-day that he is determined hereafter on Friday to press the consideration of the appropriation bills, and I am very well satisfied that, after to-day, we shall not act on any private bills originating in the Senate; but, so far as House bills are concerned, I think the Senate will yield another Friday or two to them; and, therefore, I am willing to vote for the postponement.

Mr. GREEN. If the Senator from Virginia will press his appropriation bills on every Friday, I should like to know on what Friday we can consider this bill?

Mr. IVERSON. I think, notwithstanding the pressure of the Senator from Virginia, the Senate will be disposed to take up bills from the House of Representatives of a private nature, and act on them before the adjournment. I think they appeal so strongly to the Senate for action, that the Senate will yield at least one more day for them; and then this bill for the State of Missouri can come up.

Mr. GREEN. If there is any common understanding that on next Friday private bills can be considered, and that this will be the first on the Calendar, I shall yield most cheerfully.

Mr. PUGH. Allow me to make a suggestion. The House bill is on the Calendar of public bills, where it ought not to be. If the Senate will agree

to take up that bill and allow it to be made the special order for half past twelve o'clock on Friday next, I think we can accomplish all the Senator desires.

Mr. GREEN. I will agree to that.

Mr. PUGH. I am in favor of the passage of the House bill; and if there be no objection, I shall propose that that be taken up.

Mr. FOOT. That is satisfactory.

Mr. PUGH. I propose that the House bill be taken from the Calendar and made the special order for next Friday, at half past twelve o'clock.

The motion was agreed to.

A. W. MACPHERSON.

The bill (S. No. 187) for the relief of A. W. Macpherson was read the second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to audit and settle the accounts of A. W. Macpherson, for furnishing the district and circuit court-rooms, for the use of the courts of the United States, in the city of San Francisco, California; allowing such prices for the articles furnished as, under all the circumstances, shall appear to him reasonable and just.

Mr. FESSENDEN. Let us hear the report in that case.

The Secretary read the following report, made by Mr. IVERSON, on the 8th of March, 1858:

The Committee on Claims, to whom was referred the petition of A. W. Macpherson, beg leave to report:

That on the 9th June, 1855, the Secretary of the Interior wrote to the marshal of the district of California, by which he was authorized "to procure such other accommodations (for the courts of the United States) upon the most favorable terms to the United States, to be fully approved by the judge and the United States attorney, and to transmit to the Department a copy of the agreement, with the approval of the officers indorsed on it."

Under these instructions, the marshal entered into a lease and agreement with petitioner for the rent of a building and for furnishing the same, separately. The contract of lease was confirmed by the Secretary, but the account for the furniture, though certified to in due form by the judges of the circuit and district courts, and by the district attorney and marshal of the United States, was refused payment on the ground that there was no authority to pay in the Department, under the act of February 26, 1853, which enacts that "a marshal shall not incur an expense of more than twenty dollars for any one year for furnishing," &c.

By the act of 28th September, 1850, the laws of the United States were made of force in California, which was divided into two districts; and, by the fourth section, the judge of the northern district was directed to hold two regular sessions of his court in the city of San Francisco.

By the act of 2d March, 1855, the judge of the circuit court was directed to hold alternately of his court on the first Monday of July in each and every year, with power to hold special terms in said city, at such places "as the marshal of the United States for the northern district of California shall procure for the purpose, under the direction of said judge."

It appears that, under the authority of these acts and the letter of instructions from the Secretary to the marshal, the house rented from the petitioner was furnished by him under an agreement to pay for the same, and the accounts for the price of the same are certified to, as above recited, by the proper officers.

These accounts are for the sums of \$9,087.95 and \$9,012.20; in the aggregate, \$18,099.15. The prices charged for the articles furnished appear to your committee to be extravagant, and they are, therefore, unwilling to recommend the payment of the amount claimed. As the United States have had the use of said furniture, and are still using the same, they think that the petitioner is entitled to a compensation for the reasonable value of the same, and they therefore recommend the adoption of the accompanying bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SUSANNAH HAYNE PINCKNEY.

The bill (S. No. 205) for the relief of Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick, was read the second time, and considered as in Committee of the Whole.

It provides for the payment to Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick, of the Revolution, of the seven years' half pay of a captain of infantry, as promised by the resolve of the 24th of August, 1780, which amounts to \$1,680.

Mr. CHESNUT. In order to make the bill effectual, it is necessary to amend it. The claimant for whose benefit this bill has been reported, is dead; she has died since the report was made by the committee, and pending the proceedings here. It is necessary, therefore, to amend the bill. I move to amend it by inserting in the fourth line, after the words "to pay to," the words "the legal representatives of," so that it will read, "to pay to the legal representatives of Susannah Hayne Pinckney;" and after the word "Pinck-

ney," to insert "deceased, who was;" so that the bill, being amended, will read:

To pay to the legal representatives of Susannah Hayne Pinckney, deceased, who was the legal representative of, &c.

The amendment was agreed to.

Mr. CLAY. I should like to hear the report read.

The Secretary read the following report, made by Mr. EVANS, from the Committee on Revolutionary Claims, March 17, 1858:

The Committee on Revolutionary Claims, to whom was referred the memorial of Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick, having had the same under consideration, beg leave to submit the following report:

Richard Shubrick was a captain in the second regiment of the South Carolina line of the Continental army of the Revolution. He died in Charleston, of fever, whilst in the service, on the 8th November, 1777, leaving a widow and two minor children. The widow and one of the children have been dead many years, and the petitioner is the sole survivor and heir of the said Captain Shubrick.

The prayer of the petition is, that she may be paid the seven years' half pay which was provided for in the resolution of Congress of 24th of August, 1780, to the widows and minor children of officers of the army who had died, or should thereafter die, in the service.

To a correct understanding of this case, it will be necessary to enter somewhat into detail as to the several acts or resolves on which the merit of the petition depends, and into a detail of the history of the case, as they appear in the proceedings of Congress.

On the 15th of May, 1778, on the report of a committee, Congress "Resolved unanimously, That all military officers commissioned by Congress, who now are, or may hereafter be, in the service of the United States, and shall continue therein during the war, and not holding any office of profit under these States, or any of them, shall, after the conclusion of the war, be entitled to receive annually, for the term of seven years, if they live so long, one half of the present pay of such officer." On the 24th of August, 1780, Congress took into consideration the report of the committee on the memorial of the general officers; and, thereupon, it was "Resolved, That the resolution of the 15th of May, 1778, granting half pay for seven years to the officers of the army who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service, to commence from the time of such officer's death, and to continue for seven years; or, if there be no widow, or in case of her death or intermarriage, the said half pay be given to the orphan children of the officer dying as aforesaid, if he shall leave any; and that it be recommended to the Legislatures of the respective States to which such officers belong, to make provision for paying the same on account of the United States."

On the 4th of May, 1785, on the report of a committee to whom had been referred a letter of the widow of General Wooster, who was killed in battle prior to the 15th of May, 1778, it was "Resolved, That it be recommended to the State of Connecticut to settle with and pay the widow of the late Brigadier General David Wooster the seven years' half pay of a brigadier general, agreeably to the resolution of February 28, 1785, the amount whereof they are authorized to charge to the United States." It also appears from the Journals of Congress, vol. 2, p. 893, that Congress ordered as follows: That the eldest son of General Warren, and the youngest son of General Mercer, be educated from this time (April 8, 1777,) at the public expense; and, at a subsequent period, Congress made further provision for the family of General Warren. Both these officers were killed before the 15th of May, 1778. This is all the legislation which applies to this case. The history of the action of Congress on this particular case is as follows: At the first session of the Second Congress, (1791,) Thomas Shubrick, on the part and behalf of Mary and Susannah Shubrick, the minor children of the said Richard Shubrick, presented a petition praying that they might be paid the seven years' half pay under the resolution of August 24, 1780. Upon this application, the Secretary of War, General Knox, made a report recommending its payment, and submitted, along with it, a list of upwards of forty cases in which the States had paid, agreeably to the recommendation of Congress contained in the said resolution of the 24th August, 1780.

There does not appear to have been any final action on this petition, and the application was not renewed until the Twenty-Third Congress, since which time the claim has been several times before both Houses of Congress, and generally reported on favorably. In 1842, a bill reported by the Committee on Revolutionary Claims, in the House of Representatives, being under consideration, it was referred to the Committee on the Judiciary to report "whether, in a legal point of view, if there were no statutes of limitations in the way, the widows and orphans of officers of the Continental line of the revolutionary army who were killed or died in the service prior to the 15th May, 1778, (the day the act granting seven years' half pay to officers who should serve to the end of the war was passed,) are or are not entitled to the seven years' half pay granted by the act of 24th August, 1780, to the widows and orphans of all officers who had died, or should die, in the service." In pursuance of this reference, a very full report was made, maintaining the proposition that those who died, or were killed in the service, anterior to the resolution of the 15th May, 1778, were not entitled. Indeed, if the resolution of 24th August be construed by itself, there is no reasonable doubt as to its construction. It extends the benefit of the resolution of 15th May, 1778, to the widows or orphans of those officers who had died, and should thereafter die, in the service.

What widows and orphans are here meant? It is clear the words "the widows and orphans of those officers" mean those mentioned in the preceding part of the sentence, viz: the officers who, at the date of the resolution, were, or might thereafter be, in the service, and should continue to the end of the war. The object of the resolution of August 24, 1780,

was, in case of the death of an officer who, if he had continued in the service to the end of the war, would have been entitled to the seven years' half pay, to substitute his widow or children in his place. It is not known to your committee that Congress has ever sanctioned any other construction of the resolve of August 24, 1780, except in the case of the widow of General Wooster; but it is very certain that many of the States, acting on the authority of that case, were influenced by a very liberal construction of the words "have died," having paid by far the greater number of the cases without reference to the time of death. So far as is known to your committee, there is only one other case like this unprovided for; and, under these circumstances, your committee have come to the conclusion to recommend the payment of this claim, and report a bill for that purpose.

Mr. CLAY. Mr. President, I do not like to object to the passage of the bill. Perhaps I should not have done so, but for the amendment which has been moved and has been adopted. I understand from the Senator from South Carolina, who moved the amendment, that Mrs. Pinckney is dead, and he proposes to substitute for her, her legal representatives. Now, I suppose it is known to every member of the Senate that all these pensions are personal gratuities, intended for the benefit of the individual mentioned in the act. Such has been the construction of Congress, and such has been the construction of the courts. This bill now provides, not for Mrs. Pinckney, but for her legal representatives. She did not come either within the letter or the spirit of the resolve of 1780. I doubt whether she would be embraced within it at this time, for that was to provide for the widows and minor children; and such has been the general policy of all pension laws. They have not extended to adult children; they have only embraced minors, and by most of the acts it is declared that only minors under sixteen years of age shall be entitled to the bounty of the Government. This is a small matter in itself, but it is vicious in principle, and will be a precedent which will be quoted hereafter, and which may be greatly abused; and on that account I cannot vote for the bill. It is in violation of precedent; first, if she were now living, in providing for one not a minor, and hence not specified in the resolve of 1780; and second, in providing for the legal representatives of the deceased child of an officer who certainly was not within the purview of that resolve. On that account I cannot vote for it; and I shall move its indefinite postponement.

The motion was agreed to.

JOHN HASTINGS.

The bill (S. No. 207) for the relief of John Hastings, collector of the port of Pittsburg, was read a second time.

Mr. IVERSON. I am satisfied that that bill is one which will be very largely contested in this body, and in the other House, so that there is no earthly prospect of passing it at the present session. I move, therefore, that it be postponed for the present.

A SENATOR. Let it lie on the table.

Mr. IVERSON. I will change my motion, and move that it be postponed indefinitely.

The motion was agreed to.

Mr. IVERSON subsequently said: some time ago, when the bill for the relief John Hastings, collector of the port of Pittsburg, was called, I moved first to postpone it until to-morrow, and afterwards modified my motion so as to postpone it indefinitely. I did so upon consultation with persons who were interested in the bill who thought it was unnecessary to press the case at this session. An indefinite postponement, however, looks as if it was a decision of the Senate against the merits of the claim. I did not intend by that motion to indicate any opposition to the bill, because I am in favor of it. I ask the unanimous consent of the Senate to enable me to modify the motion so as simply to postpone the bill for the present, with an understanding that it is not to be called up again during the session.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) By unanimous consent the motion can be entered in that way.

Mr. HALE. If the Senator from Georgia had not made the motion to postpone that bill indefinitely, I should have done so; and I thought it was a little unfair in him to make the motion, after I had been the whole afternoon preparing myself to defeat the bill. I had just got through the reading of the documents, when the Senator from Georgia backed out. I intended to move an indefinite postponement of the bill; but I have no objection

to the motion being modified as he proposes, if he does not want to get it up again at this session.

Mr. IVERSON. I do not want to get it up during this session.

The PRESIDING OFFICER. If there be no objection, it will be entered that the bill has been postponed until to-morrow. The Chair hears no objection.

JOSEPH C. G. KENNEDY.

The bill (S. No. 209) for the relief of Joseph C. G. Kennedy was read the second time, and considered as in Committee of the Whole.

It provides for the payment to Joseph C. G. Kennedy of the sum of \$2,000, in full for damages done to certain buildings rented from him by the United States for the use of the Census office, during their occupancy by that office.

Mr. SLIDELL and Mr. FITZPATRICK called for the reading of the report.

The Secretary read the following report, made by Mr. IVERSON, March 19, 1858:

The Committee on Claims, to whom was referred the petition and papers of Joseph C. G. Kennedy, report:

This claim is for indemnity for certain damages done to a building while in the occupancy of the United States, under a lease from the claimant, for the use of the Census office. By agreement between the proprietor and the Secretary of the Interior, the rent was fixed by John W. Maury, late Mayor of Washington, and W. A. Bradley, Esq., late postmaster, at \$1,750 per annum. The testimony of several witnesses is adduced to show the condition of the building when it was surrendered by the Government. Mr. J. S. Hollingshead, for some time chief clerk of the Census office, deposes that, "In all alterations and fixtures for the accommodation of the immense quantity of matter in the shape of returns, &c., the preservation of the property was not considered, but the walls were perforated with nails for shelving, &c.; the paper, of the most costly character, destroyed; and this once beautiful house (for the interior was very finely finished) was left so far as the interior was concerned, a perfect wreck." He further says that he does not believe "that less than two thousand dollars would place the building in as good condition as when the Government took possession of it."

John W. Forney, late Clerk of the House of Representatives, deposes "that he became the proprietor of the buildings on Eighth street, Washington, previously occupied by the Census office; that the same were, when taken by him, in an untenable and damaged condition, the walls being much cracked; the papering destroyed, and the woodwork much injured, the whole requiring thorough renovation; that to render the premises tenable and place them in a condition such as he deemed necessary for the comfort of his family, he expended over three thousand dollars."

Mr. Edmondson, a practical builder, states that it could not have been restored to the condition it was in before the occupancy, for less than two thousand dollars, and Mr. Wood states it at eighteen hundred dollars, or more, and thinks a rent of two months should be allowed to cover the time of repairs.

The contract between the Government and the proprietor, as stated in the letter of the Hon. A. H. B. Stuart, Secretary of the Interior, to the Hon. H. A. Edmondson, stipulates, amongst other things, "that for any injury done to the house, beyond the ordinary wear and tear, compensation shall be made, by restoring it to the condition in which it was at the commencement of the lease."

From all the testimony in the case, the committee are of opinion that the sum of \$2,000 ought to be allowed; and they report a bill accordingly.

The bill was reported to the Senate without amendment.

Mr. HUNTER. I ask the gentleman who reports this bill, what rent did Mr. Kennedy receive from the Government for this house?

Mr. IVERSON. I will answer the Senator from Virginia. The rent was stipulated between the Secretary of the Interior and the party, and fixed by persons who were brought in as arbitrators. The question of rent was referred to Mayor Maury and Mr. Bradley, and they fixed it.

Mr. HUNTER. But was it not fixed with reference to the probable injuries that would be done to the house, by using it for this purpose?

Mr. IVERSON. No. There was an independent stipulation that the property should be restored in the condition in which it was, so far as repairs were concerned; and that the Government should be responsible for any damage or injury to it. The committee looked at the whole testimony, and were satisfied that the house was injured at least to the extent of \$2,000. Mr. Forney testifies that it cost him \$3,000 to put the house in a decent state, to be occupied by his family; but we were not willing to allow that much; we only propose to allow \$2,000.

Mr. CLAY. If I am correctly advised, the rent which was paid to Mr. Kennedy was ample indemnity for all the damage; for I understand it was about twice as much as the house is rented for, to a private individual; \$1,750 was the rent paid by the Government. I understand that the house is now rented by the Senator from Illinois,

[Mr. TRUMBULL,] and he can tell us what he pays.

Mr. IVERSON. I do not consider that a matter of any consequence. If the Government paid more rent than was deserved, that was the contract which the Government entered into, and the party was entitled to the benefit of it; but there was another provision of the contract, that the Government should restore the property to the condition in which it found it. If the Senator from Alabama wants to repudiate the contract of the Government, of course I have nothing more to say; but here was an agreement in writing that the Government should pay so much rent, and that rent was arbitrated and awarded by commissioners, who were appointed for the purpose. He certainly was entitled to whatever the Government agreed to pay him; and the fact that he got more rent than he really deserved does not deprive him of the right to have his property put back in its former condition, according to the contract of the Government.

Mr. CLAY. I ask if the building was not in his own care? whether he was not at that time the agent of the Government, and engaged in taking the census? and whether the building was not all the time under his own care?

Mr. IVERSON. I do not remember how that was; but I am under the impression that he did not himself occupy the building. It was occupied by the clerks and other employees of the census bureau, and, of course, was not specially under his charge or direction. I do not think his office was in the building, though I am not sure about that.

Mr. STUART. It is said that the Senator from Illinois is now occupying that building. I do not think it exactly proper to inquire into his private affairs; but if he has no objection, I should like to know what is the rent of that building since it has been improved.

Mr. TRUMBULL. I do not know that I should have any objection; but I think it is very improper to call for information of that character in this way in the Senate. I do not know what the Senate has to do with any private contracts I have made. I think it would be very improper to make the passage of a bill here depend on the rent a Senator may have to give for a house which he occupies.

Mr. STUART. I say that is a matter in respect to his private affairs; and unless the Senator chooses to state it voluntarily, I concede that there is no right to call for it. It appears that the Government paid \$1,750 a year rent for this house. Mr. Maury and Mr. Bradley, both of them property-holders, with buildings to rent, fixed the rent. I believe it is true, too, that Mr. Kennedy was the occupant. He certainly was the occupant of that building at some time during the operations of the census arrangement. If he was occupying his own house, and the Government was paying him \$1,750 a year rent, it does become a pretty important question whether damages can be claimed by him beyond the rent.

I listened to the reading of this report, and, if I remember it correctly, there is nothing in the report which goes to show that the damage was extraordinary. When the Government rents a building for a particular purpose, the landlord knows the purpose, and charges his rent accordingly. The very fact that referees were called in to decide this question goes to show that the owner of the building demanded a large rent, larger than the Government officer was willing to pay; and it was a large rent, because it was to be used for a census office, and subject to this species of damage. The report, I say, does not show, so far as I remember, that the damage was wanton, was extraordinary, was any more than would be likely to occur in its use for an office.

Mr. IVERSON. Mr. Forney testifies that when he took possession of the house, immediately after this, it cost him \$3,000 in cash to put it in a state of repair; and other witnesses testify that the paper was all torn down, the walls were cracked, and there was evidence of extraordinary injury done.

Mr. STUART. I listened to the report. I say the witnesses state the damage that was done to the house; but there is no man who states that that was an unusual damage for that sort of occupation. Now, sir, take a case: Suppose a man chooses to rent his dwelling, that is worth \$30,000,

for a carpenter's and joiner's shop, does he not know the injury incident to that sort of business? Suppose he chooses to rent it for a blacksmith's shop; he knows when he rents it that, incident to that business, there is large damage, and he fixes his rent accordingly. I contend that the testimony of Mr. Forney is entitled to very little weight in deciding this question; not on account of his reputation, for I should believe him as soon as I would any other man; but Mr. Forney bought this house and fitted it up for his own individual occupation, and, of course, when he did that, he put it in elegant repair.

Mr. IVERSON. There is the testimony of other witnesses who estimate the damages: one at \$1,800, and one at \$2,000.

Mr. STUART. I think I have not misapprehended the report at all. I listened to it with attention. Mr. Forney, as is well known to gentlemen who visited that house afterwards, fitted it up elegantly, as a gentleman of his means and taste would; and I apprehend that you will not buy a second-hand house in this city without finding that, if it is necessary to fit it up as he did, it will cost you one or two or three thousand dollars, to fit it up to your taste.

These seem to be the facts: that the Government wished this house for an office for the census bureau; that Mr. Kennedy himself, during a portion of the time, and I do not now remember how long, was at the head of that bureau—it was his house that was rented. There is no evidence in the case that the injury was extraordinary; there is evidence that the rent was extraordinary; and I think the statement that is made in regard to the contract is hardly sufficient. The report, as I recollect it, says that the late Secretary of the Interior states in a letter to the Hon. Mr. Edmondson, of the House of Representatives, that there was a provision in the contract that the Government would be responsible for any extraordinary damage done to the house. To make out such a case as this, it certainly should be shown what that contract was throughout; a copy of it should be here; and it should then be shown distinctly that this damage was not such damage as would naturally result from that kind of use of the building. I apprehend that no individual would pay any damages upon any other basis than that; and I would place the Government of the United States upon the same footing precisely that I would place an individual. It seems to me, therefore, that this is a case which justifies the motion I make to indefinitely postpone this bill.

Mr. IVERSON. I ask for the yeas and nays on that motion.

Mr. BENJAMIN. I submit to my friend from Michigan, whether, perhaps, the more appropriate motion would not be to refer the question to the Court of Claims. Here is a claim under a contract.

Mr. STUART. If the Senator proposes that, I withdraw my motion.

Mr. BENJAMIN. This appears to be a legal claim under a contract for a definite sum under a stipulation, and therefore I move to refer the bill to the Court of Claims.

Mr. FESSENDEN. The Senator from Michigan has himself furnished an argument against that. He says the Court of Claims is nothing but a committee; and if they examine and report a case here, it is only the report of a committee. Now, it comes from a committee which is altogether as respectable and able as the Court of Claims, according to his view. I do not see why you should want another committee. It is said it is very likely the committee which has had it under consideration has not examined the evidence carefully, and is not satisfied. On the showing of the Senator from Michigan—and he is always very clear and conclusive in his arguments—he almost satisfied me that he is right; that we shall have nothing but a committee to report on this matter; and we have already a report from an able, careful, industrious committee of good lawyers, quite equal to the Court of Claims. Why not pass it? Why send this man through another trial? I see no reason for it.

Mr. CLARK. There is a reason beyond this. It is only a further step in the circumlocution office. It has been to the Committee on Claims; now you are to send it to the Court of Claims; they will examine it and send it back to you, and you will send it again to the Committee on Claims.

Mr. BENJAMIN. I will ask the Senator who has just taken his seat, if the Committee on Claims took any evidence in this case on behalf of the Government?

Mr. CLARK. I understand they examined the case, and thoroughly satisfied themselves in regard to it.

Mr. BENJAMIN. Were witnesses examined on behalf of the Government?

Mr. CLARK. We do not call witnesses before the committee, but we examine the matter to satisfy ourselves how the facts are, and get evidence on both sides. We do not call any witnesses to examine them in the committee-room.

Mr. SIMMONS. I should like to know if it is expected that the Court of Claims, in passing upon a contract of the Government, shall take testimony as to the legal effect of the contract?

Mr. BENJAMIN. Take testimony as to the amount of the damage.

Mr. SIMMONS. That was in writing before the committee. The Senator from Georgia stated the facts, and as he said, the bill allows the lowest sum stated in the testimony.

The motion to refer the bill was not agreed to.

Mr. STUART. I renew my motion to postpone it indefinitely.

Mr. IVERSON called for the yeas and nays, and they were ordered; and being taken, resulted yeas 16, nays 25; as follows:

YEAS—Messrs. Benjamin, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Houston, Hunter, Johnson of Tennessee, Reid, Sebastian, Sidel, Stuart, Toombs, Trumbull, and Ward—16.

NAYS—Messrs. Bell, Broderick, Brown, Cameron, Clark, Crittenden, Dixon, Durkee, Fessenden, Fitch, Foot, Foster, Gwin, Hale, Harlan, Iverson, Jones, Mason, Pearce, Pugh, Seward, Shields, Simmons, Wilson, and Yulee—25.

So the motion was not agreed to.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

WILLIAM E. KENDALL'S SURETIES.

Mr. HALE. It is about the usual time for adjourning, and I move the Senate adjourn.

Mr. SLIDELL. The Senator from New Hampshire objected to the consideration of a bill the other day, which he afterwards examined and became satisfied that it was correct. It is the next bill on the Calendar, and will occupy but a few moments.

Mr. HALE. I withdraw the motion for that bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 237) for the relief of Arnold Harris and Samuel F. Butterworth.

Mr. HALE. As I objected to that bill the other day, and several Senators have asked me to state my views, I will state very briefly what the bill is; and I am satisfied it is well enough to pass it. The amount claimed against Mr. Kendall as postmaster at New Orleans, as these sureties were notified, was \$10,000, and they paid the whole of it; and then he left the country. After he went, and the sureties had lost the power of reaching him, they were notified that there was another balance of \$5,000 due; and the excuse given for not having attended to it before was that the clerk who made out the first account was a drunken clerk. Now, I want to suggest, as a matter of public policy, that if that extends to a very considerable degree in the Departments, so that there are many drunken clerks, it would be well for the heads of Departments to look to it; but in this particular case, I think we should not visit it on the sureties; and I am content to pass the bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS LAURENT.

Mr. PUGH. A bill was called up the other morning by the Senator from Minnesota, [Mr. SHIELDS], and objected to by several Senators, which I am confident, if I had been present to make an explanation, would at once have passed. It is a case of very gross hardship, where the Government of the United States seized and confiscated the property of certain subjects of Great Britain, in the city of Mexico, the circumstances being personally known to the Senator from Minnesota and to myself at the time. The United States undertook to give these parties a title to some property, when we had no right or title to

it whatsoever; and we received their money. They have been turned out of possession of the property, judgment having been rendered against them in the courts of Mexico for the possession and for damages. The survivor is stripped of everything he has in the world, and he is now here in circumstances of absolute distress. We have this man's money to the amount of \$15,000, which we compelled him to pay in specie, in the city of Mexico. It was suggested that the case should go to the Court of Claims, but that is impossible, because the party's right of action is not against the United States, but against General Scott.

We know if General Scott was sued we should order an attorney to defend him, and we should pay the damages; that is, we should pay back the purchase money and interest, and pay a lawyer too; and as no two lawyers doubt what the rule of damage is, to wit, the purchase money and interest on the failure of possession, why not do it, at once? I ask the Senate therefore, to take up that bill which the Senator from Minnesota had in his charge, Senate bill, No. 334.

Mr. BROWN. I hope the Senate will proceed to the consideration of that bill; for there has been no greater hardship—I think there has been no greater outrage committed—upon any man in the whole history of the world, than in this particular case. This man was utterly broken up in his business by the action of our officers in Mexico. He is here now in penury and want, almost a beggar, and that by the action of your Government. If you will only take up his bill and give it thirty minutes consideration, I feel quite assured that there is no member of the American Senate who can vote against this relief.

Mr. BAYARD. I think it is a bad precedent to set, to take a bill out of its order on the Calendar, because if it is done in one case it will be done in others. A case may always be stated which appeals to the sense of hardship in the view of the Senator who presents it, which, if eloquently done, as it can always be done by my honorable friend from Ohio, [Mr. PUGH], of course makes its impression; but it is much wiser to confine ourselves to the Calendar in the order in which it stands, and that removes any ground of complaint on the part of any person.

As regards the particular bill, I confess I am not satisfied that we are responsible under any circumstances. I am not satisfied that General Scott is responsible. If General Scott is responsible, I am not satisfied still that we are responsible beyond the extent that he accounted to the Treasury. General Scott charged himself with \$7,500 in his account, according to the report of the committee. The sum that it is urged was received, was \$15,000. Distinguished as General Scott is, if he has made himself responsible in an action at law for \$15,000, and has paid but \$7,500 into the Treasury, unless some reason is given to us, I do not hold that we should be responsible. The regular course would be, if the party has a claim against General Scott, let him sue. Then, if we think it proper to relieve General Scott in case a judgment should be rendered against him, it would be proper to do so; but I cannot myself assent to the doctrine that what is called the poverty of the party, the hardship of the party, without a decision showing the liability of the Government to remunerate him on some known tangible principle, shall induce us to assume an improper responsibility.

Mr. SHIELDS. The honorable Senator from Delaware objected the other day that \$15,000 was not the sum received. I now hold in my hand the letter of General Scott, admitting that he received \$15,000, and that it was taken as prize of war; that is, as public property. I ask for the reading of this short note.

The Secretary read it as follows:

NEW ORLEANS, January 6, 1859.
DEAR SIR: Yours of December 15, 1858, is just received. In reply, I have to state, that the sum of \$15,000, to which you refer as seized from the Messrs. Laurent, was seized by me as a prize of war in my capacity of general commanding in Mexico, and was applied to the use of the United States.

I remain, with high respect, your friend and obedient servant,
WINFIELD SCOTT.

Hon. REVERDY JOHNSON, Washington, D. C.

Mr. BAYARD. There is no difference of opinion as to the facts, between the honorable Senator from Minnesota and myself. I knew that Gen-

eral Scott had admitted that he received \$15,000, which he claimed as prize of war. It is said now that this was an unlawful confiscation; but General Scott, in his accounts to the Treasury, credited the United States for but \$7,500, and the report shows it. Now, sir, if it was an unlawful confiscation, and we are bound to pay for it, we are only bound to pay the amount that was paid into our Treasury; unless you mean to say that an officer of the United States can unlawfully confiscate property, and that the Government is responsible to the whole amount, when he only accounts for one half.

Mr. BROWN. It seems to me that there can be no difficulty about this matter—

Mr. CRITTENDEN. I call gentlemen to order. I suppose the merits of the bill are not now the subject of discussion. The question is whether we shall take it up.

Mr. BROWN. I am perfectly willing to have it go off on that point; but other gentlemen have been discussing the merits of the bill.

Mr. MASON. I do not like to interpose; but I have sat here all day waiting for the progress of the call of this Calendar, and we have very nearly reached a case in which I, in common with many other Senators, feel an interest; and I hope, therefore, that the Senate will not take up this bill out of its order. Not saying a word on its merits, of which I at present know nothing, I hope it will not be taken up out of its order.

The motion was agreed to; there being, on a division—yeas 23, nays 15; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent.

Mr. STUART. I do not intend to consume the time of the Senate in discussing this question. I listened very attentively, the other day, to the reading of the report which stated the facts in the case; and it seemed to me to present, for the consideration of the Senate, very important principles. The amount of this money is not so very important. The case, as stated, is this: The Emperor, or President of Mexico, to defend the country in the time of the war against Mexico by the United States, issued a decree confiscating the church property, and there is nothing in the case to show that that decree was without authority.

Mr. PUGH. It was revoked before execution. That is proved clearly.

Mr. STUART. I will come to that. I say there is nothing to show that that decree was one transcending his authority. A portion of the property confiscated was this house and lot. These Englishmen bought it under that decree of confiscation, and gave their obligations. Subsequently, Santa Anna becoming President of Mexico, abolished the decree; and while Santa Anna was President of Mexico, General Scott, of the American Army, conquered the country, took the city, and called upon these individuals to pay this money to him as the conquering officer of the United States. These are the questions presented. In the first place is it not true that the revocation of the first decree by Santa Anna did not, and could not affect rights acquired under the decree?

Mr. SHIELDS. Will the honorable Senator allow me?

Mr. STUART. Will the Senator permit me to get through?

Mr. SHIELDS. Permit me to correct the Senator in a fact.

Mr. STUART. I would rather the Senator would correct me when I get through; because, if I am wrong, my argument is good for nothing.

Mr. SHIELDS. You are wrong.

Mr. STUART. Again; had not General Scott, according to the rules of war, as a conqueror, the right to take any property, private or public, to maintain his army? He called upon these individuals to pay the amount of their bonds, \$15,000, to him, and they did it.

Now, the question is upon this last proposition. Is the Senate prepared to establish the principle that they will pay for private property taken from a citizen of a foreign country, with whom they are not at war, in time of war, by the conquering army?

Mr. PUGH. This was a British subject, not a citizen of Mexico.

Mr. STUART. The gentleman from Ohio sug-

gests that this man was a British subject. He was a resident in Mexico, and the owner of property in Mexico, and subject to the laws of Mexico. Now, sir, the point I make is, that, in the first place, the decree was a valid one; and the case shows that the property was purchased under that decree. It is said that the courts of Mexico have determined against the right of these claimants to it. Suppose they have: how does that affect the United States, if they have determined against the rights of national law? These are the questions, and the only questions, that I desire to bring to the attention of the Senate; and not to allow our sympathies, our feelings, for individuals to induce us to establish principles here to-day, that, in the future progress and history of this country, will involve us in serious difficulty.

MR. CRITTENDEN. Mr. President, I have but a word to say, because I have been made to feel very sensibly how impossible it is to get along with this description of business, if, after the report of a committee who have examined in their room all the facts arising out of such claims, they are to be subjected to critical remarks and long continued debate here. I do not appreciate the difficult and important questions which the gentleman says may arise in the future to confront us in like cases hereafter. It is easier to be just than it is to be wise enough to discuss such questions—much easier to be just; and I prefer to be so. We have received, by compulsion, from this man, \$15,000. It has gone into the coffers of the country, and been applied to the service of the United States. The man has got nothing for it. Now, shall we refund him this money, and be not a belligerent, but a citizen of a country with whom we were at amity during the time of this war, and over whom war gave us no right and jurisdiction? Sir, the case cannot be made plainer by me. I am for returning this man his money.

MR. BAYARD. I think the honorable Senator from Kentucky is mistaken as to one fact. Certainly, we have not received \$15,000; it has not gone into the Treasury, nor been applied to the service of the country, and the report shows it.

MR. PUGH. The Senator is mistaken.

MR. CRITTENDEN. Let it be read.

MR. BAYARD. Read it again. The report shows that General Scott's charged in his accounts with but \$7,500 on this transaction.

MR. CRITTENDEN. That may be. Read his letter.

MR. BAYARD. He collected it, but he never credited the Government with more than \$7,500.

MR. CRITTENDEN. But he applied it to the use of the Government.

MR. PUGH. I can explain that in a moment. There was a fund in Mexico, made up of the proceeds of the capture of property, and that was disbursed under the mere sign manual of the general commanding the army. This was considered as spoil of war; it did not belong in General Scott's account. He paid for spies, he paid for getting information, he paid for hundreds of things not embraced in his accounts. Nobody in the Senate, I suppose, believes General Scott would put \$7,000 of the public money in his pocket. He says he received it and appropriated it to the public use.

MR. BAYARD. The honorable Senator from Ohio may know what occurred there better than I do. I take the report as it stands. There is nothing of that kind shown by the report of the committee appointed to investigate this case. The report simply shows us that \$7,500 has been credited to the Treasury of the United States, and no more. The report does not show us what became of the other \$7,500. If we were entitled to part, we were entitled to the whole; and I cannot understand how this fund could be divided out in the mode the honorable Senator from Ohio supposes; and a fund made up from a variety of sources to pay claims of which we can know nothing. If a portion of the particular money received was credited to the Government, I can see no reason why another part should go into a separate fund, and not be credited to the Government. I mean to say, that the facts are obscure to me as showing any liability on the part of the Government.

I am perfectly aware that it is in vain, if you get up an excitement here on a question of commiseration or poverty, to oppose a private bill. It matters not what principle it goes upon otherwise, it is like the rule which has been applied

by some judges to the statute of limitations—that there is no statute of limitations against a widow with six children. It is probably idle to contend against this. We have a committee deliberately reporting in accordance with the ordinary, almost universal, usage of Congress, that in claims of this kind where we make remuneration, especially in a doubtful case in which no liability is established upon any legal principle, we do not pay interest. Very well; the committee reported, in accordance with that usage, that we should refund the principal sum, although we have only received half of it; and the honorable Senator from Ohio, notwithstanding the report of the committee, moves to add interest from 1847; and yet on the face of this report, taking it as it stands, it shows—the matter may be small as regards amount, but it may be important as regards the principle—that these parties were not ousted from this property when the American army relinquished the possession of Mexico. That is not the time from which interest is to commence. There is no evidence that any damages were ever paid by them, but simply that they lost possession of property confiscated by their own Government, for which they had given their bonds, and the bonds were paid to the American general. After the American army retired they lost possession of the property, and you are asked to pay them interest for a year and a half antecedent to the time the loss occurred, although, during that period of time, they were in possession of the property under the authority of the American army, and no damages have been paid by them for that possession, according to any proof in the case.

I only mention this as showing how these bills are amended, and how they get along. Raise a question of commiseration, represent the man as poor, and the principles connected with the case are lost sight of altogether. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The bill was reported to the Senate.

THE PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

MR. HUNTER. Is that the amendment allowing interest?

THE PRESIDING OFFICER. Yes, sir.

MR. HUNTER. I believe it is unprecedented; and I ask for the yeas and nays on it.

MR. PUGH. That amendment was concurred in at the last session, I think. The bill is in the Senate.

MR. SHIELDS. As the honorable Senator from Delaware lays stress on the report, I will state that, if he had examined the papers, he would see that, during the interval to which he points, these parties were compelled to pay rent to the Mexican Government; to pay back rent. I do not want to consume the time of the Senate; but the honorable Senator from Michigan was wrong in fact, and wrong in law. The same Congress that passed this decree to confiscate the church property, passed a decree repealing it the same year; and before the first decree was put into execution, the second decree repealed it, and restored the property to the church.

MR. BAYARD. As regards the question connected with the rents paid for this property, I can only take the report. I cannot examine the papers. I take the report of the committee. The committee, in their report, make no allegation of that kind, that there was any loss sustained by these parties except the deprivation of the possession of the property after the American army left Mexico. I must take the report of the committee. I cannot take individual statements of an honorable Senator, no matter what may be my respect for him, as to what the papers show, when the committee report a state of facts different from that. They allege the loss to be simply a loss arising from the possession having been taken from the party after the American army had retired. Now, sir, I suppose they reported the facts correctly when they had the papers before them. I hope the question will be taken as the honorable Senator from Virginia suggests: first on the adoption of the amendment which was moved by the honorable Senator from Ohio, and which was not part of the original bill reported.

THE PRESIDING OFFICER. The question is on concurring in the amendment.

MR. PUGH. If the yeas and nays are to be

taken on that amendment, I wish Senators who may vote in the negative to understand that, as between individuals, this is the rule of damages. These men were turned out of their property; they were condemned in damages. I do not care whether the Senator chooses to find it in the report. The record is here—the record of the Mexican court. I have seen it, and read it, since this bill has been before the Senate. They were compelled to pay rent to that convent back to the day of the seizure of the property, back to 1847, and they paid it. They paid rent to this convent, whose property was wrongfully appropriated. Now we have got their money, and we put our hands in our pockets and keep the principal, and propose to keep the interest too. As between two individuals, it would be perfectly discreditable, and no man who would do it, would be allowed to associate with any Senator on this floor. Shall the Government do it?

THE PRESIDING OFFICER. The question is: will the Senate concur in the amendment made as in Committee of the Whole. On that question the yeas and nays have been asked for.

The yeas and nays were not ordered.

The amendment was concurred in.

MR. MASON. If I understand this bill aright—and if I am wrong gentlemen will correct me—this fund was found in the hands of certain English subjects, residents of Mexico, as purchase-money of real estate, which they had purchased under a decree of the Mexican Government ordering it to be sold in the nature of a confiscation. Then, it is very clear to me, that although it was in the hands of English subjects, it was Mexican property, or it was money due to the Mexican Government. At that stage, that being the status of it, General Scott laid his hands upon it as property of the Mexican Government. He did right; and the Mexican Government certainly have no claim against us; but afterwards, after the war ended, and a new Government was instituted in Mexico, they reversed the decree of confiscation under which the property had been sold.

MR. PUGH. The Senator is mistaken. General Scott took the view which the Senator took at the time of the order, but it afterwards turned out that the same Congress which had ordered the confiscation of the property of these convents, at the same session revoked the order, drove out the former Government and installed a new President, before the contract of the parties was executed. Afterwards, the Mexican Government restored the authorities of the convent to the possession of the property, and compelled these parties to atone to them, and to pay rent to the convent for the time they had occupied it. In point of fact, General Scott was mistaken when he made the order.

MR. BAYARD. The honorable Senator will allow me to ask him: does not the report show that the property was sold and the bonds given before the revocation of the decree of sale?

MR. SHIELDS. No.

MR. PUGH. I have stated the case. I have examined the papers very thoroughly.

MR. BAYARD. I move that the further consideration of this bill be postponed until Friday next. ["No, no!"]

MR. PUGH. That would amount to a defeat of the bill.

The motion to postpone was not agreed to.

The bill was ordered to be engrossed for a third reading; and was read the third time.

The question being taken on its passage, by yeas and nays, resulted, yeas 21, nays 12; as follows:

YEAS—Messrs. Benjamin, Brown, Cameron, Clark, Crittenden, Fitch, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Iverson, Pugh, Seward, Shields, Summons, Thomson of New Jersey, Wade, Wilson, and Yulee—21.

NAYS—Messrs. Bayard, Clay, Davis, Doolittle, Fitzpatrick, Houston, Hunter, Johnson of Tennessee, Mason, Stuart, Toombs, and Trumbull—12.

So the bill was passed.

ARREST OF WILLIAM WALKER.

MR. FOOT. I presume, Mr. President, that the Senate at this hour are disposed to suspend further action on the Private Calendar for to-day, and therefore I desire to make an appeal to the Senate, partly in my own behalf. There are upon the special orders, and at the head of them, several propositions most of them reported from the Committee on Foreign Relations involving questions

of importance; and dissenting from the majority of the committee, on some of those questions, I have been waiting an opportunity when I could do so without standing in the way of other, and perhaps more pressing, business of the Senate, to present my own views upon them.

I have reference to those questions presented in the report of the Committee on Foreign Relations in reference to the arrest of William Walker by Commodore Paulding, and also to review perhaps at some length the instructions and orders of the Executive Departments to our squadron at different times in the Gulf of Mexico; and, if the time will admit, to give my views upon the bill authorizing the President of the United States to suspend our neutrality laws. To-morrow is assigned, and very properly assigned, for the consideration of the business concerning the District of Columbia. I fear if I have not an opportunity to address the Senate upon these questions until Monday, when the debate will probably open upon the Cuba question, I shall not have that opportunity at all. My suggestion is, which I trust will be accorded to me, that I may be allowed to call up these questions that I may present my views upon them at this time.

As no vote is to be taken, I wish to be understood, so far as I am personally concerned, that it will impose no obligation upon any Senator—I trust they will not so regard it—to remain here, as a matter of courtesy, on my account. Believing that I shall have no other opportunity to express my views on these questions, than at the present time; and as it is perfectly agreeable to me to do so, I trust that privilege will be accorded to me; and if it be accorded to me, I hope I shall not be required to say that I shall at least endeavor not to abuse the courtesy or the patience of the Senate. At to the gallery audience, the smaller it is, the more agreeable it is to me always, when I have occasion to address the Senate.

Mr. BROWN. I do not think it fair to inflict that sort of cruelty on the Senator. The Senator from Vermont is very kind in proposing to address the Senate at this time; but all of us know that nobody is going to sit here to listen to a regular speech. There are very few Senators in the Chamber, and there will be still fewer after a little while. Certainly upon some occasion in the early part of next week, the Senator from Vermont can either, in order or out of order, give us his views, when the Senate will be very glad to hear them. I should like to hear his opinions; but I cannot sit here after five o'clock, and it is now past that hour.

Mr. FOOT. I have been a member of one or the other House of Congress for the last fifteen years, and I have never in my life made a speech upon one question when the Senate or House of Representatives were considering another. I never speak but to the question, so far forth as I am able to do it, that is under consideration.

Mr. HALE. I really hope that the Senator will not insist on this request. I shall certainly vote to give him every courtesy he asks, and I will say, without flattering him, that there are very few men who speak in the Senate to whom I listen with more pleasure and profit than to him. I think it would be but a proper courtesy to give the Senator the floor on Monday morning, and I would rather do it. I want to hear the Senator.

Mr. BROWN. So do I.

Mr. DAVIS. What does the Senator desire?

Mr. FOOT. My desire is, to present my views to the Senate on these questions at some favorable opportunity, when I shall not be standing in the way of the consideration of other and perhaps more practical business questions before the Senate; and it is as agreeable to me to proceed and make my remarks to-night, as at any other time.

Mr. DAVIS. I shall certainly be in favor of the Senator's proceeding on Monday, if he prefers that.

Mr. TOOMBS. I hope the Senator will take such time as suits him.

Mr. FOOT. Upon the suggestion of Senators around me, if I can have the assurance that I may be heard on Monday morning on these questions, I shall not insist upon speaking now. Senators are aware, meanwhile, that the bill for facilitating the acquisition of Cuba is assigned as the special order for Monday morning, and the general ex-

pectation is that that debate will be opened at that time. I expect to participate somewhat in that debate when it shall be before us.

Mr. TOOMBS. I hope the Senator will take such time as suits himself.

Mr. FOOT. I move, then, to take up joint resolution No. 7, and the several cognate questions, which are all connected, which have stood at the head of the special orders for all this session, and make them the special order for Monday at half past twelve o'clock.

Mr. PUGH. I want to hear the Senator then, and shall vote to give him the floor, with all my heart; but I do not want any general discussion on that subject. I do it from my regard for the Senator, as I want to hear him; but I do not want the Paulding matter to lead to another discussion. I will promise to vote to give the Senator the floor.

Mr. DOOLITTLE. Allow me to make a single observation. This subject-matter stands at the head of the special orders, and will come up regularly, on Monday, at one o'clock.

There may be other gentlemen who may desire to be heard upon the question, besides the honorable Senator from Vermont; and then, of course, it will be the pleasure of the Senate to determine whether they shall be heard also. I move that the Senate do now adjourn.

Mr. FOOT. Will the Senator withdraw it for a moment?

Mr. DOOLITTLE. Yes, sir.

Mr. FOOT. I will modify my motion; and move that the subject be taken up and left as the unfinished business. ["That is best."] I move that it be taken up for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding; the bill (S. No. 85) supplementary to the act entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal certain acts therein mentioned," approved April 20, 1818; the resolutions reported by Mr. MASON, from the Committee on Foreign Relations, in regard to the seizure of William Walker; and Mr. SHELLE's amendment to those resolutions.

The PRESIDING OFFICER. These subjects are now before the Senate.

Mr. FOOT. On these questions, I understand, I have the floor. I give way for a motion to adjourn.

Mr. HALE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 28, 1859.

The House met at twelve o'clock, m. Prayer by Rev. F. X. BOYLE.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate by ASBURY DICKINS, its Secretary, returning to the House of Representatives the bill (S. No. 144) for the relief of the legal representatives of Charles G. Ridgely, of the United States Navy.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled, an act (H. R. No. 801) to fix and regulate the compensation of receivers and registers of the land offices under the provisions of the act approved April 20, 1818; when the Speaker signed the same.

REPORT FROM A COMMITTEE.

Mr. WASHBURN, of Illinois, by unanimous consent, from the Committee on Commerce, made a report to accompany the bill, heretofore referred to that committee, the better to secure the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes; which was ordered to be printed.

RECEIPTS OF THE GOVERNMENT.

Mr. PHELPS, of Missouri, from the Committee of Ways and Means, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury is hereby

requested to inform this House, at the earliest practicable period, the actual and probable receipts from the customs, the public lands, and other sources, for this and the next fiscal year; and whether, in his opinion, said receipts will be adequate to meet the public exigencies.

JUDGE THOMAS IRWIN.

Mr. HOUSTON. I now ask leave of the House to make the report from the Committee on the Judiciary which I desired to make yesterday evening. It will occupy but a moment.

No objection being made,

Mr. HOUSTON, from the Committee on the Judiciary, made the following report:

Resolved, That the chairman of this committee report that, in pursuance of the order of the House, the committee have been engaged in the investigation of the charges heretofore preferred against Thomas Irwin, district judge of the western district of Pennsylvania; and that, pending said investigation, they had satisfactory evidence before them that the said judge had, this day, resigned his said office, and that the committee now ask the further direction of the House.

Mr. PHELPS, of Missouri. As the judge has resigned, I move that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. HOUSTON. There is one other point connected with this inquiry, which I wish to call to the attention of the House. The papers and testimony before the Judiciary Committee should be disposed of in some way or other; and I presume the House will extend the order so as to permit the papers to be withdrawn if the parties choose to do so. The evidence having been taken on one side only, it is not proper, in my view of the case, to have that evidence printed.

Mr. PHILLIPS. I move that all the parties in interest have leave to withdraw their papers.

Mr. LETCHER. I hope not. As these proceedings have been instituted and gone so far, I hope the papers will be published, and let the country see what the facts are.

The SPEAKER. When the papers are reported by the Committee on the Judiciary, they will go on the files of the House, and will not be printed unless the House so order it.

Mr. HOUSTON. Then, under the order of the House, I will file the papers with the Clerk.

Mr. PHILLIPS. And I will withdraw my motion.

The committee was accordingly discharged; and the papers laid on the table.

CAPTAIN STEWART.

Mr. PHILLIPS. I ask the unanimous consent of the House to take from the Speaker's table the Senate bill in relation to the rank of Commodore Stewart, for reference to the Committee on Naval Affairs.

Mr. LETCHER. I object.

TERRITORY OF DACOTAH.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to permit me to report three bills, of which previous notice has been given, in order that they may be referred to the Committee of the Whole on the state of the Union, and printed, so as to be ready for examination by members.

Mr. DEAN. I would like to know what they are?

The bill to provide a temporary Government for the Territory of Dacotah, was read a first and second time.

Mr. JONES, of Tennessee. Is that a report?

Mr. STEPHENS, of Georgia. It is simply a bill of which previous notice has been given.

Mr. JONES, of Tennessee. For my own part, I do not want these territorial governments organized.

Mr. STEPHENS, of Georgia. I want to have the bills printed; so that if we reach territorial business, as I hope we will, members can have an opportunity of examining them.

Mr. JONES, of Tennessee. Is there an understanding now that these bills are not to be brought into the House by a reconsideration?

Mr. STEPHENS, of Georgia. Most undoubtedly.

Mr. JONES, of Tennessee. They are to go to the Committee of the Whole on the state of the Union, and be acted on regularly?

Mr. STEPHENS, of Georgia. They are; and to satisfy the gentleman on that point I will, if he desires, move to reconsider the vote, by which the bills will be referred to the Committee of the

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 2D SESSION.

MONDAY, JANUARY 31, 1859.

NEW SERIES....No. 42

Whole on the state of the Union, and lay that motion to reconsider on the table.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

TERRITORY OF JEFFERSON.

Mr. STEPHENS, of Georgia, in pursuance of previous notice, reported a bill to provide a temporary government for the Territory of Jefferson; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GROW. I desire to offer an amendment to that bill: to strike out the word "Jefferson" and insert the word "Osage."

Mr. STEPHENS, of Georgia. That proposition can come before the committee.

Mr. GROW. Very well. I only want to have notice given of it now.

TERRITORY OF ARIZONA.

Mr. STEPHENS, of Georgia, in pursuance of previous notice, reported a bill to provide a temporary government for the Territory of Arizona, and to create the office of surveyor general therein.

Mr. GROW. I desire to present an amendment to the bill, in the shape of an additional section; which I propose to offer when this bill is called up for consideration in the Committee of the Whole on the state of the Union.

The amendment was read as follows:

And whereas the tract of country comprised within the limits of the proposed Territory of Arizona was acquired from the Republic of Mexico, and was, at the time of its acquisition, and by virtue of the laws and constitution of said Republic, free from African slavery, and no such slavery having been since established by any legal authority, therefore nothing contained in this act shall be held, or taken, to authorize African slavery in said Territory, but that slavery remains abolished and prohibited therein as at the time of its acquisition from the Republic of Mexico.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEPHENS, of Georgia, moved to reconsider the several votes by which the bills were respectively referred to the Committee of the Whole on the state of the Union, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

SQUADRON ON THE AFRICAN COAST.

Mr. MORSE, of Maine, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House a copy of all instructions given to the commanders of our African squadron since the ratification of the treaty of 1842, called the Washington treaty, with a copy or statement of whatever regulations were entered into by the commanders of the two squadrons for more fully accomplishing the object of the eighth article of said treaty; and also, if in the possession of the Government, the instructions given the English squadron on the coast of Africa by the British Government; also, the name of each slaver, or suspected slaver, taken by the American squadron since the ratification of said treaty, giving the names and number of the vessels sent to the United States for condemnation, the number and names of said vessels condemned as slavers, giving the dates of their capture and condemnation, and whether the commanders capturing said slavers, or suspected slavers, or any of them, have been sued or otherwise embarrassed by the owners or agents of said vessels in consequence of capture, where condemnations have or have not followed capture.

CHARLES J. INGERSOLL.

Mr. HUGHES. I call for the regular order of business.

Mr. SMITH, of Virginia. I ask the gentleman from Indiana to allow me to offer a resolution?

Mr. HUGHES. I withdraw the call.

Mr. DAVIS, of Indiana. I renew the call for the regular order of business.

The SPEAKER. The regular order of business is the bill (H. R. No. 137) for the relief of Charles J. Ingersoll. On this bill the previous question was demanded, and the main question ordered to be now put. Pending that question, the gentleman from New York [Mr. KELSEY] moved

to lay the bill on the table, and demanded the yeas and nays.

Mr. KELSEY. I withdraw the call for the yeas and nays on the motion to lay on the table; and will ask them on the passage of the bill.

The House divided on Mr. KELSEY's motion; and there were—yeas 80, noes 56.

Mr. FLORENCE demanded the yeas and nays. The yeas and nays were ordered.

Mr. FLORENCE. There seems to be a very thin House; and as I regard this as a very important bill, I move that there be a call of the House.

The SPEAKER. The motion is not in order, as the previous question has been ordered.

Mr. FLORENCE. Then I move that the House do now adjourn; and on that motion I demand the yeas and nays. I only want to get a fair vote.

The yeas and nays were not ordered.

Mr. GROW. As this is objection day, I hope that the call for the yeas and nays on the motion to lay on the table will be withdrawn, and that we shall take the yeas and nays on the passage of the bill.

Mr. FLORENCE. If the gentleman from New York will withdraw the motion to lay on the table, I will withdraw the call for the yeas and nays on my motion.

The SPEAKER. The yeas and nays have been refused on the motion to adjourn.

Mr. FLORENCE. I trust sincerely that such a course will be pursued that we may have a direct vote on the merits of the question.

The question was taken on Mr. FLORENCE's motion; and the House refused to adjourn—yeas 9, noes 128.

Mr. FLORENCE. Is it in order to move that the House resolve itself into a Committee of the Whole on the Private Calendar?

The SPEAKER. It is not.

The question was taken on Mr. KELSEY's motion; and it was decided in the affirmative—yeas 120, nays 73; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Andrews, Atkins, Avery, Barksdale, Bennett, Bishop, Bliss, Branch, Brayton, Bryan, Buffinton, Burlingame, Burnett, Burns, Caruthers, Caskie, Clawson, Cobb, Clark B. Cochrane, Covode, Cragin, James Craig, Burton, Cruise, Curry, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dowdell, Durfee, Edmundson, English, Eustis, Farnsworth, Faulkner, Fenton, Foley, Garnett, Gilman, Goode, Goodwin, Granger, Gregg, Lawrence W. Hall, Harlan, Harris, Hill, Hoard, Hodges, Hopkins, Horton, Houston, Hughes, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Leach, Leiter, Letcher, Lovejoy, Maclay, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Matteson, Millson, Moore, Morgan, Morrill, Isaac N. Morris, Mott, Murray, Nichols, Olin, Parker, Pendleton, Pettit, Peyton, John S. Phelps, Pike, Potter, Pottle, Powell, Purviance, Ready, Reagan, Ricard, Robbins, Royce, Ruffin, Savage, Seales, Henry M. Shaw, Shorter, Samuel A. Smith, William Stewart, Talbot, Miles Taylor, Thayer, Tompkins, Tripp, Vance, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, Wood, John V. Wright, and Zollioffer—120.

NAYS—Messrs. Ahl, Barr, Bingham, Bonham, Bowie, Boyce, Burroughs, Case, Cavanaugh, John B. Clark, Clay, John Cochrane, Cockrell, Colfax, Comins, Crawford, Curtis, Davidson, Davis of Mississippi, Dewart, Dodd, Florence, Foster, Gartrell, Gillis, Gooch, Grow, Hatch, Hawkins, Hickman, Huyler, Jackson, Jewett, Owen Jones, Keim, Lamar, Landy, Lawrence, Leidy, McEae, Maynard, Miles, Miller, Montgomery, Edward Joy Morris, Niblack, Palmer, William W. Phelps, Phillips, Russell, Sandidge, Scott, Searing, Seward, Aaron Shaw, Robert Smith, William Smith, Spinner, Stanton, Stephens, James A. Stewart, Tappan, Vallandigham, Walton, Ward, Israel Washburn, White, Whiteley, Wilson, Winslow, Woodson, Wortendyke, and Augustus R. Wright—73.

So the bill was laid upon the table.

During the call of the roll,

Mr. DEAN stated that Mr. CLARK, of Connecticut, was detained from the House by indisposition.

Mr. KELSEY moved to reconsider the vote by which the bill was laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House

that the Senate have passed without amendment, a bill of the House (No. 801) to fix and regulate the compensation of receivers and registers of the land offices, under the provisions of the act approved April 20, 1818.

Also, that the Senate have passed a bill and resolution of this House of the following titles, with amendments, in which he was directed to ask the concurrence of this House:

Joint resolution (No. 39) to authorize the Secretary of the Treasury to sell a certain part of land in the city of Petersburg, Virginia, belonging to the United States; and

An act (No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives.

CONSULAR AND DIPLOMATIC BILL.

Mr. PHELPS, of Missouri. Yesterday the gentleman from Illinois [Mr. WASHBURN] submitted a motion to reconsider the vote by which the consular and diplomatic appropriation bill was rejected; and also submitted a motion to lay the motion to reconsider upon the table. I desire to have that question acted upon and disposed of now. I appeal to the gentleman from Illinois to withdraw the motion to lay upon the table.

Mr. WASHBURN, of Illinois. Is the object of the gentleman to save time, and let the vote be taken directly on the motion to reconsider?

Mr. PHELPS, of Missouri. Yes, sir; the object is to save time. I hope that the reconsideration will take place without any divided vote, and that then we shall take the question on the passage of the bill.

Mr. WASHBURN, of Illinois. I desire to know, in the first place, if this motion to reconsider can be entertained, a motion to reconsider having been once made and acted on?

The SPEAKER. The Chair is of opinion that the motion is in order. The bill rejected by the second vote of the House was a different bill from that rejected by the first; and the practice of the House is, (the Chair remembers more than one instance,) where a bill has been rejected, a reconsideration had, amendments made, and the bill again rejected, a second reconsideration can be had. It is certainly true that there could not be a second reconsideration unless there had been a change in the character of the bill; but there has been an amendment adopted—although, it is true, it is a very small one—since the first reconsideration.

Mr. WASHBURN, of Illinois. I am opposed to the reconsideration of the vote; but as I am appealed to to withdraw the motion to lay the motion to reconsider on the table, in order to save time, I will do so.

Mr. PHELPS, of Missouri. I demand the previous question on the motion to reconsider.

Mr. BONHAM. I renew the motion to lay the motion to reconsider upon the table.

Mr. WASHBURN, of Illinois. Did the gentleman from South Carolina vote with the majority?

The SPEAKER. It is not necessary that he should have done so.

Mr. DOWDELL. If the chairman of the Committee of Ways and Means will withdraw the previous question, I desire to make this statement to the House; that if this bill be reconsidered—

Mr. BURNETT. I object to debate, unless the previous question is withdrawn, so as to give us all a chance.

The SPEAKER. The previous question is demanded, and a motion to lay on the table is pending; and no debate is in order.

Mr. MORRIS, of Illinois. I insist on the regular order of business.

The SPEAKER. This is the regular order of business.

Mr. BONHAM. I would be glad to have the ear of the chairman of the Committee of Ways and Means. If the opponents of this bill are to be allowed an opportunity to debate it—

Mr. CLARK, of Missouri. I object to any debate.

Mr. BONHAM. Then I withdraw the motion to lay the motion to reconsider upon the table.

Mr. SHORTER. I renew it.

Mr. DAVIS, of Indiana. This being private bill day, is this business in order?

The SPEAKER. The Chair thinks it is.

Mr. DAVIS, of Indiana. If the regular order of business is called for, will it not cut off this motion to reconsider?

The SPEAKER. The Chair thinks not. The motion to reconsider is a privileged motion, which may be called up at any time.

Mr. CRAWFORD. I appeal to my friend from Alabama whether one straight vote will not answer his purpose as well as to take the vote by yeas and nays?

Mr. SHORTER. I do not withdraw the motion to lay on the table.

The motion was not agreed to.

The question then recurred on the motion to reconsider, on which the previous question had been demanded.

The previous question was seconded, and the main question ordered to be put.

Mr. CRAWFORD demanded the yeas and nays on the motion to reconsider.

Mr. PHELPS, of Missouri. I appeal to the gentleman from Georgia to withdraw his call for the yeas and nays, and allow them to be taken on the passage of the bill.

Mr. CRAWFORD. Very well; that will answer my purpose. I withdraw the call.

The motion to reconsider was agreed to.

The question then recurred, "Shall the bill pass?"

Mr. PHELPS, of Missouri, demanded the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. MORGAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 98; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Barr, Bishop, Bocoock, Bowie, Branch, Burnett, Burns, Caruthers, Cavanaugh, Chapman, John B. Clark, Clay, John Cochrane, Cockrell, Cox, James Craig, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Edmundson, English, Eastis, Faulkner, Florence, Foley, Foster, Garnett, Gillis, Gooch, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harris, Hawkins, Hickman, Hodges, Hopkins, Hughes, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Landy, Lawrence, Leidy, Letcher, Macley, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Miller, Milson, Montgomery, Morrill, Freeman H. Morse, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, William V. Phelps, Phillips, Reagan, Ricard, Ritchie, Russell, Savage, Scott, Searing, Henry M. Shaw, Samuel A. Smith, William Smith, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Vallandigham, Ward, Israel Washburn, Watkins, White, Winslow, Wood, Woodson, Wortendyke, and Augustus R. Wright—101.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham, Bliss, Bonham, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Case, Caskey, Clawson, Cobb, Coffay, Comins, Covode, Crawford, Curry, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Farasworth, Fulton, Garrett, Giddings, Gilman, Glaser, Goodwin, Granger, Grow, Harlan, Hill, Hoard, Horton, Houston, George W. Jones, Keim, Keitt, Kellogg, Kekey, Knapp, Lamar, Leach, Leiter, Lovejoy, McQueen, McKee, Matteson, Maynard, Miles, Moore, Morgan, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ready, Robbins, Rufin, Sandidge, Seales, Seward, John Sherman, Shorter, Spainer, Stallworth, Stanton, Stephens, William Stewart, Tappan, Thayer, Tompkins, Trippie, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Eliza B. Washburne, Wilson, John V. Wright, and Zollicoffer—98.

So the bill was passed.

During the call of the roll,

Mr. KEITT stated that he had paired off with Mr. CHAFFEE, generally, but he was informed by the friends of Mr. CHAFFEE that their votes would be the same on this question; he therefore voted "no."

Mr. SHAW, of North Carolina, stated that he voted in the affirmative on the passage of this bill yesterday, but he was not so recorded. He voted "ay."

Mr. JEWETT stated that his colleague, Mr. ELLIOTT, was detained at his room by severe indisposition.

Mr. EDIE stated that on this vote he had paired off with Mr. WHITELEY.

Mr. ATKINS stated that he was detained from the House yesterday by sickness. If he had

been here, he would have voted for the amendment of the gentleman from Georgia, [Mr. CRAWFORD.]

The vote was then announced as above recorded.

REPORTS OF COMMITTEES.

The SPEAKER then proceeded to call the committees for reports of a private nature, beginning with the Committee on Military Affairs.

INDIAN HOSTILITIES IN UTAH.

Mr. FAULKNER, from the Committee on Military Affairs, reported a bill to reimburse the Territory of Utah for certain expenses incurred by that Territory in the suppression of Indian hostilities in the year 1853; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. FAULKNER also, from the same committee, reported adversely upon the following petitions:

The petition of William Smith and others, of New York; and

The petition of Captain Wharton, for himself and the officers and soldiers under his command.

The petitions were laid on the table, and the reports ordered to be printed.

Mr. FAULKNER also, from the same committee, reported back, with the recommendation that it be rejected, the bill of the House (No. 435) to extend the act entitled, "An act in addition to certain acts granting bounty land to the officers and soldiers who have been in the military service of the United States," to the officers and soldiers under the command of Captain John Scull and Captain Robert Smith.

The bill was laid on the table.

DANIEL COLE.

Mr. FAULKNER also, from the same committee, reported a bill for the relief of Daniel Cole; which was read a first and second time.

Mr. FAULKNER asked that the bill be put on its passage.

The bill was read. It provides that the name of Daniel Cole shall be placed on the roll of invalid pensioners, at the rate of eight dollars per month, to continue during his natural life.

The report states that the petitioner entered the military service of the United States on the 29th of November, 1824, and that while in the service he received a fall which disabled him from earning his livelihood.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled, an act for the enforcement of mechanics' liens upon buildings, &c., in the District of Columbia; when the Speaker signed the same.

MARTIN BURKE AND OTHERS.

Mr. BONHAM, from the Committee on Military Affairs, reported a bill for the relief of Brevet Lieutenant Martin Burke and Captain Charles S. Winder, of the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DAVID G. BURNETT.

Mr. BONHAM also, from the same committee, reported a bill for the relief of David G. Burnett; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

REFUNDING MONEY TO TEXAS.

Mr. BONHAM also, from the same committee, reported a bill to refund to the State of Texas the money advanced by her for the support of certain volunteer troops, called into service by General Persifer F. Smith and the Governor of the State of Texas, for the protection of the frontier of said State against the Indians; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

TAMPICO VOLUNTEERS.

On motion of Mr. BONHAM, the Committee on Military Affairs was discharged from the further consideration of the petition of John B. G. Kennedy, for the relief of the Tampico volunteers; and the same was laid on the table.

REFUNDING MONEY TO MASSACHUSETTS.

Mr. McRAE, from the Committee on Military Affairs, reported a bill to provide for the payment to the State of Massachusetts of the balance due to said State for money expended for the United States during the war of 1812; which was read a first and second time, and referred to a Committee of the Whole House, and, with the report, ordered to be printed.

COMMITTEE DISCHARGED.

On motion of Mr. PENDLETON, the Committee on Military Affairs was discharged from the further consideration of the petition of F. W. Lander, and the same was laid on the table.

RELIEF OF A SOCIETY.

Mr. PENDLETON, from the Committee on Military Affairs, reported a bill for the relief of the Missionary Society of the Methodist Episcopal Church; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN PATTERSON.

Mr. SAVAGE, from the same committee, reported a bill for the relief of John Patterson; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DISCHARGE OF COMMITTEES.

On motion of Mr. SAVAGE, the Committee on Military Affairs was discharged from the further consideration of the petition of Harriet B. Howe; and the same was laid upon the table.

On motion of Mr. BUFFINTON, the Committee on Military Affairs was discharged from the further consideration of the following petitions; and the same were laid upon the table:

The petition of James S. Abeel, praying for compensation as military storekeeper of ordnance and commandant of the United States arsenal at Rome, in the State of New York;

The petitions of Roswell Ransom and Luther Ransom, respectively, praying for compensation for property taken and damages done by the United States troops, and by the British troops, in the war declared by the United States against Great Britain, June 18, 1812; and

The petition of Jonathan Douglass, praying for compensation for property taken and damages done by the United States troops, and by the British troops, in the war of 1812, and for materials furnished and service done for the United States.

RICE M. BROWN.

Mr. BUFFINTON, from the Committee on Military Affairs, reported a bill for the relief of Rice M. Brown; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ORRIN W. RICE.

Mr. BUFFINTON also, from the same committee, reported a bill for the relief of Orrin W. Rice; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ANGELINA C. BOWMAN.

Mr. BUFFINTON also, from the same committee, reported a bill for the relief of Angelina C. Bowman, widow of Francis L. Bowman, late captain in the United States Army; which was read a first and second time.

Mr. LEIDY. I ask that that bill may be put upon its passage.

The bill, which was read, directs the Secretary of the Interior to have the name of Angelina C. Bowman, widow of the late Captain Francis L. Bowman, of the United States infantry, placed upon the pension roll at the usual half pay allowed to widows of officers of the same rank as the said Captain Francis L. Bowman held at the time of his death; the pension to commence on the 5th of September, 1856, and to continue during her widowhood and natural life.

The report was read. It appears from it that the petitioner is the widow of Francis L. Bowman, formerly captain in the United States Army. In September, 1856, while at Fort Simcoe, he exhibited signs of insanity, when it was thought expedient to convey him to the Dalles, under a military escort. On the way he escaped from the escort; and from the mangled condition of his remains, when found, it was supposed that he had been killed by wild beasts. Captain Bowman had served in the Mexican war as major in the second regiment of Pennsylvania volunteers, where he contracted disease; which disease, it is supposed, induced the insanity.

Mr. JONES, of Tennessee. I move to amend the bill by striking out the words "and during her natural life." The general law giving pensions to widows of officers and soldiers does not allow the pensions to continue after the second marriage.

Mr. MARSHALL, of Kentucky. If I recollect aright, the general law which was passed here last session does not contain the feature which the gentleman from Tennessee speaks of.

Mr. JONES, of Tennessee. I think that if the gentleman from Kentucky will look at the pension certificates under that law, he will see that they are issued during the widowhood.

Mr. MARSHALL, of Kentucky. I speak of the law; not of the certificates.

Mr. JONES, of Tennessee. I think if the gentleman will look at the law he will find that that is the construction which must be given to it.

Mr. MARSHALL, of Kentucky. There is no exception made in the law. The gentleman from Tennessee will recollect that he called attention to that point at the time the law was passed. I suggest to the House that there is no propriety in making an exception of this one case.

Mr. JONES, of Tennessee. I do not so regard it.

Mr. MARSHALL, of Kentucky. I am informed that the language of this bill is the exact language of the law.

Mr. BUFINTON. For my part, I have no objection to having these words struck out.

Mr. MARSHALL, of Kentucky. Well, I have. I have sent for the law, and I will see if this is not exactly in the language of the law as it now stands.

Mr. JONES, of Tennessee. This case does not come under that law anyhow. The law provides a pension for the widows of those who are killed or are in the military service of the country in time of war, or who die of wounds received or disease contracted while in the line of their duty.

Mr. MARSHALL, of Kentucky. Well, this man was killed by wild beasts, and I am sure that he had wounds enough. I am surprised at the gentleman from Tennessee resisting a pension except during widowhood. The law provides that all those surviving widows and minor children who have been, or may be, granted and allowed five years' half pay under the provisions of any law or laws of the United States, shall be granted a continuance of such half pay, under the following terms and limitations: to such widows during life. The construction which the gentleman from Tennessee puts upon that is—to such widows during life provided they remain widows.

Mr. JONES, of Tennessee. I ask the gentleman this question. Suppose a widow, who is pensioned under this law, subsequently marries an unnaturalized foreigner who is engaged in a war against this country: who gets the benefit of the pension, the widow or the foreigner?

Mr. MARSHALL, of Kentucky. Why, the widow, I suppose. But the gentleman does not put a supposable case. I do not believe any widow of an American soldier would ever marry an unnaturalized foreigner.

Mr. JONES, of Tennessee. I ask the gentleman if there never has been such a case?

The question being on Mr. JONES's amendment, Mr. JONES, of Tennessee, called for the yeas and nays, and tellers on the yeas and nays.

Tellers were ordered; and Messrs. Gooch, and CRAIG of Missouri, were appointed.

The House divided; and the tellers reported—yeas 31, noes 91.

So the yeas and nays were ordered.

Mr. CURTIS. I think this bill can be so amended as to make it satisfactory to every gen-

tleman. There is a provision of the general law, which provides that, in case of the marriage of the widow, the pension shall go to the children of the deceased officer or soldier; and that being the general law, I think that a similar proviso should be attached to this bill. I suppose that the friends of the bill are willing that it should be made to conform to the general law passed last year.

Mr. JONES, of Tennessee. Well, Mr. Speaker, this is an extraordinary case anyhow. It does not come under any general law, and consequently, you are making a case to suit the facts.

Mr. LEIDY. The evidence before the committee satisfactorily established the fact that the disease of which Captain Bowman died, or rather the disease which induced the calamity which led to his death, was contracted while in service in the Mexican war; and if so, the case comes within the general law allowing pensions to the widows of officers and soldiers of that war.

Mr. CLARK B. COCHRANE. I understand, from one of the Representatives from the State of Pennsylvania, that under the laws of that State, this pension would go to the heirs in case of the marriage of the widow, instead of to the husband. That would be the case in our State, under the local laws; and if that be the case, there is no need of any amendment.

Mr. FLORENCE. They require evidence at the Pension Office, which can hardly ever be furnished. If they interpreted the laws, as they ought to do, there would be no difficulty about this case, but the Department, or bureau make new laws by their rulings.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. CURTIS. I hope the gentleman will allow the provision of the general law to be read. I think a similar provision ought to be inserted in this bill.

Mr. WASHBURN, of Illinois. Let it be read.

The Clerk read the provision of the law of last year, as follows:

"Provided, however, That in case of the marriage or death of any such widow, the half pay shall go to the child or children of the deceased officer or soldier, whilst under the age of sixteen years; and in like manner, the child or children of such deceased officer or soldier, when there is no widow, shall be paid no longer than while there are children or a child of the age aforesaid."

Mr. CURTIS. I desire that an amendment embracing that provision shall be inserted in this bill.

Mr. WASHBURN, of Illinois. I prefer the bill as reported by the committee, without any amendment; and I therefore insist on the previous question.

The previous question was seconded, and the main question ordered.

The question was taken on the amendment of Mr. JONES, of Tennessee, and it was decided in the negative—yeas 88, nays 91; as follows:

YEAS—Messrs. Andrews, Atkins, Avery, Barksdale, Bishop, Bliss, Biscock, Bryan, Burnett, Case, Caskie, Chapman, Cobb, John B. Clark, Clawson, Cokerell, Cox, Burton Craige, Crawford, Curry, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Iowa, Dimmick, Dodd, Bowdell, Edmundson, English, Faulkner, Foley, Garrett, Giddings, Gilman, Goode, Greenwood, Greer, Grossbeck, Harlan, Hickman, Hopkins, Houston, Hughes, Jackson, Jenkins, George W. Jones, Owen Jones, Kilgore, Jacob M. Kunkel, Lamar, Leiter, Letcher, McQueen, McKee, Miller, Milson, Moore, Morgan, Niblack, Nichols, Parker, Pendleton, Peyton, Fottle, Reagan, Rufin, Sandidge, Savage, Seales, Scott, Seward, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, Miles Taylor, Tripp, Underwood, Vallandigham, Waldron, Watkins, White, Wilson, Winslow, and John V. Wright—88.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Bennett, Billingshurst, Bingham, Bowie, Brayton, Buffinton, Burlingame, Case, John B. Clark, Clawson, Clay, Clark B. Cochrane, Coffax, Comins, Covode, James Craig, Curtis, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dewart, Durfee, Eastis, Fenton, Florence, Foster, Gilmer, Gooch, Grow, Lawrence W. Hall, Harris, Hill, Hoard, Hodges, Howard, Huyler, Jewett, Keim, Knapp, Landy, Lawrence, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mattonson, Maynard, Miles, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Olin, Palmer, Pettit, Pike, Potter, Purviance, Ricard, Robbins, Roberts, Royce, Russell, Aaron Shaw, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Talbot, Tappan, Thayer, Thompson, Tompkins, Vance, Wade, Walbridge, Ward, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—91.

* So the amendment was rejected.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment was

rejected; and also moved to lay the motion to reconsider upon the table.

Mr. MORGAN demanded the yeas and nays; and tellers on the yeas and nays.

Tellers were ordered.

Mr. WASHBURN, of Illinois, withdrew the motion.

Mr. MILES moved to reconsider the vote by which the amendment was rejected.

Mr. WASHBURN, of Illinois, moved to lay the motion to reconsider upon the table.

Mr. MILES demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 71; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Bennett, Billingshurst, Bingham, Bowie, Brayton, Buffinton, Burlingame, Case, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Coffax, Comins, Covode, Cox, Cragin, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Durfee, Eastis, Florence, Foster, Gills, Gilman, Gilmer, Gooch, Grow, Lawrence W. Hall, Harris, Hawkins, Hill, Hoard, Hopkins, Howard, Huyler, Jewett, Keim, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mattonson, Maynard, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Murray, Olin, Palmer, Pettit, Phillips, Pike, Potter, Purviance, Ricard, Robbins, Roberts, Royce, Russell, Spinner, Stanton, James A. Stewart, Talbot, Tappan, Thayer, Thompson, Tompkins, Vance, Wade, Walbridge, Walton, Ward, Cadwalader C. Washburn, Ellihu B. Washburn, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—96.

NAYS—Messrs. Andrews, Atkins, Avery, Barr, Bliss, Biscock, Burnett, Burns, Caskie, Cobb, Cockerell, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dodd, Dowdell, Edmundson, English, Faulkner, Foley, Garrett, Greenwood, Harlan, Hickman, Houston, Hughes, Jackson, Jenkins, George W. Jones, Jacob M. Kunkel, Lamar, Leiter, McQueen, Mason, Miles, Miller, Milson, Moore, Morgan, Niblack, Nichols, Parker, Peyton, Fottle, Powell, Reagan, Rufin, Sandidge, Seales, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, William Stewart, George Taylor, Miles Taylor, Tripp, Underwood, Vallandigham, Waldron, Watkins, White, Wilson, Winslow, and John V. Wright—71.

So the motion to lay on the table the motion to reconsider was agreed to.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. BUFINTON asked the previous question upon the passage of the bill.

The previous question was seconded; and the main question ordered to be put.

Mr. JONES, of Tennessee, called for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee, moved to lay the bill on the table.

The motion was not agreed to.

The bill was passed.

Mr. BUFINTON moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. CURTIS, from the Committee on Military Affairs, reported adversely upon the petitions of James M. Smith and B. D. Hyam.

The petitions were laid on the table, and the reports ordered to be printed.

Mr. CURTIS. I am directed by the Committee on Military Affairs to report back the petition of Nathaniel Tompkins, of Massachusetts. The committee are of opinion that he can obtain relief under the general law; and they therefore ask that it be laid on the table, and the committee discharged from the further consideration thereof.

The motion was agreed to.

OHIO VOLUNTEERS.

Mr. CURTIS. I am directed by the Committee on Military Affairs to report a joint resolution directing the payment of certain Mexican volunteers.

The joint resolution was read a first and second time.

Mr. CURTIS. I ask that the joint resolution may be put upon its passage.

The joint resolution was read. It provides that the two companies commanded by Captain Small and Captain Mott, mustered and sworn into service in Ohio, in 1846, but not accepted, at Fort Washington, be declared to be companies included in the joint resolution of Congress of August 8, 1846.

Mr. JONES, of Tennessee. I desire to ask the

gentleman from Iowa, by whom these volunteers were sworn in, what they swore to, and under what law they were sworn?

Mr. CURTIS. If the gentleman will listen to the reading of the report, he will learn all about it.

Mr. JONES, of Tennessee. I ask whether that is a private bill?

The SPEAKER. The Chair thinks it is. It refers to a particular class of persons.

Mr. JONES, of Tennessee. Is it in order to move to refer this resolution to a Committee of the Whole House on the Private Calendar?

The SPEAKER. It is in order.

Mr. JONES, of Tennessee. I make that motion.

Mr. VALLANDIGHAM. I would inquire of the gentleman from Iowa, whether there was not a company raised in Dayton, Ohio, commanded by Captain Stout, sworn in, and serving under the same circumstances? If so, I desire to have that company included in the resolution.

Mr. CURTIS. I am not aware that there are any other companies raised under such circumstances, which have not been paid. Twelve companies in Ohio were paid under the joint resolution of 1846.

Mr. CASE. Mr. Speaker, is there a motion pending to refer this resolution to a Committee of the Whole House on the Private Calendar?

The SPEAKER. There is.

Mr. CASE. I hope that motion will prevail. I see no reason why this resolution should have preference over others; certainly it should have none over many waiting to be reported. Why, sir, the committee, of which I am a member, has numerous bills ready to report for the relief, not of able-bodied men, but of invalids, soldiers who are helpless and old, who will die, perhaps, before another session; and, our committee being at the foot of the list, we cannot even get them before the House, because we are delayed by this practice of putting bills on their passage when reported. I call the previous question on the motion.

Mr. STANTON. The gentleman must see that there is no use in reporting bills here, at this period of the session, and referring them to a Committee of the Whole House. They never can be reached. I think the resolution had better be put on its passage.

Mr. CASE. I want it to take its chances with other bills.

Mr. JONES, of Tennessee. If the gentleman will withdraw his demand for the previous question, for a moment, I will renew it. I have no doubt that there are volunteers all over the country, who have tendered their services to the Government.

Mr. STANTON. Is debate in order?

The SPEAKER. It is not.

Mr. STANTON. I must object.

The SPEAKER. Does the gentleman from Iowa report back the original resolution referred to the committee, and this as a substitute, or does he report it as an original resolution?

Mr. CURTIS. As an original resolution.

The SPEAKER. A joint resolution covering this case, was read twice and referred to the Committee on Military Affairs. Does the gentleman report this resolution back?

Mr. CURTIS. I report this as a substitute for the one which was referred to the committee last year.

The SPEAKER. The proper course would have been to have reported back the joint resolution referred to the committee, and to have moved this as a substitute.

Mr. HARLAN. A resolution was introduced by me, which was referred to the Committee on Military Affairs. I suppose this is a substitute for that resolution?

Mr. CURTIS. Yes, sir; it is.

Mr. HOUSTON. Does the resolution make an appropriation? If it does, it must go to a Committee of the Whole on the Private Calendar.

Mr. CURTIS. It is a substitute for the former resolution. It places the volunteers upon the same footing with former volunteers.

Mr. JONES, of Tennessee. I would inquire if this is the resolution which was read twice and referred to that committee?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. Then that is the

only way in which the committee got jurisdiction of the case.

The SPEAKER. That is the very point to which the Chair desired to direct the attention of the gentleman from Iowa; whether this resolution was predicated upon the other papers, or was it offered as a substitute for the resolution referred to them at the last session?

Mr. CURTIS. It is offered as a substitute.

The SPEAKER. Then it must be so treated.

Mr. JONES, of Tennessee. Now read the original resolution which was referred.

The original resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States in Congress assembled. That the officers and men belonging to the company of Captain Calliberson Small, who were sworn in as volunteers for the war with Mexico, at Xenia, Ohio, and who marched to Camp Washington, near Cincinnati, Ohio, but who were not actually received into the service of the United States; and also the company of Captain Mott, raised at Piqua, Ohio, and who marched to Camp Washington, near Cincinnati, Ohio, but who were not actually mustered into the service of the United States, are hereby declared to be entitled to the benefits of the joint resolution of Congress, passed August 8, 1846, and that the sum of \$3,500 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to carry into effect said resolution of August 8, 1846.

The SPEAKER. The gentleman from Ohio reports back the joint resolution which has just been read, and reports a substitute.

Mr. NICHOLS. Has the previous question been demanded?

The SPEAKER. The Chair thinks not in the present state of the question.

Mr. NICHOLS. Then I make that motion.

Mr. GREENWOOD. I ask the gentleman to withdraw it, in order that other companies may be provided for in this resolution.

Mr. NICHOLS. This question is not debatable; and I insist upon my demand.

Mr. JONES, of Tennessee. This resolution makes an appropriation, and I move that it be referred to the Committee of the Whole on the state of the Union.

Mr. NICHOLS. Does the Chair decide that this resolution makes an appropriation?

The SPEAKER. It makes an appropriation of \$6,000. The Chair last week decided that the direction which must be given to a bill depended upon the original text, and not upon any amendment.

Mr. NICHOLS. Would it be in order to withdraw the demand for the previous question, and to move to refer the resolution to the Committee on Military Affairs?

The SPEAKER. It would.

Mr. NICHOLS. Then I withdraw the demand, and move to refer the resolution to that committee; and upon that I demand the previous question.

The previous question was seconded, and the main question ordered, and under the operation thereof, the resolution was referred to the Committee of the Whole on the state of the Union.

Mr. CURTIS. I ask that the resolution, substitute, and report, be printed.

It was so ordered.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the resolution was referred, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. MAYNARD. Is not this objection day?

The SPEAKER. It is.

Mr. MAYNARD. Then I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. STANTON in the chair,) and proceeded to the consideration of the Private Calendar; when the following cases were taken up, considered, and disposed of as indicated below:

FRANÇOIS GUILLORY.

A bill (H. R. No. 450) for the relief of the heirs or legal representatives of François Guillory.

The bill provides that the heirs or legal representatives of François Guillory, deceased, late of the parish of Saint Landry, in the State of Louisiana, be confirmed in their claim to that tract or parcel of lands known on the public surveys of the southwestern district of Louisiana as section No. 108, in township four south, range three east, and section No. 78, in township four south, of

range four east, containing about one hundred and ninety-five acres, and that a patent shall issue therefor as in ordinary cases; provided that the act shall only be construed as a relinquishment of whatever title may now be vested in the United States, and shall in no wise interfere with any valid adverse claim of other or third parties, should there be such.

The report shows that Nicholas Lamathe, in 1797, transferred to Jacques Deshotels a tract of land of six arpents front by forty arpents back, containing about one hundred and ninety-five acres, which tract was sold by Deshotels to François Guillory in 1810, through whom it is now claimed. This six by forty arpent tract appears to be part of a tract of twenty-five by forty arpents acquired by Lamathe from one Pinal, under the Spanish Government, though the title from that Government is not in evidence, and is said to have been destroyed in some great fire, but all of which has at different periods been confirmed to claimants under Lamathe, except the tract now in question. Ten by forty arpents were confirmed to Helen Soileau by the land commissioners for that district of country in 1811. Under the acts of Congress of 1812 and 1813 the land commissioners divided the claims reported on into eleven classes, placing the claims of Louis Guillory for nine by forty arpents, and of François Guillory for six by forty arpents, in the seventh class, the first six being confirmed. These two claims by the Guillorys for fifteen by forty arpents covered the balance of the original twenty-five by forty arpent tract, only ten by forty of which had been confirmed up to that time. Louis Guillory afterwards made a new application for the confirmation of his claim to the nine by forty arpent tract, under the act of 11th May, 1820, and, being reported favorably by the commissioners, was confirmed by Congress in 1826, leaving unconfirmed only the six by forty arpents of the original tract, now claimed by the memorialists, as the representatives of François Guillory, deceased.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

JOHN H. WHEELER.

A bill (H. R. No. 454) for the relief of John H. Wheeler, Esq., late United States Minister at Nicaragua. [Objected to by Mr. Covode.]

ELMIRA WHITE.

A bill (H. R. No. 463) for the relief of Elmira White, widow of Captain Thomas R. White.

The bill and report were read.

Mr. SMITH, of Virginia. This case is precisely within the law now, and if such a case as that be presented at the Pension Office, the applicant will get her pension. Therefore, under the circumstances, I must object.

Mr. FLORENCE. It is exceedingly difficult to get any pension at the Pension Office.

Mr. LEITER. I object to debate.

Mr. FLORENCE. I desired simply to give information to the gentleman from Virginia, thinking he might withdraw his objection.

EDWARD N. KENT.

A bill (H. R. No. 465) for the relief of Edward N. Kent. [Objected to by Mr. LEITER.]

Mr. UNDERWOOD. I desire to say that I objected to that bill at the last session of Congress. I have had occasion to investigate that case, and have come to the conclusion that, to a certain extent, there is merit in it. I think the gentleman from Ohio [Mr. LEITER] will accomplish his purpose, by allowing the report to be read, and likewise some letters I have received upon the same subject, but upon the opposite side of the question.

Mr. BURNETT. I object to debate.

Mr. LEITER. It struck me at the time the bill was read that it was wrong, and I objected. I adhere to that objection.

REPRESENTATIVES OF ROBERT H. MORRIS.

A bill (H. R. No. 491) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York. [Objected to by Mr. JEWETT.]

J. W. HILTON.

A bill (H. R. No. 495) for the relief of J. W. Hilton.

The bill authorizes and directs the Postmaster

General to pay to J. W. Hilton, of the county of Monroe, and State of Illinois, the sum of \$483 40, for extra mail service performed by him on route No. 13323, from September 22, 1856, to July 1, 1857.

The report was read. It appears therefrom, that Joseph W. Hilton was contractor for carrying the mail over route No. 13323, from St. Louis, Missouri, via Waterloo, in Monroe county, in that State, and the village of Prairie Du Rochen, in Randolph county, Illinois, to the town of Chester, in Randolph county; that, by the terms of his contract, he was required to transport the United States mail matter pertaining to that route daily from July 1, 1854, to July 1, 1858, the mail matter to be transported over that part of the route lying between St. Louis and Waterloo, a distance of twenty-one miles, in coaches, and over that part of the route lying between Waterloo and Chester, a distance of forty-seven miles, on horseback; that, on the 27th of September, 1856, and daily hitherto, the postmaster at St. Louis, Missouri, delivered to Hilton the mail matter between the city of St. Louis and the town of St. Genevieve, in Missouri, which did not pertain to mail route No. 13323; that, notwithstanding the contract of Hilton did not require him to transport the same over his route No. 13323, he did, at the request of the postmaster of St. Louis, and with a desire to serve the Post Office Department of the United States and to subserve the public interest, receive the St. Louis and St. Genevieve mail matter, and, according to the desire of the postmaster of St. Louis, transported the same daily, from the 22d of September, 1856, to the present time, over that part of his route No. 13323 lying between the city of St. Louis and the village of Prairie Du Rochen in coaches, and thence on horseback, relying upon the good faith of the Post Office Department for reasonable compensation for extra services; that, in consequence of the great quantity of mail matter which he was obliged to transport over his route, he was compelled to incur great additional expense in transporting St. Genevieve mail matter from St. Louis to Prairie Du Rochen, an additional horse or a coach being indispensable for that purpose on that part of the route, twenty-two miles distant from Waterloo to Prairie Du Rochen; that he immediately, and often after he was directed by the postmaster at St. Louis to perform the extra mail service, applied by letter to the Post Office Department for a reasonable allowance for the extra mail service, but that he received no definite answer to his applications until about the 1st of July, 1857, when the Department agreed to pay him \$626 per annum for such increase of service, the agreement to take effect from and after the 1st of July, 1857; that Hilton was informed by the Post Office Department that no allowance could be made for the increase of service performed by him, between September, 1856, and July 1, 1857, the same having been performed without any prior legal order from the Postmaster General; that the amount due him for said service would be *pro rata* to the amount subsequently allowed, \$483 40, and that, from information received from the Post Office Department, the committee have no doubt that the extra service was performed, and the public interest thereby subserved.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

REPRESENTATIVES OF R. H. MORRIS.

Mr. JEWETT. I desire to withdraw the objection that I made to bill No. 491, for the relief of the legal representatives of Robert H. Morris.

Mr. BURNETT. Let the objection stand. I object to going back on the Calendar.

PRINCETON PRESBYTERIAN CHURCH.

A bill (H. R. No. 497) for the relief of the Presbyterian Church at Princeton, New Jersey. [Objected to by Mr. RUFFIN.]

MAJOR JOHN RIPLEY.

A bill (H. R. No. 498) for the relief of the heirs of Major John Ripley. [Objected to by Mr. JONES, of Tennessee.]

BENJAMIN WILSON'S HEIRS.

A bill (H. R. No. 499) for the relief of the heirs of Benjamin Wilson.

Mr. JONES, of Tennessee. I do not see that

there is any reason alleged why this man's accounts have not been settled before.

The CHAIRMAN. Does the gentleman object?

Mr. WILSON. I hope the gentleman will not object. Let the bill be reported to the House, and it can be voted on by yeas and nays.

Mr. JONES, of Tennessee. I have no objection in the world.

Mr. MORGAN. I object.

DR. BENJAMIN CHAPIN.

A bill (H. R. No. 500) for the relief of the heirs of Dr. Benjamin Chapin. [Objected to by Mr. JONES, of Tennessee.]

CAPTAIN DAVID NOBLE.

A bill (H. R. No. 501) for the relief of the legal representatives of Captain David Noble, deceased. [Objected to by Mr. LEITER.]

M. M. MARMADUKE.

A bill (H. R. No. 505) for the relief of M. M. Marmaduke and others. [Objected to by Mr. SMITH, of Virginia.]

WILLIAM B. DODD.

A bill for the relief of William B. Dodd and others. [Objected to by Mr. TOMPKINS.]

Mr. PHELPS, of Minnesota. I hope the gentleman will withdraw his objection, and let the report be read.

Mr. TOMPKINS. It is not worth while.

Mr. PHELPS, of Minnesota. The bill is recommended by the Secretary of the Treasury; an appropriation has been made, and all we desire is that the money shall be paid to the parties entitled.

ELEAZER WILLIAMS.

A bill (H. R. No. 508) for the relief of Eleazer Williams, sole heir of Mary Ann Williams and Thomas Williams, deceased. [Objected to by Mr. SMITH, of Virginia.]

WILLIAM B. DRAPER.

A bill (H. R. No. 509) for the relief of the legal representatives of William B. Draper.

Mr. JONES, of Tennessee. The report in that case shows that this man was paid all he was entitled to.

Mr. MORSE, of Maine. I hope the gentleman from Tennessee will consent to let this bill go to the House, and have the vote taken there by yeas and nays.

Mr. JONES, of Tennessee. I have no objection.

Mr. BURNETT. I object to any such arrangement. We will never get through the business of the session if we are to have the yeas and nays on these bills.

Mr. SMITH, of Virginia. Is the bill objected to?

The CHAIRMAN. The gentleman from Kentucky [Mr. BURNETT] objects.

Mr. CURTIS. I move that the committee do now rise.

Mr. GREENWOOD called for tellers on the motion.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and HOPKINS were appointed.

The committee divided; and the tellers reported—ayes 71, noes 41.

So the motion was agreed to.

F. GUILLORY AND J. W. HILTON.

The committee rose; and the Speaker having resumed the chair, Mr. STANTON reported that the Committee of the Whole House had had under consideration the Private Calendar, and had directed him to report back, with a recommendation that it do pass, a bill (H. R. No. 450) for the relief of the heirs or legal representatives of François Guillory, and a bill (H. R. No. 495) for the relief of J. W. Hilton.

Mr. STANTON. I move the previous question on the engrossment of these bills.

Mr. DAVIS, of Mississippi. I would have objected to the bill for the relief of J. W. Hilton, had I been in the Hall when it was called. I have presented a minority report in that case, and should be glad to have it read before the question is put to the House.

The SPEAKER. The previous question having been demanded, the report can be read only by unanimous consent.

The previous question was seconded, and the main question ordered.

The bill (No. 450) was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

The question recurred on ordering the bill (H. R. No. 495) for the relief of J. W. Hilton to be engrossed and read a third time.

Mr. DAVIS, of Mississippi. I ask that the minority report in that case be read.

Mr. WOOD. I object.

Mr. DAVIS, of Mississippi. In my opinion a more unjust and illegal appropriation of money was never proposed in any legislative body in the world.

Mr. SMITH, of Illinois. If the gentleman is allowed to make a speech against the bill, I desire to have an opportunity of replying to him.

The SPEAKER. Debate is not in order.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn.

The motion was agreed to—ayes 57, noes 50. And thereupon (at three o'clock and fifty-two minutes, p. m.) the House adjourned.

IN SENATE.

SATURDAY, January 29, 1859.

Prayer by Rev. T. J. O'TOOLE.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate a letter of T. J. Mackey, and others, inclosing a memorial of the citizens of Nebraska Territory, residing south of the Platte river, in convention assembled at Brownsville, on the 5th day of January, 1859, praying that the portion of Nebraska Territory lying south of the Platte river may be embraced within the boundaries of the proposed state of Kansas; which was referred to the Committee on Territories.

Mr. MASON presented the memorial of R. M. Hamilton, late consul of the United States at Montevideo, praying compensation for diplomatic services rendered by him while at that post; which was referred to the Committee on Foreign Relations.

Mr. POLK presented the memorial of Pierre Chouteau, jr., & Co., licensed Indian traders, praying indemnity for goods and merchandise forcibly taken from them by the Sioux Indians at Fort John, on the north fork of the Platte river, in August, 1854; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the St. Louis Chamber of Commerce, praying the establishment of a branch mint, or an assay office, in that city; which was referred to the Committee on Finance.

He also presented a petition of citizens of Johnson county, Missouri, praying the establishment of a mail route from Warrensburg to Neosho; which was referred to the Committee on the Post Office and Post Roads.

He also presented five memorials of citizens of St. Louis, Missouri; a memorial of citizens of St. François, Washington, and Iron counties, Missouri; a memorial of citizens of Madison and Iron counties, Missouri; a memorial of citizens of St. François, Iron, and Washington counties, Missouri; a memorial of citizens of Phelps county, Missouri; a memorial of citizens of St. François, Iron, and Washington counties, Missouri; and a memorial of citizens of Madison and Iron counties, Missouri, severally praying a specific and increased duty on iron; which were referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the petition of Euligio de Celis, praying remuneration for money loaned and supplies furnished to Colonel Fremont, as Governor of California, asked to be discharged from its further consideration, and that it be referred to the Court of Claims.

He also, from the same committee, to whom was referred the petition of Charles C. Walden, manager and superintendent of a company established for the purpose of connecting the United States with Cuba, by means of a submarine telegraph, praying that the President of the United States may be authorized to contract with him for the transmission of Government dispatches,

and a resolution of the Senate in relation to communication by telegraph between Key West and Cuba, asked to be discharged from their further consideration, and that they lie upon the table; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Napoleon Kosciowski, captain of a company of Missouri volunteers during the late war with Mexico, asking three months' extra pay for his company under the acts of July 19 and July 29, 1848, submitted an adverse report; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 64) explanatory of "An act to amend an act entitled 'An act supplemental to an act providing for the prosecution of existing war between the United States and Mexico, and for other purposes,'" approved July 19, 1848, submitted an adverse report; which was agreed to; and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. BRIGHT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 544) to incorporate the Washington National Monument Society; which was read a first and second time.

Mr. BRODERICK, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 543) to facilitate communication between the Atlantic and Pacific States by electric telegraph; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. YULEE. I inquire from the Senator from California whether that bill is a similar one to the bill upon the same subject referred at the last session to the Committee on the Post Office and Post Roads?

Mr. BRODERICK. In substance it is.

Mr. YULEE. I will state that the committee considered the subject at the last session, and reported adversely upon it. If this is the same bill, I do not see the necessity of referring it.

Mr. BRODERICK. It is not the same bill. If the committee think proper to report against it, they can do so.

Mr. YULEE. Very well, sir.

BIDS FOR GRANITE.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate with copies of all bids for furnishing granite for the extension of the Treasury building, made in 1855, and to designate such of the bids as were accepted.

WILKES EXPLORING EXPEDITION.

Mr. PEARCE submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Library be instructed to report what progress has been made towards the completion of the publications of the exploring expedition under Captain Wilkes; how much of the moneys appropriated therefor remain unexpended; and how much more, if any, will be required for the completion of the same; with such detailed statements as may furnish the Senate with full information on the subject.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 450) for the relief of the heirs and legal representatives of Francis Guillory;

A bill (No. 538) for the relief of Daniel Cole; and

A bill (No. 847) for the relief of Angelina C. Bowman, widow of Francis L. Bowman, late captain United States Army.

PACIFIC RAILROAD.

Mr. BROWN. I hope that we shall now proceed to execute the order setting apart this day for District business.

Mr. GWIN. I made a motion yesterday which I believe is a privileged motion; but at the time I made it I did not recollect that this day was set apart for District business. My motion is to reconsider the vote passing the bill for a Pacific railroad. I can very briefly give my reasons for that motion, and I do not want to detain that bill any longer from the lower House. I believe I

have a right to call up that motion as a privileged question. Have I not?

The PRESIDING OFFICER. It was the understanding of the Senate, on a previous day, that to-day should be set apart for District business.

Mr. BROWN. I hope it will be remembered that a resolution was passed giving to-day for the business of the District of Columbia; and it must necessarily take precedence of any motion made subsequently to set aside that positive resolution.

Mr. SHIELDS. That was to take effect after one o'clock.

Mr. BROWN. It is for the whole day, sir.

Mr. GWIN. If I have a right to call up that privileged question, I wish to do it. If the Chair decides I have not the right, I will not do so. I shall not detain the Senate ten minutes.

Mr. BRIGHT. I shall certainly vote with the Senator from California when his motion comes up; but I hope he will not press it this morning. It will not embarrass the motion to let it lie over till next week.

Mr. GWIN. I do not want to detain this bill from going to the House. I make the motion to reconsider in good faith, for the purpose of suggesting some amendments, which I think all those who favor the project will accept at once. My object is not to have the appearance of detaining the bill from the House of Representatives, by the motion I have made. I do not want to interfere with the District business, because I think a day ought to be appropriated for it; but if Senators on the other side have any objection to my motion, let it go over till Monday morning. I shall call it up then; and I have a very few remarks to make on the subject.

Mr. BRIGHT. It is manifest that if the motion be taken up this morning, it will lead to discussion, and interfere greatly with the business that has been set apart for to-day. I hope, therefore, the Senator from California will not press it.

Mr. BELL. I had supposed that the morning hour was not included in the resolution referred to by the Senator from Mississippi.

Mr. GWIN. I shall certainly not go beyond the morning hour.

Mr. BELL. I shall not be tenacious about it, anyway. I suppose the question can be disposed of within the morning hour.

Mr. GWIN. I think we can dispose of it in a short time.

Mr. BRIGHT. If it be the understanding that at one o'clock we shall proceed to execute the order for District business, I will yield until that hour.

The PRESIDING OFFICER. The Chair will understand that to be the sense of the Senate, unless objected to.

Mr. SHIELDS. Before the honorable Senator from California calls up that motion, I wish to say that there is a bill here of a local nature which interests a number of citizens of Minnesota, and which will not occupy the attention of the Senate more than five minutes.

Mr. GWIN. The Senator is aware that I must give way at one o'clock for District business. I have but a very few moments to get through before one o'clock, and then it is a motion to reconsider a bill that has been before the Senate for a long time. I know he will understand that I would accommodate him if I could; but I have but a very short time, and I cannot yield to him now. I am not going to detain the Senate.

Mr. STUART. Is the motion to reconsider now pending?

The PRESIDING OFFICER. Yes, sir.

Mr. STUART. I thought the question was as to whether we should take up the motion.

Mr. GWIN. I believe there is no objection to its being taken up.

Mr. STUART. I only wish to say this on that subject: I do not wish to interrupt the Senator, but I wish to protest against the suggestion he made. I did not hear the Chair decide that he has a right to call up that motion at any time against any other motion. He has the right to make the motion, and have it entered at any time; but he has not the right to call it up, unless he can get the floor when there is no other business before the Senate.

Mr. GWIN. I did not make that motion, but left to the Chair to decide the question. I have made this motion to reconsider under the belief

that, when the bill was originally framed by the Senator from Tennessee, [Mr. BELL,] he contemplated its recommitment to a select committee, and therefore he did not, probably, go into the details with that degree of accuracy that he otherwise would have done if he had supposed the bill would have received as it did the immediate action of the Senate. With that understanding, I wish to suggest some amendments which I think will make the bill more acceptable to those who are favorable to that mode of presenting the subject to the country.

In the first section the bill proposes to invite separate proposals for the construction and working of three roads from the valley of the Mississippi to the Pacific ocean. In my judgment, it would greatly facilitate the reception of *bona fide* bids, if the bill declared specifically whether or not those bids were to be considered for the construction of three roads, or whether the bids on the three routes were to be considered, and then Congress was to take up those bids and decide that they would build one road, and accept a bid for one. The reason for that is this: if the Congress of the United States intends to provide for the building of three roads, it should be specifically stated, it is admitted on all hands that there is to be large Government aid for one or two or three roads; but if the bidders understand that if their bids for the construction of one road were accepted, and that it would be the only road that would be constructed at the present time, they would agree to execute the work on much better terms for the Government, because they would then have the whole of its patronage to aid them in the construction of the work, together with the travel on it, and the transportation of freights.

I think, therefore, the bill ought to be more specific; because, in another section, it rather intimates that separate bids are to be received and to be considered. If the friends of the measure, however, intend that the bids for the three routes shall be given in good faith to build three roads, it strikes me they ought to amend the second section in some degree to make that certain before the country; but, if it is the intention to receive bids for three routes, and then for Congress to select one route and hold the bidders to the building of that road, with the understanding that they are to have the whole patronage of the Government to aid in its construction and the future working of it, I think it will produce a very beneficial effect in the reception of the bids; and I make the suggestion that the bill be amended in that respect.

The second section provides that, for the central and southern routes, "there shall be separate proposals for the construction of said roads from the eastern termini to some suitable point on the eastern boundary of the State of California." It seems to me, that conflicts with the first section, which provides that bids shall be received for a southern road to San Francisco, and a central road to San Francisco or Benicia. The second section says these bids shall only be received for a road to the eastern boundary of the State of California. Here is certainly a conflict. While one set of bids would be put in for carrying the road to the waters of the Pacific ocean at San Francisco or Benicia, the second section contemplates that the bids shall be made for a road to the eastern boundary of California. I can well understand the reason for that. It was to avoid the objection that might be made to the Government of the United States contracting to carry the road through a State; but it seems to me if the bill had gone further, and said at the same time that these bids were to be received to build the road from the waters of the Mississippi river to the eastern border of the State of California, it should also have said bids will also be received for building a road from San Francisco or Benicia on the central route, and San Francisco on the southern route, to the eastern border. In that way we should have had a system under the first and second sections. The first section contemplates the reception of bids for building a road to San Francisco on the southern route and the central route. Then under the second section we should have had bids for a road to the eastern boundary of the State of California, and from that to the points indicated in the first section.

I suggest it as a possibility, and there is a great

probability in it, too, if this amendment is made to receive bids for a road from the eastern border of the State of California, to the points indicated in the first section of the bill, for the central route—Benicia or San Francisco—and the southern route to San Francisco, that the State of California herself may make a proposition to build this route to those points from her eastern borders, with such aids from the Government as they may indicate. I therefore think it is very important to make this system as acceptable and perfect as possible; that this omission in the second section should be remedied by offering to receive separate bids for the construction of a road from the points indicated on the waters of the Pacific ocean to the eastern border of the State. I hope the friends of the measure will agree with me that it is important to permit these separate bids to be received for building within the State, as it is possible the State itself may present proposals, when it would not wish to propose to build the road within the Territories of the United States.

Another suggestion that I desire to make is in regard to the bids themselves. There is no adequate provision to insure the Government that the bidder is responsible, competent, and willing to execute the work; the invitation to bidders to state the guarantees proposed for the faithful execution of any contract being too defective to prevent the reception of fictitious bids. I think if the bill were amended, as I have suggested, and the State of California should make a bid to construct these two roads on the central and southern routes to her eastern boundary, she would give the credit of the State to execute it, and that would be ample; but if that amendment is made, it would be very important that bids made to construct the road to the eastern border of the State of California, should be by parties entirely responsible. No fictitious bids, no straw bids, as they are called, should be received at all. Therefore, I suggest that the security should be made more specific. The responsibility should be so specific that fictitious bids could not be received. In that way we should have a great advantage from this bill, and that is, the development of outside information in regard to what the expense of this work would be. Private individuals, when they give such a bond, which, if forfeited, will involve them in great loss, will be more specific and careful in acquiring information than they otherwise would, if there was not that degree of responsibility fixed on them by the act which would make their bids real and not fictitious.

There is another amendment that I think could be made with great propriety. In regard to the northern route from the waters of the Mississippi or Lake Superior to Puget Sound, there ought to be a provision that a branch should be built to Oregon and Washington. It is well known that the great bulk of population in those two Territories, one of which is soon, I hope, to be a State, is so situated, that proposals for a branch to the Columbia river ought to be received. I think the friends of the measure will find it to their advantage to so change the bill as to invite proposals for that branch.

I have made these suggestions because I want the measure, for the benefit of Congress, to be as perfect and effective as possible in bringing before us that kind of information upon which we can act understandingly.

Mr. BROWN. I am a little apprehensive that this debate will carry us beyond one o'clock.

Mr. BELL. Let me reply to the Senator from California.

Mr. BROWN. I will in one minute, if the Senator will wait. I propose to postpone the execution of the order of the Senate until one o'clock, so that when that time comes, if this debate is still going on, I may have a proper basis on which to arrest it. I do not wish to give a longer time than that. I therefore make that motion.

The PRESIDING OFFICER. (Mr. Mason in the chair.) The motion is not in order, unless by general consent, other business being before the Senate.

Mr. BELL. There is no disposition to press this subject beyond one o'clock, I suppose.

Mr. GWIN. Oh, no.

Mr. BROWN. Then I hope that, if there is any one on the floor when I call for the special order at one o'clock, he will give way.

Mr. BELL. I suppose no one desires to press

this discussion beyond one o'clock. I will not occupy more than three or four minutes in replying to the Senator from California.

The Senator from California has manifested his usual solicitude and vigilance to do whatever we do on this subject, as effectually as we can. He stated these points to me yesterday, and I promised to examine them carefully last night; and, so far as I thought there was matter of substance in them, to endeavor to obviate them. There is something in them to be sure; but whether they are so material that we should review the whole frame of this proposition, I doubt, and I will state my reasons. In the first place, he says no guarantees are required here for the responsibility of bidders; and how do we know that we shall not be imposed upon by merely speculative straw bidders, men without any capital? I stated that, in framing the provisions of this proposition, I considered that no better provision could be made upon that subject than to require bidders to state the guarantees they propose to give for the faithful performance of any contract the Government might enter into with them for the construction of a road under their bid.

I thought so when I drew the provision, and I think so yet; and I have studied it since the Senator stated the point to me yesterday evening. I think that is the best evidence we can get of their responsibility. Under this bill, we ask all bidders what guarantees do you propose to give for your responsibility, and the fidelity with which you will carry out any agreement that may be made with you on this subject? If any one can suggest anything else, without embarrassing the measure, I should have no objection to it; but if we require anything else, we leave it to the discretion of the Secretary of the Interior to throw out bids, which we might consider with the guarantees proposed, such as we ought to notice. I suggest that to my friend from California.

I do not think he has well matured the proposed amendments himself. I thought there was something in the first objection he took, that it is proposed to invite proposals for the construction of three roads. That is the general description of the bill; but when we come to the details of the bill, it is impossible not to see that the parties bidding upon the several routes are limited, in substance and effect, by exception and anticipation, to a single road. A few words will show that. The bill provides:

"And such advertisement shall further set forth that the person, or association of persons, or company making such proposals, shall state, as distinctly as may be, the points selected as the eastern and western termini of the road he or they propose to construct, and the line or route selected as the most eligible on which to construct it, reserving the privilege of making such deflections or departures from it as may be found, in the progress of the work, to offer greater facilities and advantages; and that he or they shall specify the terms and conditions on which he or they propose to construct the road, classified as follows:

"First. The time within which the road is to be commenced and completed.

"Second. The amount, or extent and description, of the aids, facilities, and privileges, which will be expected or required from the Government, whether consisting of lands or money, or both; and, if in part of money, whether in the shape of a loan or otherwise; and, if a loan, when and how to be refunded.

"Third. The rate of charge respectively, for conveying the mail weekly, semi-weekly, tri-weekly, and daily, when the road is completed, and the rate per mile for such portions or divisions of the road as may be completed and in use before the completion of the whole; and the rate of charge on all military and naval supplies, troops, munitions of war of all kinds, for the transportation of the same on said road throughout the entire line, when completed, and on any less portion or section of the same, as the wants of the Government may require.

"Fourth. The time or period beyond the completion of the road at which the party or parties to any such proposals will surrender said road."

And so on throughout all the subsequent provisions of the bill—it is "the road" for the construction of which the party or parties propose such and such terms, and nothing else.

Mr. GWIN. Let me ask the Senator, as the author of the bill, one question. I stated that the first section contemplated bidding for three roads, but that there was some apparent conflict, it seemed to me, in subsequent provisions of it. Did the Senator mean, when he drafted the bill, that when all these bids were before Congress, Congress would be required to accept bids to build three roads, or only one? Did he mean to confine them to the privilege of selecting from the bids and building one road?

Mr. BELL. These terms were of general de-

scription, and there is nothing in the bill that binds Congress to accept a proposition to build either one or three roads.

Mr. GWIN. They can do just as they like on that.

Mr. BELL. Certainly; everything is left to the discretion of Congress. Then, with regard to the western termination of the central and southern routes, I thought there was more in that point when the honorable Senator spoke to me yesterday afternoon, and I think there is now. The parties that bid for these respective routes, the central and southern routes, are required to put in their bids what they will take to carry the road on the central route through to Benicia or San Francisco, and on the other route through to San Francisco. Then, in order to avoid the objection that might exist in the minds of some members of Congress, on the score of the want of jurisdiction, to accept a bid which proposed a road to be constructed through the State of California—to obviate that objection, which I did not consider in fact a practical one from the beginning, and do not now, I propose that the same parties who make bids to carry these two roads to San Francisco, shall also put in a separate bid for what advantages, facilities, and privileges, they would construct the road, terminating at some suitable point on the eastern boundary of the State of California. I supposed, as I think is clearly the proper construction, that any bidders would see at once the object of that direction, and that they would stop it at the point which they considered most eligible and suitable, in order to construct a railroad from that point to San Francisco with the least cost to themselves; looking, then, to the authority of the State of California to go on with their work through the jurisdiction of that State, with such additions in lands as Congress might propose to give; and that they would be bound by the same interest, the same enlightened self-interest, which induced them to select any particular route extending to San Francisco, in their separate proposals, limiting the termination of their route to the eastern boundary, to take that point from whence, with the greatest facility and with the least expense, a road could be constructed to San Francisco. I think that answers all the valuable purposes, and gives all the security which the honorable Senator could ask on that point.

Mr. GWIN. I should like to ask the Senator if he does not think it would be a great advantage to his proposition to give the State of California, if she chooses to do so, the privilege of making this road within her own boundaries, to connect with those which might reach her eastern border from the Mississippi river?

Mr. BELL. These suggestions can be thrown out. If any bids are made under them, and proposals are laid before Congress, that will be a reason for accepting any proposition from a company designing first to run to San Francisco; and then we may have a separate proposal for running to the eastern boundary of the State of California. We could accept that, and then accept a proposition from the State of California to construct her own road.

Mr. GWIN. Would not the Secretary of the Interior be obliged to throw it out, under this bill?

Mr. BELL. It could be brought here, no matter who presented it. It would be an argument, a stumbling-block in the way of anybody, if we thought it was more advantageous to take the bid of the State of California, or any company chartered by her, to construct a road through her limits, than it would be to take a bid for running the road through to San Francisco. The honorable Senator is a little mistaken in one point. It is true I made a proposition to commit, at first; but it was with instructions to report forthwith these precise provisions; and I took great care, in preparing them, to frame them in such terms as would be full and complete and satisfactory upon every point. I am not, however, tenacious about anything.

Mr. GWIN. In regard to the northern line, I should like to suggest the propriety of a branch to Oregon.

Mr. BELL. I should like to see that incorporated myself. If we are to reconsider, and insert that, it would be very well; but I am free to say, when we get it in we shall have no limit to the propositions that may be offered.

Mr. STUART. I think, sir, it may be obvious

to the Senate that, having consumed half this session with this question of a Pacific railroad bill, we have got it in the only shape probably that a majority of the Senate would agree to, if we were to occupy the remainder of the session upon it. It certainly seems to me so. Many of the suggestions that have been made this morning, certainly I cannot agree to; and from that I infer there are many other Senators entertaining the same views; and inasmuch as the time allowed for the consideration of this subject this morning has nearly expired, to end the question, I move to lay the motion to reconsider on the table.

Mr. SIMMONS. Will the Senator from Michigan allow me one word? I shall not go past the hour.

Mr. STUART. I withdraw my motion.

Mr. SIMMONS. At some time I want to call the attention of the Senator from California to some remarks he made the other day when I was out, in which he was greatly mistaken as to what I had said in that debate. He stated:

"Mr. GWIN. The Senator from Rhode Island [Mr. SIMMONS] said that I had uncovered the object of the bill in its former shape, by stating that it was originally formed so as to give, or at least was advocated by me on the ground, that it gave, a power to the President of the United States to select any route he might choose. Well, Mr. President, that is not so. I have never said such a thing; I have never advocated such a thing. The Senator has misrepresented my whole object and my whole design in advocating this measure. I stated to the Senate that the original bill fixed a terminus on this side, and a terminus on the other side, that would favor the building of a central road, and give such an advantage to that route, that, if it was practicable, the road must be built there. I said that I wanted to leave money to select the best route, we fixing a terminus that would meet the wants of the country on each side of the Rocky Mountains."

I think, if the Senator had heard me, he would have found that I never said any such thing as he attributed to me.

Mr. GWIN. I certainly so understood the Senator; and I listened to him.

Mr. SIMMONS. I will read to the Senator what I did say; and he will see that he was wholly mistaken.

Mr. GWIN. I hope I was mistaken.

Mr. SIMMONS. He made other imputations which, when I have ten minutes, I shall call attention to.

Mr. GWIN. That is on specific duties, I suppose.

Mr. SIMMONS. But I will read the report of what I said, which, I presume, is correct, so that he will see that I said no such thing as he supposed. What I did say is thus reported:

"There are a great many friends of a Pacific railroad that I know of who would vote against that proposition; and when the Senator from California uncovered the plan, and showed that under that proposition the road could begin at the eastern end of the middle route, and run around by the southern or northern route to reach California in a circuitous manner, that would have defeated it of itself. Those who were for a Pacific railroad were willing to take the responsibility of putting it between two parallels; but that was defeated. I do not designate these roads by geographical names; and if I could have my aspirations gratified, there would not be, in the nomenclature of any American statesman, a name indicating a section or portion of this country as distinguished from the rest. I do not think it is patriotic to call these sectional roads; and I do not think it is very patriotic to be talking about North and South always; but I believe nature has designated a central route, and it is demanded by the convenience of the whole country that it shall not go to one extreme or the other. If you are to have three roads, however, you may have one central, and one on each extreme; and I am satisfied."

Mr. GWIN. I understood the Senator as I stated; and the imputation which I understood him to make had been so often made against me that I wanted to correct it; and I did it at that moment. I take the words of the Senator, as reported, as his true meaning, and modify my own remarks accordingly.

Mr. SIMMONS. I will take some other time to reply to numerous other parts of the Senator's speech.

Mr. STUART. I renew my motion to lay the motion to reconsider on the table.

Mr. DAVIS. I hope the Senator will not make that motion.

The PRESIDING OFFICER. (Mr. MASON in the chair.) The motion is not debatable.

Mr. DAVIS. I understand that; but I ask the Senator to withdraw it.

Mr. STUART. Does the Senator desire to debate it?

Mr. DAVIS. No; I only wish to make a remark.

Mr. STUART. I withdraw it.

Mr. DAVIS. I think the confusion which exists in the present bill is sufficient reason for reconsidering it, and either recommitting it or reconstructing it in the Senate. I think the objections stated by the Senator from California are well taken. From the first section, it appears, the roads are to run to the Pacific. In the second, they are to terminate at the eastern boundary of California. Again, I do not perceive how it would be possible for any one to make the examination which would justify him in bidding upon the various propositions which are submitted. I will suppose one now to be honestly bidding, and bidding upon knowledge: it involves an inquiry which it is hardly possible for an individual to make. As much as could be fairly expected, I think, would be that the individual should select the route on which he expected to construct the road, and then, studying out the elements contained in it, make a proposition.

Again, I think we should have guarantees to secure us against fictitious, or what are termed straw bids. It is quite apparent that no such provision is made in this bill. A bidder is to state what guarantees he will give. Instead of that, I think Congress should prescribe the guarantees which would be required, so that we should be assured, when a bid was made, that it was by a responsible party, who really intended to comply with the terms of the bid if it should be accepted. I find no such provisions in the present bill. Its advocates had better correct it before it passes from the body.

Mr. BELL. Was the Senator in the Chamber when I made my remarks on that point?

Mr. DAVIS. I do not speak of the Senator's remarks. So far as his wish to prevent fictitious bidding is concerned, I do not question that. I speak of the bill as it stands.

Mr. BELL. I speak of that, too.

Mr. DAVIS. I speak of what the Secretary of the Interior is to do under the bill, and what the bidders will do under the bill.

Mr. BELL. The Senator will allow me to repeat, if he did not hear me, that I considered the best provision for a guarantee is placed in the bill, and that is: that bidders shall state what guarantee they propose to give for their fidelity. Their real *bona fides*, in making a proposition, will be developed when they state what guarantees they are willing to give. We cannot ask anything more or better. We cannot suppose you would require them to deposit five hundred thousand or a million dollars in making a bid. I require them to state what guarantees they propose for the *bona fides* of their bid.

Mr. DAVIS. It is very easy, then, for a bidder to say that he proposes to give responsible persons in a bond of millions, if he pleases. Who those responsible persons are, it is impossible to know; and where the bidder is to be found, will be equally difficult to determine.

Mr. BROWN. I must now insist on the special order.

Mr. STUART. I renew my motion to lay the motion to reconsider on the table, so as to end the question.

The PRESIDING OFFICER. The Chair considers it obligatory on the Chair, unless otherwise directed, to take up District of Columbia business at this hour.

Mr. STUART. I suppose the Senator from Mississippi will consent to my motion.

Mr. BROWN. No; for the yeas and nays will be ordered, and time consumed.

Mr. STUART. Then I make the motion, and that motion may lie over.

The PRESIDING OFFICER. That will be treated as the pending motion.

LIGHTING OF THE MALL.

On motion of Mr. BROWN, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 540) to provide for the lighting with gas certain streets across the mall.

It appropriates \$6,400 for laying down gas pipes and erecting gas lamps on Four-and-a-half street, Seventh street, and Twelfth street, across the plat of earth described in the plan of the city as reservation Nos. 2 and 3, commonly known as the mall, to be expended under the direction of the Commissioner of Public Buildings.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROTECTION OF PROPERTY.

On motion of Mr. BROWN, the bill (S. No. 489) to prevent malicious mischief, and protect property in the District of Columbia, was read the second time, and considered as in Committee of the Whole.

It provides that if, hereafter, any person shall commit any trespass whatever upon the lands within the limits of the District of Columbia, or shall come on the same with dog or gun, and shall not immediately leave the premises upon notification of the owner or occupier, he shall be deemed guilty of a misdemeanor, and, upon conviction before a justice of the peace, shall be fined not less than ten nor more than fifty dollars, for each offense; and in default of payment may be committed to the county jail until the fine and all the costs of the proceedings are fully paid; or the justices may, in their discretion, hold the offender to bail for his appearance before the next criminal court; and, upon presentment and conviction before that court, the offender may be confined in the county jail for not less than ten nor more than thirty days, in the discretion of the court; and the informer shall be a competent witness in all such prosecutions.

It further provides that it shall be lawful for the owner or occupier of the lands and premises upon which any trespass shall be committed, to arrest the person offending and take him before a justice of the peace, to be dealt with according to the provisions of this bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROVIDENT ASSOCIATION OF CLERKS.

On motion of Mr. BROWN, the bill (S. No. 505) to amend the "Act to incorporate the Provident Association of Clerks in the civil departments of the Government of the United States, in the District of Columbia," was read the second time, and considered as in Committee of the Whole.

It proposes to amend the charter of the Provident Association of Clerks, so that any member of the association may, on giving one month's notice to the president and board of officers, withdraw from the association, and receive out of its funds and assets such sum as the president and board of officers may consider just and equitable, but in no case to exceed the amount he may have contributed, with interest at the rate of six per centum, nor his distributive share of the entire assets if distributed *pro rata*. This bill must first, however, be accepted by a majority of the members of the association present at a general meeting held for the purpose, to be convened after giving one month's notice in some newspaper printed and published in Washington city.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

TAVERN AND OTHER LICENSES.

On motion of Mr. BROWN, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 536) to authorize the levy court to issue tavern and other licenses in the District of Columbia.

It proposes to transfer the authority now exercised by the circuit court of the county of Washington, in the District of Columbia, under and by virtue of the laws of the State of Maryland, so far as relates to the licensing of taverns and ordinaries, so as to authorize the levy court of Washington county to grant licenses to keepers of taverns and ordinaries, to hawkers and peddlers, billiard tables, bowling saloons, and auctioneers, in that part of the county of Washington beyond the corporate limits of the cities of Washington and Georgetown, under such restrictions and penalties as the said levy court may by law deem expedient.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ALLEYS IN WASHINGTON.

On motion of Mr. BROWN, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 535) conferring certain powers

relating to alleys in the corporation of the city of Washington.

In all cases in which any alley in Washington city has been, or shall hereafter be, closed by virtue of any law, the Mayor of the city is authorized by this bill, upon the request of the parties interested, to convey to the person or persons within whose lines such closed alley, or any part of it, may be embraced, the land covered or embraced in such alley or part of an alley, in fee simple; all damages which may accrue to any individual in consequence of the opening, extending, closing, or changing of any alley, is to be assessed by the board of assessors, in place of the manner of assessing now provided by law. Whenever the proprietor or proprietors of an entire square shall cause to be recorded in the office of the surveyor of the city, a plat of such square, whereby the alley in the square, or any part of it, has been closed, the Mayor of the city is to have power to convey in fee simple to him or them such closed alley and the land covered by it as may be, according to the plat, embraced within his or their lines.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WASHINGTON MONUMENT ASSOCIATION.

Mr. BROWN. I now call up for consideration the bill introduced this morning by the Senator from Indiana, [Mr. BRIGHT], with reference to the Washington Monument Association.

The motion was agreed to; and the bill (S. No. 544) to incorporate the Washington National Monument Society was read the second time, and considered as in Committee of the Whole.

The Secretary proceeded to read the bill.

Mr. BROWN. That bill is rather long, and I will state to the Senate that it is precisely in the words in which we passed one last year. It went to the House of Representatives, and by some mistake was laid on the table. Members of the House tell me they are sorry it was done, and ask us to pass the same bill and send it back to them. We may as well dispense with the reading of the bill. Nobody is listening to it.

The PRESIDING OFFICER. It is suggested to the Chair that there are some portions in manuscript which had better be read.

Mr. BROWN. Very well.

The PRESIDING OFFICER. The manuscript portions will be read.

The Secretary read those provisions; which are, to prohibit the society from issuing any banknotes or script, and holding each of the corporations liable in his individual capacity for all debts and liabilities of the corporation, however contracted and incurred, to be recovered by suit as other debts and liabilities, before any court of competent jurisdiction, with a proviso that they shall not be individually liable for any debt or liability contracted in the name or behalf of the Washington National Monument Society, at any time prior to the 20th of October, 1858.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RAILWAY ON PENNSYLVANIA AVENUE.

Mr. BROWN. I now move to take up the bill H. R. No. 541, being a bill in relation to a railway along Pennsylvania avenue, in Washington city, in the District of Columbia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to authorize Gilbert Vanderwerken, Bayard Clarke, Asa P. Robinson, and their assigns, at their own expense, to construct and lay down a double-track railway, with the necessary switches and turnouts, in the city of Washington, through Pennsylvania avenue and Fifteenth street, from the west gate of the Capitol to High street, in Georgetown, with the right to run public carriages thereon, drawn by horse-power, for the transportation of passengers, receiving therefor a rate of fare not exceeding five cents per passenger for any distance between the termini, and subject to such other regulations, as to the rate of fare, as Congress may from time to time prescribe; and the maintenance and use of the road are to be subject to the municipal regulations of the cities of Washington and Georgetown respectively. The railway is to be laid in the center of

the avenue and streets, in the most approved manner adopted for street railways, with rails of the grooved pattern, laid upon an even surface with the pavement of the streets. The gauge of the tracks, and the space between them, is not to be more than four feet, and the carriages not to exceed six feet in width. Each carriage is to have capacity for not more than twenty-four passengers, and be drawn by one or two horses. The parties are to keep the tracks, and the pavements within the outer rail and for three feet outside of the rails on either side, always in good repair, without expense to the Government of the United States or the governments of the cities of Washington and Georgetown. The privileges thus granted are to continue for the term of twenty-five years; but at any time during that period the Government or the authorities of the city of Washington are to have the right to take possession of the railway, with the personal property belonging to it and necessary to its operation, upon payment to the parties and their assigns of the appraised value, the appraisements to be made by one person to be selected by the President of the United States, another by the parties, and, in the event of their disagreement, by a third person, to be selected by the persons so named. Unless the railway be commenced within six months from the passage of the act, and be completed within two years, the act is to be null and void. The penalty for a non-fulfillment of the obligations imposed upon the parties by the act is to be the forfeiture of all the privileges granted; and the Congress of the United States reserves the right to alter, amend, or annul the act at pleasure; and nothing in the act is to prevent the Government, at any time, at their option, from altering the grade or otherwise improving Pennsylvania avenue.

The Committee on the District of Columbia reported the bill, with an amendment to strike out, in line eight, of section one, the words "the city line of," and insert "High street in," so that the clause should read: "from the west gate of the Capitol to High street, in Georgetown."

Mr. BROWN. I am instructed by the Committee on the District of Columbia to withdraw that amendment.

The PRESIDING OFFICER. The amendment will be withdrawn by general consent.

Mr. BROWN. Mr. President, as an original proposition, I was opposed to putting any railroad upon the avenue at all; and I should continue to occupy that position now, if I believed I should be sustained in it by the sentiment of the Senate, or the sentiment of Washington city. I have not believed, and do not now believe, that the avenue ought to be encumbered with a railroad of any kind; but, in this opinion, I was first overruled by the committee of which I am a member, clearly overruled by the sentiment of Washington, and, I believe, no doubt overruled by a very large majority of the Senate, it being the opinion of all parties that there ought to be a railroad put upon the avenue.

Then the question arises, to whom will you grant the privilege? Who shall have the franchise? Upon this point there was, up to the opening of the present session of Congress, so far as I knew or believed, but one sentiment, and that was in favor of the proprietors named in this bill. By their superior sagacity, it may be, or by their extraordinary vigilance, they succeeded, at the last session, in pressing this bill through the House of Representatives. They brought it to the Senate; here it was read twice, and referred to the Committee on the District of Columbia. I made there my first opposition to it, on the ground, as I stated before, that there should be no road of this character upon the avenue. After several weeks of discussion, I, in obedience to the order of the committee, reported the bill to the Senate. Here it lay during the remainder of the session; I refusing, with my sentiments, to call it up; and no other person choosing to do it. When it became apparent that the bill would pass, other parties came forward and sought the privilege proposed to be granted to these proprietors. When they had got their bill almost through, and when, I think, but for my individual opposition to it, it would have passed, others seemed suddenly to have waked up to the importance of this question, and came to snatch from these parties privileges which they first brought to the notice

of the public, and which, doubtless, no one would ever have considered but for their vigilance, activity, and zeal.

I have not thought, and do not now think, that that eagle policy which allows the king of birds to perch upon his eyrie and wait until other and lesser birds have caught the fish, and then to swoop and take it from him, is exactly right in legislation, or anything else. I believe, if this franchise is to be granted at all, it ought to be granted to the persons named in this bill. They have very many competitors, of whom I do not mean to speak. One of them is the Metropolitan Railroad Company, a company which I think it will turn out, in the course of this discussion, is composed of men of fortune to some extent, who have had an act of incorporation lying at their hands for years, which they have not taken advantage of, and under which they have not labored. They have long since had the privilege of constructing the sort of road through the streets of Washington, which they asked the privilege to construct; the is, a railroad from the Georgetown line to the depot of the Washington and Baltimore railroad. The Senator from Maryland [Mr. PEARCE] shakes his head; but I think they have such a privilege. If they ever asked it, I am very sure it was not denied.

Mr. CLAY. It passed the House, not the Senate, I think.

Mr. BROWN. That is a separate proposition from this; but that privilege I shall certainly not oppose giving them. Then there come in other parties. Mr. Reeside and his associates have come in within the last few days with their proposition to take this franchise. I only want to do justice to everybody. It is complained that this company is composed chiefly of non-residents. That is a mistake to begin with. Since gentlemen run into the error, I may as well show who they are. I have received a letter this morning which I will send to the Secretary's desk and ask to have read. It is very short.

The Secretary read the following letter:

WASHINGTON, January 28, 1859.

Sir: In view of the fact that representations have been made that the parties interested in the bill authorizing a passenger railway upon Pennsylvania avenue, and now pending before the Senate, are non-residents of the District, we beg to say that a large majority in interest and numbers of said parties are bona fide residents of the District, and have been so for many years.

Very respectfully your obedient servants,

THOMAS BERRY,
G. S. GIDEON,
WM. L. HODGE,
ROBERT OULD,
WALTER LENOX,
CHAS. W. BOTELER, Jr.,
G. VANDERWERKEN,
J. MARTIN.

Hon. M. G. BROWN, Chairman of the Senate Committee on the District of Columbia.

Mr. BROWN. So much for the point that these are non-residents. Then it is said that these parties only construct their road from the Capitol gate to Georgetown, whereas other parties propose to go to the navy-yard. I have their memorial, asking the privilege of extending this road to the navy-yard, and excusing themselves from not incorporating it into the original bill, on a ground which Senators will see is a just one. The Government is about to extend the grounds around the Capitol; whether they will go to E street or C street, on either side of the Capitol, these parties could not know, and they therefore could not ask for the privilege of putting down a railroad around the Capitol Hill, and working it after they had got it, until they first knew how far you proposed to extend your grounds. When you have done that, and shall designate by what route they shall approach the navy-yard, they not only desire to do it, but are here with their memorial asking the privilege of doing it; so that there is nothing in that point.

Now, Mr. President, as I do not mean to discuss this question, as really it is one in which I do not take a deep interest, as Senators have already seen, except to do justice between the conflicting interests, I will only say a word further. I am opposed to amending this bill, for the reason that amendments necessarily send it back to the House of Representatives, where it may be lost. I do not want to be annoyed with the question any further. If the Senate is determined to give this franchise to anybody, I do not think there is a party in the world better entitled to it than these

corporators. I want them to have it, and have it at once, so that they may go to work during the coming spring and put down the railroad and let you see how it is going to work. I would much rather, I repeat again, not give it to anybody; but if it is to be given, I think these are the proper parties.

The Corporation of Washington, I had supposed, would have asked for this privilege. If they have ever done so, their application has not been before the committee of which I have the honor to be chairman. They have asked that their rights be protected to this extent, that they be allowed to direct the use and management of this road, and that they have the privilege of taxing it. Under two provisions of the bill, which I will read, the Senate committee considered their proposition, and thought all the guarantees asked for had been secured. By a proviso to the first section, it is declared:

"That the maintenance and use of said road shall be subject to the municipal regulations of the cities of Washington and Georgetown, respectively."

The power to regulate the use of it, and the maintenance of it, we thought, necessarily carried, under the charter of Washington, the power of taxation. I observe that it has been stated by the corporation attorney, a gentleman of learning and ability, I mean Mr. Carlisle, that he entertains a somewhat different opinion; but the ground on which he bases his argument is avoided by the withdrawal of the amendment which I did withdraw, in the name of the committee, a few minutes ago. As the bill now stands, under the general charter of Washington city, they have, in my opinion, and I believe it is the unanimous opinion of the Committee on the District of Columbia, the clear right to tax this property. If any controversy shall ever arise in regard to that point, here is your power: the bill provides,

"And the Congress of the United States hereby reserves the right to alter, amend, or annul this act at pleasure."

This bill is reported under the belief that the power of taxation is reserved to Washington city. The committee would have incorporated a specific provision to that effect, but that an amendment of any sort would necessarily send the bill back to the House of Representatives. We thought all the corporate authorities asked for was secured; and if controversy shall arise in regard to it hereafter, all the corporation has to do is to come to Congress, and Congress, under this reserved right, will say to them: "submit to the taxation, or give up your charter." No such controversy, I am well assured, can ever arise.

Mr. President, I dare say other gentlemen will take this case in hand. I have thought it due to the subject to make this very brief explanation; and with this I turn the question over to the Senate.

Mr. PEARCE. Mr. President, the Senator from Mississippi seems to think that the gentlemen named in the bill, Gilbert Vanderwerken, Bayard Clarke, and Asa P. Robinson, are the originators of the scheme of a passenger railway through the city of Washington, and that those who object to their obtaining this very liberal and valuable grant are persons who wish to snatch from them the fruit of their prior sagacity. In all that I think the Senator is entirely mistaken, as he is in another supposition. He supposes that there was no opposition to this bill at the last session. In that I know him to be mistaken; for I was myself, from the moment I saw the bill, utterly hostile to it upon general principles, which I will state presently; and I took considerable pains, so far as I was acquainted with the subject myself, to inform other members of the Senate in relation to it, and to ask their assistance in defeating the bill.

Now, sir, so far from these parties having originated the scheme, they are themselves interlopers; they themselves have sought to snatch from others the fruit of their prior sagacity. The history of it is that in 1852, on the 14th of December in the House of Representatives, and on the 16th of December in the Senate, Robert S. Patterson and several others petitioned for a charter for a passenger railway along Pennsylvania avenue from Twenty-seventh street west, to the foot of Capitol square. While this was pending, the board of Common Council of Washington unanimously, by yeas and nays too, resolved against the construction of any railroad within the city limits, without the consent of the corporation first

had and obtained. On the 5th of January, 1853, the Senator from Indiana [Mr. BANCROFT] presented a remonstrance of Gilbert Vanderwerken, one of these very parties, against the construction of any railroad along Pennsylvania avenue; so that you perceive the principal, the first-named man in this bill, himself remonstrated against the establishment of any railroad along Pennsylvania avenue, and I think I am authorized to say that his efforts in opposition to it induced the action of the Common Council of the city of Washington which I have mentioned. In the year 1856, Mr. Vanderwerken, against whom I have nothing to say at all—he was acting for his own interests, as is very patent, and I do not know that there is any moral reproach attaching to him for doing so—petitioned the Corporation of Washington to give him the exclusive right to run omnibuses on Pennsylvania avenue, and I understand he was then opposed to the scheme of Mr. Bayard Clarke.

There have been other propositions submitted. There was one by citizens of New York, in 1854, which came to nothing, however. At the present time, Mr. Vanderwerken, not having succeeded in getting the monopoly of the omnibus business, is disposed to obtain the monopoly of railroad passenger traffic through the city of Washington. I have no doubt it would be a very great public convenience, and I think the avenue is wide enough to admit of a double track for railway passenger travel, without any interruption of the ordinary business of the avenue. Its great width admits of the appropriation of about seventeen feet in the center, which will be sufficient for this purpose; but I protest against conferring a grant so valuable as this is likely to be, upon three individuals, who have no especial claim to the munificence of Congress, and whose action in the case has not shown them entitled to be the first participants of the bounty of Congress in this regard. It is a very valuable grant, as I said before; and I am told, and I believe, that it may be sold for a very valuable consideration.

I see that the bill is drawn in favor of Gilbert Vanderwerken, Bayard Clarke, and Asa P. Robinson, and their assigns. If any citizens of Washington are interested in it, it is by private arrangement with these parties. Doubtless there are some, for there are gentlemen here who are important in procuring votes of members of Congress, and I take it for granted some of them have been told that they shall participate in the profits of this scheme if Congress shall pass it; but it is a very different thing from the first proposition which was submitted to Congress, which proposed the opening of books for a subscription, entitling anybody to come in and get a share of whatsoever profit might be derived from this railroad.

I confess I am in favor, myself, if we are to establish a passenger railroad on Pennsylvania avenue, of giving that authority to an incorporated company—a company which has been incorporated by my own State, and to which Congress has extended further privileges within the District of Columbia—the Metropolitan Railroad Company, a company incorporated by the State of Maryland to make a railroad from the Point of Rocks below Harper's Ferry, to the District of Columbia; and a supplementary charter has been passed by the Congress of the United States giving them authority to construct an extension of the same road within the District of Columbia. The Senator supposed that under that act of Congress they were entitled to make a passenger railroad along Pennsylvania avenue, but that was a mistake; they were entitled to carry their road through the limits of Washington, but expressly forbidden to take it along Pennsylvania avenue.

Mr. BROWN. If the Senator understood me to say that they had any right to run a railroad on Pennsylvania avenue, he understood me amiss. I did not say that, and did not mean to say it; but I did mean to say that I had a very distinct impression that they had a right to make a connection with the Baltimore and Washington depot by a different route.

Mr. PEARCE. That is true; they have a right to make a connection with the Baltimore and Ohio railroad; but it is provided in the act of Congress "that the said road shall not cross or pass through Pennsylvania avenue, or the public squares, or reservations."

Mr. BROWN. Exactly.

Mr. PEARCE. That would make the grant valueless to them for the purpose of railway passenger traffic in the city of Washington. All know that Pennsylvania avenue is the great highway of all traffic, and that a railroad in the outskirts of the city, or indeed anywhere else than on Pennsylvania avenue, would be of no use to ordinary passengers. It might facilitate connection with the Baltimore and Ohio railroad, and facilitate passengers who are going on to Baltimore that way; but as for the city passenger traffic, it would be of no avail at all.

The Metropolitan Railroad Company was incorporated by the State of Maryland for great purposes of public utility. One terminus was in the county of Frederick, through which the route ran for a considerable distance, and afterwards it ran through the large county of Montgomery, a county which may be made exceedingly valuable. It is, however, destitute of lime; and one of the circumstances which makes the population of that county so desirous for the construction of the Metropolitan railway is, that it will furnish them with that article, which is all they want for the amelioration of their lands, and it will be then one of the very finest counties in the State of Maryland.

There are general conveniences, however, beyond that—the convenience of a very large population and a wealthy country in Washington and Frederick counties, and also in Alleghany, which would obtain a choice of markets by it for the transportation of its coal, for which there are not at present adequate means. These three counties principally interested in this road, showed in 1850, I think, an assessment of nearly fifty million dollars; and since that time I understand the valuation of property has largely increased, particularly because the development of mineral resources in Alleghany county has made vastly more traffic in coal, and it is very desirable that other avenues for the outlet of that coal to tide-water should be provided. The State of Maryland having incorporated this company, Congress having given its sanction to that act of incorporation, and authorized it to connect with the Baltimore and Ohio railroad, I am very frank to admit that I desire to see this privilege of passenger travel along Pennsylvania avenue conceded to them, because I think it will advance materially their ability to complete the execution of their railroad to the Point of Rocks. It cannot be denied that the company is in a languishing condition. It was incorporated with a capital of \$3,000,000, and I believe the provision of the act of Maryland was that it should not go into operation until there had been a subscription of \$500,000. I think over that sum had been subscribed. The City of Georgetown—

Mr. KENNEDY. Will my honorable colleague allow me to ask a question of him, merely to be informed? Are they not compelled now to go to Hagerstown?

Mr. PEARCE. There was a supplementary act which required them to go to Hagerstown; but I am not sure whether that has not been amended.

Mr. KENNEDY. I think not, sir.

Mr. PEARCE. Still that would not invalidate my reasons for granting them this privilege. I stated that the Metropolitan Railroad Company was in a languishing condition, and of that there is no doubt. I have no intention of disguising any fact. I will state further, in corroboration of what I before said, that this is a very valuable grant, which we ought not to give to individuals, because it is putting so much money in their pockets for their own private benefit; and that the company is so well satisfied of the benefit of this grant to them, that they aver, and I think are well assured, that if they get this grant, they will be able to obtain such further assistance as will enable them to complete the execution of the general railroad up to the Point of Rocks. I believe that is the true secret of their anxiety to obtain this further grant. They can accomplish it quite as well as those other parties. If they accomplish it, it does not merely inure to their benefit as a corporation, but to the benefit of all that portion of the State of Maryland through which their proposed railroad runs, which railroad they will be enabled, by the value of this grant, to complete.

I do not propose to detain the Senate by any further remarks, at this time, on this subject. I

propose, however, to strike out all after the enacting clause of this bill, and substitute an amendment which I send to the Chair, and which confers the authority upon the Metropolitan Railroad Company.

The Secretary read the proposed substitute, as follows:

That the Metropolitan Railroad Company, incorporated by an act of Assembly of Maryland, passed at the January session 1853, chapter 196, and the subsequent amendatory acts of the Legislature of Maryland, shall be, and they are hereby, authorized and empowered to extend into and within the District of Columbia the railroad which they shall construct or cause to be constructed in the State of Maryland, and in a direction toward the said District, in pursuance of their said act of incorporation; and the said Metropolitan Railroad Company, are hereby authorized to exercise the same powers, rights, privileges, and immunities, and shall be subject to the same restrictions in the extension, width, construction, and repair of their road into and within the District of Columbia, as they may exercise, or are subject to, under and by virtue of their said act of incorporation in the construction and repair of their said road, within the State of Maryland, and shall be entitled to the same rights, compensation, benefits, privileges, and immunities, in the use of said road, in regard thereto, as are provided in said charter.

Sec. 2. *And be it further enacted*, That the said Metropolitan Railroad Company shall have power, and they are hereby fully invested with the same, for constructing, making, and continuing their said road through the cities of Washington and Georgetown, from the depot of the said Metropolitan Railroad Company, in Georgetown aforesaid, to and by way of Bridge street, and thence along the street leading from Bridge street to the aqueduct bridge across Rock creek, at the west end of Pennsylvania avenue; and thence along Pennsylvania avenue and Fifteenth street to the foot of the Capitol Hill; and thence to the Baltimore and Washington railroad station: *Provided*, That the cars or carriages running on the avenue and streets aforesaid shall be drawn by horse power, and used for the transportation of passengers and their baggage only: *And provided, also*, That the company shall not receive, for the transportation of passengers, a rate of fare exceeding five cents per passenger for the whole, or any portion, of said road through the cities of Washington and Georgetown: *And provided, also*, That said railway through Pennsylvania avenue and the streets aforesaid by a double track, be laid in the center thereof, in the most approved manner adopted for street railways, with a rail of grooved pattern, laid upon an even surface with the pavement of the avenue and streets; the space occupied by said double track not to exceed seventeen feet in width: *And provided, also*, That the said company shall always keep said tracks, and pavements within the outer rail, in good repair, without expense to the Government of the United States or the governments of the cities of Washington and Georgetown: *And provided, also*, That the said railway through the cities of Washington and Georgetown be subject to the municipal regulation thereof respectively: *And provided, also*, That, unless said railroad through the avenue and streets aforesaid shall be commenced previous to the next regular session of Congress, and be completed within one year thereafter, and the said railroad, from the city of Georgetown to near the Point of Rocks, be completed within six years from the passage of this act, this act shall be null and void.

Sec. 3. *And be it further enacted*, That nothing in this act shall prevent the Government at any time, at their option, from altering the grade or otherwise improving the avenue or streets aforesaid.

Sec. 4. *And be it further enacted*, That Congress reserves to itself the right to change, alter, repeal, or amend this act or any part thereof at their pleasure.

* Mr. PEARCE. I beg leave to answer the question which my colleague propounded to me just now. I thought some amendatory act had been passed and I find the following, passed at the January session of 1853, by the Legislature of Maryland:

"That it shall not be necessary to complete the railroad authorized to be constructed by the act to which this is amendatory, to Hagerstown, as provided in the thirteenth section of said act."

Mr. KENNEDY. I shall detain the Senate but a single moment. I have very little to say in regard to this bill, and I regret extremely that I am compelled to differ with my honorable colleague in the views he has just expressed. I was one of those upon the committee who agreed to report the bill now before the Senate. I was influenced wholly and entirely by what I regarded a sense of justice to the persons named in the bill. One of the considerations by which I was actuated was, that Mr. Vanderwerken, at a time when, perhaps, the public convenience required some improved means of transport upon the avenue, was willing to embark in a hazardous enterprise, and put upon the avenue a line of omnibuses for the convenience of the public, incurring a great deal of difficulty in the establishment of that line, and encountering all the objections, and the risk, too, attendant upon it. He has succeeded in affording that much accommodation, at least, to the public.

Whether these gentlemen were the originators of the scheme I cannot say, nor is it at all material in controlling my vote on this subject. They have encountered all the opposition, at least for

the last year or two, to the effort to introduce a line of railroad through the streets and avenues of the city. When the proposition was first broached, nine tenths, certainly three fourths, of the entire Congress of the United States was utterly opposed to the principle. With a great deal of difficulty, and with a great deal of patience, these gentlemen have gone on to illustrate the practicability and use of these railroads in cities. They have encountered and broken down the opposition to the measure. They have now succeeded in maturing a bill which has passed the other House, pruned and cut down to meet the requirements of Congress itself. They have presented to us a bill with all the checks and guards thrown around it that were deemed important to protect the interests of the city, and they are now presenting themselves at this session, after having acceded to the propositions that have been required of them, and ask the passage of this bill at the hands of this body. In giving my vote in committee for the adoption of the bill, I was influenced solely by what I conceived to be justice to these parties who have accommodated themselves to the views and the requirements of Congress.

These parties have obtained the passage of this bill through the lower House, and a unanimous report, I believe, from the committee here; and I do not think it is just that any other company or corporation should come in at this eleventh hour to endeavor to take it from them. We have not one company only; but three or four, I believe, proposing either to defeat this bill, or to press their own claims, and thus take away the work these gentlemen have already accomplished. The Metropolitan Railroad Company is composed of constituents of my own; and it is a matter of very great regret to me that I am compelled, in favor of what I consider to be a prior claim upon the favorable consideration of Congress by these individuals, to oppose their interests. I had some agency, a few years ago in the Legislature of my own State, in procuring the charter for the Metropolitan Railroad Company; and, if I recollect aright, when they pressed their claims upon the Legislature of Maryland, not one word was ever said about any idea of building a road upon Pennsylvania avenue in this city. The whole of their petition and memorial was based on the idea of the great advantage it would be to the interior portion of the counties of Montgomery, Frederick, and Washington; that it would develop a large trade; that they were perfectly competent to build the road without any other aid than that which they thought they would obtain by the subscriptions along the route of the road. They did not contemplate the necessity of coming to Congress, and asking for the privilege of constructing a passenger railway on Pennsylvania avenue, as a means to build their road. It has, however, been asserted here, and stated to me by gentlemen connected with this metropolitan road, that unless they get this franchise, they cannot build their road. That idea certainly was not broached when the question came before the Legislature of Maryland, when they asked for their charter, not one word of that kind was said.

But, Mr. President, the Metropolitan Railroad Company which seems to have been in existence for some time, has been crippled by an act of the Legislature of Maryland, so onerous, that I feel confident in asserting here that their road never will be built. It requires them to go to an inland town of the county of Washington, some thirty miles beyond the Point of Rocks, and there stopping. To do it, they must cross a spur of the Blue Ridge mountain, a road that can only be built at very great expense and cost. With an obstruction of that sort, I feel perfectly confident the road never will be made, nor do I believe it would be made if it was required only to go to the Point of Rocks, because the trade and travel upon it would not justify the outlay. With that opinion, I am persuaded that they are considering their proposition to build that road, as a hopeless one, and they see that here an opportunity has presented itself, at least, to get a valuable franchise. Although I have no warrant for saying so, further than my own inference from their action in the case, I do not believe that one foot of that road will ever be made beyond Georgetown, if this franchise is granted.

I am sorry to take a position of this sort, be-

cause I know it will bring down upon me the censure of a large portion of the people of my State; but, believing that I am right, if my seat depended on my action here I will not yield to a pressure of that kind, when I believe that I am right in the advocacy of the bill. The bill before you, sir, is one founded in justice; it has undergone the scrutiny of Congress; it is one that presents itself favorably upon various grounds. It does not merely grant rights to a foreign corporation, as has been supposed, but it is composed of citizens of this District, who have a permanent interest here. Nor have I any particular interest in this question, further than to discharge my duty as a Senator upon this floor. The bill is partly the work of my own hands, after a full review of the whole case, and I should not be consistent if I should be willing to see it set aside and adopt the proposition made by parties who have come in here at the eleventh hour to levy black mail upon a company who have already carried their project almost to completion, through great expense, perhaps, but still founded upon the principle of fairness and justice. There is nothing covert, nothing designed, as far as I can see, to deceive or to make use of a franchise that they never intend to carry out except for the mere purpose of self-accumulation or gain.

Looking at the statement of the Metropolitan Railroad Company, which has been laid on our tables to-day, I find that they state that:

"The road is to commence at Georgetown, District of Columbia, and run northerly to Rockville, in Maryland, and thence to the Point of Rocks, on the Potomac, where it will connect with the Baltimore and Ohio railroad, and thence to Frederick, and from there to Hagerstown, in Maryland."

They admit that they are compelled to go to Hagerstown. With that statement before me, I am perfectly persuaded the road never will be made; and, therefore, there is no necessity for giving this franchise to the Metropolitan Railroad Company for the purpose of enabling them to make their road to the Point of Rocks.

Mr. IVERSON. A few days since, when the Senator from Pennsylvania [Mr. CAMERON] moved, on private bill day, to take up this bill, I opposed that motion; because I believed that it was, in effect, to supersede the other private bills on the Calendar by the consideration of this bill. I indicated, however, at the same time, in some remarks I made, a disposition to vote for the bill now under consideration; and I desire to submit a very few remarks, to explain why I shall hold out on that line, and vote for the bill as it stands.

I am in favor of a railroad along Pennsylvania avenue. I believe that it will conduce greatly to the convenience of the public, while it will not interfere with any interest that I know of which can be seriously affected by it. I am satisfied that the public desire it. I understand that the people of the city of Washington generally desire it; and I believe it would be a source of great public convenience. I admit that it is a pretty large monopoly. I am satisfied that it is a very important privilege to be granted by Congress. I believe it is worth a great deal of money; and the contest is a mere question between rival companies for this privilege. It is a matter of no consequence to me, whether the parties to whom it is granted make money out of it, so that they conform to the public convenience, and give the people what they desire in the construction of this railroad. It is a matter of no consequence to me which of these rival companies may get it. I feel no preference for one over the other; but being in favor of the road itself, and desiring to have it completed at the earliest practicable moment, I believe that the only chance by which it can be done, is to pass the bill now under consideration. If this bill is substituted by the bill which has been offered by the Senator from Maryland, granting the privilege to the Metropolitan Railroad Company, it will go back to the House of Representatives, and there will be a contest between those rival companies as to whether that bill shall pass the House or not. If we make an amendment, it must meet the concurrence of the House of Representatives, or the bill fails.

Now, sir, no matter how you amend this bill, if you take it back to the House of Representatives, the other rival companies will come in there to contest the amendment, and they will have a battle over the case. I do not believe that if any amendment is made to this bill, it will meet with

the concurrence of the House of Representatives, or that any bill will pass at the present session. Desiring the construction of this road, and having no sort of interest or feeling as between the rival companies, I go for the passage of this bill as the only practicable mode by which the road is to be constructed at the present time.

If the bill had come from the House of Representatives granting this privilege to the Metropolitan Railroad Company, I should have voted for that. If it had come from the House of Representatives granting the privilege to the corporation of the city of Washington, I should have voted for that. If it had come from the other House granting the privilege to any company, I should have voted for that, because I think there is no difference between the claims of these rival companies. It seems to me, however, that if either has any preference, it is the one proposed to be incorporated by this bill. They have taken the start; they have asked the privilege at the hands of the House of Representatives, and the House has agreed to grant it. If the Senate concur, the privilege is sustained, and the road will be constructed. If the bill is substituted by another company, it must go back to the House, and there, in all probability, it will be lost. Then there grows up a rivalry between these companies which must last for all future time, until the question is settled by both Houses of Congress. I want to get rid of the impotency of these parties, who are constantly pressing on Senators in regard to this subject. If we pass this bill, the question is ended. If we do not pass the bill, the question is open; these companies come here and importune us from this time until the day of judgment to give them this extraordinary privilege. I think we had better settle the question at once, and get rid of it by passing the bill on the table; and, therefore, I shall vote for it.

Mr. DAVIS. Mr. President, the Senator from Georgia argues that we should pass the bill in order to get rid of the subject; something like a good lady I heard of, who, being importuned by a suitor, had finally to take him as the only means by which she could avoid his suit. That argument has, with me, no more force than the argument adduced by the Senator from Maryland, [Mr. KENNEDY,] and my colleague [Mr. Brown] before him, that if we do not pass the present bill, we give somebody else the opportunity to profit by the labors of the company who have secured the passage of this bill through the House of Representatives. Neither has the least effect with me. If it were as stated, it would constitute no reason why I should vote for it; it would be rather suggestive of me of opposition to the bill.

I have a distrust, at all times, of measures which are gotten through the House by the importunities of companies, or individuals. If the heavy labor, of which the gentlemen speak, has been performed, to get this bill through the House, I think it covers it with distrust, and constitutes a reason for its rejection. But how stands the fact? Is the proposition a new one? Is it true that the House has not before considered the question of a railroad through the cities of Washington and Georgetown? Or is it true, as has been stated, that a bill has been passed, and a company having the charter has failed to construct the road? I think both are errors. The Metropolitan Railroad Company did apply to the House of Representatives; and finally got a bill through the House, with conditions, such as were stated by the Senator from Maryland, [Mr. PEARCE,] but that bill has not yet passed the Senate. The condition annexed was, that they should not be permitted to run through Pennsylvania avenue. That was the House bill; which House bill, it appears by the publication lying before me, has never passed the Senate.

Then, sir, it appears that the Metropolitan Railroad Company did apply for this privilege as early as 1854, on the 20th of December of that year; and a bill did pass the House of Representatives, but that House bill has not passed the Senate; so that they have the priority, according to the argument of the Senator from Maryland; and if there is any playing of the eagle, it is by those who have come in at a subsequent day to obtain the charter which the Metropolitan Railroad Company at that time sought.

I really could not perceive the force of the argument used by the Senator from Maryland, [Mr.

KENNEDY.] This claim to be compensated for suggesting ideas to Congress, is one which I cannot entertain; and this claim to bind the Senate to pass a bill without alteration, because its amendment may defeat it, is one which would not commend itself to me, even where I most favored a bill; least of all where I was generally opposed to it. It is our duty to perfect the bill in any form which will make it more proper to receive legislative approbation. We should not stop to inquire whether the House will or will not act. The only instances of legislation which I have noticed where the Senate has surrendered its judgment because of the liability to lose the measure if it was sent to the House, have come back to plague us in after time with the very evils which were anticipated, and which should have constituted a sufficient objection to enacting the law.

I hold that it is now before us as an original question; that the passage of a bill through the House in 1854, or at the present session, does not vary the position of the Senate; that we have, in considering it, to decide what the public interests require; what our duty demands; and that we must measure the claims of all these companies, not with a view to ascertain who will get money by it, not with a view to determine who among the laborers is most worthy of his hire, but by what charter we will secure that which will most promote the public interests. I therefore favor the amendment of the Senator from Maryland, [Mr. PEARCE,] because, if it goes in aid of the Metropolitan railroad as far as the Point of Rocks, it facilitates traveling and intercourse with the West; it relieves persons who ascend the valley of the Mississippi from the liability to fail to make a junction at the Relay House, and thus be delayed as well; saves time; and gives a line of travel over easier grades than the present route of the Baltimore and Ohio railroad. All these are considerations of a public character. They commend to me a connection of this measure with that road, because I believe that road to be of public utility.

The Senator from Maryland, [Mr. KENNEDY,] of course, must be much better informed than myself, not only generally, but upon this subject particularly; and he says that road will never be built. He gives it as his judgment that it will never be built, and says it will not be built because it runs to an interior town in Maryland, and points to the fact of their looking to the Point of Rocks as their probable termination. This is, with me, no condemnation. It is a matter of no importance to the public generally whether it runs into Washington county, Maryland, or not. It is a matter of public importance that it should go as far as the Point of Rocks. Nor do I find, by the charter to which the Senator refers, that the obligation now does exist to go to Hagerstown. I find, in the amendatory charter of 1853, special provision made for stopping short of Hagerstown, in these words:

"That it shall not be necessary to complete the road authorized to be constructed by the act of which this is amendatory, to Hagerstown, as provided in the thirteenth section of said act."

This is the amendatory act, which allows them to make dividends of the net profits whenever some portion of the road has been completed and put to work. I will accept any correction from the Senator, because it is a subject he understands much better than myself.

So far as the information is before me, the amendatory act of Maryland, I say, relieves the Metropolitan Railroad Company from the obligation of going as far as Hagerstown; and if they are permitted to stop at the Point of Rocks, I think the two reports of the engineer employed by that company demonstrate that it will not only be practicable, but profitable, to complete the road to that point, and that being so completed it will be useful to the public, which is at last the point on which I rest my opinion.

Then we are asked, shall we give this grant in the city of Washington to aid in the construction of the Metropolitan road? I say that is with me an inducement, not a reason which would be conclusive; but if the Metropolitan company, being a chartered company of the State of Maryland, ask us for the right to enter the District of Columbia, to connect their depot at Georgetown with the depot of the Baltimore and Ohio Railroad Company at Washington, and propose terms as favorable to the United States as any other com-

pany, why should they be excluded because granting them this privilege will aid in the construction of the Metropolitan railroad as far as the Point of Rocks? We give them no extraordinary privilege or benefit, but put them upon the same footing as others; and we see as an inducement the fact that giving this right through the cities of Georgetown and Washington will induce the completion of the road as far as the public has any interest in it.

I find in the report of the engineer, that the Metropolitan Railroad Company was, at the date of the report not only alive, but active. It is stated that subsequently they have been arrested by the hard times, and that they have been also somewhat stayed in proceeding, probably by the hope of getting the very charter which they are now soliciting from Congress, which they have been soliciting since 1854. In the report of 1854 reference is made to the construction of the Metropolitan Railroad Company, and its connection from the depot at Georgetown to the depot at Washington in its effect on other roads to be constructed in Virginia; coupling the North through the Baltimore and Ohio railroad branch, running to Washington, with the roads extending into Virginia; and binding thus, by this little link which it is proposed now to construct, a railroad connection between the whole South and the North. The reports of the engineers which I have before me, show that a contract has been made for one section of the road at a lower sum than was estimated, twenty five per cent. of the amount to be paid in bonds of the company; and it is stated that there can be no doubt of the ultimate completion of the work for a sum within the estimates.

There is evidence of the probability of the company to complete the road, and these are the public considerations which induce me, if a charter is to be given for the construction of a railway through the streets of Washington, to prefer the Metropolitan Company to another, the terms being equal. The fact that it may promote the construction of a road which will be of general advantage, causes me to give the preference to that company rather than to another. I have some objection to men coming from a distant city, and besetting the Capitol to get a charter within the cities of Washington and Georgetown. I prefer that a chartered company of Maryland, the old owner, and to whom belongs the reversionary interests of this District, should come within it for any work of public improvement, rather than an association from a city remote from the District. It is far better, with my ideas of respect for the State of Maryland, and security for the rights of the inhabitants of the District of Columbia. They may well confide in the company chartered by the State of Maryland. They may well distrust the speculative company which comes from a distance to obtain this charter.

Mr. HAMLIN. Mr. President, as I was a member of the committee which reported this bill, and as that committee has given to it a great deal of attention, I desire to occupy the time of the Senate for a few moments for the purpose of stating the reasons which have brought me to the conclusion at which I have arrived, in favor of the bill.

I originally occupied very much the same position that the chairman of our committee did. I think I was the last member of the committee, save the chairman, who yielded my objection to any road along the avenue. In the early applications which were made, I was decidedly opposed to granting any charter for a railway along Pennsylvania avenue. I believe now, if my own vote could be given to defeat all bills of this kind, I should give that vote, though I should do it with great reluctance; because I think the people of this District require the road to be made. However, from the experience which I have had, from what I have seen of the effect of these roads in other cities, and from the earnest desire on the part of the people here to have some communication of the kind over Pennsylvania avenue, I have modified my opinions, and I have agreed to the reporting of the bill which is now before the Senate, as one of the members of the committee, and I will state in a very few words the reasons which induced me to come to that conclusion.

The first question is, will you have the road? Conceding that to be the opinion of the Senate, in

accordance with the view of the people of the District, that is not a matter for discussion. The next question is, to whom will you grant the right of constructing it? In my judgment, it is not a right worth much to anybody; and when you talk about this matter as a valuable gratuity to individuals, I can only say that I do not agree with any Senator who expresses that opinion. I do not believe there is any value in it, except the value of accommodation to the public. I do not believe it will pay any man, who invests money in it, one mill—not one farthing—not a dollar. That is my judgment. If capitalists will come here from abroad, and will run the hazard of reaping a reward for the capital which they may invest, I think the good people of the city of Washington ought to thank them for coming here and thus investing their capital. I do not believe there is any State in the Union which would not very gladly invite capitalists, who reside without their limits, to promote branches of industry and internal improvement like this. I do not regard it as a gratuity to anybody in the world; but it is what, if carried out, will be of public benefit and public utility. Shall you give it to these corporations, or shall you give it to the Metropolitan Railroad Company? for I think it is narrowed down to that. The Metropolitan Railroad Company has had an existence of six years; and I ask the Senator from Maryland if they have done anything save survey the route?

Mr. PEARCE. That company has done nothing, very little at all events, except survey the route; but, if the Senator will allow me, I will state that they have been met by a difficulty entirely unexpected, which was no fault of theirs. The Corporation of Georgetown is a large subscriber to this work. It subscribed \$100,000. An act, as I understand, passed the Council of that city for preparing bonds, and then the Mayor of the city refused to sign the bonds. That caused great difficulty and stopped the progress of the work.

Mr. HAMLIN. It is, then, as I understood. Nothing has been done of any account; at least nothing beyond a mere survey of the road.

Mr. PEARCE. Contracts have been made. Gentlemen speak about making the road. That has not been done; but contracts have been made. The report of the engineer shows that several responsible contractors offered to take contracts at sums below the estimate for a portion of the road, and the proposals stipulated for part payment in the stock and bonds of the company.

Mr. HAMLIN. I do not see that that changes the position which I took; I do not see that it explains away what I understand to be the truth of the matter, that there has been no expenditure beyond that necessarily incurred in the survey of the route. They may have made contracts; but why have they not been carried out? I suppose because they have not funds. Now it is known to members of the Senate that there are members of that corporation who are of themselves amply able to build that railroad without aid from anybody, if they please. Why have they not done it? I think, from the investigation and evidence presented to the committee, it is for the simple reason, which was stated by the Senator from Maryland, [Mr. KENNEDY,] that it is a road that never can be built, and never will be built in the progress of time. It is a road in which capitalists will never put their money; and unless they can get bonds from some corporate body, which the tax-paying portion of the community must pay, they can do nothing. I came to the conclusion, from the facts presented to the committee, that it was a road which would never be built. It, therefore, is not a case that presents itself here as appealing to our sympathies or our judgment. It so appears to me.

But let me go a step further, and admit that that road was built: what connection is there between a railroad over which locomotives pass and a horse-railroad through a city? It is no part of it; it does not belong to it; it is a different thing. Passengers must change cars to go through a city on a horse-railroad. This company, if I understand it, have now the authority to build through the interior part of this city a track which will connect them with the depot of the Baltimore and Ohio Railroad, over which they can run their cars and their locomotives. They have therefore now, by law, all the authority which they would

ever want to build a road to connect the Metropolitan road with the Baltimore and Ohio road at the depot. That power has been granted to them by Congress; and it is a power they ought to have most clearly. That was a railroad. This is a horse-road. The fact that they wanted a railroad connection between Georgetown and the depot in Washington, over which they could run their locomotives, gives no reason, in my judgment, why you should give them power to construct a horse-road along Pennsylvania avenue. It is no part of the railroad business legitimately, and they therefore cannot ask it on that ground.

What, then, ought to control? I think the equity of this whole case lies in a nutshell. Mr. Vanderwerken did come into Congress and oppose the laying down of a track along Pennsylvania avenue when the city of Washington was against it and everybody was against it; he came here and remonstrated against it some years ago. Why? He came into this city and found what you and I, Mr. President, and all Senators who were here six years ago, know; he found a miserable line of omnibuses running semi-occasionally over this avenue, running about when they pleased, when they could get teams into them that would drag an old omnibus along. He gave them what their teams were worth; and if he gave them anything, he gave them more than they were worth; he put a very respectable line of omnibuses upon the avenue, which I suppose cost at least \$50,000—I do not know what sum; I will not estimate it, but a very large sum—on his own responsibility, and he has run those omnibuses from that day to this in a very creditable manner.

This bill, which is reported from the committee, and which comes from the House of Representatives, includes him, and takes care of all the equities that belong to him. Give it to the Metropolitan Railroad Company, and they do not know Mr. Vanderwerken. You put a horse-railroad along the avenue, and you annihilate the omnibuses, and it must necessarily cause a very considerable sacrifice. If you grant the power to these persons who have asked it, with their associates, (and they are numerous in this city,) the equities which belong to Mr. Vanderwerken are taken care of. I think that consideration alone might influence men, if there could be any doubt about the matter.

Besides, assuming that there will be an effort on the part of the Metropolitan Railroad Company to construct it, I do not believe any benefit they could ever derive from this branch road, with horse-power, would be worth two farthings to them. In progress of time it may pay something; but, in my judgment, now, and for a long period of time, it cannot be made to pay, and the stock will be worth nothing more than par, even if it is worth that.

These are the considerations which led me to the result at which I have arrived. I think there is a great deal in the suggestion which was made by the chairman of the committee—that if we are desirous of having the road at all, the bill should not be amended for any unimportant consideration. If there are real defects in the bill, surely it should be amended; but if there is no material defect, I think it is wise to take the bill as it is, reserving, as we do, the power hereafter to alter, amend, or annul it at our pleasure. I think, from these considerations, that the committee acted properly; and I believe, certainly, that with one or two exceptions, they were unanimous in their action.

Mr. DOUGLAS. Mr. President, I do not intend to take up much time. I know the Senate is anxious to take a vote; but I am not entirely satisfied with either the bill, or the amendment which has been proposed. In the first place, I do not think we have marked out a line of road the most convenient to the public. I do not think the nearest communication between the railroad depot, the Capitol, the President's house, the Departments, and Georgetown, will be along Pennsylvania avenue; but while that is my opinion, I am willing that those more immediately interested shall decide that question. I see no reason why we should now, by an act of special legislation, mark out one railroad line through the city of Washington. If we do it, next year we shall have an application for one on another street; and then another company will apply for a line on another street; and the company that may be

formed under the first act will be here fighting for a perpetuation of their monopoly; and thus we shall, for the next five or ten years, be occupied with strife between rival railroad companies on the different streets. It seems to me that we had better confer the power to regulate this matter on the corporations of the cities of Washington and Georgetown, respectively; and let them make their railroads where they think the public interests require. Certainly, if these corporations are competent to judge of improvements of every other description, and to regulate the running of omnibuses on the streets and avenues, they may provide for railroad omnibuses, as well as any other omnibuses. I do not understand the necessity of a special act granting this right to particular individuals for one street. Then there will be applications on another street, and then another, and the company first established will want to protect their monopoly against rivals; and the consequence will be that the time of Congress will be occupied in local legislation for this District, which ought to be left to the corporate authorities of the two cities. For that reason, I give notice that if the substitute of the Senator from Maryland does not prevail, I shall offer one which I hold in my hand, to strike out all after the enacting clause, and insert:

That the corporations of the cities of Washington and Georgetown are hereby empowered to authorize such persons and companies as they shall see proper to construct and lay down a double-track railway, with the necessary switches and turn-outs, and on such line of streets and avenues as they shall deem most conducive to the public convenience, with the right to run public carriages drawn by horse power for the transportation of passengers, receiving therefor a rate of fare not exceeding five cents per passenger for any distance between the termini, and subject to such regulations as to the rate of fare as Congress may, from time to time, prescribe; and, subject, also, to such regulations as the said cities may, from time to time, prescribe within their respective limits: *Provided*, That Congress hereby reserves the right to repeal or modify this act, and to annul all privileges granted under it whenever the public interest may require.

By adopting this amendment, we get rid of the subject now and forever. Any gentleman, then, who wants to run an omnibus railroad track through G street, Pennsylvania avenue, or any other street, may apply to the corporation and get the privilege; and if it be true, as alleged, that the grant we are about making is worth a premium of \$100,000 to whoever gets it, let the corporate authorities here derive that premium themselves. We get rid of deciding between speculating companies; we get rid of all this local legislation now and hereafter; and we grant the right where it belongs, the local corporate authorities. I offer this as a substitute for the entire bill.

The PRESIDING OFFICER, [Mr. Massey.] The Chair does not yet consider it in order. The amendment offered by the Senator from Maryland is a substitute for the whole bill.

Mr. DOUGLAS. I shall offer this, if that be rejected.

Mr. BROWN. Although the amendment of the Senator from Illinois is not in order, I desire to say in reference to it and in connection with what the Senator from Illinois has said, that, so far as I am concerned, I am utterly opposed to it. I am opposed to giving the corporate authorities of Washington the right to run railroads wherever they choose through the public grounds, along the avenues, and everywhere else.

Mr. HUNTER. Along the streets?

Mr. BROWN. But you have three streets already opened through the public mall. The avenues are under the jurisdiction of Congress, and those who will take the pains to look at the original grant, I think, will be brought very gravely to doubt whether you have the power to part with that jurisdiction. The jurisdiction was vested in Congress by the original grantors. I had occasion, some years ago, to turn my attention to the subject, and my deliberate opinion then was, that you had no power of alienation; that the jurisdiction was vested in Congress for the common benefit of the people of the United States; and I doubt very much whether Congress has the power to part with it in this sort of way.

But waiving that question, if you have the right to do it, what is to become of the whole question? If you part with it at once, you part with it forever. Parties under a general act of Congress, obtain vested rights from the corporation, the most enormous, the most abusive, the most corrupt, it may be. I do not say it will be so; but even if it

be so, you can never undo it. Why? Because it is not a grant of your own in which you reserve the right to annul the contract, but it is a contract made by a second party, whom you authorize to contract, with which you have nothing to do; and which, having been done under your authority, you must respect, no matter what it is. I can see that this kind of business might lead to enormous abuses. If you want to give the corporation of Washington the right to run a railroad under their own restrictions, along a particular avenue, do that much; but do not throw the whole thing open, do not part with the power which belongs to you and with which you ought not to part, so far as the rights of the Government are concerned in this city. Suppose you pass the proposition in that form, and the city chooses not only to put down one railroad, but two or three, on Pennsylvania avenue: how are you to undo it? Suppose they run their railroads in places where the Government convenience forbids they should be: how are you going to prevent it? If there be a street or an avenue anywhere on which any one would like to have a monopoly, and he can get the corporation of Washington to grant it to him, he has it in perpetuity under this proposition. I am opposed to it.

I think it very much better that the Government should maintain its jurisdiction, the jurisdiction given to it by the original proprietors and which, as I said before, I do not believe they have the power to alienate, even if they chose to do so.

Now, sir, in reference to the main proposition: as I said at the outset of this discussion, I was originally opposed to any railroad on Pennsylvania avenue. I think it is destined to become, unless destroyed by unwise legislation, the most beautiful street, for its length, in the world; and every one of these movements upon it I regard with distrust, as leading to results not originally contemplated, and not called for by any public exigency. I would rather have no road upon the avenue; but if you are determined to put one there, I think these parties have claims which do not belong to any other parties. Mr. Vanderwerken I know very slightly; I think I never exchanged half a dozen words with him in all my life. The little I have seen of him impressed me with the idea that he was a modest and retiring gentleman; but, what did he do? It is true, he came here from the State of New York; it is true that, by his enterprise, he put a line of omnibuses on the avenue, from the Capitol gate to Georgetown. He did it when it was an experiment; when it required a man of energy, who was willing to risk his money in private enterprise. These gentlemen who are now petitioning for the privilege of building this road in opposition to him, were here; but their enterprise did not lead them to risk that much. The line of omnibuses turned out to be a great public convenience. Mr. Vanderwerken's next step was to go to the House of Representatives, and propose to substitute his line of omnibuses by railroad cars. By his skill, his ingenuity, his energy, his manliness, his enterprise, and all that marks a man, he got his bill through the House of Representatives. He brought it to the Senate, and I feel responsible for its defeat, because, at the last session of Congress, if I had given up my objection to the passage of the bill for a railroad along the avenue, his bill would have gone through without objection.

Finally, other gentlemen seem to be waking up to the realization of the great fact developed by this man's enterprise, that a railroad on the avenue will be profitable, and then they come in and propose, to do what? To take the benefit of this man's labor, say what you please about him. They propose to break down his enterprise, to destroy his line of omnibuses, to render utterly worthless the stock which he has put upon it at great cost, and to do it by superseding his line of omnibuses by the very railroad which he himself projected.

Mr. PEARCE. If the Senator from Mississippi will allow me, I will answer that objection of his by adding another section to my substitute.

Mr. BROWN. That is answering the objection at a very late hour. It is answering the objection when the argument is made. The liberality of these parties did not permit them to insert it until they were called upon to answer it.

Mr. DAVIS. Will my colleague permit me to

interrupt him? I will state that the proposition was made to take the whole of his stock at a price to be appraised by disinterested persons. A letter was sent to me showing that fact within a day or two.

Mr. BROWN. I have not heard of it before, and I am chairman of the committee.

Mr. PEARCE. An amendment which I have added to my substitute provides for that.

Mr. BROWN. Well, it is in now; but it comes very late. I hold that every man is entitled to the rewards of his labor, and that the man who had enterprise to come here from a foreign State, though that State may be New York, and put a line of omnibuses on Pennsylvania avenue, and make it, in despite of distrust everywhere, successful; who had the enterprise, the skill, the ingenuity, and the manliness to go to the House of Representatives and get his bill through there, and bring it here, and have it upon the very eve of passing, is not to be routed by men coming in at this late hour.

I should be opposed to granting this franchise to anybody if I had any hope of being sustained; but if it be granted at all, I do not hesitate to say that these parties are better entitled to it than any others; and the party least entitled to it is the Metropolitan Railroad Company—a company who have had legislative grants for years, but have never exercised them, not because they were poor and unable to do it, but because they would not put their money into it. That is true about them. They had the money; they have got it now; and if they had chosen to do so, they could have built their Metropolitan railroad. Now, sir, when I am brought up to the point of speaking plainly, I must say what I honestly think. This Metropolitan Railroad Company means to build a railroad through the city of Washington, and there stop. They mean to take away from Vanderwerken & Co. the fruits of their well-earned labor, and they mean to do nothing more; else six years would not have been allowed to pass away without having done more than they have done.

Mr. DOUGLAS. I have nothing to say about Mr. Vanderwerken or any of the parties to this bill. I have not the pleasure of a personal acquaintance with them. I presume they have all the enterprise, energy, and other high qualities claimed for them by the Senator from Mississippi. With that I have nothing to do. Nor do I know anything about the condition, the objects, or the purposes of the Metropolitan Railway Company. I do not know whether they intend to make their road or not, or whether this grant would facilitate them in doing it, or whether it is an ingenious contrivance, as hinted by the Senator from Mississippi, for them to get possession of this city road; but I do believe that the grant of an omnibus route through the city is a municipal affair that ought to be left to the Corporation of the city of Washington within its own limits.

Now, with regard to the objection to our right to cede or alienate these streets; I do not propose to alienate them. It is a question of use, and not of alienation. That use is already granted by the charter to the District cities. I am inclined to think that the cities now, under their charters, have the right to provide for these omnibus railroads without any consent from Congress. It involves no different principle to authorize the running of an omnibus on rails, than it does an omnibus on an ordinary street. The city of Washington now regulates the running of omnibuses on Pennsylvania avenue. It may provide that they shall be run by two, or four, or six horses. It may provide that they shall run only so fast or so slow. It may provide that they shall keep the center of the street, or this side, or that side of it. It is a matter of regulation. The same right that allows the privilege of regulating omnibuses of the ordinary kind, would, in my opinion, include railroad omnibuses; but, in order to make it clear and specific, I am willing to say that this power is vested in the Corporations of Washington and Georgetown. The streets, then, will be public streets, the same as they are now. I not propose to alienate them, but simply to give the power of regulation, where it ought to be in all municipal charters, to the people interested in them. That is all the principle involved. It introduces no new principle, no new construction.

If there shall grow up under this grant of

power, enormous companies, as the Senator from Mississippi intimates may be the case, the remedy is clear. We reserve the right to repeal, or modify, or annul any privilege that may be obtained at any time under this grant. We do not thereby give up any control we have under the Constitution over the District of Columbia. The simple point is, shall we designate one line and allow particular persons to enjoy it as a monopoly, reserving all rival lines and withholding the privilege from everybody else. There are other parts of the city of Washington that will need an omnibus railroad just as much as Pennsylvania avenue. In my opinion, there are other parts of it now that require it more. My opinion is that a road running from the railroad depot and the Capitol to G street, thence along G street, connecting with the Interior Department and Post Office Department, and then by the Treasury and State Departments to Georgetown, would accommodate the public better than one running on Pennsylvania avenue; but the city of Washington may think otherwise, and I am willing that those who have charge of the subject and are most interested in it shall fix the location.

I am certain that one road will not be enough. When you have one, there will be another asked for, and another, and another. Legislation for railroads in cities is occupying a great deal of time in Philadelphia, New York, and other cities, and if they must go to the Legislature every time they want a new omnibus line to be run in the form of a railroad, you might as well send them there for any other kind of omnibus. My object is, to get rid of the question in Congress now and forever, and to prevent any monopoly that will have its agents here next year, trying to defeat the construction of a new railroad. This is not the only one that will be wanted; but if you grant one and withhold the privilege from anybody else, we shall have these contests every year. If, however, we grant the general power to the city authorities, which I think, is fairly embraced in their present charters, we are done with it forever, and let the respective interests fight it out among themselves, before the corporate authorities.

Mr. WILSON. I assented, Mr. President, to the report of this bill, and I shall vote for it most cheerfully. The Senator from Illinois, I suppose, regards this as a "domestic question," and he wants the people of the city of Washington to be left "perfectly free" to regulate the whole matter for themselves. I agree with the chairman of the committee, that we had better keep this question where it belongs, in the Congress of the United States; and the last place on earth I would trust a question of this kind would be in the Common Council of this, or any other city.

That there should be a contest over a matter like this, will surprise no one. These gentlemen come to Congress and ask the power to run a horse-railroad along Pennsylvania avenue for two or three miles, to accommodate travel. That is all there is about it. There is an idea that it is to be vastly profitable; and we are told here to-day that it is worth tens, if not hundreds, of thousands of dollars. Well, sir, in New York, in Boston, in cities north, we have these horse-railroads—railroads that carry four or five to one passenger that will be carried along the avenue in this city; and they make no such enormous profit. I do not believe a road along Pennsylvania avenue will make such enormous dividends. The idea broached in the Senate of the United States, or anywhere else, that a two mile horse-railroad in the city of Washington is to make such great profits as to enable its owners to build forty miles of railroad in a poor section of country, is supremely ridiculous. Even if such were the case, what is this amendment of the Senator from Maryland? Why, it is a proposition to tax the inhabitants of the city of Washington and the visitors to the city of Washington, to build a railroad running forty miles from this city.

I have paid some little attention to this subject, for early in the session I was approached in regard to the Metropolitan road by its friends. I have given the subject some care and attention, and I say here to-day, that this Metropolitan Railroad Company is a myth; it cannot and will not build a road, whether you give it the right to build a horse-railroad in this city or not. They have no

money as a corporation. They have existed for years; they do not intend to build that road. They would not take the road there if you built it and gave it to them, and compelled them to run it.

There is another matter that settles the question of the Metropolitan railroad. There is a road being constructed in Virginia. Just let it be connected with Georgetown, and reach the Baltimore and Ohio railroad; and that settles the question forever against the construction of the Metropolitan railroad. It is a closed question. It is anticipated that the Virginia road will soon be completed, connecting Georgetown with the Baltimore and Ohio railroad at Piedmont. That closes the question, and there will be no Metropolitan railroad built under any circumstances.

It is said here to-day, that the persons who ask for the privilege of constructing this road under the bill live outside of the District. Pray, do not the owners of the Metropolitan railroad live outside of the District? Did not they go to the Legislature of Maryland, seven years ago, for an act of incorporation? Certainly. It has been proved to-day, on the statement of ex-Mayor Lenox, that a majority in amount, and a majority in number, of those who ask for this grant, live in the city of Washington.

If the Metropolitan Railroad Company, or any other company, had come to Congress at the last session and carried a bill through the House of Representatives, I should have voted for that bill most cheerfully. I do not care what company has it as an original question; but these gentlemen came here at the last session of Congress; they carried their bill through the House of Representatives; that bill is restricted; it keeps the whole power in Congress; you may repeal, alter, or modify it, at your pleasure; and that a horse-railroad, running along Pennsylvania avenue, will accommodate the people of this city, no man can doubt. All over the cities of the North, even in the narrow streets of the city of Boston, they have established lines of horse-railroads. They are admitted, on all hands, to be a great convenience to the people; and in portions of those cities, where they were for years resisted, the very men who resisted their construction are now most earnest in favor of continuing them, because they are accommodating to the public.

You have a broad avenue here. The Senator from Illinois thinks that it is not a place for a horse-railroad. He would have it go up to G street. I ask the Senator if he does not believe that more than one hundred passengers pass along Pennsylvania avenue where one person passes along G street? The travel in the city of Washington is upon the avenue. This road goes upon the avenue to accommodate the people. The avenue is the place, of all others, for the construction of a railroad of this character; and if, hereafter, you want a horse-railroad on any other avenue of this city, where it will accommodate the public under certain limitations and restrictions, give them that right. I will give them the right to establish a railroad wherever it will accommodate the people. There is no reason why it should not be done. I believe the construction of the road will be beneficial. I therefore shall vote for the bill as it came from the committee; and, in doing so, I care nothing about the individuals who have asked either for the original bill or for the substitute. It is not strange that opposition should be made to the original bill. If a bill to give this privilege to the Metropolitan Railroad Company had come here first, we should, probably, have had other parties, who had got the notion into their heads that a great deal of money was to be made out of it, opposing it, and we should have had lobby agents, as we have now, on all sides—for on all these questions, where it is supposed there is one dollar in issue, you will have these gentlemen around you, infesting the Capitol. They have a right to come here, I admit, and I will pay all proper deference to them; but for myself, I choose to be controlled by my own sense of duty.

Mr. FESSENDEN. Mr. President, I feel no sort of partiality for or against either of these contesting companies, if they may be so called. I know nothing about either of them. My principal object in rising is to express my entire objection to the proposition of the Senator from Illinois. Whatever else you do, to whomsoever you may choose to give this grant, I beg that it may

not be given to the corporations of Washington and Georgetown, or either of them; for I think it could not be in worse hands, not only for the benefit of the undertaking itself, but with regard to their own good.

In the first place, I feel very much as the honorable Senator from Mississippi, who reported the bill, does, that we have no right, and certainly we ought not, in my judgment, to part with our power over the streets of this city, except so far as the use of them in the ordinary course of business is concerned. The result of adopting the proposition of the Senator from Illinois will be the same as, or worse than, it has been in all other cities where the corporations have power over matters of this description. The effect will be entirely to demoralize the individuals composing the corporation, individually and collectively. I do not believe in the idea of their making money out of it; and if they could, it is not the proper way for municipal corporations to make money.

But, sir, if you gave to the corporation the power to grant these charters, or permits, or licenses, or whatever you please to call them, for the construction of railroads through the streets of this city, you would have a scene such as has been witnessed elsewhere, I believe often, certainly in New York, of contest and contention, and bribery and corruption, and trading and bargaining, and quarrels which might, and probably would, result in putting money into the pockets of the individual members of the corporation, and not into the hands of the corporation for the benefit of the city itself. I have never seen any good come of the exercise of such a power, except the general good from having the thing itself in existence. We have the power to regulate these matters, to grant these charters. It is our right to judge, and we have the ability to judge, where a railroad is needed, and to grant a charter, if we think it best. I do not think there is any very great danger of our being corrupted in our action on such questions. To say the least, there are too many of us in the two branches of Congress to justify any such suspicion. But if you leave it to the corporation to do this, it becomes a matter of so much importance, especially if it is to be a money-making concern, that individual members of the corporation would get mixed up in it, and the result would be a great doubt whether you had a well-regulated company, and if you had, a very serious evil effect would be produced upon the government of the city. For these considerations I hope the matter will not be placed in their hands. Keep them from it, and let them attend to their legitimate duties as the corporation of the city having the control of the city.

I will say a word or two in reference to the subject as it strikes my mind, not with any very great confidence that I am right, but as a mere expression of my opinion. The question is, in the first place, are we in favor of having a horse-railroad through Pennsylvania avenue? I take it there is no very great difference of opinion about that. Experience has tested the extreme value of such roads. These horse-railroads are less dangerous in point of fact when well managed, than ordinary omnibuses. They run in a line that is defined; they are a great deal more convenient; they can run oftener; and they have been proved and found to be beneficial wherever they have been used in large cities. Experience has settled the question; it is no longer an open question, that well-regulated horse-railroads are exceedingly valuable in streets where there is sufficient room for them, in large cities where there are many people coming and going. It is a great public convenience; and the fact that it may be profitable to those who have the charter, does not make any very great difference with me, because I am perfectly willing that men who go into this business should make money out of it, if money is to be made. It does not hurt my feelings at all to see that result follow.

It is manifest to everybody, that there is no street which affords better facilities for such a railroad than Pennsylvania avenue. It is a street of great width. I do not like to see it set apart for the purposes particularly of ornament or beauty; and, indeed, I do not know of anything that is more beautiful, in a large public street, than to see it made useful, and so regulated as to accommodate the purpose for which the street was made originally. It is too much of a thor-

oughfare and too much of a place of business, ever to assume a merely beautiful appearance as a street, separate from its great width and convenience, which are the principal ornaments of the street. It is the principal thoroughfare and the principal business place of the city, and therefore the proper place for such a road.

That being the case, it is obvious that we ought to have this road, if it is desirable, as soon as possible. By passing this bill, which is now before the Senate, we shall probably have it undertaken at once. Suppose you defeat the bill, or adopt the amendment, the result is that we have no bill at all at this session; we leave the contest over to the next Congress; we multiply the applicants; we multiply the number of those who become claimants for this charter, and we postpone for a long period of time the settlement of the question which we can as well settle now without involving ourselves in some of those difficulties which the Senator from Illinois anticipates with regard to the solicitations from A, B, C, and D, this company and that, hereafter. So, then, with reference to having the thing done and having it done at once or speedily, the probability is, and the names given are sufficient guarantee, as I am told, for it, that we shall have a railroad within a reasonable time; and it does not make any very great difference to us, I imagine, who builds it; it certainly does not to me. I do not care in that particular whether it is built by Mr. Bayard Clarke, and his associates, or whether it is built by the Metropolitan Railroad Company, or some other company, so that we get it, and so that we get it in season.

These are the great objects so far as we are concerned; and I apprehend that in legislating here on such a question, we have reference to the convenience of the city of Washington rather than to the convenience or profit of people out of the city connected with other matters. I presume that both these companies are sufficiently meritorious. The argument, however, is adduced that we ought to direct our legislation for the benefit of a particular chartered company in the State of Maryland, who desire to build a railroad within the limits of that State. I am not particularly favorable to the railroad companies of Maryland, judging from the main one over whose road we travel, which is built, I believe, upon the principle that every stranger who comes into the State, and has occasion to use it, must pay a certain sum to support the State government. I believe that is the principal designating mark of the railroad between here and Baltimore. I suppose that in regard to the railroad in question, there is no provision that people who live out of the State shall each pay the State half a dollar for the privilege of passing over it on a railroad. Be that as it may, the Metropolitan company, a corporation outside of this city, interposes in this matter. I have no objection to it on that account; but I have an objection to connecting a matter inside of the city with that road, so as to make it dependent upon it. One of two things must be true; either the Metropolitan Railroad Company design to build this particular railroad through Pennsylvania avenue by itself and of itself, or they design to make it, as has been argued here, subservient to their purposes under the Maryland charter. If they design simply to build a railroad through Pennsylvania avenue, as stated, I think, by the Senator from Mississippi, they have no claims superior to the association of individuals named in the bill before us. Supposing their claims to be the same, one has a bill which has passed the House of Representatives, and may be passed at once here and put into operation, and the other has no bill before us, and it is uncertain whether it could succeed in passing one in the House or not. At any rate, it is subject to delay, and all the inconvenience that must result from the delay. Shall we, for that reason, defeat this bill? If it designs to do what its advocates argue, and that is, make this subservient to the Maryland road, that is sufficient ground for me to oppose it. No minor undertaking ever stands a fair chance when it is subject to the convenience and profits of a larger one, especially one the success of which, from its very nature and character, must be doubtful.

What is the argument here? Why, here is this Metropolitan Railroad Company; it has been chartered for six years; it has had no success; it

has done nothing but survey a route; it cannot go any further; the road will not pay; it is not practicable; and, if practicable, it is not profitable; and now, when we are legislating for the city of Washington, for a railroad through Pennsylvania avenue, we are requested to make this horse-railroad subservient to that; to subject it to its control; to make its purposes subserve the purposes and interests of this large corporation outside of this District, thus connecting the two indissolubly together.

What is to be the result? If the outside concern is unfavorable, does not work well, this will share the same fate. If that meets with embarrassments, this will be embarrassed by it. If its funds fail for its great purpose, the funds of this will be in precisely the same situation. They may attempt to keep it up, but of course it will be covered with all the difficulties that cover that; and the consequence is, that we, who are legislating for the benefit of the people here and proposing to make a railroad through this city, are subjecting it to the purposes of a railroad outside of this city which admits itself to be so poor, so embarrassed, so troubled with difficulties, that we must legislate for the benefit of it; and subject an enterprise which ought to stand upon its own merits, and have force of its own, to this outside matter which has no strength in itself. There is no sense in that, in my judgment. I do not think we should reason in that way. I do not think we have the right to legislate for the District of Columbia on such principles. The very argument that is adduced by the friends of the proposition, to subject this to the Metropolitan railroad, is enough to defeat it in my mind, at any rate. I would keep it clear of any such embarrassing undertaking. Let it stand by itself, and within our control.

I have waited to see if anybody would start an objection to the bill. I have read the bill myself. I see no difficulty about it, for the plain reason that it is clear in its provisions, and it is made subject to the interference and control of Congress at any moment. Whenever it does not subserve the purpose for which we charter the company, whenever it fails to perform its duty, whenever we find it is insufficient, our power intervenes. Therefore the bill is well enough. The failure of anybody who is opposed to granting this charter to show any particular difficulties about it, is satisfactory upon that head.

Then why not pass it? We have a beneficial object to accomplish, and we are upon the point of accomplishing it; upon the very eve of carrying it into effect; we have nothing to do but pass the bill, to which nobody has any objection, upon its own merits. Why allow others to come in and interfere at the very moment the object is about to be accomplished, and put their hands upon it and say that instead of legislating for the city of Washington and to accomplish a good purpose which we have it our power to accomplish at once, we must make this measure subservient to an outside interest? We are to mix what is said to be a good and profitable measure with a bad and unprofitable one, and make one override the other. Sir, I see no sense in any proposition of the kind; and, therefore if we are to pass the bill at all, my judgment is we had better take that which will effect the purpose we have in view.

Mr. HUNTER. I believe, as the question now stands, there is a proposition offered by the Senator from Maryland as an entire substitute. After the vote shall have been taken upon that, there will be no more opportunity to amend the bill which is reported by the committee.

The PRESIDING OFFICER. The Chair thinks otherwise. By leaving one word in, it can be amended.

Mr. HUNTER. I do not mean if the substitute is adopted; but suppose the substitute is rejected—the motion is to strike out and insert—and the Senate decides that they will not strike out: will it be competent then for me to offer an amendment?

The PRESIDING OFFICER. The Chair considers so.

Mr. BAYARD. Mr. President, it seems to be generally conceded, in the argument in reference to this railway, that it is expedient, and that the public interest justifies and requires the construction of a railway through Pennsylvania avenue, from the west gate of the Capitol to Georgetown. I coincide in that opinion. I believe such a road

is necessary. As to the relative claims of individuals to make the road, I know the claims of none. The sole question for us is, first, is the road necessary? then, does the bill before us, which purports to grant power to make the road, guard all the rights of the public, and provide in a proper manner for the construction of the road? or is the proposition of the honorable Senator from Maryland more desirable for that purpose?

When I come to look at this bill, I think it sufficiently guards all the rights of the public. The bill provides for the construction of a road which is to carry passengers alone, not freight. It provides for the dimensions of the cars, and for the power by which they are to be moved—horse-power alone. It even descends to the minutiae of the mode of construction, of laying rails along the avenue so as to prevent any obstruction for its general purposes as a highway. All these things are provided. Further, it provides that the rate of fare shall not exceed five cents; and it goes on to leave the rate of fare within the regulation of Congress hereafter.

All railways must in themselves, in the nature of things, be monopolies, in one sense of the word; that is, they are restricted modes of conveyance; which the public generally cannot go upon, with common vehicles; and the travel over them must be in the control of individuals or corporations, to whom the grant is made; and therefore they are, in a measure, monopolies always. It is requisite to safety, in traveling, that some set of persons, either as individuals or a company, should have the right to control and provide means of transit over a road, subject to general regulation by the legislative powers. But the great interest of the public is, that the rate of fare shall not be excessive. The bill limits that in the first instance. It provides afterwards, for the right of Congress to regulate that rate of fare, and I can attach no other meaning to it than that Congress will have the right to reduce or alter it, in any mode they think the interest of the public requires. I therefore think the public well guarded, as regards their interests; and when I speak of the public, I do not mean to be understood as alluding to the citizens of Washington alone. I do not think this railroad is to be made for the citizens of Washington alone. I think it is for the great public of the United States, who have occasion, for any purpose whatever, of business or pleasure, to come to the city of Washington; and the thoroughfare is to be made as a means of communication and passage to everybody who has occasion to be here, either permanently or temporarily. It concerns not the interests of the people of Washington alone, but all others, who, in their connection with Congress, or who, for any purpose, desire to be present in Washington, and may be under the necessity of using this road. These rights are guarded in that respect throughout the bill, as far as I can see, with full restrictions, which will prevent this, that, in itself, must be measurably, as I have said, always a monopoly, from being an abuse.

I have made no estimate; I have no means of making an estimate; but there is a prevalent idea that this is to be a matter of extreme profit. The fourth section of the bill gives this franchise to the company for twenty-five years, and provides that at any time during that period the Government or the authorities of the city of Washington are to have the right to take possession of the railway, on paying its appraised value under a fair system of appraisement, and therefore there can be no extraordinary profit, nothing but the fair profit that the capitalist is entitled to if he invests his money in a scheme in which, although hazardous, very large profits are contemplated. Indeed, I never knew any railroad project which on paper did not show at least ten or fifteen per cent. profit; but when you come to construct the road and carry it out, very few of them get two or three, if they even get one per cent.

But suppose this passenger railway, as applied to a city of illimitable distance like Washington, will be profitable along Pennsylvania avenue to Georgetown: if it is the extravagant profit that seems to be supposed, then of necessity the fourth section of the bill will put it in the power of the city of Washington to take this monopoly out of the hands of the individuals to whom it is granted

for a fair valuation. Arbitrators are to be appointed, one selected by the President, another by the parties, and they are to choose a third, in case of disagreement, for the purpose of valuing the road, and the absolute right is given the corporation of Washington to take the road at any time within twenty-five years, and the grant lasts for twenty-five years only, in any event.

The interests of the public being thus guarded throughout this bill, the mode in which the road is to be constructed being fully pointed out, the rate of fare being restricted and left within the control of Congress, and believing myself that the road will be more probably executed if we pass this bill at a speedy day, than it will in any other mode, I am disposed to vote for the bill as it stands. I do not mean to say that we ought to vote for the bill simply because to amend it would hazard it by sending it back to the House of Representatives; but certainly, if you think any object desirable, and you find that you can attain it by passing a particular bill, to which no serious objection can be urged detrimental to the public, it certainly is a reason for voting for that bill without amendment, if you fear that no bill will pass in case you attempted to amend it or make different provisions.

Then, as to the amendment of the honorable Senator from Maryland, that is a mere question of conflict, as I understand it, between individuals. He proposes to give the right to the Metropolitan Railroad Company, with no great difference from the restrictions contained in the bill, and not quite so restrictive and guarded, I think, as the bill. That probably might be obviated by amendments, however. I do not wish to decide between these parties. I feel entirely indifferent except upon three grounds. One is, that by the proposed amendment, as it stands, the honorable Senator's proposition asks the Senate to make a grant to a company incorporated by the State of Maryland, for its own purposes of internal improvement—a corporation in its general authorities beyond your reach—to grant to it all the powers and immunities and privileges that are granted by the Maryland charter, without your knowing anything about it, or having had any time to consider it. I am not disposed to make such a general grant as that. I have seen too much of corporation charters, and the carelessness with which they are constantly passed by different States of this Union, to be willing to adopt the charter of any corporation, and make a grant in accordance with it, without a thorough examination of its provisions.

That I consider one objection. Another is, that this substitute would connect what is a local railway in the city of Washington, made under our own exclusive authority, meant for the benefit of the great public of the United States, to which our legislation ought to be confined, with the internal improvements of the State of Maryland. I think it an unwise policy. I do not think these incidental connections of separate objects ought ever to take place. If, hereafter, they want to make a connection with this road (not to connect the construction of one with the other, mingling the provisions of the two) for the purposes of transit, with proper restrictions, under our powers reserved by this bill, we can require this passenger railway to allow the Metropolitan Railroad Company to make the connection.

But there is another objection to it as it stands. The Metropolitan railway is a freight railway; it is intended for burden cars as well as passenger cars; and probably its principal business will be long to the coal trade. I am not willing to make a grant for any freight trains to pass through Pennsylvania avenue, in the city of Washington, because it would be a nuisance instead of a benefit. These are detached single cars, drawn by one or two horses. The other is a corporation having a power to move by locomotives, and whose principal object would be freight business; and you would have long trains of freight cars passing along Pennsylvania avenue, unless you amend the proposition, and then it becomes nugatory for the purposes of that corporation's general business. That I should consider no public convenience, but a nuisance, and I would rather not have a railroad with any such terms attached to it.

On these grounds I do not consider that the substitute offered by my friend from Maryland is for the purposes for which we intend to grant

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this right of way, if we grant it at all; that is for the convenience of the great public of the United States, which is the only legitimate basis on which we can grant it, on the ground that the public convenience will be served by the construction of a passenger railway for cars drawn by horse power from the western gate of the Capitol to Georgetown. No incidental connection of a work of that kind with a general internal improvement in the State of Maryland of a different nature and character, ought to be allowed to supersede it. As between the individuals otherwise, I care nothing about the matter.

Being opposed to that, I have still greater objections to the substitute which is intended to be offered by the honorable Senator from Illinois. I can hardly conceive a more dangerous power that you could confer upon the corporations of Washington and Georgetown, combined or separately, than the power to grant charters for railroads to be run over the avenues and streets of this city, because it would end in the most limitless corruption as regards the exercise of the power by those corporations. I trust such an amendment as that will never be adopted. As to any fancied difficulty we shall hereafter have if we grant this charter to make a railway, and a railway is made, and others apply to us for a charter for one on any other street, after experience has demonstrated that it is practically convenient, which we suppose will be, there is nothing in this charter to prevent that. I do not anticipate, myself, for many years to come, that any other road will probably be constructed in Washington, because, if you take the line of Pennsylvania avenue, the distance from some part of the avenue to any other part of the city that has been built up is not very great, and I do not think that any road will soon be attempted to other parts of the city.

Besides, the character of Pennsylvania avenue suits a railroad of this kind better than any other street running in that direction; but, whether it be the best course or not, if persons apply to us to make other railroads, and it is found to be convenient to have them constructed on other streets also, there is nothing in this bill to prevent that grant. There would be no influence or power given to these persons which would enable them to prevent such a grant. It would be no invasion of their rights, implied or direct, on our part, to make a grant for another railroad on a different street. There is no such stipulation. Certainly, there will be an implied obligation, in my judgment, on our part, if we make this grant, that we shall not grant to another company the right to make a railroad on Pennsylvania avenue, right along side of it; but if the public convenience should require a road on another street, the same right which exists in Congress, founded upon public convenience, to make a grant for a road along Pennsylvania avenue, would exist after that road was made to make a grant for another road on any other street.

Under these circumstances, and with these views, I shall vote for the bill as it stands; because I think it best calculated to effect what I regard as a desirable object—the construction of this road. As regards the matter of individual dispute, I am perfectly indifferent.

Mr. TOOMBS. The reasons which will control my vote on this question can be so briefly stated, and are so satisfactory to my own mind, that I will venture to state them, notwithstanding this protracted debate, which I have listened to with great interest and attention. The transportation of passengers, by railroad, through the streets of Washington and Georgetown, is universally conceded, in the Senate, to be to the public advantage. Everybody seems to act upon that basis. The privilege of having the monopoly of this transportation is generally considered, though not so universally, to be a valuable franchise; and the avidity with which it is sought here is very conclusive evidence that the parties think so. This is a point, I take it, on which there can be no dispute. Now, what shall we do with it? Shall we give it away? I certainly

would give it away to get this public advantage, if I could not do better with it; but if I can secure another great public advantage, and secure this public advantage too, I know of no reason on earth why I ought not to do it, and why I am not bound to do it. Here is a company proposing to build a railroad from Georgetown to the Point of Rocks; and they say, "Give us this franchise and we will give you this advantage of transportation, by railway, through the streets of Washington, and build our railroad besides." That will give you exactly the thing you seek, and it will be aiding in the building of another road, which is of great advantage to the public, and to the city of Washington particularly. Therefore I will give it to them; because we get what everybody says is desirable—railroad transportation in the city. I do not give it away; but I secure another great public advantage. It seems to me that is conclusive on the whole question.

Mr. PEARCE. The Senator from Delaware has mistaken very much, I think, the purport of the provision which I offered as a substitute for the original bill. There is nothing in this substitute which authorizes the Metropolitan Railroad Company to carry their burden trains through Pennsylvania avenue. The substitute is just as carefully guarded and limited, in my opinion, as the bill for which it is a substitute. It provides for a horse-railway; it provides for the transportation of passengers and their baggage, and for nothing else. The gentleman has alluded to certain provisions which give the company the same rights and privileges which they have under the charter of Maryland. They have got that already. We passed an act authorizing the company to extend their road into the District of Columbia and connect with the Baltimore and Ohio railroad, and you have in regard to that already given them the privileges which the Senator seems to think they ought not to have. But in regard to this railroad through Pennsylvania avenue, they have no right to make it under the act to which I have referred. The present substitute does not give them the right to make that for general purposes, but limits it to the transportation by horse power of passengers and their baggage.

The Senator from Maine [Mr. FESSENDEN] seemed to think it was a monstrous thing to give this privilege to a railroad company which was incorporated by another State. He seemed to think it was tying it to a defunct corporation, and that the passenger railway must fall too; but the substitute has provided that the act shall be annulled unless they commence the road before the next regular session of Congress, and unless they complete it within a year after that time, within a lesser period of time than is stipulated by the original bill.

Besides, sir, the Senator from Georgia has touched the point in a very few words. When we are determining to establish a line of railway through Pennsylvania avenue, no man who asks to be allowed to do it comes here with that claim of right. It is, as that gentleman said about something else, nonsense to talk of any claim of right. None of them have any claim of right. It appeals to our sense of public utility, and to that alone. Now, whether the road were made by the Metropolitan Railway Company, or by these private individuals who are seeking their own interests and fortune, and nothing else, we shall be just as well accommodated by the one as the other. If it is not a valuable franchise, as the Senator from Massachusetts is alone in thinking, why is it that these gentlemen of capital and shrewdness, Mr. Vanderwerken, so long acquainted with the omnibuses and the amount of travel through the city which that imperfect means of travel affords; Mr. Bayard Clarke, an ex-member of Congress, one of them; and Mr. Asa P. Robinson, who, I understand, is a very shrewd civil engineer, have asked for this privilege? Do not they believe it to be of value, and are they not better able to judge perhaps even than we are? If it is to be a valuable grant, and they have no claim of right to it, as I maintain they have not, why should we

at once say we will turn everybody aside and look at no other consideration but priority of application; when in fact these parties are not prior in application; because I have already shown to the Senate that, as far back as 1852, individuals known to be residents then of the city of Washington, not coming here for this purpose, but then and always residents of the city of Washington, applied for such a charter, and the very individuals who are now seeking to obtain this grant from Congress were those who defeated it six years ago.

But is there not a matter of public utility beyond that of merely making a railway for the convenience of passengers in the city of Washington? There is the fact that this railway will connect with the proposed railroad to the Point of Rocks. So I think public utility demands us to pause before we throw away the grant on three individuals who seek nothing but the filling of their own pockets. If that improvement be made, it will conduce greatly to the advantage of the city of Washington. Is it not desirable to make this a central point of a railroad system, if possible? Why should we refuse to add another radius to those which find their central point in the city of Washington? This railroad will run through the rich and fertile counties of Maryland, and connect with fertile counties in Virginia, and thus will give us adequate supplies of very many things necessary for the support of the people of Washington, which at present are scantily supplied, and at enormous prices. Is there nothing in this? Is there nothing in the facility to general travel, which will be afforded by coming from the Point of Rocks to Washington directly, instead of making the roundabout track of the Relay House?

Here I may be met, perhaps, by some of my Maryland constituents, by saying it will damage the Baltimore and Ohio railroad. But, sir, the State of Maryland has incorporated this company; that is enough for me; and I do not believe it will damage the Baltimore and Ohio railroad. It may divert some little travel from the Point of Rocks here; but it will add to the general tide of travel which goes along that great thoroughfare. We are told because this corporation has not yet gone to work and made its railroad, it is a rotten concern, and we are tying this road to it, which will all end in nothing. I have already explained to the Senate the circumstances which have delayed the prosecution of the work. I have stated that this is a very valuable privilege, and that, if we are going to give it away to any one at all, it would seem to me to be our duty to give it where it will not only answer the one purpose which is contemplated by the individuals asking this grant, but also the additional purpose of connecting it with a public improvement of great utility to the city of Washington in various aspects. I shall not, however, trouble the Senate longer.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland.

Mr. PEARCE. I beg leave to state that the last clause in the amendment, which has been added at my request, has not been read; and I should like further to state the fact, that very numerous petitions have been presented here, from the citizens of Washington and Georgetown, in favor of this Metropolitan railroad connection. So far as I can ascertain public sentiment from the number of petitions—I admit it is not a very good test—I believe the public voice here is in favor of this mode of connection. I would add, that the Corporation of Georgetown, in council, has passed resolutions, which were submitted by myself to the Senate, recommending that this privilege be given to the Metropolitan Railroad Company.

The PRESIDING OFFICER. The Secretary will read the addition to the amendment of the Senator from Maryland, which has been made since it was first offered.

The Secretary read it, as follows:

Sec. 5. And be it further enacted, That, upon the completion of said railroad, the president and directors thereof shall take and pay for the carriages and horses of Gilbert

Vanderwerken, now employed by him between Georgetown and the foot of the Capitol hill, at a valuation to be determined by two disinterested referees, one to be chosen by said Vanderwerken, and the other by the president and directors of said Metropolitan railroad, with power to them, if they disagree, to choose a third person as umpire.

Mr. HUNTER. Before the vote is taken on that, I wish to offer an amendment to the original bill. It seems to me this road ought to be extended to the navy-yard. The people who live in that neighborhood ought to share in its advantages, whatever they may be. I move, therefore, to strike out the words "the west gate of the Capitol," and insert "the north gate of the navy-yard." I understand that the inhabitants in that portion of the city feel that they ought to be included in this arrangement. It seems to me that they ought, and I hope there will be no objection to inserting this amendment.

Mr. CAMERON. I object to the amendment for the simple reason that its only effect will be to defeat the bill. I need not go into the arguments, because they have been made very fully before, to show that if the bill goes back to the House of Representatives, difficulties may arise which will probably result in our having no railroad bill this year. The plain reason why the navy-yard was not included in this bill is, because it was supposed the Congress of the United States intended to enlarge the public grounds around the Capitol; and until a decision is made on that subject these parties cannot tell how their road shall run to the navy-yard. This company, or any other company, that may be authorized by Congress to make this railroad, will be glad to go to the navy-yard, because that will increase their business, and of course increase their profit; but until you have decided how the grounds are to be enlarged, they cannot carry it further than the Capitol gate because they will not be able to know how to go round this hill. The amendment of the Senator from Virginia presents the question whether the bill shall be passed so as to give us a railroad during the next year, or whether we shall not have a railroad for a number of years to come. I hope therefore that everybody who is in favor of getting a railroad soon will vote against the amendment.

Mr. HUNTER. They may make it to the navy-yard, and if we should hereafter enlarge the public grounds—I think it will be a long time before we do it—they can then move the rails without great expense, and in the meantime we shall be securing to these people the benefits of this improvement, whatever they may be.

Mr. PUGH. How will the enlargement of the Capitol grounds any more affect the rails to the navy-yard, than the eastern terminus? If you enlarge the grounds, you change the western gate of the Capitol, perhaps two squares further. Why refuse to carry this road to the navy-yard, where a great many of the laboring population of the city of Washington reside? If you do not do it, it shows that the public interest is not the question, but the profit of the parties named in the bill. The very objection to this amendment shows that, instead of having the public interest in view, it is the interest of two or three individuals.

Mr. CAMERON. The Senator from Ohio is always so careful of the interests of the laboring people, that I dislike to object to anything that he proposes; but I will simply say, in reply to him, that if the public grounds be extended one or two squares westward, there will be nothing to be done but take up the rails for that distance. That settles that question.

Mr. BROWN. I think this question rests where the Senator from Pennsylvania has placed it, that to amend this bill is to defeat it. Now, I hold in my hand a memorial from these parties, asking the privilege of doing precisely what the Senator from Virginia proposes to compel them to do; and that there may be no mistake about it, that it may be put upon record and stand against them hereafter, I ask that it be read.

The Secretary read it, as follows:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The undersigned, desirous that the many and manifest advantages of city passenger railways should not be confined merely to that portion of the District of Columbia between the Capitol and Georgetown; but that other and populous portions of the District should equally share in the facilities and conveniences which they offer, respectfully ask that they and their associates and successors may

be granted the privilege of laying down and operating (at such rates of fare, and under such terms and conditions, as Congress may prescribe,) a double-track horse-railway, from the navy-yard gate, through such avenues and streets as may by Congress be deemed expedient, to the west gate of the Capitol grounds, there to connect with the proposed railway from the Capitol to Georgetown.

BAYARD CLARKE,
G. VANDERWERKEN,
A. P. ROBINSON.

For themselves and associates.

WASHINGTON, January 7, 1859.

Mr. BROWN. Now, by way of showing that we have a perfect guarantee in this bill that these parties may be compelled to do what it is proposed to do whenever we are prepared to have them do it, the bill provides:

"The Congress of the United States hereby reserves the right to alter, amend, or annul this act, at their pleasure."

They petition for the privilege of running their road from the gate of the Capitol to the navy-yard. If they should undertake to back out from their own proposition, now put upon the record, your act reserves to you the privilege of compelling them to do it. How can they escape it? You are not now in a condition to give the privilege; because you do not know how far your grounds will be extended. There is a strong party in the Senate in favor of extending the Capitol grounds to B street. There is possibly a stronger party in favor of going to C street. To what point you are going to extend north and south, no one here can tell now. To compel these parties to lay down a railroad track over ground which may afterwards be taken in by the Capitol extension, is certainly a hardship to them. When you have taken in the grounds which you will take ultimately, then they ask the privilege of running their railroad around the Capitol extension, whatever it may be.

It has been suggested that you allow them to come to the western gate of the Capitol. That does not mean the western gate of the Capitol where it now is, but where you may fix it hereafter. That, by no possibility, can be more than one or two squares further west than it is at present. That is well enough; but when you compel them to run half a mile or more around the Capitol, it involves a very heavy expenditure, which these parties are ready to incur whenever you are prepared to tell them where they shall put their road. They petition for the privilege; they are willing to receive it now, if you can give it to them with safety. They do not suggest a route, because they do not know to what line you propose to extend your grounds. I think they are right, and act sensibly about it; and I receive the suggestion of the Senator from Pennsylvania, as I said before, as having been properly made on this ground: that these parties are prepared to do precisely what you ask them to do; but they cannot do it now, because you are not prepared to grant them the privilege. I hope the amendment will not be adopted.

Mr. BRIGHT. I do not think there is much force in the objection made by the honorable Senator from Pennsylvania. I had hoped that to-day the bill which was reported from the Committee on Public Buildings and Grounds would be taken up, and the question of the boundary of the public grounds disposed of. The entire day has been consumed in the discussion of other District business, and of course I do not object. I shall, however, as soon as this bill is disposed of, insist on taking up that measure, and I have no doubt the Senate will consent to make it the special order of the day for Monday next. That is an important question, and it ought to be disposed of. But I did not rise for the purpose of making a point on that matter; but to say a word in reference to my own vote on the amendment proposed by the Senator from Maryland. I shall vote for that amendment, and I will in a few words give my reasons.

The Senator from Mississippi, who reported this bill, lays great emphasis upon the fact that the corporators named in the bill before us were the first to claim this privilege. Why, sir, this privilege was first claimed by the parties named in the amendment offered by the Senator from Maryland. Four years ago they claimed that with the aid which they would derive from becoming the proprietor of the line from the foot of the Capitol grounds to Georgetown, they would be enabled to commence a work which every man here ought to desire. I speak of the railroad from

Georgetown to the Point of Rocks, or, if you please, from the present depot in Washington to the Point of Rocks. We have had a diagram laid on our tables this morning, which is a better argument than anybody here can make on that point. It shows that the present travel from the West and the Southwest, by the way of the Baltimore and Ohio railroad, can reach Washington city on a route forty-six miles nearer by the road from the Point of Rocks, than by coming to the Relay House, and thence by the Baltimore road to Washington.

This diagram, which is before us, and I presume every Senator has had it laid on his table, is true. No gentleman interested in this enterprise would make a false statement, particularly not one that could be detected upon its face. The distance from the Point of Rocks to Washington by the present route is eighty-seven miles; by the contemplated road from the junction near the Point of Rocks, to Washington, is forty-one miles; making a saving of forty-six miles of travel, which would be effected if that line of road were finished. The present rate of freights by the Baltimore and Ohio railroad, by the way of the Relay House, is \$3 20 per ton. The estimated rate by the line that is proposed to be made by the Metropolitan railroad, is \$1 20 per ton, being a saving of two dollars on every ton that is carried. The difference in time, which has become an object in this age of progress, is three hours and fifteen minutes.

Now, whether the grant of this franchise to the Metropolitan Railroad Company will enable them to make this junction road, as it is called, or not, I will not pretend to say. The charter has been granted some three years, and the road is not made yet; but there have been grants of charters all over this country on very important lines of road between very important points, that are yet in an unfinished state; and why? Because, within the last few years, there has been a great depression in the monetary affairs of this country, and many roads in progress have been stopped; but when a change in the monetary affairs takes place, I apprehend the chances for making this road are equal to those of making many roads—certainly equal to those of making the Pacific railroad, which many gentlemen on this floor are very earnest in support of and believe will be made. If by simply granting this franchise to the Metropolitan Railroad Company we enable them to make a line of road that brings Washington forty-six miles nearer the western country, nearer to western prices, saves three hours and some minutes in time, and saves two dollars per ton on every ton of freight that is carried, it is an object worthy of the consideration of every man who travels to Washington, or has to spend a month of time in Washington.

One word as to the corporators. I agree that they are all the Senator from Mississippi represents them. I have no doubt they are worthy men. Mr. Vanderwerken deserves great credit for his enterprise. He has carried it on successfully; it has been the source of great accommodation to the public. But the directors of the Metropolitan railroad embrace the oldest and most respectable citizens of your District; many of them men that were born here, men of fortune, men of business capacity, and they tell you that they intend to make this road. This is a connecting link between Washington city and the road I have referred to. They say that if this franchise is to be granted, give it to them; that they will apply it not to their own benefit; it is no pocket argument with them; they propose to make this road for the benefit of the public. It is the public who will be benefited; it is every member that travels to Washington; it is every visitor who travels to Washington; it is for the benefit of every man who lives in Washington. The effect of it is to reduce the price of passage, the price of freights, and consequently, the price of living. There is a sound, practical argument in favor of giving this grant to the persons named in the amendment offered by the Senator from Maryland. That view of the question will determine my vote upon it.

Mr. CHANDLER. I have a single remark to make in answer to the argument presented here. I was upon the Committee on the District of Columbia, at the last session, when this railroad bill was favorably reported upon. The chief argument that brought me to the support of this bill

was, that this was the first application ever made in the District of Columbia to perform any great or small work, without a call upon the national Treasury for aid. Now, sir, I am informed that the Metropolitan Railroad Company has been a persistent beggar before Congress for an appropriation for its benefit for years; and that alone would induce me to vote against giving it this franchise; for we have no assurance that next year it will not be again importuning Congress for an appropriation to build this very road that we can have, but without expense to the national Treasury. I shall vote against giving aid to that company in any event.

Mr. BRIGHT. In reply to the remarks of the Senator from Michigan, I will simply say that this company have been persistent beggars before Congress for aid to the extent that Michigan and many other States in the Union have been. They have asked a grant of land to aid them in constructing their road within the limits of the District of Columbia. They did not ask a grant of land within the District—for the District, of course, contains no public lands; but they asked a grant of land wherever the United States is the owner of land, to the same amount that has been given for the same distance of road in the States. Congress, as they had a right to do, refused to make the grant.

Mr. GREEN. This is a subject into which I have not looked critically; but in all such cases I am predisposed to go by the result of the investigations made by the appropriate committee; but it turns out in debate that when the present proposition now pending is to be considered, other questions must first be decided. One is the extension of the road to the north gate of the navy-yard. I do not think we ought to prejudice the eastern half of the city of Washington. If it be proper to extend the road there, let us do so; and if it be necessary first to decide what the Capitol extension is to be, and that bill being pending before us for consideration, may it not be proper first to decide that, and then determine the route of the road, and the terminus upon the east as well upon the west? With that view, as it is growing late, and it is Saturday night, I move that the Senate adjourn.

Mr. KENNEDY. I trust not. I hope we shall get clear of this question.

Mr. HALE. Order!

Mr. MALLORY. I ask my friend to withdraw the motion for a moment, that we may have an executive session.

Mr. GREEN. It is too late; I insist on my motion.

Mr. KENNEDY. I ask for the yeas and nays on the adjournment.

Mr. BROWN. An adjournment is an indefinite postponement of the subject.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 26; as follows:

YEAS—Messrs. Bigler, Chesnut, Clay, Crittenden, Davis, Fitch, Fitzpatrick, Green, Houston, Hunter, Johnson of Tennessee, Jones, Mallory, Pearce, Polk, Pugh, Sebastian, Sidel, Stuart, Toombs, and Ward—21.

NAYS—Messrs. Allen, Bayard, Bell, Bright, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doollittle, Douglas, Fessenden, Foster, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Mason, Reid, Rice, Simmons, Wade, and Wilson—26.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Virginia.

Mr. PEARCE. The only objection I have heard made to the amendment of the Senator from Virginia is, that if it be added, the bill must be lost in the House of Representatives. Now, sir, I understand the Senator from Mississippi to have offered a paper here, not in the nature of an amendment, but a sort of honorary and honorable obligation on the part of these persons to agree to something of this sort hereafter. If they are willing to accept an amendment of that sort, to come under an obligation that is in any respect binding, who can suppose that the House of Representatives—that being an additional object of public utility—would squabble over it; that they will not readily adopt at once such an amendment, which subserves the public convenience and is acceptable to the parties? When it is said an amendment of that sort will defeat the bill, I am compelled to think there is another apprehension behind—an apprehension that the bill may be

defeated, not, indeed, because that amendment is offered, but because any opportunity to the House of Representatives to act upon it will defeat it; and that I apprehend to be the fact, whether it be in the minds of gentlemen here or not.

Mr. BROWN. I beg pardon of the Senator from Maryland. The friends of this bill have no such apprehension; but all of us who have ever served in the House of Representatives know the difficulty of getting up any proposition of this kind in that House at a late day of the session. We only apprehend that this bill, if sent back there with any amendment, may be lost amid the general anxiety which attends the passage of bills of an important public character. There are amendments to the bill which I should be willing to adopt if I did not apprehend that, by sending it back at all, it would get into the general mass of business which is overlooked and lost.

Now, sir, I insist that, so far as this amendment is concerned, the corporators have asked the privilege of doing precisely what the Senator from Virginia proposes to compel them to do, and that Congress has reserved, in the language which I have read before, and which I propose now to read again, the power to compel them to do it, if they shall wish to back out from it. I refer to this provision of the bill:

"The Congress of the United States hereby reserves the right to alter, amend, or annul this act at pleasure."

These parties have petitioned for the privilege, and have put their petitions upon the record. They have asked to be allowed to extend their road from the west gate of the Capitol to the north gate of the navy-yard; and you reserve to yourselves, by this bill, the right to compel them to do it, if they shall ever undertake to back out from their own proposition. What more do you want?

Mr. HUNTER. I do not feel the force of the objection urged by the Senator from Mississippi; for if we were to compel them to go to the navy-yard, the line of the railroad would be as much fixed as is the western gate of the Capitol grounds. If you enlarge the grounds, you have to move both.

Mr. BROWN. I answered that objection before. There is no proposition pending anywhere to extend the western gate of the Capitol grounds more than a square, or two squares at the outside. That would require the taking up, upon a smooth surface, of only a very small piece of the road; but if you require them to go around the Capitol, it is nearly three quarters of a mile; and it requires a very heavy outlay. Will you require these parties to lay down that road at once, at a large expense, without knowing where you want them to lay it?

Mr. HUNTER. The effect, then, would be this: they establish this part of the line, and the citizens of the navy-yard region would be cut off from their usual accommodations in omnibuses, because you break up the line of omnibuses from Georgetown to the navy-yard, and you do not substitute for them what you substitute for the remainder of the city, and that is this horse-railway. You ought in justice to establish both at the same time, and they ought not to be left to their own resources, when you cut off the omnibus line and establish a railroad for this part, whilst they are denied equal privileges. I think you ought to begin with the whole line, and if a change in the Capitol grounds requires a change in the western gate, it may require also a change to the navy-yard, and I suppose the expense of moving the rails from one street to another, would not be very great, as it is a mere horse-railway. The effect of this amendment would be to require them to afford these facilities to the people in that portion of the city at the same time that they afford them to the people elsewhere.

Mr. IVERSON. I am opposed to this amendment for a single reason, which I will state to the Senate. I consider it wholly unnecessary legislation. This is a privilege. The privilege of constructing a horse-railroad from the western gate of the Capitol to the navy-yard is a privilege which is sought for, and will be sought for. It is unnecessary that we should force this upon any body. If you leave it open, this company has already asked for the privilege, and next year half a dozen other companies will come and ask you to give them the privilege. There is no sort of necessity for adding an amendment to this bill to

force this company to take it. If you leave it open, competition will come—half a dozen companies will ask you to do it. There are no difficulties about getting a horse-railroad to the navy-yard—not the least in the world.

The Senator from Virginia is mistaken in supposing that there is an omnibus line from the navy-yard to Georgetown. There is no such thing. There is an omnibus line from the navy-yard to Sixth street, and there it stops; and if this railroad is constructed from Georgetown to the western gate of the Capitol, there will be an omnibus line from the western gate to the navy-yard, which will accommodate them as well as they are accommodated now; and whenever you want one, you can get a railroad built without any difficulty, because there will be plenty of companies that will ask for this privilege. It will be a very valuable franchise. This very company asked for it; but I am not in favor of granting it now; because if you do grant it, of course the bill will be defeated by carrying it back to the House of Representatives.

Mr. MALLORY. The friends of this bill are pursuing a most extraordinary course, and one that I think ought certainly to defeat it; and I trust will have that effect. We have heard the Senator from Maine [Mr. HAMLIN] declare that this franchise was not worth a dollar, a dime, or a cent; and his argument would induce the Senate to believe that these three disinterested gentlemen volunteered to lay down this road without the hope of profit. We are told by a friend, on the other side of the House, no less strenuous, that this is a valuable franchise—so valuable that it will be competed for, and we can get the road built. Now, it has rather a questionable appearance, when this reasonable amendment of the Senator from Virginia is sought to be ruled out. The only difficult part of this road to be built, is that from the western gate of the Capitol to the navy-yard, to go around this hill. We are told here that the power is reserved in this bill, in the hands of Congress, to compel them to build that road, if we should say so. I do not so read it. The power is reserved to alter this contract or annul it; but there is no power here to compel them to build a new road, which this is entirely, as long as the other one, nearly.

Who are the parties to be subserved? What interests are to be advanced here? The bill purports on its face to be, and those who sustain it in argument say it is, for the convenience of the people of the city of Washington. Are you to leave out that large section of laboring men east of your Capitol who daily have to seek a market? A line of omnibuses now carries them to Sixth street from the navy-yard, and are you to establish two distinct lines, to drop them down at the west gate here, and impose on them a double fare? Is that the idea? That will be the effect of it.

We are told, too, that the proposition of the Senator from Maryland must be rejected. I was struck with it. Here they propose to build a road gratuitously, securing to the people of Washington the same privileges, extending their road as has been set forth, and that is to be rejected. Why, sir, the advantages there are immeasurably greater, and it is to be rejected on the bald assertion that the Alexandria Company intend only to build their road to the city of Washington.

Mr. FESSENDEN. Will the Senator allow me to ask him a question? If I understand him, he says the Metropolitan Company propose to build the road gratuitously. What do I understand by that? Are they not to charge anything for passengers?

Mr. MALLORY. Certainly; I do not understand that anybody will carry passengers for nothing.

Mr. FESSENDEN. Then what is meant by building a road in this city gratuitously? I suppose they will have the same pay as the others would have.

Mr. MALLORY. We are told now that we are to reject all amendments; that however reasonable those amendments are, they must be rejected, because, if made, the bill will be lost. Driven to the wall the Senator from Pennsylvania who sustains this bill puts forth that as an argument. It is none. If the bill is defective and does not secure the rights of those parties whose rights

ought to be secured, we should amend it; and they have a right to come here and demand this at our hands when we are legislating for one part of the city. If the bill is faulty it ought to be amended. If we put in an obligation to commence the road from the gate of the navy-yard, certainly it imposes more onerous duties on this company, and if the other House would pass the bill without it, it would pass more readily with the amendment. I do not think there is any validity in the objection of the Senator from Pennsylvania. If we put in this clause I might possibly be induced to vote for the bill. Secure the rights of all parties equally, and I might possibly be induced to vote for it; but under no circumstances, in my judgment, ought the bill to pass as it is.

Mr. HUNTER. I state as a matter of fact that they seem to have waked up very late to a sense of the justice of extending it to the navy-yard, because I was applied to more than four weeks ago in behalf of the people living around the navy-yard, and asked to offer such an amendment.

Mr. STUART. I have only a few words to say on this subject at the present time, and they are in regard to the question, mainly, for that is the question, whether the Senate shall have anything to do with the legislation of the country or not. The argument is brought up here that if the Senate amend the bill, it is dead. Then you might as well abolish the Senate. The argument, when reduced to plain English, is, that the House of Representatives is to pass a bill to suit itself, and send it here, and then it is to be urged that the Senate must not amend it, because if they do, it is lost. Is not that an argument that ought to astonish the Senate and the country? The question here is: is it the judgment of the Senate that this amendment ought to be adopted? That is the question Senators ought to determine in the judgment of the Senate, ought this amendment to be adopted? If so, the Senate will have discharged its duty in adopting it.

But, sir, I am a little surprised at the honorable Senator from Mississippi. If this bill goes back to the House of Representatives and it is killed, that is the very thing he wants. He has told us several times that is the thing he desires, and the Senator from Maine, on the same committee, [Mr. HAMLIN,] has told us the same thing. They are opposed to any railroad through this avenue. If this effect is to be produced, certainly these gentlemen ought to vote for the amendment.

Mr. BROWN. Will the Senator allow me to say a word here?

Mr. STUART. Certainly.

Mr. BROWN. If killing the bill now were its final death, I should go for destroying it; but there is a public sentiment underlying a proposition of this sort; it is to be brought back upon us at the next session; you only kill it for one session. There is a vitality in this measure that will keep it alive and throw it upon us again; but as I have twice or three times to-day expressed it, I think if the franchise is to be given to anybody, it ought to be given to these parties. If I could kill the thing so dead that it would never be revived, I would give it its death-blow at any moment.

Mr. STUART. "Sufficient unto the day is the evil thereof," is an old and a true maxim. It will answer the Senator's purpose for to-day to kill it to-day, and when it comes back here again and does not satisfy him, it will answer his purpose to kill it, and then to keep killing it.

Now, sir, a word in regard to this idea of public sentiment. There is a bad atmosphere about here to learn that sentiment. There is a manufactured sentiment, and there is a reason for the manufacture. This franchise is a valuable one, and it does not require a man five minutes with a slate to cipher it out. It will not cost one fourth as much to build this road, and run it ten years with cars, as it will to run a line of omnibuses. A man can satisfy himself of it in half an hour. A single car upon this road will outlast ten omnibuses on the avenue, and the cost of a car will not exceed that of an omnibus. A horse can draw twice or three times the load on this railroad that he can in an omnibus. There is very little wear and tear even of the road itself. What breaks up our great railroads is the immense engines and the immense freight trains upon them; but here is a

light passenger car with twenty or thirty persons in it, running on a track laid down on a solid bed which is permanent.

It is said here that this is not good for anything in a pecuniary point of view, and yet your Capitol is surrounded by men urging its passage and telling you, "do not let it go back to the House; if you do, it will never see the light again. This thing is within our grasp now, and we cannot wait until to-morrow to seize it." Why, sir, I am amazed.

Mr. POLK. I suggest that it is now half past four o'clock.

Mr. STUART. I want to say a few words in regard to this question of danger. Sir, according to the rules of the House of Representatives, which have been referred to here, House bills with Senate amendments stand on the Speaker's table the first business in order after Executive messages. It is the very first business. There is nothing in this amendment which requires it to be referred to a committee of the House, or to go to a Committee of the Whole. It is in the power of the House, by a majority, whenever they choose, to act upon it. A majority can go to the Speaker's table, and a majority can pass this bill. Now, we know something of the rules of the House of Representatives. The idea is that if there is an "i" dotted or a "t" crossed, or anything that sends this bill back to the House of Representatives, we betide it. Sir, I am tired of that sort of argument. The Senate is a legislative body that is bound to exercise its judgment, and each Senator has a right to the exercise of his judgment here.

The proposition of the Senator from Virginia is a sound one, a wise one. If there are to be railway connections along the avenue, they should extend from the navy-yard through to Georgetown; and, as the Senator has well said, you cannot maintain an omnibus line at each end of this railway. You cannot have one from here to the navy-yard, and from the line of Georgetown to the Heights. But they are going to do this hereafter; they want to do it—according to the argument of the Senator from Mississippi—in their memorial; they are aching to do it. Then, let us give them an amendment which will allow them to do it. Let us gratify these patriots now; put it on the bill, and if there is such an overwhelming public sentiment it will act nowhere with more force than it will on the House of Representatives. They will take up this amendment and pass it.

But it is said here to be a great damage when we extend the Capitol grounds, for them to have to take up this road. What will it cost? What will it cost to lay it down? What will it cost to take it up, and lay it down again? As you extend these grounds south or north, you reduce the grade; the grade is much higher where they would have to go now. It is reduced rapidly as you go south or north; and if they were going to make the connection to-day, and you would allow them to do it, they would make money by going to the outside of where you propose to take your grounds, because that would save the grade. But, sir, they can make money enough in one week with this franchise to pay for taking up this road and laying it down again. This amendment, if in the judgment of the Senate it is right, ought to be adopted. That is all. We shall have discharged our duty, and when we have done so, the duty will be devolved upon the House of Representatives to discharge theirs; and if it should turn out as the Senator from Maryland said, that the House will not pass this bill again, then, I say, Senators here who are opposed to the whole affair, will have their ends gratified.

Mr. HALE. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Maine.

Mr. HALE. The Chair is mistaken about where I live. I live very near to the line of Maine; it is only about four miles from where I live in New Hampshire. I have sat here this afternoon somewhat impatiently. I am opposed to working on Saturday afternoons. When I was a boy I never used to go to school on Saturday afternoon. I always vote to adjourn over Saturday, and I always shall, for I think we shall be able to do the public business better in that mode. I have sat here all this afternoon impatiently under these debates on this little two-mile horse-railroad. It

has looked to me as if the Senate of the United States are rather coming down when they devote a whole day, and an extraordinary day of session to it; but since I have heard the Senator from Michigan, I am converted entirely. I think the day has been well spent, and it would be well to spend a little more time on this subject, and for that reason I have got up. [Laughter.]

The suggestion the Senator from Michigan made which converted me is, that it is a question which towers up above all horse-railroads, and all Pacific railroads, and magnetic telegraphs, and everything of that sort, because, in his imagination—and he has given it to us gravely, deliberately, and emphatically—it is a question whether the Senate has anything to do with the legislation of the country or not. Now, sir, I am for the Senate; and if that is the question, if that is the real question which is involved in this horse-railroad, I am against it. [Laughter.]

The PRESIDENT *pro tempore* rapped with his gavel.

Mr. HALE. You did not knock me, sir—did you? [Laughter.] I confess that the question presents itself to me in an aspect entirely different. It presents itself to my mind in a much more terrific aspect than any view in which I have been in the habit of looking upon it. But, sir, I think the Senator from Michigan is mistaken. I cannot but think that the privilege and prerogatives of the Senate will be preserved whether this horse-railroad be incorporated or not. I do not believe their track will go through the Capitol grounds, or in any other way interfere with us; and even if this railroad bill should be passed to-night, we shall come here at twelve o'clock on Monday, and commence the discharge of our functions exactly as well as if the bill had not passed.

Now, sir, leaving this train of reflection, I think really and candidly, notwithstanding all this, that there has been time enough spent on this road. I do not care a single cent which of these parties has it. I am not acquainted with a single individual in either of these corporations. Several people have talked to me on both sides of the question, but I have had so little interest in it as a matter between the two, that I do not remember who is for one and who is for the other. I think the public convenience requires this horse-railroad, and if you go to Philadelphia you will find the best demonstration of their utility that you can find in the country. Two years ago in that city people were remonstrating against the construction of horse-railroads, because they were going to be so injurious to the interests and property of the city. Now, when those very gentlemen advertise their property for sale, they give it as an extra inducement to purchasers to offer a high price, that it is situated on one of these horse-railroads.

The argument that it is inconvenient and inexpedient to amend a bill and send it back to the House of Representatives, because by that means the bill will be lost, is not new in the Senate. It has been made, I think, every session since I have been a member of the Senate; and that is now more than ten years. Senators have acted upon it; and, in my humble judgment, with great propriety. Although we are a great body, and have none but large views of things, we are obliged, in the practical business of life, and in the practical business of the Senate, to ask what may possibly be the effect, in the contingencies of legislation at the close of a session, what may be the probable effect of an amendment here to a bill that is before us. I do not say whether it is proper or not, but I say it has been the universal practice; and I have never attended a session of the Senate, for legislative purposes, where that consideration was not made more than once; and it is a legitimate consideration, not to overpower us, not to intimidate us with the idea that we are a mere tail to the House's kite; but because it is proper to consider as practical men when we do a thing, what is to be the effect of it; and, if the effect of it is to be to kill or postpone a practical measure which we consider to be useful, it is a legitimate and proper argument to be introduced; and, to my mind, it is not derogatory to any Senator to make it, or to the Senate to listen to it; and it does not involve any of those tremendous considerations which have been so forcibly impressed upon us.

Mr. STUART. I am not at all surprised at the

argument of the Senator from New Hampshire, and I do not at all regret it. I am not surprised that he should have assured me and the Senate that he had been here to-day, and did not know who was arguing one side and who the other on this question, because I found him fast asleep over there in his chair, [laughter.] his head lying back. Of course, he knew nothing.

Mr. HALE. Mr. President—

The PRESIDENT *pro tempore*. Will the Senator from Michigan yield the floor to the Senator from New Hampshire?

Mr. HALE. Never mind; I shall get it in a moment.

Mr. STUART. It did not amaze me for a moment that the Senator should misrepresent all I said. It is his habit.

Mr. HALE. I call him to order, sir.

The PRESIDENT *pro tempore*. The Senator will take his seat. Will the Senator from New Hampshire state his question of order?

Mr. HALE. He says it is my habit to misrepresent; and that is an impeachment of my integrity on the floor, which he has no right to make. That is the ground of calling to order.

The PRESIDENT *pro tempore*. Will the Senator say whether the Senator from Michigan is in order or not?

Mr. DAVIS. I think the point of order is clearly well taken by the Senator from New Hampshire. I do not think it is senatorial for one Senator to say to another that he misrepresents anything.

Mr. HALE. He said I not only did it, but that it was my habit.

The PRESIDENT *pro tempore*. The Senator from Michigan has the floor.

Mr. STUART. I am very sorry that the Senator from New Hampshire should have so changed his feelings.

Mr. HALE. I call for the rule of the Senate to be enforced.

Mr. PUGH. What is it?

Mr. HALE. I called the Senator to order. The Chair should either decide it, or submit it to the Senate.

The PRESIDENT *pro tempore*. The Chair submitted to the Senate whether the Senator from Michigan should proceed in order. The Chair heard no objection, and took it for granted that it was the sense of the Senate that the Senator from Michigan should proceed in order.

Mr. HALE. I did not so understand.

The PRESIDENT *pro tempore*. The Senator from Michigan has the floor.

Mr. STUART. I was remarking that I was a little surprised that the Senator from New Hampshire should have so changed his own feelings. He waked up a most mirthful sympathy just now; he was full of glee, and made a very violent effort to see if he could not make a little fun out of the remarks I made. He has now changed his tone entirely; he is an offended Senator; he has waked up cross. That is remarkable; because when a gentleman introduces into a body of this sort a scene of drollery, he mars the whole play when he undertakes to change it to one of anger; it should be carried out.

Now everybody knows the attention that is paid by the Senator from New Hampshire to all business; that he is always in his seat, always knows what is going on, never speaks but to enlighten the Senate, never leaves the Senate unnecessarily to go to his State, or elsewhere. Indeed, sir, he is one of those lights of the body that the Senate can scarcely get on without; and therefore I felt that when the Senator stated that I had said the only question presented here to-day was a question involving the rights of the Senate, and the determination of it was whether they were a component part of the Legislature of the nation or not, the Senate was bound to believe that, notwithstanding my argument was entirely the reverse. I said I had heard that argument that the Senate must not amend a bill because it would be lost in the House of Representatives until I got tired of it; and yet the Senator would have it understood that I said it was a new thing in the Senate, and that I had attacked it because it was a fresh bird let loose. I commented upon it because it was old and stale and unsound.

I did not say that the question presented to the Senate was one whether it would maintain its own powers of legislation or not. I said no such thing.

I said that the argument carried out must mean that, and nothing more. That is what I said. I said the question was whether, in the judgment of the Senate, this amendment ought to be put to the bill, and if the Senate thought so, and put it there, they would have discharged their duty, and then it would be for the other House to discharge theirs. That is what I said. I said it emphatically, the Senator says. I hope I said it respectfully to every Senator, and to the body; and if in arguing questions here, I shall deem it proper to speak directly to the point, in a logical way, and for purposes of useful legislation, instead of thrusting myself into the arena like the clown at a circus, I must be excused for preferring that plain mode to the other.

Mr. CLAY. I move that the Senate adjourn. ["Oh, no!"] It is a quarter to five o'clock, and I think this farce is likely to be turned into a tragedy, and I hope the Senate will adjourn.

The motion was not agreed to; there being, on a division—ayes 14, noes 21.

Mr. HALE. Mr. President, all personal matters are disagreeable to me. I want to state now—I do not go into anybody's motives—but the Senator from Michigan misstates entirely and totally the remark which I made, upon which he based what I suppose he calls wit, and I am willing to let it go so; and that was that I did not know upon which side gentlemen had been arguing here.

Mr. DAVIS. I think the Senator is committing the very breach of decorum for which he called the Senator from Michigan to order.

Mr. HALE. I did not say that he misrepresented.

Mr. DAVIS. You said misstated, which is somewhat more harsh. I hope the Chair will enforce the rules of order.

The PRESIDENT *pro tempore*. The Chair will declare the Senator out of order, and the Senate will determine whether he shall proceed in order. Those in favor of the Senator proceeding—

Mr. CRITTENDEN. I wish to say a word on that subject. I certainly desire the order of debate to be preserved as much as anybody; but although I acknowledge the term "misstate" sounds harshly, it does not imply that it is done intentionally.

Mr. HALE. Certainly not.

Mr. CRITTENDEN. I may misstate a case which I do not understand. I examined a little once as to this very question. When you say a gentleman has misstated, you may mean only that he has stated erroneously, but not misrepresented or misstated intentionally. I consider it not out of order at all, but within the strictest rules of order.

The PRESIDING OFFICER. Those in favor of the Senator proceeding in order will say "ay."

The question was decided in the affirmative.

Mr. HALE. I did not mean to be out of order, and I carefully weighed the word so as not to be out of order. I recollect reading a work of Dean Swift, in one of his travels, in one of the nations that he went into, and he said they were so truthful that they had no word to represent falsehood; and when they wanted to say it they would simply say a man had said the thing which was not; and that they said to get around the word "falsehood," which was not in their language. Using the phraseology of that learned English writer, I will simply say the Senator from Michigan has said the thing which was not. He stated that I had said I did not know which side gentlemen had been arguing upon in the Senate. I said no such thing; thought no such thing; intended no such thing. I said that outsiders, friends of these different companies, had been at me—the one and the other; and I took so little interest in it that I did not remember now which was for one and which for the other. I spoke of what occurred outside the Senate, and not of what took place in it; and, therefore, I will admit that, if the basis had been true, the Senator from Michigan would have made a very witty speech, and that his censure would have been well applied.

Now, sir, I shall not undertake to reply to any of the insinuations and innuendoes of the Senator from Michigan. I will let them all go. I plead guilty to the charge of not mingling in every subject that comes up, from the incorporation of a railroad, or a pension, to every great scheme that

is brought before the country; and if there is to be any impeachment of my intelligence, or any want of attention to the affairs which belong to the Senate, from the fact that my voice is not heard on everything, in season and out of season, early and late, logically or illogically, I plead guilty, and leave to the Senator from Michigan, or anybody else that is desirous of it, any laurels that may be won in such a contest. I have none of them; but if the Senator thinks I have been asleep, I have this to say: I know some clergymen sometimes find fault with their parishioners and audience for going to sleep, but I think when a clergyman has a sleepy audience he has no right to complain. If the speaker has not vitality and energy enough to keep his hearers awake, I think they do wisely in going to sleep. [Laughter.] I have always thought so, and I do not mean that as any reproach to anybody who speaks in the Senate; but if there is anybody in the Senate that has made his voice heard in season and out of season, and has failed to keep his audience awake, I think he had better examine his own powers a little, instead of finding fault with the audience. [Laughter.]

Mr. STUART. I concur with the Senator entirely, and that gives me an opportunity of congratulating myself particularly for being able to wake him up. Until I spoke, sir, he was asleep, sound and snoring. [Laughter.] I presume if I had not spoken he would have slept until this time, for I believe I am the only man in the Senate that he takes especial pains to interfere with; and hereafter it will be known, when it is necessary to wake up the great light of the East, I will speak and he will wake, and the country will be enlightened, and possibly, if they cannot be enlightened, they can be amused. The whole scene in the Senate can be changed: if argument will not answer, buffoonery can be resorted to. ["Question!" "Question!"]

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Virginia.

Mr. PUGH. We have got through this branch of the subject, and I move that the Senate adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The yeas and nays have been called for on the amendment of the Senator from Virginia.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. GREEN. I have paired off.

Mr. RICE. I have paired off with the Senator from Missouri, Mr. POLK.

Mr. SLIDELL. I have paired off with the Senator from Delaware, Mr. BAYARD. I should vote for the amendment.

Mr. WILSON. I was requested by the Senator from Florida, Mr. MALLORY, to say that he had paired off with the Senator from New York, Mr. KING.

The result was announced—yeas 21, nays 18; as follows:

YEAS—Messrs. Bell, Bright, Chesnut, Clay, Crittenden, Davis, Douglas, Fitzpatrick, Foot, Houston, Hunter, Johnson of Tennessee, Jones, Mason, Pearce, Pugh, Reid, Sebastian, Stuart, Toombs, and Ward—21.

NAYS—Messrs. Allen, Brodick, Brown, Cameron, Chandler, Clark, Dixon, Doollittle, Fessenden, Foster, Hale, Hamlin, Harlan, Iverson, Kennedy, Simmons, Wade, and Wilson—18.

So the amendment was adopted.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Maryland.

Mr. PEARCE. I should like to have the yeas and nays on that.

The yeas and nays were ordered.

Mr. HUNTER. Does the Senator from Maryland accept this amendment to his substitute?

Mr. PEARCE. Certainly, I include it.

Mr. SIMMONS. I understand the last amendment voted on is in each proposition. I shall not vote against this on general principle. It is already a corporation that has a charter for one route, and they have refused to build it for the last six years, and they hold back until there is another proposition, and then they ask the privilege of that, and if they can hold back again they will have it all in their own control.

The question being taken by yeas and nays, resulted—yeas 18, nays 21; as follows:

YEAS—Messrs. Bell, Bright, Chesnut, Clay, Crittenden, Davis, Douglas, Fitzpatrick, Foot, Houston, Jones, Pearce, Pugh, Reid, Sebastian, Stuart, Toombs, and Ward—18.

YAYS—Messrs. Allen, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Fessenden, Foster, Green, Hale, Hamlin, Harlan, Iverson, Johnson of Tennessee, Kennedy, Mason, Simmons, Wade, and Wilson—21.

So Mr. PEARCE's substitute was rejected.

Mr. DOUGLAS. I now offer the amendment I sent to the Chair some time ago as a substitute for the bill.

Mr. IVERSON. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. BROWN. I ask for the reading of the amendment.

The Secretary read the amendment, which is to strike out all after the enacting clause, and insert:

That the Corporations of the cities of Washington and Georgetown, respectively, are hereby empowered to authorize such persons or companies as they shall see proper, to construct and lay down double-track railways, with the necessary switches and turnouts, on such lines, streets, and avenues, as they shall deem most conducive to the public convenience, with a right to run public carriages thereon, drawn by horse-power, for the transportation of passengers, receiving therefor a rate of fare not exceeding five cents per passenger for any distance between the termini, and subject to such regulations as to the rate of fare as Congress may, from time to time, prescribe, and subject, also, to such regulations as the said cities may, from time to time, prescribe within their respective limits: *Provided*, that Congress hereby reserves the right to repeal or modify this act, and to annul all privileges acquired or granted under it, whenever the public interests may require it.

Mr. BROWN. I simply desire to say, in reference to that amendment, that the Committee on the District of Columbia is the recognized organ of the Senate for conferring with the corporate authorities of Washington, and no such privilege as this has ever been asked; and I appeal to my associates on that committee if any proposition of this sort has ever been submitted to us. I think it is wrong for them to appeal to other powers with their applications. If they have any to pass under the consideration of the Senate, they should be submitted to that organ appointed by the Senate to consider what they want. I have never heard a word that the corporate authorities of Washington have desired this franchise. They have sent a resolution by which they ask the power of taxing this property, and that is guaranteed, as I stated before, in the bill; but that they should have the right to this franchise they have not asked in any formal way. I can state that I saw, the other morning laid on our table, a resolution passed by the corporate authorities; but neither the Mayor, nor anybody authorized to act for the city, has ever brought it to the attention of the organ of the Senate; and I think they ought to treat the committee who transact their business with the respect of having the matter referred to them, and the Senate ought not to take it up in this outside way.

Mr. DOUGLAS. I owe it to my friend from Mississippi to state that, while I was not aware of any application either to his committee, or any omission to make one for this grant, no member of either corporation, no public officer connected with either of the cities, has ever spoken to me on the subject. I offered this proposition voluntarily, on my own responsibility as a Senator, believing that the power ought to be vested in the corporations. I was not then aware that the corporations, or either of them, desired this power. Since I offered the amendment, however, a slip of a newspaper has been placed in my hand, containing a resolution by the corporation of the city of Washington, asking for this very power, in these words:

"Be it resolved by the Board of Aldermen and Board of Common Council of the city of Washington, That the joint committee of the Councils to attend to the interests of this corporation before Congress be, and they are, hereby instructed to request and urge upon Congress to pass such law or laws as will give to this corporation full power and authority to authorize the construction of railroads in the streets and avenues of the city of Washington, and to control, regulate, and tax the same."

"Resolved, That the Mayor be, and is hereby, requested to have a copy of these resolutions transmitted to the President of the Senate, the Speaker of the House of Representatives, and every member of the Senate and House of Representatives of the United States."

It appears, therefore, that in offering this amendment, I happened to make the very proposition which they did ask for, and which I was not aware they desired at all. I meant no disrespect, certainly, to the committee.

Mr. BROWN. I suppose not.

Mr. DOUGLAS. And especially none to my friend who presides over that committee. I

offered it because it occurred to me that this was a more appropriate lodgment of the power than any proposed.

Mr. BROWN. I am averse to having the Senate thrust upon the corporation of Washington franchises for which they have not asked. This is not a new question. It has been here since the last session of Congress; it has been discussed in committee, and I know that it has attracted the attention of the corporate authorities of Washington, but they have not asked for this franchise, except by laying certain papers on the tables of members. As I stated this morning, I do not think they are the proper parties to exercise it. I am against giving them the franchise on the broad principle that they are not proper people to exercise it. It may be that, understanding that to be my opinion as chairman of the committee, they did not choose to refer their application to the committee of which I am chairman. Whether that is the sentiment of the committee or not, I certainly do not know; I have no means of knowing, since the question never came up for discussion; but since they have not asked for it through the organ authorized to speak for the Senate, I do not think it ought to be authorized in this informal manner.

My friend from Kentucky, [Mr. CRITTENDEN,] I understand, desires to increase the gauge of the road. I think that of itself is proper; and since you have got an amendment to the bill, I am for it. I suppose, without seeing his amendment, he will propose to increase the gauge from four feet to five and a half feet, and I go in for that. Four feet is too narrow for two horses. Five and a half feet allows two to go abreast. I think the amendment which I understand he means to propose is right, since you have amended the bill at all. I am willing to accept it; but as to the proposition of the Senator from Illinois, it is altogether a different one.

Mr. CRITTENDEN. I did not intend to propose any amendment, nor shall I. I intended to suggest to the honorable chairman the propriety of enlarging the cars; and, perhaps, also the width of the road. It is provided that the rails shall not be more than four feet apart; and the car to run upon them shall not be more than six feet wide. I think it will be very unfortunate; and certainly, if intended for general accommodation, there is one class, and that generally the best of all, who could have no use of these cars. I should like to know of my friend whether, according to the dress and custom of this city, a lady would stand any chance of getting into a car [laughter] when the six feet are diminished by seats on each side. It is obviously too small. I hope the gentleman will amend his bill.

Mr. BROWN. I say again that, since the bill has been amended at all, I think now it is better to increase the gauge of the road.

Mr. FESSENDEN. I suggest to the Senator that, if he wants to secure a wider gauge, he had better use the words, "not less than five and one half feet," because, if you say "not more," they will make it to suit themselves.

Mr. BROWN. I acknowledge the force of that suggestion; and, in accordance with it, my amendment is to strike out "shall not be more than four feet," and insert "shall not be less than five feet six inches."

Mr. DOOLITTLE. The common gauge of all the railroads in the country is four feet eight and one half inches.

Mr. BROWN. I specify five feet six inches, on the principle that that is the width of gauge which allows two horses to go abreast. If you make it four feet you must drive tandem—one horse ahead of the other. I thought this was a defect in the original bill; but I was opposed to amending it because that would require it to go back to the House of Representatives. As, however, the Senate has already amended the bill, I think we had better make it a regular gauge.

The amendment was agreed to.

Mr. BROWN. Now, I move, in line seven, section two, to strike out the words, "and the carriages shall not exceed six feet in width," and insert "and the carriages shall not be less than eight feet in width." This will accommodate the width of the carriages to the gauge of the road.

The amendment was agreed to.

Mr. WILSON. There has been some doubt about the power to tax this road; and, as we have

undertaken to amend the bill, I hope we shall make that matter clear. The counsel for the city of Washington had doubts about it, I understand, and the persons who ask for this road supposed that this bill gave the power to the city; but there is some question about it, and I suggest to the chairman of the committee to have the bill amended so that there can be no question about the power of the city of Washington to tax this corporation.

Mr. BROWN. I have no objection to that, since we have amended the bill. The present provision is, "that the maintenance and use of said road shall be subject to the municipal regulations of the cities of Washington and Georgetown respectively." Now, I propose to add after this clause, the words: "and they shall have at all times the power of taxation." That is what was meant; and as the bill has been amended, I think we may as well put in these words. I understand that will acknowledge the power of taxation within the limits prescribed by the present charter; nothing more.

The amendment was agreed to.

The PRESIDING OFFICER, (Mr. MASON.) The question recurs on the amendment proposed by the Senator from Illinois, [Mr. DOUGLAS,] as a substitute for the whole bill.

Mr. PUGH. It was argued by the Senator from Mississippi that we ought not to grant this power to the corporations of the cities of Washington and Georgetown, because it was thrusting it upon them. It seems to me to be a matter appropriately belonging to them. It is the care of their own streets, the regulation of their own affairs, and evidently comes within the principle of popular sovereignty, as my friend from Illinois has expounded it. We are not the Representatives of the people of the District of Columbia, except in a qualified sense. They, by their own representatives in their municipal corporation or Common Council, have asked that we shall give them the power to regulate the matter, and yet we refuse to give it to them, and propose to give it to three gentlemen whom we do not know at all. *In invitum*, over the heads of the citizens of Washington, represented by their own members of councils, we propose to vest what is evidently a municipal privilege, in the hands of three strangers.

My friend from Mississippi said they had not asked it of us; but it appears that they have asked it by a resolution of their council, which the Senator from Illinois read. But my friend says we must not grant it, because they have not brought it to his notice, or probably to the notice of the Senate. That might have been an oversight; that might have been an error of detail. That is a matter, at all events, which can be rectified between this and Monday morning; and if there is any defect of form, if the corporation of Washington has not given us due notice of its wishes either through the Presiding Officer, or the honorable Senator from Mississippi, that error, being now brought to its notice, can be corrected between this and Monday morning. It offers the strongest argument why the Senate should not be crowded on this unusual day and at this unusual hour to give into the hands of three individuals a municipal right which the municipal authorities of Washington have asked at our hands. I move that the Senate adjourn.

Mr. BROWN. I hope not.

Mr. PUGH. If the Senator has anything to say, I will withdraw my motion, provided he will renew it.

Mr. BROWN. I only want to say a word; and in order to have a chance of doing it, I promise to renew the motion. The Senator from Ohio speaks of there being three persons named in this bill.

Mr. PUGH. I understand so.

Mr. BROWN. They are named in connection with their associates; and I state, upon my responsibility, that a majority, a very large majority, of these corporators are citizens of the city of Washington. I presented a communication, which was read this morning, with their names appended.

Mr. PUGH. They can sell their stock tomorrow.

Mr. BROWN. So may anybody else. Those belonging to the Metropolitan Railroad Company can sell their stock, too.

Mr. PUGH. I am not for making this grant to the Metropolitan Company.

Mr. BROWN. Anybody may sell out his stock, and you cannot prevent it; and even if you passed a provision that it should not be done, it would still be done *sub rosa*.

Now, inasmuch as I promised the Senator to renew his motion to adjourn, I do so; but I trust the motion will not prevail. I hope the friends of this measure will put it through to-night. The Committee on the District of Columbia have been badgered with this thing at every street-corner and everywhere else. I would almost as soon resign and give up my seat in the Senate, as stay here another session and be badgered by this thing. It is a matter in which I take no special interest beyond what I am bound to take for the people of the District. For Heaven's sake, I say, end it, and end it right here. I renew the motion to adjourn.

On the question being put, thirteen Senators voted in favor of the adjournment.

Mr. BROWN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FOSTER. I desire to state that my colleague, Mr. Dixon, has paired off with the Senator from Alabama, Mr. CLAY.

The Secretary called the roll.

The PRESIDING OFFICER. (Mr. BRIGHT.) There is no quorum voting.

Mr. BROWN. I move a call of the Senate.

The PRESIDING OFFICER. No such motion is recognized.

Mr. BROWN. There are Senators enough here to make a quorum, but they do not choose to vote.

The PRESIDING OFFICER. There is but one order that can be made when there is not a quorum.

Mr. BROWN. I move a call of the Senate.

The PRESIDING OFFICER. The Sergeant-at-Arms can be directed to invite absent Senators to attend.

Mr. TOOMBS. I believe there is no authority for a call of the Senate.

Mr. BROWN. When the Senate finds itself without a quorum, it has a right to ask Senators present to vote.

Mr. CLARK. I desire to say that my colleague, Mr. Hale, paired off with the honorable Senator from Maryland, Mr. PEARCE.

Mr. FITZPATRICK. Less than a quorum can adjourn, and I move that the Senate adjourn.

Mr. BROWN. I submit that we were taking the vote on a motion to adjourn, and the vote on that motion has not yet been announced; and another motion to adjourn cannot be made without any intervening business.

Mr. HUNTER. If the vote has not been announced, I ask leave to record my vote.

The PRESIDING OFFICER. The Senator's vote will be recorded.

Mr. RICE. I desire to vote merely to make a quorum.

The PRESIDING OFFICER announced the result—yeas 13, nays 20, as follows:

YEAS—Messrs. Chesnut, Davis, Fitzpatrick, Green, Hunter, Johnson of Tennessee, Jones, Pugh, Reid, Sebastian, Stuart, Toombs, and Ward—13.

NAYS—Messrs. Bright, Broderick, Brown, Cameron, Chandler, Clark, Doolittle, Douglas, Fessenden, Foot, Foster, Hamlin, Harlan, Houston, Iverson, Kennedy, Rice, Simmons, Wade, and Wilson—20.

So the Senate refused to adjourn.

Mr. JOHNSON, of Tennessee. Before the vote is taken on the substitute of the Senator from Illinois, it is in order to perfect the original bill, and I offer an amendment to it to come in as additional sections:

And be it further enacted, That nothing in this act contained, shall be construed to authorize the said Washington Passenger Railway Company, to make, issue, or put in circulation, any bill, draft, check, order, promissory note, exchange ticket, or anything else promissory or aiming to pay money, intended to be circulated as money or currency; and the violation of any one of the provisions of this section shall be a forfeiture of the charter herein granted, and a fine of fifty dollars against each of the directors voting for the same.

And be it further enacted, That each of the stockholders in said passenger railway company shall be liable in his individual capacity for all the debts and liabilities of the said company, however contracted or incurred, to be recovered by suit as other debts or liabilities before the court or tribunal, having jurisdiction of the case.

I ask for the yeas and nays on the amendment.

Mr. BROWN. It is hardly worth while. I suppose there will be no objection to it.

Mr. JOHNSON, of Tennessee. If other amendments had not been made, I should not have offered this; but as the bill has already been amended, I want to make it as perfect as possible.

Mr. BROWN. The omission of such a provision was simply an oversight. Such a provision is put in all acts of incorporation in this District, and I presume nobody will resist it.

Mr. JOHNSON, of Tennessee. I withdraw the call for the yeas and nays.

Mr. GREEN. I move that the Senate adjourn.

The motion was not agreed to; there being on a division—ayes, 16, noes 17.

Mr. GREEN. I call for the yeas and nays on the amendment.

Mr. BROWN. I hope they will not be ordered.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. CAMERON. Permit me to say a word. I believe there is not a single vote to be recorded in opposition to this amendment; then why should we waste time in taking the yeas and nays?

The PRESIDING OFFICER. The Senate have ordered the yeas and nays to be taken. The Secretary will proceed with the call.

The call of the roll was continued; and resulted—yeas 24, nays 4; as follows:

YEAS—Messrs. Bright, Broderick, Brown, Cameron, Chandler, Chesnut, Davis, Doolittle, Douglas, Fitzpatrick, Foot, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Reid, Simmons, Stuart, Wade, Ward, and Wilson—24.

NAYS—Messrs. Clark, Fessenden, Foster, and Kennedy—4.

The PRESIDING OFFICER. There is no quorum voting.

Mr. BROWN. I move that the absentees be sent for.

Mr. DOUGLAS. I am satisfied that it is impossible to get a vote on the bill to-night. Besides, the amendment which I have offered is a very important one. It involves a great principle; and I desire to have it voted upon in a full Senate. I move that the Senate adjourn.

Mr. BROWN. I hope not. Let us have a call of the Senate.

Mr. CAMERON. I desire to say a word.

The PRESIDING OFFICER. The motion to adjourn is not a debatable question.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 29, 1859.

The House met at twelve o'clock, m. Prayer by Rev. T. H. Bocoock, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER asked unanimous consent to lay before the House executive communications for the purpose of reference, which should not give rise to debate.

No objection was made.

The SPEAKER then laid before the House a communication from the Postmaster General, transmitting estimates for ocean mail service for 1860; which was referred to the Committee of Ways and Means, and ordered to be printed.

He also laid before the House a communication from the Secretary of the Navy, in answer to the resolution of the House of Representatives, of January 13, 1859, in relation to the number of hands employed in navy-yards; which was laid upon the table, and ordered to be printed.

He also asked to lay before the House a communication from the Secretary of the Interior, in reply to the resolution of the 8th instant, relative to the military reservation on Rock Island.

Mr. COBB. I ask that that communication be referred to the Committee on Public Lands, and printed.

Mr. HOUSTON. It ought not to go to the Committee on Public Lands.

Mr. COBB. Why not? We have the subject before us.

Mr. HOUSTON. I ask for the reading of the communication.

The SPEAKER. The Chair only asked the consent of the House to present such communications as did not give rise to debate. The Chair will withhold the communication.

Mr. WASHBURNE, of Illinois. I hope there

will be no objection to the printing of the communication.

Mr. COBB. The Committee on Public Lands have this matter before them, and are waiting for this answer from the Department.

Mr. HOUSTON. Does it propose to dispose of this military reservation?

Mr. WASHBURNE, of Illinois. It does not.

Mr. COBB. It does not propose anything all. It is an answer to a resolution of inquiry, as to the condition of that reservation.

Mr. HOUSTON. Well, I object to the reception of the communication.

The SPEAKER. Then the Chair will withhold it.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, containing a statement of the clerks employed in the Treasury Department, during the year 1858; which was laid upon the table, and ordered to be printed.

He also laid before the House a report from the Secretary of the Senate and the Clerk of the House of Representatives of the United States, in reference to the compilation of the American State Papers, in conformity with the act of Congress of last session; which was referred to the Committee on Printing, and ordered to be printed.

PRIVATE BILLS.

The SPEAKER. On Monday last the House adopted the following resolution:

Resolved, That on Saturday next, immediately after the reading of the Journal, the House will go into a Committee of the Whole House, and take up the Private Calendar as on objection day, and when objection is made to a bill, the member making objection shall have five minutes to state such objection, and oppose the bill, and five minutes' time shall be allowed to answer the objections and advocate the bill; the question shall then be taken on pending amendments, if any, and then on reporting the bill to the House without further debate: *Provided*, That no case shall be considered as aforesaid in which there is an adverse report from the Court of Claims, or from a committee of this House.

Mr. KEITT. I ask the House to indulge me by taking up the resolution from the Senate for the relief of William Hazzard Wigg, and passing it now.

Mr. KELSEY. I call for the regular order of business.

The SPEAKER. The Chair supposes that under the order adopted on Monday, a motion to suspend the rules and go into committee is not necessary.

Mr. JONES, of Tennessee. Suppose that a majority of the House should determine not to go into the Committee of the Whole: what would be the result?

The SPEAKER. The Chair supposes that, under the order of the House, the Speaker must vacate the Chair and call some gentleman to preside over the Committee of the Whole. The gentleman from New York [Mr. KELSEY] will take the chair.

Mr. KELSEY. I will withdraw my objection to allow the gentleman from South Carolina to have his resolution passed.

Mr. KEITT. It is resolution No. 52. I ask that the Committee of the Whole House be discharged from its further consideration, and that it be put on its passage. It simply authorizes the Secretary of the Treasury to correct a clerical error; and if there is no clerical error, nothing will be done. It is a mere matter of arithmetical calculation.

The SPEAKER. The order of the House is imperative to go into committee.

The House according resolved itself into a Committee of the Whole House, (Mr. KELSEY in the chair,) and proceeded to the consideration of the Private Calendar.

Mr. KEITT. Well, now, Mr. Chairman, I ask the unanimous consent of the committee that Senate resolution (No. 52) for the relief of William Hazzard Wigg be taken up and disposed of.

There being no objection, the joint resolution was taken up and read.

It provides that the accounts of William Hazzard Wigg be reopened at the Treasury Department; and if it be found that \$1,500 was withheld from him in consequence of a clerical error, that amount shall be paid out of any money in the Treasury not otherwise appropriated.

Mr. LOVEJOY. Can the Committee of the Whole disregard the order of the House, which

requires that the bills shall be taken up in their order on the Calendar?

The CHAIRMAN. Not except by unanimous consent. No objection, however, was made, and the resolution has been taken up by the committee.

Mr. LOVEJOY. I make the point of order, that the resolution cannot be taken up under the order of the House.

The CHAIRMAN. The point comes too late. The resolution has already been taken up by the unanimous consent of the committee.

Mr. JONES, of Tennessee. I want the law read to which this joint resolution refers. If there has been a clerical error, this is the place to correct it, and not the Department.

The CHAIRMAN. If there be no objection, the joint resolution will be laid aside, to be reported to the House.

There being no objection, the joint resolution was laid aside, to be reported to the House with the recommendation that it do pass.

Mr. WHITELEY. I now ask the Chair where the Calendar is to be taken up?

The CHAIRMAN. From the beginning.

Mr. WHITELEY. Does not the resolution of the House require that you shall proceed as on objection day?

The CHAIRMAN. The Chair thinks that is simply directory as to the manner of doing business, and not as to the place of beginning.

Mr. SMITH, of Virginia. I ask that the resolution of the House be read, under which we are acting.

The resolution was read.

Mr. DAVIS, of Indiana. I make the point of order—and if the Chair overrules it, I shall appeal from his decision—that the proper construction of the resolution which has just been read requires that the Calendar shall be taken up where it was left off yesterday. I call for the reading of the 30th rule, which provides that the reading of the Calendar shall be commenced on one objection day where it was interrupted on the last objection day. The resolution says we shall proceed as on objection day.

The 30th rule was read by the Clerk, as follows:

"On the first and fourth Friday of each month, the Calendar of private bills shall be called over, (the Chairman of the Committee of the Whole House commencing the call where he left off the previous day,) and the bills to the passage of which no objection shall then be made shall be first considered and disposed of."

The CHAIRMAN. The Chair decides that the clause of the resolution to which the gentleman has referred applies only to the manner of doing business. The Chair decides that the Calendar shall be taken up at the beginning.

Mr. DAVIS, of Indiana. I appeal from that decision.

Mr. JONES, of Tennessee. I would remark, in support of the appeal of the gentleman from Indiana, that, as a matter of justice, as a matter of sheer right, to the persons who are claimants on this Calendar, it would be right to commence where you left off yesterday. From the commencement of the Calendar down to where you left off yesterday, almost every bill has been taken up and objected to at least once, while there are many claims on that Calendar which have never been called since they have been referred to this committee.

Mr. WASHBURN, of Illinois. I rise to a question of order. The rule requires that all questions of order shall be settled in committee without debate.

Mr. JONES, of Tennessee. Where do you find that rule?

Mr. WASHBURN, of Illinois. In the Manual.

Mr. JONES, of Tennessee. The resolution of the House, under which the committee are acting, requires that the Calendar shall be taken up as on objection day, and if objection be made, five minutes' debate on each side shall be allowed; but I submit to this committee that, under the resolution of this House under which we are here in committee, it is right and proper that the Calendar shall be taken up where we left off yesterday.

Mr. SMITH, of Virginia. I want to know if the Chair has decided the question of order?

The CHAIRMAN. The Chair has decided that the Calendar must be taken up from the beginning. From that decision the gentleman from

Indiana has taken an appeal. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. DEAN called for tellers.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and ENRIE were appointed.

The committee divided; and the tellers reported—ayes 72, nays 46.

The CHAIRMAN. The Chair votes in the affirmative, in order to make a quorum; and the decision of the Chair is sustained.

[The committee here informally rose; and the House received a communication from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had passed bills of the Senate of the following titles:

An act (No. 153) for the relief of Lieutenant Joshua D. Todd, United States Navy;

An act (No. 187) for the relief of A. W. Macpherson;

An act (No. 209) for the relief of Joseph C. G. Kennedy;

An act (No. 237) for the relief of Arnold Harris and Samuel F. Butterworth; and

An act (No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent; in which he was directed to ask the concurrence of the House.]

Mr. ATKINS. I move that the committee do now rise.

Mr. DAVIS, of Mississippi, called for tellers. Tellers were not ordered.

The motion was not agreed to.

The CHAIRMAN. The Clerk will report the first bill.

HENRY LEEF AND JOHN M'KEE.

The first bill on the Calendar was taken up and reported, being a bill (H. R. No. 206) to indemnify Henry Leef and John McKee, for illegal seizure of a certain bark.

Mr. MILLSON. I rise to a question of order. It is, that this bill was not intended to be, and is not, embraced in the resolution under which we are acting. It is a bill which has already been considered and objected to; and it cannot come in to-day. The further consideration of the case was postponed last Saturday, and was thereby taken out of the operation of this resolution.

Mr. EUSTIS. I can see no force in the objection of the gentleman from Virginia.

The CHAIRMAN. The Chair sustains the point of order. This bill is already under consideration in Committee of the Whole House. The Clerk will report the next bill.

Mr. EUSTIS. When does the bill come up for consideration?

The CHAIRMAN. Next Friday.

ELIPHALET BROWN, JR.

A bill (H. R. No. 220) for the relief of Eliphalet Brown, jr.

The bill directs the accounting officers of the Treasury to allow and pay to Eliphalet Brown, jr., for his services as artist and master's mate in the Japan expedition, a sum at the rate of \$1,500 per annum for the time he enlisted in said expedition until his discharge from the same, deducting from the sum the amount already allowed and paid him as master's mate.

Mr. REAGAN. I desire to raise an objection to the consideration of that bill, and to present the reasons of my objection.

The CHAIRMAN. Objection will be in order after the report has been read.

Mr. REAGAN. I want to anticipate the reading of the report. On last Monday, we adopted a resolution that, on Saturday, immediately after the reading of the Journal, the House shall go into Committee of the Whole and take up the Private Calendar as on objection day; and when objection is made to a bill, the member objecting shall have five minutes to explain the objection, and five minutes shall be allowed to oppose the objection. The point which I make is that, by taking up the bill which has just been reported, or any other bill which has been previously called upon any objection day during the session, we are violating the spirit of the resolution under which we are acting, which contemplates that we shall go on as upon objection day. It certainly never could have been contemplated, that one set of bills should have the benefit of two objection days when other bills have only the benefit of one objection day.

Mr. SMITH, of Virginia. The gentleman from Texas comes too late with his point of order; as the Chairman has just decided that question.

The CHAIRMAN. The Chair has already decided that question, and the Clerk will read the report.

The report states that authority to employ artists for the Japan expedition was not directly conferred by Congress on the Department having charge of it. As the employment of artists was so very essential to the success of an expedition like that in charge of Commander Perry, the failure on the part of Congress to confer the authority may be safely charged to inadvertence rather than design. Commodore Perry foresaw, what he supposed, must be the evil results of this inadvertency, and engaged artists to join the expedition. They were enlisted as master's mates, with the understanding and expectation that they would seek a suitable compensation from Congress after the return of the expedition. It appears from the rolls, on file in the Treasury Department, that Mr. Brown served as master's mate on board the several vessels of the Japan expedition from the 24th of March, 1852, to the 15th of December, 1854, two years, eight months and twenty-two days, for the insufficient sum of \$300 per annum. He was the daguerreotypist of the expedition, as well as draughtsman, &c., and to him the country is undoubtedly largely indebted for much of the accurate delineations of the inhabitants, costumes, buildings, landscapes, &c., of that remarkable, and heretofore almost unknown, people and country. Besides being employed in various ways on shipboard and on shore in different artistic employment, he provided himself with all the apparatus necessary to the daguerreotypist, and took over four hundred pictures, all of which became the property of the Government, and many of which were used in illustrating Commodore Perry's work on the expedition. Commodore Perry, in a letter dated February 19, 1857, says:

"I take pleasure in stating that Mr. E. Brown, was employed as one of the artists of the naval expedition to Japan, and executed his work with talent and skill, and to my entire satisfaction."

Mr. JONES, of Tennessee. I object to that bill, upon the ground that the person for whose benefit it is to be passed was paid all the compensation which was authorized by law in the service in which he was legally employed upon that expedition; this is another service for which this bill now proposes to pay him—a service for which the commander was not authorized to employ clerks. This bill proposes to recognize the appointment of officers of this Government by other officers without the authority of law.

Mr. MORSE, of Maine. It is conceded, Mr. Chairman, that Commodore Perry had no legal authority to employ artists for the expedition which he commanded. But the expedition to Japan was a new and unprecedented expedition. He was sent to try and get an inside view of a nation of which the world outside of Japan knew nothing; to open commercial intercourse with an unknown country and people, numbering some thirty millions; a people having forms of civilization entirely different from ours; a people who had been, up to that time, grown up to be a great nation without any connection with any other nation or people, shut out from all knowledge of modern civilization, who had excluded themselves from association with all other people. He wanted to reach that people. How was he to do it? Commodore Perry did not go there in the ordinary way. He wanted to impress on that people the strength and force of modern civilization. He did not present himself to them in a warlike attitude; but to illustrate before them some of the beauties and mysteries of our civilization, by exhibiting some striking features of our invention in art and science, he took with him artists and scientific men; he took a railroad track, and set the steam-engine in motion before them; and a telegraphic apparatus, and showed them that conversation could be carried on from great distances without the sense of hearing; and photographic and daguerreotype instruments, and showed them the new art of accurate delineation and coloring with sunbeams. I need not state to the committee the impressions which these illustrations of modern invention and the whole expedition of Commodore Perry made on the people. He could not procure the services of these

artists without taking upon himself some little responsibility, trusting to his country to sanction his course and deal justly by those engaged with him in the expedition. He told them that if they would go on the expedition, they could enter the service as master's mates—the only office he could confer on them—and trust to Congress to allow them a proper remuneration. They did join the service as master's mates, on the small pay of twenty-five dollars per month, leaving their far more profitable employment at home to serve on this expedition, under the full expectation that their services would be acknowledged and fairly remunerated. Congress has already paid the claim of one of these artists, Mr. Heine. This bill is to pay the photographer of the expedition.

It is well known that the expedition owed much of its success to the artistic portion of it. When the Japanese saw their landscapes, public buildings, and dwellings, their domestic animals, and even their faces and figures transferred almost instantly to paper and the metallic plate, painted by pencils of light from the sun, and the operations of the telegraph and railroad, they were astonished, and strongly impressed with the wonderful force and power of the people whose representatives were among them. They opened their country to our commerce. We were the first of the civilized nations of the world to whom they opened their country and permitted an agent to visit their capital. It was only the other day that we authorized our consul there to receive presents, for the aid afforded by him to a foreign Government in getting a treaty made for them. I repeat, that the impression made upon that strange people by these experiments in science and art, contributed much to the success of the expedition. I think these artists, especially after you have taken the avails of their labor for the use of the Government, deserve a little more remuneration than has been paid to them as mere warrant officers.

The question being on laying aside the bill, with a recommendation that it do pass,

Mr. DEAN called for tellers.

Tellers were ordered; and Messrs. DEAN and McQUEEN were appointed.

The committee divided; and the tellers reported—ayes 80, noes 42.

So the bill was laid aside, to be reported to the House with a recommendation that it do pass.

KATHERINE K. RUSSELL.

A bill (H. R. No. 223) for the relief of Katherine K. Russell.

The bill directs the name of Katherine Kirby Russell to be placed upon the pension list of the United States of America, at the rate of twenty-five dollars per month; this sum to commence and to be computed from and after the 19th day of September, 1849, and the same to continue during her natural life.

Mr. DAVIS, of Mississippi. I move that the committee do now rise.

Tellers were called for, but were not ordered.

The question was taken; and the committee refused to rise.

The report was read. It shows that the husband of the petitioner entered the Army in the medical staff in 1812, and continued in the constant discharge of his duties as a medical officer till the time of his death, which occurred in New York, at Fort Columbus, Governor's Island, on the 19th day of September, 1849; and that, as appears from the certificates of the surgeons in attendance upon Surgeon Russell during his last sickness, which was verified by a *post mortem* examination, he came to his death from over exertion and exposure in meeting the demands made upon him in the discharge of his arduous duties while in an enfeebled state of health.

The following certificate is annexed to the report:

NEW YORK, January 16, 1855.

In the month of August, 1849, my professional services were requested at Fort Columbus by Doctor Mower, the medical purveyor of the United States Army, to relieve Doctor J. P. Russell, the surgeon of the post, then laboring under ill health, induced by excessive fatigue and over exertion in performing the arduous duties incidental to the station during the preceding two years. At the time of my undertaking the medical department Doctor Russell did not appear to be suffering under any special disease, but was in a state of physical and mental depression which required absolute rest for ultimate recovery. While in this condition an order came from the Surgeon General directing Doctor Russell to inspect the work at Bedlow's Island.

The weather was inclement, and the inspection of the buildings, out-houses, sewers, &c., at the fort fatiguing and unwholesome, in consequence of the bad condition of the drains. The day after this tour of duty Doctor Russell was taken sick; at first no serious fears were entertained, but the symptoms soon became alarming, and Doctors Mower and Simpson, of the Army, and Doctors Batchelder and Buckley, of New York city, were called in consultation. The disease, however, progressed regularly to a fatal termination, in spite of all efforts to the contrary. The lungs appeared to be principally affected, although the precise nature of the case was not satisfactorily made out during life. A *post mortem* examination was instituted, and the true cause of death ascertained to be owing to the presence of a large abscess at the base of each lung, which had burst into the pleura. The inferior portions of the lungs were loaded with pus, and the superior portions in that state called red hepatization. The inciting cause of disease which terminated fatally was undoubtedly the tour of inspection on Bedlow's Island, which acted unfavorably upon the system already enfeebled by overwork.

GEORGE H. BATCHELDER.

Mr. SMITH, of Virginia. I ask the friends of this bill why it is that the case has not been presented to the Pension Office? I suppose that, if this officer died in the service, his widow is entitled to a pension under the general law. I should be glad to hear why she has not got it; and why it is necessary to have special legislation for her case. If we have a Pension Office organized for acting upon and determining such applications as this, why should we supersede its jurisdiction? If we are to do so, we had better abolish the Pension Office altogether. According to the showing of the report in this case, this lady can go to the Pension Office, submit her claim, and get her pension, according to the provisions governing in such cases. Why interfere with the general law controlling this subject? The truth is that, whenever claims come here, it is evidence that they are outside of the general law, and that they rest on some peculiar and special ground. Every report, then, ought to set out clearly that special ground, to show the reason why the case does not come within the purview of the general law. I do not see any such special ground set out in this case, to show why this lady could not get all she is entitled to by going to the Pension department. I think, then, there must be something wrong in it; and I trust, therefore, that it may be the pleasure of the committee to reject this bill.

Mr. FLORENCE. I do not desire to occupy the time of the committee for more than a moment. I merely want to say that, generally speaking, there are various reasons why the Committee on Invalid Pensions report bills for the relief of persons applying to Congress. Sometimes they are unable to procure the testimony required at the Pension Office. Sometimes there are other difficulties arising under the ruling of the Pension Office. I take it for granted that this is just such a case; and the fact of the bill having been reported by the Committee on Invalid Pensions, is, in my judgment, *prima facie* evidence of its merits.

Mr. CASE. I wish to inquire from the gentleman whether, in regard to these applications to overrule the decisions of the Pension Office, special reasons are not invariably given?

Mr. FLORENCE. Unquestionably. I stated so yesterday. Sometimes it is the neglect of the Department to investigate, and sometimes it is the superseding of the law by the rulings at the Pension Office.

Mr. MAYNARD. I would like to ask the gentleman from Pennsylvania a question.

Mr. FLORENCE. Certainly; a dozen, if you like; but I first promised to give the gentleman from Mississippi a chance.

Mr. DAVIS, of Mississippi. It is stated in the report that the cause of death was a large abscess at the base of each lung, which had burst into the pleura.

Mr. FLORENCE. I take it for granted that that is so.

Mr. DAVIS, of Mississippi. I should like to know how it burst into the pleura?

Mr. FLORENCE. I cannot answer such a question as that. I am not a doctor or physician; but I am a universal sympathizer with those people who cannot get justice done them at the Pension Office, and I try to get justice for them in the Committee on Invalid Pensions.

Mr. MAYNARD. I ask whether the laws are not administered at the Pension Office according to the strict letter of the statute, and according to the rules established by the Commissioner of Pensions? and whether these rules do not preclude the Department from granting pensions in

cases which, though they come within the spirit, do not come within the strict letter, of the law? and whether this is not one of such cases?

Mr. FLORENCE. I have no doubt about that. I answer the gentleman affirmatively. Now, at the Pension Office, they decide upon the rulings; and not, in my judgment, according to the law. The Committee on Invalid Pensions arrived at the conclusion that this claim had equity in it, and legal right, too.

The question was taken; and the committee refused to lay the bill aside, to be reported on favorably to the House.

Mr. MARSHALL, of Kentucky. I suppose we must make some disposition of the bill. I move that it be laid aside, to be reported to the House with the recommendation that it do not pass.

The CHAIRMAN. That motion is not in order.

Mr. MARSHALL, of Kentucky. What becomes of the bill?

The CHAIRMAN. The bill remains where it is on the Calendar.

Mr. MARSHALL, of Kentucky. It seems to me, sir, that the committee should come to some decision about the bill; and, if a gentleman can move to lay aside the bill, with a recommendation that it do pass, it is surely in order to move to lay it aside, with a recommendation that it do not pass.

The CHAIRMAN. The committee has simply decided that they will not report the bill.

Mr. MARSHALL, of Kentucky. Then, under the vote taken, the bill remains in committee to be considered hereafter, although the committee has decided upon it.

Mr. LETCHER. I understand the decision of the Chair to amount to this: that the committee can pass a bill, but cannot reject a bill. Now, if the view of the Chair be correct in this matter, when the committee has said they will not report a bill with a recommendation that it pass, it seems to me to follow that they may also report it with a recommendation that it do not pass.

Mr. LEITER. I hope the Chairman will reconsider his decision. It seems to me that in order to carry out the resolution of the House, the bills on the Calendar must be disposed of in some way or other.

Mr. FLORENCE. I understand that we are acting as on objection day, with the simple addition that five minutes are allowed to a member to oppose, and five minutes to a member to advocate, each bill; and if the committee do not agree to report a bill favorably, of course it remains on the Calendar.

Mr. LETCHER. If that be the case, our action amounts to nothing. Why are the reports read, and why is debate allowed, if it is contemplated that the bills are to remain upon the Calendar to be again considered and again discussed? Suppose that, on next Monday, you readopt the resolution under which we are now acting: why, when next Saturday comes, we shall have to consider and discuss these bills again.

Mr. MORGAN. I rise to a question of order. I desire to know what question is before the committee? If there has been no appeal from the decision of the Chair, I object to debate.

Mr. MARSHALL, of Kentucky. I appeal from the decision of the Chair.

The question was taken; and the decision of the Chair was overruled.

Mr. LETCHER. I now move that the bill be laid aside, to be reported to the House with a recommendation that it do not pass.

The motion was agreed to.

Mr. PHILLIPS. I move that the committee do now rise.

Mr. HICKMAN. I call for tellers on that motion.

Tellers were ordered; and Messrs. Housron and Lovejoy were appointed.

The committee divided; and the tellers reported—ayes thirty-four, noes not counted.

So the committee refused to rise.

CHARLOTTE BUTLER.

A bill (H. R. No. 296) for the relief of Charlotte Butler.

The bill directs that the name of Charlotte Butler, of the State of Massachusetts, be placed upon the pension roll of the United States, and that she be paid the sum of twenty dollars per month, the

same to commence and be computed from January 1, 1850, and to continue during her natural life.

From the report accompanying the bill, it appears that Captain Butler was an officer in the Army of the United States in the late war with England; that he entered the Army as captain in the second regiment of dragoons, on the 12th of March, 1812, and was discharged, disabled, on the 12th of May, 1814. That, during the winter of 1814, while engaged in patrol duty at Plattsburg, in the State of New York, he met with an accident by which his ankle was fractured in such a manner as to disable him for life. In consequence of this disability, he was compelled to change his business, and died abroad in 1818, leaving the memorialist with four children to support, with very scanty means for their subsistence.

Mr. SEWARD. I am opposed to that bill, because it does not conform to the pension bill passed this session. I move to lay it aside, to be reported to the House with a recommendation that it do not pass.

Mr. NICHOLS. I do not think that the objection is a sound one. If the gentleman from Georgia will reflect, he will recollect very well that while he and I voted against the general pension bill to pension men in sound health and good circumstances and perfectly able to support themselves, we both voted for an amendment which provided pensions for all those disabled in the public service; and I think, therefore, the objection is untenable.

Now, I do not know anything about the facts of this case; but I want it to stand upon its own merits, and not upon the votes on the pension bill.

Mr. LETCHER. I move that the bill be amended by striking out the words "and 1850," and inserting "from the passage of this bill."

The amendment was agreed to.

The question was then taken; and the bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

Mr. HICKMAN. I call for a division upon that question.

The CHAIRMAN. The Chair thinks the gentleman's call came too late.

Mr. HICKMAN. I called for a division before the decision of the Chair was announced.

Mr. NIBLACK. But the gentleman did not rise from his seat and make the call.

The CHAIRMAN. Then the Chair will not entertain the call.

Mr. JONES, of Tennessee. Well, sir, the rule requires that the committee shall vote upon these bills, and I ask now that a division shall be had upon every one.

JOSEPH M. PLUMMER AND OTHERS.

House bill (No. 227) for the relief of Joseph M. Plummer and Mary R. Plummer, minor children of Captain Samuel M. Plummer.

The bill was read. It provides that the pension granted by the act of Congress approved August 26, 1852, to Joseph Morton Plummer and Mary Reynolds Plummer, minor children of Captain Samuel M. Plummer, late of the United States Army, deceased, be continued for five years from the 9th of March, 1857, and paid by the Secretary of the Interior to the minors in the following manner, to wit: the pension to be equally divided between the minors until Joseph Morton Plummer shall attain the age of sixteen years, and afterwards the whole of the pension to be paid to Mary Reynolds Plummer for the remainder of the time mentioned in this act.

Mr. SMITH, of Virginia. I call for the reading of the report.

The CHAIRMAN. No report has been submitted.

Mr. JONES, of Tennessee. If I understand this case, the children for whose benefit it is proposed to pass this bill are included under the general pension bill extending the law to widows and orphans, passed June 3, 1858.

Mr. CASE. I think the gentleman is correct. This bill was reported before that act was passed.

Mr. LEITER. I move that the bill be laid aside, to be reported to the House with the recommendation that it do not pass.

Mr. JONES, of Tennessee. I have no objection in this particular case; but, as a general rule, I do not think that this committee, under this resolution, has the right to report bills to the House with the recommendation that they do not pass.

The CHAIRMAN. The Chair has once so decided, but the committee reversed his decision.

Mr. STANTON. Then the point of order cannot again be raised, and I hope we shall go on with the business of the committee.

Mr. JONES, of Tennessee. The question has not been decided upon this bill, and I have the right to make it again, and to give my reason for making it, and to appeal from the decision of the Chair.

Mr. MARSHALL, of Kentucky. I rise to a question of order. This question was decided by the committee, and there is nothing to appeal from.

Mr. JONES, of Tennessee. There has been no decision in regard to this case.

Mr. STANTON. I rise to a question of order.

Mr. JONES, of Tennessee. I am upon the floor upon a question of order.

Mr. STANTON. Very well; I object to debate.

Mr. JONES, of Tennessee. I presume the gentleman will not interpose any obstacle to my stating my question of order. My construction of the resolution under which the committee are acting is, that they are authorized, under the conditions therein set forth, to report such bills to the House as a majority shall be in favor of; but not to report them with a recommendation that they be rejected. And why? Because, when you report bills making that recommendation, you get them before the House, giving no opportunity to discuss them more at length than they can be in this committee. Upon another day, and under the operation of the previous question, they may be passed in the House notwithstanding that the committee have voted by a majority to reject them. In my opinion, it is not in accordance with the resolution under which we are acting.

The CHAIRMAN. In accordance with the decision of the committee overruling the former decision of the Chair, the Chair now decides that the committee may lay aside bills, to be reported to the House with the recommendation that they do not pass.

Mr. JONES, of Tennessee. I appeal from that decision.

Mr. MORGAN. I make the question that this is the decision of the committee, and not that of the Chair.

The CHAIRMAN. The Chair will entertain the appeal.

Mr. JONES, of Tennessee. I ask for tellers on the appeal.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and CLARK B. COCHRANE, were appointed.

The committee divided; and the tellers reported—ayes 78, noes 11; no quorum voting.

Mr. FLORENCE. Will it be in order to move that the committee do now rise?

The CHAIRMAN. It will not. The only business in order is a call of the roll.

The roll having been called, the committee rose; and the Speaker having resumed the chair, Mr. KELSEY reported that the committee of the Whole House had, according to order, had the Private Calendar under consideration; and having found itself without a quorum, had caused the roll to be called, and had directed him to report the names of the absentees to the House.

The following is a list of the names of the absentees:

Messrs. Adrain, Anderson, Andrews, Arnold, Bishop, Blair, Bowie, Burnett, Burroughs, Caruthers, Chaffee, Chapman, Horace F. Clark, Clemens, Conins, Crawford, Damrell, Davis of Mississippi, Dick, Dimmick, Elliott, English, Faulkner, Gillis, Groesbeck, Lawrence W. Hall, Harris, Haskin, Hatch, Hawkins, Hoard, Huyler, Owen Jones, Keitt, Landy, Lawrence, Leidy, McKibbin, Mason, Miles, Miller, Oliver A. Morse, Pendleton, Powell, Ready, Reagan, Reilly, Ritchie, Savage, Scott, John Sherman, Judson W. Sherman, Shorter, Sickles, Samuel A. Smith, Stephens, Talbot, George Taylor, Thompson, Warren, White, and Whiteley.

[A message in writing was here received from the President of the United States by J. B. HENRY, his Private Secretary.]

The SPEAKER. One hundred and seventy-two members having answered to their names, the Chairman of the committee will resume the chair.

The Chairman resumed the chair, and the Committee of the Whole House on the Private Calendar resumed the consideration of the bill (H. R. No. 227) for the relief of Joseph M. Plummer

and Mary R. Plummer, minor children of Captain Samuel M. Plummer; the immediate question being, "Shall the decision of the Chair stand as the judgment of the committee?"

The tellers resumed their places; and the committee having been divided, the tellers reported—ayes 100, noes 20.

So the decision of the Chair was sustained.

The bill was then laid aside, to be reported to the House with a recommendation that it do not pass.

Mr. HICKMAN. I move that the committee do now rise.

Mr. DEWART. I call for tellers.

Tellers were refused.

The question was then taken; and the Chair announced nineteen voting in the affirmative.

Mr. PHILLIPS. I call for a count of the other side.

The CHAIRMAN. It is not necessary to count the other side, as a majority of a quorum did not vote in the affirmative.

Mr. PHILLIPS. I appeal from the decision of the Chair ruling that the other side need not be counted.

The CHAIRMAN. The Chair will not entertain the appeal.

Mr. PHILLIPS. I beg leave to state to the Chair that I have a right to take an appeal. The question was on the motion that the committee do rise.

The CHAIRMAN. The gentleman is correct. The Chair at the moment was under the impression that the question was on ordering tellers, and the rule requires one fifth of a quorum for that purpose, and one fifth of a quorum did not vote.

The Chair then counted the other side and announced ninety-seven in the negative; no quorum voting.

Mr. WASHBURN, of Maine. I call for tellers.

The CHAIRMAN. Tellers have been refused. The Clerk will call the roll.

The roll of the committee having been called, the Speaker resumed the Chair, and Mr. KELSEY reported that the Committee of the Whole House on the Private Calendar had, according to order, had the Private Calendar under consideration, and having found itself without a quorum, had caused the roll to be called, and directed him to report the names of the absentees to the House.

The following is a list of the names of the absentees:

Messrs. Arnold, Billinghurst, Blair, Bocoek, Bowie, Burnett, Caruthers, Chaffee, Chapman, Clemens, John Cochran, Cockerill, Crawford, Damrell, Dick, Dimmick, Elliott, English, Eustis, Faulkner, Goode, Groesbeck, Harris, Haskin, Hatch, Hawkins, Huyler, Jenkins, Keitt, Landy, Lawrence, Leidy, Letcher, McKibbin, Mason, Miles, Miller, Edward Joy Morris, Oliver A. Morse, Pendleton, Pettit, Ready, Reilly, Ritchie, Russell, Savage, Scott, Seating, Seward, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Samuel A. Smith, Stephens, James A. Stewart, Talbot, George Taylor, Thompson, Warren, Whiteley, Woodson, and Augustus R. Wright.

One hundred and sixty-eight members having answered to their names, the committee resumed its sitting, and the question was taken on the pending motion that the committee do rise.

The motion was not agreed to.

HENRY TAYLOR.

A bill (H. R. No. 228) for the relief of Henry Taylor.

The bill directs the Secretary of the Interior to place the name of Henry Taylor, of New York, on the list of invalid pensioners of the United States, at the rate of eight dollars per month, during his natural life, to commence on the 1st of January, 1856.

Mr. LETCHER. I move to amend that bill by striking out the words, "from the 1st of January, 1856," and insert in lieu thereof the words, "from and after the passage of this act."

The amendment was agreed to.

The report shows that Henry Taylor was a sergeant in a company of light-horse, commanded by Captain Herman Camp, of New York, and was in service in the war of 1812, and was present at the battle of Queenston, on the 13th of October, 1812; the battle took place on Queenston Heights, in Canada. As the light-horse had no way to cross the river, their services as light-horse were not needed. The petitioner, however, as a good soldier, volunteered to assist a squad of men to manage the firing of a heavy piece of artillery. Being near

the cannon, the often report of the same injured his ears, causing severe pain and deafness, from which he had never recovered or improved, as to deafness. The above facts are well established by the testimony of two surgeons, certified to be highly respectable in their profession. The deposition of his captain, Herman Camp, the depositions of several of his companions in arms, and who were present with him on the day of the battle, and heard him complain of pain and deafness on that day, and who had known him intimately since that day, and had at all times noticed the deafness complained of. The character of the petitioner for truth and veracity, as to his own statement of his own case, is supported by the depositions of two ex-members of Congress, one first judge of the county, one doctor of divinity, and six or eight highly respectable witnesses, all of whom had known him from thirty-five to fifty years, making sixteen witnesses or depositions in support of the truth of the allegations. It is further in proof that the petitioner's family, father, mother, brothers, or sisters, are not inclined to deafness.

Mr. SMITH, of Virginia. I object to this bill; and I would like to hear from its friends why it is brought here? We have a Pension Office, and a general law providing for this class of cases. The case made out by the report shows that the claim of the applicant would be entertained at the Pension Office for some degree of disability.

Mr. CASE. I will say to the gentleman that in all of these cases, where application is made to the Pension Office, some technical rule of the Department prevents their getting relief, and generally the decision of the pension bureau, showing why relief cannot be obtained, will be found with the papers submitted to the committee.

I wish to say, further, in regard to these reports, that every one of these cases reported from the Committee on Pensions has been submitted to the investigation of every member of that committee, and in every case they have satisfied themselves that it was a case where the applicant could not get relief at the Pension Office. In cases where the applicant could get relief at the Pension Office, the committee have sent them there. Hence, they rejected more applications pending before them than they have reported to the House.

Mr. SMITH, of Virginia. If I understand the law, all persons applying for invalid pensions can obtain the requisite pension, according to the degree of disability, upon application at the Pension Office, and making out their case by proper evidence.

Mr. FLORENCE. It is very hard to make out a case to their satisfaction.

Mr. SMITH, of Virginia. But that being the system, I ask the committee if they are prepared to depart from it in this case? I have rarely seen a case in which the proof is so unsatisfactory as it is in this case. It is not even alleged that there is any physical disability except in respect to the single matter of deafness. He may be in the full enjoyment of a profitable business for aught we know. This case is not brought within the general policy of the law, and certainly the report does not present a case in which this committee should interfere and grant relief.

Mr. UNDERWOOD. I would ask the gentleman from Virginia if he regards the deafness, the absolute deafness, stated in this case, as not amounting to physical disability?

Mr. SMITH, of Virginia. The gentleman well knows that, if a case of absolute deafness were made out, at the Pension Office, the applicant would be put upon the pension roll, at a rate of pay proportionate to the extent of the disability. But in this case we do not see that the physical power of the applicant is impaired at all. What do we see here?—This case is treated as one of full disability; and he is to be allowed all that could be allowed by law, in a case where total disability is proved.

Mr. MORGAN. Will the gentleman allow me to ask him a question?

Mr. SMITH, of Virginia. The gentleman can reply after I shall have finished my remarks. If I give way I shall have no opportunity to present the views that I desire. Let us stick to the general law. Let the Pension Office pass upon the cases, made out on their proper exhibition or showing, and allow pensions according to the degree of disability. But when cases are brought

before Congress, they ought to be clearly made out to be exceptional cases, outside of the general law. Why should we take up these cases that can be decided by the Department? Why should we encumber our calendar with them? It appears to me, that the duty of the House is to stick to the general law.

Mr. CASE. I presume that the investigation of the papers in this case will show that there has been an application to the Pension Office. I do not know that it is so; but I know that this is the fact in a great majority of the applications. And I will tell the gentleman what the Commissioner will decide on the statement of facts in this case. He will decide that it does not certainly appear that this deafness resulted from injury received in the service, and that it might possibly be attributed to some other cause. Let me say another thing to the committee. No person claiming an invalid pension will run the risk of coming to Congress for relief, if he can get it at the Pension Office. We have got applications before our committee that have been pending since the time when some of us were children, and the applicants have not got relief yet.

Mr. FLORENCE. Let me refer the gentleman from Virginia to the last paragraph of the report as to the testimony of disability.

Mr. SMITH, of Virginia. I ask the gentleman whether the application was ever referred to the Pension Office?

Mr. CASE. I do not know as to this particular case.

Mr. FLORENCE. I will tell the gentleman from Virginia that there are hundreds of cases in the Pension Office, which, though coming within the purview of the law, have never received consideration.

Mr. CURTIS. I rise to a point of order. I insist that debate is exhausted.

The CHAIRMAN. Debate is not exhausted. The gentleman from Indiana is entitled to the floor.

Mr. CASE. I am willing to answer any question that may be asked.

Mr. MORGAN. I can tell the gentleman from Virginia that Captain Camp, who certifies to the deafness of this man, and to the fact that he was in battle with him, was formerly a member of Congress from my district, and is a most conscientious man, who would not make any misrepresentation.

Mr. SMITH, of Virginia. I am not charging anybody with misrepresentation.

The CHAIRMAN. Debate on the bill is exhausted. The question is, "Shall the bill be laid aside, to be reported to the House with a recommendation that it do pass?"

Mr. SMITH, of Virginia. I move that it be laid aside, to be reported to the House with a recommendation that it do not pass.

Mr. GROW. These are independent motions; and the question must be first put on the motion to lay aside the bill, with a recommendation that it do pass.

The CHAIRMAN. That question will be first put.

Mr. SEWARD. I move that the committee take a recess until seven o'clock.

The CHAIRMAN. The motion is not in order.

Mr. JONES, of Tennessee, demanded tellers.

Tellers were ordered; and Messrs. FOLEY and BUFFINTON were appointed.

The committee divided; and the tellers reported—ayes 100, noes 19.

So the bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOHN HOPPER'S HEIRS.

A bill (H. R. No. 236) for the relief of the heirs of John Hopper.

The bill authorizes and directs the Secretary of the Treasury to pay to Charity Van Voorhees, granddaughter and heir of John Hopper, deceased, late of New Jersey, out of any money in the Treasury not otherwise appropriated, the sum of \$8,400, in full consideration for the destruction of the dwelling-house and mills of John Hopper by the British, during the revolutionary war, while the houses were in the actual military occupancy of the troops of the United States, under the command of Major Boyles, of the Continental army.

The report was read. It shows the following

state of facts: John Hopper, the ancestor of the petitioner, was a citizen of New Jersey, and resided at Paramus, in Bergen county; a man of standing and influence, and among the most ardent and devoted Whigs in the State. He resided in a neighborhood which the known history of the times informs us was, to say the least, a highly disaffected district. His social position and effective zeal rendered him especially obnoxious to the enemy. He was the father of eight sons, all of whom were in the army, and two sealed their devotion with their lives; they were killed in battle. From the commencement of hostilities in 1776 to the close of the war, the neighborhood of Paramus, and often the dwelling and farm of John Hopper, were the garrisons of large bodies of Continental troops. Previous to the 16th of April, 1780, the dwelling-house and flour mills of the said John Hopper had been taken possession of by a body of Continental troops, under the command of Major Boyles, and by his order, and were on this date occupied by them as a garrison, and in which were deposited a quantity of arms, ammunition, and stores for the use of the army, the main body of which were then in quarters at Morristown. On this day, the 18th of April, 1780, a detachment of British dragoons from New York, commanded by Colonel Stewart, before dawn, surprised the American troops garrisoned in these buildings, and, after a sharp conflict, they were driven from the buildings. Major Boyles, the American commander, with a son of John Hopper and others, were killed, and John Hopper himself wounded in twenty places. Finding the buildings occupied as a garrison, and depot for arms, ammunition, and supplies, the British commander ordered them to be fired, which was done, and they, together with his entire furniture and the Government arms and supplies, entirely consumed. A list was made out by John Hopper soon after the occurrence, and sworn to by him, and attested by witnesses. The high character of the said John Hopper, as testified by the then Governor of New Jersey, together with the array of evidence to support the loss, precludes any doubt of its entire truthfulness. To render this positively certain, there was found upon the files of the State Department a letter written by Governor Livingston, the then Executive of New Jersey, dated the 16th day of May, 1780, one month after the disaster, and addressed to Congress, calling their attention to the fact, and asking indemnity for the losses.

Mr. CLAY. I move that the committee now rise. I do not think that the committee is in a position to do business with justice to itself or to the country. I call for tellers.

Tellers were ordered; and Messrs. CLAY and PHILLIPS were appointed.

The committee divided; and the tellers reported—ayes twenty-nine, noes not counted.

So the committee refused to rise.

Mr. GIDDINGS. I would like to inquire of the gentleman who reported this bill, whether the case does not come within the class of claims which, after the Revolution, were referred to the several States for adjustment and payment?

Mr. CRAGIN. I cannot answer the gentleman precisely on that point. I do not think, however, that the case does come within the class of claims to which he refers. The claim has been before Congress for quite a number of years.

Mr. GIDDINGS. I desire to look into the circumstances. It strikes me that this is opening up a large class of claims. If not, I certainly do not want to oppose it.

Mr. CRAGIN. There have been several cases before the committee precisely like this. I am sure that the case did not come within the provisions to which the gentleman from Ohio has alluded. There was a case of this sort passed—the case of Wigg—at the last session. It involved a much larger amount than this; but the same principle was involved—compensation for property destroyed by the enemy, in consequence of its having been occupied by troops of the United States.

Mr. GIDDINGS. That was a case which never could have passed, except under the screw of the previous question. It was passed the last night of the session, without any chance of understanding its provisions. It strikes me that all destruction of property during the Revolution was referred to the several States for adjustment.

Mr. MILLSON. Some eight or ten years ago I served on the Committee on Revolutionary Claims, and had then the opportunity to ascertain that there has been no such resolution as the gentleman from Ohio supposes. These cases have never been referred to the States. As to the case of Wigg, I think I voted against it. If the facts are correctly stated, I think it presents a strong case for relief.

Mr. GIDDINGS. I do not say that any such resolution ever passed, but I do say that Congress, in 1794, refused to grant indemnities of this character; and under the direction of that Congress a commission was appointed in each State to ascertain the losses occasioned by destruction of property. Their reports were never acted on by Congress, but the expression of Congress was, that the claimants should be indemnified by the several States. The only instance in which Congress allowed indemnity was in the case of Valley Forge. The State of Connecticut was the only State, I believe, that ever paid a dollar for the destruction of property; and in that case, she paid in western lands for the destruction of property at New London, Norwich, and Danbury. If I am wrong in relation to the reference of these cases to the several States, I will certainly make no opposition to this bill; but I do say, that the case of Wigg should form no precedent to govern the House. I was present and prepared to oppose the case of Wigg. I did not believe that it had one iota of merit in it, and I do not now believe that it had. But it was the last night, or the last night but one, of the session, and there was no opportunity to debate it. It was gagged through the House without any one having an opportunity to examine it.

Mr. McQUEEN. By the permission of the gentleman, I will state that my recollection of the Wigg case is, that it turned upon this point: that while Colonel Wigg was a hostage in Charleston, the British sent round and took his property from his plantation; and I see no such point in this case. As to the Wigg bill being gagged through the House, I have this to say: that it was brought up under the rules of the House, without any other gag than such as is usually applied in such cases.

Mr. GIDDINGS. That is very true.

Mr. McQUEEN. The bill was passed by a majority of the House, and became the law of the land.

Mr. GIDDINGS. I wish to say that the very fact that claims have been resting here for seventy years without action being taken on them by Congress, is *prima facie* evidence that they are destitute of merit.

Mr. CRAGIN. I would say, Mr. Chairman, that, before reporting on this case, I examined the records, and found, I should think, as many as fifty cases, similar in principle, which have been reported and passed through Congress during the twenty years last past. I cannot refer to the cases.

Mr. GIDDINGS. Those cases were under the law of 1816; but before that, when the States were acting independently, when there was no Constitution, and when every State furnished its own troops, a different rule prevailed.

Mr. CLARK B. COCHRANE. If this claim has not been paid in fact, I would vote to pay it now; and I would do so after a lapse of a hundred years. I think, if it was the first case that ever came before this body, as a matter of justice it ought to be paid, and all others like it.

Mr. CRAGIN. I will read the resolution that was passed by the Continental Congress. In May, 1780, Governor Livingston, of New Jersey, wrote to Congress; and, in the following April, Congress passed this resolution:

"Resolved, That his Excellency Governor Livingston be informed, in answer to his letter of May 16th, that sundry applications have heretofore been made to Congress for relief in cases that are not distinguishable from the case of J. Hopper, mentioned in his letter aforesaid; and many cases exist, to which the principles advanced by his Excellency will apply; but Congress, though deeply affected by their calamities, have not yet found it expedient to enter into a consideration of measures for the particular relief of such sufferers, nor is it probable that the inevitable exigencies of the war will permit Congress to enter into such consideration until peace shall be restored to the United States."

Governor Livingston, in his letter, says:

"That if such losses are not to be made good by the public it cannot be expected that any man should hereafter admit any troops under his roof; and all laws to compel such admission would be highly unjust, by exposing individuals to

particular damage for the public service, over and above their proportionable contribution to the national expense, and whether the most exalted idea of patriotism requires them to consent to the destruction of their property for accommodating the troops without indemnification."

There never has been any money paid in this case; and, as it presents itself before the committee, in my judgment, it is one of the strongest cases ever brought before Congress. This man, John Hopper, was wounded on the occasion of the destruction of this property, in twenty different places; the commanding officer was killed, and after the Americans had been driven from the houses of Hopper and his son, the British troops set fire to those buildings and destroyed them, together with all the property therein. This bill simply provides for paying for the property destroyed under these circumstances.

Mr. GIDDINGS. I would inquire of the gentleman if it is the intention of his committee to pay all the revolutionary claims of this character?

Mr. CRAGIN. The committee find numerous precedents for paying for property destroyed under such circumstances as these; and so far as I am concerned, while I am a member of that committee, whenever such a case is brought before it requiring my action, I shall vote to pay for the property destroyed.

Mr. WORTENDYKE. I would simply say, that, so far as my investigations are concerned—

Mr. HOWARD. I rise to a question of order. The debate on this bill is exhausted.

Mr. WORTENDYKE. The time is not out, and I can occupy the floor by the permission of the gentleman from New Hampshire.

Mr. EDIE. Is not the debate exhausted?

The CHAIRMAN. It is.

Mr. BARR. I hope the gentleman will have leave to go on. The case is from his neighborhood.

Several Members objected.

The question now being upon laying the bill aside, to be reported to the House with a recommendation that it do pass,

Mr. JONES, of Tennessee, demanded tellers.

Tellers were ordered; and Messrs. GREENWOOD, and JONES of Tennessee, were appointed.

The committee divided; and the tellers reported—ayes 70, noes 6F.

So the bill was laid aside.

HEIRS OF JOHN A. HOPPER.

A bill (H. R. No. 237) for the relief of the heirs of Captain John A. Hopper.

The bill directs the Secretary of the Treasury to pay to Rachel Yelverton, Catherine Elting, Maria Zabriskie, and Sally Burhans, children of Captain John A. Hopper, deceased, late of New Jersey, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000, in full consideration for the destruction of the dwelling-house and other property of John A. Hopper, by the British, while the houses were in the actual military occupancy of the troops of the United States, under the command of Major Boyles, in the revolutionary war.

From the report, which was read, it appears that the evidence in this case proves that while the main body of the American army, under the command of General Washington, were in winter quarters at Morristown, New Jersey, in the winter of 1779-80, a large detachment of the Continental troops, under the command of Major Boyles, were quartered at Hoppertown, and occupied the dwelling-house and storehouse of Captain John A. Hopper, and of his father John Hopper. It appears, also, that the arms, ammunition, and provisions, for the army, were stored therein; they having taken possession of his dwelling and farm, which they used as a garrison. It is a matter of history, that on the 16th of April, 1780, at the dawn of day, a detachment of British light horse, from Staten Island, surprised the American troops in garrison at Hoppertown, and killed the American commander and a brother of Captain Hopper, with others, and captured a part of the garrison. Finding the buildings of Captain Hopper in the occupation of the American troops, and used as a depot, the commanding officer of the enemy, Colonel Stewart, burnt the houses, together with the ammunition and stores of the garrison. All the personal property of Captain Hopper was consumed in the flames, leaving himself and family without even their wearing apparel.

Mr. STANTON. Mr. Chairman, in my judgment there ought to be very great care taken in passing cases of this description. The committee will remember that, but a very few years ago, we passed a bill upon such clear and satisfactory proofs that no one could controvert it; and when it went to the accounting officers of the Treasury, before the money was paid, a receipt for the payment in full was discovered; and at the next session we repealed the law. The money was saved by an accident.

Now, sir, the very fact that this claim comes here presenting a case about which there could be no controversy, if the principle was recognized in the early history of the Government, is a circumstance which creates suspicion. In my mind, it establishes one of two propositions: either this case does not come within any principle under which the Government has recognized its liability for losses in the revolutionary war, or the claim must have been paid.

Now, if I understand the principle upon which claims for the destruction of property in the war of the Revolution are rejected, it is that, inasmuch as that war was carried on by separate and independent States, when there was no Federal Treasury, individuals must look to the State governments for compensation for losses of individual property. Hence this Government, since the adoption of the Constitution, has never recognized its liability to pay for property destroyed in the war of the Revolution. Perhaps that may furnish a reason why claims, as clear as this appears to be, have not been paid earlier in the history of the Government. And if that be so, it ought not to be paid now, because equality is justice all the time; and if this bill passes you ought to pay for all property destroyed during the war of the Revolution, although nearly a century has elapsed since it was destroyed. On the other hand, if this claim comes within the principles recognized by the Government, it is passing strange that seventy years should have elapsed, with such proof as this, and yet the claim should never have been recognized by act of Congress. I confess there is something about it which does not commend it to my favorable consideration at all. The case is too well made out.

Mr. WORTENDYKE. I will simply say, in reply to the gentleman from Ohio, that, so far from its being the fact that this case has not been presented here before, it has been here at intervals ever since the year 1826; and has not only been here, but has several times been passed by one or the other branch of Congress, but has failed to pass both branches because of the difficulties that surround the passage of all private claims here.

Mr. STANTON. Will the gentleman state why it was not presented earlier than 1826—thirty years after the occurrences took place?

Mr. WORTENDYKE. I do not know. I am not able to say. But I know that this case, and the one upon which the committee has already passed, relating to the adjoining property of John Hopper, have been here at intervals from 1826 to this time.

The bill has been reported, and has been passed by one House or the other, and has failed in the coordinate branch, either for want of time or by some of those difficulties with which every gentleman is aware all private bills are surrounded.

Now, sir, there can be no question whatever that this claim has never been settled in any way whatever, either by the State of New Jersey, or by the Congress of the United States. I believe that if such had been the fact, I should have known it personally. So far as my knowledge goes, I have never known, in my life, any case made out more strongly.

Mr. LETCHER. I find that this case, which has been before the House so long, has been reported on adversely in every case, every instance, except one.

Mr. WORTENDYKE. I think the gentleman is mistaken.

Mr. LETCHER. No, sir; I have the record before me, and it has never been reported on favorably before but once.

Mr. WORTENDYKE. My information certainly was that it had been acted favorably on more than once, by one House or the other.

Mr. LETCHER. I find, that on the 17th day of May, 1826, this bill was reported on adversely. I find that in another case it was reported, and

referred to the Committee of the Whole House on the Private Calendar, and there remained. And I find that it was again reported on adversely, and that is the last I find in reference to it until now, some eight Congresses afterwards.

Mr. WORTENDYKE. If the gentleman states the case correctly then I have been misinformed. The gentleman who reported the bill can, perhaps, enlighten the House in relation to it. But so far as the merits of the case are concerned, I have never known a stronger case in my life. There have been at least a thousand cases upon exactly the same principle, reported and passed. The case is precisely the same as that which the committee have just decided in favor of by a large majority. The only difference is, that in one case the property belonged to the father, and in the other to the son; the properties lying alongside of each other.

Mr. CRAGIN. If the gentleman from New Jersey will allow me, I will say, that when the adverse reports to which the gentleman from Virginia has referred to were made, the committee had not before them the letter of Governor Livingston, calling the attention of Congress to these cases, a copy of which is before the committee, obtained from the Secretary of State. The committee have also other testimony, stronger in many respects than that which was before the House at the time the gentleman from Virginia refers to.

Mr. LETCHER. Will the gentleman allow me to call his attention to the fact, that this case was first presented in the Nineteenth Congress; that it lay quietly after that until the Twenty-Fifth Congress; that it was again before the Twenty-Sixth and Twenty-Seventh Congress; and has not been heard of again until now.

Mr. CRAGIN. Well, sir, the files of the House are filled with applications for relief by Congress, which have been refused, when the applicants have become discouraged and have given it up—

[Here the hammer fell.]

Mr. DAVIS, of Mississippi. I move that the committee rise.

Mr. JACKSON demanded tellers upon the motion.

Tellers were ordered; and Messrs. DAVIS, of Mississippi, and BURFINGTON were appointed. The committee divided; and the tellers reported—ayes 49, noes 84.

So the committee refused to rise.

The question recurred on laying aside the bill, to be reported to the House with the recommendation that it do pass.

Mr. JONES, of Tennessee, demanded tellers. Tellers were ordered; and Messrs. WASHBURN, of Illinois, and FLORENCE were appointed.

The committee divided; and the tellers reported—ayes thirty; a further count not being demanded.

So the motion was disagreed to.

Mr. DEAN moved to lay aside the bill, to be reported to the House with the recommendation that it do not pass.

The motion was agreed to.

Mr. WINSLOW moved that the committee rise.

Mr. GREENWOOD. I would suggest to the friends of the bills which have been laid aside, that, if they intend to dispose of those bills in the House, they had better rise.

The motion was agreed to.

So the committee rose; and, the Speaker having resumed the chair, Mr. KELSEY reported that the Committee of the Whole House had, according to order, had the Private Calendar generally under consideration, and had instructed him to report sundry bills to the House, some with and some without amendment, with the recommendation that they do pass; also, sundry bills to the House, with the recommendation that they do not pass.

Mr. LETCHER. Among the bills reported from the Committee of the Whole House there is one for the relief of the widow of Captain Butler. Now, sir, I imagine if the House will hear read the memorial, which is the only and the solitary paper upon which that case is founded, pretending to be any sort of proof whatever, there will be no division of opinion about the propriety of rejecting that bill. Before, therefore, the previous question is called upon any of these propositions, I desire to have the memorial read, that the House may know the fact that the case comes here unsustained by any particle of evidence.

The SPEAKER. The bill to which the gentleman takes exception will be laid aside.

Mr. JONES, of Tennessee. I ask that the bills reported from the Committee of the Whole House be taken up one at a time, and disposed of in the order in which they were passed. There are none of them here without objection, and I cannot consent to putting them upon their passage in the way in which bills are sometimes disposed of.

The SPEAKER. The gentleman will be entitled to a separate vote upon each one.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn.

Mr. STANTON. If that motion is agreed to, in what condition will these bills be?

Mr. WASHBURN, of Maine. Will they not be the first business in order next Friday?

The SPEAKER. They will come up when the House proceeds to the consideration of business upon the Speaker's table, upon private bill day.

Mr. DAVIS, of Mississippi. I call for the yeas and nays upon my motion to adjourn.

The yeas and nays were not ordered.

Mr. CLAY. I demand tellers upon the motion to adjourn.

Tellers were not ordered.

The House refused to adjourn.

THOMAS L. HARRIS.

Mr. MORRIS, of Illinois, by unanimous consent, introduced a bill to grant a pension to Mary J. Harris, widow of Thomas L. Harris, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. KELSEY. I move the previous question upon the bills which have been reported from the Committee of the Whole House.

The SPEAKER. The previous question must be called upon each bill separately.

WILLIAM HAZZARD WIGG.

The joint resolution (S. No. 52) for the relief of William Hazzard Wigg, reported from the Committee of the Whole House with a recommendation that it do pass, was first reported to the House.

Mr. KELSEY. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JONES, of Tennessee. I demand the yeas and nays upon the passage of the resolution.

The yeas and nays were ordered.

Mr. SMITH, of Virginia. I move that the House do now adjourn.

Mr. KELSEY. Will the gentleman allow me first to move to recommit the bills which have been reported from the Committee of the Whole House?

Mr. HOUSTON. You cannot do that until they are reached.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States, transmitting a report from the Secretary of War, with the accompanying documents, recommending the repayment to Governor Douglass, of Vancouver's Island, of the sum of \$7,000 advanced by him to Governor Stevens, of Washington Territory, which was applied to the purchase of ammunition and subsistence stores for the forces of the United States in a time of need, and at a critical period of the late war in that Territory. The President recommends that, as this advance was made by Governor Douglass out of his own private means, and from friendly motives towards the United States, an appropriation should be made for the payment of the same, with interest.

The communication was referred to the Committee on Military Affairs, and, with the accompanying papers, ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the names of the clerks and other persons employed in his Department during the year ending 31st of December, 1858, the time each was employed, and the amount paid to each of them respectively; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of State, in answer to a resolution of the House, asking information as to the number of commercial agents appointed by the consul general to Canada, the amount of fees received, &c.; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of State, inclosing a communication addressed to the Committee on Foreign Affairs, relative to the claim of James Keenan, United States consul at Hong Kong; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

PUBLIC PROPERTY AT HARRODSBURG.

Mr. JEWETT, by unanimous consent, introduced a bill to repeal the law authorizing the sale of Government property at Harrodsburg, Kentucky, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

LOAN BILL.

Mr. HOUSTON. I ask permission of the House to introduce a bill for reference merely.

The bill was reported, as follows:

A bill to authorize a loan not exceeding the sum of \$20,000,000.

Mr. KILGORE objected.

CAPTAIN T. J. CRAM.

Mr. FAULKNER. I ask the unanimous consent of the House to introduce a resolution calling for some information which the Committee on Military Affairs deem necessary.

The resolution was read for information, as follows:

Resolved, That the Secretary of War be requested to transmit to this House a copy of the memoir of Captain A. A. Humphreys, together with any other papers in his Department, connected with the topographical memoir of Captain T. J. Cram, of the United States Army, a document which has been called for by a former resolution of this House.

Objection was made.

RICHARD CHANEY.

Mr. CURTIS asked and obtained leave to have the papers in the case of Richard Chaney withdrawn from the files of the House, and referred to the Committee of Claims.

THOMAS WALTON AND OTHERS.

Mr. EDMUNDSON asked and obtained leave to have the papers in the case of Thomas Walton and others withdrawn from the Committee on Pensions and referred to the Committee on Revolutionary Claims.

REVISION OF THE TARIFF.

Mr. PALMER. I ask leave to offer the following resolution:

Whereas the revenues of the Government are insufficient to meet its expenditures, and a national debt ought not to be created in time of peace; and whereas the manufacturing and producing interests of the country which come in competition with imports are greatly depressed under the operation of the present tariff: Therefore,

Resolved, That the Committee of Ways and Means be instructed to report a bill so revising the tariff as to make the revenues of the Government adequate to its expenses, economically administered; and, at the same time, by discriminating in favor of American products and manufactures, and substituting, where practicable, specific for ad valorem duties, afford increased protection to the industry of the country.

Several MEMBERS (on the Democratic side of the House) objected.

Mr. SMITH, of Virginia. I insist on my motion to adjourn.

The motion was agreed to; and thereupon (at three o'clock and twenty-seven minutes, p. m.) the House adjourned to Monday.

IN SENATE.

MONDAY, January 31, 1859.

Prayer by Rev. WILLIAM PINCKNEY, D. D.

The Journal of Saturday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, transmitting, in compliance with a resolution of the Senate of the 25th instant, a copy of the report of the special agent of the United States, recently sent to Vancouver's Island and British Columbia.

Mr. MASON. At the suggestion of the Sena-

tor who called for that information, I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, transmitting a report of the Secretary of State, in answer to a resolution of the Senate of the 14th June last, requesting information on the subject of claims of citizens of the United States against foreign Governments.

Mr. BENJAMIN. I think that is the remainder of the report, of which the greater portion was sent us the other day, and which the Senate ordered to be printed. I move that this additional report be also printed.

The PRESIDENT *pro tempore*. The motion to print will go to the Committee on Printing.

Mr. BENJAMIN. I presume that will scarcely be necessary. The Committee on Printing has already advised the printing of the report; and in the report already made, it was stated that there would be a small supplement. I ask only for the printing of the usual number.

The PRESIDENT *pro tempore*. It requires unanimous consent to order the printing without reference to the Committee on Printing.

The motion was agreed to.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, transmitting a report of the Secretary of War, recommending the repayment to Governor Douglass, of Vancouver's Island, of the sum of \$7,000, advanced by him to Governor Stevens, of Washington Territory, which was applied to the purchase of ammunition and subsistence stores for the forces of the United States, in time of need, and at a critical period of the late Indian war in that Territory. As this advance was made by Governor Douglass, out of his own private means, and from friendly motives towards the United States, the President recommends that an appropriation be made for its immediate payment, with interest.

Mr. MASON. I examined that document, and it seems to me it should go to the Committee on Territories.

Mr. GREEN. The Committee on Territories have no objection to taking charge of the subject, but it seems more appropriate to the Committee on Military Affairs.

Mr. MASON. It is not important. I talked with the chairman of the Committee on Military Affairs, and it was his impression, and mine, that it properly belonged to the Committee on Territories.

Mr. GREEN. I have no objection to that reference.

It was so referred.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate calling for information in regard to the number of American vessels which are engaged directly in the palm oil trade on the coast of Africa, the average number of their voyages annually, their tonnage, the nature and values of their exports and imports, and the amount of duties derived from them by the Treasury of the United States; which, on motion of Mr. SEWARD, was referred to the Committee on Foreign Relations; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, copies of the correspondence and other papers relating to the naval depot at Blythe Island, Georgia; which, on motion of Mr. MALLORY, was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate of the 29th instant, calling for copies of all bids for furnishing granite for the extension of the Treasury building, made in 1855; which, on motion of Mr. HENRY, was ordered to lie on the table.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives on Saturday last, were severally read twice by their titles, and referred as indicated below:

A bill (No. 450) for the relief of the heirs or

legal representatives of Francis Guillory—to the Committee on Public Lands.

A bill (No. 838) for the relief of Daniel Cole—to the Committee on Pensions.

A bill (No. 847) for the relief of Angelina C. Bowman, widow of Francis L. Bowman, late captain United States Army—to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the joint resolution of the Senate (No. 52) for the relief of William Hazzard Wigg.

Also, that the House had passed the bill of the Senate (No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed an enrolled joint resolution (S. No. 52) for the relief of William Hazzard Wigg; and an enrolled bill (H. R. No. 549) to provide for the lighting with gas certain streets across the mall; which thereupon received the signature of the President *pro tempore*.

PETITIONS AND MEMORIALS.

Mr. BRODERICK. I am requested to present the petition of John H. Bradley and others, of Jackson, and its vicinity, in the State of California, praying the establishment of a tri-weekly mail between St. Joseph, Missouri, and Placerville, California. It is a short petition, and I ask that it be read.

The Secretary read it, as follows:

To the honorable the Senate and House of Representatives of the United States of America:

The undersigned, citizens of Jackson and vicinity, in the State of California, deeply impressed with the imperative necessity of an intimate and speedy mail connection with our friends in the Atlantic States; and believing, as we do, that if your honorable bodies will increase the mail service between St. Joseph, in the State of Missouri, and the city of Placerville, in this State, so as to give a tri-weekly mail between those places, this laudable end can be accomplished; therefore respectfully and earnestly petition your honorable bodies to take such action in the matter as the exigencies of the case may demand.

It is a well known fact, that for the last nine years the central route to the Pacific, via Salt Lake City, has been, and still is, the general thoroughfare of emigration to California. That, in addition to being the best natural road, for the same distance, on the globe, it is also supplied with a continuous meadow of nutritious grasses, upon which countless thousands of animals subsist during the annual season.

Moreover, the counties of El Dorado and Sacramento have appropriated and spent \$50,000 in the construction of a good wagon road over the Sierra Nevada, from Placerville to Carson valley. That work is now completed, and is probably one of the best mountain roads on the continent. Already a magnetic telegraph line is being rapidly constructed along the route to Salt Lake City; comfortable stations and resting-places are being established at proper intervals on the road; and although the present mail contractors have had an extremely limited period in which to prepare for the service, the weekly mails now reach California with surprising regularity.

For the above reasons, and from a knowledge of what has already been accomplished, we are convinced that in less than two years from the present date the mails can be carried over this route in less than fifteen days' traveling time. We therefore earnestly solicit that you may increase the speed so as to run through in twenty or twenty-five days, and thereby assist in preparing the way for a more expeditious transit at an early day.

Believing that your honorable bodies will perceive and appreciate the great national importance of a more speedy and frequent communication between our widely separated possessions, we respectfully urge the foregoing upon your early and favorable consideration; and your petitioners will ever pray, &c.

Mr. BRODERICK. I move its reference to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. JOHNSON, of Tennessee, presented the memorial of the National Land Reform Association, New York, for a change in the present system of disposing of the public lands; which was ordered to lie on the table.

He also presented a memorial of citizens of Tennessee, residing in and near Jonesboro, praying that the bill granting pensions to the soldiers of the war of 1812, now before Congress, may become a law; which was referred to the Committee on Pensions.

Mr. MALLORY presented a communication from residents of Key West, Florida, against the discontinuance of the mail service between Charleston and Havana, via Key West; which

was referred to the Committee on the Post Office and Post Roads.

Mr. MASON presented the memorial of Noah Fairbank, praying that sea-going sail vessels of a certain tonnage may be required to take with them on every voyage a copy of the directions for making fresh water from sea water; which was referred to the Committee on Commerce.

Mr. YULEE presented the petition of Mrs. Ann W. Angus, widow of the late Captain Samuel Angus, United States Navy, asking a certain allowance; which was referred to the Committee on Pensions.

Mr. GREEN presented the memorial of the Legislature of the Territory of New Mexico, asking appropriations for the completion of the capitol and penitentiary buildings in said Territory; which was referred to the Committee on Territories.

REJECTED PATENTS.

Mr. SEWARD submitted the following resolution; which was referred to the Committee on Patents and the Patent Office:

Resolved, That the Secretary of the Interior be instructed to cause to be prepared, during the recess of Congress, a list of all rejected and suspended applications for patents for inventions, from 1849 to the 1st of December, 1859, naming the cause of rejection and suspension, with the name of the inventor and date of his application, and report the same to the Senate, on the convening of the next Congress, for the confirmation and consideration of the Senate.

DICTIONARY OF CONGRESS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be directed to inquire into the expediency of purchasing, for the use of the Senate, an edition of Lanman's Dictionary of Congress, a copy of which is herewith submitted.

REVISION OF THE TARIFF.

Mr. BIGLER. I submit the following resolution:

Resolved, As the opinion of the Senate, that the creation of a large public debt in time of peace is inconsistent with the true policy of the United States; and as the present revenues are insufficient to meet the unavoidable expenses of the Government, Congress should proceed, without delay, to so readjust the revenue laws as not only to meet the deficit in the current expenses, but to pay off the present debt so far as it may be liable to immediate cancellation.

It is not my intention to ask for the consideration of the resolution to-day; but I should be glad to have it made the order of the day for Thursday next, at one o'clock. I make that motion.

Mr. BENJAMIN. I object to that.

Mr. TOOMBS. I think it is a very important resolution, and it should be discussed; and it had better come in that form than any other. I hope my friend from Louisiana will withdraw his objection. Let the issue come at once. I am ready to meet it.

Mr. BENJAMIN. I withdraw the objection, in deference to my friend from Georgia.

Mr. HALE. I should like to know if leave has been given to withdraw the papers from the Democratic caucus. [Laughter.] It has been there once.

The motion of Mr. BIGLER was agreed to.

ALLEGATIONS OF FRAUD.

Mr. GWIN. I offered a resolution the other day, to which the Senator from Michigan [Mr. STUART] objected. I wish to move that it be taken up now, and acted upon. It is a mere resolution of inquiry. I hope it will be taken up and modified.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the allegations of fraud in the proposed purchase of a site for fortifications upon the north side of the bay of San Francisco; and that said committee be authorized to send for persons and papers.

Mr. STUART. I objected to that resolution when it was presented the other day, but I understand the Senator is willing to modify it. I move to strike out that part of it which authorizes the committee to send for persons and papers, and to instruct them to report at the present session.

Mr. GWIN. I do not object to that. I accept the amendment.

The resolution, as modified, was agreed to, as follows:

Resolved, That the Committee on Military Affairs be instructed to inquire into the allegations of fraud in the pro-

posed purchase of a site for fortifications upon the north side of the bay of San Francisco; and that said committee be instructed to report at the present session.

REPORTS OF COMMITTEES.

Mr. MALLORY. The Committee on Naval Affairs, to whom was referred the petition of Stephen Shinn, for payment for material furnished and money advanced to Samuel Colt for his experiments with the submarine battery, have instructed me to ask to be discharged from its further consideration. The committee are satisfied that the claim is against a private individual, and not a proper subject for Congress.

The committee was discharged.

Mr. MASON. I move to withdraw the papers of Stephen Shinn, just laid before the Senate by the Senator from Florida. The purpose is to enable him to prosecute the claim against the individual who is presumed to be liable.

The motion was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred so much of the annual message of the President as relates to the construction of naval vessels, submitted a report; which was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of F. W. Lander, praying compensation for the reconnoissance of a railroad route from Puget Sound, via the South Pass, to the Mississippi river, submitted a report, accompanied by a bill (S. No. 545) for the relief of F. W. Lander. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. REID, from the Committee on Patents and the Patent Office, to whom was referred the memorial of Oscar J. E. Stuart, praying that the patent laws be so amended that a patent may issue to the master for a useful invention of his slave, reported a bill (S. No. 548) to authorize the issue of patents in certain cases, to negro slaves, for the use of their owners; which was read, and passed to a second reading.

BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 546) to regulate the practice of law in the United States courts; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 547) to authorize the courts of the United States to issue writs of mandamus; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 549) for the relief of James P. Cook; which was read twice by its title, and referred to the Committee on Foreign Relations.

PAY OF THE NAVY.

Mr. MALLORY. I desire to give notice that, on Wednesday morning, I shall endeavor to bring up for consideration the bill increasing the pay of the Navy. I do not desire to assign a particular day for it, believing that the bill will have a better chance by taking it up in the morning hour. If the friends of the bill are sufficient in number, we can probably dispose of it in that morning.

LANDS IN MINNESOTA.

Mr. SHIELDS. I ask leave to call up the bill S. No. 432. It relates to matters in Minnesota of a local character, and will cause no discussion. It has the approval of the Committee on Public Lands, and the Department; and if it does not pass this session, it will do great injury to some of our citizens.

The motion was agreed to, and the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 432) to amend an act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856."

It is proposed by this bill to provide that that portion of the third proviso to the first section of the act referred to in the following words, "that each contractor engaged, or to be engaged, in carrying mails through any of the Territories west of the Mississippi, shall have the privilege of occupying stations, at the rate of not more than one for every twenty miles of the route on which he carries a mail, and shall have a preemptive right

therein, when the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguously, and to include his improvements," shall be construed to apply to any and all mail routes extending through any portion of the Territories of the United States west of the Mississippi river, no matter in what direction the route or routes may extend; and this act is declared to apply to all claims or selections heretofore made under the act of the 3d of March, aforesaid, and the entries and locations heretofore made under that act, are to be confirmed, subject to any *bona fide* claim, under any law of the United States, to the whole, or any portion, of the lands embraced in the entries or locations, made prior to the date of the selection thereof, under the act of the 3d of March aforesaid.

The Committee on Public Lands reported in favor of striking out the second section; which is in these words:

"SEC. 2. And be it further enacted, That from and after the passage of this act, a contractor, on a contract made after the passage thereof, for a period less than two years, shall not be entitled to the right of preemption, and that the quantity of land to be hereafter occupied for a station shall be limited to one hundred and sixty acres, or a quarter section."

And to insert the following:

"That all that part of the third proviso of the first section of said act which is described in the first section of this act, be, and the same is hereby, repealed."

Mr. SHIELDS. I hold in my hand a bill, prepared by the Department, which I offer as a substitute for the bill introduced by the Senator from Michigan, [Mr. STUART,] and reported, with an amendment, from the Committee on Public Lands:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all entries which have heretofore been allowed by registers and receivers, under that portion of the third proviso to the first section of said act, in the following words, "That each contractor engaged, or to be engaged, in carrying mails through any of the Territories west of the Mississippi, shall have the privilege of occupying stations at the rate of not more than one for every twenty miles of the route on which he carries a mail, and shall have a preemption right therein when the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguously, and to include his improvements; but no such preemption right shall extend to any pass, or a mountain, or other defile," be, and the same are hereby, confirmed, subject to any *bona fide* claim, under any law of the United States, to the whole or any portion of the lands embraced in said entries or locations made prior to the date of the selection thereof by the persons aforesaid; and the Commissioner of the General Land Office is hereby directed to issue patents for the land embraced in said entries.

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in.

Mr. HUNTER. I was out when this bill was read. I should like to hear it.

Mr. SHIELDS. It is prepared by the Department, to confirm some preemptions in Minnesota.

Mr. HUNTER. The Post Office Department?

Mr. SHIELDS. No; the Interior Department. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SHIELDS. I move to amend the title of the bill, so that it shall read: "A bill (S. No. 432) to confirm certain entries heretofore allowed under the act entitled 'An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856.'"

ARREST OF WILLIAM WALKER.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the Indian appropriation bill. It was reported more than a week ago, and I think it is time we were acting upon it.

Mr. SLIDELL. I hope the motion of the Senator from Virginia will not prevail. There is a very general understanding that a question which is certainly agitating the public mind very largely at the present moment, is to be taken up and considered to-day. If the Indian appropriation bill were to pass as a matter of course without any debate, I should be disposed to allow it to be taken up; but I understand numerous amendments are to be offered to it, and the probability is that we shall have a protracted discussion on the principle of the bill. I should like to be informed on that subject. I understand that it is a bill which will lead to debate.

Mr. HUNTER. I cannot say; I do not know. The committee propose some change in the In-

dian intercourse law. That is the only thing that I know of that will lead to debate; but it is a very important matter, and we ought to act on it.

Mr. SLIDELL. I certainly have no disposition at all to retard the progress of the appropriation bills; but I have seen enough of the evil of this mode of proceeding; the danger of a great measure being swamped by delay.

I will take this occasion to say a few words in reference to what fell from the Senator from New York [Mr. SEWARD] the other day. I cannot quote exactly his words; I have not the paper before me; but it was to the effect that it was not the intention or the expectation of the friends of this bill that it should lead to any practical results. I, of course, cannot know on what ground the Senator from New York has offered so unqualified an assertion. So far as concerns myself, I think I can say, with entire candor and frankness, that it is the purpose of the friends of this bill to push it to some practical result; it is their hope that the result of the action of Congress will be in accordance with the recommendation of the Executive; and that success will be the result.

It has been said by the Senator from New York also, that perhaps it was intended to promote the personal views or the personal interests of the Chief Magistrate of the Union. Now, I would simply say that, so far as I am concerned, I have had no conferences with the President on the subject of the introduction of this bill, or any action that has been taken in relation to it since. I cannot imagine how the personal interests of the President are to be promoted by the adoption of this bill. I presume the Senator from New York meant to say that the political interests of the President, or of his party, would be promoted by it. I believe they will; and that, I think, is one of the best effects that will flow from the discussion of this subject. But the Senator from New York also said, that he supposes this benefit is to be derived from the provocation of a debate. To that I can only say, that I think it very likely that most beneficial political results will follow from that debate; but, if the Senator, and his friends on the other side of the Chamber, desire to avoid the discussion of the matter, and fear that the debate will be injurious to their party interests, I can only say that the friends of the bill are prepared to vote to-day.

I cannot consent, unless I have some assurance from the Senator from Virginia and the chairman of the Committee on Indian Affairs that the Indian appropriation bill is not to lead to any discussion or debate, to the postponement of the bill in relation to the acquisition of Cuba.

Mr. HUNTER. I can give no assurance, but I hope very much to get through with the bill to-day, if the Senate will allow me to take it up. I can only say to the Senator from Louisiana, that when the appropriation bills are not up, I shall vote with him to take up his bill in regard to Cuba; but it seems to me, with the few days that now remain of the session; it is our duty to give precedence to the appropriation bills.

Mr. GWIN. I beg to suggest to the Senator from Louisiana that I am entirely in favor of his proposition, and shall vote for bringing it up; but I have had a great deal of experience in contending against the chairman of the Committee on Finance; and I have found that he generally succeeds in his motions to take up the appropriation bills. The better plan is to take up the Indian appropriation bill, and pass it right off, and take up the bill of the Senator from Louisiana afterwards. I believe this day, and to-morrow, and the day after that, will be consumed before the Senator from Virginia will ever stop. Until he gets his appropriation bill passed, he will make his motion every day, and I think there will be more time consumed in debating the motion than it would take to pass the Indian appropriation bill.

Mr. SEWARD. I believe, sir, I am the most unfortunate man who ever had a place in this House, or anywhere else. There is no controversy, or dispute, or difference, that can be gotten up between any two members of the Senate, but the burden of responsibility or blame of both parties falls on my shoulders. Here is a controversy in the Democratic party, on the other side of the House. The Senator from Louisiana wants to take up the Cuba bill; the Senator from Virginia, the chairman of the Committee on Finance, (a friend, I suppose, of the Cuba bill,) objects, and

thereupon the Senator from Louisiana rises while I am sitting entirely quiet waiting to take up either, ready to meet the gentlemen on either bill, indifferent about the question, and I am forthwith arraigned because the honorable Senator from Virginia will not give up the floor and his Indian bill to the Senator from Louisiana for his thirty million bill.

Now, Mr. President, I will state what is necessary to relieve the mind of my honorable friend from Louisiana of all the difficulties that he has raised thus far in regard to this question this morning. I did say, in the remarks which I made the other day in regard to this subject, that I was satisfied the President of the United States had no expectation of securing the favorable action of Congress upon that bill. If I recollect what I said, I did not say, though I may have been understood to say, that the honorable Senator had not, or that the Committee on Foreign Affairs had not, such an expectation. I said that the President of the United States, in my judgment, had no such expectation. The reason why I referred to the President was, that in those remarks I said this was an Executive measure, a presidential measure, and I held the President responsible for it. The ground upon which I argued that the President did not, and could not, expect that the measure would obtain the favorable action of Congress, was its absurdity; which I demonstrated, or attempted to demonstrate, on that occasion.

I will not dispute with the honorable Senator about the second proposition upon which he comments. I did say that I supposed there was some personal object of the President to be accomplished—expected to be attained by provoking a debate on this measure. The honorable Senator dissents from the idea that the President should have any personal object, but admits that the President may have probably a political object.

Mr. SLIDELL. Will the Senator excuse me? I made no such admission.

Mr. SEWARD. I so understood the Senator.

Mr. SLIDELL. I said certain beneficial political results might flow to the party from the discussion of this measure; and consequently in that light would inure to the benefit, if he chooses so to consider it, of the President of the United States, the chief of the party.

Mr. SEWARD. I accept the Senator's explanation.

Mr. SLIDELL. Will the Senator excuse me one single instant in order that we may know exactly what we are discussing here? I will read to him from the record what he did say. That will simplify it very much. It is necessary to read a few words in advance, that the context may appear:

"Are we to understand him, and a majority of the committee here, that they ask us to bring Spain indirectly into a war in order that we may conquer Cuba? That would be to impute to the President and to the committee bad faith, which I must utterly disclaim.

"These considerations satisfy my mind that it is not expected, that it is not intended."

That is broad, general, and sweeping, and includes every man on this side of the Chamber, as well as the President—

"that Cuba shall be acquired in consequence of this proceeding; but that it is supposed that some other advantage, some domestic and local benefit, will be secured to the President of the United States by provoking a debate on this subject in Congress."

Those are the words that the Senator used.

Mr. HUNTER. Senators will allow me to suggest that this debate would be proper if we take up the bill; but until we take it up it is out of order. They have it up virtually, for they are debating it.

Mr. SEWARD. If the honorable Senator from Virginia, when he had the floor before, had answered the honorable Senator from Louisiana, instead of leaving it for me to do, I should now have acquiesced very willingly in his suggestion. However, I was going to say, that the fair construction of the remark which the Senator quotes, would show that what I intended to say was, that the President of the United States did not expect that this bill would pass, and when I spoke of personal and domestic objects of the President of the United States, I of course referred to those which are political. I am quite willing that the honorable Senator should write in my speech the word "political" for "personal." It is only a different form of expression of the same idea.

And now in regard to the vote on this question,

Mr. President, I am the last man disposed to throw any obstacle in the way of it. I have said my say on it for the present, and all that I have need to say, until something more shall be said in favor of this extraordinary proposition than has yet been said in the very able report which has been made by the honorable Senator from Louisiana. Able as it is, powerful as that document is, I still think that it argues the desirableness of Cuba, instead of demonstrating that it can be obtained by this measure, and that this is the right way of securing it. I indulge no fear concerning the debate or the vote.

Mr. DOOLITTLE. I desire to call the attention of the honorable Senator from Virginia to what transpired on Friday evening in the Senate. The honorable Senator from Vermont [Mr. FOOT] took the floor for the purpose of speaking upon the question of the arrest of Walker by Commodore Paulding; and, by a general understanding and consent of the Senate it seemed to me, that he was requested to give way for a postponement of the question until to-day, when an opportunity would be afforded him to speak upon that subject, and there was a general understanding on the part of the Senate that that subject would be taken up to-day. I call the attention of the honorable Senator from Virginia to these facts, as they transpired in the Senate. I hope this motion will not prevail, as the question on which he has the floor is the first special order.

Mr. HUNTER. I was not in the Chamber when the request was made. I certainly will not interfere with the honorable Senator from Vermont. In courtesy, if this hour was set aside for him, I will not push my motion; but when he has done, I will renew it.

Mr. SHIELDS. I will state to the honorable Senator from Virginia that on Friday, after he left the Senate, there was such an understanding; and, as a matter of courtesy, I presume the honorable Senator from Vermont will be allowed to go on.

Mr. HUNTER. I withdraw my motion for the present.

Mr. SLIDELL. I have no sort of objection. I was not present nor a party to that understanding; but I trust that comity will always prevail in the Senate that, without objection, when a Senator announces intention to speak, and nobody objects, he will be permitted to have that opportunity, which I will very cheerfully accord to the honorable Senator from Vermont; but I would suggest to him that, if he speaks to-day on this subject, others will follow. I understand the Senator from Wisconsin desires also to address the Senate. Now, I am perfectly willing, as there seems to have been an understanding, which perhaps it would be better (certainly it would be more courteous) to carry out in good faith; nay, I think we ought, if the Senator wishes to speak on it, to take it up; with the understanding, however, that when he shall have concluded his speech it shall be set aside, and the bill I propose taken up for discussion.

Mr. HUNTER. I will not agree to such an understanding as that. Let us try the sense of the Senate after the Senator from Vermont has finished his remarks.

Mr. BRIGHT. I was not aware that the Senator from Vermont was entitled to the floor to-day; of course I shall not object; but I said on Saturday, what I feel bound to repeat this morning, that there is a bill for the enlargement of the public grounds which it is very important to take up and dispose of. If it is the pleasure of the Senate to hear the Senator from Vermont, very well; but as soon as he has concluded I shall insist on taking up that bill. If the Senate vote me down, I shall acquiesce.

The PRESIDENT *pro tempore*. The motion of the Senator from Virginia having been withdrawn, the first business in order is the unfinished business of Saturday. It is competent, however, to move to postpone that and proceed with any other bill.

Mr. DOOLITTLE. I move that the consideration of that subject be postponed until to-morrow, for the purpose of allowing the Senator from Vermont to proceed.

Mr. SEWARD and others. That is the unfinished business.

Mr. SLIDELL. It is now the first special order.

Mr. DOOLITTLE. It comes up, then, in its order.

The PRESIDENT *pro tempore*. The Chair will state to the Senate that the unfinished business was the business under consideration when the Senate adjourned on Saturday; but if it be the pleasure of the body, they can proceed to the consideration of the resolution indicated by the Senator from Wisconsin. The Chair hears no objection; and that subject is before the Senate.

Mr. FOOT. I beg leave to submit a word of explanation. On Friday, after the Senate suspended action on the Private Calendar, the next business in order before the Senate as a special order, was several propositions reported from the Committee on Foreign Relations, and, among others, a resolution accompanying Senate bill No. 85 in relation to arrests and seizures, under the neutrality act of 1818; and, also, in relation to the arrest of William Walker and his followers. That being the first special order upon the Calendar, I took the floor, and expressed a desire to submit what remarks I had to make upon this subject at that time; but by a rare courtesy on the part of the Senate, which I trust I fully appreciate, by general consent the consideration of that question was put over until the present time, with the understanding that I should have the floor, and address the Senate upon it. I trust, however, Mr. President, that I have not, during the term of my service in this body, given such manifestations of a desire to address the Senate on my part, as that it should be inferred by any member of the body that I would thrust myself upon any question in the way of the consideration of other and more important and more pressing measures, such as appropriation bills; but as there seems to be a general assent that I proceed at this time to the consideration of the resolutions indicated, I will call for the reading of those resolutions.

The Secretary read the following resolutions, which were reported by the Committee on Foreign Relations at the last session:

"Resolved, That no further provisions of law are necessary to confer authority on the President to cause arrests and seizures to be made on the high seas for offenses committed against the act entitled 'An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned,' approved April 20, 1818.

"Resolved, That the place where William Walker and his followers were arrested, being without the jurisdiction of the United States, their arrest was without warrant of law. But, in view of the circumstances attending it, and its result, in taking away from the territory of a State in amity with the United States, American citizens who were there with hostile intent, it may not call for further censure than, as it might hereafter be drawn into precedent, it suffered to pass without remark.

The PRESIDENT *pro tempore*. These resolutions are before the Senate.

Mr. FOOT. I propose, as a substitute for the second resolution of the committee, to strike out all after the word "resolved" and insert the following:

That the arrest of William Walker and his followers, on the shores of Nicaragua, was made for her benefit, and in pursuance of her consent, then rightfully presumed and since thankfully expressed; that it prevented the carrying on of an unlawful and forbidden invasion of that country; that it was justified by the orders and instructions given by the authority of the President of the United States; and that Flag-Officer Hiram Paulding, who made that arrest, performed a meritorious act as well as an official duty, and is eminently entitled to the approval and commendation of his country.

I will also remark, that I intend to offer this as a substitute for the resolution proposed by the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] in relation to this same transaction.

Mr. President, I do not propose, at this time, to enter upon a discussion of the several questions which are presented by the report of the Committee on Foreign Relations, upon the special message of the President communicating to the Senate the correspondence, together with the instructions and orders of the Government, connected with the expedition and with the arrest of William Walker and his associates. As a member of the committee to whom that message and its accompanying documents were referred, I concurred, in the main, with the views of the majority of the committee, as expressed in their report, through its honorable chairman. I feel obliged, however, now, as in committee, to express my dissent from so much of the report as conveys any direct or implied censure of the conduct of Commodore Paulding in arresting Walker and his command, and returning them to the

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United States. I cannot, therefore, concur in the conclusion of the committee, as expressed in the second resolution accompanying the report. That resolution carries with it a censure of Commodore Paulding, although couched in no very harsh phraseology of expression, in disapproving his conduct in making the arrest, as having been made "without warrant of law." I can vote for no such resolution of censure, direct or implied, in however mild a form of expression it may be covered, or however it may be qualified by according to him purity and patriotism of motive. On the contrary, I approve and commend the act, as I doubt not, the great mass of the American people approve and commend it. With this view, and to test the sense of the Senate upon the question, I have offered a resolution of approval and commendation, as a substitute for the resolution of disapproval and covert censure recommended by the committee. The vindication of Commodore Paulding's action, is the question which I intend now, briefly as I may, to consider.

The President, in his special message upon this subject, says:

"In capturing General Walker and his command after they had landed on the soil of Nicaragua, Commodore Paulding has, in my opinion, committed a grave error. It is quite evident, however, from the communications herewith transmitted, that this was done from pure and patriotic motives, and in the sincere conviction that he was promoting the interest, and vindicating the honor of his country. In regard to Nicaragua, she has sustained no injury by the act of Commodore Paulding. This has injured to her benefit, and relieved her from a dreaded invasion. She alone would have any right to complain of the violation of her territory; and it is quite certain she will never exercise this right. It unquestionably does not lie in the mouth of her invaders to complain in her name that she has been rescued by Commodore Paulding from their assaults. The error of this gallant officer consists in exceeding his instructions, and landing his sailors and marines in Nicaragua, whether with or without her consent, for the purpose of making war upon any military force whatever which he might find in the country, no matter from whence they came. This power certainly did not belong to him. Obedience to law, and conformity to instructions, are the best and safest guides for all officers, civil and military; and when they transcend these limits, and act upon their own personal responsibility, evil consequences almost inevitably follow."

The report of the Committee on Foreign Relations adopts the views and sentiments of the President as here expressed, in substance, and nearly in form; and to all which I can agree, excepting the imputation of "a grave error" to Commodore Paulding; the assertion that he "exceeded his instructions;" and the assumption that he "landed his sailors and marines in Nicaragua for the purpose of making war upon any military force whatever, which he might find in the country." I deny the correctness of these allegations.

The query which first seems very naturally to arise from these declarations and admissions of the President, and also of the committee, is, how can that act of Commodore Paulding, which they say was done from "pure and patriotic motives, and in the sincere conviction that he was promoting the interest and vindicating the honor of his country," and which they say "inured to the benefit of Nicaragua," and of which they say "Nicaragua alone would have any right to complain as a violation of her territory," and of which they say "she never will be likely to complain," and of which they truly say, "her invaders have no right to complain in her name;" how can that act, prompted by pure and patriotic motives and to save the honor and good faith of the country, which did no harm to Nicaragua, but saved her from spoliation and rapine—how can such an act, admitted to have accomplished so great good and to have done nobody any harm, be charged with any propriety, or justice, or consistency, as a "grave error?" An error in what, I may ask? An error in transgressing any law of the United States? That is not charged, either by the message of the President or the report of the committee. An error in violating any rule or principle of international law? That is not so charged. An error in violating the neutrality of any foreign territory or Government? In entering upon the territory of Nicaragua without her consent and against her will? or of doing anything which she does not approve and applaud?

Nothing of this sort is charged. An error in breaking up an unlawful expedition? It will hardly do to say that. But the President says:

"The error of that gallant officer consists in exceeding his instructions, and landing his sailors and marines in Nicaragua, whether with or without her consent, for the purpose (as he assumes) of making war upon any military force whatever, which he might find in the country, no matter from whence they came."

I cannot accede to the sufficiency or to the accuracy of these assignments of error. On the contrary, I hold that Commodore Paulding, taking into view all the circumstances under which he arrested Walker and his command, and returned them to the United States, acted within the spirit and the scope of his instructions, and, at the same time, within "the warrant of law." I undertake to maintain, as best I may, the truth and soundness of this position.

It was known to the Executive Government here, and to the whole country, that, during the summer and fall of 1857, Walker was engaged—not for the first, nor, indeed, for the second time, but for the third time—in setting on foot, within the jurisdiction of the United States, a military expedition, to be carried on from thence against a foreign Power with whom we were at peace. I will not stop to expose the ludicrously bald pretense that this was a *bona fide* enterprise for a peaceful emigration. It was, in all its features and character, a military enterprise against a friendly Power, begun and set on foot within our own borders and jurisdiction; in violation of the laws of the United States; in derogation of the faith and honor of the Government, and in defiance of its authority; and such is it assumed to be, and so was it considered, both by the President and by your committee. The message and the report, and all the orders and instructions issued from the Executive Departments, proceed and are predicated upon that assumption—an assumption drawn from circumstances too clear to conceal the purpose, and too palpable to deceive or to mislead anybody as to the real object and design of the expedition. The attention of our Executive Government was called to these preparations for a military and hostile expedition against Nicaragua by the representative of that Government, who, though not then, was shortly afterwards, recognized as such by the United States. Accordingly, a general circular letter of instructions was issued from the State Department and sent to various civil officers in the different cities and towns where these preparations were going on, and to the commandants at the several navy-yards in the United States, and also to the several naval officers in command of vessels on the coast of Central America.

That circular order, which has been often cited, reads as follows:

DEPARTMENT OF STATE, WASHINGTON,
September 18, 1857.

SIR: From information received at this Department, there is reason to believe that lawless persons are now engaged within the limits of the United States in setting on foot and preparing the means for military expeditions to be carried on against the territories of Mexico, Nicaragua, and Costa Rica, republics with whom the United States are at peace, in direct violation of the sixth section of the act of Congress, approved 20th April, 1818. And under the eighth section of the said act it is made lawful for the President, or such person as he shall empower, to employ the land and naval forces of the United States, and the militia thereof, "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States." I am, therefore, directed by the President to call your attention to the subject, and to urge you to use all due diligence to avail yourself of all legitimate means at your command to enforce these and all other provisions of the said act of 20th April, 1818, against those who may be found to be engaged in setting on foot or preparing military expeditions against the territories of Mexico, Costa Rica, and Nicaragua, so manifestly prejudicial to the national character, and so injurious to the national interests. And you are also hereby instructed promptly to communicate to this Department the earliest information you may receive relative to such expeditions.

I am, sir, your obedient servant,
L. CASS.

No one will doubt that this general letter of instructions had special reference to the operations of Walker, although his name, for some reason or other, is not mentioned in it. This order, and the proceedings on the part of the Executive Gov-

ernment here, evince their appreciation of the real character and purpose of the expedition, and that they regarded it as a flagrant violation of our neutrality laws; a wanton disregard of the national faith and honor; and that they regarded all who were engaged in it as in the highest degree culpable. They manifest an earnest desire and determination, on the part of the Administration, to enforce our neutrality laws; to arrest and break up all unlawful expeditions, from our shores, against foreign neutral States; to maintain the public faith and honor; and to punish all who should offend, in this wise, against the laws, the integrity, and the peace of the country. But, notwithstanding all these professions and precautions, Walker's expedition was not arrested on our coast. It escaped the vigilance—whatever of vigilance there may have been—of our Government officers. It sailed direct for Nicaragua, the appointed place of Walker's destination, and the devoted place of his former revolutionary exploits. He departed under false pretenses, and with a false and forged manifest. He deceived, as doubtless they were quite willing enough to be deceived, the officers of the customs at New Orleans and Mobile.

His offense against the laws of the United States was complete, and was aggravated by frequent repetition. He had succeeded in getting up and fitting out a hostile military expedition, not once only, but again and yet again, under the very noses of our Federal officers; in bold defiance of the laws and authority of the Government; eluding all efforts to prevent his departure; and to be carried on against the neutral and feeble Government of Nicaragua. He was now upon the high seas and about to consummate his criminal purpose by a hostile invasion of that Government. He was now, in the language of the law, carrying on his unlawful expedition against a friendly foreign power. What shall be done in this state of things? What can be done? Is there no power, no rightful, legal power, to stop it—no power to arrest its progress? When such an expedition shall have been set on foot here, and shall have succeeded in putting off to sea, whether with or without the connivance of our Government officials, is it beyond the pale of all law and of all authority and of all responsibility? Was it then beyond our reach and outside of our jurisdiction when upon the broad ocean, the common highway of all nations? Or, the rather, does not our jurisdiction follow the flag of the country wherever it floats? And are not those who are under it responsible to that jurisdiction? These questions carry with them their own answer. The authority is clear, and the obligation was incumbent upon the Executive Government to use all the legitimate means at their command, or, at least, to use all the means they did employ, to suppress this expedition.

The Administration regarded, or, at least, they professed to regard, the expedition as an unlawful one, and all those engaged in it as offenders against the laws of the United States, and to be held amenable to those violated laws. They had departed from our shores, and were carrying on the expedition against a friendly Power, and were about to put into execution their criminal and predetermined purpose, by an armed and hostile invasion of that friendly Power which had called upon our Government for protection against this contemplated aggression. Did the Administration fold its arms and sit quietly down, saying that the expedition, though unlawful; though in violation of our acts of neutrality and of our treaties of amity; though about to carry war and devastation into a neutral and friendly State; though about to compromise the honor and the public and pledged faith of our Government; yet, inasmuch as it had departed from our coast, and had passed beyond our immediate and absolute and exclusive territorial jurisdiction—in other words, it having passed beyond a marine league from the coast—nothing more could be done to arrest it and to prevent its cruel consummation? Did they use any such language? Did they pretend to act upon any such idea?

So far from it, sir; so far from considering their duty, their efforts, or their authority, at an end; so far from considering the expedition beyond their jurisdiction, or their legal right and solemn obligation to prevent, if possible, its being carried on to its bitter and bloody issue; so far from considering that they had no legal authority to use the naval forces of the country to arrest it upon the high seas, or even within the bays and harbors, and consequently within the exclusive territorial jurisdiction of Nicaragua, and thus to prevent its being carried on further towards the actual invasion of a neutral territory; that the general order of instructions from the State Department was sent forth with to all our naval officers in command on the coast of Central America. Nor was this all. Other vessels were immediately ordered to that coast, as the steamer *Fulton*, for instance, under command of Lieutenant Almy, and the United States sloop-of-war *Jamestown*, under Commander Kennedy. Special instructions from the Navy Department were issued to these naval officers, and all to the end that they should seize and break up this unlawful expedition; that they should prevent its being landed in any part of Central America. This is the language of the instructions issued by the Secretary of the Navy on the 12th day of October, 1857, directed to Lieutenant Almy, and through him to the flag-officer of the home squadron, Commodore Paulding, then lying off Aspinwall, and to all the other officers in command on the Central American coast. I will read an extract from this letter of Mr. Secretary Toucey:

"Where you find that an American vessel is manifestly engaged in carrying on an expedition or enterprise from the territories or jurisdiction of the United States against the territories of Mexico, Nicaragua, or Costa Rica, contrary to the sixth section of the act of Congress of April 20, 1818, already referred to, you will use the force under your command to prevent it, and will not permit the men or arms engaged in it, or destined for it, to be landed in any part of Mexico or Central America.

"En route for Chiriqui you will touch at Mobile and New Orleans, and communicate with the United States district attorney at each of those ports."

The Secretary of the Navy, in a previous letter of the 3d of October, had directed Lieutenant Almy to "await further orders at Chiriqui, and to report by letter, on his arrival there, to Flag-Officer Paulding, as forming a part of the squadron under his command."

On the 18th of December, 1857, the Secretary of the Navy sent the same letter of instructions, with some other directions, to Commodore Paulding himself, which, although dated ten days after Walker's camp at Punta Arenas had been broken up, shows the view taken by the Administration, as to the extent of their authority in preventing the carrying on of these expeditions; and which, I insist, covers the action of Commodore Paulding, and should shield him from the imputation of having "exceeded his instructions," when fairly interpreted according to their real spirit and scope. I beg leave to read the whole letter, for this and for some other purposes:

NAVY DEPARTMENT, December 18, 1857.

SIR: Your dispatches, (Nos. 131, 135, 137, 138, and 139,) not heretofore acknowledged, have been received.

The Department enjoins upon your particular vigilance in carrying out the instructions heretofore given you in relation to unlawful expeditions. In doing so you will be careful not to interfere with lawful commerce. But where you find that an American vessel is manifestly engaged in carrying on an expedition or enterprise from the territories or jurisdiction of the United States against the territories of Mexico, Nicaragua, or Costa Rica, contrary to the sixth section of the act of Congress of April 20, 1818, already referred to, you will cause the force under your command to prevent it, and will not permit the men or arms engaged in it, or destined for it, to be landed in any part of Mexico or Central America.

The three points which it is most important to guard are, Aspinwall, Chiriqui, and San Juan del Norte, and with this view you will dispose of the forces under your command to the best advantage. The President directs me to inform you that he considers it all important that you should not leave the neighborhood of these points until further instructions by the Department, which you are hereby ordered not to do under any circumstances.

Should the *Saratoga* not have left before you receive this, you will suspend Commander Chatard from his command and order him to return to the United States, to await the further action of the Department. You will then place Lieutenant George T. Sinclair in command of the *Saratoga*, with directions to carry out the instructions to Commander Chatard of the 16th ultimo, to proceed to Norfolk.

The *Jamestown*, Commander Kennedy, will leave Philadelphia early next week to join you at San Juan.

I am, respectfully, your obedient servant,

ISAAC TOUCEY.

Flag-Officer H. PAULDING, Commanding United States Home Squadron, San Juan del Norte.

On the 22d of December the same instructions were sent to Commander Kennedy, of the *Jamestown*, at Philadelphia, at which time he was ordered to proceed to the port of San Juan, and form a part of Paulding's squadron.

Such, Mr. President, were the orders and instructions under which Commodore Paulding acted. These were his commission and his warrant for arresting Walker and his command, and for preventing the carrying on of the expedition. He thought—and he certainly had no right to act upon any other supposition—that the Administration were in dead earnest in this matter; that these instructions were given and these steps taken, on the part of the executive government, in good faith, and with a sincere desire and an earnest determination to enforce our neutrality laws, and to arrest this unlawful expedition. Did the "grave error" consist in acting upon this supposition? He was advised of the unlawful character of the expedition. He was advised that it had left our coast, in spite of all efforts to prevent it. He was advised that it was about to land upon the coast of Nicaragua, as, in fact, it did land there from the bay of San Juan. The very act of preventing Walker from landing, according to his instructions, must of course have been done in that bay; and, of necessity, within the exclusive territorial jurisdiction of Nicaragua. He was ordered to prevent the landing of the expedition, and of course to prevent it at the point where the landing should be attempted to be made; and this point must necessarily be within the jurisdiction of the foreign Government. His instructions, therefore, directed and authorized him to arrest the expedition, within the limits of a foreign jurisdiction; provided, of course, it was not arrested before reaching those limits.

Had the frigate *Wabash*, in command of Commodore Paulding, been lying near the point where the landing was effected, as the *Saratoga*, under Commander Chatard, was; and had he there prevented the *Fashion*, with Walker and his men, from landing, the act would have been done in strict conformity with the very letter of his instructions; and yet it would have been done within the limits of the exclusive territorial jurisdiction of Nicaragua, precisely as much so as was his act in arresting them on her soil after they had made the landing; and it would have been just as much an aggression upon the territorial rights of Nicaragua in the one case as in the other. The "grave error" charged upon Commodore Paulding does not, I suppose, consist in "exceeding his instructions" in arresting Walker at all, and preventing his carrying on the expedition; for it was especially enjoined upon him so to do. At any rate this is not made the pretext for the charge. It cannot consist in "exceeding his instructions" in seizing Walker and his command within the limits of the jurisdiction of Nicaragua, for he was directed to seize him within her jurisdiction, when he was specially instructed to prevent his landing upon her territory. The "grave error," then, in "exceeding his instructions," can only consist in the fact of his having arrested Walker on the land close by the side of the water, instead of having arrested him on the water close by the side of the land! A very small, homeopathic, if not imperceptible point of distinction.

It is to be observed, Mr. President, that all these instructions were of a very general, not to say of a very vague and indefinite character. I am aware that, from the nature and necessity of the case, much was to be left to the exercise of the discretion and judgment of the officer in command. He must be governed, in a greater or less degree, by the controlling circumstances of the occasion. But, after all, these instructions might have been, and ought to have been, much more definite and explicit than they were. The circular from the State Department, in general terms, directed him to use the legitimate means at his command to enforce the provisions of the sixth section of the act of the 20th of April, 1818, against those who may be found engaged in military expeditions against Mexico, Costa Rica, or Nicaragua. Rather a wide margin this leaves to the exercise of the discretion of an old sea captain, besides making a pretty large draft upon his presumed knowledge of our statutory enactments, and of the legal rules of construction as well as of the principles of international and constitutional law! How was he to ascertain what were the provis-

ions of the sixth section of the act of the 20th of April, 1818? And if he had that act before him, would you hold him to a rigid responsibility for a true construction of its provisions, when you yourselves cannot agree upon what is their true construction? And how, again, was he to ascertain what vessels, or what persons, were engaged in unlawful expeditions against either of these Governments before they had landed, and until they had made some open demonstration of their purpose?

The instructions are all silent upon these material points. This very order from the State Department—and so of the instructions from the Secretary of the Navy—I venture to say, would divide the opinions of the best lawyers in the country, in respect to its legal interpretation; in respect to the precise duties and authority it imposed; in respect to the proper extent and limitation of the powers it conferred, and the duties it enjoined; and where and in what manner those duties were to be discharged, and that authority exercised. But, for the sake of the argument, without conceding the fact, suppose he has mistaken the legal interpretation of this order, and the exact extent of the authority it conferred upon him, shall the old sailor, whose life has been "upon the ocean wave," be charged with a "grave error in exceeding his instructions," if, in the *ex parte* and not altogether impartial judgment of those who framed and issued the order, he may have misapprehended its precise import, in some particular point? In short, will you hold him responsible for his interpretation of an equivocal order, upon the legal effect of which, in respect to the extent or limitation of the power and duties it imposed, your own opinions are divided? I do not think it would be either magnanimous or just. Let the principal, and not the agent; let the superior, and not the subordinate; be held answerable for any "grave error" which may be charged in "exceeding instructions" which, to say the least, are of doubtful and equivocal import.

But, passing by all questions of construction and of verbal criticism upon this order from the State Department, I will remark that the instructions issued from the Navy Department, after Walker had departed with his command from our shores, are somewhat more explicit, perhaps, upon a single point. These instructions direct him, "when he finds an American vessel manifestly engaged in carrying on an expedition from the United States against the territory of Nicaragua, or of Mexico, or Costa Rica, contrary to the sixth section of the act of Congress of April 20, 1818, to cause the force under his command to prevent it, and not permit the men or arms engaged in it to be landed in any part of Central America." These instructions were given in answer to a call from Lieutenant Almy, upon the Secretary of the Navy, for more definite and specific instructions in reference to the action and the duties of the naval officers to whom they were directed, than were to be found in the general letter or circular from the Department of State.

But, notwithstanding this call for more definite and specific instructions, they are still about as general, vague, and indefinite as before, and still leave much to the discretion of the commanding officer, and still leave him exposed to reproach for doing too much or too little, let him do or leave undone what he may. And now, when we find that Commander Chatard, being in position with the *Saratoga* where he might have prevented Walker and his forces from landing, but did not do so, for reasons which he himself explains in his letter of the 27th of November, 1857, to Commodore Paulding; when we find Chatard suspended and ordered home for not acting up to his instructions, in that he permitted Walker and his men to land on the Point Arenas; and when we find that Paulding is charged with a "grave error," in that he went beyond his instructions in arresting Walker and his command after he had landed, and both of them at the time being equally within the territorial jurisdiction of Nicaragua; pray tell me, ye sticklers for strict conformity to the very letter of instructions—instructions, too, so general and vague and indefinite that you yourselves cannot agree upon their precise import—where is the exact line of demarcation! Tell me who can, in the face of these instructions, and in the face of these censures upon Chatard

and Paulding—in the one case for coming short of the mark, and in the other for overstepping it—tell me, if you please, just how far either of them might have gone, and beyond what point neither of them could have gone, without becoming obnoxious to the censure of his Government?

The real gist of the instructions—the chief object to be attained—the main point aimed at in all these proceedings—the grand purpose to be accomplished—in short, the very thing to be done—was the arrest of Walker and his command, and to prevent the carrying on of his unlawful expedition against a friendly Power. That is the very point at which Paulding, as a plain, honest, practical, and patriotic man, would be likely to look—the object he would aim to accomplish. The time, the place, and the manner of his doing it, must be left to the control of circumstances and his own judgment. He accomplished the very thing he was ordered to do. He arrested Walker and his command. He prevented the further carrying on of his expedition. He relieved a friendly nation from a “dreaded invasion,” and saved it from rapine and blood. He vindicated the honor and the good name and faith of his own Government. He did it quietly, peaceably, and without harm to any one. He violated no right of the neutral Government. He did the very thing which his Government had ordered him to do. He did it, not only in the best possible manner, but he did it in the only practicable manner possible for him to do it. And now, the only pretended ground of complaint which can be raised against him, in doing what he did, and as he did—in preventing a great wrong and doing no one any violence or harm, is, that he did not do it just exactly in the right place; that he was not instructed to arrest the expedition just at that particular point; that, although he might rightfully have arrested it in the bay, he was not authorized, by the letter of his instructions, to arrest it on the beach, of San Juan!

Now, then, after you have condemned Chatard for permitting Walker to land on this uninhabited sandbar, and before you condemn Paulding for removing him from it, I ask you to show me how it happens that both of them were equally in fault? One of them permitted the expedition to make the landing, and the other stopped the expedition after it had landed; and both are blamed. Now, wherein did Paulding exceed his instructions, if Chatard came short of them? Bear in mind that the gist of their instructions was to stop the expedition. Bear in mind that both of them were equally within the jurisdiction of Nicaragua; so that you cannot rest the distinction upon the ground that it was an invasion of a foreign jurisdiction in the one case, and that it would not have been equally so in the other. Nor can you rest the distinction upon the ground that the one failed to do what he was instructed to do, and that the other did what he was not instructed to do; for both were instructed to do the same thing; and that was, to arrest the expedition. The one executed the order, and the other failed to execute it; and both alike are under censure! In short, I have to say, that, if Chatard did wrong, and is open to censure for not preventing Walker from landing, then Paulding did right, and is not open to censure, in removing him from the landing and arresting his expedition. I have to say, further, that the act of preventing Walker and his command from landing would have been just as much an aggression upon the territorial rights of Nicaragua as the act of removing him, or rather of ordering him to surrender, after he had landed. And I will further add, that it was no more an act of war, or tending to lead to war, in the one case, than it would have been in the other.

Mr. President, I think Commander Chatard states good and ample reason for his course of action in suffering Walker and his men to land; but I am not called upon to defend, or to pronounce judgment upon, his action, on the present occasion. If he shall ever be put upon his defense, I have little doubt he will be able to make it good. But, if blame is to be attached to either of these officers, I have only to say it certainly should not attach to Commodore Paulding. He, at least, accomplished the main object of his mission, the chief and professed object of his instructions, in that he effectually prevented the further carrying on of Walker's predatory expedition. And in doing so, he violated no territorial rights of Nic-

aragua, she herself being judge. He entered within her territorial jurisdiction with no hostile intent. His purposes were all peaceful, and to do what of all things she most desired to have done, and what she had besought this Government to do—and that was, the suppression of an unlawful expedition; the removal from her borders of an invading and lawless foe which had escaped from our own shores; and to save her soil and her citizens from the devastations of war and rapine. Was that an unlawful infringement of her territorial rights? Does she so view it? So far from it, sir, that she rejoices in peace and safety to-day on account of it, and salutes us with her approval and her thanksgiving.

Mr. President, the plain, practical, and common-sense import of his instructions, if they mean anything at all, authorized Commodore Paulding to arrest Walker and his expedition wherever he could do it without violation of law or the rights of other parties; to arrest him upon the high seas, within the waters of San Juan, or upon the soil of Nicaragua, she herself assenting to the act. He executed that mandate and put a stop to the expedition, doing no violence, or wrong, or injury, to any other Power or to any other persons. He executed it upon the soil of Nicaragua with her assent and approval, and at her request. I repeat, therefore, that, in doing so, he did not exceed his instructions, according to any fair and reasonable interpretation of them.

Sir, I am not willing that our own Government should be presented before the world in the singular and humiliating attitude of condemning the acts and disparaging the fame of its own official agents, charged with important and responsible trusts, for the imputed error of having exceeded their instructions in entering upon the soil of a foreign territory in the execution of that trust, when that foreign Government itself, voluntarily and with haste, comes forward to assure us of its sanction and approval of the act. If the only Government, if the only party on earth which would have any right to complain of it, commends and ratifies the act, why, in the name of all propriety and self-respect, should we be finding fault with it, especially when the peace of that foreign Government, and the honor and integrity of our own Government, have been preserved by it? It seems to me it would be much more becoming in us to trouble ourselves a little less about the entry of Paulding upon foreign territory for a humane and laudable purpose, and to concern ourselves a little more about the hostile invasion of that territory by Walker, for the purpose of war and revolution. Sir, I would no more condemn the action of Commodore Paulding in this case, instructed or uninstructed, than I would condemn, as an unbidden and unwelcome trespasser upon your freehold, the man who, seeing the incendiary or the assassin about to fire your dwelling or strike a dagger to your heart, should enter your close, and, rushing to your rescue, should thereby prevent the consummation of the intended crime. In either case, the motive of the entry and the humanity of the act overcome and wipe away all idea of even a technical trespass, and sanction and sanctify the deed. The emergency of the occasion justifies and demands the entry; and I confess that I should hardly have expected to find any man, be he lawyer, judge, or legislator, or any other sensible and unprejudiced man, who would raise the question of its legality, much less of its justice and humanity; or who would stop to inquire whether or not it was done in pursuance of the authority and the strict letter of instructions.

Mr. President, a bold offender and fugitive from justice was apprehended; an unlawful expedition was broken up; Nicaragua was rescued from hostile invasion and bloodshed; the honor and good name and faith of the United States have been saved; no party, except the criminals themselves, utters any complaint; justice and humanity alike rejoice. The very thing has been done, and well done, which our executive government professed an earnest desire to have done. The very thing has been done, and well done, which they ordered vessels of war to the coast of Central America for the purpose of doing. The very thing has been done, and well done, which they instructed the naval officers in command on the coast to be vigilant in doing, and to use all the legitimate means in their power to do. And now that it has been

done, and so well and so effectually done, it seems, very strangely, indeed, to have caused no little surprise and disappointment in certain high quarters, and it is charged as a “grave error” in Commodore Paulding, that, in doing this, he “exceeded his instructions!” Is this quite just? Is it reasonable? Is it consistent? Ay, sir, is it honest or honorable? I am free to say it is neither. When a notorious criminal has been arrested, and the repetition of a great crime prevented, and that, too, by order of the Government, it is assuming the province of the pettifogger, rather than of the statesman or the legislator, to be raising technical quibbles about the manner of doing it, and to be interposing pleas in abatement to the legality of the service.

I remark, again, that neither the message of the President nor the report of your committee makes the mere fact, alone, that the arrest was made on the soil of Nicaragua, the sole or chief ground of complaint; for they say “she sustained no injury by the act of Commodore Paulding; that it injured to her benefit; that it relieved her from a dreaded invasion; that she would have no right to complain, and would not complain of it as a violation of her territory.” But the specific ground of complaint is, that in making the arrest upon the soil of Nicaragua, he “exceeded his instructions.” I answer, that just so much might have been said, and with just as much reason, had the seizure been made at any other place outside of our own exclusive territorial jurisdiction, or even within it, inasmuch as the instructions point out no particular place where the arrest should or should not be made, or where it might or might not legally be made. This is a virtual admission, however, that the arrest could properly and legally be made within a foreign jurisdiction, and that if he had been specially authorized by the letter of his instructions to make the arrest on the soil of Nicaragua, there would have been no cause of complaint. To this I answer, again, that his general instructions to prevent Walker from carrying on his expedition, without specifying when, or where, or in what precise manner; that his general instructions to prevent his landing on any part of the coast of Central America, and thus to arrest the invasion, authorized Commodore Paulding to seize him and to stop his expedition, however and whenever and where'er he could do it without violation of law or right; and that he could do it, and did do it, on the soil of Nicaragua, without violating any law or right; it being done at the request and with the approval and for the benefit of Nicaragua. Hence, I say, it was done without violating or “exceeding his instructions.” I say, moreover, it was done clearly within the scope and the spirit, if not within the letter, of his instructions.

What the President is pleased to say about “obedience to law and conformity to instructions,” is all well enough, but would have been more appropriate if it had been made applicable to the case in hand. But, sir, the Executive Departments have no right to issue instructions to their subordinates, so general and indefinite as that nobody can fully comprehend their import, and determine the exact extent and limitation of the powers and duties they impose, and then complain that they have not been strictly adhered to. Taking the cases of Chatard and Paulding for an example, it would seem to be utterly impossible to avoid the charge of either going too far, or of not going far enough, in carrying out these instructions. If the Executive Departments would not seek occasion of complaint, let them make their orders and instructions more definite; more explicit and precise; so that they can be fully and easily understood; so that those to whom they are directed, and who are to execute them, may know just what is meant, and just what is required of them. I am hardly disposed, as yet, to adopt the uncharitable suggestion that there was a sinister purpose in making these orders and instructions indefinite and vague, and of equivocal import, so that, while the Administration would justify themselves to one portion of the public by an affected zeal and determination, and by an apparent effort to arrest and suppress these marauding filibustering enterprises, they could justify themselves to the other portion of the public, in the event that these enterprises should actually be intercepted and broken up, by shifting the responsibility from the principal upon the agent, and by sheltering them-

selves under the subterfuge or pretext that it was done without orders, and by "exceeding instructions;" that, although orders had been issued to arrest this expedition, yet that they had not authorized its being done just at the place or just in the manner it had been done; and that in doing it as it had been done, "a grave error" had been committed.

But it can hardly escape observation and criticism, and is well calculated to afford some color or ground for suspicion of their sincerity, and some color or ground for the impression which Lieutenant Almy informed the Secretary of the Navy prevailed in the southern portion of the country, that "the Cabinet at Washington rather winked at the fitting out and departure of these expeditions, than to be seriously disposed to prevent them," when we see that so much stress and emphasis is placed upon the charge that Commodore Paulding, in arresting the criminal and so preventing the consummation of a flagrant crime on the soil of a foreign Government, although with the assent and for the benefit of that Government, "exceeded his instructions," and was therein guilty of a "grave error!" And it is a little remarkable, too, and is well calculated to give some color or ground for the impression which is said to have prevailed in the southern portion of the country, that when the grand culprit and fugitive, for whose arrest orders had been sent forth from the Executive Departments, and for whose apprehension the naval power of the Government had been called into requisition, has actually been taken and brought into the presence of the Cabinet here at Washington, he is kindly and courteously received, and very graciously told that "they have nothing to do with him!" and, instead of being turned over to the judicial tribunals to be dealt with according to law and his own deserts, he is discharged from the custody of the marshal and set at large. Instead of being turned over for trial, conviction, and the penitentiary, as a filibuster, and a notorious offender against the laws of his country, he is feasted and caressed, and lionized as a hero of the first water, and stalks forth and vauntingly proclaims his determination to renew the prosecution of these enterprises, in defiance of the laws and the authority of the Government; and with ostentatious insolence flaunts his flagitious purposes in the teeth of the Administration—ay, sir, in the very face of your President; and is suffered to go whithersoever he may, unwhipped of justice and unrebuked. I say, sir, that these things excite observation and criticism, and are well calculated to strengthen the impression, upon uncharitable minds, that the Administration were not altogether in earnest in their professed desire and seeming efforts to put down these filibustering enterprises.

In this connection, I will read the letter of Lieutenant Almy to the Secretary of the Navy, of the 29th of October, 1857, as tending to throw some light upon this subject:

UNITED STATES STEAMER FULTON,
NEW ORLEANS, October 29, 1857.

SIR: In my last communication to you, dated on the evening of the 26th instant, below Mobile, I announced the arrival of this vessel in nine days from the Capes of Virginia; and that, in compliance with your instructions, I was about to proceed up to the city to confer with the United States district attorney, A. J. Requier, Esq.

This I did, having two quite lengthy and separate interviews with him. After the first interview, he called upon the collector and other officers connected with the custom-house, with whom, previously, he had been in constant communication; and he stated to me that beyond floating rumor there was nothing tangible—nothing which would warrant or authorize Government officers to act, or to commence a prosecution in regard to the fitting out of "unlawful military expeditions against territories with whom the United States are at peace." But still, he said that he could not but help expressing the opinion that public sentiment in Mobile was in favor of these expeditions to Central America; that it was a frequent theme of conversation on "change, in the streets, and at the hotels; and further, that there seemed to be an idea prevailing in this part of the country that the Cabinet at Washington rather winked at the fitting out and departure of these expeditions, than to be seriously disposed to prevent them; but that he, and other Government officers, had endeavored to correct public opinion upon that point. Being just from Washington, I stated that I knew that the Government was utterly opposed to any such expeditions, and had most decidedly set its face against them.

The non-recognition of the new minister from Nicaragua has given a feeling of encouragement to these people, as they view it that the United States do not look upon and acknowledge Nicaragua as an independent republic. They speak of this as in the highest degree encouraging to prospective operations, as there seems to have been no explanation in the public prints why this minister was not received.

Another point which they make and lay great stress upon is, as they allege, that General Cass, upon one occasion, most explicitly said that "American citizens when they emigrate have a right, at all times, to take their arms with them."

Although the feeling is generally rife here in regard to this matter, as it has been for a few years past, yet it seems to be considered that these contemplated expeditions are not only embarrassed but crippled for the want of funds, owing to the financial pressure existing throughout the country.

I have just arrived at the anchorage here, and am about to proceed to the city to communicate with the United States district attorney in regard to these matters, and will inform the Department of the result of my visit to this place.

I am, sir, very respectfully, your obedient servant,
JOHN J. ALMY, U. S. N.,
Lieutenant Commanding.

Hon. ISAAC TOUCEY, Secretary of the Navy.

Mr. President, the territory of Nicaragua was no more unlawfully or wrongfully invaded by Commodore Paulding in this instance, than is the territory of any foreign Government whenever any citizen of ours sets his foot upon her soil. The assent and permission of the sovereignty, when the entry upon her dominion is manifestly with no wrongful or hostile intent, are to be presumed upon the common principles of national comity, and upon the common courtesies and customs of international hospitality. How much stronger is the presumption of assent and permission, when the entry is manifestly and avowedly for the purpose of rescuing a feeble nation from the depredations of a lawless bandit of marauders who have escaped the vigilance of their own Government, and for whose arrest that Government is in fresh pursuit? If then no neutral rights of Nicaragua have been violated by Commodore Paulding; if she finds no cause of complaint against him; will you tell me what law of your statute-books has been broken by him; will you tell me what rule or principle of international law has been infringed by him? And, above all, will you tell me wherein, or in what particular, he exceeded his instructions interpreted according to their true spirit and import?

But the President says, "the error of this gallant officer consists in exceeding his instructions," in that he "landed his sailors and marines in Nicaragua, whether with or without her consent, for the purpose of making war upon any military force whatever which he might find in the country, no matter from whence they came." This, sir, is, to say the least, a harsh, premature, and unwarranted judgment; a naked assumption, not only without evidence, but against evidence; an unworthy imputation of motive, not sustained or warranted by any proof whatever. Let Commodore Paulding speak for himself. I read a paragraph or two from his letter of the 11th of December, to the Secretary of the Navy, informing him of his arrest of Walker and his followers. I will also read, in this connection, Commodore Paulding's order to Walker to surrender his arms and to embark in such vessels as he should provide for him:

[No. 140.] FLAG-SHIP WARASH,
OFF SAN JUAN DEL NORTE, December 11, 1857.

SIR: I arrived here on the 6th instant, and on the 8th, with a force from the squadron that could not be resisted by General Walker, demanded the surrender of his arms and the embarkation of himself and followers from Point Arenas.

The officers and men of his organization, together with such stores as could be received, are on board the Saratoga, and she will sail this evening or to-morrow morning for Norfolk. I shall direct Captain Chatard to report to the Department for instructions.

In the course I have pursued I have acted from my judgment, and trust it may meet the approbation of the President.

H. PAULDING,
Flag-Officer Commanding U. S. Home Squadron.
Hon. ISAAC TOUCEY, Secretary of the Navy.

UNITED STATES FLAG-SHIP WARASH,
OFF SAN JUAN DEL NORTE, December 7, 1857.

SIR: Your letter of November 30, was received at Aspinwall, and sent with my dispatches to the Government. That of December 3, came to my hands yesterday.

These letters surprised me with their tone of audacity and falsification of facts.

Your rude discourtesy in speaking of Captain Chatard, of the Saratoga, I pass without comment. The mistake he made was in not driving you from the Point Arenas when you landed there in defiance of his guns.

In occupying the Point Arenas, and assuming it to be the headquarters of the army of Nicaragua, and you its commander-in-chief, you and your associates being lawless adventurers, you deceive no one by the absurdity.

Lieutenant Cilley, of the Saratoga, informs me that he was in uniform, and you say he was in plain clothes, when you threatened to shoot him.

Whilst you use such threats, it may be of some importance for you to know that, if any person belonging to my

command shall receive injury from your lawless violence, the penalty to you shall be a tribute to humanity.

Now, sir, you and your followers are here in violation of the laws of the United States, and greatly to its dishonor; making war upon a people with whom we are at peace; and for the sake of humanity, public and private justice, as well as what is due to the honor and integrity of the Government of the United States, I command you, and the people associated here with you, to surrender your arms without delay, and embark in such vessels as I may provide for that purpose.

I am, very respectfully, your obedient servant,
H. PAULDING,
Flag-Officer Commanding U. S. Home Squadron.
General WILLIAM WALKER, Punta Arenas.

Now, sir, no man is warranted in asserting that Commodore Paulding "landed his sailors and marines in Nicaragua for the purpose of making war upon any military force whatever which he might find in the country, no matter from whence they came." The imputation is repelled by all the circumstances of the case. He landed his sailors and marines in Nicaragua for the sole purpose of executing the orders of his Government; for the sole purpose of arresting Walker and his command; for the sole purpose of preventing him from carrying on his expedition against Nicaragua. He was charged with a high and responsible trust, and he executed it at the earliest period, and at the only place, and in the most quiet and peaceful mode, that was possible for him to do it. Walker surrendered at once, at the command of Paulding, and not a gun was fired nor a blow struck on either side. The order for Walker's surrender was backed up by a sufficient force to command respect and obedience, and to show that resistance would be in vain. This was a prudent forecast and calculated to avoid a collision. Paulding's conduct is to be adjudged upon the state of facts actually existing at the time, and not upon any hypothetical or supposed state of things. Had there been a different state of things there from that which actually did exist—had there been other military forces there, for instance, ready to come to Walker's aid—had Walker's force been much larger, and Paulding's much smaller—had there been any condition of things there at the time which would have been likely to have led to serious collision and bloodshed, or to anything in the nature of war; it is not to be presumed, to Paulding's prejudice, that he would have undertaken to break up Walker's camp and to put an end to his expedition at the time and place he did. He made no war, and had no purpose of making war, upon whatever force he might find there, not even upon Walker and his forces, other than that sort of war which every ministerial officer makes—which every sheriff or constable, holding a warrant for the apprehension of a person charged with crime, makes upon him when he arrests him and takes him into his custody. His warrant authorizes the seizure and detention, peaceably if he can, forcibly if he must. In this case no physical force was applied; no resistance was made. It is difficult to understand why the President should have gone so far out of his way as to have cast upon Commodore Paulding the imputation of having "landed his sailors and marines in Nicaragua for the purpose of making war upon whatever military force he might find in the country, no matter from whence they came." It may strike the minds of some persons, less charitable perhaps, yet of keener discernment than others, that it is but a strained and far-fetched, though not very cunning pretext on the part of the Administration, in order to cover a disappointment and chagrin which cannot be all concealed, and must not be all expressed. The imputation has this significance, and nothing more.

Mr. President, Commodore Paulding is, personally, a stranger to me. I am not aware that it was ever my fortune to meet him, except for a few moments on one or two occasions. I had felt no more interest in him, his fortunes, or his fame, than in those of any other citizen stranger. I have known nothing of his private history, and but little of his official life. The most I know of him I have learned from this transaction. It has given me a very favorable impression of him, both as an officer and as a man. He was charged by his Government with the execution of an extremely delicate and difficult and most responsible trust. In my judgment, he has discharged that trust not only with the utmost fidelity, but he has discharged it with singular skill, prudence, and humanity. I agree with the President of the United States, that he was governed "by pure

and patriotic motives, and by a sincere conviction that he was promoting the interest and vindicating the honor of his country." He has done his whole duty, and nothing more and nothing less than his duty, in this regard. For this act of duty and of patriotism I am not willing to see him stricken down by your resolution of censure. So far forth as my feeble arm can do it, I stand here to stay the impending blow. For this deed of humanity and public duty I do not come forward, either, to tender to him extraordinary honors or rewards; nor do I come with a proposition for a tender, to him, of swords or medals, the usual testimonials of distinguished military or naval service; but I would tender to him that which, more than all, would gladden the heart of one who has served his country long and well, who has maintained the honor of his country's flag in every sea, and the integrity of his country's good name among the nations of the earth. I would tender to him the simple record of that country's approval and commendation. Instead of turning upon him a repulsive frown, I would extend to him the welcome salutation and the grateful recognition of "a gallant and faithful servant of the Republic."

Mr. HUNTER. I now move to postpone all the prior orders for the purpose of taking up the Indian appropriation bill.

Mr. CRITTENDEN. I hope not. I had desired myself to make a few remarks, but very few, on this subject, and I hope to be allowed to do so.

Mr. HUNTER. Do I understand from the Senator from Kentucky that he wishes to debate this question?

Mr. CRITTENDEN. Yes, sir, for a very brief space of time.

Mr. HUNTER. Then I withdraw my motion until he has done.

Mr. CRITTENDEN. Mr. President, if I regarded this question as a mere personal one, and thought it was calculated to affect only Captain Paulding, I should not feel it necessary to say a single word; but I think it is a question that goes much further, and involves the rights of the country; and it is in that respect that I desire to make a few remarks. Without undertaking to recapitulate the circumstances attending the lawless armed expeditions fitted out in this country to assail Nicaragua, a country with which we were at peace; and without stopping to relate the illicit and fraudulent manner in which he escaped with that expedition from our shores, in violation of the laws of the United States; or to state how, reaching a port of Nicaragua, he succeeded in escaping a vessel there stationed for the purpose of preventing his landing; or to inquire how he was afterwards, upon the shore, arrested by Commodore Paulding; I say, without any further recapitulation on this subject, I will go on to state the question upon which I wish to offer a few remarks.

The President of the United States announced these facts to us, and declared that Commodore Paulding, for the arrest of Walker and his band, had been guilty of "a grave error" in violating the neutrality of a foreign State; that however much it was to be desired that this expedition should be arrested, he ought not to have landed for the purpose of arresting Walker, though in sight of his ships and upon the very shores of Nicaragua. Now, sir, in my humble judgment, which I oppose with a sincere diffidence to the President himself on this question, I think that there was no breach of neutrality, and no error upon the part of Commodore Paulding; and I say this on several grounds.

In the first place, the law authorized the President and gave him power "to prevent the carrying on" of such expeditions. The President, in the instructions given to our naval officers, had called the attention of Commodore Paulding, and the attention of other officers commanding our cruisers, to this law, and bade them carry it into effect. Here was the case, then: Commodore Paulding's duty was to prevent the carrying on of this unlawful expedition; he was with his ship lying in the harbor of San Juan, and there was William Walker in sight of him, armed and prepared to make war upon a country with which our nation was at peace, having made all his preparations and enlisted all his men within the bosom of our own friendly country. We were bound by

every consideration that no such invasion should proceed from our shores, and no warfare proceed from our people against Nicaragua. Here was a band of desperadoes in sight, who had violated the laws of their country by going there; who had done this by fraud and force and every circumstance calculated to aggravate the offense. What they would do, and what sort of warfare they would there carry on, had been demonstrated by the previous warfare in which they had been baffled. Blood and ashes had before marked their course; and upon blood and ashes was founded the little, petty, miserable, lawless empire, which they presumed to set up and exercise there. That was their errand, demonstrated by their own previous practice; there they were upon such an errand, and there they were against the violated laws of their own country; and there they were in sight of Commodore Paulding, commissioned by this Government to prevent, among other things, more specifically the carrying on of such an expedition. He was in sight of them, they just preparing for bloody deeds and bloody activity.

Now, sir, was it doing more than preventing the carrying on of that expedition, when his hand was over them, when he could reach them from the sea, almost? He might have taken shelter, possibly, behind the letter of the law; but was that the duty of an American officer? It is the letter that is said to kill; the spirit saves. If he had sheltered himself behind the letter of the law, and had not the courage to meet the responsibility of his position, what would have been the estimate you would put upon such an officer? But there, alone, in a foreign country, called upon for instantaneous action, in a case demanding the most profound consideration, if he should err, was that "a grave error," or was it an error that his country would have wiped out and taken no notice of? I say it came within the fair, substantial spirit and meaning of the law to do what he did.

But that is not all, sir. He violated the neutrality of Nicaragua, it is said. Did he? What did he do, sir? He only marched upon the territory which was within the camp, I may say within the actual possession, of Walker and his band. Walker was to that extent the ruler of the country, and he claimed to rule over the whole country. Whose territory was it that he landed upon? The sovereignty was a very narrow one; but it was as much under the sovereignty of Walker as the whole country had ever been. It was by force alone that he had ever held it, and it was by force alone that he held the spot where he was arrested. He had already, by this hostile invasion, displaced the sovereignty, and he had displaced the Government of Nicaragua. Can this be denied? He went there as one claiming dominion, and claiming sovereignty by election, or claiming it in right of conquest. By conquest he had achieved the dominion over a small portion. Paulding landed within the limits of his camp. Whose territory was that to be violated? Why talk about the territory of Nicaragua and her sovereignty—that tender, delicate, inviolable thing, sovereignty—and the violation of it by Captain Paulding? It had already been violated; it had been displaced; it had been superseded; it was claimed by Walker; it was possessed by Walker with the strong hand, he asserting dominion and asserting government over it. His was the government *de facto* of that spot. Who can say that it was not? That was the territory, then; the camp of the lawless invader; of the criminal who had fled from this country. It was his territory, his camp, and his neutrality, if anybody's, that was violated. Was that "a grave error?" The "grave error" supposed to exist is in violating the sovereignty of Nicaragua, when there was no sovereignty and no territory of hers there to be violated. This is one ground in which I very respectfully think the President erred.

There is another ground still stronger and more satisfactory to my mind. It is not every entry into your land, or my land, that, according to the civil and domestic laws of our country, is a trespass. We may go there by invitation; we may go there by a license inferred from former entries; we may go there either upon the express or fairly implied will of the proprietor, and that is no trespass. So with respect to the entry of an armed force upon the territory of another nation: whether it be a violation of neutrality does not depend upon

the mere offense of the foot in treading upon the land; it depends upon the circumstances which accompany it; it depends upon the intention with which the act is done. The laws of neutrality teach us greatly to regard the sovereignty of all countries, and to make no invasion of it; but still, what is an invasion, is a question left open, to be decided in accordance with the reason of every particular case, and according to the circumstances of it, giving to those circumstances just that weight which you would give to the like circumstances attending any other question involving a trespass upon private property at home; for the law of nations in this respect, is the law of reason, founded on a reason so plain, that it is accepted and acknowledged by all nations. That is the law of neutrality.

Well, sir, under what circumstances was this entry with an armed force by Commodore Paulding made? It was not intended to affect the sovereignty or the rights of Nicaragua. It was not intended to make use of them, even for the convenience of those who entered. It was entered in no spirit of aggression. It was entered for a friendly purpose. It was entered to arrest an invader that was about to spill her blood and despoil her fields—that was it. Is it not a perversion of all reason to consider that a breach of neutrality, in the sense that makes these breaches obnoxious to national sovereignty? We easily distinguish those breaches of neutrality, those entrances with armed forces into a neutral country with the spirit of aggression, and with the intention to offend, from one so broadly marked as the motives on this occasion were which induced Commodore Paulding to enter. He entered to give no offense; he entered to violate no sovereignty of Nicaragua; he entered purely, simply, and exclusively, as the whole case shows on its face, for the purpose of restoring that sovereignty, of maintaining that sovereignty, and rescuing it from the hands of those who had desecrated it. It is, therefore, beyond any view of national law which can be at all vindicated, to call such an entry a breach of neutrality. To enter the territory of another, even with an armed force, with a great army, if you have permission to do it from the neutral country, is no violation of its neutrality. Nobody will contend that it is; and why not? Because the neutral territory has consented. *Volenti non fit injuria* is the natural law everywhere. There is no injury to those who have given consent to the action.

Another view of this subject is, whether this consent may not, like every other fact, be presumed from circumstances, and proved by that presumption as satisfactorily as an express writing giving consent? If he had had the written consent of the Government of Nicaragua to enter, Captain Paulding could not have been accused of any breach of propriety or of neutrality. If that fact of consent can be demonstrated by circumstances, is it not equally available to defend him against any such charge as that of a breach of neutrality? It is to enter against the will of the owner, against the will of the nation whose territory you enter, that constitutes the offense. Then, under all the circumstances of this case, had not Commodore Paulding a right to infer the fact of assent on the part of the Government of Nicaragua? If circumstances showed this, though indirectly, if it was shown circumstantially as clearly as the most positive evidence could have shown it, would he not have been guilty then of a poor plea to make before his country, if he were to plead that when this lawless party who had violated the laws of his country and escaped there were in his power, and when Nicaragua wanted him to take them and bring them home again, he did not do it because, according to the letter of his instructions, as he read them, he would have been guilty of a breach of neutrality in so doing? Who would have listened to it? Should he not have justly been overwhelmed with the ignominious judgment of his country upon him as one who sought to shelter himself—one who dodged? Certainly he would, sir; and no man could argue against it.

Was there not every evidence here? If I see a man rushing to stab you, sir, and I, a stranger, interpose and wrest the dagger from him, have I not a right to suppose that you consent that I should brush by you, and even be guilty of rudely pushing you out of the way, in order that I may

grasp at the dagger that is aimed at you? Would that be any violation of your rights? Would I not have a right to presume that, for the preservation of your life, you thanked me instead of complaining afterwards of my action as an interference in your affairs? Most certainly. Was not that exactly the case here? Did not Commodore Paulding know of these circumstances? Yes, sir, from beginning to end, he knew them all. The purposes of the men arrested were known and avowed. They came to conquer; they came to shed blood and to despoil and to make war upon all who resisted their pretensions to supremacy and government in that country. All this was known. There is no other presumption that he could have been allowed to draw from the circumstances, but that Nicaragua not only consented to, but would thank him for, the act.

And, sir, this is further verified. Not only did this natural consequence take place, not only was it so, but Nicaragua afterwards in the most formal and official manner, gave him thanks for what he did, thanked the American people, thanked the American Government for it; and yet we stand here paltering—paltering upon a letter—debating a nugatory question of international law entirely superseded by the circumstances of the case; declaring our officer, who thus bravely did his duty, and exercised nothing but our rights as a nation, guilty of “a grave error!”

Sir, I want a correct judgment of this Government to go out; because I want that correct judgment to have its future influence in all the great transactions of this nation. The like or similar cases may occur to-morrow, next day, in all time to come. I want the right law laid down, so that our officers may know what is their duty. The opinion of the President, expressed without a knowledge of all the circumstances, that it was a “grave error,” was pronounced before the President knew or could have known of the sanction which Nicaragua gave to this transaction, after it was done; and so far as relates to Commodore Paulding, the subsequent consent of Nicaragua to what he did is just as effectual to legitimate his conduct, as if that consent had been given in advance. It showed that Captain Paulding had not inferred incorrectly, when he supposed that country did consent, for she told him afterwards, in her heart, that she consented and thanked him. And yet, sir, this opinion of the President, that Paulding committed a “grave error,” is now sent out to all parts of the world, in the orders to our cruisers everywhere. This opinion, inferential to a great extent, is now left for naval-officers to construe, and to limit and to cripple up their course of action abroad, by the yet unknown interpretation that is to be given to it.

The President thinks Captain Paulding has committed a grave error. In what respect? Where? How? Did his error consist in presuming the assent of Nicaragua? Was that an illogical inference? Or is it meant that, even with the assent of Nicaragua, Commodore Paulding could not have landed his troops for such a purpose? Does the error consist in that? Where is it? How are our officers exactly and definitively to understand what their course of duty is from the opinion of the President that “a grave error” was committed by Captain Paulding?

Sir, it is only in respect to, and in the reference which this opinion of the President, interpreted, one way or another, by the Secretary of the Navy, may have really upon the exercise of our national rights and the performance of their proper duties abroad, by our naval officers, that I desire that some opinion shall be expressed which may be matter of authority, and may be definite, and not leave the officers to take the responsibility of interpreting or guessing as to what their duty is. There was an error in the transaction, a grave one, says the President; but in what particular it consisted, where the error existed, in what place it commenced, by what act it commenced, by what act it was consummated, is only matter of inference and deduction. It is not a proper rule by which our officers abroad shall exercise the rights of this nation; and it is not proper that a mere opinion of the President, expressed under such circumstances, with the case but half before him—for he knew not of the subsequent approbation of Nicaragua when he expressed that opinion—should be the rule of conduct to our naval men all over the world.

I have considered the subject so far as it relates to what I conceive are the important and material bearings of it; they respect the rights of the nation; but now one word as to Captain Paulding. I do not stand here as his eulogist. My personal acquaintance with him is very slight. I speak only the sentiment of one American citizen, in expressing my thanks to him for the bold and heroic manner in which he has performed his duty; a duty that stands not only above all censure and imputation of grave error, but which entitles him, in my opinion, to the thanks of all who regard the peace of the world, and to all American citizens who regard the proper execution of the laws of their country. I give him mine, cheerfully and cordially, sir.

Mr. HUNTER. I now move to postpone the prior orders for the purpose of taking up the Indian appropriation bill. I have waited here all day.

Mr. DOOLITTLE. If the honorable Senator from Virginia will name some time when he will consent that the discussion shall be continued on this question until it shall be disposed of, or name some time when it may be definitely acted on, I shall have no objection to its being postponed, in order to take up his bill for the little time remaining of to-day. My own judgment is, however, that it would be better to continue this discussion, now that it is up, until we come to a determination, which probably can be done to-morrow. It is now nearly three o'clock. There are some other gentlemen who desire to speak on this question. I desire myself to submit a very few remarks upon this subject before it is disposed of.

Mr. HUNTER. With regard to this matter, it will be for the Senate to say when they will dispose of it. I apprehend there are subjects before us which will consume all of the time that is left to us during the present session; and certain I am, that unless we begin to dispose of the appropriation bills, we shall find ourselves so inconvenienced at the end of the session, that we cannot give them the proper consideration. We have passed but two, and those two of the least importance—the Military Academy bill and the pension bill. Now, if the Senate will agree to take up this appropriation bill, I will endeavor to dispose of it as soon as possible. My object is to secure, if I can, precedence for the appropriation bills, and leave the other time for the disposition of these other question as the Senate may choose. We have the measure of the Senator from Louisiana, [Mr. SIDELL]; we have the resolution of the Senator from Pennsylvania, [Mr. BIGLER]; we have this matter; and it will be for the Senate to determine amongst them. All I ask now, is its decision in regard to taking up this appropriation bill.

Mr. SEWARD. I hope the motion of the honorable Senator from Virginia will not prevail. This is a very important subject, and I should be sorry if it were laid aside now, so that we should lose the advantage of all that has been said upon it to-day, so necessary to bringing us to a right conclusion of the subject-matter, as we have practically lost as much of the advantage of what was said at the last session upon it, with a view to bring about the same general result. When the honorable Senator from Wisconsin [Mr. DOOLITTLE] introduced his resolution, I scarcely sympathized with him in his views of the proposition which he advanced, which was, that a medal or some other testimonial should be awarded to Captain Paulding. I thought Captain Paulding had deserved well of his country; that he had established his name in history; and that he would have his reward without a legislative acknowledgment, which would not change the character of his act; and, for the same reason, I do not very deeply sympathize in the resolution which is introduced now by the honorable Senator from Vermont, [Mr. Foor], although I cordially agree with him in the sentiments which he has expressed with so much ability and so much eloquence. There is a practical question which I want to reach.

Mr. HUNTER. I am bound to ask the decision of the Chair whether we can debate these questions on a mere motion as to the priority of business?

Mr. SEWARD. I am not going to debate it. I should have closed my remarks by this time if I had not been interrupted by the honorable Sen-

ator from Virginia. I was going to say there is a practical question at the bottom of all this. Commodore Paulding, a naval officer, in the service of his country, under the instructions of the Executive of the United States, has executed an official act—arrested certain persons who had escaped from this country in the act of invading Nicaragua. Nicaragua has assented to the transaction as it was committed by him; this Government was already committed to it. The persons who were arrested, it is well known, are prosecuting Captain Paulding in the courts of the country for the violence which he committed, practically, I think, under the instructions of the President of the United States; and he stands before the courts answering in his personal and individual capacity for this transaction. I want to reach a stage of this debate when I can offer a joint resolution, which, I hope, will receive the favorable action of Congress, authorizing the President of the United States to intervene and assume the defense of Captain Paulding in these prosecutions. For that purpose, I hope this debate may go on, so that we may reach that practical result.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question before the Senate is on postponing all the prior orders for the purpose of taking up the Indian appropriation bill.

Mr. FESSENDEN. I desire to inquire whether the postponement will necessarily, on this motion, bring up the Indian appropriation bill, or whether we are then to have a contest between that bill and something else?

Mr. HUNTER. I understand it does bring that up. I move to postpone for that purpose.

Mr. SIDELL. I will state that I do not feel disposed, at this late hour of the day, to go on with the other bill, and I think it will be an economy of time to take up the appropriation bill.

Mr. SEWARD called for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 16; as follows:

YEAS—Messrs. Allen, Bates, Benjamin, Bigler, Brown, Chesnut, Clingman, Davis, Douglas, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Sidell, Stuart, Thomson of New Jersey, Toombs, Ward, Wright, and Yulee—32.

NAYS—Messrs. Broderick, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Font, Foster, Harlan, Kennedy, King, Seward, Simmons, Trumbull, Wade, and Wilson—16.

INDIAN APPROPRIATION BILL.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various tribes, for the year ending June 30, 1860, which was reported from the Committee on Finance with several amendments. The first amendment of the committee was, in section one, lines eight hundred and forty-seven, eight hundred and forty-eight, eight hundred and forty-nine, and eight hundred and fifty, to strike out the following words:

“For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas; and for the establishment of a reserve west of the Pecos river, \$25,000.”

Mr. HUNTER. The Committee on Finance, on consideration, offer an amendment instead of that, which, by general consent, can be substituted for it. The amendment, as we now propose it, retains these words:

“For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas, \$25,000.”

And to add to the item the following words:

Provided, That no part of the same shall be expended for the establishment of the reserve west of the Pecos river.

The first amendment suspended the establishment of this third reserve, which has not been surveyed—the reserve west of the Pecos river—and it also struck out the appropriation of \$25,000. We found out afterwards that this \$25,000 would be necessary, in addition to the former appropriation, for the support of the reserves already established. We therefore propose to leave the amount asked, and offer a proviso that no part of it shall be applied to the establishment of this third reserve west of the Pecos river. We do so because it is generally supposed that at the next session some scheme will be presented for remodeling the system, or, perhaps, substituting some

other system for that of the reservations, certainly within the States. That being the case, as no establishment has been made on that reserve, we have thought it best to provide that no part of this money shall be spent on it, taking until next session to consider how far we shall continue this policy.

Mr. HOUSTON. I must confess that I cannot see the reason of this change, and why the colonization of the Indians on the western reservation should be suspended by the present Congress. It is very important, so long as there is intercommunication between the Pacific and the Atlantic, by way of San Antonio, El Paso, and Arizona. By locating these Indians, you give them an identity, a local habitation. If any aggression whatever should be committed by them, the whites will be enabled to pursue them to their place of retreat. It will identify them with the transaction, and they will be exposed to that punishment which they will then justly deserve. If you do not locate them in some particular place, they will be migratory throughout that whole region, and they will necessarily depredate upon the frontiers of Texas; there will be no safety in the transportation of the mail, nor for emigrants passing from Texas, or from the eastern portion of the United States, to California. It is indispensable that this western reservation should be immediately established. We have had clearly demonstrated the advantages resulting from the two reservations on the Brazos river. The Indians are there progressing in agricultural pursuits; in adopting civilized manners and customs; they are industrious; they have become attached to the modes of life which they now pursue, in preference to that to which they were heretofore subject. They were uncertain in the acquisition of the means of subsistence for their families on former occasions. They were part of the year in a state of starvation; but, by the adoption of this colonizing or reserved system, they are brought into bodies where they cultivate large fields of corn, produce vegetables, and other conveniences, and, at the leisure season, go and kill their wild meat, and bring it in and place it away. When the inclement season arrives, they have every comfort and convenience around them; their wives and children are sheltered. They are protected so long as they remain in their reservations, or when they go on hunting parties, when men are sent with them for the purpose of conducting them; and every benefit that could have been anticipated has resulted from that system, up to the present time.

We see the beneficial effects resulting in the neighborhood of the existing reserves, and if another reserve were placed west of them, it would be a check on the Comanches who traverse the region between the extreme frontiers of our settlements and El Paso. The very moment you suspend this project, the Indians who have been already apprised of the design of the Government to establish an additional reserve, will impute it to disinclination on the part of the Government to favor them, or to be friendly to them; and it will subject our frontiers to aggression, to injury, and to be broken up. Every benefit results on the one hand, and every injury is to be anticipated on the other.

I hope that the measure will not be suspended. It was adopted upon mature reflection, and is a sound measure of policy. I believe it to be wise; I believe it expedient; I believe that we shall not be enabled to substitute any plan in lieu of it. Whatever may be in anticipation, and by whom I know not, for the purpose of devising some other plan, I am satisfied that this plan, if carried out, will be the most efficient for the preservation of peace, the most favorable to the civilization of the Indians, and a measure of protection for our frontier. We have been subject to great annoyances and inconveniences; we have been subject to destructive acts of aggression on the part of the Indians, by leaving them at loose ends, as they have been heretofore, and without their feeling that they were accountable to the Government or the people of the United States for their acts, or that they had any connection with them, or any amicable relations toward them. But when they receive their presents from the agents of the United States, and know that the receipt of the presents and their continuance depend upon the maintenance of peace, they will have regard to

the stipulations entered into with them; they will regard it as a matter of faith, that they should protect our frontiers, rather than depredate on our citizens. Our frontier settlements are very sparse; they are very far extended. If one party is attacked, succor cannot be rallied to their immediate support, and the consequence is, that conflagration and carnage mark the progress of these wild Indians.

Domesticate them, sir; habituate them to residences; bring them in connection with the United States; place confidential men in the agencies; and you having nothing to apprehend. There is everything to hope from this policy. If you take an opposite policy, it will cost the Government millions. You may rally your whole Army of the United States to the frontier of Texas, and it will not do as much good, with an expenditure of \$5,000,000, as \$25,000 will do distributed judiciously amongst these tribes of Indians. Hence it is, that I wish to see this policy carried out. It was wise in its inception; I approved it when it was suggested. I thought it wise. I could not at that time have anticipated that a measure so salutary as I believe it will be in its effects, would be conceived, and I readily embraced it as a measure of wisdom and one giving security to a frontier that has been harassed, I might say, for an age past.

I hope this amendment will not be agreed to. I hope the honorable chairman of the Finance Committee will consider our condition and our necessities, and look upon the reserve system as one dictated by wise policy in relation to the Indians; one that will staunch the effusion of blood that has been flowing on our frontier almost since the annexation of Texas to the United States. Before that, for a mere trifle, we kept and maintained peace and good order and amicable relations with the Indians; but since then our frontier has been deluged with blood; conflagrations have marked it from the Red river to the Rio Grande; depredating parties have come in upon us because our relations are changed and a policy adopted different from that which had been previously established. This reserve system is an improvement. I am ready to admit, upon that which Texas formerly adopted in relation to these Indians, because she had not the means of establishing and maintaining the relations that this gives between the Indians and the whites; hence it is that I am anxious to see it carried out; and I implore gentlemen not to subject us to further exposure, and to the disasters that we have suffered so long.

Mr. HUNTER. I think the Senator from Texas misapprehends, in some degree, the intention of the Committee on Finance. We have not diminished the appropriation a dollar; we have not stricken at any reservation which is in actual operation; we have only proposed that any action in regard to this third reservation, which has not even been surveyed, shall be suspended until the next session. What conclusion the Indian department will then come to, or what conclusion Congress will come to, we know not. If the question comes up at all, it will come up then in regard to the reservation policy. We were induced to proceed no further in the establishment of these reservations on account of what has been ascertained by the agent who was sent out to investigate them. The special agent, Mr. Bailey, who was sent out to look into these reservations, writing, it is true, from the California reservations, but in terms which cover all of them, says:

"The whole subject is embarrassing. It is very much easier to demolish existing systems than to establish new ones; and I have hesitated in recommending the total abandonment of that which obtains, chiefly because of the difficulty of devising a substitute. Careful reflection has served rather to develop objections to existing or proposed systems than to suggest one that shall be unexceptionable. It is with extreme diffidence, therefore, that I present for your consideration the plan which has occurred to me."

We do not go any further in regard to this system than merely to suspend any steps towards putting into operation a new reservation, one which has never been established, which has not been even surveyed. If the question comes up, it will come up at the next session. I confess the result of this examination of Mr. Bailey has been such as to make me doubt very much the whole policy of the reservation system, especially within the States where the Indians may be said to be under two jurisdictions, under the jurisdiction of the State government and under that of the Uni-

ted States Government; a matter which suggests grave considerations in regard to a conflict of power that might ensue. But on that subject we do not ask Congress now to determine anything. We only seek to avoid any further embarrassments, if it should be determined at the next session to abandon this policy. I think it probable that some new policy will be recommended, or perhaps some modification of the old policy, at the next session. We therefore do not strike at it, for we have left all the money that is asked.

Mr. HOUSTON. I apprehend there can be no new policy adopted that will supply the place of the present system. It was adopted upon mature reflection. Thus far it has worked very well. We now stand pledged to the Indians to maintain and pursue this policy, unless we can point out to them some radical defect in it, and show them that an improvement can be made upon it. If we do not, we shall have violated our word with them. We have, through our agents, made promises time and again to the Indians, and they have relied upon them. You may tell the Indian anything if you wish to maintain amicable relations with him; and so long as you redeem the pledges you have given him, so long will he confide in you; but show him a wavering policy, or exercise towards him anything evasive or uncandid, and that very moment you destroy his confidence and render him an enemy.

I admit, as to their numbers, that if these Indians could be concentrated they would be contemptible compared with the power of the United States; but they are migratory; they are all over the prairies; they are everywhere. If you can congregate them at any particular point, and can attach them to that, and show them that the certainty of subsistence is greater there than it is in their wild, wandering habits, you attach the Indians to that spot; and if you redeem your promises in regard to it, that spot becomes endeared to them; pleasant associations grow up; they see the comforts of their families increase; they see them multiply; they realize blessings that they did not before enjoy; and the consequence is, that you make a decided impression on them in favor of civilization, and they will strive for improvement. If, however, you establish one system with the Indian, and very soon change it, he can rely with no degree of certainty on any calculation he has made, and he believes it is a promise to suit the convenience of the white men, and that so soon as it suits their further convenience or inclination, the Indian is to become the victim of perfidy.

Now, if this reserve be not established, what will be the consequence? Within the last few months, depredations have been committed there; passengers have been killed; parties have been destroyed upon this very identical route where the Indians are who will be embraced in the western reserve. They will be there congregated; they will be subsisted; care will be taken of them, and they will make the return of grateful fidelity for the care extended to them. But withdraw now a promise of aid to them which has been made by our agents, and fearful retribution will follow. Intelligence passes among them like the breeze in the forest; it is everywhere buzzed, and it is astonishing with what celerity intelligence will pass amongst these Indians from one tribe to another; they reason and discuss the subject; their minds will become settled upon it; their hearts will be fixed upon it. They have few objects to attract them. They are not, like the white man, amused by a thousand means that result from education and intelligence. Their objects are all of a material character; their pleasures are material; they pertain to the animal; and so long as you foster these, so long the Indian is your friend. Withdraw these, and he is the wild man of the forest; he is to pursue war as his natural employment. Hence it is, that I wish these Indians gathered together on the western reserve; I wish them withdrawn from the mail route to California, and the route for emigrants. I wish the emigrants to be protected; I wish the mail service to be protected; I wish no hazards to result; and a few misfortunes of this character, when the Government of the United States comes to reimburse them, will either absorb the annuities granted by the Government, thus amounting to a declaration of war, or it will incite the Indians to instant war, and to depredate upon our frontier; for the Indian is as much at

home in one place in the forest as another. He considers distance only for the comforts that command it. Let him find that the comforts which he commands at one point he can command at all, subsisting by the hunter's life, and he would as soon start from El Paso and go to our frontiers, if he had to wreak vengeance for an injury done, or for a falsehood told, as he would go twenty miles. Time, with him, is nothing; distance is nothing; home is everywhere where the game is in the forest.

I ask the gentleman to consider that these Indians, in expectation of the establishment of this reserve, will look with confidence to what they have been promised; but the moment that promise is withdrawn or falsified, they will believe it was done through artifice, with a design to deceive them and to practice upon their credulity; and by suspending the establishment of that promised reserve, you provoke war, and you will inevitably incur it. It is said, that at the next session of Congress new plans may be devised. Sir, no plan so good as this can be devised. I do not know who is entitled to the credit of it, but whoever he may be, I cheerfully accord to him all that is due for excellent wisdom and understanding of the Indian character. It is the very thing that will give us peace; it is the very thing that will reclaim the red man and make him a man of peace. You must place them in communities; you must show them that the arts of peace and agriculture are the arts that insure to them personal comfort and happiness; that they keep their families around them; that they protect them from the casualties of war, and avoid conflicts with the surrounding tribes. Thus you attach the Indian to this course of life. Abandon this policy, either at this or the next session, and you jeopard the lives of our people; adhere to it, and you will ultimately succeed in building up and establishing a system that will civilize the red man, and give peace and security to the frontiers. Without it, we shall have none—none, sir, none.

Mr. WARD. My honorable colleague has very clearly shown the true condition of the hostile Indians on our frontier, and the great necessity for maintaining these reservations as a means of defense. There are several objects to be attained by them. In the first place, we take the number whom we thus colonize, from the enemy, and make friends of them. They, as a matter of course, are alienated from the hostile Indians, and answer our purposes as valuable allies, as spies and escorts through the Indian country. The experiments which have been thus far made has proved to us that the Indians are capable of being civilized. They have made advancements in agriculture, during the short period that we have had them colonized. They have raised some corn during the past year, perhaps enough for them; at least as much as the whites in the frontier counties in the region of the drought that has prevailed there during the past two or three years, in proportion to their opportunities. Texas has set apart five leagues of land for the purpose of colonizing the Pecos Indians alluded to by the honorable chairman of the Committee on Finance. The Government accepted that appropriation, and thereby impliedly bound herself to use it for this purpose. The Indians so understand it, and likewise the whites who are settled in that immediate region of country. If this system be abandoned, no one knows what the consequences may be. Two overland mail routes pass through the country of those Indians; and if they are collected as proposed, in this reservation; under the supervision of an Indian agent, they will render efficient protection to the Government trains, and to the emigrants through and to that country, and thereby save the expense of escorts, which would otherwise be required.

Independently of this, Mr. President, if you abandon this system, you must necessarily increase the force on our frontier for protection. It is well known that this force has been deficient from the commencement; and in consequence of that we resorted to this system to aid and assist in the protection we have heretofore received, and which has been inadequate. My understanding is, that the Indian agent recommended an appropriation of \$80,000 to sustain the reservations already established, and for the establishment of the Pecos reserve. The Department, I believe, thought proper, by way of economy, to cut that

down one half. The committee here reports a little more, only, than one half of that amount.

Now, Mr. President, if we are to observe this system at all, if the reservations already established are to be sustained, in my judgment it will require more means than is proposed to be provided, outside of the establishment of the Pecos reservation. Then we must pursue one of two plans: we must either carry out the system which has been commenced, at least give it a fair trial, or we must abandon it at once and turn the Indians loose upon the frontier, (which is very poorly protected at present,) to commit depredations upon the settlements; and the consequence will be, that we shall have to commence a war of extermination against the whole tribe. One course or the other is inevitable. I hope that this view of the subject will be taken into consideration, and that we shall have a sufficient amount appropriated to sustain the reservations now established, and also the Pecos as provided for by the State and accepted by the Government, that we may give the system full trial; and by the next session we can enlarge it, or abolish it, as may be deemed best.

Mr. GWIN. I wish to make a single remark on this subject. The authority that the Senator from Virginia read to us against the reservations, I think, ought to be received with a great deal of caution by the Senate. The gentleman who makes that report in regard to the reserves in California, and upon which the Senator is proposing to base our action, made an exceedingly short visit to that country. His authority should not have any effect on the Congress of the United States. Unless that gentleman's recommendation for the abolition of the reservations be accompanied by a recommendation to provide a substitute for them, I think great injury will result to the Government if it is adopted.

I have great confidence in the good faith and the fidelity with which the Department of the Interior is acting in regard to the Indian system of the United States. I think they intend to do the very best they can. They want to diminish the expenditure for keeping up these reservations; but I believe if they attempt to diminish the expenditures without presenting another system by which these Indians will be taken care of and provided for, it will result in Indian wars and an enormous cost to the Government. I believe that the reservation system has not been sufficiently tried to be tested. It has been expensive because it has been a new system. It has been expensive because it had been tried in new countries where everything used is very expensive, where labor is very expensive, especially that kind of labor which is necessary to instruct the Indians in the art of agriculture. I believe that the whole of this movement to abolish the reservation system will be disastrous to the country, unless we have another system presented to supply its place; and I now enter my protest against any movement to abolish it, unless we have another system presented by which these Indians can be taken care of and not turned loose to depredate upon the country, or to starve. It is much better to feed the Indians than to fight them. It is human nature, it is the nature of all animals, that they will fight rather than starve. If there was another system presented by which these Indians could be taken care of more economically to the Government, and promising future benefits to the country, I should agree to it, because I know that the present system is expensive for the reason that it has been but a short time in operation.

Look at the State of California. You do not acknowledge title to one solitary acre in that State for all the Indians within its limits. Many years ago there were seventeen treaties made with the Indians in California, all of which were rejected by the Senate; and they have not got one foot of land that is recognized as theirs, outside of the reservations, and they have no protection except there. The Indians there amount to over fifty, sixty or seventy thousand; their former home, the region where they obtained their sustenance, is now inhabited by hundreds of thousands of American citizens; the very means of subsistence that they have relied upon, have been taken from them. The acorns and the salmon and fish of the rivers there and all that kind of food which has sustained life, but is of a very low class, I confess—but these Indians

have been used to that, and nothing else—all have been destroyed, that country being taken possession of by hundreds of thousands of American citizens. It is right in the heart of the mineral district. They have no home, they have no protection outside of these reservations, small as they are; and I see accounts, by the last mail, that the people are rising and taking the Indians from the rancheros, and sending them away to the Government farms and reservations, with a notice that if they come back they will put them all to death.

Now, sir, we are asked to withdraw all this protection; to withdraw the means of supporting these Indians at the reservations, which is the only possible chance of keeping them there. You should take into consideration the fact that, if you change this system without presenting a new one, you may bring on Indian wars; and whenever Indian depredations are committed upon the citizens of a State, if the Government does not intervene and prevent their committing depredations, the State authorities call out volunteers and thus present to us enormous debts for Indian wars. I think that, for the present, this system of reserves had better be tried until the next session of Congress at least. I think the reports that have come before us are not of a sufficiently decisive character to justify us in abandoning it, and then we have nothing presented as a substitute.

Mr. HUNTER. The Senator from California misapprehended this measure, if he will allow me to say so. We do not propose to dismiss men, or break up a single reservation. We only propose not to extend the system by the establishment of a new reservation that has not been surveyed. This amendment does not diminish the appropriation a dollar. It does not touch a single reservation that has been established; and, if he will allow me, I can show him the reasons on which it was thought best not to extend the system further.

Mr. GWIN. I wish the Senator would state them.

Mr. HUNTER. We have not proposed to touch a single reservation that was already established, not to dismiss a single Indian who was upon one, not even to curtail the officers upon them; but we have only proposed that we should not extend the system further, until we can have a further examination and report at the next session of Congress in regard to the whole system.

Mr. GWIN. I will not go into the argument of the question further than to say that to States like my own, where you have no provision for the Indians; where you have no treaties with them; where they have no home except on these reservations; where you have established the policy that they shall have no special country set apart for them by treaties, it is a matter of very great importance that, before you strike at the reservation system, which, I think, is the only one that is left for the protection of these Indians and preventing their extermination, you ought to have another system presented. On that subject, not having reference to this particular amendment which pertains to the State of Texas, I merely wish to say, that until a new system is presented, it is a matter of great importance that we should not strike at the one now in existence, and which, up to the present time, has not been looked upon as very successful, but I think time will prove that it will be successful. If not, we can then devise some other system.

Mr. HUNTER. One word. I think Senators have misunderstood the object of this amendment. It is not proposed to abolish the reservation system. No one would do that until something was substituted for it; but inasmuch as the examination into this system has been such as to discourage its further prosecution, it was thought better not to extend it until we could hear more from the Department, which probably we shall do at the next session of Congress. That view was founded upon such evidence as this: the Department sent out a special messenger to look into the reservations, the California reservations particularly, and here is what the agent, and a very intelligent agent, too, he seems to have been, says in regard to it:

"It was measurably to reestablish this condition of things."

Speaking of the old Mexican mode of treating the Indians—

"as I conceive, that Mr. Beale devised the system of col-

lecting the Indians upon reservations, or, in other words, Government farms, and there subsisting them by their own labor. I am not prepared to say that the leading ideas of his plan could not, under certain conditions, be successfully applied in practice; but it must be admitted that the experiment has, so far, proved a lamentable failure."

Then, again, in reference to the Mendocino reservation, of which he made a special examination, he says:

"Notwithstanding these natural advantages, the reservation has not thriven. There are but few Indians upon it, (seven hundred and twenty-two according to the statement of the sub-agent in charge,) and the great majority of these could, in no wise, be distinguished from their wild brethren. The whole place has an effete, decayed look, that is most disheartening. I saw it, it is true, at an unfavorable season of the year; but there were unmistakable indications everywhere that, whether considered as a means of civilization or as purely eleemosynary, the system, as tried here, is a failure."

Again he says, speaking of the economy of the system:

"A rough calculation of the amount of food \$100,000 would buy, and the number of Indians it would feed, will illustrate the economy of the present system."

The result of that examination is, that if we were to take the money and buy food and give it to the Indians, they "could be fed at an annual cost of \$16 42 per head, which is about one fourth what it costs at present." He says further:

"If it be conceded that the reservation system, as practiced in California, does not civilize the Indian, and does not feed and clothe him cheaply; that, in short, it is a failure, it only remains to ascertain the cause of the failure. Is the defect in the system, or the management? and, if in the system, what remedy shall be applied? These are grave questions, and I attempt their solution with hesitation."

He goes on to speak of the only thriving Indians whom he saw:

"Upon the Lupitomi ranch, near Clear lake, there are some three hundred Indians, the only really prosperous and happy ones I saw in California. These Indians, with the permission and by the aid of the ranchero, cultivate several fields near the edge of the lake, and with the products of these and the fish which abound in the lake, subsist themselves comfortably. In spring time and harvest the men go down into Napa and Sonoma valleys, and hire themselves at good wages to the farmers there, and thus procure the means of clothing themselves and families. The owner of the ranch finds his advantage in thus protecting, encouraging, and aiding these Indians. They make capital vaqueros, and he can obtain the services of almost any number, at a moderate price. They are his feudatories, and while he protects them they serve him. Here, again, is reciprocity, and a corresponding, probably consequent, success. Can Government vicariously establish such relations with the Indians? The question is an embarrassing one, and I leave its solution for abler heads."

If we were to pursue the subject, and go into the history of the Oregon reservation, I think we should find the experiment has not been more encouraging there. Under all these circumstances, we thought it best not to break up the present system, until something else can be offered as a substitute; and I do not propose even to diminish the appropriations; but merely to determine to extend the system no further until we shall have a further examination into its merits.

Mr. BRODERICK. Mr. President, I am sorry to hear from the chairman of the Committee on Finance that no provision has been made for the reduction of the Indian agents in California. I have been informed that the money paid to the agents amounts to more than is paid for keeping the Indians in California.

Mr. HUNTER. I will say to the Senator from California, that the Secretary of the Interior cut down the estimates of the agents very largely, probably as far as it was safe to go under the circumstances, unless there be a system to substitute for it. That was a matter into which the Finance Committee could not go. We could not ascertain what each agent ought to have.

Mr. BRODERICK. It would be very easy for the committee to have recommended the old system of putting the Indians in charge of the officers of the Army, and prevent the Government from being robbed yearly out of hundreds of thousands of dollars by the agents of the Government. The Indians in the State of California have never derived any benefit from the appropriations; the agents have swallowed up all the money; and I regret that some provision has not been made to correct this abuse; for it is a frightful abuse. The Indians, as the gentleman who was sent out by the Government says, in the summer season never go on the reservations. It is only in the winter season that they go there. The money appropriated for their protection, and for the purpose of keeping them, has been squandered by the agents; and if it is true that the agents, out of the money

expended by the Government, have received more than has been spent for the protection of the Indians, I think the system ought to be abolished. I would favor the old system of putting the Indians in charge of the Army officers.

Mr. GWIN. The Senator has made a broad charge here against the Indian agents in California. I wish he would specify by name one that has robbed and plundered the Indians.

Mr. BRODERICK. I do not know any of them, or scarcely any of them, by name. I state again that the money of the Government has been squandered in California. I do not know the Indian agents who have squandered it particularly, because I never could find out their names. I have heard, though, that they were made just before the late election in every county, or at least in all the mining counties in my State. Whether it is so or not, I do not know. I may introduce a resolution before the adjournment, for the purpose of inquiring whether such men were employed or not. At this time I am not advised about it.

Mr. GWIN. There are three Indian agents in California; only three.

Mr. BRODERICK. I am speaking of the sub-agents, men employed about the different reservations for the purpose of guarding and protecting the Indians.

Mr. GWIN. There are five sub-agents employed in California, and only five. The Senator here makes charges against the agents, and then when he is called upon to specify which of them have squandered the public money, he says he does not know their names. There are only three of them; and then he names the sub-agents, and there are only five of them. There are only three agents and five sub-agents in the State.

Now, sir, in regard to the report that has come in here, made by a gentleman who made a casual visit through the country, I do not think it entitled to any consideration at all. It is only the mere opinion of an individual who has passed through the country. If there has been any improper appropriation of public money there, I hope the Senator will introduce a resolution on that subject. These round charges against officers in that State of having improperly used the public money, it is time to put a stop to. Assertions of that sort ought to be followed with proofs. If there has been any improper use of the public money in that State, I should like to know it by an investigation, and a proper investigation. I should like to know what the Senator means by putting these Indians under the protection of the Army officers. I never heard of it before.

Mr. BRODERICK. I intended to substitute the Army officers in California as agents, in place of the men who are now employed by the Government.

Mr. GWIN. Have they ever been in that position?

Mr. BRODERICK. I understood that, before the present system was adopted, the officers of the Army had the management of Indians in the Indian countries. I may be mistaken, but I was so informed. The Senator from Mississippi can state how the fact was.

Mr. DAVIS. There have been agents and sub-agents, I believe, from the time we commenced intercourse with the Indian tribes; but the officers of the Army were *ex officio* Indian agents at the different posts, in the absence of the agent, thus getting the control of the Indians, and I agree with the Senator from California, [Mr. BRODERICK:] I think they administered them better.

Mr. GWIN. That system was changed before California came into the Union. That system was changed in 1849. It has never been in operation in California. I do not pretend to make an issue on the point that it would not be better for the whole Indian system to be restored to the War Department, as it originally was. That is a matter of policy. I am rather disposed to believe it would be better. I am inclined to think the whole Indian system should be placed in connection with the War Department, because, if we have an Indian collision, the War Department must attend to it, and the management of the Indians probably could be conducted better by it than by the Interior Department, which was established in 1849. Hence, I agreed to the resolution introduced by the chairman of the Committee on Finance, proposing an inquiry

whether or not the control of the Indians should not be restored to the War Department.

But the question now presented is, whether or not you will not devise a system to supplant a system that is now in operation, before you turn these Indians out, without any provision at all for them, to deplete upon the country and bring on Indian wars, and in that way create collisions and produce claims on this Government that will be infinitely beyond anything that is proposed to be appropriated. The appropriation for my own State in this bill is at such a low figure that it is not necessary to inquire into it. It is only \$50,000 for the whole Indian service—only about eighty cents for each Indian in the State. It is a very small sum. There cannot be much depredation committed under that. I only speak on the question now with a view of calling the attention of the Senate and the country to the necessity of providing a system to supply the place of the reservation system; for if it be abandoned, there must be some other. Either these Indians must be exterminated by starvation or war, or they must be otherwise provided for.

Mr. WARD. I am not prepared to say how far the charge made by the honorable Senator from California [Mr. BRODERICK] will apply to the agents in that State; but in justice to the agent in Texas, I will say that instead of squandering money, as has been charged upon those in California, he has shown an unexpended balance, thereby proving that he has not been disposed to use all the money that was placed in his hands. He holds this balance for subsequent expenditures, and calls for an additional amount to carry out the purposes intended.

Mr. BRODERICK. I said nothing about the agents in Texas; I was speaking of the agents in California. If the report of this gentleman who was sent out by the Indian department is to be believed, great frauds have been committed there. I do not know whether it is true or false; but if true, this abuse should be corrected. I should not have taken any notice of it if it had not been for the remark which fell from the chairman of the Committee on Finance, who said they did not intend to reduce the number of men now employed by the Government in California.

Mr. HOUSTON. I do not wish to continue this debate, but I would ask the chairman of the Committee on Finance who the gentleman is that made this report, and whether he was sent as a special agent for the purpose of collating facts in order to make a report?

Mr. HUNTER. Yes; he was sent as special agent, as I understand. He signs himself, "G. Bailey, Special Agent, Interior Department."

Mr. HOUSTON. He is a very intelligent gentleman, I know, and I have great confidence in him; but what he says corroborates the very position I have taken. It strengthens it in this way: he shows that the only Indians he saw who were prosperous and happy in that community were protected by rancheros; they were protected, and rendered fealty in return for that protection. If the Government protects them, the Indians, knowing that the citizens belong to the Government, will respect the citizens on the frontier; they will not deplete upon them. You must have some way of approaching the Indians and connecting them with our people. It is through the medium of the Government alone that this can be done. Just so sure as this third reservation is not established in Texas, so sure will the Indians commence hostilities. They have been promised it. It is said that it is proposed to wait until next year to see what to do. What time is to intervene from the present period until your action next year? Soon the spring will be upon us, the very time when the Indians commence depredating; because the grass affords them an opportunity of coming in with their horses, if they choose to bring them. They can graze them along the way. There is now no subsistence; they cannot well travel; but in the spring, when the grass grows up—and that will be as early as March in that region—the Indians can travel and they can make their incursions, or they can steal horses and subsist them until they get them beyond pursuit.

Recollect here, that the spring and summer and fall, and next winter and spring, an entire year, will elapse before Congress will have any time to take action on it; and then it would require sev-

eral months before the fact could be announced to these Indians, who have been in expectation of it now for a year past; and you will have nothing to amuse them through the summer, but they will know that the promise of the Government to establish this reservation has not been complied with. They will be galling under the disappointment for an entire year. The consequence will be, that the Indians will be turned loose upon Texas. I do not want to protract the debate.

The amendment was agreed to—ayes twenty-eight; noes not counted.

The next amendment of the Finance Committee was, to add to the first section of the bill the following item:

For the general incidental expenses of the Indian service in the Territory of Utah, or so much thereof as may be required for expenditure, during the year ending the 30th of June, 1858, \$56,599 21: *Provided, however,* That no part of this sum shall be paid until the Commissioner of Indian Affairs shall have first audited and passed the several accounts.

Mr. HUNTER. This is an estimate which was presented last year, but not put in the bill on account of the general distrust which accompanied everything in regard to the Territory of Utah. This session, the Secretary of the Interior did not recommend it at first in the printed estimates, because he said there seemed to be a decision of Congress against it; but he sent a letter to the committee, saying that the money was due, and there ought to be some provision for it; and they determined to insert this provision appropriating the money conditionally, to be paid after the claims are settled here by the Department, and not by the agents there.

The amendment was agreed to.

The next amendment of the committee was to add:

For carrying into effect the act of the 3d of March, 1818, making provision for the civilization of the Indian tribes, in addition to the sum specified in that act, \$5,000.

Mr. HUNTER. The Committee on Finance, as they were closing the bill, agreed to the amendment under the impression that there was an estimate made for it. Finding, however, on consultation with the Department, that there was no estimate, and not only that, but that they had refused to estimate for it, the committee instructed me to move to strike it out. They took that for the purpose of giving Senators an opportunity of trying the question in the Senate, if they choose. We found, on consultation, that there was a standing appropriation of \$10,000 for civilizing and Christianizing the Indians, a sum which was thought quite enough; and a sum which it was evidently dangerous to increase. It is distributed among ministers of various sects, and not disbursed by agents of the Department, but disbursed by them; and, although, owing to the smallness of the sum, it has gone on very well heretofore, it might become a subject of jealousy. We all know how jealous the American people are of any sort of connection between the Government and the churches of the country; we therefore propose to strike out this item, for the purpose of giving the Senate a chance to express their sense in regard to it.

The PRESIDING OFFICER. (Mr. FOSTER.) The question before the Senate is on agreeing to the amendment proposed by the committee, unless the Senator withdraws it.

Mr. HOUSTON. I do not understand the position of the gentleman. Is the motion to strike out?

Mr. HUNTER. Yes, sir; we move to strike it out.

Mr. HOUSTON. I hope it will not be done.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the amendment.

Mr. HUNTER. That is the proper way to put it. I hope it will be voted down.

The amendment was rejected.

The next amendment of the committee was to strike out the third section of the bill, as follows:

"Sec. 3. *And he it further enacted,* That the amounts hereby appropriated for the payment of the Miamies of Kansas and the Miamies of Indiana shall be paid in conformity to the first proviso of the first amendment to the fourth article of the Senate amendment to the treaty with the Miamies, of 5th June, 1834, and not otherwise: *Provided, however,* That no portion of the money hereby appropriated shall be expended in any way otherwise than as provided for in this act."

Mr. HUNTER. The explanation of this is a little complicated. There was an original treaty with the Miamies—the whole tribe. A portion of the tribe came in, as the Committee on Finance were satisfied upon examination, and obtained an amendment to the treaty, what was called a supplemental article, which provided that only certain persons who it turned out, happened to be a portion of the tribe, should be paid under it. Afterwards this fact appeared to the satisfaction of the Senate, and upon a motion coming from the Committee on Indian Affairs, they directed, by law, that these annuities should be paid to the whole tribe, a portion of them, I believe, being west of the Mississippi, instead of only to a part; and under that law the Miamies west of the Mississippi have been paid, together with these in Indiana, some twenty-odd thousand dollars. Here is an attempt in the bill to confine it to those who were only a part of the tribe, not the whole of the tribe, who obtained that supplemental article that turned out to be a fraud on the tribe, inasmuch as it did not represent the whole. The House of Representatives, as we presume, from a misunderstanding, inserted this section requiring us to be governed by that supplemental fourth article. They have confined these payments to a part, instead of the whole, and therefore, we propose to strike that out.

The amendment was agreed to.

Mr. HUNTER. I have a further amendment to offer as a new section:

And he it further enacted, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers," approved June 30, 1834, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases, either by the Indians or by white men trespassing on the Indians as described in the said act, be and the same is hereby repealed: *Provided, however,* that nothing herein contained shall be so construed as to impair or destroy the obligation of the Indians to make indemnification out of the annuities as prescribed in said act: *And provided further,* That the President of the United States may at his discretion indemnify the Indians out of the Treasury, for losses, in cases where the said act required them to be paid out of the Treasury.

In the intercourse law of 1834, which, as the Commissioner of Indian Affairs has well said, is now worn out, there were provisions made in two different sections which this amendment touches. The first was, that if a white man trespassed upon a friendly Indian and he could not recover money out of him, the United States would reimburse him. On that head we propose, instead of giving the friendly Indian recourse to the Treasury of the United States, to leave it optional with the President to say, whether in certain cases, he will reimburse him, leaving him, however, to his remedy against the trespasser, whatever it may be.

But there is another section which is the one we mainly desire to strike at, and that is the one which provides that when Indians from the Indian territory shall commit a trespass on the whites, if it cannot be paid for out of the annuities given to the Indians, it shall be paid out of the Treasury of the United States. When this provision was originally introduced, the Indian territory was comparatively small. Perhaps it may at one time have served a useful purpose. I do not know how that is; but as it now operates, and since we have extended it to all that country acquired from Mexico, to Oregon, to Washington, and to all that vast territory, it is sought to be used as a means of insuring Indian traders and persons who are traveling for their own purposes across the plains, or going into those territories. In New Mexico, and on the routes to California, in Washington, and in Oregon, it is likely that very large amounts will be claimed hereafter from the United States, unless we put an end to it by repealing so much of the Indian intercourse act as makes the United States liable in such cases. We leave the man injured, however, to his recourse to their annuities, and only take away that guarantee which is sought to be applied now, not to the original purpose for which it was created, but to that of insuring these men in the prosecution of their trade or their travel.

The Commissioner of Indian Affairs tells me that there are claims to the extent of \$1,500,000, I think, now before his department under this act. Of course we do not pretend to affect the past. We cannot affect any vested right. Our amendment relates only to the future, inasmuch as it is obvious that the United States Treasury would be

almost insufficient to supply such demands as could be raised if we were now to suffer parties claiming the benefit of that act to come in upon its equities as they claim to do. For instance, I understand there is a claim of this sort: A certain man, who was traveling into California for purposes of gain of his own, was forced to give up his stock for fear the Indians would trespass on it; and, he alleges, they would have died for the want of food if they had not taken it; and he claims to be reimbursed from the United States. There are claimants of that character—traders who are injured. It is known that so far as that act was intended to prevent them redressing themselves, it is perfectly useless; and it seems to me obvious that the sooner we repeal these sections, which make the United States Treasury liable, the better. I see no useful purpose, I see no justice in making it liable for any such purposes as those for which it is now sought to be used.

Mr. HALE. I wish to call the attention of the chairman of the Committee on Finance to a single provision which I think I heard read in the amendment, and that was, giving the President a discretionary power, in certain cases, to pay for depredations committed by Indians, out of the Treasury.

Mr. HUNTER. There are two sections, as I endeavored to explain. The first relates to trespasses on friendly Indians. It requires that the trespasser shall be sued, and if they cannot recover the amount out of him, it is to be paid to the friendly Indians out of the Treasury. As the law now stands, if they do not get it out of the man, the United States Treasury has to pay. We sought to relieve the Treasury from that responsibility, and substitute a provision that the President might, in his discretion, pay. Sometimes it might be necessary in order to keep the peace.

Mr. HALE. I shall vote for the amendment, but I wished to call attention to it to ascertain whether or not a clause giving the President discretionary power to pay a claim or not, as he pleased, was not in conflict with that provision of the Constitution which prevents any money being drawn from the Treasury, unless by virtue of an appropriation made by law.

Mr. HUNTER. It is just as it was before. This is the law under which he would draw it.

The amendment was agreed to.

Mr. BELL. I offer the following amendment as a separate section:

And he it further enacted, That the fifth section of the act establishing the Department of the Interior, approved March 3, 1849, be, and the same is hereby, repealed; and that the office of Indian affairs be retransferred to, and made part of, the Department of War, with all the books, records, papers, and business, pertaining to Indian affairs, now in possession of, or pending before, the Department of the Interior; and the Secretary of War shall be, and he is hereby, reappointed with, and shall exercise, all the supervisory, appellate, and other powers and duties in relation to Indian affairs, which are prescribed by the act entitled "An act to provide for the appointment of a Commissioner of Indian Affairs, and for other purposes," approved July 9, 1832.

Mr. WILSON. That is a very important proposition. I think it will lead to some debate; and I therefore move that the Senate adjourn.

Mr. BRODERICK. I hope not.

Mr. HUNTER. I hope we shall not adjourn until we act on that amendment.

Mr. WILSON. I withdraw the motion.

Mr. FESSENDEN. I renew it.

Mr. BELL. But I wish to state my reason for offering the amendment.

Mr. FESSENDEN. Very well.

Mr. BELL. I have been a long time convinced that we committed an error when we took the bureau of Indian affairs from the War Department, where it more appropriately belongs. I believe now that the Secretary of the Interior is satisfied that that would be the best disposition to make of this branch of his Department. The late Secretary of War was of opinion that it would be very convenient, and possess many advantages over the present disjointed and rather separate control that the Department of the Interior and the War Department have over different branches of the service. They actually come in conflict, and mischievous conflict, frequently. The Committee on Indian Affairs, I am authorized to say, are of opinion that this transfer should be made. I believe I have heard of no objection to it from any quarter, within the last year, in fact, because the retransfer has been thought of for some time

past. I will not say another word. I am willing the vote should be taken.

Mr. BRODERICK. I understand that the chairman of the Committee on Finance is in favor of this amendment, and I hope it will be acted on before the adjournment.

The amendment was agreed to.

Mr. SIMMONS. I want to call the attention of the chairman of the Committee on Finance to the word "insurance" in the fortieth line. I believe the bill provides for the Government insuring property.

Mr. HUNTER. We have to insure Indian presents that go up the Missouri river to Fort Benton, &c.

Mr. SIMMONS. I should like to know who we insured with?

Mr. HUNTER. It is paid for out of the money appropriated.

Mr. SIMMONS. Do we insure with a common insurance office?

Mr. HUNTER. So I understand.

Mr. SIMMONS. I should like to bring in a resolution about it. This Government insure with an individual! We ought to take the risk ourselves, unless there is somebody worth more than the Government. I do not care anything about it, but it looks ridiculous for this Government to be insuring goods.

Mr. HUNTER. It has been an old practice to insure goods going to Indian tribes.

Mr. SIMMONS. It is time it was abolished.

Mr. HUNTER. I believe we have sometimes found the benefit of it. Those who have influence with them may have more power to provide for the safe carriage than the Government itself, unless the Senator would send an armed expedition.

Mr. SIMMONS. I would never have the Government insure in this way. We might as well insure our ships of war in a private insurance office.

Mr. WILSON. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 31, 1859.

The House met at twelve o'clock, m. Prayer by Rev. J. G. BUTLER.

The Journal of Saturday was read and approved.

WILLIAM HAZZARD WIGG.

Mr. KEITT. I rise to a privileged question. I move to reconsider the vote by which the joint resolution (S. No. 52) for the relief of William Hazzard Wigg was ordered to be read a third time.

The resolution was read. It provides that the accounts of William Hazzard Wigg be reopened at the Treasury Department; and if it be found that \$1,500 was withheld from him in consequence of a clerical error, that amount shall be paid out of any money in the Treasury not otherwise appropriated.

Mr. KEITT. I now withdraw the motion to reconsider, and call the previous question on its passage.

The previous question was seconded, and the main question ordered; which was on the passage of the joint resolution.

Mr. JONES, of Tennessee. Were not the yeas and nays ordered on Saturday on the passage of this resolution? My recollection is that they were.

THE SPEAKER. The gentleman from Tennessee is right.

The question was taken; and it was decided in the affirmative—yeas 92, nays 57; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Atkins, Bonham, Branch, Bryan, Burlingame, Burnett, Burns, Case, Chaffee, John B. Clark, Clay, John Cochran, Coffey, Comins, Corning, Covode, Cragin, James Craig, Cravens, Curry, Curtis, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dawes, Dewart, Durfee, Edie, Eustis, Florence, Foley, Foster, Gartrell, Gilmer, Gooch, Goodwin, Greenwood, Gregg, Robert B. Hall, Harris, Haskin, Howard, Hughes, Jackson, Owen Jones, Keim, Keitt, Kellogg, Kelsey, Kilgore, John C. Kinkeel, Leidy, Leiter, McQueen, McKee, Maynard, Montgomery, Morrill, Edward Joy Morris, Freeman H. Morse, Niblack, Nichols, Pettit, William W. Phelps, Richardson, Russell, Sandidge, Savage, Seward, Aaron Shaw, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Thayer, Tripp, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Wortendyke, Augustus R. Wright, and Zollicoffer—92.

NAYS—Messrs. Bingham, Bliss, Brayton, Buffinton, Clawson, Cobb, Cockerill, Davis of Indiana, Dodd, Feinton, Giddings, Goode, Granger, Gray, Harlan, Hoard, Houston, Jewett, George W. Jones, Knapp, Lawrence, Leach, Letcher, Lovejoy, Macley, Matteson, Miller, Millson, Morgan, Isaac N. Morris, Murray, Oliver, Palmer, Parker, Pendleton, John S. Phelps, Phillips, Potter, Purviance, Reagan, Royce, Ruffin, Seales, Henry M. Shaw, Stanton, William Stewart, Tappan, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and John V. Wright—57.

So the joint resolution was passed.

During the vote

Mr. GILMER stated that his colleague, Mr. VANCE, was confined to his room by sickness.

The vote having been announced, as above,

Mr. KEITT moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EDWIN M. CHAFFEE.

Mr. EDIE. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of the bill (H. R. No. 348) for the relief of Edwin M. Chaffee.

Mr. WASHBURNE, of Illinois. Is that the patent case?

Mr. EDIE. Yes, sir.

Mr. JONES, of Tennessee. I object.

Mr. EDIE. I move that the rules be suspended.

Mr. WASHBURNE, of Illinois. I hope the rules will not be suspended.

Mr. JONES, of Tennessee. I ask that the bill and report may be read, so that we may know what we are voting upon.

The bill and report were read.

The bill grants to Edwin M. Chaffee, of the city and county of Providence, in the State of Rhode Island, for his sole and exclusive benefit, and for the benefit of his heirs, administrators, and to those to whom he may hereafter assign the same, for the term of seven years from the passage of this act, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, his improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, for which letters patent were granted to Edwin M. Chaffee, on the 31st of August, 1836, and which is described in the schedule annexed to the letters patent; and it directs the Commissioner of Patents to make a certificate of such grant, in the name of Edwin M. Chaffee, and to append an authenticated copy thereof to a duly certified copy of the letters patent, and to deliver the same to Edwin M. Chaffee, his administrators or assigns, whenever the same shall be requested by him or them.

It appears from the report that Edwin M. Chaffee, prior to the 31st day of August, 1836, applied for, and on that day obtained, from the Government of the United States, letters patent for "an improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process." The patent expired in 1850, and was renewed by the Commissioner of Patents, under existing laws, for the term of seven years, which term expired during the year 1857. Application is now made to Congress for an extension, by legislative enactment, for a further term of seven years.

The Committee on Patents and the Patent Office state that it is satisfied that the improvement made and claimed by the memorialist is an original invention; that he is the inventor thereof, and that the invention is one of great public utility. By the introduction into general use of the improvement of the memorialist, the manufacturers of India-rubber goods are enabled to dispense with the use of a solvent, an article altogether indispensable until this improvement was made, and thus save some fifty cents on every pound of crude caoutchouc worked up into manufactured articles.

When the vast number of pounds of the raw material used in the fabrication of India-rubber goods is considered, it must be apparent that the invention enables the manufacturer to produce his goods at a vastly reduced price to the consumer, and thus both the producer and the purchaser are generally benefited, on account of the genius and skill employed in the perfection of this improvement. The profits which have accrued to the me-

morialist have not, in the opinion of the committee, been at all commensurate with the benefit he has conferred upon the public by his invention. The memorialist exhibits an account of all his receipts for or on account of his improvement, which account amounts in gross to the sum of \$22,500, and the same account exhibits disbursements, compensation claimed for time expended, and losses sustained, amounting to the sum of \$19,500, leaving to the memorialist the small pittance of \$3,000 as his whole remuneration for years of toil spent in the perfection of an invention, which has enabled the manufacturer of India-rubber goods to save thousands in the cost of producing his goods, and the public, who buy the goods, to save tens of thousands on account of the reduction of price, brought about by dispensing with the use of all solvents in the manufacture of the fabrics. The committee think that no blame should attach to the memorialist, because he has failed, up to this time, to realize a sufficient reward for his invention. He was a poor man, surrounded with difficulties, and unable, from his very poverty, to take those energetic measures necessary to secure to himself great pecuniary benefits from his newly-invented process of grinding instead of dissolving the raw material used in the manufacture of India-rubber goods. He did all that his limited means permitted, and the result was an insufficient remuneration.

Mr. WASHBURNE, of Illinois. I desire to ask the gentleman a question: whether this patent has not already been renewed once? whether it has not been enjoyed for twenty-one years? and whether the invention has not been devoted to public use for the last year and a half?

Mr. JONES, of Tennessee. For the last two years.

Mr. WASHBURNE, of Illinois. Also, whether this bill does not propose to put our hands on public property and convert it into private property? Besides, there is no saving clause in the bill.

Mr. EDIE. I answer the gentleman from Illinois, that the report states all the facts in regard to this matter, with the exception of one. That fact is connected with the remuneration of the inventor. If the gentleman from Illinois will not now interpose an objection to discussion, as he did on a previous occasion, and will permit me, I will state that other fact for the information of the House.

Mr. WASHBURNE, of Illinois. I should be glad to have the gentleman state all the facts, and I should be glad to reply.

Mr. JONES, of Tennessee. Debate is not in order. I ask for the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 86, nays 85; as follows:

YEAS—Messrs. Ahl, Andrews, Bennett, Brayton, Burlingame, Burns, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Cobb, Cockerill, Covode, Cragin, James Craig, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Dean, Dewart, Dick, Durfee, Edie, Florence, Gilman, Gilmer, Goodwin, Granger, Greenwood, Gregg, Robert B. Hall, Harris, Hatch, Howard, Hughes, Keim, Keitt, Kelsey, John C. Kinkeel, Leach, Leidy, Leiter, Letcher, Macley, Humphrey Marshall, Mason, Matteson, Miles, Millson, Montgomery, Morrill, Edward Joy Morris, Oliver A. Morse, Niblack, Nichols, Parker, Pettit, William W. Phelps, Pike, Lack, Nichols, Parker, Pettit, William W. Phelps, Pike, Potter, Purviance, Ricard, Roberts, Royce, Searing, Aaron Shaw, Shorter, Stallworth, Stephens, James A. Stewart, William Stewart, George Taylor, Thayer, Tompkins, Tripp, Walbridge, Waldron, Walton, Ward, Watkins, White, Whiteley, Wilson, Wood, and Woodson—86.

NAYS—Messrs. Abbott, Adrain, Anderson, Arnold, Atkins, Barkdale, Barr, Bingham, Bishop, Bliss, Bryan, Buffinton, Caskie, Chapman, Clawson, Clay, John Cochran, Coffey, Comins, Corning, Cox, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dawes, Dodd, Dowdell, English, Eustis, Foley, Foster, Gartrell, Giddings, Gooch, Goode, Harlan, Haskin, Hoard, Hodges, Hopkins, Houston, Jackson, Jewett, George W. Jones, Kellogg, Kilgore, Knapp, Lawrence, Moore, Morgan, Isaac N. Morris, Murray, Oliver, Palmer, Pendleton, Peyton, John S. Phelps, Pottle, Reagan, Robbins, Ruffin, Sandidge, Seales, Henry M. Shaw, Stanton, Thompson, Vallandigham, Wade, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wortendyke, John V. Wright, and Zollicoffer—85.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the vote,

Mr. MAYNARD stated that if he had been in the Hall when his name was called, he would have voted "ay."

The vote was then announced as above.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that the Senate had passed the following bills; in which he was directed to ask the concurrence of the House:

An act (No. 489) to prevent malicious mischief, and protect property, in the District of Columbia;

An act (No. 505) to amend the "Act to incorporate the Provident Association of Clerks in the civil departments of the Government of the United States in the District of Columbia;"

An act (No. 535) conferring certain powers in relation to alleys on the corporation of the city of Washington;

An act (No. 536) to authorize the levy court to issue tavern and other licenses, in the District of Columbia; and

An act (No. 544) to incorporate the Washington National Monument Society.

Also, that the Senate had passed, without amendment, an act (H. R. No. 540) to provide for the lighting with gas certain streets across the mall.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as correctly enrolled an act (H. R. No. 540) to provide for the lighting with gas certain streets across the mall; when the Speaker signed the same.

TERRITORIAL BUSINESS.

Mr. STEPHENS, of Georgia. I move to suspend the rules so as to enable me to introduce the following resolution:

Resolved, That Tuesday, Wednesday, and Thursday, the 8th, 9th, and 10th of February, be set apart for the consideration of territorial business.

Mr. PHELPS, of Missouri. I ask the gentleman to make it two days.

Mr. MORGAN. I object to the introduction of the resolution unless it excludes the Oregon matter.

Mr. STEPHENS, of Georgia. I have moved to suspend the rules.

Mr. MORGAN. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 108, nays 82; as follows:

YEAS—Messrs. Abbott, Adair, Abt, Anderson, Arnold, Atkins, Avery, Barksdale, Barr, Bennett, Bishop, Bonham, Boyce, Bryan, Burnett, Burris, Cavanaugh, John B. Clark, Clay, Cobb, John Cochrane, Cockrell, Corning, Cox, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dowdell, Edie, English, Eustis, Faulkner, Florence, Foley, Foster, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Horton, Houston, Hughes, Jackson, Jewett, George W. Jones, Owen Jones, Keim, Keith, Kilgore, Lamar, Lawrence, Leody, Lester, Leitcher, Machy, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Mason, Miller, Millson, Montgomery, Moore, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Reagan, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Stallworth, Stephens, James A. Stewart, George Taylor, Thayer, Vallandigham, Ward, Watkins, White, Whiteley, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliehoff—108.

NAYS—Messrs. Andrews, Billingshurst, Bingham, Bliss, Burlingame, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Clawson, Colfax, Conness, Covode, Cragin, Davis of Maryland, Davis of Massachusetts, Dawes, Denn, Dick, Dodd, Durfee, Fenton, Garnett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Robert B. Hall, Harlan, Harris, Haskin, Hund, Hodges, Howard, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Lovejoy, Matteson, Maynard, Miles, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Nutt, Murray, Olin, Palmer, Parker, Pettin, Phillips, Pike, Potter, Pottle, Purviance, Ricard, Roberts, Royce, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Winslow, and Wood—82.

So (two thirds not voting in favor thereof) the rules were not suspended.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported as correctly enrolled a joint resolution for the relief of William Hazzard Wigg; when the Speaker signed the same.

LAND TITLES IN MAINE

Mr. FOSTER. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the House bill No. 574, entitled "A bill to provide for quieting certain land titles in the State of Maine, and for other purposes," be made a special order in the Committee of the Whole House for Saturday next.

Mr. DAVIS, of Mississippi. I object.

Mr. FOSTER. I move to suspend the rules; and on that motion I call for the yeas and nays. The yeas and nays were not ordered.

Mr. LEITER. I ask that the bill be read for information, so that we may know what it is.

The bill was read.

It authorizes and requires the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Laura A. Stebbins, of Bangor, Maine; Catherine C. Ward, of Roxbury, Massachusetts; Rufus Mansur, of Houlton, Maine; and James A. Drew, of Phoenix, Rhode Island, the sum of \$3,353 each, being, in all, the sum of \$13,422, in full compensation for three thousand three hundred and fifty-three acres of land, in the half township in the State of Maine, granted by Massachusetts to the late General Eaton, and called the "Eaton Grant," to which said parties lost title by the operation of the fourth article of the treaty of August 9, 1842, "to settle and define the boundary between the United States and the possessions of her Britannic Majesty in North America;" provided, that Laura A. Stebbins, Catherine C. Ward, Rufus Mansur, and James A. Drew, shall execute deeds of release to the parties holding "possessory" or "equitable possessory claims" to the three thousand three hundred and fifty-three acres of land, or any portion thereof, as described in the reports made to the Governor and Council of Maine, by Ebenezer Hutchison and others, commissioners under a resolution passed by the Legislature of the State on the 12th of April, 1854, and the plan of surveys accompanying the reports, and of record in the land office of the State; and provided, also, that it shall appear, to the satisfaction of the land agent of Maine, that such deeds of release do effectually convey a good title to the lands, except so far as the titles have been affected by the operation of the treaty; and provided further, that if it shall appear to the land agent that the parties are incompetent to make such deeds of release to the whole of the lands, then they shall be entitled to receive a *pro rata* only of the compensation provided in this act for so much thereof as they shall convey as aforesaid.

It also authorizes and requires the Secretary of the Treasury to pay, out of any unappropriated money in the Treasury, to Edmund Monroe and Benjamin Sewall, of Boston, Massachusetts, the sum of \$13,540, in proportion of three fourths thereof to the former, and one fourth to the latter, in full compensation for three thousand three hundred and eighty-five acres of land in the western half of "Plymouth Township," so called, in Maine; and the sum of \$6,768 to Rufus Mansur, of Houlton, Maine, and James A. Drew, of Phoenix, Rhode Island, in full compensation for sixteen hundred and ninety-two acres of land in the eastern half of said township, to which the parties severally lost title by the operation of the fourth article of the aforesaid treaty; provided, that the regulations, restrictions, and provisions contained in the provisions to the first section of this bill shall be made to all intents and purposes applicable to this section.

It also directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Laura A. Stebbins, of Bangor, Maine, and Catherine C. Ward, of Dorchester, Massachusetts, the sum of \$6,659; and to Edmund Monroe and Benjamin Sewall, of the city of Boston, in Massachusetts, the sum of \$7,635, in the proportion of three fourths of the same to Monroe, and one fourth to Sewall; and to James A. Drew, of Phoenix, Rhode Island, and Rufus Mansur, of Houlton, Maine, the sum of \$9,323; the several sums being in full compensation, at the rate of one dollar per acre, for timber taken from lands owned by the parties, respectively, and located in the Eaton Grant and Plymouth Township, so called, in the State of Maine, and within the district recognized as the "disputed territory," and which timber was taken off and lost to the proprietors in consequence of the diplomatic arrangement entered into between the United States and Great Britain, in 1832, by which both parties agreed to abstain from the exercise of jurisdiction in the territory.

Mr. WASHBURN, of Maine. The House will perceive that the resolution does not propose to put the bill on its passage, but merely asks to have a day set apart for its consideration. It is a bill which is necessary to carry out the treaty

of Washington. I think there can be no objection to having it considered. I call for tellers on the suspension of the rules.

Tellers were ordered; and Messrs. Boyce and CHAFFEE were appointed.

The House divided; and the tellers reported—ayes 96, noes 52.

So (two thirds not voting in favor thereof) the rules were not suspended.

HOUR OF MEETING.

Mr. PHELPS, of Missouri. I move that on to-morrow, and until otherwise ordered, the daily hour of meeting shall be eleven o'clock, a. m. If objection be made, I will move to suspend the rules.

Mr. McQUEEN. I object.

Mr. JONES, of Tennessee. I put the question to the Chair, whether it be necessary to move to suspend the rules for the motion? The daily hour of meeting is fixed by order of the House. It was fixed, at the commencement of this session, at twelve o'clock, until otherwise ordered. Now, I think it does not require a suspension of the rules to get at that question.

The SPEAKER. The Chair thinks it does.

Mr. PHELPS, of Missouri. That has been the invariable ruling. I move to suspend the rules.

The rules were suspended; there being, on a division—ayes 114, noes 48.

Mr. PHELPS, of Missouri. I now submit the resolution that on to-morrow, and until otherwise ordered, the daily hour of meeting of the House shall be eleven o'clock, a. m.

Mr. McQUEEN. I would say to the gentleman from Missouri that there are committees who are to meet on important business at eleven o'clock to-morrow. I know that that is the case in regard to my own committee—the Committee on Public Lands.

Mr. PHELPS, of Missouri. Well, I will give one day's notice, and make the order apply on and after Wednesday next, until otherwise ordered. I now move the previous question.

The previous question was seconded, and the main question ordered; and, under its operation, the resolution was adopted.

THE AFRICAN SLAVE TRADE.

Mr. KILGORE. I ask the unanimous consent of the House to offer the following preamble and resolutions:

Whereas the laws prohibiting the African slave trade have become a topic of discussion with newspaper writers and political agitators, many of them boldly denouncing these laws as unwise in policy and disgraceful in their provisions, and insisting on the justice and propriety of their repeal and the revival of the odious traffic in African slaves; and whereas recent demonstrations afford strong reasons to apprehend that said laws are to be set at defiance, and their violation openly countenanced and encouraged by a portion of the citizens of some of the States of this Union; and whereas it is proper, in view of said facts, that the sentiments of the people's Representatives in Congress should be made public in relation thereto: Therefore,

1. *Resolved*, That while we recognize no right on the part of the Federal Government or any other law-making power save that of the States wherein it exists, to interfere with or disturb the institution of domestic slavery where it is established or protected by State legislation, we do hold that Congress has power to prohibit the foreign traffic, and that no legislation can be too thorough in its measures, nor can any penalty known to the catalogue of modern punishment for crime be too severe, against a traffic so inhuman and unchristian.

2. *Resolved*, That the laws in force against said traffic are founded upon the broadest principles of philanthropy, religion, and humanity; that they should remain unchanged except so far as legislation may be needed to render them more efficient; and that they should be faithfully and promptly executed by our Government and respected by all good citizens.

3. *Resolved*, That the Executive should be sustained and commended for any proper efforts, whenever and wherever made, to enforce said laws, and to bring to speedy punishment the wicked violators thereof, and all their aiders and abettors.

Mr. BURNETT. I would like to ask the gentleman from Indiana a question.

[Calls to order.]

Mr. BURNETT. I cannot vote for the resolutions; if for no other reason, because I do not think that the preamble recites facts. I would like the gentleman to tell this House and the country who it is, that is here, urging the repeal of the laws forbidding the slave trade?

The SPEAKER. Discussion is objected to.

Mr. BURNETT. Well, I object to the resolutions.

Mr. KILGORE. I move to suspend the rules, so as to enable me to introduce the resolutions.

Mr. GROW. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MARSHALL, of Kentucky. I ask for a division of the question; so that we may have a vote on the preamble and a vote on the resolutions.

The SPEAKER. The preamble and resolutions are not before the House. The question is on suspending the rules, so as to allow the resolutions to be introduced.

Mr. DEWART. Is it in order to move to lay them on the table?

The SPEAKER. Not at the present time.

The question was taken; and it was decided in negative—yeas 115, nays 84; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Bishop, Bliss, Bowie, Brayton, Burlingame, Burroughs, Case, Chaffee, Chapman, Clawson, Clark B. Cochrane, John Cochrane, Cockrell, Coffax, Comins, Corning, Covode, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Daves, Dean, Dewart, Dick, Dodd, Durfee, Edie, English, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hatch, Hickman, Hoard, Horton, Howard, Hughes, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leidy, Leiter, Lovejoy, Macay, Humphrey Marshall, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, William W. Phelps, Pike, Potter, Pottle, Purviance, Ricaud, Ritchie, Robbins, Roberts, Royce, Russell, John Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Wilson, Wood, Woodson, Wortendyke, John V. Wright, and Zollcoffer—127.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Barr, Bacoec, Bonham, Boyce, Branch, Bryan, Burnett, Burns, Caskey, John B. Clark, Clay, Cobb, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hodges, Hopkins, Houston, Jackson, Jewett, George W. Jones, Lamar, Letcher, McQueen, McRae, Maynard, Miles, Miller, Milson, Moore, Niblack, Peyton, John S. Phelps, Powell, Reagan, Ruffin, Sandidge, Savage, Seales, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, George Taylor, Tripp, Vallandigham, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—84.

So (two thirds not voting in favor thereof) the rules were not suspended.

TWENTY MILLIONS LOAN.

Mr. HOUSTON. I ask the unanimous consent of the House to introduce a bill to authorize a loan not exceeding \$20,000,000.

Mr. KELSEY. I object.

Mr. HOUSTON. I move to suspend the rules; and on that I ask for the yeas and nays.

The yeas and nays were ordered.

The bill was read. It authorizes the President of the United States, at any time within twelve months from the passage of this act, to borrow, on the credit of the United States, a sum not exceeding \$20,000,000, or so much thereof as, in his opinion, the exigencies of the public service may require, in addition to the money received, or which may be received, into the Treasury from other sources; provided, that no stipulation or contract shall be made to prevent the United States from reimbursing any sum borrowed under the authority of this act at any time after the expiration of five years from the 1st of January next. It provides that stock shall be issued for the amount so borrowed, bearing interest not exceeding six per centum per annum, payable semi-annually; and authorizes the Secretary of the Treasury, with the consent of the President, to cause certificates of stock to be prepared, which shall be signed by the Register, and sealed with the seal of the Treasury Department, for the amount so borrowed, in favor of the parties lending the same, or their assigns; which certificates may be transferred on the books of the Treasury, under such regulations as may be established by the Secretary of the Treasury; provided, that no certificate shall be issued for a less sum than \$1,000; and provided, also, that, whenever required, the Secretary of the Treasury may cause coupons of semi-annual interest, payable thereon, to be attached to certificates issued under this act; and any certificate, with such coupons of interest attached, may be assigned and transferred by delivery of the same, instead of being transferred on the books of the Treasury.

It also directs that before awarding said loan, the Secretary of the Treasury shall cause to be inserted in two of the public newspapers of the

city of Washington, and in one or more public newspapers in other cities of the United States, public notice that sealed proposals for such loan will be received until a certain day to be specified in such notice, not less than thirty days from its first insertion in a Washington newspaper; and such notice shall state the amount of the loan, at what periods the money shall be paid, if by installments, and at what places. Such sealed proposals shall be opened on the day appointed in the notice, in the presence of such persons as may choose to attend, and the proposals decided on by the Secretary of the Treasury, who shall accept the most favorable proposals offered by responsible bidders for said stock. It also directs the Secretary to report to Congress, at the commencement of the next session, the amount of money borrowed under this act, and of whom, and on what terms, it shall have been obtained; with an abstract or brief statement of all the proposals submitted for the same, distinguishing between those accepted and those rejected, with a detailed statement of the expense of making such loans; provided, that no stock shall be disposed of at less than its par value. It pledges the faith of the United States for the due payment of the interest and the redemption of the principal of said stock; and appropriates, to defray the expenses of engraving and printing certificates of such stock, and other expenses incident to the execution of the act, the sum of \$20,000; provided, that no compensation shall be allowed for any service performed under it to any officer whose salary is established by law.

Mr. COVODE. I would like to say a word on the subject before the vote is taken.

Mr. DAVIDSON. I object.

Mr. COVODE. I do not want to interfere to prevent the Administration from getting a loan.

Mr. HOUSTON. I do not want the gentleman to state his position unless I have a chance myself.

Mr. COVODE. I say to the gentleman—

Mr. RUFFIN. I object; and call the gentleman to order.

Mr. COVODE. I want to ask the gentleman a question.

Mr. RUFFIN. I object to any question being asked.

Mr. COVODE. I ask the gentleman from Alabama to answer me this question: whether he intends making any provision for the payment of the loan, as the delegation from Pennsylvania will not consent to vote for an appropriation of money until there are some measures adopted to supply an empty Treasury—

Mr. RUFFIN. I object to the question being asked.

The SPEAKER. Debate is not in order, objection being made.

Mr. HOUSTON. I am perfectly willing, if the House allow the gentleman to ask his question, to answer it.

The SPEAKER. Debate is objected to.

Mr. COVODE. What I want to ask the gentleman from Alabama is—

Mr. BURNETT. I object to debate.

Mr. HOUSTON. I would like to have the permission of the House to answer that question.

The SPEAKER. Debate is out of order.

The question was taken; and it was decided in the negative—yeas 73, nays 127; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Barr, Bacoec, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Caskey, John B. Clark, Clay, John Cochrane, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Foley, Garnett, Goode, Greenwood, Hawkins, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, Lamar, Letcher, McClay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Milson, Moore, Niblack, Peyton, John S. Phelps, Powell, Reagan, Ruffin, Russell, Savage, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stevenson, George Taylor, Miles Taylor, Ward, Watkins, Whiteley, Winslow, and Augustus R. Wright—73.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Bishop, Bliss, Brayton, Burlingame, Case, Chaffee, Chapman, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, John Cochrane, Corning, Covode, Cox, James Craig, Crawford, Davis of Maryland, Davis of Massachusetts, Daves, Dean, Dewart, Dick, Dodd, Durfee, Edie, Fenton, Florence, Foster, Gartrell, Giddings, Gillis, Gilman, Gilmer, Gooch, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hickman, Hilt, Hoard, Hodges, Horton, Howard, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leidy, Leiter, Lovejoy, McRae, Humphrey Marshall, Matteson, Maynard, Montgomery, Morgan, Mor-

rill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Ready, Ricaud, Ritchie, Robbins, Royce, John Sherman, Sickles, Spinner, Stanton, Stephens, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Wilson, Wood, Woodson, Wortendyke, John V. Wright, and Zollcoffer—127.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the vote,

Mr. MAYNARD said: If it be in order, I ask the chairman of the Committee of Ways and Means whether this proposition is recommended by that committee? If it be, I will vote to suspend the rules; otherwise I cannot.

No answer having been made,

Mr. MAYNARD. I vote "no."

THOMAS LAURENT.

Mr. STANTON. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent.

Mr. HUGHES. I object.

Mr. STANTON. I move to suspend the rules. A bill has been reported by the Committee on Military Affairs precisely the same as that of the Senate. It is a case of great hardship; and unless it be acted on at once, there is no use of acting on it at all.

The bill and report were read.

The bill authorizes and requires the Secretary of War to pay, out of any money in the Treasury not otherwise appropriated, to Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent, or to his legal representatives, the sum of \$15,000, being the amount paid by the firm to Major General Winfield Scott, in the City of Mexico, for the purchase of a house, in that city, out of the possession of which they were since ousted by the Mexican authorities; provided, the amount so appropriated shall be in full of their claim therefor against the United States.

The report shows the following statement of facts: the petitioners are British subjects, who had been domiciled in the City of Mexico for some twenty years prior to the commencement of the late war between the United States and the Republic of Mexico. They still retained their national character, however, by annually taking out license from the Government of Mexico to trade as foreigners. They were wine merchants, manufacturers of glass and porcelain, and kept in the heart of the city what would in this country be called an extensive and fashionable restaurant of the first class. They were engaged, to all appearances, in a flourishing and prosperous business, using a capital in the various branches of their business amounting in the aggregate to upwards of one hundred thousand dollars, with a very extensive credit and high social position. Their principal business establishment was in the heart of the city, in buildings owned by a religious corporation, called the "Convent of the Immaculate Conception," from whom they rented the premises they occupied.

By virtue of two acts of the Mexican Congress, one passed on the 11th of January 1847, and the other on the 4th of February of the same year, the President or Minister of Finance was authorized to sell property held in mortmain by religious corporations, for the purpose of raising funds to carry on the war with the United States. In pursuance of this law, notice was given to the petitioners that they must thereafter hold under and pay rents to the Government, until the property could be sold. The petitioners thereupon made propositions to the Government, for the purchase of the property at \$26,000, payable in installments. While the negotiations were pending, a domestic revolution in Mexico brought General Santa Anna into power; and under his administration the laws authorizing the confiscation of property held in mortmain were repealed. In this condition of things the city of Mexico was taken by the army of the United States under General Scott. It appears that General Scott took into his service at Puebla a Mexican, by the name of M. Garcia, who went with him to Mexico in the capacity of interpreter. Soon after the arrival of General

Scott in the city of Mexico, this Garcia informed Lieutenant Colonel George W. Lay, General Scott's military secretary, that he could give information where a large debt was due to the Mexican Government that might be confiscated as prize of war, if he were allowed a liberal share of it. This was agreed to; and he informed Colonel Lay that there were \$26,000 due to the Government from the petitioners for the purchase money of the property in which they were doing business.

General Scott at once issued the necessary orders, and the petitioners were required to pay the amount alleged to be due to the Mexican Government to General Scott for the use of the United States; but inasmuch as it was payable in installments, and but a small part of it was due, General Scott agreed to take \$15,000 in cash, and give petitioners a receipt in full for the \$26,000. Garcia was furnished with the necessary papers, including General Scott's receipt for \$26,000, and upon them received the \$15,000 from a broker on the check of petitioners. He paid \$7,000 into the military chest of the army of the United States, retaining \$8,000 "for himself and a number of others." As the committee were not informed who those "others" were that received a portion of this sum, they thought it possible that there might have been some collusion between Garcia and the Laurents, and that they might have had a share of this large discount. With the view of determining this question, Colonel Lay was called upon and examined orally before the committee. It appeared from the examination of Colonel Lay that this transaction had been incidentally inquired into by a court of inquiry called by General Scott in the city of Mexico, in January, 1848, for the purpose of investigating certain charges against Captain McIntyre, the record of which, with all the evidence, was on file in the War Department. The committee had this record examined, and all the evidence touching this transaction copied and filed with the papers in this case. But nothing has been developed by these examinations to warrant any imputation of collusion or bad faith on the part of the petitioners.

The petitioners seem to have acquiesced very cheerfully in the requisition of General Scott. By paying to him, as commander-in-chief of the American army, they saved \$11,000 of the purchase money which they had agreed to pay the Mexican Government. But the committee suppose their main reason for preferring to make payment to, and receive their title from, the Government of the United States, was, that they had greater confidence in the ability of our Government to maintain them in their title and possession against the Mexican Church than in any of the fleeting dynasties or parties that were succeeding each other with so much rapidity in the Government of Mexico. Immediately after the evacuation of Mexico, suit was instituted in the Mexican courts by the Convent of the Immaculate Conception, to recover possession of the property. The petitioners applied to Mr. Letcher, then American Minister in Mexico, to sustain them in their title. He forwarded their application to our Secretary of State, with a strong representation in their favor. In reply, Mr. Webster stated that the question of title must be settled by the municipal laws of Mexico, and that our Government had no right to interfere.

Judgment was rendered against the petitioners, and confirmed by the court of last resort, to which they appealed. The costs amounted to over seven thousand dollars, and the petitioners were ousted from the premises at the point of the bayonet. The influence of the Church was brought to bear against them in their social and business relations. They incurred great popular odium on account of their having received their title from a foreign invader, and from a general suspicion that they were favorable to the Americans during the occupancy of the city by the American army, which suspicion your committee have no doubt was well founded. Their business and credit were destroyed, and their property sacrificed at forced sales for the payment of costs and charges arising out of their suits, and in less than two years they were totally and hopelessly insolvent. Upon this state of facts the petitioners ask indemnity, first, for the value of the property, \$71,000; improvements, \$6,300; costs of suit, \$7,800; further costs, &c., \$10,500; rents refunded, \$16,250; making \$112,000.

Mr. HICKMAN called for the yeas and nays on suspending the rules.

The yeas and nays were not ordered.

Mr. HICKMAN called for tellers.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of Missouri, were appointed.

The House divided, and the tellers reported—ayes one hundred and nine; noes not counted.

So (more than two thirds voting in favor thereof) the rules were suspended, and the bill was taken from the Speaker's table, and read a first and second time.

Mr. STANTON moved the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered; and under its operation, the bill was read a third time.

Mr. STANTON moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was passed.

Mr. STANTON moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

DOORKEEPER'S SALARY, ETC.

Mr. RUSSELL. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the resolution of this House, passed May 17, 1858, relating to the compensation of the Doorkeeper of this House and his employes be, and the same is hereby, rescinded; and that the Doorkeeper and his employes are hereby declared to be entitled to receive the same compensation as provided for by joint resolution of the Senate and House of Representatives, adopted June 10, 1854, and that they receive the same from and after the said 17th May 1853, and until otherwise provided for.

Mr. RUFFIN. I object.

Mr. RUSSELL. I move to suspend the rules.

Mr. JONES, of Tennessee. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. NIBLACK. I call for the reading of the resolution of May 17, 1858.

The resolution was read, as follows:

Resolved, That the compensation of the Doorkeeper of the House of Representatives, shall hereafter be \$2,000 per annum; and that he be, and is hereby, authorized to employ a superintendent of the folding room, at a compensation of \$1,500 per annum; and that he may employ, under the direction of the Committee of Accounts of the House of Representatives, such number of folders and laborers as may be deemed necessary to perform the work; and also, that he may employ, under the direction of the aforesaid committee, two horses, during the session of Congress, and that he may receive a suitable allowance for expenses in sending messages and dispatches by messengers and pages.

And he it further resolved, That the Doorkeeper of the House of Representatives be, and he is hereby, authorized to employ not exceeding fourteen messengers, at a compensation of three dollars per day each, per annum; and not exceeding eleven messengers, at a compensation of three dollars each per day, during the session of Congress; and not exceeding four laborers at a compensation of \$1.50 each per day, during the year; and not exceeding five laborers, at a compensation of \$1.50 per day each, during the session of Congress; and not exceeding twelve pages, between the ages of ten and sixteen years, at a compensation of two dollars per day each, during the session of Congress.

And be it further resolved, That the Doorkeeper have deducted from his pay a sufficient amount to pay any contract made by him not authorized by these resolutions, or without authority of this House.

Mr. NIBLACK. I would inquire of the gentleman from New York what would be the effect of rescinding that resolution? Would it not be to increase the number and salaries of the Doorkeeper's employes?

Mr. RUSSELL. It would not. It would only put them back in the condition which they were in before the resolution was passed. That resolution cut down a few of the employes and left others where they were. I want to have all put upon the same footing; and then let the Committee of Accounts introduce a bill regulating the salaries of all the employes of the House.

Mr. RUFFIN. I ask the gentleman whether he did not vote last session against the motion to suspend the rules to enable that committee to introduce such a bill?

Mr. RUSSELL. I did vote at the last session against a motion to suspend the rules to enable the committee to introduce a bill to reduce the compensation of the employes under the Clerk of the House, Postmaster of the House, Sergeant-at-Arms, and Doorkeeper. Was not then opposed to place them all on the same footing. Only desired they should receive the compensation pro-

vided for by joint resolution, and as provided for in the appropriation bill. It is proper to state that the clerks in the post office of the House are now receiving the same salaries as they originally received under the resolution.

Mr. RUFFIN. I object to discussion unless others have an opportunity of replying.

Mr. RUSSELL. I merely want to answer the inquiry of the gentleman on my right, [Mr. NIBLACK.]

The SPEAKER. Debate is objected to.

The question was taken; and it was decided in the negative—yeas 91, nays 77; as follows:

YEAS—Messrs. Adair, Aul, Anderson, Arnold, Avery, Barr, Bennett, Bishop, Bonham, Buffinton, Burlingame, Burns, Case, Caskey, Ezra Clark, Clawson, Clay, Cockerill, Comins, Corning, Covode, Cox, Cragin, James Craig, Burton Craige, Curtis, Davidson, Davis of Massachusetts, Dawes, Dean, Dewart, Durfee, Faulkner, Fenton, Florence, Foley, Foster, Gillis, Gilman, Gilmer, Gooch, Goodwin, Lawrence W. Hall, Harris, Haskin, Hatch, Hawkins, Howard, Hughes, Jackson, Owen Jones, Keim, John C. Kunkel, Lawrence, Leiter, MacLay, Samuel S. Marshall, Matteson, Miller, Montgomery, Edward Joy Morris, Nichols, Olin, Pendleton, Pettit, Purviance, Ricard, Robbins, Russell, Searing, Shorter, Robert Smith, Spinner, Stallworth, Stephens, James A. Stewart, William Stewart, Tappan, George Taylor, Thayer, Thompson, Valtandigham, Walbridge, Walton, Watkins, White, Whiteley, Wilson, Wood, and Augustus R. Wright—91.

NAYS—Messrs. Abbott, Atkins, Barksdale, Billinghurst, Bingham, Bliss, Boyce, Branch, Brayton, Burnett, Chaffee, Cobb, Clark B. Cochrane, Crawford, Curry, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dick, Dodd, Dowdell, Elliott, English, Garnett, Gartrell, Goode, Granger, Gregg, Harlan, Hickman, Hill, Hoard, Hodges, Hopkins, Horton, Houston, Jewett, George W. Jones, Kellogg, Knapp, Leach, Letcher, Lovejoy, McQueen, Mason, Maynard, Millson, Morgan, Morrill, Isaac N. Morris, Murray, Niblack, Parker, John S. Phelps, William W. Phelps, Pottle, Powell, Reagan, Royce, Rufin, Seales, Aaron Shaw, Henry M. Shaw, Samuel A. Smith, Stanton, Stevenson, Miles Taylor, Tompkins, Trippie, Underwood, Wade, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Wortendyke, John V. Wright, and Zollicoffer—77.

So (two thirds not voting in favor thereof) the rules were not suspended.

EVENING SESSIONS.*

Mr. BLISS. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the resolution adopted by this House January 17th instant, respecting evening sessions, shall be continued in force for two weeks from and after this day.

Mr. JONES, of Tennessee. I object.

Mr. BLISS. I move to suspend the rules.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. BLISS. I ask that the resolution of January 17, be read.

The resolution was read, as follows:

Resolved, That during the ensuing two weeks, it shall be in order, each day, after to day, for the Committee of the Whole on the state of the Union to take a recess until 7 o'clock, p. m., after which hour general debate may be indulged in: *Provided*, That no vote shall be taken at such evening sessions, except on motions that the committee do rise, or the House adjourn.

Mr. DEWART called for tellers on suspending the rules.

Tellers were ordered; and Messrs. Boyce and CHAFFEE were appointed.

The House divided; and the tellers reported—ayes 112, noes 29.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. BLISS thereupon submitted the resolution, and demanded the previous question upon its adoption.

Mr. McQUEEN. Will the gentleman withdraw the previous question, and allow me to amend the resolution by providing that members who make Bancroft speeches shall have them printed at their own expense?

Mr. JONES, of Tennessee. And that the speeches shall be confined to the subject under discussion.

Mr. BLISS declined to withdraw the call for the previous question.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

WILLETT'S POINT INVESTIGATION.

Mr. HASKIN asked unanimous consent to introduce the following resolution:

Resolved, That the consideration of the several reports made from the select committee appointed to investigate the facts and circumstances connected with the sale and purchase of property at Willett's Point, Long Island, New

York, by the Government, for fortification purposes, in 1837, be, and the same is hereby made the special order for the third Thursday for February next.

Mr. WINSLOW objected.

Mr. HASKIN moved to suspend the rules, and asked for the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 121; nays 64; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingham, Bingham, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Burroughs, Case, Caskey, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Coffax, Comins, Corning, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edmundson, Faulkner, Fenton, Florence, Foster, Garnett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Harris, Haskin, Hatch, Hickman, Hill, Hoard, Hodges, Hopkins, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Letcher, Lovejoy, Samuel S. Marshall, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Powell, Purviance, Ready, Ricard, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Sickles, Robert Smith, William Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, George Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Edith B. Washburne, Israel Washburn, Wilson, and Wood—121.

NAYS—Messrs. Ahl, Atkins, Avery, Barksdale, Barr, Bonham, Boyce, Burnett, John B. Clark, Clay, Cobb, Cocke, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Elliott, English, Eustis, Foley, Garrett, Goode, Gregg, Lawrence W. Hall, Hawkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Lawrence, MacLay, McQueen, McRae, Mason, Miles, Miller, Milson, Niblack, Peyton, John S. Phelps, William W. Phelps, Phillips, Reagan, Ruffin, Russell, Savage, Scott, Searing, Seward, Henry M. Shaw, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, Miles Taylor, Winslow, Augustus R. Wright, and John V. Wright—64.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. DAVIDSON stated that his colleague, Mr. SANDIDGE, was detained from the House in consequence of indisposition.

Mr. BURNETT stated that his colleague, Mr. TALBOT, was confined to his room by indisposition.

Mr. ROYCE stated that Mr. FARNSWORTH was detained at his room by indisposition.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. I will state that my object is to take up one of the general appropriation bills, and then have an evening session.

Mr. FLORENCE called for tellers on the motion.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and CHAFFEE were appointed.

The House divided; and the tellers reported—ayes 99, noes 42.

So the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair.)

CIVIL APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I move that the committee take up House bill (No. 711) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1860.

There being no objection, the bill was taken up for consideration.

Mr. PHELPS, of Missouri. This bill is a very long one, covering thirty-five or thirty-six pages. I ask that the first reading be dispensed with.

There being no objection, the first reading was dispensed with.

Mr. PHELPS, of Missouri. I now move that the committee rise; saying that, as several gentlemen have intimated to me that they wish to speak to-night, I shall immediately move to go into committee, for the purpose of taking up the President's annual message.

Mr. LOVEJOY. I desire to speak to the merits of the bill.

Mr. PHELPS, of Missouri. I ask for the question upon my motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that

the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the legislative, executive, and judicial appropriation bill, and had come to no conclusion thereon.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the President's annual message.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and proceeded to the consideration of the President's annual message.

Mr. DAVIS, of Mississippi, obtained the floor, but yielded to

Mr. CLAY, who moved that the committee take a recess until seven o'clock, p. m.

Mr. STEWART, of Maryland, demanded tellers on the motion.

Tellers were ordered; and Messrs. CLAY and KELSEY were appointed.

The committee divided; and the tellers reported—ayes 95, noes 44.

So the motion was agreed to; and the committee thereupon (at twenty minutes before four o'clock) took a recess until seven o'clock, p. m.

EVENING SESSION.

The committee reassembled at seven o'clock, p. m., (Mr. BURNETT in the chair,) and resumed the consideration of the President's annual message, on which the gentleman from Mississippi [Mr. DAVIS] was entitled to the floor.

ACQUISITION OF CUBA.

Mr. DAVIS, of Mississippi. Mr. Chairman, several weeks ago I offered to this House a resolution which made it the duty of the President to take possession of the Island of Cuba, and retain it until certain debts due to us from Spain were paid, and certain unsettled causes of complaint were adjusted by her.

This island is the property of Spain, and, like the private property of her citizens, is the subject of reprisals. This resolution is not a declaration of war against Spain; it does not even approximate war by being general; it has the technical restriction of speciality. The resolution is restricted and limited to a specific article, and that the property of the Government of Spain, and not her citizens. This, as a national right, has never been denied in any age of the world, and has never been regarded as amounting to a declaration of war. It is regarded as a species of retaliation; and is the only mode, short of war, to which a nation can resort to coerce justice.

By the law of nations, you may make reprisals, not only for the acts of the sovereign, but also for those of his subjects. The causes of complaint against Spain, for the redress of which I propose this remedy, are the acts of the Government itself, and not her private citizens; and are, therefore, the more aggravated. Should we take possession of the island, we simply retain it until negotiation accommodates all causes of complaint between the two Governments; in which, of course, will be embraced the expense to this Government of seizing the island. I confess, sir, Spain may make it the cause of war; but if she does, it will be her act, and she will be responsible for the consequences. This resolution only proposes to do unto her as she has done to us. She has taken our territory, and I propose to apply to her the rule *lex talionis*.

Mr. Chairman, my resolution proposes to apply to Spain the mildest remedy allowed us by the law of nations, after the failure of negotiation. Has negotiation failed? I insist that it has. The debt of \$128,635 54 has been ascertained by negotiation, and a promise to pay it has been made by Spain. More than four years have elapsed since that promise, and now she proposes to pay us the sum of \$42,878 41, without interest, and this as a "special favor." This claim has passed beyond the limits and objects of negotiation; and, consequently, must be controlled by some other jurisdiction. It is now the subject of the direct action of the Government, through Congress. What can we do with it under the authority of the law of nations? We can make reprisals, or we can make it the cause of war. Re-

prisal being authorized by the law of nations, and peaceful in its nature, I have proposed it rather than war. But, sir, we may use this remedy, being peaceful, for another object—that is, to hasten negotiation. The President says:

"Spanish officials, under the direct control of the Captain General of Cuba, have insulted our national flag, and in repeated instances have, from time to time, inflicted injuries on the persons and property of our citizens. These have given birth to numerous claims against the Spanish Government, the merits of which have been ably discussed for a series of years by our successive diplomatic representatives. Notwithstanding this, we have not arrived at a practical result in any single instance, unless we may except the case under the late Administration; and that presented an outrage of such a character as would have justified an immediate resort to war. All our attempts to obtain redress have been baffled and defeated. The frequent and oft-recurring changes in the Spanish ministry have been employed as a reason for delay."

Now, sir, the law of nations makes delay produced by pretenses as much the cause for reprisals and war as a positive denial. In this latter class of grievances the law proceeds upon the doctrine of *lex talionis*, and authorizes us to take as much of the property of the Spanish Government as they have of ours, and retain it until diplomacy ends the controversy. It is used as a means of hastening the settlement of grievances. The law of nations requires that before you make reprisals, notice shall be given; and, that I might keep my resolution within its requirements, it directed that six months' notice shall be given; and this, I think, is quite enough.

Now, sir, it will be seen at once that I do not propose or desire war with Spain, but only intend that the President shall be authorized and required to resort to the only remedy afforded by the law of nations to obtain for our people justice for injuries done to them and their property. This right we cannot withhold from them. To enforce their rightful claims against other nations is a duty due to our people, and it grows out of the reciprocal relations of protection and allegiance. I admit that a graver proposition was never submitted to the deliberation of a national council than war, and cannot be; yet the wisdom of ages has sustained it as a necessary evil, and has recommended it even as the best guarantee of national immunity, and the only means for the preservation of national honor. We might well exercise it instantly, because we have ample cause for it; and the reason I did not recommend it was, we had still left the peaceful remedy I have proposed.

The law of nations gives two causes for offensive war; both of which exist in our favor in our relations with Spain; and if we were to-day to declare it, we would be sustained by the moral sentiment of mankind. The property of the exercise of this right is fully understood by both England and France, as their past history shows, and I hesitate not to give it as my deliberate opinion that, for half the cause of complaint we have against Spain, either of these nations would make war at once, instead of resorting to the peaceful remedy proposed by the resolution. The rule is:

"The right of employing force, or making war, belongs to nations no further than is necessary for their own defense, and for the maintenance of their rights. Now, if any one attacks a nation, or violates her property rights, he does her an injury. Then, and not till then, has she a right to repel the aggressor, and reduce him to reason. Further, she has the right to repel the injury when she suspects herself threatened with it."

Further:

"The life of Government is like that of men; the latter have the right to kill in case of natural defense; the former has the right to wage war for its own preservation."

The law of nations points out three objects of lawful war; two only of which will I consider in my argument to-day, both of which I shall be able by the testimony to show the existence of.

The first cause is, "to recover what belongs, or is due us."

Now, sir, the first evidence I shall offer in support of this legal rule, is, the debt of \$128,635 54. It can be hardly necessary for me to show that it is founded in justice. It originated in the unjust and unlawful exactions of duties from American vessels at different custom-houses in Cuba, as early as 1844. It is money forced from our citizens by the hand of arbitrary power, and is exactly in the nature of the forced loans of Mexico of recent date, and which received the condemnation of this country as well as that of every nation of Europe. Spain so considered it, and, after interposing for ten years her usual means of delay in

negotiation, acknowledged herself indebted to the United States this amount; and yet she permits it to remain unpaid. Then, according to the rule which I have asserted, it is a just cause of offensive war. My resolution, however, proposes the more peaceful remedy—reprisals.

Mr. Chairman, this act of official wrong might be overlooked for a long time if it stood alone; but, sir, it is much the most unimportant of the many grievances inflicted upon our citizens by the officials of Spain, and which belong to the class of cases embraced in this cause of offensive war.

In the year 1850, two vessels, belonging to the citizens of the United States, with regular clearances from the port of New Orleans, and with the American flag floating at their masts, were seized off the Island of Contoy, within the jurisdiction of Mexico, with a large number of American citizens, by the Pizarro and Habanosa, and taken into Havana. These citizens were manacled; irons were put upon their manly limbs; the galling chains of despotism hung heavily upon their forms; they were deprived of their property; insult was offered to their feelings, and the lash was inflicted upon their persons. They announced that they were American citizens, and were derided, and the name of their country insulted. They pointed to the American flag, and it was torn from the mast. This news came home to our people, and their wounded pride rose like a mighty wind, increasing in violence as it swept from the Mississippi over the continent to Maine. Your President demanded their instant release, with threats of war, and it was unheeded; and the subject was ultimately delivered up to diplomacy, and there it lingers.

Mr. Chairman, I have not time, in the hour allowed me, to enter into an argument to show this act of Spain to be a flagrant violation of the law of nations, and a most extraordinary and contemptuous disregard of the honor and rights of this nation. It is enough to say Spain went beyond her jurisdiction and entered the dominion of Mexico, seized our citizens, took possession of their property, arraigned them before their own tribunals, found them guiltless of crime, and many of them were discharged, and that in defiance of the solemn protest of this Government; and to this day have made no reparation to these injured citizens, no atonement for the insult offered to our flag. Well might the captain of the Susan Laud have said, "if General Jackson had been President, it would not have been allowed." President Taylor sent a special messenger to Havana to demand their release. To this demand, the Captain General of Cuba replied that he had no diplomatic functions, and referred him to Mr. Calderon de la Barca, resident Minister of Spain at Washington, who referred the whole subject to *Madrid*. Yet the trial proceeded; many of those citizens, as I have said, were discharged, and others condemned and sent to Spain in irons. The vessels, Susan Laud and Georgiana, were condemned and sold; and still our demands were disregarded—negotiation lingers—and to this day, Spain justifies the act, and declares her intention to repeat it if occasion demands. But, sir, this unparalleled act of insolence, intended, as it was, to wound the pride of the nation, and degrade us in the estimation of the world, was not enough. Afterwards, the Ohio, a mail steamer, was ordered from her moorings to unsafe and hazardous anchorage under the guns of the Moro Castle, or to leave the harbor without landing her mails. The Falcon was fired into and boarded upon the high seas. The Philadelphia, with the United States mails, entered the harbor in distress, destitute of coal and provisions, many of her passengers sick, and was peremptorily driven from her anchorage. The Crescent City, in the mail service of the United States, and under the command of a naval officer, was refused the privilege to land for no other reason than that an American citizen was on board who had, in a newspaper article, criticised the conduct of the Captain General of the island; and all this was done in violation of treaty. I will not continue the further long lists of petty annoyances which have been done us, and are still being done. It is enough to say our nation alone has the humility to endure them.

Now, sir, are these not profound causes of complaint on our part against Spain, and should not the injuries done to our citizens be compensated

for? And what compensation should not be demanded for the citizens whose persons were lacerated by the ignominious lash? Millions should be demanded—not that millions can blot from the recollection the degradation endured—but to teach despotism how exalted in the scale of human nature is the freeman of this country, and how sacred is his person. Is not the value of the property taken and confiscated a just claim against the Spanish Government, and shall we not require it to be paid? I apprehend there is not a man upon this floor, with an American impulse in his heart, who does not affirmatively declare in favor of the justness of these claims. And, yet, the President informs us that negotiation is delayed by subterfuges. The reprisals I propose will stimulate this negotiation and hasten its maturity. It is especially important that the question of international law, asserted by Spain and denied by this country, but which Spain declares she will not surrender, namely, the right to enter the jurisdiction of Mexico and arrest American citizens on board American vessels, over which is floating the stars and stripes, and take them to her own ports and arraign them before her own tribunals, upon imaginary charges of high crimes and misdemeanors, against the protest of this country, should be settled. Our Government denies this as a right existing by the law of nations, and we must coerce its surrender by Spain, because on its surrender depends the right of our citizens to indemnity for injury sustained already, and our people and flag to security in the future.

Mr. Chairman, these are the most unimportant reasons to be given in justification of the resolution; they afford ample cause for the seizure, it is true, and would induce any of the first-class Powers of Europe to do it; but with me there is a paramount consideration, higher in importance, higher in nationality, than those I have presented. It is the right of self-preservation. Wars are like epidemics, they come unexpectedly, often without real cause. Whenever it is necessary in any of the European States to divert the attention of the nation from internal causes of complaint, foreign war is universally induced, and the nation least prepared is selected. We know that, since the unnatural and strange alliance between England and France, by which England is to furnish money and counsel, and France food for powder, they have been committing depredations on whomsoever they please; and, since the small demonstration they made in copartnership against Russia, their attention has been turned to affairs on this continent, in direct violation of the Monroe doctrine, and in a form so aggravated as to threaten an early rupture with this Government. Should such a contingency arise, Spain would become a tripartite party. But should she not, she will at least give her aid so far as to permit the use of the Island of Cuba as a naval and military depot to our enemies. Let me examine the subject in this aspect, and see if the ownership of the island is not necessary as a means of national preservation.

What is the geographical position of the Island of Cuba in its relation to the United States, Mexico, and Central America? Its position is between latitude 19° 50' and 23° 9' north, and longitude 74° 8' and 84° 58' west, about sixty-five miles from Key West, Florida, and about one hundred and twenty from the point of Yucatan, and is the key to the mouth of the Gulf of Mexico—that great inland sea bordering the States of Florida, Alabama, Mississippi, Louisiana, Texas, Mexico, and Central America. This island commands all these States. The commerce of all has its advent to the Atlantic ocean directly under the guns of the Moro Castle. This island, in the possession of an enemy, they could readily reach any given point along this whole coast, giving an irresistible advantage to them. Neither the United States or Mexico could ever maintain a navy on their waters, or use it for commercial purposes; ships could not pass from the Atlantic to the Gulf; armies could not be transported by sea from the northern to the southern States, and vice versa. In a contest with any European State it would become a point *d'appui*, most fatal to the United States or Mexico. It is a great fortification of itself, commanding many thousand miles of sea-coast in which this country is immediately interested. To our security and safety, therefore, it is most important.

We have recently reasserted the Monroe doctrine in a great variety of forms, and have declared our determination in the most solemn manner to enforce its observance by the Powers of Europe, even at the hazard of war. Yet, notwithstanding this assertion, it is known to us all that both England and France are negotiating with the Central American States, under circumstances and in a manner that should excite our vigilance. We know that Central American affairs are becoming daily more and more complicated, and that both England and France are acquiring interests there which are giving to them a controlling influence; and which, if successful, must inflict upon this country inconveniences and injuries which no human calculation can estimate—influences directly in conflict with the Monroe doctrine. Shall this be prevented? We have said so. How is it to be done? Remonstrance, we know, will avail us nothing; and I predict that war will result from it at no distant day. If it should, this island becomes of essential importance to each of the belligerents, and will fall into the hands of our enemies. With the possession of this island, England or France would be in immediate proximity to the whole coast of Mexico, and would command that of Central America. With the advantage of their large navy we would be shut out from those States, and would not be able to send an army into the Gulf to either of them, and they would, almost without a struggle, seize and occupy the whole of both those countries. But, sir, with the use of the Island of Cuba as a naval and military depot, other and more important disadvantages would result to us. That war, of course, would become general, and England would not limit it to the Atlantic slope, and to regions beyond our borders, she would extend it to our defenseless southern cities and Gulf coasts, as well as to our possessions on the Pacific ocean. With the possession of the harbor at Havana, and the Moro Castle, troops could not be sent from the northern and middle Atlantic States, by sea, for the defense of the Gulf States, nor could your naval forces enter the Gulf of Mexico to engage the British vessels which would be at liberty to desolate and despoil our possessions along our whole line of coast. More than this, we would be utterly unable to afford to our possessions on the Pacific any military assistance from the older States—assistance to which they are entitled, and which is due to them by the highest obligations of protection. We would not be able to send to the aid of California an army from the southern and western States, for the reason that the vigilance of the British fleet at Havana could not be escaped—in fact our fleet, with soldiers on board, would be compelled to pass almost within range of the guns of the Moro; and then they would from that point successfully intercept any army from our northern ports, and thus it would be impossible to defend ourselves on the Pacific.

In this aspect it will be seen that no country on earth has the same amount of land on its borders so important to it as the Island of Cuba is to us. As a means of defense from a foreign foe, or for national preservation, it is indispensable. But with this island in our possession, how would the case stand? It would become a mighty fortification far out at sea, which, of itself, would give protection to many hundred miles of our coast. Here we could concentrate armies and navies with which to strike an enemy, north or south. We would have the command of the whole coast of Mexico and Central America—could pass armies composed of the gallant men of the western and southern States, without molestation to Tehuantepec, to Panama, to the transit route, for the defense of California, or the vindication of the Monroe doctrine—armies composed of men who have permitted no battle-field, at home or abroad, to be dimmed by defeat, but who have always given additional luster to the glory of our arms, by achievements honorable to themselves and their country. The possession of it would afford a guarantee of perpetual peace to this country, while it is now the irritating cause of constant complaint and threatened war. It would remove the cause of quarrel with Spain, and would effectually prevent any interference by European States with affairs upon this continent.

Sir, shall we do an act so entirely sanctioned by the law of nations, and so necessary to our future security and peace, or slumber upon our duty un-

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til England or France, or both together, shall have consummated their schemes of ambition, with the opportunity to avail themselves of the advantages which I have enumerated? Every consideration of sound national policy forbids it.

I think now, Mr. Chairman, I have shown not only that it is the right, but the duty, of this Government to take this island. It is necessary for our quiet and our preservation as a nation, and has the sanction of the law of self-defense. It is hardly necessary to say it is the only mode of acquisition. No sensible man believes it can ever be purchased; nor can any one hope that more causes, or greater, will ever exist for taking it by force. It may produce war, which is always to be deplored, but we will never be better prepared for such a contingency. There never will be a time in our future history when it will be less injurious or less aggravated. At present, neither England nor France is in a condition to interfere, and they would not. The military energies of England are now absorbed at home, and her commercial dependence upon us forbids a rupture at this time. Revolutions are going on in Europe for the readjustment of the balance of power, and their armies cannot be spared for such a contest as this. But, under any circumstances, we have no other remedy. Diplomacy has been exhausted, and we have nothing left but the arm of national power to coerce justice.

Mr. Chairman, we have either to abandon this large debt which has been acknowledged by Spain to be due our citizens, or proceed to collect it by seizing her possessions. Abandon it, and the radiant glory which now adorns our national escutcheon must fade into darkness. But, sir, it will not be abandoned. The pride of our people will not permit it. With scorn they will retire from seats on this floor the men who would dare propose it, and supply their places with Representatives of their own high resolves, willing to vindicate their rights and protect the honor of the nation, even at the hazard of war. We have passed the period when timid counsels are to prevail. This nation has a destiny, and it must be fulfilled. The compulsive force of irresistible causes will force us on to its consummation, even against the inclination of the timid. Our vessel of State rides upon a tide swollen and even enraged by mighty events, and no anchor can stay it; and in its course all we can do is to guide it by prudent counsels as it floats on to its legitimate destination.

It is objected that we are already sufficiently expanded. If this position be correct, then we are already too much expanded. All Europe is, to-day, not equal to us in extent. I know the ablest writers on the theory of government hold that republics should have a small territory; that in a large one the pride of the ambitious, the conflict of interests and pursuits, will soon sap it. This theory has been shown by the example of our own country to be incorrect; it is, perhaps, owing to the fact that we have many States, with full legislative powers, while those of the Federal Government are few and well guarded. But this very argument should convince our people of the propriety of refusing to the Federal Government the exercise of power to legislate or to interfere with domestic matters. If the day shall ever come when the Federal Government assumes general legislation, it must at once go down. People have, in all ages, rebelled when oppressed, and that is now the predominant trait in our people. The Congress of the United States can pass no general law that will not be more oppressive on one portion of our country than another, and it will have the effect to produce complaints and excite dissatisfaction against the Government; but if we will leave all subjects in which the people are directly interested to the States, then we may expand so as to include the whole world. Mexico, Central America, South America, Cuba, the West India Islands, and even England and France, might annex without inconvenience or prejudice, allowing them with their local Legislatures to regulate their local affairs in their own

way. And this, sir, is the mission of this Republic and its ultimate destiny.

Cuba is nearer to us than California, and is not more dissimilar in interests and pursuits—Central America than Utah, and England than Oregon; and yet the Federal Government, directing her action to the legitimate subjects of her power, moves on with the harmony of the planetary world, attracted and repelled by opposite forces. Cuba is necessary to our commercial convenience, and is a means of national defense, and being thus demanded by great commercial and national considerations, who can withhold his support of a measure that looks to its early acquisition? The fruit is now ripe; shall we gather it, or shall we permit it to remain on the stem until it decays, under the delusive hope that it may fall into our lap without a struggle? No; I propose we shall take it now; take it in its perfection, redolent with the rich odors of its budding flowers and tropical fruits and productions, girt with her spreading waters, and covered with her genial climes.

Expansion is our mission, and we must advance. Civilization and religion impel us on; and, in despite of sordid considerations, we must and will go on. They are the genius of our country, and will not rest until they have thrown their thousand blessings over this great continent, like the bow of promise with its variegated splendors. And I shout it on; gentlemen, you cannot prevent it. The North, enervated by the vices of luxury and love of wealth, may hang upon us like an incubus for awhile; but we will break from her thralldom ere long, and by the vigorous spirit of our pioneer people, yet uncorrupted by cities and towns, we will advance our eagles until the tread of our columns shall be heard upon this whole continent, and the shadow of their wings shall be seen in all its parts.

Who shall arrest us? The feeble and prostrate Republics which now lie in anarchy before us, have not the physical or moral power to stay the wave as it rolls on. They have no desire to do it. We intend only to revivify these fallen Republics and restore them to respectability and position amidst the nations of the earth. With swelling hearts and suppressed impatience they await our coming, and with joyous shouts of "Welcome! welcome!" will they receive us.

Who, then, will? Not England, in my opinion. Her highest interests forbid. Considerations of national and commercial policy forbid. She knows well the profound jealousy and deep prejudice which exist upon the continent of Europe for her, and how that Old World would rejoice at her downfall. Her people understand well that should a combination for her overthrow be formed upon the continent, the sympathies of the people of this country would supply her with material aid, both in men and money. England looks to the perpetuation of her nation through all time; and, like a skillful sailor at sea, she moves on by her charts and maps, and takes no departure from her fixed course without due consideration. She understands properly the intimate, social, political, and commercial relations existing between the two Governments, and that nothing but disaster and ruin could result from a war between us. She will have with us no war as long as we permit her national honor to remain untouched and untarnished. She knows the extent of our military prowess and naval resources; and that, although we might occasionally be vanquished upon a battle-field, we would drench this continent, from the Atlantic to the Pacific, in human gore, before we would submit to conquest; and that during this protracted war, all the material elements of her present greatness and grandeur would be extinguished, and she be driven to the necessity of assuming a position of inferiority among the States of Europe. If any one supposes she is, or will be, influenced by France in her policy on this continent, they are mistaken. She understands France, and especially Louis Napoleon, and will hold him in the fetters of diplomacy until he exhausts himself and country, and then the sword will sever their relations.

They had rather hold him by the bit until he exhausts himself, than to fight him now; because war is his hope for the perpetuation of his dynasty, and England desires that it shall fall, as does all Europe. England is keeping her troops to defend her own possessions, while she consumes the accumulating armies of France in her foreign struggles; and she will keep France engaged in pretty quarrels and wars to prevent her armies overthrowing their own Government, or making war with her, to vindicate their pride, so often stung by defeats and conquests at her hands. But she will always be by the side of Napoleon, to control his impetuosity and restrain his rashness, and will be certain to prevent any severe or fierce war.

Would France interfere against us in a just war with Spain, although it might result in the acquisition of the Island of Cuba? She would have no right to do it, and would not, unless she has determined to play the part of bully for all the nations of the earth. But, sir, if she were to interfere in this quarrel, it would be a conclusive argument in support of my position, that the ownership of the island is necessary to our national preservation. It would show that France fully appreciates the argument I have made to show how injurious it would become in the hands of an enemy. It would show further, that France has designs upon this continent, at least so far as to acquire the whole of the West India Islands, making Cuba the seat of empire. If this be true, it is conclusive we will never get it, only by war. We cannot with propriety obtain it in that way without cause. That cause we now have, as I have attempted and have shown; therefore, I think this is the time for action.

But suppose it were to result in war with Spain and France combined: what difference would it make? It would not be protracted. Neither France nor Spain could continue it long. At sea they are impotent, and especially France. It is not the number of ships, or their size, that guarantees victory at sea; it requires cold, steady, continuous gallantry, which the French have not. That nation has never gained laurels in naval warfare, and never will. England has, in times of war, always driven them from every sea, and always will. The French navy is large, but we have nothing to fear from it. There would not be a vestige of it in a short time, and the troops sent here would be left without the means to return to their native country.

Mr. Chairman, I repeat that France would not interfere for reasons of necessity growing out of her European policy. Look at the dark cloud now gathering over the Italian States, and see the angry passion of an oppressed people as it flashes along its black surface like lurid lightning, and hear the wild cry of "*vive Italia!*" as it sweeps over Germany, and by France echoed in tones of encouragement. Do you apprehend it? It is the dawning of a mighty revolution in that ancient country which will drench Europe in blood. In this struggle France must and will be so deeply implicated that her armies will be required, and will be consumed. But, sir, I shall pursue this line of argument no further. It is unworthy an American statesman to hesitate in the enforcement of our rights, because France, or England, or any other nation, may complain. I am for doing whatever our rights as a nation require at our hands, and doing it as if we were the only nation on earth. We have said, and still say, no European nation shall interfere with affairs upon this continent; and yet, by our conduct, we acknowledge we are afraid to manage our own affairs independently, lest England or France may complain. It is a reflection upon our honor, and an evidence of our decline in virtue and manliness. I am disgusted when I see this exhibition of alarm and apprehension for even a necessary war. It should be remembered that our greatness and glory have been achieved by arms. It has its horrors, I know, and should be avoided if possible; but it has its advantages. A nation which is ready and prompt in the vindication of her honor and her rights,

commands the respect of others, and is never assailed, insulted, or trifled with. Who would dare insult the honor of France? The indignities which England and Spain have offered to our flag in the last few years, if offered to France, would have been punished without delay, and in a manner the most terrible. And yet we sit here with our escutcheon blackened with insult, amidst the cries for justice from our injured citizens, and utter empty threats, which we have not the soul to execute—and thereby invite aggression from abroad. Thus we exhibit to the world the fatal truth, that the greatness of soul which animated our ancestors has perished, and we have become a nation demoralized and contemptible.

REPUBLICAN PARTY—THE MESSAGE.

Mr. POTTLE. Mr. Chairman, in the hour allotted me, I shall follow the example of other gentlemen, and talk a little upon many subjects having reference to the public welfare; and as several gentlemen have indulged in comments upon one or the other of the two great political parties of the Union, I shall venture a few thoughts upon the Republican party, its principles, and the objects which it is seeking to attain. It would hardly seem necessary for me to say that I speak for no one but myself, for I think no man, here or elsewhere, would presume to lay down a platform for that party, or enunciate rules of action, with the expectation that they would be considered binding upon any but himself. The right of free and full discussion which belongs to every member of the party or citizen of the country, invites every gentleman upon this floor to say, or leave unsaid, upon every topic of public policy, whatever to his judgment shall seem discreet and proper; and when said, he only, and not the party, is responsible. And while there is no necessity to go further than this, there also is no right.

When the Republican party met at Philadelphia, in 1856, to nominate a candidate for the Presidency, it was represented by delegates authorized as they were elected, not only to perform that duty, but to declare to the world the principles by which that party should be guided. They performed that duty, and, in my judgment, performed it well. Those principles must of necessity continue until the Republican party shall again be represented in a convention having power to modify, or change, the platform thus agreed upon. And, sir, I do not anticipate such an event until the representatives of the party shall again be assembled to nominate a candidate to be supported for the Presidency in 1860. And, sir, until then, I, for one, am willing to wait, with full confidence that the representatives of the party (representatives, who will everywhere be chosen for their prudence and ability) will then not only retain and reassert all that four years' experience shall have proved correct, and for the interest of the whole country, but that they will also modify all or any of the present platform, which experience, new issues, and altered circumstances shall require, in order to meet the wants and interests of the country. I think, sir, the present platform one which was well and carefully considered before it was adopted; and that it met, frankly, justly, and in a spirit of broad nationality, all the issues of that time; and whatever changes may become necessary, if any, I feel full confidence that the same will be truly said of the platform upon which the campaign of 1860 will be fought.

And now, sir, a few words upon the character and aims of the Republican party. I confess that I have been pained at times by hearing gentlemen talk of the Republican party as a mere anti-slavery party. Sir, I desire to say that, while this question of the rights of colored men, and of the effect of slavery upon free white labor, is, and will be, second to no other, there are still other great questions upon which no party can, if it would, be silent. It must of necessity speak out, and have a policy upon each and all of them. The wheels of Government must go on; they cannot await the issue of any single idea, however important; and, sir, a careful consideration of our platform will be sufficient to convince the bitterest opponent of Republicanism that we have not shrunk from or avoided the declaration of our policy upon any question of public interest; and we have taken strong and high grounds upon all of them.

And, sir, while we hear so much from gentlemen about the encroachments of the Republican

party upon the South, in its past action, and of its tendency to that direction in the future, I would ask some one of the many intelligent gentlemen from that section to descend from wholesale assertion to simple fact, and point out a single act of this party, or a single plank in its platform, that will justify these charges so often made? I do not ask for intemperate expressions sometimes made by members of the Republican party; but for the acts and creed of the party. It is for these alone that it can fairly be held responsible. If there has been any such action, I, for one, wish to express my regret. If there is anything aggressive in our platform, I desire to labor to get rid of it. I gave my adhesion to this party, in the belief that it was *national*, in the broadest and best sense of that term; and in spite of declamation here and elsewhere, I shall still entertain that belief, until I see proof to the contrary. Assuming, sir, that I have understood correctly our platform, and what we aim to accomplish as a party, I assert that there is not a sentiment contained in our creed, or held by any considerable number of those who claim to be Republicans, but what is clearly within the limits of the Constitution, and for the public good—calculated to benefit alike all sections of the country. Nothing but what has been held by one or the other great parties of the country, and sometimes by both, and sanctioned by long usage, without a charge or thought that it was sectional and aggressive.

We seek a just and economical administration of the Government;

A wise, conciliatory and just foreign policy;

A system of revenue duties, which, while it supplies the needful expenses of Government, shall, at the same time, yield incidental protection to industry against the cheap labor of Europe;

A system of improvement, not only upon our ocean-coast, but upon our inland lakes and rivers and other great avenues of trade, which will strengthen commerce and insure the safety of our property and lives of our people in time of peace, and serve for military transportation in time of war;

A chain of railroads which shall connect the Atlantic and Pacific, binding our wide-spread empire with the strong bands of common interest, and giving us the carrying trade of the world;

A policy in the disposal of the public lands which shall give to the pioneer, the actual settler, a homestead—an advantage over the mere speculator; and thus, instead of town plats and cities on paper, build up real towns and cities, making the wilderness literally blossom like a garden, spreading civilization and general prosperity over the land;

Laws and a policy for Utah, which shall put an end to the hideous deformity upon our institutions, which disgraces us in the eyes of the world;

A constant and implicit observance of the rights of the several States, according to the understanding of Jefferson and the early fathers of the Republic.

Now, sir, I ask southern men—for I speak to them in this matter—what in all this is there that is sectional, that is not for the interest of the South as well as the North, the East as well as the West?

If it is said that I have said nothing in regard to the policy of the party, as to negro slavery, I will add that our policy upon that subject is as simple and as time-honored as either of the other planks I have named. It is simply to let it alone where State rights protect it, and refuse our sanction to it and oppose its entry into any Territory where it has no such shield to guard it. If you say that this policy is sectional, I reply, then, that you, not we, have made it so; for it is but a brief period since parties south, as well as north, held this identical doctrine in common; even to insisting that it was not within the power of Congress to legalize slavery in the Territories. I know that my friend from Kentucky, [Mr. MARSHALL], in his speech the other day, claimed that the Dred Scott case had now settled that question otherwise. He is a good lawyer, and, I think, must have relied upon the word of the President in this matter. Had he examined the case he could hardly have failed to notice that the Supreme Court, in that case, merely decided that Dred Scott was a negro; that a negro is not a citizen of the State of Missouri, according to the laws of that State, and could not sue in that court,

and therefore the court had no jurisdiction of the case. Whatever the individual judges chose to say, after they had thus disposed of the case before them, upon the political questions of the day, would indicate their opinions upon such questions; but no more amounts to an adjudication of these questions than would the speeches of the gentleman and myself upon the same topics.

Nor can they be taken as a certain indication of what the court will decide should these questions ever come properly before it. Long before that time the present members may change their opinions; or, in the course of nature, yield their places to others; or the court be so reorganized as to give to all sections of the country proper access to, and a fair representation in it. Nor yet does the statement of the President, that the Supreme Court, by that decision, has made slavery legal in the Territories, increase respect either for the alleged decision or the Executive. And, sir, I have only to add, upon this point, that any attempt to legislate in affirmance of the opinions of the judges in that case, will meet my opposition while a member of this honorable body, and I hope will meet the opposition of every member of the Republican party.

To the complaint that we of the North absorb all other issues in this one in relation to negro slavery, and that we are constantly agitating upon this question, my reply is, that you have forced this issue upon us, and still force it upon us, with a determination that gives us little time to do any thing else but resist your encroachments. You cannot deny that we of the North have long sought repose upon this vexed question, and to to that end made various, and, to us, humiliating compromises, every one of which you agreed should be a "finality." Where are they now? What became of the compromise of 1787? Swallowed up in that of 1820. Who made the change of policy, and who got the benefit? The names of the slave States gained by that change would be a full answer.

But, sir, not to dwell upon this, and passing over Florida and Texas, what has become of the great "finality" of 1850? Before the ink was dry with which it was written, you began to agitate the question of the repeal of the compromise of 1850, which you accomplished in 1854—thus sweeping away the last legislative barrier to slavery, and followed that in 1856, with what the President calls a decision which makes "Kansas (and the other Territories) as much slave States as South Carolina or Georgia." (I suppose he must mean States *out of the Union*, for they are not yet in it.) Now, sir, if gentleman call it agitation to resist the progress from the acknowledged doctrine that slavery, under our Constitution, could not exist in any of the Territories, to the present one, that by that same Constitution it exists in all of them, then, sir, I have only to add that I trust there is no member of the Republican party who will not continue that resistance, even though agitation should follow which should rock the earth upon which we stand. That agitation which results merely from the defense of constitutional rights, is neither to be deprecated nor dreaded. It is one you can at any time stop by merely ceasing the aggressions which cause it.

In this connection, I desire to say a few words in regard to a project which is before the House, and has attracted some attention in the country. I allude to the proposition for authorizing the people of the Territories to elect their territorial officers; and I frankly say that this plan commends itself to my judgment, and is, I think, entirely consistent with our platform as Republicans. It leaves with Congress precisely the power that it now possesses over the Territories, but takes from the President the appointment of these officers, and transfers their election to the people—a change which is in accordance with the principles of our Government, and which takes from the Executive a portion of that patronage of which he has far too much; which is always, under any Administration, liable to abuse; and which has under the present one been abused, as every one who is familiar (and who is not?) with the wrongs and outrages of Kansas knows; and which enables the President to thwart the will of the people. Sir, a measure which has for its object the correction of these evils, will, I hope, meet the approbation of Congress, when it shall be reached for a vote.

Nor is this a new and untried experiment. The people of the Territories already elect a portion of their territorial officers, such, for instance, as members of the Territorial Legislature; and why not allow them to elect the rest? If the power is safely confided to them in one instance, why not in the other? I can see no danger resulting to any one but the Executive. It certainly does deprive him of a large amount of patronage, and that, too, at a point where it always can be, as it always has been, used to its fullest extent for the advantage of his party, and wholly without reference to the wishes of the people, or their welfare. I trust, sir, this broad declaration is fully justified by the facts. I am sure that the history of Kansas alone would demonstrate its justice; but I do not desire to fight over our battles in that direction, and shall trust to the memory of gentlemen for the truth of what I have said. There seems to be a strange confusion of ideas upon both sides of the House, upon this question. While the organ of the Administration (the Union) denounces it as dangerous to the Government, and proclaims that our greatest danger is from the encroachment by the people upon the powers of Government, my friend from Maine, [Mr. WASHBURN,] watchful to warn us of this new danger, assumes, as I understand his argument, that it is neither more or less than a relinquishment of our whole platform, in this, that it leaves "the people of the Territories to decide for themselves whether or not they will have what they (the Republicans) declare to be an unmitigated and gigantic evil," to wit, human slavery. It may be that it is my fault that I am unable to see this in the light in which the gentleman has put it. I should differ with any conclusion of his with great reluctance; but I am unable to see what the election of a territorial Governor, and of territorial judges and sheriffs, has to do with legalizing slavery, except, perhaps, the negative power of the Governor's veto. The law-making power, the Legislature, is now elected by the people. The additional officers which it is proposed that the people shall elect, find their duties, not in making, but in executing the laws; and I am as unable to realize the loss of our platform, and all the evils connected therewith, as likely to follow this change, as I am to enter into the fears of the Democratic organ, that our most imminent danger is in allowing the people to govern themselves. And I repeat, that it is precisely for the reason that the executive officers of the Territories are far more likely to execute the will of the President who appoints them, than of the people, of whom they are independent, that I would make the change, and compel them to "derive their just powers from the consent of the governed," and dependent upon them for their election. In my own State, sir, we have adopted this principle and made it applicable to nearly every office in the State; and I should never have doubted that it was democratic, or realized our danger from too much power with the people, but for the timely warning to which I have alluded.

From all that I have said on this point, I deduce the following propositions:

1. It is yielding no right that Congress ever exercised in the government of the Territories.
2. It is a right which belongs to the people, and therefore should be exercised by them instead of the President.
3. All experience proves that laws are best executed when the officer is made directly responsible to those over whom he exercises authority.
4. This change has no relation to the question of slavery whatever, except so far as it insures a just and impartial administration of the laws.

Good and sufficient reasons, to my mind, all of them, for the proposed change. And, sir, I now say, that I would not only in this instance, but in every one that presented itself, strike down the over-swollen patronage of the President, until he has reached a point where he should feel that he is the people's servant, and not their master; where he should be made to know he cannot trample upon the rights of any portion of the people with impunity, because of his invincible armor of public patronage.

Not desiring to be misunderstood in this matter, I would say to my friend from Maine, [Mr. WASHBURN,] that I am prepared to vote for his way of keeping slavery out of the Territories whenever he shall get it ready; but until then, I

would like to see the people of the Territories relieved of Governors, judges, and sheriffs, selected from a throng of hungry office-seekers, and sent to force slavery upon them against their will. I shall assume as self-evident, that the will of the people clearly expressed against slavery in every Territory, will have the effect to keep it out; for whatever theoretical right the slaveholder may set up under the Dred Scott case, or otherwise, to go into such a Territory with his slave property, self-interest will keep him out. He will not go where the change from a territorial to a State government may work the loss of all his slaves. Kansas, Nebraska, and Oregon stand as examples of the truth of these positions. The will of the people in each of these, practically exercised, has, I think, had quite as much to do in preparing them for free States, as the often repeated assurance that Congress would keep slavery out of the Territories. My faith in words is great, in fact, unbounded; but I would not, after all, repress or condemn practical action. I would not quarrel with the people of the Territories, or call them hard names, because they will not wait for us to exorcise slavery from their borders.

But, sir, I have devoted much more time to this matter than I had intended, and shall occupy the remainder of my time in remarks upon the President's message. To that portion of that long-winded document where the President urges the necessity of economy, I most heartily respond. No reform can be more needed; with an expenditure which has far outstripped that of any former Administration, and a rapidly accumulated national debt, the President may well talk about economy; and I here pledge him my vote for every just measure calculated to relieve the country from the present wasteful and extravagant administration of the Government. But, sir, "faith without works is dead." Let us see what "works" the President recommends in this direction.

First, the letting of mail contracts with reference merely to the transportation of the mails, and without reference to the running of coaches or other vehicles for the transportation of passengers is a good and needed reform, and one I will cheerfully vote for.

Second, a "modification" of the franking privilege. Sir, I will vote for this, also; and the "modification" which I desire is to abolish it altogether. It is a useless, wasteful expense, yielding no corresponding benefit, and devolves upon members of Congress a tax that prevents a proper discharge of their other duties. And, sir, I would go further; I would reform the present unequal and unjust system of mileage, and cut up, root and branch, the foolish and corrupt system of book-making by the Government; and, in my judgment, these few simple and needed reforms will save to the Government more than five million dollars annually. But, sir, I cannot consent to raise the present letter postage, in order to make the Post Office Department self-sustaining. Abstractly, I can see no reason why this Department should be self-sustaining more than any of the others—the War and Navy Departments, for instance. But I trust that if the reforms above indicated were faithfully carried out, they would more than make up the difference of revenue which would accrue from the proposed increase. There is no right dearer to the people than that of communicating through the mail, none that tends more to increase their social and moral qualities, and in no way could you impose a tax upon them that would be so severely felt, as by this increase. I would sooner vote to reduce the expenses of the executive and legislative departments to make up a deficit in the mail service than to increase the rate of postage on letters.

Another great and needed reform recommended by the President, and one which I am anxious to vote for, is a revision of the tariff upon the plan recommended by the President—not the Secretary.

But, sir, as I do not now intend to make a tariff speech, I shall pass on to other topics discussed in the message; and having stated those points upon which I agree with the President, and intend to support his policy, I desire to say a few words in relation to those upon which I disagree with him.

Sir, I was not a little disappointed, after listening to these smooth words of the President about

retrenchment and reform, to hear him follow with recommendations, that we should buy Cuba, at a cost, I suppose, of not less than two to four hundred million dollars; or if Spain would not sell, that we should take it at whatever cost. That we should take military occupation of Mexico and Central America, involving first a large and permanent increase of both the Army and Navy; a war with the citizens of those countries, and probably with half of Europe; and that in order to begin these splendid operations, we should place in the President's hands, to be used according to his discretion, \$30,000,000. Now, sir, these operations could hardly cost the Government less than \$800,000,000.

But then the President tells us that there are compensating benefits. In the case of Cuba we are to get rid of the African slave-trade; and in that of Mexico we are but collecting our debts. Sir, I think it was Mr. Buchanan's opinion, in the case of Texas, that we should decrease slavery by increasing the amount of slave territory and the demand for slave labor; and I am not surprised that, as President, he urges the same argument for the acquisition of Cuba. But it would, indeed, be a matter of surprise if any person could now be cheated by such an argument. Why do not our southern friends back the President in this view of suppressing the slave trade, and urge the acquisition of Cuba on these grounds, instead of treating us to speeches about manifest destiny, and our need of more territory? Need of more territory! Why, sir, we have got so much now that if it were equally apportioned, it would give to each man, woman, and child, something over three square miles—sufficient breathing space to prevent immediate suffocation. Sir, the greatest present evil is too much territory. This it is which makes our Government the most expensive in the world. If we would but pay attention to our own affairs, and let our neighbors alone; develop the resources of the country we have; and make stronger the strained cords of union and fraternity, by unity of interest, instead of reaching out for more territory, and bringing in foreign and conflicting elements, how much should we have advanced in all that makes a nation truly great!

In regard to Mexico, the President is only anxious to save the people's money. He merely wants to collect some debts which Mexico owes us. I do not know exactly the amount of indebtedness, but it strikes me that the plan for collection is of a kind so likely to be expensive, that if it is a question of money merely, we had better wait until Mexico can or will pay, or give her the debt even; but, sir, this is not the question. After all the smooth talk, it requires no skill to see that "this is the voice of Jacob but the hand of Esau;" that while we are flattered with the promise of an end to the African slave-trade, and the realization of our just dues from Mexico; that, in plain straight-forward language, and language more befitting the President, we want more territory, and we want it for a particular purpose. The settlement and pacification of Kansas, in which (according to the message) the President took so conspicuous a part, and the unmistakable signs given by all our present Territories, of excluding slavery, makes the President anxious to buy or get additional territory for the development of the southern "institution." Enough to give it a preponderance if it stays in the Union, or scope and room if it goes out.

But, sir, where are we to get these untold millions of money? The Treasury is empty; so much so that we cannot even pay the workmen about the Capitol regularly. The revenue is not increasing materially, while the debts are. To the \$40,000,000 borrowed we shall have to add \$40,000,000 more, most likely, before the revenue will meet current expenses. Where, then, do you propose to get the money to buy territory? Sir, it would be much more in keeping with our condition, if the President had recommended the sale of some of the territory we have, in order to carry on the Government, and stop our debts. I know that the failure to get Cuba would disappoint my friend from Ohio, [Mr. Cox,] whose taste runs so much to cheap molasses. Could not the gentleman reach the same object, and effectually get sweetened by the much more simple process of repealing the present sugar duties?

But, sir, I have an objection to the message, stronger, to my mind, than any I have glanced at; and that is its utter lack of fairness and manliness. Its manifest attempt to pander to every sectional and factional feeling in the country. To the advocates of protection it holds out the blandishments of a tariff, and puts the great free-trade party of the Union upon the broad Whig doctrine of "specific duties." To the reformer, the President talks of retrenchment, at the same time asking that \$30,000,000 may be placed in his hands, and subject to his discretion, with which to begin the reform, which will only be made perfect by buying or taking all that adjoins us by land or is near us in the ocean, at an expense of untold millions. To the opponents of human slavery, he points to the acquisition of Cuba as a sure and certain means of accomplishing their long-deferred purpose of wholly stopping the slave trade; while the advocate of slavery can find in that same great project, and its yoke-fellow of Mexico, his long coveted extension of slave territory. To the great class of the "manifest destiny" men, the realization of the great "Monroe doctrine" (whatever that may be) in full and perfect operation; and to the restless spirits of our country, and filibusters generally, that "good time coming" for which they have hoped and prayed, but hardly dared expect. To the Army and Navy, all the "pomp and circumstance of glorious war," not forgetting, however, the assurance to the peacefully inclined—and to Spain, Mexico, and Central America, in particular—that the policy and intentions of this country are all of a pacific and friendly character; and finally, to our citizens upon the "Pacific slope," that we should immediately open avenues to them through our own territory and through that of our neighbors.

Sir, a message that thus rubs up to brightness every pimple of prejudice and excitement, and strings together incongruous and inconsistent promises and recommendations, can have but one object; and that, I think, can be none other than to collect together under "different and dissimilar banners," to use the metaphor of my colleague, [Mr. Thompson,] an army which, if not quite equal to the conquest of Cuba, Mexico, and Central America, shall at least be equal to the great campaign of 1860. And what an army it will be, when free traders and protectionists, the opponents of slavery and the slavery extensionist, the peace society and the men of war, the conservative and the filibuster, and the economist and the hunter of spoils, shall gather with their "dissimilar banners" under the broad flag of the Administration Democracy. Sir, as this is the first message of its kind, I am sure that all well-wishers of our country and our country's honor will join in the hope that it may be the last; and that this Administration of extravagance, bankruptcy, broken pledges, and filibustering projects, may receive, at the hands of the people, that justice it has so richly earned. I shall gladly vote against the several projects recommended, in the order in which they reach us.

The severe criticisms of the European press on these remarkable projects, were doubtless made upon the presumption that the President meant what he said, and in that view are both natural and just. But does any member of this body believe that the President expects to either buy or take Cuba? That he expects us, for that purpose, to place \$30,000,000 in his hands? That he expects to take armed occupation of Mexico and Central America? And yet honorable gentlemen, day after day, give us speeches, as though all these matters were foregone conclusions. The gentleman from Missouri, [Mr. Anderson,] the other day, told us that these projects were not only feasible, but, as I understood him, were matters of "inevitable destiny," which it was useless to resist. The honorable member from Ohio [Mr. Cox] found Cuba literally flowing with bread and molasses; and its acquisition must of necessity prove acceptable to the people of Ohio. The speech of the eloquent gentleman from Tennessee [Mr. Avery] was a whole epic in praise of the charms of Cuba, arriving at the conclusion that she had so many desirable resources, and such great wealth, that we could well afford to take her; while we must take Mexico for exactly the opposite reason, namely, because she had nothing to pay her debts, and was wholly unable to take care of herself; while the other

gentleman from Tennessee, [Mr. Atkins,] who looked upon slavery as the greatest civilizing and Christianizing institution in the world, did not believe we could get Cuba. Well, sir, I trust if these speeches do not serve to induce Cuba and Mexico to rush to our arms, they will at least show to the constituencies of these gentlemen their fervor in support of the President, and their unquestioned desire to raise new issues, which shall obliterate from the public mind the recollection of old ones; and that, I trust, is the extent of their expectations, or of the President's.

But, sir, these recommendations upon the part of the President, and the sanction which they seem to find in this House and in the Senate, not only create a restlessness on the part of our own people, but they are looked upon as insulting to the other nations interested; and for whatever purpose intended may yet cost this Government untold millions of money and hundreds of thousands of valuable lives. When we get Cuba without these results, it will be after we can show a better reason for it than simply that it is a rich island which it would be convenient for us to have. Sir, you need only refer to the manner in which England and France met that same argument when offered by Russia in reference to Turkey, to read the inevitable result of this matter if seriously insisted upon—a result which, if it serves no other purpose, may undeceive us as to the extent of our power to trample upon the rights of our neighbors.

We are strong, we are prosperous, as we are. Why can we not be content with the full measure of our blessings, and not seek to interfere with the rights and blessings of other nations, whether they be greater or less than our own?

GOVERNMENT EXPENDITURES.

Mr. SMITH, of Tennessee. Mr. Chairman, an empty Treasury always begets discussion in reference to the expenditures of the Government, and the mode of raising revenue; and the various opinions entertained upon these subjects by the people's Representatives are amusing as well as instructive. The scrutinizing gentleman from Alabama [Mr. Curry] wants a *poor* Government; my worthy colleague [Mr. Jones] weeps over the worthy exchequer, and, no doubt, thinks our Government a *failure*; while the senior gentleman from Alabama [Mr. Houston,] is horrified at the idea of paying bounties to the cod-fishermen of the East. But, sir, it was reserved to the gentleman from Ohio [Mr. Sherman] to make himself the *Ogle* of the House, and to carry us back in imagination to the days when gold spoons and forks, and "looking glasses as big as a poor man's plantation" were the most effective arguments for a change in the administration of the Government.

That discussion upon the subjects to which I have alluded are legitimate, no one will deny; and that it is profitable to the country, when properly conducted, no one will question. When, however, it is resorted to for party purposes; when it degenerates into one-sided statements, bold assertions, egregious miscalculations, and false predictions, it is calculated to mislead the public mind, and to do great injustice to every department of the Government—the legislative as well as the executive. Such is the character of the speech of the gentleman from Ohio delivered in this House on the 26th day of May last, and but little more than a month before the close of the fiscal year 1857. As that gentleman has taken the lead in this matter, both at the last and the present session of Congress, I propose to examine briefly some of his calculations and predictions, that this House and the country may judge as to the reliance to be placed upon his figures in reference to the expenditures of the Government. In the speech to which I have referred, after adverting to the \$20,000,000 of Treasury notes previously issued, and the \$15,000,000 loan (afterwards raised to \$20,000,000) asked for by the Secretary of the Treasury, the gentleman said:

"I can demonstrate to any sensible man that the Secretary of the Treasury will be compelled to call on Congress for \$42,000,000 to supply deficiencies in the next fiscal year. To that will have to be added \$21,000,000 to redeem the outstanding Treasury notes, and interest, which run for but one year. So that there will be an addition to the national debt of \$63,000,000 in two years."

The first paragraph I have read would make the impression, if not so intended, that the Secre-

tary of the Treasury would be compelled to call for \$42,000,000, in addition to what had already been called for, to supply deficiencies in the revenue for the present fiscal year. Put, however, the best construction upon it for the gentleman from Ohio, and include in the \$42,000,000 the \$20,000,000 previously asked for and subsequently granted, and he makes a mistake of \$21,000,000 in estimating the deficiencies in the revenue for a single fiscal year. Sir, not one dollar has been asked for, at this session of Congress, to supply deficiencies in the revenue for the present year. Nor will there be a dollar asked for for any such purpose. I have before me the report of the Secretary of the Treasury to the present session of Congress; and so far from stating any deficiency in the means of the Government for this year, he states (on page 3) that there will be a *balance* in the Treasury on the 1st day of July, 1859, of \$7,063,298 57. Such gross mistakes as this throw suspicion over all the gentleman's figures. But this is not all. After satisfying himself with his estimates of deficiencies in the revenue, he next tries his hand in estimating the deficiencies in *appropriations* for the present fiscal year. He says:

"By the annual estimate of the Secretary of the Treasury, the expenditures for that year would be \$74,084,755. But this does not include many items, most of which will have to be paid for as certainly as the President's salary. Some are as follows:

Three new regiments.....	\$4,289,547
Probable Post Office deficiencies, over amount appropriated.....	2,500,000
Public buildings.....	1,700,000
Private bills, (estimated).....	1,000,000
Printing deficiency.....	600,000
Army deficiency, estimated to be the same as last year.....	8,000,000
Total.....	\$18,089,547

Based upon these figures, the gentleman estimates that the expenses of the Government for the present fiscal year will, "in all human probability, be from ninety to one hundred million dollars." Sir, no deficiency bill has yet been introduced, nor has any been called for by the Secretary of the Treasury, except for the Post Office Department. I can also state, from information derived from the proper source, that much less than one million will cover all the deficiencies in appropriations for the present fiscal year, except in the revenue of the Department before referred to. Here again, then, the gentleman is equally as unfortunate as in his first calculation. He makes a mistake of \$14,500,000 in deficiencies in appropriations for a single fiscal year. These statements have gone to the country, and it is proper that their fallacy should also go to the country. I here dismiss the gentleman from Ohio, with the remark that he had better study more thoroughly the rule of "*possession*," before he again attempts to figure up expenditures for a Democratic Administration.

The embarrassed condition of the Treasury is no fault of the present or past Administration. It has been so before, and the causes which produced it then have produced like results now. In 1836, when the country was prosperous, and business, trade, and speculation had reached their culminating point, the imports from foreign countries, from which we derive most of our revenue, were, in value, \$189,980,035. This furnished an ample amount of revenue to defray the expenses of the Government, and leave a surplus in the Treasury. In 1837, the country was visited by a monetary crisis which caused the importations to fall off \$49,000,000 in that year. And in 1838, the imports were \$76,236,631 less than in 1836. As the imports decreased so did the revenue. The Treasury was depleted, and the Government was compelled to borrow money to carry on its operations. A similar state of things now exists. When the present Administration came into power there was a surplus in the Treasury, to reduce which Congress, a few days before, had reduced the tariff. Trade and speculation had again reached their highest point. Another financial revulsion came upon the country; business was to a great extent suspended; a large number of the banks broke, and the balance stopped payment. Under those circumstances the imports from foreign countries fell off in a single year \$78,276,991. The surplus in the Treasury soon disappeared, under the double effect of a reduced tariff and largely reduced importations, and again the Government was under the necessity of borrowing

money to defray its legitimate expenses. What statesman can say this was the fault of the Administration? The tariff was reduced before it had an existence, and no human power could have prevented the reduction of imports into the country.

Economy in the public expenditures has, of late days, become a favorite hobby with a certain class of politicians in this country; and, in a majority of cases, those who talk economy most, practice it least. Invidious comparisons have been instituted between us and our fathers on this subject, and between the expenditures of the Government now and in the early days of the Republic. Sir, while I am in favor of strict economy and accountability in every department of the Government, yet I would strike down no arm of the public service, that I might go home and tell my constituents that I had, by my vote, saved so much of the people's money. There is no branch of the public service that can be dispensed with; neither do I expect to be able to support a grown-up man as cheaply as a new-born infant. I intend to show, not in the spirit of egotism, but in vindication of the truth of history, that, as a people, we are as wise, as honest, and as economical as were our fathers. Sir, we have lived to but little purpose if we have degenerated either as a people or as a nation. There are, no doubt, plenty of corrupt men; but I hope the time may never come when I shall be made to believe that this Government is corrupt, either in the legislative, executive, or judicial department.

And here, Mr. Chairman, I must take occasion to observe, that I am not one of those who believe that all that is in the past is good, and all in the present is evil—that as we go forward decay progresses, and as we turn back, we are then, and then only, refreshed with wide-spread examples of purity, integrity, and patriotism; and the whole body-politic leavened with a spirit of both public and private economy. From the early days of Greece and Rome, down to the times in which we now live, it has been the practice of croakers in private, and demagogues in public, to revile and belittle contemporaneous men and things, by insulting comparisons with the exaggerated past. We are told by Englishmen of the good old days of Queen Bess—those good old days when men and women were burned at the stake, for using their tongues too freely. Of the palmy days of England under the Georges—those palmy days when Prime Ministers stood at the doors of the House of Commons, with money in hand, openly and unblushingly purchasing the votes of members. The truth is, human nature is the same now as it was at the commencement of the world—only to be restrained, influenced, and improved by wise teachings, good examples, and the light of our Gospel revelations. We had Judas Iscariot in the time of our Savior, and Benedict Arnold in the time of our own glorious Revolution; but neither the betrayal of the one nor the perfidy of the other interrupted the march of Christianity, or the spread of free principles and free institutions. I believe that as a people, we are just as honest, just as economical, just as patriotic, and fully as wise, as the people who sent their representatives to the first Continental Congress. I say that we are as wise as our fathers and grandfathers; and we ought to be wiser, because we have the benefit of their experience, with our own added to it. I believe that we are living in an age of wholesome and substantial progress; progress untainted by that corruption which many of our journalists and public men would have us believe pervades every branch of our Federal and State Governments. I believe that we are quite as good and know as much as the men of those times which members on this floor are so fond of reverting to; and which have been reverted to during the last five thousand years by succeeding generations in reference to preceding ones. Fifty years ago, Rev. Sydney Smith wrote:

"All this cant, then, about our ancestors, is merely an abuse of words, by transferring phrases true of contemporary men to succeeding ages. Whereas, of living men the oldest has the most experience; of generations the oldest has the least experience. Our ancestors, up to the conquest, were children in arms; chubby boys in the time of Edward I.; striplings under Elizabeth; men in the reign of Queen Anne; and we only are the white-bearded, silver-headed ancients who have treasured up, and are prepared to profit by, all the experience which human life can supply."

It was well said in a report made to this House

at the last session of Congress, by the gentleman from South Carolina, [Mr. Borce], that "the United States have made the most astonishing advancement in material progress of all the people in history, ancient or modern." The true basis of expenditure in our Government is population, extent of country, and wealth; and when you compare these now with the year 1800, you will find that the Government is as economically administered at this time as it was at that period. To prove this, I have only to institute a comparison between those two periods, and let the House and the country judge for themselves:

The population of the United States in 1800 was.....	5,305,941
Value of real and personal estate belonging to individuals.....	\$1,526,455,250
Extent of territory, (square miles).....	754,000
The expenditures, exclusive of the public debt, were.....	\$7,411,369 97
The population of the United States in 1859 was.....	28,500,000
The value of real and personal estate belonging to individuals.....	\$11,500,000,000
Extent of territory, (square miles).....	2,637,755
The expenditures for the fiscal year ending June 30, 1859, as estimated by the Secretary of the Treasury.....	\$74,065,896 99

This shows an increase in the expenditures, from 1800 to 1859, exclusive of payments on the public debt, of 1010 per cent.; increase in population of 650 per cent.; increase in wealth, 760 per cent.; increase in extent of territory, 310 per cent. These are the three principal elements which constitute the basis of expenditure; but to them may be added the increase of 100 per cent., at least, in almost every article of subsistence, which has caused a like increase in the wages of labor, and of the salaries of all the officers, men, and laborers engaged in the public service.

In 1800 our territory was small, being only seven hundred and fifty-four thousand and seven square miles. In 1803, we acquired Louisiana, with a territory stretching across the Rocky Mountains to the Pacific ocean. This territory was inhabited by savages, whose usufruct right to the land had to be extinguished before it could be settled by the white man. In 1816, we acquired Florida, and took it with all its responsibilities, its claims, and its hostile Indians. In 1845, we annexed Texas, taking in at once a whole Republic as large nearly as the original thirteen States, with its debts, its liabilities, and its hostile savages. In 1848, we acquired New Mexico and California; and in 1854, we purchased the Mesilla valley, or what is now called Arizona. By these acquisitions, we have now one hundred and seventy-five distinct tribes or bands of Indians in the United States. The amount of land to which the occupant or usufruct right of these Indians has been extinguished by the Government, is five hundred and eighty-one million one hundred and sixty-three thousand one hundred and eighty-eight acres, at a cost of \$49,816,344. The whole cost of the Indian bureau in 1800 was \$31 22, and it did not reach \$200,000 until the year 1815. During the year ending 30th June, 1859, it was \$2,659,389. These expenditures may be considered in the nature of permanent investments, as the Government is yearly in the receipt of millions of dollars for the sale of those lands to which the Indian title has been extinguished. The following tables, which I have had prepared at the General Land Office, will exhibit another item of largely increased expenditures, on account of the accumulation of territory, as well as the rapid progress and development of our country:

	1800.	1858.
Area in square miles of the United States, 754,007	2,637,755	
Number of land offices.....	4	87
Number of surveyors general's offices.....	1	12
Number of acres surveyed from 1800 to 1810, (estimated).....	4,500,000	
Number of acres surveyed from 1848 to 1858.....	111,711,905	
Number of acres sold and located with military bounty warrants, from 1800 to 1810.....	2,775,922	
Number of acres sold and located with military bounty warrants, from 1848 to 1858.....	90,684,443	

In 1800, we had but one territorial government; while in 1859 we have six, and all dependent on the Government for support. In 1857, we had to support seven territorial governments—more than half as many as there were original States of the Union; and now we have three more knocking at the door of Congress.

I shall speak of other causes of increased expenditure in their proper places.

I have stated the wealth of the country from

the best data that could be obtained; and, as a consequence of it, our exports to foreign countries have increased from \$89,000,000, in round numbers, in 1800, to \$362,000,000 in 1857, and \$324,000,000 in 1858. The tonnage of the United States has increased from 972,492 tons, in 1800, to 5,049,808 tons in 1858. From 1800 to 1810, the amount of coinage at the Mint, branch mints, and assay office, (New York,) was only \$6,819,807 75. From 1848 to 1858 it was \$512,238,184 91. Take into consideration, then, the population, extent, and wealth of the country now; the wages of labor, and the cost of subsistence; the consequent increase of the salaries of all the officers and employees of every department of the Government, and compare them with that of 1800; and you will find that the Government is as economically administered in 1859, as it was at the former period.

Thus far I have spoken of the progress of the country and of the causes of increased expenditure generally. I will now notice separately the three Departments of the Government upon which extravagance is mostly charged. I wish my time would allow me to discuss them fully, but it will not.

And first, the War Department. Our Army, when filled up, consists of eighteen thousand one hundred and sixty-five men. There are in actual service seventeen thousand four hundred and ninety-eight men. Upon these troops devolve the protection of our whole frontier. Almost every fortification in the East has been abandoned; the troops have gone to the West. The necessities of the service have demanded it. They went there for the purpose of protecting our settlers upon the frontiers, and to quell a formidable rebellion which occurred in the Territory of Utah.

I know that the expenses of the Army have increased, but why have they increased? The cost of the Army is well defined when it is stationary, because the pay of the men is fixed by law, their rations are fixed by law, and almost every item of expenditure is regulated by law for the maintenance of the Army when not in motion. But, sir, the great item of the increased expenditure of our Army is that for transportation. That increase has gone up, within the last two years, millions of dollars. Previous to that time, we had, it is true, some hostile Indians upon the frontier; but a large portion of the Army was then in our barracks along the Atlantic coast. Upon the breaking out of Indian hostilities in Oregon, in Washington, in New Mexico, and in Texas, a large portion of our Army was ordered there. More than a year ago a formidable and dangerous rebellion threatened us in Utah, which took the whole body of our troops to the plains, except as many as were required to take care of the Government property at the deserted barracks.

In supporting this army every gentleman who is at all acquainted with that country knows the difficulties that had to be encountered. You have to haul the entire subsistence a thousand miles; you had to keep your army in the fastnesses of the Rocky Mountains in the winter, in order to be ready for the spring campaign. It must be supplied from the settlements. There are now in active service on the plains, about eleven thousand men, the subsistence for which has to be brought either from the Pacific or from the Mississippi valley. This transportation costs large sums of money. A little over a year ago the army was ordered to Utah, without a dollar of money in the quartermaster's or in the commissary's chest. Congress was in session for three months before they furnished the Secretary of War with the necessary means for transportation. Under these circumstances, provisions and transportation naturally cost higher than if they had had the money in hand. But, after the passage of the deficiency bill, I venture to say, there has not a contract been made for subsistence or transportation, or for any expense in the quartermaster's department that would not, so far as prices are concerned, command the approval of every member of this House. Thus, sir, however much the march of the army to this wilderness country may have increased the expenditures, it did not cost too much; it did not cost more than was necessary. We have now Indian hostilities from the British possessions on the Pacific to Texas, and even extending to the peninsula of Florida. This army is scattered all along the frontier to protect our people. A large portion of the troops have remained in the rebellious

Territory of Utah, to suppress insurrection in that Territory, if it shall again break out. The War Department and the Government labored under great embarrassment in reference to the difficulties in Utah for want of means, which Congress for some time denied them; it was important that the insurrection should be stopped promptly. But for the prompt action of the Government, that rebellion would have been now in existence, and have continued for years to come. It has, however, been ended; but it is not prudent, nor is it safe, to withdraw the troops. If you were to withdraw them now the rebellion would again break out, in perhaps a more threatening aspect than it did before.

I say there has not been one dollar too much money expended by the War Department. I know there are many things included under the head of appropriations for the War Department which do not properly belong to it, and in that way the expenditures of that branch of the service are swelled up beyond what legitimately belongs to it. For instance, the construction of the aqueduct, for bringing water into the city of Washington, which will cost \$3,000,000, has nothing to do with the Army; and yet, it is placed to the charge of the War Department. The items of expense for the construction of public buildings all over the country, are charged to the War Department. In this way millions of dollars are charged to that branch of the service which are no part of its legitimate expense.

But, Mr. Chairman, I ask how are the expenses of the War Department to be reduced? A few days ago I put that question to a gentleman who was clamoring for a reduction of the expenses of the Government. "Reduce your Army expenses," he replied. I asked him *how*? "By calling in your outposts." We all know the outposts are the most expensive posts in the whole country, because they are the furthest from the settlements. But, I ask, where is the man who will agree to call in the outposts, and leave to the merciless tomahawk of the savage, the pioneer who has gone there to open up the country? I for one will not consent to do that. I will vote an ample amount of money and the requisite number of men to protect those who go in the vanguard to subdue the forests and settle up our country. There is no way then in which you can reduce the expenditures of the Army without you call in the outposts. The pay of the men in the Army, as before remarked, is fixed by law, their rations are fixed, and when you are compelled to transport them from place to place, you are forced to do it upon such terms as you can get; you must leave that to the discretion of the Secretary of War. All these operations have been carried on under the direction of Major General Jesup, who, I apprehend, is as wise in that branch of the public service as any member of this House; and not only so, but he is as honest a man as any member of either branch of Congress. It has been under the supervision of such a man that all these large expenditures have occurred, and they have been such only as were demanded by the exigency of the public service.

Passing from this, I come to the Navy. In 1798, we had a very small Navy; only twelve vessels in all. We had six vessels which had been constructed by the public, and six which had been purchased for the public use. In that year the Secretary of the Navy reported to the House that, for the maintenance of that Navy, and for the completion of the vessels then on the stocks, \$2,212,000 would be required. At that time our coast was confined entirely to the Atlantic, extending only from Passamaquoddy to St. Mary's; and the extent of the shore line of the main land, measuring the general indentations of bays and sounds, was two thousand six hundred and forty-one statute miles. The present shore line of the United States, including the western coast, is seven thousand and sixty-four miles; and we have now, in all, eighty-eight vessels. We have nearly half as many squadrons now as we had vessels in 1798. We have built more vessels since I have been a member of Congress than constituted our whole Navy at that early day. Our Navy now whitens almost every sea; and it is the only arm of the service by which the power of the nation can be felt abroad. Will any gentleman here say it is too large? I apprehend not. They would rather say, from experience, that it is too small.

Only a short time since, under a resolution of Congress, the President sent a fleet to demand satisfaction for injuries done to our citizens by one of the weakest Powers upon the globe. So far was our Navy from being adequate to that service, that the President had not vessels to send, and he had to turn the Navy Department into a charter party, and charter a number of vessels for the Paraguay expedition.

The pay of the officers of the Navy, seamen, and marines, is fixed by law. To maintain a man-of-war at sea, the Secretary of the Navy, in 1798, reported to Congress that it would require more than two hundred thousand dollars a year. We have now eight navy-yards, and eighty-eight vessels. The pay, as I say, of the officers and men is fixed by law, so that not a dollar can be deducted from that expense; and where, I ask you, are you going to save money in reducing the expenditures of the Navy Department? Will you do it by refusing to vote a sufficient supply to carry on the navy-yards? If you do that you might just as well bring home your vessels and tie them up; and say you will have no Navy. Two million dollars are now asked for the support of these navy-yards. I need not tell you what is the business of those navy-yards. They are the groundwork of the whole Navy. Refuse to furnish them means, and you must tie up your ships, because they must be repaired, and they must have the material which is requisite to sustain them when they are at sea. All those things are constructed at the navy-yards. The whole of those eighty-eight vessels are now at sea, and in active service, with the exception of those now upon the stocks and a few receiving ships; and so far from deducting from them we ought to add to them, because the Navy is not now strong enough.

In the present condition of the world, with the unsettled condition of Europe and European dynasties, we know not what day we may be precipitated into war upon the high seas; and if we have not vessels enough now to demand satisfaction of one of the weakest Powers upon the globe for injuries done our citizens, I ask what our condition would be if we had to meet the combined navies of England and France? Our Navy is not as large as that of Brazil, and you cannot reduce it. Every dollar you refuse to furnish to the Navy below what is necessary, you take that much labor from the Navy, and that much material which you have to make up in after days by an appropriation three-fold greater than if you make it now.

I do not believe, then, that the expenses of the War Department, or the expenses of the Navy Department, are more than commensurate to the demands and requirements of the public service. I cannot see, at this time, how less than two million dollars will answer the wants of the service in the eight navy-yards in the United States. If you reduce it below what is necessary, you only lay the foundation for a larger appropriation at some future day. There is no economy in refusing necessary appropriations. Keep up your navy-yards, and keep your vessels in good repair; and you will not only give efficiency to the service, but you will save money to the Government.

And now as to the Post Office Department. Our postal system dates from 1775, when Dr. Benjamin Franklin was elected Postmaster General by the colonial Congress, then in session at Philadelphia. When the present Government went into operation, in 1789, William Osgood, of Massachusetts, was appointed Postmaster General by General Washington. There were, then, seventy-five post offices in the United States, and about two thousand miles of post road. There was one main line from Wiscasset, in Maine, to Savannah, in Georgia, with about ten cross lines towards the western country. From time to time, Congress has increased the post roads in the United States, until the number of post offices on the 1st of December, 1858, was twenty-eight thousand five hundred and seventy-three; of mail routes, eight thousand two hundred and ninety-six; and the length of post roads, two hundred and sixty thousand six hundred and three miles. Our postal system has grown up like magic; and I may say, too, that in its rise, its progress, and its expansion, has furnished to the people of this country as much solid comfort and advantage as any other Department of the Government. Gen-

tlemen charge extravagance upon the Post Office Department; and yet see, at every session of Congress, from one hundred to one thousand additional mail routes created, which must increase largely the expenses of the Department. They allow those new mail routes to be established without making any objection; and yet upon those routes the Postmaster General is bound to put mail service. These routes are established without regard to the cost of the service; and the action of Congress is an instruction to the Postmaster General. He has no discretion; he is bound to put the service upon those routes. We have, I have said, two hundred and sixty thousand six hundred and three miles of post roads established by Congress; and on the 1st day of January, 1859, there were in operation, in the United States, twenty-seven thousand eight hundred and fifty-seven miles of railroad, the cost of which was \$361,047,364.

This is another great fact to show the rapid progress of our country, its advancement in wealth, power and everything that can minister to the physical or intellectual comfort of man. Your mails are carried on these railroads, which gives to them such accelerated speed as to almost annihilate space, and enables the remotest parts of our country, in a few hours, or a few days, to communicate with the capital of the nation.

This has grown up within the last few years, and, as a matter of course, the expenses have largely increased. Whenever Congress establishes a new mail route, it must increase the expenses still more. Again, sir, the cost of everything has gone up. At the last lettings I had occasion to examine the bids, because they covered my section of the country, and I know that they were from fifty to one hundred per cent. higher, upon an average, than they were four years before, when I first came to Congress.

Sir, I would not countenance a useless expenditure of money by any Department of the Government; but, when properly expended, I would as soon vote money out of the public Treasury for the Post Office Department, as for the civil list, the Army, or the Navy. It comes more directly in contact with the people than any other branch of the Government. It is through that Department all your correspondence, public and private, business and social, must pass; and he who receives or sends but half a dozen letters a year appreciates the convenience as highly as the merchant who sends and receives his thousands. Every man is willing to bear his part of the expense, because the comfort and convenience derived from it, seen and felt almost every day, are *invaluable*. I have no hesitation in saying, then, that while the Government reserves to itself the exclusive right of carrying the mail, and refuses to allow individuals to do it, I would have sufficient mail service to supply the whole country, if every dollar of the cost had to come from the public Treasury.

But Congress goes on, from time to time, to establish overland mail routes, steamship lines, and mail routes upon rivers which now are of very little use. They require the Postmaster General to put service upon them; and then, when an appropriation bill comes up, gentlemen rise and attack the Postmaster General, because the expenses are too high. Why did Congress pass a bill establishing a post road from the Mississippi river to the Pacific ocean? That was done the last day of the session, previous to the incoming of the present Administration. Neither this Congress nor this Administration had anything to do with the establishment of the overland mail route to California. If they had had, judging from the past, it would not have been established. At the last session of Congress, a resolution was passed by both Houses establishing another overland mail route from St. Joseph, in Missouri; and but for the veto of the President, would have become a law.

If you want to reduce the expenses of the Post Office Department, you must repeal your laws establishing the several overland mail routes—ay, sir, and you must stop authorizing these steamship lines. You must place these lines upon the same footing with the mail service upon the land, and let out the contracts to the lowest bidder. If you will do that, stop the steamboat lines where they are unnecessary, and act upon the Postmaster General's recommendation to give the

carriage of the mail upon land and upon sea to the lowest bidder, without regard to the carrying of passengers, I am of the opinion that, in five years, with the present postage, the Post Office Department will be self-sustaining. It has not had a fair trial. It has had crowded upon it railway carriage at enormous prices. There, too, I would interfere, and fix a reasonable maximum price for carrying the mail. If a reasonable price were settled upon, I have no doubt it would be acquiesced in by these companies. With these reforms, sir, the Department can be made self-sustaining without the increase of postage, or the abolition of the franking privilege.

I need not speak of the present head of the Post Office Department. I did not come here to defend him. He needs no defense. One thing, however, he has done which has not been done heretofore. He has gone beyond the railroads and the big steamships. He has, sir, furnished the country proper, the hills and the valleys, with mail service, to which they were entitled, but which had heretofore been obstinately denied them. For this he is entitled to credit.

Now, Mr. Chairman, if we want to reduce the expenditures of the Government, let us go to work and do something of the kind that I have indicated. Let us repeal these laws which render it necessary to make useless expenditures; which require the erection of useless public buildings, on which millions of dollars are thrown away annually. Let us repeal the laws establishing overland mail routes and steamship lines, and we can save millions in that way. Let us try, at every other point, to reduce the expenditures of the Government before we call home the ships that protect our commerce on every sea and our citizens in every clime; or before we call in our outposts and leave the people on the frontier to the mercy of hostile savages.

It has not been my purpose, Mr. Chairman, in the remarks I have submitted, to show that the expenses of the Government cannot be reduced; but first, that for the last half century they have not more than kept pace with the growth, expansion, wealth, and population of the country. And secondly, that they have not exceeded the necessities of the public service, as now organized by law. If, then, too much money has been expended, upon whom rests the responsibility? I answer, upon Congress, and not upon the Administration.

Sir, during the last Congress there were one hundred and ninety distinct items of appropriations made; which were not asked for or recommended by any Executive Department of the Government, amounting in all to \$11,489,779 99. And at the last session of Congress, we all remember that \$5,000,000 had to be added to the loan bill, to meet appropriations not asked for or contemplated by the Executive. Yet, gentlemen complain of the extravagance of the Administration. Nay, more, sir. These gentlemen, who complain so much about extravagance, make no move to repeal the laws, to execute which the appropriations are made. Let them commence reform in the right way, by a repeal of those laws requiring unnecessary appropriations, and not defeat the appropriation bills, and leave the law remaining on the statute-book unexecuted. I ask you, is it statesmanlike? Is it just for gentlemen to sit here from Congress to Congress and wait, at each session, for the appropriation bills to come up, and then defeat them, to exhibit their economizing spirit to the world, and particularly to their constituents? While I am here, I expect to vote such appropriations as are required by existing law and as the requirements of the public service demand; and leave my constituents to settle the question as to whether I am right or wrong.

[Here the hammer fell.]

Mr. PEYTON moved that the committee rise. The motion was agreed to.

So the committee rose; and Mr. MILLSON having taken the chair as Speaker *pro tempore*, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

And then, on motion of Mr. PEYTON, (at nine o'clock and five minutes, p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 1, 1859.

Prayer by Rev. SMITH, PINE, D. D.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled bill (H. R. No. 540) to provide for the lighting with gas certain streets across the mall, which had heretofore received the signature of the Speaker of the House of Representatives.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of War, communicating, in compliance with the eleventh section of the act of the 26th of August, 1842, and a resolution of the House of Representatives of 13th January, 1846, a list of clerks and other persons employed in that Department, officers of the Army excepted, during the year 1858; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, communicating in obedience to law, a statement, showing the expenditures for contingencies of the military establishment, during the year 1858; which was ordered to lie on the table.

He also laid before the Senate a letter of the Commissioner of Patents communicating, in obedience to law, the annual report of that office for the year 1858; which, on motion of Mr. SEWARD, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of James G. Clarke, praying compensation for services as United States chargé d'affaires, in Belgium, from September 24, 1856, to September 27, 1858; which was referred to the Committee on Foreign Relations.

Mr. HUNTER presented the memorial of Pryor & Heiss, proprietors of The States, praying that steps be taken to enforce the provisions of the act of 3d March, 1845, in relation to the publication of proposals for contracts; which was referred to the Committee on the Judiciary.

Mr. MASON presented the memorial of the Legislative Assembly of the Territory of Washington, relative to the extinguishment of the right of the Hudson's Bay and Puget Sound Agricultural Companies; which was referred to the Committee on Foreign Relations.

Mr. SEWARD presented a memorial of citizens of New York, and a memorial of citizens of Green Point, Brooklyn, and New York, praying an appropriation for the construction of earth-work redoubts for the defense of the city of New York and its vicinity; which were referred to the Committee on Military Affairs and the Militia.

Mr. POLK presented a memorial of citizens of St. Louis, Missouri, praying that the duties on iron may be made specific, and sufficient to give protection to that branch of domestic industry; which was referred to the Committee on Finance.

Mr. WRIGHT presented a petition of citizens of New Jersey, praying that all further traffic in, and monopoly of, the public lands may cease, and that they be laid out in farms or lots for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. HALE presented a memorial of citizens of Portsmouth, New Hampshire, praying that the pay of the officers of the Navy may be increased; which was ordered to lie on the table.

He also presented the petition of Daniel R. Kenney, a soldier of the war with Mexico, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Jonathan Wiggin, praying a pension for an injury received in the naval service; which was referred to the Committee on Pensions.

Mr. FOOT presented the memorial of Myron H. Clark, president, Jason R. Orton, secretary, and John Beeson, chairman of the executive committee of the board of the American Indian Aid Association of New York, praying Congress not to organize any more Territories from the public domain, until the Indian tribes therein are consulted, and their wishes ascertained as to what

portions of those domains they are willing to relinquish, and what they may need to retain for their own accommodation; and also that that association be charged by Congress to negotiate with the Indians in this respect, and that Congress appropriate to said association such a sum of money as may be meet and proper to aid it in its general object and efforts to improve the condition of the Indians; which was referred to the Committee on Indian Affairs.

Mr. JONES presented a petition of citizens of Iowa, praying the establishment of a new land district in the northwestern part of that State; which was referred to the Committee on Public Lands.

ATRATO EXPEDITION.

Mr. THOMSON, of New Jersey, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to transmit to the Senate at the earliest day practicable the report of the officer commanding the "Atrato expedition," with an estimate of the amount of excavation required, and cost of an inter-oceanic ship canal of sufficient width to admit of two ships passing each other, and also copies of his field notes and other data. But no information is called for as to the natural history or botanical productions of the country; it being understood that the objects of the expedition were only those of canal survey.

Mr. GREEN subsequently made a motion to reconsider the resolution; which was entered.

ARREST OF WILLIAM WALKER.

Mr. SEWARD. I ask leave to submit a joint resolution, which I give notice I shall offer as a substitute for the resolution which was under consideration yesterday, relating to the case of Commodore Hiram Paulding. I ask that it may be read by its title, and may be printed for the use of the Senate.

The joint resolution (S. No. 7) in relation to the arrest of William Walker and his associates on the coast of Nicaragua, was read by its title, and ordered to lie printed.

ALEXANDER J. ATOCHA.

Mr. SEWARD. I am instructed by the Committee on Foreign Relations to submit the following resolution relating to the case of Alexander J. Atocha, which resolution simply refers it to the Court of Claims. I ask the passage of the resolution at this time:

Resolved, That the memorial of Alexander J. Atocha, praying the payment of his claim against Mexico under the treaty of Guadalupe Hidalgo, of the 2d of February, 1848, be referred to the United States Court of Claims.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SEWARD. I wish barely to state, in relation to that subject, that the papers were informally called from the Court of Claims on the intimation that the court had decided that they could not take jurisdiction of it. It is ascertained that that information was incorrect, and the committee therefore report a resolution to refer the case to the Court of Claims.

Mr. IVERSON. I desire to say to the Senator from New York, as well as to parties interested in similar cases, that the Committee on Claims have had this subject, to some extent, under their consideration at the present session; not this memorial of Mr. Atocha, but one of a similar character—

Mr. SEWARD. Allow me to say to the honorable Senator, that I have not been able to hear a word of his remarks.

Mr. IVERSON. I say that the Committee on Claims of this body have, during the present session, had the subject of these Mexican claims under its consideration; not in the case of Mr. Atocha, but in the case of another claimant who has a claim against the Government for injuries sustained at the hands of the Mexican Government.

Mr. SEWARD. Is the honorable Senator to be understood as willing to take charge of this case?

Mr. IVERSON. If the Senator will be a little more patient, he will hear what I have to say on the subject. The committee have come to the conclusion, that in the early part of the next session, they will prepare and report to the Senate a proposition to have all these claims either submitted to the Court of Claims, or to a commission to be appointed for the purpose of examin-

ing and reporting upon the amounts which these parties are entitled to from the Government of Mexico, and then to authorize those claims to be paid out of any money now in the Treasury, which is the balance of the \$3,000,000 set apart by the treaty of Guadalupe Hidalgo for the payment of these claims. It seems to me, therefore, that it would be rather premature to send this case to the Court of Claims at present. I suggest, therefore, whether it would not be better to wait until a general plan is matured by the committee and presented for the consideration of the Senate, embracing these claims as well as others.

MR. SEWARD. I will say that that committee is a very sensible committee, and has got a very sensible chairman. I quite agree with him that this claim ought to be paid; and, as he seems to hold out the prospect that it can be paid without further difficulty, I will move, with the consent of the honorable Senator, that this subject be referred to the Committee on Claims, so that they may embrace it in their report.

The motion was agreed to.

REPORTS FROM COMMITTEES.

MR. HUNTER, from the Committee on Finance, to whom was referred the joint resolution (S. No. 57) granting further time to the creditors of Texas to present their claims at the Treasury, reported it with an amendment.

MR. FITCH, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Treasury relative to American vessels engaged in the palm oil trade on the coast of Africa, reported in favor of printing the report; which was concurred in.

PRINTING OF A DOCUMENT.

MR. FITCH. A document was referred to the Committee on Printing some time since, and it was returned to the Senate and referred to the Committee on Indian Affairs, for the purpose of inquiring into the propriety of printing it. That committee reported in favor of the printing. The Committee on Printing do not deem themselves authorized to place any obstacle in the way of a concurrence in their report. I move to take up the report of the Committee on Indian Affairs, and that it be concurred in, and that the document be printed. It is a letter of the Second Auditor of the Treasury, communicating copies of accounts of persons charged with the disbursement or application of moneys, goods, or effects, for the benefit of the Indians, during the year ending 30th June, 1853, together with a list of the names of the persons to whom moneys, goods, or effects, have been delivered during that period. The Committee on Printing did not report unfavorably. They asked to be discharged temporarily, and that the document be referred to the Committee on Indian Affairs, with a view to the inquiry by that committee into the propriety of printing. That committee reported it back with a recommendation that it be printed; and I move that their recommendation be concurred in.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (No. 72) to secure homesteads to actual settlers on the public domain; in which the concurrence of the Senate was requested.

The message further announced that the House had concurred in the amendment of the Senate to the bill of the House (No. 583) providing for keeping and distributing all public documents.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled bill (S. No. 334) for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent; which thereupon received the signature of the President *pro tempore*.

AGRICULTURAL COLLEGES.

MR. MALLORY rose, as soon as the Executive communications had been presented, and said: I desire to take the sense of the Senate this morning on taking up the bill which I gave notice last week I would call up, the bill S. No. 373. I am very well convinced, at this late stage of the session, that unless we take up this bill, which

will give rise to some discussion, in the morning hour, we shall not be able to obtain the sense of the Senate upon it.

The PRESIDENT *pro tempore*. Will the Senator allow the Chair to present a petition?

MR. HUNTER. I also have a petition.

MR. MALLORY. Certainly; I give way for the reception of petitions.

Several petitions were presented, and resolutions submitted and disposed of, which are in their appropriate classification of business in a preceding column.

MR. WADE. I move to postpone all prior orders and take up the bill H. R. No. 2, being an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts. I perceive that this bill is likely to be overslaughed towards the end of this session, as it was at the last session, unless it is crowded on in preference to some other things. We have waited a long time to see if any interval could be found for taking up this bill, but there has always been some reason why it could not.

This bill passed the House of Representatives towards the close of the last session. It came here so late that those who were opposed to it found it would be easy to talk it to death; and it will share the same fate now, unless its friends support the motion to take it up in preference to other bills. Many of the Senators here are instructed by their States to use their influence to procure the passage of this bill. I am one among that number. Not, however, merely because I am instructed to do so by my State, but because this bill meets my cordial approbation, I am anxious to use whatever influence I may have here to induce the Senate to take it up and consider it. I know very well there are a great many subjects that are deemed important, that may be insisted upon in preference to this bill; but this is the only measure, I believe, that is before Congress in either branch, for the benefit of agriculture. This great interest of our country—greater than any other that I know of—hardly ever obtrudes itself upon the consideration of Congress; and when it does, it is very apt to get the go-by. The military arm of our Government has its West Point; the naval has its Annapolis; the commercial its Coast Survey; but the agricultural interest of the country seems to be almost entirely overlooked.

I do not rise for the purpose of arguing this question; nor do I intend to do so at any time. I only wish that its friends should stand by it, and that it should receive a vote in the Senate. I believe its friends understand its provisions perfectly well, and are ready to act upon it; and it need not, therefore, consume more than a very small portion of our time in its consideration. I think its friends will probably ask for no time to debate it. It has received the sanction of the House of Representatives by a great majority; it has been favored by almost every agricultural society that has met and had it under consideration; it has been deemed of sufficient importance to be taken into consideration by many of the States of the Union. I think it ought to meet the approbation of all; and I hope that we shall now consider it. Its friends, at an early period of this session, endeavored to have it taken up; but it was said, that was not the time. My colleague was absent, and, therefore, it was said that was not the proper time to do it.

I see the Senator from Virginia [MR. HUNTER] is very anxious to get up the appropriation bill; but I say to him, I believe an appropriation bill never yet failed. I wish some of them would, for I think many of them ought not to pass; but there is no difficulty about appropriation bills. They always have passed, and they always will; for there is always influence enough here to carry them through. Cuba, too, stands right before us. That is backed by "manifest destiny," which ought to be a pretty good guarantee that it will be considered; but, what is more than manifest destiny, it has the powerful influence to bring it forth of the Senator from Louisiana, [MR. SLIDELL.] This poor agricultural bill, however, I fear, will have no one to urge it upon the consideration of the Senate. I hope its friends, if it has any, will stand by it and see that it now receives consideration, for I am satisfied if it is not considered now, it will again get the go-by this session.

MR. MALLORY. I did not wish to interrupt the Senator from Ohio; but I had the floor upon a motion to take up the bill No. 373, and gave way to the Senator from Virginia to present a petition. I trust the Senate will vote this motion down, and take up the bill I proposed for its consideration, on which I will say but a few words. We must have action on that bill in a day or two, if we have action on it at all. It is a bill to carry into effect the ninth article of the treaty with Spain, and it is peculiarly appropriate at this time that we should respond to the demands of the Spanish Government on this point. It has been at our doors for a quarter of a century—ay, more; and it rests upon the very highest authority in the country. We have undertaken, by treaty, to pay the subjects of a foreign nation, whose territory we acquired, for the property which we took from them. Although the justice of this claim has been conceded, for ten years, by every department of this Government, by every tribunal before which it has gone, still we cannot get the action of Congress to do justice in this case.

Now, sir, I trust this bill will be taken up and passed. It is thoroughly understood. It is simply to pay for the property which you took from Spanish subjects by the invasion of Florida, in 1812 and 1813, and the damages sustained by them by having the value of the property withheld from them up to the time of payment. I trust, without further discussion, that this proposition of the Senator from Ohio, which I will undertake to aid at almost any other time, will be voted down, and that we shall proceed to the consideration of this bill in the morning hour.

[Several Senators claimed the right to present petitions, reports, and resolutions, which are recapitulated above in their proper place.]

THE PRESIDING OFFICER, (MR. FOSTER in the chair.) The motion of the Senator from Ohio, that the Senate take up the bill H. R. No. 2, is before the Senate.

MR. MALLORY. I trust the vote will be taken on that motion. I must appeal to the Senate. The morning hour is slipping away, and I trust the motion will be put.

MR. HUNTER. Will the Senator from Ohio promise to lay the bill down at one o'clock, if we take it up?

MR. WADE. I cannot. I see that it will not be considered at all, unless its friends now take it up for that purpose. If there is a majority in favor of it, of course they will dispose of it immediately.

MR. HUNTER. Then I hope the Senate will not take up that bill and displace the appropriation bill, which we can finish to-day, if the Senate will allow us to go on with it.

Other business, peculiar to the morning hour, having intervened,

MR. WADE. Is my motion in order now?

THE PRESIDING OFFICER. It is.

MR. WADE. Then I must insist on it.

MR. IVERSON. I rise to a point of order.

THE PRESIDING OFFICER. The Senator from Georgia will state his point of order.

MR. IVERSON. The Chair has already decided that reports are in order before the motion of the Senator from Ohio. I have a report from a standing committee to make.

THE PRESIDING OFFICER. The Chair will receive the report.

MR. IVERSON. The Committee on Claims, to whom was referred the bill from the House of Representatives (H. R. No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, have directed me to report it back without amendment, and recommend its passage. I will take this occasion to ask the indulgence of the Senate to let the bill be put upon its passage now. It will occupy no time. I will make a brief statement in support of the motion, and if the Senate will listen to me, they will see at once the merits of the claim. Colonel Craig was an officer in the Mexican war, and received two brevets, one as major, and one as lieutenant colonel, for distinguished services in battle.

MR. WADE. If this bill leads to debate, I must insist on my motion.

MR. IVERSON. I am only going to make a brief explanation. I will not debate it. I have no objection, however, if the Senate will take up the bill and hear the report from the House,

which has been adopted by our committee. That will explain all the facts just as well as I could; but I thought I could explain them in a few moments. I move that the bill be taken up and put on its passage.

Mr. WADE. I submit whether any motion can be made while my motion is pending, which was to postpone all prior orders, and take up House bill No. 2?

The PRESIDING OFFICER. The Chair is of opinion that, with the exception of petitions and reports, the Senator's motion will precede any other motion.

Mr. COLLAMER. I inquire whether the receiving of reports, which the Chair rules to be in order, also carries with it the raising of questions on those reports, in preference to the motion of the Senator from Ohio? We may receive the report; but if a motion is made in regard to the report, I think that cannot take precedence.

The PRESIDING OFFICER. The Chair has so decided, that the motion of the Senator from Ohio preceded any other motion, except simply the receiving of petitions and reports.

Mr. HUNTER. I am against the motion of the Senator from Ohio; but he certainly has the right to move the postponement of all prior orders. That has been the practice, and I desire the Senator to adhere to it, as probably I may have to make a similar motion myself in a very few minutes.

The PRESIDING OFFICER. It is moved and seconded to postpone all prior orders, and take up, for consideration, the bill H. R. No. 2.

Mr. WADE. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CRITTENDEN. I appreciate the laudable desire of the chairman of the Committee on Finance, to secure the passage of appropriation bills, but there is no doubt of their passage. The appropriation bills are sure to pass; but bills like these which Senators desire to take up, are bills that, of all others, are exceedingly liable to be overridden at the close of a session. I hope this bill, which I consider one of great consequence, will be acted upon; and therefore I hope the motion of the Senator from Ohio will prevail.

The question being taken by yeas and nays, resulted—yeas 30, nays 26; as follows:

YEAS—Messrs. Allen, Bates, Bell, Bigler, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Kennedy, King, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—30.

NAYS—Messrs. Bayard, Bright, Brown, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sidel, Toombs, and Yulee—26.

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

The bill proposes to grant to the several States and Territories five million nine hundred and twenty thousand acres of land, to be apportioned to each State a quantity equal to twenty thousand acres for each Senator and Representative in Congress to which the States are now respectively entitled. The land, after being surveyed, is to be apportioned to the several States and Territories in sections or subdivisions of sections, of not less than one quarter of a section; and whenever there are public lands in a State worth \$1 25 per acre, the value of the lands to be determined by the Governor of the State, the quantity to which each State shall be entitled is to be selected from such lands; and the Secretary of the Interior is to be directed to issue to those States in which there are no public lands of the value of \$1 25 per acre land scrip to the amount of their distributive shares in acres, which is to be sold by the States, and the proceeds thereof applied to the uses and purposes to be prescribed in this proposed act. In no case is any State to which land scrip may thus be issued to be allowed to locate the same within the limits of any other State, but their assignees may thus locate the land scrip upon any of the unappropriated lands of the United States subject to private entry. In all the expenses of management and supervision of the lands, previous to their sales, and all expenses incurred in

the management and disbursement of the moneys which may be received therefrom, are to be paid by the States to which they may belong, out of the treasury of such States, so that the entire proceeds of the sale of the land shall be applied without any diminution whatever to the purposes for which it is given. All the moneys derived from the sale of the lands by the States to which the lands are apportioned, and from the sales of the land scrip, are to be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of the stocks; and the moneys so invested are to constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in this act,) and the interest of which shall be inviolably appropriated by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance, of at least one college, where the leading object shall be, without excluding other scientific or classical studies, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

The grant of land and land scrip are to be made on the following conditions, to which, as well as to the provisions contained in the act, the previous assent of the several States is to be signified by legislative acts: First. If any portion of the fund thus invested, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes therein mentioned, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of the act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective Legislatures of the States. Second. No portion of the fund, nor the interest thereon, is to be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair, of any building or buildings. Third. Any State which may take and claim the benefit of the provisions of the act shall provide, within five years, at least not less than one agricultural college, or the grant to such State shall cease; and the State is to be bound to pay to the United States the amount received of any lands previously sold, and the title to purchasers under the State is to be valid. Fourth. An annual report is to be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters as may be supposed useful; one copy of which is to be transmitted by mail, free, by each, to all the other colleges which may be endowed under the provisions of the act, and to the Smithsonian Institution, and to the agricultural department of the Patent Office at Washington. And fifth, when lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they are to be computed to the States at double the quantity.

Mr. GWIN. I move to amend the bill by striking out the first section, and inserting:

That there be granted to the several States and Territories, for the purpose hereinafter mentioned, five million nine hundred and twenty thousand acres of land, to be apportioned in the compound ratio of the geographical area and representation of said States and Territories, in the Senate and House of Representatives of the Congress of the United States, after the apportionment under the census of 1860: *Provided*, That said apportionment shall be made after first allotting to each State and Territory fifty thousand acres: *And provided further*, That the State of California may locate her portion of the said lands upon any of the unappropriated lands in that State other than mineral lands, and not then occupied by actual settlers.

Mr. HUNTER. I believe, according to the rules of order, the Indian appropriation bill comes up now, it being one o'clock. ["Oh, no!"]

The PRESIDING OFFICER. The Chair is under the impression that the Senate having voted to postpone all prior orders and take up this bill, it dispenses with the rule which would otherwise intervene at this hour.

Mr. HUNTER. I supposed that was in reference to the morning hour only; but in order to

avoid all difficulty about the question of order, I move to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

Mr. STUART. It seems to me that motion cannot be made after the Senate has decided to postpone that bill; because, if it could, the moment the question was taken the Senator from Ohio could move to postpone all prior orders, and to take up this bill, and so the motions could be alternated the whole day. The Senate has decided to postpone all the orders of to-day, and take up this bill.

Mr. HUNTER. Certainly we did not decide, when we agreed to postpone all prior orders, to take up this bill, that we should consider it all day. Cannot we lay it on the table? Would it not be in order to move to postpone it indefinitely, or to a more suitable time?

Mr. STUART. Undoubtedly.

Mr. HUNTER. Then if it be in order to do that, it is no objection to my motion to postpone all prior orders, that this bill is included in that motion. If we were to take up the Indian appropriation bill, a motion could be made similar to the one I now make in reference to some other bill. You can make that motion as often as you please; but, of course, it is taken for granted that no Senator would press such motions against the sense of the Senate. If the Senate overrules me now, of course, I shall make no more motions to-day until this bill is disposed of.

The PRESIDING OFFICER. The Chair is of opinion that the motion of the Senator from Virginia is in order; being also of opinion with the Senator from Michigan, that one motion of this kind cannot immediately follow another, the one made by the Senator from Ohio, and the one made by the Senator from Virginia; but debate has intervened, and an amendment has been proposed. The Chair, therefore, thinks that the motion of the Senator from Virginia is in order. Is the Senate ready for the question on the motion?

Mr. HUNTER. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 27; as follows:

YEAS—Messrs. Bayard, Bright, Brown, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sidel, Toombs, and Yulee—26.

NAYS—Messrs. Allen, Bates, Bell, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Mallory, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—27.

So Mr. HUNTER's motion was not agreed to.

Mr. STUART. Before the question is taken on the amendment proposed by the Senator from California to strike out the first section, I have an amendment to propose to that section. I move to strike out "five million nine hundred and twenty thousand acres of," and to add at the end of the section:

Provided, That to each State whose number of members in the House of Representatives shall be increased by the next apportionment under the census of 1860, there shall be granted the additional quantity of twenty thousand acres of land and upon the same terms, as soon as said apportionment shall be made.

Mr. WADE. Which amendment is under consideration now?

Mr. STUART. The one proposed by myself.

Mr. WADE. I have no objection to that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan, inasmuch as that proposes to perfect the section, and the other amendment proposes to strike it out.

Mr. STUART. I will amend the amendment so as to insert the words: "an amount of public" before the word "land" so that it will read: "an amount of public land."

The PRESIDING OFFICER. The amendment will be so corrected.

Mr. HUNTER. I will state that, in regard to the votes on this bill, I have paired off with the Senator from Pennsylvania, [Mr. CAMERON.] I cannot vote on any question touching the bill; but I reserve the right to myself to vote on the order of business as I think proper.

Mr. PUGH. I move to recommit the bill and amendments to the standing Committee on Public Lands. It is a remarkable thing, sir, that this bill has never received the support of the standing Committee on Public Lands in either House of Congress. It was reported adversely in the

their authority. The bill before me concedes this, for it does not commit the funds it provides to the administration of any other authority.

I cannot but repeat what I have before expressed, that if the several States—many of which have already laid the foundation of munificent establishments of local beneficence, and nearly all of which are proceeding to establish them—shall be led to suppose, as should this bill become a law they will be, that Congress is to make provision for such objects, the fountains of charity will be dried up at home, and the several States, instead of bestowing their own means on the social wants of their own people, may themselves, through the strong temptation which appeals to States as well as individuals, become humble supplicants for the bounty of the Federal Government, reversing their true relations to this Union. Having stated my views of the limitation of the powers conferred by the eighth section of the first article of the Constitution, I deem it proper to call attention to the third section of the fourth article, and to the provisions of the sixth article, bearing directly upon the question under consideration, which, instead of aiding the claim to power exercised in this case, tend, it is believed, strongly to illustrate and explain positions which, even without such support, I cannot regard as questionable. The third section of the fourth article of the Constitution is in the following terms:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

The sixth article is as follows, to wit, that "all debts contracted and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation." For a correct understanding of the terms used in the third section of the fourth article, above quoted, reference should be had to the history of the times in which the Constitution was framed and adopted. It was decided upon, in convention, on the 17th of September, 1787, and by it Congress was empowered "to dispose of," &c., "the territory or other property belonging to the United States." The only territory then belonging to the United States, was that recently ceded by the several States, to wit: by New York in 1781, by Virginia in 1784, by Massachusetts in 1785, and by South Carolina in August, 1787, only the month before the formation of the Constitution. The cession from Virginia contained the following provision:

"That all the land within the territory so ceded to the United States, and not reserved for, or appropriated for, any of the before-mentioned purposes, or disposed of in bounty to the officers and soldiers of the American army, shall be considered a common fund for the use and benefit of such of the United States as shall become, or have become, members of the Confederation, or Federal alliance of the said States, Virginia included, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

Here the object for which these lands are to be disposed of is clearly set forth, and the article of the Constitution clearly contemplates such disposition only. If such be the fact, and in my mind there can be no doubt of it, then you have again not only no implication in favor of the contemplated grant, but the strongest authority against it. Furthermore, this bill is in violation of the faith of the Government, pledged in the act of January 28, 1847. The nineteenth section of that act declares:

"That, for the payment of the stock which may be created under the provisions of this act, the sales of the public lands are hereby pledged, and it is hereby made the duty of the Secretary of the Treasury to use and apply all moneys which may be received into the Treasury for the sales of the public lands, after the 1st day of January, 1846, first, to pay the interest on all stocks issued by virtue of this act; and, secondly, to use the balance of said receipts, after paying the interest aforesaid, in the purchase of said stocks at their market value," &c.

The debts then contracted have not been liquidated, and the language of this section, and the obligations of the United States under it, are too plain to need comment.

I have been unable to discover any distinction on constitutional grounds, or grounds of expediency, between an appropriation of \$10,000,000, directly from the money in the Treasury, for the object contemplated, and the appropriation of lands presented for my sanction; and yet I cannot doubt, that if the bill proposed \$10,000,000 from the Treasury of the United States, for the support of the indigent insane, in the several States, that the constitutional question involved in the act would have attracted forcibly the attention of Congress.

I respectfully submit that, in a constitutional point of view, it is wholly immaterial whether the appropriation be in money or in land.

The public domain is the common property of the Union, just as much as the surplus proceeds of that and of duties on imports remaining unexpended in the Treasury. As such, it has been pledged, is now pledged, and may need to be so pledged again for public indebtedness.

As property, it is distinguished from actual money chiefly in this respect, that its profitable management sometimes requires that portions of it be appropriated to local objects in the States wherein it may happen to lie, as would be done by any prudent proprietor to enhance the sale-value of his private domain.

All such grants of land are, in fact, a disposal of it for value received; but they afford no precedent or constitutional reason for giving away the public lands. Still less do they give sanction to appropriations for objects which have not been intrusted to the Federal Government, and therefore belong exclusively to the States.

To assume that the public lands are applicable to ordinary State objects, whether of public structures, police, charity, or expenses of State administration, would be to disregard, to the amount of the value of the public lands, all the limitations of the Constitution, and confound to that extent all distinctions between the rights and powers of the States and those of the United States. For, if the public lands may be applied to the support of the poor, whether sane or insane;

if the disposal of them and their proceeds be not subject to the ordinary limitations of the Constitution, then Congress possesses unqualified power to provide for expenditures in the States by means of the public lands, even to the degree of defraying the salaries of Governors, judges, and all other expenses of the government and internal administration within the several States.

The conclusion, from the general survey of the whole subject, is to my mind irresistible, and closes the question both of right and expediency, so far as regards the principle of the appropriation proposed in this bill. Would not the admission of such power in Congress, to dispose of the public domain, work the practical abrogation of some of the most important provisions in the Constitution?

If the systematic reservation of a definite portion of the public lands (the sixteenth sections) in the States, for the purposes of education, and occasional grants for similar purposes, be cited as contradicting these conclusions, the answer, as it appears to me, is obvious and satisfactory. Such reservations and grants, besides being a part of the conditions on which the proprietary right of the United States is maintained along with the eminent domain of a particular State, and by which the public land remains free from taxation in the State in which it lies, as long as it remains the property of the United States, are the acts of a mere land-owner disposing of a small share of his property in a way to augment the value of the residue, and in this mode to encourage the early occupation of it by the industrious and intelligent pioneer.

The great example of apparent donations of lands to the States, likely to be relied upon as sustaining the principles of this bill, is the relinquishment of swamp lands to the States in which they are situated; but this also, like other grants already referred to, was based expressly upon grounds clearly distinguishable, in principle, from any which can be assumed for the bill now returned, viz: upon the interest and duty of the proprietor. They were charged, and not without reason, to be a nuisance to the inhabitants of the surrounding country. The measure was predicated, not only upon the ground of the disease inflicted upon the people of the States, which the United States could not justify as a just and honorable proprietor, but also upon an express limitation of the application of the proceeds, in the first instance, to levels and drains, thus protecting the health of the inhabitants, and at the same time enhancing the value of the remaining lands belonging to the General Government.

It is not to be denied, that Congress, while administering the public lands as a proprietor, within the principle distinctly announced in my annual message, may sometimes have failed to distinguish accurately between objects which are, and which are not, within its constitutional powers.

After the most careful examination, I find but two examples in the acts of Congress, which furnish any precedent for the present bill; and those examples will, in my opinion, serve rather as a warning, than as an inducement to tread in the same path.

The first is the act of March 3d, 1819, granting a township of land to the Connecticut asylum for the education of the deaf and dumb; the second that of April 5, 1836, making a similar grant of land to the Kentucky asylum for teaching the deaf and dumb; the first more than thirty years after the adoption of the Constitution, and the second more than a quarter of a century ago. These acts were unimportant as to the amount appropriated; and, so far as I can ascertain, were passed on two grounds: first, that the object was a charitable one; and secondly, that it was national. To say that it was a charitable object, is only to say that it was an object of expenditure proper for the competent authority; but it no more tended to show that it was a proper object of expenditure by the United States, than is any other purely local object appealing to the best sympathies of the human heart in any of the States. And the suggestion that a school for the mental culture of the deaf and dumb in Connecticut, or Kentucky, is a national object, only shows how loosely this expression has been used, when the purpose was to procure appropriations by Congress. It is not perceived how a school of this character is otherwise national than is any establishment of religious or moral instruction. All the pursuits of industry; everything which promotes the material or intellectual well-being of the race; every ear of corn or boll of cotton which grows, is national in the same sense; for each one of these things goes to swell the aggregate of national prosperity and happiness of the United States; but it confounds all meaning of language to say that these things are "national," as equivalent to "federal," so as to come within any of the classes of appropriation for which Congress is authorized by the Constitution to legislate.

It is a marked point of the history of the Constitution, that when it was proposed to empower Congress to establish a university, the proposition was confined to the district intended for the future seat of government of the United States; and that even that proposed clause was omitted in consideration of the exclusive powers conferred on Congress to legislate for that district. Could a more decisive indication of the true construction and the spirit of the Constitution, in regard to all matters of this nature, have been given? It proves that such objects were considered by the convention as appertaining to local legislation only; that they were not comprehended, either expressly or by implication, in the grant of general power to Congress; and that, consequently, they remained with the several States.

The general result at which I have arrived is the necessary consequence of those views of the relative rights, powers, and duties of the States and of the Federal Government, which I have long entertained, and often expressed, and in reference to which my convictions do but increase in force with time and experience.

I have thus discharged the unwelcome duty of respectfully stating my objections to this bill, with which I cheerfully submit the whole subject to the wisdom of Congress.

WASHINGTON, May 3, 1854.

FRANKLIN PIERCE.

Does it follow because agriculture is laudable that therefore the power to regulate or advance its interests is vested in us? Why, sir, the people of the United States have wisely reserved to

their State governments this with many other of their most important interests, and it is just as much a violation of our duty to invade the province of the State governments under the head of donations as it would be to invade it by force and violence. If you proceed to a detailed examination of this bill, you will see that its object is entirely to displace the control of the State governments over the most important of all the pursuits of our citizens; for, in making this princely grant to the States, it is to be made upon condition that the Legislatures of the States will agree to such and such stipulations in the nature of a treaty between them and the Federal Government, as forever to supersede them and install us. I say, whether such an invasion of the rights of the States be made under a pretense of granting public land or of granting money, it is just as atrocious a violation of the organic law as if it were the act of an armed usurper.

But, sir, this bill is not for the promotion of agriculture through the agency of the State governments. Beyond the title, there is nothing of the sort to be found in it. It sets out with the proposition, in the first section, to grant some six million acres of land; and it provides that wherever, in any State, there shall be public lands of the value of \$1 25 an acre, that State shall take her share within her own limits. Who is to decide whether they are of the value of \$1 25 an acre? The State herself? If so, it is an unlimited grant to her of all the public lands within her own limits. But, sir, it is provided that, if a State has no lands of that value unappropriated, or has not the whole amount donated to her under this bill, in that event there shall be issued to her land scrip, to make up the whole quantity of the complement. Land scrip for what? For the benefit of speculators; for there is an express prohibition in the bill to any State to locate her scrip. She is forbidden to locate it; the land never is hers; but she is authorized to sell the scrip, and the purchaser may locate it. Who will be the purchasers? Here are all the Atlantic States, and many of the States east of the Mississippi river, who either have no public lands of the value of \$1 25 an acre within their limits, or at least have not the complement given to them by this bill; they will all be furnished with an endowment of land scrip, which is perfectly valueless in the States' hands, which they cannot locate anywhere, which they are compelled by act of Congress to sell, and it will all come into the market at once. Every particular scrip will be thrust on the market by all the States at once; and what will be the price of it in the market? Nominal. Each of the States will derive a mere pretense, no valuable consideration from her grant; she will never be able to establish any college by it; she will never be able to get any land; but the speculators, who buy in a falling market, will get hold of it, and will locate the scrip by empires on your public domain. There never will be an agricultural college under this bill. Let us see, sir; the second section of the bill provides:

"That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to private entry."

And yet the bill requires each State to proceed to establish "within five years, at least, not less than one college," so that it forces every dollar of the scrip into the market at once; and, as a consequence, depreciates the value of it, and throws the public domain entirely into the hands of the assignees of the scrip.

Well, sir, we have seen enough already of the disastrous effect of such grants. Under the pretense of providing for the benefit of the soldiers in the Mexican war, and in former wars, we granted lands; but, in order to secure them if possible in the hands of the soldier, we provided that the Commissioner of the General Land Office should make the location for him, it being supposed that in particular favor to the soldier, the Government of the United States would appoint the Commissioner of the General Land Office to locate the land for him; but in less than two sessions, the pressure of the assignee of bounty land warrants was so great, although he was forbidden by law, that he forced a joint resolution through both Houses of Congress giving to him all the privileges of the original soldier; and today, your local land offices are disturbed; and the

quiet settlement of your public domain obstructed, by men who come hither to the General Land Office with thousands of bounty land certificates in their hands to locate as assignees of the war-rants.

How many soldiers have settled on the public lands under your bounty land law? It has ended in putting the States of Iowa and Wisconsin, and perhaps Minnesota and others, into the hands of non-resident proprietors. The most disastrous, the greatest injury that can be inflicted upon any State, is to vest the great body of her landed property in the hands of those who have no interest in her prosperity; and, although these things were evils, seen and felt and acknowledged to be evils, acknowledged to be such to that extent that the Committee on Public Lands has ever since refused to extend the privileges or the principles of that act; now we see a proposition to give away substantially every acre of the public domain to the assignees of land scrip issued to the States.

The third section is a beauty, also:

"Sec. 3. And be it further enacted, That in all the expenses of management and supervision of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong out of the treasury of said States, so that the entire proceeds of the sale of said land shall be applied, without any diminution whatever, to the purposes herein-after mentioned."

And thus, after having professed to give property to the States, landed property, we proceeded to tell them how, and how only, they shall administer their own property. But, sir, what is to be the case with the gentlemen who are the locators of the land? I do not mean the States; I mean the assignees of the States. How will you compel them to make provision for all the expenses incurred in the management and supervision of the lands? Is this Government to send out agents in every direction to find who these assignees are, private individuals, and compel them to perform the duties imposed by the act, or is the provision inserted merely to deceive Congress into the idea that we are not taking upon ourselves, in addition to the present inordinate expenses of the care of our public domain, the enormous expense attending the public domain after it has passed into the hands of private individuals?

The fourth section of the bill pursues the same idea of tying up the hands of the States respecting their powers of legislation over their own business, by usurping, by act of Congress, not merely the control of agriculture, but the control of their own corporate institutions—agricultural colleges established with that view. It provides:

"Sec. 4. And be it further enacted, That all moneys derived from the sale of the lands aforesaid by the States to which the lands are apportioned, and from the sales of land scrip hereinafter provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in section fifth of this act,) and the interest of which shall be inviolably appropriated by each State which may take and claim the benefit of this act to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific or classical studies, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."

Thus we proceed even to the particular of telling them how, and how only, they shall invest their own money. They may invest it in our stocks, or in the stocks of the States, or in some other "safe stocks;" and I presume, under the general authority claimed under this section, it will be for Congress to decide what stocks are safe and what are not. Then comes the fifth section:

"Sec. 5. And be it further enacted, That the grant of land and land scrip hereby authorized, shall be made on the following conditions, to which, as well as to the provisions hereinafter contained, the previous assent of the several States shall be signified by legislative acts."

Now, sir, if we have the right to require the things which are specified in this section, if they are incident to, or a part of any of the powers possessed by Congress, let us do it directly by legislation; but the section proceeds upon the hypothesis, upon the admission, that these things which are required in the fifth section, are things which Congress has no right to require, except as conditions to a gift; and in order to acquire that au-

thority, in order to usurp that power from the State Legislatures, we propose to bribe them, by the donation of public lands—bribe them to surrender powers which they did not surrender at the time the Constitution was established. And what are they? What are the powers that are now to be drawn within the authority of Congress? What are the powers which we give the States these millions of acres of public land to surrender to us; but not in accordance with the provisions of the Constitution?

"First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective Legislatures of said States."

If a State should become unfortunate as States have been; if war, foreign invasion, domestic violence, unwise engagement in enterprises and internal improvement, or otherwise, should reduce any one of the States in this Union to that degree of poverty that she could not make up a loss occurring in this fund, a loss which may have occurred by the misconduct of a State officer, the Government of the United States, under this section, is to assume the place of an instructor to enforce the trust against the State, to compel her against her will and against her ability to proceed in the execution of a trust which the people of that State committed to her authorities, and not to us. The second condition is:

"Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings."

Now, for aught we know, a State might find it more advantageous to the promotion of agricultural pursuits, that her share of this grant should be applied to the erection of buildings; and that she should meet by taxation, or other sources, the ordinary expenses of tuition and management; but we deprive her of that choice; we take that to ourselves; we invade in that respect the discretion and the reserved rights of the States. But, again:

"Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college."

We are so very anxious about it, that we double the conditions—

"At least not less than one college, as described in the fourth section of this act, or the grant to each State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid."

Now I will take the case of one of the smaller States of this Union. She might be embarrassed by debt; she might be impoverished by other cause; she might not be able to establish her agricultural college in five years; and she is to be punished for her poverty. Those who need, if any need, this grant by Congress, are the very ones who are not to receive it. The rich States, the empires with vast resources, to whom the appropriation of a few hundred thousand dollars for the purpose of setting up an agricultural college might be of very little consequence, are secure; but the States whose poverty, or whose financial embarrassments even, of a temporary character, might prevent them from establishing a college within five years, are to lose all the benefit; and thus the bill gives to those who already have, and takes away from those who have not. The next condition is:

"Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters as may be supposed useful—one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and to the Smithsonian Institution, and the agricultural department of the Patent Office at Washington."

We have an amendment to the Post Office laws put in here. It seems that, although this body, at least, declared, at the last session, and I presume will declare again at this session, that they considered the privilege of sending matter through the mails free of postage a great injury to the Gov-

ernment and to the public service, we are now to have these thirty-two agricultural colleges sending, not merely letters and packages of two ounces apiece, but sending seeds, books, and everything, through the mail in every direction. They are to record improvements and experiments made, with their cost and the result, and such other matters as may be useful, all of which are to be sent "to the agricultural department of the Patent Office." What is the agricultural department of the Patent Office? Where is the law for it? There was no such department ever authorized by Congress; but one excrescence helps to swell another. So with the Smithsonian Institution; instead of being a mere private trust, which we accepted as a private trustee, to execute, to the extent of the will of the donor, it now rises to the magnitude of one of the institutions of our Government.

The fifth provision, and the only good one in the bill, is:

"Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at double the quantity."

Sir, I have thus endeavored to show the Senate that, even conceding that it would be a wise and constitutional measure for us to grant public lands to the several States for the endowment of agricultural colleges, this bill does not accomplish the purpose; that this bill will lead to nothing but authorizing the sale of land scrip at nominal prices, and authorizing the assignees and purchasers of that land scrip at nominal prices to locate it in immense tracts throughout all the western country, in all the new States and Territories. Therefore, those who profess to be in favor of the general features of the bill, owe it to themselves, at least, that this bill should undergo the revision of a standing committee of the Senate, having never, as I said, received the assent of the standing Committee on Public Lands in either House. If there were no other reason, conceiving, as I do, that every section of the bill is so drawn, so aptly contrived, as that the States cannot have agricultural colleges under it; as that the States will derive no benefit from it; as that they are compelled to surrender into our hands rights and privileges reserved to themselves under the Constitution, and in consideration to receive a mere donation on paper, which will pass into the hands of speculators, who will amass fortunes—I say, looking to this alone, it would be sufficient to induce me, for one, to vote against the bill; and I say again that, in my judgment, those who believe that Congress has the power to endow agricultural colleges within the States, owe it to themselves that this bill, with its doors open to fraud in every direction, should not be the bill with which they inaugurate such a proposition, and therefore the propriety of my motion that this bill be recommitted to the standing Committee of Public Lands.

But, sir, I deny, for one, that Congress has any such power; nor does Congress derive any power by reason of agriculture being a great interest. Surely no gentleman has greater regard for it than I have. It is the great, predominant, overwhelming interest of the people whom I have the honor to represent. It is an interest which, so long as I was a member of the State Legislature, I was very anxious to foster, and did foster, on all proper occasions, by my vote; but it is an interest over which, in my judgment, the Federal Government has no jurisdiction. Nor do I believe that all the donations of land and money made by this Government have been of the slightest benefit either to the agriculturist or to any other interest—I mean any industrial interest. You are sent hither, Senators, to discharge certain duties common to all the States; and those duties are prescribed to you in a written charter. When you presume on the idea that agriculture is a great interest, or manufactures a great interest, or commerce a great interest; when you presume upon any idea of the general prosperity of the American people as a whole to transcend the limits of that charter, you are not merely, in my judgment, departing from your own duty, but you are violating the trust which the people reposed in you; for the people have confided these duties to other public servants—public servants whom they elect more nearly than they elect us—public servants whose conduct is immediately before their eyes in their own Legislatures—public servants whom they can

rec'd and dismiss at shorter intervals than they can recall and dismiss us.

I said that the bill which was returned by the President of the United States on the 3d of May, 1854, was, in effect, this bill. This question was then fully argued. The message itself was read, printed, considered, and debated for a long time. The Senate came to a vote on the 6th July, 1854. I read from the Journal of that day:

"The Senate resumed the reconsideration of the bill (S. No. 44) entitled 'An act making a grant of public land to the several States of the Union for the benefit of indigent insane persons,' returned by the President of the United States, with his objections; and,

"After debate,

"On the question, 'Shall the bill pass?'

"It was decided in the negative—yeas 21, nays 26.

"Those who voted in the affirmative are—

"Messrs. Badger, Bell, Benjamin, Brown, Chase, Clayton, Cooper, Dickinson, Fessenden, Geyer, Gillette, Gwin, Hamlin, Jones of Tennessee, Pearce, Pratt, Rockwell, Seward, Stuart, Sumner, Wade.

"Those who voted in the negative are—

"Messrs. Adams, Allen, Atchison, Bayard, Bright, Brodhead, Butler, Cass, Clay, Dodge of Wisconsin, Dodge of Iowa, Douglas, Evans, Fitzpatrick, Hunter, Jones of Iowa, Mallory, Mason, Norris, Pettit, Rusk, Sebastian, Sidel, Toucy, Weller, Williams."

So that the Senate has once passed upon the question, and that, too, by a decisive vote. I said at the outset, sir, that it was rather surprising that a bill, which had not been able to command a majority of the Committee on Public Lands in each House, should be able to accumulate such strength, in the other branch of Congress, and in this; but it is no wonder, perhaps, to those who carefully consider the course of our legislation. If this were a bill for the benefit of agriculture, or a bill for the advancement of justice, or a bill for any other general interest, it probably would lie, with half the bills upon your Calendar, untouched from session to session; but the moment you put into it a grant of money, or a grant of land; the moment you interest individuals; the moment you hold out the glittering prize to the assignees of the land scrip, you will not merely have friends to surround both Houses of Congress, but you will have convenient friends to surround the State Legislatures, and persuade them, already engaged sufficiently with the care of their own domestic affairs, to instruct their Senators to vote for the passage of this bill.

The PRESIDING OFFICER. The question is on the motion to recommit.

Mr. PUGH. I ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 28; as follows:

YEAS—Messrs. Bayard, Brown, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sidel, Toombs, Ward, and Yale—27.

NAYS—Messrs. Allen, Bates, Bell, Bigler, Bright, Broderick, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Kennedy, King, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—28.

So the Senate refused to recommit the bill to the Committee on Public Lands.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

Mr. STUART. At the suggestion of some Senators, although I do not think it necessary myself, I will add to my amendment this proviso:

And provided, further, That no mineral lands shall be selected or purchased under the provisions of this act.

Mr. TOOMBS. I should like to know the reason why mineral lands may not as well be appropriated for this purpose as any other lands? It seems to me there is no sort of propriety in excepting them. They belong to the Government; and I know of no reason for the exemption of that particular variety of lands. I hope the amendment will not pass. If we pass the bill, give them a chance to get the mineral as well as other lands.

Mr. PUGH. I ask for the yeas and nays on that amendment. I should like to know why mineral lands in California and elsewhere should not be included as well as any others? They are more valuable than agricultural lands.

The yeas and nays were ordered.

Mr. RICE. Would it be in order to offer a substitute for the amendment of the Senator from Michigan?

The PRESIDING OFFICER. It will be in order to offer an amendment to his amendment.

Mr. RICE. I wish to offer one in the first section, after the word "quantity," in the sixth line, to insert—

The PRESIDING OFFICER. The amendment of the Senator from Minnesota is to the section; not to the amendment proposed by the Senator from Michigan. An amendment to the section is not in order now; because the Senator from Michigan has made a motion to amend the section already. The Senator from Minnesota can attain his object at a subsequent time.

Mr. RICE. I supposed I could offer it in lieu of his amendment.

The PRESIDING OFFICER. The Chair is of opinion that the question must be taken on the amendment offered by the Senator from Michigan, and any other than an amendment to that amendment is not now in order. If it be not an amendment to the amendment pending, it is not now in order, in the opinion of the Chair.

Mr. RICE. Then, if the amendment of the Senator from Michigan be adopted, shall I be deprived of the opportunity of offering this?

The PRESIDING OFFICER. Not at all. The Senator will have an opportunity to move to amend the section in any manner he may please, after that.

Mr. RICE. Very well.

Mr. SHIELDS. Before the vote is taken on this amendment, I ask if this proposition is the one offered by the Senator from Michigan?

The PRESIDING OFFICER. That is the amendment before the Senate.

Mr. SHIELDS. I will state to the friends of the bill that in its present shape it leaves out Minnesota; there is no provision for the State of Minnesota. Without the amendment of the Senator from Michigan this bill does not include Minnesota, it having become a State since the bill was introduced in the House of Representatives. The original bill presents the singular spectacle of providing for all the States of the Union except Minnesota. If this amendment of the Senator from Michigan is adopted, it places Minnesota on the same footing with the others. That is the object of the amendment introduced by the chairman of the Committee on Public Lands; and I presume there is no Senator who wishes to make a step-child of the State of Minnesota, the youngest member of the Confederacy.

Mr. SEWARD. We all agree to bring Minnesota into this bill, and I trust that when Minnesota is brought into the bill, we may bring in the votes of Minnesota for the bill.

Mr. WADE. I inquire whether the amendment offered by the Senator from Michigan was not agreed to? I understood it to be agreed to. If not, I hardly see how the other is in order.

Mr. STUART. My impression is, that after I offered my amendment, and before the question was taken on it, the Senator from Ohio [Mr. PUGH] moved to recommit the bill. That was my recollection of the proceeding.

The PRESIDING OFFICER. Such is the fact.

Mr. STUART. And after that I modified my own amendment by adding to it this provision in regard to mineral lands. I only desire to say a word on this subject. I must confess that I was a little surprised at the statement of the Senator from Ohio, [Mr. PUGH], because the bill as it stands says that land shall be taken that is subject to private entry. Well, sir, by the existing laws you cannot take mineral lands either for money or for land warrants; but the Senator from California seemed to have some fears about it, and, therefore, to make assurance doubly sure, I consented to modify my amendment by adding the proviso in regard to mineral lands. There has been no act of Congress, that I know of, which has not been restricted in this way. The policy of the Government has been not to allow the mineral lands to become a part of the public domain so as to be subject to private purchase as other public lands are; and therefore, when a bill says "any lands subject to private entry," mineral lands are excluded by that language.

Mr. RICE. I hope my colleague will not insist upon having Minnesota included in this bill; because, if the bill passes, I, for one, certainly do not wish to have her a party to it. The bill proposes to give about six million acres of the public domain to the several States and Territories for the benefit of agriculture and the mechanic

arts. Believing, as I do, that, by a strict construction of the Constitution, we have not the power to pass this bill, my vote will be given in the negative. It will give to many of the States a monopoly of the lands within the limits of their sister States; and their conflicting interests might disturb the harmony now existing between them. If you wish to aid farmers and mechanics, put the public lands within their reach, so that with their moderate means they may provide themselves with homes.

Sir, this is only the pioneer of other measures still more objectionable. There is now pending in the other House a bill granting to a company in the State of New York four million acres of land to aid in constructing a canal around the falls of Niagara. That bill provides that half a million acres shall be taken from the State of Michigan, the like quantity from the State of Wisconsin, and three million acres from the State of Minnesota. As one of the Representatives from that State, I protest against granting any State or foreign corporation a right to interfere with the disposal of the soil within her limits. If not unconstitutional, it is at least unjust. Another bill has made its appearance here proposing to give one million acres of the public domain for the support of schools in the District of Columbia. This I shall also oppose, although favorable to every rightful measure that will improve the District or advance the interests of its inhabitants.

I look upon the success of this measure as bringing death almost to Minnesota; not sudden destruction, but that slow, lingering decay, which eats into and gradually destroys every community whose energies are confined by combinations of non-resident land proprietors. The State that I represent is one of the richest, largest, and fairest in the Union. Pass this bill, and within six months the agents of non-residents will traverse her limits for the purpose of culling out over the entire State the choicest lands not held by actual settlers, thus blighting, like the locusts, every region which may attract them by its richness or its beauty.

This bill provides for sending reports of the proposed colleges, free of postage, through the mails; an extraordinary power, certainly; one which, if extended a little further, would soon cripple the Post Office Department. In many other respects it is objectionable. Its heading carries but a faint idea of its real objects. If these projects are constitutional, what limit is there to the power of Congress over any subject? If we can grant lands for this purpose, for what purpose may we not grant them? If we give lands to States for colleges, and extend to them the franking privilege, how long will it be before they will ask aid for every object, and come to rely entirely upon the General Government even for the expenses of their own, until they have become so dependent on the national Treasury that they will have but a shadow of sovereignty left, and be mere suppliants at the doors of Congress for any thing that the General Government may have at its disposal? If you wish to establish agricultural colleges, give to each man a college of his own in the shape of one hundred and sixty acres of land, where he and his children can learn how to make it yield the fruits of the earth in the greatest abundance; but do not give lands to the States to enable them to educate the sons of the wealthy at the expense of the public. We want no fancy farmers; we want no fancy mechanics; but we do want homes for the working artisans and the cultivators of the soil. This bill, if passed, is in every respect in opposition to the interests of the only community that gives vitality to our institutions. I hope my colleague will not insist upon having Minnesota inserted. I, for one, hope that State will not be a party to a measure of this kind.

Mr. STUART. I only desire to correct a misapprehension under which the Senator from Minnesota evidently labors in regard to a provision of this bill; for I am entirely averse to consuming time in discussing it. The Senator seems to suppose that a State is permitted by this bill to locate lands in another State. So far from that, the bill expressly prohibits it. A State cannot do it.

Now, sir, a single word in regard to its effect. The Senator said there were six million acres of land that may be located by somebody under this bill. Every State that has lands worth \$1.25 an

are, is to locate them within her own borders. It is only States who have not public lands who are to have scrip. That will reduce the whole proportion, we will say, for the purpose of the argument, one third, bringing it to four million, to be located by States who have no public lands within their own borders. Now, to show how entirely unfounded the fear is: that this may injure the land States, reflect, for a moment, that there have been located from sixty to one hundred million acres of bounty land warrants. More than ten, and probably more than twelve times the amount provided for in this whole bill, has been located in the land States with land warrants, which occupy precisely a similar position with the scrip provided by this bill; and yet the land States have not been ruined; it is doubtful whether they have been injured. Settlements, in some respects, may have been retarded; but taxes are paid upon the land located, and paid to support the State, the county, the town, and the school district; whereas, if those lands had remained in the hands of the Government, they would have paid no tax at all. It is by no means a clear proposition that the location of lands, by land warrants and by scrip, is injurious to a State. Undoubtedly it is true, that if a State can be settled with actual settlers, and have no foreign landholders in it, and settle with rapidity, it is best for the State, best for the United States, best for everybody. The alarm, however—and that is what I wish to correct—that the location of the entire amount granted by this bill, six million acres, within the States, will be prejudicial, when, as I say, more than sixty million have been located by bounty land warrants, and the States are not materially hurt, is an alarm that certainly need not exist.

Desirous not to consume any time in the discussion of this measure, and ardently desirous that it shall pass, I shall refrain from going into any lengthy discussion on any of the questions which have been raised.

Mr. RICE. I wish to say a word to the Senator from Michigan. He says that where there are public lands within the limits of a State, that State is to locate the grant under this bill within her own limits.

Mr. STUART. Lands worth \$1 25 an acre.

Mr. RICE. Well, who is the judge of that? "The value of said lands to be determined by the Governor of said State." If it was against the interest of the State of Michigan to have those lands located within her limits, I venture to say that, in the opinion of the Governor of that State, there would not be an acre of land worth \$1 25. As I said before, the heading of the bill gives but a faint idea of its contents. In the third section it reads:

"That all the expenses of management and supervision of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong out of the treasury of said States."

Their agents will locate the land; and the third section gives to the States the right to control them after they are located, until the State shall have sold them. This issuing of scrip I understand very well. It may not be sold; the States will issue it to their own agents, and they will locate the lands; they will follow along upon the border of our settlement; they will follow on the line of our railroads, and they will take every acre of the land that is worth anything, and there let it lie as an incubus on our prosperity, until it shall be worth five, ten, twenty, or fifty dollars an acre, and that value added to it by the labor of the citizens of the State.

Mr. SHIELDS. I agree partially with the Senator from Michigan; but I beg leave to turn his attention to the proviso of the second section:

"Provided, That in no case shall any State to which land scrip may thus be issued, be allowed to locate the same within the limits of any other State."

Is not the inference that arises from this, that a State can locate the land within the limit of a Territory? It is excluded from locating the land within the limits of a State, but the inference may be what I have stated. I mention this with respect to this proviso. The proviso, it seems to me, is unnecessary.

Mr. STUART. The Senator will allow me a word on that point. Perhaps the provision to which he alludes, standing alone, might possibly justify that interpretation; but the Senator, by the reading of the bill, will see that the States in

which there are no public lands worth \$1 25 an acre, are to have scrip issued to them, and they are not allowed to locate that scrip at all, but are directed to sell it.

Mr. SHIELDS. I admit that, and consequently I think this proviso is superfluous and unnecessary. Without the proviso, the States have to dispose of the scrip; but with the proviso that the State is not permitted to locate it in another State, the inference may be that she is permitted to locate it in a Territory, and that Territory may become a State. Therefore, I suggest to the honorable Senator to strike out the proviso.

Mr. STUART. I have no objection to that.

Mr. MASON. Mr. President, the very decided vote by which this bill has been made to supersede the annual appropriation bills, which are usually considered the most important bills at the close of a session, I presume indicates that it is the sense of the Senate that the bill shall pass in some form. What I have to say, therefore, cannot be so appropriately addressed to the Senators present to influence, if I could expect to influence their judgment, as to inform those outside of the Senate, and more especially those whom I have the honor to represent here, of another instance of the practical working of this Federal Government.

Sir, to my conception it is one of the most extraordinary engines of mischief, under the guise of gratuities and donations, that I could conceive would originate in the Senate. It is using the public lands as a means of controlling the policy of the State Legislatures. It is misusing the property of the country in such mode as to bring the appropriate functions of the State entirely, within the scope of the bill, under the discretion of Congress by a controlling power; and it is doing it in the worst and most insidious form—by bribery, direct bribery, and bribery of the worst kind; for it is an unconstitutional robbing of the Treasury for the purpose of bribing the States. That is exactly what is to be found in the substance of this bill, as I look upon the Constitution. I am not going to argue here—it has been my unhappy province more than once to object to appropriations of the public lands as unconstitutional, not with any hope that any effort of mine could influence the judgment of the Senate, but to enlighten that honored constituency whose property is thus depredated upon. Why, sir, what distinction can honorable Senators make between the public lands, the common property of the country, and the public money, the common property of the country, in the Treasury of the United States? What earthly difference? The one is property, and the other is the representative of property; and the property itself is acquired by the use of the public money.

I have had occasion to say here, and up to this time to act upon it, and so far as I can yet foresee events, am prepared to continue to act upon it, that I will agree to the purchase of no more land; amongst other reasons, because of the corrupting uses to which it is put by the Federal legislation. Suppose this bill was to appropriate eight or ten million dollars from the Treasury, for the purpose of building up agricultural colleges in the States, would honorable Senators who patronize this bill vote for the direct appropriation: and if they would not, why not? If they have the power to do it, and they believe it is expedient to do it, why would they not just as well take the money from the Treasury to build up agricultural colleges, as take the public land? If it be constitutional to do it, there is not only the right, but the duty to do it, as much by the money of the country as by the lands of the country.

Sir, where do you get the power? If you have the right to use the public property, or the public money either, to establish agricultural colleges, cannot you establish a school system in each State for general purposes of education? Would it not be in the power of a majority in Congress to fasten upon the southern States that peculiar system of free schools in the New England States which I believe would tend, I will not say to demoralize, but to destroy that peculiar character which I am happy to believe belongs to the great mass of the southern people. Ay, those New England free schools, upon which they pride themselves, and that system of social organization in reference to those free schools, might just

as well be ingrafted on the policy of all the States, by means of this same bribing process by which they here propose to establish agricultural colleges, or any other system; I care not what. You may build a system of hospitals with far more propriety, in my judgment, in reference to constitutional law, than this system of agricultural colleges.

There was a time when, if there was an apparent misuse of the public lands by giving them away, some plausible reason was assigned for it in reference to the lands themselves. The immense railroad grants that have been made within the last two or three years, and which I think it could be demonstrated were at the basis of the late great commercial revulsion through the country, those enormous grants of land for railroads were made on the ground that it was the best use of the public property by improving the lands through which the roads were to pass. Other systems of donation have been placed upon the plausible ground, and plausible only, as I thought, that it was constitutional to do it because you would use a portion of the public property in such a way as to enhance the value of the rest. But that day has gone by. Even that mere plausible pretext or evasion is abandoned, and here is a proposition to take this public property to the amount of nine or ten million dollars in value, some six or seven million acres, and to apply it directly for the purpose of building up a system of agricultural colleges to instruct the public mind upon the subject of agriculture.

Sir, I do not know what States may be induced, if the bill should pass, to become the eleemosynary recipients of the bounty of the Government thus given to them; but I know whatever States do it, will place themselves in that relation to the Federal Government which will inevitably lead their people to believe that the Federal Government is not only the source of office and honor, but that it is the source of alms; for public charity is dealt out to the States as States, and the assent of the States is asked by the bill to become the recipients of the alms of the Federal Government.

Now, sir, let us look at the provisions of this bill. It prescribes on what terms the States shall take the land. It prescribes the legislation that shall follow after the lands are taken—legislation to be conformed by the States to the policy of the Federal Government in giving them this alms, as the terms upon which they shall have it. One provision is:

"Any State which shall take and claim the benefit of the provisions of this act, shall provide, within five years, at least, not less than one college, as described in the fourth section of this act, or the grant to such State shall cease."

It is the extraordinary wisdom of those of us who are assembled here representing the States for the purposes of the Constitution, prescribing to the States that a part of their domestic policy shall be to build up agricultural colleges—an extraordinary wisdom, indeed; and to induce them to accept your proffer, you offer them a bribe. If they do not build up these agricultural colleges, if they do not adopt the policy of Congress for the promotion of agriculture, then they are not allowed to become the recipients of the alms of the Government.

As I said before, I will not undertake to say what States will accept it, or what States will refuse it; but I will undertake to say this, that when the public lands shall be ultimately disposed of, if that day ever comes, and when the passions of this day, and the avidity of this day, and more than all, the policy of this day, shall have subsided and passed into history, the State which has refused to accept it will go upon the page of history as one that was true to its constitutional duties and to its constitutional faith, and that set the example to her sister States of refusing the bribe, although offered in this tempting form.

Then it provides further, that the States shall provide by their legislation, for an annual report to be made of "the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters as may be supposed useful;" and that report is to be transmitted to all the other colleges, "and to the Smithsonian Institution, and the agricultural department of the Patent Office at Washington." The States then, are, by law, to provide for these reports, giving the progress of agricultural improvement within their separate borders,

by the command of the Congress of the United States, after they have accepted the grant, and with this peculiar feature, by the way, they are to make that report to a department in the Patent Office, the existence of which, up to this day at least, I trust, is unknown to the law. I know, sir, I suppose it is part of this general system of bringing the domestic affairs of the States within the range of congressional legislation, there have been suggestions here that there should be an agricultural department of the Government, a separate department of State, and this, I suppose, is the beginning of it, shadowing forth an event which is yet to come—"The agricultural department of the Patent Office!" I know of no such department; but it is perfectly homogeneous with this bill. The bill has a right to anticipate that there will be such a department. The bill has a right to anticipate that, if this sort of policy is commenced under the auspices of the Federal Government, an agricultural department will be necessary to supervise it, and an agricultural department may, therefore, very properly be referred to in the bill, although none such exists in the law.

Now, sir, let us look at that agricultural department. The Patent Office, with its stately building, and its corps of officers, and its complicated organization, branching itself out by its correspondencies and its agencies, by its purchases and by its donations, not only in every State, but in every county town of every State—I say the Patent Office, with all its complicated organization and machinery, finds its basis upon two lines of the Constitution, giving power to Congress to do—what? Simply to make a property in discoveries and inventions, and to give the use of that property to the discoverer and inventor. That is all the Constitution says, and you see what has grown out of it. Here, the other day, we had a convocation—a congress, I suppose, but a convocation, certainly—of agricultural gentlemen, alleged to be assembled from every part of the country, meeting within the building of the Interior Department, and under the auspices of the Department of the Interior, to debate and to discuss and to organize an agricultural department in embryo, at the expense of the Federal Government, and paid out of the Federal Treasury. Sir, this thing has got beyond the egg a good way; and if this bill shall pass, it will improve that egg into the animal that it is intended to create, as a functionary with life, with vitality, with power, to be extended through all the States, for the purpose of substituting the wisdom of Congress and the discretion of Congress in the management of the domestic affairs of the States, and in that which is most important in the domestic affairs of the States, the agricultural interest.

Now, sir, this is not to see too far ahead. Unconstitutional howsoever it may be, the bill may be harmless, except that it is the basis for future superstructure. If these agricultural colleges should be built as functionaries of the General Government; as appendages to a department of the General Government; endowed by the General Government; required to make reports from time to time to each other, and to the Smithsonian Institution, and to an agricultural department here, it requires no prophet, it requires none peculiarly conversant with the working of any Government, more especially this, to see that in a very short time the whole agricultural interests of the country will be taken out of the hands of the States and subjected to the action of Congress, by direction or indirection, either for the promotion of it in one section or the depression of it in another.

Sir, the bill is fraught with mischief. Its unconstitutionality, which I do not mean to press upon gentlemen at all, but to which I desire to call the attention of my constituents, is bad enough. Its utter inexpediency, its tendency to mischief, its inordinate character as a precedent in bringing within the Federal Government, within that great vortex of the Government which does hold the purse of the nation, almost the entire purse of the nation—I say, as a precedent for similar exercises of power, there could not be projected, in my judgment, a measure more fraught with mischief. About the details of the bill, I know very little, and care a great deal less. It is the principle; not the principle alone of giving away that which you have no right to dispose of in that form, but the manner and the purpose for which

it is done, holding out a bribe to the States to conform their agricultural policy to the superior wisdom of Congress.

I agree with the honorable Senator from Minnesota [Mr. Rice] as to the effect it must have upon those States who are unfortunate enough to hold public lands. There are to be twenty thousand acres given to each State for each member in the House and Senator in this body. The State of New York, I believe, has thirty three Representatives in the other branch, and two Senators here. For each of them she is to get twenty thousand acres. Then the bill will give seven hundred thousand acres of land to the State of New York for the purpose of building up agricultural colleges. There are no public lands in the State of New York, and this grant is to be located elsewhere. The honorable Senator from the State of Minnesota, where there is a large body of public land now untouched, with a sagacity that belongs to him, has seen the deleterious effect that will be exercised on his State and others standing in that condition, from locating such a large grant within their limits. He is answered by the honorable Senator from Michigan by saying, that the bill anticipates that; that the States will not be allowed to become landholders; that scrip is to be issued to them, and they are to sell this scrip in the market, and the fund that is to arise out of it is to be the dowry of the agricultural colleges in such States.

Now, let us work it out. You issue to the State of New York scrip to the amount of seven hundred thousand acres—I believe that will be about her share—and New York puts in the market scrip to the amount of seven hundred thousand acres, and the other States holding no public lands do the same: what will be the effect? In the first place, to depress to a very great extent the price of the public lands; but the true operation of it will be this: either there will be combinations among the States holding that scrip, or there will be combinations among the capitalists of the country to possess themselves of the scrip, to make themselves landholders, and to operate, as they may well operate, upon the interior policy of the States where the land lies. What is to prevent the large capitalists in the northern cities from seizing the scrip in that way? This scrip is not to be gathered, as the honorable Senator from Michigan said, as bounty lands are gathered, one hundred and sixty acres from one, and eighty from another, &c., but to be bought in bulk; and what is to prevent the large capitalists in the northern cities from possessing this scrip to the amount of six hundred thousand, or eight hundred thousand, or a million acres in any of the new States, and then governing at their pleasure the policy of those new States?

All this is to be done—for what? That the States may be bribed by Federal power to conform their domestic policy to Federal will. This is unquestionably the extent to which the bill goes; and if honorable Senators are prepared to say that, admitting that to be so, yet we believe it is the best thing the States could do, I submit to them at once, I will not say that they are doing it inadequately, for I have no discourtesy in the matter, but they are doing it presumptuously, to substitute their wisdom and intelligence in the domestic policy of the States for the wisdom and intelligence of the States themselves.

I shall not discuss the details of the bill. I am unacquainted with the details. It is the principle of which I speak. God knows that the details never can be worse than the principle on which these details rest—the principle of giving away the public property—"donating" it, as the title of the bill says, (a term which I think is unknown to the English language; I suppose it means giving)—giving away the public lands, giving away the public property, not applying it to any constitutional use; and, in giving it away, coupling it with conditions that are of necessity debauching to the political morals of those to whom it is given.

Mr. HARLAN. Mr. President, I do not intend to engage in the discussion of this question much at length; but I am at a loss to see anything in the nature of a bribe to the State which I represent, in the proposition now pending. It seems to me that this bill merely proposes that the States of the Union may become the trustees of the United States, for the disposition of a few

thousand acres of land. This Government itself has been appointed the trustee of one Smithsonian. It was authorized to dispose of a legacy, so as to increase learning among all mankind. I see nothing in the nature of a bribe offered to the Government of the United States by that great philanthropist, in requesting the Congress of the United States, in his last will and testament, to become his trustee for the disposition of the property bequeathed for the purposes indicated. The trust has been accepted. That bequest is now held by the Government of the United States for the education of all mankind; and hence this Government of the United States itself has become the trustee for the disbursements of funds in the manner and with an object similar to that proposed in the bill now before the Senate. Who would think of charging Smithsonian of bribing, and Congress of having been bribed? This bill simply proposes that each State in the Union, in proportion to representation, shall take twenty thousand acres of land as trustee, to be disposed of as indicated in the bill. If any one of the States declines the trust, this bill does not propose, as I understand its provisions, to coerce the State to accept that trust.

If Virginia or Georgia concludes that it will not be for the advancement of the interests of the people of those States to accept this trust they can decline its acceptance; but other States of the Union, who are not so fearful of the consequences to flow from the establishment of educational institutions, and systems of common schools, as is the State of Virginia, may accept the trust, as it seems to me, without dishonor to themselves or danger to the people who are interested.

It may be that there is no specific provision in the Constitution of the United States authorizing this Government, in so many words, to make this disposition of the public lands. Nor is there, as far as I understand the subject, any provision in the Constitution of the United States authorizing Congress to become the trustee of Smithsonian, a citizen of a foreign country. Nor do I find any provision, in so many words at least, for the establishment of a school at Annapolis for the education of young gentlemen who may desire to enter the service of the Government as naval officers. Nor do I find any provision in the Constitution for the establishment of a military school at West Point. It is true Congress has the power to provide for the organization of a Navy, and to provide for the organization and equipment of armies; the power is expressly granted; but, it seems to me, it is a latitudinous construction of this constitutional provision to establish schools for the education of Army officers and Navy officers. Nor do I find any provision in the Constitution authorizing the establishment of a coast survey as it now exists—a mere appendage, as I understand, of the Treasury Department of the United States, through which is now disbursed more than half a million dollars per year. I should like to know where the Senate acquires the power constitutionally to establish as an appendage to the Treasury of the United States the coast survey?

I do not see any validity in the objections to this bill that have been advanced by the Senator from Ohio [Mr. Pugh] and the Senator from Virginia [Mr. Mason] and others who have spoken. I can see nothing in the nature of a bribe in proposing that a State shall become a trustee for the disposition of lands within its own limits, or the proceeds of land scrip to be located by private individuals within the Territories of the United States, if there be no lands within its own limits subject to private entry. It was said by one of those Senators, I believe the Senator from Virginia, [Mr. Mason,] that large States of the Union like New York, and he might have named his own State, would become large landholders within the limits of other States; because, if this bill becomes a law, they would become the owners of large amounts of land scrip; that this land scrip might possibly find its way into the hands of the large capitalists of the country, and in this way individuals, millionaires, citizens of these old States, might control the domestic policy of the States; but if this argument be worth anything in this case, it would be worth as much when applied to men who control money. What is to prevent the Senator from Virginia, or the Senator from Ohio, or any of your bankers in Washington city or

New York, applying their money in the purchase of lands? They may enter ten, thirty, or fifty million acres of land with money, and thereby, under the laws of the United States, become actual owners in fee of all the public lands within the State of Minnesota, to which allusion has been made, and exclude the citizens of small means. What provision have we in the Constitution of the United States, or in the laws of this Government, to prevent a man from investing his entire means in the public lands? If he should do so by the use of money, would not the evil be as great as if done by the use of land scrip? But that argument was anticipated by the Senator from Michigan, [Mr. STUART,] in his allusion to the immense amount of land scrip that has hitherto been issued to the soldiers of the various wars since the commencement of the Government.

The amount of land scrip to be issued in this case will be very small when compared with the amount that has hitherto been issued: a mere drop in the bucket. It is true that it is not desirable to citizens of the new States, on the frontiers of civilization, that the public lands should go into the hands of non-resident owners. The injury, however, is as great if you put it into the hands of men who buy land with money as if it be bought with land scrip. But one effect of the passage of this bill will be to diminish the price of public lands, and therefore enable very many of the people of the United States to become its actual owners in fee who are now unable to become its purchasers. This result will be an advantage to the poor, rather than to the millionaires, to whom allusion has been made. You throw into the market large quantities of scrip. The scrip may run down in the market to a nominal value per acre. It will be sought by industrious men of limited means, who will become the owners of homes for their families, who are now the toiling servants of landlords and millionaires.

I see no evil consequences that are to result to the State I, in part, represent from the passage of this bill. It seems to me that all the evils which have been indicated, may arise as readily and as certainly without, as with, the proposed law. And as this Government, by a latitudinous construction of the Constitution, is using an immense amount of money for the education of professional men, it seems to me that equal liberality should be extended to another class not so ably represented on this floor, and in the other branch of Congress. The census of 1850 shows that, at that time, there were over three millions of the people of the United States engaged in agricultural pursuits. Where is their representation on this floor? *Non est*; they are not here, only so far as they are represented by professional men. There are but very few in either branch of Congress who are the direct representatives of the laboring class of the people of this country. If I were disposed to go into an investigation of this subject, I think I could show conclusively that it is mind that rules the country, and rules the world.

There may be those who are not disposed to give the means for the development of the minds of the masses; those whose interest it is that the laboring men of the country should be ignorant, should be uneducated and dependent, that their sweat and their toil may be used to advance the interests and to promote the happiness of those more highly educated and refined; it may be that it is a blessing to Virginia that she is now more largely represented by adult white people who are unable to read and write, in proportion to her population, than any other State of the Union; it is a blessing, however, that the people of my State do not covet. They prefer a different condition of things. They prefer that the mind of the laborer should be developed; that the intellect of the man who labors and sweats for his own bread should be more highly endowed, in order that that class of people may become their own representatives, even in the legislative halls of the nation. This is one result which would be attained, to some extent, at least, by the establishment of the colleges that are proposed in the bill now under discussion. I confess I desire to see them here; I desire to see them qualified for the highest positions of honor and trust, and represented in every branch of the civil service in proportion to their numbers. The passage of this bill will be one step in the right direction. It will be, in effect, a

declaration that Congress will no longer discriminate against the people; that the masses, on whose shoulders have been imposed the burdens, shall participate in the enjoyment of some of the advantages of Government.

Looking at this question then, in every light in which it presents itself to my mind, I see no valid objection to the passage of the bill; no injury that can result to the land States of the Union; and I shall be very much surprised if the representatives of those States who vote against this bill will not receive a condemnation at the hands of the people, when they return to their constituencies.

THE PRESIDING OFFICER. The question is on the proposed amendment of the Senator from Michigan, upon which the yeas and nays have been ordered.

MR. PUGH. Read it.

The Secretary read the amendment, which is in section one, lines four and five, to strike out the words, "five thousand nine hundred and twenty thousand acres of," and insert, "amount of public," and at the end of the section insert:

Provided, That to each State whose number of members in the House of Representatives shall be increased by the next apportionment under the census of 1860, there shall be granted the additional quantity of twenty thousand acres of land, upon the same terms, as soon as said apportionment shall be made: And provided further, That no mineral lands shall be selected or purchased under the provisions of this act.

MR. PUGH. I ask the separation of that amendment. I think we had better have a separate vote on the mineral business. I ask that the question may be put separately on that proviso. The first part of the amendment I do not care anything about.

THE PRESIDING OFFICER. The separation of the amendment is asked for. The yeas and nays have been ordered on the whole amendment.

MR. STUART. It may be divided.

THE PRESIDING OFFICER. Does the Senator ask for the yeas and nays on the first branch of the amendment?

MR. PUGH. No, sir.

MR. GREEN. I shall regard it as my duty to vote against this entire bill, and if the bill is to pass, I shall vote for such amendments as will make it the least objectionable; but it must not be thence supposed that I am opposed to agriculture, and Mr. Senator has the right to make that assumption; and when gentlemen ask the question whether the farmers are represented on this floor, I answer most emphatically they are. I trust all classes are represented—manufacturers, farmers, the fine arts, every profession useful to the country. But must we, in consequence of that, make appropriations to establish law schools; must we make appropriations to establish medical schools; and other schools for science and for agriculture and for manufactures? Does it follow, because we represent all classes, that we must appropriate either money or lands for the purpose of exclusively benefiting any one, or all of those classes?

The Federal Government is one of very limited power. I have heard many suspicions thrown out about the expansion of Federal power with reference to our foreign relations, all of which were uncalled for and ill-timed. If there ever was a single point with the fathers of the Republic on which they were a unit, it was to strengthen, to fortify, to make vigorous and active, the power of the Federal Government in our foreign external relations, and to limit it, and circumscribe it, and make it specific, in our domestic relations; and we should ever keep this in view in all our legislation.

Is there any grant of power to vote money to establish a school of any description? Has the Federal Government, from the beginning of its existence, down to the present period of time, voted a dollar to aid it? Never, never. Even in regard to the Smithsonian Institution, the result of a donation made by an honorable Englishman, the trust was taken hold of with a great deal of trepidation and doubt and fear. We administer that as a trustee, not as a donor. But because a certain class of the community are useful in the community, very beneficial to the community, is this limited association of States, having certain specific powers granted in express terms, to go beyond the bounds of its powers for the reason that the end proposed to be accomplished is a

good end? The moment we transcend the boundary that limits our line and our duty for a good purpose, we open a door to the introduction of the wildest and most visionary projects under heaven.

Have we any more power over the public lands on this subject, than we have over the money in the Treasury? I am constrained to say we have not; for, although the Constitution gives us express power to "dispose of" the public lands, we have no right thence to give them away. We must exercise prudence, judgment, honesty, and discretion in disposing of the public lands. Under this rule we have given away public land, in one sense, to the States, for the purpose of making railroads; but in every such instance it has been predicated alone upon the idea that the lands retained were worth more money to the Government than the whole were without the grant. Does any such argument as that apply in this instance? Will any one say that because we make a grant of lands for the purpose of establishing an agricultural college, the lands retained will bring more money into the Federal Treasury in consequence of the grant? There is no Senator in this Chamber so visionary as to assert it.

On what, ground, then, do you propose to make the grant? Not because we have got the brute force, the physical power to give the vote. Where is the constitutional warrant under which we are acting? We have the power to dispose of the public domain, but for what ends? To accomplish the great ends of the Constitution, as prescribed and limited in the Constitution. There are ten thousand good objects in the scope of human action, to all of which, as individuals, we ought to contribute—to religion, to morality, to education, to commerce, to agriculture, to manufactures, and the fine arts. All these commend themselves to our care; but not as Government agents, unless the charter under which we are acting has confided that branch of subjects to our care. Has the Constitution under which we are acting confided the care of agriculture and the education of agriculturists to us? Will any Senator answer me in the affirmative? If not, while I do not censure others for the vote they cast, I trust they will not characterize me as opposed to agriculture because I say I have not the power to give the vote.

There is, Mr. President, another peculiar reason pressing upon us now, and that is this: we have lived in this Government, under the original founders, under their immediate successors, and from step to step, from 1789 down to the present period of time, and this is the first time that a serious effort has been made to endow agricultural colleges by a donation from the Federal Treasury. We are now acting upon innovation, upon departure from the principles bequeathed to us by our fathers, and we ought to know well the ground we propose to tread upon before we take the fatal step.

But there is another and stronger reason. If, for more than half a century we have gone on prospering and to prosper, expanding as no other people have expanded, improving our agriculture when left—as Jefferson said it ought to be left—to its own resources, to its own intrinsic vigorous power of action; if we have accomplished so much in the last half century without any such institution as this, and without any such aid as this, how much may we still accomplish if we fail to give it now? Is it not dangerous to tamper with a subject that has progressed so rapidly, more rapidly than any country where agricultural colleges have been established? If such is the consequence, do we not endanger agriculture, and are we not standing as the wild visionary advocates of a system that may result in more harm than good?

In addition to that our Treasury is depleted. A source of revenue resulting from the sales of public lands has always existed to aid us in meeting the public wants. Pass this bill and throw into market six millions of scrip to absorb all the public lands, and where shall we then be? Not one dollar from the public lands can be expected during the next fiscal year.

But one step further—I go over the ground hastily; for I only intend to make suggestions—not arguments. When these lands are selected they will be selected by States, or by associated companies buying up the scrip of the States, millions

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upon millions of acres in one body, in new States like Missouri, like Iowa, like Minnesota, and like others. It is said we have power to tax them.

What do we tax? The value of the land unimproved—and they will hold it for those in the vicinity to make their improvements—all to be taxed; bridges to be built; school-houses to be erected; churches to be dedicated to the service of God; all done to the hand of these speculators paying no taxes, except upon the original value of the land without improvement. It is a stab at the prosperity and settlement of the new States; and I call upon my friend from the State of Iowa to pause before he gives it his vote. Let these large bodies of land be selected in the State of Iowa without the power of compulsion to make improvements, with the simple naked power to tax according to the existing value, and every man who settles in the State of Iowa will have to pay not only for the land he buys, a tax upon it, but for every log he puts up, every fence rail he makes for the improvement of that land, he has to pay a tax; while the large speculators, who invest their funds in the scrip thrown broadcast on the market, under this bill, pay no taxes except upon the original value of the land. You do thus make roads and bridges and school-houses and churches, and that land becomes valuable; but to whose benefit does it inure? You cannot tax them except upon the original value; you keep out improvement; you keep out cultivation; you thus create necessity to enhance and increase the taxation upon those who do settle and make improvements. These are facts; they stare us in the face. I am now speaking upon that branch of the subject which appeals to our discretion and our notions of propriety; but there is a fatal objection, the first one to which I alluded, and that is, this Government was never created for the purpose of building up any such institutions.

Mr. President, I have made these remarks to call attention, to explain why I will vote against the bill, and because I am determined never to be placed in a false position by Senators assuming that he who votes against them is the enemy of agriculture. I trust that my action in life has proved my friendship for it more than my declaration in the Senate Chamber, or on the hustings; and if my action has not proved it, I would not give a straw for the assertion in this Chamber. I shall vote against the bill. If the bill is to pass, I shall vote to improve it, and make it as acceptable as possible; but I trust it will yet fail; not only because it is wrong, but because, as a revenue measure, it is depleting the Treasury, preventing the receipt of means required for the purpose of keeping the Government in motion during the next fiscal year.

Mr. SIMMONS. I wish to ask the Senator from Missouri if there is any departure from the general practice of the Government in granting lands for colleges, any more than in granting lands for schools? I believe it has been the policy of this Government, ever since we undertook to dispose of the public lands, to grant a sixteenth part of them for common schools within the States.

Mr. GREEN. I will answer the Senator, as he asks the question, if he desires it.

Mr. SIMMONS. I ask if there is any distinction between educating people in a school-house and in a little larger establishment?

Mr. GREEN. I will answer the question if the Senator desires it. Does he desire it?

Mr. SIMMONS. I suppose I can get along without it. I can respond to the argument without any answer from the Senator; but I am willing to hear him.

Mr. GREEN. I will state the reason. Every grant of land to aid in the establishment of common schools has been of the sixteenth section in a township. A township has thirty-six sections in it, six miles square. The sixteenth section is as near the centre of the township as it is possible to get. Within the last few years you have granted two sections in a township, the sixteenth and the thirty-sixth. The object of making that grant is as an inducement to purchasers to come

and buy the rest of the land. The assurance that those two sections will constitute a school fund for each township, induces men to come and buy the remainder of the lands, which they would not buy but for that inducement that is held out; but the issuance of scrip, to cover whole townships and counties and sections, presents a different question, and does not bring itself within the power of Congress to dispose of the public lands. That is the reason of the thing.

Mr. SIMMONS. Public lands have been granted for purposes of common-school education. It is a laudable purpose. What I was calling the attention of the Senator to, was, as to the constitutional power of Congress to do this. He says we have gone on fifty years without ever exercising any constitutional power analogous to the one we propose to exercise here. We began society in this country, as it begins everywhere else, with the rudiments of learning, the A, B, C, of it; and, as we accomplish that, we have to get up into higher branches of education; and it is just as much for the benefit of the wild lands of this country that agriculturists should receive a higher form of education, as that they should receive the rudiments; and we should educate people to cultivate the lands of the old States as well as the new ones; and it is better for the young men, before they emigrate, to get their education, than it is to have to get it after they go and settle on the public lands to obtain a living. I was curious to know how the Senator could have gone over half a century's history of our Government, administered by the very fathers of the Republic, making these donations from the outset, and then denying the constitutional power. That was the point to which I wanted to call his attention. There is no form of instruction that will not increase the fee-simple value of the whole land we have; and, perhaps, if that Senator had been as deficient in it as I have been, he would know more of its value.

I have no more doubt of the power of this Government to grant a portion of the public lands to educate farmers, than I have of the power to grant a portion of the public Treasury to educate Army and Navy officers. The only question, aside from the question of constitutional power, is, is it sound policy to do so? That is the question. I hear people talk about the constitutional powers of the Government, that have been sanctioned by those who made the Constitution, which have been practiced on ever since we had any public lands put under our charge as a Government. I am astonished that they should make these declarations. We have as good authority, they say, for putting our hands into the Treasury and donating money, as we have for taking lands. Perhaps we have, as regards the power; but this has been the policy of the Government from the outset, and there is no more appropriate thing, in my judgment, if you want to improve the cultivation of the lands and increase their settlement, than to educate farmers to go there and settle them.

Mr. HALE. Mr. President, I do not intend to occupy the Senate more than a few moments; but I think Senators must be mistaken when they say this is a novel grant. Since this matter has been under discussion, I have got the index to our statutes, and I find, by reading it, that Congress have heretofore made donations of land for "higher seminaries of learning," besides, and in addition to, the reservation for schools, in the following States and Territories: Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, Wisconsin; for a deaf and dumb asylum in Kentucky; for the Columbian College in the District of Columbia; and for Jefferson College. I happen to have a couple of these acts by me; and as they are very short, I will read them.

Mr. GREEN. Allow me one moment. The grants to the new States of two townships for a seminary of learning, and a certain township for a seat of Government, were made in the adjustment of the contract between the State and the United States. When the State agreed not to tax

the land of the United States, the United States agreed to give to the State a certain amount of land. The right of eminent domain, which would have carried the fee-simple to the whole of the lands of the United States, was surrendered to the United States on the terms and conditions on which those grants were made; but, as for a mere naked grant to a State for a college or an institution of learning of any description, there never has been a single one that I remember. The Columbian College in the District of Columbia may be an exception; but I speak of the States.

Mr. HALE. I find by looking at these statutes—

Mr. PUGH. Did you say the Government had given land for a college in Ohio?

Mr. HALE. No, sir; seminaries of learning, besides schools.

Mr. PUGH. They never gave an acre, except in the act of admission.

Mr. HALE. I did not say they ever did. I only said it appeared so by the statutes.

Mr. PUGH. Where is the statute?

Mr. HALE. I did not say that; but only that it appeared by the index to the statutes. I find they have made, as our general index of laws says, "Grants for seminaries of learning in the following States and Territories;" and, under that head, is given Ohio, 2d volume, page 226. I have not the act before me.

Mr. PUGH. I do not know whether the Senator cares enough about it; but I will state what it was: two purchases of land were made, one by the Ohio Company and one by John Cleeve Simms. At the time of the Articles of Confederation, they agreed to give the Government a certain price for an entire quantity; and it was one of the stipulations of those private agreements, made before the present Constitution, that one section in each of those sales should be for schools. It was part of the element of purchase by private individuals from the Government before the Constitution. The Government never gave an acre to endow a college in the State of Ohio.

Mr. HALE. In 1832 they gave \$25,000 to the Columbian College in this city; and, besides that, they have given to the deaf and dumb asylum in Kentucky, a grant of the public lands. I know they have in Connecticut.

Mr. DAVIS. Mr. President, I think that in the search for precedents some mistake is found. I grant the Senator from New Hampshire, who has cited the case of the deaf and dumb asylum in Kentucky, to have one that is somewhat in point. I think, however, it is a very bad precedent, and should not be followed. It is subject to all the constitutional objections which apply to this bill. But the other cases are those in which land was granted for seminaries of learning; colleges within the Territories, or granted at the time of the compact between the General Government and the State, in which the State surrendered the right to tax the land whilst owned by the General Government, and for five years after the day of sale. This is a contract entered into between the sovereign people of the State and the United States, in relation to the public domain situated within the limits of the State. Anterior to that, the power comes under the general provision, which makes this Government a trustee for the States owning the territory; and the exercise of the power in the Territories constitutes no justification for assuming to exercise a like power within the limits of a State. So much for the precedents, to which I do not indeed attach a great deal of value, even if they were otherwise.

This is a provision, taking the bill generally, to establish schools for the instruction of persons who may be devoted to farming or other pursuits; for it says they are not to exclude scientific and other studies, but they are to direct themselves particularly to that of farming. The argument is made, that the same right exists to instruct farmers as to instruct sailors and soldiers. If I conceded to gentlemen who make this argument, that the Federal Government had established academies to instruct persons hereafter to enter the

Army or the Navy, then I would say there was some force in the position which they take; but that is not true. The General Government does not educate persons, that they may hereafter enter the Army and the Navy. It does not establish academies for the instruction of youth, that they may hereafter enter the military service. It does appoint warrant officers, in both the land and naval service, and it does choose to send them to an academy as the best mode of instructing them, and the most economical mode, and perhaps the only mode in which it can give them a thorough elementary education.

The argument, therefore, that you may as well establish an academy for one species of education as another, has no application to what the Government has done and is doing. The cadets are a part of the Army; the midshipmen are a part of the Navy. Instead of sending them to serve with companies, and in a long course of years to get such military knowledge as will enable them to perform their duties on land or sea, you send them to an academy, and there give them instruction; and it is a defect in our organization which probably will not be corrected, unless we should have the misfortune to require a large army, that we have not also a school of application, where, having been taught the elements, they should likewise be taught the application before they were allowed to command men. Such is the perfect system adopted in Governments of a more strictly military character than our own; and it constitutes no argument, no basis of justification, for the proposition which is now pending.

I have seen the growth of this proposition to do something for the agricultural interest, and I believed it was always delusive, not to say fraudulent. It needs no aid. The agricultural interest takes care of itself, and is drained to take care of every other pursuit in the country. I have looked upon it as a mere sham for other pursuits draining and to drain the agriculturist, to come and say, "Let us do something for the agriculturist." From whose pocket is to be drawn the means of conferring this benefit? Mainly from the agriculturists themselves, who are then to receive a share of the whole sum which they are required to pay out. Agriculture needs no teaching by Congress. The wide extent of our country, the great variety of its soil and climate and product, render it impossible that there should be anything else than local teaching in relation to agriculture. The States are sovereign; and there is the care of the education of their youth, and their direction into any pursuits which the public weal may require. This Government was instituted for no such purpose; and when it invades that prerogative of the States, it commits violence on the sovereignty of those by whom it is created. I was pleased to hear the Senator from Minnesota [Mr. Rice] this morning state, with such clearness and force, the unconstitutionality of the measure which is pending, and the abuses which it would work in the new and landholding States.

There is another provision, which, so far as I have heard the debate, has not yet been noticed. It provides for working a forfeiture, attaching a penalty to a State which shall sell some part of the land and not establish a college, requiring it hereafter to refund the money. Did Senators forget that it was that fatal blunder of the old Confederation which utterly destroyed it, rendered it incapable of performing its duties, either in peace or in war; that it was that fatal error committed by the formers of the Confederation which rendered it necessary, subsequently, to revise it, and to form the more perfect Union, which now exists? This Government cannot coerce a State; this Government cannot require of a State to pay money; and the error being discovered, our system was corrected, and the present mode of gathering taxes from the people adopted, making the laws work upon individuals, where they may operate, instead of upon the States, where they cannot be enforced. But the human mind has been said to be represented by a circle; and if the constant returning to exploded errors as soon as they have been forgotten, prove it, we find in this but another example, that having completed the circle, we get back to the very error from which we originally departed. In the third provision of the fifth section of this bill, one of the provisions of the grant is, that failing to establish an agricultural college, "said State shall be bound to pay

the United States the amount received of any lands previously sold, and the title to purchasers under the State shall be valid." How, pray, is that money to be collected? Are Senators willing to commence this controversy with a State? Do they propose, by law, to provide for levying upon the property of a State, subjecting it to execution, compelling the State to pay? All the benefits which gentlemen may anticipate from their agricultural colleges, will fall greatly short of an evil to be worked by a single such example.

I have not risen to discuss this bill. Others have done it before me; and but for one or two remarks which remained unanswered, I should have been silent upon the subject. It is, disguise it as you may, the mere adoption of that which is thought to be the largest and most influential class in the country, to cover an attempt to found colleges in the States for the benefit of the education of youth, to found them by the United States instead of by the sovereign people, who are the true guardians of their own youth, and in whose hand I much prefer to leave their custody.

Mr. COLLAMER. Mr. President, the first question which gentlemen seem to urge in this case, is the question of constitutional power. In relation to that point, while many gentlemen suggest it and make elaborate remarks in explanation of it, they all say they do not propose to enter very extensively into it. I propose to take the same course. In the first place, I will remark that I know of no bill which can be declared unconstitutional, when, if it were passed into a law, a court would say it was constitutional. I take it that if this bill were passed, and the question were presented to the Supreme Court whether it was a constitutional bill, they would turn to the Constitution and see whether Congress has, by the Constitution, power to pass the law. If Congress has power to pass the law in question, the court says it is constitutional. Now, I take it, that is a test by which we can ascertain whether a bill is constitutional for us to pass.

Well, sir, suppose we pass this bill granting lands, and it comes before the court: the question is, whether Congress had power to pass the bill. The Constitution is referred to, and it is found to provide that Congress "shall have power to dispose of and make all needful rules and regulations concerning the territory or other property belonging to the United States." I take it to be clear, that this is a grant of power to Congress to dispose of the public lands. Does it say sell? Not at all. Does it confine us to having a *quid pro quo* for every grant of land which Congress makes? Not a word of it. It is a simple, unqualified, unlimited grant of power to dispose of the public lands. When, under this grant of power, Congress has made a grant of public lands, (like that made for the asylum in Kentucky, for instance), can a court say that that was an exercise of power not given by the Constitution? Clearly not. Then the law would be constitutional. Then it is within our constitutional power to pass this bill into a law. Everything else in the case is a question of expediency, of propriety. The great question is one of power. The power to regulate commerce has been decided by the Supreme Court to be a power to destroy commerce utterly; to lay an embargo, as Congress did lay one, without limit; to destroy all foreign commerce limitedly, or extensively, or utterly. So are all grants of power. There may be a question with the people, whether they will grant a particular power; but the possibility of misuse is no sufficient argument against the grant of power, if so be it is necessary. I have no more to say about this question of power, nor am I to feel round in the various modes in which this power has been exercised, to ascertain the limitations of it, for it clearly has none. That is an end of that subject, to my mind; that disposes of that question; there is no more of it.

Next, Mr. President, in relation to the propriety and policy and expediency of the exercise of this power in this way. A question was very pertinently put, as I thought, by the honorable Senator from Rhode Island to the honorable Senator from Missouri, what was the difference between a grant such as this bill proposes, and those grants of lands to which the Senator from New Hampshire called our attention for the support of schools? I understand the answer of the honorable Senator from Missouri to be, that the

grant of the sixteenth and thirty-sixth sections of land in every township was merely to encourage the sale of the public lands. Sir, I utterly repudiate any doctrine of that kind. The gentleman would fain have us believe that our predecessors here, all former Congresses, never entertained any other principle in these grants, but merely to get along with the sale of land; that the purpose was not to educate the people; and that, if that result followed as a consequence, it was one which was unintentional, accidental, and unavoidable. On the other hand, I say that was the great purpose. The object was not only to sell land to the people who would go there and settle, but to improve and elevate the condition of that people, when they had settled, just the same as granting to them after they had settled. So, too, of the grants to universities.

It is said those grants were contained among various propositions which entered into the agreements with the States for admitting them into the Union, they foregoing the right of eminent domain and the right of taxation, and the Government of the United States making these grants in consideration thereof. Well, sir, if the United States have not the power to grant away the public lands for purposes which are proper in the discretion of Congress, how came they to trade them off for the relinquishment of the right of eminent domain, getting no money whatever? Sir, the real fact is, that all those grants were nothing but a mere exercise of the discretion of Congress, committed to them in the great power to dispose of the public lands.

Then, if a grant can be made by Congress of the public lands for a service important in their discretion, I have hardly heard an objection made to this grant, unless it may be that urged by the honorable Senator from Virginia. What can be the matter with this? Why is it that our young and rising States—the land States, as we call them—should act so grudgingly to the older States of the Union—those older States, who spent their money and shed their blood in obtaining these very lands? Why is it that such a grudging illiberality is manifested on the part of the newer States of this Union to the older States having any return from these lands? With the exception of the Kentucky grant, which has been alluded to, not a single acre has ever been had from all this vast domain by one of the old States of the Union; and I cannot understand why our friends in the older States in the southern portion of the Union should be so unwilling that the original members of the Confederacy shall have some modicum of this great domain, or the avails of it.

Some gentlemen from the new States say that if this grant be made, the old States will be large landholders within their limits. This bill provides expressly that not a single old State shall be the landholder of an acre there. They are merely to have scrip to sell in the market, appropriating its avails to the cause of agricultural education. But it is said they may go into the market, and sell their scrip to men who are worth millions of dollars, and they will get quantities of it, and locate it in some new State all in one body, and keep it out of taxation, and keep it out of settlement, until it rises in the market. That may be a very ingenious argument; but to me, without meaning to say that these honorable gentlemen see it in any different light, it is a mere bugbear. Is there any prohibition to-day against a millionaire, if you please, or an association of them, in New York or elsewhere, locating with their money any tract of land, to any extent they please? None in the world; and there has not been any such prohibition. The policy of the newer States has always been to get the land out of the General Government into the hands of private individuals as soon as possible, so that they could lay taxes upon it. While it belongs to the General Government they cannot tax it; but the moment it passes into the hands of an individual they can. Now, we are proposing to put some more land in that condition; so that they may tax it. The honorable Senator from Missouri, however, says they can only tax to a certain extent; only to the amount of the original cost, whereas they tax those who make improvements on their improvements. That is the mere fault or folly of the State itself. Their mode of taxation is a matter within their own control. They can estimate

the land at what it is worth; and if it rises day by day in the market, although it is unbroken and untouched, they may put it in at a proper estimation, and tax it accordingly. They cannot be cheated, unless they desire to be cheated, out of taxes in that manner. The longer the land is kept, and the nearer settlements come to it, the higher it rises in value. Have the owners any inducement to keep it from rising in the market, and thereby to prevent its being taxed according to its value? What inducement have they to keep down the price of their own land? It is like the man who charged another with cheating in maple sugar. "Oh," said he, "you water your sap, [laughter,] and that is the way you cheat in the sugar." The whole of this idea, in my estimation, amounts to nothing on earth.

Now, sir, it is true, unfortunate as it may be, we must actually own up, that if this bill shall pass, the older part of the United States will really get some portion of the avails of the public lands. There is the sum and substance of the whole matter. They will probably get something for a certain purpose. If it is agreed on all hands that that is the purpose to be defeated, and that the only object in defeating this bill is to prevent that, say so; let the vote decide it. Some of them will not take it for fear their neighbors may get some good from it; and the objection is that it is really legislating so as to do some good to somebody. I have heard it urged sometimes on this floor that it is unconstitutional to legislate so that our legislation shall benefit any particular class of men. If I understand the meaning of this, it is that we must take care to legislate so that it shall not do any good to any class of men; then it will be very constitutional and excellent!

Mr. President, it is said by the honorable Senator from Virginia that, if this bill is passed, and the States submit to it, it is delivering over their own State policy in relation to the science of agriculture, and the improvement of it as an art, to the policy of the General Government. The very reverse of that is the leading feature and great excellence of the bill. I know, and we all know, that President Washington, and, I believe, some Presidents after him, urged the idea that we should have a national university—a great system of education in our center, national in its character. That hope, that desire, has never been realized. It is a great excellence of this bill that it foresees that no one system of agriculture, no one department of science or art, could possibly adapt itself to the varied condition of the various parts of this country. In one part of the country it is desirable to encourage, if you please, the cultivation of Irish potatoes, or flax, or oats; in another part of the country, the great object is to promote the cultivation and encourage the growth of cotton, tobacco, sugar, and rice. Now, if you are to fit up an institution for instruction in this important branch of national economy, you could make no system that would be adapted to the varied condition of the different States of the Union; and hence this bill proposes to give to the States themselves the means of adopting a course of agricultural education suitable to the wants and the condition of their respective communities. That is a great advantage and leading feature of the bill.

I need not enlarge on the importance of agriculture. All understand it to be the great leading interest of the country. I know it may be urged as an objection, that, in proportion to their extent, the older States may get more land than the new States, by taking the basis of the ratio of representation. In answer to that, I will merely say, that in point of fact, the old States of the Union educate a larger number of people for the new States, especially for the newest of them, than they educate themselves. The rising generation, educated in the older States, furnish the material to feed the pabulum of population in the newer parts of the United States. Gentlemen say we have got along pretty well in agriculture. I do not desire to make any unfortunate exhibitions; but the truth is not to be disguised that it is very much feared, after all the effort which has been put forth by our agricultural societies, by our agricultural publications, by all the associations we could make—whether, in point of fact, the longer we inhabit the country, we do not make it the less productive; whether, really, in parts of the United States, the land has not deteriorated just about in proportion to the length of time the

country has been inhabited; and whether we shall not go on stripping the country, and leaving a track of desolation behind. To prevent that, the great cause of agriculture demands instruction. It needs it; and it should receive it in that part of the United States where the necessity is most felt.

Mr. GREEN. Mr. President, the Senator from Vermont seems to think that there is no difference between this and the existing system for disposing of the public lands; because, he says, capitalists now have the right to go and form associations and purchase large quantities. That is unfortunately true; and it is a great defect in our land system. But this bill, if it become a law, will magnify the evil of which we at present complain. Even the issuance of land scrip to soldiers, to those who served in the wars, has had the effect of reducing the price of public lands from \$1 25 to about ninety cents per acre. Just in proportion as you reduce the price of the public lands, in the same proportion do you enable capitalists to control large bodies of the public land. Now, if you throw out scrip for six million acres to the States, under this guise, this pretext, this humbug, for it is nothing more nor less than that, it will deteriorate down to sixty or fifty cents per acre, and thus you double the evil of which we at present complain. It is not, therefore, enough for him to say that a man may now, for \$1 25 an acre, buy as many acres as he has dollars and quarters. The system he is seeking to superinduce brings the real, practical value of the land down to fifty cents, and therefore he doubles, and almost trebles the evil; and this is a sufficient answer to all his argument on that point.

He says that there is no difference between granting lands for common schools and for seminaries of learning; and to state the question in that general, broad way, most persons would say there was plausibility in it, and would see no difference between the aid of the Government being extended to bring about an ordinary common-school education and a full collegiate course. They would be apt to say there was a difference in degree, but not a difference in principle. Most men would say so; but if you go back to the circumstances under which these grants have been made, and understand them as a statesman, you will see why it was done in the one case and why it ought not to be done in the other. It is this: Congress has a right to dispose of the public lands; Congress has not a right to make any needful rules and regulations except with a view to the disposing of the public lands, and to protect them before they are disposed of. Congress has the same right over a fort, over a man-of-war, over this Capitol, that it has over the public lands; because the grant of power in the one case is the same as it is in the other case:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

If this Capitol belongs to the United States, Congress has the same power over it that it has over the public lands, or a man-of-war, or a mule bought for the transportation of any munitions of war, or any other public property. It is all on the same basis, as property. How will you dispose of it? If it were found to be a judicious exercise of prudence, to appraise a mule before you sell him, you have a right to do it; because you have the right to dispose of and make all needful rules and regulations concerning the public property. The appraising of that value may cost you \$2 50; but yet it may be a wise exercise of a constitutional power. Here are thirty-six sections of land in a township. Experience, common observation, the power of reason, may prove to us that men will buy them quicker by giving them the sixteenth section for the use of public schools. Knowing that that sixteenth section inures to their benefit, they will buy the other thirty-five sections quicker and at a higher price than they would if you did not give them any; and it is upon that practice, and upon that alone, that Congress has exercised the power to give the sixteenth section. Who has ever supposed the sixteenth section was given as a bonus, as a mere gift? It never has been done in any case; and I will make this additional remark: until within a very few years past the sixteenth sections were never reserved in Territories. They were not given except to the States, at the time the compact was entered into. Recently a sort of new

idea has sprung up in the Congress of the United States, and a sort of safeguard is thrown out to prevent the sale of the sixteenth section, and we have, therefore, in organizing the Territories recently, reserved the sixteenth section; but we do not give it, we reserve it. There is, however, an implied promise that we shall give it when the proper time comes. Now, it is my understanding that when it is given, it is on two grounds: first, as an inducement to purchasers to go and take the thirty-five sections, this one section being given to them to enable them to educate their children for agriculture, for the mechanic arts if you please, for the learned professions if you choose to put them into them; and in the second place, because the State, at the time it takes this grant of the sixteenth section, agrees not to tax the land of the United States. There never was any similarity between this and a bonus.

Now, I ask Senators, and the Senator from Vermont especially, to notice and answer this point: The sixteenth section being granted to the new States on condition that they shall not tax the other land, and, with the view of selling the other land surrounding that sixteenth section, can any of the reasons for that apply to the State of Vermont, in granting forty thousand acres to her as a State? I appeal to him, and I appeal to every other Senator, in a constitutional point of view, and in reference to the fact that Congress has a right to dispose of the public lands.

Mr. COLLAMER. If the gentleman had listened to me with anything like the degree of attention I do to him, he would not misunderstand my argument. I say the power to dispose of the public land is a naked grant. The manner of disposing of it is a question for the expediency of Congress, with their sense of propriety, in view of the public advantages; and when they grant it, they grant it exercising the power which is conferred in the Constitution, without limitation.

Mr. GREEN. Then I understand the Senator's present position to amount to this: that the power to dispose of the public land is an absolute grant of power to give it away if they see fit to do so, and that whether they will give it or not, appeals to their prudence, propriety, and judgment of necessity.

Mr. COLLAMER. I have not the least doubt but that we can give it to the States in which it lies if we choose.

Mr. GREEN. I understand it perfectly, and differ from him entirely. I understand the power "to dispose of" to be a power to sell or superinduce those circumstances which will induce sale. The power to dispose of includes the power to survey, to open land offices, to make maps and charts, to appoint officers to sell the land. All this is included within the power to dispose of. It implies sale, it implies transfer for consideration. It does not imply gift or transfer without consideration; and when the Senator assumes that to be the Constitution, he assumes it in the teeth of the practice of the Government, and in the teeth of the plain letter and reading of the Constitution itself. "Dispose of," is the language. When you propose to dispose of your horse, to dispose of your slave, to dispose of your house, what do you mean? It has a fixed, technical, critical meaning; it means sale upon consideration. "Dispose of." When the land was given up by the State of Virginia in the Northwest Territory, and when the land was surrendered by other States, and the power to dispose of it was given, it was understood by the terms of the grant that it should be disposed of to lessen the public burdens, and it was so specified in the grant; and when the Constitution made use of these words it was intended to conform to the contract into which the Government had entered with Virginia and with other States.

Is it to be supposed—will any man with common judgment for a moment believe—that Virginia gave away the whole of the Northwest Territory without consideration, and at the same time assented to a Constitution which gave Congress the power to give it away without consideration? Never. It is contrary to the ordinary principles of human reason. She gave it with the express understanding that it should be appropriated to lessen the public burdens. So did Georgia; so did South Carolina; so did Pennsylvania, in her relinquishment of the western reserve. All of them acted upon this idea: it has been acquired

by the common efforts of our joint association; we have gone into this Revolution as brothers and sisters; we have fought through the Revolution; our independence has been achieved; it has been acknowledged; we now form a joint Government, federal in its character; we meet together as equals; this domain outside of our limits proper we give up to lessen the public burdens. How can it lessen the public burden, if the Federal agent, thus created by the association of States, can give it without consideration to any one State? There is no power to do it.

The Senator alluded to the swamp land grant. Look to the swamp land grant. That swamp land grant is predicated alone upon this idea: these lands have been in market for years, and would not sell; they are flooded; they are overflowed, or subject to overflow; they cannot be cultivated without artificial drainage; they require ditching; they require the expenditure of money before they are worth anything; therefore, as it will be for the advantage of all the land in the immediate vicinity of those overflowed and flooded lands, we will give them away on condition that the State will appropriate the whole value of them in reclaiming them from inundation. It was on this principle that the swamp lands were given. On the principle I have before explained, the sixteenth sections were given away. On the principle I have before explained, the alternate sections for railroads were given away. But where, let me ask, except in the single instance of the deaf and dumb asylum in Kentucky, were lands given away as a mere gift?

I think I remember an application made for a donation to the descendants of the discoverer of America; yet it was rejected on the ground that we had no right to give the land away as a gift. The power "to dispose of," implies a right to sell, exchange on terms equivalent to their value, and to take any necessary steps in order to offer them for sale; because, if we have a right to sell, we have a right to take all necessary steps to secure a sale. You cannot sell a piece of land until you know its bounds; you must know to what tree, line, mark, or river, the tract extends that you propose to sell. In order to know that, you must have a survey. In order to know the tract, you must have field-notes. In order that those field-notes may be fixed and determined as a record, you must have charts and maps. In order that some agents may be intrusted with it, you must have land officers. All of these are indispensably necessary; but none of them come up to this wild notion of giving away lands—and for what purpose? To the State of Vermont one hundred and twenty thousand acres of land—for what? Have you a right to do it? Have you a right to educate and instruct her children in the science of agriculture? I have thought each State was separate and independent except on the point on which they were united in the Constitution. Where, in the Constitution, have you the right to touch the subject of agriculture? We have all sworn to stand by the Constitution. Is there in it any grant of power to us to foster education for agriculture, for the mechanic arts, for science in any of its branches, for law, or physics, or for divinity? None whatever. Now, if we do it, are we not departing from the original purposes for which the Union was formed? And if we depart in one instance, if we break over the boundary line that separates us from our right and our wrong, is there any point at which there is a certainty that we shall ever stop?

There is another view. There is a vast difference between political action as a political body, as we are, and the action of such tribunals as a court. They decide only such questions as come before them. We take the whole range of right and wrong, of constitutional power and expediency. We may err, and there may be some cases in which they can correct us. We may err, and yet we may err in a case in which they cannot correct us. There may be cases in which the court will say, and say properly, that we are the judges. We are the judges of the propriety, of the expediency, and necessity, in such cases. If we make a wrong decision, the court cannot rectify and correct us.

Mr. President, all the argument I made in regard to the impolicy of the measure, in collecting together large bodies of lands, in which the new States would have no power of taxation, stands

unanswered, and, as I think, unanswerable. All that I have said with regard to the unconstitutionality of the measure remains still, strengthened the more it is investigated; for every attempt to evade it proves that the very instance in which they seek to evade it is an exception in which the rule is not only confirmed, but strengthened by the exception. As the Senator from Mississippi remarked, there may have been a departure in the case of the deaf and dumb asylum in the State of Kentucky. Suppose there was: is it wise to follow a single exception at the expense of fifty years of experience? or is it not still wiser to follow the experience of fifty years, and disregard the single exception? It is not because we oppose agriculture or the mechanic arts; it is not because we oppose any species of learning. Each State will fix its own system of education. Each community or parent, I hope, will leave no pains spared to develop the rising genius, and unfold the powers of the mind to the fullest extent, of all placed within their charge; but when this is done, does that justify a confederated Government of equals taking hold of the subject, and saying to Vermont, "you are poor, pitiful, neglectful of the duty, and we will compel you to do what you do not?" It amounts to that; it amounts to an insult to the State of Vermont. It is saying to her, "you neglect the agricultural education of your people." This Federal Government, in the city of Washington, assumes to say, without constitutional warrant, "you neglect your duty in educating your youths in agriculture, in botany, in chemistry, in the mechanic arts, and we will therefore provide a fund, and do what you unworthily neglect." The States ought to feel insulted at the offer made by the bill which is now being considered before the Senate.

I had supposed that each State was sovereign within its own limits, over its own subjects of consideration. I say more than that: there never has been an instance in which this Government ever undertook to compel a State to do what it had before a right to do. We establish a military school; we establish a naval school; and why? As the Senator from Mississippi very properly remarked, they are made part and parcel of the Army and Navy from the beginning; and if you have a right by your sergeant to drill; if you have a right by your midshipman to instruct, to direct an employé in the Navy, you have a right to instruct the naval officers and the cadets at West Point.

But one step further: when they are instructed, that officer in the Army and that officer in the Navy belong to—what? The one to the Army and the other to the Navy. What power have you over either? You have full, and you are the only authority that has full power over them. Suppose you educate your farmer, and suppose you educate your mechanic: when you educate him what power have you over him? Answer me. Can you say to him, "Sir, we have educated you; you belong to my farm; you belong to my manufactory?"

Sir, it is the introduction of a swallowing-up system that will conglomerate every power in this Government, gather it all in one common focus, and every farm will belong to the Federal Government, every manufactory will belong to the Federal Government; you will have mechanics and farmers, and you will say all of them owe you service. If you undertake to assimilate this, as has been done in the argument, to the case of the Navy and Army, it amounts to that, or it is an absurdity; and I trust that no Senator will be willing to take the latter alternative.

Mr. President, I am a friend of the farmer, but not by insulting him and saying he is unable to take care of himself. I am a friend of the mechanic, but not by insulting him and saying he needs a guardian in the person of the Federal Government. I trust I shall ever be the friend of the cause of education in all its branches, but not by saying that the States are too poor, insignificant, and untrustworthy, to be intrusted with the power that belongs to them. Nor will I insult the common mass of the people, and say that parents and guardians have not the right or the sense and judgment and heart to discharge their duty in the education of those placed under their authority. Mr. President, I leave the subject.

Mr. HARLAN. The Senator from Missouri made a personal allusion to me, and I will an-

swer him as to that. He cautioned me not to support this bill, lest it might result in a great injury to the State I represent. If I deemed him a better judge than myself on that subject, I should be certain to follow his advice; but the idea that the State of Iowa will be unable to tax the lands entered under this land scrip, if the bill should become a law, is certainly novel to me.

Mr. GREEN. The Senator misunderstood me entirely. I said, expressly, they could tax the land, but it would be the land without improvement. Speculators would buy up the scrip for a small sum—say fifty cents an acre—and then, holding the land without improvement, the State could only tax the unimproved land; whereas, if actual settlers bought it, the State could not only tax the land, but the improvements; and hence it would be a positive injury to Missouri, Iowa, and all the new States. My argument was not that you would not have the right to tax the land, but that, the land remaining without improvement, you would be deprived of the power to tax the improvements.

Mr. HARLAN. Will the Senator tell me, then, in what the power of a State over lands entered with scrip and lands entered with money differs?

Mr. GREEN. I tell him exactly this: with money it will take two dollars for one, and therefore the chances are two to one that they will not carry out the same system with money that they will with scrip.

Mr. HARLAN. Then, because this reduces the price of public lands one half, the Senator opposes the bill. Now, if it will have that effect, if it will result in bringing down the price of the public land in the market one half, the people of Iowa, and of Missouri, too, are interested in the passage of the bill in the very particular to which the Senator alludes, and on the very point on which he cautions me as to the character of my vote and action.

One other point. The Senator seems to think that the passage of this bill contemplates coercing a State to educate its people. In no other respect than in the passage of grants of land to aid in the construction of railroads in Iowa and Missouri, Congress compelled Iowa and Missouri to build railroads. A quantity of land is placed in the hands of Iowa as trustee for a particular purpose; to wit, to build a railroad, on the condition that if it be not completed within ten years, the lands shall revert to the Government of the United States.

Who supposed that by the passage of such a bill Congress intended to coerce the State of Iowa, or Missouri, or Minnesota, or Wisconsin, to engage in works of internal improvement? Nobody. So in this case. The General Government proposes to place lands in the hands of the States for a specific purpose, on conditions that are named. If the trust is accepted by the State, and the land applied faithfully by the trustee, the title vests in the parties mentioned; and if the State fails to execute the trust in good faith after having accepted it, the land will revert; but if the land be disposed of for some other purpose, thereby violating the conditions of the trust, then the State is to remunerate the General Government for the loss that the General Government sustains; and this is the whole of the assumed attempt to coerce the States to educate their people.

Mr. PUGH. There have been several amendments proposed since I made my former motion, and I have one or two myself to propose, and the debate is to go on. With a view, however, to put the bill at least in some better shape, I will renew my motion, that it be recommitted to the standing Committee on Public Lands; and I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. HAMLIN. I move that the Senate adjourn. It is now a quarter past four o'clock.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 1, 1859.

The House met at twelve o'clock, m.
The Journal of yesterday was read and approved.

PUBLIC DOCUMENTS.

Mr. WINSLOW. I ask the unanimous consent of the House to take from the Speaker's table the bill (H. R. No. 583) providing for keeping

and distributing all public documents, with the Senate amendment thereto.

There being no objection, the bill was taken up and the amendment reported, as follows:

Section five, line nine, strike out the following: "And the joint resolution, approved March 20, 1858, supplementary to the joint resolution of January 28, 1857, respecting the distribution of certain documents, is hereby repealed, except so much of it as strikes out the words 'by him,' at the end of the third section of said joint resolution of January 28, 1857, and substitutes in place thereof, the words, 'to him by the Representative in Congress from each congressional district, and by the Delegate from each Territory in the United States;'"

And insert in lieu thereof, the following:

And the joint resolution approved March 20, 1858, supplementary to the joint resolution approved January 28, 1857, respecting the distribution of certain documents, is hereby repealed; and the third section of said joint resolution of January 28, 1857, is hereby amended by striking out the words "by him," in the last line, and inserting the words "to him by each of the Senators from the several States, respectively, and by the Representatives in Congress from each congressional district, and by the Delegate from each Territory of the United States;"

So that the section will read:

SEC. 5. And be it further enacted, That all such journals, books, and other documents, shall hereafter be distributed according to and for the purposes now prescribed by law, except that the distribution of the same to the Governors of the States and Territories and to the judges of the courts of the United States, and other officers and public bodies within the States or Territories, shall be wholly under the control of the Secretary of the Interior; and the joint resolution approved March 20, 1858, &c. And provided, That such distribution shall first be made at the instance of the Representatives in Congress from districts in which such public documents have not already been distributed, so that the quantity distributed to each congressional district and Territory shall be equal.

Mr. WINSLOW. The bill passed the House last session. The amendment of the Senate only extends its operation.

Mr. JONES, of Tennessee. I do not see any necessity for it.

Mr. WINSLOW. There are works voted to members which must be distributed somewhere, and it is but just that they should be distributed in the mode provided for in the amendment. It is a very important bill, and there are several reasons why the action of the Secretary of the Interior should be facilitated at as early a day as possible. Gentlemen can thus designate the institutions to which they wish their copies to be sent; and if the passage of the bill be put off till a late hour, gentlemen will be unable to do so. I move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the amendment was concurred in.

Mr. WINSLOW moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PUBLIC LANDS IN ALABAMA.

Mr. SHORTER, by unanimous consent, introduced a bill to ratify and confirm certain entries of the public lands in the State of Alabama, under the act of August 4, 1854; which was referred to the Committee on Public Lands.

The bill ratifies and confirms all the entries of the public lands made in the Greenville land district, in the State of Alabama, between the 19th of May and the 16th of September, A. D. 1856, for actual settlement and cultivation, under the provisions of the "act to graduate and reduce the price of the public lands to actual settlers and cultivators," approved August 4, 1854; provided, that nothing in the act contained shall be so construed as ratifying and confirming any of said entries that were not made *bona fide* under the said act of August 4, 1854, and prior to the definite location of the routes of the "Montgomery and Pensacola," and "Girard and Mobile" railroads.

RUTLAND COURT-HOUSE, ETC.

Mr. WALTON. I rise to a privileged question. I call up the motion to reconsider the order whereby the joint resolution (S. No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot upon which the United States court-house stands, in Rutland, Vermont, in exchange for other land adjoining said lot, was referred to the Committee on the Judiciary, with a view of asking the House to put it upon its passage.

The joint resolution was read.

Mr. WALTON. The joint resolution has the sanction of the Committee on the Judiciary. The

Secretary of the Treasury asks for its passage. He says that it will add to the convenience and sightliness of the building, and will lessen the cost of inclosing the ground.

Mr. HOUSTON. I think if the gentleman will have read the letter of the Secretary of the Treasury, it will cover the whole case. I have no objection to the passage of the joint resolution.

The letter of the Secretary of the Treasury is as follows:

TREASURY DEPARTMENT, January 16, 1859.

SIR: I have to acknowledge the receipt this day of your letter of the 7th instant, transmitting copy of a resolution by the Senate to the Committee on the Judiciary, authorizing the change of a portion of the site of the Rutland, Vermont, court-house and post office, for a like area of land adjoining another part of the site, and requesting me to inform you, if such exchange of land is expedient and beneficial, whether any, and what, objections exist to the passage of the resolution; and also whether it ought, in any respect, to be modified.

In reply, I have to say that this site is in the form of an irregular parallelogram, and the change contemplated by the above resolution is to exchange a portion from the rear of the lot, of its longer dimension, for a portion of land adjoining its front, and thus added to its shorter dimension. As this will add to the convenience and sightliness of the building, and lessening the cost of inclosing the grounds, I deem the contemplated exchange, if made without cost to the Government, expedient and beneficial, and I know of no objection to the passage of the bill, nor do I see any necessity for modifying it.

Very respectfully,

HOWELL COBB,

Secretary of the Treasury.

HON. JAMES A. BAYARD,

Chairman Committee on Judiciary, Senate Chamber.

Mr. WALTON called for the previous question on the motion to reconsider.

The previous question was seconded, and the main question ordered to be put.

The motion to reconsider was agreed to.

The question recurred on the motion to refer to the Committee on the Judiciary.

The motion was not agreed to.

The joint resolution was then ordered to be read a third time, and was accordingly read the third time, and passed.

Mr. WALTON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXPENSES OF CONVICTS.

Mr. MORGAN. I ask the consent of the House to have an order made to print a document relating to a subject on which the House have no information. I refer to the report of the Comptroller of the Treasury on the expenses of convicts in the various States. I know every gentleman will be glad to have the information.

There being no objection, the order to print was made.

HOMESTEAD BILL.

Mr. GROW. I rise to a privileged question. I call up the motion to reconsider the vote by which House bill (No. 72) to secure homesteads to actual settlers on the public domain, was referred to the Committee of the Whole on the state of the Union. The gentleman from Georgia [Mr. STEPHENS] moved to lay the motion to reconsider on the table. I hope he will withdraw that motion, and let us have a vote directly upon the motion to reconsider, and not waste time by two votes.

Mr. STEPHENS, of Georgia. In order to save time, I will withdraw the motion to lay on the table, and allow the vote to be taken directly on the motion to reconsider. I believe the previous question has not been seconded on the motion to reconsider.

Mr. GROW. I called for the previous question. I suppose there is no necessity that this subject should be discussed at this period of the session.

Mr. STEPHENS, of Georgia. I simply desired to say a few words. I am against the bill; I think the whole land system ought to be changed; but I do not now wish to go into the discussion. I withdraw the motion to lay on the table, saying at the same time that I hope the vote will not be reconsidered; but that the bill will be retained in the Committee of the Whole, where we can discuss it.

Mr. MILLSON. I think the motion to lay the motion to reconsider on the table ought to be made and persisted in. I am not sure that there ought not to be discussion. If a reconsideration

takes place, the previous question will cut off all discussion. Until we ascertain what is the wish of the House in reference to the motion to reconsider, I prefer that the previous question shall not be ordered. I therefore move to lay the motion to reconsider on the table.

Mr. NICHOLS. I hope the gentleman from Virginia will withdraw that motion. I am as much opposed to this bill as he is, and I hope some arrangement will be made by which my reasons may be put on record; but it seems to me unnecessary to consume time by a vote on the motion to lay the motion to reconsider on the table.

Mr. MILLSON. If the effort is to be made to take up this bill at this period of the session, let the responsibility for delaying the public business fall where it should properly fall. I do not think a bill of this importance ought to be passed without debate. I think the attention of the country ought to be called to it.

Mr. GROW. This bill has been discussed in Congress for the last eight years.

Mr. MILLSON. Not before the members of the present Congress.

Mr. JONES, of Tennessee, called for the yeas and nays upon the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 69, nays 112; as follows:

YEAS.—Messrs. Anderson, Arnold, Avery, Barksdale, Bock, Bonham, Boyce, Branch, Burnett, Chapman, John B. Clark, Clay, Cobb, Burton, Craig, Davidson, Dowdell, Edmunds, Eustis, Faulkner, Foley, Garnett, Garrett, Gilmer, Goode, Greenwood, Harris, Hawkins, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Millson, Montgomery, Moore, Niblack, Nichols, Peyton, John S. Phelps, Reagan, Ricard, Rufin, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, William Smith, Southworth, Stephens, Stevenson, James A. Stewart, Miles Taylor, Tripp, Underwood, Vance, Watkins, Winslow, and Woodson—69.

NAYS.—Messrs. Abbott, Adair, All, Andrews, Atkins, Barr, Billingshirst, Bingham, Bliss, Brayton, Buffinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Clawson, Clark B. Cochran, John Cochran, Cockrell, Colfax, Conins, Corning, Coville, Cox, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Elliott, Farnsworth, Fenton, Florence, Foster, Giddings, Gilman, Good, Goodwin, Granger, Gregg, Grov, Lawrence W. Hall, Harlan, Haskin, Hatch, Hickman, Howard, Hodges, Howard, George W. Jones, Keim, Kellogg, Kelly, Kigs, Knapp, John C. Kunkel, Lawrence, Leach, Leidy, Leiter, Lovejoy, Maclay, Matteson, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pendleton, Pettit, Phillips, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Russell, John Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wortendyke, Augustus R. Wright, and John V. Wright—112.

So the House refused to lay the motion to reconsider on the table.

During the call of the roll,

Mr. LETCHER asked leave to vote, stating that he was absent on the Committee of Ways and Means when his name was called.

Mr. DEAN objected.

Mr. LETCHER stated that, if he had been within the bar when his name was called, he should have voted in the affirmative.

Mr. MOORE stated that Mr. SANDIDGE was detained from the House by sickness.

Mr. UNDERWOOD stated that his colleague, Mr. TALBOT, was still confined to his room by indisposition.

Mr. OLIN stated that his colleague, Mr. THOMPSON, was confined at his boarding place by sickness.

Mr. PHELPS, of Minnesota, stated that, if he had been within the bar when his name was called, he should have voted "no."

The question then recurred on the motion to reconsider.

Mr. GROW. The demand for the previous question is pending, I believe, upon that question.

Mr. VALLANDIGHAM. I ask the gentleman from Pennsylvania to withdraw his call for the previous question to enable me to ask him a question.

Mr. GROW. I insist on my demand for the previous question. When the motion to reconsider has been acted on, the gentleman can then ask his question.

Mr. VALLANDIGHAM. That will answer my purpose equally well.

Mr. MAYNARD. I wish to ask what will be the effect of seconding the previous question and

ordering the main question? Will it preclude amendment, if the motion to reconsider is agreed to?

The SPEAKER. The previous question extends only to the motion to reconsider.

The previous question was seconded, and the main question ordered to be put.

Mr. MILLSON. The previous question, I believe, has been ordered, and debate is not in order. I wish, however, to ask the gentleman from Pennsylvania if he has the slightest expectation that if this bill passes this House, it will pass the Senate at this session, or have any effect other than to delay the public business?

Mr. GROW. This bill has been discussed in the Senate during the last session, and during the present, and I think might be passed there without the necessity of further discussion.

Mr. JONES, of Tennessee. I will say to the gentleman from Virginia that if this bill does not pass the Senate during the present session it ought to.

The motion to reconsider was agreed to.

The question recurred on the motion to refer the bill to the Committee of the Whole on the state of the Union.

The motion was disagreed to.

Mr. GROW demanded the previous question.

Mr. MAYNARD. I ask the gentleman to withdraw his motion for the previous question, to enable me to offer an amendment to the bill.

Mr. GROW. I cannot.

Mr. SMITH, of Virginia. I rise to a question of order. I wish to know if it is in order to consider this bill now? In what way does it get possession of the House? The reconsideration of the vote referring the bill only brings the bill back to the position which it occupied when the motion was made; but does it entitle the gentleman to have it put on its passage?

The SPEAKER. When the bill was introduced, it was read twice and committed to the Committee on Agriculture. It was reported back by the committee, and on motion of the gentleman from New York [Mr. KELSEY] referred to the Committee of the Whole on the state of the Union. If the House had voted down the motion to commit, the question would then have been on the engrossment and third reading of the bill.

Mr. GROW. I withdraw the demand for the previous question, to enable me to offer the following amendment:

Be it further enacted, That from and after the passage of this act no public land shall be exposed to sale by proclamation of the President, unless the same shall have been surveyed, and the return of such survey duly filed in the Land Office for ten years or more before such sale: *Provided, however*, that whenever the President shall ascertain that any township or townships of the public land are pine or mineral lands, he shall be authorized to proclaim such township or townships for sale, as now provided by law.

Mr. JONES, of Tennessee. I say to the gentleman from Pennsylvania that if he insists on that amendment, and it is adopted, I shall vote against the bill.

Mr. VALLANDIGHAM. So shall I, although otherwise determined to vote for the bill.

Mr. GROW. I renew my demand for the previous question.

Mr. MAYNARD. I rise to a question of order. I rose and was recognized by the Chair. While I was upon the floor, I sent an amendment to the Speaker's table, which I asked should be reported. I have not yielded the floor from that time to this.

The SPEAKER. The gentleman from Tennessee only held the floor by the courtesy of the gentleman from Pennsylvania.

Mr. MAYNARD. Then I ask the gentleman from Pennsylvania to extend that courtesy to allow my amendment to be read.

Mr. GROW. At the request of gentlemen around me, who wish to have a direct vote upon a naked homestead bill, I withdraw the amendment which I offered, and ask for a vote upon the engrossment and third reading of the bill.

Mr. MAYNARD. Will the gentleman allow me to have my amendment reported?

Mr. GROW. I insist upon my demand for the previous question.

Mr. MORGAN. I object to the gentleman withdrawing the demand for the previous question, unless he yields the floor altogether.

Mr. HUGHES. I move to lay the bill on the table.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania as being entitled to the floor.

Mr. GROW. Then I withdraw the previous question simply to say that the gentleman from Ohio wanted to ask—

Mr. HUGHES. I moved to lay this bill upon the table.

The SPEAKER. The gentleman from Pennsylvania was upon the floor at the time.

Mr. GROW. I was about to say that when the motion to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union was pending, the gentleman from Ohio desired to ask me a question. I stated to him that if he would wait a few minutes, until the bill was before the House, I would hear his question. I then demanded the previous question.

Mr. MORGAN. I object to any question.

Mr. VALLANDIGHAM. I desire to ask for information in regard to this bill; and I hope the gentleman from New York will withdraw his objection.

Mr. MORGAN. No, sir; I do not.

Mr. GROW. Then I insist on the previous question.

Mr. ATKINS. I would vote for a proper homestead bill. But I object to this bill, as do some of my colleagues, for the reason that it gives the benefits of its provisions to unnaturalized persons. I desire to know if it would be in order to strike out the fifth line, in which the benefits of this bill are extended to unnaturalized persons?

The SPEAKER. It is not in order.

Mr. ATKINS. Then I shall vote against the bill.

Mr. HUGHES. I move to lay the bill upon the table.

Mr. JOHN COCHRANE. I call for the reading of the bill.

The bill was read as follows:

A bill to secure homesteads to actual settlers on the public domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his intention to become such, as required by the naturalization laws of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands which may, at the time the application is made, be subject to private entry, at \$1 25 per acre, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

Sec. 2. *And be it further enacted*, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, or is twenty-one years or more of age, and that such application is made for his or her exclusive use and benefit, and those specifically mentioned in this act, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time thereafter, the person making such entry, or, if he be dead, his widow, or, in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they, have continued to reside upon and cultivate such land, and still reside upon the same, and have not alienated the same, or any part thereof, then, in such case, he, she, or they, if at that time a citizen of the United States, shall, on payment of ten dollars, be entitled to a patent, as in other cases provided for by law: *And provided, further*, In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and the fee shall inure to the benefit of said infant child or children, and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children for the time being have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

Sec. 3. *And be it further enacted*, That the register of the land office shall note all such applications on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Sec. 4. *And be it further enacted*, That all lands acquired under the provisions of this act shall in no event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

Sec. 5. *And be it further enacted*, That if, at any time after filing the affidavit, as required in the second section of this act, and before the expiration of the five years afore-

said, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry for more than six months at any time, then, and in that event, the land so entered shall revert back to the Government, and be disposed of as other public lands are now by law, subject to an appeal to the General Land Office.

Sec. 6. *And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application, at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued: *Provided*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights.

Mr. SMITH, of Virginia, called for the yeas and nays on the motion to lay the bill upon the table.

Mr. BRANCH demanded tellers upon the yeas and nays.

Tellers were ordered; and Messrs. McQUEEN and KELSEY were appointed.

The House divided; and the tellers reported—ayes forty-two, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 113; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bonham, Bowie, Boyce, Branch, Burnett, John B. Clark, Clay, Cobb, Burton, Craige, Crawford, Curry, Davidson, Day, of Maryland, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Garnett, Garrett, Gilmer, Goode, Greenwood, Harris, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, Lecher, McQueen, McKee, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Millson, Montgomery, Moore, Niblack, Nichols, Peyton, John S. Phelps, Reagan, Ricard, Ruffin, Savage, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Stalls Taylor, Trippe, Underwood, Vance, Watkins, Winslow, Woodson, Augustus R. Wright, and Zollcoffer—77.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Barr, Billingshurst, Bingham, Bishop, Bliss, Brayton, Brinton, Burlingame, Burns, Burroughs, Case, Cavanaugh, Chaffee, Clawson, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, James Craig, Cursis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Florence, Foley, Foster, Giddings, Gilman, Goodenow, Goodwin, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Haskin, Hatch, Hickman, Hoard, Hodges, Howard, Jewett, George W. Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leidy, Leiter, Lovejoy, Macclay, Matteson, Miller, Morgan, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pendleton, Pettit, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Russell, Scott, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Vallandigham, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wortendyke, and John V. Wright—113.

So the House refused to lay the bill upon the table.

During the call, Mr. GROW stated that Mr. SHERMAN, of Ohio, had paired off with Mr. BOGOCK; that Mr. SHERMAN was in favor of the bill and Mr. BOGOCK opposed to it.

Mr. KEITT. If this is the time to correct the record, I desire to call the attention of the House to the fact that the name of the gentleman from Tennessee, Mr. JONES, is found in the negative; the gentleman from Tennessee who usually votes against all expenditures from the public Treasury. [Laughter.]

Mr. JONES, of Tennessee. The record is right; and I have made a record which I am willing to stand by.

The vote was then announced as above recorded.

Mr. MAYNARD. I appeal to the gentleman from Pennsylvania to withdraw the call for the previous question, until the amendment I desire to offer can be read.

Mr. GROW. I cannot withdraw it. If the House wants to vote it down, they can do so.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GROW. I demand the previous question upon the passage of the bill.

Mr. MARSHALL, of Kentucky. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

Mr. GROW. And I move to lay the motion to reconsider on the table.

Mr. MARSHALL, of Kentucky. I have the floor; and the gentleman from Pennsylvania cannot get it to make that motion.

The SPEAKER. The question is not debatable.

Mr. MARSHALL, of Kentucky. Has the previous question been seconded?

The SPEAKER. It has been demanded.

Mr. MARSHALL, of Kentucky. I do not desire to have this bill passed without debate. It has never been debated.

Mr. GROW. It has been debated for the last eight years.

Mr. MARSHALL, of Kentucky. I move a reconsideration, and I ask to have my motion entered. I will not discuss it at this time. Let the gentleman travel on with his bill, but I hope the House will not lay my motion to reconsider upon the table; for I give notice that I desire to be heard hereafter upon it.

Mr. JOHN COCHRANE. Has the motion to lay the motion to reconsider on the table been made?

Mr. GROW. I made the motion, and adhere to it.

Mr. HOUSTON. Does that motion take precedence of the motion for the previous question? If the House should vote down the previous question, then the motion to reconsider could be called up, and the gentleman from Kentucky would be entitled to the floor for the purpose of debate. If the Speaker should rule that the motion to lay upon the table takes precedence, then the gentleman from Kentucky, who made the motion to reconsider, may in that way be cut off from debating it, while at the same time the House may negative the previous question.

The SPEAKER. The gentleman from Kentucky can relieve himself from the difficulty by withdrawing his motion to reconsider.

Mr. MARSHALL, of Kentucky. I desire to call the attention of the Speaker to one single point in the ruling of the Chair, with the hope that it may produce some effect with reference to his ultimate decision. The bill was ordered to be engrossed and read a third time, by a vote of the House; and then, sir, the gentleman from Pennsylvania called for the previous question on the passage of the bill. My motion is to reconsider the vote by which this bill was ordered to be engrossed and read a third time. The previous question, at that stage and at that point of the proceeding, had exhausted itself. Then, does the demand for the previous question on the passage of the bill attach to my motion to reconsider, so as to cut me off from any opportunity to advocate that motion? Does not my motion have precedence of the question upon which the previous question has been called? Can I not be heard on my motion at a point where the previous question has been exhausted without being affected by the call for the previous question on the passage of the bill? If I am right—and I think I am in the view I take of the question of order—I do not care to lose my chance, at this time, of addressing to the House the opinions I have of the pending measure.

Mr. MORRIS, of Illinois. I should like to know how the gentleman voted?

The SPEAKER. Where the vote is not recorded it has not been usual to raise, when a motion to reconsider has been made, the inquiry whether the mover voted in the affirmative or negative, because there are no means of ascertaining how the member voted.

The practice of the House has been uniform, as the gentleman from Kentucky must remember, that whenever an undebatable motion is pending, all incidental questions arising during its pendency must be decided or disposed of without debate. For instance: in this very case, if the gentleman from Kentucky appeals from the decision of the Chair, that appeal is not debatable, for the reason that an undebatable motion is pending before the House. Such has been the uniform practice of the House, without exception, since the present occupant of the chair has been a member of the House.

Mr. MARSHALL, of Kentucky. I do not

appeal from the Chair's decision. I only presented the rationale of the thing.

The SPEAKER. The gentleman from Pennsylvania moves that the motion to reconsider be laid upon the table.

Mr. MARSHALL, of Kentucky. Does the gentleman propose to call up my motion now, when I desire to have it go over until a future day?

Mr. GROW. I propose just this: if there be a majority of the House in favor of the passage of the bill, to press its passage at this time.

The motion to reconsider was laid upon the table.

The previous question on the passage of the bill was seconded, and the main question was ordered.

Mr. BARKSDALE demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 76; as follows:

YEAS.—Messrs. Abbott, Adair, Andrews, Barr, Billingshurst, Bingham, Bishop, Bliss, Brayton, Brinton, Burlingame, Burns, Burroughs, Case, Catanaugh, Claflie, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Cockrell, Colfax, Conins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Davies, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Florence, Foley, Foster, Giddings, Gilman, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Haskin, Hatch, Hickman, Howard, Hughes, Horton, Howard, Jewett, George W. Jones, Keane, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, Maclay, McKibbin, Matteson, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pendleton, Pettit, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Russell, Scott, John Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Vallandigham, Wade, Walbridge, Waldron, Walton, Ward, Cudworth, C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wortendyke—120.

NAYS.—Messrs. Anderson, Atkins, Avery, Barksdale, Becock, Bonham, Bowie, Boyce, Branch, Burnett, Castie, John B. Clark, Cobb, Burton Craige, Crawford, Curry, Davis of Maryland, Dowdell, Edmundson, English, Eustis, Faulkner, Garnett, Garrett, Gilmer, Goode, Greenwood, Harris, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Kent, Jacob M. Kunkel, Lamar, Leidy, Letcher, McQueen, McKee, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Millson, Moore, Niblack, Nichols, Peyton, Ready, Reagan, Ricard, Rufin, Seales, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, James A. Stewart, Trippie, Underwood, Vance, Watkins, Whiteley, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollieffer—76.

So the bill was passed.

Mr. GROW moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. GROW demanded the previous question on the title of the bill.

Mr. WRIGHT, of Georgia. Is it in order to amend the title?

The SPEAKER. The previous question has been called.

The previous question was seconded, and the main question was ordered; and under the operation thereof, the title was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. PIKE, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled, a joint resolution authorizing the Secretary of the Treasury to convey a portion of the Government lot, upon which the United States court-house stands, in Rutland, Vermont, in exchange for other land adjoining such lot; when the Speaker signed the same.

FRENCH SPOILIATION BILL.

Mr. FAULKNER. I call for the regular order of business.

Mr. CORNING. I ask the gentleman to yield a moment, until I can introduce a bill for reference only.

The SPEAKER. The first business in order is House bill (No. 552) to provide for the ascertainment and satisfaction of claims of American citizens, for spoiliations committed by the French, prior to the 31st day of July, 1801.

Mr. BURLINGAME. Mr. Speaker, inasmuch as the claims covered by that bill have been discussed for the last fifty years, I have risen, not for the purpose of making a speech, but to make a motion. Twenty-six reports have been made

in favor of these claims. A bill for their payment has passed the Senate five times, and the House twice.

Mr. LETCHER. I rise to a point of order. I desire to know whether this bill can be considered in the House without having been first considered in the Committee of the Whole on the state of the Union? I hold that under the terms of that bill it makes an appropriation. The Secretary of the Treasury, under its terms, can redeem these certificates whenever there are funds on hand to do it, without further legislation by Congress. If that be so, then I hold that under the rules the bill must go to the Committee of the Whole on the state of the Union for consideration there.

Mr. FAULKNER. Is this the special order for to-day?

The SPEAKER. The Chair is not aware of any special order for this day. This bill was postponed two weeks ago.

Mr. BARKSDALE. Is there not a motion pending to refer this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. There is.

Mr. FAULKNER. I call for the regular order of business.

The SPEAKER. This is the regular order of business.

Mr. BURLINGAME. Twelve of the States of this Union, through their Legislatures, have recommended the payment of these claims.

Mr. LETCHER. I want my point of order settled before we go any further.

Mr. BURLINGAME. I thought that it was settled.

Mr. WASHBURN, of Maine. I would like to put an inquiry to the gentleman from Virginia, as well as to the Chair. Does this bill differ in any essential particular from the last bill for this purpose which passed, and upon which a precisely similar question of order was raised? The decision of the Chair was, that it was not necessary in that case to refer the bill to the Committee of the Whole on the state of the Union, for the reason that it only declared a liability, and did not make any appropriation of money; and that decision was sustained by the House.

Mr. LETCHER. That is the point in controversy.

Mr. WASHBURN, of Maine. There have been several like decisions upon previous French spoliation bills identical almost with this.

Mr. HOUSTON. Is the point of order debatable before an appeal is taken or the decision of the Chair is made?

Mr. WASHBURN, of Maine. If it is not debatable, then I call the gentleman to order.

Mr. HOUSTON. I prefer to go on with this matter in the regular way.

The SPEAKER. The Chair has indulged gentlemen with a view of hearing suggestions on the point of order. It is difficult for the Chair to decide the question.

Mr. HOUSTON. I have no objection, if that is the state of the question.

Mr. MILLSON. I think this bill was before considered first in the Committee of the Whole on the state of the Union, and not in the House.

Mr. LETCHER. I know that it was; I offered amendments to it.

Mr. BARKSDALE. This bill makes an appropriation after these claims have been examined and passed.

The SPEAKER. The gentleman from Massachusetts will proceed with his argument. This question can be decided when the gentleman has concluded his remarks.

Mr. BURLINGAME. I do not desire to address the House on this subject. The bill has been discussed, from time to time, so fully, that it is unnecessary now to go into any elaborate argument on it. I say that the Legislature of twelve States have recommended the passage of a bill paying these claims, comprehending the New England States, the great central States of New York and Pennsylvania, and the great western State of Ohio.

Mr. BARKSDALE. Is it in order to discuss the merits of the bill on the point of order? I desire the gentleman to confine himself to the point of order.

The SPEAKER. The gentleman from Massachusetts is in order.

Mr. BARKSDALE. The gentleman is discussing the merits of the bill.

Mr. SPEAKER. The point of order is waived until the gentleman has concluded.

Mr. KEITT. Is the bill before the House?

The SPEAKER. It is not necessary that the point of order should be decided until the House shall come to vote whether the bill shall be referred to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. The point which I propose to make is this. I do not object to the gentleman going on with his speech; I am willing that he shall do so. But, from a remark which fell from the Chair, I apprehend that it is possible I may be put in a false position if I should not now say that as I view the bill—having examined it—it does make an appropriation; and, so making an appropriation, the bill must, as a matter of course, and without a motion or vote, go to the Committee of the Whole either on the Private Calendar or on the state of the Union. I do not deem it necessary to discuss the propriety of sending it to the committee, because under the rules of the House it must go there if it makes an appropriation. That is all I have to say. I have no objection to the gentleman going on with his speech.

Mr. BURLINGAME. The States of Alabama, Louisiana, Maryland, and Arkansas, have recommended its passage. Twenty-two States are interested in these claims. As I have stated, it has passed the Senate five times, and the House twice. It has been vetoed twice—once because of the pressure or drain on the Treasury through the Mexican war, and once by President Pierce, through, as I think, a misapprehension of the facts.

As I stated, I do not desire to discuss the question, nor do I believe that the House desires, at this time, to discuss it. So believing, I move the previous question.

Mr. LETCHER. I desire to correct the gentleman from Maine with regard to the manner in which this bill was considered before. If my recollection be not at fault, this bill was considered in the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Maine. Will the gentleman from Virginia allow me to say—

Mr. LETCHER. Wait a moment, if you please; the bill was considered in the Committee of the Whole on the state of the Union; and I think the Speaker will recollect that my colleague, General Bayly, who then had charge of the bill, appealed to the committee (after a vote had been taken on one amendment which I presented to it, and when I had risen with thirty or forty additional amendments to offer, one after another) not to allow me to get any amendment to the bill adopted; because, if the bill were amended in one particular, the probability was that the bill would be lost. I have no doubt that the Speaker will recollect that fact.

Mr. WASHBURN, of Maine. The gentleman from Virginia will allow me to say that he is correct in regard to the time when the bill passed the House, in the Thirty-Third Congress. But I recollect that subsequently, or, at any rate, during one Congress that I have been here, the question was raised and decided as I say—that it was not necessary to refer the bill to the Committee of the Whole on the state of the Union, for the reason that it did not make any appropriation of money within the purview of the rules, but simply provided for the ascertainment and declaring of the liability of the Government.

The SPEAKER. Will the gentleman from Maine be kind enough to furnish the Chair with the precedent?

Mr. WASHBURN, of Maine. I am looking for it.

Mr. LETCHER. According to my recollection, this bill has never passed, except in one Congress, since I have been here, and this is the eighth year that I have been here. It was vetoed at that time by President Pierce. There may have been some consideration at a subsequent period, but I have no recollection that it was considered either in the House or in the Committee of the Whole on the state of the Union. The only occasion on which I have any recollection about it, was at the time, in 1853, when Colonel Benton made his celebrated speech against it; and it was then considered in the Committee of the Whole on the state of the Union. That is my recollection about it.

Mr. FLORENCE. That is right.

Mr. LETCHER. Now, it seems to me, on every consideration, that if there ever has been a bill before Congress that ought to be considered with all the formalities attached to consideration in the Committee of the Whole on the state of the Union, it is this identical bill. Here it has been a stand-by for the last fifty years. It has been considered again and again. It has sometimes passed one House, and has sometimes passed the other; and, uniformly, when it has passed both Houses, it has met with an Executive veto, and thus been defeated. Now, if a bill of the long standing of this; a bill that has been, again and again, the subject of consideration in one or the other House; which has, after due consideration by the Executive of the country, been vetoed on two occasions, and by different men, I cannot possibly conceive of any measure which requires a more careful and more considerate scrutiny in the Committee of the Whole on the state of the Union than this bill.

Mr. BURLINGAME. The gentleman will allow me to interrupt him here? The present Executive voted to report this very bill from the Committee on Foreign Affairs in the Senate, and voted for it in the Senate; and I presume that the fact that the Washington Union has published the speech of Mr. Webster in its favor, this morning, is an indication of the views of the Executive.

Mr. LETCHER. I would like to know what inference the gentleman from Massachusetts [Mr. BURLINGAME] wishes to draw from that to operate on the action of this House now? Does the gentleman intend to bring here the opinion of the Executive, and to treat that as a power sufficient to control the members of this House? Is that the purpose of a gentleman on that side of the House, from which we have heard so much over and over again, about Executive dictation and Executive influence? I can hardly suppose so. But suppose the President did once vote for this bill while he was in the Senate; and suppose it was reported from his committee: is that any reason why this House should depart from its rules, and refuse to give the bill a consideration in the Committee of the Whole on the state of the Union? So far from that, it ought to have exactly the opposite effect. Besides, the gentleman from Massachusetts says that the Union published this morning a speech in favor of it. The Union published the other day the report of my friend from North Carolina, [Mr. BRANCH], and it contains a counterblast this morning from two gentlemen from Louisiana. What does the gentleman from Massachusetts make of that?

Mr. BURLINGAME. I desire to withdraw the suggestion that the President may be in favor of the bill; because, recollecting what occurred yesterday, when the House refused, by a vote of 120 to 72, to authorize him to contract a loan, I do not think that this measure would profit much by that suggestion.

Mr. LETCHER. I do not think that the gentleman from Massachusetts has helped his original position by that shift.

Mr. FLORENCE. Will the gentleman from Virginia give way to me for a moment?

Mr. LETCHER. I will give way first to my friend from Maryland, [Mr. DAVIS], who appeals to me.

Mr. DAVIS, of Maryland. I merely wish to ask the gentleman from Virginia, if it be the seventh section of the bill on which he rests his supposition that it makes an appropriation?

Mr. LETCHER. I do not recollect what section it is.

Mr. DAVIS, of Maryland. Is it in these words: "and such certificate of stock shall be redeemable at the pleasure of the United States?"

Mr. LETCHER. That is part of the section.

Mr. DAVIS, of Maryland. I ask my friend from Virginia, if he supposes that the President of the United States is the "United States?"

Mr. LETCHER. I do not suppose so.

Mr. DAVIS, of Maryland. Otherwise, I suppose, we have to make the appropriation.

Mr. LETCHER. I suppose that, under the provisions of this law, whenever there is a surplus fund in the Treasury, the President or Secretary of the Treasury can apply such fund to the redemption of these certificates of stock without any additional action by Congress. That seems to me

to follow necessarily, from the language of the bill. Suppose—as was the case a few years ago—there should be a surplus of twenty or thirty million dollars in the Treasury, and that these certificates of stock were outstanding: would not the Secretary of the Treasury be allowed, under existing law, to apply this surplus money to the discharge of the obligations assumed by the Government by virtue of this act and of this particular section?

Mr. GIDDINGS. There is a point of order pending, and the previous question; and debate is not in order.

Mr. LETCHER. I will make a remark right here, in connection with what was said by the gentleman from Massachusetts, [Mr. BURLINGAME], a few minutes ago, about Mr. Buchanan's views upon the subject of this bill. If my recollection is not at fault, Mr. Buchanan was a member of Mr. Polk's Cabinet at the time he vetoed the bill, and I suppose must have been consulted about it, with the other members of his Cabinet, for an expression of his views upon the subject.

Mr. HUGHES. If a motion to lay the bill upon the table be in order now, will not that take precedence of the question of order?

The SPEAKER. It will.

Mr. HUGHES. With the permission of the gentleman from Virginia, I will make that motion.

Mr. LETCHER. No, sir. I do not want to avoid the consideration of the bill by any parliamentary movement of this kind. If gentlemen will give us a fair chance to consider and amend the bill, I will vote to send it there, and allow it to have a fair consideration by the House.

Mr. HOUSTON. Without entering into a debate upon this subject, I desire to call the attention of the Chair to the 131st rule, which, I think, has a bearing upon this subject. It is as follows:

"No motion or proposition for a tax or charge upon the people, shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House."

I am aware that the word "tax" there has heretofore been construed, and I think properly construed, to mean such a bill, for instance, as a tariff bill; but the word "charge" has a broader signification; and under that word, I think with great propriety, a bill like this, and this particular bill, may be included. This bill, Mr. Speaker, is very clearly and very certainly a charge upon the people. If we pass this bill it will make a charge upon the people to the extent of \$5,000,000. It is not, in a technical sense, as I have just remarked, a tax; but I draw a distinction between the word *tax* and the word *charge*, as used in that connection. One evidently refers to those bills which are brought forward in this House for the purpose of levying a tax upon the imports of the country. But the word "charge," as I have already intimated, is broader in its signification, and includes any of those bills which, by their terms, or in their consequences and effects upon the country, impose a charge upon the people.

Then, sir, I furthermore desire to call the attention of the Chair, in connection with the operation of the bill to which my friend from Virginia [Mr. LETCHER] has referred, to the eleventh section of the bill. That section goes on to determine and arrange how the \$5,000,000 shall be disposed of; and there is a proviso, to the language of which I desire especially to call the attention of the Chair. It says:

"Provided, however, That in case any alleged holder of any claim, contemplated by this act, shall fail for any cause to present the same for adjudication and adjustment, as is herein provided, such claim shall forever after be deemed and taken as altogether invalid, in whose hands soever the same may be, it being the true intent and meaning of this act that the proper amount of indemnity for the damages herein provided for cannot be considered in the aggregate to exceed the amount herein appropriated, however much the claims for indemnity in the aggregate may exceed that sum; and should the board of commissioners, under their rules and regulations of allowances, find a larger aggregate, the reduction *pro rata* then required shall only be considered as a mode of ascertaining the true amount of damage sustained in each case."

I have referred to this section for the purpose of showing what was the intention of the framers of the bill. They speak of the \$5,000,000 as being *appropriated*; and I will say further, that under the existing law the Secretary of the Treasury has authority at any time to buy in outstanding United States stocks, if by so doing he does not reduce the amount in the Treasury to less than \$5,000,000.

These, sir, are, in short, my views upon this

question. I believe the bill makes a permanent appropriation, to the amount of this stock, of \$5,000,000. And if the Chair will refer to the bills giving authority to issue stocks, he will find that there is a striking similarity in the language to that used in this bill; and I think he can come to no other conclusion than that it makes an appropriation, and must be referred to the Committee of the Whole on the state of the Union.

Mr. HUGHES. I move that the bill be laid on the table; and upon that motion I call for the yeas and nays.

Mr. LETCHER. I would appeal to the gentleman from Indiana to withdraw that motion, until the question of order has been decided.

Mr. HUGHES. One of my reasons for making the motion, is that I desire to save the time of the House, and also to relieve the Chair from the necessity of deciding this very embarrassing question of order.

Mr. WASHBURN, of Maine. I desire to call the attention of the Chair to the precedent, in the case of the New York fire bill, in which the Speaker ruled that it did not make an appropriation.

Mr. STEPHENS, of Georgia. I object to debate.

The SPEAKER. Debate is not in order.

The question was taken; and it was decided in the negative—yeas 75, nays 106; as follows:

YEAS—Messrs. Atkins, Barksdale, Barr, Bonham, Boyce, Branch, Burnett, Burns, Chapman, John B. Clark, Cobb, Cockrell, Burton, Craig, Crawford, Curry, Davis of Indiana, Dowdell, Edmundson, Elliott, English, Farnsworth, Faulkner, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Harlan, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, Owen Jones, Kilgore, Jacob M. Kunkel, Lamar, Lawrence, Leiter, Lovejoy, McQueen, Mason, Maynard, Miller, Millson, Montgomery, Moore, Niblack, Nichols, Peyton, William W. Phelps, Reagan, Ruffin, Savage, Seales, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Stevenson, Miles Taylor, Vallandigham, Vance, Edith B. Washburne, Watkins, White, Winslow, Augustus R. Wright, and John V. Wright—75.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Avery, Bennett, Bingham, Bishop, Bliss, Bowie, Brayton, Buffinton, Burlingame, Case, Chaffee, Clawson, Clay, Clark B. Cochrane, John Cochrane, Coffey, Comins, Covode, Cragin, James Craig, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Florence, Foster, Gilman, Gooch, Goodwin, Granger, Lawrence W. Hall, Robert B. Hall, Harris, Haskin, Hatch, Hickman, Hoard, Hodges, Horton, Howard, Keim, Kelsey, Knapp, John C. Kunkel, Leach, Letcher, Maclay, McKibbin, McKee, Humphrey Marshall, Samuel S. Marshall, Matteson, Miles, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Parker, Pendleton, Pike, Potter, Pottle, Purviance, Reilly, Ricard, Robbins, Roberts, Royce, Russell, Searing, Aaron Shaw, Robert Smith, William Smith, Stanton, Stephens, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Israel Washburn, Whiteley, Wilson, Woodson, Wortendyke, and Zollicoffer—106.

So the House refused to lay the bill upon the table.

During the call of the roll,

Mr. NICHOLS stated that his colleague, Mr. GIDDINGS, was absent temporarily from the Hall, and had paired off, being in favor of the bill.

Mr. GROW stated that he had paired off with Mr. FENTON, who was sick.

Mr. LETCHER stated that, in accordance with the purpose he had before announced to the gentleman from Massachusetts, [Mr. BURLINGAME,] he would not attempt to stifle this bill until the question of order pending had been decided, he voted "no."

Mr. NICHOLS said he was in favor of killing this bill in any and every way; and therefore voted "ay."

Mr. PHELPS, of Missouri, said that, by the rules of the House, he was precluded from voting on the bill, having an interest in its results; not from any act of his own, but by inheritance.

Mr. PHILLIPS asked leave to withdraw his vote, having a possible interest in the bill.

No objection being made, the vote was withdrawn.

The question then recurred on the motion to refer the bill to the Committee of the Whole on the state of the Union; the question of order raised by Mr. LETCHER remaining undecided.

Mr. STEPHENS, of Georgia. Is the question of order debatable?

The SPEAKER. It is not; but the Chair would be glad to hear the gentleman from Georgia, with the consent of the House.

Mr. STEPHENS, of Georgia. I do not wish

to prolong this debate. I will barely state that, during the present session, to go no further back, the Chair decided that the pension bill need not go to the Committee of the Whole on the state of the Union. That bill, sir, certainly imposed a greater charge upon the Treasury than this one would. According to the estimates which were made, that bill would involve a charge of \$10,000,000 annually. I thought the decision of the Chair on that occasion wrong; but no appeal was taken; and I am now willing to consider the principle as settled, and that this bill may be considered now in the House.

Now, I do not agree at all with the gentleman from Virginia, [Mr. LETCHER,] as to the importance of referring this bill to the Committee of the Whole on the state of the Union. It has been before Congress ever since I have been here. It has been discussed again and again and again. It has passed, as has been said before, twice, and been vetoed twice, and I suppose if there is any bill with the provisions of which this House is generally acquainted, it is this for the payment of French spoils. My mind was made up years ago, and I voted for both of those bills which passed. This bill is not exactly in the shape of those which passed then, and I suppose it has been drafted with a view to keep it out of the Committee of the Whole on the state of the Union. But I do not desire to consume the time of the House.

Mr. HOUSTON. I understand that the pension bill, to which the gentleman from Georgia refers, was discussed in Committee of the Whole on the state of the Union. Indeed, that is where it received its entire discussion. The gentleman is evidently mistaken; but, suppose he is correct: that case could not be cited as a precedent in this, because the point was not made under the rule to which I called the attention of the Chair a few moments since.

Mr. STEPHENS, of Georgia. I did not say that the pension bill was not first discussed in the Committee of the Whole, but I do say that the bill which was passed was not. And I say further, that the point was made and decided by the Chair, that the bill which passed need not be first considered in the Committee of the Whole on the state of the Union. I am not mistaken. I now move the previous question.

Mr. LETCHER. I hope the gentleman from Georgia will indulge me a single moment, in a word of reply.

Mr. HOUSTON. The gentleman says he is not mistaken. I have not the Journal before me to show which is right; but I am equally confident that he is mistaken. The point might have been made, that the bill contained an appropriation, and the Chair might have decided that it did not; but that is as far as the decision of the Chair went. If the gentleman undertakes to say that the point was distinctly made under the 131st rule of the House, which says that no charge shall be made upon the people without being discussed in committee, then I say that I am satisfied that he is mistaken.

Mr. STEPHENS, of Georgia. Then turn to the record, and ascertain the facts. I tell the gentleman the point was made, and that the rules were read, and I made a speech upon the question, and disagreed with the Chair.

Mr. BRANCH. I read the 131st rule.

Mr. HUGHES obtained the floor.

Mr. LETCHER. Will the gentleman from Georgia yield to me a moment?

Mr. CLAY. Is this debate in order?

The SPEAKER. It is not objected to.

Mr. CLAY. Then I object.

Mr. LETCHER. I wish to correct two or three points in the remarks of the gentleman from Georgia, with reference to the necessity of sending this bill to the Committee of the Whole on the state of the Union.

The SPEAKER. Debate is objected to.

Mr. STEWART, of Maryland. If it is in order, I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. Such a motion is pending.

Mr. STEPHENS, of Georgia. I withdraw the previous question in favor of the gentleman from Virginia.

Mr. HUGHES. I move that the House do now adjourn.

The motion was not agreed to.

Mr. CLAY. If the previous question has been withdrawn, I withdraw my objection to debate.

Mr. LETCHER. Then I only desire to state one reason why I think this bill ought to be sent to the Committee of the Whole on the state of the Union for consideration there. Now, sir, it is well known that in the House the rules are much more restrictive than they are in the Committee of the Whole on the state of the Union—

Mr. MARSHALL, of Kentucky. Has the previous question been withdrawn?

The SPEAKER. The previous question was moved by the gentleman from Massachusetts, [Mr. BURLINGAME,] and the Chair does not understand that it has been withdrawn.

Mr. MARSHALL, of Kentucky. If it has not been withdrawn, I object to all this debate.

The SPEAKER. The Chair stated to the gentleman from Virginia, and to the gentleman from Georgia, at the outset, that this debate was not strictly in order; but that the Chair desired to hear the opinions of gentlemen, inasmuch as the point of order was a difficult one.

Mr. HUGHES. Did not the Chair assign the floor to me after the gentleman from Georgia?

The SPEAKER. The Chair did recognize the gentleman from Indiana, but debate was objected to by the gentleman from Kentucky, [Mr. CLAY.]

Mr. HUGHES. If debate is permitted on the question of order, I desire to occupy a moment. If it is objected to, the objection that cuts me off must also cut off others.

Mr. CLAY. I wish it distinctly understood that my only objection to debate was pending the previous question.

The SPEAKER. The demand for the previous question, which would cut off all debate, was made by the gentleman from Massachusetts, [Mr. BURLINGAME,] upon the motion to commit the bill, and is still pending.

Mr. CLAY. Then I renew my objection.

The SPEAKER. The Chair will decide the question of order. The Chair imagines there is very great difference, according to his recollection, between the bill now pending and the one to which the gentleman from Georgia [Mr. STEPHENS] has referred. There was, certainly, no portion of the tax or charge, if it was a charge upon the people, which could have been drawn from the Treasury under the pension bill. The difficulty in deciding this question grows, in the opinion of the Chair, out of the proper construction that is to be placed upon the last two lines of the seventh section of the bill, taken in connection with a clause in the act of 1853. The words to which the Chair refers are these: "And such certificates of stock"—the \$5,000,000 of stock which it is provided shall be issued—"shall be redeemable at the Treasury of the United States." Now, if the Chair could have the benefit of the opinion of the Attorney General as to what would be the interpretation of this law, he would, perhaps, have less difficulty in deciding now. The question depends upon that interpretation. Can the holders of the stock present their certificates at the Treasury and draw their money upon those certificates? The Chair was inclined to the opinion that it would require further legislation; but the attention of the Chair has been called to the act of 1853, (tenth chapter of the Statutes at Large, page 212,) in which this language is used:

"And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized to purchase, at the current market price, any of the outstanding stocks of the United States, as he may think most advisable, from any surplus fund from the Treasury, provided the balance from the Treasury shall not, at any time, be reduced below \$6,000,000."

Now, if the Secretary of the Treasury can, by virtue of this clause, redeem the stocks, unquestionably there is that in the bill which makes an appropriation. In deciding this question, the Chair has to decide the legal point involved, according to his judgment as a lawyer. In the seventeenth line of the ninth page will be found what would seem to indicate the understanding of the framers of the bill. He there speaks of "the amount herein appropriated." The Chair supposes that the bill was framed with a view that it should not be sent to the Committee of the Whole on the state of the Union; but he thinks, also, that in that purpose it has failed; and the question being one of doubt, the Chair is determined in his judgment by the precedents which are uniform, so far as the Chair has been able to examine them, in send-

ing this French spoliation bill to the Committee of the Whole on the state of the Union for consideration. The Chair decides that the bill must go to the Committee of the Whole on the state of the Union.

Mr. FLORENCE. I appeal from the decision of the Chair; because, differing from the Chair, I deem it my duty to do so. Is it not apparent to all, that to execute this bill, further action of Congress is demanded?

Mr. SICKLES. I move that the appeal be laid upon the table.

Mr. FLORENCE demanded the yeas and nays.

Mr. WASHBURN, of Maine. Before the motion is made to lay upon the table, I would like to call the attention of the Chair to the language of the law which he has read, and also to the language of the bill.

Mr. SICKLES. Is debate in order? If it is I want to answer the gentleman.

[Cries of "Object!" "Object!"]

The SPEAKER. Debate is not in order.

Mr. McQUEEN demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. McQUEEN and CHAFFEE were appointed.

The House divided; and the tellers reported—ayes thirty-six; being more than one fifth of those present; and the yeas and nays were ordered accordingly.

The question was taken; and it was decided in the affirmative—yeas 128, nays 59; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Barr, Billingshurst, Bishop, Bliss, Boeck, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Case, Caskey, Chapman, Cobb, Clark, B. Cochrane, Cockerill, Colfax, Cox, James Craig, Burton Cragg, Crawford, Curry, Davis of Indiana, Davis of Iowa, Dick, Dimmick, Dowdell, Edmundson, Elliott, English, Farnsworth, Faulkner, Foley, Garnett, Gartrell, Gilmer, Goode, Granger, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harlan, Hoard, Hodges, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Jacob M. Kunkel, John C. Kunkel, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, McKibbin, McQueen, McKee, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miller, Millson, Montgomery, Moore, Morrill, Isaac N. Morris, Niblack, Nichols, Olin, Palmer, Pendleton, Peyton, William W. Phelps, Potter, Pottle, Powell, Ready, Reagan, Reilly, Ruffin, Russell, Savage, Seales, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stanton, Stevenson, James A. Stewart, Miles Taylor, Vallandigham, Vance, Waldron, Cadwalader C. Washburn, Watkins, Whiteley, Winslow, Woodson, Wortendyke, and John V. Wright—128.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham, Brayton, Buffinton, Burlingame, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, John Cochrane, Comins, Covode, Cragin, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dodd, Durfee, Florence, Foster, Gilman, Gooch, Robert B. Hall, Harris, Hickman, Hill, Horton, Howard, Keim, Knapp, Macley, Matteson, Morgan, Edward Joy Morris, Freeman H. Morse, Murray, Parker, Pike, Purviance, Ricard, Robbins, Roberts, Royce, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Wallbridge, Walton, Ellihu B. Washburne, Israel Washburn, Wilson, and Zollicoffer—59.

So the appeal was laid upon the table.

During the call of the roll,

Mr. EUSTIS stated that he would decline voting, because he was personally interested in the bill.

Mr. HUGHES moved to reconsider the vote by which the appeal was laid upon the table; and moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. FAULKNER. I now call for the regular order of business.

Mr. HOUSTON. I suppose the bill goes to the Committee of the Whole on the state of the Union as a matter of course?

The SPEAKER. The Chair will put that question to the House. Shall the bill be referred to the Committee of the Whole on the state of the Union?

Mr. FLORENCE. If that question is negatively, what becomes of the bill?

The SPEAKER. It will go to the Speaker's table.

Mr. FLORENCE. And can it be taken up at any time when we go to the business upon the Speaker's table?

The SPEAKER. If it is reached, it will be considered; but it must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. FLORENCE. Then we must bring it up in the committee by postponing, one after the

other, the bills which may stand before it upon the Calendar?

The SPEAKER. If there be no objection, the bill will be referred to the Committee of the Whole on the state of the Union.

There was no objection; and the bill was referred accordingly.

Mr. HUGHES moved to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. FAULKNER. I call for the regular order of business.

The SPEAKER. Reports are now in order from the Committee on Indian Affairs.

RICHARD CHENERY.

Mr. LEITER, from the Committee on Indian Affairs, reported a bill for the relief of Richard Chenery; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

W. W. BENT.

Mr. LEITER, from the same committee, reported a bill for the relief of W. W. Bent; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

INDIAN DEPREDACTIONS IN NEW MEXICO.

Mr. LEITER, from the same committee, moved that that committee be discharged from the further consideration of House bill No. 175, providing for the examination of claims for Indian depredations in the Territory of New Mexico, and that the bill be laid upon the table; which motion was agreed to.

NEW YORK INDIANS.

Mr. RUSSELL, from the Committee on Indian Affairs, reported back Senate bill (No. 389) providing for the allotment of lands to certain New York Indians, and for other purposes, with an amendment.

Mr. RUSSELL. Mr. Speaker, I ask that this bill be now put upon its passage.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. RUSSELL. How can the gentleman take the floor from me to make that motion?

The SPEAKER. It cannot be done.

Mr. RUSSELL. I have not yielded the floor. The Committee on Indian Affairs have received communications from the Secretary of the Interior, and the Commissioner of Indian Affairs, calling our attention to this matter, and praying us to take some action on the subject; for, if not, the whole reserve will be thrown open for settlement in the spring, thereby involving the rights of the Indians, under treaty stipulations, on said reserve. We have drawn up and considered this bill with great care, and the committee unanimously recommend its passage. I will state further that it has been submitted to the Secretary of the Interior and to the Commissioner of Indian Affairs, and has their approval. It is highly important that it should be passed at this time.

The amendment reported by the committee was read as follows:

Strike out all in Senate bill after line six, and insert the following:

Who removed under the provisions of the treaties hereinafter referred to, and to their children, in the tract of land set apart for the use of the New York Indians, by treaty of January 15, 1838, made and concluded at Buffalo Creek, in the State of New York, and the treaty made at the same place, on the 20th day of May, 1842, said lands to be selected within said reserve in Kansas Territory, in conformity to the legal subdivisions of the public surveys, and so as to include the improvements (if any there be) of each Indian, and patents for the same shall be issued to each individual Indian adult, or to heads of families for themselves and their minor children, they to locate their lands within the space of one year from the passage of this act; and when the locations shall have been thus made and allotted, and after the expiration of said year, the remainder of the reserve shall be considered a part of the public lands, and shall be subject to settlement, preemption, and entry, as other lands belonging to the United States; but no settlements, other than by the Indians above referred to, shall be made on said reserve for the space of one year from and after the passage of this act. All settlements heretofore made on said reserve shall be recognized from the date of such settlement, and be entitled to preemption, the same as if the

said lands had been Government lands and subject to settlement: *Provided*, That the Indians named shall have precedence over any other settler, where the same may come in conflict.

SEC. 2. After paying all the moneys necessary for carrying out the provisions of this act, the remainder of all moneys accruing from the sales by preemption, private entry, or otherwise, of any lands within the tract or reserve above named, shall be paid into the Treasury of the United States, and kept as a separate and distinct fund; and held subject to any future action of Congress in relation to said New York Indians, or to the provisions of any treaty made, or hereafter to be made, with said Indians, or any of them, in reference thereto.

SEC. 3. The district courts of the United States for the Territories of Kansas and Nebraska shall severally, hereafter, for the purposes of enforcing the act of June 30, 1834, have the same jurisdiction as was conferred by the twenty-fourth section of the intercourse act upon the United States courts for the State of Missouri, and that so much of the twenty-fourth section of the act of June 30, 1834, known as the intercourse act, as conflicts with this act be, and the same is hereby, repealed.

Mr. LETCHER. Will the gentleman from New York inform the House why it is that the lands are not to be exposed for public sale before they are opened for preemption? Some of these lands may be very valuable, and they ought to be sold for the benefit of the Indians.

Mr. RUSSELL. Under the treaties with the New York Indians, this tract of land was reserved for their use. This bill proposes to let each Indian who removed to Kansas, under the provisions of the treaties, select three hundred and twenty acres of land in the reservation, any time within twelve months from the date of its passage. The balance of the reservation is to be thrown open to settlement, and the funds arising from it are to be paid into the Treasury, and kept as a distinct fund for the benefit of the New York Indians.

Mr. LETCHER. The gentleman does not touch the point. What I want to know, is, why, if these lands are valuable, and will bring more than the ordinary price of Government lands, they are not first offered at public sale, so that the Indians may have the full benefit of them?

Mr. RUSSELL. I will say this in reply to the gentleman from Virginia. There was an impression among the people of Kansas, that the Indians had not complied with the requirements of the treaties—not removing into the reservation within the five years stipulated; and that, therefore, these lands were open to settlement. Under that impression, settlements were made and improvements carried on, mills built, &c.; and all that we propose to do is simply to protect the rights of the Indians in the second section of this bill, and at the same time protect the rights of the settlers to preempt their claims, taking it for granted they entered upon the reserve in good faith and with good intentions.

Mr. LETCHER. This bill has no reference whatever to the treaty made with the Tonawanda Indians, now pending before the Senate?

Mr. RUSSELL. Most certainly it has.

Mr. LETCHER. Well, if that treaty be not ratified by the Senate, what then?

Mr. RUSSELL. The bill provides for all treaties made, or hereafter to be made.

Mr. LETCHER. I do not know the precise form of the proposed amendment; but I want to have the bill so amended as that these lands shall be open for public sale before they are opened to preemption. That will do the Government no harm, but may be of great utility to the Indians, and do them justice.

Mr. RUSSELL. I move the previous question.

Mr. PHELPS, of Missouri. Will the gentleman withdraw the call for the previous question to allow me to make an inquiry?

Mr. RUSSELL. I withdraw it.

Mr. PHELPS, of Missouri. These lands in the Territory of Kansas were set apart for the benefit of the New York Indians, by virtue of a treaty made with them in 1838.

Mr. RUSSELL. Two several treaties.

Mr. PHELPS, of Missouri. I know that difficulties have arisen in the Territory of Kansas with regard to the rights of these Indians and of the settlers on that reservation. By the terms of the treaty of 1838, these Indians had five years in which they might migrate to that land and obtain the benefits secured to them under the treaty. If I mistake not, there was a treaty stipulation that, in the event they did not migrate within the space of five years, they should forfeit the

title to their lands. I think the white settlers had the right to go on them and occupy them under the laws regulating the sale of the public lands. I am informed that there is now a treaty pending in the Senate of the United States which proposes to make to the New York Indians an adequate compensation in consideration of their relinquishing all claims to these lands.

Mr. LEITER. I will say to the gentleman that I think he is mistaken; the treaty to which he refers only provides for the Tonawanda Indians.

Mr. PHELPS, of Missouri. Then I have been misinformed. I understood that the treaty provided for all the New York Indians.

Mr. RUSSELL. I now move the previous question.

Mr. CRAIG, of Missouri. I ask the gentleman to withdraw the demand for the previous question, for a moment, and I will renew it.

Mr. RUSSELL. I will withdraw it, to hear what the gentleman says, still retaining the floor.

Mr. CRAIG, of Missouri. As was stated by my colleague, [Mr. PHELPS,] this reservation has been held by all the public land officers that I know, and certainly it has been understood, in the portion of the West where I live, to be open for settlement. This opinion held by land officers, who are supposed to know all about these Indian treaties, has induced many white settlers to go upon the land in good faith, and they are now living there.

This bill proposes to allow all the Indians who emigrated under the provisions of the treaty, now some twenty years ago, to have their full share of three hundred and twenty acres each. That is all right. But the bill also provides that nobody else shall settle there for twelve months after the passage of this act, and not until the Indians shall have made their selections and their selections have been confirmed; and that then the proceeds of the sales of the other lands shall be paid into the Treasury of the United States for the benefit of those Indians.

I do not believe that the Committee on Indian Affairs fully understood this matter, although I know that they have had it for some time before them. I believe that they can be made to understand it, and to bring in a different bill. I ask the gentleman from New York to allow this bill to go to a select committee, if the Committee on Indian Affairs are tired of it, and allow them to bring in a bill which shall be more just to the settlers on these lands.

Mr. RUSSELL. The gentleman is entirely mistaken in his assumption that all the public land officers have held that the said reserve was open to settlement. The contrary is the case in all that has emanated from the Department of the Secretary of the Interior. This right has been ignored; and the right of the Indians to those lands has in no way been weakened by any act of the Secretary of the Interior. He so told me at his office on two several occasions. The gentleman says he does not believe the committee fully understand this matter. I must say I conceive he is laboring under a delusion. It is him, and not the committee that are at fault on this subject. I now move the previous question.

Mr. LEITER. I hope my colleague on the committee will not renew the demand for the previous question now. The gentleman from Missouri says we do not understand the subject. Now I want an opportunity to show that we do understand it.

Mr. BURNETT. I object to the floor being yielded to any gentleman whatever.

The previous question was seconded, and the main question ordered to be put.

Mr. CRAIG, of Missouri, moved to lay the bill on the table.

The motion was not agreed to.

Mr. CRAIG, of Missouri. I call for the yeas and nays upon concurring in the amendment.

Mr. MONTGOMERY. I desire to make a statement in relation to this bill. It came originally from the Committee on Public Lands, who reported a very different bill from that which the Committee on Indian Affairs now recommend.

Mr. MARSHALL, of Kentucky. In order that we may have an opportunity to look into this matter a little, I move that the House adjourn.

The motion was disagreed to—ayes 68, noes 76.

Mr. STANTON. With a view of having an

evening session for debate, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. RUSSELL. Not while this question is undisposed of.

The SPEAKER. The Chair would say to the gentleman from Ohio that the previous question is operating. The main question has been ordered to be put. His motion is not, therefore, in order.

Mr. COBB. I desire to make a motion, if it is in order.

The SPEAKER. It is not in order.

Mr. LEITER. If the House adjourns now will not this question be the first thing in order to-morrow?

Mr. RUSSELL. We may as well dispose of it now.

Mr. STANTON. I understand there is a special reason why an evening session is not desired, and therefore I move that the House do now adjourn.

EXECUTIVE COMMUNICATIONS, ETC.

Pending the motion to adjourn,

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department, transmitting an annual statement of the number of clerks employed in that Department; which was laid upon the table, and ordered to be printed.

Also, a communication from the Postmaster General, transmitting a statement of the number of clerks and others employed in his Department for the year ending the 30th of December, 1858; which was laid upon the table, and ordered to be printed.

Also, a communication from the Secretary of War transmitting a statement of the expenditures made from the appropriation for the contingent expenses of the Army; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of State, requesting an appropriation to enable him to pay for five hundred copies of the Diplomatic Correspondence of the Revolution; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Secretary of the Interior in reply to a resolution of the House of the 8th instant, relative to the military reservation at Rock Island; which was laid on the table, and ordered to be printed.

Also, a communication from the Territorial Legislature of Kansas, asking an extension of the session of the Legislature from forty to sixty days; which was referred to the Committee on Territories, and ordered to be printed.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the communication in reference to the military reservation at Rock Island was laid upon the table and ordered to be printed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question was then taken on Mr. STANTON's motion; and it was agreed to.

And thereupon (at three o'clock and forty minutes, p. m.) the House adjourned until to-morrow at eleven o'clock, a. m.

IN SENATE.

WEDNESDAY, February 2, 1859.

Prayer by Rev. SAMUEL ROGERS.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the joint resolution of the Senate (No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States court-house stands, in Rutland, Vermont, in exchange for other land adjoining said lot.

ENROLLED BILL SIGNED.

A subsequent message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled joint resolution (S. No. 65) authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States court-house stands, in Rutland, Vermont, in exchange for

other land adjoining said lot; and it was signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill (No. 72) to secure homesteads to actual settlers on the public domain, was read twice by its title; and, on motion of Mr. JOHNSON, of Tennessee, it was referred to the Committee on Public Lands.

ORDER OF BUSINESS.

Mr. MALLORY. I move to postpone all prior orders for the purpose of taking up the bill (S. No. 485) to increase the pay of officers of the Navy.

Mr. WADE. Will the Senator permit me to introduce a bill for reference?

Mr. MALLORY. I understand, under the ruling of the Chair yesterday, that petitions and reports are to be received and have priority over the motion I have made. I am not disposed to protract the time for the consideration of the bill by waiving, any further than the rule requires. I gave the floor to the honorable Senator from Ohio, [Mr. WADE,] yesterday, and lost the opportunity of calling up my bill in the morning hour. I desire my motion to be put, if it is in order.

Mr. KING. I should like to present a petition, if the Senator will allow me.

The PRESIDENT *pro tempore*. Does the Senator from Florida insist on his motion being put?

Mr. MALLORY. I desire the motion to be put. We can get through this bill in a few moments.

Mr. KING. I suppose petitions are first in order.

The PRESIDENT *pro tempore*. Petitions are first in order, and then reports, unless the Senate otherwise direct.

Mr. SEWARD. I wish to present the memorial of—

The PRESIDENT *pro tempore*. The Chair will inform the Senator from New York that the Senator from Florida moves to postpone all previous orders, and proceed to the consideration of the bill indicated by him.

Mr. WADE. To postpone all prior orders would interfere with the unfinished business of yesterday, and substitute this bill in place of the one then under consideration. I wish to inquire whether that would be the effect of the motion of the Senator from Florida?

The PRESIDENT *pro tempore*. That would be the effect, if the motion be adopted. It would postpone the special order, which is the unfinished business of yesterday.

Mr. REID. I should like to know whether the right to present petitions and reports is not a standing rule of the Senate, and not a mere order? If that be so, the Senate cannot change the rule without unanimous consent.

Mr. KING. I trust the Senator from Florida will allow petitions to be presented, and let this question come up afterwards.

Mr. MALLORY. I presume they will occupy but a few moments, and I waive my motion for that purpose.

Mr. KING presented a memorial of citizens of New York, praying that an appropriation may be made for the construction of earth-work redoubts for the defense of that city and vicinity; which was referred to the Committee on Military Affairs and the Militia.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, information relative to contracts for live-oak timber, made since March 4, 1857; which, on motion of Mr. SEWARD, was ordered to lie on the table, and be printed.

Mr. WRIGHT presented a memorial of Mora Brothers, Navarro & Co., who are about to establish a line of steamers between New York and Havana, proposing to contract with the Government for the transportation of the mails between those places; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented a memorial of citizens of New York and Brooklyn, praying that an appropriation be made for the construction of earth-work redoubts, for the defense of those cities and their vicinity; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of citizens of New York, praying that an appropriation be made for the construction of earth-work redoubts, for the defense of that city and its vicinity; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented a joint resolution of the Legislature of Wisconsin, in relation to the route of the railroad from Fond du Lac to Lake Superior; which was referred to the Committee on Public Lands.

Mr. BAYARD presented a memorial of citizens of Wilmington, Delaware, praying that the pay of officers of the Navy may be increased; which was ordered to lie on the table.

Mr. KENNEDY presented a memorial of citizens of Baltimore, praying that the pay of officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

Mr. HOUSTON. In pursuance of notice given some days since, I desire to introduce a bill; and, previous to sending it to the desk, I will offer some reasons in explanation why it is done.

Mr. MALLORY. With due deference to my friend from Texas, I must appeal to him to permit me to take up the bill which I made a motion for a moment ago. I yielded for the purpose of receiving petitions, but I hope that that motion will now be put. I do not like to prevent my friend from Texas from saying anything at this time, but I am satisfied we can get through the bill in regard to the pay of officers of the Navy in the morning hour, if we take it up now. If we do not act on it at this time, I am afraid it will be lost.

Mr. HOUSTON. It is very important; and I will cooperate with the gentleman most cheerfully in advancing the objects of his bill at the proper opportunity; but I think it of great importance that I should occupy the floor this morning. I will occupy as little time as I can.

Mr. MALLORY. I ask the Chair to put the motion I have made. I am very sorry to interfere with my friend from Texas; but he must be aware that I had the floor for this purpose, and yielded it only to allow the introduction of petitions.

Mr. HOUSTON. I was not aware of it.

Mr. MALLORY. I did so.

The PRESIDENT *pro tempore*. The Chair so understood.

Mr. HOUSTON. Then I will not interfere with the Senator.

Mr. REID. The Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 532) for the relief of the widow of Charles Pearson, have directed me to report it, with amendments, and recommend its passage. It is a very clear question, and I trust the Senate will pass the bill. It is merely to refund some money paid into the Treasury by an insane man, who made application for a patent. I trust the amendment will be adopted, and the bill suffered to pass.

Mr. MALLORY. I must object to the consideration of that bill.

Mr. HALE. I hope the objection will be withdrawn. It is simply to return \$150 to the widow of an insane and poor man, who paid some money into the Patent Office. The Commissioner wants to repay it, but he is not authorized by law to do it.

Mr. MALLORY. If it does not take time, I will not object to it.

Mr. HALE. It will pass in a moment.

Mr. MALLORY. Is it consented that it shall be laid aside, if it leads to debate?

Mr. HALE. Certainly.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 532) for the relief of the widow of Charles Pearson.

It directs that there be paid to the widow of Charles Pearson, late of Concord, New Hampshire, the sum of \$150, that being the amount of money paid into the Treasury of the United States by him while laboring under a state of insanity.

The committee reported the bill with amendments. In line four, to strike out the word "widow," and insert "legal representative;" and in line six, strike out "\$150" and insert "\$140."

The amendments were agreed to; and the bill was reported to the Senate as amended. The amendments were concurred in, and the bill was ordered to be engrossed for a third reading. It

was read the third time, and passed. The title was amended so as to read: "A bill for the relief of the legal representative of Charles Pearson, deceased."

Mr. MALLORY. I now ask the Senate to take up the bill (S. No. 485) to increase the pay of officers of the Navy.

Mr. BAYARD. I hope I shall be allowed to make two reports upon matters which ought to be acted upon. It will not take ten minutes to dispose of them, and they should be acted upon. One is a bill which will not take five minutes to act upon, and I am sure there will be no objection to the other report. It concludes with a resolution, which I think will pass as a matter of course.

Mr. MALLORY. I will say to my friend from Delaware that I have reports to make from my own committee, but I abstain from making them for the purpose of giving priority to a bill of such pressing necessity as this. I trust he will excuse me for pressing it, but I believe we can pass the bill in the morning hour if we can get at it.

Mr. BAYARD. I have certainly no desire to oppose the bill; but these are matters which I think would pass, of course, merely on reading them, and they ought to be disposed of. I am instructed by the Committee on the Judiciary to make these reports, and they will not take ten minutes of the time of the Senate. If there is the slightest objection to either of them, it shall go over without any hesitation. They are very short, and I hope the Senator will allow me to have action on them.

The PRESIDENT *pro tempore*. Does the Senator from Florida insist on his motion being put to the Senate?

Mr. MALLORY. I feel myself constrained to do so.

Mr. WADE. I have no opposition to make to the motion of the Senator from Florida, provided he will consent to lay aside this bill at the expiration of the morning hour; but if it is to supersede the unfinished business of yesterday, I shall feel it to be my duty to interpose an objection, and ask for a vote upon it. I am exceedingly anxious to get along with the bill which we had under consideration yesterday. I believe the Senate have debated it about as much as they intend to do, and that it will not take long to finish the bill. If the motion of the Senator from Florida does not prevail, I shall move to proceed to the consideration of the unfinished business of yesterday, and dispose of that as soon as possible.

Mr. MALLORY. My motion has priority.

Mr. WADE. I know that it has priority; but I make my motion, and shall press it, unless you will agree to yield your bill when the morning hour expires.

Mr. MALLORY. I, of course, dislike to assume an attitude against the Senator from Ohio; but I am unwilling to agree to lay the bill aside at the expiration of the morning hour. I am perfectly willing, however, that he shall make that motion at the expiration of the morning hour, and if the Senate chooses to proceed to the consideration of his bill, very well; or if there be a general understanding that the bill to which I have called attention shall come up in the morning hour to-morrow, and be acted upon, I shall yield; but I presume there will be no such understanding, and I cannot, therefore, yield to the request of the Senator from Ohio.

Mr. BAYARD. I will say to the honorable Senator from Florida that to-morrow morning I shall report on a question of privilege connected with the memorial of the State of Indiana. That will be entitled to precedence; and, therefore, I say to him very frankly, I shall have to oppose such understanding as he proposes.

Mr. TRUMBULL. I desire to present a memorial from the Legislature of Illinois, in relation to the construction of public buildings at Springfield, in that State.

The PRESIDENT *pro tempore*. Does the Senator from Florida yield for that purpose?

Mr. MALLORY. If it does not lead to debate.

Mr. TRUMBULL presented a memorial of the Legislature of Illinois, in favor of the immediate construction of a building for the accommodation of the United States courts, and the pension, land, and post office, at Springfield, in that State; which was ordered to lie on the table, and be printed.

Mr. TRUMBULL. In connection with that,

I offer the following resolution; and ask for its immediate consideration:

Resolved, That the Secretary of the Treasury be directed to inform the Senate what progress, if any, has been made in the construction of a building at Springfield, Illinois, for the accommodation of the United States courts and post office, under the act of August 18, 1856; and, if no progress has been made in the construction of such building, the reasons therefor.

The resolution was considered, and agreed to. Mr. HARLAN presented three memorials of inhabitants of Howard and Winneshiek counties, Iowa, praying the establishment of a mail route from Burr Oak to Lime Springs, in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. MALLORY. I must insist on my motion. I have deprived the Senator from Delaware of the opportunity of presenting his bill, a matter of great importance, and I cannot waive any further. My motion is to take up the bill (S. No. 485) to increase the pay of the officers of the Navy.

Mr. HALE. I shall be very sorry to have to say a word that will oppose the wishes of the chairman of the Naval Committee on this bill; but I simply wish to suggest that I think the Senate ought first to proceed to the consideration of the bill introduced by the Senator from Virginia, [Mr. HUNTER,] increasing postages; for while—and I want the chairman to understand me—I desire to vote for an increase of the pay of some officers in the Navy, I do not know how I can go home and look my constituents in the face and tell them I have been voting an increased pay to officers of the Navy, when I look upon two thirds of the Navy as entirely unnecessary, and the other third almost so; or how I can justify myself to them for voting an increase of the pay of those officers, and at the same time tax the poorest classes of the community by an addition to the postage upon letters.

Mr. MALLORY. I rise to a question of order. Debate on the increase of the pay of the Navy, or on an increase of postage, is not precisely in order before the bill is taken up.

Mr. HALE. I was not discussing them. I was discussing the propriety of taking up the postage bill first. I am not saying a word about the merits of the question. I think the postage bill ought to be taken up first; because, if we have got to saddle increased burdens upon the people, I think we should not, at the same time, increase the salaries of officers. The pay of some of these officers, I think, might well enough be raised; but I am disposed first to settle whether we are to tax the poorest class of people to increase the income of those who do not need it quite so much.

Mr. TOOMES. I think we had better look to the question of the difference between expenditures and income, before we commence the business of increasing the pay of a very large class of people in the public service. The great difficulty seems to me to be the very inconvenient difference between receipts and expenditures already; and I suppose the first duty of Congress ought to be to adjust that difficulty in some way, before they commence increasing expenses unnecessarily, as it is proposed to do, in this branch of the public service.

Mr. HUNTER. If the motion of the gentleman from Florida be adopted, the effect will be to exclude all other business after one o'clock, and there will be no chance to get up the Indian appropriation bill.

Mr. MALLORY. I will say to my friend from Virginia, that when one o'clock arrives he can make his motion to take up any bill he pleases; and if the Senate choose, they may take up that bill. But when it is remarked here that we should not increase expenses unnecessarily, I say to you, sir, and the Senate, that if we design to keep up a Navy, justice to ourselves, and justice to the Navy, would require that we should keep them above the point of starvation, at least. They are rapidly arriving at that point now; and I do not know any bill which appeals to the justice of the country more urgently than the one I now ask the Senate to take up.

Mr. HUNTER. If I wait until one o'clock, the result will be, that I shall have against my motion both the friends of the measure of the Senator from Ohio, and the friends of the measure of the Senator from Florida. I would rather encounter one at a time; and I call for the yeas

and nays on the motion of the Senator from Florida.

Mr. BAYARD. I think it likely that I shall support the bill of the honorable Senator from Florida; for, as I understand, it concedes something like justice to the officers of the Navy, and makes them equal to the officers of the Army, as regards their pay; but I do not think it ought to be interposed now, in the morning hour. It will only lead to debate, and will consume time that ought to be devoted to other matters which are merely formal in their character, but probably equally necessary to be disposed of. I shall have to vote against this motion; though I rather think I shall vote in favor of the bill when it does come up.

The question being taken by yeas and nays on Mr. MALLORY's motion, resulted—yeas 20, nays 33; as follows:

YEAS—Messrs. Bell, Bright, Broderick, Brown, Clay, Clingman, Davis, Fitzpatrick, Hammond, Houston, Iverson, Jones, Kennedy, Mallory, Mason, Sebastian, Shields, Thomson of New Jersey, Ward, and Yulee—20.

NAYS—Messrs. Allen, Bayard, Bigler, Chandler, Chesnut, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Fitch, Foot, Green, Hale, Hamlin, Harlan, Hunter, Johnson of Tennessee, King, Polk, Pugh, Reid, Seward, Simmons, Slidell, Stuart, Toombs, Trumbull, Wade, Wilson, and Wright—33.

So the motion was not agreed to.

CONSULAR COURTS IN CHINA.

Mr. BAYARD. I am instructed by the Committee on the Judiciary, to whom was referred the message of the President of the United States, communicating a letter from the United States Minister in China, with the decree and regulations that accompanied it, to make a report, concluding with a resolution; and also to ask the Senate to proceed to its present consideration. It is merely formal; it will only be necessary to read the report. The resolution is very short, but yet it is necessary that the Senate should act upon it in order to give validity to the decree. If there is the slightest objection, I am willing that it shall go over; but I am sure there can be no objection.

There being no objection, the Senate proceeded to consider the report; which was read, as follows:

The Committee on the Judiciary, to whom was referred a message of the President of the United States, of December 27, 1858, transmitting a copy of a decree and regulation made by the Minister of the United States in China, on the 27th day of February, 1858, beg leave to submit the following report:

That, by the sixth section of the act of Congress, entitled "An act to carry into effect certain provisions in the treaties between the United States and China, and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries," all regulations, decrees, and orders, made by the Commissioner of the United States in China, in pursuance of the provisions of the fifth section of the same act, are to be transmitted, with the opinions of his advisers, to the President, to be laid before Congress for its revision.

The decree and regulation made by William B. Reed, Envoy Extraordinary and Minister Plenipotentiary of the United States to China on the 27th day of February, 1858, he then being the person vested with and exercising the principal diplomatic functions in China, of which decree a copy is transmitted by the Executive, with the opinions of the advising consuls, has been considered by the committee; and deeming it a rightful and judicious exercise of the power conferred upon the commissioner by the said act, the committee are of opinion that no revision is requisite, and report the following resolution:

Resolved, That no revision by Congress of the decree and regulation made by William B. Reed, Envoy Extraordinary and Minister Plenipotentiary from the United States of America to China, on the 27th day of February, 1858, entitled "Regulations for the consular courts of the United States of America in China," is requisite.

Mr. BAYARD. I move that the resolution be adopted.

The motion was agreed to.

FORGING OF LAND WARRANTS.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the bill (H. R. 830) for the punishment of forging or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receiver's receipts, have instructed me to report it back without amendment, and recommend that it be passed. They have also instructed me, as there are frauds which are perpetrated to a very great extent in connection with these papers, and there is no existing law of the United States which embraces a punishment for the offense of forging such papers, to ask for its present consideration, in order that it may pass and become the law of the land, and prevent the com-

mission of crime. I ask for its present consideration. It cannot take three minutes to pass it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It provides that if any person or persons shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly aid or assist in falsely making, altering, forging, or counterfeiting, any military bounty land warrant, or military bounty land warrant certificate, issued or purporting to have been issued by the Commissioner of Pensions under any act of Congress, or any certificate or duplicate certificate of location of any military bounty land warrant, or military bounty land warrant certificate, upon any of the lands of the United States, or any certificate or duplicate certificate of the purchase of any of the lands of the United States, or any receipt or duplicate receipt for the purchase-money of any of the lands of the United States, issued or purporting to have been issued by the register and receiver at any land office, or either of them; or if any person or persons shall pass, utter, or publish as true, any false, forged, or counterfeited, military bounty land warrant, military bounty land warrant certificate, certificate of location, or duplicate certificate of location, certificate of purchase, duplicate certificate of purchase, receipt, or duplicate receipt, for the purchase-money of any of the lands of the United States, knowing the same to be false or forged, the person or persons so offending shall be deemed and adjudged guilty of felony; and on being duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years nor more than ten years. This provision is not to be construed to deprive the courts of the several States of jurisdiction under State laws over offenses punishable by this bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS, PETITIONS, AND BILLS.

Mr. THOMSON, of New Jersey, from the Committee on Naval Affairs, to whom was referred the memorial of McKean Buchanan, a purser in the Navy, praying indemnity for losses occasioned by the illegal orders of his commanding officer, submitted an adverse report thereon; and the report was ordered to be printed.

Mr. MALLORY presented a memorial of the Legislature of the Territory of Washington, in favor of the establishment of a coal depot at Belknap Bay, in Puget Sound; which was referred to the Committee on Naval Affairs.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the bill (C. C. No. 90) for the relief of Emilie G. Jones, executrix of Thomas P. Jones, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (C. C. No. 89) for the relief of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased, asked to be discharged from its further consideration; which was agreed to. He said, in explanation, that similar bills have been reported from the Committee on Claims, to whom these bills should have been referred originally.

Mr. GWIN presented the memorial of H. T. Templeton, praying the payment of expenses incurred by the State of California in suppressing Indian hostilities, between the years 1850 and 1857; which was referred to the Committee on Military Affairs and the Militia.

Mr. BRODERICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 550) to establish a line of steam rail ships between San Francisco, in California, and Shanghai, in China, touching at the Sandwich Islands and Japan; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. IVERSON presented a resolution of the Legislature of the State of Georgia, in favor of the erection and construction of a naval depot on Blythe Island; which was ordered to lie on the table and be printed.

Mr. IVERSON. I move that the communication of the Secretary of the Navy, made a few

days ago on the same subject, be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The motion will go to the Committee on Printing.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (S. No. 511) for the repayment of lead rents improperly paid to the Government, reported it without amendment.

Mr. FOOT. The Committee on Foreign Relations, to whom was referred the bill (S. No. 549) for the relief of James P. Cook, ask to be discharged from its further consideration, and that it be referred to the Committee on Commerce, the subject out of which the claim grew being more appropriately within the jurisdiction of that committee.

Mr. WADE. I now move that the Senate proceed to the consideration of the unfinished business of yesterday. But five minutes remain of the morning hour.

Mr. HOUSTON. I will remark that I shall ask the indulgence of the Senate to-morrow, during the hour for morning business, to offer the bill that I proposed to introduce this morning, and to make such explanatory remarks as I may deem necessary during that hour. I am not in the habit of occupying much of the time of the Senate; but I shall, on that occasion, endeavor to do what I think is an act of justice.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the papers in relation to the claim of David Butler, reported adversely thereon; and the report was agreed to.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the letter of the Treasurer of the United States, communicating copies of his accounts for the third and fourth quarters of the year 1857, and the first and second quarters of the year 1858, reported adversely thereon; and the report was agreed to.

He also, from the same committee, to whom was referred a motion to print the message of the President, communicating the correspondence of Messrs. McLane and Parker, late commissioners to China, reported in favor of the motion; and the report was agreed to.

Mr. PUGH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate copies of any correspondence between the Government of the United States and the Government of Prussia, on the subject of the compulsory enlistment of American citizens in the army in that kingdom, with such other information on the subject as the Department of State may be able to furnish.

Mr. CRITTENDEN. I have been requested by several friends of Stewart W. Megowan to present a petition asking that a pension be granted to him, which I desire to have referred to the Committee on Pensions. I know the Megowans well. They are a family of as honest soldiers as ever lived. That man will tell his own story. I ask that the petition be read.

The Secretary read as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your petitioner, Stewart W. Megowan, would respectfully state that he is now residing in the city of Lexington, Kentucky, and is in his seventy-fourth year. That in the war declared by the United States against Great Britain, the 18th of June, 1812, he had the honor to raise and command a company of volunteers from Lexington, Kentucky, in the regiment commanded by Colonel William Lewis, which formed a part of the northwestern army, under the command of Generals Winchester and Harrison; that they rendezvoused at Georgetown, Kentucky, some time in August, 1812, and in a few days thereafter proceeded to the northwestern frontier, then a wilderness; that they endured one of the severest winter campaigns ever experienced by men, part of the time very badly clad and often without provisions; that he, with his company, remained with the army until after the battles at Raisin, in which a part of it was engaged some time in February, 1813. Those who were detailed to remain with General Payne, at the Rapids, were then honorably discharged and returned home to Lexington, Kentucky. The various disasters of the northwestern army caused Governor Isaac Shelby, of Kentucky, to call for volunteers to meet him at Newport, on the 31st of August, and, on the 1st of September, 1813, over three thousand crossed the Ohio river, armed and equipped as the law directed. That he raised and commanded another company from Lexington, Kentucky, on that occasion, and joined the regiment of Colonel Trotten, and proceeded to Canada, under the command of Governor Shelby and General Harrison, and was in the battle on the river Thames, on the 5th of October, 1813, after which, he returned to Lexington, Kentucky, where they were honorably discharged on the 2d of November, 1813, after having served seventy-one days, and found themselves a portion of the time. In the latter

part of the year 1814, he, learning that the British army was about to invade Louisiana, and take the city of New Orleans, he had no time to raise another company, and went alone, at his own expense, to join the southern army. He descended the Ohio and Mississippi rivers, and was fortunate to reach General Andrew Jackson's army a few days before the great battle of the 8th of January, 1815. That he had the honor of being in that battle and fighting on his own hook wherever he was most needed. That in these three campaigns he spent the greater part of his estate, being in easy circumstances when the war commenced and in embarrassed circumstances when the war concluded. That from the fatigue and exposure incident to said campaigns his health was greatly impaired, so much so, that he has never regained it, and with the loss of his health and estate, he has had to toil and labor for the last forty years for a bare support. The last four years he has been prostrate on his back, and not able to get out of his room without assistance, and is now in that condition, dependent upon a poor, broken-down brother for the meat and bread he eats and the clothing to keep him warm. He feels that he has served his country faithfully all his life and has never received anything for it. He can truly say that he has not one cent in his pocket, and is not able to do anything to earn one, and is too proud to beg. In this condition he requests your honorable body to grant him a pension for life, sufficient to sustain and support him decently. He will not need it long.

S. W. MCGOWAN.

Mr. CRITTENDEN. The petitioner was a captain at the battle of Raisin. He raised a company of men when old Shelby went out. He returned from there, and just afterwards there were rumors of an invasion by the British at New Orleans. He went to the battle of New Orleans as a private; made his way there; arrived in time for the action. He went on his own hook wherever he thought there was to be a fight. He says he is a good Democrat; that he is seventy-four years old; that he has been robbed; and now that he has not a cent that he is living on the means of a broken-down brother, and appeals to Congress. If those services do not entitle him to a pension, I am very much mistaken. He has brought physicians to swear that he cannot live long. I move to refer the petition to the Committee on Pensions.

It was so referred.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 820) entitled "An act providing for the payment of the expenses of investigating committees of the House of Representatives."

ENROLLED BILL SIGNED.

A subsequent message announced that the Speaker had signed an enrolled bill (H. R. No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following act and resolution:

A resolution for the relief of William Hazzard Wigg; and

An act for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia.

AGRICULTURAL COLLEGES.

Mr. WADE. I renew my motion, the morning hour having expired, to proceed to the consideration of the unfinished business.

The PRESIDING OFFICER, (Mr. MASON in the chair.) The bill alluded to by the Senator from Ohio now comes up as the unfinished business.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the Indian appropriation bill; and upon that I shall ask the yeas and nays. I believe that the economy of time would be promoted by considering the appropriation bills as they come up. We are obliged to pass them; and the whole effect of substituting other business for them in this way is, that we have to act upon them without due consideration.

Mr. WADE. I have no disposition to occupy time. I believe the agricultural college bill was sufficiently debated yesterday. I hope the friends of the bill will not delay action upon the subject any longer by debate. I have noticed, since I have been here, a good many bills that have failed for want of votes; but I do not think I ever knew one to fail for want of speechifying. Therefore, I advise the friends of the bill to make no speeches. Let us come to the vote on the subject. That is all I ask.

Mr. HUNTER. I ask for the yeas and nays on my motion. I have no idea that we shall get through as rapidly by taking up the other bill.

The yeas and nays were ordered; and being taken, resulted—yeas 28, nays 29; as follows:

YEAS—Messrs. Bates, Bayard, Benjamin, Bright, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sidel, Ward, and Yulee—28.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Hale, Hamlin, Hartan, Houston, Kennedy, King, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, and Wright—29.

So the motion was not agreed to.

The PRESIDING OFFICER. The unfinished business of yesterday is the bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, the pending question being on the motion of the Senator from Ohio, [Mr. PUGH], to recommit the bill to the Committee on Public Lands, on which the yeas and nays have been ordered.

Mr. DIXON. I am requested by my colleague, Mr. FOSTER, to state that he is detained this morning by indisposition, and has paired off with the honorable Senator from Mississippi, Mr. BROWN.

Mr. HUNTER. On this question I have paired off with the Senator from Pennsylvania, Mr. CAMERON.

The question being taken by yeas and nays, resulted—yeas 28, nays 26; as follows:

YEAS—Messrs. Bayard, Benjamin, Bright, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sidel, Toombs, Ward, and Yulee—28.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Hale, Hamlin, Hartan, Kennedy, King, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Wright—26.

So the bill was recommitted to the Committee on Public Lands.

INDIAN APPROPRIATION BILL.

Mr. HUNTER. I now move to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1860.

Mr. SEBASTIAN. I propose to offer some amendments now from the Committee on Indian Affairs. Most of these amendments require no explanation, and, as a general rule, I shall not consume the time of the Senate by voluntary explanations; only making statements when they are called for. My first amendment is to insert:

Pottawatomies.—For arrears of interest due January 1, 1859, on five per cent. bonds of the State of Indiana, held in trust for the Pottawatomies by the Secretary of the Interior, \$12,053.20.

For the redemption of the principal sum of said five per cent. stock, held in trust, as aforesaid, \$68,000, to be invested by the Secretary of the Interior in safe and profitable State stocks, in lieu of said five per cent. stocks: *Provided*, That the said Indiana five per cent. stocks shall be surrendered by the Secretary of the Interior to the Secretary of the Treasury, who shall be required to institute proceedings to recover, from the State of Indiana, the amount due on said stocks: *Provided further*, That the stocks with which the Secretary of the Interior is now charged upon the books of the Treasury, under the head of "Chippewas, Ottowas, and Pottawatomies—mills and education," be charged to two separate accounts, to be opened under the head of "Pottawatomies' mills," and "Pottawatomies' education;" and the Secretary of the Interior is hereby authorized, with the consent of the Pottawatomies, to transfer the stocks charged as aforesaid, to the new heads of account, in such proportions as he may deem best for the Pottawatomies.

The Chickasaw incompetents.—For arrears of interest due January 1, 1859, on five per cent. bonds of the State of Indiana, held in trust for the Chickasaw incompetents by the Secretary of the Interior, \$350.

For the redemption of the principal sum of said five per cent. stock held in trust as aforesaid, \$2,000—to be invested by the Secretary of the Interior in safe and profitable State stocks, in lieu of the said five per cent. stocks: *Provided*, That the said Indiana five per cent. stocks shall be surrendered by the Secretary of the Interior to the Secretary of the Treasury, who shall be required to institute proceedings to recover from the State of Indiana the amount due on said debt.

Mr. FITCH. I move to amend the amendment offered by the Committee on Indian Affairs,

by striking out all after the words, "required to," in the fourth line of each proviso—that is, to strike out the provision in relation to surrendering stocks to the Secretary of the Treasury—and inserting, "correspond with the Executive of Indiana for the purpose of effecting an arrangement relative to the amount due on said stocks, and report progress to the next Congress."

Mr. SEBASTIAN. That is a very proper amendment, and I hope it will be adopted. I would accept it if I had power to do so.

Mr. FITCH. It is but fair that I should state that I have no assurance whatever that any arrangement can be made, or even that the State holds itself responsible for this stock. The stock is part of the old internal-improvement fund of that State, which fell into the hands of the Government in the manner indicated by the amendment of the chairman of the Committee on Indian Affairs. Some years since the State, as is perhaps well known, surrendered its principal work of internal improvement, the Wabash canal, to the holders of the stock, on certain conditions. The Government was one of the holders; but the Department in the hands of which the stock was held did not feel at liberty to become a party to the arrangement, without an act of Congress authorizing them so to do. Such an act never could be procured. It passed this body, I understand, two or three times, but always failed in the other end of the Capitol. Some arrangement, perhaps, can be made; and the object of my amendment is to open correspondence, to ascertain whether it can or not.

Mr. HUNTER. I do not object to the amendment to the amendment; but the original amendment seems to me to propose a somewhat doubtful policy. I presume we are bound to make good to the Indians the interest on this amount, if the State of Indiana should fail to pay; but if we have to do this, and have to pay the principal out of the Treasury of the United States, I think it would be far better to invest these trust funds in United States stocks than in State stocks any more. The experiments which we have made in that direction have not been successful; and if we are to assume the debts, and guaranty not only the State stock which was formerly taken, but the new State stock which is to be bought, I think the safest way would be to invest the money in our own stocks; and I hope the Senator from Arkansas, the chairman of the Committee on Indian Affairs, will so modify his amendment.

Mr. SEBASTIAN. I will do so.

The PRESIDING OFFICER, (Mr. MASON.) The question now is on the amendment of the Senator from Indiana to the amendment.

Mr. HUNTER. I will wait until that is taken.

The amendment to the amendment was agreed to.

Mr. HUNTER. I now move to substitute "United States stock" for "State stock," in those lines where it is proposed to reinvest the money. I move to strike out the words "safe and profitable State stocks," and insert "the stocks of the United States."

The amendment to the amendment was agreed to; and the amendment as amended was adopted.

Mr. SEBASTIAN. I offer another amendment, as a proviso, to be inserted after the appropriation of \$50,000 for the removal and subsistence of Indians in California:

And the Commissioner of Indian Affairs is hereby authorized, by and with the consent of the Secretary of the Interior, to increase the number of reservations for Indian purposes in the State of California: *Provided*, The aggregate amount of lands so set apart for reservations shall not exceed one hundred and twenty-five thousand acres.

Upon the motion of the Senator from Virginia, the other day, the amount of the estimate was reduced down to \$50,000. This does not propose to enlarge that amount, nor to incur any additional expense; nor does it propose to enlarge the reservations which, by existing law, are devoted to the purpose of maintaining and subsisting Indians in California. It merely authorizes the Secretary of the Interior, without increasing the amount of the reservations, to so divide them as to embrace some small settlements of Indians who have local habitations, and cultivate the soil for existence; and its effects will be, without enlarging the reservations or increasing the expenditures, to enable the Department to give protection to some small villages of Indians, in the unsettled

parts of the country, and protect them against intrusion of the whites. It meets with the entire approbation of the Department, and is in furtherance of the policy which was indicated by the chairman of the Finance Committee, in the amendment which he brought forward the other day.

Mr. HUNTER. I would ask the Senator from Arkansas if this does not propose, in effect, to make some new reservations; that is, to make a reservation of villages which have not heretofore been included?

Mr. SEBASTIAN. By the existing law, one hundred and twenty-five thousand acres are appropriated. This cannot be exceeded. They propose to diminish some of the large reservations that are really unoccupied, and appropriate a like quantity in small detached parcels, to accommodate these small villages. The object is to prevent the emigration of the Indians from their homes, where they have settled homes, and to that extent obviate the expense of transporting the Indians from the mountains and from their own homes to the large reservations. It is rather a proposition to subdivide the large reservations.

Mr. FESSENDEN. I inquire if this amendment will not necessarily increase the number of agents and overseers and officers to attend to this business?

Mr. SEBASTIAN. I will inform the Senator from Maine that it is not contemplated to have any agents or superintendents over these smaller reservations at all. The object is merely to give the Indians the right of occupancy where they are now. It is not calculated to expend any money upon them, or appoint any agents for them; but to diminish the amount of land already appropriated to the larger reservations that are under the superintendence of Government officials, and turn over a like quantity for the protection of the local habitations and farms in the small villages, which are nothing more than remnants of the old mission system; to give them protection in their homes, and prevent their being removed.

Mr. FESSENDEN. Is it recommended by the Department?

Mr. SEBASTIAN. It is earnestly approved by the Department.

Mr. HUNTER. Can it be done without further legislation on the part of the State of California?

Mr. SEBASTIAN. Certainly. There is no increase in the amount of land already included in the reservations.

The amendment was agreed to.

Mr. SEBASTIAN. My next amendment is not exactly in the usual form, because the estimate has just been handed in, but I will read the estimate, so that the Senate may understand it; and I can afterwards put the amendment in proper form:

The total amount recommended by Superintendent W. J. Cullen, for allowance for services rendered and supplies furnished against Ink-pa-du-tah and his band, is \$23,114 91.

The amount appropriated by Congress is \$20,000.

FRANCIS SCHMIDT.

The above amount is correct.

CHARLES E. MIX,
Chief Clerk Indian Affairs.

At the last session of Congress the amount of \$20,000, which was then supposed to be adequate for the purpose, was appropriated. The report of Superintendent Cullen, since then, ascertains that the entire amount necessary to satisfy that class of claims is \$23,114 91. I move, therefore, to appropriate the balance of that sum, (\$3,114 91) for that purpose. The obligation was acknowledged by the law of the last session; and it is now ascertained that there is a deficit in the amount appropriated, reported by the superintendent, and certified to be correct by the Commissioner of Indian Affairs.

Mr. HUNTER. It seems to me that these are claims. There is no law providing for them.

Mr. SEBASTIAN. The law provided at the last session for this class of claims, and appropriated, what was then supposed to be sufficient for their payment, \$20,000. This is now for a balance ascertained upon the report of the proper officers to the Indian bureau. It is in the nature of a deficiency in a class of claims legitimated by the legislation of the last session of Congress.

Mr. HUNTER. If there be any report from the Interior Department, I should like to hear it read. It strikes me very much that this amendment cannot come in under the rule.

Mr. SEBASTIAN. As I explained, the estimate was handed in at so late a moment that it was impossible to obtain a formal recommendation or estimate by the Department. There is an informal one, but it is official, and comes from the right officer. I allude to the certificate of the chief clerk of the Indian bureau, which I suppose complies substantially with the rule. It has an official sanction to its justice. The legislation of the last session of Congress created the law. It is now a mere deficiency to execute an old law, one passed at the last session, and the amount of that deficiency ascertained by its being audited at the proper office, and the result of that deficiency communicated here in official form; not according to the usual manner in which estimates are communicated, it is true, but in one which satisfies us, by evidence of its conclusive character as any other, that it is all correct. The Senator from Iowa can give a more authentic history of the origin of this claim, if it is necessary, to satisfy the chairman of the Committee on Finance.

Mr. HARLAN. The service rendered was recognized by the War Department; and the claim set up by the State of Iowa, as well as that of the State of Minnesota, was referred to the Indian superintendent in Minnesota, to be adjusted under the appropriation bill of last session, appropriating \$20,000. This Indian superintendent, on a thorough examination of the claims and evidence, reports in favor of the allowance of twenty-five thousand and some odd dollars. Unless this additional appropriation shall be passed at this session of Congress, the \$20,000 heretofore appropriated will be applied *pro rata* to the claimants; which will work very great injury to the frontier settlers in Iowa, who, in several instances, allowed everything they possessed to be used by the troops in suppressing the hostilities of the Indians. They allowed their cattle, and their hogs, everything they had for their own sustenance, to be used by the troops. It will work very great hardship unless this appropriation is made. The Committee on Indian Affairs recommend the appropriation, and I suppose that ought to meet the objection raised by the chairman of the Committee on Finance.

Mr. HUNTER. It seems to me that this cannot, under the rule, come in upon the bill. This is to provide for private claims—the claims of individuals who have been injured by the depredations of these Indians—and comes precisely under the spirit of that decision which has been twice made in the Senate, under which the citizens of Georgia and Alabama, claiming indemnity for Creek depredations, were ruled off. They were ruled off on the ground that they were private claims.

Mr. HARLAN. I think the honorable Senator from Virginia misapprehends the nature of the claim. This is for services rendered by the troops, and supplies used by them in suppressing these hostilities. It is an allowance made for property destroyed, and for supplies furnished to the troops employed on that frontier.

Mr. JONES. And sanctioned by the Secretary of War.

Mr. HARLAN. Yes, sir; as my colleague says, it has been sanctioned by the Secretary of War.

Mr. HUNTER. There is another objection. There is no estimate from any Department for it. There is merely a letter of the chief clerk. I am not prepared to say—I do not know—whether the claim is just or not; but it does not come here under the recommendation of any Department.

Mr. IVERSON. I think I heard the Senator from Virginia mention the Creek claims, and say they had been ruled out by the Senate on a point of order; the Senator is mistaken. I do not want him to foreclose that question by a snap judgment in this way, because that will come up directly, and I am prepared to show that it is not excluded by the 30th rule, and the Senate has never decided that question. The Senator is mistaken about it.

Mr. RICE. I think I am posted on this subject. At the time of the outbreak in Minnesota and Iowa, of the band of Indians known as Ink-pa-du-tah's band, the States of Minnesota and Iowa called out troops to suppress the difficulty. Last session the superintendent sent here an estimate of the amount of expenditure incurred by the two States. That estimate was \$20,000. The Secretary of the Interior approved of it, and an appro-

priation of that amount was made. Soon after the appropriation was made it was ascertained that it was not sufficient; that it did not cover about five thousand dollars which had been incurred by the State of Iowa. That amount of indebtedness was incurred by that State; was certified to by the Department; sent back to the superintendent of Indian affairs, who inquired about it and ascertained it to be correct; and this appropriation is merely to carry out the law of the last session. It is not for depredations, but merely to reimburse money to the States that advanced it.

The PRESIDING OFFICER, (Mr. Foor in the chair.) The question is on the amendment, moved by the Senator from Arkansas, from the Committee on Indian Affairs; which will be read.

The Secretary read it, as follows:

To refund the amount advanced by the States of Iowa and Minnesota for supplies furnished to the United States troops, who were employed to suppress the hostilities of Ink-pa-du-tah and his band of Indians, \$3,114 91.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment is to insert, as an additional section:

And be it further enacted, That the President of the United States be, and he is hereby, authorized and required to cause to be surveyed, and the boundaries thereof permanently marked, the tract or tracts of land lying on or near the Gila river, in the Territory of Arizona or New Mexico, now occupied by the confederated bands of Pimos and Maricopas Indians; and the sum of ——— dollars is hereby appropriated to defray the expenses of the said survey.

Mr. HUNTER. I should like to know what is the object of those surveys?

Mr. SEBASTIAN. I will state very briefly. It simply proposes to secure a small reservation upon the same principle and on the same basis upon which reservations have been secured to other small tribes of Indians. This small confederated band of Pimos and Maricopas are living upon the banks of the Gila river, and right upon the great pathway of southern emigration to California—a small band of Indians, who, by their past history and relations to the United States, are of very great interest to us. They have made it their boast that they have never warred upon the white man; or, to use their own figurative language, that they have not yet learned the color of the white man's blood. In the late war between Mexico and the United States, they were the friends and allies of the United States, and refused to join the Mexicans in their attempt to cut off Colonel Cooke's march through that country. They have always supplied our overland emigrants and our troops with provisions; have often assisted our emigrants in recovering property captured from them. They live in small villages, and cultivate their fields by means of irrigation, and have been there probably for a century. They are the hereditary enemies of the Apaches, make continual war on them, and are a kind of wall now against the incursions of the Apaches on all that country.

The United States heretofore have, through their agents, made these Indians promises of help in the way of agricultural implements, &c. They complain very bitterly of the violation of those promises. This amendment, and others by which it will be followed, propose to survey off a small reservation which shall embrace their villages, without any provision at all for the subdivision of the land among the heads of families, and to make them a small present in the way of agricultural implements, and household cooking utensils, &c., such as are suited to their plain wants and primitive habits. They are local in their habits, they are agricultural, they have fine fields which they cultivate by means of irrigation. Such people, with such habits and such interesting relations to us, ought not to be put on the footing of the wild Indians, nor treated as such. It is but ordinary justice to secure them the homes on which they reside, and this amendment proposes to go no further. It is recommended by the Department.

The facts which I have related are gathered from the brief and very satisfactory report of the special agent of the Indian department, who was sent out to make a report on the condition of those Indians and those in California.

The PRESIDING OFFICER, (Mr. Foor.) The Chair would suggest to the Senator from Arkansas that, before the question be taken on the amendment moved by him from the committee, it would be necessary to fill a blank.

Mr. SEBASTIAN. I move to fill it with \$1,000. It is for a cheap kind of survey.

The PRESIDING OFFICER. That sum will be inserted.

Mr. HUNTER. If it be the object of the Senator from Arkansas simply to reserve to these Indians the lands on which they are living, I concur with him most heartily; but I wish to know further, whether this amendment will not require the appointment of some Indian agents, some officers?

Mr. SEBASTIAN. I will say to the Senator that a bill was drafted to correspond with the wishes of the Department, and embodying what they considered the necessity springing out of this particular case. That bill did provide for an agent, and provided for the payment of annual presents to the amount of \$15,000. The committee thought nothing further was necessary than a simple reservation of homes to them, and the expenditure of a few thousand dollars, to comply with the promises made by our agents heretofore, but expressly declined to give an agent or to continue an annual stipend or annuity to them. I think they deserve this much consideration; and we have carved down the proposition of the Indian Office to the very lowest amount that will answer the necessity of the case, and the very lowest measure of justice, I think.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment is to insert as a new section:

And be it further enacted, That the President of the United States be, and he is hereby, authorized and required to set apart the tract or tracts of land aforesaid, as a reservation for the confederated bands of Pimos and Maricopas.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment is to insert as a new section:

And be it further enacted, That the sum of — dollars is hereby appropriated to enable the Commissioner of Indian Affairs to make suitable presents to the Pimos and Maricopas in acknowledgment of their loyalty to this Government, and the many kindnesses heretofore rendered by them to our citizens.

I am at a loss what amount to propose to fill the blank. The annual amount of presents recommended by the Indian office was \$15,000, and I would suggest \$10,000, which, I think, is a very fair compromise between the obligations of justice and the new spirit of economy that seems to prevail here.

Mr. HUNTER. I understand the object is to make presents to this tribe—which I believe to be a small one—of agricultural implements. I think there have been some promises to the tribe which have not been fulfilled, and which ought to be fulfilled. I therefore vote very cheerfully for money enough to make these presents, and I supposed it would be but a small amount; it is a small tribe. They want agricultural implements.

The blank was filled with \$10,000; and the amendment, as modified, was adopted.

Mr. SEBASTIAN. The next amendment is to insert, as an additional section:

And be it further enacted, That if, in adjusting the claims of the half-breed Indians, under the tenth article of the treaty of Prairie-du-Chien, of the 15th of July, 1830, lying within the Nemaha reservation therein described, as surveyed by McCoy, and confirmed by section thirteen of the act entitled "An act making appropriations for sundry civil expenses of the Government, for the year ending the 30th of June, 1859," approved June 12, 1858, there shall be found a deficiency in the quantity of land necessary to carry out the intentions of said treaty, then there shall be retained, out of the proceeds of that portion of the public lands excluded from said reservation as said half-breeds' claim, its boundaries by the McCoy survey and the thirteenth section of the said act of June 12, 1859, so much money as shall equal that deficiency, estimating the same at \$1 25 per acre; which said sum of money shall be paid to the Secretary of the Interior, to be held by him in trust for such of such half-breeds as shall be found entitled to it; and by him to be paid to them or invested for their benefit, as he shall think most judicious and proper, after the said mixed-bloods shall have relinquished to the United States all their interest in and to said deficiency in said reservation.

Mr. HUNTER. If I understand this aright, it is for the purpose of correcting a mistake in some legislation in the last Indian appropriation bill.

Mr. SEBASTIAN. Yes, sir; I will explain it. The amendment involves no appropriation of money: it is legislative, and is intended to reconcile and adjust a conflict of opinion between the Land Office and the Indian Office in the adjustment of the rights of the Indians of the Nemaha half-breed reservations. By the treaty of 1830, the Indians were entitled to a certain coun-

try between the two Nemaha rivers, and in the adjustment of the line, and running the western boundary, a mistake was made, and at a late period that mistake was attempted to be corrected; but inasmuch as settlers had in good faith settled up to the western boundary line, by the thirteenth section of the civil appropriation act of the last session, that line was confirmed. This created a difference between the Land Office and the Indian Office: there is a difference between the two lines of about seventeen thousand acres. All of it will be required, however, to supply the number of Indians who are already enrolled for the purpose of taking the reservations.

We merely propose to give preemptions to the few settlers on the small strip of country between the two lines, and to take the \$1 25 an acre which they pay for the lands, and attach the trust of the Indians to it, and pay the consideration to them instead of turning it into the Treasury. In that way we respect the obligations of the treaty and the rights of the settlers who have settled there in good faith.

The amendment was agreed to.

Mr. SEBASTIAN. I have another amendment to offer as an additional section:

And be it further enacted, That the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, is hereby authorized and directed to prepare rules and regulations for the government of the Indian service, and for trade and intercourse with the Indian tribes, and the regulation of their affairs; and, when approved by the President, shall be submitted to the Congress of the United States for its approval: *Provided*, That such laws, rules, and regulations proposed, shall not be in force until enacted by Congress.

The amendment was agreed to.

Mr. SEBASTIAN. I have another amendment, to come in as a new section:

And be it further enacted, That the Commissioner of Indian Affairs is hereby authorized to make such agreements and enter into such arrangements as he may deem necessary and expedient, with any tribe or band of Indians, for their location upon reservations, or touching the management of their tribal affairs, the application of their property and annuities to purposes of civilization and education; which, when approved by the President, shall be valid and binding: *Provided, however*, That no such agreement shall be of any effect when it involves any additional expenditure of money on the part of the United States beyond what is required under treaty stipulations, or by an act of Congress, until the same shall have been first submitted to, and received the approval of, the Senate of the United States.

The amendment was agreed to.

Mr. SEBASTIAN. I offer another amendment, embracing several sections, intended to legislate on the subject of Indian reserves. It is not exactly, I know, legitimate to offer a code, as it were, as an amendment to the Indian appropriation bill, but it is the only way in which we can get such measures through, and the necessity of passing it is urgent and pressing. The provisions have been well considered; and I hope the chairman of the Committee on Finance will make no objection to them. They are not strictly germane; because they make no appropriation of money. If he insists on having appropriations, we can get up something of that kind.

Mr. HUNTER. I would suggest to the Senator from Arkansas I think it very probable that his code may be right; but if we put too much legislation on, we shall fail to carry some very important measures already upon the bill. I understand that he has introduced the provision in regard to modifications of our arrangements with Indians, to be proposed by the Commissioner of Indian Affairs, with a view to this very matter, to be decided upon at the next session. I only suggest to him whether he will not be more likely to carry his measures if he pauses now, than if he attempts to get too much? It may be very right; I have not heard it. I suggest it for his own consideration, if he wants to carry what he has already on the bill.

Mr. SEBASTIAN. It is very certain that all the amendments of the Senate will not pass the House, anyhow. We shall have to surrender about one half to get a dividend of fifty per centum; and if anything is to be surrendered, we might as well put in this for quantity. It is not so important in its character as some of the others; but we have to get our amendments by installments, anyway. These sections were offered to and passed by the Senate last year; and, in a conference committee, the most necessary of them were retained.

The PRESIDING OFFICER. The Secretary will read the amendment.

The Secretary proceeded to read it, as follows:

And be it further enacted, That, where, by or pursuant to the provisions of any treaty with any tribe of Indians, or of any law of the United States, tracts of lands outside of the limits of any tribal reservation, have been or shall be set apart for the use of individual Indians, to be held in severalty, and the power is reserved to Congress or the President of the United States to authorize the issue of patents therefor, and to make regulations respecting the sale or alienation of such tracts, or where the treaty or law is silent upon the subject, it shall and may be lawful for such reserves to sell and convey such tracts of land, whether they be held as reservations by the usual Indian title or by grant, and a deed of conveyance of such grant, duly executed by the reservees, shall be construed to vest in the purchaser a title in fee simple to the land so conveyed: *Provided*, Such sales shall be made in conformity to such rules and regulations, for the purpose of preventing fraud or imposition, and of securing to or for the reservees the full and fair value of their land, as may be prescribed by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior: *Provided further*, That no sale or conveyance of any such tract shall be of any validity unless the same shall have been submitted to and received the approval of the Secretary of the Interior.

And be it further enacted, That the Commissioner of Indian Affairs shall be, and is hereby, authorized, whenever the interests of the reserve may render it expedient, to require the purchase money for any such tract of land to be paid to the United States agent for the tribe to which the reserve belongs, or other officer of the United States authorized to receive it, and to retain the same or any part thereof, to be afterwards applied under the direction of the Secretary of the Interior for the benefit of the reservee in such manner as may be deemed best for his interest and welfare.

And be it further enacted, That where the tribal reservation of any tribe —

Mr. SEBASTIAN. At the suggestion of several Senators around me, and who seem to think that amendment will create discussion, and that it ought not to be considered further, to obviate any inconvenience of that kind, I withdraw the amendment, and will proceed with others.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SEBASTIAN. I offer another amendment to be inserted as a new section:

And be it further enacted, That the Secretary of War be, and he is hereby, authorized and directed to settle the claims of the citizens of Georgia and Alabama for the losses sustained by them during the Indian disturbance of 1836, 1837, and 1838, and which is set forth in Executive Document No. 127, and reported to the — session of the Twenty-Fifth Congress, upon satisfactory proof being rendered of the identity of the persons therein named, or their legal representatives, so far as the same falls within the equity of the principles of the act entitled "An act to regulate trade and intercourse with the Indian tribes," passed June 30, 1834, without charge on the Indian annuities; and also, for all losses of property destroyed or consumed by Government troops or the Indians under their command: *Provided*, that the payments to be made shall not exceed the sum of \$349,130 less the sum paid heretofore to the State of Georgia upon the claim of Henry W. Jernigan and Jernigan & Co.; *And provided further*, that said sum shall be in full satisfaction and payment for all claims for damages and losses by the act of the said Creek Indians in the years aforesaid, or which may have been taken for Government use.

Mr. HUNTER. Upon that amendment I raise a question of order that it is a private claim, which cannot be put on an appropriation bill. There have been two decisions of the Senate upon this proposition, as I understand the question. One is as follows:

"The following amendment having been proposed by Mr. Toombs, from the Committee on Indian Affairs, viz: insert,

"Sec. 8. *And be it further enacted*, That the sum of \$350,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated to pay to the persons entitled to receive the same, the sums ascertained by the agents appointed by the authority of the second section of the act making appropriations for the current and contingent expenses of the Indian department, approved March 2, 1837, to be due the individuals, their heirs and assigns, and whose names are set forth in the report of said commissioner, transmitted to Congress on the 27th of January, 1838, for spoliation of the Creek Indians, excepting those whose claims have been heretofore paid by the United States.

"A question was raised by Mr. HUNTER whether the proposed amendment was in order under the 30th rule of the Senate; and

"It was decided (Mr. BROWN in the chair) that the amendment was not in order.

"From this decision Mr. TOOMBS appealed; and

"On the question, 'Shall the decision of the Chair stand as the judgment of the Senate?'

"It was determined in the affirmative—yeas 17, nays 15."

Again, sir, in 1853:

"On motion by Mr. ROSS to amend the bill by inserting the following:

"*And be it further enacted*, That for the payment to the citizens of Alabama and Georgia, for depredations committed by Creek Indians upon their property, and for other property taken by the troops of the United States and friendly Creeks, in the years 1836 and 1837, the sum of \$334,753 be, and the same is hereby, appropriated, to be distributed and paid over to the said citizens, or their legal representatives, according to the amounts allowed each of said claimants

THE CONGRESSIONAL GLOBE.

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respectively by Messrs. L. T. Pease and J. M. Smith, commissioners of the United States, under the act approved March 3, 1837, as contained in a report and schedule made to the Commissioner of Indian Affairs, dated November 28, 1837.

"A question was raised by Mr. BAYARD, whether the amendment was in order; and

"The PRESIDENT *pro tempore* decided that it was in order.

"From this decision Mr. BAYARD appealed; and

"The question being put, 'Is the decision of the Chair correct?'

"It was determined in the negative—yeas 19, nays 22."

So there have been two decisions of the Senate on this point of order, each ruling this amendment to be out of order.

Mr. IVERSON. I had anticipated that this point of order would be raised by the Senator from Virginia. His extraordinary vigilance in trying to keep every trespasser off his peculiar domain—the general appropriation bills—sometimes, I think, leads him into error, and causes him to do unintentional injustice. Whatever may have been the decision of the Senate heretofore on this question, I am satisfied the case is not excluded by the rule; and as the question may possibly come before the Senate by an appeal from the decision of the Chair, I desire the attention of the Senate for a very few minutes. The rule in question is the 30th rule, which provides:

"No amendment, proposing additional appropriations, shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received, whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law, or a treaty stipulation."

I suppose it is on this latter clause that the point of the Senator from Virginia stands, that "no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation." If the amendment, although it be to pay a private claim, is in pursuance of the provisions of an existing law—if it is intended to carry out the provisions of an existing law—it is clearly in order. Now, sir, I propose to show that this is a claim to carry out the provisions of an existing law in terms. You will perceive, Mr. President, that the amendment proposed by the standing Committee on Indian Affairs of the Senate, authorizes and directs the Secretary of War to ascertain, examine, and adjust the claims of citizens of Georgia and Alabama, growing out of the depredations of the Creek Indians during the difficulties which existed in the years 1836, 1837, and 1838, in pursuance of the provisions of the act of 1834, regulating the intercourse between the Indian tribes and the United States. I will read the seventeenth section of that act, and it will show to the Senate conclusively, I think, that this amendment is intended to carry out the provisions of an existing law, by which and under which, the Government of the United States is bound to pay these claims. The seventeenth section of the act of June 30, 1834, to regulate intercourse with the Indian tribes, is in these words:

"Sec. 17. *And be it further enacted*, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and, in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guaranty to the party so injured an eventual indemnification: *Provided*, That if such injured party, his representative, attorney, or agent, shall in any way violate the provisions of this act, by seeking or attempting to obtain

private satisfaction or revenge, he shall forfeit all claims upon the United States for such indemnification: *And provided also*, That unless such claim shall be presented within three years after the commission of the injury, the same shall be barred; and if the nation or tribe to which such Indian may belong receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended."

It will be perceived that, by this provision of the law, if any Indian or Indians of a tribe in amity with the United States commit any depredations upon the property of any citizen of the United States, in the State where that citizen resides, or go over into another State, and there commit depredations and destroy the property of the citizens, a mode of redress is pointed out: first, the party is to submit his claim, with the proper documents and proofs, to the agent of the tribe; and then it becomes the duty of the agent to present the case to the President of the United States; and the President, in such form as he may think best, is to demand of the tribe to indemnify the individual who is thus injured. "In the mean time," in the language of the law, "the United States guaranty to the parties so injured an eventual indemnification." It also provides that if there be an annuity due to the tribe by the United States, the Government shall deduct the amount due to the injured person from the next annuity, and pay it over to the individual claimant; but if there be no annuity, the Government shall respond from the Treasury of the United States for the injury sustained by the individual. That is the law under which this claim is now founded.

We say that a portion of the Creek tribe, in the years 1836, 1837, and 1838, broke out in hostilities against the citizens of Alabama and Georgia, and destroyed a large amount of their property. They not only destroyed the property of the citizens of Alabama within the Indian country in the State of Alabama, but they passed over in military bands upon hostile excursions into the State of Georgia, and there destroyed a large amount of property of citizens of that State. The Government is responsible under the seventeenth section of the act of 1834, because that act guaranties an eventual indemnification of the individuals injured. To be sure, the act points out that it shall be the duty of the claimant to present his claim to the agent; but, in this case, there was no agent of the Creeks. A treaty had been previously made between the Creek tribe and the United States, by which all their lands in Alabama had been sold and alienated to the United States; and the agency which had before existed was abandoned, and there was no agent of the Creek nation then in existence. It was impossible, therefore, for the injured individuals to comply with the forms of this statute by presenting their claims to the agent, for there was, in fact, no agent in existence; but the citizens did everything they could do; they presented their claims to the President of the United States; they sent them to the War Department, and they demanded an investigation; and Congress, by the act of the 3d of March, 1837, passed a law directing the President to appoint commissioners to proceed to Alabama and Georgia to investigate these claims, and report the amount which ought properly, under the principles of the intercourse law, to be adjudicated to the claimants. Those commissioners did proceed to Alabama and Georgia, and hear testimony, and report and adjudicate on the claims.

I say the Government of the United States is responsible to these parties under the act of 1834. There were no annuities, or if there were annuities due to this tribe, the Government has thought proper to pay those annuities without deducting the amount due by them for these depredations. It is, therefore, the fault of the Government that the law has not been carried out. It is under the provisions of the seventeenth section of the act of 1834 that this claim is now presented, and ap-

plied to this appropriation bill. Although it is in the nature of a private claim, because private individuals have these claims, yet it is to carry out the provisions of an existing law, to wit: the act of 1834. Hence, it is not excluded by the 30th rule, because that rule expressly declares that a private claim may be put on an appropriation bill, provided it is to carry out the provisions of an existing law. This amendment simply authorizes the Secretary of War to inquire into and adjudicate these claims according to the provisions of the seventeenth section of the act of 1834. It is to carry out the provisions of that law, therefore, that this amendment is reported by a standing committee. We not only have the authority of the report of a standing committee to justify it, but we have the provisions of an existing law, which it is intended to carry out by this amendment. I therefore hold that it is not excluded by the 30th rule.

One of these very claims has already been paid, by an amendment upon the Indian appropriation bill, in 1850, at the first session of the Thirty-First Congress. I read from the Journal of the Senate for that session:

"The Senate resumed, as in Committee of the Whole, the bill (H. R. No. 331) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1851.

"On motion by Mr. ARCHISON to amend the bill by inserting: 'To pay the Central Bank of Georgia, assignee of H. W. Jernigan & Co., and others, the sum of \$21,044.'

"It was determined in the affirmative—yeas 23, nays 16."

This claim of H. W. Jernigan was one of the claims which are embraced in this amendment. The amendment itself excludes that claim, for it says that the amount paid shall not exceed \$349,000, the aggregate amount ascertained by the commissioners, less the amount paid to the Central Bank of Georgia, as assignee of Jernigan & Co. Jernigan & Co., were claimants. A warehouse, the property of Jernigan & Co., was burned down by these Indians, in the town of Roanoke, just across the Chattahoochee river, in the State of Georgia; and it is one of the claims adjudicated by the commissioners sent out under the act of 1837. Congress, therefore, have already decided the question, by putting one of these very claims on the Indian appropriation bill, in 1850. That bill passed both Houses of Congress, and the money has long since been paid to the Central Bank of the State of Georgia. It is therefore *res adjudicata*.

Mr. HUNTER. The Senator from Georgia, as I understand him, puts the question now upon the fact that this amendment is to carry out an existing law, and in order to prove that, he rests on the seventeenth section of the intercourse law. That section reads thus:

"That if any Indian, or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy," &c.

It provides that the United States will guaranty indemnity in such cases. You observe that the trespass is to be committed within the Indian country, or the Indians are to pass from the Indian country into an adjoining State and there commit the trespass. Now, sir, what is the Indian country in the contemplation of this law? The first section defines it:

"That all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana or the Territory of Arkansas, and also that part of the United States east of the Mississippi river and not within any State, to which the Indian title has not been extinguished, for the purposes of this act be taken and deemed to be the Indian country."

These trespasses were not committed within the Indian country, according to this definition, nor were they committed by Indians passing out of the Indian country, according to this definition of what is to be taken and deemed Indian country for the purposes of this act. That is plain. Therefore it seems to me that it cannot be pretended that the case comes within the provisions of this law. Indeed, if it came within them, the

claims might have been presented, and would have been settled, probably, at the Department. It is because they do not come within the provisions of that act that we are asked to legislate upon the matter. It is true the Senator has produced the action of Congress—I do not know whether there was any question of order raised—upon some one of these claims; but it may be that amongst these claims there are some which may rest upon different grounds from others; I do not know. There may have been warehouses occupied by the United States troops, and in such cases if they were destroyed on that account, the Government would be liable on the same principle that it would be liable for property destroyed in the war with Great Britain; but it would not be liable under this Indian intercourse act. I think, therefore, that the Senator has failed to show that he comes within the rule of order by offering an amendment which is intended to carry out the provisions of the Indian intercourse act. It is obvious that policy required that the Indian country, as it is called, should be defined; otherwise it would be making the liability of the United States too great. It could not have been designed to embrace within that definition Indians within the States and who were within the jurisdiction of the States.

Mr. CLAY. I will say a few words in reply to what has fallen from the Senator from Virginia. He very correctly says that the Indian country is west of the Mississippi river, and the Indian intercourse act from which he reads refers to Indians west of the Mississippi river. That is very true; yet the act of the 3d of March, 1837, which was quoted by the Senator from Georgia, expressly, as I understand it, placed the sufferers by Creek depredations in Alabama upon the same footing with other sufferers by Indian depredations within the Creek country. In order to show that, I will simply read the proviso to that act, following what was read by the Senator from Georgia, in which the President is required to appoint an agent to go and inquire what depredations were committed during hostilities and subsequent to hostilities, and report them to Congress. The proviso goes on to say:

"Provided, Nothing hereinbefore contained shall be so construed as to subject the United States to pay for depredations not provided for by the act of April 9, 1816, and the acts amendatory thereto, nor by acts regulating the intercourse between the Indian tribes and the United States."

This is what lawyers call a negative pregnant. It pledges the Government not to pay for any other claim than such as would come within the provisions of the act of 1816, and the Indian intercourse act. Now, I presume that Congress knew that the act of 1816 was *functus officio* and obsolete; because, as the Senator from Virginia knows, that applied to property which had been taken in the war of 1812 by the Government for public use; and hence, I say, it had performed its office, and really was obsolete. So in respect to the Indian intercourse act; I presume that the Congress which passed this act knew that that referred to the country west of the Mississippi river; but I cannot believe that they intended to stultify themselves by declaring that they would pay for no other claims than those which came within the provisions of the act of 1816 and the Indian intercourse act, and at the same time intending that they would pay none of the claims.

But, I say, here is a negative pregnant. They pledge themselves thereby that they will pay all such claims as come within the provisions, in other words, within the spirit and reason of the act of 1816; and the Indian intercourse act. If they did not intend that, what was the use of the proviso? What was the use of appointing a commission and appropriating money to defray the expense of taking testimony and ascertaining the amount of damages? What was the use of deluding the sufferers by these depredations with a false promise of indemnification? Why require them to go forward and establish their proof; and why appoint agents of the Government to take it; and why introduce Government agents themselves to use it, or to confute what was said on the part of the claimants, if Congress had no purpose whatever in this proviso? Why, sir, it impeaches the integrity, or the intelligence, of Congress, to maintain the position assumed by the Senator. They either did not know that the Indian intercourse act referred to country west of the Mississippi, and that the act of 1816 was *functus officio*, and

obsolete; or, if they did know it, they either intended that those who were brought within the spirit and reason of those acts should be indemnified, or they intended merely to delude them by making a pretense of this. Hence, I say, with the Senator from Georgia, that if the Congress which passed the act of 1837 was wise and honest, as I suppose they were, they pledged themselves to pay all such claims as came within the spirit and reason of either the act of 1816, or the Indian intercourse act.

Mr. HUNTER. We have seen such legislation very often passed by compromise. Last year there was a provision inserted by the Senate in an appropriation bill to pay the State claims for moneys advanced during the war of 1812; but for that was finally substituted a provision that the Secretary of the Treasury should audit those claims, and see what was due. Probably the Senator himself voted for that appropriation bill; but I do not think he would consider himself pledged by having voted for that appropriation bill to pay those claims, whatever they may be, when audited; and it is probable—I never referred to that before, but it may be—that this very provision in regard to the intercourse law and the law of 1816 shows that they did not mean for this to be established as a precedent; that they did not mean to go beyond the provisions of those acts. The act of 1816 I do not remember, but the act of 1834 is explicit; and I do not see how we could extend it without great danger to the country.

But that belongs to the merits of the amendment, if it shall be received. I confine myself now to the simple question of order. The question of order is whether, under any existing law, the amendment can be offered? The law referred to is the Indian intercourse law. I think I have shown that it does not cover the case. The one brought up by the Senator from Alabama is one from which he infers the moral obligation of Congress to pay; but that is not a law which, under the rules of order, would authorize the introduction of this proposition to amend the bill.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The question presented by the Senator from Virginia is whether the amendment proposed by the Senator from Arkansas, from the Committee on Indian Affairs, is in order, inasmuch as it proposes to provide for paying private claims of the citizens of Georgia and Alabama. The construction of the 30th rule, as contended, will allow the reception of this amendment. The Senate, as appears by the record, has twice decided the amendment not to be in order. The present occupant of the chair would follow that decision, without any other reason. He may be allowed to state, however, that he thinks the proviso in the rule referring to claims which are provided for in laws and treaties, refers to such claims as are ascertained in amount. Where a treaty or a law provides for paying a certain individual a given amount of money, such a claim is in order upon a general appropriation bill; but a claim to be investigated under a law, that may turn out to be valid or invalid, is not in the meaning of the 30th rule.

Mr. IVERSON. I must appeal from the decision of the Chair. I beg to say, that so far as the latter reason assigned by the Chair is concerned, these claims have been adjudicated and ascertained by act of Congress.

The PRESIDING OFFICER. The Senator has a right to appeal; and the question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. IVERSON. I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 24, nays 10; as follows:

YEAS—Messrs. Bates, Benjamin, Chandler, Chesnut, Clark, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitch, Green, Hale, Hammond, Harlan, Houston, Hunter, Johnson of Tennessee, King, Polk, Reid, Shields, and Wilson—24.

NAYS—Messrs. Bell, Brown, Clay, Fitzpatrick, Iverson, Rice, Sebastian, Seward, Toombs, and Ward—10.

So the decision of the Chair was sustained; and the amendment was ruled out of order.

Mr. SEBASTIAN. I have one other amendment, to carry out a law of the last session of Congress:

For carrying into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by the payment of the claims on file ordered to be assessed by Messrs. Eaton and Hubley, Washington and Mason, commissioners under the Cherokee treaty of 1835-36, the sum of \$19,045 79.

Mr. HUNTER. It is said to be to carry out some provision of an appropriation act, without stating what it is.

Mr. FESSENDEN. I will inquire if it is not the same thing we had before us in the Finance Committee on one of the appropriation bills last year, which was rejected? We examined it, and it was said at that time to be a fraud. I was rather in favor of it; but I was told afterwards that these claims had been on file, and rejected; that there is power to pay them in the Department if they are right, and come under the treaty; but they have been absolutely refused because they did not come under it, but were, in reality, merely fraudulent claims, which ought not to be paid. I do not know anything about it. I should like to have an explanation.

Mr. SEBASTIAN. In answer to the Senator from Maine, I must say I have no recollection of any discussion in the Senate on this subject last year.

Mr. FESSENDEN. The proposition was rejected in the Committee on Finance last year, I remember.

Mr. SEBASTIAN. The amendment for paying these claims never originated in the Committee on Finance; but in the Committee on Indian Affairs.

Mr. FESSENDEN. They were attempted to be put on by an amendment to one of the appropriation bills last year, on which I was one of the committee of conference, and they were finally rejected.

Mr. HUNTER. The Senator is right; it was put on by the Committee on Indian Affairs as an amendment, and thrown out by the committee of conference. I think I have understood from the Secretary of the Interior that they were claims that would be passed, if they were right; the authority of law was enough; but the evidence was not such as to sustain these allegations.

Mr. SEBASTIAN. I will explain it. Under the treaty of 1835, the Cherokees, of course, who had sold their country and were about to emigrate west, had a great many claims for private property, such as improvements and ferries and reservations to them under old treaties. These were personal property belonging to the individuals of the tribe; and, by the sixteenth article of that treaty, a board of commissioners was instituted for the purpose of investigating the value of all these personal rights, and provision was made for their payment first, before the division of the consideration money among the tribe was to take place. Most of those claims have been paid. The only means prescribed in the treaty for ascertaining the value of these personal rights to improvements, reservations, and ferries, was an examination and decision by a board of commissioners. The commissioners appointed, under the provisions of the treaty, what was called a board of assessors. A claim first came before the board of commissioners, who examined the matter of right, and, if it was found that a party was entitled to compensation, they ordered the board of assessors to examine the improvements and value them; and, upon their certificate of value, the amount was paid here at the Department, under an ordinary appropriation by Congress. All the claims that were reported by the commissioners and valued by the board of assessors, were paid. There were four different boards which sat. The board of assessors continued their investigations up to the time their commissions expired. It found a vast amount of business on their hands undusted and undetermined. Those claims, however, which were finally adjudicated and decreed to be paid by the board of commissioners, upon the report of the board of assessors, were paid here. In the first place, a small class of claims were ordered to be valued, and when valued, a report made to the commissioners, who never in form drew out the award, and they were not paid for that reason. That was remedied by the act of 1854, and that class was paid. Then, there was another class of cases whose claims were ordered by the board of commissioners to be valued, but which, in point of fact, never were valued by the commissioners before their commissions expired, where the right was determined to be in the Indians, but the value had not been ascertained. That constitutes the class now proposed to be provided for.

The principle upon which this is based is simply

this: that although the fund out of which these claims were originally to be paid, was exhausted, still the United States have taken upon themselves the performance of a trust; and in the execution of that trust, the Indians could have no part at all, and no means of enforcing compliance with the treaty obligations of the United States to them. In other words, the simplest, plainest neglect of trust is where they appointed a board of commissioners whose commission expired before that board performed its duties. In consequence of that, the act of 1854, in regard to the smallest class of claims remaining unadjusted, assumed the liability and transferred the unexpended appropriation of \$30,000, which had lapsed to the surplus fund, for this purpose. That did not satisfy that class of cases by some five or six thousand dollars. For the balance, Congress appropriated money in 1855. That disposed of the class of cases where valuation had been ordered to be made, and valuation, in point of fact was made, but no regular order by the board of commissioners was made to satisfy the claims.

Still there remains now a class of claims adjudicated by the board of commissioners under the treaty, where it was decided that the party was entitled to compensation, but the board of assessors did not have time, before the expiration of their commissions, to carry out their duty under the orders of the Indian department. That commission has never been revived. If this appropriation is made, the Secretary of the Interior will consider it his duty, under the treaty, to revive that board of commissioners as to this small amount of claims. The amount it takes, looking at the estimate of the War Department, and looking at the claims filed, and it never can go beyond that, is the sum of \$19,000. I have the official letter of the office here, and also an official letter from the Commissioner of Indian Affairs, stating that this amendment embraces a new class, and that it is necessary to carry out the principle adopted in the legislation of 1854 and 1855, to do equal and exact justice between all the claimants under that article of the treaty.

Mr. HUNTER. Does the Commissioner of Indian Affairs recommend the claim, and estimate for it?

Mr. SEBASTIAN. I will have his letter read, and the Senator will see what he does recommend.

The Secretary read the following letter:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, January 29, 1859.

SIR: The resolution of the Senate, of the 14th instant, instructing the Committee on Indian Affairs to "inquire into the expediency of making an appropriation to carry into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by paying the claims on file ordered to be assessed by Messrs. Upton and Summey and Washington and Mason, commissioners under the Cherokee treaty of 1835," reached this office at a late hour yesterday; and your clerk expressing a desire in your behalf that this office should make an expression of its opinion on the propriety of making the appropriation contemplated by the resolution, I have the honor to state, that it ought to be made, and place the parties to be benefited thereby on an equality with those who have already been paid under the act of 1855.

Very respectfully, your obedient servant,

J. W. DENVER,
Commissioner.

Hon. W. K. SEBASTIAN,
Committee on Indian Affairs, United States Senate.

Mr. HUNTER. This seems to be a hasty opinion of the Commissioner of Indian Affairs; certain it is that no estimate has ever been presented from any Department for it. I suppose the claims, whatever they are, have been in the Department a long time.

Mr. SEBASTIAN. Of course.

Mr. HUNTER. No previous Secretary of the Interior, or Commissioner of Indian Affairs, saw proper to estimate for them; and if they had believed them to have been due, they would have done as in all other cases in which they thought there was a liability of the Government to Indians which had not been satisfied. I was under the impression that the Secretary of the Interior, when it was put in the appropriation bill last year, was very much against its justice. I confess I am a little surprised at this letter. It is the same claim that was in the appropriation bill last year, and stricken out by a committee of conference. I am not mistaken in that.

Mr. SEBASTIAN. That may be the fact; I do not remember now.

Mr. HUNTER. It is the same claim. I be-

lieve these Cherokees, in North Carolina, have been the best paid people that have ever had claims against the Government of the United States. They have been presenting claim after claim, some of them very large ones, which have generally been paid; and I had hoped we had long since done with them. I am unwilling to vote to appropriate money for the payment of these claims, until, at least, I know something more about their justice. I think it is a strong fact against them that no Secretary of the Interior, and no Commissioner of Indian Affairs has ever estimated for them, or recommended that they should be paid. This letter is in answer to a letter calling upon him for an estimate, a sort of fishing letter from the Committee on Indian Affairs, and he probably felt required to give them something.

Mr. SEBASTIAN. The Senator certainly misapprehended very much the reading of that letter; and I think it would be well enough to have it read again. He will see that the chairman of the Committee on Indian Affairs, through the clerk of the committee, called for an expression of opinion, not fishing for an opinion, but wanting to know the views of the Indian Office in regard to it. It is the habit of our committee to ask the opinion of the office in reference to every claim, either for or against it; and this is the opinion which is elicited in answer to the formal communication which is addressed in all cases where papers are referred to the office. The Senator from Virginia, I think, is mistaken in the history of this claim heretofore. I believe it was presented. The Senator from North Carolina can say whether it was not presented amongst many amendments to the Indian appropriation bill last session.

Mr. CLINGMAN. The gentleman will allow me a moment. At the last session I moved this amendment without any estimate from the Indian Office. It was voted down in the first instance, and I brought it up a second time. I called the attention of the Senator from Virginia to the law. There are two acts of Congress directing the payment, to which I called his attention, and that of several other Senators. My amendment was voted down in Committee of the Whole, and I renewed it in the Senate. When I renewed it, the Senator from Virginia rose and stated that it was to carry out an existing law, and it was adopted; but after it went to the House of Representatives it was sent to a committee of conference, and was there thrown out. If it is agreeable to the Senate, I will read those sections of the law which it is to carry out, and which satisfied the Senator from Virginia at that time. The twenty-fourth section of the civil and diplomatic act of March 3, 1855, is in the following words:

"Sec. 24. And be it further enacted, That the tenth section of the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of the said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts respectively as may be established by proof of value satisfactory to him, and pay the same."

That is the clause in the act of March 3, 1855. It makes a reference to the tenth section of the Indian law of July 31, 1854. That is in these words:

"Sec. 10. And be it further enacted, That, to enable the Secretary of the Interior to settle and pay the award of commissioners on file for reservations, preemptions, and for rents and improvements, under the twelfth, thirteenth, and sixteenth articles of the Cherokee treaty of 29th December, 1835, in pursuance of the stipulations of the third article of the treaty of August 8, 1843, the sum heretofore appropriated for those purposes, and carried to the surplus fund, is hereby re-appropriated."

Congress re-appropriated it in 1854, but it paid only a part of the claims. There was another portion unsatisfied; and the law of the next year directed their payment, but made no appropriation. It appears, therefore, that under these laws the Department would be bound to pay the claims if they had any money on hand; and, therefore, at the last session the sum agreed to be voted by the Senate was \$20,000. I find, though, from the estimate sent up to-day, that it is nineteen thousand and some odd dollars. The Senator from Virginia, at that time, as will appear by reference to the Globe, said that it was to carry out an exist-

ing law, and was right. It was voted in by the Senate, but was finally lost in the confusion at the end of the session, because there was perhaps no time to consider it in the House of Representatives.

Mr. HUNTER. The Senator is right in stating that I did, at the last session, on his explanation, think the amendment was proper; but I recollect that, on consultation with the Secretary of the Interior, at the time, I found reason to change my opinion in regard to the matter. I see, by his letter, that the Commissioner of Indian Affairs does express an opinion in reference to it. I thought at the time it was a mere response to a call for an estimate.

Mr. FESSENDEN. I am exceedingly averse to having this amendment go on an appropriation bill without further examination, because I am not satisfied that the claim ought to be paid. There is a great difficulty about it. I am not sufficiently familiar with it, however, to state the reasons; but I wish to restate more specifically what I said before. I was rather disposed to favor this proposition at the last session, and I believe I voted for it when it was put on the bill, on the motion of the Senator from North Carolina, last year. It went on the bill, and was rejected in the House of Representatives; and I was on the committee of conference which considered this subject among others, and I remember the statements made by the committee on the part of the House satisfied the chairman of the Committee of Finance at the time, as well as myself, that there had been power originally to pay this claim, but that it had been rejected; that the proper officers had refused to pay it, and that this was only getting it up in another shape, and putting it on an appropriation bill against their will and their views of what was absolutely just in the premises. It may be that we are mistaken about it; but a matter which is decidedly in dispute as to its justice and propriety between certain claimants and the Department which has had the subject in charge, ought not in this summary way to be put on an appropriation bill. It ought to be considered by itself in a different shape; and my fear is that we shall only, in putting it on here, be getting into a difficulty which we have repeatedly got into before, and that is at the solicitation and partial explanations of Senators putting on claims which, after all, turn out to be unfounded and unjust, and under which money is paid out of the Treasury, when, in fact, it ought not to be.

I am very sorry that I have not investigated it enough, or given sufficient attention to it, to be able to state now the grounds on which I came to that conclusion. If I had supposed it was coming up again, I should have informed myself better about it. It was not lost in any confusion, I will inform the Senator from North Carolina; it was lost because the committee of conference came to the conclusion that it ought to be lost.

Mr. SEBASTIAN. The history which the Senator from Maine has given has rather refreshed my recollection, and I think I may say that I was probably on that committee of conference myself.

Mr. FESSENDEN. No; not where this matter was considered.

Mr. SEBASTIAN. I think I can call the recollection of the Senator, though, to one fact which destroys the moral weight of the decision of the House. I think that last year they rejected in toto, all the amendments of the Senate to the Indian bill, without exception, and the whole of them were settled in a committee of conference; and all Senators who know how matters are settled in a committee of conference, know they are often compromises than adjudications of matters of right. I remember that the amendments of the Indian Committee, were, for want of time, all nonconcurrent in by the House, and the whole of them turned over to this kind of lottery, the adjustment of a committee of conference. I do not think, therefore, that the authority to which the Senator has appealed, is very conclusive in its character.

I have never heard that any allegation of fraud was made against these claims. In the original explanation which I made, I stated that those in which all the forms of adjudication required by the treaty were made, were paid at the Department, and legislation is required here from the simple fact that by the expiration of the commis-

sion of the board of assessors, the requisites of the treaty could not be complied with, and yet the parties were entitled to compensation as was determined by the previous adjudication of the commissioners; and these claimants now stand in this condition: they are decided to have a right to compensation, but the Government of the United States determined the commission of the men to whom was intrusted the right of valuing and deciding the extent of compensation, before they completed their duties. This is proposed to supply that deficiency. That is the whole question.

Mr. CLINGMAN. I will say to the Senator from Maine that in using the word "confusion" I may not have been very definite. If I had explained what I meant, I should have said this went to the House of Representatives, and I made an inquiry of the chairman of the Committee of Ways and Means about it, and he told me that they had no papers, no evidence before them; they had no time to look into the law, and were therefore obliged to reject it. You know, sir, and I know, from the manner in which a committee of conference act when they have one hundred or two hundred amendments before them, and but two or three hours in which to act upon them, the action may be very well described as most confused. The Senator from Maine says we are hurrying this matter up without sufficient examination. Not at all. In 1854, Congress directed it to be paid in the Indian bill; but it was not done. In 1855, it was again directed, in the twenty-fourth section of the civil and diplomatic act, expressly to be paid. At the last session the Senate placed it on the appropriation bill. Now, I submit that there can be no appearance of haste or a waste of time to examine it. You have a plain law passed, in as strong terms as can be made, directing this payment; but there was no money to do it. It seems to me it stands on just as good a footing as the law directing the President's salary or our salaries to be paid, and there is the same reason for making the appropriation.

Mr. BELL. My only apology for saying a word on this subject is, that I find, on looking at the papers, that there is a Tennessean, as well as a Georgian and a North Carolinian, interested in this proposition. My attention had been drawn to it before; but I was willing to leave the discussion and statement of the case to the chairman of the Committee on Indian Affairs, and to the Senator from North Carolina. The Senator from Virginia thinks it very strange that there has been no estimate; that we have no opinion from the Department, except one that appears to be hastily formed. The Senator from Maine thinks there was some allegation of fraud when this question arose in a committee of conference; and that therefore the claim was not paid.

Mr. FESSENDEN. I said the impression was that there was no foundation for it; and that it had been rejected by the proper officers.

Mr. BELL. The clause of the civil and diplomatic bill referred to by the Senator from North Carolina does, in substance and effect, contain an adjudication of the validity of these claims. They have been in the Indian Office for four or five years—at all events, since 1854. The two provisions quoted by the Senator from North Carolina have been passed since. My interpretation of those acts is that they recognize the validity of the claims. The proposition is to carry out the twenty-fourth section of the civil and diplomatic act of March 3, 1855, "by paying claims on file, ordered to be assessed by Messrs. Upton and Summey, and Washington and Mason, commissioners under the Cherokee treaty of 1835;" claims "ordered to be assessed" by them. That was the only objection, as I understand, ever raised in the question, that that commission was dissolved after the order of assessment and after the valuation was returned, but before the award or decree for payment was issued upon these assessments, and these clauses of acts have been passed to remedy the injury inflicted upon the three remaining claimants, or whatever may be their number, who did not get their claims adjudicated during the existence of the commission, before it was dissolved by the President, who dissolved it when it had not finished its work.

Now, I think the validity of the claims is fully admitted, and they have been in the office ever since. Do you suppose the Commissioner of

Indian Affairs does not know what they are? I am told by every person who has any acquaintance with General Denver's official conduct during the period of his administration of the office, that all have undoubted confidence in his integrity, his intelligence, and his disposition to do his whole duty. Here is what is said to be a hasty opinion expressed by him, and we are asked to infer that it was done in haste, because he said he had but little time; but the presumption is, that the circumstances of the case were known to him, that his proper subordinate officers presented the facts to him; and what are they? Here are three claims, I believe—I have not the estimate before me—remaining unpaid, which stand in similar circumstances of equity and justice to those that have been paid, and he says that in order to place them upon a footing of justice and equality with those that have been paid, this appropriation ought to be made. Have we not, then, the approval of the office in favor not only of the legality and justice, but the fairness of this claim? There are three parties who claim the benefit of certain provisions in the treaty of 1835, with the Cherokee Indians, by which they were secured, and further secured by the treaty of 1845-46, in the benefit of a reservation to each of them; one perhaps for improvements, another for lands, and a third perhaps for improvements. One of them—the case which has been brought to my notice—was for a loss of land. They have never had the benefit of these reservations; they have never had the benefit of the stipulations of the treaty guarantying them to them. They have never had the measure of justice stipulated by the United States in the last treaty of 1845-46, carried out.

I call the attention of the Senator from Virginia to the fact, that these constitute the sole remnant of all the numerous complications and claims that have existed in the relations of the Cherokees and the United States—three of a numerous class of reserves and claimants for improvements, or for lands, who have been defeated in their rights in trying to hold these lands, or getting any indemnity for them from the United States. There are only three remaining; and I think we have ample proof before us in the statement which has been read by the Senator from Arkansas, and which I hold in my hand, that the Department say they cannot discriminate between these cases and the other cases, but they are included as well as those who have been paid under the express language of the act of 1855, which provided that they should all be paid, not only those upon which there were awards by the board of commissioners, but those which were ordered to be assessed. That is implied in the language of the twenty-fourth section of the civil and diplomatic bill of 1855, which has been referred to. If these are not equitably and justly entitled to be paid, then those who have already been paid were not entitled; and shall we now throw these other claimants over, after this adjudication by Congress, after this recognition by law? Will you postpone these three claimants, and refer them either to the Court of Claims or to the uncertain chances, as to time particularly, when they could get them allowed by a separate bill? It is the carrying out of an express law. I think the rejection of this amendment would be more than a rigorous application of any rule either of propriety or of caution, in a case of this sort, when we have the approval of the Department and their admission that these claims are just, and ought to be paid.

Mr. HUNTER. I will say, in regard to the letter from the Commissioner of Indian Affairs, that if he had had time to examine the subject thoroughly, there is no man in whose opinion I would confide more implicitly; but here was a letter, as he says, sent to him at a late hour of the evening, and he was to reply at once. If the Secretary of the Interior, who is familiar with all this class of cases, had returned such an answer, I should be fully satisfied. I do not recollect all the facts of the case; but I have an impression that there has been some adverse decision, or an expression of opinion on the part of the Department that these men were not entitled to relief; and for that reason I am unwilling to see the claim go upon an appropriation bill. If the Committee on Indian Affairs will ascertain that the case is a good one, and that it has not been decided against by the Department, or if decided against, that the De-

partment was wrong, and will introduce a separate bill, I shall go with them; but I cannot with my present impressions of the claim, agree to vote for it on this bill.

Mr. CLINGMAN. I can only say that this matter was before the Department at the last session, and I know of no adverse decision, and I presume the chairman of the Committee on Indian Affairs, the Senator from Arkansas, would have been likely to know it.

Mr. HUNTER. Why have we no recommendation from the Department?

Mr. CLINGMAN. I do not know why. It may be, and probably is, because they have a great deal of other business, and this is a matter of comparatively small importance. I know there was an effort made to get an estimate two or three weeks ago; but it has been delayed from time to time.

I will say here, that the reason why these claims were not paid out under the original treaty, was that they were cases where certificates had not been issued. President Tyler removed the commissioners after they had made awards in favor of the claimants, after the amounts had been assessed, and the valuations returned, but before the certificates had been issued; and they were not payable at the Treasury. Then these other laws were passed directing the Secretary of the Interior to take evidence, and ascertain the amount really due, and allow it, and this case stands in the office in that way. The appropriation originally made, was not applied by Mr. Manypenny, in 1854, from some cause or other; I do not know what; he declined to pay these claims. He and I were not on such terms that I could speak to him at all; for we differed materially. It went over, and the fund lapsed, and there is now a necessity for a reappropriation, to carry out what these two acts of Congress recognized as right. If there has ever been an adverse decision, or an obstacle thrown in the way, by the Indian Office, or the Secretary of the Interior, I have not heard of it.

Mr. FESSENDEN. I should like an explanation from the gentleman, why he does not propose this amendment in the exact terms of the act of 1855?

Mr. CLINGMAN. I did not draw the amendment; the Senator from Arkansas drew it; but if there is any difficulty about its terms, let it follow those of the act of 1855. I have not even read over the particular form now given to it.

Mr. FESSENDEN. I am inquiring merely for information; but I understand that the difficulty alleged about this fund is that it was not paid, although covered by the terms of that provision of 1855; and the amount has lapsed. That is the difficulty.

Mr. CLINGMAN. An earlier appropriation, which is referred to, did lapse; but in the act of 1855 there was no appropriation at all. There had been a previous appropriation, which had failed, and it was reappropriated; and that, as I stated at first, was exhausted in paying some of the claims; but the act of 1855 makes no appropriation at all.

Mr. FESSENDEN. Was not the Secretary directed to pay by the act of 1855?

Mr. CLINGMAN. I will read it again:

"That the tenth section of the act 'making appropriation for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes,' approved July 31, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey and other official assessors."

Upton and Summey were the assessors who ascertained the value of the property.

"—as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of the said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts, respectively, as may be established by proof of value satisfactory to him, and pay the same."

This seems to be very definite and precise. The commissioners, Eaton and Hubley, at first, and Washington and Mason afterwards, appointed assessors to value the land. If Eaton and Hubley had given certificates upon the awards, the money would have been paid on their certificates, but they were removed before they granted certificates; but after the awards had been made, and consequently further legislation was necessary.

Mr. FESSENDEN. It appears now, very

distinctly, that that provision of 1855 directs the Secretary of the Interior to ascertain the amounts due under the report of certain commissioners there named, and "pay the same." Of course he had all these matters before him; he investigated them, and he did not pay the claimants. Now, if you wish merely to give authority under that provision, why not reenact it exactly in the terms in which it stands on the statute-book? You have introduced other names here, and it would seem to me as if it was to cover other things. I do not understand it.

Mr. CLINGMAN. All that I desire is, that that provision be reenacted, with an appropriation of money to enable the claims to be paid.

Mr. SEBASTIAN. The Senator from Maine is laboring under so obvious a misapprehension that it is probably necessary to repeat what I said in my first argument. It is very easy to account for the fact that the last amendment is not drawn in such a form as to be a precise copy of the first. As I tell the Senator very frankly, it applies to a class of cases that that law did not reach; but its principle did. The difference was precisely this: the class of cases to which the Senator from North Carolina has adverted, was a class where the right had been determined by the board of commissioners, and an order of valuation made, and the commissioners had returned the valuations; but a regular award by the commissioners had not been made. In some cases there were blanks and they were authorized to be filled. Now, this other class of cases embraces those where the commissioners ordered valuations to be made, determined that a party had a right to a valuation; but the commission expired before the board of assessors made any return. The evidence is here; but they made out no final return. That goes, of course, one step beyond the last act; but stands on the same principle. An amendment which would have servilely copied the law of 1854 and 1855 would have been wholly unnecessary to this case for the most obvious reason in the world.

Mr. FESSENDEN. Then I would like to know what existing law there is to cover this case, which saves the amendment from the operation of the rule? If that law does not cover it, it is clearly a proposition to put in a new claim, which is not covered by the law as it stands, and would be subject to the objection that it does not come within the rule, and is therefore not admissible.

Mr. CLINGMAN. I think the law of 1855 does cover the case.

Mr. FESSENDEN. That is not the ground taken by the Senator from Arkansas.

Mr. CLINGMAN. It provides: "That the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files, with such amounts respectively as may be established by proofs, and pay the same." This covers exactly the case stated by the Senator from Arkansas; the awards were made but the amount is not fixed, and he is directed by proof to ascertain and pay the same, and to fill the blanks. It covers exactly the cases referred to by the Senator from Arkansas. If the amount had been stated in the award there would have been no blank; and of course this clause would have been unnecessary. I repeat, that I did not see this particular amendment until it was presented, and I brought the attention of the committee to it. I supposed it corresponded with the act of 1855; and I ask that it be read again.

The Secretary read the amendment, as follows:

For carrying into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, by payment of the claims on file, ordered to be assessed by Messrs. Eaton and Hubley, Washington and Mason, commissioners under the Cherokee treaty of 1835-36, the sum of \$19,045 79—

Mr. CLINGMAN. I see the variance is that the one names the commissioners, and the other the valuing agents. Upton and Summey are known to me. I know the fact that they were the valuing agents of Eaton and Hubley, who went out and valued them. That is the only difference between the two. It is like naming a judge in one paper, and the clerk and master or somebody else to take an account in another; but it is identically the same case.

Mr. FESSENDEN. I raise a question of order, that the amendment does not come within any existing law. A new law is necessary in order to provide for the payment of the claim.

The PRESIDING OFFICER. (Mr. STUART.) Does the Chair understand the Senator to raise a question of order on the admissibility of the amendment?

Mr. FESSENDEN. Yes, sir.

The PRESIDING OFFICER. On the statement made by the Senator from Arkansas, the Chair must decide the amendment not to be in order.

Mr. CLINGMAN. My understanding is different. I have had no conversation with the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas states that this is a class of claims, the amount of which has never been ascertained.

Mr. CLINGMAN. My understanding was altogether different.

Mr. SEBASTIAN. Not ascertained, I said, by the board of assessors—no return of the amount.

The PRESIDING OFFICER. That was the understanding of the Chair.

Mr. SEBASTIAN. An order was made by the board of commissioners to assess them; but before the duty was finally completed, as I understand, the commission of the board of assessors expired. I understand that the evidence is all on file in the Department; but that a formal award by the board of assessors never was completed; and that in the execution of this law, it would be necessary to revive, *eo nomine*, that commission, who could adjudicate and ascertain the value of these different claims by the testimony on file in the office.

Mr. HUNTER. I understand there is no appeal from the decision of the Chair.

The PRESIDING OFFICER. The bill is still open to amendment.

Mr. SEBASTIAN. I have one further amendment, and I will call the attention of the Senator from Tennessee [Mr. BELL] to it. I presume it is one which he will accept. In the terms of the amendment which he offered, and which was adopted by a vote of the Senate on Monday evening, providing for the transfer of the Indian Office from the Secretary of the Interior to the War Department, I observe that he fixed no time when that transfer was to operate, the consequence of which would be that it would operate as soon as the bill passed. Considerations of evident propriety would make it necessary to limit the repeal of that act to the 30th of June next. The Secretary of the Interior has now the disbursement of the revenues. I propose, therefore, after the enacting clause of that amendment, to say that "from and after the 30th day of June next" the proposed transfer shall be made.

The PRESIDING OFFICER. The amendment may be made by unanimous consent. ["No objection."]

Mr. BELL. I have no objection to that.

The PRESIDING OFFICER. The amendment will be made.

Mr. RICE. I am directed by the Committee on Indian Affairs to offer two amendments. The first is to add to the first section:

For reimbursing to Louis Roberts the amount expended by him in purchasing provisions for the Sioux Indians, to replace annuity provisions destroyed by fire in November, 1855, \$3,162: *Provided*, That the Secretary of the Interior shall be satisfied that the prices charged were just, and that the provisions were delivered for the purpose of carrying out the provisions of an existing treaty stipulation.

Mr. HUNTER. I raise a question of order. It is a private claim.

The PRESIDING OFFICER. From the amendment itself, the Chair would think it not in order. Explanation may be made of it, perhaps.

Mr. RICE. There was a contract for transporting provisions into the Sioux country. A portion of the provisions were destroyed by fire. The contractor took them on board a steamboat as far up the Minnesota river as that river was navigable, and there placed them on the shore. A portion of the provisions were destroyed by fire. The testimony shows that every care was taken to preserve them that could have been taken. It was late in the month of November; the Indians were assembled, and by the advice of the agent the contractor purchased the supplies charged in his account, to enable the Government to fulfill its treaty stipulations with that tribe of Indians. It is not a private claim, in my opinion.

It was money advanced to enable the agent to carry out the provisions of a treaty. The only question of doubt about it is, in regard to the amount of charge, whether the prices were reasonable or not; and hence we propose to have it go back to the Secretary of the Interior, to ascertain that fact.

Mr. HUNTER. I submit to the Chair to decide whether it is a private claim.

The PRESIDING OFFICER. The Chair thinks it is not admissible under the rules.

Mr. RICE. Well, sir, I have another amendment; to add to the first section:

For paying the claims of William Wood, Josiah W. Stuart, and Adam P. Shegley, a sum not exceeding \$8,676 37, it being for property taken and destroyed by Sioux Indians under Ink-pa-du-tah, in March 1857: *Provided*, That the Secretary of the Interior shall first satisfy himself as to the correctness of the amounts due each of said claimants or their legal representatives, and that the claims come within the provisions of the seventeenth section of an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834.

Mr. HUNTER. I raise a question of order on that. It is a private claim.

The PRESIDING OFFICER. The Chair thinks the amendment is not in order.

Mr. RICE. That claim certainly comes within the seventeenth section of the act of 1834. This band of Indians left their country; went into the State of Minnesota; plundered these three families; and they murdered two of the heads of the families. It is proven that the Indians were in amity with the United States. It is proven that the depredations were committed; that the goods were stolen; and the only question in doubt now is, in regard to the prices charged. The men's families that are left are women and children. They live far on the frontiers. They have not the means to prosecute the claim in any other way than by petition to Congress. All they ask is that the Secretary of the Interior shall satisfy himself of the amount of the property destroyed before he pays the claim. I take an appeal from the decision of the Chair.

The PRESIDING OFFICER. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

The decision of the Chair was sustained; and the amendment was ruled out of order.

Mr. JONES. Is it in order now to move to reconsider an amendment made on Monday? If so, I move to reconsider the amendment offered by the chairman of the Committee on Finance, providing for striking out a section of the Indian intercourse act, which provides the payment for property destroyed by Indians.

Mr. HUNTER. I suggest to the Senator from Iowa that the better way to accomplish his purpose will be, when the bill is reported to the Senate to reserve that amendment, and to have a separate vote on it. The bill is now in Committee of the Whole. It will soon be reported to the Senate, with the various amendments. The Senator from Iowa can then except that one, and have a separate vote upon it.

Mr. JONES. I think my proposition will be more likely to pass now, than it will be when we take the bill out of committee. It certainly will stand a better chance of passing now. The amendment was made in committee, and I think that is the proper place to reconsider it, and vote it down.

Mr. HUNTER. Will it not suit the Senator to take the vote when we go into the Senate?

Mr. JONES. Very well. My friends say it will be just as well; but I do not believe it. I shall defer to them, however.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in committee of the whole.

Mr. JONES. Now, I wish that amendment to be excepted.

The PRESIDING OFFICER. That will be reserved; and if there be no objection, the question will be taken on the other amendments in the aggregate.

Mr. HARLAN. I ask to have another amendment excepted from this vote. It is the amendment by which the third section of the bill was stricken out, as it came from the House of Representatives.

The PRESIDING OFFICER. That amendment will also be reserved. If there be no objec-

tion, the question will be taken on all the other amendments in the aggregate.

The amendments were concurred in.

The PRESIDING OFFICER. The question now recurs on the amendment which was excepted by the Senator from Iowa, [MR. JONES,] to insert as an additional section:

And be it further enacted, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers," approved June 30, 1834, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases, either by the Indians or by white men trespassing on the Indians as described in the said act, be, and the same is hereby, repealed: Provided, however, That nothing herein contained shall be so construed as to impair or destroy the obligation of the Indians to make indemnification out of the annuities as prescribed in said act: And provided further, That the President of the United States may at his discretion indemnify the Indians out of the Treasury, for losses, in cases where the said act required them to be paid out of the Treasury.

Mr. JONES. I hope the Senate will reject this amendment which was moved by the Senator from Virginia. If this provision be stricken out, Congress may expect to have large sums of money to expend in defending the western frontier from Indian wars and Indian incursions. The people of the western country, unless this amendment be rejected, will have to depend on their own strong arms to defend their property from the depredations of the Indians. When our citizens on the western border know that there is a law of Congress which provides that they are to be compensated for the destruction of their property, they do not resort to arms and to war, but depend on this law for reimbursement. My constituents, by the band of Indians known as the Ink-pa-du-tah's band, have suffered more, not only in the destruction of their property, but in the destruction of their persons and families, the destruction of life, and the hardships which they had to encounter in consequence of the incursion into our country by these Indians, than any people, in my opinion, ever did in the same length of time in the western country, or any other portion of the Union. My constituents were ordered by the Governor of the State to go to the relief of the section of the State near Spirit Lake, not exactly in the midst of winter, but before the breaking up of winter, in February and March, an exceedingly cold time, and they suffered immensely. A great many of them lost their feet. Their hands and feet were frozen. They suffered so much as to be compelled to roll themselves into the camp where their companions were. Some of them were carried on litters. If the people are not to be protected by this wholesome law, the intercourse act of 1834, they will have to depend upon themselves; they will have to resort to war; there will be constant dread of war upon our western frontiers. I hope the Senate will not agree to this amendment of the chairman of the Committee on Finance.

Mr. HUNTER. This is an amendment, not of the chairman of the committee, but an amendment of the Committee on Finance. It does not act retrospectively; it does not relate to cases already existing; but applies only to the future; and I said at the time that it was necessary to take some action in reference to this subject, because these claims are multiplying beyond all reason, and because such was the extent of what is now called Indian country, beyond what was originally intended by the law of 1834, that the law is used as much for the purpose of insuring traders who go into it, as for anything else. The law, as it stands, may be applied to those persons who are emigrating across the plains, for that is the Indian country now. Under the terms of the law it may be applied to trespasses committed on them, and there is no telling what will be the end of it. I think that generally the citizens of the States are not very scrupulous about driving back and whipping off Indians when they trespass on them. It would be far better to leave that power with them, if they did not already exercise it, than to subject the Treasury to such liabilities as it will be subjected to if the sixteenth and seventeenth sections of the intercourse act be allowed to remain. I know that this is the opinion of the Commissioner of Indian Affairs. I know that already the cases are accumulating, and such cases as I think even the Senator from Iowa would agree ought not to be paid out of the Treasury of the United States. I regard this section as being more important than

everything else upon this bill, for the purpose of saving the Treasury of the United States from improper demands; and from demands to such an amount that in the end it would be hardly able to meet them.

Mr. JONES. I think there is no provision in any law that has a greater tendency to keep peace on the frontier than the very section that the Committee on Finance propose to strike out. Under the present law, the settlers know that, if they molest the Indians in the slightest degree, they can have no relief, and the Indians know that, if they commit depredations on the property of the white people, they are liable to pay for them out of their annuities.

Mr. HUNTER. We leave in force all that portion of the law which provides that the Indians shall pay out of their annuities. We only repeal that portion which makes the Treasury liable.

Mr. JONES. I know that; but the settlers cannot tell whether the particular Indians who commit depredations belong to a tribe that receives annuities or not. A few years ago the Indians within the bounds of the State of Iowa robbed two surveyors of the public lands, my deputies, of their horses, their provisions, their blankets; in fact, everything they had was taken from them by the Indians.

Mr. RICE. I should like to ask the Senator whether those surveyors have ever been reimbursed by the Government?

Mr. JONES. Yes, sir; under this very law.

Mr. RICE. It is the first case of the kind I have heard of in the Northwest.

Mr. JONES. Repeal this law, and there will be no provision for them; the settlers, knowing that there is no law providing for them, will resort to arms for retaliation, and Indian wars will prevail. Repeal this law, and you induce the settlers to resort to the *lex talionis*.

Mr. HARLAN. It seems to me that the chairman of the Committee on Finance ought not to insist on the adoption of this amendment. It is introducing very important legislation on an appropriation bill—a principle which he has opposed, ever since I have had the honor of a seat here, more strenuously, I think, than any other member of this body. He proposes to reverse the entire policy of this Government towards the Indian tribes by an amendment to an appropriation bill; and the amendment certainly is subject to the objection suggested by my colleague. It will deprive the citizens of the frontier States of any redress whatever for the losses they may sustain by Indian depredations, unless they secure that redress by the strength of their own arms. You hold out an inducement to them, therefore, to steal from the Indians, if the Indians steal from them—a policy which has been repudiated by the Government ever since 1834.

Now, it may be that the act of 1834 is subject to some objections which have been suggested by the chairman of the committee. The laws on this subject, perhaps, ought to be revised; but it seems to me the object proposed by the Senator may be attained, and at the same time preserve the rights of the citizens of the frontier States to the indemnity which is secured under the law which he proposes to repeal. I know there are those in the frontier States who would be willing for the Government to repeal this law, and throw the doors open for a redress of their own grievances, by the use of their own arms. They could indemnify themselves by reprisals; but this, as has been suggested by my colleague, will certainly bring on the frontier States Indian wars, which this Government will be under obligations to repel; and at a greater loss, and greater expense to the Treasury of the United States, than will be the small amounts which will be required to indemnify the people for these losses. It seems to me that the policy suggested by the chairman of the Committee on Finance, in proposing to repeal this law, is wrong.

Mr. FESSENDEN. One remark made by the Senator from Iowa induces me to call the attention of the Senate to one fact. He says that this is introducing important legislation on an appropriation bill. Well, sir, we did it purposely, so far as I am concerned, and the subject was mentioned in committee. It has been said here in the Senate, that those of us who are members of the Finance Committee are not in the habit of doing our duty; that we allow appropriations to be made,

and do not look at the laws to see where improvements are needed, and where leaks in the Treasury can be stopped. That has been the argument on appropriation bills. It has been argued here, that it is our duty to do so, and an attempt has been made—I do not know what has become of it—to impose the necessity on the Committee on Finance, by resolution, to look into these matters and introduce a system of reform. We thought we would begin in a small way in two or three places, and see how the Senate would like it. We anticipated that the moment we got into the Senate with anything that looked like general legislation on the appropriation bills, we should be attacked in precisely this way for attaching general legislation to the appropriation bills; but members of the Senate had been attacking the Committee on Finance for not doing their duty in relation to these matters.

Now, what shall we do? Perhaps it is not competent; it has been said before that it was not; but here is about the first instance; here is the reply made to the movement instituted a while ago in the Senate to place this whole matter under the charge of the Committee on Finance, and order them to do what they could do in reference to these things. Let us have it one way or the other. I was content with our condition as it stood before, and that was to examine the appropriation bills and see how far the appropriations proposed were justified or called for by existing laws. I was willing to go further. When the appropriation bills come before us, if we find that appropriations are called for, or are not called for, but there is a proper opportunity in an appropriation bill to correct a defect in the laws, it is just as well that the Committee on Finance should undertake to correct it then and there; and I am willing to take my share of the responsibility of doing it.

Now, sir, as to this particular amendment, I believe it to be necessary. I voted for it in committee, and I am willing to sustain it here, for the reasons stated by my friend, the chairman of the committee. I will state, further, that I doubt very much whether the Treasury of the United States can stand this thing a great while longer, with others that it has to meet, in the present condition of affairs with reference to the Indians and settlers. I think something ought to be done by legislation; or, at any rate, that inducements ought not to be held out by legislation for everybody who has a disposition to push into the wilderness, and among the Indian tribes, and expose himself to all manner of depredations in the pursuit of his business or fancy, and the United States Government be considered as the guarantors of all losses. Sir, people will not meet with any loss if they keep within the bounds of civilization, if they stay anywhere within a reasonable distance of settlements, as a general rule; and I am doubtful really whether it would not be cheaper for the United States to have these people do their own fighting, and protect themselves, if they are really attacked, than it would be to meet all the claims which will come upon us under the intercourse law from all sections of the West, and everybody that goes West, to pay for Indian depredations.

The amendment, as I understand it, leaves the annuities of the Indians subject to the operation of this law as it was before. It only strikes off the guarantee of the United States, that everything shall be paid in a certain event; and which guarantee operates, in fact, as an inducement to the people to put their property at hazard and themselves at hazard, in my judgment, and then come before us with the almost utter impossibility of our meeting claims of this description, when they are brought forward, by any kind of evidence, because testimony is not within our reach. I believe the amendment will not work any harm.

I do not feel disposed to follow up and repeat the arguments of the chairman. I believed in committee, I believe now, it will do no injury to the honest settler in point of fact, and save the United States Treasury millions of dollars; for I believe it will amount to millions every year in the present extended condition of our relations with the Indians.

Mr. FITCH. I perfectly concur with the Senators from Iowa, in the propriety of non-concurring in this amendment. No gentleman can be as familiar with the Indian frontier as some of us have perhaps unfortunately been since an early period of

our lives, without being thoroughly convinced of the difficulty of restraining our own frontier population under the irritation of wrongs inflicted on them, even when the strong arm of the law is extended over them; but, when that arm is withdrawn, as it virtually will be by the adoption of this amendment, they will take the remedy in their own hands. They can initiate a war; but, unfortunately, they have not the power to carry it on, and the Government is immediately appealed to to step into its prosecution; and the expense of the prosecution of a war is usually greater than any claim arising under this provision of the law possibly can be.

Again: if you limit the fund from which the frontier settlers are to derive their only compensation for damages inflicted on them, to the Indian annuities, they are notoriously wholly inadequate in more than three fourths of the cases. For instance: we have treaty stipulations with these very Indians to whom allusion has been made by the Senators from Iowa, the Sioux; and by virtue of these treaties, they are in amity with us; but some of these bands draw no annuities whatever; yet you limit the source from whence those injured by them are to obtain satisfaction to the annuities, and it is evident to them all that they have no remedy. Other bands, again, draw but a very few hundred dollars, while they will do damage to the amount of thousands.

In much that fell from the Senator from Maine I cordially concur. This is general legislation upon an appropriation bill. The whole subject of our Indian relations needs revision; and while speaking on the subject I may be permitted to say that, in my opinion, we acted too hastily in adopting the amendment which transfers the Indian bureau from the Interior to the War Department. If that provision finally becomes a law, we shall have thereby added to the efficiency of the bureau, but we shall have deducted nothing from the expense of maintaining it and the host of officers in its employ. If we commence a reform, it should be commenced after due deliberation, and be radical; and that the Indian bureau is susceptible of a thorough and radical reform, which will add not only to its efficiency, but very greatly to its economy, I have not the slightest doubt. We commence, however, in this manner, by transferring a bureau from one Department to another, knowing not what the action of that Department will be; whether they will commence a reformation lessening the expenditure, or whether they will add to it. We can only assume, from the character of the Department and the relations the frontier officers of that Department bear to the Indians, that the duties of the bureau will be more efficiently discharged. With all due deference to the Finance Committee, for I have no doubt they reported this amendment with an eye to economy—and certainly of all committees in the Senate it is their duty to consult it—I sincerely trust that in this single instance their report will not be concurred in.

Mr. DAVIS. I think both in the proposition and in the argument, the great question which lies in front of all the details that have been adduced, has been overlooked. We should remember that the Indians bear to the United States the relation of ward and guardian; that the United States are not merely charged with the duty of protecting their citizens from outrage by the Indians, but they are also charged with the care of the Indian tribes. So far as my own knowledge of frontier life goes—and many of the best years of my life were spent on the remote frontier—Indian wars more frequently result from the aggressions of the whites than of the Indians. That, however, is not the question which we have before us; it is whether we will promote that species of strife between the Indian and the white man?

We have announced that an Indian tribe committing a depredation must be looked to for payment. You can hardly expect a strong frontier settlement to allow the Indians to escape punishment; and if this brings on a general war, the expense is to be borne by the Government. But in this first act, an Indian, for instance, steals a horse, and what follows? The white men pursue the tribe, and take twenty horses. Then a war results; murder, rapine, and arson mark your border settlements. Now, you have the power to restrain the white man from seeking to retali-

ate; by the assurance that the Government will indemnify him; that if there be an annuity, it will be stopped from the next payment to the Indians; and if there be none, the Government will pay it out of the Treasury. It is a method of preserving peace between the border inhabitants and the Indian tribes; and to strike this from the laws of the land, and leave Indians and frontier settlements to their own redress, can look to no ultimate result, unless it be the extermination of the Indian tribes. The expectation of being secured by the United States from pecuniary loss, restrains the white man on the frontier from seeking to redress himself, not against the Indian who committed the offense, but against the tribe to which he believes that Indian belongs. This is all it can attain—the Indian escapes.

I think we overlook too much in all the efforts which have been made, the relation which the United States bears to the Indians; and we are treating it now as though the Indians were a hostile power against whom we were called upon to protect our citizens. Keeping, then, in mind the double relation of guardian of the Indian tribes, as well as the protection of our own citizens, it strikes me that the law as it stands is, perhaps, better than anything which could now be supplied.

In relation to the transfer of the conduct of Indian affairs from one Department to another, I never expected anything to result from it except efficiency and order, and that care of the Indian tribes which will be secured by our frontier posts. I did not suppose the agents, and superintendents, and sub-agents, were to be dismissed. They are the proper machinery through which the Government approaches the Indian tribes. They constitute the permanent organ of communication between the Government and the Indian tribes. They will be necessary, however that department be administered. You could not require the officers on the frontier, whose relations are entirely temporary, who may be changed at an hour's notice from one frontier to another, to execute the duties of the United States towards the Indians, or to acquire that confidence of the Indians which is essential in their intercourse with our country.

If the policy of this reform, of this transfer, was to abolish all agents and sub-agents, I think it was most unwise. Looking to it merely as a mode of securing a constant relation between the Government and the Indian tribes, through troops who could approach the Indians where the agents were afraid to reside, I think it will be very beneficial. Looking to it as effecting a harmony between the agents who have intercourse with the Indians, and the troops who have to maintain them, by placing them all under the orders of one Department, I believe the result will be entirely beneficial. Therefore it was that I favored it, with no expectation, however, that a system was to be adopted by which we were to go with the strong hand to retaliate upon Indian tribes where ever an outrage was committed. I prefer far more that the United States, in their strength, should exercise patience towards these weak tribes. Whilst I look upon them as cruel and thieving, a race of men utterly below the white man, and never capable of rising to his level, I do not sympathize at all with those who invest them with the character of fiction, give them a noble character, and presume that they are always right; nor would I go to the other extreme and represent them as creatures to be exterminated by the power of the United States.

Mr. MASON. It is very necessary that there should be an executive session. It is manifest that there will be a discussion upon the policy of the country in reference to the Indian tribes, and a very proper one; I therefore move that the Senate proceed to the consideration of Executive business.

Mr. HUNTER. I think we can finish this bill to-night if we be allowed to do so.

Mr. JONES. Is the motion of the Senator from Virginia in order at this time?

The PRESIDING OFFICER. Yes, sir.

Mr. SLIDELL. Is it permitted to make any remarks on this question?

The PRESIDING OFFICER. It is not debatable.

Mr. SLIDELL. I suppose I may be permitted to say that I shall vote against going into execu-

tive session, considering that we can get through with this bill to-day.

Mr. MASON. I will say that I have been requested to ask for an executive session by the honorable Senator who is the chairman of the Committee on the Judiciary. He satisfies me that it is important.

The question being taken; the motion was agreed to—ayes 21, noes 14; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 2, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. A. G. CAROTHERS.

CALL OF THE HOUSE.

Mr. WINSLOW. I would inquire if a quorum is present. If not, I move a call of the House.

Mr. COMINS. Let us have a call of the House. The SPEAKER. The Chair will ascertain if a quorum be present.

Mr. HOUSTON. I want a call of the House. Gentlemen who voted for an earlier hour of meeting are not here, and I want to show that fact.

The SPEAKER. Sixty-one members only are present.

A call of the House was ordered.

The roll was accordingly called; when the following members failed to answer to their names:

Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Bennett, Bishop, Blair, Bliss, Boeck, Boyce, Burlingame, Burns, Burroughs, Caskie, Ezra Clark, Horace F. Clark, Clemens, Corning, Cox, Cragin, Burton Craige, Damrell, Davis of Maryland, Davis of Mississippi, Dawes, Dewart, Dick, Dimmick, Dowdell, Edie, Elliott, English, Farnsworth, Florence, Foster, Garnett, Gillis, Goodwin, Groesbeck, Hatch, Hill, Hughes, Huyler, Jackson, Jenkins, Owen Jones, Keitt, Kellogg, Jacob M. Kunkel, Lamar, Landy, Leidy, McKibbin, Samuel S. Marshall, Matteson, Montgomery, Moore, Edward Joy Morris, Oliver A. Morse, Niblack, Palmer, Pettit, William W. Phelps, Powell, Ready, Reagan, Ritchie, Roberts, Royce, Sandage, Savage, Scaring, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, Stallworth, Stephens, William Stewart, Tappan, George Taylor, Miles Taylor, Thompson, Tripp, Underwood, Vance, Ward, Warren, Cadwalader C. Washburn, Israel Washburn, Watkins, White, Wilson, Wood, Woodson, Wortendyke, John V. Wright, and Zollicoffer.

Pending the call,

Mr. WASHBURN, of Illinois, stated that Mr. WASHBURN, of Wisconsin, was detained from the House by indisposition.

Mr. GILMAN stated that Mr. WOOD had been detained from the House for several days by indisposition.

Mr. VALLANDIGHAM stated that Mr. GROESBECK was detained from the House by attendance upon a special committee of the House.

Mr. DAVIDSON stated that Mr. SANDRIDGE was detained from the House by severe indisposition.

Mr. MAYNARD. We have now spent nearly an hour in calling the roll. Would it be in order to move to take a recess until twelve o'clock, that gentlemen may have time to assemble?

The SPEAKER. It would not be in order.

Mr. HOUSTON. How many members answered to their names?

The SPEAKER. One hundred and thirty-five.

Mr. PHELPS, of Missouri. I move that all further proceedings under the call be dispensed with.

Mr. TAYLOR, of New York. I wish to have my name entered as present. I was absent in attendance upon a select committee of the House.

The SPEAKER. The Chair knows of no rule by which gentlemen can have their names put upon the record who were not here when the roll was called a first and second time.

The motion of Mr. PHELPS, of Missouri, was agreed to; and all further proceedings under the call were dispensed with.

The Journal of yesterday was then read and approved.

JOINT RESOLUTION OF ILLINOIS.

Mr. HODGES, by unanimous consent, presented the joint resolution of the Legislature of the State of Illinois, in reference to accommodations for the United States courts of the southern district, the pension and land offices, and post office, at Springfield; and moved that it be referred to the Committee of Ways and Means, and printed.

Mr. HOWARD. I would suggest some other committee. The Committee of Ways and Means cannot take jurisdiction unless the building is already in process of erection. I move that the resolution be referred to the Committee on the Judiciary, and printed.

Mr. JONES, of Tennessee. I move to lay the resolution on the table.

Mr. HODGES. I withdraw my motion, and hope the resolution will be referred to the Committee on the Judiciary, and be printed.

The question was taken on the motion of Mr. JONES, of Tennessee; and it was not agreed to.

The resolution was then referred to the Committee on the Judiciary, and ordered to be printed.

NEW YORK INDIANS.

The SPEAKER. The first business in order is upon agreeing to the amendment reported by the Committee on Indian Affairs to Senate bill No. 389, providing for the allotment of lands to certain New York Indians, and for other purposes; upon which the previous question has been seconded, and the main question ordered to be put.

The amendment is as follows:

Strike out all in Senate bill after line six, and insert the following:

Who removed under the provisions of the treaties hereinafter referred to, and to their children, in the tract of land set apart for the use of the New York Indians, by treaty of January 15, 1838, made and concluded at Buffalo Creek, in the State of New York, and the treaty made at the same place, on the 20th day of May, 1842, said lands to be selected within said reserve in Kansas Territory, in conformity to the legal subdivisions of the public surveys, and so as to include the improvements (if any there be) of each Indian, and patents for the same shall be issued to each individual Indian adult, or to heads of families for themselves and their minor children, they to locate their lands within the space of one year from the passage of this act; and when the locations shall have been thus made and allotted, and after the expiration of said year, the remainder of the reserve shall be considered a part of the public lands, and shall be subject to settlement, preemption, and entry, as other lands belonging to the United States; but no settlements, other than by the Indians above referred to, shall be made on said reserve for the space of one year from and after the passage of this act. All settlements heretofore made on said reserve shall be recognized from the date of such settlement, and be entitled to preemption, the same as if the said lands had been Government lands and subject to settlement: *Provided*, That the Indians named shall have precedence over any other settler, where the same may come in conflict.

Sec. 2. After paying all the moneys necessary for carrying out the provisions of this act, the remainder of all moneys accruing from the sales by preemption, private entry, or otherwise, of any land within the tract or reserve above named, shall be paid into the Treasury of the United States, and kept as a separate and distinct fund; and held subject to any future action of Congress in relation to said New York Indians, or to the provisions of any treaty made, or hereafter to be made, with said Indians, or any of them, in reference thereto.

Sec. 3. The district courts of the United States for the Territories of Kansas and Nebraska shall severally, hereafter, for the purpose of enforcing the act of June 30, 1834, have the same jurisdiction as was conferred by the twenty-fourth section of the intercourse act upon the United States courts for the State of Missouri; and that so much of the twenty-fourth section of the act of June 30, 1834, known as the intercourse act, as conflicts with this act, be, and the same is hereby, repealed.

Mr. RUSSELL. I would ask whether, by unanimous consent, I cannot offer a slight amendment, in order to satisfy the gentleman from Missouri?

Mr. CRAIG, of Missouri. The friends of this measure, deeming it a measure of very great importance, indeed, in the neighborhood where they reside, have agreed upon a very slight amendment, which, by unanimous consent, may be made; and then the bill will be satisfactory to everybody.

The amendment, as proposed by Mr. RUSSELL, was read, as follows:

In line twenty-seven of the amendment, after the word "act," insert "or until the Indian allotments above provided for shall have been made."

Mr. CRAIG, of Missouri. That will not do. My object is, to let this land be open to white settlement after twelve months, if the Indian selections are not sooner made. I suggest, in lieu of the gentleman's amendment, these words: "or unless the selections can sooner be made."

Mr. RUSSELL. That will be the same thing; and I am willing to adopt it instead of my own amendment.

Mr. PHELPS, of Missouri. Is the bill open to amendment? If it is, I desire to suggest one thing to the gentleman having charge of this bill. There is a provision in the bill, as reported from the Committee on Indian Affairs, that the proceeds arising from the sale of this land shall be kept in

the Treasury as a separate fund. Now, if that be done, it will afford the foundation for a claim against the Government of the United States by these Indians. On the contrary, I contend that by virtue of the treaty of 1838, they have no claim whatever, either for land or money, and the land proposed to be given to them is a mere gratuity.

Mr. LEITER. I object to debate, unless I can have an opportunity of replying to what the gentleman from Missouri is saying.

Mr. FENTON. I have a communication from a portion of the head men, chiefs, and warriors, of the New York Indians, addressed to the President of the United States, and which was received at too late a day to present it to him. I will be glad to have it read from the Clerk's desk before the question is taken on the bill; not that it will militate against its passage; but because it is a duty I owe to my constituency to bring it to the attention of the House.

Mr. CLARK, of Missouri. I object, unless the whole subject is opened to debate. I want to say something about the bill myself. Until that is done, I object to all debate, or to anything being read.

Mr. CRAIG, of Missouri. I move, then, to reconsider the vote by which the main question was ordered to be put, in order that the proposed amendments may be submitted.

Mr. GREENWOOD. Are the amendments objected to? If not, I ask that they be read.

The amendments were again read.

Mr. CRAIG, of Missouri. I understand that the gentleman from New York withdraws his amendment, and accepts the one I propose in its stead; that is, "or unless the selections can sooner be made."

Mr. RUSSELL. I cannot accept that.

Mr. McQUEEN. I suggest to the gentleman to allow me to offer an amendment to the bill. It was before the Committee on Public Lands, and from what I understand—

Mr. RUSSELL. I object to debate.

Mr. McQUEEN. I object to tying up this fund. There is no claim on the part of these New York Indians.

Mr. RUSSELL. I object.

Mr. CRAIG, of Missouri. I do not understand that there is objection to my amendment.

Mr. McQUEEN. I do not object to the amendment; but I desire to get in an amendment to strike out the second section. I wish to say that unless that section is stricken out I shall vote against the bill.

Mr. HOPKINS. I shall object, unless the statement offered by the gentleman from New York, which is from the parties concerned, is allowed to be read. Let us have the letter of the New York Indians read.

The SPEAKER. Then the question recurs on the motion to reconsider.

Mr. GREENWOOD. I understand the object of the gentleman from Missouri, in moving his amendment, is, that there may be inserted in the bill a provision that, in the event the Indian selections shall be made before the expiration of twelve months, then the remaining portion of the land shall be opened to white settlement.

Mr. CRAIG, of Missouri. Yes, sir; that is it.

Mr. GREENWOOD. I think there can be no objection to that; and I hope the House by unanimous consent will insert it. It gives twelve months to the Indians for the allotment of lands, unless the allotment shall sooner be made.

Mr. CRAIG, of Missouri. I understand that the gentleman from Virginia does not press his objection to the amendment.

Mr. HOPKINS. I do not object to that particular amendment. I thought it was due to the New York Indians, that their statement should be read to the House. I withdraw my objection if the gentleman from Missouri [Mr. CLARK] will withdraw his objection to the reading of the papers.

Mr. CLARK, of Missouri. I withdraw my objection.

Mr. BURNETT. Then I object to all further discussion, or anything else, that is not expressly in order.

The SPEAKER. Does the gentleman object to the amendment of the gentleman from Missouri?

Mr. BURNETT. I do not.

Mr. CRAIG, of Missouri. I withdraw the

motion to reconsider the vote by which the main question was ordered.

Mr. LETCHER. I do not know what amendment is pending. There were two read; which is pending?

Mr. MORGAN. I object to debate, and to the amendment, unless the letter from the New York Indians be read.

Mr. FENTON. I think that really there can be no objection on the part of any gentleman to the reading of that letter.

Mr. CRAIG, of Missouri. My colleague has withdrawn his objection to its being read.

Mr. BURNETT. In order to obviate all difficulty I object unconditionally.

Mr. CRAIG, of Missouri. I renew my motion to reconsider the vote by which the main question was ordered.

Mr. WASHBURN, of Maine, demanded tellers.

Tellers were ordered; and Messrs. CHAFFEE and McQUEEN were appointed.

The House divided; and the tellers reported—ayes ninety-nine, noes not counted.

So the motion to reconsider was agreed to.

The question recurred upon ordering the main question; and being taken, the House refused to order it to be now put.

Mr. CRAIG, of Missouri. I now offer my amendment to insert after the word "act," in line twenty-seven, the words "unless the selections can sooner be made;" and on that I demand the previous question.

Mr. McQUEEN. I appeal to the gentleman from Missouri to allow me to offer an amendment to the second section of the bill.

Mr. CRAIG, of Missouri. I would very cheerfully do it, but I am afraid of losing the bill; and I regard it as one of the most important bills to the white men of the locality, that has been before Congress.

Mr. McQUEEN. The amendment which I wish to offer is to strike out the second section. I ask my friend to allow me to make a brief statement as to the character of the section which I wish to have stricken out. By the treaties of 1834 and 1842, made with the New York Indians, they were allowed to settle on this reservation. Some of them went and settled on the lands, and this bill proposes to give each one of those three hundred and twenty acres of land—the proportion to which each would be entitled under the treaties. They had five years to settle, but some of the Indians remained in New York and failed to avail themselves of the benefits secured to them by the treaties. I am informed and believe that the Indians who refused to emigrate have already had some \$400,000 paid to them by the Government, in order to quiet their claims. The second section of this bill, which I propose to strike out, provides that, after the lands are set apart for the Indians now there, the remainder of the lands shall be open to sale and preemption as other public lands; and also provides that the money arising from their sale shall be tied up and kept as a fund for the Indians, to be subject to such treaties as are now made or are hereafter to be made.

Mr. FENTON. Did I understand the gentleman to say that the Government had paid to these New York Indians \$400,000?

Mr. McQUEEN. Yes; \$400,000 has been appropriated to quiet the claims of the Indians.

Mr. FENTON. That is a mistake. I can explain in a moment how that is. They gave up one of their reservations, in Erie county, New York, containing fifty thousand acres, for \$100,000. That money went into their hands.

Mr. McQUEEN. The construction of this bill will give these Indians a claim which they now have not.

Mr. BURNETT. I object to further debate.

Mr. McQUEEN. I move to strike out the second section.

The SPEAKER. The previous question has been demanded, and the motion cannot be entertained.

The previous question was seconded.

Mr. WASHBURN, of Maine, called for tellers on ordering the main question.

Tellers were ordered; and Messrs. KELSEY and BRANCH were appointed.

The House divided; and the tellers reported—ayes forty-three; noes not counted.

So, a quorum not voting in favor thereof, the main question was not ordered.

Mr. GREENWOOD called for the yeas and nays; but subsequently withdrew the call.

Mr. COLFAX. I would like to say a single word as to this bill.

The SPEAKER. Debate is objected to peremptorily by the gentleman from Kentucky, [Mr. BURNETT.]

Mr. MORGAN. I hope gentlemen on that side of the House will allow something to be said on this side.

Mr. VALLANDIGHAM. I object to debate.

Mr. MORGAN. I expected it from that gentleman.

Mr. VALLANDIGHAM. Then I hope the gentleman from New York does not feel disappointed.

The SPEAKER. The gentleman from Ohio had a right to object.

Mr. MORGAN. Most assuredly he had.

Mr. McQUEEN. I now move to strike out the second section.

Mr. MORGAN. I object to everything.

Mr. McQUEEN. My motion is now in order, I believe.

Mr. COLFAX. What was the reason that I could not go on, while the gentleman from South Carolina can?

The SPEAKER. The question had not been determined when the gentleman from Indiana rose.

Mr. KELSEY. I rise to a question of order. The previous question has not been seconded, and the main question has not been ordered. The matter, therefore, must go over till to-morrow. Debate is out of order; and I object.

The SPEAKER. The gentleman from New York is right. The matter goes over till to-morrow.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 583) providing for keeping and distributing all public documents; when the Speaker signed the same.

PATENTS TO INDIANS.

Mr. GREENWOOD, from the Committee on Indian Affairs, reported a bill to authorize the issuance of patents to certain Indians, and for other purposes; which was read a first and second time.

Mr. GREENWOOD. I desire to put that bill on its passage.

The bill was read. It provides that patents shall be issued for lands allotted to the Shawnee tribe of Indians, under the treaty of May 10, 1854, under such rules and restrictions as the Commissioner of Indian Affairs shall prescribe; and that patents shall be issued to all other Indians to whom lands have been set apart in severalty.

The second section provides that any Indian to whom a patent shall be issued under this or any other act of Congress, may become a citizen of the United States upon filing a declaration to that effect, and upon presenting proof before any judge of the district or circuit court of the United States, that he is able to take care of his own affairs, and is otherwise qualified to become a citizen; and the said judge shall thereupon administer an oath to support the Constitution of the United States, and he shall issue a certificate of citizenship to such Indian, and furnish a duplicate of the same to the Commissioner of Indian Affairs.

Mr. GREENWOOD. That bill simply provides for carrying into effect the ninth article of the treaty of 1854 with the Shawnee Indians, in respect to the issue of patents. Certainly there can be no objection to that. That clause of the treaty is as follows:

"Congress may hereafter provide for issuing, to such of the Shawnees as may make separate selections, patents for the same; with such guards and restrictions as may seem advisable for their protection therein."

Mr. HOUSTON. If we are to have a discussion upon this bill, I would like the gentleman from Arkansas to direct his remarks to one or two points which present themselves to my mind. The first is, whether we can in this way make citizens of the United States of Indians or any other persons? whether our rules of naturalization must not be uniform? And in the second place, whether the issuance of patents to these Indians is not vir-

tually putting the lands into the hands of speculators for a trifling sum, or for no sum at all? whether the Indians are not protected in their lands as the matter now stands? and whether the passage of this bill will not simply benefit that class of persons who are probably the principal beneficiaries under our present laws?

Mr. GREENWOOD. The Indians, I take it, are not on precisely the same footing with foreigners; they are not in the same category. I presume it would be perfectly competent for Congress to prescribe the mode and manner in which they shall become citizens of the United States. My opinion is, that many of these Indians are just as capable of taking care of their own affairs, just as shrewd in the management of their business, as many white men are. So far as the first section of the bill is concerned, I am sure the gentleman from Alabama will concur with me in the propriety of its passage; because the treaty of 1854 expressly provides that patents shall issue to these Indians, under such regulations as Congress shall prescribe. So far as that section is concerned, therefore, it is necessary to carry out that treaty stipulation; and good faith requires that there should be some action on the part of Congress upon the subject.

Mr. BLISS. As this bill has been sprung upon us so suddenly that there has been no opportunity to look into the questions involved, I wish to ask the gentleman whether the question of the citizenship of the Indians has not heretofore been left exclusively with the States in which they reside, and whether it is not inaugurating a new policy to make them citizens by act of the United States?

Mr. GREENWOOD. The gentleman may be correct in that particular; but I can see no reason for not initiating such a policy.

Mr. BLISS. It seems to me it would be better to leave that matter to the States.

Mr. GREENWOOD. This bill does not make them citizens, as I understand it; but if gentlemen are not satisfied with this section, I will give way for a motion to strike it out. If any gentleman wishes to make that motion, I am perfectly satisfied that it shall be made; otherwise, I propose to call the previous question.

Mr. HOUSTON. Before the gentleman moves the previous question, I wish to call his attention to the first section of the bill again. I wish to ask what benefit it can be to the Indian to give him a patent for his land? If I understand it, he is in legal occupation of his land under the law or treaty authorizing him to select it. He gets now all the benefit of it which he would get if he had a patent for it. The only trouble in the way now is, as I understand it, that he cannot sell or transfer his land. Well, sir, this is precisely the state of things which I want to continue. If we pass the first section of this bill, we shall place it in the power of the Indian to sell or transfer his land, and the consequence will be that he will be cheated or defrauded out of it.

And, sir, while I am willing to admit that there is occasionally an Indian who is capable of taking care of himself and of his own property, there are thousands who, if they obtain the patents to those lands, can easily be cheated out of their property. If this bill passes, it will not have the effect of benefiting any Indian a solitary dime; while I am fearful that it will be the means of enabling white men to defraud a large portion of the Indians, to whom it applies, out of their lands, and they will be thrown as beggars upon the Government. The second section, I take it for granted, cannot pass.

Mr. GREENWOOD. There are very strong reasons why the first section of this bill certainly ought to pass. It is well known that these patents will be issued under the eye of the Government, and the Indians will be sufficiently protected in their issuance.

Mr. HOUSTON. The whole experience of the Government shows conclusively that there is no protection whatever to the Indians.

Mr. GREENWOOD. While the gentleman's objections may have some weight on the one hand, on the other hand there is an overruling necessity that this bill should pass. These Indians are here pressing upon Congress that they shall make provision to carry out this stipulation of the treaty of 1854. Trespassers are coming upon their lands every day, and they have no redress.

Mr. HOUSTON. I suppose the gentleman must be mistaken in that statement.

Mr. GREENWOOD. That is the way it is represented to me.

Mr. HOUSTON. The Indian has the right to be protected in his land. I take it for granted that under the treaty he has a legal title to his land. He is protected in his possession of it under the treaty, and under that treaty he may now vindicate his rights. And the gentleman will observe that his argument goes to show that if the Government officers who are there cannot protect the Indian in his rights, if they cannot aid him in keeping off trespassers, how can they do it any better with the patent in his hand?

Mr. GREENWOOD. At all events, it seems to me that good faith requires that patents should be issued in all cases, when we take into consideration the fact, that restrictions are placed upon the alienation of the title, unless under the eye of the Commissioner of Indian Affairs. It seems to me that there can be no further objection to the bill. If parties are entitled to patents under the treaty, good faith demands that Congress shall grant them. I demand the previous question.

Mr. COLFAX. I ask my colleague on the Committee on Indian Affairs, to allow me to say a word in explanation of this bill.

Mr. GREENWOOD. Certainly.

Mr. COLFAX. The confusion has been so great that the remarks which have been made have not been heard upon this side of the House. The gentleman from Alabama makes objection to this bill, upon the ground that the Indian, as a race or as a tribe, is incompetent to attend to his own business, and, therefore, if we give him the privilege of alienation, sharpers in trading with him will rob him of his homestead, or of what Congress intends to give to him. But, if that gentleman will consult the Delegate from that Territory, or the present Commissioner of Indian Affairs, Mr. Denver, who has been Governor of that Territory, he will learn that these Indians are quite as intelligent in trading, as any gentleman in this House. Many of them have assumed the habits of white men in the Territory, and are fully competent to attend to their own affairs. This bill provides that the Indians shall only be allowed to alienate their lands under such restrictions as the Commissioner of Indian Affairs shall impose. It ought to be a principle of our Government, so far as it is consistent with the rights of the Indians, to open up the country to settlement and improvement. There are water-powers upon those lands which the Indians are unable to improve, but who, by taking some persons in partnership with them, would be enabled by the assistance of capital, to improve them. Towns have been located upon some of those reservations, titles to lots in which it is impossible to obtain, and as my colleague upon the Committee on Indian Affairs [Mr. GREENWOOD] said, it has become a matter of necessity that they should have the title in their own hands, for the purpose of protecting the timber upon their lands.

Mr. HOUSTON. I would call the gentleman's attention to the first section of the bill. It grants this right to these particular Indians, and all others. Now, while the argument of my friend from Indiana may be true—and it was also the argument of my friend from Arkansas, [Mr. GREENWOOD]—that some of these Indians are capable of attending to their own business, yet while we are conferring upon them no particular advantage, we at the same time put it in the power of speculators to rob all those who are not competent to take care of themselves; and unless there can be a great advantage derived by those who are capable of transacting their own business, we should be unwilling to place those who are incapable in the power of men who can defraud them.

Mr. MONTGOMERY. I desire to ask the gentleman from Alabama this question: Suppose settlers upon the Indian lands were to destroy the cattle, houses, and timber of the Shawnees: what redress could they have? They cannot sue in the courts of the United States, because they are not citizens.

Mr. HOUSTON. That question shows the object of this bill to be precisely what I imagined: to get the lands out of the hands of the Indians, and into the hands of intriguing white men. That is the point of the gentleman's question.

Mr. MONTGOMERY. The object of this bill

is to provide a redress for wrongs committed upon the Indians. I have beef among this tribe, and they are civilized to a very great extent. They have fine houses, and well-cultivated farms. Now, any wrong can be perpetrated upon their property, their lands, and houses, and they can have no redress. Why? Because they cannot sue in the United States courts, for the reason that they are not citizens of the United States.

But the gentleman from Alabama objects, because the Constitution provides that the rule of naturalization shall be uniform. But did we not admit Texas by treaty, without any uniform rule of naturalization? We took the people of the whole country in at one swoop, and made them all citizens. The requirements of the Constitution are satisfied, and the rule of naturalization is made uniform when it is applied alike to all persons of a particular district; and it is no violation of the Constitution to bring this tribe in as citizens. A rule of naturalization prescribed for the action of courts, and naturalization by act of Congress, as is provided in this case, are very different things. Congress, by special act, unquestionably may naturalize any individual, or body of individuals, and it is no infringement of the Constitution. A rule for the naturalization of foreigners by courts should "be uniform;" but the inherent legislative power of Congress authorizes us to make any one a citizen; and the provision in relation to a uniform rule of naturalization has nothing to do with the question. The safety of property and the security and peace of Kansas require that this tribe be naturalized.

Mr. COLFAX. I have one further remark to make. This provision as to alienation is subject to every restriction which the Commissioner of Indian Affairs sees fit to make. There is no member of this House who will doubt that if Mr. Denver, the Commissioner of Indian Affairs, should come to this House and say that to allow a certain single Indian to alienate a certain quarter section of land would be judicious, Congress would grant him that authority, for the Commissioner of Indian Affairs has been rigorous in his decisions in favor of the Indians, and vigilant in protecting them from the encroachment of settlers.

I think if we desire to develop the resources of the Territory of Kansas, and allow civilization to progress there, we ought to pass a bill of this character, with the severe restrictions and guards which are thrown around it.

Mr. LOVEJOY. I desire to ask some gentleman who advocates this bill a question. I understand the Indians cannot alienate these lands without the consent of the Commissioner of Indian Affairs; and yet I am told that they are just as competent to manage their business as members of Congress are. I want to ask gentlemen, if they have a right to vote when the Commissioner consents?

Mr. COLFAX. I suppose not; but it seems to me that the argument of the gentleman from Illinois, although he votes on this with the gentleman from Alabama, is a sufficient refutation of that gentleman's argument. The argument of the gentleman from Illinois, if I understand it, is that these Indians should be allowed every privilege without the consent of the Commissioner of Indian Affairs, and yet he votes with those on the other side, who are opposed to granting them any privilege whatever, even with the authority of the Indian bureau.

Mr. GREENWOOD. I now move the previous question.

Mr. BLISS. I ask the gentleman from Arkansas to withdraw his call for the previous question. I wish to move to strike out the second section of the bill.

Mr. GREENWOOD. I yield to the gentleman to move that amendment.

Mr. MARSHALL, of Kentucky. Will the gentleman permit me to suggest an amendment to the first section?

Mr. GREENWOOD. I yield to the gentleman from Ohio to make his motion to strike out the second section. I desire to say that, after a mature consultation with the Indian office, this bill has been recommended by the head of that bureau; and, after two weeks' deliberation, it has received the approbation of the Committee on Indian Affairs, and has been deemed a proper measure for the adoption of this House.

Mr. BLISS. Mr. Speaker, I desire to say, in

explanation of my motion in striking out that second section, that the reasons given by the gentleman for that section, to my mind, fail entirely. I understand him to have stated that these Indians cannot sue in the territorial courts, unless they are made citizens of the United States. Am I correct in my understanding?

Mr. GREENWOOD. It is alleged by these people that they cannot have any redress in the courts, unless a bill of this character is passed.

Mr. BLISS. I suppose that it is well understood that the territorial courts, under the laws of the United States, are not the courts of the United States in the sense that they require the plaintiff to be a citizen of the United States. Any one can bring a suit in the territorial courts, whether he be a citizen or not; and hence the reason for this section, to my mind, fails.

But there is, sir, another and still more weighty reason, which I before indicated, why this section should be stricken out. I believe that it is the commencement of a new policy in this Government in relation to the naturalization laws. As I before intimated, the question being sprung upon us, I am unable to ascertain what has been our past policy—to see whether this is not the first time we have attempted to create, or, at least, whether any attempt has ever succeeded in creating, citizens of the United States from persons born upon the soil, Indians or otherwise, by act of the United States. Now, any person that is not an alien may be made a citizen of a State by the State itself; and then, of course, he becomes a citizen of the United States; for, as to all but aliens, the States have given up no jurisdiction on that subject. And, sir, I believe that the custom has been hitherto to leave this matter to the States themselves. Certain New York Indians, certain Massachusetts Indians, I am told, have been made citizens of those States, and hence of the United States, by the action of the States themselves; and I prefer to leave this matter to the State of Kansas when it shall be admitted. I do not propose to raise the constitutional question as to whether our naturalization power extends to the Indians. If it does, it is unnecessary to exercise it. The States are the best judges of the qualification of Indians within their border for citizenship; and I would leave the matter with them, believing that, whenever they become civilized and permanent members of community, they lose their separate tribal character, and should be made citizens of the States.

Mr. MARSHALL, of Kentucky. Will the gentleman from Arkansas yield to me, until I can move an amendment to the first section?

Mr. GREENWOOD. I cannot.

Mr. MARSHALL, of Kentucky. Then I hope, as the question has just come before us, that the House will not second the call for the previous question, when a member is upon the floor desirous of moving an amendment.

Mr. GREENWOOD. Let the gentleman from Kentucky indicate his amendment, and then I will say whether I will yield or not.

Mr. MARSHALL, of Kentucky. The gentleman from Kentucky is not in a condition, until the gentleman yields the floor, to indicate what the amendment is.

Mr. GREENWOOD. Then I demand the previous question; and the House can take what course it may deem proper.

Mr. HOUSTON. Will the gentleman allow me to move an amendment? If this bill, bad as it is, is to pass, I would like to make it, before that is done, as good as possible; and if permitted to do so, I will move to strike out the latter portion of the first section, which extends the provisions of the bill to all other Indians.

Mr. GREENWOOD. I cannot yield to the gentleman.

Mr. HOUSTON. Ah! there is where the shoe pinches. I move that the bill be laid upon the table; and on that question demand tellers.

Tellers were ordered; and Messrs. BUFFINTON and HARRIS were appointed.

The House divided; and the tellers reported—ayes 72, noes 50.

Mr. BENNETT called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 88, nays 91; as follows:

YEAS—Messrs. Atkins, Barksdale, Bingham, Bishop, Bliss, Boyce, Branch, Buffinton, Burnett, Carathers, Cas-

kie, Chapman, Ezra Clark, Cobb, John Cochrane, Comins, Corning, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dodd, Dowdell, Durfee, Edmondson, Elliott, English, Faulkner, Garnett, Gartrell, Giddings, Gillis, Granger, Gregg, Robert B. Hall, Harlan, Harris, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Lawrence, Leach, Letcher, Lovejoy, Macley, McQueen, Humphrey Marshall, Mason, Miles, Miller, Millson, Moore, Morgan, Mott, Palmer, Peyton, John S. Phelps, Phillips, Potter, Pettie, Powell, Reagan, Ricard, Ruffin, Seales, Seward, Henry M. Shaw, William Smith, Stevenson, Miles Taylor, Tompkins, Underwood, Vallandigham, Vance, Elihu B. Washburne, Winslow, John V. Wright, and Zoll-coffer—88.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Avery, Bennett, Bonham, Brayton, Bryan, Burlingame, Case, Chaffee, John B. Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Covode, Cox, Cragin, James Craig, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Eustis, Farnsworth, Florence, Foley, Foster, Gilman, Goodwin, Greenwood, Grow, Lawrence W. Hall, Haskin, Hatch, Hawkins, Hodges, Howard, Huyler, Owen Jones, Keim, Keitt, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leidy, Leiter, McKee, Samuel S. Marshall, Maynard, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Murray, Niblack, Parker, William W. Phelps, Pike, Porviance, Reilly, Royce, Russell, Scott, Searing, Aaron Shaw, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Thayer, Tripp, Wade, Waldron, Walton, Watkins, Whiteley, Wilson, Woodson, and Augustus R. Wright—91.

So the House refused to lay the bill upon the table.

During the vote, Mr. PALMER said that his colleague, Mr. Morse, was detained from the Hall by sickness.

Mr. KEITT said: As I understand, the first section of the bill is for carrying out a treaty stipulation. I vote "no."

Mr. BLISS said: I am in favor of part of the bill, and I am opposed to a part of it. I vote "ay."

Mr. WORTENDYKE stated that, if he had been in the Hall when his name was called, he would have voted "no."

The vote was announced as above.

The question recurred on seconding the previous question.

The previous question was seconded, and the main question ordered; being first upon the amendment to strike out the second section of the bill.

The amendment was agreed to.

The bill was then ordered to be engrossed, and read a third time.

Mr. HOUSTON. I want to have the engrossed bill read.

Mr. GREENWOOD. I move to reconsider the vote by which the bill was ordered to be engrossed, and read a third time; and on that I call for the yeas and nays.

Mr. HOUSTON. If those gentlemen who are pressing this bill forward will give us the yeas and nays on its passage, I will not insist on the reading of the engrossed bill. I want the record to show who votes for it.

Mr. GREENWOOD. Certainly; let the yeas and nays be called on its passage. I withdraw the motion to reconsider.

The bill, being engrossed, was read the third time.

Mr. GREENWOOD moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 91; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Avery, Bliss, Bowie, Brayton, Burns, Burroughs, Case, Cavanaugh, Chaffee, John B. Clark, Clawson, Cockerill, Colfax, Covode, Cox, Cragin, James Craig, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dick, Florence, Foley, Gillis, Gilman, Greenwood, Grow, Lawrence W. Hall, Hodges, Howard, Huyler, Owen Jones, Keim, Keitt, Kellogg, Kilgore, Leidy, Leiter, McKee, Samuel S. Marshall, Mason, Maynard, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Murray, Niblack, Parker, Pettit, Peyton, William W. Phelps, Reilly, Robbins, Roberts, Royce, Russell, Scott, Searing, Shorter, Robert Smith, Samuel A. Smith, Spinner, Stephens, James A. Stewart, William Stewart, George Taylor, Tompkins, Wade, Waldron, Walton, Watkins, Whiteley, Wilson, Woodson, and Wortendyke—82.

NAYS—Messrs. Atkins, Barksdale, Barr, Bingham, Bishop, Boyce, Buffinton, Burnett, Caruthers, Caskie, Chapman, Ezra Clark, Cobb, John Cochrane, Comins, Corning, Burton Craig, Crawford, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dawes, Dean, Dewart, Dodd, Durfee, Edmondson, Elliott, English, Faulkner, Garnett, Gartrell, Giddings, Gilmer, Granger, Gregg, Robert B. Hall, Harlan, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Hughes, Jackson, Jenkins, George W. Jones, Kelsey, Knapp, Lawrence, Leach, Letcher, Love-

Joy, Maclean, McQueen, Humphrey Marshall, Matteson, Miles, Milson, Moore, Morgan, Freeman H. Morse, Mott, Olin, Palmer, John S. Phelps, Phillips, Potter, Pottle, Powell, Reagan, Ricard, Ruffin, Seales, Seward, Aaron Shaw, Henry M. Shaw, William Smith, Stevenson, Miles Taylor, Thayer, Trippe, Vallandigham, Vance, Walbridge, Ellihu B. Washburne, Winslow, Augustus R. Wright, and John V. Wright—91.

So the bill was rejected.

During the vote,

Mr. BISHOP stated that his colleague, Mr. ARNOLD, had been called home on account of sickness in his family.

Mr. FOSTER stated that, if he had been in the Hall when his name was called, he would have voted "no."

The vote was announced as above.

Mr. BLISS. I voted in the affirmative, supposing that the bill would pass, and intending to submit a motion to reconsider. I am opposed to the last clause only of the bill, as amended.

Mr. WASHBURN, of Illinois. I move to reconsider the vote whereby the bill was rejected.

Mr. POTTLE. I move to lay the motion to reconsider on the table.

The motion was agreed to.

EXPENSE OF INVESTIGATING COMMITTEES.

Mr. PHELPS, of Missouri. The bill appropriating \$10,000 to pay witnesses attending investigations going on before committees of the House, which was passed by the House the other day, has been returned from the Senate with an amendment. The House has adopted substantially that amendment as a rule, on the report of the chairman of the Judiciary Committee. I ask that the bill be taken up, and the Senate amendment concurred in.

The amendment was read as follows:

Add the following new section:

Sec. 2. *And be it further enacted*, That, hereafter, the mileage or traveling allowance to the officer or other person executing precepts or summonses of either House of Congress, shall not exceed ten cents for each mile necessarily and actually traveled by such officer, or any other person, in the execution of such precepts or summonses.

Mr. PHELPS, of Missouri. The amendment only renders more certain that which is in the body of the bill. I hope the House will concur in the amendment.

The question was taken, and the amendment was concurred in.

Mr. BURNETT moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE LEAVENWORTH CONSTITUTION.

Mr. GROW. I am instructed by the Committee on Territories to ask the House to make an order to print certain papers that have been sent to that committee. They are the Leavenworth constitution, the papers accompanying it, and the testimony taken by the commissioner appointed by the Legislature of Kansas, in 1857.

The printing was ordered.

ACQUISITION OF CUBA.

Mr. TAYLOR, of Louisiana. I ask the unanimous consent of the House to introduce a bill to provide for the acquisition of Cuba, by negotiation, and for its being incorporated with the Union in the event of its being acquired. I merely desire to have it referred to the Committee on Foreign Affairs.

Mr. WASHBURN, of Illinois, objected.

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized and empowered, when in his judgment it is advisable and expedient so to do, to open negotiations for the cession of the Island of Cuba from Spain to the United States; and that he be, and he is hereby, further authorized and empowered to bind the United States for the payment, to Spain, of a sum not to exceed \$120,000,000, as a consideration for said cession, when the same shall have been made and completed by a treaty signed by the properly-accredited and duly-authorized agents of the two Governments, and ratified by Spain.

Sec. 2. *And be it further enacted*, That upon the ratification by Spain of a treaty for the cession of the said Island of Cuba from Spain to the United States, made and completed as aforesaid, the President be, and he is hereby, authorized and empowered, immediately thereafter, to cause bonds of the United States to be issued for the payment of the said sum of \$120,000,000, or so much thereof as may be required, and to deliver the same to the duly accredited and authorized agent of Spain; which said bonds shall be divided into not less than six installments and be payable in not more than thirty years, and shall bear an annual inter-

est, not to exceed five per centum per annum, payable half yearly at the Treasury Department of the United States.

Sec. 3. *And be it further enacted*, That the said Island of Cuba, if the same is at any time ceded to the United States, may be erected into a new State, to be called the State of Cuba, with a republican form of government to be adopted by the people of the said island, by their delegates duly elected by the suffrages of the white males over the age of twenty-one years, and resident in the said island and citizens thereof, in convention assembled, with the consent of the United States; and that the said new State, so created as aforesaid, shall be admitted into the Union by virtue of this act, with four Representatives, until the next apportionment of representation, on an equal footing with the existing States.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. But, before that question be put, I desire to close debate on the legislative, executive, and judicial appropriation bill. I move that debate be closed in five minutes after the committee resumes its consideration.

Mr. HUGHES. I am directed by the Committee on Territories to ask an order to have printed certain documents referred to that committee, comprising a certified copy of the constitution adopted at Leavenworth.

The SPEAKER. The order to print has been just made.

Mr. LOVEJOY. The debate cannot be closed so soon as the gentleman from Missouri proposes.

Mr. GROW. I move to amend by striking out the words "five minutes," and inserting the words "three hours." The bill has not been discussed at all.

Mr. PHELPS, of Missouri. No; and will not be, unless we resort to the five minute debate.

Mr. HOUSTON. If gentlemen will agree to discuss the subject-matter of the bill, and will limit the discussion to ten minutes, I think we will accomplish something.

Mr. GIDDINGS. I suggest that if members will confine themselves to the merits of the bill, we had better discuss it through the day, without limiting debate at all; provided there be a general understanding that discussion shall be applicable to the merits of the bill.

Mr. PHELPS, of Missouri. I have no desire to preclude a discussion of the merits of the bill; but there are other appropriation bills pending, and we cannot reach them if we are to have discussions foreign to the subject-matter. I am willing to have the time extended to two hours, if discussion be confined to the subject-matter under consideration.

Mr. GROW. If it be understood that the discussion is to be confined to the subject-matter of the bill, why limit it at all? Why not let the discussion continue on this bill during the day, if it be confined to the bill; and so of the other appropriation bills?

Mr. PHELPS, of Missouri. Because there are other appropriation bills coming up, and it is necessary to have some of them sent to the Senate for action.

Mr. NICHOLS. If the discussion is to be confined to the bill itself, I, for one, prefer to see the original motion of the gentleman from Missouri prevail. If the usual rule in Committee of the Whole on the state of the Union is observed, I must object to the limitation of debate.

Mr. PHELPS, of Missouri. If, by general consent, the debate be confined to the subject-matter of the bill, I am very willing to have the debate closed at twelve o'clock to-morrow.

The SPEAKER. Is there objection to the resolution in that form?

Mr. LOVEJOY. I object.

Mr. PHELPS, of Missouri. Then I demand the previous question on my first proposition. The previous question was seconded, and the main question ordered.

The question recurred first upon Mr. Grow's amendment.

The amendment was not agreed to.

Mr. LOVEJOY. I ask the gentleman from Missouri to allow me to move to amend so as to make it two hours.

Mr. PHELPS, of Missouri. No, sir; I cannot yield further.

Mr. LOVEJOY. Then I move to lay the resolution on the table, and call for the yeas and nays upon the motion.

The yeas and nays were not ordered.

The House refused to lay the resolution on the table.

The resolution was then adopted.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the resolution to reconsider on the table.

The latter motion was agreed to.

Mr. PHELPS, of Missouri. I now ask for the vote upon my motion to go into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and resumed the consideration of the legislative, executive, and judicial appropriation bill.

The CHAIRMAN stated that general debate was in order for five minutes.

The reading of the bill by paragraphs for amendment was then commenced.

Mr. CURRY. I move to strike out lines fifty-two, fifty-three, fifty-four, fifty-five, and fifty-six; as follows:

"For Congressional Globe, and binding the same, \$49,333 32.

"For reporting proceedings, \$18,046."

I confess, Mr. Chairman, that I have not very much expectation that my motion will be adopted, though I make it in perfect good faith, and in all sincerity. I was in hopes by this time to have obtained some statistics, showing the greatly increased cost growing out of the publication of the debates of this House. They are so manifestly useless, and such an unnecessary tax upon the public Treasury, filling so many pages of the Congressional Globe, which are never read by anybody, and which crowd the mails of the country, that I believe there is no expenditure of this Government so useless and so worthless as that for the publication of the Congressional Globe. I confess that the reporting is done with remarkable accuracy and precision. I have no fault to find with the manner in which the work is discharged. My objection grows out of the system of reporting which has been fastened upon the country within recent years; a system which has fattened on what it has received, until it has grown into a system involving a large expenditure of money out of the public Treasury.

Mr. PHELPS, of Missouri. I rise to a question of order. I insist that, in the consideration of this bill, gentlemen shall confine their remarks to the pending amendments. The paragraph proposed to be stricken out, is one which provides simply for the purchase of Congressional Globes for distribution. This distribution was authorized by a resolution of the Senate; and the appropriation is simply to purchase these books, and have them bound. I think the gentleman's remarks are not pertinent to the amendment.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from Missouri. The gentleman from Alabama is in order.

Mr. CURRY. I want to confine my remarks to the amendment I have offered; which is, to strike out from the fifty-second to the fifty-sixth line inclusive, and includes the appropriation for reporting also. I do not care, however, to extend my remarks upon that subject; and, if the gentleman from Missouri desires to hurry on with the consideration of the bill, I will waive my remarks altogether.

Mr. PHELPS, of Missouri. When I raised my question of order I supposed the amendment of the gentleman from Alabama was to strike out only the paragraph to which I referred. But, sir, in reference to the amendment which the gentleman has offered, I have this explanation to make: at the time the number of copies of the Congressional Globe now taken by the Senate was determined, the publisher of the Globe stated that he was not sufficiently compensated for his work, and that if the additional number of copies was taken he should be able to go on with the reporting in the same manner that he had done up to that time. The number of copies to be taken by the Senate was thereupon increased; and this appropriation is in pursuance of that resolution of the Senate.

The proprietor of the Globe receives so much per column for reporting, and this provision is

merely to pay the amount stipulated to be paid, and which we have paid for several years for reporting these proceedings.

Mr. CURRY. I desire to ask the gentleman from Missouri if this appropriation is intended to cover the time after the expiration of this fiscal year, or is it to pay for what has already been done?

Mr. PHELPS, of Missouri. It is for the next fiscal year; and it is in pursuance of a standing order of the Senate.

Mr. CURRY. I do not propose to object to paying for what has already been done, but I propose to put a stop to future expenses of this kind.

The question was taken upon Mr. CURRY's motion; and it was agreed to.

Mr. PHELPS, of Missouri. I move to amend line fifty-eight, by striking out "\$32,599 50," and inserting in lieu thereof "\$35,004," so that clause shall read:

For clerks to committees, pages, police, horses, and carriages, \$35,004.

This increase is made necessary in consequence of an order of the Vice President and the Speaker of the House of Representatives, enlarging the Capitol police. Under the act of 1828, the Vice President of the United States and the Speaker of the House of Representatives are to prescribe the number of the Capitol police, and the compensation to be paid to them. Those officers last year thought it necessary to increase the number, and I have in my hand an order which I desire to have read, as well as the estimate, in pursuance of which I submit this amendment.

The order was read, as follows:

WASHINGTON, January 7, 1859.

The extension of the Capitol renders an additional police force necessary; and the undersigned, in conformity to the act of Congress approved 2d of May, 1828, adopt the following regulations for your government.

Hereafter the police shall consist of one captain and thirteen members. The salaries now fixed by law for those already in office shall remain unchanged until the expiration of the present fiscal year. The six additional policemen herein authorized shall receive a salary of \$1,100 each, per annum; and at the expiration of the present fiscal year the salaries of those now in office shall be reduced to \$1,100, each, per annum, except the captain's, and his salary shall remain the same as now fixed by law.

All appointments and removals to be made by you, and your successors in office.

JOHN C. BRECKINRIDGE,

President of the Senate.

JAMES L. ORR,

Speaker of the House of Representatives.

Dr. J. B. BLAKE, Commissioner of Public Buildings.

Mr. WHITELEY. I desire to ask the chairman of the Committee of Ways and Means a question. I find by turning to line one hundred and three of this bill, that there is an appropriation of \$5,890 for this same police. Is that appropriation in addition to the one he proposes to make by his amendment?

Mr. PHELPS, of Missouri. I will answer the question of the gentleman from Delaware. This Capitol police is paid out of the contingent funds of the two Houses—one half payable from the contingent fund of the House of Representatives, and the other half from the contingent fund of the Senate; and it will become necessary, when you reach that portion of the bill, to increase the appropriation there, if there is an intention upon the part of the House to provide for this additional police force.

Mr. MASON. With all due deference to the Vice President and our honorable Speaker, I must oppose this appropriation. It is a fact, that there is no city in the Union which in one year has manifested such a beneficial change as the city of Washington in regard to law and order. It is only a year since it was demanded of this House to pass a bill for a young standing army to be inaugurated here for the purpose of keeping the peace. But this year we hear of no disorder. All is quiet, and there is no necessity for any increase of the police around this Capitol. You have not heard of a single disturbance. Last year when there were disturbances, there may have been some necessity for this additional force, but none now. We have a right to believe that the beneficial improvement of the last year in favor of law and order will be increased, and that there will be no use for this additional force.

Mr. PHELPS, of Missouri. I merely desire to say one word in reply to the gentleman from

Kentucky. This appropriation is not for the regular city police; but we have watchmen, who watch this Capitol every night; and it is proposed to give only thirteen watchmen, for that purpose.

Mr. BURNETT. Will the gentleman be kind enough to inform the committee how many policemen there were before these appointments?

Mr. PHELPS, of Missouri. Seven beside the captain.

Mr. BURNETT. Eight in all, then.

Mr. PHELPS, of Missouri. During that time, the watchmen employed upon the Capitol extension had been performing duties here as watchmen. At this session that was abandoned, and for the purpose of preserving this Capitol, and preventing fire, having some persons to watch along all the passages at night, watch the committee rooms, &c., these officers deemed it necessary to increase the force.

Mr. MASON. I thought we had gone to great expense to make these buildings fire proof.

Mr. BURNETT. By what authority were these appointments made?

Mr. PHELPS, of Missouri. By the authority of the act of 1828, which is cited in the order of appointment which I have had read. That vests the power of increasing or diminishing the Capitol police in the hands of the two Presiding Officers of Congress; and in the exercise of that power this increase has been made.

Mr. FLORENCE demanded tellers on Mr. PHELPS's amendment.

Tellers were ordered; and Messrs. CHAFFEE and HAWKINS were appointed.

The committee divided; and the tellers reported—ayes fifty-nine, noes not counted.

So the amendment was rejected.

Mr. GARNETT. I move to strike out the following words:

"For miscellaneous items, \$20,000."

Mr. BURNETT. I have an amendment to offer, which comes in before the gentleman's amendment.

The CHAIRMAN. It is too late; that portion of the bill has been passed.

Mr. BURNETT. I sent for a copy of the bill, and was upon my feet before the preceding paragraph was passed by.

The CHAIRMAN. The gentleman from Virginia was recognized.

Mr. BURNETT. There certainly can be no objection to my amendment, which is, that officers of this House shall not receive pay for the discharge of two services. That has been done here, and is wrong; and there ought to be a proviso against it attached to this bill.

Objection was made.

The CHAIRMAN. The amendment is clearly out of order; the Clerk had commenced reading the next paragraph.

Mr. GARNETT. Mr. Chairman, I have proposed to strike out the words I have indicated, for the purpose of calling the attention of the chairman of the Committee of Ways and Means, and of this House, to the items reported in this bill. I find, sir, that only six years ago, in the fiscal years 1851-52, the legislative expenses of this Government were \$1,248,018, while for the last fiscal year they have amounted to \$3,583,000, an increase of \$2,350,000 in six years. I think that this bill will show how that increase is effected. It is not merely in the compensation of members of Congress, but in every item, whether fixed by law or contingent. Take, for instance, the item of contingencies: you will find that the estimate for the fiscal year 1854 was \$23,000. Now, the Committee of Ways and Means report \$78,000. You will find that in the year 1854 the contingent expenses of the Senate were \$175,000, and now the Committee of Ways and Means report \$210,000. Amongst them is the item of stationery, \$7,500; while for this House, containing four times the number of members, the stationery item is only double that amount. Here are items within the control of the Committee of Ways and Means, within the control of Congress, and why are they not cut down? Why does not the Committee of Ways and Means cut down these estimates to the standard which existed only four or five years ago? What is this miscellaneous item? What do these miscellaneous items consist of? The particular item I propose to strike out is only \$20,000; but we have a bill before us appropri-

ating \$3,590,000 for expenses of the legislative department of the Government, when only six years ago they were \$1,250,000. I want some explanation from the chairman of the Committee of Ways and Means, before I am called upon to vote for such a bill.

Mr. PHELPS, of Missouri. The gentleman calls the attention of the committee to the increased expenditures in the legislative department. They have increased; and they have increased by our own act. They have increased by the increase of the salaries of members of Congress. They have increased by the addition to the clerical force to your committees, and by the increased number of persons employed about the respective Houses. The contingent expenses of the Senate, as well as of the House, have increased in consequence of the increased printing which each House orders; in consequence of your ordering maps to be engraved and lithographed; and in consequence of your ordering a large addition to the usual number of documents to be printed and circulated. This is the way in which your expenditures are increased. The amendment of the gentleman from Virginia relates entirely to the contingent expenses of the Senate. There is an estimate, under the head of contingent expenses of the Senate, for the purpose of binding documents ordered by Congress, of \$50,000 for the next fiscal year.

There is an item of \$30,000 for lithographing, of \$7,500 for stationery, of \$3,500 for newspapers; and then there are items for printing and binding the Congressional Globe, reporting the proceedings, and for payment of clerks to committees, pages, &c. The gentleman inquires what is embraced under the head of "miscellaneous items." I answer, the contingent expenses of the two Houses that are not embraced under the preceding heading. Every time that we have an announcement of the death of one of our members, expenses are incurred; every time that a member of the House dies while Congress is in session, all the expenses attending the funeral are paid out of this appropriation. Then, all expenditures appertaining to witnesses before the respective committees have been paid out of it. The gentleman speaks of the item for stationery for the Senate. That is a matter over which the Committee of Ways and Means has no control.

Mr. GARNETT. The House has.

Mr. PHELPS, of Missouri. The House has control over it. The House may, if it choose, refuse to appropriate money for the stationery which is directed to be furnished to each of the Senators. There are specific appropriations for stationery, and for the contingent expenses of the House as well as of the Senate; but we are now considering the expenses of the Senate.

Mr. HOUSTON. The gentleman will allow me to ask him a question. I ask the gentleman from Missouri whether, under the heading of "contingent expenses of the Senate," the money appropriated cannot be used for any one of the items that come under that head? For instance, here are items for binding and lithographing and engraving and for the payment of committee expenses, &c. Cannot the whole of the appropriation, under the head of "contingent expenses," be paid out for some of the items, leaving deficiencies for the others?

Mr. PHELPS, of Missouri. I understand the ruling of the First Comptroller to be otherwise. The Clerk has in his hands, at this time, money appropriated for contingent expenses, while there are deficiencies in some items, and he cannot apply the money to their payment. The gentleman from Virginia inquires why the committee did not reduce the contingent expenses of the Senate. I answer him that the Committee of Ways and Means have recommended a reduction on the estimates submitted to them, and I suppose that that fact did not escape the keen vision of the gentleman from Virginia. The first item, for binding, was estimated at \$60,000. We reduced it to \$50,000. For engraving, the estimate was \$40,000. We reduced it to \$30,000. For stationery, the estimate was \$15,000. We reduced it to \$7,500.

Mr. GARNETT. Will the gentleman tell us on what ground he made these reductions?

Mr. PHELPS, of Missouri. It was on an arbitrary rule.

Mr. GARNETT. And why not on the same arbitrary rule reduce the appropriation still more?

Mr. PHELPS, of Missouri. If the gentleman

will show that any amount he may name will be sufficient. I am willing to go with him in the reduction.

Mr. BURNETT. The gentleman from Missouri says that the rule under which these appropriations were reduced, was an arbitrary one. I desire to ask the chairman of the Committee of Ways and Means whether, in making appropriations by Congress, the true policy is not to make the appropriations specific; and whether it is not wrong to incorporate, in an appropriation bill, an item for "miscellaneous expenses," \$20,000? If this sum is to pay witnesses, let us designate how it is to be applied?

Mr. PHELPS, of Missouri. I answer the gentleman from Kentucky, if the gentleman's desk be knocked over and broken, it must be repaired; and the repairs must be paid for out of this miscellaneous item.

Mr. BURNETT. The gentleman is mistaken; because, in a subsequent page of this bill, there is a specific clause for repairs, &c. They do not come under the head of "miscellaneous."

Mr. SMITH, of Virginia. I ask the gentleman from Missouri to look at the 26th page.

Mr. PHELPS, of Missouri. We have not reached that point.

Mr. SMITH, of Virginia. There will be found there an item of \$40,000 for miscellaneous expenses; making \$60,000 for the two Houses.

Mr. PHELPS, of Missouri. It is sufficient to answer that question when we come to it. We are now considering the contingent expenses of the Senate. As a matter of course, no one can estimate the exact amount; we can only form an opinion from what the preceding expenses have been. The appropriations have been reported on that principle. The money appropriated in the act passed the other day, for the payment of witnesses before investigating committees, will be carried to the miscellaneous expenses of the House. It was so with the bill passed last session, appropriating \$55,000 for the payment of the expenses of witnesses before committees.

The question being on Mr. GARNETT's amendment,

Mr. KEITT called for tellers.

Tellers were ordered; and Messrs. BOWFINGTON and ERYAN were appointed.

The committee divided; and the tellers reported—ayes eighty-four; a further count not being demanded.

So the amendment was adopted.

Mr. MONTGOMERY. I desire to know if it is in order to move to postpone the further consideration of this bill for the present?

The CHAIRMAN. It is not in order in committee to move to postpone the consideration of a bill.

Mr. BINGHAM. I move to amend by striking out the words "and mileage," in the following paragraph of the bill:

"For compensation and mileage of members of the House of Representatives and Delegates from the Territories, \$1,219,000."

And add the following proviso:

Provided, That no part of the money by this bill appropriated shall be paid to any member or Delegate of the Thirty-Sixth Congress for or on account of mileage.

I understand, Mr. Chairman, that \$200,000 is the exact amount appropriated for mileage, and I propose, therefore, also, to reduce the appropriation that amount.

Mr. PHELPS, of Missouri. Is that amendment in order?

Mr. BINGHAM. I should like to have the gentleman from Missouri give some reason why the amendment is not in order. It does not propose to change existing law. It is simply a proposition to strike out certain words in the paragraph and to insert others instead, the only effect of which is to limit the appropriation.

The CHAIRMAN. The Chair thinks the amendment is out of order, as it proposes, in effect, a change of existing law.

Mr. BINGHAM. I submit that it changes no existing law; it simply reduces the appropriation, and limits the application of what is retained in the appropriation.

The CHAIRMAN. The Chair thinks that the effect of the amendment would be to change the existing law; and therefore rules the amendment out of order.

Mr. BINGHAM. I appeal from the decision of the Chair.

Mr. SCALES called for tellers upon the appeal.

Tellers were ordered; and Messrs. JOHN COCHRANE and LOVEJOY were appointed.

The committee divided; and the tellers reported—ayes seventy-five; a further count not being demanded.

So the decision of the Chair was sustained; and the amendment ruled out of order.

Mr. GIDDINGS. I move to strike out the whole clause, as follows:

"For compensation and mileage of members of the House of Representatives and Delegates from Territories, \$1,219,000."

This House, at the last Congress, fixed its own rates of compensation and mileage; and my object now, in moving to strike out this provision, is to leave the next Congress to fix its own mileage and compensation according to its own will and discretion. I am to leave this Congress, and I desire to leave the next Congress to fix its own compensation, and to take its own responsibility. There will be abundant time, after assembling, to regulate its own pay.

I move this amendment for the further reason, that when the present bill regulating the compensation and mileage was introduced by our present Speaker, it was under the solemn declaration to the whole country that the matter of mileage should become a subject of investigation and reform at the first available moment which should present itself to the House. In obedience and in accordance to that understanding, I voted for the present law. But when we came to bring up the question of mileage, the Committee on Mileage held that subject under consideration until a late day in the session; and when the bill was reported, it was, on motion of the gentleman reporting it, referred to a Committee of the Whole House, which was equivalent to a rejection of the bill.

Mr. KELSEY. Will the gentleman allow me to interrupt him just here.

Mr. GIDDINGS. I have but five minutes, and want to place myself right on this subject. When the bill had been committed, as I have already stated, I moved a reconsideration, and held the floor in support of that motion; but before I could call up the motion in regular order, I had the misfortune to fall unconscious in my place here, and, as soon as able to travel, I left for home; but requested two of my colleagues to call up my motion at the first opportunity; but my friends [Messrs. BINGHAM and BLISS] were unable to get the motion before the House. The abuse to which I refer consists in the fact that some members here are receiving \$6,000 salary, and near twelve thousand dollars mileage, making, for each Congress, more than seventeen thousand dollars, while others receive only \$6,100. This is an inequality which ought to be corrected. I say it is an abuse and misapplication of the fund which has been committed to our care. To pay it out thus recklessly and thus unequally is an abuse which ought to be corrected. I repeat, that I voted for the present bill because of the declaration which came from our present Speaker—the gentleman who brought forward that bill—that this should be corrected upon the first opportunity.

The question is now up; and I ask the House to permit the next Congress to fix its own mileage.

Mr. KELSEY. I am opposed to the amendment offered by the gentleman from Ohio, and for the reason that I think members should be paid mileage for coming to attend these sessions. As the gentleman truly says, the Committee on Mileage, in the last Congress, of which I had the honor to be a member, brought forward a bill to regulate and equalize the mileage—that is, a minority of that committee did; for a majority of the committee were opposed to it. I introduced a bill from the minority, giving to members compensation and the present mileage up to two hundred and fifty miles, and for all distances traveled over that number, ten cents per mile. That, in my judgment, was the nearest approximation to equality which could be obtained at that time; and I think that is the nearest approximation which could be obtained now.

If the proposition of the gentleman from Ohio shall be voted down, I propose to submit an amendment grafting that proposition upon this bill.

Mr. BLISS. I wish to state in this connection, as I have been referred to by my colleague, [Mr. GIDDINGS], that I fully substantiate his remarks in reference to his action upon the bill which was reported from the Committee on Mileage. I wish also to confirm what has been said by the gentleman from New York, [Mr. KELSEY]. At the request of my colleague, then absent, (the bill being his,) I often, and for several weeks before the close of the session, sought to obtain the floor for the purpose of calling up that bill. But I never could be recognized by the Speaker when it was in order. I, in good faith, frequently endeavored to comply with my colleague's wishes in that respect, but was prevented by the sharp competition for the floor towards the close of the session, and the result was that the bill was not brought up.

Mr. SMITH, of Illinois. With the permission of the gentleman from New York, I will say that the subject of the reduction on mileage has been before the Committee on Mileage; and one of the committee was instructed to report a bill for its reduction; but our committee has not been called, and I know not whether it will be; but I presume that gentleman will be ready, whenever that committee is called, to report a bill to reduce and equalize the mileage of members, upon which members will have an opportunity to vote, either to keep it as it is, or to reduce it.

Mr. KELSEY. I send to the Clerk's desk an amendment which I shall offer, if the motion of the gentleman from Ohio is rejected.

Mr. LEITER. In order to meet the views of my colleague, [Mr. GIDDINGS], I propose to offer an amendment to his proposition. I understand that his proposition is to strike out the whole clause. Believing, from the remarks of my colleague, that he intends to strike out what he considers an abuse, and to correct what he considers an error—

The CHAIRMAN. The gentleman from Ohio will send up his amendment to the Chair.

Mr. LEITER. It is to strike out from the clause the words "and mileage," so that it will leave the proposition simply for compensation to members of the House of Representatives.

Mr. SMITH, of Virginia. That proposition has already been voted on.

Mr. LEITER. The gentleman is mistaken.

The CHAIRMAN. The amendment offered by the gentleman from Ohio, to the amendment of his colleague, is in order.

Mr. LEITER. I have no doubt, Mr. Chairman, that these amendments are offered in good faith. Now, sir, if I correctly understand the position of gentlemen of the Thirty-Fourth Congress, it was admitted upon all sides of the House that there were abuses, so far as mileage was concerned, but the matter being taken up at a late hour of the session, it was passed upon hastily, and mileage was left an open question. I propose to assist my colleague from the Ashtabula district [Mr. GIDDINGS] in his views, as well as my colleague who has been re-elected to the Thirty-Sixth Congress. I hope, therefore, that my amendment will be adopted, and the amendment of my colleague [Mr. GIDDINGS] may not be adopted.

Mr. KEITT. Mr. Chairman, I shall vote against this amendment, as I shall vote against all amendments in relation to this matter. The difficulty which gentlemen seem to apprehend cannot be reached, cannot be obviated. They want to equalize, as they say. How are you to equalize? Are you to take into consideration the intellect of members, and their services; and if you do not, then upon what principle do you propose to equalize? Do you propose to take into consideration the disadvantages under which some men come here, the losses they incur by coming here? If you do not do that, upon what principle do you propose to equalize? Upon what principle can you equalize? No, sir; the only principle by which we should be guided is a compensation sufficient to enlist the talents of the best men in the Republic in the service of the country. If gentlemen do not mean to take that which was supposed by Congress to be sufficient for that purpose; if they mean to cut it down below that which is said to be sufficient, only to accomplish this, then they should do the next best thing—take away the appropriation altogether, and let every member come only for the honor. If you mean to make service here jobbing; if you mean to put members at the mercy of all schemers; if you

mean that they shall eke out the compensation by side measures and side interests, then cut down your compensation. If you mean to represent only the wealth of the country, then let those men who are wealthy alone come here; but if you mean to throw these places open to all, then your compensation should be sufficient to attract men of ambition, and who may not have resources sufficient to support themselves here.

Now, I ask the committee, in all fairness, whether the compensation, both of salary and mileage, is so large for any member as to attract an undue number of competitors merely for the pay? If there be competition, it is not alone for the pay, but for the honor, too. I ask how many members there are in this House who could not, in pursuing their own professions, make quite as much as they make here? I ask whether there is a member—I care not from what portion of the Confederacy—who does not give a portion of his service, at least, for the distinction of his position? Sir, a member from Oregon or California may get a large mileage; but, I ask you, how are you going to avoid it? Are you going to say that a man who comes from California is not at more expense than the man who lives right near here; the man who gives up everything for two years; who cannot go back; who must abandon all his business, and turn over his interests to others? Are you going to measure his losses and his inconveniences by the losses and the inconveniences of a member who lives near this city? If you are going to change this whole matter, then, sir, change it so as to make the Government here represent only the wealth of the country. I am ready to meet that issue to-morrow. I am ready, if the gentleman desires it, to vote now that no member of Congress shall have one dollar of compensation; but if you vote them anything, then I will vote a sufficiency. But, I say that the present salary is itself, as a mere money calculation, insufficient. I have never shrunk from voting proper pay to the higher officers of the Government. I believe that it is just economy; and I believe that if the salaries of the various heads of Departments and members of Congress were advanced, that you would accomplish economy in other ways. I will not consent, then, to any course of policy in legislation which cuts off the salaries of members of this House; for I think that they are not now too large.

The amendment to the amendment was rejected.

Mr. BINGHAM. I move to strike out \$200,000 in the sixty-third line.

Mr. SMITH, of Virginia. I rise to a question of order. I understand that this appropriation is designed to meet the requirements of existing law; that this sum is necessary to pay the mileage of members for the year terminating June 30, 1869. If that be so, this proposition to reduce the appropriation is a change of the existing law, and the amendment is not in order.

Mr. BINGHAM. That is, in my judgment, no question of order. The gentleman's objection is not well taken.

Mr. SMITH, of Virginia. I am stating my point of order, and I think that it is well taken. A proposition to reduce the appropriation is an indirect mode of changing existing law, and is not in order.

Mr. BINGHAM. From the position assumed by the gentleman from Virginia, it would be out of order to reduce any appropriation here whatever, and that we must vote for whatever amount may be found in the bill as it is reported by the standing committee. That is the sum and substance of his point of order. My amendment is to strike out \$200,000, so that the appropriation will be reduced to \$1,019,600.

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Virginia, upon the ground that it is competent for the committee to fix the sum to carry out the existing law, or, indeed, not to make any appropriation to carry it out.

Mr. BINGHAM. I do not object, sir, to a fair compensation being allowed by law to any man who may be sent here as a Representative of the people; but I do object to the unequal compensation now authorized by law, and the payment of which is about to be provided for by this bill. The law allows to certain Delegates upon this floor \$18,000 in round numbers, for a single term of service here; and for the same service which is required

to be rendered of my friend on my right, the honorable member from Maryland, the sum of \$6,064. That is what I object to. I object to this appropriation which allows as mileage alone, the sum of \$11,900 to the Delegates from Washington and Oregon respectively, while the same appropriation gives only sixty-four dollars to the members from Maryland. I submit to the committee that \$18,000 is not necessary, and that it is not fair or just to appropriate such a sum as compensation to any man for his service of representing for a single term any portion of the United States; that such appropriation for such service is a public abuse. In order to reach this abuse, I have been constrained to make the motion to strike out \$200,000 from the appropriation, which is the amount to be applied in payment of mileage for the next session, if the bill should pass as it now stands reported from the Committee of Ways and Means.

Mr. SMITH, of Virginia. Will that correct it?

Mr. BINGHAM. Certainly; there will be no money left with which to pay the mileage. There will be enough with which to pay the compensation. The gentleman complains because the words "and mileage" are not stricken out. That is not my fault. I made the motion to strike out, and a question of order was raised to it on that side of the House. The Chair sustained the question of order—of which I do not complain—and so did the committee by the aid of that gentleman's vote, and now he complains because my motion does not strike out the word mileage. The gentleman says that these gentlemen may, after all, if this sum be reduced, receive their mileage. I take it that they will not receive their mileage and compensation, because there will not be money enough appropriated to pay it, if my amendment should be adopted. This sum of \$200,000 covers the entire mileage of this House from the commencement of the next term down to the 30th of June, 1869. The money, then, will not be appropriated out of which to pay this enormous compensation of \$17,900 to Delegates from Washington and Oregon. I know that this matter ought to be provided for in another way. A bill ought to be reported and passed, changing the present compensation of members of Congress, and repealing the law by which \$11,900 is paid to some members for mileage, and sixty-four dollars to others. There should be a general provision giving to each member a full and fair compensation for his actual expenses in coming to and returning from the capital at each session of Congress. This would be fair, equitable, just; but as it stands, the compensation is unfair, unequitable, and unjust. I hope, therefore, that the committee will adopt my amendment.

Mr. PHILLIPS. The question now presented is identically the same as was presented to the consideration of the committee a few days since. If gentlemen on the other side of the House are sincerely anxious for reform, why do they not commence at the right end and in the right way? Does the gentleman from Ohio believe for one moment, that by striking at the \$200,000, he will curtail the mileage allowed by existing laws? He will not say "yes?"

Mr. BINGHAM. It will withhold, to some extent, the payment of mileage, and the gentleman knows it.

Mr. PHILLIPS. Well, Mr. Chairman, I will never vote to withhold an appropriation for a debt made. What is the effect of it? The effect of it is that we will continue to owe the money. The salary of members of Congress is fixed by law. The amount of mileage is fixed by law. If it is unequally fixed, adjust it, instead of withholding an appropriation which effects nothing except the declaration that we will not now appropriate money to pay a debt incurred. If gentlemen think the present system of mileage is unequal, let them propose some reform. No question has occasioned more embarrassment than this very question of mileage. It is hard to equalize it. I may speak of it, because, with one or two exceptions, I draw the least mileage of any member on this floor. In my judgment, the system is entirely correct. Every additional mile of distance from a man's home and his family and his business, ought to be proportionately well paid for.

I dissent from the doctrine of the gentleman from South Carolina, [Mr. KERR.] I do not hold that mileage is, in any way, a part of the compensation of members. The compensation of all is

alike. It is fixed by law. And, in my opinion, it is hardly defensible now for gentlemen, who have had opportunity after opportunity to reform this matter, and who never complained of it, to stand up now and object to it. If there be any better system devised, I am ready to vote for it; but I know of none better than the present. It sounds hard, perhaps, that Delegates from Washington and Oregon Territories should get \$12,000, while my colleague here [Mr. FLORENCE] only draws \$112. But my colleague is but five hours from his own home. He can hear from his family in a few minutes. He can learn all about his business, about his family, and about everything he is interested in at home. He can learn the wishes of his constituents, and can occasionally receive their rebukes.

Now, Mr. Chairman, who will say that he should receive the same amount of mileage as a Delegate from Oregon or Washington, to whom a letter, or any intelligence from home, once a session, is a very great luxury, indeed?

But, besides the objection to changing the system, I object to this mode of attempting to do that which may be really desirable in this way, as an amendment to an appropriation bill.

The question was taken on Mr. BINGHAM's amendment, and it was rejected.

Mr. KELSEY. I offer the following amendment:

Provided, That each member and delegate shall receive mileage at the rate now allowed by law for traveling two hundred and fifty miles, or less, and that for traveling all over two hundred and fifty miles, ten cents per mile shall be allowed.

Mr. FLORENCE. I raise the point of order that the amendment proposes to change an existing law, and is not in order.

Mr. KELSEY. The proposition is one so manifestly just that no point of order should be taken upon it.

The CHAIRMAN. The amendment is clearly out of order.

Mr. STANTON. I move to amend by striking out, after the word "compensation," the words "and mileage," and to reduce the amount to \$1,019,000.

I am perfectly aware, Mr. Chairman, that no man can agitate any change in the matter of mileage without subjecting himself to suspicions of insincerity; but I see no reason why there is not a stronger obligation on us to regulate, on just and equitable principles, our own compensation, than to regulate the compensation of other employees of the Government. No man can give a satisfactory answer to the inquiry of my colleague [Mr. BINGHAM] as to what good reason there can be why the gentlemen from California should each receive \$18,000, while the gentleman from Maryland [Mr. DAVIS] receives \$6,000. There is no answer to it.

The gentleman from South Carolina [Mr. KERR] objects that there can be no equalization, because you cannot equalize men's intelligence and capacity. I would be glad to know if any gentleman claims that the difference in the rate of compensation has any reference now to the intelligence and capacity of the members who receive that compensation? Is it true that the gentlemen from California are each worth that much more than my friend from Maryland? I apprehend that that is hardly claimed. The idea of compensation, I take it, is that each member's service is worth the same sum. There is no inequality recognized by the law as to the value of the service of members; and, as a matter of course, any reference to the qualification of members must be entirely out of the question.

Now, it will be recollected, and if we do not understand it, the country will, that the compensation of eight dollars for each twenty-five miles of travel was fixed at a time when traveling was a slow business and an expensive business; and it was fixed as a compensation for the expense and labor of travel, and nothing else. That was the principle upon which Congress proceeded then. But no gentleman will pretend to claim that, with the increased facilities of travel, when you can now travel five hundred miles in twenty-four hours, this mileage is any compensation for travel. As the facilities of travel have increased, the expenses have diminished, and the time occupied in traveling to and from the seat of Government has diminished.

Now, sir, my plan for arranging this matter is this: to carry out the system of my senior colleague, [Mr. GIDDINGS,] and simply strike out the appropriation for the mileage of the members and Delegates of the Thirty-Sixth Congress, and leave that Congress to fix their own mileage. I therefore have proposed this amendment; and I hope the committee will adopt it, and allow us to have a vote upon it in the House. Let us put ourselves upon the record. I want the responsibility of keeping up this system of mileage to rest where it properly belongs.

Mr. BURNETT. I desire to ask the gentleman from Ohio whether his amendment will accomplish the object which he indicates—that of correcting the present system of mileage?

Mr. STANTON. It will to this extent. The members of the next Congress will not be paid mileage under the present system, unless they make the appropriation themselves. It does not affect the mileage of the present Congress at all.

Mr. DAVIS, of Mississippi. I desire to make one or two remarks in answer to what has been said by the gentleman from Ohio who has just taken his seat, [Mr. STANTON,] and in answer to two or three gentlemen who have spoken from the other side of the House. Gentlemen say that the Delegate from Oregon receives more mileage than the gentleman from Maryland. Well, sir, I submit that he ought to receive more. The gentleman from Maryland can go home at any time and engage in the practice of his profession, as he is very often in the habit of going, and make \$1,000 upon a case in which he may be engaged, in a single day; while the Delegate from Oregon cannot even go home once during a session of Congress, to attend to any personal business whatever. It is within my knowledge, that many gentlemen upon this floor, and particularly upon the other side of the House, are in the habit of going home during the sessions of the House to attend to their own personal business; and some of them are at home for three quarters of the session. I know, further, that by the votes of gentlemen upon that side, this House took a recess for eleven days during the present session; and that those gentlemen went home and indulged in all the luxuries of their families, while those of us who were too far away from home to allow us to return there, were compelled to remain here at our own expense. Thus, sir, while the gentleman from Maryland is allowed to go home at any time, and to make thousands of dollars in a session by his profession, the gentleman from Oregon is not permitted to attend to any of his private business. I say it is right that he should receive larger compensation. And, sir, the majority of this House, living near the seat of Government, can at any time they please adjourn over the House, to the detriment of the public business; leaving those of us who cannot go home, here at our own expense; yet these gentlemen, for the purposes of the election in 1860, I suppose, will go to the country with the miserable cry of economy. That is all I desire to say.

The question being upon Mr. STANTON's amendment,

Mr. DEAN called for tellers.

Tellers were ordered; and Messrs. BRANCH and MOTT were appointed.

The committee divided; and the tellers reported—ayes 67, noes 58.

So the amendment was agreed to.

Mr. LETCHER. I move to amend the clause, by striking out the words, "and mileage," and inserting in lieu thereof the words, "and the actual expenses of traveling by the most direct route from their homes to and from the Capitol."

Mr. KELSEY. That is all right; but is it in order?

Mr. KEITT. I want to make an inquiry of the gentleman from Virginia.

Mr. LETCHER. I will hear it.

Mr. KEITT. Does the gentleman offer the amendment, changing the existing law, and reducing the emoluments, because it does not affect himself?

Mr. LETCHER. No, sir, not for that reason; but I can say to the gentleman from South Carolina, that it will not affect him any more than myself.

Mr. KEITT. Yes, it would. I am reflected.

The CHAIRMAN. This amendment would change the existing law; and, in the opinion of the Chair, it is out of order.

Mr. KEITT. The gentleman from Virginia has not answered my question.

The question recurring on Mr. GIDDINGS's motion to strike out the whole clause as amended,

Mr. JOHN COCHRANE demanded tellers.

Tellers were ordered; and Messrs. NICHOLS and PERRY were appointed.

The committee divided; and the tellers reported—ayes sixteen, noes not counted.

So the motion was not agreed to.

Mr. NICHOLS. I move to amend the clause providing for the compensation of the employes of this House, by inserting the following proviso:

Provided, That in no case shall any employe of this House receive less pay than that provided for in the joint resolution of July 20, 1854, any resolution of the House to the contrary notwithstanding.

Mr. BURNETT. I rise to a question of order. It is, that the employes of this House are paid under a resolution, and that amendment would change the existing order of the House upon the subject; and that, therefore, it is not in order.

Mr. NICHOLS. I wish to say a word upon that point of order, and to direct the gentleman's attention to one thing. I anticipated this point of order. The pay of the employes of this House was fixed, in 1854, by a deliberate act of Congress. Subsequent to that time, certain resolutions were passed by this House which, at the Treasury Department, and by the gentleman from Kentucky himself, were construed to be null and void, because they conflicted with the law of Congress. After that, a simple resolution was introduced into this House, and carried through under a suspension of the rules, changing a law of Congress by a vote of the House itself, and without the concurrence of the other two branches of the law-making power. Now, here comes in an appropriation bill which provides for the payment of the employes, not according to law at all, but according to a resolution of the House, which, without the concurrence of the other branch of Congress, repeals the law. I say there is no warrant for that; and if the decision of the Executive Department and the decision of both branches of Congress are worth anything, I say that that resolution, in regard to the salaries of the employes of this House is null and void, and amounts to nothing.

Mr. BURNETT. I want the ear of the Chair for one moment. If the gentleman from Ohio is right, then his proviso is a nullity; because, if the act of Congress, which fixes the compensation, is to control, then the resolution of the House fixing that compensation amounts to nothing, and it is unnecessary for us to pass another resolution.

The CHAIRMAN. The Chair decides the amendment of the gentleman from Ohio to be in order under the 81st rule, which provides that—

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereof, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

This expenditure is authorized by existing law, and is clearly in order under the rules of the House.

Mr. BURNETT. One word.

The CHAIRMAN. Does the gentleman from Kentucky appeal from the decision of the Chair?

Mr. BURNETT. I do not; but I think the decision of the Chair is clearly wrong.

Mr. NICHOLS. I wish to submit an amendment; and I do not want what has been said on the point of order to come out of my time. I ask the attention of the committee; and I wish to say, in starting, and to say distinctly, that, so far as I am individually concerned, I care very little about this amendment; but there are principles of truth and justice which, I believe, ought to prevail everywhere. That is all that I ask; nothing more. Now, sir, I am about to retire from public life here. I have been here a short time, and I find a strange feature existing in the legislation of the country; and it is this: I turn to the first part of this bill—and I wish my friend from Kentucky [Mr. BURNETT] to notice it—and I find that the Senate pay about double the salaries to their employes than this House pay to their employes. In the second place, I come to the organization of the House itself, and I find two departments connected with it with salaries paid which are very disproportionate to those of the Doorkeeper's

department. I hear a good many things said here; some just, and a great many, in my humble opinion, unjust. But I recognize no such distinction between the men employed about the Hall here and myself, as would warrant me for a moment in allowing them to work for a deficient pay, when, by the votes of this body and the other branch of Congress, the pay of ourselves has been increased.

I now come back, sir, to a simple proposition; and I ask every fair and just man to answer me this question: why will you bring men here—men of the dominant party, (for there is not a man that I am interested in employed about here;) why, I ask, will you bring men here, and give them employment, and put them at the same pay that you give the man who makes the fires, and then associate with them on terms of gentlemanly intercourse? I say that the resolution passed here in May, of the last session, is unjust to the employes of the Doorkeeper's department, and unjust to the man who fills the position of Doorkeeper; because you give to the Postmaster and to the Sergeant-at-Arms, and others, a salary which you do not give to him. How is he inferior? Answer me the question? How are these gentlemen that you yourselves on the opposite side of the House—you of the dominant party—have brought here and put in positions, how are they inferior to other gentlemen who hold positions under the Government? Why do you select them as a class, and strike their pay down, and refuse to give them that which you recognize, in your own sense of private right, as just to give them? I say, sir, that the amendment ought to prevail. I believe in perfect equality in regard to these things. If these men are to be the victims, go further, and strike at all the employes, and reduce all their salaries.

Mr. BURNETT. Mr. Chairman, I am not for the reduction of salaries below what is a fair compensation for the employes connected with any department of this Government, and I never have been. I am for a system, however, of pay equal to the service rendered, and that will command the services of men qualified for the various positions. But, sir, there is one remarkable fact connected with the legislation of Congress, and which is, in my judgment, disgraceful. There has not been a session of Congress since I have been here, not one, sir, that we have not been called on from time to time to pass resolution after resolution fixing the compensation of the employes, and changing their compensation, until there is not an officer about this House who can exactly tell what he is entitled to, or who can tell the number of employes allowed under the law, or what is their compensation. There is not a member upon this floor who can tell how many employes the Clerk is entitled to, how many the Doorkeeper, indeed, how many any, but the Sergeant-at-Arms, is entitled to.

Mr. MONTGOMERY. Will the gentleman permit me to interrupt him?

Mr. BURNETT. Excuse me; I have only a few minutes. It is this constant bringing in questions; making orders of the House; and changing the existing laws to which I object. I appeal to the experience of every gentleman here, and I ask them whether the time has not arrived when this thing ought to cease? Ought we not to put a stop to these never-ending importunities? Not a day, not a week of the session, that does not see some resolution from one or the other departments of the Government asking for some change in reference to its organization, and the number of its employes. We had one on Monday last, and others I have no doubt, are now in the pockets of members, to change the organization of the several departments connected with this House. Why am I opposed to this amendment? I made a point of order on it but the Chair overruled me. I do not stop to complain of that; I am opposed to any innovation upon the existing orders of the present legislation of the country in an appropriation bill, and when it is sprung upon us when we have not the facts in connection with it. Why am I opposed to it in this case? Because the House have already suspended the rules, and fixed the number and compensation of these men; and if men have taken these positions willing to receive the pay attached to them, then let them stand to their bargain. That is the reason why I am opposed to it.

Mr. RUFFIN. I move to amend the amendment of the gentleman from Ohio, by increasing the amount one dollar.

Mr. NICHOLS. That is not in order. I have proposed no increase.

Mr. RUFFIN. Then I move to decrease the original appropriation \$100.

Mr. Chairman, a great deal has been said about equalizing the pay of the employes of this House, and I notice that it has been indulged in generally by the gentlemen here who voted against suspending the rules for the purpose of permitting the Committee of Accounts, at the last session, to introduce a bill which they had matured for that very purpose. That bill was to fix the number of employes under the Clerk, Sergeant-at-Arms, Postmaster, and Doorkeeper of the House. Gentlemen would not permit it to get in, and be considered. Things went on, as members will recollect, in such confusion that the House felt itself constrained to dismiss one of its officers, and to pass a resolution fixing the number of employes, so far as the Doorkeeper was concerned. And I may state here, sir, that so far as my experience goes there never has been at any time within the six years that I have been here, so general a concurrence in the opinion that the officers of the Doorkeeper have performed their duties faithfully. Since the adoption of that resolution last session I have not heard one word of complaint against the superintendent of the folding-room, or any of his subordinates. I have not heard one word of complaint against the Doorkeeper or any messenger under him. It was said at that time that if we reduced the pay of these messengers to three dollars per day we could not get competent men to take the places. But we see that we have got men who perform their duties much better than they were performed when we paid these messengers \$1,200 and \$1,800 a year. If the House, instead of adopting the amendment submitted by the gentleman from Ohio, [Mr. NICHOLS,] would take up and pass the bill now on the Calendar which was reported by the Committee of Accounts at the last session, and let it go to the Senate and be there amended so as to cover the employes of that body, (for such an effort would be made there also,) the whole matter would be put upon a proper footing and we would avoid all this trouble in future.

Mr. NICHOLS. Why not get up that bill and pass it? I am satisfied with it.

Mr. RUFFIN. Why, sir, those gentlemen who are opposed to it; who are always saying that reform is commenced at the wrong place; have prevented the bill from being taken up. We cannot get a vote of two thirds to suspend the rules, in order to take it up out of its regular order; and the probability is that we will not reach it in its regular order before the 4th of March.

Mr. NICHOLS. I am for it.

Mr. RUFFIN. Yes, sir; I believe you voted to suspend the rules; but a large majority, and especially on that side of the House, voted against a suspension of the rules. Now, I think it is absolutely necessary these officers should all be placed on a footing of equality; and this is the right place to commence that reform. If we adopt the amendment of the gentleman from Ohio, the thing will go over, and we will not hear of it again; or if we do, it will only be to see it share the same fate it shared last session—have it smothered up, and get no direct vote upon it.

Mr. MASON. As I was concerned last session in getting up the bill to regulate the compensation of our employes, I desire to say a word in reply to the gentleman from Ohio, who seems so very desirous of getting them all on the proper footing, and who wishes to know why the friends of that measure have not got it up and passed it. I deal in practical legislation only. I saw at the time very plainly that a majority in the House was opposed to any change on that subject. The reason why the Doorkeeper's department was the only one reformed at that time was, that it was apparent to every one that there was something wrong in the system then going on. There was no limit fixed as to the number or compensation of his subordinates.

Mr. MONTGOMERY. I rise to a question of order. The gentleman from North Carolina [Mr. RUFFIN] offered an amendment to the amendment, and spoke in support of it. The gentleman from Kentucky, instead of opposing it, is

following in support of it. That is not to be tolerated.

Mr. MASON. The gentleman from Pennsylvania is mistaken, or he would not call me to order. It is always out of order to say something on some things. I am opposed to the reduction contemplated in the amendment.

The CHAIRMAN. The gentleman from Kentucky will confine himself to opposition to the amendment.

Mr. MASON. I am at the very thing. The appropriation is just right now, and I am opposed to any reduction of it.

As the gentleman from North Carolina remarked, if the House will take the bill reported by the Committee of Accounts last session, out of the Committee of the Whole on the state of the Union and pass it, we will have the compensation of all our employes equalized and regulated. It will not affect the salaries of the present employes. It will operate only in the future. The change which we effected in the Doorkeeper's department has operated like a charm, and if the other offices of the House are regulated in the same way, the same beneficial change will be produced. Before that time, the Doorkeeper had the power to make various temporary appointments, and it was a very common thing when a member wanted to send home a constituent, to get a certificate for a month's pay for him and send him home. To be sure, the Committee of Accounts had no right to pass such an account, but they did not like to be considered penurious, and so they allowed everything that they could allow, consistent with the law. But now the number of the messengers is fixed, and if the Doorkeeper exceeds the limit allowed, he must pay the additional men out of his own pocket. It was for employing more men than he was authorized to employ, that the last Doorkeeper was turned out of office. And yet that man had not acted dishonestly. He had not received a dollar of the compensation of his subordinates. It all went into their own pockets.

[Here the hammer fell.]

Mr. RUFFIN withdrew his amendment.

Mr. MONTGOMERY. I propose to amend the amendment, by declaring it not applicable to any new employe.

The CHAIRMAN. The amendment of the gentleman from Pennsylvania is clearly out of order, because it changes existing law.

Mr. MONTGOMERY. Well, sir, I move then to amend by increasing the appropriation \$100. I desire simply to say that I am a friend of retrenchment and economy; I am in favor of reducing the expenses of the Government down to the lowest possible cent that it can be conducted for; but, at the same time, while I am an advocate of economy, I am also an advocate of equality. When I commence retrenchment I will not commence it with the wages of the laboring man. When I have induced him to come here at a salary fixed by law, I will not reduce that salary after he has come, and, with his family, settled down in the city of Washington under the expectation that his compensation was to continue as when he came, and when he has served faithfully in the capacity in which he has been employed.

I say that I am not prepared to strike down the pay of these officers under the circumstances in which the attempt has now been made. When the late Doorkeeper was dismissed, under the excitement of the occasion a resolution was introduced and passed by the House, which does great injustice to the Doorkeeper and the employes under him. The employes of the Doorkeeper were entitled to be placed upon an equality with the other employes of the House; but, sir, the compensation of the employes in the office of the Postmaster of the House, those in the office of the Clerk of the House, and all the other employes, remains precisely the same as before, whilst those of the Doorkeeper were reduced.

Now, sir, I am opposed to that inequality, to that gross injustice. I say that it is due to the House that you should wipe out that resolution from your Journal, passed, as it was, in violation of law. The salaries of the employes under the Doorkeeper were fixed by the joint resolution of 1854; and the resolution of the gentleman from Kentucky, [Mr. MASON,] which passed the House on the occasion to which I have referred, was simply a resolution of this House, and could not repeal a law of Congress, and is not binding; so

that the resolution was not only unjust in itself, but it was illegal. That is all I desire to say.

Mr. SMITH, of Virginia. It is always unpleasant to me to hear gentlemen upon this floor talk about striking down the poor man. It is manifestly an argument *ad captandum vulgus*. Sir, the only question which this House can properly consider in this connection is, whether the compensation of the officers of the House is sufficient? Is it a fair equivalent for the service rendered? I ask this House, confidently, if this is not the legitimate inquiry? If the compensation is insufficient for the service rendered, then increase it; but I want to know what argument can be derived in favor of increasing it, from the fact that other employes of the House are paid at a higher rate, if it can be demonstrated that they are paid at too high a rate for the service rendered? I say that any such argument is unsound, and ought not to influence the judgment of this committee in determining their action upon this question.

I will add here what every gentleman upon this floor knows—what I suppose the gentleman from Pennsylvania knows—that the only way to effect a reduction in the civil expenses of the Government is by taking those expenses in detail. If you take the whole roll of the civil list, and undertake to cut down the salaries in the aggregate, you are met by a combination that this House has not the moral courage to bear up against.

Mr. MONTGOMERY. I am ready to do it.

Mr. SMITH, of Virginia. The gentleman from Pennsylvania may be ready to do it, but this House has not the capacity in point of moral courage to do it, as I know from experience. Sir, the measure introduced at the last session of Congress by the Committee of Accounts, the integrity of which no man can doubt, this House could not carry out, and could not carry out simply from the opposition of members upon this floor. I regretted exceedingly that it could not have been done, and regretted it because I wanted to see the question of compensation of the House employes fixed upon a permanent basis—on a basis of paying for service according to its value, and no more. Upon what basis is that service now paid? For what service is a messenger of the Clerk of the House of Representatives paid a salary of \$1,750? The salary paid under the resolution adopted at the last session, to the Doorkeeper and his employes, is of a character that would command the employment of thousands in the district of the gentleman from Pennsylvania, where there are thousands who do not receive a compensation of more than two hundred dollars a year, as there are in my district.

Mr. MONTGOMERY. But they do not have to pay twenty dollars a week for board.

Mr. SMITH, of Virginia. I trust, sir, that the committee will not adopt this amendment; but that the House will, whenever they have an opportunity, go on and fix the compensation of each of the employes upon a basis which shall give to each a fair compensation for the service rendered, and no more.

Mr. MONTGOMERY, by unanimous consent, withdrew his amendment.

Mr. NICHOLS. I move to amend by adding: And all such payments shall be made in accordance with the law as it now exists.

Mr. SMITH, of Virginia. I rise to a question of order. That amendment is to change existing law, and is not in order.

Mr. NICHOLS. On the contrary, it is to carry out existing law.

The CHAIRMAN. The Chair rules the amendment out of order, on the ground that the gentleman from Ohio cannot offer an amendment to his own amendment.

Mr. KUNKEL, of Maryland. I will offer the amendment which has just been read, for the purpose of saying a few words.

Mr. BURNETT. I rise to a question of order. That amendment is simply the existing law, and does not mean anything.

Mr. NICHOLS. As that amendment proposes to carry out existing laws, I think it ought to be in order.

The CHAIRMAN. The Chair decides that the amendment is in order.

Mr. NICHOLS. Then I have the floor.

The CHAIRMAN. The gentleman from Maryland is entitled to the floor.

Mr. KUNKEL, of Maryland. I wish to call

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the attention of the committee, for one moment, to the Constitution of the United States, which, in this discussion, seems to have been entirely overlooked. "The House of Representatives shall choose their Speaker and other officers;" and, under my reading of this instrument, the House of Representatives cannot only fix the number of its officers by a simple resolution of this body, but it can also vote to pay those officers out of the contingent fund which may be appropriated for its expenses.

Now, sir, the argument of the gentleman from Pennsylvania, and of others around him, is of no avail at all in this discussion. It does not require either a law or a joint resolution in order to fix the number of employes of this House, or the amount of their compensation. A simple resolution will do both, in my judgment. Under the construction which I, as a member of the Committee of Accounts, gave to this clause of the Constitution—and I think a majority of that committee agreed with me—the resolution of the gentleman from Kentucky [Mr. Mason] was supposed to be of binding force, and they have endeavored, so far as they could, to carry it into execution, although it is clear that the resolution of the gentleman from Kentucky, which has been adopted by this House, did not repeal the joint resolution, or other resolutions of this House, upon this subject, heretofore existing; and the truth is, that if a legal construction were given to the resolution of the gentleman from Kentucky, it would only increase the patronage of the Doorkeeper of this House, instead of diminishing it.

The necessity, therefore, of having some legislation upon this subject, must be manifest to the committee. Under the instruction of the Committee of Accounts, I had the honor, at the close of the last session, of presenting a resolution to regulate this subject. The subject is now before the Committee of Accounts, and I hope to be able, before the termination of this session, to present such a resolution or bill as will meet the approbation of the members of this House. Hence I believe there is no necessity at this time for this discussion.

Mr. SEWARD. I am opposed to the amendment offered by the gentleman from Maryland, and I am entirely opposed to his construction of the Constitution, and especially for the use he wants to make of it. While the Constitution gives to each House the power to regulate the compensation of its officers—

Mr. KUNKEL, of Maryland. It does not say "each House," but "the House of Representatives."

Mr. SEWARD: Yes, sir; and the House of Representatives did, jointly with the Senate, enact a law upon this subject. Now, there is a vast difference between fixing the compensation of employes, and appropriating money to pay that compensation. I put it to the gentleman from Maryland to say whether the resolution of the House of Representatives, at the last session, changes the law which was passed by both branches of the national Legislature?

Mr. KUNKEL, of Maryland. I said before, that, in my judgment, the resolution enlarged the power and patronage of the Doorkeeper, instead of diminishing it.

Mr. SEWARD. Upon the subject of economy, I differ with the gentleman from Virginia, and also as to the manner of bringing it about. The whole difficulty lies with the Committee of Ways and Means; and I tell gentlemen they will never check these extravagant expenditures of money until every department of the Government is reorganized. We have too many bureaus, and too many officers connected with them; and until the Committee of Ways and Means learn that they have to obey orders from other sources than the Executive Departments of the Government, and until they look more to the interests of the country and of their constituents, and until you go back and reform every solitary department of the Government, and readjust the salaries of the officers, you cannot cut down these expenditures.

What is the argument of the Committee of Ways and Means every time you move to amend a bill by affixing a new provision to it? They get up and tell you that you want to change existing laws. And if you want to diminish the amount of an appropriation in a bill, why, then it is necessary to carry out existing laws. Why do you not change your existing laws, and lay the foundation of reform by decreasing the number of officers, and readjusting the salaries of your employes in every Department of the Government? When you shall have done that, you will not have all this cry about violating existing laws. I doubt whether any man at the head of any Department of the Government can report correctly how many employes there are in the various Departments, they have multiplied to such an extent. As the gentleman from Kentucky very properly observed, we cannot tell what their salaries are. Whose fault is it? The committees want to report, but nobody can get the floor for five minutes except the members of the Committee of Ways and Means, and the whole legislation of the House is centered in them, and they are responsible for this extravagance; and I want the country to understand it.

The question now being upon the amendment offered by Mr. KUNKEL, of Maryland, to the amendment,

Mr. CHAFFEE called for tellers.

Tellers were ordered; and Messrs. Bliss and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 88, noes 34.

So the amendment was adopted.

Mr. WASHBURN, of Illinois. Mr. Chairman, we have been here now some five hours, and I move that the committee rise.

Mr. BURNETT. I hope the gentleman will withdraw that motion.

Mr. WASHBURN, of Illinois. I hope not. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the civil appropriation bill, and had come to no resolution thereon.

• ARNOLD HARRIS.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 237) for the relief of Arnold Harris and Samuel F. Butterfield, for reference.

There was no objection; and the bill was taken up, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as correctly enrolled an act (H. R. No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives; when the Speaker signed the same.

DR. GEORGE YATES.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, in order to take up the President's message, and have an evening session for debate.

Mr. MARSHALL, of Illinois. Before that is done, I ask to report back from the Committee of Claims the case of Dr. George Yates, which was improperly referred to that committee, and to have it referred to the Committee on Revolutionary Claims.

There was no objection; and it was ordered accordingly.

REMOVAL OF DESKS.

Mr. MILES. Mr. Speaker, I ask the unanimous consent of the House for leave to the special committee on the arrangement of the Hall to report, and to have that report ordered to be

printed, with a motion pending to recommit, in order to keep the question before the House.

Mr. SMITH, of Tennessee. I object.

Mr. BISHOP. I move that the House adjourn.

The motion was disagreed to—ayes 53, noes 68.

Mr. PHELPS's motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. BARKSDALE in the chair.)

Mr. VANCE obtained the floor; but yielded to

Mr. PHELPS, of Missouri, who moved that the civil appropriation bill be passed over informally, and that the committee take up the President's message.

The motion was agreed to.

And then, on motion of Mr. SMITH, of Tennessee, (at five minutes to four o'clock, p. m.,) the committee took a recess until seven o'clock, p. m.

EVENING SESSION.

The Committee of the Whole on the state of the Union resumed its session at seven o'clock, p. m.

The CHAIRMAN stated that the question before the committee was the consideration of certain resolutions in reference to the President's annual message, and that the gentleman from North Carolina [Mr. VANCE] was entitled to the floor.

Mr. VANCE yielded the floor.

THE PUBLIC LANDS.

Mr. WRIGHT, of Georgia. The Government of the United States owns about a thousand million acres of land. A large proportion of that amount is fit for cultivation. Vast regions of it are immensely fertile. That which is not fit for cultivation, is of value for grazing, timber, minerals, and other purposes. What shall the Government do with this land? This is a great question. It is one eminently practical. The duty of its solution is upon us. Let us settle it like practical men. Let us bring to the discharge of the duty, common sense. Let us endeavor to determine it upon the principles of a correct and matured judgment. Upon so great, so vital a question, let the national Legislature be honest; let us put on "the whole armor" of statesmen, and "quit ourselves like men."

Shall the Government keep it forever, or part with it? The first proposition has no advocates. Part with it she must. Shall she sell it, or give it away? It must go one way or the other; and it must go to persons natural or artificial—to individuals or corporations. I believe, and shall endeavor to maintain, that it ought to be given, as a general rule, to individuals; and not to individuals generally, but to individual citizens who will settle and work it; not to the rich, nor yet to the lazy and vagrant, but to the man of labor.

How say some of the opponents of such a measure, that it savors of the demagogue? we but demand the rights of industry. To create distrust in the fidelity of its friends, is a stratagem of its adversaries. So was it "in the days of the prophets;" the false accused the true. So will it ever be while the struggle continues between truth and error. Truth reasons; error taunts and derides. The "simple ones" only are beguiled by the latter. "Do men gather grapes of thorns, or figs of thistles?" "By their fruits ye shall know them." "Beware of dogs," was the injunction of the Nazarene to his disciples. It was because they "would make grievous havoc of the flock." Look at the condition of earth's laboring millions: Are there any "dogs" among politicians? Would this measure make "havoc" of the masses? I have few sympathies for the rich; they need none. Capital never fails to take care of itself. I have quite as few for willful vagrancy. "If a man will not work, neither shall he eat," is inspiration. Our sympathies should be with those that work, and with those that would work if they could; especially with the latter—and how many are there

even in this country? Of those that work the soil, how many till it for others, obtaining a bare subsistence for themselves?

God never intended that "briars and thorns" should grow where there was a man to plant "fig trees and olives;" nor wild flowers bloom where there was one to sow "wheat and barley." Any contrivance of men, by Governments or corporations, whereby those who would labor are prevented from laboring, is, to that extent, a mischievous contrivance. Look at England; thirty millions population, and thirty thousand real-estate owners. Behold Ireland! think of their pauperism and shudder! "My lord" owns the soil, and keeps it for game. The peasant starves for want of a place to plant the necessities of life. Men and Governments should study the indications of the Divine mind, and be governed thereby in all their actions. They should study them in nature, in providence, in His word. There can be no permanent prosperity in any other path than in obedience to Him.

It has been asserted as a rule, that man may use his property as he pleases. The rule is correct, with the restriction, however, that he must so use it as not to injure his neighbor, nor the State or kingdom of which he is a citizen. The highest equity recognizes this limitation. Our courts grant injunctions upon it. A man may not engross the market. He may not own above a given amount of bank stock. Upon what principle is it that corporations, classes, or Governments, may monopolize a country's land? I might ask, upon what principle is it that individuals may do it, to an unlimited extent? This, however, is no issue now, nor likely to be in our day, in this country. I propose to argue only practical questions. Let us recur to the question, upon what principle is it that whole tracts of fertile soil may be locked up for years in non-production, when labor is demanding the free use of its power in production? When, with its use, it would supply its own wants, next those of its community, next of its nation, and then of the world.

Monopolies in personality, are unlike monopolies in lands. They first work out their own remedy in their transitory and fading nature. They compel distribution at prices, frequently, below a fair value. Meats, grains, dry goods, food of every description, cattle, and stock, may be aggregated and monopolized. The expense of keeping them, as well as their perishable nature, will compel distribution. But if it did not, still monopolies of them would be less injurious than of land. Their aggregation and monopoly does not prevent new productions. If they should draw enormous profits, new creations are going on to supply new wants. Labor may continue to produce. The necessities of life, its comforts and luxuries, spring from the ground and distil from "the morning cloud."

It is very different in the exclusion of our race from the soil. Agriculture is the foundation of all production absolutely necessary for the use or comfort of man. He must eat and be clothed, to live, to think, to modify matter into ten thousand forms for his use. By locking up the soil, you dry up the fountain of life and being.

The proposition was advanced that Governments as well as individuals, should study the indications of the Divine will. A homestead bill, so far from being the invention of a demagogue's brain, is the conception of the Divine mind. The only one we read of in the history of the past, is that ordained by God for the Hebrew people.

When He chose the race of Abraham "out of all the nations of the earth," to be the model nation in the past, as it is to be in the future, and in it to bless all other nations, it was meet that He should instruct it; that He should give it understanding; that He should not leave it to its own wisdom. He did instruct it in religion, in government, in the great law of right and wrong. From the place where "the sight of the glory of the Lord was like devouring fire upon the top of the mount," he spake to it. He gave it three great laws: the law of sin, that is, the law which defined sin, contained in the ten commandments; the law of civil government, like our own, founded in all its great features of civil and criminal jurisprudence, upon the first law; and thirdly, the law of its religion, or, to speak more accurately, the ceremonies of its worship. The law

of right and wrong, as contained in the first, all civilized and enlightened nations have recognized as correct, as in accordance with the individual and social necessities of our race, by founding their governments upon it. In the second great law of the Hebrews, that is, their civil law, there were doubtless many things peculiar for their situation, their locality, the climate, and the manners and customs of the people by whom they were surrounded; but, in the great features of their civil and criminal jurisprudence, it is doubted by the profoundest theologians and most philosophic statesmen whether they have ever been surpassed.

In human government, it establishes "an eye for an eye," "a tooth for a tooth," "life for life." To the latter we still adhere. He who deliberately takes life, of him life is required. Would it not also be well to require of him who deliberately takes an eye, to give his eye? Of one thing there can be no doubt among Christian statesmen: that for that people, under all the circumstances, it was the perfection of government; to suppose less, would be to argue imperfection in the Divine contrivance.

In establishing the Hebrew government, he made it its fundamental duty to provide land for the people; not for the king only, and the nobility, its elders, its princes, and its rulers, but for all the people. When "two of the tribes stopped on this side Jordan," they were compelled to leave "their wives, their little ones, and their cattle," and to pass over armed, all the mighty men of valor, "and help them until they possessed the land."

Let us analyze this a little. There were twelve tribes—one of them divided into two. The united tribes were to provide land for each tribe. It was divided first among the tribes, by lot, and again subdivided, until every man in the commonwealth had a settlement of land. It was to be inalienable. In no event could he deprive himself and his family of his inheritance. If he sold, he only sold the profits till the year of jubilee—that is, the fiftieth year. For on the tenth day of the seventh month of that year, the trumpet did "sound throughout the land," and home, with all its endearments, came back once more to the sons of labor. Its flowers and its fruits; its pastures and brooks; its vines, and its olive trees, endeared by a thousand memories, were possessed by their ancient owners. So careful was the government to provide the people with land, and to keep them so provided, that the women, in their marriages, were compelled to confine themselves to their tribes. In the subdivisions of the realty among the heirs, it would come to pass at last, that the divisions would be too small; and though there is no express provision for this, the whole spirit of their institutions would seem to indicate the duty of the government to provide new settlements. We have examples to this effect.

The gentleman from Massachusetts [Mr. Thayer] said, last session, that they were becoming crowded in the ancient home of the Pilgrims. Be it so. If my analogy be a good one, let them "possess another land." If they cannot do it by themselves, "our men of valor" "will leave their wives, their little ones, and their cattle," and "go over armed before them." The command to the Hebrews to take the land of the heathen, "to drive out the Hittite and the Perizzite," was scarcely more obligatory, though issued from the Shekinah between the cherubim, than are the indications of Divine will that we should possess the land of the heathen on our southern border. Look at it, drenched in blood, without law or order, among the fairest portions of creation; the land of perpetual summer; like that of God's chosen people, "a good land; a land of brooks of water, of fountains and depths that spring out of valleys and hills; a land of wheat and barley and vines and fig trees and pomegranates; a land of olive, oil, and honey." Is not the command almost audible, "go ye, and possess the land?"

Under this agricultural law, this ancient people lived; and while they observed it, and kept up the forms of good government as given to them, their prosperity was unparalleled among the nations of earth. The land did "flow with milk and honey," and all her "hills did drop new wine." Green and plenteous were her pastures, and right beautiful her "gardens of olives." "Cattle were

scattered upon a thousand hills." "Strong bulls of Bashan" were exhibited in her fairs. "Fat rams of Neboith," and kids from "Kedar's flocks," were sold in the shambles, and "shepherds kept their flocks on Judah's hills." "Jerusalem was the perfection of beauty," and the "joy of the whole earth." The daily provision of her prince was "fat oxen out of the pasture, and sheep, and harts, and roebucks, and fallow deer, and fatted fowl." He spake "three thousand proverbs, and his songs were a thousand and five." "The navy of Hiram brought gold from Ophir, and almag trees and precious stones into the land." Sheba's Queen, beholding the land, its riches, its beauties, its glories, and its people, did say, "happy are thy men, and happy are these thy servants." "The sons of the prince were a thousand and five." Did he not have cause to sing? Who of earth's monarchs possesses such a land? and of which can it be said, "happy are thy men?"

If such prosperity was the result of the landed system in the Israelitish commonwealth, would it be unreasonable to hope for similar results from the experiment in this country? Would its support justly subject its advocates to the charge of visionaries or enthusiasts? If they are, it is in an effort to copy the inspiration of the Divine mind. If their conclusions be false, because of their enthusiasm, they ought to be forgiven. Its fire was caught from the realms of light. In its operation, we behold the beneficence of the infinite mind in the extinction of man's last want, and the reproduction of earth's primeval glory.

Were our national Legislature constantly to provide every man with a "plat of land," and as constantly protect him in its enjoyment and its development, whilst the other nations of the world pursue their present policies of monopolies in governments and "noble blood," a spirit from the land of light would fall in an effort to paint the contrast in perfection in half a century. From Vermont's green hills to the "land of flowers," from the sea-gull's home in the Atlantic to where he dips his snow-white wing in the Pacific; from the rich cañons of the Rocky Mountains, deep buried in their base, "all round, every way," you would behold the joy-lit faces of boys and girls, of old men and women, millions of cottages of happy freemen, untold fields of living verdure, rivers and lakes filled with steamers, rich in freight and richer still in human forms that crowd their decks; trains of merchandise and travel succeeding each other, till the eye wearied in beholding; villages with their church spires and academical cupolas, dotting the landscape like clouds in sunset; cities with their marble palaces lining the shores of both oceans and the great inland seas; harbors crowded with the ships of the world, their commingled colors floating from their mast-heads; above all, though unseen to mortal eye, a realm of virtuous intellect, loving its country and adoring its God.

Let us leave this picture, however truthful, and inquire what has been, and what is now, the policy of the nations of the world relative to their lands? So far as I have been able to ascertain from history, with the exception already spoken of, to monopolize them in the hands of the Government and of classes. Not going back further than the Christian era, and taking Europe, by far the most civilized portion of the great divisions of the globe, what example does she give us? From a very early date, all through the dark and middle ages, the title of the soil was in the king, the nobility, and the clergy. The occupants were tenants merely, almost uniformly by the rendition of service. This service was sometimes certain, sometimes uncertain; that is, he rendered service so many days, or as long as his lord required him. This service was, most generally, of a military nature. He followed his lord to war, or went at his command. The Church monopolized immense tracts, and let it out by tenures, not so favorable generally as the nobility. The temporal rule of the clergy has always been more oppressive than that of laymen. Of all inconceivably hateful governments, that which oppresses in the name of God is the most detestable. At this present time, the nobility and the Church own the great body of the real estate of Europe. The laboring classes are tenants merely, liable to be removed at the end of their terms, frequently at the will of the landlord. The ten-

ant is so charged, in way of rent, that all the cream of his toil goes to the owner. He can make no permanent provision for himself or his family for the future. Every vine and fruit tree is his lord's, temporal or spiritual. He cannot promise himself that he or his offspring shall eat of the fruit thereof. Every flower that the hand of simple taste and beauty may plant, blooms for another. The repairs of the cottage, useful or ornamental, is another's pride or gain. The joys of home are darkened by the uncertainty of the future; and the very sports of childhood subdued and saddened by the fear of a trespass upon the rights of the lord.

From the formation of government to the present time, "the elders of the church" and "the rulers of the land" have been in combination to oppress the laboring classes. "The poor shall not always sigh, nor the oppressed go unavenged." "The meek shall inherit the earth." Here is the good man's "faith and patience." Even in this country, a vast majority of those who till the soil have neither title or inheritance therein. So far from having an inheritance inalienable either by debt or contract, they have none at all. My home is in the rural districts of northwestern Georgia, in as rich, as beautiful, and as happy a land as there is in the world. The blue lime-stone lands are of exhaustless fertility; her mountains, covered with oaks and cedars, like Bashan and Lebanon; her fountains cool, crystal, and perennial; her valleys, landscapes of perpetual verdure. There is but one thing wanting to make it the glory of all lands, and that is that the title and the inheritance should be in the tenants of the soil. Though by no means universal, large portions of it are monopolized and let out to renters. Their humble and temporary dwellings are filled with women and children. Though happy, as they always are, there is nevertheless the shadow of sorrow, like summer clouds, upon the landscape; they know not where they shall dwell another year. "They are strangers and pilgrims in the world." Let Government give them land. They will go to it. If they will work another's, you may be sure they will work their own. It is objected, however, that this would cheapen lands in the older States. This is doubtful. It might prevent any very material advancement in price. It will be difficult to prove that anybody would be damaged by this. But admit the objection; is that an adequate reason for a refusal to give? My property consists mainly in real estate in the hands of renters. If its price can only be maintained at the expense of the sweat of labor, and the ties and joys of the home of the poor, from the depths of the soul do I say, let it be reduced. It is unjust to compel a state of vassalage in the common people to maintain monopolies of the soil. The earth is God's gift to man; as much so as life. It is the duty of the Government to protect him in both—to charge him for neither.

Our Government is certainly in advance of those of Europe on this subject. Land here is inheritable in the common classes, and is sold at greatly reduced prices. But still, even here, as a rule, those who cultivate, do not own the soil. The Government owns land enough to give every man who will work, "a parcel of ground," and scarcely miss it from the public domain. Were it otherwise, and she had no land for her laboring classes, it would be her duty to provide it.

What has been the practice of this Government with regard to her public lands? This is a very important question, and should be understood by the people. Shall we continue the practice of the Federal Government, relative to the public domain?

The Government has, heretofore, disposed of her public lands by gift and sale. Her gifts, however, have not been (with the exception of bounty lands to the soldiers) to individuals, but to new States and corporations. Even the bounty lands have fallen into the hands of speculators. Whether this is within the deeds of cession of the old States, is very doubtful, to say the least of it. If Congress can give one million acres of the public domain to a single State, I can see no reason why she may not give the whole of it. If she can give land enough to a single corporation to build a railroad, and have a clear surplus of \$30,000,000 left, I do not see why that surplus might not be increased to \$1,000,000,000. Is this holding the public lands for the "use and benefit" of all the

States, and for no other use or purpose whatever?" Would not a gift to actual settlers from all the States without distinction, be more in accordance with the letter and spirit of the trust?

The gifts to corporations have been usually for the construction of railroads. It has been attempted to be justified upon the ground that it was the best use of it, to develop the country and add to the national wealth. But is the construction of railroads through a wilderness between points, paying, perhaps, five per cent. profit to stockholders, a better development of the country than the subduing of forests, the filling in of a thrifty and enterprising population, the raising of grain and stock, and the production of the necessities and the comforts of life, and the consequent increase of the objects of taxation, as well as population? Railroads give us no increase of population; at least not a per cent. sufficient to be reckoned, and that largely foreign, riotous, and vicious. Abstractly considered, they add nothing to the productive wealth of a country. They may be profitable, and change capital into new hands. They never cleared a field, planted a fruit tree, grew a blade of grass, or raised a bushel of wheat. Incidentally, they may, and do, stimulate production; but they do not produce. They furnish no soldiers and fight no battles. While they add to the convenience of the people and facilitate trade, in many respects, they retard production. They raise the price of lands, and place them out of the hands of labor, and thus lock them up for years, a wilderness, or develop them slowly under a system of tenancy.

The fact that they raise the price of lands, is advanced as a reason why the Government should continue to give to railroad corporations. Is it a dogma of political economy that the high price of lands in the hands of Government is of advantage either to it or to the people? Is it the object of Government to speculate in lands; to obtain at the lowest and sell at the highest price? Is Government a grand corporation with special privileges for money making? In the proper settlement of this great question of the public lands, it would be well for us to fix in our minds what are the purposes of Government. But were it true that it were its duty to get the highest possible price, then a gift to every citizen who would work (and he must settle and improve to obtain) would add more value to the remaining than grants to railroads.

But it is objected to gifts, that Government sells at low prices, and every man can obtain land. This is not so. Labor, without capital, cannot more than live, and clear, and cultivate the soil. Give labor alone the soil improved, and it will do more than live. It will accumulate. Taking lands unimproved, it must have no drawbacks—no, not a dollar. It needs, besides, health and the blessing of God in clouds and rain. With these, and energy and will, it will succeed. And why not give it? The objection is, it sells but for little. The sum, indeed, is small to the Government—it is large to honest, industrious poverty. To it, it is of great moment.

You desire a revenue. You need one. Raise it out of luxuries. If you cannot get enough, then levy it upon capital. As you value your country's advancement, keep your hands off of labor. Suppose that the sales of the public lands amount to two, or even five million dollars per annum. What is that? It is put up in books: such books. To read one through or die with Asiatic cholera, would be alternatives, from either of which we might well pray, "good Lord deliver us." Or it is put into a "printing job;" or into two or three ornamental porticoes about the public buildings; or it is sent upon missions to the Arabs and Celestials. It goes into the \$80,000,000 expenditure, and sinks like snow in water.

It is the duty of Government to furnish its people with land. According to the constitution of society, title to lands can be originally derived in no other way than through the Government. Individuals may take possession of uncultivated tracts, but Government will not recognize possession only as title. The very nature of Government presupposes dominion over territory and title therein. It passes, by sale or gift, to its citizens. The question, when reduced to its original element, may be said to be: shall Government sell or give to its citizens? The only argument in favor of sale is revenue. Raise that, as before

said, out of luxuries and capital. Our untold millions of acres of public lands should be given to labor, as far as its wants require. God made it, and gave it, as He did water, air, and light. He uses Government as the channel of His bounty. Let her be true to her trust, and put no tariffs upon the bounty of God. At present our lands may be said to be a sort of standing corruption-fund. Politicians make bids with them for the Presidency, and articles of less value. Agents of corporations, lynx-eyed and unscrupulous, lie round the corridors of the Capitol, and infest its galleries. They are numerous as Egypt's vermin, and voracious as her locusts.

But it may be said, if it is the duty of Government to furnish labor with the means of production in agriculture, that is with land, is it not equally so in mechanics? Not so. Title to the means of production, in mechanics and other avocations other than agriculture, is not in Government; nor does it, like title to land, necessarily, originally, pass through it. If supplied by government, they would need constantly to be resupplied. They perish with the using. Land improves, or ought to improve. Once furnished, it remains forever, and "becomes a well of life." It increases in capacity and adds to the wealth of individuals and nations. It ought to be a continually swelling tide, bearing on its bosom the necessities and comforts and luxuries of life to toil's exhausted sons.

Agriculture is the basis of all production and of every modification of matter by human instrumentality. Out of it grow all other avocations, and upon it, as upon the pillars of Hercules, rests the world. Let it prosper, and commerce and every conceivable avocation follow. Let our country be pressed to its utmost capacity of food and clothing, and want will vanish from the world. Open your exhaustless acres, now waste and desolate, to the toil of the husbandman. By it you will create a living fountain of bone and sinew and muscle and mind. Nations may be rich in lands and yet poor in all the elements of true greatness. Trees and streams and hills and valleys never fight battles. The wealth of commerce will buy a "Swiss guard." It will fight while it is paid—no longer. Men that fight without pay and fight on, are those which have an interest in the soil. It is doubtful whether man is capable of a wholly disinterested act in his highest state of moral and intellectual refinement. Admit that he is, no reasonable being will expect him to devote his life to the good of others without reference to himself. No statesman would predicate the action of government upon such a hypothesis. To make a "wall of fire" round about your country, inhabit it with owners of the soil. Man will defend his wife and children, though they be shelterless and in rags. Natural affection will triumph over the want he sees for them in the future; but let the enemy that he fights offer him a home for himself and family, and provision for the future in his own industry; and if he does not turn upon those who demand his services, his arm will be paralyzed. "Tell him to fight for his wife and little ones and the home his Government has given him, and a hero, true as steel and stern as death, he will triumph or die. Armies of such men are heroes indeed, in the proper sense of the word; not such as those of the campaigns of the French revolution, who, under war's dread and thrilling strains, and "all her circumstance and pomp of glory," and love of fame, will make or stand successive shocks from daylight till dark, or follow the nodding plumes of a Murat or Ney through the smoke of battle and its commingled warriors, to death; but you will make men like those of our revolutionary struggle. Men who, with no circumstance of pomp, no glory of fame, no hope of a marshal's baton, no star nor coronet, no legion of honor's cross, but soiled and worn and in tattered garments will march and countermarch and suffer and fight, without drum or fife or flag; and not for a day or a week or a year, but for a life-time; whose march can be traced, not from wounds made in battle's fierce struggle, but from naked feet, treading over ice and snow and frozen ground; whose weapons, while "they are carnal," are also "spiritual." They will carry in their bosoms fire as unquenchable as that which "licked up the water" round about the sacrificial altar of Elijah; wills nerved by the impulse of affection, and unconquerable in death. In the very

carnage of battle, home and its scenes will triumph over its horrors.

The French soldiery, well clad and shod and armed, after the burning of Moscow, and the hope of victory was gone, in their disastrous retreat threw away their guns and swords, and lost all discipline. Courage failed when there was nothing but suffering, no hope of martial triumph. They fought for the glory of the empire and the empire's chief, and their own. The men of the Revolution fought with but little hope of glory derived from the triumph of a well-fought field. Their whole military life was one of suffering and retreat, of want, sickness, and lingering death. Humanity dies with composure, perhaps with triumph, when there is an eye to admire, a tongue to praise, a heart to sympathize; but to die "unknelt, unconfined, and unknown," in the slow torture of protracted suffering, requires principle, high and holy impulse, pure and noble affections.

Give the people land and arms, and you will need no standing army to execute your laws or repel invasion. Prize-fighters and debauched politicians may riot about the cities. When the police becomes insufficient, or infected with the same spirit, we will have a citizen soldiery from the rural districts, that will reduce them to order; they will do it, too, without ravishing the women or sacking the city. In case of invasion, the man who has followed the plow, will follow the flag of his country, and fight, like the Christian works, by faith in God.

A great statesman has said: "Cities are ulcers upon the body-politic." They have been so in all ages of the world. The more modern ones "have neither been bound up nor mollified with ointment." Prize-fighting is worse, in every moral aspect, than the Spanish bull-fights. Spiritual affinities and free-love are no better than the orgies of the worship of Venus. Ovid's art of sensuality is a vast refinement upon modern debaucheries. There were no "model artists" among the ancients. The forced debauch of a Roman citizen, with the wife of Collatinus, through a threat of infamy more terrible than death, drove a dagger, by her own hand, to her virtuous heart. Lucretias were scarce in Rome; they are not more numerous in modern cities. Assassinations were frequent about the time of Rome's expiring liberty—not more so, perhaps, than in the middle of the nineteenth century. Rome had no controlling agricultural element; we have, and hence our safety. Enlarge it. Give the soil to honest labor; and our rural districts will be to our cities—lost as they may be in virtue and the destruction of moral miasma—what the ocean is to earth's vileness and filth. Here liberty, like her emblematic bird, will find a secure retreat from the licentiousness of the cities. Here, too, will be found liberty's handmaid—virtue. They have walked earth's green plains and verdant hills together. Like Ruth and Naomi, their countries have been the same; and their graves will be together.

Delicious winds from grain-fields and mountain sides invigorate the body; agricultural exercise gives sensitiveness to the delicacy of taste, health and force to all physical enjoyment, and makes sleep "tired nature's sweet restorer." The devout mind hears the voice of its God in every wind; sees him mirrored in the sunset, and beholds his glory in the morning; flocks and lowing herds talk of his mercy; to his ear the commingled voices of the barn-yard are vocal with praise; to his eye there is divine power and grace in every blade of grass, in the flowers of the clover-field, the yellow grain, and the bending stalks. He "works by faith" as he opens the fertile soil with his plow. He casts his seed into the ground that "it may die and bear grain; it may chance of wheat or some other grain;" and catches from it, with the great Apostle of the Gentiles, the inspiration of the resurrection of his own body, and the life of his own spirit.

OHIO BLACK LAWS.

Mr. VALLANDIGHAM. Mr. Chairman, I avail myself of the latitude of debate in Committee of the Whole on the state of the Union, to put upon record certain facts and documents relating to a charge made against me at the last session of this Congress by the gentleman from North Carolina, [Mr. GILMER,] not now in his seat. My name, sir, has been on the list of speakers for some four weeks; and, indeed, I have waited since the beginning of the session for a convenient op-

portunity to reply. I had hoped that he would be present this evening; but am informed by his colleague [Mr. VANCE] that he left the city today. As the session is approaching its close, and lest I may have no other chance to obtain the floor, I avail myself of this opportunity to lay before this committee, and thus place upon the records of Congress, the true statement of the facts in connection with that charge. But I feel myself constrained, in the absence of the gentleman from North Carolina, to avoid anything which, by any possibility, could bear the construction of being of a personal character. The charge to which I allude is in these words, and was made in debate upon a certain contested election with which, as you are aware, sir, I was somewhat connected, the debate occurring on the 5th of February:

"If I were disposed to do any such thing, I could record his vote in the Legislative Assembly of Ohio, in which he voted to allow free negroes and other negroes to testify against white men."

The charge here, sir, is not that I voted for or against a particular bill, but that I favored the policy of negro testimony against white men. It means that I favored this policy, or it means nothing worthy of an answer here. To the charge thus specifically and directly made, I immediately replied:

"I never cast such a vote."

The gentleman rejoined:

"I will show by the journal that you did."

A gentleman from Georgia raised a question of order, and the member from North Carolina continued:

"I did not intend—God forbid that I should—to hurt the feelings of any gentleman; but when this comes to be examined, it will be intently shown that I am right."

Now, I propose, Mr. Chairman, by a recurrence to the bill itself, and the debates upon it, to show incontestably that the member from North Carolina was mistaken.

Mr. VANCE. The gentleman from Ohio spoke to me privately, and said that he was going to refer to this matter to-night, and regretted my colleague's absence. I merely suggest that, as his statement seems to be taking the turn of making an issue between my colleague [Mr. GILMER] and himself, it would be proper for him to suspend his remarks till my colleague shall be in his seat.

Mr. VALLANDIGHAM. If the gentleman from North Carolina [Mr. VANCE] will delay till I have finished what I have to say, he will see that there is really no necessity for his colleague's presence, especially as he will have the same chance to get the floor that I would have if I should now relinquish it.

Mr. VANCE. I do not apprehend that the gentleman's remarks are going to be of a personal character. He said at the outset that they would not. Still, he seems to be making an issue between my colleague and himself, and I think my colleague should be here to meet that issue.

Mr. VALLANDIGHAM. Certainly; I do make a direct issue, but I will show by the nature of the record itself that the gentleman from North Carolina, [Mr. GILMER,] in making the statement which he did, was naturally misled. I impute no improper motive to him; and, certainly, if he were present, he could have no just ground of complaint as to anything I shall say.

Sir, the debate upon the contested election having proceeded at some length, at the close I requested the chairman of the Committee of Elections [Mr. HARRIS] to withdraw the previous question, and to yield me the floor. I then said:

"I ask the unanimous consent of the House to make good now, by reference to the journal of the Ohio Legislature referred to, my declaration, a short time ago, that I did not vote as the member from North Carolina [Mr. GILMER] stated."

Objection was instantly interposed, and I was precluded from establishing the facts which I design now to show conclusively to this committee. Having been thus summarily cut off in the House, I published in the Globe, next day, the following card:

A CARD.—Objection having been made on Friday to a statement proposed by me in the House, showing that the declaration by Mr. GILMER that I had voted in the Ohio Legislature, in 1847, for "allowing free negroes and other negroes to testify against white men," was an utter misstatement of the truth of the record, I make the correction now through the public prints.

From 1834 till 1849, there existed several statutes imposing certain disabilities upon persons of color. I was a member of the Ohio Legislature in 1845-46, and voted then against their repeal. At the next session also, (1846-47),

being a member, a bill to repeal them came up for consideration on Thursday, February 4, 1847. I was the member upon whom was devolved the business of engineering its defeat. The session was a stormy one, lasting till three o'clock the next morning. All the usual parliamentary tactics were resorted to. I am upon record thirteen times (and every time but once, when without the bar at the time the roll was called,) upon various motions, all intended, directly or indirectly, to embarrass or defeat the bill. I made five of the motions myself.

I voted against the engrossment of the bill for a third reading, the test in all legislative bodies. I voted to postpone the reading till the next day; and I voted, also, against reading it the same day. As a part of the same tactics, seeing that the bill would pass by but one or two majority, I voted for the bill on its final passage, for the purpose of moving a reconsideration the next day; but a friend of the bill, (Mr. Blake, of Medina,) moved at once to reconsider, and so forced a vote upon that question; and I voted for the reconsideration, and he against it.—(House Journal, 1846-47, p. 518-521.)

It was that vote to which the member from North Carolina referred. Was this statement fair, just, ingenious? Let the public judge.

CLEMENT L. VALLANDIGHAM.

WASHINGTON, February 5, 1858.

Two days afterwards the gentleman from North Carolina published a card in reply, as follows:

A CARD.—In reply to Mr. VALLANDIGHAM's card of the 5th, published in the Globe of yesterday, permit me to say that Mr. VALLANDIGHAM does not seem to discriminate between what he actually did, and what he says was his object in doing it. He admits he gave the vote, but says his object was to reconsider, and concludes with the assertion that the relation of the vote he gave is "an utter misstatement of the truth of the record." Now, what appears of record that he did, is one thing; what he explains to have been his object for doing this, (which does not appear on the record,) is another thing. And I conceive that what actually appears may be stated, without incurring the guilt of "an utter misstatement of the truth of the record."

What is the law, which he admits he voted for with the intent to reconsider? It was for a law repealing another law of long standing; one section of which is as follows:

"Sec. 4. That no black or mulatto person or persons shall hereafter be permitted to be sworn, or give evidence, in any court of record, or elsewhere, in this State, in any cause depending on matter of controversy, where either party to the same is a white person; or in any prosecution which shall be instituted in behalf of this State against any white person."

He excuses his vote in favor of repealing the above section, on the ground that he desired his vote to be in its favor, that he might reconsider. He also says he voted thirteen times, on various motions, all intended, directly or indirectly, to embarrass or defeat the bill; but he does not state how he voted on these various motions.

By referring to the journal, page 450, it will be seen that Mr. Kaler moved to postpone the bill until the first Monday of December, a period beyond the session—years 33, says 36—Mr. Vallandigham voting "nay." I would submit whether this was not a strange vote for one really opposed to the bill, and particularly for the member "upon whom was devolved the business of engineering its defeat." On page 451 of the journal, it appears Mr. Bloomhuff moved to postpone the bill indefinitely—years 33, says 34—Mr. Vallandigham voting "nay." His vote on this occasion would have killed the bill. In this vote I submit respectfully, that Mr. Vallandigham was remiss, and especially so for one who was an engineer to defeat the bill. For this vote, the ingenuity of man cannot find room for the excuse that he gave it with any view to reconsider or to defeat. On the same page (451) he voted "yea" on ordering the bill to be engrossed, which was a vote in favor of the repeat, and a vote he admits to be a test vote. On the journal, page 523, the question being "Shall the bill pass?"—years 34, says 30—Mr. Vallandigham voting "yea." This vote, he says, was given with a view to reconsider. Mr. Blake moved the previous question—years 32, says 25—Mr. Vallandigham not voting at all; but it does appear on page 521, that Mr. Vallandigham, with eleven others, voted "yea" to reconsider, forty-three others voting "nay"—a result unfavorable to one working like an engineer to defeat the bill. I admit that Mr. Vallandigham, in the course of considering this bill, as appears from the journal, gave some votes that indicated that he was opposed to the bill; and had I not been stopped in the debate, I would have read all, so as to have done him ample justice, so far as the journal could show.

February 9, 1858.

JOHN A. GILMER.

At the time the charge was made in the House I immediately passed from a seat near where I now speak, to the one occupied by the gentleman from North Carolina, and there examined the journal to which he referred, and the vote which he had marked as sustaining his charge. The proceedings were of the 4th of February, 1847. The title of the bill was, "A bill to repeal certain acts therein named." It did not, from the examination I then made, occur to me at the time, and after the lapse of eleven years that the object of the bill was not really to repeal these laws; and it is but just to the gentleman from North Carolina, that I should say that I myself, was for the time misled by the title of the bill, and supposed, although an actor in the scene, that it was a bill to repeal the acts therein named. Accordingly, in my card, written before leaving the House, I referred to it as such, but finding from the record that my purpose on the day to which he referred, was palpably to defeat the bill, I gave

the facts as they were set forth in the journal of the 4th of February.

In the card published by the gentleman from North Carolina, he refers to certain votes given by me upon motions found on page 450 of the journal of 1846-7, which he states as votes against the postponement, and for the engrossment of what he calls "the bill," treating it as the same bill, and the votes as though given upon the same day.

Now, sir, it so happens, first, that neither of the bills, although bearing the same number, was a bill to repeal the black laws; second, that the bill which I strove to defeat, on the 4th, had been made a different bill, by amendment, from that which was pending on the 2d of February, and for which I voted. There is an interval of nearly one hundred pages of the journal, between the votes given for the bill on the 2d of February, and the votes given against it on the 4th. They were different bills; neither of them, I repeat, was a bill having for its purpose the direct repeal of the black laws of Ohio. Because of the gentleman's absence, I make no comments on the tone and temper of his card. I pass this by, and confine myself solely to a correction or explanation of the facts set forth in it.

Now, sir, what was the bill for which, when in one form, I voted upon the engrossment, and against which, in another form, I voted upon thirteen several motions intended to defeat it? It was House bill No. 204, and I hold now in my hand a copy, with the certificate of the Secretary of State, and under the impress of the "broad seal" of the State. The first section of the bill is as follows:

A bill to repeal certain acts therein named.

"Be it enacted by the General Assembly of the State of Ohio, That the act entitled 'An act to regulate black and mulatto persons,' passed January 4, 1804; also, an act passed January 25, 1807, amendatory thereto; also, an act amendatory thereto, passed February 27, 1834, be, and the same are hereby, repealed."

Now, sir, if you regard the title of the act, if you look only to the first section of the act, certainly it would bear the construction which the gentleman put upon it; and inasmuch as the bill itself does not appear on the journal, and as most probably the gentleman in whose behalf the member from North Carolina was speaking, did not disclose to him the true nature of that bill, naturally he was misled; but misled as others would be, who should refer, in like manner, to the "Crittenden-Montgomery" amendment of the last session, which, in its title as it went from this House to the Senate, was a bill to admit Kansas into the Union under the Lecompton constitution; and which, in its first section down to the proviso, was a bill directly to so admit her under that constitution.

The remaining sections of the bill render this point perfectly clear. The second section is as follows:

"Sec. 2. That before the first section of this act shall take effect, said repealing section shall be submitted to the qualified electors of this State, at their next annual October election for State and county officers; the manner of voting shall be, 'repeal,' or 'no repeal'; and which 'repeal' or 'no repeal' shall be printed, stamped, or written, upon the bottom or back of the ballot cast at said election; the judges of election shall count and make return of said vote, for or against repeal, the same as for State officers."

Here again there is a parallel between this bill and the Crittenden-Montgomery amendment, and that bill, also, which is usually known as the "English, or conference bill." Yet my colleague from Ohio [Mr. Bliss] would not regard it just, as I know it would not be just, if any one should charge him, though by mistaking the record, with voting for the admission of Kansas into the Union under the Lecompton constitution, and undertake to establish it by referring to his vote upon the passage of the former bill on the 1st of April, 1858, reading the title and the first section down to the proviso.

I proceed. The third and remaining sections are as follows:

"Sec. 3. That any man voting upon said repeal or no repeal, that is not a legal voter for State officers, shall be subject to all the pains and penalties of the law made and provided for illegal voting."

"Sec. 4. That it shall be the duty of the clerk of the court, in each and every county in this State, to make out and forward to the Secretary of State an abstract of said vote, within ten days from the time of holding said election."

"Sec. 5. That it shall be the duty of the Secretary of

State, on the first Monday of December, 1847, to count out and declare the votes given for repeal and against repeal; and if it shall appear that a majority of the votes cast are for repeal, then the first section of this act shall be, from and after that time, in full force; but if a majority of the said votes cast shall be no repeal, then the first section of this act shall be null and void."

That, sir, is the bill, and the whole of it, for the engrossment of which I voted on the 2d of February, 1847; and were it pending now under the same circumstances, I should vote again as I did then; for I find myself one of the original friends of popular sovereignty, as now defined, before any one dreamed of applying it to the Territories or to the question of the admission of new States into this Union.

That bill was lost in the House; but subsequently the vote was reconsidered, and it was referred to the Committee on the Judiciary, which committee, on the 4th of February, reported it back with an amendment, changing the time for taking the vote from the second Tuesday of October, to the first Monday of April. The former, sir, is the annual State election in Ohio, at which the largest number of votes is polled, when the State is thoroughly canvassed, and when the fullest expression of the popular will can be ascertained. The latter is a mere township election, and believing that the purpose of the amendment was to gain some partisan advantage and to prevent that full expression of the public will which I desired, I voted, and by all the means within my power, strove to defeat the passage of the bill, when thus reported back upon the 4th of February.

The last vote which I gave, the one marked upon the journal by the gentleman, as I have before stated, was on the passage of the amended bill. The reason assigned by me in the card was, that I might move to reconsider. But another gentleman, anticipating me—for my purpose was that it should go over until the next day, in order that the absentees might be brought in and the bill defeated—moved forthwith to reconsider, and on the very next page I stand recorded as voting in favor of a reconsideration. Of course, the motion failed; but the next morning, as the journal will show, I came into the House and moved again to reconsider the vote, sustaining the proposition by a precedent in this House in 1832. The Speaker recognizing the force of the precedent, and the right to move to reconsider a second time, refused to entertain the motion because the bill had been sent to the Senate. I then offered the following resolution:

"Resolved, That a message be transmitted to the Senate, requesting the return of House bill (No. 204) to repeal certain acts therein named, and to leave the said repeal to the legal voters of the State, for the purpose of reconsidering the vote upon the passage of the same."

This resolution was offered for the purpose of laying a foundation for a motion to reconsider; but was laid upon the table by a vote of 34 to 30, and thus the matter ended; the bill failing, nevertheless, in the Senate.

This, Mr. Chairman, is a full, distinct, and candid statement of the facts connected with that bill and my votes upon it. I should not have troubled even this committee with any allusion to the subject, but that it has, through no fault of mine, found its way into the record here, and because it is a misstatement, unintentional, as I have already said, of my true position. I could not consent that it should so rest, and have accordingly set forth these facts and documents so that they shall appear and remain of record here also.

I have said that the bills which were considered and voted upon on the 2d and 4th of February, 1847, though bearing the same number, were yet not only different bills, made so by amendments, but that the title did not express the true intent and nature of the bill; that it was not a bill to repeal what were commonly known as the black laws of Ohio.

This statement of itself, and the production of the bill, would establish the verity of my denial, and would certainly relieve me in the minds of all fair and candid men of the charge of having voted to repeal those laws, or of having then favored, directly or indirectly, the policy of negro and mulatto testimony in court and elsewhere against white men. But if there were any doubt remaining upon this subject, it is removed by the debates upon that bill, on the 2d of February. From the

regular daily report of the "Ohio Statesman," of Tuesday, February 2, 1847, I read as follows:

"OHIO LEGISLATURE, HOUSE OF REPRESENTATIVES; Tuesday, February 2, 1847."

The Black Laws.

"On motion of Mr. Whitridge, House bill 204, to repeal the black laws, submitting the question to the people, was taken up and read."

"Mr. Hines moved, ineffectually, to refer the bill to the Committee on the Judiciary."

"Mr. Turley also made an ineffectual motion, to lay the bill on the table."

"Mr. Bloomhuff moved the indefinite postponement of the proposition. We wanted no popular expression in relation to this question, for all knew that the people preferred that the black laws should remain as they now stand on the statute-book."

"Mr. Vallandigham said he hardly knew how to vote on it under the circumstances. He could not but recollect that there was another question but the other day proposed to be referred to the people, and which, under the constitution, could be decided only by the people; and upon that question Mr. V. had found himself opposed by the gentleman from Preble [Mr. Whitridge] and those who supported him in bringing forward this proposition. He could wish to see gentlemen consistent, &c."

"Mr. V. believed that the passage of this bill would result in the most effectual putting down of this vexed question for perhaps twenty years to come. It would probably fall out as the question of negro suffrage in the State of New York, where the people had given a majority of fifty thousand against it."

That sir, is the cotemporary record of the remarks which I made and reasons which I assigned for supporting that bill; and now, recurring to the charge of the gentleman from North Carolina, that "I voted to allow free negroes and other negroes to testify against white men," I here and again, in view of the facts and documents which I have produced, reiterate and reaffirm my denial, promptly made at the moment, and my declaration that "I never cast such a vote."

TARIFF REVISION—PROTECTIVE POLICY.

Mr. MORRIS, of Pennsylvania. Mr. Chairman, as a Representative from the largest manufacturing city in the Union, whose production of fabrics amounts to \$150,000,000 per annum, and from a State which, in 1856, produced more than one half of the whole quantity of iron in the United States, I cannot but feel a deep interest in any measure of legislation relating so directly to our domestic manufactures as the proposed revision of the tariff. Strong, however, as is my feeling on this subject as a State question, it is no less so as one of national import.

The State that I, in part, represent, asks no special favors, to the derogation of the claims of other members of the Union. I should be false to the patriotic spirit of my own immediate constituency, as well as to that of Pennsylvania at large, were I, on this floor, to advocate the cause of protection as a local question. It is because its effects have been of equal benefit to all parts of the country; because it has been the main-spring of our prosperity and material independence; and because it promotes the welfare of agriculture, commerce, and manufactures, that I stand here to-day to maintain it, as the only safe basis of tariff legislation.

The insufficient revenue yielded by the existing tariff rendering its revision a matter of necessity to the Government, the question arises whether it shall be done with a view to revenue exclusively? whether due regard shall be had to the interests of domestic industry? and whether the policy of protection which, in some form or other, direct or incidental, has always been incorporated with our revenue system, shall be recognized in the proposed revision? The Secretary of the Treasury seems to look to revenue alone, and to be rather disposed to discriminate against the industry of the country, than in its favor. He recommends that the proposed increase of duty shall be levied on articles not of the growth of this country, and on those of domestic origin that come the least into competition with foreign fabrics.

Is there anything in the history of the past to justify the reasoning of the Secretary of the Treasury? Did any of the protective tariffs fail to provide the Government with revenue, or to promote the general interests of the country? Has not every attempt that has been made to approximate to a system of absolute free trade in the United States, been productive of infinite mischief alike to the Government and the people? Are not the most prosperous periods in our history—those in which the Government was amply provided with

revenue, and the trade and industry of the country were most flourishing—the periods when the protective policy was in operation?

The protective periods are marked by a steady and equable revenue, as well as by a sound, internal prosperity; while those of comparative free trade are distinguished by extreme fluctuations of the revenue, excessive importations, and financial and business panics of the most disastrous character. It is, sir, also a remarkable fact, that the advocates of free trade themselves have been obliged to retreat from the practical application of their doctrines, whenever they have had even a comparative test in this country.

The war of 1812–14, with the non-intercourse laws, embargo, and a judicious tariff, had built up our manufactures. The revenue tariff of 1816, while it stimulated a sudden and large increase of revenue, overwhelmed the country with foreign goods, crippled our rising industry, and finally, owing to the impoverishment of the country, the revenue fell off to the inadequate amount of \$15,000,000. The failure of the revenue tariff of 1816 to meet the wants of the country and Government, compelled the re adoption of protection to a moderate degree in the tariff of 1824, and to the full extent required by the necessities of the times, in that of 1828. Under the latter act, the prosperity of the country immediately revived, and the revenue gradually rose from \$23,000,000 to \$33,000,000 in 1833, the last year of its existence. That disastrous measure, the compromise act, enacted in this year, and which repudiated protection, while it raised the revenue to \$48,000,000 in one year, reduced it to \$11,000,000 in another year. Under its operation, the country became bankrupt; factories and furnaces were closed; great distress was produced from the want of work; and thousands of the working classes were reduced to beggary and want. The overflowing Treasury of 1836 was exhausted, and it finally left the Government \$54,000,000 in debt. Never was there a more signal failure in legislation than the revenue tariff of 1833.

The protective tariff of 1842, which was created, in obedience to an overruling necessity, to heal the wounds inflicted on the country by free trade, soon fulfilled the expectations of its projectors. The revenue from customs steadily rose from the \$18,000,000 of the last year of the compromise tariff, to \$27,500,000. The credit of the Federal Government, which had been unable to negotiate a loan in Europe at six per cent., was restored. Defaulting States resumed the payment of interest on their debts. The unemployed found labor, at increased wages, in the reopened mills, factories, and furnaces. Railroad and all other stocks, as well as real estate, rose in value, and specie flowed back to us from Europe. There being no artificial stimulus to importation by a low scale of duties, we produced and consumed more at home, and diminished our indebtedness abroad. The consumption of cotton by our home manufactures nearly doubled under the tariff of 1842, while the domestic production of iron increased, in the five years of its existence, from two hundred and thirty thousand tons per annum to eight hundred thousand tons per annum. By this tariff the manufacture of railroad iron, of which not a bar had previously been made in the United States, was called into existence by a protective duty of twenty-five dollars per ton; and, notwithstanding the vicissitudes to which it has since been exposed by vacillating legislation, the encouragement it then received has enabled it, under great sacrifices, to maintain itself to the present day, when its annual production reaches two hundred thousand tons. The internal commerce rose under the tariff of 1842 from \$108,000,000 to \$146,000,000 per annum. When it was repealed, to give place to the revenue tariff of 1846, it had reestablished State and national credit, had filled the country with plenty and prosperity in all its borders. Had that tariff been permitted to exist, the production of railroad iron in the United States would now amount to upwards of a million tons, and at least one third of the whole cotton crop of the southern States would be consumed in our own manufactures, creating a rivalry of demand with England, and maintaining it at a steady and remunerative price to the producer.

The tariff of 1842, was not suffered to continue its beneficent career, and was supplanted by the

reduced tariff of 1846, which, as its predecessors based on the same principles, promoted inordinate importations to the ruin of domestic industry. The customs in the first seven months of the tariff of 1846, fell off \$2,500,000. In the next year of Irish famine they rose \$8,000,000, varying several millions of increase or decrease every year, until they reached \$63,875,905, in 1856–57. To deplete an overflowing Treasury, the duties were again reduced under the tariff of 1857. As under previous revenue tariffs, the Government and people, when the mischievous effects of such legislation were fully carried out, were involved in like distress. Millions of capital invested in manufactures have been lost, manufacturing establishments have been obliged to close their doors and dismiss their operatives, while the revenue of the Government has fallen \$50,000,000 short of its expenditure.

The history of protective legislation carries with it its own vindication, as this review of the past shows; while that of free trade condemns itself. The former affords a sure basis of calculation as to revenue, and is a stable guarantee of prosperity. The latter is a source of embarrassment to trade and revenue; inflating them to an extravagant degree at one time, and depressing them to the lowest pitch at another. Immense land speculations, stock gambling, increased foreign indebtedness, an overflowing national Treasury, and extravagance in all departments of Government are the characteristics of anti-protective tariffs in the first stages; to be followed as surely, in the end, as the night follows the day, by a general crash in business affairs; a suspension of specie payments, owing to the drain of specie to Europe to pay for the deluge of importations; and by the exhaustion of the Federal Treasury and the creation of a new national debt. Who can estimate the misery inflicted on the workmen, when, by this anti-American policy of legislation, our domestic industry is sacrificed at one rude blow, and the marts of labor closed; when the American mechanic is suddenly deprived of employment, and his domestic happiness and independence are blighted by a system of legislation that ruins the American manufacturer, and builds up the fortunes of his European rival? I hold it to be one of the highest duties of the American Government to protect the interests of American labor, and to sustain it against foreign competition. Certainly that legislation cannot be just which encourages European labor and industry to our detriment; which prevents the development of our great natural resources and promotes those of Europe.

But we are told, sir, by the gentleman from Virginia, [Mr. MILLSON,] that the policy of protection is obsolete, and that it is being abandoned by the leading nations of Europe. I take issue with that gentleman on this subject, and I assert that it was never more in vogue than at present. The culture of the beet-root established by Napoleon I., under the continental system, to render France independent of British sugar, and which has ever since been protected by defensive duties, now annually yields fourteen or fifteen million dollars, and is extended over more than a hundred thousand acres. Its great production has reduced the price of both the domestic and foreign sugar. Without it, the consumer in France would have been obliged to pay whatever price the foreign producer demanded. It was the boast of Napoleon that he naturalized the manufacture of cotton in France, first by prohibiting the web, and next spun cotton, until he succeeded in firmly establishing the three branches of the cotton manufacture in that country.

The present development of this branch of industry in France sufficiently illustrates the wise forecast of Napoleon, giving employment, as it does, to more than twenty thousand persons, in two thousand and fifty mills and factories, and producing annually nearly sixty million dollars of cotton goods. Almost all foreign cotton manufactures continue to be prohibited in France, while a bounty of \$15 74 per two hundred and twenty pounds is allowed on the export of cotton hosiery. Gunpowder, fine earthenware, nails and castings, fire-arms for soldiers, bottles, leather, gloves, articles of wrought, sheet, and cast-iron, knives, nails, silk, tulle, snuffs, soaps, and many other articles, are prohibited by the French tariff.

The high protective character of that tariff, and the jealous care with which the French Government encourages the industry of its people, is yet more clearly demonstrated in the bounties allowed on the export of domestic manufactures. Among the bounties on the export of such articles, it will be sufficient for my purpose to cite the following: On sulphuric acid, \$1 30 per two hundred and twenty pounds; aqua fortis, a similar bounty; soda, \$3 4-5 cents per two hundred and twenty pounds; bonnets, of wool or cotton, \$15 74 per two hundred and twenty pounds; carpets, of pure wool, \$18 51 per two hundred and twenty pounds, and those mixed with linen or cotton, \$15 74 for the same weight; bottles, filled or not, 23 cents per two hundred and twenty pounds; large mirrors, 18½ cents per superficial metre; jewelry, the same as import duty; hams, \$4 68 per two hundred and twenty pounds; straw hats, trimmed, 23 cents each; ready-made clothing, the import duty on the raw material.

France has of late, through the President of the Council, M. Baroche, lately made a public declaration to the world, of its adhesion to the protective policy. In his words, she has determined to—

“Formally reject the principles of free trade, as incompatible with the independence and security of a great nation, and as destructive of her noblest manufactures. No doubt our customs tariff contains useless, antiquated prohibitions, and we think they must be removed. But protection is necessary to our manufactures. This protection must not be blind, unchangeable, or excessive; but the principle of it must be firmly maintained.”

The Russian tariff prohibits the importation of iron bars and manufactures of iron, refined sugar, gunpowder, &c.; while the duties on cotton goods and other branches of native industry, are such as to exempt them from all danger of being prostrated by foreign competition; to a fair contest with which they are exposed by a reduction of duties, from time to time, carefully graduated to their progress and self-sustaining ability. Free trade had a fair experiment in Russia, in the tariff of 1819, and its effects were so disastrous that Count Nesselrode, in an official circular of 1821, declared that it was absolutely necessary to abandon it, to save the empire from ruin. In his own words—

“The products of the empire found no market abroad; the manufactures of Russia were ruined, or upon the verge of ruin; the money of the country was being carried off into foreign parts, and the most solid commercial establishments were on the brink of destruction.”

The protective system was consequently adopted:

“Not finding abroad [says List] any market for her products, Russia attempted to solve the reverse of the problem, by bringing the markets near to the products. She established manufactures upon her own domain. The demand for fine wool, occasioned by the woolen manufactures thus created, had the effect of rapidly increasing and improving her sheep husbandry. Commerce at large increased, instead of diminishing under this policy, especially commerce with Persia, China, and other neighboring countries in Asia. Commercial revolutions came to an end; and it suffices to examine the last report of the department of commerce in Russia, to be convinced that Russia owes to that system her high degree of prosperity, and that she is advancing with gigantic strides in a career of wealth and power.”

In little more than a quarter of a century, Russia, under the genial influence of a wise system of protective duties, has become one of the chief manufacturing nations of Europe. The annual value of her manufactures is estimated at the sum of \$364,500,000, and they give employment to six million sixty-four thousand seven hundred persons. She has invited artisans from all parts of the world by high rates of compensation, to introduce and improve manufactures; and she has attained to such perfection in linens that she has imported none from Great Britain since 1851. In cotton velvets, Russia is fast driving England out of the Chinese market, of which she formerly had exclusive possession for the sale of this article. Russian cloths chiefly supply the markets of Central Asia, while in Tartary, and Russia itself, British woollens are rarely heard of, and Russian printed cottons are said now to be equal to those of Alsace and Lancashire. (Carey's Social Science.) The exports in 1851 exceeded fifty-eight million dollars, and the imports fifty-seven million dollars; leaving, as for almost every year since the protective policy was established, in 1823, a balance in favor of Russia. By a steady adherence to this policy, from 1823 to the present time, Russia has been exempt from those commercial dis-

asters to which we have been subjected, by vacillating legislation, and her progress has been steady and unflinching.

The German Customs Union, composed of Prussia, B. varia, Wurtemberg, Saxony, Hesse Cassel, Baden, Frankfurt, Nassau, Hanover, Brunswick, and Oldenburg, formed in 1833, is the latest triumph of protection; and nowhere have its effects in stimulating the growth of domestic industry been more signally demonstrated. The tariff of that confederation is as protective as that of the United States, and it has always been maintained at a sufficiently high rate to sustain the developing manufactures of the country. Landed property has risen fifty to one hundred per cent. in value, within the territory of the Union, since its origin. The demand for agricultural products and their prices have largely increased, as well as the wages of labor. While the products of the Zoll-Verein looms are admitted by Dr. Bowring, the commissioner sent over by Parliament to look into the workings of the Union tariff, to be superior to those of England; they are also sold at a lower price. Such has been the progress made in the manufacture of cotton and woolen goods, that they are now no longer imported for general use.

The product of the coal mines of Prussia, the leading State of the Union, rose from 7,000,000 tons of coal, in 1824, to 46,500,000 tons, in 1854; while the total of her coal, iron, lead, and copper, increased from 11,000,000 francs, in 1824, to 159,268,220 francs, in 1854. The value of the produce of the mines, smelting-works, founderies, and rolling-mills, is 301,345,661 francs, and the number of workmen employed in them 144,896. The progress of the woolen manufacture in Prussia, since the formation of the German Customs Union, is as follows:

	Number of hand and mechanical looms.	Number of workmen.
1831.....	15,360	20,000
1846.....	34,224	47,066
1849.....	38,887	51,518

The increased wealth of the kingdom may be seen from the fact that the consumption of cloth has increased from three fourths of an ell, in 1805, to three and a half ells, per person, in 1852. That protection increases external as well as internal trade, is illustrated in the importation of raw silk into the Zoll-Verein; which, from 6,500 quintals, in 1842, rose to 17,758 quintals, in 1852. The exports of woolen goods of the Zoll-Verein, in 1849, were 90,619 quintals, and, in 1852, 111,330 quintals. From the 76,000 tons of bar iron made in 1834, the quantity produced had increased to 200,000 tons in 1850, and the pig iron made in that year reached 600,000 tons. The present consumption of iron in the Zoll-Verein, says Mr. Carey, is fifty pounds per head per annum, an amount greater than in any country of the world, except Great Britain, the United States, France, and Belgium. In 1849, not a furnace was to be seen in the neighborhood of Minden, in Westphalia; but now, says a recent traveler, they stand like towers about a broad plain—making a vast demand for food, clothing, and labor. Of the eighty copper mines of Prussia, no less than twenty-four have been opened within the last few years. Instead of exporting wool to England to be fabricated there, and imported back in cloth, the Zoll-Verein States now import upwards of 40,000,000 pounds annually, and in 1851 they exported 12,000,000 pounds of woolen cloth.

The *Allgemeine Zeitung*, the leading organ of German interests, in speaking of the Union in 1841, said:

"Within these ten years, since protection was established, Germany has made the advance of a century in welfare and industry, in the feeling of self-dependence, and national energy."

England has resorted to every kind of expedient to prevent the extension of the Union, and to change the character of its tariff, but it has all been in vain. In the quarter of a century that it has existed, it has conferred such innumerable blessings on the people of the States which compose it, has diffused such general comfort and independence throughout the country, has so much improved the condition of the laboring classes, both agricultural and mechanical, that it will be adhered to, as a permanent policy of legislation, to be reduced in rigor as the interests of the country will allow.

I might, sir, pursue this investigation further, and show from the tariffs of Spain, Denmark,

Austria, and other European States, that protection, instead of being obsolete, is a living fact in all the great kingdoms of the Old World, and firmly adhered to as the sure basis of national prosperity and independence. But I have given evidence enough to refute the allegation that it has been discarded by all enlightened States and statesmen. Permit me now to refer to countries in which free trade has for a long period been the policy, and to Turkey and India in particular. Certainly no kingdom of the Old World possesses superior natural capabilities to Turkey. Rich in useful minerals, surrounded by a long line of sea-coast, with fine ports, and with a fertile soil and various climate, she possesses all the requisites for a great commercial and manufacturing nation. These advantages are, however, neutralized by the governmental policy of the Turkish empire. A uniform tariff of five per cent. on all goods when landed, and two per cent. on their being admitted to consumption, administered by the most corrupt custom officers in the world, has almost entirely destroyed the once flourishing manufactures of the empire. While foreign imports are encouraged by this low scale of duties, a duty of twelve per cent. is imposed on exports of native production; the revenue laws being so framed as to operate against the domestic industry, and in favor of the foreign manufacturer.

The effect of this system is thus described by the free-trade writer, McCulloch:

"There can be no doubt that the native manufacturers, who produce goods not for domestic consumption, but for sale, have been involved in the greatest distress in consequence of the importation of English and other foreign goods. The manufacture of cotton yarn has been, especially, interfered with; and English cotton twist is now generally used for warp in such Turkish looms as are still at work, and is an article of increasing consumption."

The velvets and silks of Broussa and Aleppo, the muslins of Constantinople, and the crapes and gauzes of Salonica, are almost entirely superseded by similar articles from England, France, and Italy; while German cloths are rapidly taking the place of the Turkish stuffs throughout the empire. Of 600 looms at Scutari in 1812, says Carey, but 40 remained in 1821; and of the 2,000 weaving establishments at Tournovo in 1812, but 200 remained in 1830. Since then, the manufacture has, it is believed, entirely disappeared. Ambelakaia, which taught Montpellier the art of dyeing, and which once supplied Germany by the industry of its spindle and distaff, has been completely ruined as a seat of manufactures.

In consequence of the decay of manufactures, a large part of the population has been thrown back on agriculture for employment. For want of a home-market, the prices of products have fallen to such a degree that the agricultural laborer can only earn from eight to ten cents a day. Instead of bringing the consumer and producer together, the Turkish Government pursues a policy which forces the export of wool and cotton to distant countries to be manufactured for the use of its subjects. Agriculture has ceased to be profitable; and vast tracts, once covered with grain and cotton crops, are now turned into waste; while vessels throng the ports with grain from Odessa and other Russian ports. The constant excess of imports over exports produces such a steady drain of specie from the country, that it is deprived of any circulating medium but the debased paper of the Government, which is in such a constant state of fluctuation as to have no fixed value. The deficiency of revenue from customs is supplied by a heavy direct tax—which is the more oppressive on account of the low wages of labor, the want of steady employment, and the general poverty of the country. The Government, every year getting deeper into debt, adds to the burdens of the people; while its policy is in direct conflict with the prosperity of the country. The ancient roads have become impassable, the bridges have fallen into decay from the inability of the Government to repair them, and the transport of grain to market has become so expensive as to discourage its cultivation as an article of trade. The price of land has greatly sunk in value, so that it may be bought, in the immediate vicinity of the chief cities, for a few cents an acre. Poverty, ignorance, crime, sterility, and popular degradation and misery, are the curses that free trade have entailed on Turkey. The same results will everywhere occur from like causes.

India is in the condition that it was the aim of

the British Government to keep our colonial ancestors—mere producers of raw material. Since the sway of Great Britain has been extended over British India, her policy has been to destroy the native manufactures, and to force the inhabitants to raise cotton, sugar, and indigo, for fabrication in England. The fabrics of India have been subjected to a heavy duty in England, while the import of British goods into India is free of all restriction. The export of machinery and artisans to India is prohibited; every loom is taxed, and the manufacture of salt from the extensive salt ponds and coasts of India, is prohibited. When the native manufactures, during the independence of the different States, were flourishing, cotton was grown in immense quantities. The production was sufficiently great to supply not only the home demand, but an exportation of two hundred million pounds of cloth to other countries. With the ruin of the domestic manufactures the price declined, and the quantity raised has greatly diminished, so that the culture has been abandoned in many places once covered with cotton crops. The export of cloth has now ceased altogether, while the annual import of twist and cloth from England amounts to nearly eighty million pounds in weight.

Instead of being clad in the cheap product of their own looms, the people of India are now obliged to raise cotton at one penny a pound and send it to England to be manufactured, and pay such a price for it as will gratify the cupidity of their rulers. Says Carey:

"The power of consumption is consequently small, and the great domestic seats of manufacture, at which men, women, and children, were accustomed to combine their labors, have disappeared. Dacca, one of the principal seats of the cotton manufacture, contained ninety thousand houses; but its splendid buildings, factories, and churches, are now a mass of ruins, and overgrown with jungle."

"With the decline of Indian manufactures, the demand for the services of women or children has ceased, and they are forced either to remain idle or to seek employment in the field; and here we have one of the distinguishing marks of a retrocession towards slavery and barbarism. The men, too, who had been accustomed to fill up the intervals of other employments, in pursuits connected with the cotton manufacture, were also driven to the field: all demand for labor, physical or intellectual, being at an end, except so far as it was required for raising indigo, sugar, cotton, or rice."

Diminished population, diminished productiveness of the soil; the ruin of once flourishing seats of manufactures; reduction of the wages of agricultural labor to a point but one remove above starvation, owing to the decline of the price of raw cotton, sugar, and indigo; and decreased importations, are the characteristics of absolute free trade in British India, as they would be in this country, were the people of the United States mere growers of raw material, as the people of India now are.

Our ancestors were stimulated to the achievement of American independence by just such restrictions as those which have been imposed upon British India. The aim of British legislation, in the early history of this country, was to prevent the establishment of manufactures. In 1699 the British Parliament prohibited the colonies from exporting wool, yarn, or woollen fabrics, and from carrying them from one colony to another. In 1719 Parliament declared that the erection of manufactures in the colonies tended to lessen their dependence on the mother country. On complaint of the industrial progress of the colonies, by the British manufacturers, the board of trade was specially instructed to inquire into the subject. In consequence of the report of the board, in 1732, of the general extension of manufactures in the colonies, to the detriment of British interests, and the recommendation of coercive measures to restrain them, Parliament made several enactments against American industry—one prohibited the exportation of hats from the colonies, or trading in them from colony to colony; and another prohibited the erection of slitting and rolling mills and plating forges. Such was the hostility to American manufactures, at this early period, in England, that even a liberal-minded statesman like Lord Chatham declared in Parliament "he would not have the Americans make a hob-nail."

These arbitrary restrictions on trade and industry exasperated the free spirit of our ancestors, manifesting, as they did, the intention of the British Government to keep them in a state of abject dependence, and thwart the development of the

natural wealth of the country. National independence became a necessity; and when it was finally won, the brave and sagacious patriots who had wielded pen and sword in its behalf, signalized their appreciation of it in one of the earliest enactments of the first Congress under the Constitution. That act, recommended by Washington, and his Secretary, Alexander Hamilton, recited in its preamble that the duties therein laid were for the purpose of discharging the debts of the United States, "and for the encouragement and protection of manufactures." In those days, the golden era of the Republic, the protection of the labor and industry of the country was regarded as one of the first duties of the national Legislature, and as the most efficient means of establishing on a firm and impregnable basis the political and industrial independence of the country. Had the visionary theories of free trade which prevail at the present day among that class of American politicians who refuse to be instructed by the lessons of history, prevailed under the administration of Washington, the American Revolution would have been a bootless struggle, and the prospects of the nation would have been blighted in its infancy. The dependence upon Great Britain, which it was the aim of British legislation in colonial times to secure, would still have continued, and our growth and power would have been seriously retarded.

Shall we now, when the benefits of protection are stamped on every page of our history, refuse to continue the policy to which we owe so much of our wealth and prosperity, and legislate as effectually against American interests as the British Parliament did in the colonial stage of our existence? Are the insidious counsels of English writers and statesmen to be followed, to the neglect and ruin of our own interests? Shall American industry be blighted, that British manufactures may thrive? Shall this noble country of ours, with its mountains bursting with coal and iron, and rich to superabundance in the useful and precious minerals, be impoverished by our legislation, that the Old World may grow rich at our expense? If we are true to ourselves, loyal to the spirit in which the war of independence was begun and fought, and inspired by a true love of country, we will legislate for ourselves, and ourselves alone.

The abolition of all customs duties, as proposed in a report made to this body last session, by the gentleman from South Carolina, [Mr. Boyce,] would expose our immature manufacturing system to a ruinous competition with British capital and the pauper labor of Europe. While encouragement and protection to our own manufactures would be withdrawn, such legislation would act as a powerful stimulant to British industry. It would reduce the wages of the few laborers who could find employment in our mills and factories, to a level with those of the overworked and poorly paid operatives of Birmingham and Manchester. Foreign manufactures would be thrown upon us in such profusion as to destroy our own and European capital, and labor would have no further temptation to emigrate to this country. When, by improved process of manufacture, we are on a footing of equality with England, and when we have accumulated capital enough to compete with that of Europe, and have established our manufactures on a firm foundation, we may throw down the barriers that now shield them from destruction; but not till then. The inapplicability of free trade to all countries has often been admitted by the advocates of free trade in England themselves. The Hon G. Smythe, a coöperator with Sir Robert Peel, in his scheme of free trade, in an address at Canterbury, in 1847, said:

"I cannot quit this subject of free trade without expressing my opinion on its abstract principle. I by no means hold that the principle of free trade is absolutely true, or that it is of universal application. If I were an American, the citizen of a young country, I should be a protectionist. If I were a Frenchman, the citizen of an old country, with its industry undeveloped, I should equally be a protectionist."

McCulloch, the great apostle of free trade, admits, in the following extract, that its universal adoption would make England what she aims to be—the workshop of the world. He says:

"Our establishments for spinning, weaving, printing, bleaching, &c., are infinitely more complete and perfect than any that exist elsewhere; the division of labor in them is carried to an incomparable greater extent; the workmen are trained from infancy to industrious habits, and have at-

tained that peculiar dexterity and sleight of hand in the performance of their several tasks, that can only be attained by long and unremitting attention to the same employment. Why, then, having all these advantages on our side, should we not keep the start we have gained? Every other people that attempt to set up manufactures must obviously labor under the greatest difficulties, as compared with us. Their establishments cannot, at first, be sufficiently large to enable the division of employments to be carried on to any considerable extent. At the same time, that expertness in manipulation, and in the details of the various processes, can only be attained by slow degrees. It appears, therefore, reasonable to conclude that such new beginners, having to withstand the competition of those who have already arrived at a very high degree of perfection in the art, must be immediately driven out of every market equally accessible to both parties; and that nothing but the aid derived from restrictive regulations and prohibitions will be effectual to prevent the total destruction of their establishments."

But, we are told by the Secretary of the Treasury that duties in anywise protective operate, to the extent that they go, as a tax on the consumer. I hold, on the contrary, that such duties are a necessary means of reducing the prices of foreign manufactures. They induce the investment of capital in domestic manufactures, and thereby raise up a rival interest to compete with the foreign manufacturer. Protective duties draw capital from other investments of less public utility, and stimulate their application to industrial enterprises, giving employment to labor, and augmenting the means of living of the mechanics and operatives. They add to the wealth of the country, by the new creations of industry they call into existence; and the temptation of profit they hold out gives rise to a healthy rivalry throughout the country. This domestic and foreign emulation redounds to the benefit of the consumer, by the progressive reduction of prices it always brings about. I challenge the advocates of free trade to produce a single article, which has had the benefit of protection for a series of years, that has not fallen greatly in price. Instead of protective duties enhancing the cost of fabrics, they have everywhere, in the United States and in Europe, been the certain and only reliable means of insuring its abatement. Without protection, England would not now annually produce \$700,000,000 of manufactures, nor the United States \$1,019,106,616, giving employment to nine hundred and fifty-six thousand and fifty-nine persons, and distributing \$236,755,464 in wages per annum, employing a capital of \$533,245,351, and working up, every year, taking the returns of 1850 as a criterion, \$555,123,822 of raw material. It is the welfare of one million persons, who earn their daily bread by their daily toil in our factories, forges, furnaces, and workshops, and that of their dependent families, that I appeal to you to protect from the selfish and remorseless avarice of the British monopolists. This Government was founded by practical men, for practical purposes; it was created by the people for their own benefit; and it is false to the spirit that gave it birth, when its energies are so directed as to injure the interests it was designed to foster and protect.

If protection is a tax on the consumer, why is it that cotton goods, which cost eighty-five cents a yard before the tariff of 1816, are now sold at six to seven cents, and cotton shirtings have fallen from twenty-five cents a yard to five; sheetings from thirty-two to seven; checks from thirty-two to eight; striped and plain ginghams from twenty-six to eight; and Merrimac prints from twenty-three cents in 1825, to nine cents in 1855? Woolen jeans, of the quality that sold in 1840 at sixty-five cents a yard, now sell at less than one half of that price. In 1814 to 1818, says the National Magazine of June, 1845, bar iron sold in Cincinnati at \$200 to \$220 per ton; in 1845, \$100, \$105, \$110; in 1859 the price ranges from \$65 to \$80 per ton. Hammered iron, at a duty of \$22 40 per ton, sold at less than it did at a duty of nine dollars. It also, says Colton, increased the revenue from that source, which under the law of 1816, at a duty of nine dollars, was \$2,500,000; and under the law of 1828, at a duty of \$22 40, was \$5,500,000. These are by no means remarkable facts. It is the uniform operation of the protective system to cheapen the protected articles and to augment the revenue.

If there is one production which especially deserves protection from the Government, it is iron. No country in the world is so rich in iron deposits as the United States of America. These deposits are distributed through all parts of the country, in the remotest West, and in the mount-

ains of the South, as well as in the mountain ranges that face the Atlantic sea-board of the middle and eastern States. Not a ton of foreign iron need be imported into the country, for we have raw iron enough to supply our own wants, and the most extensive foreign demand. With proper care by the Government, the iron manufacture in this country would soon be developed into gigantic proportions, and it would constitute a most important article of commerce with non-producing iron countries. In 1854, there was imported into the United States, raw and manufactured iron to the value of \$31,817,564. We expended abroad that sum for an article which, under an enlightened policy, could have been produced at home. One million tons of iron are now annually produced in the United States; but it is not a tithe of what we are capable of producing, if the Government would foster domestic instead of foreign industry. No wonder that, under the free-trade tariff, financial crises are inevitable, sending, as they do, the specie out of the country in such large sums to pay for iron and other foreign articles, which we can better make at home. Under protection, the domestic productions for the most part supply our wants; we contract but little debt abroad, and the specie is retained in the country.

The wisdom of looking to our own resources, and of seeking to develop them, has been of late so forcibly presented in a leading organ of southern sentiment, the Richmond Enquirer, that I cannot forbear introducing it here, applying, as the suggestions do, to all the iron-producing States:

"Why should Virginia buy foreign iron? Why should she spend \$2,000,000 or over, annually, for iron, when she has a superabundance of it on every hand? Why should the State of Virginia pay three fifths of that amount, even if a few impracticable individuals should think proper to encourage foreign before home industry? Is it not eminently evident—as plain as the most palpable truth could be—that the gold she sends abroad is lost, while that which she spends at home is, in reality, not spent? If she collects it from one citizen and pays it back to another, is she not as rich and as able as if it were neither collected nor paid? The wealth of the State is the wealth of the people. If the two hundred thousand tons of iron, with which our railroads are built and equipped, were made in Virginia, the \$2,000,000 which we spent for that iron would now be in circulation among us, or its equivalent, in mines, manufactures, and improvements, which would be yearly producing not only the proceeds of that vast investment, but its increase—and that would have doubled ere this."

"But if it were folly in the commencement to drain the country of its currency, it would be the consummation of that folly to persevere in that same ruinous policy. If the inducements ten years ago were sufficient on which to base the foregoing statement, is not the inducement double now? If it were better, then, to so great an extent, for Virginia to make, instead of buy, her iron, what shall we say now if she continues in her fatal policy? That very iron, for which she drained her treasury, was bought and laid down in order to open out and develop those mountains of coals and ores, for the purpose of producing the material at home. Those regions of mineral wealth are reached; the railroads are made; the money has been spent; but still we hesitate, and are undecided whether it is better 'to buy or make.' In vain are our splendid improvements completed; in vain our vast expenditures; and in vain, too, are the magnificent gifts of nature scattered profusely around us. We do not wonder at individuals, who are always selfish, or soulless corporations, who care little for any interest but their own. It does not astonish us that they should be blinded to their true interest by their exclusive selfishness. They would as soon buy an iron rail from Great Britain as from Virginia, if they could save thereby a penny for the moment. But that the State should spend her millions—that Virginia should give the people's money to England—for the material which they could produce themselves, seems to us unaccountable. This is no small matter. It does not merely involve the loss of a few dollars, or a few hundred thousand, but it is a matter of millions, which still goes on. How the resources of the State can produce it, where the money is to come from, we can scarcely comprehend, unless some change is meditated. It is an annual drain on the resources of the State, which our profits do not warrant. How can we spend more than we make, without contracting debts?"

"If that money, however, was spent in the State for the productions of our mountains and the labor of our people, instead of being a drain on the currency of the State, it would, on the contrary, tend to increase it. Even suppose we should pay one third more for Virginia than for English iron, and spend \$3,000,000 instead of \$2,000,000 yearly: would we not still be the gainers of \$2,000,000 by the operation? As long as the money is in the State, it is not spent. Suppose the iron for the Virginia and Tennessee railroad was made at Lynchburg—and it could have been made, with profit, for less than its actual cost, delivered: would not the millions of dollars of gold which were sent to England for that iron now be circulating in the mountains of Virginia, and would not our manufacturers there be flourishing?"

American railroad iron has already won a high reputation for its superior quality and greater durability of wear over the English article. It is preferred both at home and abroad; and it needs but a fair rate of protection—say twelve dollars per ton, and continued as a fixed duty for a defi-

nute and reasonable period of time—to drive the English rail entirely out of the American market. The number of accidents on the great line of railway that runs through the center of Pennsylvania, from Philadelphia to Pittsburg, from the breaking of rails, is probably less than on any railroad in the world, and it is because it is entirely laid in American iron. When a portion of that route belonged to the State, between Lancaster and Philadelphia, accidents were of frequent occurrence, from the breaking of the inferior English rail with which it was laid. The following table, from the report of the Reading railroad for 1857, of the comparative wear of the sixty-pound rail of the Phoenix Works, near Philadelphia, and the English sixty-pound rail, on that road, shows a superiority in the American rail:

	Phoenix.	English.
1850.....	4 8-10	8 3-10
1851.....	6 3-10	9 4-10
1852.....	5 9-10	12
1853.....	6 3-10	12 7-10
1854.....	5 9-10	18 8-10
1855.....	14 3-10	47
1856.....	14 6-10	37 5-10
1857.....	15 6-10	47 6-10

A very distinguished railway engineer of Chili, South America, is referred to in the columns of the North American, of Philadelphia, as writing to a firm in that city, under date of October 14, 1858, as follows:

"I trust to be able to interest some of my friends in sending orders for iron to the States, instead of England, where we are pretty sure to get poor iron. The whole of the iron sent out to me for railway repairs on a road in Peru, which I built, and which iron came from the company, in England, that owned the road, (that is, the iron was ordered by them in England,) was not fit for the purpose. The fact is, I have been, for the past eight years, suffering from the effects of trash sent me from England. I am heartily sick of it, and will now see what I can do in the States. By this mail I send to our agent, in New York, an order for rails, chairs, and spikes, for a railway, which I shall recommend him to purchase of you."

Who will say that a manufacture, that under the most discouraging legislation, and at great sacrifice of capital, has attained to such a degree of excellence, does not deserve to be sustained by the Government? With twelve dollars duty per ton on foreign railroad iron, our manufacturers will, in a few years, drive their foreign rivals out of the market, by the superior quality and cheapness of their fabrics.

At the last session, sir, when there was ample time to consider the subject, and in anticipation of the present increased embarrassments of the Government, I asked leave to offer the following resolution. The requisite vote of two thirds could not be obtained:

"Whereas the existing tariff has been found inadequate to supply the Government with revenue, and has proved itself a source of embarrassment to the trade and industry of the country: Therefore,

"Be it resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a bill revising the present tariff, abolishing foreign valuation, and substituting specific duties and home valuation, where necessary to retain *ad valorem* duties; and so augmenting the duties on articles coming in competition with domestic manufactures and products, as to afford increased protection to American industry and labor."

I am glad to see now that the Administration itself admits the necessity of the revision of the tariff, advocated in this resolution—at least for purposes of revenue. There is, however, an unfortunate difference of opinion between the President and the Secretary of the Treasury. The former urges specific duties wherever practicable, and the latter advises adherence to the present mischievous foreign valuation system. Said that wise and sagacious statesman, JOHN BELL, in a speech in the Senate, last session:

"The tables of the trade of the country, and other well-authenticated facts, show that the frauds committed upon the customs revenue, supposing the imports in future to be as large as they have been in the last seven years, will amount annually to a sum equal to the proposed loan, (\$15,000,000). And even exceed that amount, if the Senator from Georgia (Mr. TOOMBS) is right in his estimate. These frauds have been practiced ever since the passage of the tariff of 1846, and chiefly in consequence of the policy of levying the duties under that act on the foreign value. It is estimated, by the honorable Senator from Georgia, that the custom-house returns do not show the real amount of importations, and that the deficiency last year was not less than one hundred million dollars. Estimating the average rate of duty under the act of 1857 on the whole amount of the imports at fifteen per cent., it will be seen that a saving could be made of the amount of the proposed loan in one year, by providing a remedy against frauds in the collection of it. Another view of this subject will show results not less striking. Taking \$200,000,000 as the average amount of importations for the last ten years—and that is under the

average—and further estimating \$50,000,000 as the difference between the value of the imports taken from the custom-house accounts, and the actual value annually imported, it will be seen that \$500,000,000 of foreign goods have been imported into the country in the last ten years, beyond what appears in the tables reported by the Secretary of the Treasury; and that in the same period the frauds upon the public revenue have been upwards of seventy-five million dollars."

These monstrous frauds, it might be supposed, would have deterred the Secretary from a recommendation of a continuance of a system, which enables the foreign importer by the device of double invoices, one for the custom-house, and another for the vender, to cheat the Government annually to the amount of \$15,000,000. With a tariff of duties imposed according to foreign valuation, it is impossible for the head of the Treasury Department to make an estimate at all approximating to accuracy of the revenue for an incoming year. The rate of duty and the amount of importations furnish no standard of calculation, as the foreign importer has it in his power, to a great degree, to fix the price of his own goods, and to pay such duty as he chooses. By such a system the foreign importer himself, for the most part, determines the revenue of the country. It is demoralizing in its tendency, inviting to perjury in the false swearing necessary to sustain the fraudulent invoices. So degrading is the effect of the system on mercantile character, that it is rapidly driving the high-minded, honorable American merchant out of the foreign trade, and delivering it into the hands of unscrupulous foreigners. As a natural consequence, it is stated, that three fourths of the foreign trade of the country is now in the hands of foreigners, their agents, or factors. Injurious as is foreign valuation to the Government, it is equally so to the industry of the country. The rate of protection is perpetually fluctuating under foreign valuation, and when most needed, under the low prices ruling abroad, it is the least effective. When prices are high in Europe, there is but little danger of an excessive importation, and such duties then serve but little purpose in the way of protection.

A committee of the British Parliament, in 1852, instituted a laborious inquiry into the working of *ad valorem* duties, and they reported "that conclusive evidence had been furnished them, both by merchants and officers of customs, that these duties, however good in theory, operate badly in practice." It was in evidence before them, that there was an utter impossibility of their ever working correctly, and that they would always be a subject of annoyance and vexation, favoritism, and bribery; and that they ought to be converted, as far as at all possible, into specific duties; and in many cases where this could not be done, they should be abolished. One of the principal objections to the system, in the opinion of a most competent and experienced witness, was the difficulty of fixing the value of the article imported. The facility of committing fraud under *ad valorem* duties is fully manifested in a report of the Secretary of the Treasury to Congress in 1843. It is there shown that frauds and perjuries had been systematically perpetrated on the revenue by this means, for a series of years, by foreign importers and their agents, in collusion with custom-house officers. The frauds detected, however, formed but a very small part of those actually committed, and which had escaped punishment. One British importer, John Taylor, jr., with the aid of a customs officer, of the name of Campbell, in the course of twenty-one months, committed frauds to the amount of \$200,000.

The proposed introduction of *ad valorem* duties into the tariff of 1846, called forth the following earnest remonstrance to the Senate of the United States, from all the importing dry-goods merchants of Boston:

"The undersigned, your memorialists, would respectfully represent that they are importers of foreign goods into the city of Boston, and as such they have examined with alarm and consternation, the bill recently passed by the House of Representatives to change, in a great measure, our system of collecting duties on imports. Should the bill referred to become a law of the land, we are fully convinced that we shall be compelled to abandon our business into the hands of unscrupulous foreigners, who have little or no regard to our custom-house oaths. From long experience, we are fully satisfied that we cannot compete with this class, when duties are based merely on the *ad valorem* principle."

The apprehensions and predictions of the remonstrants have been realized, even to a more disastrous extent than they ever conceived it pos-

sible. The Secretary of the Treasury, in 1818, William H. Crawford, said:

"The certainty with which specific duties are collected give them a decided advantage over duties laid upon the value of the article. It is probable that the most important change which can be made in the system, will be the substitution of specific for *ad valorem* duties, upon all articles susceptible of that change."

The present President of the United States said in the Senate in 1842:

"Our *ad valorem* system has produced great frauds upon the revenue, while it has driven the regular American merchant from the business of importing, and placed it almost exclusively in the hands of the agents of British manufacturers. The American importer produces his invoice to the collector, containing the actual price at which the imports were collected abroad, and he pays the regular and fair duty upon this invoice. Not so the British agent. The foreign manufacturer, in his invoice, reduces the price of the articles which he intends to import into our country, to the lowest possible standard which he thinks will enable them to pass through the custom-house without being seized for fraud. And the business has hitherto been managed with so much ingenuity as to escape detection. The consequence is, that the British agent passes the goods of his employer through the custom-house, on the payment of a much lower rate of duty than the fair American merchant is compelled to pay. In this manner he is undersold in the market by the foreigner, and thus is driven from the competition, while the public revenue is fraudulently reduced."

I need discuss this branch of the subject no farther. Our own experience, as well as that of all other nations, is against *ad valorem* duties, both on the ground of revenue and commercial morality. That the Secretary of the Treasury should persist in adhering to them, at a time when the revenue falls \$30,000,000 short of the expenditure, and with a knowledge of the fact that they are concentrating the foreign trade in the hands of foreigners, is as astonishing as his constantly recurring mistakes in revenue estimates. If the tariff is to be revised, it is to be desired in every point of view that as many specific duties as possible should be introduced into it.

That the present tariff must be revised, if for no other purpose than for revenue, is, to my mind, as clear as the noonday sun. The expenditures of the Government, amounting, as they do, to \$80,000,000, require a much larger revenue than is yielded by the tariff. It has been tested sufficiently to show its inadequacy to the wants of the Treasury. The receipts of customs for the year ending June last, were \$41,789,721, against \$63,875,905 in 1856-57. For the current year they cannot rise to much more than fifty millions. The Government is now \$64,000,000 in debt. We must either plunge deeper into debt by borrowing, to meet the accruing deficiency, or we must raise the duties, and increase the income of the Government, so as to enable it to meet its current expenses, and provide a surplus fund for the extinction of the debt. With the reckless prodigality that distinguishes the present Administration, it is easy to foresee that it will close its career with a debt of over one hundred millions. Instead of proposing schemes of retrenchment, we have the monstrous project of raising \$30,000,000, to be placed at the disposal of the President, for the purchase of Cuba, who, for that purpose, is to be invested with the sword and purse, which the Constitution never contemplated taking away from Congress—their legal depository. We have fallen on evil times, when, in this early stage of the Republic, we are called on to divest Congress of its constitutional attributes, and to clothe the President of the United States with the absolute powers of a Roman dictator.

The gentleman who told us that protection was obsolete, also said that it had fallen under the ban of all the leading scientific writers of the age. He is as wide of the mark in the last assertion as in the first. The chief object of protection is to develop the home trade, and in this it has the sanction of the apostle of free trade, Adam Smith himself. He says:

"The greatest and most important branch of the commerce of every nation, it has already been observed, is that which is carried on between the inhabitants of the town and those of the country. The inhabitants of the town draw from the country the rude produce which constitutes both the materials of their work and the fund of their subsistence; and they pay for this produce by sending back to the country a certain portion of it manufactured and prepared for immediate use. The trade which is carried on between these two sets of people, consists ultimately in a certain quantity of rude produce exchanged for a certain quantity of manufactured produce. *Whatever tends to diminish, in any country, the number of artificers and manufacturers, tends to diminish the home market, the most important of all markets, for the rude produce of the land, and thereby still further to discourage agriculture.* Those systems

therefore, which, preferring agriculture to all other employments, in order to promote it, impose restraints on manufactures and foreign trade, act contrary to the very end which they propose, and indirectly discourage that very species of industry which they mean to produce."

No better argument for protection can be adduced than this, and no better illustration of the benefits conferred on agriculture by the encouragement of manufactures. To say nothing of eminent protectionist writers in France, Italy, and England, I challenge the production from among the writers on political economy of a more learned, philosophical, and convincing speculator on that theme, than my distinguished fellow-citizen, Henry C. Carey. The works he has published in support of the protective policy are remarkable for profound research, extensive range of inquiry, rare logical acumen, and a consummate knowledge of history. His recent volumes on "The Principles of Social Science," place him in the front rank of political economists, and side by side with Adam Smith himself, whose doctrines are elaborated into a most satisfactory justification of the protective policy. These volumes do honor to the age and country in which they have been produced, and are worthy of the enthusiastic welcome they have received from enlightened thinkers on both sides of the Atlantic. They deserve to be studied as text-books in our colleges, as pointing out the true road to national greatness, and moral and political independence.

When I rose, sir, it was chiefly with the view of combating the attacks which have been made in this Hall on the protective policy. Did my time allow, I could easily show that the causes of the late crisis are not to be traced to bank speculations, as the President would have us believe, but to radical errors in our tariff legislation. Debarred of this opportunity, I shall here close my argument. The views that I have this day advanced, are those entertained by the great statesmen who laid the foundations of this Republic; by Washington, Jefferson, Hamilton, Madison, Clay, Jackson, and others. Historical facts confirm their truth, and cotemporary experience warns us to return to the policy with which the growth, wealth, and political power of all modern States is identified. In this Hall, I shall never consent to legislate for the interests of any country but my own, or further any scheme of legislation which strikes down American capital and labor.

I hope to see the time when the liberal men of all parties will recognize the protection of the productive forces of the nation as the most important question of American politics; and when, sundering all other party ties, they will unite in its support to such an extent as to secure its ascendancy as the permanent policy of the country. Such a party, composed of men acting under a sympathetic, patriotic feeling, exists in Pennsylvania, under the name of the "People's Party." Its platform is broad enough to cover the interests of all sections of the Union—its spirit is thoroughly national, knowing no North, no South, no East, no West. Looking to the good of the whole people, it addresses itself to the sympathies of the whole people; it appeals to patriotic impulses, not to sectional prejudices; it aims, not to divide the Union into hostile States, to be eventually consumed by the flames of civil war, but to bind together with links of adamant the weakened bonds of the Confederacy, and to make us once again a harmonious, united people. I impugn the patriotism of no party; but I protest against the narrow rule of political action laid down by the gentleman from Maine, [Mr. WASHBURN.]

In my view, the question of labor, and remunerative employment for those who toil at the forge and furnace, and drive the loom and shuttle, rises superior to all others. I protest against the imputations in the speech of that gentleman upon the convention which met here during the last month, to devise a plan by which the whole Opposition might unite against the ruinous doctrines of the Democratic party. The object of that convention was just and patriotic, and dictated by considerations of high public duty. I regret to hear such a generous purpose denounced as if it were a paltry political scheme, derogatory to its participants, and treasonable to the country. No member of the Opposition has a right to throw a stumbling block in the way of its perfect union; and he who does, in my opinion, im-

peaches his own good judgment and patriotism. Without seeking to erect an exclusive party standard, as the text of political orthodoxy, or to tear down or build up parties, I hope to see all the elements of the Opposition thoroughly fused into an omnipotent combination, which shall secure the triumph of the true friends of the country, and of principles with which the existence of the Union and the prosperity of the country are inseparably blended. Such a desired end can only be obtained by liberality of feeling, toleration of variant views, and a generous spirit of conciliation; such as marked the men of various faiths and races, who stood shoulder to shoulder in the ranks of the liberating army of the Revolution, and sacrificed the prejudices of section, birth, and creed, on the altar of their common country.

THE VETO POWER.

Mr. DOWDELL. Mr. Chairman, I do not intend to discuss, at this time, the subject of the tariff; nor to reply at length to the ingenious and able argument of the gentleman from Pennsylvania, [Mr. MORRIS,] who has just taken his seat. I deny the constitutional power of this Government to impose any duty for protection; and he takes the power for granted, and endeavors to show, by an able review of the past policy of this and other countries, that a tariff for protection is highly expedient; and that it not only benefits the manufacturer, but after a series of years will cheapen the price of the protected articles to the consumers. In the course of his remarks, he says:

"I challenge the advocates of free trade to produce a single article which has had the benefit of protection for a series of years, that has not been greatly in price. Instead of protective duties enhancing the cost of fabrics, they have everywhere, in the United States and in Europe, been the certain and only reliable means of insuring its abatement."

Now, Mr. Chairman, is it not a little strange that the great agricultural and laboring classes of this country, who consume the greater part of these protected articles, have not before this time discovered the truth of this proposition, and been before Congress with petitions for higher duties? Is it not still more strange that the protected classes, whose manufactures are thus reduced in price, have been the only people who clamor for high tariffs? But, in answer to the challenge to the friends of free trade, I can give him a class of property of no little value, which has for a "series of years"—yes, sir, for fifty years—been protected against foreign competition to the point of prohibition, and has all the time, aside from temporary fluctuations caused by derangements in the currency, steadily increased in price hundreds per cent. I allude to the slave property of the South, now worth \$2,000,000,000. Is not this a case in point?

But, Mr. Chairman, I will dismiss this subject for the present, and proceed to the consideration of another, which I deem no less important at this juncture of affairs, and to which I desire to call the attention of the committee and of the country. Sir, after a careful examination and close study of the principles and objects of the Republican party, as I find them embodied in their platform and the speeches of their leading statesmen, and especially in the late speech of the Senator from New York, [Mr. SEWARD,] delivered at Rochester, I feel it to be my duty once more to warn the South of the approach of her enemies. These indications are unmistakable of a fixed purpose, and a fell design to crush our institutions whenever opportunity offers for a successful assault, and accumulating power gives strength for the onset. It matters not that such principles are at war with the spirit of the fathers which brought our Government into being; nor that their enforcement will destroy the peace of the country and subvert the temple of American liberty; onward to the death, is their motto, though fire and sword should clear the way to the goal of unhallowed ambition, and blood and bones mark the track of the destroyer. Are these the sentiments of a majority of the northern people? This is a pregnant question. Upon the fact hangs the destiny of the Republic. If not now in the ascendant, are they likely to control the northern mind?

The steady increase of power which has marked every step of the party hostile to southern institutions, under whatever name for the time being it assumed; the unflagging zeal which animated them, and the persistent efforts which have

been constantly put forth, not only by its leaders, but by the whole party, on every occasion and in every conceivable way, to arrest, embarrass, weaken, and hem in slavery, should warn the South of danger, and arouse our people throughout the country to the magnitude of impending calamities. Sir, I had occasion, during the last session, to call the attention of this House to the subject, and to invoke the reflecting and conservative men of the North to a consideration of the measures of public policy, which, in my judgment, were then demanded to prevent sectional collisions, which would certainly result in a dismemberment of the Confederacy. Subsequent elections throughout the North, disastrous as they were to the Democratic party, have served to confirm me in the opinions then entertained, and, I trust, have furnished evidence sufficient to remove doubts from the minds of all, about the propriety of providing additional guarantees protective of the rights and interests of the minority.

We of the South can no longer rely solely upon national party organizations for safety. Some more sure and powerful agency must be brought into operation to perpetuate the Government, and protect our institutions. The spirit of fanaticism, in its career to full and desolating dominion, has hitherto defied all the restraints which Christian association, civil and political affinities, imposed; and now is "like the deaf adder that stoppeth her ear; which will not hearken to the voice of charmers, charming never so wisely." The Democrats of the North have fought long and well for constitutional equality, and manfully rolled back the tide of oppression which threatened to sweep over the constitutional barriers around the minority section. But they, too, have been stricken down; and now, no hope remains for the country, save in a prompt and radical amendment of the organic law. Outside of the time-honored party, no hand is left which we can grasp with the cordiality of friendship. They, however, though few in numbers, and bereft of political power, still furnish the strongest incentives to union, if we can agree upon a basis of government guaranteeing to each and all security against oppression.

But let us look to the principles and objects of the Republican party; which is now the controlling organization in almost the entire North. The Senator from New York, after laying down the postulate that the two systems of labor, North and South, are "incongruous and incompatible," and that "they cannot exist permanently in one country," and affirming that "no aristocracy of slaveholders shall ever make the laws of the land in which I shall be content to live," goes on to say that the policy and designs of the slaveholding South is to establish slavery in every State in the Union; and that the Democratic party is, and has been, a faithful ally, to carry out the scheme; and to escape such a result there is left "only one way, the Democratic party must be permanently dislodged from the Government." The reason is, "that the Democratic party is inextricably committed to the designs of the slaveholders which I have described." And further, "it is high time for the friends of freedom to rush to the rescue of the Constitution, and that their very first duty is to dismiss the Democratic party from the administration of the Government." And still further, he says:

"Every one knows that it is the Republican party, or none, that shall displace the Democratic party. Subserviency to slavery is a law written not only on the forehead of the Democratic party, but also on its very soul; so resistance to slavery, and devotion to freedom, the popular elements now actively working for the Republican party among the people, must and will be the resources for its ever-renewing strength and constant invigoration."

"I know that the Democratic party must go down, and the Republican party must rise into its place." "It has already won advantages which render that triumph now both easy and certain."

Sir, no higher eulogium can be passed upon the Democratic party than is to be found in the bitter invectives of the Senator. And this onslaught is made upon that time-honored organization, because, by contending for the equality which a common Constitution recognizes, it has been found on the side of the South, whose people never demanded anything but her rights under that instrument. In the opinion of the Senator, that party now proudly stands the only barrier between fanaticism and its cherished object—the entire overthrow and subjugation of the South. To clear the pathway of the Republican party to

power, it must be "*dislodged*." And to encourage the Free-Soil army to the attack upon the stronghold of the friends of the Constitution, the Senator endeavors to inspire faith and boldness in his followers, by the positive declaration, "I know that the Democratic party must go down, and the Republican party must rise into its place." "Forewarned, forearmed," is an old adage by which we intend to profit. Let not that Senator, nor his followers, flushed with the prospect of easy triumph, plumb themselves upon their superior numbers, when they have "*dislodged the Democracy*," and dream that the battle has been fought and won. There still remains a citadel untaken, manned by southern braves, which will defy your legions, and "laugh at the shaking of a spear." You cannot quench the spirit of liberty. You may succeed in conquering the Democratic party; but on that victory your glory will culminate. "Canst thou draw out leviathan with a hook? "Lay thy hand upon" the South; "remember the battle; do no more."

Sir, I deny that the interests of the two sections are necessarily incompatible. The very contrariety in pursuits and productions, which exists in the different sections of the country, constitutes a strong bond of union; our natural dependence on each other for commercial prosperity and national security is the language of Providence, designed to make us love, instead of hate each other. Nothing but the wicked spirit of fanaticism, at war with all that is good and right and peaceable, can disturb our harmony. And when that Senator asserts, in the words of Napoleon, applied to Europe, that "it must be either" all Cossack or all "Republican," to illustrate the antagonism between the slaveholding and non-slaveholding States of this Union, he but publishes the desire of his own heart to destroy the institutions of the South. No one knows better than he does, that not a man in the South ever thinks of extending African slavery over the northern States. He has not the remotest idea of any attempt by the South to do this. What, then, is the meaning of the declaration, unless it be that this country must become "all Republican?" That slavery must be abolished when the Democratic party shall have been *dislodged*, and the Republican party installed into power? Sir, the Democratic party has aided the South only in standing by the Constitution which recognizes and protects her rights. Is it for this that it must be *dislodged and dismissed* from power? In the opinion of that Senator, and the party for which he speaks, is the Constitution pliant to their purposes? Is there no regard for that solemn compact? Is the Democratic party the only obstacle in their way to full dominion and universal emancipation?

Such, sir, appears to be the opinion of the leaders of the Republican party. Whilst this truth furnishes to the South strong motives to cherish and maintain the Democratic organization, thus assaulted by her enemies, at the same time it should warn us to look well to our other defenses; for parties, however pure in professions and principles, are swayed by the power of popular passions, and ebb and flow with the certainty, if not with the regularity, of the tides of the ocean. When a sound and healthy public opinion exists, they can develop and embody the purposes of the majority, and contribute to the growth and glory of the country. But they will be found unequal to the task of protecting minorities for any long period of time. When needed most, then are they ever the weakest. So soon as public opinion and sentiment cease to be morally sound and healthy, a pure party goes into a minority and becomes useless for defense, and powerless to uphold a government. At this point the necessity arises for further distribution of power by constitutional compact, and such veto reservations to the weaker section as may enable it to check the inroads which every majority will sooner or later make upon the rights of the minority. Sir, New York has spoken through her great leader, who utters the voice of a majority of her people, "that this country must be all Republican." What say the New England States? A true exponent of their faith and principles, [Mr. WASHBURN,] lately said, in this House, on the subject of our common Territories:

"The Republican party affirms that negro servitude is a deadly blight upon the social and economical condition

of a country. Hence it follows irresistibly, that whenever the members of this party have the power to inhibit it, it is their duty to exercise that power. Congress can keep it from a Territory if it will pass a law for its exclusion; and from the State to be formed out of such Territory; for in no community, from which slavery is excluded till it become a State, will it ever be subsequently established."

How stands the case in the Northwest? Let the senior member from Ohio [Mr. GIDDINGS] speak for his party:

"The gulf that separates the Republican and Democratic parties is broad and deep; one reasoning and acting for freedom, the other for slavery, it becomes impossible for them to agree on any collateral question." * * *

"There is no neutral ground between right and wrong, between liberty and slavery."

To these representative opinions may be added what the Republican party puts forth in its general platform:

"Resolved, That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government; and that, in the exercise of this power, it is both the right and duty of Congress to prohibit in the Territories those twin relics of barbarism, polygamy and slavery."

Now, sir, I have given these few extracts from different portions of the North to show that they all agree. First, that the Democratic party, which they consider an ally of slavery, "*shall be dislodged*." Second, that, in complete possession of the non-slaveholding States, they will have power sufficient to control the legislation of Congress; and when fully installed and firmly fixed in power they will use it to the destruction of slavery. They do not propose directly to meddle with the institution in the States, but will first confine it to the present area, by excluding it from all the common Territories. This having been done, they will then prohibit the trade between the States. Then will follow its inhibition along the coast. Next, its abolition in the District, Navy and dockyards, &c. During the time of these operations, by protective tariffs and high duties, discriminating against slave products, they will gather the profits of slave labor, and squander the legitimate fruits of our industry upon multiplied objects of improvement in their own section, until the institution, completely depressed and depleted, will fall an easy prey to their designs.

This is the programme of the Republican party. That it will be carried out, fully and speedily, I have not a doubt, unless resistance be made promptly and firmly at every point. Knowing as I do the southern people; their intelligence, patriotism, and temper; their ability to maintain their rights, and their nerve to repel aggression, come from what quarter it may, I must conclude that the centralization of political power in the Federal Government, by a *combination of the free States*, will not enable them to accomplish their purpose set forth, but will certainly produce collisions between the sections disastrous to the peace of the Union.

Let us for a moment suppose that this feeling at the North, inimical to slavery, has been stimulated by hypocritical leaders, with the view to consolidate their strength, and to get power, rather than with any ulterior design of actual abolition; still, I must believe that the masses, whose minds have been excited and passions inflamed against us with the zeal of honesty, will pursue their purpose to its accomplishment. No human ability will be strong enough to suppress the agitation, or to direct the whirlwind, which drives to the complete demolition of the object of their hatred. The masses of the North, taught to believe that southern prosperity is their loss, and that the destruction of African labor would enhance the profits of white labor, together with that fanatical religious class who believe that enmity to slavery is friendship with God, would not rest content with the mere honors of office; but, once in power, will demand the fulfillment of their expectations in the total destruction of the institution of slavery.

For the last eight years, the Government has been in the possession of the non-slaveholding States of the Union, every department of it; and nothing but the conservative position of the Democratic party, which has controlled it during the time, has prevented aggressive legislation of the most odious and oppressive character. Gradually, but surely, the Free-State party has been growing, until every power of the Federal Government is almost within their grasp. Every election at the North demonstrates the weakness of the friends of the Constitution. The time is not far distant

when the experiment will be made, whether the Government can be administered in that spirit of justice and equity which has hitherto blessed our people, and promoted and prospered the institutions of all parts of the country. That it cannot be done without a wise distribution of power, so as to produce an equilibrium between the various conflicting interests, or at least attain a safe approximation to an equipoise, the history of all Governments clearly teaches.

A combination between the non-slaveholding States, by which all the departments of the Government are secured and its powers completely centralized, has defeated the intention of the framers of our Constitution, and rendered the division of power provided in that instrument comparatively useless. It is true that we have a President armed with the conservative veto to check unwholesome legislation; but this office can be controlled by the *combination*. It is true we have a Senate equalizing the powers of the respective States and a check upon popular passion; but that body can be controlled by the *combination*. The Supreme Court, organized for life, or during good behavior, and thus in a great degree made independent and free from all party prejudices, surely is a safeguard to the Constitution. But a threat has already been made to reorganize this august tribunal, and it can and will be controlled by the *combination*.

Thus it will at once be seen that, whilst all the forms of the Constitution are left, the substance of the original compact can be destroyed. The Government has ceased to be what it was in the beginning—a Government of divided powers, with its wise system of checks and balances—and is but little removed from that *consolidated state* which amounts to a complete revolution, and will surely lead to a *centralized despotism*. He is, indeed, a dreamer, who imagines that the rights of the States can be secure, or that civil liberty can long survive in such a state of affairs. These evils must be remedied *forthwith*. There is not a moment to be lost in the effort to restore the Constitution to its pristine vigor and purity. In the present calm of the public mind, a short pause in popular passion and sectional strife, the twilight hour before the darkness comes on, let us recur to first principles, and summon all our strength in the last attempt to save the liberties for which our Union was formed to foster and secure.

Perhaps I shall be told that we are safe from the aggressions of Federal power, because of the barriers which State sovereignty erects around the reserved rights of the States; that these cannot be encroached upon without a palpable violation of the Constitution and assumption of despotic power which no party would attempt. Let it be remembered that the tyrant stealthily, like the tiger, approaches his prey until within reach, when, throwing all reserve away, he springs suddenly upon the object of desire. These barriers, however sacred, and, in a well-balanced organization, however strong, will prove ineffectual against the *combination* which I have described; and, like the other defenses, would either yield to the swollen current of usurpation, or, by firm resistance, produce the collision which constitutions and compacts were made to avoid. Hence, the conclusion is inevitable that without additional checks to Federal power, our present system, when the Government shall have passed into the hands of the *combined majority section*, will result in collisions and revolutions totally incompatible with the integrity of the Government. Nothing now prevents this catastrophe but the national Democratic party. And shall we longer risk ourselves and hold the rights and liberties of our people upon a tenure so frail? What assurance have we that any mere party organization will last a twelvemonth? And if it should last, who can predict its change of policy? Something more stable than mere voluntary organizations, liable to be "tossed to and fro, and carried about with every wind of doctrine," is demanded for permanent safety. The Constitution points to the remedy in that wise provision for its own amendment, contained in the fifth article:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this constitu-

tion; or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

The framers of this great instrument did not anticipate, whilst multiplying checks, and distributing power into several departments with a view to guard against centralization, that from an unseen source a *monster* would so soon spring forth to grasp all the departments, and wield undivided power to the destruction of liberty; that legislative, executive, and judicial functions would, by a combination of States, be absorbed by one section, and directed with one will. But, guided by a wisdom beyond their abilities, and in the exercise of a prudence beyond their forecast, our fathers inserted the clause above quoted, leaving to their descendants the duty to watch the encroachments of tyranny, and, by timely amendment of their work, to provide other safeguards when needed for the preservation of the great principles which this Confederacy of States was made to protect and perpetuate. The Constitution was ordained by the sovereign parties to the compact as a safe rule of action for majorities in exercising the powers of Government, not to infringe the rights of minorities or individuals. It does not require the unanimous voice of the people in the passage of a law which would be the perfection of government, but approximates to universal consent, in the system which it adopts requiring concurring majorities.

Experience has taught us that we must approximate nearer still the general consent, in legislating for the country, by interposing other checks to the power of simple majorities, or the rights of the minority will be endangered. The concurrent majority of the States, and of the people of the States, as expressed in the choice of the President, possesses now the right in the exercise of the Executive veto, to demand for the passage of a law the concurrent majority of two thirds of the members of the Senate and House of Representatives. Now, I believe, if a veto power was by an amendment of the Constitution given to each sovereign State when in a legal convention of its people, applicable to all Federal acts, judged by the State to be injurious to its rights, and all laws thus vetoed to be null until restored by the concurrent majority of two thirds of the Federal Legislature, a sufficient guarantee would be afforded to insure the minority against usurpation, and would still preserve in the majority legislative power equal to all the necessary wants of a just Government.

This negative power in the possession of each State would not only impart feelings of greater security, but would, by preventing partial and unwholesome legislation, keep the General Government in the path of right and justice, and instill a love for the Government and intensify a patriotism which would make our system at once indestructible and invincible. Nor need we apprehend that this power would ever be perverted from its true intention, and employed on trivial occasions, for in its exercise the dignity of the State would be involved; besides the expense and solemnity of the convocation of the sovereign people would confine its use only to the most urgent and important objects. There is not the slightest danger that the General Government would be brought to a dead lock, as some suppose, and cease its legislative functions. Our common necessities and the general welfare would force the passage of all laws promotive of the interests of all sections, and such other measures as might be beneficial to particular parts, without detriment to the remainder. It would certainly prohibit all special and partial legislation, and for this reason ought to commend itself to every just mind. We should not perish for the need of laws. Let no man fear that. Under the present system we are surfeited near unto death with the abundance of statutes. Our State governments would be found equal to all our necessities in this regard, for the preservation of essential rights, and the promotion of industrial prosperity. And even should every act of the General Government be met by a veto, two thirds of each body would never fail to agree upon such measures of general utility as the legitimate operations of the Govern-

ment might demand. But, in a very large majority of all the acts passed, there would be no veto. The great difficulty and expense in the exercise of this conservative power, would certainly confine it to great and grave questions; which would seldom arise, when the Government agents were cognizant of the fact that there was a power over them to review their acts and bring their measures to the scrutinizing test of a concurrent two-thirds majority. But how shall this reform be effected? Is it practicable? This question I propose to answer. There are two ways pointed out, in the clause of the Constitution cited, by which this amendment may be made.

1. Congress, by a two-thirds vote, may propose amendments for the ratification of the States, three fourths of which have the power to adopt.

2. The application of two thirds of the States, through their Legislatures, can compel Congress to call a convention to propose amendments, which will be adopted upon the ratification of three fourths of the State Legislatures or conventions. The first plan I believe impracticable; and hence have made no move in pursuance of it. In the second way stated, I believe the amendment which I have suggested to be feasible.

The absolute necessity for such an amendment, or some similar provision, makes it in my judgment, practicable. There is no use in disguising the fact, for every reflecting mind knows, that we have either to amend our Government, submit to oppression, or prepare ourselves for the calamity of dissolution. For one, I feel, and must believe, that the *revolutionary* blood which animated our fathers in the great conflict of 1776, courses too freely and warmly in their children's veins to submit to oppression. Our love of country—a cherished inheritance, purchased by the joint struggles, and bequeathed by a kindred ancestry whose precious blood commingled in the sacrifice of their lives for its attainment—calls aloud unto their sons to preserve it, and make us all desire to cherish its integrity, and hand it down, with undiminished glory, to our children's children—to the latest generation. This inevitable resistance to oppression on the one hand, and, on the other, this universal love for the stars and stripes as they float upon land and sea, proud emblems of liberty, point unerringly to that amendment of our system which will avoid the first alternative, and secure the blessings of the other to us and our children.

Let then, the States of the minority section, in the true spirit of patriotism, set forth their grievances with earnestness; and with the gravity due to the importance of the subject, call upon the majority section to consider of an amendment of the Constitution, so as to effectually guard them against oppression; and without harshness, as a matter of State policy and safety, demand additional guarantees; and with firmness make such amendment a condition of longer continuance in the Union. And who will assert that such a proposition will not be met by the great conservative portion of the North in the spirit of kindness? There is nothing sectional in the amendment proposed. It only depresses the Federal power, and elevates the State, without regard to locality. It magnifies the municipal, but at the same time strengthens the federative organization. Unless our people are mad, and bent on self-destruction, they will hesitate long, and consider well, before they reject a plan of settlement, which, while it can injure no interest, is so full of peace and promise to our country.

The one great object of our Constitution was to divide and distribute the powers of Government in such manner as to prevent centralization, which ever has been and ever will prove despotic, be the form of government whatever it may. In despite of all our safeguards, this centralization has taken place, in the combination of States before alluded to; and now we shall feel its tyrannical hand, with its bitter fruits of oppression and revolution, unless, in the spirit of the fathers who made the compact, and with the wisdom which then guided them, we shall, by timely amendment and a further distribution of power, restore the lost equilibrium, compose the disturbing elements, and bring back the Government to its true principles. Let this be done; let each State be accorded the political power of self-protection; and minorities, however small and weak, be made to feel secure in their rights, and all sectional jeal-

ousies and strifes would cease; because no section however large, would have the power, without the consent of the minority, to pass a law injurious to its interests. The growing power at the North would no longer awaken fears in the South that it would be used for the destruction of Southern property; nor would the expansion of the South be any longer used by northern demagogues to frighten the unsophisticated masses into the belief that we designed establishing slavery in all the States. All sectional questions would be banished from the Halls of Congress, and each and every part of this great country would be left free to pursue its own policy, enjoy the rewards of its own virtues, and be subject to the penalties of its own sins.

Under the present system, with all the departments of Government, in the power, and nearly in the hands of one section, with well-grounded apprehension on the part of the other that the Government will be perverted and used to its injury, we are not only retarded in the development of our internal resources, but will soon become, in consequence of these unnatural antagonisms, the prey to foreign intrigue and ambition. Our country must expand; the Anglo-Saxon race, with its intelligence, thrift, and moral virtues, will go to the fertile lands and misgoverned States south of us. By contiguity and natural necessity, these neighboring provinces belong to our civilization, and will embrace our ideas of representative and republican government. Sir, no foolish stipulations with foreign Governments, binding us down to prescribed limits, can repress our energies, or prevent our expansion. We will preserve the national faith; but, whilst scrupulously observing our engagements, we will see well to it that no more manacles, such as the Clayton-Bulwer blunder imposes, shall be put upon our limbs. That fruitful source of our present entanglements in Central American affairs, must be removed; steps should be immediately taken to abrogate that abominable treaty. I am glad, that by a joint resolution before Congress, the attention of the country has been called to it, and I trust that the voice of condemnation will be full and emphatic.

Sir, the hearts of our people responded to the Monroe doctrine when first announced, and will continue to demand a policy which prohibits European interference with the affairs of this continent. Our duty and our destiny require us to keep free from foreign complications, and to regulate and adjust our balances in accordance with American ideas and institutions. All eyes are now turned, with intense curiosity, to the Gulf of Mexico and the Caribbean sea. The boarding of our vessels, and the vigilant police exerted in intercepting our emigrants to those States, invests the whole subject with peculiar importance to the South. Nor is the apparent good understanding between our own and the British Government, and the harmonious coöperation observed in the rigid execution of our neutrality laws, at all calculated to allay suspicions, and quiet sectional jealousies. I must confess, that I regard the pending negotiations in Central America with great distrust; and have no faith that American interests will be promoted by the mission of Sir William Gore Ouseley. We shall never become, with my consent, a party to any settlement which allows the slightest interference, on the part of foreign Governments, with the States south of us; and he mistakes the character of our people who supposes that, under any circumstances, they will quietly abide such a result. We intend to hold this, and all succeeding Administrations, to a strict observance of these conditions, be the consequences what they may. Notwithstanding our sectional bickerings, I trust that homogeneity in national interests will be sufficient to make the Monroe doctrine the positive policy of our country for all time to come.

But, sir, all our sectional difficulties would be harmless, and all obstacles to our expansion, northward and southward, would be removed, were our system of government so amended that in no contingency could the Federal power be controlled by simple majorities, and perverted to the detriment of the minority. Were the great laws of true Republicanism allowed to have free scope—which protect each community in the enjoyment of its own rights—and which leave each local government undisturbed to judge and adopt its own line of policy, with no restraints or encouragements,

other than the law which profit and loss impose, we might confidently hope to plant our institutions in all latitudes. The contest between free labor and slave labor would no longer obstruct our progress; each system would cherish profits and abhor losses, and, governed by the law of climate and production, would regulate itself in accordance with the true interests of all. Interference by one section or State with the internal affairs of another, would not be ventured; for the recognized independence of each would contribute to the union and independence of all. There would be no more combinations against each other; but, as it should be, one grand combination of confederated States against the despotisms of the world. Our borders would be enlarged in accordance with the necessities of an increasing population. And the spirit of liberty, emanating from our great and high example, like lines of light from the sun in his strength, would stream out upon the nations and prepare them for a conquest wherein captive and conqueror could alike rejoice together. Cuba would soon be ours by her own consent, without money and without price. Mexico would plant her stars upon the blue field of our flag, and the small but beautiful States of Central America would sparkle on the same canopy.

Mr. Chairman, this is not a picture of fancy. Nothing but our vices will prevent its realization. Our own divisions may check our progress. The armies of the world cannot do it. Let us be at peace with each other, and crowned heads and their cohorts would pass away like chaff before the "rushing mighty wind" of freedom. Plots and counterplots, diplomatic intrigues, cunning schemes and alliances of despotisms, would vanish into thin air before the march of a free, united, and virtuous people. Have we the wisdom to direct our strength in the fulfillment of so exalted a mission? In the fear of God, in the love of justice, and in works of righteousness; by a sacred regard for the rights and interests of each other; by cultivating the spirit of good will and fraternal affection, we can achieve this glorious destiny. But should our vices predominate, and those who now have the power cling to it with a purpose of oppression, the end draws near when we shall, yielding to the mad impulses of passion, divide and devour each other—bid discord reign supreme, and rush headlong to destruction. Sir, in conclusion, I earnestly invoke the States of the Union to a consideration of this important subject, with an ardent hope that some remedy may be provided to protect, preserve, and perpetuate our liberties.

INDIAN POLICY OF THE GOVERNMENT.

Mr. PHELPS, of Minnesota. Mr. Chairman, by the kindness and courtesy of the gentleman from Iowa, [Mr. DAVIS,] I propose to detain the committee for a short time, in the discussion of the policy which, in my judgment, should be pursued by the Government in its treatment of the Indian tribes on our western frontier.

Sir, I believe that all the members of this committee, and the House, desire most earnestly to promote the welfare, happiness, and prosperity of the Indians; while, at the same time, I do not doubt that they would desire to so shape legislation as to lessen, if possible, the burdens on the public Treasury, which is now heavily taxed in supporting the Indian tribes.

The Committee on Indian Affairs have prepared a bill, to be reported for the action of this House, which is germane to this subject, and which I hope will be so amended as to give congressional sanction to a policy which, I trust, may become the fixed and settled policy of the Government in all its intercourse with the Indian tribes. It is a practical policy; humane and wise; economical and safe; affording the only certain means by which we may hope or expect to promote the welfare and prevent the extermination of the Indian.

The present system is radically defective; under it the Indians have faded away, like mists before the morning sun. From a race possessing a broad continent, they have dwindled down to a mere handful of wretched dependents upon the public Treasury. The giving of annuities, in liberal amounts, may seem to gentlemen to be in the highest degree generous; but, sir, it is promotive of little good. It is rather an injury—destroying the only noble characteristic the Indians possess,

an untamed independence, and rendering them indolent dependents upon Treasury gold, and leaving them wholly untaught in the self-sustaining arts of civilization. Thriftless and improvident, they squander their annuities in costly baubles, and in enervating dissipation; become a prey to the unscrupulous trader, and more frequently than otherwise, leave the annual payments, without a cent to protect them from the rigors of winter, or to provide the simplest necessities of life.

What wonder, then, that the frontier is the constant scene of bloody border-warfare? Unless the policy now pursued by the Government, of placing money in the hands of those practically ignorant of its value, who waste it as the sun and rain waste the snow, in an hour, is changed, the Indian will be forced, in the nature of things, during the greater portion of the year, to resort to the uncertain chances of the chase, or to plundering forays upon the settlements, for food to alleviate the cravings of hunger. Averse to labor, and regarding it as disgraceful, they live in idleness and want; and by affording them no means of tasting the independence conferred by industry and a cultivation of the soil, theft becomes a necessity, and a corroding indolence eats out their manhood.

You give broad reservations ostensibly for a hunting ground; but the adventurous hunter soon drives from it the game, and leaves the Indian without means of subsistence.

The land is held in common, affording no stimulus to individual enterprise. You hold out no reward to toil, or the cultivation of the soil; and in fact, by making them common property-holders, the industry of a few only tends to confirm and make chronic the indolence of the many. The present policy is wholly inconsistent with advancement in civilization, and actually promotes the Indian's degradation.

My object is to call attention to a different policy, which I believe to be both humane and economical, and when it comes to be understood will meet, I trust, the approval of this House. Its object is to individualize the Indian—to teach him the habits of providing for his wants by his own industry, and guaranty to each the fruits of his own labor and skill. The old system has proved itself defective. The Indians have dwindled in numbers, are debauched in morals, and suffer for the necessities of life; and all these results have followed while gentlemen may contend that our Indian policy has been the model of generosity. Judge it by its fruits, and not one lasting benefit is conferred upon the Indian. In spite of all the efforts of the Government and its agents, although money has been lavishly expended, the Indians have neither advanced in the arts of civilization or Christianity, nor in numbers or wealth. They are sunk in habits of thriftlessness and dissipation, and are become the scourge of the frontier, wanting in all those manly characteristics which of yore belonged to them.

Sir, it is but doing justice to the efforts of the Secretary of the Interior and his able and efficient Commissioner of Indian Affairs to say that they have faithfully labored to inaugurate this policy. On this point, I take great pleasure in quoting from the able report of the late Commissioner of Indian Affairs, Mr. Mix. I would commend his suggestions, the result of years of experience, to the attention of this House. The Department having this subject under control urge, and have adopted as far as can be done without the action of Congress, this policy; and Congress will fail in its duty unless it shall give these efforts the sanction of its approval. Mr. Mix, in his report, says:

"Experience has demonstrated that at least three serious, and, to the Indians, fatal errors, have, from the beginning, marked our policy towards them, namely: their removal from place to place as our population advanced; the restriction to them of too great an extent of country, to be held in common; and the allowance of large sums of money, as annuities, for the lands ceded by them. These errors, far more than the want of capacity on the part of the Indians, have been the cause of the very limited success of our constant efforts to domesticate and civilize them. By their frequent changes of position, and the possession of large bodies of land in common, they have been kept in an unsettled condition, and prevented from acquiring a knowledge of separate and individual property, while their large annuities, upon which they have relied for a support, have not only tended to foster habits of indolence and profligacy, but constantly made them the victims of the lawless and inhuman sharper and speculator. The very material and marked difference between the northern Indians and those of the principal southern tribes, may be accounted for by the simple fact that the latter were permitted, for long periods, to re-

main undisturbed in their original locations; where, surrounded by, or in close proximity with, a white population, they, to a considerable extent, acquired settled habits and a knowledge of, and taste for, civilized occupations and pursuits.

"Our present policy, as you are aware, is entirely the reverse of that heretofore pursued in the three particulars mentioned. It is to permanently locate the different tribes on reservations embracing only sufficient land for their actual occupancy; to divide this among them in severalty, and require them to live upon and cultivate the tracts assigned to them; and in lieu of money annuities, to furnish them with stock animals, agricultural implements, mechanic shops, tool and materials, and manual-labor schools for the industrial and mental education of their youth. Most of the older treaties, however, provide for annuities in money, and the Department has, therefore, no authority to commute them even in cases where the Indians may desire, or could be influenced to agree to such a change. In view of this fact, and the better to enable the Department to carry out its present and really more benevolent policy, I would respectfully recommend and urge that a law be enacted by Congress, empowering and requiring the Department, in all cases where money annuities are provided for by existing treaties, and the assent of the Indians can be obtained, to commute them for objects and purposes of a beneficial character."

Sir, until you adopt some plan like the one suggested by the Commissioner of Indian Affairs, you can never hope to civilize the Indian. Until you teach him habits of industry; until the precarious pursuits of the chase and the war-path are abandoned for the more peaceful pursuits of agriculture, you cannot expect to promote his permanent good. The roving, wandering life of a savage must be exchanged for the more quiet occupation of civilized man. The Indian must learn to depend upon himself and the fruits of his own labor. He must practically acquire a knowledge of the benefits to be derived from agricultural pursuits and the arts of civilization, before he can comprehend and appreciate the advantage, as well as necessity, of adopting the white man's habits. To break down the prejudices of the Indians is a work of no ordinary labor and difficulty; and the first step to be taken is by uprooting the community of property system; by extinguishing or modifying the tribal relation; by curbing the war spirit; and by making labor respectable and profitable, especially the cultivation of the soil. This can only be done by encouraging agricultural pursuits. One example of rewarding industry will go further to dissipate their hereditary prejudices than the speeches of a thousand councils, or the combined recommendations of a hundred agents.

It must be apparent that the chase will no longer afford them the means of subsistence. The buffalo, that once afforded food and fuel on our western plains, are passing away! Agent Redfield says:

"Buffalo are the Indian's cattle; when they fail he must perish or live by plunder, and then we must feed them or destroy them."

But the buffalo have disappeared, and the hunter can now no longer provide for the necessities of life! The annuities paid, as I have shown, wasted in folly and drunkenness, tend to impair and destroy his prosperity rather than promote it. Widely scattered over unnecessarily large reservations, now set apart for him; the land held in common and no individual property acknowledged, the Indian has no encouragement to labor. Illustrate the fact by asking yourselves what would be the consequences in any agricultural county of the Union, the richest, if you please, if all held the land in common, and all were entitled to a common share of what was produced. The idle would fasten upon the industrious, and compel them to flee from rapacious indolence, or relapse again into hopeless illness. To avoid the errors of the past, and secure the permanent good of the Indian, it is necessary to concentrate the tribes on small reservations, and allot to each a separate property. Let the Indian have the usufruct of the soil he tills, if you please, but guaranty it permanently to each head of a family, inalienable except to the United States, or a member of the tribe; such purchaser holding by a similar tenure. Upon this point the Commissioner, from whose report I have already quoted, says:

"The policy of concentrating the Indians on small reservations of land, and of sustaining them there for a limited period, until they can be induced to make the necessary exertions to support themselves, was commenced in 1853 with those in California. It is, in fact, the only course compatible with the obligations of justice and humanity, left to be pursued in regard to all those with which our advancing settlements render new and permanent arrangements necessary. We have no longer distant and extensive sections of country which we can assign them, abounding in game, from which they could derive a ready and comfortable support; a resource which has, in a great measure, failed them where they are, and in consequence of which they must,

at times, be subjected to the pangs of hunger, if not actual starvation, or obtain a subsistence by depredations upon our frontier settlements. If it were practicable to prevent such depredations, the alternative to providing for the Indians in the manner indicated would be to leave them to starve; but as it is impossible, in consequence of the very great extent of our frontier, and our limited military force, to adequately guard against such occurrences, the only alternative, in fact, to making provision for them, is to exterminate them."

This view of the Commissioner is sustained by the concurrent testimony of nearly all the superintendents and Indian agents whose reports I have been enabled to examine. They all, with a singular unanimity, agree that this policy is the only one which will tend to advance the civilization and temporal prosperity of the Indian, and hastening to the accomplishment of an object so beneficial, that it must appeal to the good sense of the House, and enable the Indian at no distant day to subsist and support himself. It will do more than this; aside from its being a measure of economy, it is a peace measure, and will contribute more to protect the frontier from Indian ravages than standing armies or military power.

The first step toward the civilization of our Indians, the very door to that beneficial result, is to teach them to subsist themselves by their own labor; to give them a parcel of land which they may regard as their own; to supply them with agricultural implements; to furnish them with stock animals, and thus learn them the value of individual property. It will teach them a self-reliant independence, and in lieu of the abject dependence upon meager cash annuities, render them self-subsisting, pave the way to civilization, and save them from extermination.

In my own State this question has been tested. The Sioux Indians are the most warlike, reckless, and untamable, in the valley of the Mississippi. Their agent, Mr. Joseph R. Brown, long and intimately acquainted with their wants, habits, and peculiarities, and earnestly desiring to ameliorate their condition, inaugurated the system of separate property. The untried experiment with these Indians was no new theory with Mr. Brown. He had years before advocated, in a series of able articles, the necessity of breaking down the community of property, and the encouragement of individual industry, by allotting to each head of a family separate parcels of land in severalty. This plan, even with these Indians, has resulted so favorably, that I take pleasure in giving the results of this experiment, by quoting from an article in the Henderson Democrat, on this very subject. It says:

"Those who have thus accommodated themselves to the whites' customs, and habits, have been arranged by themselves into one band, called 'the farmers'; and as an evidence of their success, we have only to state that the joint products of fourteen of those farmers summed up, are three thousand and eighty two bushels of potatoes, two thousand four hundred and twenty-seven bushels of corn, one hundred tons of hay, besides the numerous garden vegetables raised by each family. We venture to say that scarcely any fourteen white farmers, lately settled, have produced a heavier average crop than this.

"Since their adoption of agriculture, these farmers have been a constant theme of ridicule for the other Indians. They were called the 'diggers,' the 'wood choppers,' the 'half breeds,' and other names, all implying that they were no better than women. Yet they bore up under it bravely, and wore firm. It was necessary, however, in order to bind them more firmly to the customs they had adopted, that a last call should be made upon their moral courage; and accordingly, at the suggestion of Major Brown, it was proposed to them that they should have their hair cut off, and adopt the white dress in toto. This was a dasher for them! They could bear the white man's dress, and stand the abuse of the Indian; but this was striking direct at their own hereditary customs and beliefs. It was a disgrace and a shame! They hesitated—demurred—and at last refused; but finally came up manfully and underwent the ordeal. Sixteen came up and were made white men of in this way. After the ordeal, every encouragement was given them, both by the agent and superintendent, to stand firm to their new customs, both by word and deed. Each one was presented with two new suits of clothes throughout, a yoke of oxen, a cow, and numerous little presents. They were told that the United States would protect them, and that they must hereafter do all they could to encourage others to adopt the same mode of life."

This statement is confirmed by Colonel William J. Cullen, the present energetic and faithful superintendent of the northern superintendency. He earnestly seconded the efforts of Mr. Brown, and by that zeal and practical good sense which has ever characterized his management of Indian affairs, largely contributed to the success of this hitherto untried experiment. I also extract from the report of Agent Brown, in further confirmation of this policy:

"These associations will constitute a nucleus around

which I hope to see the annuity Indians united in the bands of civilization. They are the foundation stones upon which the structure of Indian improvement, in this valley, must stand, and should therefore be fostered with all care necessary to preserve their efficiency. I think that the allotment of land in severalty, as proposed in the treaties with the annuity Sioux, negotiated at Washington last spring, will form another great link in the chain of Indian civilization, if the same shall be ratified by the Senate. The working of the system is already demonstrated in the improvement of separate farms during the past year, and the great demand for separate farms as a preliminary to agricultural improvement. Give a man a separate tract to cultivate, and he does not hesitate to labor for its improvement; but a man can seldom be induced to labor in a common field. The common field is the seat of barbarism; the separate farm, the door to civilization."

He also adds that many more Indians are beginning to appreciate the advantages that flow from agricultural pursuits, and are anxious to adopt the same system, and are ready to cut their hair and adopt the habiliments and customs of the white man.

Permit me, Mr. Chairman, in this connection, to submit to the committee and the House the joint resolution of instructions from the Legislature of Minnesota in regard to this subject:

Joint resolution relative to the Sioux and Winnebago reservations.

Whereas the reservation now occupied by the Sioux Indians embraces a much larger tract of country than is necessary for their use, or compatible with the interests of the State; and whereas the civilization of these Indians would be greatly promoted by securing to each head of a family a tract of land sufficient for agricultural purposes, with such assistance from the General Government as may be deemed requisite to withdraw them from the chase and afford proper agricultural and mechanical education; and whereas the reservation now occupied by the Winnebago Indians, in the counties of Blue Earth and Waseca, embraces a territory now entirely surrounded by white settlements, and which reservation is near the center of one of the most densely populated districts of the State; and whereas the location of said reservation is such that it is impossible to prevent a constant trade being carried on between the white settlers and the Indians occupying said reserve, and through the influence constantly kept up between the whites and the Indians, the latter are constantly being supplied with spirituous liquors, the free use of which by the Indians often leads to the most unfortunate results, both as related to the whites and the Indians; and whereas the civilization of these Indians would doubtless be greatly advanced by removing them beyond the influence above alluded to, and by locating them on lands where each Indian can be possessed of a farm beyond the white settlements: Therefore,

Resolved by the Senate and House of Representatives of the State of Minnesota, That our Senators and Representatives in Congress be, and are hereby, requested to urge upon the Indian department at Washington such measures as may be necessary to open to settlement the surplus and unoccupied land now contained within the Sioux reservation; and such additional measures as may be deemed proper to heal the difficulties heretofore and still existing between the whites and Sioux bordering upon our State line, and to secure the peaceful occupancy of the lands upon our western frontiers. And also, to take such measures as may be necessary to procure a speedy removal of the said Winnebago Indians from their present location, to one beyond the white settlements, and that the reservation now occupied by the said Winnebago Indians may be opened to preemption and settlement in the same manner as other Government lands are now subject to settlement.

Approved, February 25, 1853.

In regard to the Sioux reservation, which is unnecessarily large, the request of the Legislature will, I trust, soon be complied with by the ratification of a treaty made last winter with that tribe; in which treaty, sir, this principle of allotting lands in severalty to such Indians as may desire it, is recognized. Another treaty now pending in the Senate contains the same provision, and as the propriety and economical necessity for this provision is recognized by the Indian bureau, I hope and trust it will also be recognized by this House, and made general and universal.

The Winnebago reservation was unwisely and improperly selected. Located in the heart of an agricultural country, unequalled in the world for fertility and beauty, surrounded on all sides by the homes of settlers, who make the virgin soil yield of its bounteous gifts to the wants of man, this reservation stands on the map as a blot upon its face. Farms and thriving villages are cursed by this unproducing spot; yet if civilization and agriculture could develop the hidden wealth of that reserve, the lowing herd and the golden fields of ripening grain would soon bear witness to its marvelous fertility.

But, sir, if the necessity and wants of the settler must be denied, (and upon this subject I fear that the Department having this matter in charge is inexorable,) let the wise and judicious system of granting land in severalty to the members of this tribe be adopted, so that the reserve may be

reduced. Thus, while the interest of the Indian is secured, and his prosperity and civilization promoted, a large proportion of the reserve may be given to settlement, adding alike to the wealth of the Indians and the State. Already says the agent, Mr. Mix—

"The Indians are beginning to feel the benefits of civilization and its necessity. They are all anxious to have property vested in their own right; many of them have suggested the propriety of having some of their land sold, and the remainder divided among them, giving a number of acres to each family, in accordance with the treaty of 1856."

The agent, in wise philanthropy, recommends this policy. The number of the Winnibagoes is not large, and they can be concentrated, if not removed; and I trust this may be done.

Sir, the efforts heretofore made to civilize the Indians by affording them religious instruction, and by sending teachers among them, has significantly failed. It was commencing their education at the wrong point. To give the untamed savage religious instruction, is about as useless as to attempt to teach algebra to the child who had not learned his letters. The very foundation of all civilization commences with the plow. In the same proportion that agriculture is promoted, wealth and the more refined sciences, together with a larger intelligence, are also promoted. It is the history of all nations; the nomadic tribes of every nation and country are in a state of semi-barbarism; and it is only when they have abandoned the chase and the forest, and settled down in the pursuits of agriculture, that stable progress commences.

If we continue the annuity system, game rapidly disappearing, we but encourage and promote those plundering excursions upon the frontier settlers, which have brought and will continue to bring on bloody and disastrous border warfare. We may sing peans in praise of the Indian character; we may commiserate and pity the poor Indian, but unless some new system is adopted, the work of extermination will go on until the aboriginal race is entirely extinct. If we would not exterminate our Indians, we must feed them; not by so feeding them as to afford them a life of lazy indolence, but by teaching them habits of agricultural life, by giving them stock and farming implements, to enable them to subsist themselves. Give them farmers and blacksmiths; teach them to sow and to reap; give them a farm and stock, and you have attained the desired result by enabling them to become self-supporting and independent. The annuity system is a positive injury; rather reward the successful tiller of the soil, and allow the money which is now given to the head men and chiefs, to be donated to these farmers of the tribe, in the order of their success. Punish idleness by want, and in less than three years you will find the tribes on each reservation concentrated, prosperous, and subsisting themselves, without Government aid.

Humanity and economy alike dictate this policy. The chase being insufficient to supply their wants, you have but the two alternatives left—to feed the Indians, or exterminate them by starvation or war. Against their extermination humanity protests. All that a wise forecast and justice require to be done, should be done to avert their destruction. The pernicious course of treatment now pursued by the Government, and the bloody horrors of the battle, equally tend to their destruction. It is best and wisest to feed them. A statement was made by the gentleman from Ohio, [Mr. GIDDINGS,] a few days ago, that the same money now required to sustain the army on the frontier, and keep the Indians in check, expended in feeding them, would preserve peace and quiet. Sir, so it would. Now, as between the alternatives of extermination and providing food for the Indians, I may be doing Congress great injustice, yet I must think they would prefer to feed them.

Resulting mainly from the adoption of this system, the Commissioner of Indian Affairs estimated the expense of the coming fiscal year at \$744,829 51 less than the present fiscal year. The two treaties made with the northern Indians during the past summer, embodying the idea of granting upon the reservation parcels of land in severalty to such heads of families as may desire it, should become the fixed policy of the Government when treaties are hereafter made. And, sir, we should go further; new treaties should be entered into with all the tribes with which the Gov-

ernment has now treaty stipulations, that this principle may be ingrafted thereon.

Mr. Chairman, this is no gratuity or bounty on the part of the Government. We absolutely owe this much to the Indian; we have purchased his land at the cost of about eight and a half cents per acre, and we can afford to carry out these dictates of humanity; we have derived a sufficient amount from the lands to justify it. It is but simple justice. The fate of the poor Indian, I must admit, does not fill me with those tender and sympathetic emotions which seem to dissolve some members on this floor. I regard the Indian, under his present treatment, as base, treacherous, and perfidious; living by plunder; indolent and debauched by dissipation; and the pest of the frontier. True, we have taken his land, or rather the land over which he roamed, but which he did not improve nor make to yield of its rich abundance to promote the happiness and the progress of mankind. It was our duty to do it. We wanted the land for the various uses which an all-wise Providence designed it. We wanted it to make free homes for a free people. It was not right that this fair continent should remain a wilderness. Its teeming soil should be made to produce of its abundance for the wants of man. Its rivers and its streams were not made to whisper their music to surrounding forests, but to be the busy scene of industry and life, and vocal with the music of the water-wheel. This land was made for the civilized man, and not for the untamed savage. For the advancement of the Indian, we should cherish a practical sympathy, and, like the genuine Yankee, have at the same time an eye to economy; and if we would protect him from extermination, and cheaply provide him with the means of subsistence, we must afford him the opportunity to subsist himself. The plan I have suggested will speedily secure this result. It is yet an experiment it is true; but, sir, it has been sufficiently tried to prove its efficacy. We must hasten to accomplish this work. The annuities are rapidly diminishing, and the sooner you allot each Indian a parcel of land in severalty, and assist him in making a home that shall be his own, the sooner you will solve the great problem of cheaply protecting your frontier and subsisting the Indian.

In fact, Mr. Chairman, my idea is that the entire policy of treating with the Indians is wrong in theory and worse in practice. We should adopt the policy of taking such land as our people want, and with fatherly tenderness and solicitude provide for its wandering denizens as humanity and justice would dictate. The Government is the proprietor of the soil, and should acknowledge no right of property in those wandering tribes who camp upon it without making it available to the wants of man. By the adoption of this principle the Indians would be the wards of the Government, and should be treated with parental kindness. No kindness will be so lastingly beneficial as to reduce them from a state of barbarism, and teach them the peaceful arts of agriculture, and thereby teaching them to support themselves.

In conclusion, I would say, that inasmuch as the bill to which I have alluded only partially meets the wants of the frontier settlers, I shall hope that an amendment will be offered, when it comes before the House, to carry out this policy.

It seems to me to be the part of wisdom to promote a knowledge of agriculture among the Indians. Once taught to cultivate the soil with fixed laws, and a sufficiency to live comfortably, and the foundation is laid, deep and firm, for a maturing civilization, with all the superadded blessings of Christianity and education.

I return my thanks to the gentleman from Iowa for the courtesy he has extended to me.

THE PUBLIC LANDS.

Mr. DAVIS, of Iowa. I have not intended to inflict upon the committee any lengthy observations at this time. I have had a desire to express my opinions respecting some matters which I deem of practical public interest, and my remarks will mainly be confined to the matter of the disposition of the public lands. I fully concur in the sentiment so well expressed this evening by the gentleman from Georgia [Mr. WRIGHT] in regard to that matter; in regard to the value of the people who settle upon the public domain; and in respect to the tendency of the policy of giving to each indi-

vidual a freehold—a place upon this broad earth which he may call his own, be it ever so small, which he regards so beneficial in its effects. At the last session of this Congress I had the honor to submit a memorial of the Legislature of the State of Iowa, asking that the sales of the public lands should be restricted to actual settlers, in limited quantities; and I feel it a duty incumbent upon me to say something, as I have the opportunity, in approbation and in support of the views of the Legislature of my State.

Our land system, as one which, originating without experience, as one that was entered upon without the benefit of that wisdom which arises from the ordinary course of events, was admirably calculated, and it has been the boast of our country, that the system by which we dispose of our public lands, is the best that history gives us any account of. It has secured to us safety of title, and it has secured to the Government a correct knowledge of its public lands, and its tendency has been to disseminate, among the people whose interest it was to occupy those lands, a knowledge of their adaptation for the purposes for which they were wanted. I would remark generally, that the land is desirable to the Government for no other purpose than as affording the means to its citizens of acquiring an estate in the land for actual settlement and cultivation.

I would make this further observation, that so far as regards a community itself, its interests are that its lands shall be under the apportionment and control of the Government until they are wanted for the purposes of actual occupation. Originally, it was not supposed that our public lands would be disposed of in small quantities directly by the Government to the actual settler. It was expected that individuals of wealth and influence would buy the public lands, and that their wealth and influence would induce their settlement and occupation. In the first instance, I believe, the public lands were not permitted to be offered in quantities even as small as a section. The anticipation was that they would be disposed of by townships; but as we profited by observation and experience, it soon became apparent that the public good would be best promoted by permitting individuals to take them in such quantities as they desired for actual settlement and cultivation. The sales were first made by sections, and then by quarter sections, and the Government continued to dispose of them in quantities of this latter size for a considerable length of time. The next step in the progress of division was into halves and quarter-quarter sections—tracts of forty acres each. If I am not mistaken, the Government did not dispose of any lands in less quantities than eighty-acre tracts for twenty or twenty-five years, when the final and least subdivision was made.

The policy of this mode of disposing of the public land has been approved by the country. It was found to work admirably, and enable a man of small means to acquire, by a small sum of money, as much land as would afford him a permanent and reliable homestead. We have seen great benefits arising from this policy. When the public lands were subdivided into quarter-quarter sections, it was hardly expected, judging from the condition of the country, the commercial wants, and the pursuits of the people, that there was any great danger of the public lands falling largely into the hands of speculators. The system worked extremely well, as it was based upon the sound ideas of surveying the public lands in such a way that the different subdivisions could be easily found and their boundaries distinctly ascertained, and of disposing of them in quantities such as would meet the wants of all the people.

But, like everything else human, like everything else which emanates from us, imperfect creatures, abuses have grown up, and results have arisen, which were not anticipated. So far from the land being open now to actual settlers, the whole tendency of things is to bring the speculator between the person desiring to become the actual settler, and compelling him to pay tribute to the former, without any merit whatever. This state of things, which permits any one to intervene between the Government and the settler, is most pernicious in its tendency and ought to be prevented.

The public lands of our country that are now offered for sale in the fertile regions of Wisconsin,

Iowa, Kansas, and Nebraska, are easily brought into cultivation. The trouble of improving them, and gathering a crop, is no more; though they lay upon the prairies wild, than it is to take a cultivated farm in the old States, and to reap a crop from it.

I know something about other portions of the country than the Far West. I know something of Ohio and New York, and the raising of a crop of wheat there. I know what it is to do the same thing upon the prairies of the West. And, sir, I can say that it is as easy to put in a crop of wheat in the unbroken prairie, as on the improved fields of those States. This shows the great facility with which the western land can be cultivated, improved, and settled up; and it accounts, too, for the rapid growth of that region in population and wealth. Whenever a tract of land is brought to market and sold, of course settlement ensues, and the value of the lands rapidly increases. Those, therefore, who purchase choice portions, make quite a speculation of them. To my own knowledge, in three or four land offices in the northern part of Iowa, when the land sales are approaching, the people collect in large numbers, beyond the accommodations which can be afforded by such new places. They collect there for the purpose of speculation, to purchase the public lands, and avail themselves of the subsequent rise of price. Contests took place at the last land sale at Osage, on the northern line of Iowa; the number of persons who collected there was so large that the settlers became alarmed, and took measures with a view to prevent the sales taking place. An angry contest arose, and at one time it was anticipated that bloodshed would result. An agreement was finally entered into, by which the settlers were permitted to enter their locations to the extent of half sections, or three hundred and twenty acres. When those locations were made, then the speculators rushed in, and took the balance, sweeping over, in some instances, entire townships.

This system of subjecting the land sales to the intervention of the settler and the speculator has become so great, that in some western land offices arrangements are made under which it is provided that, if a person goes out to select a quarter section and then to the land office to enter it, he is to be informed that the land is already entered, the person or persons in the town with whom the arrangement is made then paying the money for it. It is in this way that the lands of the Government are kept from the settlers for the purposes of speculation. It is unjust to the settlers, and injurious to the true interests alike of the Government and the new States and Territories. We ought to put a stop to it now. Every reason of common prudence demands this at our hands.

Of late years this speculating in the public lands has increased largely, and is still increasing. It has operated to the injury of the various branches of industry. Money invested in land that is not wanted for use and cultivation is so much dead capital, at least so far as the community is concerned; while, sir, the tendency, at the same time, is to withdraw it from the legitimate channel of trade which properly belongs to it, and in which it could be profitably employed. This is money invested for speculation; money invested where there is really nothing earned; and money withdrawn from legitimate business, thus invested, must, and does, necessarily create embarrassments to trade and commerce. It takes away the foundation upon which trade is carried on, and sinks it in this way, without use or profit, for the time being. I apprehend that the embarrassments we are now laboring under in the West, the heavy depreciation which we have suffered, all has been increased and aggravated by this very thing of wild speculation in lands. I have seen its baneful effects upon the industry of Iowa. I presume the gentleman from Minnesota [Mr. PHILLIPS] can testify to its effects in his own State, where intelligent men have been employed, in great numbers, to look out for good land for the purpose merely of making entry and getting in advance of the tide of emigration, and to get an enhanced price from the *bona fide* settler. This cannot be considered as anything else but deleterious in its effects. And, sir, under all the circumstances—if the positions I take be true, and I think they cannot be gainsayed—the best policy for this country is the disposition of the public lands to the actual settlers

alone. This is what the Legislature of Iowa asked from Congress; this is what they deemed right, in view of the best policy of the country; and I am glad to have an opportunity to express here my indorsement of their memorial.

Mr. VALLANDIGHAM. Will the gentleman let me ask him a question for information?

Mr. DAVIS, of Iowa. Certainly.

Mr. VALLANDIGHAM. I desire to know whether certain bills did not pass Congress some two years ago, granting to railroad companies in Iowa, for railroads passing through Iowa, a very large amount of land? I have heard it stated, though probably that is an exaggeration, that if those grants were all placed together, they would extend in width some sixty miles, all through that State. And I would ask the gentleman further, whether the land offices, or nearly all, were not closed up? I do not remember the facts, but I desire to know what they are?

Mr. DAVIS, of Iowa. I will endeavor to answer the gentleman, although I have not particularly data before me to enable me to speak accurately. It is perfectly apparent that by the entry of lands and settlement upon them, the adjoining lands are enhanced in value. One of the earliest land grants, I believe the earliest, was for the Illinois Central railroad.

Mr. VALLANDIGHAM. Yes, sir; that was in 1850.

Mr. DAVIS, of Iowa. That road runs from Cairo to near the Illinois river, and there it branches, one branch going to Chicago and the other to Durlith, upon the Mississippi river. Now, for more than two thirds of the way that road ran through the public lands. The price of that land had become much reduced under the operation of the graduation laws. It was less than fifty cents per acre. It was considered really worthless; as not desirable for settlement; unfit for occupancy; and it was neglected. When this grant was made and the company took hold of the road, the land immediately rose in price; and it has been selling at from five to fifteen dollars per acre. The company have had large quantities in market for sale; and the country is rapidly settling up all along the line of the road. I believe that the grant of lands for the construction of railroads, and thus to facilitate travel and transportation, settlement, and trade, is praiseworthy to the Government, and beneficent to the country. Its good policy is proved in the case I have referred to.

Mr. VALLANDIGHAM. Will the gentleman state how many million acres have been donated to railroad companies in Iowa?

Mr. DAVIS, of Iowa. I believe that some three or four million acres of land were granted to four railroad lines running across the State, from the Mississippi to the Missouri. I understand that there is also an application before the Committee on Public Lands, and that that committee are ready to report a bill granting a right of preemption to another railroad to run across the northern end of the State of Iowa, from the Mississippi to the Missouri.

Mr. VALLANDIGHAM. Has, or has not, the Legislature of Iowa memorialized for this grant of land to these railroads?

Mr. DAVIS, of Iowa. Yes sir, it has. The State of Iowa originally asked for land for the construction of four railroads.

Mr. PHELPS, of Minnesota. In order to avoid any misconception that might be put on the question of the gentleman from Ohio, I ask whether the Government does not receive \$2 50 an acre for the alternate sections of land not granted to the roads?

Mr. DAVIS, of Iowa. I understand that to be usually so. The alternate sections of public land are doubled in price; and the land which had lain perfectly idle, as in the case of the Illinois railroad, and had not been taken up at twelve and a half cents an acre, has become salable at that advanced price.

Mr. VALLANDIGHAM. I desire to ask the gentleman from Minnesota whether that did not raise the price far above that which has been fixed by Government to actual settlers?

Mr. DAVIS, of Iowa. That did raise the price. I may mention here that the people who have settled in the region of country through which the northern Iowa railroad is to run, threaten to desert their settlements unless they

have a fair prospect of getting the railroad. The country, for some seventy or eighty miles along the line of the proposed road, is settled. It is mainly destitute of timber. There is not a sufficiency of timber for the ordinary purposes of improving farms, erecting buildings, making fences, &c. There is some little timber interspersed here and there, but not enough to meet the demands of the country. It is finely watered. There is needed a railroad to transport timber for the Mississippi.

Mr. MAYNARD. I would like to ask the gentleman whether, as a matter of fact, the great body of the actual settlers of that region of country are not men of limited means, and poorly able to develop the resources of the country?

Mr. DAVIS, of Iowa. The settlers of all new countries are generally men of small means. Now and then a man of moderately good means goes in and settles on the public lands.

Mr. MAYNARD. I ask the gentleman whether it is not desirable, as a matter of public policy, and would not be promotive of the growth and prosperity of a country, that men who are not actual settlers should become owners of land, and hence interested in the development of the country?

Mr. DAVIS, of Iowa. The persons who purchase land for speculation seldom look to its improvement. They suppose that the land must rise in value, and they wait to avail themselves of the rise. They are not the men to go into a country and improve it. When men come into a region of country to settle, and find the land all taken up by speculators, the intending settlers, knowing that there is plenty of public land elsewhere, move on from that locality; and thus the progress of that portion of the country is retarded.

Mr. PHELPS, of Minnesota. Does not the entry of these lands by non-residents prevent the occupation and cultivation of the country, and operate to drive away settlement?

Mr. DAVIS, of Iowa. I have stated that that was the effect of having lands entered by non-residents. The man who comes to settle there with his family, finds all the eligible lands taken up. If there be a grove of timber in the neighborhood, the speculator secures it, and thus prevents the settlement of the lands in the vicinity.

Mr. MAYNARD. I desire to ask the gentleman from Iowa another question for information. I ask him whether the first settlers are the persons who usually form the permanent population, or whether, when they establish what they call occupant claims and improve them more or less, they do not sell out to permanent settlers and go on and make other occupant claims?

Mr. DAVIS, of Iowa. I will explain that matter. Sometimes a young man comes from New England with a couple of hundred dollars in his pocket; enters eighty acres of land and makes some improvements on it. He subsequently sells it for perhaps ten times more than he gave for it; and, wishing to increase the quantity of his land, he moves to another place. But I will say to the gentleman that there are some persons who are called land sharks with us, and who are not very respectable. They go and fasten on the public lands, and then sell out. These people are looked upon in somewhat the same light as those who trade in a certain species of property in the South.

Mr. MAYNARD. I suppose the gentleman means to say that they are not very reputable among the squatters.

Mr. DAVIS, of Iowa. It is not usual for men to sell their lands in this way. It sometimes happens that a man who settles on eighty acres, desires a larger farm, and sells it; although he looks finally to a permanent settlement.

Mr. MAYNARD. I ask the gentleman whether he means to say that the feeling which obtains towards these land speculators in his region of country, is that same sort of jealousy, that same sort of hatred, that same sort of spiteful feeling and animosity which is apt to be engendered in the breasts of all evil-minded people towards those who are more favored, more prosperous, and more successful in life than themselves?

Mr. DAVIS, of Iowa. I meant to excite no angry feeling whatever. I have understood that there was a trade carried on at the South, in their peculiar property; and that such traders are not looked upon as engaged in a reputable employment. Am I right in that impression?

Mr. MAYNARD. I presume the gentleman

has that impression, whether he is right or wrong. I will explain if he will give me the floor.

Mr. DAVIS, of Iowa. I meant nothing disrespectful towards those who hold this kind of property with a view of helping themselves.

Mr. MAYNARD. I understood the gentleman to say that those who held lands which they did not live upon were regarded in the same light as slaveholders. Possibly I misapprehended him.

Mr. DAVIS, of Iowa. I said that those individuals who squatted upon a piece of land, and made some slight improvements, with the mere view of getting a high price, were looked upon in the same light as those who trade in slaves. Those who make *bona fide* improvements are looked upon as good settlers.

Mr. FOSTER. I want to make an observation just here. I have heard it said that some person remarked to the Speaker that since the first month of the session the nigger had not been talked about in this House. The Speaker replied that it was very refreshing. [Laughter.]

Mr. DAVIS, of Iowa. I do not know that it is worth while to dwell any longer upon this memorial of the Legislature of Iowa.

In relation to the State of Illinois at large, and in relation to every individual who was connected with that work, the grant of land for the building of that railroad through the center of the State—the only means by which it could have been built—has been eminently beneficial. I believe the State of Illinois has been benefited immensely by that grant. Before she was in debt, and practically a repudiating State. As an effect of building that road, which could not have been done without the grant of this land, the lands through the central portions of the State have been largely occupied, and the State has received from the road seven per cent. of its gross earnings, which nearly pays the entire expense of the civil administration of the State. She now stands in the condition of a debt-paying State. The railroad system which has been pursued in that State has been of great benefit to her.

Now, in the State of Iowa, I apprehend, the system will work in the same way. The lands of that State along the Mississippi river were taken up, to some extent, but to a small extent only were they taken up in the interior of the State, through which this grant runs. The grant has been an inducement to settlement in the interior to an extent which would not have taken place in our day, but for the stimulus derived from these railroad grants.

In relation to this northern country for which we are asking a grant of land for a road, I am assured by those who know—and I know something about it from my own observation—that it will remain a waste wilderness until a railroad shall be run through it, by which the people may have access to the river, and an avenue opened through which they can send to markets abroad their surplus products.

These are the reasons why I have advocated this policy. As to those companies keeping the lands themselves, it is entirely out of the question. If they can sell their lands to those who want to actually settle them, and build the road from the proceeds, they will come out of their difficulties most happily. I have heard allusion made to the great profits made by this Illinois Central railroad. The conclusive answer which may be given to all that, is, that their stock is not, and has not been for several years, worth near par. It is now worth less than eighty cents on the dollar in the market. They have embarked in a great public enterprise, and the probability is that the stockholders of the road are to come out very small gainers; but to the State of Illinois, and to the community at large, it has been of immense benefit, affording means of intercourse with the various parts of the Union, increasing population and trade and the wealth of the whole country. That which was a wild waste, is now a beautiful and inhabited country. So it will be in the interior of Iowa through the influence of these grants for railroads; and so it will not be unless those roads are built. There is not a road now for which a grant of land has been made, the proprietors of which to-day could sell their improvements upon their road for the amount they have expended. The stock went below par. With a revival of business, and an increase of settlements through the country, and a development of its capability,

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we hope that this state of things will be changed, and that it will improve.

Mr. MAYNARD. Before the gentleman proceeds further, I wish he would explain the reason why it is that the stock of the Illinois Central railroad, and perhaps that of other roads, is so much below par. It certainly cannot be on account of the expense of constructing the road, because that has been paid for by these lands. Is it because of the bad management of the road? or is the business not sufficient to justify the building of such a road?

Mr. DAVIS, of Iowa. The gentleman is aware that a great increase of business would increase the value of their stock; but they have not as much business as they ought to have. I have heard of no bad management. One of our most energetic and skillful engineers superintended the building of that road, and the shrewdest men in the United States were the managers and directors of it; and with the exception of mistakes which are incident to every great undertaking, the road has been most economically managed; and still, I understand, the stock is not at par.

Mr. MAYNARD. Then it must be for the want of business.

Mr. DAVIS, of Iowa. To some extent it is. I had intended to say something in reference to the doctrine of squatter sovereignty; but I shall refrain from it for want of time. I will, however, make a few remarks, very general in their character, in regard to the present condition of our country, and I shall leave others to make the application of these remarks. It was said of the English Government, that to judge of the merits of the ministry we had only to look to the condition of the people. That is, that the ruin or prosperity of a State depended so much upon the administration of its affairs, that to be acquainted with the merits of a ministry it was necessary only to look at the condition of the people. If they were found obedient to the laws, prosperous in their industry, united at home, and respected abroad, we might reasonably conclude that their affairs were administered by men of experience, ability, and virtue. If, on the contrary, there is found a universal spirit of distrust and dissatisfaction, a rapid decay of trade, dissensions in all parts of the empire, loss of respect in the eyes of foreign nations, we may pronounce without hesitation that the Government of that country is weak, distracted, and corrupt.

Now, apply this criterion to our own Government; apply it to the administration of affairs here; apply it to the condition of our people, and to the sentiments they entertain towards the Government. Do we find kind sentiments generally prevailing? do we find general prosperity of industry? are we here at home united, and abroad are we respected? The country seems to be destitute of the elements of a good government which I have mentioned; and it is with no small degree of mortification that I have to acknowledge that such is the condition of the country. It would seem that it is imperiously our duty, and that it rests with great weight upon us, to endeavor to correct those evils. If we are to progress in the way we have been progressing; if these dissensions are to increase and become more intense, how long can we hold up ourselves as an example to the nations of the earth? How long can we recommend, by the influence they have had upon ourselves, our own form of government and our institutions? Will we not be in ourselves the strongest illustration of their total and utter failure? Would it not become us, as statesmen, to look to our internal policy, and endeavor to amend and correct those abuses which produce those disorders which are apparent to all the world, and to bring about a more wholesome state of things?

The gentleman who first opened the debate upon the President's message in the Committee of the Whole on the state of the Union, laid it down as a principle which affected progress, that weaker and disorganized nations must be absorbed by the stronger and organized nations; that nationalities

of inferior grades must surrender to those of superior organization and quality; and I understood him to advance this position with a view to urge upon us aggression, expansion, and absorption. The idea struck me forcibly that it would be well first to look to our own household and set it in order; to correct abuses and bring about a state of things in which our industry would be prosperous and successful, instead of being disastrous as it has been for a few years past; and to produce a state of prosperity which we would be proud to hold up as an example to other nations; and, in this view of ourselves, ask and invite them to come in and unite with us. It seems to me to be the part of wisdom and duty to endeavor to correct those evils and endeavor to introduce better order and discipline, greater respect for the law, greater unanimity among ourselves, before we endeavor to reach out and embrace further elements of discord and disunion.

I am under obligation to the members of the committee for their patient attention to my remarks; and I hope those remarks will have some influence in correcting the abuses and evils of which I have spoken.

Mr. STEWART, of Maryland, obtained the floor; but yielded it to

Mr. MAYNARD, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and Mr. VALLANDIGHAM having taken the chair as Speaker *pro tempore*, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the President's annual message, and certain resolutions proposing to refer the same, and had come to no resolution thereon.

And then, on motion of Mr. MAYNARD, (at thirteen minutes past ten o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, February 3, 1859.

Prayer by Rev. G. W. SAMSON.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled bill entitled "An act (H. R. No. 820) providing for the payment of the expenses of investigating committees of the House of Representatives," which had heretofore received the signature of the Speaker of the House of Representatives.

COURT OF CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate reports of the Court of Claims, made in pursuance of law, adverse to the claim of Samuel J. Hensley; the claim of Charles V. Stuart; the claim of Martin B. Lewis; the claim of George McDougall; the claim of Herman Hooker and others, heirs and representatives of James Hooker, deceased; the claim of Charles St. John Chubb, executor of Lewis Warrington, deceased; Philip F. Voorhies, John Percival, Herman Thorn, and Eliza Hamilton, administratrix of C. B. Hamilton, deceased; the claim of David G. Baruitz, administrator of David Grier; the claim of Samuel F. Holbrook; and the claim of Alexander Cross. Also, a report of the said court in favor of Thomas Fillebrown, accompanied by a bill for the relief of Thomas Fillebrown; which were referred to the Committee on Claims.

NEW YORK CANALS AND LAKE HARBORS.

Mr. SEWARD. Mr. President, the Senators from New York are charged by the authorities of that State to submit to Congress a communication of high importance, concerning the duties of New York and of the United States to each other, and to the whole country, on the subject of the internal navigation which constitutes the basis equally of our domestic and foreign commerce.

In the year 1811, only twenty-two years after

the reorganization of the American Union under the Federal Constitution, New York, by a delegation of two of her most honored and eminent statesmen, appeared here and addressed Congress on the same great subject, appealing to the national Legislature to construct, or to lend to that State her favor and aid in constructing an artificial channel through her borders, by which to connect the ocean navigation with the navigation of the great inland seas. It is not wonderful that the appeal was disregarded, since even Thomas Jefferson, who seemed almost inspired with prophetic forecast of the working of our great political system, pronounced the project premature, by a period of at least a hundred years.

Less, however, than half that probationary term has elapsed, and New York comes before Congress again, to tell them that, unaided and alone, she has executed the great enterprise; how she has performed it, what are its national benefits, and to invoke now only that small measure of acceptance and adoption of it which is necessary to a full and perfect national fruition of those benefits.

New York, beginning in 1817, just after the second war with Great Britain, completed, in 1825, a navigable channel, forty feet wide and four feet deep, from Albany, at the head of tide-water on the Hudson, to Oswego, on the shore of Lake Ontario, and to Buffalo, at the foot of Lake Erie. The scale adopted, not in conformity to the great design, but in compliance with the exigencies of her financial condition, proved quite inadequate; and she had scarcely put the narrow channel into use before she began its enlargement. Practically, that work is also completed; and steam vessels of two hundred and forty tons burden pass, without need of transhipment, regularly, from the Lower Mississippi and from Lake Superior to the city of New York, the central seat of American commerce, through the Erie canal, four hundred miles long, seven feet deep, and seventy feet wide, built by that State alone, from her own unaided resources, at a cost of \$40,000,000.

New York, by the memorial we now present, seeks to propitiate Congress by declaring, as, indeed, she may with the utmost truthfulness, that, although she is not really, in a fiscal view, a beneficiary of the Federal Union, she has generally yielded a liberal support to the policy of extending aid by this Government to the internal improvements of other States. She respectfully asks Congress to consider that her canal, although local, constitutes, in fact, only a link in a chain of inland national navigation, extended now sixteen hundred miles from the Atlantic coast into the depths of the continent; that it opens to the general commerce of the United States a new shore-line on the St. Lawrence and the lakes of more than six thousand miles, equal to our whole Atlantic water-line with all its indentations; that the lake navigation is in no sense local or sectional; that it has all been subjected by the Federal Government to the revenue and the admiralty system of the Union, and has always been in time of war the theater of most brilliant and effective naval triumphs in the establishment of our true political independence; that this internal navigation is the basis of the commercial aggrandizement of the city of New York, which has already poured into the national Treasury, within the twenty years since the Erie canal was brought into effective operation, the immense sum of \$50,000,000; and that, while that canal annually bears freights of the aggregate value of \$200,000,000, it is the basis of annual revenue to the United States of more than forty millions; that the region tributary to the Erie canal is continually enlarging, and it is already drawing freights of cotton from the lower Mississippi, while its head is augmented by every stroke of the ax in the northwestern provinces of British America. New York, in review of these facts, declares that her Erie canal is a work superior, in its national operation, to any artificial channel of navigation ever constructed in any country in ancient or modern times, save only the grand canal of China.

The object of the State in making this communication is to make it the foundation of an appeal to Congress, to provide for the security and efficiency of the harbors of the United States, at the two terminations of the Erie canal on Lake Ontario and Lake Erie, and of such other harbors as are necessarily used in connection with the inland system of navigation through the great lakes. Finally, New York enforces this claim, by the statement that the freights which she has transported on her great canal, to and from regions beyond her own borders, within the last twenty years, exceeded twelve hundred million dollars, and that, within the next twenty years it is morally certain that the freights to be carried through the same channel will exceed in value double that immense sum.

As this memorial is drawn up with such surpassing ability—and I think I may say of it that it has never been exceeded in merit or interest by any State paper which has been produced in the United States—I may be pardoned for calling to it special attention:

To the Senate and House of Representatives of the United States of America in Congress assembled:

The Canal Board of the State of New York, by this their memorial, respectfully represent:

That they are intrusted by the constitution and laws of the State of New York with the management and care of its canals, so far as to prescribe their plan and dimensions, to fix their rates of toll, and to exercise a general supervision over their means and sources of revenue. The canal commissioners of the State constitute a portion of the board, and superintend the construction and navigation of the canals.

Under the direction of the board, and that of the canal commissioners, the Erie canal, three hundred and fifty-two miles long, connecting the Atlantic ocean, through the Hudson river, with Lake Erie at Buffalo, and the Oswego canal, thirty-eight miles long, connecting the Erie canal at Syracuse with Lake Ontario at Oswego, have been enlarged through nearly all their length, from their original dimensions of forty feet wide and four feet deep, to seventy feet wide and seven feet deep. Both of the works are now on the eve of completion, and are expected to be finished within the coming year.

The Government of the United States, in the exercise of its constitutional power, and the discharge of its proper duty, in respect to the natural, navigable waters of the Union, have erected in the harbor of Buffalo, at the termination of the Erie canal, a pier extending several hundred feet into Lake Erie, and also a pier in the harbor of Oswego, at the termination of the Oswego canal, extending several hundred feet into Lake Ontario.

These works were commenced under appropriations by Congress in 1836 and 1837, and were continued, under further appropriations, until 1853.

The pier at Buffalo was erected as a site for a lighthouse, and for the protection, so far as it might suffice, of the national commerce at that port.

The latter object has been partially attained, but the erection of the pier unexpectedly gave a new direction to the waters of the lake, and caused them to wear away the land through which the Erie canal was excavated, and to threaten the destruction not only of the valuable slips and outlets connecting the canal with the lake, but of the main channel of the canal itself.

The subject having been presented by the canal commissioners to the canal board in the year 1847, it was resolved that a remedy was required without delay, and that the exigency of the case would not allow the canal authorities to await the action of the Government of the United States. A plan was accordingly adopted by the canal board, and carried into execution by the canal commissioners, under which a breakwater has been erected in the waters of the lake, and about one thousand feet from the shore, two thousand two hundred feet long, and twelve feet high, with forty-five feet base. The sand which had accumulated between the breakwater and the shore, has also been excavated and removed, thereby forming a basin or port of shelter for shipping entering the harbor.

The cost of the breakwater and basin, designated in the canal accounts under the general head of "The Erie basin," now amounts to \$179,473, and, including interest, to \$230,300. The particular details are accurately contained in the statement of the canal auditor, herewith furnished. A further expenditure of about thirty thousand dollars will be needed, fully to secure the breakwater from the storms of the lake.

The Governor of the State, in his annual message to the Legislature in 1851, brought the subject to their attention in the following terms:

"The canal authorities are now engaged in the construction of an expensive pier, at the harbor of Buffalo, for the safety and accommodation of the lake shipping entering at that port. The expense of the work is estimated at \$300,000. An account of this expenditure will be kept under the direction of the canal board, and at a proper juncture, the amount expended ought, and doubtless will, be refunded to the State by the General Government."

The amount expended by the United States in erecting their pier at Buffalo up to the present time, amounts to \$358,000, and in erecting the pier at Oswego, \$370,889. Both these works are now inadequate to their object, and need enlargement and repair; and the pier at Oswego has become so far dilapidated that it affords little, if any, shelter from the violence of the lake.

It is on this state of facts that the canal authorities of New York deem it proper respectfully to petition, that the moneys which have been advanced from the canal revenues of the State in maintaining and improving the harbor of Buffalo, and which ought properly to have been expended by

the United States for the protection of the national commerce, may be refunded, and that Congress will appropriate a sum sufficient for the purpose.

They also petition that the harbors of Buffalo and Oswego, the terminating points of the Erie and Oswego canals, may be adequately enlarged, improved, and protected by the United States.

H. R. SELDEN, Lieutenant Governor.
S. E. CHURCH, Comptroller.
GIDEON J. TUCKER, Secretary of State.
J. V. VANDEPOPEL, Treasurer.
LYMAN TREMAIN, Attorney General.
VAN R. RICHMOND, State Eng. and Surv.
SAMUEL B. RUGGLES, Canal Comm'r.
CHAS. H. SHERRILL, Canal Comm'r.

ALBANY, December 31, 1858.

The undersigned canal commissioners deem it their official duty, in addition to the preceding memorial, in which they have united as members of the Canal Board, respectfully to petition, that all the harbors on the chain of lakes, within the jurisdiction of the American Union, and serving as ports of shipment for property destined for the canals of the State of New York, may be fully improved and protected by the General Government.

In presenting this petition, your memorialists wholly disclaim any wish or intention to ask for the exercise by Congress of any power of doubtful constitutionality, or to reopen the discussion of any controverted question of national policy or duty. They ask only that the General Government of the Union, (which, for the sake of brevity, they will call the "national Government,") will exercise the national authority, which it clearly possesses over the national navigable waters, and that it shall discharge only the public duty which it is plainly bound to discharge, upon those principles of justice and equity which should ever subsist between the Government of the Union and the governments of the separate States.

It will be perceived by Congress, that your memorialists do not seek or invoke the aid of the national Government in constructing or aiding in the construction of a canal, or railway, or turnpike road, or any other work of improvement, exclusively upon the soil or territory of a State. They are well aware, that the extent of the national authority over works of this description has been the subject of grave controversy in our public councils; and that, after it had been liberally exercised, during several successive Administrations, in constructing the Cumberland road through six of the States of the Union, and other similar improvements of minor extent, it has been virtually abandoned.

Nor will it escape the attention of Congress, that while New York has never opposed, to any noticeable extent, the liberal exercise of this power within her sister States, her own public works have received literally nothing, either from the liberality or the justice of the General Government.

In the year 1811, the Legislature of the State, impressed not only with the magnitude, but national importance of the work then in contemplation for connecting the ocean with the lakes by a navigable canal, specially delegated two of her first canal commissioners, De Witt Clinton and Governor Morris, to apply to the administration of President Madison for aid, either in money or land. How coldly and discourteously that application was received, their official report on their return, sufficiently shows.

It is true that a committee of Congress, after much reluctance, reported a bill appropriating four million acres of land in the then far distant and almost unpeopled Territory of Indiana, but coupled with the condition that the proposed canal should be five feet deep and sixty-three feet wide, and (if practicable) along an inclined plane of six inches to the mile, from Lake Erie to the Hudson river, which would have rendered it necessary to construct several embankments of immense size, including one across the Cayuga marshes, one hundred and thirty feet high.

But even this scanty measure of assistance, burdened with a condition thus severe, was finally withheld by Congress, and the bill was left to perish in the House of Representatives. Abandoned by the General Government, New York was left alone to rely on her own unaided and limited resources. The magnitude of the effort required several years of delay, and she was compelled at last to build the work on a scale so small, and with dimensions so inadequate, that, before the lapse of a single generation, it has been thrown away to give place to the present enlarged and more efficient structure.

Its total cost, including the line to Oswego, and the old abandoned canal, will exceed forty million dollars, exclusive of interest. Coupled with the Hudson, of which it is virtually a prolongation, and the series of lakes forming the other and largest link of the chain, it opens an unbroken navigation, from the ocean into the continent, at least sixteen hundred miles long.

Of this vast work New York has thus accomplished her full portion, and she now feels entitled to ask whether the Government of the Union will not also do its part, by improving and protecting the harbors, on the long line of natural waters forming part of this great chain of national navigation?

The right and the duty of the Union thus to improve its navigable waters, your memorialists would respectfully place on the following grounds:

I. The waters of these inland seas are, in no respect, local waters, or subject to the sole authority of any or either of the States adjacent, but are emphatically national waters, not only in extent and importance, but in legal and political character.

They are no more local than the Atlantic or the Pacific is local, but constitute a broad, national, continental highway, for the common use not only of the whole American Union, but of the broad expanse of British America. It surely cannot be necessary, before a body so intelligent as the American Congress, to dilate on the geographical extent or topographical character of this great series of mediterranean waters. Can it be necessary to urge, that the navigable passage which they open, from the Gulf of St. Lawrence to the westernmost extremity of Lake Superior, bisects the eastern half of the North American continent, and that, too, through the broadest belt of its temperate zone? that it extends through more than thirty of the sixty-

two degrees of longitude between the Atlantic and Pacific? that it overspread the whole northern boundary of the American Union, at the adoption of the Constitution? that its shore line, six thousand two hundred and fifty miles in extent, is equal to our whole Atlantic water front, with all its indentations? that this vast chain of internal navigation, if spread out on the map of Europe, would stretch from the Atlantic to the Volga, and virtually concentrate in a single channel the commerce of the largest part of Christendom? that while it now politically divides, it yet commercially unites, in one homogeneous people, the two great offshoots of that vigorous race now rapidly and resistlessly pushing this New World? that its waters, now slumbering in peace and discharging only the grateful office of bearing the commingled commerce of Anglo-Saxon America to the ocean, have also borne in war the naval forces of the Republic, and enabled it to win its proudest naval triumphs? that the dock-yards of the smallest of this unrivaled series of inland waters have given birth to line-of-battle-ships not inferior, in size or strength, to the victors of Trafalgar and the Nile? Or, if we descend to a technical analysis of the legal character of this chain of seas, do we not find the admiralty jurisdiction of the Union penetrating every inlet and bay, from the outlet of Lake Ontario, at the Thousand Islands, to the furthest and innermost harbors of Fond du Lac and Chicago? Nay, more: do we not find the Government of the Union visibly and daily lining these very coasts with national officials, granting navigating licenses and collecting imposts in the name and for the benefit of the Union?

If these waters have been placed by fundamental compact beyond the separate authority of the States.

At the time of forming the present national Government, its founders had in view three great systems of navigable waters—the Atlantic, the Lakes, and the Mississippi, forming the sides of the great triangular area constituting the nucleus of our present continental Union.

The subsequent acquisitions and annexations of the vast domain between the Mississippi and the Pacific, enlarging our limits from ocean to ocean, and elevating the nation to the highest rank among the continental Powers of the globe, so far from diminishing, immeasurably increased its pre-existing obligations in regard to our interior waters. The gigantic works now projected for reaching the Pacific, will owe their chief value and power to the continental, inter-oceanic connection which they will effect with the chain of inland seas.

The transcendent importance of uniting the great basins of the Mississippi and the Lakes in one broad and uniform system, free from local impost or interference, and open alike forever to the citizens of all our States, present and future, occupied the anxious attention of our early statesmen.

Experience on the older continent had plainly shown the fatal effects of subjecting its channels of navigation to local authority. The numerous seas and rivers, which, under the Roman Empire, had been united under a common rule, and under its truly imperial policy, had been kept sacredly free from tax or impost, had fallen a prey, on its dismemberment, to innumerable petty States and local rulers, lay and ecclesiastic, each seizing its portion and clogging the movement of the whole European world. The barbarism which ensued from this disintegration of the Empire, was mitigated only by raising the robbery of the passing traveler or vessel to the dignity of a legalized toll or tribute.

The harbors on their seas experienced a fate but little better. Each was burdened and fettered by local imposts, many of which yet remain thickly sprinkled over the map of Europe, subjecting commerce to innumerable delays, impositions, and exactions. Some of their rivers even became the subject of political intrigue and diplomatic craft, far more insidious than open military warfare. The important river Scheldt, particularly valuable as a safe, commercial outlet to the ocean, flowing through the most populous portion of the continent, with the port of Antwerp at its mouth, was deliberately "occluded," or closed up, under a barbarous provision in the treaty of Westphalia, and, in the face of civilized Europe, was kept "occluded" for a century and a half.

It was under the admonition conveyed by such an example, and while the liberal statesmen of Europe were beginning to arouse public attention to the enormity of locking up a navigable river, that the old Confederation of our now United States of America was formed. The fact was equally interesting and instructive, that the closing of the Scheldt, and the vexatious impositions on other streams of the Old World, were particularly prominent among the considerations which led the Congress of the Confederation to establish that memorable compact, which has forever secured the lakes and the Mississippi from abuses like those which had afflicted and disgraced the waters of Europe. The ordinance bears date July 13, 1787, and in its own condensed, solemn, and prophetic words, proclaims to the whole American world, present and future, born and unborn, that "the navigable waters of the Mississippi and the St. Lawrence, and the carrying places between the same, shall be common property and forever free, as well to the inhabitants of the said country, as to the citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, duty, or impost therefor."

In these few words we find the Magna Charta of our internal navigation. The precursor of the Constitution, its basis was too broad to be displaced, even by that massive structure. A binding engagement of the Confederation, it was never suspended, modified, or surrendered; but was taken bodily into the very framework of the Union, which came into being subject to its immutable obligation.

III. New York, like her sister States, retains all the sovereignty she possessed at the formation of the Constitution, except that which she then surrendered to the Union, but in respect to the portion thus surrendered, the sovereignty of the Union is paramount and supreme.

Before the adoption of the Constitution, she possessed and exercised the sovereign power of regulating commerce on her waters, foreign and domestic, with the consequent right of levying imposts.

Her peculiar geographical position, imparted to this right an almost inestimable value. She commanded not only a safe, capacious, and ever accessible port on the ocean, but the navigable channel cut by the Hudson through that broad

chain of mountains, which in the other more southern States is inexorably interposed between the Atlantic and the lakes. In addition to this transcendent advantage, the peculiar topography of the lakes had placed their waters on a level, so high above the tide, that the depressed surface of New York, north of the Alleghany ridge, would permit them to flow into her territory and descend by gravitation to the ocean. Two of the lakes, the most southern of the group, were on her immediate border and subject to her sovereign authority. It was evident to all, that by the fortunate configuration of these lands and waters, New York alone held the key to the commerce and navigation of the interior; and never, in human history, was a case presented, appealing more powerfully to State cupidity or State ambition. But the patriots of that early day had higher and nobler aims. Holding in their grasp the ocean and the lakes, and well aware that a navigable canal of adequate capacity would unite them forever in a channel which must command, for centuries to come, the trade of the largest portion of the continent, requiring only an impost of the most moderate amount to enrich the State beyond all human example, her statesmen deliberately and cheerfully yielded up the whole to the good of the Union, and transferred to its Treasury the rich and ever-increasing stream of tribute, which she might have herself enjoyed.

The duties already levied at the port of New York since the adoption of the Constitution, and poured by her into the national coffers, amount to \$848,000,000, having attained the large sum of \$42,000,000 in a single year.

When it is considered what ceaseless and ever-swelling streams she is destined to add, during future generations, to this enormous tribute, while she herself remains stripped of every means of revenue except direct taxation and the fiscal receipts, if any, from her public works—fruits of her own unaided enterprise—who will say that she is not entitled to the justice, if not the liberality, of the Government of the Union?

IV. Nor was the surrender of the right to levy imposts the only concession made by New York in coming into the Union.

In addition to the pecuniary sacrifice, counted as we see by hundreds of millions, she parted with a far more precious possession—the sovereign right to regulate the commerce of the wide-spread navigable waters then within her grasp, and subject to her political power.

Already she has been taught, in two signal instances, by the supreme authority of the Union, how little, if any, of her preëxisting sovereignty over these waters now remains.

The patriotic and well-intended attempts of her Legislature to reward the genius and perseverance of Robert Fulton in introducing steam on her noble river, by granting him the exclusive right, for a short term of years, to use his invention on the very theater of his success, were rebuked and restrained by the Supreme Court of the United States, as repugnant to the Constitution, and inconsistent with the national supremacy over the national, navigable waters.

Nor has she been permitted even to regulate without interruption the transit by land over her territory, where it threatened to trench, to any material extent, on the national authority over the Hudson. Do we not all know that the erection of a bridge at Albany, one hundred and sixty miles above the ocean, although expressly authorized by her Legislature as necessary to the commerce and convenience of her citizens, and the due expedience of travel over her railways, has been summarily restrained by the judicial power of the United States? Need anything more be stated to show, how scanty must be the remnant of sovereignty yet retained by the State over the navigable waters within her limits, and how inevitable is the conclusion, that the Government of the United States has succeeded to the sovereign right which she has thus surrendered?

V. The exercise of this right in a just and liberal spirit by the Government of the Union, by adequately improving all its navigable waters, and especially by constructing and maintaining the works necessary to protect the commerce of the lakes, is the only adequate equivalent which can be rendered to New York for her sacrifices and concessions, but, if fairly exercised, will repay them fully and amply.

Placed as she is, at the outlet of the lakes, now rendered cheaply and speedily accessible from every part of the vast interior, by the immense net-work of railways spread over its surface—and probably destined to a yet more magnificent development by the projected lines to the Pacific—New York is directly benefited by every improvement which can be made in any portion of the Union, to expedite or cheapen the transit of persons or property. She will rejoice in any successful effort which may be made by the national Government to improve the condition even of the remotest portion of the Republic, however distant, desolate, or forbidding; but she must nevertheless be allowed to claim, that something is also due to its more central portion—that the populous region around the chain of lakes, as the abode of many millions of inhabitants, is at least equally entitled to the paternal care of the Union; and that the shipwrecks, and burnings and losses of property and life on those wide-spread waters, are calamities not less afflicting than the inroads of savage tribes on our distant frontiers. She cannot believe, that after the arduous efforts she has made by her costly and capacious canals, to improve the value of the western lakes, and the vast circumjacent national domain, she will be expected, at her own expense, to construct the works needed for the safety of her commerce, especially when it is shown that under existing compacts she can never levy duties to reimburse the cost. Still less will she believe that the Government of the Union would, in any event, permit her or any other separate State to fetter, by tax or impost, that magnificent series of waters which now stands before the civilized world altogether unparalleled in geographical extent, political unity, and commercial freedom.

VI. The canals of New York, though constructed and owned by a separate State, are national in capacity, and fully adequate to any necessity of the national commerce.

Constructed for the convenience not only of the State, but of the rapidly-increasing communities around the lakes, they will be able to carry to the ocean all that the interior can produce for at least a generation yet to come, if not a much longer period.

The natural and necessary distribution of the national in-

dustry, with agriculture in the interior and commerce and manufactures on the sea-board, will always cause the descending cargoes largely to exceed in weight the ascending, so that the capacity of the canal from the lakes to the ocean needs only to be ascertained in respect to the descending cargoes.

The locks, seventy-four in all, with six hundred and fifty-one feet lift, are eighteen feet by one hundred and ten, and might have been larger with the present channel. They will admit the passage of vessels carrying from two hundred and twenty to two hundred and forty tons, exclusive of their own weight.

Three hundred vessels daily (or one hundred and fifty each way) may easily pass the locks during the season of navigation, which affords at least two hundred days in the year free from obstruction.

At this rate, which is rather below than above the truth, six million tons of descending cargoes can pass in the year.

The time will doubtless come when even this large amount will be reached; but, in that event, the locks may readily be enlarged at a moderate cost, and without increasing the channel, and thereby swell the capacity of the work to at least ten millions of descending tons for the year.

The average value of the descending cargoes now carried is thirty-five dollars to the ton, which would show a value for the ten million tons, of \$350,000,000. Considering our past progress, it is therefore evidently possible that, in the efflux of time and the ever-increasing development of our interior agriculture, even this enormous weight may present itself to our successors for transportation on the canal. In that event, they can but turn, with pious gratitude, to the immense, God-given reservoir of Lake Erie, close at hand and ever ready to render up its waters in any volume which human necessity may require. The silver thread, now diverted by the canal, takes but one three-hundredth part of the great mediterranean stream, so abruptly changing its level at Niagara, rendering it quite improbable that any future diversion of its waters for the use of man, will very seriously or perceptibly impair the effect of its natural performances.

The total value of the cargoes on the Erie and Oswego canals, during the year 1856, was \$196,897,945, of which \$104,108,493 consisted of property coming from or carried to the States west of New York.

The yearly amount contributed to the canals by these States has been rapidly increasing, though with some fluctuations, during the last twenty years, having been but \$15,036,895 in 1838, and attaining \$136,598,384 in 1853. The total amount they thus furnished in the twenty years, commencing with 1838, has been \$1,212,988,370, a sum exceeding, by nearly five hundred million dollars, the whole assessed value, in 1850, of all the property, real and personal, of the six States north of the Ohio. We hardly need to speculate very deeply on the possible progress of this commerce in the future; but, taking into view its past growth, the rapid influx of immigrants into our spacious and fertile territory, and the irrepressible energies of our own vigorous population, we may reasonably predict that the amount for the next twenty years will surpass that of the twenty years just expired, in a steadily increasing ratio, so that it will rather exceed than fall short of \$2,500,000,000, if, indeed, it do not transcend even that immense amount.

Much will doubtless depend on the vigilance and energy of the officers charged with the care of the Erie canal, in keeping its navigation in perfect order; but with the increased expedition, power, and efficiency which steam must soon impart to the vessels on its ample volume, we may venture to predict that it will permanently maintain its position and ascendancy, as the vital, commercial artery of the continent. Its present performances, as a food-bearing channel to the sea-board, far outstrip those of the largest fleets, which carried the corn of Sicily and Egypt and Asia to imperial Rome in the zenith of its power. The weight of the commodities yearly floated on its surface, surpasses that which is borne by the Baltic, and is steadily approaching that of the Mediterranean.

Nor are its labors employed alone in the carrying of food. Immense masses of the products of the forests of Michigan and Canada are also borne on its waters; and what is well worthy the attention of the American Congress, cargoes of cotton are now making their appearance on the canal, coming from the lower Mississippi and passing downward through the lakes.

We may these facts, truly national in their character and significance, before the Legislature of the Union, and ask whether such a channel is not justly and fairly entitled, without further delay, to safe, capacious, and accessible harbors at the points where the duty of New York ceases, and that of the Union begins? If the time has not yet come, when will it arrive? When will the Union be more able to do the duty? When will it be more willing?

VII. In the same spirit of fidelity to the Union which New York has ever manifested, she has wholly abstained from taking or seeking any unfair advantage of her sister States, either by discriminating tolls or otherwise, on the vast masses of property belonging to them, and carried on her canals.

Nay more—she has reduced her tolls to a point so low that they do not pay the interest on the cost of her canals, and hardly the interest on the debt incurred in their construction. Nor is this all. She has not only incorporated and consolidated large and powerful railway companies, extending from the ocean to the lakes, and lying immediately adjacent to her canals; but she has gratuitously and freely permitted them to compete for the transportation of products and commodities of every description, whether belonging to herself or her sister States. In a word, New York throughout all her history, and amid all her efforts, which at times have been not a little arduous, has felt that the providential and predestined arrangement of the land and waters of the continent had pointed, as with the finger of Heaven, to her territory as the chosen seat and center of American commerce, imposing upon her public men the corresponding duty of recognizing her high destiny, and guiding their official action by no petty, mean, or narrow motive.

VIII. In conclusion, your memorialists earnestly contend, that if New York, either by the steady perseverance with which she has prosecuted her public works, or the

eminent success which has finally crowned her efforts, has in any degree attracted the attention or won the respect of the nations of the earth, she has but increased the moral strength and elevated the public character of the Union of which she is an ever loyal member.

It would be but a low view of her canals to measure them only by the pecuniary results. Doubtless it was well to construct a work multiplying ten-fold, by its magic touch, the preëxisting money value of the Hudson and the lakes; and it was also well to conquer space, and place an otherwise inaccessible interior empire by the side of the ocean, thereby adding countless millions to its commercial power, and consequent pecuniary wealth; but it was better far to rear a structure to stand for all coming time, a mark, a type, an ever-enduring record of the forecast and fortitude, power and wisdom, of the generation which called it into being.

The Erie canal forms part of the history, not only of the State, but of the American Union and American civilization. Whether considered merely as a mechanical structure and labor-saving engine of commerce, or in its higher and nobler functions as a political organ, binding together the mighty members of our continental Union, it may safely challenge comparison with any artificial channel of navigation on the face of the globe, certainly with any within the Christian world. It contains more water, and floats more vessels, than any canal in Europe. Of the five thousand five hundred and sixty-eight vessels entered on its register, one thousand one hundred and forty-six are larger than the ship in which Columbus discovered America. Europe may possess two or three, possibly four, short canals of greater depth; but they have little length, and no continental relations or importance.

The Caledonian canal, uniting a few small lakes, and cutting off a ragged little promontory, forming the northern end of Scotland, has hardly sufficient commerce or revenue to pay its yearly repairs.

The ship canal of Holland, at the Helder, is less than fifty miles long, and is only a local appendage to the port of Amsterdam.

We must seek for the compeers of the Erie canal where only they can exist, among the great continental canals of the world, connecting sea with sea, ocean with ocean, or great river systems with each other.

The canal of Languedoc, (now the *Océan du Midi*), offspring of Colbert's wise and vigorous statesmanship, and crowning glory of the reign of Louis XIV., unites the tributaries of the Atlantic and the Mediterranean, but is only one hundred and thirty miles long, and has but half the commerce or revenue of the Erie canal.

The canal of Ladoga, main trunk of the magnificent system of interior navigation provided for the Russian empire by the genius of Peter the Great, connecting the Baltic with the immense and fertile valley of the Volga—the Mississippi of eastern Europe—and bearing to its splendid capital the products of its vast continental possessions, although it approaches, does not surpass the Erie canal, either in volume, commerce, or revenue.

The noble river Rhine, the pride of the German world, flowing for more than five hundred miles through the dominions of seven sovereign Powers, zealously and sedulously maintaining and improving its navigation, affords a safe, navigable channel for the products of nearly twenty millions of people; but the weight and value of their cargoes fall short of those carried by the Erie canal nearly two thirds. In truth, to find a fitting parallel, we are driven to the furthest extremity of the eastern continent—even into China, just opening to American inspection. Six centuries ago, the grandson of the so-called barbarian, Genghis Khan, constructed or enlarged the Grand Imperial canal, sixteen hundred miles long, uniting the basins of two vast streams, the Blue and Yellow rivers, coming down to the ocean, like our own St. Lawrence and Missouri, from the inmost recesses of a continent. Who will venture to ascertain or describe the enormous effects of that majestic work, truly imperial as well in fact as in name, in developing and advancing the marvelous civilization of that thickly-teeming world? The portion of the empire denominated by geographers, the *Plain of China*, which most signally felt its influence, contains but two hundred and ten thousand square miles, little more than the area between the Ohio and the lakes, but nevertheless supports a population stated to be one hundred and seventy-seven million.

It might not become the public officers of a single State rashly to deal with figures and amounts like these; but they will venture to hope that statesmen are to be found in our national councils, able and willing to look with careful vision over the past, and clearly scan the future; to survey the comparative anatomy of nations; to predict the changes in the political equilibrium of continents; who will surely feel the importance of a fact like this, and extract in full measure its largest instruction. In truth, the Congress of the United States has already commenced the process. The abstract of the American census, prepared by their authority, boldly lifts the veil and discloses the stupendous fact, stranding out sharp and unmistakable, that the American Union, at the close of only thirty-one years, will number seventy-nine million, and at the end of only sixty-one years, one hundred and sixty-one million. Where, then, shall we find our own great, continental chain and channel of commerce? The earlier civilization of the Chinese Empire has given the Grand Imperial canal six hundred years the start; but is not the American now born who will live to see our great, interior, navigable waters, crowded by an immense population of unequaled activity and vigor, pressing hard, if not victorious in the race?

The authors of "The Federalist," in summing up the national possessions which the Union, as such, would distinctively enjoy, enumerate the ocean fisheries, the Mississippi, and the lakes.

These, say they, are "rights of the Union," as contradistinguished from the rights of any or either of the States. Can the spirit of that Union be so object as to grasp the right, and shrink from the appropriate and corresponding duty? Will not every member of the American Congress claim, on the contrary, the right to perform the duty as his highest privilege, his most enduring glory? The field of action now lies broad before him. He holds in his hands the Constitution of the United States, and the vast navigable waters of the United States, felicitously and harmoniously

united, and standing before the world in splendid and beneficent conjunction. By a blessed Providence, man has been permitted to join these immense instrumentalities together. Whether any human power shall be allowed to put them asunder, must now depend on the patriotism, the wisdom, and the firmness of the Senate and House of Representatives of the United States.

SAMUEL B. RUGGLES,
CHARLES H. SHERBILL,

Canal Commissioners of the State of New York.
ALBANY, December 31, 1858.

In view of the great importance of this subject, I move that the memorial and resolutions of the Legislature of the State of New York be laid on the table and printed; I also move that a thousand extra copies be printed.

The motion to lay on the table and print the resolutions of the Legislature of New York, accompanied by a memorial of the canal board and canal commissioners of the State of New York, to the Congress of the United States, asking for improvement of the lake harbors and the repayment of moneys advanced from the canal revenues of the State for the construction of the breakwater in the harbor of Buffalo, was agreed to. The motion to print extra copies was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. THOMPSON, of Kentucky, presented the petition of citizens of Mercer county, Kentucky, praying the establishment of a cavalry depot and school of instruction at the Western Military Asylum in that State; which was referred to the Committee on Military Affairs and the Militia.

Mr. BIGLER presented three petitions of citizens of Huntingdon and Fulton counties, Pennsylvania, praying the establishment of a tri-weekly mail, between Orbisonia and McConnellsburg; which were referred to the Committee on the Post Office and Post Roads.

He also presented the petition of Robert Orr and Chambers Orr, surviving children of Captain Robert Orr, in the expedition of General George Rogers, of Virginia, against the Indians, in the now State of Ohio, in 1781, praying for land promised by the laws of Virginia; which was referred to the Committee on Public Lands.

Mr. SLIDELL presented a petition of citizens of New York, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands; and that they be laid out in farms or lots for the free and exclusive use of actual settlers only; which was referred to the Committee on Public Lands.

Mr. IVERSON presented a petition of Commodore William Mervip, of the United States Navy, praying that he may be refunded the amount of a judgment recovered against him for the discharge of an official duty; which was referred to the Committee on the Judiciary.

Mr. JONES presented the petition of Harriet B. Macomb, widow of the late General Alexander Macomb, of the Army, for a pension; which was referred to the Committee on Pensions.

Mr. FESSENDEN presented the petition of William Allen, of Portland, Maine, for arrears of pension; which was referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. ALLEN, from the Committee on Naval Affairs, to whom was referred the memorial of Edward Brinley, an officer in the Navy, praying to be allowed the difference between the pay of a midshipman and that of a lieutenant, during the time he acted in the latter capacity, asked to be discharged from its further consideration.

The Senate proceeded to consider the report; and, in concurrence therewith,

Resolved, That the prayer of the petitioner be rejected, and that the committee be discharged from the further consideration of the subject.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Marshall Harvey, to be placed on the roll of invalid pensions, submitted an adverse report.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (C. C. No. 88) for the relief of John Peebles, with the opinion of the court thereon, reported it without amendment, with a recommendation that it do pass.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of Thomas Crown, praying to be allowed damages occa-

sioned by the abrogation of a contract, made by him with Captain Blaney, to furnish bricks for the fortifications at Oak Island, submitted a report, accompanied by a bill (S. No. 553) for the relief of Thomas Crown. The bill was read, and passed to a second reading; and the report was ordered to be printed.

DISTRICT BUSINESS.

Mr. BROWN, from the Committee on the District of Columbia, submitted the following resolution:

Resolved, That Saturday of this week be assigned for the consideration of business relating to the District of Columbia.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 551) legalizing certain entries of lands on Leavenworth Island, in the State of Missouri; which was read twice by its title, and referred, with the accompanying papers, to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 554) to authorize the Attorney General to represent the proceedings in equity now pending in the Supreme Court, between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 552) making a grant of land in alternate sections to the Territory of Nebraska for the construction of a railroad; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BRODERICK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 75) to enable the Secretary of the Treasury to carry into effect the provisions of the joint resolution of Congress, approved May 14, 1856, in regard to the statistics of the coast commerce between the Atlantic and Pacific ports of the United States; which was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of enabling the Secretary of the Treasury to carry into effect the provisions of the joint resolution of Congress, approved May 14, 1856, the provisions of section eleven of an act entitled "An act to provide for obtaining accurate statements of foreign commerce of the United States," be, and the same hereby are, extended to apply to the owners or masters of vessels engaged in the coastwise trade between the Atlantic and Pacific ports of the United States, and to the owners, shippers, and consignors, of goods and merchandise, by said vessels.

The joint resolution was read twice by its title, and referred to the Committee on Commerce.

INDIANA ELECTION CASE.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the memorial of the State of Indiana, by her Senators and Representatives in General Convention assembled, requesting that the Hon. Henry S. Lane and the Hon. William Monroe McCarty be admitted to seats in the Senate of the United States, as the only legally elected and constitutionally chosen Senators of that State; also, certified copies of the proceedings of the Senate and House of Representatives of the State of Indiana, of the 22d of December, 1853, relative to the election of United States Senators, submitted a report; and asked to be discharged from the further consideration of the memorial of the Legislature of Indiana.

Mr. COLLAMER. The minority of the Committee on the Judiciary desire to present their views. I suppose they will be printed.

Mr. BAYARD. I move to lay the report and the views of the minority on the table; and that they be printed. I will call them up on Monday morning.

The motion to print was agreed to.

Mr. SEWARD. I rise for the purpose of submitting a resolution in connection with the question of privilege relating to the seats of the Senators from Indiana:

Resolved, That Henry S. Lane and William M. McCarty have leave to occupy seats on the floor of the Senate pending the discussion of the report of the Committee on the Judiciary on the memorial of the Legislature of Indiana, declaring them her duly elected Senators, and that they have leave to speak to the merits of their rights to seats, and the report of the committee.

Mr. GREEN. I object to that resolution.

The PRESIDENT *pro tempore*. Objection being made, it will lie over, under the rule.

Mr. BAYARD. I move to lay the resolution on the table.

Mr. GREEN. I object to its consideration to-day.

The PRESIDENT *pro tempore*. It lies over, under the rule.

Mr. COLLAMER. I think Senators will hardly insist on the objection. We should act on the resolution, in order that these gentlemen may understand whether they are to be admitted or not, when it comes up on Monday. Let them understand it now.

Mr. SEWARD. I hope the resolution, which relates to a question of privilege, will be acted on.

Mr. GREEN. I object to its being acted on to-day.

The PRESIDENT *pro tempore*. Then it lies over, under the rule.

Mr. SEWARD. I give notice, that to-morrow I shall ask for the consideration of the resolution.

PACIFIC RAILROADS.

Mr. SIMMONS gave notice of his intention to ask leave to introduce a bill to authorize the President, by and with the advice and consent of the Senate, to appoint three engineers-in-chief, with assistants, to report locations of railroads to the Pacific Ocean and Puget Sound, upon three routes, with estimates of the cost of each.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (No. 263) granting the right of way over, and depot grounds on, the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes, with an amendment; in which the concurrence of the Senate was requested. Also, the bill (S. No. 389) providing for the allotment of lands to certain New York Indians, and for other purposes, with an amendment; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill entitled "An act (H. R. No. 830) for the punishment of the crime of forgery, or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts; and it was signed by the President *pro tempore*."

TEXAS JUDICIAL DISTRICT.

Mr. HOUSTON. In pursuance of notice, I ask leave to introduce a bill to repeal so much of the act of February 21, 1857, entitled "An act to divide the State of Texas into two judicial districts," as creates and establishes a district court of the United States in the eastern district of the State of Texas, and to incorporate the same with the western district of said State.

Before the motion is put, however, I desire to make some remarks explanatory of its object.

I might have claimed this as a privileged question; but not wishing to do so, I have determined to submit the remarks which I wish to make in relation to it on the presentation of this bill. I need not inform the honorable Senate, or you, Mr. President, that a subject of much excitement has occupied the attention of the Congress of the United States, in relation to the impeachment of one of the judicial officers of Texas.

From the reflections which have been cast upon the character of Texas, I feel called upon to vindicate her reputation, and to stand up in the maintenance of her rights, and, as I conceive, her good character. I find it has become historic in the proceedings of the other House, and before the committee of investigation, that reflections of the most unwarrantable character have been cast not only upon the general character of Texas, but upon her citizens at large. In the first place, I find in the answer of Judge Watrous before the committee, that he alleges these facts as the reason for the clamor which he contended was raised against him. He has the effrontery to affect a tone of injured innocence, and says:

"I should have much more respect for the manliness which should have disclosed the real cause of the assault. As to the 'divers citizens' whose rights had been improperly invaded, they must, of course, be the defendants in the only two suits which I had tried. Can it for a moment be sup-

posed that, in trying these two very ordinary suits, I could have been guilty of such enormous outrages as to call for or to justify this anomalous and this clandestine mode of procedure? The mystery is solved by the simple fact that the decision of one of the cases involved the construction of the statute of limitations, to which so many of the emigrants to Texas had looked as a sure and certain protection against those creditors whom they had left behind, and who were so unreasonable as to follow them into the country of their adoption, and commenced suits upon the liens which had been created upon the property to secure the payment of these debts. It was, indeed, a just subject of complaint that the statute of limitations was not declared to be a sponge to wipe out all the debts of the citizens of Texas. If I had put the construction on the statute required by the exigencies of the case and the popular cry; if I could have been driven from my position by any of the means resorted to; if I had consented to surrender my reason and my judgment, and to tamper with my conscience and my oath, these resolutions would never have been heard of; and I should have glided smoothly down the stream of popular favor, and have been enabled to taste the 'froth from every dip of the oar.'"

I find also in the Globe that a most zealous speech was made in advocacy of Judge Watrous by a gentleman from New Hampshire, [Mr. TAPPAN,] and that, in debating the subject of impeachment when the resolutions were under discussion in the House, he not only retracted a former judgment of Judge Watrous's guilt, but sought to protect him by indulging in aspersions upon the State and citizens of Texas, who were his accusers. This uncalled-for and wicked defamation, made before the country, calls for reply and for rebuke. The gentleman, with others who were interested with him in the defense of Judge Watrous, showed such utter disregard of the facts as to assert that the resolutions of the State urging the resignation of the judge, "grew out of the fact of a decision made by him, which touched the pockets of a good many citizens of Texas."

I request the close attention of honorable Senators to a history which it is now time to divulge, of one of the most extraordinary and monstrous conspiracies ever formed by the ingenuity of man, and under the incitements of plunder. I design to make a full and authentic *exposé*, which circumstances now call for, of a conspiracy against the public domain of Texas, of the most enormous designs, conceived in the most grasping and comprehensive spirit of fraud, armed with the most extraordinary resources, enlisting talents and power, and all the ingenuities of intellect in its execution; involved in its progressive steps, in a secrecy that would adorn a romance, and extending, in its ramifications, through different parts of the Union—I know not where.

The history I propose to recite, with strict adherence to the evidence in my possession, a part of which has been slumbering until this time, not designing to indulge in any assertions, or in any criminations not fully warranted by the text of the testimony.

In the first place, it is necessary to explain the condition of the public domain of Texas, at the period when the history of the appalling conspiracy referred to commenced. In the year 1837, by a general law of Texas, large donations of land were made to those who had arrived, and settled in the country previous to 1836, the date of her declaration of independence; to married men one league of land, and to those who were unmarried, one third of a league.

Under this law boards of land commissioners were appointed, whose duty it was to investigate all claims on the Government for head-rights to lands, and to grant certificates to such persons as furnished the requisite proofs of their being entitled to the same. Many of these boards betrayed their trust, and perpetrated frauds of the most alarming magnitude, assigning large numbers of certificates to fictitious persons. These frauds came to be of the most open and notorious character; so much so, that cases could be instanced where, to counties not numbering more than one hundred voters, nine hundred certificates were issued by the fraudulent action of these boards. The amount of these false certificates reached at last to such an overwhelming number, that on the 5th day of February, 1840, a law was enacted, visiting the most severe penalties on the crime of making, or issuing, or being concerned in the making or issuing any such fraudulent or forged certificates; and providing that those who issued, or dealt in, or purchased or located, or who were concerned in the issuing, or dealing in, or purchasing or locating these fraudulent land certificates, should be punished by thirty-nine lashes on the bare back, and by imprisonment from three to twelve months

in the discretion of the judge. A law was passed about the same time, forbidding the survey of any land claimed under these certificates, until certified to be correct by other boards of commissioners, appointed to examine into and detect the frauds by which the bounty of the Republic had been abused, and an attempt made to despoil it of its domain.

Senators will be enabled, by the light of the legislation to which I have referred, to comprehend, on unimpeachable authority, the distressed and terrible condition of affairs in Texas, about the year 1840, with reference to her public lands. It is not necessary to accept the truth of the statement of the enormous and frightful frauds, which threatened to devastate the Republic, robbing it of millions of acres of its public domain, on the faith of the popular clamor, or even on that of the general history of the time; for we have here the special and severe legislation of the State, attesting the justice of the public alarm, and defending her interests against the advances of the stupendous fraud that threatened to ingulf the fortunes of herself and of her people. To this we may even add the high testimony of the Supreme Court of the United States, which at a subsequent date we find confirming the just causes of terror that had so agitated the Republic of Texas on the subject of these certificates, in the following terms:

"Immense numbers of these certificates were put in circulation, either forged or fraudulently obtained, which, if confirmed by surveys and patents, would soon have absorbed all the vacant lands of the Republic."

To those who were adventurous in crime and daring in its exploits, a rich and tempting field was opened in the wide extent of these fraudulent land certificates. Detection was dangerous; but the prize was great in proportion to the danger. It was natural to suppose, too, that detection might be baffled by the resources of a company extending to distant points, and enlisting in its enterprise of fraud men of capital, of position, and of comprehensive ingenuity; and men who, as long as they escaped the thirty-nine lashes, would not care for public reproaches; and, as long as they saved their backs from public stripes, would laugh to scorn that lash which public indignation may put "into the hand of every honest man, to whip the rascals naked through the world."

John C. Watrous was appointed Federal judge in Texas on the 29th of May, 1846, soon after the admission of the State into the American Union. Some time previous to January, 1847, we find a land company organized in the city of New York, the main object of which was to speculate in the fraudulent Texas land certificates, and to endeavor to have them validated through the machinery of the courts. This company was composed of Messrs. J. N. Reynolds, J. S. Lake, Judge Watrous, O. Klemm, McMillen, Williams, &c. The only citizen of Texas who appears to be in the company is John C. Watrous, United States district judge, with circuit court powers.

The object of introducing Judge Watrous into this banded association, is not left to mere conjecture. I will presently show what facilities it was designed to give to the removal of suits from Texas and Texas juries, and it may be well understood how the high position of Judge Watrous might be lent to the advancement, in various respects, of the interests of the company, and how his court might be prostituted, if he, a willing tool for gain, submitted to the vile offices of fraud.

To accomplish these purposes, there were also imported into Texas, about the date of the formation of the company referred to, two attorneys in their service—Ovid F. Johnson, of Pennsylvania, and William G. Hale, of New Hampshire.

Thus we find the conspiracy armed for the prosecution of its designs, having an active promoter in a judicial officer high in position, and having for its confederate parties whose names and positions have not yet been fully disclosed.

It appears that nearly the entire interest was represented in the city of New York, the commercial metropolis of the country, famous, indeed, more for its enterprises of good than for those magnificent adventures of fraud that form startling episodes in the history of a great commercial city.

In a letter which I will here submit, there are

some names given of members of the conspiracy, including that of Judge Watrous:

NEW YORK, November 14, 1847.

DEAR SIR: This will introduce to you my friend, O. F. Johnson, Esq., on his way to Texas, where, for the future, he intends to reside. Mr. J. was here, and being one of us, was present in several conferences with Messrs. Lake, Judge Watrous, Klemm, McMillen, Williams, &c., in reference to our Texas enterprise. He can tell you all, and more than all of us could by letter. I expect to see you before the 10th December.

Yours truly,
Messrs. MARTIN & Co., New Orleans, Louisiana.

J. N. REYNOLDS.

It will be noticed that to the list of names in the letter there is the significant affix of *et cetera*.

It appears from the correspondence of the association, passages from which I shall presently submit, that this general term even included Phalen, which was not divulged in the list referred to, although he was president of the association! Who else is included in the term, *et cetera*? They may be upon the bench; they may be in the Halls of Congress; they may be in positions of seeming respectability; they may be any and everywhere. The country is left to imagine the extent of the conspiracy, with enough known to stimulate the desire to know more.

The plot is concerted in the city of New York, the great city for the speculative and dramatic enterprises of trade. The curtain rises there, and we find the *dramatis persone*, as far as revealed in the bills, in Judge Watrous, Reynolds, Lake, Klemm, Williams, and McMillen. It will be instructive of the plot to pass in review the public characters of some of the actors.

J. N. Reynolds, a New York politician, who appears to be an active manager of the affairs of the company, is the individual of that name who was charged with receiving from Lawrence, Stone, & Co., a compensation of \$1,500 for lobbying a tariff scheme in Congress.

Joseph L. Williams is an ex-member of Congress from Tennessee; was a witness in behalf of Judge Watrous, in the investigation made in 1852, into the judge's official conduct as to the very frauds in which it now appears he was a confederate; and has resided during the past and present sessions of Congress in this city, where he has been actively defending Judge Watrous.

Of Messrs. Lake and Klemm, and of their mode of transacting business, we find some curious accounts in one of the numbers of DeBow's Review, in the year 1848. (See October and November numbers, pp. 262, 263, treating of the connection of these gentlemen with the bubble banking system.)

The article tells us that—

"Mr. J. S. Lake was formerly canal commissioner, and became the largest stockholder in the Bank of Wooster, [Ohio,] an institution never in good repute, and which was on the point of failing three years ago, together with the Norwalk and Sandusky banks, in connection with the exploded bubble, called the Bank of St. Clair, Michigan. The capital of the Wooster Bank was \$249,450; of that there stood in Mr. Lake's name \$171,900. Mr. Lake then moved to New York, and commenced business as a broker, under the firm of J. S. Lake & Co., in Wall-street. The Co. was his son-in-law, O. Klemm, who was doing business in Cleveland, under the firm of O. Klemm & Co., the Co. being J. S. Lake, in New York. Klemm was also cashier of the bank. These gentlemen performed all the business of the bank; that is to say, Mr. Klemm purchased with its means eastern drafts, and sent them to Lake for collection; Lake making his returns occasionally, the other directors knowing but little of the transactions. With the large amount of the means derived from the Wooster Bank, Lake & Co. speculated in produce, on which they acknowledge a loss of \$150,000, and they started three other Ohio banks, besides buying the Mineral Bank of Maryland and a bank in Texas."

"Here, then, Lake & Co. had borrowed of the public on small notes through four banking machines, one laying the foundation of the other, \$336,338."

Mr. Lake's banking operations were extended to Texas, under circumstances which make it evident that they were particularly designed to further the gigantic land conspiracy conducted there by Judge Watrous, and to furnish additional resources of power in the execution of their plans. We find this confederate of Judge Watrous securing the only bank charter in Texas. The mother bank was established at Galveston, Judge Watrous's home; and its president was Samuel M. Williams, whose name has been prominently brought forward in the late investigation into Judge Watrous's conduct in connection with the La Vega eleven-league grant; also with the grant in the Ufford and Dykes suit; and with the forged power of attorney introduced into both these suits.

Further: we find that, simultaneous with the institution of the Cavazos suit, (which involved an

immense amount of property—an embryo city, a port of entry, numerous villages, and valuable Government improvements—and in which Judge Watrous's conduct was charged to have been fraudulent and corrupt,) a branch bank is established at Brownsville, which is included in the Cavazos grant. Of this branch bank, Reynolds, one of the land company, and its active agent, is appointed manager, or president. He appears to have entered into these banking operations with great spirit, judging from his letters in relation to the affairs of the land company, in which he speaks of importing "trunks full" of notes, and adverts to the lands on the Rio Grande, where his bank was located, as "an empire worth fighting for." I will read extracts from these letters, as they throw light on the general subject, which may be instructive:

NEW YORK, November 14, 1847.

DEAR SIR: * * * The first plate is done, and the second is under full way. We had a very pleasant time when Klemm and McMillan were here. Mr. Williams, with whom you have become acquainted, was here, and we had a supper at Delmonico's. Johnson was with us, also Lake and Judge Watrous. Mr. Lake is hurrying like Jehu, and says we must be off, so that you, Mr. and I shall leave New Orleans by the 10th. I am not with a trunk full to leave, but suppose I shall be tumbled off with a trunk full. Yours truly, J. N. REYNOLDS.

To

NEW YORK, May 6, 1847.

MY DEAR SIR: I shall endeavor to leave here for Philadelphia on Monday next. I am extremely anxious to see you; and Mr. Phalen, the president of our association, has business in Baltimore—he will leave on Saturday—so that on his return through your city we may all have an interview together.

I send you a map of our survey on the Rio Grande—an empire worth fighting for. * * * J. N. REYNOLDS.

To O. F. JOHNSON, Esq.

It may be easily understood what service these bubble banks might perform, or might be expected to perform, in furnishing resources of power to the land company, and particularly in a small community like that of Brownsville. No exertion of power, or resort of ingenuity seems to have been left untried by the conspirators to compass their infamous ends.

A United States judge was secured as a confederate; attorneys were imported into the country to give vigor to the speculation; and banks were established to subserve the ends of the conspiracy. All the transactions of different members of the company seem to have been "part of one stupendous whole," banded in one common design of plunder; a rivalry seemed to exist as to who should grasp the larger fortune in the land controversies of Texas.

To convey some idea of the fearful magnitude of the operations of this land company, I may state that it appears from the action of the Senate of Texas on the subject, that they extended to twenty-four million seven hundred and thirty-one thousand seven hundred and sixty-four acres of land, besides being implicated in the proceeds of other interests of immense value, I shall presently allude to.

To give some idea of the confidence which appears to have animated this vast conspiracy, I may here introduce a letter in which Reynolds, one of the principal financial conductors, proposes to another member of the conspiracy, to have still another judicial district created "in the glorious country their locations covered," and to secure the appointment of judge there. It seems that these parties were not satisfied with having enlisted the services of one Federal judge to promote the ends of their conspiracy; they were anxious to perfect their organization by securing the appointment of still another judge in their interest, to share the labors of his honor John Charles Watrous. I will read the brief but interesting disclosures made in the letter I have alluded to. Here it is:

BRANCH OF THE COMMERCIAL AND AGRICULTURAL BANK OF TEXAS, AT BROWNSVILLE, December 11, 1850.

MY DEAR JOHNSON: * * * You have seen the report recently published in the "Republic" of the glorious country our locations cover. I think you can gain it; and then get a law passed for a new United States district, and take the appointment. I would go on at the heel of the session, and log roll for you if necessary. Yours truly, J. N. REYNOLDS.

The members of the company seem to have a great aptitude for "log rolling," and the disreputable appliances of the lobby. They must have considered themselves very potential in this re-

spect, to judge from the frequent propositions of the kind. They had supreme confidence in themselves; and their continued successes seem to have inspired the belief, that there was naught too difficult or too high for spirits like theirs to dare.

As a further instance of the determined courage of these honest gentlemen and their resolves to do or die, I am tempted here to give one other extract of a letter from Reynolds to Johnson, written at New York. It suggests, too, the desperate character of the enterprise for which the writer required men of "nerve" to adventure in the boat now floating down the stream of success, but which might at any time be dashed upon the rocks. He writes as follows:

NEW YORK, May 4, 1847.

MY DEAR SIR: * * * We play for empire, and will see it to the end. If you find any of your moneyed friends who have the nerve to go into this boat with us, at this stage of our voyage, I will give them an interest on the most favorable terms. As to the value of the lands there can be no doubt. Does the Judge talk of coming North? Yours truly, J. N. REYNOLDS.

O. F. JOHNSON, Esq.

From the point to which I have now reached, in the narration of facts as to the organization, the object, and the means of this company, the history becomes more interesting, inasmuch as it directly involves the acts of Judge Watrous, and exposes, over their own signature, in letters, the shameless schemes of the members of the company, to corrupt the courts of the United States.

The first movement of the parties in the court seems to have been the institution of a made-up suit, to test the question how far the fraudulent land certificates might be validated on the action of the courts. The suit was brought in Judge Watrous's court, by Phalen, a citizen of New York, against Herman, a citizen of Texas, on a promissory note for \$3,000, dated 5th July, 1846, at ninety days.

The inspection of the correspondence of the land company, betrays the fact that this man Phalen was the president of that company, and a confederate of Judge Watrous.

The defense was, that the note was given for a fraudulent, and therefore worthless, land certificate.

The petition in the suit was filed on the 21st of January, 1847.

The answer was filed on the 22d of the same month.

The transfer to New Orleans, on application of the plaintiff, was made on the next day after, the 23d. Thus, in less than seventy-two hours from the institution of the suit, it was transferred to New Orleans, on application of the plaintiff. All this was done out of term time.

The transcript was filed there (New Orleans) on the 11th of February. The trial was commenced on the 16th of that month; and the case was finally submitted, for decision, on the 23d of March.

Thus we see, that in sixty-odd days from the filing of the petition, the case was put at issue, transferred, tried, and submitted. It appears that in the pleadings at New Orleans, it was admitted by the plaintiff that the certificate which he (Phalen) had sold to Herman for \$3,000, was a fraudulent one, issued to a fictitious person.

It appears, moreover, that Judge Watrous had informed one of his confederates in the land association (Reynolds) of the transfer of the suit referred to, actually before it had been commenced in his court! In a letter from Reynolds to Johnson, dated the 10th of February, 1847, he says:

"Judge Watrous informs me, by letter of 19th ultimo, that you were to leave the next day, from Galveston, for New Orleans, in charge of our land case, with the view of bringing it before the circuit court of that district."

This information was given on the 19th of January; the suit was not even instituted until the 21st of that month.

I will now read some of the correspondence in my possession, that passed between members of the land company touching the conduct of this suit:

NEW YORK, February 10, 1847.

DEAR SIR: Judge Watrous informs me, by letter of the 19th ultimo, that you were to leave the next day, from Galveston for New Orleans, in charge of our land case, with the view of bringing it before the circuit court of that district. And I hear, from Major Holman, that you were daily expected in Philadelphia. I write, therefore, at present, merely to say, that if you are in New Orleans, that I have

caused Mr. Grimes to be written to by one of our associates, and that he will join you in the cause. I am very anxious to have your views briefly on the prospect; and if you will keep me advised of its progress, it will lay me under an obligation I shall take pleasure in requiring. "In my judgment, the least possible notoriety should attend the case in New Orleans, no matter what the result may be. Nor do I think it was the best policy to have pressed the courts of Texas. They may be easily made to follow the law, while they have not the nerve to pronounce it."

You will please call on Mr. Grimes. Let me hear from you.

Yours truly,
OVID F. JOHNSON, Esq.

J. N. REYNOLDS.

NEW YORK, May 22, 1847.

MY DEAR SIR: Can you not contrive, through Jennings, of New Orleans, to get at the judge's opinion. His mind must ere this have been made up. Tell Jennings to get it out of the clerk of the district or of the circuit court. Tell him that you must have it for me in advance of the mail. Do your best to have the decision go off quietly in New Orleans. As Jennings is now interested, tell him he must work to our hands. All this you can do from your acquaintance with him. You may promise him your influence as to the future, and it will not be less potential than the Duke. I would give anything to know at this moment, as I could so much better shape my action with Mr. M. Indeed, if we get a favorable opinion, and have the news in advance, I shall go by lightning to Texas.

J. N. REYNOLDS.

OVID F. JOHNSON, Esq.

The declarations of these letters perhaps surpass anything ever seen in a correspondence of this nature, in shameless effrontery, and the betrayal of corrupt intentions. It is openly advised that "the best should be done to have the decision go off quietly in New Orleans;" that "the least possible notoriety should attend the case." It is recommended that dishonorable influences should be used with the officers of the court there; and it is admitted that they had been made interested in the case. Not satisfied with the part he had already taken in the making up and direction of this suit, but rivaling his confederates in the steps taken towards influencing officers of the court, we find Judge Watrous leaving his court at Galveston to attend the court at New Orleans during the progress of the suit; thus giving an influence to his views and interests by his presence and countenance.

On the 30th of June, 1847, a decision was given in the case of Phalen vs. Herman, in the court of New Orleans, in favor of the plaintiff, declaring the fraudulent certificate sued on to be valid, and giving judgment for \$3,000. Here the curtain drops in New Orleans; but without a day's intermission rises again in continuation of the plot in Texas.

With reference to this Phalen suit, we find the following judgment expressed in a series of resolutions passed in August, 1856, by the Senate of Texas, but at too late a day in the session to obtain the action of the other legislative House:

"Said judge [Watrous] is guilty of obtaining and attempting, by contriving and carrying on a made-up suit in his own court, to validate in the same over twelve hundred fraudulent land certificates, claimed by himself and his 'complices,' and of a class—in all the enormous amount of twenty-four million three hundred and thirty-one thousand seven hundred and sixty-four acres—of fraudulent certificates, thereby attempting to deprive his country of a vast domain, besides causing the State the cost of additional counsel in defending herself against such enormous preconcerted spoliations; and, on discovery of his interest in said class of certificates being made, said judge transferred said suit for determination to the United States court in another State, after shaping the case and influencing that court in such a manner as to obtain his desired judgment."

It will be observed from what I have stated of the sudden translation of the conspiracy from New Orleans to Texas, that there is no pause in the progress of the drama; the scenes are shifted with almost incredible swiftness; and when the interest might seem to flag, we find a new character introduced into the drama to challenge our admiration of the versatility and resources of the plotters.

Thus we find, on the very day of the rendering judgment in the Phalen suit at New Orleans, Thomas M. League, a new character in the play, but sufficiently well known as a partner of Judge Watrous in his land speculations, and an ally in all his enterprises, intervenes and institutes a suit in the State court of Texas, as the transferee of the identical fraudulent certificate that had been declared valid in the United States district court at New Orleans. This Mr. League will be found to be a conspicuous party throughout the whole system of fraud dealt out through Judge Watrous's court. In a resolution adopted by the Senate of Texas in 1856, just referred to, his con-

nection with the judge is pointedly alluded to; and it is stated:

"That it is believed by many good citizens that said Watrous, in connection with Thomas M. League and other compomers, are directly or indirectly interested in most of the important suits brought in his court."

It will be well to keep an eye on this Mr. League, and to note his association with the enterprise of the fraudulent certificates, for there will hereafter be shown his connection with other and later schemes of judicial fraud carried out through the machinery of Judge Watrous's court.

It would appear, from the evidence taken before the committee of the House, in the investigation into Judge Watrous's conduct, an attempt is made to have it appear that League's connection with him dated from the inception of the Lapsley frauds, in 1850; but here we have the fact to note of his previous connection with the judge's land speculations; and find him in 1847 at the head and front of the nefarious land certificate conspiracy. His connection with Watrous was a general one, and contracted with a common design, whenever and wherever opportunity offered.

The object of this suit, instituted by League, was to compel the surveyor to survey the land called for in the certificate. Thus we have the case brought into the State court, backed by the authority of a precedent decision declaring this fraudulent certificate valid. The manner of thus bringing it may be explained by that passage in the letter of Reynolds in which he says:

"Nor do I think it was the best policy to have pressed the courts of Texas. They may be easily made to follow the law; while they have not the nerve to pronounce it."

The case was decided in Galveston, the court sustaining the surveyor in his refusal to survey under such certificate; whereupon an appeal was taken to the supreme court of the State, at Austin.

Now to exhibit more fully the connection of Judge Watrous with these suits, and with the general affairs of the land company, I will here read a letter which appears to have been addressed by William G. Hale, on the subject of this case, on the 14th of March, 1847, to Judge Watrous, who was then at New Orleans, being the same time when the Phalen suit was pending there.

AUSTIN, March 14, 1847.

MY DEAR FRIEND: I have written several letters to you at Galveston, which your trip to New Orleans has probably prevented from reaching you. They contained some particulars which it is important for you to know, and I will briefly recapitulate them.

Our case was docketed No. 504, nearly at the heel now, although some new appeals have come up. As the court is going over the docket regularly, and has about reached No. 250, it would be some time before we could get a hearing; but we expect to bring it in during the absence of the lawyer, here, on the spring circuit. Hemphill speaks of taking a vacation in his turn. You will find more about it in my other letters. We have been looking over the case carefully, and have, we think, discovered some new points.

Colonel —, from Nacogdoches, was here a short time ago, and being connected, through some business, with Colonel —, communicated to us several startling pieces of intelligence. He says Miner has been riding about his part of the country, endeavoring publicly to buy up the certificates, but the large holders, being generally men of some respectability, would not associate with him, or listen to his offers; that he was thus compelled to traffic with the lowest class of bar-room vagabonds, who palmed off upon him forged and duplicate certificates, and boasted openly of cheating him in all the "grogeries."

This may, or may not, be correct; Miner, not the seller, may have been the cheater; but it shows the necessity of additional caution, and coupled with his former conduct furnishes, perhaps, a good ground for restraining him in his course.

Colonel Ward refuses to patent islands. A *mandamus* will be necessary.

I have inspected the titles on the *Nueces*, and will have an opinion ready.

We have had a long interview with Mr. Hedgecocke, the agent of Peters colony, and are arranging matters.

Ever yours,
WILLIAM G. HALE.
Hon. JOHN C. WATROUS, New Orleans, Louisiana.

I ask the particular attention of honorable Senators to the terms and expressions of this letter; the trading with "bar-room vagabonds;" the likelihood of the sellers of these certificates having been "cheated" in the trade; and the chuckling tone of congratulation in the assertion of the probability of "Miner being the cheater, not the seller." It is to be recollected that this letter was to Judge Watrous himself. It was about "our case." Here is the letter of the "dear friend," the counselor, the agent to a United States district and circuit judge, informing him of trades made for his (the judge's) benefit, with drunken vagabonds, and chuckling over the cheats thought to be imposed upon the dirty and miserable bar-room

gangs with whom it was found necessary to carry on their criminal commerce. Here is the principal, Judge Watrous, judge of a Federal court, adopting the acts of this smart agent, participating in the low swindling of bar-room vagabonds, and through the letters of his agent communing with himself, and congratulating himself on the fruits of the lowest and most debased exploits of fraud.

It must be recollected, too, that this commerce in land certificates, openly treated of between Judge Watrous and his agent, was in violation of a law, of a highly penal character, punishing the offender with the infamy and pain of thirty-nine public stripes on the bare back.

Here also is another letter, which I will read, from the same William G. Hale to O. F. Johnson, directly indicating Judge Watrous's active connection with the suits referred to, and with the procurement of fraudulent land certificates:

GALVESTON, July 5, 1847.

MY DEAR SIR: Colonel —, Judge Watrous, and myself, received the "legal papers" and your letter. Judge Norton happened by the merest good fortune to be here at the time, and Trueheart also; so the whole matter was arranged here, and by a trip to Houston.

We altered the petitions materially, owing to many reasons which have sprung up since you left. Judge Watrous will explain them to you at length. All the papers were sent to San Antonio by Colonel Wilson, a partner of Trueheart, who pledged himself to have them filed by the 20th of last month. That directions should be sent from New York on the 1st of June, and in a matter of such difficulty, and be executed at San Antonio on the 25th, is one of those lucky chances which rarely happen.

I have received several letters from the trustees of the Peters Association, and have written to them explaining some matters. What arrangement did you make with them as to fees; and will they advance anything?

Our other matters remain in *status quo*. The Stafford cases have given us much trouble, but we shall get out the attachments in a few days. We may, however, have to promise the sheriff, as an incentive, the \$175 which, as you wrote us, the banks agree to advance for expenses.

Judge Toler is quite anxious about the "Grant claims." The papers in Holman's hands I hope you will be able to procure. The original certificates of the grant, ninety-seven in number, have been just found among Judge W.'s papers. Toler said he would be at the North this summer. A. Allen has already gone on. I suppose you have seen him. He will give you some trouble in arranging this matter.

Judge Watrous will be in New York about the first of August. He has been detained here by business.
WILLIAM G. HALE.
Very truly, yours,

The papers referred to in the above letter, as sent to San Antonio, by Colonel Wilson, were fraudulent land certificates, exceeding one million acres, besides an indefinite number which Hale, in his instructions to Wilson, designates as "No. 2, a list of those in the hands of Miner," the agent referred to in the letter from Hale to Watrous, as dealing with bar-room vagabonds, and cheating them for the benefit of his principal.

I may here introduce another letter from Hale to Johnson, showing the prosecution of the designs of the conspirators, as dealing in these fraudulent certificates in defiance of the penal statute, showing also the great estimation of the advantage of having these certificates put into a company stock, and "managed" by Judge Watrous and his confederates; for to secure this advantage, one hundred and fifty thousand out of three hundred thousand acres is offered as a premium:

AUSTIN, February 24, 1847.

MY DEAR SIR: * * * * * Colonel —, met here with an old acquaintance, Colonel —, and, what is more to the purpose, a large landholder in the East. Through some former business connections with him, — was able to persuade him to an arrangement most advantageous to us. — holds about sixty of the rejected — ah! call them not fraudulent! and thinks he can secure as many more. He is willing to give us half in order to have the others put into the company stock, and located and managed with the rest; most kindly offered to divide with us, so that this arrangement will secure us about thirty more leagues, or one hundred and fifty thousand acres contingently. — has gone home now to obtain them. He speaks in the most disrespectful terms of Miner and his management.

Miner is here, and going to San Antonio. I have, most strangely, received no letter yet from Judge Watrous respecting the final settlement with the "little fellow;" nor the survey and the engagement of Hay, but I expect one daily. Miner's presence will complicate matters, I am afraid.

WILLIAM G. HALE.

The expression of this letter "ah! call them not fraudulent" is curious for its flippant irony. It reminds one of the same self-complacency with which, in a formerly quoted letter, he opines his agent, Miner, to be "the cheater, not the seller."

To return to the history of the case which Mr. League had taken in hand: at the December term of the Supreme Court of the United States, judg-

ment was rendered, affirming the judgment of the supreme court of Texas, declaring the certificate invalid and void.

It might have been supposed that after the judgment of the supreme court of Texas, the high court of appeals, and, finally, after the decision of the Supreme Court of the United States, against the validity of the certificate, further efforts on the part of the company would have been hopeless. But what vitality, what ramifications, what resources, must they have possessed, when we find them daring, at the last, as I shall show, to anticipate exerting an influence on the United States Supreme Court itself! This, certainly, was a fitting climax to audacity and assertion of power. Thus we find this branch of the scheme of the conspirators expiring with an adventurous and desperate effort to retrieve their fortunes by improper influences with the courts; the last effort still characteristic, and still significant of the comprehensive grasp and connections of this most extraordinary combination.

As exposing the honest proposition of exerting an influence on the Supreme Court of the United States, I will here read from a letter from Mr. Joseph L. Williams on this subject, to whom, it appears, was and is allotted the Washington branch of the company's operations:

WASHINGTON CITY, November 1, 1851.

DEAR SIR: * * * * * Your suggestions as to the proper course for our party to pursue, in respect to the *Salt Lake*, commanded, as they still do, my most earnest attention. Not doubting that you have most thoroughly viewed this triangular title — not hearing from Mr. Reynolds on this point, and of course unadvised of his peculiar views in detail, in relation thereto — I must say that I most fully concur in your views of our best policy. Time is on the wing. A few years more, and Mr. Reynolds and I border on "the sere and yellow leaf." Of immense value, the property admits of a very long division. A protracted litigation, in quest of the lion's share, divests us virtually of all, and secures something only to our legal representatives. *Don vivamus, vivamus.* So say I. Of our party, Mr. Reynolds holds the major interest; perhaps nearly all. Compared to his, my right is small. Thus, I feel some delicacy in obtaining any conclusion of mine against any deliberate judgment of his. I have the utmost confidence in his judgment and discretion.

I am also sure that all that can be compassed by energy and perseverance, he [Reynolds] will accomplish. And yet, he may be impelled by the rivalry to evade an obsolete title on the one hand and a fraudulent one on the other, backed, as it is, by the perjured tyrants of a petty and venal Legislature. Hence, you will oblige me by assuring our old friend Reynolds that while, under the peculiar circumstances, I venture my mite of advice in confirmation of yours, with due deference to him, I yet offer it most urgently. Please, therefore, show him this letter. As he is of course familiar with all the positions stated in your letter, they need not be detailed in this paper. My health, though far better than when I saw you here, undergoes many months of the care of Dr. Francis, of New York, is still by no means reliable. If this thing can be made available during the short life I have yet probably before me, I am very anxious to see that result.

I find much of your matter of reliance in the big suit, in Bibb's Reports. This casually led me, the other day, to bring the case to the notice of —. He seems perfectly familiar with every precedent and doctrine applicable to this case, and its whole class, and he says it is quite impossible for the Supreme Court, on deliberate review and consideration, to abandon right, reason, and customary law, on account of one casual act of nullification at the last term. *I shall not omit the part of striker with certain members of the court, which I told you, I would see to. I am already here for the purpose. I will persuade Catron, of Tennessee, to take the case under his especial charge.*

* * * * * JOSEPH L. WILLIAMS.

It has been shown, incontestably, that Judge Watrous was a member of the conspiracy, in the furtherance of whose designs Williams was acting. The part assumed by this man as "striker," with certain members of the Supreme Court, was, to all intents and purposes, the act of Judge Watrous himself. He (the judge) was responsible for the acts of his confederates, having entered into a conspiracy with them for their mutual profit, and with a common design. Such is the rule of evidence. Such is the irresistible conclusion to be made in cases of this nature, according to the authority which I will here read, from the great, and universally admitted text-book on the subject of evidence, which is no doubt familiar to honorable Senators:

"The evidence in proof of a conspiracy will, generally, from the nature of the case, be circumstantial. Though the common design is the essence of the charge, it is not necessary to prove that the defendants came together and actually agreed in terms, to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same object, often by the same means, one performing one part, and another another part of the same, so as to complete it, with a view to the attainment of that same object, the jury will be justified in the conclusion that they were engaged in a conspiracy to ef-

fect that object. Nor is it necessary to prove that the conspiracy originated with the defendants, or that they met during the process of its concoction; for every person entering into a conspiracy or common design already formed, is deemed in law a party to all acts done by any of the other parties, before or afterwards, in furtherance of the common design."—3 Greenleaf, sec. 93.

This rule for determining the responsibility of Judge Watrous, I would have borne in mind, as I shall proceed to develop the acts of the different conspirators in the prosecution of their common schemes of fraud.

What state of things could exist, or can be imagined, that would more loudly and imperiously call for resolutions such as were passed by the Legislature of Texas, in the name of an outraged people, against the judicial plunderer and conspirator, who was aiming to coin his fortunes by forgery and fraud the most stupendous? A copy of these resolutions I beg to submit here for the consideration of honorable Senators:

Joint Resolution.

Whereas it is believed that John C. Watrous, judge of the United States district court for the district of Texas, has, while seeking that important position, given legal opinions in causes and questions to be litigated hereafter, in which the interests of individuals and of the State are immensely involved, whereby it is believed he has disqualified the court in which he presides from trying such questions and causes, thereby rendering it necessary to transfer an indefinite and unknown number of suits hereafter to be commenced to courts out of the State for trial; and whereas it is also believed that the said John C. Watrous has, while in office, aided and assisted certain individuals, if not directly interested himself, in an attempt to fasten upon this State one of the most stupendous frauds ever practiced upon any country or any people, the effect of which would be to rob Texas of millions of acres of her public domain, her only hope or resource for the payment of her public debt; and whereas his conduct in court and elsewhere, in derogation of his duty as a judge, has been marked by such prejudice and injustice towards the rights of the State, and divers of its citizens, as to show that he does not deserve the high station he occupies: Therefore,

Be it resolved by the Legislature of the State of Texas, That the said John C. Watrous be, and he is hereby, requested, in behalf of the people of the State, to resign his office of judge of said United States court for the district of Texas.

Sec. 2. Be it further resolved, That the Governor forward the said John C. Watrous, under the seal of the State, a copy of the foregoing preamble and resolution; also, a copy to each of our Senators and Representatives in the Congress of the United States.

Approved, March 20, 1848.

An absurd and abortive attempt has been made by Judge Watrous, and some of his especial advocates, to explain the feeling that prompted the passage of these resolutions, in the fact that he had given an unpopular decision on the statute of limitations. Indeed, Judge Watrous in his printed answer to the charges assigned against him, adopts this preposterous assertion as his principal defense, and appears to suggest, that, instead of himself being the criminal, the people of Texas are so dishonest and depraved, that the standards of morality he has adopted in his court, are too high for them to appreciate and conform to. The falsehood of this, is only exceeded by the obliquity of the shameless man who utters it. In making such a statement in his answer, he knew that he was stating what was untrue in fact, and false in spirit. And further, I shall prove that he not only stated what was untrue, but was constrained to convict himself of it before the committee that inquired into his conduct.

In his answer to what I have reference, Judge Watrous has the effrontery to assert that his ruling in the case of the Union Bank vs. Stafford, on the statute of limitations, brought upon him the censure and denunciation conveyed in the resolutions of the Legislature. This was worse than puerility, for it proved to be utterly untrue. The Stafford suit was not even instituted until some months after the resolutions had been passed by the Legislature.

This essential fact Judge Watrous thought to suppress; but when the committee called for witnesses from Texas, and he had reason to suppose that his falsehood would be detected, he was then fain to acknowledge it, and to make the humiliating and self-convicting request of the committee to withdraw his answer, committing him to the falsehood, from the files, so that he might suppress the public evidence of his infamy, at least in this particular.

In 1852, the matter of the judge's nefarious dealings in fraudulent land certificates, was brought to the attention of Congress, and this charge among other matters of criminality, was assigned against the judge, in a memorial of William Alexander, a citizen of Texas. Only three witnesses,

however, out of twenty-one asked for by the prosecution, were sent for, and not any single one of the specifications pending against the judge. The committee reported the evidence insufficient; the House failed to act in any way on the matter, and the facts, therefore, of the case, remained undeveloped and occult, and the justice of it undivided.

The Legislature of Texas, at its last session, instructed the Representatives of that State to urge the trial of Judge Watrous on all the charges against him; and in obedience to these instructions, the Hon. Mr. REAGAN, who, in part, represents the State in the other branch of Congress, had the memorial of Mr. Alexander taken from the files, and referred to the Judiciary Committee for investigation. Mr. REAGAN urged an investigation of the charges contained in that memorial, and in his speech in the House on that subject, states:

"I also offered to the committee to make the charge against Judge Watrous, that he had sold three fraudulent league certificates to a gentleman by the name of Lowe, of Illinois, for about six thousand dollars, when he knew the certificates to be fraudulent, void, and worthless; and when, by the laws of Texas, to sell such certificates was a crime of the grade of forgery, and punishable with the most ignominious penalties. And I proposed to prove this charge by a part of a record which I had from the district court for Galveston county, Texas, and by the testimony of gentlemen who were then here as witnesses in this case from Texas."

"But Judge Watrous resisted my right to make these charges, and the committee felt themselves bound by the action of the House on the Alexander memorial, as these were a part of the charges contained in that memorial, and declined to hear the charges. I then gave notice to Judge Watrous, and his counsel, General Cushing, that when the House came to act on the report of the committee I should bring these things to the attention of the House, so that if, by such means, he should elude a trial and escape justice, the Representatives of the people, and the people of the nation, through our proceedings, should know how it was done."

Here I might rest on the proofs already submitted of Judge Watrous's deep and dire offenses in connection with the land company, to the extensive operations of which I have but briefly referred. But I conceive that the just interests of my State, and those of some of her most valued citizens, who have been injured, misrepresented, and betrayed by the machinations of this conspiracy, require that I should extend the narrative to other principal facts.

I have already made brief allusion to the operations and designs of the conspiracy in the direction of the Rio Grande. This branch of the speculation deserves, on account of its great importance, a fuller development of the facts connected with it.

The Cavazos grant was one of immense value, and constituted a tempting prize to the grasping and rapacious spirit of these land speculators with whom Judge Watrous was actively connected. It lies about sixty miles on the Rio Grande; about forty miles on the Gulf of Mexico, and the Laguna Madre; and about sixty miles on the Sal Colorado. It contains about two hundred and fifty thousand acres of land. It embraces within its limits, as claimed by Cavazos, the town or city of Brownsville; also, Point Isabel, which is the site of the custom-house, and the port of entry, for the Rio Grande country; besides numerous villages or ranches, and also valuable Government sites and improvements. With the expectation of occupying the upper portion of the Rio Grande country, "an empire worth fighting for," it was necessary for the company to have this coast-outlet to complete their gigantic scheme. Point Isabel was the only coast-outlet for the great salt lake of Texas, that lay within sixty miles of it, and that constituted an inexhaustible source of wealth. This great principality that commanded the outlet of the Rio Grande country, and that so abounded in all the elements of wealth, was reputed to be owned by some eight Mexican families.

The salt lake I have referred to was another grand prize, which the land company was seeking to grasp through the aid of Judge Watrous. I shall presently show how this under-plot, too, was conceived and conducted in the progress of the sweeping and overwhelming designs of the vast combination.

Returning, however, to Galveston, to watch the progress of these honest gentry, with reference to the Cavazos grant, we find John Treanor and William G. Hale meeting there. It appears they there concoct a suit. This suit is represented by

John Treanor, as the agent of all the Mexican families, or parties represented to be owners of the Cavazos grant. It is instituted by Allen and Hale; and the allegations of the complaint are verified by the affidavit of John Treanor, claiming to be agent as aforesaid. This man Treanor appears to be a notorious person in the district of the Rio Grande, to judge from the testimony of Brevet Major W. W. Chapman, of the Army, when stationed at Fort Brown, who briefly describes him in a public official letter, as "a man without character or standing in the community." Sufficient indications of his character, however, are given in the part assumed by him and his confederate, Hale, in this Cavazos case. It appears from the record of this case, that at least five of the Mexican families or parties claimed to be represented, had never given any authority whatever for the institution of the suit; and as to one of the five, Treanor himself was constrained to admit that his interest was diametrically opposed to the claim, for the establishment of which he had been made a party plaintiff. Here, then, in the very inception of the suit, we see fraud prominently and boldly standing out. In the whole progress of the suit, too, we remark John Treanor and William G. Hale as the managers throughout. Their numerous affidavits support the case to the end. In no part of the proceedings do we find the complainants acting or participating. It is Treanor, the man "without character or standing," and William G. Hale, the agent and attorney of the land company, I have been referring to, the intimate friend of Judge Watrous.

It appears, moreover, that for purposes of collusion, it was managed that Hale and Johnson, the two lawyers imported for purposes already referred to, should take opposite sides. Further than this, and to still greater outrage to justice, it appears from the record that James N. Reynolds, a member of this New York land company, is appointed by Judge Watrous United States commissioner at Brownsville, to take testimony. Thus the company, or its members, were represented by their agents and attorneys, who act as counsel on different sides of the case, and by Reynolds, the active manager of their affairs, who, as United States commissioner, took the principal testimony for the defense, which it evidently appears to have been the object of the company to defeat.

The fact of collusion, the committee of investigation in the Thirty-Fourth Congress have determined unanimously, and in passing judgment upon which, they say:

"In the case of Cavazos *et al.*, vs. Stillman *et al.*, the record affords sufficient evidence to satisfy the committee that there was collusion between the solicitors for the complainants and a part of the solicitors for the defendants, and that a part of the defendants, or one of them at least, Jacob Mussina, was defrauded and betrayed by such collusion. They would further state, that there is evidence to satisfy them that a part of the defendants were concerned in the conspiracy, and that the judge of the court knew of the collusion during the pendency of the suit."

I may also suggest here, that it will be found profitable to fix attention upon the man Treanor, as hereafter he will be found figuring in another important matter in active connection with Judge Watrous.

I am disinclined to trespass upon the time of the Senate, by following this Cavazos case through its tortuous progress, and to its final acts of injustice and oppression. What little I have said of the patent fraud, in its inception and management, will prepare the minds of honorable Senators to understand the conclusions arrived at by the committees of investigation in the House, as to the consummation of the conspiracy and fraud by the wrongful decisions of Judge Watrous on the side of his confederates, Hale and Treanor.

The committee of the Thirty-Fourth Congress conclude their report by saying:

"The committee have examined numerous records, consisting of pleadings, orders of court, affidavits and depositions, and after a patient and laborious research, they have reluctantly come to the conclusion that the conduct of Judge Watrous, in the cases above referred to, cannot be explained without supposing that he was actuated by other than upright and just motives; that in his disregard of the well-established rules of law and evidence, he has put in jeopardy and sacrificed the rights of litigants."

In the present Congress, we have a report from a moiety of the Judiciary Committee; which, on the Cavazos branch of the case, presents the following summary and well-sustained judgment:

"Every irregular or wrongful decision of the judge was

in favor of the complainants and against the defendant Mussina, and those occupying a similar position, and was to their particular injury. By maintaining the proceeding as one rightfully brought on the chancery side of the court, these defendants were illegally deprived of their right to a trial by a jury, and were compelled to submit to an adjudication upon their rights to the property in such a manner that the decision would be final and conclusive as to the title of the property, instead of one upon the right of possession, which would at once have been pronounced, on the law side of the court, in an action of ejectment. By maintaining jurisdiction over the case, when a portion of the defendants, as well as the plaintiffs were aliens, these defendants were deprived of their rights to have the questions involved in it decided by the courts of Texas, to whose jurisdiction they were rightfully amenable, and whose laws were to govern in that decision. By admitting incompetent witnesses to testify, their rights were affected by evidence given by persons who had an interest in the litigation adverse to theirs. And, finally, they are prevented from having the decision against them reviewed in the appellate court by the failure of the judge to perform his full duty to them in facilitating the exercise of the right of appeal, given to them by law, from motives of public policy, for their own private advantage, and that, too, when there is some reason to believe that the decree by the court is not in conformity with the principles of law, as recognized in Texas. Such a course of action continued through the whole progress of a cause, in favor of some of the parties and against others, is, to our minds, conclusive evidence of the existence of a purpose, on the part of the judge, to favor one party or set of parties, at the expense and to the injury of others, which is inconsistent with an upright, honest, and impartial discharge of the judicial functions. And this, we believe, constitutes a breach of the 'good behavior' upon which, by the Constitution, the tenure of the judicial office is made to depend."

It appears that a decree was rendered in the Cavazos suit, in the month of January, in favor of Cavazos and others.

After the rendition of the decree, suits in ejectment became necessary. At this juncture we find Judge Watrous again acting and making a wrongful and tyrannical order for the exclusion from jury service in his court (on the regular panel) of the citizens of the four Rio Grande counties of Cameron, Hidalgo, Shaw, and Webb.

By the deputy marshal, whose term of office depended on the pleasure of the judge, jurors are selected—not taken from the jury list of the State, as the law requires; not even drawn or balloted for—to attend the United States court at Brownsville; all from Galveston, a distance of several hundred miles. They are taken from this distant place, that is the home of Judge Watrous, and of his confederates, Hale and League. These Cavazos suits had been pending in Galveston, and adjudications had on some of them. They were a subject of notoriety there; and had naturally given rise to much popular discussion and conversation, with reference both to the questions and the interests involved.

Thus, it appears that to accomplish the purpose of the judge more fully, the citizens of four counties were dishonored and deprived of important civil privileges, and the law was violated.

They were not taken from different parts of the State, as is the custom in the United States courts, but from the narrow circle of the judge's own home and neighborhood. A schooner is chartered by the deputy marshal, to carry them to the court at Brownsville. There are also selected by the deputy marshal, a company of strolling players to serve as jurors, and placed on board this schooner. Judge Watrous himself, is a *compagnon de voyage*.

Honorable Senators may imagine the scene, the small, coasting, gulf schooner freighted with jurymen and players, and the United States district and circuit judge.

I have, in a brief manner, referred to the collusion in the Cavazos suit, which Judge Watrous knew, and which he countenanced to the prejudice and betrayal of at least one of the defendants, Mr. Jacob Mussina. The evident position of matters, and the reports of the committees on the subject, from which I have read, show that Mussina was without any power to enforce his rights, and without any chance to obtain them in the determination of this case in Judge Watrous's court. He then applied for redress to the courts of his domicile in Louisiana; and finding the parties there who were accused in the committee's report referred to, as having colluded in the Cavazos suit, and as having "defrauded and betrayed him," he sued them for the collusion and frauds they had practiced to his prejudice, in Judge Watrous's court, and otherwise. This suit was commenced on the 1st of November, 1851; it was tried in May, 1853; and a verdict was rendered in favor of Mussina by a jury of his countrymen

for the land claimed, or \$214,000 in lieu thereof, and \$25,000 as damages.

In January, 1854, a rule was taken at Galveston, Texas, upon Jacob Mussina, a citizen of Louisiana, and he was cited to appear before Judge Watrous at Galveston, to answer for contempt of court in instituting the suit in New Orleans, in disobedience to the decree which he had rendered in the Cavazos case, although the fact was that the suit referred to was commenced two months before the rendition of the decree, which proceedings the House Judiciary Committee of the Thirty-Fourth Congress have characterized in a deliberate, unanimous report, as "irregular, unjust, and illegal, and, taken in connection with the previous proceedings and rendition of the decree, oppressive and tyrannical." And this opinion was indorsed by a portion of the present Judiciary Committee in the House, from whose report I read the following expression of judgment:

"It also seems clear, when the pleadings in the suit instituted by Mussina against Stillman, Bolden & Alling, and Basse & Ford, in the fourth district court of New Orleans, are considered, together with the judgment rendered in it upon the verdict of a jury, and the evidence in the contempt case, that there was no foundation whatever for the proceeding against him for a contempt, and that the action of the judge with respect to it was unauthorized by law, and was intended to be vexatious and oppressive. How any other conclusion can be arrived at, when it is remembered that the suit in New Orleans was instituted by Mussina against his co-defendants alone and their counsel, and related to rights growing out of their own transactions, it is not easy to conceive."

The defendant appealed from the judgment of the New Orleans court in favor of Mussina. In 1855, the case was heard on appeal in the supreme court of the State of Louisiana, and was dismissed on a question of jurisdiction in the court. It was during the hearing of this appeal that Judge Watrous was at New Orleans under the assumed name of "John Jones," and lodging secretly at the Verandah Hotel.

In order to continue understandingly the history, the narrative of which I have undertaken, it is necessary here to make a momentary review of the positions occupied by the man Reynolds, who, it has been shown, was a prominent actor in the eventual drama of the conspiracy, so far as it appears to have progressed. It has been shown that he was one of the chief and choicest spirits in the inception of the New York company. It has been shown from the correspondence relative to the action of the court at New Orleans, that he had made the clerk of the court interested in the suit. It has been shown under what circumstances he established a bogus bank on the Cavazos grant. It has been shown that he was appointed by Judge Watrous, and acted as commissioner to take testimony in the Cavazos case, on the side of the defense, to defeat which, by collusion, was the evident purpose of the company of whom and in whose services he was.

Thus we find this man Reynolds connected and intermixed with all that takes place through Judge Watrous's court, in the progress of the conspiracy in which both were so deeply and so criminally interested and implicated.

I now present him as attempting to seize the "Great Salt Lake of Texas," the immense value of which and its location I have referred to. This lake was a reservation of the government of Texas, and the only possible means of appropriating this valuable property was by influencing the courts and the Legislature.

It is shown by the letter of Mr. Joseph L. Williams, which I have read in another part of this case, and by the order of transfer to which I shall presently refer, that the three, Reynolds, Williams, and Watrous, at least, were interested in this fraudulent adventure.

They had already been successful in the Phalen suits at New Orleans, (wherein their fraudulent certificates were declared valid;) and in the flush of their entire success in this matter, they were emboldened to extend their grasp, and to attempt to take by adventure every prize that their avarice could discover.

The suit is instituted in Judge Watrous's court on the 14th of May, 1849. It appears that the case remained there from the 14th of May, 1849, to the 7th June, 1850. It is then transferred to New Orleans; and it is especially to be remembered that the application for the transfer in this case, as well as the transfer in the Phalen case, was made by the plaintiff himself—Mr. James

N. Reynolds. I will here give an extract from the order of transfer:

JAMES N. REYNOLDS, of Louisiana, } No.
vs. }
HENRY M. LEWIS and THOMAS NEWCOMB, of Texas. } 1852.
Petition in this cause filed in district court of the United States, district of Texas, on the 12th day of May, A. D. 1849.

Copy of order of transfer.

And afterwards, on Monday, the 7th day of June, A. D. 1850, the following order was made, to wit:

JAMES N. REYNOLDS }
vs. }
HENRY M. LEWIS. }

This day came the parties by their attorneys, and upon motion of the said plaintiff, and because the judge of this court is so connected in interest and otherwise with one of the parties in this suit as to render it improper, in his opinion, to sit upon the trial of the cause, it is now hereby ordered by the court that this fact be entered upon the record of this court, and that a certified copy of such entry, with all the proceedings in this suit, be forthwith certified to the circuit court of the United States for the eastern district of Louisiana, that being the most convenient court of the United States in the next adjacent State.

Well might Reynolds move for a transfer to New Orleans. Did he not think (as his correspondence has already disclosed) that he had the clerk of the court to work there in his behalf? Did he not think that he had an approach to the ear of the court there? Did he not have there the influence, the official presence of Judge Watrous, a brother of the bench? In fine, did he not have the case transferred from the juries of Texas, but to have it removed to a court, where there was every augury of success, it mattered not whether by fair or by foul means?

I have already directed attention to the participation of Thomas M. League in the management of the affairs of the land company, and in the advancements of its interests. It has been shown that, at the time the curtain dropped at New Orleans on the Phalen case, a suit was on the instant instituted by League, on the identical test land certificates that had just been the subject of the suit in New Orleans; thus revealing his partnership in the common iniquity of Judge Watrous and his "compeers," and indicating his position as a prominent actor in the infamous certificate business, that was the chief, but not the only, subject of the company's operations.

It may also be remarked, that Johnson and Hale, the attorneys for the company in the Phalen case at New Orleans, appear also as counsel for League, in the consequent suit at Galveston.

It is to be seen how he sustains other characters, and undertakes other parts in the wide field of the company's speculations. It appears from the testimony in the Watrous investigation that, in company with Robert Hughes, the confidential adviser and favored counsel of Judge Watrous, he assumed or simulated an interest in what was called the Powers and Hewitson's colony grant, and undertook to bring suits in relation to it in Judge Watrous's court, by a feigned change of residence.

The grant to Powers and Hewitson, the empresarios, included a large body of valuable land on the coast, west of Galveston.

Powers expressed an unwillingness to go out of the State, and change his residence, so as to qualify himself to sue in the Federal court. He, too, as League testified, had the common affliction of being "afraid to trust the juries of Texas." The difficulty, however, appears to have been solved by League, in concert with Judge Watrous's counsel and familiar, Robert Hughes. League volunteered to go out of the State, and bring suits in his own name, in the Federal court for a share of the property to be recovered. Powers furnished the subject-matter of litigation. League furnished all the money, and "Hughes was to do the legal part of the matter."

The plot, however, was finally disconcerted by the decision of the United States Supreme Court, to the effect that League's change of residence not being *bona fide*, he could have no standing in court; in a word, that it was an attempted fraud upon the jurisdiction of the court.

It then became necessary to use another party in the matter, and a gentleman by the name of Williams, of North Carolina, is substituted. Thus we see this man, bent on accomplishing his ends, throughout, identifying himself and the counsel of Judge Watrous with a scheme in which both were acting only mercenary parts, using the word in its broadest sense; in which he was hired to act

the part of a litigant in the court of his friend and partner, Judge Watrous, in fraud of the jurisdiction of that court; and in which the judge's counsel and familiar too; was hired under a contract of chomperty, was to have a share of the land for "doing all the legal part of the matter."

This is to be remarked as the first introduction of Hewitson into the Federal court, and was shortly lead, as I shall show, to the development of other connections between him and Judge Watrous in the perpetration of other and more astounding frauds than have yet been disclosed.

I conceive that it is required, in order to complete the history of the system of frauds, in which Judge Watrous was prominently concerned, to show further the connections between some of the prominent actors introduced into this narrative and others to be introduced, in matters which have been the subject of late congressional investigation, and of fierce debate. I certainly do not propose to review the debates that have taken place on this subject. But I refer more particularly to the transactions, which I shall proceed to give a brief sketch of, of the obtaining of lands by Judge Watrous, the wrongful use of his court in relation thereto, and his participation in fixing a forged link in a chain of title upon settlers of Texas, that I may more fully show and illustrate the constant and pervading connection of parties already alluded to with the judge, in attempts to plunder the citizens of Texas, and in administering a system of fraud through his court.

In January, 1854, we find that two suits were commenced in the United States court in Texas, presided over by Judge Watrous. One was entitled *Ufford vs. Dykes*; the other was *Lapsley vs. Spencer* and ten others.

These two suits were commenced in Judge Watrous's court at the same term, for, between fifty and sixty thousand acres of land each. William G. Hale was counsel for the plaintiff in one case, and Robert Hughes counsel for the plaintiff in the other. In both cases, it appeared from the testimony, the property claimed was owned in the State of Alabama; and in both cases, the claims of the parties had slumbered for nearly twenty years—until the first term of the court of Judge Watrous, after he (Judge Watrous) had obtained an interest.

With respect to the *Ufford and Dykes* suit, an attempt was made in the course of the investigation by the committee of the House to discover who were the parties in interest in Alabama. But the inquiry was baffled. The witness who was examined as to the matter, plead his privilege as an attorney, and declined to answer. What important disclosures might have been made, had the question been freely answered, and the truth relieved from suppression, is left to conjecture. It was esteemed important to know the connections which existed in the inception of these suits. The committee sought the information; but they were stopped at the very threshold by concealment, leaving the whole matter in suspicious darkness.

It is also found in the *Ufford and Dykes* case, that William G. Hale, the agent of the fraudulent land company, as shown by the correspondence, and holding the most intimate relations with the court, is counsel for the plaintiff, and that on the other side of the case, the counsel is Robert Hughes, the confidential friend and witness of the court.

The same question of title existed as in the *Lapsley* cases, in which Judge Watrous was interested by partnership in speculation with the plaintiff to the amount of one fourth of the property, which one fourth is valued at \$75,000, and for which it appears he (Judge Watrous) has never paid, and was never required to pay, a cent of purchase-money up to the present time. The grants in both cases had a common title; and in one of them Judge Watrous had obtained an interest.

It may be observed, too, that the judge professes to have purchased an interest in one of these grants, without ever seeing the title papers, on the simple opinion of Hughes, "the best land lawyer in the Union," as he enthusiastically describes him, that they were good. He was willing, as he signifies, to accept this opinion absolutely as true. Now this *Ufford and Dykes* grant had a title identical with that in which Judge Watrous had obtained an interest. This title he had declared to be good, on the bare assertion

of Hughes. He thus went on the bench in the *Ufford and Dykes* case, fully committed to an opinion on the title, and with nothing whatever for him on that point to adjudicate.

I now request honorable Senators to accompany me to a scene in the United States district court in Texas, and to bestow upon it but a moment's criticism, in order to perceive its significance.

On the bench is his honor Judge Watrous, surrounded by all the imposing circumstances of the dispensation of justice. The case of *Ufford vs. Dykes* is called. A jury is empaneled. Before the judge, as foreman of that jury, stands Edwin Shearer, a deputy clerk in his own court, who is the agent of the judge, who was present, and was consulted on the subject, at the inception of the very scheme of fraud at Galveston; was present at Selma, Alabama, when the contract was made between Judge Watrous and others, and who is a brother-in-law of Price, a partner of the judge in that transaction; and, besides, was not qualified under the law to be a juror. It appears that a verdict was rendered thus:

VERDICT—Indorsed: "We, the jury, find a verdict for the plaintiffs for the ten leagues of land described in the plaintiffs' petition, and also ten cents damages."

EDWIN SHEARER, Foreman.

March 10, 1854."

This appears to have gone by default. Now, to obtain a default, a chain of title was necessary; such a chain was to be exhibited. Yet it is found to be admitted by counsel, more than a year after this trial, that the authority to sell the land in suit—the power of attorney to Williams—the main link of the title, was wanting. It could not have been before the court, or the jury, when the verdict was entered. It could not, for the especial reason that the default was entered in March, 1854, and the testimony of the parties in the Watrous investigation shows that the power was never transcribed, or withdrawn from the land office, until December of that year. Juries, it is to be recollected, are selected in Judge Watrous's court—not balloted for. Further comment than this is unnecessary.

This default was opened at the suggestion of Judge Watrous, as the judgment by default did not appear to answer the purpose he had in view. The object evidently was to have the title completed, by introducing the power of attorney and obtaining judgment of its genuineness. And the fact most striking is, that at the second trial, Robert Hughes, the representative of Judge Watrous, is smuggled into the case for the defense, and very kindly furnished to the opposite counsel, William G. Hale, Esq., the power referred to—the very link of title necessary to defeat him, Robert Hughes, in the defense of the suit!

I have adverted to a scene in the *Ufford and Dykes* case. I wish the attention of Senators to another scene, transpiring after the lapse of about one year, in the same cause, and in the same court. Judge Watrous is on the bench. Before him stands Robert Hughes and William G. Hale. Contemplate for a moment the position of the parties. Judge Watrous is the owner of an interest valued at \$75,000 in the *La Vega* grant, which, it appears, he purchased in reliance on the opinion of Robert Hughes. To Hughes is intrusted the defense of his title. He is the "sole counsel" for Lapsley and others. He stands now before the court in opposition to that title, was "the leading counsel for the defendant, and controlled its management." Here is Robert Hughes, the representative of Judge Watrous, interested in the *La Vega* title, standing before Judge Watrous in opposition to that title. What a strange and anomalous position, surely! Here is his honor, John C. Watrous, on the bench; and here, John C. Watrous personated by Hughes at the bar. The case is called, and the curtain rises on still further developments in the scene. The plaintiff's counsel, William G. Hale, announces himself ready to proceed, except that he lacks the power of attorney to Williams, that is all important to complete his title. Judge Watrous, through his representative, or Hughes, as representing the Judge, supplies that want; thus kindly giving to his opponent, Hale, the very means of defeating him (Hughes) in the suit; but, mark you, the means also of sustaining the title of Judge Watrous—for the power of attorney was common to both titles. I have already shown, in the Cava-

zos case, how counsel of this vast company were introduced for purposes of collusion, and for the betrayal of parties, who stood in the way of the land speculations of Judge Watrous and his confederates. Therefore, this is illustration the second.

It will be seen hereafter, as I proceed toward the completion of the narrative of facts I have undertaken, that the power of attorney alluded to, plays a very important part in the scheme of fraud by which Judge Watrous was attempting to appropriate an immense tract of land, situated within his judicial district.

The legal title to the *La Vega* grant was conveyed by League to John W. Lapsley, of Alabama, who held the property in trust for the several parties in interest, including Judge Watrous.

In the deed of conveyance there is to be remarked a very singular feature. There is no general warranty of title; but there is a special and extraordinary warranty given in the following terms:

"The said party of the first part (League) binds himself, his heirs, and legal representatives, to warrant and forever defend the title by this indenture granted to the said party of the second part, his heirs, legal representatives, and assigns, against the said *Thomas de la Vega*, and the party of the first part, their respective heirs and assigns, and all others claiming, or to claim, by, under, or through the said *Thomas de la Vega*, and the party of the first part, or either of them."

This warranty, it is to be observed, is against the party's own vendor. It applied to the chain of title from him, the all-important link of which was the power of attorney to Williams to sell the land. It shows that in the transaction at Selma, Alabama, to which Judge Watrous was a party, the power of attorney was a subject of concern, and probably of debate. It suggests that even then, by some of the parties, the denunciation was anticipated, which was afterwards made, of that title paper as a forgery, and a forgery, too, in the procurement of which Judge Watrous himself had assisted.

This power of attorney purports to have been made in the year 1832. It appears that no attempt was made to prove it up until 1855. Thus it was kept secret, or nothing revealed of it, for about twenty-three years. It is true that Robert Hughes testified that he withdrew a power of attorney from the general land office in 1854—twenty-one years after its purported date; that there was no mark on it showing when, or by whom it was filed, or that it was ever filed; nor is there any mark or evidence on the document to show that the power of attorney, the present subject of discussion, was the paper withdrawn from the land office by Robert Hughes—as he was careful not to leave in the land office any copy of the paper he withdrew.

I have requested, in the progress of this narrative, that honorable Senators would regard attentively the man Hewitson, who appears to have been one of the heaviest suiters in Judge Watrous's court, and a partner of League and of Hughes in the subject-matter of the litigation, and of whose use by the court, in support of perhaps the most monstrous of its frauds, I promised some revelations. He, too, is now called in by Judge Watrous, through his counsel, to perform a service at the sacrifice, as the sequel will show, of all that honest men hold most dear—such sacrifices, and such service, however, as seem to be the price of the judge's favor.

In the case of *Ufford and Dykes*, a verdict was rendered February 27, 1855; the 23d of the same month, and the same year, Hewitson's deposition is taken, *de bene esse*, at Galveston, to prove up the power of attorney. The order of transfer had then been made, to remove the Lapsley cases from Austin to New Orleans. The power to Williams was common to both suits. It had been managed to get it into the *Ufford and Dykes* case, without difficulty, through the favor of Judge Watrous, and the evident collusion of counsel. In the *Lapsley* cases, however, an attempt is made to prove it up by Hewitson's deposition. Why, I ask, was this done? Why was the discrimination in relation to the proof of the power made between the two suits, unless for the palpable reason that it was considered that the power was not in a position to pass the review of the tribunal at New Orleans. Thus again is betrayed the ill-concealed concern of the parties in relation to this power of attorney.

The deposition of Hewitson appears to have been taken at Galveston. It is to be observed that the Lapsley cases, in which it was intended to be used, were then *in transitu*, in obedience to the order of transfer, and that the transcript was in the pocket of Robert Hughes, at Galveston. The deposition was taken before Archibald Hughes, a son of Robert Hughes, an agent of Lapsley, Watrous, and others, in their land transactions, deputy marshal, then, or formerly deputy clerk and United States commissioner in Judge Watrous's court. There, before this creature of the court, without notice to the counsel of Spencer, then in Galveston, and selecting the time when the suits were *in transitu*, it was managed to take this deposition of a confederate in the land transactions both of court and counsel.

The introduction of this deposition was made with an adroitness and secrecy characteristic of the parties who managed it. They were governed by constant policy and secrecy, that seems to have regulated all their movements. In the Lapsley suit, as in the Phalen suit, at New Orleans, they showed that appreciation of the maxims of the policy of Reynolds, who advised that the case should "go off quietly;" that "the least possible notoriety" should attend it, &c.

There was the deposition of the confederate Hewitson, on which it was sought to rob the honest settlers of their land and homes, taken after the transcript had been ordered to be transmitted to New Orleans, taken without notice to the opposite parties, and taken surreptitiously before a creature of the court, and a man in intimate relations with those whose interests it was to betray and defeat the settlers who claimed the land. Remarkable coincidence, this testimony of Hewitson, in support of the power of attorney, is taken at Galveston, during the trial of *Ufford vs. Dykes's* case, and perhaps on the very day when Hughes so magnanimously furnished Hale with a copy, and stipulated that no exceptions should be taken.

In my opening remarks, I alluded to "the deep secrecy" which surrounded, as far as possible, the movements of the conspiracy, a sketch of which I have attempted to give from the results of long investigation, and by the lights of some newly-discovered evidence on the subject. I have pointed out, in the progress of the narrative, instances of the secrecy and cunning of the management of these parties. Every means were taken to conceal their steps, and every opportunity was seized to take the opposite parties at advantage.

The order of transfer from Austin appears to have been entered at the November term, 1854. The transcript was taken by Robert Hughes, with Hewitson's deposition, which was sent him *en route* to New Orleans, where the cases appear to have been filed in April, 1855. When the docket was called there, it appears that Hughes was anxious to have the cases disposed of with dispatch, and to take advantage of the supposed absence at that time of a defense. But in this he was disappointed by the sudden apparition in court of a poor settler who had traveled all the way from the wilderness, over hundreds of weary and painful miles, to confront the artful despoiler of his home, and to demand justice. I let the poor man, Eliphas Spencer, tell his story of what transpired in the court at New Orleans, as it is related in the printed evidence taken by the committee of the House in the Watrous investigation. He says:

"I think he [Hughes] said he would like to have them [the suits] tried at as early a day as would be convenient to the court, for he thought there would be no defense, and they could not take up much of the time of the court in trying them. After that I got up and said that I had come some six hundred miles to defend my land, and I wished that time should be given me to prepare my evidence, &c.; Judge Hughes observed, 'Oh, Mr. Spencer, I did not know that you were in court, or any one, to attend to the suits.'"

In confirmation of this statement of Spencer, of the advantage attempted to be taken against him, there is found an admission of Hughes himself, made in a letter to Lapsley, written when he was in attendance on the cases in New Orleans, April, 1855:

"I will press the cases to trial with the utmost rigor. I do not expect there will be any counsel here for the defendants."

There is something here of almost pathetic interest to claim the earnest attention of this honorable body. This poor settler, it appears, had

planted a home as early as 1847, on what was then the extreme frontier of Texas, and had lived through hardships and dangers difficult to depict, until at last he had secured, as he fondly imagined, a permanent resting place for his life, and had commenced to gather the fruits of his toils and privations, to sustain his wife and children. This land was included in the La Vega tract, and he was the principal defendant, representing in the business the other settlers, who had planted themselves around him. He was sued in every shape, and it would seem that every ingenuity of his opponents was taxed to betray him. It appears from the evidence that the suit instituted against him at Galveston was removed to Austin, without any order of transfer having been made in the case; that he had no lawyer employed to attend to it at Austin, and that when all the cases were removed to New Orleans, and the transcript carried there, he heard for the first time, and then, too, not from those who were prosecuting and attempting to betray him, of Judge Watrous's long-concealed interest in the suits, and their removal on that account to New Orleans. No sooner is he made aware of this; no sooner does he perceive the long-matured conspiracy to keep him in ignorance and to betray him and his co-suitors, than the poor intended victim is suddenly aroused, hurries to New Orleans, six hundred miles away, and confronts in the court-room the confederate of Judge Watrous for his ruin, at the very moment that he is saying to the court that the suits would not be defended. Well might Mr. Hughes exclaim, "Oh! Mr. Spencer!" at the dramatic surprise; and well may our sympathies be prompted by the apparition on the stage of the poor man come to save his home from the grasp of the spoiler; and yet at the last, by the renewed acts and influences of corrupt and powerful men, he is turned from it.

It has been shown that it was the expectation of Hughes to have the Lapsley cases dispatched, and to use the deposition of James Hewitson as to the execution of the power of attorney, taken, as has been seen, surreptitiously, and by a fraudulent contrivance, before any of the defendants or their counsel could be present to protect their rights in the trial at New Orleans. Under any circumstances, the only proper course would have been to attach the power of attorney, which was referred to in the deposition of Hewitson, and made a part of it. But this is not done; it is found that, after the lapse of a year from the filing of the deposition, when the trial of the case comes on, it has not even been filed. It was used in evidence against Spencer, and still not filed; but a copy appears to have been substituted for it.

Let me for a moment regard the scene in court, in which Robert Hughes, who had constituted himself the exclusive custodian of this paper, comes forward to sustain it by his testimony as a witness. Here is the representative of Judge Watrous, by his own evidence, establishing the genuineness of the paper, as that which Hewitson had sworn to, and which, since that time, had been in the possession of said Hughes. He produces the paper from his pocket, without any indorsement, without any file mark, and identifies it.

Thus it appears that the defendants in the Lapsley cases were deprived of opportunity to protect their rights against this forged document, except upon its presentation in court.

Judgment had been rendered in the case of Lapsley against Spencer on the 30th May, 1856, and six days thereafter, the following entry is found in one of the Lapsley cases remaining over, showing the anxiety of the parties for an opportunity to sustain their plea of forgery, and evidencing the persistent attempts of Hughes to deny them such opportunity. I read, from page 649, testimony in the Watrous investigation:

Minutes, April term, 1856.

NEW ORLEANS, Friday, June 6, 1856.

JOHN W. LAPSLEY,

vs.

D. R. MITCHELL, WARREN, and JAMES DUNN.

No. 2153.

The defendants, by their counsel, this day suggested to the court that heretofore, to wit, on or about the 25th day of February, 1855, the plaintiff herein took the deposition, *de bene esse*, of one James Hewitson, to prove execution of a certain power of attorney purporting to have been executed by Tomas Vega before Juan Gonzalez, regidor of Leonia Vicario, with José Nazas Ortiz and J. McMoran as assisting witnesses, dated the 5th day of May, 1852, author-

izing Samuel M. Williams to sell the land in controversy, which said power of attorney defendants believe to be a forgery, and have so filed their plea by their attorney, which said power of attorney has never been filed among the papers of said cause, although the same constitutes a part of the deposition of the said Hewitson, and that the same is yet in the possession of the plaintiff's attorney; and thereupon moved the court to require and cause the said power of attorney to be regularly filed among the papers of said cause, or to be deposited with the clerk in his special charge and keeping, subject to the inspecting of the parties, that the defendants may have an opportunity of sustaining their plea of forgery aforesaid by procuring witnesses to inspect said power of attorney. The plaintiff's counsel being present in court, accepted service of this motion, and waived time to show cause.

Minutes, April term, 1856.

NEW ORLEANS, Monday, June 9, 1856.

JOHN W. LAPSLEY,

vs.

D. R. MITCHELL and WARREN.

The rule herein taken by the defendant upon the plaintiff, to show cause why he should not file the original of a certain power of attorney, having been argued and submitted on a former day, and the court having considered the same, doth now order that the said rule be discharged.

In the course of the debate in the House, with respect to the charges against Judge Watrous, considerable stress appears to have been laid on the decision of the Supreme Court of Lapsley *vs.* Spencer, by which the question as to the power of attorney in that case was settled. From the dissenting opinion, however, of Mr. Justice Daniel, the all-important fact is developed, that the question of fraud, with respect to the power of attorney, had been taken from the jury by the ruling of the court. He says:

"It seems to me that there was error in the instruction of the court to the jury; that there was no fraud in the transactions by which the alleged title to the land in controversy had been obtained, or transmitted to the plaintiff."

This fact is of the highest importance. The opinion of Mr. Justice Daniel, to which I have referred, and which manifests careful and special study of the questions connected with the power of attorney, contains so clear a judgment on the subject, that I may conclude what I have to say on it by quoting a portion of the learned judge's remarks. He says:

"In the next place, with respect to the deduction of title from La Vega, to whom, it is said, a grant was made by the Government, by the decrees first examined. The first step in the derangement of this title is the paper, styled the power of attorney, from La Vega to Williams, dated May 5, 1852. The authenticity of this paper rests upon no foundation of legitimate evidence. It cannot be considered as possessing the dignity and verity of a record, nor of a copy from a record. It is not shown that the laws of Texas required it to be recorded; and without such a requisition it could not be made, in legal acceptance, a record, by the mere will or act of a private person. This paper does not appear to have been placed on record; and if, in truth, it had been recorded in a proper legal sense, still there is no copy said to have been taken from a record, or certified by any legal custodian of the record or of the original document."

"It has been seen that this document is neither a record, nor a copy from a record. The language of the instrument, and that of the certificate of Gonzales, alike contradict any such conclusion. The certificate declares it to be a copy of a private paper, and nothing more."

"The irregularities connected with this alleged power of attorney seem to me too glaring, and too obviously liable to gross abuse, and tend too strongly to injury to the rights of property, to be tolerated in courts governed by correct and safe rules of evidence."

Judgment was rendered in New Orleans in favor of the plaintiff in the suit of Lapsley *vs.* Spencer, as I have stated, on the 30th of May, 1856. After the decision of this suit, it appears that in another of the Lapsley cases remaining on the docket, viz: Lapsley *vs.* Mitchell and Warren, a commission was taken out by the defendant to take the testimony of Tomas de la Vega, of the La Vega grant, and of José Cosme de Castenado, the custodian of the archives at Saltillo, with reference to the power of attorney heretofore so frequently referred to, which purported to have been made from La Vega to Williams. These depositions were returned in March, 1857. In that of La Vega the deponent denies ever having signed any such paper as the power; and in that of Castenado, the custodian of the archives, the deponent swears that the alleged power of attorney was—

"Signed only by the alcade, Don Juan Gonzales and Don José Maria de Aguirre, and not by Don Rafael Aguirre or Don Tomas de la Vega, or the assisting witnesses, wherefore the said document can be of no effect; and that in verification of all that he has stated, he refers to the original documents, which exist in the archives under his charge."

This was the first public declaration made from Saltillo of the forgery of the document. Now,

suddenly the case assumes a serious and startling aspect, and strikes dismay and terror into the ranks of the conspirators. Orders had been left at the court at New Orleans, that immediately on the receipt of the depositions of La Vega and Castenado there, that copies should be sent to Galveston. There can be no doubt, however, that the parties claiming under the power of attorney and represented there, knew very well what the import of these depositions would be. Is it, indeed, to be supposed that they, with a property worth \$300,000 at stake, which depended on this very muniment of title, should have neglected wholly, and for so long a time, to examine the archives at Saltillo, and inquire what was of record there?

The storm had burst, and the conspirators, in dismay, are compelled to face the loud denunciations of their guilt. Now they have to meet the brunt of the battle. The day of discovery and retribution has come; and collecting together, serriving their ranks, and summoning all their resources, they prepare desperately to resist the judgment that has overtaken them.

Now it is that Judge Watrous is observed to call to his aid all of his confederates. Now it is that the whole corps *dramatique* is summoned on the stage for the grand catastrophe. Now it is that the judge calls upon his confederates to stand by him, and to redeem the prices of his favor to them by the most unscrupulous of means, and most desperate of services.

Thus it is observed that the first step of the startled plotters is to gather around the judge, and attempt to protect the great head and front of the conspiracy. It is observed that in attempting the desperate defense they hesitate at nothing. It is observed that in seeking to cover the judge they expose themselves to new discoveries of guilt, and sink deeper into the mire of falsehood and fraud.

It will be instructive to note the parts which the different confederates of Judge Watrous take, and the length to which they go in seeking to establish a defense for him. To commence with League, one of the closest of his confederates: when examined in the course of the Watrous investigation, he strives to make it appear that when the copies of the depositions taken at Mexico were received at Galveston, he had repeated conversations with Robert Hughes in relation thereto; but that Judge Watrous discouraged or forbade any conversations with himself on the subject. I will here read some of the passages from the testimony to this effect:

"Question. (by the chairman.) You spoke of having received a copy of a deposition from the clerk at New Orleans. You received that in Galveston?"

"Answer. Yes, sir. It was sent to Judge Hughes, not me."

"Question. Was Judge Hughes in Galveston at that time?"

"Answer. I think he was."

"Question. What time was that?"

"Answer. It must have been in the month of April, 1857."

"Question. You are certain that that communication was sent to Judge Hughes?"

"Answer. I think it was."

"Question. Whom did you consult as to the propriety of going to Mexico for Gonzales?"

"Answer. With Judge Hughes. I might have mentioned it to Judge Watrous; I think I did. He called; but whenever I attempted to say anything to him, he would reply, 'go to Judge Hughes; I have nothing to do with it.'"

A copy of the depositions taken in Mexico was sent to Judge Hughes; Judge Hughes sent for me immediately, and read it over. Some of it was in Spanish; but he made it out."

"Question. Did you take from Judge Hughes any copy of the depositions taken in Mexico, impeaching the power of attorney?"

"Answer. I took the substance, but not an exact copy."

"Question. You noted down on paper the substance?"

"Answer. Yes, I noted it down, and submitted it to my Alabama friends."

"Question. Did you note that from the depositions before you?"

"Answer. Judge Hughes noted it."

"Question. Judge Hughes put upon paper the substance of the testimony taken in Mexico?"

"Answer. Yes; and I think that I added to it something."

"Question. How much space did the statement occupy upon paper?"

"Answer. I cannot recollect. Not a great deal."

"Question. Did you take that paper to Alabama?"

"Answer. I did."

Now, it appears, in relation to the testimony of Hughes himself, that at the time of the alleged conversation at Galveston, referred to by League, he (Hughes) was absent from his home at Galveston; that these two gentlemen could never have compared notes as alleged at the time of receiving

the depositions; and that the first time that Hughes had ever seen the depositions was in August, three months after League alleged to have been in conference with him on the subject of the power of attorney. Here is the testimony of Hughes, establishing these conclusions beyond a doubt:

"Question. When was Hale employed in the case of Lapsley vs. Spencer?"

"Answer. I do not know, certainly; I was absent from home when information was received of the taking of the deposition of Tomas de la Vega, in Mexico; when I returned I was informed of what had occurred. The deposition was shown to me, and I was informed that Mr. Hale had been employed to assist in the case. It was a short time after it had been taken—two or three months—that I received information of it."

"Question. When did you first see the deposition of Tomas de la Vega?"

"Answer. I saw it at the time I spoke of, when I returned home some time last summer, and when, as I said before, Mr. Hale was employed as assistant counsel; that was the first time I saw it; that was a week or ten days before the election on the first Monday in August."

Mr. League has unquestionably committed himself in that part of his statement which I have quoted. It seemed to be a strange and impossible hallucination that he should mistake conferences, which he undoubtedly had with Judge Watrous, on the subject of these depositions, and of the best means to defeat them, as having taken place with Robert Hughes, unless he regarded them as Siamese-twins.

The most glaring contradictions appear in this man's (League's) testimony as taken from day to day before the committee, exposing his desire not so much to develop the truth as to shield Judge Watrous, the great head and director of the conspiracy.

In further contradiction of the statement he had made of conferences held exclusively with Hughes, it appears not only that Hughes could not have been a party to such conferences, but that League did actually converse and consult at the time named, personally, fully, and intimately, with Judge Watrous himself, on the subject of the depositions taken in Mexico. The fact is drawn out of him, on an examination some days subsequent to that on which he denied having conferred with the judge on the subject, that he, the judge, advised that he should go and consult the Alabama parties relative thereto.

With respect to this advice, I may make a single suggestion. There is but one course that is probable that honest men would have adopted, in an alleged discovery, such as was communicated to Judge Watrous and his confederates in the depositions taken at Saltillo. Supposing that these parties had no previous knowledge of the fact of the forgery of this power of attorney: would they not naturally and immediately have sought the archives for information and evidence, where the original must be, if any such existed? This would have shown an honesty of purpose. It is now to be seen what course they do adopt, other than that which was natural for innocent men to take; and I beg the especial attention of honorable Senators to this point, that they may determine whether the course of the parties evidenced or not an honest desire to arrive at the truth. League goes to see the Alabama gentlemen at the suggestion of Judge Watrous. He sees Lapsley at Selma; tells him of the discovery made in the depositions taken at Saltillo; and the consequence is, that Lapsley gives him \$2,500 to enable him to go to Mexico and "procure" testimony to sustain the alleged power of attorney.

Now, it is evidence that Lapsley, who professes to be very careful in his negotiations, had exacted from League a warranty of title against the particular risk of the validity of this power. League was reputed to be worth some seventy-five or one hundred thousand dollars; and his warranty was the only security the parties had by which to save themselves. He goes to Lapsley, and tells him, in substance, "news has reached us that I am liable to you on the warranty." What does Lapsley say? Does he say: "I entered into the transaction believing that everything was bona fide. I will have nothing more to do with it; and must look to your warranty?" No such thing. He says: "I release you from your warranty." He gives up and renounces the only chance which he and the parties he was to represent had to save themselves; but not only this, he gave to League \$2,500 to pay his mileage to Mexico!

One other circumstance, too, is suggestive, in

relation to this warranty against the power of attorney, the link in the title from La Vega.

In Mr. Lapsley's testimony, it appears that it had been greatly urged by Judge Watrous, at the time of the conveyance; that League had hesitated to sign the warranty, and that Judge Watrous had encouraged and pressed him to do it, saying: "You can sign it with perfect safety, Mr. League, because I am satisfied myself that the title is good." Yet the warranty, when so urged, and about which so much anxiety was then manifested, is found to be released at the very time that the validity of the link of title for which it was given is called in question! and without which, Lapsley said, the bargain would fall through.

I will observe here, that in all that I have stated of the circumstances surrounding the alleged power of attorney from La Vega to Williams, to sell the land in controversy, I have not designed making any attempt to prove this document a forgery. That, I think, is indubitable. But my object has been to show the part taken by Judge Watrous and his agents to foist a forgery upon the poor settlers they were seeking to defraud. To accomplish this object, I now proceed to a continuation of the narrative, resuming at the point where League returns to Galveston, having been furnished by the Alabama parties with means to prosecute their designs in Mexico.

From the printed testimony in the Watrous case, it appears that the judge was fully acquainted by League with the communications and results of his interview with the Alabama associates. It was the judge who suggested the employment of the services of William G. Hale in the emergency. They are accordingly secured; and no sooner so, than Hale calls to his aid John Treanor, to undertake the most unscrupulous and desperate scheme for the fabrication of evidence in Mexico, to suit their purposes. Here, it may be observed, are again introduced upon the stage the two parties who were united as principal and agent in the Cavazos case, to direct the suit by their affidavits and their collusive management, in which it appears that, by the judge lending himself to the scheme, they had been successful. Treanor, the man branded as one "without character or standing," is prepared for a trip to Mexico, to procure on the best terms such testimony as he can, to sustain the power of attorney; he is joined by League, and Francis J. Parker, a clerk of Judge Watrous's court.

It will be profitable to review the antecedents and relations of this man Parker, as it will be found that he figures in several important matters of fraud and chicanery, conducted through Judge Watrous's court. It will be recollected that reference was made to an order entered in Judge Watrous's court for the exclusion, from the regular panel of jurors, of the citizens of four counties lying on the Rio Grande. From the marshal's returns in the comptroller's office, it appears that this order was strictly carried out, until January, 1856, when it is discovered that it was violated in returning Mr. Francis J. Parker as one of the regular panel, at Galveston, and that he was the only citizen from the Rio Grande summoned in the face of the order, and with regard to whom the marshal had departed from the rule of the court.

Now, why was Mr. Parker "selected?" Why was he selected "two or three times?" An answer may be suggested by slightly reviewing the relations of this man to Judge Watrous, who was deeply interested, at least, in important questions pending in his court.

Parker was, in the first place, the deputy clerk of the United States court at Brownsville, over which Judge Watrous presided. He had also been appointed by the judge United States commissioner for Brownsville; and is now an itinerant commissioner on his mission to procure testimony in Mexico for the establishment of the forged power of attorney. It will be recollected that F. J. Parker was selected for jury service in this court. Edwin Shearer, also a deputy clerk, had been placed on the jury in the Ufford and Dykes case.

The progress of this man Parker, in acts of service for Judge Watrous, is next traced in his participation in the attempt made for the judge to prove up the forged power of attorney in the Lapsley cases. He appears to have been the selected custodian of this precious document, and

to have accompanied to New Orleans the witness who had been obtained at an expense of \$6,000.

Still further he may be traced, doing Judge Watrous's work, until at last he comes forward as a witness for Judge Watrous, before the Supreme Court of the United States, to sustain his Honor in his act of corrupt oppression, in depriving Mussina of his appeal in the Cavazos case.

But I will now revert to the course taken by the parties, League, Treanor, and Parker, in their mission to Mexico, with respect to the power of attorney. The three proceeded together as far as Monterey, about seventy miles from Saltillo; and from the former place, as if the movements of the party were again determined by the old anxiety to avoid notoriety and attention, Treanor proceeds alone to the seat of operations. On reaching Saltillo, it might be supposed that he would at once have consulted the archives in relation to the power of attorney. But instead of exhibiting an honest purpose, by proceeding at once to the archives, and comparing the copy which he held with the original, directs his steps, first to the house of Gonzales, a former alcalde of the place, an old man, partially blind, he exhibits the important document to him, and prompts him to give an opinion of its genuineness. A quarter of a century had elapsed since the document purports to have been made. The old man naturally suggests that he will go to the archives—of course, to examine the original. Mr. Treanor's reply is, that he does not wish this; and suggests as a reason, "that the proof was to be taken, not for a Mexican, but for an American court." Subsequently, he (Treanor) does examine the archives; he goes there alone; and it appears, for another purpose than that of examining the original of this power. And in answer to the inquiry, if he had found anything there corresponding with the copy or *testimonio* which he held, and whether he compared them, replied, "I compared them *not very particularly*, but I saw they were *very nearly equal*." Not very particularly. Why not? The matter of this power of attorney was the sole object of his mission to Saltillo. "Nearly equal" to the *testimonio*.

Such is his testimony before the committee of investigation. Strange, indeed, that Judge Watrous and his astute counsel did not think proper to ask the witness (their witness) in what respect the original and the *testimonio* differed.

The proofs of the forgery were too plain. Treanor did not dare to take the deposition of old Gonzales, before the authorities at Saltillo, as in such a case, according to the law of Mexico, the officer taking the deposition would have been required to give notice to La Vega and other parties, whom it was his object to keep in utter ignorance of his machinations.

It therefore became necessary to take Gonzales away. But it was found the old man was not willing to leave. Here Hewitson, who resided at Saltillo, who had, by a deposition of his own at Galveston, sustained this forged document, and who, it has been shown, was a general partner in the system of fraud dealt out through the machinery of Judge Watrous's court, is found to intervene to effect the object of Treanor's mission. It is eventually, by his persuasions, and by that of \$500 in money, that Gonzales is induced to accompany Treanor, six or seven days travel to Rio Grande City.

After Gonzales was got as far as Rio Grande City, his deposition was taken *ex parte*. League was bent upon making the most of this old man's testimony, to obtain which, it is proved, he has paid him at least \$1,300, besides his expenses, and was desirous of taking the old man to New Orleans, as he said, to testify before the court there. Mr. Treanor, for whose able services it is also proved that League paid \$1,300 over and above his expenses, and further sums not revealed, is appointed to prevail upon Gonzales to go to New Orleans. League assists in the persuasion by deceiving the simple old man, as he himself states, by pictures of the "progress of civilization," which he would see by an extension of his travels to New Orleans. It appears, however, that the payment of seven or eight hundred dollars additional, which League said was to compensate the old Mexican, who was a tanner, for some hides left in his vats, proved more powerful in inducing him to go to New Orleans than the alluring picture of "civilization" with which he

was promised to be amused. In his testimony before the committee, League says that he promised the old man, if he would go to New Orleans, to show him "a steamboat and a railroad." By a very wonderful coincidence, just as he was using his persuasion, "the steamboat came puffing up towards Rio Grande City." "How pretty," he said; "we can go on that boat, and be taken to New Orleans." But old Gonzales cared more for the hides, either absolutely or constructively, in his vats, than for taking "pretty" tours on "puffing steamboats." Mr. League then tries another temptation, by offering him seven or eight hundred dollars in the shape of compensation for his hides; and "by that means," says Mr. League in his testimony, "we got him to New Orleans."

It is worthy of remark what boldness is displayed in the actions of League and Treanor, in attempting to assert the validity of this power of attorney on the personal testimony of this poor old man. Who is Gonzales, that his deposition should have such value? He is without official station; he is the custodian of nothing; without judicial favor, his oath can amount to no more than that of any other ordinary person.

League, Treanor, and Parker, proceed with the witness to Galveston. Thus, it appears, he is brought to the residence of Judge Watrous, Robert Hughes, and William G. Hale. It appears that Gonzales is not sworn in Galveston; but he is put here in charge of Robert Hughes, who, in company with League and Treanor, carry him to New Orleans. In the testimony of Mr. League, from which I have just made some quotations, he makes the profession that his object in getting Gonzales to New Orleans was to introduce him before the court as a witness. But this is not done. The witness is taken before a commissioner, and makes another deposition; thus leaving without explanation the cause of the removal of Gonzales from Saltillo, for the purpose of taking his deposition.

On page 461 of the printed testimony in the Watrous case will be found the deposition of the witness Gonzales. On the examination in chief he makes out a pretty good story, and shows evidence of careful drilling. But the cross-examination which ensues reveals the most melancholy and painful case of depravity that is conceivable.

It is only with feelings of the strongest aversion that we can contemplate such an example of open falsehood, and glaring and painful contradictions in the testimony of a sworn witness. It is only on the cross-examination that the fact is drawn out from the old man, on presentation of the power of attorney to him, that he cannot read it. His sight is so decayed that he has to acknowledge that he could not read the writing, unless drawn up in letters as large as those on a street sign, which was pointed out to him over the way.

It is to this trashy, miserable evidence of this poor old blind man, who was procured as a witness, through Judge Watrous's suggestion, bribed with money, and drilled so far even as to make him suppress the fact of the decay of his sight; it is to this revolting example of the purchased and perjured evidence of an old Mexican dotard, that Judge Watrous, in his answer to the committee of investigation, has pointed with an air of triumph for his vindication and for the proof of the genuineness of the forged power of attorney, and as "placing it beyond all controversy or debate." He (Watrous) is certainly more to be execrated for the defiance of truth and of decency, in endeavoring to impose such a conclusion upon the committee, than the poor Mexican driver, who was seduced and molded to his purpose by bribery.

To cap the climax of effrontery exhibited in the parade made of old Gonzales's testimony, but one circumstance was wanting; and that seems to have been supplied by that useful creature, John Treanor. At the same examination before the commissioner at New Orleans, he is actually introduced to testify to the respectability of the deponent, Gonzales. The further wonder appears that he gets his information from Hewitson.

And as to Hewitson's former deposition to the genuineness of the power of attorney, a few words just here may dispose of the question of the veracity, generally, of his statements. He had

sworn, in his deposition at Galveston, that Gonzales was dead. Yet it appears, from the testimony, that Gonzales and himself lived in the same town, and were well acquainted, with each other, "acquaintances of long standing!" It is not necessary to canvass the truth of Mr. Hewitson's statement, after this revelation.

However, the monstrous contradiction introduced here affords another apt illustration of the boldness of Judge Watrous and his confederates, in pressing the ends of their conspiracy. In 1855, Hewitson, who was, as I have stated, one of the heaviest suitors in Watrous's court, is at Galveston. At that time the Lapsley cases are *in transitu*, and are filed and tried, within sixty days, at New Orleans. In this emergency, it suited the purposes of Judge Watrous and his confederates, that Hewitson should come forward and swear that his townsman and neighbor was dead. Yet a little while after, it suiting their purposes, they have the extreme and almost incredible effrontery to introduce the formerly dead townsman and neighbor, as a living witness, under a certificate of respectability obtained from Hewitson himself. Can there be any defiance of truth more extreme, more unblushing, and more revolting in its shamelessness than this?

So far, I have followed with patience the general narrative of this stupendous and far-reaching conspiracy, through its windings and devices. I have done this to show the ramifications of the plot, and to illustrate the boldness of the actors. That boldness, I have shown to be especially displayed in the desperate attempts made to impose upon the courts a forged power of attorney, in the procurement and benefits of which forgery Judge Watrous was largely interested.

However, there is one simple and summary view of the whole matter, that, to my mind, is so conclusive of the fraud of the parties in the La Vega land transactions, that I cannot conceive how a rational mind can require further proof, or remain in doubt with respect to, the existence of corruption among the parties to the sale of this land. I will briefly express this view, and I will challenge upon it the judgment of this honorable body, whether there was fairness or fraud in the transaction.

I refer to the circumstance of the monstrous inequality between the amount of purchase money to be paid by Judge Watrous and his partners, for these lands, and their actual value at the time of the sale. And I will start out with the well-settled principle of law, that a purchaser, with a notice of fraud in the sale on the part of those selling, becomes a party to the fraud.

Here, then, as the evidence shows, we see a body of sixty thousand acres of choice land, worth, at the time of sale, at least one hundred thousand dollars, with land scrip to the amount of "ten or twelve thousand acres," sold for the paltry sum of \$6,200. This scrip alone had a cash market value at the time of the sale, nearly, if not quite, equal to the whole amount of the purchase money; but, located on a questionable title, its market value was much more, which would render the La Vega title an absolute donation to these parties. These lands were in the hands of trustees, Messrs. M. B. Menard and Nathaniel F. Williams. The latter was the brother of Mrs. St. John, the party for whose benefit the sale was made; the other was one of the large land operators in Texas; and both were intimately acquainted with the value of property of this description. The title, also, had been derived through Samuel M. Williams, also a brother of Mrs. St. John, who was the actor in obtaining the title, and who knew all about it. If there was any defect in that title, he knew of it. If there was a reason for selling it cheap, he knew of it.

Further: it is to be noticed, that shortly previous to the sale of this land, the case of Hancock vs. McKinney, had been decided in the district court of the State, wherein a title, exactly similar to the La Vega title, as admitted by Judge Watrous himself, had been adjudged to be valid. So identical were the titles, as the testimony shows, that it may be considered that the adjudication was upon this very title, purchased from Williams by Judge Watrous and his partners.

Yet, under all these circumstances, this large body of land, worth \$100,000 at least, and the title to which had just been declared valid by the district court of the State, is sold by gentlemen who are

acting under the obligations of a trust, and who are well acquainted with the value of the land, for a few cents an acre! I ask, do not all these circumstances combine to show that there was a known and acknowledged defect in the title? They irresistibly point to the fact that Williams knew that there was no power of attorney from La Vega to perfect the title. They incontestably prove that it was a corrupt and speculative sale of a defective title. Let me place this question before honorable Senators.

Suppose that the action of the trustees, Menard and Williams, or her other agents making this sale and conveyance, had been called into question by Mrs. St. John, (for whose benefit the sale was made;) suppose she had come into court, and had said that the sale was not fair, and moved to set it aside: is there any court of equity in the land that would have refused the application? No. The inequality between the value of the land and the amount of the purchase money is too egregious to be overlooked. It is the very sign and badge of fraud to the transaction. It proves, beyond the shadow of a doubt, the knowledge of the parties of the defects of the title, and the existence of a corrupt conspiracy to supply this all-important link, and without which it was wholly worthless, as subsequent events have shown, by a forged document, and by using Judge Watrous's court to sustain such forged muniment of title.

And, in this connection, it will be borne in mind that Judge Watrous not alone received one fourth part of the purchased land, at the trifling consideration named, but also, on a credit of five years, and to this day, after a lapse of eight years, has not paid, or been required to pay, one cent.

Moreover, there is another most important circumstance. I have stated that the grant in the Hancock and McKinney case, and the La Vega grant, were identical. The position of Samuel M. Williams was the same in both grants. He had sold the Santiago del Valle grant, (which was involved in the Hancock and McKinney case,) as the agent of Santiago del Valle, in the same manner as he had sold the La Vega grant as the agent of La Vega. Judge Watrous was also interested in the Santiago del Valle grant to the extent of some four or five thousand acres of land. He, the judge, was represented by Robert Hughes, who argued the case before the supreme court of Texas. Now, it appears that, in the Hancock and McKinney case, as in the Lapsley cases, there was no power of attorney from Santiago del Valle to Williams.

In the case of Hancock vs. McKinney, "it was admitted that Williams had authority to act for Del Valle." This is reported from the case—7 Texas Reports. An opportunity to explain this singular admission was afforded Hughes, the counsel of Judge Watrous, on his examination as a witness before the House committee. But what does he say?

"Question. Was the power of attorney from Santiago del Valle, authorizing Williams to sell, in the Hancock and McKinney case?"

"Answer. I do not know. It is a long time since I saw that record."

Now, is it to be supposed that this active counsel in the case where his client and patron, Judge Watrous, was interested to the amount of four or five thousand acres of the most valuable land (situated immediately opposite to the seat of Government) would have failed to recollect the existence of this all-important link in the chain of title. Thus, as in the case of Ufford and Dykes, so in the case of Hancock vs. McKinney, it is managed to obtain the admission, and to avoid all question as to the authority of Williams to sell the land.

So it appears, that of the parties, Judge Watrous and his counsel, Robert Hughes, at least, went into the La Vega land speculation, their attention directed, especially directed, to the power of attorney from La Vega to Williams, which they had to look to as the principal link of title.

The investigation touching the official conduct of Judge Watrous, which was had in the Thirty-fourth Congress, was made in the most deliberate, pains-taking, and thorough manner. Distinct votes were taken at different stages of the proceedings. Nearly the whole available time of the session was devoted to the examination of the records offered in support of the charges, which

records in fact composed the entire evidence in the cases.

With respect to the charges assigned by Spencer, the committee found a verdict against the judge, and proclaimed that "he had given just cause of alarm to the citizens of Texas, for the safety of private rights and property, and of their public domain, and had debarred them from the rights of an impartial trial in the Federal courts of their own district."

This judgment was followed up, and its conclusions enforced by a moiety of the present Judiciary Committee, in whose elaborate and conclusive report the following finding of the facts is included:

"That while holding the office of district judge of the United States, he engaged with other persons in speculating in immense tracts of land situated within his judicial district, the titles to which he knew were in dispute, and where litigation was inevitable.

"That he allowed his court to be used as an agent to aid himself and partners in speculation in land, and to secure an advantage over other persons with whom litigation was apprehended. That he sat as judge on the trial of cases where he was personally interested in questions involved, to which may be added a participation in the improper procurement of testimony to advance his own and partner's interests."

Into the merits of the legal question, with respect to the appeal sought to be taken by Mussina in the Cavazos case, I do not propose to inquire. It is indispensable, however, to insure a clear understanding of the case, and to complete its history, to notice the matter, and to read here the judgment pronounced on this branch of the Watrous case by the following honorable gentlemen, composing a moiety of the House Judiciary Committee before alluded to: MESSRS. HENRY CHAPMAN, of Pennsylvania; CHARLES BILLINGHURST, of Wisconsin; MILES TAYLOR, of Louisiana, and GEORGE S. HOUSTON, of Alabama:

"And, finally, they are prevented from having the decision against them reviewed in the appellate court by the failure of the judge to perform his full duty to them in facilitating the exercise of the right of appeal, given to them by law, from motives of public policy, for their own private advantage."

It appears Mussina applied to the Supreme Court for a rule for a *mandamus* against Judge Watrous, who had, as he conceived, refused or defeated his application for an appeal, which was within the time prescribed by the law. To this Judge Watrous answered, and sustained his answer by the testimony of Cleveland, Parker, Jones, Love, and son. It is revealed in the testimony that William G. Hale was here in Washington, on the spot. Mr. Love, the clerk of Judge Watrous, says:

"Mr. Hale sent from Washington city a copy of Mr. Mussina's affidavit before the Supreme Court of the United States." "I got four or five affidavits, and inclosed them to Judge Watrous. All of us [i. e. Cleveland, Parker, Jones, his son, and himself, all creatures of the court,] agreed in making the affidavits on our own recollection."

It is unnecessary to review the testimony of these witnesses before the House committee. A mere inspection of it will present the contradictions with which it abounds, and will show the changes and shifting of the witnesses, according as their recollections are refreshed from time to time by Judge Watrous. It would appear that on this testimony, and the statement of Judge Watrous, the rule for a *mandamus* was denied. In a further part of the testimony taken in the Watrous investigation it is shown that the Supreme Court would not permit the truth of a judge's return in a case of this nature to be questioned; "that by the practice of the Supreme Court it did not allow a question of fact to be raised on the return of any of the judges on a rule nisi for a *mandamus*, but took the judge's return as absolutely true in relation to the facts." I ask honorable Senators to pause here. I beg them to consider to what this question of appeal from Judge Watrous's court has reduced itself. I ask, has Judge Watrous proved himself the man of truth and honor, that his word should not be permitted to be questioned? Is he the man whose statement should not be gainsayed? Is he the man to be continued in a position where his statements are to govern and override all contradiction? Is he the man to remain on the bench?

It has been shown now what steps were taken by Judge Watrous and his court officers to baffle, and finally defeat, the appeal of Mussina.

This was the right of appeal, a right so absolutely recognized as essential to the interests of

justice, and so important with reference to public policy, denied the petitioner. Such, indeed, was a fitting conclusion to the series of acts of collusion, tyranny, and oppression which had signalized the action of the judge in the celebrated Cavazos case.

As to the final act of collusion on the part of Judge Watrous and his confederates in preventing Mussina's appeal, the judgment of the committee in the Thirty-fourth Congress is so strong and clear that if I could afford the time I might comment at length upon the deliberate and atrocious circumstances that mark this last act in the Cavazos case.

But even apart from this, there appear additional reasons why an appeal was not taken in the Cavazos case, even if it had been possible; or why attempt was not made at an earlier day, despite of the machinations to prevent it. There were reasons to esteem the record as partial, collusive and false; and a party might well hesitate to risk his case upon such a record. He might well fear the effect of a made-up record; and one made up, too, as the testimony would show, under the eye of William G. Hale, the chief actor in the scenes we have described.

But I conceive a special and particular reason to prevent a party from risking his rights on such a record as that in the Cavazos case. I allude here to one of the most open and barefaced acts of collusion possible to be imagined, having been countenanced by the judge, and put falsely upon the record, so as to operate to the particular prejudice and detriment of Mussina. This circumstance alone will furnish an ample explanation of Mr. Mussina's much accused delay in taking an appeal.

It appears that by collusion, and in defiance of law and justice, Robert H. Hord was called by the complainants, and made a witness for them, on the trial of the Cavazos case. Thereupon, having been sworn on his *voir dire* to testify as to his interest, the solicitor of Jacob Mussina, one of the defendants, put the following questions to him:

"Have you, or have you not, any understanding or agreement with the complainants, or either of them, or their agent or solicitors, in relation to the determination of this cause, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina in any property or rights involved in this suit? Are you, or not, interested in any such understanding or agreement?"

This question Mr. Hord refused to answer, and, thereupon, the court decided "that the question need not be answered."

As to this ruling of the court, the committee of the Thirty-fourth Congress say unanimously:

"The court permitted Robert H. Hord, counsel for defendants, and witness covertly interested, to testify at the hearing of said cause, and sustained his refusal to answer the following proper and legal question, intended to show that he had a collusive interest adverse to Jacob Mussina."

And a moiety of the committee of the present Congress sustain this view by the following declaration of judgment:

"The refusal of the judge to compel the witness (Hord) to answer the questions propounded to him by Mussina's counsel, and then permitting the witness to testify to a fact material to the issue, and in opposition to Mussina's interest, was, we think, in violation of law."

"The action of the judge, in the instance spoken of, seems to be subversive of all recognized principle, and to admit of no excuse."

The testimony of Hord, which the court admitted, was of great importance. It went to the main question of the genuineness of the title of complainants. His testimony was important, as against Mussina, and others of the defendants; and it further appears that with Mussina he had held the most confidential relations, having been his agent and attorney.

It appears further, from the testimony before the committee, that long before Mr. Hord was thus examined as a witness, he had made a collusive agreement with the man Treanor, who was acting as the agent of the complainant, Cavazos, and who now called him as a witness. It is shown in the testimony that Hord held an instrument of writing, purporting to be a sale, or contract of sale, to himself and partner, of the town tract of Brownsville, which was the principal subject-matter of the suit, which was signed by John Treanor, as agent for Cavazos and wife; and the suit was continued, and Hord offered as a witness, simply to carry out this fraudulent arrangement.

This revelation is not only important, as go-

ing to show the collusive interests of the witness Hord, but it throws further light upon the wretched system of fraud to which Treanor, this useful agent and witness of Judge Watrous, was a party.

It would seem to be an excess of oppression thus through collusive management to use a party as a witness against his client and friend, and to deny him the privilege of examining such witness as to that collusion. But the record is falsified still further to take advantage of this testimony; and Mussina is to be bound hand and foot so as to preclude all possibility of his contesting his rights upon a fair and honest record. Not satisfied with foisting upon the case the testimony of Hord as a witness of the complainant, the "statement of proceedings" which is signed by Love, the clerk of the court, makes it to appear that this testimony of Hord had been offered by Mussina and other of the defendants. Love, in his testimony before the committee, in answer to the "question by whom was the original statement of proceedings made?" says:

"I do not know certainly; but I believe the original was presented to the clerk of the court by Mr. Hall, for him to verify by the indorsements on the papers filed."

Thus is falsehood added to falsehood; thus is the truth of the record prostituted to collusive designs; and at last, by its falsification, is Mussina left without anything on which to hang even a hope for the recovery of his rights.

Indeed, every circumstance about the record was calculated to inspire suspicion of its integrity. The translations of some of the most important documents in the case had been made by Hale; and although he was not sworn, he was allowed to withdraw the original documents from the file; the translations which he substituted were admitted by the court; and thus again was the record of the case governed by this colluding and unscrupulous attorney, who holds an absolute conveyance for the larger portion of the property.

No wonder that Mussina was unwilling to trust to the integrity of the record thus made up under the eye and direction of his adversary. Nor does he appear to have been timorous without reason. Sir, it appears by the testimony before the late investigating committee that, in a snit which he instituted in New Orleans against the parties who had colluded in Judge Watrous's court, to despoil him of his rights, a false record was sent up from Judge Watrous's court; false, too, in the most important and vital particular. In the examination of the record, it was found that an affidavit had been falsified by striking from the very middle of it an important portion of the evidence. Against men who dared thus to do an open act of infamous crime Mussina had to contend from first to last. Other and glaring evidences of collusion are to be seen in this state of proceedings, and indeed throughout the record as sent up to the Supreme Court.

It appears that the judge's partnership speculations were of the most various kinds. He not only was interested in the fraudulent certificate business; he not only engaged in speculations with a company of professional dealers in real estate; but he had other partnerships by which to sustain his fortunes. He taxed his ingenuity in contracting partnerships of every description. The testimony shows that he even obtained partners in the ownership he claimed of a patent for curing beef, and of an extensive beef-curing establishment.

But it is found that he went into another partnership of much more questionable honesty than the beef-curing speculation. He became connected with Dr. Cameron in a silver mine of Mexico. This partner was a principal litigant in his court, and had heavy suits pending therein to large tracts of land under Mexican grants; of course, it became the judge's interest that his partner should harvest his means; and to the extent of his interest, he necessarily vacated his office.

I must here advert briefly to another gigantic speculation with which Judge Watrous is shown to have been connected. I refer to what is known as Peters colony; which was a "contract of colonization of more than ten thousand square miles of land in Texas. William G. Hale, in his correspondence with Judge Watrous, from which I have already read, makes allusions to the progress of negotiations on the subject. In his letter, dated March 14, 1847, to Judge Watrous, he remarks,

"we have had a long interview with Mr. Hedgecoxe, (the agent of Peters colony grant,) and are arranging matters."

It further appears, that the Hon. Caleb Cushing was employed as the attorney for this association, which is known to have numbered among its members men of the highest station and most powerful influence in the land; and that when elevated to the high office of Attorney General of the United States, he gave an extra-judicial opinion in favor of the claim of the company, which will be found in the published Opinions of the Attorneys General.

It was this former attorney for the association, with which Judge Watrous was connected, who was called to his aid, when pressed by the investigation before the committee of the House, and who acted as his counsel and defender throughout that emergency. I mention this only to illustrate the ramifications and varieties of the influences brought to sustain Judge Watrous whenever occasion required, and the extent of which baffles imagination, and leaves us at a loss what to conjecture.

I will here bring to the notice of this honorable body a letter addressed by one of the managers of Peters colony grant to Judge Watrous, after his elevation to the bench:

LOUISVILLE, KENTUCKY, January 15, 1847.

DEAR SIR: I am just in receipt of your letter of the 22d ultimo, and upon presenting it to the trustees of the company who manage its affairs, they instructed me to say to you that the transfer of their cause by you to Messrs. Johnson and Hale meet their entire approbation. Relying upon their knowledge of your own ability to select for them, they have addressed a note to Messrs. J. and H., but if it should not reach them, please do us the favor to say to them that their selection is satisfactory, and that we hope they will investigate the matter thoroughly for trial. Our agent in the grant, upon whom the process will be served, is Mr. Henry O. Hedgecoxe, McGarrab's post office, Texas—the county I do not know, as the grant has been divided within a year into three counties. If they require any information from us, we shall promptly give it to them. I am pleased to learn that you have received and accepted the appointment of judge of the Federal court of Texas. I do you but justice when I say that I believe, from the reputation you have among those whom I know to be competent to decide, that you deserved the appointment; and I am also satisfied that if our case should come before you, that we shall have both law and justice rendered us, so far as it is dependent on your decision.

Please accept my best thanks for your attention and communication, and believe, very respectfully, &c.,

JNO. J. SMITH.

To Judge J. C. WATROUS.

The fact is thus revealed that Judge Watrous had been counsel in this case before going on the bench, and that in assuming the judicial office, he had turned over the business he had been managing to Hale and Johnson, the attorneys he had imported into Texas to aid in the accomplishment of his purposes. The writer of this letter, one of the persons who had employed the judge in this case, congratulates him on his promotion to the bench, and says:

"I am also satisfied that if our case should come before you, that we shall have both law and justice rendered us, so far as it is dependent on your decisions."

Thus writes the client to his lawyer who had been made judge, and who is congratulated on the justice with which he will decide the case in which he had been counsel.

It may well be imagined what influences this conspiracy must have possessed itself of, and wielded for evil, when it is seen how a memorialist who dared to ask for the impeachment of Judge Watrous has been hunted, traduced, and threatened, to deter him from the prosecution of his remedy before Congress. Leading presses have been subsidized to devote their columns to his abuse, and to the circulation of absurd slanders. Great influences must certainly have been employed to procure this wholesale and unqualified personal abuse, when we reflect upon the indorsements Mr. Mussina has received with respect to the truth and justice of his complaints. The assertion of his wrongs has been sustained by the unanimous report of one committee of Congress; the findings of this committee have again been indorsed by a moiety of the present House Judiciary Committee, and those of this committee who dissented have been willing to admit that they had not examined the charges assigned by Mussina with care. With such indorsements of his verity, and the fact being considered, too, that the judge he accuses had been previously charged by the sovereign State itself, what influences may we not imagine to have been employed to so pervert the truth?

In the history I have stated of the conspiracies, collusions, and frauds, in which Judge Watrous was an active party, I have not attempted to comprehend all the malfeasances of the judge. The record of these might be greatly extended. But I have only intended to give a sketch of the most prominent and notorious of his misdeeds. In doing this, I think I may claim that I have not indulged in mere assertions, nor in any statements, unless sustained and accompanied by the evidence. I think that I have not commented with violence upon any of the revelations of the judge's offenses. I have had no disposition to indulge in denunciations, and I have sought only to marshal the facts, for the calm consideration and judgment of this honorable body. With respect to the malfeasance of the judge in the cases of Mussina and Spencer, I have been governed in my statements by the letter of the testimony, taken by the House committee in the investigation of his conduct. I have followed this testimony strictly, I believe, and with no other anxiety than that of arriving at those legitimate conclusions of fact, which it inevitably leads to and warrants.

In drawing to a close the brief history I have attempted to narrate of the frauds which were conceived, set on foot, and promoted by Judge Watrous and his confederates, a portion of whom, at least, are known, it will be well to make a slight review of the principal facts, so as to hold clearly in the mind correct and proportionate ideas of the vast conspiracy of the details of which I have spoken at length.

It appears that the company was organized on a scale of most extraordinary extent; and that its ramifications, as far as known, reached from State to State, to the most distant points of the Union, and that, as far as they are unknown, they may well be imagined to extend to existing sources of power, anywhere in the country. The objects about which this combination was employed have been shown to have been of the most comprehensive and varied character. But seldom, indeed, has any record of crime offered more convincing proofs of guilt, or displayed more numerous and more ingenious varieties of transgression, than that written in the history of the Watrous conspiracy.

Every object that cupidity could devise, or that fraud could suggest, seems to have been embraced in the designs of this stupendous company.

It was its object to plunder the public domain of Texas, to seize upon it by fraud and forgery, and to fasten upon whole communities the most audacious frauds ever sought to be practiced upon State or people.

It was its object to deal in fraudulent land certificates, and to sustain these dealings by corrupting and seducing the courts, thus adding crime to crime. It has been seen that the most open propositions of corruption were made, and the traffic was carried on with the direct countenance and assistance of Judge Watrous, whose agent explored the bar-rooms and grogeries of the State for customers.

It was its object to conceal their operations, and, especially, to remove them from the action of Texas juries. For this service it has been shown how the machinery of Judge Watrous's court was employed, and how, in that court, the great suit of Phalen vs. Herman, seeking to substantiate these worthless certificates, was instituted and removed out of the State in less than seventy-two hours, and that done out of term-time.

It was its object to plunder private property, and to secure to its members vast bodies of lands in Texas, and to despoil the settlers of their just and hard-earned rights.

It was its object to acquire interests in land within the jurisdiction of Judge Watrous's court; to further the speculations by the corrupt use of that court; and through its protection to escape responsibility to Texas juries.

It was its object to have the Federal court absolutely subservient to its designs; and for this purpose servile juries were sought to be selected, and an order made by Judge Watrous to exclude from jury duty citizens of four counties, which counties embraced the chief portion of the company's known field of operations.

It was its object to impose upon the courts a forged muniment of title to a vast estate, and to sustain the forgery by perjured and purchased testimony. The whole history of the forged

power of attorney is overwhelming in its evidence of the black and redoubled crime of Judge Watrous and his confederates, in seeking to sustain a forgery of the most monstrous description, by devices of fraud, by bolder acts of bribery, and, at last, by direct subornation of perjury.

It was its object to betray suitors in Judge Watrous's court, by collusion between the court and counsel, and between opposite counsel, and to divide out among themselves the gains.

It was its object to oppose all unfriendly parties who attempted to sue in the Federal court, and, through the favor of this judge, to practice revenge upon them, to strip them of their rights, and to mock them.

All these stupendous and vile objects were sought to be accomplished through the subversive of Judge Watrous's court, and by the aid of the corrupt appliances he possessed. The whole conspiracy centered in him; and for the sum of all its wrongful acts he is to be held responsible.

How shall this fearful responsibility be exacted? This honorable body cannot do it; it cannot administer the punishment, or series of punishments, that the black record calls for. But although it cannot visit a felon's doom upon the culprit, it may banish him from the offices of the State. The least it can do is to deprive of further opportunities of further wrong a judge who has disgraced his station and defiled his ermine and stricken dismay in the hearts of the people. This is all that is asked for; simply that Judge Watrous's opportunities as a judicial officer of continuing with impunity his offenses, may be limited by the passing of the bill I have offered. And in making this least request, I appeal for your compliance in the name of a noble, outraged people; and in the name of interests which are even higher in their appeal to you—those of the honor of this Government as residing in the character of our Federal judiciary.

Mr. President, I shall for only a few moments longer occupy the attention of the Senate. This has been a most extraordinary case. It is one that appeals to the integrity, to the consideration, and to the reflection of the Senate. These disclosures of criminality, the evidence furnished by his confederates, the extraordinary character of his judicial decisions, his tyranny, his unprecedented despotism in judicial action—all these things seem to present it as the only alternative that we should get rid of this man in some way.

Why, sir, the temptations of twenty-four million acres of public domain, and the corrupting influence of a combination so extensive and extraordinary as this has been, are calculated to engulf all the interests of the State. There is a mode of remedy that has heretofore been resorted to, and can be again. By consolidating the two judicial districts of Texas into one, we can get rid of this intolerable incubus; we can divest ourselves of this calamity. Texas, in all that she has ever felt in her days of extreme excitement to the present day, has never felt so keenly the afflictions of revolution as she feels this moral curse, and this judicial iniquity upon her. She has passed through many trials, but none that compare to this. This promises an interminable duration: we know not when we are to get rid of it. Twenty-four million acres of land! there is magic in its sound—magic in the number of acres. It is a kingdom; it is an empire worth fighting for; and it will be fought for; and it admits of divisions and subdivisions. Where it is to go, through what ramifications it is to run, no one knows. No one knows the artifice that is now used, and the means that are to be employed in these and other speculations in Texas referred to. Sir, rid us of this man; give us an honest judicial officer. The people of Texas, of Anglo-Saxon descent, are an honest people. It is that which causes them to feel this curse with tenfold wretchedness. They are not capricious. No other people, with the manifest outrages that have been there committed, would tolerate this man to sit on a judicial bench, and to remain in a position where he could soil his ermine and attach infamy to his office. Sir, our people have been always submissive to law, or enough of them to maintain the solidity of our community; and though men may have gone there in other days—and I was among the first emigrants—who may not have lived here under the most favorable and delightful circumstances, yet they have united all

their energies, they have made themselves a people, and they deserve to be considered as such.

The gentlemen who have thought proper to reflect on their character, and even this judge himself, would find that they themselves would come up to a very low standard of Texas morality. I insist that we be relieved from this judicial monster, that has disgraced the judicial system of our Government more than any man has ever before done, and whose crimes are but partially exposed to the public, notwithstanding he has sunk deep, deep in the slough of infamy. I wish this bill read.

AGRICULTURAL COLLEGES

Mr. HUNTER. I now call for the order of the day.

Mr. GWIN. I rise to a privileged question.

The PRESIDING OFFICER. (Mr. STUART in the Chair.) The Senator from Virginia demands that the orders of the day be called. The Senator from California rises to a privileged question. He will state it.

Mr. BIGLER. If the Senator will allow me, I should like to inquire what is the order of the day.

The PRESIDING OFFICER. The unfinished business of yesterday.

Mr. BIGLER. A resolution which I offered on Monday was made the special order for today.

The PRESIDING OFFICER. The unfinished business undisturbed of yesterday at the time of the adjournment is the first business in order today.

Mr. BIGLER. I have no inclination to interfere with that; but I should like very much to have an understanding that my resolution shall come up on Monday.

Mr. HUNTER. I think it likely enough that the Senator can get it up then; but we cannot have such an understanding now. I hope we shall go on with the order of the day, unless a privileged question supersedes it.

Mr. GWIN. The bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, was recommitted yesterday to the Committee on Public Lands. I voted in favor of its reference. I move to reconsider that vote, and I will state very briefly my reasons for it. I am instructed by the Legislature of California to vote for this bill, and it is my intention to vote for it; but there are some of its details that are very injurious to the interests of my State, and I think if they had been known to the Legislature at the time, they would have modified the instructions; but that is no reason why my action should embarrass the bill when I am instructed to vote for it. I move to reconsider, under the hope that it will be so amended as to confer the benefits which I think it should confer on my State, and I shall vote for its reconsideration. I move that it be reconsidered.

Mr. HUNTER. Will not the Senator agree to postpone the reconsideration?

Mr. GWIN. I leave it in the hands of its friends. I move the reconsideration, and they can take up the motion now if they choose.

Mr. HUNTER. I ask the decision of the Chair whether the consideration of that question has precedence of all others, under the rules?

The PRESIDING OFFICER. The opinion of the Chair is that the Senator from California has the right to make the motion, and have it entered; but the demand made by the Senator from Virginia, to proceed to the consideration of the orders of the day, precedes the consideration of that motion.

Mr. HUNTER. I make that demand, to proceed to the orders of the day.

Mr. WADE. Do I understand that the question on the reconsideration of this bill is now before the Senate?

The PRESIDING OFFICER. The Chair decides not. The Chair decides that the Senator from California has the right to make the motion and have it entered; but the Senator from Virginia having previously demanded the execution of the order of the day, it takes precedence, unless the Senate should otherwise decide.

Mr. WADE. Then I move to postpone all the prior orders, and take up the agricultural college bill for consideration now; and I will state to the Senator from Virginia that I do not suppose it is

going to occupy much time. I do not believe it is going to be debated on either side. All that it seems necessary to say has been said; and I hope we shall take the vote.

Mr. HUNTER. The Senator from Alabama [Mr. CLAY] says that, if it comes up, he must make a speech. We can finish the Indian bill in the remnant of the day, but if I am thrown over with that, I shall have to contest the matter with the Senator from Georgia [Mr. IVERSON] to-morrow, against private bills. We are obliged to push the appropriation bills along. It is the most economical use we can make of the day to dispose of the appropriation bill.

Mr. WADE. This is a matter that will always be thrown in the way of the Senator's appropriation bill until we shall have a final decision of it. I hope that it may be had to-day, and then I am sure I shall have nothing to antagonize with his motion. I think we ought to have a decision on this question now. I therefore move to postpone all prior orders, and take up the agricultural college bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio to postpone all prior orders, for the purpose of proceeding to the consideration of the bill indicated by him.

Mr. WADE. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. BROWN. I agreed this morning to pair off with the Senator from Maryland, Mr. KENNEDY, who is temporarily absent from the Senate. If he were here he would vote for this motion, and I against it.

Mr. WADE (when Mr. JONES's name was called) said: The Senator from Iowa, Mr. JONES, and the Senator from Maryland, Mr. KENNEDY, have paired off on this bill.

The Secretary concluded the calling of the roll.

Mr. BROWN. Since I declined voting, I learn that Mr. KENNEDY had paired off with General JONES. That entitles me to a vote, of course, and I accordingly vote "nay."

The result was announced—yeas 27, nays 26; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Gwin, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Thompson of Kentucky, Trumbull, Wade, Wilson, and Wright—27.

NAYS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sibley, Toombs, and Ward—26.

So the motion was agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from California, to reconsider the vote by which this bill was referred to the Committee on Public Lands.

Mr. CLAY. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. BRIGIT. On this question I have paired off with the Senator from Connecticut, Mr. FOSTER, who is sick.

The question being taken by yeas and nays, resulted—yeas 28, nays 27; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Gwin, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Thompson of Kentucky, Thompson of New Jersey, Trumbull, Wade, Wilson, and Wright—28.

NAYS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Davis, Fitch, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Sibley, Toombs, Ward, and Yulee—27.

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. (Mr. STUART.) The bill is before the Senate as in Committee of the Whole, and the pending question is on the amendment proposed by myself on the floor, and which has been divided, reserving that part which relates to mineral lands. Is the Senate ready for the question?

Mr. WADE. I believe there is no objection to this amendment on the part of the friends of the bill. I believe it was understood by them all that the amendment offered by the chairman of the Committee on Public Lands was acceptable.

The first branch of the amendment was then agreed to.

THE CONGRESSIONAL GLOBE.

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THE PRESIDING OFFICER. The question now is on the second branch of the amendment, relating to mineral lands.

Mr. PUGH. I believe I demanded the yeas and nays on that; but, with the consent of the Senate, I withdraw the call.

THE PRESIDING OFFICER. The Chair hears no objection, and the call for the yeas and nays is withdrawn.

The second branch of the amendment was agreed to.

The amendment thus adopted is, to strike out of the first section of the bill the words "five million nine hundred and twenty thousand acres of," and insert "an amount of public," so as to make the section read:

That there be granted to the several States and Territories, for the purpose hereinafter mentioned, an amount of public lands, &c.

And to add at the end of the section:

Provided, That to each State whose number of members in the House of Representatives shall be increased by the next apportionment under the census of 1860, there shall be granted the additional quantity of twenty thousand acres of land, and upon the same terms, as soon as said apportionment shall be made: *And provided further*, that no mineral lands shall be selected or purchased under the provisions of this act.

Mr. GWIN. I wish to move a substitute for the first section.

THE PRESIDING OFFICER. The Chair will suggest to the Senator from California that there was an amendment sent to the Chair by the Senator from Minnesota, [Mr. Rice.]

Mr. RICE. I offer that amendment now. It is in section one, line six, after the word "quantity," to insert "proportionate to the area of tillable lands within each," so that the clause will read:

To be apportioned to each State, a quantity proportionate to the area of tillable lands within each, equal to twenty thousand acres for each Senator and Representative in Congress, &c.

Mr. HAMLIN. I desire to know from the Senator who offered that amendment, in what method he proposes to ascertain what is tillable land in a State, and what is not?

Mr. RICE. If the amendment is adopted, I think a way will be found to ascertain the quantity of agricultural land in each State. In the State of Minnesota there are no lands but what are agricultural lands, and the statistics given in the census, I believe, generally show the quantities in each State, of mineral, pine, and agricultural lands, and also all lands that are worthless.

Mr. HAMLIN. I do not think the Senator has answered the objection, for my question was in the nature of an objection; and I think it is one which will suggest itself to every Senator in the Senate. It is practically impossible to tell the quantity of tillable land in any State; it cannot be done.

Mr. RICE. If the amendment passes I will offer another, requiring the appointment of commissioners to ascertain. It will not add more than a million dollars to the bill.

Mr. PUGH. It occurs to me it is as easy to ascertain what is tillable land as it is to ascertain what land is worth \$1 25 per acre.

The amendment was rejected.

Mr. SHIELDS. Before the honorable Senator from California offers his amendment, I ask that the proviso be stricken out of the second section. By common consent, I suppose it may be done. It is in these words:

Provided, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to private entry."

Mr. PUGH. Is that the proviso that authorizes the States to assign the scrip?

THE PRESIDING OFFICER. The proviso will be read.

Mr. PUGH. Never mind; I will vote for the amendment anyhow.

The amendment was rejected, there being on a division—yeas 20, noes 25.

Mr. SHIELDS. I move that the proviso be

amended by inserting after the word "State," the words "or Territory," so that they will not be able to locate the scrip either in a State or a Territory.

The amendment was agreed to.

Mr. GWIN. I now move to strike out the first section of the bill, and insert my substitute in these words:

That there be granted to the several States and Territories, for the purpose hereinafter mentioned, five million nine hundred and twenty thousand acres of land, to be apportioned in the compound ratio of the geographical area and representation of said States and Territories in the Senate and House of Representatives of the Congress of the United States: *Provided*, That said apportionment shall be made after first allotting to each State and Territory fifty thousand acres: *And provided further*, That the State of California may locate her portion of the said lands upon any of the unappropriated lands in that State other than mineral lands, and not then occupied by actual settlers.

My reason for offering this proposition is, that a State with a large area like California, I think, ought to have more land than the State of Rhode Island; but under the bill as it now stands, until the new apportionment, they will get the same. I am very clearly of opinion that there ought to be some equalizing of the benefits of this bill according to the extent of country to which its benefits are to be extended. We have one hundred and twenty million acres of land in our State, and not a county in the State that is not larger than Rhode Island, and I think there ought to be some equality in the distribution.

Mr. IVERSON, Mr. CLAY, and others called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 25, nays 28; as follows:

YEAS—Messrs. Benjamin, Broderick, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Greep, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Polk, Reid, Rice, Sebastian, Shields, Sildell, Ward, and Yulee—25.

NAYS—Messrs. Allen, Bayard, Bell, Bigler, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, and Wright—28.

So the amendment was rejected.

Mr. RICE. I desire to offer a proviso, to come in after the first section:

Provided, That the provisions of this act shall not apply to Minnesota, nor shall any of the public lands hereby donated be selected within the limits of said State.

Mr. POLK. I move to amend the amendment by adding after Minnesota, "or Missouri."

Mr. RICE. I accept the amendment.

Mr. GREEN and **Mr. RICE** called for the yeas and nays on the amendment as modified; and they were ordered; and being taken resulted—yeas 22, nays 30; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Clay, Davis, Fitch, Fitzpatrick, Green, Hammond, Houston, Iverson, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Rice, Sebastian, Shields, Sildell, Ward, and Yulee—22.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, King, Reid, Seward, Simmons, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, and Wright—30.

So the amendment was rejected.

Mr. PUGH. I move to strike out the fourth and fifth sections of the bill.

Mr. HUNTER. What are they? I should like to hear them read.

The Secretary read them, as follows:

"*Sec. 4. And be it further enacted*, That all moneys derived from the sale of the lands aforesaid by the States to which the lands are apportioned, and from the sales of land scrip hereinafter provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in section fifth of this act,) and the interest of which shall be inviolably appropriated by each State which may take and claim the benefit of this act to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific or classical studies, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the liberal and practical ed-

ucation of the industrial classes in the several pursuits and professions in life.

"*Sec. 5. And be it further enacted*, That the grant of land and land scrip hereby authorized, shall be made on the following conditions, to which, as well as to the provisions hereinafter contained, the previous assent of the several States shall be signified by legislative acts:

"First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective Legislatures of said States.

"Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

"Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to each State shall cease: and said State shall be bound to pay to the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid.

"Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters as may be supposed useful—one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and to the Smithsonian Institution, and the agricultural department of the Patent Office, at Washington.

"Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at double the quantity."

Mr. PUGH. If my motion shall prevail, I shall move to add the fifth provision of the fifth section as a separate section of the bill; but my objection to the fourth and fifth sections as they stand now, is, that they purport to impose conditions on the Legislatures of the States. If you choose to grant public lands to the States in aid of agriculture and for the establishment of colleges, as the first and second sections of the bill provide, do so; but leave it to the wisdom of the States how to apply it, and not undertake to fetter them by conditions imposed in this bill. In fact, objectionable as the whole grant is to my mind, this attempt of Congress to assume control over the legislation of the States, in virtue of the condition, is altogether the worst feature of the bill; and I shall therefore call for the yeas and nays. The bill itself, without these sections, will be a grant of land, to the amount stipulated, to the States, for the establishment of colleges on such terms and conditions as they shall see fit.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I agree with the honorable Senator from Ohio: if we are to violate the Constitution of the United States, under a general grant of the power of disposing of the public lands, by appropriating them for purposes not within our jurisdiction, at least we should not make a grant to the States of this Union, which constitutes them trustees, under certain conditions, when we have no possible tribunal to enforce the trust, if they choose to disobey it. If you will give the land to the States, give it away, give it unconditionally, and trust to their wisdom in the disposition of it. You may indicate the general purpose, but it is all idle to attempt to introduce these provisions; because if the States do not choose to regard them, the result will be precisely as it was with your deposit of the surplus funds of the United States. It will be called a deposit, but it will be, in effect, nothing more than a gift. It is better to make it a gift broadly, without attempting to restrain the States. Let them dispose of the fund, if you choose to give it in that way, according to the discretion of the different State Legislatures. As this bill stands, the contemplated grant to my own State, from the smallness of the grant, would be perfectly useless for good. In my opinion, it would be useless for good to any State of the Union. I can easily see that it threatens to increase that corruption which is spreading fast over this country, and a palpable violation, in my

judgment, of the Constitution of the United States is involved in the passage of this bill.

Mr. PUGH. At the suggestion of my friend from Minnesota, I will modify my motion so as first to strike out the fifth section alone. I move now to strike out the fifth section.

The PRESIDING OFFICER. The Senator can modify his motion in that way by unanimous consent. The Chair hears no objection. The question, therefore, is on striking out the fifth section.

Mr. JONES. I wish to state that I have paired off with the Senator from Maryland, Mr. KENNEDY.

The question being taken by yeas and nays, resulted—yeas 25, nays 27; as follows:

YEAS—Messrs. Bates, Bayard, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Thompson of New Jersey, Ward, and Yulee—25.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Thompson of Kentucky, Toombs, Trumbull, Wade, Wilson, and Wright—27.

So the motion to strike out did not prevail.

Mr. GREEN. I have one small amendment to offer, to be inserted as a new section:

And be it further enacted, That this act shall not take effect, or be carried out in its provisions, until after the census of 1860, on which basis, and the apportionment thereon, the donations and rights granted by this act shall be made.

Mr. WADE. I suggest to the Senator that there is an amendment already adopted to this bill, which provides for that, I think, precisely.

Mr. COLLAMER. It provides that the apportionment shall be made after the next census.

Mr. GREEN. If so, I am willing to withdraw my amendment. Will the Secretary read the amendment that has been adopted, of that character?

The PRESIDING OFFICER. The amendment to the first section will be read.

The Secretary read it, as follows:

Provided, That to each State, whose number of members in the House of Representatives shall be increased by the next apportionment under the census of 1860, there shall be granted the additional quantity of twenty thousand acres of land upon the same terms, as soon as said apportionment shall be made.

Mr. GREEN. I do not withdraw my amendment. That does not meet the case at all. I felt very well convinced that I was right when I first proposed the amendment. The object of my amendment is to prevent the application of the bill until the apportionment under the census of 1860. If this donation is to be made to the people, and for the people, it ought to be in proportion to the people. Now, it is known to Senators that the relative proportions of the old States and the new States, the one to the other, have materially changed since 1850. At that time Missouri had a population of about three hundred and eighty-three thousand. Missouri has now a population of more than one million. At that time Illinois had a population of seven or eight hundred thousand; it now has a population of more than one million five hundred thousand.

If this donation is to be for the people, it ought to be in proportion to the people, and it ought to be according to the present population, at this period of time, if the bill took effect to-day; but as we do not take the census more than once in each ten years, I propose to postpone the taking effect and operation of this bill until 1860; which is only one year after this. It is not a long period of time. It will reduce the share of the old States; because their population, in proportion to the Union, is reduced. It will increase the share of the new States, because their population has increased.

If the grant is to be made in proportion to population, then the basis I propose is just. If it is to be under an arbitrary rule, a mere *ipse dixit*, because the power so to vote is given, then they can pass it. The amendment suggests itself, and the reason why the prior amendment already adopted does not meet the case, is this: that gives the land according to the present ratio, and will give an increase to the new States, but will give no diminution to the old. They take under the present ratio, and the new States will take under the new ratio. Therefore the old States will get more than their share, and the new States, while they would get their share on a proper basis, yet,

in proportion to the old, will not get an equal share.

Mr. MASON. We ought to have the yeas and nays on this amendment. I think the reasons assigned by the Senator from Missouri are conclusive for the equality of the bill, unless it is determined to have it unequal.

The yeas and nays were ordered.

Mr. HAMLIN. I have risen for the purpose of counting one in the number to order the yeas and nays, in order to see how Senators will vote upon this amendment. It is hardly a moment since we had a proposition here, and one side of the Senate pretty generally voted for the proposition that this apportionment should be made according to territory. Surely, that had nothing to do with population. Now, the same gentlemen who voted for that—for I believe the Senator from Missouri was one of the number—propose to change this bill because it is not equal in proportion to population. The vote is only just from his mouth a moment since to divide the land according to territory.

Mr. GREEN. The Senator misunderstands me. I do not propose to change the bill at all, and the amendment does not. He misunderstands it, and has not surely been paying attention. I only propose that the bill shall be carried into effect after we get the truth of the basis of population under the census of 1860.

Mr. HAMLIN. Precisely; and now I put the question to the Senator from Missouri, did he vote for the amendment offered by the Senator from California? Will he answer me?

Mr. GREEN. Certainly, I did.

Mr. HAMLIN. Then, the point I make is this: the Senator has just voted for an amendment to divide it according to territory, making a compound ratio of territory and population. Now, his amendment proposes to confine it exclusively to population because it is just. Then, how was the other just?

Mr. GREEN. I will answer the Senator. I proposed, as it was an agricultural donation to aid agriculture, to make it in proportion to the wants of agriculture, predicated upon arable land, upon territory, and to put it upon the compound ratio of people and land; but the majority of the Senate saw proper to vote down the proposition of the Senator from California, showing that they intended to make it on population alone. Now, if you make it on population alone, I want the true population; but the Senator does not want the true population. That is the difference between the Senator and myself; and, if I am not right and consistent, I leave the country to judge between us.

Mr. HUNTER. The Senator from South Carolina, Mr. HAMMOND, has paired off with the Senator from New Jersey, Mr. THOMPSON, and asked me to state the fact.

The question being taken by yeas and nays, resulted—yeas 22, nays 31; as follows:

YEAS—Messrs. Broderick, Brown, Chesnut, Clay, Davis, Fitch, Fitzpatrick, Green, Houston, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Rice, Sebastian, Shields, Slidell, Ward, and Yulee—22.

NAYS—Messrs. Allen, Bates, Bell, Bigler, Cameron, Chandler, Clark, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, Hunter, Kennedy, King, Reid, Seward, Simmons, Stuart, Thompson of Kentucky, Toombs, Trumbull, Wade, Wilson, and Wright—31.

So the amendment was rejected.

Mr. PUGH. I move to add the following as an additional section:

And be it further enacted, That the operation of this act shall be suspended until such time as the revenues of the Government of the United States, derived from duties on imports, may exceed the amount of annual expenditures.

Mr. HALE. I rise to a question of order. We have once voted not to indefinitely postpone the bill, and I think this is equivalent to it. [Laughter.]

Mr. PUGH. I have no doubt it would be; for if such bills as this were passed, I defy the value of all imported articles that may come into the United States to defray the expenses of the Government.

Mr. President, this is the principle that was incorporated in the land distribution act of 1841. When this Government undertook before to distribute the proceeds of the public lands, at the famous extra session of 1841, it had the grace, at least, to put in a provision that, whenever the rate of duties on imports should exceed twenty per

cent., the distribution should cease; and it has ceased from that time to this. If the amendment be not adopted, this is a more extravagant proposition than was passed at the extra session of 1841; and I want my friend from Pennsylvania, [Mr. EOLEN,] who pressed us with the resolution the other day upon the necessity of increasing the revenues of the Government, in order to meet its expenditures, to face this amendment, that proposes to stop this extravagant grant of public lands until we can get money enough to pay the expenses of the Government. I call for the yeas and nays on the amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 25, nays 27; as follows:

YEAS—Messrs. Bayard, Benjamin, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Green, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Slidell, Toombs, Ward, and Yulee—25.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, Kennedy, King, Seward, Simmons, Stuart, Thompson of Kentucky, Trumbull, Wade, Wilson, and Wright—27.

So the amendment was rejected.

Mr. MASON. There is a clause at the latter end of this bill that I think is out of place, unless those Senators who approve the bill can assign a good reason for it. It is in the thirty-fifth and thirty-sixth lines of the fifth section, which requires that the annual reports from the prospective agricultural colleges shall be made, amongst others, "to the agricultural department of the Patent Office." I am not aware that there is any such department of the Government, or that there is any such bureau in the Patent Office; and lest by its remaining there, it should be considered that it is indirectly legislating such a department into existence, I move to strike out the words, "and the agricultural department of the Patent Office at Washington."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time.

The PRESIDING OFFICER. The question is, "Shall the bill pass?"

Mr. CLAY. Mr. President, I cannot permit this bill to pass without submitting some remarks in opposition to it to the Senate. I confess I am taken by surprise to-day by this motion to reconsider; and, in consideration of the condition of my throat, I am very reluctant to speak; but regarding it, as I do, as one of the most monstrous, iniquitous, and dangerous measures which have ever been submitted to Congress, it shall not pass without my endeavoring to prove, as I believe I can prove, by as clear and conclusive moral reasoning as can be brought to support any question, that it is unconstitutional.

Mr. HUNTER. With the permission of my friend from Alabama, as he is unwell and desires to deliver his views at large on this question, I move to postpone the bill until Saturday, at one o'clock. ["Oh, no!"]

Mr. BROWN. I hope not.

Mr. CLAY. I can try to go on.

Mr. BROWN. I am perfectly willing to postpone it until to-morrow at one o'clock; but I want Saturday for the District of Columbia business.

Mr. CLAY. If it is the pleasure of the Senate to postpone the bill, it will oblige me; but if they do not wish to do it, but intend to press this measure, I will try to say what I have to say now.

Mr. HUNTER. I move to postpone it until one o'clock to-morrow.

Mr. BROWN. Very well.

Mr. POLK and others. There is a special order for to-morrow at half past twelve o'clock.

The motion of Mr. HUNTER was not agreed to; there being, on a division—yeas 23, nays 25.

Mr. CLAY. I believe this is the first time such a courtesy has been refused to any Senator upon this floor; but as the refusal has been from the opposite side of the Senate, perhaps I ought neither to be surprised nor discouraged.

Mr. TRUMBULL. The Senator from Alabama will allow me; I voted under a misapprehension. I did not know that the Senator asked it as a matter of courtesy, or I should have voted to extend it to him.

Mr. CRITTENDEN. Nor did I.

Mr. TRUMBULL. And I apprehend most of

us here voted under a misapprehension. I understood the Senator to state that he could go on now.

Mr. CLAY. I did say I would go on, if the Senate did not choose to postpone the bill.

Mr. DAVIS. I hope the motion will be submitted again to the Senate.

Mr. TRUMBULL. If the Senator asks a postponement, I shall vote to postpone it.

Mr. HALE. I can say the same thing. I certainly understood the Senator from Alabama to say he would go on now.

Mr. CLAY. I will say, in justice to myself and the Senate, then, that I am glad I labored under a misapprehension. I would not ask the courtesy of the Senate, for I am just as well prepared with all the evidence and arguments I wish to offer as I can be to-morrow; but I was out until a late hour last night, and this morning I am very hoarse, and perhaps it would be painful to me, and certainly very unpleasant, to go on at this time.

Mr. WADE. I will certainly vote to extend a courtesy to the Senator. I did not understand what the Senator had said on the subject before, and that was the reason I voted the other way.

Mr. SEWARD. I owe it to myself to say that I was out when the question was put, and I came in not knowing what the question was, and I saw the Senators on that side, who are opposed to the bill, voting one way; and, without knowing what it was, I presumed it was right to vote the other way. I am now satisfied that I voted under a delusion, and I am very happy to have an opportunity to correct it.

Mr. CLAY. I beg leave, then, to withdraw what I did say.

Mr. CAMERON. I desire to say that I perfectly understood how I voted. I voted against the postponement, because the other day I asked the Senator from Alabama to give way as a matter of courtesy to me, and he refused.

Mr. CLAY. I once yielded the floor to the Senator from Pennsylvania, and he went on to make a long speech, and what I thought was a stump speech.

Mr. COLLAMER. I wish to say that my object in voting as I did was not any discourtesy to the honorable Senator from Alabama; but it was, that the chairman of the Committee on Finance seemed to insist on our taking up private bill day with this business, and postponing it until to-morrow, which we have sequestered and pledged ourselves to devote to the private business of the claimants upon the Government. That little modicum of time at this last end of the session has been promised to them. I shall vote to set apart no other business for to-morrow, for courtesy or anything else.

Mr. PESSENDEN. I desire the Senator to change his motion either to Saturday or Monday. The Senator from Mississippi objects to Saturday. Put it Monday, then. But I am opposed to breaking in upon these orders, and shall vote as I did before, if to-morrow is insisted upon.

Mr. TRUMBULL. In order to relieve ourselves from this difficulty—the day has been well spent, at any rate—I move that we adjourn, and this bill will come up to-morrow as the unfinished business.

Mr. HUNTER. I hope not. I think we can finish the Indian appropriation bill to-day.

The motion to adjourn was not agreed to; there being, on a division—ayes 15, noes 25.

Mr. WADE. I suggest that some day certain be fixed for which this bill be made the special order, with the understanding that at that time we shall take it up and finish it. I do not care, if that be the purpose, what day is fixed.

Mr. BROWN, and others. Say Monday at one o'clock.

Mr. WADE. Well, I move to postpone it until Monday.

Mr. TRUMBULL. There is a question of privilege to come up on Monday.

Mr. WADE. Why not Saturday?

Mr. BROWN. On Saturday, we hope to have an hour or two devoted to the business of this District. Last Saturday, was taken up in a discussion, in which I participated very little, but I do hope that that day will be given to the business of the District.

Mr. WADE. I will name Tuesday next as the day on which to take up and finish this bill, if that is satisfactory to all.

Mr. SLIDELL. I wish to say, Mr. President, that I cannot bind myself in advance to consent to any particular day. I had hoped, that in the course of this week, great progress would have been made in the discussion of the bill making an appropriation for the acquisition of Cuba. I see very distinctly, now, that there is a great chance of that bill being postponed indefinitely, not by the action of the Senate, but by the listlessness or absence of its friends; because we certainly are not as well disciplined on this side of the House, as on the other. At one o'clock, when the order of the day is taken up, we are almost universally in a minority, and I am not willing to consent to make myself a party to any arrangement by which that bill shall be postponed. I am perfectly willing to take this question up to-morrow.

Mr. BENJAMIN. There seems to be a desire that the Senator from Alabama should have a reasonable opportunity to make the speech which we are all desirous of hearing, and, at the same time, of avoiding any disturbance in the arrangements already made for the other business of the Senate. To-morrow is private-bill day. I think that if we were to postpone this subject until to-morrow morning at half past twelve o'clock, probably my friend from Alabama would not take over half an hour, and then we could go on with private business.

Mr. POLK and Mr. GREEN. There is already a special order for half past twelve o'clock to-morrow.

Mr. CLAY. I will say this to the friends of this measure, that if they will let it go over, as it is done to oblige me, I will call it up on Monday morning at half past twelve o'clock, if they will assist me, and we will then dispatch it. I do not think I shall speak beyond half an hour. ["Very well."] If they do not get it up then, I will assist them to take it up afterwards. ["Agreed."] I move to postpone the further consideration of the bill until Monday, at half past twelve o'clock.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. HUNTER. Is it necessary to submit a motion to take up the Indian appropriation bill, or does it come up of itself?

The PRESIDING OFFICER. The Chair thinks it does not come up of itself.

Mr. HUNTER. Then I move to take it up. I think we can finish it to-day, if we proceed with its consideration.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860, the pending question being on concurring in the following amendment, made as in Committee of the Whole:

And be it further enacted, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers," approved June 30, 1834, as provides that the United States shall make indemnification out of the Treasury for property taken or destroyed in certain cases, either by the Indians or by white men trespassing on the Indians, as described in the said act, be, and the same is hereby, repealed: *Provided, however*, That nothing herein contained shall be so construed as to impair or destroy the obligation of the Indians to make indemnification out of the annuities as prescribed in said act: *And provided further*, That the President of the United States may, at his discretion, indemnify the Indians out of the Treasury, for losses, in cases where the said act required them to be paid out of the Treasury.

Mr. BAYARD. If it is in order, I move that the Senate proceed to the consideration of executive business. ["Oh, no!"] I think it is necessary.

Mr. HUNTER. I hope not. Let us finish this bill. I think we can finish it by the usual time of adjournment.

The motion of Mr. BAYARD was not agreed to.

The PRESIDING OFFICER. The amendment just read was agreed to by the Senate as in Committee of the Whole, and was reserved at the instance of the Senator from Iowa, [Mr. JONES.] The question now is, Will the Senate concur in that amendment?

Mr. DOOLITTLE. I hope that, on a general appropriation bill, no such important general legislation as this will be adopted. I doubt somewhat whether it is in order, on the general appropriation bills, to include such a provision. It is

very general and sweeping in its provisions, and breaks up a great part of the effect of the Indian intercourse law. I think the appropriation bill is not the right bill for such a provision of legislation.

Mr. HUNTER. This amendment only proposes to touch so much of the intercourse law as relates to the liabilities of the Treasury of the United States. It proposes to do nothing more than that. The law was originally enacted at a time when a very different state of things existed in regard to the Indian territory. When that law was enacted, we were enabled to keep people out of the Indian territory, and we were enabled to keep order within it; but now we have emigrant routes running through it, and we have claims originating under circumstances which could not have been foreseen when that law was passed; and the result will be, as I am told, and, indeed, the result already is, that Indian claims are accumulating, and claims on which questions are difficult of decision, which grow out of this law. We do not propose to touch anything but that portion of it which makes the United States Treasury liable. Emigrants crossing the plains now pass through the Indian territory; and it is a very serious question whether the Government is not liable for any injuries which the Indians may commit upon them; and yet in this very law there is a provision that the whites shall not graze the lands which belong to the Indians within the Indian country; that they shall not stop on it. The consequence is, that the Indians have interfered; and out of all this grow claims for which we ought not to be liable pecuniarily.

So far as the protection of the settlements is concerned, it will be found that hereafter, where it has been heretofore in the power and ability of the Government to punish the Indians who trespass and intrude, so far as they can get redress for citizens who have been injured out of the Indian annuities, it is proposed to leave that still within the reach of persons who have been injured; and all that it is proposed to do, is merely to repeal that provision which, in effect, makes us insurers of those who travel through the Indian territory, who are crossing the plains for purposes of profit or pleasure. It is obvious that out of that claims to a vast amount may arise, and are daily arising; and unless we take steps at once to interfere and remove the liability of the Government for the future, it will be difficult to say what will be the amount of claims that will be presented and probably granted.

Mr. JONES. There is a great deal of reason in what the Senator from Virginia says on this occasion; but it ought not to be made to apply to the organized Territories and the States of the Union. It might be proper enough to apply his amendment to the cases of white people who go into the Indian country; but when Indians come into the organized States and Territories, and commit depredations upon the citizens of those States and Territories, they ought to be made to pay, if they have annuities; or, if they have no annuities, it ought to come out of the Treasury of the United States; because the Government of the United States is bound to protect the people of the States and Territories against Indian hostilities. My constituents have been robbed. Three or four surveying parties have been robbed of their provisions; of everything that they had; their wagons have been cut to pieces by Indians within the boundaries of the State of Iowa, when there was no Indian country to which the Indian title had not been extinguished in that State. These people dare not protect themselves; they dare not follow the Indians, and recapture their property, or take property belonging to the Indians; for if they do, they are excluded from the benefits of the intercourse act. I say, therefore, it ought not to be made, at all events, to apply to the organized States and Territories, and I propose that amendment.

Mr. BELL. I should like my friend from Iowa to state to me what will be the residuum of all our Territories that remain, after you erect the new Territories proposed to be formed at Pike's Peak, Arizona, and Carson Valley? There will be none.

Mr. COLLAMER. There is none now.

Mr. JONES. Then I will say, "that portion of the Territories to which the Indian title is extinguished."

Mr. BELL. There are no well defined lines

or boundaries. It is almost impossible to ascertain.

Mr. JONES. We have never acquired country from the Indians without having bounds to it.

Mr. BELL. Mr. President, I was once more familiar with these questions than I am now, by far. The status of our relations with the Indians, in respect to all questions of this description, is totally changed since 1834, when we passed the intercourse act. There were then well defined lines and boundaries; our Indian tribes, that were expected to be brought under the regulations of that act, were not wild and roving; they were tribes who had well defined limits; they had settlements, and were, in some degree, addicted to civilization and cultivation. We were not exposed to the roving bands who roam over the immense expanse of territory that intervenes between the States and organized Territories beyond the Mississippi, and the States and Territories of the Pacific.

Later, a different state of things has existed. I have thought, from the time we acquired New Mexico and California, that the policy of this intercourse law could not be made applicable with any justice to the Government or Treasury of the United States, in the real state of things that would exist there. Why, sir, New Mexico alone, when we consider the character of the Indians who surround it on all sides, with a loose construction of this law, unless it be rigorously administered, would absorb half the Treasury of the United States; and I am told the claims from that quarter amount to near a million dollars. The terms upon which these payments are to be made usually are, that the depredations must have been committed on persons lawfully in the territory of the Indians. Where is the Indian territory now where it can be said the provisions of this law apply, excluding the emigrant trains that pass through in every direction? Is not that law applicable to every emigrant train that sets out from the western borders of the settlements now in the States and Territories west of the Mississippi, for California and Oregon? Whatever route they choose to pursue, is it not in Indian country? and are they not lawfully there? The mails that are carried through these Territories are lawfully there.

My attention was particularly directed to this subject upon an application that was laid before the Committee on Indian Affairs at the last session, claiming some seventy or eighty thousand dollars for horses and mules alleged to have been stolen, by parties of Indians said to be in amity with the United States, from the contractors on the overland route to California, from some point on the western part of Missouri. The committee, I believe, by unanimous vote, rejected the application; and yet upon no very clear, well defined grounds of reason and authority; for there was the Indian intercourse law still standing unreppealed. These claimants alleged that they had not pursued the Indians; made no reprisals; did not seek to recapture their property at the expense of the peace of the Indians. It is difficult to tell who are amicable Indians and who are hostile Indians in these extensive plains.

I am informed by the Senator from Vermont that there is no territory now that is not included within the Indian intercourse law. We have treaties with a variety of Indian tribes that we know from actual occurrence have not observed their treaties at all. There is no limitation within the period of ten years when, for any depredation committed on emigrant trains or mail contractors, if they can show within the period of three years that their property has been taken; that their teams have been stolen or destroyed by parties of Indians; if they can show that they were attached to or bore the cognomen of any particular Indian tribe, parties cannot have indemnity under the Indian intercourse law.

In view of the altered condition of the Indian territory, wholly changed since the enactment of the law, it is becoming a burden on the Treasury too great to be borne. Why, sir, what is to prevent connivance in the Territory of New Mexico, for example? The flocks that constitute the principal wealth of the inhabitants in the valley of the Rio Grande there are exposed to the depredations of the wandering Indian tribes—I mean the wild tribes, as distinguished from the Pueblo Indians; and it may become a matter of interest and speculation with them to expose them to be driven off into the fastnesses of the mountains;

and upon the plea that they have not thought proper to pursue them, or recapture them, or endanger the frontier, they may call upon the United States for the value that is set upon them. I do not know, I am not intimately acquainted, with the present state of the questions that have arisen under this Indian-intercourse law; but I have been informed generally that the claims are enormous; that there is some million and a half of dollars of unsettled claims of this description now existing against the Treasury of the United States.

I can easily see that gentlemen who represent States bordering on Indian settlements, feel tenacious of the rights and of the advantages and benefits that may be derived under the Indian intercourse law, and from the observance of it. I can easily see that in well-settled communities, where there is a well defined border between the white settlers and the Indian tribes adjoining them, it is of eminent utility in preserving the peace in those particular localities. I do not blame the honorable Senators who represent those localities for insisting upon the observance and retention of the Indian intercourse law among the statutes of the country; but it becomes a different question when you look to the responsibility of this Government, and the burden thrown on the Treasury for the millions and hundreds of millions of acres of lands that are exposed to depredations; and it is all perfectly lawful; the emigration from the western limits is not unlawful.

Mr. COLLAMER. They have no right to go there, unless we please to allow them.

Mr. BELL. They do it, however.

Mr. COLLAMER. Yes, they do it.

Mr. BELL. They do it. What right have we to authorize the mails to be carried in that Territory? I do not see any distinction. They have the authority of this Government. What I mean to say is, that under the provisions of the intercourse law, those who carry the mails are lawfully within the Indian country; that is, they have a law of the United States authorizing them to go there, and if their property is destroyed, and their teams are stolen from them, they can come upon the Government of the United States for reclamation. I remember that at the last session, I called the attention of the honorable Senator from Virginia to a letter that was written by the Postmaster General, which, if accepted and sanctioned by Congress, would have made the Government of the United States responsible for every depredation upon, for every loss of property incurred in the carrying of the overland mails; and moreover, the parties contracting to carry the mails would have been entitled to the full compensation which was stipulated for, though they might not have carried half a dozen mails in the course of a year.

All these suggestions have occurred to me casually, noticing the few facts that have been brought to my attention. I would be very glad to have some stipulation to indemnify for Indian depredations upon the well-defined boundaries of public lands, and to protect settlers exposed to the depredations of Indian tribes, if we could discriminate them from the great mass of territory lying beyond them. I should like to see that done, but I do not see how it is possible. Therefore I am disposed to vote for the amendment as it is.

Mr. JONES. I propose to amend the amendment by adding this proviso:

And provided further, That this section shall not apply to those portions of the States and Territories to which the Indian title has been extinguished.

Mr. HUNTER. I am afraid the effect of that proviso will be to annul what the Finance Committee have offered. I hope, if the Senate should be of opinion that we ought to repeal that liability, they will do so in the terms of the original amendment. If they are against it, let us vote that down; but I hope this proviso will not be adopted.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on concurring in the amendment made in Committee of the Whole.

The amendment was concurred in.

The PRESIDING OFFICER. There is another amendment, made as in Committee of the Whole, which was reserved at the suggestion of the Senator from Iowa, [Mr. HARLAN.] It was

to strike out the third section of the bill, in the following words:

"Sec. 3. And be it further enacted, That the amounts hereby appropriated for the payment of the Miamis of Kansas and the Miamis of Indiana shall be paid in conformity to the first proviso of the first amendment to the fourth article of the Senate amendment to the treaty with the Miamis of 5th June, 1854, and not otherwise: *Provided, however,* That no portion of the money hereby appropriated shall be expended in any way otherwise than as provided for in this act."

Mr. HARLAN. The amendment proposed by the Committee on Finance strikes out the clause in the bill as it came from the House of Representatives, which repealed a section of the appropriation bill of the last session, which, it is thought, comes in direct conflict with the treaty existing between the Government of the United States and the Indians in the State of Indiana. The amendment of the Senate to the treaty to which reference is made in the section is as follows:

"Provided, That no persons other than those embraced in the corrected list agreed upon by the Miamis of Indiana, in presence of the Commissioner of Indian Affairs, in June, 1854, comprising three hundred and two names as Miami Indians of Indiana, and the increase of the families of the persons embraced in said corrected list, shall be recipients of the payments, annuities, commutation moneys, and interest, hereby stipulated to be paid to the Miami Indians of Indiana, unless other persons shall be added to said list by the consent of the said Miami Indians of Indiana, obtained in council, according to the custom of the Miami tribe of Indians."

A section of the Indian appropriation bill of the last session of Congress provides that other persons, whose names were not on this corrected list, shall receive a portion of the annuity. Congress has, by this clause of an appropriation bill, provided that other persons of Miami blood shall receive annuities than those agreed on in the treaty between the Government of the United States and the Indians, without having consulted the Indian tribe, without having received their assent. It reads as follows:

"Sec. 3. And be it further enacted, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe since the removal of the Miamis in 1846, and since the treaty of 1854, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded."

Thereby enabling a large number of persons to come in and receive a proportion of annuities that were expressly excluded by this amendment to the treaty proposed by the Senate of the United States, and agreed to by the chiefs of this tribe, by which the Government of the United States agree that these moneys shall be paid to the persons who are named, and to none others, unless the previous assent of the tribe shall be secured.

I believe I have clearly stated the point, and this is all I propose to do. I have notified the Senator from Indiana that I would make this motion at the request of a member of the House of Representatives; and I leave the question with the Senate.

Mr. FITCH. This is a mere local matter, pertaining exclusively to a small remnant of the Miami tribe of Indians, in Indiana. No other Indians have anything to do with it. I do not know that it is worth while for me to answer the statement made by the Senator from Iowa. If he had looked closely into what he calls the treaty, he would have found that the provision which he read was not part of the treaty, but a mere agreement between the Senate and certain Indians. There was a division among those Indians. One party came here representing themselves and their own interest, and not representing the other portion; they did not come here in their tribal capacity, for the tribal capacity of the nation was then, and is now, entirely west of the Mississippi river; but they came here as individuals, and made an arrangement by which certain of their own people were to be excluded from their portion of the annuities. Those people had drawn annuities previously, had been parties to treaties, had been recognized by repeated treaties and acts of Congress as Miamis, and they very naturally complained of this action. It is a sufficient answer to the Senator to say that the Indian bureau have investigated it, and the Committee on Indian Affairs have investigated it, and the Committee on Finance have looked into it, and you have the concurrent opinion of all three that this section of the House bill should be struck out. I trust, therefore, the action of the Finance Committee will be sustained.

Mr. HARLAN. I understand the chairman of the Finance Committee to say that he knew not on what ground this section in the bill, as it came from the House of Representatives, had been adopted; it was in effect repealing a clause of a previous appropriation bill; and my attention having been called to the subject by a member of the House of Representatives, on looking at the law I thought he was clearly right. I think the view of the Senator from Indiana is wrong in his supposition that the clause I have read is no part of the treaty. I have it before me, and under the heading "Amendments to the treaty, article four," the following will be found: "Strike out the following words," which are recited, contained in the body of the treaty, "and insert the following words in lieu of the words so stricken out;" and then come the words which I read. This having been adopted by the Senate and agreed to by the chiefs of the tribe then here present, became, as I suppose, a part of the treaty, and being a part of the treaty, it is a bargain between the Government of the United States and these Indians which cannot, it seems to me, be properly repealed without the consent of the tribe.

Mr. HUNTER. I will only state that the Senator is mistaken in supposing the committee did not examine the argument on both sides as well as they could. The Senator from Indiana is about to state the argument, I have no doubt, the one upon which we acted. We believed that that supplemental article was made with a part of the tribe, and not with the whole; and the Government has acted upon that supposition, and paid away \$27,000. That, I suppose, will have to be refunded, if the construction put upon it in the House of Representatives should prevail.

Mr. FITCH. I do not wish to prolong this matter; it is really not of sufficient importance, and I have no feeling in it at all. The Representative in the lower House, from the district where the most of the Miamis to be benefited by the amendment of the last session reside, is anxious that it should be retained; in other words, that the present action of the House of Representatives on this subject should be non-concurred in by the Senate. The action of the Indian Committee at the last session was based on an elaborate report from the Indian bureau, stating that these people were Miamis, and ought to be restored. In accordance with that report the Indian Committee of last session acted. I presume that report was not before the House; the House knew nothing about it, or doubtless it would not have taken this action.

The chairman of the Committee on Finance is correct in saying that the clause which has been read is not an amendment to the treaty. It is a mere agreement between the Government and certain individual Miamis, who were not recognized in the treaty as delegates, but were here as individuals, by which they proposed to exclude some of their own people for their own individual benefit, because all the money from which their own people were so excluded they became the recipients of. These people, thus excluded, recognized as Miamis by the treaty of 1838, and by subsequent joint resolutions of Congress, and by other action, the recipients of annuities for many years, were excluded by these individuals for the benefit of their own band. Of course, those excluded came here to Congress, and asked that they should be allowed their just dues. Well, if Congress does not allow them the money, the treaty stipulations by which they are entitled are so plain that they will be here year after year, importuning you to pay them directly out of the Treasury the money you have wrongfully paid to those other Indians. This is the whole sum and substance of it.

Mr. FESSENDEN. I wish to state, for myself, that I examined this matter very carefully. I came to the conclusion that the proposition of the House of Representatives ought to be rejected. Our committee were unanimous on the subject, and came to the conclusion, in fact, that this subsequent provision, by which it is now claimed that a portion of the tribe should be excluded was fraudulent in fact, and that the plain course of duty was to restore their names, and pay them their money.

The amendment was concurred in.

Mr. CLINGMAN. With the approbation of the Committee on Indian Affairs, the amendment which was offered yesterday, and then ruled out

of order, has been modified so as to come within the rule of order. It will read in this way:

For carrying into effect the twenty-fourth section of the civil and diplomatic act of March 3, 1855, the sum of \$19,045 79 as estimated by the Commissioner of Indian Affairs.

This will correspond exactly with that section, and I believe it is satisfactory, on the point of order, to the chairman of the Committee on Finance.

Mr. HUNTER. But the Commissioner of Indian Affairs cannot estimate to us. The difficulty is, whether it is not making it identical with the amendment presented yesterday; but by leaving out those words as to an estimate, and making it merely to carry out the law, it is in order.

Mr. CLINGMAN. I will leave those words out of this amendment; and I will state frankly my reason for inserting them. Some years ago I got through an appropriation, not without some difficulty, to pay some persons. The Commissioner, Mr. Manypenny, delayed it a year or two; and finally he found some persons in Alabama to whom it would apply, but who never were thought of at the time the appropriation was made, and he paid it to them. I desired, therefore, as these cases were adjudicated and examined, and were right in themselves, that there might be nothing in the amendment that would justify any one in taking advantage of the appropriation for certain things and applying to others. I do not believe the present Commissioner would do it; but, if it is agreeable, I will offer the amendment without those last words, trusting to Providence.

The amendment, as modified, was agreed to.

Mr. SEBASTIAN. While I occupied the floor yesterday, it occurred to me that there was another proviso which ought to be added to the amendment which has been adopted on the motion of the Senator from Tennessee, [Mr. BELL,] transferring the Indian bureau from the Interior to the War Department. I now propose this proviso, to come in at the close of the clause providing for that transfer:

Provided, That the Secretary of War may detail officers of the Army to perform any duty as agents for the Indian tribes: And provided further, That the administration of lands, the title of which is derived from any Indian treaty, shall be transferred to the Commissioner of the General Land Office.

The amendment sufficiently explains itself. The object of it is to retain the administration of lands in the Land Office; instead of committing a portion of it to the Indian bureau—a change in the law which ought to be made, whether the office be transferred or not. Frequent controversies arise between the two offices; and it appears to be more consistent with propriety that the Land Office should have the administration of all the public lands, whether derived from public law, or through the force of Indian treaties. The other portion of the proviso is a mere addition to make the provision effectual.

Mr. DAVIS. I think there is great propriety in the second clause of the proviso; but the first is very objectionable. It would seem to be quite improper to give the Secretary of War power to detail officers of the Army to perform the duties of Indian agents. It is a very delicate and highly responsible function. The large amount of money which we expend upon the Indian tribes, and their inability to take care of themselves, render it peculiarly the field for fraud. Those officers should be appointed by and with the advice and consent of the Senate.

Moreover, it would be quite impossible for the Secretary of War to detail officers of the Army to perform such functions, without interfering with those duties which are legitimate to the office they hold—service with troops. You cannot expect an officer, for a short time stationed in the midst of an Indian tribe, to learn the character of the Indians, or to acquire their confidence. It would be needful that he should be long among them; and if he was the character of officer best qualified for the duties of agent, he would be exactly such an officer as could not be spared from his duty with the troops, particularly if the troops were required to move from that station. Under the existing law, if the bureau be transferred so as to get that harmony of coaction and cointelligence which is desirable, the officers commanding at frontier posts, will, in many cases, perform the

duties of Indian agents; and I think that it will result that some sub-agents now employed will be found unnecessary, and others which would be created under a separate administration of the Department will probably never be required. There will be some economy in that respect; but it will not do to look to the Army for the supply of agents or sub-agents. Those officers must be appointed from their peculiar qualifications. Sometimes it is found that a man who has resided long among the Indians, who has their habits, and sympathizes with them, yet has such elevation of character as to be a reliable agent of the Government, by his appointment can control them to an extent which would be impossible if the agents were constantly changing.

On the other hand, I admit there has been a great deal of abuse; and men who know nothing of Indians have been appointed to such trusts. It has ever been the habit to play practical jokes upon them on the frontiers, when they came out, on account of their total ignorance of Indians and Indian character. We shall correct this to some extent, I think, by the control which the Secretary of War will have over the bureau, if it be transferred to that Department; and that is as far as it is safe to go. Anything beyond that would result in injury to the administration of Indian affairs, or else be an injury to the Army so great that you could not expect any Secretary, administering the Department for the good of the Army, to select the officers as contemplated by this proviso.

Mr. BELL. I will ask the Senator from Mississippi, if he is aware what is the amount of duty required to be performed by nine tenths of our Indian agents in the interior? Is it anything more than to attend to the distribution of the annuities annually, or semi-annually; according to circumstances?

Mr. DAVIS. I cannot answer the question in fractions as to nine tenths, or three fourths, or one half. There are some agents and sub-agents, who have not only that intercourse to which the Senator refers, but who have charge of agriculture and of schools established amongst the Indians, and of blacksmiths' shops for the repair of their guns and tools.

Mr. BELL. Those are Indians that have defined boundaries, and are cultivated more or less.

Mr. DAVIS. Well, among the nomadic tribes, an agent, now dead—and I do not know that we shall ever get his like again—Fitzpatrick, the mountaineer, had a control over those roving Indians; attended to their wants; understood their habits; could solve things which otherwise would have been unintelligible in relation to the acts of these Indians. He spent his time among them; his influence over them was most beneficial to the Indians, and highly profitable to the United States. I grant you, there are many of them worthless; many of them who might be dispensed with, and that a reduction ought to be made, but not in such a sweeping form. Let it progress with caution. Reforms are apt to fail if they are too suddenly attempted. Put it in train, bring it in connection with those who will give reliable information; then learn where the agents are unworthy, learn where they are unnecessary, and act upon the information after you have obtained it. I object to the first clause of the proviso.

Mr. FITCH. In response to the inquiry of the Senator from Tennessee, who has well remarked, on one occasion to-day, that he formerly knew much more of this Department than he does now, I beg leave to state to him that there are duties pertaining to the Indian agents, and some of them very onerous duties too, aside from the annual or semi-annual payments they are required to make. With very many Indian tribes, our treaties create an agricultural fund and a school fund, which are to be disbursed either under the instruction of the Department or under regulations defined in the treaties themselves, by the resident agent. In the expenditure of these funds he is required to keep a farmer, one, two, three, or more; he is required to maintain schools. It will be perceived, at once, that the discharge of those duties requires his frequent, if not his constant attention, and such duties could not be discharged by an officer of the Army unless he resigned his commission and devoted himself exclusively to Indian business.

The second branch of this proviso is as erro-

neous as the first. The Land Office is always hard upon Indian reservations and reserves, and it is not the place for them to go. I do not now speak of the officer, but of the office itself. That is not the place for Indian reservations and Indian reserves to go for impartial justice. They look, and with propriety, to their own peculiar department. If any conflict arises, let that Department and the Land Office decide the question between themselves, but do not leave the opposite party to be the sole umpire in such cases. The whole proviso, I think, had better be dispensed with; and, indeed, I reiterate what I said yesterday, that I think we acted prematurely at present in transferring the bureau at all.

Mr. SEBASTIAN. In the last remark which the Senator from Indiana made, as to the absence of proper consideration in transferring this bureau, I am half inclined to agree with him; but now that we have agreed to transfer it, by what I regard as a very decided vote of the Senate, I think the amendment I have offered is very necessary; and the Senator seems to have misapprehended it entirely. The language in the first part of the proviso, to which the Senator from Mississippi objects, is not directory in its character, but is intended to apply to that very class of cases where the War Department can detail an officer without injury to the military service of the country. Where there are no resident Indian agents, it merely authorizes, but does not enjoin on him, to substitute a detail of Army officers. It does not go to the extent of abolishing the whole corps of Indian agents. On the contrary, my friend from Indiana has well said, that there are a class of Indian agencies, the duties of which cannot be performed by Army officers at all.

Mr. DAVIS. Before the Senator passes from that point, I merely wish to say to him that, under the existing law, the commanding officer will perform the functions to which he refers; and the commanding officer of the post is probably the most reliable person who could be selected for the temporary connection.

Mr. SEBASTIAN. The object of that provision was to reach only the nomadic tribes with whom there are very uncertain, or no treaty relations at all. There are many of the tribes on the plains to whom we have promised to deliver annually large presents and annuities, in the shape of goods and other material objects, which are very expensive, and have to be transported by the Indian department. One object to be attained by the transfer to the War Department was economy in the delivery of annuities to the Indians on the plains and about the foot of the Rocky Mountains. The machinery which can be employed for that purpose by the War Department, is always on hand, and can be brought into requisition at much smaller expense than by the Indian department. So far as that class of Indian tribes are concerned, I think it is much to be desired that the exclusive performance of Indian treaties should be confided to the War Department. They can employ the personnel of that Department and its means for transportation; and while it is always necessary to have an escort, which is rarely, for want of harmony between the Departments, furnished now, it would be better to furnish the power to the Secretary of War to employ his own officers, who are under his own control, instead of resorting to the Indian agents outside of the tribes, and who do not reside within their limits. With regard to those populous tribes who have large money annuities on the frontier, I agree that it is better that the resident Indian agents, under the direction of the superintendent, should, as now provided by law, pay their annuities, reside among them, prevent the intrusion of trespassers, report the results of their annual councils, and perform all the other duties that devolve by law upon an agent of that character; but as to the class of cases to which I have adverted, I think it is much better that the discretionary authority should be given to the Secretary of War to employ a detail of his own officers where he thinks it will be productive of useful results.

Then as to the second portion of the proviso, to which the Senator from Indiana objects, that is a provision to which the Commissioner of Indian Affairs himself thinks is most important. The Senator from Mississippi has spoken often of the want of unity, intelligence, and concert and harmonious action, between these two Depart-

ments. That is one of the strongest reasons for transferring the Indian Office to the War Department. I think I heard him once allude to some very strong instance of the want of harmony and concert of action between them. Now, in reference to the administration of the public lands, that very same evil arises. There is a constant want of concert, of a common intelligence in the administration of the public lands of the Government in the Indian Office and in the Land Office; and it is peculiarly proper that the Land Office should have the administration of all the public lands. If the duty is intrusted to them, I do not see why they cannot as well interpret an Indian treaty, and the rights which are to be acquired under it; as the Commissioner of Indian Affairs himself. Now, there is always a contest between these two officers. The Senator from Indiana says the Land Office is always after Indian reserves. The Commissioner of Indian Affairs, on the contrary, probably takes an extreme view of the rights of Indian reserves. The consequence is, that there is a diversity of opinion; and that diversity of opinion ought to be quieted by placing the administration of that whole subject under the same bureau chief. Then there will be uniformity; and, if that uniformity runs in a wrong direction, there is the supervisory control of the Secretary of the Interior.

Mr. SHIELDS. If the Commissioner of Indian Affairs has recommended the adoption of this second proposition, I should certainly be inclined to support it; but I agree with the honorable Senator from Indiana in regard to it.

Mr. SEBASTIAN. The Senator will allow me to say, he has not given the official recommendation of it; but I have often, in friendly unofficial conferences with him, mentioned it, and I know it meets his approbation. Indeed, he was the first to suggest it.

Mr. SHIELDS. I agree with the Senator from Indiana; and my opinion is founded on some knowledge of the bureau of public lands, and the rules and regulations of that bureau, and the operation of its machinery. Their object is the settlement and sale of the public lands, and they labor for that; whereas the reservations that are under the Indian office are generally much better protected by the head of that bureau than by the Commissioner of Public Lands. He looks out for the Indians, and I must say, from my experience and connection with those bureaus, that the chief of the Indian bureau has always taken good care to watch the interests of the Indians, and protect them, as far as possible, from trespassers. I think it is wise to leave that matter as it stands; to leave the Indian reservations, that are peculiarly and appropriately the property of the Indians, under the man whom the law places there to protect their interests. I think that is safer.

Now, in regard to the other proposition, the reasoning of the honorable Senator from Mississippi has been so strong that I hardly think it is necessary for me to say a single word, and I will not prolong the debate. I am inclined to go for placing the whole disposition of Indian affairs under the War Department, from any experience I have on the subject; but I certainly would not go to favor this mixed jurisdiction, this intermingling of military officers with agents, thus bringing the War Department and Interior Department into the field as competitors. I think it is unjust both to the officers of the Army and the agents who are already employed under the other Department.

Mr. BROWN. I have thought for several years that there was manifest propriety in transferring the Indian bureau to the War Department. I know of very little use we have for the Army but to attend to the Indians. In time of peace you have no other use for them but to look after the Indians and keep them in subordination. The people who have to be watched, therefore, ought to be subject to the control of the party who has the watching of them. Hence the transfer, I think, was right. When the Secretary of War shall have taken possession of the office and looked into its ramifications, and has given us his views in regard to it, it will be quite time enough to undertake to regulate the mode of his management of it. Whether it will be best to detail Army officers as Indian agents, or to keep up the present system, he will say when you shall have given him

time to look into it. I think it is going a little ahead of the necessities of the case to undertake to legislate in advance as to the manner in which he shall discharge the duties you require of him. You had better let that alone for the present. I shall therefore vote against the amendment proposed by my friend from Arkansas.

The amendment was rejected.

Mr. RICE. I was preparing an amendment which, it strikes me, would be proper to insert immediately after the amendment adopted yesterday transferring the Indian bureau to the War Department—something like this:

Provided, That where a difference of opinion shall arise between the Secretary of War and the Secretary of the Interior, upon any point touching any Indian reservation, the question shall be referred to the President of the United States, and his decision shall be final.

I offer that amendment.

Mr. SHIELDS. I do not think there can be any objection to that amendment. I presume it would follow of course, that, where there was any division, the President should decide.

Mr. DAVIS. The President has that control. The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

LEWIS S. CRAIG.

Mr. IVERSON. I appeal to the generosity of the Senate to take up and pass a bill for the relief of Mrs. Craig, reported from the Committee on Military Affairs of the House, and the Committee on Claims of this body. It will not take any time. I move that that bill be considered.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort on the Mexican boundary commission.

It proposes to direct the Secretary of the Interior in the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, to grant to his legal representative the same allowances per diem for his personal expenses which were made to other officers of the Army of his grade in that commission.

The bill was reported to the Senate without amendment; ordered to a third reading; read the third time and passed.

EXECUTIVE SESSION.

Mr. BENJAMIN. It is absolutely essential that there should be an executive session for a few moments to-day, for reasons which I cannot now explain. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 3, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. ISAAC COLE.

CALL OF THE HOUSE.

Mr. HOUSTON. I discover that those gentlemen who were most active in having the hour of meeting changed to eleven o'clock, are not present; and therefore I move that there be a call of the House.

The SPEAKER counted the House and announced that only seventy members were present. Mr. Houston's motion was agreed to.

The roll of the House was accordingly called, when the following members failed to answer to their names:

Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Billingshurst, Blair, Bocoock, Boyce, Bryan, Burnett, Burns, Burroughs, Caruthers, Caskey, Ezra Clark, Horace F. Clark, Clawson, Clay, Clemens, Clark B. Cochrane, Covode, Burton Cragie, Damrell, Dewart, Dimmick, Dowdell, Edie, Edmundson, Elliott, English, Farnsworth, Garnett, Giddings, Gillis, Gilmer, Groesbeck, Haskin, Hawkins, Hill, Hughes, Huyler, Jenkins, Keim, Keitt, Lamar, Landy, Lawrence, Leidy, McKibbin, Humphrey Marshall, Matteson, Miles, Miller, Edward Joy Morris, Oliver A. Morse, Mott, Nichols, Palmer, Pettit, Peyton, William W. Phelps, Potter, Ready, Ritchie, Roberts, Sandidge, Savage, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, William Smith, Stevenson, Thompson, Trippe, Walton, Ward, Warren, Cadwalader C. Washburn,

Israel Washburn, Watkins, Whiteley, Wilson, Winslow, Wood, Woodson, and John V. Wright.

During the call,

Mr. VANCE stated that Mr. GILMER was necessarily absent on account of sickness in his family.

Mr. LETCHER stated that Mr. HUGHES was confined to his room, and unable to be present.

At the expiration of the first call of the roll,

Mr. HOUSTON inquired how many members had answered to their names?

The SPEAKER. A quorum has not answered.

Mr. HOUSTON. No quorum on the first call!

The names of the absentees were then called.

One hundred and forty-four members having answered to their names,

On motion of Mr. HOUSTON, all further proceeding in the call was dispensed with.

The Journal of yesterday was then read and approved.

POLYGAMY IN THE TERRITORIES.

Mr. REAGAN. I ask the unanimous consent of the House to introduce a resolution for reference.

Mr. FAULKNER. I call for the regular order of business.

Mr. REAGAN. Will not the gentleman allow me to introduce a resolution for the purpose of reference only?

The resolution was read for information, as follows:

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of reporting a bill to define and provide for the punishment of polygamy in the Territories of the United States, and to restrain the people and authorities of the Territories from unlawful interference with the Federal judiciary.

Objection was made.

The SPEAKER. Objection is made.

Mr. REAGAN. Who objected? I do not understand that objection is made.

The SPEAKER. The Chair understood there was.

Mr. HOUSTON. That subject is already before the Judiciary Committee, and the gentleman's resolution is wholly unnecessary.

Mr. REAGAN. I ask the gentleman if he objects to it?

Mr. HOUSTON. I do not.

Mr. REAGAN. The gentleman says he does not object, and there is no objection.

The resolution was then agreed to.

BILLS RECOMMENDED.

On motion of Mr. BONHAM, the Committee of the Whole House was discharged from the further consideration of a bill (H. R. No. 839) for the relief of David G. Burnett; and also of a bill (H. R. No. 840) for the relief of Lieutenant Martin Burke and Captain Charles S. Winder, of the United States Army; and the same were recommended to the Committee on Military Affairs.

AGRICULTURAL COLLEGE, MICHIGAN.

Mr. WALBRIDGE, by unanimous consent, presented the joint resolution of the Legislature of the State of Michigan, in favor of a grant of lands for the agricultural college of that State; which was laid on the table and ordered to be printed.

RESOLUTION OF NEW YORK LEGISLATURE.

Mr. KELSEY presented the joint resolution of the Legislature of New York in relation to the canals and lake harbors; and also the memorial of the canal board and canal commissioners of that State, to Congress, asking for the improvement of the lake harbors; which were referred to the Committee on Commerce, and ordered to be printed.

SELECT COMMITTEE.

Mr. TAYLOR, of New York. Mr. Speaker, I am instructed by the select committee appointed to investigate the accounts of the late Superintendent of Public Printing, to ask of the House power to sit during the sessions of the House. Unless that privilege be extended to the committee, it is impossible for it to get through with the investigation during this session.

There was no objection, and it was ordered accordingly.

Mr. FAULKNER. I call for the regular order of business.

NEW YORK INDIANS.

The SPEAKER stated the first business in

order to be the consideration of Senate bill No. 389, providing for the allotment of lands to certain New York Indians, and for other purposes; the pending question being on the amendment of Mr. CRAIG, of Missouri, to insert, in line twenty-seven of the amendment reported by Mr. RUSSELL from the Committee on Indian Affairs, the words, "or unless the selections cannot sooner be made."

Mr. RUSSELL's amendment was read, as follows:

Strike out all in Senate bill after line six, and insert the following:

Who removed under the provisions of the treaties heretofore referred to, and to their children, in the tract of land set apart for the use of the New York Indians, by treaty of January 15, 1838, made and concluded at Buffalo Creek, in the State of New York, and the treaty made at the same place, on the 20th day of May, 1842, said lands to be selected within said reserve in Kansas Territory, in conformity to the legal subdivisions of the public surveys, and so as to include the improvements (if any there be) of each Indian, and patents for the same shall be issued to each individual Indian adult, or to heads of families for themselves and their minor children, they to locate their lands within the space of one year from the passage of this act; and when the location shall have been thus made and allotted, and after the expiration of said year, the remainder of the reserve shall be considered a part of the public lands, and shall be subject to settlement, preemption, and entry, as other lands belonging to the United States; but no settlements, other than by the Indians above referred to, shall be made on said reserve for the space of one year from and after the passage of this act. All settlements heretofore made on said reserve shall be recognized from the date of such settlement, and be entitled to preemption, the same as if the said lands had been Government lands and subject to settlement: *Provided*, That the Indians named shall have precedence over any other settler, where the same may come in conflict.

Sec. 2. After paying all the moneys necessary for carrying out the provisions of this act, the remainder of all moneys accruing from the sales by preemption, private entry, or otherwise, of any land within the tract or reserve above named, shall be paid into the Treasury of the United States, and kept as a separate and distinct fund; and held subject to any future action of Congress in relation to said New York Indians, or to the provisions of any treaty made, or hereafter to be made, with said Indians, or any of them, in reference thereto.

Sec. 3. The district courts of the United States for the Territories of Kansas and Nebraska shall severally, hereafter, for the purpose of enforcing the act of June 30, 1834, have the same jurisdiction as was conferred by the twenty-fourth section of the intercourse act upon the United States courts for the State of Missouri; and that so much of the twenty-fourth section of the act of June 30, 1834, known as the intercourse act, as conflicts with this act, be, and the same is hereby, repealed.

The previous question having been seconded yesterday, the main question was now ordered to be put.

The amendment of Mr. CRAIG, of Missouri, to the amendment, was agreed to.

Mr. McQUEEN. Is it in order for me to move an amendment at this time?

The SPEAKER. It is not.

Mr. McQUEEN. I would be glad if the House would allow me to offer an amendment striking out the second section, and to make a brief explanation. Cannot I move to reconsider the vote by which the main question was ordered?

The SPEAKER. The previous question has been partially executed by the adoption of one of the amendments.

Mr. McQUEEN. I hope the House will not pass the bill with that second section; for, in my judgment, it approves a claim for these Indians to which they have not the slightest title.

The House divided on the amendment, as amended; and there were—ayes 85, noes 45.

Mr. DAVIS, of Indiana, demanded the yeas and nays.

Mr. RUSSELL. Take the yeas and nays on the passage of the bill.

Mr. DAVIS, of Indiana. I prefer to have them on the amendment.

The yeas and nays were not ordered.

The amendment, as amended, was adopted.

Mr. DEAN moved that the bill be laid upon the table.

The motion was not agreed to.

The bill as amended, was ordered to be read a third time, and it was accordingly read the third time.

Mr. RUSSELL demanded the previous question on the passage of the bill.

Mr. McQUEEN. I hope the previous question will not be seconded.

The previous question was seconded, and the main question ordered.

Mr. McQUEEN. That second section of the bill has been recommended neither by the Com-

mittee on Public Lands nor by the Commissioner of Indian Affairs. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 56; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Barr, Bennett, Bingham, Bliss, Bowie, Brayton, Burlingame, Burns, Burroughs, Case, Chaffee, Chapman, John B. Clark, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Cragin, James Craig, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dewar, Dick, Dimmick, Dodd, Durfee, Eustis, Florence, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Greenwood, Robert B. Hall, Harlan, Harris, Hawkins, Hickman, Hodges, Howard, Owen Jones, Keim, Kellogg, Kelsey, Kilgore, Knapp, Landy, Leidy, Leiter, Lovejoy, McClay, McRae, Samuel S. Marshall, Matteson, Maynard, Miller, Montgomery, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Phillips, Pike, Purvison W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, William Stewart, Tappan, George Taylor, Miles Taylor, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Israel Washburn, Watkins, Whiteley, Wilson, Wortendyke, Augustus R. Wright, and Zollcoffer—113.

NAYS—Messrs. Atkins, Bonham, Boyce, Branch, Buffinton, Ezra Clark, Clay, Cobb, Cockerill, Curry, Davis of Indiana, Dean, Elliott, English, Farnsworth, Faulkner, Fenton, Garrett, Goode, Gregg, Hatch, Hill, Hoard, Hopkins, Horton, Houston, Jackson, Jewett, George W. Jones, Lawrence, Leach, Letcher, McQueen, Mason, Millson, Moore, Mott, Peyton, John S. Phelps, Potter, Pottle, Powell, Reagan, Seales, Seward, Aaron Shaw, Henry M. Shaw, Singleton, William Smith, Underwood, Vallandigham, Vance, Elinhu B. Washburne, White, Winslow, and John V. Wright—56.

So the bill was passed.

During the above call,

Mr. POTTLE stated that his colleague, Mr. THOMPSON, was detained at his lodgings by illness.

Mr. DAVIDSON made a similar statement for his colleague, Mr. SANDIDGE; Mr. PORTER for his colleague, Mr. WASHBURN; Mr. MORSE, of Maine, for his colleague, Mr. Wood.

The result having been announced as above,

Mr. RUSSELL moved to reconsider the vote, by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

VOLUNTEERS IN NEW MEXICO.

Mr. FAULKNER, from the Committee on Military Affairs, to which was referred a resolution of the House instructing the committee to inquire into the expediency of authorizing the President to call into service one regiment of volunteers in the Territory of New Mexico for the suppression of Indian hostilities, moved that the committee be discharged from the further consideration of the resolution, that it be laid upon the table, and, with the accompanying report, ordered to be printed; which motion was agreed to.

BRANCH MILITARY ACADEMY.

Mr. FAULKNER also, from the same committee, reported back House bill (No. 40) for the establishment of a branch Military Academy at the Hermitage, with a recommendation that it do not pass; yet at his request it was referred to the Committee of the Whole on the state of the Union, and, with the accompanying adverse report, ordered to be printed.

ADVERSE REPORTS.

Mr. FAULKNER also, from the same committee, reported back bills of the following titles with the recommendation that they do not pass; which were laid upon the table, and ordered to be printed:

A bill (H. R. No. 132) to establish certain military posts on or near to the road made by Lieutenant Colonel J. E. Johnston, leading from Missouri to the Territory of New Mexico;

A bill (H. R. No. 661) providing for the survey of the Upper Missouri and Columbia rivers for military purposes;

A bill (H. R. No. 472) to authorize the transfer and cession of the Government barracks, at Savannah, Georgia, to the city of Savannah; and

A bill (H. R. No. 718) for the erection of a military post in Dacotah Territory.

EXPLANATORY BILL.

Mr. FAULKNER also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 717) explanatory of an act to amend an act entitled "An act

supplementary to an act entitled 'An act providing for the prosecution of existing war between the United States and the Republic of Mexico;' which was laid on the table, and the committee discharged from the further consideration thereof.

SURVEY OF COLUMBIA RIVER.

Mr. FAULKNER also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 181) to provide for the survey of the Columbia river, in the Territories of Washington and Oregon; which was laid on the table, and the committee discharged from the further consideration thereof.

JOSEPH M. HOGE.

Mr. FAULKNER also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 714) to enable the Secretary of State to test the utility of a new mode of writing, invented by Joseph M. Hoge, of Arkansas; which was laid on the table, and the committee discharged from the further consideration thereof.

PROPERTY LOST OR DESTROYED.

Mr. FAULKNER also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 709) to revive an act in regard to property lost or destroyed in the military service of the United States; which was laid on the table, and the committee discharged from the further consideration thereof.

VOLUNTEERS IN MEXICAN WAR.

Mr. FAULKNER also, from the same committee, reported back, with a recommendation that it do not pass, a joint resolution (No. 42) for the pay of volunteers for the Mexican war; which was laid on the table, and the committee discharged from the further consideration thereof.

EDWARD INGERSOLL.

Mr. FAULKNER also, from the same committee, reported back a bill (H. R. No. 224) for the relief of Edward Ingersoll; which was referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

MORDECAI AND DELAFIELD'S REPORTS.

Mr. FAULKNER also, from the same committee, reported back a joint resolution (No. 53) directing the printing of certain reports therein mentioned; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

MILITARY BANDS.

Mr. FAULKNER also, from the same committee, reported back adversely the memorial of W. W. Morris, Lieutenant W. G. Gill, Lieutenant B. H. Robertson, asking for the organization of a military band in each regiment; and the committee was discharged from the further consideration thereof.

FRANCIS B. SHAEFFER.

Mr. FAULKNER also, from the same committee, reported back adversely the memorial of Francis B. Shaeffer, praying for extra pay as military storekeeper at San Francisco; and the committee was discharged from the further consideration thereof.

PUBLIC LANDS IN MICHIGAN.

Mr. FAULKNER also, from the same committee, reported back adversely the petition of Erastus E. Thatcher and others, for depot grounds and right of way on the public lands in Michigan, for railroad purposes; and the committee was discharged from the further consideration thereof.

EXTRA PAY TO OFFICERS.

Mr. FAULKNER also, from the same committee, reported back adversely the petition of the officers of the Army in the military department of New Mexico, asking to be allowed extra pay; and the committee was discharged from the further consideration thereof.

NAVAL ARMORY IN ALABAMA.

Mr. FAULKNER also, from the same committee, presented an adverse report on a memorial of the General Assembly of the State of Alabama, to establish an armory in the county of Shelby, in that State; which was laid on the table, and

ordered to be printed; and the committee was discharged from the further consideration thereof.

EFFICIENCY OF THE ARMY.

Mr. FAULKNER also, from the same committee, reported a bill to promote the efficiency of the Army and the marine corps, by retiring disabled or infirm officers; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

TEXAS MOUNTED VOLUNTEERS.

Mr. FAULKNER also, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 21) to raise and organize, for the defense of the frontier of Texas, one regiment of mounted volunteers; which was laid on the table; and the committee discharged from the further consideration thereof.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed, without amendment, a bill of the House (No. 830) for the punishment of the crime of forgery or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts.

Also, that the Senate had passed a bill (No. 532) for the relief of the legal representatives of Charles Pearson, deceased; in which he was directed to ask the concurrence of the House.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled An act (H. R. No. 830) for the punishment of the crime of forgery or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts; when the Speaker signed the same.

CLAIMS OF OREGON VOLUNTEERS.

Mr. FAULKNER. I am directed by the Committee on Military Affairs to ask that certain papers transmitted by the Secretary of the Territory of Oregon, relative to the protection rendered by volunteers to overland emigrants in 1854, be ordered to be printed, and recommitted to the Committee on Military Affairs.

It was so ordered.

FORT GRATIOT MILITARY RESERVE.

Mr. FAULKNER, from the Committee on Military Affairs, reported back, with an amendment, a bill (S. No. 263) granting the right of way over, and depot grounds on, the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes.

The bill grants the right of way through, and the privilege of constructing depots and workshops on, the public lands of the United States lying in the county of St. Clair, Michigan, commonly called the Fort Gratiot military reservation, to any railroad company or companies which may construct a railroad or railroads from the city of Detroit to or near the village of Port Huron, in said State; provided, that, in the opinion of the President of the United States, such grant or grants be not injurious to the purposes of public defense, and that the location of said buildings on, and such road or roads as to position and width through, said reservation, and the price of the land to be so occupied, being first determined by the Secretary of War, be approved by the President; and provided, further, that if the price of such grant, or grants, be not paid within thirty days after the approval of the President, or if either of said roads shall not be completed within three years, or if, at any time after its completion, it shall be discontinued, the grant shall cease and determine as to such road; and provided, further, that all the buildings to be erected upon said reservation shall be of wood; and if, at any time, it should be deemed expedient by the commanding officer of Fort Gratiot, or by any other higher military authority, to destroy such buildings by fire or otherwise, no claim shall be made against the United States for damages.

The amendment recommended by the Committee on Military Affairs was:

After the words "Port Huron," insert the words, "or any other place in the State."

Mr. MONTGOMERY. I offer the following amendment as an additional section to the bill:

SEC. — Also, be it further enacted, That there be, and hereby is, granted to the Territory of Kansas, to aid in the construction of the following railroads, to wit: a railroad from the eastern boundary of the Territory, at or near the mouth of the Kansas river, on the east side, by the way of Wyandot and Quindaro, and touching the Kansas river opposite Lawrence, Leecompton, and Fort Riley, to the northern boundary of the Territory, in the direction of Fort Bridger; a railroad from Leavenworth to the southern boundary of the Territory, in the direction of Fort Gibson and Galveston bay, with a branch running south of the Kansas valley to the southern boundary of the Territory, in the direction of Fort Union; a railroad from Atchison, via Fort Riley, and connecting with the Fort Union branch of the railroad from Leavenworth; a railroad from the western boundary of Missouri, south of the fourth standard parallel, where the Osage valley and southern Kansas railroad terminates, and running from that point westwardly, by way of Burlington, to Emporia, on the same limitations, qualifications, and restrictions, as above, applicable to the roads of Nebraska.

Mr. HOUSTON. I could not hear the amendment distinctly; but I propose to submit to the Chair the question whether it is in order?

The SPEAKER. The Chair thinks it is not in order. The pending bill is a Senate bill granting a right of way, while the amendment proposes to grant a right of way and public lands, for the construction of a road. The Chair thinks the amendment is not germane to the original bill.

Mr. MONTGOMERY. The original bill does propose a grant of land. It is true, it does not propose a grant of land for the purpose of building a railroad, but it does propose a grant of land for a depot and railroad station; and, being a grant of land to a limited extent, it cannot be out of order to extend the grant for other purposes. The only question is a question of extent. Lands are granted in both bills.

Mr. FAULKNER. I rise to a question of order. The gentleman from Pennsylvania is not in order, unless he takes an appeal from the decision of the Chair.

Mr. MONTGOMERY. That is true; but I presumed the Chair would desire to hear me upon the question of order.

The SPEAKER. The Chair would like to hear the gentleman.

Mr. MONTGOMERY. I was simply saying that the first bill makes a grant of land; and the only difference between it and the amendment is, that my amendment extends the grant a little further than it is extended in the original bill.

The SPEAKER. The bill proposes, in the usual form, to give a right of way, and, as a necessary incident to it, the right for depot purposes. The Chair thinks the amendment is not germane, because it proposes a grant of alternate sections of public land for the construction of roads. That is not the purpose of the original bill.

Mr. FAULKNER demanded the previous question.

The previous question was seconded; and the main question ordered.

The amendment reported from the Committee on Military Affairs was agreed to.

The bill was then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. HOWARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MEMOIR OF CAPTAIN T. J. CRAM.

Mr. FAULKNER, from the Committee on Military Affairs, reported the following resolution:

Resolved, That the Secretary of War be requested to transmit to this House a copy of the memoir of Captain A. A. Humphreys, together with any other papers in his department connected with the topographical memoir of Captain T. J. Cram, of the United States Army—a document which has been called for by a former resolution of this House.

Mr. LETCHER. I would inquire of my colleague whether it is intended that these memoirs shall be published by Congress; and if so, what sized book they are going to make?

Mr. FAULKNER. In reply to my colleague, I will say, that so far from being the purpose of the Committee on Military Affairs to have these papers published, I am instructed by the committee to ask this House, so soon as the original memoir there referred to is sent to the House, and the accompanying memoir of Captain Hum-

phrey, that they shall be referred to the Committee on Military Affairs for their consideration, and to resist their being printed until they have undergone the scrutiny and examination of that committee.

Mr. OLIN. I desire to ask the chairman of the Committee on Military Affairs if this is a resolution of the committee itself?

Mr. FAULKNER. I reply that it is a resolution reported from the Committee on Military Affairs.

Mr. OLIN. I had the honor, some time since, to offer to the House a resolution calling for the report of Captain Cram. A copy of that report has been made, and has been on file in the office of the Secretary of War for twelve months past. The report has not been sent to the House yet, and the gentleman from Virginia now calls for two papers now on file in the office of the Secretary of War, both of which, in my judgment, were improperly placed there. One of them is dignified by the call of this gentleman as military memoir. I understand it is a voluntary letter, placed on the files of the Department without authority of law. It is a mere criticism upon the report which I called for. Why it should be thought necessary to withhold that document which has been ordered by the House, until this memoir could be prepared to accompany it, I leave to members to discover after the report is produced.

I have now in my desk a synopsis of the report of Captain Cram, showing the importance of that document in aiding this House in the appropriations which are asked for upon the Pacific coast, and in aiding this House in the investigation they are about to engage in to ascertain the justice, the origin, and the nature of those claims which the Government is now asked to pay, and which grew out of your Indian wars in the Territories of Oregon and Washington.

But there seems to be a disposition upon the part of some gentlemen to withhold this report from the knowledge of the House. Now, I know it is very ungracious to rise here and object to a resolution merely calling for information; nor have I any disposition to object to the production of any paper which any member of this House thinks requisite for the proper discharge of the duties assigned to him upon this floor. But I do object, and strenuously object, to these two papers being brought here. They are not made in pursuance of law; they are not made by any responsible authority; and they are not made in pursuance of any regulation known to any bureau of this Government. They are mere volunteer criticisms upon the report of Captain Cram, which I have called for, and they have been improperly thrust upon the files of the Department. I might myself as well have written a letter to the Secretary of War, reviewing this report, and asking that it might be placed on the files of the Department. This memorial of Captain Humphrey, and the letter of Governor Stevens, of Washington, were not made in pursuance of law. The report of Captain Cram was made in pursuance of law, and in pursuance of the Army regulations; and it was in exceeding bad taste, in my judgment, after such a report was made by an officer of the Army, for a junior officer of the same corps to undertake the business of reviewing it, or that the business of criticising it should be turned over, by the Secretary of War, into the hands of a subordinate officer in the same corps of the Army. I thank the House for giving me this opportunity to explain this subject.

Mr. JONES, of Tennessee. I ask the gentleman from Virginia whether he does not think it very probable, that, if these memoirs are brought here under this resolution, the result will be a report favoring the printing of the documents? I would ask him further, whether he has not seen the papers which he is calling for; and what sized book they would make?

Mr. FAULKNER. I assure the gentleman that I have not seen any of the papers called for, either the original memoir of Captain Cram, or the memoir of Captain Humphreys. It was not the intention of the committee to become a party to the controversy which seems to have risen between those who are in favor of this report of Captain Cram and those who are opposed to it.

Mr. SMITH, of Virginia. The object of having these reports, I suppose, is to advance the

business of the country. I ask my colleague what public purpose is to be accomplished by their being reported to this House? If there is none, of course I must vote against the resolution. If there is a useful and practical purpose to be accomplished, then I shall vote for it.

Mr. FAULKNER. I take it for granted that when this House called upon the Secretary of War for Captain Cram's report, there must have been some useful object contemplated by those who made the call, and by the House when it adopted the resolution. While I have not seen either of the memoirs referred to, we have received satisfactory information that it was proper, with a view to throw full light upon the memoir of Captain Cram, that the accompanying memoir of Captain Humphreys should also be before this House at the same time, and before the Committee on Military Affairs. They all relate to subjects before the Committee on Military Affairs; and all we desire is that those papers shall be before our committee in order that we may determine, upon looking into the papers, whether it is expedient that any of them, and if so, which of them, shall be printed. I am instructed by the Committee on Military Affairs, when these papers are sent to the House, to ask this body not to print any of them until they have been referred to the Committee on Military Affairs for their examination.

Mr. JONES, of Tennessee. I raise a question of order upon this resolution. The 61st rule is as follows:

"A proposition requesting information from the President of the United States, or directing it to be furnished by the head of either of the Executive Departments, or by the Postmaster General, or to print an extra number of any document or other matter, excepting messages of the President to both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in it, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House."

Mr. FAULKNER. That rule cannot have any reference to the report of a committee.

The Committee on Military Affairs have asked that this report of Captain Humphreys shall also come from the War Department with the memorial of Captain Cram. I have not read those papers, and have never seen them, and can pronounce no opinion upon them, except from information laid before the committee, that they should scan and examine together. We are of opinion that we had better have both memorials before us for our examination; and that is the substance of the resolution now before the House. We do not wish to suppress the report of Captain Cram, and why should gentlemen seek to suppress that of Captain Humphreys? The committee want both, and I cannot comprehend the motives of those who would seek to suppress that of Captain Humphreys.

The SPEAKER. In the opinion of the Chair, the resolution will have to go over, under the rule referred to by the gentleman from Tennessee, if the gentleman insists on his point of order.

Mr. JONES, of Tennessee. I do, sir.

The SPEAKER. Then the resolution lies over.

PRINTING OF PRESIDENT'S MESSAGE.

Mr. FAULKNER, from the Committee on Military Affairs, reported the following resolution:

Resolved, That the Joint Committee on Public Printing be instructed to inquire into the expediency of devising some plan by which the President's message and accompanying documents shall be earlier printed and delivered to the members of the Senate and House of Representatives.

Mr. SEWARD. I object to that resolution.

Mr. LETCHER. I would suggest to the gentleman an amendment, to come in at the close of the resolution, in the following words:

And that they inquire further whether pay for double composition cannot be stopped.

Mr. HOUSTON. I would like to have another amendment made.

Mr. SMITH, of Virginia. Does not that resolution go over?

The SPEAKER. It does not; only resolutions calling for information from the President, or one of the Executive Departments, go over.

Mr. NICHOLS. That resolution, I hope, will not be objected to. I am in favor of the inquiry.

Mr. SEWARD. Has the matter upon which this report is predicated been referred to the Committee on Military Affairs?

Mr. FAULKNER. It is predicated upon no memorial, but rests as a point of order upon the inherent power which I think belongs to every committee, of making such suggestions as are essential to the proper transaction of the business of the committee. We found that two thirds of the session had passed before we had before us those printed documents which are necessary for our action as members of the Committee on Military Affairs; and we felt that we possessed the power, inherent in the very nature of a committee, of making such suggestions as were essential for the transaction of business intrusted to us by the House.

Mr. NICHOLS. I make a personal appeal to the gentleman from Georgia to withdraw his objection, and let this inquiry be made.

Mr. SEWARD. I withdraw my objection.

Mr. HOUSTON. It does seem to me that there ought to be some amendment by which the Committee on Printing shall be required to examine into the subject of these large books that purport to be the President's message and accompanying documents, and two thirds of which are totally worthless. There ought to be power somewhere, and I suppose it is in the Committee on Printing.

Mr. DAVIS, of Mississippi. The gentleman seems unable to draw the amendment so as to embrace his views; and would it not be best to create a committee of three for that purpose?

Mr. HOUSTON. I am sure that the gentleman, if appointed a committee of one, would fully answer the purpose. He certainly could most accurately draw the paper.

Mr. FAULKNER. The object contemplated by the gentleman from Alabama is embraced by the resolution. One of its purposes is to lop off all that useless and extraneous matter which swells the volume to its present size, and delays its printing.

Mr. HOUSTON. I apprehend not; at least I fear that it is not. We now have the President's message and accompanying documents filing three or four volumes.

A MEMBER. Four volumes.

Mr. HOUSTON. Four volumes, sir; when the whole of the matter in them that is really worth circulation could be embraced in one volume of a respectable size. The remaining portion, in my judgment, ought to be excluded. I have not looked into this matter of the powers of the Committee on Printing; but, sir, if it has any authority upon this subject, I think that my friend from Tennessee, [Mr. SMITH,] who is very vigilant in his attention to the public expenditures of the country, and who has assumed the championship of their defense, will be able to make the proper explanation of it in connection with the cod-fishery subject. I hope he will make that explanation, and make it to the satisfaction of the House and the ample satisfaction of his constituents. Why has the gentleman omitted all mention of the useless matter which goes to make up three fourths of the President's message and accompanying documents?

Mr. SMITH, of Tennessee. If the cod-fishery portion of my speech is offensive to the gentleman, I beg leave of the House to withdraw it. [Laughter.]

Mr. HOUSTON. I allude to the omission on his part, if the rules devolve it upon him, to discharge a very important duty. I regard his course as entirely fair, if he is in favor of keeping up the cod-fishery bounties. If he is in favor of that tax upon the people, let him say so.

Mr. CURTIS. I raise the point of order, that this debate is not germane to the resolution.

Mr. SMITH, of Tennessee. I ask the gentleman to state what portion of my public duties I have neglected, and to what he has made reference?

Mr. HOUSTON. I stated that I was not fully conversant with the duties of the Committee on Public Printing; but that, if their duty was to examine into these documents and their printing, then he had neglected a portion of that duty.

Mr. SMITH, of Tennessee. The gentleman knows that the Committee on Printing act entirely under the order of the House, and have no power outside of that order.

Mr. HOUSTON. Then that committee ought to have reported some reform of the present inefficient system.

Mr. SMITH, of Tennessee. Let the gentle-

man introduce a resolution to that effect, and refer it.

Mr. HOUSTON. It comes within the precise line of duty of that committee.

Mr. STEPHENS, of Georgia. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. LETCHER's amendment was read, as follows:

And that they inquire further whether some method can be adopted by which double pay for composition may be avoided where the work is executed in the same office, and by the same person.

The amendment was adopted; and the resolution, as amended, was agreed to.

Mr. SEWARD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NATIONAL FOUNDRY.

Mr. FAULKNER. Mr. Speaker, I hold in my hand numerous memorials, from citizens of the States of North Carolina, Ohio, Pennsylvania, and Virginia, calling upon Congress to establish a national foundry. The committee have been much divided on the expediency of that measure. In view, however, of the embarrassed condition of the Treasury, and the near approach of the termination of Congress, it was to-day decided by the committee, without expressing any opinion on the expediency of the policy, that the subject should go over until the next Congress. I regret this determination of the committee; but, as their organ, and to give effect to their decision, I move that that committee be discharged from the further consideration of these memorials, and that they be laid upon the table.

The committee was discharged from the further consideration of the memorials; and they were laid upon the table.

MAJOR GENERAL TOWSON.

Mr. FAULKNER, from the Committee on Military Affairs, reported back Senate resolution (No. 26) for the benefit of the nearest male heir of the late Major General Towson, of the United States Army, with the recommendation that it do pass.

The joint resolution requires the President to cause a sword to be prepared, with suitable emblems and devices, and presented to Nathan Towson Caldwell, grandson of the late Major General N. Towson, United States Army, (he being the next male heir,) for that officer's gallant and meritorious conduct in the capture of his Britannic Majesty's brig Caledonia, on the 8th October, 1812, on the Niagara river, near Fort Erie.

The joint resolution was read a third time.

Mr. JONES, of Tennessee, demanded the yeas and nays on its passage.

Mr. BRANCH. I would like to ask the chairman of the Committee on Military Affairs a question. I want to know whether this sword was voted to General Towson in his lifetime, and was never delivered, or whether this is a new and original proposition?

Mr. FAULKNER. It is a new and original proposition, although I believe it was contemplated by the Senate at the period of his death.

Mr. BRANCH. There never has been a law passed giving this sword to General Towson in his lifetime?

Mr. FAULKNER. No, sir; never.

Mr. BRANCH. Then I shall most certainly vote against this resolution.

Mr. MAYNARD. I would like to ask the chairman of the Committee on Military Affairs whether it was not proposed to give this sword to General Towson in his lifetime? whether he did not die during the pendency of the question? and whether this is not to carry out that proposition?

Mr. FAULKNER. I believe such a purpose was contemplated by the committee of the Senate having charge of the subject at the period of his death.

Mr. PENDLETON. As I am opposed to hunting up the grandsons of meritorious officers, for the purpose of giving them swords in recognition of their ancestors' services, I move to lay the resolution on the table.

Mr. UNDERWOOD. I desire to ask the

chairman of the Committee on Military Affairs what fact is referred to in the resolution in the statement that an intimation or promise of this kind was made to General Towson, in his lifetime?

Mr. JEWETT. I object to debate. There is a motion pending to lay on the table.

Mr. STANTON. I ask my colleague to withdraw his motion for a moment, and I will renew it.

Mr. PENDLETON. I will withdraw it on that condition.

Mr. STANTON. If this question were not before the House, I should care less about negating the resolution. The committee inquired with some care into the services rendered by General Towson, and certainly regarded them as meritorious, and as being quite as much entitled to the compliment proposed as those of almost any other officer who has received the thanks of Congress or the compliment of a sword. The House is called upon, and the committee was called upon, by the memorial of General Towson's male heir, to express in this form, an opinion as to the value of these services. Now, I felt, as a member of that committee, that although I might have regarded it as unwise to originate such a proposition, yet I could not vote against giving it without seeming to cast an imputation on the memory of General Towson, in refusing the customary honor conferred in similar cases. I should regret very much if the House should, by a rejection of the resolution, seem to cast any imputation on his memory. The service was an exceedingly gallant one, and I trust the House will not hesitate to acknowledge it.

Mr. GIDDINGS. I wish to inquire as to the number of guns the Caledonia had on board, in order that we may determine the gallantry of this officer in capturing it. What was her armament and number of men?

Mr. STANTON. I confess I am not so well acquainted with the details of the transaction as the chairman of the committee is.

Mr. FAULKNER. In addition to the very natural grounds of objection that presented themselves to my colleague on the committee, the gentleman from Ohio, I will state that when the committee placed these papers in my hands for a special examination, my feelings were strongly opposed to reviewing the award of history, seemingly rendered on this transaction in 1813. At that period Congress seems to have acted on this subject, and, for the identical service here referred to, awarded a sword to Lieutenant Elliott. I was not disposed to look back into history and to review the action of Congress on this subject. But when, under the order of the committee, I examined these papers carefully, and the history of that period, and especially looked into the letters of General Scott, written almost contemporaneously, I could not decline to award that justice which I believe this resolution now does to the memory of Captain Towson. The former act of Congress was founded mainly on the report given by Lieutenant Elliott himself, of the transaction. General Scott, in his letter of the 17th February, 1813, explains the reason why he did not forward an official report, which would then have placed Captain Towson in his proper light before Congress and the country. I read the following extract from his letter:

"But for my capture at Queenston, and the constant bustle in which I was engaged for the three or four days preceding, I should have made an official report of the affair of the 9th October, at Black Rock, in which Captain Towson bore a conspicuous part, both in boarding the vessels and in the events which followed. The expedition was suggested and fitted out under the auspices of Lieutenant Elliott, of the Navy; but not having a sufficient number of seamen to effect the object, he applied to me for assistance. I turned out my detachment and called for volunteers. Every man offered his services. A ballot was then ordered between Captains Towson and Barker, when it fell to the lot of the former to go on this service. With thirty men, aided by some seamen, Captain Towson had the principal share in boarding and carrying the Caledonia, with the loss of six men in killed and wounded. There was in the same boat with him a naval officer, who had the principal direction as to the manner in which the enemy should be approached; but it was acknowledged by all hands, that the artificers were the most effective in the capture. This is not so fully stated in Lieutenant Elliott's report of the affair as I could have wished, but it is nevertheless the fact. Captain Towson was one of the first on board, and behaved throughout with the most exemplary gallantry. The vessels were cut out from under Fort Erie. At daylight they had dropped down the Niagara, to a point opposite Black Rock, where the British commenced a very heavy fire upon them."

Again, General Scott, in a letter of the 27th of August, 1814, giving a detailed account of the enterprise, but a short portion of which I can read, says:

"According to this understanding, the expedition put off from our shore in my presence, (and not in that of either the general or of his brigade major,) about two o'clock in the morning of the ninth. A little before daybreak, within my hearing, being on the watch, both vessels were gallantly boarded and carried—the Detroit by Commodore Elliott in person, and the Caledonia by yourself.

"The Detroit soon got aground a little below, and the Caledonia a little above, the village of Black Rock. The Caledonia, as I partly saw, and as I understood from all, was saved by your extraordinary courage and perseverance, and afterwards bore her part in the great victory of Lake Erie."

You have here, sir, a brief history of this achievement. For the seizure of these vessels Congress voted thanks and a sword to Captain Elliott, in 1813, and yet you have the contemporaneous declarations of General Scott, who was an eye-witness to this brilliant transaction, and who informs us that if he had not been at the time a captive in the hands of the enemy, he would have forwarded to the Government, correcting the omissions of Lieutenant Elliott's dispatch, an official report, which would have done full justice to the daring and successful gallantry of Captain Towson.

The gentleman from Ohio asks what was the service rendered? Two British armed brigs came down Lake Erie and anchored under the protection of the guns, when Lieutenant Elliott conceived the idea of capturing these vessels.

Mr. GIDDINGS. Will the gentleman from Virginia inform me what was the size of the vessels, the number of guns they carried, and the extent of their armament?

Mr. FAULKNER. I do not recollect the size of the brigs or number of guns. They are uniformly spoken of as armed brigs. It is enough for my present purpose to say that Captain Elliott took possession of the Detroit, for which he received the thanks of Congress and a sword; while Captain Towson, in an open boat, captured the other, the Caledonia, with the loss of ten killed and wounded. The Detroit, taken by Captain Elliott, was subsequently burned. The same order was given in reference to the Caledonia, taken by Captain Towson, but she was saved by the presence of mind and firmness of Captain Towson, and was brought into port with a cargo of furs worth \$200,000, which became the property of the Government; and in addition to that she was used as a vessel second in command in the battle on Lake Erie. It is only recently that Congress has made an appropriation of money out of the public Treasury to pay the captors of the Caledonia that money which was due them for their service in seizing and taking possession of that vessel. I only want the facts to go properly before the country, and that justice shall be done for this brilliant achievement in the war of 1812 by Captain Towson.

Mr. GIDDINGS. If the gentleman from Virginia will allow me, I desire to ask whether there was any other armament on board the Caledonia besides the \$200,000 worth of furs? As I understand it, there was not a single gun on board that ship, nor a British sailor. It was strictly a private ship, manned with private sailors, and containing only private property.

Mr. FAULKNER. It was captured under the guns of a British fort, and Captain Towson had some eight or ten of his men killed or wounded in that encounter. Such the official report shows, and there must have been an obstinate resistance to the capture.

Mr. GIDDINGS. It was under the guns of the fort, it is true; but I wish to ask the gentleman from Virginia whether these vessels were not strictly private property, and whether there was any other than mere mercenary motives influencing these captors?

Mr. FAULKNER. I say to the gentleman from Ohio that there is nothing in the papers submitted to the committee, nothing in the history of the transaction, showing that it originated in any mere private mercenary object. The leading object for the capture of these two British vessels undoubtedly was to strengthen our own inadequate naval force upon the lakes by the addition of the captured vessels, and for that purpose the Caledonia was used.

Mr. GIDDINGS. But, sir, I ask the gentle-

man from Virginia if these vessels were not purely private property? As I understand it, they were not British vessels at all?

Mr. FAULKNER. They are described in all the accounts as British armed brigs. They were not part of the royal navy. They belonged to British companies and subjects, but they were armed for their own protection; and were, besides, under the protection of the guns of the British fort.

Mr. SEWARD. I object to further debate.

Mr. STANTON. The suggestion that this was not a patriotic enterprise, but was a purely mercenary affair, is an entirely new one to me. To show that that was not the opinion then expressed or held, I have only to refer to the act of the next succeeding Congress, expressing their thanks to Captain Elliott for this very enterprise in which Captain Towson took an equal share. It was everywhere spoken of at the time, as a gallant, meritorious, and brilliant achievement, when these vessels were taken from under the very guns of the British fort. It was an enterprise attended with great danger and some loss. The idea that it was influenced by mercenary motives was never suggested at the time. All the contemporaneous history of the matter represents it to have been a patriotic military service against the public enemy.

Mr. MAYNARD. I desire to ask whether this resolution received the unanimous recommendation of the Committee on Military Affairs.

Mr. PENDLETON. No, sir; it did not. But, Mr. Speaker, the course of remark which has been indulged in by my colleague [Mr. GIDDINGS] as well as by my other colleague, [Mr. STANTON,] who has just yielded the floor, makes it necessary for me to disclaim any intention to cast any imputation upon the character or conduct of Captain Towson, and also disclaim any disposition to detract from the brilliancy or merit of this achievement, or the reputation won by it. I did not desire to enter into a discussion of the merits of the achievement at all. I am willing to admit that the achievement was as brilliant as my colleague, [Mr. STANTON,] or the gentleman from Virginia, [Mr. FAULKNER,] claims. A contemporaneous Congress selected one of these officers, and voted him a sword; thus recognizing its sense of the service he had rendered to the country. I am willing to acknowledge that Captain Towson was as much entitled to the favorable notice of Congress as Captain Elliott. The question I wish to submit is, whether this House is now prepared to go into an examination of an event which occurred forty-five years ago, and to decide whether the Congress which then passed upon it decided right or wrong? I want to know if it is the policy of this House to go back over the long line of our history, and wherever it finds a brilliant action or success, to award the actor a sword because the contemporaneous Congress did not so recognize it? Sir, for one, I hold that the contemporary Congresses are the proper judges of such matters; that they should be left to their discretion. The Congress that passed upon this action had the right if they chose to discriminate between Lieutenant Elliott and Captain Towson, although I may not be able to see any distinction between the merits of the two officers; and I am utterly opposed to going back and overhauling their decision. I do not say that Congress intended to make any invidious discrimination; or that it, in fact, did so. It cast no imputation upon the character or conduct of Towson. There was no censure passed then which justice requires us to remove—no stain affixed then which we ought to wipe out now. It is a simple case of non-action by Congress. History and the country have done the parties complete justice; and Congress has, in no wise, interfered with their impartial judgment. I now renew the motion to lay the resolution on the table.

Mr. GIDDINGS. One word of explanation. I had no desire to detract from the merits of Captain Towson, and if gentlemen proposed to vote him thanks or a sword for the real merit he displayed in another transaction, not a hundred rods from where this one occurred, I would vote for it with all my heart. I refer to his defense of Fort Erie. That action merited the thanks of Congress and of the whole country. But I recollect the whole of this transaction well, and I speak of it only from recollection. The history of it was simply

this: Captain Elliott arrived at the city of Buffalo. That day these two ships dropped down under the guns of Fort Erie. There was not a gun on board of either ship, nor was there a single sailor on board in the service of Great Britain. The crown of Great Britain had no more interest in those ships than the American Government. Now, under these circumstances, Captain Elliott conceived the idea of taking these vessels, and took the command of the expedition. Captain Towson went with him as second in command. He had no more to do with the command of the expedition than any other officer of the expedition. Congress, at that time, for the purpose of stimulating military fervor on that frontier, took especial notice of this transaction, and they went at the time as far as they deemed expedient. But as I have stated, whatever may have been the worth or merits of Captain Towson on this occasion, in my opinion, he did an act a few months afterwards of ten times the merit.

Mr. PENDLETON. I now insist on my motion to lay the resolution on the table.

Mr. HARRIS. I ask the gentleman to withdraw his motion for just a moment. This case is connected with the reputation and gallantry of a Maryland soldier, and I want to say a word on the subject.

Mr. PENDLETON. I would withdraw the motion with pleasure, but I perceive that this matter is likely to give rise to a long debate, and therefore must decline to do it.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and resumed the consideration of the

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BURNETT. I desire to offer to amend the clause of the bill providing for the compensation of the employes of the House, by adding the following proviso:

Provided, That no officer or employe of this House shall receive pay for discharging the duties of more than one office at the same time.

Mr. Chairman, I offer that amendment for the reason that such things have taken place in the history of this House. It is an amendment which ought to be adopted; and I have no doubt the committee will vote it in. But, sir, I desire, in connection with this amendment, to refer to the whole paragraph. When we talk about reform and retrenchment, the chairman of the Committee of Ways and Means tells us that we must carry out existing laws; and the distinguished gentleman from Pennsylvania, [Mr. PHILLIPS,] rises here and undertakes to lecture us upon the course we ought to pursue. They say they are advocates of reform and retrenchment; but that we must repeal the laws, in order to reduce these extravagant appropriations. Now, I ask these gentlemen, when the estimates are sent in to them, and they look at the past history of this House, in which extravagant appropriations have always been made, why do they not take the initiatory steps in a movement to reform and retrench the expenditures of this Government? Why do they interpose objections here, and raise points of order, to prevent anything like a reform of the abuses which exist in regard to the expenditures of this Government?

In connection with this subject, let me call the attention of the committee to another proposition. In 1853-54, less than five years ago, this legislative bill was passed by Congress, containing appropriations amounting only to about two million dollars. The Committee of Ways and Means now report a bill for the same purposes, containing an appropriation of \$3,500,000. Now, sir, why have the expenditures of this department of the Government gone up \$1,500,000 in less than five years? The increased compensation of members of Congress does not account for it. Why, then, I ask, have the expenses thus run up within the last five years?

And now another fact. In 1853-54, the appropriations covered by the item of the bill we are now considering, amounted to \$34,460; that was

the amount. Now, in less than five years, this very same appropriation runs up to \$78,125, more than doubling itself in this short space of time. The increase, under this paragraph, for the compensation of these officers, within the last five years, is \$43,665. And yet, when we talk about the employes of this House, and the extravagance of appropriations, gentlemen here, sir, are taunted with a desire to make war upon the poor man; that it is the design and desire to strike a blow at the poor employes of this House. And, Mr. Chairman, we find members here who are ready and willing, on this cry, to get up and say that they are not the first that an attack should be made upon. The men who ask us why we do not introduce reforms here, and correct the abuses that exist, are the very men who, when the effort is made to accomplish that object, interpose objection. They are the very men who object to any reduction of the expenditures of this House. Sir, it is a fact that will be palpable to all who will take the trouble to give the matter an investigation, that we have connected with this House in the Clerk's office, Sergeant-at-Arms' room, and in the Doorkeeper's department, more employes than the public service demands. There is not a single one of those departments that cannot have its force of employes reduced without injury to the public service. Let gentlemen look to the number of employes we have here. Let them go into the Clerk's office, and let them inquire the time they are employed, and the character of service that is rendered. Let them go into the Sergeant-at-Arms' room, and into the Doorkeeper's department, and they will see that there are more employes than are demanded for the discharge of the respective duties.

Mr. Chairman, I offer this proviso, because I know the fact that, in the Thirty-Third Congress, persons have here discharged the duties of two places, and received the pay for both.

[Here the hammer fell.]

Mr. NICHOLS. Mr. Chairman, I am very glad to hear the admission just made by the gentleman from Kentucky; very glad, indeed. Now, if I understand that admission, it is this: that the officers gentlemen on the other side have put in power in this Hall, are employing more persons than are necessary to the discharge of the duties incumbent upon them. We, of this side are not responsible for that; not at all, sir; and it does not touch the argument which I made yesterday.

Mr. BURNETT. Will the gentleman permit me to interrupt him there?

Mr. NICHOLS. Yes, sir.

Mr. BURNETT. I submit to the gentleman that the members on his side of the House are the very gentlemen who voted against the proposition to reform these abuses. They voted against the suspension of the rules, and the record shows it.

Mr. NICHOLS. The gentleman from Kentucky knows, as well as he knows anything, that this side of the House voted with reference to adequate and fair salaries, and left the organization of the House, as to who were necessary, to the decision of the dominant party on the other side. The gentleman cannot get out of it in that way.

Mr. BURNETT. Permit me—

Mr. NICHOLS. I decline to be interrupted any further. The gentleman had five minutes, and I want as much time. I want gentlemen to understand my position exactly. Whenever it is no longer necessary to keep a man here, strike him down, turn him out; but that, sir, belongs to the dominant party. They are to say who is and who is not necessary. As a member here, and a citizen of this Confederacy, I am not alarmed at this small economy which appears to obtain here. I say that without any disrespect to anybody.

I say, Mr. Chairman, that whenever you employ a gentleman here, pay him an adequate salary. Look at it. How do these men come here? You bring them here; they are your friends; and you insist that they shall be put in office. You crowd the men who have charge of the offices in this House. You compel them to appoint your friends; and then, sir, when you get your friends here, you want them to work at a salary such as I believe is hardly sufficient to keep soul and body together, in reference to one class of employes. It is no argument to say that men can be found who will do the work cheaper. A hundred men

can be found in my district who will come here and represent that district for one half of what I am paid; but there is not one in that hundred who would be elected if he tried to be. And why? Because the people have a just appreciation of this thing. I can go upon a plantation in the South and hire men to swing the doors of this House (as it is termed) for just what you can hire them of their masters for. I can bring men here of no character, men that members would blush to see in a public position, who would discharge these duties at one tenth what is now paid. I do not wish to be disrespectful. I do not wish to impugn the motives of any gentleman upon this floor; but, sir, as I said yesterday, I wish to say now—and I am alone responsible on this side of the House for what I do in this matter—that you bring these men here; that they are your political friends; they have served you in your districts. When you bring them here, and associate with them on terms of gentlemanly equality, in God's name pay them a decent compensation.

[Here the hammer fell.]

Mr. MONTGOMERY. I move to amend this amendment by adding these words:

Unless they perform double service.

Mr. BURNETT. That is not in order.

Mr. MONTGOMERY. It is, if the gentleman's amendment is in order.

The CHAIRMAN. The amendment to the amendment is in order.

Mr. MONTGOMERY. Mr. Chairman, I had no intention yesterday of giving umbrage to the gentleman from Kentucky, [Mr. BURNETT,] when I spoke in favor of the claims of the poor man to the wages he earns. My remarks then were in advocacy of paying to the employés under the Doorkeeper the same salaries that are paid to employés under the various other officers of the House. I spoke of the laboring men about this Capitol. When a man has been appointed to a place here at a salary fixed by the law, I was unwilling to have that salary reduced at the end of a session, after the service had been performed. Because I happened to speak of these men as "laboring men," it gives offense to the gentleman from Kentucky. I regret always to offend him; but if advocating the claims of the poor man to his honestly-earned wages gives offense, I cannot help it, as I will never do it; let it offend whom it will, I care not. My object is to do right toward all classes, rich or poor.

Mr. PHELPS, of Missouri. I rise to a question of order. The gentleman's remarks are not in support of his amendment.

The CHAIRMAN. The gentleman must confine himself to his amendment.

Mr. MONTGOMERY. There are on the statute books of the United States, laws which fix the salaries of the various employés of the House and of the various departments of the Government. These salaries being fixed by law, it is the duty of this Congress to pass appropriation bills to fulfill these laws; and when a gentleman rises in this House to oppose the passage of these appropriation bills, he arrays himself against the laws of the land. He arrays himself in a revolutionary attitude. When a member refuses to grant appropriations to carry out existing laws, he clogs the wheels of Government to the extent to which he opposes those appropriations. I can regard no man as a true friend to his country who stands on this floor and attempts to defeat the appropriation bills that are necessary to defray the expenses of the Government, not in one particular, but in all; not only the salary of the President, but of the day-laborer. I desire to see our laws fulfilled and our credit maintained, and I do not respect factious and revolutionary opposition, let it come from where it will, or be the motive what it may. I am the friend of retrenchment and reform; but our debts must be paid, and our laws carried out.

Let the gentleman from Kentucky bring in bills retrenching all our expenses, and I will fight with him for their passage, but do not begin with the poor, paltry wages of our laborers, whilst millions are wasted in other profligate and useless expenditures without a word of opposition. But it so happens that the appropriations that are objected to by my friend from Kentucky, and others who agree with him, always relate to the salary of some laboring man about the Capitol. Here

is this building. Look at the millions lavished on it; and yet the gentleman from Kentucky asks what it is that has swelled the expenses of Government beyond the large amount which it formerly cost. Our own salaries were increased at the same time as the salaries of these employés. The gentleman from Kentucky does not come here with a resolution or bill to reduce his own pay, but the laboring man, who stands at the door and opens it and bows to us as we pass, is not to get his pay—his wages must be reduced; and because, forsooth, I, on yesterday, spoke in favor of the claims of poor and laboring men, my speech is to be denounced to-day, after the gentleman has pondered it over for the night. "The laborer is worthy of his hire;" and the hiring shall never, by a vote of mine, be refused his wages.

I am neither afraid nor ashamed to defend the rights of the poor and laboring man. Whenever, in my presence on this floor, his rights are infringed, I will give him my feeble aid to secure his rights. I would not array one class against another, but the rich can much better defend themselves. I would do no wrong to any class of men, rich or poor, but do right to all. I am the friend of the poor man. I am myself a laboring man, and I am not ashamed to own it here or elsewhere. With these hands I have earned a living, and I am no better now than when I toiled for my bread; and whenever I fail to remember and defend the claims of the poor and laboring man, here or elsewhere, may these arms fall palsied by my side, and my tongue forget the use of words.

Mr. BURNETT. The pathetic and *ad captandum* part of the gentleman's speech, I shall leave without comment. This thing of speech-making, and the character of speeches which gentlemen make on this floor, is a mere matter of taste. If gentlemen desire to make Buncombe speeches here near the close of the session for home consumption, and intended to tickle the fancies of men who, like themselves, may be led by the same ideas, I shall not interpose any objection.

The CHAIRMAN. The gentleman from Kentucky must confine his remarks to the amendment.

Mr. BURNETT. I am opposed to the amendment. The gentleman from Ohio [Mr. NICHOLS] and the gentleman from Pennsylvania [Mr. MONTGOMERY] have both presented a singular view here. The gentleman from Pennsylvania repeats the story which he sung yesterday, of his being the friend of the poor man. He tells us of his own poverty. Why, sir, I suppose there is not a man in this country who is not, to a great extent, the architect of his own fortune, and that there is not a solitary man on the floor of the House who has not a philanthropy broad enough to embrace all classes of the country. Whenever I hear gentlemen getting up and speaking of their love and devotion to poor men, I set that down to his credit in the columns of Buncombe; for it is nothing else. I have been charged with advocating a reduction of salaries; but the gentleman cannot find a solitary vote that I ever gave, proposing to reduce the salaries of the employés of the House. I voted to suspend the rules to let in the bill of my colleague, [Mr. MASON,] fixing the number and the salaries of the employés of the House.

I am in favor of paying men a fair *quid pro quo* for their services. The gentleman from Pennsylvania is either superlatively ignorant or has mistaken the facts in regard to the law. He says I am violating the law in opposing this section. I tell the gentleman that no man can say where the resolution is authorizing the pay of these men. He cannot tell himself. My remark was addressed to that point. I hoped the House would fix the number of its employés; cut off the supernumeraries, and pay those who are absolutely necessary a good salary. I do not intend to make an issue with my friend from Ohio [Mr. NICHOLS] as to the discriminating judgment of his people, and as to their good sense in selecting men to serve them. I have no doubt they understand what is for their benefit.

Mr. NICHOLS. Certainly they do.

Mr. BURNETT. I do not propose to reduce the salaries of officers. The gentleman from Pennsylvania offers this amendment to my proviso:

"unless they perform double service." That is a circumstance which shows that my amendment ought to be adopted. It shows that men are appointed to office who have time to discharge the duties of two or three positions; and it shows with still greater force that the number of employés should be reduced.

The gentleman talks about being the friend of the poor man, and of economy—

[Here the hammer fell.]

The question was taken on Mr. MONTGOMERY's amendment to the amendment; and it was rejected.

The question recurred on Mr. BURNETT's amendment; and it was agreed to.

Mr. GARNETT. I offer the following amendment, to come in at the end of the eighty-eighth line:

Provided, That hereafter it shall not be lawful for either the Senate or the House to increase the compensation or number of their offices, except by a law or joint resolution.

Mr. FLORENCE. I rise to a point of order. That is clearly legislation, and changes existing laws.

Mr. GARNETT. I hope the Chair will hear a respectful suggestion from me, to prove that my amendment is in order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. GARNETT. There are but two rules of this House under which it can be pretended that this amendment is not in order. The first is the 81st rule, and I ask the Clerk to read it.

Mr. FLORENCE. Is the point of order I raised debatable.

The CHAIRMAN. The Chair desired to hear the gentleman.

Mr. FLORENCE. I have no objection, if the privilege of debate is to be accorded to members on all sides of the House.

Mr. GARNETT. It has been extended all over the House.

Mr. FLORENCE. When I have been upon the floor, I have heard cries of "order," all round.

The 81st rule was then read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Mr. GARNETT. That rule clearly does not exclude my amendment; for this is not an appropriation. Now read the 55th rule.

The 55th rule was read, as follows:

"No motion or proposition on a subject different from that under consideration, shall be admitted under color of amendment. No bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House."

Mr. GARNETT. That rule does not exclude it; because the clause I propose to amend is for the payment of the officers of the Senate and the House; and this amendment is germane to the subject of the mode of their payment. I submit, then, that the amendment is in order.

The CHAIRMAN. The Chair decides the amendment out of order, on the ground that it is legislation.

Mr. GARNETT. Will the Chair be kind enough to point out the rule which excludes legislation in appropriation bills?

The CHAIRMAN. The 81st rule.

Mr. GARNETT. I ask the Chair to point out under what rule it is out of order?

The CHAIRMAN. It is against the uniform practice of the House to incorporate general legislation in an appropriation bill. The Chair decides the amendment out of order.

Mr. GARNETT. Well, I will move another amendment. Of course I bow to the decision of the Chair, whether there is any reason for the decision or not. I move to add the following proviso to the end of the clause:

Provided further, That no portion of this appropriation shall be used for the payment of any salary not fixed by law.

The object I have in offering this amendment is this: I am perfectly willing to pay the officers of this House, and of the Senate, not merely what their services are worth, but a fair and liberal salary; and I am perfectly willing to give to the chief officers of this House the number of assistant officers they require. And when those offi-

cers are appointed, I will vote readily and heartily to pay them a liberal compensation for what they do for us. But I am not willing that this House, or the Senate, shall assume the legislative authority of this Government. The Constitution of the United States prescribes that no money shall be drawn from the Treasury of the United States, except by law; and I maintain that it is a grave abuse, that it is a violation of constitutional duty, when, by this hocus-pocus of the contingent fund, we permit one House of Congress, which has no legislative power in itself, to increase its officers or their compensation *ad libitum*. I maintain that all expenditures of money ought to be under the control of law. We know that the Constitution has vested the legislative power in the Senate, the House of Representatives, and the President, and when it is declared that no money shall be taken from the Treasury, except by the joint assent of these three powers, I maintain that it is utterly unconstitutional, and abusive of all principles of government, to permit either House to spend what it pleases, to create what officers it pleases, or to enlarge their salaries at pleasure.

The object of my amendment, therefore, is, so far as the rules will permit me, to declare that this appropriation shall not be spent except in pursuance of law; that it shall not be competent for the Senate or the House to run up the expenses in one year from \$30,000 to \$70,000. I repeat, that it is not intended as a blow at any officer of either House, nor as a censure on any compensation which they are now receiving; but it is intended to place a restriction upon what I conceive to be an improper and unconstitutional mode of paying money.

Mr. FLORENCE. I am opposed to the amendment of the gentleman, for the simple reason that it is all provided for in existing laws.

Mr. MILLSON. I move to amend that amendment merely for the purpose of making an inquiry. I move to add the words "previously enacted." I want to understand this amendment. I ask the chairman of the Committee of Ways and Means whether all these salaries are fixed by law?

Mr. PHELPS, of Missouri. No, not all. They are fixed by law and by the resolution adopted at the last session of the House, upon the motion of the gentleman from Kentucky, [Mr. MASON.]

Mr. MILLSON. If that is the case, the adoption of the amendment offered by my colleague would prevent the payment of all salaries of officers whose compensation is fixed by a resolution of the House. A resolution of the House is not a law; and surely my colleague does not intend to deprive of their salaries those whose compensation is fixed by a resolution of the House.

Mr. PHELPS, of Missouri. The effect of the amendment—

Mr. SEWARD. I rise to a question of order. The gentleman from Missouri [Mr. PHELPS] laid down the rule correctly in regard to the course of debate, that gentlemen should confine their remarks to the amendment under consideration; and I hope he will be held to that rule.

Mr. PHELPS, of Missouri. I am willing to submit to the rule, and am glad to have the point made upon myself, for then no gentleman can complain if I insist hereafter upon an enforcement of the rule. I yield the floor upon the point of order made upon me.

Mr. GARNETT. I will say that I have no desire to prevent, by my amendment, the payment of the salary of any officer of the House. If, under the amendment I have offered, they are excluded, it is perfectly competent for Congress to pass a bill, fixing their salaries, and to appropriate money to pay them.

Mr. MILLSON. With the consent of the committee, I will withdraw my amendment.

Mr. LETCHER. I object.

Mr. BURNETT. The gentleman from Virginia cannot reply.

The CHAIRMAN. Further debate is out of order.

Mr. LETCHER. Who has opposed the amendment?

The CHAIRMAN. The gentleman from Missouri.

Mr. LETCHER. He was answering an interrogatory when he was called to order; and he yielded the floor upon a point of order. And besides, he spoke in the time of my colleague, and not in the five minutes allowed by the rules.

The CHAIRMAN. Still it was a reply.

Mr. LETCHER. Then a gentleman cannot answer a question, because that would cut off any one who wanted to oppose the amendment.

The CHAIRMAN. Debate is out of order.

Mr. MILLSON, by unanimous consent, then withdrew his amendment to the amendment.

Mr. LETCHER. I now propose to amend the amendment by adding the words, "or a resolution of this House," so that the amendment shall read:

Provided further, That no portion of this appropriation shall be used for the payment of any salary not fixed by law or a resolution of this House.

The Committee of Ways and Means have been arraigned here by one and then by another for violating what is conceived to be their duty in reporting this clause of the bill. We have reported here only such appropriations as are necessary to meet the salaries of officers that are fixed by law or by resolution of this House; and a resolution of this House, adopted no longer ago than the last session of Congress, for which the gentleman from Kentucky [Mr. BURNETT] and myself voted, and which was introduced by his colleague, [Mr. MASON.]

Now, sir, when we voted for that resolution, did we intend it to be obligatory upon this House, as a guide to the Committee of Ways and Means, in reporting the necessary provision to discharge the indebtedness of the Government to the employees that were specifically mentioned in it? If we did not intend to do that, what did we intend to do? Was the legislation altogether nugatory? Was it to become of no effect whatsoever here? Was it a mere farce that this House went through, never intended to be binding either upon themselves or upon their committees? I say not. Then if we have conformed our action to the law, and to the resolution of the House adopted at the last session, what has the Committee of Ways and Means done wrong, for which they should be arraigned to-day? Is there anything in this section of the bill, (I put it to the gentleman from Kentucky,) which is not covered, either by law, or by joint resolution?

Mr. BURNETT. My answer to the gentleman is this: I have not taken the Committee of Ways and Means to task on account of anything contained in this section, nor can the gentleman, from any remarks I have made, say that I have. The point I made upon the Committee of Ways and Means did not embrace the gentleman from Virginia; but it did embrace the gentleman from Missouri, [Mr. PHELPS,] and his colleague upon the committee from Pennsylvania, [Mr. PHILLIPS,] who interpose from time to time points of order and objections to every reform attempted here. That was the point I made.

Mr. LETCHER. If the Committee of Ways and Means have reported only what is sanctioned by law, or by resolution, was it not the duty of the chairman to interpose questions of order, whenever gentlemen sought to arraign that section of the bill? Were we not in the strict line of discharging our duty, no more, no less? That is exactly the position which we occupy here now; and if a resolution is not sufficient to control the action of the Committee of Ways and Means, I would like to know why my friend from Kentucky, or somebody else, has not, between the time that resolution was considered last year, and this time, taken occasion to make it precisely what the gentleman now desires it should be?

Mr. BURNETT. My answer to that question is this: that the gentleman who has the bill in charge, fixing the number of employes about this House, and their salaries, cannot get the floor to report that bill.

Mr. LETCHER. Then, because the committee charged with this business cannot get the floor, are you to undertake to legislate it into this bill in violation of rule and law?

Mr. BURNETT. No, sir; not in violation of rule and law, but to respond to the Committee of Ways and Means, when they interpose objections here, and make points of order, "why do not you bring in reforms?"

Mr. LETCHER. But the Committee of Ways and Means are not charged with legislation. They are charged with presenting appropriations to meet existing laws and existing liabilities; and, if the Committee of Ways and Means are to undertake to introduce bills here to regulate the em-

ployés of this House, and to change all other provisions which gentlemen may think are insufficient in law now, what time will they have to consider any other legitimate business? What are the committees for? What is the Committee of Claims for? What is the Committee for the District of Columbia for? What is the Committee on the Judiciary for? What are they for, if not for the very purpose of presenting that legislation which the gentleman now says should be saddled upon us? Can they be for any other purpose? Are we to be charged with all the legislation of the House? It is not long since we were arraigned for usurping powers which did not belong to us, and it was said that the Committee of Ways and Means had swallowed up all the powers, privileges, and duties of this body. That was no longer ago than last session. I say, then, we have done our duty in this matter, and if the law is wrong, it belongs to the House itself to correct it.

Mr. SEWARD obtained the floor.

Mr. BURNETT. I want to say one word, with the permission of the gentleman from Georgia, in response to the numerous inquiries which have been made by the gentleman from Virginia. There is a stereotyped phrase connected with this Committee of Ways and Means, which they invariably poke at members on this floor: "Why do you not introduce a bill?" It has been asked by the gentleman from Missouri, [Mr. PHELPS,] by the gentleman from Pennsylvania, [Mr. PHILLIPS,] and by the gentleman from Virginia, [Mr. LETCHER.] Now, sir, I may be permitted to answer that question in true Yankee style, by putting a question to the gentleman from Virginia. Is it not as much your duty, as a member of this House, to introduce bills and measures of reform, as it is the duty of any other gentleman upon this floor?

Mr. SEWARD. I hope this will not be taken out of my time.

Mr. LETCHER. Will the gentleman allow me to answer the gentleman from Kentucky?

Mr. SEWARD. If it does not come out of my time.

The CHAIRMAN. The Chair can make no such arrangement.

Mr. SEWARD. Well, go on.

Mr. LETCHER. If the gentleman from Kentucky addressed that question to me, I say, in reply, that I have to perform as much duty in this body as he does, if not more. We are required to report our appropriation bills within thirty days from the commencement of the session. What obligation of that sort rests upon any other committee of this House? We are required to meet morning after morning continually; and frequently to remain in session after the meeting of the House. Now, when is the Committee for the District of Columbia in session? How often do they meet, and how long do they remain in session? Has not he, therefore, more time to produce those measures of reform than I have? For what are your committees on the expenditures for the various departments of the Government, your Committee on Public Buildings, and all your other committees, organized? Why are they not introducing measures for reform when the whole question of expenditures is submitted to their consideration?

Mr. BURNETT. The gentleman says that he is obliged to report the appropriation bills within thirty days after the commencement of the session. Very well, sir. The gentleman's services upon this floor I regard as invaluable; and the only regret I have is, that he is going to leave this House. I regard his loss as a public calamity. But, in connection with that, permit me to say that when the gentleman comes here and puts these questions to members who are in favor of reform, they recoil with additional force upon gentlemen of his age, experience, and known influence here.

Mr. LETCHER. I return my thanks to the gentleman for the compliments he has paid me; but on the score of age, I wish to say in addition, that I claim no advantage over him. [Laughter.]

Mr. KEITT. Does the amendment include the Senate?

The CHAIRMAN. It does not apply to the Senate.

Mr. KEITT. I wish to make a single remark.

The CHAIRMAN. Debate is exhausted on

the amendment, and further remarks are not now in order.

The amendment to the amendment was disagreed to; and the amendment was then rejected.

Mr. PENDLETON. I move to amend, in line ninety-two, by striking out these words: "and boxes for members \$10,000," and insert for the same object an appropriation of \$5,000.

Mr. Chairman, the amount to which I propose to reduce this appropriation is not large, but I offer the amendment in good faith. At the last session I was sent by the Clerk two very nice boxes. I suppose they would cost five dollars. They were well made. They were convenient for the purpose for which they were intended. They answered very well the purpose of holding books to be sent away. Yet, sir, I submit that it is not the province of the Government to give members these nice boxes to send to different parts of the Union. There is no more propriety in giving these boxes than there is in giving members trunks in which to take home their clothes.

Mr. TAYLOR, of New York. I rise, not exactly for the purpose of opposing the gentleman's amendment—

Mr. SMITH, of Virginia. Then the gentleman is not in order.

Mr. TAYLOR, of New York. Then I move to strike out in line ninety-five "\$75,000," and in lieu thereof insert "\$34,000."

Mr. BURNETT. I would like to ask the chairman of the Committee of Ways and Means a question.

Mr. TAYLOR, of New York. I yield for that purpose.

Mr. BURNETT. I desire to know of the chairman of the Committee of Ways and Means, as he has stated that this bill contains appropriations only which are provided for by law—

The CHAIRMAN. The gentleman must confine himself to the amendment.

Mr. BURNETT. I am on that very subject. The Committee of Ways and Means tell us that all the items of this bill is in accordance with law. I am not sufficiently familiar with all the statutes to determine that question; and I shall be glad if the gentleman from Missouri will tell me where I can find the law authorizing the purchase of these boxes? I would like to know, because I want to vote intelligently.

Mr. PHELPS, of Missouri. The declaration that was made, was in reference to the employes of this House. It was that their salaries were fixed by existing laws or resolutions of the House. So far as the printing and binding are concerned, they are fixed by resolution; but, so far as these boxes are concerned, that is an expenditure that has grown up in the last six or eight years. It has grown up in the appropriation bills, for boxes in order that the documents given to members of Congress may be securely and safely sent to their homes if they choose to pay the freight, instead of trusting them to the transmission of the mails. It saves the mails.

Mr. BURNETT. I wish to ask the gentleman a question. What is the cost of these boxes? I understood the gentleman from Virginia, [Mr. LETCHER,] and the gentleman himself, to state that the Committee of Ways and Means brought these bills in merely in pursuance of law, or resolution of the House. That is their duty. Yet the distinguished gentleman from Missouri, the chairman of that committee, says that there is no law for this particular item, and that it exists by prescription; that it has been going on for five or six years. It is an abuse that ought to be stopped.

The gentleman from Pennsylvania, [Mr. MONTGOMERY,] in his extraordinary speech, referred to the fact that members had increased their own pay. If he had looked carefully he would have seen that I was one of those who opposed that bill. I am opposed to appropriations unauthorized by law. If appropriations are right and necessary, let us provide for them by law; and until that is done let us exclude them from these bills.

Mr. JOHN COCHRANE. I move to strike out the word "ten" and insert "eleven" in its stead. Now, sir, I, for one, stand up for boxes. [Laughter.] This House, if the clause be not retained, will be in a bad box; and, unless members return to their reason and stand up for their rights, while they are also standing up for the economy of the Government, we, sir, shall be utterly ruined.

Arguments have been made on this floor to-day in favor of the poor as against the rich. I, sir, would never array the one class against the other. But I stand here in common for the rights of the rich and of the poor. While gentlemen here are indulging in luxury, are receiving each his couple of boxes, let us look to the poor man engaged on the work-bench. Let us look to the tariff. Let us look at the protection which should be given to our iron interests. Let us look to the laboring classes, and all those interests in the community which enter into a combination within the circumference of a Congressman's box. [Laughter.]

It seems to me, Mr. Chairman, that the moral of this debate is, that we should engage in the weightier matters of the law, and not in these trifles. Let us begin at these budgets, that comprehend large amounts. Let us direct our attention to more serious affairs, and not argue hour after hour over items of this description, so trifling in their nature that the time expended in argument is ten times more valuable than the small sum required for these items. Let us, as I said before, return to our reason. Let us apply judgment to the rule. While we are talking of retrenchment and reform, let us lay ourselves to the work of retrenching those enormous expenditures of the Government that are overwhelming us, interrupting the wheels of Government, and staying our course towards prosperity. This is the task which gentlemen have imposed upon them, and not that of catering to the appetites of the poor, or appealing to the passions of one class against another. Let us direct ourselves sternly and with rigidity to the work of seeing that those items that are grave and important are they which shall receive our attention; but, sir, let trifles of this description pass.

Mr. STANTON. Will the gentleman have the goodness to tell us precisely where he would begin to retrench? I never can find any place.

Mr. JOHN COCHRANE. I would first destroy the franking privilege. I will be frank with my friend from Ohio, [laughter,] and I have no doubt that we will occupy common ground on that point.

Mr. STANTON. Yes, sir.

Mr. JOHN COCHRANE. Now, will the gentleman from Ohio answer me where I shall accompany him in the way of retrenchment?

Mr. STANTON. The gentleman can have abundance of retrenching if he will follow me in cutting down the Army to the peace establishment of 1820, and in reducing the Navy for which we have got no use.

Mr. JOHN COCHRANE. Oh, no.

Mr. STANTON. I should reduce the post offices, and abolish the navy-yards.

Mr. JOHN COCHRANE. That is not retrenchment. That is ruin.

Mr. VANCE. I want to know whether this is debate or cross-questioning?

Mr. JOHN COCHRANE. The fault of my friend from Ohio is this: that he proposes not reform, but deform. There is unquestionably an office for the Army; and if the Army is stricken down that office remains unperformed. We have a frontier which should be protected.

Mr. LETCHER. I rise to a question of order. I do not think that the Army is concerned in this amendment, by a long shot.

Mr. SMITH, of Virginia. It is undeniably true that there is very little hope of retrenchment, because we see one gentleman object to retrenchment because it is small, and another gentleman objects to retrenchment because it is large, and because we have not time enough for its examination, and thus we are to do nothing. Thus we are to pass over everything. The gentleman from Pennsylvania [Mr. MONTGOMERY] talks about laboring men. I tell the gentleman that the best way to consult the interests of the laboring man is to take as little as possible from his industry, to support the Government. If we spend \$10,000,000 or \$15,000,000, the laboring man is infinitely better off than if we spend \$100,000,000. Unless that is true, the more we spend the better off the laboring man is. But to come back to this particular proposition. Is there any necessity for this provision of the bill? There is, on the 4th page, an appropriation of \$40,000 for miscellaneous items. What do you want, then, with this provision for the repairs of furniture and boxes for members? I say there is no necessity in the world for it; and it does seem to me wholly un-

necessary and eminently unwise for us to sanction this appropriation. There are other items which I shall propose to strike out; but I propose to submit nothing further on this subject. I trust it will be the pleasure of the committee to strike out the item.

Mr. JOHN COCHRANE withdrew his amendment.

Mr. CRAWFORD. I offer an amendment, *pro forma*, to reduce the appropriation \$100. When this item was before the committee, I objected to it, and it became my duty afterwards to look into it and to inquire into its necessity. I was informed by the officers of the House, who have charge of that particular department, that it had reference to the repairs connected with the desks of members of this Hall; any derangement of the locks and keys, or any breakage of the chairs or desks, and also to the furnishing members with two boxes each, for the carrying of their public documents. There are two hundred and forty-one members and delegates, which make nearly five hundred boxes necessary at each session. It is to these boxes that part of this sum is appropriated. I withdraw my amendment.

Mr. TRIPPE. The gentleman states that there are nearly five hundred boxes made each session. I suppose that nearly half the members never get their boxes. I have been entitled in this way to eight boxes, and I have never got more than two. I would like to inquire of my colleague, what has become of my six boxes?

Mr. SEWARD. Or mine?

Mr. TRIPPE. I will give my six boxes to the Government. There is no doubt that thousands more have gone the same way.

Mr. CRAWFORD. I can only say that there are no boxes paid for unless they are sent to the rooms of members; and no one can receive a dollar unless his account is certified by the Committee of Accounts. I do not know whether the gentleman has got his boxes or not. It is no part of my duty to look after them.

Mr. TRIPPE. There is not a dollar of this appropriation of \$10,000 heretofore made, unexpended.

Mr. CRAWFORD. Then the gentleman must hold the Committee of Accounts responsible. The gentleman proposes to strike out this item for furniture and repairs, as a matter of reform. If he has any information on the subject showing that this account can be reduced, I will go with him. I looked into the matter when the bill was before the Committee of Ways and Means, and I found that no money could be paid under the appropriation until the account had been approved by the Committee of Accounts, and these gentlemen will therefore, have to prove that the Committee of Accounts have improperly passed upon these items of account furnished by the Clerk. It is not to be expected that the Committee of Ways and Means could take the time to investigate these several items of expenditure, which have been already passed upon by another committee of the House. I repeat that the Clerk cannot pay a dollar of this appropriation until it has been approved by the committee. I have no feeling about the matter. I have merely stated the grounds of my own action.

Mr. CRAWFORD's amendment was, by unanimous consent, withdrawn.

Mr. SMITH, of Virginia. I suppose it will be in order to strike out lines ninety-two and ninety-three.

The CHAIRMAN. Not until the amendment of the gentleman from Ohio [Mr. PENDLETON] has been disposed of.

The amendment was agreed to.

Mr. SMITH, of Virginia. I propose now to strike out the whole of lines ninety-two and ninety-three as follows:

"For furniture, repairs, and boxes for members, \$10,000."

Mr. Chairman, a word or two upon this subject. I think the amendment just adopted is a very good one. These boxes are for the personal convenience of members, and it is time, after so much has been said in reference to retrenchment and reform, to begin by cutting off the appropriations wherever we have an interest in the question. I propose to strike out the whole of this paragraph, because after the explanation of the gentleman from Georgia, who has just taken his seat, [Mr. CRAWFORD,] it is not necessary that

this appropriation should be made here. By reference to page 6, line one hundred and twelve of the bill, members will see that there is a very heavy appropriation proposed of \$40,000 for miscellaneous items. Now, I submit, why is it that the repairs of these desks and the various *et ceteras* connected with the repairs of the Capitol, cannot be embraced under that head? Why specify for furniture, repairs, and other things, when here is an item of \$40,000, under which these repairs can all be effected? It looks as if there was a purpose to get all you can by specification, and then to embrace this whole amount for miscellaneous purposes. Now this miscellaneous item means something or it means nothing, and it does seem to me, that all these repairs which are too insignificant to be stated in separate items, should be embraced in that general provision, and that this distinct appropriation is wholly unnecessary.

Mr. Chairman, it is undeniably true, that these boxes ordered for the use of members are a species of abuse. Gentlemen say that the whole appropriation will not be expended unless it is needed. Sir, there is no balance of this fund for the present Congress unexpended, and we can very readily imagine how it has been expended. I have never got my boxes; at least I have never got more than one box during a session, and sometimes not that. It cannot have been necessary that this appropriation should be made to cover these expenditures. Does any gentleman suppose that these items can involve anything like the amount specified in this appropriation? Sir, I hope it will be the pleasure of this committee to strike out this paragraph.

Mr. PHELPS, of Missouri. I desire to make a single explanation in reference to these items of appropriation, including that proposed to be stricken out by the gentleman from Virginia, and others in this connection. I am opposed to his amendment. If that paragraph is stricken out, the amount must be added to the miscellaneous fund of the House. A certain amount to pay the expenses of the two Houses of Congress was formerly appropriated in gross; subsequently the appropriation became subdivided, in order that the accounting officers of the Treasury Department might be able to distinguish between the several items of appropriation, and hold each House to a more strict accountability for its expenditures. I have before me the law regulating the contingent fund of the two Houses. Each item of expenditure out of the contingent fund must be paid under the supervision of the Committee of Accounts. The rule of the House which prescribes the duty of that committee is as follows:

"It shall be the duty of the Committee of Accounts to superintend and control the expenditures of the contingent fund of the House of Representatives; also to audit and settle all accounts which may be charged thereon; and also to audit the accounts of the members, for their travel to and from the seat of Government, and their attendance in the House."

This, then, is the duty of the Committee of Accounts. No person can be employed or receive any compensation out of any portion of the contingent fund of either the House of Representatives or the Senate, unless he has been employed in pursuance of a resolution of one of the two Houses; nor can any amount be drawn or paid out of that contingent fund, unless the account therefor shall first be presented to the Committee of Accounts and shall be audited and allowed by them; so that so far as these expenses for furniture and for repairs of all kinds are concerned, the accounts must be presented to the Committee of Accounts; when an account has been allowed by that committee, it may be paid by the Clerk, and not until then. The reason for dividing these items of appropriation, under the head of contingent fund, was to keep a check, as much as possible, by the officers of the Treasury Department, upon these expenditures.

Mr. SMITH, of Virginia. Will the chairman of the Committee of Ways and Means inform me why these repairs of desks and chairs in this Hall, which really seem to require no repairs, cannot be paid out of this miscellaneous appropriation of \$40,000?

Mr. PHELPS, of Missouri. I have already stated that if this item be stricken out as a distinct appropriation, it will be necessary to increase the amount of the miscellaneous fund to that extent. If it be the pleasure of the House to pursue that

course, I have no objection. The Committee of Ways and Means have only pursued the practice which has been pursued for several years past, and which they believed would be an economical practice—that of dividing the different subjects of appropriation under the head of contingent fund.

The amendment offered by Mr. SMITH, of Virginia, was adopted.

Mr. MAYNARD. I move to amend the following paragraph of the bill:

"For stationery, \$15,000;"

by adding the following proviso:

Provided, That no part thereof shall be paid to members in commutation of stationery.

The object of the amendment is this: By the law, as I understand it, each member is entitled to stationery to the amount of twenty-five dollars for a short session of Congress, and forty-five dollars for a long session. The practice, however, is, if I am correctly informed, for members to get as much stationery as they may need, more or less, and receive the balance in money. Now, the object of the law, as I understand it, is not to pay members, but to provide them with stationery. I believe that some abuse of this provision of law has been practiced, and I therefore offer this amendment for the purpose of correcting that abuse.

Mr. PHELPS, of Missouri. I will say to the gentleman from Tennessee, that during the period I have served in Congress, I have from time to time found great complaints upon the part of members, of the quality of the stationery furnished for the use of the House. Such was the fact, it will be recollected, during the last session of Congress; and, when members for that reason find it necessary to purchase their own stationery, they have been reimbursed for it out of this appropriation.

Mr. MAYNARD. The amendment I have offered, it strikes me, is just what is wanted to remedy the evil, if there be one. The law, as I understand it, requires such an amount of stationery to be purchased for the use of the House. It is purchased by the Clerk; and I think it should be optional with the members to use the stationery furnished for their use, or to supply themselves out of their own means. If our Clerks will not get stationery fit for use, let us call them to an account for it. They are required by law to furnish stationery proper and suitable for the use of the House; and it seems to me that if we are not satisfied with such as is furnished, we should just put our hands into our pockets, and buy for ourselves finer or more valuable—

A MEMBER. Or cheaper.

Mr. MAYNARD. Or cheaper, if need be, for our own use. The objection to the system as it now exists, is twofold. In the first place, the full amount for the session is paid by the Clerk for stationery; and in the second place, the money is paid to members for the stationery which they do not see fit to take.

Mr. SEWARD. I am opposed to the amendment of the gentleman from Tennessee. His error consists in the fact that there is no officer of this House who is authorized by law to purchase any stationery at all for the use of members. It is merely done from session to session, for the convenience of members; and merely as a matter of convenience. I ask the gentleman from Tennessee, what law there is which authorizes the Clerk to bring this stationery here? There is no such law on the statute-book.

Mr. MAYNARD. I should like to ask the gentleman from Georgia, whether the stationery which we see in the Post Office of the House is not stationery regularly purchased by authority of law; and whether the Clerk of the House is not authorized by law to make the purchase?

Mr. SEWARD. I do not know of any such law. I should be very glad if the gentleman from Tennessee, or any gentleman of this House, would point out a law which authorizes the Clerk of the House to purchase stationery for the use of members.

Mr. MAYNARD. I will tell the gentleman that there is such a law, and if he will consult any one of the clerks who has been here for ten years, he will find that there is.

Mr. SEWARD. I have had occasion to examine into this matter, and I can find no law

which authorizes the Clerk to buy paper, bring it in here, and sell it to us. It is done merely as a matter of convenience, and this appropriation is made to pay for it. Gentlemen cannot afford to come here and furnish their own stationery for a long session of Congress to be used in the transaction of the public business. It is furnished here to us as a matter of public convenience.

Mr. MAYNARD. If the gentleman will examine into the facts of the case, he will find that there is stationery enough already on hand to last for the next two years. There is now in the rooms of the Capitol a vast amount of stationery which has been accumulating in former Congresses. It has been constantly accumulating, and none is ever sold, unless it may have been during the last recess.

Mr. SEWARD. I think the gentleman will find that he is mistaken. It is not the paper provided for the use of the members which has thus accumulated. And now I should like the gentleman to show me the law which authorizes the Clerk to buy this stationery.

Mr. NICHOLS. I will give you all the law there is for it. It is provided for, first, by the standing rule of the House, under which you now elect your Clerk; and secondly, by a resolution passed in 1847, when the House reorganized the Clerk's department as to the matter of stationery. I wish any gentleman would assume the payment of my stationery bill for any session since I have been here.

Mr. SEWARD. Members, I know, spend more for stationery than they get. In reference to these minute matters, it is apparent to us all that they cannot each be provided for by special law or resolution. There is, of necessity, some discretion left with the House. These items for stationery, repairs, and a variety of similar ones, cannot be exactly provided for by human wisdom or foresight. If there were laws passed in all these cases, our statute-book would be lumbered up beyond use or tolerance. These items must be acted upon at every session as they are presented by the estimates.

I do not think, sir, that the appropriation of \$15,000, for the stationery of this House, for two hundred and thirty-four members, and for the clerks, is an extravagant amount, for the correspondence on public matters that is imposed upon us. I am willing to pay for the paper which I use for my own private affairs. Certainly gentlemen do not want to put members to the expense of providing paper for the discharge of their public duties.

Mr. MAYNARD. Certainly not.

Mr. SEWARD. I take the money which is allowed and purchase my own paper; for that which is furnished here is unfit for use.

Mr. MAYNARD's amendment was rejected.

Mr. SMITH, of Virginia. I move to strike out the words:

"For stationery, \$15,000."

Mr. Chairman, as I understand the law, members are allowed by resolution forty-five dollars for stationery for a long session, and thirty-five dollars for a short session. If they do not choose to take the stationery, then they take the money; the object being to furnish them with the means of providing stationery without incumbering them with an individual charge. That is for the purpose of our convenience. It seems that we are not able to wait upon ourselves. We have others to do that in everything. It has grown into a custom here to provide stationery for the use of members. But there is no obligation created on the part of members to take stationery when it is brought here for them. They can get it anywhere. Stationery here sometimes comes at a very high figure; entirely too high for the use to which it is to be applied, and for which it is required. For instance: here is an envelope, which I use extensively in my correspondence with my constituents. It costs me ten cents per hundred. You cannot get such an article in the post office. So, without going into detail, I purchase my stationery where I please, entirely independent of the contract system here for the supply, which is not without the abuses of the contract system. I make no charge; but, sir, the supplying of stationery by the officers of this House is a direct interference with the trade of this city. It cuts off all the competition which this large consumption might give rise to between the dealers in sta-

tionery. It operates to the public prejudice and the public injury.

That is not all, Mr. Chairman. We hear constant complaints of the quality and price of the stationery furnished to members of the House. We have, too, to pay two officials for taking care of the stationery room. You pay \$1,500 a year to a man to take care of the stationery. We pay for a number of wagons to circulate it, because members cannot, and will not, take it under their arms, as I do anything I may purchase in town, and take it home with them. I would rather do that; for I dislike to have another with the bundle trudging at my heels. I do not get my paper here, however; and why? Because, sir, I can get it on better terms in the stores. I hear a member referring to my remark about our being waited upon. Every one of us likes it. But, sir, it is not correct in principle. Here we have wagons to carry this stationery around, which is an expense in addition to what is paid to the officials who take care of it. Strike out this appropriation, and we will hear none of the complaints we now hear. Then we can dispense with these clerks and wagons, and wait upon ourselves.

[Here the hammer fell.]

Mr. PHELPS, of Missouri. I have only a word to say. The gentleman from Virginia proceeds upon the hypothesis that this stationery is entirely for the benefit of the members of this House. It is for the benefit of members, but it is also for the use of the Clerk's office and the committee-rooms. If the gentleman wants to prevent members from receiving any stationery, let him reduce the appropriation and provide that members shall not be supplied with any stationery under the appropriation.

Mr. SMITH, of Virginia. Members are allowed a certain sum of money for stationery by a resolution of the House; so that if this appropriation is stricken out, that resolution is left outstanding, and the member then will receive the money and can provide his own stationery.

Mr. PHELPS, of Missouri. The gentleman does not understand the point I have made. He has not listened to what I have said. Under this appropriation stationery is purchased for the clerks of the House, and for the committee-rooms.

Mr. SMITH, of Virginia. I understand that.

Mr. PHELPS, of Missouri. The gentleman's proposition is to strike out the whole appropriation, thus leaving no money with which to furnish stationery to the Clerk's office and the committee-rooms.

Mr. SMITH, of Virginia. We have an immense amount of stationery on hand, and there is no difficulty about proper provision for the next Congress until it can decide the question for itself. I do not think there will be any deficiency. If there is, there will be time enough next session to supply it.

Mr. MAYNARD. Does not the law, as it now stands, require the Clerk of the House, before he goes out of office, to advertise for stationery for the succeeding Congress? Is he not bound to do it? Must he not execute the law?

Mr. PHELPS, of Missouri. The act of 1842 requires the Clerk to invite proposals for stationery. It is his duty, under that act, to advertise for proposals for the delivery of stationery for the use of the succeeding Congress.

The amendment of Mr. SMITH, of Virginia, was rejected.

Mr. TAYLOR, of New York. I move to amend by striking out, in lines ninety-five and ninety-six, the words, "and saddle-horses," and by reducing the appropriation to \$5,000. My object is to follow up what has been said by other gentlemen here: that whenever a matter is for the personal convenience of members, they should economize there. I am informed that these saddle-horses are for the members, and only for the members, and that keeping them is wholly a matter of personal convenience to members.

MEMBERS, (all over the Hall.) Name them.

Mr. RUFFIN. I do not like such a statement to go before the country. I never heard of such a thing in my life, before. The saddle-horses are kept for messengers to go to the Departments and elsewhere, and are not kept for members.

Mr. TAYLOR, of New York. I will explain.

Mr. ADRAIN. I wish to ask a question.

Mr. TAYLOR, of New York. I wish first to

answer the remark of the gentleman from North Carolina, [Mr. RUFFIN.]

Mr. ADRAIN. I merely wish to ask the gentleman from New York, whether he has ever ridden any of these horses?

Mr. TAYLOR, of New York. I have not. I would say, in answer to the gentleman from North Carolina, that I, yesterday, called upon one of the clerks who is familiar with these subjects, and I was told that these saddle-horses were for the personal convenience of members, and might be stricken out.

Mr. SEWARD. I want the gentleman to name the clerk.

Mr. TAYLOR, of New York. It is more than possible that some of these horses are used by messengers in going errands. But that they have been used by members, and for their personal convenience, I have not the slightest doubt.

Mr. FLORENCE. Let us have the names of the members.

Mr. CRAIG, of North Carolina. I wish to know who they are.

Mr. MILES. Let us know who these cavaliers are.

Mr. TAYLOR, of New York. These horses are also used, Mr. Chairman, for sending messengers on personal and private errands. Therefore, they are a mere personal convenience to members. It is more than possible, I repeat, that they are used sometimes for messengers on public business. But we can dispense with their use; I am so advised by a respectable party connected with the Clerk's office. As to the carriages and other horses, I understand they are used for carrying documents from the folding-room to the post office, and to the rooms of members. But the saddle-horses can be dispensed with; and this appropriation, therefore, may, and ought to be, reduced.

Mr. RUFFIN. I desire to make a few remarks in reply to the gentleman from New York. I have heard a good many things against members of Congress, but I really never heard anything like this before. I think this is one of the charges which, if not true, ought to be repelled. I never before heard of a member of Congress using any of these horses; and if any member has done a thing of this kind, we ought to know who he is.

Mr. LETCHER. It strikes me that we have known several gentlemen in this House who ride hobby-horses. [Laughter.]

Mr. FLORENCE. Yes; and that, no doubt, is the horse the committee is riding on now. [Laughter.]

Mr. RUFFIN. These horses, as I understand, are in almost constant use during the session of the House. They are used by messengers, going to and returning from the Departments. I know that the committees are also in the habit of sending off messengers in the same way. The matter was thoroughly discussed before the Committee of Accounts, when I was a member of it; and I know that these saddle-horses were considered very necessary. I should like the gentleman from New York, or the clerk from whom he got his information, to designate the members who ever used any of these horses for their personal convenience.

Mr. TAYLOR, of New York. I state in answer to the gentleman from North Carolina, that I know of no member of the House who has ever enjoyed that privilege. Yesterday, while scrutinizing the appropriations in this bill, Mr. Buck came to my desk on some business. I had the bill before me, and had marked off several amendments, which I proposed to offer. I proposed to move to strike out this clause entirely. He remarked that that would not be right, as the horses and carriages were needed for carrying documents about the city, and were constantly in use; but he said that these saddle-horses were a personal convenience for the members, and might be stricken out. I make no charges against members of the House. I believe they are as honorable men as can be found anywhere.

Mr. RUFFIN. I think I understand now—

Mr. WASHBURN, of Illinois. In justice to Mr. Buck, the clerk whose name has been mentioned, I ask the gentleman was he not intended to be understood that these horses were for the personal convenience of members in sending off packages and messengers?

Mr. TAYLOR, of New York. Mr. Buck may have intended that.

Mr. WASHBURN, of Illinois. I presume he did. I never heard such a thing.

Mr. RUFFIN. These horses are used for the public business; and I can see no impropriety whatever in retaining this provision of the bill.

The question was taken on Mr. TAYLOR's amendment; and it was rejected.

Mr. GARNETT. I move to amend by limiting the expenditure to the session of Congress, and reducing the amount to \$2,500. I find by the accounts of the contingent expenses of the House, that these horses and carriages are not merely used during the session of Congress, but during the whole recess. Horses and carriages are kept for the Postmaster, the Sergeant-at-Arms, and the Clerk, during the whole of the recess. Now, I can imagine no use for them, during the recess; and, therefore, I propose to limit the appropriation to the session of Congress.

Mr. PHELPS, of Missouri. I am informed that these expenditures are necessary for the ensuing fiscal year. It is not intended, under this head of appropriation, that any horses or carriages shall be kept in use, unless they are actually needed. The Committee of Accounts have full control over that matter; and if there have been more used than were required for the public business, it is the fault of that committee. None of these accounts can be paid unless the Committee of Accounts certify to and approve of them. I think the gentleman is wrong in limiting the use of these horses and carriages to the session of Congress. They are employed during the recess in transmitting messages from the Clerk of the House to the Treasury Department, and elsewhere. So far as the employment of a horse and carriage for the Sergeant-at-Arms, during the recess of Congress, is concerned, I think it was wholly unnecessary and wrong.

Mr. HOUSTON. I want to call the attention of the gentleman from Missouri to one thing.

Mr. GARNETT. I do not yield the floor further. I find that throughout there is the same amount charged for horses during the recess that there is during the session. Now, sir, there cannot be the same necessity for their use during the recess as during the session. And not only that, but I find that during the session of 1853-54—a long session—the appropriation under this head was only \$3,200. Now, why this increase? We have no more members now than we had then; or only two or three more. It is impossible that more money can be properly required to be expended under that head now than then. I therefore propose to limit the appropriation to the session of Congress, and to reduce the amount as I have stated.

Mr. HOUSTON. If the gentleman from Missouri will refer to the report of the Clerk of the House of Representatives of the receipts and expenditures of the contingent fund of the House, he will find that during the recess between the last Congress and this one, commencing on the 4th of March, 1857, for the entire length of time, the Clerk of the House and the Postmaster of the House, employed four horses and carriages; and one was also allowed, and paid for, for the use of the Sergeant-at-Arms, who, I presume, was not in the city at all, or if at all, but for a brief visit. For the whole eight or nine months of that recess he was paid two dollars per day for the use of a horse and carriage. And this appropriation is to give the same privilege to the Sergeant-at-Arms for the next recess, when he has no messages to send, as the gentleman says the Clerk has. And your Postmaster can find no use at all for horses during the recess, or but very little use; yet the charge continues the same.

Mr. BURNETT. I will say to the gentleman from Alabama that my impression is that there is as much need for carriages and horses for the use of the Post Office of this House during the recess as during the session. They have to be constantly employed in carrying the books which are brought to the folding-room from your Public Printer, to the city post office. During the recess of Congress of which the gentleman speaks, my recollection is that I received seven or eight bags of public documents sent through the mail.

Mr. HOUSTON. If the gentleman will look into this matter, he will find that this service of which he speaks was paid for as an extra expense. It is not included in this item. You will find in line one hundred and eleven an appropriation of

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\$2,000 for cartage; and if the gentleman will examine into the items of expenditure, he will find that nearly or quite all this hauling of documents of which he speaks was charged to this account.

Mr. AVERY. I ask the gentleman from Alabama if the horses employed by the Postmaster of the House are not employed in hauling documents for the mails?

Mr. HOUSTON. I have already said that if gentlemen will look to the accounts of receipts and expenditures, they will find that, for every quarter during the recess, there are extra charges for hauling, which would cover the hauling to the city post office of all those documents. It is impossible that the number of documents to be hauled during the recess can be sufficient to furnish employment for all these horses and carriages, and to make all this extra expense for hauling necessary.

Mr. AVERY. I understand that they are not sufficient.

Mr. HOUSTON. If they are used for that purpose at all, I would like to know what this \$2,000 for cartage means? I would like to know where is the necessity for all this expense during the recess.

Mr. LOVEJOY. I move that this bill be laid aside, for the purpose of taking up the President's message.

The CHAIRMAN. It can only be done by unanimous consent.

Mr. BURNETT objected.

Mr. MASON. I should like to know whether it would be in order to move to take up House bill No. 311, in relation to the employees of the House? If the House will take up that bill, we can settle all these matters in relation to the expenses of the House.

The CHAIRMAN. The committee is acting under an order of the House to consider this bill.

Mr. LOVEJOY. I move, then, that the committee rise.

Mr. CHAFFEE. I ask for tellers on the motion. Tellers were ordered; and Messrs. NICHOLS and CLEAV were appointed.

The committee divided; and the tellers reported—ayes 32, noes 93.

So the committee refused to rise.

Mr. GARNETT. I will modify my amendment so as merely to reduce the amount to \$3,500, and that will leave the authorities of the House at liberty to employ what force may be necessary for the post office during the session, under the instruction of the Committee of Accounts, who will not allow all these supernumerary horses and other expenses, when there is no work to do.

Mr. TRIPPE. I move to amend the amendment of the gentleman from Virginia by adding \$100 to his amendment.

I wish to say, that I hope the amendment of the gentleman from Virginia will be adopted. It has been stated here that, in 1853, this appropriation was \$3,200; that, in 1857, it had grown to \$5,700; and, in 1859, to \$7,420. It is a fair illustration, I have no question, of the manner in which the expenditures of the Government have been run up to the sum of eighty or ninety million dollars annually. Why is it that \$7,500 is asked for to do that jobbing with carts and horses which was performed two years ago for \$5,500, and four or five years ago for \$3,200? Why it should be doubled I cannot say, unless it is a simple illustration of the extravagance which has grown up in all these matters. It is a small matter, to be sure; but—

Mr. BURNETT. I desire to say to the gentleman from Georgia—

Mr. MORGAN. I rise to a point of order. There has been an entire monopoly, upon that side of the House, of this discussion. Now, I object to it, and call upon the Chair to confine gentlemen to speaking in their own time, in order that others may take their turns.

Mr. BURNETT. The gentleman's time is not up.

Mr. MORGAN. I object to his yielding the floor to another member.

Mr. BURNETT. There is a misunderstanding of facts in reference to this appropriation.

Mr. MORGAN. I insist upon my point of order.

The CHAIRMAN. The gentleman from Kentucky is not in order.

Mr. TRIPPE. Horses, carriages, and saddle-horses, were mentioned in the act of 1857, and the identical language is used in the act of 1858. In two years this item has increased from \$5,700 to \$7,420. Now, I ask, why do you want so much more than you had two years ago? Why would \$5,500 answer two years ago, and not less than \$7,500 now? Why would \$3,200 answer five years ago, and now you must have more than double that amount? The item of binding has been reduced some \$25,000, and that shows that less cartage is required. This appropriation for binding is for the long session of the next Congress. For the long session of the last Congress that item was \$125,000, and now only \$75,000 is asked for the next long session; and yet you propose fifty per cent. increase for the service of distributing those bound documents among members. It is a small item I know, but it is a little indicative of the manner in which the expenses of the Government have been run up to \$80,000,000 per annum.

Mr. BURNETT. I desire to say that I do not justify the increase of the appropriation. I do not propose to defend that increase here as necessary. If gentlemen will glance forward to line one hundred and eleven, they will find an item of appropriation of \$2,000 for cartage, which is not for services during the recess, but during the session of Congress; and it is said to be demanded on account of the fact that there are not enough carriages furnished to the Postmaster of the House to send the documents to the post office. But, I am informed that, in all probability, that \$2,000 will not all be needed, and that \$1,000 will be sufficient. Now, I suppose this item under consideration has been run up to \$7,420 by the authority which has been given to increase the number of carriages, and by the addition of two saddle-horses. Now, sir, I do not propose to say that this appropriation is right. I say that it ought not to have been increased; that we ought not to have run up this amount to \$7,420. I do not believe that the public service demanded it. Yet, we ought not to do injustice to those who carry out the orders of the House, by saying that they are guilty of spending money without authority of law.

Mr. TRIPPE. I will now withdraw my amendment.

Mr. MORGAN. I object to the withdrawal of any amendment. The amendment to the amendment was rejected; and then the amendment was adopted.

Mr. SMITH, of Virginia. I move to strike out these words:

"For newspapers, \$12,500."

Mr. Chairman, that is a personal accommodation to members. It is a present to members. I hope that it will be stricken out.

Mr. MILLSON. Mr. Chairman, we have now been engaged two days in the consideration of a bill of thirty-five pages, and have not yet finished the consideration of the fifth page. If we go on at this rate, we shall be engaged fourteen working days of the session in disposing of this single bill.

Mr. SMITH, of Virginia. I hope the gentleman will confine himself to opposition to my amendment.

Mr. MILLSON. I think, sir, that we may fairly trust the Committee of Ways and Means in the arrangement of the petty details of this appropriation bill. We have had many reasons to observe that that committee have been distinguished by economy, not to say parsimony, and when they recommend to this House the appropriation of little items of detail, which they have had the opportunity to investigate, surely we ought to trust them.

Mr. Chairman, I am for retrenchment; and I am for preventing the necessity of retrenchment. Let us begin where? Let us refuse \$5,000,000 for French spoils. Let us refuse the countless millions asked for the Pacific railroad. Let us remember that this House passed the old soldiers' pension bill.

Mr. BURNETT. I object to the discussion of the old soldiers' pension bill, unless I can be heard in reply.

Mr. JOHN COCHRANE. I think that the gentleman is in order.

Mr. MILLSON. I am speaking in the same spirit that animated gentlemen here, and am urging that economy should be exhibited in these great matters. Perhaps I am one of the very few members here who is at liberty to refer to these great, these grand, these magnificent expenditures, for I feel myself not responsible for any of them.

Mr. COLFAX. I would like to know how the gentleman stands on the Cuba question, the \$30,000,000 project?

Mr. MILLSON. I have risen mainly for the purpose of inviting gentlemen to approach the consideration of this bill, and to dispose of it without this tedious minute discussion of petty details.

Mr. MOORE. I propose to reduce the appropriation \$500.

Mr. Chairman, we have heard from every side of the House, day after day, arguments in favor of retrenchment; and yet those who seem to be earnest and loudest in their outcry, oppose any movement made, because, as they allege, the amount is too small. I think we had as well begin with the small, as with the larger items in the appropriation bills: There are no matters calling for reform more than those, small though they be, which relate to appropriations made for the use of members of this House. Sir, I was glad that the gentleman from Ohio [Mr. PENDLETON] anticipated me to-day in objecting to that small item in reference to boxes for books, which the gentleman from New York [Mr. JOHN COCHRANE] ridiculed in his usual felicitous manner. I do not think that it was deserving of ridicule. Here is another similar item for newspapers for members. I ask, who is there here upon this floor that cannot purchase the newspapers he may need to inform himself upon public questions? Is not this an abuse that should be cut down? Why, sir, members here vote themselves four or five daily newspapers because they are members of Congress. Is it not enough that they get the Daily Globe, which contains a full and accurate report of our proceedings? Is it not sufficient to have access to the costly congressional library? Why should we come here and vote ourselves four daily newspapers each? I am opposed to it. I think that the country ought to demand that we shall commence reform by commencing with the abuses which relate alone to the use and convenience of members of this House. Little things they may be; but the little things, when added together, make large ones. I think that it is important that we should strike down all such abuses.

I am informed, sir, that members not only get their four or five daily newspapers, but that the committees get four or five daily newspapers for their committee rooms. Is not that wrong? Four daily newspapers for each member, and then four daily newspapers for gentlemen of the committees! I am authorized to say that the Committee of Ways and Means, in addition to the four papers supplied to each member, subscribes to four or five daily newspapers for itself. I desire to hear from the chairman on the subject.

Mr. PHELPS, of Missouri. The gentleman from Alabama alluded to the Committee of Ways and Means. The chairman of the Committee of Ways and Means during the last Congress had three daily newspapers. The chairman of the committee at the last session had three daily newspapers; and the present chairman has continued that number. Not for his own use, for he takes the same papers at home, but for the ad-

vertisements and for the publication of laws, which are cut out and kept in a book. As to the Daily Globe, it is filed in the room for the purpose of convenient reference to the debates had in both Houses of Congress on measures in which the committee is concerned.

Mr. MOORE. I ask whether each member of the committee is not furnished with the Daily Globe?

Mr. PHELPS, of Missouri. Yes, sir. When a debate takes place in the Senate of the United States on one of the appropriation bills, it becomes necessary, in committee, to refer to it. I might not have preserved my Daily Globe, or brought it with me; and therefore we keep it on file.

Mr. MOORE. I certainly intended no personal reflection on the honorable chairman of the Committee of Ways and Means, or any member of the committee over which he presides.

[Here the hammer fell.]

Mr. WASHBURN, of Maine. I do not know that it is in order, Mr. Chairman, for members on this side of the House to participate in this debate. It has been pretty exclusively confined to the other side. But I have been struck very forcibly with the idea of what a serious loss it would be to the country if in carrying on the affairs of the Government, we should miss all the wisdom, all the eloquence, and all the learning displayed on the other side of the House in this discussion. I am always filled with some feeling of apprehension, when I find gentlemen dealing so learnedly, and so much in detail, in denunciation of these small, trifling items of appropriation and expenditure. I am always suspicious, that when the House has been sufficiently wearied, and had enough of smoke and dust kicked up, there will be an attempt to get up some great contract or grab. I agree with the gentleman from Virginia, [Mr. MILLSON,] that we make nothing by spending a whole day here in passing over three or four lines of an appropriation bill, where all the items would not amount to \$20,000. I believe we would study economy more efficiently and more wisely, by seeking to reduce, in a business-like manner, the expenses of the Government, not by refusing to vote appropriations to pay the actual and honest debts that have been acknowledged by the Government for fifty years past, like that due to those who suffered from spoliation by the French prior to 1800.

Mr. MILLSON. Why did not the Government pay them long ago?

Mr. MOORE. I call the gentleman from Maine to order. I ask, is it in order for him to discuss the French spoliation bill here?

Mr. WASHBURN, of Maine. I would like to ask the gentleman from Virginia, how he stands with regard to the question of economy? and whether he is in favor of the policy of his party, to appropriate now \$30,000,000 for the acquisition of Cuba, to be followed by hundreds and hundreds of millions? I want to know whether he agrees with his party in sustaining the recommendation of the President to establish a protectorate over Mexico, which is to cost millions of dollars?

Mr. SMITH, of Virginia. What has that to do with the question?

The CHAIRMAN. The gentleman from Maine must confine himself to the question of the amendment. [Laughter from the Republican side of the House.]

The question being on Mr. Moore's amendment, Mr. Moore withdrew it.

Mr. HASKIN. I propose to perfect the section, by reducing the amount from \$12,500, to \$6,250. I understand that is the custom now for members of the House to receive fifty dollars a year each for newspapers. I have seen enough, in the course of the debate on this bill, to satisfy me that an additional number of newspapers is required. Members certainly require more intelligence than they have exhibited here to-day in debating this bill.

We have occupied the whole day, Mr. Chairman, in Buncombe speeches, and have trifled most effectually with the time of this body and of those whom we represent. We have advanced some ten lines in this bill, and at the rate at which we have proceeded to-day, considering that there are seven hundred and sixty-three lines more, it will take us seventy-six days before we dispose

of this ponderous bill. Now, I do not propose to talk here in favor of retrenchment or reform. That hobby has already been worn out. If I could propose an amendment and it would be in order, I would move to prevent lawyers speaking on such a bill as this. Every man, I believe, who has taken part in this debate, has been a lawyer; and, considering what is paid to members, the time consumed on the bill has been equal in value to all the items proposed to be stricken out.

The CHAIRMAN. The remarks of the gentleman from New York are clearly out of order. [Laughter.]

Mr. HASKIN. I am not disposed to talk about Cuba here, for that question is not before the committee. I am desirous only to talk about matters that are legitimately before us. I would not talk about my affection for the poor man, because that, in my judgment, is demagogical. I would not array the rich against the poor, nor ride hobby-horses—

Mr. MOORE. The gentleman, I suppose, would not reflect on his own profession.

Mr. HASKIN. I insist that, if we continue the appropriation of \$15,000 for stationery, we should also continue the amount allowed for newspapers to afford us intelligence. I am in favor of newspapers, but I am in favor also of reducing this appropriation from \$12,500 to \$6,250. I hope that, after we shall have disposed of this item, we will push on the column and get rid of this bill.

The question was taken on Mr. HASKIN's amendment to the amendment, and it was rejected.

The question recurred on the amendment of Mr. SMITH, of Virginia.

Mr. FLORENCE called for tellers.

Tellers were ordered; and Messrs. MORGAN and MOORE were appointed.

The committee divided; and the tellers reported—ayes 67, noes 67.

The CHAIRMAN voted in the negative.

So the amendment was rejected.

Mr. PHELPS, of Missouri. I yesterday moved to increase the appropriation in the contingent fund of the Senate, to provide for the additional Capitol policemen appointed by the Vice President and Speaker of the House. I now move to amend, in lines one hundred and three and one hundred and four, making an appropriation for the Capitol police, under the House contingent fund, by increasing the appropriation from \$5,890 to \$8,420, that being the sum necessary to meet the additional expenses incurred by the appointment of those policemen.

The amendment was agreed to.

Mr. VANCE. I desire to offer, as an amendment, to strike out the hundred and twelfth line:

"For miscellaneous items \$10,000.

I make the motion for the reason that I am opposed to appropriating money when I cannot see where it is to go to. This bill does not show where it is to go to, and I have examined the estimates for the expenditures for the approaching fiscal year, and they do not show where it is to go to. It seems to me that the paragraphs between lines sixty-four and one hundred and eleven undertake to appropriate a sufficient amount for all the expenses of an incidental nature attending a session of this House; and this line seems to come in in the nature of a residuary clause after the original testament has exhausted all the estate; and I should like to know, before I vote for this residuary clause, who is to be the residuary legatee.

Now, sir, the appropriation contained in this paragraph for the expenses under this head for the year to come, exceed those for the present fiscal year by \$10,000. I ask why is that? Why are the estimates for this item alone \$10,000 more for the next fiscal year, than for the current one? We have been told that in regard to the increase of our general expenditures, that our enlarged borders, our extended commerce, and our growing importance in the world generally, made it necessary to run up our expenses to \$90,000,000 or \$100,000,000 a year. But I should like to know what is to enlarge the borders of the Thirty-Sixth Congress twenty-five per cent. above the borders of the present Congress? As a member of the present Congress, I do not feel inclined to yield the point that my successor, whoever he may be, will be twenty-five per cent. a greater man than I am

myself. I do not think that he is entitled to \$10,000 more for miscellaneous items than I am myself; and I am in favor, therefore, of striking out this clause. This whole bill reminds me very much of the bills I have seen of fast young men at fashionable hotels—for two days board, five dollars, sundries fifty dollars. [Laughter.] It is like a comet, a very small body, and an exceedingly great tail, flaming over half the heavens. But this miscellaneous item, which I propose to strike out, is not exactly like the tail of a comet, because philosophers say that with a good telescope you can see through the tail of a comet. What glasses will enable us to see through this miscellaneous item? [Laughter.] I should like to know what it is for, what it is intended for, and why we are to increase it \$10,000 beyond last year?

Mr. CRAWFORD. I am not at all surprised that the gentleman from North Carolina is desirous to have this clause stricken out, for the reason that he is totally uninformed, as he says himself, in reference to the expenditures which this \$40,000 is to be applied. I examined it myself, as a member of the Committee of Ways and Means, because I was not satisfied with it, and therefore was directed to the Clerk's office for the purpose of inquiring into the necessity of appropriating this \$40,000. In the first place, I am told that this increase of \$10,000 is owing to the fact that the appropriation is for a long session of Congress, while the present fiscal year only includes a short session of Congress, and that that additional amount would be required for that reason. That was not satisfactory to me altogether, and I looked at the items.

And just here I desire to state that not a dollar of this money can be used, unless the expenditure is first passed upon by the Committee of Accounts, and that is the only reason why I shall vote for it. If the Committee of Accounts shall refuse to pass upon the various items presented by the Clerk, no part of this appropriation can be used for those items of expense. The object for which this money is appropriated is, in the first place, to pay for any contingency which may arise under the orders of this House; for instance, to pay the Sergeant-at-Arms for summoning witnesses, and to pay witnesses who may appear here in obedience to summons, to testify in regard to any investigation which may be ordered by the House.

In addition to that, the House frequently orders additional work to be done, or additional laborers to be employed: as pages and messengers. And during the last days of the session it is not unusual that you employ an additional reading clerk, to relieve your regular reading clerk. This item is to cover the contingent expenses which have not been provided for in the appropriations which have already been specifically made.

In addition to that, it is to pay for the Congressional Directory, which is prepared for the benefit of members and their friends who may come to Washington, and are desirous to ascertain the location of members in the city.

Again, this appropriation is used for the purpose of covering funeral expenses of members who may die during the session of Congress. And, furthermore, it is used to pay the expense of erecting monuments to them. Monuments are erected to them whether they die here or at home, or whether they die during the session of Congress, or during the recess.

For such, and various other purposes, this \$40,000 is appropriated. But none of it can be used until the account is first passed by a committee of this House.

The question was taken on the amendment; and it was not agreed to.

The following clause being next under consideration:

"For binding twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the first session of the Thirty-Sixth Congress, \$13,939 20."

Mr. CURRY. I move to strike out that clause. This is one of a series of clauses for paying for reporting and publishing the debates of this House, and I will say what I desire upon this first clause.

I do not propose to cast any reflection upon the Committee of Ways and Means for incorporating this provision in the bill. They have only carried out what has been done heretofore. I desire, however, to include in my remarks all the

clauses, for the purpose of getting at the whole system. I want it routed out, if possible, from our legislative system. The expense for reporting has run up from \$208,000 in the Thirty-Second Congress, to \$250,000 in the last Congress. There is a constant progression to increased extravagance. But the cost of the matter is but a small consideration, although responsible men in this city and elsewhere stipulate to do the work just as well at thirty per cent. discount upon the present prices.

Since 1850, when this system was organized, or introduced, there have been thousands of pages of the Congressional Globe and Appendix printed; and if the system continues, the world will not be able to contain the books which will be made by members of Congress. To apply the remark which Mr. Randolph made in relation to public documents: "No man reads them, no man can read them, and if any man could read them, he could hardly be worse employed." The truth is, that with few exceptions, they are printed that they may be printed, and not that they may be read. This system of reporting, sir, has wrought an entire revolution in our legislative history. With it, and with your rule allowing debate upon every question in the Committee of the Whole on the state of the Union, you have almost destroyed all proper legislative debate. Not one member in fifty addresses the members of this House; not one speech in fifty is intended to elucidate the question under consideration. Essays upon all topics, relevant and irrelevant, pertinent and impertinent, are read or filed or spoken, and published in the Globe and sent broadcast through the country, free of postage. Now, Mr. Chairman, I desire to know again, who reads all these interminable daily proceedings, and what a commentary will be presented by the report of the proceedings which have taken place here today! And why discriminate injuriously and offensively against enterprising newspaper publishers, who cull out from our interminable proceedings such matter as may be adapted to the wants and tastes of their different readers? If a speech is made in Congress, and it is worthy of being read and published, it will be published in newspapers and in pamphlet form. But why saddle upon the country the expense of printing the lucubrations of two hundred and fifty members of Congress? My objection, however, lies to the whole system. It is an embargo, an effectual preventive, a prohibition upon all proper and legitimate legislative debate. We have no debate, scarcely, except in five-minute speeches; and we need it to enlighten the House, to solve difficulties, to ferret out objections; and, sir, we need it in order that the country may be advised of the legislation which is proposed to be put upon the statute-book of the Congress of the United States. On the contrary, we have little or none of it. These essays are read, these harangues are written or filed in your debating society here, and then they lumber the columns of the Globe, and the people of the United States have to foot the bill and pay the expense.

I repeat what I said yesterday, that I do not object to the manner in which the reporting is done. It is done with remarkable fidelity and accuracy; but my objection goes behind and reaches to, and appertains to, the consequences involved in this matter, affecting the general legislation of the country, and revolutionizing everything like legitimate, parliamentary debate.

I have proposed this amendment, and desire that it shall prevail; although I must say I have not a reasonable expectation that it will prevail in this House. Is it legitimate, however, in an appropriation bill? There is no law upon our statute-book authorizing a system of reporting.

[Here the hammer fell.]

Mr. NICHOLS. Mr. Chairman, I rise not so much to oppose the amendment of the gentleman from Alabama, as to direct the attention of the committee to a proposition which I have drawn up, and which is in these words:

Provided, That no part of this appropriation shall be applied to pay for speeches or remarks not actually confined to the subject immediately under discussion in the House or in the Committee of the Whole; and no speeches or remarks, which shall have been written out, and not actually delivered in the House, shall ever be included in the Globe or Appendix as a part of the proceedings of the House of Representatives.

I am opposed, sir, to the amendment of the gen-

tleman from Alabama to strike out the whole provision, for I believe that the reports made here, if confined within proper limits, will be serviceable. I question very much whether, if you refuse this appropriation, you will effect any purpose whatever.

I have my view in reference to this matter, and it is embodied in the proviso which I have read. With all deference to gentlemen who are much older here than I am, I say that until we can bring the reports of this body to what actually occurs here, no good can be accomplished. Confine the debate to that which is immediately before the House, or before the Committee of the Whole on the state of the Union, or the Committee of the Whole House; put a stop to the rehearsing of written essays, the tendency to write out speeches and obtain the leave of the House to print them, without reference to the current proceedings; do this; abridge your debates, and you will get rid of a great absurdity apparent upon the face of our record. It very frequently occurs, as you, Mr. Chairman, and the committee, well remember, that a member occupies the floor, debates the question pending, and another member gets the floor after him, and obtains leave to print a speech which makes the preceding and succeeding discussions absurd. It serves to lengthen out the debates. I care not what the prejudices of older members may be; but what I suggest must be done, if we would wish our debates to be the exact reflex of what actually occurs here.

Mr. CLARK B. COCHRANE. I move that the committee do now rise.

The motion was agreed to—ayes 70, noes 56. So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the legislative, executive, and judicial appropriation bill, and had come to no resolution thereon.

NAVY-YARD SPECIAL COMMITTEE.

Mr. SHERMAN, of Ohio. I am directed by the special committee on naval contracts and expenditures to ask leave of the House to have the testimony taken before it printed as it progresses.

There was no objection, and it was ordered accordingly.

JUDICIAL DISTRICT IN NEW YORK.

Mr. CORNING, by unanimous consent, introduced a bill to change and regulate the terms of the circuit and district courts of the United States for the northern district of New York; which was read a first and second time, and referred to the Committee on the Judiciary.

CALIFORNIA MAIL CONTRACTS, ETC.

Mr. HASKIN. I ask the unanimous consent of the House for leave to introduce the following resolution for information on matters that will give scope for the retrenchment and reform members of this House:

Resolved, That the Postmaster General be, and he is hereby, requested to communicate to the House of Representatives copies of the different contracts made and entered into with his Department, since the 4th March, 1857, for carrying the mails upon the following routes: from Memphis and St. Louis to San Francisco; from Salt Lake City, Utah, to Placerville, California; from San Francisco to Olympia, Washington Territory; from Olympia to Bellingham Bay; from Kansas City, Missouri, to Stockton, California; from St. Joseph to Salt Lake City; from New Orleans to Indianola; from Brashear to Galveston; from New Orleans, via Tehuantepec, to San Francisco; from San Antonio to El Paso, Fort Yuma, and St. Diego; and from New York, via Panama, to San Francisco; the names of the present owners of said contracts; when they expire; the several amounts paid thereon; the amounts to grow due thereon; the number of letters carried over each of said routes since the commencement of said contracts; and the amount of postages received from and upon said routes, respectively, since the entering into said contracts, severally and respectively. And also that the said Postmaster General furnish to this House a list of the agents and persons in the pay of the Post Office Department, in all States and Territories of the Union, in whatever capacity; the names of each; their residence; the nature of the duties they perform; the salary or compensation made to each; the law under which they have been appointed; and from what appropriation they are paid.

Mr. CRAWFORD. I object.

Mr. BURNETT. I object, too; because it would take at least three months to get up an answer to that resolution.

PROBABLE RECEIPTS FROM CUSTOMS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury,

in respect to the probable receipts from customs, &c.

Mr. PHELPS, of Missouri. I ask that the communication be read.

The communication was read; and is as follows:

TREASURY DEPARTMENT, February 3, 1859.

SIR: In answer to the resolution of the House of Representatives, requesting the Secretary of the Treasury to inform "the House, at the earliest practicable period, the actual and probable receipts from the customs, the public lands, and other sources, for this and the next fiscal year; and whether, in his opinion, said receipts will be adequate to meet the public exigencies;" I would respectfully report:

The receipts for the first quarter of the present fiscal year, ending the 30th September, 1858, were \$25,230,879 46, as stated in my annual report to Congress of December 6, 1858. The receipts for the remaining three quarters, were estimated at \$38,500,000, of which sum \$37,000,000 were estimated from customs. It was believed that the quarter ending December 31, 1858, would yield \$10,000,000. The present quarter, ending the 31st March, 1859, \$15,000,000; and the next quarter, ending 30th June, 1859, \$12,000,000.

Since my annual report was submitted to Congress, returns have been made from nearly all the ports for the quarter ending 31st December, 1858; and estimating for the few ports not yet heard from, the total receipts for the quarter will be about the sum of \$9,200,000. For the present quarter, full returns have been received for the month of January, from the ports of New York, Boston, Philadelphia, and Baltimore. The receipts from these ports amount to \$4,376,542 86. Partial returns have been received from other ports, but not to a sufficient extent to justify a statement of them.

In reference not only to the customs, but the public lands and other sources of revenue, all the information which has been received at the Department, since the date of my annual report, confirms the correctness of the estimates of probable receipts for the present and next fiscal year, which I then submitted to Congress. I am, therefore, of opinion that the result will show that the actual receipts for the remaining quarters of the present year, and for the next fiscal year, will not vary materially from the estimates already submitted to Congress.

In support of this opinion, I submit to the consideration of Congress a comparison of the receipts from customs for the same months of the two preceding years and the present year.

In 1856-57, the receipts from customs for the quarter ending the 31st December, were \$14,243,414 90. In 1857-58, the receipts from customs for the same quarter, were \$6,237,723 69. In 1858-59, the receipts will probably be \$9,200,000, as I have already stated.

During the fiscal year ending 30th June, 1857, the imports were very heavy, amounting in dutiable goods, exclusive of those exported, to \$294,160,835; and the receipts from customs for that year, were \$63,664,483 56. In the fiscal year ending the 30th June, 1858, the imports were much reduced, amounting in dutiable goods, exclusive of those exported, to \$202,293,875; and the receipts from customs were \$42,046,277 86. To realize my estimates, the imports of dutiable goods for the present fiscal year, must reach the amount of \$250,000,000, besides those exported; and for the next fiscal year, the sum of \$280,000,000.

Comparing the foregoing statement of receipts, and looking to a favorable and healthy reaction in business, I should regard it unsafe and unwise to calculate upon a larger importation than the present estimates contemplate.

Entertaining these opinions, I am compelled to say, that the receipts will not be adequate to meet the public exigencies, unless the expenditures should be reduced below the amount estimated for. I have seen no indications that would induce the opinion that such a result can be reasonably anticipated. On the contrary, should the bills which have passed either the one or other branch of Congress, be finally passed by both, and become laws, the expenditures would be very largely and permanently increased. It is estimated that the pension bill alone, which has passed the House, would add several millions to the annual expenses of the Government, and even a larger amount for the next fiscal year. Other bills, which have passed either the Senate or the House, would, in like manner, swell the amount of expenditure. These are contingencies to which the attention of Congress should be directed, in considering the probable receipts and expenditures of the Government. Either the expenditures must be reduced to the estimated receipts, or other means of revenue should be provided. If the first can be effected, it is certainly the most desirable.

I have already submitted to Congress, in compliance with their requirements, bills for the codification of the revenue laws, and for the reorganization of the collection districts, which, if sanctioned and passed into laws, would greatly facilitate the operations of this Department, and reduce largely the expense of collecting the revenue.

There stands upon the statute-books, laws requiring the building of custom-houses, post offices, and court-houses, at places where the public service does not require them at this time. A repeal of those laws, or a postponement of their execution to a period of greater prosperity and less embarrassment, would relieve the Treasury of that amount of expenditure.

The recommendation which has been submitted to Congress, of abolishing the franking privilege and raising postage to five cents, with a view of bringing the Post Office Department, as near as practicable, to its former self-sustaining position, thereby imposing the burden of its support upon those who use and enjoy its benefits, will, if carried out, very greatly relieve the Treasury.

These propositions for retrenchment come to Congress, commended not only by the public demand for reform and economy, but by their own intrinsic merits. They are right in principle and policy, and when contrasted with propositions for increasing the public debt, or adding to the general tax, will receive the cordial approval of the country.

In other departments of the Government, reductions might also, in all probability, be made. I only speak of

those which have been brought to the attention of Congress and commended to their favorable consideration.

If, however, the appropriations made at the present session should reach the amount estimated for in my annual report, a deficiency will exist which must be provided for by additional legislation; and to the extent that the appropriations shall exceed the estimates, will that deficiency be necessarily increased.

I have, in a former report, expressed the opinion that the public debt ought not to be increased by an additional loan. That opinion remains unchanged.

The present tariff can, and should, be so modified as to supply such deficiency as may exist; and I avail myself of the opportunity afforded by the resolution of the House, again to call the attention of Congress to the recommendations of my annual report on the subject, and commend them to their favorable consideration.

In this connection, it is proper to call particular attention to the condition of the outstanding Treasury notes. In the estimates of receipts and expenditures by the Department, the permanent redemption of these notes, as they may fall due, has not been contemplated. All the calculations have been made upon the basis of continuing them in circulation; and, as a matter of course, the redemption of the whole; or any part of them, must increase the anticipated deficiency, unless authority be given for their reissue, or other provision made for their redemption. Since the first of January last, there have been redeemed \$543,700. Between this time and the 30th June next, the sum of \$17,758,900 will fall due, and, with the interest due upon them, must be met. I state these facts for the purpose of showing, that should Congress adjourn without legislating upon the subject, it would be almost impossible, under the most favorable receipts into the Treasury from ordinary sources, for the Department to meet the public liabilities until another Congress could be convened. I have already recommended that this immediate demand should be provided for, by authorizing the reissue of these notes for one or two years. This can be easily effected by extending for that period the provisions of the act of December 23, 1857, authorizing the issue of Treasury notes. The proposition to convert these notes into a permanent debt ought not to receive the favorable consideration of Congress. It would be virtually postponing their ultimate payment to a distant day, when the policy of the Government should be to redeem them from year to year, as the means of the Treasury will justify.

That portion of the public debt which remains in the form of Treasury notes, can always be redeemed without endangering the successful operations of the Department; whenever there shall be an excess of revenue over expenditures, it can be safely applied to the redemption of Treasury notes; the power existing of reissuing them, should the future receipts, from any cause, fall below the estimates of the Department. It is entirely different where the public debt is in the form of bonds, which, when once redeemed, cannot again be made available, however urgent the necessity may exist for it. The result is, that there will always be a greater disposition on the part of the Department to redeem and keep on hand Treasury notes, than to go into the market and purchase Government bonds. An additional reason is found in the fact, that Treasury notes can be redeemed without the payment of any premiums, which will hardly ever be the case with United States stock.

Contemplating the gradual redemption of these notes, and being opposed to the policy of adding this sum of twenty millions to the permanent public debt, I repeat my former recommendation for extending the provisions of the act of 23d December, 1857, for one or two years.

I am, very respectfully,
HOWELL COBB,
Secretary of the Treasury.

HON. JAMES L. ORR,
Speaker of the House of Representatives.

Mr. PHELPS, of Missouri. I move that the communication be referred to the Committee of Ways and Means, and ordered to be printed. It was so ordered.

COAL USED IN THE NAVY.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of Representatives, of January 14, 1859, in regard to the quantity of coal used in the Navy, and the amount of commissions paid to coal agents; which was laid on the table, and ordered to be printed.

REPORT FROM COURT OF CLAIMS.

The SPEAKER also laid before the House the monthly report from the Court of Claims.

The bills were considered as being read a first and second time; and were referred to the Committee of Claims. The adverse reports were ordered to be placed on the Private Calendar.

PATENT OFFICE REPORT.

The SPEAKER also laid before the House the mechanical portion of the Patent Office report for 1858.

Mr. JONES, of Tennessee. I think that report had better be referred to the Committee on Printing, and let that committee examine whether it is necessary to print the whole of it. I suppose there are a great many things in it which would require to be illustrated by engravings, and that there are portions of it which might be omitted.

Mr. FLORENCE. If it is to be referred, I move a resolution that fifty thousand extra copies be printed. The committee can report it at the same time.

The report and resolution were so referred.

RECEIPTS FROM CUSTOMS—AGAIN.

Mr. PHILLIPS. I move to reconsider the vote by which the House ordered the communication from the Secretary of the Treasury to be referred to the Committee of Ways and Means, and printed.

Mr. FLORENCE. Ask my colleague to give way, that the House may go into the Committee of the Whole on the state of the Union for general discussion.

Mr. BURNETT. I understood that the gentleman who made the motion to adjourn, only withheld it for the purpose of letting the Speaker present these communications to the House.

The SPEAKER. The Chair was not aware that a motion to adjourn was made.

Mr. BURNETT. I thought the gentleman from Mississippi [Mr. DAVIS] made the motion to adjourn.

The SPEAKER. The motion was not entertained.

Mr. PHILLIPS. I have no desire to interfere with the pleasure of the House, if the House wish to adjourn now. I desire to say a few words in respect to this communication of the Secretary of the Treasury; but I do not care to do so now, as I would like to look at the paper first. If the House wish to adjourn now, I have no objection.

Mr. LETCHER. If the motion to reconsider be made, does it not suspend the printing till the motion be decided?

The SPEAKER. It does.

Mr. LETCHER. Then the Committee of Ways and Means can have nothing to do with it.

Mr. FLORENCE. My colleague may modify his proposition so as to make it apply only to the reference.

Mr. JONES, of Tennessee. I hope that if the gentleman from Pennsylvania is going to speak to his motion to reconsider he will do so now.

Mr. FLORENCE. I move that the House do now adjourn.

Mr. LOVEJOY. I call for the yeas and nays. The yeas and nays were not ordered.

Mr. FLORENCE called for tellers. Tellers were ordered; and Messrs. HOPKINS and CURTIS were appointed.

The House divided; and the tellers reported—ayes 36, noes 45.

So the House refused to adjourn.

Mr. SMITH, of Virginia. Is it in order now to move to go into the Committee of the Whole?

The SPEAKER. The gentleman from Pennsylvania [Mr. PHILLIPS] is entitled to the floor.

Mr. FLORENCE. Will my colleague give way to enable me to move that there be a call of the House?

Mr. PHILLIPS. I yield for that purpose.

Mr. FLORENCE. I then submit the motion that there be a call of the House.

Mr. STEVENSON. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty-five minutes, p. m.) the House adjourned.

IN SENATE.

FRIDAY, February 4, 1859.

Prayer by Rev. WILLIAM F. AIKEN.

The Journal of yesterday was read and approved.

RIGHT OF WAY IN MICHIGAN.

Mr. STUART. There is a Senate bill upon your table, Mr. President, which has received an amendment in the House of Representatives, of three or four words, only; it is a measure of great local importance to the people of Michigan; and as it will not occupy the Senate three minutes to agree to the amendment, I ask the Senate to take it up, and dispose of it. I have shown the amendment to the chairman of the Committee on Military Affairs, who reported the bill here, and he has no objection to it.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 263) granting the right of way over, and depot grounds on, the military reserve at Port Gratiot, in the State of Michigan, for railroad purposes. The amendment of the House is, after the word "Detroit," in the ninth line, to insert, "or any other place in said State;" so that the bill will read:

That the right of way through and the privilege of con-

structing depots and workshops on the public lands of the United States lying in the county of St. Clair, State of Michigan, commonly called the Fort Gratiot military reservation, be, and the same is hereby, granted to any railroad company or companies which may construct a railroad or railroads from the city of Detroit, or any other place in said State, to or near the village of Port Huron, in said State: *Provided*, That in the opinion of the President of the United States, such grant or grants be not injurious to the purposes of public defense, and that the location of said buildings on, and such road or roads as to position and width through said reservation, and the price of the land to be so occupied, being first determined by the Secretary of War, be approved by the President: *And provided further*, That if the price of such grant or grants be not paid within thirty days after the approval of the President, or if either of said roads shall not be completed within three years, or if, at any time after its completion, it shall be discontinued, the grant shall cease and determine as to such road: *And provided further*, That all the buildings to be erected upon said reservation shall be of wood, and if, at any time, it should be deemed expedient by the commanding officer of Fort Gratiot, or by any other higher military authority, to destroy such buildings by fire or otherwise, no claim shall be made against the United States for damages.

Mr. STUART. I move that the Senate concur in the amendment.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior in answer to a resolution of the Senate relative to the land claims of the late John Rice Jones; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. GWIN presented the petition of John Hambleton, praying indemnity for losses occasioned by the Indians on the route between Albuquerque and California; which was referred to the Committee on Indian Affairs.

Mr. BENJAMIN presented the petition of John Brannan, a laborer in the Department of State, praying compensation for performing the duties of the librarian of that Department; which was referred to the Committee on Claims.

Mr. TRUMBULL presented a petition of citizens of Belleville, Illinois, praying the establishment of a branch mint or assay office at St. Louis, Missouri; which was referred to the Committee on Finance.

PAPERS REFERRED.

On motion of Mr. GWIN, it was

Ordered, That the papers from the Court of Claims, in the case of Samuel J. Hensley, be referred to the Committee on Indian Affairs.

On motion of Mr. TRUMBULL, it was

Ordered, That Eliza E. Ogden, widow of Captain E. A. Ogden, have leave to withdraw her petition and papers.

DEFENSES OF NEW YORK.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War communicate to the Senate any report which has been made to him by the chief engineer, stationed at New York, since the date of said Secretary's last annual report, concerning the defenses of the city of New York and its approaches.

BILLS INTRODUCED.

Mr. FITZPATRICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 559) to ratify and confirm certain entries of the public lands in Alabama, under the act of August 4, 1854; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS FROM COMMITTEES.

Mr. GREEN, from the Committee on Territories, to whom the subject was referred, reported a bill (S. No. 555) to provide for temporary governments for the Territories of Dacotah and Arizona, and to create the office of surveyor-general in the Territory of Arizona; which was read, and passed to a second reading.

Mr. HUNTER, from the Committee on Finance, to whom was referred the petition of Moses Taylor & Co., and Mora Brothers, Navarre & Co., reported a bill (S. No. 557) for the relief of those whose goods were destroyed in Baxter's warehouse on the 4th of June, 1858; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (H. R. No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1860, reported it without amendment.

He also, from the same committee, to whom

was referred the petition of B. F. Rittenhouse, a clerk in the office of the Register of the Treasury, praying compensation for extra services, asked to be discharged from its further consideration; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Thomas S. Sprague, praying compensation for investigating certain depredations on the public lands in Michigan, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. JOHNSON, of Tennessee, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 72) to secure homesteads to actual settlers on the public domain, reported it without amendment.

Mr. KENNEDY, from the Committee on Public Buildings and Grounds, to whom was referred the petition of William Gaston Pearson, praying indemnity for injuries to a certain mill and water privilege, done under an act of Congress, in supplying the public buildings with water, asked to be discharged from its further consideration, and that the petition and papers be referred to the Committee on Claims; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 546) to regulate practice in the United States courts, reported it with an amendment.

Mr. STUART, from the Committee on Public Lands, to whom was referred a joint resolution of the Legislature of Wisconsin relative to the route of the railroad from Fond du Lac to Lake Superior, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 683) recognizing the survey of the Grand Cheniere Island, State of Louisiana, as approved by the surveyor general, and for other purposes, reported it without amendment.

SUPPLY OF WATER TO WASHINGTON.

Mr. BRIGHT. The Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 406) to authorize the city of Washington to distribute and use the water soon to be introduced therein from the Potomac river, and the bill (S. No. 479) conferring certain powers on the corporations of Washington and Georgetown, has directed me to report those bills back, and also to report a bill which is designed as a substitute for them both. It is a bill (S. No. 558) to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities.

The bill was read and passed to a second reading, and the report accompanying it was ordered to be printed.

Mr. BRIGHT. That is an important bill. Its importance will be acknowledged by every gentleman who is acquainted with the value of the water privileges which have been introduced into this city; and I shall ask for its consideration to-morrow, if that day shall be set aside for District business; or, if not, whenever my friend from Mississippi calls up the railroad bill, I shall ask the Senate to substitute this bill, regulating the introduction of water, believing it to be the most important.

REFUNDING OF MONEY.

Mr. GREEN. The Committee on Territories, to whom was referred the message of the President of the United States, recommending an appropriation to pay, with interest, a sum of money advanced by the Governor of Vancouver's Island to the Governor of Washington Territory during the late Indian war in that Territory, have instructed me to report a bill, and, at the same time, to request the Senate to put it on its passage. It is a very peculiar case.

There being no objection, the bill (S. No. 556) providing for the reimbursement of moneys advanced by Governor Douglass, of Vancouver's Island, to Governor Stevens, of Washington Territory, to aid in the suppression of Indian hostilities in that Territory, was read twice by its title, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Governor James Douglass, of Vancouver's Island, the sum of \$7,000, with interest from the time of

the advance, being a reimbursement of an amount advanced by him to Governor Stevens, of Washington Territory, during the late Indian hostilities in that Territory, for moneys and supplies for their support.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT OF COLUMBIA BUSINESS.

Mr. BROWN. I ask the Senate to take up and pass the resolution I introduced yesterday, assigning to-morrow for District business.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That Saturday of this week be assigned for the consideration of business relating to the District of Columbia.

Mr. STUART. I ask for the yeas and nays upon that proposition; and I will state why. Last week, when we had a day set aside for the District business, we disposed of every District bill except one, in about thirty minutes, and then consumed the entire residue of the day on one bill. Now, I think, with the press of other business upon us of an important character, we had better let the District business that remains take its chance with other public business.

I shall vote very cheerfully with the Senator to take up District business at any time when there is an opportunity to do so, and give it a fair consideration; but to set aside an entire day of this week, or any other week, for that purpose, seems to me an appropriation of the remaining time of the session which is certainly not necessary. I ask for the yeas and nays on this proposition.

Mr. BROWN. I do not want to discuss the question, because I desire to have the resolution passed. It will be recollected by the Senate that the Committee on the District of Columbia were not at all to blame for the consumption of last Saturday in the discussion of one proposition. We should have been very glad if it had passed without any discussion; but the very fact that the day was wasted in that unprofitable manner, is, to my mind, an argument why we should give another day to the business of the District. The railroad bill is not the only important one to be considered. The bill just reported by the Senator from Indiana is absolutely essential for the protection of the Government property. As to calling these things up out of their order, and getting them considered, it can never be done. Unless we get a day assigned for the consideration of District business, we cannot get these bills up. I hope the resolution will pass.

Mr. HUNTER. I hope the resolution will not pass. We have given one day to the District, and if we should give another it would be consumed in the same way by the railroad bill. We have reported an appropriation bill, and I think we ought to take it up to-morrow, and act upon it. For one, I am unwilling to give another day to District business, and I hope the Senate will not do it.

Mr. MASON. I must say one word on the part of this District. It is placed under the jurisdiction of Congress. It contains some forty or fifty thousand people unrepresented, and the Constitution expected of Congress that it would give some portion of the public time to the interests of the District. There has been but one day given to it during this session. I have no particular interest in any subject relating to them, but the District stands in that relation to Congress as to be entitled to especial civility and courtesy.

Mr. POLK. I wish to call the attention of the Senate to the fact that the time has arrived for the consideration of the special order set for half-past twelve o'clock. It is now five minutes past the time. It is the House bill on the subject of the two per cent. fund of the State of Missouri.

Mr. BROWN. Let us vote on this resolution. I have no objection to the yeas and nays; though I hardly think it is worth while to waste that much time.

Mr. STUART. Mr. President—

Mr. POLK. If this subject is going to lead to debate, I must insist on calling up the special order.

Mr. SEWARD. I rise to a question of order. It is, that Senators on the other side of the House, when they debate a question, shall speak loud enough, so that we may know what the question

is under discussion. It is impossible for us, on this side, to hear anything that is said.

Mr. POLK. I feel it my duty to insist on the special order for half past twelve o'clock. I now see that this question will lead to some discussion.

Mr. BROWN. We were just about to take the vote.

Mr. STUART. It will lead to some discussion.

Mr. BROWN. If the special order is up, I move to postpone its consideration, with a view of disposing of this resolution. I do not wish to see the District of Columbia overslaughed in this way.

Mr. GREEN. What do you move to postpone?

Mr. BROWN. The special order, whatever it is.

Mr. STUART. I only wish to say on the subject, as I was going to say on the other, that I agree with what was said by the Senator from Virginia, [Mr. MASON,] that this District, which is not represented here, is entitled to have a liberal share of the time of Congress in the passage of its business; but we are not advised of any business that will consume a day, or a quarter of a day; and I stated, as a fact, that when we set aside last Saturday every bill presented by the chairman of that committee, except one, was disposed of in about half an hour; and then a subject was introduced which excited a great deal of debate, and consumed the day to a late hour, and was not even then disposed of. Now, if we assent to another day, it will pass undoubtedly just as unnecessarily as that day. So far as the bill introduced by the Senator from Indiana is concerned, it can be disposed of in a very short time to-morrow, or any other day; and so of any other bill. If we postpone the order which has been made for half past twelve o'clock to-day, in which the State of Missouri is interested, and postpone other business of vastly more importance, for the purpose of having another day consumed here by District business, it seems to me that it is not proper.

Mr. BROWN. Let us vote on the passage of the resolution. If it is lost, there is the end of it.

The PRESIDING OFFICER. (Mr. BRIGHT in the chair.) Does the Senator withdraw the motion to postpone the special order?

Mr. BROWN. Yes; if we can have a vote immediately.

The PRESIDING OFFICER. Does the Senator from Missouri withdraw the call for the special order?

Mr. POLK. If the vote can be taken at once, I will withdraw the call.

The PRESIDING OFFICER. The question is on the passage of the resolution.

Mr. STUART. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 42, nays 11; as follows:

YEAS—Messrs. Bell, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Chesnut, Clark, Clay, Clingman, Crittenden, Dixon, Doollittle, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Green, Hale, Hamlin, Harlan, Houston, Iverson, Jones, Kennedy, King, Mason, Polk, Rice, Sebastian, Seward, Shields, Simmons, Thompson of Kentucky, Thompson of New Jersey, Wade, Ward, Wilson, Wright, and Yulee—42.

NAYS—Messrs. Allen, Davis, Gwin, Hunter, Johnson of Tennessee, Mallory, Pugh, Reid, Slidell, Stuart, and Toombs—11.

So the resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a joint resolution (No. 50) to correct a clerical error in an "Act for the relief of Isaac Body and Samuel Fleming;" in which the concurrence of the Senate was requested.

NOTICE OF A BILL.

Mr. WARD gave notice of his intention to ask leave to introduce a bill for the relief of Mrs. Elizabeth S. Cox, relict of the late Major H. Cox.

MISSOURI TWO PER CENT. FUND.

Mr. CRITTENDEN. On the 18th of last month a letter was addressed to the chairman of the Committee on Foreign Relations—

The PRESIDING OFFICER. (Mr. BRIGHT.) Is the Senator from Kentucky aware that the hour for the consideration of the special order has arrived?

Mr. CRITTENDEN. It has not, by the clock. The PRESIDING OFFICER. Half past twelve o'clock was assigned.

Mr. CRITTENDEN. I shall not occupy five minutes.

Mr. POLK. I would like to say to the Senator from Kentucky, that there is a special order for half past twelve o'clock, and then at one o'clock there is another special order. Unless the special order for half past twelve o'clock shall be taken up, it will be displaced entirely, and another special order for half an hour later will take its place.

Mr. CRITTENDEN. This business will not occupy ten minutes, I am sure.

Mr. POLK. If those ten minutes be taken we shall only have five minutes for this special order. I must insist on the special order.

Mr. CRITTENDEN. I am very unfortunate. I have been here several mornings waiting to present this matter to the Senate, and I have been delayed morning after morning. I hope that on this morning I may be permitted to offer a joint resolution; which I desire to have referred to the Committee on Foreign Relations.

Mr. POLK. I must insist on the special order.

The PRESIDING OFFICER. The special order is the bill (H. R. No. 303) giving the assent of Congress to a law of the Missouri Legislature for the application of the reserved two per cent. land fund of said State, which is now before the Senate as in Committee of the Whole.

The bill proposes to give the assent of Congress to the act of the Legislature of the State of Missouri, entitled "An act supplemental to an act to amend 'An act to secure the completion of certain railroads in this State, and for other purposes,'" approved on the 19th of November, 1857, appropriating the two per centum of the net proceeds of sales of public lands in that State, reserved by existing laws to be expended under the direction of Congress, but hereby relinquished to that State; and to require the proper accounting officers to audit and pay the accounts for the same, as in the case of the three per centum land fund of that State.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The question is, shall the bill pass?

Mr. COLLAMER. Mr. President, I have no amendments to propose to the bill, but I desire to call the attention of the Senate for a few minutes to it. I had intended at one period to devote some time, and, perhaps, call the attention of this body at some length, to this bill; but I did not know that it had been made the special order for to-day at this time, as I was not present, on account of indisposition, last Friday, when I suppose it was up. I, however, do not desire to delay the subject, and I do not wish to take very much time on it now, but to call the attention of Senators to the nature of the bill, and to some of the discussion which has heretofore taken place in relation to it.

Early in the settlement of this country, in the opening of the public lands in the West for sale, it was regarded as of very great importance that there should be a road made from the settlements of the Atlantic States into the interior, the far-off West, in order to open up the course of emigration; and, therefore, when the State of Ohio was admitted, and in the commencement of our land system, a reservation was made of three per cent. of the avails of the sales of the public lands, to be at the disposition of the State, and two per cent. was reserved, to be used under the direction of Congress for the making of roads. The three per cent., at the direction of the State Legislatures, was to be used for the making of roads within the State itself, and the two per cent. was reserved for the purpose of making a road to those States as the settlements opened, and as the land was sold. Under that reservation the Cumberland road was commenced, and Congress proceeded to redeem their pledge with the two per cent. fund which was reserved, as far, at least, as the money would enable them to go, in making the road. I have not very recently been over these particulars, and I will not be exact as to the precise order of the facts; but the result was, Congress entered on the expenditure of this money, reserved as a two per cent. fund in the hand of the General

Government, in the making of the Cumberland road.

This reservation was not peculiar to the State of Ohio, but it went on from State to State, west, the same reservation being made in each case. The Cumberland road made some progress from time to time, and was made by the expenditure of money which came from the sale of lands, not merely in the State of Ohio, but in Indiana and Illinois; and when we passed the Mississippi, the reservation was made in the same way and in the same terms in the case of Missouri. It was to make a road "to the State;" it was reserved in each case to be used in making a road "to the State." That was the case with Ohio, Indiana, and Illinois; and when we came to Missouri, for whom this call is now made, the reservation was on the same terms, essentially—a two per cent. fund reserved to be used, under the direction of Congress, for making a road to that State.

In going on with this agreement and carrying out this assurance and expending the moneys thus reserved, Congress frequently made appropriations largely in advance of the receipts. They went on making the road and made appropriations from time to time, out of the Treasury, for the making of the road, providing in the acts granting the appropriations, that the sum should be repaid to the Treasury out of the two per cent. funds, as lands should be sold and the two per cent. be realized. I will not undertake to speak in precise terms, but I am quite moderate in saying that a million of dollars, a large sum—certainly more than half a million, and I think a million—have been expended on the Cumberland road.

Mr. GREEN. Six million seven hundred and seventy-seven thousand dollars.

Mr. COLLAMER. I am speaking of the amount expended beyond what we got from the two per cent. funds, probably a million dollars. There has been expended, as the Senator from Missouri, no doubt rightly informs me, between six and seven million dollars by the Government on the Cumberland road, altogether. It was first made to Ohio. It was then made through Ohio, through Indiana, and a part of the way through Illinois. It was macadamized a good deal of the way, but not all of it. Some of it was never completed. It was never macadamized I believe, any further than Vincennes. But the leading road was made most of the way to Missouri, though never completely and entirely to it. Six or seven million dollars was expended by the United States on this road, Congress each time they made appropriations providing that the money should be replaced in the Treasury from the two per cent. funds of the lands sold from time to time, under the reservation which had been made in the State grants.

I say further, Mr. President, that the amount expended by the General Government on this road from time to time, has exceeded the amount of the two per cent. we have received from public lands by, I think I may safely say, much more than a million dollars, which has never been replaced at all. The Government has continued selling lands since it stopped working the road, but has never received from the two per cent. on those lands anything like an amount sufficient to replace what they had already laid out.

In the progress of time, the navigation of the Ohio and Mississippi in a great measure diverted the travel from this road; it ceased to have any great value; it ceased to be the only road of inter-communication between the Atlantic and the West, and exertion was remitted upon it. Congress, despairing of ever replacing from the two per cent. the money which they were laying out, finally abandoned the finishing of it to Missouri. The present bill is to pay from our Treasury to the State of Missouri, the two per cent. which was reserved upon all that we have realized from the sales of land in Missouri. How much that would amount to I am not exactly able to say; but my impression is that, when this matter was last under discussion in the Senate, it amounted to some forty thousand dollars. I would ask the gentlemen from that State, how much they suppose the amount to be now?

Mr. GREEN. I have not obtained an estimate.

Mr. COLLAMER. About how much?

Mr. GREEN. I think two hundred and twenty or two hundred and thirty thousand dollars, in all.

Mr. COLLAMER. You claim the whole?

Mr. GREEN. I suppose so.

Mr. POLK. I think it is more.

Mr. COLLAMER. How much does the Senator consider the amount to be?

Mr. POLK. I think I have a statement of it, Mr. COLLAMER. I suppose there may be an estimate from the Department of how much has been received from these lands.

Mr. POLK. I think the amount claimed by the State is somewhere about two hundred and fifty thousand dollars.

Mr. COLLAMER. The State of Missouri now claims that there shall be paid from the Treasury to her the amount of about two hundred and fifty thousand dollars, being two per cent. on what we have realized from all the lands we have sold in that State since her admission into the Union. I did not know the precise amount of it, nor any very near approximation; because, when the subject was under discussion last in the Senate, in 1850—I was not then a member of the body—the sum was very considerably less than that. The precise ground on which this money is claimed, the Senators from that State will probably fully present. I understand it to be what I have stated.

Now, in the first place, I understand that, in making the Cumberland road, as it took its name finally to be, all the reservations from all these States were just as much interested in making one part of the road as another; that is to say, when that reservation was made in relation to Illinois or Indiana or Missouri it was as important to them that the reservation should be applied to making the road from Cumberland all the way through, as that it should be applied to any one part of the road nearest to them. The road had not merely its value from being made at the end of the road next to that State. The object was, to make the road all the way through from Cumberland; and hence, it was of as much interest to the State of Indiana to have the two per cent. of the money realized from her lands laid out in making the road in Ohio until it reached Indiana, as to have it used in Indiana alone; and so after it reached the State of Indiana it became important to Illinois to continue it through Indiana; and so as to Missouri. The provision that the money should be laid out in making a road to the State, did not merely mean making that end of it which touched the State; it meant making the whole road which led to the State from the Atlantic region of the Union. All the money has been laid out, and a great deal more, millions more, in the making of the road, or attempting to make it all the way through, though it has not been entirely completed through.

Now, Mr. President, it is not asked that Congress shall execute the purpose for which the reservation of the two per cent. was made, by completing the road. The most that can be asked of Congress on this subject, is, that they shall complete that road as far as the two per cent. will make it. That we have done and a great deal more. But it is insisted that we should not take the two per cent. out of the lands sold in the State of Missouri, unless to make that part of the road which goes directly to the State; that is, at least to the Mississippi river, for I do not know that it has ever been asked to make it across the river. It is now asked that we shall give up the two per cent. of all we have laid out of the money coming from the State of Missouri, to enable the State to use it for roads within the State. The three per cent. they have had, I suppose, and disposed of in their own way. The two per cent. are now wanted, notwithstanding we have fully expended the whole of them. They are not asked for for the purpose of completing that road for which the reservation was made; but Missouri asks us to pay her the whole of the two per cent., that she may use it at her own discretion and in her own way, by her own Legislature, within the State itself.

I have drawn the attention of the Senate to the nature of the case. I can merely say that this case underwent full investigation in 1850, in this body. At that time, there were living and representing these interests here, on one side, Mr. Benton, then Senator from the State; and on the other, Mr. Clay, who had been long acquainted with the whole progress of this business. It underwent at that time very full discussion, and if any Senators who are not acquainted with it, have any desire fully to understand the subject, they can do so by

turning to the debates on that occasion. All the arguments which I think can be enforced by anybody, will there very fully appear. If gentlemen desire to know more about it, I refer them there. On that occasion, I believe the application of the State finally succeeded in getting ten votes in the Senate.

Mr. GREEN. The Senator from Vermont need not invoke the past action of the Senate during a former session, for the purpose of raising a prejudice to the consideration of this bill now. I suppose he knows, within his own recollection, that frequently bills are presented, which are imperfectly considered, and fail, owing to some prejudice or influences of various kinds operating upon the minds of Senators, or haste, or want of attention, and yet are just and proper in themselves, and subsequent reëxamination shows that they are proper.

The ground upon which this bill is predicated has not been fully stated by the Senator from Vermont. Every State in the Union, admitted since the Union was originally formed, and in which any public land is located, has had given to it five per centum of the net proceeds of the public lands sold within her limits except the State of Missouri, in consideration of not taxing the United States lands while they were owned by this Government, and for five years after they were sold. I say every single new State admitted into the Union has had the benefit of this full five per cent. except the State of Missouri; and if there was no contract, if there was no legal obligation, and I had only to appeal to the equitable sense of justice of the Senate, I should expect to pass this bill. In the case of the State of Mississippi, when she was admitted, there was an obligation that the United States would give to that State five per centum of the net proceeds of the sales of the public lands, three per cent. to be expended by the State within her own limits, in her own way, and two per cent. to be expended by the United States in making a road to the State of Mississippi. The Federal Government abandoned the idea of making a road to the State of Mississippi, and then what? Did they cheat Mississippi out of the two per cent.? I will tell you what they did. Congress passed a law giving to the State of Mississippi the other two per cent. Here is the book.

Mr. COLLAMER. Will the gentleman permit me to say a word on that subject now?

Mr. GREEN. Any other time, or now, if you choose.

Mr. COLLAMER. I will merely say in relation to Mississippi, that the compact with Mississippi was merely copied from those that went before it. These were all taken from the first form of the Ohio grant, and all were in the same form. The road to Mississippi was never undertaken by the Government at all; it was not begun.

Mr. GREEN. Then the position of the Senator amounts to this: if they had begun it, and had expended all the money in the District of Columbia, Mississippi would not be entitled to the fund. It just amounts to that. If there is any honesty or justice or propriety in an argument like that, I am unable to appreciate it. The obligation of the Federal Government was to make a road to the State. The Senator from Vermont says, if you expend it all in the District of Columbia, if it points in the direction of the State, it is leading to the State. Is that the term of the contract? Is it thus nominated in the bond? You shall make it "to the State?" If you go half the way there, and the end is in a wilderness; does it lead to the State of Missouri? If you stop at Vincennes, if you stop at Indianapolis, if you stop at any other point, does it lead to the State? I deny that even under the technical construction of the legal obligations, you can exonerate yourselves from the obligation to make this road all the way to the State of Missouri, or to refund to her the two per cent.

The five per cent., with the other things given at the same time, was regarded as an equivalent for the relinquishment made by the new States. The five per cent. was the consideration for the relinquishment. Every new State has received that consideration except Missouri. Has Missouri received it? There was expended upon the construction of this road \$6,777,806—where? In Missouri? Not one single dollar. In three of the States, Maryland, Pennsylvania, and Virginia,

\$3,426,806 were expended; in Ohio about one million five hundred thousand dollars; perhaps more; in Indiana, \$1,135,000 were expended.

Mr. POLK. I think my colleague is wrong in regard to his figures with reference to Ohio. I think \$2,081,000 was spent in Ohio.

Mr. GREEN. Perhaps I am wrong in that figure. In the State of Illinois \$746,000 was expended. In the expenditure of this money, you afforded facilities for settlement, you created business, you expedited the settlement, and you gave prosperity to the States. We hear frequently taunts thrown out against poor old Missouri that she has not prospered as Illinois, Indiana, and Ohio have done. Let Missouri have \$6,000,000 expended by the Federal Government in the construction of permanent improvements in her own borders, as those States have had, and what a vast difference would it present in settlement, in trade, in business, and in commerce; but, as yet, not a dollar of that kind has been given to the State of Missouri, and she does not ask the gift now. Iowa got her full five per cent.; Michigan got her full five per cent. Every other State got her full five per cent. Ohio, Indiana, and Illinois got more than their five per cent., because they got the money expended in their own borders, one of them \$2,081,000, another \$1,135,000, and another \$746,000. The whole two per cent. to which we are now entitled is only about two hundred and fifty thousand dollars. Is it an equivalent, on the principles of justice, in the absence of all obligation, in the absence of all contract?

There is another thing to be noted: Congress understood, when this compact was entered into, that the road should be made to the capital of the State; and at one time appropriated \$265 to make a survey to the capital of the State of Missouri. This shows that Congress at that time understood the obligation of the Federal Government to be to make the road not only to the State, but to the capital of the State; yet none of that has been done. The three per cent. has been regularly paid; the two per cent. has been withheld. It was withheld for the purpose of making a road, and then that road was abandoned. The fact that other moneys were expended, that a large amount was expended in other localities, can afford no reason why Missouri should be cheated out of her just consideration for relinquishments which she made to the Federal Government. Florida gets her five per cent.; and so do Louisiana, Arkansas, Alabama, Mississippi, and every other State; and on what principle? In the case of Florida—they are all similar—the law says:

"That in consideration of the concessions made by the State of Florida in respect to the public lands, there be granted to the said State eight entire sections of land for the purpose of fixing their seat of government; also, section number sixteen in every township, or other lands equivalent thereto, for the use of the inhabitants of such township, for the support of public schools; also, two entire townships of land, in addition to the two townships already reserved, for the use of two centuries of learning—one to be located east and the other west of the Suwanee river; also, five per centum of the net proceeds of the sale of lands within said State, which shall be hereafter sold by Congress, after deducting all expenses incident to the same; and which said net proceeds shall be applied by said State for the purposes of education."

On what consideration? "In consideration of the concessions made by the State." What are the concessions?

Mr. PUGH. What statute is that?

Mr. GREEN. The act for the admission of Florida, and it is similar to them all. "In consideration of the concessions made by the State," these grants are made. Has not Missouri made the same concessions that all the other States have made? Is she not under the same obligation to not interfere with the primary disposal of the soil? Just the same. Has she ever received any other equivalent? None whatever. Even in her railroad grants she received less, in proportion to territory, than any other of the new States; less than Illinois, less than Iowa, less than Arkansas. I am not complaining of the railroad grants, but merely referring to the fact, for the purpose of showing that she received no other equivalent. She has made all the concessions the other States have made. She has received three per cent.; every other State has received five per cent. You agreed to appropriate the two per cent. in a manner in which you have never appropriated it; you agreed to make a road, which you have abandoned; and you have given up the whole of it to Ohio, Indiana, and Illinois, as their own private

property, out of which they can derive a revenue by exacting tolls upon travel. All of this is given to these three States; but to Missouri no two per cent., no five per cent., none of the consideration on which she made the concessions, except the three per cent.

I submit the case. It is unnecessary to make an extended argument. It is a plain, simple matter of equity, of justice, and of solemn obligation. The obligation was to make a road, which you made a few miles and abandoned. It never did Missouri one particle of good, because it never reached her border; and whether there had been an obligation or not, when you abandoned it you were bound to pay her the fund that you reserved for making it. On principles of equity, she ought to have the same that every other State gets. Why do you pay Mississippi five per cent. of the net proceeds of the sales of lands within her borders? Why do you pay Arkansas five per cent., and Florida?

Mr. DAVIS. Because it is the compact.

Mr. GREEN. Now, suppose the contract had not been the same with Missouri: would not the principle of equity say it ought to be the same? Suppose there were no contract in the case, and it was appealing to the magnanimity and sense of justice of the Senate, what would they say in a case of that kind? But I undertake to say there is a contract. There is a contract that she shall have five per cent., she shall have the benefit of five per centum; she has had the benefit of three per centum, but the two per centum she has never had the benefit of. You have broken the contract, and you therefore must pay that two per centum to the State.

It looks to me like a plain, simple proposition, and I shall not enlarge upon it.

Mr. COLLAMER. If this were to be treated as an isolated contract, standing merely with the State of Missouri, if we did not connect with it the history of the transaction, the gentleman's argument, and his reference to the cases of Iowa and Florida, would look plausible enough; but the truth is, these contracts to make a road "to the State," reserving two per cent. for that purpose, began with Ohio. It was important to get a road from the uninhabited part of the country to the habitable part of the country. It was important to the State of Ohio that she should have an intercommunication made. Then, there was none, except across the mountains, and hence, when the five per cent. reservation was made, Congress agreed with the State to reserve two fifths of it to make a road to the State. They would take care of it when it got in there, with their own three per cent. Congress acted upon that view and laid out, as I said, the two per cent. and a great deal more. The gentleman tells us how much we laid out in Virginia before we ever got to Ohio at all, for the road was first made, I believe, to the Ohio river at Wheeling. Then came the contract with Indiana, by which the two per cent. was reserved to make the road to Indiana, that is through Ohio, this road pointing directly west. It went on to Indiana; and Indiana wanted the two per cent. laid out according to the terms of the contract in making the road through Ohio, not in Indiana, for they had their three per cent. for that. Congress went on, and when they had expended all the two per cent. and a great deal more, the new States applied to Congress to finish that road. The reply was, "we have laid out all our money;" and the answer was, "but still we need to have our road finished;" and they would insist on it, and Congress passed laws making further appropriations and providing that the money should be replaced out of the two per cent. fund when we got it. We never got it, and never replaced it. In the case of Illinois, there was the same contract to make it to Illinois, that is through Indiana.

Mr. GREEN. Each one of these States stipulated it should be made to their capital.

Mr. COLLAMER. I do not know that. I will look to that. If it is so, it certainly was not so in the case of Missouri; and was not so in the case of Ohio. I cannot say in relation to the other two, for I have not looked into them particularly; but I know that the reservation in the case of the State of Missouri is precisely like that in the case of the State of Ohio. The reservation of the two per cent. was to make a road to the State, not in it.

Mr. POLK. If the Senator from Vermont will allow me, I wish to correct him in one respect particularly. The law, in regard to Ohio at least, is to make a road "to and through the State," and it appropriates five per cent. of the land proceeds of that State for that purpose, and three per cent. for making roads in the State.

Mr. COLLAMER. That depended on their own contract. It may turn out, in Ohio, that the whole five per cent. fund was reserved in the first place to make a road to and through Ohio; when we come to this case, it is a reservation of two per cent. to make a road to the State and three per cent. to make it through the State, in their own way. When the agreement for making it to and through Ohio was made, five per cent., it seems, was reserved by the Government, and not two. When we came to the State of Missouri, the contract was that we should reserve two per cent. out of the five for the purpose of making the road to the State, not in it at all.

Now, the gentleman claims of Congress to pay that two per cent., because it was so done in relation to Mississippi; so done in the contract with Iowa; so done in Florida, and I do not know, but with some other States. Is it not obvious, at a moment's reflection, why that was? We were making this Cumberland road directly west, aiming for Missouri. A contract had been made with different States, from time to time, to go on with that road until it struck the Mississippi, and the agreement with Missouri was just the same; to reserve two per cent. to make the road to Missouri, meaning to the Mississippi river. The State of Missouri applied from time to time to Congress to complete that road, on the ground of this contract, and their own Senators claimed it and voted for it; and, I believe, on one occasion, their State Legislature sent a memorial to Congress asking us to lay out the two per cent. on that road and complete it. That fund was laid out, and, as I say, millions more than all we got from all those States.

In relation to the other States, the case is different. It will be at once seen why, in reference to Iowa, the whole five per cent. fund was left in the hands of that State. This road did not point to Iowa; it was not expected to go to Iowa; and therefore the whole five per cent. was left in the hands of Iowa for roads in her own way. Just so it was in relation to Mississippi. This road we were making, and on which the two per cent. were expected to be laid out, and were laid out, did not point to Mississippi at all; and when the two per cent. was reserved in Mississippi, it was only because they followed the old form; and afterwards Congress voted to let them have it, it having been a mere imitation of form that was gotten into the Mississippi act; for the road never looked that way at all. It looked directly west, to Missouri. Hence it is that the case of Missouri is entirely unlike the case of Iowa, or Florida, or Mississippi. What I insist on is, that the money, in point of fact, has been laid out by this Government toward making the road as far as it would go towards Missouri, and a great many millions more; but the truth is, the necessity of that road is superseded; the State of Missouri does not want that road made. Other means of intercommunication have been opened up, superseding the occasion for it. They do not ask now for the money to make that road; they do not ask to have that contract executed at all; but they ask to have two per cent. of the money received for all the land that has been sold in Missouri since it has been a State paid to them; not to make a road to Missouri, but to make roads wherever they please—money that we have laid out, and laid out many times over, at their own request.

I ought to say one word more, and that is about the gentleman's suggestion in relation to tolls. It is true that, after the Government had laid out on the road many times all the money they ever got from the two per cent., the road was given up; the necessity for it ceased. That part of it through Ohio and Indiana was delivered over to the States, and they laid tolls on it for the purpose of keeping it in repair some parts of the way. If every foot of the road had been made, and then delivered over to the States through which it ran, Missouri never could have laid any tolls on it; for it was not to go into that State, and did not go into that State at all. If it had been entirely completed, and delivered over to the State, she

could have laid no tolls upon it by any possibility.

Mr. POLK. I hope, sir, that the interest which my State feels in this question, and the injustice that I think has been done to that State up to the present time, will be an excuse to me for saying a few words in answer to what has fallen from the Senator from Vermont. It seems to me that the Senator from Vermont bases his argument on an entire mistake, an entire misapprehension of the legislation in the order in which it has taken place on this subject. He seems to put his objection to the relief asked for in this case upon the ground that, in the bills for the admission of Ohio and Indiana and Illinois and Missouri into the Union, reserving the two per cent. of the net proceeds of the public lands in those States, to be applied to roads to be built to, and in some instances through, those States, the idea was that the money was to be applied, and that the reservations were made, in those cases, with especial reference to the application of the funds to the building of the Cumberland road.

Mr. COLLAMER. The gentleman's own State applied from time to time, by her Senators here and through her Legislature, to have that money laid out on this very road.

Mr. POLK. I will come to that as I proceed. The gentleman has not looked at the dates of the admission of the States. Ohio was admitted in 1802, I think. The first act, at all events, making reservations for Ohio, was on the 30th of April, 1802. That reserved to Ohio five per cent., that is, one twentieth part of the net income of the sales of the public lands; and in 1803 there was, in addition, given to the State of Ohio three per cent. of the net proceeds, "for the purpose of building roads in said State." Then the next State that is admitted is not Indiana, but the next State that is admitted is Mississippi, which was admitted on the 1st of March, 1817; and there was a reservation in the case of Mississippi in exactly the same language that there was in the case of Missouri. Instead of the Mississippi act following the example that had been fixed in the case of Indiana, Illinois, and Missouri, it is just exactly the reverse; the example fixed in the case of Mississippi for building roads "to that State," was followed in the case of Alabama first, and then Indiana, and then Illinois, and then Missouri. Then you have first the provision of the act for the admission of Ohio. Well, says the Senator, that contemplated the building of the Cumberland road to and through the State of Ohio. Next, he says that the reservation in the admission of Indiana contemplated the extension of that road through Ohio to Indiana; but the misfortune of the Senator's argument is, that there was a similar reservation in the case of Mississippi; and not only so, but before Indiana was admitted there was a similar reservation, to wit, on the second of March, 1819, in the case of Alabama, in exactly the same language.

Now, the Senator is just as much authorized to say that the reservation in the case of Alabama and of Mississippi had reference to a national road to be built by the United States to the borders of those States, as he is to say that the reservations in the case of Indiana and Illinois and Missouri had reference to such a road as that. The Senate sees, by a comparison of these dates, that the reservation in the cases of Mississippi and Alabama was not because they followed what had been made common and customary in the cases of Indiana, Illinois, and Missouri; but the reservations in these cases are based upon the example fixed in the cases of the admission of Mississippi and Alabama. Therefore, it is evident that the Senator from Vermont labors under a mistake in this matter.

There is another great mistake into which the Senator fell. He says that, where appropriations were made for the building of the Cumberland road, as he called it, the acts making the appropriations provided that the amount should be reserved out of the two per cent. fund of the States of Ohio, Indiana, Illinois, and Missouri. I will refer to some of those acts making appropriations for the building of the Cumberland road, as it is called; and it will be found that, in all, commencing with the act of 1831, going down to the act of 1834, the act of 1835, the acts of 1837, of March and May, the provision is, that the amount shall be refunded out of the two per cent. funds of the

States of Ohio, Indiana, and Illinois, and not including Missouri at all. I will refer to the first one, to which I have just directed the attention of the Senate, more particularly. It is an act of the 2d of March, 1831, providing:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of \$100,000 be, and the same is hereby, appropriated for the purpose of opening, grading, and making the Cumberland road, westwardly of Zanesville, in the State of Ohio; and that the sum of \$950 be, and the same is hereby, appropriated for repairs on the said road during the year 1830; and also the further sum of \$2,700 to be expended under the direction of the Secretary of War in completing the payments to individuals for work heretofore done on the Cumberland road, east of Zanesville, in the State of Ohio; under the direction of the superintendents of said road, or so much of said sum as may be found necessary for that purpose; also, for the payment of arrearages for the survey of the said road from Zanesville to the capital of Missouri, \$265 85; and that the sum of \$75,000 be, and the same is hereby, appropriated for the purpose of opening, grading, and bridging the Cumberland road, in the State of Indiana, including a bridge over White river; near Indianapolis, and progressing with the work to the eastern and western boundaries of said State; and that the sum of \$66,000 be, and the same is hereby, appropriated for the purpose of opening, grading, and bridging the Cumberland road, in the State of Illinois; which sums shall be paid out of any money not otherwise appropriated, and replaced out of the fund reserved for laying out and making roads under the direction of Congress, by the several acts passed for the admission of the States of Ohio, Indiana, and Illinois, into the Union; on an equal footing with the original States."

Omitting the State of Missouri. So the act of June 24, 1834, made appropriations for the continuation of the public road, of \$200,000 in Ohio, \$150,000 in Indiana, \$100,000 in Illinois, which sums are "to be paid out of any money not otherwise appropriated, and replaced out of the funds for laying out and making roads, under the direction of Congress, by the several acts passed for the admission of Ohio, Indiana, and Illinois, into the Union." The same provision is made by the act of March 3, 1835; by the act of March 3, 1837; and by the act of the 25th of May, 1837.

Thus, Mr. President, in all these acts, the refunding is to take place out of the two per cent. of the proceeds of the public lands in the States in which the expenditure is made. Therefore, the Senator is entirely under a mistake when he supposes that the two per cent. in Missouri, in the sense in which Congress acted on this subject, in the mind of Congress at the time it acted, were to be appropriated to building this road in Ohio or Indiana or Illinois. On the contrary, this two per cent. fund in Missouri seems to be, by all these acts, running from 1831 down to 1837, reserved to be appropriated to the building of this road in Missouri; and, in the very act I read, there is a provision for paying, not out of the fund of Missouri even, but for paying out of the funds of Ohio, Indiana, and Illinois, the balance of the expense for making a survey of the road to the capital of the State of Missouri; thus contemplating the completion of this road to the capital of the State of Missouri. Therefore, it seems to me that it is taking for granted a state of legislation that is not the true state, to suppose that this was a trust fund to be devoted to the building of a road that looked towards Missouri.

Sir, it was no more an appropriation of the two per cent. of the proceeds of the public lands of Missouri, to the building of this Cumberland road, than there was an appropriation of the two per cent. of the proceeds of the lands of Mississippi and of Alabama, to building it. If the two per cent. was relinquished to Mississippi and Alabama, to carry out the contract that was entered into between those States and the United States, I say that just the same contract, with all its obligatory force, is binding upon Congress, to make the relinquishment to Missouri that was made in the cases of those States.

In 1841, there was a relinquishment of the five per cent. fund to the State of Mississippi. In 1855, on the 2d of March, there was a relinquishment made to the State of Alabama; and afterwards, by subsequent acts, coming down as late as 1857, there were relinquishments made to those States of the two per cent. on the proceeds of the lands that had been reserved for the Indians, the Indian title having been extinguished.

So that, Mr. President, if we look at the dates of the legislation of Congress on this subject, we not only find that the Senator is at fault in the first position upon which he places himself, but we find that he is refuted in another one of his arguments, which is, that this question was ex-

amined into in 1850, and then the application of Missouri was voted down in the Senate; for since that date, in 1855, and in 1857, the Senate has passed bills refunding the two per cent. to Alabama and to Mississippi, just as it is now asked by the State of Missouri; and Alabama and Mississippi have been just as much benefited by the road that was commenced at Cumberland and was carried forward through Ohio, and partially through Indiana and into Illinois, as Missouri has been.

The Senator also said that Missouri had been before Congress, asking for the appropriation of this reserved fund for the building of this road. Mr. President, Missouri has been before Congress. She was here in 1829; but she was here remonstrating against the monstrous perversion, as she supposed, the monstrous abuse of this trust fund reserved from the proceeds of her lands by the action of Congress; for it will be borne in mind, that when these first acts were passed, it was before (according to my recollection of dates) the discovery of the macadamizing process of building public roads. That had not been adopted at the time; and it was supposed, that the fund reserved would be amply sufficient to build roads to the States that were admitted on the condition referred to. Subsequently, the macadamizing process was discovered, and was brought into use; and then these roads, instead of costing the sum it was originally supposed they would cost, were made to cost an enormous amount, swelling up to millions—more than sufficient to exhaust not only the five per cent. of Ohio and the two per cent. of Indiana and Illinois, and even of Alabama, Mississippi, and Missouri, but to sink an immense amount beyond those two per cent. In that state of the case, Missouri in 1829, by her Legislature, remonstrated to Congress against this perversion and abuse of this trust fund, and asked that, instead of making these heavy expenditures from this fund which Congress held as a trustee for her benefit, it should build roads to the State. Instead of expending it in the erection of costly bridges and putting down the macadamizing, at an immense expense, so that the fund never could possibly, in any contingency, reach to Missouri, they remonstrated against it, and asked that, instead of these heavy expenditures, a road should be made, such as an emigrant from the East, into the State of Missouri, might safely travel over with his wagons and with his family. That remonstrance was unheeded.

Some twenty years afterwards, Missouri is here again; and when she comes here again, what does she find? She finds that Congress, after the navigation of the western rivers by steamboats, has utterly ceased to attempt even to make a road towards the State—has abandoned it entirely; and when Congress has abandoned it, she asks that this breach of trust shall be made good to her; that the amount which has been taken, which ought to have been expended to build roads to her, but has been expended hundreds of miles east of her, from which she had no sort of benefit at all, shall be refunded to her. This protest was made at least twice during the administration of Governor King, as the Executive of the State of Missouri, and Missouri has stood all this long time protesting against the abuse of this trust fund, and asking that it shall be appropriated properly as long as the United States pretended to appropriate at all; and when she utterly neglected to do anything on the subject at all, asking that she shall not appropriate the fund to her own use, but shall allow Missouri to have the benefit of it.

Now, Mr. President, Missouri gave not only the consideration that was given by other States for the two per cent. fund, but she gave a much higher and more important one. She agreed that the public lands which should be sold within her borders should be exempted from taxation for five years after the sale; and certainly as late as 1850, the amount of public lands sold which was exempt from taxation under this provision was about thirteen million acres, or upwards of sixteen million dollars in value, which she refrained from taxing; which forbearance was a part of the consideration for the two per cent. fund. In addition to the heavy consideration that was given for not taxing the public lands, the same that was given by the other States, this consideration has been paid by the State of Missouri. Here she

has been, since her admission into the Union, now for some thirty-nine years, forbearing to tax the public lands sold, for five years after their sale, until within a few years past. Every other State, I believe, except the State of Missouri, in which there was a reservation of two per cent. to be expended in making roads to the State, has had the benefit of that. First, Indiana, Illinois, and Ohio have had the benefit, in that they have had the roads built to and into those States; and next, Congress has not only built the roads into those States, and through all of them except Illinois, but by the act of the 20th of January, 1853, she relinquished the road in the State of Ohio to that State. She first built the road, and gave that State all the advantages of having the open communication afforded by it, and in addition to this, in 1842 she relinquished the road.

Mr. WADE. I wish to ask the Senator whether, in relinquishing, she did not make it a condition that no more tolls should be levied on the road than enough to keep it in repair?

Mr. POLK. That may be so. I really do not recollect what was the provision in the act relinquishing to Ohio. Before that relinquishment to Ohio, on the 11th August, 1842, there was a relinquishment made to Indiana of so much of the road as lay within her limits; but as to Illinois, there has been no relinquishment, because the work done in Illinois, I believe, was really of no advantage to that State. Missouri stands, then, with her two per cent. fund retained from her—expended, says the Senator from Vermont. Well, suppose we concede it to have been expended. She had her two per cent. expended for building a road in the States laying far east of her, which States have had the benefit of the use of the road in opening up emigration into them, and have actually had the road relinquished to them; while Missouri has neither had the opening up of the emigrant route to her by the building of the road, nor has she had any relinquishment of the road to her, for indeed it has not been built to be relinquished.

Is it not fair that Missouri should have just what these other States have had? Is it not fair that she should have what the new States have had, what Iowa has had, what Wisconsin has had, what Florida has had, what Minnesota has had, what California has had, what every State that has been admitted into the Union has had, and what has been proposed to be given to every State that has been proposed to be admitted into the Union? The bill for the admission of Oregon proposes to give her five per cent.; and all the bills that were before Congress at the last session for the admission of Kansas into the Union proposed to give her that much; and, in addition to that, Mississippi and Alabama have had the two per cent. relinquished to them.

Mr. President, the most and the best that can be said for the United States in the relation that she sustains to Missouri in this case, is, that she stands in relation to this trust fund in the attitude of a trustee; and in that attitude she can assume but one of two positions—either the trustee has misapplied the trust money, and therefore, when she is asked to refund it, has no excuse to make why she should not be compelled to refund it; or, what I will suppose to be the better position, of having ceased to do anything towards giving the *cestui que trust* the benefit of the trust fund that has been placed, by the contract between the two, in her hands. Now, sir, shall she not do it? Shall she not either build the road to the State, or give to Missouri the fund with which that road was to be built? That is the simple question. Aside from the generosity and equity of the case, as was presented by my colleague in his opening remarks, I say that she stands in the position of asking that the trust shall be executed by the United States; that either the road shall be built, or that the money which was set apart for building it shall be put into her hands, and let her apply it for her own benefit. That the road is not to be built we all know. That has been abandoned long ago. Steam on the water and steam on the rail-track has superseded it, has made it obsolete. This Government has the fund, if it has not misapplied it. I will not suppose that it has abused it, and appropriated it to uses that were foreign to the contract and in violation of the contract between it and the *cestui que trust*. It has that fund; and the simple question is, when it will not use it, whether it shall not give it to the *cestui que trust*

for whose benefit it holds it, and let the *cestui que trust* use it?

I do not mean to detain the Senate with remarks on this question. I think the case is a perfectly clear one, and it seems to me that it is one in which, if the money be paid now, tardy justice even is not done; because Missouri gets, thirty years after her admission, what ought to have been appropriated to her benefit immediately upon the ratification of the contract between her and the United States.

The question being taken, the bill was passed.

Mr. TOOMBS subsequently said: I desire to make a motion to reconsider the vote passing the bill in regard to the Missouri two per cent. fund; and I will agree to take up the motion at any time that will suit the gentlemen from that State. I was engaged at the time in examining into the facts when the vote was unexpectedly taken. I do not think the question ought to have been passed in the way it was.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

CHOCTAW NATION.

Mr. SEBASTIAN. I ask the Senate to allow me to take up a little question of reconsidering a joint resolution, which will lead to no debate at all. It is that which places the Choctaw nation on the same footing with the States, in receiving and distributing a share of the archives of the country.

The PRESIDENT *pro tempore*. The Chair hears no objection. The question is on the motion to reconsider the vote passing the joint resolution (S. No. 68) for supplying the Choctaw nation with such copies of the laws, journals, and public printed documents, as are furnished to the States and Territories.

The motion to reconsider was agreed to.

Mr. SEBASTIAN. My object in moving the reconsideration was to insert an amendment embracing the Chickasaws and Cherokees, who also have republican forms of government and national libraries. My amendment is to insert "Cherokee and Chickasaw" before the word "nation."

The amendment was agreed to.

The joint resolution was passed; and the title was amended so as to read "A joint resolution for supplying the Choctaw, Cherokee, and Chickasaw nations of Indians with such copies of the laws, journals, and public printed documents, as are furnished to the States and Territories."

MOBILE AND OHIO RAILROAD.

Mr. STUART. The Committee on Public Lands, to whom was referred the bill (H. R. No. 669) for the relief of the Mobile and Ohio Railroad Company, have directed me to report it with an amendment.

Mr. WADE. This day, I believe, has been appropriated to the consideration of private bills; and I move that we proceed to the consideration of the Private Calendar.

Mr. BROWN. The Senator will allow me a moment. The Senator from Michigan has reported a bill in reference to the Mobile and Ohio Railroad Company, with an amendment, to which, I think, there can be no possible objection; and I ask that the Senate will concur in it, and let the bill pass. It will not take a second. No one objects to it.

Mr. WADE. Very well.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 669) for the relief of the Ohio and Mobile Railroad Company.

The bill provides that, as the State of Mississippi, by its act approved on the 28th of January, 1852, and the State of Alabama, by its act approved on the 1st of December, 1851, did transfer to the Mobile and Ohio Railroad Company the lands which were granted to those States under the provisions of the act of Congress approved the 20th September, 1850, to aid in the construction of a railroad from Mobile to the mouth of the Ohio river, the transfers of the lands so made by those States, respectively, to that company, are recognized, ratified, and confirmed, and the titles to all *bona fide* purchasers of the company are also confirmed; and the time limited by the original act of Congress for the completion of the railroad is extended, and the company is allowed further time

till the 20th of September, 1865, to complete the same.

The Committee on Public Lands reported the bill with an amendment to insert, at the end of the bill:

Provided nevertheless, That the said Mobile and Ohio Railroad Company be subjected to, and shall comply with, all the conditions, restrictions, and limitations contained in the act of Congress above referred to, approved September 20, 1850.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed.

The bill was ordered to be read a third time; and it was read the third time.

Mr. HARLAN. I desire to record my vote against the passage of the bill. I do not propose to discuss it, however. I will merely state two objections, in my mind, to the passage of the bill. One is, that the company propose to make Columbia the terminus of the road instead of Cairo; thus leaving a link of twelve or fifteen or twenty miles, in the chain of communication, to be supplied by steamboats instead of railroads. The other is, that it places a company in the position of the State, so far as concerns the fulfillment of the guarantees contained in the original bill making the grant of land. Under the original bill, the States of Alabama and Mississippi would be required, if they should fail to fulfill the conditions of the grant, to refund to the Treasury of the United States money in lieu of the land. If this bill shall pass with the amendment now attached to it, it will require of the railroad company to refund to the Treasury of the United States, instead of leaving that duty with the States of Mississippi and Alabama. I apprehend that all those who are interested in having a complete line of communication from the lakes of the north to the Gulf on the south, would desire that the original contract, implied in the law making this grant, should be fulfilled, and that that chain of railroad communication should be complete. If this bill shall pass, even with the amendment, the railroad communication from the lakes to the Gulf will not be complete. I call the attention of the Senator from Illinois to this subject, however, as a party more directly interested than I am.

Mr. BROWN. I think the Senator is entirely mistaken. If any such objection lay to the bill as he states, I think it is entirely covered by the amendment; but if he wants more specific language let him put it in. I think an amendment which proposes that all the obligations and duties imposed by the original bill, shall be left in full force, will bind the company and bind the States. I cannot see that there is any objection to that.

Mr. HARLAN. I ask for the reading of the amendment, from which it will appear that I am correct.

The Secretary read the amendment.

Mr. HARLAN. The original law is in the nature of a contract between the Government of the United States and the States of Alabama and Mississippi. This substitutes a company in place of the States. That is one point. The other is, that the original design seemed to have been to secure a railroad communication from the lakes of the north to the Gulf of Mexico. This company, under their compact with the State of Mississippi, propose to stop short of Cairo, the point mentioned in the original bill.

Mr. BROWN. I do not want any advantage in this legislation. I am perfectly willing to add the words which have been suggested to me by the Senator from Michigan:

And that nothing in this act shall be so construed as to release the States of Alabama and Mississippi from any obligation contained in the original act.

Mr. HARLAN. With that amendment, I have no objection.

The PRESIDENT *pro tempore*. No amendment can be offered now without unanimous consent. The Chair hears no objection.

Mr. BROWN. I do not want the States released, and they do not desire it.

Mr. STUART. I offer an amendment to accomplish the object:

And provided, That nothing herein contained shall be construed so as to release the States of Mississippi and Alabama from any liability imposed upon them, or either of them, by the said act of September 20, 1850.

Mr. DAVIS. I have not the least objection to

the amendment; that is, I have no objection to the obligation which the amendment would seem to imply; but I have an objection to amending the bill at all. It may defeat the whole matter, by sending it back.

Mr. BROWN. I hardly think it can when we cannot get it through at all without the first amendment.

Mr. DAVIS. If the amendment is considered important by any one—very well.

Mr. BROWN. The bill has already been amended on the motion of the chairman of the Committee on Public Lands.

Mr. DAVIS. I cannot conceive that it is of the least importance, but if it is insisted on I shall not object.

The amendment was agreed to.

Mr. DOOLITTLE. I should like to inquire of the Senator from Mississippi whether there is anything in this bill which authorizes a change of the terminus?

Mr. BROWN and Mr. DAVIS. No.

Mr. DOOLITTLE. Is the terminus still at Cairo?

Mr. BROWN. Certainly.

The bill was passed.

CREEK DEPREDACTIONS.

Mr. WADE. I renew the call for the private Calendar.

The PRESIDENT *pro tempore*. The private Calendar will be taken up.

The first bill on the Calendar was the bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. IVERSON. It is agreed among the parties interested that that bill shall be laid aside. I move that it be postponed for the present.

The motion was agreed to.

JOSÉ DE LA MAYA ARREDONDO.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo.

The bill provides that the Commissioner of the General Land Office shall cause to be surveyed, by the surveyor general of Florida, twenty thousand acres of land in that State, according to the calls, boundaries, and description contained in the grant of the same, by the Governor of East Florida, to José de la Maya Arredondo, bearing date March 20, 1817, and referred to in the record and proceedings of the Supreme Court of the United States, in the case of the United States against Benjamin Chaires and others, decided at the January term of that court in 1836, and according to the survey of the same grant made by Joshua A. Coffee, in 1824; and, upon the return of the survey to the General Land Office, shall issue a patent to the heirs or legal representatives of José de la Maya Arredondo, for any portion of the grant of land which may, at the time of the survey, be found to be vacant; and for the remainder of the grant the heirs or legal representatives shall have the right to enter, in any land office of the United States, a like quantity of any land subject to private entry, in parcels conformable to sectional divisions and subdivisions.

Mr. MALLORY. Is that bill reported from the Judiciary Committee by the Senator from Louisiana, [Mr. BENJAMIN?]?

The SECRETARY. It was reported by Mr. Biggs, from the Committee on Private Land Claims.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Florida [Mr. MALLORY] to the bill at the last session, in line sixteen, after the word "representatives" to insert, "of B. Chaires, deceased, to Gad Humphries and Pedro Miranda;" and in line eighteen, after the word "vacant," to insert "or unappropriated."

The amendment was agreed to.

Mr. MALLORY. I ask that that bill be laid aside for to-day. I see that my colleague is not in his place. It relates to a matter which, I believe, has been provided for in a bill reported by the Senator from Louisiana. I move that it be postponed for the present.

The motion was agreed to.

EPISCOPAL MISSIONARY SOCIETY.

The Senate, as in Committee of the Whole,

proceeded to consider the bill (S. No. 196) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin.

The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States, by this bill, is to be authorized to enter, at the rate of \$1.25 per acre, a certain tract of land known as the "Mission Farm," and numbered as lot No. 18, on the east bank of Fox river, near Green bay, State of Wisconsin, having a front on Fox river of six chains, and running eastwardly back from the river, between parallel lines, one hundred and fifty-four and sixty-nine hundredths chains, and containing ninety-two and eighty-one hundredths superficial acres.

In the year 1829, the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States, by permission of the Secretary of War, entered upon lot No. 18, situated on the east side of Fox river, near Green bay, the State of Wisconsin, and established thereon a mission and school among the Menomonee and other Indians in that vicinity. The memorial of the society alleges that the mission continued in successful operation until the removal of the Indians to the west of the Mississippi, and that upwards of nine thousand dollars have been disbursed for improvements made by it on the land. The society, in order to indemnify itself as far as possible, as well as to carry on missions elsewhere, now asks Congress to pass an act allowing it to enter the land on the payment of the usual price demanded of settlers on public lands.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN HASTINGS.

The next bill on the Calendar was the bill (S. No. 207) for the relief of John Hastings, collector of the port of Pittsburg.

Mr. IVERSON. I move to postpone that bill. The motion was agreed to.

MISSOURI TWO PER CENT. FUND.

The next bill on the Calendar was the bill (S. No. 157) to provide for the payment to the State of Missouri, of two per centum on the net proceeds of the sales of the public lands therein, heretofore reserved under a compact with that State.

Mr. PUGH. We passed a House bill this morning for the same purpose. I move that this lie on the table.

Mr. STUART. I move to postpone it indefinitely, so as to get it off the Calendar.

The motion of Mr. STUART was agreed to.

ALEXANDER ROSE.

The bill (S. No. 243) for the relief of Alexander Rose, was read the second time; and considered as in Committee of the Whole.

It directs that the Secretary of the Treasury pay to the heirs of Captain Alexander Rose, of the sixth Virginia regiment of the continental line of the Revolution, the commutation pay of a captain of infantry, amounting to \$2,400.

Mr. SLIDELL. Let us hear the report in that case.

The Secretary proceeded to read the report.

Mr. SLIDELL. I am willing to dispense with the further reading of the report. I thought it involved the general principle. I see that it is a peculiar case.

Mr. TCOMBS. I want it read.

The Secretary concluded the reading of the report, from which it appeared that Alexander Rose was a captain in the Virginia continental regiment from the 17th of September, 1776, to the 3d of September, 1778; that he never received the commutation, and died about 1814. To entitle his heirs to the commutation of five years' full pay under the resolution of 1783, it is necessary that they should adduce satisfactory evidence that he served to the end of the war. The evidences of that fact are: 1. That he received from the State of Virginia the amount of land which was due to an officer who so served. 2. The affidavit of John Smith, a captain in the fourth regiment, dated in 1807, who swears that Alexander Rose was in the sixth regiment of infantry in the spring of the year 1776, and afterwards was promoted to the rank of captain, in which capacity he served to the close of the war, in 1783. There is also a cer-

tificate, signed by Samuel Coleman, in the following words: "It appears from the list transmitted from the War Office of the United States that Alexander Rose was considered as in service until the end of the war, and that he is entitled to additional land bounty for eight months." Copies of the affidavit and certificate are certified from the executive department of Virginia, by the Secretary of the Commonwealth. 3. A letter from the Assistant Secretary of State of the United States, in which it is stated that "the name of Alexander Rose appears on the list of officers who served to the close of the revolutionary war, on file among the original Washington papers in that Department." But, on the other hand, there is evidence from the Pension Office that the name of Alexander Rose is returned on the list of officers of the Virginia continental line, on file in that office, among the supernumerary captains, prior to October, 1780, who were entitled to one year's pay and bounty land. There is an apparent inconsistency in these statements; but the committee think the preference should be given to the first; because, the Washington papers, as to the service of the officers, are regarded as more reliable than the lists to be found in the other offices; because the affidavit and certificate are both confirmatory of the service to the end of the war; and that both may be true, as Captain Rose, although a supernumerary in 1780, may have again entered the army, and served as stated in the Washington papers.

Mr. PUGH. I move that that bill be indefinitely postponed. I do not see the merit of the claim. However, I will take the vote on the passage of the bill. I wish to call the attention of the Senate to the fact that here is a party as to whom there is no proof to bring him within the resolution for commutation at all. There is a mere vague statement that, in 1780, his name was found on a list of supernumerary officers, and the committee presume that he must have entered the service again. Now, there is no difficulty about his service from 1776 to 1778. That is proved; but that does not entitle him; and upon a vague presumption that he might have entered the service again, and might have served longer, he is to be interpolated into the benefit of that famous commutation resolution, upon which the great revolutionary plunder bill was based a few years ago. I think there are enough claimants within that resolution, without interpolating any others; and I call for the yeas and nays.

Mr. TOOMBS. I ask the committee if there is any reason given—there is none in the report—for the delay of this claim for seventy years. If he was entitled to it he could have gone in 1790 and got it. The men at that time knew all about it. I say we ought not, here in the Senate, after a lapse of seventy years, to pass a claim, which if true, was very easily proven in 1790; and therefore, even if the proof was apparently good, I should think we ought not to allow it. We should recollect, too, how very stringent were the revolutionary officers themselves, for, by a report to Congress at the very beginning of the Government, they said they would not extend that one inch, knowing its results were very unequal to the officers of the Revolution.

Mr. SIMMONS. I hope the bill will be postponed for the present. Neither of the Senators from Virginia is here.

Mr. PUGH. That is a good suggestion. As the Senators from Virginia are not here it had better be passed over, though I believe it has been passed over every time it has been called up, last session and this session.

The PRESIDENT *pro tempore*. It will be passed over.

REFERENCE OF A BILL.

Mr. SLIDELL. I ask permission of the Senate to have a bill taken from the table, merely for the purpose of reference. I supposed the Senator from Tennessee [Mr. BELL] had charge of it yesterday. It is the bill for the relief of the captors of the brig Caledonia. I move that it be referred to the Committee on Naval Affairs.

The motion to take up the bill was agreed to; and it was referred to the Committee on Naval Affairs.

LAND TITLES IN MAINE.

The bill (S. No. 250) to provide for quieting certain land titles in the late disputed territory in

the State of Maine, and for other purposes, was read the second time, and considered as in Committee of the Whole.

It is proposed to authorize the Secretary of the Treasury to pay to Laura A. Stebbins, of Bangor, in the State of Maine; Catharine C. Ward, of Roxbury, in the State of Massachusetts; Rufus Mansur, of Houlton, in the State of Maine; and James A. Drew, of Phoenix, in the State of Rhode Island, the sum of \$3,353 each, being, in all, the sum of \$13,422, in full compensation for three thousand three hundred and fifty-three acres of land, in the half township in the State of Maine granted by the State of Massachusetts to the late General Eaton, and called the "Eaton grant," to which the parties lost title by the operation of the fourth article of the treaty of 9th August, 1842, "To settle and define the boundary between the United States and the possessions of her Britannic Majesty in North America;" but Laura A. Stebbins, Catharine C. Ward, Rufus Mansur, and James A. Drew, are to execute deeds of release to the parties holding "possessory," or "equitable possessory claims," to the three thousand three hundred and fifty-three acres of land, or any portion thereof, as described in the reports made to the Governor and Council of Maine, by Ebenezer Hutchinson, and others, commissioners under a resolution passed by the Legislature of that State on the 12th day of April, 1854, and the plan of surveys accompanying the reports, and of record in the land office of that State; and it is to appear to the satisfaction of the land agent of the State of Maine that such deeds of release effectually convey a good title to the lands, except so far as the titles have been affected by the operation of the treaty; but if it shall appear to the land agent that the parties are incompetent to make such deeds of release to the whole of the lands, then they shall be entitled to receive a *pro rata* only of the compensation for so much as they shall convey.

The Secretary is also authorized and required to pay to Edmund Monroe and Benjamin Sewall, of Boston, in the State of Massachusetts, the sum of \$13,540, in the proportion of three fourths thereof to the former and one fourth to the latter, in full compensation for three thousand three hundred and eighty-five acres of land in the western half of Plymouth township, so called, in the State of Maine; and the sum of \$6,768 to Rufus Mansur, of Houlton, Maine, and James A. Drew, of Phoenix, Rhode Island, in full compensation for sixteen hundred and ninety-two acres of land in the eastern half of that township, to which the said parties severally lost title by the operation of the fourth article of the same treaty, subject to the same regulations, restrictions, and provisions.

The Secretary of the Treasury is also directed to pay to Laura A. Stebbins, of Bangor, Maine, and Catharine C. Ward, of Dorchester, Massachusetts, the sum of \$6,650; and to Edmund Monroe and Benjamin Sewall of the city of Boston, in Massachusetts, the sum of \$7,635, in the proportion of three fourths of the same to Monroe and one fourth to Sewall; and to James A. Drew, of Phoenix, Rhode Island, and Rufus Mansur, of Houlton, Maine, the sum of \$9,328; the several sums being in full compensation, at the rate of one dollar per acre, for timber taken from lands owned by those parties, respectively, and located in the Eaton grant and Plymouth township, so called, in the State of Maine, and within the district recognized as the disputed territory, which timber was taken off and lost to the proprietors in consequence of the diplomatic arrangement entered into between the United States and Great Britain in 1832, by which both parties agreed to abstain from the exercise of jurisdiction in that Territory.

The bill was reported to the Senate.

The PRESIDENT *pro tempore*. The Chair will suggest that there is a word to be inserted in the second section. It now reads: "that the Secretary;" it should read: "the Secretary of the Treasury." That amendment will be made if there be no objection.

Mr. WRIGHT. If there is any report in the case, I should like to hear it.

Mr. IVERSON. If the Secretary will send me the report, I think I can make a much shorter explanation of the bill than can be made by the reading of the report. It is a very long report.

This claim arises out of the fourth article of the treaty, commonly called the Ashburton treaty, between the United States and Great Britain. The fourth article was in these words:

"ART. 4. All grants of land heretofore made by either party, within the limits of the territory which, by this treaty, fall within the dominion of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made; and all equitable possessory claims arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall, in like manner, be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land so described as best to include the improvements made thereon; and in all other respects, the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them, respectively, which has heretofore been in dispute between them."

Under this article of the treaty, it will be perceived that when the line should be ascertained between the two countries, the persons who had been in possession of any of those lands for six years anterior to the treaty were to hold them. Under the operation of this clause of the treaty, several of the owners of this property, those who held the legal title, have been deprived of their lands, and they have gone to actual settlers, persons who squatted on the land six years before the execution of the treaty.

Mr. WRIGHT. I am satisfied.

Mr. IVERSON. I have no disposition to go any further if the Senator is satisfied. There can be no difficulty about the bill.

The bill was ordered to be engrossed, and read a third time; and it was read the third time, and passed.

SIEUR DE BONNE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 259) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur de Bonne and Chevalier de Repentigny, to certain land at the Sault Sainte Marie, in the State of Michigan.

The legal representatives of the Sieur de Bonne and of the Chevalier de Repentigny are, by this bill, to be authorized to present their petition to the United States district court for the district of Michigan, setting forth the nature of their claim to certain land at the Sault Ste. Marie, in the State of Michigan, under an alleged grant in 1750, from the Governor and lieutenant general, and from the intendant general of New France, now Canada, with evidence in support of their claim, stating the names of all persons claiming adversely, and praying that the validity of the title may be inquired into and decided under the laws of nations, the laws, usages, and customs of the country from which the same was derived, and the treaties and laws of the United States; and the court is to be authorized to examine the same, and, in adjudicating the question of the validity of the title as against the United States, to be governed by the laws of nations, and of the country from which the title was derived, and also by the principles, so far as they are applicable, which are recognized in the act of Congress approved the 26th May, 1824, "enabling the claimants to land within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of the same;" and the district attorney is directed to proceed in defense of the interests of the United States in all things, as required and directed by the act of 26th May, 1824. Suit is to be instituted by the claimants within two years, and an appeal may be taken either by the claimants or the United States to the Supreme Court of the United States within one year from the date of the rendition of the decree of the district court. In case of a final decision against the validity of the claim, or in case of the failure of claimants to prosecute it within the period specified, the claim is to be held forever barred, both in law and equity; but in the case of a final decree in favor of the validity of the grant, it is not to be construed to affect, or in any way impair, any adverse sales, claims, or other rights which have been recognized by the United States within the limits of the claim, or which, under any law of the United States, may have heretofore been brought to the notice of the land commissioners or of the land officers in Michigan, but for the area of any such

adverse claims the legal representatives of De Bonne and Repentigny are to receive from the Commissioner of the General Land Office warrants authorizing them or their assigns to enter any other lands belonging to the United States, and subject to entry at private sale, at \$1 25 per acre, which warrants are to be for sections or legal subdivisions of sections at the option of the parties entitled to receive them.

Mr. FESSENDEN. I remember that that bill was up once before, when very considerable objection was made to it, and some discussion ensued here. I should like to know what the facts are.

Mr. BENJAMIN. The only objection made was by the Senator from New York, [Mr. KING,] who subsequently withdrew it. His objection was, that he was opposed to people's having land warrants for land which the Government had sold. This bill provides that when this party has sued the Government for his land, if he gets a judgment for his land, if it shall turn out that the Government has already sold a part of it to other people, instead of evicting them he shall have warrants to locate elsewhere land that is subject to entry at \$1 25 per acre.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BRIG GENERAL ARMSTRONG.

The bill (S. No. 273) for the relief of the owners, officers, and crew, of the brig General Armstrong, was read a second time, and considered as in Committee of the Whole.

The Secretary of the Treasury is to be directed to pay to the owners, officers, and crew, of the private-armed brig General Armstrong, destroyed in the port of Fayal, by a British squadron, during the last war with Great Britain, the sum of \$60,739, in full compensation for all losses sustained thereby, estimating the value of the vessel and losses of the officers and crew as the same are ascertained by the Court of Claims in their report to the Senate and House of Representatives of the 1st February, 1858, and deducting therefrom the sum of \$2,000, heretofore paid to the claimants as prize money.

Mr. HUNTER. Is there not a decision of the Court of Claims against that? ["Yes."]

*The PRESIDENT *pro tempore*. The Chair is not informed on the subject.

Mr. BROWN. I can explain that in a word.

Mr. MASON. The report is a short one, and that explains what was done in the Court of Claims.

Mr. KENNEDY. I should be glad to hear the report read.

The Secretary read the report of the Committee on Foreign Relations:

The Committee on Foreign Relations, to whom was referred the report from the Court of Claims in the case of the "claimants of the brig General Armstrong, against the United States," have had the same under consideration, and now report:

That at the first session of the Thirty-third Congress the Committee on Foreign Relations of the Senate, to whom the petition was referred, made a report, accompanied by a bill for the relief of the petitioners, (report No. 157, Senate bill 288.) The case was subsequently referred to the Court of Claims, both by the Senate and House of Representatives.

The case now comes before this committee on the report of the Court of Claims, (Miscellaneous Document No. 142, first session Thirty-fifth Congress.) On examination of this report it appears that, at the first hearing, that court sustained the claim of the petitioners as valid against the Government, and directed that evidence should be taken to show the amount due; one of the judges dissenting.

On a further hearing of the case on such evidence, one of the judges, theretofore in the majority, reconsidered and reversed his opinion, and judgment was then rendered adversely to the claim; the ground then assumed being, that on the proofs no claim in law was established against the United States, and that the claim could be addressed only to the liberality and equity of Congress.

On examination of this report from the Court of Claims, it would appear that the court assumed that certain proofs had been laid by the Government of the United States before the arbitrator, which might materially have affected his award, but which it now clearly appears was a mistake, and that the proofs in question were not before him when the award was made.

The facts appear to be these: By the convention with Portugal, pursuant to which this claim was referred to the arbitration of the Republic of France, it was stipulated that all the correspondence between the Government of Portugal and the United States respecting this claim should, by the parties to the treaty, be laid before the arbitrator. In doing this it further appears that, by some misapprehension, a part of this correspondence, being that which first arose in the years 1814-15, and conducted at Rio de Janeiro, (where the Government of Portugal then resided,) was omitted, and in which the last named Government

admitted, by necessary implication, its liability to the claimants.

It is now shown that the evidence of such omission had been communicated by the Secretary of State to the solicitor of the Court of Claims prior to the judgment of that court in the case, but for some reason had not been laid before the court; whilst both the existence of such proofs and the omission to adduce them before the arbitrator was necessarily unknown to the claimants, nor were these facts discovered until after the decision of the court.

In proof of this, the committee append to this report a copy of the letter of Mr. Marcy to Mr. Blair, solicitor of the Court of Claims, dated 20th November, 1855, with the papers accompanying it. There is a descriptive list of the correspondence that was laid before the arbitrator, and this correspondence of 1814 and 1815 is not amongst them.

It was contended in the argument on the part of the Government that, even conceding that this last named correspondence was not before the arbitrator, still no injury could have resulted to the claimants, because all the material facts contained in it were referred to or otherwise cited in so much of the correspondence as was exhibited. Still, the committee are of opinion that the failure to exhibit it, as required by the convention, is a matter of just complaint by the claimants; because, amongst other reasons, it cannot be known what inferences or conclusions might be drawn by the arbitrator by reason of its absence.

Nor do the committee mean to say that, had that evidence been before the Court, it would have made a clear case of demand in law against the Government; but they advert to it as a further equitable consideration in favor of the claimants.

On the whole, the committee, on further examination, again concur in their report, before adverted to, of March 10, 1854, in favor of this claim, and make the same a part of this report; and on the proofs as to the amount due, established before the Court of Claims, and set forth in its report, pages 149 and 150, report a bill for the relief of the claimants.

The proofs before the Court of Claims show:

The value of the vessel at.....	\$43,000
Loss of officers and men.....	27,739
	<hr/> \$70,739
For which is deducted—	
Amount paid heretofore as prize money to officers and men.....	10,000
	<hr/> \$60,739

Mr. MASON. Mr. President, in the month of March, 1854, a report was made from the Committee on Foreign Relations upon this claim for the relief of the owners, officers, and crew, of the brig General Armstrong, accompanied by a bill. The report is quite a long one; and sets out the grounds upon which the committee recommend the payment of this money to these claimants. When it came before the Senate, it was, on the motion of some Senator, I do not recollect who—very possibly my colleague, who, very wisely and properly, watches the course of these private claims—referred to the Court of Claims. The Court of Claims, as shown by the report, at first decided in favor of the petitioners, that it was a valid claim against the Government; and directed that evidence should be taken to show what was the true value of the matter in controversy between the claimants and the Government. That evidence was taken, and the sum was fixed at \$70,739; but \$10,000 having been paid during the war as prize money to the officers, the amount of it was deducted, leaving a balance of \$60,739; so that we have in the case at least the amount of the claim sifted by evidence before that judicial tribunal. When the case came back before the Court of Claims upon the evidence, it was reargued, and one of the judges changed his opinion, and that reversed the judgment of the court; the ground assumed being that, on the proofs, no claim in law was established against the United States, and that the claim could be addressed only to the liberality of Congress.

Now, sir, I propose very briefly to state the grounds upon which the Committee on Foreign Relations recommend the payment of the claim in the report submitted at the present Congress. This case, probably, is known to most Senators, because it has passed into the history of the country. The action out of which the claim arose redounded very much to the credit of the American people, as one of the incidents of the last war with Great Britain. The brig General Armstrong was a privateer. Our navy was very small at that day, and it was the policy of the Government, as its legislation shows, to encourage the system of privateering to supply the deficiency of the Navy, and it was used to a very large extent, and was a very successful arm of the service during that war. The brig General Armstrong, owned I do not recollect where, was commanded by Captain Reid, then a very young man. It was lying at Fayal, in the Portuguese possessions, when there arrived off the mouth of the harbor a British force con-

sisting of two or three ships; and under a pretext, not then even assumed, but afterwards set up in their defense, they made an assault upon this brig lying in a neutral port for the purpose of capturing her. The first assault was repelled. It then appeared that all the boats of those British ships were manned and sent to the assault of this brig, lying almost under the guns of the fort of Fayal; that the assault was resisted, and how many I do not now remember, but a vast number of the enemy killed; a number of the boats were sunk, and the assault was repelled; but it was repelled by the loss of almost the whole crew of the General Armstrong. The boats drew off; and then the British commander, persevering in his purpose in violation of the neutrality of the port, was preparing to warp his ships into the harbor in order to bring them within gunshot of the privateer, which would inevitably have destroyed her and the men in her; and thereupon the captain withdrew his men and landed, and the ship was blown up and burnt.

I remember very well the impression that was made on the public mind by the gallant and successful defense of the ship, although a private armed ship, yet fighting the battles of the nation when our Navy was in its infancy. I remember that public honors were paid to the captain and the officers when they returned, and the contribution that was made by Congress of \$10,000, was made in the nature of prize money to the officers and crew of that brig.

The British Government having violated the neutrality of the port of Fayal, devolved of necessity by international law the duty on the Portuguese Government to make good that law; and it was presented to the Portuguese Government by the American Government, and the claims pressed. Such was the sympathy, then, of the American nation, and the Government sympathizing with it, that the claim was pressed almost to the verge of war against Portugal, who resisted its payment; for an armed squadron was sent into the Tagus to admonish Portugal that, if the claim was not paid, an act of war would be committed. In that state of things, a convention was made between Portugal and the United States, by which it was agreed to submit the question of the liability of Portugal to the arbitration of the President of the French, now the Emperor of the French; and it was stipulated in the convention that all the correspondence which had taken place between the two Powers at Rio Janeiro, at that time the seat of the Government of Portugal, should be submitted by the two Governments to the arbitrator. The arbitration was held, and the President of the French Republic decided in favor of Portugal, upon the ground, really repelled by the proofs in the case, that there was something to show that while the boats of the British squadron were on their way to the shore, a watering party, they were fired into from the brig—an allegation that was entirely without foundation, as shown by the whole tenor of the proofs in the case, and by the American consul, who was present, and who saw the whole affair. It was really a pretext got up and exhibited, I know not how, before the French referee, and on that point he decided adversely to the claim. It has been subsequently made to appear, and is abundantly proved, that from some oversight, or some omission, that stipulation of the treaty made in favor of the claimants, that all the correspondence between the two Governments should be laid before the referee, was not carried into effect. There was a large body of the correspondence that never went before the referee, at all, from some omission, casual, I doubt not, in the hurry of doing these things—some omission on the part of this Government; and that is clearly shown in the report. The report says:

"It further appears that, by some misapprehension, a part of this correspondence, being that which first arose in the years 1814-15, and conducted at Rio de Janeiro, (where the Government of Portugal then resided,) was omitted, and in which the last named Government admitted, by necessary implication, its liability to the claimants."

The correspondence omitted, as stated in the report, was that part in the early stage of 1814 and 1815, wherein the Government of Portugal, by necessary implication, admitted its liability. The report continues:

"It is now shown that the evidence of such omission had been communicated by the Secretary of State to the solicitor of the Court of Claims, prior to the judgment of that

court in the case, but for some reason had not been laid before the court; whilst both the existence of such proofs and the omission to adduce them before the arbitrator was necessarily unknown to the claimants, nor were these facts discovered until after the decision of the court."

There is appended to the report some communications between Mr. Marcy, the late Secretary of State, and the solicitor of the Court of Claims, giving a list of correspondence that was submitted to the arbitrator; and from an examination of that list, the fact appears that a portion of the correspondence was not submitted to the arbitrator, and in the omitted portion was the acknowledgment to which I have referred.

Now, then, it results that these claimants, who at one time had the undivided sympathy of this community, after being sent by the Government to a referee, and afterwards to the Court of Claims, have made the discovery that the Government, which had, of necessity, the whole possession of their claim, and of all the proofs, by some neglect failed to comply with the stipulations of the treaty, in laying before the arbitrator proofs which would have shown an admission of liability on the part of the Portuguese Government. That clearly appears. This is an increment which has been added to the case by the disclosures that were made in its progress through the Court of Claims, and which was not known to the committee, or before the committee, when it made its former report; and is an additional reason, in the judgment of the committee, why the claim should be allowed.

Mr. SEWARD. Will the honorable Senator allow me to ask him whether it does not appear, in this case, that the claimants applied for leave to be heard, to argue the question in some form, either orally or in writing, before the umpire.

Mr. MASON. That is the fact. I do not know whether it appears, I presume it does, in the report made in 1854, from the Committee on Foreign Relations; but I do not know, for I have not examined, whether that fact was stated in the report. The fact exists; there is no doubt about that, and is shown by the correspondence between the claimants and Mr. Webster, Secretary of State. Mr. Webster was Secretary of State when this reference was made to French arbitrament, and the claimants applied for leave to be heard before the arbitrator by counsel, and it was refused, on the ground that the convention did not stipulate for it, and the Government, therefore, took the whole thing into its hands.

Mr. HALE. If the Senator will allow me, I should like to ask him a question. The honorable Senator stated the ground on which the French arbitrator decided this claim in favor of Portugal and against us, and he has also spoken of some correspondence. The point to which I wish to call his attention is, whether the correspondence that failed to reach the arbitrator, was relative to the point on which the Senator states that the arbitrator decided the question?

Mr. MASON. Unquestionably; the correspondence that was not laid before the arbitrator, contained by implication an admission by the Government of Portugal of liability for the claim, and the ground on which the arbitrator decided it was that Portugal was not liable, because the first hostility had come from the brig; so that it was directly relative to it. That fact is distinctly stated in the report. The report says:

"It further appears that, by some misapprehension, a part of this correspondence, being that which first arose in the years 1814-15, and conducted at Rio de Janeiro, (where the Government of Portugal then resided,) was omitted, and in which the last-named Government admitted, by necessary implication, its liability to the claimants."

Then the case, as I understand it, is this: it was a claim by the American Government against Portugal to reimburse a loss sustained by one of its citizens, because Portugal submitted to a violation of the neutral rights of the American brig General Armstrong, at anchor in the port of Fayal. The claim was pressed upon Portugal to the extent of sending a ship-of-war into the Tagus; and this convention was the result of that threat. The convention stipulated that the question of the liability of Portugal should be submitted to the French arbitrament, and the convention further stipulated that all the correspondence which had taken place at Rio Janeiro between the two Governments should be submitted by the respective Governments, with a descriptive

list, to the arbitrator. The Government then undertook to submit the proofs to the arbitrator. When the claimants applied to the Government for permission to be heard before the arbitrator, the Government of the United States very properly answered, "we cannot allow that, or ask it, because the convention does not stipulate for it." The whole subject was taken out of the hands of the claimant, and submitted to the French Emperor. It now appears that a part of the correspondence, which the Government undertook to lay before the arbitrator, was not laid before him, I have no doubt by some omission in comparing the descriptive list with the correspondence; but such was the fact; and in that omitted correspondence was this admission.

Mr. HALE. I do not propose to argue this question; but I have listened with some interest to the statement made by the chairman of the Committee on Foreign Relations; and on that statement there was a possible view of the case which might command my vote, and that was this: if by mistake, or for any other reason, evidence was withheld which ought to have been submitted to the arbitrator and which was pertinent evidence to the issue upon which the honorable chairman says the arbitrator decided, and which, if it had been submitted to him, would have probably produced a different result, it might raise an equitable argument in favor of the claim; but I read from the report of the committee, made last year, April 9, 1858, in which the committee say:

"It was contended in the argument on the part of the Government, that, even conceding that this last-named correspondence was not before the arbitrator, still no injury could have resulted to the claimants, because all the material facts contained in it were referred to or otherwise cited in so much of the correspondence as was exhibited."

"Nor do the committee mean to say that, had that evidence been before the court, it would have made a clear case of demand in law against the Government."

Well, if that be so, if the committee now think that if the evidence had been before the arbitrator, it would not have made an obligation in point of law against the Portuguese Government, by which the arbitrator could have made a different award, it leaves the case just the same, to my mind, as if the evidence had been submitted.

Mr. MASON. The honorable Senator read the report of the committee; but he read from the report of the committee citing what was said by the solicitor on the part of the Government before the Court of Claims. It is not the language of the committee; it is the language of the solicitor. The report says: "It was contended in the argument on the part of the Government."

Mr. HALE. Read the next sentence.

Mr. MASON. The report says:

"It was contended in the argument on the part of the Government, that, even conceding that this last-named correspondence was not before the arbitrator, still no injury could have resulted to the claimants, because all the material facts contained in it were referred to or otherwise cited in so much of the correspondence as was exhibited."

That was what the solicitor said. The committee previously state in the report that in the omitted correspondence there was admitted, by necessary implication, the liability of the Portuguese Government to the claimants; and taking the two together, it appears that even if it were conceded, as contended by the solicitor of the Court of Claims, that all the material facts contained in the correspondence are referred to—

"Still the committee are of opinion that the failure to exhibit it, as required by the convention, is a matter of just complaint by the claimants, because, amongst other reasons, it cannot be known what inferences or conclusions might be drawn by the arbitrator by reason of its absence."

My memory is not fresh, of course, for this report was made nearly twelve months ago; but I do remember that the solicitor did contend before the Court of Claims that the claimant was not prejudiced by the failure to submit the whole correspondence, because he alleged that the material facts contained in the correspondence were referred to, or otherwise cited, in so much of the correspondence as was exhibited. That was his inference. I should take issue with him upon it. The claimant had a right to the papers and documents themselves, and not to mere references to them and constructions placed upon them. There is no conflict in the report of the committee.

Mr. BROWN. I hope, Mr. President, that the friends of this bill will discuss it as little as

possible, to the end that we may have a vote upon it. Its friends feel perfectly assured that there is a majority of the Senate in its favor. What the claimant wants is a vote, feeling perfectly assured that, after a discussion of almost forty years, in the State Department and abroad, and in both Houses of Congress, almost every intelligent man, who keeps himself at all advised on public affairs, must know something of the merits of this claim.

By universal award in the beginning, the action out of which this claim arises was the most brilliant action ever fought; and if, at that day, it had been left to the American people to say in what manner Captain Reid should be rewarded, they would have given him stars and garters, if the Constitution had permitted it. For thirty years every Secretary of State of the United States urged this claim as one just against the Government of Portugal. Finally, it was submitted to arbitrament; and the French Emperor, to whom it had been submitted while he was President of France, decided it upon grounds which I think any lawyer of even tolerable county-court standing would pronounce utterly disgraceful. One of his grounds was, that Captain Reid was bound to have called upon Portugal for protection. The evidence is, that the British fleet hove in sight at sundown, which, in that latitude, in October, when the action was fought, would be between five and a half and six o'clock, and then, that they were alongside in their boats at eight o'clock. What time had he to go and ask protection of the Portuguese Government? If he had gone; if he had left the deck of his ship to go and search for the civil protection of the Portuguese Government, and had come back, as he doubtless would, to have found his ship captured, what would all America have said? "You basely deserted the post of honor, and you have no claim to the protection of your Government. If you had stood upon deck and fought like a man, we would have defended you; but, like a craven, you left the deck of your ship, and went to seek protection where protection was not to be had."

That is one of the grounds of the Emperor's decision; and then he charges that Captain Reid fired first. Suppose he did. The proof is that he fired when he had three times warned the menacing party not to attempt to board the ship. When they showed an evident determination to come on board his ship to capture it, if possible, without resistance, he fired. Then the Emperor assumes a state of facts not sustained by the evidence in the case—that there was no proof of the British boat being armed. The proof is, that the men on the British boat killed at least two of the men on board the *Armstrong*. If they were not armed, it is very queer that they fired with such fatal effect as to produce execution.

Sir, the only point behind which the Government, after thirty years of negotiation, can protect themselves from responsibility, is, that they submitted this case to arbitration; and if the arbitrament went off on points not sustained by law, it was the duty of the Government promptly to have protested against it; to have said to the Emperor, "We will not accept the award, first, because you base it upon facts not sustained by the record, and upon conclusions not well founded in law; and to have set the whole arbitrament aside, and gone back again upon Portugal; but the Government accepted the award; we accepted it as binding upon us. At that point Captain Reid comes in and says, "You have submitted my case without my consent; and the award having been made against the facts, and against the law of the case, I appeal to my own Government to do me justice." I will do him justice, sir. This claimant has been either before the Departments, or before Congress, for more than a quarter of a century, urging his claim. His eye has grown dim, his hair has grown gray, but his body has not been bowed down, because he is every inch a man and a soldier. The hardships and injustice of his Government have neither broken his spirit nor bowed down his manly form. The time has come to act; act in the spirit of generosity, liberality, magnanimity, manliness; act to-day in the Senate as Captain Reid acted in the port of Fayal; act like men. If you have done wrong to this man, the day and the hour have come to repair it. No man ever deserved better of his Government; and

no man, in an humble sphere, ever shed more true luster or glory on the arms of his country. I would not care if it took the last dollar in your coffers; I would not care if you had to go into the street and borrow money at twenty per cent.; I would pay a debt of gratitude, like this, to a citizen who so richly deserved it. What, sir, is your privateering worth, if a man who takes protection in a neutral port, feeling that theegis of the law is over him, is, by the mere legerdemain of diplomacy, to be cheated out of what all your Secretaries and all your Presidents for thirty years said was his?

Not only in this action, but in other places has this venerable man shown his devotion to his country. Out of his mind sprang the device for your national flag, which floats over this Capitol to-day, and it was the companion of his bosom and the daughters of his household who wrought the first flag that ever floated over the American Capitol. He has been at all times and under all circumstances, a true patriot, a brave soldier, a devoted citizen, and he asks from his country nothing but justice. If he has a majority of friends here, to-day, I hope they will never allow the Senate to adjourn without awarding him that justice to which he is fairly entitled.

Mr. TOOMBS. My honorable friend from Mississippi has so signally disregarded his own advice in giving us a speech, that I hope he will not think it amiss if I shall follow so bad an example.

Mr. BROWN. I did not make a speech. [Laughter.] I hope you do not consider what I said a speech.

Mr. TOOMBS. Well, it was certainly a harangue upon the *merits* and *glories* of the petitioner.

Mr. President, if this bill simply proposed an additional recognition of the gallantry and good conduct of the commanding officer and men of the privateer General Armstrong, in the affair referred to, it certainly would not have met my opposition; perhaps it might have received my support. I say "an additional recognition," because shortly after this event the Government voted \$10,000 as a gratuity, in recognition of the very gallant conduct of the commanding officer and men of that privateer in this affair. If it was desirable to enlarge that, (as I believe patriotism, especially when connected with claims, generally enlarges,) and if we were disposed to be more patriotic than those gentlemen who at that time made that recognition, I might have been willing after this lapse of forty years, following in the general current, to do something in that way; for, perhaps, enough was not done in the beginning; but I cannot consent that this bill shall stand on the principles of that report, and the argument of its friends, especially the chairman of the Committee on Foreign Relations.

The Government has not only done all that it ought to have done, but since the peace of Ghent has done a good deal more than a great and proud nation ought to have done, in this matter. In the first place, the Government of Portugal was not bound for the payment of these damages under any circumstances whatever. It was against the law of justice and of right to urge her to pay them, and more especially, it did not lie in our mouth under the circumstances, and it was discreditable to the nation to attempt to throw the burden upon her. I admit that Great Britain, in attacking the General Armstrong, at Fayal, violated the laws of war, the laws of nations, and the sovereignty of Portugal; and she committed an act that would have authorized Portugal to go to war with her. Therefore, she was wrong; that is to say, wrong as to Portugal. She violated the law of nations and the sovereignty of Portugal, and it was a good cause of war for Portugal against England. Our vessel went in there for protection. She was a weak and feeble nation, which could not protect us; she had no means at hand to protect us; as the Senator from Mississippi has stated, there were no means there to do it. The British force was not only great enough to overcome the Armstrong after a most brilliant and gallant action, but enough to overcome any defense Portugal might have made. At that time we were at war with Great Britain, and by this act she gave us additional cause of war; she inflicted additional injury on us against the laws of war; and it was our right, by the law of nations,

to compel her in the treaty of peace, if we were able, to pay for this violation of our rights in that neutral port, and if we did not do it, there was an end of the matter.

Is it not beneath the dignity of this Government, or any great Government, under such circumstances, to press such a claim against a weak nation like Portugal? We were at war with England at that time; we fought her up to the treaty of Ghent; and, by the law of nations, we had a right to compel her to pay for this outrage in the port of Fayal; but we did not do it—I will not say for insufficient reasons, for I will allude to that after a while; but I will suppose for sufficient reasons—for national safety and national interest. We could not make England pay this damage.

We make a treaty, and do not get satisfaction for this injury; and then say: "We will whip somebody; we will go and whip Portugal, and make her pay the money, and therefore we will send a fleet up the Tagus; we will not send it up the British Channel; we will not send it up the Thames, for there are some British bulldogs; but, inasmuch as Portugal was too feeble to protect us when we wanted her protection at Fayal, and as she was not strong enough to fight England, we will compel her to pay us this money, or we will go to war with her, because she has not done that which we had a right to make England do; but were unable or unwilling to make her do." That is the case. I would as soon think of making a similar claim against a weak neighbor by whose hospitality I was sheltered, and who should be attacked by a marauder. By the laws of hospitality he would be bound to protect me; but when the marauder beat both of us, could I turn round and say to him: "You were bound by the laws of hospitality to protect me; you could not do it; now I will let off the real aggressor, and punish the poor fellow who gave me protection?" That is the magnanimity of this great Power of the North American continent!

We could not make England pay this money. We had a war with her, and after three years made a drawn game of it. We had a right by the laws of nations, as they have ever existed, and by natural justice, to require her, when we made the treaty of peace, to provide redress for this injury, if we were able to do so. What is the object of a war? It is to get redress for the original injury, and the expenses incurred in carrying it on. That is the legitimate object of all war in civilized countries, and it is the right of every nation to pursue war until it gets redress for the original wrong and the expenses of the suit. It is so laid down by the publicists. Well, this injury was part of our expenses; aggravated by having been illegally inflicted on us in a neutral port.

A nation is not compelled to fight at the cost of her existence. Nations are not always compelled to go to war to get damages. Sometimes it is a less injury to a nation to yield to the wrong, to yield the costs of suit, and settle on some compromise as to the future, as we did in 1814 at Ghent. That was a question of public policy for the generation that has gone before us. But as we were unable or unwilling to make England pay this damage, was it becoming the dignity of this country to send a frigate up the Tagus, and endeavor to make a weak Government like Portugal, pay the expense? I say it was not. I would not have demanded it of her; I was not bound to demand it of her; but the Government did it, and therefore, I say the Government did more than she ought to have done, more than a great nation ought to have done. I would have paid the money before I would have done it. If you had come to me and said, "We had to make this peace, the national safety required it, we do not intend to demand the money of Portugal, though her right and her duty as an independent power was to preserve her neutrality; but not being able to do it, and not being cause enough to go to war, we will not urge it on her;" and if you had appealed to my generosity, I might have paid every dime of it. But, here the Government of the United States endeavored to make Portugal pay. We could not go to England, because we had settled with her by the treaty of Ghent, and that forever barred and foreclosed us. We went to Portugal, and Portugal said, "I could not help this business; I do not know who was right or wrong in it; I gave

you shelter, I gave you protection; the British came in there and assaulted you, I admit, against the law of nations and against the laws of war; but I cannot help it, and I do not think I ought to pay." After our frigate was sent up the Tagus, Portugal said she would refer the case to any friendly Power. At that time, the present Emperor of France was at the head of a Republic; he was President Napoleon, and we thought we should have a fair chance with the President of the French Republic. Our Government, after the importunity, year after year, of these people to make Portugal pay the money, took charge of it, and agreed to refer the case to arbitration.

That is a very wise way of settling international difficulties. I do not think we ought to have gone to war with Portugal or England about it; especially not with Portugal. We were willing to refer a mere question of dollars and cents, involving some sixty thousand dollars; but there was no national honor of ours in the question; it became as to us a question of money. The national honor of Portugal was involved; it had been violated; but we were at war with England at the time, and she had a right to attack us wherever she could, provided she did not interfere with other people. She had impugned the national honor of Portugal, not ours. Then it was a mere question as to \$60,000 of money; and we said we would refer it to an arbitrator, and we did so.

Now these persons come and tell us that all the papers were not before the arbitrator. Well, sir, it is the business of the Government to present claims when it takes charge of them, in the best way it can. The idea that, because they have been defeated, they are at liberty to come in and say that we did not pay as much attention to their case as we ought to have done, or that the arbitrator has decided wrong, is like a man losing his case, going out of court and cursing the judge. That is about the upshot of the case—nothing else. We went before an arbitrator, and the arbitrator decided against us. There it ought to stand; and as far as I am concerned, I will never consent to pay a dime on any pretext that that judgment was wrong, knowing as I do, feeling as I do, and believing as I do, as a manly Senator, that there never was any obligation on the part of Portugal to pay the money.

Mr. MASON. Mr. President, the Senator from Georgia, meeting the views taken by the Committee on Foreign Relations, makes a distinct issue. The Senator from Georgia says that there was no claim against Portugal; that if there was a claim it was against Great Britain; and that there being no claim against Portugal, it was an unwarrantable act on the part of this Government, an act not worthy of very high commendation, that it should abandon the demand against the wrong-doer, England, and pursue it against the feeble Government of Portugal, who was in no sense responsible. That I understand to be the position of the Senator from Georgia.

Mr. TOOMBS. Yes, sir.

Mr. MASON. Well, now, Mr. President, whether there was a liability on Portugal or not depends entirely upon the ordinances of international law; and if the Senator from Georgia is right, it results that each successive President of these United States, from Mr. Madison, in whose administration the wrong was committed, down to the late General Taylor, utterly misconceived the law of the case, and presented the claim against the wrong party; and it results further, that Portugal herself, against whom the claim was preferred, never sought to shelter herself upon the defense suggested by the honorable Senator. Sir, this depredation was committed in September, 1814, and in 1815 Mr. Madison made the demand upon Portugal. The facts are shown in the report made by the Senator from Louisiana, [Mr. SLIDELL.] In September, 1814, the wrong was done, and in January, 1815, according to that report, Mr. Madison "caused Mr. Monroe, the Secretary of State, to make a formal demand on Portugal for the destruction of the brig General Armstrong, based upon the sworn protest of Captain Reid and nine of his officers, made before John B. Dabney, United States consul at Fayal."

Now, if the honorable Senator is right in his law, Mr. Madison was utterly uninformed of the law of nations. Mr. Madison orders the claim

to be pressed against Portugal. Mr. Monroe took it up; and John Quincy Adams, Mr. Monroe's Secretary of State, in a letter to the Portuguese minister at Washington, the Chevalier Corrêa de Serra, on the 14th of March, 1818, calling his particular attention to this claim, said:

"Of the facts in this case there is, and can be, no question, having been ascertained not only by the statements of the injured parties, but by the official reports of your own commanding officer. It is hoped your Government will, without further delay, grant to the sufferers by that transaction the full indemnity to which they are, by the law of nations, entitled."

Then, according to the Senator, Mr. Monroe was wrong, and so was Mr. John Quincy Adams, his Secretary. Again, on the 14th of April, 1840, Mr. John Forsyth, Secretary of State under Mr. Van Buren, in reply to the claimants, said that—

"Mr. Cavanagh's instructions (United States chargé at Lisbon) require him to urge the call upon Portugal, whenever there is room for expecting a favorable result."

During Mr. Tyler's administration, Mr. Webster, at the solicitation of the claimants, renewed this demand, and a reply in writing was received from the Portuguese minister, Señor de Castro. In this communication, dated 3d August, 1843, addressed to Mr. G. W. Barrow, chargé d'affaires of the United States at Lisbon, the liability of Portugal was, for the first time, denied.

Under General Taylor's administration, Mr. James B. Clay, who succeeded Mr. Hopkins, continued the negotiation, and in his letter of 24th April, 1850, peremptorily refused to accept the proposition of Count Tojal to refer the case of the General Armstrong to the arbitration of a third power. In the final instructions sent to Mr. Clay by the Department of State, dated March 8, 1850, a peremptory demand was made on the Portuguese Government, and twenty days allowed for a final reply. These instructions were sent to the commander of the American squadron in the Mediterranean, to be delivered to Mr. Clay, and the demand was backed by the presence of the American fleet in the river Tagus.

As I have said, the convention by which they finally did refer it, was the result of that movement. I submit, then, to the honorable Senator, that the demand, if there be a demand at all, was against Portugal; not in any sense against England. Who ever heard of rights between belligerents? We had just as much a right to demand from the British Government compensation for a public ship destroyed upon the ocean, as we had a right to demand of the British Government compensation, by any principle of international law, for this ship destroyed in a neutral port. The demand was made on Portugal, who was bound by the law of nations, to give protection to neutrals; and if she failed to give the protection, then to make an adequate reimbursement.

The honorable Senator says further, that this brig General Armstrong was under the protection of the Portuguese Government; that she sought protection of a Government too weak to extend protection; and that it is now in bad faith, and in bad taste, to urge a demand for indemnity, because the party was too weak to afford protection. I know not where the honorable Senator got his information that the brig sought protection in the port of Fayal. She was a cruiser on the high seas, under the flag of her country and the commission of her country, waging war against the enemy of her country, Great Britain; and she was lying in the port of Fayal, where she went in, and had a right to go, as a neutral, for supplies of wood and water; and had been there but a short time when this British squadron accidentally appeared off the harbor. It does not make the slightest difference in the world, whether she went in there for protection or not; when she got there, if any respect is to be paid to the obligations of international law, she was entitled to protection, just as much as if she had been found there by accident when a British squadron arrived.

Now, the honorable Senator says, and may say very truly, that the Portuguese Government was unable to protect her. I say the Portuguese Government was unable to protect her against the power of Great Britain, but was not unable to protect her against the squadron present. There was a fortification there, and there were guns there. There is no such issue raised, I would say to the honorable Senator, whether she could do it, or could not do it. I do not know whether

she could or not; but I know the papers show that the American brig was lying there under the arms of the fort. I know that the papers show that the American consul went to the Governor and demanded protection, and according to my recollection—but, as I said, it is sometime since I looked at the papers—the Governor promised to extend it; but, be all that as it may, there has been no issue raised in this whole question between the United States and Portugal, whether she was able to give the protection or not. Portugal never raised it. The United States would not have admitted it, and could not have admitted it if she had raised it. We placed the demand solely upon the obligation of the law of nations to protect the neutral, or to indemnify her in the absence of it.

Now, sir, I submit to the honorable Senator from Georgia, that the claim was against Portugal, and Portugal only; that if the United States had presented it to Great Britain, she would have been laughed at, unless Great Britain exhibited what that Government very seldom exhibits, a degree of chivalrous honor in paying an obligation of honor for which she was not at all bound in law. I regret the time that I have taken up in the Senate; but I have deemed it my duty to defend the report of the Committee on Foreign Relations on this new issue raised by the Senator from Georgia.

Mr. TOOMBS. I have but a very few words to say in reply to the Senator from Virginia; and I will commence where he left off. He said this Government would have been laughed at if she had presented this claim against England; and he has repeated several times, "who ever heard of rights among belligerents?" Well, I have; and I never read a publicist who did not treat of it. Rights among belligerents! Why, sir, it is one of the most important and universally-treated questions in the law of nations. I have laid down the law of belligerents precisely as it is laid down by Grotius, by Puffendorf, by Wheaton, and by all the publicists that have ever come under my knowledge. They say the object of war is to get indemnity for the original injury, and the cost of its maintenance; and this was one of the costs. I stated that when I was up before. In making a treaty of peace, the injured party may insist upon payment for every public ship, for every particle of property destroyed upon the high seas, for every injury done. It is a legitimate and lawful object of war; and a person who never heard of the rights of belligerents, I think never heard much of the laws of nations. It is a most astounding thing that our chairman of the Committee on Foreign Relations never heard of the rights of belligerents, never heard of the public law as laid down by all the publicists, that the entire object, and sole object, the only honest and legitimate object of war, is precisely what I announced it to be; but the chairman of the Committee on Foreign Relations of the Senate never heard of such a thing. Very well; we will not discuss that point further.

Mr. MASON. You had better not.

Mr. TOOMBS. I think he had better read it; I commend him to enlarge his reading, if he has never heard of the rights of belligerents.

Then, on the other point, I do not deny that you can find in some of the publicists, especially some of the older ones, that they hold the obligations of neutrals to be to prevent, not only on their own account, but on account of others, the invasion of their shores, and the destruction of property on neutral ground. I said Portugal had a perfect right to go to war for it, and it was her duty to do so; but it was a duty subordinate to her safety. Does any man deny that this duty of Portugal was subordinate to her safety? Being a weak and feeble power, unable to go to war with Great Britain to get this right, it was unjust and inequitable in a great Power like the United States to cast such a burden on her; and I can appeal to the magnanimity and justice of every right-thinking man on earth, if the sentiment does not find a response? Here were two belligerents at war; and one of them a powerful nation, far superior in physical power to Portugal, who could annihilate her, violates her rights of neutrality, and she is unable to protect us in her ports. We abandon our adversary with whom we are at war, do not make the demand which the law of nations authorizes us to demand at the treaty of Ghent, but turn on our feeble neighbor. Sir, I

should feel the tinge of shame on my cheek, if I could sanction such a thing.

The Senator from Virginia has given us the names of several Presidents who urged this claim. Perhaps Mr. Madison, and Mr. Monroe, and General Taylor, never read anything about it, and never looked into the international law on the subject. When persons present claims against foreign Governments, they are submitted through our ministers, and probably that was done by all these Presidents. I have never seen the principle you put it on. I have never seen anything to show that Mr. Madison gave any opinion that under the law of nations Portugal was liable for this payment. I have never seen that Mr. Monroe said so. I did meet the argument of a former Secretary of State, Mr. Clayton, on that point; and I spoke of it then, as I do now, in terms of the utmost condemnation; to his own face in the Senate, when this question was up some four years ago.

I say that Portugal had cause of war against England for this act, and that you can find authority for the assertion that it was her duty to protect us; but at the same time that duty was subordinate to her own safety; and it was very hard and unjust in a great nation like this, not getting redress for this wrong from our own enemy, to exact it from a weak and feeble Power like Portugal. A similar occurrence may happen any day to our ships in the Central American States. Those States are feeble; they have not the power to protect our vessels in their harbors against a British fleet. Are we to hold them responsible? Last summer, when the British cruisers near Cuba committed outrages on our flag, we armed our vessels, and sent them out for satisfaction; but we did not look to Cuba for it; we did not look to Spain for redress and protection; our object was, and such is the spirit of the law of nations, to right our own wrongs, and to right them on the aggressor. England was the aggressor, and by the laws of war she had no right to do this in a neutral port. Therefore, I say, it was an additional cause of war, an additional wrong, which might legitimately have been put into the treaty of peace, and which we could have put there if we had been strong enough to enforce our rights on the basis on which all the publicists put them, and that is, satisfaction for the original wrong and all the injuries sustained in its enforcement. This I take to be the sound and universally-acknowledged principle of public law.

Mr. FESSENDEN. Mr. President, the Senator from Georgia has anticipated the points which, if nobody else had taken, I designed to present in reference to this matter, because I took part in this debate, which was one that was accompanied with considerable interest some years ago when the bill was up, and my opinions were then formed very definitely with regard to the nature of the claim. At that time I came to the conclusion—and I have not since changed the opinions I then formed, in the slightest degree—with the Senator from Georgia, that there never was the slightest ground in public law for a claim by our Government against Portugal for this occurrence, which took place in the harbor of Fayal; and having come to that conclusion, all the reasoning which has been expended upon the case since with reference to other points, and which seem to concede that, of course have no effect upon my mind. I looked into the subject on the occasion to which I have alluded, and considered the question of national law very carefully, and I could come to no other conclusion. The principle is, undoubtedly, that a belligerent has the right to fight his enemy wherever he finds that enemy, as between the two belligerents. If two nations are at war, so far as the right of one against the other is concerned, they may fight anywhere, on neutral territory as well as elsewhere; and I hardly agree with the Senator from Georgia—if I understand him—in the idea that we should have any additional claim against England from the mere fact that this took place in neutral territory.

Mr. TOOMBS. No; but she took the ship. We had a right to value the ship.

Mr. FESSENDEN. Then we agree that, so far as belligerents are concerned, they may fight anywhere.

Mr. TOOMBS. Yes.

Mr. FESSENDEN. But, so far as a neutral

nation is concerned, they have no right to fight on her territory; the offense is to her; but it does not follow necessarily that because one belligerent has offended a neutral, broken the laws of neutrality, therefore the other belligerent has the right to claim remuneration from the neutral. There is no such principle as that to be found in the law of nations anywhere.

Mr. MASON. The various Administrations have thought otherwise.

Mr. FESSENDEN. I do not care anything about the Administrations. The answer made by the Senator from Georgia on that point is a perfectly true one; and that is, that they took it for granted. The claim was presented, and they made the claim for the claimants upon the other Government, without troubling themselves to look much into it; and nations do not look very closely into such matters, especially when the opposite Governments are weak. I think we are making some claims every day that we have no right to enforce. I think, from the examination I have given to it, that we are making claims upon Spain at this moment, in regard to which we are wrong; but I do not propose to discuss that matter now.

Our fellow-citizens feel injured; they come to their Government; the Government presents their claims, and the Government argues their claims; presents them as their counsel and attorney, and endeavors to enforce payment. Does it follow from that that they must necessarily be right? Not at all; and the question after all comes back. We are as likely to be wrong as anybody else; in this matter, we were wrong in endeavoring to enforce this claim. Why? Because the only condition of things in which a belligerent has a claim against a neutral under such circumstances, when an offense has been committed in a neutral port, is, when the conduct of the neutral is such as to show that she is colluding with the enemy. That gives a claim against her. If she is guilty of bad faith; if she does not honestly do her duty between the belligerents; then she is responsible; not responsible peculiarly, but responsible as one nation is to another for an injury, but nothing beyond that. With the Senator from Georgia, I deny altogether the idea which lies at the foundation of this claim from the beginning; and I assert, with him, that it will be found nowhere in any page of public law on the face of the earth that a neutral is necessarily responsible, peculiarly, for an injury done by one belligerent to another within her territory; there is no such principle.

Why, sir, suppose this property, instead of being destroyed had been captured and carried by the British into their own ports, and libeled before a court of admiralty, could Captain Reid, acting for himself and the owners, have gone forward and claimed that property and held it? Not at all. In no court of admiralty in England, or here, or anywhere else, could such a claim be allowed, simply on the principle I have stated, and the Senator from Georgia so well argued, that, as between belligerents, no such claim can exist; and if one belligerent captures the property of the other, even on neutral territory, the other belligerent cannot claim it, and a court of admiralty would not give it up to him; but the neutral can reclaim it. If this property had not been destroyed but had been libeled in admiralty, Portugal could have gone forward and claimed the property, and it would have been delivered to her; but would never have been delivered to us on any principle of public law or maritime law.

Therefore, I say with the Senator from Georgia—he will excuse me for availing myself of his argument to give my own ideas a little more at large upon this question—that, in my judgment, the whole foundation of this claim fails, and has failed from the beginning, unless it can be shown that Portugal was acting in bad faith; that she was colluding with the British in allowing this attack to be made. I go further, and say that a neutral Power, although abundantly able, is not, by the law of nations, bound to resist such an infringement of her territory by force; and she is not responsible to the belligerent injured, if she does not resist it by force. It is a question for her to settle on principles applicable to her own safety and her own welfare, whether if one belligerent attacks another in her territory she will resist it.

Mr. MASON. Will the Senator allow me a moment?

Mr. FESSENDEN. Certainly.

Mr. MASON. I had never supposed for an instant, that the question of the liability of Portugal would be raised in the Senate.

Mr. FESSENDEN. It has been raised before.

Mr. TOOMBS. I raised it three years ago.

Mr. MASON. Not according to my recollection.

Mr. FESSENDEN. The Senator from Georgia did, and so did I.

Mr. MASON. Mr. Madison in 1815, through the Secretary of State, Mr. Monroe, addressed a letter to Mr. Sumpter, our Minister at Rio, from which there is given an extract in the report:

"The growing frequency of similar outrages, on the part of Great Britain, renders it more than ever necessary for the Government of the United States to exact from nations in amity with them a rigid fulfillment of all the obligations which a neutral character imposes."

"You are requested to bring all the circumstances of the transaction distinctly to the view of the Portuguese Government, and to state the claim which the injured party has to immediate indemnification."

The Portuguese Government made it the subject of great remonstrance to the British Government. The Marquis de Aguiar, the Minister of Foreign Affairs of Portugal, in compliance with orders received from the Prince Regent, addressed a note to Mr. Sumpter, the American Minister at Rio de Janeiro, dated 23d December, 1814, informing him of the circumstances, and stated that—

"Not a moment's delay ensued in causing to be addressed to the British minister at this Court the note which is confidently communicated, by a copy, to your lordship, at the same time that he has directed his minister in London to make the reclamation so serious an offense requires."

The letter alluded to, addressed to Lord Strangford, Minister Plenipotentiary of Great Britain, is dated Palace of Rio Janeiro, December 22, 1814, and holds this language:

"His Royal Highness, at the same time that he has directed his minister at the Court of London to make the strongest representations before the Prince Regent of the United Kingdom of Great Britain, and require satisfaction and indemnification, not only for his subjects, but for the American privateer, whose security was guaranteed by the safeguard of a neutral port, orders it to be signified to his Excellency Lord Strangford, that he may inform his Government of the unfavorable impression which the conduct of that British commander has caused in the mind of his Royal Highness," &c.

I say there is the law enforced by Mr. Madison, and admitted substantially by Portugal.

Mr. FESSENDEN. Well, sir, I admit that they wrote so, but what does it all amount to? It amounts to this, that Mr. Madison, in presenting the claims of our Government, says it is a just one, and ought to be paid; the Portuguese Government, in order to settle the matter as well as they could, thinking, and thinking truly, that it was an outrage, demanded reparation of the British Government, and say that the safety of this vessel was guaranteed by the neutrality of the country. What does the guarantee mean? Does it mean that Portugal was bound to pay for it in cash? No such thing. The term "guarantee," as there used, is perfectly understood; it means that the vessel should have been safe, and not attacked in neutral territory; and that the conduct of Great Britain was contrary to the law of nations.

Mr. MASON. Guarantee is security.

Mr. FESSENDEN. Very well; take it that the safety of the vessel was secured by the neutrality of the harbor; does that mean that Portugal was bound to pay the money if it was lost? Not at all. And now, to bring up language of that description as proving the existence of a legal principle, especially a principle of national law, is establishing national law upon about the slightest foundation I ever heard of in my life. National law does not depend on the language of diplomatists in enforcing claims or in answering claims. It depends upon recognized principles perfectly well understood.

I was saying that a neutral nation, under such circumstances, even if she has the power of resisting, is not bound to resist. If the Portuguese Governor of Fayal had been able, at that moment, to have blown the British squadron out of the water, he was under no sort of obligation, by the law of nations, to do so. If he could only protect our vessel by entering into a conflict then and there, he was not bound to enter into that conflict; because the nation must consider, in such

circumstances, what its own honor and interests require. The idea of neutrality is not for the defense of others, but for the defense of one's self. I will not allow myself to be harmed. And the principle goes further: belligerents agree that they will not harm neutrals, and that neutral territory shall be sacred; but there is no such understanding, no such principle, in the law of nations; as to say a neutral is bound to keep its territory clear, at all events and hazards to itself, of any interference by belligerents who may be a great deal stronger than the neutral. There is no such principle, as was well explained by the honorable Senator from Georgia.

Therefore, I say, sir, with him, upon all these grounds, that there was nothing lying at the bottom of this claim in the first place; and there being no foundation for it, all the argument that has been raised upon that assumption amounts to nothing at all. I do not mean to say that the argument is not well made; but I mean to say that it necessarily fails, because the foundation itself is wanting.

But, sir, I have a few more words to say upon another point in this matter. This claim has been placed upon other grounds. I was somewhat surprised, this being a private bill, at the remark made by the honorable Senator from Mississippi, [Mr. Brown] that it was not advisable to have any argument by the friends of the bill, because it was very clear that the friends of the bill had a large majority in this body and could carry it at any moment. Well, sir, the question occurred to me, how has all this been ascertained? In my simplicity I was not aware that private bills, including large claims of money on this Government, were so canvassed and understood out of this body, before argument and before discussion here, that they were to be carried without debate as matters settled. I was not aware that that was the habit of the body. According to my ordinary notion of action, I supposed that these private bills, which included necessarily the idea of paying out the money of the Government, when they came here, were to be canvassed if Senators desired to canvass them; that they had nobody particularly their friends or particularly their enemies; but that when a demand was made on the Treasury, especially for a gift, it was a matter to be considered here in reference to all the views of the case, and not considered elsewhere. But it seems I am mistaken in this, and that we who are opposed to this bill only waste our breath, perhaps, in attempting to make any explanations; but it is due to ourselves—at all events, I feel it due to myself—under such circumstances, that I should explain the grounds upon which my own vote will be given. I have done so in part.

Now, sir, let us look at the history of this transaction. What is a private armed vessel? A vessel which receives a commission from a Government to prey upon—I will use that expression—the commerce and the property of an adversary. She does it at her own risk and hazard. She is protected by her commission from being considered a pirate. Having got that, she arms herself; she goes on an excursion; she is a legalized robber; she takes what she can get; she takes all the hazard, and takes all the profits. That was the condition of this vessel. Sir, I am in favor of privateering, and I think well of a great many privateers, especially those of the last war; but that is the legal relation in which they stand. The Government received nothing, except the incidental benefit that arises from having its enemy crippled and injured; that is all. If she makes prizes, she divides the property among those who compose the crew, and the owners of the vessel. She takes her own risks, and runs great risks. That was the condition of this one. Her owners fitted out this vessel. They made many captures. Those on board were gallant men, from the captain down. I happen to know one of the crew, who resides in my own city, and a braver man I do not know. I have had letters from him asking me to support this bill; and for his sake I should like to do so, if I could find it consistent with my views of right to do so.

In process of time, during her cruise, this vessel took refuge in, or went into, the harbor of Fayal. A British squadron came along; resolved to cut her out, and destroy her. They attempted it. A fight took place. The action was a gallant one, as much so, perhaps, as any on record. I do not

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doubt that at all. The vessel was destroyed, the officers and crew setting fire to her themselves; and they abandoned her.

What did Congress do? The honorable Senator from Georgia has stated. Being under no sort of obligation to them, the privateer having taken the risk upon herself; having divided the profits of all the captures she had previously made; but in view of the gallantry of the action, Congress appropriated as a gift, calling it prize money—but it was a gift, and so stands, for there was nothing that Congress had received—\$10,000 for the benefit of that captain and crew, long ago. So the matter rested until within a few years past. A bill was brought in at the Thirty-Third Congress, I think, reported by the honorable Senator from Louisiana, [Mr. SLIDELL,] proposing to give the captain, crew, and owners of this vessel a large sum of money, about one hundred and thirty thousand dollars, if I recollect aright, and it included not only the value of the vessel, but prospective profits; that is to say, what they expected to make by the cruise if they had not been destroyed in the way they were. The Court of Claims hardly came to that; they cut the \$130,000 down to \$70,000, striking off \$60,000, which was added, I think, for what the privateer might have made if she had not been captured and destroyed.

That bill came into the Senate. It was debated here, and on the first vote I think it received just twelve votes; it was voted down most decisively. Somebody moved a reconsideration, and it stood for a very considerable time, I am not sure but that it was until the next session of the same Congress, when it was again taken up. In the mean time, as suggested by the Senator from Mississippi, the friends of the bills had got more numerous, and they carried it by about two votes. A reconsideration was moved; the matter was tested again; and they were defeated by a decided majority of the Senate, and that was the last we heard of it for long while. The claimants afterwards went to the Court of Claims. The Court of Claims did not decide, as has been stated to-day, in favor of the claim. They decided that they would take testimony on the allegation that the claim had been compromised by this Government. It turned out that there had been no compromise at all; and when the testimony was taken, the Court of Claims decided that there was no legal claim against this Government.

In the face of that, the case comes in here, and the Committee on Foreign Relations again report in its favor; and upon what grounds? Why, sir, on the ground that this privateer having been thus burned under the circumstances that it was by the hands of its own crew, there was a claim for remuneration against Portugal; that our Government had taken it up, enforced it, tried to get it, unfounded as it was; did their utmost; even sent a vessel of war once to threaten Portugal; failed in that; and not choosing to fight on such an issue, finally consented to leave it to a referee, Louis Napoleon. The referee decided against the claim; and the allegation then made was, that we had no right to refer it. That was the allegation made; that the Government had no right to refer it; that they did not ask the consent of the captain and crew of this vessel; that is to say, that the Government of the United States, this claim being made, were bound, unless the parties interested should consent to another course, to fight upon the issue, and to keep pushing it until it came to a contest between the two Governments. Who ever heard of anything so ridiculous?

Is not arbitration a legal, recognized mode of settling questions of this description? Certainly it is. Is a Government bound to ask the consent of a claimant whether it shall arbitrate or not? The idea is preposterous. If it does not fight, what else can a Government do? Here is a claim pushed to the very verge, I had almost said, of impertinence, year after year. The Government, to get rid of it finally, not choosing to expose the whole country to hazard on so trifling a matter, and finding it cannot succeed in any other way, concludes to appoint an arbitrator. Suppose this

party had come forward and said, "I object to the Government submitting my case to arbitration;" what would the Secretary of State say in such circumstances? "Very well, sir, take your papers and go; it is impertinence in you to keep talking to your Government about your claim, and dictating to the Government what course they shall pursue to obtain reparation. If you are willing to put the matter in the hands of the Government, very well; do not interfere except to advise, to explain what you may wish; but do not undertake to dictate terms." It is nothing to the claimant whether the Government chooses to arbitrate or not. It is a mere matter of obligation arising between the Government and the citizen, which cannot be pushed to the verge of obligation rising between one man and another in private life. It is an entire mistake to suppose so. The Government could have done nothing else than either abandon the claim, if Portugal refused to pay it, or arbitrate; and Portugal was willing to submit to arbitration. It was submitted; a decision was made by the arbiter; and now it is said the arbiter decided wrong; it was a mistake on his part. Grant that it was a mistake: is this Government responsible for his mistake? It is said, again, that the Government did not submit all the papers. Very well; suppose they did not: did the Government act in good faith? Suppose they made a mistake: you would not hold a private attorney responsible in damages for such an omission to present papers; and if you could not hold a private attorney responsible, much less could you hold a Government who is acting in the capacity of an attorney.

The claim did not exist, in the first place, except in the imagination of the claimants. The Government enforced it, or tried to enforce it, year after year, until it almost got into a contest in reference to it, with the Government of Portugal. Finding that they could not be bullied, it then proceeded to leave it to arbitration to take the chance; the idea being, perhaps, that a bad case generally succeeded before an arbiter; and ordinarily it does. It was left to an arbiter, and the arbiter decided; and now, on the allegation that the arbiter has made a mistake, or did not get all the papers, it is contended that the Government is bound to make good, out of its own pocket, this claim.

Why, sir, I never have been able to see the slightest possible ground of law or equity upon which this claim could be made. The Government has done everything it could for these claimants; and the only position in which it can be placed with any appearance of plausibility, in my judgment, is, that these men fought a gallant battle and they should be paid for it. Sir, if I consented to pay the captain and the crew indiscriminately for what they did, I see no reason why I should pay the owners of the vessel. They were not there; they did not fight; and their part of it, I think, does not stand in that attitude before us.

With these general views in relation to the subject, I have nothing more to say, except that I enter my dissent entirely to the idea advanced by the honorable Senator from Mississippi in the beginning, that this case has always been so clear to every man of common sense in the country, that it is astonishing how any man can differ from those who have finally succeeded in getting a report; that is to say, that it is clear against the previous vote of the Senate, clear against the decision of the Court of Claims, clear against the arbiter, clear against everybody; and all the friends of the bill have to do is, not to talk on so plain a case, but to vote!

MR. CRITTENDEN. Mr. President, I am very glad at least that my friend from Maine has talked on this subject, and that the Senate has now come to understand the ground on which, if it does so, it is to vote against this bill. It is that these parties have not, and never had, any claim against anybody. That is his ground. They had none against England, because the United States being at war with England, our countrymen might fight her subjects where they pleased; and this was within the limits of the lists of war that were

marked out for them. We have no claim against Portugal, within whose jurisdiction this property was destroyed, because there is no law among nations which makes Portugal responsible. That is the Senator's argument.

Now, I confess, I heard this with surprise from a gentleman so learned, and ordinarily so cautious. He has asserted, in the most unqualified terms, that there is no such law of nations as makes a neutral Power, within whose jurisdiction the property of one belligerent is destroyed by another, liable for that destruction. I have always understood the law otherwise. We cannot well stop now, on such a case as this, to debate that question? If this property had been on shore, had been in another form than that of a ship; if our countrymen had been wrecked there the day before, and the British cruiser, going into the port, and finding them encamping at a little distance from the ship, on land, had seized them and taken them off, would not the neutral have been responsible for their protection? and being responsible for their protection, would he not have been answerable to them in whatsoever damages they thus illegally suffered? If a citizen of the United States in any foreign country be taken off from a country with which we are at peace, by force, and his property destroyed, does not the Government which owes him protection, owe him indemnity for a violation of their protection? Is it not absurd to say that she owes him protection, but yet, when that protection is violated, is under no obligation to make redress?

The obligation to protect is but correlative with the obligation to indemnify when that protection is not afforded. That is universal law—civil as well as national. If a foreigner comes to this country, we are bound to protect him and his property, and he owes us for it a temporary allegiance. If he violates that allegiance, is he not responsible, and liable to be punished for it by submission to the corporal punishment that may be inflicted by the laws of the country upon him? This is the consideration which he renders for protection. He who violates the allegiance which he gives in consideration of the protection, is subjected to have that allegiance made effectual upon him by punishment for the violation of it. And is the Power which gives protection under no sort of obligation to be responsible for the failure to extend it?

I hesitate very much to place my opinion on a question of national law or civil law, in opposition to the opinion of a gentleman for whose legal abilities and general abilities I have such great respect as I have for those of the Senator from Maine; I speak this in truth and sincerity; but I have never been more astonished in my life than to hear the declaration made to-day by him, that Portugal was under no obligation to indemnify these sufferers. Sir, I feel considerably fortified in the opinion I entertain, by its having been the settled and concurrent opinion of every statesman of this country, from the time of the commission of that outrage by England. It has been the opinion of every successive President. Mr. Madison was no ordinary man; Mr. Monroe was a man of great experience and conversant with the law of nations; and, besides, all these gentlemen had Cabinets of no ordinary ability; and every one of them said that, according to national law, there was an obligation on Portugal to indemnify. Portugal has never denied that she was under such an obligation, but contended that circumstances existed to release her from payment; and that was a matter controverted. You referred it to the French Republic. We may very well suppose that, according to the ordinary course of those things, he took counsel of the learned men around him. If he had entertained a general opinion that it is nowhere in the law of nations, and was never heard of as part of the law of nations, that a neutral in such a case was under any responsibility, why did not the French Emperor and his learned counselors decide the action on that ground?

MR. FESSENDEN. The Senator, perhaps, is not aware of the fact that the French President or

Emperor, or whatever he was at that time, proceeded first to ascertain the facts. He did not come to the question of liability. On ascertaining the facts, he found them against the claimants; he said that they committed the first assault, and he decided it on that ground.

Mr. CRITTENDEN. He misunderstood the facts; but I understand this: there would have been no necessity for inquiring into the facts at all, if the law utterly failed to give redress.

Mr. FESSENDEN. He could not apply the law until he found the facts.

Mr. CRITTENDEN. That might apply to the practice of ordinary courts of justice; but here, if the law altogether failed the party on which he based his claim, would not that have been the proper ground of decision by France? Undoubtedly; but he admits it by his decision in effect, and he goes to inquire what would have been necessary to entitle the party to the protection. If the General Armstrong or her officers had applied for that protection, and had not fired the first gun, then, the French Emperor impliedly says, Portugal would have been responsible. There is no authority, nor can any gentleman find one, in my humble judgment, to justify the principle of irresponsibility which the Senator advocates.

But, Mr. President, I do not think there is any one absolute and assured ground upon which this claim can be defeated. This claim rests on a variety of circumstances. Our own Government has committed us to it in all forms. Captain Reid had a claim against Portugal. In his country's cause he suffered wrong. His country declared it a wrong, and declared him entitled to compensation from a foreign Government. That was the state of the case. The matter has been brought to an end by one negotiation and another; but he has got nothing. The matter has been so managed that he is left the loser. He suffered the injury in a national war. Would we not rather compensate him than let him suffer loss? He had a right to redress from somebody. It has so eventuated that, though everything has been done that could be, he has got nothing. Now, I would sooner pay him in such a case myself, than let him go without redress. It is one of the most remarkable cases that occurred during that war, or any war. The brig was defended with the utmost gallantry. They did not yield their rights; they did not become voluntary victims to the common enemy of the country; they resisted with a heroism that made this country thrill, though it was a mere private vessel, public to some extent, private in some respects, but entitled, whether the one or the other, to the protection of the country, and to the assertion of a claim for retribution for any wrong that she may have sustained.

Sir, I feel no disposition to protract this debate. I have not said what I should have, under other circumstances, felt myself called upon to say in reply to the gentleman. I close, sir; but with this single remark: my honorable friend from Maine has endeavored to rob this case, at least, of every degree of sympathy that might be felt on account of the actors. He asks, what is a privateer? Nothing but a legalized robber, says the gentleman.

Mr. FESSENDEN. The honorable Senator must do me justice; I dare say he does not mean to do me injustice. I said that in the eye of the law, strictly speaking, it might be considered a legalized robber, because it attacks the property of the inhabitants of a nation at war with its own, for its own benefit; but I said, notwithstanding, that I was in favor of the privateersmen, and sustained them. I believe them to be gallant men, many of them, and especially those who were privateersmen in the last war. I spoke merely of their legal relations, of their relations in matter of fact.

Mr. CRITTENDEN. I do not want to do the gentleman any injustice. They are still, according to law, legalized robbers in the gentleman's view. Now, sir, I say they are not in any sense such within the law or without the law. They are a part of the great national means of war, and the great national means of defense.

Mr. FESSENDEN. And a very valuable one. Mr. CRITTENDEN. Their services have been of immense value; they have been our means of war.

Mr. SEWARD. Will the honorable Senator allow me to suggest to him that, if we are ever to

get a vote, it ought to be now. The Senate is getting very thin. I am sure that I can say something in favor of this bill, but there is nothing I can say so effective as to ask its friends to come to a vote.

Mr. CRITTENDEN. These are very disagreeable sorts of interruption to gentlemen. I am sure the Senator knows I feel kindly for him, but I do not choose to be admonished in any such form or manner. It is for me to determine when I shall speak and how long I shall speak; and I cannot, though I will not certainly think too hardly of it, submit in public to this sort of admonition and chastisement for what I say. I was about to conclude, and but for the gentleman's interruption should not have occupied, perhaps, more time than he did in his unnecessary and superfluous admonition.

I thought it necessary to say a word to call the attention of my friend from Maine to the injustice which I supposed he had done by a phrase which, in the hurry of argument, he had used and applied to our privateers, that they were legalized robbers; that is, robbers in the sense of the law. They are not so. But, sir, I hope the vote will be taken. It is not my temper now, or ever, to occupy the time of the Senate, as I think I have given some evidence, with unnecessary debate.

Mr. BROWN. I move to amend the bill by inserting after the word "Armstrong," in line six, the words, "or their legal representatives," so as to read:

"To pay the owners, officers, and crew, of the private armed brig General Armstrong, or their legal representatives."

The amendment was agreed to.

Mr. BENJAMIN. I cannot allow this bill to pass without saying a few words, notwithstanding the impatience of its friends for a vote. I have, from the beginning, said on all occasions, that I was willing to vote for any reasonable sum as a testimonial of national gratitude for a gallant achievement; but I never would vote for, or fail to resist, the passage of this bill, if placed on the ground of national obligation. I say so still. I do not mean, sir, to go into any of the questions which have already been debated by the Senator from Georgia, or the Senator from Maine. I am willing, for the purposes of what I have now to say, to concede that these officers and owners had a valid claim against the Government of Portugal. I am willing further to concede, what no man has as yet pretended, that our Government willfully abandoned it; and after I have conceded all that, I ask gentlemen where is our obligation to pay this alleged debt? I want to know upon what principle the Government of the United States is bound to pay a claim of its citizens against a foreign Government, simply because it has failed to collect it?

We have not collected this debt for these men. Let us yield all that their friends claim—that the debt was a legal and valid one. Why shall we pay it? How comes our Government guarantor; for that is the pretension now set up, and nothing else. If you are going to pay this debt, how will you avoid the appropriation necessary for the one hundred or two hundred millions of debt of which a list was sent to us the other day by the President? If this debt is to be paid because it was due to one of our citizens by a foreign nation, and we have not, by the measures we have taken for its collection, secured it, how shall we escape the responsibility of paying all these other debts, in relation to which we have neglected to do anything? I understand that the list of claims of our citizens against foreign Governments now exceeds one hundred and fifty million dollars; and I venture to say that, to-morrow, proof can be brought to the Senate that over one hundred million of those dollars are due on claims which our Government has utterly, inexcusably neglected to prosecute: Are we bound to pay them? Is there any such relation between the citizen and his Government that the Government is responsible for the collection of the claim of the citizen against a foreign nation? That has always been the point of principle in my way in voting for this bill.

Let us suppose, sir, for the sake of example, that our Government, yielding to the well-founded arguments of a foreign nation, should, in its correspondence, give up a just debt, and say to the foreign Government: "What you say is true; your defense is good; we give up this claim; we

will no longer prosecute it;" that, I suppose, for all future time, would estop our Government against setting up the claim. Now, suppose our negotiator had been wrong in making this concession, does our Government thereby become the guarantor of this debt? Is it to pay for every mistake of its public officers? In every effort to protect our citizens, so far as their relations with foreign Governments are concerned, do we assume upon our own responsibility that our public ministers shall always do exactly what is right and proper, and if they do not, that we shall pay the whole claim by way of indemnity to the citizen for our failure to make hot and proper pursuit.

If this is the principle, let us take up this whole list of foreign claims, and pay them. If this is not the principle, then let gentlemen distinguish this claim from the hundreds and thousands of other claims which this Government has wrongfully abandoned or neglected to prosecute against foreign nations. Let us understand upon what principles we are voting this money. I have never yet been able to reconcile it to my judgment that our Government owed one dollar to these men on the ground of positive law. I have been willing, I am now willing, to vote a testimonial of national gratitude for gallant service which has redounded to the interest, and even to the glory of the nation.

Mr. CRITTENDEN. That has been done long ago.

Mr. BENJAMIN. Let us do more; give the whole sum, if you please, give it cheerfully. I will vote for any lavish sum to be given to these men, if you do not put it on such a ground of principle that you might as well open the doors of your Treasury, and pour out its contents to any persons who choose to ask for them. I say you have claims now in the Department of State abandoned by neglect; abandoned, if you choose, by the misfeasance, as well as the non-feasance, of your officers, amounting to more money than any tariff you will create this year will collect for years to come. What are you going to do with them all? If you pay this debt, how will you avoid the rest? If you say that you give it, I will vote with you. If you are going to pay, I say we owe nothing, and I pay nothing.

Mr. MASON. I have had very little time to find authorities on this subject, but I rise to read a book which a friend has handed to me, in which it is stated, as a distinct assertion of the principle of international law, that if a neutral Power fail to protect the property within its limits, it is bound to make it good, is a question of international law. That was denied, as I understood, by the honorable Senator from Georgia, as well as the honorable Senator from Maine. I have no doubt, if we had time to pursue it, we could find it more fully illustrated. First, in a treatise on the law of war, written by Bynkershoeck, with commentaries by a very distinguished jurist, the late Mr. Duponceau, of Philadelphia, (in chapter 8, page 59,) there is this passage:

"Certainly, it is by no means lawful to attack or take an enemy in the port of a neutral who is in amity with both parties. If it be done, it is the duty of the neutral State to cause the thing to be restored, either at its own expense or at the expense of the injured party."

And again, in the commentaries of the late Judge Kent, on the law of nations, (Kent's Commentaries, vol. 1, page 122,) is this passage:

"But the general inviolability of the neutral character goes further than merely the protection of neutral property. It protects the property of the belligerents when within the neutral jurisdiction. It is not lawful to make neutral territory the scene of hostility, or to attack an enemy while within it; and if the enemy be attacked, or any capture made, the neutral is bound to redress the injury and effect restitution. The books are full of cases recognizing this principle of neutrality."

Now, sir, the demand was made by this Government, beginning with Mr. Madison and running down to the time when the convention was made with Portugal, pursuing the demand against Portugal only. Portugal pursued the demand against England. The true course of proceeding was—we did not demand from England because we were at war with her—for Portugal to have afforded the redress to us, and to have looked to England for indemnity. Portugal took that view; for in her demand on England, as shown in the correspondence, she demanded indemnity not only for the injury done to her own town of Fayal by the British guns, but for the injury done to the

American privateer, that she was bound to make good. So much for the question of law.

Now, sir, as to what fell from the honorable Senator from Louisiana, I do not know upon what grounds gentlemen may rest this claim in their own judgment. I do not rest the claim upon any ground that it is the duty of this Government either to see that *bona fide* claims against foreign Governments are made good, or pay them. The relation between the citizen and Government, as I understand, is only this: the Government is bound to protect its citizens, and to a certain extent it is bound to prosecute a claim, to make a demand for it, and through judicious and appropriate means to enforce it; and that embraces, I freely admit, the right to refer it. The claimant cannot complain if it is referred even against his own will, because he submitted it to his Government, and the Government is not bound to make war in order to effect restitution. But, as to those millions of dollars to which the honorable Senator refers, I have no doubt, from my little knowledge of the unsettled claims against foreign Governments, that there are millions of dollars at this moment; and whether they have been prosecuted diligently or not I do not know; but I utterly deny that there is any responsibility on this Government to make good those claims in mass or in detail, unless something more shall be shown than the inability of the Government to effect a payment. That is not the question here, as I understand.

Mr. BENJAMIN. Will the honorable Senator permit me to interrupt him a moment?

Mr. MASON. Certainly.

Mr. BENJAMIN. I put to him this proposition: suppose, in the argument on this very claim, our Secretary of State had been satisfied that this Government was wrong in pressing the claim, but it was an error of judgment on his part; and thereupon he had declared to Portugal that the Government would no longer press the claim, deeming it unjust: undoubtedly, in all subsequent negotiation, that declaration would have been made use of by Portugal as an estoppel from any claim on the part of this Government. Does the honorable Senator hold that the Government of the United States would be bound to indemnify the private claimants for the error of law of the Department of State?

Mr. MASON. Certainly not. I do not hold it in debate here at all, or hold it in fact. There is no responsibility in the Government to pay it. Whether it fails to prosecute it, or commits an error in negotiation, certainly no liability can be pretended. The claim here, as I had the honor to state to the Senate a short time ago, was reported upon by the colleague of the honorable Senator from Louisiana upon its merits. That is to say, not as a legal demand, or as a complete equitable demand, upon the Government; but that, under all the circumstances, and considering the gallantry of the action, and the losses sustained while that ship was aiding the American Government to carry on a war, and in recognition of that on the part of the American people, and as a gratuity, this compensation should be made. That was the ground on which the claim was placed by the committee in a report made by the Senator from Louisiana, in which I concurred. When it came before the Senate, by the Senate the case was referred to the Court of Claims; and the presentation of it now, on the further report of the committee, reviewing the decision of the Court of Claims, adduces that fact for what it may be worth, that it did appear that, through some omission or inadvertence or error of the Government, a correspondence which the Government had stipulated to lay before the arbitrator, was not laid before him.

Mr. FESSENDEN. Mr. President—

Mr. HUNTER. There is hardly a quorum here, and it is nearly five o'clock.

Mr. FESSENDEN. Merely a word of explanation, and I have done. I am unwilling to be placed before the Senate in an attitude of contesting very plain principles which I have not denied. All that the Senator from Virginia has read there is very clear law; there is no doubt about it. I have not disputed any principle of that sort; in fact, I adverted to it, and asked what was a neutral bound to do? I said a neutral in good faith is bound to do the best he can to have the property restored if the property exists; and neutrals

in the case of a prize, where a vessel has been taken in their territory, make their claims in the courts for the restoration of the property to them; and if the fact is proved, the claim is never denied, but the property is given up and the neutral surrenders it to the original claimant. All that the neutral is bound to do, if the property exists, is to do his utmost to recover the property. Portugal did it in the first instance. The property being destroyed, Portugal demanded reparation of Great Britain. It urged its claim strenuously on the ground that its neutrality had been violated. Great Britain expressed its willingness to pay Portugal for the damage done to the people of Portugal in Fayal, but utterly refused to make any reparation for this property, and the property was not in existence. What could Portugal do? The Senator infers from what he has read, that failing to get the property back, although trying to do so; or failing to get reparation for it, although trying to do so in good faith, then the obligation is cast upon the neutral to pay it out of its own pocket. He will find no such principle there or anywhere else. It does not exist.

Mr. SEWARD. Mr. President, I am requested by the honorable Senator from Massachusetts, [Mr. WILSON,] to state that he would vote for this bill if he were here, but he has paired off with my colleague, [Mr. KING,] who would vote against it. I am also requested to state, by the honorable Senator from New Hampshire, [Mr. HALE,] that he has paired off with the honorable Senator from Minnesota, [Mr. SHIELDS,] General SHIELDS being in favor of the bill, and the Senator from New Hampshire being against it.

I owe an apology to my honorable friend from Kentucky, [Mr. CRITTENDEN,] I sincerely and humbly beg his pardon for having interrupted him. The motive which I had in doing so I hoped would have saved me from an unkind rebuke for a suggestion that was well intended, and I hope expressed with deference and respect and even veneration for him.

Mr. CRITTENDEN. Mr. President, I am only sorry that I did anything more than call my friend to order. If I exhibited any ill humor, it did not last a moment.

Mr. SEWARD. I was on all sides beset with gentlemen, who wished me to make the appeal I did. They were friends to the bill.

Mr. BENJAMIN. I move to strike out, in the fifth line, the word "owners," so as to read "to pay to the officers and crew." I will state that if this amendment is carried, I shall then move to change the amount so as to appropriate in the bill a sum sufficient to satisfy the officers and crew, seeing no earthly reason why we should pay the owners of the vessel.

Mr. CRITTENDEN. I hope we shall not strike out anything, but go on with the bill as it is.

The question being put, there were, on a division—ayes 11, noes 18; no quorum voting.

Mr. HUNTER. I move that the Senate adjourn.

Mr. BROWN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER, [Mr. FOOT.] The Chair must put the question on the adjournment.

The question being put, on a division there were—ayes ten.

Mr. HUNTER. I ask for the yeas and nays. We must have the yeas and nays in order to ascertain whether there is a quorum.

The yeas and nays were ordered.

Mr. HOUSTON. Mr. President, can the yeas and nays be ordered by less than a quorum?

The PRESIDING OFFICER. That depends on the character of the motion. Less than a quorum, the Chair supposes, can adjourn, and take the vote in such a form as is ordered by a majority present. The yeas and nays are properly ordered on the motion to adjourn.

Mr. POLK. My colleague, Mr. GREEN, has paired off with the Senator from Alabama, Mr. FITZPATRICK.

Mr. DOOLITTLE. The honorable Senator from Maine, Mr. HAMLIN, has paired off with the honorable Senator from Michigan, Mr. CHANDLER.

The question being taken by yeas and nays, resulted—yeas 14, nays 20; as follows:

YEAS—Messrs. Bates, Benjamin, Clay, Clingman, Da-

vis, Fessenden, Houston, Hunter, Johnson of Tennessee, Mallory, Polk, Wade, Ward, and Yulee—14.

NAYS—Messrs. Bayard, Bell, Broderick, Brown, Chesnut, Clark, Crittenden, Dixon, Doolittle, Foot, Hammond, Harlan, Jones, Kennedy, Mason, Reid, Seward, Simmons, Thompson of Kentucky, and Wright—20.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The Senate refuses to adjourn, and the vote shows a quorum present. The question is on the amendment of the Senator from Louisiana to strike out the word "owners."

Mr. CLARK. I should be very glad if some of the friends of the bill would tell us who the owners of this vessel are. I should be very glad to vote a testimonial to the captain and the crew of this vessel; but if the owners were an entirely different party, and they had no part or parcel in this gallant achievement, or in the defense of the vessel, I do not see why they should have a gratuity. I desire to go for the bill so far as I can. I desire to award something to this gallant captain and all the crew; and if he owned the vessel, I will go the whole length for the vessel and crew and owners; but if he did not own the vessel, I do not see any reason why I should vote a gratuity to those persons who were absent in some distant city.

Mr. MASON. I have no information on the subject, except that derived from Captain Reid, the commander of the ship. I understand that he owned one half. Who owned the rest I do not know.

The amendment was rejected.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and on the question, "Shall the bill pass?"

Mr. HUNTER called for the yeas and nays; and they were ordered.

Mr. CLAY. At the request of the Senator from California, Mr. GWIN, I have paired off with him.

Mr. POLK. At the request of my colleague, I state that he has paired off with Governor FITZPATRICK. He would have voted for the bill, if present.

Mr. MASON. I was requested by the honorable Senator from Louisiana, Mr. SLIDELL, to say that he had paired off on this question with the honorable Senator from Indiana. He would have voted for the bill, if present.

Mr. DOOLITTLE. I was requested to state by the honorable Senator from Maine, Mr. HAMLIN, that he had paired off with the Senator from Michigan, Mr. CHANDLER. The honorable Senator from Maine would have voted against, and the honorable Senator from Michigan in favor of the bill.

The question being taken by yeas and nays, resulted—yeas 23, nays 11; as follows:

YEAS—Messrs. Bates, Bayard, Bell, Brown, Chesnut, Clark, Collamer, Crittenden, Dixon, Foot, Hammond, Houston, Jones, Kennedy, Mallory, Mason, Polk, Reid, Seward, Simmons, Thompson of Kentucky, Wright, and Yulee—23.

NAYS—Messrs. Benjamin, Broderick, Clingman, Davis, Doolittle, Fessenden, Harlan, Hunter, Johnson of Tennessee, Wade, and Ward—11.

So the bill was passed.

On motion of Mr. BROWN, its title was amended so as to read: A bill for the relief of the owners, officers, and crew, of the brig General Armstrong, or their legal representatives.

Mr. POLK. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 4, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. C. H. HALL.

The Journal of yesterday was read and approved.

COMMERCE AND NAVIGATION.

Mr. BRANCH submitted the following resolution; which was read, and, by unanimous consent, considered and agreed to:

Resolved, That the Secretary of the Treasury be requested to inform the House why he has not complied with the joint resolution of May 14, 1856, requiring him, in his annual reports on commerce and navigation, "to cause to be stated the kinds, quantities, and value of the merchandise entered and cleared coastwise, into and from the collection districts of the United States;" and that he submit to the House, at its next session, a plan by which statistics of the coastwise trade can be procured.

NEBRASKA CONTESTED ELECTION.

Mr. WILSON, from the Committee of Elections, submitted a report on the Nebraska contested-election case; which was laid on the table, and ordered to be printed.

Mr. WILSON gave notice that on Wednesday next he should call up the report, and ask that it be finally disposed of.

ISAAC BODY AND SAMUEL FLEMMING.

Mr. LOVEJOY, by unanimous consent, introduced a joint resolution to correct a clerical error in the act for the relief of Isaac Body and Samuel Flemming; which was read a first and second time.

Mr. LOVEJOY. I ask that the joint resolution may be put on its passage.

The joint resolution was read. It provides for correcting a clerical error in the location of a section of land provided for in the act referred to in the title of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOVEJOY moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CAPTAIN J. C. M'FARREN.

Mr. STEPHENS, of Georgia, by unanimous consent, introduced a joint resolution for the relief of Captain J. C. McFarren; which was read a first and second time, and referred to the Committee on Military Affairs.

MAIL TRANSPORTATION.

Mr. MORRIS, of Illinois, asked the unanimous consent of the House to submit the following resolutions:

Resolved, That the Postmaster General be requested to furnish to this House a tabular statement showing the number of miles of mail transportation on railroads, in two and four-horse coaches, designating between the said two and four-horse coaches, on horseback, and by water, and the amount of compensation paid for each kind of service, in each of the States and Territories of the United States.

Resolved, That the Postmaster General also be requested to communicate to the House, as near as he can approximate to it, the amount of mail matter carried over the overland mail routes to California.

Mr. ENGLISH. I object. All that information can be obtained from the annual report of the Postmaster General.

CITIZENS OF ST. CLOUD.

Mr. CAVANAUGH, by unanimous consent, introduced a bill for the relief of citizens of St. Cloud, Minnesota; which was read a first and second time, and referred to the Committee on Public Lands.

NATIONAL FOUNDRY IN ILLINOIS.

Mr. SMITH, of Illinois, by unanimous consent, introduced a bill to provide for the establishment of a national foundry at Alton or Chester, in the State of Illinois; which was read a first and second time, and referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. KELSEY. I call for the regular order of business.

Mr. FLORENCE. Is it in order to move to go into a Committee of the Whole House on the Private Calendar?

The SPEAKER. It is not, the previous question having been ordered upon a bill on Saturday last, which went over to this morning.

Mr. SEWARD. I wish to enter a motion to reconsider the vote by which the bill (H. R. No. 80) authorizing the cession of the Government barracks at Savannah to the city of Savannah was passed.

The SPEAKER. The motion will be entered, but cannot be considered at this time.

PROBABLE RECEIPTS FROM CUSTOMS.

Mr. JONES, of Tennessee. I desire to call up the motion to reconsider the vote by which the communication yesterday received from the Secretary of the Treasury was ordered to be printed.

Mr. KELSEY. I desire to know if the consideration of the bills reported from a Committee of the Whole House on the Private Calendar on Saturday last is not the regular order of business?

The SPEAKER. That would be the regular order of business; but the motion of the gentleman from Pennsylvania [Mr. PHILLIPS] to reconsider is a privileged motion, and may be called up at any time. The gentleman from Pennsylvania is entitled to the floor.

Mr. FLORENCE. Is it in order now to move to proceed to the business on the Speaker's table?

The SPEAKER. No motion is in order, unless the gentleman from Pennsylvania [Mr. PHILLIPS] yields the floor.

Mr. FLORENCE. Well, sir, I desire to know if the private business does not take precedence to-day? This is objection day, and the last one of the session. If my colleague will give way, I desire that we shall proceed to the consideration of private business. I do not want the day to be lost.

Mr. PHELPS, of Missouri. I desire to make an appeal to my friend from Pennsylvania, [Mr. PHILLIPS,] my colleague upon the Committee of Ways and Means, who made the motion to reconsider the vote by which the communication from the Secretary of the Treasury, submitted to us yesterday, was referred to the Committee of Ways and Means. I appeal to him to withdraw the motion to reconsider, or himself to move to lay the motion to reconsider on the table. There will be an opportunity, between this and the close of the session, for the gentleman from Pennsylvania to express his opinions upon the communication from the Secretary of the Treasury; and also, in relation to all measures of financial policy. It was an oversight in myself, last evening, that I did not submit the motion to reconsider, and to lay the motion to reconsider upon the table. My colleague on the committee, unexpectedly to me, made the motion; and I now appeal to him not to consume the time of the House in the discussion of this question, for whatever he may say upon this subject will call forth a reply elsewhere. I prefer that this matter shall be discussed in the Committee of the Whole on the state of the Union, instead of in the House. I hope, then, that the gentleman, taking into consideration the condition of the public business, will himself move to lay the motion to reconsider upon the table.

Mr. FLORENCE. It does seem to me that my colleague might to-morrow make his speech.

Mr. SEWARD. Is this debate in order?

Mr. FLORENCE. My object is to get to the business upon the Private Calendar. This is the last day of the session that we shall be able to do so. There are private claimants clamoring at the doors of Congress, and I trust we will proceed to the consideration of that class of business.

Mr. JONES, of Tennessee. If the gentleman who made the motion to reconsider does not wish to occupy the floor, I will move to lay the motion to reconsider on the table.

Mr. PHILLIPS. When I sought the floor yesterday, it was with a desire and design to have time for an examination of the response of the Secretary of the Treasury to the resolution of the House, the hasty perusal of which did not give me sufficient information upon the subject; and it was upon my own suggestion that my colleague [Mr. FLORENCE] made a motion to adjourn, when, in all probability, if it had been conceded to me by those from whom I had a right to expect thus much, I should have had nothing to say upon the subject; though it has been my wish for some time to call the attention of the House to what I think are mistakes in the estimates. But I yield, though most reluctantly, to appeals made to me from many sources, by gentlemen interested in having the Private Calendar considered, and to the appeal made by my colleague on the Committee of Ways and Means, and defer the remarks I intended to make, though I know the difficulty of obtaining the floor, and possibly I may not have another opportunity of so doing. I will, however, take my chance of obtaining an appropriate occasion to express the views I entertain on the subject of revenue. I owe it to myself to say this much. I now move to lay the motion to reconsider upon the table.

The motion was agreed to.

J. W. HILTON.

Mr. WINSLOW. I call for the regular order of business.

The SPEAKER. The business first in order

is the consideration of a bill for the relief of J. W. Hilton, reported from the Committee of the Whole House on the Private Calendar on Saturday last; the pending question being on ordering the bill to be engrossed and read a third time. On that question the main question has been ordered to be put.

The bill, which was read, directs the Postmaster General to pay to J. W. Hilton, of the county of Monroe, Illinois, the sum of \$483 40, for extra mail service performed by him on route No. 13323, from September 22, 1856, to July 1, 1857.

Mr. JONES, of Tennessee. I understand that there was a minority report made in that case, which was not read in the Committee of the Whole House when that bill was under consideration.

Mr. EDIE. Is debate in order?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. I ask that the minority report be read.

Mr. KELSEY. I object to it. It should have been read in committee.

Mr. STANTON. I hope no objection will be made to the reading of the minority report. It ought not to be covered up in that way.

Mr. JONES, of Tennessee. It is a report which should have been read in committee.

Mr. STANTON. I move to lay the bill upon the table.

Mr. KELSEY. I withdraw my objection.

Mr. STANTON. Then I withdraw my motion; and call for the reading of the minority report.

The views of the minority were read, as follows:

From the petition of the memorialist, it appears he contracted with the Postmaster General to carry the mail on route 13323, from St. Louis, in the State of Missouri, via Waterloo, in Monroe county, in said State, and the village of Prairie du Rocher, in Randolph county, in the State of Illinois, to the town of Chester, in said Randolph county; that, by the terms of his contract he was required to transport the United States mail matter pertaining to the said route daily, from July 1, 1854, to July 1, 1856, said mail matter to be transported over that part of the route lying between St. Louis and Waterloo, a distance of twenty-one miles, in coaches; and over that part of the said route lying between said Waterloo and Chester, a distance of forty-seven miles, on horseback. The memorialist makes two allegations as the foundation of his claim upon the Government for extra compensation: 1. That, on the 26th day of September, 1856, and daily hitherto, the postmaster at St. Louis, in the State of Missouri, delivered to the said Joseph W. Hilton, the mail matter between the said city of St. Louis and the town of St. Genevieve, in the State of Missouri, which did not pertain to the said mail route No. 13323. 2. That, although he was not bound by his said contracts to carry said mail matter, yet, to accommodate the Department, he did so, and was thereby required to incur great additional expense in transporting said St. Genevieve mail matter from St. Louis to Prairie du Rocher, an additional horse or coach being indispensable for that purpose.

The majority of the committee have proceeded upon the hypothesis that both these material allegations have been established by proof; when, in fact, not one particle of proof was before the committee, either oral or written, to sustain the one or the other of them.

The memorialist does not even allege the existence of a necessity for this change of mail matter; nor does he say he furnished an additional horse or coach; yet it is assumed by the majority, and so stated in their report. The majority have fallen into the palpable error of stating that an additional coach was put on the said route from Waterloo to Prairie du Rocher. The memorialist does not so state it; nor was there any proof of it. But if these facts had been established, still I insist the claim ought not to be allowed. The postmaster at St. Louis had no authority under the law to change the direction of the mail matter from the regular route from St. Louis to Genevieve, to the irregular one, No. 13323; nor was the memorialist under the slightest obligation to receive and transport it; and the recognition of this claim establishes a precedent which in its operations will be equal to a law conferring upon postmasters all over the Union the authority to change, alter, and enlarge every contract made by the Postmaster General, and involving the Government in many millions of dollars of indebtedness, without the existence of real necessity, and deranging the whole operations of that important branch of the Government. Rather than establish a precedent of this fearful character, creating the necessity for constant extra special legislation, it would be far better to confer on postmasters plenary powers over the subject, and let their contract be paid as now required by law.

We cannot with propriety say this claim shall be allowed and all others hereafter, of a like nature, shall be rejected. It is right, or wrong. If right, it should be allowed; if wrong, it should be rejected. It will be adding another precedent, or rather it will afford a legislative construction of the powers of postmasters under the law as it now exists, which will require legislative action hereafter to correct. At the last session of Congress, nearly half a million dollars was allowed by Congress in the shape of extra pay for mail services, unauthorized by the Postmaster General; and now, following that precedent, claims amounting to many thousands, if not millions, are being presented to Congress. The act of Congress of the 2d July, 1856, now in full force and effect, declares "that no payment shall be made for any additional regular service in the transportation of the mail, unless the

same shall have been rendered in obedience to a prior legal order of the Postmaster General." If this law is to be respected, then the claim must be disallowed, otherwise it should be repealed, and leave the whole subject open for the discretion of the Postmaster General; and thereby avoid having the time of this House consumed in legislating upon these thousands of claims, and save the enormous amount to the country now spent over them. For these reasons, I recommend that the claim be disallowed.

REUBEN DAVIS.

Mr. SMITH, of Illinois. I call for the reading of the majority report.

The majority report was read, as follows:

The committee find that the said Joseph W. Hilton was the contractor for carrying the mail over route No. 13323, from St. Louis, in the State of Missouri, via Waterloo, in Monroe county, in said State, and the village of Prairie du Rocher, in Randolph county, in the State of Illinois, to the town of Chester, in said Randolph county; that, by the terms of his contract, he was required to transport the United States mail matter pertaining to said route daily, from July 1, 1854, to July 1, 1858, said mail matter to be transported over that part of said route lying between St. Louis and Waterloo, a distance of twenty-one miles, in coaches, and over that part of said route lying between said Waterloo and Chester, a distance of forty-seven miles, on horseback; that, on the 27th day of September, 1856, and daily hitherto, the postmaster of St. Louis, in the State of Missouri, delivered to the said J. W. Hilton the mail matter between the said city of St. Louis and the town of St. Genevieve, in the said State of Missouri, which did not pertain to said mail route No. 13323; that, notwithstanding the contract of said J. W. Hilton did not require him to transport the same over his said route No. 13323, he did, at the request of the said postmaster of St. Louis, and with a desire to serve the Post Office Department of the United States, and to subserve the public interest, receive the said St. Louis and St. Genevieve mail matter, and, according to the desire of the said postmaster of St. Louis aforesaid, transported the same daily, from the said 22d day of September, 1856, to the present time, over that part of his said route No. 13323 lying between said city of St. Louis and said village of Prairie du Rocher in coaches, and thence on horseback, relying upon the good faith of the Post Office Department for reasonable compensation for said extra service; that, in consequence of the great quantity of mail matter which the said J. W. Hilton was obliged to transport over his said route, he was compelled to incur great additional expense in transporting said St. Genevieve mail matter from St. Louis to Prairie du Rocher, an additional horse or a coach being indispensable for that purpose on that part of said route, twenty-two miles distant from Waterloo to Prairie du Rocher; that the said J. W. Hilton immediately, and often after he was directed by the said postmaster at St. Louis to perform said extra mail service, applied by letter to the Post Office Department for a reasonable allowance for said extra mail service, but that he received no definite answer to his said applications until about the 1st day of July, 1857, when the Department agreed to pay him \$626 per annum for such increase of service, said agreement to take effect from and after the 1st day of July, 1857; that the said J. W. Hilton was informed by the Post Office Department that no allowance could be made for the increase of service performed by him, as aforesaid, between the month of September, 1856, and July 1, 1857, the same having been performed without any prior legal order from the Postmaster General; that the amount due to said J. W. Hilton for said service would be *pro rata* to the amount subsequently allowed, \$483 40, and that, from information received from the Post Office Department, the committee have no doubt that the extra service was performed, and the public interest thereby subserved.

Mr. DAVIS, of Mississippi. I have said, in that minority report, that the facts alleged in the majority report are unsubstantiated by testimony.

The SPEAKER. Debate is not in order.

Mr. DAVIS, of Mississippi. I merely wish to make an explanation. I now state that even the memorial of Mr. Hilton himself shows that the majority report does not sustain the facts.

Mr. SMITH, of Illinois. If my friend is allowed to make a speech, I shall want to reply.

Mr. DAVIS, of Mississippi. The petition does not show that the petitioner put horses and coaches upon the line; and there is no proof to show that any such service was rendered.

[Cries of "Order!" "Order!"]

Mr. SMITH, of Illinois. Now, I wish to reply in about as many words. [Cries of "Order!"] I can satisfy the House, from a conversation which I had at the Department, that it is only just and equitable that this man should be paid, [renewed cries of "Order!" "Order!"] and that he performed the service.

Mr. DAVIS, of Mississippi. I move that the bill be laid upon the table.

Mr. ENGLISH. I hope not. It ought to be passed.

Mr. CRAIG, of Missouri. I ask the unanimous consent of the House to allow the gentleman who reported this bill to make a statement about it.

Mr. CRAIG, of North Carolina. I object.

Mr. LETCHER demanded the yeas and nays on the motion to lay upon the table.

Mr. KELSEY. I hope the gentleman will withdraw the demand for the yeas and nays, and allow us to take the question by tellers.

The yeas and nays were not ordered.

Mr. KELSEY. I call for tellers upon the question.

Tellers were ordered; and Messrs. EDIE and BOYCE were appointed.

The House divided; and the tellers reported—ayes 73, noes 50.

So the bill was laid upon the table.

Mr. SMITH, of Illinois. I call for the yeas and nays on the motion to lay the bill upon the table; and I do so with the desire to see who they are in this House who will refuse the payment of an honest debt to a man who has faithfully performed his duty.

The SPEAKER. The yeas and nays have been refused.

Mr. HOUSTON. I move to reconsider the vote by which the bill was laid upon the table; and also move that the motion to reconsider be laid upon the table.

Mr. SMITH, of Illinois. I demand the yeas and nays on the latter motion.

The yeas and nays were ordered.

Mr. HOUSTON. I withdraw the motion.

Mr. SMITH, of Illinois. I renew the motion to reconsider; and that motion is, I presume, open to debate.

Mr. HOPKINS. How did the gentleman vote? He certainly voted in the negative, and is not entitled, therefore, to make the motion to reconsider.

Mr. BURNETT. To get rid of the point of order, I move that the vote by which the bill was laid upon the table be reconsidered; and also move that the motion to reconsider be laid upon the table.

Mr. SMITH, of Illinois. I demand the yeas and nays upon the latter motion.

The yeas and nays were ordered.

The question was taken, and there were—yeas 89, nays 89; as follows:

YEAS—Messrs. Abbott, Ahl, Anderson, Andrews, Avery, Barksdale, Bonham, Boyce, Branch, Bryan, Buffinton, Burlingame, Burnett, Caskey, Chaffee, Cobb, John Cochran, Burton Craig, Crawford, Curry, Davis of Mississippi, Dawes, Dean, Dodd, Dowdell, Durfee, Edie, Edmundson, Garnett, Gartrell, Giddings, Goode, Harlan, Haskin, Hickman, Hopkins, Houston, Jewett, George W. Jones, Owen Jones, Kelsey, Leach, Leidy, Leiter, Letcher, McQueen, McKee, Miles, Montgomery, Moore, Morgan, Morrill, Murray, Niblack, Nichols, Olm, Parker, Pendleton, Peyton, Phillips, Potter, Pottle, Purviance, Reagan, Reilly, Ruffin, Sandidge, Scates, Scott, Searing, Seward, Henry M. Shaw, Shorter, Samuel A. Smith, William Smith, Stalworth, Stanton, Stephens, Talbot, Miles Taylor, Underwood, Vallandigham, Vance, Walton, White, Whiteley, Winslow, Wortendyke, and John W. Wright—89.

NAYS—Messrs. Adrain, Atkins, Bennett, Billingshurst, Bingham, Bishop, Bliss, Bowie, Brayton, Burns, Case, Cavanaugh, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clark B. Cochran, Cockerill, Colfax, Comins, Corning, Covode, Cox, James Craig, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dimmick, English, Farnsworth, Fenton, Florence, Foley, Foster, Gillis, Gilman, Gilmer, Goodwin, Granger, Greenwood, Gregg, Lawrence W. Hall, Robert B. Hall, Harris, Hatch, Hawkins, Hoard, Hodges, Horton, Huyler, Keim, Kellogg, Kilgore, Knapp, John C. Kunkel, Landy, Lawrence, Lovejoy, Melach, Samuel S. Marshall, Mason, Matteson, Maynard, Isaac N. Morris, Freeman H. Morse, Palmer, Powell, Robbins, Royce, Russell, Aaron Shaw, Judson W. Sherman, Robert Smith, Spinner, James A. Stewart, William Stewart, Tappan, Thayer, Tompkins, Walbridge, Waldron, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Woodson, and Zollcoffer—89.

Pending the call,

Mr. WATKINS said: Mr. Speaker, there seems to be some misapprehension in reference to this case. My understanding was, that this claim was for services rendered by this mail carrier—

Mr. DAVIS, of Mississippi. I object to debate.

Mr. SMITH, of Illinois. If gentlemen will permit me, I will say that I am willing this bill shall be postponed until the difference between the gentleman from Mississippi and myself can be settled at the Post Office Department.

Mr. DAVIS, of Mississippi. I object.

Mr. CRAIG, of Missouri. I ask the unanimous consent of the House that the gentleman from Illinois be permitted to make an explanation of three minutes.

Objection was made.

The SPEAKER voted in the affirmative; and the motion to reconsider was laid upon the table.

Mr. CHAFFEE called for the regular order of business.

Mr. JONES, of Tennessee. Were there not two other bills reported from a Committee of the Whole House on last Saturday?

The SPEAKER. There were; but they went to the Speaker's table. The business now in order is the reception of reports of a private nature, from the Committee on the Militia.

Mr. CHAFFEE. I move that the rules be suspended, and the House resolve itself into a Committee of the Whole House on the Private Calendar. This is objection day.

Mr. COBB. Let the private bills, upon the Speaker's table, first be disposed of.

Mr. STANTON. Is it in order to move to go to the business upon the Speaker's table?

The SPEAKER. It is not; the morning hour has not yet expired. There are half a dozen private bills upon the Speaker's table, that ought perhaps, to be referred.

NEBRASKA CONTESTED ELECTION.

Mr. BOYCE. Mr. Speaker, I ask the unanimous consent of the House to submit a minority report in the Nebraska contested-election case, and that it be ordered to be printed.

There was no objection, and it was ordered accordingly.

Mr. PHELPS, of Missouri. I desire to say that if the motion of the gentleman from Massachusetts be voted down, I will then move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union, to take up and consider the appropriation bill now pending.

Mr. FLORENCE. I hope not; this is perhaps the last objection day for the consideration of private bills, and the private claimants ought not to be deprived of it.

Mr. HICKMAN demanded the yeas and nays on Mr. CHAFFEE's motion.

The yeas and nays were not ordered.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. NICHOLS in the chair.)

This being objection day, the committee proceeded to consider the bills in their order on the Calendar; when those to which no objection was made were laid aside, to be reported to the House.

E. GEORGE SQUIER.

A bill (H. R. No. 553) for the relief of E. George Squier, of New York.

Mr. SMITH, of Virginia. I should like to make an inquiry.

The CHAIRMAN. Debate is out of order.

Mr. SMITH, of Virginia. Where does the Clerk begin with the Calendar?

The CHAIRMAN. Where it was left off on the last objection day.

Mr. MORRIS, of Illinois, objected to the bill.

WILLIAM K. JENNINGS.

A bill (S. No. 29) for the relief of William K. Jennings and others. [Objected to by Mr. MORGAN.]

BASIL MIGNAULT.

A bill (H. R. No. 523) for the relief of the surviving children of Basil Mignault, an officer of the revolutionary war. [Objected to by Mr. JONES, of Tennessee.]

JOHN ROBB.

A bill (S. No. 194) for the relief of John Robb. [Objected to by Mr. LETCHER.]

MICHAEL NOURSE.

A bill (C. C. No. 8) for the relief of Michael Nourse. [Objected to by Mr. LETCHER.]

JOHN ROBB.

A bill (C. C. No. 5) for the relief of John Robb. [Objected to by Mr. MORGAN.]

ASBURY DICKINS.

A bill for the relief of Asbury Dickins. [Objected to by Mr. DEAN.]

MOSES NOBLE.

A bill (C. C. No. 12) for the relief of Moses Noble.

Mr. McQUEEN objected.

Mr. TAPPAN. I ask the gentleman to withdraw his objection, and let this bill go to the House, where the yeas and nays can be called upon it.

Mr. McQUEEN. I am opposed to these fishing bounties, in every possible shape. I insist on my objection.

GEORGE MAGRUDER.

A bill (C. C. No. 11) for the relief of George Magruder. [Objected to by Mr. LEITER.]

HENRY HUBBARD.

A bill for the relief of Henry Hubbard. Mr. JONES, of Tennessee. I will not object to this bill, provided the yeas and nays shall be ordered on it in the House.

The CHAIRMAN. The bill will be laid aside. Mr. FLORENCE. I think that the gentleman's agreement is a qualified objection.

The bill was read. It directs that there be allowed and paid, out of any money in the Treasury not otherwise appropriated, to Henry Hubbard, the sum of \$672 75, for his services as United States agent, charged with the safe-keeping of the public property at the harbor of Ashtabula, Ohio, as certified by the bureau of topographical engineers, with interest, at the rate of six per cent. per annum, from the 11th of June, 1856, from which time payment is shown to have been delayed for want of appropriation.

It appears from the report, that this claim is for services as agent in charge of the public property at Ashtabula harbor, \$672 75, and interest from the discontinuance of his service, \$188 36; \$861 11 in all. On a reference of the case to the War Department, it appears that "the amount claimed by Mr. Hubbard for service (\$672 75) is shown by his accounts to be due to him;" and that "the claim cannot be paid unless provided for by Congress," "the appropriation being exhausted." It appears from a statement of Colonel Abert, chief of the bureau of topographical engineers, dated June 11, 1856, that this claim was then admitted to be due.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

LAND TITLES IN MAINE.

A bill (H. R. No. 574) to provide for quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes.

Mr. JONES, of Tennessee. I am willing that that bill shall go to the House, if we can get a vote on it by yeas and nays.

Several MEMBERS. Agreed.

Mr. LEITER. I object.

The CHAIRMAN. The Chair wishes to say to the gentleman from Tennessee, that he knows no right possessed by the Chair to recognize any such arrangement.

Mr. JONES, of Tennessee. I am aware of that.

The CHAIRMAN. The gentleman must either object or suffer the bill to be laid aside under the rules of the House and reported to the House. No such understanding can be recognized by the Chair.

Mr. JONES, of Tennessee. If it be the decision of the Chair that I am not at liberty to make that statement, I shall object to the bill.

Mr. FOSTER. I hope the gentleman from Ohio [Mr. LEITER] will withdraw his objection.

The CHAIRMAN. Objection is made on the other side of the House.

Mr. FOSTER. This is a very meritorious bill, and I hope the gentleman will withdraw his objection, and let the yeas and nays be taken in the House.

The CHAIRMAN. Debate is not in order. The Clerk will report the next bill.

JOHN M'NEIL'S REPRESENTATIVES.

A bill (S. No. 100) releasing to the legal representatives of John McNeil, deceased, the title of the United States to a certain tract of land. [Objected to by Mr. HOWARD.]

WILLIAM H. RUSSELL.

A bill (C. C. No. 83) for the relief of William H. Russell.

The bill directs the Secretary of the Treasury to pay to William H. Russell the sum of \$839 66, in full, for his salary as collector of the port of Monterey, in California, from the 13th of March to the 23d of June, 1851.

The report shows that William H. Russell was collector of the port of Monterey, in California, having been commissioned on the 13th day of March, 1851. He took the oath of office on the 23d day of June following. His claim for salary between these periods was rejected by the accounting officers of the Treasury, on the ground

that the salary should commence from the date of the oath of office, and not from the date of commission. This presented purely a legal question, which the Court of Claims decided in favor of petitioner, in conformity with the case of *Marbury vs. Madison*, 1 Cranch, 156, that a "commission bears date and the salary of the officer commences from his appointment."

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

CAPTAIN A. W. REYNOLDS.

A bill (H. R. No. 584) for the relief of Captain A. W. Reynolds.

The bill authorizes and requires the Secretary of the Treasury to pay to Captain A. W. Reynolds, out of any money in the Treasury not otherwise appropriated, the sum of \$430 63, with legal interest thereon from the 4th of September, 1857, the date of the rendition of the award of the arbitrators, R. T. Matthews, Charles J. Biddle, and Rush Van Dyke, in the case of the United States against A. W. Reynolds, till paid; and also directs the Secretary of the Treasury to pay to the parties legally entitled the costs, as stated in the award, upon the presentation of the proper evidence and certificates from the district court of the United States.

The report shows that suit was instituted against Captain Reynolds, by the United States, for the recovery of a large balance (over one hundred and twenty-five thousand dollars) alleged to be due the Government on the adjustment of Captain Reynolds's accounts by the Third Auditor of the Treasury, for disbursements as assistant quartermaster in New Mexico. During the pendency of the suit, the attorney for the United States proposed to the Solicitor of the Treasury to submit the entire case to three arbitrators, two of whom should be appointed by Judge Kane, of the district court, and the third to be one of the accounting officers of the Treasury. This proposition being approved by the Secretary of the Treasury, the arbitrators were appointed, and entered on the discharge of their duties on the 22d of July, 1857. They made their award on the 4th of September, as follows:

UNITED STATES OF AMERICA, } District Court, Eastern
vs. } District of Pennsylvania.

ALEXANDER W. REYNOLDS, }
And now, September 4, A. D. 1857, the referees named in the annexed submission, having met on the 23d day of July, 1857, and being duly and severally sworn justly and equitably to try all matters at variance between the United States of America as plaintiff, and Alexander W. Reynolds, late assistant quartermaster, United States Army, as defendant, submitted to them by the annexed agreement, dated the 23d day of July, 1857, and being in session up to the present time, and having heard the evidence and allegations of the parties, plaintiff and defendant, and find that, on the matters and questions submitted to us on the transcript from the office of the Second Auditor, there is a balance due the defendant from the plaintiff, amounting to nine thousand four hundred and ninety-one dollars and fifty-six cents, (\$9,491 56), and that, on the matters and questions submitted to us on the transcript from the office of the Third Auditor, there is a balance due from the defendant to the plaintiff, amounting to the sum of nine thousand six hundred and ninety-three cents, (\$9,693 93), and on the entire account submitted to us, we award, in favor of the defendant, Alexander W. Reynolds, the sum of four hundred and thirty dollars and sixty-three cents, (\$439 63). And we do further award, that the United States shall pay the costs of this reference, to wit: To the defendant, such legal costs as upon taxation of bills filed shall be adjudged by the district court of the United States for the eastern district of Pennsylvania to be proper and just, and we fix the cost of the referees at the sum of eight dollars per diem each, for the number of days we were in session, being thirty-nine days, making the sum of \$312 to each referee. And the referees do further report that upon the examination of this case the defendant claimed credit on certain vouchers which had not, as appeared, been at any time submitted to the proper Department for allowance, and objection being made on the part of the plaintiff to our considering any item which had not been submitted in the sheets of difference, or connected with such items, we decline passing on such vouchers.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

RICHARD FITZPATRICK.

A bill (S. No. 393) for the relief of Richard Fitzpatrick. [Objected to by Mr. OLIN.]

CHARNER T. SCAIFE.

A bill (S. No. 189) for the relief of Charner T. Scaife, administrator of Gilbert Stalker. [Objected to by Mr. LEITER.]

FRANKLIN PEALE.

A bill (S. No. 293) for the relief of Franklin Peale. [Objected to by Mr. JONES, of Tennessee.]

ELIZA E. OGDEN.

A bill (S. No. 368) for the relief of Mrs. Eliza E. Ogden. [Objected to by Mr. LETCHER.]

CORNELIUS BOYLE.

A bill (C. C. No. 24) for the relief of Cornelius Boyle, administrator of John Boyle, deceased. [Objected to by Mr. LETCHER.]

P. S. DUVAL AND COMPANY.

A bill (S. No. 331) for the relief of P. S. Duval & Co.

The bill was laid aside, to be reported to the House with a recommendation that it do not pass.

C. EDWARD HABICHT.

A bill (S. No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis.

The bill directs payment to C. Edward Habicht, administrator of J. W. P. Lewis, of the sum of \$2,238 47, being the balance of his accounts as United States agent for the construction of a light-house on Sand Key, in Florida, as stated by the accounting officers of the Treasury.

The report shows the following state of facts: Mr. Lewis was appointed United States agent for the construction of a light-house on Sand Key, in Florida. On a settlement of his accounts, in April, 1853, a balance was found against him of \$9,652 66, while he claimed a balance, as due him, of \$2,400 24. On the 22d of June, 1857, a further settlement was made, by which a further allowance was made on vouchers which had been suspended or disallowed in the previous settlement, amounting to \$9,652 66, which balanced his accounts on the books of the Treasury and exhausted the appropriation for the Sand Key light-house, leaving still outstanding, of the amount of suspended and disallowed items, the sum of \$2,400 24. Further vouchers were presented on the 28th of December, 1857, upon which further allowances were made by the accounting officers, amounting in the aggregate to \$2,238 47. This sum, thus finally decided to be due to the claimant's intestate, is now suspended for no other cause, as stated by the accounting officers, "than the want of an appropriation available for the settlement thereof."

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

HULL AND COZZENS.

A bill (H. R. No. 586) for the relief of Hull and Cozzens, and John Naylor & Co. [Objected to by Mr. LETCHER.]

DE VISSER AND VILLARUBIA.

A bill (S. No. 103) for the relief of Simon de Visser and José Villarubia, of New Orleans. [Objected to by Mr. EDIE.]

GENERAL LA FAYETTE'S LAND WARRANTS.

A bill (S. No. 71) to amend an act entitled "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845.

The bill amends the act entitled "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845, so that the legal holders or assignees of land warrants Nos. 4 and 5 shall be authorized to relocate the warrants upon any of the public lands of the United States subject to private sale, and not reserved, in pursuance of any act of Congress, for the construction of railroads or other public works, or reserved for military or other special purposes; provided such location shall be made in accordance with the legal divisions and subdivisions of the public surveys.

The second section directs that, upon the receipt of a certificate of entry from the proper register, the Commissioner of the General Land Office shall issue a patent, as in other cases.

The Committee on Public Lands recommended the following amendment:

After words "subject to," insert the words "public or;" so that the relocations may be made on public lands of the United States subject to public or private sale.

The report was read. The Committee on Public Lands adopted the report made by the Committee on Private Land Claims in the Senate, as follows:

The Committee on Private Land Claims, to whom was

referred the "memorial of Joseph Ménard, praying to be allowed to relocate certain warrants for land granted to the late Marquis de La Fayette, of which he is the assignee," have had the same under consideration, and adopt and concur in the following report heretofore made by this committee:

These warrants were issued under the act of Congress of 1803, by the Secretary of War, and located under the act approved March 27, 1804.

The location of warrants Nos. 3, 4, and 5, was found to be upon lands owned by private claimants, their title to which was subsequently confirmed. These locations, therefore, were canceled by the General Land Office.

Subsequent to such location, the interest of the Marquis de La Fayette to the warrants in question was assigned to third parties. There being no authority to relocate the said warrants under the act of 1804, after their first location had been canceled, the legal holders of said warrants made application to Congress, who, by an act approved February 26, 1845, authorized the relocation of said warrants—three, four, and five—upon any of the unappropriated public lands within the State of Louisiana. Under this latter act of Congress the said warrants were relocated; and, upon application for a patent, the locations under two of said warrants—to wit: numbers four and five—were canceled by the Commissioner of the General Land Office, on the ground that the lands located were covered by *live-oak timber*, and was therefore not subject to location.

The petitioner, yielding to the decision of the Commissioner, now asks that, since the locations under these warrants have been twice set aside and canceled, he may be permitted to relocate the said warrants, numbered four and five, upon any of the public lands of the United States.

The act of 1845 would be ample enough to authorize a relocation within the State of Louisiana; but owing to the fact that nearly all of the lands in said State have either been disposed of by the United States, or are covered by private claims, the right, therefore, to relocate under the said act would be of no great value to the claimant.

The committee are of opinion that justice to the petitioner requires the passage of an amendatory act, giving him the right to relocate said warrants upon any of the public lands subject to sale at private entry; they therefore report the accompanying bill, and recommend its passage.

The amendment was agreed to.

The bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

ALLEN L. PORTER.

A bill (H. R. No. 587) for the relief of Allen L. Porter. [Objected to by Mr. STANTON.]

LUCIEN B. ADAMS.

A bill (H. R. No. 588) for the relief of Lucien B. Adams, executor of James Adams, deceased, one of the sureties of John S. Roberts, late postmaster at Springfield, Illinois.

The CHAIRMAN stated that there being no objection, the bill would be laid aside to be reported to the House.

Mr. OLIN. I objected.

The CHAIRMAN. The Chair would say to the gentleman from New York, [Mr. OLIN,] that the Chair saw him rise and address a sort of inquiry to his colleague, [Mr. MORGAN,] but the Chair did not understand him to object, and therefore ordered the bill to be laid aside.

Mr. MORGAN. I saw my colleague rise and object to the bill. I rose, myself, at the same time.

The CHAIRMAN. The Chair did not hear the gentleman object, nor see him rise from his seat.

Mr. MORGAN. He did rise from his seat.

The CHAIRMAN. That may be so; but the Chair did not see him. The House can have a vote on the bill by yeas and nays.

Mr. MORGAN. I ask whether it is not the usual and invariable practice when a gentleman rises and is seen by other gentlemen, though not by the Chair, to recognize his objection?

The CHAIRMAN. By unanimous consent, the Chair will go back, and recognize the objection.

Mr. DEWART. I object.

Mr. JONES, of Tennessee. I wish to inquire whether the gentleman says he did object before the bill was laid aside?

The CHAIRMAN. He does.

Mr. KESEY. My colleague certainly did object to the bill. Perhaps he did not speak loud enough to be heard by the Chair.

Mr. OLIN. The conversation which the Chair heard between me and my colleague, took place subsequently to my objection.

The CHAIRMAN. The Chair would suggest to gentlemen who object, that they make their objections audibly.

Mr. HOUSTON. What has been done with the bill?

The CHAIRMAN. The Chair entertains the objection. The Clerk will report the next bill.

SAMUEL H. WOODSON.

Joint resolution (No. 33) for the relief of Samuel H. Woodson. [Objected to by Mr. HICKMAN.]

Mr. CRAIG, of Missouri. I hope objection will be withdrawn. This resolution makes no appropriation. It merely orders a settlement. Objection was not withdrawn.

JOHN SCOTT AND OTHERS.

A bill (S. No. 118) for the relief of John Scott, Hill W. House, and Samuel O. House. [Objected to by Mr. LETCHER.]

JOHN KELLY.

A bill (H. R. No. 589) for the relief of John Kelly.

The bill remits the fines heretofore imposed by the Postmaster General against John Kelly, contractor for carrying the mail on routes Nos. 7330 and 7331 in the State of Mississippi, because of his abandonment of his contract, and directs the sum of \$660, due him at the date of his forfeiture, to be paid to him, in full of his claim against the Government, out of any money in the Treasury not otherwise appropriated.

The report shows the facts to be, that John Kelly, on the 1st of July, 1854, entered into a contract with the Post Office Department to carry the mail on routes Nos. 7330 and 7331, in the State of Mississippi, from the 1st of July, 1854, until the 30th of June, 1858; that he performed the services until the 31st of March, 1857, at which time he abandoned the contract. It further shows that at that time the Department was indebted to the said John Kelly in the sum of \$660, for the want of which he was unable to pay for the keeping of his horses and rider; that for this abandonment the Department fined the memorialist the sum of \$1,698 72.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

J. W. NYE.

A bill (H. R. No. 590) for the relief of J. W. Nye. [Objected to by Mr. LETCHER.]

GIDEON WALKER.

A bill (H. R. No. 591) for the relief of Gideon Walker. [Objected to by Mr. LETCHER.]

ABRAHAM LIVINGSTON'S HEIRS.

A bill (H. R. No. 592) for the relief of the heirs of Abraham Livingston. [Objected to by Mr. LETCHER.]

ELIZABETH MONTGOMERY.

A bill (S. No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery. [Objected to by Mr. LETCHER.]

LOUIS MARNAY.

A bill (H. R. No. 593) for the relief of the legal representatives of Captain Louis Marnay. [Objected to by Mr. LEITER.]

PIERRE AYOTT.

A bill (H. R. No. 594) for the relief of the legal representatives of Captain Pierre Ayott, a revolutionary officer. [Objected to by Mr. MORGAN.]

JAMES BELL.

A bill (H. R. No. 595) for the relief of the heirs or legal representatives of James Bell, late of Chambly, in the Province of Lower Canada, deceased. [Objected to by Mr. MURRAY.]

HARRIET DE LA PALM BAKER.

A bill (H. R. No. 596) for the relief of the children of the late Mrs. Harriet de la Palm Baker, deceased, daughter and legal heir of the late Colonel Frederick Weissenfels, of the army of the Revolution. [Objected to by Mr. LETCHER.]

GERARD WOOD.

A bill (H. R. No. 597) for the relief of the heirs and legal representatives of Gerard Wood, deceased. [Objected to by Mr. JONES, of Tennessee.]

Mr. BOWIE. I move that the committee do now rise.

The motion was not agreed to.

JOHN DENMAN AND GEORGE TOWNLY.

A bill (H. R. No. 598) for the relief of the legal representatives of John Denman and George

Townly. [Objected to by Mr. JONES, of Tennessee.]

GENERAL WILLIAM THOMPSON.

A bill (H. R. No. 599) for the relief of the legal representatives of Brigadier General William Thompson. [Objected to by Mr. OLIN.]

JOHN MANDEVILLE'S REPRESENTATIVES.

A bill (H. R. No. 600) for the relief of the legal representatives of John Mandeville, deceased. [Objected to by Mr. STANTON.]

ROBERT PAUL'S HEIRS.

A bill (H. R. No. 601) for the relief of the heirs of Robert Paul, a soldier of the Revolution. [Objected to by Mr. LETCHER.]

COLONEL PHILIP JOHNSTON'S CHILDREN.

A bill (H. R. No. 602) for the relief of the orphan children of Colonel Philip Johnston. [Objected to by Mr. LETCHER.]

BARNT DE KLYN'S HEIRS.

A bill (H. R. No. 603) for the relief of the heirs of Barnt De Klyn, deceased. [Objected to by Mr. LETCHER.]

JOHN G. SEWELL.

A bill (H. R. No. 604) for the relief of John G. Sewell. [Objected to by Mr. MORGAN.]

NEW MEXICO LAND CLAIMS.

A bill (H. R. No. 605) to confirm certain land claims in the Territory of New Mexico. [Objected to by Mr. STANTON.]

MRS. AMBROISE BROU.

A bill (S. No. 276) for the relief of Mrs. Ambroise Brou, of the parish of St. Charles, State of Louisiana.

The bill confirms Mrs. Ambroise Brou, of the parish of St. Charles, Louisiana, in her title to lot or section six, township twelve south, range twenty east, and lot or section ten, in township thirteen south, range twenty east, in that State; those lands being the unconfined half of a tract of nine arpents twenty-six toises front, by eighty arpents in depth, the other half of which was confirmed to Ambroise Brou by the act of Congress of February 23, 1853, and is fully described in the report of the register of the land office for the eastern district of Louisiana, dated January 6, 1821; provided that this act shall not affect the right, title, or claim of any third person, but shall be construed simply as a quit-claim by the United States of any title in and to the tract of land.

It appears from the report, that Pierre Brou had been, in the year 1791, already forty years in possession of a tract of land of ten arpents front by eighty in depth, which, at his death, became the property of his sons, Ambroise and Jacques Brou, who, after a joint possession of a number of years, divided it in 1816. In 1820, Ambroise Brou presented his half for confirmation, which was granted by act of Congress of 1823, confirming the report made by commissioners on 6th January, 1821. In 1826, Jacques sold his half to Seraphin Brou, and Seraphin resold to Ambroise in 1830, so that Ambroise became owner of the whole tract. It now appears that, whilst Jacques was owner of the one half of said tract, he neglected to apply for its confirmation, and the tract is now placed on the maps recently made by the land office as public lands.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

BENJAMIN E. EDWARDS.

A bill (S. No. 186) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico.

Mr. MARSHALL, of Kentucky. I move to amend the bill by adding the following proviso:

Provided, That the patent to be issued shall expressly reserve all right of pueblos or individuals to the use of salt lakes and salinas within said boundaries, for the purpose of manufacturing salt for domestic use.

Mr. REAGAN. I hope the gentleman will not insist on that amendment, as it is provided for specifically in another part of the bill.

Mr. MARSHALL, of Kentucky. I understand that, under the law as established by Spain, all salt lakes and salinas were left for public use; that it is a matter of great consequence in that part of the country; and that the intent of this bill is to monopolize a salt lake by confirming an

individual claim to it. When we issue the patent confirmatory of that grant—and I doubt whether any such grant ought to be confirmed—we take away from the people and subject to individual use what has heretofore, in the history of the country, all along been known as intended for public use, and to which everybody had a right in common.

Mr. REAGAN. The land here to be conveyed to Edwards, is in the territory which was ceded by Texas to the Government of the United States, under the compromise act of 1850. It was land which was subject to the jurisdiction of, and belonged to, the State of Texas, unless it had been previously appropriated by some individual. While in that condition, and before the land was conveyed, Edwards had the land surveyed, and, by the laws of Texas, a title, nearly equal to one derived by grant, was obtained; because he could maintain an action of ejectment upon it.

Now, it is not certain that he did not derive all the title which he needs under the adjudications of the Supreme Court; but to clear him of all that difficulty, he desires the Government to relinquish its title. His was an inchoate title at the time of the transfer of the territory, and it is maintained, and perhaps upon principle, that the General Government should provide for the perfection of this inchoate title. He had an imperfect title before, one under which he had performed all that was required of him, except the obtaining a grant. He now desires the Government to relinquish its title, reserving the rights of all other persons; so that if the pueblos had a title, it is reserved under the bill. But the laws of Spain, to which the gentleman from Kentucky referred, had no application.

Mr. STANTON objected to the bill.

Jehu Underwood.

A bill (S. No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, in Florida.

The bill provides that the claim and title, derived from the Spanish Government, of Jehu Underwood to land in the State of Florida, shall be received and adjudicated by the judge of the district court of the northern district of Florida, upon the petition of the claimants, according to the forms, rules, and regulations prescribed to the judge of the court and to the claimants by former acts of Congress, in similar claims made and provided, and in the same manner, in every respect, it would have been received and adjudicated in the court, had the claim been heretofore presented in the superior court of the Territory of Florida within the time prescribed by the several acts of Congress for presenting the same therein for confirmation; and if the same be found valid, that the district court shall enforce the location thereof upon the same rules and regulations as have been exercised towards other mill grants in Florida.

The report states that the petitioners having changed the prayer of the petition from a confirmation of their title, for authority to assert their claim before the district court for the northern district of Florida, present a question differing from the original one for consideration. The petitioners claim title to sixteen thousand acres, being a square of five miles, and being what is known as a "mill grant" in the State of Florida. This claim, together with another claim for six hundred acres of land for cultivation, was presented to the commissioners appointed to adjust private land claims in the then Territory of Florida, who, on the 27th of September, 1825, rendered the following decision:

"The board find the above to be a valid Spanish concession, the conditions to which have been complied with; but as the quantity of land is undefined by it, and the royal title confirming and ascertaining the quantity is dated after the 24th January, 1818, they report it to Congress for decision."

This decision is headed, "Jehu Underwood vs. The United States, for six hundred acres of land." (See American State Papers, Public Lands, volume 4, page 484.) But as the petition of Jehu Underwood asked for six hundred acres for cultivation, and the concession grants six hundred acres for that purpose to the petitioner, the above decision would not apply to this concession, since they say "the quantity of land is undefined," and, therefore, must have been in reference to the "mill grant."

In December, 1825, the said commissioners made a report thereon, (American State Papers,

Public Lands, volume 4, page 285,) which is headed "Report No. 6." "Register of claims derived from the Spanish Government by written evidence undefined in quantity, and are ascertained to be valid, and which are recommended to Congress for confirmation." In this report, the claim of Jehu Underwood is in the name of John Underwood, and it shows the claim to have been founded upon a concession dated 20th day of May, 1805, and undefined in quantity. The date of the mill grant is the same as that mentioned in the above report, to wit, the 20th of May, 1805, and is undefined in quantity; whilst the grant for cultivation is dated the 18th of May, 1818, and is for a defined quantity, to wit: six hundred acres. It is conclusive, therefore, that this decision and report is upon the claim of Jehu Underwood to the land comprised within five miles square, that being the usual grant for the erection of a mill. There were two concessions for the erection of this mill—the first, dated May 20, 1805, and the second was in the nature of a confirmation, dated May 16, 1818. It is to this latter date that the commissioners refer in their decision, when they say: "The royal title confirming and ascertaining the quantity is dated after January 24, 1818. Under all the circumstances in this case, the committee, without expressing an opinion upon its merits, and in conformity to the wishes of the petitioners, report a bill, which provides that the claimants may assert their rights before the district court of the United States for the northern district of Florida."

Mr. BENNETT. I move to amend the bill so as to provide that the grants shall go to the purchasers as well as to the heirs—whichever may be decided to be entitled to it.

Mr. SANDIDGE. There is no objection to that amendment.

Mr. LETCHER. I see that this claim was reported upon adversely in the Senate, in the Thirty-Third Congress. Does the gentleman from Louisiana know upon what ground that adverse report was based?

Mr. SANDIDGE. I cannot answer that question.

Mr. HAWKINS. I will say to the gentleman from Virginia that there are two or three claimants of this same name.

The amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

OLIVIER LANDRY.

A bill (S. No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana.

The bill confirms the heirs and legal representatives and assigns of Olivier Landry in their title to a certain tract of land situated in township ten south, range five east, in the southwestern district of Louisiana, containing two hundred and thirty acres and eighty-four hundredths of an acre, being the tract in the township-map of said township marked forty-nine, bounded on one side by a tract belonging to the heirs of René Trahan, and on the other by land formerly confirmed to Olivier Landry; provided that the act shall only be construed as a relinquishment of any title that the United States may have to the lands, and shall not affect any title that any third person may have in and to the lands.

The report sets forth that, in 1787, Olivier Landry petitioned the Governor General of the province of Louisiana to grant him, on the Bayou Tortue, five arpents of land, "more or less, if it could be found," bounded below by René Trahan, and on the other side by Claude Broussard, with the ordinary depth; the quantity to be ascertained by the surveyor of the King. In accordance with the prayer of the petitioner, Estevan Miro, Governor of Louisiana, issued, on the 2d January, 1788, an order of survey, directed to Carlos Zavan Trudeau, which, accompanied by the petition, was filed, in the year 1812, by the said Olivier Landry, in order to establish his claim, with the register and receiver of the land office at Opelousas, then acting as commissioners on claims for lands in the western district of the State of Louisiana, under an act of Congress approved 10th March, 1812. But in the notice of the claim filed before the register and receiver, the words "more or less" were omitted, and the claim was favorably reported for "two hundred superficial arpents, five arpents

front by forty deep, situated on the Bayou Tortue, in the county of Attakapas, bounded on one side by land of René Trahan, and on the other by that of Claude Broussard." In consequence of this error upon the part of the claimant, the above-stated action of the register and receiver, and its confirmation by Congress in the year 1819, the surveyor general of the United States for Louisiana refused to put the purchasers under Landry in possession of more than five arpents front, by forty deep, as will appear by the following communication from him to C. J. Cabell, deputy surveyor, St. Martinsville, Louisiana:

SURVEYOR GENERAL'S OFFICE,
DONALDSONVILLE, LOUISIANA, March 30, 1855.

SIR: A few days since, Governor A. Mouton represented, in person, to this office that you had surveyed the claim of Olivier Landry, (R. & R. report, No. 40, in T. 10 S., R. 5 E.,) with a front of five arpents only; and having bounded it below by the claim of Joseph Landry, (R. & R. No. 126,) so as to include the buildings upon the tract, had left an intervening space between this claim and that of René Trahan, (A. 1,331,) which you would survey as public land, and return wholly or in part as swamp, inuring to the State. Such a procedure, he alleged, would be injurious to him and others, not only because of its requiring the purchase of lands to which the United States had, in his opinion, no title, but also because of its affording an opportunity to others to enter the lands which he and his coproprietors have long held in possession; and he therefore prayed that instructions should be given to you to survey the whole space between the rear line of René Trahan and the upper side of Joseph Landry, for the claim of Olivier Landry, regardless of the front which it would thus receive. To sustain his wish, he submitted the requête of Landry, dated 27th August, 1787, (copy inclosed,) and the usual order of survey thereupon issued.

The requête described the tract sought as having a front of "five arpents, more or less," "if it could be found," bounded below by René Trahan, and on the other side by "Claude Broussard." But in the notice of the claim, filed before the register and receiver, the saving words "more or less" were omitted, and the front prayed was confined to five arpents; and to this extent only has it been favorably reported, confirmed, and surveyed by you properly.

But in view of the long tenure of Governor Mouton and others, maintained under a succession of *bona fide* sales, dating back many years, made by Olivier Landry and his vendees, in full belief that they were the recognized owners of the whole front between the lines of Trahan and Broussard, I am of opinion that the intervening space between the upper line of Olivier Landry, as surveyed by you, and the back line of René Trahan, should not be subdivided and reported as public lands; but that it should be represented as "claimed by Olivier Landry," without assigning any title to it, as is usual in such cases when tracts have long been held as private property, although no confirmation can be found for them. This would leave the claimants of the tract to seek from the legislative branch of the Government the recognition of the validity of the claim to which its equity fully entitles it.

Respectfully, your obedient servant,

W. J. McCULLOH,
Surveyor General of Louisiana.

C. J. CABELL, Esq.,
Deputy Surveyor, St. Martinsville, Louisiana.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

SYLVESTER TIFFANY.

A bill (H. R. No. 606) for the relief of Sylvester Tiffany.

The bill directs the Secretary of the Interior to cause a warrant to be granted and issued to Sylvester Tiffany, a private in the war of 1812, for one hundred and sixty acres of land, which warrant may be located by him, or his heirs or assigns, upon any of the public lands of the United States subject to private entry; and upon the return of such certificate or warrant, with evidence of the location having been legally made, to the General Land Office, a patent shall issue therefor.

From the report, it appears that the petitioner volunteered at Buffalo, New York, in the war of 1812, with a detachment of militia under the command of Captain (or Major) Cyrenus Chapin, of Buffalo; that said detachment, with others, was placed under the command of General P. B. Porter, and crossed over into Canada, and engaged in battle with the enemy at a place called the "Sign of the Black Horse," about five miles from Queenston, in Canada; that in the battle Tiffany was severely wounded, and was taken prisoner—as were also General Porter and others—and was taken to Burlington and kept a prisoner for several months, when he effected his escape from the enemy; that, in consequence of the injuries he received in battle, he was placed on the invalid pension roll at the rate of ninety-six dollars a year; that Tiffany has never received the bounty land to which he was entitled in consequence of his services and wounds; that he made application for the same to the proper department of the Government, which application was refused upon the ground that his name did not appear upon the roll.

Mr. COBB. I move to amend that bill by inserting after the word "entry," the words "at a price not exceeding \$1 25 per acre."

The amendment was agreed to.

The bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

ABRAM STAPLES.

A bill (H. R. No. 606) granting bounty land to Abram Staples, heir-at-law of Isaac Staples, a revolutionary soldier. [Objected to by Mr. JONES, of Tennessee.]

DANIEL WHITNEY.

A bill (S. No. 72) for the relief of Daniel Whitney. [Objected to by Mr. LETCHER.]

WILLIAM MARVIN.

A bill (S. No. 177) to confirm to William Marvin title to lands in East Florida.

The bill directs that the grant to Bernardo Segui, of seven thousand acres of land lying on the east side of the St. John river, in East Florida, between the place called Dunn's Lake and that known as Horse Landing, including the place called Buffalo Bluff, made by "Estrada," the then Governor of the Province of East Florida, on the 20th of December, 1815, be confirmed to the grantee and those claiming under him, and that the Commissioner of the General Land Office be directed to cause the lands described in the grant to be surveyed to the claimant, without prejudice to any third person.

An amendment to the title that the words "William Marvin" be stricken out, and the words "the heirs or assigns of Bernardo Segui" be inserted, was agreed to.

It appears, from the report, that the petitioner claims seven thousand acres of land on the east side of the river St. John, between the places known as Dunn's Lake and Horse Landing, and to include a place known as Buffalo Bluff, in the State of Florida, by virtue of a concession, dated December 20, 1815, from Estrada, then Governor of Florida, to one Bernardo Segui. It appears that Bernardo Segui, then a subject of his Catholic Majesty, on the 19th of December, 1815, petitioned the Governor of Florida for a grant of lands; which petition is as follows: (see American State Papers, Green's edition, volume 4, page 757:)

Don Bernardo Segui, notary public *pro tempore* for the town of Fernandina, resident in this city, respectfully sheweth:

That, with the permission of your Excellency, he has come to this capital solely with the object of making known to you, as he has already done verbally, the deplorable situation and condition of that population, originating from a want of commerce, in consequence of the declaration of peace between Great Britain and the United States. In May of the present year, your memorialist was appointed by your lordship's predecessor, Don Sebastian Kindelan, to the office which he now holds in said town, and as he thought to have obtained by it the greatest advantages, he abandoned in this city, as is well known, the business which he had for the support of himself and family, resulting thereby his leaving a certainty for an uncertainty, and consequently at the present without any means whatever.

The town of Fernandina, as he has already stated, is in such a deplorable condition on account of there not being any trade whatever, that your memorialist passes entire weeks without obtaining a half real in fees. If, therefore, a fact so positive, add'd thereto the limited services he has performed, merit the consideration of your lordship, he hopes to obtain from your well-known justice, and in virtue of the superior orders of his Majesty, (whom God preserve,) in which he recommends that lands be granted gratis to Spanish subjects, that you be pleased, therefore, to grant him in absolute property the quantity of seven thousand acres of land on the east side of the river St. John, between the place called Dunn's Lake and that known as Horse Landing, including in said tract of lands the place called Buffalo Bluff, which was latterly given up to the Government by the house of Juan Forbes & Co., in exchange for other lands. Therefore, your memorialist prays that your lordship may be pleased to grant him the said quantity of seven thousand acres of land in the place mentioned, not doubting that he will obtain them, from the known justice of your lordship.

BERNARDO SEGUI.

ST. AUGUSTINE, FLORIDA, December 19, 1815.

Upon this petition, Governor Estrada on the next day, December 20, 1815, made the following decree:

"The renunciation made by Don Juan Forbes & Co. of the lands mentioned by the interested in this memorial being certain, and in virtue of the reasons which he indicates to this Government, let there be granted to him, in absolute dominion, the seven thousand acres of land which he petitions for, under the boundaries which he points out, without injury to a third person, dispatching for his security a certified copy of this concession, which will serve him in every event for a title in form. ESTRADA."

On the 10th of December, 1818, Don Andrew

Burgevin, private surveyor in the city of St. Augustine, East Florida, issued the following certificate of survey:

"I certify that, in virtue of the permission of this Government, I have measured and marked the boundaries of a tract containing seven thousand acres, more or less, situated on the east of the river St. John, at the place known as Buffalo Bluff, and running south, bounding the waters of said river, as is more fully seen by the annexed plat, which piece of land belongs to Don Bernardo Segui, by a concession made to him by this Government the 19th of December, 1815."

At the date of the cession of Florida by the Spanish Government to the United States, Bernardo Segui was in the full possession and enjoyment of the lands in question, under, and by virtue of, the aforesaid grant. Under the act of Congress entitled "An act for ascertaining claims and titles to land within the Territory of Florida," approved May 8, 1822, Bernardo Segui filed his claim before the commissioners appointed in conformity thereto, who, in their report to the Secretary of the Treasury, dated January 20, 1824, (American State Papers, Public Lands, Green's edition, volume 3, page 644,) make use of the following language in reference to the claim:

"The claimant in this case produced in evidence a memorial and decree of absolute property from the Governor, dated 20th December, 1815, for seven thousand acres of land, a plat and certificate of survey, by which it appears, that in virtue of the decrees of the Cortes of 22d January, 1813, and the royal order of 1815, there were granted to the claimant, in absolute property, the seven thousand acres of land, at the place set out in the memorial and certificate of survey; and as we conceive that, by the decrees and order aforesaid, the quantity to be apportioned according to the merit of the applicant and the number of his family was left alone to the discretion of the Governor for the time being, that title of the claimant would have been confirmed to him under the Spanish Government, we recommend the case to Congress for their confirmation."

In 1825, John B. Strong became the owner of the land, by the foreclosure of a mortgage, executed to him by Bernardo Segui. Strong died shortly after he acquired the title, leaving, as his heirs-at-law, five children, all minors, the youngest of whom did not arrive at full age until 1835. The widow died shortly after the decease of her husband, and there was no guardian for the children appointed, who were removed to the States of New York and Connecticut immediately after the death of their mother. By the act of Congress approved May 23, 1828, all claims to land in the Territory of Florida, embraced by the treaty, which shall not have been decided and finally settled by the provisions of the act, containing a greater quantity of land than the commissioners were authorized to decide, and above the amount confirmed by the act, were to be referred, within one year from the passage thereof, or be forever barred, to the judge of the superior court of the Territory, for adjudication by the court. By the act approved May 26, 1830, "all the remaining claims which have been presented according to law and not finally acted upon, shall be adjudicated and finally settled upon the same conditions, restrictions, and limitations, in every respect, as are prescribed by the act approved May 23, 1828." Under neither of the aforesaid acts was a petition filed by the minor children and heirs-at-law of John B. Strong before the superior court; which fact ought not to be urged against minor heirs, without a guardian, living at a remote distance from these lands.

In 1835, these heirs-at-law sold and conveyed the tract of land to William Marvin, the petitioner, who, under the impression that the provisions of the act of May 26, 1830, were still open to him, in June, 1843, filed his petition in the superior court of the district of East Florida, and obtained a decree in his favor for the lands in question; but, on appeal to the Supreme Court of the United States, the decree was reversed, for want of jurisdiction in the court below; so that the petitioner has no remedy or relief other than in appeal to the justice of Congress. Without discussing the legal effect of the eighth article of the treaty of 1819, it is satisfactory, from the decision of the superior court of Florida, in 1843, that this claim would have been adjudicated in favor of Segui, or his legal representatives, had the same been presented to that court within the time limited by the said acts of May 23, 1828, and May 26, 1830.

The bill, as amended, was laid aside, to be reported to the House with the recommendation that it do pass.

ELEAZER WILLIAMS.

A bill (S. No. 166) for the relief of Eleazer Williams.

Mr. STANTON. The Dauphin is dead, and I object to that bill.

LIVINGSTON, KINKEAD, AND COMPANY.

A bill (S. No. 199) for the relief of Livingston, Kinkead & Co.

Mr. STANTON. That is another Georgia and Alabama claim, and I object to it.

Mr. CHAFFEE. I move that the committee do now rise.

Mr. JONES, of Tennessee, demanded a division.

Mr. COBB demanded tellers.

Tellers were ordered; and Messrs. DAVIS, of Mississippi, and STANTON were appointed.

The committee divided; and the tellers reported—ayes 60, noes 65.

So the committee refused to rise.

JACOB THOMAS.

A bill (H. R. No. 608) for the relief of Jacob Thomas. [Objected to by Mr. STANTON.]

KERR, BRIERLY AND COMPANY.

A bill (H. R. No. 609) for the relief of Kerr, Briarly & Co., of the State of Missouri.

Mr. MORGAN. I do not believe that this Government is an insurance company against storms, and I object to this bill.

Mr. CRAIG, of Missouri. I appeal to the gentleman to let the bill go into the House, and there let it be passed or rejected.

Mr. MORGAN. It ought to be stopped here. It has no more merit than those which have already been objected to.

Mr. CASE. I suggest to members, that if they desire to pass the bills already laid aside, they had better rise; and I make that motion.

Mr. WINSLOW demanded tellers.

Tellers were ordered; and Messrs. WINSLOW and SPINNER were appointed.

The committee divided; and the tellers reported—ayes 57, noes 37.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. NICHOLS reported that the Committee of the Whole House on the Private Calendar had, according to order, had the Private Calendar under consideration, and had directed him to report sundry bills, some with amendments and some without amendments, with a recommendation that they do pass; and also, that the committee had directed him to report one bill with a recommendation that it do not pass.

Mr. WASHBURN, of Maine. The objection to the bill (H. R. No. 574) to provide for quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes, is, I understand, withdrawn; and I ask that the Committee of the Whole House be discharged from its further consideration.

Mr. JONES, of Tennessee. I shall make no objection if the gentleman will give us the yeas and nays in the House.

Mr. WASHBURN, of Maine. Certainly; I will make no objection to that.

Mr. CURRY. I object.

Mr. MORRIS, of Illinois. I move that the Committee of the Whole House be discharged from the further consideration of a bill (H. R. No. 588) for the relief of Lucien B. Adams, executor of James Adams, deceased, one of the sureties of John S. Roberts, late postmaster at Springfield, Illinois. There was some controversy in the committee as to whether there was or was not objection to that bill, and the Chairman decided that the objection came too late, and that the bill was laid aside. However, the Clerk has the objection entered against the bill, and the bill has not been brought into the House. This bill was reported by my late colleague, (Colonel Harris,) and is one of great merit. If I am allowed to make an explanation, I can easily satisfy the House of the justice of the claim.

Objection was made.

The SPEAKER. The Chair cannot correct errors of the Clerk in committee.

Mr. LETCHER. Let the report be read, and then I will determine whether or not I will object.

Mr. MORGAN. I call for the regular order of business.

BILLS WITHOUT AMENDMENTS PASSED.

Mr. CHAFFEE. I call for the previous question on the bills reported by the Committee of the Whole House without amendments.

The previous question was seconded, and the main question ordered.

The House bills to which no amendments were reported, and which were reported with a recommendation that they do pass, were severally ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed. The Senate bills were ordered to a third reading; and were accordingly read the third time, and passed.

The following are the bills thus passed:

A bill (S. No. 123) for the relief of Henry Hubbard;

A bill (C. C. No. 83) for the relief of William H. Russell;

A bill (H. R. No. 584) for the relief of Captain A. W. Reynolds;

A bill (S. No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis;

A bill (H. R. No. 589) for the relief of John Kelley;

A bill (S. No. 76) for the relief of Mrs. Ambrose Brou, of the parish of St. Charles, State of Louisiana;

A bill (S. No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana; and

A bill (H. R. No. 607) granting bounty land to Abram Staples, heir-at-law of Isaac Staples, a revolutionary soldier.

Mr. CHAFFEE moved to reconsider the votes by which these bills were severally passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MRS. FRANCES M'CAULEY.

Mr. BARKSDALE. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of the bill for the relief of Mrs. Frances McCauley. I have not been in the habit of asking favors of the House; but I do feel an interest in the passage of this bill, and I hope what I ask will be granted.

Mr. MORRIS, of Illinois. I hope they will grant my request, too.

Mr. SMITH, of Illinois. I am willing to be liberal to every gentleman; but while a claim of so much merit as the one I advocated this morning was objected to, I must object to all others until objection to that claim is removed.

Mr. BARKSDALE. I did not object to the gentleman's bill.

Mr. SMITH, of Illinois. Many appeals are made to me to withdraw my objection; and as this is the case of a widow, I do so.

Mr. MORRIS, of Illinois. I renew the objection.

SENATE BILLS PASSED.

The following Senate bills were reported by the Committee of the Whole House, with amendments, and a recommendation that, as amended, they do pass:

A bill (No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, in Florida;

A bill (No. 177) to confirm to William Marvin title to lands in East Florida; and

A bill (No. 71) to amend an act entitled "An act to authorize the relocation of land warrants numbered 3, 4, and 5, granted by Congress to General La Fayette."

Mr. COBB moved to amend the last-mentioned bill by inserting a provision that locations should be made on lands subject to entry at the rate of \$1 25 an acre.

The amendment was agreed to.

The amendments reported by the Committee of the Whole House were severally agreed to; and the bills, as amended, were read the third time, and passed.

SYLVESTER TIFFANY.

The amendment reported by the Committee of the Whole House to the bill (H. R. No. 606) for the relief of Sylvester Tiffany, was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. CHAFFEE moved to reconsider the votes by which the bills were severally passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

P. S. DUVAL AND COMPANY.

The bill (S. No. 331) for the relief of P. S. Duval & Co., reported by the Committee of the Whole House, with a recommendation that it do not pass, was laid on the table.

LAND TITLES IN MAINE.

Mr. WASHBURN, of Maine. I understand that the gentleman from Alabama [Mr. CURRY] withdraws his objection to my motion to discharge the Committee of the Whole House from the further consideration of the bill (H. R. No. 574) to provide for quieting certain land titles in the late disputed territory in the State of Maine. I hope the bill will be taken up and passed by the House.

Mr. CRAIG, of Missouri. If the gentleman will indulge me a moment, I will explain. There is a joint resolution for the benefit of my colleague, Mr. Woodson. He was a mail contractor some years ago, and, unlike the cases we had up today, he did not abandon his contract, but carried it out at a loss of some forty thousand dollars. There is a small amount due him for stoppages. This joint resolution is only to authorize the Postmaster General to reopen the case, and let him show a good excuse for the repayment of these stoppages.

The resolution does not make an appropriation. It only authorizes the Postmaster General to allow what was improperly stopped by his predecessor. I hope there will be no objection to discharging the Committee of the Whole House from its further consideration, and having it passed by the House. If that be done, I will not object to the proposition of the gentleman from Maine. If not, I shall block the wheels right here, and object to everything.

Mr. JONES, of Tennessee. Does the gentleman from Missouri say that this makes no appropriation? Does it not authorize the payment of whatever amount is found due?

Mr. CRAIG, of Missouri. It authorizes the Postmaster General to investigate the accounts and to hear the excuses of Mr. Woodson; and if legal excuses be given, the Postmaster General is to remit these stoppages, which amount to only some two thousand dollars.

The SPEAKER. Is there any objection to the proposition of the gentleman from Maine, [Mr. WASHBURN?]

Mr. CLARK, of Missouri. I object.

LUCIEN B. ADAMS.

Mr. MORRIS, of Illinois. I believe that no objection will be made to my motion to discharge the Committee of the Whole House from the further consideration of House bill No. 588 for the relief of Lucien B. Adams.

Mr. LETCHER. Yes, sir, there is objection to it.

Mr. MORRIS, of Illinois. I would like to have the report read.

Mr. LETCHER. I have read both the bill and report, and my objection to it is this: that your man, after he forced the Government to sue him—

Mr. MARSHALL, of Kentucky. I object to debate.

The SPEAKER. Debate is not in order.

Mr. MORRIS, of Illinois. I would like to have the privilege of replying to the aspersion of the gentleman from Virginia. I think I could satisfy him—

The SPEAKER. Debate is not in order.

And then, on motion of Mr. HOUSTON, (at four o'clock, p. m.) the House adjourned.

IN SENATE.

SATURDAY, February 5, 1859.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in compliance with a resolution of the Senate of the 4th ultimo, requesting the Presi-

dent to communicate, if in his opinion it be not incompatible with the public interest, any correspondence with the Government of Peru, or its agents, on the subject of trade in guano; and all information which may tend to explain the manner in which said trade is regulated; and whether such regulations have not the effect unduly to enhance the price of guano to the consumer, or to deprive vessels navigating under the flag of the United States of the fair and equal competition with those of other nations, guaranteed by the treaty with Peru, of the 19th of July, 1852; and, if so, whether any and what regulation is expedient to counteract the effect of such regulations; which, on motion of Mr. SLIDELL, was referred to the Committee on Foreign Relations; and a motion by him to print the report was referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bills; in which the concurrence of the Senate was requested.

A bill (C. C. No. 83) for the relief of William H. Russell;

A bill (No. 584) for the relief of Captain A. W. Reynolds;

A bill (No. 589) for the relief of John Kelly; and

A bill (No. 606) for the relief of Sylvester Tiffany.

The message further announced that the House had passed the following bills of the Senate:

A bill (No. 123) for the relief of Henry Hubbard;

A bill (No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis;

A bill (No. 276) for the relief of Mrs. Ambrose Brou, of the parish of St. Charles, State of Louisiana; and

A bill (No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana.

The message further announced that the House had passed the following bills of the Senate, with amendments, in which the concurrence of the Senate was requested:

A bill (No. 71) to amend an act entitled "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845; and

A bill (No. 170) to grant Rome arsenal to the State of New York, on certain conditions.

The message further announced that the President had approved and signed, the 2d instant, the following acts:

An act to provide for the lighting with gas certain streets across the mall;

An act to fix and regulate the compensation of receivers and registers of the land offices, under the provisions of the act approved April 20, 1848; and

An act authorizing the Secretary of the Treasury to grant a register for the schooner "William A. Hamill."

INDIAN APPROPRIATION BILL.

Mr. HARLAN. I rise, Mr. President, to make a privileged motion. I move to reconsider the vote by which the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860, was passed, with a view of making a verbal correction in one amendment which was made to that bill. It is necessary, in order to give the effect which the Senate intended to that amendment. I wish to have the question put immediately, because it is necessary to send the bill to the House of Representatives as soon as possible.

The motion to reconsider the passage of the bill was agreed to.

Mr. HARLAN. I move now to reconsider the vote by which the following amendment was adopted:

"To refund the amount advanced by the States of Iowa and Minnesota for supplies furnished to the United States troops who were employed to repress the hostilities of Ink-pa-du-tah and his band of Indians, \$5,114 91."

And when that has been done, I shall propose to substitute for that amendment, the following:

For defraying the expenses of the several expeditions against Ink-pa-du-tah's band, and in the search, ransom, and recovery of the female captives taken by said band in

1857, \$5,114 91, in addition to the sum of \$20,000 appropriated by the act of June 14, 1858.

Mr. HUNTER. Can that bill be reconsidered under the rule?

Mr. SEWARD. Yes.

The PRESIDENT *pro tempore*. That question was not raised, and the reconsideration has been agreed to.

Mr. HARLAN. It is a mere verbal correction. I have consulted with the chairman of the Committee on Indian Affairs about it, and also with the Senator from Minnesota and my colleague.

The PRESIDENT *pro tempore*. The bill passed the day before yesterday, and therefore the motion to reconsider is in order under the rule. The question is on reconsidering the vote adopting the amendment alluded to by the Senator from Iowa.

Mr. HUNTER. The original amendment, as I understood, which came from the Committee on Indian Affairs, was made in pursuance of an estimate. This changes it. I do not understand it. I do not know whether it is right or wrong. It may be right; I do not know; but it seems to me that appropriation bills, after we have passed them, ought not to be reopened in this way, unless for some error that is patent on their face. I should like to have some explanation of this amendment.

Mr. HARLAN. At the last session of Congress, the following item in the appropriation bill was passed, to pay for the precise service contemplated in this amendment:

"To defray the expense of the several expeditions against Ink-pa-du-tah's band, and in the search, ransom, and recovery of the female captives taken by the said band in 1857, the sum of \$20,000, or so much thereof as may be necessary, the amount to be ascertained and paid on satisfactory proof, under the direction of the Secretary of the Interior."

Under the direction of the Secretary of the Interior, the claims for this service were submitted to the superintendent of Indian affairs for that district, residing in Minnesota, and he reported in favor of \$25,114 91, which has been certified by the Commissioner of Indian Affairs, on whose certificate this amendment in the present bill was adopted by the Senate the day before yesterday; but the phraseology of the amendment is such as to cut out the claimants. The words, "United States troops," are used; but I propose to adopt the precise phraseology of the appropriation bill of the last session, so as to confine this amount to the exact service then contemplated by Congress. It does not change the amount of money agreed on by the Senate when the bill was passed, one cent. It merely so amends the phraseology as to confine it to the exact service certified by the Commissioner of Indian Affairs, and nothing else.

Mr. HUNTER. Does that conform to the certificate of the Commissioner of Indian Affairs?

Mr. HARLAN. Certainly.

Mr. HUNTER. Did not the first amendment conform to that certificate? This amendment seems to be offered on the supposition that the Commissioner was mistaken.

Mr. HARLAN. I submitted it to the chairman of the Committee on Indian Affairs, [Mr. SEBASTIAN,] who is not now in his seat; and if there be any difficulty about it, I shall be willing to have it passed over until he comes in.

Mr. HUNTER. I hope we will not reopen appropriation bills in this way. Let us settle this question, one way or the other, at once.

Mr. SHIELDS. I will state to the Senator from Virginia that the amendment simply proposes to make the appropriation more specific, and to confine it to the object. It makes no other change in the bill.

Mr. HUNTER. I should like to hear the certificate of the Commissioner of Indian Affairs, on which that amendment is based, read, to see whether they correspond.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Virginia that the papers to which he has reference are in the possession of the chairman of the Committee on Indian Affairs, who is not in his seat.

Mr. HUNTER. The papers which accompany a bill that is passed are always sent to the House of Representatives with the bill. They ought to be with the bill now.

Mr. HARLAN. I will inform the Senator that the bill has not yet been actually engrossed.

Mr. HUNTER. It is very strange if the bill has not been engrossed, because the order to engross precedes the passage of the bill. The bill must have been engrossed, I think. It was ordered to be engrossed previous to its passage.

The PRESIDENT *pro tempore*. The Secretary informs the Chair that the bill has been engrossed; and the Senator from Iowa labors under a mistake.

Mr. SHIELDS. I know the honorable Senator from Iowa is right in offering this amendment. He intends to confine this small appropriation for the specific object, so that it may not be, and cannot be, misapplied by any misconstruction; but I will say to him that he can have that done in the House of Representatives. It is better, perhaps, not to obstruct the passage of the bill here now.

Mr. SEWARD. I suggest the propriety of letting this question lie over until the chairman of the Committee on Indian Affairs comes in.

Mr. HUNTER. I hope we shall settle it one way or the other at once. The Senate can vote as they think proper. I myself am unwilling to open the appropriation bills after they have been passed. It seems to me, it is far better to trust to the House to correct it than reopen the bill, and keep it lying here three days.

Mr. HARLAN. I think it far better that we should correct the phraseology ourselves. We understand the whole subject fully. I think that every member of the Senate who has paid any attention to the subject understands it completely, and I insist upon my motion.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider the vote by which the amendment was agreed to.

The motion was agreed to.

Mr. HARLAN. Now I move to amend the amendment by substituting for it the following:

For defraying the expenses of the several expeditions against Ink-pa-du-tah's band, and in the search, ransom, and recovery of the female captives taken by said band in 1857, \$5,114 91, in addition to the sum of \$20,000 appropriated by the act of June 14, 1858.

Mr. HUNTER. I will only say that we are acting on this amendment, as I understand, not only without the recommendation of the Indian department, but contrary to the terms of its communication.

The amendment was agreed to; and the bill was passed.

ISAAC BODY AND SAMUEL FLEMING.

The joint resolution (H. R. No. 50) to correct a clerical error in "An act for the relief of Isaac Body and Samuel Fleming," was read twice by its title, and referred to the Committee on Public Lands.

Mr. TRUMBULL subsequently said: A moment ago a joint resolution from the House of Representatives, the object of which is to correct a mistake, was referred to the Committee on Public Lands. I ask the unanimous consent of the Senate to put it on its passage. It explains itself. There are but eight lines of it; it is to correct a mistake in an act, and therefore will consume but a few moments. I move that the Committee on Public Lands be discharged from the further consideration of the joint resolution, and that it be taken up for action.

The motion was agreed to; and the joint resolution (H. R. No. 50) to correct a clerical error in "An act for the relief of Isaac Body and Samuel Fleming," was considered by the Senate as in Committee of the Whole.

It directs that the words "northwest quarter of section twenty," where they occur in the "Act for the relief of Isaac Body and Samuel Fleming," approved June 5, 1858, shall read and be held to mean "the northwest quarter of section twenty-nine," the word "nine" having been erroneously omitted from that act.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented resolutions of the Legislature of New York against an increase in the rates of postage; which were ordered to lie on the table, and be printed.

He also presented the petition of citizens of New York, praying the passage of a law to pre-

vent further traffic in the public lands; and that they be laid out in farms or lots for the exclusive use of actual settlers; which was ordered to lie on the table.

Mr. SEWARD. I present the petition of D. W. Lunsford, of the State of Indiana, a veteran of the war of 1812, praying, in behalf of himself and many brave associates, the Senate to pass the bill which has been sent to the Senate by the House of Representatives to grant pensions to the soldiers of the War of 1812, during the present session of Congress; and I move its reference to the Committee on Pensions.

The motion was agreed to.

Mr. WILSON presented the petition of citizens of Massachusetts, praying that the bills to extend the patents of E. N. Chaffee and Nathaniel Haywood, for improvements in the manufacture of India rubber goods, may not become laws; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of citizens of Boston, protesting against the removal of the post office in that city from its present location; which was referred to the Committee on the Post Office and Post Roads.

Mr. FOOT presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. CHANDLER presented a joint resolution of the Legislature of Michigan, in favor of a donation of land for the support of State asylums for the insane and deaf and dumb and the blind; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. CAMERON presented the petition of citizens of New York, praying the passage of a law to prevent further traffic in the public lands; and that they be laid out in farms and lots for the exclusive use of actual settlers; which was ordered to lie on the table.

Mr. THOMSON, of New Jersey, presented the petition of citizens of New York and New Jersey, praying the passage of a law to prevent the further traffic in the public lands, and that they be laid out in farms and lots, for the exclusive use of actual settlers; which was ordered to lie on the table.

PAPERS WITHDRAWN.

On motion of Mr. SHIELDS, it was

Ordered, That Lucretia V. Gardner have leave to withdraw her petition and papers.

BILLS INTRODUCED.

Mr. MASON asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 562) for the relief of Anne E. Bronaugh, widow of the late John W. Bronaugh; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 561) for the relief of Mrs. Elizabeth M. Cock, widow of Major Thomas H. Cock, late United States marshal of the district of Texas; which was read twice by its title, and referred to the Committee on Commerce.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 83) for the relief of William H. Russell—to the Committee on Claims.

A bill (No. 584) for the relief of Captain A. W. Reynolds—to the Committee on Claims.

A bill (No. 606) for the relief of Sylvester Tiffany—to the Committee on Public Lands.

A bill (No. 589) for the relief of John Kelly—to the Committee on the Post Office and Post Roads.

REPORTS FROM COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, who were instructed by a resolution of the Senate to inquire into the subject, reported a bill (S. No. 560) to fix the pay and regulate the allowance of officers of the Army; which was read, and passed to a second reading.

Mr. REID, from the Committee on Patents and the Patent Office, to whom was referred the resolution of Mr. SEWARD for a list of all rejected or suspended applications for patents since 1840, to

the 1st of December, 1859, &c., reported adversely thereon; and the report was agreed to.

Mr. CHESNUT, from the Committee on Public Lands, to whom was referred the memorial of Lucien Peyronnet, of Charleston, South Carolina, praying that he may be authorized to locate bounty land warrants Nos. 65,211 and 65,217, for one hundred and sixty acres each, issued under act of Congress of 11th February, 1847, submitted an adverse report thereon.

The Senate proceeded to consider the report; and in concurrence therewith,

Resolved, That the prayer of the memorialist ought not to be granted.

Mr. FITCH, from the Committee on Indian Affairs, to whom was referred the petition of Israel Johnson, submitted a report, accompanied by a bill (S. No. 564) to compensate Israel Johnson for services performed by direction of the Indian agent at the treaty ground at the Forks of the Wabash, in 1833; which was read, and passed to a second reading.

COLLECTION DISTRICTS.

Mr. CLAY. The Committee on Commerce, to whom was referred the report of the Secretary of the Treasury, communicating a bill to reorganize the collection districts of the United States, and designating the ports of entry and delivery for the same, and regulating the appointment and compensation of officers of the customs, have instructed me to report a bill (S. No. 563) reorganizing the collection districts of the United States, and designating the ports of entry and delivery of the same, and regulating the appointment and compensation of officers of the customs. I will state to the Senate that while we are appropriating money for a great variety of objects, here is a bill that proposes to reduce the expenditures of the Government by nearly six hundred thousand dollars, and the number of officers engaged in the collection of the revenue by nearly two thousand. As I think it is very important, I hope that Senators will examine it when it is laid upon their tables, and that they will permit me to call it up at some convenient time next week, and put it upon its passage.

The bill was read, and passed to a second reading.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that he had this day approved and signed the following act and joint resolution:

An act for the relief of Thomas Laurent, surviving partner of the firm of Benjamin and Thomas Laurent; and

A joint resolution authorizing the Secretary of the Treasury to convey a portion of the Government lot on which the United States court-house stands in Rutland, Vermont, in exchange for other land adjoining said lot.

MASSACHUSETTS AND RHODE ISLAND.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the bill (S. No. 554) to authorize the Attorney General to represent the United States in proceedings in equity now pending in the Supreme Court between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations, have instructed me to report the bill back, with a recommendation that it pass. They have also instructed me to ask for its present consideration. It is a bill to which, I am sure, no Senator will object. The officers of the respective States are here; the case is pending, and has been long pending, in the Supreme Court, and the only object of the bill is to do what the Constitution requires—that, in order to render valid the agreement or contract between the States, the assent of the United States should be given. The object is to give the assent, guarding the interests of the United States, to the settlement of the boundary line between Massachusetts and Rhode Island by agreement. I hope the bill will be considered now. It will take but a few moments.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It directs the Attorney General to intervene and represent the United States in the proceedings in equity now pending in the Supreme Court, between the Commonwealth of Massachusetts and

the State of Rhode Island and Providence Plantations, and to consent on behalf of the United States to the adjustment of the suit by a conventional line to be agreed upon by the parties, and confirmed by a decree of the court, if in his judgment the rights of the United States are not prejudiced thereby. If the suit shall be thus adjusted, and a conventional line shall be agreed upon and confirmed by a decree of the court, that line to be taken and deemed to be taken, for all purposes affecting the jurisdiction of the United States or any department of the Government, as the true line of boundary between those States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (S. No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, in Florida, with an amendment; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and resolution; which thereupon received the signature of the President *pro tempore*:

An act (S. No. 263) granting the right of way over, and depot grounds on, the military reserve, at Fort Gratiot, in the State of Michigan, for railroad purposes;

An act (H. R. No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort on the Mexican boundary commission; and

A joint resolution (H. R. No. 50) to correct a clerical error in an "Act for the relief of Isaac Body and Samuel Fleming."

SAMUEL A. WEST AND OTHERS.

Mr. KENNEDY. I ask the consent of the Senate to take up Senate bill No. 450. It is a very short bill, and I think will involve no debate at all. If it does, I am willing to let it go over. I move to take it up.

The motion was agreed to; and the bill (S. No. 450) for the relief of Samuel A. West, George McCullough, Hiram McCullough, and Charles Pendergrast, was read the second time, and considered as in Committee of the Whole.

It releases Samuel A. West, George McCullough, Hiram McCullough, and Charles Pendergrast from their liability on a contract entered into with the United States on the 17th of November, 1856, for the delivery of stone at the navy-yard at Gosport, in the State of Virginia.

Mr. KING. If there is a report accompanying the bill, I should like to hear it read.

The Secretary read the following report, made by Mr. MALLORY, June 10, 1858:

The Committee on Naval Affairs, to whom was referred the petition of Hiram McCullough, have had the same under consideration, and report:

That Samuel A. West and George McCullough contracted with the United States, on the 17th of November, 1856, to deliver at the navy-yard at Gosport, Virginia, certain quantities of stone: one fourth in ninety, one fourth in one hundred and fifty, and one fourth in one hundred and eighty days, and the balance within nine months from the date of the contract; and that if the parties failed to deliver at the times specified, they should forfeit and pay to the Government a sum of money equal to twice the amount of the contract price agreed upon as the price to be paid in case of the actual delivery thereof.

From the letter of the chief of the bureau of yards and docks, communicated to your committee in response to a call upon the Navy Department for information in regard to the facts involved in this case, it appears that none of the stone contracted for by said West and McCullough was delivered, and that the Department "was compelled to procure it by open purchase, at an advance of some twenty thousand dollars on the amount at which the contractors had agreed to furnish." The chief of the bureau, however, states that "the offer of West and McCullough, on which their contract was based, was \$11,232 16 less than the next lowest bidder, and at rates so much below the current market prices of the article that the bureau believed at the time that they would not be able to comply with their engagements; but as they gave satisfactory security for the fulfillment of the terms of the contract, the bureau could exercise no discretion in the matter, the law imperatively requiring all contracts to be given to the lowest bidder."

It further appears, from the affidavits of five creditable persons conversant with the facts, and filed with the papers in this case, that the contractors promptly proceeded toward the execution of their agreement, by erecting the necessary machinery for loading vessels, and in quarrying the stone;

but that the violent and unusual freshets that prevailed and continued in the Susquehanna river during the winter and spring of 1856 and 1857, carrying with them immense masses of ice, completely destroying the cranes and derricks erected by them, the wharves and the bridge between the quarries and the river, and rendered physically impossible the fulfillment of their contract.

Your committee, therefore, believing that the agreement of these parties was entered into in good faith, and, from the evidence, that they sustained heavy losses in the destruction of their works by the freshets during that season, large sums of which were at various times advanced by your petitioner, and, as he alleges, never repaid by said contractors, who are poor, and the probable ruinous effect the enforcement of the penalty of said contract would have upon the sureties, are of opinion that Congress should accord the relief prayed, report the accompanying bill with a recommendation that it do pass.

Mr. KING. This is a proposition to release the contractors without any remuneration to the Government whatever for its loss; and it is a practice which, if continued by Congress, will enable contractors, at any time, by bidding lower than the work can be performed for, to prevent honest *bona fide* bidders competing for jobs, and then throw the matter on the discretion of the Secretary. It is a practice that, in my judgment, ought not to be allowed. There is great complaint, and, in my judgment, just complaint, of corruptions practiced through these contracts. They are the very worst species of putting out the funds of the Government; they are used for corrupt, improper purposes. Bargains are made by which double and treble prices are paid for articles, on the understanding, at times, it is often said, that contributions shall be made to the political party that gives the contract, to aid in carrying elections. I should have no objection, on the facts set forth in the report as to the misfortunes of the contractors, to release them from everything beyond indemnifying the Department; but I think they should do that. I think a proviso should be added that the Department shall be made good for any losses which it sustained by the non-fulfillment of the contract and the consequent extra price paid for stone.

Mr. HAMLIN. There is a good deal of truth in the suggestions made by the Senator from New York; but it seems to me his objections do not apply to this bill. It is not the case he states. The contractor here was prevented from complying with his contract by the act of God. The evidence is clear and full that the freshets upon the Susquehanna river, where his quarries were situated, were of such an extraordinary character as not only to prevent him from complying with his contract, but actually to ruin him otherwise. That is the simple case; and I think you will find the records of the Government full of precedents where, when a contractor has not been able to comply with his contract by the act of God—by circumstances over which he had no control, after having manifested an honest disposition to carry out his contract—we have uniformly, and, I believe, properly, released him. That is all this bill proposes to do, and no more.

Mr. KING. All it proposes to do is to release this party; but that it does propose to do. The report shows that the bid made by this party was about eleven thousand dollars less than it ought to have been, according to the ordinary price of the articles. I know nothing about the facts; but such claimants always get up a pretty fair show of reasoning when they present a claim of this kind. They are not the first people who charge their sins and follies upon Providence. The offering and taking of the contract was not a matter with which anybody had anything to do but themselves. I know nothing of this case whatever, except as is disclosed by the report; but I shall vote against the bill, because I will not, by my vote, sustain any such proposition.

Mr. MALLORY. I do not think the Senator from New York will vote against this proposition. I am quite convinced that he will vote for it when he understands it; for he certainly misapprehends the facts now. A call was made for stone to be used by the Government at Norfolk. These parties offered to supply the stone wanted for \$11,232 16 less than the next lowest bidder. Unfortunately, they miscalculated. They not only made that low bid, but they entered into the contract in good faith. They erected very expensive works to carry it out, although they knew they must fail. They knew it must be a losing business; but in good faith they entered upon it. A freshet, much heavier than had been known for

twenty years, occurred, and a great iceberg came down and destroyed all their works. It has been the practice of the Government, from time immemorial, when they find that a contractor has taken a contract in good faith far below its value, and has entered upon the execution of it in good faith, and has sustained heavy damage, not to enforce, like a heartless creditor, the penalty of the bond against him. That is the condition of this case. The bill simply releases these men from paying on their bond double the value of the property they engaged to deliver; and pays them nothing whatever for the labor they did perform, or the losses they sustained. The report shows these facts, and the bureau of yards and docks sustains them.

Mr. KING. I am not disposed to occupy the hard position the Senator from Florida imputes to me. I would not exact the penalty of the bond, twice the value. I would simply ask that they make the Department good, so that the Government shall lose nothing by their act. I suppose double the value would be a very much larger sum than the loss sustained by the Department.

Mr. MALLORY. If they make the Department good, they must pay the Department \$20,000.

Mr. KING. Very well.

Mr. MALLORY. Because that is the sum the Department had to pay for the stone. That furnishes us a rule for judging how far below the real value these unfortunate parties took this contract. In addition to the losses they sustained in faithfully endeavoring to carry out the contract, the Senator from New York would have them pay the Department \$20,000. The Department has sustained no loss. It readjusted and obtained the stone at the lowest possible market price. Now, the Senator occupies precisely the position I have assigned to him. I feel sure that after this explanation he will vote for this bill.

Mr. KING. I will ask the Senator from Florida what is the penalty of the bond? Twice the contract price, I suppose.

Mr. MALLORY. Yes.

Mr. KING. How much?

Mr. MALLORY. I do not know how much that would amount to.

Mr. KING. I dare say \$100,000. I do not ask for the payment of that penalty which they have agreed to pay for the failure of performance. I shall not propose an amendment, but, as I said to the Senate, I shall vote against the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GALVESTON CUSTOM-HOUSE.

Mr. WARD. I move to take up the resolution in relation to the custom-house at Galveston, in order to concur in the amendment proposed by the House of Representatives. There will be no discussion about it.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas, which is to add:

And provided further, That the consent, in writing, of the contractors and their sureties for the construction of the said custom-house, to such alteration, shall be first had and delivered to the Secretary of the Treasury.

The amendment was concurred in.

DEEP RIVER, NORTH CAROLINA.

Mr. REID. I rise to ask the indulgence of the Senate to take up the report of the Committee on Printing on the motion to print the letter of the Secretary of the Navy, communicating the report of officers appointed by him to make the examination of the iron, coal, and timber, of the Deep river country, in the State of North Carolina. We can dispose of it in a minute or two, I think.

Mr. BROWN. I must interpose against anything that gives rise to debate.

Mr. REID. It will not give rise to debate, in my judgment. If it goes over the morning hour, I shall let it lie over until another day.

Mr. BROWN. I give notice that at one o'clock I shall insist on the special order.

The motion of Mr. REID was agreed to; and the Senate proceeded to consider the adverse report of the Committee on Printing.

Mr. REID. With regard to the printing of this communication, which is a short one, and in-

volves, I believe, only an expenditure of three or four hundred dollars, by the permission of the chairman of the Committee on Military Affairs, I will ask that a letter to him from the Committee on Military Affairs in the House be read. It will show the importance of having this document printed.

The Secretary read the following letter:

HOUSE OF REPRESENTATIVES, January 25, 1859.

SIR: In the absence of Mr. FAULKNER, chairman of the Military Committee of the House, I desire to say to you, that our committee is informed that there has been an examination of Deep river coal mines, North Carolina, with the view of determining their utility in the establishment of a national foundry, of which a report is in the hands of your committee. The Military Committee of the House now have under consideration sundry bills for the establishment of a national foundry, in which this report is desirable. You will, therefore, oblige us by having it printed.

Very respectfully, yours, &c.,

B. STANTON.

Hon. JEFF. DAVIS,

Chairman Military Committee, United States Senate.

Mr. DAVIS. When the Committee on Printing reported adversely to the proposition to print this survey, they had not the facts contained in the letter which has just been read to the Senate. It was before the Committee on Printing as a simple proposition to print this survey, with the accompanying map, as a matter of geographical information and interest. It is now presented as connected with action in the House of Representatives upon a different subject from that to which the Committee on Printing had their attention drawn; that is, the establishment of a national foundry; and if this survey should show that there are peculiar advantages for the establishment of a national foundry at that location greater than have been discovered elsewhere, it might decide the question.

It has another relation to the public service. It is known that the Government has from time to time appropriated sums of money to a large extent for the erection of an arsenal of construction at Fayetteville, in North Carolina. This examination develops the existence of iron, as well as white-oak timber, used in the construction of gun carriages; and this being to us a species of information which is essential in determining the question how far the arsenal in Fayetteville shall be made an arsenal of construction, if these fields of coal and iron and timber are approachable and valuable as described, it gives an importance to the already constructed arsenal at Fayetteville which it has not heretofore possessed. This view, in connection with that presented in the letter that was read, I think would warrant the Senate in printing the documents; and I think if they had been before the Committee on Printing, it would have changed the result, and caused them to report favorably instead of adversely.

The PRESIDING OFFICER, (Mr. MASON in the chair.) The motion is to disagree to the report of the committee, and to print the document.

Mr. COLLAMER. If I rightly understand the Senator from Mississippi, what he has urged would seem to be the foundation for recommitting this report. Is that the motion?

Mr. DAVIS. The Committee on Printing had before them simply the question to print.

Mr. COLLAMER. And other materials are now presented, I understand.

Mr. DAVIS. The information was not before them.

Mr. COLLAMER. Do you think it would have altered their opinion if it had been before them?

Mr. DAVIS. Yes, sir.

Mr. COLLAMER. Then I move that it be re-committed to the Committee on Printing.

Mr. DAVIS. On that question I will merely state to the Senate that there seems to me to be a queer mode of proceeding on all these questions. We refer to the Committee on Printing the question whether a document shall be printed or not, which document relates to interests in charge of other committees, and of which the Committee on Printing have no power to judge. For instance, immense collections of manuscript connected with matters of foreign relations are submitted, and we necessarily go to the chairman of the Committee on Foreign Relations to learn whether they have any value or not. The Committee on Printing can merely estimate the cost of the printing. I think the practice of sending to the Committee on Printing a question as to the value of a

paper, is altogether erroneous. It is impossible that they should give the Senate any advice on which the Senate ought to act on such a question.

Mr. COLLAMER. I cannot appreciate exactly the gentleman's remarks on this particular occasion. If the question were before us whether we had the right system in regard to that committee, or if the question were before us on a proposition to change that system, the remarks of the honorable Senator would be very pertinent indeed; but, inasmuch as we have established this system of referring these questions to the Committee on Printing, not merely to decide the cost but whether the document will be worth that cost when printed, I think we ought not to overrule their decisions on the suggestion of there being new matter, without submitting that new matter to them. Hence, I insist on my motion that this report be recommitted.

Mr. DAVIS. The Senator misapprehends, I think, the point of my remarks. He will see that the Committee on Printing make a report on the expense of printing; they are not expected to know the merits of the case, except so far as they learn them from other committees having charge of the subject. If the Committee on Printing did not at that time learn from the Committee on Military Affairs the facts which would induce them to report favorably on this application, and these facts are subsequently brought before the Senate, I cannot see the necessity of sending it back to the Committee on Printing, as a sieve through which the information the Senate possesses should be passed.

Mr. COLLAMER. In that view our Printing Committee is of very little use to us. The Committee on Printing becomes merely mechanical, according to the honorable Senator's view, if they merely report what the cost of the material and labor will be.

Mr. DAVIS. Not merely that.

Mr. COLLAMER. It is true they have that committed to them, but I do not consider that the main thing. I still persist in the idea, and I have governed myself accordingly, that this committee are to judge of the expediency of publishing a paper submitted to them. If they were merely to ascertain and present the amount of expense, and leave the question of the propriety of printing to the Senate itself, it would be highly proper that we should proceed to examine each case on its merits, and ascertain from the proper source how important the subject was.

Mr. DAVIS. Will the Senator allow me to ask him whether he supposes the Committee on Printing are expected to read all the manuscripts sent to them?

Mr. COLLAMER. I suppose they are to ascertain at least what the subject-matter is. I suppose they are to ascertain from such sources, and through such channels as they think entitled to weight, how important this publication is—how important it is to the public service; and, in the next place, to ascertain what will be the expense of it, and comparing these together, to arrive at the result of recommending to this body whether, upon the whole, it ought to be printed. It is not to consider any one of these elements, but all of them, and it is on all of them that we understand we receive these reports. I give full weight to the gentleman's suggestions. I cannot judge, I am not prepared to judge, of the value of this publication upon the statement of any individual, and I have not even the elements of the expense before me. I do not know how much the expense of this publication will be.

Mr. CLINGMAN. It is reported that it will cost for the report, maps, and all, \$359.

Mr. COLLAMER. If that is reported as one of the elements, the next question is, how important, how valuable is it, to the public service to print this document? We are assured by the honorable Senator from Mississippi that it is valuable, and he has told us in what respect. It shows the condition of that region of country for the purpose of a contemplated foundry for casting cannon, &c.

Mr. DAVIS. The Senator did not hear the letter read, I expect. It was an application from the House Committee on Military Affairs.

Mr. FITCH. It may be recollected, perhaps, by the Senator from Vermont, that when the Printing Committee reported adversely to printing this document, they did it in pursuance of

the general policy adopted by them to report in favor of printing nothing on which it was not proposed to base legislation, unless it might be some document which had been, by general custom, heretofore ordered to be printed. There was not only negative evidence before the committee at that time, but positive evidence, in the report of the Secretary of the Navy, that there was no legislation contemplated on this subject. But it appears from the letter read to-day, from a gentleman of the Military Committee of the House, that it is contemplated to base legislation upon it; and if such knowledge had been before the committee, I think it very probable that they would have reported in favor of the printing; but, in the absence of such knowledge, and in the presence of positive evidence to the contrary, they did not deem it necessary to report in favor of the printing.

Mr. COLLAMER. As I understand the suggestion of the chairman of the committee, it sustains the very motion I make. Whether his committee, with that new information, would report in favor of printing or not, of course he cannot say until he consults the committee. That is the very reason I want it to go there.

Mr. REID. If the Senator will permit me one moment, I can say that I should have no objection to its being recommitted, except that the document is needed by the Military Committee in the other House, and a recommitment merely amounts to a delay. That is the only reason why I preferred that it should be acted on now without being recommitted to the committee.

Mr. COLLAMER. It is a very easy matter for these gentlemen to send here for a report. I do not see why a recommitment will delay it. That begs the question, and assumes that of course the document must be printed; it is *petitio principii*.

Mr. REID. I trust these gentlemen would send no communication here saying that they desired the document if they did not need it. I presume they are acting in good faith. There is no collusion on my part with them, or on theirs with me.

Mr. COLLAMER. I do not say there is any collusion about it; but when the committee have reported against it once—and it is suggested that new elements are now brought forward that would induce a different report from that committee—we should try it by recommitting the subject to them.

Mr. FITCH. I think, perhaps, the views of the Senator from Vermont are correct in this case. I did not listen to the letter as attentively, perhaps, as I should have done; but it does present the matter in a new light, and it is well enough for the committee again to investigate it. They meet on Monday.

Mr. BROWN. I must insist on this subject being postponed. I cannot allow the whole day to be wasted.

Mr. REID. Let us take the question on recommitting.

Mr. BROWN. If the Senate will take the vote, I have no objection; but I cannot stand by and see the day wasted away.

The motion to recommit the report was agreed to.

RAILWAY ON PENNSYLVANIA AVENUE.

Mr. BROWN. I insist on the execution of the order setting apart to-day for the consideration of business of the District of Columbia.

The PRESIDING OFFICER. That business is now in order.

Mr. BROWN. The railway bill was left as the unfinished business last Saturday, and I propose now to take it up.

The PRESIDING OFFICER. That bill comes up regularly in order.

Mr. BRIGHT. The day having been set apart for the District business, it is clearly the privilege of the Senate to express a preference for any particular bill that comes within the order. I think it is a matter of more consequence that we should dispose of the bill in relation to water, than that we should take up the bill to provide for the construction of a railroad along Pennsylvania avenue; and I move that the unfinished business be postponed, so as to enable the Senate to take up and dispose of the bill (S. No. 558) to provide for the care and preservation of the works constructed by the United States for bringing water into the city of Washington. I suggest to the

honorable Senator from Mississippi that the bill which he calls up will doubtless lead to a lengthy discussion, and the probability is that the bill that I desire to call up will be disposed of in a short time. I am apprehensive that if the bill providing for a railroad be taken up first, the whole day will be consumed; and for that reason I make my motion, feeling that it is my duty to do so. The committee I represent have instructed me to do so.

Mr. BROWN. I hope no such order will be made; but I have no idea of consuming the day in discussing the order of business, whether we shall take up the railway bill or this bill first. We had up the railway bill last Saturday, and nearly got through with it. Now, I think it a want of economy in time, to say nothing else, to pass it by and take up anything else. I trust the Senate will keep the railroad bill before them until it be disposed of in some way. I do not want to talk about it.

Mr. BRIGHT. I merely wish to have the sense of the Senate as to the preference they will give.

Mr. BAYARD. I hope the motion of the honorable Senator from Indiana will not prevail. The Senate have already had under consideration the railway bill. All rational debate on the subject has been fairly exhausted; there is no reason why we should not proceed to vote on it. But to take up one measure, half discuss it, and then go to another measure distinct in its character, which will probably give rise to debate, is not a proper mode of doing business. I take it for granted that this water-works bill, which contemplates giving authority to the city of Washington to connect pipes, to be laid through the streets for private use, with the Government mains, will necessarily give rise to debate. I think we had better dispose of the subject-matter before us. Further, I doubt very much, as a matter of convenience, whether the railroad bill, for the benefit and the convenience not only of Congress, but of persons attending here, as well as for the District, is not more important than the bill of the honorable Senator from Indiana.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana to postpone all prior orders, and take up Senate bill No. 558.

Mr. ALLEN called for the yeas and nays; and they were ordered.

Mr. SEBASTIAN. I merely wish to say that my colleague, Mr. JOHNSON, of Arkansas, requested me to pair off with him on the question in regard to the avenue railroad bill. As I regard this as a test vote, to please him I shall not vote. We are on opposite sides on the question; I am against it, and he is for it.

The question being taken by yeas and nays, resulted—yeas 17, nays 27; as follows:

YEAS—Messrs. Allen, Bates, Bright, Chesnut, Clingman, Davis, Hunter, Jones, Mallory, Mason, Pugh, Shields, Slidell, Thompson of New Jersey, Toombs, Wade, and Wright—17.

NAYS—Messrs. Bayard, Broderick, Brown, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Fitzpatrick, Green, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, Kennedy, King, Reid, Rice, Seward, Simmons, Trumbull, and Wilson—27.

So the motion of Mr. BRIGHT was not agreed to.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (H. R. No. 541) in relation to a railway along Pennsylvania avenue, in Washington city, in the District of Columbia; the pending question being on the following amendment, offered by Mr. JOHNSON, of Tennessee:

And be it further enacted, That nothing in this act contained shall be construed to authorize the said Washington Passenger Railway Company to make, issue, or put in circulation, any bill, draft, check, order, promissory note, exchange ticket, or any thing else promissory or agreeing to pay money, intended to be circulated as money or currency; and the violation of any one of the provisions of this section shall be a forfeiture of the charter herein granted, and a fine of fifty dollars against each of the directors voting for the same.

And be it further enacted, That each of the stockholders in said passenger railway company shall be liable in his individual capacity for all the debts and liabilities of the said company, however contracted or incurred, to be recovered by suit as other debts or liabilities, before the court or tribunal having jurisdiction of the case.

Mr. BROWN. These are salutary amendments, and I certainly have no objection to them in themselves. It is well enough to put them in. I would very much rather have the amendments

already put in rejected, and retain the original bill, if that can be done; and when we get the bill into the Senate, I shall insist upon taking that course with it; but for the time being, I am willing to see these amendments voted in; and if others are retained, let them be retained also.

Mr. CLINGMAN. I heartily approve the object which the Senator from Tennessee has in view, but I would suggest the propriety of adding a proviso to the last clause of his amendment. As it now is, if a man holds a hundred dollars worth of stock in this company, he is liable for \$10,000, if the company owe it. It seems to me that it would be proper to make each owner liable to the extent of his stock. A poor man, who owned very little of it, ought not to be made liable for the whole amount. I merely suggest that no man ought to be liable beyond the value of his stock. Would not that, as a matter of principle, be right?

Mr. JOHNSON, of Tennessee. The object, I would state to the Senator, is to make the company responsible for all the debts they incur. One man might own stock and not be worth anything; another man might own stock and be worth double the amount of the stock he owned; and the object is to make it responsible as a corporation, to make it responsible as a whole, for all its debts and contracts.

Mr. BAYARD. If I supposed that this bill needed the guards which the amendment contemplates, I should vote for it cheerfully, and would not vote for the bill without it; but I cannot see the necessity of incumbering the bill with amendments which I look upon as entirely nugatory. Under this grant there can be no possibility of any corporation having authority under the language of the bill to issue notes of any species or kind for the purpose of passing as money; and the object of the restriction is, I suppose, to prevent that. I therefore think it unnecessary.

The second clause is also equally unnecessary, as I view it, because we have retained the right in this bill to repeal it at pleasure. It would be quite sufficient ground for Congress to repeal the law, if the parties attempted to pervert it from the purpose for which the authority is given, in either of the respects guarded against by the amendment. I do not think this is more than a *quasi* corporation at best; it can hardly be called a corporation; it can hardly be called stock in the shape in which it stands. If it is the desire of the parties to whom the grant is made to convert it into stock, and make it personal property, transmissible as such, independent of the acts of the corporation, I think they will have to come to Congress for a corporate act. I do not see, under this bill, how it is possible they can do it. All the effect of the bill is to enable the persons named in it, with those whom they choose to associate with them, to construct a railroad. After that, their personal rights will have to pass, according to the ordinary laws, to their respective personal representatives, unless there be some further legislation to create them a corporation. I do not view the bill as creating a corporation positively; I do not think it can be so viewed by any person.

I think the amendment proposed is unnecessary; though I would vote for it unhesitatingly if I thought it necessary, and would not vote for the bill without it, if I thought we had to guard against such evils; but we have the absolute power of repealing the law, which gives us the control on any reasonable ground to repeal it, and certainly it would be a reasonable ground if the grantees were to attempt to pervert the power we grant for a purpose which we did not contemplate. Thinking, therefore, that these provisions would but incur the bill, without producing any benefit or any guard to the public interest, or any benefit to any one whatever, I shall vote against the amendment.

The PRESIDING OFFICER. Is the Senate ready for the question on the amendment?

Mr. JOHNSON, of Tennessee. The yeas and nays were ordered when the amendment was offered before, and the Senate found itself without a quorum.

The PRESIDING OFFICER. The Chair will so consider it, unless corrected by the memory of any Senator.

Mr. HALE. I have not had the pleasure of hearing what has been said on the other side of the Chamber; but I think the amendment will

defeat the object that is sought to be attained. We have had some little experience about this in my own State; and the way we have settled down there is to make every man liable for his stock, and an amount equal to it; but if you incorporate any company, and make every stockholder liable for the whole amount of its debts, if ever insolvency comes, (and that is the only thing you want to guard against,) the result will be that the men who ought to pay for it will skulk, and they will leave to the small and honest stockholders the whole burden; whereas, if you make each man liable for twice the amount of his stock, it will be a safe and wholesome provision. If you make every stockholder liable for the whole amount of debts, if ever there comes any difficulty, the knowing ones who have money will skulk, and leave the innocent men to pay.

The question being taken by yeas and nays, resulted—yeas 24, nays 18; as follows:

YEAS—Messrs. Bright, Broderick, Brown, Clay, Clingman, Crittenden, Davis, Fitch, Green, Houston, Hunter, Johnson of Tennessee, Jones, King, Mason, Pugh, Reid, Rice, Sebastian, Sidel, Toombs, Wade, Wright, and Yulee—24.

NAYS—Messrs. Allen, Bates, Bayard, Benjamin, Cameron, Chandler, Collamer, Davis, Doolittle, Fessenden, Hale, Hamlin, Harlan, Kennedy, Seward, Shields, Simmons, and Thomson, of New Jersey—18.

So the amendment was agreed to.

THE PRESIDING OFFICER. The question now recurs on the amendment, in the nature of a substitute, offered by the Senator from Illinois [Mr. DOUGLAS] to strike out all after the enacting clause of the bill, and insert:

That the corporations of the cities of Washington and Georgetown, respectively, are hereby empowered to authorize such persons or companies, as they shall see proper, to construct and lay down double track railways, with the necessary switches and turnouts, on such lines, streets, and avenues, as they shall deem most conducive to the public convenience, with a right to run public carriages thereon, drawn by horse-power, for the transportation of passengers, receiving therefor a rate of fare not exceeding five cents per passenger for any distance between the termini, and subject to such regulations as to the rate of fare as Congress may, from time to time, prescribe; and subject also, to such regulations as the said cities may, from time to time, prescribe within their respective limits: *Provided*, That Congress hereby reserves the right to repeal or modify this act, and to annul all privileges acquired or granted under it, whenever the public interests may require it.

Mr. BROWN. That, as will be seen by Senators from the reading of it, is simply a proposition to allow the corporation of Washington to cover the whole city, streets and avenues, all over with a net-work of railroads, and give up your control and jurisdiction over the subject. I hope no such amendment will be adopted. I am utterly opposed to it. I think I understand the subject; but as I am much more anxious to vote than to hear myself or anybody else speak, I refrain from saying anything, and ask for the vote.

Mr. HUNTER. This proposition is, I understand, to give the control over the whole subject to the corporations of Washington and Georgetown. It seems to me nothing can be more reasonable or just. There is in the amendment an ample reservation of power in Congress, if they should find these two corporations exercising the privileges improperly or unjustly, to revoke the authority. What can be more just than to leave to the city governments of these cities the regulation of this whole matter? If it be right to have these railroads in the streets, let them have them in other streets than Pennsylvania avenue, and let it be a question to be determined by their own view of their own interests—by the sentiment of the people here. If this franchise is as valuable as it is said to be—and I am told it is very valuable—if any profit is to be derived from it, it ought to go to the cities; and I believe they desire to have it for the purpose of aiding their schools, and applying it to other useful purposes. Now, why give it to private individuals; some of them strangers who come from distant cities, as I hear? Surely, it would be much fairer and more proper to give whatever advantages can be derived from this grant to the city itself. I hope the Senate will adopt the amendment.

Mr. FESSENDEN. I am exceedingly opposed to this amendment, and deem it of very great importance, much more than the question which arises between these other companies. This, I am satisfied, will be attended with very bad results. The Senator from Virginia thinks this city ought to have the benefit of this road. In what way does he propose that they shall derive a ben-

efit? Does he propose that the Government of the city should itself take this matter in hand, and itself become a company for the purpose of building a railroad to be let, out of which to make profits? That is a thing unheard of in all the cities, and it necessarily leads to an interference with the ordinary business of a city, which has never been considered to be useful anywhere. It necessarily makes them operate as a private company, with the appointment of agents and the multiplication of officers and offices, and causes the use of this machinery for political purposes and purposes of favoritism, which never can be beneficially exercised. Bargains may be made; men want to get into the City Councils, and they may engage the interest of those connected with the railroad to put them into the City Councils for the objects of the railroad. The thing would be as badly managed as it possibly could be.

Then, again, suppose the city authorities do not manage it themselves, but propose to sell it; that leads to bribery with relation to these same city officers, and you have all the difficulties and all the corruptions which have arisen in other cities in connection with large jobs. If you want to keep your city clear from that, and have its affairs well managed, do not put this great corruption scheme into their hands; for corruption is the result of mixing up everything in the shape of business and money with the discharge of the ordinary duties of a municipal corporation. You could do, in my judgment, nothing more ruinous, and experience has proved it, and always will prove it. It is doing the very worst possible thing you could do.

We know that this city disregards the wishes of Congress in many particulars. We had an application before us, not long ago, to authorize one of the important railroads of the country to go through the city, across Pennsylvania avenue. The Senate by a very large vote refused to grant the application; because they knew it would be exceedingly unsafe to give to a railroad company the power to run across Pennsylvania avenue. It would be very dangerous to the numerous people who have occasion to use the avenue as foot passengers. Congress denied the power. What did the city authorities of Washington do? In the recess of Congress they undertook to grant the privilege. We put a stop to it after we came here. Our opinion was so strongly expressed that the corporation saw that if they expected aid from the Government they must not treat Congress with that kind of disregard of their expressed opinion. We had an instance then of what might be got out of the city government, contrary to the views of those who ought to control the streets of this city. We then had experience enough to satisfy us that it was important for Congress to keep the control of the streets of this city, and not put them entirely into the hands of the corporation.

I cannot regard this as a matter that is requisite. I have heard of no demand being made for it by the corporations of Washington and Georgetown; and if they had made any such demand, it would be, if possible, a stronger reason with me to refuse it, because you could do nothing which would be likely to be attended with worse consequences.

If Senators wish to defeat this bill, let them vote it down; put it out of the way; I care nothing about it, one way or the other, except that I should like to see a railroad for horse-cars, properly managed, through Pennsylvania avenue. Defeat the bill if you will, but do not attempt to destroy it by putting something in its place which is infinitely worse than any consequences that will follow from giving this charter to any company that may be created, in my judgment.

Mr. HUNTER. The Senator from Maine, says that he has not heard that the City Councils would desire to have this franchise. Here is a resolution of the councils, passed December 30, 1858:

Be it resolved by the Board of Aldermen and Board of Common Council of the city of Washington, That the joint committee of the councils to attend to the interests of this corporation before Congress be, and they are hereby, instructed to request and urge upon Congress to pass such law or laws as will give to this corporation full power and authority to authorize the construction of railroads in the streets and avenues of the city of Washington, and to control, regulate, and tax the same.

Resolved, That the Mayor be, and is hereby, requested to have a copy of these resolutions transmitted to the Pres-

ident of the Senate, the Speaker of the House of Representatives, and every member of the Senate and House of Representatives of the United States.

CHARLES ABERT,

President of the Board of Common Council.

WILLIAM T. DOVE,

President of the Board of Aldermen.

JAMES G. BERRETT, Mayor.

Approved,

These resolutions were sent, I believe, to every member of both Houses of Congress. So much for the wishes of the corporation. I think that it is very natural and very proper that they should desire to have the control of this subject. The Senator from Maine says it is impossible that they can execute it; he says they cannot attend to a railroad. Nobody expects them to have a city railroad which they are to manage, the directors and officers and conductors of which they are to appoint. But they can regulate the charter, and they can sell this franchise for something that would be valuable to their public schools, probably for some hundred thousand dollars, which would be a sum that could be very well used for the interests of this city; but, no; he says they are not to be trusted with this money; it would be a corruption fund! That is to say, the city government, the corporation of Washington, are not to be intrusted with the regulation and management of their own affairs. Why, sir, the amount of taxes which they levy is far larger than anything they could derive from this franchise. Why trust them with that power? Why not say "we will legislate here for you; that will be a corruption fund; you are not capable of attending to it; we will keep you honest and pure, by keeping you poor?" That is the whole argument. Now, I believe they may be trusted. I believe they would administer this power far more equitably and usefully for the city, than Congress would do. I believe they would be subject to no more impure influences than Congress would be liable to; and I think they know much better what ought to be done in regard to this subject than Congress can know.

As an instance of disobedience on their part, the Senator has alleged that they were willing to suffer a railroad to cross the avenue. So they were, and very properly, I think, and I would vote to-morrow to give them the privilege; and I cannot see how it would be any more dangerous to passengers for a horse-car to cross the avenue at one point than to run the whole length of the city. The Senator is very willing to permit this favorite company to run the whole length of the city, and give them this franchise, which everybody knows is very valuable; but he is not willing to trust the City Councils with the poor privilege of saying where railroads are to run in their own streets. Is he willing to allow them the benefits of this franchise, which certainly is valuable, and which they could apply to useful purposes?

Mr. BROWN. I think, for the reasons assigned by the Senator from Virginia, this amendment ought to be, and will be, rejected by the Senate. He says that it is impossible for the corporation to use the franchise, but that it may sell it.

Mr. HUNTER. I did not say it was impossible, but I supposed they would prefer to sell it. I should think they ought to do so.

Mr. BROWN. Then, sir, of what avail is that other provision of the amendment, so triumphantly pointed to a little while ago by the Senator, that you have the power to repeal the grant? Now, sir, what are you proposing to do? To give to the corporation the right to put down railroads upon the avenues and streets of the city, reserving to yourselves afterwards the right to repeal. The Senator tells you, they will not do it themselves, but sell the privilege, perhaps for \$100,000. Suppose they sell it to a company who abuse the trust; convert the whole thing into a nuisance; make it so monstrous an abuse that Congress will not submit to it, and you repeal it: what then? The company to whom the franchise has been sold will come and ask that the money which they paid for the privilege shall be returned to them. They will say, "you authorized us to make the contract; we made it in good faith, and paid our money; we put down the railroad, and now you repeal the law;" and they will be here knocking at the doors of Congress until you foot the bill. Not only immediate, but consequential damages would be claimed and paid. I am utterly opposed

to having any privileges of this sort conferred on the corporation of Washington. I think it will result in mischief, and nothing but mischief, especially under such loosely-drawn provisions as are contained in the amendment now under consideration.

Mr. BAYARD. Mr. President, I have long since ceased to be surprised at any difference in human opinion; but if I had not, I should be surprised that my honorable friend from Virginia should support this amendment. Do what you will with this bill; reject it; clog it with amendments; destroy it, if you do not want the railroad; let the Senate so decide, and let there be an end to it; but do not grant such a power as this amendment contemplates to the corporation of Washington. If the honorable Senator from Virginia had known what has occurred in other corporations in regard to the grant of franchises of this kind, I think he would hardly carry his doctrines of popular sovereignty so far as to be willing to vest in the corporation of Washington the power to grant a franchise of this nature. Sir, it can end in nothing but corruption. There is no analogy between the power of taxation and the power to grant a corporate franchise. The one the people feel, and the people will guard against; but the grant of the franchise may be the subject of the most unlimited abuse, both as regards the personal corruption of individuals, and corruption for partisan purposes. I hope that, as we have hitherto always retained in the Congress of the United States the jurisdiction over the avenues in Washington, and have never, with all the liberality of our grants to the corporation of Washington, attempted to vest in their legislative power to grant franchises in connection with the public avenues, we shall not depart from that policy now.

There is another reason for objecting to this amendment. This avenue, and the road to be constructed on it, is not meant for the benefit of the citizens of Washington or the corporation of Washington alone. It is the great public of the United States who are quite as much interested in the construction of this road, if it is a public convenience, as the people of Washington are; and if they are so interested, the Congress of the United States ought to retain its jurisdiction over the grant of any franchise for the purpose of making the road. Guard it as you think proper; or if you do not like the bill, kill it; but do not pass the power from you to grant a franchise in which the people of the United States, who have to come here on business or for other purposes, are as much interested as the people of the city of Washington; do not treat it as a mere municipal affair, to be governed by their local legislation. On that ground alone, I should be indisposed to support this amendment. If you go back to precedents, you have the fact that Congress has invariably refused to part with the jurisdiction over the avenues. So far as regards the structures on the avenues, the paving or repairing, or making alterations of any kind in them, we have always refused to grant the authority to the corporation of Washington. Whether you grant the franchise to these parties or any others, I am willing that the city of Washington should derive all the incidental benefits it can from the grant; but do not delegate your power where it is more liable to abuse than it would be in the hands of Congress.

Well, sir, there is still another reason why I am opposed to this amendment. If the Senate think, as I think, that this road ought to be made at as early a day as possible, then they ought to pass this bill unincumbered by amendments; because it guards the public interests, and you have the right of revocation at any time. There is not a solitary amendment you have adopted that you may not force on these parties hereafter under the powers given to you by the clause of revocation and alteration; and if you pass the bill you will have the road completed between this and December, I have no doubt. If you think that not important; if you think that immaterial, and give this authority to the city of Washington, you will have before its authorities a long scene of debate, of intrigue, of corruption, before a grant will be made of any kind under the delegated power for the purpose of making a railroad, and you will look in vain for any railroad of this kind for the next two years.

As a matter of expediency, therefore, connected with the prompt making of the road, the

bill should not be amended in this way; and, as far as I can judge of the sense of the Senate, there has been no objection made to the fact that this road will be of public utility, and that it ought to be made; and that it ought to be made at as early a day as it can be. If that be so, if that be the desire of the Senate, this bill ought to be passed untouched by any amendment, and you will have the road at the earliest day. It is my desire, certainly, that we shall have the road made as soon as possible, provided there is no grant of power capable of abuse. I scrutinized this bill when it first came before the Senate. I think it guards, as I stated before, every interest of the public. It first limits the rate of fare. It next leaves in Congress the subsequent right of regulating the fare; and it gives the power to alter or amend or revoke this grant at any time. It creates no corporation; but it does give to the city of Washington a power which I have some doubt about, but I should not object to it, which is a complete guard against the idea of extraordinary profits connected with the making of such a road: it gives the right, in one of its sections, to the city of Washington, if it feels disposed, at any time after the road is made—the grant lasting for twenty-five years—to take this road by purchase on a valuation to be made by arbitrators; one appointed by the President, and another by the parties, with power to choose a third as umpire.

I have made no calculation as to the probable profits of this enterprise; I know nothing about that matter; but I know that, as a general rule, the anticipated profits which arise in the imaginations of men before they go into the work of constructing railroads prove to be delusive, and turn into minus quantities. If, however, in this case, the result shall be contrary to that general rule, and the work shall be one of extraordinary profit, the city of Washington is amply guarded; because she has the right, under the bill, at a fair valuation to be made by disinterested persons, appointed in such a manner that her interests will be regarded, to take this road at any time she pleases after it is made. I do not see anything that could possibly be fairer as regards the prevention of speculation connected with this road.

If we pass this bill, then, we shall have the road made by the commencement of the next Congress. If we do not pass it, I do not know when this road will be made; because the same difficulties that exist now will exist hereafter in the struggle between parties, as to who shall be the grantees of the franchise. If you send it to the corporation of Washington, the same struggle will take place there, added to the fact that you are delegating a power to grant a franchise which is a dangerous one to invest in any corporation; one that I believe the States of this Union do not delegate to any of their city corporations. It is carrying the doctrine of popular sovereignty, of converting cities or districts into States, to an extent that I, for one, never mean to assent to. The great regulating power, the ultimate power, is here; for, under your Constitution, there is granted to you the exclusive jurisdiction over the District of Columbia. You have chosen, for mere municipal purposes, to give to the corporation of Washington the right of self-government, which is all well enough. You have chosen to give them the right of taxation for all municipal purposes; that is well enough. But why should you give to them the right to grant these franchises, which are said to be matters of such extraordinary profit? It can lead to no good, and it is a violation of all principle.

Mr. PUGH. Mr. President, the Senator from Delaware says that if we wish to reject this bill, reject it, but by no means amend it. Why, sir, I understood that our power of amendment was quite equal to our power of rejection; and I certainly see no reason why this bill should pass the Senate without amendment more than any other bill, or why the Senators who may be opposed to it in its present shape, should be driven to the issue of either voting for it as it is, or voting against the whole of it. Certainly, that is not a legitimate mode of argument in any parliamentary assembly.

But the Senator from Delaware says if you pass this bill at once, the road will be made by December; but if you refer it to the authorities of the city, it will not be. Why not? If it be such a public enterprise; if it be so desirable; if the de-

mands of the people of Washington and the people who assemble here are so great, why will not the very parties named in this bill go to the corporation of Washington and get the grant the next day after the bill is passed? They will make it under this bill; they will not make it under any other. They will make it, because they will make a fortune with this bill out of that which ought to go into the revenues of the city.

But the Senator from Delaware says we ought not to give the city council control over the avenues; that they are subject to the peculiar jurisdiction of Congress. I have heard that said a great many times, but always as an excuse for persuading Congress to pave and light the avenues. Where is the law for it? With the exception of its being set up as a sort of colorable pretense to make us pay for paving and lighting the avenues, there is no difference whatever in our legislation over the avenues and over the streets. We put a provision on an appropriation bill last year in respect to the streets as well as the avenues. We made no distinction, and there is none, except for the purpose of opening a convenient door to the Treasury of the United States.

The Senator from Mississippi says that if the city council grant this franchise for a bonus, it will affect the right of repeal; and that, if the parties abuse their franchise, we cannot rescind it without restoring the consideration. Why not? We grant it to them for a consideration, not only of money, but a consideration of good behavior; and if they forfeit the franchise, the city government would not be bound to return one cent; and it can be sold to men for a sum of money, upon the consideration of good behavior, as well as everything else.

But it is said that it will corrupt the city government. Why does it not corrupt other city governments? Why has it not corrupted the cities of New York, Philadelphia, and Baltimore? What is the peculiar liability to corruption in the municipal authorities of the city of Washington, more than in the authorities of any other city? What is the power of Congress over the streets, or over the corporation, greater than the power of the State Legislatures?

Mr. BAYARD. Will the honorable Senator allow me to ask him whether the Legislature of the State of Pennsylvania, or the State of New York, or the State of Maryland, ever conferred on the cities in those States the right to grant a franchise of this kind, or do they retain the right in the State government? There is the analogy.

Mr. PUGH. I say the cities granted the franchises; the States only granted the corporate charters. Of course the city government could not create a corporation. The corporation was created by the law of the State, but the franchise was given by the city; and I know that they have been to the city government of the city in which I reside, endeavoring for years to buy the franchise of running horse cars and steam cars through the streets of the city.

Corrupt the government of Washington! What corrupts it? The scheme? Then why has it not corrupted us? What have we been doing here the last two or three weeks? If the mere proposition for the Common Council and Board of Aldermen of Washington city to consider the importance of granting this franchise, will introduce personal corruption and public corruption, why has it not introduced public corruption and personal corruption into both Houses of Congress? What is our peculiar virtue above the virtue of those whom the people of Washington have elected to administer their affairs? I take it they are quite as competent for their places as we are for ours; at least I hope they are, and a little more so.

Then, the Senator from Maine says that the city government of Washington has disobeyed us about a cross-track railroad, and disobeyed us about a great many other things. Well, sir, I am sure it is not their interest to disobey us. It is their interest to be very clever to us; because, after all, they get a great deal of money out of the Treasury, and I think on the whole they are very clever. But, sir, if a public municipal corporation, the officers of which are chosen by the people, or chosen by the people's representatives, the officers of which have no personal interest in the affairs of the corporation, disobey us, if they treat us with contempt, what will the three gentlemen named in this bill, who will be a private

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corporation for their own benefit and their own interest, do for us after they get the act of incorporation and the franchise? "If these things be done in the green tree, what will be done in the dry?"

The whole attempt is to avoid the effect of this amendment, which is a perfectly fair one. If the government of the city of Washington, or of the city of Georgetown, be not adequate for its ordinary employment, to take care of its own affairs, let us abolish it. We have proceeded upon the idea that although the Constitution has given us the same control over the District of Columbia which the State Legislatures have over their States, nevertheless, inasmuch as we are strangers assembled from various parts of the country, here for a limited time in each year, we are not so familiar with their municipal affairs, and therefore we have delegated to them the power of local and municipal government; and among other things the care of their streets and thoroughfares, the regulation of their police. And what could be more proper than to commit to them the care of an enterprise by which cars are to be propelled through the most public street of this city twenty or thirty or forty times in the course of every day, endangering more or less the safety and the peace of the people. It is a matter concerning the regulation of the streets, mingling itself with their municipal affairs; and why should it be separated out of the great body of their municipal duties, and committed to the hands of a private corporation which will seek its own objects at the expense of the public interests? There can be no reason for it except that overwhelming pressure that is brought against us every private-bill day, and every District of Columbia day. There is more bad legislation done on those two days of the week than is done in all the rest of the week besides.

The City Councils, it is said, do not ask it. Well, the City Councils do like all public bodies. They send us here, through the hands of the Mayor, a respectful appeal to give them the control of their streets; but they have no particular interest to make out of it. They do not expect to make any money by it personally, and they are not here to represent themselves; but the parties who want the grant are always here.

It is not to the railroad that I object. I have no doubt it will be a great convenience. If it be right and proper to have it made, these very gentlemen can go to the Councils of the city of Washington and Georgetown and apply for this very franchise. If it be worth nothing, as some gentlemen say; if it is a poor burden which these philanthropists choose to take upon themselves for the public good, not expecting any recompense, the city will give it to them for nothing, and be very glad to do so. If it be a trifling recompense not more than a fair return for the capital, the city government will give it to them for nothing. It is the interest of the city to have it. But if it be, as I believe it to be, an adroit attempt of very clever gentlemen to make a fortune off the public by appropriating one great revenue of the public to themselves, I think the least they can do is to divide with the tax-payers of Washington city by paying something to reduce the expenses of the municipal government. I see no more reason why Congress should confide to individuals or private corporations the right to run a railroad down Pennsylvania avenue, than that it should confer upon three individuals the right to administer the public squares of this city and put the revenues into their own pockets; and it is not done in any other city.

I do not believe that there is a Legislature of a single State in the Union that would listen to a proposition like this. There will be a continual conflict between these parties and the municipal government, from the day this road goes into operation; controversies about keeping the avenue in repair; controversies about the rights of the parties; and you are really setting up here one corporation within the limits of another, to make perpetual conflict and contest, coming back to us

all the time. I say if the city of Washington is not competent to administer her affairs, let us give her a corporation that is; but proceeding on the hypothesis that they can transact their business as well as we can, let us give them the whole power which properly belongs to a municipality.

Mr. MALLORY. Mr. President, the discussion upon this question, and particularly upon this amendment, discloses the importance of the amendment. I cannot conceive of a weaker argument than that which has been used against it; namely, that to grant it will be to encourage the corruption of a municipal corporation; that to grant them a power, the rightfulness of which is not denied, will necessarily encourage corruption. This is the proposition. Three gentlemen, strangers entirely, for aught I know, to the city of Washington, for their own interests, in order to put money into their own pockets, desire to construct a railroad upon your avenue; and their first proposition was to take the railroad from the west gate of your Capitol, and to leave out of consideration all that large portion of the working class of this city who live east of the Capitol, to whose interests they should have first addressed themselves; and it was only by the opposition to this bill that the "north gate of the navy-yard" was inserted. An amendment was adopted by which they will have to carry their road there; but the friends of the measure resisted it to the last; it was put in by the opposition to the bill. The friends of the measure resisted the proposition of the Metropolitan railroad to carry this road fifty miles, which would be a very great consideration, indeed, for the traveling public; and now they resist the proposition to place this franchise with the city corporation, upon the simple ground that they may abuse it. I have very great respect for my friend from Delaware, and I waited to listen to him to see what reason he could assign for rejecting this amendment. I find that he has but reiterated the argument, if it may be so called, or the assertion of the Senator from Maine, that this would lead to corruption by the corporation.

Now, sir, which appears to be the most sensible, to intrust this franchise to three individuals, who have no affinities, that I know of, with the people of Washington—a franchise that is directed first to the benefit of the city—to be executed by them; or to grant it to those people, or to their representatives, to be exercised by them, and to be controlled by the people at their regular elections? If the corporation shall abuse this franchise, they are amenable to the people who elect them; they may turn them out; Congress may, at any time, revoke its privilege. The franchise can only be held under the restrictions which we please to impose upon it. The position that the Senator from Mississippi assumed is fallacious. Those who take this contract from the corporation, he says, will come to the doors of Congress and lobby here for a claim for money lost, if we should revoke the grant. Well, is it an argument against just legislation, to say that parties may come hereafter and assume, illegally, a claim, and lobby illegally for it? Are we to be met in that way? Why, sir, if there can be no stronger arguments than these brought against the proposition, it should inevitably pass.

The assertion has been made that the franchise is worth nothing, and it would fain be impressed upon the Senate that three strangers come to the city of Washington and propose to lay a railroad down for the convenience of the public, through a simple spirit of benevolence. We are told the franchise is not worth the first cent. Why, sir, I have heard a distinguished railroad contractor say, that he would give \$50,000 for it; and I am told that it is worth much more. Now, if money is to be made out of it, if it is a job, let it go into the hands of those who can control it, and for whose benefit mainly it is to be constructed—into the hands of the people themselves. If money is to be made out of it, the city corporation stands ready to assume the responsibility of taking charge of it and extending it to their

public schools, and of holding themselves responsible for its exercise.

Mr. HUNTER. Mr. President, the Senator from Florida has well answered the objection which the Senator from Mississippi made in regard to claims to be presented by the persons who may make the railroad under the jurisdiction of the corporation of Washington, if that jurisdiction should be conferred on them. He has shown that those persons would take it with a full knowledge of the bill and a full knowledge of the conditions, and therefore would have no equitable claim. Nor are the conditions unusual or extraordinary. They are such as are imposed in most of the States of the Union on all corporations that are created. There is, therefore, nothing justly to be apprehended on that score. But, sir, his own bill provides that Congress shall have that power in regard to this railroad. The same argument which he used against a railroad to be constructed, under this amendment, under the authority of the corporation of Washington, would apply to his own bill.

Mr. BROWN. Will the Senator from Virginia allow me to say that we know exactly what we are granting by our own contract; but if you give to the corporation of Washington the right to make another and a different contract, you cannot tell what sort of a contract they will make. They may make a most extraordinary one, a most burdensome one, a most offensive one; such as Congress, when it comes to look at it and see it executed, will not be satisfied with. You know what you are doing under this bill, but you cannot tell what sort of a contract the corporation may make. That is my objection. When they have made it under the authority of Congress, and you want to repeal it, there is no difficulty.

Mr. HUNTER. That is no answer to the objection. His answer is, that if Congress repeal the charter, the persons who invest money might come here and ask for damages. May they not do so under this bill? Suppose we were under this law to repeal the charter. They might do the very thing to which the Senator from Mississippi objects in the other case; but this is not all. Gentlemen say it would be a corruption fund; that it would work inconceivable mischief if you were to lodge this power in the hands of the corporation of Washington. Why, sir, what does their own bill do? It provides that after twenty-four years, I think it is, the city of Washington may buy this road, and own it, taking it at its appraised value. It is very safe after these individuals have enjoyed the use of it for twenty-four years, and derived all the profit they can derive from it, then to allow the city of Washington to assume the ownership. Well, if it would be safe twenty-four years hence, why not now? For myself, I can see no danger to which we could be exposed by the grant of this jurisdiction to the municipal authorities. I do not believe it would hurt any of the streets to allow railroads through all of them; and if it would hurt the streets, I do not believe the people of the city of Washington would be in favor of it, because they would thus injure their own interests. So far as strangers and transient visitors who are passing through are concerned, I do not think they would be injured at all by it, for the more facilities for travel, the better you satisfy them. So that I see nothing in any of the arguments which have been used; but if they are good against a railroad which can be made under the amendment of the Senator from Illinois, [Mr. DOUGLAS] the same arguments are good against this bill.

Mr. BAYARD. I think the honorable Senators either misapprehend, or certainly have passed by, some objections I made to this amendment. There is a wide difference between granting to the cities of Washington and Georgetown, respectively, the power to confer a franchise, which is a legislative power, and merely granting them authority to make a road. They are different things; but the honorable Senators choose to confound them. The honorable Senator from Virginia, in his anxiety to adopt this amendment, says that

after twenty-four years, the corporation has this very power given them. Not so. We grant no franchise to them; we give them power to purchase the road, and run the road if they please; not after twenty-four years, but as soon as the road is made; and it is nothing more than a restrictive power, to guard against the idea of inordinate profit on the part of the individuals to whom the grant is made.

MR. HUNTER. The Senator will allow me to ask him a question; because it seems to me he is making a statement which is worse for this argument than mine was on that point. It seems now, that the city may buy out the road at any time. Of course they can then sell it, or appoint their agents and work it themselves, and thus be exposed to the corrupting influences of which he speaks.

MR. BAYARD. The honorable Senator misunderstands the idea I connect with corruption. That is only one objection. It is the exercise of the legislative power of granting a franchise; and the dangers of corruption would exist, not in the power to run or make the road, but in the power to sell the franchise. It is the grant of legislative power to this corporation to grant a franchise, which no State of the Union has done under similar circumstances, that I object to.

MR. PUGH. Allow me to make a suggestion. Suppose the city authorities buy the road; the next day after that, may they not sell it to somebody?

MR. BAYARD. They may sell the road, but you do not confer on them by the bill the power of granting a franchise.

MR. PUGH. They can sell it on whatever terms they choose.

MR. BAYARD. I will go on with the argument. Honorable Senators cannot get rid of the distinction in this case. You attempt, by the amendment, to give the legislative power to grant a franchise, which is more subject to corruption than the right of disposition of this road after it is made, and is a totally different thing, because the power to grant a franchise embodies a great many things beyond the mere making of the road. There is no power either in our State Governments, or here or elsewhere, wherever it exists, more liable to abuse than the power of granting franchises. Now that power ought to be, and it must be somewhere. The Constitution of the United States vests the exclusive jurisdiction over the District of Columbia in Congress. We have granted for municipal purposes, police powers; we have granted the right to make rules and regulations connected with the police of the city of Washington, and have made a great many other grants of that kind; but I know of no instance in which, previous to this amendment, it has ever been attempted in the Senate of the United States to part with that portion of the legislative power which is embodied in the grant of a franchise. You want here, by this amendment, to transfer to the city of Washington, the legislative power of granting a franchise. Sir, if you can do it in this case, you might as well do it in all cases. But suppose the proposition was, that hereafter the city of Washington should have a right for any public improvements in the streets of Washington to grant a franchise for the purpose of effecting those improvements: who would vote for it? You have never done it hitherto. If there is a college to be built, or anything of the kind, you reserve your legislative power: you take care to see that the franchise is granted under such conditions and such regulations as you choose to impose, and you do not delegate that power to a petty corporation here which is not incorporated for any such purpose. You grant them not legislative power, but the more ministerial power of acting under the general regulations which you prescribe; yet this amendment contemplates the granting of the very highest order of legislative power, the power to create a franchise; and franchises are always liable to extreme corruption in the grant under those circumstances.

Again: honorable Senators have chosen to disregard entirely the objection that I made to this grant over and above that, which is that the constituency interested in the exercise of this power in the construction of this road, is not the people of Washington only; it is the great public of the United States. The Constitution of the United States gives us the authority, as representing the constituents of the whole Union, to have exclu-

sive jurisdiction over this District. We have hitherto preserved our right of legislative action here. I am not disposed to part with the right of granting franchises to these parties. I say the people of the United States have as much interest in the proper franchise to be granted for the making of this road, in the proper construction of this road, in the public convenience of its use afterwards, as the people of the city of Washington; and I know no reason, because the people of the city of Washington elect members of the government of Washington city proper, why the great public of the United States should be subjected to their legislative authority, when, by the Constitution, it is vested in us. I say, then, that the constituency who will have the right to use this road, the constituency who have a right to ask that it shall be properly made, are the great public of the United States. They are represented by the Congress of the United States; and the Congress of the United States falsifies its duty to them when it delegates to a mere subordinate municipal corporation the right to grant a franchise which shall affect their interests.

MR. HUNTER. If the Senator from Delaware can see a difference between the right to buy a road and run it afterwards, and the right to make or own a road and sell it afterwards, he can see further than I can. In regard to his argument about the constituency, or the persons who really ought to govern the District, it does not apply to the case; because there is a reservation of power in the amendment of the Senator from Illinois to Congress at any time to revoke the grant, and to act upon the manner in which it has been exercised.

MR. FESSENDEN. I should like to ask the Senator whether he cannot see a distinction between a power to sell a defined road within certain limits, and to grant a franchise to make twenty roads?

MR. HUNTER. Not at all, in the nature of the power. It is only in the degree.

MR. FESSENDEN. The difference in degree is everything.

MR. HUNTER. There is no difference in the nature of the power; and it was as some great departure from abstract right that the Senator from Delaware was arguing against this amendment. I see no such departure. I see no difference between allowing the corporation of Washington, after purchasing this road, to run it or dispose of it as they choose, and granting them the power originally to charge for this franchise what they think ought to be paid for it, and to regulate the mode in which it shall be exercised.

MR. BROWN. I hope the friends of this bill at least will let us have a vote to-day. We are wasting away the day. There are other important matters behind this. No doubt everybody's mind is made up. I should like to talk myself, for the fun of the thing, but it will not do any good. I hope the friends of the bill will at least not talk, but let us have a vote.

MR. DAVIS, and others, called for the yeas and nays on the amendment of Mr. DOUGLAS; and they were ordered.

MR. WRIGHT. I desire to state that I have paired off with the Senator from Florida, Mr. MALLERY. If he were present, I should vote against the amendment.

MR. CLAY. I should vote for the amendment, but I have paired off with the Senator from Missouri, Mr. GREEN, at his request.

The question being taken by yeas and nays, resulted—yeas 15, nays 32; as follows:

YEAS.—Messrs. Bates, Bright, Davis, Fitzpatrick, Houston, Hunter, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Reid, Shields, Toombs, and Yulee—15.

NAYS.—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Clingman, Coffman, Crittenden, Dixon, Doanville, Durkee, Fessenden, Fitch, Foot, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Rice, Seward, Shields, Simmons, Thomson of New Jersey, Wade, and Wilson—32.

So the amendment was rejected.

MR. REID. It seems to me, Mr. President, that if it is desirable to build this road, as gentlemen seem to think, it should be so arranged as to give the whole community an equal chance. Gentlemen here appear to concur in the opinion, I believe, that it is a sort of monopoly; but my opinion is, that in the bill under consideration, it is a monopoly of a monopoly. If the bill is to be passed, and you desire to accomplish the object,

I wish to see books of subscription opened, so as to give each individual in the community a fair opportunity of taking a portion of the stock. I cannot, for the life of me, see the object of conferring this privilege upon a particular and selected set of individuals, cutting off everybody else from any opportunity to participate in it. Ordinarily, when charters are granted by the States for banks, railroads, and things of that sort, books of subscription are opened, and every individual in the community is afforded an opportunity of going in and taking his chances; and why should there be any objection to it in this case? I can see none. I therefore offer an amendment to strike out all after the enacting clause, down to the word "at" in the fourth line, and to insert a proviso authorizing the Mayors of Washington and Georgetown to open books of subscription; and when the stock is subscribed, to authorize the subscribers to build the road. My amendment is to strike out the words:

"That Gilbert Vanderwerker, Bayard Clarke, Asa P. Robinson, and their assignees, are hereby authorized"—and insert in lieu thereof:

That the Mayors of Washington and Georgetown shall cause to be opened books of subscription; and when the sum of \$150,000 shall have been subscribed, in shares of \$100 each, the said subscribers shall, &c.

MR. BROWN. A great many applications have been made for this franchise, by a great many parties, corporations and others, but this is an entirely new one. I never heard of it until the Senator from North Carolina introduced it. I suppose, if there had been any public sentiment here in favor of doing the work in that way, we should have heard of it before. I hope the amendment will be disagreed to.

MR. REID. I do not know how the public sentiment could be very well elicited on this subject, when it is matter of public notoriety to the whole country that the Committee on the District of Columbia of the Senate of the United States, even at the last session of Congress, refused to let a railroad pass across Pennsylvania avenue at all. That being the case, it could scarcely have been expected that, at the present session, public sentiment should be expressed as to the mode of making this road; but inasmuch as the Senate has refused to concur with what seems to be the public sentiment here, to give the subject to the corporate authorities of the cities of Washington and Georgetown, I presume that the amendment which I offer will come more nearly to the public sentiment than the bill itself, as reported. We have the highest evidence of the fact that this bill does not meet the public sentiment; because the corporate authorities of the city are in favor, and have so expressed themselves, of another plan. We see another evidence of it in the fact that, although the bill has passed the House of Representatives, there is still doubt that, if it goes back to the House, it cannot again receive the sanction of that body. I think there is a good reason for my amendment; there is certainly a fairness in it that I do not think ought to be objected to.

MR. BROWN. I hope now we shall have the question. Let us vote.

MR. REID. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 22; as follows:

YEAS.—Messrs. Bates, Bright, Chesnut, Clingman, Colamer, Davis, Riehl, Fitzpatrick, Houston, Hunter, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Reid, Shields, Toombs, and Yulee—19.

NAYS.—Messrs. Bayard, Broderick, Brown, Cameron, Chandler, Clark, Crittenden, Dixon, Doanville, Fessenden, Foot, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Sebastiani, Seward, Simmons, Wade, and Wilson—22.

So the amendment was rejected.

MR. DAVIS. I have an amendment which I wish to offer; to strike out in the first section the words "which grant this authority to certain specified individuals," and insert in place of them—

That the corporations of the cities of Washington and Georgetown are hereby authorized to construct, and lay down, a double-track railway, with the necessary switches.

The rest of the bill will then go on just as it is printed. My amendment simply substitutes the corporate authorities of Washington and Georgetown for the company named in the bill. I do this because, in the first place, the corporation of Georgetown have protested against granting the franchise to the parties named in this bill.

MR. BROWN. If my colleague will allow me, I will say that they protest against a matter with

which they have nothing to do; for there is no proposition in this bill to extend the road into Georgetown at all.

Mr. DAVIS. They protest against the bill for the construction of a road to Georgetown. They have something to do with it because they want the road constructed through Georgetown, and it has been argued here as though this bill was to furnish all the facilities within the District that are required. I am happy my colleague has now announced the fact that it does not do it. My amendment, however, is to give these facilities required throughout the District, throughout the cities of Washington and Georgetown, where persons connected with the Government reside as well as in the city of Washington, all of it being under exactly the same legislative power we have over the city of Washington. I hold that we are here acting as a Legislature over this District, and that we are bound by every obligation which rests on a Legislature elsewhere, not to grant away a valuable franchise to foreigners who come to avail themselves of it in this District, against the known wishes and supposed interests of the people of the District themselves. Yesterday, the Mayor of the city of Washington called on me and said that I was authorized to state, on his part, that three fourths of the property holders in the city of Washington would object to granting this franchise to any company instead of to the corporation of Washington itself; that he did not believe five hundred votes could be obtained among the property holders of the city, if the question were submitted to them, in favor of this bill over one which would give the franchise to the city itself.

These are considerations, which, in my view, address themselves to the Congress as the Legislature of the District, appeal to our sense of equity, and point to the future interests of the District, over which we hold this legislative power.

Mr. BROWN. One word in explanation. I said that there was nothing in this bill which proposed to extend this road into Georgetown. There is not. The Committee on the District of Columbia, at one time, inserted a provision, that it should be carried into Georgetown, at some point named on High street; but that movement was not seconded at all on the part of the corporate authorities of Georgetown. We heard nothing from them, though they knew what was going on; and finally the committee instructed me, as its chairman, to withdraw the amendment. Therefore, Georgetown, as the bill stands, has nothing to do with it, simply because she did not ask to have anything to do with it, and did not even second the movement which we made. I have never heard a word from her citizens or her corporate authorities in regard to it.

Mr. DAVIS. A protest has been sent to Congress. My colleague has the same chance as the rest of us.

Mr. BROWN. If sent to us, it ought to have been sent, by whosoever hands it was brought here, to the committee having jurisdiction of the subject. We never heard of it before.

Mr. FESSENDEN. I can only say that I saw the Mayor of Georgetown this morning, and he expressed his great satisfaction at the ground I took the other day in favor of the bill.

Mr. DAVIS. The corporation address themselves "to the honorable the Senate and House of Representatives of the United States of America, in Congress assembled." The second paragraph of their remonstrance says:

"Having been informed that the House of Representatives had passed a bill at their last session authorizing some gentlemen of the State of New York to lay down, and construct, and build a railroad from the Capitol through Pennsylvania avenue to Georgetown; and having also been informed that the said bill is now in the Senate waiting the action of that body, and fearing that the said bill may pass the Senate, we consider it our duty to respectfully protest against its passage in your honorable body, as it will deprive the Metropolitan Railroad Company of the benefit of connecting their road with the Baltimore and Washington branch of the Baltimore and Ohio railroad."

And it then goes on to express their wishes.

Mr. REID. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. FESSENDEN. I wish to make an explanation before the call goes on, for fear some gentlemen may be misled by what I said. I stated that I saw the Mayor of Georgetown this morning, and that he expressed his satisfaction at my favoring

the bill the other day. I have been called out since and learned that I was mistaken. I supposed that the gentleman who spoke to me was the Mayor of Georgetown. I have always known him as such—Mr. Addison—but I find that the Mayor has been changed. [Laughter.]

The call being concluded, the result was announced—yeas 19, nays 27; as follows:

YEAS—Messrs. Bates, Bright, Chesnut, Clingman, Colamer, Crittenden, Davis, Dixon, Fitzpatrick, Hunter, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Reid, Sidel, Toombs, and Yulee—19.

NAYS—Messrs. Allen, Bayard, Bell, Broderick, Brown, Cameron, Chandler, Clark, Doolittle, Durkee, Fessenden, Fitch, Foot, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Rice, Sebastian, Seward, Simmons, Thomson of New Jersey, Trumbull, Wade, and Wilson—27.

So the amendment was rejected.

Mr. PUGH. I offer the following amendment, as an additional section to the bill:

And be it further enacted, That, in consideration of the franchise and privileges hereby conferred, the persons named in the first section of this act, and their assigns, shall, annually during the term of such franchise, pay to the corporate authorities of Washington and Georgetown an amount equal to one sixth of the income of the said railway, over and above the necessary expenses of management, two thirds of which amount shall be for the support of the public schools in the city of Washington, and one third for the support of the public schools in the city of Georgetown.

Mr. BROWN. I have only a word to say in reference to that amendment. In the first place, you are giving by it something to Georgetown, which has nothing to do with this franchise at all. You grant, by the bill, to this company, no power in Georgetown at all. Why Georgetown should be included in the amendment, therefore, I do not know. Then the bill, in explicit terms, guarantees to the city of Washington the right of taxation, which gives her all you propose to give by this amendment; for surely you would not give the right of taxation, and then require them to pay something in addition besides?

Mr. PUGH. Certainly. What will they be taxed on—their horses and cars?

Mr. BROWN. The railroad.

Mr. PUGH. But on the greatest property they will not be taxed; and that is the property conferred by this bill. It is the right to take the public avenue, and make a railway on it. The taxation will be nominal. Neither the city of Washington nor the city of Georgetown will derive any benefit at all; for the property that this bill gives them for nothing, this great municipal franchise which you are granting to these gentlemen, is the very thing that will not be taxed. If you say it will corrupt the City Councils for them to deal it out, let us deal it out, as we are the incorruptibles. Let us see that some portion, a mere tithe, one sixth of the income of this road, is appropriated to support and maintain the common schools of these two cities. I cannot see why Georgetown shall not have her share, though I will not be very particular about it. You run the road up to her boundaries, and exclude her from ever having a chance of applying for a road for her benefit through the city of Washington or its vicinity. If that is the only objection, it can be obviated; and you can give it all to the public schools of the city of Washington. The only question is, whether this fortune, if it be a fortune, shall, some portion of it, only one sixth, go to the education of the children. If there is nothing in it—if it is not worth anything, as Senators say, there will be nothing paid; if it is very valuable, there will be a good deal paid.

Mr. CLARK. Mr. President, all legislation, to be profitable, should be equal. By this amendment, you propose to tax this corporation for one sixth of its income; you propose to make your tax an arbitrary tax on it, not in proportion to the property it has in the road, but in proportion to its income. Now, if you were to assess your tax in Washington or Georgetown on every individual, and take one sixth of his income, that would be equal; but how many people would assent to it? Then, why should you take one sixth of the income of this corporation, and put them on a different basis? I would be willing to increase your public schools; but, in order to do that, I want property taxed equally therefor. Lay your tax on all the property and income of the people in the city for public schools, and I will go with you; but do not take this road, which you say is to be built up by foreign capital, or because it has come here for your accommodation, and then lay an ar-

bitrary tax on it in this way. There is no justice in it.

I think, Mr. President, these amendments are severally offered to kill this bill, not to aid it forward. Let your tax be equal, and we will go for it, if it is necessary and just and judicious; but it seems to me it is entirely arbitrary to impose it upon this corporation alone.

Mr. HALE. I have endeavored to govern myself here, sir, by national motives; and I shall go against this amendment, because it is sectional. It has generally been understood that in legislating for the District of Columbia, we should govern ourselves by reference to the views and feelings of the adjoining States, out of which the District was carved. The honorable Senator from Virginia, [Mr. MASON,] a day or two ago, expressed a good deal of fear at the extension of our New England system of common schools; and inasmuch as it would be obnoxious to Virginia to sustain common schools in this District, I am against it on that ground entirely. I do not think that in this District we ought to encourage a system that will be obnoxious to our neighbors, out of whose territory this District was carved; and for this reason, although, if I were at home in New Hampshire, I should be in favor of common schools, I cannot go for them here. [Laughter.]

Mr. MASON. Mr. President, I will say to the Senator from New Hampshire that my objection to the bill to which he alludes, was not to the system of common schools; but that power should be given to the Congress of the United States to prescribe to the States the system of common schools they should adopt, lest, by possibility, they might choose to inflict upon other States that peculiar system of common schools, which, in my judgment, has so long afflicted the country from which the Senator comes. Of a system of schools, accessible to the whole community, I am as strenuous an advocate as anybody that lives; but my fear was, in reference to the bill to which the Senator alludes, that if Congress could arrogate power, in giving a fund to the States, to prescribe the uses to which it should be put thereafter, in some way we might have inflicted on my own State of Virginia, along with others, a system of common schools which is peculiar to the country from which the Senator comes. That was my view.

Mr. HALE. I understood it.

Mr. BAYARD. The object of the amendment, of course, is to defeat the bill. It cannot be viewed in any other light. Here is an amendment which arbitrarily fixes an amount to be deducted from the income of the road, without any calculation or any knowledge of the capital necessary to be employed in the making of the road, on a mere conjectural idea that the profits will be very large. The fact is that by this bill the profits are restricted in the way I mentioned before; for it gives the right to the city of Washington to take the road at any time under its direction, upon paying the valuation appraised in a fair manner.

But independent of that, I differ altogether from the honorable Senator from Ohio. He may throw into his amendment the *ad captandum* idea that this money is to go to the cause of education; the object of that is to carry the amendment; but I differ from him entirely as to the proper mode of exercising the power to grant franchises. What we have to do, in my judgment, properly, in the grant of any franchise, is not to sell it, either for the benefit of ourselves or any other person, but to guard the interests of the public, and to prevent inordinate profit on the part of the individuals to whom the grant is made. Have we not done it already in this bill? We have provided that the rate of fare shall not exceed five cents, in the first instance; we have provided further, that we shall always have the right to regulate that fare. That includes the right to reduce the rate. If we find that the profits of this road, under the present grant, are too great, we have the undoubted right to reduce the fare from five cents to three, from three to two, and from two to one, if we choose; and I, for one, would rather place a restriction in that way upon inordinate profit. In making a grant for the public convenience, I would retain the guard of controlling the rate of fare, so that we could put it down and secure the transit for the accommodation of the public at the lowest possible amount consistent

with a fair profit to the individual who embarks his capital; and we have that right secured in the bill, and I think it a much preferable mode of restricting inordinate profit to that proposed by the honorable Senator from Ohio. The object of that is plain. Without knowing, without even having a calculation which would approximate to what would be the result, we are asked to deduct one sixth absolutely from the gross income of the road over its running expenses.

Mr. PUGH. Net income.

Mr. BAYARD. I think the language is, "the income over and above the running expenses;" but the Secretary can read the amendment if there be any doubt about it. Without knowing the capital embarked; without any calculation or statement as to what is a reasonable rate of profit; disregarding the fact that you have previously reserved the right to reduce the rate of fare, which would of course secure the public interest, the honorable Senator from Ohio, in order to support the public schools of Georgetown and Washington, prefers to lay an additional tax on the public; it amounts to that, because if you do that you cannot reduce the rate of fare. Now, if this road is to be as profitable as is anticipated in the conjectures of Senators, and, for aught I know, in the conjectures of the persons who want to build it, I look forward to the fact that Congress has the right to reduce the rate of fare, and for one, I would be willing to exercise it. If on a statement of the affairs of the company, I found the profit inordinate; if I found it exceeded ten or twelve per cent. per annum, I should be disposed to reduce the fare for the benefit of the public, instead of making this grant to the municipal corporations of the District.

Mr. BROWN. I hope, now, sir, that we shall have a vote. I do not care to enter into the discussion. The day is wearing away, and there is other important business to be done. When a matter has been discussed to the point that Senators understand it, I always like to vote and be done with it.

Mr. DAVIS. Since the amendment was offered by the Senator from Ohio, I have received a note from the Mayor of Georgetown, in which he requests me, if there be no such amendment to the bill under consideration, to offer one, extending the road to Georgetown. As that will rather serve to perfect than to embarrass the amendment of the Senator from Ohio, if agreeable to him, I will offer an amendment extending the road to Georgetown, and his amendment may be voted on afterwards, with the consent of the Senate.

Mr. PUGH. Certainly.

Mr. DAVIS. Then I offer an amendment in the first section, eighth line, to insert the words "the western limit of;" so that it will read, "from the north gate of the navy-yard to the western limit of Georgetown;" and in the fourth section to strike out "city," and make it "cities," and insert "and Georgetown;" so as to read, "the authorities of the cities of Washington and Georgetown."

Mr. BROWN. I only want to say a word in reference to that amendment. The Committee on the District of Columbia originally offered a proposition to extend this road to Georgetown. They did not find that the municipal authorities of Georgetown took any special interest in the matter, and feeling that it might embarrass the bill, they instructed me, as chairman of the committee, to withdraw the amendment; and they did it on this idea: this company asked the privilege of constructing the road through Pennsylvania avenue because Congress, having made that avenue, has jurisdiction over it; and if they get the right from any one, they must get it from Congress. If they wanted to extend their road into Georgetown, or the municipal authorities there desired to have them do it, then it would be a matter of arrangement between the railroad company and the corporation of the town with which we had nothing to do. We have not improved the streets of Georgetown. It is a corporation which improves its own streets, and I really do not know by what authority Congress can undertake to say that a private company may have the privilege of putting down a railroad upon one of the streets of that city improved by the city itself. Suppose the city authorities should say "we do not want this thing done," after you have authorized it. I doubt very much your authority to au-

thorize a corporation of your own or a private company of yours to go into a city like Georgetown, and to put this road upon the streets. The committee considered all this subject. This company has no sort of objection, I am sure, to extending the road into Georgetown; but it was thought, everything considered, to be better to leave it a matter of private arrangement between the company and the city authorities.

Mr. DAVIS. I think the authority is exactly the same in the one case as in the other, and it is wrong in both. I have offered the amendment in compliance with the request of the Chief Magistrate of the city of Georgetown.

Mr. MASON. I originally offered the amendment to extend this road into Georgetown, which has been adverted to by the chairman of the committee. Several citizens of Georgetown addressed me a note, I think, or called on me in person, saying that it would embarrass this bill; and they had reason to believe, and entertained the confident expectation, that when the road was made, those authorized to make it would extend it into Georgetown; and as they seemed to manifest that purpose, I consented to withdraw the amendment, and it was done. I still retain the opinion that it would be a great deal better while the power remains with us, to require that this road shall be extended into Georgetown, than that it should stop at the creek which divides the two places. We know very well that these corporations, or quasi corporations, when they possess a franchise, become very selfish; and if we require of these parties to take the road only to Georgetown, it will leave the city and people of Georgetown in their power, for they may put the passengers down on the borders of Georgetown, and let them provide for themselves; or what is more probable, they will say "we are under no obligation to extend the road there; and now we will treat with you for a new franchise with additional emoluments." I think, therefore, and more especially as the request comes from the Mayor of Georgetown, that the amendment should be adopted, and I shall vote for it cheerfully.

The question was put on Mr. DAVIS's amendment; and there were, on a division—ayes 14, noes 17; no quorum voting.

Mr. BROWN. I ask for the yeas and nays. I think there is a quorum present.

The yeas and nays were ordered, and being taken, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Bell, Bright, Chesnut, Collamer, Crittenden, Davis, Fitch, Fitzpatrick, Foot, Hale, Houston, Hunter, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Reid, Rice, Sebastian, Toombs, and Yulice—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Hamlin, Harlan, Kennedy, Seward, Simmons, Trumbull, Wade, and Wilson—21.

So the amendment was agreed to.

The PRESIDING OFFICER, (Mr. Foot.) The question recurs on the amendment of the Senator from Ohio, [Mr. PUGH.]

Mr. PUGH. I want to divide the money equally between the two corporations.

Mr. BROWN. One has twelve thousand people and the other seventy thousand.

Mr. PUGH. I only wish to say one word in response. If there is any difficulty of the sort suggested by the Senator from Mississippi, I can modify that part of the amendment afterwards. It is stated that this is unequal taxation on the property of these persons. It seems to me that the plausibility of that suggestion is its only recommendation. The taxation upon these persons heretofore authorized by the bill, is taxation upon their cars and their horses. Is that their property? Would they sell it for the value of their horses and cars the next day after they built the road? No, sir. It is the franchise that has not been taxed at all, and that will not be taxed, except by some such amendment as this, and that is nine tenths of the profit. That is the valuable thing; that is the property which you confer, for it is property. If you touch it, they will show you that it is property, for they will bring you into the courts, and insist that it is property; and that is not taxable, except in the way I propose.

What do the Legislatures do? I believe the State of Pennsylvania regularly charges a bank a bonus for every charter, although she subjects them to taxation; she taxes them on their money; taxes them on the whole capital, and then taxes them on their franchise, which is property created

by law. You are creating for these gentlemen, in this bill, the exclusive right to run their trains through the cities of Washington and Georgetown; you are creating five times the capital that they will ever put into it, and I ask that, when they are made the beneficiaries of so great a public trust, for their own private advantage, a modicum of that which you confer to-day shall be paid in aid of the municipal authorities of these two cities to carry on the public schools. I believe we paid, by a bill passed at the last session, a great deal for these schools. How much did we agree to pay out of the Treasury?

Mr. BROWN. I do not think we agreed to pay anything.

Mr. PUGH. Well, a bill passed the Senate, I think, to pay fifteen thousand dollars a year, or more, out of the Treasury of the United States, to keep up these public schools. Now, I should like that this private corporation, which has usurped a franchise in the city of Washington, pay a little out of its treasury for common schools. However, as my friends over here particularly set up to be the great friends of common schools, for their benefit, and especially for the benefit of the Senator from New Hampshire, I call for the yeas and nays.

Mr. BROWN. Then I hope we shall have the vote. I do not want to say anything.

The yeas and nays were ordered.

Mr. WILSON. I should like to hear the amendment read as modified.

The Secretary read it, as follows:

And be it further enacted, That, in consideration of the franchise and privileges hereby conferred, the persons named in the first section of this act, and their assigns, shall annually, during the term of such franchise, pay to the corporate authorities of Washington and Georgetown an amount equal to one sixth of the income of said railway over and above the necessary expenses of management, one half of which amount shall be for the support of the public schools in the city of Washington, and one half for the support of the public schools in the city of Georgetown.

Mr. HALE. I move to amend the amendment by inserting, after the word "expenses," the words "and six per cent. interest on the capital invested."

Mr. PUGH. If the Senator will vote for the amendment then, I will accept his amendment.

Mr. BROWN. I hope we shall have a vote.

Mr. PUGH. With the leave of the Senate, I should like to modify the latter clause of the amendment so that the amount shall be divided between the cities of Washington and Georgetown in proportion to the number of children attending school in each.

Mr. SIMMONS. Did the Senator from Ohio accept the amendment of the Senator from New Hampshire?

The PRESIDING OFFICER, (Mr. Foot in the chair.) The Senator from New Hampshire will repeat his suggestion, that the Secretary may get it?

Mr. HALE. The Senator from Ohio moves to make them pay one sixth of their income, after deducting their running expenses, and I propose to add "and six per cent. per annum on the capital invested."

Mr. SIMMONS. This I understand to be a proposition to tax mechanics that come from the navy-yard for the support of the public schools in Georgetown.

Mr. WILSON. Do we understand that the Senator from Ohio accepts the amendment of the Senator from New Hampshire?

The PRESIDING OFFICER. Yes, sir.

Mr. BROWN. Read it as amended.

The Secretary read it, as follows:

And be it further enacted, That, in consideration of the franchises and privileges hereby conferred, the persons named in the first section of this act, and their assigns, shall annually, during the term of such franchise, pay to the corporate authorities of Washington and Georgetown an amount equal to one sixth of the income of the said railway, over and above the necessary expenses of management, and six per cent. on the capital invested, which amount shall be for the support of the public schools in the cities of Washington and Georgetown, and divided between them in proportion to the number of children attending the same.

Mr. BENJAMIN. I have paired off on this question with the Senator from Georgia, Mr. Toombs.

The question being taken by yeas and nays, resulted—yeas 18, nays 24; as follows:

YEAS—Messrs. Bates, Bright, Chesnut, Collamer, Davis, Durkee, Fitch, Fitzpatrick, Harlan, Houston, Hunter, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Reid, and Wilson—18.

NAYS.—Messrs. Allen, Bayard, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doollittle, Fessenden, Foot, Hale, Hamlin, Kennedy, King, Rice, Sebastian, Seward, Shields, Simmons, Trumbull, Wade, and Yulee—24.

So the amendment was rejected.

The bill was reported to the Senate as amended.

Mr. BRIGHT. I want to reserve the amendment offered by the Senator from Maryland, [Mr. PEARCE,] to give the franchise to the Metropolitan Railroad Company, and also the amendment offered by the Senator from North Carolina, [Mr. REID.]

Mr. BROWN. They were not voted in. You cannot reserve them.

The PRESIDING OFFICER. Those amendments, according to the recollection of the Chair, were rejected. The question will be put on concurring in all the amendments made as in Committee of the Whole, in gross, or on each separately, as the Senate shall order. ["Altogether."]

Mr. BROWN. I would very much prefer to take the vote on all of the amendments together. If one goes on the bill they may all go on with my entire approbation. I am opposed to all the amendments for the reasons I stated before. If the sentiment be that they shall be voted in, let us take them altogether and let them go. That gives, I will say, to the enemies of the bill an advantage which I am willing to yield at this late hour, that we may get to other important business. I hope, therefore, there will be unanimous consent that we shall take the vote on concurring in all the amendments together; because I want to save time.

The PRESIDING OFFICER. The question will be taken on all the amendments together, if there be no objection to that course.

Mr. BRIGHT. I was anxious to have a vote taken again on the amendment offered by the Senator from Maryland. He is absent, however, in consequence of sickness. I think it is due to that gentleman, knowing the anxiety he felt about this bill, that he should be present when the vote is finally taken. I know it was his intention to renew that amendment when the bill should be reported to the Senate, and I believe the Senator from North Carolina intended to renew the amendment he offered, and which was voted down this morning by a very small vote.

The PRESIDING OFFICER. The Chair will suggest that the bill will be open to further amendment after the Senate shall have acted on the amendments made as in Committee of the Whole.

Mr. BRIGHT. I was going to propose, in view of the lateness of the hour, that this matter be postponed until Saturday next, with a view of giving me an opportunity of calling up the bill in reference to the introduction of water. I do not think it probable that this bill can be disposed of to-day, at any rate.

Mr. BROWN. That is a proposition to postpone the bill indefinitely. That is all there is in it. The bill has a majority of friends here, and I hope they will vote down all such propositions.

Mr. BRIGHT. It is a proposition to postpone it until there can be a full Senate, and something like an expression of opinion on the part of the Senate can be had. That cannot be had to-day.

The PRESIDING OFFICER. The question is on concurring in all the amendments in gross, which were made in Committee of the Whole.

Mr. DAVIS. The proposition of the Senator from Indiana should commend itself as well to the judgment as to the courtesy of the Senate. It is well known that the Senator from Maryland, [Mr. PEARCE,] representing the State most nearly connected with this city, and therefore having special interest in it, offered an amendment which was rejected when the Senate was not full, and with reason to believe that it might be adopted when the Senate was full. That Senator is detained from his seat, as I understand, by illness. His regular attendance here should secure, I think, some consideration from the Senate to him, as one who would not be absent if it were in his power to attend. His investigation of the subject, his deep interest in it, give him a right, I think, to be heard.

The propositions which the Senator from Indiana makes to take up the question of supplying the city with water, is one which really requires prompt action; the other does not. At this time, when Washington is full of unemployed laborers,

and the price of iron is low, and steadily rising, my friend from Pennsylvania [Mr. CAMERON] seems pleased. I agree with him that it is desirable it should rise still further. It has risen, however, during this winter, I think, about four dollars a ton, and is now advancing. The market is yet dull; and to give the corporation the power to go on immediately to tap the mains, and supply the city with water, is not merely to answer the purposes of the inhabitants, but it is to employ a large amount of labor, now suffering for employment in this city; and by making a fresh demand for iron, you hasten that advance in its price which the Senator from Pennsylvania desires. I think, therefore, it is important, in an economical view, so far as it connects itself with other interests, that we should act promptly on the measure which has been brought forward from the Committee on Public Buildings, in relation to supplying the Potomac water to the people of Washington.

Mr. CAMERON. I did smile when the Senator from Mississippi spoke of iron, for I am always delighted to see an ingenious mode of attack. I have looked for some time at the skill and ability with which he and the distinguished Senator from Indiana have managed their opposition to this bill. Now, they talk about taking up the bill for the introduction of water, which will take two or three days before it can be got through.

Mr. DAVIS. Why?

Mr. CAMERON. Because there are several snakes in that bill, which ought to be brought out from their hiding-places. It will have to be investigated a good deal. There is a great deal to be said about it. It is not the love my friend has for iron, but his great desire is to defeat this bill; and I have never in my life seen so much talent wasted for the purpose of defeating a simple private bill as there has been here.

Mr. PUGH. Is this a private bill?

Mr. CAMERON. Yes, sir.

Mr. PUGH. I think it is a private bill.

Mr. CAMERON. Private individuals come in and ask the right to make this road. They offer to put their money into it on proper terms. Some gentlemen think there is a great speculation in it, and therefore oppose it. Mr. President, the most common feeling of the human heart is envy. There are some men who cannot imagine that it is right for an individual, by his enterprise, to benefit himself. They are always thinking of the injury which is done to themselves, and fear that, because somebody else is going to make money, there is something wrong. How have we got all the great railroads of this country? Have they not been accomplished by individual enterprise, by bold and daring and brave men? Look at all your railroads through the country, and tell me how many men have made money by them. You start every enterprise with the expectation of making profit, but generally end with making none. That may be the case here. I intended merely to say that I admired the skill of the gentlemen who opposed this bill, and I always like to pay my tribute to merit.

Mr. DAVIS. I will say to the Senator from Pennsylvania that I can appreciate the estimate he puts upon the skill of those who are opposing a sort of close corporation with which he seems so intimately connected; and as to the snakes he finds in the water bill, the sooner they are gotten out the better. If that bill is a bad one, let it be reformed at once. Notice was given to the Senate—I heard it, and I suppose he did—of the purpose of the chairman of the Committee on Public Buildings to bring up the bill this morning. The reasons I have stated are public considerations. They do not appeal to the mercenary motives of some man who comes here for a franchise. They speak to public convenience; and if public convenience is to be trampled under foot in order that money may be put into the pocket of some man, it constitutes a reflection upon us, and will constitute a sad remembrance of this day. The bill offered now, sir, is one which concerns the safety of the public buildings, the health and comfort of the city.

I had hardly supposed it would be needful to argue with the Senate that they should not claim the decision of a question in the absence of a Senator who was known to take great interest in it, and by counting noses to force the measure

upon the Senate in the absence of those who might defeat it.

Mr. BROWN. Mr. President, if the friends of the water bill really desire it to pass, I think the wisest way of accomplishing that result is to withdraw opposition to this bill, or what seems to be at least a somewhat factious opposition. There is, I think, an evident majority of the Senate in favor of the passage of this bill. If that be so, if Senators are not present, whose fault is it? Is every bill to be delayed until you can have everybody present? This is the Senate of the United States; this is the place where Senators are expected to be to record their votes; and, if they are not here, that is their business and not ours.

Mr. DAVIS. I will say to my colleague, that one Senator alluded to is absent from indisposition. The other, [Mr. DOUGLAS,] whose amendment has been voted on to-day, is also absent from his seat because of sickness.

Mr. BROWN. I was about to say that that was the misfortune of individual Senators; but we have only four weeks of the session left, and if we are not to act upon any bill except whenever every Senator is present who may choose to move an amendment to it, there is an end of legislation. No one would hesitate longer than I before he would force the consideration of a measure in which the Senator from Maryland feels a deep interest; but I cannot consent to let this only day assigned for the consideration of District business pass by without considering this measure, or any other, because the Senator from Maryland, or any other gentleman, happens unfortunately to be detained from his seat by sickness. If it were a long session of Congress, I should act otherwise. If the session could be prolonged until July or August, as it generally is during the long session, I should rather let it pass over; but that cannot be done. To let this day pass is to defeat the measure.

As to the other Senators who are absent, I do not know the cause of their not being in their seats; but whatever it may be, let other Senators who favor their amendments bring them forward and take votes on them. What I want is action. I want to get along with business; to dispose of this measure. I feel as earnest and as anxious as my colleague to consider the water bill; but I am in favor of considering one thing at a time. Why, sir, this bill was passed as early as last May by the House of Representatives; it has been here ever since; and now what is the proposition? To overslaugh it by a bill which was reported yesterday. Where is the justice in that? It is said one is a matter of great public importance, and the other is a mere private speculation.

I have said, and I say again, that if I could crush this whole railroad scheme out with a single stamp of my foot, I would do it. I have no heart in the thing; I have not had from the beginning, and have not now. Only let the Senate come to my support, and determine that you will preserve Pennsylvania avenue from all encroachments of this sort, and I am with you now, henceforth, and forever. I never did believe that its grand, magnificent proportions ought to be marred by a railroad upon it; but when bankers and grocers, and other men of fortune, come and ask a franchise; when they come in their magnificence to ask that old Vanderwerken, with his omnibuses and his horses, shall be driven off the avenue, that they may have the privilege, I stand up to enter my protest against such injustice as that. I will not give this franchise, by my vote, to the Metropolitan Railroad Company. I will not give it to the Parkers and the Maurys. I will not give it to men who stood by me in the earlier part of the struggle against marring the avenue with a railroad, and then have come in with their memorials, showing a determination to clutch the prize themselves. They never stood by me in heart. They never had any regard for the avenue or for its protection. They bided their time, to have an opportunity to interpose against these parties. That is all there is of it. If there be a speculation in it, he is entitled to the benefits of it who first conceived the idea of making it a speculation.

If I could, I say again, Mr. President, convince the Senate that the beautiful avenue stretching from here to the presidential mansion, and beyond that to Georgetown, should in perpetuity be protected against this species of vandalism, I would stand where I stood before. I stood upon that ground until I stood alone. The very men who

backed my position at last retired and got up applications of their own for this privilege, and it was at that point I gave up all hope of protecting the avenue, and determined to stand by Vanderwerken, who, as I told you the other day, came in under the eye of your sleepy bankers and grocers, and other men of fortune, and put his omnibuses and his stock upon the avenue, and took the hazards of the enterprise. He made it succeed, and out of that he conceived the idea of putting down a railroad. They opposed it. They beset the committee from day to day against the granting of the franchise to Vanderwerken, or anybody else. The next we heard of them was that they were petitioning for the franchise themselves. I, as a Senator, want it understood that that kind of game cannot be played with me by bankers or grocers or anybody else.

Mr. BAYARD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. Upon concurring in the amendments made to the bill in Committee of the Whole.

Mr. BAYARD. Although there have been suggestions thrown out to us by those who oppose this bill by every species of amendment, and have voted for every species of amendment calculated to kill it, suggestions have been made with a view to postpone it; but no motion to that effect has been made, and the simple question now is on concurring in the amendments.

Now, sir, as regards the honorable Senator from Maryland, who is absent, it is stated, on account of sickness, I should like to know on what authority it is said that he is absent from sickness? I received a communication from him yesterday, requesting my attendance at the Library Committee, which indicated nothing on his part but the expectation that he would be present. He is not here, but I heard nothing about his sickness until it was suggested here. The Senator from Maryland desired, of course, to have the Metropolitan Railroad Company the grantee of this privilege, instead of the parties named in this bill. He tried it, and the Senate voted it down. That is a mere private question. There is no reason, after we have been discussing this bill another day, and we can only take up Saturdays, why we should postpone it (unless we mean to gratify those gentlemen who show that they intend to defeat this bill if possible) on suggestions of sickness, of which there is no evidence. I have reason to suppose that the Senator from Maryland has gone away, not from sickness, but because other reasons carried him away, and that he is not detained by sickness. If there was evidence of that, it might present a different case. But after all, his amendment only involved a question between private individuals. Any gentleman can renew that amendment in the Senate. If we concur in these amendments, that does not debar any gentleman from renewing the amendment that was moved by the honorable Senator from Maryland. The Senate can decide it, whether he is here or not here. The argument has been exhausted. We know that we cannot secure the attendance of a large number of the Senate on the days assigned for District of Columbia business for any length of time. You will have no fuller vote on another occasion, and especially on the mere question of who is to be the grantee of this particular franchise.

The real object of this postponement is to kill the bill, just like many of the amendments that have been offered to the bill. Those who think the road had better not be made; those who think the charter ought not to be granted in the form in which the bill has been amended, with or without amendments, will of course vote to postpone it, and kill it indirectly; but those who really think the road is necessary, that the bill is properly guarded, that the bill ought to be passed, will resist this idea of postponement under the suggestion of the absence of an individual Senator, from sickness, without any evidence of such a fact.

Mr. BRIGHT. The Senator from Pennsylvania traveled out of his road, rather, to attack the report and bill I reported yesterday from the Committee on Public Buildings and Grounds, in reference to watering the cities; and I must think, from the random manner he has spoken of them, that he has not read either of them. I am sure he did not read either before they were reported; and he

has scarcely had time to do so since they came from the hands of the printer.

Mr. CAMERON. If the Senator will allow me, I will say that I did read the bill.

Mr. BRIGHT. Then, I should be glad to know where that Senator finds what he is pleased to term "snakes" in the bill; and I shall call on him, sir, when the time comes for the consideration of that bill, to point out wherein he finds what he is pleased to term "snakes." I suppose he means snakes such as we now have before us.

Mr. REID. Snakes in the iron, but not in the water.

Mr. BRIGHT. This is not the proper time, however, to discuss the merits of that measure; when it comes up, I trust I shall be prepared to do so, if necessary. I was in hopes, however, that the bill referred to would pass this body without opposition, for the necessity of it has been well explained by my friend, the honorable Senator from Mississippi, [Mr. DAVIS.]

Mr. President, I am responsible for the suggestion that the honorable Senator from Maryland [Mr. PEARCE] was absent in consequence of indisposition. I did so from an interview which I had a few minutes since with the honorable Senator from Mississippi. I knew that the Senator from Maryland took some interest in this bill. I knew that he was representing what he regarded as the interests of a part of his constituency, who live along a line of road proposed to be constructed from the District of Columbia to the Point of Rocks, on the Baltimore and Ohio railroad. I knew that he was favorable to this enterprise. I knew, as every Senator knows who heard his argument on the amendment he offered to this bill, that he regarded the making of the line of road I have mentioned, as a matter of infinitely more importance than the work contemplated by the bill under consideration; and hence my motion, or rather suggestion, that I thought the subject should be postponed until he was present.

I gave my reasons at some length when this bill was under discussion before, why I favored a grant of this franchise to what is termed the Metropolitan Railroad Company. The honorable Senator from Mississippi [Mr. BROWN] says that he is not to be driven from his purpose by the objections of bankers and brokers, the Parkers, and various other parties that he saw proper to name. In reply, I say I am not to be driven from my support of a proposition that I believe to be right within itself, immaterial what array of strength may be presented for it in or outside of Congress. Such allusions weigh nothing with me. Congress and the country generally are infinitely more interested in making a railroad from this district to the western country, shortening the distance as it does forty-six miles, than they are in making a horse-railroad through or along every avenue and street in this city. The Metropolitan Railroad Company has been organized by the oldest and most substantial citizens of this District. The men who have a stake in the community in which they live, the men who own the largest interests in the District of Columbia, the farmers of Maryland, on and contiguous to this line of road, are its stockholders, owners, and directors. It is this class of citizens who claim this valuable franchise in aid of the laudable enterprise they are engaged in trying to prosecute to completion.

Now, sir, I come to the question of priority. There is great stress laid on the fact that Mr. Vanderwerken and his associates were the first to claim this franchise. That is a total mistake. The claim to this charter was conceived by the directors of the Metropolitan railroad. They claimed it three years before the corporators named in the bill before us. They petitioned both branches of Congress in 1854; and the records will show that they were voted down, mainly on the ground that Congress was unwilling to obstruct the avenue with such a work. It was subsequent to their petition, and their offer to make a railway along Pennsylvania avenue as an auxiliary to the Metropolitan railroad, that Mr. Vanderwerken and his associates made their claim. Hence, sir, if there is any benefit to result from priority, that priority is with the directors of the Metropolitan Railroad Company. And, sir, they do not ask it for personal profit. It is no job with them. They ask it for the purpose of aiding them in making a line of road that

every man who lives in the West and Southwest is interested in seeing made. As before stated, it is forty-six miles nearer from Washington or Georgetown to the Ohio river than it is by the present circuitous line of travel.

Mr. BAYARD. The honorable Senator will allow me to say that I understand the Loudoun and Hampshire railroad, now in the course of construction, when constructed will be thirteen miles nearer to Piedmont than this Metropolitan railroad, if made to-morrow; and is nearly constructed now. So Mr. Ould informed me within two days.

Mr. BRIGHT. I have no doubt the statement of my friend from Delaware is correct; but I do not believe the prospect for making the road he refers to is as good as for making the road about which I was speaking; but if it were made it would start from Alexandria, and not within the limits of the District of Columbia. I stated, a few days ago, that it was the saving of distance, consequently of time and money, to all that traveled or shipped freight, that should form an important consideration in the settlement of the conflicting claims set up by those who seek this gratuity at the hands of Congress. The grant, in one case, will inure to the benefit of the public; in the other, to a private company. I have no feeling or prejudice against this company; on the contrary, all that I know of the corporators named in the bill is favorable; but in parting with what is regarded as so valuable a privilege as this, I must be governed by what I regard the greatest good to the greatest number, irrespective of personal feeling.

However, I cannot say that I have much expectation that the Senate will reverse the vote already taken on the amendment of the Senator from Maryland, who is now absent. It looks very much as though the passage of this bill, in its present shape, was a foregone conclusion; but I must be permitted to express my surprise at the vote on the amendment offered by the honorable Senator from North Carolina, [Mr. REID.] That amendment would have given the citizens of the District generally an opportunity to subscribe for the stock; and if it is to be as profitable an enterprise as many suppose, what justice or propriety is there in granting it away to a few individuals?

I will only state that I had two objects in view in making the motion I did: one was to give the Senator from Maryland an opportunity of renewing his amendment in the Senate, and being here to present, in a stronger and more forcible manner than I claim to be able to do, the argument in support of his amendment; another was to have a full Senate when the final vote should be taken.

The PRESIDING OFFICER. Does the Chair understand the Senator from Indiana to make a motion?

Mr. BRIGHT. I move to postpone the further consideration of the subject until Saturday next.

Mr. DAVIS. I wish merely to remark, in answer to some statements made by the Senator from Delaware, that I perceive there must be very little merit in the side he advocates, because, with his ability, if he had had anything to adduce in the form of fact or argument, he would not have descended to the level of impugning the motives of others. I could hardly have expected, from the courtesy and ability of the Senator from Delaware, that he would, even to sustain a matter in which he seems so deeply interested, and in which both his heart and his judgment seem to be traveling to the same conclusion, have directed against those who opposed his views the charge of seeking by any indirection to defeat them. The Senator announces that the Senator from Maryland cannot be sick, because he got a notice from him to attend a meeting of the Library Committee.

Mr. BAYARD. Excuse me. I did not say the Senator could not be sick; I said there was no evidence but the mere suggestion of sickness, and that I had no reason, from the terms of that notice, to suppose he was sick; that the mere suggestion of sickness was no evidence.

Mr. DAVIS. The Senator adduced the fact of his being notified to attend a meeting of the Committee on the Library as proof that the Senator from Maryland could not be too much indisposed to attend in the Senate. That is the fact he produces.

Mr. BAYARD. The terms of the notice were,

that at the request of Mr. PEARCE, who was absent and expected to be back on Friday morning, a meeting of the committee would be held; without the remotest suggestion of sickness on his part. I thought it highly probable—and if the Senator will excuse me, I think so still, unless he states of his own knowledge—that the honorable Senator from Maryland has not been detained by sickness.

Mr. DAVIS. I have no personal knowledge, and have not pretended to have any on that point; but now the Senator informs me—I did not gather the fact from his remarks before—that in the terms of the notice he found that Mr. PEARCE requested a meeting, and expected to be back. What does this imply? That he was detained by something which occurred, but which was beyond his knowledge at the time the notice was given. The Senator knows that the Senator from Maryland was sick for some time before he went home; was for a number of days confined to his room unable to attend in the Senate; that he went home; that he has not returned when he was expected by those who knew most about his movements. I supposed he would have been back; but when I inquired yesterday, under the supposition, from something I heard, that he would be here then, whether he had returned or not, I was told he had not returned, but was at home sick. I have no knowledge on the subject, and pretend to none; but all the circumstances certainly suggested to my mind that the Senator was detained by indisposition; and the mere matter of the notice, which the Senator from Delaware adduces, is to me confirmatory of that view. The terms of the notice to me are confirmatory of my impression.

But the Senator from Delaware supposes that those who offer this as a reason for postponing this bill, those who ask that another public measure shall be considered, can have no other motive than the defeat of the bill. Now, what is his position? Urging it forward to a vote, when those who are best informed are absent; urging it forward to a vote, when two Senators whose amendments were offered are absent—one known to be sick, and the other believed to be so; seeing that he is able, by the votes on the amendments this day, to carry the measure he is for; driving it to a conclusion in the face of another public measure, which requires prompt action; and then he turns around to us, those who are not willing to submit to this termination of it, and charges that we are seeking by indirection to defeat the measure. I am always sorry when I hear a Senator, of much lower ability and less noticeable by his uniform courtesy than the Senator from Delaware, arraign the motives or impeach the conduct of his brother Senators in this Chamber. I shall abandon my case when I am reduced to the narrow strait of assuming motives for others, to vindicate the course which I pursue.

Mr. BAYARD. Mr. President, I was not aware that it was any imputation, certainly none directed to the honorable Senator from Mississippi, to state the fact which seemed to me very apparent, that the opponents of this bill, or some of them, I care not which, had, by every species of amendment, right or wrong, endeavored to defeat this bill; that they had kept up the debate on a former occasion until the Senate was not able to retain a quorum; that the debate was renewed again, and violently contested on every species of amendment that could be offered. The Senate must draw its own conclusions. I did not mean to impugn the motives of any honorable Senator, but I did mean to assert the fact, which I still believe, and I do not think there is any want of courtesy in saying it, that the opposition to this bill has been to defeat it by multiplying amendments to the bill. That is what I mean to say; and that the enemies of the bill now propose to postpone it. I see no reason given for that; and, therefore, must vote against it.

Mr. DAVIS. That is a parliamentary mode sometimes of defeating a bill, and those who choose to adopt it may. For myself, I have offered two amendments, and their face shows the faith with which they were offered. But it is not the Senator's criticism on that parliamentary method of defeating a bill to which I object. It is that the Senator should rise and point to the particular thing which was brought forward by the Senator from Indiana, and I think properly, as an appeal to the courtesy and fairness of the

Senate. I think it is both discourtesy and unfairness to disregard it.

Mr. BRIGHT. I did not understand the honorable Senator from Delaware, as alluding to me at all when he spoke about factious opposition to this bill.

Mr. BAYARD. I made no allusion to any individual.

Mr. BRIGHT. I did not offer an amendment, though I voted for several. I this morning announced, when the bill was taken up, that I would press the bill which made provision for introducing water into the city, and thought it should be taken up and considered in preference to this. I was assured by the honorable Senator who had charge of this bill, that its consideration would not occupy more than half the day; that he wished to get through with it in time to take up the bill which I was anxious about. I hope the Senator from Delaware did not refer to me as one of the Senators making a factious opposition. I am anxious to see the road made. I think it a matter of much more consequence that the road shall be made, than who shall make it; but as an issue has been made here as to who are the proper authorities to make it, and who are justly entitled to it in view of the past, as a matter of course, I have my preference, and I have expressed it. I have consumed, perhaps, less time than most others who feel as deeply on the subject as I do.

Mr. BAYARD. I have but a word to say to my friend from Indiana. I had no individual reference, as I said before, to any one. I spoke of the general opposition to this bill, and I still think of it as I did before. Now, sir, when the honorable Senator from Mississippi intends hereafter to lecture any gentleman on the subject of courtesy, I think he ought to recollect the conclusion of his own remarks. He says that it is both unfair and discourteous, on the part of those who are in favor of the bill, to vote against the postponement of it on this occasion. I am sorry the honorable Senator entertains such an opinion. I do not know whether it was leveled individually against me or not. I consider that the bill has been duly discussed, and ought to pass; and I mean to vote against any postponement.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana, to postpone the further consideration of this bill until Saturday next.

The motion was not agreed to; there being on a division—ayes 13, noes 24.

The PRESIDING OFFICER. The question recurs on concurring in the amendments adopted by the Senate, as in Committee of the Whole.

Mr. BROWN. I again submit to the Senate a proposition either to concur in all the amendments together, or reject them altogether. If one goes in, let them all go in. If one goes out, let them all go. I suppose there will be no objection to that.

Mr. HUNTER. I would rather separate the one in regard to the navy-yard. I should like a separate vote on that. I am willing to vote on all the others together.

Mr. BROWN. Very well; let us take the vote on the rest all together.

Mr. PUGH. I object to that. I want a separation. I think, after the observations made by the Senator from Delaware, that there is no call on me, at least, to facilitate the passage of this bill. The only amendment which I have offered to the bill was sufficiently explained at the time. I believe I have voted for most of the amendments which have been offered by other Senators; but when Senators think to press the bill through by impeaching the motives of those who oppose it, by charging them with being factious, and with resorting to various means of defeating it, so far as I am concerned, at least, they lose all title to appeal to me in the premises, and, therefore, I insist that those votes shall be separately taken. The Senator from Mississippi says he wants them all to stand together or all to fall together. Why so? Their merits are different.

Mr. BROWN. I beg your pardon. I said I was willing for them all to stand together, or all to fall together; but I have no particular preference about it. I thought it was an easy way of getting clear of the difficulty; but do not talk about it now. If you want a separate vote on each amendment, say so, and let us take the vote.

The PRESIDING OFFICER. It requires

unanimous consent to take the vote on all the propositions in the aggregate.

Mr. HUNTER. I withdraw my call for a separation. I believe we shall be stronger in resisting them in a lump than by separating them.

Mr. BROWN. I thought so.

The PRESIDING OFFICER. The question is on concurring in the first amendment made as in Committee of the Whole.

Mr. DAVIS. This is the proper time to renew the amendment of the Senator from Maryland, if it be renewed at all.

The PRESIDING OFFICER. The Chair will suggest that the proper time will be when the Senate shall have acted upon all the amendments reported by the Committee of the Whole. The Secretary will read the first amendment.

Mr. FESSENDEN. I thought the objection was withdrawn by the Senator from Virginia.

Mr. HUNTER. So far as I am concerned, I withdraw the call for a division.

Mr. PUGH. I renew it.

The PRESIDING OFFICER. The Chair understands the Senator from Ohio to demand a separate vote on each proposition. The first amendment is in lines seven and eight of the first section, to strike out the words, "west gate of the Capitol," and insert, "north gate of the navy-yard."

Mr. BROWN. I do not want to make a speech, but I will say this to the friends of the bill: Let us take a test vote on this question. There are no amendments in the bill which, if it is to be amended at all, may not as well be received as not. I have seen none voted in that I would make positive objection to. I shall vote against this amendment, simply because I do not want the bill amended at all; but I am willing to make a test vote on this one; and, if they beat us on this, let all the other amendments go in together.

Mr. PUGH. Let us have the yeas and nays on this one.

The yeas and nays were ordered.

Mr. BIGLER. Whilst I have said that I shall vote for a railroad, I have all the time maintained that I should not vote for a road on the terms of the original bill, requiring that the cars shall not be more than six feet wide, and the track four feet wide. I understand the bill is now amended in that respect; but if the amendments are to be rejected, I shall certainly vote against the bill. If we are to have a railroad, let us have a proper one.

The Secretary proceeded to call the roll.

Mr. CLARK. My colleague [Mr. HALE] desired me to state that he has paired off with the honorable Senator from Florida, Mr. YULEE.

Mr. DOOLITTLE. I wish to state that the honorable Senator from Illinois, Mr. TRUMBULL, has paired off with the honorable Senator from Missouri, Mr. POLK.

The result was announced—yeas 17, nays 19; as follows:

YEAS—Messrs. Bell, Bigler, Bright, Collamer, Davis, Fitch, Fitzpatrick, Foot, Houston, Hunter, Johnson of Tennessee, Jones, King, Mason, Pugh, Reid, and Shields—17.

NAYS—Messrs. Allen, Bayard, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Hawlin, Hartan, Kennedy, Rice, Seward, Simmons, Wade, and Wilson—19.

So the Senate refused to concur in the amendment.

The PRESIDING OFFICER. The next amendment will be read.

The Secretary read it, as follows:

In section one, line eight, strike out the words "the city line of," and insert "the western limit of," before the word "Georgetown."

Mr. BRIGHT called for the yeas and nays on concurring in the amendment; and they were ordered.

Mr. BRIGHT. The question is whether the road shall go to the western limits of Georgetown, or stop at the creek which divides the two cities. I think it is an amendment which ought to be adopted.

Mr. HAMLIN. I want to state that it was represented to the Committee on the District of Columbia by the corporate authorities of Georgetown, or some of them, that they did not want the road to go into Georgetown now, as they were about to grade their streets and make a new one, and wished the west terminus of the road at another place.

The question being taken by yeas and nays, resulted—yeas 12, nays 21; as follows:

YEAS—Messrs. Bell, Bright, Collamer, Davis, Fitzpatrick, Houston, Hunter, Johnson of Tennessee, King, Mason, Reid, and Shields—12.

NAYS—Messrs. Allen, Bayard, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Hamlin, Harlan, Kennedy, Rice, Seward, Simmons, Wade, and Wilson—21.

So the amendment was non-concurred in.

The PRESIDING OFFICER. The next amendment is at the end of section one to insert: "and that they shall have at all times the power of taxation;" so that it will read:

Provided, That the maintenance and use of said road shall be subject to the municipal regulation of the cities of Washington and Georgetown respectively, and that they shall have at all times the power of taxation.

Mr. BROWN. I did not think, at the time that amendment was adopted, that it amounted to anything. I think the power of taxation is guaranteed by the original language of the bill.

Mr. PUGH. When I wanted to have a part of the price of this big franchise set apart, I was told the bill provided for taxation. Now it seems we cannot even tax them on anything. I think the yeas and nays had better be taken on this amendment, especially after the pretenses urged, on the faith of which my former amendment was rejected. I ask for the yeas and nays.

Mr. BROWN. I desire, before we go further in this matter, to say a word. I know what is to be the result. These calls for the yeas and nays, whether gentlemen design it or not, have the effect of pairing us down below a quorum, and thus to defeat this bill. It has a majority in the Senate; and I tell Senators now that that majority will stand by it. We will pass this bill before the session closes, unless you can get us below a quorum this evening; but we shall have another day in committee.

Mr. SHIELDS. I am in favor of the Metropolitan Company, and if the vote comes on that, I will vote for it; but I should dislike very much to see a bill of this kind, or any other bill, defeated by reducing the Senate so as to leave it without a quorum. I think it is not a proper way of acting.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. BENJAMIN. I vote on the side of the Senator from Georgia, Mr. Toombs, with whom I had paired off, in order to make a quorum.

The result was announced—yeas 13, nays 20; as follows:

YEAS—Messrs. Benjamin, Bigler, Bright, Davis, Fitch, Fitzpatrick, Foot, Houston, Hunter, Johnson of Tennessee, Pugh, Reid, and Shields—13.

NAYS—Messrs. Allen, Bayard, Bell, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Hamlin, Harlan, Kennedy, Rice, Seward, Simmons, Wade, and Wilson—20.

So the Senate refused to concur in the amendment.

The next amendment, made as in Committee of the Whole, was in section two, line six, to strike out the words "shall not be more than four feet," and insert "shall not be less than five and a half feet;" and in the seventh line to strike out the words "exceed six," and insert "be less than eight."

Mr. BROWN. I feel towards that amendment as I do towards all the others, that it had better be rejected; but if it is going to be retained, I suggest that it ought to be changed necessarily, because it is all wrong.

Mr. PUGH. It appears to me that, if these cars be confined to the limits fixed in the House bill, they will look like a shad on wheels. They are very narrow. I do not see how, in the present style of ladies' dress, they are to get into them.

Mr. BROWN. I should think a six feet car was wide enough for a lady's dress.

Mr. BRIGHT. I believe this amendment was offered by the honorable Senator from Mississippi, who has the bill in charge, and he gave very cogent reasons and satisfactory ones for its adoption at the time.

Mr. BROWN. I said at the time that, if other amendments were to be made, it was proper to make this one.

Mr. BIGLER called for the yeas and nays on concurring in the amendment; and they were ordered.

Mr. BROWN. I hope, before the vote is taken,

that I shall have the unanimous consent of the Senate to reduce the gauge from five feet six inches to five feet two and a half inches, as that is what I intended in the beginning, and the width of the cars from eight to seven feet. The manuscript was out of my hands at the time.

The PRESIDING OFFICER. The modification can be made by unanimous consent. The Chair hears no objection; and that modification will be made to the amendment.

Mr. BROWN. Now, sir, I shall vote against the amendment.

The question being taken by yeas and nays, resulted—yeas 13, nays 18; as follows:

YEAS—Messrs. Bayard, Bell, Bigler, Bright, Davis, Fitch, Fitzpatrick, Foot, Houston, Hunter, Johnson of Tennessee, Reid, and Shields—13.

NAYS—Messrs. Allen, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Hamlin, Harlan, Kennedy, Rice, Seward, Simmons, Wade, and Wilson—18.

The PRESIDING OFFICER. There being less than a quorum, this vote is a nullity.

Mr. BROWN. This is what I have been looking for all day. We find ourselves, about half past four o'clock, without a quorum. If we adjourn now, this bill will be the unfinished business on Monday morning; and I notify the friends and the enemies of the bill that I shall insist on its consideration to the exclusion of all other business; and if we have, as I think we have, a clear majority in favor of the bill, we will put it through to the exclusion of appropriation bills and everything else.

Mr. SEWARD. We have until Monday morning to make up our minds whether we are in readiness.

Mr. BROWN. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 5, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. J. G. HAMNER, D. D.

The Clerk commenced to read the Journal of yesterday.

Mr. DAVIDSON. There is not a quorum present. I move that there be a call of the House.

The SPEAKER. The Chair presumes that there is a quorum.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw his motion for a call of the House, and let the Journal be read.

Mr. DAVIDSON. I withdraw the motion.

The Clerk resumed the reading of the Journal.

Mr. HARRIS. Did I understand the Chair to say that there was a quorum present?

The SPEAKER. The Chair presumes there is. There ought to be.

Mr. HARRIS. Members ought either to be here at eleven o'clock, or we ought to go back to the usual hour of meeting—twelve o'clock. We do not gain a quarter of an hour by this operation.

Mr. WASHBURN, of Illinois. I object to debate.

The SPEAKER. The Chair will ascertain whether there is a quorum present. [After a count.] There are but eighty-five members present.

Mr. HARRIS. I move a call of the House.

Mr. JONES, of Tennessee. On that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 67; as follows:

YEAS—Messrs. Adrain, Anderson, Bingham, Bullinton, Burnett, Case, John Cochrane, Colfax, Covode, Crawford, Curry, Davidson, Davis of Indiana, Dean, Dodd, Edie, Faulkner, Foley, Foster, Gartrell, Greenwood, Gregg, Harlan, Harris, Hopkins, Houston, Howard, George W. Jones, Owen Jones, Knapp, Landy, Leiter, Niblack, Parker, Reilly, Ruffin, Savage, Seales, Searing, Tompkins, Wade, Wainbridge, Walton, Elliott B. Washburne, Winslow, Wortendyke, and Augustus R. Wright—47.

NAYS—Messrs. Abbott, Atkins, Bennett, Bonham, Branton, Cavanaugh, Chaffee, Cobb, Cockerill, Cragin, Curtis, Davis of Massachusetts, Dawes, Dowdell, Durfee, Fenton, Giddings, Gilman, Gooch, Goode, Granger, Lawrence W. Hall, Hatch, Hoard, Hodges, Hughes, Jackson, Jenkins, Keim, Kelsey, Kilgore, Leach, Leidy, Lovejoy, McKibbin, Matteson, Millson, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Murray, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Royce, Seward, Aaron Shaw, Robert Smith, Samuel A. Smith,

William Smith, Spinner, Stanton, William Stewart, Talbot, Tappan, Miles Taylor, Thayer, Vance, Waldron, Cadwalader C. Washburn, Watkins, and Wilson—67.

So the House refused to order a call of the House.

During the vote,

Mr. JOHN COCHRANE stated that his colleague, Mr. BARR, had left the city on account of ill health.

Mr. WORTENDYKE stated that his colleague, Mr. HUYLER, was detained from the House by severe sickness.

Mr. CLAWSON, not having been in the Hall when his name was called, asked leave to vote.

Objection was made.

Mr. CLARK, of Connecticut, made a similar request.

Objection was made.

Mr. KUNKEL, of Pennsylvania, made a similar request.

Mr. HOWARD and others objected.

Mr. GROW. I ask the same privilege that my colleague asked.

Mr. HOWARD. And I make the same objection.

Mr. HALL, of Massachusetts, made a similar request.

Objection was made.

Mr. DAVIS, of Mississippi. I had a little business in the Departments, and have just come in. I ask leave to vote.

Mr. COX. I object.

Mr. AHL asked leave to vote.

Mr. HOWARD objected.

Mr. ROBERTS made a similar request.

Mr. HOWARD objected.

Mr. VALLANDIGHAM made a similar request.

Objection was made.

Mr. CRAIG, of Missouri, made a similar request.

Mr. COX. I object, until my name be entered.

Mr. GILLIS. I was not in the Hall when my name was called; but I should like to vote.

Mr. KELSEY objected.

The vote was then announced as above.

Mr. HOUSTON. No quorum has voted.

The SPEAKER. The Chair will ascertain whether there is a quorum present. [After a count.] There are one hundred and thirty-two members in the Hall.

The Journal of yesterday was then read and approved.

ST. CLAIR FLATS.

Mr. LEACH, by unanimous consent, presented certain joint resolutions of the Legislature of the State of Michigan, in reference to the pending appropriation before the Congress of the United States for the improvement of the St. Clair flats; which were laid on the table, and ordered to be printed.

CORRECTION.

Mr. SCALES. I am reported in some of the papers as having been absent the other day when the vote was taken on the homestead bill. I desire to say that I was present and voted in the negative, and would like to inquire whether my name is recorded and how?

The SPEAKER. The gentleman's name is recorded in the negative on the Journal.

RIVER AND HARBOR BILL.

Mr. WASHBURN, of Illinois. I desire to give notice that I shall, on Monday next, ask the unanimous consent of the House to take up the river and harbor bill; and if any gentleman be unreasonable enough to object, I shall move to suspend the rules, and ask to have the bill put upon its passage.

INCREASE OF POSTAGE.

Mr. MORGAN, by unanimous consent, presented resolutions from the Legislature of the State of New York, in relation to an increase of the United States postage; which were laid on the table, and ordered to be printed.

JEHU UNDERWOOD.

Mr. BENNETT. There was a bill passed yesterday with an amendment, (S. No. 129,) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, of Florida; and the title does not accord with the amendment. I ask,

therefore, that, by common consent, the title be made to conform to the bill as amended. It ought to be done before the bill be sent to the Senate.

THE SPEAKER. The gentleman can move to reconsider the vote whereby the title was adopted.

MR. BENNETT. I make that motion.

The vote was reconsidered.

MR. BENNETT. I move to amend the title so as to make it read, "a bill to provide for the final settlement of the land claims of the persons claiming as heirs of one Jehu Underwood, or as purchasers or otherwise, to certain land in Florida, and to confirm the title to the proper owner or owners."

The amendment was adopted, and the title, as amended, was agreed to.

INVALID PENSIONS.

MR. FENTON asked the unanimous consent of the House to introduce a bill granting pensions to the invalids of the war of 1812, from the date of their disability.

MR. PHILLIPS objected.

P. S. DUVAL AND COMPANY.

MR. FLORENCE. I rise to a privileged question. I move to reconsider the vote by which Senate bill No. 331, for the relief of P. S. Duval & Co., was laid on the table. If the House does not care to occupy its time with the consideration of the matter now, I am willing that the motion shall go over until next Friday. I think the House passed over the bill yesterday without that sort of examination which it ought to have. I do not care, however, to take up time with it now; but if the House shall insist on the consideration of the motion at this time, I propose to submit a few remarks in explanation of the bill.

THE SPEAKER. No debate would be in order upon a motion to reconsider a vote laying a bill on the table.

MR. FLORENCE. Then I hope the motion will go over for the present.

THE SPEAKER. The consideration of the motion will go over for the present, if no objection be made.

MR. MORGAN. I object; and move to lay the motion to reconsider on the table.

MR. FLORENCE. I hope the House, by unanimous consent, will allow the report in the case to be read.

MR. LEITER. I object.

MR. JONES, of Tennessee. Was not this bill yesterday reported from the Committee of the Whole House, with a recommendation that it do not pass?

THE SPEAKER. It was.

MR. JONES, of Tennessee. And but for that recommendation it could not have been reported at all.

THE SPEAKER. No debate is in order.

The motion to lay on the table the motion to reconsider was agreed to.

GENERAL LA FAYETTE.

MR. SANDIDGE. I rise to a privileged question. I move to reconsider the vote by which the bill of the Senate (No. 71) to amend an act entitled "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845, was passed yesterday.

THE SPEAKER. The Chair is informed that a motion was yesterday made to reconsider the vote by which the bill referred to by the gentleman was passed, and that motion was laid on the table.

MR. SANDIDGE. Then it cannot be reached by a motion to reconsider.

THE SPEAKER. It cannot.

THE SPEAKER then proceeded to call the several standing committees of the House for reports of private business.

SAMUEL A. COLE, JR.

MR. WINSLOW, from the Committee on Naval Affairs, reported a bill for the relief of Samuel A. Cole, jr., late acting purser in the United States ship *Levant*; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

MR. WINSLOW, from the same committee

reported back the following papers; which were laid on the table, the reports ordered to be printed, and the committee discharged from the further consideration thereof:

The petition of J. C. P. DeKraff;
The petition of Samuel B. Elliott; and
Joint resolution (H. R. No. 40) of thanks, &c., to Captain Samuel C. Reid, for having formed and designed the present flag of the United States.

DR. CHARLES D. MAXWELL.

MR. WINSLOW also, from the same committee, reported back, with a recommendation that it do pass, joint resolution (S. No. 51) explanatory of an act for the relief of Dr. Charles D. Maxwell, a surgeon in the United States Navy; which was referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

COMMANDER H. J. HARTSTENE.

MR. WINSLOW also, from the same committee, reported back Senate resolution (No. 70) for the relief of Commander H. J. Hartstene, of the United States Navy, with a recommendation that it do pass.

MR. WINSLOW. I presume there will be no objection to putting this joint resolution on its passage. It is certainly one which ought to pass. It received the unanimous sanction of the Committee on Naval Affairs.

MR. WASHBURN, of Illinois. I ask if that resolution does not make an appropriation?

THE SPEAKER. It does.

MR. WASHBURN, of Illinois. I understand this is to reimburse him for expenses incurred. I would like to inquire how those expenses were incurred?

MR. WINSLOW. In the entertainment of the Queen and the admiralty officers of England, and in other expenses attending the return of the bark *Resolute*. They were legitimately incurred in good faith.

THE SPEAKER. The resolution can be considered now only by unanimous consent.

MR. LEITER. I object.

The resolution was then referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

SARAH BRASHER.

MR. HAWKINS, from the Committee on Naval Affairs, reported a bill for the relief of Sarah Brasher; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

SUSAN C. RHEA.

MR. DAVIS, of Massachusetts, also, from the same committee, reported a bill for the relief of Mrs. Susan C. Rhea, widow of Dr. J. Burroughs Gardner; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

JAMES H. CAUSTIN.

MR. HAWKINS also, from the same committee, reported a bill for the relief of James H. Caustin, sole heir and legal representative of Joseph H. Caustin, deceased, late purser in the United States Navy; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

ANN SCOTT.

MR. DAVIS, of Massachusetts, from the same committee, reported a bill for the relief of Ann Scott; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LUCY A. WAKEFIELD.

MR. DAVIS, of Massachusetts, also, from the same committee, reported a bill for the relief of Lucy A. Wakefield, widow of Benjamin Wakefield; which was read a first and second time.

MR. DAVIS, of Massachusetts. This bill is a short one. I ask that it may be read; and then, if there is no objection, I shall ask the House to put it upon its passage.

The bill directs the proper accounting officer of the Treasury to pay to Lucy A. Wakefield, widow

of Benjamin Wakefield, or, in case of her death, to the child or children of said Lucy and Benjamin Wakefield, the amount of appropriation made for the relief of said Benjamin Wakefield, by act of Congress of June 5, 1858.

MR. JONES, of Tennessee. If I understand that bill, it is to pay to a widow what was formerly authorized to be paid to her husband, who was dead at the time the bill was passed.

MR. DAVIS, of Massachusetts. That is all. The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

JAMES M. GILLISS.

MR. BOCOCK, from the Committee on Naval Affairs, made an adverse report on the petition of Lieutenant James M. Gilliss; which was laid on the table, and ordered to be printed.

OTWAY H. BERRYMAN.

MR. BOCOCK also, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 171) for the relief of Otway H. Berryman; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CLERK TO COMMITTEE.

MR. BOCOCK also, from the same committee, reported the following resolution; upon which he moved the previous question:

Resolved, That the Committee on Naval Affairs be authorized to employ a clerk for such time during the present session as his services may be required, and that his pay, at the usual rate of compensation, commence from the time when his services began.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

MR. FLORENCE moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LIEUTENANT T. HARMON PATTERSON.

On motion of **MR. SEWARD,** the Committee on Naval Affairs were discharged from the further consideration of the memorial of Lieutenant T. Harmon Patterson; and the same was referred to the Committee of Ways and Means.

SAMUEL LOCKWOOD.

On motion of **MR. SEWARD,** the Committee on Naval Affairs were discharged from the further consideration of the petition of Samuel Lockwood; and the same was referred to the Committee of Claims.

MRS. E. A. HALES.

On motion of **MR. SEWARD,** the Committee on Naval Affairs were discharged from the further consideration of the petition of Mrs. E. A. Hales; and the same was referred to the Committee on Invalid Pensions.

JOHN B. MOTLY.

MR. CLARK, of Missouri, from the Committee on Territories, reported a bill for the relief of John B. Motly; which was read a first and second time, and referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

CAPTAIN M. F. MAURY AND OTHERS.

MR. HOPKINS, from the Committee on Foreign Affairs, reported a joint resolution, giving the consent of Congress to the acceptance by Captain M. F. Maury and Professor A. D. Bache of gold medals from the Sardinian Government; which was read the first and second time.

MR. HOPKINS. I ask that that resolution be put upon its passage.

No objection being made, the resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

H. T. A. RAYNALD.

MR. HOPKINS, from the Committee on Foreign Affairs, made an adverse report upon the petition of H. T. A. Raynald, late United States consul at Elsinore; which was laid on the table, and ordered to be printed.

P. M. EPPING.

MR. HOPKINS also, from the same committee,

made an adverse report upon the petition of P. M. Epping, for services as United States consul; which was laid on the table, and ordered to be printed.

G. S. MURAD.

Mr. ROYCE, from the same committee, made an adverse report upon the petition of G. S. Murad, late vice-consul at Jerusalem and Jaffa; which was laid on the table, and ordered to be printed.

JOHN MONTE.

On motion of Mr. HICKMAN, the Committee on Revolutionary Pensions was discharged from the further consideration of the petition of John Monte; and the same was referred to the Committee on Revolutionary Claims.

HEIRS OF JAMES MITCHELL.

On motion of Mr. HICKMAN, the Committee on Revolutionary Pensions was discharged from the further consideration of the memorial of the heirs of James Mitchell; and the same was laid upon the table.

JOHN D. MORGAN.

On motion of Mr. SHAW, of North Carolina, the Committee on Revolutionary Pensions was discharged from the further consideration of the memorial of the heirs of John D. Morgan; and the same was referred to the Committee on Revolutionary Claims.

ADVERSE REPORTS.

Mr. SHAW, of North Carolina, from the Committee on Revolutionary Pensions, made adverse reports on the following cases; which were laid upon the table:

The memorial of Ann Hardgrave; and
The petition of William Speer.

NANCY WEEKS.

Mr. LEIDY, from the same committee, reported a bill for the relief of Nancy Weeks, of Georgia; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELNATHAN SEARS.

Mr. LEIDY also, from the same committee, reported a bill for the relief of Elnathan Sears, late of New York; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SAMUEL WINN.

Mr. LEIDY also, from the same committee, reported a bill for the relief of Samuel Winn, only surviving child of Richard Winn, a revolutionary officer; which was read a first and second time.

Mr. LEIDY. I move that the bill be put on its passage.

Mr. MORGAN. The bill contains an appropriation, and must go to a Committee of the Whole House. I object to its consideration now.

The SPEAKER. It must go to a Committee of the Whole House.

Mr. BOYCE. I wish to give notice that when the bill comes up I shall move an amendment, instead of Samuel Winn, to insert, "the surviving son and grandchildren of." That old gentleman has a great many grandchildren living in my State, and I think that they ought to have a share of this money.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ROBERT PURCHASE.

Mr. PARKER, from the Committee on Revolutionary Pensions, reported a bill granting a pension to Robert Purchase, a soldier of the Revolutionary war; which was read a first and second time.

Mr. PARKER. I ask unanimous consent of the House to put the bill on its passage.

Mr. PHELPS, of Missouri. I must submit the motion that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, if these bills, when reported, are to be put upon their passage before the bills and reports are not printed and before us. Let the bill go to a Committee of the Whole House.

Mr. PARKER. This bill will take but a moment.

The bill directs the Secretary of the Interior to place the name of Robert Purchase, of Ontario county, State of New York, on the roll of revolutionary pensioners of the United States, and pay to him the sum of eighty dollars per annum, to be computed from the 4th day of March, 1831, and to continue during his natural life.

It appears from the report that the evidence produced shows that Mr. Purchase was a soldier of the revolutionary war, and served as a musician for a period of more than two years. This is very satisfactorily shown by the evidence of two persons who were his neighbors and knew him during the war; and one of whom served with him during a portion of the period of his service. This latter witness swears that he has no doubt that he served from August, 1776, during the war, as he saw him at different times in the service; that he served with him in New Jersey and New York; that the said Mr. Purchase was in the battle of Long Island; and that they were together in the battles of Stillwater and Saratoga.

It further appears that the said Robert Purchase is now over one hundred years old, and so infirm in mind and memory as to be incapable of making the sworn declaration required under the rules of the Pension Office; and hence the application is necessarily made to Congress in his behalf. The reason assigned in the petition why no application has heretofore been made for a pension is, that until recently the petitioner has enjoyed all the necessities of life without aid from the Government. But reverses have occurred in his old age, and he and his wife now require more for their support than their means afford. It is believed that he is fully entitled, under the act of June 7, 1832, to a pension at the highest rate of pay per year given to a private by said act.

Mr. SMITH, of Virginia. Does not that bill provide for an application of back pensions from 1831 up; and, making an appropriation, must it not have its first consideration in a Committee of the Whole House?

The SPEAKER. The Chair does not think the bill makes an appropriation, but he will look at it.

Mr. GROW. I hope that there will be no objection to this bill. Here is an old revolutionary soldier, one hundred years old, who cannot live much longer. Ought we to refuse him this act of justice?

The SPEAKER. The bill only directs the Secretary of the Interior to place the name of Robert Purchase upon the pension roll; and the Chair therefore overrules the point of order.

Mr. JONES, of Tennessee. Has this person ever applied at the Pension Office? If he can make there the proof he has made before the Committee on Revolutionary Pensions, he will get his pension without the intervention of Congress.

Mr. PARKER. He is not in a condition of mind and body to make application on the oath required, as the report states.

Mr. FOSTER. I hope all objection will be withdrawn, and the bill will be allowed to pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GROW demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. PARKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN SHEID.

Mr. PARKER, from the Committee on Revolutionary Pensions, reported adversely on the case of John Sheid; and moved that the report be laid upon the table, and ordered to be printed.

Mr. SMITH, of Virginia. Here is another old revolutionary soldier, of one hundred years of age. Why should he not be treated as well as others have been? And, sir, he only asks for two dollars a month. The Pension Office actually allowed him his land; but as he did not serve the full time he did not get a pension. He is now a

hundred years old, and has been bed-ridden for ten years. I ask that the bill be put upon its passage. I copied it from the bill that was passed at the last session, in an exactly similar case.

The SPEAKER. There is no bill before the House.

Mr. SMITH, of Virginia. There is a bill among the papers.

The SPEAKER. There has not been a bill read from the Clerk's desk, and referred to the Committee on Revolutionary Pensions; nor has any bill been originated by that committee in this case. The Chair therefore says that there is no bill legislatively or technically before the House on which to predicate any action.

Mr. SMITH, of Virginia. I ask that the case be referred back to the Committee on Revolutionary Pensions, with instructions to report a bill.

Mr. POTTER. I would like to ask the gentleman from Virginia whether he did not, last session, oppose that very bill to which he refers?

Mr. SMITH, of Virginia. Certainly, sir; and, being overruled, I followed the precedent. I will state further, that it was only yesterday that bounty land was allowed under a similar state of facts, because Congress had formerly put a person on the invalid pension roll, who had not served the term required by act of Congress.

I have followed the precedent of last session, and I think that the gentleman from Wisconsin is bound to go for this bill, as he went for the one of last session.

The SPEAKER. The motion of the gentleman from Virginia cannot be entertained, unless the gentleman from New York withdraw his motion to lay on the table.

Mr. PARKER. I withdraw it.

Mr. SMITH, of Virginia. Then I submit my motion to recommit, with instructions.

Mr. JONES, of Tennessee. What sort of a bill are they to be instructed to report?

The SPEAKER. The Chair does not know.

Mr. SMITH, of Virginia. I will state to the House, and to the gentleman from Tennessee, that the petitioner in this case only asked for the same measure of justice that was awarded to the gentleman to whom I have referred, at the last session. He only wants two dollars a month from 1831.

Mr. POTTER. I would say to the gentleman from Virginia, that the cases are not similar. In the case of last session, the evidence before the committee was positive as to the service of the claimant. In this case, the evidence was not deemed satisfactory by the committee. In that case, too, the applicant was one hundred and three years of age, and was at the taking of Burgoyne. In this case, the petitioner is only one hundred years old, and was not at the taking of Burgoyne. [Laughter.]

Mr. SMITH, of Virginia. He was in service four months during the Revolution. He is now very old, and is supported by his son. I thought I would have had no difficulty in following in the footsteps of my illustrious predecessor.

Mr. WASHBURN, of Illinois. I move the previous question.

Mr. JONES, of Tennessee. I would inquire what was the length of the man's service?

Mr. SMITH, of Virginia. It is on proof that he served four months. He has been an invalid since the Revolution.

The previous question was seconded, and the main question ordered, being on recommitting with instructions.

Mr. JONES, of Tennessee. I call for the yeas and nays. This is a direct violation of the general law.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee. I move to lay the report on the table.

Mr. MILES. Is this a change of existing laws or not?

Mr. JONES, of Tennessee. Yes, sir; six months' service is required to entitle a man to a pension.

Mr. BUFFINTON called for tellers.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of Missouri, were appointed.

The House divided, and the tellers reported—ayes 46, noes 64.

No quorum voting.

Mr. WASHBURN, of Maine. I suggest to the gentleman from Tennessee to withdraw his

motion to lay on the table, and let us take the yeas and nays on the motion to recommit.

The SPEAKER. It can be done only by unanimous consent.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Virginia, to withdraw, by unanimous consent, that part of his motion in regard to instructions. I think there will then be no objection.

Mr. SMITH, of Virginia. I will do anything, sir; and if the papers be read—as they can be read in five minutes—there will not be a dozen gentlemen voting against it.

Mr. WASHBURNE, of Illinois. Will the gentleman modify his motion?

Mr. SMITH, of Virginia. Any way in the world. Let it be recommitted to the committee without instructions.

The SPEAKER. The last vote indicated that there was no quorum present. The Chair will ascertain whether there is a quorum in the House or not. [After the count.] There are one hundred and thirty members present.

Mr. SHAW, of North Carolina. Is debate now in order?

The SPEAKER. It is not.

Mr. SHAW, of North Carolina. I hope I shall be allowed to say that the committee has given a careful consideration to this case, and, unless I am mistaken, they reported against it unanimously. I cannot see what useful purpose will be accomplished by recommitting the bill.

The motion to recommit was agreed to.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, an act (S. No. 263) granting the right of way over, and depot grounds on, the military reserve at Fort Grant, in the State of Michigan, for railroad purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed, with amendments, in which he was directed to ask the concurrence of the House—

An act (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860; and,

An act (H. R. No. 669) for the relief of the Mobile and Ohio Railroad Company.

Also, that the Senate had passed, without amendment, joint resolution (H. R. No. 50) to correct a clerical error in an act for the relief of Isaac Body and Samuel Fleming; and

An act (H. R. No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort in the Mexican boundary commission.

And, also, that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 556) providing for the reimbursement of moneys advanced by Governor Douglass, of Vancouver's Island, to Governor Stevens, of Washington Territory, to aid in the suppression of Indian hostilities in that Territory;

An act (S. No. 554) to authorize the Attorney General to represent the United States in the proceedings in equity now pending in the Supreme Court, between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations;

An act (S. No. 259) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur de Bonne and Chevalier de Repentigny, to certain land at the Sault Ste. Marie, in the State of Michigan;

An act (S. No. 273) for the relief of the owners, officers, and crew, of the brig General Armstrong; and

An act (S. No. 196) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by J. B. HENRY, Esq., his Pri-

vate Secretary, informing the House that he had this day approved and signed bills of the following titles:

An act providing for keeping and distributing all public documents;

An act providing for the payment of the expenses of investigating committees of the House of Representatives; and

An act for the punishment of the crime of forgery, or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts

CHILDREN OF MARTHA SWILLING.

Mr. POTTER, from the Committee on Revolutionary Pensions, reported a bill to pay to the children of the late Martha Swilling, widow of George Swilling, the pension due her at the period of her death, under the act of July 7, 1838; which was read a first and second time, and committed to a Committee of the Whole House on the Private Calendar, and, with the report, ordered to be printed.

CLERKS TO COMMITTEES.

Mr. CASE, from the Committee on Invalid Pensions, reported the following resolution:

Resolved, That the standing Committees of the House which, at the last session thereof, were authorized to employ clerks, be authorized to employ clerks at the present session, at the same rate of compensation, and that their compensation be from the date of the service.

Mr. CASE. I call for the previous question on the adoption of the resolution.

Mr. MORGAN. I should like to know what time service commenced, and whether this resolution will not be considered as giving these clerks compensation during the recess.

Mr. CASE. It dates from the time of service.

Mr. MORGAN. And that service will be construed to extend to the entire recess. I shall move to lay the resolution on the table, unless a modification is made.

Mr. JOHN COCHRANE. I would suggest to the gentleman who moved the resolution that he accept a modification, that the pay shall be only during the session of Congress.

Mr. CASE. I have no objection to the gentleman offering the amendment. It being a report from a committee, I have no right to accept it.

Mr. WASHBURNE, of Illinois. I move that amendment.

The resolution was again reported.

Mr. WASHBURNE, of Illinois. No such construction can be given as the resolution now stands; and I withdraw my amendment.

Mr. DEAN. I should like to know how the Committee on Invalid Pensions are authorized to report that resolution?

The SPEAKER. It was reported on a petition referred to the committee.

Mr. MORGAN. Unless that modification is made, I shall move to lay the resolution upon the table.

Mr. JOHN COCHRANE. With the consent of the gentleman from Indiana, I will move that the resolution be amended so as to restrict the compensation to the present session.

Mr. CASE. I withdraw the demand for the previous question for that purpose; and again renew the demand.

The previous question was seconded, and the main question ordered to be put.

Mr. SEWARD. I should like to know when the service is to commence?

Mr. JOHN COCHRANE. I object to debate.

Mr. SEWARD. Well, sir, I say to the gentleman that this resolution will not recognize any appointment that has been heretofore made, and will be of no service. I move to lay the resolution on the table, and demand the yeas and nays.

Mr. JONES, of Tennessee, called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. CHAFFEE and SEWARD were appointed.

The House divided; and the tellers reported—thirty-one in the affirmative,

So the yeas and nays were ordered.

Mr. HOUSTON. I should like to ask the gentleman from Georgia whether the Committee on Naval Affairs, this morning, did not report a resolution authorizing the employment of a clerk to that committee; and I would like to know if the

gentleman from Georgia supposes that is the only committee which needs a clerk?

Mr. SEWARD. I was not present when the Committee on Naval Affairs authorized that resolution to be reported, and it passed the House without my taking any notice of it. I care nothing about a clerk for the Committee on Naval Affairs. I have opposed the appointment of one whenever the question has come up.

Mr. HOUSTON. Well, sir, it is very strange that the gentleman did not make a point upon that committee.

The question was taken; and it was decided in the negative—yeas 51, nays 119; as follows:

YEAS—Messrs. Abbott, Bingham, Ezra Clark, Clark B. Cochrane, Cragin, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Dean, Dodd, Dowdell, Durfee, Farnsworth, Garrett, Gilman, Robert B. Hall, Harlan, Hickman, Hodges, Hopkins, George W. Jones, Kelsey, John C. Kunkel, Leiter, Leicher, Lovejoy, Samuel S. Marshall, Mason, Maynard, Morgan, Morrill, Murray, Parker, John S. Phelps, Reagan, Roberts, Rudin, Seales, Seward, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Shorter, Robert Smith, Talbot, Tompkins, Underwood, Cadwalader C. Washburn, Augustus R. Wright, and John V. Wright—51.

NAYS—Messrs. Adams, Ahl, Anderson, Andrews, Atkins, Barksdale, Bennett, Bishop, Bliss, Bonham, Boyce, Branch, Bratton, Bryan, Buffinton, Burlingame, Burns, Burroughs, Case, Caskie, Cavanaugh, Chaffee, John B. Clark, Clawson, Cobb, John Cochrane, Colfax, Comins, Corning, Covode, Cox, James Craig, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dewar, Edie, Edmundson, English, Florence, Foley, Foster, Garnett, Giddings, Gillis, Gilmer, Gooch, Goode, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Harris, Hatch, Horton, Houston, Howard, Hughes, Jackson, Jewett, Keim, Keitt, Kellogg, Kilgore, Knapp, Lamar, Leach, Leidy, McQueen, Matteson, Miles, Milson, Montgomery, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Niblack, Olin, Palmer, Pendleton, Pettit, William W. Phelps, Phillips, Pike, Potter, Pottle, Powell, Purviance, Reilly, Robbins, Royce, Russell, Savage, Searing, Samuel A. Smith, William Smith, Spinner, Stanton, Stephens, James A. Stewart, William Stewart, Tappan, Miles Taylor, Thayer, Vallandigham, Vance, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, White, Wilson, Winslow, Woodson, and Wortendyke—119.

So the House refused to lay the resolution on the table.

The resolution was then agreed to.

Mr. CASE moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. JONES, of Tennessee. There was an amendment offered to that resolution.

The SPEAKER. The Chair understood that there was no objection in the House to the amendment.

Mr. SEWARD. It was not voted upon; and I object to its being incorporated in the resolution at all.

Mr. JONES, of Tennessee. I suppose it required a vote of the House. It never was voted on.

The SPEAKER. Then the question will be upon the amendment.

Mr. JONES, of Tennessee. Has not the resolution been adopted, and a motion to reconsider made, and that motion laid on the table?

The SPEAKER. The Chair thinks it is competent to go back and correct an error.

Mr. SEWARD. I appeal from the decision of the Chair. If this transaction is to take place, I want the Journal to show precisely how it is done.

The SPEAKER. The attention of the Chair is called to the fact that, by an omission of the Chair, the Chair neglected to put the question upon the amendment to the resolution proposed by the gentleman from New York, [Mr. JOHN COCHRANE.] The Chair holds that it is competent to go back and correct the error; inasmuch as the votes which subsequently took place—

Mr. SEWARD. If that is the case, I withdraw my appeal. Such a thing may occur very often; and I do not wish to object upon such a state of facts.

Mr. JONES, of Tennessee. I do not think any further action is necessary.

The SPEAKER. If there is no objection the resolution will be recorded with the amendment, as was intended by the House.

No objection was made.

ORDER OF BUSINESS.

Mr. PHELPS, of Minnesota. Has the morning hour expired?

The SPEAKER. It has.

Mr. PHELPS, of Minnesota. I desire to submit a motion that the House proceed to the busi-

ness upon the Speaker's table, with a view to take up a few private bills there.

Mr. WASHBURNE, of Illinois. What is the object?

Mr. PHELPS, of Minnesota. To dispose of the private bills there.

Mr. FLORENCE. There are a great many private bills in the Committee of the Whole House, which ought to be disposed of to-day.

Mr. JONES, of Tennessee. There are some bills on the Speaker's table, which were reported from the Committee of the Whole House a week ago, and they ought to be taken up.

The SPEAKER. They are in a class behind the Senate bills upon the Speaker's table.

Mr. FLORENCE. I demand the yeas and nays upon the motion.

Mr. PHELPS, of Missouri. Is it in order to submit a motion that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is.

Mr. PHELPS, of Missouri. I submit that motion.

Mr. DAVIS, of Indiana. Is it in order to submit a motion that the House resolve itself into a Committee of the Whole House on the Private Calendar?

The SPEAKER. It is.

Mr. DAVIS, of Indiana. I submit that motion.

The SPEAKER. The question will be first upon the motion of the gentleman from Indiana.

Mr. HICKMAN. I call for tellers.

Mr. PHELPS, of Missouri. This is not objection day, and if we go into Committee of the Whole House we shall make no progress on the Private Calendar. I desire to go into the Committee of the Whole on the state of the Union and take up the appropriation bills for consideration.

Mr. FLORENCE. I have no objection to that, if we can first get our desks cleared of private bills.

Mr. KELSEY. I hope the motion of the gentleman from Missouri will be agreed to. We shall do nothing upon the Private Calendar to-day. I hope that on Monday we shall adopt a rule which will enable us to do something next week.

Tellers were ordered; and Messrs. McQUEEN and DEAN were appointed.

The House divided; and the tellers reported—ayes 70, noes 63.

Mr. HICKMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 73; as follows:

YEAS—Messrs. Abbott, Bennett, Bingham, Bliss, Bryant, Burlingame, Burnside, Burns, Case, Caskie, Chandler, Clark, Clawson, Clark B. Cochrane, Comins, Covode, Cox, Cragin, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dinnick, Dodd, Durfee, Farnsworth, Fenton, Florence, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grov, Robert B. Hall, Harlan, Harris, Haslam, Hodges, Horton, Howard, Hughes, Keim, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McQueen, Samuel S. Marshall, Matteson, Maynard, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Niblack, Olin, Palmer, Parker, Pettit, Pike, Potter, Purviance, Reilly, Robbins, Roberts, Royce, Russell, Sandidge, Judson W. Sherman, Shorter, Robert Smith, Spenser, Stanton, Stevenson, James A. Stewart, William Stewart, Tappan, George Taylor, Thayer, Tompkins, Wade, Wallbridge, Walton, Ellihu B. Washburne, Israel Washburn, and Wilson—94.

NAYS—Messrs. Adair, Ahl, Anderson, Atkins, Barksdale, Bishop, Bonham, Boyce, Branch, Bryan, Cavanaugh, Chapman, John B. Clark, Cobb, John Cochrane, Corning, James Craig, Burton Clarke, Crawford, Curry, Dewart, Bowdell, English, Foley, Garnett, Garrett, Gillis, Gilmer, Goode, Greenwood, Gregg, Hawkins, Hickman, Hopkins, Houston, Jackson, Jewett, George W. Jones, John C. Kunkel, Lamar, Leidy, Letcher, Mason, Miles, Miller, Millson, Montgomery, Moore, Edward Joy Morris, Murray, Pendleton, John S. Phelps, William W. Phelps, Phillips, Reagan, Rufin, Savage, Seales, Seward, Henry M. Shaw, Samuel A. Smith, William Smith, Stephens, Talbot, Underwood, Vallandigham, Vance, Waldron, White, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—73.

So the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. WASHBURN, of Maine, in the chair,) and proceeded to consider the Private Calendar.

HENRY LEEF AND JOHN M'KEE.

The first bill upon the Calendar was a bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark;

upon which the gentleman from Indiana [Mr. HUGHES] was entitled to the floor.

Mr. HUGHES. Mr. Chairman, in the absence of the gentleman from Louisiana, [Mr. EUSTIS,] who reported this bill, I became, unexpectedly, engaged in its discussion when the bill was under consideration before. At that time I had only a general knowledge of the case; but since then I have given it a further examination, and I find it to be a much stronger claim, in justice and equity, than I then supposed it was. I had hoped, however, that when the matter again came up, the gentleman from Louisiana would be in his seat, so that I could turn over its advocacy into hands so much more competent than mine. I see that he is not now in his seat; but as I am somewhat unwell, and indisposed unnecessarily to occupy the attention of the committee, I will not consume any time unless there is an intention to oppose the bill.

Mr. WASHBURNE, of Illinois. If there be no objection, let the bill be laid aside to be reported to the House with a recommendation that it do pass.

Mr. HUGHES. I understand the gentleman from Virginia [Mr. MILLSON] indicates his disposition to oppose the bill, and I will therefore make a brief statement of the facts involved. This case, sir, was presented to Congress in 1847 or 1848, some ten years ago. It has been favorably reported on by three different Committees on Commerce, and it never yet has been acted on by the House. The main facts are simply these: the claimant (Leef) bought a French vessel which had been partially wrecked, and being desirous to fit it out for a foreign voyage, he applied to the authorities at Washington to know whether the registry laws of the United States had application to a vessel of that description. He was informed that they had not. He then fitted out his vessel, and freighted her for a foreign port. All the papers showing ownership and nationality which could be had, were procured in due form. The vessel regularly cleared at an American port with an American consul on board. She reached the port of Pernambuco, there sold a part of her cargo, cleared regularly, conforming to the laws in force at that port and the laws of the United States, and then entered the port of Bahia Honda.

The American consul at that port confiscated the vessel because she had not a register, such as is allowed by the laws of the United States to vessels of American build; and, sir, this act of confiscation was followed up by a series of oppressive acts, with the recital of which I will not detain the committee; acts, the parallel of which I have not been able to find in any commercial transaction. This consul seized the vessel and sent her back to the United States as a confiscated vessel. The Government of the United States, however, disavowed his act, and released the vessel from seizure, and the courts of the United States decided that the seizure was illegal. But, sir, the owner lost his cargo; and the difference between the value of the vessel when it went into the hands of the consul, and its value when it was sold in this country in a damaged condition, was several thousand dollars. He instantly applied for redress to the Government. He was guilty of no delay. He presented his petition to Congress asking compensation for what he had lost, pay for the voyage he had lost, for the diminution in the value of his vessel, and for other matters which were fully proved before the committee. And, sir, this bill only authorizes the Secretary of the Treasury to pay the actual loss which may be shown to have been sustained by this party. The claim in this case is supported by the petitions of the most influential and distinguished merchants of Baltimore, Philadelphia, New York, and Boston. The case, as I have said before, has been before Congress for nearly ten years. It has received the sanction of three several Committees on Commerce which have examined into it, and it comes now to be acted on for the first time by the House in the Committee of the Whole House.

Mr. Chairman, this is a brief outline of the facts in the case. It seems to me that it is very clear that these parties are entitled to the relief which they ask; and that the Committee on Commerce is right in recommending that it should be granted. Objections, however, are made, which I will attempt to answer. I feel sure if that my friend from Virginia, who made these objections, had exam-

ined the facts in the case, he would have found all of his difficulties removed by the proofs filed with the papers in the case. It is objected that a great principle is involved; and that the passage of this bill will recognize the principle that the Government is liable for the wrongful acts of its agents. I contend that, in a case like this, the Government is responsible for the wrongful acts of its agents. There may be, and undoubtedly are, cases where the Government is not liable.

But there are cases, and this is one of them, where it is impossible to discriminate between the wrongful act of an agent as an individual, and the act of the Government itself. This man was the consul of the United States. His power was absolute. From his decision there was no appeal. He took this vessel in a foreign port, in the name of the United States, manned it with sailors, and sent it to this country. If he had not been clothed with the power of the Government he could not have moved one step to do these wrongful acts. I think it would puzzle the ingenuity of any gentleman on this floor who may be disposed to oppose this claim, to show wherein the distinction is, to be drawn between the acts of the Government in this case, and the acts of its accredited agent. The wrong could not have been done but by the authority of the United States.

But it is objected that these parties ought to have sued this consul in the courts of the country; that they ought to have had the decision of a court of law on this question; and that then the Government would interpose. Now, in answer to that objection, I say that the illegality of this seizure has been determined upon by the executive branch of the Government. It has been solemnly adjudicated by the court of law which released the vessel. Besides, it is a matter which the Committee on Commerce and the House can determine for themselves. The equity of this case should be considered; not the mode by which the claimants seek for redress.

When this matter was up before, the gentleman from Virginia [Mr. SMITH] urged that all the precedents cited in the report were cases where the injured party had first sued for redress against the public officer, and where redress having been obtained, the public officer came here asking for relief and received it. But this is not the case of an officer. I hold, and so the precedents are, that a private citizen has his election either to proceed against the individual officer, or against the Government. Here is the case of O'Sullivan, cited by the committee in their report. I read from the report:

"The only other case necessary to refer to, is that of John O'Sullivan, whose vessel was seized by John M. Forbes, the commercial and political agent of the Government of the United States, at Buenos Ayres. The case was referred to the Secretary of the Treasury, Mr. Woodbury, by the Senate, and, after his report thereon, an act was passed providing for compensation July 2, 1856. Mr. Woodbury's report will be found in Document No. 5, Twenty-third Congress, second session, and is dated December 8, 1854. The liabilities of the Government, for the acts of its agents, as therein maintained, extend only to such acts as arise from gross negligence in discharge of official duties, or from omission to perform them; and even in these cases, the persons suffering should either resort to the agent early, and in a suit with him establish his liability, and the amount of damage, or resort only to the Government, and make out a very clear case, so that redress might be had by the Government on his personal responsibility on his official bonds and sureties, if any exist; and the report concludes, 'in many cases the Government has refused to indemnify the claimants themselves, the original sufferers, unless first showing, with clearness, gross neglect or wrong by the officers in discharge of their official obligations.'"

In that case, the Secretary decided that O'Sullivan did not apply early enough for redress. Congress, however, relieved him. But in this case there was no delay. These claimants did resort early to the Government, and they resorted to the Government alone. I say, further, they could not have resorted elsewhere, because this consul was a resident of a foreign country. I put the question to gentlemen who urge the objection, that the consul should be first sued—in what court would that suit have been brought? Where would be the proper forum? What court had jurisdiction of the case? Furthermore, if this agent committed an error, it was an error of judgment, an error of law. It was a judicial act by which this wrong was done. It was not altogether a ministerial act. Therefore, in the absence of corruption, no court could decree a remedy against him in his individual capacity.

The proposition that a party who has been in-

jured by having the weight of the Government brought upon him to crush him, must sue the wrong doer in his individual capacity, ignores altogether the duty of the Government to afford protection to its humblest citizen, both against injuries inflicted by its own agents and those inflicted by the agents of foreign Governments. I am unable to perceive why the committee cannot look into the facts in this case and consider them for themselves. If gentlemen are not content to take the examination that has been made on official proofs and documents, by three successive standing committees of the House, let them, at least, before they record their votes against a just claim, examine the papers that are on file for themselves.

I am at a loss to perceive why Congress cannot decide on the equity of the case for themselves, without first having the intervention of a court, a chancellor, or a jury. I am utterly opposed to the interposition of technical objections as to the mode of redress, when an humble citizen approaches a great, and, what ought to be, a magnanimous Government, asking for justice that is due. In this case, the wrong was done in the first instance because the consul of the United States stood on technicalities; because he required a formal register according to the laws of the United States. And now, after ten long years of patient waiting and of hope deferred, which "maketh the heart sick," this party is to be sent away, and the wrong which was perpetrated through technicalities is to be unredressed, because technical objections are interposed. That is not the treatment which a great Government should extend to its citizens. I hold that all this doctrine is wrong which says, "your claim may be just; but you must first go through certain formalities." If you establish that doctrine, you convert this Government into one vast circumlocution office, not to do justice to the citizen.

There are some other points which I should have elaborated and presented to the committee, had I expected to proceed with this argument today.

But I will not consume the time of the committee longer. I leave this matter to the defense of the Committee on Commerce. I think this is one of those cases where an indiscriminate objection to private claims might work great injustice to a citizen of the country. And, sir, I will say, in reference to these indiscriminate objections to all private bills, that if all the tears shed by the friendless from that cause were collected together, they would float a ship; the broken hearts would freight it; and the sighs of widows and orphans would waft it across the seas.

I was witness of a scene in this House at the last session, which gave me a wholesome lesson upon this subject. I have never been found making indiscriminate objections to cases on the Private Calendar. I saw an aged woman sitting in that gallery who had been waiting for month after month and year after year upon the deliberations of this House; and when her claim came up for consideration, and she heard fall from the lips of a member of this House those talismanic words "I object," she fainted there in the presence of the House. Those words went like a bullet to her heart. That, sir, is but a portraiture, perhaps, of the pang which may come upon the meritorious man who represents this claim, and upon a suffering and deserving family, reduced, perhaps, from affluence to want, by the injuries for which he now asks redress.

I will state to this committee that, since I became accidentally connected with this discussion, I have received a letter from a member of the Thirty-Third Congress, stating that he was acquainted with the facts of this case, and that it was one appealing strongly to the justice of the Government; and he called my attention to the fact that many of the leading merchants of the great cities of the Union have made the redress of the injuries inflicted upon this man a common cause, and have filed their petitions here asking that redress.

Now, it has been said that the Government is not liable for the acts of its agent, any more than a private citizen is liable for the act of his agent. Here is the argument. The Government cannot authorize its agent to do wrong; and therefore it is not responsible for the wrongful act of its agent. Now, sir, a private citizen cannot authorize his

servant to do wrong; but if, in pursuance of his authority, general or special, that servant inflicts an injury upon another, I say that both master and servant are liable. That is the way I read the law of this case.

But it is said that these parties should have obtained their redress from the consul. Well, sir, they had their choice; but, to say that they ought to have hunted up this consul, and have expended all their means in costs and fees, after being subjected to all the perplexities of the law's delay for ten years, is an argument that might make a good point before a justice of the peace in a very small case; but, if set up as a bar against the claims of a private citizen against the Government of the United States, is an argument that seems to me altogether unworthy to be used.

Mr. KELSEY. I think the whole point upon which this bill turns was well stated by the gentleman from Michigan, when this bill was under discussion the other day. But I have risen, not so much to discuss the bill before the committee, as to make one or two suggestions in relation to the action of the House upon bills upon the Private Calendar. I believe there are not a dozen bills upon this whole Calendar that cannot be discussed, and properly discussed, in a space of time very much less than that this committee are in the habit of devoting to bills upon which debate is permitted.

I made an effort on Monday before the last, and the House accorded me the resolution, to adopt a new rule in the consideration of private bills, which should give them a sufficient examination to show upon what points they are to turn, and then to decide them. As we go on now, the debate continues on a single bill for several days; and perhaps, at the end of the time, there is not a single member of the committee who is at all enlightened in the facts or principles upon which the bill should be disposed of. It is true that legal arguments are drawn out with great ingenuity on the part of gentlemen for or against the claim; but I think that every gentleman here is just as capable of deciding upon any bill upon this Calendar, by simply having the facts and reasons stated for and against a particular claim, as he would be after the most elaborate argument. I do not believe there is a single case on the whole Private Calendar that the House will not be perfectly competent to decide upon, after having heard read the report of the committee, and a brief argument in support of and in opposition to the claim. But, Mr. Chairman, I have risen principally to give notice that I propose to make one effort more to get action upon the Private Calendar before we adjourn. Here are some two hundred and fifty bills upon the Calendar; and if we adopt a rule to limit debate upon them to a brief statement of fact, cutting off the legal arguments which gentlemen are so fond of indulging in, every bill may be reached and disposed of in the regular order. I do not say that one half of the bills on your Calendar are just, or ought to pass; but I do say that it is but just to the claimants who have been here knocking at the doors of Congress for years and years, that we should pass upon their claims, one way or the other.

Now, sir, I think we should adopt a rule which shall effect that result, and we can very easily effect it. I intend, on Monday, to ask the consent of the House to adopt a resolution, of which gentlemen who are in the habit of opposing bills here certainly ought not to complain. I shall propose a resolution to the effect that when any gentleman shall object to a bill on the Calendar as it is read, he shall have five minutes in which to state his objections; then the friends of the bill shall have five minutes in support of it; and then the opponents shall have five minutes to reply; after which the question shall be taken and the bill disposed of without further debate. Certainly, if any complaint can be made against this course, it will be the friends of the bills who have the right to complain.

Mr. POTTLE. If the gentleman will yield to me for a single question, I desire to know what part of this bill he is speaking upon? [Laughter.]

Mr. KELSEY. I will be through in a moment, and I will inform my colleague then. Now, sir, I have succeeded in stating the course which I intend to ask the House to pursue; and I will say, in closing, to my colleague, who is interested to know what part of the bill I am speaking to, that

I will inform him privately. I do not think the committee are interested in that question.

Mr. MILLSON. Mr. Chairman, it became my duty, some six years ago, as a member of the Committee on Commerce, to consider this bill, and I gave it at that time a careful examination. It underwent at that time a careful examination in the committee, and my impression is that they rejected it. I was not present at the meeting of the Committee on Commerce of the present Congress at which the committee authorized this bill to be reported to the House.

Mr. MILES. If the gentleman from Virginia will permit me, I will say that my impression is, that the Committee on Commerce did give the member from Louisiana [Mr. EUSTIS] permission to report this bill. I do not know whether all the members of the committee committed themselves to the support of it; but I recollect perfectly the discussion which took place in the committee, when the member from Louisiana [Mr. EUSTIS] was authorized to report the bill, with a favorable recommendation, to the House. I am not prepared to go into the merits of the case, or to defend the bill. The impression made on my mind in committee was, that it was a fair and just bill; that it was a case where an agent of the Government, in good faith, believing that he was in the discharge of his duty to the Government, committed a wrong by which a citizen was very deeply injured. I say, therefore, to the gentleman from Virginia, that while I am not willing to admit, as a general principle, that the Government is bound to repair the injuries resulting from the acts of its agents, still I think there must be some exceptional cases, where an injury is done by an agent of the Government, which the Government ought to repair; and I think that this is such a case.

Mr. MILLSON. The gentleman will understand, of course, that what I said was not intended to reflect upon the Committee on Commerce, but only as indicating the reason why I bring to the notice of the House the objections that weighed upon my own mind, when I first came to examine the case. I objected to it, because it involves a very grave and important principle, the adoption of which would lead to the most mischievous consequences; and that principle, generally stated, is, that any Government is to be held responsible for the unlawful or even mistaken acts of its agents.

I do not intend to weary the House by any lengthy argument upon the principle involved in this bill. I merely wish to call attention to the importance of the principle—a principle which, if sanctioned by Congress, will lead ultimately to the most disastrous consequences. Sir, it is a principle never adopted by any Government, never sanctioned by any people. I am sometimes grieved, as well as surprised, when I find gentlemen, without taking pains to examine recondite—~~for there are sometimes recondite~~—reasons, which support long-continued usages of Government, expressing doubt as to the propriety of these principles, and rashly recommending innovations. I think it will be found on due consideration, that almost all of the rules which have regulated the legislation and practice of all Governments are founded in right reasons, when you come to understand what those reasons are.

Mr. HUGHES. I desire to know of the gentleman from Virginia, upon what principle he holds that the Government of Spain was responsible to this Government for the acts of its agents in the case of the Black Warrior; and whether or not the same principle would not make the Government responsible to its citizens for the acts of its own agents wrongfully done?

Mr. MILLSON. I have no objection to answering inquiries, except that they lead me from the course of discussion, brief as it is, which I have prescribed for myself; and if the gentleman had listened a little longer, he would have found that it is unnecessary for me to answer any such inquiry as the one he has propounded. I am considering how far the Government is responsible for the acts of its own agents, and not how far it may be necessary for one Government to hold another Government responsible for the acts of its people. The distinction is so broad that I need not go into any discussion of the question propounded by the gentleman from Indiana. I then say that no Government has ever consented to hold itself liable for the acts of its executive agents.

The reason is simply this: it is the duty of the Government to appoint for the people the most competent agents, the most skillful and the most experienced agents whom they can select; and then they do not become the insurers of the propriety of the conduct of their agents in the discharge of the duties imposed on them. Why, sir, even in regard to the most precious rights of person, no Government has allowed itself to be responsible.

Talk about damages for the confiscation of property! Why, a man may be deprived of his life; he may be deprived of his liberty; he may be deprived of his property or his character; and yet no Government has ever held itself responsible for the correction of the mischief done. You appoint judicial officers; they are the agents of the Government, as well as your executive officers. A man can be arrested upon a charge of crime; he may be committed to prison, and there remain for months and years, and yet the man, upon his trial, be ascertained to be innocent; and who ever heard that the Government would be responsible in damages for this imprisonment? To be sure, the false imprisonment has resulted from the acts of the agents of the Government; but so far from holding the Government responsible in damages for the injury done by its judicial agents, the Government is not even responsible for the costs of the prosecution. And, sir, even upon acquittal, the party is not entitled to recover his legal costs from the Government. It is because the Government will provide, with as much discretion and forecast as possible, the best agents it can; and because it is essential to the due administration of justice, that if a man be involved in circumstances of suspicion, however innocent he may be, he should be brought to trial, and though it may appear afterwards that he was utterly innocent of the crime laid to his charge, yet the public necessity requires that there should be no impediment thrown in the way of the due prosecution of the charge; and the agent of the Government should not be deterred from acting in every case of suspicion, by apprehension that he will afterwards be subject to liability for pecuniary compensation. These are the great principles applicable to the intercourse between the Government and its citizens. The Government will take due precaution to select the best judges, magistrates, collectors, ministers, and consuls; and if these men abuse the power confided to them, they are themselves personally responsible for the wrongs they may do. The Government is not responsible, and ought never to be held responsible. This is the great principle involved in this case—whether the Government will admit its liability for the acts of its consuls? Who are these consuls? Very frequently foreigners; men unknown to the Government; citizens and subjects of other Powers; and, sir, it would be inconsistent to suppose that any one of these foreigners should impose upon the Government of the United States a heavy pecuniary liability. If the consul does wrong, he is chargeable; he is liable to the party injured, and he is liable to the Government, which will take pains to remove him from the position he holds; and that is the whole extent of the liability of the Government, if that be called a liability of the Government at all.

Mr. Chairman, this consul had no right to take possession of this vessel. She was under the protection of the laws of the country where the consul resided. She had gone from the United States as a foreign vessel, and she was sent to this foreign country to be sold. Suppose the consul believed it to be his duty to arrest the vessel: he had no lawful power to send her home. And, sir, it was the error of the owners of the vessel to allow this consul to take possession of her. All they had to do was to invoke the law of the country, which bound alike themselves and the consul. If they had a right to sell her, they could have exercised that right in despite of the remonstrances of the consul. But they did not choose to do so. They abandoned her to the consul, with a protest, declaring that that was all they could do, and that they would hold the Government responsible for the acts of its agent.

I know very well, sir, that the Government will sometimes admit its liability for acts of its agents, and very properly too, but to this extent only: if a collector of customs, or any officer of the Government, shall issue an execution at the suit of the

Government, and take goods and sell them, and hand over the money to the Government, why, sir, if the party aggrieved will sue the collector and recover a judgment against him, then the Government will come forward and indemnify the collector against that judgment, to the extent of the return of the money which that judgment itself has put into the Treasury of the United States. Surely there is an obvious propriety in doing so; because, if the Government has derived a benefit from the act of its agent, from the improper act of that agent, the Government ought not to retain that benefit, but ought to return to the party sued the amount for which he has made himself personally liable to the party injured. In all such cases the Government admits its liability, because the Government does not do anything more than return to the party to which it ought to go, and from which it ought never to have been taken.

I admit that there is one precedent for the case before the committee, and that is the case cited by the gentleman from Indiana, [Mr. HUGHES,] the case of O'Sullivan; and although I could state something about that case which would go to show that it ought not to be held as a precedent, yet I will concede to the gentleman the full force of that case as a precedent. So far as I am concerned, I will give my consent that the same disposition shall be made in this case that was made in that; and that is, that it shall be referred to the Secretary of the Treasury for his examination and report; and then, after this examination and report, if the House determine to pass the claim, let it be paid. These parties, sir, ought first to have sued the consul; for they could have sued him in the country of his residence; and then, for his own justification, he would have taken such means to establish the true facts of the case as would have protected himself against liability. The Government could have availed itself of the information thus solemnly and carefully collected. But, as the parties have not done so, they surely cannot complain that they are now required to submit this case to the examination of our own Secretary of the Treasury in order that he may investigate the facts and report upon them to this House. But, sir, to show the opinion of one of the highest officers of Government, a former Secretary of State, the gentleman who is now President of the United States, not only in reference to this general principle, but in reference to the principle as applicable to the particular case now under consideration, I send to the Clerk's desk the letter of Mr. Buchanan, that it may be read.

The letter was read, as follows:

DEPARTMENT OF STATE.
WASHINGTON, July 11, 1848.

SIR: I have had the honor to receive your note of yesterday, together with the memorial of Henry Leef, and the accompanying documents.

You request my views "as to the liability of the Government to pay citizens for the illegal acts of its officers," and I am very clearly of opinion that no such legal liability exists. If an officer of the Government, acting against law and without instructions, does an injury to an individual, the latter must look to the personal responsibility of the wrong doer for redress. The Government, in such a case, would be no more bound by the acts of its officers, than a principal would be by the acts of an attorney who had exceeded his authority. If the rule were otherwise, it would be in the power of officers to embarrass the Treasury; and, in many instances, a strong temptation might be presented to them to act in this manner.

Such is undoubtedly the general rule; but very strong and peculiar cases may present exceptions. It is, however, for the legislative branch of the Government to decide, in its discretion, whether, under all the circumstances, the case of Henry Leef be of this character.

I am, sir, respectfully, your obedient servant,
JAMES BUCHANAN.

HON. JOSEPH GRINNELL, of the Committee on Commerce,
House of Representatives.

Mr. MILLSON. There it is held, Mr. Chairman, that there is no general liability on the Government, such as is contended for by the gentleman from Indiana, for the illegal acts of its agent. It is, as I have before stated, undoubtedly true, that strong exceptional cases may present themselves, appealing to the discretion of the legislative body.

Mr. HUGHES. I desire to call the attention of the gentleman from Virginia to the distinction between the case under consideration, and the case put in that letter. That letter lays down the general rule that the Government is not liable for the acts of its agents against law, and beyond their authority; but it closes very discreetly, by re-

marking that the case under consideration may be an exception to that rule.

Now, the position I took was this: that this was a case where the wrong done flowed directly from the official character and authority of him who perpetrated it; that it was a wrong done under color of his office, and which he never could have consummated if he had not done it in the name of the United States.

Mr. MILLSON. And so a false judgment of of the Supreme Court would be an act done under color of office; but certainly there would be no liability on the part of the United States, to make reparation. But I go a little further than Mr. Buchanan has gone in that letter—for I do not regard the Government of the United States as the principal of those agents. The people are the principals; and all the officers of the Government are the agents of the people. The same principle applies as well to the President as it does to a consul. The people of the United States are not liable for the illegal acts of a President, any more than they are for the illegal acts of a consul.

I do not desire, Mr. Chairman, to detain the committee longer in the discussion of this case. I should not have spoken at all were it not to correct the impression that this bill has been unanimously ordered to be reported by the Committee on Commerce. It may have been a unanimous report of the meeting then assembled. I was not aware of the purpose of my colleague [Mr. SMITH] to speak in opposition to this bill. He has made it unnecessary for me to say much which, perhaps, might have been properly said; and, therefore, as I see very little reason or justification for detaining the committee at this late hour of the session in the discussion of a private bill, and for that reason voted against going into the Committee of the Whole House on the Private Calendar, preferring that we should devote our attention to the public business of the country, I shall close my remarks by sending to the table a resolution which I shall offer, and ask the committee to recommend its adoption to the House.

The resolution was read, as follows:

Resolved, That the petition of Henry Leef and John McKee, with the papers accompanying the same, be referred to the Secretary of the Treasury, and that he be directed to make a detailed report thereon to this House, together with his opinion thereon.

Mr. MONTGOMERY. The consul acted in this case as a judge. It was a judicial act which he performed. Does the gentleman from Virginia pretend to say that a judge who makes a mistake in the discharge of his duty can be sued? For instance, if one of the judges of the Supreme Court, in the decision of a case, makes what is clearly a mistake, does the gentleman from Virginia pretend to say that he can be sued? And yet the consul was acting in this case, by virtue of his office, as a judge.

Mr. MILLSON. I am surprised that a lawyer should have addressed that inquiry to me. The gentleman must know that a judicial decision, when complained of, is to be carried by appeal to a higher court, and to a still higher, until you get it to the highest court; and if that highest court determines that the decision was correct, then who shall say it is wrong? It is right, simply because nobody is authorized to pronounce it wrong. Therefore you cannot call a party to account, because there is no human authority competent to declare the decision wrong.

Mr. MONTGOMERY. That is true; but I am not at all obliged to the gentleman for the information he has given us; and I suppose no lawyer in the House is, for we all knew that. He informs the House that the proper remedy for this individual wrong was to sue the consul. I desired, by the question which I put, to show that the consul could not be sued, because he acted in a judicial capacity. There was no redress against him; you could not sue him in any court; you could not call him to account.

Mr. MILLSON. The gentleman addressed an abstract question to me. He did not inquire whether I acquiesced in the assumption that this consul was a judge. On that point I desire to say that I grant no such assumption. The consul was no judge. He was a ministerial executive agent, and was responsible, as all executive ministerial agents are, for malfeasance in office.

Mr. TAYLOR, of Louisiana. As the gentleman from Virginia has properly said, the ques-

tion presented to the committee at this time is one of the greatest importance. He has made an argument for the purpose of showing that, on principle, a nation is not responsible for the acts of its agents; and that, in consequence, there is no propriety in granting the redress applied for by the claimants in the case before us, and recommended by the Committee on Commerce. I differ from that gentleman altogether in regard to the question presented by the facts as stated in the report; and I shall, therefore, beg the indulgence of the committee while I proceed for a short time to express my dissent from the conclusions which he arrived at, and to give to the House my views in regard to the true principles on which questions of this sort must be determined.

It is true that the general principle is that a nation is not responsible for the illegal acts of its agent. But, sir, that general rule, like all other general rules, admits of exceptions. It will be at once apparent to the committee that it must necessarily be true that there should be exceptions in all those instances which are not within the reason upon which the rule was founded. When a government is organized for the administration of the public concerns of a people, it is provided with all the various machinery for the protection not only of the public interests, but for the protection of the rights of individuals. It is organized with officers to preserve the peace and good order of society, and with judicial officers to decide upon contests with respect to individual rights. Where, within the territorial limits of a country, the agent of a Government in the ordinary discharge of the functions intrusted to him does an illegal act which inflicts a wrong upon one of his fellows, the person aggrieved may appeal to the law, may have the act investigated, and may restrain or arrest him in his misconduct, or obtain redress against the aggressor by the decision of the competent tribunal. If under such circumstances the injured person fails to invoke the aid of the law, the injury may be regarded as the consequence of his own neglect to employ the means within reach to protect himself from injury or to obtain reparation for it when done, and for that reason the public is not bound. But there are cases out of the ordinary march of human action, which depend upon different principles, which are not within the general rule. As, for instance, when in the progress of a war our own forces in any portion of the country wrest from the hands of a citizen his property by overpowering force, it is always held, if the circumstances connected with the deprivation of his property be of such a character that the aggrieved party cannot obtain redress, because amid the clang of arms the laws are silent, that the Government is bound to make him compensation for his loss. It is the same with respect to a variety of cases which occur within the limits even of countries where there is an organized Government, in a time of peace.

It is familiar to all that municipal governments are established for our cities; that those municipal governments are charged with the performance of certain duties; that when the agents of those municipal governments fail to perform certain duties which are imposed upon them for the good of the whole—as, for instance, when they fail to preserve the highways in a state of repair, to keep the streets in such a condition as fits them for the use of those who have occasion to pass over them, and accidents befall those passing along them, in the darkness of the night or at any other time, which were unavoidable, the government of that community is responsible for the injuries suffered. The judicial reports of the courts of the United States contain numbers of such cases. Instances have occurred in different cities where the value of property destroyed by mobs has been recovered from the municipal governments, upon the principle that it was the duty of the municipal government to have preserved order, and prevented the mischief done; and that it was responsible, no matter whether the loss was incurred either through the want of a sufficient force, or from the negligence or inefficiency of its police officers. Such cases have occurred within a few years past, and are probably fresh in the recollection of many. Within a short time past there have been cases decided, growing out of accidents occasioned by passengers along the public streets falling through openings into vaults or pits, improperly left in

the side-walks in cities. In these cases the governments, when such unavoidable accidents occurred, have been condemned to make reparation for those injuries, upon the principle that the community was responsible for the failure of its agents to perform their duty.

Now, sir, does not the same principle apply with respect to the government of a State or nation? Undoubtedly the principle applies, but it cannot be enforced for one single reason: a State or nation, clothed with sovereignty, cannot be sued; and as there are no courts authorized to entertain their complaints, the sufferers have no means of calling it to their aid in an authoritative manner. But the principle is the same in all such cases, no matter whether they relate to a national government, or to the government of a city. In the one instance, the municipal government, not being sovereign, is liable to suit; and, therefore, courts of justice have full power to apply the ordinary principles of law to them. But there is no such power vested in them with respect to a sovereign State. In cases of injury to individuals, from the malfeasance or misfeasance of the agents of municipal governments, of such a nature that it is not practicable for the person aggrieved to obtain redress from any particular person, there it has always been held by courts of justice that the community were responsible.

Now, apply that principle in another instance, and the very instance now presented. The Government of the United States is charged with regulating the intercourse between the United States and foreign nations. In pursuance of that authority it has employed consular agents. Those agents are vested with certain powers, to be exercised for the good of the nation as well as for the advantage of the private individuals; but before a consul can enter upon the performance of his duties, the Government, under the law as it now exists, exacts a bond from every consul. For what purpose? When a vessel belonging to an American citizen is in a foreign port, it is, under our laws, subject, in a certain degree, to the jurisdiction of the American consul. It cannot move, it cannot carry on any enterprise, it cannot make its voyages, without the action of those functionaries. If, under particular circumstances, these functionaries interfere in such a manner as to break up the voyage; if they entail loss upon our citizens by the exercise of their official authority, according to my view the ordinary principles of law require that the person aggrieved should receive satisfaction at the hands of the nation. When a vessel makes a foreign voyage it is generally in charge of an agent, the owners remaining at home in the United States. If the consul interferes improperly, and breaks up the voyage and entails loss upon the individual owners, what will be the result of the principle contended for by my friend from Virginia? Would it be necessary, if that injury were done in China, that a citizen living upon our sea-board should go to China to obtain redress? In China he would find no jurisdiction which could attach to American citizens except the consular court, presided over by that very functionary. If the wrong occurred in Europe, he would find that there would be a difficulty, perhaps an impossibility, in the way of his obtaining either protection against such acts, or redress for them when done, by an action at law in a foreign court. They neither have, nor can have, or exercise, any authority over our consuls abroad, as to the manner of their performance of the consular functions.

But justice, policy, and common sense, are all opposed to the application of any such rule as would properly obtain with reference to acts done at home and within the jurisdiction of our courts, to cases which grow up abroad and which relate to the illegal acts of our own officers under color of their offices, beyond our national limits, and which are committed under such circumstances that the person aggrieved cannot have recourse to any tribunal competent to afford him redress. In respect to acts committed in our own country, there, certainly, our citizens would have no claim upon the Government; because there they have the power to protect themselves through the ordinary tribunals of the country. That is certainly true, unless when the injury results from the employment of overpowering force exercised by a public officer under color of his office, and where there was no possibility of pursuing

petrating the wrong, or of obtaining redress for it. In such cases there can be no judicial suit against individuals; and upon my principle, it is the duty of the Government to redress the wrong suffered.

Mr. DAVIS, of Mississippi. The gentleman supposes the case of an army sent out by the Government into the country to repel invasion, or for other purposes, and by the necessities of war, it appropriates property to its use, for its support, under the command of its officer; and he holds that the Government should be responsible. I desire to know if that does not proceed upon the ground that the property taken has been used by the army, and was necessary for the support of that army? I desire to know of the gentleman if an officer takes property wrongfully, and appropriates it to his own private use, whether he holds that the Government would be responsible for that unlawful act of the officer? I think he would hardly venture to assert that. If, however, the property which had gone into the hands of an officer was used for the purposes of the Government by the army, the Government might be held responsible.

Again: the gentleman supposes the case of a corporation, and says that instances are constantly occurring where a corporation is held responsible because of injuries sustained on account of streets not being in a proper state of repair. That proceeds upon the idea that it is a private corporation and not a sovereign. Does it not proceed upon the idea that the corporation enters into a contract with the public, by virtue of which it agrees to protect the individuals, and is it not because of a violation of that contract that it is held responsible? Is not a sovereignty a very different thing from a private corporation of this sort? Do not parties aggrieved proceed against corporations as private individuals?

The gentleman says it is customary for the Government to take bonds from consuls. For what purpose are they taken? Are they not taken to protect persons who may be injured by the acts of consuls, in the same way that bonds are taken from a sheriff to protect individuals from his wrongful acts, although the bond is taken in the name of the people?

The gentleman says a consul is the agent of the Government. I hold he is not an agent of the Government. He is the agent of those who are to be benefited by the appointment of the consul; and if the Government has appointed a consul in good faith, whether he be competent to perform the duties or not, if injury results to any one in the performance of those duties, the loss must fall upon the persons engaged in the particular pursuit, and not upon the Government. Therefore, I say that the bond that is taken is not taken for the benefit or protection of the Government, but for the protection of persons who are engaged in the pursuits of commerce. For instance: if a consul collects \$10,000, and does not pay it over, the bond may be put in suit, not for the benefit of the Government, but for the benefit of the individual for whom the \$10,000 was collected.

Mr. TAYLOR, of Louisiana. I will answer the questions of the gentleman, as far as I remember them, if I do not his arguments. My friend from Mississippi asks me if redress is not granted for injuries resulting from the neglect or misconduct of a municipal corporation—is not granted on the principle that there is a contract between the corporation and the people, which is violated? Now, sir, that is true. When the sovereign power consents that a municipal government shall exist, such municipal government takes upon itself certain obligations with respect to the people embraced within the municipal limits. For the failure to perform the obligations which they took voluntarily upon themselves, the government is held responsible to the citizens. The government of a nation is a government based upon the same principle. The Government of the United States is one constituted by the people for the common advantage of all; and the obligation is imposed upon that Government, by the mere fact of its existence, to extend protection to its citizens. It is the duty of the Government to carry out this obligation to protect its citizen from injuries, and to procure or give him redress for injuries suffered by him in consequence of a failure on the part of the Government to exercise properly the powers

conferred on it. When the Government does not discharge this duty, there is a breach of the obligations imposed on it, and, on principle, it would be responsible in law. The only reason why courts of the United States do not so decide is, that, throughout the civilized world, while corporations of cities can be compelled to appear and answer before courts of justice, yet the corporations of nations—for national Governments as well as those of cities are corporations—which are sovereign in their nature, are not liable to judicial pursuit, and therefore no action ever arises in which courts of justice can apply the principle.

But, sir, by reference to the law of nations, I will now show that that principle is universally recognized by the action of nations. One of the duties imposed upon the Government of the United States, is to adopt those measures which will be for the common interest, and next to extend protection to its citizens. If any of its citizens be abroad, and any official agent of a foreign Power does any act, under color of his office, which interferes with his rights, if the citizen suffers injury in consequence of this interference, then the Government of the United States is bound to demand redress. And why? Upon what principle? Does the Government of the United States demand from a foreign Government payment of a debt which that Government does not owe? The principle on which the foreign Government is required to pay to the Government of the United States for the abuse of its citizen, is that the foreign Government is responsible for the wrongful act of its agent, done under color of his official authority, when it was not within the power of the person who suffered the injury to protect himself. Would we have a right, under the law of nations, to call on the foreign Government to make compensation for the injury done to our citizen, unless that Government was rightfully bound for the acts of its agent? And if this be true, will any one pretend that one of our citizens can have a rightful claim on a foreign Government for injuries caused by the illegal acts of its agents, done under color of their official authority, and that he has no rightful claim when the same injuries are inflicted on him by our own officials? Why, sir, there is no direct obligation resting on the foreign Government to protect our citizens; but we insist upon it that, upon principle, when our citizens are within the territorial jurisdiction of a foreign Power, they are entitled to the same protection which is given to their own citizens. If this has not been afforded him, our Government, being sovereign, has, by the law of nations, the right to enforce the obligation in behalf of its citizens.

The true question, according to my judgment, in all these cases, is this: was the wrong inflicted by the agent under color of his office, and under circumstances that made it impossible for the person to have successfully resisted the commission of that wrong, or to obtain redress from the wrongdoer without subjecting himself to burdens greater than fall to the lot of ordinary men? In such circumstances I think the principle I speak of obtains, and it is the duty of the Government to afford redress.

I shall not attempt to reply to the other questions of my friend from Mississippi; for they were so numerous that I really do not recollect them.

Mr. DAVIS, of Mississippi, obtained the floor.

Mr. MILES. I wish to make a point of order. There is not a quorum present; and business, therefore, cannot go on in order.

Mr. DAVIS, of Mississippi. I will detain the committee but a moment.

The CHAIRMAN. The Chair has no knowledge that there is not a quorum present.

Mr. DAVIS, of Mississippi. The gentleman from Louisiana says that he will not undertake to answer my questions. He says that he has forgotten them. They were hard questions; questions, sir, beyond his capacity to answer; they were unanswerable, and he knows it. He proceeded, however, to say, that if one nation does an injury to the citizen of another nation, that nation may demand reparation for the injury. Certainly; and on what principle? By authority of the law of nations. It is by the authority of a contract or agreement between the two nations, that when one deports itself so as to injure the citizen of the other, then it shall be held responsible for the damage consequent upon that act.

One has the right to assert, and the other to respond, for damages where an injury is shown to have been committed.

Mr. HUGHES. The obligation may flow from a different compact; but if it flows from any valid compact, it is sufficient. I put this question: whether there is not a compact entered into between the people and the Government, where the people surrender a certain portion of their natural rights on condition that the Government will maintain them in the full enjoyment of the residue; whether, amongst that residue, are not the rights pertaining to commerce; and whether it is not the duty of the Government to protect its citizens in the enjoyment of those rights under the compact which thus exists between the people and the Government of the United States.

Mr. DAVIS, of Mississippi. Certainly; the compact between the Government and the people of the United States is, that we will protect them in their rights, but protect them according to legal rule. That is the compact, and nothing more. Now, sir, whenever an act has been done by a Government in disregard of the local rules established by the Government, and which are to regulate it in its intercourse with the citizen, then I admit that the citizen has a claim against the Government, because it has violated its own rule. It is on that principle that the Government proceeds; and outside of those rules, there is no responsibility by the Government to her citizens, and cannot be. Such is the case between nations. There is no responsibility between nations, beyond the legal rule which exists amongst them, and which regulates their intercourse.

Mr. HUGHES. One further question. I put this question to my friend: in the absence of all positive law regulating this case, would we not be governed by the principles of justice and equity, and would not that bring him home to the question, is this a just claim or not, regardless of technical objections?

Mr. DAVIS, of Mississippi. Equity itself is founded upon law. It is predicated upon law. The reason you have courts of equity is because there are a certain class of cases which cannot be brought exactly within the regular rules. These courts determine and declare, on principles of equity and justice, the rights and relations between the Government and citizen. Equity is a branch of the laws of the country. It grows out of the law, exists in it, and is the very root of the law.

Now, as to the other proposition of the gentleman from Louisiana. He says that if a wrongful act be done by one of the agents of a foreign Government, the Government that is injured may claim indemnity. What is the universal rule? Suppose the captain of a British man-of-war offers an insult to our flag: what is the remedy? Our Government demands from that of England redress and apology. The English Government disavows the act, and says it was not done by its consent, and that it does not indorse the act? What, then, is the remedy? Full atonement has been made by that declaration of the British Government. How do we proceed then?

Mr. TAYLOR, of Louisiana. The gentleman from Mississippi speaks of an insult or indignity offered to the nation. I merely asked him what would be the result if a wrong were inflicted and a loss entailed on one of our citizens—a positive loss.

Mr. DAVIS, of Mississippi. Well, suppose the captain of that British man-of-war has gone so far as to take the property of an American citizen: what is then the remedy? The presumption is, that the benefit of the act has inured to the British Government; but whether such an assumption does or does not arise, there is an international law by which we would call on the English Government for indemnity for the wrong done by its officer; and the English Government thus called upon, would proceed to adjudicate the matter, and treat it as if they were acting in the capacity of a legal tribunal; and whatever amount of damages would be found due, the English Government would proceed to pay over to this Government for the benefit of its injured citizen.

Mr. TAYLOR, of Louisiana. Will the committee permit me to call its attention to a circumstance which transpired some two years ago, and on which our Government has, in my opinion, neglected to perform its duty towards our own

citizens: who had a right to look to it for redress? A vessel belonging to the United States was lying in a Mexican port. While lying there, one of the national vessels of Mexico came steaming down the harbor, and fired shots from her guns, some of which passed into the American vessel, and inflicted grievous injury. The mischief done amounted to some thousands of dollars. The fact was brought to the notice of the Administration of the United States, and application was made to the Mexican Government, complaining of the injury, and asking redress. The Mexican Government replied that the vessel which did the wrong was at that moment in a state of revolt against the Mexican authority. Thereupon, and on the principle contended for by my friend from Mississippi, the Secretary of State, in reply to a letter addressed to him by me, says:

"After that apology, it is not perceived that we have any claim on the Mexican Government for redress."

Now, I ask my friend if the American citizen, in that instance, was not entitled to redress from Mexico?

Mr. DAVIS, of Mississippi. And I say at once "no." I say the decision of the Department was right. On the same principle an American citizen whose vessel is fired into by a pirate has no remedy. The Government is not responsible to him for the damage, nor can any tribunal on earth give any satisfaction, except to get hold of the pirates, if possible, and hang them.

Mr. TAYLOR, of Louisiana. Let me call the gentleman's attention to another principle of international law. If two other countries are engaged in war, should a merchant vessel of one of the belligerent Powers come into our waters, and an armed vessel of the other belligerent comes in and captures her, in our own waters and within our national jurisdiction, is it not true that, by the law of nations, we are responsible for the value of the vessel so captured? And is it not our duty, by the law of nations, to make redress to the owners? Is it not also true that the Government of the nation to which the captured vessel belonged has a right to exact such redress; and in the event of our not giving the redress claimed, would it not be a just cause of war? Now let me ask the gentleman how it is that we are under such obligations with respect to the injury done by a belligerent Power whose vessel is in our waters, and that we would not be under an obligation to exert our power and protect a foreign vessel in one of our ports from injury by one of our own agents?

Mr. DAVIS, of Mississippi. I am astonished that a gentleman of the intelligence of my friend from Louisiana should ask such a question. There is an obligation upon us in the case he puts. That obligation is imposed by law. But while we are responsible to the nation whose vessel has been seized or injured in our waters, the Government to which the capturing vessel belongs is responsible to us. We would not have to foot the bill; but the nation whose vessel violated our neutrality would have to foot the bill.

Mr. TAYLOR, of Louisiana. Will the gentleman allow me to ask him who is responsible to the American citizen whose vessel was injured in a Mexican port, under the circumstances I have stated?

Mr. DAVIS, of Mississippi. I answer that it so happens that nobody is responsible, because the vessel inflicting the injury was in a state of rebellion.

Mr. TAYLOR, of Louisiana. I supposed it to be a principle of law everywhere and at all times recognized that there was no wrong without a remedy. But it seems that we have at last made a discovery of so monstrous a thing as a wrong without a remedy.

Mr. DAVIS, of Mississippi. In the case of a pirate attacking a vessel, is there not a wrong done; and will the gentleman be pleased to state, for the information of the House, what the remedy is?

Mr. TAYLOR, of Louisiana. There is no national responsibility, because the piratical craft has no nationality.

Mr. MORGAN. I rise to a point of order. It may be very interesting to these gentlemen to discuss these points of law, but it is not so to us; and I object to it.

Mr. DAVIS, of Mississippi. If I am affording the least pain to the gentleman from New

THE CONGRESSIONAL GLOBE.

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NEW SERIES....No. 54.

York, I will surrender the floor most cheerfully.

Mr. MORGAN. I shall be very glad to hear the gentleman from Mississippi go on; and him alone.

Mr. DAVIS, of Mississippi. And I will let the gentleman from New York interest the House by his wisdom and his eloquence.

Mr. JOHN COCHRANE. I think, Mr. Chairman, that, in this argument about international law, poor Leef and McKee have been entirely forgotten. I therefore ask the committee to indulge me in a few words.

Mr. GIDDINGS. Will the gentleman from New York permit me to mention one point to which I wish him to advert in his remarks? I desire to ascertain, from the chairman of the Committee on Commerce, whether this seizure in South America was, in itself, legal or illegal? It strikes me that the whole case turns on that.

Mr. JOHN COCHRANE. I thank the gentleman for his suggestion, and, in the remarks which I intend to submit, will endeavor to comment on the point he has made. This bill seems to have been reported by the Committee on Commerce. It unquestionably received the assent of those members present. All of them, however, were not present, and it therefore becomes the duty of those who were present, and who may be familiar with the facts, to state their views and give their reasons for the report in as brief a space as possible. Now, sir, in respect to the general principle involved in this discussion, there can be no question between lawyers or between men of common sense. Wherever there has been a wrong done, there has been an inflictor of the injury as well as its receiver. He who has received the injury has a right of complaint, unquestionably, against the man who committed the injury.

Now, whether the parties to the injury be Governments or individuals, makes no difference in point of law. *In foro conscientie* the wrong is the question to be considered, and redress is that demanded. How, then, is the remedy to be applied? Whether individuals, corporations, or Governments are concerned, the party of whom redress is to be obtained, is a question which circumstances must determine. Now, then, in the case before us, these claimants have been injured. They undoubtedly have cause of complaint. The next question which arises is, to whom are they to apply for redress? In this case there can be no uncertainty as to the nature of the injury. They were individuals representing a certain property. That property was violated; it was controlled by other force than their own; by an act involuntary as it regards them, it was sequestered, confiscated, and sent many miles away.

They must, then, clearly, in the judgment of this committee, have cause of complaint. The remedy which they ask is against this Government, and it is upon that point that the judgment of the committee is now demanded. The person who inflicted the wrong was the consul at Bahia. The only question left, is whether the wrong inflicted was personal by that consul, as an individual, or official by him, as the representative of this Government. Now, what are the powers and duties of a consul? I am inclined to think they can have no jurisdiction of a judicial character. They certainly are not, under the laws of our Government, constituted courts. Their duties are specifically prescribed. They affect the management of vessels in the ports where they are located, complaints against seamen, &c., but in no case can I find that a consul is by law authorized to act judicially. In truth, no authority in this country has power within the territory of a neighboring country to impart such jurisdiction to its representative there as to override or overshadow the surrounding jurisdiction of the country in which he is located.

In the case before us, the consul exercised a power which never could have been exercised except he were the representative of our Government. True, it was through ignorance of the proper construction of the law, that he inflicted a

gross and grievous wrong upon the property of a citizen of the United States. But gross ignorance is equivalent to gross and culpable negligence. If, under the garb of the authority of the United States, a consul is enabled to inflict wrong upon the property of a citizen of the United States, the question occurs whether, *in foro conscientie*, this application of the representative authority of the United States, is founded in justice and in right? That, it seems to me, is the question; and it is a question which, as I think, is sustained favorably for the claimants by the authority of many judicial decisions. I need only refer to the instances given in the report of the Committee on Commerce.

Mr. STANTON. I understand the gentleman from New York to say that consuls have no judicial powers in foreign ports. Do I understand him to say that they have no power to settle questions arising between American citizens in the ports where they are located?

Mr. JOHN COCHRANE. Unquestionably that power is granted by statute to them as ministerial officers.

Mr. STANTON. Then I wish to ask the gentleman another question. If they are to be considered as acting not judicially, but only ministerially, is not a consul liable for the seizure of a vessel?

Mr. JOHN COCHRANE. Unquestionably.

Mr. STANTON. Then I submit that the remedy is against him personally, and not against the Government.

Mr. MILLSON. My friend from New York has stated correctly that a consul has no judicial power, and that this consul erred greatly and was grossly ignorant in supposing that he had. But I ask the gentleman, if the gross ignorance of this consul had led him to suppose that he had the right to imprison its owners on board the vessel, and the gross ignorance of the claimants had induced them to submit to the imprisonment, would the Government have been responsible for the false imprisonment?

Mr. JOHN COCHRANE. I answer my friend from Virginia, upon no legal ground would the Government have been responsible. I base my argument upon the equities of the case, not upon its law. These parties have no legal remedy against the Government; but, looking to the circumstances presented, the consul acting as the representative of the Government, do they not constitute such a case as appeals strongly to the equity of the Government for relief?

Mr. STANTON. My point is this: If a consul be a judicial tribunal, having power to condemn, and whose decisions are subject to reversal by the home Government, how does this case differ from the ordinary case of an erroneous decision by a subordinate judicial tribunal through the instrumentality of which a party suffers a deprivation of property until the reversal of the decision by the superior court? If the decision of the consul be not a judicial act, but a mere ministerial act, a mere trespass, such as may be committed by a sheriff or marshal, outside of the execution of the duties of his office, I ask whether the aggrieved party is not remitted to his personal remedy against the officer; and whether, in either event, the Government can be held responsible?

Mr. JOHN COCHRANE. There can be no question were a consul clothed with judicial authority, and he erred in the exercise of his power, the party injured would be remediless, even after judgment reversed. But, in my opinion, there can be suit for trespass maintained against a judicial officer, for an act committed, though in exercise of judicial functions, and though no corruption be charged, if he exceed his jurisdictional authority—and that I maintain to be this case. Then, in case of the commission of this unlawful act, it is to the surrounding circumstances that we are to look for a correct conclusion in the inquiry, whether the Government should relieve the parties suffering from the act of its representative. In reference to this consideration it is that I take this position: that where a

consul, having no judicial authority, but clothed in a representative capacity by this Government, in exercise of his representative powers, commits a trespass upon the property of citizens of the United States, if the trespass is of that gross and culpable nature which warrants interference, in the opinion of any reasonable and judicious man, it constitutes a case for the interference of this committee, and of this House, in behalf of the party who has suffered the wrong.

Mr. HUGHES. With the permission of my friend from New York, I desire to say, that so far as I am concerned, I have placed this case upon the ground that the consul had both judicial and ministerial functions to perform. By judicial functions I do not mean that he holds a court with a sheriff, a clerk, and lawyers; but I mean that he has duties to perform of this character; that he has to decide upon questions of law and fact; that it is his duty to determine whether a vessel under certain circumstances ought to be confiscated or not; and having made the decision that he is his own executive. He has both judicial and ministerial functions to perform, and where he errs, there being no corruption, he is not liable; but, in cases of this peculiar class, his Government is. He consummates judicial error by proceeding in his ministerial capacity to inflict injuries upon a citizen.

I desire further to say, in answer to a question put by the senior member from Ohio, [Mr. GIDDINGS,] that this seizure has been declared illegal two several times. The Secretary of the Treasury so decided, and ordered the vessel to be released from custody. The district court of the United States so decided, and ordered the vessel to be released from custody; but at the same time so far recognized the official character of the seizure as to make the owners pay the wages of the crew placed upon the vessel by the consul in the exercise of his office.

Mr. JOHN COCHRANE. I have so understood the gentleman from Indiana, but I have been indisposed to place the merits of this case upon grounds so uncertain as those necessary to the opinion which makes a consul a judicial officer. My judgment retires from that position, and I would prefer, in consideration of better assured safety, to place it upon circumstances which constitute this an act of unusual and peculiar aggression. Now, that I am right, I invoke the opinion of the Secretary of State, who addresses this language to the chairman of the committee who addressed a letter to him upon the subject. Mr. Buchanan, on the 11th day of July, 1848, in answer to the question whether the Government was liable "for the illegal acts of its officers," after replying in the negative, says:

"Such, undoubtedly, is the general rule; but very strong and peculiar cases may present exceptions. It is, however, for the legislative branch of the Government to decide, in its discretion, whether, under the circumstances, the case of Henry Leef be of this character."

Again: Judge Woodbury, when Secretary of the Treasury, to whom a similar case was referred, says, in his report of December 8, 1834:

"The liabilities of the Government for the acts of its agents, as therein maintained extend only to such acts as arise from gross negligence in discharge of official duties, or from omission to perform them; and even in these cases, the persons suffering, should either resort to the agent early, and in a suit with him, establish his liability, and the amount of damage, or resort only to the Government, and make out a very clean case, so that redress might be had by the Government on his personal responsibility on his official bonds and sureties, if any exist."

Now, sir, it is that, with the language of this opinion before us, the committee is called upon to inquire what are the circumstances of this case. Are they of such peculiar, grave, and unusual nature that upon their face they bear impress of culpable neglect, growing out of gross ignorance? First, however, in respect to the condition precedent, which is implied in the opinion of Judge Woodbury, that a suit should be established against the party doing the wrong. That would be a good position taken here against this claim were there any proof in the case, that process could have been served upon the party who com-

mitted the wrong in the territory where committed. The evidence is, that the consul was at Bahia, and there is no evidence that he ever returned, nor does it appear that he had any pecuniary responsibility, or that process could have been served here upon him, at any time since the commission of the act, up to the time that the case was first presented to the Committee on Commerce.

That being out of the way, the question then is whether the application has been made only to the Government. There is no evidence before us that application for relief has been made in any other quarter. Therefore, and because they have applied nowhere else, these parties come to the Government, and ask now for the relief which I claim the circumstances attending the case warrant and demand.

What are those circumstances? In 1847, these gentlemen were interested in the vessel named. She was a foreign bottom, and consequently could not obtain American papers. She cleared from Baltimore, and her clearance being regular, invested her with established rights. She could not be attacked upon the high seas by pirates, nor by vessels of foreign Powers, without rendering themselves amenable to punishment, and liable to redress. She arrived at Pernambuco, a port of Brazil, and was entered regularly there, and all the customary facilities ordinarily granted by the consul of the United States were rendered to her. Is it not to be supposed that the consul at Pernambuco was quite as intelligent as the consul at Bahia—he who stands proven here of egregious ignorance? She cleared thence regularly to the port of Bahia; and upon her arrival there, it was discovered by the *Solon* who presided over those waters that the vessel was not a regularly denominated American vessel; and, therefore, she must be confiscated—confiscated by the act of an American consul, a mere ministerial officer representing our commercial interests located there, guarding our seamen and our property, and protecting the persons of citizens of the United States! That consul, instead of guarding the property and protecting the persons of those citizens, confiscates that property, and invades their rights.

Sir, there could not be more gross or culpable ignorance disclosed by any person upon the face of the earth, representing the American Government abroad. She was sent home, and sent home by the consul; sent home under the flag of the United States, he, of his authority, imposing that flag upon her, and transferring his jurisdiction from Bahia to Baltimore. When she reached here she was still in custody of the officers of the Government. McKee and Leef followed in her wake to secure redress of their wrongs, and recovery of their property. The Government, through its agent, took possession of the vessel at Bahia without right, and its consul indulged in a stretch of authority unparalleled and unprecedented. The proof is here. She returned home under the consul's directions; moored here under his directions; was laid at the wharf under his directions; and she reposed under the flag of the United States under the authority of the revenue officers, until—what? Until the officers of the United States discharged her. This is the case.

Mr. STEWART, of Maryland. I think that there is difficulty in the minds of some members on this branch of the case. There is no doubt about the principle as stated by the gentleman from Virginia; but I do not understand that the point is controverted by my friend from Virginia, that the Government is not answerable, and that the cases where the Government interferes are exceptional ones, depending upon their own merits. These exceptional cases may be where the parties have been vigilant in vindicating their own rights. But, sir, these parties have not done that. This consul in Brazil undertook to stop this vessel. To that extent, acting under the scope of his authority, he could not be accused of any neglect. The act may have been illegal. And did those parties try to have the question brought up before the courts there, in order to prevent the vessel being returned to the United States, by which return the damages were induced? If there was no remedy there, then we cannot charge these parties with laches. If, however, they did not show proper vigilance, in order to have determined the legality of the detention of the vessel, if they failed to exercise the remedy that was within their reach, then I do not

believe this Government is justly answerable for these extended damages.

As I have said, there seems to be doubt in members' minds on this point. The Government may be held responsible in certain exceptional cases, where the party made all due diligence in seeking a remedy, without success; and in this case, if the committee is satisfied that the vessel, being in the hands of the consul, was brought to the United States without any remedy to stop the consul in his proceedings, then there is no laches on the part of these parties. I understand the gentleman from New York to maintain that they are entitled to relief, as this is an exceptional case; and I think that he ought now to go on and satisfy the committee that they were without remedy until they appealed to the Congress of the United States; that they could not have resorted to the courts at Brazil. If they had a remedy there, then of course the vessel could have been taken from the consul, and there would not have been this claim for damages.

Mr. HUGHES. I wish to propound a question. The question of the liability of this consul is one which must be decided by the laws of the United States. How could the courts in Brazil determine that question?

Mr. JOHN COCHRANE. The inquiry put by the gentleman from Maryland is unquestionably a pregnant one. Before I proceed, I will ask him to tell me what is the power of the Brazilian courts to interfere, in alleged acts of trespass by the American consul, upon the property of citizens of the United States?

Mr. STEWART, of Maryland. I understand the owners of the vessel to allege that, when the consul arrested her, they were without remedy; that there was no court, no tribunal of admiralty jurisdiction, that could have afforded them a remedy. That is my opinion, too, of the law bearing on this case.

Mr. JOHN COCHRANE. Then the gentleman's opinion coincides with my own. I have no knowledge that there is a tribunal in Brazil, either of local or international jurisdiction, which would have enabled these individuals to institute an action there as citizens of the United States against the consul of the United States, for violation done by him, in his official capacity, to their property.

Mr. WASHBURN, of Illinois. If my friend will give way, I will move that the committee rise, with a view to close this debate. It is unjust to the remaining cases on the Calendar that a question like this should be discussed a whole day.

Mr. JOHN COCHRANE. I will finish what I have to say in a moment.

Mr. LETCHER. Let me put a question to the gentleman at this point. If it is important to know whether these men had a legal remedy or not, the burden devolves upon them to show that fact, before they come to ask for relief? Now, if they had a legal remedy, they ought to have used it. If they had that remedy and did not use it, they ought to show the reason for their failure to do so.

Mr. HUGHES. I will answer that. The Secretary of the Treasury, in the case of O'Sullivan, reported to Congress that the rule which the Government thought ought to be pursued was, that the claimant should sue the consul in his individual capacity, or else to resort promptly to the Government for redress. In this case, the parties promptly came to the Government under that rule; while in the O'Sullivan case, the Secretary did not think the party had resorted early enough, and yet relief was granted in that case. This is a much stronger one.

Mr. LETCHER. Well, but even then, Mr. Chairman, the burden of proof would still devolve on him to show why he did not resort to a suit.

Mr. HUGHES. Grant it; and there are facts contained in the official documents on file in this case which do show conclusively why he did not resort to a suit, and could not. He could not have his individual remedy against the consul, for this reason: the consul was in a foreign country, the courts of which did not recognize the laws of the United States as their rule; and the liability in this case was to be determined by those laws.

Mr. LETCHER. There is nothing of that sort stated in the memorial.

Mr. HUGHES. There are some things of which members of Congress, as well as courts, are to take judicial notice.

Mr. LETCHER. But this is not one of those things of which we are to take judicial notice.

Mr. HUGHES. Surely one of these things is, that Brazil is a separate, independent, foreign Government, having different forms of action, different courts, and different judicial proceedings from the United States; and that the paramount law in Brazil is the law of the supreme power there, and not the law of the United States.

Mr. LETCHER. I see here that this gentleman claimed compensation for this vessel to the amount of \$15,000, which, it is said, was ascertained by valuation in the port of Bahia. I find that when the vessel came home to Philadelphia, was transferred to these parties, and was taken to Baltimore, she was sold for \$2,500. Will the gentleman from New York be good enough to tell me how it was that this vessel depreciated \$12,500 in the short space of some five or six months?

Mr. HUGHES. With the permission of the gentleman from New York I will answer that question. The consul himself called in surveyors, and they estimated the vessel at \$15,000.

The evidence in the case shows that the consul detained the vessel there for a short time; that he put a captain of his own appointment, and a crew on board of her; that while she lay in port he entertained his friends on board; and that when she arrived in Philadelphia, after being so long under his care and keeping—

Mr. LETCHER. How long?

Mr. HUGHES. I cannot state exactly. She made a long voyage.

Mr. LETCHER. Was it more than eight months from the time of her seizure till the time of her sale?

Mr. HUGHES. I do not know. The question of time is not very material.

Mr. LETCHER. It is very material.

Mr. HUGHES. When the vessel arrived at Philadelphia, she was dismantled and almost a wreck.

Mr. LETCHER. There is no evidence of that in the papers.

Mr. HUGHES. The gentleman will find that there is.

Mr. SHAW, of North Carolina. I rise to a question of order. This discussion is out of order.

The CHAIRMAN. The gentleman from New York [Mr. JOHN COCHRANE] will proceed with his remarks.

Mr. JOHN COCHRANE. This debate has undoubtedly taken a sufficiently wide range to exhaust all its merits. I will further answer, before I take my seat, the question of the gentleman from Virginia, [Mr. LETCHER.] The proposition which he puts, is certainly a pertinent one—that the burden of proof is on the parties applicant here, to show that they had no redress in the courts of Brazil. I have no means of furnishing an answer to it, other than those furnished by the knowledge which we all, in common, have, that citizens of the United States, invested with a national character, cannot prosecute or be prosecuted, in the courts of a foreign Power, regarding the interests, the rights, or the property of other citizens, without express treaty stipulations; and whether there be such a treaty stipulation or not, in this instance, the gentleman from Virginia is better informed than I am. My judgment and knowledge are that there is not.

In regard to the valuation of the vessel, my answer is this: the consul who had the vessel valued was undoubtedly interested, as sequester, in making the value as high as possible. A valuation by a consul under such circumstances, and a valuation here by disinterested appraisers, are two very different things; as is shown by the fact that in this case the difference between the valuation of the consul, at Bahia, and the price obtained here, was \$12,500. My friend from Virginia undoubtedly knows that in cases of forced sales by virtue of confiscation, American registers sometimes, in case of premature sales, do not accompany the vessel. Whether this vessel was sold in consequence of seizure, or whether she was sold under the favorable circumstances of market overt, does not appear here of record; but I conceive that the committee will not allow

the gentleman from Virginia to take anything by a suggestion of that nature.

Mr. Chairman, I have presented these facts as broadly as possible, in order that I may array them confidently, within the application of the language of the Secretary of State:

"But very strong and peculiar cases may present exceptions. It is, however, for the legislative branch of the Government to decide, in its discretion, whether, under all the circumstances, the case of Henry Leef be of that character."

I have endeavored to present all the circumstances fairly; and it is for the committee to say, in its discretion, whether the case is of that character which merits legislative relief. I am sure there can be no question that the losses of the claimants demand it.

Mr. RUFFIN. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Maine, reported that the Committee of the Whole House had had under consideration the Private Calendar, and particularly a bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark, and had come to no conclusion thereon.

APPROPRIATION BILLS.

Mr. PHELPS, of Missouri. I ask to have taken from the Speaker's table two appropriation bills, that have been returned from the Senate with amendments, (the Indian, and the consular and diplomatic,) and that they be referred to the Committee of Ways and Means, and the amendments ordered to be printed.

There being no objection, it was so ordered.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 764) to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort on the Mexican boundary commission; and joint resolution (H. R. No. 50) to correct a clerical error in "An act for the relief of Isaac Body and Samuel Fleming;" when the Speaker signed the same.

CLOSE OF DEBATE.

Mr. HUGHES. I move the usual resolution that all debate in Committee of the Whole House on House bill No. 206, shall cease in five minutes after the committee shall have resumed its consideration.

Mr. LETCHER. I move that the House do now adjourn.

Mr. RUFFIN called for tellers.

Tellers were ordered; and Messrs. BUFFINTON, and PHELPS of Minnesota were appointed.

The House divided; and the tellers reported—ayes fifty-eight, noes not counted.

So the motion was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned.

IN SENATE.

MONDAY, February 7, 1859.

Prayer by Rev. A. G. CAROTHERS.

The Journal of Saturday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate, relative to the adoption of a system by which the sale of useless military posts would furnish the means of providing barracks and quarters for the Army; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate, relative to a reduction of the number of Indian superintendents, agents, and sub-agents, and the transfer of the Indian bureau from the Interior to the War Department; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate, relative to the stationing of the Army so as to largely diminish the cost of transportation and subsistence, and, at the same time, perform

whatever service might be necessary in suppressing Indian outbreaks; which, on motion of Mr. HUNTER, was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of State, communicating, in obedience to law, information relative to the commercial relations of the United States with foreign nations, for the year ending September 30, 1858; which was ordered to lie on the table; and a motion by Mr. HUNTER to print the report, was referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the following bill and joint resolution; in which the concurrence of the Senate was requested:

A bill (No. 863) for the relief of Lucy A. Wakefield, widow of Benjamin Wakefield; and

A joint resolution (No. 52) giving the consent of Congress to the acceptance by Captain M. F. Maury and Professor A. D. Bache of gold medals from the Sardinian Government.

A subsequent message announced that the House had passed the following bills and joint resolution of the Senate:

A bill (No. 380) to provide for the payment of the claims of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war;

A bill (No. 554) to authorize the Attorney General to represent the United States in the proceedings in equity now pending in the Supreme Court between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations; and

A joint resolution (No. 48) for the payment of an unexpended balance to the State of Georgia on account of military services.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 5th instant, the following acts:

An act providing for keeping and distributing all public documents;

An act providing for the payment of the expenses of investigating committees of the House of Representatives; and

An act for the punishment of the crime of forgery or counterfeiting military bounty land warrants, military bounty land certificates, certificates of location, certificates of purchase, and receivers' receipts.

AGRICULTURAL COLLEGES.

Mr. HUNTER. Is there not a special order for to-day at half-past twelve o'clock—the agricultural college bill—on which the Senator from Alabama [Mr. CLAY] has the floor?

Mr. SEWARD. That is so.

Mr. WADE. I hope that bill will be taken up now.

The PRESIDENT *pro tempore*. The Chair is aware that such was the understanding, but it was not made the special order. The Senator can move to proceed to the consideration of the bill indicated by him.

Mr. HUNTER. I thought there was a special order made.

Mr. SEWARD. There was not a special order made; but there was a special and universal understanding that that bill should be taken up to-day, and the honorable Senator from Alabama have the floor. I move, therefore, that the bill be taken up.

Mr. GREEN. I should like to make a few reports.

Mr. SEWARD. It is a matter of courtesy to the honorable Senator from Alabama.

Mr. GREEN. If it is a matter of courtesy, I will yield, as a matter of course.

Mr. SEWARD. Let it be taken up.

Mr. BROWN. I only want to say that, while I shall interpose no objection to taking up this bill, as the honorable Senator from Alabama wishes to be heard, I hope it is not to be understood as displacing the regular order of business. With that understanding, I have no sort of objection.

Mr. HUNTER. I understand the bill is taken up by general consent.

The PRESIDENT *pro tempore*. Such is the understanding of the Chair.

The Senate resumed the consideration of the bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; the question being on the passage of the bill.

Mr. HAMLIN. I hope the Senator from Alabama will allow me to propose an amendment, which I ask the unanimous consent of the Senate to offer at this time. I do not propose to discuss it. It is to add as a new section:

And be it further enacted, That there be appropriated to the Columbian College, in the city of Washington, and Georgetown College, in the city of Georgetown, District of Columbia, respectively, fifty thousand acres of land for the purpose of founding an agricultural department in said colleges, to be used by the colleges in the same manner, and under the same conditions and restrictions, as the land granted in this act to the States.

Mr. CLAY. Mr. President, in consideration of the late period of the session, the pressure of other important measures upon the attention of the Senate, and the courtesy shown me by postponing the final vote upon this bill until to-day, I shall say less than I should have done had the question been pressed to a final vote on Thursday last. I shall refrain from entering into the discussion of the expediency of this measure, although I think it might be clearly shown that it will prove far more baneful than beneficial even to the interest which it professes to support.

But, sir, I cannot forbear to invoke the attention of the country to the fact that, at a time when the country is more than sixty million dollars in debt; when its revenues are insufficient to supply its ordinary wants; when we are told that we must either increase the supplies or reduce the demands upon the Treasury, it is proposed by this measure to cut off all revenues from the public lands, and by the same act to increase the expenditures of the Government by donations of land equivalent to fully \$10,000,000. Common sense would teach, and common honesty would require, a private individual, under like circumstances to husband his resources, to reduce his expenses, and to endeavor to be just to his creditors, rather than generous to his friends. By whom is this measure supported? By the unanimous vote of the Republicans and the Americans, now classed I believe together, according to the present party nomenclature, under the name of "the Opposition," who habitually declaim against the extravagance of the Administration and the Democratic party; who, with fervid patriotism, profess to desire economy, retrenchment, and reform in the public expenditures; and who, in this instance, as in most others, discredit their professions of good faith by their bad works.

Among them, strange to tell, are the representatives of some of the new States, notwithstanding, as suggested by the honorable Senator from Minnesota, [Mr. RICE,] the effect of this measure will be to enable greedy capitalists to monopolize large bodies of the public lands, keep them from settlement and cultivation, and thereby retard the growth, the wealth, and prosperity of their own States. But, stranger still, among its supporters are found a few—I am glad to say a very few—members of the Democratic party who profess to be the advocates of State rights; of a strict construction of the Federal Constitution; opposed to enlarging Federal powers by construction; in favor of the largest liberty of the States consistent with the prohibitions of the Constitution; opposed to the distribution of the proceeds of the public lands; in favor of the principles and sentiments enunciated by General Jackson in his veto of the land-distribution bill; opposed to any intervention by Congress with the domestic affairs of the States, and in favor of suffering them to manage their own internal and local affairs in their own way, subject only to the Constitution.

What is the excuse rendered for this profligate expenditure of the public money at such a time? We are told that the people demand these gratuities; that the Legislatures of several of the States have instructed Senators to vote for this bill. Sir, if the people demand the patronage of the Federal Government for agriculture and education, it is because they have been debauched and led astray by Federal legislation. This cry of "give us land," is but the echo of the voices which have resounded on this floor. The vicious public sen-

timent which is pouring in upon us in memorials and instructions from the State Legislatures, is but the reflux of that wave of political sentiment which has arisen and flown out from this Capitol.

I do not believe that the honest tillers of the soil desire the patronage of Congress. I know I speak truly, when I say for those in my own State, that all they ask is sheer justice and no favor. They ask you to let them alone to work out their own progress; that you will keep your hand out of their pockets and let them appropriate their own honest gains, instead of filching them for the benefit of other interests. But what if the people do demand, and Legislatures do instruct Senators to vote for this measure; must they violate their oaths to support the Constitution? Sir, I have great respect, and profound gratitude for the people of my own State, to whom I am indebted for more than I shall ever be able to repay by my poor services; but whenever they instruct me to vote for an unconstitutional bill, I will either refuse to obey their instructions or resign my seat. I may surrender my judgment to theirs upon all questions of expediency, but I surrender my conscience to the keeping of no man, or body of men. I will preserve my self-respect, and will support this Constitution as I have sworn to do, at the hazard of their displeasure, or even of their execration.

The people do not favor this measure. They may have been beguiled into the advocacy of land grants for agriculture, but they have never consented to surrender the supervision, control, and direction of their education to the Federal Government. This scheme of speculation and plunder, suggested by Congress, is pressed by a few greedy capitalists and needy adventurers, who speculate upon our legislation, and not by the honest tillers of the soil.

This is a most delusive and seductive measure, well calculated to conciliate the favor of all those who look only to the end proposed, without considering the means exerted. It offers some six or seven million acres of land to the several States of the Union, to be distributed in proportion to their representation in the two Houses of Congress. Under this bill, Alabama would get perhaps two hundred thousand acres of land for the endowment, support, and maintenance of a college or colleges within her limits, the leading object of which shall be "to teach those branches, without excluding other scientific and classical studies, which relate to agriculture and the mechanic arts."

Agriculture is the mere name by whose potential charms the people are to be defrauded of their rights. The promotion of agriculture is but the incident, not the great object of this measure; for in the same section from which I have read, I find it authorizes instruction in all "scientific and classical studies," and that the object of the donation is not to qualify men for agriculture, but "to promote the liberal and practical education of the industrial classes, in all the several pursuits and professions of life."

Thus, by this endowment, men are to be trained for the pursuits of navigation, commerce, and manufactures, and for the professions of law, theology, and medicine. Under the pretense of promoting agriculture, commerce, manufactures, and navigation, may improve their wits, and learn how to transfer still larger per centums of its profits into their pockets than they have heretofore acquired by partial and unequal legislation.

The conditions of the grant to Alabama are, that she will pay out of her treasury all expenses of managing the lands or moneys arising from the sale thereof; will invest the moneys in stock of the United States or of the States, or other safe stock, yielding five per cent. per annum; will replace any portion of the fund that may be lost or diminished, except ten per cent., which may be spent for sites or experimental farms; will not expend any of the fund in purchasing, erecting, or repairing any building; will provide for one such college within five years, or forfeit the grant, and refund to the United States all she has received; and will make an annual report to every other such college and to the Smithsonian Institution. Thus she is, as directed by Congress, to educate the young, sell lands, invest money, tax her citizens, and report progress to other colleges and to the Smithsonian Institution, which is to be

the ocean into which all the rivers of thought rising in these colleges are to pour their annual tributaries. And, after distillation in the Smithsonian laboratory, I presume, that all the pure and precious thoughts are to be returned in reports to the colleges.

This is a magnificent bribe tendered to Alabama for the surrender to Federal power of her original and reserved right to manage her own domestic and internal affairs in her own way. Its acceptance is encouraged not only by the hope of great gain, but by the fear of greater loss; for if this bill become a law, and she refuse the donation and other States accept it, she must endure a double loss in the land she did not take, and in taxation to pay for the land that others do take. I hope she would refuse to abase herself at the footstool of Federal power, and spurn the bribe if tendered; but I trust there is virtue enough left in this Senate, or in the Executive mansion, to save her from temptation.

If the principles of this bill be generally conceded by the States, and fully established by the action of Congress and of the Executive, then it will be impossible to define, or scarcely to imagine the wide extent of Federal power or the narrow limits of State sovereignty. It will unlimit all the limitations of the powers of Congress; will efface all the lines that define the boundaries between Federal and State rights; confound all the separate and distinct duties of State governments, and will be a long step towards the overthrow of this truly Federal and the establishment of a really National Government. If Congress may provide for and direct the education of the people of the State, why not supply all their physical as well as moral wants, and endow, support, and maintain asylums for the insane, the blind, the deaf and dumb, the sick and disabled, the widow and orphan, the poor and the destitute? No one can give a reason for any discrimination? If it may direct the States in what, and for what, the people are to be educated, why not direct them in what may, and for what objects they are to be, taxed? Indeed, why not, in the language of General Jackson, in his veto of the land distribution in December, 1834, "go but one step further, and put the salaries of all the State Governors, judges, and other officers, with sufficient sums for other expenses, in the general appropriation bill?" Education is as much a matter of local interest, of internal or domestic police, as the salaries of State officers; and we may as well provide for the payment of the civil list as for the education of the people of the several States. If you can find any express grant of power, or if you can imply the power as necessary to carry out any express grant for the one purpose, you can for the other. If you can do either, there is no power or duty of the States, which ambition or avarice may covet, or caprice suggest, that the Federal Government may not absorb.

But we are told that this bill can only be carried into effect by the consent of the States, as if this obviated all difficulty and objection to the exercise of power. It does not mitigate the iniquity of this measure in the slightest degree, that it is to be done by the complicity of the State governments. The Constitution points out the way in which power shall be gotten from the States; but this bill does not pursue that way. It extorts the consent of the States by a sort of moral duress. It menaces them with loss and injury if they refuse the donation, and tempts them with promises of great gain if they accept it. You make them the victims of your bounty, and their fealty to your authority. You tempt them to their own self-abasement and self-destruction, just as the Devil tempted the Savior, when he took him up into the high mountain and showed him all the kingdoms of the world, and said: "All these will I give thee if thou wilt fall down and worship me." You tender your patronage to the States if they will become your clients. You promise your guardianship if they will become your wards. You offer them great estates if they will become your tenants at will. You promise them rich dowries in exchange for their liberties. You say to your creators, "become our creatures, do us reverence, and obey our behests, and we will supply your wants."

If State pride, love of independence, and sovereignty, do not revolt at this humiliating proposition, State honor should. The Constitution for-

bids this measure, and that instrument all Federal and State officers are sworn to support, and all good citizens will support, whether sworn or unsworn.

This Federal Government is not of Divine origin, nor so old that the memory of man runneth not to the contrary thereof. We know how it was made, when it was made, for what it was made, and by whom it was made. We know that it is but the creature of the States; that it owes its being and its birth to them, and is dependent upon them for its organization and operation. It is their agent, or trustee, confided with specific powers for certain great objects. Like all other trustees, it has no original, absolute, or unconditional powers. All its powers are limited, and derived from the several separate and sovereign States, to whom it is still subordinate. This Senate, the House of Representatives, and the President, are created by the volition of the States, who made and can unmake them at their pleasure. All are subject to the supervision and control of the States. On the other hand, the States are in no wise dependent upon the Federal Government for their organization, operation, support, or maintenance. I do not stand here the representative of a subjugated province, or a dependent colony, an humble suppliant for favor; but as an ambassador from a sovereign State, no more subject to the supervision and control of the Federal Government, except in the few instances provided in the Constitution, than any foreign and independent State.

But this bill treats the States as agents instead of principals, as the creatures, instead of the creators of the Federal Government; proposes to give to them their own property, and to direct them how to use it; and menaces them with its forfeiture, and the reclamation of it by us, if they do not faithfully comply with our instructions and obey our orders! It thus transposes the relations of the Federal and State governments.

The Federal and State Governments are not more unlike in their origin and mutual relations, than in the nature and extent of their powers. The powers of the Federal Government are few and defined; those of the States are numerous and indefinite. Its powers are fully enumerated; those of the States are unenumerated. Its powers are measured and limited, not only by prohibitions and reservations of ungranted rights, but by specifications of the powers granted; those of the States are unmeasured and unlimited, except by prohibitions. The States may do whatever is not forbidden by the Constitution; the Federal Government can do nothing that is not authorized by its charter, or letter of attorney, the Federal Constitution. Its powers embrace only what is common to all the States, and mainly what is external to them, and cannot be attained by them separately; their powers embrace whatever is peculiar, local, internal, or domestic. Its powers are not represented in the State Legislatures, and theirs are not represented in Congress. They were intended to move in different orbits, to attain different ends, and to exert different means. Neither was intended to include, but each to exclude, the other from its sphere of operations, except in the few instances of concurrent powers specially enumerated in the Constitution. They may tax the same property, may suppress the same insurrection, may repel the same invasion, and may try the same suits, under certain stated circumstances; but where else can they act alike by warrant of the Constitution?

These views of the mutual relations, the rights and duties of the Federal and State governments, are fully sustained by their history and by their constitutions. No one, on comparing the Federal and State Constitutions, can fail to observe that while to the Federal Government is intrusted those common and external objects, such as war, peace, finance, negotiation, and commerce, to the State governments are reserved the care of whatever is local or domestic, agriculture, education, trades, manufactures, poverty, crime, the domestic relations, corporations, roads, bridges, ferries, and rights of property. Some of those domestic affairs were expressly refused to be given to Congress, when asked in the Federal convention. All of them are reserved under general clauses; but those now proposed to be exercised were, I repeat, expressly refused to be granted. I find in Elliot's Debates, that in the constitutional conven-

tion, May 29, 1787, Mr. Charles Pinckney submitted a draft of a constitution, in which it was proposed to give power to Congress—

"To establish and provide for a national university at the seat of Government of the United States." Referred to Committee to consider the state of the Union.—*Elliot's Debates*, volume 5, pages 130-132.

On the 18th of August, 1787, Mr. Madison submitted the "following powers as proper to be added to those of the General Legislature:"

"To establish a university."
"To encourage, by premiums and provisions, the advancement of useful knowledge and discoveries." Referred to the committee of detail.—*See Elliot's Debates*, volume 5, page 440.

On the same day, Mr. Pinckney moved the following powers:

"To establish seminaries for the promotion of literature and the arts and sciences."
"To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures;" which were referred to the committee of detail.—*See Elliot's Debates*, volume 5, page 440.

September 14, 1787, Mr. Madison and Mr. Pinckney moved to insert, in the list of powers invested in Congress, a power:

"To establish a university in which no preferences or distinctions should be allowed on account of religion." Lost.—*See Elliot's Debates*, volume 5, page 544.

Thus it was four times proposed to give to Congress the patronage of education, of art, and of science, by enabling it to establish a university or public institutions or seminaries of learning, or to make provision for them, to grant them rewards, or premiums, or immunities; but whenever and in whatever form proposed it was refused. Education, agriculture, trades, and manufactures, were left to the supervision, support, and promotion of the State governments as domestic affairs.

Now, sir, the refusal to grant the power as forcibly forbids its exercise as if positively prohibited. Certainly, if a private agent should do what he had asked of his principal and had been refused permission to do, he would palpably violate his trust. The parties to the Federal compact, the States, through their delegates, refused, when asked to grant to Congress power to patronize education, art, or science, by establishing public institutions, universities, or seminaries of learning, or by making for them any provision, or granting to them any reward, premium, or immunity; and yet you propose to do these forbidden things. You propose to endow, maintain, and support agricultural colleges in the States, by providing means for them to purchase sites for experimental farms, to pay instructors, to educate the young, and by giving them immunity from postal taxes.

I show that the power you offer to exert by this bill was refused to Congress by the States in convention. Where do you find it granted? You cannot find it in express terms, and cannot infer it as necessary to carry out any power granted.

There is not in the Constitution a single clause or sentence or word that bears the remotest analogy to the subject-matter of this bill, excepting the eighth section of the first article of the Constitution, which gives to Congress power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." This, far from authorizing Congress to endow, support, and maintain colleges, is tantamount to the denial of such power; for it expresses a different way by which to patronize art and science. Congress may do so; not by rewards, provisions, premiums, endowments, or immunities, but simply by securing to authors and inventors the right to use and enjoy their *own* property. The remarks of Mr. Madison, in commenting on this clause of the Constitution, show that it is in admirable harmony with the whole theory and spirit of that instrument. He says, substantially, that this power was granted to Congress for these reasons: because the right of inventors to their inventions and authors to their works was recognized at common law; and the States cannot separately secure this right so well as the Federal Government.

When we take into consideration the repeated attempts to give to Congress greater power to promote science and art, this clause clearly forbids the use of any other power than is herein conferred. It is a principle of construction univer-

sally admitted that *expressum facit cessare tacitum*; or, in other words, the expression of a matter forbids the intendment of that which might otherwise have been inferred. The representatives of the States in the Federal Convention declared to what extent Congress might patronize art and science, in the clause of the Constitution which I have read, and thereby forbid any intendment of other or greater patronage than is herein allowed.

Mr. President, I might stop here and challenge the advocates of this bill to answer the argument already made, or rather to show how they can resist the facts stated, and where obtain the power to pass this bill. But I will quote the authorities of two of the framers of the Federal Constitution in support of the views presented, of the relative rights and duties of the State and Federal Governments, and of their mutual relations. Mr. Madison, in his commentary upon the Constitution in the *Federalist*, says that:

"The proposed Government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."

"The State governments may be regarded as essential constituent parts of the Federal Government; whilst the latter is no wise essential to the operation or organization of the former."

"We have seen that in the new Government, as in the old, the States, in all unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction."

"Its jurisdiction is limited to certain enumerated objects, which concern all the members of the Republic, but are not to be obtained by the separate provisions of any. The Federal and State governments are, in fact, but different agents and trustees of the people, intrusted with different powers, and designed for different purposes."

"The powers delegated by the proposed Constitution are few and definite. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce, with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the States."

General Hamilton says:

"The principal purposes to be answered by the Union are these: the common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations, and between the States; the superintendence of our intercourse—political and commercial—with foreign countries."

"The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition. Commerce, finance, negotiation, war, seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought, in the first instance, to be lodged in the national depository. The regulation of private justice between citizens of the States; the supervision of agriculture, and of other concerns of a similar nature; all those things, in short, proper to be provided for by local legislation, can never be desirable cases of a general jurisdiction. It is, therefore, improbable that there should exist a disposition in the Federal councils to usurp the powers with which they are connected."

Now, sir, to test the constitutionality of this measure by questions suggested in the quotations I have read, I ask, in their own language, by slight transposition of words, is there any express grant for the power proposed to be exercised of endowing, supporting, and maintaining agricultural colleges within the States? Is it necessary to do so, in order to carry out any express grant? Is the care of agriculture and education among those concurrent Federal and State powers provided in the Constitution? Is their promotion among the certain enumerated objects for which the Federal Government was formed? Is it not to be attained by the separate provisions of any of the States? Is it not proper to be provided for by the State Legislatures? Are agriculture and education among those external objects, such as war, peace, negotiation, and commerce, common to all the States, and therefore subject to Federal power? Are they not among those domestic and personal interests of the people, to be regulated and provided for by the superintending care of the State governments? Upon the answers to these questions depends the constitutionality of this measure. If it can be successfully maintained that education, agriculture, and other arts, are not matters of domestic and local concern, but relate to the common and external affairs of the States, which cannot be well managed by them separately, and are not proper to be provided for by State legislation, then we may pass this bill, but not otherwise, in accordance with the Constitution.

But, sir, we are told, notwithstanding no express grant of this power may be found in the Constitution, and notwithstanding it is not necessary to carry out any express power, yet that Congress may pass the bill by virtue of that clause in the Constitution which gives it power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." This, it is said, gives absolute and plenary power over public lands; and Congress may do with them whatever is not forbidden by the Constitution. If this be true, the framers of that instrument either deceived themselves or their constituents; they did not know what kind of Government they were framing, or they declared they formed a limited Government, but really formed, and intended to form, an absolute Government. They practiced the verbal legerdemain of enumerating the great objects and defining the few and simple powers of a Federal Government; but, under an ambiguous phrase provided it with means to enlarge its powers at discretion. They labored to tie it down and hedge it round by declaring what it should and should not do; yet, cunningly and stealthily enabled it to loose all its bonds, overleap all its bounds, and run riot in usurpation of State rights and State duties. Sir, I will not impeach the integrity or wisdom of the framers of the Constitution, and invoke contempt where reverence is due, by yielding the least credence to such an imputation. They were not guilty of the folly or the baseness of enabling Congress to appropriate the public lands, any more than the public money, at discretion and at the same time of defining its powers and duties. They did not empower it to apply the public lands or money to any other than the great objects for which the Government was formed. They did not mean to authorize it to assume the rights and duties of the local Legislatures in disposing of the public lands. Congress has no greater power over the public lands than over other property of the United States. By the same sentence of the same section and article of the Constitution, the same power is given "to dispose of the territory or other property of the United States." Other property means something different from territory or land, and embraces everything that may be held, used, or enjoyed, besides land. Hence, if Congress can give land, it may give money, public buildings, or vessels, navy-yards, dock-yards, arsenals—any property of the United States. And why not give money as well as land? The land was bought with money, and will sell for money. If we give either, we impair the revenue of the Government, and increase its demands upon the people in the way of taxation. There is no difference in principle or effect between giving money and giving land.

But we are told that the term "dispose of" imports to give as well as to sell. Grant it; and does it follow that it always implies both to give and to sell. Such is not the generic import of the word "dispose," or its common usage, or its ordinary acceptation. The original or primary sense of this word "dispose," was not to give or sell, but to put or place apart or away. Its various and opposite senses of to give and to sell are the result of conventional usage. It is never used in both senses at the same time, and cannot imply both at once. It generally means to sell, and rarely to give. If you go into a store and ask a merchant for an article, and he reply that he has disposed of his whole lot, you do not understand he has given it away. If you meet a man in the street and propose to purchase his horse or his plow or his land, and he says he has disposed of it, you do not understand that he has given it away. If a father say that he has disposed of his son, you do not understand that he has given him away. Men do not often give what they can sell, and when they do give, they use no doubtful word in reporting their charity or generosity. The sense of this word is certainly to be derived from the circumstances under which, and the context in which, it is used. If the Senator from Vermont, who contended that this word implied to give, as well as to sell, should write to his factor to dispose of his crop of hay or tobacco, and he were to give it away, I dare say he would write him down either a fool or a knave; and I doubt not that if sitting as a judge in Vermont, as he has done, in any case of an action brought against such agent or

trustee, he would not hesitate to give judgment against him in damages for the value of the property conveyed by him.

Sir, the word "dispose" was never interpreted in any instrument conveying property to trustees as empowering them to give it away. It is incongruous with the general character of a trust to enable the trustee to give it to whom he pleases, because trusts are created for the use of the beneficiary or maker of the trust. To give is the power of an absolute owner of property, and not of a trustee, never inferred from doubtful or ambiguous terms in trust deeds. Such power is never conferred upon trustees, except in precise, clear, and positive terms. This Federal Government is, as I have remarked, the trustee of the States. It possesses no unconditional or absolute right of property. All that it holds is for the benefit of the States, and is held upon the condition that it shall be used only for those purposes and objects named in the Constitution. How then can the right of an absolute owner be arrogated for Congress in virtue of the word "dispose?"

If we look outside of the Constitution, however, to the circumstances under which this power was conferred, the construction of the term now claimed seems to me to be completely negated. At the time of the adoption of the Constitution, as is known to the Senate, the Federal and State Treasuries were empty, the Federal and the State Governments were bankrupt; we had just passed through a seven years' war, in which all our resources had been exhausted; we were largely in debt, without foreign commerce, and with no means of supplying the Treasury, except by taxation, or by the sale of the public lands. Under such circumstances, to presume that it was intended by this term "dispose," to confer upon Congress power to give away the most valuable property of the Federal Government, the territory or lands, is to question the wisdom or integrity of its framers; because the ordinary instincts of enlightened conscience and of self-interest, should have restrained them from conferring any such power.

If we look to the deeds of cession, under which this property was acquired, they fully sustain my position that no other power was intended to be given than that of a prudent proprietor, to manage this property for the best interests of the States. I find that in the deeds of cession made by Georgia and Virginia, which included much the largest portion of the lands ceded, this language is used in respect to the Territory ceded:

"That it shall be a common fund for the use and benefit of the United States, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

As General Jackson said in the veto message to which I have alluded, these deeds of cession are a part of the fundamental law of the land. They have all the obligation of solemn treaties. In them we find the purpose of these cessions of the public lands expressly declared, and, furthermore, that they shall be disposed of for no other use or purpose whatsoever. For what purpose were they ceded? "As a common fund for the use and benefit of the United States, according to their usual respective proportions in the general charge and expenditure." What does that mean? That they shall be used to pay the public debts, and to relieve the several States from taxation necessary to raise their quotas or proportionate shares of the revenues of the Federal Government. These cessions were made under the old Confederation, and, according to the articles of Confederation, Congress had no power to raise money either by duties or by direct levies upon the property within the States, but depended entirely upon the contributions of the several States raised by such taxation as they should provide. Hence the language used in this deed of cession is tantamount to this, that the public lands shall be used to pay the debts of the Federal Government and to mitigate the taxation of the people. In violation, however, of what was declared, and is a fundamental law of the land, we propose to give away the public lands, and thereby to increase the taxes of the people, to reduce the revenues of the Government, and to disable it from paying the public debt.

But when constitutional arguments fail, high authorities and numerous precedents are quoted for this exercise of power. Sir, this is not a Gov-

ernment of precedents, but of a written constitution. I admit that precedents may be found of land grants for education; but no precedent can be found for the bill now pending before the Senate; none attaching conditions to the grant which must continue so long as the State exists; none interfering directly with the domestic affairs and local interests of the States. I have heard quoted in behalf of this donation the names of General Washington, of Mr. Jefferson, and of Mr. Madison; but they never gave their support to any such measure. I find that General Washington did recommend the establishment of a national university; but it is manifest from contemporaneous history and the legislation of Congress, that his purpose was to establish a university within this District, to be based upon private donations and the public property within this District. He never proposed to endow it either with the money of the Federal Government, or with the public lands.

Mr. Jefferson, who has also been claimed as recommending such a measure as this, in the very message from which the quotations were made by the author and advocate of this bill, denied that Congress had the powers proposed to be exerted in this bill. I have been amazed to find that it was by garbling this message, and presenting detached portions of it, that the desired interpretation was given to it, and he was made to appear as an advocate of such a measure as this is. In order to vindicate him, and to prove that he sustained the same views of the Federal Constitution which I have presented, and denied the power of Congress to pass any law like this bill, I will read all that he said on this subject in his message of December 2, 1806.

After suggesting that there would probably be a surplus revenue in the Treasury, and proposing to suppress certain imposts, especially the salt duty, he proceeds thus:

"On a few articles of more general and necessary use, the suppression, in due season, will doubtless be right; but the great mass of the articles on which impost is paid are foreign luxuries, purchased by those only who are rich enough to afford the use of them. Their patriotism would certainly prefer its continuance and application to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be proper to add to the constitutional enumeration of Federal powers. By these operations new channels of communication will be opened between the States; the lines of separation will disappear; their interests will be identified, and their union cemented by new and indissoluble ties. Education is here placed among the articles of public care; not that it would be proposed to take its ordinary branches out of the hands of private enterprise, which manages so much better all the concerns to which it is equal; but a public institution can alone supply those sciences which, though rarely called for, are yet necessary to complete the circle, all the parts of which contribute to the improvement of the country, and some of them to its preservation. The subject is now proposed for the consideration of Congress, because, if approved by the time the State Legislatures shall have deliberated on this extension of the Federal trusts, and the laws shall be passed, and other arrangements made for their execution, the necessary funds will be on hand and without employment. I suppose an amendment to the Constitution, by the consent of the States, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied."

"The present consideration of a national establishment, for education particularly, is rendered proper by this circumstance; also, that Congress, approving the proposition, shall yet think it eligible to found it on a donation of lands, they have it now within their power to endow it with those which will be among the earliest to produce the necessary income. This foundation would have the advantage of being independent on war, which may suspend other improvements, by requiring for its own purposes the resources destined for them."

Thus it appears that, taking the whole paragraph in relation to a national establishment of education together, Mr. Jefferson denies expressly that it is among the objects enumerated in the Constitution, and says that it will require the assent of the States, and the grant of new powers by them before it can be properly exercised. True, he says that at this time it might be endowed with public lands, but he does not say that it may be thus endowed before the States shall have assented to the amendments of the Constitution which he declares are requisite.

Mr. Madison, we are told, recommends it; but recurring to his messages, I find this language:

"The present is a favorable season, also, for bringing again into view the establishment of a national seminary of learning within the District of Columbia, and with means drawn from the property therein, subject to the authority of the General Government."

His proposition was substantially that of General Washington, to establish a national univer-

sity, within this District to be endowed with property within the District, belonging to the Government, and by private donations. But even that proposition was defeated, time and again; and although renewed at successive sessions, I believe it never commanded a majority of either House. Finally, it was proposed to amend the Constitution, so as to confer the power of establishing a national university; and that also, was negated.

I have very hastily reviewed the arguments offered in support of this bill, and have presented my own views, I fear, imperfectly, as I have spoken with difficulty, because of my physical condition. But I think I have shown that Congress has not any constitutional authority to pass this bill; that the powers claimed by its friends were refused to be given by the constitutional convention; that the only power granted in respect to art and science, is expressed in the eighth section of the first article of the Constitution, and that forbids us to go beyond the limitations therein prescribed, and that the powers asserted in this bill are hostile to the reserved rights and the true interests of the States.

Mr. GWIN. Mr. President, I am not able to come to the same conclusion with the Senator from Alabama, in regard to the constitutional power of Congress to pass this bill. If I agreed with him on that point, I would certainly not vote for it under any circumstances whatever; and I should not vote for the bill anyhow, if I were not directly instructed by the Legislature of California to do so, because I think it is not just to California. I think the proposed distribution of these lands is not just to the new States, and especially to that State; and therefore I would not vote for the bill for that reason, but for the instructions of the Legislature of my State. Donations of land have been made to all the new States for seminaries of learning. They were made to the State of California; two townships were donated to her. Alabama and Mississippi, and all the new States, have had donations of land for seminaries of learning, and I can see no difference between that and this case. In addition to that, in the State of California the five hundred thousand acres of land, which, by the act of 1841, were granted to each of the new States for purposes of internal improvement, have been, by the constitution of the State, diverted to school purposes. I cannot agree with the Senator as to the constitutional prohibition to pass this bill, or I should vote against it. Similar grants to those of which I have spoken were made to my own native State in 1806, in Mr. Jefferson's time. So it has been throughout. In the State of California we had two sections to the township donated to school purposes in the act of admission; and so, to all the new States, there have been numerous donations of land. If the amendment which I proposed the other day had been incorporated in this bill, I should vote for the bill with or without instructions; but I am instructed, directly, to vote for this bill as it came from the House, by the Legislature of California, and I shall vote for it. As it is amended, it is a better bill than it was when it came from the House. I ask the Secretary to read the instructions as the reason which will influence me to vote for the bill, though it is not as favorable to the State of California as I think it ought to be.

The Secretary read the following resolutions of the Legislature of California:

Concurrent resolutions relative to a college.

Whereas the Hon. JUSTIN S. MORRILL, of Vermont, has introduced into the House of Representatives of the United States a bill for the endowment and maintenance of a college in each State and Territory, by donating to each State and Territory a portion of the public lands; which college to be dedicated and devoted to instructions in such branches of education as pertain to agriculture, mechanical arts, and natural history: Therefore,

Be it resolved by the Senate, (the Assembly concurring,) That our Senators be instructed, and our Representatives in Congress requested, to use all honorable exertion necessary to the passing of the aforementioned bill into a law.

And be it further resolved, That his Excellency the Governor be requested to forward to our Senators and Representatives each a copy of these resolutions.

WILLIAM E. WHITESIDES,
Speaker of the Assembly.

JAMES WALKUP,
President of the Senate.

OFFICE OF SECRETARY OF STATE,
SACRAMENTO, CALIFORNIA, April 16, 1858.

I, Ferris Forman, Secretary of State of the State of California, do hereby certify that the annexed is a true and cor-

rect copy of concurrent resolutions relative to a college, now on file in my office.

Witness my hand and the great seal of State at office in Sacramento, California, the 16th day of April, A. D. [L. s.] 1858. FERRIS FORMAN, Secretary of State.

Mr. GWIN. The bill named in these instructions is the identical bill which came to us from the House. It has been amended and made more favorable to California than it was in its original form; for it gives a prospective advantage to that State. For these reasons I shall vote for the bill.

Mr. BELL. Mr. President, perhaps I shall not find any opportunity so appropriate to give an explanation of my course in relation to the subject of the distribution of the proceeds of the public lands as the present occasion. I do not propose to enter into any constitutional argument in reply to the honorable Senator from Alabama, or any other gentleman who has spoken on this subject. I have been a very earnest advocate heretofore, on proper occasions, of the policy of the distribution of the proceeds of the public lands, as a matter of justice and equity to all the States of the Union; but I have never pressed that subject upon the attention of Congress when the condition of the Treasury was not such as justified it, or when the Government was reduced to the necessity of resorting either to Treasury notes or to annual loans of money. In the period of the Mexican war, when the debt of the country was largely increased, I forbore to press the distribution of the proceeds of the public lands. When this country was prosperous a few years ago, when the payment of the debt was in rapid progress, and there was no reason to doubt that the Treasury could bear the subtraction of the net proceeds of the public lands, I again urged it; and I would, at the commencement of the last session, or at some period during the session, have introduced the bill which I had introduced a year previously; and I would have felt it my duty to introduce a similar bill at the present session, but for the condition of the Treasury of the United States.

But, sir, in the support I have given to this bill, I have not supposed that it was in conflict with the general reason and principle upon which I have forborne to press any measure for the distribution of the proceeds of the land. What is it, sir? A mere pittance, six millions out of a thousand million acres, estimated by the Secretary of the Interior to belong to the public domain. How much of that is cultivable land, he does not state; but here is a grant of six millions out of one hundred and thirty-odd million acres, that have been surveyed, and are either offered for sale in the market or subject to private entry. I believe there are over eighty million acres now subject to private entry. This is simply a pittance of six million acres, for a generous, noble object. In view of the smallness of the amount, I think it no inconsistency with my general course on this subject, to give this bill a hearty support at the present time.

I have listened to the argument of the honorable Senator from Alabama with a good deal of attention. I believe I have heard him on this subject before. I shall not undertake to answer him. I do not regard this measure as either a violation of the Constitution, or a gross iniquity in any sense. I do not mean to go into the history of similar appropriations, or even to enumerate them; but I will state that some one hundred million acres have been given for purposes of internal improvement, or improvement of some description, and education, in the several States. A hundred million acres of public lands have been given for objects not defined in the Constitution specifically, and under powers that must have been liberally construed to advance the object for which any powers in the Constitution were given. This has been done under the general power "to dispose of" the public lands, without any limitation on that power by the Constitution. The imperative obligation of the compact under which certain portions of territory were ceded to the United States before the formation of the Constitution, has long since passed. If any gentleman will look into the history of the ideas prevalent at that time, he will find that they considered the public property, the common domain, to be that which was won by the common blood and treasure of the country; and the view was that it ought to be held for the common ben-

efit of the States. The expenditure of the Revolution has long since been paid.

Let us look at what has been done recently. I do not know whether the honorable Senator has accorded his support to the measures of which I am about to speak; but within a few years past, since the year 1854 or 1855, some fifteen, perhaps twenty, million acres of the public domain, the very best portions of it, have been given for railroad purposes to individual States, under the pretense (for it was no more) of improving the value of the public lands in market, and exercising the rights of every proprietor of a large domain or a small one. It was said that an owner had the right to dispose of his domain, and might very well give away a part to secure an improvement, and thereby get a higher price for the remainder of it. I say that was a pretense. I affirm that it has been so, substantially and in fact, and nothing else, in order to get around the scruples of gentlemen in favor of that policy, because it advanced their own sectional and local interests in the Northwest or the Southwest, or elsewhere. I do not say that they were willfully violating or getting around the Constitution. They may not have made up their own minds strictly that it was constitutional, but their judgments were warped by it; and there is no man who has given his support to any of those large appropriations for internal improvements in the States, for railroads especially, in the Northwest and Southwest, that can say to himself, "this was given really, *bona fide*, for improving the public estate, and with no other motive." I do not know the whole amount, but I presume twenty million acres have been granted in that way.

Now, to show how flimsy a pretext that is, look at the State of Minnesota. You granted at least three, and I believe four, if not five million acres to that new State, on the pretext that it was to facilitate the sale of the public lands lying in the State. Why, sir, the demand was such, that repeated applications were made to buy more lands there. The policy was pursued of extinguishing more and more of the Indian title. There was a greater amount of population than could be gratified, or get settlements, on lands that they considered choice lands. You wanted additional Indian lands; you wanted an extension into the wilderness; and yet you appropriated lands to construct railroads to the furthest boundary of that new State, even when it was a Territory. There were some three million acres granted to the State of Illinois. One line of that road, it is true, opened up a market; caused a great portion of the lands which had been lying unsold for a number of years to be opened; but you included, in the specifications agreed upon in advance, certain other portions of railroad, branches going from one point to another, which could have had no such object in view, where the land had always been in demand—rich land, always able to command the minimum price at which the Government sold it. Various States have received large amounts for internal improvements, for canals as well as railroads—Ohio, Indiana, and other States. The State which you, sir, have the honor to represent, received at one period, I remember, five hundred thousand acres to improve the Muscle Shoals. I do not know how it was appropriated; it has been so long since it was done that I have really forgotten it.

Mr. CLAY. If the Senator will pardon me, I will state to him that it was all wasted, and has proved utterly valueless to the State; that the Muscle Shoals canal is now abandoned; and that the means of navigation are even worse than they were before the appropriation of this land fund. The grant, however, was four hundred thousand acres, not five hundred thousand. While I am up, I will ask the Senator whether he did not vote for the various grants to railroads and other purposes, of which he has spoken?

Mr. BELL. I did; but did not the honorable Senator vote for them?

Mr. CLAY. I did, sir; and I explained the grounds of my vote, and will repeat them now, if the Senator chooses to hear them.

Mr. BELL. At the time I voted for the Illinois grant, or at all events when the grant was asked for the State of Iowa, proposed by my friend on the right, [Mr. JONES,] and his colleague, I stated that I did it because I thought that, by so generous a course of policy to the new States, we

could mitigate the rigor with which they regarded all the public domain in their States; and which had induced them to refuse to let an acre of it, so far as depended on them, go for the benefit of any of the old States of the Union. I am prepared to stop it now; and I am sorry that I have gone into it. When the grant was made to the State of Illinois, I considered it unjust; and I thought the States in the neighborhood had a right to complain, if they were not conceded an equal privilege. I ask my friend from Iowa whether the grants of land were of any importance to that State, in facilitating the sales of the public lands?

Mr. JONES. I answer without any hesitation that they did facilitate the sales of the public lands.

Mr. BELL. To what extent?

Mr. JONES. Why, sir, in the first place, the Government raised the price of the reserved sections to \$20 an acre, so that, in that view, they lost nothing at all by the grant; but the construction of the railroads enhances the value of the public lands on each side of the road to more than double their former price, and causes emigration to come to the vicinity of the lines of the roads, because the roads are to be constructed. My friend from Tennessee must recollect that when he voted for the Illinois road, as he calls it, he voted for the State of Tennessee at the same time, because the bill was for the construction of a road from Chicago, through the States of Illinois, Kentucky, Tennessee, and Alabama, to Mobile. He was feathering his own nest then.

Mr. BELL. That is a very fair argument; but I want the Senator from Iowa to say whether it was necessary, in order to sell every acre of land at the minimum price at which the Government sold it, to construct a single railroad in Iowa? whether the richness of the soil and its fine climate, and the facilities of market which it enjoyed, and had a prospect of enjoying, would not have caused every cultivable or tillable acre of land in Iowa to be sold for \$1 25 an acre?

Mr. JONES. I have no hesitation in saying that the land would ultimately have sold for \$1 25 an acre; but I have no idea that the people of Iowa, or any other State, ought to be required to build railroads through Uncle Sam's domain, thereby enhancing the value of his lands.

Mr. BELL. My friend is going too far. What I meant to affirm was that it was a pretense.

Mr. JONES. It is no pretense.

Mr. BELL. I do not mean to make a personal charge; but I say the idea on which these grants were made was, in point of fact, a mere pretense; because the lands would all have been sold, in process of time, without any such grants. But one thing may be urged with truth, and perhaps with some strength, against me by those who have been desirous of having the benefit of a full Treasury always—that it facilitated and quickened the sales of the public lands; but the fact is that these grants were made at a period when the Treasury was overflowing; when there was not this economical spasm which has lately come upon some gentlemen of the Senate, and which pervades the country generally—a spasm which reaches to small things and never touches large ones. When the grants were made there was no necessity, on account of the condition of the Treasury, to facilitate or quicken the sales of the public lands; for we had more money than we wanted.

Mr. JONES. My friend from Tennessee will allow me—

Mr. BELL. I must beg to go on.

Mr. JONES. You called me out, and I want to answer your question as fully as I can. In the State of Illinois there were lands through which the railroad that he has alluded to was pressed to be built, and is now built, which had been in market forty years and had not been sold, as fine land as the sun shone upon.

Mr. BELL. I stated that myself; but it would have been sold.

Mr. JONES. The construction of railroads does enhance the value of the public lands and quicken their sale, as was shown in the case of the Illinois road.

Mr. BELL. But I will cross-question my friend a little now.

Mr. JONES. Do.

Mr. BELL. Were there not transverse roads constructed by private capital, through the same region, which, in a few years, would have brought

into market all those fine lands on the line of the Illinois central railroad?

Mr. JONES. Certainly not.

Mr. BELL. But there are transverse roads penetrating through them?

Mr. JONES. I know there are.

Mr. BELL. I contend that, considering the prosperous state of the country at that time, all these lands would have been brought into market without these grants; and, I was on the point of saying, that there was no necessity to quicken the sales of the public lands by making grants for railroad purposes. I have already alluded to Minnesota. The emigration there was then so great, that, at the very period when the grant was made, the supply of lands fit for cultivation, which had already been acquired from the Indians, was not considered sufficient to meet the demand. You do not sell your lands for the highest price you could get in market overt. Lands which could be sold for fifteen or twenty dollars an acre, you give to the emigrant for \$1 25. I repeat, that at the very time when these millions of acres were given, under pretense that it was to improve the public domain; that we had a right, as proprietor, to do it; that it was no violation of the Constitution, because it was our business to dispose of the public domain on the best terms; you had not a sufficient supply of public lands to meet the demand of the emigrant at \$1 25 an acre.

The honorable Senator asks me if I did not feel interested in the grant for the sake of Illinois. Sir, I did feel an interest, but I felt the iniquity and the injustice of the act. I saw how the obstacle of the Constitution was got around by such an allegation as was made, even then; and I offered an amendment providing that a portion of the lands proposed by that bill to be given to Alabama and Mississippi and Illinois, should be given to the States of Kentucky and Tennessee, where there were no public lands, according to the length of the road in those States. I wished to have the grant divided between the States through which the road ran *pro rata*, according to its length in each State. In the progress of the discussion which ensued on that amendment, an honorable Senator from New Jersey made a proposition for a general distribution of the proceeds of the public lands. One of your distinguished predecessors, sir, who was at that time the President of the Senate, and who was afterwards Vice President of the United States, (Mr. William R. King,) left the chair and came to me in company with the Senator from Illinois, [Mr. DOUGLAS,] and begged me to withdraw my amendment, for the reason that if I pressed it the loss of the bill was inevitable. I told them, and I had told the Senate before, the ground on which I made the proposition; that I considered the original scheme unjust and iniquitous; that the Constitution was as good for an appropriation of public lands to an old State as to a new State, and that I was determined to press my amendment for a ratable proportion of that land to build the road in that portion of Kentucky and Tennessee which lay between the Ohio and the boundary line of Mississippi, to which the road proposed to pass. They took up the last section of the bill, and told me that, in their opinion, the provisions of that section were ample to secure the benefit asked for by my amendment; that such, in their opinion, would be the construction of it; and they asked me to look at it, and as they supposed I was favorable to the construction of the road, as it ran through a part of the State I had the honor to represent, expressed the earnest request that I would withdraw my amendment. I looked at the section; I supposed it might fairly bear that construction, and I withdrew my amendment, and voted for the bill.

That is the explanation of the interest I had in that measure. It was an interest looking to the effect of these grants on the general disposition of the public domain; looking to their effect in the future upon some equal distribution of them to the old States as well as the new. I went to the Senator from New Jersey, who had proposed an amendment to my amendment which I saw would defeat it, and said to him, "Sir, you are doing what is calculated to defeat your own object;" and I begged him, before I was applied to to withdraw my amendment, to withdraw his. I said to him, "Sir, do you not see that if a ratable proportion of this land is voted to construct this road through

Kentucky and Tennessee, it is the entering wedge to an equitable distribution of the public domain among all the States, and you will be entitled, upon the same principle, to get it to aid you in the construction of any road in New Jersey, and so of any other State in the Union?" I insisted earnestly that he should withdraw it, and it was done. Is not that a fair mode of legislation? Is it not a fair and legitimate and parliamentary mode of getting the adoption of a general principle, not in violation of the Constitution? I stood upon the ground that it was as constitutional to give the lands to the State of Kentucky, and to the State I represented, as to Alabama and Illinois. I could see no distinction in principle. I do not feel my conscience wrung by making such a grant, although I differ in my judgment as to the construction of the powers conferred in the Constitution with the honorable Senator from Alabama, and many other honorable Senators. I know that in the construction they give they are conscientious, and I trust I am so, too, in my interpretation of the Constitution.

I felt it due to myself, particularly in relation to the distribution of the proceeds of the public lands generally, that I should take this occasion to explain why I had not proposed a general bill for that purpose.

Mr. BROWN. Mr. President, I do not intend to prolong this debate, for I am exceedingly anxious to proceed to the consideration of another question. My vote will not be recorded in favor of this bill; because, in my opinion, the judgment of the people whom I have the honor to represent is opposed to it. I feel none of that earnest opposition, however, to the bill which has been expressed by other gentlemen coming from the same section from which I came. I have seen in it none of those enormities which other gentlemen have seen, and have attempted to point out. I have not perceived that the rights of the States are to be violated by the passage of the bill. I do not understand that the rights of the States are violated by giving to each, to be enjoyed in severalty, a portion of that which belongs to all of them in the aggregate, or setting apart to each, to be enjoyed in severalty, a portion of that which belongs to all in the aggregate.

I have not seen, in other regards, that there will be in the passage of the bill that palpable violation of the Constitution which my friend from Alabama attempted to point out this morning. The bill, as I understand it, does not assume, upon the part of the Federal Government, the right to go into the States and take cognizance of the subject of agriculture. It no more does it, than did Congress, in passing the several acts enumerated by the Senator from Tennessee, assume jurisdiction over the questions named in those acts. When five hundred thousand acres of land were given to my State for the purposes of internal improvement, the Federal Government did not assert its right to go into that State and make internal improvements. When a much larger quantity was given for the purposes of swamp drainage, Congress did not assert its power to drain swamps. When quantities of land have been given to the States for other purposes, Congress has not asserted its jurisdiction, in my opinion, over those subjects.

Congress, as I understand the case, has said this: "We have no power to make internal improvements in the States; but you have; we have the power to dispose of the public lands, to give them away; we think internal improvements and the building of railroads a good object to be accomplished within your limits; we cannot do it; but we will give you so much land if you will do it." So in reference to the passage of the swamp land bills. Congress admitting that it had no right to go into a State and drain the swamps—said, in fact, to the States: "You have the right to do it; we think it ought to be done; we have the power to give the land; we give it for that object, if you will thus apply it." Congress now says, or proposes to say, in reference to this matter: "We have no right to erect agricultural colleges within your limits; you have; we think agricultural colleges ought to be erected; if you will do it then we will give so much land to aid in the object."

That brings us back to the question, whether Congress has power to give the land for any purpose? I maintain that it has; that the power to

dispose of the land necessarily carries with it the right to give it, or else the English language is meaningless. The only limitation, in my judgment, upon the power to give, is, that you shall not give it for a purpose prohibited by the Constitution. Certain salaries are fixed by law; and they can neither be increased nor diminished during the incumbency of the officer. You cannot give the public land to that officer, as an officer; because, in doing that, you would violate one of the prohibitions of the Constitution.

But I have seen no justification for any of these land grants for railroad purposes, for general purposes of internal improvements, for school purposes, or anything else, unless it be found in that clause of the Constitution which gives Congress the power to dispose of the public lands; "dispose of," meaning to give, to sell, to lease, to rent. Then, when they give it for a particular object, they do not take cognizance of the object. The State retains its authority over the question, and is simply aided by Congress in doing that which it has the right to do.

To illustrate, sir; I should have no right to erect a school-house on your premises; but I have the right to dispose of my own money. If I think a school-house ought to be erected there, I say to you, the proprietor: "Erect a school-house, and I will contribute \$500 to the object." I do not take any jurisdiction; I exercise no authority over the matter at all. You can either accept my proposition or not. I simply propose to come in aid of an object which I believe is right. I have no right to go upon any lot in the city of Washington and erect a church, because the fee-simple over the soil is not in me; but, certainly, I have the right, if somebody else proposes to erect the church, to give my own money, or to give that which I have the right to give, towards the object which I have no right to accomplish solely and of myself. So I say of this question. While you have no right to erect, within the limits of the States, agricultural colleges, or colleges of any other kind, you have the right to say to the States: "This power is with you; you have the sovereignty; and if you, the sovereign, think proper to erect a college, we will do what we can by contributing out of that from which we have the right to contribute."

Thus viewing the question, without attempting to elaborate it, I shall vote, as I said before, if I vote at all, against this bill; but I do it—understand me—in deference distinctly to what I understand to be the judgment of my own State. The State does not want the bill to pass. I am here to represent her interests, and to represent her views; but I could not record a vote, contrary to my own sense of justice, against what I think ought to be done in the premises, without explaining the reasons why I do so.

Mr. WADE. I hope the friends of the bill will now permit the vote to be taken. I do not think any more light can be thrown on it by discussion. There was an amendment offered to the bill this morning which was entirely out of order. The unanimous consent of the Senate was asked to allow the amendment to be offered. My attention was not called to it; I did not know that such an amendment was offered, or I should most certainly have objected at this stage of the bill.

The PRESIDENT *pro tempore*. Does the Senator object to receiving the amendment?

Mr. WADE. I do object to it.

The PRESIDENT *pro tempore*. Then the amendment is not in order; and the question is on the passage of the bill.

Mr. DAVIS. Mr. President, I concur very fully with the views this morning presented by the honorable Senator from Alabama on the constitutional and moral questions involved in this bill. I shall avoid, therefore, entering upon the same ground, which I think he has covered so ably as to leave nothing more to be said. I merely wish to say, at this time, that all arguments founded upon a reference to the lexicons to find the meaning of the term "dispose of," seem to me rather beneath the dignity of Senators. We should go to the history of the transaction to learn what the word meant in the connection in which it was used.

It is known that, after the close of the revolutionary struggle, when the States were burdened with debt, certain States held very large amounts of territory, and it constituted a ground of com-

plaint on the part of the States holding no such territory; and especially against Virginia the argument was directed that the Northwest Territory, then claimed by Virginia, had been conquered by the joint forces of the States; that it constituted the foundation of a part of the public debt which then existed; and that it should be given for its liquidation. Georgia, holding a very large amount of territory, what was afterwards known as the Southwest Territory, from the same motives and high generosity which actuated Virginia, made, by deed of cession, as in the case of Virginia, this vast territory to become a public fund, common for the States; and it was provided that it should be disposed of, and applied *pro rata* to the States, to relieve them of the burdens of the expenditure of the General Government. If the argument which ingenuity brings in at this day, that the right "to dispose of" gave the power to grant, without compensation, had been applied to the public domain, and it had been given away, what faith would have been kept with the deed of cession? What would there have been to distribute, to relieve the States of the burdens of Government? How would the quotas demanded of the States, for the expenditures of the Government, have been diminished, by giving away the vast domain which these States had ceded to the Federal Union? To present the question, and to state it, is to answer it. Argument cannot refute what is so plain upon the very surface.

If, then, Mr. President, these lands were given, and for such specific objects named in the deed of cession, could it ensue, by using the brief language of the grant in the Constitution, that the terms of the cession could be abrogated, so that one of the contracting parties would lose all the benefit anticipated, and the very purpose for which the grant was made be swept away by a subsequent construction of the grant, expressed in such brief terms as not to imply all that was contained in the contract between the States generally and the particular State making the cession?

The Senator from Tennessee, however, directs his argument to the fact, that grants have been made to particular States; and asks, why should not the other States have grants like them? The difference between Tennessee and Alabama is, that Alabama has received a certain portion of the public land within her limits, and Tennessee the whole. What more would the Senator want for Tennessee than all the land that lay within her borders? The new States have received a part; the old States got all; and yet this constant appeal is made to Congress against the new States as having been the beneficiaries of grants of which the old States are deprived. The case is otherwise.

But again, sir: the grants to which he alluded, if they were made from any sound principle, were to increase the value of the property, and to promote the revenue of the United States. So far as grants of land have been made to construct railroads, merely on the general theory that railroads were a good thing, the Federal Government has violated its trust and exceeded the powers conferred upon it; but where a grant has been made of a certain portion of land, to increase the value of the residue, and bring it into cultivation, and by its product to promote the commerce and wealth of the country, and thus to increase the ability of the Government to bear its burdens, it rests on a principle such as a prudent proprietor would apply to the conduct of his own affairs. Thus far it is defensible; no further. The land grants to the new States for education rests on the same general principle, together with this: that the new States, soverieigns like the old, admitted to be equal, before taking both the eminent and the useful domain, entered into a contract with the other States, that they would relieve from taxation the land within their borders while owned by the General Government, and, since the credit system, for five years after the day of sale. This is the consideration for which land grants have been made to the new States; and a high price they have paid for all that has been granted for educational purposes.

So far as the swamp or overflowed lands were granted, they were granted upon the theory that the land was not only useless to the General Government until it was drained, but that it was injurious to the neighboring population; and that it was a duty on the part of the Federal Govern-

ment to grant the land away, that it might be drained, and the nuisance which the swamp created upon the neighboring population thus be removed by the application of the overflowed land to that object.

In every case, so far as I am aware, in which grants have been made within the new States, they have come within one of these conditions. If frauds have been perpetrated, if pretenses have been adopted, and grants have been obtained under them, still, I say, they stand excused by the fact that this reason was presented; and it was necessary to practice delusion before the Government could be warped so far from the path it had previously followed.

The *PRESIDENT pro tempore*. The question is on the passage of the bill.

Mr. HUNTER and Mr. REID called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. JOHNSON, of Tennessee, when his name was called, said: I wish to state that the Senator from Michigan, Mr. STUART, who was an advocate and decided friend of this bill, is confined to his bed by sickness, and requested me this morning to pair off with him; and, that being the case, I shall not vote. Otherwise, I should vote against the bill.

Mr. TOOMBS, when his name was called, said: I have paired off with the honorable Senator from Illinois, Mr. DOUGLAS. He is for, and I am against, the bill.

The calling of the roll having been concluded, Mr. YULEE said: If I voted, I should vote against the bill; but at the request of one of the Senators from Pennsylvania, Mr. BIGLER, I paired off with him, he being necessarily absent.

Mr. BRIGHT. I forgot, when I voted, that I had paired off with the Senator from Connecticut, Mr. FOSTER, who is confined to his room by indisposition. I ask to withdraw my vote.

["No objection."]'

Mr. BENJAMIN. I have voted in the negative; but I am inclined to think that the Senator from New Jersey, Mr. WRIGHT, who is not present, considers that he has paired off with me. The Senator from Florida, Mr. MALLORY, thinks his pair was not with me; but I know it was with one of us. I ask leave, under the circumstances, to withdraw my vote. I know he relies on a pair with one of us.

The *PRESIDENT pro tempore*. The Chair will understand that leave is granted to withdraw the vote, unless objection be made. The Chair hears no objection.

The result was announced—yeas 25, nays 22; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doollittle, Durkee, Fessenden, Foot, Gwin, Hale, Hamlin, Harlan, Kennedy, King, Seward, Simmons, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Wilson—25.

NAYS—Messrs. Bayard, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Green, Hammond, Houston, Hunter, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Shields, Slidell, and Ward—22.

So the bill was passed.

Mr. IVERSON subsequently said: I was accidentally absent when the bill making donations of land for agricultural purposes was taken up. If I had been present I should have voted against the bill.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the *PRESIDENT pro tempore*:

A bill (S. No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of Louisiana;

A bill (S. No. 123) for the relief of Henry Hubbard;

A bill (S. No. 276) for the relief of Mrs. Ambrose Brou, of the parish of St. Charles, State of Louisiana;

A bill (S. No. 284) for the relief of C. Edwards Habicht, administrator of J. W. P. Lewis; and

A joint resolution (S. No. 54) for changing the plan of the custom-house at Galveston, in the State of Texas.

ORDER OF BUSINESS.

Mr. BROWN. I now call up the regular order of the day, being the unfinished business of Saturday.

Mr. HUNTER. That is the regular order; but I move to postpone all prior orders for the purpose of taking up the consular and diplomatic appropriation bill that was reported on Friday.

Mr. BROWN. I hope that will not be done. I do not want to discuss the question with the Senator. I am willing to take the sense of the Senate. I think we had better go on with the unfinished business of Saturday, and dispose of it.

Mr. HUNTER. I think we had better take up the public business in preference to everything else.

Mr. REID. I should like to know whether the bill to which the Senator from Mississippi alludes is the unfinished business to be considered to-day. I understand that the business of the District of Columbia was taken up on Saturday by special resolution. Saturday was spent upon that business, and the unfinished business of the District of Columbia has no priority over other business, for the reason that Saturday alone was assigned for its consideration, and that day having passed, it goes back upon the Calendar just as it was before. It seems to me to be like the case of a private bill. You might as well say that if, when on Friday you left off with the Private Calendar, there was any unfinished business, it comes up now, as say that this business set apart for Saturday, now takes precedence of other business.

Mr. BROWN. I suggest to the Senator from North Carolina, that on Saturday evening I asked the Presiding Officer whether this would be the unfinished business of Monday morning if we then adjourned. He replied that it would. There was no objection made then to that view of the case, and supposing it to be universally acquiesced in, I said I would call it up to-day.

Mr. BRIGHT. I think the point of order made by the honorable Senator from North Carolina is well taken. Saturday was assigned specially for District business; and when the business for the District of Columbia came up, the bill referred to by the Senator from Mississippi had priority. I moved to substitute another bill relating to the business of the District. The Senate voted me down; and I take it that the bill referred to by the Senator now takes its place on the Calendar where it was found when he offered his resolution, behind other prior orders.

Mr. BROWN. If that view of the case was to be urged, it ought to have been done on Saturday evening, and not now; for I asked the opinion of the Chair distinctly whether, having found ourselves without a quorum, and having arrived at the point of having a call of the Senate, and sending for absent members, or adjourning, this would be the first business on Monday morning. I was answered emphatically that it would, and then we adjourned.

Mr. REID. I can say that I have no particular objection to disposing of this bill; all I desire is that the question may be settled properly, because it may be a precedent hereafter. If the Chair at the time made a mistake in saying this would come up to-day, as the unfinished business of Saturday, we ought to correct it. I do not know that I have any particular objection, but I desire to protest against the rule laid down by the Senator from Mississippi, that this business does take precedence; because it does not, most clearly.

The *PRESIDENT pro tempore*. The Chair will call for the reading of the rule, which he thinks controls the matter.

The Secretary read the 15th rule, as follows:

"The unfinished business in which the Senate was engaged at the last preceding adjournment, shall have the preference in the special orders of the day."

The *PRESIDENT pro tempore*. The Chair will state to the Senate that it is usual to assign a particular bill for a particular day; and when the Senate proceeds to the consideration of that bill, and it is not finished, but the Senate adjourns before disposing of it, that bill is the first business in order the next day. The Chair can recognize no difference between an assignment of a particular bill and a class of bills, when the Senate fail to finish the business and adjourn before disposing of a bill. He thinks, therefore, that this is the first business now in order.

Mr. BROWN. I hope we shall proceed with it. Mr. SLIDELL. Before the vote is taken, I wish to say that I shall vote against the motion of the Senator from Virginia to take up the con-

sular and diplomatic appropriation bill; because, if his motion should fail, I then mean to move to postpone the prior orders for the purpose of taking up the bill for the acquisition of Cuba; and I will say now, that if the Senator from Virginia should succeed in taking up his bill, it will probably lead to a protracted discussion, and I shall feel it due to my position in relation to the great question that is placed under my charge by the report of the Committee on Foreign Relations, to move it as an amendment to that appropriation bill. I am determined that this discussion shall be had in some form or other, and that a vote shall be taken on this measure. I understood the chairman of the Committee on Finance, on Monday last, to say that if the Indian appropriation bill were allowed to be taken up then, it would probably not lead to any protracted discussion, and that after it should be disposed of he would sustain me in an attempt to get up the bill for the acquisition of Cuba. A whole week has passed, and we are not at all advanced. I merely think it proper to state the reasons why I shall not vote, as I usually do, to support the motions which my friend from Virginia, the chairman of the Committee on Finance, to bring up the appropriation bills; but if this motion of his does succeed, I shall, in the course of the discussion of that bill, move as an amendment the bill for the acquisition of Cuba.

Mr. HUNTER. I only wish to say that I did not mean to be understood as agreeing to postpone appropriation bills for anything. There has been an interval since the Indian appropriation bill was disposed of, during which, I should have been willing to take up the Senator's bill, but those days were devoted to other things. I should have been willing to take it up on Saturday. I only ask the decision of the Senate, and if they agree to my motion then the bill will be up, and the Senator can do as he chooses about offering amendments.

Mr. BROWN. I only ask the Presiding Officer to take the question.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Virginia, to postpone the prior orders, and take up the consular and diplomatic appropriation bill.

Mr. POLK called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. POLK. I have paired off with the Senator from Connecticut, Mr. FOSTER.

Mr. CLINGMAN. I vote in the affirmative; saying, however, I am willing to settle the railroad matter if it comes up, in any shape, but I will vote to take up the appropriation bill merely because I think it more important.

Mr. CHESNUT. I desire to withdraw my vote. I had paired off with the Senator from New Hampshire, Mr. CLARK.

The result was announced—yeas 21, nays 27; as follows:

YEAS—Messrs. Bates, Bell, Bright, Clingman, Collamer, Crittenden, Davis, Fitzpatrick, Foot, Houston, Hunter, Johnson of Tennessee, Jones, Mallory, Mason, Pugh, Reid, Sebastian, Shields, Toombs, and Ward—21.

NAYS—Messrs. Allen, Bayard, Benjamin, Broderick, Brown, Cameron, Chandler, Clay, Dixon, Doolittle, Durkee, Fessenden, Green, Hale, Hamlin, Harlan, Kennedy, King, Seward, Slidell, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, Wilson, and Yulee—27.

So the motion of Mr. HUNTER was not agreed to.

Mr. SLIDELL. I believe it is now in order to move to postpone the consideration of all the prior orders, for the purpose of taking up the bill (S. No. 497) making appropriations to facilitate the acquisition of the Island of Cuba by negotiation. I will say to the Senator from Mississippi, [Mr. Brown,] that if he will agree to take up this bill informally, merely for the purpose of allowing one or two amendments to be proposed, and then pass it over until to-morrow, I shall not object to going on with the avenue railroad bill.

Mr. HUNTER. If it be taken up, I shall insist on going on with that bill. I shall not agree to take it up and have it passed over to clog up the appropriation bills. If we take it up, I shall insist on going through with it.

Mr. SLIDELL. Then, I shall be happy to have the aid of my friend from Virginia to get the bill through to-day.

Mr. BROWN. Everybody who knows anything of my opinions, knows that I shall vote for the Cuba bill, and perhaps I should like to vote

a larger sum of money than the bill proposes; but I cannot consent to have it interposed in this way, ahead of the railroad bill. We had better have a railroad on the avenue, than Cuba, just now. I hope we shall take the question without debate.

Mr. SLIDELL. It has been suggested to me that, in consequence of the illness or indisposition on the part of a number of Senators on both sides of the House, some of those who are in favor of the bill for the acquisition of Cuba, it would, probably, be a waste of time to take the yeas and nays.

RAILWAY ON PENNSYLVANIA AVENUE.

THE PRESIDING OFFICER, (Mr. Foot in the chair.) The motion of the Senator from Louisiana being withdrawn, the business before the Senate is the bill (H. R. No. 241) in relation to a railway along Pennsylvania avenue, in Washington city, in the District of Columbia. The pending question is on concurring in the amendment made as in Committee of the Whole, to strike out in section two, line six, the words "shall not be more than four feet," and insert, "shall not be less than five feet two and a half inches;" and in line seven, to strike out "exceed six," and insert, "be less than seven;" so that it will read:

The gauge of the tracks, and the space between them, shall not be less than five feet two and a half inches, and the carriages shall not be less than seven feet in width.

The vote having been taken at the last time this bill was before the Senate, no quorum voting, all further action was suspended. The yeas and nays were ordered on the amendment.

Mr. BROWN. The amendment was adopted on my motion. On consultation, subsequently, I am satisfied that it is wrong. I hope it will be voted down. I would withdraw it if I had the power to do so.

Mr. MALLORY. If this railroad is to be of any service whatever, and not to be a perfect sham, the amendment ought to be retained. The Senator from Mississippi was perfectly right in thus amending the bill. Five feet two and a half inches will give the proper width for the cars; and unless we desire to authorize these contractors to take their omnibuses from the present line and put them upon wheels on this road, which will be a mere sham of a railroad, we must keep in this amendment.

The question being taken by yeas and nays, resulted—yeas 29, nays 24; as follows:

YEAS—Messrs. Bates, Bell, Bright, Chesnut, Clay, Crittenden, Davis, Fitch, Fitzpatrick, Foot, Gwin, Houston, Hunter, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Sebastian, Shields, Simmons, Slidell, Thompson of Kentucky, Toombs, Trumbull, Ward, and Yulee—29.

NAYS—Messrs. Allen, Bayard, Benjamin, Broderick, Brown, Cameron, Chandler, Clingman, Collamer, Dixon, Doolittle, Durkee, Fessenden, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Rice, Seward, Thomson of New Jersey, Wade, and Wilson—24.

So the amendment was concurred in.

The next amendment made as in Committee of the Whole, was to insert as a new section:

And be it further enacted, That nothing in this act contained shall be construed to authorize the said Washington Passenger Railway Company to make, issue, or put in circulation, any bill, draft, check, order, promissory note, exchange ticket, or anything else promissory or agreeing to pay money, intended to be circulated as money or currency; and the violation of any one of the provisions of this section shall be a forfeiture of the charter herein granted, and a fine of fifty dollars against each of the directors voting for the same.

Mr. BROWN. It will be recollected that I said the other day, when this amendment was proposed, that the only objection I had to it was, that it was no amendment to the bill at all. The Senate has just put in an amendment against my remonstrance; and now I make no objection to this. Let it go in.

Mr. HALE. I simply ask that it may be read. As I understand it, it prevents them issuing tickets of any sort.

Mr. JOHNSON, of Tennessee. Not at all.

Mr. BROWN. I understand it is tickets to circulate as money.

The Secretary read the amendment.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to add as a new section:

And be it further enacted, That each of the stockholders in the said passenger railway company shall be liable, in

his or her individual capacity, for all the debts and liabilities of the said company however contracted or incurred, to be recovered by suit as other debts or liabilities, before the court or tribunal having jurisdiction of the case.

The amendment was concurred in; there being, on a division—yeas 25, nays 19.

THE PRESIDING OFFICER. The Chair understands that all the amendments recommended by the Senate, acting as in Committee of the Whole, are disposed of. The bill is now open to further amendment.

Mr. REID. I desire to renew the amendment which I moved on Saturday. It is, in section one, lines three and four, to strike out the words "Gilbert Vanderwerken, Bayard Clarke, Asa P. Robinson, and their assigns, are hereby authorized," and insert in lieu thereof:

The Mayors of Washington and Georgetown shall cause to be opened books of subscription; and when the sum of \$150,000 shall have been subscribed, in shares of \$100 each, the said subscribers shall, &c.

Mr. BROWN. That amendment was very fully discussed on Saturday. We took the yeas and nays on it. I do not know but that we shall have the yeas and nays again, a second and third and fourth time on it; but I suppose every Senator understands the question without debate, and I implore the friends of the bill to let us vote; let us act; let us get on.

Mr. REID called for the yeas and nays; and they were ordered.

Mr. MASON. Mr. President, I am one of those who thought that it was a desirable object to have a railroad along Pennsylvania avenue for public convenience; but I think the progress of this bill ought to satisfy gentlemen, it certainly has satisfied me, that it is acting unfairly, not using that word in any personal sense, but it is acting unfairly towards the people of the city of Washington. I have become well satisfied, within the last week, that the people of Washington have been, in some way, misled in this matter of a railroad along that avenue. I know, as other gentlemen know, that there has been, heretofore, a strong disinclination always evinced in the Senate, and for aught I know in the House too, to having a railroad on that avenue at all; and that has been assigned to me by gentlemen in Washington in whom I have confidence, as a reason why the people of the city of Washington have not heretofore asked Congress for permission to lay down the road. According to my strong impressions, the honorable Senator from Mississippi, who is at the head of the Committee on the District of Columbia, was himself one of those most decidedly opposed to having this avenue obstructed by a railroad. I think I heard him express those opinions heretofore. Perhaps he has yielded them only to the general sense of the Senate. I know there were other Senators who entertained the same opinion, and thus the people of the city of Washington have been deterred from coming before the Senate to ask for this privilege.

Now, how does it stand? Here are some three or four individuals, those named in the bill, with what associates I know not, who got a bill passed through the House of Representatives during the last session, and are now pressing it on the Senate, to give them a franchise, which I at least believe, and other Senators, I am sure, agree with me, is one of great value. What it is I know not; but I do know that railroads in the cities are the subject of very productive stock. We can hardly suppose that these gentlemen would be willing to invest their capital unless they expected to get very certain returns, and very large returns; and we are about voting away to those who are really strangers to the permanent residents of the city of Washington, what, in my judgment, ought to be given to the city. I am in favor of a road along Pennsylvania avenue. I have not been one of those who thought it would obstruct the avenue, or cause public inconvenience there; but I think, with all respect for the opinion of others, that an opportunity should be offered in the usual way where a public franchise is to be disposed of, to give the citizens of the locality an opportunity to avail themselves of it. I shall, therefore, very cheerfully vote for the amendment.

Mr. BROWN. The Senator from Virginia takes occasion to remark, that I was understood at the last session of Congress to be opposed to putting a railroad on the avenue. If the Senator had been quite attentive to what I have been say-

ing the last two or three days on this subject, he would have understood that I am still opposed to it. I said no longer ago than last Saturday, after four o'clock, that if I had it in my power to crush out this whole scheme, I would do it; but in that opinion I have not been sustained. I was not sustained by the committee of which I am chairman; I have not been sustained by public opinion in Washington; but I have been betrayed and deceived by those who came to tell me what was public opinion. The very men who came during the last session of Congress to prompt me in my opposition, and promised to stand by me in opposing the marring of this straight avenue with a railroad, have this very session petitioned themselves for the franchise. What am I to infer from such conduct? Not that they were my friends in my real opposition to this scheme, but that they chose to use me for a purpose, to prevent this company getting the franchise, until they could fix the triggers to get it themselves. I spurn and spit upon such wretched trickery as that, I care not from what quarter it may emanate. I was sincere and honest, and am now, in my opposition to marring Pennsylvania avenue with a railroad of any kind; but I know that I am not sustained anywhere in that opposition; and it is simply a scramble as to who shall have it.

Vanderwerken had the start. He got the bill through the House. He brought it to the Senate; had it twice read and referred; got a favorable report from the committee of which I am chairman, against my remonstrance, and I alone defeated him during the last session of Congress, by refusing to call up his bill. I could have had his bill passed as easy as to have turned my hand over, if I had called it up, but I would not do it. I would not do it because I thought I was sustained by a real sentiment in opposition to any road upon the avenue; but the men who prompted me to think so have dodged out of line, and have come in this session asking the franchise for themselves. When the question was presented to me in that position, I turned to old Vanderwerken, and said: "I did you injustice; these men have betrayed my confidence; they have practiced a fraud upon me, and I will not stand by them; but from this hour forth I will stand by you, and if anybody, with my consent, puts a railroad upon the avenue, it shall be you and your associates."

Petitions lie on your table, sir. Senators deceive themselves to suppose there is any public sentiment in Washington against marring the avenue with a railroad. There is none. There are half a dozen companies seeking the privilege. Five out of the half dozen are opposed to Vanderwerken. If any of the others occupied his position, the other five would combine against him. That is the way the case stands. If the Metropolitan Company had their bill in the position this is in, you would find all the rest combined against them. If Parker & Maury had theirs, or if the other parties who are petitioning had their bill before the Senate, all the rest would combine against them. It is not opposition to putting a road there; but it is a scramble among them as to who shall have the benefit of it when it is done. Senators mistake, if they suppose there is any general sentiment here against putting a railroad on the avenue. I tell you now, sir, there is not an important mercantile firm, or an important citizen, from the western gate of the Capitol to Georgetown, that I know of, whose name is not signed to somebody's petition for this road. If there be one, I do not know who it is. I know that some of the very parties—I repeat it again—who remonstrated last winter against putting the road on the avenue, have this year themselves come here and petitioned for the privilege of doing it. I stand by Vanderwerken & Co., because, as I have said before, they got their bill through the House; they brought it to the Senate, and what I thought was genuine sentiment was opposed to it, but that sentiment has turned out to be fraudulent; and when I found that out, I became the friend of the bill, and have been so ever since.

Mr. MASON. I profess to know nothing in the world of the opinions of the citizens of Washington about this road; but I can very well understand that the citizens of Washington are like the citizens of other cities in reference to it. I have understood, in my intercourse with citizens in other places, that the persons living on the line of such a road, those living on the street which the

road is to pervade, are generally opposed to its construction, and for various reasons. One is an idea that it would endanger the passage of horses and carriages through the city, and endanger the lives and safety of foot passengers. Another is, that it would depreciate the price of their property on that street, by bringing other streets into competition with it, from the facility of getting at them; and such, I think, very probably was the opinion of the people on Pennsylvania avenue. I have no means of collecting it. What I mean to say is this: it being understood that the opinion of the chairman of the Committee on the District of Columbia was against placing a railroad on the avenue, it was natural that people in other parts of the city in favor of it, were deterred from coming forward. I do not know whether there is a scramble or not; but if there is, the best way is to let them all come in to participate, to make it a joint stock, and let all who choose subscribe.

Mr. WILSON. The Senator from Virginia is certainly mistaken in the statement which he has made that the inhabitants along Pennsylvania avenue, the line of this proposed railroad, are opposed to it. I have here the petition of nearly two hundred of the property-holders and business men on the avenue, asking the Senate to pass this bill as it has passed the House of Representatives. One hundred and ninety-odd property-holders and business men on the avenue ask the Senate to pass this bill! I have here, also, a remonstrance against its passage, from forty-one persons along the line of the road—one hundred and ninety-odd to forty-one! Here, then, is the expression of the sentiment of the people along the line of this proposed road. I have also a petition of the business men and property-holders of Georgetown—I have not counted them, but I think they cannot be less than two hundred—asking the Senate to pass this bill.

Now, Mr. President, in regard to the expression of opinion, I entertain no doubt whatever that a large majority of the property-holders and the business men, the mechanics and the laboring men of this District, are in favor of this bill. It is true that an opposition has been organized to this measure since it passed the House of Representatives. There is a wild, vague idea here, all about the Capitol, in regard to the value of this franchise; and this idea of its great value has brought here a class of men who are organized into several bodies, who desire to secure this franchise for themselves. Now, sir, I care not who has it. If any one of these parties had come here and carried a bill through the House of Representatives, and were before us, I would vote it for them. But here is a measure to build a railroad that must be a great public convenience; that instead of being a disadvantage in the avenue, will be a great advantage to the entire community. The value of a railway of this kind in this city, to the mass of the community, is almost beyond calculation. It is a matter of comfort, of convenience, of increased power. That it will be a very good property, I do not entertain a doubt. That it is to be of the enormous value estimated out of the Capitol and in the Capitol, I do doubt. There are no facts in this country, none in the experience of Philadelphia, New York, Boston, or any other northern cities, to sustain the idea advanced here. You have upon this avenue a line of omnibuses, carrying about twenty-five hundred passengers per day. When this road is built, it may increase the number of passengers; but no such immense profits will be realized by the building and running a road of this kind.

We have spent a great deal of time on this measure—a vast deal more than I think the whole concern is worth. Two days of the Senate of the United States have already been occupied in saying whether a company of men, headed by a man who has established an omnibus line in this city, who has established that line at an expense of tens of thousands of dollars, who has his all in that line, shall have the privilege of establishing a horse-railroad from this Capitol to the borders of the city of Georgetown. Two days have already been expended in discussing this bill, which to me seems to be one of a most trifling character. The Senator from Virginia has said that persons outside of the District have an interest in it. If there be a man living in Washington who has a right to come here and ask for this privilege, it is the man who runs the omnibus line; for that line

is to be destroyed by the passage of any bill of this kind. He comes here and asks it at our hands, and he has a claim on us that no living man has. The evidence is before us, that a majority in number, and a majority in amount, of the parties interested, live in this District, and are citizens of this District. Whoever establishes this railroad, I hope they will make money by it. I know that if a road be built here, it will be a measure of convenience to the public. It will be no doubt a productive property; and it is no argument to me to say that those who build it may make money out of it. I trust they will. But, sir, as this bill has passed the House of Representatives giving these parties this privilege, I shall vote for the bill. Had other parties come here and asked for it, and were the bill before us for them, I should vote just as readily for them.

Mr. JONES. I desire to ask the Senator from Massachusetts whether he does not know that it is a fact that there was an omnibus line here called the Naylor line, before Vanderwerken put his line in operation? whether Vanderwerken & Co. did not buy out Naylor? whether there was not, soon after that, an independent line put on the avenue? and whether this monopoly, at the head of which is Mr. Vanderwerken and his associates, did not break that line down by lowering the rates, and putting on the avenue a large number of omnibuses? and whether, when it was broken down, Vanderwerken & Co. did not haul off some of their omnibuses and send them away, and raise the fare from five cents to six and a quarter cents? I believe these are facts which cannot be denied. This is encouraging a monopoly against the wishes of the people of this District, as emphatically made known to the Congress of the United States, through the only tribunal through which they have a right to speak to us, and that is the City Councils, headed by their Mayor.

Mr. President, I have conversed with many of the first citizens of this city, who own property on the avenue, and I am confident, from their statements, that the property-holders do not desire any railroad-omnibus line on the avenue; but they say to me that, if there is to be such a line, it ought to be placed under the control of the city, and not given to a set of speculators, as I believe these are, who come from the city of New York, and who get some of the citizens of this District, (three of them, I believe,) to father their project. I think this railroad ought to be placed under the control of the city; and I am in favor of the amendment of my friend from North Carolina, because it allows all men, Vanderwerken and his friends, as well as others, to come in and take the stock. They can take as much stock as they desire to do; and they can, in that way, get the control of the line. The line ought to be made to assist the city, which is constantly begging at the hands of the Government to be kept up. The Senator from Massachusetts, I believe, is well acquainted with the facts which I have stated, and cannot deny them.

Mr. CLARK. I do not desire to detain the Senate long, but I wish to make a remark or two on the condition of the parties who ask for this privilege, and on their situation at the present time. It seems to me that Senators have in a manner misapprehended the nature of this bill. I do not know that any Senator here supposes that you are granting an act of incorporation or a franchise by this bill. If any Senators do suppose it, it seems to me they have mistaken the nature of the bill. Vanderwerken and his associates are now running a line of omnibuses on the avenue; they begin at the Capitol gate and run to Georgetown.

Mr. PUGH. The Senator will allow me to ask him a question. I ask whether any one of these parties, except Vanderwerken, is engaged in the omnibus business at all; whether they have not just adopted him and his name to get the bill through?

Mr. CLARK. I did not say these parties were running the omnibus line.

Mr. PUGH. I understood you to say that the parties who proposed to construct the railroad were the owners of the omnibus line.

Mr. CLARK. I said Vanderwerken and his associates. I may be wrong, but I understand he has some associates in running the omnibus lines. He may run it alone. I do not care whether

he runs it alone or not. It is sufficient for me to say, that parties are running a line of omnibuses on the avenue, one of whom is Mr. Vanderwerken. He begins at the Capitol gate and runs them to Georgetown. He runs to this side of the avenue and that side of the avenue. He runs the ordinary carriage wheels, and runs by horses. He carries passengers at so much per head. Now he comes to Congress, who have the power, and he says, instead of obliging me to run on the ordinary wheels, let me put down a track of iron through the avenue, and let me run my omnibuses with flange wheels upon that track. He does not ask to be incorporated; the bill does not propose to incorporate him. It proposes simply to give a conditional license, that he may run, licensing him to go and put down the track.

Here I want to make a suggestion to the honorable Senator from Tennessee, [Mr. JOHNSON,] who, the other day, introduced an amendment that these men should be individually liable. I ask him to turn his attention to the bill and see if it does not make them individually liable. The bill does not create a corporation; it simply grants this license to Vanderwerken, Clark, and Robinson, and such other parties as they may sell to. Well, they stand as a copartnership. There is not a word here that proposes to incorporate them, or authorize them to issue a share of stock. They are liable, exactly like any other partnership, for the debts of their copartnership.

Now, I want to address a remark or two to the amendment before the Senate. Instead of licensing this copartnership whom you know, these men whom you know, the amendment proposes to open books and let one hundred, two hundred, three hundred, four hundred, or five hundred, men come in and subscribe; and they are to be made copartners, not stockholders. Well, suppose you have five hundred of them: I ask any man how are you going to start that copartnership? How are you going to work it? You might as well undertake to drive an omnibus with five hundred mules. You have no way of getting the sense of it; there is no controlling power; and when death comes and takes one of your partners out, your copartnership is dissolved; you have no succession, as in a corporation; you have an entirely impracticable scheme. No man of property, no man of sense, no man of prudence, would go into such a copartnership as that. Why, sir, you could not get a man in my country to join a copartnership to build a corn barn with such a company. Suppose one subscribes \$100, and another \$100; then you have got to have \$150,000 subscribed. It would take fifteen hundred men, at \$100 apiece, to raise the \$150,000. I ask the Senators to look at the impracticability of the thing. If you mean to kill the bill, do so; this amendment is not only putting one knife to it, but fifteen hundred of them.

You know Vanderwerken, you know Clarke, you know these other men; you know whether they are fit to be licensed or not. If they are fit men, and you choose to give them the license, do so; but do not give a license to Tom, Dick, and Harry, Ben, David, and Joe, that you do not know, whom you never saw and never heard of. If you had a corporation that you could control or that anybody could control, that would be one thing; but such a mixed up mess of omnibus passengers never was seen before.

But, sir, it is said that this grant ought to be given to the city of Washington. Let us look a moment at the provisions of this bill and see if they are not now sufficiently favorable to the city of Washington, and hard upon this copartnership. I ask you to turn to the fourth section in your bill; and what is it? That when these men whom you have licensed have gone to work and built the railroad, put upon it omnibuses and stock and started it, the city of Washington may step in by the appraisal of the President and one other party to be chosen, and take every dollar of the property. Is not that hard enough? Is there any Senator here who would want to have his property taken away by the appraisal of two men when he did not want to sell it? And yet, you provide that when this copartnership, for it is nothing else, has built the road, stocked it, and got it running, it may be sold to the city of Washington at the appraisal of persons appointed by the President and somebody else. Can the city of Washington ask anything more than that somebody shall build

the road and stock it and set it running, and then that she may come in and take it at the appraisal of two men? I do not think there is anything to be complained of here on the part of the city of Washington. It is said they want it. Well, they can have it by paying for it the day after it is started, and they should not have it unless they do pay for it.

Again, there is another provision that after you license these men, you may revoke that license tomorrow; and you are not prohibited from licensing somebody else. You have it completely in your control. Now, it seems to me that if the road is to be worth anything at all to the public, or anybody else, this amendment should not be adopted.

Mr. PUGH. Mr. President, as to the fourth section of the bill to which the Senator from New Hampshire alludes, it is very artfully suggested. These men may make the road, lay down the track, put the cars on it, and the next day, says the Senator, the city of Washington may take it at appraisal. What does that appraisal include?

Mr. CLARK. The property.

Mr. PUGH. What property? What these gentlemen put there? No, sir; they would not have the bill if that were the provision. If the city of Washington could get it by paying back what they put into it, they would not touch the bill. You compel the city of Washington to pay for her own municipal franchise that you are giving these men for nothing. That is what your fourth section does. You take the property of the citizens of Washington and give it to these men, and then you say the city may buy it back. That is what your fourth section is.

Now, as to the other suggestion of the Senator. He says that under the amendment of my friend from North Carolina, there will be a private partnership established, and that a private partnership will not be capable of carrying on the business.

Mr. CLARK. Not a private partnership.

Mr. PUGH. Well, an ordinary partnership, a public partnership, if you choose. The Senator says that the amendment of the Senator from North Carolina will give us a partnership, and that a partnership will not be able to run the road; and yet the Senator devoted a good portion of his speech to show that the bill authorizes a partnership, and not a corporation; so that all this difficulty about Tom, Dick, and Harry, and John and Jim and Joe, appears under this bill as much as under the amendment of the Senator from North Carolina; there is no distinction. It appears in the very worst phase in which the Senator can state it; for the bill says: "Gilbert Vanderwerken, Bayard Clarke, Asa P. Robinson, and their assigns." Who are their assigns? Who are they to be? They may be fifty men; they may be fifty thousand men; and unless this bill makes them a corporation, the Senator has shown himself that the whole concern will be run off the track—both the partnership and the cars.

The Senator may have either horn of the dilemma. If this bill creates these parties a corporation for twenty-five years, by act of Congress, wrests from the corporations of Washington and Georgetown a municipal privilege and franchise, and vests it in them without compensation, for their own private aggrandizement; let us know what is the peculiar merit by which they are to be foisted on the public, and thus endowed out of the public revenue with a public franchise. The Senator says it grants no franchise. Then what do they want with it? Why come to us, if it grants no franchise? Is it comparable to the running of an omnibus or a carriage on the avenue? No, sir. Any man may run a carriage or an omnibus on the avenue; he needs no license from us; he does not come to us for that; he only complies with the regulations of the city government, and he can run to his heart's content. But it is because these gentlemen want the exclusive privilege to occupy, not merely for the moment of passage and repassage, but for every moment of the twenty-four hours; and for every twenty-four hours in twenty-five years; to occupy permanently, to the exclusion of all else, of every other vehicle, a portion of the most public avenue of this city; that they ask Congress to give that to them for nothing. That is the franchise.

Now, sir, why should they have it? The Senator from Mississippi said his reason was that Mr. Vanderwerken got his bill through the House

of Representatives. It is a reason why he should be endowed out of the property of the citizens of Washington, that he got his bill through the other House! What a wonderful achievement! There are a great many bills gotten through the House of Representatives which never ought to be got through; and there are many more got through the Senate which ought to be defeated; but for his assiduity in appealing to the good opinion of members of Congress, he is to be rewarded in this magnificent manner—a reward greater than was ever given to the inventor of the steamboat!

But the Senator from Massachusetts says he came here some years ago and set up an omnibus line. I suppose if he had not made money out of it, he would have quit the business long ago. Surely, the Senator does not suppose us so utterly bereft of reason as to imagine that we are to believe that Mr. Vanderwerken was solely actuated by philanthropic motives when he set up his omnibus line from the gate of the Capitol to Georgetown. He has made money out of it; he makes it every day; and he takes very good care, according to the statement of my friend from Iowa, that nobody else shall make any money out of it. I do not complain of him for that. He is like all men who own stage routes or omnibus routes. If any competitor comes along, they put down the prices and run him and his omnibuses off; and then, when they have the public at their mercy, they put up the prices and reduce the accommodations. That is the way of the world. I do not think that Mr. Vanderwerken is particularly to be blamed; I never knew a man who owned a stage line or an omnibus line that would not do it whenever he had a chance. I have no hostility to him—not the slightest. I do not know the gentleman; I do not know any of these parties; but I say that the city of Washington can manage her business better than we can manage it; that these considerations of any benefit that Mr. Vanderwerken may have conferred on the people of Washington or Georgetown are arguments which will address themselves to the authorities of those cities with far more force than to us; that these certainly will be no prejudice against these gentlemen; on the contrary, that the corporate authorities will probably, I might say certainly, contract with them on more favorable terms than they will with any other party that might be named. Why, then, do they not go to the Councils? Sir, there can be but one reason for it.

The Senator from Massachusetts says he does not think it is a very valuable privilege. If it were not valuable, the Senate would not have been kept here so long considering the bill. He seems to make it a matter of very great objection that the Senate should have wasted three days on this bill. The wasting has been as much on one side as on the other, quite as much. Those who urge the bill, in season and out of season, to the exclusion of all other business, throwing out every bill of a public character that stands in its way, show that their zeal at least is quite as great as the zeal of those who oppose it, if not greater. It is a valuable property; and because it is a valuable property, these parties, having pressed through the House of Representatives a bill to give them the public property for their individual aggrandizement, now come here; and that is the spirit which animates the whole scheme. I do not blame them, for we are all anxious to make something for ourselves; but I say that this is the property of the corporation of Washington, and that the gross injustice of taking that property out of the hands of those to whom the people have committed it, and giving it to three or four individuals named in this bill, and to do that by act of Congress, no member of whom represents the people whose property is involved, is an outrage of the grossest character, and it is an outrage which ought to be resisted to the very last extremity. I move to lay the bill on the table; and I call for the yeas and nays on that motion.

The yeas and nays were ordered.
Mr. KENNEDY. I have been requested to state that the Senator from Virginia, Mr. Mason, has paired off with the Senator from Louisiana, Mr. BENJAMIN.

The question, being taken by yeas and nays, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Bates, Bell, Chesnut, Clay, Clingman,

Davis, Fitzpatrick, Foot, Gwin, Houston, Hunter, Johnson of Tennessee, Jones, Mallory, Pugh, Reid, Slidell, Toombs, Ward, and Yulee—20.

NAYS—Messrs. Allen, Bayard, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Hamlin, Harlan, Iverson, Kennedy, King, Seward, Shields, Simmons, Thomson of New Jersey, Trumbull, Wade, and Wilson—25.

So the Senate refused to lay the bill on the table.

THE PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from North Carolina, on which the yeas and nays have been ordered.

MR. REID. I desire to modify my amendment, by inserting the words "subject to such regulations as the City Councils of the two cities may enact," so as to give control, in regard to scaling the stock subscribed, to the two cities.

THE PRESIDING OFFICER. The Senator may modify his own amendment, no action having been had on it.

MR. REID. I will state that, if my amendment be adopted, I shall be disposed to vote for this bill. I am in favor of the road; but I am opposed to giving a monopoly of it to a specified, selected set of individuals. Mr. Vanderwerken, and all others, will have a fair opportunity, if my amendment prevails. He and his associates can go and subscribe stock, just as any other citizens. It matters not to me, whether this is a desirable object for them to embark their capital in as a matter of speculation. If, upon one hand, as is contended, it will be profitable, divide the profit among the citizens generally. If, on the other hand, it will be unprofitable, as the Senator from Massachusetts, and others, seem to think; if it will be attended with no profit; if it will be a burden, divide the burden among the community. I am satisfied that my amendment will open the whole matter fairly to the people of the two cities who are interested in it. If the individuals named in the bill, Mr. Vanderwerken and others, think proper to take stock, they can do so, just as other members of the community. The thing will be fair to all. If this amendment be adopted, I shall vote for the bill. If this amendment, or a similar one, is not adopted, though I am in favor of the road, I shall vote against the bill.

MR. BROWN. I have only to say, that if the amendment be adopted, I will vote against the bill; so that the Senator and I stand paired off on that.

MR. COLLAMER. I desire that the amendment, as it has been modified, may be read.

The Secretary read it, as follows:

The Mayors of Washington and Georgetown shall cause to be opened books of subscription, subject to such regulations as the City Councils of the two cities may enact; and when the sum of \$150,000 shall have been subscribed, in shares of \$100 each, the said subscribers shall, &c.

MR. COLLAMER. If that proposition is a sincere one, it certainly requires a vast deal of arrangement to carry it into effect and to make it practicable. The provision is, that whenever \$150,000, in \$100 shares, is subscribed, the subscribers shall go on with the road. Well, suppose the first day the books are opened I go and subscribe the whole \$150,000, in shares of \$100 each: then I own the road, and it is my business to go on with it. That is all there is in the amendment as it now stands.

MR. REID. The amendment provides that the subscription shall be made under such rules and regulations as the two cities may prescribe.

MR. COLLAMER. But their rules and regulations cannot defeat the purpose.

MR. REID. I put that provision in expressly to enable them to make rules for scaling the stock if too much should be subscribed. They can make rules to meet the very objection which the Senator makes.

MR. COLLAMER. They cannot make rules and regulations to prevent people from subscribing. That would be to defeat the whole purpose altogether. They must make rules and regulations to carry into effect the purpose of the law. The law is, if you adopt the amendment, that a man may subscribe for as much as he pleases. If they could cut anybody off they might make a regulation that nobody except such as belong to a certain political party should subscribe, or that no man, unless he was six feet two inches high, should subscribe. Certainly they can make no such regulations as those. Their regulations can

only relate to the time and manner of opening the books and matters of that kind.

But suppose the \$150,000 is not a limitation as to the amount to be subscribed, but is a minimum, the idea being that when \$150,000 shall be subscribed it shall be competent to go on with the road; but that the books shall be opened for all who may choose to subscribe, and that every man may subscribe for what he pleased. Then, when you have all the subscribers in, they are not a corporation; there is no mode of calling a meeting of them. They are, as was said by the Senator from New Hampshire, a mere partnership.

MR. PUGH. We can incorporate them by subsequent law.

MR. COLLAMER. We need not talk about what we can do hereafter, because we have a right, according to the provisions of the bill, to repeal the whole of it. The question is, whether you have any arrangement in this amendment that is practicable. I say it is utterly impracticable. One man may go and subscribe \$100, another \$100, and so on, five hundred of them. By and by you call a meeting; each man votes, and a majority vote not to go on with the enterprise, and there is the end of it. The whole thing is nothing but a *felo de se*; an arrangement to destroy the enterprise altogether. That must necessarily be its effect. I shall say no more, for I desire to confine my remarks simply to this amendment.

MR. REID. I modified my amendment to meet the very view which the Senator from Vermont has expressed. Now, sir, in regard to the number of individuals associated here, it seems to me that there can be no difference between the amendment and the bill in that respect, on the point of principle. According to the bill, Mr. Vanderwerken may take in ten million partners, and you may have just as much difficulty in finding them as you would have in finding this corporation under the amendment.

MR. COLLAMER. I wished to confine my remarks simply to this single amendment. Mr. Vanderwerken and the other men named in the bill can have no inducement to take people in to destroy their grant, but the others might have.

MR. PUGH. I will suggest to the Senator from North Carolina to add three or four words to his amendment, the insertion of which will, I think, answer the whole objection. At the end of it simply say, "the subscribers shall be a body corporate." Make them a corporation by this bill, and leave the Mayors of Washington and Georgetown to open the subscription books.

MR. REID. I will accept that amendment.

THE PRESIDING OFFICER. The amendment of the Senator from North Carolina will be modified in that form.

MR. REID. It is the principle that I desire to carry out. If this amendment be voted in, it is possible that there may be one or two other words which it may be necessary to change in the bill; but I desire to carry out the principle that books shall be opened, and that this monopoly, if it is one, or this burden, if it be a burden, shall fall upon each member of the community who desires it. I protest against giving a bounty to selected and particular individuals who have no more merit than the rest of the community in which they reside. It is this that I object to in the bill. The Senator from Mississippi says he will vote against the bill if my amendment be adopted; but if it shall prevail, the bill will at least get one vote from the other side, for I shall vote for it.

MR. COLLAMER. I wish merely to say that if the amendment is adopted now, it is to create a corporation; and all the parts of the bill which have been formed with a view to a partnership become inapplicable; the bill is entirely destroyed unless you remodel it and give a name to your corporation, and arrange the matter afterwards so as to make a perpetuity.

MR. PUGH. The Senator is mistaken. The rest of the bill is just as appropriate to a corporation as to individuals. In fact, I think if the Senator will read this bill and give me his deliberate legal judgment, he will tell me that it creates a corporation now, for although the word "corporation" is not used in it, the whole frame and scope of the bill and its character is in effect to charter these persons; and if it were not so, you could not justify yourselves in the use of the

words "and their assigns" in the first section. I think the Senator from North Carolina will accomplish everything by his amendment as it stands. It creates a corporation, the stock of which is to be subscribed, and it names the Mayors of Washington and Georgetown as the trustees, to receive the subscriptions. The moment the proper amount of stock is subscribed, they call a meeting of the incorporators, and the directors or managers can be chosen, as many as they please.

MR. CLARK. I understood the Senator from Ohio, to say that he believed that if the Senator from Vermont would give him his deliberate opinion, he would say that this act created a corporation.

MR. PUGH. Yes, sir.

MR. CLARK. I understand that to be equivalent to the expression of opinion on the part of the Senator from Ohio, that he believes it a corporation.

MR. PUGH. I do.

MR. CLARK. Then I desire to ask the Senator from Ohio what is the corporate name.

MR. PUGH. There is no more necessity for a corporation to have a name, than for an individual. They may take any name they please. The corporate character is just as good without a name.

MR. CLARK. Then how are you going to sue this corporation, or how is it going to sue anybody? How is it going to act? A corporation is a person in law.

MR. PUGH. The Senator thinks there can be no corporation without having a name to sue or be sued by; but it can have so much corporate authority as will bind the passage of the title of property between themselves. But I put him the question in reference to this bill making the grant to these gentlemen and their assigns: when one of the parties dies, does the road stop?

MR. CLARK. Not at all. It is a partnership; and they convey by their own individual names.

MR. PUGH. But does the Senator understand that surviving partners can go on and conduct the partnership business?

MR. CLARK. Not at all.

MR. PUGH. I should think not.

MR. CLARK. I understand, then, it must be wound up; and that is the great difficulty. Mr. Vanderwerken, Mr. Clarke, and Mr. Robinson, three gentlemen, associate themselves as copartners. Those three are willing to go on with it; and these three provide that their assigns may continue it.

MR. PUGH. Exactly.

MR. CLARK. Exactly; but they cannot sell without the consent of the whole partnership; otherwise you destroy it. They may sell if they agree; otherwise you destroy the copartnership. Have they any corporate seal? Can they make any regulations as a corporation? Not at all. The city of Washington is to make regulations; and they are to run by them. I do not understand it to be a corporation in any sense of the word. These three men can go on; they can come together and agree. Put in fifteen hundred, and how are they going to get together and agree? One man has \$10,000, and another \$100 in the concern. How many votes is the one to have over the other?

MR. PUGH. We have the amendment now to make them a corporation.

MR. CLARK. I want to come to that. The Senator says we have an amendment now to make them a corporation. Here Vanderwerken, Clarke, and Robinson, come in and ask to be licensed to run the road; and instead of licensing them you make a corporation that nobody in God's world has asked for. Your son comes and asks bread, and instead of giving him bread you throw a stone at somebody else. Nobody asks for a corporation; these men ask to be licensed, and you go and create a corporation and call it a monopoly; and that nobody in God's world wants. Nobody is here asking for any such thing. Just to prevent these men from getting what they want, you go and put it into the hands of somebody else. That is all there is of it.

MR. PUGH. Now, Mr. President, it is amazing to me that so plain a proposition can be so much misunderstood.

MR. REID. If the Senator from Ohio will permit me, I will suggest that we may insert some

name or style for the corporation—say the Washington Railroad Company. Give it a name, and that will obviate the difficulty.

Mr. PUGH. You may call it the "Avenue Railway Company."

Mr. REID. That will do.

Mr. BROWN. Mr. President—

Mr. PUGH. I have the floor; and as the Senator from Mississippi advised his friends not to speak all the time, I hope he will not object to our making at least as many speeches as they do. The Senator from New Hampshire says these parties ask simply to be licensed. What does he mean by that? If all they want is a right to obstruct the street, they can get that by application to the City Councils, or by application to us. They want to be a corporation; and unless they are a corporation under this bill, their road cannot go on at all. The Senator certainly does not pretend that surviving partners can carry on the partnership business. Here are three of them, Vanderwerken, Clarke, and Robinson. Suppose one of them dies: if they are only a partnership who is to run the road the next day? They must stop; the survivors cannot go on with the partnership enterprise, creating debts and liabilities against the estate of the deceased partner; and all the evil consequences which were depicted to us before up to the time when my friend from North Carolina agreed to make his parties a corporation, will happen under this bill.

But I say this bill, in effect, creates these parties a corporation. That is the true legal construction of it. Three persons are named, and their assigns. Who ever heard of a partnership made in that way? Who ever heard of a license granted in that way? I believe you may say, "Vanderwerken & Co.;" but when you have come to sue, on the record you must state who the company are; but here are Vanderwerken, Clarke, Robinson, and their assigns. Who ever heard of a partnership like that before? I acknowledge that they have not given themselves a corporate name here, but I say they have given themselves a corporate name. They have given themselves a term of life—twenty-five years. They have provided how the partners may assign; that certain persons not named in the bill, by the will of these parties, may become interested in the stock of the concern. If that is not a corporation, I do not know what a corporation is. The idea of a corporation is, that it is an entity, a legal existence separate from the individuals who compose it; and that, when one of them dies, the corporate enterprise nevertheless goes on. I say that, if these gentlemen have not got a corporation under the bill, they had better stop immediately, for the whole thing will be at an end when the first one of the assigns dies. But they understand that they have got a corporation, I think, pretty distinctly; and I repeat that, though the Senator from Vermont might not possibly agree with me off-hand—I do not know what he would say—I think if I submitted the bill to him for his opinion as a lawyer, and he examined it deliberately, he would tell me they were a corporation.

Mr. HALE. I recollect, sir, once hearing of a man who stood on the steps of the Astor House, in the city of New York, waiting for the procession to get by; and he never knew how long he would have to stay. A man will have to stay here longer than that for this debate to close; and as it is the usual hour of adjournment, I move that the Senate adjourn.

The motion was not agreed to; there being, on a division—ayes 14, noes 28.

The PRESIDING OFFICER. The Senator from North Carolina having still further modified his amendment, it will be read again, as it now stands.

The Secretary read the amendment, as modified, which is to strike out the words:

"Gibert Vanderwerken, Bayard Clarke, Asa P. Robinson, and their assigns, are hereby authorized, at their own expense, to construct and lay down a double-track railway."

And in lieu thereof to insert:

The Mayors of Washington and Georgetown shall cause to be opened books of subscription, subject to such regulations as the City Councils of the two cities may enact; and when the sum of \$150,000 shall have been subscribed, in shares of \$100 each, the said subscribers shall be a body corporate, to be called and known by the name and style of the "Avenue Railroad Company," and shall be authorized, at their own expense, to construct and lay down a double-track railway.

Mr. SIMMONS. I wish to make one suggestion, that these matters of making corporations here across the Chamber, will take a week. There are no successors in the amendment, and the subscribers will die out; so you have not got a corporation yet.

The question being taken by yeas and nays, resulted—yeas 17, nays 27; as follows:

YEAS—Messrs. Bates, Bright, Clay, Clingman, Davis, Fitzpatrick, Gwin, Houston, Hunter, Johnson of Tennessee, Jones, Mallory, Pugh, Reid, Slidell, Toombs, and Ward—17.

NAYS—Messrs. Allen, Bayard, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Seward, Shields, Simmons, Thomson of New Jersey, Trumbull, Wade, and Wilson—27.

So the amendment was rejected.

Mr. COLLAMER. I move to strike out, in the first section, the words "from the west gate of the Capitol to the city line of Georgetown," and insert:

From the west gate of the navy-yard to High street, in the city of Georgetown.

Mr. BROWN. I have no objection to the amendment. I want that understood, lest I create some prejudice against this proposition; but to take it to High street, in Georgetown, means to go just across Rock creek.

Mr. COLLAMER. That is Bridge street.

Mr. BROWN. Where is High street?

Mr. COLLAMER. It is near where the omnibuses now stop.

Mr. BROWN. I have no objection to that.

Mr. COLLAMER. It is to go precisely where the omnibuses now go.

Mr. BROWN. I want to say, in justice to these parties, that this is precisely what they petitioned for in the beginning; but there were two obstacles. The first obstacle, in the committee, to going to Georgetown, was this: had Congress the right to authorize a private company to lay down a railroad in the streets of Georgetown? Could not the corporate authorities agree with the company to do that without the interference of Congress? Would not you exceed your authority if you interfered? The committee, after having agreed to do it, withdrew the amendment, upon the idea that they had no authority to commend it.

Then these parties have petitioned for the privilege of running their cars to the navy-yard; but the committee did not grant it, because Congress has not been, and is not now, in a condition to say what street they shall take, because you have not extended your Capitol grounds. There is no disposition on the part of this company, and never has been, to avoid going to the navy-yard, or to avoid going to any point in Georgetown.

Mr. COLLAMER. Does the gentleman object to the amendment?

Mr. BROWN. Not at all; put it in.

Mr. COLLAMER. Let us have it, then.

Mr. MALLORY. The Senator from Vermont and myself agree as to the amendment, but he ought to put in the "north gate" instead of the "west gate" of the navy-yard.

Mr. COLLAMER. If it is the north gate, very well. I mean the gate this way.

Mr. BROWN. Run to any gate about there where you please.

The PRESIDING OFFICER. The amendment of the Senator from Vermont is, in lines seven and eight, to strike out the words "west gate of the Capitol to the city line of," and insert "from the north gate of the navy-yard to High street in."

The amendment was agreed to.

Mr. JOHNSON, of Tennessee. I offer an amendment as an additional section:

And be it further enacted, That this act shall not take effect unless ratified by a majority of the legally-qualified voters of the city of Washington, at the annual election to be held for municipal officers on the first Monday in June next.

I believe the citizens of Washington are considered freemen. They have institutions among them, and I think the people of this city ought to have the same privileges that the people have in other communities. They should have, at least, the poor privilege of passing their judgment on the nature and character of the institutions they shall have among them. This bill may not technically, but it does practically, create a corporation, a monopoly, and confers upon it an important franchise, upon which, it seems to me, the

people of the city of Washington should have an opportunity to pass.

Mr. BROWN. I only rise to ask that nobody will reply to my friend from Tennessee, but let us vote. It is near five o'clock, and to-morrow we shall waste another day over this bill, unless we get through with it now.

Mr. MASON. According to my recollection, the amendment offered by the Senator from Tennessee is a new theory of this Government, not originating with that Senator, but originating within a very few years in some of the free States, as they call them—the idea that a law passed by the competent authority is afterwards to be submitted to the popular vote. That is the amendment offered by the Senator from Tennessee.

Now, sir, I only wish to say this: that so far—

The PRESIDING OFFICER. The Chair begs leave respectfully to suggest to Senators that conversation is so loud and so general in the Hall as to make it impracticable to proceed with the business before the body.

Mr. MASON. I wish to add only, that so far the judiciary have declared that such laws dependent on the popular will are no laws at all.

Mr. JOHNSON, of Tennessee. The gentleman from Virginia is always *au fait* on questions of this kind, and he seems to strike out the theory that is presented in this amendment; and he thinks it is not a very new one. It is not a new theory, Mr. President, that the people of this country are capable of self-government, and that they should have the right to determine the nature and character of their own institutions. In the State of Virginia, when the constitutional convention framed an organic law for the people of that State, did they not submit that constitution to the people for ratification or rejection? I believe that is a slave State, and not a free State. I wonder whether most of the slave States of this Confederacy, as well as the free States, when they framed their organic laws, did not submit them to the people for ratification or rejection? Is there anything very alarming in that? Is this the theory that the gentleman is so terribly alarmed at, that the people in this country are capable of determining, and have a right to determine, the nature and character of their own institutions? The Senator tells us it is a theory of a free State.

I have heard of a one-idea party; and now and then we come across one-idea individuals, persons who have a particular theory or idea that absorbs all others. This is common; most of us have our hobbies; but it is strange, passing strange, that no proposition can be presented here, I care not how small nor how large it is, without its being involved in the slavery question. Here, when it is proposed to confer a little privilege on the people of Washington, it is said to involve that great question, and it is charged that the idea had its origin in a free State. Sir, the principle has been practiced upon from the Declaration of Independence down to the present time, that the people are competent and capable of taking care of themselves. I hold that the people of the city of Washington have the same fundamental right, the same inherent right, to determine and pass upon the description of institutions which they will have amongst them that the people have in other communities.

I hope the amendment will be adopted. Has not Congress the power to confer legislative authority, as it were, on the municipal authorities of Washington? Cannot Congress confer power upon the corporation of Washington to grant licenses to construct roads? Can it not confer the power to incorporate companies in the District of Columbia? It seems to me that it can. If it can confer upon the municipal authorities the power to grant a license of this description, can it not make the existence of a law like this, dependent on the ratification of the people who are the source of power?

I have a word to say in reference to the suggestion made by the Senator from New Hampshire, [Mr. CLARK,] with regard to the amendment which restrains this company, or association, or corporation, I care not by what name you call it, from issuing bank notes or checks or anything intended to circulate as money. The question is raised here between legal gentlemen in this body whether the bill does or does not create a corporation or a company. However that may be, one thing is clear—that the bill authorizes an associa-

tion of persons to construct a railroad and to exercise certain privileges; and the query very naturally comes up, if you confer an express grant to do a particular thing, may they not, by construction, deem it necessary, as an incident to carry the express grant into effect, to issue promissory notes and put in circulation checks, as money, to enable this company to construct this road? If this company is not a corporation, my amendment does not affect these individuals, and does them no harm. If it is a corporation, the amendment is exactly right, and is offered in the right place. It can do no harm in any event; and lest there should be a certain construction given to the privileges to be exercised by this company, it restrains and defines what those privileges are.

Mr. HALE. In addition to the reasons so well urged by the Senator from Virginia, for opposing this amendment, I think it is obnoxious to another objection; and that is, if we refuse to incorporate this little horse-railroad without submitting it to the people, it would be construed by the country—I have no idea it was so intended—as a covert attack upon the Democratic party and the Administration, for the course they took in regard to the Lecompton constitution. [Laughter.]

Mr. BROWN. I have appealed so often to the Senate to let us get along with this bill without dragging everything into the discussion, that I feel almost abashed at asking them again. What have squatter sovereignty, and the powers of the Government, and all that, to do with a question of this sort? Do let us vote, and let us get along with the business.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee.

Mr. JOHNSON, of Tennessee, called for the yeas and nays; and they were ordered.

Mr. MASON. That I may not interrupt the call of the roll, I merely wish to say, that on every question connected with the railroad, I have paired off with the Senator from Louisiana, Mr. BENJAMIN.

Mr. MALLORY. The Senator from New York, Mr. KING, and myself, have paired off on this question.

The question being taken by yeas and nays, resulted—yeas 5, nays 35; as follows:

YEAS—Messrs. Houston, Johnson of Tennessee, Jones, Pugh, and Reid—5.

NAYS—Messrs. Allen, Bayard, Bell, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Chesnut, Clark, Clay, Clingman, Collamer, Crittenden, Dixon, Doollittle, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Hale, Hamlin, Harlan, Hunter, Iverson, Kennedy, Seward, Shields, Simmons, Slidell, Thompson, of New Jersey, Ward, and Wilson—35.

So the amendment was rejected.

Mr. PUGH. There was an amendment relative to taxation, which I suppose the Senator from Mississippi will not object to now.

Mr. BROWN. Not at all. Since other amendments are in I think it had better be in. I do not think it signifies anything.

Mr. PUGH. I move at the end of the first section to insert, "And that they shall have at all times the power of taxation." These words are to come in after the proviso subjecting the road to the municipal regulations of the cities of Washington and Georgetown.

Mr. BROWN. That is what is meant. It only makes it more specific.

The amendment was agreed to.

Mr. DAVIS. I gave notice to the Senate that I would renew the amendment which was offered by the Senator from Maryland, not now in his seat, [Mr. PEARCE,] which was lost in committee. I propose to amend it by the addition of another section.

The amendment is to strike out all after the enacting clause of the bill, and insert:

That the Metropolitan Railroad Company, incorporated by an act of Assembly of Maryland, passed at the January session 1853, chapter 196, and the subsequent amendatory acts of the Legislature of Maryland, shall be, and they are hereby, authorized and empowered to extend into and within the District of Columbia the railroad which they shall construct or cause to be constructed in the State of Maryland, and in a direction toward the said District, in pursuance of their said act of incorporation; and the said Metropolitan Railroad Company are hereby authorized to exercise the same powers, rights, privileges, and immunities, and shall be subject to the same restrictions in the extension, width, construction, and repair of their road into and within the District of Columbia, as they may exercise, or are subject to, under and by virtue of their said act of incorporation in

the construction and repair of their said road within the State of Maryland, and shall be entitled to the same in rights, compensation, benefits, privileges, and immunities, in the use of said road, in regard thereto, as are provided in said charter.

Sec. 2. *And be it further enacted*, That the said Metropolitan Railroad Company shall have power, and they are hereby fully invested with the same, for constructing, making, and continuing their said road through the cities of Washington and Georgetown, from the depot of the said Metropolitan Railroad Company, in Georgetown aforesaid, to and by way of Bridge street, and thence along the street leading from Bridge street to the aqueduct bridge across Rock creek, at the west end of Pennsylvania avenue; and thence along Pennsylvania avenue and Fifteenth street to the foot of the Capitol Hill; and thence to the north gate of the navy-yard, and to the Baltimore and Washington railroad station: *Provided*, That the cars or carriages running on the avenue and streets aforesaid shall be drawn by horse power, and used for the transportation of passengers and their baggage only: *And provided, also*, That the company shall not receive, for the transportation of passengers, a rate of fare exceeding five cents per passenger for the whole, or any portion, of said road through the cities of Washington and Georgetown: *And provided, also*, That said railway through Pennsylvania avenue and the streets aforesaid by a double track, be laid in the center thereof, in the most approved manner adopted for street railways, with a rail of grooved pattern, laid upon an even surface with the pavement of the avenue and streets; the space occupied by said double track not to exceed seventeen feet in width: *And provided, also*, That the said company shall always keep said tracks, and pavements within the outer rail, in good repair, without expense to the Government of the United States or the governments of the cities of Washington and Georgetown: *And provided, also*, That the said railway through the cities of Washington and Georgetown be subject to the municipal regulation thereof respectively: *And provided, also*, That, unless said railroad through the avenue and streets aforesaid shall be commenced previous to the next regular session of Congress, and be completed within one year thereafter, and the said railroad, from the city of Georgetown to near the Point of Rocks, be completed within six years from the passage of this act, this act shall be null and void.

Sec. 3. *And be it further enacted*, That nothing in this act shall prevent the Government at any time, at their option, from altering the grade or otherwise improving the avenues or streets aforesaid.

Sec. 4. *And be it further enacted*, That Congress reserves to itself the right to change, alter, repeal, or amend this act, or any part thereof, at their pleasure.

Sec. 5. *And be it further enacted*, That, upon the completion of said railroad, the president and directors thereof shall take and pay for the carriages and horses of Gilbert Vanderwerken, now employed by him between Georgetown and the foot of the Capitol hill, at a valuation to be determined by two disinterested referees, one to be chosen by said Vanderwerken, and the other by the president and directors of said Metropolitan railroad, with power to them, if they disagree, to choose a third person as umpire.

Sec. 6. *And be it further enacted*, That it shall not be lawful for the board of directors of the Metropolitan Railroad Company to declare or pay any dividends to their stockholders out of the earnings of this branch of their road in the city of Washington, until their main road from Georgetown to their connection with the Baltimore and Ohio railroad near the Point of Rocks, in Maryland, shall be ready for public travel.

Mr. BROWN. I ask my colleague to yield for a moment to a very brief explanation. In speaking on this subject this morning, I was understood by a very valued friend in the gallery to say that there was not a business house on the avenue who had not petitioned in favor of somebody constructing this road. Since that, I have received this note from Mr. Franck Taylor:

DEAR SIR: One business name (at least) on the avenue you have not seen on more than one side of the railroad question—it is my own.

Pardon me if I heard you indistinctly, but I thought you said just now there was not one.

Respectfully,

FRANCK TAYLOR.

If I said there was not one, I made my expression too broad. I think I said I did not know of one. That is what I meant to express. I do not know that Mr. Franck Taylor has petitioned on either side of the question. I want to do him that simple act of justice.

Mr. DAVIS. Notwithstanding the numerous petitions which have been presented, I have been informed by persons who had some opportunity to know—and I confess in the outset I have none—that a very large majority of the property holders on Pennsylvania avenue are opposed to the passage of this bill; that very many of them desire that there should be no railroad at all upon the avenue. It is also believed that a very large majority of the property holders of the city are opposed to this bill. A proposition to refer that question, so as to discover what the fact might be, has met with no favor at the hands of the Senate. I think it is but just, if we are legislating so as to meet the wishes of the people of Washington and Georgetown, and that appears from the fact that we are legislating in answer to petitions, that we should know certainly, and not by this spurious representation, what the wish of the people of

Washington and Georgetown may be. It could only be determined by a vote; and, therefore, I think it is but proper that the Senate should have referred the question to the people before they attempted to construct on the avenue, and in front of the property of citizens, a road which is to them a nuisance. The Federal Government has lots in Washington city, and sells them when no such construction existed, and the purchasers afterwards object to it. I hold that this Government has no right to put such a structure there unless it be for some public use. It is not asserted here that it is for a public use; but it is only argued that it is in answer to petitions which have been sent in from time to time.

The amendment offered by the Senator from Maryland proposed to answer this local end, and, at the same time, to promote an object which was of public importance, by granting this franchise through the cities of Georgetown and Washington, to secure the construction of a road which would make a more rapid connection with the West, secure a more prompt transmission of the mails, reduce the price of all the supplies consumed in Washington and Georgetown, by facilitating the approach to this market, and thus confer a public benefit. I think it was a sound reason for granting the privilege, if it was to be granted to any corporation, to one that had these ends in view, rather than to another. The residents of the Mississippi valley, the Southwest and the Northwest, are all interested in this improvement; it is to them a matter of importance; and this corporation of the State of Maryland undertaking to construct this road from Georgetown to the Point of Rocks, where it intersects the Baltimore and Ohio railroad, represent the cities of Georgetown and Washington, by the fact that the stockholders, or the larger part of them, are citizens of Georgetown and Washington. This is an additional claim for the amendment over the grant which is proposed to some individuals not residing here.

Against this bill, too, we have had the petition of the corporation of Georgetown, in total disregard of which we are legislating. It will be remembered, also, that, in the newspapers and in the air, so that every man must have heard it, it is spoken of as a speculation; as a proposition to give by Congress a grant to a particular set of individuals, who would then sell it out to somebody who would construct the road. It has been stated to be worth from fifty to seventy-five thousand dollars as a thing to be sold in the market; and this the Senate seem determined to give away to men who surely have no claim on the legislation of the country. I hold, then, that public considerations are entirely in favor of the amendment which is proposed, unless it be the will of Congress, and that has already been decided adversely, to give to the corporations of Georgetown and Washington whatever benefit may result from this passenger railway.

Against all this, however, it has been argued that something was due to the heroic virtue of the men who had lobbied a bill through the House, and brought it to the Senate; that something was due to the pioneer in railroads; that something was due to the fact that the persons represented in this bill had first conceived the idea of a passenger railroad in the streets of Washington. Now, sir, I have not seen at any time, nor can I now perceive, the obligation to reward the heroic virtue of lobbying around either House of Congress. I turn rather with shame and mortification from the fact that either House can thus be approached, and that it can constitute a reason for our legislation. In the very outset of this debate, we were told of the importunity of persons who wanted this charter; the importunity of persons, this company and others rival to it; and members proclaimed their desire to get rid of the further disturbance of their peace. I know not how it may be with others; I have not been disturbed; I do not fear that I shall be disturbed. I have seldom known a citizen who would attempt to instruct me in the performance of my duty, and never a man who would ask me to depart from what I considered proper, in order that I might subserve his pecuniary interest. Being exempt from such pressure, I have not felt the force of the argument, and would very much prefer to postpone the whole subject to a time when it may be more calmly viewed, my tendency being, as it has been,

against the construction of any railroad on Pennsylvania avenue.

In 1854, when the subject was discussed, the House of Representatives decided that they would not permit a road to be constructed there. I think they then wisely decided that the connection between the depot at Washington and Georgetown should be made upon the back streets, and not upon the thoroughfare which connects the President's house and the Capitol. Looking upon Congress as the Legislature of the District, not elected by the inhabitants of the District, it seems to me there was peculiar force in the proposition of the Senator from Tennessee to learn the wishes of the people of the District in relation to the legislation we would adopt for them. They have no representative here, no delegate to speak for them; and when the controversy arose in the Senate as to whether the people of Washington and Georgetown desired this bill to pass the Senate or not, when views so very conflicting were entertained, it seemed to me to be the natural corollary of that proposition, that we should refer to the people themselves the question, and ascertain the truth. If gentlemen are confident in their assertions that a very large majority of the people of this District desire this road to be built, then surely they lose nothing, save a very short time, by referring it to the people and allowing them to vote.

In relation, however, to the question of priority of claim, my friend from Iowa [Mr. Jones] has stated the history of the omnibuses in this city, and has destroyed all claim to the first introduction of omnibuses here by these parties. Now I propose to show that they have no claim to priority for this idea of a railroad.

Mr. WILSON. Will the Senator give way a moment?

Mr. DAVIS. Certainly.

Mr. WILSON. I move that the Senate adjourn. ["Oh! no."]

Mr. DAVIS. I hope the Senate is not to adjourn on the idea that I have a set speech to make.

Several SENATORS. Let us adjourn.

The motion was not agreed to; there being, on a division—ayes 9, noes 26.

Mr. DAVIS. I was going on to state somewhat the history of the application for legislation in relation to this particular matter. At the second session of the Thirty-Second Congress, a bill was passed, and approved March 3, 1853, granting the right of way through the District of Columbia to a company, whenever incorporated by the State of Maryland, to lay out and construct a railroad from any point in connection with the Baltimore and Ohio railroad, at or near the Point of Rocks, to Georgetown. The General Assembly of the State of Maryland, at the session of 1853, passed an act to incorporate the Metropolitan Railroad Company, to construct a railroad from Georgetown to Hagerstown, crossing the main stem of the Baltimore and Ohio railroad, near the Point of Rocks. Then the act of Congress which had anticipated this, induced the application to Congress on the 15th of April, 1854, of the board of directors of the Metropolitan railroad, who, by their president and secretary, presented a memorial to Congress, asking for the right to connect the terminus of their road in Georgetown, as fixed by the acts before recited, with the station of the Baltimore and Ohio railroad, in the city of Washington, by such ways, streets, and avenues, as that company might select. It was then understood that they would most naturally select Pennsylvania avenue. It was then the feeling, which has been expressed with so much force by my colleague in the course of this debate, that Pennsylvania avenue, the most beautiful object of the city of Washington, should be preserved intact. A majority of the House then occupied the position which my colleague declared, but has not sustained by his vote, of opposition to laying down a track in Pennsylvania avenue. The consequence was, that the bill passed the House of Representatives on the 20th of December, 1854, granting the right, but excepting specially Pennsylvania avenue; but the bill was not acted on in the Senate, so that the Metropolitan railroad has not the right to enter the city of Washington. It has been asserted time and again, that the act giving that right existed. I have asked for the act time and again, and nobody has been able to find it.

In the Thirty-Fourth Congress, on the 11th of February, 1856, a similar memorial was pre-

sented, asking again to connect the terminus of the road in Georgetown, with the Washington depot, by such ways, streets, and avenues, as the company might select, and was referred, in both Houses, to the Committees on the District of Columbia. On the 15th of May, 1856, a like memorial was presented from the Metropolitan Railroad Company, by the Senator from New York, [Mr. SEWARD.] This year several memorials have been presented asking the Senate to amend the House bill now under consideration, by substituting the Metropolitan Railroad Company for the corporators named in the bill. The House bill (No. 541) for a railroad along Pennsylvania avenue, the one now before us, passed the House on the 25th of May, 1858, and was referred in the Senate on the 2d of June, 1858.

This constitutes the whole foundation of the claim which has been presented. This shows the opposition on the part of the Metropolitan Company, by the constant presentation of their case, the encouragement they had by the act of Congress to believe that in the fullness of time they would get this grant; yet now it is said that they come in as interlopers, to snatch the prey from one who has already nearly got it.

These memorials, presented in the Thirty-Third, Thirty-Fourth, and Thirty-Fifth Congresses, and appropriately referred, show that the Metropolitan Railroad Company has not come in at the eleventh hour. These memorialists also asked aid from Congress for the construction of the road within the limits of the District; but as an equivalent for such aid the Metropolitan Railroad Company offered to transport the mails, munitions of war, troops, public stores, &c., without charge to the United States. That is not asked for in this amendment. It having been found that capitalists and railroad contractors were not willing to take hold of the work until the charter granted by the General Assembly of Maryland, in 1853, was amended, and the connection through Washington was obtained from Congress, the directors of the company concluded to suspend their work, which had been commenced in grading some two miles in Montgomery county, until these objects should be attained and the hard times in the railroad interest should become better. It has been stated that this amendment of the charter does not relieve them from the obligation to go to Hagerstown; but here a confusion has occurred in relation to the time when that amendment was made. The caption to the amendment represents it to be supplemental to the act of 1853. It was passed in 1856. It is the same which I had occasion to read from the other day to the Senate. At the session of the General Assembly of Maryland, on the 6th of March, 1856, the charter was amended as asked by the company, and Congress has been urged to grant the right to extend the road into Washington and make the connection with the Baltimore and Ohio railroad there. So far they have sought it without effect.

Since 1853, the engineer of the company has urged upon the directors the great importance of securing the valuable franchise of a track along Pennsylvania avenue as an auxiliary to the road, and it has never been lost sight of for a moment by the directors having that matter in charge, or by the engineer, whose opinion that such a franchise would insure the completion of the road to the Point of Rocks, has been confirmed by those of railroad engineers and leading railroad managers, so that it now comes before us with all this authority to sustain the opinion that the connection with the Baltimore and Ohio railroad depot in this city will expedite, and will probably secure, the construction of the road to the Point of Rocks. It has been argued, in the course of this debate, that that construction was an impossibility—a thing not to be attained. The amendment which is now presented is to show the good faith of that company, by putting them under obligations not to take this franchise with any expectation of profit from it, but to bind them to make no dividend until the road is completed to the Point of Rocks, thus securing the end which it has been so often asserted was not to be expected from any grant which could be made to the Metropolitan Company.

With these views, both as to all the claims which have been set up and the application upon us to give something to these men who have been so successful in lobbying; and as to the public con-

siderations which would prompt us to grant this franchise to the Metropolitan Company, in preference to any other within this District, I have only to say that I have never before heard such laudation of men, who, in the pursuit of their own interest, have established a line of omnibuses to run in the city, and have afforded a sort of facility to it, it is true. Never did I imagine that we should reach the point in congressional legislation when it would be thought a reason for passing a law beneficial to particular persons, that they had been most active in urging their claim and procuring the passage of a bill through one of the two Houses of Congress. I hold it to be a curse in legislation, that such things as lobby men can ever be tolerated about either of the two Houses of Congress. I hold it to be an obligation on every member of either House of Congress to repel, as an insolent assumption on the part of any one who comes to instruct him in the manner in which he shall vote, or by soliciting to turn him from that path of duty which, as a representative, he is bound to pursue. So far, then, from giving a reward to encourage the collection of this swarm of lobby members, it constitutes with me an additional objection to the passage of the bill which is now before the Senate. I only again ask a vote of the Senate, without much encouragement from that which has gone before, for the substitute I have now offered, with the amendment I have attached to it.

Mr. BROWN. I have so often to-day, appealed to the Senate for a vote on this question on every point presented, that of course I am not prepared now to occupy any time; but my colleague said, a little while ago, that I had made opposition to this railroad on the avenue which I had not sustained by my vote. I thought I had explained that before. If I did not, I will do it now.

I was opposed to putting any railroad upon the avenue, and I am now; but I said, to-day, as I said on Saturday, that that opposition had not been sustained by any public sentiment, in the committee of which I am a member, in the Senate, or in Washington. As evidence of it, I cited the fact that the committee had instructed me to report the bill against my own sentiment; that the Senate had sustained it in every vote against my sentiment; and that in the city, the people almost unanimously had petitioned for it in one form or another.

I know there may be a majority against this company, as I said before, as there would be a majority against any other company. I said this morning, as I say now, that there are some six applicants for this franchise; and if you propose to give it to one of the six, the other five will combine against that one. You may abandon this one, and take any other one of the six, and the remaining five will combine against that. But so far as my point is concerned, that there ought to be no railroad on the avenue at all, I have considered it as a foregone conclusion, not only by the sentiment of the committee of which I am a member, but the sentiment of the people of Washington, and the sentiment of the Senate. I gave it up precisely at the point where I felt I was not sustained at all by anybody, or by any sentiment that was worth standing on. I say to-day, as I said before, and I hope my colleague will take note of it, that if I had any assurance that you could crush this whole thing out, and that this beautiful avenue, stretching from the gate of the Capitol to the President's house, and thence to Georgetown, could be in perpetuity preserved against the innovation of railroads, that is my stand point; right there I will plant myself; but everybody can see from the sentiment of the Senate; everybody can see from the sentiment in the District of Columbia; that we are not sustained here, and not sustained by the people of Washington, in taking any such stand.

Mr. DAVIS. I understood my colleague before, as he asked me to take note of what he says now, that he declared himself opposed to the construction of a road on the avenue, and then I took note also that when we attempted to make amendments, when we proposed to postpone, he said that would be the death of the bill, and he struggled most manfully against that sacrifice of a measure to which he was opposed.

Mr. BROWN. And why, Mr. President? Because, as I said before, I foresaw that a railroad was to be put upon the avenue, and if it had to

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be done, I preferred these parties to anybody else.

Mr. DAVIS. I do not see that the Senator's explanation just a minute ago confirms the belief that a railroad has to be put upon the avenue. He says there are five against any one that may be favored in the bill. He describes it as a Killenny fight—a familiar sort of illustration which induces us to believe that they can destroy each other; and if that be the fact, then I think his end will be attained, exactly, by refusing to pass this bill, the only one which it appears has any chance to pass at this time, and allowing these contestants to destroy each other, and thus preserve Pennsylvania avenue in all its beautiful proportions.

I did not misunderstand the argument of my colleague; but I did not see, nor do I see now, how to match that argument with his votes. I do not perceive how it is possible to reconcile the argument that we must not do something because it will destroy the measure, with the constant declaration that the purpose is a bad one. I am ready to lay it upon the table; I voted so to-day. To lay it upon the table is certainly to defeat it for this Congress; and if rival schemes will defeat it forever, it will suit me exactly.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. HUNTER. We ought to settle this question in some way.

The motion was agreed to, there being on a division—yeas 24, noes 11; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 7, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. J. N. HANK.

The Journal of Saturday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate was received, through Mr. DICKINS, its Secretary, notifying the House that the Senate had passed a bill to provide for quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes; in which he was directed to ask the concurrence of the House.

KERR, BRIERLY AND CO.

Mr. CARUTHERS. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of the bill (H. R. No. 609) for the relief of Kerr, Briery, & Co., of the State of Maine.

The bill was read. It directs the Secretary of the Treasury to pay to John Kerr, Thomas H. Briery, James H. Jones, and Henry W. Summerville, copartners, using the style of Kerr, Briery & Co., out of any moneys in the Treasury not otherwise appropriated, the sum of \$20,135, being in full payment for losses sustained by them in consequence of Indian hostilities while freighting goods to Great Salt Lake City, in the year 1855.

Mr. SMITH, of Virginia. I object. I will not consent that that bill should pass.

Mr. CARUTHERS. I move that the rules be suspended, and I ask for the reading of the report.

The report was read. It appears therefrom that for several years, and up to the 23d of August, 1856, the Sioux Indians were entirely peaceable and friendly to the trains crossing from Missouri to Utah and California, and not in the least predatory upon them; but, on the contrary, rendered the trains frequent and valuable aid. The Pawnee Indians had exhibited appearances of hostility, and fears were entertained, by travelers, that they would commit depredations upon trains crossing on their way to Utah and California, especially upon trains freighting merchandise. From information upon file, at the Indian bureau, it seems that hostile meetings had taken place between small parties of the Sioux and Pawnees, and this added to the uneasiness of emigrants

and merchants. In order to keep the hostile Indians quiet, General Harney, with a strong detachment of United States troops, was sent into the Indian country; while on the march out, and when he was near the Blue Water river, or Ash Hollow, as it is sometimes called, the Sioux, desirous of expressing to him their pacific intentions, and fearing that some of their tribe might inadvertently be treated with harshness, sent a deputation—at the head of which was Little Thunder, their chief—consisting in part, of women and children; which deputation encamped at Ash Hollow to await the approach of General Harney. The friendly disposition of this Indian tribe is certified by the testimony of Captain Van Vleet, who was present, and in command under General Harney; of Mr. Vaughn, the Indian agent for the Sioux; of Joseph Tesson, Government interpreter; and other credible persons.

It further appears that when General Harney arrived at Ash Hollow with his command, he immediately drew up his men in line of battle, within rifle range of the Indian camp. The statement of Captain Van Vleet, who was present and under command of General Harney, together with the evidence of several other persons who were also on the ground, shows that the Sioux chief, finding that his party was about to be treated as hostile by the United States Army, immediately came forward and had an interview with General Harney and begged for peace, urging his known friendship for the white man, which was fully sustained by the fact that several emigrants were then in his camp enjoying his hospitality. General Harney declined to treat with the Indian chief, but ordered his men to charge upon the Indian camp, which order they obeyed, killing in all some forty or fifty persons. Had General Harney been apprised of the fact that a large number of women and children were in the camp, some of whom shared the same fate as the warriors, that circumstance, the committee think, would have convinced him of their friendly character and pacific intentions; and such knowledge would also have determined him to pursue a line of policy altogether different from that which he adopted in the premises, as he understood them.

The Indians, in consequence of this rencontre, which resulted from a misunderstanding of their real character and intentions, became highly exasperated, and declared their purpose to be revenged. Accordingly they commenced putting their threats into immediate execution, by making predatory descents upon emigrant and other trains that were then crossing from the western border of Missouri to Utah and California. The petitioners, Kerr, Briery & Co., had, at that time, a large train some two days' drive in the rear of General Harney, laden with ninety-five tons of merchandise, which they were hauling to Great Salt Lake City. These exasperated Indians at once waylaid them, and robbed them of a number of their mules and horses, and otherwise annoyed them with threats and robberies, until it became impossible to proceed, except at the peril of their lives. In this emergency they appealed to General Harney, who, perceiving their imminent danger, detailed a small escort of twenty men, under the command of Captain Heath, to protect their train, and thus enable them to proceed. This force, however, proved to be altogether inadequate for the purpose; so much so, that Captain Heath found it necessary to impose such terms and orders upon Kerr, Briery & Co., respecting their manner of traveling—compelling them to travel slower than usual, to stop and encamp earlier in the afternoon, and to corral their cattle and horses so closely that they had not an opportunity to graze sufficiently to keep them in traveling order.

The train was so much delayed and reduced in flesh by reason of these orders, that it was from fifteen to twenty-five days longer than is usual in reaching Great Salt Lake City. It was, for the same reasons, overtaken by the snow storms, which covered up the grass, and thus still further reduced the cattle; so that, partly from starvation and partly from the intense cold that followed, the

cattle all perished, except thirty head. Moreover, the petitioners were compelled to purchase cattle from trains that overtook and passed them, and also to send ahead for others when within one hundred and thirteen miles of Great Salt Lake City. These facts were all proven by Captain Van Vleet and other credible witnesses. It was also proven that, within two days prior to this rencontre with the Indians, trains had passed by unmolested, that they had been hospitably treated by this tribe, and no signs of hostility whatever were exhibited. All the witnesses concurred in the statement that the train of Kerr, Briery & Co., was one of the best-equipped trains that started out during the season. It was also proven that the cattle were in like good condition when they passed Fort Kearny, and up to the time that Captain Heath found it necessary, for the reasons set forth, to restrict their grazing. And, finally, it was proven that, but for the untoward circumstances detailed, the train would have arrived at Salt Lake, in good condition, from fifteen to twenty-five days before the snow storms set in. By these disasters the petitioners sustained a loss of mules, horses, cattle, and other property, amounting to \$20,135.

The question being on the motion to suspend the rules,

Mr. SMITH, of Virginia, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 103, nays 65; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Bennett, Billingshurst, Blair, Bonham, Bryan, Bullinton, Burlingame, Burnett, Caruthers, Case, Caskie, Cavanaugh, John H. Clark, Clay, John Cochrane, Colfax, Comins, Corning, Cox, Cragin, James Craig, Curtis, Davidson, Davis of Massachusetts, Dick, Dowdell, Edie, Edmundson, English, Eustis, Farasworth, Foley, Foster, Garrett, Gilman, Gilmer, Gooch, Greenwood, Gregg, Lawrence W. Hall, Harris, Hawkins, Hill, Hodges, Jackson, Jewett, Owen Jones, Keim, Kelsey, Kigvor, John C. Kunkel, Lamar, Leiter, McKibbin, McKee, Samuel S. Marshall, Mason, Matteson, Maynard, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Niblack, Nichols, Palmer, Pettit, John S. Phelps, William W. Phelps, Pike, Purviance, Reagan, Reilly, Ricard, Roberts, Russell, Scott, Seward, Robert Smith, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Tripp, Underwood, Vance, Israel Washburn, Watkins, White, Whiteley, Wilson, Wood, Augustus R. Wright, and Zollcoffer—103.

NAYS—Messrs. Bliss, Boyce, Brayton, Clawson, Cobb, Cockerill, Covode, Crawford, Curry, Davis of Maryland, Davis of Indiana, Dean, Dewart, Dodd, Garnett, Giddings, Goode, Granger, Grow, Robert B. Hall, Harlan, Hickman, Hopkins, Houston, Howard, George W. Jones, Kellogg, Leach, Leidy, Lovejoy, McQueen, Miles, Morgan, Morrill, Murray, Olin, Parker, Pendleton, Peyton, Phillips, Potter, Pontie, Powell, Robbins, Royce, Russell, Scales, Seating, Aaron Shaw, Henry M. Shaw, William Smith, Stanton, William Stewart, Talbot, Miles Taylor, Thayer, Tompkins, Vallandigham, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, and Wortendyke—65.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. NIBLACK stated that his colleague, Mr. HUGHES, was detained from the House by sickness.

TERRITORIAL BUSINESS.

Mr. STEPHENS, of Georgia. I again present to the House the subject of assigning two or three days for the consideration of territorial business. I will ask of the House only two days, as the session is drawing rapidly to a close, and some gentlemen thought, last Monday, that three days was too much. I ask the consent of the House to offer the following resolution:

Resolved, That Tuesday and Wednesday, the 15th and 16th instants, be set apart for the consideration of territorial business.

Mr. DEAN. I object.

Mr. STEPHENS, of Georgia. I move to suspend the rules.

Mr. MORGAN. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 117, nays 69; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Atkins,

Avery, Barksdale, Bonham, Boyce, Branch, Bryan, Burnett, Caruthers, Case, Cavanaugh, Ezra Clark, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, Cox, Cragin, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, English, Eustis, Faulkner, Florence, Foley, Foster, Gartrell, Giliss, Gilman, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hill, Hodges, Horton, Houston, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keim, Kilgore, Lamar, Landy, Leidy, Leiter, McKibbin, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Reagan, Reilly, Roberts, Ruffin, Russell, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Sickles, Robert Smith, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Tripp, Underwood, Vallandigham, Vance, Watkins, White, Whiteley, Wilson, Wood, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—117.

NAYS—Messrs. Bennett, Billingshurst, Bingham, Blair, Bratton, Buffinton, Chaffee, Chapman, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Giddings, Gilmer, Gooch, Goodwin, Granger, Robert B. Hall, Harlan, Harris, Hickman, Howard, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Phillips, Pike, Potter, Pottier, Purviance, Ricard, Royce, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—69.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. CURTIS stated that he had paired off upon this question with Mr. LETCHER, who was detained from the House by indisposition.

Mr. REILLY stated that his colleague, Mr. AHL, had been called home by sickness in his family.

Mr. NICHOLS stated that his colleague, Mr. MOTR, had been called home by indispensable business, and had paired off on this question with Mr. HUYLER.

REPAIRS OF CHICAGO HARBOR.

Mr. FARNSWORTH asked the unanimous consent of the House to submit a motion to discharge the Committee of the Whole on the state of the Union from the consideration of Senate bill (No. 341) making appropriations for repairing and securing the works at the harbor of Chicago, Illinois, and that the bill have its consideration at this time.

Mr. McQUEEN. I object.

Mr. FARNSWORTH. I move to suspend the rules.

Mr. HATCH. I ask the gentleman to withdraw that motion for a moment, to enable me to call up a bill in which he is interested as well as myself.

Mr. FARNSWORTH. I believe my motion is not debatable.

Mr. SMITH, of Virginia. How much does the bill appropriate? I ask for the reading of the bill.

The bill was read. It makes an appropriation of the sum of \$87,275 37, for repairing and securing the works at the harbor of Chicago, Illinois, to be expended under the superintendence of the Secretary of War.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 101, nays 70; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Andrews, Barr, Bennett, Billingshurst, Bingham, Blair, Bratton, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Grow, Robert B. Hall, Harlan, Haskell, Hatch, Hill, Hodges, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Leach, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Palmer, Parker, Pendleton, Pettit, William W. Phelps, Pike, Potter, Pottier, Purviance, Ricard, Robbins, Roberts, Royce, Scott, Robert Smith, Spinner, Stanton, William Stewart, Thayer, Tompkins, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Augustus R. Wright—101.

NAYS—Messrs. Atkins, Avery, Barksdale, Bonham, Boyce, Branch, Bryan, Burnett, Burns, Caskey, Chapman, John B. Clark, Clay, Cobb, Burton Craige, Crawford, Curry, Davis of Indiana, Dewart, Dowdell, Edmundson, English, Faulkner, Florence, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Hickman, Hopkins,

Houston, Jackson, Jenkins, George W. Jones, Owen Jones, Lamar, McQueen, McRae, Mason, Miles, Miller, Millson, Moore, Niblack, Peyton, John S. Phelps, Phillips, Powell, Reagan, Ruffin, Russell, Savage, Scales, Searing, Seward, Henry M. Shaw, Shorter, Samuel A. Smith, Stephens, Stevenson, Miles Taylor, Tripp, Vallandigham, Watkins, White, Whiteley, and Wortendyke—70.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. MONTGOMERY, not having been within the bar when his name was called, asked leave to vote.

Objection was made.

CLAIMS OF GEORGIA AND MAINE.

Mr. GARTRELL. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate resolution (No. 48) for the payment of an unexpended balance to the State of Georgia, on account of militia services; and Senate bill (No. 380) to provide for the payment of the claim of the State of Maine, for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war.

These measures involve the same principle. The question is a very clear one; and if gentlemen will hear the bill and resolution read, I do not think there will be any objection.

Mr. CLARK, of Missouri. I want them taken up one at a time. I object.

Mr. GARTRELL. Then I move to suspend the rules to enable me to move to discharge the Committee of the Whole on the state of the Union from this bill and joint resolution.

Mr. JONES, of Tennessee. If that motion is decided to be in order, I think we might as well discharge the committee from all the bills on the Calendar, and bring them into the House for its action.

Mr. GARTRELL. In reply to the gentleman from Tennessee, I will say that this bill and joint resolution were reported by the chairman of the Committee on Military Affairs, and should have been sent to the Committee of the Whole House on the Private Calendar, but were sent to the Committee of the Whole on the state of the Union, and thereby lost the advantage which their position would have given them on the Private Calendar. I hope the House will consent to take them up. The same principle is involved in each case; and that principle is so correct, that I am sure even my vigilant friend from Tennessee will not object when he comes to understand it.

Mr. HOUSTON. I do not know whether I should object to the gentleman's bill or not, but it is important in my judgment that the question of order should be settled properly. It seems to me that it is competent for the House to suspend the rules to bring into the House for its action only one subject at a time; because if the rules can be suspended and two bills brought into the House at the same time, you can bring in three bills, or a dozen, or a hundred, or all the bills on the Calendar; and then, as the House can only consider one of them at a time, the others must go to the Speaker's table, and be beyond the reach of the House and within the influence and control of some other rule of the House. I regard the motion of the gentleman from Georgia as involving a very important principle, and it seems to me that it should not be entertained by the House.

Mr. KELSEY. Is debate in order?

The SPEAKER. It is not.

Mr. LOVEJOY. I object to it, then.

The SPEAKER. The Chair will receive the motion of the gentleman from Georgia, receiving it, however, with very great doubt as to its propriety. The Chair entertains the motion upon the ground that, although he thinks the rules may be suspended, perhaps, to bring two bills out of committee, they must be considered separately in the House.

Mr. STEPHENS, of Georgia. The House may, by a two-third vote, suspend any rule; and it strikes me, that by that vote, they may suspend every rule of the House.

The SPEAKER. The gentleman is correct.

Mr. REAGAN. This is a log-rolling movement, and if adopted will inaugurate a very dangerous precedent in this House.

Mr. GARTRELL. I desire to call the attention of the House to the fact that this is not a motion to bring up separate subjects of legisla-

tion. The same principle is involved in each case.

Mr. HOUSTON. I take an appeal from the decision of the Chair. I look upon the principle involved as a very important one. It may be true that there is no log-rolling in connection with this motion, but it must be very evident to this House that if this is to be the rule, it may constitute a very important precedent, which may lead to serious consequences hereafter.

Mr. KUNKEL, of Pennsylvania. I object to all debate.

The SPEAKER. The gentleman from Alabama appeals from the decision of the Chair, and is stating the grounds of his appeal, as the Chair understands it.

Mr. GREENWOOD. I will state one instance in which the ruling of the Speaker of this House was different from that of the Chair now. In the Thirty-Fourth Congress, the gentleman from Louisiana [Mr. TAYLOR] made a similar proposition to the one now made by the gentleman from Georgia. I then objected; and I think Mr. Speaker Banks decided that a motion could not be made to suspend the rules in order to take up two bills at the same time, unless by unanimous consent. I afterwards withdrew my objection.

The SPEAKER. According to the recollection of the Chair, during the Thirty-Fourth Congress, a similar proposition to this was submitted—the Chair does not remember that a question of order was raised—and it was held competent to move to discharge the Committee of the Whole from the consideration of three, four, or five appropriation bills. The Chair does not remember the number.

Mr. SEWARD. That was done upon the motion of the gentleman from Illinois, [Mr. WASHBURN.]

Mr. HOUSTON. The Chair has referred to a case where the Speaker of the House held as it has been held to-day. I do not recollect the case; and, therefore, I cannot say but he is correct. But I desire more directly to point to the danger which will result from the ruling of the Chair. It seems to me that it will inaugurate a principle—

Mr. STEPHENS, of Georgia. If I understand the point of order, it is that two bills cannot be included in one motion.

The SPEAKER. The Chair does not so understand the gentleman from Alabama.

Mr. STEPHENS, of Georgia. The position of the gentleman is, that you cannot move to suspend the rules to take up two bills; that under the rules of the House it is out of order to make such a motion. But it is always in order, on Monday, to move to suspend any or all of the rules. Now, that rule of the House which prevents one bill from being attached to another bill, is to-day moved to be suspended. It is perfectly in order; as much so as it would be to move to discharge the Committee of the Whole House from every bill upon the Calendar; because it is competent to move to suspend any one rule or all of the rules, and on a vote of two thirds you may take up all the bills.

Mr. HOUSTON. The gentleman does not understand the point I make. It is true that two thirds can suspend the rules of the House for the purpose of transacting business; for the purpose of taking up any bills; but I do not agree to the principle assumed by the gentleman from Georgia, that two thirds of the members of this House can suspend its rules for the purpose of bringing before the House the whole Calendar—for that is the point—for its action. That is the point in issue; and I take it that the doctrine and law of the House is, that the House can suspend its rules to take up that portion of its business out of order which it can transact; but that it cannot suspend its rules to take up a mass of business which must necessarily fall to the table and come under some other rule before the House can act upon it.

Mr. STEPHENS, of Georgia. My position is, that two thirds of this House can suspend every rule, abolish every rule of this House, or introduce an entirely new system. I say that two thirds can suspend the rules and pass every bill now upon the Calendar.

Mr. HOUSTON. It is true that two thirds can suspend the rules of this House, but two thirds cannot suspend the rules so far as to allow to be

brought before the House, for its immediate action, a thousand bills which are now out of the reach of the House. They cannot be brought before the House; because, under no parliamentary law known to legislative assemblies can you make a motion by which you bring before the House a mass of business, nineteen twentieths—if not ninety-nine hundredths—of which must fall to the table before it can be acted upon by the House.

Again, if there is any doubt upon the mind of the Speaker, it seems to me that the decision of the Chair should be upon the side of that doubt, because the ruling of to-day necessarily opens a door to combinations in this House, which will evade the force of all your rules, and which may bring up every bill which is litigated or contested. They may be brought up from the Committee of the Whole on the state of the Union and from the Committee of the Whole House on the Private Calendar, and under that decision I can combine a private bill with a public one, combine any sort of legislation you please, and thereby escape all the restrictions which rest upon the ordinary legislation of the country.

I ask for the yeas and nays upon the determination of this question.

Mr. NICHOLS. I wish to put this interrogatory to the Speaker: if the rules are suspended on the motion of the gentleman from Georgia, is not the consideration of the bill brought before the House, after the rules are suspended, then to be determined by the rules of the House—the question of priority and everything connected with it? Does the suspension refer to anything except the bringing of the measure before the House for consideration? As to the point whether you can pass two bills together, is not that a question necessarily determined after a suspension of the rules of the House?

Mr. STANTON. I take it for granted that it would not be in order to move to suspend the rules for the day for the purpose of taking up whatever business any gentleman might choose to call the attention of the House to. There is some limitation to the power of the House in the suspension of the rules by a vote of two thirds. You cannot discharge the Committee of the Whole House, or the Committee of the Whole on the state of the Union, from all business pending in them, by a single vote for a suspension of the rules. There must be some limitation, and I do not think there is any other limitation except this: you may suspend the rules for the purpose of making a motion which would be in order, if the party had the floor to make it. You cannot suspend the rules for the purpose of doing a thing which it would not be in order to do, after the rules were suspended. You cannot suspend the rules for the purpose of discharging the Committee of the Whole House from the consideration of two bills; because, if there were no rules to prevent the making of a motion, you could not move to consider two bills at a time. I think that the limitation of the power of the House to suspend its rules is found in the question as to what would be an orderly motion, considering the congruity of the subject-matter for which you are calling for the consideration of the House.

Now, this is a dangerous precedent; and if by a combination of the interests of two private bills you can secure two thirds to suspend the rules, why, by a combination of all interests upon the Private Calendar you may get rid of the whole of them. As far as these cases are concerned, and especially the bill relating to the State of Maine, I think it is a good claim, and I will vote for the passage of the bill. I am not so well acquainted with the case from Georgia, but I believe it is a similar case, and I will vote for the bill if you suspend the rules severally; but I am not prepared to recognize it as competent to move a suspension of the rules, to discharge the Committee of the Whole House from the consideration of a great variety of subjects. I do not know of any other limitation upon the power of the House in the suspension of its rules, than this: that you cannot move to suspend the rules for the purpose of doing that which it would not be in order to do in the House as a distinct and separate proposition.

Mr. WASHBURN, of Maine. I do not understand that the gentleman from Ohio has pointed out to the House any distinct limitation to the

power of the House in the suspension of its rules. It has adopted certain rules; and it has a right, by those rules, on Monday, to move to suspend them, one or all, and to suspend them for any purpose the House sees fit. The gentleman from Georgia has moved, inasmuch as those two bills are *in pari materia*, and have happened, by some mistake or inadvertence, to be committed where they ought not to have been committed, that the rules be suspended, in order to correct that mistake, and bring those bills before the House, that the House may take them up separately, pass upon them, and adopt or reject them. The gentlemen from Ohio and Alabama have utterly failed to show that there is any limitation to the power of the House to suspend the rules for this purpose; and no injury or prejudice whatever can result from this course.

Mr. HOUSTON. Let me ask the gentleman a question. He says that when these bills are brought before the House they must be acted on separately.

Mr. WASHBURN, of Maine. Certainly.

Mr. HOUSTON. According to the argument of the gentleman from Georgia, [Mr. STEPHENS,] as well as the argument of the gentleman himself, that rule is as much suspended as any other. If you can suspend the rules to bring the bills up, why cannot you suspend the rules to pass them together?

Mr. WASHBURN, of Maine. That is not the question before the House. The proposition of the gentleman from Georgia is, to suspend the rules for the purpose of bringing the bills into the House.

Mr. HOUSTON. But that is the point made by my friend from Georgia.

Mr. WASHBURN, of Maine. That is not the proposition before the House. The motion of the gentleman from Georgia is for the suspension of the rules to enable him to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of these two bills. They happen to stand together by mistake; and, sir, you have already stated, as one of the reasons of your decision, that when the committee shall have been discharged, you will hold that, unless the House shall go further, and move to suspend another rule, these questions shall be decided separately. In that case, and in execution of this proposition as made by the gentleman from Georgia, no inquiry can arise. It is the experience of every week of the session, that we suspend the rules involving this principle. It was but the other day that the gentleman from New York [Mr. KELSEY] proposed to suspend the rules in a matter having application to the whole Private Calendar. That proposition involved every one of the bills upon that Calendar; and, of course, more than is embraced in the proposition of the gentleman from Georgia. He moved that the House should proceed to the consideration of the bills upon the Private Calendar; and that they be subject only to a discussion of five minutes for, and five minutes against, each; and that then, on that discussion, they should be reported to the House with the recommendation that they do or do not pass. There are precedents that we have followed since the foundation of the House of Representatives that involve this very principle. Two weeks ago, I am informed that the rules were suspended for an entire day. There is no limitation, therefore, to the power of the House to suspend its own rules.

Mr. STANTON. Does the gentleman hold that it is in order to move a general suspension of the rules for a day?

Mr. WASHBURN, of Maine. I have no doubt that the House may dispense with the rules for a whole day, or for the session, and then act under the general parliamentary law. I have no question about that.

Mr. JONES, of Tennessee. It does appear to me that there is more involved in this question than a mere question of rules. I think, sir, that there is a question of constitutionality involved. The Constitution secures to one fifth of the members of this House, who may be present, the right to have their votes recorded upon the Journal on any question. Here, then, are two questions presented at once, and how can we have the votes of the House recorded upon each one of them? I might be in favor of suspending the rules for one of them, and against suspending the rules for the other.

A MEMBER. How about the appropriation bills?

Mr. JONES, of Tennessee. An appropriation bill, though it may contain a thousand items, is, on its passage, but one question. Here are two questions, and I contend that, under the Constitution, I have a right to vote on each one of them. If one fifth of the members present agree with me, we have the right to have a vote on each one entered upon the Journal. If the House can entertain this motion, I take it that it can take every appropriation bill before it, and, upon a suspension of the rules, put them upon their passage—pass every one of them, sir, by a solitary vote.

Mr. SEWARD. Will the gentleman let me ask him a question? Have we not passed private bills here thirty and forty at a time?

Mr. JONES, of Tennessee. That was by unanimous consent of the House.

Mr. SEWARD. Two thirds is all that is required to suspend the rules.

Mr. JONES, of Tennessee. The Constitution requires that, if one fifth of the members present desire it, the vote upon each question shall be recorded upon the Journal.

A MEMBER. Each by itself?

Mr. JONES, of Tennessee. I think so. I think that this, if not one of the most important questions we have had here during the present session, is certainly as important as any other. I have no doubt, if this precedent be established, that the time will come, when there may be combinations formed by putting bills enough together to get the committee discharged, and put them upon their passage. If the Chair adheres to the decision, and the House shall sustain it, I shall then ask that the question be divided, and that the vote be taken first upon suspending the rules for one bill, and then for the other. The rules give me that right.

Mr. KELSEY. During the last Congress a case almost in point was passed upon by the House. I recollect asking leave to make a motion to take three private bills from the Speaker's table, and then moving to suspend the rules for that purpose, and it was done. There was objection made, and I think there was a vote of the House on the proposition. I can see no difference between suspending the rules to take bills from the Speaker's table and suspending the rules to discharge the committee, take them from the Private Calendar, and put them upon their passage. In that case the bills were passed separately, and I presume that such will be the course pursued in this case. And now, for the purpose of getting along with the business of the House, I will move that the appeal be laid upon the table.

Mr. HOUSTON. If the gentleman from New York will look to the cases he has referred to, he will find, I think, that the bills were taken up by unanimous consent. I have looked over them, and I have found that every one of them was taken up by unanimous consent, and not by a suspension of the rules by a two-thirds vote.

Mr. KELSEY. My recollection is, that there was a suspension of the rules.

Mr. GARTRELL. I had no expectation when I submitted the motion I did, that my proposition would give rise to a protracted debate. I certainly had no wish to embarrass the House or the Speaker, or to raise a new point, for we have enough questions here already, without raising new ones. I will therefore modify my request, and ask the unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of the Senate resolution (No. 48) for the payment of an unexpended balance to the State of Georgia, on account of militia services.

The resolution was read. It directs the Secretary of the Treasury to apply the unexpended balance of the amount appropriated by the act of August 11, 1842, entitled "An act to provide for the settlement of the claims of the State of Georgia for the services of her militia," to the repayment to said State of any amount which she has paid to her militia, mentioned in said act, since the date of its passage.

Mr. HARLAN. Is that motion amendable?

The SPEAKER. It is not.

Mr. HARLAN. I object.

Mr. GARTRELL. I move, then, to suspend the rules for the purpose I have indicated.

The question was taken; and, on a division, there were—ayes 90, noes 39.

So the rules were suspended, two thirds having voted in favor thereof.

Mr. GARTRELL. I now submit the motion that the Committee of the Whole on the state of the Union be discharged from the further consideration of the joint resolution, and that it have its consideration at this time.

Mr. UNDERWOOD. Before the vote is taken on that motion, I desire to ask whether there is a report accompanying this resolution? If there is, I desire to have it read.

Mr. GARTRELL. I am informed by the chairman of the Committee on Military Affairs that this question was considered by the committee as so clear that they deemed it unnecessary to make any report.

Mr. MORGAN. I desire to know of the gentleman from Georgia what that unexpended balance is? I want to know how much they claim; whether one thousand, or one hundred thousand, or two hundred thousand dollars?

Mr. FAULKNER. In reply to the question of the gentleman from Kentucky, [Mr. Underwood,] I will state that the Committee on Military Affairs had the Senate bill before them, and did not deem it necessary to accompany it with a written report. The papers accompanying the bill are quite voluminous; but the facts of the case can be stated in few words.

In August, 1842, Congress appropriated \$175,000 for the purpose of refunding to the State of Georgia advances made to her volunteers engaged in hostilities with the Creeks, the Cherokees, and the Seminoles. The language of that law limited the payments to be made under it to sums of money which had been already paid by the State of Georgia to her troops. Under that law there was paid \$167,887 06, leaving an unexpended balance of \$7,112 94. Since that period, the State of Georgia has paid three or four companies more. That account has been laid before the Treasury Department, and it has declined to pay it out of the unexpended balance, because the Department was, by the language of the act of 1842, limited in its payments to sums which had already been paid by the State of Georgia. Why these companies did not present their claims prior to the passage of the law of 1842 does not appear, but the proof was conclusive before the committee, that the service rendered by these companies was precisely the service rendered by the troops for the payment of which the State of Georgia was reimbursed under the law of 1842. This joint resolution merely provides that the unexpended balance shall be applied to those accounts paid by the State since the passage of that law.

Mr. GIDDINGS. I desire to inquire whether there is any printed report upon which we can rely when we are called on in future for the reason for our votes?

Mr. FAULKNER. There is the report of the Second Auditor, which I will have read.

Mr. GIDDINGS. Is it printed, and will it go upon our Journals?

Mr. FAULKNER. It will appear in the published proceedings of the House.

Mr. GIDDINGS. I have no disposition to oppose this claim, but I do desire to have some authority on which to predicate my vote in favor of it.

Mr. FAULKNER. I will ask the Clerk to read what the Second Auditor says on the subject.

The Clerk read as follows:

"The Second Auditor is of the opinion that the sum of \$7,112 94, being the unexpended balance in the Treasury of the sum of \$175,000 appropriated by the several acts of Congress, to pay the claims of the State of Georgia for suppressing Indian hostilities, cannot be applied to the payment of the services of Captains Patterson and Prie's companies, for the reason that the services of these companies were not paid for by the State of Georgia until some three years after the passage of the last act of Congress; consequently they cannot be included in the claims appropriated for. The act limits the payment to claims already paid by the State of Georgia."
T. J. D. FULLER."

"See the letter of the Second Auditor to the Second Comptroller, and his approval thereof, in February, 1853."

The motion to discharge the Committee of the Whole on the state of the Union was agreed to, and the resolution was brought before the House for consideration.

Mr. GARTRELL moved the previous question on the third reading of the joint resolution.

The previous question was seconded, and the

main question ordered; and, under the operation thereof, the joint resolution was ordered to a third reading, and was accordingly read the third time.

Mr. GARTRELL moved the previous question on the passage of the joint resolution.

The previous question was seconded; and the main question ordered to be put; and, under the operation thereof, the joint resolution was passed.

Mr. GARTRELL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. MORSE, of Maine. I now ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union, from the further consideration of Senate bill No. 380 to provide for the payment of the claim of the State of Maine, for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war.

Objection was made.

Mr. MORSE, of Maine. I move to suspend the rules, to enable me to introduce the motion.

The bill, which was read, directs that the accounts of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war, in the year 1846, upon the requisition of the President of the United States, shall be audited and settled by the proper accounting officers of the Treasury Department, pursuant to the provisions of an act approved June 2, 1848, to "refund money for expenses incurred, subsistence, or transportation furnished for the use of volunteers during the present war, upon being mustered into the service of the United States," in the same manner in all respects as if the said regiment had been mustered and received in the service of the United States; and that the amount found to be due to the State of Maine shall be paid out of any money in the Treasury not otherwise appropriated.

Mr. SMITH, of Virginia. I would ask the gentleman from Maine, what is the amount of that claim?

Mr. MORSE, of Maine. About six thousand dollars.

Mr. JONES, of Tennessee, demanded the yeas and nays upon the suspension of the rules.

Mr. HICKMAN called for tellers upon the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The rules were suspended.

The Committee of the Whole on the state of the Union was then discharged from the further consideration of the bill, and the same was brought before the House for its consideration.

Mr. MORSE, of Maine, moved the previous question upon ordering the bill to be read a third time.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the bill was ordered to a third reading, and was accordingly read the third time.

Mr. MORSE, of Maine, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the bill was passed.

Mr. MORSE, of Maine, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as correctly enrolled, the following bills, when the Speaker signed the same.

A bill (No. 123) for the relief of Henry Hubbard;

A bill (No. 284) for the relief of C. Edwards Habicht, administrator of J. W. P. Lewis;

A bill (No. 276) for the relief of Mrs. Ambrose Brou, of the parish of St. Charles, State of Louisiana;

A bill (No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Pri-

vate Secretary, informing the House that he had approved and signed a joint resolution to correct a clerical error in "An act for the relief of Isaac Body and Samuel Fleming," and an act to provide for the settlement of the accounts of the late Lieutenant Colonel Lewis S. Craig, for his services in command of the military escort of the Mexican boundary commission.

LYDIA FLETCHER.

Mr. ATKINS. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of a bill of the House (No. 560) for the relief of Lydia Fletcher, and that the same be put upon its passage.

No objection being made, the bill was brought before the House for consideration.

It directs the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, to Lydia Fletcher, the amount due under existing laws to her son, Abraham Fletcher, deceased, on account of services rendered by him as a soldier in the Seminole war of 1818.

The Committee on Military Affairs had reported an amendment to the bill, as follows:

Strike out all after the enacting clause, and insert: "That the Secretary of the Treasury cause the account of Abraham Fletcher, a private in Captain Williams's company of Tennessee militia against the Seminoles, in 1818, to be properly audited, and that he pay the sum found due to Lydia Fletcher, out of any money not otherwise appropriated."

Mr. WASHBURNE, of Illinois. I would inquire what the claim will amount to?

Mr. ATKINS. To not more than three or four hundred dollars.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BOUNDARY CONTEST.

Mr. DAWES. I ask the unanimous consent of the House that Senate bill No. 554 to authorize the Attorney-General to represent the United States in the proceedings in equity now pending in the Supreme Court between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations, be taken from the Speaker's table, and passed.

There was no objection; and the bill was accordingly taken from the Speaker's table, received its several readings, and was passed.

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up and consider the legislative, executive, and judicial appropriation bill.

Mr. SMITH, of Virginia. I hope the gentleman will not press that motion until I can submit a motion from the Committee on Territories. I have been struggling to get the floor all morning.

Mr. PHELPS, of Missouri. I would yield to the gentleman with pleasure, but I feel constrained by a sense of public duty to adhere to my motion. I demand the yeas and nays upon it.

Mr. KEITT. Take tellers on the motion.

Mr. PHELPS, of Missouri. Very well. I ask for tellers.

Mr. HOUSTON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 123, nays 49; as follows:

YEAS—Messrs. Abbott, Andrews, Avery, Barksdale, Bingham, Bishop, Bliss, Bonham, Bufinton, Burlingame, Burnett, Case, Cavanaugh, Chaffee, Chapman, John B. Clark, Clawson, Cobb, Clark B. Cochrane, John Cochrane, Coffay, Comins, Corning, Cox, James Craig, Burton Craig, Curry, Davidson, Davis of Maryland, Davis of Massachusetts, Daves, Dean, Dodd, Durfee, Edmundson, Elliott, English, Farnsworth, Florence, Foley, Foster, Garnett, Gartrell, Giddings, Gillis, Gilman, Gooch, Goode, Goodwin, Greenwood, Gregg, Grow, Lawrence W. Hall, Harlan, Harris, Haskin, Hawkins, Hickman, Hopkins, Houston, Jackson,

Jenkins, Jewett, George W. Jones, Keitt, Knapp, Jacob M. Kunkel, John C. Kunkel, Lovejoy, Samuel S. Marshall, Mason, Miller, Millson, Montgomery, Moore, Morrill, Edward Joy Morris, Oliver A. Morse, Nichols, Parker, Pendleton, Peyton, John S. Phelps, William V. Phelps, Phillips, Reilly, Ricard, Robbins, Roberts, Royce, Rutlin, Savage, Seales, Searing, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, George Taylor, Thayer, Tripp, Underwood, Vallandigham, Vance, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elliott B. Washburne, Watkins, White, Whiteley, Wilson, Worlenden, Augustus R. Wright, and John V. Wright—123.

YAYS—Messrs. Adrain, Anderson, Atkins, Billingshurst, Blair, Bryan, Caskie, Ezra Clark, Clay, Cockerill, Covode, Cragin, Curtis, Davis of Indiana, Dewart, Dick, Dimmick, Edie, Gilmer, Robert B. Hall, Hatch, Hill, Horton, Keim, Kellogg, Keley, Kilgore, Leach, Leidy, Melroe, Humphrey Marshall, Matteson, Morgan, Isaac N. Morris, Freeman B. Morse, Murray, Niblack, Olin, Pettit, Pike, Potter, Pottle, Reagan, Seward, Aaron Shaw, William Smith, Tompkins, Wade, and Israel Washburn—49.

So the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and resumed the consideration of House bill No. 711, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1860.

The CHAIRMAN stated that, when the committee was last in session, the gentleman from Alabama [Mr. CURRY] moved to strike out these words:

"For twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the first session of the Thirty-Sixth Congress, \$31,848."

And the gentleman from Ohio [Mr. NICHOLS] moved to amend the amendment by adding to the paragraph proposed to be stricken out, these words:

Provided, That no part of this appropriation shall be applied to pay for speeches or remarks not actually confined to the subject immediately under discussion in the House or in the Committee of the Whole; and no speeches or remarks, which shall have been written out, and not actually delivered in the House, shall ever be included in the Globe or Appendix as a part of the proceedings of the House of Representatives.

Mr. PHELPS, of Missouri. I will now proceed to give a brief explanation not only of the clause proposed to be stricken out, but of the three or four succeeding ones.

The CHAIRMAN. Debate is exhausted on the pending amendment to the amendment.

Mr. NICHOLS. If there be no objection, I will withdraw my amendment to the amendment.

There was no objection; and the amendment was withdrawn.

Mr. PHELPS, of Missouri. I hope that the committee will now proceed to vote on the motion to strike out.

Mr. CLAY demanded tellers.

Tellers were ordered; and Messrs. DEWART and UNDERWOOD were appointed.

The committee divided; and the tellers reported—ayes 77, noes 55.

So Mr. CURRY's amendment was agreed to.

Mr. CURRY. In order to complete what has already been begun, I move to strike out the following paragraphs:

"For binding twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the first session of the Thirty-Sixth Congress, \$13,939 20."

"For reporting the debates of the first session of the Thirty-Sixth Congress, \$23,000."

"For one hundred copies of the Congressional Globe and Appendix, and for binding the same, for the first session of the Thirty-Sixth Congress, for the use of the Library of the House of Representatives, \$840."

Mr. PHELPS, of Missouri. These clauses depend on the one that precedes them, and I am willing that they shall have the same fate; and, sir, I would suggest that they go to the House and there be decided by one vote. They are each dependent upon the other, and if one is voted down then the others should share the same fate.

Mr. BURNETT. I wish to offer an amendment to the section under consideration.

Mr. CURRY. I merely desire to say that, to complete what the committee has done, we ought to strike out these lines, from one hundred and seventeen to one hundred and twenty-seven inclusive. I offer that amendment; and have no speech to make upon it.

Mr. WALBRIDGE. I wish to inquire of the chairman of the Committee of Ways and Means if, whether these appropriations be made or not,

these Globes will not be printed for the next Congress, under the existing law?

Mr. PHELPS, of Missouri. There is a resolution which authorizes each member of the House to have twenty-four Congressional Globes, and the daily Globe, which latter is laid on our desks daily. This resolution has not been rescinded.

Mr. WALBRIDGE. So I understand.

Mr. PHELPS, of Missouri. It is probable that the publisher will continue to publish and supply the debates of next Congress, and that Congress will take the Globe. The only reason why I make this suggestion to let these paragraphs be stricken out is to expedite the business of the House. If the House refuse to make the appropriation for the Globe, it ought also to refuse to make an appropriation for the binding.

Mr. WALBRIDGE. Then, I understand, from the answer of the chairman of the Committee of Ways and Means, that if this Congress fails to make this appropriation the Globe will, nevertheless, be printed and furnished, and next Congress will be required to make an appropriation as a deficiency.

Mr. CURRY. If the publisher of the Globe shall continue to publish the debates of next Congress, and to furnish the members with copies, without an appropriation, would it not be a gratuitous matter on his part?

Mr. PHELPS, of Missouri. I have not the least doubt that the next Congress would make an appropriation to remunerate the publisher. The true way to reach this would be to rescind the joint resolution on the Journal providing for the Globe. Then you strike at the foundation of this thing.

Mr. WALBRIDGE. That is it.

Mr. CURRY. I desire to say that there is no resolution, as I understand, that requires the Globe to be published during the next Congress. There was a joint resolution passed in 1850, but it had reference to the then Congress only. It was a separate resolution of each House—not a joint resolution. There is no law requiring the reporting of the debates, or the publication of the Globe, in this or in the other House. It is simply a resolution of each House, and has been kept up since by appropriations made for that specific purpose. If the Globe be published during the next Congress, it will be simply a gratuitous matter on the part of the publisher, and not in compliance with any law or joint resolution; and he would have to look to the next Congress for compensation.

Mr. MILLSON. I move to amend the amendment, by striking out lines from one hundred and twenty-three to one hundred and twenty-seven, inclusive, being for one hundred copies of the Congressional Globe for the use of the library. I offer this amendment for the very obvious reason, that whatever the House may determine in regard to the discontinuance of the purchase of the Globe, there is certainly a propriety in purchasing copies for the library of Congress. Every gentleman's experience must inform him that we could scarcely get along with the ordinary duties of legislation, without frequent and almost constant reference to the Congressional Globe. We ought then to have in the library a sufficient number of copies to enable members to refer to the history of the legislation of the country, because it very often happens that a question is identical with one discussed in a previous Congress; and the views of members on the subject may be referred to with great profit.

Mr. NICHOLS. I wish to ask a question. Whether the Globe be stricken out or not, I do not care; but it is provided for by a resolution of a previous Congress, which stands as an order of this House. Is it the opinion of the gentleman from Virginia, that by simply refusing the appropriation, we avoid the obligation imposed by a resolution which stands as an order of the House, providing for a continuance of the work?

Mr. MILLSON. However that may be, it does not affect the purpose that I have in view; which is, to retain the item of \$800 for the purchase of one hundred copies of the Congressional Globe for the use of the library.

Mr. SMITH, of Tennessee. The amendment of the gentleman from Virginia will defeat entirely the object of the House in striking out the first part of the appropriation on the motion of

the gentleman from Alabama. If the Globe is to be published at all, the expense of the twenty-four copies for each member of Congress and Delegate would be but a small item. If it be published for the use of the library, there is no reason why members should not have copies. The amendment of the gentleman from Alabama proceeds on the basis of an entire abolition of the official reports of the debates of Congress. I fully concur in the amendment adopted on the motion of the gentleman from Alabama. It is said that if the debates are not reported, we will have nothing to refer to in regard to what had previously occurred. Let me ask, to what could members refer before the establishment of the Congressional Globe? Any member who will examine these reports published before the Congressional Globe was established, will be convinced that there was much greater facility in understanding questions than there is now. The present reports are too voluminous. There is so much to look through to find so little, that it is almost impossible now to examine a question in the Congressional Globe.

That is not the fault of the reporters. The fidelity of their reports cannot be, and ought not to be, questioned. But they report the debates with so much accuracy, that the Globe is encumbered with matter which hardly any one will venture to look through in the examination of a question. The debates are published faithfully and correctly. They are done as well as they could possibly be done. If the official reporting of Congress is to be continued, I would be opposed to any change in regard to it. The gentleman from Virginia will see at once that if we furnish the Globe to the libraries, the official reporting must be continued.

Now, I believe we ought to put a stop to this official reporting, and throw the thing open to private enterprise. We ought to go back to where we were before. Private enterprise will give us the whole gist of the debates of Congress; and the reports will be in so small a space that men can examine them intelligently. This official reporting is an evil. If we put a stop to it, we will diminish the length of the session of Congress, and thereby stop a thousand other expenditures that grow up here on account of the undue length of the sessions. If you leave the matter entirely to private enterprise, the talent of Congress will be brought out in debate; because what is profitable will be reported, and that which is unprofitable will not be reported. Hence, if we strike out any items for the reporting, I am for striking out all, and for abolishing official reporting.

The question was taken on Mr. MILLSON's amendment to the amendment; and it was rejected.

The question recurred on Mr. CURRY's amendment.

Tellers were demanded, and ordered; and Messrs. CLAY, and DAVIS of Iowa, were appointed.

The committee divided; and the tellers reported—ayes 64, noes 60.

So the amendment was agreed to.

Mr. RUFFIN. I offer the following amendment:

In lines one hundred and twenty-eight and one hundred and twenty nine strike out: "Draughtsman and clerks employed on the land maps." In lines one hundred and thirty-one and one hundred and thirty-two strike out: "\$17,800," and insert: "\$3,440."

So as to make the clause read:

"For the compensation of the clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, \$3,440."

On the 18th of January last a resolution was adopted in the House requiring the Committee on Public Lands to inquire into the expediency of repealing or modifying the resolution passed May 4, 1848, directing the Clerk to procure maps of the public lands in each State, and to have them revised after each session of Congress. Not long since the Committee on Public Lands had this matter under consideration, under the instructions of the House, and came to the conclusion to report that these land-map clerks were no longer necessary. The committee instructed its chairman to make a report recommending a repeal of the resolution of the 4th of May, 1848, under which these clerks have been heretofore employed. There has been no call on the Committee on Public Lands since that time, and, of course, the committee has

had no opportunity of presenting its report. I now state to the House, however, that the Committee on Public Lands has agreed on this report, and has come to the conclusion that these clerks are entirely unnecessary. There is a draughtsman at a compensation of \$2,160, and there are four clerks at a compensation of \$1,800 apiece. At the last session four clerks were stricken off. There had formerly been eight, and one draughtsman. The force now consists of one draughtsman and four clerks. This amendment proposes to strike out the whole.

Mr. WALBRIDGE. I will ask the gentleman from North Carolina, if it is proposed now to abandon the construction of these maps entirely?

Mr. RUFFIN. That is my understanding.

Mr. WALBRIDGE. Is that the proposition of the Committee on Public Lands?

Mr. RUFFIN. Yes, sir. These maps are considered to be of no possible use, as the maps are made up. The fact is, that since I have been on the Committee on Public Lands, I have seen no occasion for their use. They have not been worth a cent to the committee.

These land-map clerks never were authorized to extend their labors into the Territories; and during the present session, in relation to donations for railroads, we have only considered the matter so far as it related to the Territories; and, of course, we get no light from these maps.

Mr. McQUEEN. With the permission of my friend from North Carolina, I send to the Clerk's desk a statement from the Clerk of the House of the cost of maintaining these clerks for the last several years. I do not propose to make any remarks in relation to it. I discussed it last session.

The statement was read, as follows:

OFFICE HOUSE OF REPRESENTATIVES UNITED STATES,
February 5, 1859.

SIR: In reply to your inquiry relative to the amount of money paid for service on "land maps," under the resolution of the House of 4th May, 1848, I have to state, that the total amount paid, is one hundred and twenty eight thousand and five hundred and forty eight dollars and twenty two cents (\$128,548 22) to this date, as per schedule below.

Very respectfully, J. C. ALLEN,
Clerk of the House of Representatives.

Hon. JOHN McQUEEN,
House of Representatives United States.

1848.....	\$ 1,514 52
1849.....	16,221 24
1850.....	12,480 62
1851.....	8,490 31
1852.....	5,329 06
1853.....	7,909 04
1854.....	14,050 00
1855.....	17,003 43
1856.....	16,250 00
1857.....	15,500 00
1858.....	13,960 00
1859, (January).....	789 60
	\$128,548 22

Mr. RUFFIN. I think this is a very good place to commence reform; and I hope we shall strike out the appropriation for these land-map clerks.

Mr. WALBRIDGE. I ask the gentleman if he proposes to rescind the resolution of the House authorizing the employment of these clerks?

Mr. RUFFIN. Yes, sir; the Committee on Public Lands have instructed their chairman to report a resolution to that effect.

Mr. WALBRIDGE. Then suppose the gentleman modifies his amendment so as to provide for rescinding that resolution; then we may act understandingly on the subject.

Mr. RUFFIN. I suppose it will not be in order to make that motion here?

Mr. WALBRIDGE. I understand that the Committee on Public Lands will probably not be called during the present session, and will therefore have no opportunity to present the resolution which the gentleman says they are ready to report. Then, under that resolution of the House, if you strike out this appropriation and these clerks are not appointed by the Clerk of the House, the business will go on under the direction and superintendence of the Secretary of the Interior; then the Clerk of the next House of Representatives will have nothing to do with the appointment of these clerks; and fearing that the next House of Representatives will be darker in complexion than the present, some gentlemen may be very glad to take away this patronage from the Clerk. That, as I understand it, is the whole secret of the movement.

Mr. BURNETT. I desire to say a few words

in reply to the gentleman from Michigan, who has just taken his seat; and I will answer the latter part of his speech first. The gentleman, I believe, has been a member of the Thirty-Fourth and Thirty-Fifth Congresses.

Mr. MONTGOMERY. Does the gentleman rise to oppose the amendment?

Mr. BURNETT. If the gentleman will keep quiet until he hears what I have to say, he will see whether I oppose the amendment or not.

Mr. DAVIS, of Indiana. I rise to a question of order. Has the time of the gentleman from North Carolina [Mr. RUFFIN] expired?

The CHAIRMAN. It has.

Mr. DAVIS, of Indiana. Then I submit that the gentleman from Kentucky has no right to the floor, unless he speaks in opposition to the amendment of the gentlemen from North Carolina. I shall object to his making a speech upon the same side of the question.

Mr. BURNETT. I understand that the gentleman from North Carolina modified his proposition so as to rescind the resolution or law under which these land-map clerks were appointed.

Mr. RUFFIN. I did not; but I am willing to make that modification, if the Chair will decide that it is in order.

Mr. BURNETT. I take it that it is in order to offer it as an amendment to the amendment, and I make that proposition.

The CHAIRMAN. That amendment will not be in order at the present time.

Mr. PHELPS, of Missouri. I desire to oppose the amendment of the gentleman from North Carolina, simply for the purpose of making an explanation to the committee. At the last session of Congress this subject was under consideration in this House. A reduction was made in the number of these land-map clerks, but the House consented to make an appropriation similar to the one which we have reported in this bill. Not having heard from the Committee on Public Lands, we concluded to recommend the same appropriation for the ensuing fiscal year; but the Committee on Public Lands now say that this appropriation can be dispensed with. I have no further opposition to make to the amendment of the gentleman from North Carolina.

Mr. BURNETT. I now propose to amend the amendment of the gentleman from North Carolina, by adding that the resolution of the House authorizing the appointment of these clerks by the Clerk of the House, is repealed. I hope no gentleman will raise a question of order on it.

Mr. WALBRIDGE. That is precisely what I supposed the gentleman wished to accomplish, and I raise the question of order that the amendment is not in order. It will accomplish no other object than to transfer these clerks to the Land Office.

Mr. BURNETT. My object is not only to dispense with the clerks, but to transfer this whole subject to the Land Office.

Mr. WALBRIDGE. That is what I supposed; and I make the point of order that it is not in order.

The amendment was read, as follows:

And that the resolution of the House of Representatives, authorizing the Clerk of the House to appoint such draughtsmen and clerks, be, and the same is hereby, repealed.

The CHAIRMAN. It has been the uniform practice of the House not to allow legislation in appropriation bills. The Chair decides that this amendment would be legislation, and therefore rules it out of order.

Mr. BURNETT. I move to amend the amendment of the gentleman from North Carolina by increasing the amount one dollar. The gentleman from Michigan, [Mr. WALBRIDGE,] in the latter part of his remarks, said that this was a movement founded upon the probability that the next Clerk of the House of Representatives may be of a little darker complexion than the present Clerk. The gentleman ought to have known that it was the effort of gentlemen upon this side of the House to get rid of these clerks, not only during the last session of Congress, but during the Thirty-Fourth Congress; and that no such motive could have operated upon gentlemen here in the present movement to get rid of this evil.

Mr. WALBRIDGE. If it has been the effort of that side of the House to dispense with these clerks, why have you not done it, as you have had the majority for two sessions?

Mr. BURNETT. For the very reason that the gentlemen upon that side of the House have opposed the amendment, aided by a few gentlemen upon this side of the House. Gentlemen upon that side of the House, supported by a few upon this side, have continued this appropriation.

Why is this question of order made upon my previous amendment? I ask gentlemen, why not get rid of this evil at once? Why not let us wipe out the whole thing, without further legislation? The Committee on Public Lands, we are informed, have directed the reporting of a bill to repeal the law in existence authorizing the continuing of these clerks. Now, why should gentlemen propose to await the action of the Committee on Public Lands? Why should this reform be delayed? The sentiment is universal that these clerks are unnecessary, and that the maps are useless; and that the force employed there has always been more than was needed for the labor demanded by the Committee on Public Lands. During the Thirty-Fourth Congress there was an employe in that department of the Clerk's office who drew a salary, but never performed any service whatever.

Mr. MORRIS, of Illinois. I am willing to go as far as the furthest in the matter of retrenchment and reform in all the departments of the Government; but the remarks of the gentleman from Kentucky have not convinced me that this is a retrenchment. He informs us that he desires that this work shall be performed in the General Land Office.

Mr. BURNETT. The gentleman does me injustice. I made no such statement. I said that my object was to refer the whole question connected with the public lands to the Land Office.

Mr. MORRIS, of Illinois. That remark is tantamount to the one the gentleman made before. I do not wish to misrepresent the gentleman; but I ask him whether he informed this committee that it was not his intention, and the intention of those cooperating with him, to increase the force in the Land Office, to perform this work, and thus accomplish, indirectly, an object which could not be reached directly.

Mr. RUFFIN. So far as I know, and so far as I have heard, it is not the intention of any member of the committee that a single one of those clerks shall be transferred to the Land Office. The intention is to cut up the whole thing, root and branch, for it is of no sort of use whatever.

Mr. MORRIS, of Illinois. Then why talk about transferring this matter to the Land Department? for that is the character of the remarks which were made here at the last session of Congress. The struggle then was whether these clerks should be employed under the Clerk of the House, or whether they should be under the control of the Secretary of the Interior.

Mr. McQUEEN. At the last session of Congress, I opposed the whole thing, both in the committee and in the House, and I never made any such proposition, or said anything of the sort, indicating an intention to continue this work in the public Land Office. It was one of the grounds upon which I opposed the continued employment of these clerks, that what had cost us \$120,000 was not worth fifty dollars. One argument I used was, that the work was not under the control of the Land Office, and that the clerks who were employed under the act of 1848 were not responsible to any party; but I never proposed to transfer the matter to the Land Department, nor do I now.

While I am up, I will say to the gentleman from Michigan, [Mr. WALBRIDGE,] who has charged that the Public Land Committee is actuated by the desire to strike down this service because the next Clerk of this House may be of a blacker complexion than the present, and they desire to avoid his bestowal of patronage, that I repel the insinuation as a low one, by which the member himself may be actuated in his conduct of legislation; but I have, as one member, never thought of such consideration in connection with the subject; and I will say further to him, that whenever the Clerk of this House shall be a black one, as the gentleman seems to intimate, there will be some members of the committee over whom he will never have jurisdiction.

Mr. MORRIS, of Illinois. I would ask the gentleman from North Carolina, who is a member of the Committee on Public Lands, whether

that committee were unanimously in favor of the resolution of which he spoke, to do away with these map clerks?

Mr. MONTGOMERY. With the permission of the gentleman from Illinois, I will say that the Committee on Public Lands stood five to four in favor of that resolution; and that the gentlemen who are in favor of it, always have voted and do vote against any appropriation of the public lands.

Mr. CLAY. Is this debate in order?

The CHAIRMAN. It is not.

Mr. CLAY. Then I must object to it.

Mr. MORRIS, of Illinois. The inquiry which I propounded to the gentleman from North Carolina having already been answered, it is not necessary for me to repeat it. I had understood that that committee were divided upon the question of the propriety of continuing these land clerks. While I have great respect for the majority of that committee, they do not, if I am correctly informed, represent that section of the country where the public lands lie; and consequently cannot, perhaps, see the necessity for the use of these maps, as those can who are more familiar with the subject, and are brought into constant contact with it.

We have been told, sir, by the gentleman from North Carolina, that these clerks are useless; yet he has not assigned a solitary reason in support of that declaration.

[Here the hammer fell.]

Mr. BURNETT, by unanimous consent, withdrew his amendment to the amendment.

Mr. WALBRIDGE. I move to amend the amendment, by striking out "sixteen" and inserting "nineteen."

Mr. MONTGOMERY. I ask gentlemen to look at the maps which are displayed from the desk. By a single glance at the map before us, members can see the disposition of every acre of public land in the State of Illinois. There are similar maps for all the other land States.

Mr. WALBRIDGE. Mr. Chairman, it is a matter of almost perfect indifference to me whether this work is continued or not. If this immaculate Committee on Public Lands—this committee which seems to understand their business better than any other committee of this House ever did—this committee, which seems to know better what is necessary to enable them to act intelligently than any other Committee on Public Lands of the House ever did—if this committee, I say, is disposed to abolish this work, then I have nothing to say, for I care nothing about it. But this I do protest against: I protest against their coming here and, under the plea of stopping the execution of these maps, transferring this work from this House to the control of the Department of the Interior or the Commissioner of the General Land Office.

Mr. McQUEEN. I do not wish that.

Mr. WALBRIDGE. I protest against that. Whether the Clerk of the next House will be black or white, streaked or speckled, it matters not. Gentlemen do not want to trust to the chances of the next Congress, but desire to throw additional patronage into the Interior Department. I do not think that they are more or less than men. They are actuated by the same impulses and the same feelings as other men. When I had the honor of a position on that committee I found them so. I have no complaint to make of them. I am not disposed to attack them nor to attack the position they take. Let them candidly come forward and tell us what they desire.

Mr. McQUEEN. I will tell the gentleman, if he will let me.

Mr. WALBRIDGE. I have only five minutes, and cannot yield now.

If they will tell us what they desire; if they will say that they desire to cut this thing up root and branch, I am with them; but I will not go with them to transfer the execution of these maps from the Clerk's office of this House to the Interior Department. If we are to continue the work, let us keep the control of it ourselves, where it belongs; for the maps are executed for the benefit of the members of this House. If it is to be done at all, it should be done under the order and direction of the House.

I have a word to say, now, to the gentleman from Kentucky. He said that he wished to stop the execution of this work, but subsequently he changed his position; and, if I understood him, he

said that he wished to transfer it to the Interior Department. I give him credit for his honesty and frankness. And that, sir, is the object of this movement. If it be deemed advisable to stop it altogether, I have no objection to make.

Mr. McQUEEN obtained the floor, and yielded to

Mr. BURNETT. With the gentleman's permission, I will say a word in reply to the gentleman from Michigan. He says that I avowed a purpose to transfer this work to the Land Office. He does me injustice; I made no such statement.

Mr. WALBRIDGE. I understood the gentleman as I have stated; I am glad that I misapprehended his position.

Mr. McQUEEN. I wish to say in the beginning, Mr. Chairman, that I do not intend to argue this matter; for I submitted my views in full at the last session. In the course which I have pursued in the Committee on Public Lands from the first, I will say, in reply to the gentleman from Michigan, that I never thought of the transfer of this work from the House to the Interior Department, for the purpose of patronage. I do not think of patronage now. I found before that committee a resolution, which had been passed in 1848, requiring the Clerk of the House to furnish stained land maps to the House. I saw about one thousand dollars appropriated for that purpose the first year. I learn that after a time the expenditures for this work went on until they amounted to \$17,000 per annum. As for the maps themselves, we sat in the Committee on Public Lands last year, with the distinguished gentleman from Michigan, and yet there was no reference to them. When parties come here to get grants of the public land for railroad or other purposes, they fix upon the termini, some town sites, and they get the land regardless of the route of the road or the ranges through which it may pass, and regardless too of the stained maps of the House clerks. I find that \$128,000 in all has been expended in this work. I want to lay off, to root it out. I do not want to transfer it to the Commissioner of the General Land Office. I have looked upon it from the beginning as of no use to the Government. It is, indeed, a mere machinery of patronage, a means to keep men larking about the Capitol, receiving salaries from \$1,200 to \$2,100 a year, and doing nothing for them.

Mr. Chairman, gentlemen talk about retrenchment, and ask why it is not made. Why do not the gentlemen on the other side assist to carry through measures of retrenchment when they are proposed in good faith? When an effort was made last year to cut these land-map clerks off, did not the gentleman from Michigan and his associates of that side vote against it? Nobody on this side was influenced by the idea of patronage then, any more than they are now. We merely wish to put an end to a great abuse—to stop the machinery which has already cost the Government \$128,000, without the least practical result flowing from that expenditure. For that \$128,000 we have not, I do not hesitate to say, had more than fifty dollars' worth of return. Who would give fifty dollars for these painted land maps? What is their use? Is not a record now kept of the disposition of the public lands in the General Land Office? Certainly; and members can address a letter to the Commissioner and ascertain where lands have been granted, and when and what for. They can obtain an answer to all of their inquiries while they remain in their seats; why, then, go to the expense of \$128,000 for these painted maps, however beautifully they may be stained? That money ought never to have been expended; and I wish now that the work may be stopped, and that these clerks may be got rid of.

Mr. WALBRIDGE, by unanimous consent, withdrew his amendment.

Mr. MONTGOMERY. I wish to move an amendment.

Mr. SEWARD. The Committee on Public Lands have a monopoly of this debate. The gentleman from Pennsylvania has already made one speech.

The CHAIRMAN. The gentleman from Georgia is not in order.

Mr. MONTGOMERY. It is true, Mr. Chairman, that the Committee on Public Lands has, by a majority vote, advised the rescission of the resolution under which these clerks are employed;

but it is equally true—and I think that it is not at all a secret of the committee-room—that those members of the committee who vote to rescind the resolution and to abolish these clerks, are gentlemen who vote against granting public lands for any purpose whatever. Of course they do not need any investigation as to what public lands can be disposed of. As they are opposed in principle to granting any, there is no necessity for their investigation. But there are other gentlemen in the committee and in the House, who differ from them in opinion; and, so differing with them, I deem it to be of the highest importance that we should have the guide which these maps afford in the granting of lands to States for railroad and other purposes. A State applies to us for a grant of land—say for educational purposes. The matter is referred to the Committee on Public Lands. We turn to one of these maps and see, at a single glance, the number of acres of land that have been already granted to that State for educational purposes. If gentlemen will come up and examine the map that is here before me, they will see, by the red mark, every acre of land in the State of Illinois that has been sold for cash; by the blue mark every acre reserved for military purposes; by the green, every acre given for the purpose of draining swamp lands.

Some time since the Senate of the United States adopted a resolution, calling on the Secretary of the Interior for information as to what disposition had been made of the public lands in the various States and Territories; and in a few days, by the aid of the land-map clerks, he was able to make a report. If he had had to depend on the books in his office, it would have taken six months to make the investigation.

The gentleman from South Carolina [Mr. McQUEEN] stated here that we could send to the office of the Secretary of the Interior, and there learn what public lands have been given away. I say that it would require months on months to get that information at the Department; and then it would be mere description; not a picture. There is now pending before the Committee on Public Lands a proposition to grant lands in aid of a railroad through northern Iowa. It has been acted on favorably. It is of the highest importance in the examination of the question, that the committee should know what lands have been given away in northern Iowa for railroad purposes; and by a single glance at the map, as prepared by these clerks, they can see it. They can also see the location of the lands, and the location of the proposed road.

Mr. GARNETT. I ask the gentleman whether the Committee on Public Lands, in considering the Iowa bill, to which he refers, ever looked at these maps at all?

Mr. MONTGOMERY. I do not know whether the gentleman from Virginia [Mr. GARNETT] ever did or not; but I did.

Mr. GARNETT. Were they in the room that the committee occupies?

Mr. MONTGOMERY. They were in the old committee room.

Mr. DAVIDSON. Can the maps not be got by sending for them?

Mr. MONTGOMERY. Certainly. At any time. This question was up before the committee during the last session; and on the suggestion of the committee the House struck off three of these clerks, and now without any change or any new reference of the subject, the Committee on Public Lands comes in here, and makes a second and supplementary report, asking to abolish them all.

Mr. STANTON. I am opposed to the amendment of the gentleman from Pennsylvania. If I understand the subject, whatever may be the convenience of having these maps colored, the clerks are, in point of fact, only employed a small portion of their time, if employed at all. I think they should be under the Clerk of the House. I therefore would not rescind the resolution authorizing their employment, but I would strike out the appropriation for the next fiscal year.

Mr. WASHBURN, of Illinois. The gentleman from Ohio speaks of these clerks not being employed? I should like to know by what authority he makes that assertion?

Mr. BURNETT. I would like to answer that question.

Mr. SEWARD. I object.

Mr. STANTON. If those who have control of the subject are willing to strike out this item, and to dispense with the services of these men, I am sure we ought to have no objection to their doing so. This would not necessarily transfer them to the control of the Interior Department. The resolution will still stand, authorizing the Clerk of the House to employ them when necessary; and whenever the necessity is shown, the House can at any future time make the appropriation. I hope the question will now be taken.

Mr. MONTGOMERY withdrew his amendment.

Mr. SEWARD. I offer the following amendment:

Add at the end of line one hundred and thirty-two, the following:

Provided, That no part of this appropriation shall be paid to the draughtsman and clerks upon the land maps—there being no law to authorize the continuing of such appointments, after the present fiscal year shall have terminated.

I think, Mr. Chairman, that it is a great mistake, to hold that a simple resolution of the House can establish permanent offices, of which we cannot get rid by refusing to appropriate money for them. How are these clerks kept here, except by the annual appropriations made to pay their salaries? They are not officers of the House. They are not known to the Constitution. And they cannot retain their offices unless we make the appropriations to pay them. The simple resolution of the House, authorizing their employment, amounts to nothing.

This kind of legislation involves us in difficulties; and I take occasion to say to the gentleman from Kentucky, [Mr. BURNETT,] and the gentleman from South Carolina, [Mr. McQUEEN,] that if they are such great sticklers for economy, they should not have come up here the other day and supported the resolution allowing clerks to committees.

Mr. BURNETT. If the gentleman from Georgia says that I supported that resolution, he never made a greater mistake in his life.

Mr. SEWARD. I am glad to hear it.

Mr. McQUEEN. I voted for paying the clerks who had been employed by committees; and I would do so again.

Mr. SEWARD. Just so. Now let us look at another trouble arising out of this kind of legislation. In 1844, an item was put in the appropriation bill for paying the public gardener. The matter was left to the Joint Committee on the Library, and they monopolize the whole concern. That expense is kept up, year after year, by appropriations being made for it; but there is really no law authorizing it outside of the appropriation itself.

Thus we spend millions of money; and we are told constantly by the chairman of the Committee of Ways and Means that the items are reported to carry out existing laws. I deny that this House can, by a simple resolution, disconnected from an appropriation, give their action the force of law. It requires no action to rescind the resolution authorizing the employment of these map clerks. It has no vitality except what is connected with an appropriation bill which furnishes the aliment. When you refuse an appropriation for it, it terminates at the end of the fiscal year. There is nothing clearer than that. I protest against this idea that the resolutions of the House are laws that bind us, and that we are compelled to carry out these resolutions by appropriating money, and making that law which is not law. It is a simple expression of the House as to what they want done.

Mr. DAVIS, of Indiana. This is a very small matter, and were it not that I am a member of the Committee on Public Lands, I would not occupy one moment of the time of the House in discussing it. I have been amazed at the course of debate in this committee upon the smaller appropriations, for the last week. Gentlemen have consumed days upon days in discussing these small appropriations for boxes, dray-horses, carts, and all that kind of thing, and the expense created by this discussion will cost the country more than the appropriations themselves. But, sir, when you talk about appropriations of millions for the Mormon war, or farce, the mouths of those gentlemen are closed and hushed; when you come to talk about putting \$30,000,000 of the public funds in the power and under the control of the

irresponsible Executive of this Government, the mouths of those very gentlemen are hushed and closed, and they even support those appropriations.

But I come down to another thing, and I desire to reply one moment to the remarks of the gentleman from Kentucky. He says that one of the clerks in this Department received some seventeen hundred dollars salary, and never performed the least particle of service. I do not know how that is; but suppose that it is true: is that an argument against the necessity of these maps? Another gentleman remarked that these clerks did not work. Where is the proof of the allegation that these clerks have not performed as much work and labor as any other clerks in any of the other Departments of the Government?

Mr. BURNETT. I tell the gentleman from Indiana, upon my authority as a member of this House, that those clerks did not work during the Thirty-Fourth Congress. And not only that, but there were more than one of them who never put a pen to paper.

Mr. DAVIS, of Indiana. That does not mend the position of the gentleman a particle; but the assertion that these clerks do not work is a matter about which I know nothing, and whether it be true or not, it is no argument against the necessity of these maps.

Another word in this connection. Gentlemen have said that these maps are entirely unnecessary, and that their preparation was a useless expenditure of the public money. On the contrary, I say, as a member of the Committee on Public Lands, that they are necessary. Why, sir, I had occasion during this session of Congress, and a few days ago, to get an important statement of the sales of the public lands, and the amount of public lands appropriated for different purposes by the Congress of the United States, and I obtained a statement from the draughtsman in charge of those clerks, which I could not have obtained from the Commissioner of the Public Lands in six months. That statement I hold in my hand. It shows the amount of land sold in each of the land States of this great country; the amount of lands appropriated for school purposes; the amount of lands appropriated for deaf and dumb asylums; the amount of lands granted for internal improvements; and the number of acres granted for railroad purposes. Here is the table; and it is important to the members of the House for future reference:

[FOR TABLE, SEE NEXT PAGE.]

I believe these maps are necessary to western men. I have examined them from time to time, as I found it necessary to do so in the discharge of my duties as a member of this House.

[Here the hammer fell.]

The question being upon the amendment to the amendment,

Mr. SEWARD called for tellers.

Tellers were ordered; and Messrs. MORGAN and BRYAN were appointed.

The committee divided; and the tellers reported—ayes 41, noes 80.

So the amendment to the amendment was rejected.

Mr. BURNETT. I desire to offer an amendment merely with a view of putting myself right before the committee. I move to increase the amount one dollar.

I made a statement, which has been called in question, as to a fact in connection with the clerks employed in this department. Gentlemen will find, by reference to the Congressional Globe, the following reply, made by the Commissioner of the General Land Office, Mr. Hendricks, to a communication addressed to him by the chairman of the Committee on Public Lands, inquiring how much of the time of the nine clerks during the last Congress, was bestowed upon the execution of these maps, &c.:

"In answer to the first inquiry, I have to state that, in the opinion of this office, the construction of these maps is not necessary; certainly not to this office in the preparation of answers to the House, or committees, our statistics and data being prepared wholly irrespective of those maps, and without reference or reliance thereon."

I desire to make this statement in addition: that it was in proof before one of the investigating committees appointed at the last session of Congress, that some of these clerks never put a pen to paper. That is all I have to say now.

Mr. RUFFIN. I rise for the purpose of opposing the amendment of the gentleman from Kentucky. I think the amendment is now right, without any other further amendment.

In this connection I wish to make a statement, since it has been charged that the members of this Committee on Public Lands have been influenced by party considerations. Sir, I scorn the imputation. So far as I am concerned, I have from the beginning, from the time that this resolution was referred to the committee, been in favor of rescinding the resolution of 1848. I hold in my hand a minority report which I prepared last session for the purpose of presenting to the House, if the Committee on Public Lands had been called.

As to the transfer of these clerks to the office of the Commissioner of Public Lands, I do not know of any necessity for that. That any such thing is intended, is a gratuitous assertion upon the part of the gentleman from Michigan, [Mr. WALLBRIDGE.] No member of the committee, so far as I know, has ever contemplated any such thing. Letters were read last session, both from the Secretary of the Interior and from the Commissioner of the General Land Office, and both state that this whole thing is unnecessary; that it is a very great inconvenience to them; that these clerks have access to the public records in that Department, and that they may impart information to outsiders which other clerks are prohibited from giving, and which they would be dismissed for giving. But over these clerks the Secretary of the Interior and the Commissioner of the General Land Office have no control.

There has been talk here again, to-day, about reforms never being begun in the right place. I have heard no good reason assigned why this work should be continued. One gentleman from Pennsylvania, a member of the Committee on Public Lands, says that the members who voted in favor of rescinding this resolution are opposed to the donation of the public lands. I glory in it. I have resisted every plundering scheme in relation to the public lands since I have been upon that committee, and I intend to do so to the bitter end, as long as I am a member of that committee. I shall oppose every scheme of that kind. As long as I know of any wrong, I shall oppose it, no matter who may be in favor of it. And we are to be charged with party motives because, upon the Committee on Public Lands, we were opposed to these land schemes for the west. It is because we were opposed to those things that we have agreed to a report in favor of dispensing with these map clerks, says the gentleman from Pennsylvania; for that is the sum and substance of his charge. Now, sir, I have not one dollar of interest in any public lands. I never bought any, nor have I any interest in the northwest, in town-sites, in railroad companies, or in anything of that kind. I went into the committee with a clear conscience, and I come here as the Representative of a constituency who ask nothing but their rights, and I for one shall continue to stand up for their rights. A portion of these public lands belong to my constituents, and I do not think it right to grant them to land-plunderers who hang about this Capitol from one end of the session to another.

Mr. BURNETT, by unanimous consent, withdrew his amendment.

The question recurred on Mr. RUFFIN's amendment.

Mr. RUFFIN demanded tellers.

Tellers were ordered; and Messrs. BONHAM and BEFFINGTON were appointed.

The committee divided; and the tellers reported—ayes 58, noes 66.

So the amendment was not agreed to.

Mr. SMITH, of Virginia, moved to strike out the following clause:

"For two mail boys, at \$900 each, and the messenger in charge of the south extension, \$3,300."

Mr. GROW. I have but one word to say. I have been surprised to see the economy which gentlemen profess upon the consideration of small appropriations of one or two hundred dollars, when appropriations of fourteen or fifteen million dollars pass with very little discussion. The whole time upon appropriation bills is taken up in the discussion of these little appropriations for mail boys, and the like, which do not amount to a thousand dollars in some cases, when fifteen or sixteen million are voted for the Army and Navy

without a word. I desire that the time of the committee should be taken up in discussing the abuses in the Army and Navy rather than upon these little items.

The amendment proposed by Mr. SMITH, of Virginia, was not agreed to.

Mr. CURRY. I move to strike out the fol-

lowing clause, in order to make it conform to what the committee has already done:

"To pay John C. Rives one cent for every five pages of the Congressional Globe and Appendix when the same exceeds three thousand pages for a long session of Congress, and fifteen hundred pages at a short session of Congress, per act of 18th August, 1855, \$11,000."

Mr. PHELPS, of Missouri. I desire to read

the law upon which this appropriation is founded. It is as follows:

"And be it further enacted, That there shall be paid to John C. Rives, by the Secretary of the Senate and Clerk of the House of Representatives, out of the contingent fund of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages of that work exceeding three thousand pages for a long session, and fifteen hundred pages for a short one, including the Indexes and Laws of the United States, commencing with this session."

Mr. CURRY withdrew his amendment.

Mr. CURRY. I move to strike out the following paragraph:

"For the usual additional compensation to the reporters for the Congressional Globe, for reporting the proceedings of the House of Representatives for the first session of the Thirty-Sixth Congress, \$800 each, \$4,000."

There is no law for that; but it seems to have grown up year by year in the appropriation bills. The Committee of Ways and Means have reported it, I presume, because it has been voted for several years past. I move to strike it out; because the committee have agreed to strike out all the preceding paragraphs in reference to the Globe.

Mr. PHELPS, of Missouri. I oppose the amendment submitted by the gentleman from Alabama.

Mr. DEAN demanded tellers.

Mr. GROW. This clause ought to be left as it is. If there be no reporting, there will be no reporters to receive extra compensation.

Tellers were ordered; and Messrs. Bliss and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 22, noes 97.

So the amendment was disagreed to.

The Clerk read the following paragraph:

"For compensation of librarian, three assistant librarians, and messenger, \$9,000."

Mr. MORRIS, of Illinois. I do not desire to cut off appropriations that may be necessary; but this one, it seems to me, is not of that character. I would inquire whether, in the judgment of the Committee of Ways and Means, three assistants and one messenger are necessary for this library? Nine thousand dollars for taking care of this one library is a very large sum for this Government to pay. I move to strike out the words "three assistants and one messenger," and to reduce the appropriation to \$3,000. I believe that the librarian can perform all the duties that may be involved.

Mr. PHELPS, of Missouri. I oppose the amendment, and will merely remark that this sum, which is proposed to be appropriated, conforms to the provisions of law. The law provides for three assistants and one messenger, and fixes the salary of each.

Mr. MORRIS, of Illinois. I have not yet yielded the floor; and I have now to say to the gentleman that in what he has said there is no reason given why three assistant librarians and this messenger are needed. He might make the same declaration about all of the appropriations in this bill: that they are fixed by law. There may be a law creating these offices of assistant librarians; but that, sir, imposes upon us no necessity to continue them, if they are useless. We can refuse this appropriation for the next year, and then repeal the law creating these offices. In order to accomplish that object, I make the motion I have indicated.

The amendment was rejected.

The Clerk read the next clause, as follows:

"For purchase of books for said library, \$5,000."

Mr. BLAIR. I move to add to that paragraph the following:

"And that the same, or a sufficient part thereof, be applied to the purchase of one hundred copies of Benton's Abridgment of the Debates of Congress for the congressional library and the libraries of the House of Representatives and of the Senate."

Mr. PHELPS, of Missouri. Is that amendment in order?

The CHAIRMAN, (Mr. BRANCH occupying the chair temporarily.) The Chair holds that the amendment is not in order, as it is not authorized by any law.

Mr. GROW. It is pertinent; for the paragraph to which it is proposed to be added provides for the purchase of books.

Mr. BLAIR. I take an appeal from the decision of the Chair. There is no law for the pur-

[TABLE REFERRED TO IN PRECEDING PAGE.]

States and Territories.	Acres, exclusive of surveyed or navigable waters.	Sold to June 30, 1858.	Schools and universities.	Deaf and dumb asylums.	Internal improvements.	Railroads.	Individuals and companies.	Seats of government and public buildings.	Military bounty lands, June 10, 1856.	Salines.	Reserved and selected for Indians.	Companies, individuals, and corporations.	Confirmed private claims.	Swamp lands, 30th September, 1858.
Ohio.....	59, miles. 623,809	Acres. 623,576,960	Acres. 12,824,103.33	Acres. 727,528	Acres. 1,943,001.77	Acres. 2,505,023.14	Acres. 32,141.34	Acres. 1,804,023.96	Acres. 24,216	Acres. 16,330.73	Acres. 136,520.71	Acres. 8,803,075	Acres. 56,458.80	Acres. 54,438.14
Indiana.....	623,809	621,637,769	16,119,522.42	672,357	2,609,801.61	-	843.34	2,560	1,981,038.61	23,040	136,520.71	149,102	329,680.53	1,334,732.50
Missouri.....	55,410	35,762,406	19,254,042.98	1,001,735	500,000.00	2,505,023.14	524.64	9,397,050.68	46,080	48,959.69	45,959.69	1,491,062	329,680.53	3,343,891.46
Illinois.....	65,057	41,653,680	20,697,663.82	1,221,179	500,000.00	1,817,376.38	15,965.31	2,560	3,041,773.20	46,080	22,667.61	1,491,062	329,680.53	3,343,891.46
Alabama.....	420,043	623,027,330	16,329,131.59	925,614	500,000.00	+3,534,348.90	1,981.53	1,620	3,041,731.95	23,040	2,512,378.62	2,512,378.62	210,356.65	4,348,203.81
Mississippi.....	420,043	623,027,330	16,329,131.59	925,614	500,000.00	+3,534,348.90	1,981.53	1,620	3,041,731.95	23,040	2,512,378.62	2,512,378.62	210,356.65	4,348,203.81
Louisiana.....	420,043	623,027,330	16,329,131.59	925,614	500,000.00	+3,534,348.90	1,981.53	1,620	3,041,731.95	23,040	2,512,378.62	2,512,378.62	210,356.65	4,348,203.81
Arkansas.....	56,451	26,461,440	4,640,365.79	822,124	500,000.00	+1,091,610.00	8,412.98	13,200	1,922,653.95	46,080	154,303.26	305.75	118,411.25	7,573,724.72
Michigan.....	56,451	38,128,640	11,248,776.32	1,113,477	500,000.00	+1,910,000.00	4,080.00	10,630	1,741,023.05	46,080	227.49	305.75	118,411.25	7,573,724.72
Florida.....	59,198	37,006,720	6,143,368.11	323,540	500,000.00	+1,708,967.64	32,114.00	6,240	402,820.81	46,080	121,863.34	10,850.00	37,729,780.00	11,720,667.29
Iowa.....	56,080	37,891,500	11,492,198.33	93,123	500,000.00	+3,476,321.00	18,226.86	3,840	3,942,637.17	40,080	140,449.27	10,850.00	37,729,780.00	11,720,667.29
Wisconsin.....	58,824	34,511,360	9,341,012.74	1,104,728	1,063,703.22	+3,222,000.00	5,705.83	6,400	3,942,637.17	40,080	140,449.27	10,850.00	37,729,780.00	11,720,667.29
California.....	183,981	19,947,840	6,130.00	6,765,404	500,000.00	+3,023,760.00			1,313,020.00		+370,080.00			
Minnesota.....	73,819	50,441,160	1,802,264.42	2,828,059	439,000.00									
Dacotah.....	68,020	40,332,800		2,261,185										
Nebraska.....	342,438	219,160,320	86,900.19	12,175,573										
Kansas.....	126,283	50,821,120	110,815.32	4,460,062										
Indian.....	67,020	42,892,800												
New Mexico.....	246,334	153,037,760	3,575.69	8,826,956										
Washington.....	126,547	80,990,080	51,614.19	4,545,529										
Oregon.....	189,220	119,628,800		6,692,124										
Utah.....	187,923	120,270,720		6,681,707										
Totals.....	2,315,752	1,413,081,980	142,837,783.27	66,436,572	44,971.11	10,878,938.49	21,747,371.76	279,792.07	50,860	37,835,099.83	422,325	3,721,329.96	8,906,963.75	8,906,963.75
June 30, 1857.....	-	-	-	-	-	-	-	-	-	-	-	-	-	-
June 30, 1858.....	-	-	-	-	-	-	-	-	-	-	-	-	-	-
September 30, 1858.....	-	-	-	-	-	-	-	-	-	-	-	-	-	-

a Includes reserves under deeds of cession.

b Exclusive of the Chickasaw cession.

c Includes the estimated quantity of 541,635 acres of the Des Moines river grant, between the Racoon Fork and north boundary of Iowa.

d Is the estimated quantity of the Des Moines river grant within Minnesota, under Secretary Walker's decision.

* In part estimated.

† Indian selections. The former Indian reserves in Michigan were ceded to the United States by treaty, August 2, 1855.

Statement of the areas of the public land States and Territories, and quantities of lands appropriated.

chase of books, and yet the Committee of Ways and Means has put an item of \$5,000 in the bill for that purpose. This amendment provides for the purchase of a particular book. If it is competent for us here to appropriate money for the purchase of books, it is competent also for us to direct what books shall be purchased.

The CHAIRMAN. The Chair decides the amendment out of order, upon the ground that it is not germane. The law prescribes who shall purchase these books; but the amendment proposes an alteration of the law, and to say what books shall be purchased.

Mr. BLAIR. The amendment does not propose to change the person who is to make the purchase; it simply directs what books shall be purchased.

The CHAIRMAN. The law leaves the discretion to certain persons to select books for purchase; and the amendment proposes to control that discretion, which is a change of the law. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. McQUEEN demanded tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and HASKIN were appointed.

The committee divided; and the tellers reported—ayes 52, noes 68.

So the decision of the Chair was overruled, and the amendment decided to be in order.

Mr. BLAIR. This amendment, Mr. Chairman, speaks for itself. There never, I believe, has been a work purchased by the Government which will be so useful to members as this one; for these books are not to be purchased for distribution, but for the library of Congress, and the libraries of the House and of the Senate, for the use of the members. I cannot conceive how any reasonable objection can be made to the amendment. It does not increase the appropriation. Should my amendment fail, the money would still be expended by the librarian in the purchase of some other books; and I believe that the House and the country will concur in the sentiment that no book can be purchased that would be so useful to the members of the House and to the country, as those which my amendment proposes.

Mr. GARNETT. I rise to oppose the amendment, because I think it wrong in principle. If I understand aright, this work is not completed; and this appropriation is designed to purchase not only that part of the work which is completed, but that portion which is not complete, and which is now in the hands of others. Besides, it costs some fifty or sixty dollars a set; and consequently, the hundred copies contemplated by the amendment would cost more than the whole appropriation, and the librarian would be without funds to purchase the necessary books for the library—which is one of the most useful institutions of the Government.

Mr. BLAIR. The work is necessarily incomplete; but all that Colonel Benton had anything to do with is complete.

Mr. GARNETT. And the gentleman proposes to expend on this the whole amount appropriated for the library, leaving no funds whatever for other books. But what is the use of this abridgment of the debates? We have the Annals of Congress and the Congressional Globe, giving us a report of every speech made in Congress since the foundation of the Government; and this book is but an abridgment of that which we have already.

Then, again, what security have we for the fidelity of the abridgment? Who that has examined it will say that it is faithful? We all know that Colonel Benton, under the influence of intense prejudice, has often misrepresented his opponents. What security, then, I say, have we that these debates are not garbled? I do not mean to impeach the fidelity with which he may have attempted to abridge them; but such was the intense prejudice of the man, that I do not believe he was capable of making a faithful abridgment.

Is this amendment for the benefit of the Appletons, who are publishing the book, or is it for the benefit of Colonel Benton's family? If for the latter, what right, I ask, have we to pension the family of any of our deceased statesmen?

Mr. CLAY. Will the gentleman allow me to say—while I will not vote at all on the question—that as to his remark about pensioning some of

the members of Colonel Benton's family, with which I happen to be connected, there is no desire on their part for any such pension. They are able to take care of themselves, and would never receive a pension.

Mr. GARNETT. That is an additional reason why I should oppose this amendment. It is an appropriation not for the benefit of Colonel Benton's family, but for the benefit of the Appletons. What right have we to pension publishers? This is not for the benefit of members; for we have already the original debates, the very work which is pretended to have been abridged. There are, however, some copies of this abridgment already in the library. I contend, therefore, that our pretension to appropriate money to the library for the purchase of this particular book is entirely wrong.

Mr. NICHOLS. I move to amend by increasing the appropriation \$200. I wish to say to the gentleman from Virginia that this proposition comes in good faith, and that it is not designed as a pension for Colonel Benton's family or for any one else. It provides for placing in the libraries of this Capitol the abridgment of the debates of Congress, for reference by members. I believe that every gentleman who has examined this work will concede the point, that it gives a better idea of what has been done in Congress than the original reports of the debates do. I have in my desk a memorandum, written by Colonel Benton only two days before he died, in respect to this matter, in which he states that it was his chief aim, in this condensation, to provide a more easy and accessible mode of ascertaining the past action of Congress than was furnished by the voluminous reports of the original debates.

I trust that, as this amendment is offered without reference to the distribution of a single book by a member of this body, but simply that they may form part of the public archives of the Government, the amendment will not be voted down. Certainly nobody can have any interest in the small number proposed to be ordered; and I would say to the gentleman from Virginia that the cost of a set is only forty-five dollars.

Mr. BOCK. I desire to say a word in opposition to the amendment proposed by the gentleman from Ohio. I wish to do so, partly because my duty has called me elsewhere for some time past, and I want to get again into harness in the House, and partly because I desire to express my opinion in regard to the proposition of the gentleman from Missouri, [Mr. BLAIR.]

I have no idea, Mr. Chairman, of impugning in any way the fidelity or the integrity of Colonel Benton. I shall place my opposition to the amendment on other grounds. This work is, at least, nothing but an abridgment of the debates. It is, in fact, only an index. Who, that is investigating any question coming up for discussion in the House of Representatives, or in a committee, would be satisfied to form his opinion of a debate or of the grounds taken by a speaker, on a mere abridgment without consulting the original? The Annals of Congress, the Register of Debates, and the Congressional Globe, contain the debates from the beginning of the Government down, and have each an ample and full index, by reference to which any subject ever discussed in Congress can be traced and examined. This work of Colonel Benton's does no more than aid one to find what has been said on a subject; and I say that no faithful statesman would be willing to rely on any man's abridgment.

But there is one other consideration in regard to this matter. This proposes a violation of the ordinary course of procedure in relation to books for the library. If the amendment be not agreed to, the Joint Committee on the Library will select the books to be purchased, and if they choose to order these abridgments to be bought, they can do so. They can examine it, and if they come to the conclusion that a number of copies should be procured, they will order them to be purchased. That authority they have now, without the adoption of this amendment. If we adopt the amendment, we perpetrate the absurdity of ordering to be bought, for \$5,000, a number of books which can only be bought for \$6,000.

Without having examined into this matter, and without any specific knowledge of the merits of the book, we step forward and assume the duty of the Joint Committee on the Library by directing it to use all the money we appropriate for the

library in the purchase of this book. I am opposed to the amendment.

Mr. NICHOLS withdrew the amendment to the amendment.

Mr. CURRY. I move to amend the amendment of the gentleman from Missouri, by adding: "One hundred copies of Appleton's edition of Calhoun's works."

Mr. PHELPS, of Missouri. I rise to a point of order. I submit that the amendment of the gentleman from Alabama is out of order. It involves the same question which I raised on the amendment of the gentleman from Missouri.

The CHAIRMAN, (Mr. BARKSDALE having resumed the chair.) The committee has decided that the amendment of the gentleman from Missouri is in order, and the Chair, conforming his decision to that of the committee, will decide that the amendment of the gentleman from Alabama is in order.

Mr. CURRY. I have not examined Benton's abridgment of the debates sufficiently to test their fidelity and accuracy. I have, however, purchased a copy for my own library. But, sir, I have to say that if it is as full of prejudice, and I had almost said of malignity, as his "Thirty Years in the Senate," I think it ought to be burned by the common hangman. However that may be, if Congress intends by this special piece of favoritism, to purchase Benton's abridgment, I think they ought to purchase, at least by way of anti-dote, Calhoun's works.

Mr. CLARK, of Missouri. I am opposed to the amendment of the gentleman from Alabama. It is with great regret, indeed, that I have heard the gentleman allow himself to pronounce upon this great work of the country in the terms that he has done. Sir, Colonel Benton's abridgment of the debates of Congress is a great national work. Most gentlemen present have examined it, and will bear me witness, that it is marked with the strictest fidelity and accuracy. I admit that Mr. Benton had his partialities, but they were not stronger than those of the favorite of the gentleman from Alabama, Mr. Calhoun. They were rivals, and have had their day. Both were great men of the country; but their works are widely different. Colonel Benton's work, which it is now proposed to purchase and place in our library, is a condensed history of the debates of Congress. Some gentleman, perhaps the gentleman from Virginia, [Mr. BOCK], has characterized it as an index. Well, sir, if it is an index, it is an elaborate one, and such an index as every lawyer in the United States and every politician finds in his experience is necessary in order to save him the labor of searching through the great number of volumes covered by the full debates. I repeat, that this is a work necessary for every lawyer and politician to examine into. Permit me again to express my regret that this matter, which has no party politics in it, but which is necessary to do justice to a great man, and at the same time to do justice to our whole country, should have been spoken of as the gentleman from Alabama has spoken, and that this great work should have been characterized by him as a work that ought to be burned by the common hangman.

Mr. CLARK B. COCHRANE. I desire to ask the gentleman from Alabama whether Mr. Calhoun's works are not already in the library of Congress?

Mr. CURRY. They are, and I hope gentlemen will read them and improve their politics.

Mr. McQUEEN. I will say to the gentleman that Mr. Benton's work, too, is already there.

The question being on the amendment to the amendment,

Mr. GARNETT called for tellers.

Tellers were not ordered.

The committee divided; and the amendment to the amendment was disagreed to—ayes 24, noes 92.

Mr. KEITT. I move that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill (No. 711) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1860, and had come to no resolution thereon.

TIMBER, ETC., ON MILITARY RESERVATIONS.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be directed to inquire whether any further legislation be necessary to more effectually prevent the waste and destruction of timber and other public property on the military reservations of the United States, and to report by bill or otherwise.

KANSAS.

Mr. DAVIS, of Indiana. I ask the unanimous consent of the House to introduce a bill, of which I have given previous notice, to amend an act entitled "An act for the admission of the State of Kansas into the Union," approved May 4, 1858.

Mr. BURNETT. I object.

Mr. PHELPS, of Missouri. Several gentlemen have informed me of their desire to engage in general discussion. I move, therefore, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of holding an evening session.

Mr. BURNETT. I move that the House do now adjourn.

The motion was disagreed to—ayes 41, noes 82.

The question was then taken on the motion of Mr. PHELPS, of Missouri, and it was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. JOHN COCHRANE in the chair,) and proceeded to the consideration of the President's message.

Mr. BLISS obtained the floor; but yielded it to Mr. PHELPS, of Missouri, who moved that the committee take a recess until seven o'clock.

The motion was agreed to; and the committee accordingly (at four o'clock and five minutes, p. m.,) took a recess until seven o'clock.

EVENING SESSION.

The committee reassembled at seven o'clock, and resumed the consideration of the President's message, upon which Mr. BLISS was entitled to the floor.

Mr. BLISS addressed the committee upon the subject of the Federal judiciary, contending that the Supreme Court was not authority upon political questions, and that its decisions upon constitutional questions must not necessarily stand until reversed.

Mr. WALTON. I have, Mr. Chairman, prepared, with much labor, an argument mainly statistical, upon the necessity, and, as I think, upon the proper principles, of a revision of the tariff, to meet the necessities of the Government and the business of the country. It is not so well fitted for delivery as for the press, and therefore I ask leave of the committee to print the same.

Mr. VALLANDIGHAM. I shall interpose no objection, provided the gentleman will indicate in the Globe that the speech was not delivered in the Hall, but printed by consent of the committee.

Mr. WALTON. Certainly.

Mr. STEWART, of Maryland, addressed the committee on the subject of the President's annual message, particularly in regard to the tariff, and other kindred topics.

Mr. VANCE addressed the committee upon the subjects of the tariff, the public lands, and the bill granting pensions to the soldiers of the war of 1812.

Mr. CLAY addressed the committee upon England, Central America, and the Clayton-Bulwer treaty, the slave trade, and the engagements of the Government of Great Britain respecting it, and the acquisition in any manner of the Island of Cuba.

[These speeches will be found in the Appendix.]

Mr. DURFEE. Mr. Chairman, at the request of the gentleman from Illinois, [Mr. LOVEJOY,] who has been called away, I have obtained the floor, which I shall give to him when we meet again in committee. I say this that there may be no misunderstanding.

Mr. HARLAN. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. JOHN COCHRANE reported that the Committee of the Whole on the state of the Union had, according to order, had under con-

sideration the state of the Union generally, and particularly the annual message of the President of the United States, and sundry resolutions proposing to refer the same, and had come to no resolution thereon.

And then on motion of Mr. BOWIE, (at ten o'clock and twenty-five minutes, p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 8, 1859.

Prayer by Rev. W. F. SPEAKE.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, information relative to the expediency of transferring the revenue-cutter service from the Treasury to the Navy Department; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate, relative to the construction of a building at Springfield, Illinois, for the accommodation of United States courts and post office.

Mr. TRUMBULL. That communication is in answer to a resolution introduced by me. I move that it be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

Mr. FITCH subsequently said: I think there was a motion made by the Senator from Illinois to print some document, the reading of which I did not listen to. I simply call attention to it from the fact that I find it has been ordered to be printed without the reference of the question to the Committee on Printing, as required by the rule. If it is a document, the propriety of the printing of which can admit of no debate, of course I am not disposed to interfere with it; but if it is a mere drag-net to bring something before the Senate of no apparent use, I prefer that the inquiry as to printing should go to the Committee on Printing.

Mr. TRUMBULL. It is a short communication stating the reason why the building has not been commenced at Springfield, Illinois, for which an appropriation was made, and will not cover, I presume, more than a quarter of a sheet of paper. I have no objection to its going to the Committee on Printing.

Mr. FITCH. It is not the expense in any one case, but there is a principle involved in it.

Mr. TRUMBULL. I have no objection that it should be considered as having gone to the Committee on Printing. It is an unimportant matter.

The PRESIDENT *pro tempore*. The Chair will understand that as the sense of the Senate, unless objected to. The question of printing will be referred to the Committee on Printing.

HOUSE BILL REFERRED.

The bill (H. R. No. 863) for the relief of Lucy A. Wakefield, widow of Benjamin Wakefield, was read twice by its title; and, on the motion of Mr. ALLEN, referred to the Committee on Naval Affairs.

PETITIONS AND MEMORIALS.

Mr. KENNEDY presented resolutions of the State of Maryland, in favor of the enactment of a law for the final settlement and payment of the half pay for life, promised by the Continental Congress, to the officers of the revolutionary army who should serve to the end of the war; which were referred to the Committee on Revolutionary Claims.

He also presented a resolution of the Legislature of Maryland, relative to the erection of a monument to the memory of Major General Baron De Kalb; which was referred to the Committee on the Library.

Mr. KING presented a memorial of citizens of the State of New York, praying the erection of earth-work redoubts for the defense of the city of New York and its vicinity; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOUGLAS. I present a memorial of E. N. Haddock and others, praying the passage of

a law to legalize the sale of the site of Fort Dearborn. The property has been sold, and the money paid into the Treasury many years ago, but a question has arisen on some technical exceptions as to the mode of sale. I ask leave, also, to introduce a bill and refer it to the Committee on Public Lands, with the memorial.

The bill (S. No. 565) to legalize the sale of the southwest quarter of section ten, in township thirty-nine, north of range fourteen, east of the third principal meridian in the State of Illinois, was read twice by its title and referred, with the memorial, to the Committee on Public Lands.

Mr. SEWARD presented the petition of William H. Ward, praying the appointment of a board for the purpose of examining the various systems of marine signals; which was referred to the Committee on Commerce.

Mr. CHESNUT presented the petition of officers of the Army stationed at Fort Dallas, Texas, praying that provision may be made for supporting bands in the military service; which was referred to the Committee on Military Affairs and the Militia.

Mr. POLK presented two memorials of citizens of Washington county, Missouri, praying that a duty be imposed on iron sufficient to afford protection to the labor of the country employed in the manufacture thereof; which was referred to the Committee on Finance.

Mr. BAYARD presented the petition of Daniel McAvery, a soldier in the Army during the Florida war, praying to be allowed a pension; which was referred to the Committee on Pensions.

RELATIONS WITH CENTRAL AMERICA.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate the instructions from the Department of State to William Carey Jones, as special agent of the United States, which are alluded to in Executive Document of the House of Representatives, No. 2, of the Thirty-Fifth Congress, second session, page 58, being a part of a dispatch from the Secretary of State to the Minister of the United States to Nicaragua and Costa Rica, dated July 25, 1858. Also, such correspondence, or any part thereof, that Mr. Jones may have had in said capacity with the Department of State, as the publication of will, in the opinion of the President, not be inconsistent with the public interest; also, any correspondence or any facts that may be in the knowledge of the Executive Departments of the Government, on which could have been based the following declaration "of Juan R. Mora and Tomas Martinez," under the name of "the supreme chiefs of the two Republics of Nicaragua and Costa Rica," dated at Rivas, May 1, 1853, impeaching official agents of the United States, viz: "That hitherto all the official agents of the United States at Nicaragua have been the accomplices and auxiliaries of the invaders, acting as masters, and audaciously hoisting the flag of the United States in all parts where, as at San Juan del Sur, the flag of Nicaragua only ought to float, and openly menaced Central America with an inevitable annexation." Also, whether any apology or explanation that has been given to this Government on the part of said "supreme chiefs," includes a withdrawal of the impeachment so made against "official agents of the United States;" and also, that, as far as may be consistent with the public interest, any apology or explanation that the authorities of Costa Rica and Nicaragua may have made with reference to said declaration.

GRANITE FOR THE TREASURY BUILDING.

Mr. HAMLIN submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform the Senate the amount already paid for granite for the construction of the south wing of the Treasury Department, together with an estimate of the amount that will be necessary to pay for the granite to complete the said wing of the Treasury building.

ACCEPTANCE OF MEDALS.

The joint resolution of the House of Representatives (No. 52) giving the consent of Congress to the acceptance, by Captain M. F. Maury and Professor A. D. Bache, of gold medals from the Sardinian Government, was read twice by its title.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Foreign Relations.

Mr. MASON. That subject was before the Committee on Foreign Relations, and the Senator from Kentucky [Mr. CRITTENDEN] was instructed to report a bill of that character. I would therefore request that the question be taken on the passage of the resolution at once.

Mr. SHIELDS. With the consent of the honorable Senator from Virginia, I ask that the joint resolution be referred, because I know the Sena-

tor from Kentucky wishes to say something on the subject.

Mr. MASON. Very well, sir; let it be referred.

The joint resolution was referred to the Committee on Foreign Relations.

TOBACCO TRADE.

Mr. MASON. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 38) in relation to the tobacco trade of the United States with foreign nations, have instructed me to report it back without amendment, with a recommendation that it pass. It is a joint resolution of the House of Representatives, which is very interesting to the trade of a large number of the States of the Union; and I am sure will meet the approbation of the Senate. I ask that it may be put on its passage.

There being no objection; the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It is as follows:

Resolved, &c., That the trade in tobacco with Great Britain, France, Spain, Portugal, Austria, Brazil, and other foreign nations, is clogged with restrictions and limitations wholly inconsistent with that fair and reciprocal condition of commerce which ought to exist between the United States and those nations respectively, and is therefore unsatisfactory to the States of Virginia, Kentucky, Maryland, North Carolina, Missouri, Tennessee, Ohio, Connecticut, and other tobacco-growing States, in which that article is an important, if not the chief, staple of agricultural production.

2. *Resolved, That it is the duty of the Federal Government to use its utmost power, by negotiations or other constitutional means, to obtain a modification or reduction on the part of said foreign nations, of the duties and restrictions imposed by them on the importation of American tobacco, and, to this end, to employ all the diplomatic and commercial powers which the Constitution has conferred to it in producing a more just and equal reciprocity in a trade so deeply involving the value of that portion of the agricultural labor of the country, in which at least one fourth of the Confederacy is concerned.*

3. *Resolved, That the treaties of the United States with China and Japan present a fair and fitting occasion for the enlargement and extension of the tobacco trade of the United States, and it is the duty of the Government of the United States to use all their exertions, within the limits of constitutional power, to foster and encourage the introduction of American tobacco as an article of use among the people of those nations.*

4. *Resolved, That diplomatic negotiations with England, France, Spain, and Austria, as well as with China and Japan, ought to be commenced as soon as practicable by the Government of the United States, with the view of obtaining a modification of the existing systems of revenue and taxation of those nations in respect to American tobacco, and for this purpose instructions ought to be given to our foreign ministers, consuls, and commercial agents in those nations, by the Executive of the United States, to use all their constitutional and legitimate functions in producing so desirable a result.*

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PATENT OFFICE MECHANICAL REPORT.

Mr. FITCH. It may be remembered by the Senate that the mechanical portion of the Patent Office report this year was referred to the Committee on Printing. In the outset of their inquiry, relative to the cost, &c., the committee found a resolution of the Senate, on the subject, which was passed at the last session—a resolution of this body only, not concurrent or joint, and not having the force of law, it is not operative on the Commissioner of Patents, or the Secretary of the Interior, or the other House of Congress. The committee, however, deem it operative on them, and desire me to call the attention of the Senate to it. While they concur in the object sought to be accomplished by the resolution, they direct me to ask that it be rescinded for this session, and then instruct me to move a portion of it as a joint resolution. I send it to the Secretary's desk to be read. I will be seen that it effectually prevents action on the part of the committee, relative to the report of this year, because it is not brought within the limits of the resolution and cannot be, unless the commissioner makes a different report to this body altogether, from that which he makes to the other House.

The Secretary read the resolution alluded to, as follows:

Resolved, That there be printed, in addition to the usual number, ten thousand copies of the annual report of the Commissioner of Patents on arts and manufactures, for the year 1857; eight thousand of which for the use of the Senate, and two thousand for the Interior Department, for the purposes of official distribution; and that the Secretary be, and he is hereby, directed to cause the annual report of the Commissioner of Patents on mechanics hereafter to be made to the Senate, to be prepared and submitted in such manner as that the plates and drawings necessary to illus-

trate each subject shall be inserted so as to comprise the entire report in one volume, not to exceed eight hundred pages.

Mr. FITCH. That was a resolution of this body only; an amendment offered, I think, by the Senator from Massachusetts [Mr. Wilson] to a report of the Committee on Printing, last session, in favor of printing a certain number of extra copies of the mechanical portion of the Patent Office report. The reports are made under the law of 1838. That law is in full force, not having been rescinded by the resolution. Being a mere resolution of this body, it is not binding on any officer except an officer of this body. The Committee on Printing deem it binding on them, and could not take into consideration any question relative to the printing of more than was contemplated in it; yet, the report made to the other House, and, of course, the duplicate sent to the Senate, will consist of some three volumes; and the question now is, whether it will not cost more to condense those volumes for this session, than it will to print them as they are. If the resolution be rescinded, I am instructed, as I have already remarked, to move the latter portion of the resolution restricting the report hereafter to one volume, as a joint resolution, in order that it may have the force and effect of law.

Mr. HUNTER. I think it would be much better for us to adhere to our resolution than to rescind it. The resolution as it stands, seems to me to be a good one; and if it should have the effect of requiring the Commissioner of Patents to reduce his report within the size prescribed, I think it would be a good effect. The public will judge which is the better, to take the plan proposed by our resolution, or the plan which the House adopt of three or four volumes. I hope we shall adhere to our resolution; and if we do, I have no doubt the House will come to our proposition.

Mr. FITCH. The resolution is proper in itself, but we cannot expect the House to adopt it now, except, perhaps, on a report of their own committee. It is not before them. They knew, and know nothing whatever of it; but their committee, I think, are about to report, and in fact have reported, in favor of printing the document as it came to that body. The committee of the Senate can make no such report, and the question simply is, whether they will order it to be condensed, or take it as it is. I care not what the decision is, whether we shall take the report as presented, or have none at all this session.

Mr. TOOMBS. Let us have none at all.

The PRESIDENT *pro tempore*. Does the Senator desire the reconsideration of the resolution to-day?

Mr. BIGLER. Let it lie over.

Mr. FITCH. If it leads to debate and interferes with other business at one o'clock, let it go over.

Mr. TOOMBS and others. Let it lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution will go over under the rule.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BENJAMIN, it was

Ordered, That Mary E. Heard have leave to withdraw her petition and papers.

On motion of Mr. BENJAMIN, it was

Ordered, That Gabriel Vallere have leave to withdraw his petition and papers.

On motion of Mr. SHIELDS, it was

Ordered, That John Holohan have leave to withdraw his petition and papers.

HOUR OF MEETING.

Mr. BENJAMIN submitted the following resolution for consideration:

Resolved, That hereafter the Senate meet daily at eleven o'clock, a. m.

REFERENCE OF A REPORT.

On motion of Mr. JONES, the report of the Secretary of the Interior, in answer to a resolution of the Senate, relative to the land claims of the late John Rice Jones, was referred to the Committee on Private Land Claims.

REPORTS FROM COMMITTEES.

Mr. REID, from the Committee on Patents and the Patent Office, to whom was referred the petition of Richard Imlay, praying an extension of his patent for an improvement in the mode of supporting the bodies of railroad cars and carriages,

submitted an adverse report; which was agreed to.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Dorcas Hall, praying to be allowed a pension and bounty land, as widow of Simeon Reno, a sergeant in the revolutionary army, submitted an adverse report thereon; and, in concurrence therewith,

Resolved, That the petition of Dorcas Hall be denied.

He also, from the same committee, to whom was referred the petition of Micajah Owen, a private in the United States Army, during the war of 1812, praying to be allowed a pension, submitted an adverse report thereon.

The Senate proceeded to consider the said report; and, in concurrence therewith,

Resolved, That the petition of Micajah Owen be denied.

He also, from the same committee, to whom was referred the petition of citizens of New York, praying that a pension may be granted to Polly Egbertson, widow of a soldier in the war of the Revolution, submitted an adverse report thereon.

The Senate proceeded to consider the said report; and, in concurrence therewith,

Resolved, That the prayer of the petitioner be denied.

He also, from the same committee, to whom was referred, the bill (H. R. No. 343) granting a pension to Mary Blattenberger, widow of John Blattenberger, reported it without amendment, and submitted an adverse report.

He also, from the same committee, to whom was referred the petition of Mary Featherston, widow of John Featherston, deceased, late a boatswain in the United States Navy, praying to be allowed a half-pay pension, submitted an adverse report.

The Senate proceeded to consider the report; and, in concurrence therewith,

Resolved, That the petition of Mary Featherston be denied.

He also, from the same committee, to whom was referred the petition of Effie Van Ness, widow of Gant Van Ness, an officer of the army in the Revolution, praying to be allowed a pension, submitted an adverse report.

The Senate proceeded to consider the report; and, in concurrence therewith,

Resolved, That the committee be discharged from the further consideration of the petition.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print one thousand additional copies of the resolutions of the Legislature of New York, accompanied by a memorial of the Canal Board and Canal Commissioners of that State, requesting the payment of moneys advanced for the breakwater at Buffalo, and praying the improvement of the lake harbors, reported adversely thereon; and the report was agreed to.

Mr. POLK, from the Committee on Private Claims, to whom was recommitment the bill (S. No. 14) to confirm the title in a certain tract of land, in the State of Missouri, to the heirs and legal representatives of Thomas Madden, deceased, reported it without amendment.

Mr. GREEN, from the Committee on Territories, to whom were referred the petition of Hiram J. Graham, praying the organization of a new Territory, to be composed of the western part of Kansas, the southwestern part of Nebraska, and the eastern part of Utah; a petition of citizens of Cass county, Nebraska, protesting against a dismemberment of that Territory, and the annexation of any part thereof to the Territory of Kansas; a memorial of the Legislature of the Territory of Dacotah, elected under a resolution passed at a mass convention held for the purpose of establishing a temporary government, praying Congress to recognize the laws thereof, and to extend to that Territory a more perfect organization; a memorial of the citizens of Big Sioux and Midway counties, in Dacotah Territory, praying the organization of a territorial government; a memorial of the citizens of the county of Pembina, in the Territory of Dacotah, praying for an early organization of the Territory, and for the establishment of the capital at St. Joseph; a memorial of the citizens of the town of Medary, in the Territory of Dacotah, praying the organization of a territorial government; and a letter of T. J. Mackey and others, inclosing a memorial of the citizens of Nebraska Territory residing south of the Platte river, in convention assembled

at Brownsville, on the 5th of January, 1859, praying that the portion of Nebraska Territory lying south of the Platte river may be embraced within the boundaries of the proposed State of Kansas, reported adversely on the same; and the report, in each case respectively, was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 475) to organize the Territory of Dacotah, and for other purposes, reported it without amendment, adversely.

He also, from the same committee, to whom was recommitted the bill (S. No. 8) to organize the Territory of Arizona, and to create the office of surveyor general therein; to provide for the examination of private land claims; to grant donations to actual settlers; to survey the public and private lands, and for other purposes, reported it without amendment, and adversely.

He also, from the same committee, to whom was referred an amendment, which Mr. WILSON gave notice of his intention to propose to the bill (S. No. 8) to organize the Territory of Arizona, and to create the office of surveyor general therein; to provide for the examination of private land claims; to grant donations to actual settlers; to survey the public and private lands, and for other purposes, reported adversely thereon.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Mrs. Anna W. Angus, widow of the late captain Samuel Angus, United States Navy, for a certain allowance, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs.

Mr. FITCH. The Committee on Printing, to whom was referred the motion to print certain Indian treaties, have inquired into the subject, and find, as the accompanying correspondence will show, that they have not been published, but that they are authentic. They direct me to report them back to the Senate with a request that their publication shall be directed with the current volume of the statutes for this session. I move that the report be concurred in, and that the order be made.

The motion was agreed to.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 566) concerning the transfer of real estate in the city of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 560) for the relief of Lydia Fletcher.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (S. No. 554) to authorize the Attorney General to represent the United States in the proceedings in equity now pending in the Supreme Court between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations;

A bill (S. No. 380) to provide for the payment of the claim of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war; and

A joint resolution (S. No. 48) for the payment of an unexpended balance to the State of Georgia, on account of military services.

THE TARIFF.

Mr. BIGLER. I move to postpone all prior orders, in order to proceed to the consideration of the resolution which I offered last week, on the subject of the finances of the country.

Mr. BROWN. I feel bound to interpose an objection to that motion. That is simply a proposition to displace the regular order of business. I want to take up the business which was unfinished yesterday, and go on and get done with it.

Mr. BIGLER. My motion was to postpone all prior orders, for the purpose of taking up the resolution; and I hope we shall get a vote at least on the motion.

Mr. TOOMBS. I have no objection to taking

up the resolution of the Senator from Pennsylvania, with the understanding that its consideration is to be continued. I do not desire that we shall have a discussion on one side. I desire to be heard on it myself; and if the resolution is to be taken up, I wish it to be done with the understanding of the Senate that those opposed to the resolution of the Senator from Pennsylvania, will have an equal opportunity of debating it. I desire to be heard very fully upon it, at the earliest moment that suits that Senator's convenience.

Mr. BIGLER. Certainly I have no desire to restrain debate, and no right to attempt to do so. I hope that the Senate will take up the resolution, and the Senator from Georgia and others opposed to it may be heard upon it.

Mr. MALLORY. I only wish to say, for myself, that I consent to no such general understanding. It is my purpose, at the earliest moment, to move to take up the bill (S. No. 373) providing for the payment of the interest claims of citizens of Florida. I designed doing so this morning, but I saw that other measures had priority, and I abstained from doing so. I give notice, however, that at the earliest moment, it is my purpose to do so, as I believe there is a disposition on the part of the Senate to take up that bill and pass it.

Mr. HUNTER. I only wish to say on this question that I am willing to abide the sense of the Senate; but if the resolution is taken up, like the Senator from Georgia, I shall insist on a general discussion. I do not think it would be fair for the argument to go out on one side and nothing be heard on the other. It is an important subject, and if the Senate choose to take it up and go into the debate, be it so; but I hope the debate will be a general one on both sides.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves to proceed to the consideration of the resolution submitted by him, relative to the readjustment of the revenue laws, so as to meet the deficiency in the current expenses of the Government, and to pay off the public debt, so far as it is liable to immediate cancellation.

Mr. MASON. I should object to taking up that resolution, amongst other reasons, because I consider that it is an interference with the constitutional right of the House of Representatives. The Constitution reposes in the House of Representatives alone the origination of matters affecting the revenue. It alone can originate a bill to raise revenue; and I shall, therefore, oppose the introduction of such matters into the Senate.

Mr. BIGLER. I agree that the Constitution of the United States confides to the House of Representatives the right to originate bills for raising revenue; in that body alone can such a proposition originate; but I never heard it suggested before that it was incompetent for the Senate to give expression to its views on any subject. The resolution which I propose does not attempt to introduce into this body a revenue measure; it is a declaration of the opinion of the Senate, and I think there are many precedents for it. I do not know that in the programme presented by Mr. Clay there was anything relating to the finances of the country; but it has been the custom to introduce resolutions simply expressive of opinion. The Senator from Virginia does not misunderstand my purpose. He is certainly aware that I do not desire to attempt to originate a revenue measure in this body; but that honorable Senator will remember that members of this body, in an informal way, undertook to notify the House of Representatives that a measure which they were considering, connected with the finances of the country, was inexpedient. Sir, I have my rights on this subject as a representative of a sovereign State. That State feels a deep interest on this question; and a majority of the Senate, as was alleged, having decided in an informal way—not as a Senate—that it was inexpedient to consider the subject at this session, I was driven to the presentation of this resolution for the purpose of getting my views before my constituents and before the Senate. That is the object.

Mr. MASON. I do not mean to debate it; I object to taking up the resolution; but if the Senator is disposed to debate it, will he allow me to present him the single issue that I wish to raise? The Constitution of the United States says this:

"All bills for raising revenue shall originate in the House of Representatives."

Now, I submit to that Senator, that it is a legislative discourtesy and a constitutional indecorum, for the Senate, in advance, to intimate to the House of Representatives what their opinion is upon raising the revenue.

Mr. BIGLER. I must express my astonishment at the view presented by the Senator from Virginia. I can hardly persuade myself that such an issue is to be raised here. No gentleman pretends that we have the right to originate a revenue measure; but can it be claimed that it is a discourtesy to the House of Representatives to discuss, in advance, this or any other subject which it may become the duty of that body to consider? If it be so in one case, it must be so in all. If I proposed, as was proposed at one time since I have been a member of this body, the consideration of a bill regulating the finances, increasing or decreasing them, the Senator's objection would be well taken; but I propose no such thing. I simply submit a proposition, which, if adopted, will be a declaration of opinion, and not an act of legislation. It does not attempt to interfere with the right of the House of Representatives to consider this subject, and to dispose of it.

Mr. BAYARD. The resolution which the honorable Senator from Pennsylvania now proposes to take up, is either intended to obtain a vote of the Senate upon its rejection or its passage, or it must lead to a fruitless discussion. At this period of the session, when there are but four weeks left, I think it would be—

The PRESIDENT *pro tempore*. There is so much conversation in the Chamber that it is impossible to hear the Senator.

Mr. BAYARD. Unless the resolution is to receive the vote of the Senate, I think it would be an improper interference with its other business. That it ought not to receive the vote of the Senate, I cannot doubt, whatever may be my opinion as to the propriety of the measure. At the informal meeting, of which the Senator speaks, I was not present, and do not know except by hearsay, what was its character; nor do I mean to express my own opinion as to what would be the proper action whenever it comes legitimately before the Senate; but a mere discussion without a vote of the Senate would be certainly an improper interference with the time of the Senate for the limited period we have yet to pass upon other measures of great importance.

If the vote is to be taken, then the objection made by the honorable Senator from Virginia [Mr. Mason] is to my mind conclusive. We have no right to originate a tariff or revenue bill in this House. If we have no right to originate such a bill, we ought not to pass a resolution expressing our opinion, if it is passed, that the House of Representatives are deficient in their duties by not revising the tariff bill of the United States. It is for them to act first, for them to initiate the measure; and as they have the sole right to do that, I do not think we ought to forestall their action by attempting to express the opinion of the Senate as a body as to what that action ought to be. I shall vote against taking up the resolution.

The PRESIDENT *pro tempore*. The hour of one o'clock having arrived, it is the duty of the Chair to announce the special order, unless the Senate otherwise direct.

Mr. BROWN. I hope the regular order will be taken up.

The PRESIDENT *pro tempore*. The regular order is the unfinished business of yesterday.

Mr. BIGLER. My motion is to postpone all prior orders, and I hope we shall have a vote.

Mr. SEWARD. That motion must be voted on.

Mr. CLINGMAN. I wish to submit a remark in reply to the suggestion of the Senator from Delaware, as to the power of the Senate to express its opinions on this subject. I suppose nobody has any doubt about that. Senators will remember that some of the most elaborate debates in the Senate have taken place on resolutions. In 1832, the long debate on the tariff was on a resolution of Mr. Clay; and, in 1842, when he went out, he offered similar propositions. But there is a special reason why I, for one, desire some discussion on this subject. The friends of a higher degree of protection than I advocate, have of late years been in the habit of endeavoring to put in their propositions, not as regular tariff bills which must open debate, but as amendments to appro-

priation bills. There have been attempts in the other House—such attempts cannot be made here—and they have succeeded once or twice putting in a tariff bill upon one of the appropriation bills. It will come here in the last two or three days of the session, when there is no time whatever to discuss it; and, it seems to me, that if the Senate intends to give any consideration to this important question, we should do it at once. We are now pressed by a vigorous effort on the part of those who represent the manufacturing interest, who have seized upon the present deficiency in the tariff, and they are availing themselves of every means of reaching public opinion through the press and otherwise; and there is to be a vigorous effort to increase the tariff for protection; and, it seems to me, that those of us who differ from that policy, ought to have some opportunity of expressing our opinions before the last days of the session. I mean, therefore, to endeavor to give the Senator from Pennsylvania an opportunity to get up his resolution; and I hope it will be discussed on both sides when it comes up.

Mr. BROWN. I ask respectfully, whether this debate on a mere motion in reference to the order of business can be in order? I have no disposition myself, to discuss this question. It seems to me that we ought to take the vote as to whether we shall take up the Senator's resolution or not. When it is up, it will be quite time enough to discuss it. I hope the Senators will confine themselves to the single point, and let us get through.

Mr. HALE. I am for taking up this resolution, and I go for it on this ground: I want to deal fairly with everybody; and we make a mistake sometimes by undertaking to talk in this—I do not know exactly what style you call it, but say legislative style, and speak about constitutional decorum, and in that way we get rid of the real merits of the question. Now, I understand the case, in plain English, to be this: The Democratic party had a caucus, and considered this subject, and did not notify the President to attend. They have had a vote upon it, and they have voted contrary to his expressed will; and this I understand is simply to give the President fair play to come into the open Senate and have his views discussed, to meet and obviate, if possible, the effect of that resolution that you passed when the President had not an opportunity of being heard. I am for giving him an opportunity, and I shall vote for taking up the resolution.

Mr. MASON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 33, nays 23; as follows:

YEAS—Messrs. Bates, Bell, Bigler, Bright, Broderick, Cameron, Clark, Clingman, Collamer, Crittenden, Davis, Dixon, Doohite, Durkee, Foot, Gwin, Hale, Hamlin, Harlan, Houston, Kennedy, King, Mallory, Pearce, Polk, Seward, Shields, Simmons, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wade, and Wilson—33.

NAYS—Messrs. Allen, Bayard, Benjamin, Brown, Chandler, Chesnut, Clay, Douglas, Fitch, Fitzpatrick, Green, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Mason, Pugh, Reid, Rice, Slidell, Trumbull, and Ward—23.

So the motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. BIGLER on the 21st of January:

Resolved, As the opinion of the Senate, that the creation of a large public debt in time of peace is inconsistent with the true policy of the United States; and as the present revenues are insufficient to meet the unavoidable expenses of the Government, Congress should proceed, without delay, to so readjust the revenue laws as not only to meet the deficit in the current expenses, but to pay off the present debt so far as it may be liable to immediate cancellation.

Mr. BIGLER. Mr. President, the general subject is one of much interest to the Government, to the whole country, and especially to my constituents; and I must ask the indulgence of the Senate whilst I discuss it somewhat at length.

It will be remembered that, a few days since, I presented a series of resolutions which had been unanimously adopted by the Legislature of Pennsylvania, approving the views of the President on the subject of the tariff, as expressed in his annual message, and instructing my colleague and myself to sustain an increase of duties on imports, as well with a view to an increase of the revenues as to afford encouragement to such industrial interests as encounter foreign competition. I then remarked, Mr. President, and I repeat now, that I have no doubt those resolutions embody the sentiments of an overwhelming ma-

jority of my constituents, and I shall endeavor to carry out their spirit to the utmost of my ability. In deference to this universal voice, it will be my duty to act up to the full import of the resolutions, irrespective of peculiar views of my own.

No question, save one, connected with our form of government has led to so much controversy, in and out of Congress, or given existence to such an abundance of conflicting and dissimilar opinion, as that of the tariff, as well on the theoretical principles involved, as on the practical workings of given details. Nor is this at all singular; for, in its very nature, it is, to a greater or less extent, a subject of conflicting interest, real or imaginary, between different sections of our common country, and different interests, pursuits, and classes of people within the same section, each having like claims upon the justice and favor of the Government; whilst the close and well-balanced relations of producers and consumers, operatives and capitalists, to the subject, has very naturally excited the utmost vigilance on the part of each of these classes in the maintenance of their rights and interests as involved in its operations. Nor has any measure so uniformly baffled the foresight and judgment of public men. Its practical operations upon the Treasury, and upon those industrial interests encountering severe foreign competition, has been all the while a problem—a grand mystery. No one of the sixteen regular tariff laws adopted since 1789 has met the expectations of its advocates in every particular; nor has there been one which did not, at some time, seem to produce effects which no one had anticipated, and thereby controverts the most universally accepted theories on the subject, the results fluctuating to great extremes under the same rates of duty.

In 1836, when the tariff, under the compromise law, was still quite high, the imports exceeded those of any previous year, or any one of sixteen subsequent years, reaching \$189,980,000, against \$128,660,000 of exports; leaving a balance against the country of \$61,320,000; whilst in 1838, the duties having declined but slightly, the imports sank down to \$113,317,000, being a decline of over \$75,000,000; leaving an excess over exports of only \$4,830,000. Then again, in 1856, they reached the sum of \$314,639,942; whilst in 1858, under the reduced rates of the tariff of 1857, they fell down to \$282,613,000; the fluctuations in the receipts to the Treasury ranging, at different times, from five to ten or twelve million dollars in successive years, under the same duties, being often very remarkable, and influenced as well by revulsions in business, and the market value of goods, as the extent of importations; the entire experience going to show that its operations are controlled quite as much by the impulses of commerce and trade as by the rate of duty. There never has been a tariff law, and I do not believe there ever will be one devised, against which plausible, if not well-founded objections may not be made by some interest or class of people, on some point or other of its operations; and no public man need be reproached because he did not foresee, with accuracy, what a given tariff would do; for the most sagacious have failed to do this. I have myself no faith in the cure-all school of doctors on this subject; nor do I believe the tariff can do as much for home interests as is claimed by some; nor sympathize in the unreasonable doctrines of extreme protectionists, or respect the policy of some who are constantly asking what they know cannot be granted; and still less in the efforts of others to persuade large classes of the people that they should rely rather upon the Government and the laws for prosperity, than upon their own enterprise, energy, and industry. But I believe that, in meeting the constitutional obligation to provide revenue to defray the expenses of the Government, we should endeavor to distribute the burdens incident thereto as equally as may be; giving all the incidental protection and aid we can to such manufacturing and other interests as encounter vigorous competition from abroad.

There is no dispute as to the right of Congress to levy import duties. That power is expressly conferred in the Constitution. Nor need it be seriously denied that, in the exercise of that power, it is not as well the duty as the right of Congress to take into consideration the effect of such exercise upon the general welfare of the whole

country. It is in the details of this work that the problem is involved; and they are in no way prescribed in the Constitution. Revenue to sustain the national Government being the expressed object, the rates of duties to be assessed on the various articles of importation, and the incidents to flow from such rates, affecting any or all of the industrial interests of the country, are matters for the wisdom of Congress. In the exercise of this discretion, whilst seeking to promote the general good, the utmost care should be taken to do injustice to no class of the people or branch of industry. Certainly, no attempt should be made to build up one of these at the sacrifice of the others; nor to burden, unequally, one section of the country to advance the prosperity of another. No true friend of the manufacturer will seek to do these things, or insist upon the right of "protection for the sake of protection merely." Such policy would be alike weak and unwise. What we want, and all that is necessary, is the exercise of a wise discrimination in fixing the rate of duties on each article of importation, so as to do the most we can for the manufacturing interests, without oppressing, improperly, any other branch of industry. This we may properly do, and this it is our bounden duty to do.

The specific things which it is wise and proper for a nation to do, in its efforts to foster its domestic welfare, must depend, to a great extent, upon the elements of such country; the nature of the climate; the character and extent of its resources, as also the pursuits and inclinations of its people. If it be true that the wealth of a nation consists in the productive labor of its citizens, then it follows that the wealth of a nation is involved to some extent in the direction of that labor; for the extent of its rewards must depend upon its fitness to the end to which it is devoted.

It must be obvious, too, that that country is most prosperous and independent which can profitably produce the greatest variety, and the largest relative quantity, of the great staples of life, comfort, and means of military defense. Our country is blessed, above all measure, in these particulars. She is possessed of the elements of prosperity for all the great branches of industry; agriculture, manufactures, and the mechanic arts, of which commerce is the natural offspring.

So far as our revenue system may affect any or all of these interests, Congress should see that the beneficial incidents flow to such branches of industry as are best suited to the resources of our country and to the inclinations and capacities of our people. No artificial or unnatural interest should be considered in the action of Congress. No system of hot-house horticulture to produce the fruits of the tropics, or *morus multicaulis* schemes of growing silk, should be sustained at the cost of five times the labor necessary to produce the flour, beef, pork, iron, cotton, wool, sugar, hemp, &c., necessary to exchange for these. But the great interests naturally suited to the country should be considered and cherished; for in the pursuit of these the labor of our people is wisely directed. It is also the manifest interest of our nation to prepare its great staple productions, as nearly as may be, for consumption; that is, to vest the raw material with the greatest amount of value before sending it abroad. For instance, the statistics of manufactures for 1850 show that the value of the raw material used that year, was enhanced from \$554,783,917 to \$1,010,628,179 by the process of manufacturing; and at this ratio the raw cotton exported in 1858, being of the value of \$131,356,661, would have equaled in value nearly the whole amount of importation. The less we buy of iron, cotton, hemp, wool, sugar and other great staples, which we can produce as well as we can do anything else, the more ability we shall have to buy those things which we cannot produce, and the better we shall be prepared to sustain the Treasury in this way.

So much for generalities; and now, sir, let me proceed to declare to the Senate, without reserve, just what I would do, and how I would do it, had I the power to dispose of the subject. I have always held to the doctrine of a tariff for revenue only, and in shaping a law to this end, I should conform it to no arbitrary rule or principle; but compose it of different modes, using both the specific and *ad valorem*; and, in some instances, the better to equalize the rates of charge upon similar articles, and at the same time to discriminate

against inferior goods, I should compound the two modes, applying the charge as well upon the quantity as upon the value of the same article. I should discriminate, in fixing the rates of duty, so as to maintain our great branches of industry in their competition with similar pursuits in foreign countries, so far as that can be done without imposing improper burdens upon other classes of the people. I should do this on the ground that there is a well-balanced reciprocity between all departments of industry, acting and reacting on each other; the prosperity of one being beneficial to all, and *vice versa*; the manufacturer employing the laborer and mechanic, and consuming the products of the farmer, and they in turn taking the manufacturer's goods; the farmer being directly interested in having his manufactures produced in his own vicinity, rather than at remote points, to which he cannot transport his products in payment.

I hold, also, that the manufacturer has strong claims to the incidental aid flowing from our revenue system because of the positive damage resulting to his business from our unrestrained system of paper currency, over which he can have no effective control; and to which I shall presently allude. I should also be careful that the higher rate of charges fell upon the luxuries, rather than the necessities of life; for the reason that the consumption of the former has no beneficial incidents, and is in no way calculated to advance the general prosperity and welfare of the country, and is, beside, a principal cause of the heavy commercial balances too often found against our country. If there be those able to indulge in such consumption, let them pay accordingly.

I should be careful, too, that the Government collected whatever its demand might be, whether counted on the quantity or on the value of the article, so that the honest importer might stand at least equal with the unscrupulous adventurer.

It is due to myself to say that, in a report made to the Senate of my own State twelve years ago, I held substantially the same views. Whilst discussing the effect of the misuse of the specific and minimum principles in the tariff of 1842, I remarked "that the specific principle may be applied to articles of equal and fixed value without being liable to objection; that I should be glad to see it applied to coal, bar iron, pig metal, and other articles, varying but little in value, under a given name; for, whilst it would answer the purpose of the Government for revenue, and work no injustice to the consumer, it might be of vast importance to home producers in case of severe depression of prices in Europe." But I never did, and I never shall, favor the use of the specific charge in such way as manifestly to tax one class of consumers higher than another; but I do maintain that, so far as the operations of this mode may be equal, it has other valuable virtues, as I shall show presently.

As to the necessities for a prompt readjustment of the tariff, I can see no room for serious difference of opinion. It is conceded on all hands, that the revenues are insufficient to meet the current expenses of the Government. The Secretary of the Treasury estimates the deficit, on the 30th of June, 1860, at \$7,914,576; but that sum does not include \$19,754,800 of Treasury notes now in circulation, and which the Secretary says should be canceled rather than converted into permanent debt. It is thus seen that the actual deficiency on the 30th of June, 1860, on the Secretary's own showing, will be \$27,679,376 instead of \$7,914,576. But the Secretary's estimates are very properly for the requirements of the laws as they now are. He has not attempted to anticipate the special burdens which Congress may throw upon the Treasury prior to June, 1860. Already the House has passed a pension bill, which, it is said, will require from five to eight million dollars per annum for many years, whilst the Senate, in turn, has passed another for the payment of French spoliation claims, which will require about five millions in addition. Then, there is the Oregon war debt, and the countless smaller demands which may be made upon the Treasury, in addition to the \$30,000,000 to purchase Cuba; and I fear that the deficit in the postal receipts will be about a million dollars more than the Secretary's estimate; and the receipts from the public lands, about two millions less. Indeed, sir, should the bill which passed the House the other day, giving the land to set-

ters at ten dollars per quarter section, become a law, the receipts from that source will not be one million dollars instead of five millions. In view of these considerations, and making allowance for all the retrenchment in expenses we can hope to accomplish, I should estimate the deficit on the 30th of June, 1860, as follows:

In current expenses.....	\$19,900,000
Treasury notes.....	19,754,800
	<hr/>
32,654,800	
Add present debt.....	45,155,977
	<hr/>
77,810,777	
Add for the Cuban fund.....	30,000,000
	<hr/>
	\$107,810,777

But, sir, will the Secretary's estimates be realized? Will the revenues from customs, for 1860, reach the sum of \$56,000,000? It is possible they may, but it is by no means certain; and, should they do so, I think it an easy task to show that they will be more than the country can safely receive.

The tariff of 1828 made an average charge, on the gross amount of importations, of twenty-eight per cent.; that of 1842, about nineteen per cent.; that of 1846, about twenty-one per cent.; and that of 1857, sixteen per cent. At the rate of sixteen per cent., it will require the importation and consumption of full \$350,000,000 to meet the estimates of the Secretary, or \$100,000,000 more than the amount of last year, and \$14,000,000 more than for the year 1857, which, all must agree, exceeded the standard of a wholesome demand. The truth is, the importations of 1855, 1856, and 1857, do not furnish a safe basis for estimates for the future. They made an important element in the general expansion of commerce, business, credit and currency, which exploded in the latter year, with such disastrous results to the country; and like causes will always produce similar results. On this point, the expansion of 1836 is most significant. The imports having reached \$180,000,000, being a greater amount than at any former period, were immediately followed by a disastrous commercial revulsion; and they did not again reach that sum in any one of sixteen subsequent years. No man is at liberty to disregard the teachings of such experience. Indeed, sir, we can rely but little upon the movements of commerce. They are impulsive and uncertain, promising largely to-day, and yielding nothing to-morrow. Just now the receipts from customs are quite equal to the Secretary's estimates; but I tell you the country is not in a condition to continue such large imports. The mighty monetary and commercial impulses of the world may open the floodgates of importation, or close them for a season, even in defiance of the laws of supply and demand; but the only reliable data on which to measure the imports into the country for a series of years, is its capacity to purchase and consume. On this point, experience is the best witness; and it shows that, for thirty-eight years, the consumption of foreign goods, *per capita*, has averaged \$6 69; the extremes being in 1821, when it was down to \$4 14; and in 1836, 1856, and 1857, when it ranged between ten and eleven dollars; the healthy periods of the country being when the amount was about the average. The Secretary's estimate for 1860, on the basis of a population of 29,500,000, and imports of \$350,000,000, and \$56,000,000 of revenue, will require a *per capita* consumption of \$11 86, nearly double the past average, and exceeding the prodigal years of 1836, 1856, and 1857. Can the country do this? Have we the capacity to pay so much above the average? The exportations of cotton are large, and may continue so; but there is only a feeble demand for agricultural surplus, if we had any on hand in the North. How, then, can the demands of the Treasury be met, except by increasing the rates and extending the range of impost duties? But I should place the highest *per capita* consumption the country could stand, in the most prosperous time, at nine dollars; and at this rate, and on the basis of a population of 30,000,000, the aggregate consumption would be but \$270,000,000, and the revenue on that only \$43,200,000, being \$12,800,000 below the estimate for 1860. It may be said by some of our friends, that the effect of increasing the duties will be to lessen the importation of iron and other staples, and so fail to increase the revenue; and

that may be true to a certain extent; but if so, we shall have the greater capacity to buy other things which we cannot produce. The manufacturers, when out of business, will not consume foreign goods; but when prospering, they consume much more freely.

It is too obvious, therefore, Mr. President, that the alternatives of an increase of the public debt, or an increase of the revenues, are before us; and for one, sir, I am emphatically in favor of the latter and against the former. I am utterly opposed to the creation of public debt in time of peace. It is against the settled policy of our Government, and should not be indulged even to a moderate extent. It has been said the present tariff has not had a fair trial; that it may hereafter bring the necessary revenue. But, suppose the Secretary's estimates to prove entirely correct; it will require over ten millions annually, for three years, above his estimates, to meet the deficit which he himself shows. Such a case leaves no room for doubt or dispute.

It is proper that I should remark at this point, Mr. President, that I dissent from the estimates of the Secretary of the Treasury with the utmost reluctance, and in all kindness to him, for I am his personal and political friend.

But, sir, it is said that there is not time sufficient to accomplish the work at this session—and it must be conceded that the time is short; but we can have much more time than we had on the present tariff, which was discussed in this body only a few hours. But, sir, if we cannot have a complete revision of the tariff, applying different rules and rates to different articles, as may seem best, then give us four or five or six per cent. on the rates of the present law. This proposition could be understood and disposed of in a few hours.

But, sir, I desire at this point to notice briefly the views of the President and those of the Secretary of the Treasury on this subject, about which some gentlemen seem to be greatly exercised, and to be regarding these high functionaries as at direct issue on a vital question of principle connected with our revenue system. I do not so understand them. They agree that the revenues are insufficient and should be increased, and that revenue is the primary object to be attained, and not "protection for the sake of protection." They both aim to raise from this source the same amount of customs. The only difference is as to how the Government charge shall be measured; whether uniformly upon the value of imports, or upon the quantity, so far as that may be proper, and upon the value of the remainder. In other words, the President would apply the specific mode, so far as its operation would be equitable and just upon consumers, while the Secretary would apply a percentage upon the value of each and every commodity. It does not follow, therefore, that one is for protection and the other against it, or the one for incidental aid to the home producer and the other against it. Either form of change may be so applied as to be protective, and either so as to be only a fair revenue measure. But the *ad valorem* principle may be applied to an unlimited extent, whilst the specific should not. The latter can be justly assessed only on articles of similar character and value under the same name or description; for its general application would work manifest injustice to the consumer of imported goods, and be especially objectionable, because it would have the effect to impose a relatively higher charge upon the consumer of the coarser articles, on the necessities rather than on the luxuries of life.

Such was the effect, to no inconsiderable extent, of the tariff of 1842, and it was the manifest injustice of that operation which rendered the specific and minimum rules of assessment objectionable to the people. That was not so much the fault of the rule as the error in its application. It was misapplied. For instance, silk was tariffed by the pound, broadcloth by the yard; and so as to many other articles; and it is seen how unequal the operation must have been. One pound of fine silk would cost double or treble that of a pound of the coarse; and one yard of fine broadcloth would be worth twice or thrice that of a yard of the coarse article; and thus the consumer of the coarser commodity was compelled to contribute to the support of the Government double or treble the amount of percentage exacted from

the consumer of the finer article. Cotton goods were tariffed on the minimum or imaginative principle, which provided that all cotton goods, or of which cotton was a component part, dyed or colored, costing thirty cents a square yard or less, should be rated as costing thirty cents, and tariffed accordingly; and plain cottons, costing less than twenty cents, were rated at that price. Thus, the rate of percentage on the consumer became great just as the value of the article became small. This operation was the more objectionable because it often applied to articles not produced in the country to any extent, and where the whole charge necessarily entered into the price to the consumer, it being to no extent restrained by home production. But where the specific charge on the quantity is properly applied, the case is far otherwise. Then these objections do not apply; for then all consumers would pay alike upon the same quantity of the same article, as in the case of a fixed sum per ton on bar-iron, pig-metal, steel, sugar, hemp, flax, coal, and fabrics, so far as it can be made to operate equally. This, I understand, is the extent to which the President would prefer specific to *ad valorem* duties. To my own mind, the use of any mode in measuring the Government charge is right or wrong, just as it may effect equally or unequally the value of the article to the consumer.

A tariff for revenue is the Democratic doctrine; but the mode of assessing the duty, whether upon the value or quantity of the articles, has never been made an article of our party faith. Thomas Jefferson founded the party long before 1846, and prior to that time both modes or rules had been uniformly used. But our faith, Mr. President, must always be, to deal justly with all in the use of either mode.

The English Government has attempted to overcome the objection to the application of the specific charge to textile fabrics, by a scale of rates increasing and decreasing as the threads are many or few in the square, and the present British tariff is constructed almost exclusively on that principle, the revenues collected on the *ad valorem* being but about one pound out of a hundred. Our tariff of 1842 assessed specific duties on eight hundred items, and on over fifteen hundred on the *ad valorem*; and in 1845, \$32,000,000 of the revenue was collected on the former principle, and \$52,000,000 on the latter.

The objections urged to the application of the *ad valorem* principle to staple articles are, that it seems to facilitate rather than restrain fluctuations in prices; that the Government charge runs to a very large or a very small sum, just as the impulses of trade and commerce may vibrate; and that, when assessed on either a very high or a very low value, it is not a true *ad valorem* principle, for that is intended to be a percentage upon the actual cost of the article to the producer; but, as in the case stated, it becomes, instead, a charge upon a fictitious value, or upon a fictitious invoice. The specific mode, on the other hand, makes a uniform charge upon the quantity of the article. It neither runs up nor down; and it is held, therefore, that it tends to give stability to prices. The complaint of our manufacturers against the *ad valorem* principle is, that it makes the largest exactions when prices are highest and the least when they are lowest; and, consequently, the incidental aid to them always comes in an inverse ratio to the necessity that exists for it. When they need aid most, it gives least; and when they need least, it gives most. For illustration: when iron runs up to \$60 per ton, at the present tariff the aggregate charge would be \$14 40; but when it goes down to \$40 a ton, the charge is only \$9 60; the practical operation being to make the American manufacturers share the fruits of any folly indulged in by their competitors. If there be an excess production in England, for instance, the sum charged per ton, on the *ad valorem* principle, runs down to the lowest point, and enables the English producer to throw his excess into our market. So, also, does it facilitate the importation of the inferior article, which the Englishman cannot sell in his own country. The specific rule, on the other hand, would operate to resist the importation of such excess and inferior article. The consumer has similar ground of complaint; for it is perceived that, when the price of goods is very high, the producer being abundantly rewarded and the consumer already oppressively burdened, the

Government makes the largest charge upon the quantity of the article, a portion of which must enter into the price, and thus add to the burdens of the consumer; whilst, when prices are very low, and the consumer can afford to pay, and the producer is selling at a sacrifice, the Government exacts the smallest sum.

But, Mr. President, the manufacturers of iron would be perfectly satisfied with a very moderate specific duty on the several kinds of the foreign article. They are quite willing that we should ascertain what the aggregate duty, per ton, has averaged for a series of years, and fix that as a specific rate. They would be content with six dollars per ton on pig metal, twelve on railroad iron, and fifteen on rolled or hammered bar, which would not exceed the average that has been paid under the *ad valorem* principle for the last eight or ten years. Now, sir, if no greater average sum is paid, I do not see that it can make an essential difference to the consumer or to the Treasury, whether the charge is made by a fixed sum on the quantity, or by a percentage on the value; but it is of great importance to the domestic manufacturer; for the specific duty tends directly and effectually to the exclusion of the inferior article from the country; for it is seen that when a fixed sum is charged upon the quantity, the rate becomes highest upon the poorest article, and whilst the better will stand the change, the inferior is excluded, which is a benefit as well to the consumer as to the American producer, and must result in the general good. With a moderate rate of duty, the American iron-maker can compete with the foreign manufacturer in the production of the best article; but he cannot sell good iron as low as the English can bad and brittle trash, and he can make the best nearly as cheap as he can the worst. He may stand fair competition, but he needs protection against fraud and deception. The experience of the Pennsylvania railroad shows that the wear and tear of American iron, under the amount of tonnage on that road, is from five to six per cent., whilst on the foreign article of the average quality, it would range from eight to twelve per cent. It is the importation of the inferior article that has embarrassed the American manufacturer, as well as deceived and defrauded the American consumer.

The effect of duties upon articles competing with our principal staple productions on the interests of the consumer is, and always has been, a subject of controversy. The Senator from Georgia, [Mr. IYERSON,] a few weeks since, in discussing the policy of using American iron in the construction of the Pacific railroad, submitted a calculation based on the erroneous assumption that iron of equal quality could be had twenty-four per cent. below the usual price were the tariff taken off, and the home production, in consequence, should cease; in other words, that if we had no duties, and no home production, foreigners would supply us twenty-four per cent. below the present rates. This view, Mr. President, however plausible, is fallacious. It is true that it would hold better as to railroad iron than as to bar iron, or iron generally; for the business of making railroad iron is yet new and weak, the production having reached but about one hundred and seventy-five thousand tons per annum, whilst the consumption ranges from two hundred and fifty to three hundred and fifty thousand tons. The influence of the home production is, therefore, not so effective at present as it will be hereafter; but, weak as this interest is, it is idle to pretend that the home production has no influence upon the market, or that, were it finally suspended and the duties removed, foreign railroad iron of equal quality could be purchased twenty-four per cent. below the present rates. As to all other kinds of iron, the case would be still stronger.

The truthfulness of this position has frequently been illustrated in the operation of the sugar trade. The effect of a short crop in Louisiana has always been to put up the price on the consumer. There has been no exception to this rule. In 1842, with a good crop, the price was three and a half to four cents per pound; and in 1844, under a short crop, the price was five and a half to six cents per pound. In 1855 the crop fell off partially, and the price rose to six and six and a half cents. In 1856 and 1857 the crop fell off still more, and the price rose to nine and ten cents. A demand

for one or two millions of pounds on the West India market has always advanced the price; and it is idle to pretend that it should make a demand on England for one third of her iron, the price would not be enhanced. But, as the production of iron does not depend upon the seasons, the home supply never fluctuates to such extremes, though the principle still holds good; and in case of such fluctuation the *ad valorem* principle operates severely on the consumer. For instance: the home crop or production having failed, and the foreign article having advanced to a very high price, the Government at that point, under the operation of the *ad valorem* charge, advances its demand to the highest sum, and the consumer must pay accordingly. If, on the other hand, the prices were very low, the Government would reduce its exactions in the same ratio, and then the producer suffers. I know it will be said that it is very unfair that the consumer of iron, or any other staple article, should pay high prices when the general products of the country decline in value; and this position would seem to be well taken, were it not that the whole history of business revulsions proves that, under their operation, the price of the home article recedes to a fair extent, regardless of foreign rates. The objection has great force, when applied to articles not produced in our own country; but when we have a large home production the price invariably declines enough to relieve the consumer; but a fixed duty may save the producer from destruction by checking foreign importation. Take, for instance, the late revulsion, and who does not know that the price of iron and other staples declined from domestic causes, in no way connected with the rates of duty on the foreign article?

So far as relates to frauds upon the revenue, I certainly agree with the President that specific duties "are the best means of securing the revenue against false and fraudulent invoices." It is certainly easier for the officers of the Government to determine that a hoghead of molasses or a ton of bar iron exists at the port of entry, than to ascertain what it costs to produce them in a foreign country; and so of nearly every other article. The great difficulty is, however, that the specific principle cannot be properly applied to the character of imports on which the greatest frauds are committed. But much can be done in the way of preventing frauds, and of saving money to the Treasury, under either mode of charging duties by a change in the machinery for their collection. I have recently read a report of Mr. Hagner, of Philadelphia, one of the appraisers at large, addressed to the Secretary of the Treasury, on this subject. He recommends "the repeal of all laws and regulations allowing damages on imports," and says \$500,000 would be saved annually in this way; that it would simplify the accounts to be kept, and reduce the labor and expense of the service, whilst at the same time, it would remove all temptation to fraud; completely protecting the honest importer against the successful schemes of the unscrupulous. He says the suggestion meets with general favor amongst the importers of that city; and, by a table annexed to his letter, he shows that for the year 1857, \$518,000 were lost to the Treasury by allowances on damaged goods, and suggests that merchants should be left to protect themselves against damages by insurance as to the duties, just as they do for the value of the goods.

The allowances for deficiency in weights and measures, in my opinion, may be viewed in the same light. They, too, should be provided for by insurance. The duty should be uniformly paid on the amount of the invoice, and the duty of the Government officers should only be to see that the quantities did not exceed the amount invoiced. This would remove all motive for fraud and collusion, and the merchant would only find it necessary to be the more accurate in his invoices, and the more careful to cover all chances of wastage by insurance. This would be no more difficult on dutiable goods than on goods admitted free of duty; and certainly no one will pretend that in the case of goods admitted free of duty, the Government will be called upon for either damage or deficiency. The underwriters would have to answer for all this; and so it should be as to damages and deficiencies on dutiable goods. I have no doubt the frauds on the revenue are very great. The experience of the British Govern-

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ment has shown how difficult it is to guard against fraudulent invoices, and they are now charging duties almost exclusively on the specific principle.

The discrepancy between the French statistics of exportation to this country and ours of importation from that country, present conclusive evidence of overwhelming frauds. It is certainly a great virtue in any principle that it should prevent fraud and give the country the best quality of goods. If it is right to exclude adulterated drugs, by act of Congress, it is just as proper to protect the people against damage from any other class of spurious article.

But, sir, I hold that the strongest claim which the manufacturers have upon incidental aid, from our revenue system, is found in the damage resulting to them from another policy of the Government, over which they have no control. I have reference to our system of currency, which the Constitution intended should be coin, but which has degenerated into a system of paper money, based upon a small percentage of coin. The committee on banks and banking of the Legislature of Massachusetts, in a report of a recent date, on this point, have justly and forcibly said:

"The tariff and the currency are kindred subjects, which act and react upon each other; and no financial system of any country can be successful which does not combine and cause them to work in harmony."

And again, speaking of paper money, they say:

"As it increases in quantity its standard depreciates in value; it stimulates an unsafe competition of all industrial pursuits by an inflation of prices; it deprives the American manufacturer of every advantage to be derived from a tariff incidentally protective, because the foreign manufacturer is enabled to pay our duties and still sell his goods here at higher prices than in the home market, which are in turn to be paid for in exports of gold and silver."

Truer sentiments never were uttered, Mr. President; and this is testimony from the right quarter. If the people of Massachusetts do not understand this question, no other people should be expected to do so, for they have had great experience in manufactures and in currency. But it is beyond dispute, that the manifest tendency of this fictitious currency is to beget exorbitant nominal values, the consequence being that the price of every element entering into manufactures bears a higher value than in Europe, whilst capital is dearer by from two to four per cent., and the nominal cost of the article produced is swelled in the same ratio. The producer must be paid for all this, and a profit besides, or he will fail. It is too clear for dispute, that the American manufacturer is paralyzed, to no inconsiderable extent, by the operation of our monetary system. It was well said by the Massachusetts committee, that it counteracts, to a great extent, the aid which the manufacturers receive from our revenue laws. In this alone, Mr. President, is found their strongest claim to the benefits of a discrimination in fixing the rates of duties.

It may be said that this system of currency damages the agriculturist, also, and that is true; but the difference is, that the farmer has no foreign competitor producing under a different system of currency. Indeed, sir, it cannot be disguised that the ungovernable inclination of the American people to high prices is a source of weakness to our country, in its competition with foreign nations. Everybody wants to sell at high prices, and everybody must pay high; and the country is, therefore, all the while, in a condition to be well plucked by foreign competitors. The career of California furnishes a striking illustration of the damaging effects of exorbitant prices. All of us remember the high prices that prevailed in that country for a time. A single cargo of goods would realize a fortune to the owner, and a day's work was worth three times as much in that State as in those of the Atlantic. But California, with all her gold, could not stand this system long; and, after repeated revulsions and convulsions; her prices have settled down so as to bear a fairer relation to those of other countries, and she again

prosper. It is only singular, sir, that in the face of all these facts, so many manufacturers maintain the policy of an inflated system of paper currency; and it is still more singular that some who are constantly laboring to inflate this vicious system, should claim to be, *par excellence*, the friends of the manufacturer. If I were going to name a single measure that would do more for the manufacturers of the country than any other, I would say, dispense with the use of all bank paper of a less denomination than fifty dollars. People are all the while complaining of the scarcity of money. I tell you, sir, we have too much money of the kind; and we must get clear of the paper element; and if there be necessary power under the Constitution, Congress should promptly drive it out of existence in every State of the Union.

But, sir, it has been too much the habit to regard the views of Pennsylvanians on the subject of the tariff as selfish, and to allege that we seek what we would not willingly concede to others; and I must say a word on this point. This implication is not well founded, and I repel it. We seek the prosperity of the iron business, not only because it is essential to our interests, but because we believe that its prosperity will conduce to the welfare of the whole country. We regard it as a great national interest, the raw material being found in great abundance in one third of the States of the Union. It is, besides, one of our great elements of national defense and wealth, and will soon become one of commercial power. Its use is extending with each passing year; and the best interests of the country require that its production should grow in an equal, if not a greater, ratio. Its growth, though fluctuating, has still been gradual, and its increase is very perceptible in any term of five or ten years. In 1820 it amounted to 10,000 tons; in 1830 to 190,000 tons; in 1840, though the production had fluctuated to a greater or less extent at different periods, it had reached an aggregate of 310,000 tons; and by 1855, its highest point was attained, being about one million tons, equaling about one third of the production of Great Britain. There is no natural impediment in the way of the growth of this production to a most fabulous extent. Our country abounds with the native element, and our people possess the enterprise, skill, and industry, to beat the world, if you will only protect them for awhile against the bogus article of the foreign producer, and the debilitating influences of an inflated currency.

As much may be said, indeed, on the latter point, in reference to the manufacture of wool, cotton, hemp, cutlery, &c., as to that of iron. But the production and consumption of iron is only in its infancy. It is being daily applied to some new purpose. I can remember when the idea of an iron plow, an iron bridge, or an iron ship, was treated as a flight of fancy. Now iron is a great element in the construction of all these. I see it stated that "in 1853, of the one hundred and fifty steam vessels built in England, one hundred and seventeen were of iron, and that during the same year eight sailing vessels were built of the same material." It is employed in every department of domestic industry, and devoted to ornamental as well as substantial uses, superseding wood, brick, stone, and even marble, and has become a leading element in the construction of houses, barns, bridges, roads, pavements, and every description of structure, private and public. The Departments at Washington have very wisely encouraged its use in the construction of public buildings in all parts of the country, as the cheapest and best material that can be employed; holding that, in view of its durability, its use is true economy. Indeed, sir, the iron manufacturers are much indebted to the late Secretary of the Treasury—as I hope they shall be to the present Secretary—for what he did in this way. Nor is its consumption to be confined to our country alone. The range of its use is becoming worldwide. It will be demanded in untold amounts in all its varieties, and especially in the shape of

rails, in Central and South America, in Turkey, Austria, Russia, and the islands of the sea. Great Britain is now the principal producer, making about three times as much as the United States, say three million five hundred thousand tons per annum; but she cannot supply the demands of the world, and it is the United States alone that possesses inexhaustible stores of the raw material, and boundless natural facilities for producing the article. It is to them, besides, even at this early date in their history, a great means of national defense, and must soon become one of wealth and commercial power. Who, then, is not willing to countenance and sustain such a branch of industry in its struggling competition, not against a fair competitor, but against the frauds of the foreign producer, and the power of foreign capital? I am free to confess, sir, my partialities for this interests; and, whilst doing all that I can for others, I shall cherish this as one of leading importance. But we claim no special or unreasonable favors. We are not the recipients, under the tariff, of half the benefits alleged.

But, sir, I now propose to submit a series of facts touching the process of making, and the elements entering into the production of iron in this country and England, which have the sanction of the most experienced and intelligent iron manufacturers in this country. They are intended to exhibit the difficulties in the way of the American production, and at the same time establish the value of the iron business to the agriculture of the country.

Under the ten years' tariff of 1846, the following importations were made:

Tons.	Appraised value.
1,007,432 pig and scrap iron.....	\$15,673,154
1,732,456 railroad iron.....	60,095,271
1,228,911 sheets, hoops, bars, &c.....	58,817,290
3,968,799	134,585,715
134,968 manufactures of iron and steel..	74,980,591
113,292 steel.....	20,995,066
4,207,059	\$230,561,372

Concerning the labor involved in a ton of iron, it is not my intention to limit it to any locality, or division of its constituent elements; but to take all the materials, coal, ore, limestone, &c., in the mines and quarries, and count up the finished iron.

In this country the number of tons per man per annum, would vary very considerably with the locality of production, but in England, Scotland, and Wales, it is more uniform.

After a careful examination of the facts, the following is deduced:

20 tons of pig iron represent	1 man employed 1 year.
8 tons of rails represent.....	" " 1 "
6½ tons of rolled bars, &c., represent 1	" " 1 "
¾ tons of manufactured iron and steel represent.....	" " 1 "
2½ tons of steel represent.....	" " 1 "

Three hundred days of labor represent a man and his family, or five individuals. Each individual consumes in Great Britain thirty dollars per annum of agricultural products in food. In the United States fifty dollars per head is said to be the consumption.

For the sake of adopting some standard of a dollar as its representative in food, a bushel of wheat is assumed as its equivalent in value.

By the above data, it would require \$150 to support a family of five persons in Great Britain, and \$250 in the United States. Then—

1 ton of pig iron consumes.....	7½ bushels.
1 ton of rails consumes.....	18½ "
1 ton of bar iron, &c., consumes.....	23½ "
1 ton of steel consumes.....	60 "
1 ton of manufactures of iron and steel.....	200 "

If the above iron were made in the United States, the following would be the exhibit:

1 ton of pig iron consumes.....	13½ bushels.
1 ton of rails consumes.....	31½ "
1 ton of bar iron, &c., consumes.....	36½ "
1 ton of steel consumes.....	100 "
1 ton of manufactures of iron and steel.....	333½ "

Then—

In Great Britain at \$30 per head.

	No. bushels, at sixty pounds.	Weight.
1 ton pig iron.....	7½	450 pounds.
1 ton rails.....	18½	1,123 "
1 ton bar iron, &c.....	23½	1,425 "
1 ton steel, &c.....	60	3,600 "
1 ton manufactures of iron and steel.....	200	12,000 "

In United States at \$50 per head.

	No. bushels, at sixty pounds.	Weight.
1 ton pig iron.....	12½	750 pounds.
1 ton rails.....	31½	1,875 "
1 ton bar iron, &c.....	35½	2,310 "
1 ton steel, &c.....	100	6,000 "
1 ton manufactures of iron and steel.....	333½	20,000 "

The difference of food consumed by laborers abroad and laborers at home, indicates the difference in wages received. The farmer evidently reaps the benefit of the high wages paid at home, and can all the better afford to pay a higher price for better iron.

A ton of bar iron made in this country makes a market to the farmer for a ton of wheat, and a ton of rails nearly as much. If we take, instead of all wheat, a part only, and the rest vegetables and fruits, the bulk will be greater than a ton of food for a ton of bars or railroad iron.

The same rule applies to the consumption of everything else the American laborer needs; receiving higher wages than the foreign laborer, he is able and willing, and does consume, more of everything; and, therefore, every other industrial pursuit in the country is benefited by a class of home consumers, who furnish a market, worth more than that of all the countries furnishing us with iron, for the products of agriculture.

Let the test be applied to our imports, and see what American laborers have had consumed, had the same iron been produced at home instead of abroad:

Tons.	Bushels wheat per ton.	Total bushels.
898,990 pig iron.....	12½	11,237,375
1,732,456 rails.....	31½	54,139,250
1,228,911 bar iron, &c.....	35½	47,313,074
113,292 steel.....	100	11,329,200
124,968 manufactured iron, &c.....	333½	41,651,834

4,098,617 165,670,733
in ten years.

Our total exports to Great Britain during the same ten years, were, in agricultural products and vegetable food, \$214,103,628; or, as a bushel of wheat represents one dollar, 214,103,628 bushels; which is but little more than twenty-five per cent. greater than would have been consumed by the makers of the iron we imported, had it been made at home.

Under the head of agricultural products, is included beef, pork, butter, cheese, &c., besides live stock and wool. Convert 165,670,738 bushels of wheat, at sixty pounds per bushel, into tons and pounds, and we have 4,437,609 tons of wheat embodied into 4,098,617 tons of iron, &c., imported, (old iron excepted;) being a greater weight than the iron itself by one third of a million tons. But upon the basis of foreign consumption, namely, \$30 per head, the tonnage will show that, in the ten years referred to, there was imported three fifths of 4,437,609 tons of wheat, namely, 2,662,526 tons, in the form of iron.

What would the farmers say if, before this immense amount of agricultural products had entered into the iron, they could see it arriving in bulk at our Atlantic ports, and there be converted into iron made out of other foreign material also, namely, coal, ore, limestone, &c.? I know that more than one Senator is ready to ask, what we should have done for revenue had the 4,093,000 tons of iron been manufactured in this country? and I answer, we always import all we can pay for; and the place of the iron would have been supplied by some article which our country does not produce.

Nothing is more unpleasant to my feelings than to allude to the country in a sectional point of view, or to notice the States separately, concerning the relations they bear towards the Federal Government. But I am impelled to the task before me by a sense of justice to my State; to the

people whom I represent, in part, on this floor. I have reference to the impression which seems too general, in and out of Congress, that under the operations of the revenue system, the manufacturing States have enjoyed great incidental benefits, which have been in no way reciprocated to the others; and I intend to show the total fallacy of that belief. If the South and West complain of the revenue laws, the North and East can point to the postal system and the donations of public lands in a similar spirit. If it be true that my State and others have been incidentally benefited by the tariff, it is equally true, as I shall show, that the munificence of the Government has not been confined alone to tariffs; that it has been manifested in a far more direct manner by donations of the public lands to States for railroad and other purposes. And it is to be regretted, sir, that the States which have received most in this way, seem least inclined to reciprocate the favor, so far as the manufacturing interests are concerned. Having had such essential aid in building their railroads, they should not be parsimonious in the matter of helping Pennsylvania and other States to furnish them with the best quality of iron for their roads.

Now, sir, for the land grants, which I prefer to present in tabular form, showing the amount of land, in acres, granted to railroad companies, and to States for railroad and other purposes, at different periods, from 1850 to 1857:

Table showing the amount of land, in acres, granted to States for railroad and other purposes, from 1850 to 1857.

State.	Acres.	Estimated value.	Amount.
Illinois.....	2,595,052	at \$10 per acre,	\$25,950,520
Missouri.....	1,815,435	" 4 " "	7,261,740
Alabama.....	2,332,918	" 2 " "	4,665,836
Mississippi.....	1,687,530	" 2 " "	3,375,060
Louisiana.....	1,109,580	" 2 " "	2,219,120
Michigan.....	3,096,000	" 5 " "	15,480,000
Arkansas.....	1,465,297	" 3 " "	2,930,594
Florida.....	1,814,400	" 1 " "	1,814,400
Iowa.....	3,456,000	" 5 " "	17,280,000
Wisconsin.....	1,622,800	" 4 " "	6,491,200
Minnesota Ter.	4,416,000	" 3 " "	13,248,000
Totals.....	25,403,993		\$100,702,470

The total amount of railroad iron imported up to 30th January, 1858, was 1,816,523 tons, valued at \$68,833,793, on which duties to the amount of \$25,126,613 were paid. Of this sum \$6,313,300 were refunded, leaving the actual duties paid on railroad iron up to the present time, \$18,753,313.

There are now about thirty thousand miles of railroad in the United States, and the States receiving the lands, as already named, contain about seven thousand five hundred miles, or 750,000 tons of railroad iron, valued at \$31,185,000; on which duties to the amount of \$4,688,328 were paid.

The total value of iron and of iron manufactures imported from 1851 to 1858, inclusive, is \$168,242,961; on which duties to the amount of \$49,289,081 \$20 were paid.

Now, Mr. President, permit me to review this account for a few minutes. As the duty on railroad iron has been the subject of special complaint, I shall deduct from the aggregate value of the land grants, as above stated, the total amount of duties paid on railroad iron from the day the first bar was imported up to the close of the fiscal year, say \$18,753,313, and a balance of \$81,949,157 remains; of this aggregate of duties, the States receiving the land grants for railroads paid less than five millions. But, sir, to be still more generous, suppose we deduct the aggregate value of all the railroad iron used in the same States, less the duties, say \$31,185,000, and the balance is still \$50,764,157. But, sir, we can go further and deduct the total amount of duties paid on iron and iron manufactures since the first land grant in 1850, less the duties on railroad iron already deducted, and there is still left the handsome balance of \$20,535,768.

I have thus shown that the lands granted to the South and West, to improve the physical condition of the country, are worth more at a reasonable valuation than the total duties paid on railroad iron, the value of the railroad iron used by the States receiving the land, and the gross amount of duties paid on iron, and iron manufactures of every description since 1850; but still more, I find that the following States have received, in addition,

tion, 55,129,492 acres of the public lands, apportioned as follows:

Ohio.....	54,438 14
Indiana.....	1,334,732 50
Illinois.....	3,243,891 46
Missouri.....	4,248,203 81
Alabama.....	2,595 51
Mississippi.....	2,836,675 89
Iowa.....	1,752,296 29
Louisiana.....	11,202,354 28
Michigan.....	7,273,724 72
Arkansas.....	8,562,752 93
Florida.....	11,780,637 46
Wisconsin.....	2,827,199 14
Total.....	55,129,492 13

I have no data on which to base an opinion as to the value of the swamp lands. I know that they have not been of much account to the States in their corporate capacity; but it is fair to estimate them at their value to the citizens of the States, for I am measuring their value against the incidental benefits of the revenue system to the people of the manufacturing States, and while certain sections may not be worth ten cents per acre, others would be cheap at ten dollars. At all events, in connection with the foregoing balance of \$20,555,000, they constitute a nice item to offset incidental protection.

But over forty-eight million acres of the public lands have been given away on bounty warrants; and I am aware that it has been alleged that my State has received more than her *pro rata* share; but I can find no evidence of the fact. But if it be so, that fact could not properly be offered as a set-off to the account I have presented. The bounty lands were not given to the States, or to companies to improve the physical condition of the country; but to the veteran and patriotic soldier wherever found, for services rendered to his country in the field of battle. If it be true that my State, or any other, furnished more than a *pro rata* share of citizens for such service, the fact should redound to her honor, and excite on the part of all, the strongest feelings of gratitude and generosity toward her.

But, sir, I must look into the burdens resulting to home consumers, from the principle of discrimination, so much complained of in the South and West. The total imports of iron and iron manufactures for ten years, amounted to the gross sum of \$187,800,000; twenty-five per cent. being the average on dutiable goods. Iron was five per cent. above the average, making this excess an aggregate of duties of \$9,300,000. Of this sum the States receiving the lands for railroad purposes, on the ratio of population, paid less than one fifth—say \$1,800,000.

But, sir, let us test this account on all the great staples, woolsens, cotton, hemp, iron, sugar, salt, and coal. The total amount of duties paid upon these for ten years, at thirty per cent., makes an aggregate of \$210,400,000. One sixth of that would be five per cent., the amount of the discrimination, say—\$35,066,666, or at the rate of \$3,000,000 per annum, of which the land States would pay \$600,000, being less than three fourths of one per cent. on the value of the lands as already stated.

As for the assumption that the American consumer pays as well on the domestic, as on the foreign article, I shall not argue that point; whilst it may be so, to a very limited extent, for brief periods, on certain articles, as a general proposition I discard it as a palpable fallacy. As to every one of the staples I have named, should the home production cease and the tariff be withdrawn, the American consumer would pay for many years, if not for an indefinite period, higher prices as a consequence.

Nor, sir, is this all. These States, and others, have not only had munificent land grants, enough in some instances not only to pay the duties on their railroad iron, but to pay for the iron, duty and all, and contribute to build their railroads besides, but they have had a large proportion of their postal expenses paid out of the common Treasury. If Senators will insist that the blessings and burdens of Government, like the dews of heaven, must fall alike on all, let them look to our postal system for a work of equalization. I have pursued the investigation far enough to discover whose ox is gored. If it be true that the gratuities of the revenue system flow north and east,

it is equally true that those of the postal system run south and west. I have made up the account from 1853 to 1858, and shall present a comparison with my own State. I have not included the expenses of the general Department, nor those of the foreign or Pacific service, but left these to be charged, as suggested by the Postmaster General in his communication the other day, to the States *pro rata* according to population; so that if these general expenses were included it would not affect the relative state of the account. The table of expenses includes the entire cost of transportation and compensation to postmasters within the several States; and whilst it may be alleged that it is not perfectly accurate as between adjacent States, where routes extend out of one into the other, and that the expenses may not be equally charged, that fact would not break the force of the account as to the community of States with which I am making the comparison.

Receipts and expenses of the Post Office Department in the following States, during the last five years, from 1854 to 1858, inclusive.

States.	Gross receipts.	Gross expenses.	Deficit.	Excess.
Pennsylvania.....	\$2,975,771	\$2,794,224	\$181,547	
Virginia.....	1,118,971	2,027,063	\$908,092	
North Carolina.....	369,512	1,040,446	670,934	
South Carolina.....	470,352	1,278,062	807,710	
Georgia.....	752,924	1,586,334	833,410	
Florida.....	104,698	522,477	417,779	
Alabama.....	542,438	1,430,089	887,651	
Mississippi.....	402,514	1,250,979	858,465	
Texas.....	360,358	1,477,737	1,117,379	
Kentucky.....	655,192	1,101,100	445,908	
Michigan.....	748,666	1,199,293	450,557	
Louisiana.....	772,022	1,996,430	1,224,408	
Tennessee.....	533,044	974,940	441,896	
Missouri.....	748,896	1,534,005	785,109	
Illinois.....	1,674,616	2,696,516	1,021,900	
Indiana.....	891,183	1,545,314	654,131	
Arkansas.....	151,238	934,543	783,305	

But, sir, this discrepancy does not consist alone in the amount of receipts. It is just as strikingly exhibited by a comparison of the expenditures. For instance, the expenses in Virginia, for the five years in view amounted to \$2,027,063, whilst in Pennsylvania, with double the population, the expenses were but \$2,794,224, instead of \$4,054,126 to which she would have been entitled on the ratio of the Virginia expenditure. The expenses in Georgia for the same period were \$1,586,334, and on this ratio there should have been expended in Pennsylvania \$4,758,000. The expenses of Louisiana, with but four members in the House of Representatives, were \$1,996,430, and at the same ratio those of Pennsylvania would have reached \$12,321,411. Illinois, with six members, received \$2,696,516, and on that basis Pennsylvania should have received \$7,415,419. The expenses of Florida were \$522,477, and to have placed Pennsylvania on an equal footing would have required the expenditure of the enormous sum of \$13,061,825. The comparison with Texas would be still worse; and the average in all the States in the foregoing list would have given to Pennsylvania nearly treble the amount which she received.

Classifying the States as northern and eastern, southern and western, and deducting foreign postage received in the Atlantic cities, the account for five years past will stand as follows:

	Northern and eastern.	Southern and western.
Receipts.....	\$14,387,983	\$15,071,330
Expenses.....	13,839,461	29,311,960
Excess.....	\$1,048,521	Deficit, \$14,240,630

Another handsome item for incidental protection. Fifteen million would sustain our manufactures much longer than it will the Post Office Department.

But if it be said that the most of the public money is spent in the manufacturing States, I demur to the assumption and point to the vast expenditures, south and west, in the Indian wars—to that in Florida especially, of more than twenty years' duration; indeed to the whole expenditures in Indian affairs, and especially to the delusive system of Indian civilization. But I shall not dwell on these things at present. What I have said is in no unkind spirit, either of complaint or criticism.

My State indulges no such feeling. She has sent her native sons throughout the great West,

and she has watched their career with parental concern. She views with pride and pleasure the growth of the new States and the prosperity of the older ones. She is slow to complain, and harbors contempt only for idle bravado about the rights of States. She intends to deal justly by her sister States and stand by the constitutional rights of all. She will, as she always has done, in peace or in war, perform her whole duty to the Union, and frown with disdain upon any and every suggestion looking to its dissolution; but she does feel, and feel deeply, unjust criticism upon a policy which she deems useful to her interests and regards as wise for the nation as a whole. I have no menace to offer in her name—I love and respect her too much to trifle with her in this way; but this I will say, if gentlemen suppose that her people are insensible to the cold indifference manifested to her voice, spoken by her people and by her Legislature, if they live long enough they will discover their error.

In what I have said to-day, I have endeavored to give expression to the sentiments of the people whom I represent, not so much, indeed, so far as I may have made any comparison in the expenditures of the Government money between different sections of the Union and between different States. That I have done in no spirit of complaint or accusation. I have presented it as a defense, because a constant effort is made to place my constituents in the attitude of begging at the hands of the Government for favor. They are a grateful people and thankful for favors; but, sir, they are a proud people. They ask only their rights. They would not infringe upon those of any other section or any other State. They seek no gratuity. When they speak of incidental aid from our revenue system to the interests of the country, they have reference to those interests wherever they are found. They treat it as a broad, general policy, embracing the whole Union. They believe there is a relation of reciprocity, not only between the States politically, but between all the branches of industry and all the departments of Government; and whatever complaint may be made against the incidents of the revenue system, she has equal cause of complaint on other points which I have endeavored to present. However the views I have presented in regard to postal deficiencies may be criticised, they are substantially correct. The Senator from Georgia [Mr. Toombs] shakes his head. I knew he would do that. I wish it was all the shake he had to give on this subject. I know, sir, that what I have said is to undergo severe criticism. I may have erred in making up my figures, but I know the Senator from Georgia will believe that I intended only to present the true history of the case. [Mr. Toombs nodded assent.] Certainly I am not at fault on the question of public lands. There is a valuable donation given to sister States, whom Pennsylvania loves and admires, and whom she would willingly advance in their prosperity; but who sometimes unkindly complain of the beneficial incidents to her manufacturing establishments from our revenue system.

Now, Mr. President, I shall not pursue this subject further at present. I have performed, under the instructions of the Legislature of my State, what I considered to be a duty.

Mr. TOOMBS obtained the floor.

Mr. BROWN. My friend from Georgia, I suppose, does not wish to be heard on this subject, which is a very large one, at this late hour of the day; and if he will allow me, I will move to postpone the consideration of this question until to-morrow at one o'clock, and make it the special order of the day to the exclusion of all other business, with the view of proceeding now with the regular order of business for this day.

Mr. TOOMBS. I have no objection to that, if it suits the Senate.

Mr. BROWN. I make my motion specific, so as not to deprive the Senator from Georgia of the floor to-morrow at one o'clock. I move that we make this subject the special order for that hour, to the exclusion of all other business.

Mr. JOHNSON, of Tennessee. I hope the Senator will withdraw his motion until I can offer a substitute, and have it read.

Mr. BROWN. Certainly; I give way for that purpose.

Mr. JOHNSON, of Tennessee. My object is

to accomplish precisely the result which the resolution professes to have in view—bringing the expenses to the revenue standard. My object is to bring the expenses of this Government within its revenues. I think my proposition is based clearly upon what the President of the United States desires, and has recommended. I propose to amend the resolution of the Senator from Pennsylvania, by striking out all after the word "resolved," and inserting:

That the President of the United States be, and he is hereby, requested to cause the heads of the various Executive Departments to submit estimates of expenditure for the Government to the Thirty-Sixth Congress, upon a basis not exceeding \$50,000,000 per annum, exclusive of the public debt and the interest thereon.

Resolved, That so much of the President's second annual message as relates to a reduction of the expenditures of the United States, which is in the following words, to wit: "I invite Congress to institute a rigid scrutiny to ascertain whether the expenses of all the Departments cannot be still further reduced, and I promise them all the aid in my power in pursuing the investigation," be referred to the Committee on Finance; and that said committee are hereby instructed, after first conferring with and obtaining all "aid" and information from the President and the heads of the Departments, as indicated in the President's message, to report a bill reforming as far as possible all abuses, if any, in the application of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenditure to an honest, rigid, economical administration of the Government.

I base my first resolution on the following letter of the President, written in 1852:

WHEATLAND, February 23, 1852.

GENTLEMEN: On what issues, then, can we go before the country and confidently calculate upon the support of the American people at the approaching presidential election? I answer unhesitatingly that we must fall back, as you suggest, upon those fundamental and time-honored principles which have divided us from our political opponents since the beginning, and which, from the very nature of the Federal Constitution, must continue to divide us from them to the end. We must inscribe upon our banners a sound regard for the reserved rights of the States, a strict construction of the Constitution, a denial to Congress of all powers not clearly granted by that instrument, and a rigid economy in public expenditures.

These expenditures have now reached the enormous sum of \$50,000,000 per annum, and, unless arrested in their advance by the strong arm of the Democracy of the country may, in the course of a few years, reach \$100,000,000. The appropriation of money to accomplish great national objects sanctioned by the Constitution ought to be on a scale commensurate with our power and resources as a nation; but its expenditure ought to be conducted under the guidance of enlightened economy and strict responsibility. I am convinced that our expenses ought to be considerably reduced below the present standard, not only without detriment, but with positive advantage both to the Government and the people.

An excessive and lavish expenditure of public money—though in itself highly pernicious—is nothing when compared with the disastrous influence it may exert upon the character of our free institutions. A strong tendency towards extravagance is the great political evil of the present day, and this ought to be firmly resisted. Congress is now incessantly importuned from every quarter to make appropriations for all sorts of projects. Money, from the national Treasury, is constantly demanded to enrich contractors, speculators, and agents; and these projects are gilded over with every allurement which can be imparted to them by ingenuity and talent. Claims, which had been condemned by former decisions, and had become rusty with age, have been again revived, and have been paid, principle and interest. Indeed there seems to be one general rush to obtain money from the Treasury on any and every pretense.

What will be the inevitable consequence of such lavish expenditures? Are they not calculated to disturb the nicely-adjusted balance between the Federal and State governments, upon the preservation of which depend the harmony and efficiency of our system? Greedy expectants from the Federal Treasury will regard with indifference, if not with contempt, the government of the several States. The doctrine of State rights will be laughed to scorn by such individuals, as an obsolete abstraction, unworthy the enlightened spirit of the age. The corrupting power of money will be felt throughout the length and breadth of the land, and the Democracy, led on by the Hero and Sage of the Hermitage, will have in vain put down the Bank of the United States, if the same fatal influence for which it was condemned shall be exerted and fostered by means drawn from the public Treasury.

To be peral with their own money, but sparing of that of the Republic, was the glory of distinguished public servants among the ancient Romans. When this maxim was reversed, and the public money was employed by artful and ambitious demagogues to secure their own aggrandizement, genuine liberty soon expired. It is true that the forms of the Republic still stand for many years, but the animating and inspiring soul had fled forever. I entertain no serious apprehensions that we shall ever reach this point; yet we may still profit by their example.

With sentiments of the highest respect, I remain your friend and fellow citizen, JAMES BUCHANAN.

John Nelson, Wm. Giles, John O. Wharton, John Morris, Carroll Spence, Wm. P. Pouder, and John A. Bowen, Esqs.

I look upon this letter as expressing the President's views to-day. The expenditures, since 1852, have run up to \$81,000,000—a sum much beyond what he considered extravagant in 1852, when he wrote the Wheatland letter. The second

resolution embraces that portion of the President's message which invites a rigid scrutiny and investigation into the public expenditures with a view to their reduction. My great object is to accomplish a reduction in the expenditures of the Government; to bring its operations clearly within its revenue limits.

Mr. BROWN. The question now is on postponing the further consideration of this subject until to-morrow at one o'clock, and making it the special order for that time.

The PRESIDING OFFICER. (Mr. REID in the chair.) The question is on that motion.

The motion was agreed to.

RAILWAY ON PENNSYLVANIA AVENUE.

Mr. BROWN. I now ask for the regular order of business.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the consular and diplomatic appropriation bill.

Mr. BROWN. Without one word of discussion, I ask for the yeas and nays on that question; and let us see whether my railroad project shall be overruled.

The yeas and nays were ordered; and, being taken, resulted—yeas 20, nays 23; as follows:

YEAS—Messrs. Bates, Bayard, Benjamin, Bixler, Chesnut, Clay, Clingman, Crittenden, Davis, Fitch, Fitzpatrick, Houston, Hunter, Jones, Mason, Pearce, Pugh, Reid, Shields, and Ward—20.

NAYS—Messrs. Allen, Bright, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Foot, Hale, Hamlin, Harlan, Iverson, Johnson of Tennessee, Kennedy, King, Mallory, Seward, Shields, Simmons, and Thomson of New Jersey—23.

So the motion was not agreed to; and the Senate resumed the consideration of the bill (H. R. No. 541) in relation to a railway along Pennsylvania avenue, in Washington city, in the District of Columbia, the pending question being on the amendment of Mr. Davis to strike out all after the enacting clause, and insert:

That the Metropolitan Railroad Company, incorporated by an act of Assembly of Maryland, passed at the January session 1853, chapter 196, and the subsequent amendatory acts of the Legislature of Maryland, shall be, and they are hereby, authorized and empowered to extend into and within the District of Columbia the railroad which they shall construct or cause to be constructed in the State of Maryland, and in a direction toward the said District, in pursuance of their said act of incorporation; and the said Metropolitan Railroad Company are hereby authorized to exercise the same powers, rights, privileges, and immunities, and shall be subject to the same restrictions in the extension, width, construction, and repair of their road into and within the District of Columbia, as they may exercise, or are subject to, under and by virtue of their said act of incorporation in the construction and repair of their said road within the State of Maryland, and shall be entitled to the same rights, compensation, benefits, privileges, and immunities, in the use of said road, in regard thereto, as are provided in said charter.

Sec. 2. *And be it further enacted*, That the said Metropolitan Railroad Company shall have power, and they are hereby fully invested with the same, for constructing, making, and continuing their said road through the cities of Washington and Georgetown, from the depot of the said Metropolitan Railroad Company, in Georgetown aforesaid, to and by way of Bridge street, and thence along the street leading from Bridge street to the aqueduct bridge across Rock creek, at the west end of Pennsylvania avenue; and thence along Pennsylvania avenue and Fifteenth street to the foot of the Capitol hill; and thence to the north gate of the navy-yard, and to the Baltimore and Washington railroad station: *Provided*, That the cars or carriages running on the avenue and streets aforesaid, shall be drawn by horse power, and used for the transportation of passengers and their baggage only: *And provided also*, That the company shall not receive, for the transportation of passengers, a rate of fare exceeding five cents per passenger for the whole, or any portion of said road, through the cities of Washington and Georgetown: *And provided also*, That said railway through Pennsylvania avenue and the streets aforesaid by a double track, be laid in the center thereof, in the most approved manner adopted for street railways, with a rail of grooved pattern, laid upon an even surface with the pavement of the avenue and streets; the space occupied by said double track not to exceed seventeen feet in width: *And provided also*, That the said company shall always keep said tracks, and pavements within the outer rail, in good repair, without expense to the Government of the United States or the governments of the cities of Washington and Georgetown: *And provided also*, That the said railway through the cities of Washington and Georgetown be subject to the municipal regulation thereof respectively: *And provided also*, That, unless said railroad through the avenue and streets aforesaid shall be commenced previous to the next regular session of Congress, and be completed within one year thereafter, and the said railroad from the city of Georgetown to near the Point of Rocks, be completed within six years from the passage of this act, this act shall be null and void.

Sec. 3. *And be it further enacted*, That nothing in this act shall prevent the Government at any time, at their option, from altering the grade or otherwise improving the avenues or streets aforesaid.

Sec. 4. *And be it further enacted*, That Congress reserves to itself the right to change, alter, repeal, or amend this act, or any part thereof, at their pleasure.

Sec. 5. *And be it further enacted*, That, upon the completion of said railroad, the president and directors thereof shall take and pay for the carriages and horses of Gilbert Vanderwerker, now employed by him between Georgetown and the foot of the Capitol hill, at a valuation to be determined by two disinterested referees, one to be chosen by said Vanderwerker, and the other by the president and directors of said Metropolitan railroad, with power to them, if they disagree, to choose a third person as umpire.

Sec. 6. *And be it further enacted*, That it shall not be lawful for the board of directors of the Metropolitan Railroad Company to declare or pay any dividends to their stockholders out of the earnings of this branch of their road in the city of Washington, until their main road from Georgetown to their connection with the Baltimore and Ohio railroad near the Point of Rocks, in Maryland, shall be ready for public travel.

Mr. SHIELDS called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 23, nays 21; as follows:

YEAS—Messrs. Bates, Bell, Bright, Chesnut, Clay, Crittenden, Davis, Fitzpatrick, Foot, Gwin, Houston, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Pugh, Reid, Shields, Slidell, Toombs, Ward, and Yulee—23.

NAYS—Messrs. Allen, Bayard, Bixler, Broderick, Brown, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Hale, Hamlin, Harlan, Iverson, Kennedy, King, Seward, Simmons, Thomson of New Jersey, and Wilson—21.

So the amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. BAYARD. Is the question now on the passage of the bill?

The PRESIDING OFFICER. Yes, sir.

Mr. BAYARD. I ask for the yeas and nays on its passage. I consider that the bill can never do any good now. The road will never be made under the amendment; and therefore I shall vote against it.

Mr. BROWN. In reply to the suggestion of my friend from Delaware, I will say this: If this bill has any friends in the House of Representatives, and they are determined to sustain it, let it go back there, and they can drive these amendments off. Of course it can never become a law under the amendment last adopted. To expect it is utter nonsense; and if it could, there would never be any railroad; but let it go to the House to do the best they can. I think the friends of the bill had better let it pass in its present form.

Mr. WILSON. I want to have the privilege of voting against the bill. I look upon it, in the form it has taken, as eminently unjust. I know that the amendment which has been adopted, providing that this company shall not make any dividends until they have completed the road for forty miles from Georgetown to the Point of Rocks, does not amount to anything at all; and I think it wrong, on a question that purely concerns the people of Washington, to connect a road of this character with a railroad of forty miles into the country; and therefore I want the privilege of voting against the bill. I ask for the yeas and nays.

Mr. CHANDLER. Mr. President, I likewise desire to record my vote against this bill. When the proposition first came before the Committee on the District of Columbia, I was an advocate for this bill. I advocated this bill because an independent company came in, and proposed to build a road for the benefit of the city of Washington, without asking aid from the Treasury of the United States. After that bill had passed the House of Representatives, and came before the Senate, another company claimed the right to build this railway; and urged, as a reason, that they cannot build a road forty miles long unless they get this one-horse railroad.

Now, sir, what company is it that demands the right to construct this road? What has it ever done? I will tell you what it has done. It has obtained a charter from the State of Maryland; it purports to have surveyed a route forty miles long; and it has petitioned Congress over and over and over again for funds to build the road. Sir, before the Committee on the District of Columbia, not the directors of this railroad, but its friends, have been begging over and over and over again, year after year, for an appropriation to build a bridge across the Potomac that will cost three or four million dollars.

Now, sir, if you are going to give the right to such a corporation to build this road through the streets of Washington, I advise you to make an appropriation to build it, for it will never be built, not a foot of it, by that company. The friends

of that company have inserted a provision that it shall make no dividends until these forty miles of road shall be built from Georgetown to the Point of Rocks. Is there a Senator present who has any faith in that proviso? I have seen something of that kind of jobbing. They may appoint a president, a treasurer, and a general agent, and pay the whole receipts of the road as salaries to those men who furnish the money to build the road. This company never purpose to build a road to the Point of Rocks, or even to build this one-horse railroad through the city of Washington. It is a bogus company. I do not say that there are not honorable men connected with it, but the Metropolitan Railroad Company is a grand humbug. It is not a company that has any right to claim this privilege. The building of this one-horse railroad from the Capitol to Georgetown, has as much to do, and is as apt to be the subject, as the exclusive right to manufacture sewing machines for these United States.

What does that company want with this passenger railroad? Do you intend that the Metropolitan Company shall run their freight cars through Pennsylvania Avenue? Is there any such intent? The friends of the bill say not; but you want to run a little one-horse railroad through this town to enable a great Metropolitan Company to build forty miles of road to the Point of Rocks. You had better give them an exclusive right to some India-rubber patent. It has just as much to do with building the Metropolitan railroad as this has. I wish to record my vote against it, and against that company. I want to show no favors to beggars, who ask Congress to build bridges across the Potomac that will cost three or four million dollars, and funds to build their railroad. Sir, they will not build one inch of this road, under this bill; or, if done at all, some two or three men in this town will advance the money, build the road, and manage it. They will not ask you ever to allow them to declare dividends, for they will pay all their dividends to their officers. The owners of the road will be, one president, and another treasurer, and so on; and they can consume the whole receipts of their road by salaries, without asking for the privilege of declaring a dividend. No dividend will ever be made. I hope this bill will be voted down. I wish to record my vote against it.

Mr. YULEE. Mr. President, I voted for this amendment to the bill, not because I have a preference between the companies proposing to make the road, but because I am opposed to placing a railroad track upon the avenue at all. My purpose was to assist in defeating the whole plan; and I move now to lay the subject on the table, with a view of bringing the Senate to a test vote upon that question, and disposing of the matter entirely.

Mr. TOOMBS. Let us get rid of it by taking a vote on the passage of the bill, without this motion.

Mr. YULEE. I move to lay the bill on the table.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. WILSON. I wish to offer an amendment.

The PRESIDENT *pro tempore*. The Chair will say to the Senator from Massachusetts that an amendment is not now in order, unless by the unanimous consent of the Senate.

Mr. CLAY. I object.

The PRESIDENT *pro tempore*. Objection is made, and amendments are not in order.

Mr. DOOLITTLE. I hope that the friends of the project of building a railroad through the city will suffer this bill to pass, and let the matter come to a conference between the House of Representatives and the Senate by a conference committee. There is undoubtedly a majority of this body in favor of the original bill, substantially; but the vote was taken on this amendment at a time when several gentlemen, friends of the bill, were absent, and therefore it was, that the amendment was carried. If they suffer the bill to pass, as suggested by the chairman of the Committee on the District of Columbia, it will then come to a conference, and the bill will pass in its original shape substantially.

Mr. WILSON. Will it not be in order to move an additional section to the bill?

The *PRESIDENT pro tempore*. Not at this stage of the bill. The question is on the passage of the bill, on which the yeas and nays have been asked.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 25; as follows:

YEAS—Messrs. Bright, Brown, Chesnut, Clay, Clingman, Crittenden, Davis, Dixon, Doolittle, Durkee, Fitzpatrick, Foot, Gwin, Harlan, Iverson, Jones, Pearce, Shields, Slidell, Toombs, and Ward—22.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Broderick, Cameron, Chandler, Clark, Collamer, Hale, Hamlin, Houston, Hunter, Johnson of Tennessee, Kennedy, King, Mallory, Pugh, Reid, Seward, Thomson of New Jersey, Trumbull, Wade, Wilson, and Yulee—25.

So the bill was rejected.

CONSULAR AND DIPLOMATIC BILL.

Mr. HUNTER. I now move to postpone all prior orders, and take up the consular and diplomatic appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 666) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1860.

The *PRESIDENT pro tempore*. The bill will be read.

Mr. GWIN. I hope the reading of the bill will be dispensed with.

Mr. HUNTER. I have sent to my committee room for the amendments. I had despaired of getting it up, and therefore sent them back to the room.

Mr. GWIN. I am in favor of passing it without amendments.

Mr. MASON. I will say to my colleague that there is executive business which ought to be done. It is getting late in the afternoon, and although I shall not interfere with his bill, I think we had better go into executive session for the residue of the day. I move that the Senate proceed to the consideration of executive business.

Mr. HUNTER. We might get through, perhaps with the amendments of the Finance Committee.

Mr. SLIDELL. I will state that, in pursuance of an intimation which I gave yesterday, it is my intention to offer the bill for the acquisition of Cuba by negotiation as an amendment to this bill. I have no sort of objection to the bill being taken up now; and, if there be any formal amendments of the Committee on Finance, perhaps it would be better to act on them to-day; but the bill certainly cannot be disposed of to-day.

EXECUTIVE SESSION.

Mr. MASON. I insist on my motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 8, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. J. A. HARRIS.

CALL OF THE HOUSE.

Mr. DAVIDSON. I object to the reading of the Journal until there be a quorum present.

The SPEAKER counted the House, and announced that there were but sixty-seven members present.

Mr. DAVIDSON. I move a call of the House.

Mr. HOUSTON. On that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 50; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Bingham, Boyce, Branch, Buffinton, Burnett, Chaffee, Chapman, Clay, Cobb, John Cochrane, Comins, Cox, James Craig, Burton Craig, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Faulkner, Foster, Garnett, Garrett, Gilman, Greenwood, Gregg, Harlan, Hickman, Hopkins, Horton, Houston, Howard, George W. Jones, Owen Jones, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, McRae, Maynard, Millson, Montgomery, Isaac N. Morris, Freeman H. Morse, Mott, Parker, Ricard, Kullin, Scales, Aaron Shaw, Henry M. Shaw, Tabbot, Miles Taylor, Tompkins, Vallandigham, Vance, Wade, Waldron, Elihu B. Washburne, and Wortendyke—65.

NAYS—Messrs. Abbott, Bliss, Brayton, Case, Cockerill, Colfax, Covode, Curry, Curtis, English, Foley, Giddings, Goode, Goodwin, Grow, Lawrence W. Hall, Harris, Hodges, Keim, Lovejoy, McKibbin, Humphrey Marshall,

Mason, Matteson, Morgan, Morrill, Murray, Niblack, Nichols, Pendleton, Pettit, Peyron, John S. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Robbins, Royce, William Smith, Spioner, Stanton, James A. Stewart, William Stewart, Tappan, Tripp, Cadwalader C. Washburn, Israel Washburn, and Watkins—30.

So a call of the House was ordered.

During the vote,

Mr. DOWDELL asked leave to vote; he having been attending one of the committees of the House when his name was called.

Mr. MORGAN objected.

Mr. BARKSDALE made a similar request.

Mr. MORGAN objected.

Mr. DODD stated that if he had been in the Hall when his name was called, he would have voted in the negative.

Mr. CRAWFORD said it was quite immaterial to him whether his name was on the record or not.

Mr. MOORE asked unanimous consent to vote.

Mr. DEAN objected.

Mr. BONHAM made a similar request.

Mr. DEAN objected.

After the vote was announced,

Mr. BURNETT said: I am satisfied, Mr. Speaker, that there is a quorum present, and I therefore move that all further proceedings in the call be dispensed with.

The motion was agreed to.

READING OF THE JOURNAL.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed the bill of the House, entitled "An act donating public lands to the several States, which may provide colleges for the benefit of agriculture and the mechanic arts," with amendments; in which he was directed to ask the concurrence of the House.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a resolution for the payment of an unexpended balance to the State of Georgia, on account of militia services; and

An act to provide for the payment of the claim of the State of Maine, for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war; when the Speaker signed the same.

INDIAN HOSTILITIES IN MISSOURI.

Mr. FAULKNER, from the Committee on Military Affairs, reported back a bill (H. R. No. 388) to pay to the State of Missouri the amount expended by said State for repelling the invasion of the Osage Indians, with an amendment in the nature of a substitute; which was referred to the Committee of the Whole on the state of the Union, and, with the amendment and report, ordered to be printed.

ADVERSE REPORTS.

Mr. FAULKNER, also, from the same committee, presented adverse reports on the memorials of Dr. Israel Moses, of the city of New York; James Canavan, a sergeant in the United States Army; and Eliza A. Connell, wife of Patrick Connell; which were severally laid on the table, and ordered to be printed; and the committee was discharged from the further consideration thereof.

LOCAL INSPECTORS AT EVANSVILLE.

Mr. NIBLACK, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of so amending the act, approved August 30, 1852, entitled "An act to amend an act entitled 'an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes,'" as to provide for the appointment of local inspectors at the port of Evansville, in the State of Indiana, and to report by bill or otherwise.

WASHINGTON AND OREGON WAR DEBT.

Mr. FAULKNER. I am directed by the Committee on Military Affairs, to whom was referred the memorial relating to the payment of volunteers engaged in the Indian wars in Washington and Oregon Territories, to present the following report:

Resolved, That, preliminary to the final settlement and adjustment of claims of citizens of the Territories of Oregon and Washington for expenses incurred in the year 1855-56, in repelling Indian hostilities, it shall be the duty of the Third Auditor of the Treasury to examine the vouchers and papers now on file in his office, and make a report to the House of Representatives by the first Monday in December next, of the amounts respectively due to each company and individual engaged in such service; taking the following rules as his guide in ascertaining the amounts so due:

1. He shall recognize no company or individual as entitled to pay, except such as were called into service by the territorial authorities of Oregon and Washington, or such whose services have been recognized and accepted by the said authorities.

2. He shall allow to the volunteers engaged in said service no higher pay and allowances than were given to officers and soldiers of equal grade at that period in the Army of the United States, including the extra pay of two dollars per month given to troops serving on the Pacific by the act of —, 1852.

3. No person, either in the military or civil service of the United States, in said Territories, shall be paid for his service in more than one employment or capacity for the same period of time; and all such double or triple allowances for pay as appears in said accounts shall be rejected.

4. That in auditing the claims for supplies, transportation, and other services incurred for the maintenance of said volunteers, he is directed to have a due regard to the number of said troops, to their period of service, and to the prices current in the country at the time, and not to report said service beyond the time actually engaged therein, nor to recognize supplies beyond a reasonable approximation to the proportions and descriptions authorized by existing laws and regulations for such troops, taking into consideration the nature and peculiarity of the service.

5. That all claims of said volunteers for horses, arms, and other property, lost or destroyed in said service, shall be audited according to the provisions of the act approved March 3, 1849.

Mr. LANE. Mr. Speaker, there is no gentleman on this floor more unwilling than myself to oppose the action of the committee; but the basis laid down in these resolutions for the payment of the Oregon and Washington volunteers is so unfair, that I feel it to be my duty to enter my protest against such a basis of settlement. They had better not be paid at all, than paid on such a basis as that.

The committee, as I understand, propose to pay these volunteers at the rate at which regular troops are paid. I put it to every candid gentleman in this House, whether the Government could have performed the service that was performed by these volunteers at the rate proposed? Men, sir, who were called into the service, who had to abandon their business, their homes, and their property; risk their lives, and the lives of their families; and after a service of sixty days, for instance, they will be allowed, by this report, sixteen or twenty dollars for that service. Why, sir, it would cost the Government of the United States \$300 each for every soldier it could have sent to perform that service which these volunteers performed. Then, is it just, is it right, to these volunteers, called into the service at an hour's notice, to take the field immediately, who performed a service which would have cost the Government for each man, had troops been brought to these Territories to perform the service performed by our volunteers, ten times as much as the committee propose to pay our volunteers?

I am willing that all the expenses of that army and of that war shall be paid for, at cash prices, at the same rate which was paid by the regular Army at that time for subsistence, transportation, supplies, &c. If you will pay those cash prices, and give us interest up to the time that you pay us, I will be satisfied; but never will this House, I hope, so degrade the citizen soldier, by saying that he shall turn out and report for duty at an hour's notice, and after he has left his home and family, and has endured all the hardships of the campaign, shall receive a compensation of eight or eleven dollars a month.

Mr. CURTIS. I think my friend from Oregon will find that the provision suggested by the committee requires that the volunteers shall receive pay for their horses, and for their subsistence, and everything of that kind, according to the prices paid there at the time for the United States regular Army. After that, the gentleman will remember that these accounts, after being sealed by the War Department, are returned to this House; and the gentleman will recollect that this is the pay which the volunteers in the Mexican war received; he will recollect that his pay and mine, and that of all of us who were volunteers, was sealed according to the prices paid to the regular Army. I think they ought to receive more; but I do not think the rule contained in these resolutions requires that this pay shall be exactly cut down in

dollars and cents to the standard of pay of the regular Army. The Auditor, in making up his report, according to my understanding, may take into consideration the cost of transporting the regular soldiers.

Mr. LANE. In this case, instead of carrying out the principle that the opinion of my friend from Iowa would indicate as just, to take into consideration the cost of transportation of the troops to the scene of action, I think the resolution allows no such thing. If that could be allowed, it would, in some degree, compensate them for their services, and, in some instances, would exceed the amount allowed by the commission. This, however, is refused them; and by the committee they are to be allowed merely the per diem of the regular Army, without allowing them one cent for transportation, or any of the advantages of the regular Army. No provision for the wounded, no bounty in money or land, is provided for our volunteers by the basis laid down by the committee? Will this House compel us to submit to such injustice?

Mr. CURTIS. I think the Committee on Military Affairs have agreed to recommend that they shall come under the same regulations in respect to pensions and bounty land.

Mr. LANE. Is that in the resolution?

Mr. FAULKNER. That report, as the gentleman will perceive, is not conclusive upon the claims of the citizens of Oregon and Washington, or of the volunteers there. It directs the Third Auditor to report to the next House of Representatives a statement of these claims, upon the basis and principle laid down in the resolutions. I have no doubt, if they had acted finally upon the claims, they would have allowed the volunteers of Oregon and Washington the benefit of the pension and bounty land laws; but the committee have stricken that recommendation from this resolution, because the only object is to obtain a report from the Third Auditor, to be acted on at the next session of Congress.

Mr. LANE. Then I understand very well the basis of the settlement laid down in this report. It is, that these volunteers shall be allowed the pay simply of soldiers in the regular Army of the United States. There is no provision for the wounded; there is no provision for pensions or bounty lands, and this report, if adopted, will be a finality on this subject, I fear, for years to come. This report is not what I expected when the chairman told me, at the last session, that he should report for action at the beginning of the present session. I supposed a bill would be reported to pay as allowed by the war commission, and as very properly recommended by the Secretary of War.

Congress has, by law, recognized the war, and authorized the settlement of the expenses growing out of the war, including pay for services rendered. Under that law the Secretary of War, as he was authorized to do, appointed a commission which proceeded to Washington and Oregon Territories, and there settled the just expenses incurred during the war, including the pay for service, and reported to the Secretary of War. He appointed two Army officers who had been on duty in that country for many years, men who understood the price of provisions, and every article required for the use of the troops; men who had paid, at the time, in the line of their duty, in the regular Army, the same prices which were allowed for these volunteers. With these two Army officers was appointed one of our citizens. This commission were in the two Territories for twelve months; they adjusted all these matters, and we supposed it was a finality. We supposed that Congress would act upon the report of this commission; and we had a right to suppose that Congress would not go behind the report of those commissioners, and undertake to cut down the pay of soldiers to eight dollars a month.

I do not desire to take up the time of the House, but I wish to say, as I said before, that we are willing to take cash prices for everything furnished for the use of the volunteers, with interest until the amount shall be paid, provided our volunteers can be paid the amount allowed by the commission.

Mr. STANTON. I wish to ask the gentleman, inasmuch as the committee have several other reports to make, whether he will not consent that this question shall be postponed to a future day,

in order that this discussion may not interfere with other important business. This is the last day on which the Committee on Military Affairs is entitled to make reports.

Mr. MORGAN. No. Let us close it up now.

Mr. STANTON. Then we cannot do anything else.

Mr. MARSHALL, of Kentucky. If it be the disposition of the House to postpone this question to a future day, in order to expedite the business of the House, I shall have no objection to postpone what remarks I have to make; provided, the House will make it the special order for the day to which it is postponed.

Mr. STANTON. I will submit the motion to postpone, if I have the leave of the gentleman from Kentucky.

Mr. WASHBURN, of Illinois. I make the point of order that this is an evasion of the rule of the House, which gives the Committee on Military Affairs only two days in which to make reports. If this matter be postponed, it gives this committee another day, and evades the rule which confines its reports to two days.

The SPEAKER. The Chair must overrule the question of order raised by the gentleman from Illinois. It is true, that it is an evasion of the rule, but it is an evasion which the House, and not the Chair, must correct; for the Chair can only construe the rules as they stand.

Mr. STANTON. I propose, then, with the leave of the gentleman from Kentucky, to move that the further consideration of this subject be postponed until Saturday next. I select that day because it is private bill day, and not objection day; and because our experience proves that there can be no business transacted on that day. The Committee on Military Affairs have several other important matters which ought to come before the House for its action, and which will not require much time to dispose of. This is the last hour we can have during this session, and I submit whether it is not better that this subject should go over until Saturday, then to be decided.

Mr. WASHBURN, of Illinois. I demand the previous question on the motion to postpone.

Mr. STEPHENS, of Georgia. Mr. Speaker, I submit whether, if this matter be postponed, it will have precedence on Saturday? That is private bill day; and when the question arises I think the Chair will have to decide that, under the rules, the consideration of private bills must have precedence. It will then require a majority vote to take up and consider this matter, even if it be postponed to Saturday.

The SPEAKER. Private business would take precedence.

Mr. STANTON. We now have the right to postpone this question until Saturday next; and when that time arrives it is for the House to refuse to go into a Committee of the Whole House on the Private Calendar. The House will have its election to go to private bills, or to go to this question.

Mr. HOUSTON. Certainly. There is no provision of the rule that we must consider private bills on that day. The House may refuse to take up private bills, and take up this question, which will operate to the exclusion of private business. If there be a disposition to postpone, there is no difficulty in the way. A majority can refuse to take up private business.

Mr. SMITH, of Virginia. Is not the previous question called?

The SPEAKER. It is; and debate is not in order.

Mr. MORGAN. Then I object to debate.

Mr. LANE. I hope the House will vote down the call for the previous question.

Mr. MARSHALL, of Kentucky. How did the gentleman get the floor to call the previous question?

The SPEAKER. The gentleman from Kentucky yielded the floor to the gentleman from Ohio, who moved a postponement, and then the gentleman from Illinois called for the previous question. The effect of the previous question will be to cut off the motion to postpone.

Mr. MARSHALL, of Kentucky. The gentleman from Ohio interrupted me to suggest a postponement. I have not yielded the floor.

The SPEAKER. Then the motion to postpone is not pending, nor the call for the previous question.

Mr. MARSHALL, of Kentucky. Mr. Speaker, I will say now what I have to say. The history of this matter may be detailed in a few words. The Congress of the United States directed the Secretary of War to examine these claims, or, this Oregon and Washington war debt.

Mr. WASHBURN, of Illinois. I should like to know how this matter is. I understood the gentleman from Ohio had the floor; and that he submitted the motion to postpone.

The SPEAKER. The Chair so understood; but the gentleman from Kentucky informs the Chair that he was mistaken.

Mr. WASHBURN, of Illinois. I was mistaken.

Mr. MARSHALL, of Kentucky. I will not detain the House unnecessarily; but I should like its attention to what I have to say. I was not in the committee when this resolution was adopted, or I should have opposed it. In 1856, Congress passed a law directing the Secretary of War to examine into the amount of war debt incurred by Oregon and Washington; and he was authorized to call to his assistance a commission of three, to ascertain and report to him all expenses incurred for the maintenance of the volunteers, including their pay; so that he might arrive at some tangible ground for the liquidation of these claims. The Secretary of War did appoint a commission, consisting of two officers of the Army, and one civilian. That commission heard testimony on all the points embraced by the law; visited Oregon and Washington; stated all the accounts, and scaled them; and then returned the report to the Secretary of War. Taking that report, the Secretary recommended the payment of the debt upon the basis there indicated. His recommendation brought the whole budget of this debt before the Committee on Military Affairs, together with the report of the commission; and the same was cursorily examined by the Third Auditor, whose report to the committee has been printed.

The first question that may arise in this case is, whether the United States, by the terms of that law, did not make the Secretary of War the judge of what amount should be paid; and whether we are not bound, by the terms of that law, to the results of the commission? The precedents laid down in those cases where a matter has been referred to an executive officer or a commissioner, seem to leave it questionable whether the United States is not concluded by the judgment of the Secretary in connection with this Oregon and Washington war debt. It is true, the Secretary was only directed "to examine the amount," and it may be that Congress reserved its own judgment whether it would pay. The House will perceive that the committee now propose to refer these accounts to the Third Auditor. For what? That he may make another report? That he may go over the work as the commission has done? That he may again scale these accounts? When that is done, are Oregon and Washington nearer the payment of these debts? It is not provided that the report of the Third Auditor shall be final, or that the appropriation to pay shall be made at once upon the result he may arrive at. Are we to refer these accounts year after year, directing this officer and that commission to look into them? We refer them; our orders are obeyed; the commission meets, receives the accounts, examines them, scales the charges, and reports the sum due—not only in gross, but in detail. We receive the report, and then we refer them again to somebody else to repeat the same task, at additional expense, but for no useful purpose. Most of these accounts stand now in territorial scrip. The Territory of Washington has taken in all the certificates for supplies, for transportation, and for subsistence, and has issued scrip for the same. Does the Government propose to revise the territorial accounts, and to scale the prices which the public agents promised and the Territorial Government ratified? That is but another name for repudiation, and will amount to our repudiation of the act of the territorial government *pro tanto*.

Mr. STANTON. I do not contemplate that we shall interfere with the territorial scrip at all. Whatever sum shall be allowed by the Auditor, and paid, will go so far in liquidation of the territorial scrip. If the territorial authorities want their scrip redeemed, let them redeem it with their own funds.

Mr. MARSHALL, of Kentucky. That brings us back to the question, whether there is any obligation on the part of the Government to pay any of these claims at all?

Mr. OLIN. I do not think there is.

Mr. MARSHALL, of Kentucky. I think that question much more open to discussion than the proposition which, after our acceptance of liability, takes this mode of referring it back year after year to have that re-revised which has been already revised, not only by the territorial authorities, but by our own officers, and by our own executive authorities, assisted by all the instrumentalities which we ourselves authorized and devised.

The Delegate from Oregon has told the House that he is willing, and that his people are willing, to take, for subsistence, transportation, and supplies, exactly the amount paid by the officers of the regular Army at the same time in that country, with interest on that sum for the time the claimants have been compelled to wait. What could be more fair than such a basis of adjustment? It seems to me that we ought to be willing to allow the same rates for subsistence, transportation, and supplies, to the volunteers, which were allowed to the regular troops. Why not adopt that basis? I am opposed to any appearance of trifling with these claims. I am opposed to sending them to a Government officer again, not to settle the account, but to ascertain the amount upon a basis we now adopt, and then report. I want a settlement—a settlement on some basis or other—and then provision for payment, without keeping the people who are entitled out of their money forever. Under this resolution the people of Washington and Oregon will, at the next Congress, be no nearer a settlement than they are to-day. I am opposed to it, because I consider this act perfectly supererogatory. It does not begin to reach a settlement. It does not propose to do so. It proposes nothing more nor less than to refer to another of our officers to see whether, under the instructions given by Congress, he cannot scale down these accounts still more. How are we, or is he, to scale the territorial scrip? The gentleman from South Carolina asks me if I am in favor of paying the claims as they now stand? I answer him thus: I regard many of the charges as highly exorbitant; but still I would vote to pay them on the testimony which we have heard in the case, rather than to repudiate an obligation our own legislation has assumed, or which the territorial government has assumed, and for the amount of which it has pledged its word.

The claims are of two characters only—first, pay, second, supplies of subsistence, transportation, and quartermaster's stores, clothing, &c. The pay rolls returned by the commission are regularly made out. They contain all the names of the volunteers, officers, and men. Opposite each name the pay is run out for the time the volunteer was employed, and stoppages are noted, which are to be deducted from the pay of such volunteer. The pay, as established by these rolls, is according to the contract on which the service of the volunteer engaged. Shall Congress go behind that contract, after the men have rendered the service? Other gentleman may; I will not, even though I might consider the pay very high; for I know what the soldier suffers, and I know how little even this amount of pay compensates him therefor. If the pay is high, apparently, yet it bears a relation to the ordinary wages of labor in that country, which deprives the account of all real exorbitancy. As to the other class of these accounts, they have passed from their original condition into Government scrip; I mean scrip of the territorial government; and we must pay that, or throw it back on the territorial government to pay. If we acknowledge the obligation to pay, yet refuse the sum presented, and which has been ratified by the territorial authorities, and has been since revised by our own commission, and in this form ratified and recommended by the Secretary of War for payment, it seems to me the people of the Territory will feel, and will have a right to feel, that we are keeping the word of promise to the ear, and breaking it to the hope. I do not think that this is the right mode of doing business by the Congress of the United States. The commissioners have been before us, and have told us that when an officer who was in the civil employment of the United States, in the Territory, also performed military services in the field, they

have made a memorandum of the fact; that fact being stated, the law of the United States which requires that no one shall be paid for two offices at the same time will, of course, operate.

Mr. STANTON. I wish to inquire of the gentleman from Kentucky whether, in the aggregates reported by the commissioners, there is not included double and treble compensation, and whether the report of the Secretary of War is recommending compensation for double and treble services?

Mr. MARSHALL, of Kentucky. I have heard of but one single case of that sort.

Mr. STANTON. There are twenty of them.

Mr. MARSHALL, of Kentucky. There are a few individual cases where men have acted as captains, wagon-masters, and assistant commissaries; but the double or treble compensation has been evinced by the committee, and there is no danger of its being paid in the presence of the law authorizing but one payment.

Mr. STANTON. It cannot be ascertained from the report of the Secretary of War.

Mr. MARSHALL, of Kentucky. I take it that double compensation is disallowed. I do not know how I found it out, but I did find it out. How did the gentleman from Ohio find out that it was allowed?

Mr. STANTON. From the letter of the Auditor, recommending the cutting down of the amount reported by the Secretary.

Mr. MARSHALL, of Kentucky. The examination of the Auditor was of the most cursory character. It was a criticism, and it was exposed to us as in many cases unfair. Any person examining and settling these accounts would easily understand the facts from the papers themselves; for, as I understand it, the report of the commissioners exhibits all the facts, which it will be necessary for the accounting officers of the Treasury to examine.

Let us not spend the time of the House in this matter. Let us rather impose the examination of it on the next Congress. If we mean to dispose of it, let us authorize it to be settled either on the basis of the commission, or on the basis proposed by the Delegate from Oregon. I am opposed, at all times, as a member of Congress, and as a member of the Government, to this mode of taking up accounts and rolling them on, at heavy expense, without really advancing any nearer to their payment, or indicating to the public creditor what we mean to assume. If we believe that we are, on principle, responsible for these demands, I am opposed to this referring and re-referring, from time to time, and to this scaling and re-scaling, until the amount is so reduced that we seem to pay, while in fact we repudiate, the greater part of the demands against us. I want these claims settled on some principle. I want that principle now determined, if now we propose to act. If we do not, let us leave the whole affair to our successors. I am utterly opposed to the plan of the committee, which is, to procrastinate just to get another report, which, in its turn, may be committed to somebody else for a review.

Mr. LANE. I offer the following amendment, to come in at the end of the fourth resolution:

Every soldier enlisting in Oregon or Washington, is entitled to \$130 in lieu of transportation.

Mr. LOVEJOY. I rise to a question of order. Is it in order for a Delegate from a Territory to propose an amendment?

Mr. LANE. I hope the gentleman would not deprive a poor Delegate of that privilege.

The SPEAKER. A Delegate may introduce a bill and make any motion in reference to it. It is done every day; and the right to introduce a bill carries with it the right to move to amend.

Mr. OLIN. I wish to call the attention of the House, for a moment, to some considerations which ought to induce the House to delay the passage of this resolution until we receive from the Secretary of War a report upon this subject, which the House called for some time since. Knowing that this subject was to be considered by the House, and feeling some little solicitude upon the question; knowing that there was a paper of importance in the possession of the War Department necessary to the proper understanding of this subject, I sought, some months ago, the production of that paper to this House, in order that it might be spread before the public.

A resolution was passed by the House, calling on the Secretary of War for a copy of that document. A copy had already been made out, which had been prepared some years ago. The Secretary could, at any moment, have furnished a copy to the House. And now I wish to call the attention of the House to some facts in connection with the production of that paper, and they will see that it is important.

Mr. FAULKNER. I rise to a question of order. I trust the gentleman from New York will not consume the brief hour assigned to the Committee on Military Affairs by discussing irrelevant matter.

Mr. OLIN. I think if the gentleman will hear what I have to say he will see that it is important in the consideration of this resolution.

Mr. FAULKNER. I cannot see what possible connection the report of Captain Cram can have with the adoption of this resolution.

Mr. OLIN. It is very important in the consideration of this subject. Captain Cram was, in the years 1855 and 1856, at the head of the topographical engineers for the department of the Pacific, and his report furnishes a history of the whole conduct and origin of that war. It shows, in my judgment, such a state of facts as if laid before the country this House would never sanction these claims. Now, why it is that this report has not been furnished to the House, and why it is that the learned chairman of the Committee on Military Affairs has refused to examine that report, I am at a loss to imagine. On the 10th of February last, as I observed, this report was called for by a resolution of the Senate. Instead of answering that call, as I am informed, this report was farmed out to be criticised. Criticism was made upon it, and that criticism placed upon the files of the War Department. Then, sir, another call was made upon the War Department, for any other papers on file in the Department pertaining to Captain Cram's report, and then a copy of the report, and a copy of the criticisms upon it, are sent to the Senate.

Mr. FAULKNER. I submit to the Chair that this reference to the report of Captain Cram is wholly irrelevant to the question under discussion. There is but a single hour allotted to the Committee on Military Affairs, and every moment is precious. I hope the gentleman will be confined to the discussion of the resolution now before the House.

Mr. OLIN. I shall be exceedingly reluctant to transgress the rules of the House, if I am not in order.

The SPEAKER. If the Chair had read the report, he would be better able to decide whether the gentleman from New York was in order.

Mr. OLIN. I wish to say that I have had an opportunity to examine this report, and I can state, from my own observation, that it contains such an exposition of the origin and nature of these Oregon and Washington claims, that, if it were placed before the House, they would, in my judgment, pronounce a judgment of condemnation upon the whole transaction.

Mr. STEVENS, of Washington. I will state, for myself and the Delegate from Oregon, that we desire that this report shall be published.

Mr. OLIN. I so understood. So the gentleman stated, I understood, when some allusion was made to Captain Cram's report, in a debate in this House, in May last. Some ten days after, the call was made in this House for Captain Cram's report. The honorable chairman of the Committee on Military Affairs proposed to call on the Department for these criticisms, which, as I think, were improperly placed upon the files of the War Office, for the purpose of riding down that report. The Secretary of War had no more right to place these criticisms upon the files of his office, than he had to place the private letters of members of this House there. I am perfectly willing, if any gentleman desires to see these criticisms, that they should be sent here; but I am unwilling to believe the Secretary of War is withholding this report until these criticisms can in this way be attached to it. I think this resolution should be deferred until we have that report before us; and I move that it be postponed until that report is received.

Mr. WASHBURN, of Illinois. Is there any probability that this report will be received during the present session?

Mr. OLIN. It can be sent here any day.

Mr. LANE. I will modify my amendment so as to add at the end of the resolution, a provision that those volunteers shall be allowed \$130 each, in lieu of transportation, and that they be included within the pension and bounty land laws of the United States.

Mr. STANTON. Is that amendment in order? This is merely a resolution of the House calling for information. The amendment proposes to amend the bounty land and pension laws, which could not, under any circumstances, be accomplished by a simple resolution of the House.

Mr. CURTIS. I think the \$130 in commutation of transportation ought to be allowed.

Mr. STANTON. I do not think the amendment is germane at all.

The SPEAKER. The Chair thinks that the first branch of the amendment is in order, but that the latter branch is not.

Mr. LANE. Then I modify my amendment by striking out the latter branch.

The amendment, as modified, was read, as follows:

And each soldier who rendered service in Oregon or Washington, shall be allowed \$130 in lieu of transportation.

Mr. CURTIS. That is right.

Mr. STANTON. I do not think that it is right.

The SPEAKER. The Chair supposes that that branch of the amendment is in order, inasmuch as it is directory and no more—directory to the Auditor in making out the accounts.

Mr. STANTON. I make no question of order with the Chair; but I trust the House will not adopt the amendment.

Mr. CURTIS. I hope the House will adopt it.

Mr. LANE. It is a very small sum, and these soldiers deserve it.

The previous question was not seconded; there being, on a division—ayes 66, noes 79.

Mr. STEPHENS, of Georgia. Has the morning hour expired?

The SPEAKER. It has not.

Mr. STEVENS, of Washington. I wish to say a few words on this Oregon and Washington debt.

The SPEAKER. Debate must be confined to the motion to postpone.

Mr. STEVENS, of Washington. Then I will defer my remarks.

Mr. FAULKNER. Mr. Speaker, I called for the previous question because I saw nothing in the resolutions reported by the Committee on Military Affairs which required any discussion—they are plain, and speak for themselves—and because I desired an immediate disposition of them that I might lay before the House other reports of importance now in my hands from the Committee on Military Affairs. There can be no just ground for the postponement of these resolutions until the report of Captain Cram is received and printed. The Committee on Military Affairs have had before them all the official reports of the Government upon this question that have been published within the last two or three years. It is impossible that Captain Cram can throw any further light on the subject than the correspondence already laid before the committee has thrown upon it. We found it impossible, utterly out of the question, to sanction and allow the accounts as they have been reported to us by the commissioners. We are therefore driven to the necessity of adopting one of two modes of procedure—either to prescribe the principles upon which the accounting officers of the Treasury should settle these accounts, and to direct payment at the Treasury upon those principles; or to require the Auditor to make a report to the next Congress upon the basis of those principles in order that a future Congress may take such action upon it as may seem to it best. We did so, sir, because, in the examination of the report made by the commissioners who were sent to Oregon and Washington, we found that they adopted a system of charges such as we could not recognize and sanction.

The sole purpose of these resolutions is, therefore, to curtail these allowances according to the principles indicated in that series of resolutions now before you, and leave it to the next Congress, when it has the report made to it by the Third Auditor, to act finally on the subject. It

was because this proceeding is simply preliminary to some future final and definite action, that I did not include among these resolutions one which passed the committee unanimously, allowing to the volunteers the benefit of the existing bounty land and pension laws. If we had been acting finally on the subject; if we had been prescribing a basis upon which the Auditor was to pay the claims, we would have gone more fully into the subject, and made a provision for bounty lands and pensions.

The committee determined that it would not pay a dollar until the Third Auditor should make his report to the next Congress, on the basis of the principle there indicated; and such being the case, it was unnecessary to give to the subject the form and perfection of a bill. I therefore hope that the House will not postpone the resolutions. Neither the Committee on Military Affairs nor the members of this House will ever be able to act on the subject, made by the commission sent to Oregon and Washington; and if the Delegates from those Territories desire these claims acted on at all, there is no mode, in my judgment, by which they can accomplish their purpose except by a report from the Auditor, sifting the proper from the improper allowances, and placing the accounts upon the reasonable and just basis indicated by the resolution of the committee now before you for adoption.

The gentleman from Oregon [Mr. LANE] has indicated but one objection to the plan of settlement adopted by the Committee on Military Affairs; and that is, that we do not allow the volunteers higher pay than is allowed to the officers and soldiers of an equal grade in the United States Army. It seems to me that we have announced the only principle which this House ever can adopt. We applied it but the other day to the volunteers of Texas; we applied it to-day to the volunteers of Missouri; it was the standard of compensation to the volunteers during the Mexican war; and it is the only principle that we can safely adopt in reference to volunteers called out by the States or Territories without the authority of the Federal Government. We cannot pay to a volunteer in Oregon and Washington two dollars a day, and only thirty-three cents to a volunteer in Missouri. We must have some uniform standard of pay in cases of this kind; and that uniform standard can only be reached by placing all the volunteers upon the basis of the officers and troops of the regular Army.

Mr. STEVENS, of Washington. Every soldier in the regular Army, enlisted in Washington and Oregon, receives a bounty. Here it is proposed to pay to the volunteer \$130, as a commutation of the expense of getting to Washington or Oregon. I will ask the honorable chairman of the Committee on Military Affairs, if he is willing to put the volunteers in Oregon or Washington on that footing, to make them equal to the regular service?

Mr. FAULKNER. Our purpose is to place them on the footing of the regular troops of the United States. And this might be done by allowing to the volunteers that installment of the bounty that is paid at the end of the first year's service. It is asking too much to claim, for a few months' service, a bounty which the law provides under particular circumstances for a five years' service. This is a new proposition, never before brought to the notice of the committee, and I do not feel prepared to act upon it.

Mr. OLIN. The gentleman does not appear to be discussing the question of postponement, but the merits of the resolution.

The SPEAKER. The gentleman must confine himself to the question of postponement.

Mr. FAULKNER. As I am desirous of closing this debate, I will only further add that I hope the House will not postpone the question. I am not at this time satisfied of the propriety of the amendment offered by the gentleman from Oregon, at least to the extent of his present demand; and I shall vote against it. I hope the House will adopt the resolutions reported from the committee, as I believe their effect will be to facilitate the settlement of these controverted claims, and to effectuate their adjustment upon a fair and proper basis.

Mr. STANTON. I hope the gentleman from New York [Mr. OLIN] will withdraw his motion to postpone, as I am satisfied it is based on a misapprehension. His idea is that this report would

furnish reasons why nothing should be paid. These resolutions, it will be remarked, do not propose to have anything paid; and any information that comes between now and the first Monday in December, will come in time to arrest any unnecessary or improper payment.

Mr. OLIN. I understand that one of the gentlemen of the committee now regards the former report as a pledge to these claimants that the whole amount shall be paid, as found by the commissioners; and it would certainly be urged, with great force and propriety, that whatever amount may be found due by the Auditor shall be paid by Congress; that we had left the subject to his investigation, had transferred it to him, and that he had found that amount honestly due. Now, my idea was, that this report of Captain Cram would furnish information to the House, which, if believed, would prevent Congress from ever paying for the services of these volunteers; and, therefore, I wish to have the report laid before the House before the consideration of these resolutions. Now, the gentleman from Ohio says, that the examination, when made, will commit the House to nothing. Very true. But members would ordinarily be satisfied that more investigation had been given to the subject than they could give to it in the limited time of the House; and they would probably act on the suggestion of the person who examines this report.

Mr. STANTON. The idea which the committee had was this; they supposed that this report of the commissioners ought to teach us this lesson, at least; that we should not promise to pay anything until we know how much it is to cost. We became satisfied, from an examination of the report, that the claims were exceedingly exorbitant. We therefore determined that we should not commit the House to the payment of the accounts as audited by the Auditor, until we should see what they were. We therefore recommend these resolutions. I hope the House will refuse to postpone, and will adopt the resolutions. I ask the previous question.

Mr. OLIN. On that suggestion I withdraw my amendment.

The previous question was seconded; and the main question was ordered—being first on Mr. LANE's amendment.

Mr. STEPHENS, of Georgia. I ask the chairman of the Committee on Military Affairs what is the amount of bounty paid to enlisted soldiers? I think the volunteers should have the same.

Mr. SMITH, of Virginia. I object to debate.

The question was taken; and Mr. LANE's amendment was rejected.

The question recurred on the resolutions; and they were adopted.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolutions were adopted; and also moved to lay to motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled An act (H. R. No. 554) to authorize the Attorney General to represent the United States in the proceedings in equity now pending in the Supreme Court, between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations;

When the Speaker signed the same.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BARKSDALE in the chair,) and resumed the consideration of House bill No. 711, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1860; the pending question being on Mr. BLAIR's amendment, as follows:

And that the same, or a sufficient portion thereof, be applied to the purchase of one hundred copies of Benton's Abridgment of the Debates of Congress for the congressional library and the libraries of the House of Representatives and of the Senate.

Mr. BONHAM. I move to amend the amendment by striking out the words "one hundred" and inserting the word "six," and by adding the words "four additional copies of the works of Calhoun." I learn from the librarian of Congress that there is not a copy of Benton's abridgment in the library, and that there are but two copies of Calhoun's works there. I do not mean to be considered here as indorsing or disapproving of Benton's abridgment. I am not sufficiently familiar with it to determine whether it deserves credit or the censure which some gentlemen here have heaped upon it. But beyond that I submit there is no necessity for purchasing more than six copies. The librarian informs me that there are two copies of Calhoun's works. The additional number of four may be useful to members of Congress. The work of Mr. Benton may be useful as an index to the Debates of Congress. I may vote against the whole proposition; but if the amendment of the gentleman from Missouri is to be adopted, I hope it will be with this amendment inserted.

The amendment to the amendment was not agreed to—only forty members voting in the affirmative.

The question then recurred on the amendment offered by Mr. BLAIR.

Mr. PHELPS, of Missouri, called for tellers. Tellers were ordered; and Messrs. JONES, of Pennsylvania, and KELSEY were appointed.

The committee divided; and the tellers reported—ayes thirty-seven; a further count not being demanded.

So the amendment was disagreed to.

Mr. STANTON. I move to amend by striking out from line four hundred and seventy-two to four hundred and seventy-six, inclusive, as follows:

"For compensation of clerks in the offices of surveyors general, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field notes of surveys for the purpose of preserving them at the seat of Government, \$36,000."

A previous clause of this bill provides for the salaries of the several surveyors general and their clerks and the ordinary expenses of their offices. Then, sir, here is a general sweeping clause providing for the compensation of clerks in the offices of these same surveyors general, with an appropriation of \$36,000. I cannot conceive what contingency can happen to make it necessary to expend this money in these offices. It strikes me that it provides a very convenient mode of pensioning broken-down politicians who will be useful in particular localities in elections; and unless the gentleman from Missouri can give some reason why there should be, outside of the regular appropriations for the surveyors general's offices, this large amount appropriated, I hope the committee will strike out the clause.

Mr. PHELPS, of Missouri. If the gentleman had not risen at the moment he did, I should have moved to reduce this appropriation, so as to make it comparatively small. The object of this appropriation is this: it is proposed to discontinue several of the surveyors general's offices, and these extra clerks are required to make up the records of such offices, in order to transfer them to the States in which they are located. These clerks are to be only temporarily employed. There is also another class of expenses which are covered by this appropriation. The deputy surveyors in some of the land districts have completed their surveys in the field, and it becomes necessary for the plats and field-notes to be examined in the offices of the surveyors general, in order sooner to enable the Department to bring the lands into market. It is believed that temporary clerks can be advantageously employed in several instances, which may occur. They will in no instances be employed, except with the concurrence of the Commissioner of the General Land Office.

I remarked that I was in favor of a reduction of this appropriation. The estimate submitted was for \$41,000. We reduced the amount to \$36,000, and upon further information in respect to the surveys of the public lands, we have determined that it may be still further reduced. I should, therefore, upon my own motion, have moved to reduce the appropriation to \$25,000, believing that that amount will be sufficient to meet the wants of the surveyor general's office. Several of the surveyor general's offices have been dis-

continued, and it is proposed to discontinue others. The field notes must be transcribed, and the sooner this shall be done, the sooner may other offices be discontinued. I move to reduce the appropriation to \$25,000.

Mr. STANTON. I have a right to speak against the amendment of the gentleman from Missouri. I do not propose to spend any time upon it. This belongs exclusively to that class of appropriations which depend upon the discretion of the heads of bureaus. The head of a Department may spend it or not, at his election.

Mr. MORGAN. At the election? [Laughter.]

Mr. STANTON. It depends upon the necessity of the service, whether the service of the party or the public is for him to determine. I am against all these contingent and discretionary appropriations that may be dispensed with. If the records cannot be got up quite so fast, then let them go over for a little while.

The amendment of Mr. PHELPS, of Missouri, was agreed to; and the question then recurred on the amendment as amended.

Mr. PHELPS, of Missouri, demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON and BRYAN were appointed.

The committee divided; and the tellers reported—ayes 84, noes 45.

So the amendment as amended was agreed to.

Mr. GROW. I see here an appropriation for two Washington newspapers for the office of the chief engineer of the War Department. It seems to me that that ought to be stricken out of the bill.

Mr. PHELPS, of Missouri. The reason for it is this: those papers contain the advertisements inviting contracts, and also the laws, before they are published by the public printer. The object of specifying two was to restrict the officers, so that they should not purchase more than two.

Mr. SEWARD. I move to insert the following, after line five hundred and seventy-eight:

For the purpose of carrying on and prosecuting the works and improvements on Blythe Island, on the coast of Georgia, contemplated by the act of 28th January, 1857, \$100,000

Mr. PHELPS, of Missouri. I suggest to my friend from Georgia, that this bill does not make any appropriations for navy-yards. He therefore had better defer his amendment until the Navy appropriation bill comes up.

The CHAIRMAN. The Chair rules the amendment out of order to this bill.

Mr. SEWARD. I withdraw the amendment, intending to offer it to the Navy appropriation bill. But I do not agree with the Chair that it is not in order.

The Clerk read the following clause, under the head of "Mint of the United States at Philadelphia:"

"For wages of workmen and adjusters, \$74,800."

Mr. GROW. I move to strike that appropriation out, and in lieu thereof to insert \$30,000.

Mr. Chairman, I am unable to find by any of the estimates or reports of the Departments the items necessary to make up that sum of \$74,800. To lump the appropriations in that way leaves it to the discretion of the disbursing officer to expend this money, whether these men be necessary or not. We have no means, at present, of ascertaining how this amount is required. These men may not be demanded for the public service, but may be employed for other services. I propose to reduce the amount, unless I am satisfactorily informed that it is absolutely necessary.

There are other appropriations following this of the same character, and I shall move to strike them out when they are reached. According to this appropriation \$239 74 is required each day for laborers for this Mint. I am unable to see how the Mint of the United States can have use for laborers each day to the extent of \$240 a day. That would employ more than one hundred men. For what purpose can one hundred men be needed there? I think that it is a good phraseology to cover up jobs, and therefore I want the amount reduced.

The amendment was agreed to.

The Clerk read, under the head of "San Francisco, California," the following:

"For wages of workmen and adjusters, \$165,493."

Mr. GROW. For the reasons I have already given in the case of the Philadelphia Mint, I move to reduce that amount to \$65,493. The appro-

priation as it stands would allow \$537 a day for laborers. I am unable to see what necessity there is for so many laborers about that mint. I hope the amendment will be adopted.

Mr. PHELPS, of Missouri. The amount of money paid depends entirely on the amount of bullion presented at that mint to be coined, and the coin sent to be recoined. This amount is believed to be necessary. The estimate is made upon the expenses of the preceding year. It was ascertained that there was a certain amount of coinage for the last year, and it being believed there will be the same amount of coinage for the next year, the same appropriation has been proposed.

Mr. GROW. Has not the coinage for this year been less than for the last year; and yet the appropriation is the same?

Mr. PHELPS, of Missouri. I submit to the committee, whether, in view of the recent gold discoveries on Pike's Peak and Cherry creek and on the Gila and in the Territory of New Mexico, they can expect the coinage to be less next year than it was last year at the several mints?

Mr. GROW. Well, that gold will not all go to San Francisco.

The question was taken on Mr. Grow's amendment, and it was agreed to.

Mr. GROW. I move to amend by striking out "\$45,000," in line six hundred and fifty-three, and inserting in lieu thereof "\$20,000," so that the clause will read:

For wages of workmen, (at the New York assay office,) \$20,000.

I believe that this sum will cover all the labor that is necessary. I find by the act establishing the assay office, that the monies paid by depositors are to be applied to the contingent expenses of the office. It was understood at the time the act was passed that this would cover the contingent expenses. I see by the estimates that over sixty thousand dollars have been used of the funds derived in this manner; and yet here is an additional item of \$45,000 for labor, which gives a daily expenditure of \$144 20. I am informed that the actual cost of the assay office should be \$20,501; and I therefore propose to reduce this appropriation to \$20,000.

Mr. MORGAN. I oppose this amendment for one reason only. I have no doubt that it is right; I am not really opposed to it. But I know that, no matter what amendments are recommended by the Committee of the Whole on the state of the Union, or adopted by the House, the Senate will restore the items, and then we will have a committee of conference, and the bill will come back loaded with additional items of hundreds of thousands of dollars; and we will have no opportunity of voting on any one item. Every particle of it will be swallowed down without a why or a wherefore, and without any discussion whatever. I give notice, therefore, that I will oppose, and I hope others will oppose, all propositions for committees of conference.

The question was taken; and Mr. Grow's amendment was agreed to.

Mr. GROW. I move to amend by striking out "\$34,000," in line six hundred and fifty-eight, and inserting in lieu thereof "\$15,000," so as to make the clause read:

"For wages of workmen (at the New Orleans mint,) \$15,000."

I find that the daily expenditure at this mint is \$109 in addition to the incidental expenses of the office.

Mr. FLORENCE. I ask for tellers. I think that the committee is very unprofitably occupied in striking at workingmen.

Mr. WASHBURN, of Illinois. I desire the attention of the chairman of the Committee of Ways and Means one moment. I see by the estimates that the appropriation for the year ending June 30, 1860, is \$34,000, and that the amount for last year was only \$22,000. I would like an explanation of the increase.

Mr. PHELPS, of Missouri. There was an unexpended balance on hand last year.

Tellers were ordered; and Messrs. ELLIOTT and CHAFFEE were appointed.

The committee divided; and the tellers reported—ayes sixty-seven, noes not counted.

So the amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend, by striking out lines seven hundred and forty-eight and seven hundred and forty-nine, as follows:

"For special and other extraordinary expenses of California land claims, \$40,000."

I should like to have an explanation of that item.

Mr. PHELPS, of Missouri. At the last session of Congress an appropriation was made for the employment of special counsel to investigate questions of fraud in California concerning land titles. A distinguished gentleman from Pennsylvania was employed as special counsel in behalf of the United States, in cases pending in California where property of the United States was in jeopardy. Great service has been rendered, not only by him, but by the assistants employed by him, in securing the title of the United States against fraudulent grants. Such was the case of the Almaden quicksilver mines, where the title of the United States was brought in controversy. After a long and tedious trial, the court decided that the title did not belong to those who claimed it, but to the United States. Again, there is the celebrated Limantour case, and the Barron and Bolton case, the decision in which, if favorable to the claimants, would deprive the Government of the United States of the very land on which the Government buildings stand. I hold in my hand a letter from the Attorney General of the United States on the subject, which will, in brief, explain the matter.

The letter was read.

Mr. WASHBURNE, of Illinois. I think the amount proposed to be appropriated by this bill for this purpose is extraordinary. We appropriated last year the sum of \$40,000 for these extra legal expenses, and by a preceding appropriation in this bill we appropriate \$10,000 for such legal expenses as are necessary in disposing of the private land claims in California. Then you make here an appropriation of \$40,000, which, with the amount appropriated last year, will give an aggregate of \$80,000 for counsel's fees. I ask the chairman of the Committee of Ways and Means if there is not a regular legal officer there whose business it is to defend these claims of the Government?

[Here the hammer fell.]

Mr. PHELPS, of Missouri. I will reply to the question propounded by the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I wish to inquire if the reading of the letter of the Attorney General comes out of my time?

The CHAIRMAN. It was taken from the gentleman's time. The gentleman yielded to the gentleman from Missouri to have the letter read. It was an answer to a question propounded by the gentleman.

Mr. PHELPS, of Missouri. It will be recollected that, by the instructions of a preceding Administration, the cases pending before the commission on private land claims were transferred to the district court of the United States for California, and if they were decided against the United States, the right was given to appeal them to the Supreme Court of the United States. When the land commission closed its business in California, there had been a good many appeals made to the courts of the United States, and the cases still pending there were transferred. Under this head, also, the expenses of a confidential agent to Mexico are to be paid, to procure copies of documents needed for the defense of the Government, on file in the archives of the Mexican Government. This course was pursued in the Almaden case, in which a large amount of money was involved, and to sustain which the claimants had employed very able counsel. It was impossible for the district attorney to give that attention to it which a case of that magnitude required for the protection of the interests of the United States. Other cases of similar importance and magnitude will arise in California. Other cases are now pending there, and when these cases come to be appealed to the Supreme Court of the United States, and a record has to be made up in each, it will be impossible for one person to attend to it, and give his attention to the other business which devolves upon the Attorney General. It is impossible for him to perform his ordinary duties, if the defense of the Government in all these cases is also left for

him to attend to. In some of these cases the record will make several large volumes, requiring one man to give it his attention for several months in its preparation.

The investigation of these California land claims has disclosed the fact that immense forgeries had been perpetrated upon the Mexican Government. Papers have been produced purporting to have the stamp of the Mexican Government upon them, which upon examination proved to be fabricated, [Here the hammer fell.]

Mr. WASHBURNE, of Illinois. I modify my amendment, by reducing the amount from \$40,000, to \$20,000.

The CHAIRMAN. The gentleman cannot modify his amendment so as to entitle him to make another speech upon it.

Mr. STANTON. I move to amend the amendment by striking out "forty," and inserting "twenty." I understand that the gentleman from Illinois is acting upon the idea, that this is for counsel's fees. If that is so, it is unquestionably extravagant. But my understanding is, that the counsel who has charge of a class of cases in California, was compelled to incur expenses in hunting up evidence, paying clerk hire, and a thousand things that grew out of his position as disburser. His aggregate expenses amount to that sum; and I am willing to trust the Attorney General with that discretion.

Mr. SCOTT. The chairman of the Committee of Ways and Means has answered the gentleman from Illinois, and I think, fully and thoroughly. And I have now no disposition to go into a discussion of the matter. I feel no interest in it, except that justice may be done to parties who have certainly rendered this Government great service.

Mr. WASHBURNE, of Illinois. I wish to say that I understand that an appropriation was made last year of \$40,000, for services in regard to these California claims. Why this additional compensation is made for the next year, is what I desire information in regard to. I agree with a great deal of what the gentleman from Missouri has said. I know very well the transactions which have taken place in California, that Mr. Stanton, of Pittsburgh, was sent there, and discharged his duties with extraordinary ability and fidelity to the Government; and I desire that he shall be paid a liberal salary, because I believe that he has saved a great deal of money to the Government.

Mr. SCOTT. Mr. Chairman, I understand that these suits have been recovered by Mr. Stanton, of Pennsylvania; and that this appropriation contemplates paying him for the additional labor which may be consequently imposed upon him in following them through, and in attending to the other cases which may occur in California, and in which the Government of the United States is interested. As I have said already, the gentleman from Missouri has answered all of the objections of the gentleman from Illinois to this appropriation; but, sir, that gentleman made this inquiry: whether the United States did not have a district attorney at San Francisco, and whether he was not sufficient to the discharge of the duties incumbent upon him? whether he was not capable of meeting and defending all the suits which the Government may have in California? I will state to the gentleman from Illinois, in answer to that inquiry, that, in a conversation which I had with Mr. Stanton not more than five days ago, he told me that he had frequently consulted with the most distinguished lawyers in the Union, but that he never had met with a more distinguished one than Peter Delle Torre, the present United States district attorney at San Francisco; that he was distinguished for his legal ability and for his energy, and that the Government could not have a more faithful official to fill that position.

Mr. WASHBURNE, of Illinois. I did not call into question Mr. Torre's ability; I only inquired whether it was his duty to attend to these cases.

Mr. SCOTT. I thought that the gentleman insinuated that additional counsel had been called in because the district attorney was not qualified for his duties. He is overwhelmed with labor. No one but those who have been there have any conception of the duties which devolve upon the district attorney of California. In California we have a learned bar. It is composed of gentlemen

from all sections of the Union, who have gone there to seek their fortunes. So far as this Limantour, and other claims, are concerned, which involve millions and millions of dollars, you find the district attorney with the whole bar arrayed against him. It was deemed absolutely necessary that these means should be furnished, in order that the Government should properly compete with the overwhelming interests which may be arrayed against it.

The question was taken; and Mr. STANTON's amendment was rejected.

Mr. WASHBURNE, of Illinois, by unanimous consent, withdrew his amendment.

The Clerk read the following paragraph:

"For purchase of the property in the city of New York, now under the lease of the United States for courts; for defraying the expenses of the Supreme, circuit, and district courts of the United States, including the district of Columbia; also, for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred in the fiscal year ending June 30, 1880, and previous years; and, likewise, for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, \$1,000,000."

Mr. HOUSTON. I desire to know of the chairman of the Committee of Ways and Means what amount of this appropriation is intended for the purchase of property in New York, and what for the other expenses of the courts?

Mr. PHELPS, of Missouri. I will answer with pleasure the inquiry propounded by the gentleman from Alabama. The Secretary of the Interior submitted his estimate for \$1,000,000, as being necessary for the payment of the expenses of the courts during the ensuing fiscal year; but he subsequently informed me that there would be an unexpended balance, but of that he could not determine. He believed that, by close economy, if no extraordinary cases should arise in any of the judicial circuits of the United States, there might be a sufficient sum to enable him, out of this judiciary fund, to purchase the building which he has now leased for the use and occupancy of the United States courts in the city of New York. Under the act of Congress requiring the Secretary of the Treasury to procure buildings for the accommodation of the courts in the city of New York, he leased Burton's Theater buildings. I do not know how I can better explain this matter than by reading from his report. He says:

"But if, by the practice of proper economy, the expenses of the present year should not exceed those of the last, and it is hoped they will not, it is respectfully suggested that the Department be authorized to apply so much of the unexpended balance as may remain on hand at the close of the year, as may be necessary to the purchase of the building leased by it, in the city of New York, for court purposes. At present, we are paying for the use of this building \$16,000, per annum, with the privilege of buying it, within three years, for the sum of \$215,000."

"For many years the United States courts for the southern district of New York were held in the City Hall, belonging to the city of New York, and rooms procured in different parts of the city for the use of the judges, and other officers, at an aggregate annual rent of from twelve thousand six hundred to twenty-two thousand five hundred dollars. During the last year, the city authorities notified the Department that it must obtain other accommodations, and thereupon immediate steps were taken by it to that end. After the most careful examination of the various buildings offered for our use, that known as Burton's Theater, on Chambers street, was selected as the most eligible; and with the advice of the judges, district attorney, and marshal, it was leased for five years, with the privilege of retaining it ten years longer, if desired, at the rate already mentioned. Such changes have been made as were necessary to adapt the building to our purposes, involving an additional expense of about twenty-five thousand dollars, including cost of furniture."

The committee was informed that the annual expense for the rooms occupied by the United States courts in New York city, was from twelve thousand six hundred to twenty-two thousand five hundred dollars per annum. When the Government was forced to find a building for itself, a lease was taken of this building, known as Burton's Theater, at the annual rent of \$16,000, with the privilege of purchasing it at any time within three years, for the sum of \$215,000. We have already expended, in preparing that building for the use of the courts, a sum exceeding twenty thousand dollars. The question was presented whether it would be more economical for the United States to become a purchaser than to pay the annual rent. The lease extends for five years, subject to renewal for ten.

Mr. CLARK, of New York. How much land is proposed to be sold for this \$215,000?

Mr. PHELPS, of Missouri. I think it has

about seventy-five feet fronting on Chambers street, and extending back to Reade street. I have the impression that it is some one hundred and fifty feet in length, north and south.

Mr. CLARK, of New York. When does this lease expire?

Mr. PHELPS, of Missouri. In about four years from this time, with the privilege of purchasing within three years.

Mr. HOUSTON. I notice that this appropriation is in aid of the funds arising from fines, penalties, and forfeitures, incurred in the fiscal year ending in 1860, and previous years. If the gentleman has any information from which he can state to the House the amount of funds thus derived, I should like him to do so.

Mr. CLARK, of New York. And also why these fines, penalties, and forfeitures, are not paid into the Treasury? That is where they belong. The appropriation should not be in aid of such penalties, but for the specific purpose designed.

Mr. PHELPS, of Missouri. I would say, in reply to the inquiry of the gentleman from New York, that the law does not require these fines to be paid into the Treasury, but to be applied in aid of the appropriation for courts.

Mr. BRANCH. I propose to amend by reducing the amount appropriated in the item \$215,000. I understand from the chairman of the Committee of Ways and Means that it is proposed to purchase the building and lot at that price. It may be a very fair price for it, and it may be very judicious, under ordinary circumstances, for the Government to purchase instead of paying rent. But in the present condition of the Treasury, and while it is seriously contemplated to increase the taxes on the people, and when every effort is being made to reduce the expenditures of the Government, I think we might defer, for one or two years longer, the purchase of this property. It appears that the Government has a lease of it, and that at any time within the next three years it has the right to purchase it at the same price that it can be got for now. Under these circumstances, and with a view to postpone the payment of so much money out of the Treasury, I offer my amendment.

Mr. HOWARD. I am opposed to the amendment of the gentleman from North Carolina. I took occasion to examine the question to some extent, and I know that the statement made by the chairman of the Committee of Ways and Means is substantially correct. The Government has already expended \$25,000 in fitting up this building. It pays \$16,000 a year rent, and has the privilege of purchasing it at \$215,000, at any time within the next three years. From inquiries made when I was in New York, as well as from information received at the Department, I am satisfied that the property is really worth the money, and more too. Every consideration of economy requires that the Government should at some time purchase the property; for, if not purchased, the Government will continue to pay \$16,000 a year rent, and will ultimately lose the \$25,000 expended in fitting it up. If not purchased now, the Government will have to pay the year's rent, \$16,000; so that the question comes up in this shape: "Shall we pay \$215,000 now, or—adding in the rent—\$231,000 next year?" By buying it now, we will save this year's rent, and get the building, actually, at \$199,000.

Mr. BRANCH. Would not the interest on the \$199,000 be about equal to the rent; and would we gain anything by buying it now, when we have to borrow money at six per cent.?

Mr. HOWARD. The rent amounts to more than eight per cent. on \$199,000. Now, everybody knows that the Government can borrow money at half that rate of interest; and therefore, if we are to buy the property at all, we ought to buy it now. If we choose to abandon the idea of buying it at all, why, let it go. The Committee of Ways and Means care nothing about it, and only desire to present the matter to the House, and let the House act as it may please.

The question being on Mr. BRANCH's amendment,

Mr. HOWARD demanded tellers.

Tellers were ordered; and Messrs. Cox and MORGAN were appointed.

The Committee divided; and the tellers reported—ayes 81, noes 50.

So the amendment was agreed to.

Mr. GROW. To make the clause correspond with the amendment just adopted, I move to strike out lines seven hundred and fifty-six and seven hundred and fifty-seven, which read:

"For the purchase of the property in the city of New York, now under lease to the United States for courts."

Mr. HOUSTON. I am disposed to follow it up with the amendment to reduce the amount further. If the committee see fit to strike out these lines, I am perfectly willing.

Mr. GROW. This section embraces three or four different things, incongruous in their character and nature; and I cannot say that I am in favor of such incongruity in an appropriation bill. Aside from that, it is a question with me whether the Government is now in a condition to purchase property, whether it be buildings or ships. The executive officers of the Government lease them at enormous rents, and then come to Congress and say, "because they are leased so high it is better to buy them." The Secretary of the Navy has, in the same way, chartered a large number of vessels for the Paraguay expedition, with the privilege of buying them. I am opposed to this whole system of taking leases or charters, and making their terms an excuse for subsequently coming to Congress and asking appropriations for the purchase of the ships or buildings.

I throw out these hints to show my opposition to the general principle; and I desire now that the chairman of the Committee of Ways and Means may inform us about the items in this clause, so that we can vote for each by itself.

Mr. PHELPS, of Missouri. As the gentleman from Pennsylvania has intimated that the Secretary of the Interior had no authority either to purchase or lease this building, I desire to say that it was leased by express authority of law, giving the Secretary of the Interior the right either to purchase or to lease buildings for the United States courts in the city of New York.

Mr. GROW. The gentleman from Missouri did not understand the point I made. What I said was, that I did not think it was right that the officers of the Government should rent buildings at an extravagant rate, and then plead that as a reason why the Government ought to buy them.

Mr. PHELPS, of Missouri. Then I do not understand the gentleman from Pennsylvania to say, upon his own authority, that the rent paid by the Government is too great. If he will say it is too much, then there will be something tangible in his charge. But, sir, the rent paid for a building seventy-five feet front, occupying the position which this does in the city of New York, is a very moderate one. The lease of this building was recommended by the judges, by the marshal, by the clerk, and by the district attorney, and the sum paid for rent was stated to be moderate for such property in the city of New York. It was so stated by gentlemen understanding the value of property; and, with these facts before us, upon what authority does the gentleman from Pennsylvania charge that the Secretary of the Interior has made a lease of this property at an exorbitant rent?

Mr. GROW. I made no such charge. I said nothing about the rent as my own opinion. I said that such was the effect of the gentleman's argument.

Mr. PHELPS, of Missouri. Then I misunderstood the gentleman.

Mr. GROW. I said the argument was, that we must buy the property at an exorbitant rate; because it was cheaper to buy it than to rent it at the rent at which we are paying for it; and I said that was not a fair argument upon the part of the friends of the Administration.

Mr. PHELPS, of Missouri. Well, sir, I understand that it is a fact established by competent authority, that the rent paid is moderate; and the price at which the Government may purchase it, is also moderate.

Mr. JOHN COCHRANE. I rise to propose an amendment to the amendment. I propose to strike out the word "property," and to insert in lieu thereof the words "lot and building thereon."

Mr. Chairman, it is for the purpose of perfecting the amendment of the gentleman from Pennsylvania, [Mr. GROW] who proposes to strike out the whole appropriation for this purpose, that I move this amendment. I am in favor of retaining this clause as an entirety. It is true that it is incongruous as it now stands, with the pre-

ceding paragraph as amended, on motion of the gentleman from North Carolina, [Mr. BRANCH], and it is because of that incongruity that I desire to retain it, for the purpose of inducing the House to disagree to the amendment which has been made by the committee, striking the appropriation of \$250,000 for this purpose from the \$1,000,000 appropriated originally for the purposes named in the paragraph; and for this reason:

We have, for many years, in New York, been in want of a court-house and rooms in which to seat the judiciary of the United States; in which to transact the business of the suitors of the United States; in which to hold judicial courts pertaining to the people of the United States. The court has, in fact, been a court of *piepoudre*, shaking off the dust of its feet year after year, from building to building, from court-room to court-room, as it has been driven, under stress of removal, every May-day, from one room to another, to the disgrace of the judiciary and the reputation of the Government.

An opportunity was presented for leasing this building. A lease has been entered into, containing a provision by which the Government, within a certain period, may be permitted to purchase the property and create a "local habitation and a name," for the traveling courts of the United States, in the great city of New York. The lease was a profitable one; the bargain, if consummated, will be an economical one; the amount contemplated is \$250,000, and is adequate and reasonable for giving the people of the city of New York a place in which to hold the courts of the United States.

Now, that is the simple reason why this committee is asked to vote whether, under these circumstances, a lease having been entered into of this description with the power conferred to enter into a contract of an economical nature, approved by the officials of the United States in the city of New York, approved by the judiciary located in the city of New York, approved by the Secretary of the Interior located in the city of Washington—under these circumstances, it is for the House to say whether the contract thus entered into shall be consummated.

I hope the committee will retain this clause as it stands—retain it with the incongruity existing—in the hope that the House may restore the appropriation stricken out by the committee on the motion of the gentleman from North Carolina. I hope the amendment of the gentleman from Pennsylvania will not prevail.

Mr. BRANCH. I oppose the amendment of the gentleman from New York. The amendment of the gentleman from Pennsylvania is simply to conform to the amendment which the committee has already adopted. I imagine there can be no difficulty in the minds of the committee as to the propriety of striking out these two lines, if we were in earnest when we adopted the preceding amendment reducing the appropriation \$225,000. The question is not, as I take it, whether the Secretary of the Interior made a good bargain or a bad bargain for a court-room in the city of New York. The Secretary of the Interior leased the building for a certain rent, with the stipulation that the Government was at liberty to purchase the building at a certain price within three years. Now, whether that price be large or small is not the question. It is whether, when we are borrowing money to carry on the Government, and when we are urged by many to increase the taxes on the people, in order to provide for the expenses of the Government, this is the proper time to purchase that property, when we have the use of the property under an absolute lease, without paying out \$225,000 for it. It matters not to me whether the lease is more than the interest of the purchase-money or not. I would submit to a lease which would exceed the interest of the money required to purchase the building, rather than increase the taxes on the people. The great question, in point of fact, is simply as to what we lose by the lease in a single year; because we may purchase the building next year, as well as at the present time, on precisely the same terms.

Mr. JOHN COCHRANE, by unanimous consent, withdrew his amendment.

Mr. MORGAN. I renew the same amendment, for the purpose of saying that I hope this clause will be stricken from the bill. What is the condition of the city of New York? Here

you propose, when your courts in New York are the most important of any in the Union, when they have the greatest amount of business—

Mr. HOWARD. I rise to a question of order. The gentleman from New York [Mr. JOHN COCHRANE] offered an amendment, debated it, but was opposed. The amendment was withdrawn, and it is now proposed to offer it again. Is debate in order?

Mr. MORGAN. It was not acted on.

The CHAIRMAN. The Chair overrules the point of order. The amendment was not acted upon, but withdrawn.

Mr. MORGAN. Mr. Chairman, I have only a few words to say on this amendment. In New York city a large amount of your revenues is derived, and what, sir, is the accommodation proposed to be made for the United States court there? It is proposed now to purchase an old, rickety theater building, repair it, patch it up, and then put these courts in it. You are now already occupying an old church as a post office. I believe that it has a weather-cock upon it which always points south, and I think that we had better make a change and point it north. If the Committee of Ways and Means had done its duty, it would have provided for the construction of a respectable building, where the public records would have been safe, and not, as they will under the proposed arrangement, be exposed to fires. Burton's Theater may have been a good building for fun, but it is a poor one for the United States courts.

Mr. CLARK, of New York. I oppose the amendment of my colleague, that I may have an opportunity of saying a single word on the subject. I am not prepared to say whether the amount contracted to be paid by the Secretary of the Interior is too high, or whether the price of \$215,000, which is proposed to be paid for this land, is too high or not; but, sir, as I understand it, the United States have the privilege of determining that question at any time within three years. Mindful of the fact that the purchase of this land by the Government will withdraw \$215,000 from the taxable property of the city of New York, I prefer that that withdrawal should be postponed, because the city of New York needs money about as much as the Federal Government. If this \$215,000 can remain subject to taxation in the city of New York for two years, it will alleviate the burdens of our people; and for one, as a Representative of that city, I am willing that we should wait until another session before we make an effort which will result in the purchase. I am indifferent therefore whether the purchase is made now or at any other time.

Mr. MORGAN's amendment to the amendment was rejected.

Mr. STANTON. I move to strike out the whole paragraph.

Mr. Chairman, in this section are three items, or half a dozen. There are three general heads, amounting, in the aggregate, to \$1,000,000. No man knows, nor can any ascertain from the estimates, or from the bill, how much is to be appropriated for the purchase of property in New York, how much for the expenses of the Supreme Court of the United States, and how much for the payment of the expenses of jurors and witnesses. We have a right to know something about those things. As a matter of curiosity, I should like to know how much is spent for the expenses of jurors and witnesses in the courts of the United States. I would like to have the amount in a separate item. A large proportion of it is for the recapture and return of fugitive slaves, and for criminal prosecutions growing out of them. It was the duty of the Committee of Ways and Means to have separated these items. There should have been a separate item for the courthouse at New York, a separate item for the expenses of jurors and witnesses—yes, sir, as it is suggested to me, there ought to have been a separate item for the capture of fugitive slaves. Let us have them separated. I move to strike out the whole section, in order that these items may be brought in separately.

Mr. SICKLES. I am opposed to the amendment to the amendment. I profess to know something about the circumstances already alluded to by my colleague, and which render this action of the Secretary of the Interior necessary. The accommodations for the United States courts in the city of New York, for the last five or six years,

have been unworthy of the Federal judiciary. They have been most inconvenient to the members of the bar having occasion to practice in those courts. Indeed, they have been matter of surprise, if not of scandal, to the administration of the Government at the city of New York. I think that my friend and colleague will admit the fact, that there is an actual necessity for some permanent location to be provided.

Mr. CLARK, of New York. No doubt about it.

Mr. SICKLES. I think that my colleague will also agree that no more eligible and appropriate location could have been chosen than the one in question, which is immediately opposite and adjacent to the City Hall.

Mr. CLARK, of New York. I think so; but my colleague will remember that that land now pays a tax to New York of nearly \$4,000 a year, and that we cannot spare that money.

Mr. SICKLES. I will hasten to that point, which is the new one presented by my colleague. If this body were the Common Council of New York legislating exclusively with an eye to the tax payers of that city—if the city of New York were only fortunate enough to have so economical a body as this to legislate for it, that might be a proper argument.

Mr. CLARK, of New York. I wish it had. [Laughter.]

Mr. SICKLES. Then my colleague, who I believe is a tax payer, would be more carefully guarded than I fear he is now. I appreciate his sensibility on that point. At the same time, I would be willing to take his estate and accept all the annoyances he suffers from the taxes. [Laughter.] At present I am annoyed with neither. [Renewed laughter.] I do not know which embarrasses him most, the magnitude of his estate or the dimensions of his taxes; but I presume that any one here would be willing to take both and relieve him. But really his argument is one that can hardly weigh much with the House—that to pay this \$215,000, would relieve that much property in New York from taxation. The taxable property of New York city amounts to many hundred millions, and this item would be but a feather in the balance.

A word now in regard to the price. I think my colleague will also agree that the price is a reasonable one—much less than the same property could be purchased for three years ago, when very high prices ruled in that neighborhood.

Mr. CLARK, of New York. As the property is in my colleague's district, he can probably answer that better than I can.

Mr. SICKLES. I do profess to know something of its value, because I took some pains to urge on the Department the necessity of procuring that location.

Mr. CLARK, of New York. Can my colleague state to the House any circumstance rendering it necessary that the Government should, at this moment, embrace the privilege which it has secured to itself of purchasing this property?

Mr. SICKLES. I can; and that is the point which I was about to touch upon, and is the only additional one to which I propose to allude. It is this: the Department of the Interior, with regard to the judiciary fund, has been so admirably managed, and the expenditures to which my friend from Ohio [Mr. STANTON] has alluded, (with regard, I suppose, to the fugitive slave act,) have been so very limited for the last year, that an amount has been saved out of this judiciary fund sufficient to purchase the site. Now, if we make this excellent use of that balance which remains to our credit in the judiciary fund, we will secure this site. If we do not appropriate it in this way, there is no telling what use may be made of it in some other direction.

Mr. STANTON withdrew his amendment.

Mr. LOVEJOY. I desire to offer an amendment.

Mr. GROW. I rise to a point of order, so that there may be no misunderstanding when we come to vote. My point is, that any amendment to strike out any portion of the bill below the lines which I propose to strike out, is not an amendment to mine.

The CHAIRMAN. If such an amendment be offered, the amendment of the gentleman from Pennsylvania will be first in order.

Mr. LOVEJOY. I move to amend the clause

by striking out the words, "and for the safe-keeping of prisoners." I understand that that means for the safe-keeping of fugitive slaves.

Mr. JOHN COCHRANE. Oh, no; there are none in New York.

Mr. LOVEJOY. This being my understanding, I move to strike out those words. I will not dwell now on the moral considerations pertinent to this matter. I do not believe that the Constitution confers on this House the power of taxing me and taxing my constituents, to feed and clothe and keep these fugitive slaves till their trial comes on. If there is anything in the Constitution about it, it is that they are simply allowed to be taken and carried back. And, sir, it is a thing so utterly odious to the people of the free States, so utterly degrading, and so abhorrent to the feelings of humanity, North and South, that I go for adhering to the letter of the bond, giving nothing more than the pound of flesh. That is all we can give; and we give that reluctantly. If, therefore, I do not misapprehend the meaning of this clause, I trust that it will be stricken out.

Mr. SINGLETON. The gentleman talks about giving "the pound of flesh." I would be very happy indeed, if the gentleman would return the negro whom he helped to steal away from one of my late constituents.

Mr. LOVEJOY. I thank the gentleman for calling the attention of the committee to that matter. I never stole away any of the gentleman's negroes—he never rightfully owned a negro. Every human being that God made belongs to himself against the universe. And, sir, if this committee wish to know—as my attention has been several times called to this, and as scurrilous letters have been read here—whether I help fugitive slaves, I march right up to the confessional and tell them that I do. There is no human being, black or white, that ever comes to my door and asks for food when hungry, or shelter when houseless, but receives it; and if the invisible spirit of slavery expects to cross my humble threshold and forbid me to feed the hungry or shelter the houseless, I bid that demon defiance in the name of my God.

Mr. SINGLETON. I would like the gentleman to define what he calls "stealing," if that be not stealing.

Mr. LOVEJOY. Stealing is to take a man and keep him a slave. "He that stealeth a man and selleth him, or if he be found in his hands, he shall surely be put to death."

Mr. JOHN COCHRANE. I desire to say to my friend from Illinois that his argument has evidently wandered from its point of departure. When he proposed to strike out the clause for the safe-keeping of prisoners, he evidently did not intend to deliver us a homily on slavery or freedom. I am exceedingly obliged to him for the many intended truths with which he has greeted us, and for the much interest, and, indeed, excitement, which he has manifested. We are all, undoubtedly, beholden to him for the occasion which has given to him and to us the opportunity, the one of speaking and the other listening. But there is one point to which I would direct his attention. I would advise him to guard against what he seems to fear, by inserting before the word "prisoners" the word "free." [Laughter.]

Mr. PHELPS, of Missouri. The gentleman from Illinois cannot be sincere in moving that amendment. If it should prevail it would turn loose every man arrested as a criminal against any of the laws of the land. It would turn loose every man guilty of murder, in the District of Columbia; and so in reference to every crime upon your statute-book—forgers, counterfeiters of your public coin and public securities; in fact, the gentleman's amendment would make him a general jail deliverer of all the criminals of the land.

Mr. JOHN COCHRANE. I desire to volunteer an amendment to the amendment of the gentleman from Illinois, in reference to the safe-keeping of prisoners; and before the question is taken upon his proposition to strike out, I must insist on perfecting the clause. In order to relieve the mind of the gentleman from Illinois, and to perfect the clause so as to remove all doubt about its being intended to provide for fugitive slaves, I propose to insert between the words "of" and "prisoners," the word "free," so as to make the clause read: "and for the safe-keeping of free prisoners." [Great laughter.]

The question being first on Mr. Grow's amendment,

Mr. JOHN COCHRANE called for tellers. Tellers were ordered; and Messrs. SCALES, and STEWART of Pennsylvania, were appointed.

The committee divided; and the tellers reported—ayes 65, noes 38.

So the amendment was agreed to.

Mr. JOHN COCHRANE, by unanimous consent, withdrew his amendment.

Mr. LOVEJOY's amendment was not agreed to.

Mr. STANTON. I move to strike out from line seven hundred and seventy-six to line seven hundred and seventy-nine, as follows:

"For additional salaries of the treasurer of the Mint at Philadelphia of \$1,000, and of the treasurer of the branch mint at New Orleans of \$500, \$1,500."

I make this motion for the purpose of inquiring of the chairman of the Committee of Ways and Means whether there is any law authorizing an increase of salary of the officers of the Mint? Is there any law under which this appropriation is proposed to be made?

Mr. PHELPS, of Missouri. Most assuredly there is. The law of 1846 provides that the treasurers of the Mint at Philadelphia and at New Orleans, shall perform the duties of assistant treasurer, and shall receive an additional compensation therefor.

Mr. STANTON. Then I desire to inquire whether, since that time, under any law, they have received this additional compensation?

Mr. PHELPS, of Missouri. The law of 1846 provides that they shall perform those additional services, and shall receive an increased compensation therefor. The amount provided for as additional compensation has been, I believe, appropriated every year since.

Mr. STANTON. I withdraw my amendment.

Mr. WASHBURN, of Illinois. I move to strike out lines seven hundred and eighty-five and seven hundred and eighty-six, as follows:

"For salary of additional clerk in office of assistant treasurer at Boston, \$1,200."

I make the motion for the purpose of inquiring of the chairman of the Committee of Ways and Means, if there is any law authorizing the employment of this additional clerk?

Mr. PHELPS, of Missouri. There is a law providing for it.

Mr. WASHBURN, of Illinois. It seems to me that this is the wrong time to establish new offices.

Mr. PHELPS, of Missouri. By the law of 1854, the assistant treasurer at Boston was given an additional clerk, at a salary of \$1,200 per annum.

Mr. WASHBURN, of Illinois. I withdraw the amendment.

Mr. CLARK, of New York. I move to strike out from line eight hundred to eight hundred and five inclusive, as follows:

"For salaries of nine supervisors, and fifty inspectors, appointed under act 13th August, 1852, for the better protection of the lives of passengers by steamboats, with traveling and other expenses incurred by them, \$80,000."

Will the chairman of the Committee of Ways and Means inform me whether the act of 1852 provides for the creation of these fifty-nine officers, or whether there is a discretionary power with the heads of the Departments to enlarge the number?

Mr. PHELPS, of Missouri. It cannot be enlarged, as I am informed.

Mr. CLARK, of New York. I withdraw the amendment.

Mr. KUNKEL, of Maryland. I move to strike out the following clause:

"For compensation, in part, for the messenger in charge of the main furnace in the Capitol, \$423."

And to insert in lieu thereof the following:

For compensation of the messenger to the Commissioner of Public Buildings, and for his services in attending to the main furnace in the Capitol, which shall be in lieu of all other compensation, \$1,000.

Mr. Chairman, it is proper that I should explain my amendment to the committee. The office of messenger to attend to the furnaces in the main building of the Capitol, was established by act of Congress of the 21st of August, 1852. The purpose was to keep constant fires in the Rotunda that the pictures in the gallery there should not be damaged by dampness. He was allowed three

dollars per day. Four hundred and twenty dollars of that salary is paid by the Commissioner of Public Buildings, and the balance is paid out of the contingent fund of the two Houses. By the law he receives \$1,050 as compensation, but besides that he gets whatever extra compensation is allowed to its employees by either House of Congress, and his salary is thus run up to fourteen or fifteen hundred dollars a year. My amendment is intended to carry out the spirit of the law; and I believe that a salary of \$1,000 is enough. The amendment is acceptable to the Commissioner of Public Buildings, and is a suitable compensation for the services rendered.

The amendment was agreed to.

Mr. SINGLETON. I move to strike out the appropriation for the auxiliary guard.

Mr. Chairman, I propose this amendment to say a word to the gentleman from Illinois, [Mr. LOVEJOY,] who, in a speech just made, acknowledged that he has participated in the crime of stealing a negro from one of my late constituents.

Mr. PHELPS, of Missouri. I rise to a question of order? The gentleman must confine himself to his amendment.

Mr. SINGLETON. I regard him as a disgraced man, one unfit to associate with honest men upon this floor; a disgrace to his constituents, to the country, and worthy of a place in the penitentiary.

["Cries of order!"]

I feel bound to say that much upon this point. So far as the holding of slaves is concerned, I have no doubt, if the gentleman's lineage was traced back, it would be found that his ancestors were of the very men who helped enslave those now held in bondage.

Mr. PHELPS, of Missouri. I call the gentleman to order.

Several MEMBERS on the Republican side. Let him go on.

Mr. SINGLETON. His ancestors were involved in the slave traffic, and when he undertakes to denounce slaveholders, he is heaping curses upon the heads of his own forefathers. In conclusion I repeat, sir, his proper place is in the penitentiary.

The CHAIRMAN. The gentleman is clearly out of order. He must confine himself to the pending amendment.

Mr. GIDDINGS. I think the gentleman is in perfect order. I hope he will be allowed to proceed.

Mr. SINGLETON. I now withdraw my amendment. I offered it only to afford me an opportunity of putting upon record my opinion of the member from Illinois.

Mr. HOWARD. Under the instructions of the Committee of Ways and Means, I move to add to the bill the following:

For deficiency in paper for the first session of the Thirty-Fifth Congress, \$38,579 13.

For deficiency in paper for the second session of the Thirty-Fifth Congress, \$78,849.

For deficiency in printing for the second session of the Thirty-Fifth Congress, \$62,250.

Mr. Chairman, I move that amendment under the direction of the Committee of Ways and Means; and I will briefly explain the necessity for it. The estimate for printing for the present fiscal year, embraced exactly the amount that was appropriated. The estimate for paper for this year was \$179,869, but the House at that moment had a spasm of economy, and struck off \$79,869; appropriating only \$100,000. It is indispensable that this money should be appropriated to pay the bills of this very session, and there was no way in which to get it but by moving the amendment to this bill, which I have done by direction of the Committee of Ways and Means.

Mr. MAYNARD. I rise to a question of order—

Mr. HOUSTON. Do I understand the gentleman from Michigan to say that one of these is a deficiency for the current year?

Mr. HOWARD. Two of them.

Mr. HOUSTON. I confess I do not understand how that can be. It seems to me that there has been less printing ordered during the present Congress than during any Congress for the past ten years; and if the estimates were granted—

Mr. HOWARD. They were not; and that is the reason why there is a deficiency.

Mr. HOUSTON. By what amount were the estimates reduced?

Mr. HOWARD. The estimates for the paper for the current fiscal year were reduced by over seventy-nine thousand dollars.

Mr. HOUSTON. And how much does the amendment propose to replace?

Mr. HOWARD. Precisely that sum.

Mr. HOUSTON. It is very strange that the deficiency now asked for happens to be the precise amount which the estimates were reduced. It brings up just such a case as we had here a few weeks since, in regard to an appropriation for services in Oregon. The House saw fit at the last session to reduce the estimate. And not only was the estimate reduced, but the printing itself was greatly reduced in amount. And yet, in the face of these facts, here now we have an estimate for deficiencies to the precise amount by which the House reduced the estimate last year. I do not understand this. It looks to me as if it was the purpose, on the part of the officers, to compel Congress to take their estimates in despite of our own judgment.

Mr. HOWARD. The estimates were made by the former Superintendent of Public Printing. The House saw fit to reduce them; and now, I hold in my hand a communication from the present Superintendent of Public Printing—an officer in whom Congress has great confidence, although some officials complain of him for his strict economy, and he says that this amount is absolutely required. He could not have been in collusion with those who made the estimates, for he was not in office at the time.

Mr. MAYNARD. I now make a question of order. This is a bill making an appropriation for the expenditures of the next fiscal year, and the amendment, as I understand, is for a deficiency in the appropriation of the current and last fiscal years. The amendment, therefore, is not germane to the bill under consideration.

The CHAIRMAN. The point of order is made too late.

Mr. MAYNARD. The committee has not acted on the amendment.

The CHAIRMAN. The amendment has been received and discussed on both sides.

Mr. MAYNARD. The Chair will recollect that the point of order was made, or the Chair was addressed for the purpose of having it made, as soon as the amendment was offered; and as the mover had explained its character, I trust, therefore, that the Chair will reconsider its decision, that the point of order was not made in season.

The question was taken on Mr. HOWARD's amendment; and it was agreed to.

Mr. PHELPS, of Missouri. I now move that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BARKSDALE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 71, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1860, and had directed him to report the same back to the House with several amendments.

Mr. PHELPS, of Missouri, demanded the previous question.

The previous question was seconded; and the main question ordered.

First amendment recommended by the Committee of the Whole on the state of the Union:

Strike out the following clauses of the bill:

"For Congressional Globe, and binding the same, \$49,333 32."

"For reporting proceedings, \$18,046."

Mr. CURRY called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 79; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Bonham, Bryan, Burnett, Chapman, Horace F. Clark, Clay, Cobb, John Cochrane, Colfax, Corning, Cox, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Dowdell, Edmundson, Foley, Garnett, Gartrell, Gilmer, Groesbeck, Harlan, Harris, Hatch, Hill, Hopkins, Houston, Jackson, Jewett, Owen Jones, Jacob M. Kunkel, McKibbin, McKim, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Miller, Milson, Moore, Morgan, Mott, Palmer, Parker, Pettit, Payton, Pike, Potter, Ruffin, Russell, Sandidge, Scales, Searling, Seward, Aaron Shaw, Henry M. Shaw,

John Sherman, Judson W. Sherman, Shorter, Singleton, William Smith, Stallworth, Stanton, Stephens, Stevenson, Talbot, George Taylor, Tompkins, Tripp, Underwood, Vallandigham, Vance, and Wortendyke—79.

YAYS—Messrs. Abbott, Adrain, Bennett, Bingham, Bliss, Bocock, Bowie, Branch, Brayton, Burlinton, Burlingame, Burns, Case, Caskie, Chaffee, John B. Clark, Clawson, Clark B. Cochrane, Covode, James Craig, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dimmick, Dodd, Durfee, Farnsworth, Florence, Foster, Gilman, Gooch, Goodwin, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Hickman, Hodges, Horton, Howard, Jenkins, George W. Jones, Keim, Kelsey, Knapp, Landy, Leach, Leidy, Leiter, Lovejoy, Montgomery, Morrill, Edward Joy Morris, Freeman H. Morse, Murray, Niblack, Nichols, Olin, John S. Phelps, William W. Phelps, Pottle, Purviance, Robbins, Royce, Spinner, James A. Stewart, Tappan, Thayer, Wade, Walbridge, Waldron, Ward, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—79.

The SPEAKER voted in the affirmative.

So the amendment was agreed to.

During the vote,

Mr. BARKSDALE stated that if he had been in the Hall when his name was called, he would have voted in the affirmative.

Mr. WHITELEY stated that if he had been in the Hall when his name was called, he would have voted in the negative.

Mr. COMINS made a similar statement.

Mr. CLARK, of New York. I move to reconsider the vote just taken.

Mr. BURNETT. I move to lay that motion on the table.

Mr. CLARK, of New York. I demand the yeas and nays. I shall still vote in the affirmative. The yeas and nays were ordered.

Mr. NICHOLS. I move that the House do now adjourn.

Mr. TRIPPE. How did the gentleman from New York [Mr. CLARK] vote?

The SPEAKER. He voted in the affirmative.

Mr. TRIPPE. The gentleman did not vote with the majority. There was no majority.

The SPEAKER. He voted with the prevailing side. That is the phraseology; and that is the interpretation of the rule.

Mr. NICHOLS withdrew his motion to adjourn.

The question was taken; and it was decided in the negative—yeas 77, nays 85; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bonham, Boyce, Bryan, Burnett, Ezra Clark, Horace F. Clark, Clay, Cobb, John Cochrane, Colfax, Corning, Cox, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Dowdell, Edmundson, Faulkner, Foley, Garnett, Gartrell, Gilmer, Groesbeck, Harlan, Hill, Hopkins, Houston, Jackson, Jewett, Owen Jones, McRae, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Miller, Milson, Moore, Morgan, Palmer, Parker, Pendleton, Pettit, Peyton, Pike, Powell, Ruffin, Russell, Sandridge, Searing, Seward, Henry M. Shaw, John Sherman, Shorter, Sickles, Singleton, William Smith, Stallworth, Stanton, Stephens, Stevenson, Talbot, George Taylor, Tompkins, Tripp, Underwood, Vallandigham, Vance, White, Wilson, and Wortendyke—77.

NAYS—Messrs. Abbott, Adrain, Bennett, Bingham, Blair, Bliss, Bocock, Bowie, Branch, Brayton, Burlinton, Burlingame, Burns, Case, Caskie, Chaffee, Chapman, John B. Clark, Clawson, Comins, Covode, Cragin, James Craig, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dimmick, Dodd, Durfee, Farnsworth, Florence, Foster, Giddings, Gilman, Gooch, Goodwin, Greenwood, Gregg, Grow, Haskin, Hatch, Hickman, Horton, Howard, Jenkins, George W. Jones, Keim, Kelsey, Knapp, Landy, Leach, Leidy, Lovejoy, Humphrey Marshall, Montgomery, Morrill, Edward Joy Morris, Freeman H. Morse, Murray, Nichols, Olin, John S. Phelps, William W. Phelps, P. ter, Pottle, Purviance, Robbins, Royce, Judson W. Sherman, Spinner, James A. Stewart, Tappan, Thayer, Wade, Walbridge, Waldron, Ward, Cadwalader C. Washburn, Elihu B. Washburne, and Whiteley—85.

So the House refused to lay the motion to reconsider upon the table.

During the call of the roll,

Mr. CASE stated that his colleague, Mr. KILGORE, had paired off with Mr. SAVAGE.

The question then recurred on the motion to reconsider.

Mr. HOPKINS demanded the yeas and nays.

Mr. PHELPS, of Missouri. I appeal to the gentleman from Virginia to withdraw that demand. We have already had the yeas and nays twice upon this question.

Mr. HOPKINS. I will withdraw the call. My only object was to see how often gentlemen here would change their votes.

Mr. CLAY called for tellers on the motion.

Tellers were ordered; and Messrs. CHAFFEE and CLAY were appointed.

The House divided; and the tellers reported—yeas 81, nays 54.

So the motion to reconsider was agreed to.

The question recurred on concurring in the recommendation of the Committee of the Whole on the state of the Union to strike out the clause of the bill.

Mr. NICHOLS. I ask the consent of the House to propose the same amendment here which I proposed in committee.

Objection was made.

Mr. BURNETT called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 76, nays 85; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bonham, Boyce, Bryan, Burnett, Ezra Clark, Horace F. Clark, Clay, Cobb, John Cochrane, Colfax, Corning, Cox, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Dowdell, Edmundson, Faulkner, Foley, Garnett, Gartrell, Gilmer, Groesbeck, Harlan, Hill, Hopkins, Houston, Jackson, Jewett, Owen Jones, McRae, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Miller, Milson, Moore, Morgan, Palmer, Parker, Pendleton, Pettit, Peyton, Powell, Ruffin, Russell, Sandridge, Seales, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, William Smith, Stanton, Stephens, Stevenson, Talbot, George Taylor, Tompkins, Tripp, Underwood, Vallandigham, Vance, Waldron, Wilson, and Wortendyke—76.

NAYS—Messrs. Abbott, Adrain, Bennett, Bingham, Bliss, Bocock, Bowie, Branch, Brayton, Burlinton, Burlingame, Burns, Case, Caskie, Chaffee, John B. Clark, Clawson, Clark B. Cochrane, Comins, Cragin, Curtis, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dimmick, Dodd, Durfee, Farnsworth, Florence, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Haskin, Hickman, Hodges, Horton, Howard, Jenkins, George W. Jones, Keim, Kelsey, Knapp, Landy, Leach, Leidy, Lovejoy, Humphrey Marshall, Montgomery, Morrill, Edward Joy Morris, Freeman H. Morse, Murray, Nichols, Olin, John S. Phelps, William W. Phelps, Phillips, Potter, Pottle, Purviance, Robbins, Royce, Spinner, James A. Stewart, Tappan, Thayer, Wade, Walbridge, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Whiteley—85.

So the amendment was not concurred in.

During the call of the roll,

Mr. POTTLE stated that his colleague, Mr. HOARD, was detained at his room in consequence of sickness.

Mr. PURVIANCE moved that the House adjourn.

The motion was agreed to—yeas 80, nays 54; and thereupon (at four o'clock and five minutes, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, February 9, 1859.

Prayer by Rev. C. H. STONESTREET.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information in relation to the expenses of the light-house establishment, the charges levied by other countries on American vessels for light duties, and what charge per ton should be levied on vessels to support the light-house establishment; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a return of the militia of the United States and of their arms, accouterments, and ammunition, for the year 1858; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of expenditures from the appropriation for contingencies of that Department, its offices, and bureaus, during the fiscal year ending the 30th of June, 1858; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. DOUGLAS presented a memorial of Benjamin Adams and others, soldiers of the war of 1812, residing in Ohio, praying for the passage of a law making provision for the indigent soldiers of that war; which was referred to the Committee on Military Affairs and the Militia.

Mr. PEARCE presented the memorial of sundry citizens of Anne Arundel county, Maryland, praying an increase of the pay of the officers of the Navy; which was referred to the Committee on Naval Affairs.

Mr. HALE. I have been intrusted by the president and secretary of the New Hampshire

Baptist State Convention, held at Exeter, in October last, to represent to Congress that they have understood that chaplains of different religious persuasions, in the Army and Navy, in the performance of their duties, are pressed by the officers to use the Episcopal form of service on board the ships and in the Army, which they represent as an encroachment upon the religious rights and liberties of other sects; and they pray Congress to enact such a law as may prevent such an abuse hereafter. The document which I present relates to the Army and Navy equally; but I ask that it be referred to the Committee on Naval Affairs.

Mr. DAVIS. In regard to that petition being referred to the Committee on Naval Affairs, I want to say merely to the committee and to the gentleman who presents the petition, that there is no such regulation as is there described in the Army; and on some inquiry I think he will find that there is no such regulation as is there described in the Navy.

Mr. HALE. If the Senator will bear with me a moment, the memorial does not say there is any such regulation, but that they are pressed by the officers to do it.

Mr. DAVIS. There is no such practice in the Army.

Mr. HALE. I am told there is in the Navy; and therefore it is appropriate to refer it to the Committee on Naval Affairs.

Mr. DAVIS. Very well.

It was so referred.

Mr. CHANDLER presented a memorial of citizens of Michigan, praying the enactment of a law to secure to clergymen of all denominations their constitutional right in respect to the office of chaplain in the public service, and protection in the enjoyment of their religious liberty while in the performance of the duties of their office; which was referred to the Committee on Naval Affairs.

He also reported a memorial of ship-owners, and others interested in the commerce and navigation of the lakes, praying the erection of a light-house at the east end of Drummond Island, in Lake Huron; which was referred to the Committee on Commerce.

Mr. WILSON presented a petition of citizens of Falmouth, Massachusetts, praying the establishment of a new station for the use of the light-house establishment at Wood's Hole; which was referred to the Committee on Commerce.

Mr. BRODERICK presented the petition of Henry Roy de la Rointrie, praying compensation for his services in exposing the fraudulent claims of José Y. Limantour to lands in San Francisco county, and adjacent islands of California; which was referred to the Committee on Claims.

Mr. KING presented the petition of citizens of New-York, praying the passage of a law to prevent further traffic in the public lands of the United States, and that they be laid off in farms or lots for the free and exclusive use of actual settlers; which was ordered to lie on the table.

NOTICE OF A BILL.

Mr. FITCH gave notice of his intention to ask leave to introduce a bill to provide for the construction of certain classes of public works.

BILLS INTRODUCED.

Mr. HOUSTON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 567) to repeal so much of the act of February 21, 1857, entitled "An act to divide the State of Texas into two judicial districts," as creates and establishes a district court of the United States for the eastern district of the State of Texas, and to incorporate the same with the western district of said State; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 568) to enable the owners of property fronting on Government piers, at Chicago, to use the same for commercial purposes, and keep the same in repair; which was read twice by its title, and referred to the Committee on Commerce.

MAIL ROUTES IN MINNESOTA.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of

establishing a mail route from Chatfield, in the county of Fillmore, by the way of High Forest, Madison, Geneva, and Freeborn, to Winnebago City, in the county of Faribault, in the State of Minnesota; and be also directed to inquire into the expediency of establishing a mail route from the city of Glencoe, in McLeod county, by the way of Camden, to Watertown, in the county of Carver, in the same State.

DISTRICT BUSINESS.

Mr. BRIGHT. I submit the following resolution; and ask for its present consideration:

Resolved, That Saturday of the present week be set apart for the consideration of the following business relating to the District of Columbia:

S. No. 558. A bill to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown, for the supply of said water for all governmental purposes, and for the uses and benefit of the inhabitants of the said cities;

S. No. 319. A bill to enlarge the public grounds surrounding the Capitol; and

S. J. R. No. 73. A joint resolution for procuring furniture for the north wing of the Capitol.

I will state for the information of the Senate that I have been struggling for the last eight or ten days to take up for consideration bills which I think it is important should be acted upon. The bill S. No. 558 is a bill to provide for the care and preservation of the works constructed by the United States for bringing the Potomac water into the cities of Washington and Georgetown. The other is a joint resolution for procuring furniture for the north wing of the Capitol; and the other is a bill to enlarge the grounds surrounding the Capitol.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution to day.

Mr. SLIDELL. I object.

Mr. BRIGHT. Then I shall call it up to-morrow morning. I am unwilling to contend against the chairman of the Committee on Finance every morning for priority of business, and I select this as a better mode of considering the question whether the Senate will act on these bills or not.

DRY-DOCK AT MARE ISLAND.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy transmit to the Senate a copy of the lease of the dry-dock at Mare Island, made on the 4th of August, A. D. 1853; also a statement showing the date of the reception of said dock by the United States, and the time when the lease was terminated by notice from the Department, together with a copy of the same, and all papers relating to the surrender of said dock; and also, that the Secretary of the Navy ascertain and report to the Senate whether the lessees are entitled to compensation for their losses in the premises, and if so, what amount, if any, in his opinion, under all circumstances of the case, the said lessees are justly and equitably entitled to.

REPORTS FROM COMMITTEES.

Mr. ALLEN, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 863) for the relief of Lucy A. Wakefield, widow of Benjamin Wakefield, reported it without amendment.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 831) to authorize the holding of circuit and district courts of the United States at the city of Peoria, Illinois, reported it without amendment, and adversely.

He also, from the same committee, to whom were referred a memorial of members of the bar of Knox county, a memorial of members of the bar of Marshall county, a memorial of members of the bar of Woodford county, in Illinois, and a memorial of members of the bar at Peoria, Illinois, severally praying that certain counties in that State may be attached to the southern judicial district thereof, and that provision may be made for holding the terms of the circuit and district courts of the United States at Peoria, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 527) to detach certain counties from the northern judicial district in the State of Illinois, and to annex them to the southern judicial district of said State, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 789) to compensate the State of New Jersey for the use of court-rooms for the United States court in the State-

House at Trenton, in said State, reported it with an amendment.

He also, from the same committee, to whom was referred the memorial of Pryor & Heiss, proprietors of the States, praying that steps be taken to enforce the provisions of the act of 3d March, 1845, in relation to the publication of proposals for contracts, asked to be discharged from its further consideration, and that it be referred to the Committee on Printing; which was agreed to.

Mr. KING, from the Committee on Pensions, to whom was recommended the memorial of James Monroe, praying to be allowed arrears of pension, asked to be discharged from its further consideration, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

Mr. HAMMOND, from the Committee on Finance, to whom was referred the memorial of Kunhardt & Co., and Gelpcke, Keutgen & Riechelt, agents of steamship lines between New York and certain ports in Europe, praying a modification of the laws relating to exportations for the benefit of drawback, submitted an adverse report; which was agreed to, and ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 562) for the relief of Anne E. Bronaugh, widow of the late John W. Bronaugh, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. BELL, from the Committee on Naval Affairs, to whom were referred the amendments of the Senate to the bill (H. R. No. 218) for the benefit of the captors of the British brig *Caledonia* in the war of 1812, disagreed to by the House, reported that the Senate insist upon the amendments to the said bill; which was agreed to.

Mr. BENJAMIN, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 443) for the relief of William F. Wagner, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 515) to amend the judiciary act in relation to service of process in certain cases, reported it with an amendment.

Mr. BRIGHT. The Committee on Public Buildings and Grounds, to whom was referred the resolution of the Senate of January 21, instructing said committee to inquire into the "practicability and propriety of reconstructing and remodeling the interior of the northern portion of the Capitol extension," &c., have directed me to report that legislation upon the same at this time is inexpedient, and ask to be discharged from the further consideration of the subject.

Mr. HALE. I object to the consideration of that report now.

Mr. BRIGHT. Let it lie over, then.

The PRESIDENT *pro tempore*. It will go over under the rule.

Mr. FITCH. The Committee on Printing, to whom was referred the report of the Secretary of the Navy, communicating the report of the officers appointed by him to make examinations into the iron, coal, and timber, of the Deep river country, in North Carolina, having once reported adversely to the printing of the same, because it appeared, from the letter of the Secretary of the Navy accompanying it, that no legislation is contemplated, find now, accompanying the papers, a letter from a member of the House Committee on Military Affairs, stating that the information is necessary for that committee, and therefore direct me to report in favor of printing the usual number.

The report was concurred in.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, copies of the correspondence and other papers relating to the naval depot at Blythe Island, Georgia, reported in favor of printing the letter of the Secretary of the Navy, of January 29, 1859, without the accompanying documents; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the message from the President of the United States, transmitting a report of the Secretary of State, in compliance with a resolution of the Senate of the 4th ultimo,

requesting the President to communicate, if in his opinion it be not incompatible with the public interests, any correspondence with the Government of Peru, or its agents, on the subject of trade in guano; and all information which may tend to explain the manner in which said trade is regulated; and whether such regulations have not the effect unduly to enhance the price of guano to the consumer, or to deprive vessels navigating under the flag of the United States of the fair and equal competition with those of other nations, guaranteed by the treaty with Peru, of the 19th of July, 1852; and, if so, whether any, and what, regulation is expedient to counteract the effect of such regulations, reported in favor of printing the usual number; and the report was agreed to.

RAILWAY ON PENNSYLVANIA AVENUE.

Mr. BAYARD. I desire to move a reconsideration of the vote taken yesterday, by which the avenue railroad bill was rejected. If it is the pleasure of the Senate, they may take the vote now. I do not desire to discuss it. I would rather the bill should pass in some shape than not at all.

The PRESIDENT *pro tempore*. The motion will be entered.

LEASE OF A COURT-HOUSE.

Mr. HAMMOND asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 77) authorizing the marshal of the district of South Carolina to rent a certain building; which was read twice by its title.

Mr. HAMMOND. That resolution has received the approbation of the chairman of the Committee on the Judiciary, and I presume there will be no objection to it. I ask that it be considered and passed at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which directs the Secretary of the Interior to instruct the United States marshal for the district of South Carolina to lease the building in which the circuit court now holds its sessions for the term of five years.

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed the following acts and resolutions:

A bill for the relief of the heirs and legal representatives of Olivier Landry, of Louisiana;

A bill for the relief of Henry Hubbard;

A bill for the relief of Mrs. Ambroise Brou, of the parish of St. Charles, State of Louisiana;

A bill to authorize the Attorney General to represent the United States in the proceedings in equity now pending in the Supreme Court between the Commonwealth of Massachusetts and the State of Rhode Island and Providence Plantations;

A resolution for the payment of an unexpended balance to the State of Georgia on account of militia services;

A bill for the relief of C. Edward Habicht, administrator of J. W. P. Lewis;

A bill to provide for the payment of the claims of the State of Maine for expenses incurred by that State in organizing a regiment of volunteers for the Mexican war; and

A resolution for changing the plan of the custom-house at Galveston, in the State of Texas.

And, on the 8th instant, an act granting the right of way over, and depot grounds on, the military reserve at Fort Gratiot, in the State of Michigan, for military purposes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 868) granting a pension to Robert Purchase, a soldier of the revolutionary war.

CANADIAN RECIPROCITY.

Mr. KING. I ask the Senate to consider a resolution which I submitted on the 27th of January, and which was laid over, under the rule; to which, I think, there will be no objection. It is a resolution relating to the reciprocity treaty.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Committee on Finance be instructed, when considering the revision of the tariff, or any revenue bill during the present session, to inquire whether the increased duties lately levied by the British Government for the Canadas upon all articles not enumerated in the schedule of free articles in the treaty between the United States and Great Britain, signed at Washington, on the 5th day of June, 1854, known as the reciprocity treaty with the British Provinces, onerous upon all such articles exported from the United States to Canada, and on many articles amounting to prohibition, are not inconsistent with the spirit and the principles upon which the said treaty was entered into by the high contracting Powers; whether any, and what, countervailing duties or regulations will be proper as a remedial measure; and whether notice to terminate the treaty on the earliest day authorized by its stipulations ought not to be given.

The resolution was adopted.

LAND DISTRICT IN MINNESOTA.

Mr. SHIELDS. I ask the consent of the Senate to call up the bill S. No. 333. It relates to a local matter in Minnesota; and if it is not passed soon, it will not be acted on in the other House this session. It has the approval of the Department and of the committee, and will cause no discussion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 333) for establishing an additional land district in the State of Minnesota.

It proposes to enact, that all that portion of the public lands in the State of Minnesota lying between the northern boundary of the State of Iowa and the line which divides townships one hundred and six and one hundred and seven, north of the fifth principal meridian, and west of the range line dividing ranges twenty-one and twenty-two, shall constitute a new land district, to be called the Blue Earth district; and it will authorize the President of the United States to appoint, by and with the advice and consent of the Senate, a register and receiver of the public moneys for the new district, who shall respectively be required to reside at the site of their offices, and who shall have the same powers, perform the same duties, and be entitled to the same compensation, as are, or may be, prescribed by law in relation to other land officers of the United States. The President is also to be authorized to cause the public lands in the district, with the exception of such as have been, or may be, reserved for other purposes, to be exposed to sale, in the same manner, and upon the same terms and conditions, as the other public lands of the United States; and the President is to be authorized to designate the location of the offices for the new district, and to change the same whenever, in his opinion, the public good shall seem to require it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LIGHT-HOUSE BILL.

Mr. HAMLIN. I ask the Senate to take up the bill from the House of Representatives, making appropriations for light-houses, buoys, &c., which was reported from the Committee on Commerce at the last session.

Mr. FITCH. I must insist on making reports. The PRESIDENT *pro tempore*. Reports are in order under the rule.

Mr. HAMLIN. I wish to say that I do not ask for the consideration of the bill now, and do not want to interrupt other public business; but I shall be very glad if the Senate will take it up, and indulge me by fixing some hour in the morning when it can be disposed of; say to-morrow at half past twelve o'clock.

Mr. SLIDELL. I object to making any special order.

Mr. FITCH. I wish to make some reports.

Mr. HAMLIN. I do not understand that it is in the power of the gentleman to object to my submitting a motion.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Maine that petitions and reports are first in order under the rules, and, if insisted on, the Chair must first receive them. The Chair understood the Senator from Indiana to insist on his right to make a report under that rule.

Mr. FITCH. The Senator from Louisiana made the objection. I was not disposed to object to the motion being made.

Mr. BAYARD. I desire to give notice to the Senate that I shall call up the report of the Committee on the Judiciary, in relation to the memorial of the Legislature of Indiana, to-morrow, to be disposed of. I presume it is a privileged matter. I mention this in order that there may be no special order made that will call on my courtesy to abandon it; for I shall certainly call it up to-morrow. It is proper that it should be disposed of.

The PRESIDENT *pro tempore*. The Senator from Maine moves to take up the bill (H. R. No. 550) making appropriations for light-houses, life-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. HAMLIN. Now I want to postpone it to some time which will be convenient to the Senate, and which will not interfere with other public measures. The Senator from Delaware says that he will to-morrow call up the question relating to the Indiana Senators. That is a question of privilege, and it would override any special order. I, therefore, certainly do not wish to fix to-morrow for the consideration of this bill, because the Senator's motion would be in order in preference to mine. I will therefore suggest Monday next, at half past twelve o'clock.

Mr. CLAY. I suggest to the Senator to say Saturday. This is a small bill, and we can pass it without difficulty in less than half an hour.

Mr. HAMLIN. Has not Saturday been assigned for District business?

Mr. CLAY. No, sir.

Mr. HAMLIN. I would agree to the day suggested by the Senator from Alabama with great pleasure, but I am afraid the District committee will crowd us out. I would rather have Monday. ["Oh, no."] Well, I will say Saturday at half past twelve o'clock; and that will not interfere with District business.

The motion was agreed to; and the bill was postponed to, and made the special order for, Saturday next, at half past twelve o'clock.

DAILY HOUR OF MEETING.

Mr. FITCH. I wish to call up two resolutions offered by myself yesterday from the Printing Committee, on the subject of the mechanical report of the Patent Office. I would thank the Secretary to read them.

Mr. BENJAMIN. I ask my friend from Indiana to allow them to lie over a moment, and let me call up a resolution which I offered yesterday, to fix the hour of meeting at eleven o'clock. By adopting that resolution, we can get through some more business in the few days left of the session.

Mr. FITCH. I have no objection. I do not know that there is any very great haste in this matter of printing the mechanical portion of the Patent Office report, but we must have action on the subject soon, or we shall have no report; I care not which.

The PRESIDENT *pro tempore*. The Senator from Louisiana moves to take up the following resolution:

Resolved, That hereafter the Senate meet daily at eleven o'clock, a. m.

The motion to take up was agreed to, and the Senate proceeded to consider the resolution.

The PRESIDENT *pro tempore*. The Chair would suggest to the Senator from Louisiana to insert the words "during the residue of the present session."

Mr. BENJAMIN. I have no objection to that; I accept the modification.

Mr. DAVIS. It will be impossible for me to perform the duties devolved on me as one member of the body, out of the Senate Chamber, if we meet at eleven o'clock. In addition to the ordinary duties of committees, (and they were not light,) the Senate have very recently imposed on me an investigation in regard to a matter which occurred in California. It will be quite impossible to continue that investigation, or indeed to discharge the ordinary committee duties devolved on me, if we meet at eleven o'clock.

Mr. BENJAMIN. I do not desire to discuss this matter, but merely to call the attention of the Senate to the fact that there remain to us but eighteen or twenty days now for the entire busi-

ness of the session. Hardly anything has yet been done. There are, no doubt, some of us who will be forced to be absent for a portion of the morning in our committee-rooms; but this is no unusual occurrence, even when the Senate meets at twelve o'clock. Although I would be very much gratified to have the Senator from Mississippi present always, I think each of us in turn will have to be absent during the course of the session to get through with committee business; but the Senate ought to be sitting now from eleven o'clock in the morning, in order to have a prospect of avoiding an extra session.

Mr. BAYARD. I move to amend the resolution by striking out the word "hereafter," and inserting "on and after Monday next."

Mr. BENJAMIN. I will not resist that modification.

Mr. HALE. I can only say, in addition to what has been said by the Senator from Mississippi, that it is utterly impossible, for gentlemen who are on committees that have anything to do, to devote any time in committee without neglecting their duties here in the Senate. The Committee on the Post Office and Post Roads have meetings now two or three times a week; but if this resolution be adopted we shall have no time at all. I think, if we can at all (I should be very willing to take my part) adopt a sort of self-denying ordinance, and restrain our disposition to talk in the Senate—I say we, for I am ready to take my part of it—we can get through a great deal better by coming here at twelve o'clock, and voting and doing business, rather than coming here at eleven o'clock.

The PRESIDENT *pro tempore*. The resolution, as modified, will be read.

The Secretary read it, as follows:

Resolved, That on and after Monday next, for the residue of the present session, the Senate meet daily at eleven o'clock, a. m.

The resolution was agreed to; there being, on a division—ayes 43, noes 14.

THE TARIFF.

The hour having arrived for the consideration of the special order, the Senate resumed the consideration of the following resolution, submitted by Mr. BIGLER on the 31st of January:

Resolved, As the opinion of the Senate, that the creation of a large public debt in time of peace is inconsistent with the true policy of the United States; and as the present revenues are insufficient to meet the unavoidable expenses of the Government, Congress should proceed, without delay, to so adjust the revenue laws as not only to meet the deficit in the current expenses, but to pay off the present debt so far as it may be liable to immediate cancellation.

Mr. TOOMBS. Mr. President, the resolution just read at your table seemingly asserts a truism; though it is only seemingly, for there is not a single sound principle asserted in it in its broadest terms. The first branch of the resolution declares that "the creation of a large public debt in time of peace is inconsistent with the true policy of the United States." Large and small are relative terms. If that portion of the resolution intends simply to say that it is a wise policy to meet the ordinary expenses of every Government by its ordinary revenue, it receives my hearty assent; but the converse of the proposition equally meets my assent—that extraordinary expenses, or even ordinary expenses, which cannot be raised by the ordinary revenue on account of transient causes, should be met by extraordinary means.

It will be conceded, I take it, even by the Senator from Pennsylvania himself, that it would be unwise to change a revenue system, especially when that system was based upon duties on imports, and yet more especially when those duties on imports were levied upon the principle of *ad valorem*, because there was a casual or accidental deficiency in the revenue to meet the ordinary expenses, unless it could be shown that the causes which produced the reduction were of that permanent and enduring nature that were likely to produce for a considerable time a deficiency between the expenditures and the revenue. With that qualification, I accept it; but the Senator's resolution asserts it without any qualification at all, and therefore asserts it erroneously. It is exceedingly wise to meet extraordinary circumstances by extraordinary means; and it is very unwise to raise the revenue, no matter how levied, to meet temporary deficiencies. This becomes very important under our system. Our taxes are

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mainly raised by customs; they are raised upon the principle of *ad valorem*; they are affected by the quantity of consumption and the price of the article consumed; and therefore everything that affects consumption, or affects the price abroad, necessarily diminishes the revenue or increases it. Hence, I say, you might be compelled to vote a tariff as you do an annual appropriation bill, assuming the principle laid down by the Senator from Pennsylvania to be a correct one; but I deny the truth of it.

The second branch of the resolution, which is the important one, asserts "that the present revenues are insufficient to meet the unavoidable expenses of the Government;" and that, therefore, "Congress should proceed, without delay, to so readjust the revenue laws, as not only to meet the deficit in the current expenses, but to pay off the present debt so far as it may be liable to immediate cancellation." The honorable Senator from Pennsylvania does not say that these expenses are necessary; he does not say that the present basis of expenditure is proper; he does not say that it is wise; he does not say that the public interests require it, but that it is "unavoidable;" that it cannot be avoided. He says that an expenditure of seventy, seventy-five, or eighty million dollars for the ordinary wants of this Government, is unavoidable. I take issue with him. I say such a rate of expenditure is neither necessary, nor proper, nor wise, and that it ought to be avoided; and I think I shall succeed in showing honorable gentlemen who may choose to follow me in the dry details which I shall present, that it is not only unavoidable, but that it ought to be avoided; that it is the duty of every Senator here to lop off many of these expenses. I intend further, in this discussion, to show that the tariff of 1857 will bring us all the revenue necessary for the proper and economical administration of this Government, and promises to do so for long years to come.

I believe the Senator from Pennsylvania has not enlightened us on any portion of the public expenditures. He seems to assume their unavoidability. He tells us what the estimates are, and he seems to consider that the estimates of the Departments based on law, and without law, are as fixed as the laws of the Medes and Persians, and that there is no power in the Legislature of this country to modify, limit, or restrain, or in any other mode control, the expenses of this Government. If that be a sound principle, the Senator is right. If it be an unsound principle, I will show him that there is no necessity, in the existing state of things in this country, for combining our expenditures at the present basis, and that the present tariff will produce ample revenue for properly carrying on this Government.

How shall we proceed to ascertain this fact? I propose to avail myself of the experience of the past, of the lights of the present, and of the shadows of the future. If we look to the expenditures of this Government for the five years preceding the 30th of June, 1857, we find that a revenue less than the estimates of the receipts for 1859-60, was ample; and those for the next fiscal year are the only estimates which need concern this Congress now; for no other deficiency can be supplied except by loan. We cannot supply a deficiency for the fiscal year ending June 30, 1859; nobody proposes that; and, besides, the Secretary of the Treasury reports to us that there will be, at the end of this fiscal year, an actual surplus of \$7,000,000, provided we keep up the existing debt, do not pay any of it, but keep it afloat, either by the reissue of Treasury notes or by converting it into a permanent loan, or using the public credit in any other mode that Congress may deem proper. There is no deficiency for the present year, even with the present large and increasing expenditures in the public service. For the five years preceding the 30th of June, 1857, it appears, by the tables which I have before me, that with a revenue less than the estimates of the Secretary of the Treasury for receipts under the tariff of 1857, for the next fiscal year, namely,

\$56,000,000, we not only carried on the ordinary operations of this Government; we not only paid all our legitimate expenses; but we actually paid off \$45,000,000 of the public debt contracted in the Mexican war, and turned over to the existing Administration a surplus of \$17,000,000.

Now, sir, what is there in the present condition of the country that requires an increase? I have taken the five years preceding the 30th of June, 1857, as a fair test. We are sometimes told that the country is enlarged; but we have not acquired a single acre in that time. The last acquisition by treaty was, I believe, by the treaty of Hidalgo Guadalupe, on the 4th of July, 1848, nearly eleven years ago.

Mr. BENJAMIN. We have since acquired Arizona.

Mr. TOOMBS. I had forgotten the \$10,000,000 for the Gadsden purchase, which was paid out of the accruing revenues, in addition to this large payment of \$45,000,000 for the public debt, during those five years. A revenue of from fifty-five to sixty million dollars, during that period, not only paid the ordinary expenditures of the Government, which, I shall show by the official reports of Mr. Guthrie, did not then exceed \$48,000,000, but left a large balance to be appropriated to extraordinary expenditures—to the payment of the debt of the Mexican war; to the Texas settlement; to the payment for Arizona. Finding that the ordinary expenditures, even on an enlarged scale, were \$48,000,000, the Government came to us in 1857, and through Mr. Guthrie, its principal officer, said, the revenue ought to be reduced; there is nothing in the next five years that promises that you will need more money than you have in the last five; experience has shown that \$48,000,000 is ample for ordinary purposes; here are large surpluses, inducing extravagance; bring down the revenue. It was done by the tariff of 1857.

This was not done in darkness; it was not done without consideration. This change in the revenue laws was effected by the deliberate cooperation of the Executive Government then in power, and by the deliberate sanction of the Senate and House of Representatives, the House being largely in opposition, and the Senate being largely in the support of the Administration. That measure, on this floor, received the support of every Senator but eight, and of two thirds of the House of Representatives; and, therefore, it was a measure not effected by party; it was a measure not influenced by any sectional feelings; because Massachusetts and South Carolina, generally considered the exponents of the extreme ideas at the two ends of the Union, combined and voted for that bill in this body; and, I think, also in the other branch of Congress.

We did not propose, in the tariff of 1857, to cripple any branch of the public service. I do not propose now to cripple any branch of the public service. I do not propose to reduce public expenditure because this great country is unable to pay taxes. I am prepared to carry the public expenditures not only to fifty, but to eighty, to one hundred, or to one hundred and fifty million, or any other amount that may be necessary for legitimate objects under the Constitution, that are truly and justly for the real benefit of the country. Our people are able to pay all the necessary and legitimate expenses of the Government; they are able to put upon the most efficient basis every branch of the public service committed to your charge by the Constitution of the United States; therefore my economy does not lead me to lessen, diminish, weaken, or cripple any arm of the public service. That is not my economy; but because we have a great and a rich and powerful people, I desire to keep them so. I desire that the Government shall confine itself to its legitimate objects, not only with a view of saving their money, which is a real and important object, (for it ought to stay where it belongs,) but for the higher and better reason of not corrupting the very fountains of political power, and preparing for the future, by making the country great and powerful and

happy—preparing for any emergency that may arise in peace or in war.

When we reduced the taxes in 1857, it was upon the avowed principle in both Houses—the declaration made by my honorable friend from Virginia, [Mr. HUNTER,] and by myself, from these seats, was—that we did not expect to get more than \$50,000,000 under that tariff, until, in the course of years, by the increase of production and the increase of exportation, there should be a corresponding increase of importations. It was not then expected to yield more than \$50,000,000 from customs. The House passed it with that understanding. The Senate passed it with that understanding. The country accepted it with that understanding. It received an almost unanimous support on the understanding that \$50,000,000 from customs was enough, and Mr. Guthrie recommended it to us on that basis. I read from the finance report of Mr. Guthrie for 1855-56, page 12. After proposing various reductions, Mr. Guthrie says:

"This, upon the imports of last year, would reduce the revenue to about fifty million dollars from customs, which, with the receipts from the public lands, is deemed sufficient for the necessary requirements of the Government; the average expenditures for the last five years, extending the public debt and the \$10,000,000 paid under the treaty with Mexico, having but little exceeded forty-eight million dollars. If, in future years, there should be increased demands on the Government, the revenue from customs may be expected to increase, so as to meet them without the imposition of additional duties; but, if not, the propriety of taxation will then be for the consideration of the constituted authorities."

Our attention was called to it by the Executive Government. They said: "here is a plethora; we have paid ordinary and extraordinary expenses; and there is still a surplus: reduce taxes." We did it. All these results were achieved under a revenue less than the existing tariff is estimated to produce by the present Secretary of the Treasury. How, then, can my honorable friend from Pennsylvania say that the present expenditure is unavoidable? It was avoided by the last Administration. Then it was \$48,000,000; and it was far from being on an economical basis. There was then room for retrenchment to the extent of more than ten million dollars; and even upon the liberal, not to say extravagant, basis of the last Administration, \$48,000,000 is ample to carry on the Government. What new element of expense is thrown in? What new necessity? Our powers are the same; our duties are the same. We have had no war. As for the ordinary Indian wars that we are having, we have had them every year for the last thirty years. We have had no naval war. We have had nothing that called necessarily for increased expenditures in the last two years. I know that increased expenses have been incurred; but no man can show that they have been necessarily incurred. The Senator from Pennsylvania, in his speech of an hour and a half, failed to show a public necessity for an increase of one dime beyond the average expenses of the five years preceding June 30, 1857. He very conveniently assumed an unavoidability. He very conveniently assumed that we could not escape it. He seemed desirous not to escape it. He represented to us that his constituents were oppressed; that Pennsylvania was demanding—what? What was she demanding? Increased taxation. He, the representative of one of the great States of this Union, told us that her labor, her industry, was prostrate; and the only means which he proposed for her alleviation was to impose additional burdens on the backs of her people and the remainder of the people of the United States.

Mr. President, that was not the old idea of taxation. Long before the decree went out from Caesar that all the world should be taxed, the people who paid taxes had hated taxation. Our revolutionary fathers fought against taxation. But the representative of Pennsylvania demands in her behalf an increase of public taxes; no, I will not say Pennsylvania, for I do not aggregate men; and I would by no means hold that old Commonwealth liable for all the errors of those whom she may send here, no matter whether they are on one side of the House or the other.

I say, sir, that in 1857 the tariff was reduced by the deliberate recommendation of the Executive Government, by the deliberate vote of the Representatives of the people; and the reduced rates have done what we expected. The first year of the present tariff it yielded between thirty-eight and forty-three million dollars. The causes for that were very apparent. Your importations suddenly fell off \$90,000,000. A great monetary convulsion occurred. I shall not inquire into its causes, but it was a fact; and its effect was, that, while your exportations last year were probably very nearly equal to the exportations of the previous year, your importations fell off about ninety million dollars, and, therefore, your revenue fell off; but for the present year the Secretary estimates the customs receipts at \$50,000,000. That is what we expected. Now, when the crisis is passing away, when we can just see the storm, when we can just hear its roaring, when its evidences are all around us, the present tariff is bringing us in what we anticipated. According to the estimates of the Secretary of the Treasury, (which are thus far sustained by the facts, and we have gone through some seven months of the fiscal year,) this tariff will yield every dollar that we proposed to raise by it upon the imports; and for the only fiscal year for which we have now to provide, the Executive Government tells us we may calculate upon \$56,000,000 from the present tariff. That is \$6,000,000 more than we counted for. Why, then, shall Congress retrace its steps? For what purpose shall we abandon this policy, thus deliberately adopted, thus unanimously confirmed by the judgment of the whole country, by all opinions, and all parties, and all sections? According to the idea of the Senator from Pennsylvania, it is because our present expenses are unavoidable. He assumes that the expenses, as proposed by the Executive Government, are unavoidable. Now, let us see whether, in truth, there is a deficiency at all in the fiscal year 1859-60. In the present fiscal year the Secretary of the Treasury estimates for a surplus of \$7,000,000, assuming that he still uses the \$19,000,000 of Treasury notes, or uses the same amount of public credit in any other form, without creating a new debt; without creating new obligations. Then he goes into the year 1859-60 with \$7,000,000. The Secretary comes out of it on the 30th June, 1860, with a deficiency of little more than four million dollars, according to the estimates. On page 5 of the Treasury report he makes the deficiency \$4,057,848 89; but he adds:

"To this estimated deficiency on the 30th June, 1860, should be added the sum of \$3,638,728, which will be required for the service of the Post Office Department during the present fiscal year. This latter amount is not taken into the foregoing estimates, but is asked for by that Department, as will appear from the letter of the Postmaster General, accompanying the annual estimates."

Of this very expenditure that we are called upon to provide for 1860, the Postmaster General has already got between six and seven million of the deficiency. He calls upon us for that in the regular estimates, and then we are called upon to provide for nearly four other million, giving him about nine million of the public Treasury. I do not intend to give it to him. I do not consider that unavoidable. I shall never vote for it under any necessity that may possibly arise. No power on earth could make me sustain what I consider so monstrous an outrage as the present administration of our Post Office Department. I wash my hands of the whole of it; and before I get through, it is my purpose to show that the expenses of that Department have increased and are increasing, and that duty and honesty and the public service demand that they should be diminished. I shall have something to say on the Post Office Department when I get to another branch of the remarks of the honorable Senator from Pennsylvania, who gave us some post office statistics; they look very much like the statistics of the Post Office Department. The facts are before me in an official form, and I will show what is the value of figures when they are put together to force a result, instead of tending to truth.

Four million is considered the deficiency for the next year; but, in order to attain that deficiency, the Secretary of the Treasury estimates, in the first place, that all the moneys appropriated from the beginning of the Government down to the 30th June, 1860, will have been expended. He

estimates for the payment of every outstanding appropriation. If there is a continued one from 1789 to now, he estimates that every dollar of it will be spent within the fiscal year. That is impossible; and I will show the Senate where the great error of the Secretary is in that respect. We have had a balance of unexpended appropriations every year, varying from nearly two million dollars, in 1791, to twelve million according to the estimates for 1859-60. At the end of 1791, there was an unexpended balance of \$1,784,000; which I believe is the smallest amount in any year in a long table before me; and in 1856-57 the balance of appropriations unexpended at the end of the fiscal year amounted to \$26,000,000. It averaged over twenty million for the five years preceding, and averaged more than thirteen million for ten years preceding. It is like bank deposits: one takes out and another puts in. Your fortifications cannot all be done within a year; and you have some continuing appropriations that run from year to year; and so of a great many branches of the public service. These balances arise in a hundred different ways. You appropriate to the lieutenant general, say, \$17,000. If he dies the day after the appropriation, and there is nobody to fill his place, the appropriation is unexpended. That is one way in which these balances are created. I recollect that in 1837—I believe the fund is in the Department now—you appropriated money to pay for horses lost in the Florida war. As fast as people came forward and proved the loss of their horses they got the money; and the appropriation stands from that time to now. You appropriate for surveying public lands, which my friend from Minnesota [Mr. SHIELDS] would well understand. Various causes interfere; the appropriation is more than the amount required; and I believe it does sometimes happen that you have done the work for a little less money than was appropriated. Frequently the appropriations are indefinite; you cannot tell exactly the amount needed. Then an honest Administration will oftentimes find that it cannot consume even all the money it expected to do in one year, and must postpone many things until the next year. There are a thousand causes which tend to produce unexpended balances. But now, in order to show a deficiency of \$4,000,000, we are to assume, contrary to the experience of every fiscal year from 1791 to 1857, that when we close up our account on the 30th June, 1860, there will not be one dollar of unexpended appropriations in the Treasury of the United States. I have pointed you to the facts; I hold the table in my hand, in an official document, showing the balances each year. We hear no special reasons assigned why that should be the case now, when it never has been in any year from 1791 until today. I presume the balance on hand is less when the Government is hard up; it is less when they are most economical, and most when they are most extravagant.

Mr. SIMMONS. Do I understand the Senator to be commenting on the remarks of the Senator from Pennsylvania, or on the report of the Secretary of the Treasury?

Mr. TOOMBS. The Secretary assumed that there would be a deficiency in June, 1860, and I am showing that there will not be. I am commenting for or against no man. I am for the truth. I have sought to discover it, and my purpose is to proclaim it. Therefore, if the Senator asks me whether I make an assault on anybody, I tell him it is not so; for I have very high respect for the gentleman who now sits at the head of the Treasury of the United States, for his ability and integrity.

Mr. SIMMONS. I had not an opportunity of reading the speech of the Senator from Pennsylvania, but I wanted to know where I could find the figures.

Mr. TOOMBS. I can show the Senator where he will find the figures I refer to. I read them from a document printed last year, containing a statement of the receipts and expenditures of the United States from March 4, 1789, to June 30, 1857, ordered to be printed on the 5th of February, 1858. The tables are from the office of the present Secretary of the Treasury, and I have no doubt are accurate.

I say, then, in order to get even \$4,000,000 deficiency, the Secretary is compelled to assume, as I have before stated, that there will be no unex-

pended balances in the Treasury on the 30th of June, 1860; but it is true that some of the debt will be due. But there is one large item of public expenditure, in regard to which I think I have a cause of complaint—not against the Treasury, but against whoever controls your public lands. For the last twelve months that branch of revenue, in order to force this very deficiency, has yielded but \$3,000,000. Why? We have paid during the past year more than three million dollars to survey the public lands, that settlers might identify their own rights in Minnesota, in Wisconsin, in Iowa, in Kansas, in Nebraska, in California. We have scattered, with a lavish hand, millions upon millions, forcing the surveys, and yet we have brought scarcely an acre into market for sale. Between sixty and eighty million acres of land have been surveyed and are now settled upon, and the money is due the Treasury; but the land has not been offered for sale at all. Why is it not done? Senators know very well. Of course, when they are offered at public sale, the preëmptioner must pay for his preëmption. He wants time. The people want time, I suppose, until they can get the land as a gift. That is the true secret of it. This is an ordinary source of revenue, and it was the duty of the Government, when it called upon us to appropriate money to survey new public lands, to bring those public lands into market as soon as it could be conveniently done; but there is an effort to absorb the public lands, to withdraw them from the legitimate purposes, until a Congress can be found to give them away altogether. There are the lands surveyed, there are farms, there are houses, there are improvements on them. I think in Minnesota some lands have been settled for ten years, that have not yet been brought into market. My friend from Minnesota can correct me if I am wrong.

Mr. SHIELDS. I presume the honorable Senator, in saying there had been no sales made in the new States, means public sales, general sales.

Mr. TOOMBS. Certainly.

Mr. SHIELDS. That is true. The people of those States are opposed to those public and general sales, because they put the lands into the hands of speculators and non-residents; but there have been sales going on yearly there, what we call private sales, preëmption sales, and those sales have not brought much money into the Treasury, and never will. The reason is, that the land warrants which have been issued by Congress supply the place of the money, come in as substitutes for it, and even public sales will bring no money into the Treasury as long as the land warrants exist.

Mr. TOOMBS. That is a very great mistake, and I need simply refer to the facts to show it. Before the last two years we got from five to ten million dollars from the public lands, and had ten times as many land warrants as now. The facts are against the Senator. Here stand the documents. The documents are against him. We commenced this infamous system, in my judgment, of throwing away the public lands in 1849; warrants were issued to the amount of seventy-eight million acres, and all of them have been absorbed but ten million; and yet, during that time the revenue from lands went as high as ten or twelve million, some years.

Mr. SHIELDS. Will the honorable Senator permit me to say a word?

Mr. TOOMBS. Certainly.

Mr. SHIELDS. I do not wish to interrupt his remarks, but I merely want to defend the Department. I know the honorable Senator does not mean to make an attack on the Department, and I am delighted to see that he is exposing these things independent of individual men. I am glad to find one Senator bold enough to rise here and put aside favoritism. But, sir, on this single point I now venture this prediction, that if the Secretary of the Interior and the President bring all the public lands of the United States into market and sell them to speculators, they would not bring \$200,000 into the Treasury for two years.

Mr. TOOMBS. I think the honorable Senator is very greatly mistaken. That is not the idea of the Government, because in the estimates of 1860, with all the land warrants out, they estimate \$5,000,000 as the land receipts. We have seen the operation of these land warrants for ten years. The reason why the lands have been kept back

is this: when public lands are offered for sale, the preëmptioner must pay; until you offer them for sale, he may live there for twenty-five years, and never have to pay. That is what the post-emptioner means, and nothing else. You might settle every quarter section in Iowa or Minnesota or Wisconsin, and until the Government offered it for sale, and thereby compelled the preëmptioner to pay up, it would never bring a dollar into the Treasury, unless the settlement was on lands open to private entry, at \$1 25 an acre. All the money, or nearly all, we got from the public lands last year was from those lands which were subject to entry at \$1 25; but as I said before, we have sixty or eighty million of the best lands, that have been surveyed and not brought into market. It is true, the more settlers, the less they bring, because they take the advantageous positions. They will take the town sites; they will take mill sites; they will take river fronts; but at public sale there will be competition. I have attended land sales in the South, and seen them bring from seventy to eighty dollars an acre. I saw them, in 1836, in Mississippi, bring from twenty to thirty dollars an acre. There was competition immediately on the extinguishment of the Indian title, and all the lands were taken up. The desirable lands were not taken up there by preëmptioners, at \$1 25. As for speculators, that does not affect it in the slightest degree. Who are speculators? In some of the new States I have had interests; I have been in them; I have bought in them, and sold in them. I have been what you might call a speculator, in Texas mostly; not very much in other States. But I have in some of the other States; I have bought land in Arkansas and Mississippi.

Mr. SHIELDS. And lost by it?

Mr. TOOMBS. No; not a cent. The objection in the new States is not to speculation, but they want to change the speculators. The man who settles and puts his cabin on a quarter section, and pays his \$1 25 an acre, will sell it to you for ten dollars. I have seen it done, and paid it. I understand all about that, and so does everybody else; I understand the whole operation. I think the most desirable thing is to sell as much land as you can to actual settlers; but it is the duty of the Government, when they have charged the public Treasury with the expense of surveying sixty or eighty million acres of land, and we need the money, to sell the land and get revenue from that source. It is not done. We ought to sell at least the public lands which we have ready for sale, before going to the pockets of the people for additional taxes. The public lands were given to you by the States for the purpose of being sold in order to lessen taxation; and as long as they belong to this Government, the legitimate purpose, the sworn duty, the absolute condition of the grant, is, that they shall go into the public Treasury to the relief of all the States, the grantors included. That is the very language of many of the grants of the different States, my own among the rest.

I know the Senator from Pennsylvania, some how or other, threw out the idea that there was some sort of advantage that somebody got—probably the South—from the public lands, and that Pennsylvania, some way or other, was deprived of her part. There is nothing in that idea at all. So far as Georgia is concerned, we ceded Alabama and Mississippi, and they have brought \$160,000,000 into the Treasury. I do not consider that she did anything wrong in making the grant, or that Virginia did in making her grant; for, notwithstanding those who held the land opposed it, I always thought the principle Maryland maintained was right, that the wild and vacant and unappropriated land, which was won by the sword of the common country from its common sovereign, ought to inure to its general benefit; and, therefore, I always approved the Georgia grant, and approved the grant of Virginia. It ought to have been a common fund, for the purpose of meeting the common burdens of a common struggle; and, therefore, the special appropriation of it to particular States, in my judgment, was not best, and hence I heartily approved of the cession; but how Pennsylvania has ever been injured by it, I cannot imagine.

Mr. BIGLER. Will the Senator from Georgia allow me a moment?

Mr. TOOMBS. Certainly.

Mr. BIGLER. I certainly did not state that Pennsylvania was injured directly. The idea which I presented was this: that this property was the common property of all the States at the time it was given to the States which I named for railroad purposes; that it was a valuable donation from the common Treasury. If the lands had been converted into money, that money would have gone into the Treasury, and answered to pay the common expenses of the whole Government.

Mr. TOOMBS. I did not know that the Senator had put it upon a thrice, yea, a ten-times-refuted idea. The grants that have been given for railroads in the United States, and which have been so much complained of, did not cost Pennsylvania, or Georgia, or any other State, a single dime. You granted alternate sections of the public lands along the line of those railroads within a given distance, and raised the price of the reserved sections to double the ordinary minimum; and the actual result has been that they have brought it. I say, then, this policy has not cost Pennsylvania, or anybody else, a single dime; and I think it was acting the part of the dog in the manger to oppose it. For myself, I have looked upon the public lands as a portion of the public property, not at all distinguishable from the public money in our use of it for internal improvements; but, when the General Government had large wastes of lands which she could not sell, which nobody would settle upon, on account of the want of timber, and of water, and of the means of transportation, it was wise policy to grant a portion of the lands to build an improvement which would make the remainder worth double the price at which they were held. It is what I would do with my own property; and, to the extent of my power, that is my rule of dealing with the public property. To the extent of my power, I deal with the public property with, at least, all the stringency that I would with my own, to secure the best advantage for the public good. My general rule with my own property is, to use it legitimately and honestly for my own advantage; and I would act for the Government on the same principle. I say Pennsylvania did not lose a dime by these grants of land; but their result must have been to multiply the demand for coal and iron. A great many of these roads have been built, and thereby have caused a greatly increased demand for that sterling and staple article, which is now attracting so much general attention, especially in the good old State of Pennsylvania.

I say, sir, that if the public lands which have been recently surveyed—between sixty and eighty million acres—were thrown into the market, as they ought to have been before, there would not now be a dollar of deficiency. Put your Post Office Department, on its old basis; make it self-sustaining as was provided by our fathers, and as it was falsely and fraudulently said would be the effect of the last reduction of postage; and there would now be no deficiency. You have to make a deficiency in the Treasury by bad policy, by squandering the public means, in order to create an excuse for taxation. That is the truth about it. It takes the most profligate expenditures of the legislative and executive branches of the Government to work out, at the end of 1860, even with disastrous times, a deficiency of \$4,000,000, in order to present it to the American people, and say the necessity for increased taxation is inexorable, unavoidable; bend your backs to new burdens. Sir, I'll none of it, not an ounce.

I have shown you, sir, that there is properly no deficiency, even upon the present basis. I have shown you that, if there is an actual deficiency, you may meet it by a single item alone, the public lands; or you may meet it by another single item, by making the Post Office stand where it ought to do. Attend to either one of these properly, and your present means will suffice for your expenditures even on the present extravagant basis, and provide a fund for the redemption of the debt which you have incurred under extraordinary circumstances.

But, sir, suppose I am wrong in this branch of the argument; suppose you are not satisfied that there is no necessary deficiency in the present condition of the country; then, if the expenditures exceed the revenue, I propose to bring the expenditures within the revenue. My honorable

friend from Pennsylvania takes exactly the opposite ground. He says the Government is in distress; the revenues are short; the people are out of employment and distressed; and therefore he will relieve the Government by putting new burdens on the backs of his constituents! I propose to point out where the expenditures of the Government can be reduced, and brought far within any estimate of receipts which may be made on the existing sources of revenue. But he says, "no; all our present expenditures are unavoidable; give us taxes; taxes are the only relief that old Pennsylvania wants in her present distressed condition." She is not a beggar, says the honorable Senator. I hope not, sir. If she is, she is the most unwise beggar I ever knew, for she is begging for burdens, begging for taxes, begging for weights to be put upon her. Sir, I do not believe it is her voice. If it is, I will protect her in spite of herself, as far as the vote of one man goes.

Now, sir, are the \$73,000,000 of estimates for the next fiscal year, to which the Senator from Pennsylvania called our attention, necessary? Will any man say that they are all necessary expenses; that they are all proper expenses; that the money is all to be expended to promote the interest of a great and free people? Nobody has said so; but the advocates of taxation tell us we must increase the revenue. Some say retrenchment is with Congress; others say Congress can do nothing without the Executive. The truth is, the fault is with both; it is with the executive and with the legislative departments. They have both departed far from the true track. They have both encouraged extraordinary, unnecessary, profligate, and many of them corrupt, expenditures.

We are sometimes told that the Executive does nothing but expend what Congress appropriates. I might reply that Congress does nothing but appropriate what the Executive asks. A very large proportion of the expenditures of the Departments are not, and never can be, regulated by law; and it is precisely under this class of expenditures that all your excess has grown up. There is no excess in the pay of the Army, no excess in the pay of the Navy. That is regulated by law; but show me a single item where there is a particle of discretion in any head of a Department, or any subaltern, and I will show you an enlargement of expenditures within the last ten years. Go to the quartermaster's department of the Army, and you will find that its expenditures, which, eight or ten years ago, were two or three million dollars, in time of peace, are now seven or eight million. The officers will tell you not a cent can be taken off. Go to the navy-yards; take the expenditures there merely for building houses and sea-walls, and the officers tell you not a dime can be spared. Congress cannot tell whether they are necessary or not; but just pick up the items where you must really have information on the Departments, and there you will find where the Government has increased its expenditures from \$48,000,000 to \$80,000,000, and there is the place to strike. If you want to find out where to do it, these are two of the points. It is true, the highest duty is that of the Executive Departments in carrying on the ordinary operations of the Government. We ought to maintain a navy; we ought to maintain an army; as long as the law remains as it is, we must maintain a Post Office Department; we must take some charge of the Indians; but it is the duty of the executive officers, even if you have been unwittingly induced to pass a bad law, a law that works badly, that does not secure responsibility, if it wastes the public Treasury, it is the duty annually of every executive officer to present such a case to Congress. They neglect their duty if there is a bad dollar, a dirty shilling, expended by operation of law, that could be honestly avoided.

Then when you come to the legislative department, the responsibility is not on me, sir, not on you; but upon the man that fails or refuses to correct these extravagances. One of our great difficulties is, that we act in a body, and there is no individual responsibility. For the last eight or ten years, the country has had the Presidents made for it, as my friend from Tennessee [Mr. Johnson] said, by irresponsible bodies at Baltimore and Cincinnati. The States have had Senators made for them by caucuses; one man elected because he had a great aversion for a negro, and

another because of great regard for him. The people have been absorbed so much by great sectional issues, that the real culprits who have come here and enlarged unnecessarily the public service, or have failed to reduce the expenditures, have escaped in the mightier issues of sectional strife which many of them raised and seek to perpetuate, in order to conceal their own iniquities. There is no individual responsibility here. The vote is not looked to. We have passed that point.

Sir, what is the principle of our Army and Navy? Latterly, some strange errors have crept in. From the beginning of the Government, up to within the last ten years, we did not pretend to keep up an army that should be able to compete with England, or with France, or with Austria, or with Russia. That was not our system; not because we were not able to do it, but because we did not think it wise. Our Constitution teaches us to rely on our militia, on freemen to maintain the rights of freemen, and I think it is the safest reliance; and, therefore, I have said I want no soldiers except for the purposes of keeping down the aggressions of the savages on our frontier settlements. I want no soldiers to make New York or Georgia obey the laws. If the smallest, or the meanest, State in the Union chooses to resist the laws, we cannot afford to crush her. If she is faithless to her high duty, we must tolerate her; that is all. I would keep no soldiers to put her down; not one. None are kept throughout this broad Republic for such a purpose, and I trust there never will be. That being the policy, we do not want to keep up large armies, as they do in England and on the continent of Europe, in order to preserve the balance of power; one nation being jealous of the others. We do not keep up a race with England, or with France, or even with Brazil, in regard to a navy. I know that men sometimes point us to the navy of England and of France. Well, if you were to come to real strength, you would find yourself greatly mistaken in your idea about it. Before the last Russian war, England generally kept an army of one hundred and sixty thousand men. That was her peace establishment. She used a large number of them to keep down the Irish. She has been at war, for the last six years, with one half the human race, and has sustained an army of between two and three hundred thousand men. She has been at war with India; at war with China; at war with Russia; at war at the Capes. She has been at war with every feeble Power on the face of the earth; taking something over in the East Indies that suited her for a coal station, and so on. Being in a state of hostility or open war with half the human race, she needs armies. We follow no such practice. When we acquire territories, we are not afraid of their running away from us; we let them protect themselves. She has to maintain an army of thousands to keep her reluctant subjects in India, who are groaning under the tyranny and oppression of fifty years, and have the sympathy of every true man in the effort to break the bond. Her first war with the Chinese, I believe, was to make them take opium.

Well, take her navy. She has five hundred and seventy-six ships in commission; she is assailable at every point of the civilized world. There is not a continent of the earth; there is not an island of the sea; there is not a barren rock which she holds all over the world, that is not held by injustice, and that the true owners would not wrench from her the moment they could displace the flag of St. George from their turrets. Do you suppose Spain would not take Gibraltar if she could? Do you suppose Persia would not take Aden if she could? Do you suppose the Irish do not want to be free? Do you suppose her operations in the West Indies would be submitted to, but for her power? Do you suppose she would be allowed to turn all the black people there loose into a state of savage barbarism, but for her power? The English are of the same race as ourselves; but they would not have been allowed to turn those blacks loose, but for their power. The world is England's enemy, and she must keep troops. If she does not give up her bad practices, I am inclined to think the world will finally settle with her. I am ready for that contest, and hope to live to see it. I do not want to postpone it until after my time. She wants her army and navy to defend her vast possessions. We stand on different principles of empire. We

stand on the consent of the governed. We stand on the principle that every man who acknowledges our independence and owes allegiance to our Government does it because he prefers it to all others; and if he does not, I will never pay a shilling to a soldier on the face of the earth to enforce obedience.

Therefore, sir, I want no armies to keep peace at home, or to keep power abroad; to keep wrongful possessions extorted from a reluctant people. We only want ships enough to keep pirates off our commerce, and soldiers enough to keep down the Indians; and we have twice as many as are necessary for that purpose, as the history of the country shows for thirty years. For the five years alluded to in Mr. Guthrie's report, to which I have already called attention, the expenses of the military service did not amount to more than twelve million dollars. It was not until 1852-53 that the expenses of the army ever got to two figures in millions in time of peace. Never, before 1850-51, in time of peace, did they reach \$10,000,000. When I came into Congress, the army expenses ranged from five million two hundred thousand to five million seven hundred thousand dollars. During the Mexican war, of course, they increased, and after that they were, one year, \$9,000,000, another \$8,000,000, another \$9,000,000, and never more than \$10,000,000 until 1852-53. During those years we had all the Indians and all the Mexicans we now have. Our territory then was more sparsely settled than it is now. We had not five hundred thousand people in California; we had not one hundred thousand or one hundred and fifty thousand in Oregon and Washington; but we had to defend the people on the Pacific, in a few straggling settlements, with troops, and then the Army cost us \$9,000,000. Now it costs \$18,000,000, without counting the Mormon war. That was a side job, which had its eight or ten million to itself. It now costs \$18,000,000 a year for the maintenance of your Army; within a few millions of what it averaged during the last war with Great Britain. The expenditures for the Army, during that war, averaged about thirty million dollars, and you had four hundred and fifty thousand soldiers in the field. During the Mexican war, the whole expenses of the Government did not, in a year, exceed \$60,000,000; and yet, you called out seventy-five thousand men, and gave them magnificent pensions and bounties of public lands; and they went with alacrity, they acted with most distinguished courage, and they shed luster on the name of their country. No soldiers ever fought better in any mere war of invasion, and none were entitled to higher consideration from the country. Then you carried on the Government for \$60,000,000, and afterwards, in time of peace, you brought it down to \$48,000,000. During Mr. Fillmore's administration, the Army expenditures varied from eight to nine million dollars, and we had the same extent of country we have now.

It is true, you have since raised the compensation of the officers of the Army; but compensation is generally the least of the expenses of this Department. You now spend upon the quartermaster's department \$7,000,000—more than the whole Army cost not many years ago. Inasmuch as the present war officer has carried up the Army to the war footing, to the last man that he is authorized to call for, you ought to take the power out of his hands, and put the Army on the peace establishment. Your peace establishment is eleven or twelve thousand soldiers, but you authorize your Secretary of War, if it is necessary, to carry each company from seventy-four to ninety-six men, and he has done it without any war. There is a case where you gave discretion, and it is carried to its utmost bounds; and what is the consequence? Four or five million of increased expenditure. The moment you trust to discretion you get an abuse.

Then we come to the Navy: we have had no increase in the number of the men, and but little increase in ships, and all that have been built for the last six or eight years have been built by special appropriations. The new frigates and the new sloops were built by special appropriations. Your appropriations for navy-yards have gone to the building of houses for officers, and making flower pots, and all that kind of thing, at a cost of \$2,000,000; and it will be no less as long as

you will pay it, but it will go up to \$4,000,000, if you do not stop it. There are \$2,000,000 that you have no need for at all. You have eight thousand sailors to man your Navy. You have not increased them of late years, and you have eight thousand men in your navy-yards to help them—civilians. You have carried the number up from three thousand to eight thousand. There is discretion. You have eight navy-yards; England has over five hundred and fifty ships, and she has two navy-yards. You have eight, conveniently located, all about through the country, and it is a cause of reproach to good Democrats, for the enemy say we keep people there to cheat them in elections; and, as God is my judge, I am afraid there is something in it. I would put the sting of disability to the temptation. That is the proper remedy. You have no need for any such expenditures.

This money does not go to build a ship, or repair a ship. The \$2,000,000 which you spend in navy-yards, does not drive one nail into a public vessel; does not give Jack an additional ration of grog. You have carried your naval expenses in ten years from five or six million dollars to thirteen million dollars, with no more efficiency, no more ships. The three or four million dollars which you spend ostensibly for the gradual increase of the Navy, does not build you a ship; for whenever you want a new one, you come here for an appropriation. If you want a little bit of a sloop at a cost of \$80,000, there is a special recommendation for it. The President recommends it; the Secretary of the Navy recommends it; and my friend who now occupies the chair [Mr. Mallory] is urgent about it. Notwithstanding the ten or twelve million dollars we give for the Navy, we are asked to vote six or seven hundred thousand dollars for ten sloops next year. I think this money is badly spent, even if spent for politics. I think I could use it with a great deal better advantage than they do. If it is to be appropriated to that business, it ought to bring more result. We pay too much money for what we get; and I should oppose it on the ground that it was a bad expenditure even in that view.

I recollect, Mr. President, that you and I had some controversy the last session in regard to naval matters. I stated that the French navy proper, cost 120,000,000 francs. You asked for my authority, and stated it to be a much larger sum. I have now got the official account, which I will take great pleasure in showing you, on some occasion, which proves that I was exactly right. That is all the French navy costs, with their four or five hundred ships. She expends \$24,000,000 on her Navy, and we spend \$13,000,000. We are threatened by gentlemen with her four or five hundred steamers; and we are ridiculed for our ten or twelve. Take the English navy, and the same result is apparent. One gun, floated by the American Navy, costs five times what a gun is floated for by Great Britain, or France. We cannot stand that. Squandering our means in peace is not the way to prepare for war. The true policy of preparing for war is to strengthen the nation, to husband its resources, make your people rich and prosperous, and then they can protect themselves. It is not by useless armaments squandering the public money.

Mr. MALLORY, (having left the chair.) Will the Senator from Georgia allow me to interrupt him for a moment?

Mr. TOOMBS. Certainly.

Mr. MALLORY. I do not wish to interfere with the course of the Senator's remarks; but, perhaps, it would be as agreeable to him to correct, as he goes on, any error that he may fall into in relation to these matters.

Mr. TOOMBS. Certainly.

Mr. MALLORY. I think the Senator stated just now that we had eight navy-yards and Great Britain had but two. Sir, the fact is that Great Britain has seven building yards and constructing yards in her own immediate dominions, each of which is probably five times more extensive than the largest one of ours. That is a very important matter. Then, in relation to the expenditures of the French navy, the pay is about one fifth of ours; and the pay of their mechanics perhaps less than one fifth; and in the British navy the pay of the men is fifty per cent. less than with us; and so, throughout all of her mechanical operations, the pay is about one third of

what it is here. No comparison can be instituted between the expenditures of our Navy and that of Great Britain or France, without taking these things into consideration.

Mr. TOOMBS. I do not intend to controvert that they get things done cheaper in England and France than we do. I believe that when labor in New York city is worth six shillings a day, the Government pays an able-bodied man \$2.50.

Mr. MALLORY. In our navy-yards they give the same rate of wages, and no more, that is paid in private yards. The current rate received in private yards at New York is that given in the public yards. I believe, however, there is a limitation of time observed in the navy-yards, the ten-hour rule, which is not observed in the private yards. That is the only difference I know of.

Mr. TOOMBS. The fact stands that in Europe they get their work done cheaper, and yet they send here to have ships built. The British and French support their naval establishments at a much less expense, comparatively, than we do, and yet we have one great advantage. Not a spar that the French navy uses is grown on the soil of France. She has not a mast in all her vast dominions that I know of. They are brought out of Georgia and the Senator's State.

Mr. MALLORY. I will say, in answer to that, it is the highest compliment which could be paid to the mechanical skill and progress of our country. They do not send here because they get their ships built cheaper, but because they get them built better; for they have not built a ship in Europe equal to one of ours.

Mr. TOOMBS. I am not to be diverted by the Senator's fashion of praising the Navy. I have heard it too often. As for their ships not being good ships, I presume they are equal to anybody's ships. If they are not, so much the better for us; and we can take them easier when we come to fight them; but I am afraid we shall be mistaken if we rely on that. I would rather rely on the mettle of our men, than on the difference in the metal of our ships.

Now I come to the Post Office Department. My honorable friend from Pennsylvania yesterday gave us some tables, by which he attempted to show that the southern States were greatly benefited by the existing post office arrangement. He gives us tables, to show what the excess of postal expenditures over receipts in Georgia, for the last five years, has been; and upon the same basis, he says, they ought to have been so much in Pennsylvania. He seems to look upon the Government of the United States as a great eleemosynary beggar-house from which there ought to be a fair division of plunder. I have a plain story that will put that Senator down very readily. I told him I would show him what his tables were worth. I say there is not a State in the Union, whose expenditures for carrying the mail last year, according to the report of the Postmaster General, which I have before me, did not exceed the receipts, except Massachusetts, Rhode Island, New York, and the District of Columbia: Rhode Island and the District of Columbia, because they have no territory over which to pay for carrying the mail; New York and Massachusetts, because more than two million dollars of foreign postage were received in those States, which we pay to England and other countries for doing the service. Therefore, there is, in fact, not a single State or Territory in the Union in which the post office is not a burden.

Who has brought about this state of things? When you reduced your postage to three cents, it was said, "Let us imitate England; she has a penny postage, equal to two cents of our currency; three will give us money enough." My honorable friend from Vermont, [Mr. COLLAMER,] told you that would not do; he brought his usual good sense to bear, and told Congress it was a policy which would not keep the Department self-sustaining; but it was proved, apparently, by those who seek to put the expenses of their business upon the people of the United States, that three cents would pay all the expense. I protested against it, and voted against it, and never believed in it; and I do not think anybody believed in it, except some very simple people.

Mr. BIGLER. Will the honorable Senator allow me to say a word?

Mr. TOOMBS. Certainly.

Mr. BIGLER. I am satisfied it is not the Senator's intention to misrepresent any statement which I made; but the effect of his argument will do so. I was perfectly aware that the statement which I presented, in the view which the Senator takes, was not accurate. I stated distinctly, that I had thrown out of that account the expenses of the General Department, and the expenses of the foreign mail service, and the Pacific service; so that the account embodied only the local service within the several States—the expenses for transmitting the mails and for postmasters. In doing that, I stated, further, that I acted on the communication of the Postmaster General, to which the honorable Senator has just referred, who said that these general expenses belonged to the States *pro rata*. I know that, when they are divided amongst the States, there is not one which pays its expenses in full; but that does not in any way disturb the account which I presented, which is for the local expenses within the several States.

Mr. TOOMBS. I have stated the Senator precisely as he said; but he left out important elements necessary to get at the truth. The Senator did say that the southern section of the United States was benefited by it at the expense of the North. If his argument did not mean that, it meant nothing.

Mr. BIGLER. I certainly said, and I meant, that the States to which I referred had a large proportion of their postage paid out of the Treasury; but in what light did I present it? Simply to meet the complaint which was made, that the manufacturing States realize large incidental benefits from our revenue system. In making up the account, I threw out the foreign postage to which the honorable Senator has referred, as far as I could get the information; and in getting it, I did not rely entirely on my own judgment. I endeavored to make it accurate, and I hope it is so; for I should regret to have made an incorrect statement.

Mr. TOOMBS. The honorable Senator will find plenty more to answer before I have done with this subject, and perhaps he had better wait and answer me altogether. My complaint of the statement which he made, was, that it did not present all the facts. He went back five years. He did not go back to the time when the Post Office Department was self-sustaining; when all the expenses were looked into; when worthless expenditures and extravagances were kept out; when the expenditures were controlled by law, and the Postmaster General was looking at the service to bring it within the limit of the law. But the moment you put it on the public Treasury; the moment the manufacturing classes and commercial classes and the literary classes were able to throw the expense of their business on honest labor, they began to expand. While Pennsylvania paid her postal expenses five years ago, as most of the States of the Union did, I say that in 1857 she did not. If it is mendicancy on the Treasury, she was a mendicant with the rest. The Senator grouped a series of years that did not show the true operation of the Post Office Department. Its expenses have continued annually to increase since you threw it on the Treasury, and will continue to increase to ten, twenty, thirty, or fifty million dollars, if you let it stay there, from causes as inevitable as that the sun will rise and set.

The Senator made a comparison with Virginia, but I believe the reduction of postage to three cents got no vote from that State in either House. Sir, the principle on which the South has stood, upon which she stands to-day and in the future, is, that justice, true policy, is to make every man who is benefited by the Post Office Department, pay his share; not to put it on all the States. I do not want the honest mechanic and farmer in my State to go my partner in letters, when I write a thousand where he writes one. I should like to know what would be thought if the Senator were to go to a neighbor of his, an honest old farmer in Pennsylvania, and say to him: "My friend, let us get a box here in the post office, and go halves in this business of paying postages." I think the Dutchman in Pennsylvania would not be fool enough to stand that partnership. That is just what your present system actually is. The men who write letters, and whose business it is to do so, for it is an industrial pursuit, by this scheme throw the expense of that

business on honest labor, and then they talk about protecting the laborers whom they are robbing for their own benefit—robbing under the forms of law. I say it is robbery. Suppose I were to propose to my overseer to divide our postage between us, I writing a thousand letters, and he, perhaps, not able to write one, for I have known such cases; it is not just. The policy of the Government for sixty years was that the men who write letters should pay the cost of them; that the men benefited should pay for the benefit; but when you got to the system of putting it on the Government, it was done that the merchants, the manufacturers, the newspapers, the shrewd, adroit, skillful, and enterprising men, might levy pence out of poverty, to ease themselves of the legitimate expense of their own business. That is the way it works, and it affects a man in Maine as well as in Georgia.

It is not sectional. You may try to get people to go into it on the idea that it is sectional. The New York Legislature may send a memorial here against raising the rates of postage. The Senator from New Hampshire [Mr. HALE] the other day wanted to know if you were going to tax the poor man in his State on his letters. How is it in fact? He says he will not pay more than three cents postage. That is not enough; and where does the rest come from? Out of the public Treasury; and who pays that? All our taxes being levied, in the main, by duties on consumption, it comes, according to consumption, out of the rich and poor. There is no just relation between wealth and consumption. A poor man, with an income of \$500, may use more dutiable goods than I do. I know many of my neighbors, planters down in Georgia, that defy your revenue laws, who do not buy a hundred dollars' worth of "store goods" in a year. They make their own shoes and hats and blankets; their daughters weave their socks, and their wives weave their cloths. They would beat you all day at this business. But take a man working in an iron foundry, who has to buy his sugar, his cloth, and everything else that he uses, and who either has to pay for them to the foreign manufacturer, or who must pay an enhanced price for them here. Probably many a man with an income of a thousand or fifteen hundred dollars a year, does not use more dutiable goods than a poor man who lives by his daily labor. I have seen it stated in the newspapers that a very worthy gentleman in New York, whom I have the pleasure to know slightly, pays \$85,000 a year for taxes on realized property. He has no bigger stomach or broader back than his coachman; and it is a little doubtful whether he consumes any more rum, whisky, brandy, or broadcloth, than his coachman. If he paid according to his realized wealth, he would have to consume nearly a quarter of a million of dollars' worth of dutiable goods in order to pay his proportion of the public revenues. Of course men can only drink and eat and wear a certain quantity of dutiable goods, and there is a limit to it. Most of our people are well enough off to use all they need; and they use very much the same things. I think it is a bad plan in my friend from Pennsylvania, if his laborers are distressed, to put new burdens on them. I would advise him not to put additional duty upon the sugar that sweetens their sugared rum that solaces them in their misfortunes; but that is what he wants to do.

Indirect taxes, all taxes on consumption, are unjust taxes, whether they are excise duties or impost duties. They tell terribly on labor. They have destroyed the labor of Europe, and they will destroy yours, if you keep them up long enough. They are unjust. They eat up the substance of the laborer, by taxing him for his necessities. England, in this way, has destroyed her laborers in Great Britain and Ireland, and they are fleeing to America, to Australia, to every portion of the earth, to get rid of unjust taxes. They do not operate so hard on our laborers, on account of the different relation in which they stand.

I say it is unjust to levy postage out of the ordinary revenues of the Republic, because it is a tax upon those who do not write as well as those who do, and it ought to be put upon the business of the merchants and manufacturers, and those classes whose pursuits require them to write a great number of letters. Whatever they may think about it, whatever the New York Legislature may say, whatever the Senator from New

Hampshire may say, it is a plunder of the poor for the benefit of the rich. Sir, we of the South have maintained justice; we did not vote for this system. We say, make your Post Office Department pay for itself. If New England, on account of her dense population, can support the postal system at a less expense than other sections, my friend from Virginia [Mr. HUNTER] presented a scheme, allowing the mails to be carried as cheaply as could be done. I do not want a dollar out of your New England postage. I want no franking privilege; I hope you will strike it off. I want to send no documents. If you undertake the business of carrying people's letters, do it as cheaply as it can be done. I have no doubt it is a bad system, and I hope, in time, to see it abolished. If I could to-day, I would cut off your Post Office Department, at one lick, from the Government, and I should consider it the greatest service I should ever be able to render to my country.

Sir, you have no more right and no more business to undertake to carry the correspondence, than you have to carry the products, of the country; and it works as unjustly. Why do you not carry the hay and the potatoes of the New Hampshire man, and the cotton of the southern man, and say, "let us all unite and pay for ships to carry these productions, as well as pay for mail transportation." One man in Mississippi may have five thousand bales of cotton to send off, worth \$300,000; another man has ten bushels of potatoes worth ten dollars; and you say, let us make a common stock of our transportation, and all pay for it equally according to consumption. There is some sense in Fourierism in preference to such a system. They divide property equally, after allowing something for talent, and something for labor; but this is worse than Fourierism. The great object of this scheme is carrying us back to the old rude system of Government that existed twenty centuries ago—that "they should take who have the power, and they should keep who can." When you get labor into such a partnership, you take the lion's share and leave it the bone. Sir, I am the friend of labor. I am the friend of every laboring man, no matter what part of this great country he may live in, North, South, East, or West. I will give no vote to plunder him of the earnings of the sweat of his face, for the sake of the Government, or anybody under the Government.

If you are in earnest about the Post Office Department, make it pay for itself; let everybody who sends letters pay for them, and then those who cannot write will have nothing to pay. Everybody knows the postal service can be done for half the money that you spend on it. I do not suppose that Adams & Co. have half the trouble to get employes for their offices that the Government has. If a postmaster is to be appointed, several men from the locality spend two or three months in this city, and there are various committees to urge the claims of this man and that man. After the appointment is made, there is sometimes great difficulty in getting the confirmation here; and they have a good deal of trouble when they go home, to get securities. Men would not take so much trouble if they got only the rewards of honest labor. But a man wants such a place because it is an office, and pays more than he could get anywhere else; because it puts him to fattening on the Government, rather than on his own industry; and he wants to get it that he may live without labor from the industry of those who do labor. Cut the Post Office from the Government, and there will be an end of that.

The Postmaster General requires \$9,000,000 from the Treasury next year. I will not give it; and, therefore, I have no deficiency to provide for. I will not pay \$2,400,000 for carrying the mail to six hundred thousand people on the Pacific coast. I am willing to give them all necessary facilities; and I know it can be done for \$250,000; but if it cannot, pay \$500,000; and if you cannot get the service for that sum, pay \$700,000; but that you should, for political and commercial reasons, pay for keeping up a mail route by Panama, and through Nicaragua, and through Tehuantepec, and for two or three overland routes besides, has not the recommendation of wisdom or justice; it is not plain common sense. There is not a man in America who would manage his own business in that way. There is not a man whose estate would not be taken from him and put into the hands of com-

missioners, if he managed his business in that way. He would be, to use a polite term, what the Scotch call an innocent, favored of the gods, and who ought to be protected of all men.

Bring down the Post Office Department, and save some twelve or fourteen million dollars. I have not gone through the various Departments, for I will not fatigue the Senate, and I have not the time. Now I will come to a single point upon this great question. My friend from Pennsylvania cares little about the expenditure; he is not more concerned to maintain this expenditure than I am; he has no more concern that money should be improperly expended than I have. I do not suppose he would vote for it any sooner than I would. I make no allegation of that sort; but there is another object which he thinks is to benefit his constituency. I do not think so. Whether protection be right, or free trade be right, in my judgment, in the main, it is as right in Georgia as in Pennsylvania. I think the idea is a mistake wholly. There are incidental advantages in favor of the manufacturer; but I can carry wheat from Georgia to the iron foundries of Pennsylvania cheaper than many farmers in the western part of Pennsylvania can carry it there. I think we get some incidental advantages, if there be any. But the Senator imagines that, because the iron-mongers have raised this clamor, we must increase the taxes. I do not believe the people of Pennsylvania have raised this clamor about protection. Why should it have arisen? It has been already shown, in the very able report of the Secretary of the Treasury, that there was less iron imported last year than there had been for many years before, and, therefore, there was very little foreign iron to come into competition with the Pennsylvania article. My friend says, however, that he wants to make better iron than England; and he presents us statistics to show that Pennsylvania iron does not lose more than six or eight per cent. a year in wear and tear, whereas British iron loses ten or twelve per cent. I tell him the safest place he can leave that question is with the railroad contractors. If he has not any of them in his State sharp enough, send them down to Georgia and they can work it out. They know good iron from bad; they know profit from loss. Send it down to a Georgia railroad president and he will work it out for you. It is always safe to leave the quality of a commodity to the man who is going to use it. Government is the worst judge; for, if anybody is to be cheated in such a case, the Government is sure to be.

But the Senator says he must have taxes to relieve the people. As I said, I am not going into that question. But he says he will unite the two systems of *ad valorem* and specific duties. The tariff of 1857 was founded on the idea of a revenue tariff, discriminating in favor of the industry of this country. It was a policy that met my support—a wise policy. The single question is, is it enough? I ask my friend from Pennsylvania, is not twenty-five per cent. on iron enough protection? Is not one fourth of the commodity to be seized by the Government, which they have a right to do—twenty-five bars of railroad iron to the hundred—enough to encourage the domestic manufacture? The school in which I was brought up as a protective Whig, was, that we were to raise no more revenue than the economical wants of the Government required; and in levying that revenue to discriminate for our infant manufactures. What for? That we might divert capital into them, that we might prevent them from being crushed in their infancy.

Well, sir, when is the iron manufacture going to get grown? I want to know. That was the ground it was put on in 1842. I want to know when the iron interest will ever attain its majority. It has had, taking the fluctuations in duties and prices, as much as one hundred and fifty per cent. protection for forty-three years—from 1816 to this day. Have they not had enough experience in making iron? Is it a very occult science? Has not the world gone on until it is made for half the price it was in 1816? I think railroad iron ought not to be taxed at all; it ought to be free of duty, and I would free it to-morrow if my vote would do it. I would not tax the transportation of my country. I would not tax the wheat and corn of the agriculturist, that are now down as low as manufactures. Look at the Northwest. She raises nothing but rude product—millions of

wheat, millions of corn, millions of lumber, all rough, all cheap according to bulk; and she has the highest possible advantage in cheap transportation both on land and on water. Why should you tax her twenty-five per cent. upon the great element on which she transports her commodities to market? I say it is unjust; and if I have got to raise more revenue, I will not put it upon an article necessary to the transportation of eight tenths of the labor of my country. I say, let it stand where it is, and you will soon find the thousands of millions of capital invested in railroads demanding their rights, and they will enlighten you on free trade. They are not going to stand this tax of twenty-five per cent., and you cannot hold it for three years. Look to it. These thousands of millions of capital will no longer submit to the burden of twenty-five per cent. on iron. On their roads, the iron for which costs on an average \$5,000 a mile, they will not pay \$1,500 a mile in order to support Pennsylvania iron manufactures. They will say to them, "you have had forty years to learn how to make this iron, and we will not tax ourselves any longer for your benefit," and they are right.

Mr. President, I shall detain the Senate but a few moments longer on this question. I have stated that the tariff of 1857 was a tariff for revenue, discriminating for protection. It discriminated largely. At that period we found our revenues abundant, and we determined to readjust the tariff system so as to lessen the revenues. My friend from Virginia and myself, and gentlemen all over the country, with different views of protection and free trade, said, that as the country was generally prosperous, as we must reduce our revenue, we were content that even advantages should be had. The woolen manufacturing interest said that we had allowed a duty of thirty per cent. on wool, which had worked hard on them; and they asked us to give them coarse wool free of duty, that they might compete with England, and to put woolsens in the highest schedule. We did it; and they went on their way rejoicing. We dealt fairly by every branch of industry. The Senator from New York, [Mr. SEWARD], the representative, not of free trade, but of free soil and protection, was a member of the committee of conference on that bill, and it received the approbation of his judgment.

All parties are committed to this policy. What did you bring the revenue down to \$50,000,000 for? Did you not understand it? Did you not know what this tariff would bring in? Were you statesmen? Did you not know, what everybody else knew, that the reduction was such that it would bring down the revenue on the same importations which you had the preceding year, and that you had to look to a gradual increase of the importations for a gradual increase of revenue? Yes, sir, you did understand it; but, because a monetary convulsion has overtaken the country, and because protection entered into a State election, the whole world is to be disturbed; and our revenue system, which you agreed upon as a national settlement, is to be readjusted. I say it was a national settlement, because all sections harmonized upon it; and I congratulated the country at the time that Massachusetts and South Carolina, East and West, North and South, all united in favor of it. All the Senators in this body except eight, and two thirds of the members of an opposition House, deliberately said: "We will make this hereafter a financial question, not a party one; and we will put it on this basis." But now, the Senator from Pennsylvania tells us—and we are told by the Government organs—that we must have a readjustment of the tariff; that although it has had but little over a year of unparalleled commercial disaster to test it, it must be altered now. Well, I know not what you can get now. I know not whether gentlemen here are ready to eat their own words. I have seen a great many strange sights in my time. I am not ready to do it. I believed at the time that it was a wise act; I believe so now. I believe it gave fully as much protection to American industry as ought to be given.

The honorable Senator from Pennsylvania complains of the mode, and prefers specific duties. My opinion has been that specific duties were always the best rule. Thirteen years ago, the arguments which are now brought up were used by me against the act of 1846. I said it would

give you the most revenue when you needed the least; that it would give the most protection when the least was necessary; and that, therefore, it was not wise to make a uniform rule of *ad valorem*. Thirteen years' experience has satisfied me of the truth and propriety and justice of the opinions I then held on that point. But, sir, while I believe that upon many articles specific duties would be better, the great majority of those with whom I act, those who with me are against raising the taxes, prefer the *ad valorem* system. We agree that the public burdens shall not be increased; but they differ from me as to the manner of imposing them; and as my great object is to prevent an increase of burdens, I shall yield to them the manner. I think it probable that at another time, with further experience, they may change their opinions on this point; but I can only look to those who are for *ad valorem* duties, to save the country from additional taxation. I am against additional taxation; and therefore I act with those who are for the *ad valorem* system, rather than with those who are for specific duties; and who go for specifics, not because they are best; not because they are wisest for the revenue, but for the purpose of increasing the public burdens, for the purpose of raising the public taxes.

If you presented me a measure likely to meet the approbation of the country, which did not propose to increase the public burdens, but simply to change the mode of collecting them, I should be for it; but the Senator from Pennsylvania says all he wants is a duty of twelve dollars on rails. I see by the accounts received by the last steamer, that rails were £6 10s. at Cardiff. Twelve dollars a ton duty is only a small matter of forty per cent. *ad valorem* on the present price. He is not for raising the duties to a high point, but he simply wants forty per cent. in place of twenty-four! He only wants fifteen dollars a ton upon bars which were worth £6 6s. by the latest advices from Europe. That is a small matter of about forty-five per cent. All he wants is a revenue duty with incidental advantages. He says "pile on the burdens; I will get the incident." That is the policy of the Senator from Pennsylvania. He begs for burdens. He does not go for protection for protection's sake; he is for a revenue tariff, if he gets the incidents, and therefore the more weight the more incidents. That is the Senator's doctrine. He is dying for the incidents. Give him taxes; give him burdens; make them as high as you can; the greater the burden the greater the incident; and therefore he modestly asks for from forty to forty-five per cent. on bars in order to get the incident. He will make the salt worth more than the dish. I cannot stand it. I believe his colleague wants eighteen dollars a ton duty on bars.

Mr. CAMERON. Oh, no. I take no part in this. I am listening to the gentleman with great pleasure. It is a fight between members of the dominant party.

Mr. TOOMBS. I can tell the Senator from Pennsylvania, we have passed all that. This question has got beyond the point of party. I am arguing the question to American Senators, who, without reference to party, voted for the tariff of 1857. If a gentleman with whom I act politically, and for whom I have very high respect, advances erroneous propositions on this great question, I must meet him with arguments of principle. My friend from Pennsylvania says that he is for a revenue tariff, with incidental protection; but he will find that he can never carry, and Pennsylvania can never carry, such a scheme as he favors—and she may as well look it in the face—until she goes to the enemies of at least the Democratic organization in that State. I have given you all the protection that I could ever agree to give under any circumstances. The country has passed that point. We were a young country forty years ago; our manufacturers were feeble; we wanted skill, and we desired to devote it to manufactures; and in laying our revenue, we used it to build them up, and have built them up; and they will go on in spite of croakers, in spite of convulsions, in spite of parties. Our manufactures, our agriculture, our commerce, are on a firm basis, and they will go on increasing and gathering strength every day, every decade, every century. It is a mistake to think of putting down manufactures. Certain men set themselves up as the peculiar friends of the manufacturers to

get votes. They want to use them. Manufactures are established in this country; all the handicrafts are established; the great powers of machinery are established. We have the skill, we have the education, we have the experience, we have the capital; and strike down your custom-houses today, and the iron interest in the United States will live and flourish everywhere, not only in Pennsylvania, but in Georgia, in North Carolina, in Tennessee, in Ohio, in New Jersey. You cannot stop it. You might as well attempt to pull down the stars or pluck out the moon. Some men seek to give themselves consequence by allying themselves with an interest which is truly great and immortal. I am content that it shall stand.

I am content to go with you when the time shall come when you propose really to lay specific duties for the purpose of giving more certainty, more fixedness, and to avoid frauds, which it does. I admit that, as an original question by itself, *ceteris paribus*, I prefer it to all other modes; but I will not make it an excuse to levy thirty or thirty-five per cent. on woolens and forty per cent. on iron. I say the policy of those with whom I now act—the Democratic party of the country, and of the whole country—has been to bring down the expenses of the Government. By a union of all parties, and of divisions of all parties, latterly, they have been carried beyond its legitimate sphere. Bring them down to legitimate expenditures, make them honest, make them efficient; but do not squander the public money and then increase your revenues. A great majority of the southern people believe that every burden you impose, every percentage you lay, is injurious to their interests. It certainly enhances the price of all articles they consume. Still they say they are willing to make that concession for common harmony, for common interests, and for common glory.

Mr. President, I have before me tables showing the effect of the tariff of 1857, the tariff of 1846, and the tariff of 1842, upon our imports; and these tables, which have been prepared with great care, show one remarkable result. They show that the tariff of 1842 would not bring you more than \$60,000,000 of revenue, although it laid duties of forty-five and one hundred per cent., and a great many specific duties. If you had collected the revenue under the act of 1842, for every year up to June 30, 1857, you would not have got over \$60,000,000. By the act of 1846, on the basis of the same importations, you would get \$51,000,000; and by the act of 1857, \$43,000,000. I say, then, neither the act of 1842, nor the act of 1846, nor the act of 1857, would support this Government, in an expenditure of seventy or eighty million dollars. The highest protective tariff you ever had, would not give you revenue enough for the present expenses, unless you increase the imports; and certainly the friends of the manufacturers would not favor that. You now pretend that you want to alter the tariff, because, in the last disastrous year, it did not bring in money enough. The tables which I have, show that the act of 1842 would not have produced, for the last fiscal year, more than \$60,000,000. I say, then, you must retrench. You may try to get protection, and pretend that it will do, and double your duties. But here are the tables, and I challenge any protectionist on this floor, to show that the act of 1842 could have brought us more than \$60,000,000. Then you would have a deficiency of \$15,000,000 of revenue under the highest protective tariff you ever passed. If you look to high duties to help manufacturers, you must ally to protection direct taxation, as they do in England. When she protected her manufactures, she had to increase her internal taxation. When you carry it to the extent of shutting out the foreign commodity, you must go to internal taxation, and you are the natural allies of that system; not my friends of the South, who erroneously suppose they would introduce direct taxation with a view to break down protection. Protection is the ally of direct taxation, and will ultimately make it necessary.

Mr. CLINGMAN obtained the floor.

Mr. HUNTER. I suggest to the Senator who has the floor, that we postpone this subject until to-morrow, and let me move to take up the appropriation bill; and we can make some progress in it in the course of an hour and a half or two hours.

Mr. SIMMONS. If the Senator will give way, I should like to ask a question of the Senator from Georgia.

Mr. CLINGMAN. I give way.

Mr. SIMMONS. I should like to know of the Senator from Georgia what he estimates the annual imports will be, in ordinary times, under this tariff?

Mr. TOOMBS. I will answer any question with great pleasure, because I omitted many tables and records that I have before me, from my indisposition to consume time. I have no doubt but that the imports of the country next year will go to \$350,000,000, and they will continue to increase with the productive power of the country.

Mr. SIMMONS. And you calculate on \$56,000,000 of revenue next year?

Mr. TOOMBS. Yes.

Mr. SIMMONS. You only go for reducing expenses so as to make that the basis of our expenditures?

Mr. TOOMBS. Yes.

Mr. SIMMONS. I go with him for the reduction. I only wish to say that now; but at some future time I will give my views on the other points. I have no doubt, myself, that in the course of an hour I can convince the Senator that he is wrong. If I cannot, I will go with him, for he means right, and so do I.

Mr. SLIDELL. The Senator from Virginia has consented to waive his motion for taking up the consular and diplomatic appropriation bill, in order that I may present a motion now to take up for consideration the bill for the acquisition of Cuba. It is very evident that this debate is to be a very protracted one. If but one speech a day is to be made on a subject so complicated and extensive as the tariff, and if our whole financial system, our whole system of customs is to be debated in this form, really presenting no substantive proposition to the Senate, it appears to me the whole remainder of the session must necessarily be occupied by that discussion alone. The consular and diplomatic bill and all the other appropriation bills must necessarily pass. I certainly have no disposition whatever to embarrass the Senator from Virginia. His duty imposes upon him the obligation of pressing at all times—perhaps he sometimes presses out of season, as well as in season—the peculiar business that is confided to his charge; but I have his assent now to make this motion. I wish to get this subject up once fairly before the Senate, and afterwards I shall not press its consideration unduly on the Senate. If there is a disposition to prolong this debate on the tariff, a question involving, as I said before, no substantive, direct proposition, a mere discussion of theories in anticipation of what may not happen during this session at all, the presentation of a tariff bill in the Senate, originating in the House of Representatives, I see no chance whatever of obtaining any distinct expression of the opinion of the Senate on this very important question. I now move to proceed to the consideration of the bill for the acquisition of Cuba.

The PRESIDING OFFICER. (Mr. REID in the chair.) The first question is on postponing the resolution before the Senate.

Mr. HUNTER. I request that I may be allowed to make a statement. I have yielded; but I have yielded under coercion. The Senator has given me notice that he will move—backed by his committee as I understand he will be, so that I could raise no question of order—to put this Cuba bill upon the appropriation bill. Now, sir, I could never consent to that.

Mr. MASON. Will my colleague allow me to interrupt him for a moment? Did I understand him to say that the Senator from Louisiana would move, by direction of the Committee on Foreign Relations, to put this on the appropriation bill?

Mr. HUNTER. I said I so understood.

Mr. SLIDELL. The Senator from Louisiana made no such statement.

Mr. HUNTER. Am I mistaken?

Mr. SLIDELL. Did I understand the Senator from Virginia to say that I had assumed to speak for the Committee on Foreign Relations?

Mr. HUNTER. I did not; I said I understood you were backed by the Committee on Foreign Relations.

Mr. SLIDELL. I made no such suggestion. Mr. HUNTER. No. I heard it otherwise.

Will the Senator inform me whether he has their authority?

Mr. SLIDELL. I have not.

Mr. HUNTER. Then I prefer to take up the appropriation bill; and I will try the question of order with him when he offers his amendment.

Mr. SLIDELL. That may be a subject coming up for discussion before the Committee on Foreign Relations. When the question is presented to that committee, and they find that there is no chance of having the measure brought before the Senate for consideration, without the action of the committee, I shall endeavor to obtain that action. I have made no such attempt, as yet.

Mr. HUNTER. I make this suggestion to the Senator from Louisiana, by which I am willing to abide; that when the discussion on this resolution is done, which I suppose will not be very long, in view of the short period which remains of the session, then let us take up his bill, and occupy the morning with it until, say two, or half past two o'clock, and give me the evening for the appropriation bills. I told him that, if he would agree to that, I would endeavor to call up the appropriation bill now, and work on it until the Senate adjourns; and that when his bill got up I would do the same thing, wait until two o'clock, or half past two o'clock each day, giving a chance to debate it, and then call up the appropriation bills. That is all I can say.

The PRESIDING OFFICER. The question is on the motion to postpone the resolution under consideration until to-morrow at one o'clock. The motion was agreed to.

ACQUISITION OF CUBA.

The PRESIDING OFFICER. The appropriation bill, I believe, is the unfinished business.

Mr. SLIDELL. I do not understand that the appropriation bill is the unfinished business.

Mr. SEWARD. I beg pardon of the Chair. It is not the unfinished business. It has not been taken up.

Mr. HUNTER. It was taken up yesterday, and we went into executive session. If not, I move to take it up.

Mr. SLIDELL. I was under the impression that, if not technically in order, at least, by the ordinary courtesies of the Senate, I had the floor for the purpose of making my motion.

Mr. HUNTER. Very well. I yield.

Mr. SLIDELL. I move to postpone all prior orders, and proceed to the consideration of the bill (S. No. 497) making appropriations to facilitate the acquisition of the Island of Cuba.

Mr. HUNTER. I should like to understand whether the Senator means, after it is taken up, to occupy only the mornings, as I have suggested, and give the evenings for the appropriation bills? My vote will be governed by that. My vote will be given to take it up with the understanding that it shall only occupy the morning until two or half past two o'clock, and give me the evening for the appropriation bills.

Mr. SLIDELL. I will, with the understanding that if any gentleman is prepared to speak on the subject this afternoon, he may go on. I have nothing to say myself at present.

Mr. SEWARD. I beg leave to say that the two honorable Senators seem very fairly to make a bargain to which, I think, they will find it impossible to get the consent of the Senate. If the Cuba bill is to come up, it is to have a fair chance on both sides; and it will not be the debate of an hour in the morning for one morning, or two or three, but it has got to be discussed from beginning to end, through and through, up and down, come whenever it will, if those who oppose the bill are not silenced by some superior power. I certainly shall not be prepared to agree that a speech may be made in favor of it on one side, and then no more to be said before deciding it.

Mr. SLIDELL. After the very emphatic notice of the Senator from New York, I think the friends of this bill have but one course to pursue; and that is, to press its immediate consideration. I therefore make the motion.

Mr. HALE. I do not know, sir, how anybody else on this side of the Chamber will vote; I do not know how the friends with whom I have acted will vote; but I shall go with the Senator from Louisiana; and I shall go for taking the bill up, whether it takes little time or long. I know that, in the section of country from which I come, and

amongst my own immediate constituents, there is an impression prevailing with the people that this measure, which I look upon as monstrous, is dressed in such a shape, and put to the people under such motives, that it is considered here not safe or prudent, from political considerations, to oppose it. Sir, I am opposed to it—utterly opposed to it; and I propose, not in a long speech, but a brief one, to address myself to the question, when it does come up; and I want it to come. I am not for skulking this question—and I use that word in no offensive sense, because I do not suppose that anybody is; but I, for one, am not for skulking from any responsibility in regard to this question, or any other.

Sir, the people whom I represent are opposed to this measure, utterly opposed to it; but whilst they are opposed to it, they are not opposed to it because they are opposed to all acquisitions of territory. I do not take that ground. I propose, when a fit occasion comes, to show to you—it seems to me rather absurd to have to talk geography here, and I may be excused if I refer to a geographical fact—I propose to show to the country and to the Senate this geographical fact: that if there are any considerations relating to the defense of the country; if there are any considerations of a military character, which require the occupation of Cuba, there are the same considerations, multiplied a hundred degrees, that require the annexation of another country than Cuba. I propose to point you to the atlas, and show a great river entering the North American continent, and running back, connecting with the great lakes, opening the whole continent to the easy approach of the most gigantic Power of the earth. I propose to show you, sir, that by reannexing the provinces of Canada to this country, and building a single fortification below Quebec, on the St. Lawrence river, which can be very easily done, we shall dispense forever hereafter with any naval armament upon any of our great lakes. And, sir, give us these \$30,000,000 that you know you cannot do anything with in the way of annexing Cuba; give us that, and I will furnish you responsible contractors in ninety days to annex Canada, and hold it until you give it away by negotiation afterwards. [Laughter.]

Mr. BENJAMIN. I am exceedingly glad to hear from the honorable Senator from Maine that he is going to assist in getting this bill up for debate.

Mr. HALE. I live in New Hampshire, four miles from the line of Maine; that is all.

Mr. BENJAMIN. I am exceedingly glad that we are going to have a discussion on this bill; and I shall be very glad to meet the Senator in his discussion about annexation, either North or South. I do hold, sir, that this whole question of the foreign relations of the country, at the present moment, is the most interesting, the most important, that can be brought to the consideration of the Senate and the country; and I trust that there may be some opportunity for a full and free debate on it. I am anxious to give the Senator from New York [Mr. SEWARD] every opportunity of discussing it, top and bottom, inside and out, as he says; and I think that, when it is brought to the country in its true colors, when all the considerations applicable to it are brought before the country, so that the people can properly understand them, they will make then a wise and judicious selection between the gentleman's proposition for contracting to take Canada for \$30,000,000, within ninety days, and that for acquiring the Island of Cuba, which I believe to be perfectly now within our power.

Mr. MASON. Mr. President, I shall listen with great interest, and doubtless instruction, to the debate which is promised us on the part of those who think the immediate acquisition of Cuba so important to the country, and I shall throw no obstruction in its way; but I submit to the honorable Senator who has charge of this bill, and to others who think with him of the importance of the immediate acquisition of Cuba, to aid me in removing one little obstruction out of the way, which, small as it may be, yet may be found one of some importance when they come to negotiate about Cuba. I mean the Amistad bill—that claim which Spain has had upon the honor of this country for nearly twenty years; and I would ask those gentlemen to permit me on Friday, which is private bill day, to call up the bill

at half past twelve o'clock, for the purpose of doing justice to ourselves, and doing justice to Spain, and get that out of the way.

I am the more induced to do it, because I am aware that an honorable Senator from the State of Connecticut [Mr. Dixon] has examined the subject with some care in the view which he and his friends take of it, and it would be very desirable, as a matter of convenience to him, that he should be heard. The bill has got off the Private Calendar because it was made a special order. I will say to the Senate that I will not debate it if the Senate will take a vote on it. I will hear that Senator with great pleasure. I have no doubt he will do justice to the side on which he stands; but I shall trust to the report which has been made from the Committee on Foreign Relations, in advocacy of the claim. I hope then, by general consent, we shall be permitted to take it up at half past twelve o'clock on Friday.

Mr. SEWARD. I must be allowed to say a word on that proposition, sir. If it were true that the disposition of the Amistad case would facilitate the present passage of the bill which has been introduced here by the Committee on Foreign Relations to put \$30,000,000 at the disposition of the President of the United States, that would only be to add an additional reasoning to the many which I have, why I should be opposed to the passage of the Amistad bill. It is with reluctance that I object to taking it up, and more especially, since my honorable friend from Connecticut is expected to be favored with an opportunity of speaking upon the subject. Still I think it the most atrocious act of legislation which the Senate could possibly adopt; and I therefore am bound, when it shall come up, to attempt to expose it on behalf of the minority of the Committee on Foreign Relations, who have protested against it from the first until now, and expect to meet it at all times, and on all occasions.

At this stage of the session, with only twenty-three or twenty-four days before us; with the great question how we are to raise the revenue, or to make the revenue of the next year meet the expenditures of the year, entirely undetermined, with no majority in either House, and with no Administration to guide us through that difficulty, I confess what seems to me the paramount duty of Congress is to confine its attention chiefly to that great subject until we shall be prepared both to retrench the expenditures of the Government, and to provide revenue so as to arrest the expenditures of the public money. We are to-day putting up two hundred columns in front of the Treasury building, at a cost of \$2,000 a piece, to ornament the public buildings of the national capital, saying nothing about what we are doing here in the improvement and enlargement of the Capitol and the water-works; and to-day we are paying five per cent upon every \$2,000, the cost of every column of that work. I think that instead of contriving how we can in the easiest way borrow \$30,000,000 to put in the hands of the President, we had better begin to see how to arrest expenditure and to bring the revenues of the Government up to the standard of our expenses, and at the same time do something towards reviving the stagnant industry of the country.

The PRESIDING OFFICER. The question is on postponing all prior orders and proceeding to the consideration of the bill designated by the Senator from Louisiana.

Mr. FESSENDEN. I feel disposed to say a word, sir, on the subject of taking up this bill. I trust that it will not be taken up, although it seems that my honorable friend from New Hampshire having prepared himself to contest it, is in favor of having it come up at the earliest moment. I see no object in bringing it up at all, except to enable gentlemen to make speeches on it to go before the country. I would suggest to my friend from Louisiana [Mr. BENJAMIN] that although this matter is to be discussed for the benefit of the country; that is to say, for the benefit of the elections that may be approaching; there are but three weeks left of this session, and gentlemen talk of bringing up measures which they know very well cannot get into the shape of legislation at this period, when we have question after question of ordinary business, quite as much as we can attend to, crowded upon us at the very heel of the session.

The honorable Senator from Virginia talks about the Amistad case as one standing in the way of the acquisition of Cuba. I agree with my friend from New York, that if a trifling matter of that sort has in reality such an effect, I would keep the Amistad bill in its present position just as long as possible; I would not aid in bringing it up at this time. I know enough of my honorable friend from Connecticut to be perfectly aware that if he is ready to speak on it, he would infinitely prefer that he never should have the occasion to speak upon it by having it brought up here; and I know that if there is any class of Senators here (which I cannot believe) who desire to have measures come up to which they are opposed, for the sake of speaking on them, my friend from Connecticut, at any rate, is not one of them. Now, sir, I never promise to speak on any question, because I do not know whether I should have the ability to perform the promise if I made it; and I am a little careful, therefore, how I promise. I infinitely prefer that the Amistad claim—which the honorable Senator from Virginia speaks of as a debt of honor to Spain, but which I consider an utter rascality in its very nature—never should come up in any shape or form. If it does come up, I may have something to say about it, or I may not. I certainly am desirous that it never should present itself, for I really look upon it in the light of a claim that presents itself with the utter absence of any merit, or any honor of any kind or description. That is the view I take of it.

It is perfectly well known that if that question does come up, it must lead to a protracted debate; that it can be attended with no result; for, if the bill passes through the Senate, it cannot pass the House at this session of Congress. The same is true of the Cuba bill. If they come up here for debate, we have nothing but debate; and, as I said before, there is time enough for both these questions before the important elections which may be approaching. They will keep; and we shall have time to speak upon them hereafter without crowding them upon the business of this closing period of the session of Congress.

Sir, I almost despair of having anything done in reference to the revenues at this session; and I see, or think I see, in the future, difficulties that we are to have, as individuals, in coming here to act upon important questions at a season of the year when we would gladly be elsewhere; but there is time enough left to us at this session to do something. There is time enough to get through with the pressing business of the session, if we are disposed to do it. We have time enough to dispose of the appropriation bills, and other bills that are before us awaiting our action, that are practicable, that do not call for mere debate and talk. Why then not take them up in their order, or take them up as we can get them up, and dispose of them first; and then, if we have any time left for the Amistad question and the Cuba question, we can take them up afterwards, and have all the addresses we wish to make for the country on subjects of that description?

I hope my friend from New Hampshire will reverse his decision, and will not vote to bring this question up until he is compelled to do so; not that anybody supposes that we shrink from meeting questions of this description before the country. I do not for one. I am willing to listen, if I do not speak. I am willing to vote, at least, upon these subjects, whenever I am brought to a vote on them, and to express my opinion on them beforehand, if necessary. All that we who stand in opposition, at any rate, to these measures have to do is not to aid in bringing them up at a period so late in the session as this, when there are many things else to be done for the benefit of the country, much that we ought to do. I hope, therefore, that neither of these motions will prevail.

Mr. MASON. Mr. President, I should be very sorry if my proposition to call up the case of the Amistad on Friday morning, using, in connection with it, what I presumed to be the convenience of the honorable Senator from Connecticut, has placed it in the power of his political associates, who, I presume, are also his political friends, to drive him, because of that connection, into any sort of disparagement with his constituents. I understood the honorable Senator from Maine, who has just taken his seat, to express some doubt whether the Senator from Connecticut would feel

himself at liberty to lend any aid to me, or to those with whom I act, to bring up this question, because of its peculiar character.

Mr. FESSENDEN. Will the Senator excuse me a moment?

Mr. MASON. Certainly; I yield with great pleasure.

Mr. FESSENDEN. I do not know what hallucination is running through the mind of the Senator; but it is clearly one. I intimated no such thing in any shape or form—not in the slightest possible degree; and I said nothing which the Senator could construe into that, unless he is laboring under an entire misapprehension of what I did say. I said this, and I say it again: my friend from Connecticut did not understand me as the Senator from Virginia does. I know that my friend from Connecticut, although he might be prepared to speak on this question, and speak against the bill, (which I know he is if he speaks at all,) would much rather forego the speech than have the bill taken up at all; and I have no doubt he would. That is all.

Mr. DIXON. Mr. President—

Mr. MASON. The Senator from Connecticut will allow me to go on; I will yield him the floor directly. What I meant to do was simply this: to call upon those gentlemen with whom I act to take up this bill as an act of justice to the Government of Spain, and to this Government. In connection with it, I used the name of the honorable Senator from Connecticut only to declare that he had done me the honor to say that he designed speaking upon it; that he had prepared himself to oppose the bill; and I used his name in connection with it only to say that I would hear him with great pleasure, but should not reply, from an anxiety to get a vote, and to assure the Senate that I do not mean to occupy the time of the Senate on the subject. Having done that, I did think, and I think without any hallucination yet, I understood the honorable Senator from Maine to place that honorable Senator in a position of disability to explain himself.

Mr. FESSENDEN. He can speak for himself on that subject.

Mr. DIXON. I have only to say, Mr. President, that I have no desire, one way or the other, with regard to taking up the Amistad bill. I think it can be shown that the claim is entirely unfounded; that it is unjust; and I believe the Senate will be convinced that it ought not to be paid. I have no fear of meeting it; but have no desire that it shall be taken up, one way or the other.

Mr. MASON. I will call it up if I can.

Mr. BENJAMIN. I merely desire to say one word, to guard against misapprehension. If the Senator from Maine supposes that I desire the bill in relation to Cuba to be taken up, simply for the purpose of having the bill discussed, and the discussion go out to the country without any result, he misunderstood me. I expect the bill to pass at this session, and to result in the acquisition of Cuba. That is the reason why I support it.

Mr. HALE. I want to say a single word in answer to a remark that fell from my friend from Maine. He intimated that I wanted the Cuba bill to come up for the purpose of making a speech that I had prepared on this subject. I can say to the Senator and to the Senate, I have prepared no speech upon it. If the thing is taken up, I shall speak with such preparation as I can give to it; and I shall have to devote to it more labor than I am desirous of expending on the subject this session. I will repeat what I said before, and I call the attention of the political friends with whom it is my pleasure to act, and whom it is my pleasure to lead where they follow—[laughter]—well, I made a blunder, sir; I take it back—my pleasure to follow where they lead. [Laughter.] Take it that way. I say, sir, that I have received letters to-day from the State of New Hampshire, from some of my political friends, in whose judgment I have great confidence, and whom I always follow, let them lead where they will, and they tell me that the sentiment there is that this question is demoralizing the Republican party in this country, and that they dare not meet it. I know that they will look upon it, and they so write to me, as a great measure that is got up not so much for the acquisition of Cuba as for the acquisition of this country in the next presidential election. That is the way they look upon it.

Sir, I presume you have read the Arabian Nights; and if you have, you may have read an account of some sovereign who had received a mortal wound, under which he languished, and that he was kept in life year after year and year after year, by the assiduous attention of his nurse, who, every now and then, had to administer some extraordinary tonic to keep him in life. Now, sir, the Democratic party in this country occupies just exactly the position of that eastern sovereign. In 1840, they received their death wound, and they have only lived a spasmodic life ever since. [Laughter.] They have been kept alive by tonics and stimulants. They took the annexation of Texas, and that was a very salutary dose. It gave them new life. Then they have taken various measures, until they have run out all the ordinary nostrums that are advertised in the catalogue of patent political medicines; and there has been a Cabinet council got together, and they recommend now a strong dose of Cuba as the only thing by which the party can possibly survive another presidential election. [Laughter.]

That is the way my political friends look upon it in New Hampshire; and, sir, I confess that I very much concur in the view which they take of it. Looking upon it in that way, they think that it implies a lack of courage and a lack of confidence in the discernment of the people to avoid this discussion. I do not belong to the Administration party here; though I have had to defend this Administration against its friends a number of times. [Laughter.] I did it last session on the Army bill. In fact, I do not know that there is an Administration party on this floor. I understand it is given out in high quarters that Mr. Buchanan has joined the Opposition; and that may possibly be the reason why he was not invited into the Democratic caucus, and had not a chance to be heard there. [Laughter.] Or, perhaps, it was because the Administration was against him, and he had, like the historical Doge of Venice, been plotting against his own Administration. I do not belong to the Administration party, and I do not belong to the majority in this Senate. I am emphatic in saying that now, because I do not know long I can be justified with truth in saying it. I take it, however, that this is the measure of the Administration and its friends; for in my unsophisticated observation of what has occurred upon the floor of the Senate since this Administration has been in power, I have thought that if there was a single member of the Senate who spoke the views of Mr. Buchanan more clearly, more emphatically, more decidedly, and more—something beyond what my friend from Pennsylvania [Mr. BIGLER] would call "semi-officially," it was the Senator from Louisiana, [Mr. SLIDELL.]

I may have done him injustice; or, rather, I may have done him more than justice, not injustice. That has been the way it has struck me. Well, sir, when I saw that gentleman occupying this official and confidential relation to the President, as I have certainly supposed that he has, coming forward and asking for the consideration of this measure, and urging it, I took it to be the exposition of the way in which the Administration proposes to administer the Government, and that we should be called a factious opposition, and be accused of throwing impediments in the way of a fair and honest administration of the Government by the Executive, if we failed to give this Executive measure fair consideration. The President, in his message, recommends it from motives of the highest humanity, in opposition to the views that have been expressed, not far from here, in regard to the reopening of the African slave trade. When Mr. Buchanan, from the impulses of his benevolence and from the pious purposes of his philanthropic heart, desires to throw the force of his administration in the way of reopening the slave trade by the acquisition of Cuba, I am not disposed to shrink from the examination of that question; and I beg my friend from Maine to do me the justice to believe that it is not for making any display of myself on this occasion.

I say, sir, with the honorable Senator from Louisiana, [Mr. BENJAMIN,] it is a great question. It is the question upon which are suspended the destinies of this nation. I look upon it as a measure fraught with incalculable mischief. I look upon it as a new era in the history of the country.

I look upon it as inaugurating a new policy, fatal to our progress and even to our existence. But, sir, looking upon it in that way, when its friends put it forward as they do, I think that, let the time of the session be what it may, we should go home subject and liable to that reproach which my friend writes to me from the little State of New Hampshire we are laboring under in that State, if we refused to take up the glove of debate which has been thrown down to us. Sir, let it come; and let this great question, so full of interest, so full of consequences that are to be developed, not in the future but in our own day, be discussed in all its amplitude. I say, we should go home to our constituents subject to the reproach which they tell me we are already laboring under, if we shrink from meeting and discussing this question.

If an extra session of Congress is to be the consequence, I can assure my honorable friend from Maine, that I know there is not a member on this floor who would deprecate it more than I would. I know there is not a member on this floor upon whom it would impose more personal inconvenience than it would upon myself. Still, rather than suffer under the reproach and the opprobrium which must be my lot, if I seek to avoid a fair discussion of the merits of this question, I will consent, even at the hazard of an extra session of Congress, to meet this question, and to meet it as becomes a man and a Senator; and I hope that I need not again repeat that it is from no desire to discuss this question myself. If my honorable friend from Maine would pledge us that he would bring his gigantic intellect and his great powers of scrutiny and analysis to bear upon this question, I would willingly sit and listen; but I protest, for one, that I will not put myself in the way of having the imputation raised upon me of avoiding the question.

Mr. FESSENDEN. I seem to be under the necessity of making explanations all around on account of the few words I unfortunately spoke this morning, in relation to this matter. I find that my friend from New Hampshire understood me perfectly well before, and does now; and I have nothing to say to him, except this: I have no fear at all, and thank God I never have, of being misjudged by my constituents, because I speak for them, or because I hold my peace. They are a tolerably sensible people in New England, sir; and if we vote not to take up this measure, I suppose they will have the common sense to know that it is because we think it best not to have it come up, and they will be satisfied with that. My friend deprecates it as fraught with the most horrible evils that could possibly be inflicted upon this country if it shall become a law and the thing consummated; and yet, I beg leave to ask him how the evil can be inflicted if it never comes up for debate? As long as it is kept off, or keeps itself off, we are in no particular danger of all those terrible evils of which the Senator speaks.

Now, sir, I do not attempt to conceal anything with reference to this matter. I only rose for the purpose of saying again, that I have no fear of being misjudged at home. The people of New England understand the quality of the Republican Senators here. I do not suppose anybody will accuse us of being afraid to express our sentiments upon this question, or any other. I am in no apprehension on that ground, so far as I am concerned; and that is no reason, I beg leave to say again, why, at this particular juncture, we, on this side of the Chamber, should lend our aid to get up a measure which we believe to be necessarily injurious, yea, destructive in its results, if it shall ever be consummated, when all the business of the session is before us to be accomplished, and everybody is looking on with a desire that we shall do something in the ordinary line of our duty. That is all I said.

I did not mean to accuse my friend of desiring to get this bill up for the sake of making a speech that he had prepared. I only said that he had intimated that he was ready to speak; but that was no reason why the matter should be taken up out of place, and no reason why we should lend our aid to get it up. That is all. I know that my friend has too great facility for speaking on any subject to have any desire that any particular question should come up at any particular time. Speaking is no trouble to him, and therefore it is no object, certainly, with him to bring up this question, that, or the other. I rose to speak

merely my own sentiments, and to say to my friends on this side of the Chamber, that if this matter is to come before the Senate and interfere with the whole order and course of business, I hope we shall not lend our votes to accomplish it. I certainly shall not mine.

Mr. SLIDELL. I wish to say a single word in response to what fell from the Senator from New Hampshire. I took occasion, some few days since, in reply to an intimation that this was a measure which the Executive had very much at heart, to say that I had never consulted with him before bringing in the bill which was referred to the Committee on Foreign Relations, or in regard to the report which was made upon it. I have never consulted him as to the course of strategy to be pursued to accomplish the passage of the bill or any of these details. It would, however, be an unworthy affectation on my part to say that I was not perfectly persuaded that the President does desire, sincerely desire, that this bill should pass. I infer that, not from anything that he has said particularly to me more than to others, but from the tenor of his message, and because this bill is in exact conformity with the spirit of his recommendation.

Now one word more as to the personal relations that the Senator from New Hampshire has thought proper to attribute to me; whether meant in the form of censure or applause, I do not know, but probably in a friendly spirit. I can say that my relations personal and political with the President are not of a more friendly character than I hope characterizes those relations towards him on the part of a great many of my colleagues in the Senate.

I will say further, that nothing has ever fallen from me, here or elsewhere, to authorize the imputation that I assume to be his particular organ, and to enjoy his particular confidence, or in any degree to be more responsible for his action, or more bound to follow his recommendations and approve his measures, than any other gentleman who habitually acts with me on this floor.

Mr. SEWARD. Mr. President, in regard to this question which seems to divide the two sides of the House in some degree, I wish, after all the debate which has taken place, to put myself right upon the record. If there is one member of this Senate, or if there are forty members, who are in favor of the passage of a bill to give the President of the United States \$30,000,000 for the purpose proposed, I know that he will vote for this bill; I know that they will vote for the bill; that the proposition to take it up now will secure the vote of every sincere and earnest advocate of the measure. If my vote should be found ranged with those, I know of no way in which it could be interpreted, except that I myself was in favor of the same measure. It is a simple rule with me always to vote, in every stage, in favor of a measure that I think a proper one, and at every stage to vote against it, if I think it an improper one, much more an erroneous or injurious one.

So far as political advantage is expected to accrue from the discussions of this bill, it is worthy of serious consideration whether each side of the House is right in anticipating that it will derive great advantage from that debate. One side certainly will derive it, and the other will not. Now, I agree with my honorable friend from New Hampshire, that no good is going to result to the Democratic party from this debate; but I must confess that I have some respect for their judgments and opinions, since it is so clearly understood that they do expect to derive some political advantage from it; and I am inclined, for that reason, if the subject is brought up here so that they may attempt to gain that advantage, it shall be done only by means of their own votes, and not with the aid of mine.

Mr. SHIELDS. Mr. President, I desire to make a brief explanation of the vote I shall feel called upon to give in this case. I am inclined to stand with the Senator from Virginia, who has charge of the appropriation bill, if he adheres to that bill. I consider the appropriation bill as a bill of the first importance and first moment, especially at this stage of the session; and, as he will be held responsible by the country and by the Senate for our action upon that, I will stand by him while he adheres to that bill. If, on the contrary, it is considered wise and proper, on this occasion, to postpone that bill, to let it give

way and call up the other bill, then I will vote with the honorable Senator from Louisiana.

Mr. HUNTER. In regard to that matter, I should have been very glad to have carried on the appropriation bill separately; but when I found that this matter was to be united to that, I thought it was best for the public interests of the country to let this be taken up first; and, after the Senate shall be satisfied that they cannot get along with it, then, perhaps, they will let me take up the appropriation bill. It will then be out of my way.

Mr. COLLAMER. Mr. President, this question of the order of business is ordinarily rather a troublesome affair, and it is annoying to spend many words about it. It does not seem to be of much use to do so; but I will say, that if the chairman of the Committee on Finance, who has always, by the usage of this body, the right to insist first of all upon his appropriation bills, in which he is generally sustained by the Senate, chooses to give way for the purpose of putting forward and giving preference to this Cuba bill, I wish it to be so understood. I trust I am asking for nothing unreasonable in this. If he will have Cuba, he must have Cuba for this session, and get on with the appropriation bills as well as he can; for if we begin discussion on that subject, we must go on with it; we must play out the play. I apprise the gentleman now, in season, that he may have his choice.

Mr. HUNTER. In reply to that, I have to say, that I have to choose between this Cuba bill as a separate measure, or the Cuba bill as attached to the appropriation bills. I much prefer that it should be a separate measure. It will be for the Senate to determine, after it has been discussed a day or two, whether they will not take up the appropriation bills in preference. I think, therefore, I shall do better to wait. The Senator, of course, will vote as he pleases.

Mr. COLLAMER. The gentleman and I do not understand the facts alike. He knows, and I know, and I take it it is perfectly understood, it cannot be moved as an amendment to the appropriation bill, unless the Senator from Louisiana gets the order of his committee, which he himself disavows having. He says he has not got it.

Mr. HUNTER. I talked with another member of that committee, the Senator from Kentucky, [Mr. CRITTENDEN,] yesterday, and I am convinced he will get the order of the committee.

Mr. COLLAMER. That is immaterial. He has not got it yet. He says he has not got it. We need not anticipate it. It does not stand in the way of the appropriation bill now.

Mr. DOOLITTLE. One word in relation to the taking up of this bill. For myself, I confess, if the discussion of the Cuba question is to come on at the present session, I am anxious that it should come on early that it may be discussed, and discussed fully; but as I look upon the proposition at this time to attempt to acquire Cuba as wholly impracticable, and as coming to no result, even if the bill should pass, I shall vote with my friends on this side of the Chamber against postponing all prior orders for the purpose of taking up the bill. But I must say, however, that I look upon it rather in the light of an attempt to change the pleadings, if I may use the expression, in preparation of the grand presidential issue which is to come off in 1860; and that, as an individual, I confess that I am ready to join in the work of forming that issue, and forming it now.

I desire that the honorable Senator from Louisiana should understand that when we come to the making up of the pleadings for that great issue, we shall expect to take part in its formation; and that it will not be for us on this side of the Chamber always to wait for those leading upon the other side, to choose their own battle-ground; to decide when and where they will strike the blow; that on this side of the Chamber the organization, which is now ranged under the name of the Republican party of this country, is no mere opposition party; no mere Whig party, or Federal party, to oppose everything and propose nothing. They will find that the Republican party of to-day is a living organization—the reorganized Democracy of the United States; and they will find, in the formation of the issue for 1860, and in the trial of that issue, there are blows to take as well as blows to give.

That battle will not be fought upon any mere side issue or impracticable issue like the present

attempt to acquire Cuba; but upon that all-absorbing issue which the progress of events is pressing upon us, and which must be met; which you cannot avoid if you would; which, for one, I would never seek to avoid if I could. In the formation of that issue, let us advise our friends on the other side that we are ready, at any time, and at any moment, to join in making up the pleadings for the great struggle of 1860.

We understand all this. It is as transparent as the merest gauze covering in the world. It can be seen through by any man who understands human nature, as easy as we can look through a ladder. There is no prospect, no hope, of acquiring Cuba at this time and in this way. The very proposition contained in your bill was contained in the President's message. It has already gone to the Spanish Government and been rejected by the Crown; rejected by the ministry; rejected by the Cortes—unanimously rejected; rejected by all parties; not only as a thing not to be entertained, but as a thing which would be regarded as an offense, as an insult, to the Government and people of Spain.

I do not look upon this proposition now as one tending towards the acquisition of Cuba. It tends directly to the contrary result. If I were the friend of the acquisition of Cuba at the very earliest moment, I would not vote for the proposition contained in this bill to appropriate \$30,000,000, and put it in the power of the President to use it at his pleasure, when the Spanish Government has unanimously rejected the proposition already. It can only be looked upon as a proposition to put \$30,000,000 into the hands of the President, to be used as secret-service money to bribe the officials of Spain to go into a treaty which, in their legislative capacity, they have absolutely and unanimously rejected.

But, sir, as I said, looking upon this proposition as preparing the issue for 1860, it is entitled to some consideration; and, for one, I do not care how soon the issue is formed. I am ready to go into it now, to take up this question, and help to form the issue for 1860. We understand there is a great suit going on in this country, a kind of ejectment suit, and it is coming off in 1860 before the grand jury of inquest. We know where we stand; we know what principles we are going for; we know what Federal usurpations we are going against; we know that to-day it is true as Holy Writ, that the Administration in power, judged by its measures and its policy, is but a Federal Administration—Federal in all its notions, in all its operations. It is steeped and dyed in Federalism to such an extent that if it were possible for the spirits of the departed to take cognizance of what is now transpiring, the very bones of old John Adams would rattle in the grave at the measures put forward by the chief of this Administration. On the other hand, the Republican party of to-day, standing on the platform of Jefferson—identical in name, in principle, and in policy, with the Republican party of 1800—rallying the masses of the people of this country to its standard, are marching onward and onward to victory. They are not afraid to join issue with you in relation to this attempt to purchase Cuba, or in relation to anything else. The sooner the issue is made the better. It will be no Texas issue, you will find.

But, sir, looking upon this measure as one wholly impracticable—as one so far from being calculated to acquire Cuba, that it is more likely to compel Spain, in a moment of exasperation, to enter into a treaty (perhaps she has already) with England and France, by which she will bind herself under no circumstances, for no consideration, ever to cede that island to the United States—looking upon it in that light, I shall vote with my friends on this side of the Chamber, against the taking it up at the present time. But if, on the other side of the Chamber, they are determined it shall come up, and shall outvote us, I am, for one, ready to meet the question—to meet it now, and join in making up the issue. We will join that issue, however, upon the living issue of the present—the actual, practical issue of our day and generation, which is, until it is settled, to override all other issues in this country; and which tends to the solution of the two great questions on the American continent, worthy of the consideration of American statesmen; one is the solution of the Anglo-American question, the other the solution

of the Afro-American question. In the solution of these great questions the men of our own race, from the temperate zones of the Old World, mingling with us and being Americanized, will hold, in the end, exclusive possession of the temperate zones of the New; while the descendants of the man of the tropics of the Old World now among us will find their homes in the tropics of the New; and, sir, they will not go there as slaves, but as freemen, to live among freemen, and where color is no degradation. They will go, under our instrumentality, not to overturn the Governments to which they emigrate, but to aid in developing the most productive regions of the whole earth. This question is pressing upon us now. You cannot postpone it long, if you would. It is in the progress of events, and it must come on; and for one I say, let its discussion come on.

I did not intend, Mr. President, when I rose, to be betrayed or drawn into any speech or take any time of the Senate, but simply to explain the views which would govern me in relation to the vote which I now give, and to say that, while I am willing to go into this discussion, and to go into it at once, I shall feel constrained to vote with my friends on this side of the Chamber in opposition to the taking up of the bill at the present time; lest, by a different vote, I should appear to favor the proposition itself.

Mr. WILSON. Mr. President, the last session of Congress was consumed in discussions growing out of the Lecompton constitution. From Congress we went home to the people. Those discussions were there renewed; and the result of them is before the country. We came here at this short session—we, at least, on this side of the Chamber—with the earnest and sincere desire to attend to the legitimate interests of the country. We have not thrust into this Chamber any unnecessary discussions growing out of the question of slavery, either in the Territories or in any form whatsoever, before the country. We looked, and the people looked, to the Congress of the United States to settle, at this session, the questions growing out of the revenue system and the expenses of the Government.

Sir, when we saw the President of the United States accept the oath of office, upon the eastern portico of the Capitol, on the 4th of March, 1857, there was in the Treasury of the United States a surplus of \$25,000,000. Two years have not yet passed away, and those \$25,000,000 have been expended; all the receipts of the Treasury in the meanwhile have been expended also, and \$40,000,000 borrowed to meet the current expenses of this Government. That is the position of this country to-day; and we are now summoned to prepare means to carry on the Government during the next fiscal year, and to meet \$20,000,000 of Treasury notes due in the course of a few months. We have but nineteen working days of this session left, in which to perform that labor. Well, sir, to-day we have listened to the Senator from Georgia, who has demonstrated the fact that the expenditures of this Administration have been carried up \$20,000,000 over the expenditures of the Administration of President Pierce. He has demonstrated the extravagance, the unbounded and reckless extravagance, of the present Administration; and has told us further that we can retrench its expenditures, that we can reform its abuses. I agree with the Senator from Georgia, that we can reduce, and ought to reduce, the estimated expenditures of the next year from \$75,000,000 to \$60,000,000 or \$65,000,000. We ought to have a comprehensive system of retrenchment, not only proposed, but carried through. All this work is before us; but even with the proposed reduction of appropriations, you must prepare to meet \$20,000,000 of Treasury notes due during the coming year. You must provide additional means even, to carry on your Government at the annual rate of \$60,000,000. The interests of the country require that the brief remainder of this session should be devoted to the consideration of these great fiscal questions. I say, sir, that our condition in regard to the Treasury Department is not creditable. We ought not to float along in this way.

It was an old and sound Democratic doctrine that we should not incur a national debt, but yet within two years we have piled up a national debt of \$40,000,000. You have millions of extraordinary expenditures also pending before Congress

that must yet be met in some way, growing out of your Indian wars in the Territories. You have an expedition that has gone to South America, which may impose an expenditure of millions which we cannot estimate to-day. And in view of these facts, I say, sir, that it is a duty imperative upon us during the next nineteen days, to provide means for meeting at least the necessary and current disbursements of the Government. Sir, upon this side of the Chamber we are ready, and have been ready all this session, to follow where you choose to lead in reducing the expenditures.

We are ready to address ourselves at any moment to the consideration of these questions of increasing the means to meet the wants of the Treasury, and of reducing those wants ten or fifteen million dollars, as they ought to be reduced.

We have other measures before us—measures of great importance to the country. We have in Congress some five hundred bills of a private character. I am no great advocate for private claims. The longer I sit here, the more satisfied I become that the great mass of the claims that come before Congress ought to be rejected; but there are claims that are just, and we ought to meet them, and settle them, like honest and honorable men. We will not allow the Government of the United States to be sued; persons come here with claims upon us, and we fail to address ourselves, as we should do, to their examination and settlement. While we act thus, we must certainly expect unjust and extravagant claims to be thronging in upon us. If we met these questions as we should, we should have, by no means, so many old and extravagant claims thrust forward for consideration.

Now, sir, this being our position, I say it is the height of folly to intrude into this body the discussion of this gigantic joke, this proposal to place in the hands of the President of the United States \$30,000,000 to purchase an island from a country that stands committed before the Christian and civilized world to scout your proposition. I am ready to meet the Cuba question whenever and wherever it need be, here or elsewhere. If Senators upon the other side of the Chamber are determined to consume the remainder of the session in discussing that question, we are ready to meet them in the debate; but we say to them now, that it is trifling with the interests of the Government and of the country. They know that the discussion of this subject will not tend to bring Cuba into the Union. They know that the passage of this bill will not bring Cuba into the Union. I believe upon my conscience that the suggestions of the President's message, combined with this proposition to put into his hands \$30,000,000, have postponed the acquisition of Cuba? I believe that it has created a sentiment in Spain that would make it impossible for any Spanish statesman to entertain for a single moment a proposition for the sale of that island to the United States.

Sir, there is something strange in this proposition. When James Buchanan came into the Presidency, he had the confidence of the great party which placed him there. He had also the good wishes of a party then in the minority, which was willing to give his Administration all fair play, and to judge it according to its acts. At the last session of Congress, under the dictation of a few ultra slaveholding States, Mr. Buchanan accepted the Lecompton issue as the chief measure of the Administration. Every Democrat who resisted that test was denounced and hunted down from one end of the Union to the other. No matter what service they had rendered the party, no matter how high they stood in the confidence of the people, they were denounced, proscribed, and hunted down, while the Administration used its whole power and patronage to force that gigantic fraud through Congress. It even turned out little petty postmasters because they would not sell themselves for their own petty offices. That Lecompton measure is the measure of this Administration. It is its only measure. It is the only test it has put upon the country. It has wrecked itself on that test, and it cannot make another.

The President has made recommendations this year, and the Democratic party almost universally repudiated his recommendations. It is said that the Secretary of the Treasury remarked the other day that the President did not now support the

Administration himself. Whether this be true or not, both he and the Administration—and they meant the same thing, at least, while the Lecompton question was pending—have gone down, down, in public esteem, deeper than plummet ever sounded.

The election in Illinois, where the Administration received five thousand votes out of two hundred and fifty thousand, may be considered just about a fair test of the sentiment of the people of the free States towards it. I venture to say to-day that there are not ten thousand Administration Democrats in New England. I do not know that there are half a dozen in the State of Massachusetts, office-holders included. Where are its supporters here? Who respects it? Who defends it? Who stands by the recommendations of the President? How is it in the other House? Sir, the Administration is as low in public confidence as the administration of John Tyler ever was in its weakest days, for that could rally a corporal's guard of six members in the House of Representatives, and I do not know that this Administration can succeed now in doing even so much.

This President, condemned by the public judgment of the country, unsupported in the Congress of the United States, comes to the Congress, and asks us to clothe him with imperial power. He wants the privilege of sending the Army of the Republic into Sonora and Chihuahua, into territory of a country with which we are at peace. He wants the privilege of establishing fortifications and posts outside of the United States, in Central America. He wants to be clothed with power to go from here to Cape Horn, kicking and cuffing every man that he chooses; and then to crown all, he wants us to place in his hands—in the hands of a man condemned by the judgment of his country—\$30,000,000, to purchase an island owned a hundred years before even the settlement of Jamestown and Plymouth, by a country where public sentiment approaches unanimity, in disdaining to entertain the proposition at all. I do not consider the question before us as one for the purchase of Cuba. The President wants \$30,000,000; and we are told, too, by the Senator who introduced the bill, that he expects to make something out of it for the benefit of the Democratic party. For one, I shall not clothe this President of the United States—I would not clothe any President of the United States, with any such powers. I consider it anti-democratic, contrary to the genius and spirit of our institutions. We should not vote to place in the hands of anybody a power like this; but above all, I would not place it in the hands of the present Chief Magistrate, in whom no considerable portion of the country has any confidence, and for whom no portion of it has any great regard.

Therefore, sir, believing that we ought to address ourselves to the business of providing revenue for carrying on the Government, and also of reducing the expenditures, which I regard as of equal importance and necessity, for corruption has flowed out of our great expenditures—I say, sir, believing that we ought to address ourselves immediately to the consideration of these questions, and of many other wise and just measures that are before us; especially that important measure, one of the wisest, in my judgment, that ever was introduced into Congress, the homestead bill, I am for laying aside this Cuba question and taking up the homestead bill at this time, which, if it shall become a law, will do more to improve the country than the acquisition of any territory outside the limits of the present Union. Believing that we ought to devote the remainder of this session to the consideration of these measures, I say again that I shall vote against taking up this Cuba bill. But whenever it does come up, we are ready to meet it. We are ready to meet it here, and we are ready to meet it before the people, in any shape in which gentlemen choose to present it.

Mr. PUGH. Mr. President, it seems to me very singular that the Senator from Wisconsin and the Senator from Massachusetts should have pursued this course. They deprecate the discussion of the question, and then proceed to discuss it. They deprecate the consumption of time, and then proceed, each after the other, on the question of taking up the bill, to go off on every other point, to bring into the discussion every possible subject. The Senator from Massachusetts has fought

all his battles over again in political warfare here and elsewhere, and the Senator from Wisconsin has enlarged on the coming and still to come glories of the Republican party. I think they are coming, and still to come; and a long while coming, in my judgment. However, I think these matters had better be discussed elsewhere.

I am glad, too, to find the Senators so lively on the subject of the public expenditures, and especially at this short session, when we reflect that this body, and principally by the aid of votes on this side of the Chamber, has passed a bill to give away \$5,000,000 of public money to pay a parcel of claims that have been dead for the last fifty years; and that they have just passed another bill to give away the ripest and richest portion of the public lands to the endowment of a few agricultural colleges, or rather a pretense of it. I hope these gentlemen will show their sincerity by letting the discussion end; let us take a vote whether this bill shall be considered. If the Senate will take it up for consideration, I propose to address myself at some convenient season to the subject. I am in favor of the acquisition of Cuba; and I shall endeavor to show that it is our duty to consider it at this session, as well as at any other session. If the Senate will not take up the question, if they think that other matters are more important, I have nothing more to say; I shall reserve my speech for some subsequent occasion. I do not propose, at present, to discuss the merits of the bill.

Mr. CRITTENDEN. I only desire to say a word. I shall vote to take up this bill; but to prevent any misapprehension from that vote, I will say that I shall vote against the bill, believing that it is to be wholly useless and worse than useless—entirely impracticable, and worse than that to attempt the acquisition of Cuba now. I am not unfavorable to the acquisition of Cuba, but entirely opposed to the policy prescribed by this bill of making any attempt to purchase it now, or by the means or at the price proposed. I shall vote to take up the bill, however.

Mr. CLARK. Mr. President, I shall not vote to take up this bill; neither can I agree with the request of the Senator from Ohio, to let the vote now be taken without saying anything further upon the subject, because if I were to do so, perhaps the vote that I might give might be liable to some misconstruction; at least it would not give to the Senate the reasons which induce me to vote against taking up the measure.

For four years, Mr. President, we have been, in this country, in a state of the most extraordinary agitation. Four years ago the Administration then in power proposed to repeal, and did repeal by its efforts, the Missouri compromise. That resulted in agitation in the country, especially in Kansas; and the consequence was to bring the Lecompton constitution here. The last session of Congress was opened in this body, and the session was continued to a very great extent, in the discussion of that question. Before we got through with that discussion, I thought the friends of the measure began to be a little tired of it. They turned around and said, "Why do you discuss, why do you agitate this matter; why are you constantly agitating the country; why will you not let the matter alone?" Now we have the opportunity of turning around and saying to these gentlemen: "We did not commence this discussion; we did not begin this agitation; we did not initiate this measure; but if you propose to carry it on, as you have initiated it, we will carry it to the end."

Now, I want to apply that same rule to the question now before the Senate. The gentlemen on this side are in the minority here; they are in a minority in the country. They have no power to initiate and carry a measure against the opposition of the other side; but the other side, the party in power, the President at the head, initiates and proposes this measure. He wants to force its discussion upon the country. Very well, sir; if he forces that discussion here, we shall have to join in it; but no vote of mine can now be given to take up the discussion, because, if, before it gets through, you say, "oh, do not agitate any more," I desire the opportunity of saying to you, "I did not commence it; I voted against it; if you choose to commence it, and you get enough of it before you are through with it, we shall not be to blame." If, before the whole matter is ended, we strip

from the President and his supporters the flimsy idea that they are going to prohibit the slave trade by it, let him thank his friends and himself who bring it here. If the majority, if the President and his party, choose to have the remaining time of the session taken up with this question, they can do so; I shall give them no vote to do it; but when it is up, I may, and I shall, exercise my right—no one will attempt to prevent me I am sure—to join in that discussion; and if, when it is commenced, we continue that discussion, I take it we shall not be to blame.

I do not agree to any arrangement between Senators that you shall have from twelve to one, or from one to two o'clock, to discuss the Cuba question, and then have the rest of the day for appropriation bills. I do not agree to that. I do not think you have quite the right, if you have the power—and I doubt whether you have the power—to cut off debate in that way. If I had the floor and was discussing the Cuban question, and it came up to two o'clock, I do not know that I would yield for an appropriation bill, however courteous I might feel to the chairman of the Committee on Finance. I take it that, when the discussion commences, it will go on; and if he finds his appropriation bills overslaughed by this discussion, delayed, put off, he will not blame us. We are ready now to go forward with his appropriation bills; we are ready to help him; we are ready to turn our attention to all the just and necessary measures of the Government; to attend to those measures first; and if, then, when we get through them, we have time for this discussion, we can take up this matter; or, Mr. President, take it up now, if you choose; I shall vote against it; I am ready to meet the discussion at any time its friends may force it upon us. I can give no vote, like my colleague, to bring it up. I do not fear any effect of my vote. I mean to refuse to take it up; and if you take it up, and the fight comes, you may set me down as in for it.

Mr. SIMMONS. Mr. President, I gave way, about two hours ago, when I was intending to address the Senate, at the suggestion of the chairman of the Committee on Finance that he wanted to take up an appropriation bill; and I supposed that was to come up. The Senator from Louisiana said he wanted to get—

Mr. SLIDELL. Will the Senator from Rhode Island permit me to say one word? I do not think there is any intention on this side of the House to interfere with the discussion of the tariff question to-morrow.

Mr. SIMMONS. But I do not know how to discuss two questions at once. I have no doubt other people do; but I want to take either this bill up or keep it out of the way until I can answer some strong arguments that I have heard to-day. As to putting such a measure as this on the heels of an appropriation bill, and making an appropriation bill a pack-horse to carry through the greatest filibustering scheme that ever was invented, I have no idea of giving my vote for it; and I am astonished that the Senator from Virginia, with his usual tact and management to take care of the appropriation bills, should permit such a suggestion to divert him from his purpose of going on with that detail matter that is tedious for everybody to hear, but which everybody here is patriotically bound to attend to. I am willing to spend my time in listening to all the suggestions about appropriation bills, and cut down everywhere where it is reasonable; but when you come to talk about putting a rider on it—I have heard of starving majesty into compliance by putting riders on supply bills, but I never heard, in a republican country, that you were to carry the Administration through with a scheme of annexation and plunder on an appropriation bill. I cannot go that. Nobody ought to be expected to stand here and allow propositions of this immense importance to be tacked to the civil and diplomatic bill, as I believe it is. I do not know that it is as much as that; I do not know but that it is only a consular bill.

Mr. HAMLIN. It is the consular and diplomatic bill.

Mr. SIMMONS. I am for paying consuls and diplomats, just as many as we ought to keep; but I think we have too many, and that is one place where I should like to see the doctrine of retrenchment take effect. Consuls may do some good, for they attend to some business; but mod-

ern diplomacy would bear a very large pruning, in my judgment. What has this to do with a consular bill?

Mr. HUNTER. The Senator did not understand me as ever having said I would vote for it on an appropriation bill. I said the reverse.

Mr. SIMMONS. What I am saying is that I am not in the habit of helping the Senator, for I never knew him need any help until this session. He could stand up and drive off even the Senator from California with his Pacific railroad bill, with one of these appropriation bills; but now he gives way for all these schemes. There is some new impression made on people here. I do not understand it. I have not been here long enough to see why it is that these schemes, which nobody believes are going to pass, and nobody would vote for if it was thought they would pass, should take up the time of the Senate to the exclusion of the appropriation bills, which everybody knows must pass in some form. If they are large, they ought to be cut down. I pledge myself to go in for reasonable retrenchment; but I am not for retrenchment merely to get votes. I mean to carry on the Government, and pay for it. I am not the champion of retrenchment merely. I believe in economy, good management, good government, and paying people fairly for what they do; and I do not believe there is a majority in the Senate that is to be led away by any doctrine about a great revolution in the expenses of this Government. I think we might save a great deal—save as much as it used to cost to carry the Government through an administration. We can save in a single year more than General Washington spent in the first term of his Administration. I have no doubt of that; but it must be a small sum compared with what we waste.

As to tacking on this scheme as a rider to the appropriation bill, I am astonished at the suggestion. I do not want to waste my strength in debating the impropriety of such a thing. I do not believe the Senator from Louisiana can seriously contemplate that the Senate of the United States will attach a scheme of this magnitude to a consular bill—a bill merely making appropriations for what we owe to each consul and foreign minister. If I was in favor of that Senator's bill, I should not want to take this method to obtain it. I believe it is the very way to give offense to the just pride of an independent nation, to make an appropriation to buy what, by the unanimous voice of their own legislature, they have declared they will not sell. It does not seem to me as if people wanted it. I am a little covetous, and own up to it. I do not want to disturb any nation, though, in what it owns. If it can be got with the assent of the people of the island and of the Government that owns it, very well. I do not want any of this sly, under-ground work to get it. As to the propriety of the bill itself, it is not drawn into question; it is only whether we shall put it on an appropriation bill, or make it embarrass this bill, or all other bills.

Mr. COLLAMER. The motion is not to put it on the appropriation bill. The motion now is to take it up.

Mr. SIMMONS. But to take it up, as I understand, for the purpose of moving it as an amendment to the appropriation bill. ["No, no."]

Mr. BENJAMIN. The Senator from Rhode Island will permit me a moment.

Mr. SIMMONS. I have got through now.

Mr. COLLAMER. I move that the Senate adjourn.

Mr. SEWARD called for the yeas and nays, and they were ordered; and being taken resulted—yeas 19, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Hamlin, Harlan, King, Seward, Shields, Simmons, Wade, and Wilson—19.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Brown, Chesnut, Clay, Clingman, Crittenden, Davis, Fitch, Fitzpatrick, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Slidell, and Ward—25.

So the Senate refused to adjourn.

Mr. SLIDELL. I now ask for the yeas and nays on the question of taking up the bill.

The yeas and nays were ordered.

Mr. CAMERON. I desire to say a word or two. I was in hopes that gentlemen here who support the President of the United States in his political views, were desirous of some reform in

the revenue laws of the country. He told us in his annual message that he desired some change. I cannot doubt his sincerity. I will not suppose that he is playing the hypocrite before the country; because I cannot believe that a man who has been so often and so highly honored as he has been, would do so; but I am surprised to find that the dominant party here, the majority of this body, who belong to his party, as they say, and whom the country are led to believe are desirous of supporting his measures, are unwilling to aid him now, in that reform of the revenue system which the country so much demands. A little while ago, my colleague was outvoted in a caucus of the Democratic party; and for the purpose of defending his course before the country, he came here and offered a resolution in favor of a change in the revenue laws. He occupied the whole of yesterday in giving his views to the country; and, as far as I understood him, I think he did so ably. To-day, another friend of the President takes a different course. The gentleman from Georgia says the revenue is sufficient for the proper expenditures of the Government, and that the party in power are wasting the money of the Government, and therefore he intends to institute some system of reform.

I am also for reform in the expenditures of this Government. I think they have been shamefully increased during this Administration. I think there have not only been waste and extravagance, but I fear there has been some corruption which has carried money out of the Treasury; and I am anxious that that should be investigated fully. I rose merely to say that if the Senator from Georgia, or any of the friends of the Administration, will bring forward some mode of investigating these matters, I will vote cheerfully with them, as I will always cheerfully aid them in every effort at reform which they may make; but I do not believe they are serious in desiring reform, when they seek to occupy the whole of the last days of the session with debating a measure which never can pass Congress at this session. If the motion of the Senator from Louisiana is insisted upon, to take up this question now, the whole of the next eighteen days must be occupied with it, to the exclusion of all the questions of revenue and of reform. If this measure be taken up, there can be no alteration of the tariff, and the responsibility must be with the Administration. The people of my State are deeply interested in the revenue question. They may be sneered at, and they may be told here that they are beggars. They will not believe that they have ever begged from anybody. They have come here to demand their rights; and, as their representative, I shall not stand silent when they are taunted and sneered at. I repeat again, if the Administration party will bring forward any measure of reform, I shall vote with them for it; and at the proper time, I shall be willing to take up this question of Cuba, and have it discussed and debated fully; but I do not think this is the proper time.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana to postpone all prior orders, and proceed to the consideration of the bill named by him. On this question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 28, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Brown, Chesnut, Clay, Clingman, Crittenden, Davis, Douglas, Fitch, Fitzpatrick, Gwin, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Reid, Rice, Shields, Slidell, and Ward—28.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Hamlin, Harlan, King, Seward, Simmons, Wade, and Wilson—17.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 497) making appropriations to facilitate the acquisition of the Island of Cuba by negotiation.

Mr. SLIDELL. It is not expected that there shall be any discussion this evening. By some mistake, the proper copy of the bill was not sent to the Printer. I believe it was in consequence of the original bill having been lost. That bill, in providing for the issue of bonds, declared they should bear a rate of interest not exceeding five per centum, payable semi-annually. The original bill having been mislaid, the clerk of the Committee on Foreign Relations, who had a

rough draught of it, in the hurry of copying for the Printer, omitted to include those words; and I now ask, by common consent, to amend the bill in the thirty-seventh line in the second page, after the words "or so much thereof as may be required for that purpose," by inserting "at a rate of interest not exceeding five per centum per annum, payable semi-annually." I presume there is no objection to that. It is merely to correct an error.

The amendment was agreed to.

Mr. SLIDELL. I find that the original bill is exhausted. There has been a great demand for it. I ask, therefore, the indulgence of the Senate to move that the bill be again printed, with the amendment, in order that it may be placed on the tables of Senators.

The motion was agreed to.

Mr. DOOLITTLE. I desire to submit an amendment which I propose to offer to the bill, when it comes up for consideration, and to ask that it also may be printed, as a substitute for the bill.

The motion was agreed to.

On the motion of Mr. FITZPATRICK, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 9, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. W. A. HAROLD.

The Journal of yesterday was read and approved.

WILKES'S EXPLORING EXPEDITION.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report from the Secretary of the Navy, in compliance with a resolution of the House of Representatives, adopted on the 24th of January, requesting the President of the United States to communicate to the House the aggregate expenses, of whatsoever nature, including the salaries, whether special or by virtue of official position in the Army or Navy, or otherwise, on account of an appropriation to publish a work known as Wilkes's Exploring Expedition; also, what number of copies of said work have been ordered; how they have been distributed; what number of persons are now employed thereon; how long they have been employed respectively; and the amount of the appropriation now remaining undrawn; which was referred to the Committee on Naval Affairs, and ordered to be printed.

FOREIGN COMMERCE.

The SPEAKER also laid before the House a communication from the Secretary of State, transmitting his annual report on foreign commerce and the commercial changes of foreign nations, for 1858; which was referred to the Committee on Commerce, and ordered to be printed.

MILITIA OF THE UNITED STATES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a return of the militia, their arms, accoutrements, &c., for 1858; which was laid on the table, and ordered to be printed.

CONTINGENCIES OF THE WAR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement of the expenditures from the appropriations for contingencies of the War Department; which was laid on the table, and ordered to be printed.

KANSAS LEGISLATURE.

The SPEAKER also laid before the House joint resolutions of the Territorial Assembly of Kansas asking the annexation of that part of Nebraska lying south of the Platte river; which was referred to the Committee on Territories, and ordered to be printed.

COURT-HOUSE IN BALTIMORE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of Representatives of the 23d of December, 1858, relating to the construction of a court-house in the city of Baltimore.

Mr. HARRIS. I propose to move a reference of that report to the Committee of Ways and Means; and I wish to say a few words to the House in connection with the report. I ask to have the letter of the Secretary read. I do not like to consume, needlessly, the time of the House, in view of the appropriation bill now pending; but this question involves an important point, and I cannot present to the House what I desire to say satisfactorily, either to the House or myself, until I hear the grounds upon which the Secretary of the Treasury has placed himself in this matter.

The letter of the Secretary of the Treasury was read, as follows:

TREASURY DEPARTMENT, February 7, 1859.

SIR: In answer to the resolution of the House of Representatives of December 23, 1858, requiring "the Secretary of the Treasury to communicate to this House whether he has taken any and what action to carry out the provisions of the act of Congress appropriating money toward the construction of a United States court-house in the city of Baltimore," I would respectfully report: The accompanying letter from the bureau of construction will give the reasons for not commencing the construction of the building immediately after the passage of the law. Being delayed to the period of the late revulsion, its commencement was postponed in common with all other public buildings under the charge of this Department, not previously contracted for.

The attention of Congress was called to this subject in my first annual report of December 8, 1857, in which I said: "There are other public works of less necessity which, for a variety of causes, have not been commenced. A temporary postponement of them will violate no existing contracts, will deprive no one of employment to which he is authorized to look, will inflict no wrong upon any portion of the people; but will enable the Government to realize its means in advance of its expenditure of them, and, perhaps, avoid the necessity of increasing the public debt. A system of public economy, regardless alike of the just claims of the people and the protection of the treasury and the credit of the Government, must command the approval of the country; and it is upon such principles it is proposed to conduct the Financial Department of the Government in the present crisis."

The subject was again brought to the attention of Congress in my annual report of December 6, 1858, in which I stated: "No new buildings have been begun since the adjournment of Congress. In my last report, I called the attention of Congress to the fact that, owing to the condition of the Treasury, the Department had postponed the building of a portion of the public works authorized by previous acts of Congress. To have commenced them at that time, or at any period since, would have required the borrowing of the means to construct them. The silence of Congress on the subject indicated their approval of that policy. The condition of the Treasury, at present, is not more favorable for the construction of such buildings. At a time when the necessities of the Government demand an increase of taxation, I should not feel justified in recommending the construction of such works as are not urgently demanded for the public service. It will be for Congress to decide, in providing the necessary means for the next fiscal year, whether or not they will impose an increased tax for such a purpose."

I have made these references to former reports, for the purpose of showing not only the reasons for the action of the Department, but also that those reasons have been submitted to the consideration of Congress. Whilst my opinions have been freely communicated to Congress against the policy and necessity of constructing many of these buildings, I have not, and shall not, set up my own judgment against that of the law-making power; and however well satisfied I may be that the construction of a public building authorized by law is unnecessary, I should not feel at liberty to disregard the requirement of the law, provided the Department is supplied with the necessary means to carry it out. Where, however, the law requires various things to be done, and the means of the Government are inadequate to the whole requirement, the Department charged with its execution is compelled to exercise a discretion in postponing such expenditure as can be avoided with the least injury to the public service. Acting upon this rule, I have postponed the commencement of the various public buildings under the charge of this Department, which had not been undertaken previous to the late revulsion.

If Congress should now direct that these buildings, or any portion of them, be commenced and completed, without regard to the available means of the Treasury, the Department would not hesitate to carry out the direction, and look to the future action of Congress to supply any deficiency that might thereby be created in the Treasury. If, however, no additional legislation should be had on the subject, I shall feel it to be my duty to act upon the rule already adopted. In that event, these public buildings will be undertaken as soon as the legislation of Congress shall provide the Treasury with the necessary means to meet these and other liabilities. Should therefore Congress, at its present session, provide by law for thus supplying the wants of the Treasury, I shall direct the commencement of these works at as early a date thereafter as it can be done.

It is proper to add that there exists at present a different state of things from what was the case at the adjournment of the last session. The reaction which has already taken place in the business and prosperity of the country, will enable the Department to calculate with more confidence upon its estimated receipts, than during a time of revulsion and depression.

I am, very respectfully,

HOWELL COBB,
Secretary of the Treasury.

Hon. JAMES L. ORR,
Speaker of the House of Representatives.

Mr. HARRIS. I also ask to have read a letter accompanying the communication of the Secretary of the Treasury.

The letter was read, as follows:

TREASURY DEPARTMENT, OFFICE OF CONSTRUCTION,
WASHINGTON, D. C., February 7, 1859.

SIR: Referring to the resolution (herewith inclosed) of the House of Representatives, requesting you to communicate any and what action has been taken to "carry out the provisions of the act of Congress, appropriating money toward the construction of a United States court-house in the city of Baltimore," I have the honor to report:

That the act referred to in the resolution, (approved August 18, 1856,) appropriated the sum of \$200,000 to "procure and pay for a site," "and to erect thereon a fire-proof building for such purpose, on such plan as the President may approve," &c. Under this act your predecessor, by the direction of the President, conditionally purchased the property known as the "Masonic Temple" in Baltimore, (and a contiguous building,) and the title papers therefor were duly prepared and submitted to the attorney general. Difficulties arising under their examination which rendered the matter unsatisfactory to your predecessor, a consummation of the purchase was delayed. Subsequently the parties offering the "Masonic Temple" property, advanced their demands from \$50,000 to \$65,000, when the purchase was abandoned, and a new location sought.

A conditional purchase was afterwards made of the property known as the "Presbyterian Church," under this act; its title examined, found defective, and the papers returned to the vendors.

No other purchases have since been made. Various sites have been offered, and their merits urged by the parties desiring to sell, but no definite action has been had upon their proposals.

I have the honor to be, very respectfully, your obedient servant,

S. M. CLARK,
Chief Clerk.

HOWELL COBB, Secretary of the Treasury.

Mr. HARRIS. I will ask the attention of the House no longer than is unavoidably necessary to make a statement important, as I believe, to the rights and interests of the people whom I have the honor, in part, to represent, in relation to this matter.

Mr. PHELPS, of Missouri. I rise to a question of order. The House is now acting under the operation of the previous question; and what is done now, is done by general consent. The Speaker asked the consent of the House to lay before the House certain communications, for the purpose of disposing of them. If debate grows up, it will be extended.

Mr. HARRIS. I have the floor by unanimous consent. There was no objection to the Speaker placing the communication before the House, and that consent carried with it all the incidents.

Mr. PHELPS, of Missouri. Not for debate, but for reference only. If I mistake not, the Speaker stated that he desired the unanimous consent to lay before the House certain executive communications upon the Speaker's table. No objection was made. Does that carry with it the right of debate, and thus prevent the progress of other business already before the House?

The SPEAKER. The Chair supposes that the consent of the House to present a paper necessarily carries with it the right of disposing of the paper.

Mr. HARRIS. I was about to say, when the gentleman from Missouri interposed his point of order, that this case is not only interesting to me because it touches the peculiar interests of the constituency I represent, but because it presents itself in a very interesting aspect to me as a member of this Congress; because it raises directly before this House and the country the very grave question as to the department of this Government in which the law-making power resides. The last Congress, in August, 1856, appropriated \$200,000 for a specific purpose, and that law gives direct and unmistakable instructions to the Secretary of the Treasury as to the use of the appropriated money.

Now, sir, the reasons given by the Secretary of the Treasury for not having executed that law, are not satisfactory to my mind. He says that this property could not have been purchased as directed without borrowing money and increasing the debt of the General Government. It is well known to every gentleman upon this floor, that when the last Congress adjourned it left in the vaults of the Treasury some sixteen million dollars of surplus revenue; and the reason assigned comes with a bad grace and very little force from a Secretary of the Treasury who used \$5,000,000 of that surplus in the unnecessary redemption of outstanding Government securities at sixteen and a half per cent. premium. I maintain, sir, that if there was money in the Treasury, this \$200,000 was appropriated instantly, and has remained appropriated to this specific use ever since. If the Secretary, as a matter of finance,

according to his somewhat peculiar judgment of what constituted a good financial operation, chose to expend \$5,000,000 of that surplus in the purchase, at a high premium, of these outstanding securities, in preference to using it in execution of existing laws, he ought not to tell us now that he could not build this court-house because he had no money with which to build it.

But, beyond that, another reason given by the Secretary is disclosed in the letter of the head of the construction bureau, that an effort was made to execute the provisions of this law immediately after the adjournment of the Thirty-Fourth Congress, but that the price of one of the sites offered was advanced from \$50,000 to \$65,000. I have heard the facts connected with the offer of these sites. In the case of the Masonic temple property, the Government actually concluded a contract, but that contract was suddenly repudiated by the Department, with no sufficient reason assigned, and after one of the parties to the contract, relying upon the good faith of the Government, had gone to an expense of \$30,000, which he would not have otherwise expended. In the case of the other property alluded to in the letter which has been read, the reason given for the failure to carry out the agreement of purchase is that the title to it was defective. I have good ground to believe, and I state, that the superintendent of construction is mistaken in his facts. The title to that property, I am assured, has not been decided to be imperfect and invalid by any competent authority whatever, and that the parties who offered that Presbyterian church property to the Government, are fully competent to give a perfectly valid and good title to it, and that the doubts about the title were suggested to the Department by parties outside for sinister purposes.

But, Mr. Speaker, even if the reasons suggested applied to these two pieces of property, I state to the House that several other pieces of property have been offered to the Government, well located, and about the title to which there was not, nor could there be, any dispute. Indeed, at any time since the adjournment of the Thirty-Fourth Congress, the Treasury Department, if it had chosen to execute the law of Congress, could have had abundant opportunity to do so, at from fifty to eighty thousand dollars, which would have left from one hundred and twenty to one hundred and fifty thousand dollars for expenditure among the mechanics of Baltimore, and would have built us a commodious and creditable court-house.

Now, Mr. Speaker, I have no desire to raise, in any unkind spirit, a controversy with the Secretary of the Treasury; but I am not satisfied that his Department, when Congress has afforded accommodations for the convenience of the United States courts in Baltimore, accommodations which have been needed ever since their establishment, should deprive us of the benefits of that law by inaction, or in absolute defiance of the express letter of the law. I am more struck with the fact, that the Treasury Department has, in this instance, overridden the law; because, in connection with this court-house, there was an appropriation in the same bill of \$300,000, for the purchase of a site and the construction of a post office in the city of Baltimore. That law required that a certain mode should be adopted in connection with the selection of the site; it provided that the Mayor of Baltimore should select a commissioner, and the then President of the United States should select a commissioner, and that they two, with power to select an umpire, should choose a site. Notwithstanding that, however, the President of the United States deliberately trampled upon the law; and, instead of giving to the city of Baltimore the contemplated opportunity of expressing its opinion against an obnoxious site; instead of consulting their interests; instead of expending one hundred and fifty or two hundred thousand dollars in the construction of a new building, chose to conclude a most objectionable arrangement, by which only some sixty-five thousand dollars were expended on patching up an old concern, and allowed the balance of the \$300,000 to go into the hands of the parties interested in the speculation for a small part only of a property which was originally bought in open market, and in its entirety, for about ninety-five thousand dollars.

I am not anxious to excite or protract debate upon this subject. What I want is this; I ask it in all fairness: let us have a court-house accord-

ing to the intention of the law. This money has been appropriated by the last Congress for this specific purpose; we need the use of it for that purpose. We want a court-house in the city of Baltimore. We are now conducting the business of the United States courts there in an inconvenient rented building. It is due to the dignity of the Government, due to the dignity and business of Baltimore, that there should be proper judicial accommodations in that city. If the question of appropriation were now a new one, and the Secretary of the Treasury, in the present embarrassed condition of the finances, had advised against it; if then the judgment of the House was, that it should be postponed to a better condition of affairs, I would say nothing. But, sir, under the circumstances of this case, I put it to the justice of the House, that it will aid me in having this money expended as the law contemplated. The Secretary declines to execute the law without further legislation, and gentlemen are aware that, with the expiration of the current fiscal year, say in June next, this appropriation will lapse, and our \$200,000 go back into the Treasury; and, therefore, I move the reference of the communication to the Committee of Ways and Means, with directions to report a bill extending that appropriation for two years. I am desired to call the previous question, and I do so.

Mr. PHELPS, of Missouri. I desire to say a word in reply to the honorable gentleman from Maryland. I intended to call the previous question myself.

Mr. HARRIS. I withdraw the call for the previous question, if the gentleman will renew it.

Mr. PHELPS, of Missouri. The gentleman from Maryland seems to find fault with the course pursued by the Secretary of the Treasury in the procurement of buildings for the accommodation of the United States courts in the city of Baltimore. I desire to call the attention of the House to the reasons assigned by the Secretary for the non-execution of the law. The general reason is, that the finances of the country are embarrassed, and that we have not sufficient money in the Treasury to execute the laws upon the statute-books. No valid contract has been entered into for the purchase of any building in the city of Baltimore, and the execution of the law has been deferred, or suspended. That a bargain was made by the late Secretary of the Treasury is true; but the engineer in charge of the construction of public buildings, in the office of the Secretary of the Treasury, reports that when the title to the Masonic Temple was examined, difficulties in regard to it were found to exist. These difficulties appeared insuperable at that time, and therefore no purchase was effected. The House is aware that there is a law on the statute-book requiring that before money is paid for the purchase of any real estate, the title to the property shall be examined, either by the district attorney of the district in which it is situated, or by the Attorney General; and, unless such officer certifies to the Department that the title is good and perfect, the money cannot be expended.

In the case of the Masonic Temple in Baltimore, the Attorney General considered the title imperfect—

Mr. HARRIS. I hope the gentleman from Missouri will allow me to correct that statement. I can state, on good authority, that he is mistaken. I understand that the Attorney General has never expressed any unfavorable opinion as to the title to that property; and I can assure the gentleman that the title which that corporation can give is a perfectly good and valid one. I desire to say, beyond that, that this only applies to a single piece of property, and I assure both him and the House, that then and now, suitable property could and can be had for the purpose required, at a cost of \$50,000.

Mr. PHELPS, of Missouri. I know nothing myself in regard to the title to this property. I take the opinion of the officer whose duty it is to examine it. I do not take the opinion of the gentleman from Maryland as to whether the title was good or not; nor was it the duty of the Secretary of the Treasury to take the opinion of the gentleman from Maryland. When the title was examined by the law officer of the Government, it appeared that there were difficulties concerning it.

Mr. SPINNER. There are other cases of a like nature, that are entirely disbarred from

this difficulty of title. There is such a case in my own district.

Mr. PHELPS, of Missouri. That question is not before the House at this time.

Mr. SPINNER. Yes; it is involved in this very resolution. There are other cases precisely like it, where there is no question about title; where the land was purchased, the title found perfect, and where the State released the jurisdiction to the Government of the United States.

Mr. PHELPS, of Missouri. I cannot yield to the gentleman from New York for debate upon that question, because it is not relevant to the matter under consideration. I desire to read an extract from the communication of the engineer. He says:

"The act referred to in the resolution, approved August 18, 1856, appropriated the sum of \$200,000 to 'procure and pay for a site,' and to erect thereon, a fire-proof building for such purpose on such plan as the President may approve. Under this act your predecessor, by the direction of the President, conditionally purchased the property known as the Masonic Temple in Baltimore, and the title papers therefor were duly prepared and submitted to the Attorney General. Difficulties arising under their examination, which rendered the matter unsatisfactory to your predecessor, a consummation of the purchase was delayed. Subsequently, the parties offering the Masonic Temple property, advanced their demand from \$50,000 to \$65,000, when the purchase was abandoned, and a new location sought. 'A conditional purchase was afterwards made of the property known as the 'Presbyterian Church,' under this act, its title examined, found defective, and the papers returned to the vendors.'"

The Secretary of the Treasury thus gives two reasons why the act has not been executed. Conceding, if you please, that, in regard to the Masonic Temple, the difficulties first found to exist were removed, yet the vendors then advanced the price from \$50,000 to \$65,000. In consequence of that advance of price, the late Secretary of the Treasury declined to purchase. When the next site was found, it appeared that there was a difficulty respecting the title; and the Secretary of the Treasury refused to negotiate for the property. I think that the reasons given by the Secretary of the Treasury for not executing the law are good and sufficient. I now demand the previous question.

Mr. HARRIS. Admitting the validity and force of every objection that has been made by the chairman of the Committee of Ways and Means, he will allow me to say that the proposition which I make relieves him from all trouble. The Secretary of the Treasury says, in the close of his communication, that the skies are brightening; that the financial difficulties are about to vanish; that the condition of the Treasury will be more promising and healthy. The proposition that I make gives the Secretary of the Treasury, for two years to come, the benefit of that probability of improvement. If improvement does not come within two years, I am afraid the better day never will come, even with the millennium. I do not ask now that the Secretary of the Treasury shall be inconvenienced in the present state of the finances; but the gentleman knows perfectly well that, in June next, this appropriation lapses by the expiration of the second fiscal year. Let the Secretary have, for the next two years, the right to appropriate that money. That is all I ask.

Mr. PHELPS, of Missouri. I ask the gentleman to withdraw the proposition to instruct the committee.

Mr. HARRIS. Will the gentleman from Missouri give me any kind of assurance that the committee will report such a proposition?

Mr. PHELPS, of Missouri. I can give the gentleman no such assurance. I assure the gentleman that I will consider any proposition that may be made. Other propositions may be made here with respect to other buildings, and thus we may have a debate which would consume the whole day. The gentleman from Maryland has a colleague on the Committee of Ways and Means who will attend to that matter.

Mr. HARRIS. I would gladly oblige the gentleman but I really would not embarrass the chairman or the Committee of Ways and Means. I prefer to submit it to the judgment of the House.

Mr. CURRY. I ask the gentleman from Missouri to permit me to perfect the resolution offered by the gentleman from Maryland.

Mr. HARRIS. I prefer not. I would gladly accommodate the gentleman from Alabama in any other matter.

Mr. PHELPS, of Missouri. I moved the pre-

vious question; and as the gentleman from Maryland has not withdrawn his proposition, I will permit the gentleman from Alabama to offer his amendment.

Mr. CURRY. Then I move to amend the proposition of the gentleman from Maryland, by striking out all after the words "Committee of Ways and Means," and insert in lieu thereof the following:

And that the Committee of Ways and Means be directed to report a bill to repeal all laws and parts of laws authorizing the building of custom-houses, court-houses, post offices, and all other public buildings, where no contracts have been made for the construction of said buildings; and that the committee have leave to report at any time.

And now I renew the demand for the previous question.

Mr. HARRIS. Did not I renew the call for the previous question?

The SPEAKER. The gentleman from Missouri made the call; and he has withdrawn it.

Mr. BRANCH. I rise to a question of order. I ask whether it is in order to move these instructions? Whether a motion to instruct a committee is in order.

The SPEAKER. A motion to instruct the committee would be in order unquestionably; but whether the instructions of the gentleman from Alabama are not of a wider scope than the original paper would authorize, is another question.

Mr. BRANCH. I only desire to rule out the amendment, and not the original proposition.

The SPEAKER. Upon what ground?

Mr. BRANCH. Upon the ground that the amendment is not germane.

The SPEAKER. The Chair thinks that the proposition of the gentleman from Alabama is not in order.

Mr. HOUSTON. I ask the gentleman from Missouri [Mr. PHELPS] to allow me to offer an amendment?

Mr. DEAN. I object to debate.

The SPEAKER. The gentleman from Alabama [Mr. CURRY] demanded the previous question, and debate is objected to.

Mr. HOUSTON. I do not propose to debate, I desire to amend, the proposition of the gentleman from Maryland, by striking out the instructions. Will the gentleman allow that to come in?

Mr. PHELPS, of Missouri. The motion is to refer to the Committee of Ways and Means with certain instructions, and to print. Now, I ask the Speaker, whether the question cannot be divided, and a separate vote be had upon the instructions?

The SPEAKER. A motion to refer with instructions is indivisible.

Mr. HOUSTON. Then I—

Mr. DEAN. Is not the previous question pending?

The SPEAKER. It is.

Mr. DEAN. Then I object to debate.

Mr. CURRY. I withdraw the previous question, to enable my colleague to submit his amendment.

Mr. HOUSTON. I move to strike out all that portion of the motion of the gentleman from Maryland that refers to instructions, so as to leave the motion simply to refer and print. That will give us an opportunity to vote upon both propositions. I now renew the demand for the previous question.

Mr. JONES, of Tennessee. I move to lay the papers upon the table, and that they be printed.

The SPEAKER. The motion to print is not in order; the previous question having been demanded. A motion to lay upon the table simply is in order.

Mr. JONES, of Tennessee. I make that motion.

Mr. SMITH, of Virginia. Does that carry the whole subject with it?

The SPEAKER. It does.

The motion was not agreed to.

The previous question was seconded; and the main question ordered to be put.

The question being first upon Mr. Houston's amendment,

Mr. HOUSTON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 118; as follows:

YEAS—Messrs. Arnold, Atkins, Barksdale, Barr, Bonham, Burnett, Caskie, Chapman, John B. Clark, Cobb, John Cochrane, Cockrell, Comins, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana,

Dowdell, Edmundson, Elliott, English, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Hopkins, Houston, Jackson, Jenkins, George W. Jones, Lawrence, Letcher, MacLay, McQueen, McRae, Samuel S. Marshall, Mason, Miles, Millson, Moore, Pendleton, Peyton, John S. Phelps, Powell, Reagan, Reilly, Ruffin, Russell, Scales, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Talbot, Miles Taylor, Watkins, Whiteley, and Augustus R. Wright—67.

YEAS—Messrs. Abbott, Adrain, Anderson, Avery, Bennett, Bingham, Blair, Bliss, Bowie, Branch, Bratton, Buffinton, Burroughs, Case, Cavanaugh, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clay, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Dodd, Durfee, Edie, Farnsworth, Florence, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Lawrence W. Hall, Harlan, Harris, Haskin, Hatch, Hickman, Hill, Hodges, Horton, Knapp, John C. Kunkel, Keim, Kellogg, Kelsey, Kilgore, Keitt, Lovejoy, Humphrey Marshall, Leach, Leidy, Leigh, Lovejoy, Morgan, Morrill, Matteson, Maynard, Montgomery, Isaac N. Morris, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Phillips, Pike, Potter, Purviance, Ricard, Robbins, Royce, Scott, Seward, Aaron Shaw, Judson W. Sherman, Sickles, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Van, Wade, Walbridge, Washburn, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, Woodson, and Wortendyke—118.

So the amendment was not agreed to.

During the call,

Mr. SCOTT stated that he had been requested to announce that Mr. FISHER had been called from the city by important business.

Mr. AVERY stated that Mr. WRIGHT, of Tennessee, was absent on account of sickness in his family.

Mr. VALLANDIGHAM and Mr. JEWETT stated respectively that they would have voted in the affirmative had they been in the Hall when their names were called.

Mr. HARRIS's motion was then agreed to.

Mr. HARRIS moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. KELSEY. I now demand the regular order of business.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER stated that the regular order of business was the consideration of the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1860, with the amendments thereto, reported by the Committee of the Whole on the state of the Union, and that the pending question was on the second amendment, which is as follows:

Strike out line sixty, as follows:
"For miscellaneous items, \$20,000."

The amendment was not agreed to.

Third amendment:

Strike out all after the word "compensation" in line sixty-one to the end of line sixty-three, as follows:
"For compensation and mileage of members of the House of Representatives and Delegates from Territories, \$1,219,000."

And insert in lieu thereof the following:
For compensation of members of the House of Representatives and Delegates from the Territories, \$1,019,000.

The question was taken; and the Chair announced that the amendment was not agreed to.

Mr. STANTON. I demand the yeas and nays.
[Cries of "Too late!"]

Mr. STANTON. If the Chair rules against my right to call the yeas and nays, I shall move to reconsider.

The SPEAKER. That consideration would not influence the Chair. But the Chair supposes that the call of the gentleman from Ohio was in time. The Chair stated, "not a sufficient number in the opinion of the Chair," and immediately announced that the amendment was lost, perhaps not giving sufficient time to call the yeas and nays. The Chair thinks it would be enforcing the rule pretty rigidly not to allow the gentleman to make the call.

Mr. PHELPS, of Missouri. The amendment will only create a deficiency for the next fiscal year.

Mr. STANTON. It leaves the mileage to be determined by the next Congress.

The SPEAKER. It strikes out the mileage, and reduces the general sum \$200,000, to correspond with that change.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 75; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Andrews, Barr, Bennett, Bingham, Bliss, Bratton, Buffinton, Burnett, Burns, Case, Caskey, Ezra Clark, Horace F. Clark, Clawson, Cobb, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Burton Craige, Curry, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edmundson, Farnsworth, Foley, Garnett, Gartrell, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grow, Lawrence W. Hall, Harlan, Harris, Hopkins, Houston, Jackson, Jewett, Owen Jones, Keim, Kelsey, Knapp, John C. Kunkel, Lawrence, Letcher, Mason, Matteson, Maynard, Miles, Miller, Millson, Moore, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pendleton, Pettit, Peyton, William W. Phelps, Pike, Pottle, Purviance, Reilly, Ricard, Robbins, Ruffin, Scales, Henry M. Shaw, Shorter, Spinner, Stallworth, Stanton, William Stewart, Talbot, Tappan, Thayer, Tompkins, Tripp, Underwood, Vallandigham, Vance, Wade, Walbridge, Walton, Cadwalader C. Washburn, Wortendyke, and Augustus R. Wright—112.

NAYS—Messrs. Arnold, Atkins, Avery, Barksdale, Billingshurst, Blair, Bowie, Boyce, Branch, Cavanaugh, Chaffee, Chapman, John B. Clark, Clay, Clark B. Cochrane, John Cochrane, Corning, James Craig, Crawford, Davidson, Davis of Maryland, Dewart, Dimmick, Edie, Elliott, English, Eustis, Florence, Gillis, Greenwood, Gregg, Hickman, Hill, Hodges, Horton, Howard, Jenkins, George W. Jones, Keitt, Kilgore, Leach, Leidy, Lovejoy, MacLay, McQueen, McRae, Samuel S. Marshall, Montgomery, Isaac N. Morris, Niblack, Olin, John S. Phelps, Phillips, Potter, Powell, Reagan, Royce, Russell, Sandidge, Scott, Seward, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stephens, James A. Stewart, Miles Taylor, Walbridge, Ellihu B. Washburne, Israel Washburn, Watkins, Whiteley, Wilson, and Woodson—75.

So the amendment was agreed to.

During the call,

Mr. DAVIS, of Mississippi, not being within the bar when his name was called, asked leave to vote; but objection was made.

The result having been announced as above,

Mr. MAYNARD moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid upon the table.

Mr. FLORENCE demanded the yeas and nays on the latter motion, but subsequently withdrew the demand.

Mr. DAVIS, of Mississippi. Can I be permitted to ask the Chair a question for information?

The SPEAKER. Only by unanimous consent.
Mr. KELSEY. I object to everything out of order. I want to get along with the business of the House.

Mr. PHELPS, of Missouri. I ask the gentleman to withdraw the motion to lay upon the table, and let the vote be taken on the motion to reconsider.

Mr. KEITT. I only wish to say a word—The SPEAKER. Debate is objected to.

Mr. MAYNARD. I have no objection to comply with the suggestion of the gentleman from Missouri, and I withdraw the motion to lay upon the table, leaving the vote to be taken on the motion to reconsider.

Mr. PEYTON demanded tellers.

Tellers were ordered.

Mr. MILES demanded the yeas and nays.

Mr. STANTON moved to lay the motion to reconsider upon the table.

Mr. MILES withdrew the demand for the yeas and nays.

Mr. DEWART demanded the yeas and nays on the motion to lay upon the table.

Mr. DEAN demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. MAYNARD. My motion seems to be creating difficulty here, and delaying the action of the House; and, therefore, I withdraw it.

Mr. DAWES. I renew it. I move to reconsider the vote by which the amendment was agreed to; and that the motion to reconsider be laid upon the table.

The House divided; and there were—yeas 77, noes 45.

Mr. DEWART demanded tellers.

Tellers were ordered; and Messrs. DAVIS, of Maryland, and BUFFINTON, were appointed.

The House divided; and the tellers reported—

yeas 82, noes 54.

So the motion to reconsider was laid upon the table.

Fourth amendment:

Insert the following as a proviso to the clause making appropriations for the salaries of the officers of the House:

Provided, In no case shall any employé of the House receive less pay than that provided for in the general resolution of July 20, 1854, any resolution of the House to the contrary notwithstanding; and all such payments shall be made in accordance with the law as it now exists.

Mr. REAGAN demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was disagreed to.

Mr. REAGAN moved that the vote by which the amendment was disagreed to be reconsidered; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Fifth amendment:

Insert as a proviso to the same clause the following:

Provided, That no officer or employé of the House of Representatives shall receive pay for the discharge of the duties of two offices at the same time.

The amendment was agreed to.

Sixth amendment:

In lines ninety-two and ninety-three strike out the following:

"For furniture, repairs, and boxes for members, \$10,000."

Mr. CURRY demanded tellers.

Tellers were ordered; and Messrs. CHAFFEE and McQUEEN were appointed.

The House divided; and the tellers reported—

yeas 74, noes 50.

So the amendment was agreed to.

Seventh amendment:

In lines ninety-five and ninety-six strike out the words "carriage and saddle horses," and reduce the appropriation from \$7,420 to \$3,500; so that the paragraph will read:

For horses, \$3,500.

The amendment was agreed to.

Eighth amendment:

In lines one hundred and three and one hundred and four strike out "\$5,890," and insert "\$8,420;" so that the clause will read:

For Capitol police, \$8,420.

Mr. GREENWOOD. That is rendered necessary because of the extra police authorized by the Vice President, and the Speaker of this House. I call for tellers.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and MORGAN, were appointed.

The House divided; and the tellers reported—

yeas 58, noes 58—no quorum voting.

Mr. PHILLIPS called for the yeas and nays.

Mr. PHELPS, of Missouri. I suggest that we have a recount by tellers.

Mr. DAVIS, of Mississippi, (at one o'clock, p. m.) As there is no quorum present, I move the House do now adjourn.

The motion was not agreed to; there being on a division—yeas 7, noes 152.

Mr. PHELPS, of Missouri. I hope a recount by tellers will take place.

Mr. DAVIS, of Mississippi. I object, unless it be in exact accordance with the rule.

Mr. PHELPS, of Missouri. There was no quorum voting; and the tellers must resume their places, without further action of the House.

The tellers resumed their places.

Mr. BONHAM. I learn that this increased expenditure is made necessary by the enlargement of the Capitol.

The House divided; and the tellers reported—

yeas 71, noes 59.

So the amendment was agreed to.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Ninth amendment:

Strike out the following clause:

"For binding twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the first session of the Thirty-Sixth Congress, \$13,939 20."

Mr. REAGAN called for the yeas and nays.

Mr. COBB called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BOYCE and CHAFFEE were appointed.

The House divided; and the tellers reported—

yeas thirty-three, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, noes 82; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Bonham, Boyce, Branch, Burnett, Ezra Clark, Clay, Cobb, John Cochrane, Cockerill, Colfax, Corning, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dodd, Dowdell, Edie, Edmundson, Elliott, English, Foley,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 2d Session.

FRIDAY, FEBRUARY 11, 1859.

NEW SERIES....No. 58.

Garnett, Gartrell, Gilmer, Harlan, Hawkins, Hill, Hopkins, Houston, Jackson, Jewett, Owen Jones, Jacob M. Kunkel, Lawrence, Leiter, Letcher, Maclay, McKibbin, McRae, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Miller, Millson, Moore, Morgan, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pettit, Peyton, Pike, Pottle, Powell, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Scales, Seward, Aaron Shaw, Henry M. Shaw, Shorter, William Smith, Stallworth, Stanton, Stevenson, William Stewart, Talbot, George Taylor, Tompkins, Trippie, Underwood, Vallandigham, Vance, Watkins, Wilson, Woodson, and Wortendyke—91.

YAYS—Messrs. Abbott, Adrain, Andrews, Billingham, Bingham, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Burroughs, Case, Caskie, Chaffee, John B. Clark, Clawson, Clark B. Cochrane, Comins, Covode, Cragin, James Craig, Davis of Massachusetts, Dawes, Dean, Dewart, Dick, Dimmick, Durfee, Farnsworth, Florence, Foster, Gilman, Gooch, Goode, Goodwin, Greenwood, Gregg, Grow, Haskin, Hatch, Hickman, Hodges, Horton, Howard, George W. Jones, Kilgore, Knapp, Landy, Leach, Leidy, Lovejoy, Humphrey Marshall, Montgomery, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Nichols, Olin, Pendleton, John S. Phelps, William W. Phelps, Potter, Robbins, Royce, Scott, Judson W. Sherman, Sickles, Robert Smith, Samuel A. Smith, James A. Stewart, Tappan, Thayer, Wade, Walbridge, Waldron, Walton, Ward, Israel Washburn, and Whiteley—82.

So the amendment was agreed to.

During the vote,

Mr. KEIM stated that he had paired off with Mr. STEPHENS, of Georgia.

Mr. KEITT stated that he had paired off with Mr. KELSEY; otherwise, he would have voted "ay."

Mr. SMITH, of Tennessee, stated that as the House refused yesterday to strike out the main appropriations for the Globe, he would now vote "no."

Mr. GREENWOOD stated that inasmuch as provision had been made for the reporting of the Senate, he would change his vote, and vote "no."

Mr. COX asked unanimous consent to vote, not having been in the Hall when his name was called.

Mr. DEAN objected.

Mr. COX. I would have voted "ay."

The vote having been announced as above,

Mr. REAGAN moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Tenth amendment:

Strike out the following clauses:

"For reporting the debates of the first session of the Thirty-Sixth Congress, \$23,000.

"For one hundred copies of the Congressional Globe and Appendix, and for binding the same, for the first session of the Thirty-Sixth Congress, for the use of the Library of the House of Representatives, \$340."

The question was taken; and the amendment was agreed to.

Eleventh amendment:

Strike out the following clause:

"For compensation of clerks in the offices of the surveyors general, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field-notes of surveys, for the purpose of preserving them at the seat of Government, \$36,000."

The amendment was agreed to.

Twelfth amendment:

Strike out "\$74,890," and insert "\$30,000," in lieu thereof; so that the clause will read:

For wages of workmen and adjusters, (at the Philadelphia mint,) \$30,000.

Mr. FLORENCE called for the yeas and nays.

The yeas and nays were not ordered.

Mr. FLORENCE. I call for tellers. I want to see who is for striking at the workingman. Tellers were ordered; and Messrs. CHAFFEE and BOYCE were appointed.

The House divided; and the tellers reported—ayes 84, noes 43.

So the amendment was agreed to.

Thirteenth amendment:

Strike out "\$65,493," so that the clause will read:

For wages of workmen and adjusters, (at San Francisco mint,) \$100,000.

Mr. SCOTT. I want the yeas and nays. I want to know who will take the responsibility of this amendment.

The yeas and nays were not ordered.

Mr. SCOTT demanded tellers.

Tellers were not ordered.

The amendment was agreed to; there being, on a division—ayes 84, noes 51.

Fourteenth amendment:

Strike out "\$45,000," in line six hundred and fifty-three, and insert in lieu thereof "\$20,000;" so that the clause will read:

For wages of workmen, (at the New York assay office,) \$20,000.

The amendment was agreed to.

Fifteenth amendment:

Strike out "\$34,000," in line six hundred and fifty-eight, and insert in lieu thereof "\$15,000;" so as to make the clause read:

For wages of workmen, (at the New Orleans mint,) \$15,000.

The amendment was agreed to.

Sixteenth amendment:

Strike out the following lines:

"For purchase of the property in the city of New York, now under lease to the United States for courts."

Mr. JOHN COCHRANE demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

Seventeenth amendment:

Strike out "\$1,000,000," and insert "\$785,000;" so that the clause will read:

For defraying the expenses of the Supreme, circuit and district courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, incurred in the fiscal year ending June 30, 1860, and previous years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe keeping of prisoners, \$785,000.

The amendment was agreed to.

Eighteenth amendment:

Strike out the following:

"For compensation, in part, for the messenger in charge of the main furnace in the Capitol, \$420."

And insert in lieu thereof the following:

For compensation of the messenger to the Commissioner of Public Buildings, and for his services in attending to the main furnace in the Capitol, which shall be in lieu of all other compensation, \$1,000.

The amendment was agreed to.

Nineteenth amendment:

Insert at the end of the bill the following:

For deficiency in paper for the first session of the Thirty-Fifth Congress, \$38,579 13.

For deficiency in paper for the second session of the Thirty-Fifth Congress, \$78,849.

For deficiency in printing for the second session of the Thirty-Fifth Congress, \$62,350.

The amendment was agreed to.

Mr. PHELPS, of Missouri, moved to reconsider the vote by which the nineteenth amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FLORENCE. I move to reconsider the vote by which the House concurred in the amendment of the Committee of the Whole on the state of the Union, striking out the appropriation for the workmen at the Mint at Philadelphia.

Mr. REAGAN. I move to lay the motion to reconsider upon the table.

Mr. FLORENCE. Is not my motion debatable?

The SPEAKER. It is not.

Mr. FLORENCE. That was the purpose I had in making the motion, because I thought I could convince the House that the appropriation ought to be restored; but as the question is not debatable, I withdraw my motion.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PHELPS, of Missouri, moved the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. STANTON demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 98, nays 83; as follows:

YEAS—Messrs. Adrain, Anderson, Arnold, Barr, Bo-

cock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, John Cochrane, Cockerill, Comins, Corning, Cox, James Craig, Burton Craige, Crawford, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, English, Florence, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Hatch, Hawkins, Hickman, Hodges, Hopkins, Houston, Howard, Jackson, George W. Jones, Owen Jones, Jacob M. Kunkel, Landy, Lawrence, Leidy, Maclay, McRae, Mason, Miles, Miller, Millson, Montgomery, Morrill, Isaac N. Morris, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Reagan, Reilly, Russell, Sandidge, Savage, Scales, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Vallandigham, Vance, Ward, Watkins, Whiteley, Woodson, Wortendyke, and Augustus R. Wright—98.

NAYS—Messrs. Abbott, Andrews, Billingham, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Covode, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Harris, Hill, Horton, Keim, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Matteson, Maynard, Morgan, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ricard, Robbins, Royce, Ruffin, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, Wilson, and Zoll-eicher—83.

So the bill was passed.

During the call,

Mr. FAULKNER stated that he would have voted for the bill, had he been in when his name was called.

Mr. GILMAN stated that his colleague, Mr. Wood, was detained from the House by sickness.

Mr. ATKINS stated that he would have voted for the bill had he been in his seat when his name was called.

The result having been announced as above, Mr. PHELPS, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKENS, its Secretary, informing the House that the Senate had passed, without amendment, a joint resolution (H. R. No. 38) in relation to the tobacco trade of the United States with foreign nations; and also, that the Senate insisted upon their amendment disagreed to by the House, to a bill of the House for the benefit of the captors of the British brig Caledonia.

The SPEAKER then resumed the call of the committees for reports.

ASSISTANT ENGINEERS IN THE NAVY.

Mr. FLORENCE, from the Committee on Naval Affairs, reported a bill for the relief of the assistant engineers of the United States Navy; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

SURGEONS, ETC., IN UNITED STATES NAVY.

Mr. BOCKOCK. The Committee on Naval Affairs have directed the following bill to be reported:

A bill to increase the number of surgeons, assistant surgeons, and pursers, in the United States Navy.

The bill was read a first and second time.

The question being, "Shall the bill be ordered to be engrossed and read a third time?"

Mr. BOCKOCK said: I hope the House will indulge me, and allow the consideration of this bill to be postponed until some particular day, I do not care when, and I will state the reasons why I ask it. The Committee on Naval Affairs considered this subject, and directed the gentleman from North Carolina [Mr. WINSLOW] to report this bill to the House. He had directed his attention to that subject, and had got a great deal of information in reference to it, and was prepared to advocate the passage of the bill. But he is now

detained from the House by indisposition. In the meantime, and for the last two or three weeks, my entire time has been taken up by other matters; and I would be entirely unprepared, at this time, to give the House any information upon this subject. As a matter of courtesy, therefore, to the gentleman from North Carolina, who was directed to report this bill, and to myself, I ask that the consideration of this bill be postponed until this day week; and I submit that motion.

Mr. MORGAN. I object to any arrangement of that kind.

The question was taken on the motion to postpone, and it was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, a joint resolution (H. R. No. 38) in relation to the tobacco trade of the United States with foreign nations; when the Speaker signed the same.

BENEFICIARIES OF THE NAVAL ASYLUM.

Mr. DAVIS, of Massachusetts, from the Committee on Naval Affairs, reported back a bill (H. R. No. 753) for the benefit of the beneficiaries of the naval asylum; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

UNADJUSTED DIFFERENCES WITH SPAIN.

Mr. BRANCH, from the Committee on Foreign Affairs, reported back, with amendments, a bill (H. R. No. 678) appropriating money to enable the President of the United States to settle unadjusted differences with the Government of Spain, and for other purposes.

Mr. BRANCH. Is it in order to move to make that bill a special order?

The SPEAKER. Only by unanimous consent.

Mr. GROW. I object.

Mr. BRANCH. The bill contains an appropriation, and it must go to the Committee of the Whole on the state of the Union. I make that motion; and I desire to give notice, that at an early day I shall move to suspend the rules to take this bill out of the Committee of the Whole on the state of the Union, and ask the House to put it upon its passage. I hope, in the mean time, that gentlemen will discuss it in the Committee of the Whole.

The bill was referred to the Committee of the Whole on the state of the Union, and, with the amendments, ordered to be printed.

Mr. DAVIS, of Mississippi. I give notice that when that bill is brought up, I shall move to amend the same by striking out "purchase," and insert the word "take."

Mr. WILSON obtained the floor.

Mr. PHELPS, of Missouri. I ask the gentleman from Indiana to give way a moment, that I may make some reports from the Committee of Ways and Means—two of them appropriation bills, and two reports of the committee upon Senate amendments to appropriation bills.

Mr. WILSON. I will yield for that purpose.

MAIL STEAMER APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I ask unanimous consent to report from the Committee of Ways and Means a bill making appropriations for the transportation of the United States mails by ocean steamers, or otherwise, during the fiscal year ending June 30, 1860.

Mr. HOUSTON. Before that bill is received, I desire to ask the chairman of the Committee of Ways and Means whether it provides for any services, except those which are now under contract by law?

Mr. GARNETT. If it is in order, I object to the reception of that bill.

Mr. HOUSTON. I desire the chairman of the Committee of Ways and Means to answer my question.

Mr. PHELPS, of Missouri. The report of the bill has been objected to; and I will answer no inquiry now.

Mr. HOUSTON. I presume I have the right in advance of the objection, to make a point of order, if there is anything in that bill not provided for by law, or by contract under law. It is for that purpose I ask the question, and if it is not answered, I shall call for the reading of the bill.

The SPEAKER. The reception of the bill is objected to, and that is the end of the matter.

Mr. HOUSTON. Suppose upon the gentleman's motion the House should determine to receive the bill; will it be too late to make the point of order which I am entitled to make upon the presentation of a bill to the House?

Mr. PHELPS, of Missouri. There is nothing before the House, and I ask leave to report a bill.

Mr. GARNETT. I will hear the reading of the bill before I make my objection.

The SPEAKER. The matter is disposed of.

POST OFFICE APPROPRIATION BILL.

Mr. PHELPS, of Missouri, by unanimous consent, from the Committee of Ways and Means, reported a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1860; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

INVALID PENSION BILL.

Mr. PHELPS, of Missouri, from the same committee, reported back the Senate amendments to the bill (H. R. No. 662) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1860; which were referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

INDIAN APPROPRIATION BILL.

Mr. PHELPS, of Missouri, from the same committee, reported back the amendments of the Senate to House bill (No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1860; which were referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

CAPTORS OF THE CALEDONIA.

Mr. PHILLIPS. I ask the unanimous consent of the House to take up House bill (No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812. The Senate made an amendment to the bill. The House disagreed to it. The Senate insist on that amendment. I move now that the House further insist on its disagreement, and that a committee of conference be appointed.

Mr. MORGAN. I object to all committees of conference.

The question was taken; and Mr. PHILLIPS's motion was agreed to.

BENEFICIARIES OF THE NAVAL ASYLUM.

Mr. DAVIS, of Massachusetts. I move to reconsider the vote by which House bill (No. 753) for the benefit of the beneficiaries of the Naval Asylum was referred to the Committee of the Whole on the state of the Union. I ask only that the motion be entered.

NEBRASKA CONTESTED-ELECTION CASE.

Mr. WILSON. In pursuance of notice, I now call up the Nebraska contested-election case, and ask for the reading of the resolution which was reported from the Committee of Elections.

The Clerk read the resolution as follows:

Resolved, That Bird B. Chapman is the legally-elected Delegate to the Thirty-Fifth Congress, from the Territory of Nebraska, and is entitled to his seat as such Delegate.

OREGON BILL.

Mr. STEPHENS, of Georgia. I ask only for a moment to announce that the call of committees for reports has reached the Committee on Territories, and that the question of the Oregon bill will be the one that will first come up during the next morning hour. I want the House to know this, that there may be a full attendance.

NEBRASKA CONTESTED ELECTION—AGAIN.

Mr. WILSON. Mr. Speaker, it is not the fault of the Committee of Elections, or of the contestant that this case has not been heard and decided before. It will be remembered, that at the last session, the House authorized the sitting Delegate to take evidence during the recess. Hence it could not have sooner been heard and determined than the present time.

Now, sir, by reference to the report of the committee, it will be seen that the entire number of votes cast was 3,251; of which the contestant had 1,597, and the sitting delegate 1,654. But there were other votes that were not allowed by the territorial canvassers, cast both for the sitting Delegate and the contestant, which the committee think they were fairly entitled to. For instance five votes were cast for Judge Ferguson, instead of Fenner Ferguson. These were rejected by the territorial canvassers. The committee have added those five votes to the vote allowed for the sitting Delegate, and they so added make his total vote 1659.

Again, votes were cast for "Bird B. Chapman, for Congress," instead of, "for Congress, Bird B. Chapman." These votes were rejected by the territorial canvassers and allowed by the Committee of Elections. In the Cumming City precinct, where the returns had not made to the county clerk, ten votes were cast for the contestant which were rejected because they were not returned within the three days required by the laws of Nebraska. The committee believed that those votes ought to be counted in favor of the contestant. Why? Because there had not been, and is not now, any contest in regard to these votes. They were cast between the proper hours, and upon the proper day. They were cast according to law. They were legal votes, and hence no informality or irregularity of the returning officers should prevent these votes from being counted in favor of the contestant. The committee, therefore, have, in accordance with the precedents established in Richards's case, Bard's case, Spaulding vs. Mead, also Mallory vs. Merrill, (Contested-Election Cases, pages 95, 116, 117, 159, and 229,) added to the vote of contestant, making his vote 1,698.

I shall read from these authorities. They clearly justify the committee in their action. First, Richards's case, (page 95, of Contested-Election Cases,) I find there that the committee decided the very question now before us, and the House sustained the report. I shall only read the abstract, which is as follows:

"The return of votes, though not made within the time required by the State law, are not on that account to be rejected, provided the opportunity has been allowed the State authorities to act upon them. But if they are substantially defective, unaccompanied by a list of the voters, &c., they ought to be rejected."

Again: in the case of Bard, not only did the committee decide that the mere fact that the returns were not made within the time required by the law of Pennsylvania, did not vitiate to the election or return, but they went further: they called for and obtained the different county returns on which the district return was founded, and the House sustained the committee. Here is the report:

"That the elections appear to have been regularly held in the several counties composing the district, and that the judges of the several districts in the respective counties made up a return for each of the said counties, in the manner and at the time prescribed by law.

"That the general election law directs that one of the judges of each of the counties composing the district should meet at a place called the Burnt Cabins, in the county of Bedford, on the third Tuesday in October ensuing the election, to estimate the votes given in the several counties, and to return the person having the highest number of votes in the entire district, as their Representative; except there should be, at the time of holding the said elections, any of the militia of any of the said counties in the service of the United States; and, in that case, that the judges should meet the 15th of November ensuing the election.

"That, at the time of holding the elections, Bedford and Huntington, two of the counties in the said district, had no part of their militia in the service of the United States; and the judges of those two counties met at the Burnt Cabins on the third Tuesday in October, in order to make their district return.

"That the county of Franklin had a part of their militia in the service of the United States at that time, and the judge from that county did not meet the other judges, in consequence of which no return was made on that day.

"That, on the 15th of November, the judges of Bedford and Franklin met for the purpose of making a return; but the judge of Huntington, as it is suggested, not being informed of the alteration of the law in that respect, failed to attend, by which they were again prevented from making a return; that, on the 1st day of May last, all the judges met at the Burnt Cabins, and returned David Bard as having the highest number of votes.

"That, in consequence of the informality of the said return, it being the 1st of May, instead of the 15th of November, the committee have called for and obtained the several county returns, on which the district return was founded, and have made an estimate of the votes, as they appear from those returns; which estimate is as follows:

"David Bard, 1,808.

"James McClain, 1,090.

"James Chambers, 519.

"Whereupon, your committee are of opinion that David Bard is entitled to his seat in this House.
 "And, on the question, Will the House agree to this report? it passed in the affirmative."

But again, sir, in the case of Spaulding vs. Mead: by the law of the State of Georgia, three or more county magistrates were required to preside at the election in the several counties. They also were required to transmit by express to the Governor of the State, within twenty days after the closing of the poll at any election, the names of the candidates, the number and names of the voters, with an account of the state of the poll. That the Governor was required, within five days after the expiration of said twenty days, to count up the votes, issue his proclamation, and grant a certificate to the persons having the highest number of votes, as Representatives in Congress.

In this case (Mead vs. Spaulding) Mead had the highest number of votes of those returned within twenty days. The certificate issued to him. After the twenty days expired, a sufficient number of votes were returned to have elected Spaulding. The case was contested. The committee, upon a full hearing, allowed the irregular votes to the contestant.

Here is what they say in their report, which the House approved:

"Upon the foregoing statement of facts, as the Constitution has made this House the judge of the elections and returns, as well as qualifications of its members; as the returns from the State authorities, therefore, are only *prima facie* evidence of an election, but not conclusive upon this House; as there is, in the present case, satisfactory proof that the votes of the three counties in question, although the returns thereof were not transmitted to the Governor in season to be considered by him, were originally good, lawful, constitutional votes, having been given by qualified voters, on the day, at the places, and in the manner prescribed by law; and as neither the voters who gave them, nor the candidates in whose favor they were given, have done, or omitted, anything on their part, to forfeit their respective right, the committee are of opinion that these votes ought to be allowed, and, therefore, recommend the following resolution."

This is clear; this is explicit. It fully sustains the committee in this case, in the addition of the ten votes cast at the Cumming City precinct, to the vote of the contestant.

I refer to one more case; that of Mallory vs. Merrill, (page 328 Contested Election Cases.) I shall only read the abstract. It is as follows:

"Votes fairly given to a party, may be counted in his favor, though they have never been returned to the proper State authorities; the default of a return not being chargeable upon such party."

How, then, stands this case? Why, sir, although eighteen months have elapsed, although the sitting Delegate has taken his evidence and presented it to this House, yet not one single vote of the 1,608 for the contestant is attacked by the sitting member. He admits the legality of every vote cast in the Territory of Nebraska for the contestant. He admits that they were legal voters; and he admits that the votes were properly cast and the election fairly and legally conducted. So much for the case of the contestant.

But, Mr. Speaker, how is it with regard to the sitting Delegate, and how stands the case in regard to the votes cast for him? This whole case turns upon three precincts: the Cleveland, the Monroe, and the Florence precincts. I am satisfied that the conclusions of the Committee of Elections are correct, and that the contestant is clearly entitled to a seat upon this floor as the Delegate of the Territory of Nebraska. Let us take these precincts in order. Let us examine these votes as they are presented in the testimony. Let us examine whether they are legal votes, and entitled to receive the sanction of this House.

First, as to the Cleveland precinct, in Monroe county.

The testimony offered on the part of the contestant shows that at the time of this election there were but six voters residing in the precinct, and but five dwellings therein; and yet there were thirty-five votes cast. How did this occur? Why, sir, in this manner. They were cast by the employees of the Cleveland Land Company, who were engaged in building a hotel at Cleveland. These persons were not residents of the precinct. They resided at Florence. They were at Cleveland for a temporary purpose, and when they accomplished that purpose, they returned to Florence, where their homes and their families were. The law of Nebraska requires a residence of twenty days in the county to qualify a man to vote. These persons—eighteen or twenty in number—

never did acquire a residence in the Cleveland precinct; and of course the committee rejected their votes, which were cast for the sitting Delegate.

Mr. STEWART, of Pennsylvania. How far is Florence from Cleveland?

Mr. WILSON. Eighty-three miles.

But there is another point, Mr. Speaker, which applies alike to the three precincts. The oath was not administered to the judges, inspectors, or clerks of election at Cleveland, Monroe, or Florence, by any person authorized by the laws of Nebraska to administer such oath. I call the attention of the House to the laws of Nebraska on this point:

"The said board shall be qualified by severally subscribing to the following oath, administered by any person authorized by law."

These judges, inspectors, and clerks were sworn by a notary public; and, by the laws of Nebraska, and an express decision of the courts of the Territory on the subject, a notary public has no authority whatever to administer an oath to judges of elections. Here is the oath:

"I do solemnly swear that I shall perform the duties of a judge of election, according to law, and the best of my ability."

This oath was administered by notaries public at Florence and Monroe and Cleveland precincts. This vitiates the entire vote of these precincts. Suppose, sir, an illegal voter should present himself at the polls, swear, and falsely swear in his vote: could he be indicted for perjury? I think not; and why? Because the officers administering the oath had no authority whatever so to do. They were not qualified themselves. They were but intruders at best. This is no mere informality; not mere irregularity; but goes to the legality of the whole election at that precinct.

Mr. SMITH, of Virginia. Were there any circumstances before the committee justifying an inference of fraud on the part of these notaries public?

Mr. WILSON. I presume the notaries public should have known the laws of the Territory.

Mr. SMITH, of Virginia. Had the committee any information on the subject?

Mr. BOYCE. None at all.

Mr. WILSON. There is evidence of fraud in all of these precincts. For instance, votes were cast in the names of Oliver Twist and Samuel Weller, and of persons who never resided in the Territory, before or since.

Mr. SMITH, of Virginia. Was there any testimony given before the committee to show that these notaries public, in assuming to administer the oath to judges and inspectors and clerks, were aware that they were outstepping their duty, and acting without authority?

Mr. WILSON. There was no direct testimony in regard to what the notaries public thought. That they did overstep their duties there can be no doubt.

I wish to refer the House to one or two cases, decided by the Committee of Elections, heretofore, on this point. I refer to the case of McFarland against Culpepper, at page 221 of Contested Election Cases, volume 22:

"The right of John Culpepper to a seat in the House, was contested by Duncan McFarland, who claimed to be himself duly elected. On the 17th December, 1857, the facts in the case were laid before the House by the Committee of Elections in the following report:

"That the claim of the petitioner is not founded on constitutional qualifications, but on the law of North Carolina, prescribing the time, place, and manner of holding elections for Representatives in Congress. By a law of that State, passed in 1852, it is enacted that elections for Representatives to Congress shall be held on the same days and at the same places as were before that time prescribed by law for holding elections for members to represent the several counties in the General Assembly of that State; and the same is to be conducted by the sheriffs of the several counties within the State, and the deputies of said sheriffs, in like manner as the annual elections of members of the General Assembly are, except that the inspectors of the elections and clerks of the polls shall be sworn to act with justice and impartiality; which oath shall be administered by any justice of the peace then present. That no person shall vote at any election except in the county where he resides; that no person shall vote more than once in any election for members of the General Assembly or for a Representative in Congress; that elections for members of Congress shall be conducted by the returning officer in the same manner as elections for members of the General Assembly heretofore had been."

"The committee having examined Duncan McFarland's statements and depositions, find numerous irregularities and abuses, alleged and supported by numerous depositions; but as no law of Congress now exists directing the manner of taking testimony in cases of contested elections, or for compelling witnesses and parties to attend when called upon, many of the depositions trans-

mitted by the petitioner, in support of his statement, being taken *ex parte*, could not be admitted by the committee."

"[Such as they did not admit go to prove the following facts, to wit: that in some of the election districts, the inspectors and clerks were not sworn at all; that in others, they were sworn after the election, though before the return; while in others, it appeared doubtful from the testimony, whether they were sworn or not?]"

"From the above recited testimony, admitted by the committee, it appears that the inspectors and clerks officially employed in conducting the election in Richmond, Anson, and Montgomery counties, do not appear to have been sworn as the law of North Carolina expressly directs, and that the votes given in some of these counties, and at some elections in other counties not being received by officers duly qualified, ought to be rejected."

From the above, it appears that the inspectors and clerks, officially employed in conducting the election in Richmond, Anson, and Montgomery counties, do not appear to have been sworn, as the law of North Carolina expressly directs; and hence, the committee came to the conclusion that the vote which was received should be rejected; that the poll should be set aside; that from the testimony laid before and admitted by the committee, it appeared that "John Culpepper is not entitled to a seat in this House." That case is authority direct, for it turned upon the point whether, where the judges and inspectors of elections were not sworn in according to the laws of the State, the votes should be received or not; and the committee decided to reject the votes.

Mr. KILGORE. The gentleman states that where there were but six legal voters, there were thirty-five votes cast. Can the gentleman state for whom those votes were cast?

Mr. WILSON. One vote was cast for the contestant, and thirty-three for the sitting Delegate.

But that is not the only case. I refer now to the case of Easton vs. Scott, (page 273 of Contested Election Cases,) in which it is decided that in case an election is required to be held by three judges, who are required to be sworn, and it is held by two who are not sworn, the votes taken by them are to be rejected for the irregularity.

Mr. BOYCE. All over the Territory were not the judges sworn by notaries public?

Mr. WILSON. The only evidence we have in regard to the other precincts, besides those of Cleveland, Monroe, and Florence, is that the officers of the election were legally sworn in. I am certain at least as to one precinct where a majority of the votes were cast for the contestant; there the judges were sworn in by a justice of the peace, according to the laws of Nebraska. From the evidence before the committee, so far as there is any, it appears that the officers of all the other precincts were properly sworn in. Such is my recollection.

Mr. MAYNARD. I desire to ask the gentleman from Indiana in reference to these officers of election who were not properly sworn in; whether it was done by design and for fraudulent purposes, or whether they appear to have acted in good faith, but still failed to comply with the law?

Mr. WILSON. I think, sir, there was a design on the part of the judges and electors in the three precincts of Cleveland, Monroe, and Florence, to commit frauds. The vote cast was unusually large; the sitting Delegate received the almost entire vote; persons voted unknown to those best acquainted in the precincts; others voted three or four times; and, besides, the vote taken the very next year shows a falling off of at least two thirds in the several precincts. There is every evidence of a determination to commit frauds, and of course these judges did not wish their consciences bound by an oath—a legal one, I mean.

I shall refer to but one other case on this point: that of McFarland vs. Purviance, (page 131, Contested Election Cases.) The following is the report of the committee:

"That at an election held at the times and places directed by a law of the State of North Carolina for the election of a member to serve in the Eighth Congress for the seventh district of said State, among other complaints alleged by Duncan McFarland, it is proved by testimony, legally taken in presence of William McCarroll, the voluntary agent of Samuel D. Purviance, that at the elections held at the different election districts into which the county of Montgomery is by law divided, the inspectors and clerks of the elections held at the several election districts of the said county of Montgomery not only neglected, but refused, to take the oath obliging them to act with justice and impartiality, as directed by the act of Assembly of North Carolina, passed in the year 1852, notwithstanding that they were thereto required by Duncan McFarland, at the opening of the election; therefore, the committee, without deciding

on the other complaints made against the said elections, consider the neglect and refusal to take the oath prescribed by law as sufficient ground to set aside the election held for the said county of Montgomery."

Let us turn from the Cleveland to the Monroe precinct. Now, Mr. Speaker, upon the polls of the Monroe precinct appear names which of themselves are *prima facie* evidence of fraud. *Oliver Twist*, *Samuel Weller*! Those votes were received as legal votes, to send a Delegate from the Territory of Nebraska. Those names appear upon the poll-list; and I say, as the committee say, that the very fact that those names appear on that list is *prima facie* evidence of fraud, and that those names could not have appeared there except by the collusion of the judges and clerks of that precinct.

But there is another point: and I refer to it as affording some light to this House upon the matter of this Monroe precinct. A short time before the election came on, a leading Mormon—for the Mormons reside in that precinct—stated in different conversations, that there were not more than forty Mormon votes at the Monroe precinct, and that outside of the Mormon vote there were not more than two inhabited dwellings there. Only five persons resided there beside the Mormons, and yet eighty-seven votes were cast at that precinct in the election for Delegate. Eighty-three of those votes were cast for the sitting Delegate, and one for the contestant. Now, to illustrate how this result was accomplished, let me read from an affidavit of Mr. Cooper, an elder in the Mormon church, and one of the judges of election, that the House may see what he thought in regard to this very vote cast at that precinct. Among other things, in his affidavit, he states, that—

"He arrived at the place of holding the election in said Monroe precinct about fifteen minutes past nine in the morning of said election day; that he was one of the judges of said election at said precinct; that when he arrived there were forty or more voters names on the poll-book of said precinct, as near as he could judge; that soon after his arrival at said polls some one came to the door and said the polls of this election are now open; that the voters from Beaver then commenced voting."

Why were the polls then declared opened? Because Mr. Cooper, one of the judges of election, had arrived; but, before he arrived, forty names had been placed on that poll-list, and that, too, before the polls were opened.

Here is another affidavit. I refer to it; and the House may give to it whatever credit it deserves. Nathan Davis, in his affidavit, states:

"I arrived at the place of holding the election in said precinct at fifteen minutes past nine o'clock in the morning of said election day; that Mr. Charles Cooper, one of the judges of said election, at said precinct, came with me from Beaver, and arrived when I did at the place of holding the said election; that when we arrived there were forty or more voters' names on the poll-book, as near as I could judge; that soon after my arrival at the polls some one came to the door and said the poll of this election is now open; that the voters from Beaver then commenced voting; that the whole number voting at said election from Beaver settlement was forty, and no more; that I remained at the said polls till they were closed at night, and no person voted after I came there, except persons that came from Beaver, except about five persons who were at Monroe; that I understood from Mr. Latty that a large number of men came to the place where the election was held, about two o'clock in the morning on the day of election and voted, and went away very early in the morning."

I admit, sir, these are but *ex parte* affidavits. They were not used by either party in their argument before the committee. I only refer to them from the fact that when these same persons who once had given their voluntary affidavits, afterwards refused to testify when regularly subpoenaed by the contestant to appear and testify. They had learned to conceal this fraud at Monroe. They had received their instructions, from whom I know not; but some one, I have no doubt; else why not come forward and testify? Why flee "when no man pursueth"? It is only for the guilty so to act.

But, sir, from the preponderance of all the evidence in the case, the committee struck from the votes polled at the Monroe precinct, forty-two votes as clearly illegal, fraudulent, or fictitious. But at this precinct also, judges and inspectors of the election were not sworn in by any regular officer of the Territory, but were sworn in by those who had no authority to administer an oath to a judge or an inspector of an election in Nebraska.

There is one other fact I wish to state in reference to this Monroe precinct. One year afterwards, at the next election, there were only *twelve* votes cast at this precinct. *Oliver Twist* and Sam-

uel Weller disappeared. These McGee and Oxford frauds upon a small scale were not again enacted.

Now for the Florence precinct: four hundred and one votes were returned as having been cast, of which three hundred and sixty-four were for the sitting Delegate, and four for the contestant. There is evidence showing a determination to perpetrate fraud at that precinct. The evidence is clear to my mind. The laws of Nebraska provide that the polls there shall be opened from nine in the morning to six o'clock in the evening. The polls at Florence were kept open from six o'clock until nine at night. Votes were received for three hours after the time when the laws of Nebraska required the polls to be closed. How many were received in that time is a mere matter of inference. All the judges, assessors, and clerks, were friends of the sitting Delegate. A year after the election they swear that, to the best of their recollection, there were not more than fifteen cast after the hour of six o'clock. But, sir, what does Edward Brayton swear? What does Mr. Donovan swear? One swears that about half past five, the question was asked how many votes had been cast? That was during the day of the election, while it was progressing. The judge of the election replied that at that time two hundred and seventy-one votes were polled. That is the testimony of Mr. Edward Brayton. Mr. Donovan swears that between eight and nine o'clock of the same evening the question was again asked, how many votes have now been cast? The reply of one of the judges of the election was that three hundred and seventy-three votes had been cast. At six o'clock, when these polls ought to have been closed, only two hundred and seventy-one votes, or three hundred at furthest, were polled; and between eight and nine three hundred and seventy-three votes were polled.

Mr. EDIE. Do these witnesses swear these facts of their own knowledge?

Mr. WILSON. They swear that these questions were asked, and that the judges of the election made the answers I have stated. These statements were made on the day of the election, and when it was not known who was elected Delegate. There was no inducement to make false statements. And, sir, I prefer to take the statements of the judges made at that time to their uncertain recollection one year afterwards; and more especially when, as I think, it became necessary that their recollection should become uncertain. The preponderance of the evidence is against the sitting member, and in favor of the contestant.

Mr. WASHBURN, of Maine. Was not that man, whose testimony you refer to, accused of perjury?

Mr. WILSON. Yes; but the man who accuses him is himself accused of murder. [Laughter.] Then, sir, upon the mere preponderance of the testimony, there must have been one hundred votes, at least, cast between six o'clock, when the polls ought to have been closed, and when, in reality, they were closed at nine o'clock. But I go further; I say that the mere fact that these polls were kept open from six to nine o'clock at night vitiates the entire poll. It should all be rejected. It should not be received. It should not be considered. Why? How can you determine who cast their votes after six o'clock, and who did not? The poll-book is complete. It shows four hundred and one names; but it does not show how those men voted, or at what time. The House cannot determine by the list who these men voted for, or whether they voted before or after six o'clock. The ballot was a secret ballot; and where there is a secret ballot, where the ballot is not *pro voce*, as it is in most of the southern States, and there is fraud, the whole poll should be rejected.

This point has been raised, heretofore, in only one case, and that a Virginia case. In that State the law requires that the polls shall be held open for three days. The polls were held open four days. Every vote cast upon the fourth day was shown, and not only that, but for whom the votes were cast. Hence, then, every vote could be struck off that was cast upon the fourth day, and all the votes cast upon the three days could be retained. This, however, cannot be done when the ballot is secret. This cannot be done when there is no evidence at what time the votes were cast. Read

through this poll-book, and you cannot tell at what time any voter cast his vote. Let, then, the entire poll be rejected. But this is not all; in 1858, at Florence precinct, only one hundred and fifty-nine votes were cast. That was at an excited election; and yet of that one hundred and fifty-nine, only seventy-eight voted the preceding year, when four hundred and one were cast.

Mr. CLARK B. COCHRANE. How is that accounted for?

Mr. WILSON. In no other way, except that the voters were not there the year previous.

But again: in addition to the facts that the polls were kept open from six till nine o'clock at night, one man, according to the testimony of Donovan, voted four times; and there were at least a hundred persons there who were not known to the oldest settlers of that precinct; the judges and clerks and inspectors of election were sworn by an officer not authorized to administer such oath. It does seem to me that there has been a conspiracy; not only on the part of judges and clerks, but also on the part of the electors, to commit a fraud in regard to this poll. I can come to no other conclusion. Others must determine for themselves.

Mr. Speaker, although it is late in the session; although it may be said this case involves only the right of a Delegate from a Territory to a seat on this floor; still, in my opinion, the contestant and the sitting Delegate have as much right to have their case passed upon as would any Representative within this Hall. I believe that the contestant has been legally elected. I believe that the report of the committee is right. I ask that this conclusion shall be indorsed by the House. It is time these frauds in territorial elections were checked by this House. In fact, sir, looking over the elections for the last few years in the Territories, it does seem to me that a certificate of election from a Territory has become almost *prima facie* evidence of a great fraud committed. Should we not, then, so determine now as to prevent a recurrence of a similar case? Most certainly it is our duty to preserve the purity of all elections. Why not begin now? Why not rebuke these frauds? But whether the House does so or not, I, at least, shall condemn this record of fraud and illegality. It shall not receive my indorsement. My vote and my voice shall be withheld. I thank the House for their attention.

Mr. WASHBURN, of Maine. It so happens, Mr. Speaker, that there are some marked distinctions between the case of the sitting Delegate and that of the contestant. It so happens that nearly all the witnesses on whom the contestant relies were not only his runners and agents, but were non-residents of either of the three precincts the regularity of whose elections are in controversy; while it so happens that all the witnesses (there may possibly be one or two exceptions) who have testified on the part of the sitting Delegate are citizens of those precincts. It so happens, further, that all the testimony taken by the contestant in this case is *ex parte* testimony; that there is not a particle of evidence here on which we have any right to act; not a word or syllable taken on notice given to the sitting member, or that was taken when he was present, in person or by attorney, or when he could be present.

Mr. WILSON. I ask the gentleman from Maine whether notice to take testimony was not served at the residence of the sitting Delegate?

Mr. WASHBURN, of Maine. I will state all about that before I get through. I will satisfy the gentleman and the House, I hope, how this matter was. I say the sitting Delegate did not have actual notice, in a single case, that testimony was to be taken. It was all taken during his absence from the Territory. On the other hand, the testimony taken on the part of the sitting Delegate was that of actual residents within the respective precincts, and was taken on notice, and while the contestant was present.

It has been said here that the sitting Delegate does not contest any of the votes returned for the contestant. Why, sir, there was no challenge except as to these three precincts; and the sitting Delegate merely applied himself to show the legality of the votes of those precincts. He has simply rebutted all the charges and allegations made against him in the affidavits and *ex parte* depositions. He found that it was unnecessary to go further.

The election in Nebraska was held on the 3d of August, 1857. Notice of contest was given within the time prescribed by the law of 1851. The answer was filed on the 3d October. The contestant, although the field is open for operation, does not serve his notice of testimony till November; and he then cites the sitting Delegate to appear and take testimony on the 23d and 24th of November—within two weeks of the time when he was to take his seat on this floor, under the certificate that he held from the authorities of the Territory—although there had been forty or fifty days before that in which the testimony could have been taken, had the contestant been disposed to give the sitting Delegate a fair opportunity of being present and meeting that testimony.

But the contestant, after the sitting Delegate had left the Territory on a visit to New York, and without an intention of returning until after the close of the first session of this Congress, caused a notice to be left in the house where Mr. Ferguson had formerly resided, but where he did not then live. One notice was left in the hands of a party who was there but transiently, and whose residence was some ten miles distant. Another notice was subsequently left at the same house, in the hands of the person residing in, and the tenant of, the house; but neither of these gentlemen, as appears by the affidavit of Mr. Ferguson, was his agent or attorney. And when one of them did offer to appear—inasmuch as the notice had been left at his house—and to cross-examine witnesses, the magistrate refused to permit him to do so, unless he could show that he had been authorized to appear by the sitting Delegate; and so all cross-examination was precluded. A citizen of the Territory, whose case was on trial—for the people are interested in these election questions—was refused permission to examine the contestant's witnesses.

Mr. CLARK B. COCHRANE. I desire to know whether, before Mr. Ferguson left the Territory to come to Washington, he received personal notice that his election would be contested?

Mr. WASHBURN, of Maine. He had received notice of the contest. It is in evidence that while he was in Washington, on his way to New York, he here met the contestant, and told him that he was going to New York, and should not return home until after the first session of Congress. The contestant, therefore, knew that the sitting Delegate was not in the Territory, and that notice left for him there would never reach him. The contestant might then have notified Judge Ferguson, or ascertained where he would have the notice left.

Mr. WILSON. I wish to ask the gentleman whether the notice of contest was not served within sixteen days after the election?

Mr. WASHBURN, of Maine. The answer to the notice of contest was dated on the 2d day of October; and on the 12th day of November, one month and ten days after the party might have proceeded to take testimony, he gave notice that he would do so on the 23d of November, within two weeks of the time when the sitting member was bound to be here. He might have taken that evidence before; and I submit whether he should not have done it if he desired to give fair play; for then the sitting member could have been present and had an opportunity of cross-examining witnesses.

Mr. MAYNARD. I wish to ask the gentleman from Maine, whether, as matter of fact, without reference to the formality of the notice served, the testimony shows that the contestee received actual notice or not?

Mr. WASHBURN, of Maine. It appears from his affidavit that he knew nothing about it; and it was because of this fact that the House, at the last session, passed a resolution authorizing both of these parties to go home and take testimony; and I supposed, at the time, that the contestant would go home and give notice; and if he desired to bring this testimony here again, he would cause it to be taken over again, and give the sitting member an opportunity to be present at the caption.

Mr. Speaker, not only is all this testimony *ex parte*, but a great part of it is composed of mere affidavits; and most of that which was alluded to and commented on by the gentleman from Indiana was in the form of affidavits sworn to before a notary public, who, the gentleman himself says,

has no right to administer an oath in the Territory of Nebraska. And, sir, there is not a single fact upon which he relies for the material points in his case, but what is hearsay. There is not a single fact of importance touching the precincts of Florence and Monroe, but what comes from the declarations of third parties. There is not a scintilla of testimony here which is not of that character; whereas the rebutting testimony is that of witnesses who lived within the precinct, and who were sworn and cross-examined, and state facts within their personal knowledge. The testimony of the contestant is, as I have said, largely composed of mere affidavits; and such, under the law of 1851, cannot be received at all as evidence, and no one has contended more strenuously than the gentleman from Indiana that this kind of testimony cannot safely be received. In the case of Campbell and Vallandigham last year, it was contended, on the part of Vallandigham, that the testimony of witnesses to the declarations of certain parties as to whom they voted for, should be received. The majority of the committee, I believe, were of opinion that that testimony might be received, upon the ground that the declarations of men at the time they deposited their votes were a part of the *res gesta*, and must be received from the necessity of the case, as there might be no other way of proving how parties voted. But, sir, there is no such necessity or excuse for it in this case, not even in reference to the allegation made by one of the judges of the election as to how many votes were cast at the Florence precinct before a certain hour of the day, because he was a legal witness, and might have been examined—in fact, he has been, I believe. The statement which he is reported to have made is mere hearsay, and not admissible upon any principle. And the same is true in regard to the declarations of Nichols, and somebody else, who went over from Omaha to Monroe, and made inquiry as to how the vote stood there, and how many votes had been received; and then came back and retailed, in the form of affidavits, the statements of others, upon which we are asked to unseat a member of this House.

I desire to call the attention of the House to the position which the gentleman from Indiana took last session; and bear in mind that this evidence, which he contended should not be received then, was the admission of a party, made at the time he voted, and was a part of the transaction. Says the gentleman from Indiana, in the case of Vallandigham vs. Campbell:

"Such is the evidence produced to prove that twelve negro votes were cast for the sitting member in Oxford township; such is the evidence on which we are called to decide the rights of a hundred thousand people. It is mere hearsay; it is no evidence. He does not state, of his own knowledge, any fact; or what means he had of knowing. He merely retails the loose statements of bitter partisans."

Again, he says:

"Another witness testifies, in regard to a voter, that the father of the voter was a Republican; that the family were Republican; that the son voted; and of course it followed that his vote was cast for the sitting member. Is this satisfactory evidence to the legal gentlemen on the other side of the House? Is it evidence at all? Most certainly not."

And yet, sir, it is entirely upon evidence of this kind that the sitting member must be unseated, if that shall be the judgment of this House—nay, upon worse evidence; for the reason for admitting that does not apply in this case at all.

Mr. WILSON. I stand now by every word I said then, but the House decided otherwise; and I presume that at least the other side of the House will be bound by the rule which they established in that case.

More than that, there is a difference between that case and this. Here is a declaration made by a judge of the election, at the very time the election was proceeding; and it is very difficult for me to determine whether this is not part of the *res gesta*, and not hearsay evidence. But still, I put this case upon the broader ground that the fact that the polls were kept open contrary to law, from six until nine o'clock, vitiates the entire election.

Mr. WASHBURN, of Maine. If the gentleman has changed his opinion since last session, I have not. I maintain that hearsay evidence in all cases is unsafe, and ought not to be resorted to or relied upon. The gentleman from Indiana last session recited from the case of Archer vs. Allen, as follows:

"There is some testimony that certain persons said that

they had heard another man say that he had voted for Mr. Allen, when he had no right to vote. But are we to disfranchise a congressional district of a hundred thousand inhabitants on hearsay testimony that would not be received in a magistrate's court when a shilling was in controversy?"—*App. to Cong. Globe*, 1st sess. 34th Congress, vol. 33, p. 929.

And again, in the same report:

"Next, as to Alfred Cowden, the only evidence is that he was heard to say that he had voted at the election; that he had voted for Allen; that his vote had elected him, &c.; and that he was not of age at the time. This evidence, the undersigned are clearly of opinion, is *hearsay evidence of the worst sort*. It is no evidence at all. It would not be received as evidence in any court, and it never should be received in cases of contested elections before this House; for, by the admissibility of such evidence, it would be the easiest matter in the world to set aside any close election, and defeat the will of the majority, by getting persons to say that they had voted illegally for the man whom, perhaps, they had used their greatest efforts to defeat. Falsehoods, where there is no solemnity of an oath, are often resorted to in elections in canvassing before the people against a candidate before an election, as all of us, perhaps, well know; and who that would tell a lie before an election, would not do the same thing after it, if he could thereby effect the same object?"

So, sir, in a case of this kind, where it is only contended that the testimony must be received from the necessity of the case, because there is no other way to get at the facts, if the doctrine is sound that the testimony cannot be received, much more is it true that there is no reason for its admission where the declarations, if made, were made in open meeting and must have been heard and known by others. It was a mere casual remark of a judge of election not made under oath. Sir, is it to be admitted here as safe ground for us to proceed upon, that a man may be unseated in this House because a judge of elections may have falsely, perhaps corruptly, made a statement during the progress of an election in reference to it? Is that a ground upon which gentlemen can expect us to vote against the sitting member? Are our rights dependent on such slippery foundations as this?

Mr. CLARK B. COCHRANE. For the purpose of deciding my own vote, I would ask the gentleman whether these facts set forth in the report of the majority of the committee, the facts concerning the precincts of Florence, Monroe, and Cleveland, depend entirely upon *ex parte* evidence?

Mr. WASHBURN, of Maine. Entirely, and upon testimony taken, as I have stated, under notices left at what was called the last and usual abode of Judge Ferguson, at a house vacated by him before they were thus left and in the possession of another man.

Mr. WILSON. I say there was notice as required by law. Does the gentleman say there was not?

Mr. WASHBURN, of Maine. I do most certainly. The testimony was taken under notices left at what was called the judge's last and usual place of abode; left after he had departed from the Territory; when he had leased his house, and another was in the occupation of it. Do you call that legal notice? And the contestant knew, from Judge Ferguson's statements to him in Washington, that a notice left there would never reach him.

Mr. MAYNARD. If I recollect rightly, the House, at the last session, extended the time for both parties to take testimony. Could the sitting member have called these witnesses before a commissioner and cross-examined them?

Mr. WASHBURN, of Maine. If they were still in the Territory. I presume the gentleman knows that as well as anybody. He might have made them his own witnesses, if he pleased; but that he would not be likely to do. There was really no testimony by these witnesses legally before us. The sitting Delegate did not see fit to rely upon the evidence of the runners and agents of the contestant; men who lived in Omaha and could know nothing certain; but he went to Florence and to Monroe and to Cleveland, where the facts transpired. He took the testimony of the men, of all others in the world, who knew exactly all the facts in the case.

Mr. DAWES. I would like to know if it is not also true that they were the very men who had themselves participated in the frauds, if there were frauds?

Mr. WASHBURN, of Maine. Some of the witnesses were the judges and clerks of the election, and some were not. There is not, I believe, a fact stated by the judges and clerks which is not

borne out by the testimony of those who were neither the one nor the other. 'I do not see why these men are to be impeached, why they are to be held unworthy of confidence, because the contestant simply challenges or charges them with being guilty of fraud. He begs the question.

Mr. DAVIS, of Maryland. I wish to get some information from my friend from Maine as to the rule of judgment. I believe that the Constitution provides that this House shall be the judge of the election and qualifications of its own members. Did not this House, then, in the case of Vallandigham vs. Campbell, distinctly decide that hearsay evidence was competent evidence; and did it not, on that evidence alone, determine that election? If that be so, is not this, then, *res adjudicata*? Is it not, then, decided that, so far as this House is concerned, hearsay evidence is competent evidence?

Mr. WASHBURN, of Maine. I cannot say that the case of Vallandigham vs. Campbell was decided on that point.

Mr. DAVIS, of Maryland. That was the ground stated and advocated in this House.

Mr. WASHBURN, of Maine. That was one; but whether it involved necessarily the decision of the House or not, in that case, I am unable to say. It may have turned on other questions. There may have been controlling points outside of that. The Congress before this decided almost unanimously, in the case of Archer and Allen, that hearsay evidence was not competent; and that Congress ought, I hope, to have as much weight with the gentleman from Maryland as this one. That Congress decided hearsay evidence to be inadmissible.

Mr. DAVIS, of Maryland. The Constitution says that the House of Representatives shall be the judge of the election and qualifications—not the last one, but this House of Representatives, shall be the judge of the election and qualifications of its own members.

Mr. WASHBURN, of Maine. The gentleman may pile up precedents as high as Olympus, but I never will receive hearsay testimony to affect the rights of parties. It is not law, it is not sense—and indeed, sir, it is not good nonsense. [Laughter.] No man can stand upon it.

Mr. DAVIS, of Maryland. With all respect, the question here is not what is reason, but what is law. *Stet pro ratione voluntas*. It is not the last House, but this House, which determines the rule of law respecting the members of this House; and this House has ruled that hearsay evidence is legal evidence in determining the election of its members.

Mr. WASHBURN, of Maine. Well, if the gentleman prefers a doubtful precedent to solid reason, he must be able to show that the decision turned upon that question.

Mr. DAWES. Upon what principle has the gentleman determined to give the votes of Sam Weller and Oliver Twist to the sitting member?

Mr. WASHBURN, of Maine. I will tell the gentleman when I come to that.

Mr. DAWES. The gentleman says that it does not appear to him that the judges of the election have been guilty of any fraud, and that, therefore, their testimony ought to be admitted. I presume that if there were no Sam Weller and no Oliver Twist, the judges of the election had no right to let any men vote under those names. If there were such men there, I do not know why my friend has deducted those two votes from the sitting member's poll, in his report.

Mr. WASHBURN, of Maine. I do not know how that is in the report. I must confess that I signed it without reading it. [Laughter.] My friend from South Carolina [Mr. Boyce] and myself agreed in the result; and I had so much confidence in him that I did not feel it necessary to examine his reasonings.

Mr. DAWES. If those men were there, they had a right to vote; and if they were not, they were not entitled to vote. The judges of the election, I think, committed a fraud by putting such names upon the list, and if they were guilty of fraud in one thing they may be in another; and I should suppose that they would be the last men to admit in their testimony that they had been guilty of fraud.

Mr. WASHBURN, of Maine. I say that there is no testimony in this case from which it does not appear that there are not, in the Territory of

Nebraska, such men as Oliver Twist and Sam Weller.

Mr. DAWES. Then the gentleman admits that he does not know what he signed. Does he wish to amend the report? [Laughter.]

Mr. WASHBURN, of Maine. I do not.

Mr. DAWES. Then you indorse the proposition I have stated.

Mr. WASHBURN, of Maine. Let it stand for what it is worth; for whether these votes are admitted or rejected is of no sort of consequence.

Mr. DAWES. What is it exactly worth? How much does the gentleman think the report is worth? [Laughter.]

Mr. WASHBURN, of Maine. If the gentleman will permit me, I will proceed to inform him.

Mr. WILSON. Does the gentleman believe that there were such voters?

Mr. WASHBURN, of Maine. I have no right to believe that such voters were not there. They appear upon the poll list; such surnames are not uncommon in this country. I have known several persons with the surname of Weller and Twist; and I want the gentleman to inform me whether it is impossible, or even improbable, that among all the Twists there is not an Oliver, or that among all the Wellers there is not a Samuel? [Laughter.] And if so, why may they not be in Nebraska as well as anywhere? There was a Weller in the Senate a few years ago, and there are Twists everywhere. [Laughter.] And I think the gentleman from Massachusetts is getting himself into a twist very fast. [Laughter.]

Mr. CLARK B. COCHRANE. The gentleman is undertaking to prove this to be a striking coincidence.

Mr. WASHBURN, of Maine. Somewhat of a coincidence, I grant. But the evidence, sir; what is that? But, all badinage aside, I am informed by Mr. Ferguson—and his statement is as good as any of the contestant's *ex parte* testimony—that there was a man there who went by the *sobriquet* of Sam Weller, and that he was entered on the poll-list by that name; and that Oliver Twist should also vote in the same precinct is not to be wondered at. I am informed that this was the way of it; and I presume that that is the truth of the matter. That there could have been no intentional fraud in this is apparent from all the facts.

Mr. CLAY. I have in my hand a report signed by the gentleman; and I find that the votes of Mr. Weller and Mr. Twist are both stricken out.

Mr. WASHBURN, of Maine. Very well; "let them slide." [Laughter.]

But, Mr. Speaker, the gentleman from Indiana [Mr. Wilson] has complained to-day, and arrayed the fact as vitiating the election at these precincts, that the officers of the election were sworn by notaries public who were not authorized to administer the oath. I understand it to be a fact that at this and at the previous elections in those precincts, the officers were sworn by notaries public; and that the present law is of recent enactment.

Mr. WILSON. I demand the proof.

Mr. WASHBURN, of Maine. The proof I have is as good as all yours—the declaration of Mr. Ferguson to the committee. That is just as good as any of the testimony that has been introduced here by the contestant. But what does it all amount to? These officers of election acted *colore officii*, and by all the precedents, even those cited by the gentleman himself, their proceedings while so acting are perfectly legal. The gentleman from Indiana contended for that principle in the Campbell and Vallandigham case. Let me commend to him now the doctrines which he asked the House to indorse then. In that case, it was contended that the election in one of the wards of Dayton was illegal, because there was no legal officer there. The gentleman replied that he thought no member of the House could for a moment doubt, with respect to the election in the second ward of Dayton—and he referred the House to the case of *The People vs. Cook*, (14 Barbour's Reports, page 245:)

"It becomes important, in this case, to determine whether the objections, which are taken to the inspectors of elections in the several cases presented in this bill of exceptions, are of that character which should be held to invalidate the canvass in these several localities. These objections are of a twofold character, extending to the regularity or legality of their appointments, and of their omission

to qualify, by taking the proper oath of office. I will not stop to inquire whether these inspectors, in these several cases, were inspectors *de jure* or not. It is sufficient that they were inspectors *de facto*. They came into office by color of title, and that is sufficient to constitute them officers *de facto*. The rule is well settled, by a long series of adjudications, both in England and this country, that acts done by those who are officers *de facto*, are good and valid, as regards the public and third persons who have an interest in their acts, and the rule has been applied to acts judicial, as well as ministerial, in their character. This doctrine has been held and applied to almost every conceivable case. It cannot be profitable to enter into any extended discussion of the cases. The principle has become endless in which the rule has been applied."

"And so here [says the gentleman from Indiana] the law will not stop to inquire whether Sullivan was judge *de jure*. If he had color of title, and was judge *de facto*, it is sufficient."

The gentleman from Indiana then refers to the case of the Mohawk and Hudson Railroad Company, (19 Wendell, 143,) and to 7 Wendell, 264; 1 Johnson, 500; and adds:

"But, Mr. Speaker, it is not necessary to produce additional authority. Case after case might be cited of irregularity in the appointment of judges and inspectors, and the manner of conducting elections; but in no case has a mere irregularity ever disfranchised the electors, or invalidated an election. This is the whole of the case in the second ward of the city of Dayton; and, I say, as the judge went into office under the color of title, and as the election was fairly conducted, the returns deserve to be received and considered by this House."

So much in respect to the oath administered to these officers. They were officers acting as such *de facto*; and their proceedings cannot be set aside.

But, sir, the gentleman contends that we must set aside the whole returns from the Florence precinct because the polls were kept open till after six o'clock in the afternoon, the hour fixed by law for their being closed. I can find but a single case like this in the annals of the House; and that is the one referred to by the gentleman—the case in Virginia. There the law provided the election to be held for three days. The judges held over, and some votes were received on the fourth day. The committee decided—and the House confirmed that decision—that the votes received on the last day should be excluded. There is no other authority on that point. In this case the testimony is conclusive, from three witnesses who were officers of the election, that no more than fifteen votes were received after the hour of six o'clock.

Mr. DAWES. Did the judges of election give any reason for their having kept the polls open?

Mr. WASHBURN, of Maine. They did. I will state the reason.

Mr. DAWES. Did they know anything about the law?

Mr. WASHBURN, of Maine. At the previous elections it had been competent for the officers to keep the polls open, if they saw fit, till a later hour than six. That appears from the Nebraska laws before the committee. Whether the judges were aware of the change of the law or not, we shall see as we go along.

Mr. DAWES. I want to know whether they gave out, as an excuse for having violated the law, that they did not know what it was?

Mr. WASHBURN, of Maine. They did not at the time, that I am aware of.

Mr. DAWES. Then, if they did not, I presume that excuse did not exist.

Mr. WASHBURN, of Maine. But to proceed; one of the witnesses, Robert W. Steele, testifies:

"First interrogatory. What is your age, occupation, and where do you reside?"

"Answer. My age is about thirty-eight years; my business, lawyer and land agent; my residence, Florence one year since, but now in the Saratoga precinct, Nebraska Territory.

"Second interrogatory. Do you know anything about an election being held in the Florence precinct, in Douglas county, for member of Congress and other officers in August, 1857?"

"Answer. I do.

"Third interrogatory. Did you attend the said election?"

"Answer. I did; I was one of the judges of said election.

"Fourth interrogatory. Please to state all you know about the time the polls opened and closed at said election.

"Answer. The polls were opened at nine o'clock, a. m., as near as I could judge; they were held open until seven o'clock p. m., or a little after, probably after seven; we, the judges of the election, had that question under consideration, whether we were bound to close the polls at six o'clock p. m., and we came to the conclusion that the law authorized us to keep the polls open to afford an opportunity for all to vote."

The gentleman from Massachusetts [Mr. Dawes] will see what the judges thought:

"And it was represented to us that there were eight or ten voters out on the prairie making hay, and we held the

polls open after six o'clock to give them time to come in and vote.

"Fifth interrogatory. Were those who were out making hay legal voters?"

"Answer. We thought so at the time, and I believe they all voted, at least they were not challenged, as I know of.

"Sixth interrogatory. About how many votes were polled after six o'clock?"

"Answer. To the best of my recollection not to exceed fifteen.

"Seventh interrogatory. Do you know of any illegal voting on that day?"

"Answer. I do not.

"Eighth interrogatory. Were there any challenges of voters on that day; and if so, what was done by the judges?"

"Answer. There were challenges; some on account of age; some on account of residence, &c.; when challenged, in all cases, the applicant was sworn, or required to produce his certificate of citizenship; this was done in all cases."

Another witness, James C. Mitchell, who was asked why the polls were kept open, testified as follows:

"I understood the object to be to permit voters who were out on the prairie making hay and at work down on the ferry boat to come in. I knew the men; they were old residents here, and I supposed they were legal voters. I am not certain they were all citizens of the United States, but I supposed they were, and had a right to vote. It has been the custom here to keep the polls open until the voters were all in that we know of."

"Fifth interrogatory. Do you know of any illegal voting on that day?"

"Answer. I do not. I heard of one man who it is said voted that had no right to vote—that was O. B. Selden; he claimed to have voted for General Thayer.

"Sixth interrogatory. Do you know of any Mormon or emigrant train near here at that time?"

"Answer. There was no Mormon or emigrant train near here at that time, and none such voted. I was acquainted with nearly every man who voted here on that day, except the voters from Saratoga, and I believe there was none of those whom I knew voted who had not a right to vote.

"Sixth interrogatory. How many were there from Saratoga?"

"Answer. About thirty. Most of them voted for General Thayer, some, perhaps, for Mr. Chapman. I do not think any of them voted for Mr. Ferguson.

"Seventh interrogatory. What do you say was the population of Florence precinct at that time, and what proportion of them were Mormons?"

"Answer. I think not less than two thousand population, and not more than one hundred actual Mormons, and not two hundred of Mormons and their sympathizers; not to exceed one tenth of the population."

Another witness, Levi Hart, one of the judges of the election, in answer to the question why he held the polls open after six o'clock, testified:

"I have been one of the judges of the election at this precinct at all the elections held here except the first. It has never been our practice to close precisely at six o'clock. I do not know that we have ever held open as long before. We waited for some voters to come in from the prairie. According to our construction of the law, we supposed we were not bound to close at precisely six o'clock.

"Fifth interrogatory. Were those persons residents and legal voters?"

"Answer. They were.

"Sixth interrogatory. About how many votes were polled after six o'clock that day?"

"Answer. I should think about fifteen.

"Seventh interrogatory. Do you know of any fraudulent or illegal voting on that day?"

"Answer. I did not. I refused to take several votes which I knew to be illegal."

Such is the testimony of four or five witnesses—I have not read all—men who stand unimpeached before this House; men who were there, and were bound to know, and did know, the facts which transpired there; and if their testimony is true, there was no fraud committed in that precinct. And yet we are called upon to throw aside all this testimony, and to regard the affidavits of men who only retailed miserable hearsay! Shall we do that? Shall we disfranchise this whole precinct, all these voters, because of the mistakes of officers of election—if there were mistakes? No, sir; it never has been done. In one instance, where votes were received after the hour for the polls to close had arrived, the House excluded all votes cast after that time. From the Florence precinct, we deducted the fifteen votes received after six o'clock, in accordance with the Virginia precedent.

Now, what are the facts in regard to the Monroe precinct? The evidence in regard to that precinct, on the one side, comes from Creighton and Nichols, men who rode over from Omaha, to see what they could see, and hear what they could hear; and then made affidavits of what they saw and heard. On the other side is the testimony of a large number of witnesses whose residence was in that precinct, who swear that there were as large a number of voters in that precinct as voted, and larger, and that the election was conducted legally in all particulars.

Let me call your attention to the testimony in

regard to the Monroe precinct, and the Cleveland precinct. Mr. George F. Kennedy testifies:

"Eleventh interrogatory. Were you at that time acquainted in the Monroe precinct, in Monroe county; if so, what, in your opinion, was the population of that precinct, and what number of votes were there?"

"Answer. I think the population (permanent settlers) was about two hundred; they were nearly all men, and I should think there was at least one hundred and twenty voters.

"Twelfth interrogatory. What amount of improvements had they there at that time?"

"Answer. They had about eight hundred acres in cultivation.

"Thirteenth interrogatory. Were there any Mormons or emigrant trains in or near the precinct at that time?"

"Answer. There were no trains there, or near there, at the time of the election.

"Fourteenth interrogatory. Did you hear John Reek's testimony, given in behalf of Mr. Chapman at Omaha, in November last, before Judge Wakely?"

"Answer. No.

"Fifteenth interrogatory. What was your opportunity of knowing about the honesty or frauds of the election in Cleveland precinct as compared with Mr. Reek?"

"Answer. I consider my opportunity much better than Mr. Reek's, as I was on the ground nearly all day, and Mr. Reek was not; he passed by where the polls were in the morning, and did not return during the day. In the Monroe precinct, I think my opportunity as good at least as Mr. Reek's; I had been through there and seen the voters, and formed my opinion of their numbers. I do not believe that a full vote was polled in either of said precincts. I know that a full one was not polled in the Cleveland precinct."

Again, here is the testimony of Charles H. Whaley:

"First interrogatory. What is your age, business, place of residence, and how long have you resided there?"

"Answer. My age is thirty years; my business, a farmer; my residence, Monroe, Nebraska Territory; and I have resided there since the 11th day of May, 1857.

"Second interrogatory. Do you hold any county office?"

"Answer. I am probate judge of that county.

"Third interrogatory. Did you attend the election there in August, 1857?"

"Answer. I did; I went there the evening before the election.

"Fourth interrogatory. Were you pretty well acquainted in Monroe and Genoa at that time; if so, how many inhabitants and voters were in the precinct at that time?"

"Answer. I was pretty well acquainted. I should think there were from one hundred and fifty to two hundred inhabitants, and about one hundred voters in that precinct.

"Fifth interrogatory. From your knowledge of the voters of the county and of the election, what would you say of the fairness of the election? Did you know of any illegal voting?"

"Answer. I should think the election a fair one in that precinct. I did not know of one illegal vote."

So here we have, in reference to this Monroe precinct, the testimony of the judge of probates, who swears that he voted for Chapman, and that there was no fraud or illegality in that election. Who knows best, he or the strangers whose testimony is relied upon by contestant? The witness was a friend of Chapman, yet knowing the facts, he is obliged to say the election was properly conducted, and that there was no illegal voting. Does not this show that there was no fraud and no illegal voting, notwithstanding the appearance of the names of Twist and Weiler on the poll lists?

Sir, the majority do not allege or maintain that the voting at this precinct was all fraudulent; they admit, and say, that there were many good and legal votes cast there. They do not claim that there is such evidence of fraud or wrong as should set aside the whole poll—not at all. They only ask us, out of the eighty-seven votes, to cast off forty. Upon what basis, upon what theory, upon what calculation, have we any right to cut off forty more, than we have to cut off thirty or twenty? They ask us arbitrarily, upon the mereest guesses, to say that forty votes, nobody knows who, nobody knows why, or for whom their votes were cast, should be struck off from this list; when the judge of probate who voted for Mr. Chapman, and who was present all the time, swears that there was no illegality, no falsehood, no fraud, and that there were at least one hundred voters within the precinct. Gentlemen allege that the votes of these precincts fell off the next year. What if they did? There is no mystery about this. And there is no mystery about the Cleveland precinct. There is no mystery about the Florence precinct. The population of these new border towns is constantly changing. A town may have a population of two or three hundred people, and they are in large proportion voters this year, and next year they may go off somewhere else, for impromptu cities are springing up everywhere, and the floating population of which they are in good part, pass from one to another. The decrease in the vote, I am informed, has been

as great in other precincts of the Territory as in either of these. It does not follow that because the vote was smaller this year than last, the vote is illegal. Last year the election was a most exciting one, and all voters were brought out. How this was this year, I have no knowledge.

In regard to Cleveland, there were some twenty or thirty young men who had been in the Territory for more than two months—not less than two months, as the gentleman from Indiana says, but more than two months—as this record proves upon the testimony of witnesses. By the laws of Nebraska, they were entitled to vote. They had been in the precinct of Cleveland more than twenty days. As the testimony proves, they went there the last of June or the first of July, and the election did not come off until August. They had been in the precinct, then, twenty days, and in the Territory, as several witnesses swear, two months and more; and they had a right to vote. Yet, John Reek, one of the witnesses at Omaha, ten miles from Cleveland, swears that he knows that they were residents of Florence, a town eighty-three miles off. That a man thus situated, in reference to what he states, should swear so positively, determines the character of his testimony. What wholesale swearing! This man could not know the truth of what he testified to; and not knowing, he had no business to attempt to state. That testimony is valueless upon its face. These young men were in Cleveland for the purpose of building a hotel. They had been there for more than twenty days, in the Territory for two months, and so were all voters. They had no residence elsewhere. Having no families, they resided at Cleveland while they worked there; they had no other home or residence. But it is not important how this was; for, unless you can exclude the Florence or Monroe precinct, or more than fifteen votes from the former, which you cannot, or some forty from Monroe, which you cannot, except by guess, Mr. Ferguson remains elected.

I beg pardon of the House for having detained it so long. I did not intend to speak but a few moments when I rose, but I felt that it would be unsafe to establish, and I deemed that this House should not establish, a precedent so mischievous and dangerous as would be established if we were to deprive the sitting member of his seat upon the evidence adduced by the contestant.

Mr. BOYCE. Mr. Speaker, it is not my purpose to occupy the attention of the House for more than five or ten minutes in stating the reasons why I am unable to concur in the report of the majority of the Committee of Elections.

Mr. GROW. Will the gentleman yield for a motion to adjourn?

Mr. BOYCE. I prefer to go on now. In a case of this character, it seems to me that a sitting member should not be dispossessed of his seat upon doubtful testimony. The party contesting ought to make his case out clearly. Questions like this, too, ought to be decided according to justice and their merit, without paying too much attention to mere technicalities. Several technical points have been raised here and strenuously insisted on by the gentleman from Indiana, [Mr. Wilson.] It has been said that the managers of the election were not sworn in by the proper officers. Who swears them in? Notaries public. I am not clear that notaries public had not a good right to swear them in. What does the law say? That the managers shall be qualified by subscribing to the following oath, "by any person authorized by law to administer oaths." The question of notaries public administering oaths was not mooted in the Territory at the time of this election. Since then a decision has been made, in an attachment case, that a notary public cannot administer an oath necessary to institute the proceedings, and that their power to administer oaths is confined to commercial matters. I see no reason why a notary public could not swear in the managers of the election. It seems to me that any person who had a right to administer oaths could have sworn in these managers. The law required the managers to swear that they "would faithfully discharge the duty of inspectors of elections, according to law, and the best of their ability." What was the oath they took? They swore that they would support the Constitution of the United States, and faithfully and impartially discharge the du-

ties committed to their hands according to law. They complied thus, I think, substantially with the demands of the law as to the form of the oath.

Then, it has been said that the poll was kept open until after six o'clock. The law says that the polls shall be opened at nine o'clock, and continue open until six o'clock. It does not say that they shall be closed at six o'clock, but kept open until six. They may be continued open for a reasonable time afterwards; but I do not insist on that. We should not, however, throw out the whole poll because the managers held it open too long. Those who voted before six certainly had the right to have their votes counted. According to this principle, then, we should throw out all the votes cast after six o'clock. The question is, how many votes were thus polled after six? The managers of election swear about fifteen. We have deducted these fifteen votes.

Mr. MILES. Are the minority of the committee perfectly satisfied in their minds that the evidence establishes the fact that no more than fifteen or sixteen votes were polled after the hour of six o'clock?

Mr. BOYCE. I will come to that directly. That is one of the very points we make. Having thus disposed of the technical questions raised, I proceed to the substance of the case. I think we ought to try and get at the justice of the case, without regard to mere technical objections, and give the seat to whoever we think fairly elected. The difficulty that presents itself to my mind, in this regard, is, that the evidence is extremely contradictory. On the part of the contestant, there does seem to be a *prima facie* case made out, but not a conclusive one; for instance, Samuel B. Nichols swears:

"I first visited the Cleveland precinct; I inquired of every person I could see, of whom I thought I could get any information, as to the voters in said precinct at that election; I went to the clerks and one of the judges of election, and asked permission to take a copy of the poll-list; I failed to obtain one; I made the same inquiries of them as of others, relative to the number of voters; those of whom I inquired made contradictory statements as to the number; the highest number which any one, as living in the Cleveland settlement on the day of election, was sixteen; they claimed that there was a number living on Shell creek, in the precinct; all that I could find from any reliable information as residents in the whole precinct, either on the day of election, or when I was there, were ten; I found living at the Cleveland settlement only four men who claimed to have voted at said election; there were only seven men living in the whole precinct, and only six of them claimed to have voted; this number included all who lived on Shell creek; I went to Shell creek and found all the houses, and made inquiries of all the persons I could find as to the number of persons then living on Shell creek, in Monroe county, or who lived there at the time of the election; the number of adult males then living there, was three, and the number living there at the time of the election was four, as stated by all persons of whom I inquired."

That is very good so long as we do not hear anything else; but the evidence on the other side is very strong.

Kennedy says:

"I voted at Cleveland, my place of business, and considered it my residence; my family temporarily in Florence. The hotel company had eighteen hands at work; with one or two exceptions they were young men who made their homes wherever they were at work; one of the married men had made a claim before moving out; they all, I thought, had a right to vote, being long enough in the county; acquainted with a majority of the voters; thinks there were from thirty-five to forty legal voters at Cleveland precinct; full vote not cast."

Stevens says:

"I resided in Cleveland at the election in 1857; knows of no illegal voting; well acquainted with the inhabitants of Cleveland precinct; there were from thirty-five to forty voters in the precinct; the full vote was not polled at that election; H. H. Hill only voted once."

Steel says:

"A company went out to Cleveland, some to work and some to settle, about the 1st of July; among these persons who went out at this time, and talked of settling there, were the eight persons objected to by Mr. Selden as not being residents. Kennedy, Woech, Mentzer, and others, went to Cleveland to settle permanently."

In regard to the Cleveland precinct, it seems to me that we cannot possibly throw out all the votes, as the majority of the committee think we should.

When we go to the Monroe precinct, the same difficulty of conflicting evidence again occurs.

Nichols swears:

"I went to the Mormon settlement called Beaver, or Genoa, on Beaver creek, in Monroe settlement. I found there the leaders or principal men of the Mormon settlement or colony, namely: Messrs. Allen, Henry Peck, Nathan Davis, and Charles Cooper, who was one of the judges of election on the 3d day of August. I read over to them the

names on the poll-list, and asked them to tell me each man whom they knew as I read over the names. I counted the number whom they stated that they knew, and the number was forty-five, which all or any of them knew. I asked them if they knew every one who lived in their settlement; they said they did. I then read over the names on the poll-list again, and asked them to name each man as I read over the names, who lived in their settlement; they named forty. I counted them. I asked if they knew how many men living in their settlement voted at the last election. They said they did; that there were just forty. I asked for whom they generally voted. They said they all voted for Judge Ferguson."

Kennedy swears he was acquainted with the Mormon settlement; thinks there were one hundred and twenty voters; no Mormon trains about time of election; his opportunity of knowing is as good as Mr. Peck's; full vote not polled.

G. W. Stevens was considerably acquainted in the Mormon precinct, and thinks there were one hundred or more voters.

Charles H. Whaley, probate judge of Monroe, was pretty well acquainted; thinks there are about one hundred voters in Monroe and Genoa; thinks the election fair; did not know of one illegal vote; voted for Chapman; challenged some of the voters.

W. F. Pierce, manager of election; pretty well acquainted; thinks there was no illegal voting.

R. P. Kimball, clerk of election; pretty well acquainted; thinks the election perfectly fair; thinks there were more than eighty-seven legal voters in the precinct then; the contest for county seat made each side vigilant in challenging votes.

How are we to decide from this evidence that the sitting Delegate is not entitled to his seat? If it was proved that these witnesses for the sitting member had committed perjury or were not entitled to belief, there might be some reason in it; but there is no such proof or allegation. How, then, can we say that the vote of this precinct should be thrown out? In the absence of any allegation of perjury we are obliged to receive this testimony, and we, therefore, cannot throw out the vote of this precinct.

In regard to the Florence precinct the same difficulty of conflicting testimony occurs. Donovan, says:

"Mormon Tom voted four or five times; heard one of the judges of election, between eight and nine o'clock, p. m., say that three hundred and seventy-three votes were polled."

"E. Creighton was told by one of the judges of election 'about five o'clock, or after,' that two hundred and seventy-one votes were polled."

"The poll at Florence, at election in August, 1858, was one hundred and fifty-nine."

That is the evidence applying to Florence.

Ferguson says:

"R. W. Steele, one of the managers of election, says not over fifteen votes were polled after six o'clock. The negro sworn to by Donovan as voting, offered to vote but was rejected; does not believe Mormon Tom voted more than once; there was no Mormon train near at the time of election, and none such voted; knew all who voted, except those from Saratoga; there were about thirty of them; most of them voted for Thayer; some perhaps for Chapman; does not think any of them voted for Chapman; should not believe Donovan on oath; believes he swore falsely in a presumption claim; had that reputation."

Now, according to this testimony, some fifteen votes were cast after the hour fixed by law, for closing the polls. Those fifteen votes ought to be excluded, but still the sitting Delegate would be entitled to his seat. The case is not free from difficulty, but I think that the contestant has not made out his case sufficiently, to justify us in ousting the sitting Delegate. I am, therefore, inclined to render a Scotch verdict, and consider the case as not proved. It is not made out by complete evidence. I therefore offer the following amendment to the resolution:

Strike out all after the word "resolved," and insert: That Fenner Ferguson is the legally-elected Delegate from the Territory of Nebraska.

Mr. STANTON. With the permission of the gentlemen from South Carolina, I move to amend by inserting between the words "is" and "the," the word "not," so as to make it read:

That Fenner Ferguson is not the legally-elected Delegate from the Territory of Nebraska.

We can thus have a test question upon declaring the seat vacant.

Mr. BOYCE. I have no objection to that.

Mr. GILMER. I desire to submit a few observations on this subject. I will do so within the compass of ten or fifteen minutes.

Mr. GROW. I hope the gentleman will give way to a motion to adjourn.

Mr. GILMER. If it be the pleasure of the House to adjourn now, I have no objection.

Mr. GROW. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten minutes before four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, February 10, 1859.

Prayer by Rev. J. C. GRANBURY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the correspondence relative to the claims of British subjects to proprietary rights in the Territories of Washington and Oregon; which was ordered to lie on the table.

HOUSE BILLS REFERRED.

The following bills, from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (No. 560) for the relief of Lydia Fletcher—to the Committee on Claims.

A bill (No. 863) granting a pension to Robert Purchase, a soldier of the revolutionary war—to the Committee on Pensions.

BRIG CALEDONIA.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House insists on its disagreement to the amendments of the Senate to the bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812, insisted on by the Senate, asks a conference on the disagreeing votes of the two Houses on the bill, and had appointed Messrs. JOHN HICKMAN, of Pennsylvania, J. MORRISON HARRIS, of Maryland, and ISRAEL T. HATCH, of New York, managers of the same on its part.

On motion of Mr. BELL, the Senate proceeded to consider its amendments to that bill, disagreed to by the House of Representatives; and

On motion of Mr. BELL, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the committee of conference on the part of the Senate be appointed by the Vice President.

Mr. BELL, Mr. TOOMBS, and Mr. CLAY were appointed.

LEGISLATIVE APPROPRIATION BILL.

The message further announced that the House had passed a bill (H. R. No. 711) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1860; which, on motion of Mr. HUNTER, was read twice by its title, and referred to the Committee on Finance.

GOLD MEDALS TO AMERICAN OFFICERS.

Mr. CRITTENDEN. Mr. President, the House of Representatives has passed a joint resolution granting the consent of Congress that Captain Maury and Professor Bache may receive certain medals presented to them as presents by the Government of the King of Sardinia. That resolution has been referred by the Senate to the Committee on Foreign Relations, and by that committee I am now directed to report it back with a recommendation that it pass. Before doing so, however, I desire to make a remark or two.

The very enlightened and able representative of the King of Sardinia, at Washington, some time ago communicated this fact to General Cass, and he, in a communication to the Senate, which was referred to our committee, informed us of it. It seems that a like communication was made to the other House, and they have anticipated us by passing this resolution. Therefore, sir, it presents itself in this form instead of that of an original report from the Senate Committee on Foreign Relations, and I think the Senate will take some peculiar satisfaction in passing this resolution at once; not only because of the great and distinguished merits of our two fellow-citizens, Mr. Bache and Captain Maury, but because of the exalted character of the Government from which these testimonials come. The King, in the kindest manner, has signified not only his appreciation of the scientific services of these gentlemen, but

he offers these medals as a token of his good will—a high mark of distinction to men whose only title is their labors for the benefit of mankind. The presentation could not have come from any Government in Europe that would render it more acceptable to an American citizen. He is a King not so much exalted by the throne upon which he sits as by the great virtues and good government which distinguish him. Not only so, sir, but in him are, in my humble judgment, the best and the brightest hopes for the regeneration of Italy, and the restoration of independence and freedom to it. I therefore choose to honor this presentation to our fellow-citizens by such an expression, so far as my humble opinion goes, and I think I speak only the sentiment of the Senate, when I say that I desire to show our respect to the donor, as well as to those to whom he has given these presents. I hope the resolution will be passed at once.

Mr. SHIELDS. Mr. President, it appears from the report of the Senator from Kentucky that the King of Sardinia has been pleased to direct that gold medals be presented, in his name, as a testimonial of respect to Captain Maury and Professor Bache, and this resolution is intended to grant permission to those gentlemen to accept this royal present. It is gratifying to see the scientific services of these distinguished citizens thus recognized and appreciated by one of the most enlightened rulers of Europe. The gracious manner in which this handsome compliment has been communicated by the Sardinian Minister enhances its value by giving us assurance of the friendly sentiments of his sovereign towards this country; and I think I may safely assert that these amicable sentiments are cordially reciprocated by the people and Government of the United States. By his wise and successful efforts for the moral and material improvement of his people, Victor Emmanuel II. has won the respect and sympathy not only of this Republic, but of the most enlightened of the European nations. He is regarded here and in Europe as the friend of progress, civilization, and liberal institutions, and his Government is looked to as the light and hope of modern Italy. We all love and venerate the name of Italy. We are accustomed to turn to the history of that classic land for those grand examples, in war and peace, that serve to strengthen our minds and exalt our souls in all the great emergencies of life; and we like to think of the Government of Sardinia as the harbinger of a regeneration in that beautiful country, which will prove to the world that the present Italian race, under favorable circumstances, is not inferior in any respect to any other race or people on the face of the globe.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 52) giving the consent of Congress to the acceptance, by Captain M. F. Maury and Professor A. D. Bache, of gold medals from the Sardinian Government, as a mark of its appreciation of their scientific labors and achievements.

The resolution was reported to the Senate without amendment; and the question was stated to be on ordering it to a third reading.

Mr. HALE. I shall not vote against this resolution, because there are too many precedents of this sort heretofore; but I think the thing has been carried altogether too far. We are making ourselves ridiculous, by occupying ourselves with the question of giving leave to gentlemen to receive snuff boxes, and such things as that. I think the taking of snuff a bad practice, any how. [Laughter.] I shall not, however, as it has been done heretofore, object in this particular instance, but I am opposed to the practice generally, and hereafter will vote against it.

Mr. SHIELDS. The honorable Senator, I think, has not heard the resolution read, for he certainly misunderstands it.

Mr. HALE. I shall not object to it this time.

Mr. SHIELDS. There is nothing in it about snuff-boxes.

Mr. HALE. I know that: it is for a medal.

The joint resolution was ordered to a third reading, was read the third time, and passed.

LIGHT-HOUSE DUES.

Mr. SLIDELL. I was not in my seat yesterday, when a response was made by the Secretary of the Treasury to a call that the Senate made, on my motion, for information on the subject of

light-house dues. I ask that it be now taken from the table and referred to the appropriate committee. It contains a great deal of valuable information in a very compendious form. I wish to make a motion, also, to print the usual number of copies; and I hope it will be agreed to, by unanimous consent, without reference to the Committee on Printing.

The report was referred to the Committee on Commerce.

Mr. SLIDELL. I ask that the question be taken on printing it. It is a very short document. The information is necessary.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider that motion. The Chair hears no objection.

The motion was agreed to.

COASTWISE COMMERCE.

Mr. HAMLIN. I am directed by the Committee on Commerce, to whom was referred the joint resolution (S. No. 75) to enable the Secretary of the Treasury to carry into effect the provisions of the joint resolution of Congress approved May 14, 1856, in regard to the statistics of the coastwise commerce of the United States between the Atlantic and Pacific ports, to report the same back without amendment, and recommend its passage; and I ask the consent of the Senate to put it upon its passage at this time. I think there will be no objection to it. It will not take a minute.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, for the purpose of enabling the Secretary of the Treasury to carry into effect the provisions of the joint resolution of Congress of May 14, 1856. This joint resolution proposes to extend the provisions of section eleven of the act entitled "An act for obtaining accurate statements of the commerce of the United States," to apply to the owners or masters of vessels engaged in the coastwise trade between the Atlantic and the Pacific coasts of the United States, and to the owners, shippers, or consignors, of goods and merchandise by such vessels.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PETITIONS AND MEMORIALS.

Mr. PUGH presented the memorial of H. H. Robinson, late United States marshal for the southern district of Ohio, praying indemnification for expenses incurred and losses suffered in the discharge of the duties of his office; which was referred to the Committee on the Judiciary.

Mr. BROWN presented the petition of John Sample, praying that the apparatus invented by him to protect tiller-ropes from fire, be tested, with a view to its adoption in the public service; which was referred to the Committee on Naval Affairs.

Mr. IVERSON presented papers in favor of the establishment of a mail route from Howard station, on the Mascogee railroad, to Prattsburg, in Georgia; which were referred to the Committee on the Post Office and Post Roads.

Mr. SEBASTIAN presented the memorial of William F. Fleckner, praying that, in the organization of the Territory of Arizona, provision may be made for the protection and advancement of the aboriginal population; which was ordered to lie on the table.

Mr. POLK presented the memorial of the Wyandott reserves, praying the confirmation of certain locations under treaties with said Indians; which was referred to the Committee on Private Land Claims.

Mr. CHANDLER presented papers in relation to the expediency of rebuilding or repairing the light-houses at Detour, White Fish Point, and Manitou Island; which were referred to the Committee on Commerce.

Mr. SEWARD presented the memorial of Blood, Bond & Pratt, praying that the Secretary of the Treasury may be authorized to issue registers to the schooners Helen Blood and Sarah Bond; which was referred to the Committee on Commerce.

THE HOMESTEAD BILL.

Mr. WADE. I present a petition of citizens of the United States, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States; and that

they be laid out in farms and lots, of limited size, for the free and exclusive use of actual settlers only. Mr. President, I hope that the House bill on this subject will very soon be taken up, and urged upon the consideration of this body.

The petition was ordered to lie on the table.

Mr. BRODERICK. I present a petition of citizens of the United States, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States; and that they be laid out in farms and lots, of limited size, for the free and exclusive use of actual settlers only. I give notice that, immediately after the morning business is through with, I shall move to postpone all prior orders; for the purpose of taking up the homestead bill, which is now lying on the table.

The petition was ordered to lie on the table.

Mr. JOHNSON, of Tennessee. I present a petition of citizens of the United States, very numerous signed, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms and lots, of limited size, for the free and exclusive use of actual settlers only. I wish to say that the friends of the measure, at the very first opportunity, will press the Senate to take up that subject, and see if a little time cannot be appropriated to so great a measure as that. The session is now well nigh expired. We have lost ten or twelve days which could have been profitably appropriated to this subject. We think a measure calculated to do so much good, ought to have a few moments or a few hours of the consideration of the Senate. On the very first opportunity that occurs, I shall press the taking up of that proposition.

The petition was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of Benjamin Adams and others, soldiers of the war of 1812, residing in Ohio, praying the passage of a law making provisions for the indigent soldiers of that war, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of James McCutchen, an inmate of the Military Asylum at Harrodsburg, Kentucky, praying that his pension may be continued, submitted an adverse report.

The Senate proceeded to consider the report; and, in concurrence therewith,

Resolved, That the prayer of the petitioner be rejected.

He also, from the same committee, to whom was referred the petition of Vincent Kokowski, at the Military Asylum, praying to be allowed a pension to enable him to live with his family, submitted an adverse report.

The Senate proceeded to consider the report; and, in concurrence therewith,

Resolved, That the prayer of the petitioner be rejected.

He also, from the same committee, to whom was referred the bill (H. R. No. 364) for the relief of Mary B. Dusenbury, reported it without amendment, with a recommendation that it do pass.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom were referred the petition of D. C. Davis, praying compensation for extra services as a watchman in the office of the Commissioner of Indian Affairs; the petition of John Hambleton, praying indemnity for losses occasioned by the Indians on the route between Albuquerque and California; the petition of Gillum and William R. Bale, praying indemnity for losses resulting from the depredations of the Mohave Indians; the petition of the American Indian Aid Association, of New York, praying that no more States may be organized out of the public domain without consulting with the Indian tribes inhabiting the same; and the petition of Thomas O. and Edward O. Smith, praying compensation for supplies furnished to emigrants on the route to California, asked leave to be discharged from their further consideration; which was agreed to.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of William H. Ward, praying the appointment of a board for the purpose of examining various systems of ma-

rine signals, have instructed me to ask to be discharged from its further consideration.

Mr. SEWARD. Mr. President—

The PRESIDING OFFICER put the question, and declared the report of the committee concurred in.

Mr. SEWARD. I rise to a question of order. While the President was putting that question, I rose for the purpose of speaking to it. I was not recognized, and the vote was declared carried. I want to know how that can be done?

The PRESIDING OFFICER. (Mr. FITZPATRICK.) The Chair did not recognize the Senator in time. What is the point of order to which the Senator rises?

Mr. SEWARD. I wish to speak on the resolution which the Chair has now pronounced carried.

Mr. CLAY. I will relieve the Senator by moving a reconsideration of the vote agreeing to the report of the committee.

The motion to reconsider was agreed to.

Mr. SEWARD. I hope the report will now lie on the table.

The report lies on the table.

Mr. CLAY. The same committee, to whom was referred the memorial of citizens of Mobile, Alabama, praying the removal of the Choctaw and Dog river bars, have instructed me to report it back, and ask to be discharged from its further consideration, on the ground that it is inexpedient to legislate on that subject at this time. I will state, by permission, that they have done so, in conformity with their action at the last session of Congress, when it was determined that it was inexpedient to borrow money to make any works of internal improvements, and have reported none for that purpose.

The report was concurred in.

Mr. CLAY, from the same committee, to whom were referred the memorial of the Mayor and City Council of the city of Racine, Wisconsin, praying for the construction of a pier-head on the north pier at the harbor at that place, and the erection of a light-house thereon; a memorial of the board of trade of Racine, praying the construction of a pier-head on the north pier of the harbor at that place, and the erection of a light-house thereon; and a memorial of citizens of Racine on the same subject, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of J. P. C. Davis, in behalf of the owners of the schooner E. S. Ruderow, wrecked on the coast of Florida, while freighted with Government stores, praying indemnity, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Noah Fairbank, praying that sea-going sail vessels of a certain tonnage be required to take with them, on every voyage, a copy of the "directions for making fresh water from sea water," asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of W. Y. Gill, praying an examination of an invention made and patented by him, to protect tiller-ropes of steamboats and other vessels from fire, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the petition of D. R. Burbank, and the petition of John Barbee and others, praying an examination of an invention made and patented by W. Y. Gill, to protect tiller-ropes of steamboats from fire, and the enactment of a law to require steamboats to use the same, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 447) authorizing the removal of the offices belonging to the United States and occupied by the collector of the revenue in connection with the quarantine station in the port of New York, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 549) for the relief of James P. Cook, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom

was referred the petition of citizens of Falmouth, Massachusetts, praying the establishment of a new station for the use of the light-house establishment at Wood's Hole, reported adversely thereon; and the report was agreed to.

He also, from the same committee, to whom was referred the petition of Samson P. Moses, praying to be allowed the benefit of the second section of the act of July 21, 1852, fixing definitely the compensation of the collector at Astoria in the settlement of his accounts, as collector of the Puget Sound district, reported adversely thereon; and the report was agreed to.

He also, from the same committee, to whom was referred the report of the Secretary of the Treasury relative to the present condition of the new custom-house at New Orleans, asked to be discharged from its further consideration; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 517) regulating the times and places of holding the courts and reorganizing the divisions of the district of the United States court for the district of Iowa, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 482) to divide the State of Iowa into two judicial districts, reported it without amendment, and adversely.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred a communication from residents of Key West, Florida, relative to the mail service between Charleston and Havana reported a bill (S. No. 569) to provide for the transportation of the United States mails from Charleston, South Carolina, by Savannah, Georgia, and Key West, Florida, to Havana, in Cuba; which was read, and passed to a second reading.

Mr. GREEN, from the Committee on Territories, to whom was referred the memorial of Henry O'Reilly, John J. Speed, jr., and Tal. P. Shaffner, proposing to complete a telegraphic connection between the Atlantic and Pacific States, by the commencement of the next session of Congress, reported adversely thereon; and the report was agreed to.

He also, from the same committee, to whom was referred a memorial of the Legislature of the Territory of New Mexico, asking an appropriation for the capitol and penitentiary buildings in that Territory, reported adversely thereon; and the report was agreed to.

Mr. GREEN. There was referred to the Committee on Territories a joint resolution of the Legislature of Kansas, asking an extension of their present session. The committee, seeing that it will expire to-morrow under the law, and that it would be utterly impossible to pass a law in time to give them that extension, ask to be discharged from its further consideration.

The motion was agreed to.

ROAD MAP.

Mr. BRODERICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish to the Senate, at the earliest practicable period, the report and map of the wagon-road routes extending from Bridger's Pass to City Rocks, in Utah Territory, recently transmitted to his Department by Captain Simpson, of the topographical engineers.

LIGHT-HOUSES ON LAKES.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of repairing or rebuilding the light-houses at Detour, White Fish Point, and Manitou Island.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed an enrolled joint resolution (H. R. No. 38) in relation to the tobacco trade of the United States with foreign countries; and it was signed by the Vice President.

INDIANA ELECTION QUESTION.

Mr. BAYARD. In pursuance of the notice which I gave yesterday, I now ask the Senate to take up for consideration the report of the Com-

mittee on the Judiciary, in relation to the memorial of the State of Indiana. That question, I suppose, is entitled to be taken up whenever called for, and it certainly ought to be disposed of.

The Senate proceeded to consider the report made by Mr. BAYARD, from the Committee on the Judiciary, relative to the election of the Honorable Messrs. Lane and McCarty to the Senate of the United States.

The PRESIDENT *pro tempore*. The Chair will very respectfully submit to Senators that, unless there is less conversation, it will be impossible to transact business.

Mr. SEWARD. I ask for the reading of the resolution accompanying the report.

The PRESIDING OFFICER. The resolution will be read.

Mr. COLLAMER. There is no resolution. The fact is, the report states that the application is one which the committee considered as already settled, and that it requires no further investigation; and the committee ask to be discharged from its further consideration. That is the result.

Mr. SEWARD. It is a resolution, then, asking the Senate to discharge the committee from the further consideration of the subject. That, of course, will lie over until to-morrow. I now ask the Senate to take up the resolution which I submitted some days ago, allowing the applicants for seats as Senators from the State of Indiana to appear and argue their case before the Senate. I ask the Senate to take that resolution up, for the purpose of disposing of it before the report of the committee is considered by the Senate.

Mr. BAYARD. Mr. President, the motion of the honorable Senator from New York, as I understand, is to take up an independent resolution submitted by him, which bears really no relation to the report of the committee. The committee ask to be discharged from the further consideration of the memorial, and the report shows that the ground upon which the committee ask that discharge, necessarily negatives the idea of any hearing on the part of these claimants, or their being entitled to seats upon this floor. I will state very briefly what the report of the committee will show—the ground upon which they acted.

The Senate of the United States, at its last session, after a prolonged contest, decided, by a solemn vote, that the two sitting Senators from Indiana were entitled to their seats—one until the 4th of March, 1861, and the other until the 4th of March, 1863. After the passage of that resolution by the Senate, on the same state of facts now presented by the memorial of the Legislature of Indiana, the same question being before the Senate for decision, the Senate having the exclusive authority to judge of the election, returns, and qualifications of its own members, the Legislature of Indiana, on behalf of the State, assumed the right to revise the decision of the Senate of the United States, and to treat as a nullity that decision, and proceeded to elect Senators, when the seats, by the judgment of the Senate, were already full. I, for one, at least, consider, not that the State of Indiana, but that the Legislature, has lost sight of that respect which it owes to the Senate of the United States, when it has made a solemn decision on such a subject. If they had meant to ask us to revise our opinion, the proper course would have been to have memorialized the Senate, without undertaking to reverse their decision. They did not wait for that. They undertook to revise the decision, and to treat it as a nullity. They undertook to elect Senators in defiance of the decision. For one, therefore, I am not disposed to sanction such a course of action on the part of any State, no matter how great may be my regard for the rights of the States of the Union—and my regard is very great for them, and I should be jealously watchful of any invasion of their rights; but I think this body has its own rights; and when the exclusive jurisdiction is vested in us, and we have decided the question, decided the subject-matter, decided that the parties were entitled to their seats in this body, it is not open for any other tribunal to act in the face of our decision.

Under these circumstances, I do not think we are called upon either to recognize, in any mode, any parties presenting themselves as claimants to seats on this floor, which the Senate have already adjudged to be filled. This is substantially the ground on which I acted; and, therefore, I

do not wish to argue this question on the other side. It is on this ground that I consider the parties are not entitled to be heard. The State of Indiana had no right to proceed to an election in the face of the decision of the Senate. We owe it to the respect due to the body and its judgment, that we should be discharged from the further consideration of the memorial involving action of that kind on the part of the Legislature of Indiana.

Mr. SEWARD. The form in which the honorable Senator has reported upon this question, does not at all change the nature or character of it. It is a report adverse to the claims of the two gentlemen who appear here to contest the seats of the incumbents as Senators from Indiana; and that report is a subject for consideration and for debate; and I am sure that, notwithstanding the very forcible argument which has been made in support of it by the chairman of the Judiciary Committee, it will not receive the unanimous assent of this House. I do claim that upon this question, by all the rules of parliamentary proceedings which have been recognized in this country, the claimants are entitled to be heard to debate that question, and I shall insist upon it; and for that purpose I move to postpone the consideration of this report, in order that, as a preliminary question, we may take up the resolution admitting these claimants to the bar of the Senate for the purpose of submitting their views and their authorities upon this subject.

The honorable Senator from North Carolina [Mr. CLINGMAN] has intimated to me that the Senate, by general consent, have assigned to him the floor at one o'clock to-day to argue the resolution of the Senator from Pennsylvania, and has appealed to me, so far as I was concerned, not to disturb that arrangement. If it be the pleasure of the Senate, I will very cheerfully waive the floor for the purpose of allowing him to proceed; but if that is not the pleasure of the Senate, I desire to speak upon this Indiana case until we get to an understanding upon it.

The PRESIDENT *pro tempore*. The hour of one o'clock having arrived, it becomes the duty of the Chair to announce the unfinished business as the special order, unless the Senate otherwise direct.

Mr. CLINGMAN. Mr. President—

Mr. BAYARD. The honorable Senator from North Carolina, I understand by the courtesy of the Senate, is entitled to the floor to-day on the tariff question. The question of privilege would not be superseded by the special order, as I understand by the practice of the Senate. I move, however, under those circumstances, that the report of the committee be laid on the table, in order that the honorable Senator may proceed.

The PRESIDING OFFICER. The Chair will regard that as the sense of the Senate unless objected to. The business first in order is the bill (S. No. 497) making appropriations to facilitate the acquisition of the Island of Cuba by negotiation.

Mr. CLINGMAN. I ask the Senator from Louisiana, who has charge of this bill, to allow it to be passed over informally, to get at the resolution of the Senator from Pennsylvania? That seemed to be the understanding yesterday, when we voted to take it up. I do not wish to occupy much of the time of the Senate, but I would prefer going on now upon that resolution; and I hope there will be no objection to that course.

Mr. SLIDELL. I shall not object to the course proposed by the Senator from North Carolina.

The PRESIDENT *pro tempore*. The Chair will regard the resolution of the Senator from Pennsylvania as before the Senate.

Mr. SLIDELL. I was going to say that I have no objection to the course proposed by the Senator from North Carolina. I think it will be an economy of time. I did suggest to him that perhaps he might, with propriety, address the Senate on the subject, in connection with the bill for the acquisition of Cuba, as the example had been set by the other side; but I certainly have no desire to see a salutary usage of the Senate innovated upon, at least on our side. I believe the Senator from Rhode Island [Mr. SIMMONS] is prepared to follow the Senator from North Carolina. That appeared to be the understanding yesterday; and I have no disposition at all to press the Cuban bill in contravention of that understanding.

I give notice, however, that when the Senator from Rhode Island shall have concluded his remarks, I will move to postpone the further consideration, or perhaps to lay the resolution on the table, as the case may be, and proceed to the consideration of the bill for the acquisition of Cuba.

Mr. TRUMBULL. I should like to have the attention of the Senator from Delaware a moment on this privileged question.

Mr. CLINGMAN. I hope that the Senate will allow us to proceed with this other question.

Mr. TRUMBULL. Will the Senator allow me a moment? I have no disposition to interfere with the Senator from North Carolina, who, by the understanding of the Senate, is to have the floor; but I wish to say that the Senator from Louisiana has now given notice that, as soon as the Senator from Rhode Island shall have replied to the Senator from North Carolina, I will insist upon taking up the Cuba bill. Now, here is a privileged question, and I object to this farming out of the time of the Senate in this way, so as to postpone it forever. The gentlemen who are here from Indiana have a right to have this matter disposed of in some way. I see that we cannot insist upon going on while the Senator from North Carolina claims the floor. I yield that. I am sorry that he insists upon going on at this moment, and does not allow us to finish this other matter; but I think it due to these gentlemen that the chairman of the Judiciary Committee should insist on this being taken up at some time. Now, we have notice that the moment these Senators are through, another matter is to come up and take the whole time of the Senate. I object to that.

Mr. BAYARD. I stated, I thought—

Mr. CLINGMAN. If I do not lose my right to the floor, I will yield a moment.

Mr. BAYARD. No, sir; I am not going to debate the question. I stated that I yielded the floor now for the purpose of enabling the honorable Senator from North Carolina to make the speech which it was understood he was to make to-day. I did not then think that I would suffer any other business to take precedence of this privileged question, and I do not intend that any other business shall take precedence of it. I am as desirous of disposing of it as the honorable Senator from Illinois, though for a widely different reason. I think it is due to those who are entitled to these seats, by the judgment of the Senate, that the case should be disposed of. I do not consider that there is any claimant in this case.

THE TARIFF.

The Senate resumed the consideration of the following resolution, submitted by Mr. BIGLER on the 31st of January:

Resolved, As the opinion of the Senate, that the creation of a large public debt in time of peace is inconsistent with the true policy of the United States; and as the present revenues are insufficient to meet the unavoidable expenses of the Government, Congress should proceed, without delay, to so readjust the revenue laws as not only to meet the deficit in the current expenses, but to pay off the present debt so far as it may be liable to immediate cancellation.

The pending question being on the following substitute, submitted by Mr. JOHNSON, of Tennessee:

Resolved, That the President of the United States be, and he is hereby, requested to cause the heads of the various Executive Departments to submit estimates of the expenditures for the Government to the Thirty-Sixth Congress upon a basis not exceeding \$50,000,000 per annum, exclusive of the public debt, and the interest thereon.

Resolved, That so much of the President's second annual message as relates to a reduction of the expenditures of the Government of the United States, which is in the following words, to wit: "I invite Congress to institute a rigid scrutiny to ascertain whether the expenses of all the departments cannot be still further reduced, and I promise them all the aid in my power in pursuing the investigation," be referred to the Committee on Finance, and that said committee are hereby instructed, after first conferring with and obtaining all "aid" and information from the President and the heads of Departments as indicated in the President's message, to report a bill reforming, as far as possible, all abuses, if any, in the application of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenses to an honest, rigid, economical administration of the Government.

Mr. CLINGMAN. Mr. President, I hope not to occupy the Senate at as great length as the gentlemen who have preceded me on this question. The Senator from Pennsylvania [Mr. BIGLER] remarked, in opening the debate, that he was acting under the instructions of his Legislature. My colleague and I have, likewise, been instructed to

oppose all increase of duties upon the products of mining and manufacturing, and to insist upon making railroad iron free of duty. Here is a collision between States, and the appeal must be to reason.

The distinguished Senator from Georgia, [Mr. TOOMBS,] who yesterday occupied the floor, covered a portion of the ground which is necessary to be considered on this question; and everybody knows that where his scythe has gone, there is not much left for anybody to glean. Feeling relieved from a part of the task I had undertaken, I expect to-day to speak more particularly to another branch of the subject. The President of the United States has recommended specific duties. He makes no recommendation for an increase of duties, or taxation.

But the friends of increased protection have seized upon this occasion, and are making an effort to get increased duties. The Senator from Pennsylvania [Mr. BIGLER] says that he, with his friends, will be satisfied with fifteen dollars a ton on bar iron; and his colleague [Mr. CAMERON] says eighteen dollars is necessary. We all know iron is worth but little more than thirty dollars a ton in England, and this amounts to fifty or sixty per cent. on its value. It is an increase, therefore, of more than double the present rate of duty, which is twenty-four per cent. The real question is, whether we are ready for that? They say it is necessary to protect American labor. How do they propose to effect it? Is not the case fairly stated in this way? A man in the Northwest last year worked very hard, and by his labor produced four hundred bushels of wheat, worth \$400. Another man down South, working equally hard, produced eight bales of cotton, worth likewise \$400. Each of these men proposes to exchange his product for bar iron, and an Englishman stands ready to give each of them ten tons of it for his product; but a Pennsylvania iron-master says: "This man is a foreigner; I am your countryman; trade with me." They assent to it, and an exchange is proposed between them. He says: "My iron costs me more to make it than the English iron costs its manufacturer, and I cannot let you have more than seven tons." They decline his offer, and are not willing, in this way, to lose the value of three tons of iron. He then appeals to the Government to impose a duty, or tax, of thirty per cent. on all purchases from the English, and it is done. One of these men says: "I shall lose the value of three tons, if I trade with the Englishman; I may as well trade with you. Take my wheat, and give me seven tons of iron." The Pennsylvanian, however, says: "I have supplied myself with wheat from my neighbor already; sell your wheat for money, and then buy my iron." He goes to the Englishman and asks cash for his wheat, but is met with this declaration: "I could give you the ten tons of iron for your wheat, but I am not prepared to pay you the money." Suppose, however, he does succeed in selling for cash; if he then purchases the iron from the Pennsylvanian, he loses three tons; and if his fellow does likewise, he loses the value of three tons of iron also. I use this simple illustration, but it is a fair statement of the case; and the result is, that each of those individuals loses the value of three tons of iron, and the manufacturer gets six, and the Government receives not one cent. That is the policy to which the gentleman from Pennsylvania [Mr. CAMERON] is endeavoring to drive us, by excluding foreign productions altogether. If, however, it should turn out, as is really the fact, that the Pennsylvanian has only seven tons of iron, and cannot supply the demand of both, then one of these men has to purchase of the foreigner, and the result is, the Government gets the value of three tons in duties; the Pennsylvanian gets three tons as protection, and these individuals lose six between them.

Now, Mr. President, it is very easy to see that if the object of this taxation was to support the Government, these two individuals might pay the tax with half the expenditure to themselves. They have to pay, on the one hand, to the Government, and on the other, to the manufacturer, an equal amount. As the Government got the value of only three tons, half that sum, paid by each of them, would have answered the purpose. For example: the importations last year of tea and coffee were about twenty-seven million dollars; and the consumption of sugar likewise about

twenty-seven million dollars. Now, suppose you want to raise \$5,000,000 by a tax: if you impose it on tea and coffee, and the consumers pay that amount, the Government gets all of it, because those articles are not made in the United States at all. Suppose, however, you impose the duty on sugar: they pay the \$5,000,000, but one half of it goes to the sugar-planters, and the other half to the Government; because about one half the sugar consumed is made in the United States. In fact, the Government would receive only \$2,500,000; and hence, to get \$5,000,000, you would have to make the tax twice as high as if it were placed on tea and coffee. In other words, a duty of ten per cent. on coffee and tea would give the Government as much money as would twenty per cent. on sugar, because half of the sugar tax would go to the planters and makers of sugar.

But, sir, to return to my illustration. If these two individuals should complain of that, the Pennsylvanian tells them: "My iron establishment furnishes employment to American laborers." One of those men may say to him: "I keep a blacksmith's shop where the iron is worked up into plows and hoes and axes, and used as industrial tools; and this furnishes the means of employment to many." The other one says: "We are making in my section a railroad; we are leveling hills and filling up valleys, to lay down iron rails as fast as we can get them; we employ now a vast amount of labor in making the road; and when we get it done, we shall open a market for our productions to the sea side, and in that way encourage all kinds of industry." It is demonstrable that the creation of a railroad will cause a larger demand for labor than the iron furnace where the rails are made. Then, what becomes of the argument as to the protection of American industry?

But they say that they afford a home market at their manufacturing establishments. But, in fact, the northwestern man, when he gets his wheat to Chicago, can have it carried to England as easily as to the Pennsylvania iron establishment; and even if he should carry it there, nine times out of ten they do not want it, because they are supplied by persons in the neighborhood. It is the same with cotton. It goes from the southern ports to Europe as cheaply and easily as it does to the manufacturers in the North, and the great bulk of it is obliged to go abroad. The burden, therefore, of this system, is spread all over the country; the benefit goes to the manufacturers and to those in their immediate locality. How much is this whole burden? I have taken pains to collect some facts, which I can present in a few minutes, and which I think will enable Senators to form some tolerably accurate idea of the amount which it costs the country. Before doing so, allow me to say one word as to the two rival theories on this subject.

There was a distinguished South Carolinian—one of the ablest debaters ever known in this country, or in any other—I mean the late Mr. McDuffie—who advocated a theory which was known as the forty-bale theory, and derided by its opponents. I do not refer to it because I think it sound; for I regard it demonstrably erroneous; but a reference to it will enable me to explain what I think the facts will show to be the true theory of this system of taxation.

Mr. McDuffie declared that the case could be so clearly stated that he never had seen it tried before a popular assembly without producing universal conviction. His statement was something like this: a company of manufacturers, which he located in the North, would manufacture goods and supply the State of South Carolina; another company of planters there undertook to produce cotton, rice, and tobacco, to exchange them for goods to supply the demand of the same locality. He supposed each of these companies to bring in \$100,000 worth of their goods. When the manufacturing company bring in theirs, they can sell them at once, as there is no tax upon them; but let the exporting company or company of planters bring in their British goods, which they have obtained with the products of their own industry, and the custom-house officer says, "Before you sell these goods you must pay me forty per cent."—that was about the rate of duty in his day—that is \$40,000 on the \$100,000. These men have already paid \$100,000 in England, and they have to

pay \$40,000 to the Government. If they sell for \$100,000, as the northern company does, of course they lose \$40,000; they realize but \$60,000. Everybody sees this must be so in the case stated. He argued that that was the true theory of the system; that for example, if they sold to the merchant, the merchant finding this burden was to fall on the goods, would give no more than they could realize; and even, if in the large way, you import specie, very soon you will import as much as can be used profitably, and thus raise the price of articles at home, which we must consume; while our own productions were sold in foreign markets at the low rates there. In other words, he insisted that the import and accumulation of specie here would, in the end, produce a state of things which did not change the result of the case stated by him.

The error of this theory, as a whole, is obvious. Suppose the price of these goods should be increased in value; suppose this company, when they introduced them, should be able to sell them for \$140,000, by adding the duty to the price; then they would lose nothing; the Government would get its \$40,000. The manufacturing company would likewise sell at the same price, and make a clear profit of \$40,000. Thus the whole \$80,000 would fall upon the consumers of the country. That is the theory of the gentlemen on the other side, who contend that the enhanced price falls on the consumers entirely.

But let us take one step further. Suppose these planters themselves consume the goods; and we know that in the United States most men consume nearly as much as they sell, perhaps ninety-five per cent. of it on the average. If they, therefore, should consume these goods, of course they would pay the \$40,000 increased price by reason of the duty; and thus they lose \$40,000, either as producers or consumers.

There is one other view to take of the question. Let us assume now that the increase in price is less than the amount of the duty: what will then be the effect? Take it at twenty per cent.; suppose they are able to sell their goods for \$120,000. They gave \$100,000 for them in England, and \$40,000 to the Government for duty, and sell them for \$120,000; and they will still lose \$20,000 as producers; but if they consume the goods they likewise lose \$20,000 more as consumers, so that they must lose \$40,000 in any event; but the manufacturer may make a large profit. If he consumes them all he will lose nothing. His profit, though, will depend on the amount of his sales above his consumption, and we know in fact he, as a manufacturer, makes large profits.

Then, Mr. President, I maintain that whatever burdens are levied by the tariff must be paid either by the producer of the articles sent abroad and exchanged for the dutiable goods, or it must fall on the consumers of the imports. It is usually divided between them, but they must pay it. Hence, when the farmer or planter furnishes the exports, and also consumes the imports obtained for them, he must pay this tax; and hence the system, either way, is just as oppressive to him as Mr. McDuffie supposed. If this be true, the facts ought to verify the theory; and it is on this point that I wish to present some facts to the consideration of the Senate. I first ask the attention of Senators to the prices of cotton during a long period.

It was said, Mr. President, by a distinguished statesman, Mr. Fox, as great a debater as England ever produced, that as to questions of political economy and tariffs, he did not pretend to understand them; because the facts were too complicated. Since his day, however, a great deal has been done in the collection of statistics; and I now propose to show that the successive tariffs have operated unfavorably on production at home—I mean on the domestic exports sent abroad; and I think I have facts enough, which I shall be able to present, to satisfy every Senator on that point. It is sometimes said that you can show anything by the prices of cotton, for you find cotton high and low under all sorts of tariffs. That is true, if you take a short period, as it may mislead you, because there are disturbing causes. The amount of the production, the amount of the demand, and financial difficulties affect it. In a long period, however, these disturbing events will be neutralized. By a wide induction science arrives at the truth. Suppose it were desirable to compare the amount of rain which falls at Washington with some place in the tropics; you

could not determine it by an examination of a short period, because there are, in succession, rain and sunshine and storm and drought in all countries; but if you could ascertain how much rain fell here and at some other point for the last ten or twenty years, it would be an exact measure of all that is to fall in a future period of similar length. If you want to determine which of two localities, or which of two occupations is the healthiest, you cannot do it by observing a small number of individuals; but if you take a large one, it is found there is almost mathematical accuracy in these comparisons.

In this way let us look at the effects upon cotton in this instance, because the statistics as to that are more complete than those of other products. I present a table covering a period of thirty-eight years, in which I have grouped the average price of cotton during the continuance of each successive tariff.

Average price of cotton.	
From 1821 to 1824 inclusive.....	15 cents.
1825 1828.....	13.4
1829 1832.....	10.9
1833 1836.....	9.7
1837 1840.....	14.3
1841 1844.....	10.8
1845 1848.....	7.0
1849 1851.....	9.5
1851 1858.....	9.96
1847 1858.....	9.3

The first high tariff, or one of a protective character, within the range of this list of prices, was that of 1824. I have the average price of cotton for the four years which preceded that tariff. From 1821 to 1824, inclusive, the price was fifteen cents a pound. That was the average through the whole period.

In 1824, a tariff was passed increasing the duties largely, and that continued for just four years up to 1828. In 1825, Senators remember that there was a remarkable speculative rise in the price of cotton. It went up during part of that year very high, and averaged twenty cents a pound for the whole year. That rise was purely a matter of speculation, and it fell again soon after. Nevertheless, including this year of speculation in the four, cotton fell during these four years to thirteen and four tenths cents per pound. If, however, we exclude this year of speculation, and take the other three years, its average price was only ten and nine tenths per pound, or nearly sixty per cent. less than before the existence of the tariff.

In 1828, another tariff highly protective was passed, and that continued just four years. From 1829 to 1832, the average price of cotton was nine and seven tenths cents, another large fall consequent upon the passage of a higher protective tariff. In 1832, Congress modified the tariff by making a large free list; and in the winter of 1833 following, passed Mr. Clay's compromise, making great reductions. That continued in force for ten years, until the tariff of 1842. Now, for a reason immediately to be stated, I divide this period into two of five years each. I find that from 1833 up to 1837, cotton rose to fourteen and three tenths cents—an increase of forty per cent. on the previous prices under the high tariff; at the end of that five years, to wit, in 1837, there was a remarkable monetary convulsion. It is well known to gentlemen all round, that the State bank deposit system, which was then tried, led to an enormous expansion of the currency. The deposit banks themselves had issued thirteen dollars in paper for one in specie. There was a crash, or break up, and for the next four or five years, prices were very much reduced. This was the case both in England and in the United States, and it affected cotton and everything else; but, nevertheless, for the five years from 1837 up to 1842, the price of cotton was ten and eight tenths cents, considerably higher than it was under the tariff of 1823, which had preceded it.

In 1842 was passed a highly protective tariff, prohibitory on many articles, and that endured four years. We were told the other day, and it is often said from time to time, that this tariff of 1842 restored prosperity. I do not believe a word of it. The country had been laboring for four or five years to get out of debt, and the people had done so, and business was ready to revive again. But let us see how cotton fared under the four years of that tariff. From 1843 to 1846, it was at seven cents a pound—a heavy fall upon the prices

during the hard times previous. In 1846, the tariff was modified by a large reduction of duties, and we have had that tariff in operation nearly ever since. In the first five years following that reduction, from 1847 to 1851 inclusive, I find that cotton rose to nine and a half cents a pound—a large increase; and taking the seven years following, up to the present time, it is nine and ninety six hundredths—say ten cents a pound; and if you take the whole twelve years, from 1846 to the present time, we find that it averages nine and eight tenths cents a pound—just forty per cent. higher than it was under the tariff of 1842.

You will come to the same result if you take the years of large production in each period, or take those of small production and high prices, as I have found by taking the average. In other words, any gentleman will find that as the tariff was high, cotton was low; and the reverse.

Now, remember, sir, we have gone over a period of thirty-eight years, and six distinct changes. There was the condition which preceded the tariff of 1824; then, secondly, the condition which followed it; thirdly, that of 1828; fourthly, that of 1832-33; fifthly, that of the tariff of 1842; and, sixthly, the period since, under that of 1846. If you go through all these periods, you will find the changes exactly as I state. But the case does not rest on this alone. Let us look, for a moment, at other products. I will not weary the Senate by going into details as to them; but I say, and each Senator can verify it for himself, if you take all the exports, during the four years of the tariff of 1842, of cotton, rice, tobacco, and everything, you will find that they brought \$30,000,000 less than they would have done at the prices of the previous four years; and if the products which were sold in the four years that followed the tariff of 1846 had been sold at the prices of 1842, they would have brought \$30,000,000 a year less. That is to say, taking a period of twelve years, the four intermediate ones of which were occupied by the tariff of 1842, it will be found that, during its existence, we were losing \$30,000,000 a year on our exports.

But, sir, not only were the prices lower under the high tariff, but as the tariffs were reduced, the exports largely increased in quantity as well as in value. I find that during the existence of the tariff of 1842, the amount of breadstuffs which were sold for those four years averaged only \$18,000,000 a year; and for the twelve years since they have averaged \$46,000,000—two and half times as much. It may be well enough to remark in this connection, that, for the last five years, flour has been fifty-four per cent. higher than it was during the operation of the tariff of 1842; tobacco one hundred and fifty per cent. higher. Rice, and everything else, has advanced. And if you take all the exports under the tariff of 1842, their whole amount is just \$110,000,000 a year upon the average, and the imports \$108,000,000. For the last five years the exports are \$316,000,000, on the average, and the imports \$308,000,000. In other words, in twelve years, while the population of the country had increased not quite forty per cent., we have had nearly a three-fold increase in our exports and our imports.

We have seen that we appear to have lost \$30,000,000 a year, by the tariff of 1842, on those exports of \$110,000,000. If you applied the same rule to the present one, we should be losing nearly \$90,000,000 a year; that is, if the products sold for the last five years had been sold at the prices which prevailed under the tariff of 1842, the country would have got about \$90,000,000 less for them. This, too, recollect, is a comparison between two protective tariffs: that of 1842 was very high; that of 1846 is moderately high, though it was a step in the direction of free trade. Now, suppose we could take the whole distance; suppose we could actually come to free trade: there is not a Senator here who has ever made the comparison, who will not say that the step from the tariff of 1846 to free trade is a longer one than that from the act of 1842 to that of 1846; in other words, if we gain \$90,000,000 a year by substituting the duties of 1846 for those of 1842, we should gain more than \$90,000,000 by coming to free trade. In point of fact, I have no doubt that we lose \$100,000,000 a year, or more, as producers, under the operations of the present tariff.

But gentlemen on the other side of the House say that all this is a mistake; that the burden falls

on the people entirely as consumers. Well, let us look at their theory for a few moments, and see if it will help them any. We have collected more than \$63,000,000 of taxes by means of the tariff of 1846, in one year. That sum is first paid by the importers; but the importers put a percentage on the goods when they sell to the retail dealers; and the retail dealers put a large profit, generally more than fifty per cent., on the price when they sell to the consumers; so that if you put all the profit of both these classes, you will find that the \$60,000,000 paid to the Government costs actually more than \$100,000,000 to the consumers. There can be no doubt about that. The consumers of the country are obliged to pay more than \$100,000,000 when the Government gets \$63,000,000 from imports. That is equal to more than \$400,000 to each congressional district.

But the case does not stop here. The manufacturers likewise receive a large profit. I should like to know how much they estimate it to be worth. They tell us all around that if you repeal the tariff their business will be ruined. They tell us that they supply three or four times as many goods as are imported. In fact, many of the merchants tell me that they believe two thirds of the dutiable goods are made in this country. If that be the case, and the price is enhanced to the same extent with the duty, there must be, at the least, two hundred million dollars more to fall on the consumer. I do not think it amounts to that much; I think it probable that many persons who are near the factories purchase rather cheaper on that account. But suppose you take it at the sum of \$134,000,000; that, added to the other now paid to the Government, makes the entire amount of \$234,000,000, or \$1,000,000 to each congressional district. But, if it be assumed that the bounty paid to the manufacturers is only as much as the tax paid to the Government, it will amount to \$200,000,000 in all, or above eight hundred thousand dollars for each congressional district in the United States.

Now, gentlemen will tell me that this must be a mistake; that the people would not pay that much. Sir, they would not if they knew it. Let us consider it in this way for a moment. The importers now pay these duties, and they charge them to the consumers as a part of the price; but suppose you reverse it, and put your tax collectors at the little retail stores; you place a man, I say, at every retail store in the country to collect there the duties; he looks on and charges the taxes according to the purchases; he says to one man, you have bought a dollar's worth of sugar, and you must pay me twenty-four cents tax on that; to a second, you have purchased five dollars' worth of iron, you must pay me \$1.20 on that; to a third, you have bought ten dollars' worth of broadcloth, pay me \$2.40; to a fourth, that salt which you have bought is worth two dollars, I must have forty-eight cents tax on that: if it were done in that way you would see an excitement. It would be aggravated, when, for example, the man who paid taxes on iron saw that his neighbor came in and bought a quantity of copper and paid no taxes at all; the man who paid taxes on sugar saw that somebody else bought tea and did not pay anything on that; and they all saw the manufacturers come in and get their dye-stuffs and chemicals and "free wools," and whatever else they wanted to use, without paying anything at all. Does not every Senator see that this has to be paid, in fact, and that it is wholly immaterial whether it is to be paid by the importer, and thrown on the consumer in an increased price of the article, or collected in the way I have described?

I say then, Mr. President, that whether you adopt the theory that the producer pays a large part of this, or that the consumer pays it all, it leads you to the same result. Gentlemen say that the tariff does not raise prices at all on the consumer. That was the argument of the gentleman from Pennsylvania, [Mr. BIGLER,] the other day. If it does not; why do they want it? If it does not raise prices on the consumer, is it not obliged to fall, in the case stated by me, on the home producer? Somebody has to pay for it. You cannot throw much of it on the foreigner. I admit that by crippling trade, you injure him to some extent; you diminish somewhat the amount of his sales, and damage him somewhat; but as he has all the markets of the world to choose among,

of course your duties will not damage him much. I say, then, these gentlemen have to choose between two things; either that the producer pays a large part of this, as I contend, and as the facts which I have produced, and which I should like to see them meet and explain away, show, or it all falls on the consumer. If it all falls on the consumer, you have a burden of \$200,000,000 on the whole country. Who gets the benefit? The Government gets \$60,000,000, and the manufacturers get the rest. The manufacturing establishments are located in New England, New York, and Pennsylvania, mainly, and some in New Jersey. Thus about one third of the Union gets all the benefit, while the burden falls on the Northwest and the South—two thirds of the country.

I have thought that some of our southern men made a mistake in former arguments on this question. They endeavored to make it appear that it was a northern and southern question. The tendency of that was to array the whole North as a body, in favor of protection. It is my deliberate judgment, that the Northwestern States suffer quite as much as any part of the Union. They are far in the interior, and these taxes are accumulated by successive profits. I have no doubt they suffer more than the Atlantic States, but all the agriculture of the country is heavily oppressed in this way. Remember, too, that agriculture is the great business of the country.

But, sir, I have shown that our exports and imports have largely increased under lower duties; I might refer also to their effect on our tonnage. I find that the tonnage in 1821 was 1,298,000 tons, and in 1846, 2,562,000, not quite doubling in twenty-six years; and in 1858, it is 5,049,000 tons, nearly double what it was in 1846; that is, the increased tonnage in twelve years, under the tariff of 1846, is as great relatively; and much greater absolutely, than it was in the previous twenty-six years.

But gentleman tell us that this system of trade is ruining the country; that we are piling up an enormous foreign debt; and the Senator from Pennsylvania, the other day, said that we were buying more than we could pay for. Why, Mr. President, if you look to our exports for the last five years you will find that they exceed the imports. He says, our people can only consume nine dollars' worth annually per head of foreign articles. How does he arrive at that result? Under some of the previous oppressive tariffs men were not able to consume, and did not consume, more than four or five dollars' worth; but suppose you say to a farmer, now "you are eating and drinking too much; you are living too high;" can he not, if true, reply to you, "I pay for all these things with my crop, and have a surplus besides." If the Senator from Pennsylvania will compare the exports and imports he will find that the exports, according to the statements made, actually exceed the imports; and hence, we may well say, that as long as our people are able to pay for all they use, they are not buying too much.

Under the tariff of 1842, there were \$2,000,000 more of exports, on an average, annually, than imports, as shown by the Treasury report. For the last five years there are \$8,000,000 more, pretty nearly the same proportion. But the old idea of the balance of trade has been too often exploded to require argument here. Every body knows that if our imports were not, in fact, more valuable than our exports, we should lose money upon them. For example, a ship takes a cargo of cotton from New York, goes to Liverpool, buys British goods, and returns. If those goods were worth, in fact, no more than the cotton, there would be a loss. There is the use of the ship, the pay of the captain and the men, the insurance, and all the profits to come into the account. In point of fact, our imports must, in the long run of years, exceed the exports; and that they do not do so on the Treasury tables, I have no doubt, arises from the fact that there is smuggling and undervaluation; but that seems to have existed in about the same ratio under the tariff of 1842 and that of 1846.

There is especially a complaint against the British trade, which, it is said, is ruining the country. Why, sir, we sold last year to Great Britain \$187,000,000 of our products, and bought \$127,000,000—I mean, the whole British dominions took from us exports, to them, of \$69,000,000

more than our imports from them; and with England alone the difference is \$61,000,000. If you take our trade with the British dominions, as shown in the commerce and navigation reports for the last four years, you find that we sell them, on an average, \$44,000,000 in each year more than we buy from them. There is, in fact, a large specie balance due us from England. Where does it go? Our commerce with Cuba is the other way. We sell Cuba only half as much as we buy from her. The same condition of things exists with reference to China, and other countries; and it is only by means of this large balance in our British trade that we make up that deficiency without exporting specie.

But gentlemen refer to the fact, that specie is constantly going out; and they say we are being ruined by this system. They forget that, in the last ten or twelve years, the United States has become a great gold producing country. We produce \$50,000,000 a year, or more, of gold. We cannot use it all; and it is just as necessary to export our surplus gold as our surplus cotton. Notwithstanding the large exports of gold, we find that there is a constant accumulation of specie in this country under the system of free trade, as it is called. For example, in 1846, the specie in the country was estimated, by the Treasury Department, at \$97,000,000. It is now, at least, \$350,000,000. In fact, if you make a reasonable allowance for what emigrants must have brought to this country, I should not be surprised if it is \$400,000,000. Thus, while our population has increased less than forty per cent., the amount of specie in the country, in twelve years, has increased nearly ten times as much.

But how has it been with the manufacturing establishments themselves? While everybody is prospering, how has it been with them? If we are to believe the statements of the gentlemen from Pennsylvania, and others who speak on this subject from time to time, they are in a most lamentable condition. We were told, ten years ago, that the iron business had all broken down. We have been told, in each successive year, that it has been ruined. If a man merely heard the speeches made on that side, he would come to the conclusion that there was not one pound of iron made in the United States.

Looking, however, to the census, I find that, in 1840, there were made in the United States two hundred and eighty-six thousand tons; and, in 1850, ten years afterwards, after a trial of four years of the tariff of 1846, it had increased to five hundred and sixty-four thousand tons, or double; and in 1855, they say themselves it has run up to a million of tons. Here is a business that has gone up in fifteen years from two hundred and eighty-six thousand tons to a million, or a four-fold increase. Now, I ask what branch of business has progressed more rapidly? The production of cotton has not equalled it. Take agriculture, generally, and it falls far behind it. There has been an enormous increase. I find that, according to the statement of the Secretary of the Treasury in 1847, the exports of iron, and articles made of iron, were \$1,167,000; and in 1858, \$4,729,000—an increase of three hundred and five per cent. in eleven years. Does that look as if the business was failing?

But we have some other data that will aid us in coming to a conclusion on this point. I find that the census of 1850 represents the wages of men engaged in the iron establishments at \$1.06 a day in Pennsylvania, while the male labor engaged in the cotton factories of that State get only sixty-five cents a day. They pay laborers in the iron establishments, therefore, fifty per cent. more than they pay laborers in the cotton factories. It may be said that the labor in the iron establishments is a different kind, and therefore you must pay more; but when I come to look at the prices paid in North Carolina, I find by the census of 1850, that in the iron establishments in North Carolina, the price of male labor was thirty-nine cents a day, and in the cotton establishments forty-three cents—very little difference, but cotton is the highest. In Georgia, the iron labor is forty-four cents and the cotton fifty-five cents. It appears, therefore, that in Georgia and North Carolina the prices paid in the cotton factories to male labor, and in the iron works are about equal; in Pennsylvania they pay fifty per cent. more to labor in the iron factories. That proves that the iron

business is most profitable in that State. These being the prices in Georgia and North Carolina, in 1850, they must have been about the prices of agricultural labor; that is, the farmers of the country were realizing only some forty or fifty cents per day, while in Pennsylvania men in the iron establishments were making more than a dollar per day.

Now, what justice is there in taxing men who are not making more than fifty cents a day, for the benefit of those who are making more than a dollar? The gentleman from Pennsylvania [Mr. CAMERON] said the people of his State were standing idle, and were looking to the President to do something for them; that if he would work as hard for them as he did for the Lecompton bill, they would have a good time of it. Sir, I was reminded of Falstaff's speech, which is so often quoted: "Hail, when thou art king, rob me the exchequer." These Pennsylvanians, according to the statement of the Senator from that State, say to Mr. Buchanan, "you are now President; plunder the people at large for our benefit." According to the showing of the Senator himself, we are told that if you were to repeal the tariff, or if you do not increase the duties, the people will all quit making iron. I do not believe a word of it.

Mr. BIGLER. Who said that?

Mr. CLINGMAN. I do not know that my friend said it; but I ask him whether he said that the iron business would be abandoned if you resorted to free trade? Has he not heard it said often?

Mr. BIGLER. I want to remind my friend from North Carolina, that whatever I may have said on the general subject of the prostration of the iron business at this time, I did not discuss that matter at all; I made no allusion to it. I did not want to speak of what would be the condition of affairs if the tariff were suspended; but I said that it was erroneous to assume, in reference to iron and other great staples, that if the home production ceased entirely, and the tariff was cut off, they could be purchased at twenty-four per cent. less in consequence.

Mr. CLINGMAN. Well, I will ask the Senator whether he has not often heard it said, and whether he did not hear it suggested by his colleague and others? But I have better evidence even than that, in the memorial which has been sent here, and which the Senate have been appealed to to reprint at this session—I mean the old memorial of the iron convention which met in 1849, and which lies on the table now. I find, on looking at it, that they go into a minute statement of the cost of making iron; and how much do they put it at? They say they cannot possibly make iron for less than \$49 a ton at the works, and that it costs \$4.75 to get it to market; and hence, when they sell iron for \$55 a ton, they only clear \$1.25 on it. At the very time they sent this memorial to us, you could buy merchantable bar iron in Liverpool at \$26 or \$27 a ton, and duties off, get it here for about \$33; so that, according to their statement, it is necessary that we should impose a duty of \$20 a ton to enable them to make it at all. They said it could not be reduced for this reason, that the price of wages was so high in this country, that in England they could get for \$3.71 as much labor as was gotten for \$11 in the United States. They told us further, that the cost of making iron was mainly in the labor; that nine tenths of it was labor, and the rest material. It turned out by their own showing, that the British, at their price of labor, could produce iron at \$20 a ton as easily as they could at \$50. If that be true, will any gentleman contend they were going to continue the business if the tariff were repealed? No, sir; according to their own showing. That idea has been preached to us again and again, but I do not believe a word of it. In point of fact, I do not believe there is that difference in wages. The Senator from Rhode Island who sits near me, [Mr. ALLEN], who is particularly well-informed on this subject, has told me again and again that he has noticed for years past that the prices of wages in the establishments of England, and he gets them weekly, do not average generally more than thirty per cent., and he is confident not as much as forty per cent. below the prices of labor in this country.

Remember, we have now got a duty of twenty-four per cent. on iron; and besides that, the cost of putting it on ship-board, and freights, and

every thing else, as estimated by an iron committee from Pennsylvania, and I think correctly, amounts to as much more. They gave me a statement, for my use, some sessions ago, and they showed that the cost of importing it, independent of duties, was equal to twenty-seven per cent. on the then price of iron. It was a little lower then than now. My friend from Georgia suggests that putting a duty on that cost would make it twenty-five. If you take either twenty-four or twenty-five per cent. as the duty, and add it to the twenty-seven, you have fifty-one or fifty-two per cent. Our producers, therefore, have, under the present tariff, in our own ports, an advantage equal to fifty per cent. over the foreign producer. If they actually paid forty per cent. more in wages, they would still have largely the advantage; for they admit, themselves, that the raw material is cheaper in this country than in England; so that they ought to make a profit at a price largely under the present rate. That accords with the statement I produced, that the iron production has increased four-fold in the last fifteen years. Everything goes to show it. If you swept away the tariff to-day, it is possible some few weak establishments would go down, and it might reduce the price of wages; but I do not know that it would.

To prevent misrepresentation, I say that I should be gratified if the iron men of Pennsylvania could get not only one dollar, but ten dollars, for every day's labor; but the question is, will you tax men who are not making fifty cents a day, perhaps, all the year round, to enable others to get more than a dollar a day? Suppose you repealed the tariff altogether, and wages were reduced a little: they would still get nearly twice as much as the agricultural laborers of the country. Do you think they will abandon the business? Why, sir, there are many parts of the United States where men have raised corn when it was worth only ten cents a bushel. I know it used to be the case out in Kentucky. I do not know what the present prices are, but corn was produced and sold at ten cents a bushel; and those Kentuckians not only pursued the business, but they used to fatten large numbers of hogs and other stock, and drive them six or seven hundred miles to market. They used to drive a hundred thousand or more, through the little town in which I lived, going South. These men worked as hard as any on earth; and they are the men to be taxed on their iron, sugar, and other articles of consumption, to enable somebody else to get enormously large profits. That is the point of view in which I oppose the system. It is to benefit a few large iron-masters and other manufacturers.

But again, sir, we are told that raw materials ought to be made free. I will give very briefly the different excuses of the manufacturers for an increase of taxation. They present many plausible arguments to us. What are raw materials? I suppose the common understanding is that they are articles which, in their present state, are to be worked up into a better thing. According to that standard, coal and iron are raw materials for the manufacturer of pig metal, and they ought, therefore, to be free. Well, pig metal is raw material for the manufacturer of bar iron, and Scotch pig, and all other pig ought to be free of duty. The bar iron that he makes is the raw material that the blacksmith works up and sells to the farmers for plows and hoes and axes. Ask a farmer what are the raw materials he requires for a crop, and he will answer, that they are his manure, his working tools, his stock, and his labor. The great working agent in this country is man; and what is necessary for his subsistence, I think, ought to come in as raw material—the provisions, clothing, and everything he uses. Why shall not that go into this working machine? Are you to say that everything is to be free which facilitates reproduction? For I suppose that is about the idea of some political economists. They divide consumption into that which is productive and that which is unproductive; and the result is that you will have to make everything free, except perhaps jewelry and pictures and statues, a great part of which are now free. The whole idea of drawing any such distinctions is preposterous. It is a cunning excuse of manufacturing gentlemen, who want to get what they wish to use up, free of duty. They do not intend to pay any part of the

taxes themselves, but they mean that they shall be thrown upon other people.

There is another of their peculiarities and misfortunes that I must comment upon. They tell us it is a great universal law, that whenever you tax a thing, though it will be a little higher for a few years, you ultimately make it cheap. I have said to some of these gentlemen, you want your raw materials, your chemicals, your dye-stuffs, all very cheap; now let us tax them. The very moment you put this question to one of these gentlemen, he gets indignant. He is just as indignant as if you were to tell a quack to take his own medicine. If it really be true that they are laboring under a misfortune of this sort, that the great universal laws of production will not benefit them, they deserve to be pitied.

I remember the fable of a man who prayed to Jupiter, and got Jupiter to pass a law by which he should never be capable of being wet in any way. He found it convenient at the time; but in the end, the suspension of the general law as to him was very injurious, and he prayed to be restored to the common lot of mankind. Now, if there be any device, or if Jupiter can help us in any way to put these manufacturers in a situation where the great laws of trade and protection will operate in their favor, I hope he will find it. I say, if you want to get money, put your tax upon this free list. The importations of articles on the list amount to \$80,000,000, and a portion of that, about twenty million dollars, is specific. There is about sixty million dollars besides, on which duties might well be levied. Tax that; let wool and chemicals, &c., be taxed. The manufacturers ought to be in favor of it; for, if they believe in their own doctrine, those things will be cheap enough in a few years. Most of them can be produced in the United States. It is true, some of them cannot be produced here; but will they endeavor to persuade the country that copper cannot be obtained in the United States? Will they say that most of these chemicals cannot be produced here? Will they tell us that wool cannot be produced in the United States? The whole idea is preposterous.

But, sir, there is an effort to make the impression on the public mind, that the late disturbance in trade has been produced by the tariff of 1857, or at any rate by low duties. In the report of the Secretary of the Treasury, he shows clearly that it could not have been by the tariff of 1857, because the whole imports that year were seventy-odd millions less than they had been the previous year. If we imported less, and also got the goods cheaper—and that is the theory—of course it has not hurt anybody. I account for it in a very different way. I attribute it not to the foreign debt, because our exports have been exceeding our imports, according to the Treasury statements, a little more than they did formerly; I do not believe there is any large foreign debt existing in balances in this way. But our Americans are fond of speculation; they are enterprising; and when they get credit they run it to a great extent. I have no doubt many men in New York have imported goods on credit, supposing they would be able to make a profit and to pay for them; but the great indebtedness has been in the country; and you can only prevent that by stopping our credit system. You will always be liable to revulsions, under an extended system of credit, and you will not get rid of them by a tariff. You may go back to the tariff of 1842, and they will occur. I admit the vicissitudes will not be as great. In other words, if you leave the country free, men, in times of prosperity, are more likely to go too fast, just as a man who has a mill-stone upon his shoulders will not be as likely to travel as fast as he whose limbs are free. Upon this argument, you ought to hobble your horses, to keep them from running away, but they would travel slowly at other times.

If gentlemen can succeed in crippling trade, as they contend for, by high protective duties, I think it quite likely that these revulsions will not be so decided; but remember, this is the recession of an advancing wave. There is an advancing tide going forward very rapidly; occasionally it may come back; but I know of no mode of checking it, unless you can diminish the credit system in this country. Probably the bankrupt law, which I believe the Senator from Georgia introduced, or spoke of, or some such measure as that, applied

to corporations, might answer the purpose; but when you propose that, it will not meet the views of gentlemen on the other side of the House, who represent the tariff interest. In my judgment, the reason why we are recovering so rapidly from the late financial revulsion, is owing to the fact that, under the sub-Treasury system, and the change in the system of deposits, we have a large amount of specie, so that there is a very rapid recovery. I deny that there is any general indebtedness between this country and England, growing out of the laws of trade.

As far as the South is concerned, it never was in so healthy a condition. That remark was true a year ago or more. In fact, so sound was the condition of the southern States, that it struck them with profound surprise when this revulsion came on. We have had large exports of cotton for the last two years, and very small imports. Large balances are now outstanding in our favor, and I have no doubt on earth that the importations of this year will be very large, because the quantity of goods now on hand has been greatly exhausted.

There is one sort of indebtedness which exists, and which cannot be prevented by Congress. I mean the borrowing of money in Europe. The State of Pennsylvania has borrowed thirty or forty million. My own State has borrowed some. Nearly all the States have borrowed. That has created a very large debt there; but if the money has been well spent, it has added to our prosperity. I maintain, then, that under our existing system, independently of this borrowing, there would be no indebtedness in Europe; but it ought to be the other way.

I confess that I attribute a great deal of the large imports and exports, for the last ten or twelve years, to our railroads. I find that in France, in 1843, when they had next to no railroads, all the exports and imports were \$435,000,000 a year. They have now gone up to \$920,000,000. They have more than doubled in that country. You have the same effect here. By enabling the people to get their produce to market, they sell a great deal more and at better profits. This will strike the mind of every man at once.

Then, why should we not make railroad iron free of duty? We have paid, I believe, in the last seventeen years, twenty millions and upwards of duties on railroad iron. It was estimated a few years ago that all the capital invested in the iron manufactures was only \$20,000,000. In ten or twelve years' time, at the rate which we have been paying for the last few years, we should pay duties enough to buy out all the iron establishments. I do not want them discontinued or bought out; far from it; but I submit to Senators whether it is a wise policy to cripple the industry of the country in this way, by a tax upon railroad bars which these men admit they cannot make as cheaply as we get them elsewhere.

Mr. President, I have occupied more of the time of the Senate than I desired to do. I have touched on some points that, it struck me, might be important to bring to the attention of the public. The question now before us is, shall we increase the revenue at all? I agree with the argument of the Senator from Georgia that there is no necessity for it; but if you do increase it, begin with the free list. We are threatened with an extra session unless something is done. Now, for one, I am willing to keep the Treasury notes outstanding, but if the question comes whether we shall vote higher duties upon those articles now paying more than twenty per cent., it shall not have my vote as long as I am in the Senate, even at the hazard of an extra session. It will be very inconvenient to me, as to everybody else, to have one; but if it is narrowed down to that issue; if there be a combination of gentlemen on the other side who are opposed in policy to me on this question, and who want to get an increase of duties, with a few members of the Democratic party, to force an issue of that sort, let it come. What is the attitude we shall stand in? The Democratic party will stand upon the principle of reducing the expenditures and keeping down the taxes. If gentlemen on the other side choose to adopt the other line, and say they go in for higher taxes, and, therefore, large expenditures, very well; for you know, and everybody knows, that these large expenditures have grown out of a surplus.

It was just so in 1837. We had a large surplus then, and the Government got to spending too much money. Hard times came on, and Mr. Tyler went through his administration of four years, according to my recollection, with only \$22,000,000 a year, on the average. We have had another surplus for a few years, and expenditures have increased. They commenced in Mr. Fillmore's administration. There was then a surplus. They grew rapidly. They have continued since. I am not going to inquire who is most to blame; but I say, without fear of contradiction from any man who will examine the Journals fairly, that the major part of the expenditures, which in my judgment are useless, have been sustained by the votes of the Opposition—not only the land grants, but payments for custom-house buildings, and improvements in the interior. There may be exceptions; but it will generally turn out that they vote in a body for an increase of expenditure. It is true, after they put these things in the appropriation bills, they sometimes draw back, allow them to be defeated, and oblige the Democrats to come in and put them through; but when you come to look into the Globe, and scrutinize a little closer, it will be found that these gentlemen, as a body, go for expenditures; and why?

I remember conversing with a prominent member from New York, some years ago, about the homestead proposition. I expressed some objection to it. "Now," said he, "I have a reason for going for it, that will not bear on you." "What is it?" I asked. "Why, we are getting \$3,000,000 a year from the public lands, and I want to stop that, so that we can increase the tariff; that is what I am driving at." You hear that said very frequently; I have heard it twenty times during the last few years; and the actions of these gentlemen speak louder than their words. They struggle to have large expenditures as an excuse to keep up the taxes. As was well said by my friend from Georgia, they think taxation a great blessing. It is a blessing no doubt to the manufacturer, who derives the advantage of it, and to a few men in his locality; but it is, in my judgment, a great curse to the country. If the issue is to be made on low taxes, and thereby small expenditures, (for we can reduce the expenditures if there is no surplus of money,) or high taxes and large expenditures, I am perfectly willing to meet gentlemen.

I have endeavored, Mr. President, to show that, as the tariff has been high, productions have been low in price, and the reverse, running through a period of thirty-eight years; that, if you adopt the consumer theory, this tax is a burden on all parts of the country, and the benefit only goes to the manufacturer; that manufactures are flourishing and prosperous; that all these that can support themselves are doing well; and, if there is any branch of industry that cannot support itself without the aid of taxes on other interests, let it go down; that during the continuance of the existing system our specie has accumulated until we have four times as much as we had only twelve years ago; that our commerce, tonnage, and everything else, is increasing at enormous rates; that manufacturing establishments are doing well; and that, in my judgment, there is no need of any further increase of the taxes; and I mean, by my vote, to resist it as along as I can.

Mr. SIMMONS. Mr. President, I would rather discuss the question on a bill drawn out in detail which might call for the consideration of the Senate in its different items. I have a great distaste to debating a measure that is to lead to no practical result, in the Senate. If I understand the origin of this debate, there was a resolution introduced by the Senator from Pennsylvania, declaring the general doctrine that the revenues under the present system were not sufficient to meet the wants of the Government under the laws we have passed for the supply of the different departments of the public service. There seems to have been some dispute between him and the Senator from Georgia, as to the exact language, or the import of the language. I have not seen the resolution; but I take it, from what fell from both of them, that this is a distinct proposition, that, in the opinion of the Senate, the present revenue laws will not collect sufficient revenue to meet the wants of the Government. In that I concur, though I regret to say it.

I will follow the Senator from Georgia, or any other Senator, in any reasonable, energetic, and appropriate mode for reducing the expenditures. I do not mean to go into a crusade against all the departments of the public service, to destroy the utility of the Government for the purpose of reducing the expenditures to what we may get under any system of revenue. That I do not think is wise; and I do not believe the Senator from Georgia contemplates it. I heard him with great interest, and followed the items he presented as well as I could; and if I understood him in the aggregate, he supposes we may reduce the present expenditures from ten to fourteen millions; and in that I most heartily concur—that is, if I understood him, they are now from seventy-three to eighty million dollars.

Mr. TOOMBS. Seventy-three million is the estimate.

Mr. SIMMONS. And, then, there is a little margin that we always fill up for private claims and other things, as I understand. I am constrained to believe, without very much information as to details, that it cannot be possible that the expenses of this Government can have been legitimately carried up, within the last six years, from forty to eighty million dollars a year. I am in the habit of looking over these tables rather as a matter of curiosity than as the foundation for any remarks in the Senate; but I recollect that the last administration which I had any hand in electing—and I believe I was sustained by the Senator from Georgia in that—I mean General Taylor's Administration, did not spend half what is now expended. I have been fortunate enough, whenever I went to a convention, to happen to have the candidate elected who was nominated, and unfortunate in having a visitation of Providence deprive the country of the advantages of his services. That, however, is not for me to speak of. But I recollect looking to the expenditures under General Taylor. They were about thirty-nine million dollars the first year, and the four years of his administration and Mr. Fillmore's averaged about forty million dollars.

About that time there was a profession of great desire for economy in the expenditures. I shall not go into that matter at this stage of the debate, because I intend now to confine myself principally to an examination of what it is fairly to be presumed can be collected under the present revenue laws; and, as I said yesterday, if I do not convince the Senator from Georgia that, from some cause or other, he has misapprehended the result of the present revenue system, I shall join with him. I know that Senator wants to get at the truth; and he is a man capable of comprehending it when it is presented. Before I submit any tables, which I know are always dry and uninteresting, I should like to call the attention of the Senator from Georgia to the tables that he commented on. I had to interrupt him yesterday, very much to my regret, to inquire what he was commenting on when he gave us a great many figures, and I desired to know whether he was indorsing the estimates of the Secretary of the Treasury or condemning them? I could hardly tell. He said he was a friend of the Secretary of the Treasury; and he spoke very approvingly of his estimates of the receipts, and very harshly, as I thought, of his estimates of expenditures, which he considered enormous; though whether the censure applied to the Secretary, or somebody else, I could not exactly understand. Well, sir, I have never known any Secretary of the Treasury to under-estimate expenditures; but, as for the estimates of the Secretary of the receipts, I should like to know if the Senator from Georgia, or any other Senator, would give a jack-straw for anything that came from him? I am but slightly acquainted with him, but have great respect for him; he treats me with great civility; and I have no purpose, in commenting on his estimates of receipts, other than to show to the Senator from Georgia, and to the Senate, that there is no reliance to be placed on them.

On the 8th of December, 1857, he told us, when five months of the year had expired, that he could get through the last fiscal year and have a balance at the end of it of four hundred and fifty or five hundred thousand dollars from the current receipts. We were then passing, as it were, out of the severest part of the revulsion, and he had had five months' experience of the fiscal year,

and at that time he made those estimates for that year and told us that for the present year the revenues from customs would be \$64,000,000. Although he told us that he would have a small balance at the end of the year, he came to us within a week after the date of that report and asked us for \$20,000,000 of Treasury notes; and such was the pressure with which the chairman of the Finance Committee pressed it that it was as much as I could do to get a day to look at the tables. It was not four months after that before he wanted another loan, and that started here at \$15,000,000, and thus went from this Chamber and came back from the other House at \$20,000,000. That is the way a bill goes on in traveling through the two Houses of Congress. These \$40,000,000 have been worked up with a balance of \$17,000,000 which he had in the Treasury when he commenced the last fiscal year, and yet he told us he could get along last year without any aid whatever. When I see a man make such egregious errors in his estimates, I am obliged to distrust the soundness of his calculations.

I cannot conceive why the Senator from Georgia should speak with so much disrespect of the estimates of expenditures, and so approvingly of the estimates for receipts; for as to his expenditures he has turned out to be a great deal more accurate than he was about his receipts. If I were to distrust him especially, it would be when he was going to cipher out anything about the receipts from the tariff. I should like to give him credit for experience, for capacity in understanding what are the results of the common laws of trade, what effect the revulsions and revivals of business produce; for such I consider to be among the paramount duties of a statesman, if he occupies that position. He is not to keep sending messages to us, referring us to his old reports to tell us how we can get duties, and finally wind up with not proposing to do anything, except to hire money. I believe both he and the President denounce any further going into debt; but I thought, when I read what they said on this point, that they were looking one way and rowing the other, and that we should very soon have a loan bill. I have come to distrust those who are always talking about having revenue enough, and yet are continually proposing to hire money rather than proceed deliberately to revise and reform the system.

The Senator from Georgia made another remark which I shall notice now, though I know I shall be a little awkward in defending the Democrats of the country. [Laughter.] It is rather out of my line. He said the tariff of 1857 had received the sanction of the Treasury Department when Mr. Guthrie was at the head of it. I must beg leave to differ with the Senator entirely in that. I think I read Mr. Guthrie's report to the Senate last year, and I know I approved of it. He recommended a revision of the system, that I believe kept the liquor duties at one hundred per cent.

Mr. TOOMBS. I did not say that Mr. Guthrie approved that particular bill, but that he proposed bringing the revenue down to \$50,000,000. He recommended us to reduce the revenue to \$50,000,000, that being enough for all purposes.

Mr. SIMMONS. I understood the Senator, and I believe it was a fair inference from what he said, that the tariff act of 1857 received the sanction of the Treasury Department; of the Executive of the country; of the House of Representatives, which was then largely adverse to the Executive; and of the Senate, which was largely in his favor; that it got the sanction of every department of the Government. That is what I understood him to say.

Mr. TOOMBS. It got the sanction of the executive and legislative departments. I know all its details were not satisfactory to Mr. Guthrie.

Mr. SIMMONS. Well, sir, I had not a great deal of faith in the head of the Executive Government during the last Administration.

Mr. TOOMBS. He signed the bill.

Mr. SIMMONS. Of course he would sign anything then. He was just going out. He had gone through his career, and spent more than any President had ever done before him, and to less purpose. Mr. Guthrie's plan was, in order to prevent frauds, to take all the textile fabrics then scattered through various schedules, put them in one schedule, and impose on it a duty of from

twenty-five to thirty per cent. He told you how frauds were consummated; that these articles were given new names; that all sorts of new phrases were coined to get them into the low schedules. According to his proposition, we were to have a high duty on liquors, and thirty per cent. upon everything coming in competition with our products; and everything else that was dutiable was to be put at fifteen or twenty per cent.; and have a large increase of the free list. That is a statesmanlike view, when you are going to reduce your income; and I believe the Senator from Georgia will admit that it is a statesmanlike view of the question. The tariff bill of 1857, as it passed the House, would have yielded sufficient revenue, but was amended in the Senate so as to destroy both the business and revenue of the country. I am not going to talk about the effect these things will have upon day labor, and those details with which the Senator from North Carolina has been entertaining the Senate. They are not particularly involved in this question. I trust there will be no time in our history when there will not be found a majority of the people of this country, and of the members of the Senate, who are for promoting, protecting, and encouraging the productive labor of the country, in whatever pursuit it may be engaged; and in that, I know I shall have the concurrence of the Senator from Georgia. I have invariably been opposed to extravagant rates of duty—to hot-bed schemes of protection. Some ask why should we not encourage the manufacture of articles which are not produced here, and make our people produce them. Sir, I will not divert labor from the pursuits in which it is engaged, to go on some wild goose chase after a phantom. That has never been the proposition of any man who really undertook to take care of the labor of this country. Mr. President, the great dividing line, which will always separate those on one side and the other of this controversy, if controversy it must be, is between productive American labor on the one hand, and foreign labor and non-producers in America on the other. You may try to befog it as you may, but it stands out like the beams of the noon-day sun. The American laborers have come to understand it; and you cannot befog them any longer.

It is a common practice in the Senate to accuse me of always having been in favor of specific duties and high protection. Well, sir, I have been engaged in thinking on this subject a great many years; I have been engaged in the pursuits of active labor ever since the last year of the last century; I began young. There has been no period of my life, when an honest American laborer was not nearest of anything to my heart, and I trust to die with the same feeling. In 1833, when there was a proposition for the revision of the tariff, I was sent here by those interested in manufacturing, and I found great excitement on the question. I learned what divided men in the Senate and House of Representatives upon it. I found a high degree of exasperation on one side, and a desire to pour oil on the waters on the other. There was a feeling on the part of the then friends of General Jackson that looked to me as if he desired trouble and confusion. I regret to say it, for in some respects, I revere his memory. There was, on the other hand, a tenacious holding on to the dogmas of protection, that I regretted to see. Specific duties, it was said, were the only panacea for all evils. With what little skill I possessed, I went in for an arrangement that should bring everything to *ad valorem* upon a fixed valuation which would prevent fraud. I believe, now, conscientiously, that a system of home valuation, with a common *ad valorem* rate of twenty or twenty-five per cent., is the best form of revenue duties that can be devised by man. It carries within itself the means of instructing the community. Every man who reads the law, knows precisely whether or not it fixes the value too low or too high, according to the market rate, and demagogues cannot make him believe that he is paying one hundred per cent. when he is not paying more than twenty or twenty-five.

On that basis, with a view of carrying out the principle, I, in 1842, reported a bill after a great deal of labor; and, although it has been brought up against me here that, during that year, I could not be waked out of my sleep without singing out, "specific duties;" there is an argument of fifteen or twenty pages devoted exclusively to sat-

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isfy the country that there was another form even better than specific duties to procure the advantages which the petitioners for specific duties were applying for; and that argument has never been answered in the Senate. The bill which I then reported declares the value of three or four thousand articles, every one of which was valued upon information obtained by letters from the importers of the articles themselves; and it imposed a general revenue rate of duty of twenty-five per cent. upon every one of them, with the exception of jewelry, which would have been smuggled if you put on any such duty, and some other trifling matters. There were but two articles in that whole schedule, embracing thousands, that were raised above the revenue rate, and they were fine iron and sugar, and they were raised to thirty per cent. upon the presentation of facts to the committee, which satisfied every one that we ought to make an exception of them. Mr. Buchanan was on that committee with me, and was the hardest man among them I had to get out of the notion that specific duties were not indispensable to secure the interests of the labor of the country. That report was made unanimously. I will not detain the Senate by stating the reasons why it did not prevail. The bill reported would have been the law of the land then; and, in my opinion, would have remained so now, but for the unaccountable conduct of a man in the White House, which I shall not stop to talk about.

So much for specific duties. They are very well in themselves, but I think the report to which I have alluded, pointed out a better mode, and I think the people of this country would be better satisfied, if the main articles of their consumption were valued in the law. Take molasses as an illustration. That bill said it should be valued at twenty-four cents per gallon, and duties paid accordingly. It is now worth thirty-six cents, but the molasses growers of Louisiana would not ask you to raise the value because they would have encouragement enough, and it would not be altered once in twenty years, although there was a provision in that bill, that every two years the Secretary of the Treasury should notify Congress of any material variation between the market value and the legal value, that they might correct it from time to time. That is my opinion about the details of a tariff, and the means of preventing fraud. I agree that specific duty will go a great way to do it, and yet the country has been educated in the belief that you cannot levy a specific duty, unless it is a high one. It is so argued here, just as if the change of the mode of collecting the revenue from the *ad valorem* to the specific system must increase the rates of duty. You can have the duties one half what they are now, and yet have seven eighths of them specific; or you can get double the duty with a specific system, according to the exigencies of the Government, and you can levy your duties with a degree of accuracy and judgment with the present knowledge that mankind have of the value of merchandise, that would be astonishing in its results, if people would only look at it. I venture to say that the Senator from Georgia and myself could sit down, and in two hours frame a bill that would satisfy us both on all the leading articles. I am in favor of levying the duties so as best to secure the revenue against fraudulent importations and under valuations. There is not a commercial nation in the world that has an impost system so shaky as ours.

I come now to examine the propositions of the Senator from Georgia. I understand his basis to be, that the revenue measure now in operation will yield \$56,000,000 on an average importation equal to that of the last five years.

Mr. TOOMBS. Throwing out the last year.

Mr. SIMMONS. Yes; that is an exceptional year, and I do not include it in my calculations. It is as clear as the noonday sun, that for the five years preceding the 30th of June, 1857, which the Senator has made the basis of his calculations, our indebtedness was increasing; we did not pay for what we bought. I know the tables of the Treasury Department showed that we ought to

have money coming to us; but that apparent result was produced by fraudulent under-valuations; and there is no other way of accounting for it. That Senator, I believe, said last year, that they had existed to the extent of \$100,000,000 a year. I think they probably went to fifty or sixty million dollars; and he finally, on a review, came down to that. A great deal of it can be accounted for without supposing fraud; as I can show by one illustration.

Our importations from China are about twenty-two million dollars a year, and the mere difference of exchange between the currency we pay in, and the currency we buy in, makes a difference of \$14,000,000 on that trade alone; and I will tell you why. We get the coin Carolus dollars, the currency at Shanghai, by drawing bills on England; and bills on England have sold at from 6s. 8d. to 7s. 4d., to the dollar in Shanghai for the last two years. At 6s. 8d., we get three dollars for a pound sterling. That is the lowest. If you draw for £7,000,000 you get \$21,000,000 in Shanghai. That is about the trade. And what do you have to pay for it? The man who draws it charges two and a half per cent. to the importer. He has a letter of credit on the Barings, or on Peabody, or on Brown & Brothers, but he puts his name on the bill, and he invariably charges two and a half per cent. for his own credit. Take a pound sterling at \$4 86, and add two and a half per cent. to it, and it comes to half an eagle; and so it takes just as many half eagles to be remitted to England as you draw for pounds sterling in China. Thus when you have got \$21,000,000 of currency in China, you have got in debt \$35,000,000. That is \$14,000,000 loss without any cheating, or an advance of nearly seventy per cent. If our trade with the world was that way, we should think we were getting rich all the time, while we should be actually getting in debt sixty per cent. on the amount of our business. A great deal of it is so. We do not absolutely get more than twelve per cent. on the silks we import from China; and the cost of them when they are laid down in New York, including commissions, freight, insurance, and interest, is two dollars to one.

Mr. TOOMBS. That is a mistake.

Mr. SIMMONS. I think not, but certainly there is no mistake about the exchange.

Mr. TOOMBS. Oh, yes.

Mr. SIMMONS. Well, I had letters here last year from houses in China, showing the facts to be just as I have stated, and you cannot find in a whole year any material variation from what I state. However, I will not go into that now, for I want to come to the question whether the present tariff will yield sufficient revenue.

For the last five years preceding the 30th June, 1857, the importations, under the tariff of 1846, amounted to \$1,387,839,824. The accumulations of goods in warehouse which were principally of the last year, were \$47,644,588, leaving the importations consumed during those five years \$1,340,195,236, or an average annual consumption of imported goods to the extent of \$268,039,049. We undoubtedly got in debt during those five years to the extent of \$40,000,000 annually. Of these importations there were, of free goods, \$181,277,656, leaving the total amount of dutiable goods in the five years \$1,158,917,580, or an average of \$231,783,516 per annum. The average amount of free goods per annum was \$36,255,531, making a proportion of thirteen and four tenths per cent. of free goods, to eighty-six and six tenths per cent. of dutiable goods. In other words, under the tariff of 1846, the importations of goods on the free list were nearly one seventh of the whole amount of importations.

The whole amount of revenue collected from imports during the five years preceding June 30, 1857, was \$304,100,618 55, or an average of \$60,820,123 71 per annum. The average per cent. upon dutiable and free imports for those five years was twenty two and sixty-eight hundredths per cent. The average rate of duty imposed on all imports was twenty-seven and twenty-eight hundredths per cent. This shows, that the actual rev-

enue did not come up to the average rate by four and forty hundredths per cent., or one sixth. That was caused by the manner in which the schedules were arranged, having more of the imported goods under the lower than under the higher schedules. The average rate of duty on the dutiable goods was thirty and sixty-two hundredths per cent., while the actual revenue collected upon the dutiable goods was twenty-six and twenty-four hundredths per cent., showing a difference of one-seventh. All this I ciphered out last year, and I presume the Senator from Georgia knows how to average this as well as I do. There is no mistake as to the fact, that the actual revenue collected was one seventh less than the average rate of duty upon dutiable goods according to the schedules of the tariff.

Now we come to the operation of the present tariff—the act of 1857. Under this act, the rates of duty are on schedule A, thirty per cent.; on B, thirty per cent.; on C, twenty-four; D, nineteen; E, fifteen; F, twelve; G, eight; H, four; and I, free. There are nine schedules, and the aggregate of them all is one hundred and forty-two. Divide this by eight, the number of dutiable schedules, and you have seventeen and three quarters per cent. as the average rate of dutiable goods, against thirty and five eighths per cent. under the tariff of 1846. Divide by nine, the whole number of schedules, and you have fifteen and seven ninths as the average rate on all goods dutiable and free, as compared with twenty-seven and two ninths, under the tariff of 1846. There is a reduction of more than forty-two per cent. upon the old tariff, more than five twelfths upon all the duties—almost half.

Now, I should like to know, if the free list continues at thirteen per cent., as before, how can it be possible, unless you transpose articles into higher schedules, that you can collect any nearer the average under this tariff than you did under the old tariff? It is fair to presume that there will be the same disposition to work articles down into the lower schedules, and that the practical operation of such a bill would be to give you about the same approach annually, to the average rate of the schedules, as you had before. The proportion is, say, a reduction of five twelfths. From every \$12,000,000 we have taken off \$5,000,000, and leave \$7,000,000 by the present tariff. There is no mistake about that. An importation of the same articles under the same schedules which would give us \$60,000,000 of revenue under the tariff of 1846, will only give \$35,000,000 under the tariff of 1857. There can be no mistake about that; provided the goods be of the same character, and are placed under the same schedules, and in the same proportions. That, I suppose, is a matter of demonstration. It is a diminution of \$25,000,000 a year on a revenue of \$60,000,000, provided there is no other circumstance to vary it. I observe that the Senator from Georgia smiles; but if there is a figure here that is wrong, I shall be glad to be corrected.

Mr. TOOMBS. I do not at all agree with the Senator's calculations; but I will allow him to get through, and, perhaps, take an early opportunity to correct him, by showing the actual results.

Mr. SIMMONS. Very well, sir. Now I come to the importations under the act of 1857, and I will state what effect has been produced by the change of duty on the principal articles. As I said before, for the five years preceding the 30th of June, 1857, we imported, under the act of 1846, dutiable goods to the amount of \$231,000,000 a year, and \$36,000,000 a year of free goods. During the year ending June 30, 1858, the importations were \$202,000,000 of dutiable goods, and \$80,000,000 of free goods. The proportion of free to dutiable goods is now more than twenty-five per cent.—just about double the proportion under the old tariff. We intended to enlarge the free list. It was a part of the policy of Congress to enlarge the free list; and this has its influence on the aggregate result. I think they enlarged it more than was supposed at the time. I will now,

however, give you the actual result of the last year's importations from June 1, 1857, to June 30, 1858, the first year under the present tariff. I begin, as every accountant must do in fixing the result of any year's operations, by stating the stock on hand at the beginning of the year. This item has been overlooked by the Senator from Georgia. There were in warehouse on the 1st of July, 1857, goods previously imported, to the amount of \$56,487,644; and there was payable upon them, in duties, \$16,956,852. It is plain that if these goods had all been taken out of warehouse, and the duties paid on them, there would have been received into the Treasury nearly seventeen millions of revenue, even if we had not imported a single dollar's worth during the last year. These goods were in warehouse, and nearly seventeen million of duties was payable on them, whether we imported anything during the year or not, and that money would have gone into the Treasury.

In order to ascertain the amount paid into the Treasury from the goods taken from the warehouse which were imported before the last fiscal year, we must deduct the amount remaining in the warehouse at the end of the year. This was \$22,829,583; on which there was payable, in duties, \$6,434,326. This amount deducted from \$16,956,852, which was payable on the goods in warehouse at the beginning of the year, will show that the balance of \$10,522,526 was paid into the Treasury during the year, distinct from and independent of the goods which were imported during the year.

The whole revenue from customs during the year was \$41,789,620. Of this sum \$10,522,526 was paid upon goods previously imported, which leaves, for duties paid upon goods imported during the year, \$31,267,094.

Upon what amount of goods was this sum collected? The whole importations of the year were \$222,613,150; and there were, of dutiable goods, \$202,293,875; and of free goods \$80,319,275. Of the dutiable goods, there were reshipped before the duties on them were paid, \$7,747,930, leaving \$194,555,845, upon which \$31,267,094 was paid into the Treasury; which is a fraction over sixteen per cent. upon the dutiable goods. If the amount of free goods consumed be added to the amount upon which duties were paid, say \$64,241,514, the aggregate amount of goods upon which duties were paid and free goods will be \$258,797,359; which will show that the \$31,267,094 of revenue received is but twelve and one tenth per cent. upon the whole amount of dutiable and free goods. These figures show, that while the average rate of duty, under the act of 1857, upon dutiable goods, is seventeen and three fourths per cent., the revenue collected upon the dutiable imports of last year was but a fraction over sixteen per cent.; and, also, that while the average rate upon the dutiable and free goods is fifteen and seven ninths per cent., there was collected but twelve and one tenth per cent. upon the aggregate amount of goods which paid duty and those which were free; so that the actual revenue received is not so near the average rate of duty under the new as under the old law, upon the entire importation, owing to the larger proportional amount of free goods now imported. The importations of the last year were \$286,613,150; of which there were reshipped something over \$30,000,000, and reported as entered for consumption, about \$252,000,000. Of the goods reshipped, I was told that a little over \$7,000,000 had paid duties, and I have so estimated, in giving the average rate at twelve and one tenth per cent. If that amount should be deducted, and the estimate made upon the amount of about \$252,000,000, as entered for consumption, the average rate paid would be less than twelve and one half per cent.; so that if we should import \$360,000,000 a year, as the Senator from Georgia said he estimated we should, we should get, at twelve and one tenth per cent., but \$43,560,000 of revenue, and at the twelve and one half per cent., but \$45,000,000; and yet \$360,000,000 is nearly \$100,000,000 more than the average importation for the last five years. The large amount of free goods very much diminishes the average rate of duty collected. If the average rate on dutiable goods was twenty per cent., and half the importations were free goods, we should collect but ten per cent.

Then, in any view which can be taken of the subject, I submit that you can get out of an im-

portation, such as we had last year, no more than twelve and one tenth per cent. under the present tariff. If that is not so, I know nothing about the rules for estimating revenue, or anything else. The whole of this mistake has arisen by overlooking the great item of goods that were in warehouse at the beginning of last year, \$56,000,000; \$35,000,000 of which were imported in the year preceding, consisting of brandies and other articles, on which a large amount of duty was taken off by the last tariff. They were lodged in warehouse to get the benefit of the reduction, and came in after you began to take your account of this year's importations, and swelled the aggregate, and made your Secretary of the Treasury believe he was getting nineteen per cent., when he was only just getting twelve. It is as plain as noonday. These figures are not made up for the occasion; but taken out of the Secretary of the Treasury's report. I submit to the Senator from Virginia, [Mr. HUNTER,] whether he has any hope of paying the expenses of this Government with a tariff the average rate of duty under which is twelve and one tenth per cent. on all the imports? Even if it should come up to an average of fifteen per cent., about what it is by including the goods taken from warehouse, he knows enough about finance and revenue to know that it is impracticable, if you go on under this system, you cannot avoid the inevitable result of a national debt or national dishonor. You cannot pay your expenses under it. No man can prove it to me, no matter what he may say about how great the importations are going to be.

I agree that there will be large importations. If I was interested for foreign producers against the producers of my own country, and had \$22,000,000 of goods in warehouse in New York, I would enter them before Congress adjourned; and I wonder they have not done it before now, so as to have Mr. Secretary Cobb sending us a message saying that the revenue was coming in so rapidly that he would soon have a surplus. They are always looking out for what may influence public opinion, and especially when this question is before Congress. The American people have no knowledge of how their Senators and Representatives are watched by the foreign emissaries that are quartered upon us for a living all over the country. I am sorry the honorable Senator from Georgia is not here now, for I wanted to compliment him for a remark which he made the other day, when he said he would do right in defiance of all the proud Powers of Europe. If he will but do right, he will be backed by this country against the bristling bayonets of a continent of Europeans; but it does not follow that this country will sustain any man who wants to cheat or steal his neighbor's goods or lands; but, in a right cause, there will be no lack of men, no lack of means; and the more men and the more means for the very menaces that are put out on the other side of the water. Such a sentiment as the Senator uttered on the occasion to which I have alluded, is worthy of a Roman in the Fabian age of that country, or a Spartan in the days of Leonidas. They did not fear men or numbers; nor should we, in a right cause.

I wanted to call the attention of the Senator to another fact that took place here, when I was at home, when it was proposed to revise the tariff. Sir Henry Bulwer wrote a letter to the Secretary of State upon the subject. The British lion shook his mane over the Congress of the United States, because we proposed to raise our duties; and, on that occasion, General Taylor sent to Congress this characteristic message:

To the Senate of the United States:

I herewith transmit to Congress copies of a recent correspondence between the Department of State and the British Minister at Washington, relating to subjects which seem to require the consideration of the legislative, rather than the executive branch of the Government.

ZACHARY TAYLOR.

March 4, 1850.

The letter of Mr. Bulwer, which he transmitted, was as follows:

BRITISH LEGATION,
WASHINGTON, January 3, 1850.

SIR: It having been represented to her Majesty's Government that there is some idea on the part of the Government of the United States to increase the duties upon British iron imported into the United States, I have been instructed by her Majesty's Government to express to the United States the hope of her Majesty's Government that no addition will be made to the duties imposed by the present tariff of the

United States, which already weigh heavily on British production; and I cannot but observe, for my own part, that an augmentation of the duties on British produce and manufactures, made at a moment when the British Government has, by a series of measures, been facilitating the commerce between the two countries, would produce a very disagreeable effect on public opinion in England.

I avail myself of this opportunity to renew to you the assurance of my most distinguished consideration.

HENRY L. BULWER.

HON. JOHN M. CLAYTON,
Secretary of State of the United States.

Now, I have heard a great deal said about visiting a vessel to see if it was not a pirate under the flag of our Union, and the indignity offered to us by such a proceeding; but I want to know how an American Senator can feel, when we are discussing our own domestic policy, to have the representative of a foreign Crown interpose and address us on such a question. I think General Taylor did just right in sending that communication to Congress; and I regret to say that there was not an answer corresponding to what I believe was due to the honor of the American Congress. I recollect somewhere to have read, or heard, that they had in England at one time a great dandy, by the name of Beau Brummel, who said he could offer an indignity to the Prince of Wales, who was afterwards George IV., and he would overlook it. While he was at his table, he leaned forward, and said, "Prince, ring the bell." He did so; and when the servant came, he told him to "show Mr. Brummel to his carriage." That is about the smartest thing I ever knew a man to say, who was born to the inheritance of a Crown; and I should have thought the American Congress would have said to General Taylor, "Give Mr. Bulwer his passports;" and he would have done it with the grace of a prince, for he was one of nature's noblemen. That is what he expected of Congress, no doubt, when he sent in that communication. Gentlemen may talk about the duties being paid by the consumers; but if they were paid by the American consumers, do you suppose Sir Henry Bulwer would have been communicating the wishes of her Majesty's Government upon the subject? He knows who pays them. He knows what will break down the industry and independence of America. I have no hostility to England. I like England; but I want them to keep on their own side of the water, and let us keep on ours. I do not believe it is good policy to cultivate or encourage any hostile feeling to any foreign nation. I agree with General Washington's view in that respect, and I was very sorry to hear the Senator from Georgia say that he had been waiting for a long while for war with England, and hoped to live to see it. I never want to see it; but I do not think the Government of the United States should go much out of its way at any such suggestion. Let us keep where we think our interests guide us; and, above all, take care of our own labor, and let them take care of theirs.

I have endeavored to confine myself to the simple practical question, whether, in the nature of things, with the ordinary sagacity of a statesman, any man can point out that a revenue, sufficient to maintain this Government, can be derived from the duties levied under the act by which we are now collecting the revenue. I defy any man, without perverting every fact in our history, to show that it can produce any such thing. Taking \$360,000,000 as the basis of importation, which is more than the average of the last five years, and it would not produce more than forty-four million dollars; and I have no idea whatever that we shall get more than about forty million dollars a year under it. I think we shall have a larger importation of spirits and finery under the high schedules; and, if we keep our labor poor, we shall have very few articles coming in under the schedules imposing a moderate duty, because the people will not be able to buy them. Everybody, who knows anything about the business of this country, knows that, during the last year, the articles on the free list, consisting partly of raw materials used in manufacturing, were not imported to any very great extent. Half the mills were stopped during the year, so that there was not more than half the consumption of an ordinary year; and therefore, when business shall revive, and the great establishments that consume dye-stuffs and other raw materials which are not produced in this country, start again, the importations of articles on the free list will increase in proportion to the others. In-

stead of diminishing, they will increase; and so will the goods in the lower schedules that partially come in for consumption among the people and partially for manufacturing purposes. The four and eight per cent. schedules will be increased. When there is no business doing, nobody wants to import these goods, and in fact, I am told, at the Treasury Department, that there were seven million of these lower scheduled goods which were reexported last year after the duties had been paid. They do not go into warehouse, because four per cent. is no consideration. Indeed, the warehouses are used as a depository for liquor dealers, and the Government of the United States is hiring money at five per cent. to enable them to store their liquor until it can get old enough to sell, without expense to themselves. They do not want to enter it for consumption until it is old enough, and they let it lie in warehouse at a smaller interest compared with what it would be if they had to pay the duty and put it in their cellars. That is the actual fact. If any class of the community can afford to pay duties, it is the importers of liquor. They get eight fold what the article costs before anybody drinks it.

I examined a liquor case last winter and I found that the importers entered French brandy at from fifty to sixty cents a gallon, and you cannot now buy a gallon of it under four or five dollars. I am aware that when people are not doing anything, as was the case last year, when times are hard, they are apt to drink to drown sorrow. I believe Solomon authorizes that, for he said, "Let a man drink, and forget his poverty." Last year was a wonderful year for liquor. I hope that we shall give our people more work, and then they will drink less.

The Senator from Georgia rather attacked the Secretary of the Interior for a certain course he had pursued, and as I am in for it, I may as well defend the Democracy. I expect to be the only man here that will stand up for this Administration. [Laughter.] This is the first recommendation I have known from the President that I could put my hand on my heart and say I honestly believed he thought just what he said. He has been for specific duties these forty years, and the annunciation of that honest truth has brought the whole pack on him all over the country. It has so metamorphosed him that, like Acteon, he is pursued by his own hounds. But I trust we shall see none of this in the Senate. It is the only recommendation that I have seen from him that I could approve since he has been at the head of the Government. He is denounced from Georgia to Maine for recommending specific duties, although he qualified his recommendation by saying that to make them specific would not necessarily make them higher, but would only stop frauds. He stated further, that the present tariff would not yield enough revenue, and no man can gainsay him in that. He also said that he was against going into debt permanently to support the Government in time of peace.

The Senator from Georgia said, yesterday, that we had surveyed eighty million acres of land last year, and that the Secretary of the Interior should have put them into market and sold them. If he had done so, who would have bought them? Who had the money to pay for them? I believe in some of the western States money is now as high as three per cent. a month. The Senator from Georgia would put the lands of the poor laborers in market, and let speculators buy their improvements at the minimum price of the land. Is that the way to help the poor? I honor the Secretary of the Interior for this kind consideration for the laboring men of the land. I scarcely know the members of this Cabinet; but I have a habit of looking at people pretty closely when I see them, and I think this Secretary of the Interior is the most honest man I have met among them; and the greatest evidence I have seen of it, is that he has thought of the poor fellows in their cabins, who have hardly a dollar to go to meeting with, much less to buy a farm. The Senator from Georgia complains that we have not got a revenue from these men. I am told that their crops are short, and what they have got will hardly bring anything. I know gentlemen say they can go to Europe for a market; but I will not go into that question; for my business now is to defend the Administration. [Laughter.]

As to the Post Office Department, I think I

shall agree with the Senator from Georgia, that it ought to be probed. I think \$6,000,000 ought to be cut off from its expenditures.

In 1852, Mr. Buchanan wrote a letter in answer to an invitation to a public dinner in Baltimore, in which he denounced the expenditures of the then existing Administration, which had reached only about forty million dollars. I will give an extract from his letter:

"We must inscribe upon our banners, a sound regard for the reserved rights of the States, a strict construction of the Constitution, a denial to Congress of all powers not clearly granted by that instrument, and a rigid economy in public expenditures. These expenditures have now reached the enormous sum of \$50,000,000 per annum, and, unless arrested in their advance by the strong arm of the Democracy of the country, may, in the course of a few years, reach \$100,000,000. The appropriation of money to accomplish a great national object, sanctioned by the Constitution, ought to be on a scale commensurate with our power and resources as a nation; but its expenditures ought to be conducted under the guidance of enlightened economy and strict responsibility. I am convinced that our expenses might be considerably reduced below the present standard, not only without detriment, but with positive advantage, both to the Government and the people.

"An excessive and lavish expenditure of public money, though in itself highly pernicious, is as nothing when compared with the disastrous influence it may exert upon the character of our free institutions. A strong tendency towards extravagance is the great political evil of the present day; and this ought to be firmly resisted. Congress is now incessantly importuned from every quarter to make appropriations for all sorts of projects. Money, money, from the national Treasury is constantly demanded to enrich contractors, speculators, and agents; and the projects are gilded over with every allurement which can be imparted to them by ingenuity and talent."

I could not help thinking, when he invited us in his annual message to pass some act to restrain the Administration from spending money, that he had lived to see what he so much deprecated in his opponents fulfilled by his own party before he had got half way through his administration. The expenditures have gone to double what they were at the time when he was complaining of them, and then he said retrenchment must be inscribed on the Democratic banner.

In his recent message he tells us that we should do something in regard to the Post Office establishment. When, in 1845, the post office law was remodeled by Congress, the Postmaster General was ordered to let the mails "to the lowest bidder tendering sufficient guarantees for faithful performance, without other reference to the mode of such transportation than may be necessary to provide for the due celerity, certainty, and security of such transportation." When Mr. Cave Johnson came to make the lettings that year for the eastern section, embracing New England and New York, he made them under that law, although it did not take effect for three months afterwards, and he saved \$228,000 a year on that little section; but when he came to the southwestern section, he found that he could employ four-horse coaches, and he published this circular:

"20. Under the act of 3d March, 1845, the route is to be let to the lowest bidder, tendering sufficient guarantees for faithful performance, without other reference to the mode of transportation than may be necessary to provide for the due celerity, certainty, and security, of such transportation. And the new contractor is not required to purchase out, or take at a valuation, the stock or vehicles of a previous contractor.

"When the lowest bid proposes a mode of conveyance that is inadequate for the route in respect to the certainty, security, and celerity of the mails, aside from any accommodation for travel, it will not be entitled to the route.

"21. When the bid does not name a mode of conveyance, it will be taken and understood to be for the lowest mode of conveyance, to wit: on horseback. When it proposes to carry according to the advertisement, and no mode of conveyance is stated for the route in the advertisement, it will be considered as offering only for horse-back conveyance. When the advertisement uses the term 'conveyance in two-horse coaches, or in four-horse coaches, are invited,' or 'proposals to carry in two horse coaches will be considered,' or the like expressions in the bid, 'according to the advertisement,' will not be understood as referring to the mode mentioned in such invitation. If the bidder intends to propose for the mode of conveyance stated in the invitation, he should name it in terms in his bid.

"22. Since the passage of the act of March 3, 1845, a new description of bid has been received. It specifies no mode of conveyance, but engages to carry the mail with certainty, celerity, and security, using the terms of the law. These bids are called, from the manner in which they are designated on the books of the Department, 'Star bids.' It has been decided, after mature consideration, that a bid proposing a specific mode of conveyance of as high a grade as two-horse coach transportation is to be preferred to the star bid. The experience of the Department enables it to lay down the following rules, viz:

"When the mail on the route is not so large as to require two-horse coach conveyance, a star bid, if the lowest, will be preferred to the specific bid.

"23. When the mails are of such size as to render it necessary or expedient in reference to them alone to pro-

vide two-horse coach conveyance, the specific bid, though the highest, will be preferred to the star bid, to the extent of a moderate difference in the compensation, in case the difference is not such as to interfere with the policy of the new law, which looks to a reduction of the cost of transportation. Exceptions, however, may be allowed, where the star bid is made by the present owner of the stock on the route, and it is manifest that the reasons for preferring the specific bid do not exist in his case.

"24. On routes of the highest class, where four-horse coach transportation is required by the size and importance of the mails, the preference for the specific bid will be, if necessary, carried to a greater extent of difference than on the inferior coach routes, subject, however, to the exceptions above stated.

"25. A modification of a bid in any of its essential terms is tantamount to a new bid, and cannot be received so as to interfere with competition after the last hour set for receiving bids.

"C. JOHNSON,
Postmaster General.

"January 8, 1846."

He went on in this way during his whole administration. He altered the New England letting, and brought it under the new law, and yet afterwards he disregarded the law in regard to other sections. Mr. Buchanan was in that Administration. Mr. Cave Johnson and Mr. Buchanan and Mr. Walker made speeches about that post office law, and they knew exactly what was intended by Congress. Mr. Buchanan in his last message asks Congress to alter the law. He says that up to 1852 the postal service had cost the Government less than four and a quarter millions a year. Well, sir, there is a clause in the law that limits it to \$4,500,000; and I do not know why that limitation is not as binding on this Administration as any other. The limitation to which I refer is contained in the proviso of the act of March 3, 1845:

"Provided, That the amount of expenditures for the Post Office Department shall not, in the entire aggregate, exclusive of salaries of officers, clerks, and messengers, of the General Post Office, and the contingent fund of the same, exceed the actual amount of \$4,500,000.

That was the limit by law; and that remains the limit, I suppose, unless there has been some subsequent law; and I do not know but there has been. Very likely the limitation may have been taken off; I do not know how that may be. But the President, in his annual message, and that called my attention to this fact, asks us to pass a law to restrain the Postmaster General, so that he shall be confined to letting the mail contracts, without any reference to the vehicles being suited to the transportation of passengers; and you will see, by this message, that they had never transcended the limit of that law up to 1852, which was the last year of Mr. Fillmore's Administration; and now, he says the post office expenses are over ten million dollars. They have gone up under Democratic rule, with a banner inscribed with "retrenchment, reform and economy," from \$4,250,000 to \$10,250,000; \$6,000,000 increase; a \$1,000,000 a year directly against law; and he wants us to restrain this man. If you should pass this section just as you passed it in 1845, he thinks it is exactly what ought to be done!

Now, Mr. President, it is my opinion that this enormous extravagance is not spent for carrying the mail. It is to carry the party, and the party has got so that all the revenues in the world will not carry it. [Laughter.] You might spend the whole money of the Government and you could not carry the party through. As to this California business, they have carried one free State since we were here before, and I believe the mail lettings there cost two or three millions a year. I believe they would not have carried that if our folks had sense enough to keep united, but some of them want to have a small party when we get into power, so as to have the offices. There is a good deal of calculation that way. I am told this law has never been altered, and they tell me at the Department it is just as good a law for letting the mails as it ever was. Now what is proposed? Here is a \$6,000,000 addition to the expenses of carrying the mail and the party, and what is the remedy proposed? The Secretary of the Treasury, in his report, in answer to a resolution of the House of Representatives, says he wants the postages raised so as to pay these expenses out of the letter writers, out of the business of the country, out of the social correspondence of the country. I looked over it; I thought it might possibly have varied, but I found that in New England and New York, the eastern section, the revenue from postage was about two million dollars under the five cent system, and after it was altered to

three cents it was still over two million dollars, and recently it is about two million dollars. I have looked at it at three different periods four years apart, and it does not vary \$250,000. Your mail lettings have varied from \$700,000, before 1845, to \$475,000 under the new law; and up to \$665,000 when changed back to the old mode, and are now about \$800,000; and nearly all the last increase has gone to the railroad corporations. The Post Office Department seems to subsidize nearly all the railroads in the country. I venture to say that whoever goes through the various items composing the increased expenditure will find that seven eighths of it has gone for railroad corporations and these great overland jobs.

Nearly three-fourths of the mail matter which we carry we scarcely get anything for. We carry newspapers free of postage for thirty miles, and there is an allowance of two miles apiece to the postmaster for delivering each paper; and we can carry all newspapers at a very low rate. We do it to educate the people, and I have no objection to it. I am in favor of educating them. I protest against putting the whole burden upon the letter-writers of the country, who now pay ten-fold what the carrying of their letters costs. I will go with any man who will point out any proper mode of retrenching these expenditures, for I am perfectly satisfied that there can be no well-founded reason for such a vast increase. I will go for lopping off your franking and printing of documents here; but I do not believe in taxing the business of this country, and in taxing the correspondence of the country, for the purpose of raising immense amounts of money, to be squandered in mail contracts. Postage is prepaid, and the people of the old hive, in the northeast particularly, which has sent out millions to people the whole country, are writing to their children, who are inhabiting distant regions. They pay postage in their own locality; and that is the reason why our postage there swells up so much. It is not on account of the foreign mail service, as is shown by the fact that our postage receipts in New England are about the same they were before we had this foreign mail system. In the New England States and New York, with \$800,000 outlay for carrying the mails, the gross postal receipts are over two millions; and in those States, it costs from twenty five to forty per cent. to collect this postage. There is a great deal less allowed postmasters, proportionately, on letters than on newspapers. They have half the newspaper postage, I believe; and when it is paid in advance, one half is taken off, and then I suppose it all goes to the postmasters. They get two mills for delivering a newspaper.

I had a great many things to say, but I shall not detain the Senate. My principal object was to demonstrate to the Senator from Georgia, and the Senator from Virginia, that with no probable amount of imports was it practicable to derive sufficient revenue for the support of this Government from the present tariff. I say it is impracticable for any man to make it approach it.

There was a great deal said by the Senator from Georgia about the enormous duties on iron. I will say a word on that, as it seemed to be the burden of his complaint and that of the Senator from North Carolina. He said the duty took about one fourth of the iron, for you can take the duty in kind if you believe there is any fraud; but I do not suppose there is any fraud in the entry of the iron. I should be perfectly satisfied, so far as I know of any interest in this country, if you contrive a mode that will prevent fraudulent under-valuations, to take one fourth of the market value as duty. I believe you cannot raise revenue enough unless you do get a fourth on the dutiable goods, and if it is likely to be too much, I would take less than one fourth. All I ask is that the business of importing shall inure to the benefit of American merchants; that they shall not be driven to throw the business into the hands of foreigners, who come here merely to plunder the people of this country. I believe no one will say that six dollars on pig iron and twelve dollars on railroad iron is more than twenty-five per cent. upon the market value. The bar iron varies very much, I know, but a duty of fifteen dollars per ton is not more than twenty-five per cent. upon the market value here in ordinary times. I see by the report of the Secretary of the Treasury that railroad iron is forty-eight dollars in the market,

and twelve dollars is only twenty-five per cent. on it.

But I am not going into these details. If twelve dollars is too much, put it lower; but let us do something. While the stocks are low, and before the sudden impulse given to trade shall flood the country with foreign goods again, and produce another revulsion, let us fix a revenue standard that will bring in revenue enough to support the Government, and try to keep it steady. I do not want so much as to produce any inflation or excitement. I will not go into the question about banks, and what caused the revulsion. I merely say that if you look at the Secretary of the Treasury's report, you will find that for the first three months under this tariff there were \$108,000,000 of imports at the foreign valuation, and our exports were only \$43,000,000 exclusive of specie, which was about fourteen million dollars. There was a commercial balance against this country created on that first quarter, of over fifty-four million dollars; and everybody who knows anything about ordering goods from Europe, knows it all comes due in ninety days, and it would take as much specie as there was in the whole banks of the country to pay that balance. They stopped taking State stocks, and there was nothing to meet it with but coin. In this mode of importations, your whole monetary system is at the mercy of foreigners, and always will be, for an honorable merchant will pay if he has to sacrifice even his liberty. There is no sacrifice he would not submit to as long as he could get money—even ten per cent. a month; and the only way is by our power to regulate commerce, through this impost system; so to regulate it that there shall not be an adverse foreign balance, ruinous to our interests as a nation, and to our independence.

If anybody can devise any other way, I shall be satisfied. We have got the sub-Treasury, and all sort of schemes. When there is any redundancy of money in the sub-Treasury, the Secretary goes into market for fear he will break everybody, and buys the paper of the United States at sixteen per cent. premium. In his report last year he told us how much he had saved by that operation—\$900,000. That is a fair way of keeping accounts; but does he tell you how much he loses by hiring \$20,000,000 for fifteen years. That will not be paid off for less than \$35,000,000. There is a loss of \$15,000,000; that he covers up; but if he should save ten dollars anywhere, he would put it in large figures. We have mortgaged every man's land and estate in this country for \$35,000,000 to get along this year, and before it is taken up \$35,000,000 will be paid. That everybody knows. The interest of \$20,000,000, for fifteen years, at five per cent., will be \$15,000,000; and there are the bonds out; and if we get them back short of that, we shall have to pay a premium, and we shall have to hire more as things are going on.

Now, rather than make a permanent debt, if you revise the tariff and get it on a basis that will insure revenue for the ordinary expenses of the Government, I would submit to taxation on tea and coffee for relief, and give out paper for \$5,000,000, payable in one, two, and three years, and collect \$5,000,000 on tea and coffee. I do not want any more debt. I do not believe a national debt is a national blessing. I am not tenacious about how you raise revenue, but I say no statesman can stand in this country who will permit its labor to perish rather than after a tariff to which he is wedded on account of any notion he has about free-trade. There is no free-trade in any of them. There is not a man who hears me who believes he can collect revenue for this Government by direct taxation. It must be collected by imposts; and whether collected by specific duties or *ad valorem*, the amount must be the same; and whether it is \$56,000,000, or \$60,000,000 depends on what you make the appropriations. I will go for as low ones as the Government can fairly get along with; but I will not, for the sake of embarrassing any Administration, undertake to cut down and injure the interests of the country.

It is said we propose to keep burdens on the poor. Is there any scheme here but what means to collect the revenue in the same way, by imposts? only you want it so that there can be cheating. That is all the difference. So many millions as it takes to carry on this Government, every statesman on this floor intends shall be collected by

imposts. Why, then, go on and say that if you could have your way you would relieve the taxes. It does not make a brass farthing's difference whether you impose twelve dollars a ton on iron by a per centage or by a specific duty. So much of the duty as enters into the price to the consumer must be paid by the consumer. What portion of it enters into the market price nobody can tell. It depends altogether on the question of demand and supply. If there is a revulsion in England, and they have a great surplus of any goods, they will send them here, if they can get what they are ordinarily worth in Europe. If an article is scarce, you will have to send for it and pay the market price there, and all the charges and all the duties. The only distinction between having specific and *ad valorem* duties is that when everything is high and the production does not meet the demand here, you have to pay the highest rates of duty, on the highest price in the market under the *ad valorem* system, and you have to pay it yourself; but when articles become cheap, and everybody wants to get to market and send their products where they can find a market, the foreign consumers have to pay it, and they pay the lowest amount of duty. When we pay the duty it is the highest rate, and when they pay it it is the lowest rate, under the *ad valorem* system. If it was specific we should have a fair chance, and when they wanted to get an article here to find a market, they would have to pay as much as we would have to pay when we wanted to get it here to supply a deficiency. This is in our favor, and it should commend itself to every man.

Now, as to the question of labor. Mr. President, the Senator from North Carolina considered it was immaterial what the three hundred and fifty thousand men making iron, and their families, would do. He said let them go to something else; if they cannot get a dollar a day making iron, let them go to something else. The policy of grudging to labor a fair reward will do no good to this country. It will send skillful laborers to ordinary occupations. Instead of educating your labor, making it intelligent both in handicraft skill and mental acquisitions, low wages will dwarf it down.

If you sustain and patronize labor by your own example, by your commendation, and by your public policy, our people will go on rising and advancing in civilization, until our men of genius will almost make the marble speak. Other nations have done so; and we are as capable of it as any who have lived before us. But turn to this other scheme, as advocated by the Senator from North Carolina: send laboring men engaged in one pursuit to break down the prosperity of those employed in another; create hostility among all classes, by teaching them that they are paying tribute, the one to the other, in the form of duties upon rival productions from abroad; introduce ill will and hatred, and, with it, a species of vandalism, which shall tear the pictures from your walls, and overturn your statues; and send men like Powers and Allston to "loat lightwood," and cut boxes in pine trees to get turpentine, and you will soon have a nation of men fit only for hewers of wood and drawers of water. I go for elevating labor, and I shall always do that. I do not want anything extravagant about it. I do not want to charge anybody with having sinister purposes; but I say we should take hold of this subject like statesmen, make a fair calculation of our ability to import, and levy duties commensurate with the yearly expenditures of the Government, fearless of the clamor of anybody.

Mr. HUNTER. Mr. President, I desire to submit some remarks on this resolution. I am not ready to do so this evening. I should like to postpone it until to-morrow. Unless some gentleman desires to go on now, I move to postpone this resolution until to-morrow at one o'clock.

Mr. SLIDELL. I understand that one or two Senators are prepared to address the Senate on the subject of the bill for the acquisition of Cuba. It was generally understood that it was to be taken up after the tariff discussion. We can go on with it now.

The PRESIDING OFFICER. (Mr. REID in the chair.) If the motion of the Senator from Virginia prevails, that bill will come up as the unfinished business of yesterday.

Mr. SLIDELL. I hope this question will be put.

The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia to postpone the resolution under consideration until to-morrow at one o'clock.

Mr. CLARK. I see that the chairman of the Committee on Claims is not in his place, but I suggest to the Senate that to-morrow is private-bill day, and I suppose he will insist that the day shall be devoted to that object. I suggest to the Senator from Virginia whether it is worth while to postpone the resolution until to-morrow.

Mr. BIGLER. It is subject to the will of the Senate.

Mr. CLARK. I know that; but perhaps it would be better to fix some other day, so as not to leave room for contest on that point. I desire that the Senator from Virginia may be accommodated.

Mr. HUNTER. I would rather postpone it till to-morrow, because I think the time has come when we have so many different subjects in hand, that we shall not be able to devote each Friday to private bills.

Mr. CLARK. I am willing that the Senator should have that day, if he chooses.

Mr. MALLORY. I trust my friend from Virginia will let this resolution go over to a more distant day. The next bill in order on the Private Calendar is a very important one, affecting interests which I have brought to the notice of the Senate, being for claims of citizens of Florida; and if it does not receive attention to-morrow, I am afraid it will have the go-by entirely. Friday is set apart specially for private bills. We have considered very few of them. Many of them are in a condition to pass now without discussion. There is really nothing in this resolution to command the attention of the Senate immediately; no reason in the world why it should not be postponed for a week, in fact, for a year. I do not see why it should be hurried. The Senator can speak the day after to-morrow, or on Monday, as well as any other day; and I trust he will put it off until Monday.

Mr. DAVIS. If there is nothing before the Senate, I should like—

Mr. SLIDELL. I beg pardon of the Senator from Mississippi. I made a motion—this resolution being postponed until to-morrow—to take up the bill for the acquisition of Cuba; and the Senator from Ohio [Mr. PUGH] is prepared to address the Senate on it.

Mr. DAVIS. I did not know you had made any motion.

The motion to postpone the resolution until to-morrow was agreed to.

ORDER OF BUSINESS.

Mr. SLIDELL. Now I make my motion.

Mr. SEWARD. I deem it my duty to call the attention of the Senate now to the question which is involved in the case of the application for seats in this body by two gentlemen from the State of Indiana. The Judiciary Committee, two or three days ago, reported adversely to their claim, and applied for an order to be discharged from the further consideration of the subject. That question was taken up this morning, and was informally laid aside in order to enable the honorable Senator from North Carolina to address the Senate on the resolution of the Senator from Pennsylvania, and also, as it was understood, to allow the Senator from Rhode Island to reply.

It having been laid aside for that purpose, I only insist that it now comes up for consideration; and I wish to submit to the Senate that there remain but eighteen or nineteen days of this session; that these gentlemen who are claimants to seats, sent here by the Legislature of Indiana, have been here two or three weeks waiting for a hearing. It is high time that question should be decided. It cannot be avoided, because the order which is applied for by the committee brings it before the Senate. Therefore, as that was the order of business which was laid down informally for the purpose of taking up this subject, I move that the Senate proceed to the consideration of the report of the Judiciary Committee upon the Indiana election. I wish to submit an amendment to the proposition of the committee, which will bring up the point I submitted a few days ago, upon the rights of the claimants to these seats to be heard and to argue their own case.

I cannot intrude so far upon the Senate as to

make this motion now, without expressly disclaiming any desire whatever to embarrass the debate on the Cuba question, and without expressing my regret that it interferes with the expectation of the honorable Senator from Ohio; but I see that there is no time allowed, and no time is contemplated to be allowed, for this question; and if it should be the pleasure of the Senate to hear the honorable Senator from Ohio to-day, and to intimate that to-morrow morning, or to-morrow at any hour in the day, the Senate will take up and consider the application of the Committee on the Judiciary to be discharged from that subject, so as to enable us to bring the question before the Senate, I shall submit in silence and with great pleasure; but I do humbly insist that it is due to the integrity of the Union; due to the position of the State of Indiana; due to the character and dignity of the Senate for impartiality; due upon every consideration to the public, that this question shall be disposed of.

Mr. SLIDELL. I think the Senator from New York is mistaken in point of fact as to what occurred in the Senate this morning. It was, I thought, very distinctly understood that after the Senator from Rhode Island should have followed the Senator from North Carolina, and concluded his speech, then the Cuba question should be taken up. I will further remark, that the chairman of the Committee on the Judiciary is not now in his place. He certainly, had he not been under the impression that this subject would not be acted on to-day, would be here to attend to it. I do not feel myself at liberty to commit myself in any way as to the consideration of this question to-morrow. It will be time enough to discuss that matter then. In the mean time, as I understand, I have already made a motion which is before the Senate, and I ask the sense of the Senate upon it. I think we shall economize time by going on with the Cuba question. The Senator from Ohio is prepared to speak this afternoon.

Mr. SEWARD. I wish to say, on this subject, that the honorable Senator from Delaware was in his seat when this question arose this morning, and he was understood by the Senator from Illinois to assent, or to imply an assent, that in letting the Indiana case go over for the purpose of debate upon the resolution of the Senator from Pennsylvania, he consented also that that should be followed by the Cuba bill; and when it was brought to his notice, he distinctly intimated his dissent from any such arrangement, and his purpose not to let the Indiana case go by for that or any other question, but to insist and demand that it should be disposed of. The honorable Senator from Illinois can state if he did not so understand him. It is a matter of regret to us that he happens to be absent. The debate closed sooner, undoubtedly, than he expected. I am sure I am only seconding his wishes, as well as expressing my own, when I claim that this subject shall be taken up now. We can dispose of it in what remains of this day. I hope the honorable Senator from Ohio will believe that I am acting under an imperative sense of duty, and I should hope it would be agreeable to him to take up the subject fresh to-morrow. At all events, I must disclaim any discourtesy to him. I object, therefore, to the motion of the Senator from Louisiana, and ask for the yeas and nays on it.

The PRESIDING OFFICER. (Mr. REID.) The Chair does not think that the subject to which the Senator from New York alludes, is the pending business; but he will put the question on the motion to take up the matter indicated by the Senator. Does the Senator ask for the yeas and nays?

Mr. SEWARD. Yes, sir.

The yeas and nays were ordered.

Mr. FITCH. I do not intend to say anything about this matter; but I think undue advantage is being taken of the absence of the chairman of the Committee on the Judiciary, who gave notice of his intention to call up this question to-morrow.

Mr. PUGH. May I ask the Senator from New York what resolution it is he proposes to take up?

Mr. SEWARD. The report of the committee on the Judiciary. The honorable chairman is here now, and can answer for himself.

Mr. PUGH. The committee has reported no resolution.

Mr. TRUMBULL. They ask to be discharged.

Mr. PUGH. That is the request of the committee; and suppose you refuse to grant it; the subject simply goes back to the committee. There is no resolution at all, except a resolution to admit two gentlemen to argue a case when there is no case.

Mr. SEWARD. If the honorable Senator will allow me, I will explain to him in a moment. The committee have submitted a report, and on the basis of that report they ask for an order which must be made by the Senate, or it can be no order; and it is a decision of the Senate when it is made, a resolution in the words following "ordered, that the committee be discharged from the further consideration of the subject." That brings the question back into the Senate, when the order is made, and not before. The question which I claim shall be submitted to the Senate, is that order. Shall that order be adopted? and that involves the consideration of the report of the committee, which is the basis of the order. An order is a resolution of the Senate, and a resolution is an order; resolutions of this class are denominated orders. It is a decision when it is made. It is open to debate, and involves the whole question on the merits of the subject.

Mr. PUGH. I insist that the Senator is altogether in error, and I recollect very well, when the case of the Senator from Illinois was reported from the Committee on the Judiciary, my venerable friend, then the Senator from South Carolina, Judge Butler, insisted, as the Senator from New York now does, that the mere request of the committee to be discharged brought the question before the Senate; and it was then argued as a point of order, and the Senate was entirely of a different opinion; and finally the Senator from Kentucky offered a resolution affirming the right of the Senator from Illinois to his seat. Now there is no resolution either affirming the right of the present Senators or of the gentlemen who claim to be Senators from Indiana. What is the order that the Senate is to make at the suggestion of the Senator from New York? Simply to discharge the committee. Suppose the Senate do not discharge the committee: the subject is in their keeping again; we do not make any progress. If the report of the committee were taken up, the Senator would be bound to offer a resolution affirming the right of somebody to these seats; and that resolution would go over, on a single objection, for twenty-four hours. It seems to me, we gain nothing. It is all a waste of time, unless the Senator offers his resolution to admit these gentlemen to the floor of the Senate, and admit them to argue their case; but as yet their case is not presented as a practical question.

Mr. SEWARD. I think there need be no misunderstanding about the question. I have a resolution before the Senate, which I have in vain endeavored to get the Senate to take up and consider; which resolution would authorize the claimants to appear and argue their claims at the bar of the Senate. Failing to get that up, I discovered, this morning, an application made by the Judiciary Committee to be discharged from the further consideration of the subject. I am content that it shall be brought, as it was brought, before the Senate, and was under consideration; the question was on their motion, and it was laid by. When it comes up, I am prepared to offer an amendment to the order for which the committee apply. The committee offer the following order:

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of the Legislature of Indiana.

I propose to amend by striking out all after the word "Ordered," and inserting:

That Henry S. Lane and William M. McCarty have leave to occupy seats on the floor of the Senate pending the discussion of the report of the Committee on the Judiciary on the memorial of the Legislature of Indiana, declaring them her duly elected Senators; and that they have leave to speak to the merits of their rights to seats, and on the report of the committee.

I ask that the honorable Senator's question may be taken up for the purpose of interposing the other as a preliminary question, as an amendment.

Mr. BAYARD. Mr. President, the matter referred to the committee was the memorial of the Legislature of Indiana; nothing else. On that

memorial the committee have reported, stating the grounds on which they ask to be discharged from its further consideration. That involves a denial of the object which that memorial looks to. There is no resolution before the Senate to admit anybody to seats. There is no right on the part of these alleged claimants to be heard before the Senate, as representatives of the State of Indiana, to sustain the memorial of the Legislature of that State; I know of no such authority. As I said before, on the principle that the matter has been decided by the Senate of the United States, on the same principle that a court of law, whether of the last resort or not, would never permit a counsel to appear before them to impeach, at a subsequent term, the validity of a judgment which they had rendered on a question submitted to them, I should say the Senate of the United States would not permit any party to appear here for the purpose of impeaching their decision made at a previous session of the Senate.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York, to postpone all prior orders, and proceed to the consideration of the subject indicated by him.

Mr. SEWARD. I wish barely to state that I regard it as a question of privilege, involving the rights and dignities of this body.

Mr. COLLAMER. This is a question of privilege; that is, it is a preliminary question to any proceeding. What we shall vote for depends upon who shall vote. If a question arises as to who shall be entitled to vote, that is a question first to be settled, of course, before anything being done. This being a question of privilege, lying on the table, any member has the right to call it up, and it is up, without dispensing with the previous orders. It lies there to be taken up at any man's suggestion; and this being so, the Senator from New York calls it up. It will require some motion, which the Senate have in their power, of course, to entertain, to get rid of it. It does not require a motion to get it up. Undoubtedly the Senate may defer this to another day, or take with it what order they please after it is called up; but it does not require the dispensing with previous orders to get it up.

The PRESIDING OFFICER. The Chair decided that it did not take precedence of the special order of the day. There was no appeal from that decision. The question now is upon the motion of the Senator from New York, to proceed to the consideration of that subject.

Mr. BAYARD. I would ask the Chair what is the subject? Is the motion to proceed to the consideration of the memorial of the Legislature of Indiana?

The PRESIDING OFFICER. The report of the committee; which is the subject that I understand the Senator proposes to take up.

Mr. BAYARD. I have no objection to that.

Mr. DIXON. I have paired off with the Senator from Georgia, Mr. Toombs.

The question being taken by yeas and nays, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Doollittle, Durkee, Ford, Harlan, Johnson of Tennessee, King, Seward, Simmons, Thompson of Kentucky, Trumbull, Wade, and Wilson—19.

NAYS—Messrs. Allen, Bates, Benjamin, Bigler, Brown, Clingman, Davis, Fitzpatrick, Gwin, Houston, Hunter, Jones, Mallory, Mason, Pugh, Reid, Sebastian, Shields, Sidel, and Ward—20.

So the motion was not agreed to.

Mr. BAYARD. I rise merely to state why I did not vote on the last motion. I should be willing, now or at any time, if gentlemen on the other side desire to debate this matter, to let the question come up. I am willing also to take a vote on the matter to-morrow morning, if they desire it. I do not think we have time to discuss it at large. I confess that I do not think the question presented to the Senate is a debatable question, if you confine yourself to the question, either in the report or the counter-report of the minority. It can consume but little time. I presume the object is to dispose of it. If it be the object to dispose of it, either in reference to the rights of the alleged claimants, or, as I view it, in reference to the rights of those who have been adjudged their seats by the Senate of the United States, I am ready to take a vote at any time. I shall call up the question to-morrow morning.

Mr. CRITTENDEN. Then I have a word to

say, and may as well say it now. I confess, Mr. President, that my judgment has inclined me to regard, and does so still, the former decision of the Senate as conclusive. That has been the inclination of my mind; but yet I am willing to hear that question argued by the gentlemen who represent the State of Indiana here. I may be wrong. It is a State that applies: that the Senate can never forget—one of the sovereign States of this Union that asks to be heard upon a question which she regards as deeply interesting to her, and affecting her representation on this floor. I will hear her so far as my vote goes, and I will decide afterwards according to the best of my judgment. I say in candor, as I am bound to confess, that the inclination of my mind has been strong that the former decision is conclusive; but I will not be so self-confident as to say, when a sovereign State comes here, that I will not hear her plead her cause, and that she cannot possibly change my opinion. I will not repulse her on that ground. On this floor she has peculiar rights; and courtesy, if not right, seems to give her a strong claim merely for an audience, on which she thinks you will decide in her favor. She thinks she is right undoubtedly. We think we are right. Are we afraid to hear her? Why not? Is it the time it will consume? It is only a few hours.

The State is gratified, goes off satisfied that she has had a fair hearing, even though the decision may be against her. I think every consideration of respect and regard for the States, and for the rights of States, ought to prompt us to afford her that privilege. It cannot consume more than a few hours to allow her to be heard; and much more time than that often is as unprofitably used here as it will be by the presentation of the case of the State. I will not refuse to hear her. The very reason she wants to be heard is to convince you, and all of us, that she is right; and you refuse to hear her for the very reason she assigns. You, Senators, are of a contrary opinion to her. She wants to be heard to see if she can convince you that she is right. You say no, because we are sure we are right, and she is wrong. It may be so. As I have said, I am inclined to think that the decision is conclusive; but still I will hear her on that very question. This is what I have to say.

ACQUISITION OF CUBA.

The PRESIDING OFFICER. The unfinished business of yesterday is the bill (S. No. 497) making appropriation to facilitate the acquisition of the Island of Cuba by negotiation; which is now before the Senate as in Committee of the Whole.

Mr. PUGH. Mr. President, the Senator from Vermont, [Mr. Foor,] who is a member of the Committee on Foreign Relations, has notified me that he desired to offer an amendment to this bill, and to explain it; and I feel bound, as he is a member of the Committee on Foreign Relations, to yield to him for that purpose.

Mr. FOOT. I am quite obliged to the honorable Senator from Ohio, for the courtesy he is pleased to extend to me, in yielding the floor to me for a short time. Before the general debate shall have opened on this bill, I desire to move a slight amendment to it, and to endeavor to enforce it by a few remarks. They will be very brief. I desire to amend the bill by inserting, in the twenty-seventh line, after the word "Spain," the words, "and by the United States;" so that, if thus amended, the clause will read as follows:

To be used by him in the event that the said treaty, when signed by the authorized agents of the two Governments, and duly ratified by Spain and by the United States, shall call for the expenditure of the same, or any part thereof.

The purpose of the amendment is, and the effect of it, if adopted, will be, to inhibit the payment of the money appropriated by the bill, or any part of it, to Spain, until the contract which may be made for the purchase of Cuba shall have been completed; until the treaty of purchase shall have been duly ratified by both Governments; until the bargain of sale and purchase shall have been assented to by both parties. This is not only the proper and ordinary mode, but it is the only sensible and straight-forward and business-like mode of proceeding in such cases. No prudent or practical man pays, or authorizes the payment of, a large sum of money upon a contract in process of negotiation, and before it is

concluded; before the bargain is agreed to by both sides. The common and homely old maxim, that "it takes two to make a bargain," is as applicable to Governments as to individuals; and the legal rule that it is no bargain until the minds of both parties meet upon it, applies as forcibly in the one case as in the other. It is time enough to pay when the bargain shall have been fully closed.

Mr. President, however desirable the acquisition of Cuba may be, or however desirable it may be represented to be, under any possible or supposed state of circumstances; however honorable gentlemen may be pleased to magnify the importance of its possession by the United States upon commercial or political considerations, the question of its acquisition by fair and honorable means; the question whether we would have it if we could have it on just and reasonable terms, is not presented to us in the bill now before us. The simple, naked, and only question which this bill, as it now stands, presents to us, is, whether Congress will appropriate \$30,000,000, from an exhausted Treasury, and superadd that amount to an already rapidly accumulating public debt, in order to enable the President of the United States to do just what he has now the right and power to do under the Constitution; which is nothing more nor less than to enter into negotiation with Spain, if she will negotiate at all about it, for the purchase of Cuba? In other words, and more strictly speaking, perhaps, the question, and the only question, presented to us by this bill is, whether you will authorize the President of the United States, in the event of a treaty being negotiated for the purchase of Cuba between the agents of the two Governments, to pay over this sum of money to the Spanish authorities upon the assent of Spain to such treaty, and before it is submitted to us for ratification, and even before the terms and conditions of the treaty shall have been made known to our own Government? That is the simple question presented to us in this bill.

The proposition contained in the bill, as it now stands, is nothing more nor less than this: whether you will authorize the immediate payment of \$30,000,000 to Spain upon her assent to a treaty for the sale of Cuba to the United States, and before the terms and conditions of that treaty shall have been made known to our Government, and which will, of course, be liable to rejection when the terms and stipulations of the treaty shall have been made known to our Government, and when it shall have been submitted to us for ratification or rejection, notwithstanding the prepayment of the \$30,000,000. I can see, then, sir, no possible reason for the appropriation and prepayment of this \$30,000,000, unless it be to serve the double purpose of a bribe to the Spanish authorities to make a treaty, and of an inducement to the American Senate to ratify it.

If the acquisition of Cuba be attainable upon any terms; if it be attainable at all by negotiation; if Spain, contrary to her most positive and solemn declaration, can be induced to open negotiations, or to receive propositions for the alienation of Cuba to the United States; if, in short, the President of the United States shall see fit to open negotiations with Spain, or attempt to negotiate with Spain, for the purchase of Cuba, let him do so. That will be all very well. It is within his constitutional province and prerogative to do so. It does not require the passage of this bill to enable him to do it. It requires no appropriation in advance, and no legislation in advance, to enable him to do so. If Spain can, by any means, be induced to part with Cuba, upon any terms or at any price; if the authorized negotiators between the two Governments shall be able to conclude a treaty for the purchase of Cuba, upon any conditions, let them do so; that will be all well enough. Only let us know the price to be paid. Only let us know the terms and stipulations of the contract. Only let us have an opportunity to say whether we approve or disapprove it, before we hazard the advance payment of an installment of \$30,000,000 towards it. Before we assume the hazard of such an amount of money, we only ask to know, as we have a right to know, whether or not we will agree to the terms of the contract. Before we assume such a risk, we only ask to know, as we have a right to know, whether or not the Senate

of the United States, by the constitutional majority of two thirds, will advise and consent to the ratification of the treaty. That is the privilege and prerogative of the Senate, in its capacity as a coordinate branch of the treaty-making power, without whose sanction all your treaties are null and of no effect.

In truth, if the bill before us shall become a law, as it may, by the concurring votes of a bare majority of the respective Houses of Congress, and with the approval of the Executive; and if, under its provisions, the money appropriated by it shall be advanced to Spain, it commits this Government, so far forth as the prepayment of \$30,000,000 can commit it, to a treaty obligation—to a treaty of bargain and sale which requires the assent of two thirds of this body to give it force and validity; and I submit that it is, so far forth, in effect, if not in purpose, a legislative assumption of the proper executive functions of the Senate. The principle involved in this bill is precisely the same as though it appropriated and authorized the prepayment of \$100,000,000 or of \$500,000,000, or whatever amount should be equal to the sum stipulated in the treaty to be paid, instead of appropriating and authorizing the payment of only \$30,000,000 as a part of the consideration stipulated in the treaty.

The principle is precisely the same, whether, by legislative enactment, you authorize the payment of the whole, or of only a part, of the consideration stipulated in the treaty before that treaty shall have been duly ratified. In any point of view, the principle, or rather the practice, is an innovation, an unwarrantable innovation, the tendency and effect of which is to undermine one of the most conservative provisions of the Constitution. You may thus, under the guise of legislative authority, not only form a treaty, but you may discharge the obligations growing out of it, and perform all the terms and stipulations which it imposes before it is ratified—before it is submitted for ratification—and, consequently, before you can, by any possibility, know whether it will be ratified or rejected. You thus necessarily force upon the Senate the alternative of accepting a treaty which may not commend itself to the favor of a constitutional majority of the body; or, by rejecting it, of throwing upon the Government the loss of the money so advanced, whatever may be the amount, even though it be the entire consideration of the purchase.

Now, sir, it certainly never could have been contemplated by the framers of the Constitution that the Senate of the United States, as a coordinate branch of the executive department of the Government, should be forced to such an alternative. It never could have been contemplated, that in the exercise of its constitutional executive duties it should be compelled to act under the influence of such a constraint. I cannot but look upon this bill, in its principle, its aim and end and effect, as an artful evasion of the constitutional privileges and prerogatives of the treaty-making power, if it be not a direct and unwarrantable infringement of them; and as an attempt to accomplish, by legislative authority, what the Constitution has carefully and exclusively confided to the treaty-making power; and thus to do indirectly what, perhaps, you may have reason to apprehend cannot be done directly through the proper constitutional agency. I cannot but look upon this bill, in its effect and operation, as a dangerous usurpation—the term is not too strong a one—of the proper executive functions of the Senate, and as an insidious movement to avoid, to get around, and to get rid of, the restrictions and limitations imposed by the treaty-making power and thus practically to remove one of the strongest constitutional safeguards of the public security.

But, Mr. President, independently of these and of many other considerations, which I do not propose now to discuss, we meet this bill appropriating \$30,000,000, to facilitate the acquisition of the Island of Cuba by negotiation, with the primary objection, which is, or ought to be, controlling and decisive, in the fact, the significant fact, that the Island of Cuba is not for sale—that it is not the subject of negotiation. The sole and exclusive proprietor of that island says so. Spain has made proclamation to the world, that Cuba is not for sale, and that she will listen to no proposition for its alienation. It is not to be purchased upon any terms, nor at any price,

short of the price of blood. This is the unanimous voice of the Spanish ministry, and of the Spanish cortes, and all parties in Spain. How idle is it, then, how far more than idle is it, to be appropriating the vast sum of \$30,000,000 to enable us to acquire by negotiation, what we know, and what the world knows, cannot be acquired in that way? Spain has already spurned our offer of \$100,000,000 for Cuba. She will spurn it again, though your offer be for twice or three times that amount. She regards the very proposition as an indignity to her honor, or to her pride, or if you please, to her very weakness, especially when the very question is accompanied with a quasi menace, and in a tone of arrogant assumption, or of dictatorial demand, as in the last Executive message.

I will not characterize this proposition by any harsh or offensive terms. I have no disposition to do so. It would not become me to do so. It would not become the position and the presence in which I stand to do so. I do not stand here to denounce it as a transparent humbug, or as an experimental piece of political chicanery, as I have heard and seen it denounced; but I do say, sir, that, looking at the present financial condition of our national Treasury, looking at the prospective revenues of the Government, and looking at the present temper and disposition and determination of Spain, there has not been a period within the last forty years more inopportune or more inauspicious, in which to bring forward this proposition, than the present time. Your Government is deeply in debt, and running more deeply into debt every passing day, while your current annual revenues little more than exceed one half your current annual expenditures. If Spain were ready and willing this day to part with the Island of Cuba to the United States for \$500,000,000, or for \$300,000,000, or even for \$100,000,000, you have no such sum; you have provided no means or measures for raising any such sum wherewithal to pay for it. The proposition is, in my judgment, not only premature and impracticable, but, in the existing state of things, allow me to say, it is utterly preposterous.

But, sir, I promised to occupy but a very few minutes in a few words of remark on the proposition of amendment which I have offered; and I will say no more upon the general subject at this time, but simply to move the amendment I have indicated. I am obliged to the Senator from Ohio for this opportunity of doing so, and of submitting these few remarks upon it.

Mr. PUGH. In the character of a substitute for the proposition of the Senator from Vermont, I shall offer this amendment, to come in after the word "practicable," in the thirtieth line of the bill, to insert:

And no payment shall be made, under the authority of this act, on account of any treaty which may require, in all, more than \$150,000,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

Mr. PUGH. In proceeding to consider the question whether Cuba ought to be annexed to the United States, I am not unmindful of the earnest declaration made by the Senator from Virginia, [Mr. Mason,] that the enlargement of our domain, for the purpose of enlargement only, is an unwise policy, and of dangerous consequence. Whether I should or should not agree with him, in this regard, is immaterial at present; no such enlargement has been, or ever was, seriously proposed. We have in the United States a people energetic and ambitious to the last degree; and our youth will not be restrained from those fields of enterprise in which others have failed, but in which they are confident of success. You may enact laws and elaborate treaties and deliver maxims and issue proclamations; you may send navies and armies whithersoever you will; but my word for it, Senators, when you undertake to stay the path of man's conquest over the material world—over the wastes of the land or the wastes of the sea—when you undertake to fortify sloth or imbecility or barbarism, against the inroads of industry, courage, and civilization—whether in Cuba, or Mexico, or Central America, or anywhere else—you undertake a vain and a fruitless task. If our system of government be not adequate for such emergencies; if it should ever be placed in antagonism to the generation which, with pulses warmer and

quicker than inspire us, with genius more exalted than we can boast, with zeal too heroic for our comprehension, now presses forward to the places we fill to-day, and soon must drive us from the scenes of action; then, as certainly as the day pursues the night, will grander and nobler systems of government be inaugurated in its stead. The wisdom of our time, the duty to which we have been called, is to avoid such antagonism, and to adapt, by well-ordered amendments, not only our legislation, but our general policy, to the necessities of our children; that so, after we shall have forsaken these places, these honors, and these cares, and gone to our last repose, the Constitution and the Union in which we now rejoice, with the splendid organization of States thereby represented, glorious in the achievements of the past and the energies of the present and the hopes of the future, will remain securely established forever.

The boundaries of the United States have been extended, Mr. President, on four memorable occasions—by the acquisition of Louisiana, of Florida, of Texas, and of New Mexico and California. But, sir, besides these, every admission of a new State is, and must needs be, an extension of our system of government. On the 30th of April, 1789, when our first President entered upon his first term of administration, the ambassadors of eleven sovereignties were summoned to the spectacle; when we followed the Senator from Virginia, as our presiding officer, to the eastern access of the Capitol, on the 4th of March, 1857, we represented thirty-one sovereignties; and since that time—since we installed Mr. Buchanan in the presidential chair—Minnesota has been added to the number. We can wisely decide, therefore, on the experience of more than half a century, as to the effect of extending our Federal system. There is no man, probably, within the sound of my voice, who does not now acknowledge (whatever he may have said heretofore) that the fate of our republican institutions, our independence, and our prosperity, was involved in the contest between John Adams and Thomas Jefferson for the administration of the executive department. That contest was decided by the votes of States admitted after the Constitution had been adopted. Adams triumphed over Jefferson, in December, 1796, by three votes, and Jefferson over Adams, in December, 1800, by eight votes. But Jefferson received the votes of Kentucky and Tennessee; and, upon his second election, in December, 1804, the vote of Ohio. The subsequent triumphs of Madison and Monroe, candidates of the ancient and genuine Republican party, were secured by the accession to the Union of Louisiana, Indiana, Mississippi, Illinois, Alabama, and Maine—as the triumph of the Democratic Republican party, since that time, has been secured by the accession of other new States. The problem of our destiny, as a nation, was solved by the reelection of James Monroe, in December, 1820. A country so extensive as the United States, even at the period of our independence, with interests so widely diversified, never can be subject to a consolidated government: it requires a Confederacy, limited to the regulation of those affairs which all the States have in common, and excluded from everything else. Herein, at length, was manifest the wisdom of that Constitution our fathers had ordained; and slowly above the world's horizon, above the clouds and the mists which obscured its rising, appeared a new constellation; of stars equal and separate in glory, but of glory also in common; various in design, but of kindred influence; alike in movement, and therefore in effect; a constellation which now enlightens the whole western hemisphere, and calls to its adoration the hearts of such as love liberty everywhere on the habitable earth—I mean, sir, THE CONSTELLATION OF OUR IMPERIAL REPUBLIC.

Let us not be timid, nor too tardy, in pursuing the path trodden by the wisest of our predecessors. With such boundaries as we have, at present, no mere lust of dominion ought to be encouraged or tolerated; but only as the necessities of our people require, from time to time, should the confines of the Union be enlarged. This rule is a safe one; it is one easily observed, as well as defended, because it is the law of our national growth and development. If the acquisition of Cuba be within this rule, as I shall endeavor to show, our duty and our interest alike demand

that we should omit no reasonable endeavor toward its accomplishment. To frustrate such an enterprise on account of sectional, or partisan, or personal considerations, would be to degrade our country from the high position which she now occupies.

The Island of Cuba extends almost from the seventy-third meridian of longitude west from Greenwich, to the eighty-fifth meridian, and lies between the tropic of Cancer and the nineteenth parallel of north latitude. Its area is thirty-four thousand two hundred and thirty-three square miles; that of its principal dependency, the Isle of Pines, eight hundred and ten square miles; and that of other dependencies (small islands) nine hundred and seventy square miles. It is almost as large, therefore, as the State of Ohio, and larger than the State of Indiana. The richness of its soil, the luxuriance of its agricultural production, its genial climate, the wondrous beauty of its hills, rivers, woods, and plains, attracted the admiration of Columbus on his first voyage of discovery; and supposing this to be a part of the Asiatic continent, he mistook it for the kingdom of Cathay, described, half in fable and half in fact, by the elder geographers and travelers. Since that time, the capacities and resources of Cuba have been ascertained to be greater than those of any region, of equal extent, upon the globe. The staples of exportation, at present, are sugar, coffee, cigars, tobacco in leaf, molasses, honey, and wax; these being so profitable, in late years, as almost entirely to exclude cotton, indigo, wheat, hemp, flax, and the produce of the vine.

It has been shown to us, by the reports of the Committees on Foreign Relations, in the Senate and in the House, that free commerce between Cuba and the United States is now an absolute necessity for both; that, upon the immense quantities of sugar and molasses imported thence annually, we pay an export duty to the Spanish Government as well as an import duty to our own; that, on the other hand, the stores of meat and bread-stuffs exported from all our Northwestern States, through New Orleans, and along the very shores of Cuba, cannot find admittance there, because of discriminating duties against us, levied by Spain, amounting to nearly or quite one hundred per cent. These considerations are of vital interest to the people whom I have the honor to represent, and are alone sufficient, in my estimation, to require that the Government of the United States should tolerate no obstacle, whether of diplomacy or even of war, between us and a reciprocal interchange of production.

The aggregate of taxation *directly* imposed on foreign sugar and molasses, consumed in the United States, during the last year, as shown by the report of the House committee, is \$6,346,184; and the enhanced price of Louisiana sugar and molasses, caused by the duty of twenty-four per cent. on importations, amounts to an additional taxation (indirect) of almost two millions more. This, in a year of magnificent crops at home, is what we pay for the production, in Louisiana, of one hundred and seventy-five thousand tons of sugar, or (say) fifteen to eighteen millions of dollars in value. If the Government of the United States be under obligation to "protect" the planters of Louisiana, by insuring them a specific price for sugar annually, how much more sensible would it be to adopt, at once, the policy of Holland toward her colonists in Java, purchasing the entire crop, each year, and reselling even at a loss of three or four millions? That would save the consumers one half, at least, of the burden now imposed.

I have noticed in several newspapers an appeal to Congress for the taxation of tea and coffee. Sir, those articles are taxed already, and taxed enough. What difference to the man who would drink a cup of tea or of coffee, whether he pays twelve per cent. on the tea or the coffee, and twelve per cent. on the sugar with which it is made palatable, or pays twenty-four per cent. on the sugar alone?

On the other hand, as sugar is only produced by the labor of slaves, and we have forbidden the importation of slaves from abroad, while the African slave trade as well as the Chinese slave trade flourish in Cuba, it has been fairly argued that as we have increased the price of slave labor in Louisiana, by legislation, for reasons of wise and

humane policy, we ought not to reward the inhumanity, the bad faith, and the turpitude of the Spanish authorities in Cuba, by an equal access to our markets. The way to avoid this alternative—to be just toward Louisiana and toward the consumers of sugar—is to annex the Island of Cuba to the United States, and thus bring it within the operation of our laws for the suppression of the slave trade.

But sugar is not the only article in regard to which an inequality of trade with Cuba exists. On all exportations, except sugars, there is a discrimination of thirty-three to one hundred per cent. against us. In the report on Commercial Relations, volume 3, page 127, it is said:

"Exports.—By the tariff of 1847, sugar in foreign bottoms pays 37½ cents a box; in Spanish 25 cents. Coffee in foreign bottoms pays 20 cents a bag; in Spanish 12 cents. Tobacco in foreign bottoms pays \$1 50 per one hundred pounds; in Spanish 75 cents. Cigars (no discrimination) 50 cents per thousand. Gold of every description exported in foreign bottoms to foreign or Spanish ports, two and a quarter per cent. on valuation of \$16 per ounce; to Spanish ports in Spanish vessels, nothing. Silver of any description, in foreign or Spanish bottoms to any foreign ports, three and a quarter per cent. on valuation of \$16 per pound; to Spanish ports in foreign or Spanish vessels, nothing. All other produce exported to foreign ports pays on the valuation seven and a quarter per cent. in foreign vessels, and four per cent. in Spanish; to Spanish ports in Spanish vessels, three per cent. and one per cent. balanza.

"By virtue of the royal order, before mentioned, of November 3, 1850, (published here 19th December of said year, and which began to be enforced in respect to exportations on 1st January, 1851,) the following additional duty is levied upon exported produce: 50 cents per box of sugar; 25 cents per one hundred pounds of tobacco, or per thousand of cigars."

Turning from exports to imports in Cuba, the discrimination is even more remarkable. Thus, on page 126 of the same report, I find:

"The last tariff for imports and exports of the Island of Cuba commenced to be enforced in 1847. The import duties on articles of every description are levied upon a fixed average value of the articles in the island. The valuation is specified in the tariff. Foreign merchandise in foreign bottoms pay some twenty-seven and a half per cent.; others thirty-three and a half per cent.; foreign merchandise in Spanish bottoms, from foreign ports, some nineteen and a half per cent., others twenty-three and a half per cent. Fine jewelry is excepted; if foreign, coming in foreign bottoms, it pays seven and a half per cent.; if in Spanish bottoms, five and a half per cent. Spanish jewelry, coming either in Spanish or foreign vessels, pays only three and a half per cent. The same rates of nineteen and a half per cent. and twenty-three and a half per cent., are levied upon foreign merchandise coming from the peninsula in Spanish bottoms. Spanish goods coming in foreign vessels, pay some fourteen and a half per cent., others seventeen and a half per cent. All Spanish productions or manufactures, (with the exception of jewelry, as above stated,) that come in Spanish vessels, pay seven and a half per cent."

And now comes (page 127) a paragraph well worthy of attention:

"The above does not include flour, which, by virtue of several royal orders, pays the following rates: Spanish flour in Spanish bottoms.....\$2 00 per barrel. Spanish flour in foreign bottoms.....6 00 " " Foreign flour in foreign bottoms.....9 50 " " Foreign flour in Spanish bottoms.....8 50 " "

"All flour pays, besides, two per cent. on the valuation of \$12 50 per barrel, and one per cent. balanza. "Subsequently, one half per cent. was added upon all imports; and still later, (19th December, 1850, by virtue of a royal order, dated 3d November, of same year,) an additional increase was laid on, to last for two years, of one and a half per cent. on valuation of all foreign imports, and one seventh to be charged over and above the amount to that time paid on Spanish imports. This increase was to cover certain necessities of the Government. The two years went by long ago; the necessity may have passed; but the additional percentage is still exacted."

It thus appears that every barrel of flour imported from the United States is valued at \$12 50 for the purposes of taxation, and is taxed \$10 85. Accordingly, in 1851, there were imported into Cuba only two thousand one hundred and two and a half barrels of flour, of the value of \$26,281 25, on which duties to the amount of \$20,704 36 were levied. (Commercial Relations, vol. 3, page 128.)

The valuation of \$12 50 per barrel seems to have been adopted for the purpose of avoiding the effect of our treaties with Spain; a species of refined iniquity like the "home valuation" often proposed to us, but happily repudiated from our first tariff act until the present time.

When you consider that the United States hold, geographically, toward Cuba, the relation of the nearest exporter of flour, this practical exclusion of us from her market, by such a discrimination of duties, cannot be otherwise than unjust and offensive in the last degree. Nor is it an accidental injustice: it is part of that policy which Spain has pursued toward us whenever, and as

often as, she could find an opportunity or excuse. In the report on Commercial Relations, vol. 3, page 131, the compiler says:

"I find, on a critical examination of the whole Spanish tariff, embracing three thousand and sixty-one articles, a discrimination to the prejudice of the United States in all cases where the interests of the consumers and Government here do not compel a contrary course; and, for example, in the following manner, whereby to escape observation and the charge of unfair treatment: handkerchiefs of cotton, for duty, assessed at thirty five and a half per cent., and one per cent. balance on valuation; while, of all other material, and of expensive fabrics not made in, or of products of, the United States, they are assessed at twenty-nine and a half per cent., and one per cent. balance on valuation."

The same page indicates fully the extent of all this injustice:

Summary.

Duties paid at the ports of the Island of Cuba by vessels of all nations, including cargoes by same.....\$8,573,086 62
Duties paid by vessels of the United States, with their cargoes, and including other fees, tonnage, light, and mud-machine dues.....3,338,120 91

Difference.....\$5,534,965 71

Commercial movement of Cuba with the world.....\$57,234,178 92½
Commercial movement of Cuba with the United States.....18,663,553 98

Difference.....\$38,570,624 94½

The commerce of Cuba with the United States, as here shown, bears about the proportion of one third of all her commerce; and yet on that third, \$18,663,553 98, we pay three fifths, \$3,338,120 91, of all the duties.

But, sir, the geographical position of Cuba, without reference to any other fact, is enough to decide the whole question. Remember that Cuba lies in the very gorge of the Gulf of Mexico; that no vessel can enter, or find exit, until she has passed the guns of Spanish fleets and forts; that the nation which controls Havana, now and henceforth and forever, must hold our immense property, as well as the lives of our citizens and the honor of our flag, at its own discretion. The most truthful and famous of travelers, Alexander Humboldt, has described this in language at once glowing and accurate:

"That northern portion of the sea of the Antilles known as the Gulf of Mexico, forms a circular bay of more than two hundred and fifty leagues diameter: as it were, a mediterranean with two outlets, whose coasts, from Cape Florida to Cape Catoche, in Yucatan, appertain exclusively, at the present time, to the Confederations of the Mexican States and of North America. The Island of Cuba, or, more properly speaking, that part of its shore between Cape San Antonio and the City of Matanzas, situate near the entrance of the old Bahama channel, closes the Gulf of Mexico on the southeast, leaving to the oceanic current we call the Gulf Stream, no other passages than a strait on the south, between Cape San Antonio and Cape Catoche, and the Bahama channel on the north, between Bahia Honda and the reefs of Florida."

"Near to the northern outlet, and immediately where a multitude of highways thronging with the commerce of the world cross each other, lies the beautiful port of Havana—strongly defended by nature, and still more strongly fortified by art. Fleets sailing from this port, built in part of the cedar and mahogany of Cuba, may defend the passages to the American mediterranean, and menace the opposite coasts, as the fleets sailing from Cadiz may hold the dominion of the ocean near the columns of Hercules. The Gulf of Mexico and the old and new Bahama channels unite under the meridian of Havana."

On the 3d of September, 1783, when Great Britain acknowledged the independence of the United States by definitive treaty, Spain had exclusive dominion of the Gulf of Mexico, and because she owned the entire coast from the Cape of Florida to the Cape of Yucatan; her possession of Cuba, at that time, was altogether appropriate. On the 30th of April, 1803, the United States acquired Louisiana, from the Perdido river to the Rio Grande, by treaty with France—to which Power Spain had ceded the province three years before—and thus acquired an interest in the Gulf of Mexico and its commerce. On the 22d of February, 1819, Spain ceded to us, by treaty, the provinces of East and West Florida; and obtained from us, in part recompense, the country between the Rio Grande and the Sabine river. Very soon afterwards, Mexico established her independence, and Spain ceased to be the owner of a single inch of the Gulf coast.

Texas separated from Mexico in 1836, asserting, and successfully maintaining, independence. In December, 1845, she was annexed to the United States; and in February, 1848, Mexico ceded to us all claim on Texas, westward to the Rio Grande, as well as the provinces of New Mexico

and Upper California. In the same year (1848) Yucatan asserted her independence; since which time, that province never has been subdued by Mexico, but has gradually relapsed into barbarism.

The present condition of the Mexican Republic—and, indeed, her condition for the last eleven years—is that of anarchy, retrogression, and ultimate ruin. Without regard, therefore, to our duties imposed by the acquisition of California and the colonization of the Pacific coast—involving, as those duties must, the care of the Tehuantepec isthmus, and all inter-oceanic routes—the United States have a greater interest in the Gulf of Mexico than any other nation. Why, therefore, should Spain command us in that quarter? She has no longer a colony on the Gulf coast, nor does she contribute anything to its commerce. The possession of New Orleans by France, in 1800, was not as objectionable as the possession of Cuba by Spain has now become. It is a possession by mere strictness of title, and without any reason or equitable consideration. What would be our decision, or that of any candid man, to-day, if Spain had repeatedly endeavored to purchase Gibraltar from Great Britain; and finding all such overtures rejected, while the retention of that fortress by a foreign Power constantly endangered the peace and welfare of her people, should deliver herself, nobly, at the point of the sword? And yet Spain has not a case of such merit in regard to Gibraltar, as we now present in regard to Cuba; for Spain is not alone interested in the commerce of the Mediterranean sea, and holds only a small share of its coast; whereas, we own the Gulf of Mexico, practically, and are entitled to the key which locks and unlocks it.

There is another fact worthy of the utmost consideration. While Spain thus controls at mercy, and without any reason, the commerce and the necessary defense of our western and southern States; while she violates (as I have shown) all the obligations of comity and fair intercourse between neighbors, it is, nevertheless, impossible for us to avoid relations with her. The winds and the waves continually complicate the difficulties caused by her position towards us. Vessels engaged in the trade of the Gulf, sailing to or from Galveston, New Orleans, Mobile, or Pensacola, are often compelled to seek refuge in the ports of Cuba, or be wrecked upon its shore; and often, in such cases, the gravest outrage is perpetrated by the Spanish authorities—outrage on the law of hospitality acknowledged by all nations; outrage caused, nine times in ten, by sheer wantonness and malice. Cuba has no constitutional, or even responsible, government; neither the inhabitants of the island nor foreigners, whether sojourning there from choice or necessity, have the least safeguard of liberty, property, or right. The will of the Captain General is the law for Cuba in all cases—a Spanish soldier sent to repair his broken fortunes at the expense of the people over whom he tyrannizes. He appoints the judges and ministerial officers; he can remove any of them at pleasure. To describe such oppression, in every detail, is a task beyond my abilities; I adopt, therefore, the words of one who has been its victim:

"In the first place, Cuba is not, by far, a Government that can be tolerated by any civilized nation. It is rather a focus of outlaws, the present Captain General having been once declared a traitor, and condemned to death in Spain, which wishes to keep far off such contagion, while she is robbing and killing through the orders of the aforesaid Governor, invested with the arbitrary powers of suspending any judge that does not follow the programme formed by himself in regard to any individual, either a Cuban, a citizen of the United States, or English, or French.

"The present system of administration is: the Captain General addresses the highest tribunal, declaring that such a man is a filibuster, and deserving imprisonment. This order the tribunal obeys, and then three or four men are selected by the Governor from amongst his own people, to attest that he has spoken in favor of annexation, or he is accused of secreting arms for revolutionary purposes, which arms, probably, have been placed in their hiding places by the minions of the accuser himself. In case the judges do not obey, they are suspended, as was the case when they gave sentence in favor of Mr. Embil, who opposed the robbing of some of his property. Seven judges of the inferior and superior courts were suspended.

"Such an awful state of affairs, which exposes daily the property and lives of citizens of every nation, cannot be tolerated or accepted as legitimate, when it is really a farce on justice."

It is no matter of astonishment consequently that from year to year, and almost from month to month, we have serious complaint of injuries

committed in Cuba to the persons and property of our citizens. But, sir, what avail such complaints? They cannot be preferred to the Captain General; because, although his power of mischief and offense is unlimited, he has no power of redress. They must be preferred to the Court of Spain; transmitted thence to Havana for investigation, and returned to Madrid for argument and decision. Thus, while the most flagrant outrages have been committed at our very doors—outrages from the occurrence of which our citizens could not even guard themselves—such as have sought redress (and few ever found that worth their while) were compelled to seek it on the other side of the world, and after having traversed the ocean, backward and forth several times, until fortune and health and patience became exhausted, to abandon the attempt as altogether hopeless. Truly, as the House committee has said, our list of claims against Spain, of this description, resembles the docket of prosecutions in some county court; except, indeed, that we have no reasonable prospect of judgment, or even trial.

While I shall vote for this bill, and especially with some restriction as to the amount which may be tendered, I am not sanguine of success in the negotiation; but when that shall have failed, or been refused, another duty awaits the President as well as ourselves. It is to notify Spain that she must arm the Captain General of Cuba with diplomatic powers; that no further complaint will be made by the United States, at the Court of Madrid, on account of outrages committed under his jurisdiction; that, upon the next occasion of serious injury to our citizens in Cuba, redress will be demanded on the spot, and exacted, if need be, at the cannon's mouth.

In this, sir, we should only imitate the example of James Madison and his supporters, in Congress, when Spain pursued towards us, in regard to Florida, the same policy which she now pursues in regard to Cuba.

Resolution and act relative to occupation of the Floridas by the United States of America.

Taking into view the peculiar situation of Spain and her American provinces, and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity, and commerce: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign Power, and that a due regard to their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they, at the same time, declare that the said territory shall, in their hands, remain subject to future negotiation.

Approved, January 15, 1811.

An act to enable the President of the United States, under certain contingencies, to take possession of the country lying west of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to take possession of, and occupy all, or any part of the territory lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, in case an arrangement has been or shall be made with the local authority of said territory for delivering up the possession of the same or any part thereof to the United States; or, in event of an attempt to occupy the said territory, or any part thereof, by any foreign Government; and he may, for the purpose of taking possession and occupying the territory aforesaid, and in order to maintain therein the authority of the United States, employ any part of the Army or Navy of the United States which may be necessary.

Sec. 2. And he it further enacted, That \$100,000 be appropriated for defraying such expenses as the President may deem necessary for obtaining possession of, and occupying, and the security of the said territory, to be applied, under the direction of the President, out of any money in the Treasury not otherwise appropriated.

Sec. 3. And he it further enacted, That in case possession of the territory aforesaid shall be obtained by the United States, as aforesaid, that, until other provision be made by Congress, the President be, and he is hereby, authorized to establish within the territory aforesaid a temporary government, and the military, civil, and judicial powers thereof shall be vested in such person and persons, and be executed in such manner, as he may direct, for the protection and maintenance of the inhabitants of the said territory, in the full enjoyment of their liberty, property, and religion.

Approved, January 15, 1811.

This act and the resolution which accompanied it, were not published for almost two years; Congress having so directed in the act of March 3, 1811, at the same session. Clearly, then, no menace was intended, but an effectual provision for the redress of injuries and the public defense.

The next Congress adopted a similar act for West Florida:

An act authorizing the President of the United States to take possession of a tract of country lying south of the Mississippi Territory and west of the river Perdido.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to occupy and hold all that tract of country called West Florida, which lies west of the river Perdido, and now in possession of the United States.

Sec. 2. And he it further enacted, That for the purpose of occupying and holding the country aforesaid, and of affording protection to the inhabitants thereof, under the authority of the United States, the President may employ such parts of the military and naval force of the United States as he may deem necessary.

Sec. 3. And he it further enacted, That, for defraying the necessary expenses, \$20,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, and to be applied for that purpose under the direction of the President.

Approved, February 12, 1813.

Such proceedings are not only in accordance with the law of nations, but with that law of nature which defines the rights of men everywhere, in barbarous as in civilized countries. It is the measure exacted of us by Great Britain, when the steamer *Caroline* was seized on our own shore, at midnight, drawn into the current, and fired, like some gorgeous sacrificial pageant, an Iphigenia colossal as the deity to whom she had been devoted, speeding to the inexorable abyss of Niagara.

The letter of Lord Ashburton to Mr. Webster, July 28, 1842, contains this remarkable sentence:

"Self defense is the first law of our nature, and it must be recognized by every code which proposes to regulate the conditions and relations of man."

Having narrated the circumstances at length, Lord Ashburton said:

"This force, formed of all the reckless and mischievous people of the border, formidable for their numbers and from their armament, had in their pay, and as part of their establishment, this steamer *Caroline*, the important means and instrument by which numbers and arms were hourly increasing. I might safely put it to any candid man acquainted with the existing state of things, to say whether the military commander in Canada had the remotest reason, on the 29th of December, to expect to be relieved from this state of suffering by the protective intervention of any American authority? How long could a Government, having the paramount duty of protecting its own people, be reasonably expected to wait for what they had then no reason to expect? What would have been the conduct of American officers? What has been their conduct under circumstances much less aggravated? I would appeal to you, sir, to say whether the facts, which you say you would alone justify this act, namely: a necessity of self-defense, instant, overwhelming, leaving no choice of means, and no moment for deliberation, were not applicable to this case in as high a degree as they ever were to any case of a similar description in the history of nations."

Our Government acknowledged the doctrines here professed; and, by their application to the case, Great Britain became absolved of all liability and censure. But, sir, the *Caroline* was not so much an instrument of mischief to the British authorities in Canada as the mere possession of Cuba by Spain is now to us. We cannot avoid Cuba in any manner; it is there, at the entrance of the Gulf, commanding all access and escape; and it must either belong to us, or, at least, be so governed as not to give us continual uneasiness. No man, and therefore no nation, has any right to retain a cause of injury at the door of a neighbor, without having there also immediately at hand, the means of precaution and of redress. "When thou buidest a new house," said the law of Moses, "then thou shalt make a battlement for thy roof, that thou bring not blood upon thine house, if any man fall from thence." (Deuteronomy, xxii. 8.) How much more does it behoove Spain, holding the Island of Cuba by a formal title, contrary to the wishes of the people over whom that title is maintained, to avoid the injustice which she has exercised, thus far, toward the persons and the property of our citizens?

That the people of Cuba—and I do not include, by this, the municipal dignitaries in Havana & elsewhere, appointed by the Captain General—that the people of Cuba really desire annexation to the United States, I have no doubt. To allege that they are contented with the present system, is not only to confess ignorance of their condition and history for the last ten or twelve years, but to deny them all the characteristics of manhood. Neither in Cuba, nor anywhere else, on this or the other side of the Atlantic, can there be found an individual of the Caucasian race who

does not aspire, in his heart of hearts, to some participation in the Government under which he lives, its powers, its honors, its emoluments, as well as endeavor to attain the security of his person and possessions. If the people of Cuba are so well satisfied, why does Spain consume almost the entire revenue of the island, annually, for the maintenance of twenty-five thousand soldiers, not to mention officers of the civil list, spies, detectives, and the like? It is a larger army than we require for the defense of our vast boundaries and the subjugation of all our Indian tribes.

There is no argument for union between Cuba and Spain except community of blood. That did not prove sufficient in Mexico, nor in Central or South America; it did not restrain our colonial ancestors, although of English descent, when the time for revolution arrived.

Cuba could not, if she would, maintain her existence as an independent nation. Texas tried that for eight or nine years, and failed. In every respect, therefore, the proximity and natural relations of Cuba are such as to demand, for her sake and our own, that she should be annexed to the United States.

The Senator from New Hampshire [Mr. HALE] asserts that for us to acquire Cuba, even by means of purchase, would be an act of gross injustice toward Spain; which argument he founded on certain historical suggestions. He said:

"I am not skilled in the diplomatic history of this country, but I think it will be found to be a fact that Spain, our earliest ally, has maintained her treaty stipulations of peace, amity, good will, and friendship with us, from the time when, in 1778, she extended to us the right hand of friendship, when we were struggling for a name and a place in the family of nations. Then, in our feebleness, in our infancy, in our poverty, nay, in our very destitution, when we had neither a name to live, nor an arm to defend ourselves with, she came to our aid; she lent us money and men and ships, and she rendered us service when it was needed; and from that day to this, Spain has maintained, in unbroken succession, the position and the relation of an ally and a friend."

That Spain had either money, or men, or ships to lend any one, in 1778, is a fact rather difficult to be established; certain it is that she lent us none, nor did she ever assist us in any manner.

Our first treaty with her was on the 27th of October, 1795, long after we had achieved independence, and even established our present form of Government, toward the close of Washington's second term. It was not a treaty of alliance, but for the settlement of boundaries between her colonies and us, and to define accurately our right to navigate the Mississippi river. (Statutes at Large, vol. 8, p. 138.) Its twenty-first article was for indemnification of outrages which she had committed on our citizens. Since that time, so far as my research extends, our relations with her always have been of the most unsatisfactory character. Omitting the controversies in regard to Louisiana, until the cession of that colony to France, and afterwards to us, I come to the case of the Floridas, in February, 1806, when a proposition of purchase, similar to this, was made by Congress. On the 15th of January, 1811, as I have shown, Congress authorized the President to take possession of East Florida; and on the 13th of February, 1813, to take possession of West Florida. On the 22d of February, 1819, those two colonies were ceded to us by treaty; and yet, so conspicuous was the bad faith of Spain, the exchange of ratifications did not occur, was delayed, in fact, by one frivolous pretext after another, for almost or quite two years. President Monroe was provoked to the last degree, and in his annual message of December, 1819, recommended that Congress should authorize him to take possession of the ceded territory as though the treaty had been ratified. These facts are well narrated by Mr. BRANCH, of North Carolina, in the report of the House Committee on Foreign Affairs. He has truly depicted, also, the character of our relations with Spain for the last ten or twelve years.

"Nothing can be more irritating to an independent and spirited nation, or better calculated to precipitate collisions, than to have such vast and delicate interests as our most important coastwise intercourse compelled to pass almost within hail of foreign fortifications, and to run the gauntlet of alien fleets. Hence, our relations with Spain are constantly of a semi-hostile character, and our Minister at Madrid can do little else than wrangle with the Government to which he is accredited about high-handed outrages and petty grievances inflicted upon our citizens, which Spanish officials in Cuba are armed with full power to inflict but none to redress."

The Senator from New York [Mr. SEWARD] declares that a proposition to Spain for the ces-

sion of Cuba, will be a grave insult, and one which she must and will resent. He adduces, in proof, the report of certain very high-toned speeches of the Spanish Minister and others, lately delivered in the Cortes, at Madrid. How such a proposition, expressed in polite language, can be construed as an insult or indignity, altogether exceeds my comprehension. It is easy for him who seeks an insult, at any time, to be insulted; otherwise, the Spanish Minister has rendered himself quite ridiculous. An insult to propose that Spain should cede to us, for money or any other consideration, a colony as remote from her, and as near to our boundaries, as the Island of Cuba! It was not an insult, nor received as such, eleven years ago, in Mr. Polk's time. Really, sir, Spain would seem to have learned a new point of honor since February 22, 1819, when she listened to such a proposition in regard to Florida, and even accepted it—thus pocketing the insult and the money together. Did Napoleon Bonaparte understand when he was insulted? If so, hear what Mr. Jefferson said to him:

"I should suppose that all these considerations might, in some proper form, be brought into view of the Government of France. Though stated by us, it ought not to give offense; because we do not bring them forward as a menace, but as consequences not controllable by us, but inevitable from the course of things. We mention them, not as things which we desire, by any means, but as things we deprecate; and we beseech a friend to look forward and to prevent them for our common interests."

Bonaparte discovered no insult in this, and felt no dishonor in ceding to us, for money, the whole province of Louisiana. Surely, sir, the terms of intercourse between him and us, half a century ago, when he was at the zenith of power and splendor and we were struggling with infantile helplessness, are good enough for us to adopt, in present circumstances, toward the Spanish Minister or the minister of any other nation. If such terms be construed into an offense, and especially where offense has been disclaimed, let those who would be prouder than Napoleon, whether Spaniards or others, show us whereon their pride is founded.

We are admonished, also, that Great Britain and France will not suffer us to acquire the Island of Cuba. Said the Senator from New York:

"Heretofore, Spain has held the Island of Cuba in the midst of conflicts between the two great Powers of western Europe. England and France, liable to lose it to one or the other belligerent at any moment. To-day, England and France are not only allies, but they are united in the policy of maintaining Spain in the enjoyment of the Islands of Cuba and Porto Rico, the last remnants of her once world-wide empire."

Well, sir, Great Britain and France have no legitimate concern with the question; their business lies chiefly on the other side of the Atlantic; and, unless they are anxious for a controversy with us, they will abstain from all interference. If there be one maxim to which our national honor is pledged; a maxim delivered to us, time and again, by the oracles of revolutionary wisdom; it is that the European system of dictation by sovereigns to each other, shall never be extended to this Continent. Whenever we yield that, under any menace or apprehension, the day of our greatness will decline; we shall have become so far corrupted by wealth, so indolent and effete, that our liberties are at the mercy of him who will seize them, and our Republic will soon pass into history forever.

Twenty-five years ago, on the 2d of December, 1823, President Monroe addressed Congress in these memorable words:

"The political system of the allied Powers is essentially different, in this respect, from that of America. This difference proceeds from that which exists in their respective Governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor, and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt, on their part, to extend their system to any portion of this hemisphere, as dangerous to our peace and safety."

These words, uttered in the time of our comparative feebleness, with no such elements of prosperity as now fill our gaze on every side, sufficed to deliver Mexico and Central and South America from the dominion of a European alliance. Will their emphatic repetition to-day deliver Central America and Mexico and Cuba from the dominion of a European alliance which now threatens them? Alas! sir, I know not; but I

do know that, accordingly as President Buchanan shall enforce at every hazard, or shall shrink from, the doctrines proclaimed by Mr. Monroe, in December, 1823, so will his Administration be one of the most glorious, or the meanest, in all the annals of our empire.

It is quite probable that Great Britain and France will resist, even to the uttermost, our endeavors to acquire Cuba, or to extend our boundaries in any direction. When I speak of France, however, I speak not of our ally in the ancient and famous time. That France no longer exists; her pride and her liberties were betrayed, together, in the very house of confidence; while the France of which I now speak—the France of Louis Napoleon—like a petty German State, subsidized for the occasion, merely executes the designs and contributes to the grandeur of that monarchy which, from the earliest period, has attempted, but never before accomplished, her entire humiliation. With Great Britain, sir, and Great Britain fortified by the addition of French valor and arms, we must henceforth contend—a contest not only for predominance over this continent, but for predominance and fame throughout the world and for ages to come. The elements of an issue so fearful (and fearful, indeed, it is) have been gathering, silently and surely, ever since the flag of our Republic was carried in triumph to the capital of Mexico; and whatever the arts of diplomacy, or how earnestly soever we consult that wisdom which closes its eyes to an unpleasant consequence, the issue cannot be avoided, nor much longer postponed.

Of course, Mr. President, this declaration of my opinions will be received here, and perhaps elsewhere, as something altogether absurd. I have been a Senator of the United States long enough, at least, to comprehend the length and breadth and—not depth, but shallowness, of our present system of foreign relations. I know that my opinions are heterodox according to such a standard; but, whatever the ridicule, or the dignified scorn, or the self-complacent rebuke—all which I encountered in the Senate, two years ago, when speaking on the same subject—I abate neither jot nor tittle of what I have said.

It is about eleven years since Great Britain commenced her present intrigues, encroachments, and usurpations in Central America. Seeing the United States on the point of acquiring California, and, thereby, a predominance over the isthmian routes of Mexico, Nicaragua, and New Granada, she determined to interpose, by mere violence, against the consummation of a destiny so natural and appropriate. For this purpose, having already enlarged a right, by treaty with Spain, to cut logwood on the coast of the Belize, in Guatemala, to a claim of territorial authority, she next invented or revived the tradition of some protectorate over three or four hundred savages, partly of Indian and partly of African blood, calling themselves the Mosquito tribe, and infesting the shores of Nicaragua toward the Caribbean sea. It was not merely an absurd pretext; it was in flagrant defiance of the "right of discovery" in virtue of which, alone, Great Britain, as well as France and Spain, first asserted dominion over the American continent, and established a rule of intercourse for the aborigines and their several colonists. And yet, under such pretext, in January, 1848, did Great Britain seize the mouth of the San Juan river, substitute the name of Greytown for that of an ancient Spanish settlement, and usurp control of the Nicaraguan coast from the boundaries of Costa Rica to those of Honduras.

Nicaragua resented such usurpation, and properly called on the United States to maintain the doctrine announced by President Monroe in December, 1823, when the Holy Alliance of Europe made a similar attempt. It was an era of singular blindness on our part; we had no John Quincy Adams in the Department of State; no Henry Clay, or Daniel Webster, in the youthful splendor of his genius, to command the House of Representatives. With a view to enlist us in her defense, Nicaragua proposed, and actually concluded, a treaty with our Minister. (Mr. Hise,) whereby an exclusive right of transit across her territories, from the Atlantic to the Pacific, was accorded to us. That treaty was not even submitted to the Senate for ratification; but, instead, the Secretary of State (Mr. Clayton) commenced negotiations with the British Minister here, upon

the footing of a joint interest, and, therefore, a joint protectorate, over the isthmian routes. This negotiation ended in the Clayton-Bulwer treaty, the most preposterous engagement into which the United States ever entered.

How Great Britain has observed that treaty, in spirit, letter, or effect, I need not here relate. We are all of opinion (and have often so said) that her conduct has been a persistent violation of it in every particular. And yet, sir, from year to year this violation progresses, until Nicaragua has been dismembered, and even blotted from the roll of nations. Between the Mosquitos on the one side, and Costa Rica, under French protection, upon the other, nothing is left to her; and when the Republic of Nicaragua is mentioned, in correspondence or in debate, we know it is a mere sound, an empty name, a myth of no significance. A handful of miscreants, under English and French influence, with no territorial dominion, without any power at home or abroad, are permitted, by diplomatic quackery, to usurp and profane the title of her that is dead. Our steamships are searched by British men-of-war in the very harbor of San Juan; and we content ourselves, as we did at the last session, by three or four tame resolutions, and by sending a large fleet to Paraguay, in South America, in order to coerce an insignificant tyranny there. The Nicaraguan route is no longer traveled; and, as for the route of Panama, our citizens have been wounded, menaced, and shamefully abused, without any redress, when they ventured its passage.

The impunity with which Great Britain and France have conducted their aggressions in Central America, since Mr. Polk left the presidential chair, now emboldens them to still more audacious enterprises. It is upon Mexico, at length, their ambition has seized. She, also, appealed to us; and having once secured to our citizens, by treaty, the route across the Isthmus of Tehuantepec, she had a just claim on us for protection against the overwhelming strength of European assault. Instead of such protection, or even a word of kindness, we suffered the constitutional Government of Mexico to be undermined by intrigues within and violence without; until now, (as the last packet informs us,) the navies of Great Britain and France do not scruple to blockade the ports of Vera Cruz and Tampico, in order to compel a reduction of the tariff on imported merchandise. That Cuba will remain exempt from the operation of a scheme so long meditated, and so boldly pursued, is more than I can believe; the scheme includes her, and includes every inch of this continent, as well as of the islands adjacent. In a moment of unusual jubilation, while the "holy alliance" of Great Britain and France was urging Russia to the brink of ruin, a British Secretary of State assured a faithful Parliament that other, and ulterior, and even more important, affairs were in contemplation. I allude, sir, to the speech of Lord Clarendon, in which he declared:

"The union between the two Governments has not been confined to the Eastern question. The happy accord and good understanding between France and England, have been extended beyond the Eastern policy to the policy affecting all parts of the world; and I am heartily rejoiced to say, that there is no portion of the two hemispheres with regard to which the policy of the two countries, however heretofore antagonistic, is not now in entire harmony."

To be sure, this had no relation to us—not the slightest! Was not our amiable Minister so assured, in terms at once condescending and confidential? What else it could mean, or to whom be applied, Mr. Dallas did not ascertain; but, certainly, to such as are unskilled in diplomatic intercourse, looking at the events of Central America and Mexico since that time, it would seem as if the United States were about to become another Sebastopol, and beleaguered on every side.

As I have no confidence in the "explanations" vouchsafed to us with regard to Lord Clarendon's speech, I expect and believe that any serious attempt on our part to acquire Cuba, by negotiation or otherwise, will be obstructed. The Senator from New York has told us the truth for once; and we must either assert our independence, our right to control the destinies of this continent, free of all domination or dictation by Great Britain, or France, or any other European Power, or else abandon ourselves to the rank of Sardinia, Portugal, and the German States. We are to be somebody, or nobody, in the world; and,

for one, I would as lief decide that in Cuba as upon any other spot of earth. Let us, at all events, know the worst; and if our time of abasement has arrived, let us, with what composure we can, kiss the feet of our masters, and teach our children to do the same.

I might well be asked, entertaining such opinions, why vote for the bill now proposed? Simply, sir, because it can do no harm; and if, perchance, the President should be able to acquire Cuba in this manner, I would not only feel, but would publicly express, more satisfaction than to see my own apprehensions realized. As to the objections of detail urged by the Senator from New York, some days since, I esteem them of very little importance. The bill provides an appropriation of \$30,000,000 to be paid for a cession of the island, with its dependencies; which amount is to be raised by a loan at five per cent., and so much as may be necessary paid whenever the treaty shall have been ratified by Spain. If the bill should be successful, therefore, it will be an appropriation of money, by law, from the Treasury of the United States, in strict accordance with the Constitution, and for an object as clearly and exactly defined as any object specified in our annual appropriation bills. The law is to be executed, of course, by the President of the United States, as all other laws are required to be executed; and the money expended through the Department of State, or some of our ministers abroad, as other appropriations for like purposes always have been, and always must be, expended. The outlines of the bill are in pursuance of three famous acts of our legislation—the act of February 26, 1803, under which Louisiana was purchased; the act of February 13, 1806, intended for the case of Florida; and the act of March 3, 1847, which led to the acquisition of New Mexico and California.

An act making provision for the expenses attending the intercourse between the United States and foreign nations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum of \$2,000,000, in addition to the provision heretofore made, be, and the same is hereby, appropriated for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any money in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall cause an account thereof to be laid before Congress, as soon as may be.

Approved February 26, 1803.

An act making provision for defraying any extraordinary expenses attending the intercourse between the United States and foreign nations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum of \$2,000,000 be, and the same is hereby, appropriated towards defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any money in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States, who shall cause an account thereof to be laid before Congress as soon as may be.

Sec. 2. And be it further enacted, That the President of the United States be, and hereby is, authorized, if necessary, to borrow the said sum, or any part thereof, in behalf of the United States, at a rate of interest not exceeding six per centum per annum, redeemable at the will of the Congress of the United States. And it shall be lawful for the Bank of the United States to lend the whole, or any part of the same.

Sec. 3. And be it further enacted, That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriation heretofore charged upon them, by law, shall be, and hereby is, pledged and appropriated for the payment of the interest and reimbursements of the principal, of all such moneys as may be borrowed in pursuance of this act, according to the terms and conditions on which the loan or loans may be effected.

Approved, February 13, 1805.

An act making further appropriation to bring the existing war with Mexico to a speedy and honorable conclusion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, whereas a state of war now exists between the United States and the Republic of Mexico, which it is desirable should be speedily terminated upon terms just and honorable to both nations; and whereas assurances have heretofore been given to the Government of Mexico that it was the desire of the President to settle all questions between the two countries on the most liberal and satisfactory terms, according to the rights of each and the mutual interests and security of the two countries; and whereas the President may be able to conclude a treaty of peace with the Republic of Mexico prior to the next session of Congress, it means for that object are at his disposal; and whereas in the adjustment of so many complicated questions as now exist between the two countries, it may possibly happen that an expenditure of money will be called for by the stipulations of any treaty which may be entered into; therefore, the sum of \$3,000,000 be, and the same is hereby, appropriated,

out of any money in the Treasury not otherwise appropriated, to enable the President to conclude a treaty of peace, limits, and boundaries with the Republic of Mexico, to be used by him in the event that said treaty, when signed by the authorized agents of the two Governments, and duly ratified by Mexico, shall call for the expenditure of the same or any part thereof; full and accurate accounts for which expenditure shall be by him transmitted to Congress at as early a day as practicable.

Approved, March 3, 1847.

Two of these acts, it will be observed, were in the time of President Jefferson—certainly as little disposed as any President ever was, or ever will be, to encroach on the legislative department, or tolerate any increase of Executive power and influence.

Indeed, sir, until now, our most eminent statesmen do not seem to have discovered that such a bill confers on the President any control over the Treasury, or any undue control over the conduct of our foreign relations. I am willing to err (if it be an error) with them; although, certainly, whatever amendment can be suggested by the Senator from New York, or any one else, to restrain this appropriation of money to the object intended, or otherwise guard against an abuse or misemployment of the powers to be conferred, will receive my vote and assistance.

As to the substitute proposed by the Senators from New York and Vermont, as a minority of the Committee on Foreign Relations, it does not deserve much comment. The first section requires the President to communicate to the Senate, at the beginning of the next session, "if in his opinion not incompatible with the public interest," the condition of our relations with Spain, at that time, as well as the condition of the Treasury, the Army, and the Navy. The second section authorizes him to convene the Senate, or Congress, "in extraordinary session," whenever he may consider that advisable. Inasmuch as all these duties or powers have been expressly confided to the President by the Constitution, our recapitulation of them, in a statute, would be as idle, and even as ludicrous, as one could well imagine.

I am content to fortify the President with the means and the powers which he now asks at our hands. No mischief can ensue, as I have said, in case of failure; because, without a treaty for the cession of Cuba, no money is to be paid, or even borrowed, inasmuch as none will be required.

It is said, however, that we thus commit ourselves, in advance, to the ratification of whatever treaty the President may negotiate. I think not. Spain knows, or will know, quite as well as we, that the treaty must be ratified according to the requirements of our Constitution, or else be wholly inoperative. She ratified the treaty of February 22, 1819, with modifications; and these were afterwards accepted by us.

There is no "blank draft" on the Treasury—no pledge or guaranty for the payment of one dime beyond \$30,000,000 in this bill; and the entire treaty will be subject to ratification, amendment, or rejection, by the Senate, as all other treaties are. If the President should stipulate for a larger consideration to Spain, whether in money or otherwise, than two thirds of the Senate believe to be advantageous, in the circumstances, that will end the treaty, or lead to further negotiation.

It is suggested, also, that we will forfeit the \$30,000,000 in case we do not ratify the treaty; but such an objection, if ever so valid, must have applied as well to all past negotiations of this character. I do not see, for my own part, how a forfeiture can rightfully be predicated of such a case; but as Spain has always been dilatory in the payment of her debts, I assume that we may lose the whole amount paid in advance, (whether \$30,000,000 or less,) if the treaty be not ratified on our side. The amount is a large one, and particularly in the financial embarrassment which has lately overtaken us. I underrate none of these considerations; but, after all, so essential do I consider the acquisition of Cuba to our prosperity—so anxious am I to avoid the difficulties which gather, from day to day, over the whole subject; urging us steadily toward a rupture with Great Britain and France, as well as with Spain; that I will take any reasonable risk, or stretch the credit of the United States to any reasonable extent, rather than to suffer one more year to elapse without some definite, and, as I fervently hope, some decisive action. I do think, however, the bill should contain a limitation as to the

amount for which the President may stipulate; or rather, a provision that no payment shall be made in advance of ratification by both parties, unless the whole amount stipulated be within a certain maximum. I would specify as such maximum \$130,000,000, or, at furthest, \$150,000,000.

The Senator from New York objects to the acquisition of Cuba, politically, because that island is now inhabited, and by a people, as he says, "different entirely from the citizens of the United States; different in language, different in race, different in habits, different in manners, different in customs, and radically different in religion." What the Senator means by a difference in race, I do not comprehend. The descendants of the Spaniard; in America, are like the rest of us; they came of our stock, and are admitted, every day, under our laws of naturalization, to the rights and privileges of native-born citizens. All the nations of Europe had a common origin; and the Caucasian race, notwithstanding its diversities of language, habits, manners, customs, and religion, is, at last, the same. Its unity is innate, and its diversity an affair of accident or circumstance; but when the Senator from New York, and his associates, endeavor to blend the African with the Caucasian, upon terms of social or political equality, then, to be sure, do confusion and degradation threaten us. There is no more diversity of race between the people of the United States and the people of Cuba, nor any more diversity of language, or habits, or manners, or customs, or religion, than the Senator may behold to-day in the great city which he represents. The people of Cuba are such as Louisiana, and Florida, and Texas, and New Mexico, and California, contained at their respective periods of annexation; and, so far from the least difficulty, has not the genius of our Federal system been admirably proved and illustrated in each instance?

But the Senator desires to be told "what institutions of justice, of freedom, of religion, and public worship," will obtain in the Island of Cuba after it shall have been annexed to the United States. I answer, once for all, such "institutions," exactly, consistent with the Constitution of the United States, as the people of Cuba wish; they shall be, so far as I am concerned, upon an equal footing with the people of other States.

The Senator from Wisconsin [Mr. DOOLITTLE] announced to us yesterday, as the programme of the modern and self-styled Republican party, that the tropical zone of this continent should be for the negro, and only its temperate zone for the white man. I am really obliged to the Senator for so honest a proclamation; having always been convinced that the party of his attachment, upon which he has lavished as many affectionate caresses and epithets as Sancho Panza could have suggested, intends that Cuba, and Mexico, and Central America, and, if possible, our own southern States, shall be reduced to the miserable condition of Hayti and Jamaica. But, sir, I admonish the Senator that his colored friends will not be able to retain the empire which he so generously, and without any cost to himself, would thus give them. In Jamaica, it appears, they are becoming extinct from sheer indolence; while in Hayti, at the last advices, the Emperor Soulouque was running to, or from, very urgent business.

There is a decisive objection, beside this, to the Senator's magnificent scheme, an objection which even Commodore Paulding cannot assist him to remove. It is, that the Atlantic shores of our continent have been found so much colder than Europe, or Asia, or Africa, between the same parallels. We are now assembled, at Washington city, almost in the latitude of Lisbon and Palermo and Corinth and Athens and the classic fields of Asia Minor, but the climate here is colder by several degrees. Indeed, sir, no nation of less energy than our own, or the nation whence most of us derive our lineage, could have so long maintained the arts of civilization in such inclement regions as Canada, and the northern British provinces. That achievement, alone, entitles the Anglo-Saxon blood to universal admiration. Does the Senator imagine, then, that he can devote seas and shores, in America, as mild and beautiful as the ancient Mediterranean and the gardens which surround it, to the exclusive dominion of negroes; driving the white man to struggle, forever, with the ice-bound streams, the pathless

snow-drifts, or any of the barriers with which winter would encompass and chill our enterprise?

The Senator from New Hampshire complains that our acquisitions tend southward and westward, but never toward the Arctic climes. I am not aware of any instance in which the United States declined territory North or East of our present possessions. The Senator complained, especially, that the Ashburton treaty of 1842, alienated a portion of the State of Maine; but I never heard a complaint from Maine upon the subject, nor from any of her citizens. They consented to it, and, I believe, on very ample consideration. They did not even pause to argue whether they had or had not been insulted. That treaty was negotiated by Daniel Webster; and the opposition to its ratification, by the Senate, was altogether from the Democratic party. And so in respect to the treaty which established our north-western boundary upon the forty-ninth degree of latitude. I cannot tell whether the Senator himself voted for or against the ratification of that; but he knows that all the negative votes (unless, perchance, his own) were cast by Democratic Senators.

Canada has never been restrained from annexation by us, but by the wise concessions, time and again, of the British Government. The contrast of her case and the case of Cuba, is very remarkable; the one enjoying a right of local legislation, and an Executive dependent on the Legislature for existence; while the other is subject to the arbitrary decrees of a Captain General, appointed by the Court at Madrid, and maintained in power by an army of twenty-five thousand men. Canada has likewise enjoyed, of late years, the advantage of reciprocal free trade with the United States; while Cuba, as I have shown, is deprived of all the advantages of her position, and devoted entirely to Spanish exaction or convenience. Whether the concessions of Great Britain will, or will not, be sufficient, hereafter, to retain the affections of the Canadian people, is a question too remote for me to consider; but, as soon as they shall ask admission into our Union, or fall under oppression like that of Cuba, the Senator from New Hampshire will find himself outstripped in zeal by those who represent the Democratic party here.

Several Senators on the other side, and the Senator from Massachusetts [Mr. WILSON] among them, announce great anxiety for the acquisition of Cuba, but object, most vehemently, to the means now proposed. I have already expressed a serious doubt whether the means will prove sufficient; but certainly, sir, they are such means, and none other, as did suffice in the case of every acquisition (except Texas) heretofore made. Why should those who profess a desire for the annexation of Cuba, on either side of the Senate, scruple at an experiment, (if such you call it,) which has always proved successful? I can imagine but one reason—that reason which, from the days of Louisiana to the present hour, has enabled the Democratic party to recover from any mistake, or defeat, or disaster—I mean, sir, the blindness of opposition. It is my deliberate opinion that the people of the United States are, almost unanimously, in favor of the acquisition of Cuba; and that party which, for the sake of any supposed advantage, nearly at hand, shall postpone so vast a question, or cavil at mere particulars, or attempt the disguise of collateral arguments and pretenses, will effectually seal its own destruction.

Mr. President, the expansion of our Federal system, as one emergency after another shall require, is the law of our development; it is the sign of our national vitality; the pledge of our national endurance. This proud sentiment, although imperfectly revealed, and perhaps never expressed, animates the heart of the humblest pioneer now braving the wrath of the savage or the hardships of the wilderness on our westernmost border; it is a theme of glory to boyhood, to youth treading the paths of temptation, to men in every pursuit—the capitalist and the laborer, the merchant, the artisan, the scholar; the soldier, the sailor—to all who reverence their country and their country's renown. Indeed, sir, I can imagine no spectacle more grateful to an American citizen, at home or abroad, than the contemplation of that splendid procession across our continent within the last sixty years. Commencing with feeble

settlements on the bays, inlets, and tributaries of the Atlantic ocean; thence to the summits deemed almost impassable, and beyond these, to the banks of a river extending from the Gulf of Mexico northward to the region of the lakes, and swollen at every degree by the floods gathered as well in the Alleghanies as in the Rocky Mountains— itself, therefore, a complete emblem of UNION to all—thence, over prairies of marvelous magnificence, to the fastness and the desert; turning from which, at length, to seek more hospitable and shorter paths, by the Isthmus, we have carried our name, our watch words, and our ensign, to the Golden Gate, where California, with her snow-capped diadem, sits virgin empress of the seas.

May it be, sir, that when our sons have searched the uttermost corners of the earth, and overcome every other obstacle, their virtue and love of liberty and devotion to the example of our great fathers, will not require them to despise us, altogether, as men unworthy of the fortunes to which we were called!

Mr. BENJAMIN. Mr. President, this bill before the Senate—

Mr. BIGLER. Will the Senator give way for a motion to adjourn?

Mr. BENJAMIN. I am very desirous that this discussion should go on. If it is to go on in the morning, I will give way to a motion to adjourn. If not, I will go on now.

Mr. BIGLER. I will act on the pleasure of the Senator.

Mr. BENJAMIN. I am perfectly willing to adjourn now, if I can be permitted to go on in the morning.

Mr. SEWARD. If the honorable Senator will allow me to intervene, I will bring the matter to an end at once by moving that the Senate adjourn. I do not think there are enough of us here to inaugurate any agreement about business.

The PRESIDING OFFICER. The bill under consideration will come up as the unfinished business to-morrow.

Mr. DAVIS. To-morrow is private bill day.

Mr. SEWARD. I move that the Senate adjourn.

Mr. BENJAMIN. I yield to the motion, with that understanding.

Mr. DAVIS. To-morrow is private bill day, and we shall have a struggle for priority.

Mr. SEWARD. That is so; but we cannot settle anything to-night.

The motion of Mr. SEWARD was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 10, 1859.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

COMMITTEE OF CONFERENCE.

The SPEAKER appointed Messrs. HICKMAN, HARRIS, and HATCH, managers of the conference on the part of the House on the disagreeing votes of the two Houses on the bill for the benefit of the captors of the British brig Caledonia, in the war of 1812.

CORRECTIONS.

Mr. HARRIS. I desire to correct an error which I find in the report in the Globe of yesterday's proceedings, in connection with the courthouse in Baltimore. I find that I did not hear correctly my friend from Missouri [Mr. PHELPS] in what he said with reference to the title of the Masonic Temple in Baltimore, which he stated the Attorney General had considered imperfect. I understood him to refer to the Church property, with the title of which I am conversant, and my remarks apply, therefore, to that property. With the title of the Masonic Temple I do not happen to be familiar.

Mr. HOUSTON. Mr. Speaker, I find that one of the evening papers of yesterday places me in a false position in regard to a motion which I made yesterday. I moved to amend the motion of the gentleman from Maryland, [Mr. HARRIS,] so as to strike out the instructions to the Committee of Ways and Means. I am reported as making the motion while the amendment of my colleague [Mr. CURRY] was pending, which proposed to instruct the committee to report a bill repealing all the laws on the subject of building custom-houses and marine hospitals that are not

under contract. I desire to say that I concurred most fully with my colleague in that amendment, and that my motion did not apply to his amendment, nor was it made until after his amendment was ruled out of order. It was intended to apply, as it did apply, to the motion of the gentleman from Maryland.

The SPEAKER. The gentleman from Alabama is mistaken in supposing there is any error in the Journal.

That portion of the Journal was again read.

Mr. HOUSTON. Then the Journal shows nothing of the amendment proposed by my colleague, which was ruled out of order.

The SPEAKER. Nothing at all.

NAVIGATION OF RED RIVER OF THE NORTH.

Mr. CAVANAUGH. I ask the unanimous consent of the House to present a memorial of the citizens of Minnesota and of the Chamber of Commerce of the city of St. Paul, inclosing a report on steamboat navigation on the Red River of the North, &c.; and I move that it be referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

There was no objection.

Mr. JONES, of Tennessee. I call for the reading of the memorial.

The memorial was read; and is as follows:

Steamboat navigation on the Red River of the North—Memorial of Citizens of Minnesota and the Chamber of Commerce of the city of Saint Paul, inclosing a report upon steamboat navigation on the Red River of the North, &c., as inducements for the establishment by Congress of a semi-weekly mail service from Minnesota to the Pacific ocean.

To the Senate and House of Representatives of the United States of America in Congress assembled:

The undersigned, having been appointed at a public meeting of the citizens of Minnesota a committee to cooperate with the Chamber of Commerce of Saint Paul, in advancing the measure of a semi-weekly mail from some point central to the northern lakes to Puget Sound, desire to call the attention of Congress to the system of navigable streams and the regions connected therewith, which are adjacent to the proposed mail route in northern Minnesota and British territory north of the international boundary.

These facts are developed in the report of a committee of the St. Paul Chamber of Commerce, which is annexed and made part of this memorial.

It was read to a large assembly of citizens convened for the purpose of encouraging steamboat navigation on the Red River of the North, unanimously adopted by the meeting, and directed to be published.

We hope it may be not without influence in demonstrating to Congress that the northwestern areas now unoccupied, except by fur traders, are yet to bear so prominent a part in the progress of the continent that the establishment of a communication between Lake Superior and Puget Sound, over American territory, can be no longer postponed without compromise of the national honor and interests.

We notice the prominence of the Pacific railway bill in Congress. If that measure prevails, no one doubts that its route will be below latitude 40°. Give, however, to the people of the northwest an expenditure of \$600,000 annually, for a semi-weekly mail service from Minnesota to the Pacific, on or near latitude 47°, with the extinction of Indian title along its line, and we shall neither feel or express dissatisfaction.

If so moderate a request is denied or postponed, the undersigned refer to the internal evidence in the annexed report, that Great Britain has an immediate and an imperial interest in opening a great emigration and mail route north of 49°; nor will the English Cabinet be slow or inefficient in adopting whatever measures may be necessary to establish such a communication.

As American citizens, we desire such measures to be initiated at Washington; but, as citizens of Minnesota, indeed, as citizens of the world, we shall rejoice at their consummation under any auspices.

JAMES W. TAYLOR,
ALEXANDER RAMSEY,
GEORGE L. BECKER,
JOHN S. PRINCE,
J. W. BASS,
D. A. ROBERTSON,
GERAINT HEWITT.

Mr. WILSON. I call for the regular order of business.

Mr. ENGLISH. I desire to give notice that I will on Monday next, if I obtain the floor, ask leave to introduce the general post-route bill. In the mean time the bill will be on my desk, subject to the examination of members.

Mr. CAVANAUGH. This paper which I have presented, contains information in regard to the Northwest which is not known to five gentlemen on this floor. I move that it may be printed for information; and I now ask that it may be read.

Mr. STEPHENS, of Georgia. Let it be printed.

The SPEAKER. It will occupy an hour in reading it.

Mr. STEPHENS, of Georgia. I call for the regular order of business.

Mr. JONES, of Tennessee. If the House is

to vote on the motion to print, I ask for the reading of the paper.

Mr. STEPHENS, of Georgia. I object to the reception of the memorial.

The SPEAKER. The Chair is of the opinion that the objection to the reception of the memorial comes too late. If objection is made to the reading of the paper, the Chair will put the question whether the paper shall be read.

Mr. STEPHENS, of Georgia. I object to the reading.

Mr. JONES, of Tennessee. Can the House compel a member to vote upon a paper which has not been read?

The SPEAKER. The Chair is of opinion that it can. Suppose, for instance, the Patent Office report is presented here, and upon the motion to print, a gentleman calls for the reading of the document. It would take two weeks to read the paper, and the Chair is of opinion that the rules of the House cannot require that the time of the House shall be taken up for two weeks upon the mere requirement of a member that the Patent Office report shall be read. The Chair thinks the majority of the House have the right to decide in such a case, whether the paper shall be read or not.

Mr. JONES, of Tennessee. I had always supposed that a member had the right to know what he was voting on, and that he could not be called upon to vote for the printing of a paper when he did not know what it was. If the Chair decides that this report can be printed without having been read, if the reading is demanded by any member, I appeal from the decision of the Chair.

The SPEAKER. The gentleman from Tennessee calls for the reading of the memorial. The gentleman from Georgia objects to the reading. The Chair decides, under the Manual, that when the reading of a paper is called for, and any member objects, the question shall be put to the House, whether the paper shall be read. From that decision the gentleman from Tennessee takes an appeal, and the question is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. DEAN. I move to lay the appeal on the table.

Mr. JONES, of Tennessee. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. HOPKINS. I call for the reading of the 57th rule.

The 57th rule was read, as follows:

When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House.

The motion to lay the appeal on the table was agreed to.

Mr. JONES, of Tennessee. I move to lay the memorial on the table.

The motion was not agreed to.

Mr. CAVANAUGH. If it is in order, I will state to the House—

The SPEAKER. The motion to lay on the table is not debatable.

Mr. JOHN COCHRANE. I demand the previous question on the motion to refer and print.

The previous question was seconded, and the main question ordered.

Mr. LETCHER. I call for the yeas and nays on the motion to print. I want to see whether the policy of printing memorials is to be inaugurated here.

Mr. JONES, of Tennessee. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. HOUSTON. Can we have a separate vote upon the motion to print?

The SPEAKER. The Chair supposes the gentleman has a right to call for a separate vote.

Mr. HOUSTON. I call for a separate vote upon that motion.

Mr. LETCHER. I have no objection whatever to the motion to refer the memorial. What I object to, is the motion to print.

The memorial was referred to the Committee on the Post Office and Post Roads.

Mr. CAVANAUGH. I am not disposed to encroach upon the House, or to retard the public business. I will therefore withdraw the motion to print, believing that more would be lost in the time spent on the motion than would be gained by printing the memorial.

QUIETING POSSESSIONS, ETC.

Mr. GOODE, by unanimous consent, introduced a bill for quieting possessions, confirming the estate of purchasers, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a joint resolution (No. 77) authorizing the marshal of the United States for the district of South Carolina to lease a certain building; and

An act (No. 333) to establish an additional land district in the State of Minnesota; in which he was directed to ask the concurrence of the House.

Also, that the Senate agreed to the conference requested by the House on the disagreeing votes of the two Houses on the bill (H. R. No. 210) for the benefit of the captors of the British brig Caledonia, in the war of 1812; and had appointed Messrs. BELL, TOOMBS, and CLAY, managers of the conference on the part of the Senate.

PERRY M'D. COLLINS.

Mr. CLAY. I ask the unanimous consent of the House to report a joint resolution from the Committee on Foreign Affairs, merely for the purpose of having it referred to a Committee of the Whole House on the Private Calendar. I will state that I was not in my seat when the Committee on Foreign Affairs was called yesterday.

The title of the joint resolution was read, as follows:

Joint resolution for the relief of Perry McD. Collins, United States commercial agent at Amour river, in Russia in Asia.

Mr. HARLAN objected.

NEBRASKA CONTESTED ELECTION.

The House then resumed the consideration of the report of the Committee of Elections on the Nebraska contested-election case, in which Mr. GILMER was entitled to the floor.

Mr. STANTON. I ask the gentleman from North Carolina to permit me, before he makes his remarks, to submit an amendment to the resolution reported by the majority of the committee, to insert the word "not;" so that it will read that the contestant is not entitled to the seat.

Mr. GILMER. The gentleman has one amendment pending already.

Mr. STANTON. I only want the proposition before the House, so that members may have an opportunity to vote on it.

The SPEAKER. The gentleman can accomplish his purpose in another way. If the House be of the opinion that neither the resolution of the majority nor that of the minority should pass, then, when they shall have been voted down, it will be competent to reconsider and to offer an amendment declaring the seat vacant.

Mr. GILMER. I yield to the gentleman to offer his amendment.

The amendment was offered as indicated.

Mr. GILMER. Mr. Speaker, I do not wish to make any speech on this subject. I commenced this investigation as one of the Committee of Elections. I did so with a prejudice in favor of the sitting Delegate. The sitting Delegate and the contestant were both strangers to me, and they were both of an opposite political creed. I have examined the testimony, without regard to the parties concerned. I have endeavored to come to a conclusion upon the testimony alone. And, sir, no candid man, who has examined the testimony in the case, can satisfy his own mind that there should be any other result than that embodied in the resolution reported by the majority of the Committee of Elections.

Before I go further, I want to say a word in reply to the gentleman from Maine, [Mr. WASHBURN,] who, with great deference, I submit, has gone off in his argument very much as he signed the report drawn up by the gentleman from South Carolina, [Mr. BOYCE.] He has argued that the majority of the committee came to their conclusion upon *ex parte* testimony, hearsay testimony. The gentleman cannot have read the testimony on file and which has been printed. The facts of the case are gathered from the printed testimony in the possession of every member, and not from

what may be said by any gentleman of the committee. And pray, sir, what are the facts disclosed by the testimony? It is not denied that the notice was served according to the act of 1851. Ferguson had left the Territory, it is said; but Chapman, nevertheless, gave notice according to the law of 1851. He left the notice at the dwelling-house of Judge Ferguson; left it with the judge's own agent, his attorney, who was then living there.

Mr. WASHBURN, of Maine. I ask the gentleman where he finds it, in the evidence, that the notice was left at the dwelling-house of Judge Ferguson; and where, too, he finds the evidence that the man in possession of the house where the notice was left, was Judge Ferguson's agent or attorney?

Mr. GILMER. I will explain that before I get through.

Mr. WASHBURN, of Maine. It was before the committee, in the affidavit of the sitting Delegate, and was not controverted by the contestant, as I understand, that Judge Ferguson had rented his house to a man by the name of Strickland, and that this man Strickland was not his agent or attorney to an extent whatever.

Mr. GILMER. If my friend will be patient, I will explain all that. The printed testimony will explain all that. There is no room left for controversy. Is it insisted here that a candidate, as soon as he gets the certificate of election as a Delegate from a Territory, can rent his house, leave the Territory, go to Washington or New York, and that the man who is really entitled to his seat can have no means of taking testimony? The act of Congress has provided for such a case as that, and the contestant took his testimony according to that act. Notice was left in the very house in which the judge lived. It was left with the man who lived in that house, and who, it is alleged, was his agent. Judge Ferguson, according to the testimony, had every reason to believe that his seat would be contested, before he left the Territory. It is stated that he had reported that such would be the case. That was before any notice was given or proceedings taken, for the procurement of testimony. He knew, or ought to have known, that this testimony was being taken when he was in New York; and the committee, in order that there might be entire fair play, came before the House and asked that Judge Ferguson should have leave to take testimony. If there was any irregularity, any fraud, any unfairness whatever, in giving notice, he might then cross-examine the witnesses, and show where it was.

The gentleman from Maine is entirely mistaken. It was not agreed by the committee to give that additional time for the taking of testimony, in order that the contestant might amend his testimony, or supply any deficiencies in it. Such is not the case. No member of the committee denied that, according to the strict letter of the law, the notice was rightly given, and that the depositions were not taken in conformity with the law. Inasmuch as the sitting member complained, we agreed, in kindness to him, to extend the time for taking testimony. He might have taken other testimony, if he saw proper. That is the whole history of this matter. The sitting Delegate does not pretend that the testimony filed by the contestant, when the case was first referred, was wrong in any particular. He did not claim that there was any irregularity or fraud or unfair practice—none at all. And yet, that is what the gentleman from Maine calls *ex parte* testimony. The strongest testimony, perhaps, in this case might be said to be *ex parte*; but when you come to consider it, you find that it is only received here by way of corroboration. The testimony of Reck and Nichols shows that they were familiar with the residents of the Cleveland and Monroe precincts, and that they ought to know what they speak about. They swear that at these two precincts there were not resident one tenth as many voters as were polled there on the 3d of August. Mr. Nichols says, in addition to what he knew, that he traveled over this country; that he saw every house in it; and made inquiries as he went along; and, by way of corroboration of what he stated himself, that he took the affidavits of six or eight men in regard to those frauds at Cleveland and Monroe.

Here, mark you, are two witnesses, Reck and

Nichols, who ought to know, if anybody does, all about the facts; and according to their testimony, the majority of the committee have allowed to the sitting Delegate more votes actually than he was fairly and honestly entitled to. Reck and Nichols are intelligent men, residents of the Territory; and their testimony is corroborated by other witnesses.

How is the case as to the Florence precinct? More votes were polled there than there were voters in the precinct before or since. The voters recorded cannot be found in the precinct. If the sitting Delegate believed that the allegations of the contestant were untrue, why did he not present the poll-list to some of the oldest and most intelligent settlers there and ask them to look over it, and see whether the names on it were the names of actual residents and voters? He did not do that, as he might have done and as he ought to have done; but he gets these judges to say that they thought it all fair—that, to be sure, there was a good deal of voting done after night; but that they rather think, after all, that there were not more than fifteen votes cast after six o'clock. The testimony even on the part of the sitting Delegate is, that just before six o'clock, these very judges said there were only two hundred and seventy-one votes cast—that the polls were kept open till eight or nine o'clock, and that there were runners going around bringing men from the hay-fields to vote. At the election that was held shortly afterwards, there was not one third of the number of votes cast. Was it not then, I repeat, the duty of the sitting Delegate to get some of the old settlers to examine the names on the poll-list, and see how many were, and how many were not, actual settlers entitled to vote there?

If the judges of election should, by mistake, or even by design, and for an honest purpose, keep the polls open after the hour fixed for their being closed, so as to allow honest votes to be cast, I would not complain of them for doing so. But when it is admitted that the poll-books were kept open long after the time when the law required them to be closed; and when it is left entirely in doubt how many votes were cast afterwards and for whom; and when it is shown that one man voted four times, I am not inclined to overlook that wrong, or to allow the vote of the precinct to be counted. Chapman's witness swears that he saw a voter change his clothing; and that by that means, he got his vote in four times. What did he change his dress for, if not for that purpose? And, mark you, when you come to one precinct in which four hundred votes were given, and you have positive evidence that there were not one third the number of voters recorded in the precinct; and further, when it is clearly contrived to have continued the voting into the night, it cannot fairly be insisted that it was an honest effort to afford honest people a right to vote. Sir, in this evidence are disclosed circumstances indicating so much fraud, that, under the rules on which this House has heretofore acted, the vote of the whole precinct should be excluded. If that be so, even more than thirty-four votes should be taken out of the majority claimed by the sitting Delegate.

But the gentleman from Maine has argued, and that is the whole tenor of the argument on his side, that it is absolutely necessary to set the whole precinct aside. Now, let me call the attention of the House to that. You will bear in mind that in regard to leaving out the fifteen votes, all hands agree to that. As to adding the five more votes to Judge Ferguson's poll, all hands agree to that. As to the necessity of throwing out the votes of Weller and Twist, all hands agree to that. I have. I believe there is no dispute as to four votes for Chapman thrown out at Bellevue. This would reduce Ferguson's majority to thirty.

I will not attempt to trammel the question by any inquiry as to whether the officers who held the election were sworn by a justice of the peace or by a notary public. I will not encumber the record by any argument in reference to the views of the gentleman from Maine [Mr. WASHBURN] upon any other contested-election case. It has nothing to do with the case of Chapman vs. Ferguson. If I should go into such an argument, however, I should evince quite as much fairness as the gentleman did in his argument, by the reference he made to the views of the gentleman from Indiana, [Mr. Wilson,] upon a former occa-

sion, and nearly all his argument consisted in comments upon the views of the gentleman from Indiana, upon a former occasion; and when the matter of the vote of Weller came up, he acknowledged that he had not read the report which he signed. In fact, I think the gentleman from Maine has made his whole argument without having ever given to the subject much attention, by way of investigating the real testimony in this case; just about the same as he did of the report of the minority, which he signed, without ever having read it or knowing what was in it.

But, then, in order that the House may fully understand the facts of the case, take the vote, without throwing out the precinct of Cleveland, the precinct of Monroe, and the district of Florence, excepting fifteen, and then our friends come to the conclusion that the sitting Delegate was elected by thirty-four votes. Why, sir, no man can examine the testimony in this book, without coming to the conclusion that the sitting Delegate received in the Florence district alone, more than twice thirty-four illegal votes. But, leaving in all the votes in the Florence district, except fifteen, and what do you find in the Cleveland and Monroe precincts? And I pray you how many votes were cast here? Thirty-five and eighty-seven; more than one hundred and twenty votes in all. More than one hundred and twenty votes were cast in these two precincts; and we have the testimony of those who are acquainted with every part of the county, that not more than one third of the votes recorded as polled there, could have been legally polled. Our friends on the other side do not and cannot fairly pretend to say that there were thirty men entitled to vote in the Cleveland precinct, or eighty-seven voters in the Monroe precinct. Then, if you take from the aggregate of one hundred and twenty votes cast in those two precincts more than thirty-five votes, the contestant's claim to a seat here is established. But the gentleman from Maine says if you throw out these votes, you must throw out the votes of the whole precinct. Why, sir, if the gentleman had adopted that rule, why did he throw out the votes of Oliver Twist and Samuel Weller? For, according to the testimony we have here, Oliver Twist and Samuel Weller had as much right to vote there as any of the others which we say must be thrown out, for these two votes are as properly included in the poll-list as any of those which we have thrown out, for they are all fictitious names.

Mr. WASHBURN, of Maine. I do not understand the gentleman from North Carolina to argue, that the fact that the names of Oliver Twist and Samuel Weller are on the poll-book, is evidence of such fraud that the whole poll should be thrown out? If, then, it is not evidence that should exclude the whole poll, it is only evidence that those two names should not be counted; and I presume that that is the amount of the report.

Mr. GILMER. The gentleman made that identical argument yesterday.

Mr. WASHBURN, of Maine. The report of the majority of the committee that forty-seven of these votes should be admitted, is evidence conclusive that there was no fraud here; and if there was no fraud, why should you destroy the whole poll? That was the argument of the gentleman from South Carolina in his report. If those two votes are thrown out, it does not change the result. Knowing that my friend from South Carolina agreed with me in substance, and having entire confidence in him and his statement of the case, I signed the report without reading it.

Mr. GILMER. What is all that talk about? It is only a repetition of what the gentleman stated yesterday.—and I presume those who heard him then remember what he said—and there was no necessity for repeating it to-day, under the plea of correction. Now, there is so much fraud palpable in relation to this whole transaction, that the poll might be set aside. But we look to the proof in this case to see how the result would likely have been if the vote had been fair. That is what we did. Yet the gentleman comes here and talks of *ex parte* testimony, hearsay testimony, this little thing, and that little thing, and so on. We have taken all the proof in the case, and made our deductions as favorable as we could to the sitting member. I will not repeat over all the testimony of the various wit-

nesses. I feel that if I detained the House longer, I would not be keeping my pledge when I began. I think I have honestly given a plain statement of the substantial points in the case. We must, in our action, I think, rely upon the whole testimony, as it is printed and before us, and not on mere extracts, or parts thereof.

Mr. DAVIS, of Mississippi. I call for the previous question.

The previous question was seconded; and the main question was ordered.

Mr. JOHN COCHRANE. I move that the whole subject be laid upon the table.

Mr. WILSON. I believe I am now entitled to address the House.

The SPEAKER. Yes, sir.

Mr. DAVIS, of Mississippi. Is not the motion to lay upon the table?

The SPEAKER. The gentleman reporting the resolution from the committee has the right, under the rules, to close the debate after the main question is ordered.

Mr. HOUSTON. I would like to get permission to submit a resolution as a substitute for those now pending, declaring the seat vacant.

The SPEAKER. Amendments are not in order.

Mr. WILSON. I propose to detain the House but for a few moments; and I shall speak merely in reply to the few points raised yesterday by the gentleman from Maine.

Mr. DAVIS, of Mississippi. The last speech made was on the gentleman's side. Can he now go on and make another speech in favor of the contestant?

The SPEAKER. The gentleman is entitled to the floor under the rules.

Mr. FARNSWORTH. I wish to call the attention of the gentleman from Indiana to a few points. Does the evidence show at what time the sitting Delegate left Nebraska Territory—how soon after the result of the election was known?

Mr. WILSON. I understand that the sitting Delegate left the Territory shortly after the notice of contest was served upon him.

Mr. FARNSWORTH. He received notice of contest before he left?

Mr. WILSON. Yes, sir.

Mr. FARNSWORTH. Did he leave any attorney, or agent, to act for him?

Mr. WILSON. The notice was left at his residence, and an attorney appeared for him. After the witnesses on the part of the contestant were examined, that attorney gave notice to the contestant that he, as the attorney of Judge Ferguson, would proceed to take testimony on his behalf.

Mr. CLARK, of Missouri. Was not that attorney prevented from a cross-examination of the witnesses of the contestant?

Mr. WILSON. He would not state that he appeared as the attorney for the sitting Delegate.

Mr. Speaker, I shall only refer, as I have said, to one or two points stated yesterday by the gentleman from Maine. First, as to the notice of contest. The gentleman from Maine says that no notice of contest was served upon the sitting member; and to maintain that statement, he brings forward an *ex parte* affidavit; and, what is still worse, the affidavit of the party interested. Still more, it is an affidavit that does not appear in the testimony at all.

Mr. WASHBURN, of Maine. My friend will find that affidavit in the Congressional Globe, of the last session, at the time the report was made by the gentleman now chairman of the Committee of Elections. Was it not admitted in the committee, by all the parties, that the facts therein stated were true? They were not controverted.

Mr. WILSON. Yesterday the gentleman found fault with *ex parte* evidence, and yet his whole argument was made upon an *ex parte* affidavit. Why should he find fault with *ex parte* testimony, when he relies his whole case upon similar testimony? How is it proved that Judge Ferguson had no notice? By the affidavit of Judge Ferguson himself. After the notice of contest was served on the sitting Delegate, he left the Territory, not stating where he was going. He had no residence elsewhere. Where could a party have left a notice except at his residence? That was done, and was in accordance with the act of Congress.

So much for the notice of taking testimony.

But the gentleman from Maine has found fault with what I said, and says that I have changed my views since I expressed them in the Ohio contested case. He refers to the argument I made at that time, to sustain the sitting Delegate in this case. But I deny that the two cases are at all similar. I am pleased that what I said then has met with the approval of the gentleman; for, to the best of my recollection, it had no weight whatever with the majority of the House at that time. But I deny the conclusion of the gentleman in regard to the Ohio case. He says that, in that case, I rejected hearsay evidence. I now reject hearsay evidence. I will determine no man's case on hearsay evidence. But I say that the declaration made by the judge of election, while the election is progressing, and when there is no inducement to fraud, becomes part of the *res gesta*, and not hearsay evidence.

Again: the gentleman says that I took a different position in the Ohio case from that which I take in this case in another respect. Not so. I maintain the same position now, as then. In that case, the question was as to the mode of electing the judges; while in this case, the question is as to whether the judges were sworn by any officer authorized to administer the oath to them. I hold that they were not; and that, therefore, the election in that precinct ought to be vitiated.

Mr. WASHBURN, of Maine. I ask the gentleman if these judges, inspectors, and clerks, were not officers *de facto*, acting *colore officii*, and if the decision that he read yesterday was not clear up to the point that their proceedings ought not to be contested in this collateral manner?

Mr. WILSON. That is not the point. In this case, the judges were not sworn at all.

Mr. WASHBURN, of Maine. I ask whether they did not act as officers—whether they were not officers *de facto*?

Mr. WILSON. It is true, they acted as judges; but the law of Nebraska commands that the judges shall be sworn. These were not sworn by any officer authorized to administer the oath.

Mr. WASHBURN, of Illinois. If they had been duly sworn, they would have been officers *de jure*; not being so sworn, were they not officers *de facto*?

Mr. WILSON. The question is not as to the oath they took; but as to the officers administering that oath. With this statement in regard to the comments of the gentleman from Maine, on my position in the Ohio case, I will leave this matter to be determined by the House. No matter what that decision may be, I shall be satisfied.

Mr. JOHN COCHRANE. I move to lay the whole subject on the table.

Mr. STEVENSON. On that motion I ask for the yeas and nays.

Mr. HOUSTON. I should like to have the consent of the House to propose a resolution, which I indicated before, as a substitute for all the pending propositions, declaring the seat vacant.

Mr. KELSEY. I object.

Mr. HOWARD. The amendment offered by the gentleman from Ohio [Mr. STANTON] covers that point.

Mr. HOUSTON. Very well.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 93; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Barr, Bingham, Bingham, Bowie, Branch, Caskie, Chaffee, John B. Clark, John Cochrane, Corning, Covode, Curry, Curtis, Dean, Dewar, Dismick, Dodd, Edie, Edmundson, Elliott, English, Florence, Foley, Foster, Garrett, Gillis, Goode, Goodwin, Granger, Gregg, Robert B. Hall, Horton, Hughes, Jackson, George W. Jones, Owen Jones, Keim, Kellogg, Kelsey, John C. Kunkel, Landy, Lawrence, Leidy, Leiter, Letcher, Macloy, Materson, Maynard, Miles, Miller, Millson, Moore, Morgan, Edward Joy Morris, Freeman H. Morse, Murray, Niblack, Nichols, Palmer, Parker, Pendleton, Peyton, John S. Phelps, Phillips, Powell, Reagan, Reilly, Ricard, Ruffin, Russell, Savage, Seales, Scott, Seward, Judson W. Sherman, Singleton, Samuel A. Smith, Spinner, Stallworth, William Stewart, George Taylor, Thayer, Underwood, Walbridge, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Woodson, and Augustus R. Wright—99.

NAYS—Messrs. Abbott, Adair, Blair, Bliss, Boyce, Bratton, Burlingame, Burlingame, Case, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Cockerill, Coffax, Comins, Cox, Cragin, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Durfee, Eustis, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Gooch, Greenwood, Grow, Lawrence W. Hall, Harlan, Harris, Haskin, Hatch,

Hill, Hodges, Hopkins, Houston, Howard, Huyler, Jenkins, Jewett, Keitt, Kidgore, Leach, Lovejoy, McKibbin, McQueen, Samuel S. Marshall, Mason, Montgomery, Morrill, Isaac N. Morris, Oliver A. Morse, Mott, Pettit, William W. Phelps, Pike, Potter, Pottle, Robbins, Royce, Sandidge, Aaron Shaw, Shorter, Sickles, Robert Smith, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Tappan, Miles Taylor, Thompson, Tompkins, Tripp, Vallandigham, Vance, Wade, Waldron, Walton, Wilson, Wortendyke, John V. Wright, and Zollicoffer—93.

So the whole subject was laid on the table:

Mr. FLORENCE moved to reconsider the vote by which the whole subject was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER stated that reports were in order from the Committee on Territories.

ADMISSION OF OREGON.

Mr. STEPHENS, of Georgia. I am directed by the Committee on Territories to report back, without amendment, Senate bill No. 239, for the admission of Oregon into the Union. I have no written report to submit to the House. I will briefly state to the committee the three main points to be considered: first, the regularity of the proceedings; second, the republican form of the constitution of Oregon; and, third, the sufficiency of the population.

Upon this last, and the most important, point to some members of the committee, and, perhaps, of the House, I have only this information to give to the House. There has been no census taken in Oregon since 1855. In 1850 the United States census was taken, and in 1855 a territorial census was taken. None has been taken since.

And here, I will state for the information of the House, that perhaps some gentlemen may be misled by the newspaper accounts of a late census taken in Oregon. That, sir, is entirely erroneous. There has been no census taken since 1855. In 1850, the population of the then Territory of Oregon was about thirteen thousand. About three thousand of that population were cut off by the organization of the Territory of Washington, leaving about ten thousand in the present Territory of Oregon. I have here the official census taken in 1855, at which time the population was forty-three thousand four hundred and seventy two. That shows an increase of more than four hundred per cent. in five years. If the population has increased in the same ratio from 1855 until this time, the population now must be about one hundred and thirty thousand. Whether it has so increased or not, I cannot undertake to say; but that it has largely, continually, and annually increased, there can be no doubt. My opinion is that it has increased in nearly that ratio. At the last Congress, two years ago, this House passed a bill authorizing the people of the Territory to form a State constitution. At that time the population was thought to be sufficient. That bill failed in the Senate for want of time. But early in the last session, the Senate took up this subject, and this bill was passed. And perhaps the fact that this bill passed the Senate, and the fact that the enabling act passed the House at a former session, is the reason why the Territorial Legislature of Oregon has made no provision for taking another census. Upon this point, however, as some gentlemen seem to lay much stress upon it, I have one or two other observations to make. I shall do it briefly, and then leave the subject to the consideration of the House.

While there are no other facts than those which I have stated in reference to the actual population of Oregon, there are other elements from which we are authorized to infer the probable population. For instance, I have before me a report of the auditor of the Territory of Oregon giving the amount of taxable property in that Territory in 1857. From this it seems that the total amount of taxable property in that Territory, as returned to that office, (exclusive of Josephine county, which was assessed, in 1856, at \$113,767,) amounts to \$18,350,000, or a fraction over twelve per cent. increase on the amount returned last year. In 1857, then, the amount of taxable property—personal property, for there are no titles to real estate in that Territory, and only personal property is taxed—was more than eighteen million dollars, leaving out one of the counties; which, giving it the same amount of property assessed the year previous, would swell the amount to more than nineteen million dollars. I have also another

statement, showing the amount of taxable property for the last year to be more than twenty-two million dollars; and it may now be put down at that amount.

Now, sir, so far as this statement may be regarded as a basis in computing, when compared with other States, it is an element that we may very well consider. I beg leave simply to present a comparison with some of the older States of the Union.

I believe the State of Georgia has the largest amount of taxable property in proportion to her population of any State in the Union. She has \$500,000,000 of real and personal property, giving a *per capita* amount of \$534. Massachusetts is next, according to this list. Her estimated wealth is \$597,936,995, and her *per capita* wealth is \$528. Ohio has wealth to the amount of \$860,877,354, being a *per capita* of \$388.

I find this in the financial report of the Secretary of the Treasury for 1857. I can find no estimate of the amount of personal property separate from real estate except in the case of Ohio, and there the *per capita* of personal wealth, stated in round numbers, is \$100. Now, if you adopt that as the rule, it would give a population to Oregon of about two hundred and fifty thousand. But one of two things is very clear: either that the people of Oregon are a very wealthy people and have increased very rapidly, and are in a good condition to assume the functions of a State government, or there are at least one hundred and fifty thousand people there.

Mr. HOWARD. Have you the number of votes polled at the last election there?

Mr. GROW. The largest number of votes ever polled in the Territory was ten thousand one hundred and twenty-one.

Mr. STEPHENS, of Georgia. Probably they do not take the same interest in voting there that they do elsewhere, having confidence in their representative upon this floor. I do not intend to detain the House, further than to state these facts. Suppose the people of that Territory are worth \$200 per head; and then its population is one hundred and ten thousand?

Mr. STANTON. Is there any statement in the return of personal property as to the number of horses, cattle, and things of that sort?

Mr. STEPHENS, of Georgia. The property is taxed one mill, and that is sufficient to support the Government.

Mr. STANTON. Do not they value the same description of property at ten times as much as they do in Ohio?

Mr. STEPHENS, of Georgia. Perhaps it is worth ten times as much. I do not know the estimate; but I take it for granted that whatever people are willing to pay taxes on is the worth of their property. I find everywhere a disposition to underrate the value of taxable property. This is the official report of the auditor of that Territory, upon the basis of which the taxes are levied and collected.

Mr. PALMER. I desire to ask the gentleman whether, in assessing personal property, deductions are made for the debts due by the people of Oregon for their real estate, to which I understand the gentleman to say they have no titles?

Mr. STEPHENS, of Georgia. I cannot say whether they deduct anything or not. I have this to say to the House, and especially to those who have any doubt about the population of Oregon, that, for myself, I hold that there can be no question but that there is sufficient population there to require us, under existing laws and compacts, to admit that Territory as a State into the Union. There must be at least sixty thousand people there, and my own opinion is that there are at least one hundred thousand.

In the bill organizing the Territory of Oregon, which was passed in 1848, I find the following clause:

"Sec. 14. *And be it further enacted*, That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the Territory of the United States north-west of the river Ohio by the articles of compact contained in the ordinance for the government of said Territory, on the 13th day of July, 1787, and shall be subject to all the conditions, restrictions, and prohibitions, in said articles of compact imposed upon the people of said Territory."—*Statutes at Large*, volume 9, page 329.

That, sir, was a guarantee given in 1848, after the settlement of the controversy with England

as to that Territory. Now, I call the attention of the House to the ninth article of the ordinance of 1787:

"And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States on an equal footing with the original States, in all respects whatsoever; and shall be at liberty to form a permanent constitution and State government: *Provided*, The constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand."

If there were any question as to whether there were ninety thousand people there; if there were any question as to whether Oregon comes up to the ratio of representation; yet, sir, I hold that there is a solemn guarantee and a compact made with those people, which we ought not to disregard. That there are more than sixty thousand people there, it seems to me no gentleman upon this floor can doubt. From the facts I have stated, either the population of that Territory is one hundred thousand, or they are the richest people in the United States. That would be sufficient ground to admit them to exercise the rights of a sovereign State. By their admission we get rid of the territorial expenses. They possess all the elements for a State government, which they should have under the guarantee I have referred to. I am to-day ready to give Oregon a welcome as a new State into this Confederacy of States. I do not intend to call the previous question, as the gentleman from Pennsylvania, [Mr. GROW,] the gentleman from Ohio, [Mr. BINGHAM,] and others wish to offer amendments; but in order to keep the bill before the House, I move to refer the bill to the Committee of the Whole on the state of the Union. I intend, at an early hour, however, to call the previous question, and bring the House to a vote on the subject.

Mr. GROW obtained the floor.

Mr. DAVIS, of Indiana. Will the gentleman yield to me, in order that I may move an amendment?

Mr. GROW. I will hear the gentleman's proposition.

Mr. DAVIS's proposition was read, as follows: That the bill be recommitted to the Committee on Territories, with instructions to insert a clause therein, or add a section thereto, repealing so much of the act entitled "An act for the admission of the State of Kansas into the Union," approved May 4, 1853, as prohibits the people of Kansas from forming a constitution and asking admission into the Union as a State, until "it is ascertained by a census, duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States."

Mr. GROW. The motion made now does not allow amendments to be offered to the bill. I prefer that the gentleman from Indiana should wait till I propose the amendment which I have to offer.

Mr. DAVIS, of Indiana. I merely indicated that amendment, and will offer it at a proper time.

Mr. MAYNARD. If the gentleman from Pennsylvania will yield me the floor, I will present to the House an amendment which I propose to offer.

Mr. GROW. I will hear it.

The proposition was read, as follows:

Add the following as additional sections:

"Sec. 6. *And be it further enacted*, That this act shall take effect only upon the following conditions: first, that it be ascertained by a census, duly and legally taken, that the population included and residing within the limits of the proposed State of Oregon equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and second, that the question of admission with the following proposition be submitted to a vote of the people of said proposed State, and assented to by them, or a majority of the voters voting at an election to be held for that purpose, namely: that section two of article two of the constitution framed at Salem, on the 18th day of September, in the year of our Lord 1857, shall be changed to read as follows: "Sec. 2. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, shall be entitled to vote at all elections authorized by law; and in this form shall be and remain as a part of the constitution of said State. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may be pleased, "citizen suffrage" or "alien suffrage." Should a majority of the votes cast be for "citizen suffrage," and should the census so to be taken show a population equaling or exceeding the ratio of representation required for a member of the House of Representatives of the Congress of the United States, the President of the Uni-

ted States, as soon as these facts are duly made known to him, shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, this act, and every part thereof, shall take effect, and the admission of the State of Oregon into the Union upon an equal footing with the original States in all respects whatever, shall be absolute and complete.

"Sec. 7. *And be it further enacted*, That the election authorized by this act shall be held at the same places, and by the same officers, as elections heretofore in the Territory of Oregon, and at such time after the passage of this act, and its official publication in said Territory, as the Governor of said Territory may by proclamation designate, the day to be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act: *Provided*, That, in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, and who are citizens of the United States, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said election. And if any person not so qualified shall vote or offer to vote, or if any person shall vote more than once at said election, or shall make, or cause to be made, any false, fictitious, or fraudulent returns, or shall alter or change any returns of said election, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months, and not more than three years.

"Sec. 8. *And be it further enacted*, That, for their services in holding said elections, the officers shall be entitled to receive the same compensation as is given for like services under the territorial laws."

Mr. GROW. Is that offered as a substitute for the bill? If it is offered as an additional amendment, it would shut out an amendment which I intended to offer.

Mr. MAYNARD. It is intended as an additional amendment.

Mr. GROW. Then I must decline to yield; for that would cut off my own amendment.

Mr. Speaker, I do not propose to weary the patience of the House, for I have but a few words to say on this subject. First, I desire briefly to notice the remarks of the gentleman from Georgia. It certainly is a new mode of obtaining a census of population, by taking the assessor's list of the taxable property of a people, and then attempting from that, to calculate the number of voters or of population. If you take the taxable list of property of the district of my friend from New York, [Mr. CLARK,] as a basis of population, and apply the course of argument pursued by the gentleman from Georgia, you might have, perhaps, more population in that district than there is in the whole United States; for I believe there is more wealth concentrated in that district than in any other congressional district in the Union. I am, therefore, not prepared to take taxable property as a basis of population. That is a new mode of taking a census. The gentleman said the people of Oregon must be the richest people on the face of the earth, or they have a large population. They must be a rich people if we are to judge of the value of personal property, as estimated in their claims for reimbursement of their war debt. Horses are valued, I believe, in that claim, at from two to five hundred dollars; and their other property in proportion; so of course, if the valuation of the assessor corresponded, they would have a large taxable property.

As to population, the gentleman from Georgia thought it sufficient. As a question standing by itself, I should make no question with him about it. I am not prepared to say that Congress should, in no case, depart from the representation necessary for a member from one of the States. There may be circumstances surrounding a people in a Territory which may make it not only necessary, but a duty, for Congress, before their population reaches that number, to consent to change the form of government from a Territory to that of a State. It was that reason which has governed my action from the first, in regard to Kansas. I am not ready, therefore, to say that I would, in no case, vote for the admission of a State until she had the ratio of population necessary for a member of Congress; but as a general rule, I think it is a safe and sound principle that the population should be something near the ratio required for representation in this House. But I will not dwell on that point, in this case.

The gentleman from Tennessee, in his minority report, has collected the figures, and made that one of the grounds of his objection to the admission of Oregon. Are there any circumstances surrounding the people of Oregon that should make them an exceptional case to the general action of the Government? If so, then the question of population is of no consequence. Have they any unredressed wrongs too grievous to be borne,

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under the territorial government under which they live? and is it for that reason that we are asked to change it? They have a territorial government, so far as I know, entirely satisfactory to them. The people of Oregon have three times voted against coming into the Union as a State. They did so, I believe, only the year before the formation of this constitution—it might possibly have been two years—so there was nothing in the character of their government, or its administration, appealing with more than ordinary force to the sense of justice in Congress to change its form.

That there may be no misunderstanding as to my views on one point, I will say here, that in the application of any people for admission as a State into the Union, the number of their population at the time would be a question of secondary consideration with me.

The propriety of granting their application must be determined by a fair consideration of all the surrounding circumstances at the time.

* In the last Congress I introduced an enabling act for Oregon, which passed this House, but was defeated in the Senate. But since the introduction of that bill, Congress has declared that a people then living under a cruel despotism, should not come into the Union as a free State, which was their desire, till they have at least twice as much population as Oregon has now.

Such was the decision of this Congress at its last session; you established the doctrine then, and I ask the same House to be consistent with its own decision. I ask not to fix a precedent for future Congresses, but only for consistency on the part of the same gentlemen who declared that a people, who had lived under a most odious despotism for four years, in which there was no security for life, liberty, or property, and in whom the Administration of the Federal Government took no interest save to trample on the dearest rights known to American freemen, should not have their prayer granted and their grievances redressed until they had a population of ninety-three thousand four hundred and twenty, unless they would consent to enter the Union as a slave State.

And that law is on your statute-book to-day. This same House has excluded from the Union a State with more population than that of Oregon, unless she would accept a constitution that her people abhorred, and submit to rulers whom they loathed; and by your act they are denied admission until they have nearly or quite double the present population of Oregon.

Sir, as a representative of the Union, on this floor, I will never make or permit, by my sanction, an unjust discrimination to be made between the people of different Territories; and while this decision remains on the statute-book, I call upon gentlemen on the other side of the House to be consistent with themselves.

The gentleman from Georgia, [Mr. STEPHENS,] as an excuse for the inconsistency of excluding Kansas, and admitting Oregon with less population, attempts to rely upon the ordinance of 1787, passed in reference to the Northwest Territory, and referred to in the act organizing the Territory of Oregon. That ordinance, as originally applied to the Northwest Territory, was composed of two parts. The first, consisting of personal rights, guarantees, and restrictions on the inhabitants of that Territory. The second, a compact between the Federal Government and the States, especially the State of Virginia. This provision of the organic act for Oregon, extending that ordinance to that Territory, applies only to the first part of that relating to the personal rights, privileges, immunities, and restrictions. It does not extend over Oregon that part of the ordinance of 1787 which was a compact with the State of Virginia. There was no necessity for extending that part of the ordinance, nor is it necessarily extended by any fair construction of the ordinance and the organic act for Oregon. Suppose the ordinance of 1787 had provided that a State should be entitled to come into the Union with ten thousand

inhabitants: would the gentleman still hold that, if the provisions of the ordinance should be extended over some future Territory, in the same language that was used in the Oregon act, she would be entitled to come into the Union as a State with ten thousand inhabitants, no matter what the ratio of representation might be? That would be the necessary effect of the construction given by the gentleman from Georgia. Mr. Speaker, there is no necessary connection between the compact with Virginia, as to the States, and the guarantees of personal rights. There are no special rights to be guaranteed to her in respect to Oregon. When the ordinance of 1787 was adopted with reference to the Northwest Territory, Virginia then claimed that she owned this Territory; and she ceded it to the Government on certain conditions: one of which was, that when the people in any separate Territory included within her limits numbered sixty thousand, they should be entitled to come in as a State. By no legal or necessary construction of the ordinance and the organic act can that part of the ordinance of 1787 be extended over Oregon. But even suppose such to be the fact, the gentleman from Georgia has failed to show that the population of Oregon numbers even sixty thousand. The evidence is against him, unless you take as a basis of population the estimates of property furnished by the Rogue river war claims.

Now, sir, one moment in reference to the records, in order to ascertain, if possible, the number of people in the Territory. I have here an almanac published by Mr. S. J. McCormick, one of the delegates to the convention which framed the constitution of Oregon. This almanac seems to be a sort of official register of political statistics for Oregon, as the Tribune almanac is for the whole country. I find that at the last election held in the Territory, in June last, the number of votes cast was 10,121, and that is the largest number ever polled in the Territory. Now, multiply that by any number you please, within any reasonable bounds, as the ratio of population to legal voters, and you cannot make a total population in the Territory of more than fifty-five thousand, at best. Compare it with the ratio of voters to inhabitants in any of the old States—you cannot swell it above that number. Take, for instance, the district which I represent, a district that has been settled for nearly a hundred years, and is consequently somewhat densely populated with large families—and in all the older settled districts of country you find the number of population larger, in proportion to the number of voters, than in the new States—in my own district the voters are about as one to four and a half, not to exceed five, of the population. I doubt whether there is a district in the United States where the proportion of population to voters is more than one to five; but assume that proportion and apply it to Oregon, and you would have a population of but little over fifty thousand in the aggregate. But, sir, every gentleman knows that, in the newly-settled portions of the country, the proportion of voters is much greater to the aggregate population than in the older States. Young men go forth to seek their fortunes in the wilderness alone. There is not so large a proportion of women and children as in the older settlements, and hence the proportion of voters is larger than in the older States. Here are the figures upon which I estimate the present population of Oregon; and it cannot exceed fifty thousand, judging by the number of votes at the election held in June last, at which this constitution was voted on, and members elected to the Legislature. I think the election was held on the first Monday in June last. If I am not correct, the Delegate from that Territory can correct me.

Mr. LANE. The gentleman is correct. The election to which he refers was held on the first Monday of June. But, sir, on that day we know that more than six thousand voters were away in the Fraser country, hunting after gold; and that two or three thousand more were in the Klammath Lake country, hunting for gold. If we had had a

full poll, we would have run up to twenty thousand votes. There is no doubt of it at all.

Mr. GROW. Well, sir, what I have said has been from the records of the Territory. I raise no question as to the opinions of the Delegate from Oregon. The population of Oregon, in my judgment, can be but little greater than it was six years ago, for the reason just stated by the Delegate, the gold fever has taken them off to the Fraser river country; the Indian disturbances on the plains have prevented accessions to their population by emigration on that route; and the Indian hostilities in the Territory within the last few years must, to a very great extent, have prevented emigrants from going there.

Mr. LANE. I will say to the gentleman from Pennsylvania that there has not one single family left Oregon for the Fraser river country. It is only the heads of families who have gone off searching for gold.

Mr. GROW. Well, take the election held in the Territory a year ago last June. That was before the gold fever broke out there.

Mr. LANE. At that time I ran without opposition.

Mr. GROW. I find an opposition vote put down here.

Mr. LANE. Well, sir, I will not say anything about the person who professed to be the opposition candidate. I will say that it was generally understood that I ran without opposition.

Mr. GROW. At the last election of a territorial Delegate, which occurred a year ago last June, there were polled for the Delegate who now occupies the seat five thousand six hundred and sixty-two votes; and there were polled for the opposition candidate three thousand four hundred and seventy-one votes; making the total vote of the Territory on that day nine thousand one hundred and thirty-three, and that was before the gold fever took the voters away from Oregon.

Mr. LANE. Will the gentleman from Pennsylvania allow me to say—

Mr. GROW. The gentleman will, I hope, pardon me. I wish to proceed with what I have to say on another part of this subject. I desired to call attention to this question of population, in order to contrast the action of the House at its last session with what it is proposed to do now. I only ask it to be consistent with itself. So far as I am concerned, show me that the people of Oregon are to-day deprived of protection in their persons, or in their property, by executive interference, or neglect of duty, and I would vote to admit them without delay, so far as the question of population is concerned.

Show me a people in any of the Territories towards whom the Executive of the Republic fails to perform his duty, and who are left in a state of civil war, with no arm of the Federal Government raised to protect them in their rights, or to shield their firesides and hearthstones from violence and wrong, and I will vote to admit them as a State, with a constitution not inconsistent with the guarantees of the Constitution of the United States, and thus relieve them from the despotism of the Federal Government, whatever their population, whether twenty or one hundred thousand. I only refer, however, to these records merely to meet the point made by the gentleman from Georgia; but so far as population, in the ordinance of 1787 is concerned, hold that that ordinance imposes no obligation upon us. Yet, even if it did, Oregon has not the population required by the ordinance; for instead of having sixty thousand population, I have shown from the official vote polled at her elections, that there cannot be more than forty-five thousand.

Mr. COMINS. During the consideration of the Oregon enabling act, I find the following:

"Mr. GROW. The population of Oregon, so far as the best information which we have goes, consists of somewhere about ninety thousand."

I should like to ask the gentleman from Pennsylvania on what authority he made that statement?

Mr. GROW. I took the authority of the Del-

egate from Oregon then, as the Committee on Territories takes it now. I had then none of the statistics I have now referred to. I reported the enabling act which passed this House, but was defeated in the Senate, on that information. By the last census taken in Oregon, her population was only forty-three thousand four hundred and seventy-two. That was three years ago. Does anybody believe that Oregon has doubled her population in three years?

Mr. LANE. It is four years, in May, since the census was taken.

Mr. GROW. Very well; four or five or six; does anybody believe that that far-distant Territory has doubled its population in that time? The census, showing this number of population, was taken in 1855. By the argument of the gentleman from Georgia, [Mr. STEPHENS,] I could prove that New York city has, to-day, four hundred million or more, of population. Take the number of persons who first occupied Manhattan Island, and suppose in one year they increased ten thousand; then, on that ratio of increase, applied from that day to this, she might have population enough to fill the world. The gentleman's basis is not a very safe one to compute population by. The first settlements, in any new country, increase at a much greater ratio for the first few years, than afterwards. The percentage in the first instance, for a given term, might be a hundred per cent.; but when the population should increase to millions, it would not do to apply a corresponding percentage. The argument fails; or if it proves anything at all, it proves too much, which is as faulty in logic as if it did not prove enough. But, sir, I will read from a letter of Mr. Smith, one of the Senators elected under this constitution for Oregon, published in the Oregon Statesman, of February 19, 1856, in which he says:

"We have, at present, an extensive territory with but fifty thousand population, though capable of sustaining millions."

And the editor estimates the population there at about fifty thousand. Has the population increased so much since? It was the interest of both, then, to estimate the population as high as possible, for the attempt was then making to induce the people of Oregon to apply for admission into the Union. That was a little over two years ago.

Mr. LANE. Just three years ago.

Mr. GROW. Yes, sir; yet nobody will pretend, I trust, that the population of Oregon has doubled in three years.

But, sir, the question of population is not one that solely controls my action. Yet before passing from it, as the views of the minority of the Committee on Territories embody my ideas as concisely as I could express them, I ask that the minority report be read.

The Clerk read as follows:

Views of a minority of the Committee on Territories on the application of the people of Oregon for admission into the Union.

By section three, article four, of the Constitution, it is provided that "new States may be admitted by the Congress into the Union." The time, mode, and manner of admission are, therefore, left by the Constitution wholly to the discretion of Congress. In the exercise thereof, States have been admitted, some with, some without, a previous act of Congress authorizing the people of the Territory to form a constitution and State government. The Territories of the Union have thus been transformed into States without uniformity in the mode and manner of procedure, and without any uniform number of population—the whole subject of propriety of admission having been left to the discretion of Congress at the time of the application of the proposed States.

The two Houses of Congress, however, at their last session, declared in their action on the application for the admission of Kansas as a State, that its then existing population was sufficient for its immediate admission into the Union as a slave State; but if its people were unwilling to come into the Union with such a constitution, then they were authorized to elect delegates to form a constitution and State government preparatory to their application for admission "whenever, and not before, it is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States." That restriction upon the action of the people of Kansas received the approval of the President, and is now a law upon the statute-book.

The President, not satisfied with his official approval of the act at the time of its passage, takes occasion, in discussing the Kansas question in his annual message at the opening of the present session of Congress, to say, relative to the admission of Kansas as a State: "Surely it is not unreasonable to require the people of Kansas to wait, before making a third attempt, until their number of inhabitants

shall amount to ninety-three thousand four hundred and twenty."

Had the reasonableness of this requirement suggested itself to the President in his message transmitting the Le-compton constitution to Congress, much valuable time in the legislation of the country might have been saved, and a "dangerous" sectional agitation avoided.

The President, in the same annual message, also declares that any attempt by the people of Kansas to form a State constitution before the number of their population reaches the required amount, would be "in express violation of the provisions of an act of Congress," and, in the judgment of the President, therefore, could not lawfully be made. Should it be attempted, judging of the future by the past conduct of the Executive towards the people of Kansas, the President would declare it a case of rebellion or treason, and the Army of the Republic would again be employed, under the plea of preserving "law and order," to suppress constitutional liberty in Kansas.

This is the first instance in the history of the Government in which Congress has declared that the same population that is recognized as sufficient for a slave State was not sufficient for a free one. And the Chief Magistrate of the Republic not only sanctions such a discrimination, but avows his readiness to insist on it in the execution of the laws, so far as they affect the people of Kansas.

With this law on the statute-book, and with these official declarations of the President, it is proposed to admit Oregon into the Union with a population less than the number required by this law, and, from the best sources of information within the reach of your committee, not exceeding, if equal to, that of the Territory of Kansas.

The population of Oregon, by the census taken in 1855, was forty-three thousand four hundred and seventy-two, (43,472.) The largest vote polled at any election in said Territory was ten thousand one hundred and twenty-one, (10,121.) The total vote for State officers, at the election held on the first Monday of June last, was ten thousand and forty-nine, (10,049,) and for a member of Congress, at the same time, ten thousand one hundred and five, (10,105.)

The total vote polled in Kansas two months later, on the proposition submitted by Congress, as certified by the board of commissioners, was thirteen thousand and eighty-nine, (13,089,) which did not include two hundred votes rejected by reason of informality in the returns. So the entire vote of Kansas, on the first Monday of August last, was thirteen thousand two hundred and eighty-nine, (13,289,) being three thousand one hundred and eighty-four more than were polled in Oregon.

The undersigned minority of your committee are unable to appreciate the fairness or justice of this kind of legislation towards the people of different Territories, and are unwilling to give their sanction in any way to a discrimination as to the number of population required for a free or slave State, and much less as to the controlling political character of the proposed State.

The applications for both Kansas and Oregon to be admitted into the Union, were presented at the last session of Congress. Neither had been authorized by a previous act of Congress to form a constitution; so, in that respect, they were both alike. So far as could be ascertained, there was little or no difference as to the number of their population. Each had elected "a State Legislature, and other officers," and, so far, they were alike prepared to enter the Union.

The only real difference that existed in the two cases, prior to the application for either, was, that Oregon had a territorial Government not unsatisfactory to her people, and a Legislature chosen by her own citizens, while the territorial organization of Kansas was a usurpation by fraud and force, and its political power has been wielded by usurpers and despots.

Without expressing any opinion as to the propriety of a restriction on new States as to population, if general in its character, or as to the necessity for any previous act by Congress authorizing the formation of a State government, and without inquiring whether the constitution presented by the people of Oregon is republican in form and consistent in its provisions with the guarantees of the Constitution of the United States, so long as the restriction on the action of the people of Kansas remains on the statute-book, the admission of Oregon would be an unjust discrimination between the people of different Territories, if not an endorsement of the odious distinction made in the law of the last session of Congress against free institutions and free States.

The undersigned minority of the committee therefore recommend the following as an additional section to the bill reported by the majority:

Be it further enacted, That so much of an act entitled "An act for the admission of the State of Kansas into the Union," approved the 4th day of May, A. D. 1858, as provides that "whenever, and not before, it is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States," be, and the same is hereby, repealed.

GALUSHA A. GROW,
AMOS P. GRANGER,
CHAUNCEY L. KNAPP.

Mr. GROW. I shall propose, as an amendment to the bill, the additional section at the close of the report. I ask the House to be consistent with its action, and to be fair and just to the people of all the Territories of the Union. Either take off the restriction on Kansas, or apply it to all the Territories. I would leave every application for the admission of a new State to be acted on by Congress, under all the circumstances of the case, as presented at the time of the application. But Congress, at the last session, declared a new doctrine, and the President declares, in his message to Congress, that he will see it enforced, so far as the people of Kansas are concerned. If that people, then, should proceed to form a constitution, and a law for admission as a free State,

before their population reaches the ninety-three thousand requirement, what guarantee have we that the cruel scenes of Kansas will not be enacted, under Executive approval, and American citizens be loaded again with chains, and forced to drag out weary months in custody of United States soldiers, for exercising the right guaranteed by the Constitution of their country, peaceably to assemble, at all times, and petition the Government for redress of grievances? While that restriction remains on the statute-book, and this policy finds an advocate and defender in the Executive of the Republic, no sanction of mine shall be given to admit a State into the Union with a less population than that of Kansas. While the action of this House was unjust to the people of Kansas, I will not aggravate that injustice by any aid of mine, in granting to another people, who have no wrongs to redress, what was denied to them. This House, when acting as a tribunal, should be consistent with itself. But if it will not be, I will not aid its inconsistencies. I promised to yield to the gentleman from Ohio [Mr. BINGHAM] before closing my remarks, and I now do so.

Mr. BINGHAM. I desire to offer an amendment, as a substitute for the bill.

Mr. GROW. I will hear the substitute read. The SPEAKER. The gentlemen from Pennsylvania cannot offer his amendment until the motion to commit has been withdrawn.

Mr. GROW. I appeal to the gentleman from Georgia to withdraw his motion to commit until the various amendments can be offered.

Mr. STEPHENS, of Georgia. I am perfectly willing to have them read; and, at the right time, gentlemen may have an opportunity of offering their propositions.

Mr. GROW. Very well. So that there shall be an opportunity to offer them in proper time, that is all we want.

Mr. STEPHENS, of Georgia. I am perfectly willing that all shall have an opportunity of being offered. While I am up, I will say to the House that my desire is, that before we adjourn this evening, the previous question shall be sustained, so that we can dispose of the bill to-morrow at—say, one o'clock. The debate can progress this evening.

Mr. GROW. If the gentleman from Georgia proposes to allow these amendments to be all offered, I am not particular as to the mode of doing so. If the gentleman from Ohio desire to have his substitute read, I will give way for that purpose.

Mr. BINGHAM's amendment was read, as follows:

Strike out all after the enacting clause, and insert the following:

Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government preparatory to their admission into the Union as a State; and whereas said constitution does not conform to the Constitution and the laws of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Oregon which is embraced within the following limits, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly, to and up the middle channel of said river, and where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake river; thence up the middle of the main channel of said river, to the mouth of the Owyhee river; thence due south to the parallel of latitude forty-two degrees north; thence west, along said parallel, to the place ob-
gunning.

SEC. 2. *And be it further enacted,* That the said State of Oregon shall have concurrent jurisdiction on the Columbia and all other rivers and waters bordering on the said State of Oregon, so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed or bounded by the same; and said river and waters, and the navigable waters leading into the same shall be common highways, and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. *And be it further enacted,* That on the first Monday in October next the citizens of the United States who are legal voters resident in each representative district then existing within the limits of the proposed State are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the Territorial Legislature; which election for delegates shall be held and conducted, and

the returns made, in all respects, in conformity with the laws of said Territory regulating the election of representatives; and the delegates so elected shall assemble at the capital of said Territory on the first Monday in November next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time: and if so, shall proceed to form a constitution, and take all the necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

Sec. 4. *And be it further enacted*, That, in the event said convention shall decide in favor of the immediate admission of the proposed State into the Union, until the next congressional apportionment the said State shall have one Representative in the House of Representatives of the United States.

Sec. 5. *And be it further enacted*, That, from and after the admission of the State of Oregon into the Union in pursuance of this act, the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Oregon as elsewhere within the United States; and said State shall constitute one district, and be called the district of Oregon; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold at the seat of government of said State two sessions annually, on the first Mondays in January and July; and he shall in all things have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for said district, who shall reside and keep the records of said court at the place of holding the same.

Sec. 6. *And be it further enacted*, That there shall be appointed in said district a person learned in the law to act as attorney of the United States; and there shall also be appointed a marshal for said district, who shall perform the same duties and be subject to the same regulations and penalties as are prescribed to marshals in other districts.

Sec. 7. *And be it further enacted*, That the district judge, attorney, clerk, and marshal, contemplated by this act, shall each be allowed the same compensation and fees that are severally allowed to the same officers in the State of California by act of Congress, to be paid in the same manner.

Sec. 8. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Oregon for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon said State of Oregon, to wit:

First. That sections numbered sixteen and thirty six in every township of public lands in said State, and where either of said sections or any part thereof has been sold, or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

Second. That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such a manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third. That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others, at the seat of government, under the direction of the Legislature thereof.

Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof within one year after the admission of said State, and, when so selected, to be used or disposed of on such terms, conditions, and regulations, as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

Mr. MAYNARD. I ask the gentleman from Pennsylvania to let my amendment come in now.

Mr. GROW. The gentleman from Georgia has a motion before the House to commit the bill to the Committee of the Whole on the state of the Union, so that no amendment is in order.

Mr. Speaker, I have but a single remark further to make on this question. While I cannot sanction or permit a discrimination to be made between the people of different Territories, still less could I vote for a constitution which shuts the doors of the courts of justice against any human being, no matter what his condition or rank in life. One of the provisions of the constitution of Oregon provides that certain persons, who are rec-

ognized as citizens of some of the States of the Union, cannot "maintain a suit in the courts of that State." A constitution of a people applying to Congress for admission into the Union, is of no binding force or effect until it receives the sanction of Congress. My vote shall never give vitality or effect to a constitution of any people which closes the doors of justice against any human being, I care not what his rank, color, or condition in life. The more humble, lowly, despised, and friendless he is, the more need he has of the protection of the courts of justice. I recognize the right, under the constitution, for any State of the Union to fix the political status of its citizens. On that I make no point. But when the courts are closed, and justice is denied to a man born on American soil, and reared to manhood under the flag that floats over us; when he is debarred the protection of life, person, and property in courts of justice, no organic law of any people, with such a provision, can receive my approval. If the House chooses to do it, make the record, and then proclaim to the world that your boasted republicanism consists in closing the doors of justice against a whole class of men born on American soil, because they are poor, despised, and friendless. Make the record, and then proclaim to the world that your boasted republicanism is a realization of the barbarism described by the Chief Justice of the Supreme Court, that one class of citizens have no rights that the others are bound to respect.

Sir, for these reasons briefly expressed, I am opposed to the admission of Oregon at this time, and, under the circumstances, as a State into the Union.

Mr. HUGHES. As a member of the Committee on Territories, I concurred in recommending the admission of Oregon. As a citizen, exulting in the spread of our institutions and our empire, I feel a deep interest in its consummation. As a Representative of the people, I esteem it not only a duty, but a high privilege, to give it my support.

A little over two years ago, a great party was organized in this country, which shook the world with its thunder in favor of "freedom," and, at one spring, well nigh seized the supreme power of the Government. Its special mission and purpose were proclaimed to be the admission of free States, and free States only, into our American Union. By its artful appeals to the passionate love of liberty imbedded in the hearts of our people, it consolidated a mighty power.

As its first political work, overlapping all established forms, all sound conservative principles, it took to its arms Kansas, with her Topeka constitution, and clamored for her admission into the Union, not as a peaceful and dutiful daughter of the Republic, but as the child of revolution, anarchy, and rebellion. There the great mission of this party appears to have begun and ended; for when the hour arrived that even Kansas could have been molded at its will by the sure and simple process which all Americans understand so well, of dropping a ballot in the box, seven thousand out of nine thousand registered voters adjured the high calling of freemen, and refused to go to the polls. Then came Minnesota; a free State, and they opposed her. And to-day I have caused myself to be conveyed to this House from a sick room to witness the spectacle of this great party's opposition to the admission of Oregon, and to aid with my voice and my vote in preventing the accomplishment of its purposes.

Oregon ought to be admitted, as a State, into the Union. There are many good reasons for it, and no reasons that ought to prevail against it. The act of admission is already half completed; the bill before us passed the Senate by a vote of 35 to 17, months ago, receiving in that body the support of men of every party. This, too, was on the 19th of May, 1858, two weeks after the passage of the English bill, a measure which is now invoked by some of the peculiar champions of "free institutions," to excuse this, their second attempt, to keep a free State out of the Union, which happens to come as a Democratic State.

It rests with us to say whether Oregon shall become one of the United States of America. This House will have the high privilege of adding to our national constellation a second Pacific star; or the odious responsibility of rejecting an application, not only just and meritorious, but made

upon the solemn invitation, and supported by the solemn guarantee, of Congress. A formidable opposition is arrayed against this measure, and now shows itself in open hostility; therefore, it is proper to set before the House the claims of Oregon, and to examine the grounds upon which they are denied.

The Territory of Oregon was organized by act of Congress in 1848; and that act, in express terms, declares:

"That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the 13th day of July, 1787."

In other words, the provisions of the famous ordinance of 1787 were put in force in the Territory of Oregon by act of Congress.

The fifth article of compact, in that ordinance, contains the following clause:

"And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its Delegates, into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government: *Provided*, The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand."

Here is an enabling act for Oregon, pledging to her people admission into the Union with sixty thousand free inhabitants, or even with a less number, if "consistent with the general interest of the Confederacy."

In pursuance of this guarantee, the people of the Territory, when they attained to the number of sixty thousand, in the year 1854, took a vote upon a question of coming into the Union, and decided against it. Again, in the year 1855, another vote was taken on this question, and the decision was still the same. The people of this infant State, at that time, preferred to leave the expenses of their territorial government, amounting annually to about thirty-four thousand dollars, to be defrayed out of the national Treasury, to assuming the burdens of taxation incident to a sovereign State.

They remained contented with their territorial government, engaged in agriculture and trade, developing the resources of Oregon, growing in wealth and numbers, and accumulating, steadily, all the elements of a prosperous and powerful State, until, at length, Congress, desirous perhaps of relieving the national Treasury of the annual expense of supporting a local government for a people so well able to pay their own expenses, and perceiving their fitness, in all respects, to become a State of the Union, took the initiative, and proposed an enabling act for Oregon. It passed this House on the 31st of January, 1857, with so little opposition that the yeas and nays were not even ordered.

In the Senate it was favorably reported upon, and failed to pass only for want of time.

The Territorial Legislature of Oregon being in session at the time when the enabling act passed the lower House of Congress, with so little opposition, and was favorably reported upon in the Senate, took it for granted, as they well might, that it would become a law, and made the necessary provision for framing a constitution under it.

The constitution now presented to us is the result. So that the proceeding which brings it here was put in motion by this House. The Senate, though they failed, for want of time, to pass the enabling act, have accepted the constitution, which is its fruit, and passed the bill for the admission of Oregon; and now her application comes to us sanctioned decidedly by both Houses of Congress, and commended by the regular, orderly, and harmonious action of her people. Who now proposes to shut the door in the face of this invited guest? Why, strange to say, the leader of the movement, the gentleman from Pennsylvania, [Mr. Grow,] who makes the minority report against Oregon, is the same Representative who reported the enabling act, advocated it, and superintended its passage through the House. This is a remarkable change of front.

The tergiversations of the gentleman from Pennsylvania, as an individual, are not of sufficient importance to require any comment from

me in the presence of this House; but, in this matter, he seems to be a representative man, reflecting the common sentiments, and coöperating in the common policy, of a large number, perhaps a majority, of his party. In that light, his course is significant, and a fit subject for examination. I am not altogether unprepared for this opposition to the admission of Oregon. There is a party movement behind it. Aside from other evidences, which I will not take time to enumerate, the newspapers of the Republican party have announced what we witness here to-day, and furnished the reasons, or some of them at least, upon which it is expected to justify this opposition. I beg leave to lay before the House two or three illustrations. The first which I present, I suspect, is very inaccurate in the use of the names of certain members of this House, but not in representing substantially the line of policy contemplated at that date to defeat the admission of Oregon. From the New York Times, of December 17, 1858, I read the following extract from its Washington correspondence:

"At one time it was anticipated the Oregon bill would become a law at an early day in the session, with little or no opposition. Some facts, however, have just leaked out which develop a well-laid plan for the defeat of the bill. Mr. Davis, of Maryland—

That, sir, would have been prophetic if Maryland had been Indiana—

—will move an amendment in the nature of an 'enabling act' for Kansas, and this will receive the united support of the Republicans, with some Democratic recruits. Mr. HORACE F. CLARK and Mr. JOHN COCHRANE of New York, are among those pledged to its support. It is expected the Speaker will rule the amendment out of order. Indeed, the leaders of the plot admit that such an amendment would be out of order, and to dodge the 51st rule they will christen their bantling a 'substitute.' An appeal will be taken from the ruling of the Speaker, and the combination formed, it is believed, will be able to sustain the appeal, and adopt the substitute. This being done, a new combination will take place, and the Black Republicans voting with the Lecompton Democrats will defeat the whole bill. It is possible that Oregon would have the casting vote should the next presidential vote be thrown into the House, and hence the Republican anxiety to defeat the bill admitting her as a State. The whole thing has been managed up to this time with the greatest secrecy, but 'murder will out.'"

Mr. DAVIS, of Indiana. I was not listening when the gentleman read the extract from the Times. Did the gentleman allude to me?

Mr. HUGHES. I merely said, that if, instead of Mr. DAVIS, of Maryland, it had said Mr. DAVIS, of Indiana, it would have really been prophetic. Instead of Mr. DAVIS, of Maryland, it turned out to be Mr. DAVIS, of Indiana, who moved an enabling act for Kansas.

Mr. DAVIS, of Indiana. I do not understand that I have moved an enabling act.

Mr. HUGHES. Well, we will not dispute as to the construction of the gentleman's amendment.

More than a month after the appearance of the foregoing communication to the Times, I find the following telegraphic news in the New York Courier and Enquirer, of the 8th of January:

"WASHINGTON, Friday Night.—The Republican caucus to-night has decided to vote against the admission of Oregon."

And we have now before us the record showing that the Republican party has three times refused a suspension of the rules to permit this bill to be reported.

Mr. GILMAN. Do I understand the gentleman to say that the Republican party, in its caucus, determined to oppose the admission of Oregon as a State into the Union?

Mr. HUGHES. I read from a telegraphic dispatch to a Republican newspaper. I do not place much reliance upon information from such a source, as a general thing; but it ought to be good authority with the gentleman from Maine.

And again, as the plot draws nigher to its consummation, the following summary statement of the reasons upon which Republican members of this House base their opposition to the admission of Oregon, is sent out to the country through the columns of the New York Tribune, of January 11, 1859:

"From an Occasional Correspondent.

"WASHINGTON, January 8, 1859.

"THE OREGON BILL.—You are aware that very many of the Republicans of the House have determined to oppose the bill for the admission of Oregon. Inasmuch as the introduction of free States into the Union is a prime object of the Republican party, its friends will naturally wish to know the reason for this departure from its settled policy.

"The reason is at hand. It is found in the character of the constitution which the mis-called 'Democracy' of Ore-

gan has framed for the future government of its people. Concede, for the argument's sake, that that instrument is, technically, 'republican in form,' and therefore within the letter of the requisition of the United States Constitution; yet, in some vital particulars, it is not republican in its spirit, but, on the contrary, is oligarchical and aristocratic.

"I. It inhibits the immigration of free negroes and mulattoes; in reality, it excludes this class of people from the State. Of course, this is at war with that provision of the Federal Constitution which insures to the citizens of any State the privileges and immunities of citizens in each and all the States. In many States of the Union, negroes are citizens, and enjoy all the privileges and immunities of the most favored class of citizens.

"But their exclusion from the inchoate State of Oregon is more than a violation of the Federal Constitution. It is hostile to the genius of free institutions, the liberal spirit of the age, and the golden precepts of the Christian faith. We will not add that it is anti-Democratic, because, as 'Democracy' is defined in the creed, and illustrated in the conduct of its current professors, we think this despotic, and a diabolical provision is eminently Democratic.

"II. It prohibits free negroes and mulattoes from holding real estate, or making contracts, or maintaining suits in any of the courts of the State. This prohibition is subject to the same constitutional objection as that which forbids immigration. It is more infamous than that inhibition. Negroes may possibly get into the State; they may be found on its soil. This inhuman clause of its constitution denies them a home, or even a bovel. It forbids their working for hire; and, when outraged by the grossest attacks upon their lives, liberties, or properties, it leaves them remediless. This is barbarous. It would disgrace the twilight civilization of the dark ages. It would befit the savage institutions (if they have institutions of any sort) of the Feejee Islands. It is worthy only of the Democracy of Oregon.

"III. While free negroes and mulattoes are forever excluded from the right of suffrage, the ballot-boxes are thrown open to all aliens of all climes—'Parthians, and Medes, and Elamites'—provided there be no tinge of African blood in their veins. Many of our friends think that the attempt, now becoming common, to override the true intent of the Federal Constitution, by clothing with one of the highest privileges of citizenship those who are not now and may never become citizens, ought to be resisted whenever the issue is presented. The Oregon Constitution flings it in the face of Congress, and it is believed that Republicans and Americans in the House will rebuke and repel it.

"IV. Many Republicans oppose the admission of Oregon because of the paucity of its population. They allege that the opinion is gaining ground, both in Congress and throughout the country, that, as a general rule, Territories should not be admitted to the Union until the inhabitants are equal in amount to the number required for a Representative in the lower House. It is believed that Oregon has scarcely more than half this number. Those who resist the bill for this reason claim that it is not inconsistent with their readiness to admit Kansas with a similar population, because that Territory is, by universal consent, an exception to general rules on this subject.

"V. The bill is opposed, also, because of the invidious distinction it institutes between Oregon and Kansas. By the English bill of the last session, the 'Democracy' forbade Kansas, in case she repudiated the Lecompton swindle, to frame another constitution until her population equaled the number required for a Representative in Congress. Using the *argumentum ad hominem*, the Republicans insist that what was 'Democratic' in regard to Kansas is equally Democratic in respect to Oregon. They, therefore, propose that Jo. Lane and Delazon Smith shall tarry in territorial Jericho till their senatorial beards acquire as ample dimensions as those prescribed for the prospective conscript fathers of Kansas.

"Such are the grounds, sketched in mere outline, on which Republicans who oppose the bill for the admission of Oregon plant their feet."

This 'occasional correspondent' seems to understand the subject. He states the case with considerable candor; and with one very brief, but important, addition, I shall accept his statement as a fair exposition of the grounds of Republican opposition to the Oregon bill.

I would add, that the approach of a presidential election had made it expedient that the Democratic State of Oregon should be kept out of the Union, free State though she be, until after 1860. Her electoral vote, her two Democratic Senators, and above all, her representation in the next Congress, where the organization of the House, and perchance the choice of a President, might be determined by her vote, render her a most unwelcome visitor at the present time.

I wonder if this occasional correspondent is a member of Congress? If so, he must already have secured his return, for it is not often you find a Republican so frank in proclaiming his adherence to "negro equality" before an election!

We have now arrived at a point where the Republican party of this House oppose the admission of a free State into this Union, because its constitution does not make the negro the equal of the native-born white man, and the foreign-born white man the inferior of the negro. These hypocritical professors of "popular sovereignty," who denounce the Dred Scott decision, and deny that the Constitution of the United States carries African slavery into the Territories, would refuse to a sovereign State the power to exclude free negroes, and maintain that the Constitution carries

"negro equality" everywhere—not alone into Territories, but into States also.

Mr. STANTON. I suppose the gentleman from Indiana desires to represent this side of the House correctly.

Mr. HUGHES. I let the New York Tribune speak for it.

Mr. STANTON. I beg pardon. This side prefers to speak for itself.

Mr. HUGHES. I cannot yield now. I should be happy to hear the gentleman. It is a pleasure often permitted to the House, but one I cannot allow myself now to enjoy, being under a pledge to give part of my time to the gentleman from Ohio, [Mr. NICHOLS.]

Mr. STANTON. Then the gentleman declines to permit any correction. I want to have that in the gentleman's speech.

Mr. HUGHES. Yes; write it out and send it over, and I will put it in my speech.

Let the Republican party stand by this issue. Let them put themselves upon the record. Let them vote against Oregon. When they stand unmasked before the world—in every American sense, *hostes humani generis*—one look upon their unavailing faces will be enough for their constituents.

Go, then, freedom-shrieker! Vote against Oregon. But remember, you vote against the compact of the ordinance of 1787, expressly extended to that Territory by act of Congress. You vote against "popular sovereignty," and deny to the people of Oregon the right to "regulate their domestic institutions in their own way." You vote for negro equality, and plant yourself in opposition to the Constitution of your country, which you have sworn to support. You vote to deny to the white foreigner that which your enlarged philanthropy claims for the negro who happens to be born in the United States. You vote to keep a free State out of this Union—a State which comes on our own invitation, and comes in the most orderly, regular, and appropriate way. There are some of you that will not do this thing, and some that dare not. Upon those who do, I invoke the condemnation of an intelligent and patriotic people.

Sir, I propose now to make some observations on the question of population, and to inquire how far the case of Oregon comes within the rule applied to Kansas in the English bill. There are those in this House who sincerely believe that, unless extraordinary circumstances exist, forming a just exception, no State ought to be admitted into this Union with less population than that required for a member of Congress, and who have evinced their loyalty to this principle by their votes. I profess to be one of that number. To such I would respectfully address myself, in the earnest hope that I may remove any apparent difficulties, growing out of the rule, affecting the admission of Oregon.

There may be those in this House who, having never acknowledged the principle of population referred to, but denied it, and voted against it, seek now to invoke it, as a pretext to cover up their opposition to Oregon, for partisan and other purposes. These I can neither hope to convince nor persuade; but I may expose them, by contrasting their present position with their past acts, and thereby destroy the moral force of every argument adduced by them, drawn from the question of population. I desire to be understood, not as reflecting upon individuals personally, but speaking of men in a representative capacity.

On this question of population, there may be some diversity of opinion among those who adhere to the rule requiring a representative ratio, as to the manner of its application. Some may stand for its rigid and literal enforcement, others only for a substantial compliance with it. With the latter class there can be no difficulty whatever in the case of Oregon.

The actual population of Oregon is a question of fact. The evidence before this House, and the best evidence which the diligence of any member can procure, indicates that, at the present time, the population of Oregon is fully up to the number of ninety-three thousand four hundred and twenty. I do not intend to go into details upon this question of fact; but will append to my remarks, in print, the statement of the Delegate from Oregon on that subject, already in possession of the House. I also beg leave to quote, for

the benefit of all with whom his opinions and example have weight, a declaration of Senator SEWARD, of New York, on this point. He says:

"I do not think the matter of numbers is of importance here. The numbers are estimated at eighty thousand. The present ratio of Representatives is ninety-three thousand four hundred and twenty. *Eighty thousand is a practical compliance even if that rule should be enforced*; but I shall never consent to establish, for my own government, any arbitrary rule with regard to the number of population of a State."—*Congressional Globe*, vol. 36, part 2, page 1964.

I will say further, that as long ago as the 31st of January, 1857, the House of Representatives had a statement before it of the chairman of the Committee on Territories, of the Thirty-Fourth Congress, and in that capacity the organ and recognized leader of the Republican party, on territorial affairs, which I will read from the debate on the enabling act for Oregon:

"The population of Oregon, so far as the best information which we have goes, consists of somewhere about ninety thousand."—*Congressional Globe*, vol. 34, page 520.

The same gentleman, [Mr. Grow,] after having procured the passage through the House of the enabling act upon this and other statements officially made as chairman of the Committee on Territories, comes here, after a lapse of two years, with his minority report, opposing the admission of Oregon, for want of sufficient population, and has argued here to-day that Oregon has not fifty thousand inhabitants! And at his back come the men who aided in the passage of that enabling act. When Kansas presented herself before the Thirty-Fourth Congress with her revolutionary, Topeka constitution, the gentleman and his party received her with open arms: he, as chairman of the Committee on Territories, reported in favor of her admission; and they, by their votes, sustained his report.

From that report, I beg leave to read two passages to which the attention of the gentleman from Pennsylvania and his Republican brethren is respectfully invited. First:

"But when their numbers and wealth are sufficient to justify it, and the people desire to take upon themselves the responsibility and expenses of a State government, there is no longer any occasion for the guardianship of Congress, and no reason why their request should be delayed or refused."

Second:

"The population of Kansas, from the most reliable sources of information, is nearly or quite equal to the present fractional ratio for a member of Congress in the States, and greater than the representative population of many of the States at the time of their admission into the Union. So there can be no valid objection to her admission on account of insufficient population."

So that the gentleman from Pennsylvania and his party stand fully committed to the position, that "there can be no valid objection on account of insufficient population," to the admission of a State with the fractional ratio of fifty thousand inhabitants.

Then why oppose the admission of Oregon, which, according to his own statement made to the House, had ninety thousand inhabitants two years ago?

The chief reliance of Republicans to justify their opposition to Oregon before the country seems to be the fallacious argument, that the Democratic party having applied a restriction to Kansas, it is right to apply the same to Oregon. I would recommend to them to look after their own consistency and leave the Democratic party to take care of theirs.

And here I am reminded that this Topeka precedent covers another point in the case under consideration—the question of free negro exclusion. It is true, no such heresy as negro disabilities was permitted to deform the fair face of that darling child of Republicanism, the Topeka constitution, but the forbidden fruit was permitted to Kansas, the favorite daughter, in a not less substantial form; and the vote which admitted Kansas into the Union, under that instrument, must have spoken into existence a Legislative Assembly bound by imperative instructions to enforce those disabilities by law.

Leaving, for the present, the question of population, I will proceed to state what seem to me the paramount claims of Oregon to admission.

Her organic act entitles her to admission with sixty thousand inhabitants; and it is conceded on all hands she has far more. Her application is made, in fact, upon the invitation of Congress, as already shown. She lies remote from the central Government, upon a distant seaboard; she has been for ten years in a territorial condition, and her

growth has been gradual, healthy, and permanent; she is at present an expense to the General Government, and both able and willing to support herself. Her people are all either Americans or thoroughly Americanized; and her early settlers held the country for us and established our jurisdiction there, when it was in dispute, and secured to this Confederacy a magnificent empire on the Pacific. Her constitution is republican in form, and made and ratified with great regularity and unanimity by her people; and, finally, it was well understood when the Kansas question was settled, that no rigid application of the population principle was to be enforced to the prejudice of Oregon, whose application was then pending.

With respect to the constitution of Oregon, against which so many objections are now urged by the Republicans of this House, even Mr. SEWARD, of New York, who disapproves the disabilities it imposes on free negroes, has said in the Senate:

"They (the people of Oregon) have made a constitution which is acceptable to themselves; and a constitution which, however much it may be criticised here, after all, complies substantially with every requirement which the Congress of the United States, or any considerable portion of either House of Congress, has ever insisted on, in regard to any State."—*Congressional Globe*, vol. 36, part 3, page 2209.

If there be any southern Democrats in this House, who, still unconvinced by the evidence that has reached them, of the fact that Oregon contains ninety-three thousand four hundred and twenty inhabitants, feel inclined to make a rigid application of the representative ratio in this case, and to vote against this bill for that reason, I entreat them to hear me. I, perhaps, am as little biased by interest, as little trammelled by popular feeling, upon questions of this nature, as any man in this body. I am in a position to be impartial and independent. My race is run. The grass grows green over my political grave, and I speak as a voice from the spirit-land. I stood side by side with these gentlemen through the trying scenes of a long and turbulent session, in defense of the principles and the integrity of the Democratic party. Having fallen at my post, in the discharge of my duty, I am content. Now, I say to these gentlemen, to this House, and to the world, that I did understand, when sustaining with my voice and my vote the ratio principle in the English bill, that the pending application of Oregon was not to be affected, imperiled, or cut off, by any question of population being sprung upon her. So this matter is treated in the message of the President, who says:

"Of course, it would be unjust to give this rule a retrospective application and exclude a State which, acting upon the past practice of the Government, has already formed its constitution, elected its Legislature and other officers, and is now prepared to enter the Union."

When the Lecompton storm was at its worst; when dissensions shook our councils, and defection thinned our ranks; when the common enemy triumphed in our divisions and exulted in the hope of our speedy and final defeat, who stood forth more nobly or promptly to take his fortunes with us in that memorable contest, than the gallant gentleman who sits upon this floor as the delegate from Oregon, and whose faithful and zealous guardianship of her interests has met with a merited acknowledgment in being chosen a Senator for the new State? Is he to be placed in the false and suicidal attitude of aiding to establish a principle which was to exclude his State from admission into the Union? Would that be a fit return for his devotion and fearless advocacy of the right? In the very speech which he made upon the Kansas question, when rebuking some northern Democrats for finding pretexts to oppose the admission of slave States into the Union, he made the following declaration, and I well remember it was received with approbation by gentlemen from the South:

"Every southern member of the House (said he) is ready to vote for the admission of Minnesota and Oregon without slavery, and to live up to the doctrine that the people have a right to settle their own institutions in their own way."—*Congressional Globe*, volume 36, part 2, page 1396.

In the same speech, he expressed his conviction that Oregon would be speedily admitted. Her application was then pending. If the question of population was to be made upon her, and a rigid enforcement of the representative ratio required, did not candor and fairness demand that it should then have been made known? As the applications of these two Territories, Kansas and Ore-

gon, were both pending at the same time, I have confidently looked forward to the day when Oregon, a free State, would be admitted by the united votes of the Democratic members of this House, North and South, to furnish to the country a conclusive answer to the miserable pretense of our opponents with which they seek to prejudice the public mind—that we have one rule for a slave State, and another for a free State.

I believe I know something of the southern people. An appeal to their patriotism and sense of honor will not be made in vain. Vote, then, for the admission of Oregon, and tell the people of the South that, whether well-founded or not, the impression was firmly seated in the northern mind, that honor and good faith, on the part of the South, required it; and tell them, too, that the voices of northern martyrs came to you from the political spirit-land, beseeching you not to give aid and comfort to the enemy, in the rejection of Oregon, but, by extending to her a cordial welcome, strengthen still further the integrity and nationality of the Democratic party, which is the only remaining hope of the country.

It seems to me, that every consideration which ought to prevail with enlightened statesmen, demands the immediate admission of Oregon. It is our obvious policy to build up at once powerful States on the Pacific. Their growth should be stimulated, their government strengthened, and their affections drawn to us by every legitimate means. We have an empire there, traversed by the pathways of commerce and destined at some future day to be the abode of millions. It is both our interest and our duty to establish there powerful and self-sustaining State governments, and to seize the gateways of the Isthmus and the island that commands the gulf, and hold them against the diplomacy or the arms of the world. The admission of Oregon, as a State of the Union, is but one step in a policy demanded by our security as a nation, and which should never stop short of commanding the symmetrical outline essential to our strength and indicated by nature for the preservation of our interests and our supremacy upon this continent. The people are prepared for this policy; surely the Representatives of the people can give it their support. I trust this bill may pass. Its defeat will be grievous wrong to the people of Oregon, a severe blow to the Democratic party, and a great calamity to our whole country.

Mr. WILSON. Was not my colleague defeated upon the ground that he sided with the Administration and its measures? Did not two thirds, at least, of the Democratic candidates of Indiana repudiate the English bill?

Mr. HUGHES. The other Democratic candidates that are alive or dead, politically, may speak for themselves; I speak for myself only. I was defeated because, to be brief, the great Republican party first marched up the hill and supported the Montgomery amendment and formed a coalition with the Douglas men, and then marched down again. I did stand by the Administration and the English bill, and intend to do so to the end. A division in my own party caused the election of a Republican, who received a minority of the votes given. The candidate of the Republican party came before the people of my district and repudiated the cardinal principle of that party. He said that it was not, and never had been, a principle of the Republican party that no more slave States should come into the Union. He said that he would vote for a slave State; and that he would vote for the admission of Oregon. And, when I predicted to the people there the scene in which we have been engaged to-day, that it would as surely take place as Congress convened; that his party would endeavor to establish the doctrine which they cherished at heart—the doctrine of negro equality—he repelled the charge with emphasis; but this day, sir, has fulfilled my prophecy, and shown that they advocate a doctrine upon which they cannot stand for one hour in the State of Indiana.

[APPENDIX.]

HOUSE OF REPRESENTATIVES, December 15, 1858.

To the Committee on Territories:

In relation to the population of Oregon, I have to say, that I have no means of knowing the exact number of our inhabitants, but from a thorough knowledge of the country, having been in all settled portions of that Territory, I have no hesitation in saying, in believing, that our population is very nearly equal to the ratio upon which representation is

based; and in my judgment, it is very safe to say, if we have not the exact number to entitle us to a Representative in Congress, that it is a very small fraction below.

Very truly yours,
JOSEPH LANE.
Hon. ALEXANDER H. STEPHENS, Chairman.]

Mr. NICHOLS. Do I speak in my own time, or in what is left of the time of the gentleman from Indiana? I have the floor, I believe.

The SPEAKER. The gentleman has the floor.

Mr. HILL. With the permission of the gentleman from Ohio, I ask to have read an amendment, which I will offer at the proper time.

Mr. NICHOLS. I yield for that purpose.

The amendment was read, as follows:

Amend by striking out all after the word "That," in section one, and insert the following in lieu thereof; and strike out section three:

Whenever it is ascertained by a census, duly and legally taken, that the population of the Territory of Oregon equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States, Oregon shall be received into the Union on an equal footing with the other States in all respects whatever, with the following boundaries: In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly to and up the middle channel of said river, and, where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake river; thence up the middle of the main channel of said river to the mouth of the Owyhee river; thence due south to the parallel of latitude forty-two degrees north; thence west, along said parallel, to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia river and Snake river, concurrently with States and Territories of which those rivers form a boundary in common with this State.

Mr. NICHOLS. Mr. Speaker, in the discussion of this question I propose to be governed by such considerations as have presented themselves to my own mind, and by my own judgment altogether. The speech of the gentleman who has preceded me, [Mr. HUGHES,] I regret, in many of its parts, very much. It appears to me that it has been his aim to give to the question of the admission of the State of Oregon a purely partisan cast. Against such a conclusion, I, as a member of that party which he designates the Republican party, most earnestly and emphatically protest. I think I may say that no formal conclusion on this question has been arrived at by the Republican party. I say here, now, that I think it is much better for gentlemen occupying a position on this floor, as high and honorable Representatives, to await the votes of gentlemen here, than to adopt the paragraphs of sensation writers from this Capitol. Gentlemen had better wait and see what the vote will be—the vote of this side and of the other side, and of all parties; because we have more than two parties here. That we are to decide this question in a party sense, I altogether repudiate. It has nothing to do with party.

I come to the simple, plain letter of the Constitution, and find a clause authorizing the Congress of the United States to admit States into the Union with certain limitations, which are well understood, or at least ought to be well understood, by every gentleman on this floor. Understanding it in this sense, the application of the people of Oregon for admission into the Union commends itself to me, not as a party question, but as a question of propriety, of expediency, and of constitutionality. Unquestionably we have the power to admit Oregon. Then, is it expedient, is it politic, to admit the State into the Union at this time? This is the question now before the House, and before the Congress of the United States. I, for one, without regard to any extraneous question whatever, am prepared to vote for the admission of Oregon into the Union; and, inasmuch as I am a young member on this floor, I propound now to gentlemen on this side of the House these interrogatories: Is it ascertained that the people of Oregon desire to assume the responsibility of a State government? That is the point. Let me use the language of my venerable colleague, [Mr. GIDDINGS,] and invite his attention to it, for I desire to have his concurrence on this question:

"Are the people of Oregon capable of sustaining a State government? Do they ask a State government? While a Territory, she is under our protection. We are bound to

pay the expenses of her territorial government. We are bound to protect her. We are bound to have that care of her which a parent has over her child. When the people there have become sufficiently numerous, and desire a State government, it is our duty to give them what they ask."

That is the language of my venerable colleague, upon that question; and I propose now to discuss this question in reference to the points then made by him—and he always makes his points clearly, when he addresses this House.

Mr. GIDDINGS. I will merely say to my colleague, that I could not vote for the admission of Oregon with a constitution which, in my opinion, was not in conformity to the Constitution of the United States.

Mr. NICHOLS. Unquestionably; that is a point which must be taken into consideration, and it is one which I propose to discuss before I conclude my remarks. I would not vote for a question which, in my judgment, contravened the Constitution. But I start out with the remarks of my colleague as a text, delivered by him when the enabling act to authorize the people of the Territory of Oregon to form a constitution and State government, preparatory to their admission into the Union, was before this House. The questions which my colleague put then, I understand to be the questions for us to decide now. Are the people of Oregon seeking admission into the Union as a State? Are they prepared to assume the responsibility of a State government? Are they anxious for admission into the Union? If they are, then the question arises upon the constitution which they submit.

Now, upon the first point, after an elaborate debate, some three years ago, in this House, the gentleman from Virginia, now a candidate for the Governorship of that State, [Mr. LETCHER,] and myself, then occupying adjoining seats in the House, prepared and digested an amendment to be offered to that enabling act. I then heard no dissent to the passage of that act. All parties were then willing that the people of Oregon should hold a convention to form their constitution and State government. The bill was reported from the Committee of the Whole on the state of the Union, and so strong was it in the House that not a single gentleman even demanded the yeas and nays upon its passage. It passed absolutely without opposition; and, so far as this House was concerned, permission was given to the people of Oregon to form a Constitution and State government. It is true that the enabling act did not pass the Senate, for want of time; but the Representatives of the people, the two hundred and thirty-four Representatives of the people, and the only branch of the national Government responsible only to the people, pronounced a verdict upon that subject, and decided that the people of Oregon had their sanction to proceed to organize a State government preparatory to their admission into the Union.

Sir, they have formed a constitution and State government in accordance with your sanction, and they now ask for admission into the Union as a State. Now, sir, what are the opinions of gentlemen upon this floor upon the subject of her admission? I see here no majority report. I see a report signed by three gentlemen who are members of this House, and also members of the committee which reported this bill. I find another report signed by a single member of this House, who is also a member of the Committee on Territories. What are the objections which are proposed? Why, sir, most mysteriously to me, most singularly to me, they are in direct opposition to the record made by these gentlemen, with one exception, on the same subject, during the last Congress.

Outside of that record, I find that after your permission has been given, after a constitution has been formed, after the people have passed upon that constitution, it is now proposed to place upon the bill for her admission the proposition which was incorporated into the act for the admission of Kansas into the Union, which was incorporated there in evident defiance of the sense of the people of the country. But, sir, I do not propose to take up the time of the House longer by discussing this question of population. Your Constitution gives to the legislative body of the country the right to admit new States into the Union. It prescribes the qualifications and conditions upon which they may be admitted. No State can be formed within the jurisdiction of an-

other State, nor may any State be formed by the junctions of two or more States or parts of States, without the consent of the Legislatures as well as the consent of Congress. The question of population, and all other questions, outside of the Constitution, are referred to the sound discretion of Congress, to the judgments of members here whose votes shall determine the question of admission. And in reference to the doctrine of population which was inaugurated in the last session of Congress, and which it is sought to perpetuate here, I will never subscribe to any such test as was imposed then, or is sought to be imposed now. The admission of a State into the Union, its propriety, and expediency, may be governed by circumstances which are entirely beyond your control. Now, sir, let me call the attention of the gentleman from Pennsylvania [Mr. GROW] to the opinions expressed by him upon the enabling act for Oregon in the last Congress.

Says the gentleman from Pennsylvania:

"I propose to refer to the remarks of the gentleman from Tennessee. There is a table appended to this report, which was compiled with much care, taking the only authentic information that we had of the population—namely: the census immediately preceding the admission of the State. This was as near as we could arrive at the true population. Now you will there find that the population of Michigan was 31,000, by the census which immediately preceded her admission, while the ratio of representation was 47,000. Iowa, when she was admitted, had a population of 43,106, when the ratio of representation was 70,680. Wisconsin had, according to the census immediately preceding her admission, a population of 30,940, when the ratio required was 70,680."

But gentlemen can refer to the table themselves, and I will not, therefore, take up time in doing so. The figures are compiled from the census immediately preceding the time of the admission of these States.

"To answer the gentleman from Alabama, [Mr. WALKER,] that it is an inequality of representation which we ought not to allow! If gentlemen take the ground that a Territory must be kept in her state of pupillage until she shall in every case have the population required under the apportionment of representation for States, it will be but a few years—in view of the rapidly-increasing population of the country, unless you greatly enlarge the representation on this floor—before the ratio may double what it is at present; and do gentlemen propose to lay down the rule that, when it will require a population of two hundred thousand to send a member to this House, a Territory must be kept in a state of vassalage until it shall have that population?"

Now, sir, the gentleman furnishes for himself, here, arguments to answer his own report. The grounds of that report I shall consider hereafter. I look for the rule which we are to adopt in the admission of new States, and I find it in the remarks of the gentleman which I have quoted. I do not care when or where presented, this House has never insisted upon any arbitrary rule in respect to population, but it has always been governed by its own discretion. It has never been governed by any other rule than that prescribed by the Constitution. It has never been controlled by any other than the strict constitutional rule, which prescribes no test in regard to population. But I have not done with the argument of the gentleman from Pennsylvania; I am compelled, from considerations of my own, to dissent from his conclusion.

I respond, sir, to the inquiry proposed by my friend from Pennsylvania, when this enabling act was under consideration in this House. I agree with him in the conclusions then expressed. Now, I put this interrogatory to the House: What are your territories? How are they governed? Where does the power for their government spring from? Not from the inherent sovereignty of the people in the Territories themselves, but from the inherent sovereignty of the people of the whole Union. The sovereignty of a Territory is in abeyance on the people of the whole Union in trust for the people of that Territory until they assume the functions of a sovereign and independent State. In the mean time, what is necessary for their accommodation? Their protection is within the discretion of Congress—the representative of that power which holds the sovereignty. I adopt the maxim of those early law-writers, the early commentators of the Constitution, that when you keep a Territory in a long state of pupillage or vassalage, and dependent upon the General Government, you subject the people of that Territory to the influence engendered by the office of the Executive of the Union, and the appropriations diffused amongst them by Congress. You bring to bear upon them a controlling power, so far as their decision is concerned. Whenever they assure me, in any legitimate way, that they are willing to assume the functions of a State govern-

ment, to administer their own affairs, I am willing to give them a State government. This is the view I take, and which controls me in reference to the admission of Oregon. These people have manifested their desire to come into the Union. Could they have done it in a stronger manner? Why should gentlemen upon this side of the House say that there is not a sufficient population?

Mr. MORGAN. No, sir; not one.

Mr. NICHOLS. Yes, sir; here is a minority report which says so. This is one of the reasons why I have so answered; and by that answer I am prepared to stand.

Now, what are the other considerations? The next objection, according to this report, is that the constitution of Oregon prescribes the rules of alien suffrage. In my judgment, Mr. Speaker, the general laws of naturalization throughout the Union are one thing, and the right of suffrage prescribed by the States is another, and an entirely different thing. The people of Oregon have said that to a certain class of the population they are willing to give the right of suffrage. The laws of emigration and the laws of naturalization are a fair subject for discussion here, and if they are defective they may be amended. But I insist that the right of suffrage and its prescription, and the rules in which it shall be exercised, are to be determined by the laws of the States and of the localities alone. Do not my colleagues know very well that in the State which we represent an alien has the right of suffrage in regard to a great many questions of taxation, and those which determine our social position? Can we, then, object to the admission of Oregon because her constitution regulates this question? I say that, holding the doctrines which I hold, we cannot.

What, then, is the next ground on which the application of Oregon is asked to be rejected? According to the report of my friend from Pennsylvania, it is because a dominant party in this nation—that party which has the Executive and the Senate, and which, after a struggle memorable in the political history of the Government, secured a majority in this House—has interposed a rule in respect to Kansas which gentlemen conceive to be objectionable and improper. Therefore, they say that until this rule be rescinded, until it be abrogated by a repeal of that clause in regard to Kansas, no other State shall be admitted into the Union. Now, I ask the gentleman from Pennsylvania, and I ask my colleague, if we did not go home to the people whom we represent, and submit to them the question whether it was proper to make that test? It is true we discussed it in connection with other questions. It is true that we said the Executive had proposed to admit a State with certain institutions, and that Congress had imposed a proposition against her being admitted with other institutions. We said that when Kansas presented herself for admission under her constitution, whether as a free State or not, it was right to admit her, without reference to her population.

But what is this proposition? It is for the admission of a free State; and the report of the gentleman from Pennsylvania assumes now that, unless we go back and remove that restriction from Kansas, we should not grant the application of Oregon. I cannot assent to that. I say that, without reference to the clause admitting Kansas, I will vote for the admission of Oregon. But to-morrow, or to-day, or at any time, when I have the power of voting for the admission of Kansas as a free State, I am prepared to give that vote and bring her into the Union as a sister of this great Confederacy, without reference to her population. I shall make no such test as the gentleman from Pennsylvania proposes. His argument looks as if he were asking this Congress to perpetrate one wrong to justify the perpetration of another. He says he wants gentlemen to be consistent with themselves. I deal with this question as it is presented to me by the Constitution, and have nothing to do with the inconsistencies of gentlemen on the other side of the House.

As a single example of the inconsistency of the other side of the House, I refer to the record of this House for the last three weeks, when they have shown that if left to themselves they could not carry on the Government. Instead of devoting themselves to carrying out the great principles of Government, they have given us an exhibition of wrangling here over boxes for members to carry

home the books which serve to further legislation here, and which form a part of their effects, guided by an economy which I do not regard as the proper spirit of economy. With a nominal majority of thirty-odd in this House, they can scarcely muster more than from forty to sixty votes upon any recommendation of their President.

Mr. STEPHENS, of Georgia. I do not desire to interrupt the gentleman from Ohio, but I have been inquired of by a number of gentlemen to know when the vote is to be taken on this bill. I propose that by the unanimous consent of the House that the previous question shall be called on Saturday next at one o'clock. Gentleman can then go on and discuss this question to-day, to-night, all night, if they please, to-morrow and to-morrow night. Let it be considered as the special order for to-morrow and the next day, so that it shall not be set aside by private business.

Mr. COBB. I object.

Mr. MARSHALL, of Kentucky. I appeal to the gentleman from Georgia to withdraw his motion to commit, and allow amendments to be offered. Then I shall have no objection to the proposition of the gentleman.

Mr. STEPHENS, of Georgia. I will withdraw the motion to commit on Saturday morning.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Georgia that by general consent this bill be made the special order, which will keep it before the House; then he may withdraw his motion to commit, and allow the several motions to amend to be made.

Mr. STEPHENS, of Georgia. Certainly; I have no objection to that arrangement. I propose, then, by general consent, it shall be understood that the previous question shall be moved on Saturday; and with that understanding, I will withdraw the motion to commit.

Mr. COBB. I do not wish to consume two days in the discussion of this subject; but as I am informed that I cannot facilitate the matter by objecting to this arrangement, I will withdraw my objection.

Mr. MONTGOMERY. I must interpose my objection to this arrangement. This bill has been before the public for two sessions, and any discussion that may take place in this House will not change the vote of a single member.

Mr. DAVIS, of Indiana. I appeal to the gentleman from Pennsylvania to withdraw his objection.

Mr. CRAIG, of Missouri. If the gentleman withdraws his objection I will renew it.

Mr. NICHOLS. Now, Mr. Speaker, I cannot yield further. I was talking about the consistency of the other side of the House, and I do not ask for a better exhibition of it than that which has just taken place during this slight digression. I was saying, when interrupted, that it was apparent from the course of legislation, and from the course of general proceedings, that there is no majority in this House belonging to any particular party, or in favor of any particular thing. No majority of that kind has been mustered in this Hall. I was surprised and pained to hear the gentleman from Indiana [Mr. HUGHES] put this proposition in anything like a partisan shape. Sir, I tell you that when the vote comes to be taken upon this bill, that vote will disclose the fact that the question does not assume anything like a partisan shape. I speak unhesitatingly, and the result will bear out what I say.

Now, sir, in reference to the question of the consistency of the gentleman from Pennsylvania, who, in the last session, was protesting against prohibiting the admission of a free State with a population of less than ninety-three thousand, I ask the gentleman to be consistent with himself. If it was wrong then to prohibit the admission of a free State under these circumstances, it is wrong now, and especially where two or three years ago you gave your assent to the formation of a constitution and State government preparatory to the admission of Oregon into the Union.

Mr. GROW. I desire to correct the gentleman. I have no wish to interrupt the gentleman; but as the passage by this House of the Oregon enabling act has been referred to repeatedly as an act of Congress, I desire to say that no such act was passed by Congress.

Mr. NICHOLS. Very well, then, it received the sanction of the popular branch of the Govern-

ment, and, in my opinion, it received the sanction of the people of the country. But, sir, the Representatives of the people then gave the measure their sanction, and I now ask them to be consistent with themselves. Sir, what are the objections to the admission of Oregon into the Union? Why, simply, as I have stated, the alien clause in her constitution, and the free negro clause in her constitution. Very well, sir; are there no such provisions in the constitutions of other States of the Union? I believe Ohio, Indiana, Illinois, and other States, have, in their history, interposed obstacles to the immigration of free negroes, or have imposed disabilities upon that species of population. Yet, sir, they are in the Union, and no objection has been raised here because of such disabilities.

But, I am told that the Constitution of Oregon does not permit negroes to sue in their courts of justice. Well, sir, if that is the fact, it is a gross outrage; but I believe you have now upon your national statute-book, laws doing nearly as great injustice to that class of persons. Is it not true? Unquestionably it is true. Would not my friends prefer to trust the people of a State to do right, than to intrust the interests of these people to the tender mercies of this national Government? But, in reference to this clause, does not the gentleman from Pennsylvania know, as a matter of history, that in the convention which framed the constitution, the question of the establishment of slavery in the State was one of the questions before that body for settlement, and that this clause was drawn and presented by a member of that body of the same party-complexion as himself and myself, as a matter of compromise, and for the purpose of making the State a free State.

Then I come back to the other proposition. I say that when the people of a Territory, in their primary capacity, form a constitution, and settle their institutions, and then come here and ask for admission into the Union, so far as the provisions of that constitution are concerned, the only question we can consider is, whether that constitution is republican in form, and is not in violation of the Constitution of the United States? I would rather admit this State, and refer the constitution back to the people of the State sovereignty, and let them, in the exercise of their inherent rights, correct the evil which they are perpetrating in their primary organization, in their own good time, and according to their own judgment and good sense. That is the position I take. I will admit that it is a great lack of a sound perception of justice for the people to make an exclusion of this kind, and which would prevent one man in a hundred from the recovery of his rights in a court at law. It is a question which refers itself back to the people for correction, and it does not warrant the rejection of a people who ask for admission and to be clothed with the rights and investments of a State sovereignty.

What else? I have heard it stated that this ought to be a political question. I take a different view of it. The citizens of this country have rights, which we ought to presume they will exercise upon the same terms that we do ours, that is conscientiously, faithfully, and with a due regard to the interests of the Union. If they have sent men here who disagree with other gentlemen in political opinions, a revulsion of public sentiment may turn them out and substitute new men. This is a contingency dependent on your institutions, and cannot be determined by an act of Congress. I think that that furnishes no argument. Now, what is the proposition? According to the language of my colleague, to admit a people as a State into the Union who have expressed their willingness to assume the functions of a State Government, who desire to cut themselves loose from the corrupting influences of the Executive, which hangs like a pall upon the expression of their opinions. The history of Rome shows that when she had acquired many provinces, and sent out her proconsuls, with their train of retainers and servitors to exact tributes and to dispense patronage, the liberties of those countries declined, and fell into decay.

It is the policy of this Government, whenever a people are willing to administer their own affairs, and to take upon themselves the exercise of State sovereignty, whenever they are disposed to cut themselves loose from dependence upon the executive government, to admit that people into

the Union as a State. Even if the constitution of Oregon contained more obnoxious provisions than it does, I would, under the circumstances, cheerfully vote for her relief from executive influence.

MR. GRANGER. Mr. Speaker, being on the Committee on Territories, from which this bill emanated, I desire to speak a few words. This bill to admit Oregon as a State into the Union ought not to pass; and be it a free or slave State, there are several substantial reasons why it should not pass, and such as I hope will prevent its passage.

In the first place, it is *unfair* to attempt to crowd it through, without the requisite number of inhabitants, according to the rule prescribed for Kansas.

It is now a law of Congress, that Kansas shall not be admitted into the Union until she can show, by a legal census, that she has ninety-three thousand four hundred and twenty inhabitants, though every man in Kansas should desire it.

I am aware, sir, that by the same law she was allowed to come in with half that number, more or less, provided she would accept of a slavery constitution and come in as a slave State.

She refused to do so, though pressed to submit by the whole weight of the Administration.

But that does not help this case. It only makes it worse. It makes it more unjust and inconsistent for the gentlemen on the other side, as the ninety-three thousand four hundred and twenty rule is one of their own making.

And now, for them still to retain that law and refuse its repeal, and at the same time to insist on the admission of Oregon with less than ninety-three thousand four hundred and twenty inhabitants, *may be a little too smart.*

It would seem the late summons to the Democratic party "*Be ye also ready,*" would admonish it that its *days are numbered*, and that it is time to begin to play fair.

One would think that the Administration had had enough of Kansas and slavery agitation not to hold Kansas to the rule of ninety-three thousand four hundred and twenty, and at the same time to insist on admitting another State, that has applied since Kansas has, to come in with a much less number of inhabitants.

But if they think best to try agitation again, they will find us at home, and ready to wait on them.

Passing over the question of population, I arrive at an objection much more formidable—one that the friends of the bill have hard work to get over. It is, that the Oregon constitution, which is sent here for us to sanction and which we do sanction if we pass the bill, contains a provision that allows *unnaturalized foreigners to vote at the elections.*

To vote for a law, and more than that, to vote for a constitution, that, in so many words, allows *foreigners*, before they are *naturalized*, to vote for, and perhaps elect, judges, Governors, members of Congress, and even to elect the President and Vice President of the United States, is what I beg to be excused from doing.

Why, sir, allow foreigners to vote before they are naturalized? Allow foreigners to come here before they are naturalized and elect a President and Vice President of the United States!

Mr. Speaker, they do not ask it. What does this mean? Where are we drifting? What means that clause of the Constitution that debars any foreigner, naturalized or unnaturalized, from ever being a President or Vice President of this Republic, under any circumstances whatever? It means what it says. It means that we should be careful, and not admit foreigners to a controlling influence in the Government of the country. They are taken by the hand when they come to dwell among us, and treated liberally, and quite generously, so far as citizenship and the right of suffrage are concerned; and, sir, they are satisfied with it themselves.

Why mar the fair proportions of our glorious Constitution with such an infraction?

I have many respected friends who are *foreigners, naturalized and unnaturalized*, who would think less of me were I to do it.

I trust no Republican will be found voting that way, even at the hazard of being called an American.

Sir, this alone is objection enough for me. I will vote for no constitution that allows foreigners to

vote before they are naturalized. Others can do it if they think best; I will not.

There is another objection to this constitution of Oregon, that ought to outweigh everything that can be said in its favor. It is *neither more nor less than a plain outspoken contradiction or violation of the Constitution of the United States.*

At article four, section two, "you may find these words recorded:"

"The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

Thus the Constitution expressly provides that citizens of one State, going to another, are safe and under protection of law.

The new constitution of Oregon, which we are called upon to sanction by our votes, reads as follows:

"That no free negro or mulatto, not residing in the State at the time of the adoption of this Constitution, shall come or be within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the Legislative Assembly shall provide, by penal laws, for the removal by public officers, of all such free negroes and mulattoes; and for their effectual exclusion from the State; and for the punishment of persons who shall bring them in, or employ or harbor them therein."

Sir, here is an *undeniable contradiction*—a bold and defiant violation of an important provision of the United States Constitution, and one that is indispensable to the safety and protection of the people of one State going to another, either on business or to remain there.

The citizens of other States who are, by the Federal Constitution, secured in their right to travel, and do business abroad in the Union, are deprived of such rights and privileges, by this constitution of Oregon.

A vessel from New York, Boston, or Providence, with a mulatto captain, supercargo, or owner, as the case may be, is trading or whaling on the Pacific, and has occasion to go into the mouth of the Columbia river to trade, or for supplies, or may be in distress, and by the time she has made fast to the shore, up steps the sheriff, and says to the captain or the owner, you are my prisoner.

In vain the Constitution of the United States, the supreme law of the land, or the flag that floats aloft, is appealed to. He is a prisoner. He is an outlaw—an outside barbarian without protection, and denied even a hearing in the courts of justice.

Sir, all this is enjoined by the constitution of Oregon, and to which we are urged to add, approved by the Congress of the United States.

Never! never! I most respectfully say to you, sir, and to the country, and to my constituents in particular, it never shall be done with my consent.

The Constitution of the United States (section four, article four) says:

"The United States shall guaranty to every State in this Union a republican form of government."

Mr. Speaker, is this the way to do it? To guaranty to a new State, as she comes into the Union, a constitution with unmistakable marks of despotism in her forehead?

Sir, this is ungenerous, unfair, and dishonorable towards Kansas—an unsafe and dangerous tampering with the right of suffrage, and a stab at the Constitution.

Sir, if I am correct in my views, and I think I am, let me appeal to the honorable members of opposite political affinities to me, and particularly to my respected friend, the honorable chairman of the Committee on Territories and his honorable political associates on that committee; let me appeal to them to consent for a moment to review their position in reference to this question, and to reconsider and decide anew on a question that is beyond expediency merely, and which involves the integrity of the Constitution.

And may I not hope that trifling or temporary considerations will not keep us apart, when the Constitution itself is in danger?

To the honorable chairman, the gentleman from Georgia—*nurtured and reared*, as I know he was, with me, in the true Whig faith—to him I appeal with much confidence.

Though far remote, I once had sweet sympathy with him in his sacrifices and sufferings for his devotion to that true Whig faith—a faith that I hope will not fail him in the hour of trial, when the Constitution is in danger.

MR. MONTGOMERY. Instead of calling for the previous question now, I suggest to the gentleman from Georgia that to-day, to-night, and to-morrow until four o'clock, p. m., be devoted

to the discussion of this bill, and that at that time the vote be taken.

MR. HOUSTON. What difference is there between to-morrow at four o'clock and Saturday morning? No business can be done between those times.

MR. MAYNARD. Mr. Speaker, I do not sympathize with the attempt on either side of the House to give this debate a party or partisan character. Aside from my personal political position, it does seem to me that the question we are now considering, involving the propriety of introducing another member into this great Confederacy, is one that rises above and beyond mere party considerations and the political ephemera of the times. It would give me pleasure if I could bring my mind, consistently with a sense of duty, to vote for the admission of this Territory now making her application. It is a source of pride, of high gratification, to see how our great Government extends. Indeed, I hope I may live long enough to see the time when it will be extended, not only to the Pacific, but extended, as I have no doubt it will eventually be, over the Gulf of Mexico, and to the Isthmus beyond. But, sir, in considering the admission of a new State, something more than mere national pride, something more than mere desire of aggrandizement, something more than mere temporary and party expediency is to be considered. It involves a question of high principle and an important precedent, which we are not at liberty to disregard.

In some remarks which I had the honor to submit to this House, now nearly twelve months ago, on the admission of another Territory, the Territory of Kansas, I said that, "when the people of a Territory, being citizens of the United States, in numbers sufficient to give them a Representative in Congress, united as a body politic under a constitution republican in its form, come here and apply to us to be admitted, as a State, their right to admission is complete." That doctrine I then believed, and I now believe, to be sound, as applied to this question; and I reaffirm it. I have submitted to the House, in the form of amendments, two distinct propositions which, if added to the bill as it came to us from the Senate, will secure to it my most hearty support. The first relates to the population of the Territory now proposed to be admitted as a State.

This is not a new question, nor is it made new for the first time. It has already been remarked, in the course of this debate, that the House of Representatives, at the last session, passed an enabling act to enable Oregon to form a constitution preparatory to her admission. I have before me the report of the debate in the Committee of the Whole on the state of the Union, on that occasion. A proposition, I see, was then submitted having reference to the question of population, by my friend from South Carolina, [MR. BOYCE,] during what is called the five minutes discussion in committee. I will, by his permission, adopt the remarks which he then made to the House, as expressing in a neat and forcible manner what I conceive to be the true doctrine on this question.

"Mr. Boyce. I move to add at the end of the first section the following:

"Provided, It shall appear, on an official census, that the population of Oregon amounts to ninety-three thousand four hundred and twenty."

"Mr. Chairman, no one expects to keep Oregon out of the Union; her admission is a question of time; but it is important that she should come in with a sufficient population. The most important principle in reference to the admission of a new State is, that it shall have the proper number of inhabitants. Where is this thing to end, if a mere handful of men here and there can form States for admission into this Union? It is a mockery of our system of Government, that thirty, forty, or fifty thousand men, here or there, or anywhere within our limits, shall be allowed to send two Senators to the other House of Congress. Why, sir, it brings our whole system into disrepute. What I insist on, is, that no new State shall be admitted until she has a population equal to that now necessary to entitle her to a member in this House. This is a simple and just principle; and I shall insist on its application to all States asking admission into the Union, whether they come from the North or the South.

"Has Oregon this population? I doubt it. The honorable Delegate may be of the opinion that she has; but I noticed the other day that an address was delivered in the city of New York by the bishop of the Territory—a gentleman, I presume, of high character—in which he represented the magnitude of Oregon, but only put down the population of the Territory at fifty thousand. What we want is that there shall be a sufficient population. Give us good assurance of that, and that moment we will readily agree to the admission of Oregon."

In these sentiments I certainly concur most cor-

dially. I did not understand the views of the honorable chairman of the Committee on Territories [Mr. STEPHENS] to differ essentially from these. He attempts, by the peculiar phraseology of the act establishing for Oregon a territorial government, and by the terms of the ordinance of 1787, to demonstrate that Oregon does not fall within the general principle so compactly put by the gentleman from South Carolina; but I think that his reasoning on that point is not satisfactory. It has not satisfied my mind. Without consuming the time of the House in attempting its refutation, I will simply refer to the report made by my colleague, [Mr. ZOLLICOFFER,] as a minority of the Committee on Territories, in which he discusses and considers that question.

We are told, indeed, by my friend, the Delegate from Oregon, that she has unquestionably a sufficient population to entitle her to admission. On the other side that statement is denied. The amendment which I propose simply allows that question to be tested by providing that a census shall first be taken, and if the result prove, as in all probability it may, that the Delegate is right in his estimation, then Oregon will, by the President's proclamation, be declared a State of this Confederacy. With all my confidence in the Delegate's judgment upon questions of this kind, I cannot submit to have my official action here based on it alone. Let a census be taken and the question settled. We will not then be establishing a precedent that can give the country trouble in after times—a precedent under which a small handful of men may force a sparsely-settled region into the Union as a State, and may dilute the Senate of the United States with persons whom we might, perhaps, be unwilling to see in that body.

So much for the question of population. It has been already alluded to, at some length, on both sides of the House. I come now to a question that grows out of the constitution which has been submitted to us for our examination; first, as to whether it is republican in form; and second, as to whether it is in conformity with the Constitution of the United States. As I understand it, these two questions require an affirmative answer; and beyond that we may not and cannot go. It certainly seems to me to be no business of ours to inquire whether the people of Oregon want to have negroes there, either as slaves or free. I see, by the vote reported to us in connection with the constitution, that the people of the Territory have expressed a most emphatic determination to have them in neither capacity—neither as slaves nor as freemen. That is a question about which they have a right to exercise their choice; and whether their opinion may concur with mine or not, is, as I conceive, no business of mine. It is, however, a matter of much importance to see whether the constitution is republican in its form, and whether it is in conformity with the Constitution of the United States. A republican government I understand to be one which is administered by representatives chosen by the people who are to be governed. Who are the people? If I know anything of the Constitution of the United States, it was made by the people of the United States, and for the people of the United States. We have, from the very highest authority known to the Constitution, an exposition of the meaning of this term people. According to it, the terms "citizen" and "people" are synonymous, as they are used in the Constitution of the United States. In other words, they are convertible terms. The citizens are the people, and the people are the citizens. All who are not citizens are aliens. The terms are well understood, and have been ever since government has been reduced from mere brute force to something like a science, and made a branch—and a very high branch—of human learning.

I hold, then, that a constitution framing a government that is to be republican in its form, must be a constitution providing for the government of the body politic by representatives chosen by its citizens, and by them alone.

The second section of the second article of the constitution of Oregon provides:

"In all elections, not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, and every white male of foreign birth, of the age of twenty-one years and upwards, who shall

have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law."

Who are meant by "white males of foreign birth," we may infer from the sixth section:

"No negro, Chinaman, or mulatto, shall have the right of suffrage."

These three classes are not white males. All others must be taken, upon a familiar principle of legal construction, to fall within that category; and, therefore, we are bound to conclude that all persons except negroes, Chinamen, and mulattoes, are embraced in the term "white males of foreign birth," and so entitled to vote.

Now, I hold that neither the State of Oregon, nor any other State in the Union, can admit aliens to the right of suffrage, and permit them to exercise the highest power known to the American people. If they can be admitted to vote in one State of the Union, they may be allowed to vote in every State. If the right of suffrage may be extended to those who have been in the country one year, it may be extended to those who have been in the country but one day. If it may be extended to those who have declared their intention to become citizens, it may also be extended not only to those who have not expressed their intention to become citizens, but to those who have expressed their intention never to become citizens. The principle of alien suffrage, if once tolerated, may be carried to any extent. The people of Maine may allow the inhabitants of New Brunswick, and of the other British provinces, to go into their State on the day of election and vote with them there, and even to their own exclusion; and thus decide for them who shall be their members of the Legislature, who shall be their Representatives here, and who shall be their electors for President and Vice President. They may vote, I say, for members of their Legislature, and thus indirectly decide who shall represent their State in the Senate of the United States. I need not pursue this idea further. It is simply a question whether the American people will govern themselves, or whether they will allow themselves to be governed by aliens in blood, if not in interest and feeling?

Sir, it seems to me that the adoption of such a principle is anti-republican, contrary to the spirit of our Government, and contrary to the plainest and most obvious meaning of the organic law transmitted to us from our fathers. And, sir, entertaining this opinion, I cannot lend my vote to the sanction of a principle, or the toleration of a principle, which, it seems to me, at no very distant day, may shake the foundations of our Government. We sometimes hear—we have heard much more in some former sessions than during the present one—the discussion of questions which divide the section in which my lot is cast from that to which the gentleman who has just taken his seat belongs. I deprecate all such discussions; I deprecate such agitations; and I would remove out of the way, as far as possible, all occasion for them.

Mr. JENKINS. I desire to ask the gentleman from Tennessee whether he considers the constitution of the State of Massachusetts as republican?

Mr. MAYNARD. When the constitution of the State of Massachusetts comes before me for my consideration, I will answer the gentleman's inquiry. I cannot now depart from the line of my argument, to answer questions which can have no possible relevancy to the matter under consideration. I might wander away to answer the question of the gentleman from Virginia; but it would be time lost; not to our edification or the general interest of the country.

Mr. JENKINS. If the gentleman from Tennessee will answer the questions categorically, it would consume but very little time.

Mr. MAYNARD. I will leave the gentleman from Massachusetts to answer that question. I take occasion, however, to say, that there are provisions in the constitutions of several of the States that I do not consider consistent with a republican form of government; because they embrace the very provision against which I am now speaking. I believe, however, that the constitu-

tion of no southern State is obnoxious to that objection.

Mr. DAWES. Will the gentleman from Tennessee permit me to ask the gentleman from Virginia a question?

Mr. MAYNARD. No, sir; I cannot yield for the gentleman from Massachusetts and the gentleman from Virginia to chop logic for the amusement of each other.

Mr. DAWES. I merely wanted to know what provision of the constitution of Massachusetts the gentleman objects to.

Mr. MAYNARD. I will proceed with what I have to say. This subject recurs to us in a sectional aspect. I desire to see every ground of difference between the two sections of the Union removed, as far as possible; certainly I would not help to multiply them. But we have had even during the present session a series of legislative measures presented to us, which I am very apprehensive, if not so designed, will have the effect of widening the breach between us, which is already too wide. Sir, we had the other day a homestead bill introduced here by the gentleman from Pennsylvania, [Mr. Grow,] and it was passed by an almost exclusively sectional vote, the members from one section, with but few exceptions, voting for it, and those of the other section, with still fewer exceptions, voting against it. That bill provides that aliens shall be allowed to come into our Territories and possess themselves of our lands, practically to the exclusion of the southern planter.

Mr. GROW. Will the gentleman allow me to interrupt him?

Mr. MAYNARD. I do not think the gentleman from Pennsylvania has any proper claim on my indulgence in that respect. When his homestead bill was under consideration, he not only refused to permit me to offer an amendment to it, but even to allow my amendment to be read to show what it was.

Mr. GROW. I only wanted to correct the gentleman.

Mr. MAYNARD. That can be done hereafter. Another subject which has been introduced into the House in the same connection, and pointing the same way, is the proposition to withhold the public lands from sale at private entry for ten years after they shall have been surveyed. Adopt this measure in connection with the feature of the homestead bill to which I have just alluded, and you will have this condition of things: your Territories will be guarded against many people from my section of the country, who cannot with their mode of agriculture and their kind of labor, confine themselves to the quantity of land to be granted as a homestead or secured by right of preemption. They would have no chance, with such an emigration as is invited by this policy, to get one foot of your land. You invite an alien population to take possession and hold your public lands, to the exclusion of every planter in the whole southern country. Things ought not so to be. The Territories are a common property, and should so be treated.

As I said, I wish to obstruct this drift in the current of our legislation. You are filling up your Territories, by the line of policy you are pursuing, with aliens; men who have no very profound interest in your institutions; men who have not taken upon themselves an oath to support the Constitution, nor an oath to be true to the flag of the country in the hour of peril. The law declares that an alien shall reside here five years before he shall become a citizen of the United States; and that then he shall renounce all fealty and loyalty to every foreign potentate or Power, and swear allegiance to our Government. The policy we are now pursuing in regard to the Territories and the public lands, makes no such requirement. It is wrong; it is unwise. Whether it is wise for the people of the North, is for them to consider; but I do not believe that it is. Certainly it is not so for the people of the South, where that class of emigration seldom goes. It is by the great influx of this element into the northern and northwestern States, that they have so great a predominance upon this floor over southern representation. You recollect, sir, when the Constitution was formed, that the population of the two different sections was very nearly the same. I have seen it stated—I have not taken the trouble to examine the statistics myself, but I believe that

the statement is reliable—that if you would take the native-born population of the United States, you would find that the fifteen States of the South would equal, in population and political strength, the original fifteen free States of the North, leaving out the two new free States of California and Minnesota.

But, sir, I do not propose to consider this as merely a question of expediency. I allude to it simply as a reason which I think ought to weigh upon the minds of members from my own section of the country. It is a question which, in my estimation, involves, to a great degree, our political inferiority or equality.

It seems to me that this provision of the Oregon constitution is unconstitutional, for another reason. The Constitution of the United States confers upon Congress the power "to establish a uniform rule of naturalization." Now, I ask, does not the constitution of Oregon, by the section which I have read, naturalize aliens after they have been within her limits for twelve months? What is naturalization? What is the right of citizenship? In this country, it is the right to govern. The citizen, by the ballot-box, wields the primary power of controlling the Government. That constitution gives an alien the right to vote; gives him access to the ballot-box; gives him equal power to control the Government with one of your own native-born sons. You thereby make him a citizen to all intents and purposes. What else is there that he lacks to constitute him a citizen? What else is there to bestow upon him? You have invested him with sovereign power, and that includes everything else.

It is provided in the general law of Congress, that the alien who is admitted to the rights of citizenship shall renounce all connection with or fealty to any foreign prince, potentate, and Power, and to swear loyalty to the Constitution of the United States. By the constitution of Oregon citizens are made without requiring them to renounce any fealty to the Powers of which they are the subjects, and without any oath of allegiance. I think that it is wrong, that it is unwise, that it is unconstitutional, and that a due regard to the oath I took when I came to occupy a seat upon this floor requires me to vote against the admission of this State, with this provision in her constitution.

The amendment by which I propose to obviate this difficulty, is simply this: that the people of Oregon shall have their attention called to this feature of their constitution; and they shall, at the ballot-box, decide whether they are willing to come into the Union as a State without that objectionable provision. As soon as it is determined that she has a sufficient population; and as soon as she strikes that anti-republican clause from her constitution, then admit her as a sovereign State, equal and coordinate with the other States of the Union. I will not further prolong this discussion.

[APPENDIX.]

In an almanac for the year 1858, published in Oregon by a delegate to the constitutional convention, is, among other interesting and valuable statistics, a table showing the estimated population of the Territory, by counties. This table gives the total population of the whole Territory at forty-three thousand two hundred and seven.

That it may more fully and clearly appear where and in what way our public lands have gone and are still going, I append the following very carefully compiled table, for which I acknowledge obligations to my friend Mr. DAVIS, of Indiana, and ask for it a candid and attentive examination. (See table in next column.)

The question of alien suffrage was considered by the House in the last Congress, and the following proceedings, in Committee of the Whole, during the discussion of the enabling act bill for Oregon, on the 31st day of January, 1857, will show the immense majority in favor of the views entertained by me and those with whom I act.—*Cong. Globe*, third session Thirty-Fourth Congress, p. 522:

"Mr. H. MARSHALL. I move to amend the third section by inserting, after the ninth line, the words:

"Provided, That only citizens of the United States shall be entitled to vote at the elections provided for by this law."

"I do not desire to discuss this proposition. The amendment itself indicates sufficiently my object. But I will make this single remark: that in making the constitution of a State, I believe it is unsound policy to allow any but citizens of the United States to vote. Here I make that point, and take my stand.

"Mr. HAYEN asked for tellers."

"Tellers were ordered; and Messrs. TALBOT and PURYEAR were appointed.

"The House divided; and the tellers reported—ayes 77, noes 49.

"So the amendment was agreed to."

Mr. CLARK, of Missouri, obtained the floor.
Mr. HOPKINS. If the gentleman will yield the floor, I will move the House adjourn.

Mr. CLARK, of Missouri. I yield for that purpose.

Mr. STANTON. Let us take a recess.

Mr. JONES, of Tennessee. No; let us adjourn.
I do not want any more recesses of the House.

Mr. STEPHENS, of Georgia. I am very anxious to have the previous question seconded to-day, or else a general agreement as to when the vote will be taken. If not, it will have to go over till Tuesday. I want it disposed of to-morrow or next day.

Several MEMBERS suggested Saturday.

Mr. STEPHENS, of Georgia. I proposed Sat-

[TABLE REFERRED TO IN PRECEDING COLUMN.]

Statement of the areas of the public land States and Territories, and quantities of lands appropriated.														
States and Territories.	Acres, exclusive of surveyed or navigable waters.	Sold to June 30, 1858.	Schools and universities.	Deaf and dumb asylums.	Internal improvements.	Railroads.	Individuals and companies.	Seats of government and public buildings.	Military bounty lands, June 10, 1856.	Salines.	Reserved and selected for Indians.	Companies, individuals, and corporations.	Confirmed private claims.	Swamp lands, 30th September, 1858.
Ohio.....	25,575,960	12,824,103.33	727,558	21,949.46	1,243,001.77	2,595,053.14	32,141.24	2,560	1,804,423.96	24,216	16,330.73	8,665,976.00	26,459.80	54,458.14
Indiana.....	623,864	16,119,352.42	673,337	1,001,795	2,609,881.61	1,817,376.98	834.44	9,560	1,981,038.61	121,040	126,290.71	329,880.53	1,334,722.50	1,334,722.50
Illinois.....	55,410	16,574,042.98	1,001,795	1,001,795	2,609,881.61	1,817,376.98	834.44	9,560	1,981,038.61	46,080	48,989.69	1,362,455.10	3,494,891.46	4,918,093.81
Missouri.....	603,037	20,097,663.33	1,292,179	1,925,814	500,000.00	1,834,248.00	1,361.53	1,630	1,014,773.80	21,629	22,587.61	688,083.25	9,993.51	2,836,675.89
Alabama.....	620,043	16,329,131.59	820,624	21,949.46	500,000.00	1,061,540.00	13,063.51	1,380	944,033.91	23,040	2,542,378.82	2,092,903.91	6,685,083.25	2,836,675.89
Mississippi.....	627,337	16,632,380.61	820,624	21,949.46	500,000.00	1,061,540.00	13,063.51	1,380	944,033.91	-	2,777,612.04	2,092,903.91	6,685,083.25	2,836,675.89
Louisiana.....	41,346	36,406,720	820,624	21,949.46	500,000.00	1,061,540.00	13,063.51	1,380	944,033.91	46,080	134,335.26	2,092,903.91	6,685,083.25	2,836,675.89
Arkansas.....	56,451	11,348,776.32	592,540	2,087.43	500,000.00	1,910,060.00	4,080.00	10,920	1,292,832.39	46,080	297.48	205.75	3,738,789.00	11,790,344.98
Michigan.....	52,188	6,143,208.11	592,540	2,087.43	500,000.00	1,910,060.00	4,080.00	10,920	1,292,832.39	46,080	121,383.24	10,830.00	3,738,789.00	8,562,722.93
Florida.....	56,080	11,492,198.33	591,524	20,924.22	1,063,371.59	1,374,465.00	52,114.00	3,540	1,020,839.80	160,404.27	140,404.27	10,830.00	3,738,789.00	11,790,344.98
Iowa.....	53,934	9,341,012.74	1,001,795	2,087.43	500,000.00	1,910,060.00	4,080.00	10,920	1,292,832.39	46,080	297.48	205.75	3,738,789.00	8,562,722.93
Wisconsin.....	188,961	6,130.06	6,765,404	1,001,795	500,000.00	1,910,060.00	4,080.00	10,920	1,292,832.39	46,080	297.48	205.75	3,738,789.00	8,562,722.93
California.....	188,961	120,947,842	6,765,404	1,001,795	500,000.00	1,910,060.00	4,080.00	10,920	1,292,832.39	46,080	297.48	205.75	3,738,789.00	8,562,722.93
Minnesota.....	78,819	50,444,160	1,502,594.42	6,765,404	500,000.00	1,910,060.00	4,080.00	10,920	1,292,832.39	46,080	297.48	205.75	3,738,789.00	8,562,722.93
Dacotah.....	63,043	40,332,800	2,961,185	86,900.19	430,000.00	2,029,760.00	-	-	1,317,020.00	-	370,080.00	-	-	-
Nebraska.....	332,438	219,160,320	86,900.19	86,900.19	430,000.00	2,029,760.00	-	-	1,317,020.00	-	370,080.00	-	-	-
Kansas.....	* 136,283	80,821,120	110,815.32	4,460,062	-	-	-	-	-	-	-	-	-	-
Indian.....	67,050	42,892,800	8,826,956	-	-	-	-	-	-	-	-	-	-	-
New Mexico.....	216,934	158,037,760	6,692,529	-	-	-	-	-	-	-	-	-	-	-
Washington.....	186,930	80,990,060	6,692,529	-	-	-	-	-	-	-	-	-	-	-
Oregon.....	186,930	119,628,800	6,692,529	-	-	-	-	-	-	-	-	-	-	-
Utah.....	187,933	130,270,120	6,692,529	-	-	-	-	-	-	-	-	-	-	-
Totals.....	2,916,752	1,418,081,260	66,436,522	44,971.11	10,879,938.59	21,747,371.76	279,792.07	50,860	37,822,099.83	422,395	3,721,229.96	8,968,263.75	8,968,263.75	8,968,263.75
June 30, 1857.....	-	-	-	-	-	-	-	-	-	-	-	-	-	-
June 30, 1858.....	-	-	-	-	-	-	-	-	-	-	-	-	-	-
September 30, 1858.	-	-	-	-	-	-	-	-	-	-	-	-	-	-

a Includes reserves under deeds of cession.

b Exclusive of the Chickasaw cession.

c Includes the estimated quantity of 541,625 acres of the Des Moines river grant, between the Racoon Fork and north boundary of Iowa.

d Is the estimated quantity of the Des Moines river grant within Minnesota, under Secretary Walker's decision.

* In part estimated.

† Indian selections. The former Indian reserves in Michigan were ceded to the United States by treaty, August 2, 1855.

Statement of the areas of the public land States and Territories, and quantities of lands appropriated.

a Includes reserves under deeds of cession.
b Exclusive of the Chickasaw cession.
c Includes the estimated quantity of 541,632 acres of the Des Moines river grant, between the Racoon Fork and north boundary of Iowa.
d Is the estimated quantity of the Des Moines river grant within Minnesota, under Secretary Walker's decision.
e In part cession.
f Indian selections. The former Indian reserves in Michigan were ceded to the United States by treaty, August 2, 1855.

urday, at one o'clock, but the gentleman from Pennsylvania [Mr. MONTGOMERY] objected.

The SPEAKER. The Chair understood the gentleman from Pennsylvania to withdraw his objection.

Mr. STEPHENS, of Georgia. Then I suggest Saturday, at twelve o'clock.

There being no objection; it was so understood.

The question was taken on the motion to adjourn; and it was not agreed to—ayes 46, noes 53.

Mr. GROW. I desire to ask the gentleman from Georgia whether I understand that on Saturday, at twelve o'clock, he proposes to have all these amendments voted on?

Mr. STEPHENS, of Georgia. The question is to be then taken. I will then withdraw my motion to commit; but there is to be no debate.

Mr. GROW. And you will allow all these amendments to be then offered? That is satisfactory.

Mr. MARSHALL, of Kentucky. I desire to propose an amendment for the purpose of having it printed.

Mr. STEPHENS, of Georgia. That the gentleman from Kentucky may understand my agreement, it is: that on Saturday, at twelve o'clock, the motions now pending shall come up under the rule just as if the previous question were sustained.

Mr. MARSHALL, of Kentucky. When the gentleman speaks of motions pending, I suppose he means all these amendments.

Mr. STEPHENS, of Georgia. With the consent of the House they can be all offered.

Mr. COMINS. I understood the special order to extend till one o'clock.

The SPEAKER. The Chair propounded the question—twelve o'clock on Saturday.

Mr. DAVIS, of Indiana. I indicated a proposition which I intend to offer, and desire to have it understood that that proposition is to be considered and decided by the House.

The SPEAKER. If it be the pleasure of the House, all the amendments offered or indicated by gentleman will be printed.

Mr. STEPHENS, of Georgia. I have no objection; but gentlemen are to consider that all these amendments are not to be voted on, except by the consent of the House.

Several MEMBERS. Of course.

Mr. MARSHALL, of Kentucky. I now send up my amendment.

Mr. MARSHALL's amendment is as follows:

Whereas the people of Oregon have framed a constitution under which they propose to be admitted as a State into this Union, and it being represented that the population of said State is sufficiently numerous to be entitled, on the existing ratio of representation, to one Representative in the floor of the House of Representatives; and whereas it is the sense of Congress, that the extension of the right to vote for a member of the House of Representatives of the United States, to a person neither native nor naturalized according to the act of Congress, is violative of the spirit and true meaning of the Constitution of the United States; and whereas the constitution of the State of Oregon contains a provision granting such extension to aliens without naturalization: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall appear, by a census taken by the order of the Governor of Oregon Territory, that Oregon contains ninety-three thousand people, Oregon shall be admitted as a State into this Union, on an equal footing with the original States in all respects whatever; upon the fundamental condition, that the second clause of the second article of the constitution now submitted to Congress, and embraced in the following words, to wit: "and every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding said election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law," shall never be construed to authorize the said persons of foreign birth and not naturalized, to vote for members of the House of Representatives of the United States at any election for such in said State: *Provided*, The people of Oregon, assembled in convention, shall assent to said fundamental condition, and shall transmit to the President of the United States on or before the 1st day of November, 1859, an authentic copy of said amendment to said constitution, and a certified return of said census; upon the receipt whereof, the President of the United States by proclamation, shall announce the fact, whereupon, and without any further proceedings on the part of Congress, the admission of the said State of Oregon into the Union shall be considered as complete.

Mr. STEPHENS, of Georgia. I now move that the rules be suspended; and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking a recess.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. JOHN COCHRANE in the chair,) and resumed the consideration of the President's annual message, on which the gentleman from Illinois [Mr. LOVEJOY] was entitled to the floor.

Mr. LOVEJOY took the floor, and proceeded to speak on general politics.

Mr. CLARK B. COCHRANE. I rise to a question of order. It was the common understanding of the House, when it went into committee, that the question for discussion was the admission of Oregon. Gentlemen who are to be called upon to vote on that important question, have a right to be heard, and to give their reasons for their votes. I made several ineffectual attempts this afternoon to get the floor for the purpose of speaking on this Oregon question; and the proposition was made, as gentlemen will bear me witness, to go into the Committee of the Whole on the state of the Union for the purpose of giving gentlemen an opportunity to discuss the measure before the House and Congress. I insist on it that gentlemen should not come in after such an understanding, and consume the time of the House on a question not before the House. Good faith to the House requires that gentlemen who do not intend to speak to the subject, should seek a future and proper opportunity to give their views on any other questions.

The CHAIRMAN. On going into committee, the Chair stated that the subject under consideration was the President's annual message, and heard no objection. The Chair, therefore, conceives that the subject under discussion is the President's annual message, and overrules the point of order.

Mr. LOVEJOY proceeded to address the committee—

Mr. BURNETT. I ask the gentleman from Illinois to yield for a motion to take a recess. He will certainly have as good an audience in the evening as he has now. I have no desire to make a point of order on the gentleman; but if he insists on proceeding, I shall make the point of order that there is no quorum present.

Mr. LOVEJOY. I prefer to proceed now. I would like to know how the gentleman can get the floor to make that point of order?

Mr. BURNETT. I can make the point of order. But I prefer to appeal to the gentleman to let the committee take a recess till seven o'clock.

Mr. LOVEJOY. I prefer to go on now.

Mr. BURNETT. Then I make the point of order that there is no quorum present; and I object to any further proceedings, till the Chair ascertains whether there is a quorum present.

The CHAIRMAN. The gentleman from Kentucky makes the point of order that there is no quorum present, and that the gentleman from Illinois cannot proceed in the absence of a quorum. The gentleman from Illinois being on the floor, the Chair must hold that the point of order raised by the gentleman from Kentucky is not well taken. The point of order is out of order.

Mr. BURNETT. I submit to the Chair that neither this committee nor the House has any right, under the rules, to proceed with business unless there is a quorum present. I have a right to make the point of order, and I make it.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from Kentucky can take an appeal from the decision of the Chair.

Mr. BURNETT. Very well; I take an appeal from the decision of the Chair.

The question was taken on the appeal "Shall the decision of the Chair stand as the judgement of the committee?" and, on a division, there were—ayes 28, noes 10; no quorum voting.

Mr. BURNETT. As no quorum has voted, I insist that the Clerk shall call the roll.

The CHAIRMAN. The roll must be called.

Mr. LOVEJOY. As the Chair decides that the roll must be called, I am willing to yield for a motion that the committee take a recess until seven o'clock.

Mr. HOWARD. I rise to a question of order. The rule is peremptory that when the committee finds itself without a quorum, the roll shall be called. There is no alternative.

The CHAIRMAN. There is not, except by unanimous consent.

Mr. VALLANDIGHAM. I object.

The Clerk proceeded to call the roll.

Mr. CURTIS, (interrupting.) I hope the call will be suspended, in order that we may take a recess.

Mr. VALLANDIGHAM. I object.

Mr. HOWARD. I object to any question being put. There is no quorum here, and nothing can be done by consent or without consent. The rule is peremptory, and the roll must be called.

The Clerk resumed the call of the roll.

Mr. CURTIS, (again interrupting.) I hope the call will be suspended. I move that we take a recess.

Mr. TOMPKINS. I object. The roll must be called.

The Clerk again resumed the call of the roll.

Mr. CURTIS, (again interrupting.) I understand that the objection is now withdrawn; and I move that the committee take a recess until seven o'clock.

Mr. MASON. I move that the committee do now rise.

The motion was not agreed to.

The motion of Mr. CURTIS was then agreed to.

And thereupon (at four o'clock and thirty-five minutes, p. m.) the committee took a recess until seven o'clock, p. m.

EVENING SESSION.

The committee resumed its session at seven o'clock, p. m., (Mr. JOHN COCHRANE in the chair,) the President's annual message being under consideration, on which Mr. LOVEJOY was entitled to the floor.

Mr. LOVEJOY. I have learnt, since the committee rose, from the Speaker and from others, that the understanding was that the discussion this evening was to be confined to the Oregon question. I did not so understand, and I now waive my right to the floor.

The committee was then addressed by Messrs. SCALES, KEIM, TAYLOR of Louisiana, ABBOTT, JACKSON, FARNSWORTH, LANE, and TAYLOR of New York. [These speeches will be found in the Appendix.]

Mr. TAYLOR, of New York, then moved that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. MAYNARD having taken the chair as Speaker *pro tempore*, Mr. JOHN COCHRANE reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the annual message of the President of the United States, and certain resolutions proposing to refer the same, and had come to no resolution thereon.

And then, on motion of Mr. HARRIS (at ten o'clock and seven minutes, p. m.) the House adjourned.

IN SENATE.

FRIDAY, February 11, 1859.

Prayer by Rev. F. SWENTZEL, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented a petition of citizens of the towns of Bremen and Bristol, in the county of Lincoln, Maine, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands, and that they be laid out in farms and lots for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

Mr. GWIN presented the petition of Charles Minturn, president of the Contra Costa Steam Navigation Company, praying compensation for transporting the mails from San Francisco to Oakland and Petaluma, in the State of California; which was referred to the Committee on the Post Office and Post Roads.

Mr. PEARCE presented a memorial of citizens of Havre de Grace, Maryland, praying the establishment of a national foundry at that place. The memorial represents that the town is unrivaled in its manifold advantages for the site of such an establishment. It is situated at the head of that many-armed estuary, Chesapeake bay, at the mouth of the Susquehanna river, and at the outlet to the tide-water of that system of canals which is ramified through the iron region of Pennsylvania; besides having on its own immediate

borders, fine beds of velvet, and hone-ore, and several iron works. Havre de Grace is a point by which naturally pass, previously to distribution, the products of nearly half the furnaces in the United States. It is, moreover, cheaply accessible by tide-water and railway to iron works in Maryland, Pennsylvania, and New Jersey. It has at hand superior fire-brick clay and casting-sands, of the best quality; and can furnish, by way of the Susquehanna river and canal, fire-wood, coal, lumber, lime, stone, and other building materials at cheaper rates than any other suitable point in the Union. Being also on the great highway between the great Atlantic States, and communicating, by inland navigation as well as by railway, with nearly the whole Atlantic seaboard, and likewise with the great lakes and the Mississippi valley, the opportunities of this town for obtaining promptly cheap supplies of all kinds, including skilled labor, and for distributing the product of a foundry, are vastly superior to those of any other locality yet named.

The memorial was referred to the Committee on Military Affairs and the Militia.

Mr. KENNEDY presented the memorial of the Baltimore and Ohio Railroad Company, praying permission to extend their Washington branch road so as to meet and form closer connections with the southern and southwestern lines; which was referred to the Committee on the District of Columbia.

Mr. CRITTENDEN presented the petition of Leslie Combs, one of the survivors of the first regiment of Kentucky volunteers who were engaged in the battle of Rains, during the war of 1812, praying the enactment of a law for the relief of his few surviving brother soldiers; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. YULEE, it was
Ordered, That the petition of Chandler S. Emory, administrator of Calvin Read, deceased, praying payment for pine trees sold to the United States for the erection of a fort at Mandarin, Florida, be withdrawn from the files of the Senate, and referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom the subject was referred, reported a bill (S. No. 570) to abolish the franking privilege, and for other purposes; which was read, and passed to a second reading.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Treasury in answer to a resolution of the Senate respecting the construction of a building at Springfield, Illinois, for the accommodation of the United States courts and post office, reported in favor of printing the usual number; and the report was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (H. R. No. 584) for the relief of Captain A. W. Reynolds, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 77) for the relief of Enoch B. Talcott, late collector of customs at Oswego, New York, reported it without amendment.

He also, from the same committee, to whom was referred the adverse report of the Court of Claims, on the claim of Charles V. Stuart, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

He also, from the same committee, to whom was referred the adverse report of the Court of Claims, on the claim of Martin B. Lewis, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (H. R. No. 319) for the relief of Benjamin Sayre, reported it without amendment.

BILLS INTRODUCED.

Mr. FITCH, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 572) to provide for the construction of certain classes of public works; which was read, and passed to a second reading.

Mr. RICE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 573) authorizing the entry of land under certain cir-

cumstances by mail contractors; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 571) to provide for the payment to the State of Massachusetts of a balance due to said State for money expended for the United States during the war of 1812; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

OREGON COMMISSIONER'S REPORT.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate, if not incompatible with the public interest, the report or reports of the commissioner to Oregon and Washington, appointed under the act of 14th June, 1853, making appropriations to supply deficiencies for the Indian service for the year 1858.

OTTINGER'S SURF-CARS.

Mr. ALLEN. I ask the indulgence of the Senate to call up House bill No. 576, for the relief of Captain Douglas Ottinger. It will probably take a very few minutes for its consideration. It is a very meritorious bill. It is but seldom that I make such applications.

The VICE PRESIDENT. The Chair will state to the Senator from Rhode Island, that at present it requires unanimous consent.

Unanimous consent was given; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill designated. It proposes to pay to Captain Ottinger \$10,000, in full compensation for the use of his invention of the life or surf-cars by the United States; and also to enable him further to test the practicability of adapting such car to the rescuing of passengers and crews during violent gales at sea.

Mr. ALLEN. I ask that the letter from the Secretary of the Treasury on this subject may be read.

Mr. JONES and others. It is not necessary.

Mr. ALLEN. I withdraw the call.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read a third time.

Mr. DAVIS. I should like to have the yeas and nays on the question of its passage.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

The VICE PRESIDENT. The Chair has been compelled to suspend the call of the roll, for it is impossible for the voice of the Secretary to be heard, or the answers of Senators; and he will continue to do so, as long as the conversation is so loud and general.

The Secretary concluded the call; and the result was announced to be—yeas 23, nays 15; as follows:

YEAS—Messrs. Allen, Bates, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fitch, Hale, Hamlin, Harlan, Houston, Iverson, Jones, Pugh, Seward, Simmons, Stuart, Thompson of Kentucky, Wilson, and Yulee—23.

NAYS—Messrs. Chesnut, Clay, Clingman, Davis, Fessenden, Fitzpatrick, Johnson of Arkansas, Johnson of Tennessee, King, Pearce, Reid, Rice, Sillwell, Toombs, and Ward—15.

So the bill was passed.

PACIFIC RAILROAD.

Mr. STUART. Mr. President, I have not for some days been able to come to the Senate, and I ask now the indulgence of the body to dispose of a measure, which I understand the friends of it all around desire to do; and that is, the bill which was passed in regard to receiving propositions to build a Pacific railroad. There was a motion made to reconsider, and I offered a motion to lay that motion on the table. I understand there is a desire of its friends and the Senate generally, that the question shall be called up, that I may withdraw my motion, and that the Senator from California may withdraw his motion to reconsider, and let the bill go to the House of Representatives. It will occupy but a moment.

The VICE PRESIDENT. What is the Senator's motion?

Mr. STUART. I move to take up the question.

Mr. YULEE. I suggest to the Senator to allow that matter to rest for a short time; the Senator from California, who desires to be present when

this question comes up, has just now passed over to the other House, upon a matter of business.

Mr. STUART. Let it lie over for the present.

ELIZABETH M. COCKE.

Mr. CLAY. The Committee on Commerce, to whom was referred the bill (S. No. 561) for the relief of Mrs. Elizabeth M. Cocke, widow of the late Major James H. Cocke, late marshal of the United States for the district of Texas, have instructed me to offer a substitute for the bill, and to recommend its passage in this amended form. If any relief is to be afforded to the widow, it must be done speedily; and on that account, in accordance with the wishes of the Senators from Texas, I trust the Senate will take up the bill and consider it at this time. I will state, in a very few words, what is the nature of the case, and I think the Senate will consent to grant my request.

Mr. Cocke, the husband of this lady, and of whose estate she is administratrix, was the marshal of the United States for the State of Texas. He had a deputy by the name of Martin, in whose hands was placed the sum of about three thousand dollars, which he embezzled. Mr. Cocke was in a very infirm state of health at that time, and according to the testimony of many respectable witnesses, among them two physicians, was so imbecile in mind that he was incapable of discharging any business, either public or private. He was, as they state, *non compos mentis*. He died, and judgment was rendered in favor of the United States, against the administratrix, for the amount that was embezzled by his deputy. The bill, as introduced by the Senator from Texas, [Mr. WARD,] proposed that the execution should be stayed altogether, and satisfaction entered on the judgment. The committee, in place of that bill, report a substitute to this effect: that execution shall be stayed until time is given to the administratrix, under the laws of Texas, to prosecute to a final judgment a suit against the deputy. It is said that the money may, perhaps, be made out of him.

I am assured by the Senator from Texas, as well as by the memorialist herself, and the witnesses who are adduced, that she has a bare living, and that if execution is levied under this judgment, it will take all she has for the support of herself and little children. Under these circumstances, I think it is equitable relief, and that we may consent to wait.

Mr. SEWARD. I do not desire to interpose any obstacle in the way of the honorable Senator's proposition, and shall be very glad to second it; but it will be recollected by the Senator that the case of the Indiana Senators was brought before the body yesterday, and was postponed until to-day; and that notice was given by the chairman of the Judiciary Committee that he would call it up to-day. If I can have a reasonable assurance that this bill will not be debated, so that that question may be called up at once, I shall not interfere.

Mr. CLAY. If it is debated, I shall not press it.

Mr. SEWARD. Very well.

The VICE PRESIDENT. The Chair hears no objection to the present consideration of the bill.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which, as originally introduced, proposed to authorize the Secretary of the Treasury to cause all proceedings in the suit instituted in the Federal court of Texas against the administratrix of James H. Cocke, to be suspended on account of the sum of \$2,122, for which the suit was instituted, having been abstracted from Mr. Cocke's office, by his deputy, without his consent, and contrary to his knowledge.

The amendment of the committee is to strike out the whole of the bill, and insert the following substitute:

Whereas the United States, on the 29th day of April, 1857, recovered judgment against Elizabeth M. Cocke, administratrix of James H. Cocke, late marshal, and his sureties, before the district court for the eastern district of Texas, for the sum of \$2,041 93, and it being made to appear that it would be just and equitable that the collection of the said judgment should not at this time be enforced: Therefore, *Be it enacted*, &c. That no execution for the amount of the principal and interest due on the said judgment shall be issued; and the same be, and is hereby suspended, until sufficient time be allowed under the laws and according to the usual form of legal proceedings in Texas, for said administratrix to prosecute to a final judgment a suit against Henry B. Martin, deputy marshal of said James H. Cocke,

who received and embezzled the money for which said judgment in favor of the United States vs. said Elizabeth M. Cocke; administratrix, as foresaid, was rendered.

The amendment was agreed to; and the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

INDIANA ELECTION QUESTION.

Mr. MASON. The Senator from New York is doubtless aware, as other Senators are, that to-day, by the rules, is set apart for the Private Calendar, which at one o'clock will be called up as a matter of course by the chairman of the Committee on Claims. Now, if this Indiana question is taken up it will be debated all day, and cannot be got through with even then. I will remind the Senate that yesterday, or the day before, I gave notice that I should ask the indulgence of the Senate to take up, at half past twelve o'clock to-day, the Amistad claim, upon which I should not speak, but upon which I should ask a vote. I am not aware of anybody who will desire to discuss it except the Senator from Connecticut, [Mr. Dixon.] I ask the Senate, therefore, to take up the Amistad case. With the information which I have given the chairman of the Committee on Claims that I will not debate it so as to interfere with the regular call of the Private Calendar, I have his permission to do it. I hope it will be taken up.

Mr. SEWARD. The honorable Senator from Virginia will excuse me; but if the Amistad case is taken up, I shall expect to sustain the report which I made in behalf of the minority of the Committee on Foreign Relations against it at the last session, by an argument commencing with the capture of the Africans on the coast of Africa, and ending with the latest stage of the transaction. Whoever else may speak, I shall claim from the Senate the privilege of sustaining the report of the minority on that subject, at reasonable, but at somewhat necessary length. I therefore shall be obliged, on that ground, to dissent from the honorable Senator. I cannot consent to give that case preference over the Indiana election question, which concerns the privileges of this body; which concerns its integrity, which concerns its character, and which calls for consideration by the respect due to one of the sovereign States of this Union. I call for the yeas and nays upon the proposition.

Mr. BAYARD. The Amistad case will probably lead to debate quite as much as the report of the Committee on the Judiciary.

The VICE PRESIDENT. The Senator from Delaware will pause a moment, until the Chair states the condition of business. The Senator from Virginia moves to take up the Amistad case. The Chair did not understand that the Senator from New York insisted upon the other question as one of privilege.

Mr. SEWARD. I did, sir, as one of privilege.

The VICE PRESIDENT. It, then, supersedes the motion of the Senator from Virginia, and comes up of course.

Mr. BAYARD. I was about to state that one is a privileged question, the other is not. Either will lead to debate, to a certain extent. I think, however, that a vote of the Senate, testing its judgment sufficiently for the purposes of the other side of the Chamber, can be taken on the Indiana case, without any very prolonged debate. I do not know to what extent honorable Senators mean to carry it; but it is a privileged question, and the report of the committee ought to be disposed of.

The VICE PRESIDENT. The Committee on the Judiciary ask to be discharged from the consideration of the memorial of the Legislature of Indiana.

Mr. SEWARD. I submit the following amendment.

Mr. STUART. I will ask the indulgence of the Senator and the consent of the Senate for one moment, to let me dispose of a motion I made sometime ago.

Mr. SEWARD. The honorable Senator will excuse me; but I have got but ten minutes to dispose of this question.

Mr. STUART. I suppose the majority of the Senate can keep the question up.

Mr. SEWARD. Yes, if the majority choose to do so; but I have no evidence of such a disposition on the part of the majority.

The VICE PRESIDENT. The Committee on the Judiciary ask to be discharged from the further consideration of the memorial of the Legislature of Indiana; and the Senator from New York proposes to amend it, by adding:

And that Henry S. Lane and William M. McCarty have leave to occupy seats on the floor of the Senate pending the discussion of the report of the Committee on the Judiciary, on the memorial of the Legislature of Indiana declaring them her duly elected Senators; and that they have leave to speak to the merits of their rights to seats, and on the report of the committee.

Mr. PUGH. I move to amend the amendment, by striking out all after the word "that," and inserting what I send to the Chair:

The resolution of the Senate, adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright, as Senators elected from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final vote on all the premises then in controversy; and conclusive, as well upon the Legislature of Indiana, and all persons claiming under its authority, as upon the Senators named in the resolution.

Mr. SEWARD. It will not be necessary, Mr. President, that I detain the Senate by any extended argument. I shall content myself with stating a few distinct propositions in a consecutive manner. First, this question is one of transcendent importance. It is important in regard to the personal membership of this body. If those who appear here now by the direction of the State of Indiana, given by her constituted authorities, speak the truth, and present a just claim, then that State is now disfranchised in the Senate of the United States. She is unrepresented in this body; worse than that, sir, if this claim be just, she is misrepresented in this body. This, supposing the title of the claimants for the seats to be sound, is injustice to the State of Indiana; it is tyrannical over the State of Indiana. This legislative body has no exemplar in the world. While it is in form a Legislature, it is in fact a congress of ministers from confederated States in one view, and for many purposes sovereign States. The integrity of that confederacy can only be preserved by securing a just, fair, and equal and true representation of its members. To leave one of them unrepresented is a great evil. To oblige one to be misrepresented is an intolerable evil. Thus much as to the importance of the question.

It is answered to this proposition which I have submitted, that the Senate has already decided the question as to the title of these seats; that the decision is a judicial one; final, absolute, irreversible; and so one which cannot admit of reconsideration. This seems to me an extraordinary proposition. I cannot conceive upon what ground it can be claimed that any decision which has ever been made by this body is incapable of reconsideration. I can conceive of a mistaken theory of the constitution of the Senate which leads to this extraordinary conclusion. I imagine that Senators coming from a different forum, coming from the bar, coming from courts of justice, and familiar with their proceedings and practices, suppose that when the Senate decides upon a question of elections or of privilege like this, it pronounces a judgment, and similar to the judgment of a court; and then they invoke the principle that the deliberate judgment of a court from which there is no appeal, and which has no power of reconsideration, is final. I take issue with the whole of this theory, from beginning to end. It is true the Constitution does say that each House of Congress shall be the judge of the qualifications of its own members; but it uses the word judge, in the sense of considering and determining a legislative question, not in a sense which converts this legislative body into a tribunal or court of justice. It is of the very essence of the constitution of the Senate that it is not in any case judicial, except when it sits as a court for the trial of impeachments, and then it is called no longer a Senate, but is called a court, and expressly constituted a court by the organic law. In all other cases it is a legislative body. The order which has been adopted with regard to this Indiana question is but a resolution, a legislative act, a gathering of the sense of a majority of the Senate, conclusive and final until reconsidered, or repealed, or abolished, or legislated away by another resolution, or by another law. Suppose a seat should be granted here, on due consideration of credentials, which should

afterwards be ascertained to be forged. Must the guilty incumbent nevertheless retain a place among us, and unite in deciding on the interests and policy of this great nation? Must he do so, even excluding a legal and true representative of the State misrepresented?

This is the very essence of a legislative body in this country, that it is bound by no precedents, that it is governed by no paramount law, except the constitution of the State or of the United States. Where the Constitution of the United States does not restrain its action, it is at liberty to act upon its discretion, upon its sense of justice, to-day, and to reverse to-morrow what it did to-day, and to reverse fifty years hence what it did fifty years ago. All legislative bodies—the Parliament of England, and parliaments everywhere—have always been governed by this principle. Even in those semi-judicial transactions, those acts which assume something of a judicial character, affecting personal and individual rights and estates, acts of confiscation and of attainder, in the British Parliament, they are perpetually reconsidered; sometimes the next day, even before the sentence of deprivation is executed; sometimes the next year, sometimes ten years, sometimes fifty years after they have been executed, and they are reversed at pleasure.

Mr. IVERSON. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Georgia?

Mr. IVERSON. I rise to call for the special order. Private bills were set apart for one o'clock.

Mr. SEWARD. I appeal to the Senator to allow me to continue.

The VICE PRESIDENT. The Chair thinks the Senator from New York is in order.

Mr. IVERSON. I desire to ask the Chair what is the subject before the Senate.

Mr. SEWARD. I do not yield the floor to allow a motion to be made to call me from the floor.

The VICE PRESIDENT. The Chair will hear the Senator from Georgia.

Mr. IVERSON. I ask what is the question before the Senate.

The VICE PRESIDENT. The question before the Senate is on the amendment offered by the Senator from Ohio to the amendment.

Mr. IVERSON. What was the original proposition?

The VICE PRESIDENT. The original proposition was the report of the Committee on the Judiciary, asking to be discharged from the further consideration of the memorial of the State of Indiana.

Mr. IVERSON. Did the Senate agree to take up that report?

Mr. SEWARD. It came up as a question of privilege.

The VICE PRESIDENT. The Chair repeatedly, at the last session of Congress, decided it to be a question of privilege, but under the control of the Senate at any time. The Senator from New York, in the opinion of the Chair, is in order.

Mr. SEWARD. Mr. President, the constitution of a court is entirely different from the constitution of a legislative body. It is of the very nature of a court of justice, that it is directed by laws written and prescribed by a superior power, and to which it must conform its judgment. It must, moreover, proceed upon the evidence or testimony received. It can and must exclude all knowledge of the subject-matter of the merits of any case which it examines, except what is submitted to it by parties litigating before it; it must conform to laws and precedents which have been established by itself or by higher tribunals or legislatures. Now, how different is this from the form in which questions are heard, tried, and determined here? We take no testimony—that is to say, we need to take none. We act upon information communicated to us, no matter by whom received, no matter in what way, even on information existing in our own breasts, which we may, if we choose, suppress. We act not necessarily in obedience or conformity to any precedents, but upon our own sense of right, necessity, and expediency, with regard to the public welfare. Inasmuch as we have no guidance except the Constitution, which is silent in regard to the great mass of matters which come before

us; as we have no formal testimony submitted to us, it follows that we may err; that we do often err; and it is because we can and may and must err so often, that we are made responsible to the people to answer for the manner in which we discharge our great duty, at the expiration of limited terms of service, that the people may judge whether we decided in all cases rightly, whether we decided wisely, whether we decided justly. But inasmuch as we may err so often and must err so often, we also have always a right to review and correct our errors. Legislative errors are not corrected by higher tribunals, but only by themselves. We can only correct our errors by reconsidering our judgments ourselves. If we neglect or refuse to do so, the people will dismiss us and call into our places those who can, and, if need be, will, revise all our doings and correct all our errors.

I protest, therefore, sir, in the outset, against the doctrine which, by fanciful analogy, transfers from the law-books of the courts to this Senate Chamber—the principle of *res adjudicata*. I deny that any decision which the Senate can make, any law which it can pass, is final, and is not always and forever a subject of reconsideration.

Sir, the great secession and stamp act, which passed Congress in the time of Mr. Adams's administration, has been a thousand times, I had almost said, condemned in positive and effective legislation in the Senate Chamber. The great act which distinguished the administration of General Jackson, when the Senate pronounced the solemn judgment that his conduct of a great financial question was derogatory from the independence of Congress, and from the Constitution of the United States, has been reversed; and the Senate has, on such reconsideration, and after the lapse of years, obliterated even the record which contained that judgment. It will be possible to-morrow, next year, ten years hence, fifty years hence, for this body to review any transaction of this day, even the decision you are now to make in this very case.

Thus much, sir, in regard to the law of the subject. Now, with reference to the merits of the case, I maintain, with great deference for the Senate, that it is bound, in fairness, to the State of Indiana, to give a reconsideration of this subject. The Senate is bound, by all its precedent action, to give that reconsideration. Certainly I need not argue this question. The Senate is even now engaged in that very act of reconsideration. What is the report of the Committee on the Judiciary but a proceeding in the very act of reconsideration? We are to pronounce judgment once more by an order. The committee submit a report, and ask us to make a new order in the case. We may make the order they recommend, which is adverse to the claimants. We may equally make a different one—a decision in their favor. Whatever order we make will be the decision of the Senate on the reconsideration of the Indiana case.

I come now to make an appeal to the discreet, deliberate consideration of the Senate of the United States. The State of Indiana to-day affirms that the decision which was rendered at the last session was erroneous, unjust, oppressive, and tyrannical; that it deprives her of representation in this place; that it maintains here, as her representatives, those whom she has not chosen. Certainly, it may be true that she is in error; but if she is, it is an error that is not fully to be punished by refusing a hearing of her complaints. States are never to be punished so. It may be that the State of Indiana has changed the opinion to-day which she had two years ago, when the present incumbents took their seats here, certainly under some form of credentials from that State. It is the right of the States of this Union to err; it is inevitable that they shall; it is their right to reconsider; and when they do reconsider, they have a just claim to be heard by every tribunal that has a judgment to pronounce upon the subject. The security of public liberty consists in the changes and fluctuations of public opinion, which enable the States of this Union to-day to correct the error of a previous day, and to-morrow to review the decision of to-day.

But this is no case of reconsideration on the part of Indiana. The Legislature of Indiana are here to-day for the first time. Now, for the first time throughout all this litigation, they appear here,

and insist that the present incumbents are not her representatives; but that the Senators who ought to be speaking her voice and pronouncing her will here, are those who are now standing outside, waiting for you to open the door and let them come into the Senate Chamber. Your decision, when it was made before, was made when there was no contestant, when there was no organization of the State in activity which could appear here and set up what is now claimed to have been at that time the will of the State of Indiana.

It is due to the harmony of this Union that the State of Indiana shall be indulged in a hearing of this case. If she is to be heard at all, then it follows that it is her right that she shall be heard by those whom she has sent here for the purpose of speaking in her behalf. She has not trusted me, sir; she has not trusted my honorable friend from Illinois, [Mr. TRUMBULL,] or any other member of this body, with her powers; we owe her no obligation; we do not understand her will and pleasure; but she has sent here two of her citizens, men in whom she confides, and whom she honors. To refuse them the privilege of arguing and maintaining her cause, while it is allowed to those who, like myself, are at best but volunteers in her behalf, and who, moreover, must necessarily be judges themselves of the matter in dispute, is absolutely to grant the form and deny the substance of reconsideration.

If I am at all right in what I have said in regard to the character of this question, and have made myself understood, I have prepared my way for another proposition, involved in the present case—a proposition which will stand out in the history of this transaction, marking for all time as the determination of the Senate to refuse to allow a reconsideration of an election that was illegal. Sir, the Constitution of the United States declares that Senators in Congress, in the absence of any law of Congress, shall be elected by the Legislatures of the States. It is the opinion of a majority of the Senate, as ascertained in the case of the Iowa election, that that choice by the Legislature, as a legislative act, must be made in a legislative way, by the action of the Legislature of Indiana, consisting of two branches; each of which is duly organized, constituted, and appointed, and each of which proceeds, in its own Chamber, with the forms of election by acts of legislation. Now, sir, this memorial of the State of Indiana, presented by these claimants, shows, what we all knew before, that the Legislature of Indiana consists of two legislative bodies—a Senate and a House of Representatives.

The VICE PRESIDENT. The Senator from New York will be kind enough to pause a moment. The Chair is obliged to appeal, for the third time, to the members of the Senate, to preserve order. The confusion in the Hall is so great that the Chair can scarcely hear the Senator who is addressing the body; but if supported by the Senate, he will stop the public business until this confusion ceases.

Mr. SEWARD. The constitution of the State of Indiana says, a Senate and House of Representatives are the Legislature of Indiana. A quorum, capable to transact the business of either House, is two thirds of that body. This memorial shows the fact that the incumbents of these seats now on this floor were elected, or supposed to be elected, by the action of some members of that body, without the action of a quorum of either of the two Houses, and without the attendance, and in the absence of, even a plurality of one of the two bodies.

Sir, when so grave a charge is made, and is made by so important a character as a State, when so vigorous an assault as this is thus made against a decision of this body called *res adjudicata*, it is time for us to pause and consider whether we have the power to bind down the intelligence and wisdom, the searching and scrutinizing activity of the people of the United States, and whether we can disarm public censure by pleas either that our judgments are infallible, or our dignity will not endure an appeal made to us to revise them.

This, sir, constitutes what I have to say upon this subject. I know not how far others may discuss it. Upon what I have stated, I ask the Senate to reject the amendment which has been proposed by the Senator from Ohio to my proposition, and to accept that proposition as an amendment

to the order or resolution submitted to the Senate by the Committee on the Judiciary.

Mr. SLIDELL. I move to postpone the further consideration of this question until to-morrow.

Mr. PUGH. I suggest to the Senator from Louisiana the shorter way would be, as his colleague is entitled to the floor on another question, to move that this matter lie on the table; the Senator from New York shall have his speech answered at the proper time. I do not think this the proper time. I think the Senator from Louisiana is entitled to the floor. I move that the subject be laid on the table.

Mr. SLIDELL. I yield to a suggestion made to me by my friend from Indiana, [Mr. BRIGHT.] He says there are matters which have been introduced in the speech of the Senator from New York that require an instant reply, and he desires to make it.

Mr. BRIGHT. The Senator from Louisiana misunderstood me. I should like very much to reply to the remarks of the Senator from New York, but my friends have advised my colleague and myself that it is better for us to leave our case to their hands. I am unwilling to say anything that would violate what I regard as the proprieties of the body; or otherwise, I should before this, have replied to remarks made by that Senator—I mean the Senator from New York—in the discussion of our case; but I propose to leave that to other Senators, and shall seek some other occasion to answer his gross misrepresentations of facts connected with our case.

Mr. PUGH. Now, with the leave of the Senator from Louisiana, I move to lay the subject on the table, with a view to allow his colleague to be heard.

Mr. SEWARD. I desire that this question may be disposed of, because the gentlemen who claim the seats are here; and I cannot bring myself to the conclusion that the Senate will refuse to allow them to argue their case at its bar; and, if they are to be allowed—

Mr. PUGH. I am really constrained to call the Senator to order. The motion is not debatable; and I made it for the purpose of giving the Senator from Louisiana the floor.

Mr. SEWARD. I appeal to the Senator's liberality, then, to allow me to state further—

Mr. PUGH. Very well.

Mr. SEWARD. I barely wish to say that, as I hope and trust that these claimants will be admitted to argue their claim on the floor of the Senate, it is but reasonable that they should have the notice necessary, at least a day, for the purpose of meeting that question. We are late now in the session; and, unless they be heard soon, they cannot be heard at all, and therefore I must ask for the yeas and nays on the motion to lay this subject on the table.

The VICE PRESIDENT. It is moved and seconded that the resolution reported by the Judiciary Committee do lie on the table, and on this question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. GREEN. Permit me to ask a question. Is it intended to make this vote final, provided the motion be carried? If so, I think it had better go on the table; but otherwise it might as well be disposed of to-day.

Mr. TRUMBULL. What was the question?

Mr. GREEN. Is it the understanding of Senators that this vote will be final if carried in the affirmative?

Mr. PUGH. Oh, no.

Mr. COLLAMER. I think the gentleman ought, in all candor, to be answered that laying this on the table is no disposition of the subject. It is still subject to be called up at any time as a question of privilege.

Mr. GREEN. I was well aware of it, and therefore wished to know whether it was the understanding of Senators that this should be a final disposition of it.

Mr. COLLAMER. Not at all.

Mr. SLIDELL. I will ask the Senator from Ohio to withdraw his motion, then, as it evidently will not effect the object he has in view; and I now move to postpone the further consideration of this subject.

Mr. PUGH. If the Senate lay this question upon the table, it cannot be taken up without a vote. If it goes over by postponement, any Senator may call it up; but after the Senate has laid a

question of privilege on the table, it is effectually there, and cannot come up without a vote. When other subjects are disposed of, when the Senators who have the floor on them shall be heard, I think it would be well enough to take up this question. I think the extraordinary doctrines announced in the speech of the Senator from New York can be completely answered; but it ought not to be done now, when a Senator is entitled to the floor. Therefore, I move to lay the subject on the table, in order that the Senator from Louisiana [Mr. BENJAMIN] may proceed with his argument on the Cuba question.

Mr. BAYARD. I suppose the effect of the motion necessarily to be what the Senator from Ohio states. I shall certainly consider that I am discharged from any obligation to call up this resolution now, if the Senate by its own vote lays it on the table. Until some order of the Senate of this kind be made, it is a question of privilege which has the right of precedence; but if the Senate choose to dispose of such a question by laying it on the table, I do not see that it differs from any other case when business before the body is laid on the table. There must be a motion to take it up, and the Senate must order it to be taken up, before it can be again reached. If that is not to be the effect, but it is to take precedence at any time any Senator may choose to ask for it, without a vote of the Senate, it would be better to take a vote now or postpone it informally. I only rose to state my own view, that, as chairman of the Committee on the Judiciary, having made this report to the Senate, if the Senate think it right and proper in reference to other business of the body to lay this resolution on the table, I shall not consider myself bound to call it up.

Mr. TRUMBULL. I should like to make a suggestion, in regard to this matter, which, I think, if other gentlemen would fall into, it would perhaps save time. It is desirable that we should determine the preliminary question whether the gentlemen who are here from Indiana will be permitted to argue their case? If they are permitted to argue it, of course we do not wish to do so. I hope that question will be brought up and decided. If the Senate refuse to grant them this privilege, I think there will be no pressing upon our side to take up the time of the Senate, out of place, or to the inconvenience of anybody, in discussing the matter. It is desirable that the preliminary question should be settled. Now, if we could get at that, we could settle it in a very few minutes. I presume no one wishes to discuss it at length.

Mr. PUGH. If the Senator will let it go over until after the speech of the Senator from Louisiana, I shall be willing then to take it up. I consider what he calls the preliminary question as the real question: The report of the committee is, that there is no case; and if there is no case, there is no party to be heard.

Mr. BAYARD. I wish to say to the honorable Senator from Illinois that I think he mistakes what is the preliminary question here. The preliminary question is, whether the Senate will reconsider, for any purpose, the judgment which they passed—as I call it, a judgment judicial in its nature—on the motion of the honorable Senator from Ohio at the last session. Until they have determined that, all questions arising under a subsequent election, undertaking by subordinate authority to reverse that decision, must necessarily be secondary in their character. The preliminary question is, whether the Senate will reopen the case, and that the Senate is competent to decide.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. SEWARD, Mr. DOUGLAS, and others. What is the question?

Mr. COLLAMER. I wish to inquire whether there is any such effect of laying on the table as gentlemen suggest? I suppose that laying on the table in this body is only disposing temporarily of the order of business. This report lay on the table this morning; but, I take it, it is a question of privilege, subject to be called up at any time by any gentleman regularly having the floor, without any vote of the Senate. Now, I understand gentlemen to insist that if it is laid on the table by a vote, it will require a vote of the Senate to bring it up. I wish to inquire whether that is the law of the case? Suppose it was laid on the table yesterday by unanimous consent, and to-

day by unanimous consent: it is subject to be always called up. Now, I wish to know whether it loses that privileged character by being laid there by a vote?

Mr. BROWN. That is a question to be settled when it arises.

The VICE PRESIDENT. The Chair will say to the Senator from Vermont that he must determine that question when it comes up. He is not perfectly clear in his own mind. It is not a question now before the Senate.

Mr. COLLAMER. I do not wish to be caught in any trap.

Several Senators. Call the roll.

Mr. SEWARD. What is the motion?

The VICE PRESIDENT. That the resolution, with the amendments, lie on the table; and the Secretary will call the roll.

Mr. GREEN. I have paired off on this question with the Senator from Maine, Mr. HAMLIN.

The question being taken by yeas and nays, resulted—yeas 31, nays 20; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Brown, Chesnut, Clay, Clingman, Davis, Fitzpatrick, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Reid, Rice, Sebastian, Slidell, Stewart, Thompson of Kentucky, Toombs, and Ward—31.

NAYS—Messrs. Bates, Bell, Broderick, Cameron, Chandler, Clark, Collamer, Doollittle, Douglas, Durkee, Fessenden, Foot, Hale, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—20.

So the motion to lay on the table was agreed to.

PRIVATE CALENDAR.

The VICE PRESIDENT. The Chair now calls up the Private Calendar set apart by resolution to-day.

Mr. SLIDELL. I move to postpone that and all prior orders, for the purpose of proceeding to the consideration of the bill for the acquisition of Cuba. I will state that my colleague had the floor at the adjournment yesterday, had commenced to address the Senate, and yielded to a motion to adjourn, on the understanding that he was to go on to-day. I further say, that when he shall have spoken, I shall be prepared to vote to proceed with the Private Calendar.

Mr. IVERSON. I certainly would be very loth to interfere with the prerogative of the Senator from Louisiana, to speak to-day, more especially as there seems to be a very general desire and expectation to listen to him; but I feel it my duty to defend the Private Calendar, and I am averse to allowing it to be postponed, unless there can be some understanding upon the subject. If the Senate will allow me to offer the resolution which I hold in my hand and will adopt it, I will give way, and let the whole day be devoted to something else; to the Cuba question, or the tariff question, or anything else. I ask that I may be permitted to offer the following resolution:

Resolved, That the Senate will to-morrow, at one o'clock, proceed to the consideration of bills on the Private Calendar; and that to-morrow shall be devoted to the same.

If the Senate consent to let the Private Calendar be taken up to-morrow at one o'clock, I shall be very happy to allow anything to go on to-day the Senate may think proper to order. I trust at least one day will be given to the Private Calendar. I have counted over fifty bills on the Private Calendar from the House of Representatives, besides those which originated in the Senate, and the Calendar is growing heavier and heavier every day. Some of the claims are pressing, and urging for consideration. It strikes me they ought at least to be considered by the Senate. I do not think the Senate will devote more than one or two days, in the rest of the session, to the consideration of private bills; but I trust I shall be allowed at least to offer this resolution, and that the Senate will, by general consent, take up the Private Calendar to-morrow, and let this debate go on to-day.

The VICE PRESIDENT. Is there unanimous consent to the introduction of the resolution?

Mr. MASON. I have not read the resolution; but I suggest to the honorable Senator the propriety of so modifying it as to confine the first day of the call to those bills which give rise to no debate.

Mr. IVERSON. The Senate can order that to-morrow, when the Private Calendar shall be taken up.

Mr. JOHNSON, of Tennessee. I understand

that we can proceed to the Private Calendar after the Senator from Louisiana makes his speech; but if the Senate think it necessary, upon motion to-morrow they can take up the Private Calendar without adopting a resolution setting to-morrow apart for that purpose. I prefer to let business take the regular course.

Mr. HUNTER. I must object to this course. There is a Public Calendar.

The VICE PRESIDENT. Is there objection to the resolution of the Senator from Georgia?

Mr. JOHNSON, of Tennessee. Yes, sir.

The VICE PRESIDENT. Then the question is on the motion of the Senator from Louisiana.

Mr. HUNTER. I understand that the Senator from Louisiana commenced to speak yesterday on the Cuba bill. I withdraw for the purpose of hearing him. I desire to hear him conclude; and I shall ask the general consent of the Senate to take up the resolution, on which I desire to submit some remarks on the tariff, on Monday, at one o'clock. If that be the general pleasure of the Senate, I shall desire to address them on Monday, at one o'clock. ["Agreed."]

Mr. HALE. I think the Senator from Virginia hardly states the case fairly, when he says the Senator from Louisiana began his speech yesterday. I understand he simply uttered a single sentence—that is all. It was no substantial beginning of a speech. I certainly should be as willing to extend courtesy to the Senator from Louisiana as anybody in the world; but I remember the last time I made a speech in the Senate of any length, I spoke one day, and several days intervened before I could get an opportunity to conclude, and I did not find any disposition to accommodate me. I think we owe it to the Private Calendar and to the claimants to go on with it to-day. I have no doubt the Senator can be heard to-morrow or some other time. But, sir, there is no certainty, if the Private Calendar is postponed until to-morrow, that we can then get up private claims. There will be the chairman of the Finance Committee, who, I think, has studied Lord Coke so much, as to follow that injunction which tells him to make continual claim, and he will be pressing his revenue bills. The consideration of the resolution of the Senator from Georgia has been objected to, and I hope, in justice to the private claimants, that we shall adhere to the order we have made.

Mr. FESSENDEN. I would appeal to the Senator from Tennessee to withdraw his objection and let us take a vote on the resolution, for this simple reason: I am averse to voting in such a way as will show any disinclination to accommodate the Senator from Louisiana, if he desires to speak to-day, as I understand he does; but I am anxious, also, to go on with the Private Calendar; and I have no objection to substituting to-morrow for to-day in that particular. If the Senator will withdraw his objection, and let that resolution pass, it will place me, and a number of my friends on this side of the House, in such a condition that we can yield at once to the wishes of the Senator from Louisiana and his friends, and let him occupy to-day; but we can only do so with that understanding. We shall be compelled to vote against it, unless the resolution of the Senator from Georgia be adopted.

Mr. JOHNSON, of Tennessee. Before withdrawing the objection, I will state that, after the Senator from Louisiana shall conclude his speech, if the Senate is willing to go on with something else, I will call up the homestead bill, and we can act on that. I withdraw my objection.

The VICE PRESIDENT. The Chair hearing no objection, the resolution of the Senator from Georgia is before the Senate. The Secretary will read it.

The Secretary read it, as follows:

Resolved, That the Senate will on to-morrow, at one o'clock, proceed to the consideration of the bills upon the Private Calendar, and that to-morrow shall be devoted to the same.

Mr. HUNTER. I think if we have a spare day, we had better devote it to the appropriation bills. I am unwilling to have that resolution adopted.

Mr. FESSENDEN. I suggest to the chairman of the Committee on Finance that he has been so easy in his mind in respect to the appropriation bills for this week past, that devoting to-morrow

to the Private Calendar certainly cannot produce any great loss.

Mr. CLARK. I desire to say that some weeks ago we passed a resolution to attend to the Private Calendar on this day. Now the proposition is, by another resolution, to postpone it to-day and fix it for to-morrow. I have not the least objection to changing to-day for to-morrow, but I do object, and shall object, to having it postponed to-day, so that when to-morrow comes we can postpone it again, and then defeat the Private Calendar altogether.

Mr. FESSENDEN. There is a general understanding.

Mr. CLARK. If it can be the general understanding that to-morrow we go to the Private Calendar, I shall be very glad to hear the Senator from Louisiana to-day.

Mr. FESSENDEN. The resolution will control it.

The resolution was agreed to.

ACQUISITION OF CUBA.

The VICE PRESIDENT. The question now before the Senate, is the motion to postpone all prior orders, with a view to take up Senate bill, No. 497.

Mr. PUGH. That was the unfinished business of yesterday; and I presume it comes up to-day.

The VICE PRESIDENT. The question about unfinished business does not come up to-day.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 497) making appropriation to facilitate the acquisition of the Island of Cuba by negotiation.

The pending question being on the amendment offered by Mr. Foot, to insert in the twenty-seventh line, after the word "Spain," the words "and by the United States;" so that the clause will read:

"To be used by him in the event that the said treaty, when signed by the authorized agents of the two Governments, and duly ratified by Spain and by the United States, shall call for the expenditure of the same, or any part thereof.

Mr. BENJAMIN. The subject under debate, Mr. President, involves considerations so numerous, grows under investigation to such vast proportions, as to render it matter of exceeding difficulty to confine its discussion within reasonable limits. Some of the topics which I would desire to treat must be presented in general outline; others must be reluctantly abandoned; none can be treated with a fullness of detail at all commensurate with their importance.

An intertropical island, whose external commerce reaches nearly eighty million dollars, lies at our doors. In territorial extent equal to four or five of our smaller States, with a population that would make it fifth in rank in our Confederacy; with harbors unrivaled for capacity and security, it is an object of absorbing interest to the American people. Its present condition and future destiny offer a legitimate field for the exercise of the best statesmanship of the Republic.

The first leading fact, which ought to be kept constantly in view by all who would form just conceptions on this subject, is, that the wealth and productiveness of this island have been created, and their continuance can only be secured, by a system of compulsory labor. If the experience of mankind has solved a single industrial problem, we may fairly assume as granted that tropical productions can be maintained, on a scale to meet the requirements of civilized man, by compulsory labor alone. The fruits of the slave labor of the southern States, of the Spanish Islands of Cuba and Porto Rico, and of the Brazilian empire, immeasurably exceed in value similar products of the other States and countries of this hemisphere, of like soil and climate, cultivated by free labor.

If we descend to particular examples, compare the Hayti of to-day with the St. Domingo of colonial history. The colony, in 1790, exported more sugar than all the British colonies combined, besides enormous quantities of coffee, cotton, indigo, and cocoa. With free labor, Hayti is no longer mentioned in the commercial statistics of the world. If, however, this be considered an unfair example; if it be objected that the wealth and prosperity of this once favored isle were utterly destroyed by the bloody horrors of its revolution, take other and still more striking exam-

ples. Place in contrast the annual addition to the wealth and comfort of mankind afforded by the slave labor of Cuba with that furnished by the islands in which England, France, and Holland, have made their ruinous emancipation experiments. The former, alone, in spite of its wretched misgovernment, of odious monopolies, of commercial restrictions, of all the drawbacks of the old, exploded colonial system, exceeds in wealth and population all the English, French, and Dutch West India colonies put together, even if we add to them the *terra firma* colonies of Guiana. As this consideration controls largely the train of argument into which I desire to enter, permit me to dwell on it a little more fully.

For a long series of years after the English emancipation experiment, the disastrous effects were attributed by its authors to every cause that human ingenuity could suggest, except their own folly. They would open their eyes to no fact. It is no unprofitable study for the statesman to mark the obstinate tenacity with which these theorists persistently refused to receive the teachings of daily experience, till at last a generation has passed away; the truth has become patent to the world; and British statesmen are now found who openly avow the necessity of encouraging the emigration from their colonies of the white population, and leaving these once flourishing settlements to the uncontrolled occupancy of the blacks.

In 1842, just four years after the final liberation of the slaves in the colonies, the Earl of Derby, then as Lord Stanley, colonial secretary, who was urging upon Spain the adoption of the same system for her own colonies, replied to her challenge to prove the advantages of freedom, by stating, as "unquestionable facts, on which all men are agreed," namely:

"That since the emancipation, the negroes have been thriving and content; that they have raised their manner of living, and multiplied their comforts and enjoyments; that their offenses against the laws have become more and more light and infrequent; that their morals have improved; that marriage has been more and more substituted for concubinage; and that they are eager for education, rapidly advancing in knowledge, and powerfully influenced by the ministers of religion."

In 1848, fourteen years after the original emancipation act, ten years after the final liberation of the negroes, Sir Charles Grey, who was then Governor of Jamaica, wrote to the home Government:

"That under a system of perfectly fair dealing, and of real justice, they (the negroes) will come to be an admirable peasantry and yeomanry, able-bodied, industrious, and hard working, frank and well-disposed."

This ridiculous statement, absurd as it seems to us now, was met at that time by the candid and judicious criticism afforded by the more frank expositions of the conditions of the colonies made by other British governors. Governor Barkly, who was the Governor of British Guiana, made his report on the condition of that colony about the same time—I read it from the British Parliamentary Papers. He says:

"I cannot pass by Mr. Walker's concluding observations as to the condition and character of the laboring population, without dwelling for a moment upon the cheerless picture which they exhibit as the sequel of ten years of liberty. I confess that the tracts of land grown up in rank vegetation; instead of canes or coffee bushes, the broken down bridges and impassable roads, which I encounter in my daily rides, strike me with far less apprehension for the future destiny of British Guiana, than the apparent retrogression exhibited in these authentic annals of the emancipated peasantry."

He has just been alluding to the criminal excesses and outbreaks of the negroes; to the murders of watchmen on the plantations; to the incendiarism of the plantation buildings. He refers to the statistics of the jails, showing they are becoming full of convicts for crimes like these. He says:

"True, we ought to remember that less than fifteen years have elapsed since they were slaves, subject to the most unfavorable influences; but how much better must it not have been for themselves if that fact had been borne in mind then, instead of now?"

The statement annexed to this dispatch was as follows:

"The increase of crime, more particularly perhaps remarkable in the counties of Demerara and Essequibo, is a fact which, to a greater or lesser extent, is borne out by the opinions of the stipendiary magistrates, although I do not think, looking at the mere numerical proportion, that it is conclusively to be derived from such prison returns as have come under my notice. For the most part the magistrates hesitate to assign any specific cause for this unpleasant feature. I greatly fear it must be ascribed to the idleness of a large portion of the able-bodied peasantry for many months, induced by their determination not to accept of reduced wages for the same amount of labor. For some time, no doubt, they had the means of subsistence at their command, partly from savings of previously-earned wages, partly from other resources, such as fishing, shooting, the produce of their provision grounds, &c.; but, when these began to fail, the want of regular occupation produced its usual effect upon minds so untutored; the plunder of plantation walks and cane pieces was resorted to; and, at length, whenever it was known or suspected that money was to be had, its acquisition was resolved upon at all hazards. Within the last few months, I believe, no fewer than four brutal murders of watchmen upon plantations have occurred; robberies upon the highway, as well as attacks upon dwelling-houses, have been frequent, and assassinations have been not only attempted, but, in broad daylight, successfully perpetrated."

He says further, speaking of the emancipated population:

"Nor is the change less striking, it may be here remarked, in regard to their addiction to costly clothing and expensive articles of food; matters which, once anxiously sought after, are now regarded with comparative indifference; and this is a circumstance which, affecting a very large body of consumers, is not without its influence upon the commercial transactions of the colony. Hence, probably, may arise the little effect produced upon them by diminution of wages or restriction of employment. Instead of inducing more strenuous exertions to reap the same amount of reward as before, they are rather content to circumscribe their enjoyments, and, instead of striving to make progress in habits of civilization, prefer to fall back upon a retrograde path. The fact of the continued prevalence and undiminished influence of the practice of 'obeah' in this and other colonies will partially illustrate the slow progress of intellectual improvement amongst them; and there seems to be a general impression that the rising generation are less docile and more inclined to evil and reckless pursuits than their elders."

Earl Grey, in the same year, commenting on the general dispatches received from the West India colonies, writes from London to the following effect. His dispatch is dated June 1, 1849:

"I have read this dispatch and its inclosures with feelings of great pain, and of much anxiety for the future, since the picture you have presented to me of the present state of society in Guiana, and of the actual condition and prospects of all classes of its inhabitants, is gloomy in the extreme; and yet, it bears too obviously the character of truth for me to doubt its accuracy. It is, indeed, most melancholy to learn, that while the difficulties of the planters have continued, since the abolition of slavery, to become more and more severe, until now the ruin appears to be almost complete, and the depreciation of property, once of such great value, has reached a point, which has involved in the deepest distress great numbers of persons, both in this country and in the colony, at the same time the negroes, instead of having made a great advance in civilization, as might have been hoped, during the fifteen years which have elapsed since their emancipation, have, on the contrary, rather retrograded than improved, and that they are now, as a body, less amenable than they were when that great change took place, to the restraints of religion and of law, less docile and tractable, and almost as ignorant, and as much subject as ever, to the degrading superstition which their fathers brought with them from Africa."

That was the result of fifteen years of experiment. Still, however, British emancipationists, Exeter Hall philanthropists, continued declaring that this was a mere temporary passage from the one system to the other; that this temporary state of things could not endure, and that the negroes would soon improve. In 1850, the editor of a New York Journal, hostile to slavery, made a visit to Jamaica. I hold his work in my hand, giving a picture of the condition of the island as he found it then—he an advocate for the emancipation scheme. He says:

"It is difficult to exaggerate, and yet more difficult to define, the poverty and industrial prostration of Jamaica. The natural wealth and spontaneous productiveness of the island are so great that no one can starve, and yet it seems as if the faculty of accumulation was suspended. All the productive power of the soil is running to waste; the finest land in the world may be had at any price, and almost for the asking; labor receives no compensation, and the product of labor does not seem to know the way to market. Families accustomed to their incomes, until now, with undiminished estates, they find themselves wrestling with poverty for the commonest necessities of life. There are no public amusements here of any kind for amusements are purchased with the surplus wealth of a people, and here there is no surplus. There was not a theater, or a museum, or a circus, or any other place of entertainment involving expense, open during my stay on the island. The corporation of Kingston owns a building which has been used as a theater, and in the suburbs of the city is a plain once famous as a race-course; but of the first, rats and spiders are the only tenants, and weeds and underwood have overgrown the other."—*Bigelow's Jamaica*, in 1850, page 53.

This is the testimony of a friend of the scheme, in 1850. But, sir, I have nowhere seen the true condition of the Island of Jamaica, under the operation of the British system of free labor for the production of tropical products, better illustrated than in the official reports from the island itself. It is scarcely credible that such a picture as I am about to read should have been issued by a report

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of the central board of health, of Jamaica, in the year 1852:

"Yards" * * * * "which, after a rain, send forth streams of the most horrible description; numbers of dilapidated and falling houses, useless for all habitable purposes; ruined walls and remnants of fences, together with uninclosed sites of pulled-down houses, covered with filth and brush, complete the scene of every old Jamaica township, and the outskirts of the new."

"In villages, and on small settlements, the huts or dwellings of the laborers are composed chiefly of mud walls, sometimes of wattles, plastered with the same."

* * * "In very few cases are they raised off the ground, nor are they floored in any way." * * * "Ventilation, or the admission of fresh air, is almost invariably neglected."

"These small, dark, unventilated houses are frequently over-crowded, especially at night; within the small space of a few square feet, perhaps on the bare ground, or may be on a mattress or mat, or in some cases on a bed, with a whole family of eight or nine persons of all ages, and of both sexes, huddled together, with the door and so-called window closed; all clad in the same clothes which they wore through the day, with children sleeping on mattresses, often soaked and half rotted with urine and other secretions. Should there accidentally be a hole or crevice, this is immediately closed up by means of rags or something of that kind. The rush of odors on opening such a place must be experienced to be understood."

"As regards water for domestic purposes, it is very much to be feared that a large portion of our poor population seldom think of that. Their persons are never abluted, save in crossing a river, or being exposed to a heavy shower of rain."

"Among the lower classes, the majority not being compelled by circumstances to be field laborers, are too lazy to move; they frequently squat down all day in a sort of sullen apathy; they eat, and drink, and sleep like the brute that perisheth; but all the more active impulses of their human nature appear to be as little excited as if they were totally wanting."

"It is a well known fact, that all the towns and villages contain a large number of persons who have no ostensible means of earning their livelihood; the way in which they subsist is an enigma to themselves and others. Exposure to the night-air is very prevalent among the lower classes; under various excuses they meet in numbers, frequently in the open air, or under temporary sheds, or at the performance of wakes over the dead, and also at their revels at john-canoeing, as it is termed, about Christmas time; on these or other occasions of the kind, they give full scope to animal enjoyment; and at the pitch of the excitement of the prevailing passions, their gestures and acts resemble more those of demons than of human beings."

English authors and statesmen, however, still continued to speak encouragingly, to profess confidence in eventual results, until the testimony collected by the House of Commons' committee, in 1853, put an end to all possibility of denial, and the ruin of the colony is finally admitted to be complete and hopeless.

A single extract from the testimony must suffice. Captain Hamilton, of the royal navy, in the course of his evidence had declared that the Island of Jamaica was a desert. Here follows his examination by the members of the committee:

"Chairman. You made use of a phrase some time ago with respect to Jamaica having become a desert. Will you explain to what extent you apply that term?"

"Captain Hamilton. I mean that, in going to plantation establishments that had evidently been once splendid buildings, where there had been a great outlay of capital on a grand scale, you find the roofs tumbling in, the places deserted, nobody in them, grass growing in the rooms, and perhaps rats and snakes in those very rooms, and a deserted, melancholy appearance, that certainly goes to one's heart to view."

"Chairman. Is that applicable to only one part, or is it the general character?"

"Captain Hamilton. It is the general character."

"Mr. Bright. That is not the case in Jamaica, but in those particular locations?"

"Captain Hamilton. No; the general character of Jamaica is, that it gives you the impression of a place going to decay. Speaking of the population of Jamaica, I do not refer to the capitalist planters of old times, but to the present population of Jamaica, and their locations and cultivations."

"Mr. Bright. Do you think the term 'desert' was quite applicable to the state of things there?"

"Captain Hamilton. I should say peculiarly applicable without any exaggeration."

Now, Mr. President, the effect produced upon the British mind by evidences such as this, may be best gathered by an extract from the organ of the ablest, perhaps, of living British statesmen. In the London Morning Herald, of the 8th September, 1855, the admission is at length thus made to the world:

"We have of late, as occasion served, directed the attention of our readers to the condition of the most valuable

of our West India possessions, and have endeavored to trace to its true source, in a vicious and mistaken policy, the ruin which not only impends, but has actually fallen, upon those islands, once the boast and glory of the British crown, now the by-word of the commercial nations of the earth. Jamaica, by nature the richest of these dependencies, is reduced to a state of collapse, from which recovery seems to be hopeless. Efforts have been made to stimulate once more her industry, to raise her crushed proprietary, and to give them once again opportunity and hope. So far those efforts have not been successful. In the recent advances, we can perceive no symptoms of amendment; on the contrary, the downward tendency of affairs continues, as if, for the unhappy Jamaicans, there is a 'lower deep,' yet yawning, which 'threatening, opens to devour,' and from whose frightful vortex there seems to be no hope of escape."

"Although the ruin of Jamaica has been more rapid and irresistible than any of the other islands, desolation rests upon the entire archipelago, and sooner or later will involve them all."

And, Mr. President, so far from this state of things being now contested in Great Britain, the same people who made this experiment, and who, by their folly and blindness, reduced these once flourishing colonies to such a state of destitution and distress; the same people now, when it is too late to remedy the evil, deliberately propose to withdraw the entire white population from the island and to leave Jamaica in the possession of the blacks—a second Hayti. Here is the Westminister Review, for April, 1853. I call the attention of the Senator from Wisconsin [Mr. DOOLITTLE] to the extract I am about to read; it chimes in perfectly with his views. He will find here a congenial spirit; a spirit that is ready to drive the white population from the cultivation of the entire tropics, and leave them to the brutish blacks that now infest the islands that have been abandoned to their sway. But, sir, when he has carried out his scheme, I advise him to seek counsel from the British writer, and get, as he recommends, American free negroes to go to teach British and Spanish and Dutch free negroes industry and energy. Here is the Westminister Review. It appeals to the free colored people of the United States, and speaks to them as "brethren."

"It is not for us to mark out for them their course; and yet we cannot but think that by no possible means could they so effectually aid the American slaves, as by teaching energy and industry to the free British negro."

Again, proceeds the Review:

"By hastening forward, by their precept and example, that time when, from Jamaica and her kindred isles, the voice of a negro community, prosperous, educated, civilized, Christian, shall speak to republican despots and their victims, words which both will hear, and which the former will not be able to disregard."

"And that this time will come, we hold to be no vain prophecy, foolish as to many it may seem."

The writer appears to have had a prescient self-consciousness.

"We have faith in it, because we see it written in the page of history—in the experience of the Anglo-Saxon—that he cannot toil in these islands, or make a home of them, and of the African that he can."

I say then, Mr. President, that the evidences which I have thus hastily collected, and of which innumerable other instances might be given, prove the proposition with which I started—

Mr. DOOLITTLE. Will the Senator allow me a moment?

Mr. BENJAMIN. With pleasure.

Mr. DOOLITTLE. I do not desire at all to interrupt him in the course of his remarks; but on some proper occasion before this question shall pass from the consideration of the Senate, I will take occasion to express my views, and state wherein, and to what extent, the Senator understands them, and how far he misunderstands the positions which I took.

Mr. BENJAMIN. I shall be very happy to be informed that I have misunderstood the proposition of the Senator from Wisconsin; for as it is stated in his substitute, now upon our table, for the bill before the Senate, it struck me as a proposition so monstrous that I could hardly reconcile myself to the evidence of my senses when I saw it proposed by an American Senator. I repeat, then, Mr. President, that the population, wealth, and prosperity, of Cuba, are dependent solely on a supply of compulsory labor, without

which she must inevitably relapse into the condition of Hayti, Jamaica, and the other West India colonies.

I now proceed to inquire from what sources an adequate supply of this compulsory labor can be obtained. I know, sir, of but three possible methods:

1. The actual increase of the slaves already there.

2. The introduction of persons bound to service under the name of apprentices, or coolies, or colonists.

3. The African slave trade, which is the present method.

A hasty glance must suffice for each.

1. The continued supply of labor in Cuba by natural increase is impossible. It is a well authenticated fact that its whole laboring population is exhausted in a single generation. Horrible as is the contemplation of such a fact, the evidence in support of it is irresistible. None of the writers on the population of Cuba fix the number of its creole, *id est*, native negroes outside of Havana, at more than ten per cent., whilst a recent authority on the island, perfectly competent to judge, fixes it at only five per cent. We have, then, the fact that ninety to ninety-five per cent. of the slaves engaged in agriculture were imported Africans.

Nor will this statement appear surprising, when we reflect on the fact that the importations of slaves are almost exclusively males, not over one in six or seven being females. The British reviewer, already quoted, thinks that the average working life of the imported slave is only seven years; but I prefer what is evidently more authentic, that is, the declaration of the Captain General of Cuba himself. In an address to the people of Cuba, urging on them a change of their system of labor, the Marquis of Pezuela laid stress on the fact that the present wealth in slaves was but transitory, inasmuch as it "perished in a single generation." The statistics in the report of my colleague, starting in the extreme, prove this conclusion. They show that whilst the number of blacks, slave and free, in the United States is now twelve-fold the number imported from Africa, there does not now exist in the West India islands one fourth of the number actually imported into those colonies.

2. Is this problem of a supply of labor for tropical colonies capable of solution by the introduction of apprentices, immigrants, coolies, or any other of the modern expedients devised in order to avoid a return to the slave trade? This question, too, must be answered in the negative; and here again I can but glance at the proof. The difficulty is to select from the number. Out of four thousand five hundred coolies imported into Jamaica, in 1846 and 1847, only one half remained alive in 1851, and these were wandering about half naked and half starved, living in wayside ditches and dens in the towns, infecting the negroes with their idleness, prodigality, and paganism.

The statistics contained in my colleague's report show twenty-eight thousand seven hundred and seventy-seven coolies shipped for Cuba from 1847 to 23d March, 1858. Of these, more than four thousand died on the passage. Of those that arrive, I am assured by a recent traveler that the annual deaths are at least ten per cent.; to use his own words, "they are considered as raw material to be worked up into sugar." If we reflect that the engagements are for ten years; that of their miserable pay of four dollars per month, one half is retained under the terms of their contract, to be paid at the conclusion of their engagement—*id est*, at the end of ten years,—the truth of this horrible statement, that they are "worked up as raw material," becomes apparent, and its motive equally obvious. The cooly must not be alive at the end of ten years; there would be due him \$240; and a new one, a fresh worker, could be bought for \$100, instead of the miserable Asiatic, worn out, decrepit, dying, valueless as "raw material."

So much for the coolies. What of the African apprentices?

This new form of slave trade was first devised by England. In 1851, authority was sent from the colonial office to the Governor of Sierra Leone to send out colonists, as they were termed, to the West Indies. A contract was made with an English firm, Hythe, Hodge, & Co., by the British Government, for the exportation of a large number of these colonists. Thirty-five to forty thousand were actually exported. How were they obtained? The first thing heard of them was a proclamation by Governor Roberts, of Liberia, stating that the contractors were *buying* up their colonists at ten dollars a head, being nearly the same price that slaves were bought for under the old *regime* of the slave trade. The same reviewer already quoted fairly admits that the *colonists* were bought, and that none could be obtained voluntarily:

"Why not, then, import free immigrants from Africa. Poor, miserable heathen! what a good thing it would be to convert them to Christianity, always supposing that they did not first convert back the creoles to Fetishism; and then you might get any number of them, and fill the labor market as full as you pleased! There was only one objection to this plan, and that was that though Africans might be *bought* to any amount, yet, when free, they would not come."

So that scheme failed for the British West Indies. Great Britain was absolutely shamed into abandoning it, after thirty-five or forty thousand miserable Africans had been bought and sold into slavery under her flag, all in the desperate effort to repair the results of her own madness and folly.

But, sir, an example has been given by which France was not slow to profit. Her colonies, too, are perishing, and crying out that, without compulsory labor, they must languish, and languishing, must die. So the French, after bestowing freedom in their colonies on those who were born slaves, are now making compensation for their error by enslaving men who were born free. In spite of the outcry of the British press, slaves, by tens of thousands, are now being poured annually by the French Emperor into his colonies; the Regis contract is in full force; the unhappy victims rise on their oppressors, and the journals of the day are filled with accounts of captains and crews attacked by their cooly or African *apprentices*. The Emperor, with high-handed violence, abuses the weakness of Portugal because she interferes to prevent the slave trade in her own colonies; and the last news from the French Antilles is, that in addition to twelve thousand coolies and Africans imported into Martinique and Guadeloupe for 1853, provision has recently been made for eighteen thousand more of the "raw material," to wit: seven thousand Africans under the Regis contract, and eleven thousand coolies.

The contract of these unfortunate wretches is published in the papers of the day; and is justly characterized, by an eminent New York journalist, as a receipt for killing the greatest number of laborers in the shortest time. The wages are about *nine cents* a day for men, *four* for women, and *two* for children up to the age of fourteen years; out of which they are to pay for their own clothing, and the expenses of their own sickness; and a reservation of *ten per cent.* monthly is to be made for the expenses of returning them home at the end of the contract. To this complexion has come at last the emancipation of slaves in the colonies! Compare it, oh! compare it, Senators, with the well-fed, well-lodged, well-clothed, and carefully-tended laborers of the South, and say, in the name of a common humanity, which of these two systems is preferable?

I affirm, then, Mr. President, that this magnificent fabric, built up by the slave labor of Cuba, must perish, or must, whilst Cuba is a Spanish colony, be sustained by the slave trade; a trade branded as piracy by her own laws, by ours, by those of Great Britain; forbidden to her by treaty voluntarily made by Spain; forbidden by our treaty with England; and which, by the treaties of the three nations, each is solemnly bound to prevent. The last refuge on earth for this trade is now found in the island of Cuba. The combined power of England and the United States is now exerted at the cost of nearly six millions per annum in the suppression of this traffic. Its continuance has, on more than one occasion, brought us to the very verge of hostilities with Great

Britain for the protection of our flag, and yet tens of thousands of slaves are annually imported into Cuba, and the common voice of civilized nations sustains the charge that this is done with the connivance of her colonial authorities, and to their immense pecuniary advantage.

I say, then, Mr. President, that unless we are to agree that the supply of labor shall be kept up by the continuation of the African slave-trade, a continuation now going on, according to the language of Lord Clarendon himself, by a "felonious violation" by Spain of her treaties with England; unless we agree that that felonious violation of the public law shall still continue, there is but one resort: Cuba must perish, as San Domingo and Jamaica have perished before her, or she must no longer remain Spanish. If annexed to our country, the system now prevalent under which her entire agricultural population perishes in a generation, would, by the force of interest and example, be exchanged for ours, under which the southern laborers are more than doubled in the same lapse of time.

I have thus far spoken, sir, of the beneficial results to humanity arising from the acquisition of Cuba, in the double aspect of the preservation of the island from a lapse into the barbarism and savage state of the other Antilles; and of regard for its miserable laboring population. What would be its effects on the superior race—on the white natives of the island, now numbering nearly three quarters of a million?

In spite of *pro forma* petitions, recently forwarded from Havana, under the orders of the Captain General, the ardent aspirations of the Cubans for release from the grinding tyranny under which they languish, are too well known for concealment. I will not appeal to a knowledge personal to us all; I will not rely on the fact that, amongst the numerous Cubans with whom I have had opportunity of conversing on the subject, I never yet have found one—no, not one—who did not pant for the hour of freedom, who was not ready to strike for his liberty if the remotest prospect of succor could be held out to him. I will appeal to history, and leave its teachings to the appreciation of a candid world. My sketch must be rapid.

At the close of the last, and the commencement of the present century, Cuba was prosperous and happy. Subjected to a colonial system identical with that then generally prevalent amongst civilized nations, if her commerce was restricted by the monopoly established in favor of the mother country, her own internal administration was conducted by wise rulers, guided by paternal interest in her welfare. She shared the political benefits conquered by the Spanish people, and when the constitution of 1812 was established, Cuba reaped its advantages. When, on the death of Ferdinand VII., Queen Christina threw herself into the arms of the liberal party in order to insure the triumph of Queen Isabella over the pretensions of Don Carlos, the Royal Statute was proclaimed in both Spain and Cuba, and the latter was represented in the national Congress and enjoyed the liberties accorded by that celebrated document to the mother country. Under its provisions, the Junta de Fomento was established in Havana, with branches in all the principal cities of the island. When, in 1836, the revolution of La Granja placed the party of the Progressistas in power, subverted the Royal Statute, and proclaimed the old constitution of 1812, the Queen Mother, then Regent, in convoking the Cortes included the deputies from Cuba in the call.

In the mean time, however, the example of the other Spanish-American colonies, which had succeeded in establishing their independence, had not been without its effects on Cuba. In 1825 the liberator, Bolivar, offered to aid the patriots by an invasion of the island. Numerous societies were formed under the title of the "*Soles de Bolivar*," and everything was prepared for seconding the invasion, which might very possibly have proved successful but for the intervention of our own Government, which dissuaded the invasion. (See letters of Mr. Clay to the ministers of Columbia and Mexico, Dec. 20, 1825.) The knowledge of this effervescence of the public mind induced, on the part of the Spanish King, one of the most extraordinary acts which ever emanated from a despot. He gave the Captain General, by an ordinance of the 28th of May, 1825, *all the powers granted to*

the governors of besieged towns; or, in other words, declared the whole island under *martial law*, with full power in the Captain General over the lives, fortunes, and liberties of the people, and with the right of suspending all laws and royal decrees at his pleasure.

This would appear scarcely credible; but I desire to read a passage from this ordinance of 1825 of the Spanish King. I find it fortunately translated here in a little book called "*Cuba and the Cubans*," which I would recommend to the perusal of gentlemen who may desire some additional facts in relation to the condition of the island:

"On the 28th of May, 1825, the royal ordinance addressed to the Captain General of Cuba, declares: 'It has pleased his Majesty, in conformity with the advice of his ministers, to authorize your Excellency, fully investing you with the whole extent of power which by royal ordinances is granted to the *Governors of besieged towns*; in consequence thereof, his Majesty most amply and unrestrictedly authorizes your Excellency not only to remove from the island such persons holding office from the Government or not, whatever their occupation, work, class, or situation in life may be, whose residence there you may believe to be prejudicial, or whose public or private conduct may appear suspicious to you, employing in their stead faithful servants of his Majesty. Also to suspend the execution of whatever royal orders or general decrees in all the different branches of the administration, or in any part of them, as your Excellency may think conducive to the royal service.'"

We are told that under this system of government the whites are contented. Why, sir, independent of the conspiracies of which I have spoken, in 1823-24 and 1825, again in 1826 another conspiracy broke out, and its chiefs were arrested, and Sanchez and Aguerro were executed at Port-au-Prince; and again, at a later day, the conspiracy called the conspiracy of the Black Eagle, broke out, and was again repressed, and those engaged in it executed or exiled or imprisoned. The different conspiracies that have existed of late years are familiar to us all; the various expeditions of Lopez and his companions; and the last of which I have any memory, or, at least, authentic detail, is that of 1851, when a few Cuban patriots, worn-out, disappointed fugitives, still had courage to meet together on the 4th of July, 1851, and declared the independence of Cuba. Here is their declaration of independence. I am going to refer to this, not so much for the purpose of showing this fact, not so much for the purpose of calling attention to the signatures, including names of this same family of Aguerro, that seems to have distinguished itself in behalf of the liberties of its country, but because there is a list of grievances in this declaration of independence to which I now desire to call the attention of the Senate, and which I will lay before it, asking every man who hears it, if it be possible that human beings subjected to grievances like these can be content, can be willing to kiss the rod which smites them?

They begin, sir, by stating the horrible cruelties that are exercised upon them. It is in Spanish; I will read it as well as I can; it will be probably somewhat imperfect in the translation. They state that they supposed the world would refuse credence to the history of the horrible iniquities which have been perpetrated in Cuba, and would consider, with reason, perhaps, that if there existed monsters capable of committing them, it is not conceivable that there should exist men who for so long a time had submitted to them; but if those persons are few who reach the truth of particular facts, by reason of the means of which the Government disposes to obscure and disfigure them, nobody can resist the evidence of acts that are public and official. Therefore, they go on to relate: it was publicly, and with arms in his hands, that General Tacon despoiled the Island of Cuba of the constitution of Spain, proclaimed by all the powers of the monarchy, and which these powers had ordered to be sworn to as the fundamental law of the entire monarchy. It was publicly, and by the act of the courts, that Cuba was declared to be deprived of the rights which all Spaniards enjoyed, and which are naturally conceded to persons the least civilized. It was publicly that the decree was issued which deprived the sons of Cuba of all right of being chosen to occupy public offices, or of employment in the State. It was publicly that *omni-modal* faculties were granted to the Captains General of Cuba, who may deny to those whom they desire to have punished or sentenced by the tribunals, even the form of a trial before the courts.

Publicly prominent, in the Island of Cuba, are still those military commissions which, in other countries, the law permits only in extraordinary cases during a time of war, and then only for offenses against the State. Publicly has the Spanish press threatened Cuba with tearing from it the property in its slaves, of converting the island into ruin and ashes, and of disenchaining against it all the hordes of barbarous Africans which now exist within it. Public is the continual increase of the army and the creation of new mercenary bodies, which, under pretext of public security, are only put upon us for the purpose of augmenting the burdens that lie upon Cuba, and of exercising, with greater vexation, the system of subordination and espionage over its inhabitants. Public are the obstacles and difficulties which are placed in the way of each individual for moving, for exercising any industry; nobody being sure that he will not be seized and fined, by reason of some defect of authorization, or want of license, at every step that he makes in the island. Public are the contributions which are exhausting the Island of Cuba, and the projects of other contributions which are threatened, and which are to absorb all the products of its riches, there remaining nothing to its miserable inhabitants but the pain of labor. Public are the exactions of all kinds which inferior officers impose on its inhabitants, with the greatest disregard to the opinion of mankind.

I return, now, sir, to the year 1836, when the Cuban deputies were convoked to the meeting of the constituent Cortes, at Madrid. The Cortes assembled in 1837, but the Cuban deputies were not admitted to their seats. Cuba was deprived of her representation; nor was this the only outrage inflicted on her rights. It was decided that she should be governed in the future by exceptional laws, and not by the laws common to the rest of the monarchy. These special laws were never passed; but the Royal Ordinance has continued in force to the present hour maintaining *martial law*, and Cuba has thus remained ever since a helpless victim, subject to the despotic control of a single man, the extent of whose powers can only be described by the word invented to express them, *omni-moda*, of all kinds.

Ever since this monstrous system has been adopted, Cuba has not been blessed with one hour of peace. Constantly repeated have been her efforts to shake off the yoke under which she groans. But all in vain. Twenty thousand bayonets on the land, and a powerful fleet off its coasts, keep the dread watch of the tyrant, and suppress the first symptoms of revolt. The whites have been disarmed, and four companies of colored men have been added to each of the sixteen regiments of peninsular troops stationed on the island; thus holding before the unfortunate inhabitants the constant threat of a war of races, a renewal of the horrors of St. Domingo. Their pride of race has been shocked by a Governor's decree authorizing marriages between the two races, except when one of the parties is a noble.

The army is maintained faithful solely by a rigorous isolation, all communication between the inhabitants and troops being interdicted. No security for life, person, or liberty, against the caprice of a despot; no arms for self-defense, the size of a walking-stick, even, being limited to dimensions small enough to pass through a ring furnished the policemen. Such is the sad, the dreadful condition of the unfortunate islanders who are represented by the official press as hastening to lay at the feet of the Queen ardent professions of loyalty to her Government, and attachment to her person. They have again and again made heavy sacrifices for freedom—nay, at this very moment, and for years past, they maintain, by secret contributions, for gratuitous circulation, public journals in the United States, repeating their constant appeal to our sympathies.

The whole of the recent wrongs committed, Mr. President, in relation to the arming of the blacks, and other similar outrages, were committed under the instigation of Great Britain, and Lord Palmerston did not blush to acknowledge his guilt in the face of the civilized world. I have here his dispatch, in which, in answer to the remonstrance of the inhabitants of the island, communicated to him through the correspondence of the Spanish Minister, he replied, to the effect, that it was true that the measures he was recom-

mending might not be suitable for the whites, but that they were exceedingly beneficial to the blacks. An actual recommendation to the Spanish Government to trample the white native Cuban under foot for the benefit of the Africans that had been imported in defiance of the treaties with Great Britain herself. Here is Lord Palmerston's dispatch, of September 11, 1851, and it is capable of that signification alone:

"With reference to that passage in M. Miraflores's note, in which he states that the Spanish Government cannot understand how her Majesty's Government can seriously recommend a measure which would prove very injurious to the natives of Cuba, when they also recommend that the Spanish Government should conciliate the affections of those Cubans; I have to instruct your lordship to observe to M. de Miraflores that the slaves of Cuba form a large portion, and by no means an unimportant one, of the population of Cuba; and that any steps taken to provide for their emancipation would, therefore, as far as the black population are concerned, be quite in unison with the recommendation made by her Majesty's Government; that measures should be adopted for contenting the people of Cuba, with a view to secure the connection between that island and the Spanish Crown; and it must be evident that, if the negro population of Cuba were rendered free, that fact would create a most powerful element of resistance to any scheme for annexing Cuba to the United States, where slavery still exists."

There it is, sir. It is the white population that is to be trampled under the feet of the blacks, and such blacks as now exist in Jamaica; it is this white population, that is represented in the face of the Senate and the country as desirous of continuing subjects of the rule under which they now groan. Sir, it is very easy to say, "if the people of Cuba desire emancipation from this tyranny, why do they not rise in arms?" And we are pointed to our own condition when our forefathers resisted the tyranny of the British Crown. How unfair to them; how delusive the comparison! We were three million of men. We had the right of speech; the liberty of the press. We could assemble, combine, prepare. We could arm. We had a right to buy arms, and to wear them. When Patrick Henry was urging the Virginia Assembly to the declaration of American independence, his cry was that three million men in arms could not be vanquished by any power that our enemy could send against us. But how is the case of the miserable Cubans? Had we, as they have, a foreign army in our midst—an army composed of soldiers whose fidelity to the mother country is only secured by the system already mentioned, of strict isolation, of absolute interdiction from any communication with the inhabitants of the island—had we such a force as that amongst us, and backed by the bayonets of the black race threatening an exterminating war of races? No, sir; there is no fairness, no justice in the reproach.

I must waive, Mr. President, all discussion of the effects that the acquisition of this island would have on the industrial, agricultural, and commercial interests of our country, these points having been already treated very satisfactorily by gentlemen who have already spoken.

I shall not even speak of its geographical position, commanding, as it does, a commerce which, before all that are now within sound of my voice shall have disappeared from the earth, will reach \$1,500,000,000, still I must call attention to the fact that it seems hitherto to have been taken for granted that this country is exposed to no risk so long as this island remains within the feeble grasp of Spain. I apprehend this is a mistake, and a very grave mistake. It is a grave mistake for several reasons: first, because those harbors, being the most capacious and the best fortified in the Gulf, offer a secure rendezvous, in case of difficulties with other foreign Powers, for collecting fleets and navies with which our own unprotected coasts could be attacked; secondly, because Spain is not now an independent nation.

I deny her independence in the true sense of the word. Spain has bartered away her sovereignty in Cuba, effectually bartered it away to Great Britain. She did not yield to motives of policy or of philanthropy in abolishing the slave trade. There was a time when Spanish dignity was not insulted by the offer to buy something from her, and her pride was not touched when Great Britain paid her £400,000 sterling for giving up the slave trade. Again and again has the Spanish nation been twitted upon the floor of the British Parliament with having cheated Great Britain, by taking the money and then countenancing the traffic. It is under the controlling

influence of Great Britain that Spanish pride has been so far humiliated—that a mixed commission sat in the Island of Cuba; that British subjects in the town of Havana try Spanish subjects in their own colonies for breaches of the treaty, and that England had a hulk, a prison-ship belonging to herself, lying in the harbor of Havana, to enforce the edicts of British judges over Spanish colonists; and yet we are told that this is an independent nation, whose pride and dignity will revolt at the bare proposal for a cession of sovereignty over the island.

The safety of our country is further involved in the acquisition of Cuba, or, at least, in her independence, because her harbors not only furnish points of rendezvous for hostile fleets, but secure harbors of refuge in which they could refit and repair, and prepare themselves for fresh attacks on our unprotected coasts. It was those harbors that afforded refuge for the British fleet after its descent on New Orleans; and in them did the French fleet refit after its bombardment of the castle of San Juan d'Uloa. In the event of a rupture with Great Britain, which many gentlemen around me seem to suppose inevitable in no very distant future, Cuba would be, in her possession, a tremendous point of vantage for attack; and little would she reckon of any opposition by Spain, to her use of it, for her own purposes, in a moment of emergency. It is for this reason that the instincts of the American people have already taught them that we shall ever be insecure against hostile attack until this important geographical and military position is placed under our protection and control.

This being the relation borne to us by Cuba, the President has proposed that Congress shall give expression to the national sentiment, by sanctioning a proposition to Spain for the purchase of the island. Why should we not do it?

First, we are told that it is an offense to the dignity of Spain to make the offer of purchase. To that, reply has been made so often and so victoriously, that it is hardly necessary to repeat it. We have only to say that of all the colonies that Spain ever possessed on this continent, none remain but the Islands of Cuba and Porto Rico, and, I believe, some small islands adjacent, not worth naming; and that, of all she has lost, everything has been torn from her by violence, with the exception of Florida, that we bought, and Louisiana, that France bought. If it was no offense for France to purchase Louisiana, and no offense for us to purchase Florida, it is a little too late to say that it is an offense to her dignity for us to propose the purchase of Cuba. And, sir, I cannot understand the dignity and sense of honor of a country that sells to the people of Great Britain, for a sum of money, an agreement to abandon the slave trade, and, under that treaty, gives to Great Britain power to hold courts in her own territory, judging her own subjects; and then turns upon us, and, on the bare indication of a desire to purchase, tells us that she considers herself insulted by the proposition. I am afraid she will have to be insulted; I am afraid the proposition will have to be made. This insult was offered to her dignity a good many years ago, in relation to this same island, first by Great Britain and afterwards by us, and this is the first time we have ever heard of her being insulted by the offer.

But, sir, we are told that England and France will object. If that be true, it affords to my mind a controlling motive for persisting. I wish to examine a little into this subject of the interference of England and France; and first, I desire the attention of the Senate to a fact which has not yet been adverted to in this debate; that, as far back as 1823, Great Britain tried to buy Cuba from Spain, and made her offers of purchase, which were rejected; that then, in 1825 and 1826, Great Britain was at the bottom of the plot for declaring Cuba independent, by an insurrection of the people, with the aid of the Colombian and Mexican forces, her object being to get the control of the island under a protectorate, which she thought she could establish without exciting our jealousy; and that it was these views of Great Britain which induced the interference of Mr. Clay with the Colombian and Mexican Ministers, and which broke up the plot. July 10, 1823, Mr. Appleton, being then at Cadiz, wrote to Mr. Adams, our Secretary of State:

"The contents of the letter, of which I herewith inclose a duplicate, are substantially confirmed by all that

has come to my knowledge since it was written. I shall say nothing of the official declarations of England; they are documents which must long since have reached you. I have it, however, in my power to say, upon the best authority, that the sentiments she now professes in relation to acquisition of territory at the expense of Spain, have not always been entertained by her.

Mr. Quadra, now Deputy of the Cortes, had, when Minister of Ultra-Marine in 1820, distant overtures made to him for the cession of the eastern side of Cuba to England. These overtures were treated with great coldness, and it is supposed have not been repeated. This fact has been communicated to me in confidence by Mr. Goner, a deputy from the Havana, who being a European by birth, has had more access to the secrets of the Cabinet than his companions, and has lately received a distinguished proof of the respect in which he is held in being called on to preside over the Cortes during an epoch of particular difficulty."

In 1827, Mr. Everitt, then in Madrid, sent to Mr. Clay the following dispatch:

"MADRID, August 17, 1827.

"Sir: The inclosed copy of a confidential dispatch addressed to the Minister of State by the Conde de la Alcedia, Spanish Minister at London, was handed to me to-day by a private friend, and may be depended on as authentic. As the communication was made to me in the strictest confidence, and as the document is in itself unsuitable for the press, I take the liberty of transmitting it to you, for the President's information, in the form of a private letter, and request that it may not be placed on the public files of the Department of State."

Here is the letter:

[Translation.]

"The Spanish Minister at London to the Minister of State. LONDON, June 1, 1827.

MOST EXCELLENT SIR: I deem it my duty to give you notice for the information of the King, our Lord, that this Government dispatched a frigate some time ago, to the Canary Islands, with commissioners on board, who were instructed to ascertain whether any preparations were making there for an expedition to America; and also the state of defense of those islands, and the disposition of the inhabitants. The result of these inquiries was that the said islands were in a wholly defenceless situation, provided with few troops, and those disaffected and ready for any innovation.

The frigate then proceeded to the Havana, where the commissioners found many persons disposed to revolt; but, in consequence of the large military force stationed there, and the strength of the fortifications, they considered it impossible to take possession of the island without the cooperation of the authorities and the army. In consequence of the information thus obtained, measures have been taken in both these islands to prepare the public opinion, by means of emissaries, in favor of England, to the end that the inhabitants may be brought to declare themselves independent, and to solicit the protection of the British. The latter are prepared to assist them, and will, in this way, avoid any collision with the United States. The whole operation has been undertaken, and is to be conducted in concert with the revolutionists resident here (at London) and in the islands, who have designated a Spanish general, now at this place, to take command of the Havana when the occasion shall require it.

The Duke of Wellington communicated to me the above information, which is also confirmed by an intimation which he gave to Brigadier-General Don Francisco Armentecoe, when this officer took leave of him to go to the Havana. The Duke then advised him, if he should discover any symptoms of disaffection in the authorities, to give immediate notice to the King, as it would be a grievous thing for his Majesty to lose the Havana.

I have thought it my duty to make these circumstances known to your excellency.

May God keep you many years.

EL CONDE DE LA ALCUDIA.

This is the same Great Britain that now, having failed in her own attempt, generously proposes to the American people an alliance of three parties, France, England, and the United States, each of whom shall say, as they are bound to do in her estimate under the law of nations, that not one of them will ever acquire Cuba. Having failed herself, both by open negotiation and secret manœuvre, to obtain possession of the island, she proposes to us magnanimously to renounce what she cannot get, provided we will be equally generous; for such, after all, was the real proposition made in the dispatch to which Mr. Everitt made his celebrated answer; and when we respectfully declined her proposal, we were informed through another dispatch that she held herself at liberty to act as she pleased for the future; and the British Secretary actually proceeded, with a grave face, to argue that England had equal interests with ourselves in the island of Cuba, because, in a geographical line, Cuba was no nearer to the United States than to the island of Jamaica—that delectable paradise of her negro savages.

So much, sir, as regards any objections that may be made by England.

But France, we are told, will be offended; her sense of justice will be shocked at our violation of national courtesy in desiring to acquire a neighboring isle. The reproach will come with a good grace, sir, from the present Emperor of the French,

who was so particularly regardful of public law when at Bologne and at Strasburg he attempted to overthrow the constitutional Government of his own country, for the purpose of acquiring that power which he has since shown was desired only for the gratification of his own selfish ambition. We are to be called on to renounce all rights of national growth in deference, forsooth, to France and England. We alone are not to grow; and the reason is that we declare our purpose in advance, which gives to these intermeddling Powers an opportunity of raising an outcry; whereas, in the secrecy of their cabinets, projects of invasion are entertained and executed before notice is given; and, when reproached for their breaches of national law, the world is coolly informed, in diplomatic jargon, that the outrage is *un fait accompli*.

Mr. President, I trust that, if the voice of England is raised on this question, the first, the prompt, the peremptory answer to be given will be, to ask her to give an account of her seizure of the Bay islands in defiance of her treaty with us; to call for her title to control the Nicaragua transit; and when she has made good, in the law of nations, that new title, invented by Lord Clarendon, and which he calls "spontaneous settlement," then, and not till then, we shall be ready, on our part, to give her a reason why we want "spontaneous settlement" in Cuba.

If, sir, on the other hand, the Emperor of France shall make objection, let him be asked by what right he attempts to interfere with us in the purchase of territory from Spain, when we are only following the example of his uncle, who did the same thing? Let him be asked what greater right France had to buy Louisiana, than we have to buy Cuba? And, sir, let both France and England be required to show by what principle of national law territorial acquisition is forbidden, when peaceful and for a price; but permissible, if effected by the exercise of violence, committed by the strong against the weak?

Mr. President, there is one paramount principle affecting this whole question of annexation, which our self-respect requires us to present prominently before the world. It is, that in the expansion of our system we seek no conquest, subjugate no people, impose our laws on no unwilling subjects. When new territory is brought under our jurisdiction, the inhabitants are admitted to all the rights of self-government. Let no attempt be made to confuse this subject by the use of inappropriate terms. It is the fallacy lurking under the use of the word "belongs," of which despots make use. Cuba "belongs" to Spain. True. But in what sense? New York "belongs" to the United States also; but in what sense?

Cuba is subject to Spanish sovereignty. Her people now owe allegiance to Spain; but the island does not belong to Spain as property belongs to an individual. The Cubans are not the property of the Crown. Nay, the soil of the island belongs to private proprietors. The right of Spain, as a proprietary right, extends only to the public places on the island not disposed of to private individuals, and to such revenues as she can lawfully and legitimately exact from her subjects. But, sir, from the date of our independence, we have had fixed principles on the subject of the true proprietorship of countries. The fundamental theory of our Government is, that the people of all countries are the true and only owners; that governments are established for their benefit, and that whenever governments become subversive of the true ends of their institution, it is the right of the people to alter and abolish them. The Island of Cuba belongs, not to Queen Isabella, but to the people who inhabit it, and who alone have the right to decide under what Government they choose to live.

Now, Mr. President, bringing this discourse to a close, I desire to say, in a few words, what my view is in relation to the policy of this country. I would propose, as the President proposes, the purchase of the Island of Cuba from the Government of Spain. If that be refused, if it be supposed that Spanish pride or Spanish dignity is involved in the proposition to such an extent as to make it impossible for them to cede it, I would then say to Spain: "If you will not cede the island to us, grant independence to your subjects there, and we will pay you a reasonable equivalent for

the abandonment of your revenues, and make settlement hereafter with the people of Cuba for our advances.

If this offer be again refused, then let us announce to Spain in advance, that whenever opportunity shall occur we are ready and resolute to offer to the people of Cuba the same aid that England offered to the other Spanish colonies; the same alliance, offensive and defensive, which France so nobly tendered to us in the hour of our darkest peril. Tell her that we shall repair the wrong by us done to the generation now passing away in Cuba when we impeded their efforts for gaining their independence, by affording to the present generation our aid, countenance, and assistance. Tell her that, when the Cubans shall have conquered their independence, theirs shall be the right of remaining a separate Republic, if they so prefer; that we will cherish, aid, and protect them from all foreign interference, and will draw close the bonds of a mutual, social, and commercial intercourse, that shall be of incalculable benefit to both. Tell her, too, that, if the people of the island, with their independence once acquired, and republican institutions established, shall desire to unite themselves with us, they shall be admitted to the equal benefits which our system of government secures to each independent State that enters into its charmed circle. She shall unite with us freely, the equal associate of free States; and when the union shall have been accomplished, the sword of the nation shall smite down any rude hand that shall attempt to sunder those whom the God of freedom has united.

Mr. DOOLITTLE. Mr. President, the question of the acquisition of Cuba and its annexation to the United States of America is no new question to me. If there is one question of national policy in this country which may be said to be settled and fixed, it is our policy in relation to the Island of Cuba. That policy may be said to rest upon three foundations: First, that under no circumstances will the Government of the United States consent that the Island of Cuba shall ever be transferred by Spain to any other European Power; second, that so long as it remains, in point of fact as well as in name, a dependency of the Spanish Crown, the Government of the United States will never undertake, by force of arms, to wrest it from her possession; and the third point in that policy is, that, whenever the United States can, by fair and honorable negotiation with the Government of Spain, and I may add, with the consent of the population of the Island of Cuba, acquire its possession, we are ready to accept it.

I furthermore am frank to say that I fully believe that in the fullness of time and in the development of the great national policy which is to govern and control this continent, the Island of Cuba is one day to be incorporated within the sovereignty and the jurisdiction of the United States of America. I believe, also, Mr. President, that the time has not yet come. I shall not take up the time of the Senate at this hour by narrating what has been done by the Government on this subject for the last thirty or forty years. I will refer to it, however, and read two or three brief extracts only.

During the administration of Mr. Adams, when Mr. Clay was Secretary of State, in his letter to Mr. Alexander H. Everett, then our Minister at Madrid, he uses this emphatic language, as showing at that day the policy of the Government of the United States in relation to the Island of Cuba:

"The United States are satisfied with the present condition of those islands (Cuba and Porto Rico) in the hands of Spain, and with their ports open to our commerce, as they are now open. This Government desires no political change of that condition. The population itself of the islands is incompetent at present, from its composition and its amount, to maintain self-government."

During the Administration of General Jackson, Mr. Van Buren, as Secretary of State, communicated the same view to the Government of Spain; and during the Administration of Mr. Polk, as late as 1848, when the present Executive magistrate was himself Secretary of State, in his letter as such, to Mr. Sanders, then in Spain, he said:

"You might assure him that, whilst this Government is entirely satisfied that Cuba shall remain under the dominion of Spain, we should, in any event, resist its acquisition by any other nation. And, finally, you might inform him that, under all these circumstances, the President had ar-

rived at the conclusion that Spain might be willing to transfer the island to the United States for a full and fair consideration."

And again: Mr. Everett, during the administration of Mr. Fillmore, in 1852, in his note to the *Compte de Sartiges*, speaking of this subject, says:

"A respectful sympathy with the fortunes of an ancient ally and a gallant people, with whom the United States have ever maintained the most friendly relations, would, if no other reason existed, make it our duty to leave her in the undisturbed possession of this little remnant of her mighty transatlantic empire. The President desires to do so. No word or deed of his will ever question her title or shake her possession. But can it be expected to last very long? Can it resist this mighty current in the fortunes of the world?"

During the very last Administration which preceded the present, Mr. Marcy, in his letter to Mr. Soule, of the 23d of July, 1853, says:

"While Spain remains, in fact as well as in name, the sovereign of Cuba, she can depend upon our maintaining our duty as a neutral nation towards her, however difficult it may be. In this respect, the future will be as the past has been."

Again, he says:

"Our Minister at Madrid, during the administration of President Polk, was instructed to ascertain if Spain was disposed to transfer Cuba to the United States for a liberal pecuniary consideration. I do not understand, however, that it was at that time the policy of this Government to acquire that island unless its inhabitants were very generally disposed to concur in the transfer."

And again he says, in the same dispatch, and the remark gives evidence of the practical wisdom which distinguished that statesman:

"In the present aspect of the case, the President does not deem it proper to authorize you to make any proposition for the purchase of that island. There is now no hope, as he believes, that such a proposition would be favorably received, and the offer of it might, and probably would, be attended with injurious effects."

In his letter of November 13, 1854, to Mr. Soule, in reply to the celebrated Ostend circular in which Mr. Marcy, as Secretary of State, on behalf of the Government of the United States, repudiated the dishonorable alternative of cession or seizure which seemed to be presented to Spain in that circular, he said:

"But should you have reason to believe that the men in power are adverse to entertaining such a proposition, [namely, cession]—that the offer of it would be offensive to the national pride of Spain, and that it would find no favor in any considerable class of the people, then it will be but too evident that the time for opening, or attempting to open, such a negotiation has not arrived. It appears to the President, that nothing could be gained, and something might be lost, by an attempt to push on a negotiation against such a general resistance."

As I stated in the outset, the letters of the Secretaries of State of the United States have shown what the policy of this Government is in relation to the acquisition of the Island of Cuba. That policy is based, as I have stated, upon three foundations, the first of which is, that we will never consent, cost what it may, to the transfer of that island by Spain to any other European Power. Such a transfer would be resisted by the unanimous voice of the American people, and especially by the Republican party, as against its policy, and against all our history. We would resist the transfer to England or to France, if need be, resist it to the very death, cost what it might of treasure or of blood. But let me tell you that the grounds on which we would resist it, would not be upon the grounds stated by the honorable Senator from Georgia [Mr. Toombs] the other day, in his speech on this subject. The honorable Senator from Georgia declared that it was the policy of the United States to obtain the Island of Cuba for the purpose of making the Gulf of Mexico a *mare clausum*; that it was our purpose to obtain not only Cuba, but all the islands of the Gulf of Mexico, of the islands of the Caribbean sea; and he declared, in the rapture of his expressions, that if he did not live to see it, the youngest of those now living should see the day when no flag should be permitted to float on those seas but by our permission.

Mr. President, I was surprised to hear such language as that fall from any Senator upon the floor of the American Senate. A *mare clausum* to be made in the high seas by the Government of the United States! Our whole policy has been against it from the beginning. We have fought against the doctrine of a *mare clausum*. We have gained our greatest glory on the high seas in fighting against it. It was for the freedom of the seas that we waged war in 1812. It was for the

freedom of the seas that we opened up the Mediterranean. It was for the freedom of the seas that we put down the Algerine pirates that were levying contributions upon the commerce of the world. It was to maintain the freedom of the seas and put down this doctrine of a *mare clausum*, that we opposed the Danish Sound dues. Short as has been my term on the floor of the Senate, I have already been called upon to take part in the formation of a treaty by which Denmark, at our solicitation, and in carrying out our policy, has been compelled to surrender this idea of a *mare clausum* upon the high seas.

No, Mr. President, it would be for the purpose of preventing the Gulf of Mexico from ever being made a *mare clausum* by England, or by France, or any other great naval Power, that we would resist this transfer, and resist it to the very death. It would be to maintain the freedom of the seas, to keep those seas open to the commerce of the world, and at the same time to keep them open to our own commerce, that we would resist its transfer. What may be the motto of the party upon the other side of the Chamber, of which the distinguished Senator from Georgia is a leading chief, I know not; but the motto of the Republican party to-day is, as it was in the war of 1812, and as it ever will be, "the freedom of the seas, the free commerce of the seas, that the highways of the world shall not be closed to the commerce of the world." We admit no such doctrine, and will never subscribe to it.

I have stated that it has been the settled policy of this Government, when the Government of Spain would consent to the transfer to the United States, and the people of the Island of Cuba would also consent to the transfer of their jurisdiction to the United States, that we would be willing to accept it under proper conditions. This last consideration, in relation to the wishes of the population of that island, is a matter of so great importance that, in perfecting this bill before any vote shall be taken upon it, I have desired to offer an amendment; and I will offer it as an amendment to the amendment of the Senator from Ohio:

And provided, That in any treaty which may be entered into between the Government of the United States and the Government of Spain, there shall be inserted an express provision that said treaty shall be wholly inoperative until the same shall be submitted to, and ratified by, the majority of the free white male inhabitants, of twenty-one years of age and upwards, of the Island of Cuba, at an election to be held for the purpose pursuant to lawful authority.

Another point which I have mentioned in our national policy, is this: that we will never undertake by force of arms to wrest the Island of Cuba from the Spanish Government against her will. Our national faith, our national honor, is pledged to that effect. It has been plighted over and over and over again, and the proposition of the alternative held out to Spain of either cession or seizure, never found light until the celebrated Ostend circular; which appeared in 1854, and which was repudiated by the then Secretary of State, Mr. Marcy. I say that, in carrying out to the very letter this part of our policy in relation to Cuba, we are bound to do so by every consideration of our true national character. Our duty to God demands it, and our duty to man demands it also. Standing as we do to-day, in the very vanguard of human civilization, we are bound to keep inviolate our national faith; never under any temptation to violate it, by becoming ourselves the wrong-doer and aggressor. I know that gentlemen may quote, for our example, the histories of other nations of the world, of Greece, of Rome, of England, of France, of Russia. You may tell us that their career is one continued career of conquest extending all over the globe; but their examples are not for us to follow in this respect. The difference between them and us is, that the very foundation upon which our Government rests, upon which it is based, and by which it is to be controlled and guided in all its policy, is that of honesty, justice, uprightness, and good faith. We have as yet never entered upon a war of conquest. I trust in God, we shall never enter upon such a war. It would but open the way to the creation of an immense national debt, and the raising of immense navies and immense standing armies, the result of which would come back upon ourselves, in the creation of one grand consolidated empire, like the empire of Rome. Much as we should desire the acquisition of Cuba, much as we should desire to add to

our possessions all the British provinces of North America, the outlet of the St. Lawrence, the Canadas, New Brunswick, the Northwest possessions, the Island of Vancouver—all those vast territories which lie upon our northern frontier, and compared with which Cuba, important as it is, is hardly to be mentioned; yet I trust, the day will never come when the doctrine will find favor in the American Senate or before the American people, that we shall enter upon a career of conquest, and seize those territories, because we have the power to do it.

Sir, let us bide our time; let us wait until, in the course of human events, these great cessions can be made. These great annexations may take place to our Government and our dominion, not by conquest, not by rapine, or by robbery, but they may take place peacefully, by honorable negotiation, honorable annexation. Least of all is it any part of our policy to conquer an unwilling people; to conquer territories which are already thickly settled; to conquer an island, like the Island of Cuba, which has upon it already nearly one million five hundred thousand inhabitants; which is as thickly settled as many of the States of the Union, and more populous than the great majority of the States of this Union. It is no part of our policy to conquer and bring under our jurisdiction, against their will, a mixed people, three fourths of whom are not of our race, and nine tenths of whom know nothing of our language, our laws, our customs, our religion; nine tenths of whom never knew anything about republican institutions or republican government. It is no part of our American policy to enter upon any such career of conquest as that.

Again, sir; if there be any thing established in our policy it is this, as another point, that we will never, under any circumstances, make the offer to purchase the Island of Cuba from Spain, at any time and in such a manner as to offend her national pride; but how does this proposition come forward? At what time is it introduced into the Senate by the Committee on Foreign Relations? The very morning of the day when the Senator from Louisiana, [Mr. SLIDELL] from the Committee on Foreign Relations, introduced this bill to the Senate, we received communications from the Government of Spain. This very proposition was contained, in substance, in the message of the President of the United States. It was considered in both branches of the Spanish Cortes. In the Chamber of Deputies it was unanimously rejected; in the Senate, also, it was unanimously rejected; and it was declared by those who spoke upon that question, all parties concurring, and without a dissenting voice, that at this time, and under these circumstances, the attempt to reopen this negotiation would be regarded by the Government of Spain as an insult. The Cortes passed this resolution:

"The Cortes declares that it has received with satisfaction the declaration of the Minister of Foreign Affairs, and that it is disposed to give to the Government its constant support in order to maintain the integrity of the Spanish dominions."

Again, on the 4th of January, the Minister of Foreign Affairs repeated these declarations in form, relating to the Island of Cuba. He declared that:

"If a representative of a foreign Power came to make me an offer for the alienation of Cuba I should at once interrupt him in his first phrase, as soon as his first words caused me to guess his purpose or notion, and I would tell him the effect produced by such intimations on all Spanish minds. The retention of the Island of Cuba is not for us a question of interest or convenience—it is a question of dignity and honor. No advantage which might accrue from it, no money or price that could be heaped up before us, would be sufficient to determine Spain to sacrifice that glorious relic of the precious discoveries and magnificent conquests of our forefathers. The alienation of Cuba! Why that is a wild, preposterous idea, which could not present itself to any other than persons who do not know Spain—who had never fathomed her deepest feelings."

Mr. President, I confess that it was with very great surprise that I listened to the report of the honorable Senator from Louisiana from the Committee on Foreign Relations. When this information was received direct from the Government of Spain, showing that the Crown, the ministry, every member of both branches of the Cortes, had rejected it, I was still more surprised that it should have been pressed on the consideration of the American Congress. I do not profess to be a diplomatist; but I consider this mode of reaching Spain, for the purpose of inducing her to enter into a negotiation to cede to us the Island of Cuba,

is, to say the least of it, a most egregious blunder.

If Spain should voluntarily cede the Island of Cuba to the Government of the United States, it would be right for us to accept it; and, if we determined to accept it, neither England nor France, nor the world in arms, would deter me for one moment in the course which I should pursue. But, so long as Spain is in the rightful possession of the Island of Cuba, and she refuses to cede it to us voluntarily by honorable negotiation, it would be grossly wrong for us to undertake to wrest it from her by force. Then, she being in the right, and we being in the wrong, if Spain shall be allied with England and with France in the struggle which must follow, I hold that it is no part of weakness, no part of cowardice either, for us to calculate the momentous consequences.

Let us cherish sacredly the maxim, "to ask nothing which is not clearly right, and submit to nothing wrong;" but if we are to enter upon a system of aggression ourselves, and undertake, by force of arms, to wrest from Spain her rightful possessions, it is not only the part of manliness and true courage, for us to consider that, in that struggle, England and France may be allied with her against us; but there will be this higher consideration, that, in such a struggle, there will be no attribute of the Almighty to take part with us. Give us the right, give us the cession by peaceful purchase, and then if either England or France interfere to prevent our accepting or enjoying it, as I have already said, I would resist them, one, or both together. The world in arms would not deter us from the assertion of the right. But it is a very different question when we are to be placed in the wrong, when we are to depart from the whole policy of the old Republican party, when we ourselves are to become the aggressors, when we are to enter upon the career of rapine, blood, and conquest.

Mr. President, it is said upon this floor, it is said elsewhere, that in these days there is a kind of resistless logic in events; a current in the fortunes of the world; a manifest destiny; "a tide in the affairs of men;" that "there is a divinity that shapes our ends." All these expressions we hear. I have heard expressions still more simple addressed to me in the language, and in the faith, of childhood, that there is a God in Heaven without whose notice not a sparrow falls; and that His Providence is watching over the destinies of this country, and has been from its earliest colonization down to the present hour. I can accede to all this; but with me the important question remains, which way does the current flow; which way does this gravitation, in the political world, tend; which way does the Providence of God direct? That is the question.

For one, I desire to see and to know and to look back upon the history of the past, to judge of what is to come in the future. For more than two thousand years, I may say, there have been great currents of emigration in the human race; onward and onward, from the Asiatic east, through Europe, covering the whole of the temperate zone of Europe, until, in the fullness of time, that same flow of emigration has crossed the Atlantic, and is taking possession of the temperate zone of this continent. Its flow is onward, and right onward; increasing in volume and in strength. They are coming from all the countries of Europe, mingling with those who are already here; becoming Americanized, and by their knowledge and perseverance and indomitable courage, they are taking possession, are bound to take possession, of every foot on this continent, where the white man can live and labor. Before that resistless flow, the other races upon this continent are receding; and they will continue to recede. It is but a question of arithmetic and of time. By no revolution; by no invasion of the rights of any individual; by no usurpation of any Federal authority over the rights of the several States; by the simple laws of emigration, and what may be determined by political gravitation, this emigration is going on swelling in volume, increasing in power.

The honorable Senator from Ohio [Mr. PUGH] was pleased to say yesterday that the proposition which I had introduced, and the doctrines which I had avowed on this floor, were as follows:

"The Senator from Wisconsin [Mr. DOOLITTLE] announced to us yesterday, as the programme of the modern

and self-styled Republican party, that the tropical zone of this continent should be for the negro, and only its temperate zone for the white man. I am really obliged to the Senator for so honest a proclamation, having always been convinced that the party of his attachment, upon which he has lavished as many affectionate caresses and epithets as Sancho Panza could have suggested, intends that Cuba, and Mexico, and Central America, and, if possible, our own southern States, shall be reduced to the miserable condition of Hayti and Jamaica."

The proposition which I introduced, the language which I used on this floor, does not authorize the honorable Senator from Ohio to make any such statement. I have never said upon this floor that no one but the negro is to inhabit the tropical regions of this continent. I have said no such thing. I have not said that the white man may not find a home in the tropics, if he pleases to do so. I have never said, I have never intimated, I have never desired, that the time would come when our own southern States, or any one of them, ought to be, or would be, reduced to the condition of Jamaica or San Domingo. The proposition which I have had the honor to submit is no new one. I claim for it no originality whatever. It is as old as the Republican party in this country. It was the leading idea with Jefferson, with Madison, with Monroe, with Washington, with all the earlier statesmen of this country in the better days of the Republic. I claim for it no originality. I claim, however, that this proposition tends, and it is the only proposition which will, to prevent, in the end, these very disastrous consequences to which the honorable Senator refers.

My proposition is simply to provide for the peaceful emigration, from all the States of this Union, of all those free colored persons of African descent, who may desire so to emigrate, to some place in Central or South America, in some of the States of the tropical regions which may be acquired by treaty, by the United States, for that purpose, and for their benefit. My proposition is simply that these persons may go and mingle with the population already existing in those States, (and five sixths of them already are of the colored race,) where color is no degradation; where they may mingle together freely without repugnance.

I have said that this was no idea of mine. I desire to read two or three extracts from some of our most distinguished statesmen. I do not refer to the statesmen of the North, but to the statesmen of the South. Mr. Jefferson said, in speaking upon this identical measure:

"It was, however, found that the public mind would not yet bear the proposition, nor will it even at this day; yet the day is not far distant when it must bear it and adopt it, or worse will follow. Nothing is more certainly written in the book of fate, than that these people (the negroes) are to be free; nor is it less certain that the two races, equally free, cannot live in the same Government. Nature, habit, opinion, have drawn indelible lines of distinction between them. It is still in our power to direct the process of EMANCIPIATION AND DEPORTATION, and in such slow degree as that the evil will wear off insensibly, and their place be *pari passu* filled up by free white laborers. If, on the contrary it is left to force itself on human nature must shudder at the prospect held up. We should in vain look for an example in the Spanish deportation or deletion of the Moors."

These memorable words were uttered more than a quarter of a century ago. The time that he prophesied would come, has already arrived, when the public mind would not only bear, but approve the proposition.

Mr. Randolph, of Virginia, maintained the same idea again. Mr. Jefferson, in a letter addressed to Mr. Sparks, said, speaking on this very plan:

"The second object, and the most interesting to us, as coming home to our physical and moral characters, to our happiness and safety, is to provide an asylum to which we can, by degrees, send the whole of that population from among us, and establish them under our patronage and protection, as a separate, free, and independent people, in some country and climate friendly to human life and happiness."

Again, Mr. Jefferson, in a letter to Mr. Coles, thus warns his countrymen of the South that, unless some such proposition as this is adopted, the very scenes of St. Domingo, which the honorable Senator from Ohio [Mr. PUGH] so much dreads, would be forced upon them:

"Yet the hour of emancipation is advancing in the march of time. It will come; and, whether brought on by the generous energies of our own minds, or by the bloody process of St. Domingo, excited and conducted by the power of our present enemy, if once stationed permanently within our country, and offering asylum and arms to the oppressed, is a leaf of our history not yet turned over."

I have stated that this is no proposition of mine,

but it was advanced by the leading statesmen of this country, as the only possible mode by which we could rid ourselves of this great difficulty, without going through the bloody scenes of San Domingo in the southern slave States; and when the honorable Senator from Ohio says that I desire, or that the party with which I act desire, that the scenes of San Domingo shall be reenacted in the Gulf States of this Union, and that we desire to reduce those States to the condition of Hayti and Jamaica, he does us great injustice. It is to avert just that calamity, and to prevent that very result, that I to-day advocate this proposition; for I believe the time has ripened for the execution of the plan originated by Jefferson in his day, agreed in by Madison and Monroe and all the earlier and better statesmen of the Republic, both North and South.

What shall we do? That is the question. I ask honorable Senators who doubt the propriety of this proposition which I have introduced, what will you do? You know that it is a fact, that very many of the non-slaveholding States of this Union, by their laws, and even by their constitutions, refuse to allow the emancipated colored man to find a shelter within their jurisdictions, a measure of harshness in which I cannot sympathize, while, at the same time, almost all the slaveholding States have made stringent enactments to prevent their emancipation, unless they shall be, at the same time, removed beyond their jurisdiction; and in some of the southern States, the proposition is to-day being entertained, and it is beginning to find more and more favor, to reduce to servitude those who are now free. The proposition has been made in North Carolina, Maryland, and Virginia. It has lately been made in the State of Missouri, coupled with a proposition to confiscate their property. Very probably it is entertained in other slaveholding States.

I ask, in Heaven's name, what are you to do with these people? In the late constitution which was framed in Kansas, and which the Administration was so anxious to press through Congress, it was declared that free negroes should not be permitted to live in Kansas. The constitution of the State of Oregon declares the same thing, that they shall not only not reside in Oregon, but that they shall not be permitted to have any rights whatever, nor any standing in court. The slaveholding States are making these enactments. What is to be done with them? That is the question. It is not a question that confines itself peculiarly to the slave States. It is a question that concerns the free States as well as the slave States. It is no sectional question. It is a national question, in which they all have a common and equal interest.

I ask, and repeat, in God's name what will you do with them? I ask you gentlemen on the other side of the Chamber, what will you do with the free negroes that are now inhabiting the States of this Union? Will you put them to the sword? Humanity would shrink from that. Will you bring them to the auction block? That is the question. It is seriously proposed in several States of this Union, though I trust that no such enactment will ever be carried into effect in any State. But, Mr. President, sure as fate, in the language of Mr. Jefferson, sure as mathematics, for facts and figures do not lie on this subject, you have got to meet this question; you cannot postpone it any longer if you try; the day is coming on, and is already pressing upon you. What will you do with them? You must meet it. The census returns of the United States tell you the story. With each revolving decade it is fixing it as sure as fate, and you must come to it.

I refer, of course, with no disrespect whatever to any of the States of this Union; but I refer to the census simply for the purpose of stating facts as they appear. If you look at the State of South Carolina, you find that, in 1810, there were 214,000 white people to 196,000 slaves; in 1820, 237,000 whites, 258,000 slaves; in 1830, 257,000 whites, 315,000 slaves; in 1840, 299,000 whites, 327,000 slaves; in 1850, 274,000 whites, 384,000 slaves. What do these figures show? Where does it tend? Where do these mighty resistless currents in human affairs constantly flow? They flow to but one result; and men may try to avoid the question as long as they please, but the time is coming, and is pressing on, when the enormous preponderance of the slave population, in some of the States of

this Union, will be so great that they must be removed from those States, or they will be Africanized—the very result of which you speak. You charge upon me a desire to make a Hayti of South Carolina or Louisiana. No, sir; never. I would open the outlet, and the only outlet, by which you can escape it. You must come to it, as sure as fate. You are not so much wiser than Jefferson or Washington, Madison or Monroe. They foresaw it in their day. It has been approaching ever since. It is gathering strength and volume; and come it will.

What will you do with them? You are holding the wolf by the ears. You cannot hold on to him, and you dare not let go. He is gathering strength every day and every hour, while you are growing weaker. What will you do with him? That is the question. You cannot blink it out of sight. I tell you, Mr. President, it is a question above all other questions. In considering the well-being of the American nation, we must meet it. You must make an outlet for these people, or you must be Africanized in those States where they are increasing in such a ratio, compared with the increase of the whites. This may be speaking plainly, but I have no concealments on any subject. I speak openly, freely; I make a clean breast of it. If you look at Alabama, it tells the same story. So of Georgia and Louisiana, though not to so great a degree in the State of Louisiana, for the reason that there is a very large city in that State, and the increase of black population in proportion to the increase of the whites has not been so marked.

The serious question now arises, as this population must, in the course of human events, flow towards the tropics, and into the tropics; just as certain as the revolutions of the earth; just as certain as that water finds its level—shall the Government of the United States seize upon the tropical regions of this continent and plant them there as slaves, or shall we suffer them to go, when they are emancipated, from within our present jurisdiction to take up their abode among the free people of their own color who are already within the tropics?

Mr. President, this subject is one to which I have given no little thought during my brief experience in political life. I took part in the great contest which brought Texas into the Union. I went for the annexation of Texas. I did so in the most perfect good faith. I did so because I believed that Texas was an independent State; its independence had been acknowledged by Great Britain and by France; because its people went out from among us, and were of us, and desired with one voice to be re-annexed to the Union. I went for the annexation of Texas also for another reason. That reason I now feel called upon to state. It was a reason which was proclaimed through the whole length and breadth of the land. Every man in Congress who spoke on that subject mentioned it. Every man from the North or the South who spoke of the annexation of Texas, and in its relations to the existence of slavery in this country, advocated the same idea or kept silence. I refer to the ideas which were advanced by Mr. Walker in his celebrated letter for the annexation of Texas. I refer to the speech of the present Chief Executive Magistrate, Mr. Buchanan. I refer to the speech of General Ashley, of Arkansas, Mr. Tibbatts, of Kentucky, and I will not say hundreds of others, but many other persons upon the same subject in the Congress of the United States. What ground did they put forward? Upon what ground was the annexation of Texas accepted by the American people? It was upon an express understanding, which was just as much a part of the compromise between the people of the North and the South on the subject of the annexation of Texas, as if it had been drawn out and sealed and signed and delivered. What was it? I beg to read a very few words from the declarations of these eminent men; and first I will read from the letter of Mr. Walker, who subsequently became the Secretary of the Treasury under the Administration which came into power. Mr. Walker, said:

“Nor can it be disguised that, by the reannexation, as the number of free blacks augmented in the slaveholding States, they would be diffused gradually through Texas, into Mexico, and Central and Southern America, where nine tenths of their present population are already of the colored races, and where, from their vast preponderance in number, they are not a degraded caste, but upon a footing, not merely

of legal, but, what is far more important, of actual equality with the rest of the population. Here, then, if Texas is annexed, throughout the vast region and salubrious and delicious climate of Mexico, and of Central and Southern America, a large and rapidly-increasing portion of the African race will disappear from the limits of the Union. The process will be gradual and progressive, without a shock, and without a convulsion.”

Further, he said:

“Again, then, the question is asked, is slavery never to disappear from the Union? This is a startling and momentous question, but the answer is easy and the proof is clear; it will certainly disappear if Texas is reannexed to the Union.”

Now, I beg to call the attention of the Senator from Ohio, [Mr. PUGH,] and the Senator from Louisiana, [Mr. BENJAMIN,] to the words of Mr. Walker:

“Thus, that same overruling Providence that watched over the landing of the emigrants and Pilgrims at Jamestown and at Plymouth; that gave us the victory in our struggle for independence; that guided by his inspiration the framers of our wonderful Constitution; that has thus far preserved this great Union from dangers so many and imminent, and is now shielding it from Abolition, its most dangerous and internal foe, will open Texas as a safety-valve, into and through which slavery will slowly and gradually recede, and finally disappear in the boundless regions of Mexico, and Central and Southern America.”

“Beyond the Del Norte slavery will not pass, not only because it is forbidden by law, but because the colored races there preponderate in the ratio of ten to one over the whites; and holding, as they do, the Government, and most of the offices, in their own possession, they will never permit the enslavement of any portion of the colored race, which makes and executes the laws of the country.”

This was the language of Mr. Walker addressed to the people of the United States, and scattered broadcast over the whole land, thick as the falling leaves of the forest, or the snow flakes in winter. It went to every dwelling, it reached every man. The argument here was in every man's mouth. It went home to the hearts of the great American people. I accepted it for myself, I acted upon its reasonings. I believed in its truth; I believe it now that the Providence of Almighty God is leading this thing in that very direction; that this resistless current in human affairs is flowing onward to the tropics with this race; resist it you cannot, to defeat it is impossible. For one, I would not undertake to resist it. I would aid it onward and onward in its peaceful flow.

The honorable Senator from Ohio, yesterday, was pleased to say to me that the proposition which I had introduced could not be carried out, and that even Commodore Paulding could not aid me in carrying it into effect. Let me call the attention of that honorable Senator to a few facts. Slavery once existed all over the Central American States. It existed under the Government of Spain when in the zenith of its power and glory. Slavery has had its day in the tropics. The colored race, by the very force of climate, and the laws which God the Almighty has stamped upon the earth, and upon his constitution, has enfranchised himself. The white race became so enfeebled in the tropics by the operation of the same laws that they could no longer hold the wolf they had taken by the ears. It became too strong for them; it resisted, and it obtained its freedom. Freedom has been won in the Central American States. It exists there to-day. You cannot overturn it if you would. It is not in your power to do it.

When General Walker, of whom we have heard so much, was invited by the Government of Nicaragua to come and take charge of its affairs, he was asked to come there not to establish slavery, but because he was known to be a free-State man. He had labored in California to make that a free-State, and to resist the introduction of slavery there. Walker, as was well known and understood by all its friends, was opposed to the institution of slavery. He went to Nicaragua. He was placed by the almost unanimous voice of its people at the head of its affairs. He ruled them at his pleasure; but in an evil hour, under the dictation of fanaticism—for it is nothing but fanaticism that would undertake to reestablish slavery within the American tropics at that late day—at the suggestion of emissaries from this country, in an evil hour, he revoked the decree abolishing slavery in Nicaragua; and what was the consequence? He lost in an hour his hold upon that people. They rose *en masse* against him. They surrounded him on every hand; they starved him out; they reduced him to a poor, miserable remnant on the Lake of Nicaragua, and where the Government of the United States sent a vessel to

rescue him, as was said by the Secretary of the Navy, as an act of humanity to rescue him and his followers from an outraged people.

Again he made the attempt to plant slavery in Nicaragua by force of arms. His design was thwarted by the gallant Commodore Paulding, in the faithful execution of the orders of the Government; and in doing which he did accomplish that which the gentleman from Ohio thinks him incapable of aiding.

The attempt was renewed; and as that veteran officer had been recalled for the too faithful execution of his duty, the vessel which carried the expedition was suffered to escape from our shores, but was wrecked on the Island of Roatan; and the men composing the expedition were returned to this country as objects of charity by the governor of that free negro colony.

I ask the Senator from Ohio if he cannot see the hand of Providence in this transaction?

Mr. PUGH. I should like to make a suggestion to the Senator. Do I understand him to state as a fact, that African slavery existed in Central America and Mexico?

Mr. DOOLITTLE. I did not say that African slavery was general all over the States of Mexico and Central America; but I am informed that, in Honduras, in a population of less than five hundred thousand, there is one hundred and forty thousand negroes, and that slavery existed in all those States, principally slavery of the Indian races. Negroes were also introduced into all, though not to the same extent that they were in the West Indies.

Mr. PUGH. There are scarcely any negroes there. I recollect I traveled over a great part of Mexico, and never saw but one negro in the whole country, and he was a runaway from the State of Louisiana.

Mr. DOOLITTLE. I wish now Mr. President, to read a very few sentences more and I shall relieve the patience of the Senate. Mr. Norris, of New Hampshire; Mr. Dickinson, of New York; Mr. Dean, of Ohio; General Ashley, of Arkansas; Mr. Tibbatts, of Kentucky; and very many other gentlemen, both from the North and the South, took this same view; but I will call especial attention to the language of the present Chief Magistrate, Mr. Buchanan, then a Senator on this floor. He said:

“After mature reflection, I now believe that the acquisition of Texas will be the means of limiting, not enlarging, the dominion of slavery. In the government of the world, Providence generally produces great changes by gradual means. There is nothing rash in the councils of the Almighty. May not, then, the acquisition of Texas be the means of drawing the slaves far to the South, to a climate more congenial to their nature; and may they not finally pass off into Mexico, and there mingle with a race where no prejudice exists against their color?” * * * * *

“Texas will open an outlet, and slavery itself may thus finally pass the Del Norte, and be lost in Mexico.”

Mr. President, I shall not take up the time of the Senate now, by speaking on the various compromises which, from time to time, have been made in good faith between the North and the South. I shall not speak of the compromise of 1820, nor of its violation in 1854. I call especial attention to this understanding, by whatever name it may be denominated. It was the general conviction of the American people. The very ground on which you asked to annex Texas to the Union, was this most solemn assertion to the people of this country, that there should never be any attempt to carry slavery beyond the Rio Grande; but that all free colored persons of African descent in the States of this Union, who should desire to do so, should have the privilege of migrating into those regions; and that those who hereafter should become emancipated by the voluntary act of the master, or in any other way, would there find homes among a people of their own race, and an outlet by which they could be gradually withdrawn from the States of this Republic, and thus avert that calamity—of all other calamities the most to be dreaded—the scenes of San Domingo reëacted within the Gulf States of our own Confederacy.

Mr. CRITTENDEN. I design to submit some remarks to the Senate on this subject.

Mr. SEWARD. I gave offense, the other day, to my honorable friend, by asking him not to speak that day. We settled that account, however; and I make bold to ask him now, whether he will not give way to a motion to adjourn?

Mr. CRITTENDEN. I certainly will. I am

exhausted myself; and I have no doubt the Senate is.

Mr. SEWARD. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 11, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. ALFRED HOLMEAD.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. SEARING. Mr. Speaker, I rise to a question of privilege. I hold in my hand a copy of the New York Times, of the 8th instant, in which the Washington correspondent, under date of February 6, has seen fit to reflect upon my character as a member of this House. I send the paragraph to the Clerk, in order that it may be read in the hearing of the House.

The Clerk read, as follows:

"The system inaugurated in the Brooklyn navy-yard, under the present Administration, giving to members of Congress the appointment of the master mechanics, is shown to have resulted in doubling and trebling the cost of everything to the Government. Theft and swindling of all sorts appear to have been the rule, instead of the exceptions.

"In one case, it is shown that a large quantity of paint, belonging to the Government, was used to paint the dwelling-house of Mr. SEARING, a member of Congress, the labor also being contributed by the navy-yard. Of course, this could, by no possibility, have been honestly done; but we are yet without Mr. SEARING's explanation of the affair; and it remains to be shown whether he was aware of the fraud upon the Government, or was himself imposed upon."

Mr. SEARING. So gross and flagrant an allegation on my character, I conceive it just to myself to notice, and to say, that it is entirely devoid of truth; and I take the most summary means of contradicting it before the House and the country. As I see the honorable gentleman who is conducting the investigation, now in his seat, I respectfully ask him, in justice to me, to make an official announcement to the House and to the country, whether there was any ground for so base and gross a slander as that perpetrated by a vile and base correspondent. I hope the gentleman from Ohio will do me the justice to inform the House on the subject.

Mr. SHERMAN, of Ohio. It gives me great pleasure to say that no testimony has been submitted to the naval investigating committee like that alluded to in the New York Times. There was no testimony taken reflecting on the gentleman from New York. On the contrary, the charges made have been disproved.

I desire also to state, that the committee has very carefully avoided giving any information in regard to what is transpiring before it. Like the other committees, we have been called on for information, but have religiously withheld it. I have seen nothing in the newspapers that would lead me to infer that any testimony, taken before the committee, has publicly transpired. If it be the pleasure of the House, I will, early next week, present to the House the testimony and reports of that committee, and then gentlemen can see what has been and what has not been proved.

WITHDRAWAL OF PAPERS.

On motion of Mr. DAVIDSON, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Mary Belize.

On motion of Mr. FAULKNER, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Anne E. Bronaugh.

Mr. SMITH, of Illinois. I ask leave to introduce a bill for reference, of which previous notice has been given.

Mr. JONES, of Tennessee. I call for the regular order of business.

THE HOMESTEAD BILL.

Mr. GROW. I desire to make but a single remark, in order to correct a misstatement of fact that has been repeated here a number of times, in reference to the homestead bill that passed the House, and which the gentleman from Tennessee [Mr. MAYNARD] would not extend to me the courtesy, yesterday, to correct.

By the homestead bill, any person who is a citizen, or has declared his intention to become such,

can make an entry; but no one can take the title from the Government for any land unless he is a citizen of the United States.

Mr. COBB. I object to any explanation unless I have a chance myself.

Mr. GROW. That is all I desired to say.

Mr. MAYNARD. The bill shows for itself.

Mr. GROW. It has been said, again and again, that foreigners can take lands from the Government, under this bill. That is not so.

ADMISSION OF OREGON.

The SPEAKER announced the business in order to be the consideration of the bill for the admission of Oregon; on which the gentleman from Missouri [Mr. CLARK] had the floor.

Mr. SMITH, of Illinois. Will the gentleman from Missouri yield, that I may introduce a bill for reference?

Mr. JONES, of Tennessee. If it be the pleasure of the House to receive, under the rules of the House, for one hour or two hours, bills, or reports, or anything else, I shall not interpose any objection; but if they are to come in by unanimous consent, I must ask for the regular order of business.

Mr. CLARK, of Missouri. As a member of the Committee on Territories, I desire to detain the House for a short time, in stating the reasons which governed my vote in committee, and will govern it in this House, in favor of the bill for the admission of Oregon. I regret, sir, that the admission of any State is to be treated as a party question. The admission of a State is based on principles regulated by the Constitution of the United States, and legislators should vote upon such a question regardless of particular circumstances.

No gentleman should attempt to interpose obstacles to the admission of a State which has a population sufficient in numbers, and which, having been clothed with authority, has formed a republican constitution, and established its institutions in its own way. In my judgment such opposition is a high breach of power, unauthorized by the Constitution of our common country.

I now approach the objections urged against the admission of Oregon. One of the objections made in debate here, and which we had to meet in committee, is, that Oregon has not sufficient population. I take the ground that Oregon is entitled to admission into the Union with her present population, if it be sufficient, in the opinion of the House, to enable her to organize a practical community for State purposes.

I claim that Oregon has a right to come in under the ordinance of 1787, and that it is the duty of Congress to admit her on the same principle and according to the same rule established in that ordinance for the Northwest Territory. Sir, if gentlemen will read the organic act of Oregon, they will find that it is provided in that act that she shall be entitled to all the privileges, and subject to all the limitations, contained in the ordinance of 1787. That ordinance provided that when there should be sixty thousand inhabitants in those Territories, they should have a right to be admitted as States. If, then, you take the ordinance of 1787, and the organic act of Oregon, you cannot escape the conclusion that you must admit Oregon when she has a population of sixty thousand. That portion of the ordinance of 1787 to which I refer, providing for the admission of these States, is as follows:

"ART. 5. There shall be formed in said Territory, not less than three, nor more than five, States; and the boundary of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western States in the said Territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Port Vincent due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle States shall be bounded by the said direct line, the Wabash from Port Vincent to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern States shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided, however, that it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan; and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the

Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a constitution and State government: Provided, the constitution and government so to be formed shall be republican and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interests of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand."

Mr. HOWARD. I would ask the gentleman if he considers Oregon a part of the old Northwest Territory?

Mr. CLARK, of Missouri. No, sir; but by the organic act of Oregon, the provisions of the ordinance of 1787 were extended to that Territory. Now, that ordinance provided that the Territories within the original Northwestern Territory should be admitted as States, when they had sixty thousand inhabitants; and the organic act of Oregon having extended to her all the privileges and limitations of that ordinance, gives her the right of admission according to the terms of that ordinance, which will appear by the following portion of said act:

"And be it further enacted, That the inhabitants of said Territory shall be entitled to enjoy all and singular, the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said Territory, on the 13th day of July, 1787; and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact, imposed upon the people of said Territory."

Mr. ZOLLICOFFER. I would ask the gentleman in what portion of the ordinance of 1787 he finds that provision?

Mr. CLARK, of Missouri. In the fifth article.

Mr. ZOLLICOFFER. I would ask the gentleman if that same article does not provide that not more than five States shall be carved out of that Territory; and if that part of the compact does not also apply to Oregon? Can he take a part of the compact without taking the whole of it?

Mr. CLARK, of Missouri. I will answer the gentleman. The fifth article of the ordinance of 1787 provides that five States may be admitted, but nevertheless it provides that Congress may admit other States. I will give a case in point. The terms of the ordinance of 1787, with the exception of the prohibition of slavery, were extended to Tennessee, which was south of the Ohio river. Now, when Tennessee applied for admission, the very question that we are now discussing was referred to a committee, and they made a report to Congress. I have the debates of that day before me, on which Mr. Madison, Mr. Macon, and Mr. Gallatin participated. It was held then that as Tennessee came within the provisions of the ordinance of 1787, except the slavery prohibition, Congress was bound to admit her when she had sixty thousand free inhabitants, and she was considered, as Mr. Gallatin says, *ipso facto* a State, whenever that fact appeared to Congress.

Mr. ZOLLICOFFER. By the permission of the gentleman from Missouri, I will state that when Tennessee was admitted, it was shown to Congress, by a census officially taken, that she had seventy-seven thousand two hundred and sixty-two inhabitants, while the ratio of representation was thirty-three thousand. The point to which I wish to call the attention of the gentleman from Missouri, is this—

Mr. CLARK, of Missouri. The gentleman is taking too much of my time. Let me read for his information what Mr. Gallatin says:

"Mr. Gallatin, on the admission of Tennessee, was of opinion that the people of the southwestern territory became *ipso facto* a State the moment they amounted to sixty thousand free inhabitants, and that it became the duty of Congress as part of the original compact to recognize them as such, and to admit them into the Union, whenever they had satisfactory proof of the fact."

Now, the gentleman from Tennessee, in his report and in his remarks just now, states that when Tennessee applied for admission, it appeared by an official census that she had seventy-seven thousand two hundred and sixty-two inhabitants. So she had. But what has that to do with this question? The question we are now discussing is, what rights had Tennessee under the ordinance of 1787? It was argued by Madison and Macon and Gallatin that she had the right of admission under that ordinance whenever she had sixty thousand inhabitants, because that ordinance provided that the five States to be carved out

of the Northwestern Territory should be admitted when they had sixty thousand inhabitants; and that ordinance having been extended over the territory south of the Ohio, which included Tennessee, gave her all the privileges granted by the ordinance, including the right of admission when she had sixty thousand inhabitants. But, sir, this case is still plainer than that of Tennessee; for the organic act of Oregon not only extends the ordinance, as in the case of Tennessee, but expressly provides that the people of Oregon shall be entitled to all the privileges and subject to all the disabilities and all the incumbrances that the people of the Northwestern Territory, by virtue of that ordinance, were entitled and subject to.

Mr. KELLOGG. I desire to ask the gentleman one question. It is this; if, in his opinion, the act organizing the Territory of Oregon, is so binding upon this Congress that it cannot disregard it if, in its opinion, it ought to require a larger population?

Mr. CLARK, of Missouri. I will answer the gentleman with great pleasure. I mean no disrespect, and make the application to no individual; but this Government is a Government of law. We are bound by the Constitution and by the laws. And when Congress makes an enactment, and sends it out as the will of the people of this nation, authorizing the people of a Territory to form a constitution and State government, for the purpose of being admitted into the Union, would the gentleman from Illinois, or any other man of honor, violate that compact?

Mr. KELLOGG. That compact to which the gentleman refers is esteemed but as an act of legislation; and I ask the gentleman now if the compact with Oregon of which he speaks was more sacred than the compact known as the Missouri compromise law, prohibiting slavery north of 36° 30'?

Mr. CLARK, of Missouri. Not a particle.

Mr. KELLOGG. Where, then, was the honor in the repeal of that compact?

Mr. CLARK, of Missouri. I will answer the gentleman, though it is wandering somewhat from the subject. The one was no more binding than the other; but the gentleman will remember that the Missouri compromise, as the gentleman's party declare, was canonized in the hearts of the people; and yet the gentleman will remember that when it was moved in Congress to extend that Missouri compromise line to the Pacific ocean, gentlemen of his party in Congress repudiated and spit upon it, and said that it was nothing more than an act of Congress, and that it was a slander upon the American mind to say that it was a sacred compact.

Mr. KELLOGG. A party in this Government refused to extend it, but never proposed to repeal it, never spit upon it; and I ask the gentleman to correct his quotation in regard to its being canonized in the hearts of the people, and ask him to give the credit of that sentiment to the Democratic party, or to one branch of the Democratic party.

Mr. CLARK, of Missouri. But I proceed. Oregon, then, in my judgment, is entitled to admission by the terms of the ordinance of 1787—an act which has operated upon my mind, and which ought to have force with the Congress of the United States. I think, further, that the principle of population in nowise applies to Oregon. The act was passed by this House as an expression of the public will, and, with great unanimity, authorizing the people of Oregon to form a constitution, and establish a State form of government. The information went forth to the people of Oregon and to the people of Kansas at the same time, and both Territories made constitutions and applied for admission at the same session. Now, I appeal to the friends of the Kansas bill, and ask them why they voted for her admission? Was there any question of population raised then? Was it not well known that Kansas had not the requisite population for a Representative on this floor, and which is contended for here now? Why, then, vote for the admission of Kansas? It was because Kansas, in accordance with the precedent established in the admission of Michigan, and of many other States, in the Union, was invited to make a constitution and State form of government, without reference to population. That question was not raised. If Kansas was voted for regardless of the question of population, when

she presented herself here, I appeal to every Democrat, to every friend of that bill, if they can now vote against the admission of Oregon upon that ground?

But it is contended that the passage of the bill, known as the English bill, which contains a prohibition of the admission of Kansas until she has a certain population, is a good precedent. I answer that that should have no effect upon Oregon. Oregon comes here as Kansas came. Oregon made her constitution when Kansas made hers; and she comes here upon that constitution and asks admission; and she is entitled to admission under the action of this House in passing the enabling act. I ask any gentleman of this House if it would not be extreme bad faith to Oregon to invite her to make a constitution regardless of population; and, when she comes here with a constitution framed under that invitation, and asks for admission, to require that she should, contrary to precedents heretofore established, have an amount of population which would entitle her to a Representative on this floor? To apply that rule to her would be retrospective action, in prejudice to Oregon, and in bad faith to the Government.

Mr. BINGHAM. The gentleman refers to the enabling act passed by the House of Representatives in the Thirty-Fourth Congress, as furnishing some reason why Congress should now admit Oregon. I desire the gentleman to notice this fact, that the enabling act to which he refers passed the House of Representatives, but did not pass the Senate; and it limited the exercise of the power to form a constitution in the Territory of Oregon to citizens of the United States exclusively; and that, with that provision in it, it passed the House by an almost unanimous vote. And this constitution is in distinct contravention of that provision.

Mr. CLARK, of Missouri. Oregon has a right, then, to claim admission according to the usages of this Government in reference to the admission of other States. The State of the gentleman who sits before me was admitted when she had far less than a representative population. Michigan and other States were admitted, when the smallness of the population was never urged as an objection.

Mr. HOWARD. I concede that that is a fact as applied to my State; but I desire to call the gentleman's attention to one fact, in order that he may shape his argument to answer it. He states that Oregon and Kansas came here at the same time, and both upon the same basis, claiming admission. He claims that the treatment should be alike; yet he hangs Kansas up until she has a population of ninety-three thousand four hundred and twenty, and proposes to admit Oregon without any reference to her population.

Mr. CLARK, of Missouri. I now give notice that I shall not yield any more of my time for interruptions. The gentleman says that a rule is applied to Kansas different from that applied to Oregon. I deny that proposition. The rule applied to Kansas is as to her future action, and the rule attempted to be applied to Oregon is as to her action in the past; it is retrospective. Oregon comes here with her constitution, framed long ago; and the same rule that we propose to apply to her we agreed to apply to Kansas, but Kansas rejected the constitution with which she came here. I would have gone for the admission of Kansas under that constitution, notwithstanding her population. But so long as I am a member upon this floor, I will never vote to admit any Territory as a State after this, that has not a population equal to that required for a Representative from my State. It is the true doctrine. It is the doctrine of the Constitution, and the doctrine of representative government. Oregon has made her constitution under the former policy of the Government, and she did so with the *prima facie* approbation of Congress. She had the express approbation of Congress by the passage of a law here, enabling her to call a convention and frame a constitution of State government.

Now, Mr. Chairman, it has been urged that Oregon ought not to be admitted, because her constitution is in violation of the Constitution of the United States, and contrary to the genius of this Government. It is alleged that she allows others than citizens of the United States to participate in the exercise of the elective franchise. My friend from Tennessee [Mr. MAYNARD] places his objection mainly upon that ground. This is a

grave question; one that strikes directly at the sovereignty of the States. As a State-rights Democrat, believing that the stability of our Government and the liberty of our people depend upon the maintenance of State sovereignty, I would yield the power here objected to more reluctantly than any other. None ever pretended, unless the veriest Federalist who advocated consolidation—I was about saying despotism—who advocated consolidation of the Federal Government, ever contended that the United States had the right to control the action of the States as to who were and who were not entitled to the privilege of the elective franchise. Whenever it is maintained that the General Government can interfere for the control of that power by the States, sir, I would not give a straw for the freedom of our institutions. For, Mr. Speaker, when the liberties of the people and the sovereignty of the several States are made subservient to the centralized power of the General Government, then we would have one of the greatest despotisms of ancient or modern times. The doctrine of State rights and State sovereignty was the doctrine that nerved the hearts of our ancestors, and kindled the beacon-fires of the Revolution. It is the last thing the patriot will cling to. I believe that what rights the Federal Government has are derived altogether from the consent of the States. They have surrendered up so much power as, and no more than, was necessary for the general protection and the general welfare; and whenever the Federal Government assumes powers not granted, then it undertakes the exercise of powers which amount to tyranny.

It is objected that the constitution of Oregon is unconstitutional, and that she ought not to be admitted as a State; because she permits alien suffrage. She has a right to allow it. Every State has the right to confer the right of suffrage on whoever it pleases. Every State is entitled to regulate its own internal policy—to say who shall and who shall not vote. I appeal particularly to the members from the South. Whenever we surrender the right to determine who shall vote in the States, we do not know how soon we will be deprived of suffrage ourselves. It is a great right, and should be clung to by every State-rights Democrat as the last hope of the country. I grant that I would not allow a foreigner to vote in any State. I would only allow citizens of the United States. I would not allow any colored man to vote. If gentlemen in Massachusetts, however, allow negroes to vote, that is their own affair. The States, in their internal policy, have the right to select their own company. I have no right, we have no right, to interfere with them. The question of the right of suffrage was one that was mooted in the formation of the Constitution of the United States. As one of the rights of the States, it was regarded as one of the very pillars of the Union. The gentleman from New York [Mr. GRANGER] stated, that while the constitution allowed aliens to vote, it excluded free negroes from the State. He stated that was inequality. While the constitution of his State allows negroes to vote, does it allow them to vote on an equal footing with white persons?

Mr. MORGAN. We allow them to vote. More than one hundred of them voted for me.

Mr. CLARK, of Missouri. He does vote in New York, but not on an equality with the white man.

Mr. MORGAN. The negro does vote in New York. More than a hundred voted for me.

Mr. CLARK, of Missouri. The constitution of New York requires a property qualification for the colored voter, and not for the white man.

Mr. CLARKE B. COCHRANE. That is so.

Mr. CLARK, of Missouri. By the constitution of New York, a negro must be worth \$200 before he is equal to the white man.

Mr. CLARK, of New York. Two hundred and fifty dollars.

Mr. CLARK, of Missouri. Well, sir, a white man in New York can vote without property, and the negro has to have property. Now, where is your equality? Why, formerly, in Virginia, under her old constitution, a man had not only to be free and white, but to be an owner of land, before he was permitted to vote in that old Commonwealth, which is said to be the "mother of States and statesmen," and to have given laws to this great Confederacy. No one has ever contended that she had not a right to do it. In the State of

Missouri we make no such distinction. All free white men above the age of twenty-one can vote, whether they are rich or poor. We have universal suffrage, which is the true principle. But we require residence as a precedent to the right to vote, and so do nearly all the States? Why is that? Why can that power be exercised? It is because the States have a right to regulate their own affairs, and to govern the right of suffrage in their own way. The Government of the United States has no right at all to interfere in the matter.

But another objection made to the admission of Oregon is, that she has excluded free negroes. That objection comes with a bad grace from many gentlemen upon this floor. Sir, how many States of this Union are there that have excluded free negroes? Does not Ohio exclude them?

Mr. BINGHAM. No, sir.

Mr. CLARK, of Missouri. She did, I believe, when the Republicans had control of the State. Illinois excludes them; Indiana excludes them; and, I believe, several of the New England States exclude them.

Mr. BINGHAM. No, sir.

Mr. CLARK, of Missouri. They do it by statute, if not by constitutional provision. The doctrine is, that you can exclude them by statute, but not by the fundamental law of the land; and it is a strange doctrine, indeed.

Mr. GILMAN. Will the gentleman state what New England State excludes free negroes?

Mr. CLARK, of Missouri. I may be in error about the New England States; but I think Connecticut does.

Mr. DEAN. No, sir; the gentleman is mistaken.

Mr. CLARK, of Missouri. Well, I know that negroes are great favorites in New England, and perhaps they do not exclude them.

Now, I take the ground, Mr. Speaker, (which may not be very acceptable to some gentlemen here,) that the negro is not, and cannot be, a citizen of the United States. As a lawyer, I draw my views of the construction of the Constitution of my country from those contemporaneous with its formation, and those luminaries who are placed upon the bench of your courts to construe and expound the laws and that Constitution which I am sworn to support; and I am not so vain or so presumptuous as to set up my judgment above the judgment of those to whom the peculiar duty is confided of expounding and construing it. Sir, it is the duty of every good citizen to obey the laws of the land. The laws of the land are made by the Congress of the United States; and it is the duty of every good citizen to obey those laws as expounded and construed by the judiciary.

Now, sir, it was said yesterday, by the honorable member from Tennessee, [Mr. MAYNARD,] that "citizens" and "people" meant the same thing. Well, in one sense, they do mean the same thing.

Mr. MAYNARD. Will the gentleman permit me to explain the extent of my remark. I meant within the purview of the Constitution of the United States.

Mr. CLARK, of Missouri. In the sense of the Constitution of the United States they mean the same thing, but the gentleman gives them a wrong application. "Citizens" and "people" mean the same thing in the view of the Constitution, but only when the citizen is a part of the body politic. But do gentlemen suppose that, when the framers of the Constitution used the word "citizens," they meant negroes? They had not advanced as far as some of our friends have at this day. Sir, they never meant to include slaves or Africans in the terms "people" or "citizens." Never. I have the highest authority under this Government for saying that they meant no such thing. In the Dred Scott case, Judge Taney, in delivering the opinion of the Court, said:

"The words people of the United States and citizens are synonymous terms, and mean the same thing. They both describe the political body, who, according to our Republican institutions, form the sovereignty, and who hold the power and conduct the Government through their Representatives. They are what are familiarly called the sovereign people, and every citizen is one of this people, and a constituent member of this sovereignty. The question before us, whether the class of persons described in the plea in abatement (Dred Scott was a negro) compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and were not intended

to be included under the word citizens, in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for, and secures to, citizens of the United States."

And again he said:

"In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits, and the rights of citizenship as a member of the Union."

In the same opinion we find the following:

"It does not by any means follow, because he has the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all the rights and privileges of a citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State; for previous to the adoption of the Constitution of the United States every State had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights; but this character of course was confined to the boundaries of the State, and gave him no rights or privileges in other States, beyond those secured to him by the laws of nations and the comity of States. Nor have the several States surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper; or upon any class or description of persons; yet he would not be a citizen, in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts; nor to the privileges and immunities of a citizen in the other States. The rights which he would acquire would be restricted to the State which gave them."

Now, it is strange to me to find gentlemen upon this floor objecting to alien suffrage at this late day. Why, sir, the first constitution of Illinois allowed aliens to vote. They allow them now to vote after a very short residence. And aliens have been permitted to vote in all the territories, and the gentleman from Pennsylvania [Mr. Grow] has time and again voted for territorial bills allowing it. Did he not do it in the case of Oregon and of Minnesota? Has he not done it in the case of every Territory that has been organized since he has been in Congress? Now, my position is, that while I would not vote for alien suffrage, still it is a matter for the State of Oregon to determine. It would be a dangerous precedent for Congress to interfere with such a matter. We have no right or power to do it. So, too, with reference to the exclusion of free negroes; it is a matter for their own decision. Negroes are not citizens, and, therefore, cannot be included in that clause of the Constitution which provides that the citizens of each State shall have the same rights as citizens of other States. They are not citizens in the contemplation of the Constitution, and do not come within that provision.

Then it is said further that the courts of the country are closed against this class of people. Is it not the right of a State to declare who shall be entitled to sue in her courts? Can anybody but a citizen of the United States do it? Has not the court decided that a negro is not a citizen of the United States? And will you force a State to receive within its limits persons whom the State is not willing to admit? You would then establish for Oregon a rule which is contrary to the rule established by the highest court of the country for all the States, and you threaten to exclude her because she has done as other States have done in excluding free negroes. I ask is that fair? Is it just? and is there a man upon this floor who could maintain his self-respect and vote to exclude her upon those grounds?

Mr. KELLOGG. I would ask the gentleman if there has been any other State before this, which has excluded all persons of color from suing in their courts?

Mr. CLARK, of Missouri. I cannot be interrupted. I now come to the consideration of the last objection, and that is, that Oregon has not a sufficient population. Now, I claim that Oregon should be admitted without regard to population. I urge that Oregon ought to be admitted, even though she has less than sixty thousand inhabitants, because she had a right to believe she would be admitted, from the fact that the Government proposed that she should form a constitution, and also because that constitution was formed before the enactment of the English bill. But I claim that Oregon has a sufficient population; I claim that she has more than one hundred thousand people within her borders, and I bring up, to sustain my position, the declarations of gentlemen upon this floor, who know, or ought to know, the facts in the case. The gentleman from Pennsylvania, [Mr. Grow,] last Congress, stated that from all the information he then had, Oregon had ninety thousand people—two years ago last Feb-

ruary; that she had a population nearly equal to the ratio of representation upon this floor. This is the avowal of one upon this floor, who had the right to know. But the gentleman from Pennsylvania said he made his statement based upon information obtained from the Delegate from Oregon. Is not that Delegate now here? Is he not entitled to as much credit now, as then? Has he not been among his people since that day, and does he not know more about them now than he did then, and are not his assertions entitled to the same weight as then?

Mr. GROW. I hope the gentleman does not understand me as questioning now the veracity of the Delegate from Oregon.

Mr. CLARK, of Missouri. I understood that you did.

Mr. GROW. I stated that was my authority, without raising any question of veracity about the gentleman from Oregon.

Mr. CLARK, of Missouri. The gentleman says he raises no question of veracity. Then why is he talking about it? But I did not intend to raise any question of veracity between the gentleman from Pennsylvania and the gentleman from Oregon. My remarks were made in a spirit of kindness. I wanted to say that the Delegate from Oregon was believed by the gentleman then; and I hoped that no occurrence had taken place which would diminish that confidence now. He gives the same information now as then; and not only that, but he gives additional information, which places her population far above the ratio required for a Representative here. That I may do no injustice, I ask the Delegate to state here, upon this floor, what he now believes to be the population of Oregon?

Mr. LANE. Being called upon to state what I know and what I believe in reference to the population of Oregon, I will do so as briefly as possible. As was stated yesterday by my friend from Georgia, [Mr. STEPHENS,] at the head of the Committee on Territories, our population, in 1850, amounted to about ten thousand. In 1855 we had a census taken, but it was not a complete one. It did not do justice to Oregon as to the number of her people. The return, however, as made in 1855, was forty-three thousand four hundred. Since that time there has been no census taken; but I will say to the House that the increase of population has been going on constantly from that time to this; and that the House may know the extent of that increase of population, I will state the increase in Douglas county, the county in which I reside. I happened to be at home in 1855, when the census was taken. I was called upon by the assessor, who was required, at the same time that he made the assessment, to take the census of the inhabitants. That year there were not over two or three hundred families in that county; there were no towns, and no settlements, save one of half a dozen houses. I came here that fall, and returned in the spring of 1857. Then I found that, in the mean time, a county seat had been located at Roseburg; that the population had increased to about one thousand people; that, instead of having to go one hundred and forty miles to get our wheat ground, we had two fine flouring mills almost in sight of my house; that every vacant quarter section of land in that county had been taken up; and that the county could give more votes than they had entire population two years before. The country has been settling up at that rate from that day to this; and it is safe to say that we have now, in Oregon Territory, more than the population requisite for the representation of one member upon this floor. We have the requisite white population.

My friend from South Carolina, [Mr. BORCE,] and I regret to see that he is not in his seat, referred two years ago, in some remarks he made, to the statement of Bishop Scott, given to the public in New York city. Bishop Scott went out to Oregon, established his churches, and returned with a view of getting aid for their continuance. He left in 1855, and returned the Congress before the last. He was in Oregon when the last census was taken. It was then understood and acknowledged that that census did not do justice to the Territory. In truth, there were fully fifty thousand people then there.

Bishop Scott, speaking of the extent of Oregon, its resources, &c., said that, with a population of fifty thousand scattered all over the Territory,

over an immense Territory, it would be seen how necessary it was to afford aid for his churches. We have no better man than the Bishop upon the face of the earth. Though the census stated there were forty-three thousand and odd, the Bishop stated there were fifty thousand, and that was the basis upon which he spoke. There is a letter in the hands of the gentleman from Connecticut, [Mr. ARNOLD,] from Inspector General Mansfield, of the United States Army. That gentleman went all through Oregon on a tour of inspection, before the census referred to was taken. He inspected all the military posts and the forces stationed at them. Last summer he was ordered back to Oregon, and he made another tour of that Territory. In the letter I have referred to he states that he found the Willamette valley had settled up thickly and was continuing rapidly to fill up. The farms were in good order, and the prospects there were of the brightest character. He believed that the population of Oregon had increased four-fold since his former visit.

[Here the hammer fell.]

Mr. ZOLLICOFFER obtained the floor.

Mr. LANE. With the permission of the gentleman, I will make one more remark. I have not a particle of doubt that the population of Oregon is fully up to the present ratio of congressional representation. If she is kept out now, when she again has an opportunity to come in she will be here with only one Representative, yet with a population of three hundred thousand. Can you now, upon any principle of justice, refuse her admission? She has the right now to claim to come in as a State. I am satisfied that the good sense of this House will do her justice, and allow her, under the laws, the privileges she is entitled to.

Mr. CURTIS. Does the gentleman consider that Oregon has the population necessary, under the English bill, for admission into the Union?

Mr. LANE. I do. If I were not satisfied that Oregon stands here with a sufficient population, I might, perhaps, say that that basis ought to be varied. As a general rule, however, I think that in the admission of new States we ought, in the future, pretty faithfully to observe the ratio of representation.

Mr. ZOLLICOFFER. Mr. Speaker, I do not propose to occupy the time of the House but for a few moments. As a member of the Committee on Territories, it became my duty to give this question a careful examination. I did so; and in a minority report presented to this House, I gave the reasons for the conclusion to which I had arrived—that Oregon ought not to be admitted, at this time, as a State, into the Union. It was my purpose to examine the question free from all party bias, and I am sure I was free from all disposition to put up or to put down any political party of the country, by the course I might pursue. I examined it with a strict regard to great principles involved, which are, in my judgment, of vast consequence to the permanent well-being of this country. That report having treated concisely the more important considerations in this question, I beg leave to append it to the report of my remarks; and I shall endeavor, as far as practicable, to avoid touching upon the points therein discussed.

As to the question of population, I considered it with reference to the most reliable data before the committee. What were these most reliable and authoritative facts? We had before us the latest official census taken in Oregon, and the official statements made before the committee by the Senators and Representatives elect, who are directly interested in favor of bringing Oregon into the Union. What do these authorities show? The last census, taken in 1855-56, shows that the population was then but forty-three thousand four hundred and seventy-two. Though there has been no census since taken, yet there are other important facts in this connection. At the time the census was taken, showing a population of but little over forty-three thousand, there was a vote taken for Delegate in Congress, and also a vote upon the question of adopting a constitution, in the first of which ten thousand one hundred and twenty-one votes were polled, and in the last nine thousand two hundred and sixty-one. Two years after, in 1857, another vote was taken for Delegate and upon the convention question, and the total vote was nine thousand one hundred and

thirty-three in the first, and nine thousand two hundred and ninety-six in the last. Thus we find that there was no increase of the popular vote from 1855 to 1857.

Again, another vote was taken last year—1858—and what does it disclose? The total vote at the State election, in June last, was between eleven and twelve thousand. Have these facts no significance? From the elections of 1855-56, when the whole population was but forty-three thousand four hundred and seventy-two, to the election of last June, there was but a very slight increase in the total popular vote. Does not such a fact stand out in bold relief, and does it not argue powerfully against the conclusion that there is now a population equal to the ratio of representation? But I now turn to the written statements filed before the committee by the members elect, interested in the admission of Oregon. One of the Senators and the Representative elect made to us a written statement; and do they there assert that Oregon has a population equal to the ratio of representation? They do not. They make a vague statement that the population must be between eighty and a hundred thousand. There is a very wide margin there, and it is very far from a statement that there is in fact ninety-three thousand four hundred and twenty. These gentlemen are honorable men; and if they felt satisfied that Oregon had a population equal to the ratio of representation, they would have said so.

We had another official statement before us—that of the honorable gentleman who now sits here as the Delegate from Oregon; and who, if Oregon comes in, will take a seat in the Senate. (And allow me to state here, in parenthesis, that for that gentleman personally I have the highest consideration, and I should be personally gratified to see him in the Senate of the United States.) But what does he state? He thinks the population of Oregon "is very nearly equal to the ratio" of representation. "Very nearly equal." He is a conscientious gentleman. He was not willing to make a statement officially before the committee which he did not feel satisfied was correct. What we want is, the evidence that the population is in fact fully equal to that of a congressional district.

I have acted on such data as this. I have not gone into round about calculations, based upon the taxable property of the Territory, to come to a conclusion as to what its population is. I am, therefore, convinced that there is not a particle of proof before the committee or the House which ought, for a moment, to make an impression on its mind that the population of Oregon is, in truth, equal to the ratio of representation. If that is so, why ought we not to observe and follow the general usages of the country with respect to the admission of new States? Ought we not to respect the fact that, of the nineteen States heretofore admitted into the Union, not one of them, with the solitary exception of Florida, and that having the requisite population at the time of application, was admitted with a population less than the ratio of representation at the time of admission. Does any gentleman controvert this?

Mr. LANE. Had Illinois, when she was admitted, a population equal to the ratio of representation? California had very much less.

Mr. ZOLLICOFFER. Illinois had the requisite population: so had California. The gentleman is mistaken. Two years ago I had occasion to investigate the question, and I made a report which I now turn to, and which is based on official papers found among the archives of the Government. I hold myself ready to prove, from official documents, that, at the time Illinois was admitted into the Union—the ratio of representation then being but thirty-five thousand—she had a population of fifty-five thousand two hundred and eleven, according to the United States census of 1820. If I do not prove that to the satisfaction of any gentleman, I will yield the whole case.* California was admitted when the ratio of representation was seventy thousand. She then had

* Illinois was admitted December 3, 1818. According to a paragraph in Niles's Register, of July, 1818, vol. 14, p. 359, a territorial census recently taken had shown a population of thirty-four thousand six hundred and twenty, being three hundred and eighty short of the ratio of representation. But the United States census taken nearest to the date of admission, being that of 1820, gives a population of fifty-five thousand two hundred and eleven, as I have stated, being far more than the then ratio.

a population of ninety-two thousand five hundred and ninety-seven.

Mr. McQUEEN. By the permission of the gentleman from Tennessee, I will say this: I know that one of the grounds on which the admission of California was opposed was, that, when the constitution of California, framed by the military convention, was referred back to the people, there were but thirteen thousand votes cast for its ratification.

Mr. ZOLLICOFFER. I do not pretend to know how that particular fact is; it is less material; but I repeat, that I am ready to prove what I have stated, by official papers that are to be found in the library of this House.

Mr. McQUEEN. No census was taken in California before her admission. All the data we had on record was the vote taken on the ratification of the constitution. That is my recollection.

Mr. ZOLLICOFFER. The official census, taken in June, 1850, shows a population of ninety-two thousand five hundred and ninety-seven. California was admitted in September following. The ratio was then only seventy thousand. I was adverting to the fact, Mr. Speaker, that this habit of requiring that a State should have a population equal to the ratio of representation, is the general usage of the country. And on what principles of right and propriety is it founded? It is founded in great wisdom, and is, in my judgment, essential to the safety and durability of the Government itself. It is founded on the idea that it is wrong to give to States having no population power to control States having great populations; wrong, for example, to give to a little community having less than one thirty-fifth part of the population of the State of New York, a power in the Senate of the United States, and in the House, in presidential elections, equal to that of such a State.

Mr. CLAY. I ask the gentleman whether he did not, last winter, vote for the admission of Kansas?

Mr. ZOLLICOFFER. I did, sir.

Mr. CLAY. Had she sufficient population?

Mr. ZOLLICOFFER. No, sir. I thank the gentleman for giving me an opportunity to state briefly that I think I was right in voting for the admission of Kansas; and that in such a case I ought to have disregarded the question of population. There was a great question in that case which overrode and overshadowed all other questions. However gentlemen may have felt, whether they were pro-slavery or anti-slavery men, all must agree, that there was an agitation connected with slavery which convulsed the public mind from one end of the Union to the other; which created a crisis that was dangerous to the stability of the Government. I felt it my duty in such a case as that to disregard minor considerations, and to be controlled by the overshadowing questions of the day.

Mr. CLAY. I should like to ask my friend from Tennessee a single other question; and it is, whether the admission of new States does not rest in the sound discretion of Congress, irrespective of the question of population?

Mr. ZOLLICOFFER. Yes, sir; unquestionably. But there is the more necessity for Congress exercising a sound discretion. Heretofore, Congress has done so. The rule fixed should not be departed from. In return, if the gentleman will allow me, I should like to ask him a question. I ask him if he did not vote for the English bill at the last session, which committed him and a majority of the House to the principle of not admitting States into the Union in future, unless they had a population equal to the ratio of representation?

Mr. CLAY. If the gentleman wishes an answer, I will make it.

Mr. ZOLLICOFFER. I hope the gentleman will make it briefly.

Mr. CLAY. Very briefly. I voted for the admission of Kansas last winter, upon precisely the same ground that my friend from Tennessee voted for it.

Mr. ZOLLICOFFER. Then the gentleman justifies me.

Mr. CLAY. I cared nothing then for that clause in the English bill, and care nothing for it now. I voted for the bill to meet a great necessity.

Mr. ZOLLICOFFER. I am glad to find that

the gentleman himself justifies my course upon the very point upon which he interrogated me.

Mr. CLAY. I would have voted for the admission of Kansas last winter, either with the English proviso or without it.

Mr. ZOLLICOFFER. Mr. Speaker, there are some other points that I propose to touch upon; and these questions, drawing me off into details, are consuming so much of my time that I fear I shall not have it in my power to make the argument that I had proposed to make.

It has been argued here that this application for the admission of Oregon is justified by the action of Congress; justified by the action of this House in passing, in the Thirty-Fourth Congress, an enabling bill; and by the act of the Senate in passing a bill at the last session to admit Oregon under the constitution it has framed. Now, sir, it has occurred to me that when one House of Congress passes an enabling bill, and it is lost in the other, it should rather furnish an argument to the people interested in that question that the proposition is not satisfactory to Congress; and if anything is to be inferred from this action by the people of Oregon, it should be that they ought to have waited until both Houses of Congress agreed upon an enabling act. So far as the action of the Senate is concerned, they can scarcely avail themselves of that, inasmuch as it took place after the constitution of Oregon was formed.

But, Mr. Speaker, if there is anything in the argument that the passage of an enabling act through this House at the last Congress should have encouraged the people of Oregon to form a constitution and ask for admission as a State into the Union, they certainly ought to have looked to, and respected, the spirit and letter of that act. It is strange that, if they acted under the authority of that bill, which was lost in the Senate, they did not remember the fact that, in that very bill of the House, it was provided that the citizens of Oregon, and the citizens *alone*, should have the right to form a constitution and State government, and ask for admission into the Union as a State. That bill, which they rely upon, excluded the idea that unnaturalized foreigners should be embraced in the body politic, or should take part in the formation of a State constitution. That bill was passed on the 31st of January, 1857, eight months before Oregon adopted a State constitution; and its first section provides that "the inhabitants of that portion of the Territory of Oregon, being citizens of the United States," are "authorized to form for themselves a constitution and State government." This provision was adopted by a vote of 83 to 35. The third section provides that "only citizens of the United States shall be entitled to vote at the election provided for by this law;" and this was adopted by a vote of 77 to 49. Now, if this action of the House is to be regarded as *authority*, independent of the question of population, why did the people of Oregon disregard the very letter and spirit of that act?

Mr. CAVANAUGH. I would like to ask the gentleman from Tennessee what evidence there is before the House that any other than citizens of the United States voted for the adoption of this constitution, or for delegates to the convention that formed it?

Mr. ZOLLICOFFER. I understand that, under the organic law of Oregon, unnaturalized foreigners were permitted to vote upon the question as to whether a State constitution should be adopted; and I presume they also voted for delegates to form a constitution.

Mr. CAVANAUGH. The gentleman is stating a fact, and that fact based upon a presumption.

Mr. ZOLLICOFFER. I cannot discuss every matter of detail. If the act of the Senate, which took place after the constitution of Oregon was formed, is to be relied upon, I ask why the act known as the English bill, which passed both Houses of Congress, and laid down the principle that no State should be admitted into the Union unless they had a population equal to the ratio of population, was disregarded by the people of Oregon? Here we have an act passed by both Houses of Congress, expressing emphatically the sense of the national Legislature, that when a State applies for admission into the Union, it must come with a population at least equal to that of a Congressional district; and we have the action of the House excluding foreigners from

voting; and yet, Oregon comes here with an insufficient population, and a constitution including unnaturalized foreigners within the body politic, and yet claiming to have done this under the encouragement of Congress.

Upon the particular question whether unnaturalized foreigners may be admitted by a State to vote in elections which affect the Federal Government, I do not here propose to make an argument; for the reason that I have, though concisely and briefly, presented that argument in the report which I will append to these remarks, and I have no desire to enlarge upon it. I will barely state, in this connection, that my conviction is strong that the fundamental idea of this Government of ours—the idea upon which it rests, is that the citizens of the United States—whether naturalized or native born—those who owe it allegiance, and are identified with its destinies, really constitute the body politic, and are entitled to control its destinies. On the other hand, I believe that those who have never been made citizens; who owe it no allegiance; who, if they were to make war upon it, could not be punished for treason, ought not to be admitted into the body politic, and ought not to have the power to control its destinies. And it is my opinion that, whenever they shall be admitted to an extent sufficient to give them the power, it will be found that you have admitted the Trojan horse; that you have committed the destinies of the greatest Government upon the face of the earth into the hands of those who are not safely to be intrusted with its preservation. And I believe, sir, if this Congress disregards the rule that has governed other Congresses in regard to population, the precedent will be fraught with great danger in the future. Whenever it comes to be suspected, for good reason, that any dominant party—any party for the time having the control of the Government—shall bring into the Union a State for the sake of the political power it may confer; shall bring into the Union a little community having a population unequal to that even of a congressional district, with a view of securing its power in the Senate, its power in the House, or its power in a presidential election, to enable such party to hold the Government; I say, whenever it comes to be suspected that a party, happening to be in power at the time, shall do this, the time will come when, in the revolutions of parties, some other party will come into power, and will certainly retaliate, and possibly carry the abuse a great deal further.

Well, sir, what sort of a field have we now before us for such an operation? We have a half dozen Territories, with an inadequate population, seeking early admission, and half a dozen applications for the formation of other Territories, which will soon want to be admitted as States. I say to the party now in power—without intending to do or say anything with a view to put up or down any party—beware how you depart from the patriotic rule of our fathers; beware how you give the great common honesty of the country to suppose that you do this thing with a view to maintain your party power; beware how you bring in a State with less than the population of a congressional district, to paralyze, in a presidential contest, the most populous State in the Union. What will be the condition of our country if this precedent shall be furnished to parties which may hereafter get control of the Government? What would be the condition of our Government if a dozen such petty States should be brought into the Union to vote down the States in which reside the great body of the American people? What would be the state of our Government if States which really possess the population shall be overruled in a presidential election by a combination of small States, such as Oregon would be if admitted into the Union? Let us not take a departure from the safe and settled usage now established. Let us adhere to the rule which has been uniform from the organization of the Government until the present time.

One word in regard to alien suffrage, and I will yield the floor. It is this: that there never has existed an elective Government anywhere in the annals of the world, except our own, in which any other than citizens or subjects, owing allegiance to the Government, were permitted to vote. The right of suffrage, from the days of Aristotle down to our day, has been regarded as pertaining

to citizenship. Look to the Grecian Republic, to the Roman Republic, to Great Britain, to France, to every elective Government, in the annals of time, and you will find that unnaturalized foreigners have not been permitted to take upon themselves this greatest of all the rights of citizenship in a free Government—the right to control the destinies of the political country. And I ask gentlemen, in the name of the best interests of our common country, not, for temporary purposes of party advantage, to ignore a great principle like this.

[APPENDIX.]

Minority Report.

The undersigned has not been able to concur with the majority of the committee in favor of the bill for the admission of Oregon into the Union.

The population of the proposed State, in his opinion, is not yet sufficiently large to entitle it to admission. Since the organization of the Federal Government nineteen States have been admitted into the Union, and no instance has ever occurred in which a State has been admitted with a population less than the ratio of representation in Congress at the time, with the single exception of Florida, in which instance the population, at the time of application for admission, was more than equal to the existing representative ratio; but a delay of six years intervening, the ravages of Indian warfare, and a change in the ratio, caused the population, at the time of actual admission, to fall something below the amount required by this well established rule. The rule is founded in wisdom, justice, and the safety of the Republic, and should never be departed from unless under the pressure of an overshadowing necessity. In the case of Oregon there is no such necessity, and a clear want of showing of population equal to the present ratio of representation. This is conclusive with the undersigned. By the last census, taken in 1855-56, the population was but 43,472. The aggregate popular vote at that time, on the convention question, was 9,361, and for Delegate in Congress, 10,121. The popular vote in 1857 had not increased, being, on the convention question, 9,296, and for Delegate, 9,133. This would seem to indicate a slowly increasing population. Yet, in the face of such facts, the Representative, and one of the Senators elect, express the opinion that the population is "between 80,000 and 100,000" and the other Senator elect thinks it "very nearly equal to the ratio." Still the main fact is wanting, that it is, in fact, quite equal to the ratio; and the official evidence is indicative of a decided deficiency.

If admitted under these circumstances, the precedent would be a dangerous one. Other communities, with a population less than that of a congressional district, would also knock at the doors of Congress for admission, and would be admitted. Such petty communities, erected into States, would at once assume a footing of exact equality with the most populous States of the Union. With populations less than that of one thirty-third part of that of the State of New York, they would each wield in the Senate of the United States a power equal to that of New York; and, in a contingency under the Constitution, an equal power in the elections of President and Vice President of the United States. In all the independent powers of the Senate, the treaty-making power, the trial of impeachments, the confirmation of ambassadors, judges of the Supreme Court, and other important public officers, these small communities would have a perfect equality of suffrage with the most populous States of the Union. In those other vast powers of the Senate, too, which it exercises as a co-equal branch of Congress, such as upon questions of war, levying and collecting taxes, regulating commerce with foreign nations and between the States, raising and supporting armies, &c., &c., they would hold an equal check upon the large and populous States representing the masses of the people. Their introduction, as a balance of power, might, therefore, not only be made to control presidential elections, but the very destinies of the American Union.

Would this be just to the larger States, or to the bulk of the American people? Would it be safe to the Government, to the integrity and duration of the Union itself? How long would it be before party politicians, holding temporary ascendancy in the Government, would be tempted to bring in new States, regardless of population, merely as a balance of power to enable them to control the Government? How long before this would bring retaliation, in a more reckless spirit, and where and when would such warfare terminate, once begun? The undersigned submits whether the highest considerations of patriotism do not demand of us to pause before taking a step fraught with dangers of such magnitude to the Government. Now is the time to arrest this tendency. No temporary considerations of expediency should tempt us to depart from the safe, just, rational usage of those who have gone before us. As to Oregon, if her population is rapidly increasing, she will soon be prepared for admission. Until then she can well afford to wait.

It has been said that we are under obligation to admit Oregon, even with a population of sixty thousand; because, as is alleged in the act organizing the Territory, the ordinance of 1787 was extended to Oregon, which ordinance provided, with reference to States to be carved out of the then "territory northwest of the river Ohio," that, whenever they attained a population of sixty thousand free inhabitants, they should be entitled to admission. This argument is clearly founded in error. No such obligation rests upon Congress, as the undersigned will now proceed to show.

The fourteenth section of the act organizing the Territory of Oregon provides "that the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory on the 13th day of July, 1787."

This is the provision relied upon. But, by turning to the ordinance of 1787, it will be found that the "articles of com-

part" referred to are of two kinds, not only those securing rights, privileges, and advantages to "the people of the territory," but those securing rights, privileges, and advantages to "the States in the said territory," and that in the latter is to be found the provision as to "sixty thousand" inhabitants, while the language of the organic act of Oregon as to the rights granted and secured "to the people of the territory" does not include the latter, or articles of compact with "the States."

The "articles of compact" are six in number; the first three and the sixth relating strictly and exclusively to the rights of "the people of the territory;" the fourth relating both to the rights of the people and of "the States" to be carved out of the territory, and the fifth relating alone to the States to be so formed, which last is the one referring to the terms of admission, and is in the following words, to wit:

"ART. 5. There shall be formed in said territory not less than three nor more than five States; and the boundaries of the States, so soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western States in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash rivers, a direct line drawn from the Wabash and Port Vincent due north to the territorial line between the United States and Canada, and by the said territorial line to the Lake of the Woods and Mississippi. The middle States shall be bounded by the said direct line, the Wabash from Port Vincent to the Ohio, by the Ohio by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern States shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however,* and it is further understood and declared, that the boundary of these three States shall be subject so far as beathered that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States in all respects whatever: *Provided,* the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and, so far as can be consistent with the general interests of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand."

Now, this article was simply an "article of compact between the original States" and "the States in the said territory"—States located, specifically laid off, and described. It was wholly distinct from the articles of compact with the people of the territory, which secured to them the important "rights, privileges, and advantages" of "life," "liberty," "property," "religious worship," "the writ of *habeas corpus*," "jury trial," and all other rights commonly incorporated into the several constitutions of the States of the Union. The language of the Oregon act—"the rights, privileges, and advantages granted and secured to the people of the territory northwest of the river Ohio"—manifestly related to these, and not to the compact with the "States" carved out of said territory, which simply laid off their boundaries, and guaranteed to them admission into the Union upon the acquisition of sixty thousand inhabitants. To assume otherwise would involve us in inexplicable difficulty; to assume that any part of this fifth section is extended to Oregon would bind us to assume that the whole of it is; that is, that "there should be formed in the said Territory of Oregon not less than three nor more than five States," and then following, as a consequence, all the details as to boundaries, with their several specifications, touching the Miami, the Wabash, the Ohio, the Mississippi, &c., which would be supremely ridiculous. The undersigned will not, however, further pursue this branch of the argument.

There is a single point in the constitution of Oregon, against which he feels it his duty to enter his solemn protest. He alludes to the clause allowing unnaturalized aliens to vote for members of the Legislature. He regards this clause as violative of a fundamental principle of the Constitution of the United States. It cannot be doubted that such alien electors are thereby to be regarded as at once introduced as a component part of the sovereign power controlling the Federal Government. They thereby become, according to all practical usage, electors of Representatives in Congress, electors of those who choose United States Senators, and hold the power to determine the electors of President and Vice President of the United States. Thus, to the body of aliens so introduced into the body politic, is given a direct or indirect power of control over every department of the Federal Government. This, he respectfully but earnestly submits, is subversive of the very foundation idea of the Government itself.

The Constitution of the United States was established by the people or citizens of the United States for their own benefit, and that of those who are to come after them, and not for the benefit of unnaturalized foreigners owing no allegiance to the Government, and not bound to defend it. It was ratified by the States, and they are bound to observe and respect its principles. The first clause in the Constitution is the following declaration:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." The undersigned would call attention to the words, "the people." The Supreme Court, in the *Dred Scott* decision, interpreting this clause of the Constitution, expressly declares:

"The words, 'the people of the United States' and 'citizens,' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government, through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this people and a constituent member of this sovereignty."

That is, the Constitution, where it says "the people," means "the citizens," and that "every citizen" is a "constituent member of the body politic," who "form the sovereignty," "hold the power, and conduct the Government, through their representatives." But does this exclude "unnaturalized foreigners?" Unquestionably it does. The Court continues:

"The Constitution has conferred on Congress the right to establish a uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so. Consequently, no State, since the adoption of the Constitution, can, by naturalizing an alien, invest him with the rights and privileges secured to a citizen of a State under the Federal Government," &c.

Again, says the court:

"The word 'citizen' excludes unnaturalized foreigners, the latter forming no part of the sovereignty, owing it no allegiance, and are, therefore, under no obligations to defend it."

The undersigned believes with the Supreme Court, that the citizens of the United States are the body politic, "the sovereignty," and that "unnaturalized foreigners," who form no part of the sovereignty, owe it no allegiance, and are under no obligations to defend it, cannot possibly be admitted to "hold the power and conduct the Government through their Representatives" without violence to the Constitution.

He believes, with John C. Calhoun, that "alien" and "citizen" are correlative terms, and stand in contradistinction to each other; that "the effect of naturalization is to remove alienage;" that "to remove alienage is simply to put the foreigner in the condition of the native-born;" that "whatever difference of opinion there may be as to what other rights appertain to a citizen, all must, at least, agree that he has the right of petition, and also to claim the protection of his Government. These belong to him as a member of the body politic, and the possession of them is what separates citizens of the lowest condition from aliens and slaves. To suppose that a State can make an alien a citizen of the State, or, to present the question more specifically, can confer on him the right of voting, would involve the absurdity of giving him a direct and immediate control over the action of the General Government, from which he has no right to claim the protection, and to which he has no right to present a petition."—(See speech in Senate, April 2, 1836.)

It will be seen that Mr. Calhoun held that the "right of voting" appertains to citizenship. The Supreme Court expressed the same sentiment in other words—that is, that the citizens form the sovereignty, hold the power, and conduct the Government. For the right of voting is the power to "conduct the Government." Mr. Jefferson said "a republic" is "a government by its citizens in mass," (see letter to John Taylor); and again, that "the true foundation of republican government is the equal right of every citizen in his person and property, and in their management." (See letter to Mr. Kercheval.) These are but various forms for expressing the same fundamental principle. So general has become this concurrence of opinion among the most accredited expounders of the Constitution, that Webster, in his dictionary, defines a "citizen" to be, "in the United States, a person, native or naturalized, who has the privilege of exercising the elective franchise, or the qualifications which enable him to vote for rulers and to purchase and hold real estate;" elsewhere, he says, "the right to vote for Governors, Senators, and Representatives, is a franchise enjoyed by citizens, and not belonging to aliens." Mr. Madison said, (see *The Federalist*, p. 218): "The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in the Constitution." And this they accordingly did in the second section of the first article, as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Here the words "the people" of the several States are, as the Supreme Court has declared, equivalent to "the citizens" of the several States, and therefore unquestionably exclude all but citizens. The word "qualifications" in the last clause of the section excludes even a portion of the citizens, such portion as may be excluded for want of a freehold or other "qualification requisite" in the several States. In some of them, at the time the Constitution was framed, all citizens not possessing a "freehold" were excluded, while in others other qualifications were requisite for electors of the most numerous branch of the Legislature. In some all citizens were allowed to vote; in none, however, was the right granted to unnaturalized foreigners. Such a thought as allowing aliens to take part in the election of members of Congress never seems to have occurred to the convention. The word "qualifications" was unquestionably intended to limit, to restrict, to confine the body of voters to such portion of the citizens as were allowed to vote in the several States, while the words "the people of the several States" absolutely excluded all others, because the aliens were "no part of the sovereignty, owing it no allegiance, and under no obligations to defend it."

Upon this point, fortunately, we are not left to conjecture. The whole debate in convention on the adoption of this section of the Constitution is before us, and it throws a flood of light upon this question. Here is its substance. Gouverneur Morris moved to strike out of this section the clause relating to "qualifications," and to insert instead none but "freeholders" should vote. The debate then turned wholly upon this precise issue. Mr. Wilson opposed the motion of Mr. Morris on the ground that it would be "hard and disagreeable to exclude from voting" those who vote for representatives in the State Legislatures. Mr. Ellsworth said "the people will not readily subscribe to the national Constitution if it should subject them to be disfranchised." Colonel Mason said "eight or nine States have extended the right of suffrage beyond freeholders. What will the people there say if they should be disfranchised?" Mr. Butler "opposed abridgment." Mr. Dickinson sup-

ported the amendment, advocating "restriction of the right" of suffrage to "freeholders." Mr. Madison said "the right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the Legislature." Whether the constitutional qualification ought to be a freehold, would with him depend much on the reception such a change would meet with by the people, &c. In several of the States a freehold was now the qualification. Dr. Franklin was opposed to "the elected narrowing down the limits of the electors." Mr. Mercer objected to the footing on which the qualification was put. Mr. Rutledge opposed "the idea of restraining the right of suffrage to the freeholders."

Thus the whole body of debaters saw in the word "qualification" nothing but restriction, limitation, narrowing the limits of the electors. The final conclusion was to narrow the limits only where the States themselves had expressly done so—that is, everywhere to let those citizens vote for Representatives in Congress who were permitted to vote for members of the most numerous branch of the State Legislature. But the idea of letting aliens vote is not only excluded absolutely by the first clause of the section confining the right to the "people" or citizens, but from the whole tenor of the debate it is manifest that it did not enter the brain of any solitary member of the convention.

The undersigned does not mean to assert that Congress can look into the constitution of a State asking for admission, further than to see that it is republican, and not in conflict with that of the United States, or that the General Government can regulate the right of suffrage in the States. Far from it. It is the right of every State to determine who of its own citizens shall vote for every office; and in regard to offices strictly municipal, the States may, constitutionally, if they choose, permit aliens to vote. But whilst the States may confer upon aliens rights of citizenship in matters pertaining exclusively to the State, they cannot constitute the *status* of citizenship, they cannot convert aliens into citizens, that power having been conferred by the Constitution upon Congress alone, and they cannot, therefore, give to aliens the rights of citizenship in matters pertaining to the Federal Government. But to give to aliens the right to vote for members of the State Legislature, as is the case in the Oregon constitution, gives them incidentally a power of control over every department of the General Government, and therefore it is our duty to resist this innovation upon the rights of the General Government at the very threshold.

As the people framed and the States ratified the General Government as it is constituted, they are bound by every consideration of good faith to stand by it in its letter and spirit. Whilst the rights of the States as they have been reserved should be sedulously maintained, those rights which have been conceded to the General Government should not be ruthlessly ignored. Especially is this true with regard to those elemental principles upon which rests its self-preservation. The General Government stands between us and all foreign invasion or invasion. It was established by the citizens of the United States for their own benefit, and the benefit of those who are to become citizens by birth right or naturalization. In all elective governments, in all ages, from the time of the Grecian republics down to our own time, the right of suffrage has been held to belong to none but citizens. This fundamental principle of self-preservation having been fully granted to our General Government, it is unwise and unsafe to ignore it, and give thoughtlessly the destinies of such a Government into the hands of those who "owe it no allegiance," have "no right to claim its protection," or even to present to it "a petition."

When a State has once been admitted into the Union, with such provision as that pointed out in the Oregon constitution, the undersigned would not counsel coercion by the Federal Government to bring about a change. But when a Territory asks to put on the garb of State sovereignty and to be admitted into the Union, is, in his judgment, the precise point of time at which to make this issue. Such proposed State should be required to conform, to use the language of Mr. Madison, to the "fundamental articles of republican government," particularly that great first article which regards a "republic," to use the language of Mr. Jefferson, as "a Government by its citizens in mass." In this particular the Oregon constitution is not only not "republican," but is in direct conflict with the Constitution of the United States. For this and the foregoing reasons the undersigned is constrained to withhold his assent from the bill admitting Oregon into the Union.

F. K. ZOLLICOFFER.]

Mr. COMINS. When, yesterday, the debate commenced on the admission of Oregon, it was not my intention to participate in it. And now, if the House will give me its attention, I will not occupy more than fifteen minutes of its time.

At the opening of the Thirty-Fourth Congress three embryo States were about to emerge from their provincial condition and become members of the Confederacy of the United States. At that time there was scarcely a man in the section of the country which I, in part, have the honor to represent, who was not ready and eager to bid welcome to Minnesota, Kansas, and Oregon.

Minnesota has been admitted. The history of Kansas is familiar to the world. The repeal of the Missouri compromise comprises its first chapter. A compromise which was never approved by northern men; those who voted for its passage, from the free States, voted for it to die. It was acquiesced in to prevent discord, and as promotive of union and harmony. Under the plausible pretense of popular sovereignty, it was repealed to gratify the personal and political ambition of men. Sir, paradoxical as it may seem, the same fatality which attended those who voted for its pas-

sage, will be traced in the future history of those who labored for its repeal.

However this may be, the storm in Kansas has passed away; and those who have been beaten, as well as those who have triumphed, can enjoy the serenity of the sky. The Republican triumph in that Territory comes to us as the voice of that civil revolution which contains a germ from which is to spring a life, and a light, for the future guidance of our country's destiny. Freedom in Kansas has triumphed. The time and manner of her admission into the Union is with herself. We now come to Oregon.

Oregon is comparatively an old Territory. She is to some extent, I believe to a very great extent, settled by New England people. Massachusetts men and Massachusetts women were among its earliest settlers. The blood of those whose memory is dear to me flowed in the veins of those who first broke its soil and planted its fields. Her fortunes have been watched with the greatest solicitude by our people. In prosperity and in adversity, she has been the object of our regard and watchful care. She has struggled onward and onward, in moderate but substantial prosperity. She is now at the door of the Union. Shall we close it upon her? Not by my vote. Shall we repel her? shall we cast her off? or shall we bid her welcome? Sir, my mind is made up; with all my heart, I bid her come in. There are provisions in her constitution which, were I to vote upon them, could never receive my sanction. But I do not regard myself as responsible, in the vote which I give for her admission, for each and every item in her constitution. I vote for her admission upon general principles. Her constitution is republican in form; and slavery is excluded from her territory forever.

Sir, I regret with sadness; the people of Oregon have deemed it expedient to adopt the article they have relative to free negroes; but I must regard it as but temporary and inoperative. Candor, however, compels me to say, that it is but in accordance with the spirit which prevails throughout the West towards free blacks; and is significant that the free, as well as the bonded negro, is to be the cause of much future agitation. In Massachusetts, thank God, all men are regarded equal, and entitled to equal rights. I find no State west of New York ready to grant full rights and privileges of citizenship to free blacks; therefore, it would be inconsistent to reject Oregon for this clause in her constitution.

I am also entirely opposed to that provision in her constitution relative to alien suffrage, and will never sanction, by my vote, the principle involved in it; but this is a matter which, under the present Constitution and laws of the country, is entirely with the people of the States. I have made my record on these questions on the Journals of this House, and shall do it again, whenever the question shall arise.

Mr. Speaker, Oregon must, at no remote day, be admitted as a State. I am in favor of her admission to-day. If admitted now, she comes under the bright sunshine of peace. No internal feuds reign there. The canvass for her constitutional convention was conducted as quietly and peacefully as the ordinary elections in the States. In view of the scenes which have transpired in other Territories, and which have been so often and so graphically portrayed by members of this House, and by none with more eloquence and power than by the honorable gentleman from Pennsylvania, [Mr. Grow;] I say, in view of these things, and with the blood of our brothers yet moist, shed in territorial strifes and contentions, who upon this floor is willing to take the responsibility of a postponement of this question? If we delay her admission, no man can foresee what intervening circumstances may occur to embarrass and embitter future proceedings. Others may take this responsibility, I will not.

Now as to her population. I will not undertake to say how large her population is; two years ago, the gentleman from Pennsylvania stated it to be ninety thousand. He gave me yesterday, as his authority, the honorable Delegate from Oregon. The honorable Delegate from Oregon has assured us, upon this floor to-day, that her population is ninety to one hundred thousand, and he is my authority. If he was good authority two years ago, he is good authority now. I am

not aware of anything in his career, during the past two years, to impeach his integrity.

A few words as to enabling acts and the English restriction. I am indifferent as to enabling acts, and think them altogether unnecessary. I regard the English restriction, so called, of no consequence; I shall most cheerfully vote for its repeal. It has served a good purpose; it has served to cast odium upon its authors, and help on the cause of freedom everywhere.

In my judgment, you may adopt as many resolutions as you will, as the basis upon which new States shall hereafter be admitted into the Union, and each new State will be admitted independent of such resolution. The Thirty-Fifth Congress may be of the opinion that ninety-three thousand four hundred and twenty inhabitants shall be the basis as to population; and the Thirty-Sixth Congress will repeal or disregard it. I do not say this is right; but it is in the nature of things, and in accordance with the history of the country.

The Constitution of the United States avoided specifying the mode by which new States may be admitted into the Union: leaving the form and manner altogether to the discretion of Congress. As it was the wisdom of the framers of the Constitution to leave this matter to Congress, it seems to me presumption for one Congress to lay down a basis upon which a succeeding Congress shall act. As I am ready to admit Kansas with a free and republican constitution, such as her people desire, and may adopt, so am I now ready to vote for the admission of Oregon.

Mr. DAWES obtained the floor.

Mr. STANTON. Before the gentleman proceeds, I desire to suggest that there are a great number of gentlemen who wish to express their views upon this question, and that they will not be able to do so unless the time of each member is limited. I ask, by unanimous consent, that the time of each member be limited, hereafter, to thirty minutes.

No objection being made, it was so ordered.

Mr. DAWES. I have been unable to coincide with the views of my colleague, [Mr. COMINS,] who has just taken his seat, and I am compelled to vote against the admission of Oregon under the constitution which she brings here in her application, and I desire briefly, to assign a few reasons for that vote. The question of the admission of a new State into our Confederacy, is addressed to the largest discretion of Congress. The Constitution does not command us to admit new States. It simply authorizes the exercise of that power, and leaves to each legislator the largest exercise of his discretion, unburdened by a single obligation, and untrammelled save by a single limitation. There may be, and doubtless often are, considerations which go to modify and to some extent to control that discretion. A large and increasing population, stable and permanent in its character, may have induced an invitation in advance, in the form of an enabling act. Civil commotion may have so disturbed the order of things in a Territory, or the territorial government may have so failed to discharge its proper functions, or to render itself acceptable to the people, that one may feel constrained, other things being consistent, to cast a vote for the admission of a Territory as a State. But in the case of Oregon, I know of no such consideration.

So far as the amount of population is concerned, and so far as we have any official information, there are, in my opinion, very few more than fifty or sixty thousand inhabitants in that Territory. I would as soon vote for her admission into this Union, with sixty thousand as with any other number, if the circumstances which surround her territorial existence and position are such as to justify it. I make no objection here that she does not come under the enabling act. Other things being equal, I would just as soon vote for her admission here, without, as with an enabling act, if she came here, with a constitution acceptable to her people and republican in principle. No civil commotion exists in all her borders; she is at peace, she is slowly and gradually increasing in population, and coming forth by degrees from the chrysalis of an infant Territory and clothing herself with the maturity of a State.

I feel, under the circumstances, perfectly free to examine her application, and to weigh not only all the arguments in favor of her admission, but all objections which lie against it. My objections

to voting for her admission lie in her constitution itself. I cannot agree with my colleague [Mr. COMINS] that her constitution is Republican in form. I understand that phraseology to mean something more than mere form. I understand it to be my duty to look into that constitution and see whether it is Republican in principle. One portion of that constitution, most objectionable in my mind, I send to the Clerk's desk, that they may be read together. They have often been alluded to in this debate, but not too often; for more than one reading is necessary in order to learn the full scope and meaning of those several propositions.

The Clerk read as follows:

"And every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law."

"No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal, by public officers, of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein."

"No Chinaman, not a resident of this State at the time of the adoption of this Constitution, shall ever hold any real estate or mining claim, or work any mining claim therein."

"The Legislative Assembly shall provide by law, in the most effective manner, for carrying out the above provision."

"No negro, Chinaman, or mulatto, shall have the right of suffrage."

"And the Legislative Assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States."

Mr. DAWES. I am not to be driven from the position of opposition to this constitution because of the charge made against this side of the House—of opposition to the admission of a free State, for the reason that it is Democratic in its political character. The participation I had last session in bringing Minnesota upon this floor, has given evidence that I will admit a free State, whatever may be the political character of that State. I refer to the record of the Thirty-Fourth Congress, where I find that my colleague [Mr. COMINS] voted against the enabling act for the admission of a free State into the Union, because of some, to him, valid objections to that act. In the vote on the enabling act for the admission of Minnesota, I find my colleague's name recorded against it; and, now, strengthened by his example, I make bold, here, to raise my voice in opposition to the admission of Oregon, for reasons found in her constitution. Sir, the first of the articles read at the Clerk's desk, I do not propose, in the limited time I have, to dwell much upon. It is an objection, in my mind, to the admission of Oregon, and a departure from the true meaning of the Constitution, which, in my judgment, was never intended to permit any but citizens to exercise the elective franchise. The second is, in my opinion, as plainly and as palpably a violation of the Constitution of the United States as any provision capable of being drafted by man. I hold myself responsible upon this floor, if, by my vote, I breathe the breath of life into that constitution, just as much as if it were embodied in a bill before Congress, and by my vote that was made a law. Without the vote of a majority upon this floor, that constitution falls still-born; by the vote of a majority, it becomes the organic law of the Territory of Oregon. I am not able, whatever may be the ability of others upon this floor, to divest myself of the responsibility of voting for that which, in my conscience, I believe to be unconstitutional. That provision of the constitution which excludes free people of color from the Territory, is, in my opinion, as I have said, clearly unconstitutional:

"No free negro or mulatto not residing in this State at the time of the adoption of this constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein."

Sir, that cannot be republican in this Confederacy of States, which cannot be adopted and carried out in practice under the Constitution of all the States. One State of this Union cannot arrogate to itself prerogatives, the exercise of which cannot be assumed by all the States of this Union. If the State of Oregon has the right to drive from

its borders all free people of color; every other State has the same right, and we might as well here enact a law to drive every one of them into the broad ocean, as to authorize by our vote here the State of Oregon to drive them from the Territory. It is unconstitutional under that provision of the Constitution of the United States which guarantees to citizens of each State all the privileges and immunities of citizens in the several States; and in maintenance of that doctrine, I need not go further than the Dred Scott decision. That decision, which struck more fatal blows at the rights of men than ever before, in the history of the Government, fell upon innocent and unoffending heads, is not broad enough to take this clause of the Oregon constitution out of conflict with that of the United States. Here is the doctrine laid down by Chief Justice Taney, in the opinion of the court, when he defines what that clause in the Constitution of the United States guarantees to the citizen of one State when he goes into another:

"But, so far as mere rights of person are concerned, the provision in question is confined to citizens of a State who are temporarily in another State without taking up their residence there. It gives them no political rights in the State, as to voting, or holding office, or in any other respect. For a citizen of one State has no right to participate in the government of another. But, if he ranks as a citizen in the State to which he belongs, within the meaning of the Constitution of the United States, then, whenever he goes into another State, the Constitution clothes him, as to the rights of person, with all the privileges and immunities which belong to citizens of the State. And if persons of the African race are citizens of a State, and of the United States, they would be entitled to all of these privileges and immunities in every State, and the State could not restrict them; for they would hold these privileges and immunities under the paramount authority of the Federal Government, and its courts would be bound to maintain and enforce them, the constitution and laws of the State to the contrary, notwithstanding. And if the States could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be unmeaning, and could have no operation; and would give no rights to the citizen when in another State. He would have none but what the State itself chose to allow him. This is evidently not the construction or meaning of the clause in question. It guarantees rights to the citizen, and the State cannot withhold them."

Now, I think no man will for a moment contend that if the classes of persons described in this section of the Oregon constitution shall be included in this idea of a citizen, then according to the Constitution, as expounded in the Dred Scott decision itself, this provision which attempts, not only to drive them from its border, but to prevent their holding property, making contracts, suing in the courts, or even eating the bread of life within her borders, does violate that provision of the Constitution to which I have referred. This same opinion defines who are citizens of the United States; and to whom these rights are guaranteed. I ask the House to listen to that definition, and then I will show the House that that definition applies to a large class of my own constituents, and the constituents of my colleague, [Mr. COMINS,] who has just taken his seat, and who represents a commercial city in which, because of their employment as seamen, more than in other sections of our State, do they come in conflict with this provision. Chief Justice Taney says:

"It is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterwards by birthright or otherwise become members, according to the provisions of the Constitution and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen rights and privileges outside of his State which he did not before possess, and placed him in every other State upon a perfect equality with its own citizens as to rights of person and rights of property; it made him a citizen of the United States."

Now, sir, in respect to my own State. In 1780, she adopted her present constitution; before which the shackles fell from the limbs of every slave within her borders, and he stood forth clothed with all the privileges, rights, and immunities of a citizen. The constitution of Massachusetts, in the rights, privileges, and immunities of the citizen, is no more a respecter of persons than is the God her people worship. From 1780 until 1789, when the Constitution of the United States was adopted, every colored man who lived

in that community was just as much a citizen as every white man. And the Chief Justice, in this opinion, says that he and his posterity are to-day citizens of the United States, and have all the rights and privileges and immunities in the State of Oregon that every citizen of that State has. I cannot understand, sir, how a member from my own State, in the honest discharge of his duty, as honest a discharge of it as my own, can come to the conclusion that it is his duty, by his vote, to breathe the breath of life into a provision of a constitution that would disfranchise a large portion of the people of Massachusetts. I desire to call up, in the recollection of my colleague, the efforts Massachusetts has made heretofore to test the rights of her citizens to the privileges and immunities of citizenship in other States. I desire to have it remembered—I do not intend ever to forget it—that Massachusetts has utterly failed to have the question tried in the highest tribunal of the country, to know whether or not there is any force and effect in this provision of the Constitution as expounded, even in this latter day, by the Supreme Court of the United States. I, for one, do not intend to forget the indignities heaped upon her, in her struggle to secure to her citizens their rights under this clause. Sir, I desire to call attention to the phraseology of this provision; for there seems to be a studied malignity in this phraseology that I cannot well comprehend in the constitution of a State:

"No free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall ever come, reside, or be, within this State."

They could not condescend to say "voluntarily." A citizen of my State may be drifted by stress of weather into their harbors; a whaler, with a citizen of my State, included in this provision, may be brought in there; and the humble sailor, having no command of the ship, no responsibility, and no control, may be taken in there against his will; and yet this constitution imposes a duty upon the Legislature to provide penalties to be visited upon his head. Without being aware of it, he may come within the limits of that State and incur the penalty. And furthermore, he who shall "employ" or "harbor" such person comes under the same visitation. They have not inserted "knowingly." It may be done ignorantly and innocently, and yet come within the letter of this provision.

And, sir, I do not know by what test a man may tell one of those from another class of colored persons which this provision of the constitution permits to remain there. The constitution has made no provision that they shall wear frontlets upon their brow; but whosoever, knowingly or not, innocently or designedly, whether in obedience to the Divine injunction to feed the hungry and clothe the naked, or with a design to violate the law; all alike are denounced as transgressors of the law, and each one and all come within this provision of the constitution.

Again, take the provision in reference to the Chinamen. While that provision permits one class of Chinamen to reside within that State, with all the personal rights and privileges of citizens, it disables, while it permits them to reside there, another class of Chinamen; and thus that State, which pretends to come here upon the cardinal principle of equality, builds up two classes of foreign men in that community; one with personal rights and privileges as citizens, and another disabled, with no rights to hold real estate or to exercise any of the great immunities of citizens; one class of Chinamen mere serfs, and the other clothed with all personal rights. Now, there is a provision in our treaty with China providing that the United States and China shall be heretofore at peace with each other, and with all the citizens thereof, "without exception to persons or places;" and I would like to ask gentlemen how that provision comports with the provision of the Constitution to which I have referred? I would like to know, if there were such a provision existing between us and Great Britain, and we should make an invidious distinction between different classes of her subjects, disabling upon the same soil some of them, and granting to others the personal rights of the citizen, whether we should not be called to account for it? It is an infraction of treaty stipulations, which are the supreme law of the land.

But I desire to say, sir, before I take leave of

that provision which denies to a certain class of colored persons the right to bring suits in the courts of Oregon, that it exceeds in cruelty and inhumanity any provision touching the same subject in any slave code in the United States, so far as I know. There is not a slave in a slave State who has not, under her laws, a right to maintain a suit in her courts. I believe such an inhuman provision could not stand an hour, sir, in your own State of South Carolina. Let any man bring a colored person into Oregon and claim him as a slave: if this constitution is sanctioned by our votes and made the organic law of Oregon, there is no way given among men by which he could invoke her courts to give him his freedom. It is reserved for this so-called free State to invent a method more subtle and effectual for maintaining slavery in her own borders than was ever devised south of Mason and Dixon's line. Thus it is that the most efficient instrumentalities for carrying out the great work of the slave propaganda are furnished by the North, and in the name of freedom. This is the false and hollow-hearted pretense that Oregon is a free State.

There is one other provision of this constitution which I have not alluded to, although I have already quoted it. It is as follows:

"And the Legislative Assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States."

Under this provision the African slave trade can be reopened. That is now prevented only by a law of Congress. We enact this provision by our votes in its favor, and it grants full authority to bring blacks from Africa, and to prescribe the terms and provisions upon which it may be done. I know of no way that any African, so brought, could, by the aid of the courts of Oregon, relieve himself from bondage. And, if we give this authority, no penalty can be visited upon the heads of those who participate in the traffic between Oregon and Africa.

This, sir, is not only not a republican constitution, but it is not a free constitution. It is a departure from all our ideas of a republican constitution. It makes odious distinctions among classes of men; among individuals of the same class. It ruthlessly tramples the rights of the citizen in the dust. It arrogates to itself prerogatives that cannot be exercised in common by all the States. It trenches on the guarantees of the Constitution of the United States. Sworn to support that Constitution, I cannot sanction this. I cannot be driven from my opposition because there are other provisions of this constitution which incline some in calling it a free State; or because, if I remand it back to a territorial government, under the Dred Scott decision, slavery exists there. I demand something more than a free State in name. I want the reality. If slavery exists in Oregon while a Territory, it is because the people want it; and if they want it, they will make it a slave State, in name as well as in fact, within a twelve-month, if admitted.

These are some of the reasons why I cannot vote for this bill. I speak for no individual here but myself, and for no constituency but my own. I think I know their sentiments; and should I vote for this bill, I should expect to be burned in effigy at every cross-road in my district. I do not intend to disappoint, in this respect, the just expectation of those who sent me here.

[Here the hammer fell.]

Mr. THAYER. My colleague who has just addressed the House is unable to see how an honest Representative of the State of Massachusetts can vote for the admission of Oregon. I will gratify the curiosity of my colleague, if he will listen to my argument and the reasons which I shall give in defense of my position. And, sir, I think this is a strange necessity that compels the northern Representatives upon this floor to give the reasons for their votes for the admission of another free State into this Confederacy. Sir, I shall vote for the admission of the State of Oregon without hesitation, without reluctance, and without reserve. So far as my vote and my voice can go, I would extend to her such a welcome as becomes her history, as becomes her promise for the future, and such as becomes our own high renown for justice and magnanimity—a welcome not based on contemptible political calculation, or still more contemptible partisan expediency; but such a welcome as sympathy and friendship and

patritism should extend to another new State; such, sir, as becomes the birthday of a nation. This people comes before us in accordance with the forms of law; and upon the invitation of this House; and it is too late to apply a party test upon this question. On the 19th of May last, a vote was taken in the Senate upon the admission of Oregon; and ten Republican Senators voted for her admission, while six Republican Senators only voted against her admission; and, sir, I have not heard of any attempt on the part of the six Senators who voted for the rejection of Oregon to read out of the Republican party the ten Senators who voted for her admission; and if that attempt is now to be made, we will see whether it is in the power of a minority of the people to read a majority out of the party.

But, sir, who are these people of Oregon who come here now, asking admission? They are the pilgrims of the Pacific coast. If they are fanatics upon some subjects, we can refer to the pilgrims of the Atlantic coast, who also were fanatics upon some subjects. But, sir, if the pilgrims of the Atlantic coast finally became examples to the world in all that exalts our race, may we not hope that the pilgrims of the Pacific coast may yet become worthy of our esteem? Nearly one quarter of a century ago, in my boyhood, I studied the adventures of those men, who founded upon the western shore of the American continent what are now the cities of Oregon and Astoria. These men, who were then in the vigor of their lives, are now old men—gray-haired and trembling with age. Their work of life is nearly completed; and this day they are sitting by their hearthstones, waiting to know what is to be the result of our deliberations; waiting to know whether the proud consummation to which they have aspired for the last twenty years, is now reached; and whether Oregon, which, in toil and trial, in defiance of danger and of death, and with persistence and endurance such as belong only to our race, they have brought to her present proud and prosperous condition, is now to be placed upon an equality with the original States of this Confederacy.

These are the men who have carried our institutions to the remotest boundaries of our Republic. These are the veterans of the art of peace. American valor with conquering arms has carried our flag by Monterey and Chapultepec, until it was planted upon the halls of the Montezumas. But far beyond those halls have these heroes borne the victorious arts of peace. In the Territory of Oregon they have established our free institutions. There, sir, strong and deep they have laid the foundations of a free State, and they come here, like the wise men of the East, not asking gifts, but bringing gifts; in that respect unlike our military men who expect and receive honors and rewards for their services. What do they bring? Why, sir, the trophies of their own labor, the evidences of their own worth. They present before us the cities and towns which they have founded. They present schools, churches, and workshops. They bring all, all the products of their labor, and place them upon the altar of the Union, a pledge for the common welfare and the common defense. And what are we doing here? Why, sir, quibbling about things which are comparatively unessential, and which pertain exclusively to the people of Oregon and not to us or our duties here; quibbling about points which, if New York or Massachusetts were in the place of Oregon, would secure some votes on this side against their admission. Massachusetts, which you know, sir, I never defend anywhere, even Massachusetts does not allow the negro to be enrolled in the militia of the State. These, then, are the men who come here; and what if they have some ideas and sentiments with which we do not agree? Is that a reason why we should excommunicate them, that we should have nothing hereafter to do with them?

What law of reformation is this? It is the pharisaical law of repulsion, distance, and distrust. It is not the Christian law of contact, confidence, and association. The pharisees denounced the founder of Christianity as "the friend of publicans and sinners." That class would repel all who would not agree with them to the fullest extent. Shall we pursue a similar course in relation to the people of Oregon? Is it wise to do so? Is it expedient to reject her application on such grounds?

What objections do Republicans present to this application? They say that there is not sufficient population, and they claim that it is their mission to see that the Democratic party shall recover its consistency. At whose expense? At the expense of the consistency of the Republican party. I submit that it is better for the Republican party to preserve for itself the consistency which it possesses, rather than attempt to recover for the Democratic party the consistency which they have lost.

Then, sir, in relation to this qualification of population, what is the position of the Republican party, and what has it been? This party, by its Representatives, voted for the admission of Kansas under the Topeka constitution, with less than one half of the present population of Oregon. The Republican party in the House, without one exception, so far as I know, voted for the enabling act inviting Oregon to come here, with a constitution, to be admitted as a State. I have no disposition, and there is no need, to inquire here what is the population of Oregon; for, as a Republican, I am pledged to no rule on this subject. I opposed, as did my colleague, and my friends on this side of the House, the restriction which was put upon the Territory of Kansas. We protested against it then, and protest against it now. We have no sympathy whatever with that restriction, and are ready, at any time, to give an honest vote for its repeal.

Another objection is urged against the clause in the constitution of Oregon which excludes negroes and mulattoes from that Territory; and, in addition, provides that they shall not bring any suit therein. It is said that this is in contravention of the Constitution of the United States. What if it is? I have not sworn that the people of Oregon shall obey the Constitution of the United States. I do not admit that this is in contravention of the Constitution of the United States. I do not now discuss that point. But even if it were, I have sworn myself to support the Constitution of the United States, and not that anybody else shall do so.

But, sir, this provision is no more hostile to the United States Constitution than are the laws of Indiana and Illinois which exclude free negroes and mulattoes from their boundaries. Certainly not. It is no more to exclude the suit of the man than to exclude the man himself. Is the negro less than his suit? I contend that he is greater than his suit. The greater contains the less, and the statutes of Illinois and Indiana are as unconstitutional as is the provision of the Oregon constitution. But it does seem, at the first view, that it was a wanton and unprovoked outrage upon the rights of these men who are excluded from that State. I think there is a real apology for the action of the States of Illinois and Indiana. They are in close proximity to the institution of slavery. They are under the shadow of the dying tree of slavery, and its decaying limbs are constantly threatening to fall upon their heads; and I cannot censure them for taking such means as they see fit to protect themselves from such imminent peril. I am not disposed to call into question the right or constitutionality of their action.

Is there no apology, then, for the people of Oregon? Have they committed a wanton and unprovoked outrage upon the rights of negroes and mulattoes in excluding them from that Territory? I say that there is an apology, and that it consists in this: they believed that they were obliged to choose between a free State constitution with this provision, and a slave State constitution without it. There were three parties in the Territory at the time this constitution was made and adopted. There was the free-State party, which was composed of free-State Democrats and Republicans. There was the pro-slavery party, in favor of a slave State. There was, between these two, a very considerable party, supposed to hold the balance of power, and that party I may characterize as the anti-negro party. They said that they would sooner vote for a slave State than for a free State with a constitution admitting free negroes and mulattoes. They preferred to have slaves in Oregon rather than free negroes; and it was for the purpose of securing their vote for a free State that the Republicans and free-State Democrats inserted and advocated this provision. The leading Republicans of that Territory advocated the adoption of the constitution containing this provision.

Mr. Logan, who received every Republican vote for United States Senator, advocated, on the stump, the adoption of the constitution with this clause.

What was the vote? Why, sir, this clause of the constitution had a majority of seven thousand five hundred and fifty-nine votes; while the constitution itself had a majority of only four thousand votes. The Democratic majority in the Territory, as shown in the election of a Representative to this House, was only one thousand six hundred and thirteen votes. Then it is proved by the official record, that the Republican party combined with the free-State Democratic party, to sanction and ratify this provision of the constitution which is here called in question. There is also abundant evidence, outside of the record, to satisfy any one that such is the fact. This, then, is the apology for the action of the people of Oregon on this question. What Republican, or what friend of free States, is justified, under these circumstances, in voting to exclude the people of Oregon from this Confederacy on account of this provision, which is only an expedient, and not a thing for practical use? It is very easy, at this distance, to censure the people of Oregon, and to pronounce judgment against them; but such judgment may be neither wise nor just.

"Then at the balance let's be mute,
We never can adjust it;
What's done we partly may compute,
But know not what's resisted."

But, sir, there is another objection urged from certain quarters, with great pertinacity. I mean the objection to the suffrage of aliens. The constitution of Oregon, in respect to alien suffrage, is certainly more stringent than the law of some of the States of the Union, and less stringent than that of others. It is the same as the territorial law has been during the last ten years. It requires a residence of twelve months in the United States, and of six months in Oregon. It requires that the sworn declaration of an intention to become a citizen of the United States shall have been on file at least one year. What was the inducement for that encouragement of aliens? The wages of labor are now, and have been, in Oregon, double what they are on the Atlantic coast; and I ask, would it be expedient or wise for Oregon to drive away from her borders the emigration from Europe, on which she has to rely for developing the resources of the country? Certainly not. Such a policy would have been disastrous in the extreme to the young State. It was wise and prudent, therefore, for Oregon to invite and encourage that immigration which she so much needs, to develop her great resources, and to secure for her the products of her natural wealth.

These, sir, are among the plausible and ostensible objections that have been urged on this side of the House against the admission of Oregon. There is yet another argument: that Kansas has been excluded from the Union by the action of the Democratic party; and that, therefore, Republicans ought to exclude Oregon. The argument amounts to this: that we should abuse Oregon because the Democratic party have abused Kansas. Now I, for one, am quite content that the record of the Republicans, in respect to Kansas, should be better than the record of the Democratic party. I am quite content that the record of the Democratic party, in respect to Kansas, should be just what it is; and I do not think it is possible very much to improve the Republican record, or to impair the Democratic record. Are we to sacrifice our own political principles and advantages for the sake of compelling the Democratic party to a consistency of action? Are we bound, as a party, to sacrifice our own consistency in doing so? Certainly not. I think the Republican party has another, and, to my mind, a less difficult mission to perform; and that is, to preserve its own consistency.

These are some of the palpable objections that have been urged on this floor. I come now to some for which I thank the gentleman from Indiana, [Mr. HUGHES.] He has presented to the House some secret objections which the Republicans are said to have to the admission of Oregon. The first is, that the Republicans are opposed to the admission of Oregon because it is a Democratic State. Now, sir, does not the gentleman from Indiana understand that the Republican party is not so devoid of sagacity as to fail to see

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that to reject a young State for the reason that it is Democratic would make it Democratic forever? Does the gentleman from Indiana find anything in the history of the Republican party which justifies such conviction of its stupidity, as would lead him to say that the Republican party, as a party, is opposed to the admission of a free State because her people had chosen such politics as seemed to them best? Does he not see that sagacious Republicans, finding that the Republican party in Oregon is now in a minority of only a few hundred votes, understand that if Oregon be admitted by their action, and were thus set free from the influence of Executive patronage, she would very soon become a Republican State?

But further than that: the gentleman brings up another secret reason why the Republicans would oppose the admission of Oregon. That secret reason is, that, in case of the failure of the people to elect a President, and in case of that election coming to this House, there will be a vote from Oregon against the Republican candidate, which may procure his defeat. Now, does not the gentleman from Indiana understand that any such position of the Republican party would secure its defeat? that if it were stupid enough to take a position against the admission of free States, because their constitutions were not universally approved, it would require more than the vote of one State, either in Congress or out of Congress, to help or harm the prospects of the party? I thank the gentleman from Indiana for the secret reasons which he has given and which I have thus far been enabled to prove too absurd and impolitic to influence the action of the Republican party.

There are certain principles which, in my opinion, should govern the House on a question of the admission of a State. First, the constitution must be republican in form. Second, there must be sufficient population; what number may be sufficient, must be left to the discretion of Congress. Third, the proposed admission must be shown to be for the benefit of the contracting parties; to be best for the State applying, to be best for the Confederacy. Let us look at these principles and see how they should affect the vote on the admission of Oregon. First, then, is the constitution presented by Oregon republican in form?

I will here send to the Clerk's desk a quotation from an authority which is justly and generally respected by Republicans—an extract from a speech of Senator Seward, made in the Senate of the United States last May upon this very question.

The Clerk read, as follows:

"I think there is nobody who doubts that the people of Oregon are to day ready, desirous, willing, to come in. They have made a constitution which is acceptable to themselves, and a constitution which however it may be criticised here, after all complies substantially with every requirement which the Congress of the United States, or any considerable portion of either House of Congress has ever insisted on in regard to any State.

"It seems to me, therefore, to be trifling with the State of Oregon, trifling with the people of that community, and to be unnecessary, and calculated to produce an unfavorable impression on the public mind, in regard to the consistency of the policy which we pursue in admitting States into the Union, to delay or deny this application. For one, sir, I think that the sooner a Territory emerges from its provincial condition, the better; the sooner the people are left to manage their own affairs and are admitted to participation in the responsibilities of the Government, the stronger and the more vigorous the States which those people form will be. I trust, therefore, that the question will be taken, and that the State may be admitted without further delay."

Mr. THAYER. So much, then, in relation to the first principle which should govern our action in the admission of States. And what, sir, concerning the other? How will it affect this present Confederacy of States to admit the Territory of Oregon? Why, gentleman talk here as if we were discussing the question of admitting some new and unheard of race of monsters and cannibals into the Union! Sir, is not this injustice to the people of Oregon? Will they contaminate this Confederacy? Just as much as their mountain streams will contaminate the Pacific ocean. I tell you, they may be inferior to us in education,

in refinement, and in etiquette; they may not appear as well in the drawing-room as some of our eastern exquisites; but in the sturdy virtues of honesty, of fidelity, of industry, and of endurance, they are above the average of the people of this Confederacy. I regret that the gentleman from Maine the other day deemed it expedient to call the pioneers of our national progress "interlopers, runaways, and outlaws." I affirm, concerning American citizens in any Territory of the United States, and in any new State of this Confederacy, that they are above the average of the population of the old States, in all that makes up manly and virtuous character. They have my sympathy; and never will I oppress them by my vote or my voice.

If, then, there is great gain to the Confederacy, is it not also better for the people of Oregon themselves that she should be admitted into the Union? Is it better that they should remain under the tuition of this Federal Government—a non-resident Government—or that they should govern themselves? Why, sir, to contend against the advantages of self-government would seem to me unsuited to this place, and not to comport well with the history of this Republic; for the origin of this nation was a protest against a non-resident Government, and our history should be. For one, sir, I have no faith in that kind of government being exercised over Anglo-Saxons anywhere, and least of all have I faith in that kind of government being exercised by republics anywhere; and therefore, to relieve a portion of our people from what I consider a curse—the curse of a non-resident domination—I will cheerfully vote for the admission of Oregon. Sir, this non-resident control is a relic as it was an invention of ancient tyranny. It has come down from the history of the old Romans; who had pro-consuls in Judea, in Spain, in Gaul, in Germany, and in Britain; and England has copied their example, and sent governors and governors-general to India, and to this continent also. But we protested successfully against that kind of government by the war of the Revolution; and I look forward to the time when every portion of our national domain shall be free from it; when we shall have no provincial dependencies whatever; when we shall have nothing but a combination of equal and sovereign republics. Then, sir, we may bring the duties of this Government to a position where they will be, as was well said last session by the gentleman from Alabama, [Mr. CURRY,] "few and simple," as they should be.

It is in accordance with this view that I shall oppose anything that leads to complications—that shall multiply or extend our provincial dependencies.

But, Mr. Chairman, I did wish to review the action of the minority of the Committee on Territories in relation to this question. They have reported the bill of the majority with an additional provision repealing the clause of the English bill restricting the right of Kansas to come into the Union with a less population than ninety-three thousand. Now, sir, I had supposed that the gentlemen of the minority of the committee would have voted for the bill which they have reported, but speeches have been made by two of the gentlemen who signed that report, in which they went off on an altogether different line of reasoning. They have talked about the unconstitutionality of the constitution of Oregon, and about its invasions of human rights, without confining themselves at all to the argument of their minority report. And now I wish to know for what consideration the signers of that report are willing to ignore all these revered human rights, invaded and ruined by the constitution of Oregon? I have their reply in this report. On one condition they are willing to sanction all these outrages, and that condition is that a certain act concerning Kansas shall be repealed. If the report is in good faith, there can be no other conclusion.

[Here the hammer fell.]

Mr. HILL. Mr. Speaker, I am rejoiced to find that the discussion of the grave subject that is be-

fore the House, on this occasion, has not taken a sectional turn, nor has it assumed strictly a party complexion. The chief object that I have in view, I may say, is to define my own position in regard to the question, much more than to convince the understandings of other gentlemen as to what I may believe to be their duty, as legislators. I am glad to perceive the contrariety of opinion that exists in this body, that a particular sentiment is not confined to either side of the House; but that difference of opinion exists upon both sides, and is confined to no particular class of politicians.

It is very well known that I belong to a class that never will, so long as they are faithful to the principles they advocate, tolerate the admission of a State into this Union that permits, by its constitution alien suffrage. No, sir; I should be striking at the root of American principles whenever I yielded such a point as that. Yet, I do not propose, upon this occasion, to debate that particular question at length, because it has been descanted upon so elaborately and so ably by my friend from Tennessee, [Mr. ZOLLICOFFER,] that I will pretermit any extended expression of opinion in relation to it.

I propose, however, upon this subject, to refer gentlemen to the opinions of one of the highest intellects of the nineteenth century—a statesman of the South who, more than twenty years ago, with a sagacity that equaled that of any man in this country, foresaw the danger of extending this species of suffrage. I allude to Mr. Calhoun, and to his remarks upon the admission of Michigan, in which he spoke of the evil consequences of encouraging this violation of the spirit of American institutions.

Mr. REAGAN. Will the gentleman allow me to interrupt him at that point?

Mr. HILL. For a moment only.

Mr. REAGAN. I wish to call the attention of the gentleman, and of the House, to the fact, in relation to the position of Mr. Calhoun upon the question of the admission of Michigan, that he declared repeatedly, during the progress of that speech, as is shown by the speech itself, that he had been hurried into the debate without time to consider the question, and that accounts for the inaccuracies of expression in that speech.

Mr. HILL. I will concede that what the gentleman says is true, and the only remark I have to make upon it is, that I would like to see the gentleman himself, or any other gentleman entertaining opinions coincident with his, successfully review the speech of Mr. Calhoun, and convince me that its doctrines are erroneous. I have never seen a criticism which served to satisfy me that it was an error, and until that is done, I shall be content to square my opinions with his, and take shelter under the great Carolinian. I will here read some extracts from the speech of that distinguished statesman. They are as follows:

"I do not deem it necessary to follow my colleague and the Senator from Kentucky, in their attempt to define or describe a citizen. Nothing is more difficult than the definition, or even description, of so complex an idea; and hence all arguments resting on one definition, in such cases, almost necessarily lead to uncertainty and doubt. But though we may not be able to say, with precision, what a citizen is, we may say, with the utmost certainty, what he is not. He is not an alien. Alien and citizen are correlative terms, and stand in contradistinction to each other. They, of course, cannot coexist. They are, in fact, so opposite in their nature, that we conceive of the one but in contradistinction to the other. Thus far all must be agreed. My next step is not less certain.

"The Constitution confers on Congress the authority to pass uniform laws of naturalization. This will not be questioned; nor will it be that the effect of naturalization is to remove alienage. I am not certain that the word is a legitimate one. (Mr. Preston said, in a low tone, it was.) My colleague says it is. His authority is high on such questions, and with it I feel myself at liberty to use the word. To remove alienage is simply to put the foreigner in the condition of a native-born. To this extent the act of naturalization goes, and no further.

"The next position I assume is no less certain: that when Congress has exercised its authority, by passing a uniform law of naturalization, (as it has,) it excludes the right of exercising a similar authority on the part of the State. To suppose that the States could pass naturalization acts of their own, after Congress had passed a uniform law of naturalization, would be to make the provision of the Consti-

tution nugatory. I do not deem it necessary to dwell on this point, as I understood my colleague as acquiescing in its correctness.

"I am now prepared to decide the question which my colleague has raised. I have shown that a citizen is not an alien, and that alienage is an insuperable barrier, till removed, to citizenship; and that it can only be removed by complying with the act of Congress. It follows of course that a State cannot, of its own authority, make an alien a citizen without such compliance. To suppose it can, involves, in my opinion, a confusion of ideas which must lead to innumerable absurdities and contradictions. I propose to notice but a few."

"Whatever difference of opinion there may be as to what other rights appertain to a citizen, all must at least agree that he has the right to petition, and also to claim the protection of his Government. These belong to him as a member of the body politic; and the possession of them is what separates citizens of the lowest condition from aliens and slaves. To suppose that a State can make an alien a citizen of the State, or, to present the question more specially, can confer on him the right of voting, would involve the absurdity of giving him a direct and immediate control over the action of the General Government, from which he has no right to claim the protection, and to which he has no right to present a petition. That the full force of the absurdity may be felt, it must be borne in mind that every department of the General Government is either directly or indirectly under the control of the voters in the several States. The Constitution wisely provides that the voters for the most numerous branch of the Legislature in the several States shall vote for the members of the House of Representatives; and as the members of this body are chosen by the Legislatures of the States, and the presidential electors either by the Legislatures or voters in the several States, it follows, as I have stated, that the action of the General Government is either directly or indirectly under the control of the voters in the several States. Now, admit that a State may confer the right of voting on all aliens, and it will follow, as a necessary consequence, that we might have among our constituents persons who have not the right to claim the protection of the Government, or to present a petition to it. I would ask my colleague if he would willingly bear the relation of representative to those who could not claim his aid, as Senator, to protect them from oppression, or to present a petition through him to the Senate, praying for a redress of grievance? And yet such might be his condition on the principle for which he contends."

"But a still greater difficulty remains. Suppose a war should be declared between the United States and the country to which the alien belongs—suppose, for instance, that South Carolina should confer the right to vote on alien subjects of Great Britain residing within her limits, and that war should be declared between the two countries: what, in such event, would be the condition of that portion of our voters? They, as alien enemies, would be liable to be seized under the laws of Congress, and to have their goods confiscated, and themselves imprisoned, or sent out of the country. The principle that leads to such consequences cannot be true; and I venture nothing in asserting that Carolina, at least, will never give it her sanction. She never will assent to incorporate, as members of her body politic, those who might be placed in so degraded a condition, and so completely under the control of the General Government. But let us pass from these (as it appears to me conclusive) views, and inquire what were the objects of the Constitution in conferring on Congress the authority of passing uniform laws of naturalization—from which, if I mistake not, arguments not less conclusive may be drawn in support of the position for which I contend."

"In conferring this power, the framers of the Constitution must have had two objects in view: one to prevent competition between the States in holding out inducements for the emigration of foreigners, and the other to prevent their improper influence over the General Government, through such States as might naturalize foreigners, and could confer on them the right of exercising an elective franchise, before they could be sufficiently informed of the nature of our institutions, or were interested in their preservation. Both of these objects would be defeated, if the States may confer on aliens the right of voting and the other privileges belonging to citizens. On that supposition, it would be almost impossible to conceive what good could be obtained or evil prevented by conferring the power on Congress. The power would be perfectly nugatory. A State might hold out every improper inducement to emigration as freely as if the power did not exist; and might confer on the alien all the political rights and privileges belonging to a native-born citizen; not only to the great injury of the State, but to an improper control of the Government of the Union."

"To illustrate what I have said, suppose the dominant party in New York, finding political power about to depart from them, should, to maintain their ascendancy, extend the right of suffrage to the thousands of aliens of every language, and from every portion of the world, that annually pour into her great emporium: how deeply might the destiny of the whole Union be affected by such a measure! It might, in fact, place the control over the General Government in the hands of those who know nothing of our institutions, and are indifferent as to the interests of the country. New York gives about one sixth of the electoral votes in the choice of President and Vice President; and it is well known that her political institutions keep the State nearly equally divided into two great political parties. The addition of a few thousand votes either way might turn the scale; and the electors might, in fact, owe their election, on the supposition, to the votes of unnaturalized foreigners. The presidential election might depend on the electoral vote of the State, and a President be chosen in reality by them; that is, they might give us a king, for, under the usurpations of the present Chief Magistrate, the President is in fact a king. I ask my colleague if he would willingly yield our assent to a principle that would lead to such results, and if there be any danger on the side for which I contend, comparable to those which I have stated? I know how sincere he is in the truth of the position for which he contends, and that his opinion was founded anterior to this discussion. We have rarely differed in our views on the questions which

have come before the Senate; and I deeply regret, as I am sure he does, that we should differ on this highly-important subject."

But, sir, a grave objection which I made to the admission of Oregon is this: at the last session of Congress, it is well known by some of my colleagues, and by no one of them better than by the chairman of the Committee on Territories, [Mr. STEPHENS,] that I was by no means in love with the bill known as the English compromise. The best I could make of it, after examination, was that it was a sort of euthanasia, an easy death provided for the Democratic party, in the debilitated condition to which they had already been previously reduced. I was not disposed to thwart that party in that matter, but was willing to give them the means of transit they desired, to cut loose from the Kansas question—a question which, left to me, would never have arisen, nor assumed the perilous shape it did. I did consent, with some reluctance, upon assurances by gentlemen who had the means of knowing, that good would come of it, or at all events that peace would come to the nation; to overcome some scruples in relation to voting for the bill. Being necessarily absent at the time, I agreed to be paired off upon the final vote, because of the great feature which was incorporated in it, for the first time in the history of our legislation, of requiring a population equal to the ratio of representation for a member upon this floor. There I planted myself, and there I thought the advocates of the measure had placed themselves firmly, never to abandon it. But it seems that in this I was mistaken. Ingenious arguments are now resorted to to show that there is no deficiency in the population of Oregon; but that it is ample. We are called upon to infer, from a census taken years ago, that according to the probable increase of population there is a sufficient population, and even that it amounts to one hundred thousand. If I was convinced that such is the case, after having done what I did do, I should consider it a departure from principle in me to consent to vote for the admission of this State until the same rule was applied for the ascertainment of her population that was applied to Kansas. That is the rule that I demand for it, and with nothing else will I be content. Never will I vote for the admission of Oregon, or of any other State, no matter where located, whether in the tropics or under the North pole, unless its admission is in obedience to this rule."

I discard, as too humiliating, the idea that any gentleman is governed by considerations of political expediency in voting for or against the admission of this new State. If asked why I consented to vote for the admission of Kansas under the English bill? I answer, it was to give peace and quiet to my distracted country, and for no other reason under heaven; and until it is shown to me that Oregon is in a state of revolution and of chaos; that her citizens are cutting each others' throats; and that there is danger of involving the entire nation in civil strife, I will not vote to admit her as a State into this Union without a previous ascertainment, by a census legally taken, that her population equals that required for a member of this House."

Was no importance attached to this view of the case last session? Why was it included in the English bill? I answer, because of its correctness in principle, and because it would secure votes which could not otherwise be obtained. What did Senator Brown, of Mississippi, say in reference to this question of population? He said this:

"For myself, I am free to say, I hope the people of Kansas will, if this bill passes, adhere to their ordinance, and insist on remaining out of the Union. If they come in, they must come in under the Lecompton constitution; if they stay out, they must stay until they have the population to entitle them to one Representative in Congress. That suits me. I close in with that offer."

I subscribe to the sentiments of the Senator from Mississippi; and if Kansas were here now applying for admission, as Oregon is, without a clear and legal ascertainment that her population was equal to the ratio of representation, I put it to the gentleman from Texas, [Mr. REAGAN,] who has asked me a question, whether he would vote for her admission, unless first thus satisfied that she had the ninety-three thousand four hundred and twenty inhabitants required by the English bill?

Mr. REAGAN. I have not participated in the discussion of this question, and do not care to go

into it unless I have time to put my views upon the record fully."

Mr. HILL. If the gentleman's answer is satisfactory to himself, I make no complaint of it.

I pass on to the remarks of Senator HUNTER, of Virginia, upon this subject. He held this language:

"We maintain, as a general proposition, that the people of no Territory ought to be admitted as a State until they have population enough for one member of Congress. Does any one dispute that principle? Is it not evident upon its face? But we say in this case of Kansas—and we are sincere in it, for we said it two years ago in the bill offered by the Senator from Georgia—we will waive these considerations for the sake of the peace of the country, and in order to settle the agitating question, provided you will come in and make a final disposition of the whole matter. If, however, you refuse to come in and make a final disposition of the whole matter, the consideration falls upon which we were willing to incur the mischief of admitting a new State with an insufficient population. We can no longer attain that good. The next best thing we can do for the peace of the country is to say to her, 'you must be quiet until you have people enough to entitle you to at least one member before you enter the Union.' We thus, at last, put down these attempts at conventions, which may disturb and distract that people, and introduce questions of discord and confusion in Congress. We thus establish a sound general principle, whose justice, I think, cannot be disputed."

Mr. TOOMBS, a distinguished Senator from my own State, in his speech upon this famous English bill, referring to the importance of requiring a sufficient population, remarked as follows:

"The Senator from Illinois says that he is willing to agree to the principle of not allowing a State to be admitted until the has ninety-three thousand people, or a sufficient number for one member, according to the ratio. He voted for it, and so did I; and when, two years ago, I introduced a bill to solve this difficulty by bringing her into the Union then, I declared, from my seat here, that it was a violation of a principle. This is the general rule. I supposed the then condition of the country made Kansas an exceptional case; I put it exclusively on the ground of an exceptional case; I was really desirous of pacifying the country on this question. We have labored to do it. The Administration has labored to do it; the Democratic party has labored to do it; but a majority of the people of Kansas, it seems, or at least a large portion of them, taking their counsels from the Opposition, have, even to the extent of refusing to vote, used all the means in their power to prevent it. Well, what do we say now? 'We accept your constitution—it is your act; we give you the ordinary grant of land; but if you do not wish to come in, we remit you to the general rule'—that is all. The Senator from Illinois says that general rule is a right rule, and we ought never to depart from it. It is one from which Congress has not usually departed, and which never ought to be departed from except under extraordinary circumstances. As a general rule it is a sound one; but there may be exceptions to all rules. When I proposed to depart from it I was acting for Kansas, endeavoring to pacificate her, and also endeavoring to take this question, which was a disturbing and dangerous element, out of the politics of the United States."

I am fortified in my objections by these authorities. The same considerations operate now upon me that then justified and controlled the eminent Senators from whom I have quoted. I put my objection to the admission of Oregon upon the same ground."

A good deal has been said in relation to some obnoxious clauses in this constitution of Oregon. We observe that what is a matter of no objection to one, is very disagreeable and distasteful to another. I am free to state that, if I were a citizen of Oregon, I should most heartily agree with the interdiction from her limits of Chinamen, negroes, mulattoes, &c. I think that it is a most wholesome provision. A gentleman asks if I would shut the courts against them? This class of persons, who are not already in Oregon, have nothing to do with the courts, and cannot have. If there be persons there that are entitled to freedom, and I had it in my power to secure them their rights, I would do so; but, sir, I could never think of putting these negroes and mulattoes, &c., upon an equality with the whites. I rejoice to see a position of this sort, so conservative and so proper, taken by the people of Oregon. With a constitution so proper in that respect, I wish that it had been correct in other important particulars. I wish that it had a sufficient population, clearly shown by a census duly and lawfully taken; and that there was no clause in her constitution permitting alien suffrage. In that case, I would vote for her admission with pleasure."

But, sir, the alien suffrage clause of her constitution is as obnoxious as that contained in the Minnesota constitution. Where are we drifting, and what is to become of our ancient landmarks? Is citizenship so worthless as to go for nothing? Are aliens to be bribed to come upon our shores and receive homes on our public lands as a reward for immigration? Are they, upon their arrival, to be instantly invested with the rights of

suffrage, equal to him who was born and reared upon the soil? I trust not; I hope that the spirit which has been so rife within the past three or four years will receive a check. Indeed, sir, I am convinced that the time will yet come when the paupers and criminals cast upon us from the prisons and lazaret-houses of Europe will satisfy the deluded and mistaken people of the South that they are the antagonists of their own peculiar institutions and interests. It is not too much for me to say, as one of the South; that when you once arouse the sensitive feelings of that section, her people will rise up and assert the principles of the American party on the question of suffrage.

Mr. DAVIS, of Mississippi. The gentleman has referred to the opinion of Governor BROWN, of Mississippi, and of Senator TOOMBS, in support of his view of the subject of population. The conference bill, I find, was passed on the 30th of April; and on the 18th of May I find that Senator TOOMBS voted for the passage of the Oregon bill. So did Governor BROWN. If the quotation from their remarks upon the conference bill are worth anything, how are they to be reconciled with their votes eighteen days afterwards? Are their votes not to be reconciled upon the ground that the English conference bill was not to have a retrospective operation, and that the Oregon bill was pending in the Senate at the time of the passage of that conference bill? Was not that the view taken by those gentlemen at the time they voted for the conference bill? The conference bill and the Oregon bill are cotemporary.

Mr. HILL. I have made the extracts which were read, for the purpose of sustaining my argument; and I think that they have done so. To do themselves justice, I think the Senators ought to have voted against this measure. I do not say how they voted. The gentleman informs me that they voted for the admission of Oregon. They may satisfy themselves that they have done right and acted consistently; but they have failed to satisfy me that there was anything in the Oregon enabling act, taken in connection with the ordinance of 1787, that made it proper that they should have voted for the admission of Oregon. That point has been adverted to by my friend from Tennessee, [Mr. ZOLLICOFFER,] and he has shown where it is conclusive against them.

Mr. ZOLLICOFFER. I will ask the gentleman from Georgia if it is not probable that the distinguished gentlemen alluded to by the member from Mississippi were actuated by their desire to get rid of a great and exciting question that was disturbing the peace of the whole country, North and South?

Mr. HILL. They have so said. They admitted that it was a departure from principle, and sheltered themselves under the imperious necessities of the hour. But that necessity does not, certainly, exist in relation to Oregon. No gentleman will say that the situation of Oregon is analogous to that of Kansas; and, therefore, that a suspension of this admirable and most conservative rule, as these three Senators say it was, ought, for that reason, to be applied to her.

Sir, I am acquainted with some of the citizens of Oregon. The gentleman from Massachusetts [Mr. THAYER] said something about their character. I happen to know very few of them; but those I do know commend themselves to me very highly. Under different and proper circumstances, it would afford me great pleasure to welcome them into the councils of the nation as legislators.

I have another objection, however, to the action of this contemplated State, which does not properly apply at this particular time. It is understood that she has actually, before she has become a State; while she is yet, indeed, but a Territory *in transitu* to the condition of a State, undertaken to elect two Senators and a Representative to take their seats in Congress. That action I hold to be wrong in principle, premature, and such as ought not to be tolerated, although it is not without precedent.

As to the issues which have arisen here between gentlemen from the North, of the Republican party, in regard to the propriety or impropriety of the admission of this State, they are between them. I care not how many such issues arise on the subject of the rights of the colored population of this country; because, if left to me, they would have very few rights, except that of

serving good masters, wherever they are, and that is the best privilege, in my humble judgment, that can be accorded to them in Massachusetts, New York, or wherever else they may be found. When the gentleman from Massachusetts [Mr. DAWES] was lamenting the defection from principle, on the part of northern gentlemen, towards this class of their population, it occurred to me to ask him how that population compared in moral worth with the white population of Massachusetts? and whether he wished for a further infusion of that sort of population into the State of Massachusetts? I presume he would answer that he did not. I ask the distinguished gentleman from Pennsylvania [Mr. GROW] whether it would be agreeable to him to see an increase of the colored population of the State of Pennsylvania?

Mr. GROW. So far as I am concerned, I would not exclude anybody that God Almighty creates on the face of the earth, from his birth-place.

Mr. HILL. That is not answering my question. I ask the gentleman if he would desire the immigration of people of this class into the State of Pennsylvania?

Mr. GROW. I never would vote to exclude any human being from coming into the State of Pennsylvania, whatever his color, or wherever the place of his birth.

Mr. HILL. It would be very strange to me, if I should ever inhabit a free State, not to find its white people favoring a very wide discrimination between the white and the black races. Perhaps the gentleman from Pennsylvania may be willing to put negroes on an equality with the whites?

Mr. GROW. In their personal rights if they observe the laws.

Mr. HILL. Are they as apt to observe the laws as the white population are? How stands that?

Mr. GROW. I cannot answer as to that, because I have not the facts and statistics; and the gentleman from Georgia will understand me as proposing to treat this question fairly.

Mr. HILL. Mr. Speaker, I have no idea of treating questions of this gravity as mere questions of expediency, to be governed by the impulses and consequences of the hour in which they occur, or of the day, or of the year, or two years, or three years, that may succeed the transaction. I do not look in any sense to Oregon as a future State, or to what her hereafter may be, in any event, in this Confederacy. It matters not to me, in any contingency which may, by possibility, arise, what part she might play. "Sufficient unto the day is the evil thereof." I cannot, and will not, consent to depart from what I understand and honestly believe to be a great cardinal principle, to vote for the admission of this proposed new State.

[Here the hammer fell.]

Mr. CLARK B. COCHRANE. I am opposed to the admission of Oregon into the Union as a State at the present time and under the constitution presented, and desire to assign very briefly my reasons for the vote I propose to give.

My opposition to the measure rests upon three principal grounds:

1. Her admission would be a palpable infraction of the rule established by this very Congress in the case of Kansas; an unjust and most undeserved discrimination in favor of Oregon, and a plain and dangerous violation of the equality of the Territories.

The English bill, which stands to-day as a legal barrier against Kansas, and is claimed by the Federal Executive in his message as an absolute prohibition upon the right of the people of that Territory to make application for admission into the Union, provides that, "whenever, and not before, it is ascertained by a census, duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States," she may then proceed, in the mode prescribed, to form a constitution preparatory for admission into the Union as a State. Under the existing ratio of representation, the population requisite for one member of the House of Representatives is at least ninety-three thousand four hundred and twenty. The population of Oregon cannot be much more than one half of the required number,

and several thousand less than the population of Kansas.

What has Oregon done to entitle her to superior rights or consideration? What peculiar reasons are there, I demand to know, why a Territory on the Pacific coast should be admitted to special grace and favor, to the exclusion of her sister Territories on this side of the Rocky Mountains? Does this House propose to violate its own rules? to inaugurate the example of applying different rules to different Territories? and thus, by way of rewards and punishments, aim to control and conform the institutions, policies, and politics of incipient States, to the powers that be? I shall vote for no such discrimination; to the last degree unequal, invidious, and unjust. There is but one way of safety—equality, even-handed justice.

2. My second ground of objection is, that the admission of Oregon would be unjust to the States already in the Union, and especially towards the larger and older States.

As to this point, the argument contained in the annual message of the President is clear and conclusive. This ought to be received as good authority by the other side of the House, and I commend it to the favorable consideration of the friends of the Administration on this floor.

The extract which I propose to read stands out in that document as about the only green spot in the "wide waste" of Executive expansion and folly; and I gratefully repose upon it. Here it is. The President says:

"The Federal Government has ever been a liberal parent to the Territories, and a generous contributor to the useful enterprises of the early settlers. It has paid the expenses of their governments and Legislative Assemblies out of the common Treasury, and thus relieved them from a heavy charge. Under these circumstances, nothing can be better calculated to retard their material progress than to divert them from their useful employments, by prematurely exciting angry political contests among themselves, for the benefit of aspiring leaders. It is surely no hardship for embryonic Governors, Senators, and members of Congress, to wait until the number of inhabitants shall equal those of a single congressional district. They surely ought not to be permitted to rush into the Union with a population less than one half of several of the large counties in the interior of some of the States. This was the condition of Kansas when it made application to be admitted under the Topeka constitution. Besides, it requires some time to render the mass of a population collected in a new Territory at all homogeneous, and to unite them on anything like a fixed policy. Establish the rule, and all will look forward to it and govern themselves accordingly.

"But justice to the people of the several States requires that this rule should be established by Congress. Each State is entitled to two Senators, and at least one Representative in Congress. Should the people of the States fail to elect a Vice President, the power devolves upon the Senate to select this officer from the two highest candidates on the list. In case of the death of the President, the Vice President, thus elected by the Senate, becomes President of the United States. On all questions of legislation, the Senators from the smallest States of the Union have an equal vote with those from the largest. The same may be said in regard to the ratification of treaties and Executive appointments. All this has worked admirably in practice, whilst it conforms in principle with the character of a Government instituted by sovereign States. I presume no American citizen would desire the slightest change in the arrangement. Still, it is not just and unequal to the existing States to invest some forty or fifty thousand people collected in a Territory with the attributes of sovereignty, and place them on an equal footing with Virginia and New York in the Senate of the United States?"

The population of the district which I have the honor to represent on this floor, very considerably exceeds a hundred thousand.

If Oregon is received into the Union upon her present application, she will immediately become equal in representation with my district in this branch of Congress, and, in the Senate of the United States, equal to the whole State of New York, with a population of more than three millions and a half.

Before she can justly aspire to a position of such power and consideration in the General Government, would there be any injustice in requiring her to show us affirmatively—not by giving us the amount at which she may have appraised her property, or the result of her uncertain and unsafe speculations on the laws of increase and diminution; but, in the language of the "English act," "by a census duly and legally taken," that she has at least sufficient population to entitle her to one member of the House of Representatives, under the existing ratio of representation?

The rule established by the English bill, if made applicable to all the Territories of the Union, present and prospective, would be eminently fair and just. More than this, sir; it would be, in

my judgment, a measure of propriety and repose. Under the practical workings of such a rule, if made general, and equally and persistently administered, as the permanent policy of the country, the growth of the Territories would be healthy, steady, and peaceful. There has been no time, since I have been a member of this House, that I would not have voted for such a rule, if made of universal application. I am prepared to vote for such a rule to-day and now.

We did not, on this side of the House, as my friend from Ohio [Mr. NICHOLS] seems to suppose, object to the rule of population in the English bill, because the rule in itself was unjust or unfair, but because it was applied for the first time to the Territory of Kansas, and made, by the mode of its use, an odious and offensive discrimination against a free State; because it stood in the English bill as a threat to compel the people of that Territory to embrace a constitution which, in their heart of hearts, they profoundly abhorred. That they thus abhorred it, we then knew and declared. And the event has more than proved the truth of the words we uttered in their name, and more than justified our confidence in the incorruptible integrity and love of freedom of that noble and lion-hearted people. It was for these reasons we arraigned and condemned it, let me say to the gentlemen from Ohio and from Massachusetts.

The only decent pretense which could be urged in justification for its introduction into the English bill by the friends of that measure, was, that the requirement in itself was sound and safe; and I regret, sir, to see that the rule then established, having performed its office, or, rather, having failed to perform its office, is now to be abandoned in the house of its friends, and by those who had the honor of its paternity.

If the rule was good for Kansas, it is safe for Oregon; and I do not propose, for myself, however others may feel constrained to act, to sanction, by my vote, any such discrimination and inequality as this measure contemplates.

3. The reasons for my third objection—and with me the objection is an insuperable one—are found in the constitution with which Oregon presents herself for admission into the Union. The objectionable clause stands out upon the instrument a separate and compact paragraph of refined inhumanity of the most studied and extraordinary character. I venture to affirm, that in point of needless and gratuitous barbarity, it is without a parallel in the whole history of civilized States; and is, in my judgment, a plain infraction of the letter and spirit of the Federal Constitution.

The gentleman from Indiana will not succeed, I apprehend, in averting the public attention in any portion of the Confederacy from the intrinsic atrocity of this provision, by raising the stale cry of "negro equality." It is not a question of negro equality or inferiority at all, but one of common and ordinary humanity. And let me say here, to some of my friends on this side of the House, that after you have given, by your votes, effect and vitality to this provision of the Constitution, let us hear no more of the wrongs of slavery. It is infinitely better for any man, whether white or black, to be a slave, than an outlaw and an outcast, pursued, hunted, and homeless, without country, security, or friends; excluded from the courts, driven from the soil, and cast, a mere worthless waif, out upon the ocean of life, exposed to every storm and smitten by every wave. If I were compelled still to exist, and forced to choose between the alternatives, I would say, give me chains and a shelter. Here is the provision; hear it, and see whether there be any question of negro equality in it:

"No free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall ever come, reside, or be, within this State, or hold any real estate, or make any contract, or maintain any suit therein. And the Legislative Assembly shall provide by penal law for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein."

Now, sir, we are appealed to, even on this side of the House, to give life and practical effect to this cold-blooded inhumanity, as unnecessary as it is wicked. If Oregon simply desired to provide against "negro equality," was there no way except by legislating against these free colored men, as she would legislate against beasts of prey? Are there no middle, no intermediate grounds be-

tween allowing men all the rights and privileges of American citizenship; and stripping them of every conceivable right, and declaring that they shall not be permitted to live in the Commonwealth, or even to take shelter therein, though driven within her limits by disaster or misfortune? This example needs but to be universally followed, and you have driven this portion of your race from the face of God's earth—banished and branded as having been born into the world as so many trespassers; and this by a system of legislation commenced and inaugurated by the model Republic in the declining half of the nineteenth century—a Republic which its founders declared should forever stand as an asylum for the outcast and oppressed of all lands.

I concede that the provisions and policy of a constitution under which a new State seeks admission into the Union, provided always these conform to the letter and spirit of the Federal Constitution, ought to be exempted, as a general rule, from congressional criticism. But this provision in the Oregon constitution is, in my judgment, in violation of both the letter and spirit of the Constitution, and is especially repugnant to section two, article four, which provides that—

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Under this provision of the Federal Constitution, a citizen of the State of Oregon would be entitled to maintain a suit in the courts of New York, at any and at all times, for the purpose of enforcing a right or redressing a wrong; but a citizen of New York, if he happens to have any African blood in his veins, is excluded from the courts of Oregon by her organic law. I cannot vote for the admission of a State into this Union whose constitution closes the temples of justice and barricades the doors of the courts of the people against freemen, no matter of what clime, color, or condition. The gentlemen from Massachusetts can, if they choose, vote for a constitution (and thus give life and vigor to it) which admits aliens to citizenship and excludes a class of the citizens of Massachusetts from the courts; but I can do no such thing.

This section of the Oregon constitution "out-Herods Herod." It leaves the decision in the Dred Scott case a great distance behind. Excluding the *dicta*, and that decision simply holds that a negro is not a citizen of the United States, and cannot, therefore, sue in the Federal courts. But this section provides that free men, and citizens in several of the States, shall have no standing in State courts.

Now, sir, as I understand it, there is not a slave State in this Union that denies the free colored man access to her courts. The ways to their courts of justice are highways, along which all free men may press their steps in search of justice and equity.

"The black laws," as they have been called, existing upon the statute-books of some of the northern States—though, I am glad to believe, in most instances but a dead letter—are a lasting and burning reproach to the free States, and ought to be removed; but none of these have gone the length of excluding this class of persons from the courts of justice.

What adds to the enormity of these enactments is, that they are so wholly gratuitous and unnecessary. In a slave State, where the presence of this class of persons might be regarded as of dangerous example, I could understand the motives of such legislation, however much I might condemn the necessity, or deplore the act. But a free State is utterly without excuse, and is justly exposed to the charge of needless and wanton cruelty. And I trust that those gentlemen who propose to encourage, by their votes, this species of legislation, will hereafter repress their feelings of holy disapproval, when a slave State proposes to reduce to a state of slavery free negroes within its territorial limits. It is time that this species of legislation should be rebuked.

Mr. CASE. Mr. Speaker, I have made up my mind, not without much hesitation, not without a good deal of reflection, that I will vote for the admission of Oregon as a State; and I do not rise now to make a speech, or even an argument, in favor of the position that I have taken, or in explanation of the vote that I shall give. I would have been content to have given upon this question—as I have upon almost every other—a silent

vote, but for the voice we heard yesterday from the spirit land, which found an utterance through the bodily organism of my colleague from the third district, [Mr. HUGHES.] I have waited some time in the expectation of seeing him in his seat, for it seemed to me that some of his remarks required explanation, and I would have preferred very much that he should have been present. But our differences are on matters of opinion, and I shall endeavor not to do him any injustice. He seemed to speak with an extraordinary authority on this subject; and as he was speaking for his party, and gave to this question, perhaps for the first time, a party turn, it is well that we should know by what authority, and from whence, he spoke. I find it in his remarks:

"I, perhaps, am as little biased by interest, as little trammelled by popular feeling, upon questions of this nature, as any man in this body. I am in a position to be impartial and independent. My race is run. The grass grows green over my political grave, and I speak as a voice from the spirit land. I stood side by side with these gentlemen through the trying scenes of a long and turbulent session, in defense of the principles and integrity of the Democratic party. Having fallen at my post in the discharge of my duty, I am content."

Now, Mr. Speaker, coming from such a strange locality, it is not wonderful that the speech of my colleague attracted considerable attention. Speaking, too, with the superior advantage of one who is already in the land of shades, some of his statements are rather startling, and are worthy of consideration. In some portions of his remarks, he seems to be jubilant and exultant, giving us reason to believe that he is in a comparatively happy state in the land beyond the river Styx; but on other parts of his remarks he is mournfully bitter, convincing us that he might well have rounded off some of his periods with the verse from the good old hymn—

"Hark from the tombs a doleful sound,
Mine ears attend the cry:
Ye living men, come view the ground
Where you must shortly lie."

But, sir, to be serious—for this is a subject about which I do not think we ought to have very much fun—there were some representations made by my colleague about the position of gentlemen upon this side of the Chamber, about what had been determined on by them, and about the reasons which would control their action, which I think require a little attention. I do not know how far we should consider such questions as this, party questions. I know that it is too late in this discussion to divest it entirely of party feeling. While I suppose that I differ upon this question from a great majority of gentlemen upon this side of the House, I presume that, when the final vote comes to be taken, we shall find more than one member of the Democratic party voting against the admission of Oregon as a State.

I call attention to this, because I apprehend that speeches are sometimes made here for Buncombe, (I do not know but there is a little of it in mine, and I think it honest to confess it;) and when we have another canvass in Indiana, if there should be a resurrection of my colleague, he might probably be citing the vote upon this question as evidence that the Democrats are in favor of the admission of free States, and the Republicans opposed to it. I am not certain but that there would be something to be gained by the Republican party, if we were to decide this question on party grounds, by voting for the admission of Oregon under this constitution. I am not certain that we should not gain fully as much as we should by voting to reject her, because there are one, two, or three provisions in her constitution that are not agreeable to us. I believe I could produce evidence from that Territory, that some Republicans there are looking with anxiety to our action in this House, and hoping to see an almost unanimous vote upon this side of the House in favor of her admission.

I send, however, a letter to the Clerk's desk to be read, which was received by a worthy member of this House. It is signed by a very good name, and I never knew a man of that name who was not upon the side of freedom.

The letter was read, as follows:

OREGON TERRITORY, November 19, 1858.

DEAR SIR: Having formerly been a resident of Morgan county, Ohio, and having there known you as an ardent friend of freedom and human liberty, I have presumed to address you a short note concerning the political condition of the Territory.

On the 9th day of November, 1857, the people here voted

to adopt a free-State constitution, much to the discomfiture of near three thousand pro-slavery voters. But on a failure (from some cause not generally known here) to gain admission during the last session of Congress, those pro-slavery Democrats have taken fresh courage, and now claim the right, notwithstanding the organic act, to hold slaves here by virtue of the Dred Scott decision; and they are now circulating petitions, which are signed by many who voted for a free State, and which are to be presented to the Territorial Legislature at its coming session, praying for an act to protect slave property in Oregon; and as the Legislature is largely Democratic and greatly under the control of pro-slavery influence, many of the friends of freedom here fear for the result. Slavery thus planted here could barely be eradicated but by admission under our present constitution at the ensuing session of Congress. There are, perhaps, some objectionable features in our constitution, but the fact that it forever excludes slavery from our fair heritage is, in my humble opinion, sufficient to recommend it to the support of all good Republicans; and the citizens of this Territory, except the pro-slavery aristocracy, are well pleased with it; and I assure you that you can do nothing in Congress which will more displease the slaveocracy here than to urge the admission of Oregon under her constitution now before Congress.

I therefore venture to hope that you will not only give our constitution your hearty support, but that you will lay the matter before the friends of human rights in Congress, and urge the necessity of our immediate admission into the Union. Our enemies are active and vigilant; let us be diligent, too.

Your most obedient servant,

OWEN WADE.

Thus it appears that at least one man who professes to be a Republican, and who certainly bears a very good Republican name, gives it as his opinion that you could do no greater disfavor to the Democratic party in Oregon, than by urging and voting for the admission of Oregon under this constitution, and that her admission will subvert the cause of freedom in that Territory. I will not undertake to decide among those who disagree upon this subject.

I leave that matter to pay my attention further to the remarks of my colleague, [Mr. HUGHES.] He said:

"We have now arrived at a point where the Republican party of this House oppose the admission of a free State into this Union, because its constitution does not make the negro the equal of the native-born white man, and the foreign-born white man the inferior of the negro. These hypocritical professors of 'popular sovereignty' who denounce the Dred Scott decision, and deny that the Constitution of the United States carries African slavery into the Territories, would refuse to a sovereign State the power to exclude free negroes, and maintain that the Constitution carries 'negro equality' everywhere—not alone into Territories, but into States also.

"Let them stand by this issue. Let them put themselves upon the record. Let them vote against Oregon. When they stand unmasked before the world—in every American sense *hostis humani generis*—one look upon their unvalued faces will be enough for their constituents.

"Go, then, freedom-shrieker! Vote against Oregon. But remember, you vote against the compact of the ordinance of 1787, expressly extended to that Territory by act of Congress. You vote against 'popular sovereignty,' and deny to the people of Oregon the right to 'regulate their domestic institutions in their own way.' You vote for negro equality, and plant yourself in opposition to the Constitution of your country, which you have sworn to support. You vote to deny to the white foreigner that which your enlarged philanthropy claims for the negro who happens to be born in the United States. You vote to keep a free State out of this Union—a State which comes on our own invitation, and comes in the most orderly, regular, and appropriate way. There are some of you that will not do this thing, and some that dare not. Upon those who do, I invoke the condemnation of an intelligent and patriotic people."

I read this extract of my colleague's speech more particularly to call attention to the concluding remark, that there are some who will not vote against the admission of Oregon because they dare not. It leaves it entirely questionable as to whom the gentleman meant; but I wish to say that I have made up my mind to vote for her admission because I believe it is the best thing which can be done under the circumstances. I have not labored for the last fifteen years of my majority, in a hopeless minority, without knowing what it is to labor when I had no political aspirations to gratify; and I shall not be deterred from any responsibility by the threat of any one that I may possibly find myself again with the minority. The venerable gentleman from Ohio [Mr. GIDDINGS] knows, that so long ago as when I gave my first vote for a member of this House, and gave that vote for him, and when it was comparatively unpopular to be called an anti-slavery man, my sentiments were never concealed; and, sir, as to the inherent right or wrong of these questions, I have not changed my opinions from that day to this.

It is true there are objectionable features in this Constitution. I do not believe that men anywhere ought to have a right to vote for members

of this House, or for officers of this Government, until they become citizens of the United States, and until they have thrown off, through the forms prescribed by law, their allegiance and duty to the Government from which they emigrated; yet I would not vote against a constitution upon that ground, because it is the right of every State to say who shall be her citizens, and who shall have the right to vote. As was well said by a gentleman from Missouri, [Mr. CLARK,] this morning, it is a power lodged in the State itself by the Constitution; for when it says that members of the House of Representatives shall be elected by the people of a State, it expressly confers upon the State the power to decide who shall vote for Representatives.

There are other objectionable features. The gentleman from Massachusetts, [Mr. DAVES,] and the gentleman from New York, [Mr. CLARK B. COCHRANE,] spoke in truthful terms of those provisions of the constitution by which negroes are shut out of courts of justice. I indorse the whole of their sentiments upon that subject, and I say I do not see how the framers of that constitution could embody more cruelty in so many words. But I do not arrive at the same conclusion that they do; for the very effect of that provision will be to shut out negroes from that State; and then, so far as residents are concerned, it will have no subjects upon which to operate. And for the very reason stated by one of those gentlemen, I believe that provision, so far as it is designed to operate upon the citizens of another State, is a nullity. It has no effect whatever, nor can any vote of ours give it vitality, because it is a clear violation of the letter and spirit of the Federal Constitution. Therefore I do not see in this provision any insurmountable objection to the admission of Oregon. I know it has been said that when it was attempted to assert the right of Massachusetts in that respect in South Carolina, the attempt failed; but will the gentleman claim that it failed because of the law?—Or was it not rather because the law was violated? And I will not presume that the law will be violated again. So far as the citizens of Massachusetts are concerned, or so far as the citizens of any other State are concerned, when they shall attempt in Oregon to assert that they are citizens of those States, and claim their rights as such, there can never be a decision against them, unless that decision is in violation of the constitution. Were it left for me to decide whether that provision should remain there, I would exclude it. We have a provision in the constitution of the State of Indiana which prohibits free negroes from coming into that State; but it was adopted against my vote.

But, Mr. Speaker, we are charged that, because we oppose this provision, we are in favor of negro equality. It may be for Buncombe that this charge is made; and I would not notice it if it did not seem to me that there was a little Buncombe in it. Why, sir, as has been well said by the gentleman from New York, [Mr. CLARK B. COCHRANE,] I did not dream that there was any such thing involved as negro equality. I thought that it was a question of humanity, and nothing else. I thank my colleague for his definition of what before was a vague phrase. We know, now, what negro equality means. We will hereafter know what it means, when the epithet is hurled in our teeth by the other side. When have the Republicans asked that, on the admission of Oregon, it should be conceded that negroes have the right of suffrage there? When have they made an issue on the other proposition, that they should be allowed to settle there as citizens? What do we say? We simply ask—even if it is true that they are degraded, that they are inferior—that they shall have the right to go into the courts of justice for a redress of their wrongs and the protection of their rights.

We demand that, not in the name of negro equality, but merely as an act of humanity, and in pity for their condition. It was asked whether we would be in favor, in the northern States, of receiving the negro emigration from the South? I would that there was not a negro upon this whole continent; and that they are here has been a monstrous wrong, from the first to the last. While I would not encourage their emigration to my own State, I say, with the gentleman from Pennsylvania, [Mr. GROW,] I will never vote to exclude them anywhere. It is wrong in principle. It is

not because we do not like our own race the best, because we have not the preference natural to us, but because that they shall have dealt out to them for their protection, and for redress of their wrongs, the common measure of justice.

Thus, sir, it will be seen that we have, at last, a definition of the negro equality of which we have heard so much in the canvass just closed. The Republican party does not anywhere contend that negroes should have the right of suffrage. They do not insist that negroes should be our equals in association. They merely ask, as a matter of sheer justice, that their humanity shall be recognized—that they shall have the right to go into the courts and redress their wrongs. Those of us who are in favor of that are, it seems, in favor of negro equality; and those who oppose it are the pure Democracy. I accept the issue; and, without retorting any of the epithets used by my colleague, I am willing to meet him on that question, even in Indiana. I do not believe that party lines have blotted out the humanities of the white race. Gentlemen must see that there is a vast difference between conceding equal political and social rights to the negro, and yielding to him the common rights of humanity. There is not a slave State in the whole Union that has gone so far as Oregon. There is not a slave State in which a free negro cannot go into court and sue for redress of his grievances. Yet will it be said that those who come here from those States and vote with my colleague are in favor of negro equality? If it is an argument good against us, it is good against every one of them.

I have stated that I did not rise to make a speech. I simply repeat now what I said at the commencement of my remarks, that I vote for the admission of Oregon in spite of provisions in her constitution which I most heartily condemn. I vote for it because I believe it is the best constitution that we can now get. I prefer that she should be admitted under it, rather than that she should longer remain under the corrupting influence of this rotten Administration. So long as she remains subject to that influence, I shall expect nothing better in her organic law. Once emancipated from it, I shall hope to see her in due time as just as she is free.

Mr. BINGHAM obtained the floor.

Mr. BONHAM. With the gentleman's consent, I will give notice that I will move the following amendment, at the proper time:

Add at the end of the bill:

Sec. 6. And be it further enacted, That this act shall not take effect until, by a census duly and legally taken under the direction of the Secretary of the Interior, and to be taken at the earliest practicable period, it shall be ascertained that the population included and residing within the limits of the proposed State of Oregon, equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and should the census so to be taken, show a population equaling or exceeding the ratio of representation required for a member of the House of Representatives of the Congress of the United States, the President of the United States, so soon as this fact is duly made known to him, shall announce the same by proclamation, and thereafter, and without any further proceedings on the part of Congress, this act, and every part thereof, shall take effect, and the admission of the State of Oregon into the Union, on an equal footing with the original States in all respects whatever, shall be absolute and complete.

Mr. BINGHAM. Mr. Speaker, I am constrained to oppose this bill for the admission of Oregon as a State, with the constitution presented by the people of that Territory. I would refer the question back to that people, as proposed by the amendment of which I have given notice, and allow them without delay to frame a constitution in conformity with the Constitution of the United States.

My opposition to this bill cannot be attributed to any mere sectional prejudice. The geographical locality of Oregon excludes any such conclusion as to myself. Oregon belongs to the Northwest—that portion of the country from which I come, and which I have the honor, in part, to represent on this floor. Nor can gentlemen attribute my hostility to this bill to the consideration that Oregon has not population equal to that required by law for a Representative in Congress. This constitution was adopted by the people of Oregon on the 9th day of November, 1857. She had not then, in my judgment, over fifty thousand of representative population; even the Delegate from that Territory [Mr. LANE] has not ventured to say that she had then the representative

number. But, sir, although Oregon had not then, and has not now, the representative ratio—certainly no more population than Kansas—I would not exclude her on that account.

It does not become gentlemen who have suspended the right of petition in Kansas by the infamous provision of the conference act, to insist that those of us on this side shall not only recognize the right in Oregon to come in with her present population, but shall grant their petition for admission even though it asks a departure from, and an infraction of, the Constitution of the United States. There never was any enabling act passed, authorizing the people of Oregon to frame this constitution. In my judgment, no enabling act was needful to authorize the people of Oregon to frame a constitution and memorialize Congress for admission under it. Their right so to petition Congress is inherent, and guaranteed by the Constitution. But I ask why this right should be regarded in Oregon and forbidden in Kansas? Gentlemen have no right thus to discriminate; and if they do, they cannot claim that they are the exclusive friends of free States, and of their admission into the Union. They may prate that to marines, not to old sailors. The Constitution declares that each State shall have at least one Representative in Congress, irrespective of population. Hence I conclude that the want of ninety-three thousand four hundred and twenty of population in Oregon ought not to exclude her.

Sir, the reasons which constrain me to oppose the admission of Oregon, apply irrespective of latitude or of any prevailing political sentiment among the people of the proposed State. In my judgment, sir, no Representative should inquire, upon a question of the admission of a new State, whether its locality be in the North or South, the East or West of the Republic; whether its people range themselves politically as Democrats or Republicans. I protest that no such considerations do now, nor have at any time, influenced my mind upon this question. I look upon the erection of new States and their admission into the Union as an object of patriotic desire. No man does or can sympathize more warmly than myself with the pioneers of American civilization—the founders of new States, who extend the limits of the Republic; who carry the arts of civilization into the wilderness and make glad its solitary places with the homes of freemen; who make your hitherto wild and uncultivated lands to yield their annual increase, and your hitherto solitary rivers to bear the products of a thrifty industry or contribute their motive power to the production of new wealth; whose rugged, busy hands energized by the creative power of genius, uncover the immense mineral deposits of the great West, subject them to the tried processes of science, and mold them amid the darkness which broods over the blast of the furnace and the rolling of the wheel, into forms of strength and use and beauty. Such men, sir, are entitled to our consideration, and no man will more cheerfully or cordially than myself, favor any legitimate or just legislation for their benefit.

But, however much I desire the admission of the new State of Oregon, I cannot consent to sanction the constitution now before us, by giving my vote for this bill. I know, sir, there are those, and amongst them, I regret to say, the gentleman from Massachusetts, [Mr. THAYER,] who hold that we do not sanction this constitution by voting for the bill admitting Oregon into the Union. The gentleman from Massachusetts [Mr. THAYER] said, that when he took his official oath to support the Constitution of the United States, he did not swear that other people should not violate it. I tell that gentleman, and all who agree with him, that every officer, Federal and State, whether legislative, executive, or judicial, who has taken that official oath which we have all taken, to support the Constitution of the United States, are bound in conscience and in law by that oath neither to violate that Constitution themselves nor to permit others to violate it by their act and with their consent. What we do by another we do ourselves. The fact, sir, cannot be gainsayed that, by passing this bill, we sanction the Oregon constitution, and make it the fundamental law of that Territory. It is equally clear that, by our rejection of this bill, that instrument called the constitution of Oregon will have no more effect than the paper on which it is printed.

Suppose the proposed constitution organized an absolute despotism; would gentlemen say that they had no alternative left them but to register their votes for it, and thereby give force and effect to it, because it was the will of the people in that distant Territory, and republican in form? The people of the Territory of Oregon have the sole right to frame a State constitution for themselves, but they must so exercise that right as not to embody in their constitution provisions repugnant to the Constitution of the United States, violative of the rights of citizens of the United States. In my judgment, sir, this constitution, framed by the people of Oregon, is repugnant to the Federal Constitution, and violative of the rights of citizens of the United States. I know, sir, that some gentlemen have a short and easy method of disposing of such objections as these, by assuming that the people of the State, after admission, may, by changing their constitution, insert therein every objectionable feature which, before admission, they were constrained to omit in order to secure the favorable action of Congress. If this assumption implies that new States have the right so to do, to the infringement of the Constitution of the United States, and of the rights of the citizens thereof, I deny the assumption. If the assumption only means that they might arrogate to themselves and exercise powers which they do not possess, to the prejudice and injury of themselves, and in contravention of the Federal Constitution and of the rights of citizens of the other States of the Union, it only tends to prove, if anything, too much, to wit: that new States ought not to be admitted. Such reasoning, to my mind, proves nothing; or, if anything, that we should consent to a violation of the Constitution of our country, and of the rights of the people, and the rights of the States, because the same wrong might be done by others.

This assumption, sir, implies, that by the very act of admission, under whatever form of constitution, you arm the new State with the sole power over persons and property within its territorial limits; and, therefore, however oppressive or unjust its legislation may be, however odious or unconstitutional, it is without remedy, and is resultant from our action here. This assumption supposes that the States are not limited by the Constitution of the United States, in respect of the personal or political rights of citizens of the United States. I cannot agree to that; it is a marked advance even upon the squatter sovereignty of the Kansas-Nebraska act, which, in express terms, limits the sovereignty of the people by the expressive and significant words, that the domestic institutions, which they are declared "perfectly free" to form, must be "subject to the Constitution of the United States." This assumption ignores these words of limitation upon State sovereignty, set forth in the Constitution of the United States, to wit: "this Constitution, and the laws and treaties, made in pursuance thereof, shall be the supreme law of the land, the constitution and laws of any State to the contrary notwithstanding."

I cannot give this Oregon constitution the force and effect of law upon the assumption that, to require the people first to make it conformable to the Constitution of my country and natural justice, is a mere abstraction; that after admission upon a just constitution, they may of right change it to an unjust one, and by our act be armed with the power to do so; and that, too, without remedy. No man has any right to assume any such result. What, sir, is a State, formed under the Constitution of the United States, but a collection of citizens, each of whom is bound by the restrictions of the Federal Constitution, and so continue to be collectively after their State organizations, as they were individually before? This is an old idea. It was entertained by the fathers of the Republic, and by them incorporated in their early legislation for the government of the Territories and the organization and admission of new States. I have seen this principle illustrated in this House since I have had the honor of a place on this floor.

By the constitution of Illinois, all votes cast for two of her Representatives, elected to the Thirty-Fourth Congress, were declared void by reason of disabilities imposed upon them by the amended constitution of that State. On this ground their seats were contested by gentlemen who received

all the legal votes cast, if the superadded restrictions of the State constitution of Illinois were to be allowed to control the rights of the people under the Federal Constitution. This House disregarded the State restrictions, because it contravened the rights of the people under the Federal Constitution, and decided that votes for Representatives in Congress, given for persons having the qualifications prescribed by the Federal Constitution, were valid, the State constitution to the contrary notwithstanding. The conclusion that any State constitution, or State law, which conflicts with the Constitution of the United States, and impairs any right, political or personal, guaranteed thereby, is null and void, logically results from that provision which declares the Constitution of the United States, and the laws and treaties made in pursuance thereof, to be the supreme law of the land. To the right understanding of the limitations of the Constitution of the United States upon the several States, it ought not to be overlooked that, whenever the Constitution guarantees to its citizens a right, either natural or conventional, such guarantee is in itself a limitation upon the States; whenever the Constitution confers a general power to legislate or make treaties, the limitation arises only upon the rightful exercise of the power. In the one case it is the Constitution, in the other it is the statute or treaty, that is the supreme law.

The Oregon constitution, in its first section, second article, violates a law of the United States; unless, indeed, your proposed act of admission, being inconsistent with a preëxisting law of the United States, be a repeal of that law. I shall not consider the question of the repeal of the naturalization laws at this time. I take it for granted that gentlemen who insist on the passage of this bill, and the establishment thereby of this Oregon constitution as the fundamental law of that Territory, do not advocate a repeal of the naturalization laws of the United States. The second section of the second article of the Oregon constitution contains these words:

"In all elections not otherwise provided for in this constitution, * * * every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, * * * shall be entitled to vote at all elections authorized by law."

Now, sir, this is simply a provision that aliens, upon one year's residence, after a mere declaration of intention to become a citizen of the United States, may vote at all general elections, for all Federal and State officers; that aliens, by reason of one year's residence after a declaration of intention, may elect your Representatives in Congress and select the State Legislature to choose your United States Senators, and elect presidential electors for the purpose of choosing a President and Vice President of the United States. I do not hesitate to say that this presents the question, whether a State may transfer the sovereignty of the ballot, which is the ultimate sovereignty of the country, to aliens, on one year's residence, and a mere declaration of intention to become citizens of the United States when it suits them, and not before. If there were no other objection to this constitution, I might surrender my individual judgment to the bad precedents in the cases of the admission of Michigan, Wisconsin, and, more recently, of Minnesota. I think such concessions to new States most pernicious in policy and of doubtful constitutionality.

By declaring his intention to become a citizen of the United States, an alien does not renounce his allegiance to the Government of his native country, nor does he acknowledge any allegiance to ours. He only gives notice that he may do so at his pleasure. He may never carry out his intention, and there is no law to compel him. When the Oregon enabling act passed this House, in the Thirty-Fourth Congress, it was so amended, by an overwhelming vote of the House, as to limit the elective franchise in the election of delegates to frame a constitution for Oregon, and in the ratification thereof, to citizens of the United States. That act never passed the Senate. But a like amendment to the Minnesota enabling act was, in the Senate, voted for by every Senator present at the time, except one. The Constitution of the United States, in its first article, provides that

the Representatives in Congress "shall be chosen by the people of the several States;" and that the electors shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures of the several States. The people here referred to are the same community, or body-politic, called, in the preamble of the Federal Constitution, "the people of the United States." They are the citizens of the United States, and no other people whatever. It has always been well understood amongst jurists in this country, that the citizens of each State constitute the body-politic of each community, called the people of the State; and that the citizens of each State in the Union are *ipso facto* citizens of the United States. (Story on the Constitution, vol. 3, p. 565.)

Who are citizens of the United States? Sir, they are those, and those only, who owe allegiance to the Government of the United States; not the base allegiance imposed upon the Saxon by the Conqueror, which required him to meditate in solitude and darkness at the sound of the curfew; but the allegiance which requires the citizen not only to obey, but to support and defend, if need be with his life, the Constitution of his country. All free persons born and domiciled within the jurisdiction of the United States, are citizens of the United States from birth; all aliens become citizens of the United States only by act of naturalization, under the laws of the United States. What I have said on this question of United States citizenship, and the words "the people," as used in the Constitution of the United States, is sustained by jurists and the decisions of the courts, Federal and State.

Rawle writes as follows:

"The citizens of each State constituted the citizens of the United States when the Constitution was adopted. The rights which appertain to them as citizens of those respective Commonwealths accompanied them in the formation of the great compound Commonwealth which ensued. They became citizens of the latter, without ceasing to be citizens of the former; and he who was subsequently born a citizen of a State, became, at the moment of his birth, a citizen of the United States."—*Rawle on the Constitution*, page 86.

Chancellor Kent says:

"If a slave, born in the United States, be manumitted, or otherwise lawfully discharged from bondage, or if a black man be born within the United States, and born free, he becomes thenceforward a citizen."—*2 Kent's Com.*, 4th ed., page 257—Note.

For the benefit of the other side of the House, who profess a more than Eastern devotion to the Supreme Court of the United States, and its decision in the *Dred Scott* case, I quote from the opinion of the Chief Justice in that case the following:

"The words 'people of the United States,' and 'citizens,' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives."—*19 Howard, S. C. R.*, page 404.

I undertake to say that the terms "people of the United States," and "people of the several States," as used in the Constitution of the United States, have invariably received this judicial construction in all our courts, State and national; and on this point I challenge contradiction.

In the same case, the same Court says further:

"It is true, every person, and every class and description of persons, who were, at the time of the adoption of the Constitution, recognized as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity; but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty, were intended to embrace those only who were then members of the several State communities, or who should afterwards, by birthright, or otherwise, become members according to the provisions of the Constitution, and the principles on which it was founded. It was the union of those who were, at that time, members of distinct and separate political communities into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States. And it gave to each citizen, rights and privileges outside of his State which he did not before possess, and placed him in every other State upon a perfect equality with its own citizens, as to rights of person and rights of property—it made him a citizen of the United States.

The importance that attaches to this question of who are citizens of the United States may be inferred from the fact that the fathers of the Republic provided that death should be the punishment for that crime, which only citizens can commit. The first section of the crimes act for the punishment of treason is the only statute of the United States on that subject, and is as follows:

"That if any person or persons, owing allegiance to the

United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted," "such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death."—*United States Laws*, page 112.

The Congress of the United States should not consent that the sovereignty of the ballot, which is the sovereignty of America, should be transferred by its act to those who may use it to aid treason, and who may themselves levy war upon us, and give aid and comfort to the enemy without any legal responsibility for their acts.

Who would admit the adhering subjects of the perjured House of Hapsburg to the use of a part of the sovereignty of our country in aid of their infamous master?

If I am right in this, sir, then I submit that the elective franchise for the election of Federal officers, either directly or indirectly, should be confined to, and exercised exclusively by, citizens of the United States resident within the several States. That the several States have, by the terms of the Federal Constitution, the exclusive power to regulate and control the exercise of the elective franchise in all general elections, Federal and State, is conceded; but I do deny that any State can rightfully, under the Federal Constitution, transfer this great political privilege, in whole or in part, from the citizens of the United States, native and naturalized, to aliens, who owe no allegiance to our Constitution, who are not obliged to bear arms in defense of our country, and who cannot be held to answer for treason if they give aid and comfort to the public enemy, or if they themselves levy war against us. If the States may transfer this right in part to aliens, they may give it exclusively to aliens! What is the elective franchise, which you propose to give to aliens? It is the sovereignty of America, secured by the Constitution to the people, the citizens of the United States resident within the several States, and by the exercise of which, directly or indirectly, the people appoint persons of their choice to fill the legislative, judicial, and executive departments of their own Government; make, interpret, and enforce their own treaties and laws, and do all other acts which a free and independent people may, of right, do.

Between myself and gentlemen there is a perfect agreement in this, that the several States may determine who, amongst the citizens of the United States resident within their respective limits, may exercise the elective franchise; they may prescribe the age of majority requisite to the exercise of this right; the term of residence within the State; whether citizens, male or female, shall vote; whether a tax or property qualification shall be required; but I deny that any State may rightfully transfer this political right from the citizen to the alien, and it may be, to the open and avowed enemy of the country and the Constitution! Of the several States composing the Union, there are but four which, by their constitutions, confer the elective franchise upon aliens. These are all modern innovations; they are Michigan, Wisconsin, Indiana, (by her amended constitution,) and Minnesota. This last State not only makes aliens electors, but also declares them eligible to the State Legislature. The words used in some instances in the constitutions of some of the original States, and of the first of the new States, such as "freemen" and "inhabitants," have generally, if not always, been construed to mean and intend citizens.

The Constitution very clearly imports that only persons born here or naturalized by law are citizens of the United States; for, in prescribing the qualifications of Senators and Representatives in Congress, the Constitution employs the term "citizens of the United States," and in prescribing the qualifications of President of the United States, it employs the terms, "natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution." These provisions, together with the express power conferred upon Congress to establish a uniform system of naturalization, are only intelligible upon the hypothesis that citizens of the United States are the free inhabitants, born and domiciled within the United States, or naturalized under the laws thereof, and that these alone are citizens, and when resident within the several States, constitute the body-politic, the people of the several States,

who should exercise the elective franchise in the general elections, either State or national.

That such is the true intent and meaning of the Constitution, may well be inferred from the express provisions of the fourth and fifth sections of the first article of the Constitution; the first of which is, that the "times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators;" and the latter of which provides, that "each House [of Congress] shall be judge of the elections, returns, and qualifications of its own members." Here is a power expressly given to Congress to prescribe, by law, the manner, as well as the times choosing Representatives and Senators. This power was manifestly conferred, as was also the power in each House to judge of the elections of its members, to enable the people of the United States, as one body politic, to maintain their national Government under the peaceful operation of law, against any and every attempt on the part of any of the States or the Legislatures thereof, to interrupt or overthrow it; and above all, I maintain that these powers were conferred for the especial protection of the political rights of the citizens of the United States. How strongly they proclaim the fact—one people, one Constitution, and one country!

Sir, what are the distinctive political rights of citizens of the United States? The great right to choose (under the laws of the States) severally, as I remarked before, either directly by ballot or indirectly through their duly-constituted agents, all the officers of the Federal Government, legislative, executive, and judicial, and through these to make all constitutional laws for their own government, and to interpret and enforce them; the right, also, to hold and exercise, upon election thereto, the several offices of honor, of power, and of trust, under the Constitution and Government of the United States. It is worthy of remark that every political right guaranteed by the Constitution of the United States is limited by the words "people or citizen, or by an official oath, to those who owe allegiance to the Constitution. The right to exercise the office of a Representative or Senator in Congress is a political right, and, by the terms of the Constitution, its exercise is limited to citizens of the United States, being inhabitants of the States in which, not by which, they are chosen. The reservation of political powers is a reservation to the States or the people—both of which terms import citizens of the United States—and limit the exercise of all reserved powers to the citizens of the United States, acting as such through their national or State organizations.

And in further illustration of my position I invite attention to the significant fact that natural or inherent rights, which belong to all men irrespective of all conventional regulations, are by this constitution guaranteed by the broad and comprehensive word "person," as contradistinguished from the limited term citizen—as in the fifth article of amendments, guarding those sacred rights which are as universal and indestructible as the human race, that "no person shall be deprived of life, liberty, or property but by due process of law, nor shall private property be taken without just compensation." And this guarantee applies to all citizens within the United States. That these wise and beneficent guarantees of political rights to the citizens of the United States, as such, and of natural rights to all persons, whether citizens or strangers, may not be infringed, it is further in this national Constitution provided:

"That this Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."—*Article six of Amendments.*

There, sir, is the limitation upon State sovereignty—simple, clear, and strong. No State may rightfully, by constitution or statute law, impair any of these guaranteed rights, either political or natural. They may not rightfully or lawfully declare that the strong citizens may deprive the weak citizens of their rights, natural or political; and if the State should do so by enacting statutes to that effect, there stands the limitation of the

Constitution of the United States, sanctioned by the strong avowment assented to and ratified by all the people and all the States—this Constitution shall be the supreme law; and the judges in every State shall be bound thereby. Every State in this Union, either by the express words of their respective constitutions, or by construction, restrict the right of elective franchise to those who owe allegiance to the Government and Constitution of the United States, except the States of Michigan, Indiana, Wisconsin, and Minnesota. If resistance to the admission of new States, on the ground that their constitutions confer this great political right of the citizen upon aliens, is not allowable, and will not be heard here, I shall then appeal to that public opinion which, after all, is the strongest defender of the Constitution against such innovation, and of the rights of the people against such infringement.

I have but a word more on the point that the States may not transfer the great right of American sovereignty from the citizens of the United States, resident therein, to aliens, nor make aliens citizens of the United States. Let the self-constituted champions of State rights, who clamor for the right of the States to make the alien a citizen of the United States by investing him with the highest privilege of a citizen, remember that Jefferson, the great apostle of State rights, signed the act of 1802, which still stands in full force on your statute book, and contains these words:

"Any alien, being a free white person, may be admitted to become a citizen of the United States or any of them, on the following conditions, and not otherwise."

After these words follow the provisions for naturalization. Any alien shall become a citizen of any State of the Union only as prescribed by this law! For State-rights men to talk about the right of any of the States to confer the right of citizenship on aliens, in violation of this Jeffersonian statute is enough to make the very ashes of that apostle of the rights of the States move in his coffin!

But, sir, there is a still more objectionable feature than alien suffrage in this Oregon constitution. That is the provision of the schedule, which declares that large numbers of the citizens of the United States shall not, after the admission of the proposed State of Oregon, come or be within said State; that they shall hold no property there; and that they shall not prosecute any suits in any of the courts of that State; and that the Legislature shall, by statute, make it a penal offense for any person to harbor any of the excluded class of their fellow-citizens who may thereafter come or be within the State. This provision seems to me, in its spirit and letter, to be injustice and oppression incarnate. This provision, sir, excludes from the State of Oregon eight hundred thousand of the native-born citizens of the other States, who are, therefore, citizens of the United States. I grant you that a State may restrict the exercise of the elective franchise to certain classes of citizens of the United States, to the exclusion of others; but I deny that any State may exclude a law abiding citizen of the United States from coming within its Territory, or abiding therein, or acquiring and enjoying property therein, or from the enjoyment therein of the "privileges and immunities" of a citizen of the United States. What says the Constitution:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Article 4, section 2.

Here is no qualification, as in the clause guaranteeing suffrage or an elective representation to the people; here is no room for that refined construction, that each State may exclude all or any of the citizens of the United States from its territory. The citizens of each State, all the citizens of each State, being citizens of the United States, shall be entitled to "all privileges and immunities of citizens in the several States." Not to the rights and immunities of the several States; not to those constitutional rights and immunities which result exclusively from State authority or State legislation; but to "all privileges and immunities" of citizens of the United States in the several States. There is an ellipsis in the language employed in the Constitution, but its meaning is self-evident that it is "the privileges and immunities of citizens of the United States in the several States" that it guarantees.

This guaranty of the Constitution of the United States is senseless and a mockery, if it does not limit State sovereignty and restrain each and every State from closing its territory and its courts of justice against citizens of the United States. Let it may be said that I have overstated the odious provisions of this Oregon constitution, I read the entire provisions of this section of the schedule, and which is expressly declared to be "a part of this constitution:"

"Sec. 4. No free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall ever come, reside or be, within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein."—Oregon Constitution, *Ms. Doc.*, No. 38, page 29.

The constitution of Oregon, which contains this infamous atrocity, was adopted on the 9th of November, 1857; and we, by approving it, and giving to it the force of law, as we shall do if we pass this bill, declare that our legislation for this horrid oppression shall not only operate upon these proscribed eight hundred thousand freemen, citizens of the United States, from and after this day, but, by relation to the time of the adoption of this instrument, shall operate from the 9th of November, 1857. Since that day, doubtless, some of this excluded class have entered that Territory; and, if they have, you declare by passing this bill that their entrance of that Territory, after that day, was a crime; "that they shall not reside, or be," within that State; that they shall hold no real estate there, although acquired before you passed this bill, or gave effect to that act of exclusion; that they shall make no contract; that they shall maintain no suit, either for the enforcement of a right or the redress of a wrong; that they shall be expelled and "effectually excluded" by penal enactments; and that whoever harbors them within that State, whoever shelters them in sickness or distress, in hunger or in cold, shall be guilty of a crime before the law, and punished as a criminal. Would not this be an *ex post facto* law? By what authority, sir, can you enact it? It is forbidden by the Constitution of the United States.

That our country might be saved the shame and infamy and crime of such legislation, our fathers inserted in the first article, ninth section, of the Constitution, an absolute and perpetual prohibition in these words: "No *ex post facto* law shall be passed." This inhibition of our national Constitution, sir, is as sacred as any other provision of that great instrument; and the official oath "to support the Constitution," which you in your great office administered to all of us, binds us, in my judgment, to respect alike all the specific requirements and limitations of the Constitution, not only to save it from violation or infringement by our own act, but by the act of others with our consent! But, sir, this odious section is not only retroactive in its penal and offensive provisions; but it extends the same prohibitions over the future—all the future: "no free negro or mulatto, not residing in this State at the adoption of this Constitution, shall ever come, reside, or be, within this State, or hold any real estate, or make any contract, or maintain any suit therein;" and this denial to eight hundred thousand citizens of the United States and their descendants forever to hold real estate in Oregon, or make contracts, or maintain any suit in vindication of their rights, or for the redress of their wrongs, is to be enforced by the same atrocious sanction—the enactment of penal laws—which is especially enjoined by this infamous instrument upon the Legislative Assembly of Oregon.

Gentlemen say that we violate the ordinance of 1787, which, by the act of 1848, was extended over Oregon, by resisting the admission of Oregon upon this constitution. I very much fear that gentlemen who say this, have never read the ordinance of 1787. I mean no disrespect, sir; but I say the veriest dolt cannot fail to see that this provision of the Oregon constitution is in direct conflict with, and violative of, the second article of that great ordinance. That article declares that the inhabitants of that Territory shall always be entitled to the benefit of the writ of *habeas corpus* and of the trial by jury. This constitution of Oregon denies both these rights to some of the inhabitants. That article declares that no man shall

be deprived of his liberty or property but by the judgment of his peers or the law of the land. This sacred provision is also violated by this constitution of Oregon, unless, indeed, gentlemen say a negro or mulatto is no man, but only a brute. That article further declares:

"For the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said Territory, that shall, in any manner whatever, interfere with private contracts or engagements, *bona fide* and without fraud previously formed."

This will be the very effect of your retroactive legislation, which gives force to this constitution of Oregon; which declares, in section three of the schedule, that it shall take effect from its adoption, and that no negro or mulatto not residing there at the time of its adoption, (9th November, 1857,) "shall ever hold any real estate, make any contract, or maintain any suit therein." Contracts, therefore, made by such persons, since 9th November, 1857, are to be held null and void, and real estate, by them acquired, confiscated.

Sir, if the persons thus excluded from the right to maintain any suit in the courts of Oregon were not citizens of the United States; if they were not natives born of free parents within the limits of the Republic, I should oppose this bill; because I say that a State which, in its fundamental law, denies to any person, or to a large class of persons, a hearing in her courts of justice, ought to be treated as an outlaw, unworthy a place in the sisterhood of the Republic. A suit is the legal demand of one's right, and the denial of this right by the judgment of the American Congress is to be sanctioned as law! But, sir, I maintain that the persons thus excluded from the State by this section of the Oregon constitution, are citizens by birth of the several States, and therefore are citizens of the United States, and as such are entitled to all the privileges and immunities of citizens of the United States, amongst which are the rights of life and liberty and property, and their due protection in the enjoyment thereof by law; and therefore I hold this section for their exclusion from that State and its courts, to be an infraction of that wise and essential provision of the national Constitution to which I before referred, to wit:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Who, sir, are citizens of the United States? First, all free persons born and domiciled within the United States—not all free white persons, but all free persons. You will search in vain, in the Constitution of the United States, for that word *white*; it is not there. You will look in vain for it in that first form of national Government—the Articles of Confederation; it is not there. The omission of this word—this phrase of caste—from our national charter, was not accidental, but intentional. I beg leave to refer gentlemen to the Journal of the Continental Congress, volume 2, page 606. By this reference it will be seen that in that Congress, on the 25th June, 1778, the Articles of Confederation being under consideration, it was moved by delegates of South Carolina to amend the fourth article, by inserting after the word "free" and before the word "inhabitants," the word "white," so that "the privileges and immunities of citizens in the several States should be limited exclusively to white inhabitants." The vote on this amendment was taken by States, and stood two States for, and eight against it, and one equally divided. This action of the Congress of 1778 was a clear and direct avowal that all free inhabitants, white and black, except "paupers, vagabonds, and fugitives from justice," (which were expressly excepted,) were entitled to all the privileges and immunities of free citizens in the several States.

At the time of the adoption of the Constitution, only some States, South Carolina, Virginia, and Delaware, made *color* a qualification or basis of suffrage. In five of the others the elective franchise was exercised by free inhabitants, black and white; and therefore, in five of the States, black men cooperated with white men in the elections, and in the formation of the Constitution of the United States. Inasmuch as black men helped to make the Constitution, as well as to achieve the independence of the country by the terrible trial by battle, it is not surprising that the Constitution of the United States does not exclude them from the body politic, and the privileges and

immunities of citizens of the United States. That great instrument included in the new body politic, by the name of "the people of the United States," all the then free inhabitants or citizens of the United States, whether white or black, not even excepting, as did the Articles of Confederation, paupers, vagabonds, or fugitives from justice. Thenceforward all these classes, being free inhabitants, irrespective of age, or sex, or complexion, and their descendants, were citizens of the United States. No distinctions were made against the poor and in favor of the rich, or against the free-born blacks and in favor of the whites. This Government rests upon the absolute equality of natural rights amongst men. There is not, and cannot be, any equality in the enjoyment of political or conventional rights, because that is impossible.

The franchise of the office of a Representative in Congress is a political right. It cannot be exercised by all; it is therefore limited to those who possess the qualifications of citizenship, age, and residence, prescribed by the Constitution, and are duly elected by the majority of the people of any State or district entitled so to elect. So the elective franchise is a political right, which all cannot exercise, and is therefore limited to some citizens to the exclusion of others. An infant in its cradle, the child of a citizen of the United States, is also a citizen of the United States, but has not the capacity to exercise this political right, and is therefore excluded from it. Practically, political rights are exercised only by the majority of the male population, and are subject to just such limitations as the majority see fit to impose. To this I have, and can have, no objection. Gentlemen need not trouble themselves, therefore, about the demagogue cry of "the political equality of the negro." Nobody proposes or dreams of political equality any more than of physical or mental equality. It is as impossible for men to establish equality in these respects as it is for "the Ethiopian to change his skin." Who would say that all men are equal in stature, in weight, and in physical strength; or that all are equal in natural mental force, or in intellectual acquirements? Who, on the other hand, will be bold enough to deny that all persons are equally entitled to the enjoyment of the rights of life and liberty and property; and that no one should be deprived of life or liberty, but as punishment for crime; nor of his property, against his consent and without due compensation?

But it is not necessary to take time in demonstrating that all free persons born and domiciled within the United States are citizens of the United States. The fact is notorious that, at the formation of the Constitution, but few of the States made color the basis of suffrage, and all of them; either by the words or the construction of their constitutions, affirmed the fact that all native-born free persons were citizens. Allow me to cite from those early State constitutions. New Hampshire, by her constitution of 1792, declared that every male inhabitant of the State, twenty-one years of age and upward, except paupers and persons excused from paying taxes at their own request, shall have a right to vote at all elections. This was construed to admit all but aliens. This constitution also declares that "all men are born equally free and independent." Massachusetts, by her constitution of 1780, declared that "all men are born free and equal, and have certain natural, essential, and inalienable rights, amongst which are the right of enjoying and defending life and liberty, and of acquiring and possessing property." The same general provision for suffrage as New Hampshire, with a small property qualification.

Rhode Island, under the charter of Charles II., allowed negroes to vote, and recognized them as citizens.

Connecticut, under her charter, did the same. New York, by the constitution of 1777, gave suffrage to "every male inhabitant" upon six months' residence, and a property qualification.

All free persons, then, born and domiciled in any State of the Union, are citizens of the United States; and, although not equal in respect of political rights, are equal in respect of natural rights. Allow me, sir, to disarm prejudice and silence the demagogue cry of "negro suffrage," and "negro political equality," by saying, that no sane man ever seriously proposed political equality to all, for

the reason that it is impossible. Political rights are conventional, not natural; limited, not universal; and are, in fact, exercised only by the majority of the qualified electors of any State, and by the minority only nominally.

While, therefore, I recognize the obligation of the majority to extend political privileges, so far as consistent with the stability of good government, to the largest number of the citizens, I as fully recognize the fact that all political privileges are, and ought to be, under the absolute control of the majority in a republican government; and their will is, and should be, the law. But, sir, while this is cheerfully conceded, I cannot, and will not, consent that the majority of any republican State may, in any way, rightfully restrict the humblest citizen of the United States in the free exercise of any one of his natural rights; those rights common to all men, and to protect which, not to confer, all good governments are instituted; and the failure to maintain which inviolate furnishes, at all times, a sufficient cause for the abrogation of such government; and, I may add, imposes a necessity for such abrogation, and the reconstruction of the political fabric on a juster basis, and with surer safeguards.

Of my resistance to the passage of this bill, sir, and to the enactment into a law of this Oregon constitution, let no demagogue say that it is a mere negro question, and for making a negro equal, politically, with a white man. I ask no change of the law as it is written in the Federal Constitution. I leave the States as that constitution leaves them, free to regulate the elective franchise among citizens of the United States; to extend it to or withhold it at their pleasure from all colored citizens, or only some of them; from all minors, white or black; and, if they see fit, from the best portion of the citizens of the United States—from all the free intelligent women of the land. But I protest against the attempt to mar that great charter of our rights, almost divine in its conception and in its spirit of equality, by the interpolation into it of any word of caste, such as white, or black, male or female; for no such word is in that great instrument now, and, by my act, or word, or vote, never shall be.

The equality of all to the right to live; to the right to know; to argue and to utter, according to conscience; to work and enjoy the product of their toil, is the rock on which that Constitution rests—its sure foundation and defense. Take this away, and that beautiful and wise and just structure, so full of the goodness and truth of our fathers, falls. The charm of that Constitution lies in the great democratic idea which it embodies, that all men, before the law, are equal in respect of those rights of person which God gives and no man or State may rightfully take away, except as a forfeiture for crime. Before your constitution, sir, as I is, as I trust it ever will be, all men are sacred, whether white or black, rich or poor, strong or weak, wise or simple. Before its divine rule of justice and equality of natural rights, Lazarus in his rags is as sacred as the rich man clothed in purple and fine linen; the peasant in his hovel, as sacred as the prince in his palace, or the king on his throne.

I cannot consent to mutilate and destroy that great instrument, the Constitution of my country, by supporting a bill which, on its face, gives effect to a State constitution which denies to citizens of the United States the right of a fair trial in the courts of justice for the enforcement of a right or the redress of a wrong. In opposing this bill, sir, I am doing what I can to maintain the Constitution and the honor of my country. In opposing it, I am doing what I can to secure my country from the shame and dishonor and crime of declaring, by solemn, written statute, in favor of a denial of justice to the citizen and stranger within our gates. Oh, sir, how will this burning disgrace, about to be enacted into law, hiss among the nations, that your boasted trial by jury is to be withheld from eight hundred thousand of our own citizens and their posterity, forever, because they were so weak or so unfortunate as to be born with tawny skins!

This provision, sir, which denies a fair trial in the courts of justice, excludes the same class of our fellow-citizens, native born, forever from the territory of that State. This is not only a violation of that provision of the Constitution of the United States to which I before referred, which

secures to the citizens of each State the privileges and immunities of citizens in every State of the Union; but it is, I maintain, a flagrant violation of the law of nature, as recognized by every civilized nation on the globe. It is, sir, the public law of the civilized world, that every free man is entitled to live in the land of his birth. Oregon, by becoming incorporated into the Union, becomes part of the country of every American citizen, and therefore no citizen of the United States can rightfully be excluded from it. If one State may rightfully do this, every State may; if it be right for one State thus to violate this law of domicile, acknowledged by all the world, it would be right for every State in the Union to exclude every native-born colored man in America. What, in the name of God, would you do with these men, these eight hundred thousand free, native-born men, of our common country! In the name of eternal justice, I deny this pretended State right to exile any of its native-born freemen, or deny them a fair hearing in maintenance of their rights in the courts of justice.

No, sir; it was not to legalize this horrid injustice that America was allowed to assume her proud place amongst the nations. It was not to this end that the immortal Genoa, guided alone by Providence and that tiny magnet which twinkles on its card like a beam of light, gave to the oppressed nations of the Old World this new heaven and new earth. It was not to this end that the Pilgrims came with their hymns of lofty cheer;

"And the stars heard, and the sea;
And the sounding aisles of the dim woods rang
To the anthem of the free!"

It was not to this end that the fathers of the Republic put forth their great Declaration, and in defense of it walked through the fire and storm and darkness of a seven years' war. It was not to this end that God gave them the victory, and set for them his bow in the cloud like a brightness out of heaven, giving token that the wild deluge of oppression and blood should not again sweep over their habitations. It was not to this end that, after the victory was thus achieved, those brave old men, with the dust of Yorktown yet fresh upon their brows, and the blood of Yorktown yet fresh upon their garments, proclaimed to the world, and asked it to be held in everlasting remembrance, "that the rights for which America had contended were the rights of human nature."

Mr. SANDIDGE obtained the floor.

Mr. ENGLISH. With the permission of my friend from Louisiana, I desire to say that yesterday my friend and colleague from the seventh district [Mr. Davis] indicated his intention, if he could obtain the floor, to move to recommit this bill with instructions to add an additional section repealing the restrictive clause in the bill of last session, reported by the committee of conference in reference to Kansas. Now, I have made up my mind, under all the circumstances of the case, to vote for the admission of Oregon. I prefer to vote for the bill as it is. I merely wish to say, however, that if my colleague should succeed in introducing his motion, and I can procure the floor, I desire to offer an amendment in the nature of a substitute for his proposition, to repeal the restrictive clause in the Kansas compromise bill. I send it up for the purpose of having it read and printed.

The proposed substitute was read, as follows:

Sec. — And be it further enacted, That hereafter no Territory shall be admitted into the Union as a State with a population less than the number required by the then ratio of representation for a Representative in Congress, to be ascertained by a census taken in pursuance of law.

Sec. — And be it further enacted, That whenever any Territory shall contain sufficient population to constitute a State, as prescribed in the foregoing section, the Legislature of such Territory may proceed to call a convention for the purpose of forming a constitution, and may take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State under such constitution, thus fairly and legally made, with or without slavery, as said constitution shall prescribe.

Sec. — And be it further enacted, That for the purpose of ascertaining whether any Territory contains the requisite population to constitute a State, a census of the inhabitants thereof shall be taken under the direction of the President of the United States, upon application being made therefor by the Legislature of such Territory.

Sec. — And be it further enacted, That this act shall be, and is hereby, incorporated and made part of the organic

law of each of the Territories of the United States, and that all laws and parts of laws inconsistent with this act be, and the same are hereby, repealed.

Mr. SANDIDGE. Mr. Speaker, I sought the floor a few moments ago, in order to make some reply to a remark which fell from the gentleman from Georgia, [Mr. HILL.] In the beginning of his speech, he declared that one of the fundamental principles of the party to which he belonged forbade his voting for the admission of any State into this Union which had in its constitution a clause like that he was pleased to term "the alien clause" of the constitution of Oregon. I want the gentleman from Georgia to respond to the inquiry which I now propound to him, and to those who are known as his party friends. Do they and their party contend that the Congress of the United States has the power to regulate the right of suffrage within the States of this Union? In other words, has Congress the power to declare who shall be electors in the several States? If the gentleman and his friends cannot admit such a power in our Federal Legislature, (though, as to this they do not say,) how, then, can they, with any show of reason, refuse to sustain the admission of Oregon because its people have chosen to recognize, as voters, a certain class of citizens?

I am, sir, more astonished to see southern men than northern take this ground. To what would it lead? Why, Mr. Speaker, it would lead to this, as its legitimate end: that Congress, having the power to regulate the right of suffrage, could declare that every negro man, a slave, twenty-one years of age, upon our plantations, shall be entitled to vote; that they might go to the polls with their master, and each have an equal right with him to vote, even upon his own emancipation. I am astonished, therefore, to hear this doctrine promulgated on this floor by southern Representatives. It can lead to no other result than that which I have stated. I am not surprised to hear gentlemen from Massachusetts, or from any of the northern States, urge that negroes shall be entitled to the right of suffrage, when, at home, they are, and have been, in favor of granting this privilege to such persons.

Having no intention of inflicting a speech upon the House at this time, I will only refer very briefly to one or two other objections taken against this bill.

The objection is made, Mr. Speaker, to the admission of Oregon as a State, that her constitution prohibits the immigration there of free negroes. I presume, sir, that those who object on this account, and who argue in favor of an equality of the black with the white man, will, if they are honest and sincere in what they say, not have the least repugnance to see a Representative seated on this floor beside them, of full African blood. They would not object, either, to see their daughters or sisters allied to such sable gentlemen, *on account of color*. This would be negro equality; and unless gentlemen go to that extent, this doctrine they talk so much about is mere stuff, moonshine—the whole of it. Will any gentleman on this floor say that he is in favor of such equality? No, sir; there is not a man here who will say that he is; not one who would like to see a negro member of Congress, or the intermarriage with his family of persons of African blood. If they are unwilling to see these things, why prate of negro equality in Oregon? Why make a point on that score against Oregon? Why object to her because she repudiates an equality which no member of this House dares to say he is in favor of, on principle or otherwise?

Mr. WILSON. Does the gentleman approve of that provision in the constitution of Oregon which prohibits a negro or mulatto from bringing or maintaining a suit in that State?

Mr. SANDIDGE. I would like the gentleman first to answer my question. He will not avow the sort of equality I have referred to, and yet he should do so to be consistent, if opposed to Oregon on account of the clause in her constitution now being discussed. I will, however, most cheerfully answer him, and will wait for a response to my own inquiry. I believe in the right of the people of any State to declare, in their organic law, who shall and who shall not vote at their elections; who may and who may not sue or be sued in their courts of law.

Mr. WILSON. I have no trouble whatever in answering the gentleman. The constitution of

Indiana does not confer upon the class to which the gentleman has referred the right to vote. I am willing to abide by the constitution of my State in that respect. Again, sir, I believe that the Republican party is as much opposed to negro equality as the Democratic party. No Republican has ever contended for any such doctrine.

Mr. SANDIDGE. The gentleman, then, would not be willing to see an African seated in this Hall. Then, surely, he is not prepared to vote against Oregon. He will be consistent with himself if he votes for her admission.

Mr. WILSON. The gentleman has not answered my question.

Mr. SANDIDGE. I thought that I had; and now, what I have to say is merely repetition. I hold that the people of Oregon, when they assemble, through their delegates, to form a constitution preparatory to admission as a State, have the right to say who shall vote, and who shall not vote—who shall, and who shall not, come before their courts. Minors, married women, and other persons, are not allowed, in their own names, to enter your courts as parties litigant. Why may not negroes be excluded in like manner?

Mr. WILSON. Do not the laws of Louisiana allow negroes to maintain suits in the courts of that State?

Mr. SANDIDGE. Not slaves in their own names. Free people of color may; and we could take from them such right. I will say to the gentleman, in this connection, that a white man in my State would be in more danger of the halter if he committed an outrage upon a negro, than if perpetrated against an equal. We have a peculiar regard for our slaves, and for the rights which we recognize as belonging to them. We never allow them to be trampled upon. Juries, sir, and courts, always protect them. We will go further to punish an unwarrantable aggression upon them than upon a white man. They are subject to us, and we see to it that they are not outraged without redress. Our free men can protect themselves.

One gentleman, and only one, the gentleman from Indiana, [Mr. WILSON,] has responded to my interrogatory in reference to negro equality. I will refer to one other point. In the last session of this Congress there was an application pending to admit Kansas as a State. No gentleman on either side of the House said that Kansas had, at that time, a population sufficient to entitle her to one Representative on this floor, according to the present ratio. Now, gentlemen declare that because we passed the *Kansas bill*, no State should hereafter come in with a less population than would entitle her to a Representative. Twice did this House, before the enactment of the *Kansas bill*, and almost without objection, pass bills authorizing the people of Oregon to frame a constitution. Did we hear anything then about want of population? No, sir. Two years ago, the gentleman from Pennsylvania, [Mr. GROW,] who now leads the Opposition in his minority report against the admission of Oregon, declared, upon this floor, that her population was about ninety thousand. It surely has not been reduced since that time.

It does seem to me—with all due deference to my friends from the South, who now oppose the admission of Oregon on this point of population—that they are doing so without sufficient reason. We called on our northern friends everywhere to come up and vote for the admission of Kansas, because she had framed her constitution, as we believed, in a proper and legal manner. Kansas had a population of perhaps forty thousand, and, by her constitution, was to be a slaveholding State; and yet we found friends from the North who could vote with us then. They did so on principle—the right of the people to regulate their own domestic affairs to suit themselves. How, now, can we turn round and say to them, when Oregon is applying, and when (unlike Kansas) there is no complaint as to the manner in which her constitution was formed, and when she has a population exceeding, by more than two-fold, what Kansas had last winter, that we cannot vote for her admission? Sir, it has been our boast at the South that we asked for nothing we would not concede to others. We have been indebted to the northern Democrats for many things we prize most highly. Since the destruction of the old Whig party, they are the only people in this

Government who ever risked anything in defense of the rights of the South. What credit can southern men take for their position? They can occupy no other than that of State rights—the right to be free from congressional intervention in their domestic affairs. We risk nothing in this, and therefore are entitled to no credit. But when we see gentlemen coming here from another extreme of the Union, who have heretofore voted with us in the support of what we claimed to be just and right, though of no interest to them, or to their constituents personally; and who, in thus voting, risked everything, politically; I think it comes with an ill grace from us now, when Oregon is applying with a free-State constitution, after what has so recently occurred, to turn upon them, and talk about population, and who shall vote at her elections. We said nothing about the population of Kansas, when that question was before us. We only said "vote for her admission." The restriction imposed in the English bill was not intended to apply to Kansas or to Oregon—the application of Oregon being then before us. The Senate passed the bill for the admission of Oregon, because the same understanding existed in that body as in this House, as to the rule in the English bill not applying to her. The bill was adopted in the Senate by a vote of more than two to one—a large majority of those voting for the bill being Democrats from the North and South.

Now, I do hope, in good faith to those men who have so long, so loftily, and so unselfishly, stood by us here in defense of our rights, and to whom, alone, we can look with any degree of hope in coming contests, that we will, without murmuring, vote for this bill, and without sticking on points of small dispute. As for myself, sir, I shall vote for her admission with a great deal of cheerfulness. It is right in itself; and is commended to my judgment by many reasons of justice, propriety, and good policy.

Mr. HOARD obtained the floor.

Mr. MAYNARD. I ask the gentleman to give way to a motion that the House take a recess till seven o'clock.

Mr. HOARD yielded the floor.

The SPEAKER *pro tempore*, (Mr. BARKSDALE in the chair.) The motion can only be entertained by unanimous consent.

Mr. STEWART, of Maryland. I think we had better go on. I object.

Mr. UNDERWOOD. Will the gentleman allow me to inquire whether any other business will be taken up this evening besides the discussion on the Oregon question?

Several MEMBERS. No, no.

Mr. UNDERWOOD. I hope that by general consent no other business than this will be taken up.

The SPEAKER *pro tempore*. No other business can be taken up. This bill is a special order.

Mr. HOARD. Being called upon to vote for or against the application of Oregon for admission as a State into the Union, I have examined the constitution under which admission is asked, for the purpose of determining what vote I ought to give upon that question. I have also examined the separate reports made by the gentleman from Pennsylvania, [Mr. GROW,] and the gentleman from Tennessee, [Mr. ZOLLICOFFER,] members of the Committee on Territories, and as neither of those reports presents the feature upon which my opposition to the admission, under the present constitution, rests, I have with great reluctance felt it my duty to place on record the considerations which will influence me in voting against the admission of a free State. I had hoped to feel my duty fully discharged during this short session in simply voting upon propositions that should come before the House for its action; but a difference of opinion arising amongst Representatives, both as to the propriety of opposing the admission, and also as to the grounds of opposition, to prevent misapprehension and misrepresentation, I will present, in the briefest possible manner, the reasons for the vote that I shall give upon this question.

On the twentieth page of the copy of the Oregon constitution, as printed by the House, I find the following clause:

"If a majority of all the votes given for or against free negroes, shall be given against free negroes, then the following section shall be added to the bill of rights, and shall be part of this constitution:

"Sec. —. No free negro or mulatto, not residing in this

State at the time of the adoption of this constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit, therein; and the Legislative Assembly shall provide by penal laws for the removal of all such free negroes and mulattoes, and for their effectual exclusion from the State, and [shall provide] for the punishment of persons who shall bring them into the State, or harbor them therein."

The second section, fifteenth article, (page 18,) provides that:

"Every person elected or appointed to any office under this constitution, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State."

The vote was taken at an election held on the 9th day of November, 1857, and was largely against free negroes, which vote makes the section first quoted part of the Oregon constitution, under which admission is asked. The preamble to the United States Constitution, which is as binding and important as any of its subsequent sections, declares that the Constitution was formed for certain purposes, amongst which is the important one of establishing justice. It reads as follows:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Now, sir, can any civilized person say that the provision in the Oregon constitution, which I have recited, is not *unjust* in the broadest and fullest sense of the term? Does it not outrage all the civilized ideas of justice, and is it not, therefore, clearly against the declared purposes, and the spirit of the Constitution? I am not here considering the negro's right to political equality, nor even asserting his right to liberty; but I do assert his right to life, and to the protection of his person, which this constitution *unjustly* denies.

Sir, the free negroes and mulattoes of the United States are not trespassers upon the soil of the country, to be hunted and driven from it as wrongdoers. Can we deny them a home and all the rights of humanity in the land of their birth? Their ancestors came here with our ancestors. They have no country but this; no home but here; no God but ours. Have gentlemen who are so firm in their opposition to the evils and wrongs of slavery, and who have done so much to prevent its extension in Kansas, reflected well upon the tendency of such action, by free States, as we are called upon to indorse and approve if we accept the Oregon constitution? If free negroes and mulattoes are to be hunted down like demons in the free States, and driven from their borders like lepers, what else are we doing but driving them into slavery?

But I have been told that the section against free negroes in the Oregon constitution was placed there by the free-State men to prevent the adoption of a slave constitution. Well, if it is necessary, anywhere in the United States, to indorse and adopt such monstrous and revolting doctrines as this section contains, to get rid of slavery, I think it is high time that we should abandon all further opposition to that institution. I do not believe that there can be found, in all the constitutions of the slave States combined, so much inhumanity and rank injustice as this single section of the Oregon constitution contains. Let us examine it and understand its scope and effect:

"No negro or mulatto not in the State on the 9th of November, 1857, shall ever come, reside, or be, within the State."

Now, sir, any child born of negro or mulatto, parents in Oregon, since that day, was not there then, but is there now, contrary to the constitution; and the Legislative Assembly, if we give vitality to this constitution by our votes here, must provide by penal laws for the removal of such negro or mulatto child, and for the punishment of the parent whose child was born within the State. It has been said that it could not have been the intention of the framers of this section to separate the child from the parent; but I would like to know what stronger language could have been used, provided they had intended to deny the right of parents to keep their children there? If they did not intend to separate the child from its mother, they doubtless did intend, by this provision, to bring into service the strongest inducement to incline the parent to leave the State, that she might be with her child. But can the plain provisions of a constitution be disregarded by legis-

lators and officers sworn to support it, upon the pretense that the framers could not have intended what their language plainly imports?

I protest against the right of any State to deny any free-born American, who is guilty of no crime, the right to be, that is the right to exist, in the land of his birth. Sir, a band of States, with constitutions like this around the slave States, would not only be a wall of fire to prevent the escape of those now in bondage, but a net, to gather into slavery all free persons, in whose veins flows the blood of the unfortunate African. Why, sir, this Oregon constitution is as much worse than a proslavery constitution, as the man who drives a wretched, famishing creature unfed from his door, is worse than him that heeds his supplications, and for his labor gives him bread and a home.

But there is another clause that deserves attention:

"No negro or mulatto shall maintain any suit therein."

If a negro or mulatto should go into the State, even to attend the funeral of relatives, or enter it unconscious of the laws prohibiting him, or be within the State for any purpose, or under any circumstances, they might not only be despoiled of their property without remedy, but they would also be remediless, if tortured, violated, or even mutilated! And is it possible that the American Congress will admit a State with a constitution that denies all redress to a human being for violations of person, and by the votes, too, of members who would hesitate to vote for the admission of a slave State? Is it not manifestly unjust to deny to any free-born American, guilty of no crime, the right of home in the land of his fathers? If it is admitted, as I think it must be, that such denial is unjust, then it is unconstitutional; and, if unconstitutional, then we violate our oaths in giving sanction, by our votes, to a violation of both the letter and spirit of the Constitution which we have sworn to support.

Sir, in conclusion, I protest, in the name of justice, against this inhumanity; and, in the name of humanity, against this injustice.

Mr. STEVENSON obtained the floor.

Mr. MAYNARD. I ask the gentleman from Kentucky to give way for a recess.

Mr. STEVENSON yielded the floor.

Mr. MAYNARD. I move that the House take a recess until seven o'clock.

Mr. STEWART, of Maryland. I object.

Mr. GIDDINGS. There are many gentlemen here who wish to address the House on this question; and I suggest that those gentlemen who wish to go to their dinners had better go; and the discussion can go on in their absence, without any recess.

Mr. MAYNARD. I will not press my motion. I made it at the instance of several gentlemen.

Mr. STEVENSON. I do not rise, Mr. Speaker, with a view to go at length into this protracted discussion. I have risen merely in justice to myself, to give the reasons which will actuate me in voting for the admission of Oregon. Whatever may be the term of my service on this floor, I shall never give a vote which more fully commends itself both to my head and heart than that which will record me in favor of the admission of this State. I find in that vote no inconsistency with the vote which I was called upon to give on the English compromise measure for the admission of Kansas. If gentlemen on the other side—not only the gentleman from Pennsylvania, [Mr. Grow,] who made the minority report, but others who sustain him—will examine their own records, it is not improbable they will find some more glaring inconsistency than any that can be construed from the votes of gentlemen from slaveholding States for the admission of Oregon.

I acknowledge myself, Mr. Speaker, to be a firm believer in that conservative rule of action established by the English proposition, as a future basis for the admission of new States—that no Territory ought to be admitted as a State into this Union until she has a population equal to the ratio of representation. I adhere to that doctrine yet. It commended itself to my judgment then, and I still approve of it. But there is no inconsistency in an approval of that doctrine with the vote which I propose to give on this measure. To my judgment, the two votes are in perfect harmony. We agreed by the English bill to admit Kansas with a population less than the ratio

of representation. If the people of Kansas had chosen to come in by an acceptance of the provisions of the English bill, would the State not have been admitted with less than the ratio of representation? Clearly so.

We proposed to admit Kansas a year ago, subject to an approval by the popular vote, with less than the population required by the English amendment; and had the people of Kansas accepted the terms of that bill, Kansas would have this day been a coequal sovereignty in this Confederacy, with a population less than that of Oregon, and less than the ratio declared in the same bill to be requisite for the admission of future States. Why, then, this exception in favor of Kansas? Not, as it has been alleged in this debate, that we feared revolution and bloodshed. No, sir; I here solemnly declare, no such motive actuated my vote; I was, I trust, guided by a loftier, and more patriotic purpose. Justice demanded a relaxation of this rule, as to pending applications. Kansas had gone through all the regular forms of law, and, under an implied acquiescence of Congress, prepared itself to put on the habiliments of State sovereignty, before that rule was adopted. A convention had been called, a constitution had been adopted, and the State itself was knocking loudly for admission. Would it have been just to Kansas to have applied a new rule as a barrier to her admission, which, however wise, just, and conservative to all Territories which had taken no iniquitous steps for admission, had never been applied in the past, and which Kansas could not have suspected would have been demanded as a *sine qua non* for her admission? On the contrary, she had rather been encouraged by Congress to apply for admission, and thus put an end to the strife and intestine disorder which must for many years prove a stigma upon her escutcheon.

This constituted the exception from the rule in the English bill towards Kansas. The same rule would apply to and exclude Oregon, were it conceded that she had not the requisite population.

The distinguished gentleman from Georgia has ably presented to this House his data for assuming that Oregon has at this hour more than one hundred thousand inhabitants. The gallant and patriotic Delegate from that Territory has, upon his personal veracity, stated to us that he has not the slightest doubt but that the population of Oregon largely exceeds the present ratio. This would seem to be sufficient, especially as there is no proof to contradict it. If the rule prescribed by Mr. Madison himself in the case of Tennessee is to prevail, Oregon has the requisite population required by the English bill, and ought to receive the vote of every member in this Hall.

I avow frankly, Mr. Speaker, if I had great doubt as to the population, I should promptly vote for this measure. The same considerations which exempted Kansas from the operation of the English bill apply, in my judgment, with fourfold force to Oregon. No disorder, riots, or bloodshed, stain her garments; no sectional dissensions have retarded her prosperity; no irregularity has marked her proceedings in the adoption of her constitution. She presents the spectacle of a happy, united, and prosperous people, with a republican constitution, asking a place in this Union of States. That constitution was adopted, and that application made, long prior to the passage of the English bill. Kansas was excepted from the operation of the provisions of that measure; and, upon similar grounds, I propose to except Oregon.

Apply this rule to Dakota, Arizona, Nevada, Jefferson, and each and every Territory which had not adopted its constitution, and was not applying for its admission at the period of its adoption; but do not, I pray you, extend it to inchoate States, which had peacefully adopted their constitutions under the *quasi* invitations from Congress, that they would be gladly welcomed into this brotherhood of States, and would have no test of population applied to them. Simple justice would seem to demand this much at our hands.

Is it not this rule of action, Mr. Speaker, prescribed in all our civil and legal proceedings? If public policy require and demand the change of a legislative enactment, and a new rule of action be required, are not all pending suits usually exempted from its operation? Would it not be the essence of despotism by the *ex post facto* opera-

tion of legislative enactments to regulate pending controversies?

I shall not attempt to argue the obligation resting upon us for the admission of Oregon with a population of sixty thousand, as resulting from the adoption of the ordinance of 1787. That has already been done by gentlemen who have preceded me, and by none with more ability than by my friend from Georgia, [Mr. STEPHENS,] who opened this debate.

Gentlemen upon the other side of the House persuade themselves it is a just ground of objection to the admission of Oregon, because persons of color are not permitted by the constitution to sue in their courts.

I deny that Congress can look into a constitution of a State but for the purpose of seeing that it is republican. I will resist such a right at every hazard. Our Republican friends, however, will, I trust, not become agonized over this provision. The mighty outrage is a mere chimera of their excited imaginations. It is not an unusual provision. The exclusion in many of the States, and in the free States, too, is not confined to free negroes. Infants, *femæ covert*, and lunatics cannot sue except by the intervention of a *prochein ami*, or a trustee; and yet such enactments have received the sanction of the wisest and best statesmen in the land. Our slaves cannot sue except through the intervention of a third party, and yet our courts are open to the assertion of any alleged right of freedom. I beseech gentlemen to examine carefully the statutes and constitutions of many of the free States, and they will agree with me that this is no ground of exclusion, if Congress possessed on this ground the power of inhibition.

I beg gentlemen to look to the consistency of their own record. Many of them were zealous advocates of the Topeka Kansas constitution, and by its terms, free negroes, if I am not mistaken, were excluded from the Territory, and that Kansas ostracism was sustained by a popular vote. Where was then the indignation and horror of that portion of the Republican party, who are now so much outraged at a simple denial of the right of a free negro to institute a suit in his own name?

It is not argued that any right is denied, and that justice cannot be obtained by suit in the name of an intervening party, which is the exact rule prescribed even in slave States to white persons who are infants, married women, or lunatics.

Some of my American friends, and perhaps two of my colleagues, are horrified at this application, and cannot afford to vote for Oregon. Why? Because, they say, it allows alien suffrage in its constitution.

Mr. Speaker, I have already, upon a former occasion, announced on this floor that I am not an advocate for alien suffrage. I think, with the ready mode of acquiring citizenship afforded by our existing laws, it is proper and just to limit suffrage to citizens. Such a conservative rule would always meet my approbation. What right, however, has Congress to look into the provisions of a constitution of a sovereign State which is republican, and place its opinion, as to the wisdom of its provisions, in direct antagonism to the State which has adopted it, and on whose people it is obligatory? If Congress has a right to look into it for one purpose, it may look into it for another; and should a Republican majority have the sway of this House, the argument now urged by South Americans might be used as a weapon for their own destruction.

I think, too, our American friends must again look to the record, or they may be suspected of inconsistency. If I remember aright, the word "citizen," as adopted in the Crittenden bill for the admission of Kansas, was stricken out, and the word "*inhabitant*" inserted in the *Montgomery amendment*, for which all our American friends voted. I should, besides, suppose that our American friends, from the slave States, might safely afford to support a measure which has received the sanction of at least one, if not two, of their prominent candidates for the Presidency. Surely my two American colleagues from Kentucky, could afford to tread where the distinguished CRITTENDEN led; and when this bill for the admission of Oregon, received his support and vote, in May last, when the population was not as great as it is now, it should receive a favorable support at their hands. The alien suffrage feature of this bill was

not formidable enough to drive Mr. CRITTENDEN from its support, and I regret that it cannot receive the support of my colleagues.

Mr. Speaker, I put my support for the admission of Oregon on even higher grounds. I belong to, and, in part, represent, a State which geographically lies in the center of this Union. She has, and always intends to stand by it. She can sympathize with no extreme which aims at its disruption. But Kentucky looks to the Constitution as the bulwark of her rights and the great palladium of her safety and the only bond of that Union. As her adopted son, I revere her devotion to that great charter of our rights. By being transplanted from my own Virginia, I have, I trust, never lost sight of the early lessons of strict construction and State rights in which I was brought up.

That same institution, sir, of which we are both *alumni*, and of which we can be so justly proud, should disown us and discard any son who could ever forget the lessons which he learned in that institution, or prove recreant to the principles of the great founder, whose crowning work it was, and who sleeps so calmly on Monticello's summit, in its sight. As there brought up, so I this day stand—a strict constructionist; looking to the Constitution and its guaranteed rights as the only palladium of our safety. And when I hear gentlemen from some of the extremes of this Union alarmed at the fact that the scepter of power has passed from the slave States which founded this Government, to the free ones; and that with that this change must ultimately destroy this Union, I do not yield my assent to any such doctrine. No Government can stand upon mere parchment. The affections of the inhabitants of these States, which have swelled from thirteen to thirty-two, must be centered in and desire the continuance of the Union, or it will not last. The exactions of the Constitution must find a prompt acquiescence in every heart and in every section.

You might as well expect to make a man a Christian and imbue him with the spirit of Christianity by taking him into a church and showing him the ten commandments engraved upon tablets of wood or stone, as to expect that this Union can be kept alive and perpetuated without the attachment of every section of the country, and a determination to stand not only by the rights of each State as guaranteed by the Constitution, but by that fraternal spirit in which it was formed. I stand by this Confederation; and one of the proudest votes that I shall ever give will be that which I shall give in favor of the admission of Oregon. It will give the lie to the charge which has been made, that southern men voted for the admission of Kansas, and were willing to violate the rule in regard to population, because Kansas was a slave State. I repudiate it for Kentucky; I repudiate it for myself. I am willing to see free and slave States come in equally, when they come in with republican constitutions. I believe they ought not to be admitted without a population equal to the ratio of representation.

But I would not extend that rule to Oregon, because we did not extend it to Kansas; and it was not intended, in my judgment, that it should be extended to States that had already applied to come in and were knocking for admission at the doors of Congress. And, sir, I am willing to stand to the day of judgment upon this vote. My constituency will approve it; Kentucky will approve it. By it I prove that I know no sectionalism. I cannot go to the extreme of some of my southern friends. I do not believe that slavery is so likely to destroy this country as corruption, as centralization, as consolidation. There is the source of my great fear. I would like to see the expenditures of this Government reduced to that which but ten years ago was regarded as entirely ample. They can bear that reduction.

I always thought it was a great error in the great men who wrote—in defense of the Constitution when it was framed—those essays now published under the name of *The Federalist*. When they conceded the great powers of this Government, they did it honestly—from a patriotic zeal to have that Constitution adopted; and they were led naturally into the error; because the Articles of Confederation had failed, from the weakness of the Government. They believed that the State governments would be too strong for the Federal bantling. But now, if they could rise from their

graves, and see that the rights of the States are practically repudiated, and every day crushed by the mastodon of consolidation; when a vitiated and cormorant thirst for public plunder can be only satisfied by a prostitution of the purposes of the General Government, by the increase of offices and patronage; when we have agricultural Patent Office Reports, Mechanical Reports, and now agricultural colleges, with compensation and per diem to its members, they would ask themselves "is it possible that the human intellect can undertake to justify all these things, under a Government which we supposed, when we founded it, was one of limited powers, and confined to its enumerated powers, supposed to be essential to the mutual defense and preservation of these sovereign States, who parted with only so much of their sovereignty as was necessary for effectuating the objects of their union?" It was then the centrifugal, and it is now the centripetal, power that threatens us.

There is but one remedy for all this. As long as you have protective tariffs, and large surpluses in the Treasury, there is always an incentive to corruption and extravagance. Let us all come back, and, by a State-rights, orthodox construction, bring back the operation of the Federal Government to its original design. Let us construe it strictly, then, and endeavor to restrain the General Government from every power which is not legitimately conferred by the Constitution. I believe, if we can cut off all the extravagances of the Government, stop all those bounties to particular classes which are a tax upon all the producers, and reduce the expenditures of the Government to the smallest sum upon which it can be carried on, the Government is safe.

I am not a sectional man, though I always cling to the section in which I was born, and in which I expect to live and die; but I repudiate the idea of the Virginia strict construction and States-rights principles, when properly illustrated and carried out, as looking to disunion. I think they bear transplanting, and become more practical in Kentucky; and I am pained to see any Representative from the Old Dominion voting against Oregon, and thereby giving aid and comfort to the enemy, who will attempt to show that, while they could vote for Kansas without the population, as a slave State, they cannot admit Oregon because it is free. Admit the injustice of the argument, and its want of truth; we have heard it used already on this floor, and it will be continued to be used for the purpose of sectional excitement. I hope that every southern man will, by his vote, contradict such a charge.

Mr. MILLSON obtained the floor.

Mr. VALLANDIGHAM. Will the gentleman give way for a motion that when the House adjourns it adjourn to meet to-night at seven o'clock? Many members have left, intending to return at that time, and continue this debate.

The SPEAKER. The Chair can only entertain the motion by unanimous consent.

Mr. DAVIS, of Mississippi. I object.

Mr. CLAY. If the gentleman from Virginia will yield, I will move that the House do now adjourn.

Mr. MILLSON. That would hardly be fair to the gentlemen who desire to speak to-day on this bill.

Mr. VALLANDIGHAM. If we adjourn now there will be no further discussion allowed. There are others who desire to speak.

Mr. CLAY. I will not press my motion. Debate, however, does not close until twelve o'clock to-morrow.

Mr. MILLSON. Mr. Speaker, I had not intended to take part in this debate; and, if I had consulted my private feelings, I should still refrain from any participation in the discussion of this question. But, sir, allusions have been frequently made to the position of gentlemen, of whom I am one; and complaints have been urged that those gentlemen from the South—of the Democratic party of the South—who have not been able to see that their duty would permit them to vote for the admission of Oregon, have been acting somewhat ungraciously towards those northern Democrats, who, as it is said, at our instance and to promote our interests, united with us in the attempt to introduce Kansas into the Union as a slave State.

Now, Mr. Speaker, I have risen more for the

purpose of assigning for myself and for others who agree with me, the special reasons which have brought us to the conclusion at which we have arrived, than with any view, or hope, or expectation, that any impression could be made upon the minds of gentlemen in this Hall. I stand now, where I stood for years, in reference to this question of the admission of Oregon. Four years ago, and again two years ago, I opposed, by vote and by argument, the passage of the bill proposing to authorize the people of Oregon to make a State constitution, with a view to admission into the Union. I did so simply and exclusively on the ground of the absence of the requisite population then. That objection remains now, and it is the only objection I propose to make the subject of remark. In the speech which I made a year or two ago, in reference to the Kansas question, I distinctly stated my own conviction that it was not the province or the privilege of Congress to inspect a State constitution, and that we could not judicially or officially know what any State constitution contained.

Mr. BOWIE. Upon what authority, judicial or official, does the gentleman assume that Oregon has not the requisite population? The gentleman assumes a fact which is not true.

Mr. MILLSON. I could with much more propriety ask the gentleman how he knows that there are ninety-three thousand inhabitants?

Mr. BOWIE. They assert so, and the gentleman has no proof to the contrary.

Mr. MILLSON. There should be affirmative proof.

Mr. BOWIE. Not at all.

Mr. MILLSON. I decline to yield for further interruption. It was to the very point of insufficiency of population that I rose to address the House. In 1854, in a discussion between the Delegate from Oregon and myself, he expressed the opinion that there were then sixty or sixty-five thousand inhabitants in Oregon, and his declaration was that the population of Oregon increased so rapidly that no census could be relied upon, because in the interval between the taking of the census and its transmission to Washington, there would be an increase of perhaps five thousand votes. Well, sir, the very next year, notwithstanding this supposed large increase, the census ascertained the population to be only forty-three thousand. The gentleman from Oregon, no doubt, most conscientiously supposed it to be about sixty-five thousand in 1854, but the census disclosed the population to be only forty-three thousand one year afterwards. He also said, at that time, that the vote given at the election the year before was about eight or nine thousand. Last year the vote was only ten thousand, and if we adopt that as the basis of calculation, it would reduce the population of Oregon at this day to less than forty-five thousand.

Mr. CLAY. Will my friend from Virginia allow me to ask him a single question?

Mr. MILLSON. Certainly, sir.

Mr. CLAY. I wish to know whether my friend from Virginia considers it essential, absolutely essential, that a State should have the exact number of ninety-three thousand four hundred people before she is admitted into the Union?

Mr. MILLSON. Mr. Speaker, the admission of States into this Union is a question of high congressional discretion; and if that discretion be abused, it is as competent to admit a State with a population of five thousand, as it is competent to exclude a State with a population of five million.

Mr. CLAY. I would like to ask my friend from Virginia, with his permission, one other question.

Mr. MILLSON. I yield to the gentleman for that purpose.

Mr. CLAY. It is this: whether, in his opinion, when a State presents herself at the doors of Congress, knocking for admission, with all the evidence upon the question of population in favor of her having sufficient, but with some doubt on the question, it is not wiser for the statesmen of this body to give that State the benefit of that doubt, rather than to exclude her?

Mr. MILLSON. I will answer the gentleman thus: I am not one of those progressive Democrats who look with complacency upon the expansion of our territory, and the multiplication of the States of the Union. Sir, I look with alarm, with apprehension, and even with dread,

to the possible consequences of the indefinite multiplication of new States. I look with apprehension to the day when we may have a hundred States, and when, perhaps, the Senate will be a larger and more unwieldy assembly than the House of Representatives. When we must admit new States, I yield to the necessity, but I will not run to meet it. Prove to me that a Territory contains a population equal to the ratio of representation upon this floor, and then, reluctantly, I will give my vote for its admission. But I say I do it reluctantly, because no statesman can contemplate without serious alarm the results which may happen from the expansion of our Union to so great an extent. If we did not fall to pieces from our own weight, we should, at least, expose our federative system to a severe trial.

I, sir, am not at all moved by the considerations alluded to by the gentleman from Kentucky, [Mr. STEVENSON.] I am not acting either in a sectional or a partisan capacity.

Mr. STEVENSON. I did not intend to include my friend from Virginia.

Mr. MILLSON. Reference was made just now by the gentleman from Louisiana [Mr. SANDRIDGE] to the ungrateful attitude in which he supposed southern men placed themselves in urging the admission of Kansas, and repelling the admission of Oregon. AM I have to say in relation to that is, that he must have been a very inattentive observer of passing events who did not know that Kansas would have been an unfriendly State, while Oregon will perhaps be a friendly one; and that, in urging the admission of Kansas into the Union, we were even making concessions to the North. Who was unaware of the complexion of the people of Kansas? Who was ignorant of the fact that the State of Kansas, when brought into the Union, would be no ally or friend of the institutions of the South? The gentleman, then, instead of taxing us with ingratitude, should have given us credit for magnanimity.

In refusing now to give my vote for the admission of Oregon, except upon the adoption of the amendment moved by the gentleman from South Carolina, [Mr. BONHAM,] I do it upon the principle that we ought not, in the mere pursuit of temporary and fugitive advantages, to sacrifice important principles. Sir, this introduction of new States, this creation, this manufacture of new States with reference to any particular emergency in public affairs, is something like the creation of new peers in the British House of Lords for the purpose of carrying a favorite measure which the sovereign may desire to accomplish. I will have none of it.

Mr. CLAY. I hope my friend from Virginia does not mean to say that gentlemen on his side of the House, gentlemen born in the same State in which he was born, gentlemen descended from those who were born in the same State where he was born, gentlemen who are guided by the same principle which the great statesman of his State enunciated—I refer to Mr. Madison and his opinion in the Tennessee case; I say, I hope that my friend from Virginia does not impute to them partisan motives which he has for himself disclaimed.

Mr. MILLSON. I can only say I do not perceive the application of the gentleman's remarks.

Mr. CLAY. I can explain, if the gentleman will permit me. My friend was going on to argue that the motives which actuated gentlemen in reference to the admission of Oregon into the Union was a motive based upon partisan grounds, because Oregon might be either Democratic or Republican; that gentlemen were to be governed by the fact in the votes they might cast. That was the line of the argument.

Mr. MILLSON. I will say generally, for the satisfaction of the gentleman, that such an imputation was not in my heart, and I do not know that it was in my words; and I think, if the gentleman will hereafter consult the report of my remarks, he will not find it there. It suffices to say that I am not in the habit of imputing improper motives to anybody in this Hall, and nothing was further from my intention than to imply that any gentleman would be influenced by any unworthy or improper motive, in casting the vote he should give.

I am discussing the question upon the views which suggested themselves to my own mind, without designing to reflect upon any one. I speak

for myself, and say that, in voting for or against Oregon, we should not yield to such considerations as sometimes induced a new creation of peers; and surely a disclaimer of any such motive upon my part cannot be regarded as an ascription of such motives to others.

Mr. LAMAR. As I understand the gentleman, he is making the insufficiency of the population of Oregon his chief ground of objection to the admission of that Territory as a State. I would merely inquire if Kansas was not subject to the same objection at the time the gentleman cast his vote in favor of her admission?

Mr. MILLSON. Whether Kansas was or was not subject to that objection, I really do not know. There was no evidence before us of the population of Kansas; but if the gentleman recollects, and I presume he does not, the remarks I made upon the Kansas bill, a year ago, he may remember that I then said that there were peculiar reasons persuading us to admit Kansas into the Union, and they were these: that both Houses of Congress had at different times passed a bill for the admission of Kansas into the Union; that the people of Kansas, perceiving that there was a very large majority of both Houses of Congress in favor of their admission into the Union, had regarded, and justly regarded, that as an implied pledge that if they should form a constitution and apply to Congress for admission, they would be admitted; that, having submitted a constitution made almost with the assent of Congress, both Houses having at separate times indicated their willingness that she should come into the Union, it would be unjust to the people of Kansas to refuse admission upon the ground of insufficiency of population; for they might justly say, "Why did you consent to pass a bill providing for our admission into the Union, if you intended at last to refuse it upon the ground of insufficient population?" Therefore, it was right that this objection should not be urged; but, if they should themselves decline to come into the Union upon the terms proposed in the English conference bill, they could not afterwards complain if we required them to have a sufficient population before framing another constitution or making a new application, because that bill gave them notice of our purpose to require it.

Mr. LAMAR. My object was not to impeach the gentleman's consistency. His argument in favor of Kansas is, no doubt, in perfect harmony with his argument against Oregon. My object was to bring the gentleman to this point; and his reply to me has obviated the necessity of any further inquiry; that even in this view, there may be considerations of sufficient weight to overcome the objection which he now urges to the admission of Oregon; that is, we may not only waive the objection as to the insufficiency of population, but a state of things may arise in which it becomes neither necessary nor important (even as a matter of discretion) to inquire into the facts. In other words, he does not insist, in all cases, upon the indispensability of a given population.

Mr. MILLSON. Certainly not.

When I said I objected to the indefinite increase of new States, the House will readily perceive that I referred to the power of Congress to multiply States indefinitely; and it may be, in worse times than the present, for very unworthy purposes. You may divide and subdivide your Territories, and out of them you may manufacture an infinite number of States. Who can say what will be the condition of our Union if such a state of things should arise? Already out of the Territory of Oregon we have made two—Oregon and Washington. And what is now proposed to be done? You withdraw the State of Oregon from the Territory of Oregon; and you annex, by this very bill, a portion of the Territory of Oregon to the Territory of Washington; and who can tell but that the Territory of Washington itself may be divided and subdivided, at some future time, until a large number of States may be manufactured in that quarter also? Does not this furnish just cause of alarm? I do not want to see States with a larger representation in the Senate than in the House. In yielding to the application of States with that population which would give a member upon the floor of this House, we make a liberal and magnificent concession to those States. They are then placed upon the footing of the States of New York, Pennsylvania, and Ohio, which, with no

more Senators than these small States, have thirty-odd or twenty-odd Representatives.

Mr. CLAY. How with Delaware and Rhode Island?

Mr. MILLSON. They were original republics; not manufactured by Congress, but coming into this Union as sovereigns, and before the formation of our Constitution.

Mr. CLAY. I would inquire of the gentleman whether he considers it within the power of Congress to create or manufacture any State?

Mr. MILLSON. No, sir.

Mr. CLAY. They can only admit.

Mr. MILLSON. That was only a careless expression, for if there is any doctrine I hold more tenaciously than any other, it is that a State cannot be manufactured by Congress. I should not willingly consent that any one should attribute to me any such monstrous solecism in politics, as that. No man would attribute to me any such monstrous solecism as that. But while a State takes upon itself a sovereign character, not from any act of Congress, but from her own act, it is still true that the independence of such State must be recognized by Congress, before it can enter the Union; and to that extent its position among the powers of the earth, as a sovereign State, is the act of Congress; or results at least from the act of Congress.

I trust that I feel myself above sectional or partisan considerations in my present opposition to this measure. The people of Oregon have asked that an enabling act should be passed. At two different Congresses was the question brought up for consideration, and at two different Congresses has the application been refused. At the Thirty-Third Congress the bill was laid upon the table by a large majority of the Senate. They knew that the application was postponed because of their deficiency of population. Efforts were made to remove that objection by authorizing the taking of a census. It is not to be presumed that, under the circumstances, the census taken would understate the population. Yet after this application has been twice refused by Congress, they form a constitution and government in spite of that refusal; and, without giving any further information as to the number of inhabitants in this new State, they ask admission into the Union.

I am ready, sir, to admit them into the Union when they come up to the principle of the English conference bill; but I do not refer to that provision as obligatory upon Congress. Of course it is not obligatory upon Congress. It is but the declaration by Congress of what is proper in the individual case. I believe it proper, in that case; and, except for very strong reasons, it ought to be applied to all others. I see no justification for departing from that principle in the present case; and I cannot, therefore, vote for the admission of Oregon. The application of a State is always an appeal to the discretion of Congress, and each Congress must judge for itself. I regard, however, the provision of the conference bill, as to population, as containing a wholesome and sound principle. It was, to me, one of the strongest recommendations to vote for that bill. I do not want our northern friends to abandon that principle; and I think we are furnishing them a justification for doing so, or at least an excuse, by ourselves abandoning it in the case of Oregon, and consenting to admit her as a State without having that population which, in the English bill, was supposed to be necessary in the case of Kansas. Let them be put upon the same footing. I am for equality.

[Here the hammer fell.]

Mr. DAVIS, of Mississippi. Mr. Speaker, I desire to give the reasons which influence me in the vote I shall give on the pending proposition. I shall vote for the admission of Oregon, with her constitution as it now stands. While I am in favor of the political sentiment incorporated in the English conference bill, that no Territory shall hereafter be admitted as a State that has not a population to entitle it to one Representative upon this floor, yet I do not consider that that affords any reason why I shall vote against Oregon. At the time of the adoption of the conference bill, the admission of Oregon was a cotemporary question. The Oregon bill was pending before the Senate before the provision I have referred to was incorporated into the English bill; and I take it, sir, it was not intended that that provision should be

applied to Oregon. There is nothing on the face of the bill to show it was the intention of its makers to give it a retroactive effect. It certainly was not intended to operate upon a then pending question.

Taking that view, then, although I am in favor of that provision in the English bill for the time to come, yet I insist it does not apply to the case of Oregon. I am aided in coming to this conclusion by the action of others who were not only concerned in drafting the English conference bill, but in voting for the passage of the Oregon bill. I did not vote for this conference bill, for I was not present at its passage; but when I returned here, I stated that if I had been, I would have done so. I certainly did not look upon it as applying to Oregon. I find that, although that bill was passed by the Senate on the 30th of April, on the 18th of May following, Senators who voted for it and advocated its adoption, voted for the admission of Oregon with her present constitution; and I take it that the rule of law applying to the construction of statutes is applicable in this case. We are to take the opinions of the men who were cotemporary with the adoption of the measure. Then, for the reason I have stated, that provision of the conference bill does not apply to the admission of Oregon; and I would not feel myself justified in voting against her admission even if she had not the required ninety-three thousand four hundred and twenty of population. The most of the Senators who voted for the conference bill, also voted for the admission of Oregon, although they were aware her population was not equal to the standard of the conference bill. Every man here who voted for the conference bill knew she had not ninety-three thousand four hundred and twenty population; and, as I voted for a State with a constitution recognizing slavery, I cannot now vote against a State, under similar circumstances, that has a constitution prohibiting slavery.

But there is another reason which influences me to vote for the admission of Oregon. Even if I believed that the provision of the English bill applied to Oregon, I would still feel perfectly justified in voting for her admission. We are not limited to any specific mode of proof in ascertaining any given fact; and the testimony before the House convinces me, beyond all possible question, that Oregon now possesses the requisite population to entitle her to a Representative on this floor. We have first the testimony of the Delegate, whose veracity, I apprehend, no person will question; one who has ample means of ascertaining the population of the Territory. On his official obligation and honor he assures the House, that, from the information which he possesses, based on observation, Oregon has now a population of ninety or one hundred thousand inhabitants. It will not do to insinuate that he is an interested witness. He is a man above suspicion. He has bled for the honor of his country; and he would bleed in vindication of his own honor. He is incapable of misrepresentation or perversion. But I find from the letters that have been read from various sources, and from official information furnished to the House by gentlemen who have preceded me, the strongest corroborative testimony in support of the declarations of General LANE, as to the sufficiency of the population. The question with me is, am I satisfied, from the testimony, of the existence of the requisite amount of population? If I were a juror on the trial of a cause, acting under oath, I would not hesitate to decide, from the evidence, that there are ninety-three thousand four hundred inhabitants within the limits of the Territory of Oregon.

Mr. VALLANDIGHAM. I ask the gentleman not to forget the testimony of a hostile witness, the testimony of the gentleman from Pennsylvania, [Mr. Grow,] who stated two years ago that the population amounted to ninety thousand.

Mr. DAVIS, of Mississippi. Of course. But, Mr. Speaker, I shall not examine in detail the testimony on that point; but I say that from it I am fully warranted in voting for the admission of Oregon, and for two reasons: first, that Oregon is not embraced within the provisions of the English conference bill; and second, that there is the requisite population.

Now, I confess that in casting this vote, I am influenced by no partisan consideration. I am influenced by no opinion that the State of Oregon

will be a Democratic or an anti-Democratic State. I am incapable of casting a vote from partisan or sectional considerations. In the votes I have given, or may hereafter give, I have looked, and shall look only to what I conceive to be the best interests of the whole country; and whatever my judgment tells me is for the best interests of the country, as well as the rights of the different sections of the Union, that I shall do.

But the gentleman from Virginia [Mr. MILLSON] says he looks with some degree of horror to the expansion of this Government, to the admission into this Union of additional States. Well, that event must come. However reluctant he may be to see new States admitted into the Union, they must inevitably come. I apprehend that there is not a man on this floor who does not believe that even if there be not to-day ninety-three thousand four hundred people in Oregon there will be within the next twelve months.

Mr. MILLSON. I have voted frequently for the admission of new States into the Union, and I do not mean to be understood as saying that I am opposed to the admission of every new State, I speak of the indefinite multiplication of new States. I say, I look forward with dread to the period when the number of States will be much larger than it now is.

Mr. DAVIS, of Mississippi. Certainly. I understand that you dread it as a mere political question.

Mr. MILLSON. No; not that.

Mr. DAVIS, of Mississippi. Well; you dread the expansion of the country. It must come at all events. If Oregon be rejected now, she will come back within the next twelve months, with the requisite population, and according to the gentleman's own argument, we will have to admit her into the Union. Now, if the gentleman perceives beyond all doubt that Oregon will seek for admission within twelve months from this time, and with the requisite population, and if he can only hope to postpone for that length of time what he considers an evil, what benefit will result from the postponement? None whatever. The admission of Oregon within the next twelve months is inevitable, and the very objection made to-day, although it does not exist in reality, will be overcome in the mind of the gentleman himself.

Mr. MILLSON. If we overlook the principle in this, we will have to overlook it in the case of other States, applying with still less population.

Mr. DAVIS, of Mississippi. I am not overlooking the principle; I have endeavored to show, that Oregon was not embraced within the principle for which the gentleman contends; and that, even if she were, the testimony would convince any man that she has the population to entitle her to admission.

I hold that these two propositions are established, so far as facts can do it. But, independently of that, I ask has not Oregon the right to expect her application to be granted, under all the circumstances? This House, at the last Congress, passed an enabling act authorizing the people of Oregon to meet in convention and frame a State constitution, preparatory to admission into the Union. That bill was defeated in the Senate; but at the last session of Congress, twelve months thereafter, the Senate itself indorsed the action of the people of Oregon by passing this bill to admit her into the Union as a State, with the constitution thus made. So that Oregon was induced to believe, if she asked for admission, her application would be granted. When she comes before this body with her constitution, asking us to indorse what has been done by the Senate, there is no substantial or solid reason why her request should not be granted.

The gentleman from Virginia says he is horrified at the idea of the admission of new States into the Union. He does not like the expansion of the Confederacy. Oregon had a right to believe that this House, at least, after passing an enabling act for her, would not refuse to admit her when she applied; but now we find the very body which invited her to ask admission, interposing objections, and urging one reason after another why she should not be admitted, none of them, in my opinion, being solid or substantial. I do not propose, this evening, to discuss the questions which have been raised by gentlemen touching the provisions contained in the constitution of Oregon itself. I hold that the people of Ore-

gon had a right to make their own constitution, and all we have to look to is to see that that constitution is republican in its character. There is nothing in the constitution, in my view, that is either anti-Republican or improper in itself. A people have a right to discriminate in favor of themselves, and against others who do not belong to the same caste, color, or race as themselves, in making their constitution, provided that those against whom they so discriminate are not, according to the laws of nature, identified with them in color. I shall not debate that question. I am satisfied that the people shall make their constitution as they please; and I shall not consider or be influenced by the question whether the constitution they have adopted is favorable to slavery, or hostile to it.

Mr. GILMAN. Do I understand that the gentleman would vote for the admission of a State into the Union, whatever features there might be in its constitution?

Mr. DAVIS, of Mississippi. Yes, sir; if the constitution were republican.

Mr. GILMAN. I would submit this question to the gentleman in all sincerity: whether he would vote for the admission of Utah into the Union with the institution of polygamy sanctioned by its constitution?

Mr. DAVIS, of Mississippi. Well, sir, I confess that, as a mere question of moral and social right, I should not like to vote for it; but still, I do not exactly see how I would be justified in voting against it upon constitutional and legal grounds; and if the gentleman can show me what constitutional and legal objections there are to the admission of a State whose constitution authorizes a man to have two wives instead of one, I would be pleased to hear it. But I shall not undertake to-day to express any opinion upon that point. It is not important that I should do so.

Sir, unlike the gentleman from Virginia, [Mr. MILLSON,] the expansion of this Union has no horrors for me. I know that this Government is capable of embracing the whole earth, provided this Congress will exercise only the powers conferred upon it by the Constitution of the United States; and it is immaterial to me, so long as the Government keeps itself within the legitimate limits prescribed by the Constitution, how many States we have in this Confederacy. But it is a question that we have to meet some time or other. Sooner or later all this vast Territory has to be divided into States—whether it is to be in five, ten, fifteen, or twenty years, is not a question for me to determine. Sooner or later this territory must all be admitted into the Union as States; and if evils are to grow out of it, the only question is, whether those evils are to fall upon this generation, or upon our posterity. But because some apprehensions may be felt upon the subject of expansion, I shall certainly not be induced to reject a State that comes here with all the qualifications that are required by the Constitution and laws of this country to entitle her to admission into the Union.

Mr. MILLSON. Nor I, either.

Mr. DAVIS, of Mississippi. I will cheerfully admit all States that come with the requisite qualifications, because I think they are justly entitled to admission. I will not further detain the House.

Mr. MILLSON. I move that the House do now adjourn.

Mr. VALLANDIGHAM. I hope the gentleman will withdraw that motion.

Mr. MILLSON. Certainly, sir; I withdraw it.

Mr. VALLANDIGHAM. It was the understanding with a number of gentlemen who left the Hall an hour ago that they would return about seven o'clock for the purpose of continuing the debate. My senior colleague [Mr. GIBBINGS] was one of that number. I desire myself to say a few words by way of personal explanation; but as debate will be in order until twelve o'clock to-morrow, I would prefer to say what I have to say in the morning.

Mr. SPEAKER. The Chair thinks that debate will be in order until twelve o'clock to-morrow under the order of the House.

Mr. GILMAN. I should like to say a few words to the House upon this question.

Mr. VALLANDIGHAM. I will yield to the gentleman if he desires to go on now.

Mr. GILMAN then addressed the House in

opposition to the admission of Oregon. [This speech will be found in the Appendix.]

Mr. VALLANDIGHAM obtained the floor, but yielded it to

Mr. BUFFINTON, who moved that the House adjourn.

The motion was agreed to; and thereupon (at six o'clock and three minutes p. m.) the House adjourned.

IN SENATE.

SATURDAY, February 12, 1859.

Prayer by Rev. N. P. TILLINGHAST.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SEWARD. I present the memorial of Gomez & Mills, manufacturers in the city of New York, who represent that they are the inventors and patentees of a new safety-fuse train, a recently-discovered chemical production, possessing the property of communicating fire to an unlimited distance, at a velocity only equaled by that of electricity, thus superseding the old train of powder or match, and that it is particularly adapted to military purposes in its adaptation to guns and other batteries. The memorialists set forth the peculiar properties and character of their invention, and describe the processes of experiment by which they have brought it to perfection. Their memorial is accompanied by documents from the War Department, going to sustain the claims which they make. Their prayer is couched in the following words:

"In conclusion, your memorialists respectfully beg leave to invite your honorable bodies to witness a practical experiment of the advantages of their invention, not only as to all the details of its manufacture, but in its application to field and submarine operations, when they confidently anticipate that its importance to the United States Government will be readily seen, and the prayer of your petitioners responded to by the purchase of their right, for the use of the Army and Navy."

I move the reference of the memorial to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. DURKEE presented a memorial of the Legislature of Wisconsin, relating to the claim of the State to five per cent. of the net proceeds of the sales of the public lands within its limits; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. BENJAMIN presented a memorial of citizens of the cities of Jefferson and New Orleans, praying that Jefferson city may be made a port of entry; which was referred to the Committee on Commerce.

Mr. JOHNSON, of Arkansas, presented the memorial of William McLelland, for himself and in behalf of the citizens of Kearny City and Nebraska City, in Dacotah, and Marietta, South Nebraska, and Brownsville, in Nebraska Territory, owners of lots, the entries of which were not legally made, praying the confirmation of their titles; which was referred to the Committee on Public Lands.

Mr. SEWARD presented papers in support of the claim of the heirs of David Sturges to a pension for his services in the revolutionary war; which were referred to the Committee on Pensions.

Mr. MALLORY presented the memorial of J. L. Broome, a lieutenant in the marine corps, praying to be allowed the difference between his pay and that of a purser in the Navy, during the time he acted in the latter capacity; which was referred to the Committee on Naval Affairs.

Mr. BIGLER presented a petition of citizens of Armstrong county, Pennsylvania, praying the establishment of a mail route from Kittanning to Leechburg, and a post office at Centre Valley; which was referred to the Committee on the Post Office and Post Roads.

Mr. DOOLITTLE presented a memorial of executive officers and members of the Legislature of the State of Wisconsin, praying the adoption of a system of instruction for the improvement of the personnel of the ships' crews of the Navy; which was referred to the Committee on Naval Affairs.

Mr. KING presented a petition of citizens of New York and its vicinity, praying that the public lands may be laid out in lots or farms, for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

Mr. SEWARD presented a petition of citizens of Brooklyn and its vicinity, praying that the public lands may be laid out in farms and lots for the free and exclusive use of actual settlers only; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the petition of William H. Parker, praying the recognition of his rights as discoverer of Johnson's and Agnes Islands in the Pacific; which was referred to the Committee on Foreign Relations.

REPORTS FROM COMMITTEES.

Mr. GWIN, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 543) to facilitate communication between the Atlantic and Pacific States, by electric telegraph, reported it with an amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred the bill (H. R. C. C. No. 83) for the relief of William H. Russell, reported it without amendment.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 508) to establish a national line of mail steamships between certain ports of the United States and Great Britain, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 72) concerning the conveyance of the mails between New York and Liverpool, and between New York, by the way of Southampton and Havre, and Bremen, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 575) to provide for the transmission of the mails between ports of the United States and Europe; which was read, and passed to a second reading.

BILL INTRODUCED.

Mr. GREEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 574) to pay to the State of Missouri the amount expended by said State for repelling an invasion of the Osage Indians; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (H. R. No. 576) for the relief of Captain Douglass Ottinger; and

A joint resolution (H. R. No. 52) giving the consent of Congress to the acceptance by Captain M. F. Maury and Professor A. D. Bache of gold medals from the Sardinian Government.

GOVERNMENTAL EXPENDITURES.

Mr. JOHNSON, of Tennessee. I offer the following resolutions; and ask for their present consideration:

Resolved, That the President of the United States be, and he is hereby, requested to cause the heads of the various Executive Departments to submit estimates of the expenditures for the Government to the Thirty-Sixth Congress upon a basis not exceeding \$30,000,000 per annum, exclusive of the public debt, and the interest thereon.

Resolved, That so much of the President's second annual message as relates to a reduction of the expenditures of the Government of the United States, which is in the following words, to wit: "I invite Congress to institute a rigid scrutiny to ascertain whether the expenses of all the departments cannot be still further reduced, and I promise them all the aid in my power in pursuing the investigation," be referred to the Committee on Finance; and that said committee are hereby instructed, after first conferring with and obtaining all "aid" and information from the President and the heads of Departments as indicated in the President's message, to report a bill reforming, as far as possible, all abuses, if any, in the application of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenses to an honest, rigid, economical administration of the Government.

The PRESIDING OFFICER, (Mr. FITZPATRICK in the chair.) It requires unanimous consent to consider the resolutions to-day. The Chair hears no objection. The question is on the passage of the resolutions.

Mr. DAVIS. I merely wish to say that I think such action by Congress would be unwise. It is utterly impossible to anticipate the wants of

the Government, and therefore it is improper to fix a limitation beyond which the estimates shall not go. If we could determine the service of next year, we might also assume to determine what amount of money would be required; but, in the contingencies of the year, there may be events which may require expenditures now unforeseen, for which estimates will be submitted, and which it will be for Congress to judge of when they are submitted. It is unwise to attempt to fix a limit.

The PRESIDING OFFICER. Does the Senator object to the consideration of the resolutions to-day?

Mr. DAVIS. I will not, as a matter of courtesy, object to the consideration of them; but I merely state my objection to the resolutions for the action of the Senate. I should like to hear an argument on them.

Mr. GWIN. Are the resolutions before the Senate?

The PRESIDING OFFICER. Yes, sir.

Mr. GWIN. I move to amend by striking out "the Committee on Finance," and inserting "a select committee, to be composed of seven members, to be appointed by the Chair."

Mr. CHANDLER. I hope the amendment of the Senator from California will prevail. This is very similar to the resolution which was considered the other day, and is now hung up by a motion to reconsider, made by the Senator from Ohio [Mr. PUGH]. I believe that a special committee has time to do much good before the close of this session of Congress. The Committee on Commerce has had a bill of reform before it for the last month, which has now been reported. That committee ascertained that we could, with perfect propriety, cut down about six hundred thousand dollars from the expenses of collecting the revenues. I believe that a select committee, which has no other duty to perform, may reduce the expenditures of this Government \$10,000,000 a year, and not impair its efficiency.

I hope a special committee will be appointed, and that it will go to work at once, and will probe not only the excessive expenditures but the corrupt practices of this Government; and I believe that the Senator from Tennessee is the very man to apply the probe. The Committee on Finance have no time to attend to this matter. They have all the appropriation bills before them. They have told us that they cannot do anything with this matter during this session of Congress, and this subject requires immediate, prompt, and efficient action. I trust that the amendment of the Senator from California will prevail; and although my colleague feared, the other day, that this might be termed a humbug committee, I propose that no humbug man be put upon it, but that you put working men upon it; men who will take hold and investigate and act; men who do not fear to act, and to act efficiently. I trust that the amendment will prevail, and that the committee will be appointed to-day, with power to send for persons and papers, and will commence, not to-morrow morning, for it is Sunday, although I believe that it would be a pious work, but that they will commence on Monday morning and work to the end of the session.

Mr. GWIN. Mr. President—

Mr. PUGH. Allow me to suggest that the first resolution is not involved in this discussion, which proved fatal before; and I hope the Senator from California will let us adopt the first resolution, and then act on the other.

Mr. GWIN. I wish to make this suggestion. I do not believe the Finance Committee can do the work; I am perfectly confident they cannot do it in a manner which would be satisfactory to themselves and discharge their other duties; and I do not want the responsibility to be on that committee of undertaking this task and failing in their duty. I am perfectly willing to vote for the resolution if it goes to a select committee, composed of such a number of Senators as can undertake it; but I am confident, as a member of the Committee on Finance, that we cannot do it. If I was not a member of that committee, I should not say a word.

Mr. HUNTER. I think it would be manifestly impossible for the Finance Committee to do anything this session. If this were along session, and we were at the commencement of it, they might perhaps be able to do something; but certain it is,

that for the residue of this session, they will have no time for anything but the appropriation bills. It seems to me the subject ought to be referred to a select committee, and they ought to go to work at once. It is plain that the Finance Committee can do nothing between now and the end of the session.

Mr. TRUMBULL. Is it in order to offer an amendment to the pending resolutions?

The PRESIDING OFFICER. There is an amendment now pending.

Mr. TRUMBULL. I desire to offer an amendment which I think has something practical in it. This resolution has been up a number of times, and Senators on all sides of the Chamber have avowed themselves in favor of retrenchment; in favor of reducing the expenses of the Government; this in everybody's mouth; but we accomplish nothing. Under some excuse or other, the resolution is put over. Now we are told it is so near the end of the session that but little can be done. Sir, if we are in earnest, let us go to work to accomplish something. The discussions that have taken place in this body, and in the other end of the Capitol, have generally been upon small appropriations; on propositions, perhaps, to strike out \$40,000 for publishing the Congressional Globe; or to strike off the mileage of members of Congress—small matters. The great expenses of this Government are for its Army and Navy. There is where your millions go, and there is the place to make a reduction that will amount to something. The Post Office is bad enough; but the Army and Navy, I think, are worse. They are covered up. We can understand the little expense of \$40,000 here for the Congressional Globe; every one can see that; but the twenty-odd million that go into this whirlpool for the Army is sunk, and nobody knows where it goes—three or four million for transportation, &c. I propose to offer as an amendment to the pending resolutions a proposition instructing the committee to whom this resolution goes, which I trust will be the Committee on Finance, to report a bill reducing the expenses of the Army and Navy one half. If the Senate is in favor, as gentlemen say they are, of reducing the expenses of the Government, let us instruct that committee to bring in bills reducing the expenses of the Army and Navy one half. You say that existing laws will not allow it. Repeat existing laws. What are we here for but to make laws, and abolish those laws which ought not to exist? Cut down your Army of twenty thousand men to ten thousand, if necessary; discharge the officers of the Navy who are sailing up the Mediterranean with a fine fleet, and stopping at Rome, and at Constantinople, to feast the Sultan and the Pope.

Mr. HALE. And getting extra compensation when they come home.

Mr. TRUMBULL. And getting extra compensation, as my friend from New Hampshire says, when they come home, for the wine they purchase to feast those dignitaries. Why, sir, we want no Navy except a few revenue vessels to protect our commerce against smuggling and against pirates, if there are any. A great portion of the Army is worse than useless to the country. I offer this as an amendment to the pending resolutions:

And that said committee be instructed to report bills reducing the expenses of the Army and Navy fifty per cent. on the estimates furnished by the Departments.

Mr. HALE. I am pleased to hear the remarks of the Senator from Illinois, for he has followed in the direction which, when I first came into the Senate, I took, and never got anybody to go with me; but I rise now more for the purpose of announcing to the Senate that I have seen in a few days, since this discussion has been introduced here, some favorable signs. Since the discussion of the great extravagance of the Administration has taken place, I see, by the newspapers from my own State, that the Administration are going ahead of us, and they have begun there, in the custom-house, near where I live—Portsmouth. They have begun to abolish some useless offices; and it so happens that the only useless office they found there as yet—they may find others—was that of a Democratic newspaper editor who held the office of inspector of customs; and he was so unwise, so foolish, and so utterly regardless of the duties of an inspector, that he actually published several articles in his paper commendatory of the

distinguished Senator from Illinois, [Mr. Douglas.] It was found out immediately that his office was entirely useless, [laughter,] and it has been abolished, and his head now rolls in the gutter. So, sir, we need not be discouraged. The work of reform has commenced; and I hope that when the Administration shows this disposition to reform and abolish useless offices, we shall uphold their hands, and let them know that they have our sympathies and our best wishes in abolishing useless offices.

Mr. WILSON. Mr. President—

The PRESIDING OFFICER. The Chair will announce to the Senate, that this hour (half past twelve o'clock) has been assigned for the consideration of the bill (H. R. No. 550) making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

Mr. HAMLIN. That bill was assigned for this morning, at half past twelve o'clock, and I hope it will be considered now. I do not think it will take long. Unless we consider it now, I fear it will be crowded out. The Committee on Commerce propose to report no new bill this session. This is the only light-house bill for three years. It has received the favorable action of the House, was reported from this committee at the last session of Congress, but at so late an hour that it could not be acted on. I believe it met with the unanimous approval of the committee.

Mr. PUGH. I think that is one of the very bills which ought to go to the Committee on Retrenchment, and I hope the Senate will not pass it until we dispose of this other matter.

Mr. JOHNSON, of Tennessee. I rise for the purpose of making that motion to postpone; but I will remark, before I make it, that this retrenchment resolution has been up now some two or three times. On one occasion before, it was withdrawn about one minute of being adopted; but in consequence of the announcement of the death of a member of the other House, it went over. It was up on another occasion, and was within a few minutes of being adopted, when a special order intervened. It is now up, and can be adopted or rejected within five minutes. I am in hopes the Senate will dispose of the resolution, which will only take two or three minutes, and then we shall have an end of it.

It seems to me that the resolution contemplates all that the Senator from Illinois proposes in his amendment; and I suggest that he withdraw his amendment, and allow the proposition to be adopted, either appointing a select committee or referring the inquiry to the Committee on Finance; I care not which. I am in favor of this work being commenced, and I care not by what committee; but in commencing this work, I will say, in answer to what was said on the other side, I am not for beginning with the wafers and quills, pens and stationery, of members of Congress or any other department; but I want this work commenced in good faith, and I want us to get into the large veins of expenditure. I want the lancet to be put into the jugular vein. I am aware, as was remarked by the Senator from Illinois, that the principal expenditures of all Governments have been in the Army and Navy. They are the main arteries by which all Governments are bled to death; but there are extravagances and abuses, as I think, existing in other departments, as well as in the Army and Navy, and these resolutions are intended to embrace all, little and big; but I do not want to begin with the wafers and quills and pens. Let us begin with the leading expenditures of the Government, the principal departments. Let the work commence there, and these little incidental retrenchments will follow as a matter of course. I do not make the motion to interfere with the Senator from Maine; but I hope that, by general consent, the special order will go over for the present, and the resolution be adopted.

I will further remark, in reference to expenditures, that a short time since I was in conversation with the Secretary of War—I did not receive the information officially, nor did I receive it privately; but he remarked to me on the subject of expenditures, notwithstanding he was justifying what he considered a reasonable and a liberal expenditure, as everybody is willing to concur, he stated to me that if he had a little legislative aid, he could take his Department and reduce the

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expenditures at least \$14,000,000. Now, will we stand back and withhold this aid? Will we not come forward and take the Departments at their own proposition, when they say they can retrench? Will we, for this excuse, and for the other excuse, eternally postpone the beginning of this work? Now, for instance, there is a special order of a bill which can be postponed. Let it be laid aside; let the resolutions be adopted; and let the work begin. I know that a great deal of it cannot be done in the remaining weeks of this session; but let the work commence; let it go forth to the public that something has been done; let it go forward from session to session until the great result is accomplished. I hope the Senator from Maine will consent to let his bill go over for the present, and let us have action on the resolutions.

Mr. GWIN. I wish to make a modification of my amendment. The Senator from Tennessee has indicated a desire not to be chairman of this committee; and, therefore, I do not make the motion that I do now, to exclude anybody; but I wish to designate whom I think should be the members of the select committee. I move that the select committee be composed of the chairmen of Committees on Finance, Foreign Relations, Naval Affairs, Military Affairs, Post Office and Post Roads, Commerce, and Printing—the chairmen of the seven principal committees of this body, that have much to do with the appropriation bills.

Mr. HUNTER. If the Committee on Finance have not time to attend to it, how can I, a member of the committee? I surely could not attend to it. I ought not to be on that committee; because, if the Committee on Finance have not time to attend to it, I have not the time.

The PRESIDING OFFICER. The Chair will state to the Senator from California that the amendment is not in order, unless the previous amendment of the Senator from Illinois be withdrawn.

Mr. GWIN. I wish to modify the proposition I made for a select committee. I only modify my amendment for a special committee by naming the individuals. I suppose the Senator has no objection to withdrawing his amendment until I can modify my original amendment.

Mr. TRUMBULL. I have no objection to the Senator from California modifying his amendment, so that it does not cut me out.

Mr. GWIN. Not at all.

Mr. TRUMBULL. The Senator can allow me to offer mine, and then he can offer his in such a shape as he pleases.

Mr. GWIN. I have modified mine.

Mr. WILSON. Is there a motion made to postpone the consideration of the light-house bill?

Mr. JOHNSON, of Tennessee. I make that motion for the present, until we can have action on the resolution.

Mr. WILSON. I should like to have the vote taken on the postponement. If the debate goes on upon this resolution, I want to say a word or two.

Mr. JOHNSON, of Tennessee. If the Senate will indulge me, I will make a single remark further. There is always a difficulty in the way of considering this matter. It would be better to adopt the resolution in its original shape; and if the Committee on Finance cannot do anything during the present session, they can report that fact, and the country will receive their report in good faith, and so will the Senate. If that committee cannot progress in this work, how can its chairman? The whole committee can progress with the work as well as the chairman; and I think you may as well refer it to that committee, and save all further trouble about it.

Mr. WILSON. If the debate is to go on upon this matter, I wish to say a word. I take it we are here this morning with one of those periodical spasms that we have for retrenchment. We are very much in the condition that Macaulay said the people of England were, when Byron left that country for the continent under the burden of popular condemnation. He said they had spasms

of virtue; and we have spasms of retrenchment. We have been talking retrenchment this whole session; and still we have no plan!

Mr. HAMLIN. Will the Senator allow me. I do not want to produce a conflict here between these two questions; and with the consent of the Senate, I move, as the light-house bill is now up, to postpone it until Monday morning, and make it the special order for half-past eleven o'clock, and that will remove all trouble.

Mr. PUGH. I object to that.

Mr. HAMLIN. Well, we will put it to the vote of the Senate, and see what the Senate will do.

Mr. KING. I hope the Senator will say twelve o'clock. We ought to have the morning hour.

Mr. HAMLIN. Well, I will say twelve o'clock on Monday. I do not think this bill will take half an hour.

The PRESIDING OFFICER. Is the Senate ready for the question?

Mr. PUGH. What is the question now?

The PRESIDING OFFICER. On the motion to postpone the light-house bill until Monday at twelve o'clock.

The motion was agreed to.

The PRESIDING OFFICER. The resolutions of the Senator from Tennessee are now before the Senate.

Mr. WILSON. We have had, Mr. President, during the present session, a great deal said in both Houses in favor of retrenchment, and still, with the general admission that we can and ought to reduce the expenditures of this Government fifteen or twenty million dollars, we have had no comprehensive plan proposed in either House of Congress for the reduction. The chairman of the Committee on Finance, during the whole session, has maintained the doctrine that we ought to reduce the expenditures, and still when we have proposed to intrust to his committee the question of making reductions, that Senator and his committee have shrunk from the task. Now, sir, I think it belongs to them; it belongs to that chairman and that committee to lead in making the necessary reductions. If it does not belong to them to say where the reductions are to be made, it belongs to them to see that means are provided to meet the current and ordinary expenditures of the Government. There has been one measure inaugurated at this session, and that comes from the Committee on Commerce, to reduce the expenditures of collecting the revenues of the Government. We commenced—

Mr. DAVIS. I would ask the Senator in that connection, to allow me to remind him that the Committee on Military Affairs, of which he is a member, have a bill now lying on the table which will reduce the expenses immediately \$100,000, and probably a million in the course of a year, certainly half a million, and which I have been anxious from morning to morning to have taken up and passed, before the appropriation bill came to us.

Mr. WILSON. I had intended to refer to that also. I say we commenced at the last session to arrest the extravagant expenses of collecting the revenue, and now we have a bill reported by the Committee on Commerce, proposing a large retrenchment. I hope the chairman of that committee will get that bill before the Senate at the earliest possible moment, and let us perfect and pass that bill at this session. The chairman of the Committee on Military Affairs has said that we have a bill before us here, making large reductions. It is a good bill, a practical reform, and I hope we shall address ourselves to the consideration of that measure. There are a few other small measures of reform proposed, but none of them of any great amount.

The Senator from Tennessee, in introducing this proposition, looks, I think, to the next session of Congress. I doubt very much whether we shall inaugurate and carry through Congress any great reforms or reductions this session. I will follow the lead of any man who will make a practical proposition for the reduction of the ex-

penditures of the Government in any Department. The Senator from Tennessee proposes that the estimates shall be made up by the Departments for the next session of Congress, at \$50,000,000. I like that proposition. I believe we can carry on this Government for \$50,000,000 annually.

I think the first resolution a good resolution; one that ought to receive the sanction of every man here. Let us require that the Executive Departments of the Government make up the estimates upon the basis of \$50,000,000. Mr. Calhoun said, in 1842, when the expenditures of this Government were only about thirty million dollars, that if reform and retrenchment were inaugurated they must come from the executive branches of the Government; and without their cooperation, without their lead, retrenchments cannot take place. I agree to that doctrine; and I say here to-day, that in these extravagant expenditures the executive branches of this Government have taken the lead, both in their recommendations to Congress, and, above all, in their practice in carrying on and administering the Government. The evidence now being taken before a committee of the other branch, when it shall go out to the country, will show the extravagance if not corruption of the administration of the Navy Department, in a way which will astonish the nation.

The Senator from Tennessee says that the Secretary of War, one of the most extravagant men that ever administered any Department of this Government, one of the loosest men that ever administered any Department of this Government, a Secretary that, in my judgment, has administered the War Department during the past two years in a way that has reflected no credit on himself or the Administration—tells us that if he can have our cooperation, he can make a large reduction. Sir, he shall have our cooperation to the fullest extent, and I will hold him to a rigid accountability; but I have seen no evidence from the head of that Department of the Government, either in his recommendations or in his practices, that gives me any idea that he is desirous of reducing the expenditures of his Department.

I am in favor of the resolutions of the Senator from Tennessee, as he introduced them—the first resolution without amendment or qualification; and let us have at the opening of the next session of Congress inaugurated a comprehensive plan for the retrenchment of the expenditures of this Government; and let it come from where it ought to come, the executive and administrative departments of the Government.

In regard to the second resolution, proposing that this subject shall go to the Committee on Finance, I am in favor of that as it stands. Although I know the chairman entertains the idea that we can reduce the expenditures this year largely, he does not think we can inaugurate anything now in the nature of a large and comprehensive plan; but, at the next session of Congress, when these reports from the Departments come before us, that committee is just the committee to lead, to take those estimates, and to carry them out in the legislation of the Government. I am therefore in favor of sending that resolution to that committee. I do not expect them to be governed by it at this session. I expect the chairman of that committee will do what he can to reduce the expenditures; for certainly he stands pledged to us to adopt that line of policy; and I am willing to trust him to that extent at this session; and I pledge him my vote for every reduction he proposes to make, that can save the money of the Government.

I do not agree to the declaration made, either on one side or the other, that we do not want any Army or any Navy. We do want an Army; we do want a Navy; but we want that Army organized and conducted in the best and most efficient and cheapest manner. Our expenditures for transportation, I think, amount to some seven or eight millions annually. We have a large country. Under the most economical arrangement that we can have, our transportation expenses, covering

so much unsettled and uncultivated country, must be very large. It is the vast expansion of our country and the extension of settlements into the interior of the country, which have increased immensely the expenses for the Army. I think these expenditures have been carried to a much larger extent than they ought to have been. I think they can be reduced several million dollars; but I do not believe they can be reduced fifty per cent. Fifty per cent is an immense reduction—a reduction greater than the interests of the service will allow; but I do believe we can reduce the expenses of the Army at least thirty per cent. I do believe we can reduce the expenditures from \$19,000,000 to \$13,000,000—a reduction of \$6,000,000.

Then, as to our Navy, we have now a small Navy. We are a growing people, and we are a powerful people. We are the second commercial nation on the globe. We want a Navy, a small, well-organized, and efficient Navy. I know the expenses of the Navy are extravagant, but I do not believe you can cut down those expenditures fifty per cent. I believe you can reduce them immensely, but fifty per cent is a larger reduction than the interests of the nation require. The expenditures can be reduced more than fifty per cent in your naval and dock-yards. The evidence now being taken before this Congress, when it comes before this nation, will show the most extraordinary abuses in regard to the navy-yards. For political purposes the navy-yards have been prostituted. These extravagant contracts, this filling up your navy-yards with men not wanted, should be reformed at once, and the most rigid system of retrenchment adopted.

I hope we shall adopt the resolutions as they stand. Let us have the estimates for the next year. We may have to depart from them, in some respects, but they will be great guides to us; we shall have practical estimates before us that will guide us, to a considerable extent, in our action. Let the Finance Committee, at this session, knowing the wishes of the Senate, knowing the needs of the country and of the Treasury, do the best it can, and I will give the committee my support for all reforms they may choose to inaugurate. I hope the resolutions, as presented by the Senator from Tennessee, will receive the support of the Senate without qualification or amendment.

Mr. DAVIS. I cannot admit either the justice or propriety of this wholesale denunciation of executive officers. I think, before gentlemen assume to sit in judgment, to charge corruption and waste and extravagance, they should be ready to lay their hand upon the item. It does not become a Senator to arraign a high executive officer on charges of wasteful extravagance, implying corruption, unless he is able to vindicate the act to which he refers, and to challenge the examination of the charge which he makes. From day to-day, we hear this harangue on the subject of wasteful expenditure, and proclamation of love for retrenchment; but there is not a Senator here who does not perfectly understand that the only way retrenchment ever can be made, is by laying his hand upon the laws, finding where improper expenditures are made, correcting them one at a time, until the whole expenditure is reduced to a proper amount.

What, sir, could be more idle than the proposition of the Senator from Illinois to cut down the Army one half, without pretending to tell the Senate that a single man is unnecessarily posted? Does he expect us to accept a proposition to disband one half of the Army, unless he can first show to us that there is a larger number of troops now kept in pay than are required for the wants of the country? Do gentlemen expect us to call home one half of the Navy, in order that we may reduce expenditures, without first inquiring whether the Navy is necessary at the places where it is employed or not? This is not economy; it is not retrenchment; it is declamation; or, if it be followed by action, it is extravagance; for thirty days would not elapse after the disbandment of those troops, until you would be required either to fill their places with others, or to call out the vastly more expensive character of force, the militia, to perform the very service which those troops are now rendering. Nor, sir, would your vessels have been dismantled in your own dock-yards, before the requirements of the country

would compel you again to put them in commission and send them into service. Thus, I say, instead of retrenchment, it would entail vast expenditures upon the country, and inflict injuries from which it would require many years to recover.

I am no advocate of a large Navy; neither am I of a large standing Army; and when Senators choose to reduce one or the other, and will bring in statements to show that either or any part of either is unnecessary, then I shall be ready to vote with them; but upon this mere declamation for outside consumption, I am not prepared to act. Neither am I willing to say \$50,000,000 are required to carry on this Government. I trust a less sum will suffice; but if more is required to perform the duties of the Government, and to maintain its honorable obligations, I am prepared to maintain it, and no man can lay claim to the wisdom which will enable him to-day to decide what the next year will require.

In looking to this question of retrenchment, looking at it as a serious practical affair, addressing it as a thing upon which the Senate did propose to act, I have prepared a bill and have been trying to get it considered; but if the time is to be consumed in mere declamation on the blessings of economy, without pointing to the particular item which can be reduced, nothing can be more apparent than that, instead of effecting anything, we are to end at the declamation with which we commenced.

Mr. CHANDLER. Mr. President, the Senator from Mississippi says that this is mere declamation, and that Senators should bring no charges until they are prepared to place their hands upon the spot. Now, sir, I am prepared not only to place my hand upon the spot of extravagance, but of crime in the Departments. I have a right, even under his dictation, to charge extravagance and crime. He says that we merely make general charges; that we do not place our hands upon the spot where retrenchment can be effected. Sir, I hold in my hand an official document of the Secretary of the Navy, in which he says that he has one hundred and one captains of the Navy, of whom eighteen are on sea-service; and yet there is no place for retrenchment! He says he has one hundred and thirty-three commanders, of whom only twenty-five are on sea-service. The average salary of these one hundred and one captains is \$3,000 per annum, and you are paying \$300,000 per annum for eighteen captains on the ocean. The average pay of the commanders is \$2,000 per annum; and you are paying \$266,000 a year to keep twenty-five of them on the ocean. True, a few of the others are engaged on shore-service; but it is perfectly well understood that you can get better service from civilians for shore-duty than you can get from your antiquated naval officers. The object of the Department seems to be to find places to increase the pay of these captains and commanders. I do not know that the expenses of the Army and Navy can be reduced one half; but taking this official document, I believe they can be reduced more than one half, and render your Navy more efficient.

How is it with the Army—that great gulf in which your revenue has been swallowed up? Look at the official record on that, and you will see that there must be a place to apply the pruning knife. I see, by another official document in my hand, that the whole expenditures for your military services were: in 1851–2, \$8,061,436 88; and in 1856–7 they were \$18,614,394 10; and it will be remembered by every Senator on this floor, that one of the first acts of the Senate, last winter, was to pass a deficiency bill, granting \$5,700,000 for the Army. And yet the Senator from Mississippi declares that what we say is all generalities; that there is no chance, no possibility, of retrenchment. He informs us that he has introduced a bill, reducing these expenses \$100,000. Why, sir, it is picking up pebbles from a great pile of rocks. Instead of \$100,000 it ought to be \$10,000,000; and I believe, to-day, an efficient committee can point out the way and the place to reduce the expenses \$10,000,000 without diminishing the efficiency of the Army. These are no generalities. They are facts from official records.

I hope that the amendment, as originally offered by the Senator from California, will be adopted, and that a select committee will be appointed, not composed of chairmen of standing committees,

who have no time to attend to anything but the duties of their present committees, but of members who have some time, and that they will take hold of the work, and apply the knife to the root of this evil; and I pledge you I will show them work enough for the first week.

Mr. DAVIS. The Senator from Michigan, in his impassioned reply, goes on to make specifications. Now, what are they? That there are more officers in the Navy than the Secretary has thought proper to employ in commission. How did the officers get in the Navy? By law; and the Senator, I believe, is one of the very men who voted for it. Its number is larger than is required in commission. What, then, is the extravagance of the Secretary of the Navy? Leaving them on shore instead of fitting out vessels for the purpose of employment? Far better had the charge of extravagance been made, if, to keep these officers on actual service, he had sent vessels to sea when none were required.

Then, sir, he says the expenses of the Army are the great gulf which swallows up everything, and he announces the grand aggregate. That is not the mode of retrenchment; and when I spoke of one mode in which the expenses may be reduced, he says it is picking pebbles from a pile of rocks. Pray, what constitutes the pile? The pebbles. Dollars are made of cents; millions are made of cents. It is by gathering these pebbles from the pile that you may hope to reduce it; not by reading aggregates of expenditure; not by announcing, in the same generality before criticised, that it is unnecessary; nor by employing denunciatory phrases, and terming it crime. If the Senator knows of crime, I say, again, let him bring the charge and its specification, and let it be inquired into. If the Senator knows of crime committed by an executive officer, it is not only his right, as he asserts it, but, in my judgment, it would be my duty, if I were in his place, to make the charge and specification, and ask for an investigation into it.

Mr. CHANDLER. Will the Senator excuse me for a moment?

Mr. DAVIS. Certainly, sir.

Mr. CHANDLER. I merely wish to state that I should have presented the charge and called for an investigation ere this, had not the charge been brought in the other House, and an investigating committee appointed there, which is now at work.

Mr. DAVIS. If the other House is now engaged in an investigation before which an officer is arraigned, how shall we characterize an error by the act of a Senator who assumes to sit in judgment during that investigation, and to denounce the person who is there for the purpose of trial?

I say again, sir, if Senators really address themselves to reform, if their purpose is to do good, the only mode by which it can be reached is by laying their hands upon abuses, and in such a manner as is appropriate to the character of each abuse; seeking to correct it, one after another, great or small, until the whole has been effected. If the Army expenses are too high, it is not to be learned by looking at the foot of the table and reading the aggregate. It is to be ascertained by examining, step by step, every expenditure, marking the one where extravagance has existed, or where the fund has been improperly applied. I am ready to meet this inquiry at any time, ready to follow the truth to its conclusion, to retrench where retrenchment can be made, to censure where censure is due; but let it come after the proof has been adduced.

Several SENATORS addressed the Chair.

Mr. IVERSON. I rise to a point of order. I call for the special order, which is the Private Calendar, at one o'clock, that hour having arrived.

Mr. JOHNSON, of Tennessee. We have come so near passing this resolution, that I shall have to move the postponement of the special order for a few minutes, so as to get clear of this question. I hope the Senate will act on it definitely. There are some things which I should like to say, but I refrain from doing so, for the purpose of having action. At this late period of the session, what we want is action, not long declamatory speeches of any character. I move to postpone the special order until we can have action on this resolution.

Mr. IVERSON. I hope the Senate will not

postpone the Private Calendar, which is the special order for to-day. It was postponed yesterday by general consent on the agreement that it should be taken up to-day at one o'clock; but now it seems it is to be pressed out again by the discussion, for everybody must see, that if this discussion goes on, it will last all day. There are twenty men who are ready to spring to the floor now to discuss this proposition. Do you suppose, sir, that a proposition of this sort, involving the character of the Administration, involving the whole expenditures of the Government, amounting to \$80,000,000, is going to be voted on without discussion? The very discussion we have had here this morning of more than half an hour, shows that if it is continued, it will last the rest of the legislative day. I trust, therefore, the Senate will do justice to private claimants, and will not postpone the Private Calendar.

Mr. JOHNSON, of Tennessee. So far as the discussion is concerned beyond these resolutions, it has nothing to do materially with the points at issue. There may be charges preferred one way or the other, but they do not concern these resolutions, properly speaking. The resolutions contemplate retrenchment; their intention is to inaugurate a system of retrenchment and reform coextensive with the Government, to apply to every Department. They prefer no charge against this or any other Administration. There is an impression resting on the public mind, and on the mind of Congress, that there has been too much of the people's money expended; that its expenditure ought to be arrested; and the proper course is to ascertain if there has been an improper expenditure, and in what it consisted. For this purpose, let us appoint a committee who will go thoroughly and fully into the investigation. If there has been no improper expenditure; if there has not been too much money collected from the people and expended for improper purposes, the committee will report that fact to the country, and the people will then be satisfied that the Administration has not improperly expended their money. It is due to the Administration; it is due to the country, it is due to honesty itself, that there should be some indorsement of that kind. If the money has all been collected properly, and properly expended for the public good, let that fact come from the committee, and it will be an indorsement of what has been done; but if the money has not been properly expended, let the country know what respects improper expenditure has taken place.

That is what these resolutions contemplate. They do not look at any particular Department, or at any particular point more than another. They strike out all improper expenditures, be they where they may. They are intended to inaugurate a new policy, coextensive with every department of the Government, embracing the small as well as the large items. My object is, first, to get at the leading extravagances of the Government wherever they exist.

I hope the Senate will postpone the special order for a few minutes, until these resolutions can be adopted. Why shall we get so near the consummation of a thing, the propriety of which all concede, without disposing of it? All admit that there has been too much money expended, and yet, when a proposition is made to ascertain the fact in the legitimate mode, there is one difficulty and another difficulty interposed; a special order intervenes now, and another special order on another occasion, and somehow or other we can never get action on the proposition. I hope we shall postpone the special order for a few minutes, for the purpose of disposing of these resolutions.

Mr. MALLORY. Mr. President, I desire to inquire what is the exact subject before the Senate?

The PRESIDING OFFICER. The motion of the Senator from Tennessee, to postpone the special order, for the purpose of further considering the resolutions presented by him this morning.

Mr. MALLORY. The Senator from Tennessee makes that motion undoubtedly with the supposition that his proposition will not be discussed. Now, I concur with my friend from Georgia that this subject will take up the rest of the day if it be discussed, and I am very unwilling to see the private bills passed over to-day, for this probably is the last day we shall have to consider them. I

want to call the attention of the Senate to the fact that we have now before the Senate fourteen House public bills and fifty-four House private bills; one hundred and eight Senate private bills, and sixty-five Senate public bills, making in all two hundred and forty-one bills to be acted upon; and we have seventeen days to do it in. Besides, there are other bills yet to come to us from the House of Representatives.

The proposition of the Senator from Tennessee is to raise a select committee, or confide it to the Committee on Finance, to inquire into the public expenditures. Does he possibly expect anything at this session from such a committee? Can he form a committee of any seven or ten Senators in this body who can give us any satisfactory report on even one of the Departments, not to say all?

Mr. JOHNSON, of Tennessee. Allow me to suggest to the Senator from Florida that the resolutions can be adopted, and at the end of the session, if the committee are not able to make a report, they can state that fact to us. The first resolution contemplates action by the Executive Departments to make their estimates on a basis of expenditure not exceeding \$50,000,000. That is not intended to be arbitrary or absolute; but we want to lay that down as a basis upon which they shall frame their estimates. If more is required for special purposes, they can easily say so; but I desire to have estimates presented to us upon the basis of an expenditure not beyond \$50,000,000. I will here remark that this idea is not mine; it was suggested by the chairman of the Committee on Finance himself during the last session of Congress. He introduced a similar resolution then, but it was not pressed. I offer a resolution now embracing the same proposition. It is, in fact, the proposition of the Finance Committee. When the Finance Committee suggests the idea, when the President solicits investigation, when every Department seems to think it can retrench if Congress will come to its aid, why not let us extend the aid desired?

The Senator from Florida speaks of the private bills, and says that it is very important that they should be acted upon. I concede that; but there are public interests; there are public demands, involving millions upon millions of dollars, as well as the thousands involved in the claims of individuals. If either is to be neglected, which interest is to be neglected? Shall we neglect the interest of a few individuals, or shall we neglect the interest of the nation at large? Which is the most imperative? Which demands action at our hands—a vote on a few private bills, or a measure involving the interests of the whole country?

Mr. MALLORY. If I were to follow the example of my friend from Tennessee, I doubt whether there would be a great many Senators who would speak on the subject to-day, for the whole time would be consumed. I have merely brought forward the views which I have presented, to show that this resolution cannot pass the Senate without a very considerable degree of discussion. A Senator rises in his place and makes a broad charge of crime against somebody in the Administration. That is to be met. I stand here to challenge that Senator, in the most open manner, to produce, under the greatest possible scrutiny he can originate, one single tittle of an act in the Navy Department, for which the Secretary of the Navy is responsible, that deserves that condemnation. Why he should get up here at this time of day, when there is nothing before us to originate it, or to call for it, and make such denunciation, I should like to know. It is entirely unauthorized and unjustifiable; and the very investigation to which he alludes, and to which, perhaps, allusion ought not to be made while it is in progress, will bear out my assertion.

Mr. HALE. I rise to a question of order. My point of order is, whether this debate is in order, when the Senate has directed that we shall proceed to consider private bills at one o'clock to-day?

The PRESIDING OFFICER. The Chair has announced that the Private Calendar is the first business in order; but the Senator from Tennessee moves to postpone that and all prior orders, for the purpose of considering the resolutions which he offered.

Mr. MALLORY. As I do not wish to engage the attention of the Senate, but really want private bills to come up, I give way for them.

Mr. YULEE. By way of giving a practical direction to the very eager spirit for retrenchment which is manifesting itself in the Senate, I desire to state that, on Thursday next, I propose to call up a bill which was reported yesterday from the Senate Post Office Committee, by which we expect to relieve the Treasury to the extent of three or four million dollars. I hope we shall have the support of the gentlemen on the other side of the House in the effort which we are making to effect a practical retrenchment now, at this session.

Mr. HALE. I move to lay on the table the motion to postpone the prior orders.

Mr. TRUMBULL. I hope the Senator from New Hampshire will withdraw that motion for a moment, until I reply to a remark that fell from the Senator from Mississippi.

Mr. HALE. I withdraw it.

Mr. TRUMBULL. There is a fundamental difference of opinion between the Senator from Mississippi and myself. He seems to look for reductions to come from the Departments; I do not.

Mr. DAVIS. I did not say so.

Mr. TRUMBULL. I did not understand the Senator to say so in express words; but the tenor of his remarks goes to show that he looks to an examination into the details by which the Government is to be carried on for a reduction of expenses. I go to the root of the thing. We are told here in the Senate, when we complain of extravagances, "Congress is to blame; all these expenses are under existing laws; the executive officers are not to blame." Now, sir, I think that Congress has some knowledge of the condition of the country—

Mr. DAVIS. With the Senator's permission, I will correct a mistake that I think he makes in relation to what my position was. It was not that the reform was to come from the Departments, not that the reform was to come from Congress, for I think the action must be joint. There must be cointelligence and cooperation; and a part of the details which I think it is necessary to inquire into for the purpose of reform, is to find what laws lead to estimates which are unnecessary, and on which Congress alone can act. You have to reform the laws; you have to modify the service; and when you have reformed the laws and modified the service, the estimates follow in their train.

Mr. TRUMBULL. I understood the Senator from Mississippi—

Mr. IVERSON. I rise to a point of order.

The PRESIDING OFFICER. The Senator from Georgia will state his point of order.

Mr. IVERSON. It is, that on this motion to postpone the prior orders, the discussion in which the Senator from Illinois is engaged is not in order. You must confine yourself to the question before the Senate; and that question is on postponing prior orders. It is not in order, in debating that motion, to go into the original resolutions of the Senator from Tennessee. I ask the Chair to decide the point.

Mr. TRUMBULL. After other Senators have been indulged for twenty minutes, I trust the rule will hardly be enforced on me. I shall not occupy the Senate long. I wish to put myself right in regard to the remarks which were made by the Senator from Mississippi, as applicable to me, and I shall not take up any unnecessary time.

Mr. IVERSON. I insist on the point of order.

Mr. TRUMBULL. I submit to the Chair whether, after the discussion has been continued thus far, it would be consistent to enforce the strict rule.

The PRESIDING OFFICER. The rules of the Senate require Senators to confine themselves in discussion to the subject under consideration. It is no easy matter for the Chair to prescribe the limits of debate. That is a matter which must generally be left to the discretion of Senators.

Mr. TRUMBULL. It has been the custom here, I believe, to indulge in some latitude when a motion is made to take up a question. I do not wish to obtrude myself in the way of private business, and perhaps I should have finished by this time if the Senator from Georgia had suffered me to go on with what I have to say.

Mr. DAVIS. I hope my friend from Georgia will allow the Senator from Illinois to reply to the remarks I made, in reply to his proposition.

Mr. IVERSON. I would very cheerfully in.

dulge the Senator from Illinois; but when he is indulged, another Senator must be indulged to reply, and then another, and another, and so the whole day will be consumed in this unnecessary debate, which leads to nothing upon the face of the earth; because we know that it is "all sound and fury, signifying nothing." Everybody is crying out for retrenchment, but nobody presents any plan by which retrenchment can be made.

The PRESIDING OFFICER. Does the gentleman from Georgia insist on enforcing the rule?

Mr. IVERSON. Yes, sir.

The PRESIDING OFFICER. Then the Chair will state to the Senator from Illinois, that, under the rule, he must confine himself to the discussion of the matter under consideration, which is the motion to postpone the previous orders for the purpose of considering the resolutions of the Senator from Tennessee.

Mr. TRUMBULL. I will endeavor to do so. The motion before the Senate is to postpone all the special orders for the purpose of proceeding to the consideration of a resolution to reduce the expenditures of the Government. Now, sir, I think that resolution should be proceeded with, and the private business should be postponed for the purpose of considering it. Its importance is far greater than that of the passage of a few private bills. An amendment which has been offered to that resolution by myself, contemplates the reduction of the expenses of the Government one half what they now are, in two of its great departments. Is a great question of this kind, affecting the revenues and expenditures of this Government, affecting its important interests, to be thrust aside by a few private bills, day after day? To show the importance of this question, I think it entirely competent on this motion. How can the Senate determine whether the matter ought to be postponed unless we know what the object is? And it is not as the Senator from Georgia, even, in stating his point of order, undertook to declare. He went on to say that it meant nothing; that it was no tangible proposition. Sir, it is a tangible proposition that is submitted. It is a proposition to reduce the expenditures of your Army and Navy fifty per cent. on the estimates of the Departments; and it was because that specific proposition was made, that the Senator from Mississippi denounced it as meaning nothing, and he wanted to know if we would disband half the Army without inquiry, and suggested a different mode of arriving at this result.

Why, sir, I take it that the Congress of the United States, the representatives of the people and of the States, have some knowledge as to the wants of this country, so far as the Army and the Navy are concerned; and I differ totally with the Senator from Mississippi as to the executive department of this Government to determine that question. I have been contending, since I have been a member of the Senate, against what I have regarded as the usurpations of the executive department of this Government in undertaking to raise armies. The power to raise armies and navies is expressly delegated to Congress by the Constitution; and we know, or ought to know, how large an army and how large a navy we require; and we ought to be capable of deciding whether the Navy is not larger than it ought to be. It is presumed that the members of Congress can judge, without any information from the Departments, whether the one hundred naval officers of the highest grade on shore are necessary. It is to be presumed that Congress can judge whether it is necessary to have an army of three thousand men stationed in the Rocky Mountains and in Utah during the winter. It is to be presumed that Congress can judge whether the President has any authority to march an army into Utah as an escort to the Governor, under the name of a *posse comitatus*. I deny that authority.

But I wish to call the attention of the Senator from Mississippi for a moment to the expenses of the Army. In 1850, they were \$9,000,000; in 1857, they were \$19,000,000. They have more than doubled in seven years. I know the Senator from Massachusetts tells us that our country has extended, and he undertakes to make an apology for this enormous expenditure of money. I will tell the Senator from Massachusetts that our country has not been extended since the expenses have been doubled. Is our country any larger than it was in 1850? Do we require any larger

army now than we did then? Why should its expenses have swelled from \$9,000,000 to \$19,000,000? In 1850, the expenses of the Army reached a larger sum than it ever had before, on the peace establishment. From 1830 to 1840, the average expenditures of the Army were \$4,000,000 a year. In 1850, they reached \$9,000,000. I think Congress may judge, with these evidences before it, that there is no occasion for so large an Army, and I think we may judge with regard to the Navy. Need I tell the Senator from Mississippi that vessels which we have built at an expense of millions of dollars, have never suffered to rot upon the stocks and have never been of any service to the country? Where is your great ship Pennsylvania, that was built at Philadelphia at an immense expense? Did she ever go to sea? I believe he has been used as a sort of storehouse.

I take it, Congress is the proper department to judge as to whether these expenses should not be reduced, and we want no details about it. I am ready to cut them down one half. I believe that, if \$9,000,000 was a sufficient sum of money to support an army to defend the country in 1850, it is sufficient to-day. The naval establishment cost, in 1850, \$7,000,000; in 1857, \$12,000,000; and I believe it is estimated to cost more than that now—thirteen or fourteen, or perhaps fifteen million dollars! Is there any reason for this increase? I know of none; and therefore the proposition which I made is a specific proposition, and I think it comes from the right department of the Government; for we are to judge how large an army is necessary, and how large a navy; and when we see that our army is so large, that hundreds and thousands of troops are employed for illegitimate purposes, employed, as I insist, without authority of law, I think it is time we should reduce that army. When we all know, from information which every man possesses, that we have fleets sailing on trips of pleasure in distant quarters of the globe, merely to make a display, I think we may well consent to reduce the expenses of the Navy. When we know that a large majority of our naval officers are on land, and not at sea, I think we may well, without inquiring of the Navy Department, introduce a proposition to reduce the expenses one half, when not one half our officers are employed.

Mr. DAVIS. The Senator from Illinois has answered a proposition, and constantly referred to me, though I told him in the beginning of his remarks that I had not made it. I leave him the advantage, therefore, of answering an argument as though I had made it, after he learned that I had not.

He then went on to answer my proposition as though he were announcing details when he says, there is no right to send an army into Utah, and states a reason—not the reason, however, given by the Executive for sending it there; not the reason which the public recognize; it being the employment of the land forces to suppress insurrection in a Territory, quite consistent with the powers and duties of the executive department. He announces that he judges, from the sum total of expenditure, that there is too much Army and too much Navy; and that we have no more territory than we had before; and that our vessels are sailing on trips of pleasure. An army is not wanted merely because of the amount of territory; it is the requirements in the territory. It is the fact that our people have gone into Washington Territory, and there come in contact with savage tribes; that they have gone into Oregon Territory, and there come in contact with savage tribes, that involves the additional expenditure. If those wars are now happily at an end, we may expect the next year to be followed by a very great reduction of expenditure. I repeat, that it is due to the occasion, that the Senator who finds where fleets and armies are unnecessarily employed, should lay his hand upon the particular occasion, and point out the reduction which he proposes to make. It is no argument, because the naval vessels are not employed in active operations in the seas where they cruise, that they are therefore unnecessary. Their presence may answer all the ends for which we maintain a Navy, and it is certainly a blessed result if their presence does effect it without the necessity of conflict. To postpone it until the evil arises, and then to send out vessels, would be merely to incur a double expenditure, with great injury to our commerce.

The particular vessel which the Senator cited, has generally been considered a bad vessel, a failure of construction. She has not gone to sea, and for reasons which I suppose were justifiable; but not being a naval man, I am not ready to speak upon it. The chairman of the Committee on Naval Affairs could probably give information in relation to that particular case. The only other particular case cited by the Senator, was the sending of an army into Utah. If they were, as I believe they were, sent there to suppress an insurrection in a Territory of the United States, I hold that it was a legitimate use of the land forces.

Mr. DOUGLAS. Mr. President, we all agree that the expenditures of the Government ought to be diminished. The only practical question is how, at this late period of the session, we are going to accomplish anything before we adjourn. I think it would be utterly useless to appoint a select committee, with the hope of their accomplishing anything at this session; for the reason that, while that select committee are sitting and investigating the subject, the Finance Committee will have reported all the appropriation bills, and we shall have passed them. In my judgment, the only mode in which we can accomplish anything for the present session, is to trust the Committee on Finance to make such reductions as they think, with the evidence before them, the public service will permit; and there is certainly no body of men in the Senate so competent, so well informed upon the subject, and so ready to act, as the Finance Committee. The chairman of that committee has been for many years, almost from time immemorial to the younger members of the body, in charge of the finances. He is familiar with every item of expenditure. For a great many years he has reported all the appropriation bills, and with his accustomed vigilance, every item has passed under his eye. He knows for what purpose every item is appropriated, under what law, and the reasons for the passage of the law. Hence, he is better posted on each item than any select committee you can appoint will be after six months' experience and investigation. I should hope for much from the action of the Committee on Finance, with the information they have, growing out of many years' experience on all these items. I should hope for much from them at this session; and then this duty being devolved on them, especially by resolution, I should expect that by the next session they would be ready to present a general plan of reduction and economy in all the expenditures of the Government.

I do not pretend to be able to say in what branches of the service curtailment can be made. It seems to me that some may be made in the Army, some in the Navy, some in the Post Office Department. I do not understand how it is that the expenditures of the Post Office Department have increased so enormously, when the former policy was to make it self-sustaining. I make no charges; I do not know enough upon the subject to specify where the fault is, or in what the error consists; but there is certainly some place where correction can be applied. I must trust to the committees familiar with these subjects to enlighten us. By the next session we can have thorough reports on these subjects. In the mean time, the regular committee of this session will be able to make some curtailments on the information they have acquired in the public service.

One word with reference to the proposition of the Senator from California. He proposes a special committee, composed of chairmen of the various standing committees of Finance, Foreign Relations, Military Affairs, Indian Affairs, Post Office, Commerce, and Printing. I should have great confidence in a committee thus constituted; but that Senator must observe, that if he takes only the chairmen of those various committees, his select committee will be composed exclusively of men of one political party; and inasmuch as the members upon the other side of the Senate say they are ready to specify faults and abuses and extravagance, if we constitute a select committee, from which we exclude every one on that side of the House, and take only the chairmen of the standing committees, who all belong to this side, it will be looked upon, though unjustly, as a white-washing committee, and will be so treated in the country.

Mr. GWIN. The Senator will permit me to say that I was struck with the force of that ob-

jection. It was suggested to me to indicate the select committee by naming the chairmen of the important standing committees; but I was struck with the remark of the Senator from Illinois, and I prefer now my original amendment, and I will so modify it.

Mr. DOUGLAS. Mr. President—

Mr. IVERSON. I rise to a point of order once more. I made the point of order before, and the Chair sustained me, but the Senator from Illinois violated it.

Mr. DOUGLAS. I will surrender.

Mr. TRUMBULL. I desire to correct a matter of fact between the Senator from Mississippi and myself. I stated that the army had been sent to Utah as a *posse comitatus* or escort for the Governor. The Senator from Mississippi understood it differently. I understood him to say that it was sent to put down rebellion. I have the President's message before me—

Mr. IVERSON. I rise to a point of order. I insist that the Senator from Illinois is not in order; and I trust the Chair will enforce the rule.

Mr. TRUMBULL. I wish only to read two lines from the President's message:

"To protect these civil officers, and to aid them, as a *posse comitatus*, in the execution of the laws in case of need, I ordered a detachment of the Army to accompany them to Utah."

Mr. CHANDLER. I ask the consent of the Senator from Georgia to allow me one second to make a remark?

Mr. IVERSON. I cannot.

Mr. CHANDLER. The Senator from Florida stated that I brought charges—

Mr. DOUGLAS. I am afraid that I shall have to go on with my speech if others are to speak.

Mr. CHANDLER. I wish to put it on the record that I brought no charges against the head of the Navy Department.

Mr. DOUGLAS. I yield for the private bills.

The PRESIDING OFFICER. It is moved and seconded to postpone the previous orders, for the purpose of considering the resolutions of the Senator from Tennessee.

The motion was not agreed to.

THE PRIVATE CALENDAR.

The PRESIDING OFFICER. In conformity with the order made yesterday, the Senate will now proceed to the consideration of the bills upon the Private Calendar.

Mr. WILSON. I move that, in considering those bills, we pass over those which give rise to debate, and take up only those which shall not lead to discussion. I think there are several bills which can go through without debate, that would not otherwise be acted upon during this session.

Mr. IVERSON. I hope that motion will prevail, and I should have made it myself if the Senator from Massachusetts had not anticipated me.

Mr. GREEN. I rise to a point of order. It is this: that proposition is to change the regular order of business, and therefore requires one day's previous notice. If that previous notice had been given, I should have no objection.

Mr. CLINGMAN. It can be done by general consent.

Mr. GREEN. General consent will not be given now.

Mr. IVERSON. I think the Senator from Missouri is mistaken. The order is that the Senate will proceed to the consideration of bills on the Private Calendar. Now we are proceeding to the consideration of the bills on the Private Calendar, by adopting the very rule which the Senator from Massachusetts proposes. We are, therefore, following the order of the Senate. The Senate is obliged to devote to-day to the consideration of private bills; but the order in which they shall be considered is a question for the Senate to determine.

Mr. GREEN. The Senator is at fault. To call a bill, and to refuse to consider it because one Senator says, "I object," is not considering it; and is, therefore, not complying with the order made by the Senate yesterday. It is not considering a bill; it is declining to consider it. I insist on the regular execution of the order.

Mr. STUART. I am very reluctant to consume the day in talking, and I do not mean to do it; but I wish to suggest that the Senate made an order to consider private bills to-day, and it is competent for a majority of the Senate to decide

the mode in which they shall be considered. There is no general rule which prescribes it, and it is competent for the Senate now to say in what mode they will consider that business, or to set it all aside.

Mr. GREEN. There is a rule which says that the bills shall be called, and considered as they stand on the Calendar.

Mr. IVERSON. That was not the resolution. Mr. GREEN. But it is the standing order of the Senate, that whenever you take up the Calendar you shall proceed according to the record, as it stands on the Calendar, unless there be a previous order directing otherwise.

The PRESIDING OFFICER. Is the question of order submitted to the Chair?

Mr. GREEN. Certainly.

The PRESIDING OFFICER. The resolution under which the Senate is acting was adopted yesterday, in the following words:

Resolved, That the Senate will to-morrow, at one o'clock, proceed to the consideration of private bills upon the Calendar, and that to-morrow shall be devoted to the same.

The Chair is under the impression that the same power which authorizes the Senate to fix a particular day for the consideration of bills, can, on that day, by a majority, direct the mode in which they shall be disposed of.

Mr. MALLORY. That disposes of the question of order; and the motion now is to pass over those bills to which a single objection may be made. I trust that course will not be adopted. I have been waiting an opportunity during the previous part of the session to bring to the attention of the Senate the bill reported from the Committee on Claims, providing for payment of the claims of the citizens of Florida, who are provided for under the ninth article of our treaty of 1819 with Spain. This is a particularly opportune moment to consider that bill, when the acquisition of Cuba is before the Senate for discussion. While we are complaining of the course of Spain, it behooves us to show a disposition ourselves to do justice to her citizens, particularly when we have undertaken so to do by a treaty stipulation, which to this hour remains uncompleted with. That bill will come up in its order to-day; but if this motion should prevail, a single objection will pass it over; and I know objection will be made.

On another ground I object to this motion. It is quite apparent, to be sure, that a great many bills here are so just upon their face, and their merits are so apparent, that they would be passed by unanimous consent. There are a great many bills which have not claimed the attention of the Senate at all, and against which no objection will be immediately made, and these will be passed; whereas bills like this that I refer to, which have undergone special discussion at previous sessions, which are perfectly understood, and in favor of which minorities and majorities are readily arrayed here, will be put off. For this reason I hope the motion will not prevail.

Mr. WILSON. I hope the Senator from Florida, who certainly generally adopts a very liberal course here, will allow this motion to prevail. There are many small bills on the Calendar, some of which have passed the House of Representatives, that, if passed by this body, will be acts of justice, will carry happiness and comfort to many individuals in the country—bills that we shall pass without opposition. If we undertake to adhere to the rule of the Calendar in regular order, those bills will not be passed at this session. I doubt whether we shall devote another day to the consideration of private bills. Therefore I hope the motion will prevail, and that we shall first go over the Calendar, and consider those bills to which objection may not be made, and then go back, take up all the bills in their order, and do the best we can.

Mr. GREEN. I understood the decision of the Chair to be, that the rule was, that we should adhere to a certain order in proceeding with the Calendar, and that that rule could not be changed without one day's notice. I am informed, however, that the Chair has decided the other way. If so, I must take an appeal. I desire to know what the decision was.

The PRESIDING OFFICER. The Chair decided that it was competent, on this day, for the Senate to arrange its own order of business; either to consider all the bills on the Calendar as they

might be called, or to consider such as they might choose to take up.

Mr. GREEN. I appeal from the decision of the Chair in entertaining the motion, not from the remarks made by the Chair, because there is a vast difference between the two. The Calendar must be called in its regular order when the Senate has thus directed by special resolution; and whenever any bill is called, a motion to postpone it, to lay it on the table, or otherwise to dispose of it, is in order, and a majority of the Senate can thus get rid of that bill; but to say that you will, by a common resolution, change the standing rule of the Senate, and permit one Senator to stop the passage of a bill for which nine tenths of the Senators are ready to vote, is to reverse the order of the Senate, which is, that we shall consider the Calendar. It is not considering the Calendar.

The PRESIDING OFFICER. Will the Senator refer to the rule?

Mr. GREEN. I refer to two rules. One is, that no standing rule or order of the Senate shall be changed without one day's previous notice, unless by unanimous consent; the other is the order made by general consent yesterday, that to-day the Private Calendar should be taken up regularly, and considered. The Private Calendar could not be taken up to-day, but for the fact that the Senate thus ordered yesterday; and the Senate could not have thus ordered yesterday, except by unanimous consent. To-day, however, it is proposed to reverse the rule, as it now stands, without unanimous consent; and to that I object. I will not consume time, however, because whether my opinions are carried out or reversed, I am anxious to see the public business transacted.

The PRESIDING OFFICER. The Senator states the rule as the Chair understands it. It provides that no rule can be changed without one day's notice; but the Chair determines that, when a bill is presented for the consideration of the Senate, a majority of the Senate can dispose of it.

Mr. GREEN. Certainly; when the bill itself is called, they can; but that does not justify the motion of the Senator from Massachusetts.

The PRESIDING OFFICER. Will the Senator state to the Chair his distinct question of order?

Mr. GREEN. I will; and I will put it in writing, if necessary. The Senator from Massachusetts proposes a resolution which, if adopted, will make it a rule of the Senate for to-day, that, whenever any bill is called, if any one Senator objects, that bill shall not be considered. He proposes that as a rule, which is not now the rule of this body. The rules now in existence governing this body say that any change of a rule shall require one day's previous notice of a proposition of this kind.

Mr. IVERSON. The rule to which the Senator from Missouri alludes is, that no standing rule shall be changed or altered without one day's previous notice. This disposition of the Private Calendar is not a standing rule; it is a mere order which was made by the Senate yesterday, and is subject to modification to-day. The Senate could to-day, if they thought proper, postpone that order entirely, as the motion of the Senator from Tennessee proposed. According to the position of the Senator from Missouri, however, that motion was out of order; because, the Senate having determined to go on with the consideration of the Private Calendar to-day, he could not move to dispense with it without having given one day's previous notice of that motion; and yet the Senator from Tennessee made his motion to postpone, and it was debated and decided on by the Senate. Surely it was in order, and nobody objected to it as being out of order; and yet the motion was not made after one day's previous notice. The rule to which the Senator refers is, that you cannot alter or change a standing rule of the Senate without giving that notice. The resolution setting apart to-day for private bills is not a standing rule of the Senate. There is no such standing rule.

Mr. GREEN. I will correct the Senator, and I will prove to him that he is radically wrong. The standing rule of the Senate is to proceed with the Calendar according as the bills are reported.

Mr. IVERSON. I call for the reading of the resolution.

Mr. GREEN. I am not speaking of that resolution, but of the standing rules of the Senate.

The Senator from Georgia made a distinction between that order and the standing rules; and now, when I refer to the standing rules, he undertakes to call my attention to the order. He ought to know the difference if he undertakes to make the distinction. But, sir, that standing rule has been changed by a special order. A special order was made yesterday by unanimous consent, and by making that special order you changed the standing rule. This is admitted by the Senator, and it required universal consent to permit the proposition to be considered. Now, to-day you propose to modify that order. Do you not modify the standing rule which would have governed in the absence of that order, and does it not thus amount to the same thing? No sophistry can enable him to avoid the force of this conclusion. We want one day's previous notice to change any rule or standing order of the Senate. This is a standing order. Whenever any bill is called, any Senator can move to postpone, or to lay it on the table, or otherwise dispose of it; but that is not the proposition now made by the Senator from Massachusetts. His proposition is to change the order which changes the standing rule, and it thus amounts to a proposition to change the standing rule.

Several SENATORS. Question!

The PRESIDING OFFICER. The Chair will state—

Mr. GREEN. If it will save time I withdraw the appeal. I care nothing about the question, except to maintain the rules and orders of the Senate.

The PRESIDING OFFICER. Does the Senator withdraw his appeal?

Mr. GREEN. Yes, sir.

The PRESIDING OFFICER. Then the first bill in order is—

Mr. MALLORY. The motion has not yet been disposed of.

Mr. IVERSON. The motion of the Senator from Massachusetts is before the Senate, that we proceed to consider those bills which shall not be objected to.

Mr. MALLORY. On that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to; there being, on a division—ayes 22, noes 12.

Mr. POLK. I ask the Chair whether the motion that was made to reconsider the vote upon the bill in regard to the Missouri land fund, which was acted upon on Friday of last week, is not entitled to priority. If so, I wish to have that question come up before the Senate as a privileged question.

The PRESIDING OFFICER. The Chair has already decided that to-day is appropriated to the consideration of private bills.

Mr. POLK. The bill to which I allude was on the Private Calendar. It was passed on Friday of last week; and afterwards a motion was made by the Senator from Georgia [Mr. Toombs] to reconsider that vote. I submit to the Chair that that motion is a privileged one to-day. If so, I call for its consideration.

Mr. STUART. The Chair will allow me to say that the privilege is exhausted when the motion is made. You have the right to make the motion; and that is the only privilege which accompanies it. It then stands like any other business, and cannot be taken up without a special motion. Of course, a majority may decide to take it up; but that would be to reverse the order which has just been made.

Mr. GREEN. The Senator from Michigan is a little mistaken. The privilege of the motion as a privileged question is exhausted; but the bill retains its place upon the Calendar. The bill having passed, and a motion to reconsider having been made, it goes on the Calendar, and is, therefore, the first bill on the Calendar; and, if nobody objects, can be disposed of at once.

Mr. STUART. That is right enough.

The PRESIDING OFFICER. The privilege extends simply to entering the motion to reconsider; but when the motion is entered, it takes its place upon the Calendar.

Mr. POLK. I ask, then, that that shall be the first bill called.

CREEK DEPREDACTIONS.

The PRESIDING OFFICER. The first bill upon the Private Calendar is the bill (S. No. 26)

to provide for the examination and payment of certain claims of citizens of Georgia and Alabama on account of losses sustained by depredations of the Creek Indians.

Mr. CLAY. That may be passed over.

JOSÉ DE LA MAYA ARREDONDO.

The PRESIDING OFFICER. The next bill upon the Private Calendar is the bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo.

Mr. YULEE. That bill can be passed over as it was the other day.

JOHN HASTINGS.

The PRESIDING OFFICER announced the next bill in order to be the bill (S. No. 207) for the relief of John Hastings, collector of the port of Pittsburgh.

Mr. WILSON objected to the consideration of the bill; and it was passed over.

ISAAC VARN.

The next bill on the Calendar was the bill (S. No. 303) for the relief Isaac Varn, senior.

It proposes to require the Secretary of War to examine and adjust the claim of Isaac Varn, senior, of Duval county, Florida, for the use and occupation of his property, for wood and timber cut from his land, and for other property belonging to him and taken and used by the United States troops, between the 1st April, 1836, and the 1st July, 1841, and pay the amount found due, upon competent and sufficient evidence, not exceeding five thousand dollars.

Mr. KING called for the reading of the report of the Committee on Claims.

The report was read; from which it appeared that there was satisfactory evidence that the land and buildings of the petitioner, situated in Duval county, Florida, were occupied by the United States troops as a military post from April, 1836, until June, 1841, and that a large quantity of wood and timber belonging to him was cut and used by the troops. He also claims compensation for cattle and sheep taken by the troops, and indemnity for the destruction of his fruit trees, fences, and other improvements, and for other losses growing out of the military occupation of his place. It appears that Mr. Varn entered upon this land, being unappropriated public land, (section twelve, township five, range twenty-four east,) in 1823; in 1826 or 1827, he erected a house, in which he has continued to reside. On the 31st March, 1838, (as shown by the records of the General Land Office,) he entered lots Nos. 3, 4, and 5, of the section, under the preemption act of 1834, these lots containing in all one hundred and thirty-three and one fourth acres; and in 1839 he purchased lots Nos. 1 and 6, containing fifty-three and one fourth acres. The occupancy of the place as a military post during the period named is shown by statements from the War Department, and from the officers in command; also, that wood and timber were cut for the use of the troops. As to the amount of compensation to which the claimant is entitled, the testimony is not very explicit or satisfactory, with the exception of a letter from General Twiggs, in answer to inquiries addressed to him by the chairman of the committee, in which he says he does not think six or seven thousand dollars by any means extravagant.

Mr. SHIELDS. This is an old case that I have some recollection of. I do not know whether it was before the Military Committee or some other committee formerly, that I investigated it; but I think I recollect the circumstances, and, if I understand the report aright, it is not clear upon one point. My impression is that this waste or damage was committed on public land, and not on the private property of this individual.

Mr. MALLORY. It is shown to be his own private property.

Mr. SHIELDS. I understand he was occupying the land, but had not yet entered or purchased it from the Government when the waste was committed.

Mr. MALLORY. The report states when he paid for it.

Mr. KING. I think the bill had better lie over. I object to it.

The PRESIDING OFFICER. It will lie over under the rule.

ANN P. DERRICK.

The next bill on the Calendar was the bill (S.

No. 325) for the relief of Mrs. Ann P. Derrick, widow of W. S. Derrick, deceased.

It proposes to require the proper accounting officers of the Treasury to account with and allow to the widow and children of W. S. Derrick, deceased, late chief clerk in the Department of State, for the time he performed the duties of acting Secretary of the Department of State, by appointment of the President of the United States, the same compensation as was then allowed by law to the head of that Department, deducting therefrom the compensation received by him as chief clerk during the same time.

Mr. KING. Is there a report in that case? If so, I should like to hear it.

Mr. IVERSON. I can state to the Senator from New York what are the facts in the case, and the principle involved, without reading the report. Mr. Derrick was chief clerk of the State Department; and in the absence of the Secretary of State, he was appointed by the President to discharge the duties of the Secretary of State. The object of this bill is to pay to his widow and children the difference between what he received as chief clerk and the salary of Secretary of State during the time he discharged the duties of Secretary.

Mr. KING. How long was it?

Mr. IVERSON. Not very long. The principle has been established by the circuit court of the District of Columbia, and by the United States Supreme Court in many cases, by both Houses of Congress repeatedly, and by the present Congress in several instances.

Mr. KING. I ask for what time he served in that capacity?

Mr. STUART. I hope we are not going to debate these bills when they are objected to. The rule is, that if debate arises they go over.

Mr. KING. I wish to hear the report in this case.

The Secretary read the report of the Committee on Claims; from which it appears that Mr. Derrick was appointed by the President at sundry times, and performed the duties, as acting Secretary of State during the aggregate period of two hundred and sixty-three days. The salary of Secretary of State for that time would amount to \$4,323 29. The salary of chief clerk, which he received, amounted to \$1,441 20; which, being deducted, leaves a balance of \$2,882 20; to which sum, in accordance with the precedents established by the action of the Senate in repeated instances, Mr. Derrick was justly entitled to. In accordance with these views, the committee reported a bill authorizing the proper accounting officers to adjust the account, and pay the balance that shall be found due.

Mr. KING. I think this bill had better lie over for the present. It is an old claim.

The PRESIDING OFFICER. Objection being made, the bill will go over under the rule.

KATHARINE M. HAMER.

The next bill on the Calendar was the bill (S. No. 6) to continue the pension heretofore granted to Katharine M. Hamer.

It provides that the pension of thirty dollars per month, heretofore granted to Katharine M. Hamer, widow of the late Brigadier General Thomas L. Hamer, which expired the 3d day of December, 1856, shall be revived and continued during the term of her life or widowhood.

Mr. PUGH. That lady has been provided for under the general law that we passed at the last session; and I therefore move that this bill be indefinitely postponed.

The motion was agreed to.

CATHERINE DICKERSON.

The next bill upon the Calendar was the bill (S. No. 326) for the relief of Catherine Dickerson.

It directs the Secretary of the Interior to place the name of Catherine Dickerson, widow of John Dickerson, late a pensioner of the United States, upon the pension rolls, under the provisions of the act of the 7th of July, 1838, entitled "An act granting half pay and pensions to certain widows," and pay to her the amount to which she would have been entitled under that act, from the 4th of March, 1836, to the date of the commencement of the pension she now receives, with a proviso, that in all other respects her pension shall be regulated and controlled by the provisions of

the general statutes in such cases made and provided.

Mr. PUGH. Let us hear the report in that case.

The Secretary read the following report:

The Committee on Pensions, to whom was referred the resolution of the Legislature of Iowa, in relation to the pension of Catherine Dickerson, have had the same under consideration, and beg leave to report:

The case is one which, for a long time, occupied the attention of Congress, having been reported upon favorably four years ago. The Legislature of Iowa, in which State Mrs. Dickerson now resides, have thought the case of sufficient importance to make it the subject of a joint resolution directing the attention of Congress to its justice.

The committee, upon thorough examination, fully concur in the views set forth by Mr. Williams in his report, submitted to the Senate June 23, 1854, and adopted them as follows:

"That petitioner, who is now very aged and infirm, is the widow of John Dickerson, deceased; that said John Dickerson was a soldier in the war of the Revolution, (having served over four years in said war,) and drew a pension as an 'indigent' up to the date of his death, which occurred on the 9th day of July, 1833; that, being ignorant of any provision of the law by which she could draw a pension as the widow of her said husband, she made no application for the same until during the year 1833; that she was, from the date of his death, in needy circumstances, and, for eighteen years last past, absolutely dependent upon charity not only for subsistence and clothing, but for every attention which her age and infirmities made requisite; that, in 1853, she, as above stated, applied for a pension under the law of 1838, but, owing to the want of the requisite proof of her marriage to John Dickerson prior to 1794, her application under said law was rejected, and she was, by the Commissioner, pensioned under the law of 1853, passed February 3, and after the date of her said application for the benefits of the act of 1838; that, believing herself to be justly entitled to the five-years' pension, as provided in the act of 1838, to date from 1836, she appeals her case to Congress, and now prays the passage of a special act instructing the Commissioner of Pensions to place her name on the rolls, under the provisions of the first section of the act of July 7, 1838.

This case has been examined with care, and the committee are of opinion that the prayer of the petitioner ought to be granted for the following reasons:

1. It is proven, by the records on file in the Department, that her said husband was a soldier in our revolutionary struggle, and was honorably discharged; and, further, as appears from his own affidavit, and the affidavit of a comrade, that he served four years from 1775, and was engaged in the battles of Brandywine, Germantown, Monmouth, and Stony Point.

2. It is also of record that he was pensioned in 1829, at ninety-six dollars per annum, and received said pension to the date of his death, in 1833.

3. The act of June 7, 1832, provides that each of the surviving soldiers of the war of the Revolution, who served a term of two years or more in said war, be authorized to receive the amount of his full pay, in said service, during life. Clearly petitioner's husband was entitled under this act.

4. The act of July 7, 1838, provides that "if any person who served in the revolutionary war in the manner specified in the act of June 7, 1832, (above recited,) have died, leaving a widow whose marriage took place after the expiration of his service, and before 1794, such widow shall be entitled to receive, for the term of five years, the pension to which her husband would have been entitled in virtue of said act," to commence on the 4th of March, 1836. There is no limitation of the time allowed for making applications under this law, nor has the law ever been repealed or superseded. And the only question which can arise of the right of Mrs. Dickerson to claim under it is, "was she married to John Dickerson prior to 1794?"

5. The evidence that Mrs. Dickerson was married prior to 1794, though not of the character required by the courts in civil cases, is, in the opinion of your committee, such as ought to be received and credited in a case like this, when an aged woman, (probably over eighty,) evincing that decay of faculties which age, hardship, and infirmity, visit upon all, and removed to a new State, beyond all communication with those who survive of her acquaintances in early life, except by mail, and sixty years after the event, is called on to prove the day and date of her marriage. Mrs. D. acknowledges her inability even to remember the date of an event so important to herself; but declares, positively, under oath, that it took place three years before the birth of her eldest child, who was born in 1795. This statement is borne out by the record of marriages and births in the "old family Bible," a transcript of which accompanies the papers, and of the genuineness of which the Commissioner of Pensions satisfied himself by comparing it with the original in the Bible itself.

It seems to your committee that the case of Mrs. D. is sufficiently made out; and that under all the circumstances it would be a too stringent administration of the letter of the law, intended in its spirit to be an act of bounty, to require more in cases of this class. Mrs. D.'s character for truth and respectability, as also her age, necessities, and deservings, are certified to by gentlemen of the first reputation and position. Her tenure of life must, in the natural order of things, be almost at an end; and as the claim she now presents seems to be founded in equity, and to be well sustained by the law and the facts, your committee regard it both an act of justice and charity to grant her prayer, and enable her to spend her few remaining days in comfort. They, therefore, herewith report a bill giving her a pension, under the law of 1838, from the 4th of March, 1836, to the date of her pension under the act of 1853, as all the pensions granted under the said act of 1838, for a term of five years, were, by subsequent acts, renewed and continued.

All which is respectfully submitted.

Mr. CLAY. As this bill proposes to give ar-

rears of pension, I must object to it. I would not do so if it were prospective; but as it relates back to 1838, I must object to its passage.

The PRESIDING OFFICER, (Mr. BRIGHT in the chair.) Objection being made, the bill will go over.

SANTIAGO E. ARGUELLO.

The bill (S. No. 370) for the relief of Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello, was read a second time, and considered as in Committee of the Whole.

By it the Secretary of the Treasury will be directed to pay to Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello, late a captain in the California battalion, the sum of \$14,888, for losses of property sustained by him during the period of such service, and in consequence thereof.

Mr. KING. I ask for the reading of the report.

The Secretary read the report of the Committee on Claims, from which it appears that Mr. Arguello was a wealthy and influential inhabitant of California, residing in the vicinity of San Diego. On the invasion of that country, during the Mexican war, and on the appearance of the proclamation of Commodore Stockton, then in command of that division of the American forces, Arguello placed himself at the head of a company raised through his influence and exertions, and immediately joined the United States forces, and fought with distinguished bravery and effect in several actions, under the command of Commodore Stockton, who fully attests his gallantry and the importance of his services. On the 25th November, 1846, he was appointed by Governor Stockton a captain of riflemen in the California battalion, and on the 16th January, 1847, a member of the Legislative Council of that Territory. In consequence of his attachment to the cause of the United States, and the zeal and activity which he manifested in their service, his *ranch* was ravaged and laid waste, his buildings burnt, and his cattle and other movable effects taken away by the enemy, by which he appears to have been reduced from competence and wealth to penury and dependence. A commission, appointed by H. Fitch, Esq., alcalde of San Diego, to examine and report upon the losses of Arguello, state, under oath, that after a personal examination, that the personal property thus destroyed by the enemy amounted, "at the lowest value," to \$14,888. The items are as follows:

479 tanned deer skins, at \$2.....	\$944
24 tanned cow hides, at \$6.....	144
200 mares, at \$10.....	2000
500 head of cattle, at \$20.....	10,000
250 sheep, at \$4.....	1,000
42 horses, at \$50.....	2,100
100 pigs, at \$5.....	500
Total.....	\$14,888

On leaving California, Governor Stockton, who rendered such valuable, important, and arduous service in that then distant and almost unknown territory, addressed a communication to Arguello, in which, after acknowledging his services, sacrifices, and losses, he says: "I hope—nay, I have not the least doubt—but that the losses which you have sustained will be reimbursed by the Government of the United States."

The policy of the United States in remunerating those who have testified attachment to our cause and our institutions, by forsaking the cause of an enemy and risking their lives and property in our service, was sanctioned by the early action of the Government. In 1818, a committee of the House of Representatives made a report on a claim of this nature, in which they say: "If the liberal policy heretofore pursued by the United States is continued, it would not require much calculation to predict its effects, in the event of another contest." The Senate Committee on Claims, at the second session of the Twenty-First Congress, in their report (No. 30) in the case of John Daly, a Canadian refugee, adopted the same principle and recommended relief, which was granted to the amount of \$5,000, "for supplies furnished and assistance rendered to the army of the United States in Canada." In accordance with these views, the committee reported the bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

FLORIDA CLAIMS.

The next bill on the Calendar was the bill (S. No. 373) declaratory of the act for carrying into effect the ninth article of the treaty of 1819, between the United States and Spain.

It provides for such a construction of the acts of the 3d of March, 1823, and 26th of June, 1834, passed to carry into effect the ninth article of the treaty of 1819, between the United States and Spain, as to require the Secretary of the Treasury to pay to the persons authorized to receive the same, out of the appropriation made by those acts, that portion of the damages awarded by the United States judges in East Florida, under the name of interest, as a just and necessary part of the satisfaction stipulated by the treaty, so far as the original value of the property, as awarded by the said judges, has been approved at the Treasury Department.

Mr. PUGH. The Senator from Delaware [Mr. BAYARD] has requested me to state that he desires to be heard in opposition to that bill, but is not able to attend to-day. I move that it lie over.

Mr. TOOMBS. What is the matter with him? Is he sick?

Mr. PUGH. He has an engagement elsewhere. He stated it to me.

Mr. TOOMBS. I really think that the motion of the Senator from Ohio to postpone the bill on account of the absence of the Senator from Delaware, is carrying the thing too far. I should like to know whether business is to be postponed because gentlemen choose to go away on Saturdays. I should like to go away myself. I do not know any reasonable amount of money I would not give to get away; but the public business requires me to be here.

Mr. PUGH. I understand that the bill was subject to a single objection.

The PRESIDING OFFICER. It is. Objection being made, it will lie over under the rule.

Mr. MALLORY. I move that the Senate proceed to the consideration of that bill. We have now reached it in its order; and I believe that the motion I make is in order.

The PRESIDING OFFICER. The Chair decided this morning that it was in the power of any Senator, by objection, to pass over a bill.

Mr. MALLORY. This bill was not before the Senate, when that motion was made; and I presume, if my motion is agreed to, it comes up.

The PRESIDING OFFICER. Being objected to, under the rule established this morning, it must go over.

Mr. GREEN. That rule was adopted illegally without notice, and is therefore no rule.

Mr. TOOMBS. I suggest to the Senator from Florida, that after the Calendar is gone through with we can go back to it.

The PRESIDING OFFICER. The present occupant is unwilling to reverse the decision the Chair made this morning.

Mr. MALLORY. Does the Chair decide my motion out of order?

The PRESIDING OFFICER. The Chair is unwilling to reverse the action had this morning, and is of opinion that the motion is not in order.

Mr. MALLORY. Does the Chair decide that the motion cannot be brought before the Senate now?

The PRESIDING OFFICER. Yes, sir. Objection being made, the bill lies over under the rule adopted this morning.

JOHN HUERTAS.

The next bill on the Calendar was the bill (H. R. No. 251) to authorize the claimants in right of John Huertas to enter certain lands in Florida.

It is an authorization to the claimants, in right of John Huertas, to a tract of six thousand acres in Florida, confirmed by the Supreme Court of the United States, at the January term, in 1834, to enter, at any land office in the State of Florida, the quantity of three thousand three hundred and thirty-two acres and thirty hundredths of an acre of any of the public lands in that State, offered, or unoffered, the same being in addition to the area of two thousand six hundred and sixty-seven acres and seventy hundredths of an acre surveyed for the claim, and designated as section forty-eight, in township nine south, of range twenty-seven east, in the St. Augustine land district, Florida, and being the difference between the quan-

tity embraced by the survey, and the six thousand acres confirmed for the claim.

Mr. TOOMBS. I object.

The bill was passed over.

LEONARD LOOMIS.

The next bill on the Calendar was the bill (H. R. No. 261) for the relief of Leonard Loomis.

It directs the Secretary of the Interior to raise the pension of Leonard Loomis from six to eight dollars per month, and to pay him such increased pension from the 9th of August, 1857.

Mr. TOOMBS. I object.

The bill was passed over.

MONROE D. DOWNS.

The Senate as in Committee of the Whole proceeded to consider the bill (H. R. No. 426) for the relief of Monroe D. Downs.

It provides that Monroe D. Downs may enter in the land office in Omaha City, in the Territory of Nebraska, by preëmption, the east half of the southwest quarter, and the east half of the northwest quarter of section numbered thirty-six, of township fifteen north, of range twenty east, in that Territory, at the minimum price of \$1 25 per acre, and that the superintendent of public instruction of Douglas county, Nebraska Territory, may select any unclaimed and unoccupied quarter section of land in that county in lieu of the lands authorized to be entered by Downs.

Mr. GREEN. Let the report be read.

Mr. STEWART. The bill explains itself. A school section was occupied before the land was surveyed, and it directs the school officers to select a similar quantity at any other place of land subject to entry at \$1 25 an acre.

The PRESIDING OFFICER. Is the call for the reading of the report withdrawn?

Mr. GREEN. Yes, sir.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

REBECCA M. BOWDEN.

The bill (H. R. No. 577) for the relief Rebecca M. Bowden, of Prince George county, Virginia, was considered as in Committee of the Whole.

It proposes to authorize Rebecca M. Bowden to locate in her own name, as sole devisee of Littleberry Bonner, on any of the lands of the United States subject to private entry, at the minimum price of \$1 25 per acre, a certain land warrant, No. 17,647, issued to Bonner for his services as a private in Captain Temple's company, in the fourth regiment of Virginia militia, in the war of 1812, or to sell and assign the warrant as such devisee in the same manner as Littleberry Bonner could do if he were now living.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN F. CANNON.

The next bill on the Calendar was the bill (H. R. No. 273) for the relief of John F. Cannon.

It proposes to require the Postmaster General to pay to John F. Cannon, at the rate of \$120 per annum, for and during the time he carried the mail, according to his contract, in addition to the amount already paid to him, for additional expense incurred and extra service performed by him on mail route No. 2627.

Mr. TOOMBS. I object.

The bill was passed over.

MARGARET WHITEHEAD.

The next bill on the Calendar was the bill (H. R. No. 232) for the relief of Margaret Whitehead.

Its object is to require the Secretary of the Interior to place the name of Margaret Whitehead, widow of William Whitehead, a boatswain in the United States Navy, on the pension roll, and cause to be paid to her the sum of ten dollars per month, from the 9th of April, 1854, and to continue during her natural life, or widowhood.

Mr. TOOMBS. I object to that bill. It is for a pension.

The bill was passed over.

CONFIRMATION OF LAND CLAIMS.

The bill (S. No. 410) to confirm certain land claims in the Florida parishes of Louisiana to the city of New Orleans, and others, was read a second time, and considered as in Committee of the Whole.

It proposes to confirm the city of New Orleans in its title to one undivided half part of the following tracts of land. 1. Nineteen thousand arpents of land sold to Don Louis de Clonet and Don Alexander de Clonet by Don Juan Ventura Morales, Governor General of Louisiana and West Florida, on the 15th and 16th of November, 1803. 2. One hundred and twenty thousand arpents of land sold to Don Jeronimo la Chiapella by Don Juan Ventura Morales, Governor General of Louisiana and West Florida, on the 5th and 7th of October, 1803. 3. Thirteen thousand three hundred and thirty-five arpents of land, being the one-third part of a tract of forty thousand acres of land, sold to Don Juan Delapize by Don Juan Ventura Morales, Governor General of Louisiana and West Florida, on the 16th of May, 1804. 4. Twenty-one hundred acres of land described in the acknowledgment made in favor of Philip Robinson by Don Thomas Estevan, commandant at the port of Galvestown, on the 20th of January, 1804. 5. Fourteen hundred and twenty acres of land, being the unconfirmed remainder of a tract of twenty-seven hundred acres of land granted by Don Thomas Estevan, then commandant of the Amite district, to John McDonogh and Sheppard Brown, on the 5th of March, 1806.

It also proposes to confirm Joseph Reynes in his title to a certain tract of land in the parish of East Feliciana, State of Louisiana, containing about forty thousand arpents, which tract was sold to his late father, Joseph Reynes, senior, on his application, dated 19th of November, 1803, and which sale was confirmed by Don Juan Ventura Morales, Governor of Louisiana and West Florida, on the 31st of December, 1803.

It further provides that John Johnston and Harriet Johnston, now widow Marshall, sole heirs of James Johnston, deceased, be confirmed in their title to a tract of thirty-five thousand arpents of land, lying in the Florida parishes of Louisiana, on the waters of Thompson's creek, or Feliciana river, and the Comite, immediately south of the thirty-first parallel of north latitude; being the same tract which was sold to Don Manuel Langos by Don Juan Ventura Morales, Governor of Louisiana and West Florida, on the 2d of January, 1804; and that the heirs, assigns, and legal representatives of Christoval de Armas, and his son, Miguel de Armas, be confirmed in their title to twenty thousand arpents of land, situated in the Florida parishes of Louisiana, sold to them by Don Ventura Morales, Governor of West Florida and Louisiana, by deed, dated at Pensacola, on the 23d October, 1806.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

JANE TURNBULL.

The next bill on the Calendar, was the bill (S. No. 110) for the relief of Mrs. Jane Turnbull, which had been reported adversely from the Committee on Pensions.

The bill proposed to direct the Secretary of the Interior to place the name of Mrs. Jane Turnbull, widow of the late Brevet-Colonel William Turnbull, United States Army, of the list of pensioners, and to pay her, per month, at the rate of half the monthly pay to which her late husband was entitled at the time of his death; her pension to commence on the 9th day of December, 1857, and to continue during her widowhood.

Mr. CRITTENDEN. That bill may be laid aside, as a similar one has already passed the Senate, and gone to the House.

Mr. CLAY. Then I move its indefinite postponement.

The motion was agreed to.

WRIGHT FORE.

The Senate as in Committee of the Whole next proceeded to consider the bill (H. R. No. 522) for the relief of Wright Fore.

It proposes to place the name of Wright Fore on the invalid pension roll, at the rate of eight dollars per month, to commence on the 9th day of November, 1852, and to continue during his natural life.

The Committee on Pensions reported the bill with an amendment to strike out "eight dollars," and insert "six dollars."

The motion was agreed to.

The bill was reported to the Senate as amended;

and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

FRANCIS CARVER.

The next bill on the Calendar was the bill (H. R. No. 524) for the relief of Francis Carver.

It provides for placing the name of Francis Carver on the invalid pension roll, at the rate of eight dollars per month, from the 18th of December, 1857, to continue during his natural life.

Mr. TOOMBS. I object.

The bill was passed over.

ROBINSON GAMMON.

The next bill on the Calendar was the bill (H. R. No. 525) for the relief of Robinson Gammon.

It proposes to require the Secretary of the Interior to place the name of Robinson Gammon, of Roxbury, in the county of Oxford, State of Maine, upon the roll of invalid pensions, at the rate of eight dollars per month, from the 3d of December 1856, during his life.

Mr. TOOMBS. I object.

The bill was passed over.

FREDERICK SMITH.

The bill (H. R. No. 526) for the relief of Frederick Smith, was next announced.

It provides for placing the name of Frederick Smith on the invalid pension roll, at the rate of four dollars per month, from the 1st of February, 1858, during his natural life.

Mr. TOOMBS. I object to all pensions. I want right and justice to be done before we give them, and therefore I object to all these pension bills.

The bill was passed over.

DAVID WATSON.

The next bill on the Calendar was the bill (H. R. No. 535) for the relief of David Watson.

It provides for placing the name of David Watson, of Georgia, upon the list of invalid pensioners, at the rate of four dollars per month, to commence on the 15th day of February, 1853, and continue during his natural life.

Mr. TOOMBS. If that is a pension bill, I object to it.

The bill was passed over.

HENRY KING.

The next bill on the Calendar was the bill (H. R. No. 496) for the relief of the representative of Henry King, deceased.

It directs the Secretary of the Treasury to pay to the legal representative of Henry King the sum of \$1,817 36 for his services in the third Maryland regiment and in the commissary department during the revolutionary war.

Mr. TOOMBS. I object.

The bill was passed over.

DOCTOR GEORGE H. HOWELL.

The next bill on the Calendar was the bill (H. R. No. 510) for the relief of Doctor George H. Howell.

It authorizes the proper accounting officers of the Treasury to pay to Doctor George H. Howell, an assistant surgeon in the Navy of the United States, the increased pay attaching to his increased rank as assistant surgeon, from the commencement of his increased rank to the time of the actual issue of his commission from the Navy Department.

Mr. TOOMBS. I object to all that class of cases.

The bill was passed over.

A. BAUDOUIN AND A. D. ROBERT.

The next bill on the Calendar was the bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Robert.

It provides for the payment of \$2,000 to A. Baudouin and A. D. Robert, in full compensation for the damages sustained by them, arising from the sinking of a flat-boat of ice, at New Orleans, by a steamboat in the service of the United States.

Mr. PUGH. I object to that bill.

The PRESIDING OFFICER. It will lie over under the rule.

Mr. SLIDELL. The Senator from Ohio withdraws his objection to hear the report. He was not aware that there was a report.

Mr. PUGH. The report is not marked on the Calendar.

Mr. SLIDELL. There is a report.

Mr. PUGH. If there is a report I waive my objection, to hear it read.

Mr. SLIDELL. There is a House report, which can be read.

The Secretary read the following report, made by Mr. Davidson, of the House of Representatives, on the 3d of February, 1858:

The Committee of Claims, to whom the petition and proofs of A. Baudouin and A. D. Robert, of New Orleans, was referred, report:

That the petitioners have, by proper proof, satisfied your committee that they were, on the 21st day of March, 1846, owners of a flat-boat of ice, containing (220) two hundred and twenty tons, which boat, loaded with ice, had on that day been towed down to the landing in the first municipality of the city of New Orleans, set apart to them by the wharfing; that just before she was properly fastened to the wharf, and whilst their boat was tied to another boat, the name of which is not given in the proof, but declared by the petitioners to be the schooner Commerce, Captain Pearce, she was run into by the steamer Colonel Harney, then in the service of the United States, and commanded by the officers of the Government. The proof shows that the Colonel Harney was under a heavy pressure of steam, and that the act was apparently the result of great carelessness, or wantonly mischievous, whereby the petitioners lost the boat, which was sunk, and the ice, valued at \$2,000; the proof is that there were two hundred and twenty tons, and that it was worth ten dollars per ton.

Suit was brought in the United States district court, and the evidence on file which makes this case was taken contradictory to the United States district attorney, and would between individuals have given the plaintiffs a judgment for \$2,000; but the case was dismissed upon an exception, which was, that the Government could not be sued; whereupon the parties appealed to Congress for redress, and on the 15th December, 1846, this case was referred to the Committee of Claims, and referred to the same committee again on the 17th December, A. D. 1847; that on the 30th March, 1848, a bill was reported to this House for \$2,000, accompanied by a report from Mr. Rockwell, which report and bill are herewith submitted; that the report and bill were referred to the Committee of the Whole on the state of the Union, and reported back with a recommendation that it do pass the House; that the report of the committee was not finally acted on. The bill went to the Speaker's table and was not reached. In view of all these facts, the committee report back all the papers with a bill for \$2,000 for the relief of the petitioners.

Mr. J. A. Rockwell, from the Committee of Claims, made the following report:

The Committee of Claims, to whom was referred the petition of A. Baudouin and A. D. Robert, of the city of New Orleans, report as follows:

The petitioners represent and prove, to the satisfaction of the committee, that on the 21st of March, 1846, a flat-boat belonging to them, loaded with ice, while lying at the wharf at the city of New Orleans, in proper place, was struck by the steamer Colonel Harney, which was coming up the river under full steam; that, by the force of the collision, the bottom and side of the flat boat were so broken and disjointed that it commenced filling with water so rapidly that the cargo could not be saved, and the boat and cargo soon sunk to the bottom of the river. The steamer was in the service of the United States, at the time, and under command of an officer of the United States, and the act was one of manifest negligence. Under the state of facts existing in this case, as between individuals, there could be no doubt of the right of the party to claim the amount of damages sustained; and the obligation of the Government is the same. The steamer was libeled in the United States court at New Orleans, by the petitioners, and most of the testimony was taken in the presence of the United States district attorney, who cross-examined the witnesses. The libel was dismissed on the ground that the Government could not be sued. The proof is, that the loss sustained by the petitioners was \$2,000, and for this sum the committee report a bill, and recommend its passage.

Mr. PUGH. I am satisfied.

Mr. KING. I object to it. Let it lie over.

The bill was passed over.

DINAH MINIS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 481) for the relief of Dinah Minis.

It provides for the payment to Dinah Minis, or her legal representatives, of the sums due on loan office certificates No. 93, for \$37 27½; No. 95, for \$74 55½; and No. 104, for \$81 66; all dated August 19, 1791, and signed by Richard Wyly, commissioner of loans, on the surrender of the original certificates at the Treasury Department.

The bill was reported to the Senate, ordered to a third reading, read a third time, and passed.

ROBERT A. DAVIDGE.

The bill (H. R. No. 575) for the relief of Robert A. Davidge, was considered as in Committee of the Whole.

It will be a direction to pay to Robert A. Davidge the sum of \$118 30 for his services as a tem-

porary clerk in the office of the First Comptroller of the Treasury, from March 26 to April 30, 1857.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN R. BARTLETT.

The next bill on the Calendar was the bill (S. No. 422) for the relief of John R. Bartlett.

It proposes to require the proper accounting officers of the Treasury Department, in the settlement of the accounts of John R. Bartlett, late commissioner on the Mexican boundary, to allow and credit him with the several items of his accounts for moneys paid by him in the discharge of his duties as commissioner—which have been heretofore rendered to the Department, with the proper vouchers, and disallowed—not exceeding, in all, the sum of \$4,724 39.

Mr. TOOMBS. I object.

The bill was passed over.

JOHN FERGUSON AND OTHERS.

The next bill on the Calendar was the bill (S. No. 419) for the relief of John Ferguson and others.

It is intended to authorize the Postmaster General to remit the penalty charged against John Ferguson, of San Francisco, California, and his guarantors, for failure to enter into obligation and perform service on mail route No. 12500, between San Francisco and Sacramento, in California, according to the proposal of Ferguson, dated February 2, 1854, and accepted by the Postmaster General on the 22d of April, 1854.

Mr. KING. I object to that bill.

The bill was passed over.

R. F. BLOCKER AND OTHERS.

The next was the bill (S. No. 425) for the relief of R. F. Blocker, E. J. Gurley, and J. F. Davis.

Its purpose is to require the Secretary of War to pay to R. F. Blocker, E. J. Gurley, and J. F. Davis, the sum of \$1,500, in full for their claim against the United States for their professional services in defending Lieutenant Anderson and his detachment, who were arrested and tried for a criminal offense alleged to have been committed while acting under orders of their commanding officer in Texas, in the year 1854.

Mr. TOOMBS. I object.

The bill was passed over.

JOHN LEE.

The next bill on the Calendar was the bill (H. R. No. 461) granting an invalid pension to John Lee, of the State of Maine.

It provides for placing the name of John Lee upon the pension list, at the rate of eight dollars per month, from the 22d of December, 1857, to continue during his life.

Mr. TOOMBS. I object to all pensions.

The PRESIDING OFFICER. Objection being made, the bill will lie over.

Mr. HAMLIN. I ask the Senator from Georgia to allow the report in that case to be read.

Mr. TOOMBS. I withdraw my objection, to hear the report.

Mr. HAMLIN. I think it will obviate the Senator's objection.

The Secretary read a report made from the House Committee on Invalid Pensions, by Mr. CHAFFEE, from which it appeared that John Lee, under the name of John Richards, a private, enlisted into the service for the war on the 3d of February, 1813, in the ninth regiment of United States infantry, and has been traced on the rolls of his company up to the 15th of May, 1815. He fought in five pitched battles: Battle of Williamsburg; at Fort Erie; at Chippewa; Queenstown, and Fort George; at Bridgewater, or Lundy's Lane; the siege of Fort Erie, which lasted fifty or sixty days; and was in the fight when Fort Erie was blown up, and at the sortie near the fort when the enemy's batteries were taken and blown up by the American forces. It further appears, that in the ninth regiment, at the battle of Lundy's Lane, all of Lee's company, with the exception of himself and one other private, were either killed, wounded, or left the field before the termination of the battle. From the proof it further appears, that at the battle, and in the night time, he was hit by a musket ball in the left shoulder and badly injured; that in consequence of this injury his left arm and hand have become almost disabled.

Mr. TOOMBS. I withdraw the objection.

Mr. PUGH. I should like to understand why he changed his name?

Mr. TOOMBS. If the facts are as stated, I think he is entitled to a pension.

Mr. HAMLIN. In answer to the Senator from Ohio, I will state in a moment that his name was changed by the Legislature of the State at his own request. The papers on file, show that the reason why he does not get a pension at the Department is, because he proves his case by soldiers, and not officers. He proves it by the soldiers who were with him when he was wounded. It does not come within the rule laid down by the Department.

Mr. TOOMBS. There is no such rule laid down by the Department.

Mr. HAMLIN. There is.

Mr. TOOMBS. I object to the bill. Let it go over.

The bill was passed over.

WILLIAM BULLOCK.

The next bill on the Calendar was the bill (H. R. No. 520) for the relief of William Bullock.

It directs the Secretary of the Interior to place the name of William Bullock upon the roll of invalid pensions, at the rate of six dollars a month from the 1st of January, 1854.

Mr. TOOMBS. I object to all pensions.

The bill was passed over.

SIOUX CITY.

The next bill on the Calendar was the bill (S. No. 22) for the relief of certain citizens of Sioux City, in the State of Iowa.

Mr. HALE. There is an adverse report in that case. Let it lie over.

The bill was passed over.

OMAHA CITY.

The next bill on the Calendar was the bill (S. No. 220) for the relief of the citizens and owners of property in the city of Omaha, Nebraska Territory, and Sioux City, State of Iowa, which had been reported adversely from the Committee on Public Lands.

Mr. HALE. As there is an adverse report, let it lie over.

The bill was passed over.

JOHN C. RATHBUN.

The next bill on the Calendar was the bill (H. R. No. 529) for the relief of John C. Rathbun.

It provides for placing his name on the pension roll at four dollars a month, to commence February 15, 1858, and continue during his life.

Mr. TOOMBS. I object.

The bill was passed over.

WILLIAM SUTTON.

The next bill on the Calendar was the bill (H. R. No. 346) for the relief of William Sutton.

It proposes to place the name of William Sutton on the roll of invalid pensioners at six dollars per month, to commence on the 5th day of February, 1858, and to continue during the period of his natural life.

Mr. TOOMBS. I object to that. It is for a pension.

The bill was passed over.

KENNEDY O'BRIEN.

The next bill on the Calendar was the bill (H. R. No. 457) for the relief of Kennedy O'Brien.

Its object is to place the name of Kennedy O'Brien on the list of invalid pensioners, at the rate of eight dollars per month, from the 1st of January, 1854.

Mr. TOOMBS. I object.

The bill was passed over.

PHINEAS G. PEARSON.

The next was the bill (H. R. No. 527) for the relief of Phineas G. Pearson.

It proposes to grant him a pension of eight dollars a month from January 22, 1858, to continue during his life.

Mr. TOOMBS. I object.

The bill was passed over.

JOHN PERRY.

The next was the bill (H. R. No. 531) for the relief of John Perry, of Illinois.

It provides for granting him a pension of eight dollars a month, commencing February 15, 1858, and continuing during his natural life.

Mr. TOOMBS. I object.

The bill was passed over.

EVELINA PORTER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, United States Navy.

Its purpose is to place the name of Evelina Porter, widow of the late Commodore Porter, deceased, of the United States Navy, upon the list of invalid pensions, to be paid at the rate of thirty dollars per month, for five years, from the 9th of February, 1858; the pension to cease in case of her marriage.

Mr. TOOMBS. Read the report.

The Secretary read the report of the House Committee on Invalid Pensions, who say that they deem it unnecessary to enter into a detailed statement of the long, faithful, and extraordinary public services of Commodore David Porter as a naval officer. His career forms a prominent feature in our naval history. No man has done more to build up its reputation, and no country can boast a superior naval commander. After a careful and thorough examination of the testimony in this case, the committee find that Commodore Porter, then a lieutenant in the naval service of the United States, while in the discharge of his duties in an action with several brigs and barges in the West Indies, in 1800, received a wound in his left shoulder, and in an engagement off old Tripoli, in 1803, received a slight wound in his right thigh, and a ball through the left, which, with the effects of a violent attack of yellow fever, contracted while in command of the United States squadron for the suppression of piracy in the West India seas in 1823, brought on him diseases which caused his death; that Commodore Porter died at Constantinople, in 1843, in the diplomatic service of the United States; that he was married to the memorialist, Evelina, in 1808; and that she still survives him.

The act of Congress granting navy pensions to widows, only provides for, and is construed by the Department only to embrace widows, whose husbands die in the naval service of diseases contracted or injuries received by them while in the line of their duty. Commodore Porter, therefore, not having died in the naval service of the country, his widow is not entitled to the benefit of the act, although the disease which caused his death was contracted while in the line of his duty in that service. The committee see no justice in such restriction.

Mr. CLAY. There is an amendment that ought to be made to the bill, I suppose. By the way, I will say it seems that I reported the bill, though I have no recollection of it. I think the credit is not due to me for that report. I observe, however, that the bill proposes to put her on the list of invalid pensioners. It is not an invalid pension, but a gratuitous one. The word "invalid" ought to be stricken out.

The PRESIDING OFFICER. The report was made in the House of Representatives.

Mr. CLAY. I do not think I reported the bill. It is a mistake. I move to amend the bill by striking out the word "invalid" where it occurs. It says the Secretary shall place her on the list of invalid pensioners. She does not come under that class, but under the class of gratuitous pensioners of the Government.

The amendment was agreed to.

Mr. KING. I ask that the bill be read through as amended.

The Secretary read it.

Mr. PUGH. If the bill is to be amended, and thereby sent back to the House, I shall move to strike out the limitation; for, under the general law now, the pension is for life. I would as lief pass the bill, as it is a House bill, without amendment; because I do not think the amendment which has been made is material; but if the bill is to be amended, I move to strike out the limitation. The general law now provides that the pension shall be for life. I do not think we should make an exception in this case.

Mr. HALE. This is an exception to the general law.

Mr. PUGH. This will stand as an addition to the general act. My amendment is to strike out "for five years."

The amendment was agreed to.

Mr. KING. I move to strike out the last part of the bill:

"If the said Evelina Porter shall intermarry before the

expiration of five years, then the said pension shall cease at the date of such intermarriage."

The amendment was agreed to.

The bill was reported to the Senate, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. DOOLITTLE. How does the bill now read with the amendments?

The Secretary read it, as follows:

That the Secretary of the Interior be directed to place the name of Evelina Porter, widow of the late Commodore Porter, deceased, of the United States Navy, upon the list of pensions, to be paid at the rate of \$30 per month, from the 9th day of February, 1858.

The bill was passed.

MARY BOYLE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 277) for the relief of Mary Boyle.

It proposes to place the name of Mary Boyle on the pension roll, at the rate of twenty dollars per month, from the 1st of January, 1858.

Mr. TOOMBS. Read the report.

The Secretary read the report of the House Committee on Invalid Pensions, by which it appeared that Captain Thomas Boyle, first as the commander of the schooner Comet of 14 guns, and then in the Chasseur, of 12, during the war of 1812, captured more than seventy sail of British vessels, thirty-two of which were equal to him in force, and eighteen superior. He met and beat off a Portuguese man-of-war, carrying 20 32-pounders, convoying three British vessels, killing her first lieutenant and five men, and wounding many more, capturing two of the three British vessels, one carrying 14 guns, and the other 10 guns. He also captured the ship Hope, with 14 guns. Soon after he met and captured the ships Atlantic and James, in company, carrying 20 guns; Eclipse, 14 guns; ship John, 14; London Packet, 12; Henry, 10; Alexander, 10; Dominico Packet, 10; and brig Industry, of 10 guns. On the 26th of February, 1815, he fell in with and captured, after a desperate fight of fourteen minutes, his Britannic Majesty's schooner St. Lawrence, mounting 15 guns, 4 and 12-pound carronades, and a long nine, commanded by Lieutenant James E. Gordon, royal navy, with a complement of seventy-five men and a number of soldiers, marines, and several naval officers (passengers) on board. The Chasseur lost but five killed and eight wounded. The St. Lawrence had fifteen killed and twenty-three wounded.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SYLVANUS BURNHAM.

The next bill on the Calendar was the bill (H. R. No. 233) for the relief of Sylvanus Burnham.

It provides for placing his name upon the roll of invalid pensioners, at the rate of eight dollars per month during his natural life.

Mr. TOOMBS. Read the report.

The Secretary read the following report, made by Mr. CASE, of the House of Representatives, January 21, 1858:

The Committee on Invalid Pensions, to whom was referred the petition of Sylvanus Burnham, asking for a pension, having had the same under consideration, report:

It appears that petitioner was a private soldier in the Indian war, under General Wayne, for three years, from February 28, 1792, and was honorably discharged. While engaged in the discharge of his duties as such soldier, he was injured by the explosion of a caister of powder. By this explosion his face was burned and his eyes nearly ruined. So seriously was his sight impaired, that for the last forty years he has been unable to read. He had received no pension, nor even a bounty-land warrant, at the date of his application. Your committee are of opinion that he is entitled to relief, and therefore report the accompanying bill, and recommend its passage.

Mr. TOOMBS. I object.

The bill was passed over.

MARY BAINBRIDGE.

The next was the bill (H. R. No. 221) for the relief of Mary Bainbridge.

It proposes to place the name of Mary Bainbridge, of Massachusetts, upon the pension list at the rate of thirty dollars per month, commencing on the 1st day of June, 1857, and to continue during her natural life.

Mr. TOOMBS. Read the report.

The Secretary read the report of the House Committee on Invalid Pensions, in which it is stated that Colonel Henry Bainbridge entered the

service of the United States as a cadet of the Military Academy at West Point, in the year 1817, graduated in 1821 as lieutenant of infantry, and from that time till the 1st day of June, 1857, a period of thirty-six years, was constantly engaged in the active duties of his profession, as an officer of the Army of the United States. The records of the War Department furnish the most gratifying testimony to his faithful services during all this period of time, at the remote posts of the western frontier in the wars of Florida and Mexico. In Mexico he took part in the battles of Palo Alto and Resaca de la Palma, was wounded in the storming of Monterey, while charging at the head of his command; was with the division of General Scott at Vera Cruz; at Cerro Gordo he headed the storming column; he was at Contreras, Cherususco, Molino del Rey, and at the city of Mexico. For all these distinguished services he received two brevets in succession. This distinguished soldier met his death on the steamer Louisiana, in Galveston bay, on the morning of the 1st day of June, 1857, who, with the captain of that ill-fated steamer, were the last to leave the burning wreck. His widow, after all these distinguished services and this tragic death, is left in indigent circumstances, and the committee, in view of these circumstances, reported the bill.

Mr. TOOMBS. I object.

The bill was passed over.

STEPHEN BUNNELL.

The next bill on the Calendar was the bill (H. R. No. 224) for the relief of Stephen Bunnell.

It provides that the name of Stephen Bunnell, of the State of Indiana, a sergeant-major of the war of 1812, be placed upon the list of pensioners of the United States during his natural life, at the rate of fifteen dollars per month; to commence and be computed from the 1st day of January, 1855.

The Committee on Pensions reported the bill with amendments, to strike out in line seven the words "fifteen dollars per month" and insert "half his monthly pay in the rank which he occupied;" and in line four of section two strike out the words "fifteen dollars per month" and insert "half his monthly pay in the rank which he occupied."

Mr. TOOMBS. Read the report.

The Secretary read a report made by Mr. CHAFFEE of the House Committee on Invalid Pensions, on the 21st of January, 1858, in which it is stated that the Adjutant General certifies that Stephen Bunnell served as quartermaster's sergeant in the artillery corps of the United States Army for five years, from March, 1812, to March, 1817. Mr. Bunnell testifies, under oath, that he entered the army in robust health; that his physical powers were broken down by arduous service and exposure in his specially hazardous line of duty; and that now, in his old age, with his constitution broken down, being unable, from his failure to claim a discharge when sick, and from the death of his captain and comrades since, to furnish the evidence required at the pension bureau, he applies to Congress for its recognition. It appears that he was the first who landed at the taking of Fort George, shared in the capture of Queenstown Heights, participated in the battle of Stony Creek, lying on the wet ground at nights with the rest of the army on their march thither, which caused him such a fit of sickness as to confine him for many months in the hospital at Youngstown.

Although this sickness has impaired his system ever since, he recovered sufficiently to again join the Army, and to man the gun under his charge at the battle of Chippewa. At Lundy's Lane, his captain being slain and his lieutenant wounded, he took command, under direction of General Scott, of the last gun left to his company, and kept it in operation till he had but one man left, and his ammunition was exhausted, when he succeeded in getting the gun from the field of battle. At Fort Erie he was honored with a command above his rank, namely, of a battery in a specially exposed condition, in front of the gate of the fort; and by its discharges, after the fort had been taken by the enemy, blew it up, discomfiting the whole British detachment. He was wounded in the wrist at Chippewa, and at Fort Shelby was badly injured in the shoulder by a fall occasioned by rotten timber in a bridge; but never

claimed a pension on account of these injuries, not deeming at the time that he would ever need it. Such a record of faithful and important service to his country certainly deserves the recognition, as well as the relief which the granting of a pension would afford.

Corroborating this statement are affidavits of Samuel Bunnell and Elizabeth Marsh, who depose, that the claimant entered the Army in good health, but has been in impaired health ever since; another, from S. M. Bishop that, since 1820, the claimant has not been able to perform a full day's work; the affidavits of eminent physicians, corroborating this statement, and certifying that he cannot perform one-third of a day's work in a day, and not even that without great pain; the vouchers of Hon. N. Eddy and Hon. C. W. Cathcart, former members of Congress from his district, and finally, a strong recommendation to Congress in his behalf by Lieutenant General Winfield Scott, his old commander. The committee, therefore, unanimously recommend the passage of a bill granting a pension to this faithful old soldier.

Mr. TOOMBS. I object.

The bill was passed over.

SAMUEL GOODRICH, JR.

The next bill on the Calendar was the bill (H. R. No. 229) for the relief of Samuel Goodrich, jr. It provides for granting him an invalid pension of eight dollars a month during his life, commencing January 1, 1856.

Mr. TOOMBS. I object.

The bill was passed over.

ZINA WILLIAMS.

The next bill on the Calendar was the bill (H. R. No. 239) for the relief of Zina Williams.

It directs the Secretary of the Interior to place the name of Zina Williams, of the State of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 4th of December, 1855, to continue during his natural life.

Mr. TOOMBS. Read the report.

The Secretary read a report made by Mr. ROBINS, of the House Invalid Pension Committee, by which it appears that Williams was called into the service in the war of 1812 in September, 1814, from Montgomery county, New York, and marched to Sackett's Harbor, where he was on duty, without shelter, sleeping (if at all) upon the ground. Sickness prevailed in camp, and on the 1st October, 1814, he was taken sick of the prevailing camp disease, and was sent to the hospital, where he was attended by two surgeons. His sickness settled into a fever; his friends sent for him, and with difficulty carried him home on a bed. He was confined to his bed eighteen months; the fever concentrating in his left hip, causing great pain and contraction of the muscles, resulting in almost the entire loss of the use of the left leg. The disability has continued from that time to the present, and is of a nature incurable. He is a farmer, a sober, temperate, prudent man, and is clear from any charge of imprudence or exposure as the cause of the continuation of his disability.

These facts are established by the testimony of two surgeons, certified to be highly respectable in their profession, who saw him on his sick bed as he returned; and who then attended him, and who have ever since that time been his physicians; and who now, upon their oaths, state that his disability is a total one. They further state that it is incurable, and can never be less. It is further proven, by the testimony of Samuel Freeman, that he saw him on his sick bed returning home. The testimony of Simon Frager, John W. Shaver, and William Shaver, who were soldiers with him in camp, and who knew of his sickness in camp; and of Isaac H. Williams and John Fish, and a second affidavit of the surgeons, all testifying to the sobriety of the applicant, satisfy the committee of the propriety of granting him a pension.

Mr. TOOMBS. I object.

The bill was passed over.

SILAS STEVENS.

The next was the bill (H. R. No. 459) granting an invalid pension to Silas Stevens, of Virginia.

It directs the Secretary of the Interior to place the name of Silas Stevens, of the State of Virginia,

on the invalid pension roll, and pay him a pension, at the rate of four dollars a month, from the 1st of February, 1858, during his natural life.

Mr. TOOMBS. Read the report.

The Secretary read the report made by Mr. ANDERSON to the House of Representatives, by the Committee on Invalid Pensions, on the 26th of March, 1858, by which it appears that the memorialist states that he entered the service about the 1st September, 1812, in the company of Captain James Morgan, in Colonel Dudley Evans's regiment of Virginia militia; that he was marched to the Northwest to join General Harrison; that at a small village, called Delaware, in the State of Ohio, he was taken sick, where he remained six weeks, not being able to perform duty as a soldier; and, there being no prospect that he ever would be, he was discharged, and left to get home as best he could. The Third Auditor of the Treasury certifies that the name of Silas Stevens appears on the roll of Captain James Morgan's company of Virginia militia, from the 19th September, 1812, to the 30th November, 1812, mustered "present" without remarks; on subsequent rolls, it does not appear.

A certificate is given by James Riggs, surgeon's mate, twenty-second regiment of Virginia militia, stating the number of rations that were due Silas Stevens, while in confinement by sickness in Delaware, from the 5th of January to the 4th of February, inclusive. There is no date to the certificate, but it has the appearance of an old paper. Surgeons Joseph A. McLane and Isaac Scott certify that he is one half disabled. A. Dewart, Nathaniel Reed, and Henry Watson, who were with him in the service, swear to his being sick during the service, and believe that the sickness at that time produced the disease with which he is now afflicted. They have known him intimately since his sickness at Delaware. The Hon. Z. Kidwell, a member of the last Congress, certifies to the high character of the applicant, as also to that of all the witnesses.

Mr. TOOMBS. I object.

The bill was passed over.

ALLEN SMITH.

The next bill on the Calendar was the bill (H. R. No. 534) for the relief of Allen Smith.

It provides for placing the name of Allen Smith, of the State of New Hampshire, upon the invalid pension list, at the rate of eight dollars per month, to commence on the 21st of January, 1858, and continue during his natural life.

Mr. TOOMBS. Read the report.

The Secretary read, as follows:

Mr. CASE, from the Committee on Invalid Pensions, made the following report:

The Committee on Invalid Pensions, to whom were referred the petition and accompanying papers of Allen Smith, make the following report:

That it appears from the affidavit of the petitioner, (and his statement is corroborated by the certificate of the Adjutant General,) that he enlisted into the company of Captain Weeks, eleventh regiment of United States infantry, on the 20th of May, 1812, for five years, and served the full period of his enlistment, and was honorably discharged.

It further appears from his statement that he was transferred to the recruiting service, being a drummer, and was ordered from place to place; that whilst stationed at Pottsville, New York, he had an attack of measles, and before he had entirely recovered was ordered to Champlain, in the same State, and whilst there, and in feeble health, he was obliged to encamp in the woods, without covering, exposed to the cold, wet, and snow, which produced sickness, and from the effects of which he has never recovered; but on the contrary, he has grown worse, until he is now wholly incapable of supporting himself, and that his present disabled condition is owing to disease contracted whilst in the discharge of his duty as a soldier. Two or three respectable physicians fully confirm his statement, as regards his present disability, and give it as their opinion that it is in consequence of exposure to the inclemency of the weather. It also appears from the affidavit of the officer who enlisted the petitioner, (Gould,) and who served with him during the whole five years, and also by that of Lieutenant Stephenson, who also served with him, that he (the petitioner) was at the time of entering the service, a strong, able-bodied man, and that his present disability is the result of an incurable disease, contracted whilst in the Army and in the discharge of his duty.

In view of the foregoing facts, and in consequence of the valuable service of the petitioner, your committee report a bill for his relief, and recommend its passage.

Mr. TOOMBS. I object.

The bill was passed over.

NATHANIEL HAYWARD.

The next bill on the Calendar was the bill (S. No. 436) for the relief of Nathaniel Hayward.

It proposes to empower the Commissioner of Patents to receive the application of Nathaniel

Hayward, for a rehearing of his application for a renewal of the patent for his invention of the combination of sulphur and India rubber, granted on the 24th of February, 1839; which application was made to a former Commissioner of Patents, in manner required by law, and to proceed upon the application in the same manner as upon an original application for an extension under the patent laws, and to give public notice of the time within which testimony may be taken and filed, and of the time and place of hearing, and to grant or refuse a renewal of the letters patent in the same manner and upon the same principles and with the same effect, as he is authorized by law to decide upon such applications if made before the original term of the patent has expired. All persons who have heretofore, and since the expiration of the original term of the patent, in good faith, set up works and actually carried on the business of manufacturing India rubber goods according to the invention, and with particular reference to its use, are to enjoy the right to use the invention in the prosecution of the business to the same extent as they have heretofore done; but this privilege is not to be enjoyed by any persons who had by themselves or by persons under whom they claim, or to whose business they have succeeded, set up works, or commenced, or carried on, under any name or firm, the business of manufacturing under the patent prior to the expiration of its original term, or to any persons who had infringed upon it by manufacturing goods without the license of the patentee.

Mr. CLAY. I object to that bill.

The bill was passed over.

PETER TREZVANT.

The next bill on the Calendar was the bill (S. No. 437) to refund to the State of Georgia the amount paid by the said State to Peter Trezvant for supplies furnished certain troops during the revolutionary war.

It proposes to refund to the State of Georgia the sum of \$35,555 42, with interest, at six per centum, from the 1st of January, 1858, paid by that State, on the 1st of January, 1858, to Peter Trezvant, her-at-law and attorney of the administrator of Robert Farquhar, deceased, for supplies furnished by Robert Farquhar to the troops of the State stationed near Savannah during the revolutionary war, if it shall not appear that the State of Georgia has either been repaid the amount or received a credit for payment made on account of these supplies, in any settlement or adjustment heretofore made with that State on account of advances made or expenses incurred during the war of the Revolution.

Mr. HALE. Let the report be read.

Mr. KING. I object to the bill.

Mr. IVERSON. Before the Senator makes objection, allow me one word. There is no report in this case. It is due to the Senate, and due to the State of Georgia, that an explanation should be made, and then, of course, the body may dispose of the matter as they choose; I shall have nothing more to say. The whole case is embraced in a report made by the Finance Committee of the State of Georgia, in 1847, which I will read to the Senate, and, if they will listen to it, they will understand the case without any difficulty:

"Report."

"The Finance Committee, to whom was referred the petition of Peter Trezvant, have had the same under consideration; and, after the most thorough scrutiny and patient investigation, aided by the labors of our predecessors, and the searching investigation of the able commissioners appointed in 1838, now beg leave to offer the following preamble and resolutions:

"Whereas, the Executive Council of Georgia, on the 31st of October, 1793, authorized the commissioners of the State to purchase of Robert Farquhar, a merchant of Charleston, South Carolina, sundry articles of clothing for the troops of Georgia, then quartered near Savannah, in a state of great destitution, under the command of General James Jackson, and which purchase amounted to the sum of £7,586 10s. 12, sterling money; and whereas, in 1787, after the failure or refusal of the State of Georgia to pay this debt, Alexander Chisholm, executor of the said Robert Farquhar, brought his suit against the State, in the Federal court of the United States, for the money of the same; and after a full hearing of the case, a verdict was rendered in favor of the plaintiff for the amount claimed, thus proving the validity of the contract, and the just indebtedness of the State; and whereas, during the pendency of this suit, the Legislature of Georgia passed a resolution in December, 1793, solemnly pledging its public faith and honor that, in the event the claim should be found just and true, it should be paid; and whereas, in December, 1794, the said claim, upon being audited under her authority, was found just and true, and certificates were issued

in favor of Peter Trezvant, the legal representative of the said Robert Farquhar, then deceased, for the said sum of £7,586 10s. 1d.; and whereas, it does not appear that the portion of said certificates now held by the said Peter Trezvant, and amounting to the sum of £5,000 sterling, have ever been paid, or that the State of Georgia ever made provision for the same according to the just interpretation of the contract with the said Trezvant; and whereas, in December, 1838, a petition from the said Peter Trezvant was presented to the Legislature of Georgia for payment of said claim, which was referred to William Law, Joseph H. Lumpkin, and David C. Campbell, with instructions to investigate and report on the merits of the same; and whereas the said commissioners, at the next session of the Legislature, in December, 1839, made a full and able report, showing a most careful investigation and research, and solemnly affirming the justice and validity of the principal of the debt, and the high obligations on the part of Georgia to pay the same; and whereas no fact or arguments exist to shake the correctness of the report, or the conclusions to which the commissioners arrived therein, and it appearing that said debt is still due and unpaid, and that the same should be settled; and it also appearing that the petitioner is willing to receive, in payment thereof, the bonds of the State, payable in ten years, bearing an interest of six per cent. per annum.

"Be it therefore resolved, That his Excellency the Governor be, and he is hereby, authorized to issue bonds of the State, each for one tenth part of the sum now due and owing to the said Peter Trezvant—namely, the said sum of £5,000; each bond to bear interest at the rate of six per cent. from the 1st day of January, 1839, and payable annually after date, or sooner, at the option of the State; and that he be authorized to deliver said bonds to the said Peter Trezvant, or his Authorized agent or agents, upon surrender of said certificates, and the execution of a full discharge of all demands by the said Peter Trezvant against the State, on account of said claim.

"Resolved, That in issuing said bonds for the amount due as aforesaid, the pound sterling shall be estimated at and after the rate of \$1 44 to the pound.

"Resolved, That our Senators and Representatives in Congress be requested to present the amount thus paid to the said Peter Trezvant to Congress, and urge the payment thereof by the United States to the State of Georgia; and that his Excellency the Governor be requested to transmit a copy thereof, with the necessary vouchers and documents relating to the same, to our Senators and Representatives in Congress."

Then follows the certificate from the Treasurer of the State of Georgia:

TREASURY DEPARTMENT, GEORGIA,
MILLEDGEVILLE, December 14, 1858.

I, John P. Trippe, Treasurer of the State of Georgia, hereby certify that it appears from the records of this office, that on the 1st day of January, 1848, in compliance with an act of the Legislature, entitled "An act for the relief of Peter Trezvant," assented to December 25, 1847, did issue and deliver to Peter Trezvant her several forty-four bonds of \$500 each, and one bond of \$233 22, making the aggregate amount of \$23,222 22 payable on the 1st of January, 1858, with interest at the rate of six per cent. per annum, payable semi-annually.

In testimony whereof, I have hereunto set my official signature and affixed the seal of the Department, the day and date above written.

JOHN P. TRIPPE, Treasurer.

Here is the case. The State of Georgia issued bonds for this amount—over twenty thousand dollars—payable the first day of January, 1858. They have fallen due, and the State of Georgia has extinguished the debt. She now comes to Congress and asks that this amount be refunded back to her. I believe the universal settled principle has been, on all revolutionary advances by States, that Congress has assumed the payment. I hope no Senator will object to the bill.

Mr. BENJAMIN. I want to ask the Senator from Georgia one question. I understood the certificate of the State Treasurer to read that the payment was made in 1848, and I understood the bill to read that it was in 1838.

Mr. IVERSON. No, sir. The report was made in 1847. The original report was made in 1838; but the State did not adopt it until 1847. The report was made by this committee in 1838; but the State did not act upon it until 1847.

Mr. BENJAMIN. The money was not paid until 1847?

Mr. IVERSON. The act of the Legislature authorizing the issuing of bonds was not passed until 1847; and the bonds were issued in 1848, payable ten years afterwards. They fell due on the 1st of January, 1858, and have been extinguished by the State.

Mr. BENJAMIN. Now I ask the Secretary to read that passage which gives interest.

The Secretary read it, as follows:

"That the sum of \$35,555 42, with interest, at six per centum, from the 1st of January, 1858," &c.

Mr. BENJAMIN. It is all right.

Mr. IVERSON. That is from the time Georgia paid the money.

Mr. KING. I object to the bill.

The PRESIDING OFFICER. Objection being made, the bill will be passed over.

JOSEPH CLYMER.

The next bill on the Calendar was the bill (S. No. 438) for the relief of Joseph Clymer.

It proposes to pay to Joseph Clymer, \$15,670, in full for all claims by him for losses or damages on account of the contract entered into between himself and the United States, represented by Thomas Swords, lieutenant colonel, quartermaster of the United States Army, on the 18th of April, 1851, and by reason of the failure of the United States to perform the same.

Mr. TOOMBS. Read the report.

The Secretary read it.

Mr. KING. The Court of Claims has reported against this bill. I object to its consideration.

The bill was passed over.

CHARLES M. PERRY.

The next bill on the Calendar was the bill (S. No. 439) for the relief of Charles M. Perry.

It provides for the payment to Charles M. Perry, of the sum of \$1,172 94, being the difference between his salary as a messenger and the salary of a clerk, the duties of which he performed from the 28th September, 1853, to December 30, 1856.

Mr. TOOMBS. I object.

The bill was passed over.

AUGUSTUS J. KUHN.

The next bill on the Calendar was the bill (H. R. No. 258) for the relief of Augustus J. Kuhn.

It proposes to place the name of Augustus J. Kuhn, of the State of Pennsylvania, upon the invalid pension list, at the rate of eight dollars per month, commencing on the 24th day of July, 1856, to continue during his natural life.

Mr. PUGH. I object to that bill.

The bill was passed over.

THOMAS ALLCOCK.

The next was the bill (H. R. No. 264) granting a pension to Thomas Allcock, of Rochester, New York.

It proposes to direct the Secretary of the Interior to place the name of Thomas Allcock, of the city of Rochester, in the State of New York, upon the invalid pension roll, at the rate of eight dollars per month, to commence on the 1st day of July, 1852, and to continue during his natural life.

The Committee on Pensions report the bill with an amendment, to strike out the words "1st day of July 1852," and insert, "1st day of June, 1856."

Mr. TOOMBS. Read the report.

The PRESIDING OFFICER. There is none.

Mr. PUGH. Does the bill state that he was a soldier of the war of 1812? I discover that here is a row of bills practically to carry into effect by separate legislation the great bill sent to us from the House. If any of them go through, I want the big bill.

Mr. TOOMBS. So do I.

Mr. PUGH. I object to the bill.

The PRESIDING OFFICER. It will lie over.

Mr. CLAY. I think the Senator's suggestion very opportune, as next week the Senate will have an opportunity of passing on the old soldiers' pension bill. I shall make a report upon it on Monday or Tuesday.

Mr. PUGH. Then these bills can lie over until that time.

The bill was passed over.

Mr. JOHNSON, of Tennessee. As there is evidently not a quorum present, I move that the Senate adjourn.

Mr. MASON. I hope not.

Mr. JOHNSON, of Tennessee. There is not a quorum here.

Mr. SLIDELL. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 23; as follows:

YEAS—Messrs. Bright, Broderick, Clay, Fitch, Harlan, Johnson of Tennessee, King, and Toombs—8.

NAYS—Messrs. Benjamin, Bigler, Chesnut, Clingman, Davis, Doolittle, Fitzpatrick, Foot, Green, Houston, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Pearce, Pugh, Reid, Rice, Sebastian, Shields, Slidell, and Ward—23.

So the Senate refused to adjourn.

The PRESIDING OFFICER. There is no quorum voting.

Mr. CLAY. I move that the Senate adjourn; because, if the motion is not agreed to, I shall call for the yeas and nays upon every bill.

Mr. GREEN. It is not in order immediately after a motion to adjourn has been rejected, to make a similar motion before any other business intervenes.

The PRESIDING OFFICER. It is in order.

Mr. MASON. I believe we have now a quorum. Some Senators have come in since the vote was taken.

The PRESIDING OFFICER. The Senator from Alabama moves an adjournment.

The motion was not agreed to; there being, on a division—yeas 13, nays 18, no quorum voting.

Mr. PUGH. Would it be in order for me to make a remark without a quorum?

The PRESIDING OFFICER. Nothing is in order, and no business can now be entertained, except a motion to adjourn.

Mr. PUGH. I only want to say that there is a perpetual clamor about taking up the Private Calendar; but as soon as ever we get it up we have no quorum.

Mr. JONES. That is a fact.

Mr. JOHNSON, of Arkansas. And the men who make the clamor are the first to go away.

Mr. KING. I renew the motion to adjourn. We can do nothing here.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 12, 1859.

Prayer by Rev. E. KINGSFORD, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed, without amendment, a joint resolution (H. R. No. 52) giving the consent of Congress to the acceptance by Captain M. F. Maury and Professor A. D. Bache of gold medals from the Sardinian Government; and an act (H. R. No. 576) for the relief of Captain Douglass Outing; and also, that the Senate has passed an act for the relief of Elizabeth M. Cock, widow of Major James H. Cock, late marshal of the district of Texas, in which he was directed to ask the concurrence of the House.

ADMISSION OF OREGON.

The SPEAKER stated the business in order to be the consideration of the bill for the admission of Oregon, on which the gentleman from Ohio [Mr. VALLANDIGHAM] was entitled to the floor.

Mr. VALLANDIGHAM. I do not propose to address the House on this subject; and took the floor last night solely because there was no gentleman present who desired to speak. But I have one word to say, by way of explanation only.

Whenever Kansas shall come, as Oregon has come, peaceably, orderly, and with the consent of her people, I shall vote for her immediate admission; just as I propose to vote now for the admission of Oregon. But Kansas is not here; Oregon is here. There is no possible connection, geographically, politically, or otherwise; and especially no historic parallel between these two Territories; and by no vote of mine shall any such be established. Both will be free States; and finding Oregon now here at the door, I will not vote to keep her without until Kansas shall be ready; nor for any hinderance or obstruction to her immediate and cordial welcome into the sisterhood of States.

For these reasons I shall firmly and steadily vote against the amendment of the gentleman from Pennsylvania, [Mr. Grow,] and against all others intended or calculated to embarrass or delay the passage of this bill. But, in the name of the Democracy of my State, I thank the gentleman and his friends, and especially my colleagues of the other side, for yesterday's and this day's business. The prophet of Khorassan stands unavailed. The Lecompton account of last winter, which stood in public opinion against the Democratic party of the North and West, is squared up and wiped out now by this credit upon the books of the people. Again I thank the gentleman and his friends.

Mr. LANE. Mr. Speaker, I have not yet had an opportunity of addressing myself to the House in behalf of the admission of Oregon. It is a

matter of very great importance to the people of that Territory, and of the whole country. I would not now trespass on the time of the House, were it not for the purpose of making a personal explanation.

I find in the Oregon Statesman, a paper published at Salem, Oregon, a letter purporting to have been written from this city, bearing date the 17th of June last, in which it is charged that I had managed to prevent action on the admission bill, for the purpose of obtaining double mileage if elected to the Senate. If that letter had not been published in a Democratic paper, I would not have noticed it; but as it has been, I feel it my duty to say, that if the letter was written here, the writer of that letter knew very little about me. Money, I thank God, has not been a consideration with me in the discharge of my official duty. It has had no influence over my action, official, moral, political, or social. I have never coveted money. I desire only the reputation of an honest man; and that I intend to deserve always, as I have deserved heretofore that reputation. I did all I could to bring Oregon in; and when I found we could not, I said to you, Mr. Speaker, I said to the Sergeant-at-Arms of the Senate, I said to the Sergeant-at-Arms of the House, that if elected and admitted to the Senate I would not take double mileage, or double compensation. Throughout all my official action, I have studied the strictest principles of economy towards the Government. When I was appointed Governor of Oregon Territory in 1848, I paid for my own outfit, and traveled across the plains to the Territory of Oregon without the cost to the Government of a single cent. When I arrived at San Francisco, I had to make the trip from there to Oregon by water. I had run out of money, and I borrowed enough to pay my passage to Oregon City, and I paid it as soon as I earned it out of my salary. Though I was offered a free passage by the quartermaster who sent out in the same vessel with me a small detachment of troops, and who thought I was entitled to a free passage, yet I declined to accept the offer.

Then, in the discharge of my duties of governor, in the management of Indian affairs, I can say, that, for the smallness of those expenses, there is no parallel to my administration in that respect. During the time I was Governor of Oregon, and *ex officio* superintendent of Indian affairs, I visited fifty-odd tribes of Indians, and gave them presents, small in amount, it is true, but such as were necessary to keep them in a good disposition towards the whites; and that for the whole amount of expenses in traveling, I made not a cent of charge. My accounts show not a single charge against the Government; and the whole amount of expense, of whatever nature, for the whole eighteen months that I visited those tribes of Indians, was less than three thousand dollars. I mention these things in the way of a personal explanation against the charges of a letter-writer.

Mr. KILGORE. I wish to ask the gentleman from Oregon a question. I understood him to remark that he would not have noticed the matter had it been published in a Republican paper. Will the gentleman let us know why he would not have noticed it if it had been published in a respectable Republican newspaper?

Mr. LANE. The Republican papers have taken the liberty so often of giving me so many hard raps that I have got used to it, and I would not have taken it to heart. But this appears in a Democratic paper, and in a paper that has had the Government public printing. This is a fire in the rear that I do not like.

I will say this: that I have had no cause of complaint of letter-writers since I have been a Delegate upon this floor. Very few of them have taken the trouble to notice me favorably, and I am sure I never should desire them to notice me unfavorably; but I will say in vindication, or rather to the credit of the letter-writers in this city, that I do not believe that this letter was written in Washington. I believe it was written in Oregon Territory, and with a view, in my absence, to affect my character as a public servant and as an honest man, and with a view to prejudice the admission of Oregon; and perhaps in order that the editor of this Democratic paper might still have the benefit of his thousands of dollars annually for the public printing.

I have said this much about the letter-writers; and now I must be allowed, as I feel the deepest interest in the admission of Oregon, to say a few words upon this subject.

Mr. GOOCH. I wish to ask the gentleman from Oregon if, in case Oregon is admitted and he has a vote at either end of this Capitol, he will vote to relieve Kansas from the effect of the English bill, so called, and let her present herself for admission when she chooses?

Mr. LANE. I do not come here to make any bargain, contract, or promises. I am an honest man; and if I am permitted to go into the Senate I shall exercise a sound discretion and judgment, and with a strong desire to promote the general good, prosperity, and welfare of a country, that I love more than life; and I believe that my official action through life is a guarantee that in all matters I will do what I believe to be right.

Now, Mr. Speaker, Oregon Territory is peculiarly situated. I think if there ever was a case in this country where a people were entitled to the care, protection, and aid of this Government, it is the people of that Territory. They went out there at a very early day. I heard with pleasure, from gentlemen upon the other side of the House, a partial history of the early settling of that country. As early as 1832, 1833, and 1834, and from that time down to 1839 and 1840, the missionary societies of this country took it into their heads very wisely to establish missionaries upon the Pacific. They sent out good and educated men, men who had a strong desire to civilize the savages, to inculcate religious principles among them, and encourage habits of industry and civilization. Their missions were assisted by many old trappers, who, though they had spent many years in the mountains, in pursuit of game and furs, were yet men who had noble and pure hearts, and who readily offered such aid and assistance as was in their power. Settlements grew up round the missionary posts. Every effort was put forth by these good people to influence the habits of the savages. They were urged to be led upon the paths of Christianity and civilization.

In 1841, these settlements had been extended over the country, and their welfare depended upon order and good government. They, therefore, organized themselves into a temporary provisional government. A board was appointed to enact laws, and judges were selected for the decision of all matters in dispute. That provisional government continued until 1843, when a regular form of government was adopted. George Abernethy was elected Governor. A Legislative Assembly was created, judges were appointed, and all the operations of government went on as smoothly as they do in any of the Territories of the United States. A post office department was established, and mail service was performed throughout the Territory. Communication thus was kept up with all the settlements. That government continued until 1849, when, by act of Congress, the laws of the United States were extended over Oregon, and a territorial government was voted to her. When I arrived there, in the winter of 1848, I found the provisional government I have referred to working beautifully. Peace and plenty blessed the hills and vales, and harmony and quiet, under the benign influence of that government, reigned supreme throughout her borders. I thought that it was almost a pity to disturb the existing relations—to put that government down and another up. Yet they came out to meet me, their first Governor under the laws of the United States. They told me how proud they were to be under the laws of the United States; and how glad they were to welcome me as holding the commission of the General Government. Why, sir, my heart waxed warm to them from that day.

Mr. Speaker, can any man upon this floor reconcile it with the common dictates of justice to deny to this people a State government? They are law-abiding; they have population; they are competent for self-government: wherein is it that they are deficient? My friend from Tennessee [Mr. ZOLLICOFFER] said that he voted for Kansas because of fear of disturbances; because, forsooth, they were outlaws and bad men. Would not that be a reward for defiance of the law?

Mr. ZOLLICOFFER. The statement of the gentleman from Oregon does me great injustice. On the Kansas question there was great excite-

ment, connected with the question of slavery, which agitated the public mind of the whole Union to such an extent that I regarded it my duty to aid to bring Kansas into the Union, and at once settle the agitation attaching to that Territory. This consideration was, to my mind, paramount to that of population.

Mr. DAVIS, of Mississippi. I desire to ask the gentleman from Oregon whether, from his knowledge of the country, he believes there are ninety-three thousand four hundred and twenty people there?

Mr. LANE. I do. From my knowledge of the country, from the rapid increase of population there, I believe that there are ninety-three thousand four hundred and twenty inhabitants there; ninety-three thousand four hundred and twenty white people, no Chinamen or negroes counted. I am not only satisfied of that, but I can show, I think, that Oregon, before the apportionment in 1870, will stand here with her representatives representing three hundred thousand people.

Mr. Speaker, she comes here with a constitution regularly framed, and adopted by her people. It is the wish of those people that they shall assume the responsibilities of State government. Are they not entitled to it? Now I would ask the friends of her admission to vote down all amendments. If the bill is to stand, let it stand as it came from the Senate. If it is to fall, then let it fall upon that bill. Do not refuse her request by indirection; let the issue be fairly and openly made. She has been fair and honest in her dealings with us, and why should we be otherwise to her? My northern friends will believe me when I say that the rights of every State of the Union are as dear to me as those of Oregon. If I have a seat in Congress, I will be at all times, prompt to resent any trespass on the rights of the States as secured by the Constitution. My affection rests on every inch of this Union—East and West, North and South. The promotion of the prosperity of this great country is the strongest desire of my heart. I then ask gentlemen on all sides of the House, on what principle of justice or right, the application of Oregon can be refused?

[Here the hammer fell.]
Mr. STANTON. Mr. Speaker, I suppose there is no man in the House, or in the country, who does not know that the admission of Oregon as a State into the Union is purely a question of time—that it must come, and at no very distant day. There is, therefore, no question about denying to the people of Oregon any rights that they are entitled to under this Constitution. It is a question as to whether Oregon shall be admitted to-day or to-morrow on such terms as have been imposed on other Territories, or on more favorable terms. My colleague who spoke this morning, [Mr. VALLANDIGHAM,] has found something to be thankful for, and I am glad of it. So far as I am concerned, he is entirely welcome to all that he can make out of that in Ohio.

Now, Mr. Speaker, I desire to call the attention of gentlemen, on the other side of the House especially, to the action of Congress in relation to the admission of Kansas. It was decided by the almost united vote of the Democratic party, that that State could not be admitted with a constitution of her own making, without having the ratio of representation, ascertained by a "duly and legally taken" census. That is recognized and spread on the records of the country as a part of the doctrines and principles of the Democratic party of the country. There is no escape from it. Now, if my colleague supposes that in this state of facts, with the whole record of the Democratic party in this and the other branch of Congress against the admission of Kansas as a free State, as proposed by the Crittenden-Montgomery amendment, he can make any capital on account of Republican votes against the admission of Oregon, he is welcome to all that he can make.

Mr. Speaker, I will not stultify myself by professing to ignore what I know to be the operating causes which control the votes of members on this floor, in voting for and against the admission of Oregon. Sir, if Kansas had been admitted under the Crittenden-Montgomery bill, gentlemen on the other side very well know she would have sent to the other wing of the Capitol two Senators who would have votes during the next presidential term, and that these two votes would have

been Republican votes. The namesake of the Delegate from Oregon might possibly have been one of them. When that state of things was presented to the consideration of gentlemen on the other side, they demanded that Kansas should have the full ratio of representation, to be ascertained by a "census" "duly and legally taken." Now all that I ask is, that when they come here with a State which professes to be free, with Democratic Senators, who are to serve during the next presidential term, that they shall have meted out to them precisely the same rule which they meted out to Kansas. I am not prepared here, nor will I sit by and aid in adopting one rule for the admission of a Republican State, and another rule for the admission of a Democratic State. That, aside from the constitution of Oregon, is the true secret of the position of parties in this House on this question.

Now, Mr. Speaker, gentlemen on the other side, and certainly a large majority of those who voted against the Crittenden-Montgomery amendment, propose now, without any change in the condition of the Territories, to adopt for Oregon a rule different from that which they adopted for Kansas; and while gentlemen on the other side have no difficulty in walking up to the mark, I am sorry to see that many on this side are shaking in their boots lest it should be charged that Republican votes were cast against the admission of a free State. I have no difficulty in adopting, in this case, the same rule of justice which they propose to apply to us.

But, Mr. Speaker, aside from that, if the constitution were unobjectionable, and the population sufficient to entitle the State of Oregon to demand admission, this would be no consideration that should induce a statesman, acting on his responsibility, to refuse admission. I grant you that.

It is said that Oregon proposes to come in as a free State. Mr. Speaker, will any gentleman on the other side of the House tell me, will the chairman of the Territorial Committee tell me and tell the House, in his closing argument, how a negro, held in slavery in Oregon, is to establish his freedom? If a white man shall take into the Territory of Oregon, or have there, a black man, and exercise control over him and his industry, and make him a slave through the mere law of force, how is the slave to help himself? Can he go into the courts and ask a writ of *habeas corpus*? No, sir; for this constitution says he can maintain no suit in court. Can he bring an action for trespass or for the recovery of the proceeds of his labor? No, sir; for he can have no suit in court. Can he bring an action to try the question of his freedom, or the right of the claimant to his service? No, sir; for he can bring no suit. And yet you call this a free State, though you prescribe, in the constitution, that a man shall not bring the question of his freedom in the only court that has jurisdiction of the question.

That is not all. You are admitting a State into the Union which is to have foreign commerce; which is to trade with all the world—with the West India Islands; with Brazil; which is to import the productions of tropical climates—coffee, sugar, cotton; and a large part of such trade is in the hands of negroes and mulattoes. In Hayti, in Jamaica, and elsewhere all over the world, are importing merchants, blacks and mulattoes, who are sending their goods to Oregon; and if they sell upon credit there, they cannot bring a suit in the Oregon courts to recover the value of their cargo. Here then, sir, is your Oregon constitution—a free-State constitution—which closes the Oregon courts to them. He cannot go into the Federal courts, because the Dred Scott decision closes them to him. I pray you, in what sort of condition will we be in respect to your foreign relations—

Mr. SEWARD. He may sue by his next friend.

Mr. GROW. Suppose he has no next friend?

Mr. STANTON. That will not answer. The Oregon constitution says that class of persons shall not sue; and I take it that that reaches the parties in interest in the case, as well as the nominal plaintiff upon the record. It is not only a prohibition against the black man and mulatto to sue in his own name, but against his substantially maintaining his rights and interests in the courts of Oregon. I undertake to say that, in the constitution of no State of the Union, is there so bar-

barous a provision. No other State in this Confederacy, no such civilized and Christian country upon God's footstool, ever before outlawed a whole nation of people; and declared that they should not have access to their courts to secure their rights, but that they were castaways upon nature's commons.

The remark of the gentleman from Georgia [Mr. SEWARD] brings to my mind the remarks of the gentleman from Indiana, [Mr. HUGHES,] day before yesterday, in which he assigned to the Republican party the condition of contending for negro equality. I do not apprehend that, upon the question of political and social equality of negroes, there is any Republican doctrine; nor do I understand that there is any Democratic doctrine upon that subject. I understand that there is a great variety of sentiment in various localities as to the political and civil rights which shall be extended to that class of population. Now, sir, there never has been, from any of the exponents of the principles of the Republican party, any allegation that it claimed equality in the exercise of political rights by the black population in any State of this Confederacy. The Republican platform, as my senior colleague [Mr. GOWDING] says, does not touch the question at all; and it is a question about which Republicans and Democrats have leave to differ. I am willing myself to admit that free negroes and mulattoes are an undesirable population; that they are a degraded social caste in all the States of this Confederacy. I interpose no objection to a State for the discouragement of the immigration of negroes and mulattoes into the State. I would not extend to them equal political privileges and political rights; because thereby it might tend to encourage negroes to come into the State. So far as the constitution of Oregon comes, then, merely as a discouragement to that class to come into that State, I make no objection; because that is a subject for them to decide, and which I do not propose to interfere with. But, when they undertake to outrage the first principles of civil liberty and of constitutional government, and to outlaw a race of people and make them the subjects of cruelty of every description, it presents altogether a different question.

There are one or two features in this constitution which have not yet been adverted to. The thirty-seventh section of the bill of rights is an extraordinary one. It provides that—

"The Legislative Assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States."

I do not know of any such persons. Here is an attempt, by indirection, to induce this Congress, and especially the Republican members of it, to indorse the principles of the Dred Scott decision, which announces that blacks and mulattoes born in this country are incapable of becoming citizens of the United States. It is all idle for the gentleman from Massachusetts [Mr. THAYER] to tell me that he is not sworn to see that the people of Oregon should observe the Constitution of the United States; because, as has been well said, this constitution is mere waste paper, and our votes will breathe into it the breath of life. By my vote, I am asked to give vitality to the principle of the Dred Scott decision, which declares that there is a class of persons in this country who are incapable of becoming citizens of the United States. I would do no such thing, even if she had two of the best Republican Senators in the world.

But that is not all. The Federal Constitution, as I understand that instrument, has itself taken cognizance of the immigration, or importation, or whatever you may call it, of the description of persons who are unquestionably alluded to in this clause of the bill of rights of the constitution of Oregon. Congress is empowered to prohibit their immigration, and it has done so under the penalty of death. And here is a power conferred upon the Legislative Assembly of Oregon, to nullify and disregard that provision of the Federal Constitution, and that act of Congress which prohibits their importation, and authorizes that Legislative Assembly to regulate it. What does it mean? It means to authorize the importation of coolies, and that description of laborers which will practically make Oregon a slave State, while this constitution professes that it is a free State. It proposes to do that in violation of the Constitution of the United States; and it proposes to do it in defiance of

the profession held out upon its face, that there shall be no involuntary servitude there.

For these reasons, and for numerous other reasons which I could enumerate, I cannot vote for the admission of Oregon under this constitution; and I pray you, now, what hardship or harm is to be done? Here is a constitution manifestly repugnant to the moral sense of a great majority of this House. It outrages your common sense, Mr. Speaker, to say that negroes shall have no redress for wrongs inflicted upon them. If Oregon is rejected to-day, and required to reform her constitution, and make it republican in form and shape, she will be entitled to admission when she makes it "republican in form," and in conformity with the Constitution of the United States, and has a sufficient population.

But, sir, I admit that that is not an essential consideration with me. A question of population would not operate on my mind against the admission of a State, if the same rule is to be applied alike to all other States. But when I see, Mr. Speaker, that your side of the House has rejected a Republican State, and upon the express ground that she shall not be a State until her population is ascertained by a regular census to entitle her to one Representative upon this floor, then I will go for applying the same rule to the State of Oregon, at the risk of whatever consequence; and my colleague can make the most of it.

It is idle, sir, to ignore in this controversy that there is a struggle going on between the two sections of the Confederacy in reference to the propagation of slave or free labor. It is no matter for the time being whether a State constitution may nominally be free or otherwise. If it brings into the Federal councils, for the next presidential election, and for the next six years, votes that will aid in the propagation of slavery, that is the controlling influence, and the influence which now operates for the procurement of the admission of Oregon into the Union. Whatever she may profess as to having a free constitution and being a free State, you, sir, know, as well as I do, how these Senators will vote on all questions affecting the peculiar institution. They will not differ from you, Mr. Speaker, unless you are more conservative than they are. They will go as far as you dare go. A State occupying this position always does, and I take it, always will.

Gentlemen will probably avail themselves of the votes of Oregon for the next six years to come. They will avail themselves of them in the next presidential election. They may possibly avail themselves of the vote in this House, in the election of a President; and have an equal vote cast by the Representative of that State with that cast by myself and my twenty colleagues from Ohio. This may all be so; but, sir, it will not stay the onward march of events. Oregon, like all other free States, must bow to that manifest destiny which proclaims, if this controversy be kept up, that she must be upon the side of freedom. It may not come to-day, and it may not come to-morrow; but it will ultimately come. If gentlemen at present avail themselves of the three electoral votes of Oregon, the time will come when she will have ten, and more, and then they will be upon the other side. You may retard the progress of events, but you cannot prevent the ultimate ascendancy of freedom and free labor in this Confederacy.

The SPEAKER. The hour fixed for closing the debate, and for taking the vote on the Oregon bill, has arrived.

Mr. KELSEY. Is the previous question called?

The SPEAKER. The order of the House, adopted the other day, is practically the same as the previous question.

Mr. STEPHENS, of Georgia, being entitled, under the rule, to one hour to close the debate, addressed the committee at length, in reply to the various arguments urged against the passage of the bill. [This speech will be found in the Appendix.]

The SPEAKER. The Clerk will now report the amendment of the gentleman from Pennsylvania, [Mr. GROW.]

Mr. MAYNARD. Before that is done, I hope the House will allow all the amendments, of which notice has been given, to come in, that the action of the House may be had on them; reflecting, as they do, the opinions of members of the House upon this important question, opinions honestly

and sincerely entertained. I trust, as the gentleman has said who has just taken his seat, that there will be no effort to display parliamentary tactics; or, in his language, to take a snap-judgment. Let every sentiment on this question be fairly expressed.

Mr. SMITH, of Tennessee. I object to any amendment, unless the gentleman offering it pledges himself to vote for the bill.

Mr. MAYNARD. I ask that my amendment be read. I gave notice of it some days ago.

The SPEAKER. The Chair supposes that, in fairness, the amendments which were indicated should be taken up in the order in which they were offered. The gentleman from Pennsylvania [Mr. GROW] first indicated his amendment, then the gentleman from Tennessee, [Mr. MAYNARD,] then the gentleman from Ohio, [Mr. BINGHAM.]

Mr. DAVIS, of Indiana. Is not mine the first proposition to recommit with instructions?

Mr. STEPHENS, of Georgia. I withdraw the motion to recommit. I think that the gentleman's motion will be the first voted on if the Chair holds it to be in order. I hold it to be out of order.

The SPEAKER. The gentleman from Pennsylvania, [Mr. GROW,] at the time, objected to the proposition of the gentleman from Indiana. He would not yield the floor to allow it to come in.

Mr. GROW. I objected if, by that motion, my own amendment would be cut off. I think that the gentleman appealed to me at the time I was upon the floor, and I would have yielded to him if it would not have prevented me offering my amendment.

The SPEAKER. The proposition of the gentleman from Indiana, can just as well be entertained after all the amendments are in, as at the present time.

Mr. DAVIS, of Indiana. Then, of course, the first vote will recur on my motion. If that be so, I have no objection.

The SPEAKER. The first question will be on the motion to recommit.

Mr. GROW's amendment was then reported by the Clerk, as follows:

Add the following as an additional section:

SEC. —. *And be it further enacted*, That so much of an act entitled "An act for the admission of the State of Kansas into the Union," approved the 4th day of May, A. D. 1858, as provides that "whenever, and not before, it is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States," be, and the same is hereby, repealed.

Mr. ENGLISH. Is it now in order to offer an amendment to the pending amendment?

The SPEAKER. It is not.

Mr. GROW. I propose to modify my amendment by adopting an amendment prepared by the gentleman from Indiana, [Mr. PERRY,] and accepted by the gentleman from Ohio, [Mr. BINGHAM,] as a substitute for his.

The amendment was read, as follows:

Amendment in the nature of a substitute for Senate bill (No. 239) for the admission of Oregon into the Union:

Strike out the preamble of the bill, and all after the enacting clause, and insert after the enacting clause the following:

The inhabitants, being citizens of the United States, and legal voters of such portions of the Territories of Oregon and Kansas as are embraced within the following limits, to wit: First. Such inhabitants of the Territory of Oregon, within the following limits:

Beginning one marine league at sea, due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly, to and up the middle channel of said river, and, where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake river; thence up the middle of the main channel of said river, to the mouth of the Owyhee river; thence due south, to the parallel of latitude forty-two degrees north; thence west, along said parallel, to the place of beginning; and such inhabitants of the Territory of Kansas, who are citizens of the United States, within the following limits: Beginning on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the one-hundred and first meridian of longitude; thence north on said meridian to the fortieth parallel of latitude; thence east on said parallel of latitude to the western boundary of the State of Missouri; thence southward with said boundary to the beginning, be, and they are hereby, respectively authorized to form for themselves constitutions and State

governments, and to come into the Union upon an equal footing with the original States, according to the Federal Constitution.

SEC. 2. *And be it further enacted*, That on the first Tuesday of June next, such inhabitants in each representative district, then existing within the limits of the said proposed States, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the ratio which may then exist for representatives to the Territorial Legislatures, which election for delegates shall be held and conducted and the returns made, in all respects in conformity with the then existing laws of said Territories, respectively regulating the election of representatives; and the delegates so elected for each of said Territories, shall assemble at the capital of their proper Territory on the first Tuesday in July next, and first determine each for their proper Territory, by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed each, for their proper Territory, to form a constitution in republican form, and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the particular Territory to be affected thereby.

SEC. 3. *And be it further enacted*, That in the event said conventions, or either of them, shall decide in favor of the immediate admission of the proposed State into the Union, it shall be the duty of the United States marshals for said Territories, or the marshal of said Territory so deciding, to proceed to take a census or enumeration of the inhabitants within the limits of the proposed State, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with a view of ascertaining the number of Representatives to which said proposed State may be entitled in the Congress of the United States; and each said State shall be entitled, until the next apportionment, to one Representative, and such additional Representatives as the population of the State shall show it to be entitled to, according to the census and the present ratio of representation.

SEC. 4. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said conventions of delegates for their free acceptance or rejection, which, if accepted by the conventions, or either of them, shall be obligatory upon the United States and upon the said State so accepting, to wit: First. The sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second. That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third. That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others, at the seat of Government, under the direction of the Legislature thereof. Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the Governor thereof within one year after the admission of said State; and when so selected, to be used or disposed of on such terms, conditions, and regulations, as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements as the Legislature shall direct: *Provided*, That the foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State, shall provide, by a clause in said constitution, or an ordinance irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the titles in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

SEC. 5. The prohibition contained in the first section of the act of the present Congress, entitled "An act for the admission of the State of Kansas into the Union," approved May 4, 1858, being inconsistent herewith, is hereby repealed.

Mr. SANDIDGE. Is that offered as a substitute for the original bill?

Mr. GROW. It is a substitute for the bill.

Mr. SANDIDGE. I make the point of order that it cannot be received under the rules of the House. It is applicable to another Territory than that of Oregon; and is not, therefore, germane to the bill before the House.

Mr. GROW. There can be no doubt upon the mind of any member that an enabling act for Oregon would be entirely germane to this bill as a substitute for it. The subject of the bill is the transforming of the Territory of Oregon into a State, so that the general subject of legislation is the change of a Territory to a State. Now, to do the same thing, requiring exactly the same kind

of legislation, for another Territory, is perfectly germane; for it has been ruled in the House, over and over again, that a bill which proposes to grant alternate sections to a particular State for railroads, may be amended by extending the same provisions to any other States.

Mr. HOUSTON. I think the ruling has been exactly the reverse.

Mr. GROW. No, sir. Mr. Banks decided, in a case where the point was raised, that it was competent to amend in that way.

Mr. WASHBURN, of Maine. In 1852, the question of order was raised by Mr. Grey, of Kentucky, and the then Speaker ruled it to be in order, and his decision was sustained by the whole House.

Mr. GROW. Mr. Boyd and Mr. Banks so ruled in two particular instances that I remember. Now, the general subject of legislation is the admission of a State; and the only question now is, whether locality is to control the subject?

The SPEAKER. The Chair feels no difficulty in deciding the question of order. The bill which the House is acting upon is a bill for the admission of Oregon into the Union. The proposition of the gentleman from Pennsylvania is a proposition making an enabling act for Oregon and Kansas. The Chair rules the amendment out of order under the 55th rule of the House, which is as follows:

"No motion or proposition, on a subject different from that under consideration, shall be admitted under color of amendment."

Mr. GROW. I take an appeal from the decision of the Chair; and will state briefly the ground of my appeal.

Mr. HOUSTON. An appeal is not debatable.

Mr. GROW. I do not propose to debate it; but I have a right to state the ground of my appeal. The rule which has just been read provides "that no motion or proposition, on a subject different from that under consideration, shall be admitted under color of an amendment." I grant that; but the subject before the House is the admission of a State. It is a general subject, and applicable to all States; otherwise, we could have no general legislation. The title is but a specific designation of this bill; but the general subject covers all that class of legislation; so that I think my amendment is in order.

Mr. HOUSTON. I move to lay the appeal upon the table. Upon that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 136, nays 92; as follows:

YEAS.—Messrs. Adair, Ahl, Arnold, Atkins, Avery, Barksdale, Barr, Boocock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskie, Cavanaugh, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Barton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garrett, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hill, Hodges, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, McRae, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Montgomery, Moore, Niblack, Nichols, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Ready, Rengan, Reilly, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Tripp, Underwood, Vallandigham, Vance, Ward, Watkins, White, Whiteley, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolllicoffer—136.

NAYS.—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Brayton, Bullinton, Burlingame, Burroughs, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clavson, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hoard, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman B. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Potte, Purviance, Ricard, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—92.

So the appeal was laid on the table.

During the call,

Mr. BURLINGAME, stated that Mr. DAVIS, of Massachusetts, was detained from the House by severe indisposition.

Mr. GROW. I now offer my amendment, as it originally stood before it was modified.

Mr. ENGLISH. If it is order, I desire to offer a substitute for that section.

Mr. SANDIDGE. I make a point of order on that amendment.

The SPEAKER. The Chair rules the amendment out of order, upon the same ground as the other amendment was ruled out of order.

Mr. GROW. I will not take an appeal, although I think the decision of the Chair and of the House is wrong.

The SPEAKER. The gentleman from Tennessee [Mr. MAYNARD] offered an amendment to the original bill, which will now be read.

The Clerk read, as follows:

Insert as additional sections the following:

Sec. 6. *And be it further enacted*, That this act shall take effect only upon the following conditions: first, that it be ascertained by a census, duly and legally taken, that the population included and residing within the limits of the proposed State of Oregon equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and, second, that the question of admission with the following proposition be submitted to a vote of the people of the said proposed State, and assented to by them, or a majority of the voters voting at an election to be held for that purpose, namely: that section two of article two of the constitution framed at Salem, on the 18th day of September, in the year of our Lord 1857, shall be changed, to read as follows: "Sec. 2. In all elections not otherwise provided by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, shall be entitled to vote at all elections authorized by law;" and in this form shall be and remain as a part of the constitution of said State. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may be pleased, "citizen suffrage" or "alien suffrage." Should a majority of the votes cast be for "citizen suffrage," and should the census to be taken show a population equaling or exceeding the ratio of representation required for a member of the House of Representatives of the Congress of the United States, the President of the United States, as soon as these facts are duly made known to him, shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, this act, and every part thereof, shall take effect, and the admission of the State of Oregon into the Union upon an equal footing with the original States in all respects whatever shall be absolute and complete.

Sec. 7. *And be it further enacted*, That the election authorized by this act shall be held at the same places, and by the same officers, as elections heretofore in the Territory of Oregon, and at such time after the passage of this act, and its official publication in said Territory, as the Governor of said Territory may, by proclamation, designate, the day to be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act: *Provided*, That, in the election hereby authorized, all white male inhabitants of said Territory over the age of twenty-one years, and who are citizens of the United States, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said election. And if any person not so qualified, shall vote, or offer to vote, or if any person shall vote more than once at said election, or shall make, or cause to be made, any false, fictitious, or fraudulent returns, or shall alter or change any returns of said election, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months, and not more than three years.

Sec. 8. *And be it further enacted*, That for their services in holding said elections, the officers shall be entitled to receive the same compensation as is given for like services under the territorial laws.

The SPEAKER. The gentleman from Georgia [Mr. HILL] offered an amendment to the original bill, which will now be read.

The Clerk read as follows:

Strike out all after the word "that," in section one, and insert the following in lieu thereof; and strike out section three.

Whenever it is ascertained by a census, duly and legally taken, that the population of the Territory of Oregon equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States, Oregon shall be received into the Union on an equal footing with the other States in all respects whatever, with the following boundaries: In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly to and up the middle channel of said river, and where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake river, thence up the middle of the main channel of said river to the mouth of the Owyhee river; thence due south to the parallel of latitude 42° degrees north; thence west, along said parallel, to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia river and Snake river, concurrently with States and Terri-

ties of which those rivers form a boundary in common with this State.

The SPEAKER. Under the rules of the House the two amendments which have been read are the only amendments which can be entertained to the original bill. The gentleman from Ohio, Mr. BINGHAM, gave notice that he would offer the following substitute:

Strike out the preamble and all after the enacting clause and insert the following:

Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government preparatory to their admission into the Union as a State; and whereas said constitution does not conform to the Constitution and the laws of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Oregon which is embraced within the following limits, to wit: beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly, to and up the middle channel of said river, and where it is divided by islands, up the middle of the widest channel thereof, to a point near Fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake river; thence up the middle of the main channel of said river to the mouth of the Owyhee river; thence due south to the parallel of latitude 42° north; thence west, along said parallel, to the place of beginning, be, and hereby are, authorized to form a constitution as hereinafter provided.

Sec. 2. *And be it further enacted*, That the said State of Oregon shall have concurrent jurisdiction on the Columbia and all other rivers and waters bordering on the said State of Oregon, so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed or bounded by the same; and said river and waters, and the navigable waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll, therefor.

Sec. 3. *And be it further enacted*, That, on the first Monday in October next, the citizens of the United States who are legal voters, resident in each representative district then existing within the limits of the proposed State, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for Representatives to the Territorial Legislature; which election for delegates shall be held and conducted, and the returns made, in all respects, in conformity with the laws of said Territory regulating the election of representatives; and the delegates so elected shall assemble at the capital of said Territory on the first Monday in November next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all the necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

Sec. 4. *And be it further enacted*, That, in the event said convention shall decide in favor of the immediate admission of the proposed State into the Union, until the next congressional apportionment the said State shall have one Representative in the House of Representatives of the United States.

Sec. 5. *And be it further enacted*, That, from and after the admission of the State of Oregon into the Union in pursuance of this act, the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Oregon as elsewhere within the United States; and said State shall constitute one district, and be called the district of Oregon; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of said State, two sessions annually, on the first Mondays in January and July; and he shall, in all things, have and exercise the same jurisdiction and powers which were, by law, given to the judge of the Kentucky district, under an act entitled, "An act to establish the judicial courts of the United States." He shall appoint a clerk for said district, who shall reside and keep the records of said court at the place of holding the same.

Sec. 6. *And be it further enacted*, That there shall be appointed in said district, a person learned in the law, to act as attorney of the United States; and there shall also be appointed a marshal for said district, who shall perform the same duties and be subject to the same regulations and penalties as are prescribed to marshals in other districts.

Sec. 7. *And be it further enacted*, That the district judge, attorney, clerk, and marshal, contemplated by this act, shall each be allowed the same compensation and fees that are severally allowed the same officers in the State of California by act of Congress, to be paid in the same manner.

Sec. 8. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Oregon for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon said State of Oregon, to wit:

First. That sections number sixteen and thirty-six in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools.

Second. That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General

Land Office, to be appropriated and applied in such a manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third. That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof.

Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof within one year after the admission of said State, and, when so selected, to be used or disposed of on such terms, conditions, and regulations, as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

Fifth. That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

The SPEAKER. The gentleman from Kentucky moves to amend the substitute by striking it out, and inserting the following in lieu thereof:

Whereas, the people of Oregon have framed a constitution under which they propose to be admitted as a State into this Union, it being represented that the population of said State is sufficiently numerous to be entitled, on the existing ratio of representation, to one Representative on the floor of the House of Representatives; and whereas it is the sense of Congress that the extension of the right to vote for a member of the House of Representatives of the United States to a person neither native or naturalized according to the act of Congress, is violative of the spirit and true meaning of the Constitution of the United States; and whereas the constitution of the State of Oregon contains a provision granting such extension to aliens without naturalization: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall appear, by a census taken by the order of the Governor of Oregon Territory, that Oregon contains ninety-three thousand people, Oregon shall be admitted as a State into this Union, on an equal footing with the original States in all respects whatever, upon the fundamental condition that the second clause of the second article of the constitution now submitted to Congress, and embraced in the following words, to wit: "and every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding said election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law" shall never be construed to authorize the said persons of foreign birth, and not naturalized, to vote for members of the House of Representatives of the United States at any election for such in said State: *Provided*, The people of Oregon, re-assembled in convention, shall assent to said fundamental condition, and shall transmit to the President of the United States, on or before the first day of November, 1859, an authentic copy of said amendment to said constitution, and a certified return of said census; upon the receipt whereof, the President of the United States, by proclamation, shall announce the fact; whereupon, and without any further proceedings on the part of Congress, the admission of the said State of Oregon into the Union shall be considered as complete.

Mr. MARSHALL, of Kentucky. I understood that all these amendments were to be voted on in their turn, in the order in which they were offered. I do not think, therefore, that my amendment can be regarded as an amendment to the amendment of the gentleman from Ohio. My amendment is a substitute for the original bill. If the gentleman's amendment is adopted, then mine will be excluded. If the gentleman's be not adopted, I want the vote to come between my amendment and the original bill.

Mr. STEPHENS, of Georgia. Of course, the question will be between the two substitutes. If the House adopt the amendment of the gentleman from Kentucky, then the question will be between his substitute and the original bill.

Mr. MARSHALL, of Kentucky. I think that my amendment will stand a better chance if the vote is first taken on the amendment of the gentleman from Ohio. There may be votes against mine in the hope of getting his. I presume the first votes will be on the motions to amend the original text.

THE CONGRESSIONAL GLOBE.

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The SPEAKER. The vote will be first taken on amending the original text; and then on the substitutes.

Mr. MARSHALL, of Kentucky. Then, I will offer my substitute after the vote is taken upon the substitute of the gentleman from Ohio, of course provided that is rejected.

The SPEAKER. The Chair understands the previous question to be practically operating.

Mr. MARSHALL, of Kentucky. Was the main question ordered?

The SPEAKER. The order of the House superseded it.

Mr. MARSHALL, of Kentucky. Then, let it go. I have only to say that my amendment is the best one of the two, [laughter;] and, if there be no objection, I will modify my amendment. Instead of "ninety-three thousand," let it stand "ninety-three thousand four hundred and twenty." That is the accurate number.

No objection being made, the amendment was modified accordingly.

Mr. DAVIS, of Indiana. I now submit my motion, that the bill (S. No. 239) be recommitted to the Committee on Territories, with instructions to insert a clause therein, or add a section thereto, repealing so much of the act entitled "An act for the admission of the State of Kansas into the Union," approved May 4, 1858, as prohibits the people of Kansas from forming a constitution, and asking admission into the Union as a State, until "it is ascertained by a census, duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States."

Mr. STEPHENS, of Georgia. I make a point of order on that motion.

The SPEAKER. The Chair cannot entertain the motion in the form in which it is presented. It is an instruction to one of the committees of the House to do that which the House itself cannot do.

Mr. DAVIS, of Indiana. I appeal from the decision of the Chair. I will not occupy the time of the House with giving reasons for the appeal. I am satisfied myself that the motion is in order.

Mr. ENGLISH. I move to lay the appeal on the table.

Mr. DAVIS, of Indiana. I demand the yeas and nays on that motion.

Mr. STANTON. Is the question divisible between recommitting and the instructions?

The SPEAKER. It is not divisible, as the gentleman can satisfy himself by an examination of the proposition. If one were voted down, could the other stand alone? That is the test of the divisibility of a proposition under the rules. If the motion to recommit falls, what has the other portion of the motion to stand upon?

Mr. STANTON. That, perhaps, is a question for the House to decide. The House might very well vote to recommit for other purposes, than with instructions.

The SPEAKER. That may be done by an independent motion.

The yeas and nays were ordered on the motion to lay on the table.

The question was taken; and it was decided in the affirmative—yeas 118, nays 95; as follows:

YEAS—Messrs. Ahl, Arnold, Atkins, Avery, Barksdale, Barr, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Cavanaugh, John B. Clark, Clay, Cobb, John Cochran, Cockerill, Coming, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Garrett, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Harris, Hawkins, Hill, Hodges, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, McRae, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippe, Underwood, Vallandigham, Vance, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wort-

dyke, Augustus R. Wright, John V. Wright, and Zollcoffer—118.

NAYS—Messrs. Abbott, Adrain, Andrews, Billingshurst, Bingham, Blair, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Covode, Cragin, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hatch, Hoard, Horton, Howard, Keim, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Leach, Leiter, Lovejoy, Humphrey Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—95.

So the appeal from the decision of the Chair was laid on the table.

During the vote,

Mr. REILLY said that he had stated to his people before the last election, that whenever the question came before the House whether or not the "English restriction" should be repealed, he would vote for its repeal; he therefore voted "no."

The question recurred on Mr. HILL's amendment.

Mr. MAYNARD. The amendment proposed by the gentleman from Georgia [Mr. HILL] is, in effect, the same as the one proposed to be offered by the gentleman from South Carolina, [Mr. BONHAM.] It is suggested that the amendment of the gentleman from Georgia be withdrawn, that my own amendment be temporarily withdrawn, and that the amendment of the gentleman from South Carolina be offered, with mine as an amendment to it.

Mr. HILL. I will not withdraw my amendment except to oblige the gentleman from South Carolina, who prefers his own to mine. There is a good deal of affinity between the two. They are almost identical in effect, but unless, according to parliamentary usage, his can now take the place of mine, I will not withdraw mine.

Mr. SEWARD. I object to all these arrangements.

Mr. BONHAM. Did I understand the Chair to decide that the amendment I propose is out of order?

The SPEAKER. It cannot be reached. There are two amendments pending to the original bill. The only point where the gentleman can hang his amendment on, is to the amendment of the gentleman from Kentucky, [Mr. MARSHALL.]

Mr. BONHAM. Then I would like to propose it as a substitute for the amendment of the gentleman from Kentucky.

Mr. MARSHALL, of Kentucky. Oh, no; mine is an amendment to an amendment.

Mr. BONHAM. I have misunderstood the ruling of the Chair. I had supposed that a vote would be taken on each amendment, in the order in which it was submitted.

The SPEAKER. That was the statement of the Chair. And if the number were too great for all to be admitted, those first offered were to be entertained. That is carrying out what the Chair understands to be the order of the House—that all amendments shall be offered that can be in order.

Mr. BONHAM. I understood the gentleman from Georgia [Mr. STEPHENS] to say that all propositions were to have a fair chance.

The SPEAKER. Under the rules of the House.

Mr. BONHAM. I did not understand it to be "under the rules of the House." If I had, I would certainly have been a little more prompt in offering my amendment. I supposed it would be in time at any moment; and that I could have a vote fairly taken upon it. I am exceedingly desirous that that should be done.

Mr. HILL. I offer the gentleman every facility in my power to accommodate him.

Mr. SEWARD. I object to arrangements.

Mr. BONHAM. Then I hope that my proposition may be read, and may come in as an

amendment to the amendment offered by the gentleman from Kentucky.

Mr. MARSHALL, of Kentucky. I decidedly object to that, because mine is now an amendment to an amendment.

The SPEAKER. The gentleman's amendment can come in as an amendment to the proposition of the gentleman from Ohio, [Mr. BINGHAM.]

Mr. MILLSON. I desire to know whether, by the understanding that prevails, the amendment of the gentleman from South Carolina may not be offered as an amendment to the original bill, if the other amendments be voted down?

The SPEAKER. The Chair does not so understand it.

Mr. MILLSON. That was the understanding as to the effect of the agreement.

The SPEAKER. The effect of the order of the House was to place the House, at twelve o'clock, exactly in the position as if the previous question had been seconded, and the main question had been ordered to be now put.

Mr. BONHAM. I ask that my amendment be read.

Mr. BONHAM's proposition was read, as follows:

SEC. 6. *And be it further enacted*, That this act shall not take effect till, by a census duly and legally taken under the direction of the Secretary of the Interior, it shall be ascertained that the population included and residing within the limits of the proposed State of Oregon equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and the President of the United States, so soon as this fact shall be duly made known to him, shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, this act, and every part thereof, shall take effect, and the admission of the State of Oregon into the Union upon an equal footing with the original States, in all respects whatever, shall be absolute and complete.

Mr. MAYNARD. I ask whether a simple objection can avail to prevent the arrangement which I suggested a moment ago? I think the gentleman from Georgia should be allowed to withdraw his amendment, which is, in substance, the same as that which has been just read, to allow the gentleman from South Carolina to offer his amendment, and me to offer mine as an amendment to it.

The SPEAKER. The reason of the ruling of the Chair is this: if the previous question were seconded, and the main question ordered, it would not be competent for gentlemen to withdraw amendments, or to modify amendments, except by the unanimous consent of the House.

Mr. MAYNARD. I respectfully submit to the Chair, whether the order made by the House to close debate at twelve o'clock to-day, can have the technical effect of the previous question to cut off all amendments, or whether it can have any further effect than simply to close debate on the bill?

The SPEAKER. The Chair has stated more than once that, in his judgment, the effect of the order is the same as if the previous question had been seconded, and the main question ordered to be put.

Mr. GROW. That was my understanding, Mr. Speaker.

Mr. BONHAM. If the amendment which I propose is submitted as an amendment to the substitute of the gentleman from Ohio, [Mr. BINGHAM,] I apprehend that it will scarcely be attached to the original bill. I propose that the original bill, with my amendment, be voted on.

Mr. JONES, of Tennessee. Is there not an amendment now pending to the original bill?

The SPEAKER. Two of them.

Mr. JONES, of Tennessee. An amendment to the original bill, and the amendment to that. That is as far as it can go on that line. Then there is a substitute pending; and is there an amendment pending to that?

The SPEAKER. There is.

Mr. JONES, of Tennessee. Then I hold that no other amendment, in any shape, is in order. You cannot propose an amendment in the third degree.

The SPEAKER. The gentleman from Tennessee is right.

Mr. JONES, of Tennessee. When the original bill is taken up, you can propose to amend that, or a substitute can be offered, and then a gentleman would have a right to offer an amendment to perfect the original bill. An amendment on that is as far as you can go. When that is voted on you come to the substitute; and one amendment to the substitute is all that can be pending at a time.

The SPEAKER. The gentleman is right. Mr. JONES, of Tennessee. The previous question, as I understood, is pending on this bill. The understanding was that the amendments should come in in order, and no other way.

Mr. BONHAM. There was nothing said about order. I heard not a word about the subject of order.

The SPEAKER. When the gentleman from Georgia was appealed to, to let the amendments in, he replied that he agreed to let them all be presented and printed, and that then they could come in under the rules.

Mr. BONHAM. There was nothing said about the rules.

The SPEAKER. I have the remarks of the gentleman from Georgia before me:

"Mr. STEPHENS, of Georgia. That the gentleman from Kentucky may understand my agreement, it is: that on Saturday at twelve o'clock, the motions now pending shall come up under the rule just as if the previous question were sustained."

Mr. BONHAM. That must have been said afterwards; that the gentleman from Kentucky might understand the agreement previously made.

The SPEAKER. The question is on the amendment proposed by the gentleman from Georgia, [Mr. HILL.]

Mr. WALBRIDGE. Is that an amendment to the original bill?

The SPEAKER. It is.

Mr. WALBRIDGE. And if adopted it would cut off all the other amendments.

The SPEAKER. The friends of the original bill have a right to perfect it first. When the amendments to the original bill are disposed of, then the question comes up on the substitute and the amendments to that substitute.

Mr. HILL called for the yeas and nays on his amendment.

The yeas and nays were ordered.

Mr. MAYNARD. I wish to inquire whether, in the opinion of the Chair, if this amendment should be adopted as an amendment to the one which I have offered, the two amendments would stand together; or whether the amendment of the gentleman from Georgia would be in the nature of a substitute for mine? In other words, whether they are not separate and independent amendments, or whether each proposition would not have to stand upon its own merits?

The SPEAKER. They are independent, in the opinion of the Chair.

The question was taken on Mr. HILL's amendment; and it was decided in the negative—yeas 32, nays 173; as follows:

YEAS—Messrs. Abbott, Blair, Boyce, Bryan, Chaffee, Horace F. Clark, Clawson, Dick, Farnsworth, Gilmer, Hill, Keitt, Kellogg, John C. Kunkel, McQueen, Matteson, Maynard, Miles, Millson, Mott, Olin, Ricard, Royce, Scales, Henry M. Shaw, Shorter, Stallworth, Tripp, Underwood, Vance, Walbridge, and Zollicoffer—32.

NAYS—Messrs. Adrain, Ahl, Andrews, Arnold, Atkins, Avery, Barksdale, Barr, Billingshurst, Bingham, Bonham, Bowie, Branch, Bratton, Buffington, Burlingame, Burnett, Burns, Burroughs, Caruthers, Case, Caskey, Cavanaugh, Chapman, Ezra Clark, John B. Clark, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockrell, Colfax, Comins, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dean, Dewart, Dimmick, Dodd, Durfee, Edie, Edmundson, Elliott, English, Fenton, Florence, Foley, Foster, Gartrell, Gillis, Gilman, Gooch, Goodie, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Harris, Hughes, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keim, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, McKibbin, McKee, Humphrey Marshall, Samuel S. Marshall, Mason, Miller, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Murray, Niblack, Nichols, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Potter, Pottle, Powell, Purviance, Reagan, Reilly, Robbins, Roberts, Ruffin, Russell, Sandidge, Savage, Scott, Searing, Seward, Aaron Shaw, Judson W. Sherman, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor,

Thayer, Thompson, Tompkins, Vallandigham, Wade, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Wood, Wortendyke, Augustus R. Wright, and John V. Wright—173.

So the amendment was not agreed to.

During the call,

Mr. GARNETT stated that he had paired off with Mr. BISHOP; that Mr. BISHOP would have voted against the amendment, as he believed, while he [Mr. GARNETT] would have voted for it.

The question recurring on Mr. MAYNARD's amendment, it was taken; and decided in the negative.

So the amendment was not agreed to.

The question then being upon the amendment of the gentleman from Kentucky [Mr. MARSHALL] to the substitute proposed by Mr. BINGHAM,

Mr. MARSHALL demanded the yeas and nays; and called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. UNDERWOOD and PHILLIPS were appointed.

The House divided; and the tellers reported—yeas 39, nays 144.

So the yeas and nays were ordered (one fifth voting in favor thereof.)

Mr. HUGHES. I understand that the proposition of the gentleman from Kentucky is offered as a substitute for the proposition of the gentleman from Ohio. I wish to inquire of the Chair whether it is germane to the substitute?

The SPEAKER. The Chair thinks it is too late to make the question of order.

Mr. MAYNARD. I would inquire what would be the effect of adopting this amendment? If adopted, would the next question be between it and the original Senate bill?

Mr. WASHBURN, of Illinois. I am opposed to all these amendments, and opposed to the bill. I move to lay the whole subject upon the table; and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 94, nays 124; as follows:

YEAS—Messrs. Abbott, Andrews, Bingham, Blair, Bonham, Bratton, Buffington, Burlingame, Burroughs, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hill, Howard, Keim, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McQueen, Humphrey Marshall, Matteson, Maynard, Millson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Scales, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Spinner, Stallworth, Stanton, William Stewart, Tappan, Thompson, Tompkins, Tripp, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Zollicoffer—94.

NAYS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Barr, Billingshurst, Bocoock, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Case, Caskey, Cavanaugh, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockrell, Colfax, Comins, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Florence, Foley, Foster, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Hatch, Hawkins, Hoard, Hodges, Hopkins, Horton, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Kilgore, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, McKibbin, McKee, Samuel S. Marshall, Mason, Miles, Miller, Montgomery, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scott, Searing, Seward, Aaron Shaw, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Vallandigham, Ward, Watkins, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—124.

So the House refused to lay the subject upon the table.

During the call,

Mr. HASKIN stated that Mr. SICKLES had paired off with Mr. HICKMAN, who had been called home by sickness in his family.

Mr. GOODE said: My colleague, Mr. FAULKNER, having been called away necessarily, I have paired off with him. If he had been present he would have voted against the motion to lay upon the table, and I should have voted in the affirmative—he being in favor of the passage of the bill, and I being opposed to it.

The vote was then announced as above recorded.

Mr. KUNKEL, of Pennsylvania. I move that the House do now adjourn.

The motion was not agreed to.

The question recurring upon Mr. MARSHALL's amendment:

Mr. JONES, of Tennessee. I would inquire what number of inhabitants is required by the amendment of the gentleman from Kentucky?

The SPEAKER. Ninety-three thousand, Mr. JONES, of Tennessee. That, I believe, is not the ratio now required by law.

The SPEAKER. The Chair should have said it requires ninety-three thousand four hundred and twenty.

Mr. JONES, of Tennessee. It is not so in the printed amendment.

The SPEAKER. The gentleman from Kentucky modified it.

Mr. JONES, of Tennessee. When?

The SPEAKER. This morning, by unanimous consent.

The question was then taken; and it was decided in the negative—yeas 16, nays 191; as follows:

YEAS—Messrs. Chaffee, Ezra Clark, Horace F. Clark, Clawson, Gilmer, Robert B. Hall, Harris, Hill, Humphrey Marshall, Ready, Ricard, Robbins, William Smith, Underwood, Vance, and Zollicoffer—16.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Atkins, Avery, Barksdale, Barr, Bingham, Bocoock, Bonham, Bowie, Boyce, Branch, Bratton, Bryan, Buffington, Burlingame, Burnett, Burns, Burroughs, Caruthers, Case, Caskey, Cavanaugh, Chapman, John B. Clark, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockrell, Colfax, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, English, Farnsworth, Fenton, Florence, Foley, Foster, Gartrell, Giddings, Gillis, Gilman, Gooch, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, Haskin, Hawkins, Hodges, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keim, Keitt, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, Maclay, McKibbin, McQueen, McKee, Samuel S. Marshall, Mason, Matteson, Miles, Miller, Millson, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Pike, Potter, Pottle, Purviance, Reagan, Reilly, Ruffin, Roberts, Royce, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Vallandigham, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Wood, Wortendyke, Augustus R. Wright, and John V. Wright—191.

So the amendment was not agreed to.

During the call,

Mr. MAYNARD stated that upon this and all other votes upon this bill, he had paired off with Mr. KUNKEL, of Maryland, for the rest of the day.

The question recurring on Mr. BINGHAM's substitute for the bill.

Mr. BINGHAM. I propose to modify my amendment.

Mr. HOUSTON. The gentleman has no right to modify his amendment now.

The SPEAKER. Only by unanimous consent.

Mr. COX, and others, objected.

Mr. BINGHAM. My amendment was modified this morning, so that the body of my bill was moved as a substitute for that of the Senate bill, and my preamble for that preamble.

The SPEAKER. Yes, sir. The motion will now be taken on striking out all after the enacting clause, and inserting the body of the gentleman's amendment.

Mr. DEAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 132; as follows:

YEAS—Messrs. Abbott, Andrews, Bingham, Blair, Bratton, Buffington, Burlingame, Burroughs, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Cragin, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Grow, Robert B. Hall, Harlan, Harris, Hoard, Howard, Keim, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Robert, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—80.

NAYS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Barr, Billingshurst, Boeck, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Case, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Florence, Foley, Garnett, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Haskin, Hawkins, Hodges, Hopkins, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Kilgore, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Nichols, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Trippe, Vallandigham, Vance, Ward, Watkins, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—132.

So the substitute was rejected.

During the call,

Mr. **READY** stated that he had paired off generally on this bill with Mr. **WARREN**.

Mr. **MAYNARD** said: Mr. Speaker, I have stated that I have paired for the remainder of this day, with Mr. **KUNKEL**, of Maryland. In making that agreement, it did not occur to either of us that a vote would be taken on the present proposition. I have no doubt that our votes would have been the same against it; but I do not feel at liberty to do anything that might even seem a violation of the agreement.

Mr. **STEVENSON**, not being within the bar when his name was called, asked leave to vote.

Mr. **DEAN** objected.

Mr. **STEVENSON** said he would have voted in the negative.

The vote was then announced, as above recorded.

The **SPEAKER**. The gentleman's preamble falls, his amendment having fallen.

Mr. **WALBRIDGE**. I think, Mr. Speaker, that this House has done a pretty good week's work, and I dislike to have it marred by finishing up this thing to-night. I therefore move that the House do now adjourn.

MEMBERS from all sides. No; let us go on.

The House refused to adjourn.

Mr. **BONHAM**. I wish to make an explanation.

Mr. **RITCHIE**. I object to everything that is not strictly in order.

The bill was then ordered to be read a third time; it was accordingly read the third time.

Mr. **STEPHENS**, of Georgia. I demand the previous question on the passage of the bill.

The **SPEAKER**. The first question is on the preamble to the bill.

The preamble was read, as follows:

Whereas the people of Oregon have framed, ratified, and adopted a constitution of State government which is republican, and in conformity with the Constitution of the United States, and have applied for admission into the Union on an equal footing with the other States: Therefore—

Mr. **WASHBURN**, of Maine, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 95; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Barr, Boeck, Bonham, Bowie, Branch, Burnett, Burns, Caruthers, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Florence, Foley, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Horton, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Lamar, Landy, Lawrence, Leidy, Leiter, Letcher, Maclay, McKibbin, McQueen, McRae, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Vallandigham, Ward, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—113.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Blayton, Bufington, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Covode, Curtis, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hill, Hoard, Horton, Howard, Keim, Kellogg, Kel-

sey, Kilgore, Knapp, John C. Kunkel, Leach, Lovejoy, Humphrey Marshall, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Trippe, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollcoffer—95.

So the preamble was adopted.

The previous question was seconded, and the main question ordered.

The question was taken, "Shall the bill pass?" and it was decided in the affirmative—yeas 114, nays 103; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Barr, Billingshurst, Boeck, Bowie, Branch, Burnett, Burns, Caruthers, Case, Caskie, Cavanaugh, Chapman, John B. Clark, Clay, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, Cragin, James Craig, Burton Craige, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Edmundson, Elliott, English, Florence, Foley, Foster, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hodges, Hopkins, Horton, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Kilgore, John C. Kunkel, Lamar, Landy, Lawrence, Leidy, Leiter, Letcher, Maclay, McKibbin, McRae, Samuel S. Marshall, Mason, Miller, Montgomery, Isaac N. Morris, Niblack, Nichols, Pendleton, Pettit, Peyton, John S. Phelps, William W. Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scott, Searing, Seward, Aaron Shaw, Singleton, Robert Smith, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Vallandigham, Ward, Watkins, White, Whiteley, Winslow, Wood, Wortendyke, Augustus R. Wright, and John V. Wright—114.

NAYS—Messrs. Abbott, Andrews, Bingham, Blair, Bonham, Boyce, Brayton, Bryan, Bufington, Burlingame, Burroughs, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Cobb, Clark B. Cochrane, Covode, Crawford, Curry, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edie, Farnsworth, Fenton, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hill, Hoard, Houston, Howard, Keim, Keitt, Kellogg, Kelsey, Knapp, Leach, Lovejoy, McQueen, Humphrey Marshall, Matteson, Miles, Millson, Moore, Morgan, Morrill, Edward Joy Morse, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Seales, Henry M. Shaw, Judson W. Sherman, Shorter, William Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, Thompson, Tompkins, Trippe, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Woodson, and Zollcoffer—103.

So the bill was passed.

During the call,

Mr. **GARNETT** stated that he had paired off with Mr. **BISHOP**, he being for, and Mr. **GARNETT** unhesitatingly opposed to, the bill.

Mr. **BONHAM** said that he voted against the bill, not because it was for a free State.

When the result of the vote was announced, there was applause upon the floor and in the galleries.

Mr. **STEPHENS**, of Georgia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. **DAWES**. Mr. Speaker, I wish to make a correction of my remarks as printed in the Globe. I am reported as having said yesterday that my colleague [Mr. **COMINS**] voted against the bill for the admission of Minnesota. The vote which I had before me was the vote of my colleague upon the enabling act for Minnesota. My colleague voted for the admission of that State.

ENROLLED BILLS.

Mr. **DAVIDSON**, from the Committee on Enrolled Bills, reported that they had examined, and found truly enrolled, a bill (H. R. No. 576) for the relief of Captain Douglas Ottinger; and

A joint resolution (H. R. No. 53) giving the assent of Congress to the acceptance, by Captain M. F. Maury and Professor A. D. Bache, of gold medals from the Sardinian Government; when the Speaker signed the same.

Mr. **PHELPS**, of Missouri. I move that the House resolve itself into the Committee of the Whole on the state of the Union, in order that we may have an evening session. Several members desire to address the committee.

Mr. **BURNETT** moved that the House adjourn.

The motion was agreed to; and thereupon (at twenty minutes to five o'clock, p. m.) the House adjourned to Monday next.

IN SENATE.

Monday, February 14, 1859.

Prayer by Rev. E. Q. S. WALDRON.
The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATIONS.

The **VICE PRESIDENT** laid before the Senate a letter from the Secretary of the Navy, accompanied by one hundred copies of the Navy Register for the current year, for the use of the Senate; which was read.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the papers relating to the claim of James Keenan, United States consul at Hong Kong, in China; which, on motion of Mr. **BIGLER**, were referred to the Committee on Foreign Relations.

CREDENTIALS.

Mr. **HUNTER** presented the credentials of Hon. Robert Toombs, elected a Senator by the Legislature of the State of Georgia, for the term of six years from and after the 4th day of March next; which were read and placed on file.

PETITIONS AND MEMORIALS.

Mr. **GWIN** presented resolutions adopted at a meeting of the Israelites, held in San Francisco, on the 15th of January, 1859, in relation to the forcible abduction on the 23d of June, 1858, by the Papal authorities at Bologna, of a Jewish youth named Mortara, and his baptism into the Catholic Church against the authority and wishes of his parents, and requesting the Senators from California to urge upon Congress the moral power of this Government to aid in the suppression of similar acts of religious intolerance and persecution; which were referred to the Committee on Foreign Relations.

Mr. **WILSON** presented the petition of George W. Armstrong, son and executor of the late Major Samuel Armstrong, praying compensation for the losses and injuries sustained by his father, and for the military and other services rendered by him, during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. **JOHNSON**, of Tennessee. I present a petition of citizens of New York and its vicinity, praying that the public lands may be laid out in farms and lots for the free and exclusive use of actual settlers only.

I will remark, in this connection, that, in my own State, at a public meeting, resolutions have been passed in favor of this measure, and urging the friends of it to press its consideration.

The petition was ordered to lie on the table.

Mr. **KING** presented a memorial of citizens of New York and Brooklyn, praying an appropriation for erecting earth-work redoubts on Long Island; which was referred to the Committee on Military Affairs and the Militia.

Mr. **BIGLER** presented a petition of citizens of Pennsylvania, praying the imposition of such duties on articles of foreign manufacture as will protect the interests of those engaged in the manufacture of similar products in that State; which was referred to the Committee on Finance.

He also presented the petition of the heirs of Nehemiah Stokely, an officer of the Revolution, praying to be allowed the half pay promised by the resolves of Congress; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of the heirs and legal representatives of Brigadier General William Thompson, an officer of the Revolution, praying to be allowed the seven years' half pay due to his widow and orphan children, under the resolve of August 24, 1780; which was referred to the Committee on Revolutionary Claims.

THE RECIPROCITY TREATY.

Mr. **SEWARD**. I submit the memorial of the president and directors of the Board of Trade of the city Oswego, in the State of New York, stating that, from their practical experience, the reciprocity treaty between the United States and Great Britain, concerning the trade between British North America and the United States, has worked efficiently and well; that it has been productive already of vast benefits to the United States; but representing that great injury is done to the citizens and trade of the United States by the manner

in which the provisions of that treaty are carried out under the administration of the consul general of the British North American colonies, appointed by the Government of the United States; that under his administration this great trade, instead of being international and reciprocal, is placed upon a strictly foreign basis, and a beneficent treaty differs only in name from those between this Government and Spain or France or any other foreign Government. The memorial represents that he has appointed a large number of deputies, known as consular agents or vice consuls, who claim the right of exacting fees for certificates on all shipments from Canada to the lake ports. The fees from these certificates, and the delays and inconveniences of procuring them, are a direct charge to the trade to the detriment of the citizens of this country. They pray that this abuse may be abated. I move the reference of this memorial to the Committee on Foreign Relations.

The motion was agreed to.

Mr. FESSENDEN. I have a petition from the Board of Trade of the city of Portland, Maine, the contents of which I design to state. It is, in most respects, very similar to that which has just been presented by the Senator from New York. It is accompanied by some tables showing the great increase of trade between this country and the British colonies since the reciprocity treaty, and it goes on to state that that trade has actually been falling off in some measure during the last year; that the cause of it is, in some degree at least, owing to exactions by the great number of agents appointed by the consul general for the British provinces, who resides at Montreal. It prays that the provisions of that treaty which have been so beneficial may be extended as far as possible, so as to include the products of the workshop and the manufactory; and particularly prays that the present trade may be relieved from the onerous and unjust exactions imposed upon it by the consul general and his agents. I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. FESSENDEN. I move further, that the memorial which I have just presented be printed.

The VICE PRESIDENT. The motion will go to the Committee on Printing under the rules.

Mr. FESSENDEN. I suppose it may be printed for the use of the Senate without being referred to the committee.

The VICE PRESIDENT. Only by unanimous consent.

Mr. FESSENDEN. I presume there will be no objection. It is a short memorial.

The VICE PRESIDENT. The Chair hears no objection. By unanimous consent the memorial will be ordered to be printed.

REPORTS FROM COMMITTEES.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the petition of citizens of Jackson, in the State of California, praying the establishment of a tri-weekly mail route between St. Joseph, Missouri, and Placerville, California, submitted an adverse report; which was ordered to be printed; and asked to be discharged from the further consideration of the subject; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 36) explanatory of an act entitled "An act for the relief of George Chorpennig, jr.," approved March 3, 1857, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of George Chorpennig, praying the passage of an act to construe the act of 3d of March, 1857, for his relief, asked to be discharged from its further consideration, and that it be referred to the Court of Claims; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 8) to provide ice boats for the Potomac river, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of John W. Post, of Illinois, who claims to be the inventor of a new principle for the conveyance of mail matter by means

of tubes, balls, and atmospheric pressure, and asking Congress to cause an investigation to be made into its merits, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 15) authorizing a renewal of certain contracts for carrying the mail on the Mississippi river, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of citizens of Edgefield district, South Carolina, praying the establishment of a post office at Kaolin, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of J. W. Sullivan, praying indemnification for losses caused by the repeated failure of the mail between New Orleans and San Francisco, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 496) to abolish the franking privilege of members of Congress, and for other purposes, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 384) to regulate the rates of postage to and from foreign countries, asked to be discharged from its further consideration; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to inquire into the expediency of making such changes in the Attorney General's office as will improve its efficiency, without increasing its aggregate cost to the Government, reported a bill (S. No. 576) concerning the office of Attorney General; which was read and passed to a second reading.

Mr. RICE, from the Committee on the Post Office and Post Roads, to whom was referred the petition of Sheldon McKnight, praying additional compensation for carrying the mails on the Cleveland, Detroit, and Lake Superior routes, from the year 1848, to the present time, submitted a report accompanied by a bill (S. No. 577) for the relief of Sheldon McKnight. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 606) for the relief of Sylvester Churchill, reported it without amendment.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print a letter of the Secretary of State, communicating a report of the commercial relations of the United States with foreign countries, reported in favor of printing the usual number in quarto.

BILLS INTRODUCED.

Mr. GWIN. I ask the unanimous consent of the Senate to introduce a bill to release the payment for the town site of the city of San Francisco. It is important to have this bill passed at an early day, as the title to property of great value depends upon its becoming a law. The city of San Francisco, under the acts of 1844 and 1853, applied to enter the site of the city, but at that time there was no receiver of public money to receive the payment for the same. Subsequently, by the passage of the consolidation act, which defined every object for which money should be drawn from the city treasury, and this item was not named, the power was taken away from the City Council to use the funds of the city to complete the entry, and it is feared the use of private funds might invalidate the title. It is, therefore, important to pass this bill and release the city from the payment, and thus perfect the title. The amount is very small, and I hope there will be no delay in acting on the bill.

Leave was granted, and the bill (S. No. 578) to release the payment for the town site of the city of San Francisco was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. JOHNSON, of Arkansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 579) to authorize the investigation and determination of asserted titles to the Hot Springs of Ouachita, in the State of Arkansas;

which was read twice by its title, and referred to the Committee on Private Land Claims.

ARIZONA AND DACOTAH.

Mr. GREEN. I submit the following resolution:

Resolved, That Senate bill No. 555, being a bill for the organization of the Territories of Arizona and Dacotah, be made the special order for Saturday next, at twelve o'clock.

Mr. COLLAMER. I object to its consideration to-day.

The resolution lies over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (No. 239) for the admission of Oregon into the Union.

ENROLLED BILL SIGNED.

A subsequent message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed an enrolled bill (S. No. 239) for the admission of Oregon into the Union; and it was signed by the Vice President.

BILL BECOME A LAW.

A message at a later hour from the President of the United States, by Mr. HENRY, his Secretary, announced that the President had this day approved and signed an act for the admission of Oregon into the Union.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

An act (H. R. No. 277) for the relief of Mary Boyle;

An act (H. R. No. 426) for the relief of Monroe D. Downs;

An act (H. R. No. 481) for the relief of Dinah Minis;

An act (H. R. No. 575) for the relief of Robert A. Davidge; and

An act (H. R. No. 577) for the relief of Rebecca M. Bowden, of Prince George county, Virginia.

A. BAUDOUIN AND A. D. ROBERT.

Mr. SLIDELL. I ask, what I very rarely do, the indulgence of the Senate to take up and consider a private bill that will lead to no debate. On Saturday the Senate adopted a resolution to consider bills to which no objection should be made. An objection was made by the Senator from New York [Mr. KING] to this bill. I think after having heard the report he will be satisfied that it is eminently just and equitable, and ought to pass.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 245) for the relief of A. Baudouin and A. D. Robert.

It directs the Secretary of the Treasury to pay the sum of \$2,000 to A. Baudouin and A. D. Robert, in full compensation for the damages sustained by them arising from the sinking of a flat-boat of ice, at New Orleans, by a steamboat in the service of the United States.

Mr. SLIDELL. The report is very short; it will explain the bill.

Mr. KING. I ask that the report be read. I objected the other day because I thought the bill ought not to pass, but I am not disposed by interposing an objection to its passage, to prevent its being considered.

The Secretary read the report.

The Committee on Claims, to whom the petition and proofs of A. Baudouin and A. D. Robert, of New Orleans, was referred, report:

That the petitioners have, by proper proof, satisfied your committee that they were on the 21st day of March, 1846, owners of a flat-boat of ice, containing (230) two hundred and twenty tons, which boat, loaded with ice, had on that day been towed down to the landing in the first municipality in the city of New Orleans, set apart to them by the wharfing; that just before she was properly fastened to the wharf, and whilst their boat was tied to another boat, the name of which is not given in the proof, but declared by the petitioners to be the schooner Commerce, Captain Pierce, she was run into by the steamer Colonel Harney, then in the service of the United States, and commanded by the officers of the Government. The proof shows that the Colonel Harney was under a heavy pressure of steam, and that the act was apparently the result of great carelessness or wantonly mischievous, whereby the petitioners lost the

boat, which was sunk, and the ice, valued at \$2,000; the proof is that there was two hundred and twenty tons, and that it was worth ten dollars per ton.

Suit was brought in the United States district court, and the evidence on file which makes this case, was taken contradictorily with the United States district attorney, and would between individuals, have given the plaintiffs a judgment for \$2,000, but the case was dismissed upon an exception, which was, that the Government could not be sued; whereupon the parties appealed to Congress for redress, and on the 15th December, 1846, this case was referred to the Committee of Claims, and referred to the same committee again on the 17th December, A. D. 1847; that on the 30th March, 1848, a bill was reported to this House for \$2,000, accompanied by a report from Mr. Rockwell, which report and bill is herewith submitted; that the report and bill were referred to the Committee of the Whole on the state of the Union and recommended by the committee to the House for passage, but was not reached. The papers were again referred to the Committee of Claims on the 23d of January, 1850, and on the 13th of February following a report was made from this committee by Mr. Nelson, with a bill for the relief of the parties, which report and bill were referred to the Committee of the Whole on the state of the Union, and reported back with a recommendation that it do pass the House; that the report of the committee was not finally acted on. The bill went to the Speaker's table and was not reached. In view of all these facts the committee report back all the papers with a bill for \$2,000 for the relief of the petitioner.

Mr. J. A. Rockwell, from the Committee of Claims, made the following report:

The Committee of Claims, to whom was referred the petition of A. Baudouin and A. D. Robert, of the city of New Orleans, report as follows:

The petitioners represent, and prove to the satisfaction of the committee, that on the 21st March, 1846, a flat-boat belonging to them, loaded with ice, while laying at the wharf at the city of New Orleans, in proper place, was struck by the steamer Colonel Harney, which was coming up the river under full steam; that, by the force of the collision, the bottom and side of the flat-boat were so broken and disjointed that it commenced filling with water so rapidly that the cargo could not be saved, and the boat and cargo soon sunk to the bottom of the river. The steamer was in the service of the United States at the time, and under command of an officer of the United States, and the act was one of manifest negligence. Under the state of facts existing in this case, as between individuals, there could be no doubt of the right of the party to claim the amount of damages sustained, and the obligation of the Government is the same. The steamer was libeled in the United States court at New Orleans by the petitioners, and most of the testimony was taken in the presence of the United States district attorney, who cross-examined the witnesses. The libel was dismissed on the ground that the Government could not be sued. The proof is, that the loss sustained by the petitioners was \$2,000, and for this sum the committee report a bill, and recommend its passage.

Mr. KING. I regard this bill as one involving this simple principle: whether the United States is liable for any injury accruing from any improper conduct on the part of its officers. That is the case set forth in this report. I think it is eminently proper that this case should go before the Court of Claims. I will make that motion. As the case is before the Senate, I move that the bill be referred to the Court of Claims. If the Senate reject that motion, I will say no more upon the subject.

Mr. SLIDELL. Under ordinary circumstances, perhaps, that would have been the proper course to have been pursued with this bill; but the matter has been now pending before Congress for some seven or eight, I think ten, years. There have been repeated favorable reports on the subject, and a reference now to the Court of Claims would inevitably lead to a further delay of two years before the Government would reimburse what it certainly justly owes. Perhaps the Senate have not listened to the report, and I will state very briefly what the facts were.

A Government transport steamer, commanded by an officer in the service of the Government, and manned by a crew paid by the Government, ran into a flat-boat moored to the levee at New Orleans. There can be no doubt where the responsibility—where the fault was. It is not the case of a collision of two vessels under sail. A flat-boat is in quiescence, and a steamer belonging to the Government of the United States runs into her. The parties, perhaps ignorant of the character of the precise ownership of the vessel, have recourse to the admiralty court of the United States, to the remedy which they could find there, and could have found in the courts of the United States by proceeding *in rem* against the vessel that committed the mischief. Testimony was taken, contradictorily by the district attorney in the court of the United States, which comes up with these papers, proving conclusively, not only the fault of the officer commanding that vessel of the United States, but the nature and extent of the loss sustained by the libellant in the case. The case, however, is dismissed on an exception taken by the district attorney, that that remedy could not

be employed against the Government of the United States. Now, what is the position of the Government? If this steamboat had belonged to individuals, the remedy against them would have been plain and simple, and these men would have had their money ten years ago. They have been knocking during that time at the doors of Congress; repeated favorable reports have been made in the case, and the simple question now is, whether you will delay them two or three years more in a case in which equity, and, as I think, the law, is so clearly with the petitioners. I trust the Senate will reject the proposition made by the Senator from New York.

Mr. KING. If I was satisfied that these parties were clearly and justly entitled to the amount, I would not make this motion; but the testimony is *ex parte*, and I think this is the proper course to be pursued on such a claim.

Mr. BAYARD. It seems to me the statement of the honorable Senator from Louisiana involves the necessity of sending this case to the Court of Claims. The principle certainly is an important one. There can be no doubt about the fact that the Government of the United States are not liable for all illegal acts of officers in command of national vessels, nor is the vessel liable; though, by admiralty law, in cases of collision, and many other cases, the vessel as well as the commander and owners, is liable. But in the case of a national vessel, beyond all question the Government would not be held liable in a proceeding *in rem* arising out of an illegal capture or collision at sea. If that be the case as regards a national vessel, if I understand the matter correctly, the court decided that a vessel in the employment of or chartered by the Government, and under their control, is not liable to a proceeding *in rem*; and the party must resort for remedy against the individual, whether a Government officer or not, who commits the act. That does not make the Government liable; nor can I see on any principle that we should be either legally or equitably liable under circumstances of that kind. It would be just the case where the commander of a national vessel-of-war makes an illegal seizure, and subsequently is sued individually, and recovery is had against him. The Government is not responsible in all cases for the illegal acts of its officers. There may be exceptive cases in which the Government would relieve the officer from the responsibility. Under the circumstances, I think this case should clearly go to the Court of Claims.

Mr. HAMLIN. I wish to ask the Senator from Louisiana a question. I think the whole matter turns upon a single point, at least so far as my vote will go. Did the court, on an investigation of this case, declare, or is it true that, if the vessel had been sailed by an individual, the owners of the boat would have had a right to recover against them?

Mr. SLIDELL. I did not precisely hear the question of the Senator from Maine.

Mr. HAMLIN. If I understand the case, a boat, loaded with ice, was run into by a Government vessel; that case was investigated by your court, and the court decided that an action would not lie against the Government.

Mr. SLIDELL. That is, against the property of the Government.

Mr. HAMLIN. The point I want to know is this: had the vessel running into the one loaded with ice been owned by an individual, would that individual have been liable?

Mr. SLIDELL. There is no question about it in the world.

Mr. HAMLIN. Then, I think the Government ought to stand as the individual.

Mr. KING. I will inquire further, on what authority, whether on his own judgment of the law or the facts, or on any opinion expressed by the court, the Senator from Louisiana expresses that opinion? He may be satisfied that the Government would be liable; but was the court satisfied, or is there any competent authority satisfied of it?

Mr. SLIDELL. I stated before, and restate now, that if the steamer had been owned by individuals, they could have been brought into the district court, and the property they owned would have been liable for the reimbursement of these damages. I say the Government stand precisely in the position of the owners if they had been private individuals, liable to the same responsi-

bility, only they could not be sued in their own courts for a debt due to individuals. As to the facts, there is no dispute. The amount of ice on board the boat is proved. The claimants claim \$2,200. There were two hundred and twenty tons of ice and the boat itself. My colleague knows very well what the usual price of ice is. It is never less than eight or ten dollars a ton. The cost of freight on it to New Orleans is three or four dollars. If there were any doubt at all, either about the law or the facts, or the equitable obligation to pay, in accordance with the course I have always pursued here, I would not object to its reference to the Court of Claims. The facts are proved beyond dispute, and it is a case of great hardship.

The VICE PRESIDENT. It is moved and seconded that the bill be referred to the Court of Claims.

The motion was not agreed to.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. FESSENDEN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 10; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Chesnut, Clark, Collamer, Dixon, Fitch, Fitzpatrick, Foot, Green, Gwin, Hamlin, Harlan, Iverson, Jones, Pearce, Reid, Seward, Slidell, and Ward—25.

NAYS—Messrs. Bayard, Clay, Davis, Fessenden, Johnson of Arkansas, Johnson of Tennessee, King, Rice, Stuart, and Wade—10.

So the bill was passed.

ADMISSION TO THE FLOOR.

Mr. DAVIS. The complaint, which is general in the Chamber, as to the ventilation and heating, indicates to me the propriety of allowing the officer in charge of the construction to have the privilege of the floor of the Senate during the period of construction, so that he may regulate the draught, the amount of heat, and such other questions connected with the comfort of the Chamber. I therefore ask that the Senate will now order that the officer in charge of the construction of the wings of the Capitol, be allowed, during the period of construction, the privilege of admission to the floor of the Senate.

Mr. SLIDELL. I hope that motion will be concurred in. I thought it was unusually warm just now, and I had the curiosity to consult the thermometer. My seat stands at 89°, and the seat of the Senator from Rhode Island [Mr. ALLEN] at 94°. If we have any regard for our health, I think we should endeavor to put a stop to this. I confess this is hotter fire than I am accustomed to, and I should like to retreat if I could.

Mr. FESSENDEN. I wish to inquire if the officer in charge thinks he can remedy the matter by being allowed to come into the Chamber while the Senate is in session?

Mr. DAVIS. I will merely say that the officer in charge left many problems for observation in connection with the drafts and heating of the Chamber, which he proposed to study when the room was occupied and the heat admitted, which he cannot study so well at any other time.

The VICE PRESIDENT. The Chair hears no objection to the suggestion of the Senator from Mississippi, and the order will be made.

RATES OF POSTAGE.

Mr. DIXON. The Senator from Florida, [Mr. YULEE,] from the Committee on the Post Office and Post Roads, reported a bill for raising the rates of postage, and other purposes. When that bill comes up for consideration in the Senate, I intend to move an amendment to strike out the whole of the bill after the enacting clause, and insert a substitute; which I ask may be read for the information of the Senate, and ordered to be printed with the bill.

Mr. STUART. I inquire of the Senator, whether he would not be as well satisfied to have it printed without reading?

Mr. DIXON. It is very brief; and I think it would be as well as to have it read.

Mr. STUART. It will take time to read it.

The substitute was ordered to be printed.

Mr. DIXON. I ask the Senate to indulge me in reading it.

Mr. STUART. Very well; if the Senator desires it.

The VICE PRESIDENT. The Secretary will read the amendment.

The Secretary read the amendment; which is, to strike out all after the enacting clause, and insert the following:

That the privilege of franking, sending, and receiving letters and other packages free of postage, heretofore extended to official and other persons, shall be, and the same is hereby, abrogated.

Sec. 2. And be it further enacted, That the Postmaster General shall prepare and furnish, for the use of the several Government Departments and the President, printed envelopes or wrappers, for Government documents and correspondence; said envelopes or wrappers to be received at the post office in Washington as Government matter, the postage to be charged to the particular Department that it comes from, provided they are mailed by a known officer or messenger of the Government, and not otherwise.

Sec. 3. And be it further enacted, That the postage on all Government mail matter mailed at Washington, in accordance with the provisions of the preceding section, and all the mail matter addressed to any of the Departments, Government officers, or members of Congress at Washington, and mailed without being prepaid, shall be charged to the Department or branch of Congress mailing or receiving the same, and at prepaid rates; the expense of the same to be paid by appropriations from the Treasury, the same as provided for other Government expenses.

Sec. 4. And be it further enacted, That all Government mail matter, mailed or received in accordance with either of the two preceding sections, may be weighed in bulk and charged at the rate of five cents for every ounce of the letters, and twelve cents for every pound of the printed matter; but no provisions of this, or either of the two preceding sections, shall apply to the transportation or charge for mail matter for the Government, except such as is sent from, or received at, the post office in Washington city.

Sec. 5. This act shall take effect on the 4th day of July, A. D. 1859.

INDIANA ELECTION QUESTION.

Mr. COLLAMER. It is with some reluctance, but feeling it a matter of duty, I desire now to call up for consideration the case of the Indiana Senators. I have regarded that as a question of privilege. I suppose that it is subject to be called up at any time; that its privilege consists in that; that it is to be preferred to any other order of business except at particular stages of business, such as taking the yeas and nays. I desire to call it up. If it is objected to, I shall desire the decision of the Chair in relation to my right to call it up. I do not, myself, regard it as a matter of any consequence how it came on the table, nor do I wish to argue that question at any time. I desire, however, to be understood by the Chair that, if it is not my right to have it taken up, I move to take it up, and shall want to be heard on that point.

Mr. GREEN. To accommodate all parties, I was going to move that it be taken up and made the special order for to-morrow at twelve o'clock.

Mr. COLLAMER. I should have no particular objection to that, but the gentlemen from Indiana have been waiting for some time. Common courtesy to them, as well as to their State, and the nature of the subject, requires that it should be disposed of. I do not want to enter at all into its merits, but I desire that the question shall be disposed of. I will further remark, in answer to the suggestion of the Senator from Missouri, that courtesy requires, as it seems, in this body, that we should not interfere with any previous arrangement in relation to particular gentlemen having taken the floor to be heard on particular topics. I have understood that the Senator from Virginia [Mr. HUNTER] expects to speak on the subject of the tariff, probably in the course of to-day, at a reasonable hour.

Mr. GREEN. At twelve o'clock.

Mr. COLLAMER. No matter about that. He will have time enough in the course of the day. I understand further, that the Senator from Kentucky [Mr. CRITTENDEN] has the floor to be heard on the subject of Cuba, for to-morrow. Of course, every time when we reach the proper hours, there is an imperative demand of courtesy which prevents us exceeding it. Under these circumstances, I cannot but feel that it is a duty which I owe to the subject, as well as to the body, to ask that it be taken up, and in some way disposed of.

Mr. JOHNSON, of Arkansas. I believe this is wholly irregular. There is but a moment or two left now of the morning hour, and I ask permission, in order that I may get some of my business through, that I be allowed to introduce a bill for the purpose of reference.

The VICE PRESIDENT. The motion of the Senator from Vermont is one of privilege, and is in order at any time.

Mr. JOHNSON, of Arkansas. Will the Senator allow me to introduce a bill for the purpose of reference?

Mr. COLLAMER. If the gentleman wishes to present a matter of that kind, I will not stand in his way.

Mr. JOHNSON, of Arkansas. I only want to refer it, and the reason I ask it is, because it is so late in the session.

The bill was introduced and referred, and will be found in another column.

The VICE PRESIDENT. The Chair will state to the Senator from Vermont, and to the Senate, that he has reflected somewhat upon the question which was asked by the Senator on Friday last, and has an opinion upon it. This question is one of privilege; but under the control of the Senate. The Senate having directed it to lie upon the table, the Chair thinks that the Senator from Vermont cannot, as a right, call it up without a motion; but that, as a question of privilege, he has a right to make the motion to take up, in preference to other business.

Mr. COLLAMER. I said I would make that motion if it was necessary. The honorable Senator from Virginia has just spoken to me on the subject. Inasmuch as the Chair decides that I have the right to make this motion at any time, and inasmuch as he is desirous of proceeding at this time with his remarks, and it will be in order to take it up at the close of his remarks on the tariff, nothing being assigned for that time, and he suggests that he will probably occupy an hour, I desire to have it understood that I shall move to take up this subject for disposition when the Senator from Virginia shall have closed his remarks.

The VICE PRESIDENT. The hour of twelve having arrived, the Chair calls up the special order for this hour; which is the joint resolution for the presentation of a medal to Commodore Paulding.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the resolution offered by the Senator from Pennsylvania.

The motion was agreed to.

THE TARIFF.

The Senate accordingly resumed the consideration of the following resolution, submitted by Mr. BIGLER, on the 31st of January:

Resolved, As the opinion of the Senate, that the creation of a large public debt in time of peace is inconsistent with the true policy of the United States; and as the present revenues are insufficient to meet the unavoidable expenses of the Government, Congress should proceed, without delay, to so readjust the revenue laws as not only to meet the deficit in the current expenses, but to pay off the present debt, so far as it may be liable to immediate cancellation.

The pending question being on the amendment of Mr. JOHNSON, of Tennessee, to strike out all after the word "resolved," and insert:

That the President of the United States be, and he is hereby, requested to cause the heads of the various Executive Departments to submit estimates of expenditure for the Government to the Thirty-Sixth Congress, upon a basis not exceeding \$50,000,000 per annum, exclusive of the public debt and the interest thereon.

Resolved, That so much of the President's second annual message as relates to a reduction of the expenditures of the United States, which is in the following words, to wit: "I invite Congress to institute a rigid scrutiny to ascertain whether the expenses of all the Departments cannot be still further reduced, and I promise them all the aid in my power in pursuing the investigation," be referred to the Committee on Finance; and that said committee are hereby instructed, after first conferring with and obtaining all "aid" and information from the President and the heads of the Departments, as indicated in the President's message, to report a bill reforming as far as possible all abuses, if any, in the application of the appropriations made by Congress for the support of the various Departments, and which will reduce the expenditure to an honest, rigid, economical administration of the Government.

Mr. HUNTER. Mr. President, believing, as I do, that the resolution of the Senator from Pennsylvania presents an issue between high taxation and extravagant expenditure on the one side, and moderate taxation and economical expenditure on the other, I feel bound to deliver my views in regard to it, and also to say something upon the tariff of 1857, which has been the subject of so much comment here and elsewhere. Perhaps, sir, I ought to be willing to leave this whole subject where the masterly argument of my friend from Georgia [Mr. TOOMBS] placed it; but my personal connection with the tariff of 1857 will excuse me for trespassing a while upon the time and patience of the Senate.

It will be remembered by many Senators here, under what circumstances the tariff of 1857 was passed. A large surplus revenue was annually accumulated in the Treasury of the United States

under the tariff of 1846, and thus presented a constant temptation to the legislative and executive departments of the Government, to embark into a lavish and prodigal system of expenditures. It was the concurrent opinion of almost everybody that the only way to prevent that system of expenditures was to reduce the revenue; to take away the surplus which offered this constant temptation. The former Secretary of the Treasury, Mr. Guthrie, reported a scheme which he said would yield a revenue of \$50,000,000, and that that revenue, together with what might be expected from the public lands, would be sufficient for all the ordinary purposes of the Government; and he founded that opinion upon the fact, that for the five preceding years the average annual expenditure, exclusive of the payments for the public debt, had not much exceeded \$48,000,000. Under these circumstances, the tariff of 1857 was prepared. It was introduced here upon the estimate that it would yield from \$48,000,000 to \$50,000,000 per annum. Upon that estimate it passed, receiving large majorities in both Houses of Congress. Unfortunately for it, during the first year of its operation it encountered a severe financial pressure, but it yielded that year, which was obviously no test, between \$41,000,000 and \$42,000,000; but this, the first year in which there has been for a part of the time some revival in trade and credit, it promises to yield all that was ever claimed for it, to wit, \$50,000,000, which is the estimate of the Secretary of the Treasury.

I know, Mr. President, that the Senator from Rhode Island [Mr. SIMMONS] seems to think it will yield only \$40,000,000; but he surely has forgotten that even during the last fiscal year it yielded between \$41,000,000 and \$42,000,000; that in the first two quarters of this year it has already yielded something like \$23,000,000; and, inasmuch as it is altogether probable that the last two quarters will yield more than the two first, there can be, I think, very little doubt that this tariff will yield fully as much as is estimated by the Secretary of the Treasury. If it shall do so, then it will have performed its promise; and the question arises with us, whether we will use this tariff, which was thus devised; which is doing what was promised for it; which is carrying out our original purpose, to wit, to enforce economy and retrenchment in public expenditures; or whether, on the other hand, we shall resort to an extravagant system of expenditure, and raise the tariff to correspond with that system.

I know, sir, that in propounding the issue as I have done, to be one between extravagant and economical expenditures, I am differing from the President of the United States and the present upright and able head of the Treasury Department. I know, too, that they would recommend nothing which they did not believe to be necessary and proper under all the circumstances of the case; but still I have formed, after very careful consideration, a very different opinion, and upon my opinion I must speak and act. The Secretary reports to us that we expended, in the last fiscal year, when on account of the Mormon expedition we required a great deal of money, \$71,000,000, exclusive of the payments for the public debt; and he estimates for the present fiscal year, as well as I remember, an expenditure of something like \$74,000,000. For the next fiscal year he estimates an expenditure of \$73,000,000, and says that there is a post office deficiency of nearly \$4,000,000, which will have to be added to it so as to raise \$77,000,000. We are asked, too, to provide revenue enough by changing the tariff to enable us during the next year to meet these extraordinary expenditures, and also to begin to pay off the public debt. From the proceeds of the public lands for these two years he estimates but \$6,400,000, that is \$3,200,000 a year; and if we are to pay off a portion of the public debt, that is as little as could be thus applied; so that we should have to raise the whole sum for the annual expenditure, the sum of \$76,000,000 or \$77,000,000, by a tariff. Is it possible to do this? Could we lay a tariff which could pass through either House to tax the people so severely as would be necessary to accomplish this object? In my opinion, in order to do it, you would have to reduce the twenty-four per cent. schedules to twenty per cent; because I believe you would get more revenue by diminishing it than increasing it; you would have to take tea and coffee and some other articles out

of the free list; and it is very doubtful if, with all that, you could raise, for the next year, as much as would be necessary to meet this extraordinary expenditure.

Well, Mr. President, if it be impossible to accomplish the purpose of squaring our revenues and expenditures in that mode, is there no other manner in which we can accomplish it? Let us look to the estimates of expenditure; and I think when we come to analyze them, we shall find that we can reduce those expenditures so as to bring them within the probable means of the Government. The Senator from Georgia remarked on the very unusual fact that the Secretary of the Treasury argued that we should expend the whole of the outstanding balances, to wit: \$12,000,000. He showed by reference to past history that this had never been done before; on the contrary, that, taking any two years, the amount remaining outstanding one year was about equal to what remained outstanding the year before; and proceeding upon the same estimate, and adopting the same usage, I do not see why there might not be a reduction of the estimates full \$12,000,000; \$12,000,000 deducted from \$73,000,000 would leave \$61,000,000; and if you must add to that the expected Post Office deficiency of nearly \$4,000,000 it would raise the appropriations to \$65,000,000.

Now, sir, on analyzing the estimates, I think it may be done. Let us take the estimates of the War Department. The War Department estimates that it will want an annual appropriation, together with the permanent appropriations which it will use, of \$20,577,456; that it will want of the outstanding appropriations \$3,361,000; "because the existing appropriations, part of which are required for the payment of the liabilities of the present fiscal year, but which will not be drawn from the Treasury until after June 30, 1859, and the balance applied to the revenues of the fiscal year, ending June 30, 1860, will be \$3,361,000." Now, is it not obvious that if, during this fiscal year, liabilities are incurred to the amount of \$3,361,000, which are not to be paid until the next fiscal year, during the next fiscal year there will probably accrue the same amount of liabilities to be paid in the year which succeeds; so that there will be as much left unexpended of the present appropriations during the next fiscal year, as will be left unexpended during the present fiscal year to be paid out of the next. It is plain that this must be so; and that the Secretary of the Treasury has either estimated too much or too little. If the same amount of appropriations are left unexpended for the next fiscal year that are left this, then he has estimated too much in supposing that we shall expend \$12,000,000. If, on the other hand, we are to expend the whole of the \$12,000,000—as it is obvious that there must be, in the nature of things, liabilities in the next year which will not be paid until the succeeding year—then he has not estimated enough, because there will be a deficiency fully to that amount.

I say, therefore, that we may fairly, in my opinion, assume the responsibility of legislating upon the position that there is as much to be left of the appropriations unexpended in the next fiscal year, as will be left in this; and indeed, when we come to look at the amounts, I cannot but think that that is what was intended by the estimate of the Secretary of War. The whole expenditures of that Department for the last year, which included the expenditures for the Mormon expedition, were \$25,485,000. Now, the estimates for the next year, in which we ought not to have near so many expenses, are \$20,577,000. I have been informed by the head of the quartermaster's department that it is probable we shall be able to cut down those appropriations somewhat, because the wars in Oregon and Washington are at an end. But is not \$20,577,000 enough for the War Department to expend in the next fiscal year? And why might we not say, in the bill appropriating this money, that no more shall be expended in the next fiscal year than it is estimated he will want of annual appropriations, and out of the permanent appropriations? If we did this, it would be necessary, for that year, to allow him unlimited discretion in transferring from one head of appropriation to another—that is, of the appropriations contained within that bill.

Now let us look at the Navy Department. The Navy Department last year expended \$13,680,000. The estimates this year are \$13,500,000, and

\$3,243,000 out of outstanding appropriations for this year to be expended in the next. Why cannot we say, in the bill, "you may expend what you spent last year, and no more; pay the liabilities that occur this fiscal year out of those outstanding appropriations of the next; but diminish your expenditures under these others, so that there may be the same amount to transfer to the succeeding fiscal year."

Mr. FESSENDEN. Will my friend allow me to interrupt him? I do not exactly understand him. I wish to ask a question for information as he goes on. I understand that he deducts, in the first place, from \$73,000,000, or \$75,000,000, all the amount of appropriations on hand; that is, the unexpended balances. He takes them as a deduction and thus reduces the estimate to \$61,000,000, or \$63,000,000. Does he now propose to take in detail the several items which make up that amount, and deduct those also?

Mr. HUNTER. I will explain. I stated first that \$12,000,000 might be deducted, because it had been the habit to leave as much unexpended in one year as had been unexpended in the year before; and in order to prove that it might be \$12,000,000, I take the estimates in detail, and show how in each appropriation you may cut off such an amount, that by adding the whole together, you get the whole \$12,000,000.

Mr. FESSENDEN. Then the Senator is merely endeavoring to prove the first proposition.

Mr. HUNTER. I am merely endeavoring to prove my first proposition. Now, sir, for the civil list: we expended last year on the civil list, exclusive of the public debt, \$36,387,000. This year the Secretary of the Treasury, who seems to have made large deductions, proposes something like \$19,000,000, exclusive of outstanding appropriations, of which he wants to use \$4,270,000. Here, again, it seems to me, the rule applies. The same liabilities will occur in the next fiscal year, to be paid in the succeeding year, that occur in this; but, if I have doubt in regard to any of them, it is in regard to these; because here the largest reduction has been made. When you come to the Interior Department there is a simple cutting down of expenditures from \$6,021,000 to \$4,096,000, and no application there to use outstanding balances.

If, then, we add these several sums, they will constitute \$12,000,000, to be deducted from the estimate of \$73,000,000; and if you allow the Post Office Department a deficiency of nearly \$4,000,000, you will raise the whole amount required to \$65,000,000. If you raise it up to \$65,000,000, it is allowing the Post Office Department to expend more than \$9,000,000 above its revenue from postage. If you reduce it to \$61,000,000, it is allowing the Post Office Department to expend \$6,000,000 above its revenue. Why cannot we declare, in the Post Office bill, to put some restraint on him, that the Postmaster General shall use only the \$6,000,000 out of the Treasury, and cut off between \$3,000,000 and \$4,000,000? If we did that, it would be some practical limit upon his discretion.

But let me go further, sir. Why cannot we make it a self-sustaining institution, and cut off the \$6,000,000 which it draws from the Treasury? and if we did, it would reduce our annual expenditures to \$55,000,000 or \$56,000,000. I know that it is said by my friend from Pennsylvania, [Mr. BIGLER,] that he is unwilling to increase the postage, because, under our present mail service, the North pays more than its share; and, in order to sustain himself in that proposition, he credits New York and Philadelphia with all the amounts of prepaid postage which they received. Why, does not everybody know that the New York merchant and man of business charges his customers with the postages; that, in reality, they are paid by them; and that, so far as that is concerned, the effect of the arrangement is to give to New York all the benefit of the patronage arising out of the management of this revenue, instead of charging it with the excess which is supposed? The same I may say in regard to Pennsylvania. I ask, where is the justice of making the man who does not receive letters and papers, pay for the man who does? Where is the justice of taxing that man so as to make his hoe and ax and his blanket and his coat cost him more than they should do, in order to enable those who receive letters and papers, to receive them at less

than they ought to pay? Whatever class there may be in this country, which is benefited by a special service of the Government, should pay the expenses of that service of which they are the sole recipients.

If then, Mr. President, you were to make the Post Office self-sustaining, were to make the Department pay its own expenses out of its revenues, we should be able to reduce the expenditures of the Government, I believe, to \$55,000,000 or \$60,000,000. A bill has been reported from the Post Office Committee which will go far towards doing that. It will raise, as I understand, the receipts upon printed matter and upon letters, between \$3,000,000 and \$4,000,000. It will cut off the franking privilege, which is estimated—I know that it is an arbitrary and a conjectural estimate—at \$1,500,000 more. Besides that, there is an opportunity for large reductions in the postal service. I believe the California mails could be furnished at a saving of hundreds of thousands of dollars, and that California could be furnished better mail service at this less expenditure than it now receives. I believe there might be a limit put on the route agents who are established. I think we might repeal that discretionary law which allows the Postmaster General to increase the salaries of the postmasters at pleasure; and I think if we did these things, which Congress might do, we could save the \$6,000,000, and bring it down. Why should we not do it? There are strong moral and political reasons for doing it. As it now stands, it is a vast machine of irresponsible power. The Postmaster General can run us in debt as much as he pleases. He can appoint as many postmasters as he pleases. He can add to, or diminish, the service upon particular routes. He can accept what bids are made, no matter how extravagant, that he chooses; and the consequence is, that in the exercise of this discretion there has been the most alarming increase of the burden which the Post Office Department imposes upon the Treasury.

Allow me, sir, at the risk of being tedious, for this is a matter which Senators should consider, to refer to the rapid growth of expenditure in that Department. I hold in my hand a table, which was made out with great care for me at the Treasury Department—a statement of the amounts which have been paid out of the Treasury to sustain the Post Office Department. In the year 1846 it commenced with \$810,231 62; in 1847, it was \$536,298 99; in 1848, \$22,221 96; in 1849, \$681,500. It goes on in that way gradually. In 1854 it was \$4,742,114 77; in 1855, \$4,248,849 19; in 1856, \$4,598,402 87; in 1857, \$4,746,499 67; in 1858, \$5,564,495; in 1859, \$9,164,935 10.

Now, sir, at this rate of increase, it is manifest, and it may be made at the discretion of the Postmaster General, that the expenses of this Department, drawn out of the Treasury, will soon be greater than those of the Army or Navy. Is it not time that we should impose some restrictions upon the exercise of this discretion? Is it not time that we should say in the appropriation bill, "You shall expend no more than you receive from your revenue?" or if Congress should think he ought to have more, then that "You shall expend no more out of the Treasury in addition to your revenue, than a given amount;" imposing thus some limit on their discretion? There has never been anything like the growth of the patronage of this Department. Allow me again to refer to a paper of interest, in this connection.

I find that there are in the United States 27,977 postmasters, whose entire compensation is \$2,355,000; that \$918,000 in gross are appropriated to clerks in the post offices; that there are 440 route or mail agents, costing \$334,000; 28 express route agents, costing \$28,000; 23 local agents, costing \$29,989; 1,404 mail messengers, costing \$184,634; 31 special agents, whose compensation and other expenses amount to \$73,527. The salaries of the Post Office Department proper cost about \$170,000; so that we see here are a number of officials, outnumbering either the Army or the Navy, under the influence of the Postmaster General, who has the power, I may say, to increase them at pleasure.

This is not all. I have not measured the total extent of its influence. I have shown you the officers who are distributed in every city, in every village, in every cross-road station in the land. I might add that he exercises a powerful influ-

ence through the press in almost every congressional district in the country; that under his influence, too, to some extent, we ought to place the contractors and their army of employes, who are also dependent upon him for the exercise of a large discretionary power over them. Now, sir, I say that there are strong moral and political reasons which should induce us to curtail this; and I know no better limit than to say he shall expend no more than he receives; and for that I am willing to agree to any modification of the rates of postage which will effect that end. If this is not the best, give us something that is better. I agree with the Senator from Rhode Island that heretofore the printed matter has not borne its fair proportion of the expenditure. I am willing to increase that proportion; to equalize the burden between them; but in the name of Heaven, let us put some practical limit on the discretion of the Post Office Department, and say that it shall not exceed its revenue.

If, Mr. President, we should reduce the expenditures to \$65,000,000, which would allow the Post Office Department to expend between nine and ten million dollars out of the Treasury, we should have, according to the estimate of means of the Secretary of the Treasury, a surplus of \$4,000,000 next year. If we should reduce them to \$61,000,000, we should have a surplus amounting to \$8,000,000. If we should reduce them to \$56,000,000, we should have a surplus amounting to \$13,000,000; and we should thus have the means, and ample means, to meet the proper, ordinary expenditures of the Government, and to begin to pay off the public debt. Is there any fear that he will not receive the amount of his estimate—\$69,000,000? He estimates the receipts from public lands, for this fiscal year and the next, at \$6,044,000. Do we not know that, if the Department had put the lands in the market; we should have received that, and probably more than that, in one year? I know and I appreciate the excuse. I know that, in the hard times which we have passed over, the preëmptors probably did desire further credit, that they might be able to pay for their lands when the times were easier; but trade and commerce are now reviving; and not only that, but the Secretary of the Interior might discriminate, and put them in by degrees. There are fifty-nine million acres of public lands which have never been brought into market for sale. Of these, about five million acres have been surveyed and unoffered for five years and more. We might begin with them; put these five millions into the market; then put in those which have been surveyed three years and more, and so on; and thus, by degrees, collect the money which is due. Besides, I believe—I speak from memory—the preëmptor can pay with land warrants, which are selling far below \$1 25 an acre; and thus, if the Treasury did not get immediate benefit, we should absorb the land warrants which have taken so much from our Treasury. We sold eleven million acres last year; but the land warrants absorbed so much of it, that but little came into the Treasury. Take these out of the market, and allow us to draw all the revenues that may be had from the public lands, and I do not believe that Mr. Guthrie's estimate, which was some \$8,000,000 from the lands, would be found extravagant.

But I must here ask you to note, sir, that I am not demanding a larger estimate than the Secretary himself has given of the receipts from public lands; but I am merely presenting these facts in order to show that they may be larger. Besides, some revenue may probably be derived from the mineral lands. Some system might be devised by the Committee on Public Lands for the sale of mineral lands, so as to raise us some money without inconveniencing or injuring the inhabitants of the Territories or States in which they may be.

And how is it as to the Secretary's estimate in regard to the customs? He estimates \$56,000,000 for the next fiscal year. I find that, according to previous experience, this is no extravagant estimate. Under the tariff of 1846 the imports increased at the rate of ten per cent. annually. Going back, I find that, in the year 1856, there were \$295,000,000 of imported goods entered for consumption. If we were to allow an increase of ten per cent. annually on \$295,000,000 from that time, it would amount to some \$400,000,000 for next year; but put it at half—at five per cent.; and by the end of 1860, the increase from 1856 ought

to be twenty per cent.; and that, added to the \$295,000,000, would give us something like the sum of \$350,000,000 of imports entered for consumption. Why should they not increase at this rate? Why should they not increase as fast as they did under the tariff of 1846? The price of cotton is higher than it was then, and more people and more land are employed in its production. The product of gold must be greater; for we not only have California, but we have new discoveries which are probably very rich, and more people are employed in its production. Tobacco never bore better prices; there never was a larger number of hands engaged in the production of that staple. It is true that the prices of the cereals, of wheat and of corn, have not been equal of late to what they were some two years ago; but that depression is manifestly temporary, or, if it be not temporary, it will be more than made up by the increased product. But, to be safe, I will suppose the imports to increase not as fast, but half as fast as the increase under the tariff of 1846. I will take the increase at five per cent.; and that will give us, for the coming year, \$350,000,000 of imports entered for consumption.

I find, by referring to the Secretary's tables that \$242,000,000 of goods were entered for consumption last year, on which \$40,000,000 of revenue were raised, being seventeen and two tenths per cent. of the entire amount of importations entered for consumption. Take \$350,000,000, at seventeen and two tenths per cent., and the revenue from customs will reach very near \$60,000,000; and I understand that some of the best informed persons and most experienced merchants in New York actually estimate the probable receipts of the next fiscal year at from \$60,000,000 to \$63,000,000. I learn that from one of the members of the House of Representatives from the city of New York. But it is not necessary to commit ourselves to any such estimate; nor do I. It is enough for me to say, that so well do I feel assured that the Secretary's estimate of \$56,000,000 will turn out to be under, rather than over, the mark, that I am willing to take the responsibility of legislating on that estimate. If we do, there is no reason to doubt but that the means for the next fiscal year will be fully \$69,000,000. I think the chances are that they will be more; because I think, if the public lands are put in the market, they will yield more than the Secretary has estimated. If this be so, it is for Congress to say whether they will put it beyond the reach of doubt that the revenues from the tariff of 1857, together with those arising from the public lands, shall be sufficient not only to meet the ordinary and necessary expenditures, but to commence the payment of a portion of the public debt. Could we achieve anything that would gratify the people more than to make so appropriate and so just a retrenchment?

It is to be remembered in regard to the tariff of 1857, that most of the products are brought in under the schedules which pay thirty, twenty-four, nineteen, and some little under the fifteen per cent. schedule. More than two thirds of the imports entered for consumption come in under these schedules; and if the time is not now, the time soon will be, when these articles will yield more revenue under the lower schedules than they would under the schedules of twenty, twenty-five, thirty, forty, and one hundred per cent., according to the tariff of 1846. It is true, that will not be the first effect; for if it would be there would have been no use in lowering the duties; but that that is to be the ultimate effect who can doubt? We all know that so rapid is the advance of manufacturing skill in this country, that thirty per cent duty ten years hence would prohibit a great deal of importation more than it would now, and that thirty per cent. duty on importations now would prohibit a great deal more than it would have done in 1846.

I say, therefore, that, looking at the subject in every point of view, it seems to me that it would be unwise and inexpedient to touch, for the present, the tariff of 1857, especially when you remember that the Secretary himself does not estimate a deficiency until the end of the next fiscal year. When we come back at the next session of Congress, if we should find that the revenues were not likely to be sufficient, then everybody would agree that it was necessary to raise the tariff, and we might come to some general understanding on the subject.

But, sir, I come now to the tariff of 1857, which, as I said before, has been the subject of so much comment, both here and elsewhere. Again, I beg to recall to the attention of those Senators who were here present when it passed, the circumstances under which it did pass. It was known to all of them that a reduction of one fifth or one sixth on the high schedules was all that could be obtained. It was known further, that any attempt at a greater reduction would render it impossible to pass the tariff at all. That became a fixed point. Taking that as a fixed point, how were the revenues to be reduced to \$50,000,000? One thing that was done, and one which was necessary in order to get it passed—and a very proper thing, as I think I shall be able to show—was to make free a great deal of raw material, for the sole demand was created by the manufacturers, and this was added to the old free list. Another was by reducing articles from higher schedules, in which they might have remained if it had not been for the necessity of reducing the revenue, and transferring them lower, as in the case of spices. Suffice it to say, that a general arrangement was made to produce the sum which is to be produced this very fiscal year, and it was made and passed by a larger vote than was ever given to any other tariff since the dispute first commenced in regard to this mode of taxation. So far as those who desired protection were concerned, (and everybody here felt that interests which had been called into being under heavy protection ought not to be suddenly prostrated,) I believe all interests were satisfied except, perhaps, it was the iron interest; but no one believed or felt that it was exactly the tariff he would have passed if he had the making of it, or that it came within bowshot of what he would have done if he had unlimited discretion in regard to the matter. The tariff of 1846 was not framed upon revenue principles, but I voted for it because, according to my view, it was so much better than that of 1842. I admit that the tariff of 1857, is not strictly upon revenue principles, but it approached them much nearer than the tariff of 1846, and I voted for it because it did come nearer to my views than the tariff of 1846. Now I come to the specific objection which is made against it by those with whom I act, and with whom I generally agree in opinion.

It is said that the free list is too large. So far as those articles on the free list are concerned, which enter into general consumption, like tea and coffee, which are made free in order to create a necessity for laying higher duties on articles sought to be protected, I think the objection is just and legitimate. But when you come to the other objection, that it is improper to include anything on the free list, I must dissent. I believe that where there is an article for which the sole demand is made by the manufacturers, and which would not be imported but for their demand, it is strictly according to revenue principles to bring that article in free of duty. Take the case: unless the manufacturer would use it, if you laid a duty on it you would get nothing; but if by making it free he uses it, you are just where you were; you get nothing in either case, except that by making it free you bring into existence a great productive interest; you diminish the price of production, and diminish the price to the consumer; and you diminish the price to the consumer, not only by what the American manufacturer reduces the price of his article, but you bring down the foreign article with which he comes in competition in the like proportion. But that is not the only view of the case. Take the case of England, who admits raw cotton free. She manufactures it and exports it in the manufactured state, and her exports not only sell for enough to pay for the raw material, but they bring in, as a surplus, a return cargo of dutiable goods that pay her more revenue than she would have received if she had laid the duty on the cotton itself. As a revenue measure, England does wisely in making raw cotton free. There is yet another view of it. To lay the duty on the raw material is to do that which is considered a barbarism in finance by all political economists; it is to lay a tax on production. Permit me here for a moment to illustrate from the experience of a sister nation. It was proposed during the administration of the younger Pitt, when England was hard run, to lay a duty on pig iron; but the argument was presented—an argument to which he had to yield, for the vote was so close that if

the ministry had pressed it they would have had to go out of office—that

"It was a received principle of taxation that no duty should press upon any article in its rude and early state, since it caused a uniform rise of prices in every article into which it was afterwards wrought up. In this instance, though the sum that would enter the Treasury would not be more than £200,000, yet a tax of nearly £1,000,000 would be raised from the community at large."

I had occasion myself before, on this subject, to illustrate by this very matter of raw cotton. Suppose England lays a duty on raw cotton. That duty enters as an element of price, and the interest and profit on that duty in the sale of twist when the man that twists it comes to sell to the weaver. The weaver again, when he comes to sell it, finds the increased cost of profit and interest an element in the price of his article, on which he now lays another profit, and charges more interest. The weaver now sells his article to the printer, and he has to go through the same operation. Thus by the time the printed cotton is sold to the consumer, the consumer perhaps has to pay three or four times as much as the Government received in the shape of taxation; three or four times as much as he would have had to pay if the Government, instead of laying its first duty on the raw cotton, had waited until it was finally manufactured into that shape in which it would be used, and had laid a duty raising the same amount on the printed cotton. It is obvious, therefore, that taking this question in every point of view, there is nothing lost to the revenue, and much gained to the consumer, by giving the manufacturer, free of duty, that raw material which would not be imported but for the demand which he makes for it.

I say, then, that so far as that is concerned, in my opinion, it is no objection to the tariff of 1857; and as to the addition which it made to the free list, although it seems formidable in its items, yet in point of value, it is very little. A table in the report of the Secretary of the Treasury shows that if we had received the duties of 1846, on what was made free by the act of 1857, in the importations of 1858, the entire loss would only have been about \$1,800,000. The greater proportion and the valuable portion of the free list consists of tea and coffee, and articles of that sort, which are as legitimate subjects of taxation as any others.

I come now to the third objection which is made to this tariff—an objection made by the President of the United States himself, and made by the Senator from Rhode Island—and that is that it imposes *ad valorem* instead of specific duties. They say that, financially, the specific would be right, because when the prices are high, and the manufacturers do not so much want protection, the specific duty bears most lightly; and when prices are low, and the manufacturer does want it, the specific duty raises more money for the Government. Besides, they say, the specific duty system is one which is least liable to fraud. I differ from both positions. Let us see how it works.

When there is an expansion in the credit system and goods come in freely, that is the time, if it ever should be, when the revenue system should operate as a check, in order to prevent overimportations. Then the *ad valorem* system would operate more heavily as a check than the specific duty system. When, on the contrary, times are hard and few imports are coming in, then is the time your revenue system should operate most lightly, to encourage importation; but that is the time when the specific duty system operates most heavily. In other words, as a system of taxation—and, in my judgment, that is the only way we ought to look at it—the specific system makes the consumer pay the least tax when he is most able to pay it, and the most tax when the times are hard and he is least able to pay it. The *ad valorem* system, on the contrary, makes him pay the same at all times; but, as compared with the specific system, makes him pay more when he is most able, and least when times are hard and he is least able; and the result of that would be that when times were hard, as they were in the recent pressure, it would be far better to use the credit of the Government; and then when times are easy and the money can be paid readily, to take the surplus and redeem your stock. I know it is said there is a waste in premium; but what does that loss on the premium compare with the general equilibrium of the system? I say that loss

need not exist if you adjust your system of finance carefully; because if when you originally propose your loans you send them out with such interest as will just bring par, there will not be such a variation when you come to redeem them out of the surplus; and it is easy so to adjust your system of credit as to pay your loans annually, biennially, quadrennially, or just as you choose.

But, sir, there is another point of view in which, financially, the *ad valorem* is much preferable to the specific system. It is more stable. Take your specific duty; you intending to lay it at the rate of twenty per cent. Your manufactures improve, and the cost of production diminishes. Then, as the cost and price go down, your tax rises, and it actually becomes higher, when you want it less, than it was in the original instance. Take the *ad valorem* system, and it is proportional; it is the same, whether the prices are high or low. It is like paying in kind. If it is twenty per cent., it is like throwing one bar, out of every five, into the Treasury, and, whether it be high or low, you throw the same one bar. On the contrary, under the specific system, you pay the same duty when the cost of production is decreased, making a much higher tax than you do when the cost is high. But this is not all; it operates as a fraud, and inevitably as a fraud on the consumer. By a specific duty, you lay the same tax on the cheap that you do on the dear fabric; and you make the poor man, who consumes at low prices, pay higher tax than the rich man, who consumes at high prices. There is yet another objection to it. It is a fraud on the tax payer; because, when specific duties are laid for the purpose of protection, they are laid to conceal the amount of tax which is paid. Take the *ad valorem* system, and any man can see what he is paying; he can turn to your statute-book and know whether he is paying one half, or one third, or one fourth, or one fifth.

I say, therefore, that, in a financial point of view, the *ad valorem* is by far the best; but how is it in regard to the prevention of fraud? Under the *ad valorem* system, your appraiser has to decide upon questions of quantity and price. Under the specific system, he has to decide on questions of quantity and quality. Which is more difficult to ascertain—the quality of goods, or the foreign price? In regard to the foreign price, we have the prices current from abroad, and we have the consular certificates. Every skillful appraiser in New York knows the prices abroad, and if he makes an error it is most probably a wilful error. If you will appoint skillful and honest and faithful men, and not act upon the rotation system in regard to them, you will have as faithful appraisers, as faithful valuations, under the *ad valorem* system as you can have under any other system. In truth, they are more apt to be over the mark than under it; because the laws, as they now stand, afford a premium to overvaluation. If, when you bring goods into market at New York, they are undervalued more than ten per cent. they are declared to be forfeited; and, in order to prevent frauds on the part of custom-house officers, a man is allowed to raise his invoice ten per cent.; and if, after having raised it ten per cent., it is still under the value given by the appraisers, it is forfeited, and the custom-house officers get the benefit; and I am told their salaries are going to be large under the seizures that are constantly multiplying, so that there is every inducement to them to overvalue instead of undervalue; and, as some proof that what is thus true in theory is also true in practice, allow me to refer the Senate to some tables which I have had prepared on the subject.

I have caused statistics to be prepared of the imports from France and England, as shown by our tables, for the years 1853, 1854, 1855, and 1857. Eighteen hundred and fifty-six is omitted, because we have no statistics for that year. I have also caused a table to be prepared of the statements at the French and English custom-houses, taken from the report of the Board of Trade of the one, and the Tableau General of the other, and I have compared the two estimates; that is to say, I have compared the estimate of the foreign value, as made by their own returns, and I have compared the estimate of the foreign value as made by our appraisers, and it is remarkable to see how near they coincide. I have taken England and France together, because it was impossible to ascertain exactly what either sent to us singly,

so much of the commerce of France coming through England. I find that, according to the French and English estimates, they sent to this country in those four years, \$662,689,443 worth of goods. I have the commerce for the same calendar years, made out in the Register's office, and I find we have received, according to our statement, from those two countries in those years, \$678,633,800, being a difference of not quite three per cent. In point of fact, that difference is not as large as it ought to be, because it will be remembered that the values of what arrive here are to be diminished by damaged appraisement, are to be diminished by what is lost at sea, are to be diminished by the fact that, at the French custom-houses, every cask is estimated as being full, whilst here they pay only for the quantity it contains. I present the tables. The statement from the Register's office is:

Statement exhibiting the value of imports from Great Britain and France for the years 1853, 1854, 1855, and 1857:

Year ending	Great Britain.	France.	Total.
Dec. 31, 1853.....	\$149,151,759	\$38,151,569	\$187,303,328
1854.....	135,275,549	35,000,411	170,275,960
1855.....	103,629,411	37,598,461	141,227,872
1857.....	130,467,739	49,359,061	179,826,800
Total.....	\$518,524,458	\$160,109,342	\$678,633,800

F. BIGGER, Register.

TREASURY DEPARTMENT,
REGISTER'S OFFICE, February 11, 1859.

The imports as made out in the Commerce and Navigation Reports, from the statements of the English and French custom-houses, are:

Years.	Great Britain.	France.	Total.
1853.....	\$130,265,340	\$33,455,942	\$163,721,282
1854.....	146,438,537	35,781,393	182,219,930
1855.....	106,543,180	31,609,131	138,152,311
1857.....	130,803,093	47,792,827	178,595,920
Total.....	\$514,050,150	\$148,639,293	\$662,689,443

A still more remarkable confirmation of the fact is found, when we descend to some particular articles, but I have not been able to get that in calendar years. If there were any articles upon which there would likely be frauds, it would be silk, cotton, and woolen goods. Our estimates show for 1857, \$78,238,892 of these goods, imported from Great Britain and France; the French and English custom-house returns show \$80,799,106, being about the same difference of between two and three per cent. It is true the comparison in this last estimate is between the calendar year of Great Britain and France, and the fiscal year of the United States, but the other comparison is for four years between the calendar years of each.

I say then, that both fact and theory go to prove that we are not more subject to frauds under the *ad valorem* system than we should be under the other. So much, then, Mr. President, for the tariff of 1857.

But the State of Pennsylvania, the old Keystone State, complains that that tariff does not yield her enough protection. Iron has twenty-four per cent. in the way of duty; it has at least six per cent. in the costs and charges of bringing it over; it has, as it goes into the interior, in its favor, the expense of transportation, from two to two and a half or three cents per ton per mile, until you get within a very short distance of where the domestic manufacture has a monopoly; yet that is not protection enough! Why, Mr. President, I do not believe that protection helps even those interests which it seeks to do; but, on the contrary, the system of protection has only the effect of diminishing the general level of profits of all employments. It is so upon theory. The iron interests ask protection. Why? Because, if left to the natural laws of trade, they cannot work to as much profit as the labor engaged in commerce, in navigation, or in agriculture. Well, the Government favors it, and puts up the price, and makes laborers engaged in other occupations pay more for what they get, and in proportion as they pay more you diminish their general level of profit; and if their general level of profit goes down, if the manufacturer attains higher profits by this protection, other laborers and capitalists go into that employment and bring him down to the general level of profit. This is proved not merely by theory, but by experience. There is no period in our history when the iron manufacture increased so rapidly as it did under the tariff of 1846. The same thing was proved in English

experience in regard to silks; the manufacture flourished the moment they removed the high protective duties.

But whether that be so or not, it is not necessary here to inquire further. I say that the Secretary of the Treasury has proved conclusively that whatever sufferings the iron interest experienced, were produced by the revulsion in the currency system and the system of credit; because he showed that there was actually a smaller importation under the tariff of 1857, than there had been before, and that prices fell in England where they could not have been affected by this tariff, as they did here; and in point of fact, we know that the sufferings of the iron interest in Great Britain have been as severe as any experienced here, but there they attribute them to the true reason. When there is an expansion of the currency, interest lowers, capital becomes cheap, persons establish manufactures in localities where they would not have dreamed of establishing them if they had been subject only to the natural laws of trade. By and by, revulsion comes; these establishments topple down; they force their iron into the market; they bring down the good as well as the bad, because they lower the price in the general, until it has become a maxim of the English manufacturers, that a successful iron-master must be a buyer as well as a maker of iron; that is to say, he must have capital enough when the price of iron is depressed, to go into the market and buy it and hold it up until it resumes its natural price.

In 1843, there was a distress produced by these very causes in England, fully as great as that experienced by our people in the last year. They went to Sir Robert Peel and told him they must have more bank paper, more money to raise prices; but that sagacious statesman knew that to yield to their request would have been to have added fuel to the flame, to have given whisky to the drinker, laudanum to the opium eater; and he sent them away on their errand. Here is a description, and at the risk of wearying the Senate, it is so *appropos* to something that I think the Senator from Pennsylvania may have seen out of the Senate, that I will ask a few minutes to read it:

"In the Times, of the 21st of June, 1843, an article appeared, taken from the Monmouthshire Merlin. After speaking of the failure of the Messrs. Harford & Davis, the writer goes on to say: 'The present state of the iron trade annihilates hope; we see nothing but ruin before us and behind us. The kingdom, for a few years past, has been making iron in enormous quantities. Capital, accumulated annually from extensive orders and large sales, was laid out in building new furnaces, opening fresh mines, exploring mineral districts hitherto untouched. The large fortunes already secured, in times when the foreign markets were all our own, and the produce at home scarcely sufficient for the demand, arrested the eager eyes of small capitalists, and induced the formation of companies, into which the whole livings of professional men and private individuals of comfortable means were recklessly cast—each member of every company so formed, expecting to be at least a Bailey, a Guest, or a Crawshaw, if not eventually a Peel or an Arkwright. Then, also, another new invention for realizing large percentages, exaggerated the evil. The joint stock banking companies opened their ledgers with profuse generosity, and advanced money upon anticipated calls, to realize immediately schemes the most gigantic and costly in the history of iron making.'

"Thus we saw furnace after furnace, almost in geometrical proportion, starting up and sending forth its huge volumes of smoke and blaze into the evening sky. Towns were built as though by the aid of some genius of the Eastern lamp, in the wilderness and upon the mountain side. Capacious houses for genteel clerks, and acute managers, and roving directors, flanked the long vista of a beautiful front elevation; and thus the legitimate iron-master, having already overlaid his market by bestowing all his surplus capital for the extension of his works, found himself, also, in his turn, overlaid by an accession of a swarm of adventurers in trade, armed with plenty of money, profuse in expenditure, and the ignorant tools of those 'wise in their generation.' If it had been a law of nature that the whole world should, for a given number of years, be clothed in iron, be domiciled in iron, sleep upon iron, ride upon cast-iron horses, and in cast-iron chariots, no greater zeal to give effect to the law could have been displayed than that which has prompted the production of a vast mass of iron at the juncture and under the circumstances which we have attempted to describe. The result is a collapse of the whole trade—a fatal reaction—doubt and dismay.

"In very many instances, we should say generally, with one or two particular exceptions, dependent upon favorable contracts, the iron-masters are losing nearly one pound sterling per ton upon their make; and that, too, in establishments where the strictest economy is practised, the greatest skill exercised, and the vigilant eye of a prominent member of the firm always upon the works. What, then, must the joint stock company be losing, with its double establishment of clerks, its committees, and town offices, its everybody's work and nobody's work? At least ten shillings per ton additional. The 'fix,' as the Americans call it, is most disastrous. The question is, who shall blow out

and retire? Are the great and ancient houses in the iron trade to retreat before the companies, or the companies before them? Is the small and respectable iron-master to be smashed in the conflict? This is the matter at issue; and which party soever may ultimately gain the victory, its path will be strewn with the wreck of property, and the ruins of many estimable men."—*Scrivener on the Iron Trade*, page 293.

So that we see, Mr. President, that the revulsions in the iron trade have been quite as great and severe in Great Britain as they have been here; but there they ascribed them to the true cause—a revulsion in the credit system; and well has it been said, in a lecture to which I shall presently refer, on the iron trade, that the produce of gold in California is doing much to protect the iron interest. The gold digger in Australia and California is doing more this day, in giving stability to the currency, to give protection to the manufacturer, than all the customs laws you can pass in this body; and if we could afford the manufacturer protection against this, it would be better than if we passed a customs law which required every pound of imported iron to pay its pound of gold before it could be entered for consumption. It is to that work that they should address themselves. They should go to the Legislatures of their States—Legislatures which have already been engaged, and wisely, to some extent, in limiting expansion upon issues of paper money, but which have not yet taken up that other branch of the subject, which is quite as important—the limitation of the loans upon deposits.

I believe that, if it were not for these revulsions in the credit system, we should never hear applications for protection from Pennsylvania; because it has been proven, I think, by the experience of the past, that we can make iron in most localities as well as they can in England. I hold in my hand a lecture delivered by Abram S. Hewitt, in 1856, in which he declares that the average cost of producing iron in this country is as low as it is in England. He states that it is inevitable that any great increase in the make of iron in England must be attended with an increase of the cost of production, because she has exhausted all those localities which have a natural capacity for producing iron at a high profit, and hence it will cost more; whilst here, owing to the superiority of our natural advantages, we could extend the make to sixty million tons without increasing the cost of production; because we have cheaper coal and cheaper ore. He says ours are natural advantages in the shape of cheap raw materials; theirs are artificial advantages in the shape of cheaper capital and cheaper labor. Those artificial advantages are diminishing daily, whilst our natural advantages must be constant and permanent. He refers to the fact that the consumption of iron is increasing so largely all over the world. He says every mile of railroad that is made takes ninety-six tons; and it takes eight per cent. on that to keep it in repair. At that day, in 1856, he estimated the miles of railroad in this country at twenty-one thousand. We know how rapidly they have been increasing since. We know that iron is entering as a material in the construction of houses and ships; that the consumption is increasing faster than the production. That was proved by the fact to which he referred, that although the production increased in England, the price did not diminish.

But, sir, he gives us a table, in which he shows that the decrease of the importations of railroad iron in 1855, from an average of five years, was one hundred and one thousand tons, while the increase of the domestic production in 1855, on the same average, was thirty-five thousand tons. He sums up the argument in this brief statement; he says:

"The practical results which this paper offers for your consideration, are—

"1. That the United States have greater natural resources for the production of iron than any other country of the earth, in consequence of the moral elements which characterize the nation, the unlimited possession of mineral coal, the abundance and richness of its ores, and the vast system of natural and artificial avenues of transportation which traverse the land.

"2. That the difficulties in the way of a large production are purely social and artificial; namely, the dearth of capital and labor; which obstacles are being slowly and surely overcome by the progress of the country, and the fact that the increase of consumption throughout the world will, at an early day, task the production of iron in Great Britain to its utmost limits, and consequently increase its cost and price.

"3. That, as the United States have no competitor but Great Britain, the surplus demand over and above the

power of Great Britain to supply, must be met by the United States.

"4. That the growth of the business hitherto, has surpassed the corresponding growth in Great Britain; and as we may be said to have commenced fifty years behind her, we are, at this day, only nineteen years in arrear, and may, under all the circumstances, reasonably expect to overtake and pass that country in the amount of annual production."

If all this be so, and I believe it to be undisputed and indisputable, it is clear that the iron-master has nothing to fear from competition abroad if he can be protected from the revulsions which prostrated him last year, but which involved him in no greater difficulties and mischiefs than attended all other species of production in this country. The iron-master in the valley of the Delaware, was not more injured than the grower of corn and wheat in my State, or than the manufacturer of cottons or of woollens. All only suffered a common injury and a common loss.

For these reasons, Mr. President, I have come to the conclusion, sometime since, that it was inexpedient to touch the tariff. I believe we had better take the other alternative; reduce the expenditures; bring them down to sixty-five, sixty-one, or fifty-six million dollars, the lower the better, and I believe Congress could do either. And, suppose we could accomplish that result and go through without raising the taxes, what laurels would this Government and this Administration gather by turning their attention in that direction. We know that they experienced great difficulties at the commencement; they had to encounter a deep financial pressure; they had, on account of the Mormon difficulties, to organize large military expeditions at great expense. If now they should pass through all these difficulties, and reduce the public expenditures, and come through them without increasing the taxes, they would gather laurels, because they would scatter benefits throughout the land. I, for one, sir, so far as my responsibility is concerned, in a legislative capacity, will aid them, and I will go for reducing the expenditures within certain limits and bounds; and it is the only way, in my opinion, to get along with safely and according to true principle in the present crisis of affairs.

But, Mr. President, the Senator from Rhode Island made an appeal to us in the name of the American laborer; and whenever he speaks on that subject he moves my sympathies, because he is eloquent and sincere; he touches my heart if he fails to convince my head; but when I come to reflect coolly upon it, I find that my theory of doing it is very different from his. I, too, would aid the American laborer. The paths we would pursue to reach the same end diverge most widely. I would cheapen the ax with which he hews his way into the forest; the hoe and the plow with which he wrings from the reluctant grasp of mother earth a hard-earned subsistence for his wife and his children; the blanket which covers him by night, and the coat which shields him by day against the storms and the rigors of winter. I would diminish the price of the bolt with which the sailor fastens the sides of his ship together, and cheapen the cordage which holds the spars in their places; and by all justifiable means in my power I would open to him every port upon all the seas. I would cheapen to the manufacturer the tools which he used and the clothes which he wore; I would cheapen to him the sugar that sweetens "the cup that cheers but not inebriates;" and I would relieve him from the sense of dependence for his subsistence upon bounties to be extracted from the hard earnings of his fellow laborers. I would extend, because I would cheapen the cost of making, that iron path upon which our citizens of every degree are speeding by day and by night in pursuit of their objects of pleasure or of profit. In short, sir, I would open wide the door to the self-development of American industry, and leave it free to pursue the bent of its own genius; and if it did not then achieve whatever is grand and useful or curious and beautiful in art, the fault would rest not upon the want of proper opportunity, but upon its own incapacity. For myself, I am willing to abide the result. I do not distrust the capacity of my countrymen to do as much as has been effected by any other nation in founding empires or building up industrial systems.

Sir, the young giant of the West has now assumed the full dimensions of manhood. It is

ridiculous to attempt to guide him by the feeble leading strings of your protective system. It is idle to seek to bind him for fear he should do himself mischief if you should give him the free use of his limbs. No, sir, let him go; let him take the range of the earth in pursuit of his royal instincts of power and of empire; and my word for it, he will not stop to set up his pillars at the straits of a smooth and tideless sea; he will not pause at the first outlook upon the wide and stormy ocean, but he will bravely breast its billows and buffet with its storms, whether it be to coast the icy cape or to pursue the burning line, and he will leave monuments of his progress and of his power which will endure, I trust, as long as the Rock of Gibraltar itself. That he will be a prodigy of power, I doubt not. That he will also be a minister of mercy, I wish I were equally sure of; but I much fear me that, wherever he may go, and however distant the land, if there be a handful of earth to be had, or a single twig growing upon a tree, he will return to them as emblems of his seizin, and evidences of his title to a possession that may be worse than useless to him after all. Sir, I observe that, at the very name of territory, his whole nature seems to change: he becomes as wild as the old Phœnician with his bullskin measurement of land; as crafty as that old Saxon sea-king, his progenitor, perhaps, who, having obtained the possession of a lapfull of earth, sowed the dust over whole fields which he claimed to hold under such fictions of law as the strong alone can impose upon the weak. But, sir, while I would restrain him from this universal lust of acquisition, I think there are exceptions to the rule. I would not dissuade him from the use of all honest and just means for the acquisition of Cuba. It is the rib which was taken from his side: "male and female created He them."

The following table was that to which the honorable gentleman referred as his authority for the expenditures of the Post Office Department:

Statement showing the amount paid from the United States Treasury on all accounts, from March 5, 1845, to December 18, 1858:

Year ending June 30, 1846.....	\$810,231 62
" " " 1847.....	536,298 99
" " " 1848.....	22,221 96
" " " 1849.....	681,500 00
" " " 1850.....	188,569 45
" " " 1851.....	1,302,365 09
" " " 1852.....	1,973,506 46
" " " 1853.....	3,518,683 61
" " " 1854.....	4,742,114 77
" " " 1855.....	4,248,849 19
" " " 1856.....	4,598,402 87
" " " 1857.....	4,746,490 67
" " " 1858.....	5,564,495 20

36,169,927 74

To the 20th day of December, 1858, part of 1859.....\$3,236,188 86

Amount estimated to be required for the remainder of the year ending June, 1859.....3,833,728 00

Amount required of balance to the credit of the appropriation for steam mail service, ending June, 1859.....765,018 24

Amount required of balance to the credit of the appropriation for steam mail service, ending June, 1859, under act of March 3, 1847.....100,000 00

Amount required of balance to the credit of the appropriation for steam mail service, ending June, 1859, under act of March 3, 1851.....250,000 00

Amount required of balance to the credit of the appropriation for steam mail service, ending June, 1859, under act of June 14, 1853, to supply deficiencies.....975,000 00

9,164,935 10

Total amount paid from the Treasury from March 5, 1845, and estimated to be paid therefrom, up to June 30, 1859.....\$42,098,673 98

The estimate of the probable deficiency of the public monies to meet expenditures upon an economical scale, is based upon the supposition that a bill passes authorizing the reissue of the Treasury notes now in circulation.

Several SENATORS addressed the Chair.

Mr. SIMMONS. I should like to ask the Senator from Virginia if he has no tables there showing—

Mr. COLLAMER. Will the Senator indulge me a moment?

The PRESIDING OFFICER, (Mr. REID, in

the chair.) The Chair recognizes the Senator from California.

Mr. PUGH. I ask permission of the Senate to present the credentials of Hon. JOSEPH LANE, one of the Senators elect from the State of Oregon.

Mr. COLLAMER. I insist on my right to the floor. I was told the gentleman from California had it, and it seems he gives it up to the Senator from Ohio.

Mr. BIGLER. I thought I had the floor.

Mr. PUGH. I rise to a question of privilege if that will satisfy the Senator from Vermont.

Mr. COLLAMER. I was before you. Mine is a privileged question first; but I will see what the Senator's privileged question is, and if it is one that does not take time, I shall give way.

Mr. GWIN. It is merely to introduce the new Senators from Oregon.

Mr. COLLAMER. Certainly I have no objection to that, if it does not take time.

Mr. PUGH. I ought to say, in excuse, that the Senator from California yielded to me, or I should not have come in conflict with the Senator from Vermont.

SENATORS FROM OREGON.

Mr. PUGH presented the credentials of Hon. JOSEPH LANE, elected a Senator by the Legislature of the State of Oregon; which were read.

Mr. GWIN presented the credentials of Hon. DELAZON SMITH, elected a Senator by the Legislature of Oregon; which were read.

The VICE PRESIDENT. The Chair begs leave to state to the Senate, that, by an error, the Oregon bill, after having been signed by the Chair, was taken to the President of the United States without the signature of the Chair having been announced here. It was a mistake; it will be entered properly on the Journal, if there be no objection. The Chair hears no objection.

The affirmation prescribed by law having been administered to Messrs. LANE and SMITH, they took their seats in the Senate.

Mr. GWIN submitted the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Oregon shall be inserted, in conformity with the resolution of the 14th of May 1859, and as the Constitution requires.

Resolved, That the Secretary put into the ballot box, two papers of equal size, one of which shall be numbered one, and the other shall be numbered two, and each Senator shall draw out one paper; that the Senator who shall draw the paper numbered one, shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1859, and the Senator who shall draw the paper numbered two, shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1861.

The papers being put by the Secretary into the ballot box, the Hon. JOSEPH LANE drew the paper numbered "two," and is accordingly in the class of Senators whose term of service will expire on the 3d day of March, 1861. The Hon. DELAZON SMITH drew the paper numbered "one," and is accordingly in the class of Senators whose term of service will expire the 3d of March, 1859.

INDIANA ELECTION QUESTION.

Mr. HAMLIN. Mr. President—

The VICE PRESIDENT. The Chair will recognize the Senator as soon as order is restored.

Mr. COLLAMER rose.

Mr. HAMLIN. I rise for the purpose of calling up the bill making appropriations for light-houses; but I do not wish to interpose that motion in the way of the Senator from Vermont, if he desires to call up the Indiana election case.

Mr. COLLAMER. I believe it was understood by all, at the expiration of the morning hour to-day, that at the close of the speech of the Senator from Virginia, the Indiana case should be taken up. I feel it proper, in the discharge of my duty, to insist on it. I move that that now be taken up.

The motion was agreed to.

Mr. SLIDELL. The chairman of the Judiciary Committee is not in his place.

Mr. BRIGHT. He will be here in a moment.

Mr. SLIDELL. But I understood another member of the Judiciary Committee to suggest that, by common consent, this matter be taken up to-morrow and disposed of.

Mr. BROWN and others. Let us dispose of it to-day.

Mr. COLLAMER. There must be something very strange and extraordinary in relation to this matter, that members of the Senate are not willing to pass upon the question of whether these men shall be heard. They are asked just to pass on the question, whether they shall be heard? I ask no more now. If gentlemen do not wish to hear them now, name a day; but let these men be informed whether they are to be heard, or not. I think it is no more than common courtesy to ask the Senate to decide that question.

Mr. SLIDELL. If the Senator from Kentucky does not care to proceed immediately, I will not press the Cuba matter now.

Mr. CRITTENDEN. I wish, so far as I am concerned, to dispose of the subject on which I have the floor at as early a time as possible. I would rather go on at once.

Mr. SLIDELL. I think, then, that, according to the usual courtesies of the Senate, this matter should be postponed.

Mr. COLLAMER. The chairman of the Judiciary Committee has already announced that he will never again move this question. He considers himself as having had it taken out of his hands.

Mr. BAYARD. I will explain to the honorable Senator. What I meant to say, and did say, was, that the committee having asked to be discharged from the further consideration of the subject, and their report, giving the reasons why they thought the prayer of the memorial ought not to be granted, I considered the action of the Senate in laying it upon the table as precisely the same in effect as discharging the committee.

Mr. COLLAMER. I have stated what the gentleman said precisely as he has now announced it, except that I did not give all his reasons. He considered that such a course had been taken as substantially discharged him. Of course, then, it devolves on me to call up the question, and the gentlemen who apply here wish to have it decided. I call it up; and if Senators think it ought to give way to some other business on the ground of courtesy, let them say so. I desire to have a vote on it; I want the yeas and nays on taking it up.

The VICE PRESIDENT. The subject has already been taken up; and the question before the Senate is on the amendment of the Senator from Ohio, [Mr. PUGH,] which is:

"That the resolution of the Senate, adopted June 12, 1853, affirming the right of Graham N. Fitch and Jesse D. Bright, as Senators elect from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final decision in all the premises then in controversy, and conclusive, as well upon the Legislature of Indiana, and all persons claiming under its authority, as upon the Senators named in the resolution."

Mr. SEWARD. I understand that that is an amendment to the amendment which was submitted by myself. It is proposed to amend it by striking out my amendment and inserting in its place the proposition contained in this. The effect, therefore, will be to deny virtually the proposition contained in my amendment, and to disallow to the claimants the privilege of appearing at the bar and arguing this question. I hope this amendment of the Senator from Ohio will be rejected, and I ask for the yeas and nays upon it.

Mr. CRITTENDEN. I thought there was a preliminary question, upon the right of these gentlemen to appear and argue the very point submitted to us by this amendment.

Mr. COLLAMER. The Senator from Ohio proposes to supersede that.

The VICE PRESIDENT. The Chair will state to the Senator from Kentucky that that was an amendment offered by the Senator from New York. The question now is on striking that out, and substituting the amendment offered by the Senator from Ohio.

Mr. CRITTENDEN. That, then, is precluding the Senate altogether from having the question on the other proposition. They are distinct.

Mr. SEWARD. Let my amendment be read, and then the Senate will see what is proposed.

The VICE PRESIDENT directed the various propositions to be read, and a debate ensued which continued until a late hour, resulting in the adoption of the proposition submitted by Mr. PUGH. [This debate will be found in the Appendix.]

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 14, 1859.

The House met at eleven o'clock, a. m. Prayer by Rev. D. A. KNIGHT.
The Journal of Saturday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKENS, their Secretary, notifying the House that the Senate have passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (No. 370) for the relief of Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello; and

A bill (No. 410) to confirm certain land claims in the Florida parishes of Louisiana to the city of New Orleans and others.

Also, that the Senate had passed, without amendment, the following bills of this House:

An act (No. 277) for the relief of Mary Boyle;
An act (No. 246) for the relief of Monroe D. Downs;

An act (No. 481) for the relief of Dinah Minis;
An act (No. 575) for the relief of Robert A. Davidge; and

An act (No. 577) for the relief of Rebecca M. Bowden, of Prince George county, Virginia.

Also, that the Senate had passed the following bills of the House, with amendments, in which he was directed to ask the concurrence of the House:

An act (No. 458) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy; and

An act (No. 522) for the relief of Wright Fore.

ENROLLED BILL.

Mr. DAVIDSON. Mr. Speaker, it gives me great pleasure to report as correctly enrolled the bill for the admission of the State of Oregon into the Union, and to present it for your signature. The Speaker thereupon signed the same.

POST ROUTE BILL.

Mr. ENGLISH. I ask the unanimous consent of the House, to report from the Committee on the Post Office and Post Roads a bill establishing certain post routes.

The SPEAKER. Is there objection?

Mr. JONES, of Tennessee. There is a new principle involved, as I understand, in this bill, and which perhaps the House will not be willing to assent to. Let the last section of the bill be read. If the bill is to come in by unanimous consent, the House ought to know what it is about.

The second section of the bill was read, as follows:

Be it further enacted, That the Postmaster General be, and he hereby is, authorized, in his discretion, to contract for the carrying of the mail, according to existing laws, on all public roads which have been or shall be constructed in the United States, and in all cases when, in his opinion, the public interests and convenience require it; and that for the time during which mails shall be carried on such public roads, or any part thereof, the same shall be, and they hereby are, declared post roads of the United States.

No objection being made, the bill was read a second time.

Mr. ENGLISH. I will explain the provisions of the bill to the House. The title indicates clearly what the bill contains. It is a bill to establish certain post roads; and I may say that there is nothing in the bill except what pertains legitimately to the subject. The second section, however, is general in its character, and is somewhat important; and I therefore desire to call the attention of the House to it, so that gentlemen may vote advisedly.

Mr. WASHBURNE, of Illinois. Will not the gentleman permit this bill to be printed, so that we all can have an opportunity to examine it? Gentlemen know that mistakes in spelling the names of localities are often made in the printing of the bill; and members should have an opportunity of correcting such mistakes.

Mr. ENGLISH. At this late period of the session, I think there is no necessity of having the bill printed. There is nothing in it novel or new, except the second section, which simply authorizes the Postmaster General, in his discretion, to contract for carrying the mails over public highways according to the existing laws, and in all cases when, in his opinion, the public interest and convenience require it; and provides that, for the time during which such mails may be carried

on such public roads, or any part thereof, the same shall be declared post roads of the United States.

It may be the impression on the part of some members of the House that this provision is novel in its character, and of doubtful propriety; but I think a moment's reflection will satisfy gentlemen that it is not so. At the second session of the Thirty-Second Congress, there was a clause inserted in the post route bill declaring all railroads and parts of railroads, then, or thereafter to be, in operation, to be post roads, and authorizing the Postmaster General to contract for carrying the mails thereon according to existing laws. Again, in 1852, a similar provision was adopted in regard to plank roads. Gentlemen will perceive that the second section of this bill is a precise copy of the clause in the bill of 1852, except that the one applies to plank roads, and the other to public highways in general. This is not only the law at present in relation to plank roads and railroads, but is the law in relation to canals, and all waters on which steamboats ply regularly. The object now is to extend the same principle to the ordinary public highways of the country. I submit that this change in the system can work no injury to the public interest; but will be, on the contrary, beneficial. Gentlemen know very well that, frequently, when applications are made to the Post Office Department to put service on some public road, where an actual necessity exists for it, it cannot be done for the reason that, under existing laws, the road in question must first be declared to be a post road by act of Congress. No matter how urgent the necessity may be, parties are subjected to the trouble and delay of waiting to procure the action of Congress; and then, when established, it must be advertised, causing a delay of twelve months, or perhaps more, before the service is established.

And besides, gentlemen are well aware that these applications to Congress for the establishment of post roads are mere matters of form, rather than of substance, because it has been the general practice—I might say the invariable practice—to defer to the judgment of each member in regard to post roads in his district. I am very sure that neither the House nor its Post Office Committee can judge as well in regard to the propriety of establishing post routes as they can judge at the Post Office Department. That Department has a knowledge of all the facts having a bearing upon the case, and can act intelligently. We are acting comparatively in the dark, and the result is, that our statutes are annually swelled by a large post route bill, many of the routes conflicting with existing routes; or else, perhaps, made entirely unnecessary by other mail arrangements, of which the member recommending the route had no knowledge.

Mr. CLARK B. COCHRANE. It will be recollected that last year, in consequence of the haste in which this general post route bill passed the House, a serious mistake occurred, which had to be corrected in a subsequent bill, passed at the same session. I trust that, in view of the importance of the subject and the length of the bill, the gentleman from Indiana will consent to have it printed and placed on the desks of members.

Mr. ENGLISH. I am glad that the gentleman has alluded to what he calls a mistake in the post route bill of last session. So far as that bill, as reported from the Post Office Committee of the House, is concerned, there was no mistake at all in it, and nothing improper. It is true that when the bill went to the Senate, there was an amendment put to it, and afterwards concurred in here, which some gentlemen construed to be for the establishment of certain ocean mail service. I did not so regard it at the time, nor do I yet. There was some outcry made about it, which in reality amounted to nothing. I regarded the Senate's amendment as unimportant, and under the circumstances, voted to repeal it; but it was not repealed, and as far as I know, the provision added by the Senate has resulted in no injury in any quarter. The repealing bill to which the gentleman refers, did not, as he seems to suppose, pass the Senate.

I submit, Mr. Speaker, that the proposed change would greatly lessen the labor of the Post Office Committee, and probably enable that committee to dispense with the services of a clerk. It would facilitate the transaction of business in the Post

Office Department, and would, no doubt, operate beneficially upon the postal service in general. That is the opinion—the unanimous opinion, I believe—of the Post Office Committee, after due deliberation, and it is also the opinion of the Postmaster General. The same principle, precisely, is now applied to service upon the ocean, upon all navigable waters, upon canals, railroads, and plank roads. Why not extend it to all public highways? We should at least be consistent, and extend the principle to public roads in general, or repeal the law applying it in the cases to which I have referred. I have no feeling about it, however, further than a general desire to see the postal service put upon the best basis, and am not at all tenacious about retaining the section. I apprehend my constituents have as little interest in this bill as the constituents of any other gentleman upon this floor. My principal object is to get the matter fairly before the House for its judgment, and I am willing that a motion should be made to strike out the second section of the bill, so that the sense of the House may be tested upon that question, and I will yield the floor to any gentleman to make that motion. I now ask that a letter from the Postmaster General having a bearing upon this subject, be read; and I send it to the Clerk's desk for that purpose.

The Clerk read the letter; which is as follows:

POST OFFICE DEPARTMENT, February 2, 1859.

SIR: In answer to your inquiry, under to-day's date, as to the practice of this Department "upon the subject of placing mail service on roads declared to be post roads by act of Congress," I have the honor to state that all such routes are regularly advertised, but not all necessarily put under contract for mail service, the exceptions being as follows:

When considering the proposals for service, if it appears that a new post road is already covered by an existing one, it is not put in operation.

If covered in part by existing service, the portion which is without mails is provided for.

Routes upon which there are no post offices are not at once placed under contract; but so soon as the citizens interested apply for offices, they are established, and mails supplied.

Sometimes routes are put in operation, of which the Department has no knowledge, apart from the act of Congress, and which afterwards are found to be entirely useless. On such the service is discontinued so soon as the facts concerning them become known.

The bill proposed by you, authorizing the Postmaster General, in his discretion, to contract for conveying mails upon all public roads which have been or shall be constructed, seems well calculated to promote the public interests; and, if approved by Congress, will save labor to this Department. There is now, as you are aware, a similar law in reference to railroads, plank roads, canals, and all waters on which steamboats regularly ply; and there is no good reason why the same rule may not apply to all public roads.

The draft of a bill, submitted by you, is herewith returned, as requested.

Very respectfully, your obedient servant,

AARON V. BROWN,
Postmaster General.

HON. WILLIAM H. ENGLISH, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. GARNETT. I should like to make a suggestion to the gentleman from Indiana, in regard to this bill. The experience of every member upon this floor will bear me out in saying that the insertion of post routes in this general post route bill is, as the gentleman has stated, a mere matter of form. For my own part, whatever roads I have desired to have constituted post routes in my district, have always been inserted in the bill merely because I asked it. So far, then, this bill is only a saving of labor to the committee. But the Postmaster General at present has the power to establish whatever post offices he pleases; and this proposes to give him power to establish whatever post routes he pleases.

Mr. ENGLISH. Provided they be over public highways.

Mr. GARNETT. Now, the only restrictions are that the post route shall be a public highway, and the amount of the appropriation. The former point may be somewhat difficult to determine in some cases, especially in the Territories, and in respect to the overland routes from the Atlantic to the Pacific coast. And the amount of the appropriation is no limit to the expenditure; for we are always called upon to meet the excess with a deficiency bill. Therefore, in order to retain for Congress some practical control over the expenditures of the Post Office Department, I suggest that the power of making contracts should be restricted to the amount of the regular annual appropriations. Without a restriction of that sort, you throw the whole power of the Government, so far as the Post Office Department is concerned,

into the hands of the Executive. I desire that the bill shall be so amended as to provide that the Postmaster General shall make no contract, for any one year, exceeding the amount of the appropriation made for that year.

Mr. ENGLISH. I do not think an amendment of that kind is necessary. I am willing to yield the floor to any gentleman who desires to move to strike out the second section of the bill; and if no amendment is offered, I shall call the previous question.

Mr. SEWARD. I desire to offer the following amendment, to come in under the head of "Georgia:"

From Doctortown to Ashley's store.

Mr. BARKSDALE here made an inquiry of the gentleman from Indiana, [Mr. ENGLISH,] which was entirely inaudible to the reporters, in consequence of the confusion prevailing in the Hall.

Mr. ENGLISH. In answer to the gentleman from Mississippi, [Mr. BARKSDALE,] I will say that the second section of the bill provides that all public highways, without exception, shall be considered post routes during the time that said service is performed thereon, and that the Postmaster General may, at his discretion, put service upon them, subject to the limitations of the existing law.

Mr. WINSLOW. I desire to offer this amendment, to come in under the head for "North Carolina:"

From Carthage, in Moore county, to Troy, in Montgomery county.

The SPEAKER. If it be the pleasure of the House, the amendments will be received.

No objection was made.

Mr. WASHBURN, of Illinois. I desire to offer some amendments. I hope the gentleman from Indiana will allow the bill to be referred to the Committee of the Whole on the state of the Union, and printed, so that we may all have a chance.

Mr. ENGLISH. Gentlemen can have all their amendments put in in the Senate.

Mr. UNDERWOOD. They will have to come back here.

Mr. ENGLISH. If the second section of the bill is agreed to, the amendments will be unnecessary.

Mr. CLARK, of Missouri. I offer the following amendment:

From Fort Des Moines, in Iowa, via Trenton, Chillicothe, and Carrollton, to Little Rock, in Arkansas.

Mr. UNDERWOOD. I offer the following amendment, under the head of "Kentucky:"

From Woodsonville, via Lick Log, to the Mammoth cave.

Mr. KILGORE. I move to strike out the second section of the bill.

Mr. HOUSTON. I wish to ask the gentleman a question. I notice that the letter of the Postmaster General says that the adoption of the second section would save the Department much trouble. In what will the Department be saved trouble?

Mr. ENGLISH. It will save labor in this regard: application is made to establish service, and if the road over which it is proposed to establish the service be not a post road by act of Congress, then it becomes necessary to refer the matter to Congress. When Congress legislates, then proposals have to be advertised for, in order to make a contract. That certainly incurs expense, delay, and trouble.

Mr. HOUSTON. I think, sir, that the labor would be precisely the same, whether applications have to come here or go there first. If this general law be passed, they will have to examine the several applications, and determine whether they are necessary and proper. If there be no general law, and the applications are referred here for acts of Congress, then, when those acts are passed, the previous examination by the Department will answer every purpose, and they can refuse or establish the service as may be proper. I should like the attention of the House, and especially that of the chairman of the Committee on the Post Office and Post Roads. My experience of this sort of legislation amounts to this: that, whenever you can keep a responsibility in Congress, and pressure away from any Department, it is the better course to do so. Wherever you open the door to unlimited applications, upon

any of the Departments for favors, either for clerkships, mail routes, or anything else—

Mr. SEWARD. Will the gentleman let me ask him a question?

Mr. HOUSTON. Yes, sir; but it is a strange place, in the middle of a sentence, to interrupt me.

Mr. SEWARD. I want to know whether this provision does not conflict with the power conferred upon Congress by the Constitution to establish post roads?

Mr. HOUSTON. As I understand the section, it establishes every public road of the United States a post route; every road now and hereafter made a public road. Whenever the Postmaster General chooses to exercise the discretion granted in that section, then by his act, the roads he may indicate are made post routes according to law.

Mr. SEWARD. That is the question: Is not that an evasion of the right conferred upon the Congress of the United States to establish post roads? Is not that power transferred practically to the Post Office Department?

Mr. HOUSTON. It is better, I have contended, that Congress should keep this responsibility where it now is, than to confer it upon the Post Office Department. We have a case in point, and I ask the attention of gentlemen to it. There is a law upon your statute-book which says, that the Postmaster General shall put service upon a route according to the mail necessities of the country supplied by it; that is, that he shall advertise to receive no bids for a higher rate of pay than the service will justify; that the pay shall be according to the amount of mail matter passing over the route, and without regard at all to the transportation of passengers. Notwithstanding that is the law—the law as plain as the English language can make it, yet the Post Office Department has receded from it. The heads of that Department have not the moral courage, the fortitude, the nerve, to come up to its execution, according to its spirit and purpose. And now, sir, the head of that Department, the Postmaster General, asks Congress to reenact that law; a law already upon the statute-book. He wants it reenacted that he may fall back upon it when application is made for higher rates of service. He wants outside pressure kept away from the Department by the action of Congress; but may there not be outside pressure, if this second section shall become a law?

Mr. ENGLISH. Did the gentleman, in the course of his long experience here, ever know Congress to refuse to grant an application for the establishment of a post route?

Mr. HOUSTON. I do not know that I ever did; but then that does not meet the objection. If there were no restriction in the law now; if every community had the right to come up and ask the Post Office Department to put service upon its roads of travel, there would be more than a tenfold increase of the present applications; and the Post Office Department would be required to take the responsibility and muster up more courage than the heads of Departments seem usually to have, to meet all these applications for service.

Mr. DAVIS, of Mississippi. In inserting that clause in the bill, we were governed by the knowledge that every application made by any member for the establishment of a post route has heretofore been allowed; and that the report of the Committee on the Post Office and Post Roads, at each session, was the same, conferring this power upon the Postmaster General. I did not regard it as important one way or the other, and consequently consented to that clause of the bill. I do not see that it can make any material difference; because, if members desire any routes established, by application to the Committee on the Post Office and Post Roads, they can be accommodated. They may go and establish every road in the country into post routes. It was thought by the committee that it would be a mere matter of convenience to adopt the mode indicated in the second section. If gentlemen deem that there is anything expensive in it, let it be suggested, and I presume that the Committee on the Post Office and Post Roads will make no objection to its being stricken out. They would, on the contrary, prefer the striking out of the section, to seeing it enact the extension, to any Department, of an undue and unnecessary discretion. But the section, though approved by the committee, I deem so

unimportant as not to justify this consumption of time in protracted debate.

Mr. HOUSTON. I receive the gentleman's compliment that I have a great horror of wasteful extravagance in the expenditures of the public money; and I only regret that I cannot return it.

Mr. DAVIS, of Mississippi. I challenge that gentleman to make a comparison with me by the record, of who is most extravagant, both of time and money, since I have been upon this floor.

Mr. HOUSTON. If the gentleman has been as economical as I have, therefore he ought to have said that he and I were both opposed to wasteful expenditures, and unnecessary consumption of the public time.

Mr. DAVIS, of Mississippi. No, sir. I do not consume so much time as the gentleman.

Mr. KILGORE. My colleague yielded the floor to me, to strike out the second section; and before I had time to say a word, the gentleman from Alabama took the floor. My extreme modesty allowed him to go on without interruption. I have not yielded the floor.

Mr. HOUSTON. I have only a word more to say, and then I will yield the floor.

The SPEAKER. It is impossible for the Chair to understand what is doing in the House, the disorder is so great. The Chair did not understand that the gentleman from Indiana desired to hold the floor.

Mr. HOUSTON. I have but a word or two more to say. The argument of my friend from Mississippi, [Mr. DAVIS,] if it be good for anything, is good to establish the fact that the law, as it is, is good enough.

Mr. DAVIS, of Mississippi. I have no objection to the law as it is.

Mr. HOUSTON. If the gentleman's argument is good for anything, it establishes the fact that the present law answers all the ends of the country; and if so, why should we change it? Changes of the law are always objectionable, except there is a good to be attained.

Let me ask attention to one other thing. Suppose this law had had existence, and that under it the Post Office Department had established the overland mail route, without any action of Congress: would there not have been a general denunciation of it all over the country? If parties see fit, they may make combinations all over the country, and may bring influences to bear on the Department. The heads of Departments ought to be kept free from such influence, and should have the shield and protection of the law.

Mr. EDMUNDSON, by unanimous consent, offered the following amendment:

From New Port, in Giles county, via Salt Pond, to Salt Sulphur Springs, in Monroe county.

From Kesler's Lanes to Persinger's Run, in Nicholas county.

Mr. HALL, of Iowa, by unanimous consent, offered the following amendment:

From Bucyrus to Olen tangy, in Crawford county.

From Olen tangy to Latimberville, in Marion county.

Mr. TRIPPE, by unanimous consent, offered the following amendment:

From Macon to Moseley's store, in Bibb county.

From Thomaston, via Flint River Factory, to Butler.

From Culloden to Barnesville.

Mr. GARTRELL, by unanimous consent, offered the following amendment:

From Atlanta, via Powder Springs, Villa Rica, and Buchanan, to Jacksonville, Alabama.

Mr. ENGLISH. I propose yielding the floor to my colleague [Mr. KILGORE] for five minutes; and to save time, I will say that, if gentlemen having amendments to offer will hand them to me, I will, at the close of my colleague's remarks, offer all as one amendment.

Mr. DEAN. I object to everything that is not strictly in order. I object to the gentleman from Indiana [Mr. ENGLISH] allowing members, under cover of a speech of his colleague, to present different amendments.

Mr. WASHBURN, of Illinois. I ask the gentleman to move to refer the bill to the Committee of the Whole on the state of the Union, and have it printed.

Mr. ENGLISH. We have had enough of this, I think, Mr. Speaker; and I move the previous question, and now give notice that I will yield the floor to no one.

Mr. BARKSDALE. I suggest to the gentleman from Indiana to modify the second section of

the bill, so as to make it optional with the Postmaster General to put service on roads hereafter to be established.

Mr. ENGLISH. I understand that my colleague has entered a motion to strike out the second section of the bill. The question is therefore fairly before the House, and the House may strike out the section if such be its pleasure. I care nothing about it.

The question being on seconding the previous question.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. CRAIG, of Missouri, and KELSEY, were appointed.

The House divided; and the tellers reported—ayes 79, noes 44.

So the previous question was seconded.

The main question was then ordered to be put.

The various amendments establishing post routes were agreed to.

Mr. JONES, of Tennessee. I should like to hear that bill read. I do not know what is in it. I would ask the chairman of the Committee on the Post Office and Post Roads if it establishes any route to the Pacific Ocean?

Mr. ENGLISH. There is nothing in the bill establishing service on any post route; but there is a provision in the bill establishing a post route from St. Paul to Seattle, on the Pacific.

Mr. JONES, of Tennessee. Exactly; and we have got one now that will prove a curse to the country, costing it \$600,000 a year for six years—\$3,600,000.

The SPEAKER. Debate is not in order.

Mr. JONES, of Tennessee. I move to lay the bill upon the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ENGLISH. If the impression prevails that there is any thing in this bill requiring service to be put upon any route, it is a mistake. There is nothing of the sort in the bill.

The question was taken on the motion of Mr. JONES, of Tennessee; and it was decided in the negative—yeas 80, nays 98; as follows:

YEAS—Messrs. Abbott, Andrews, Bonham, Branch, Bratton, Buffinton, Burnett, Caskie, Chapman, Clawson, Cobb, Clark B. Cochrane, John Cochrane, Comins, Burton, Craige, Crawford, Curry, Davis of Mississippi, Davis of Massachusetts, Dean, Dewart, Dowdell, Farnsworth, Faulkner, Fenton, Garnett, Gartrell, Gooch, Goode, Grow, Harlan, Haskin, Hopkins, Houston, Jackson, George W. Jones, Kellogg, Kilgore, Leiter, Letcher, Lovejoy, McQueen, Matteson, Maynard, Moore, Morgan, Edward Joy Morris, Mott, Murray, Olin, Palmer, Pettit, William W. Phelps, Pike, Potter, Kelly, Robbins, Royce, Scales, Henry M. Shaw, Samuel A. Smith, William Smith, Stanton, Stevenson, Talbot, Tappan, Thompson, Tompkins, Underwood, Valandigham, Wade, Walton, Cadwalader C. Washburn, Elihu B. Washburne, White, Whitelev, Wilson, Winslow, John V. Wright, and Zollcoffer—80.

NAYS—Messrs. Adrain, Aul, Anderson, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bowie, Boyce, Burlingame, Burns, Caruthers, Case, Cavanaugh, Chaffee, John B. Clark, Clay, Cockrell, Colfax, Corning, Cox, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Edie, Edmundson, English, Florence, Foley, Gilman, Gilmer, Goodwin, Granger, Greenwood, Gregg, Lawrence W. Hall, Robert B. Hall, Harris, Hatch, Hoard, Hodges, Horton, Howard, Huyler, Jenkins, Jewett, Owen Jones, Keim, Knap, John C. Kunkel, Landy, Leach, Leidy, Maclay, McKee, Samuel S. Marshall, Mason, Montgomery, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Nichols, Parker, Pendleton, Peyton, Poule, Powell, Reagan, Ricard, Roberts, Ruffin, Sandidge, Scott, Searing, Seward, Aaron Shaw, Shorter, Singleton, Robert Smith, Spinner, James A. Stewart, William Stewart, Miles Taylor, Thayer, Trippie, Vance, Waldron, Israel Washburn, Watkins, Wood, and Augustus R. Wright—98.

So the House refused to lay the bill upon the table.

During the call of the roll,

Mr. FOLEY stated that Mr. DAVIDSON was absent from the House on very important business, having gone to the President with the Oregon bill.

The result having been announced as above, Mr. KELLOGG asked unanimous consent to offer the following amendment:

From Viola, in Mercer county, Illinois, to Rock Island, in Rock Island county, Illinois.

Mr. JONES, of Tennessee. The previous question is operating, and I object to the amendment.

Mr. LEACH. I desire to have a clerical error in the bill corrected.

Mr. JONES, of Tennessee. I object.

Mr. KILGORE's motion to strike out the second section of the bill was agreed to.

Mr. GARNETT. Is it now in order to move to strike out the clause which establishes a mail route from St. Paul, Minnesota, to Puget Sound?

The SPEAKER. It is not in order, as the previous question is operating.

Mr. JONES, of Tennessee. Then I call for the reading of the bill.

Mr. TRIPPE. Would it not be in order to move to reconsider the vote by which the main question was ordered?

The SPEAKER. It is not, as the order has been partially executed by voting upon the amendments.

Mr. CURRY. I desire to inquire whether, when the bill has been read, it will not then be in order to move to reconsider that vote, so as to take the bill from under the operation of the previous question and allow amendments?

The SPEAKER. It will not.

Mr. HOUSTON. I presume that the House will consent to let us have a vote on the proposition striking out that overland route. Just let the majority control. Let us have a vote on the motion to strike out.

Mr. WALBRIDGE. I object.

Mr. JONES, of Tennessee. I wish to submit a question to the Chair. When this bill is ordered to be engrossed and read a third time, will it not then be in order to move a reconsideration? If that motion to reconsider be agreed to, will not the bill then be relieved from the previous question, and open to amendment?

Mr. ENGLISH. What is the question before the House?

Mr. SPEAKER. Shall the bill be engrossed and read a third time?

Mr. JONES, of Tennessee. I ask that the bill be read.

Mr. ENGLISH. I hope the bill will be read for the pacification of the gentleman from Tennessee.

Mr. JONES, of Tennessee. I will vote for no bill here that is neither read nor printed; that I have not read nor anybody else.

Mr. ENGLISH. I never knew a post route bill to be printed.

The Clerk proceeded to read the bill.

Mr. BRANCH. Will it be in order to move to postpone the reading of this bill until to-night, at seven o'clock?

The SPEAKER. It will not.

Mr. BRANCH. Is it in order to move to suspend the rules for that purpose?

The SPEAKER. It is not. The House is acting under the previous question.

The Clerk finished the reading of the bill.

The bill was ordered to be engrossed, and read a third time.

Mr. ENGLISH. I call for the previous question on the passage of the bill.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, in order that we may strike out that part of the bill which proposes to establish a mail route from St. Paul, in Minnesota, to Puget Sound.

The motion to reconsider was agreed to.

Mr. WASHBURNE, of Illinois. I want to have that part of the bill read. I want the House to understand upon what they are voting.

Mr. BILLINGHURST. I demand the yeas and nays on the motion of the gentleman from Tennessee.

Mr. WASHBURNE, of Illinois. They have a route South, and we ought to have a route North.

Mr. JONES, of Tennessee. I did not vote for that route; and will now vote to abolish it.

Mr. PHELPS, of Minnesota. Before the question is taken, I wish to move an amendment to the amendment, requiring the Postmaster General to put service upon the route.

Mr. JONES, of Tennessee. You cannot amend the motion to strike out.

Mr. PHELPS, of Minnesota. I wish to move a substitute.

Mr. JONES, of Tennessee. If the motion fails, you can then move to insert, if the previous question is not operating. You cannot move this amendment.

Mr. PHELPS, of Minnesota. Before the question is taken on the motion to strike out, we can perfect the bill. The gentleman may know the parliamentary law, but I think that is the common-sense construction of the rule. Before the

Chair makes its decision, I would refer to a similar provision to that of mine, which was introduced even into an appropriation bill by Colonel Benton, granting preemption rights to mail contractors; and to an identical one passed at the preceding Congress.

Mr. WASHBURNE, of Illinois. Let the words proposed to be stricken out first be read.

The Clerk read the words of the bill, as follows:

“From St. Paul to Seattle, on Puget Sound, in the Territory of Washington.”

Mr. PHELPS's amendment is in these words:

And be it further enacted, That the Postmaster General be authorized and directed to contract for the conveyance of the letter mail from St. Paul, in the State of Minnesota, and Superior, in the State of Missouri, via Fort Abercrombie, Fort Benton, and Fort Union, to Seattle, in the Territory of Washington, with a branch to Portland, in the Territory of Oregon, for a term of six years, at a rate of compensation per mile not to exceed the amount per mile for similar grade of service now paid on the overland mail route from Memphis and St. Louis to San Francisco, in the State of California; said service to be performed weekly or semi-weekly, at the option of the Postmaster General.

And be it further enacted, That the contract for such service shall be advertised, in the same manner as now provided by law, and shall require the service to be performed with coaches or spring wagons, or in such other manner as the Postmaster General may deem best and suitable, for the conveyance of passengers, as well as the safety and security of the mail.

And be it further enacted, That the contractor shall have the right of preemption to three hundred and twenty acres of any land not then disposed of or reserved, at each post necessary for a station, not to be nearer than ten miles to each other, and provided that no mineral lands shall be thus preempted.

And be it further enacted, That the said service shall be performed within twenty-five days for each trip; and that before entering into such contract, the Postmaster General shall be satisfied of the ability and disposition of the parties, bona fide, and in good faith, to perform said contract, and shall require good and sufficient security for the performance of the same; the service to commence within twelve months after the signing of the contract.

Mr. LETCHER. I rise to a question of order. That amendment not only proposes to contract for carrying the mails, but also proposes to donate public lands to the mail contractors. It strikes me that that is not in order to a bill to establish post routes.

Mr. PHELPS, of Minnesota. I will state for the information of the gentleman from Virginia, and of the House, that this amendment is in the precise language, or nearly so, of an amendment adopted to an appropriation bill, by which the overland mail from Memphis and St. Louis to California is now carried.

Mr. LETCHER. That amendment may have been put in by the Senate.

Mr. PHELPS, of Minnesota. The provision to which the gentleman objects, only gives a pre-emptive right to the mail contractors. It does not donate the land as the gentleman supposes. The contractors are compelled, as other persons, to pay for the land, at the minimum Government price of \$1 25 an acre.

The SPEAKER. The Chair recollects very well the case to which the gentleman from Minnesota refers. The present occupant of the chair was then the occupant of the chair in the Committee of the Whole on the state of the Union. When the amendment was proposed by the then gentleman from Missouri, (Mr. Benton,) the present occupant of the chair ruled the amendment out of order. An appeal was taken from the decision of the Chair, and the decision of the Chair was overruled. If this were an original proposition, the Chair would certainly rule out the latter part of the amendment. Following the precedent, the Chair rules the amendment to be in order.

Mr. JONES, of Tennessee. I understand the Chair to make this decision, because the overland route, now in operation, was decided in order.

The SPEAKER. On an appeal from the decision of the Chair.

Mr. JONES, of Tennessee. My recollection is, that the amendment authorizing the overland mail route, was put on in the Senate to a general appropriation bill, and not to the post route bill.

Mr. PHELPS, of Missouri. The instance to which the Chair refers was an amendment proposed by my then colleague from St. Louis, giving each contractor for carrying the mails in the Territories a preemption right. The gentleman now Speaker of the House was then in the chair, and ruled the amendment out of order. The overland mail route was an amendment made by the Sen-

ate to the Post Office appropriation bill. The Speaker has confounded the two propositions.

Mr. WASHBURN, of Illinois. The proposition that was then decided to be in order was substantially the same as that now before the House.

Mr. PHELPS, of Missouri. Precisely the same.

Mr. JONES, of Tennessee. I submit that the decision of the Committee of the Whole on the state of the Union is no authority in the House. We have no record of that decision. Your clerks keep no record of what is done in committee, and the Journals do not show anything of what was done there on that or any other question.

The SPEAKER. It is within the recollection of the Chair, however. The Chair will follow the precedent established by the committee in that case, overruling the decision of the Chair.

Mr. HASKIN. I move to lay the amendment on the table.

Mr. ENGLISH. I will inquire of the Chair whether that carries the bill with it.

The SPEAKER. It does.

The question was taken; and the motion was not agreed to.

Mr. GARTRELL moved the previous question.

The previous question was seconded, and the main question ordered, which was first on the amendment offered by Mr. PHELPS, of Minnesota.

Mr. PHELPS, of Minnesota, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 104; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Bliss, Brayton, Bryan, Buffinton, Burlingame, Case, Cavanaugh, Chaffee, Clark B. Cochrane, Colfax, Covode, Curtis, Dawes, Dimmick, Dodd, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Harlan, Hodges, Horton, Howard, Owen Jones, Kellogg, Knapp, Leach, Leidy, Lovejoy, McRae, Mason, Matteson, Montgomery, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Palmer, Parker, Reilly, Robbins, Royce, Aaron Shaw, Judson W. Sherman, Robert Smith, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Watkins, White, Wilson, and Wood—77.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Barksdale, Barr, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Cobb, Cockerill, Corning, Cox, Cragin, Burton Craige, Crawford, Curry, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dowdell, Durfee, Edmundson, English, Eustis, Florence, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Gregg, Lawrence W. Hall, Haskin, Hill, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Keitt, Kilgore, Lamar, Letcher, Maclay, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Moore, Murray, Edward Joy Morris, Murray, Pendleton, Pettit, John S. Phelps, Phillips, Powell, Purviance, Reagan, Ricard, Roberts, Ruffin, Russell, Sandidge, Savage, Scales, Seward, Henry M. Shaw, Shorter, Singleton, Spinner, Stanton, Stevenson, James A. Stewart, Talbot, Miles Taylor, Tripp, Underwood, Vallandigham, Vance, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—104.

So the amendment was rejected.

During the call,

Mr. CRAWFORD stated that his colleague, Mr. STEPHENS, had retired from the Hall in consequence of indisposition.

Mr. GARTRELL stated that Mr. LAWRENCE was detained in his room by sickness.

The vote having been announced as above,

Mr. WASHBURN, of Wisconsin, asked unanimous consent to offer the following amendment:

From or near the head of Lake Superior to the mouth of Sauk river, so as to form a junction with the route from St. Paul to Puget Sound.

Mr. JONES, of Tennessee. I object. Let us vote on the other amendments.

The question being on the motion to amend by striking out the following clause of the bill:

"From St. Paul to Seattle, Puget Sound, in the Territory of Washington;"

Mr. CAVANAUGH called for the yeas and nays.

The yeas and nays were ordered.

The yeas and nays were taken; and it was decided in the negative—yeas 81, nays 107; as follows:

YEAS—Messrs. Anderson, Atkins, Barksdale, Barr, Bonham, Boyce, Branch, Burnett, Caskie, Horace F. Clark, John B. Clark, Clay, Cobb, Cox, Burton Craige, Crawford, Curry, Davis of Maryland, Davis of Indiana,

Davis of Mississippi, Dewart, Dowdell, Edmundson, Faulkner, Florence, Foley, Garnett, Gartrell, Goode, Haskin, Hill, Hopkins, Houston, Jackson, Jenkins, Jewett, George W. Jones, Keitt, Kilgore, Lamar, Letcher, Maclay, McQueen, McRae, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Moore, Edward Joy Morris, Isaac N. Morris, Peyton, Phillips, Powell, Purviance, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Scales, Seward, Henry M. Shaw, Singleton, William Smith, Stillworth, Stevenson, Talbot, Miles Taylor, Tripp, Underwood, Vallandigham, Vance, Watkins, Whiteley, Winslow, and John V. Wright—81.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Billingshurst, Bingham, Blair, Brayton, Bryan, Buffinton, Burlingame, Burns, Case, Cavanaugh, Chaffee, Chapman, Ezra Clark, Clawson, Cockerill, Colfax, Corning, Covode, Cragin, James Craig, Curtis, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Greenwood, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Hatch, Hodges, Horton, Howard, Huyler, Owen Jones, Kellogg, Kelsey, Knapp, Leach, Leidy, Leiter, McKibbin, Mason, Matteson, Montgomery, Morgan, Morrill, Freeman H. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, William W. Phelps, Pike, Potter, Pottle, Reilly, Robbins, Roberts, Royce, Aaron Shaw, Judson W. Sherman, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, Wilson, Wood, Wortendyke, and Augustus R. Wright—107.

So the amendment was disagreed to.

Mr. ENGLISH moved to reconsider the vote by which the amendment was disagreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURN, of Wisconsin. I ask the gentleman from Indiana to allow me to offer my amendment now. I understand that the committee authorized my friend from Iowa [Mr. DAVIS] to offer it.

Mr. ENGLISH. I have no objection to it myself, but it would require unanimous consent. Objection was made.

Mr. SMITH, of Virginia. I would like to move to strike out the provision establishing the route from Albuquerque to Fort Smith.

The SPEAKER. The previous question is operating, and no amendment is in order.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ENGLISH demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, demanded the yeas and nays on the passage of the bill.

Mr. SCALES demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The bill was passed—yeas 93, nays 58.

Mr. ENGLISH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. JAMES BUCHANAN HENRY, his Private Secretary, informing the House that he had this day approved and signed

An act for the relief of Captain Douglass Ottinger;

A joint resolution in relation to the tobacco trade of the United States with foreign nations; and

A joint resolution giving the assent of Congress to the acceptance by Captain M. F. Maury and Professor A. D. Bache of gold medals from the Sardinian Government.

ENROLLED BILLS.

Mr. PIKE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled,

An act for the relief of Mary Boyle;
An act for the relief of Monroe D. Downs;
An act for the relief of Dinah Minis;
An act for the relief of Robert A. Davidge; and
An act for the relief of Rebecca M. Bowden, of Prince George county, Virginia;
When the Speaker signed the same.

MAIL STEAMER APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I am instructed by the Committee of Ways and Means to report a bill making appropriations for the transporta-

tion of the United States mails by ocean steamers and otherwise, during the fiscal year ending June 30, 1860.

Mr. KEITT. I object.

Mr. PHELPS, of Missouri. I move to suspend the rules, so as to enable me to report the bill.

Mr. SEWARD. I ask to have the bill read.

Mr. PHELPS, of Missouri. I will state for the information of the House—

Mr. KEITT. I object to debate.

The bill was read.

Mr. COLFAX. Is it the intention of the chairman of the Committee of Ways and Means to have the bill referred to the Committee of the Whole on the state of the Union?

Mr. PHELPS, of Missouri. Most assuredly. It makes an appropriation, and cannot be considered in the House.

The question was taken on Mr. PHELPS's motion; and the rules were suspended, two thirds voting in favor thereof.

The bill was then read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

TREASURY-NOTE BILL.

Mr. PHELPS, of Missouri. In pursuance of previous notice, I ask leave to introduce a bill to revive and continue in force for two years the act entitled "An act to authorize the issue of Treasury notes." I desire to have the bill read for information; and if objection be made, I shall move to suspend the rules.

The bill was read. It provides that the act entitled "An act to authorize the issue of Treasury notes," approved 23d December, 1857, be revived and continued in force for the space of two years from and after the passage of this act; and appropriates \$5,000 to defray the expenses thereof.

Mr. DEAN, Mr. WASHBURN, of Illinois, and several other members, objected.

Mr. PHELPS, of Missouri. I move to suspend the rules so as to enable me to introduce the bill.

Mr. HOUSTON, Mr. MORGAN, and others, called for the yeas and nays.

The yeas and nays were ordered.

Mr. PHELPS, of Missouri. I desire to say that this bill makes an appropriation, and that my motion is merely to suspend the rules so as to enable me to introduce it. It must necessarily go to the Committee of the Whole on the state of the Union.

Mr. MORGAN, and others. It will not get in. The question was taken; and it was decided in the negative—yeas 87, nays 110; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Barr, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Cavanaugh, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Edmundson, English, Faulkner, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hodges, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, Keitt, Lamar, Letcher, Maclay, McKibbin, McQueen, McRae, Samuel S. Marshall, Mason, Miles, Miller, Milson, Moore, Pendleton, Peyton, John S. Phelps, William W. Phelps, Powell, Reagan, Ruffin, Russell, Sandidge, Scales, Seward, Aaron Shaw, Henry M. Shaw, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stephenson, James A. Stewart, Talbot, Miles Taylor, Vallandigham, Ward, Watkins, Whiteley, Winslow, Augustus R. Wright, and John V. Wright—87.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Case, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Corning, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dick, Dimmick, Dodd, Durfee, Edie, Farnsworth, Fenton, Florence, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hill, Horton, Howard, Huyler, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Land, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Phillips, Pike, Potter, Pottle, Purviance, Reilly, Ricard, Robbins, Royce, Judson W. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Vance, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, and Wood—110.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. ADRAIN (when his name was called) said: Before I vote, I would like to inquire of the chairman of the Committee of Ways and Means

if he intends to report a bill for the alteration of the tariff?

Mr. KEITT. I object to any debate.

Mr. ADRAIN. I vote "no."

Mr. CHAFFEE (when his name was called) said: I have paired off upon this question with Mr. STEPHENS, of Georgia. If he were in his place, he would vote "ay," and I should vote "no."

HOOR OF MEETING—EVENING SESSIONS.

The result having been announced as above recorded,

Mr. PHELPS, of Missouri, asked the unanimous consent of the House to submit the following order:

Ordered, That the hour of daily meeting of the House shall be ten o'clock, a. m., on and after Thursday next, and that the resolution providing for night sessions shall be continued in force for one week.

Mr. WASHBURN, of Illinois, objected.

Mr. PHELPS, of Missouri, moved a suspension of the rules to enable him to submit the order.

The House was divided; and there were—ayes 86, noes 75.

Mr. PHELPS, of Missouri, demanded the yeas and nays.

The yeas and days were ordered.

Mr. JONES, of Tennessee. Is it the intention to continue these night sessions for debate alone, or are they to be for business as well?

Mr. PHELPS, of Missouri. They are proposed to be continued for speeches alone.

Mr. JONES, of Tennessee. I am opposed to all this sort of thing.

Mr. SMITH, of Virginia. Is the question divisible?

The SPEAKER. Not now, but it will be when the rules are suspended for the introduction of the proposition.

The question was taken; and it was decided in the negative—yeas 109, nays 83; as follows:

YEAS—Messrs. Ahl, Anderson, Andrews, Atkins, Avery, Barksdale, Barr, Bingham, Bliss, Bonham, Bowie, Boyce, Branch, Brayton, Bryan, Buffinton, Burnett, Burns, Burroughs, Case, Cavanaugh, Chaffee, Ezra Clark, John B. Clark, Clawson, Cobb, John Cochrane, Cockerill, Colfax, Comins, Corning, Cox, Cragin, James Craig, Curtis, Davis of Indiana, Davis of Iowa, Dewart, Dowdell, Durfee, Edmundson, Farnsworth, Faulkner, Foster, Gartrell, Gilmer, Greenwood, Gregg, Lawrence W. Hall, Harris, Hatch, Hill, Hodges, Hopkins, Howard, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Lamar, Landy, Leidy, Humphrey Marshall, Mason, Maynard, Miles, Millson, Montgomery, Isaac N. Morris, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, John S. Phelps, William W. Phelps, Phillips, Pottle, Reagan, Riley, Ricard, Royce, Seward, Aaron Shaw, Judson W. Sherman, Sickles, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Miles Taylor, Tripp, Underwood, Vallandigham, Vance, Wade, Walbridge, Walton, Ward, Watkins, Augustus R. Wright, and John V. Wright—109.

NAYS—Messrs. Abbott, Adrain, Arnold, Bennett, Bingham, Blair, Burlingame, Caskey, Chapman, Horace F. Clark, Clay, Clark B. Cochrane, Covode, Crawford, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Edie, Fenton, Florence, Foley, Gilman, Goode, Goode, Granger, Grow, Robert B. Hall, Harlan, Haskin, Horton, Houston, Huyler, Keitt, Kellogg, Knapp, John C. Kunkel, Leach, Leiter, Letcher, Lovejoy, Maclay, McQueen, Matteson, Miller, Moore, Morgan, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Peyton, Pike, Potter, Powell, Purviance, Robbins, Roberts, Buffu, Russell, Sandridge, Seales, Henry M. Shaw, Singleton, William Smith, Tappan, George Taylor, Thayer, Thompson, Tompkins, Waldron, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Winslow, Wood, Woodson, and Wortendyke—83.

So (two thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll,

Mr. HILL stated that he thought nine o'clock a better hour for the House, which has so much business to attend to; but as he could not get nine, he would vote for ten o'clock.

INDIAN APPROPRIATION BILL.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. When we get into committee, I will move to proceed to the consideration of the amendments of the Senate to the Indian appropriation bill. Before we go into committee, I move the usual resolution, that debate be closed in one hour after the consideration of those amendments shall be commenced.

Mr. WASHBURN, of Illinois. That cannot be done, for the reason that the amendments have

not yet been considered in the Committee of the Whole on the state of the Union.

Mr. PHELPS, of Missouri. I presume that no objection will be made to my proposition when gentlemen understand it. One hour is enough for the general debate on the Senate amendments.

Mr. WASHBURN, of Illinois. We do not know what these amendments are.

Mr. PHELPS, of Missouri. They have been reported a long time, and I think that one hour is ample for general debate. I appeal to the gentleman to withdraw his objection.

Mr. WASHBURN, of Illinois. I cannot.

Mr. PHELPS, of Missouri. Then let the question be taken on my motion to go into committee.

AGRICULTURAL COLLEGE BILL.

Mr. MORRILL. I give notice that to-morrow I will move to take from the Speaker's table the amendments of the Senate to the agricultural college bill.

WILLIAM CROSSMAN.

On motion of Mr. CHAFFEE, it was

Ordered, That the Committee on Revolutionary Pensions be discharged from the further consideration of the case of William Crossman, heir-at-law of Lydia Crossman, and that it be referred to the Court of Claims.

DISTRICT OF COLUMBIA BUSINESS.

Mr. BURNETT. I ask leave to be allowed to set apart a day for the consideration of the business of the District of Columbia. We only ask for one day.

Mr. PHELPS, of Missouri. I cannot yield.

TARIFF.

Mr. JONES, of Pennsylvania. I rise to a question of privilege. During the last session of Congress, I presented, and referred to the Committee of Ways and Means, several petitions in reference to a revision of the tariff. At that time, and since, no action has been taken; and I now—

Mr. PHELPS, of Missouri. I rise to a question of order. The motion I have submitted is not debatable. The question of the gentleman is neither a question of privilege, nor a privileged question.

Mr. JONES, of Pennsylvania. The gentleman will know that better when I have stated it. I presented petitions at the last session, and they were referred to the Committee of Ways and Means. No action has been taken on them from that day to this. I have seen the members of that committee in reference to the matter repeatedly. I ask, now, to offer a resolution.

The SPEAKER *pro tempore*. (Mr. STEVENSON in the chair.) The Chair decides that that is not a question of privilege.

Mr. JONES, of Pennsylvania. I appeal from the decision of the Chair.

Mr. WASHBURN, of Illinois. Let the resolution be read.

Mr. WRIGHT, of Tennessee. I object to its reading.

Mr. PHELPS, of Missouri. I object to the reading of the resolution.

Mr. MCQUEEN. I object to the reception of the resolution, and to its reading.

Mr. PHELPS, of Missouri. I moved to suspend the rules. Pending that motion the gentleman from Pennsylvania sends a resolution up to be read. I object to that reading. The gentleman's question is neither a question of privilege nor a privileged question.

Mr. CRAIG, of North Carolina. I move that the appeal be laid upon the table.

Mr. DEWART. I demand the yeas and nays on that motion.

Mr. HOUSTON. I will say—

Mr. WASHBURN, of Illinois. I object to debate, unless we have it on both sides.

The SPEAKER. The gentleman from Missouri moves that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union. Pending that motion the gentleman from Pennsylvania rises, and states that he rises to a question of privilege. The gentleman will state his question of privilege.

Mr. JONES, of Pennsylvania. Mr. Speaker, I presented petitions from my State, numerous signed, asking for a change in the tariff laws. These petitions were referred to the Committee of Ways and Means. They are there in that committee, and have never been reported back. No

action has been taken upon them. I have personally appealed to the members of that committee to report some measure of relief.

Mr. CRAWFORD. That is not a question of privilege; and I object to further debate.

Mr. JONES, of Pennsylvania. The question of privilege is before the House.

Mr. CRAWFORD. I have a right to object.

The SPEAKER. What is the particular proposition before the House?

Mr. JONES, of Pennsylvania. I offer a resolution instructing the Committee of Ways and Means, at the earliest possible period, to report all measures that they have before them bearing on the tariff.

The SPEAKER directed the resolution to be read.

The resolution was read, as follows:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to report to the House, at its next meeting, all propositions now before them looking to an increase of revenue to a point sufficient to meet the expenses of Government.

The SPEAKER. The Chair decides that there is no question of privilege presented in the resolution of the gentleman from Pennsylvania; and that, if there was a question of privilege in it, it could not be presented to the House pending a motion to suspend the rules. The proposition of the gentleman from Missouri is to suspend the very rules that give to any question of privilege its priority before the House. On these two grounds the Chair rules, first, that this is no question of privilege; and, second, that if it was, it could not be entertained pending a motion to suspend the rules.

Mr. JONES, of Pennsylvania. I appeal from the decision of the Chair.

Mr. CAVANAUGH. I move to lay the appeal on the table.

Mr. DEWART. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. JONES, of Pennsylvania. I withdraw my appeal.

Mr. CRAWFORD. I object to its being withdrawn. I desire to have a vote upon it.

The SPEAKER. The gentleman has a right to withdraw his appeal.

Mr. CRAWFORD. Then I will withdraw my objection.

The question was put on Mr. PHELPS's motion; and it was agreed to.

INDIAN APPROPRIATION BILL.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOUSTON in the chair.)

Mr. PHELPS, of Missouri. I move to proceed to the consideration of the Senate's amendments to the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860.

The motion was agreed to.

Mr. PHELPS, of Missouri. Some of the amendments of the Senate will probably give rise to debate; and I must appeal to the committee that the debate may be confined to the subject-matter under consideration. I ask that they may be read.

The first four amendments were read as follows:

Page 11, after line two hundred and fifty-five, insert as follows:

Chickasaw Incompetents.—For arrears of interest due January 1, 1859, on five per cent. bonds of the State of Indiana, held in trust for the Chickasaw incompetents by the Secretary of the Interior, \$350.

For redemption of the principal sum of said five per cent. stock held in trust as aforesaid, \$2,000, to be invested by the Secretary of the Interior in the stock of the United States, in lieu of said five per cent. stocks: *Provided*, That the said Indiana five per cent. stocks shall be surrendered by the Secretary of the Interior to the Secretary of the Treasury, who shall be required to correspond with the Executive of Indiana for the purpose of effecting an arrangement relative to the amount due on said stock, and report progress to next Congress.

Page 27, after line six hundred and forty, insert as follows:

For arrears of interest, due January 1, 1859, on five per cent. bonds of the State of Indiana, held in trust for the Potawatamies by the Secretary of the Interior, \$12,053 20.

For the redemption of the principal sum of five per cent. stock, held in trust as aforesaid, \$68,000, to be invested by the Secretary of the Interior in the stock of the United

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States, in lieu of said five per cent. stock: *Provided*, That the said Indiana five per cent. stock shall be surrendered by the Secretary of the Interior to the Secretary of the Treasury, who shall be required to correspond with the Executive of Indiana for the purpose of effecting an arrangement relative to the amount due on said stock, and report progress to next Congress: *Provided further*, That the stocks with which the Secretary of the Interior is now charged upon the books of the Treasury under the head of "Chippewas, Ottowas, and Pottawatomies, mills and education," be charged to two separate accounts to be opened under the heads of "Pottawatomies—mills," and "Pottawatomies—education;" and the Secretary of the Interior is hereby authorized, with the consent of the Pottawatomies, to transfer the stocks charged as aforesaid to the new heads of account in such proportions as he may deem best for the interest of the Pottawatomies.

Mr. PHELPS, of Missouri. Mr. Chairman, a number of years ago, \$70,000 in money, belonging, in part, to the Chickasaw Indians, and in part to the Pottawatomies, was invested in Indiana five per cent. stock—\$2,000 in behalf of the Chickasaws and \$68,000 in behalf of the Pottawatomies. The interest on these two investments was not paid by the State of Indiana; and, if we desire to deal justly with the Indians, we must make an appropriation sufficient to meet the interest and pay it to these Indians.

But the amendments of the Senate propose another thing; they propose that we shall place to the credit of the Indian department a like sum of money out of the Treasury, in lieu of the bonds of the State of Indiana. The same provision is made by the Senate in reference to the Pottawatomies. The Committee of Ways and Means recommend that we shall only appropriate the interest, leaving the stocks as they now stand. A portion of this interest has already been collected by withholding, during preceding years, from the State of Indiana, the three per cent. funds which became due to that State, by the compact under which she was admitted into the Union. By subsequent legislation the Secretary of the Treasury was directed to withhold such five per cent. dividends as might be due to any State in which public lands were situated, when those States had failed to pay the interest on bonds held by the Government of the United States in trust for Indians. The Committee of Ways and Means recommend a concurrence in the first and third amendments of the Senate, and a disagreement to the second and fourth. I have here letters upon this subject; but I believe I have stated the substance of them.

Mr. REAGAN. At whose instance were these investments made?

Mr. PHELPS, of Missouri. The treaty required the funds to be invested in State stocks, and they were so invested many years ago by the officers of the Government. But the State of Indiana has failed to pay the interest, and it is now proposed to pay the interest that has already accrued, and that which may accrue during the next year.

Mr. REAGAN. I do not think it is the duty of the Government of the United States to assume the obligations of bankrupt States.

Mr. HUGHES. I will say to the gentleman that the State of Indiana is not a bankrupt State. If the gentleman will look into the reason why the interest has not been paid, he will find that the term "bankrupt" is misapplied.

Mr. PHILLIPS. I did not expect to say anything to the committee to-day, nor do I intend to speak to the Indian appropriation bill; but I desire to speak to a matter that, in my opinion, is very germane to every appropriation bill before the House—a few words about the finances of the country. I desire to bring the attention of the House, when voting away the public money in appropriations, to the condition of the Treasury out of which that money is to be paid. The amendments to the Indian bill are plain, and speak for themselves. If I had thought they would encounter sufficient opposition, and require explanation enough to occupy the time allotted for debate, I would not have claimed the floor at this time.

Mr. CURTIS. I rise to a point of order. I should be exceedingly happy to hear the views

of the gentleman from Pennsylvania on financial questions; but I know from the sentiments expressed around me, that if one gentleman goes into a discussion of the tariff, others will do the same thing. Now, it does not seem to me that that general subject should be taken up on this occasion, as it is not germane to the bill before us, which relates to Indian affairs.

The CHAIRMAN. While the Chair would concur in the opinion expressed by the gentleman from Iowa, he understands the rulings to have been universally in favor of allowing the discussion of all subjects in Committee of the Whole on the state of the Union. It is true that the matter now before the committee is the amendments of the Senate to an appropriation bill; but the Chair knows no reason why the rule should be different in relation to amendments from what it is in relation to bills; and the Chair, therefore, overrules the point of order.

Mr. PHELPS, of Missouri. I appeal to my colleague on the Committee of Ways and Means, as well as to the rest of the committee, to let us, by general consent, confine the debate to the subject-matter of these amendments. When this bill is disposed of there will be the Army bill, the Navy bill, the Post Office bill, the mail steamer bill, and the miscellaneous bill, still to be disposed of. But this is a large bill, and it will require some time and much particularity to enroll it.

Mr. STANTON. Will the chairman of the Committee of Ways and Means tell us when he proposes that we shall have an opportunity of discussing the tariff?

Mr. PHELPS, of Missouri. I propose to-morrow, if the House will go into the Committee of the Whole on the state of the Union, to call up the Army appropriation bill, provided that these amendments, and the amendments to the pension bill, which cannot take long, shall be disposed of to-day.

Mr. STANTON. Why not confine the debate to the Army bill as well as to this?

Mr. PHELPS, of Missouri. I desire that gentlemen shall have an opportunity of discussing the question of the tariff and of finance.

Mr. PHILLIPS. I will yield the floor now upon one condition only; and that is, that I shall, by general consent, have the floor when next we go into the Committee of the Whole. I once before yielded to an appeal made to me by the chairman of the Committee of Ways and Means, and I have been sorry for it ever since. I have seen no yielding by those who differ in opinion from me, and unless it is understood, that, by common consent, I am to have the floor when next we go into the Committee of the Whole, I will go on now; and then if there is any gentleman who wishes to speak upon these amendments, I would be willing to give him an opportunity of doing so.

Mr. PHELPS, of Missouri. There are gentlemen upon the other side who desire to do so.

The CHAIRMAN. Does the gentleman from Pennsylvania yield the floor?

Mr. PHILLIPS. No, sir, I have not yielded the floor; nor do I intend to yield it unless I know when I can get it again.

The CHAIRMAN. The gentleman must either yield the floor, or proceed with his remarks.

Mr. PHILLIPS. I have no idea of yielding it.

The CHAIRMAN. Well, the gentleman's time is running.

Mr. PHILLIPS. Mr. Chairman, I desire to say a very few words upon this subject, because I am speaking unexpectedly; but the matter has been before me for a long time, and I trust I am sufficiently familiar with it to give to the House the results of an examination which will show the condition of our Treasury to be lamentable indeed. As to whose fault it is, it is not my purpose to inquire. I will show to the House that the deficiency in the Treasury is greater than it has ever yet been estimated; and I challenge any gentleman upon this floor, the most rigid economist that can be found, to reduce the deficiency below that which I shall show will probably exist.

Mr. Chairman, according to the estimates of the Secretary of the Treasury, submitted to us at the beginning of this session, there is to be in the Treasury, at the end of the present fiscal year, somewhere, I think, about \$7,000,000. It is.....\$7,663,298 28
From this there is to be deducted the Post Office deficiency for the present fiscal year, as stated by him.....3,838,723 00

Leaving the actual balance in the Treasury on June 30, 1859.....\$3,224,570 28

And in that estimate I want the members of the committee to understand there was no mention by him of the fact that \$18,000,000 of Treasury notes would then be falling due, making the actual deficit upwards of \$15,000,000. It is well known that the Treasury needs, to enable it to make the proper exchanges and transfers with the various sub-treasuries, fully \$5,000,000 as their balances. There is no dispute about that. That is conceded by the Secretary and those who agree with him. So then, assuming the Secretary's estimate to be correct, there will be a deficiency of more than \$20,000,000 on the 1st day of July, 1859.

There is a further deficiency contemplated. Its exact amount I will tell presently, for I am now speaking without the books or papers. The Secretary contemplates a further deficiency of some \$4,000,000 at the close of the next fiscal year. Then, if all his estimates are realized, there will be a deficiency of about \$25,000,000, which it is the duty of this Congress to provide for. Gentlemen will understand that, while we are providing for the current fiscal year, yet we must also provide for the fiscal year ending 1st July, 1860.

I now ask the attention of gentlemen to the condition of the Treasury, not as it is estimated, but as it may be well shown to be, and then they will see what the deficiency will be, and how much is to be provided for. The Secretary says that the amount of deficiency, on the 1st of July, 1860, will be \$4,000,000. To that must be added the whole amount of the Treasury notes, for they all mature before that time, with the interest upon them, making the deficiency \$25,000,000, according to his account. I wish he had added the Treasury notes as a claim upon the Treasury; for, if I recollect rightly, when he asked for authority to issue them last year, he stated that he only wanted them for a little time; that he only wanted the House to grant him authority to issue Treasury notes as an advance upon the revenue, which, in his judgment, would be abundant for the service. I propose showing upon what his estimates are based, and then every member of the committee can judge for himself quite as well as the Secretary.

To keep the deficiency down to the sum estimated by the Secretary, it will require that the customs this year shall reach \$50,444,520 28. Of this there has been already received \$13,444,520, during the first quarter; and his estimate at the beginning of the fiscal year was, that the next three quarters would produce \$37,000,000. Assuming the proportion of free and dutiable goods to be the same this year as it was last year—and I believe the Secretary assumes as much in the letter he wrote in response to the inquiries of this House—to realize the sum of \$50,444,520, there would have to be imported in value, dutiable and custom-house value, merchandise to the amount of \$343,645,230; and to realize \$56,000,000 from customs next year, there would have to be imported \$381,448,150. I exclude coin and bullion, and only take the goods we have to pay for; and when it is borne in mind that, in a time of the highest prosperity, in the year ending the 1st of July, 1857, the year of very great commercial expansion, which doubtless contributed to the crisis that so soon followed it; when it is borne in mind that the largest amount ever imported was in that year, and that the value was \$348,438,342, it is idle for any man in any position to tell the people

of this country that they can afford to import this year, \$343,000,000, and next year \$381,000,000. If that amount of goods is imported, it cannot be paid for; and an expectation built upon an importation like this, I trust, has very little foundation.

Must we not learn something from the past? I agree that these are but estimates; and perhaps the one presenting them should not be held responsible for them. He told us that they were only estimates, and they must be taken with allowance. I agree with him in this, for they ought to be taken with a great deal of allowance; for I will show you that the same Secretary made a former estimate, (in December, 1857,) which, now corrected by his own estimate, is only about twenty-three million dollars out of the way. If he were wrong in one year \$23,000,000, it is unsafe for us to legislate with entire reliance upon his estimates the next year. If nothing else, it imposes a duty upon each member to examine the estimates for himself, as I have done. The Secretary, at the beginning of the last session, reported to this House that the amount which would be received from customs during the present year would be \$69,500,000. He submitted this estimate at a time when the country was undergoing the financial crisis. He reported that when the country was in the deepest distress—a time when his calculations should have been subdued, not exaggerated. That was his expectation at that time. To realize that, would require an importation of merchandise amounting to \$473,454,040—an amount more, by \$125,000,000, than the country ever imported, even in its days of largest business and greatest prosperity. Though he estimated there would be \$69,000,000 of revenue collected during the fiscal year 1858–59, yet, when he sends in his estimates, in December, 1858, he says that he has only received from customs \$13,500,000 during the first quarter, and he only expects to receive \$37,000,000 during the remainder of the year.

In other words, he was out \$19,000,000 in his expected receipts from customs; and as he estimated \$5,000,000 from the public lands, and only got \$1,500,000, he was mistaken \$3,500,000 from that quarter. Now, the Secretary who makes mistakes like this must expect to have his future estimates scrutinized to the utmost. There may be no great harm in it; but his calculations are mistakes—that is all. Here are the records. Here is the report, saying that the amount of duties to be received this year will be \$69,500,000, which, I repeat, would require an importation of nearly FIVE HUNDRED MILLION DOLLARS.

Now, Mr. Chairman, believing that the Secretary's estimate is not right, I beg to say that, in my judgment, there will be a greater deficiency than the assumed \$25,000,000, even supposing that there will be no greater expenditure than he estimates for. I agree that there ought to be economy and retrenchment wherever it is possible. But, with the growth and expansion of the country, and with the necessary increase of expenses that attend its growth and expansion, whatever reform and retrenchment may be effected, in a relative diminution of expenditures, the actual reduction cannot amount to much.

Now, let us see what further deficiency there is. I think that the deficiencies for the next two years will be far greater than he calculates. The Secretary says that, on the 1st of July, 1859, there will be an estimated balance in the Treasury of \$7,063,298. He says, in another part of his report, that there will be a deficiency in the Post Office Department for the present year of \$3,838,728. The Treasury notes that will fall due, will amount to \$18,339,500; and the working capital of the Treasury is \$5,000,000; leaving a deficiency, according to his account, of \$20,114,930. Now, Mr. Chairman, tell me if there is any real expectation that the importations for this year will reach the required \$343,000,000? If the Secretary receives in customs within \$6,000,000 of his estimate, he will be very lucky.

Mr. McQUEEN. Does not the gentleman know that, during the month of January, just past, the importations have been larger than they were ever known to be before?

Mr. PHILLIPS. I do not know the fact, and I think that that is a mistake.

Mr. McQUEEN. That is the statement; and it is uncontradicted.

Mr. PHILLIPS. The importations were

larger than in the corresponding month last year; and such I understood to be the comparison.

Mr. McQUEEN. And does not the gentleman know that the revenue has been diminished by the withdrawal of public lands from the market last winter.

Mr. PHILLIPS. The revenue from the public lands is but a trifle in the public service.

Mr. McQUEEN. It is not much.

Mr. PHILLIPS. The whole revenue from customs for the month of January was \$4,376,000, if my memory serves me. That is probably as great an amount as we can have any month in the year, and twice as great as we will have in some months. I am perfectly aware of the receipts of the months of January and December; but I believe that, if there is no greater deficiency in the revenue from customs than six or seven million this year below the estimated receipts, it will be doing pretty well.

Mr. McQUEEN. The statement I have alluded to has been made in the New York papers, and I have not seen it contradicted.

Mr. PHILLIPS. I did not understand that to be the statement, but that the contrast was made with last year.

Mr. McQUEEN. I beg leave to say that I saw the statement in the New York papers that the importations for the month of January were larger than they ever were before, and that the month of January, 1854, approached nearer to the month of January, 1859, than any month in a previous year.

Mr. PHILLIPS. That may be; but I do not believe all I see in the New York papers.

Mr. McQUEEN. Nor I either; but I have not seen the statement contradicted.

Mr. PHILLIPS. But in the next place, the comparison will prove nothing, because the year 1854 was not the year of the largest general importations. While I agree that there were large importations last January, I repeat that it is my belief that the receipts for customs will fall short of his estimates, at least \$6,000,000. If they do not, it will be because it is thought that the Congress of the United States will increase the duties on imports, and those who want to escape the payment of higher duties will bring in a large quantity of goods. That is the only chance the Secretary has for having his estimate filled up. The gentleman from South Carolina cannot point to any other mode of obtaining revenue, unless he resorts to his favorite mode of direct taxation.

Mr. McQUEEN. If it was left to me I would not hesitate a moment in issuing the necessary amount of Treasury notes, and let the country recover from the derangement under which it labors. It would recover within two years, without any protection of special interests, such as coal or iron.

Mr. PHILLIPS. I do not think that the gentleman is a good financial doctor. While the patient is deranged, he will not treat it, but wait till it gets well. Now I will treat it while it is deranged and disordered.

Mr. McQUEEN. By increasing the tariff?

Mr. PHILLIPS. I will first get things in good order, and whenever they are in good order, and there is money enough to allow a reduction of any of the revenues of the Government, I will, with great pleasure, go with the gentleman for reducing them.

Mr. McQUEEN. I will say to the gentleman from Pennsylvania, that I do not profess to be a very good revenue doctor, not as good perhaps as he is, especially to doctor the protection of coal and iron in Pennsylvania; but I would doctor the revenue, so as to let the existing revenue law alone awhile to let the revenue recover, as it will do, from the temporary depression under which it has been laboring; I would issue Treasury notes to supply the deficiency until the Treasury is replenished; but whether I am a good doctor or not, I understand that sort of doctoring by which my constituents are to be taxed in their honest labor for the benefit of the coal and iron manufacturers of Pennsylvania, the gentleman's constituents.

Mr. PHILLIPS. I do not care to make an issue between the State of the gentleman and my own State. There are a good many people in South Carolina for whom I have great regard, and I should be sorry if they were inoculated with the gentleman's doctrines.

Mr. McQUEEN. There are very many such.

Mr. PHILLIPS. I am sorry to hear it.

Mr. REILLY. I wish to ask my colleague this question. If his estimate of the existing debt of the Government is correct, and if his opinion is that the amount of revenue likely to be received from the present tariff will not be sufficient to pay that indebtedness and provide means to defray the current expenses of the Government, why is it that the Committee of Ways and Means, of which he is a member, has not reported a bill to increase the duties on foreign imports, so as to raise sufficient revenue for those purposes?

Mr. PHELPS, of Missouri. I rise to a question of order. The proceedings in a committee room cannot be divulged here.

The CHAIRMAN. The Chair understands that to be the rule.

Mr. JONES, of Tennessee. I should like to ask one question of my friend from Pennsylvania, [Mr. PHILLIPS,] and also of the gentleman who propounded a question to him, [Mr. REILLY.] That is, whether they really desire the increase of the duties now for the purpose of getting revenue, or for the purpose of protection?

Mr. REILLY. I answer the gentleman from Tennessee, by saying we desire a tariff which will produce sufficient revenue, and afford a little more protection than is given by the present tariff.

Mr. PHILLIPS. I was telling the gentleman how much the Treasury wants; and I will tell him presently how it is to be supplied. The Secretary estimates that, in 1860, the receipts will be \$62,000,000—\$56,000,000 from customs, \$5,000,000 from public lands, and \$1,000,000 from miscellaneous sources. That would leave a deficiency of upwards of \$12,000,000. Add the probable deficiency from customs of \$6,000,000 and public lands \$2,000,000—because if you embarrass commerce and manufactures you will sell but little public land—add those two items of deficiency, and it makes the deficiency for that year more than \$20,000,000, thus making the Treasury deficient on the 1st of July, 1860, more than \$45,000,000.

Now, the gentleman from South Carolina [Mr. McQUEEN] says that he would not legislate while the Treasury is disarranged; he would not legislate in an emergency. I have heard that said before. I have been told to wait till things get right—wait, and then cure them. I am for doing it now, and then, whenever things get so right that we can do without the remedy I now propose, I should be willing, if I had a vote, to repeal or change the law. But I never will vote to borrow a dollar of money, until I see the means provided for its punctual and honorable payment. That is the determination at which I have arrived, and I do not think it is in the power of man to induce me to change my ground. Well, there is a deficiency of \$45,000,000. How is it to be made up? Why, says the Secretary, revise the tariff. I am in favor of that; and I thank him much for the suggestion. But "revise it in my particular mode," he says. You can realize by his mode only \$7,000,000 per annum, at the outside, and any one who has made the calculation will say so. What, then, is to be done? The country is to be \$45,000,000 behindhand, at the end of the next fiscal year. We are to extend the Treasury notes for \$20,000,000, for a year or two, and there is to be no provision made for meeting them. We are told that the credit of the nation is good enough, and that we can borrow one or two hundred million, or a half a million million, if requisite. So we can; but it is on the faith of the past; and if the legislation of the present is continued in the style that it is promised to be, I can assure you that the credit of the country hereafter may not be as good as it has been heretofore. Nearly fifty million dollars deficiency, and no remedy supplied. The Secretary tells us that he has not estimated the Treasury notes among the wants of the Treasury, and asks us to reissue them. I say no; reissue none of them. If it is a debt, make it a debt, and let it run until such time as the promised improvement in the revenues of the Government will enable you to pay it.

Passing from that, Mr. Chairman, I want to call the attention of gentlemen to a former very great mistake; and I do so because, if there has been such a mistake made heretofore, I repeat, you must not implicitly rely on the present estimates. Taking the Secretary's estimate of December, 1857, and contrasting it with his estimate

of the succeeding year, he has only made a mistake of \$40,000,000 in eighteen months or less. He then told us that the amount in the Treasury on the 1st July, 1859, would be somewhere in the neighborhood, if I recollect aright, of \$1,862,000.

Mr. SMITH, of Virginia. I would beg the gentleman, when he states results, to give us the figures.

Mr. PHILLIPS. I would do so, if I thought the gentleman would listen.

Mr. SMITH, of Virginia. I am listening with attention; but I confess I am not able to understand.

Mr. PHILLIPS. The Secretary estimated that the amount in the Treasury on July 1, 1859, would be \$1,862,000 or thereabouts, and he will have a little more—about \$3,000,000. But to get that little more, he will have had \$40,000,000 more than he expected—\$20,000,000 in Treasury notes, \$20,000,000 loan, and the premium that accrued on those amounts. The actual error between the estimates of December, 1858, and the estimates now made, is \$40,587,900 18, which, I hope, is exact enough for my friend from Virginia. How is this to be supplied? As I have already said, I will vote for any proper reform in the expenditures of the Government; I will lop off any extravagant service; I will reform any maladministration. I will not cut down the Army or Navy. I will not call back our ministers and consuls from foreign countries. I would not shut ourselves out from the rest of the world. But I will vote to reduce the number of office-holders. I will vote, as I have uniformly voted on this floor, against expending a dollar where the Government does not receive its full value. But all this cannot be done immediately; it must be the work of time, of patient investigation, and careful scrutiny; else reform cannot be real.

Mr. MILES. Will the gentleman vote to make the Post Office Department self-sustaining?

Mr. PHILLIPS. No, sir; I represent a reading and writing community; and if there is any tax in the world which they will cheerfully pay, it is the postage.

Mr. MILES. I desire to ask the gentleman whether his reading and writing constituency ought not to be willing to pay for the advantages they enjoy, and whether he desires to tax the dark and unenlightened regions, where they do not value reading and writing so much, for the benefit of his constituents?

Mr. PHILLIPS. If some of our light could only reach those dark and unenlightened regions, I would be very willing that they should have it, with or without tax. But what I mean to say is, that I will do nothing that will embarrass the Post Office Department, or lessen the facilities of intercourse between the different portions of this Confederacy; and my vote will never be given to raise the postage on the principle of making that Department self-sustaining. Why should it sustain itself more than any other Department?

Mr. MILES. I desire to ask the gentleman whether he believes that making the Post Office Department self-sustaining would diminish the mail facilities, and the circulation of enlightenment among the people?

Mr. PHILLIPS. I do; and as I want the circulation of light in the benighted regions with which the gentleman from South Carolina is familiar, and of which he has just spoken, I will do nothing that will tend to prevent it.

Mr. MILES. The gentleman must allow me to say that his remarks, so far, have satisfied me that the enlightenment among his constituents is not so great, in spite of the taxes we pay for the circulation of information among them. I think he is quite as familiar with unenlightened and dark regions as I am.

Mr. PHILLIPS. Probably so. If the gentleman from South Carolina will look at the statistics he will find that his region of country gets full value for all that it pays. Apply the doctrine to the district represented by the gentleman from South Carolina, and I will not object. Will the gentleman from Mississippi apply it to his district? Will he ask to have every post office abolished where the receipts will not pay the expenses? If so, I for one, would yield him what he desires. It would seem that those who pay the greatest part of the postage are those who are opposed to the increase of its rates.

Mr. BARKSDALE. I desire to say that the Post Office Department does not sustain itself in a single State in the Union. I have it from the Postmaster General himself.

Mr. PHILLIPS. If such is the fact, why did that officer not state that in his report, in black and white? On the contrary, the report and statistics show otherwise. My State pays more than the service costs.

Mr. BARKSDALE. The General Government does comparatively nothing for Mississippi except to furnish her mail facilities; whereas the gentleman's State monopolizes a large proportion of the offices of the Government and the appropriations from the public Treasury.

Mr. PHILLIPS. I am sorry that Mississippi has so little. If I can do anything to help her, I will. I do not think that Pennsylvania has more than she deserves.

Mr. SMITH, of Virginia. The city of Philadelphia, in supplying the Army of the United States with boots and shoes and caps, receives more of the Federal money than five or six of the southern States altogether.

Mr. PHILLIPS. The gentleman from Virginia is the last one that ought to complain; for according to all accounts, he is well provided for.

Mr. SMITH, of Virginia. If the gentleman relies for his information upon Madam Rumor, he relies then upon the words of a common strumpet.

Mr. PHILLIPS. Not at all. I have no acquaintance with any such people. [Laughter.] I would not increase the postage. It is a tax that is willingly paid. Just as low as you can fix the postage I shall be satisfied, and the lower the better. I will not vote to retrograde in this act of enlightenment. Perhaps the gentleman would like the Army to be self-sustaining—the soldiers to maintain themselves. That would reduce their line of expenses materially. Give the Navy a roving commission on the seas to support itself and it could do it. But there is about as much reason that they should be self-sustaining, as that the Post Office Department should be self-sustaining.

Mr. BARKSDALE. I desire to ask the gentleman from Pennsylvania this question: is the Government under more obligation to carry a man's letter free than his merchandise?

Mr. PHILLIPS. Yes, sir.

Mr. BARKSDALE. Why?

Mr. PHILLIPS. Because it was in contemplation of the framers of the Constitution that there should be a Post Office Department, and they provided for it in that instrument.

Mr. BARKSDALE. It was the contemplation of the framers of the Constitution that the Post Office should sustain itself; and for years it did sustain itself, until the present act was passed for the benefit of the commercial and manufacturing classes, to the detriment of the agricultural.

Mr. PHILLIPS. Those who framed the Constitution intended that there should be a Post Office establishment. That the gentleman does not deny. He says that they contemplated that it should be self-sustaining. I deny that. I can find no evidence of that fact. If the fact be, as the gentleman states, that it inures to the benefit of the great commercial and manufacturing interests of the country, that, I think, is, in itself, a sufficient reason to keep it up. If, as he says, it helps the mercantile and manufacturing interests, and hurts none—

Mr. BARKSDALE. It injures the agricultural interest.

Mr. PHILLIPS. It can hurt no interest; and the gentleman does a greater injury to the agricultural interest, by seeking to antagonize it against other interests, than the Post Office possibly can do.

To resume the thread of my argument. The public lands will not supply revenue; nobody contends that they will. The Post Office will not do it—nay, it ought not to do it. Where, then, is the money to come from? I understand my friend from South Carolina [Mr. McQUEEN] to say that if his vote would decide, it would come from direct taxation. I know those are his views; they may suit his latitude; but there would be a small amount of taxes collected from mine. That experiment has been tried, and has not succeeded. I can tell the gentleman that the citizens of Pennsylvania will pay as cheerfully as the citizens of

any portion of the Union; yet they will not expect direct taxation when there is a constitutional and easy mode of raising revenue pointed out and recognized by those who framed the Constitution, and which has, ever since the adoption of the Constitution, been recognized as the source from which revenue should be derived.

Mr. Chairman, I am for an increase of duties on imports, and I will not vote for Treasury notes or a loan without such increase. I am for giving the Treasury a relief of \$20,000,000 by loan. The withdrawal from warehouse of the merchandise stored there, in order to avoid the higher rate of duties, will yield \$2,000,000. Orders will go out—are now going out—in anticipation of the time at which the increased duty will take effect; and you will get increased revenue from that fact. But, without increased duty, even the \$20,000,000 loan would leave the Treasury, on 1st July next, empty and bankrupt; and the creditors of the Government would be clamoring for their money, but clamoring in vain. I would put the duties upon a proper basis; I would, if there were time for a full revision, make them specific upon every article of uniform, or nearly uniform, value; I would fix the value for myself; I would let Congress fix the standard value, instead of leaving it to the uninformed, and sometimes the corrupt, officeholders, to whom that duty is assigned.

Where is the difference between a standard of value set by the Government, and a standard of value at the arbitrary discretion of appraisers, differently exercised in the several parts of the United States? Then the Government will get the fair amount of duty upon the goods imported, which it is impossible to obtain now. I would raise the tariff to a point sufficient to meet all the demands of the country. I would not put on a duty merely for protection. I would not put a duty which would prohibit the introduction of an article. I would put nothing prohibitory; but in fixing a revenue standard I would discriminate in favor of those at my own home rather than, as some seem willing to do, in favor of those abroad. These are the views I entertain. A merely protective tariff, as such, I would not vote for; because the moment it reaches the protection point, that moment it becomes prohibitory; whether the requirements of the Government be \$50,000,000 or \$60,000,000 or \$100,000,000 per annum; I think that the Government is rich enough to have all that it wants. I would put the tariff up to a revenue standard; and I would take care, so far as my influence and vote would go, to discriminate, as we have always done, in favor of, and not against, ourselves.

Mr. DAVIS, of Maryland. I wish to ask the gentleman what sort of tariff he calls a tariff for protection? He used the phrase several times.

Mr. PHILLIPS. I consider a tariff for protection to be a tariff in which the revenue is to be derived from certain articles, and the duty put entirely for protection upon others excludes them from importation. I am aware that some gentlemen and papers call me a protectionist, but I am careless so long as I know I am right.

Mr. CURRY. Does the gentleman mean that a protective tariff is a prohibitory tariff?

Mr. PHILLIPS. I do.

Mr. CURRY. That is your definition?

Mr. PHILLIPS. It is. I do not believe that any other tariff is protective; the policy of the Government has been uniform in keeping a tariff for revenue, with discrimination for protection. The ultras of this House have voted for discrimination. It is too late for them to reproach any one with that. The day has gone by for that. There are some in this House who are in favor of free trade; yet I find that many of them have already, by their votes, sanctioned and approved the principle of discrimination. That is all I ask now.

Mr. SMITH, of Virginia. What duty would you put on iron?

Mr. PHILLIPS. Enough to insure that the bad iron, when it comes in, shall pay the full duty; and that the labor of the American citizen shall be paid at least equally with that of the foreign manufacturer.

Mr. GRANGER. Will the gentleman from Pennsylvania allow me to answer? It is to allow Pennsylvania a shade of advantage in the manufacture of iron over England in our own market. It is to give Pennsylvania a little the longest end

of the eveher when she is pulling against England on a load of railroad iron. [Laughter.] It is to have our iron rails made at home, where our own labor can be employed, and fed and paid; so that our farmers can feed them, and keep the money here.

Mr. JONES, of Tennessee. The Government received, during the last fiscal year, from customs and from public lands, and from miscellaneous sources, about \$46,500,000. Now, I ask the gentleman from Pennsylvania if he does not think that that is enough to sustain this Government, economically administered, and on Democratic principles?

Mr. PHILLIPS. I answer emphatically, no. This Government cannot be maintained on \$46,000,000. The expenses of the Government may be reduced, but cannot be brought down, in my opinion, to \$46,000,000. And next, I tell the gentleman that whenever the expenditures are so brought down, I will be willing to see the revenues reduced accordingly; but not until then. I see no evidence that they are going to be brought down very much, and I do not believe that they are. They may, in my opinion, be brought to a stand still; and this is an effective reduction. If the gentleman entertains the idea that they can be brought down to \$46,000,000, he had better banish it at once, or he will be sorely disappointed.

Mr. JONES, of Tennessee. We can try. Mr. PHILLIPS. The gentleman may try. I have no doubt that he is sincere in desiring to do so, and he believes that it may be accomplished. But let any man look around and see what the Government's wants are, and where he will begin to economize. How much will he take from the Army? how much from the Navy?

Mr. JONES, of Tennessee. I would take from the Post Office Department the \$10,000,000 which it gets out of the Treasury.

Mr. PHILLIPS. I would not. I would not take a dollar from the Post Office service, so far as postages are concerned. I have said thus much, Mr. Chairman, almost unprepared. I did not expect to speak to-day; and I thank the Chairman for his courtesy in letting me have the floor. My only desire has been to show the true state of the Treasury, as I believe it to be; and having done so, in this hurried manner, I yield the floor.

I have expressed my opinions freely; but they are my opinions on an important subject, formed on much examination and study. I believe the Treasury will be sadly deficient in means. I desire to provide abundantly for its wants, and to keep the national credit from depreciation or dishonor. I am distinctly opposed to a reissue of the Treasury notes, which, at a low rate of interest, will, as business revives, be the chief means of payment into the Treasury, and thus practically at a discount. A loan will relieve the Treasury until it matures; and it should run through a number of years, so that the means of repayment may be easily supplied. I would supply the wants of the Treasury to their fullest extent by augmented duties on foreign imports, discriminating for the honor, welfare, and prosperity of our own people; and I entertain the belief that the day is not far distant when this doctrine will be universally recognized. Such legislation, in my judgment, will impose the lightest burden upon all; it is based upon equal consideration of all interests, and according to established precedent and time-honored practice.

[APPENDIX

Showing deficiency in July, 1860:

The Secretary estimates the deficiency in the Treasury, July 1, 1860, of	\$4,075,848
To this must be added Treasury notes	\$19,989,800
Post Office deficiency for this year	3,838,728
Deduct for over-estimates for 1859	6,000,000
Deduct for over-estimates for 1860, from customs	\$6,000,000
Deduct for over-estimates for 1860, from lands	2,000,000
	8,000,000
Working capital for Treasury par-	
posts	5,000,000
	42,823,528
Making probable deficit in July, 1860	\$46,904,376

INDIANA STATE STOCK.

Mr. GARNETT obtained the floor.

Mr. COLFAX. Will the gentleman yield me the floor to make an explanation in regard to the

State of Indiana, touching the very matter that was debated between the gentleman from Texas [Mr. REAGAN] and my colleague, [Mr. HUGHES]? I failed to obtain the floor at that time; and now ask simply to have a letter read, from the clerk of the Ways and Means Committee of our Legislature. It is due to my State, which has been unjustly attacked here on the charge of being "a bankrupt State."

The letter was read, as follows:

INDIANAPOLIS, February 1, 1859.

DEAR SIR: Mr. Denver, the Commissioner of Indian Affairs, addressed a letter to the Secretary of the Interior, apprising him that there was due from Indiana, about twelve thousand four hundred and three dollars to his department, for interest unpaid on bonds of the State held by the United States in trust for certain Indians. This communication was sent to Mr. GREGG, member of Congress, by the Secretary, by whom it has been placed before our General Assembly. These were referred to the Committee of Ways and Means, and, as their clerk, I prepared, on their order, a report and resolutions, which they have agreed to lay before the General Assembly. The object of this letter is to inform you of what will be done here, and what will be asked of you and your colleagues to do.

The communication of Mr. Denver concludes as follows: "I have also respectfully to suggest the propriety of calling the attention of the Senators and Representatives in Congress, from Indiana, to the condition of this stock, and requesting them to use their influence towards effecting an early adjustment of said arrears of interest."

This unpaid interest has accumulated, since 1855, on \$70,000 of our bonds; but the United States holds, in all, about \$210,000, which it purchased in 1837, in trust for certain Indians.

In 1845, Congress passed a joint resolution directing the Secretary of the Treasury to retain any moneys coming to States indebted to it for unpaid principal or interest on bonds or stocks held by the United States in trust. Under this resolution, the Secretary retained our three per cent. fund, which, in 1855, amounted to about one hundred and six thousand dollars. In 1849, and for several years afterwards, the General Assembly passed joint resolutions, declaring that this fund was held by it in trust, and that it could not be made liable for debts owing by the State. In 1855, Governor Wright was directed to correspond with the Secretary of the Treasury, Mr. Guthrie; but the latter did not regard it as a trust fund, and said he could not refund the three per cent. without an act of Congress. This fund has been applied to payment of the interest on our bonds; and, in 1855, having been exhausted, no interest has since been paid. Hence, the letter of Mr. Denver.

The report reviews the influence of the General Government in inducing the State to enter into the system of internal improvements of 1836; the causes which prevented the State from paying interest in 1841; the proposition of the bondholders, and settlement with them by the acts of 1846 and 1847; the arbitrary act of Congress in seizing the three per cent. fund, &c.

The act of 1847 declares "that the State will make no provision whatever hereafter, to pay either principal or interest on any internal improvement bond or bonds, until the holder thereof shall have first surrendered said bonds to the agent of State, and shall have received, in lieu thereof, certificates of stock as provided in the first section of this act." The State has at all times adhered to this stipulation, because it would have been wrong to have required the accepting bondholders to comply with the acts of 1846 and 1847, and have paid, in full, the non-accepting.

The report concludes with the declaration, that the people of Indiana will not pay any interest on any bond but in accordance with the acts of 1846 and 1847; and that, preliminary to the United States complying therewith, must be the payment to the State of the three per cent. fund withheld.

The joint resolutions reported, instruct our Senators and request our Representatives, to cause to have repealed the resolution of 1845, pay the State the three per cent. fund withheld, and direct the Secretary of Interior, or other proper officer, to surrender the bonds to the agent of State, and receive certificates of stock thereof, &c.

Another directs the agent of State not to receive the bonds so held by the United States, whether transferred by it or not, until he shall be notified by the Governor that the three per cent. fund has been paid to the treasurer of State.

Some years ago the Senate of the United States passed a law as now requested; but it unfortunately got among the "unfinished business" of the House. I am aware how difficult it will be to effect a satisfactory adjustment of these matters in the present condition of the Treasury, and at this late period of the session. But if these bonds were surrendered at once, under the act of 1847, before the three per cent. fund is restored, the State would lose about fifty-five thousand dollars. Not knowing but that our delegation might take some action, authorizing the Secretary to surrender the bonds to the agent of State, without first paying this fund, I have hastened to apprise you of the facts, and the connection of the interest on the bonds with the three per cent. fund, and the action of the Committee of Ways and Means.

Your friend,

L. BOLLMAN.

HON. SCHUYLER COLFAX.

Mr. COLFAX. As the gentleman from Virginia is anxious to proceed, and as I have accomplished all I desired by having this letter read, I will not trespass further on the gentleman's time. The Government is possessed of \$106,000 trust funds, belonging, by sacred compact, to the State of Indiana, guaranteed to her upon her admission into the Union—a trust fund which the Government had no right to seize for the repayment of debt, or for the liquidation of an investment which

the State did not invite. She has made an honorable adjustment of all her debts with her creditors—an adjustment satisfactory to them, and, indeed, proposed by them; and has ever since been paying her interest regularly. When the Government refunds to her the trust funds they have withheld by the exercise of their power, it will be time enough for gentlemen to ask her to place the Government on a par with her other creditors.

GOVERNMENT EXPENSES.

Mr. GARNETT. Mr. Calhoun long ago said that the people of every country may be divided into two great classes—a division necessary and eternal—the tax-payers and the tax-consumers. These classes are here fairly arrayed against each other, and the issue between them is well made up. There is a deficiency in the Treasury; and I am glad of it, for it raises the question, "Shall we increase the taxes for the benefit of the tax-consumers, or shall we reduce the expenditures for the relief of the tax-payers?"

This, sir, is the issue to which I shall address myself to-day.

According to the estimate of the Secretary of the Treasury, there will be a deficiency, on the 30th of June, 1860, of \$4,075,848. Add to this the amount asked for the current year as a deficiency by the Postmaster General, of \$3,838,728, and you have a total deficiency for the next fiscal year of \$7,914,576. Now, the gentleman from Pennsylvania, [Mr. PHILLIPS,] who preceded me, labored very hard to swell the amount of this deficiency. He first gives it as does the Secretary; then he raises it to \$27,000,000; then to \$40,000,000, and finally it grows to \$50,000,000. How did he accomplish this feat of arithmetic? By adding the loan of \$20,000,000 made last year—a loan upon a long time, which can in no way be counted among the liabilities of next year.

Mr. PHILLIPS. The gentleman will allow me to correct him. The loan is not included in the \$47,000,000. The loan is to be paid hereafter. I said the Treasury notes being a debt due in July and December respectively, the deficiency in the Treasury on the 1st of July, 1860, would be \$47,000,000; and, of course, that does not include the loan of \$20,000,000.

Mr. GARNETT. Then, sir, the gentleman fails to explain to my mind, or to any one else, how he can calculate on a deficiency of \$47,000,000; unless, indeed, he expects the expenditures to outrun, or the revenues to fall short of, the Secretary's estimates by \$20,000,000. Admit these to be correct, and your deficiency cannot exceed, at the end of the next fiscal year, the Secretary's estimate of nearly \$8,000,000; or, if you add the Treasury notes outstanding, \$27,000,000. But is it fair to count the Treasury notes as a portion of this deficiency? The gentleman will admit, and every member of this House must admit, that, raise what tariff you may, impose what duties you may, the \$20,000,000 due upon Treasury notes must be provided for by a loan or a reissue of those notes. It is only the deficiency of \$7,000,000 that you can hope to meet by raising taxes. I take it, then, that it is conceded, on all sides, that whatever financial policy we may adopt at this session, we shall have to provide by a loan or a reissue for the outstanding Treasury notes. The only present question is how to provide for the alleged deficiency of not quite \$8,000,000 on June 30, 1860.

But, to establish even this deficit, you must expend in the present and the next fiscal years every dollar of appropriation asked for, as well as the entire outstanding balances of existing appropriations—a thing that has never been done before in the whole history of the country; for, from the foundation of the Government down to the present time, there has always been, at the end of the fiscal year, an outstanding balance of appropriations unspent, and, from the nature of things, there always must be. Why, the present fiscal year commenced with an outstanding balance of appropriations of \$16,586,588; and the Secretary estimates that the next fiscal year will commence with an outstanding balance of \$12,478,907. Why, then, should we suppose that the fiscal year, commencing July 1, 1860, will be an exception to all preceding years, and begin without any outstanding balance whatever? Look over the items in the table of outstanding balances making

up this \$12,478,907, and you will see that, from their very nature, many can be delayed, and several of them must be delayed.

I say, then, that, according to all past experience, there will, and must be at the end of next fiscal year, as ever heretofore, an outstanding unexpended balance of appropriations which will more than cover the Secretary's estimated deficiency of \$8,000,000.

But, sir, admit that it does not; admit that you are to spend every cent that is asked for, and every cent of the outstanding balances during the next fiscal year, and, I ask, are these estimates themselves right? Is it necessary to spend \$71,000,000 or \$72,000,000 next year? Has not the time come when we should make some effort to reduce the expenditures of this Government? Will any gentleman say that we should impose taxes for the sake of taxes? Shall I be told that we ought to take a dollar from our constituents—the people of this country—except for the necessary expenses of an economical Government? I take it that even the gentleman Pennsylvania himself will not maintain so monstrous a proposition as that.

But, a few years ago, in 1851-52, the expenditures, exclusive of payments on account of the public debt and awards under the then recent treaty with Mexico, were \$36,022,099; and in 1852-53 the expenditures, exclusive of the same payments on account of the public debt, were \$43,544,262. Last year, in 1857-58, they were \$71,492,398; and the estimates asked for, for the next fiscal year, exclusive of payments of public debt, amount to \$71,254,633.

Now, I beg the committee to remember that this country is as large at this moment as it was in 1851-52, with the exception of the Gadsden purchase. I beg the committee to remember that, if the country now extends from ocean to ocean; if it stretches from Puget Sound to Key West and the Tortugas; if it now spreads from the Aroostook to San Diego, I beg them to remember that so it did in 1851-52. If you have to protect and defend and maintain your Government throughout the whole of this vast region which we now occupy, we held the same region and had the same duties and functions to fulfill six years ago.

Can any gentleman pretend that it is fair, that it is just, that it is legitimate, that the expenses of this Government, in time of profound peace, should have doubled in six years? Look through the list of items, and you will find that the expenditures have doubled in almost every item. Is not there the place to apply the knife? Can we go home to our constituents, and tell them, "you sent us to Congress in time of commercial disaster; at a time when, if the revenues of the Government were languishing, the revenues of the people were still more languishing; we have made no effort to reduce the expenditures of the Government; we have left them at double what they were six years ago; and we imposed additional taxes upon you?" Can the gentleman from Pennsylvania justify such conduct, even to the iron-makers of his own State?

He says the expenditures do not admit of much reduction. Is this probable, in view of the fact that they have doubled in only six years? Let us look through the list, and, even with my brief experience here, with what I admit to be very insufficient knowledge, I think I can point out some important retrenchments, more than enough to meet the estimated deficiency.

First, there are the legislative expenditures. In six years they have grown from \$1,248,018 to \$3,583,524. Does the gentleman from Pennsylvania think that nothing can be lopped off there? Why continue your vast printing expenses? Why should Government enter into the book-publishing business, unless it be to maintain party presses here, and to furnish yourselves with documents and books for electioneering? Perhaps they are needed for that exceedingly intelligent "reading and writing community" which the gentleman from Pennsylvania boasts that he represents. My constituents may not read and write quite so much, but let me tell him that they prefer to read at their own expense, and not at the cost of their tax-paying fellow-citizens.

Now, look at the salaries of the surveyors of your public lands. They constitute rather a small item, but I wish to illustrate this subject in small items as well as in large ones. In 1851-52, they were \$72,528; last year they were \$163,717. In

the former year the Mint establishment cost \$140,003; now it costs \$613,487. Why is that? Is it because you have more gold and silver to coin? Not at all. It is because, under the vile system growing up in this country, when you spend money in one district, you are called on to expend a like sum in another.

Patronage and expenditure beget demands for more patronage and more expenditure, until the whole country is dotted over with public establishments, not for the benefit of the public service, but for the advantage of the tax consumers in each locality. A mint is needed at San Francisco, the capital of the modern Ophir. I think that you should have a mint in New York, the second commercial metropolis of the world. But why should there be one in the neighboring city of Philadelphia? Why should you have one in the mountains of North Carolina and of Georgia? Why one at New Orleans? If the system is to continue as it has begun, we will soon have mints in every State of the Union.

The collection of the revenue cost \$2,082,653 in 1852, and \$2,907,432 last year. The Secretary of the Treasury—and I will have something to say presently in answer to the gentleman from Pennsylvania, in defense of that officer—has reported a bill to reduce those expenditures. He proposes to abolish numerous custom-houses where no customs are collected, and cut off numerous offices that are of no use. But who will assist us to take up that bill and act upon it? Will the other side of the House? Will the gentleman from Pennsylvania, or his colleague? I doubt it. Your light-house establishment has, in six years, increased in expense from \$597,466 to \$1,162,857. Why? Not in consequence of necessary lights. On many parts of the northern coast the lights are so numerous that they are a source of danger to the navigators. Instead of guiding them through the shoals and rocks they mislead them to their destruction. I fear it was not the lights, but the patronage that was needed.

The deficit in the marine hospital fund has nearly doubled since 1852, and I might show the same of almost every other head of expenditure.

I know, sir, that many of these extravagances require legislation to correct them, for which there is not time enough remaining. I have not leisure, nor is this the time, to suggest all the remedies. But there are other appropriations even now in our power; there are retrenchments which may be made even in this brief remnant of the session.

First, then, I find in the estimates \$2,226,000 of appropriations asked for buildings, such as the Capitol, the Washington aqueduct, the Treasury extension, the Patent Office and Post Office, the Insane hospital, the New Orleans and Charleston custom-houses, &c.

I will not ask whether such buildings were originally necessary.

Mr. MILLSON. Permit me—

Mr. GARNETT. I must go on. I have no time to be drawn from the thread of my argument.

Mr. MILLSON. I wish to make a correction, but I will not press it if the gentleman is not inclined to yield to me.

Mr. GARNETT. I would rather rather go on. Now, whatever may have been the original propriety for these buildings, I submit that here the Government ought to do what any prudent private individual would do. If he finds himself in a time of pressure, his first thought is to reduce his expenses, and to postpone all that is not absolutely indispensable.

So with these buildings. We ought not to appropriate more than enough to keep them from dilapidation. Suspend the work upon them. In some cases this will be an advantage to the work itself; in others it can do no harm. Is it well to spend \$300,000 more on the New Orleans custom-house, until we see how far it will sink. It settled more last year than ever before. I believe my colleague [Mr. LETCHER] fears it will yet break through the crust of earth into the Serbonian bog which he contends underlies New Orleans. This Capitol, again, is built of the most indestructible materials, iron and stone, no wood about it. We are comfortably occupying both wings. Why not postpone the completion? It was said that the estimate last year was to finish it, but of course it has not done so.

The Committee of Ways and Means have already made some reduction here. I would reduce still more. I conclude that \$266,000 for these buildings will be ample. That saves \$2,000,000. Then I come to your navy-yards. I find that the Navy Department for the year 1851-52 cost, for actual expenditures, \$8,928,236; in 1852-53 it cost \$10,891,639. Last year it cost \$13,976,000. This rapid increase raises at least a presumption that something can be saved here. Our Navy had certainly as much to do five years ago as it has now. Why should we spend to-day \$5,000,000 more than we did five years ago—\$6,000,000 more than we did six years ago—increasing at the rate of \$1,000,000 a year? My friend from Georgia [Mr. CRAWFORD] says we have no more men afloat, and, I believe, no more guns. Looking more minutely, I find that in 1851-52 the navy-yards cost \$741,692; in 1852-53 \$693,038; last year \$1,982,923. Why are the expenses of your navy-yards so great? The reason is plain. The navy-yards do not exist for the Navy. If they did, one on the Pacific coast and one or two on the Atlantic would be all-sufficient.

The navy-yards are kept up for the benefit of the people employed, and the money spent. And so we have them dotted in every direction. I believe the gentleman from Georgia [Mr. SEWARD] has one in embryo in the State of Georgia even now. It is time to stop some of these leaks in our ship of State. It is time to get rid of some of these navy-yards. I ask the chairman of the Committee of Ways and Means if we cannot reduce their expenses? May we not stop the building of walls and houses and new machinery in them, and delay the operations? I think we might take off \$1,000,000 there.

Mr. CRAWFORD. The Committee of Ways and Means has taken off about \$1,000,000.

Mr. GARNETT. I am glad to have their indorsement.

I come next to the items for increase and repairs. Remember that this does not include the building of the sloops ordered last session. There is a distinct estimate for them. This is for the ordinary repairs. It amounts to \$3,100,000. Five years ago it was only \$2,300,000; six years since only \$2,200,000. There, too, we can save about \$1,000,000 by bringing down the expenditures to the former standard. Thus far, I have \$4,000,000 altogether of savings.

Then, sir, come to the Army. First, the fortifications are estimated at \$698,000. The Committee of Ways and Means recommended a reduction of \$650,000. I thank them for the recommendation, and most heartily concur with them. The next item is for armories and arsenals—\$1,467,000. In 1852, they cost \$848,000; in 1853, \$856,000. Why should they cost more now? Why can we not save on that item \$800,000.

Take the next item, for barracks, \$700,000. There again the pruning-knife can be employed. These barracks are built, and expensively built, at points where they are only to be used for a year or two. We are continually changing our frontier forts, and instead of putting up houses like those of the settlers around them, we put up expensive gothic cottages for the officers, and durable barracks for the soldiers. Our Army is but the outpost—the flanking guard of the great column of American emigration; its march is so rapid, that there is scarce time to pitch a camp beside its stations, far less to erect such expensive fortifications. Therefore, I will reduce this item to \$200,000.

Then take the quartermaster's department. The estimates are larger than the expenditures of last year; yet now we have no Mormon war. I acknowledge the difficulty of reducing items like this; I know that it is, to some extent, striking in the dark; but we have reached that point when we must strike in the dark. The Quartermaster General tells you, the Secretary of War tells you, the Committee of Ways and Means tells you, that they cannot control these expenditures; then I say that the only way to control them is the same way that you would control any other extravagant person; that is, by stinting them in money.

Mr. CRAWFORD. In connection with what has been said, I would say that the number of animals in the employ of the United States Army are about nineteen thousand, while the Army itself is only a little over eighteen thousand, and not all full at that.

Mr. FAULKNER. With the permission of my colleague, I will state that the Committee on Military Affairs have given to all the items of expenditure connected with the Army a most careful examination, and they are of opinion that the appropriations for the support of the Army for the next fiscal year may be reduced below the estimates of the Secretary of War near \$2,000,000, and below the amount recommended by the Committee of Ways and Means upwards of \$1,000,000.

Mr. GARNETT. I knew that my colleague had been devoting his usual ability and industry to that department, and I am glad to have his authority, and the authority of the Committee on Military Affairs, to bear me out. I take, without further investigation, his statement, that he is prepared to propose a reduction of \$2,000,000 in the Army estimates. This makes an aggregate reduction of \$6,000,000; and thus the estimated deficiency is reduced to \$1,900,000.

If, then, you go next to the Post Office Department, and make it self-sustaining, you would at once save, in the next fiscal year, \$6,000,000; and \$4,000,000 of a deficiency for last year. That makes \$10,000,000 more. This \$10,000,000, added to the other \$6,000,000, makes a saving of \$16,000,000; while, against that, the Secretary estimates a deficiency of not quite \$8,000,000; so that you will have an actual surplus of \$8,000,000 at the end of the next fiscal year.

I have, thus far, shown that it is in our power, at this session, to reduce the expenditures, so as not only to cover the deficiency, if there is any such deficiency in existence, but also to produce an actual surplus in the Treasury. I ask gentlemen whether, in the face of these facts, they are prepared to increase the taxes?

But I go one step further. I am prepared to show that the Secretary, so far from erring in an extravagant estimate of revenue, as the gentleman from Pennsylvania says, has erred by underestimating it. I can show that the Secretary's estimate will, in all probability—and, after all, it must be a question of probability—be exceeded, and largely exceeded.

It is but natural that a cautious officer, feeling his responsibility and making his calculations at the beginning of the session, should have put the estimate of the revenue at the lowest point; but I must say, while on this matter, that we have an extraordinary spectacle presented to us to-day, indeed, when the Pennsylvania Democratic member of the Committee of Ways and Means, who is generally understood to be peculiarly the friend of the Chief Executive himself upon this question, comes into the House of Representatives and makes a deliberate assault upon the Democratic Secretary of the Treasury.

Mr. PHILLIPS. I beg to say that the gentleman has made two mistakes. In the first place, if I am understood to be the representative of the President, I am misunderstood. In the next place, I am not aware that I made any assault. I spoke merely the truth, according to my belief; and it cannot be fairly construed into an assault upon any one.

Mr. GARNETT. But perhaps the gentleman thought the truth was the severest libel. If the gentleman from Pennsylvania considers that he made no assault upon the Secretary of the Treasury, I think that officer may well request to be delivered from his friends and committed to the tender mercies of his enemies.

The gentleman took the estimate of the revenue during this fiscal year, made by the Secretary a year ago. You must remember that the Secretary made that estimate for the year at a time of the greatest possible commercial depression; at a time when everybody thought the commerce of the country would have revived within the year, and under the new tariff which had not been three months in operation. It is not unnatural, therefore, that he should have erred. But the Secretary now, with the experience of the year, stands in a very different position. Let us examine his present estimates. He estimates the revenue from customs at \$50,444,520. Now we must remember that the trade and commerce of the country were just reviving from the effects of the crisis, in the first quarter of the year. The receipts then were probably less than an average of the whole year—they were nearly \$13,500,000; and the same average would give, for the whole

year, about \$54,000,000, or \$3,500,000 more than the Secretary's estimate.

I have a table, taken from authentic sources, showing that the imports into New York, from the 1st of January down to some time in the latter portion of that month, were larger than they were during the same time in 1857. For instance, the goods entered since the 1st of January to that date were \$10,576,607 this year, against \$10,336,476 in 1857; goods entered for consumption \$10,986,445 this year, against \$10,655,983 that year. I have seen a still later table than this, but I have not got it with me, coming down to the first week in February, and showing that the imports and goods entered for consumption up to that period were still larger than those of 1857, the year of the largest importations ever known. Here is proof, and very strong proof, not only that trade is reviving, but that the revival is exactly in that point where we are concerned that it should be—the increase of importations. Look at the returns of the banks, the transport of produce over railroads, and in every direction you find evidence of the revival of commerce and enterprise. And I am informed that the commercial men of New York predicted this thing six months ago. It is no sudden event.

So far as we can rely upon the estimates of commercial men in the commercial metropolis of the country, the customs duties under the present tariff for the present calendar year, and still more for the next fiscal year, will largely exceed \$60,000,000. I say, then, that we are justified in hoping that the customs duties, for the present fiscal year, will be at least \$3,000,000 over what the Secretary estimates; and for the next fiscal year, I will put them at \$60,000,000 instead of \$56,000,000 as he estimated. But the gentleman from Pennsylvania argues that, to produce this revenue, or even the Secretary's estimate, presupposes an unheard-of and impossible amount of imports. He says that the actual revenue of last year was only a certain percentage on the actual imports, excluding specie; and hence a simple rule of three will give the amount of imports required to yield any given amount of revenue. But how fallacious is such a calculation! It presupposes that the imports under the several schedules of duty, and in the free list, always bear the same ratio to each other. But the reverse is true. In times of pressure, a large proportion of the importations are either free goods, or goods that fall under the low schedules. In prosperous times, the tax is less felt, and more of the highly taxed merchandise is imported. This theory accords with facts. The customs, under the tariff of 1846, bore a different ratio to the imports every year. They varied between eighteen and three tenths and twenty-three and one fifth per cent.; or, if you more properly consider the imports entered for consumption, the limits of variation were nineteen and one fifth and twenty-four and one half per cent. The specie imports ought, however, to be included, for, in hard times, a larger part of the returns for our exports comes in that form. The variation is then still greater; or from seventeen and one tenth to twenty-three and eight tenths per cent. Nor is this all my proof. The revenue from the tariff of 1847 varied its ratio to the imports every month and quarter.

Nor can I be alarmed by any amount the country may import. Rely upon it, sir, no people on earth know better than ours how to attend to their own business; and their purchases from the foreigner will, on an average, be balanced by their sales to him. The foreign trade depends upon the surplus of national production; the larger the former, the greater must have been the latter; the vaster our production and our wealth.

I calculate, therefore, that the revenue from customs in this and the next fiscal year, will exceed the Secretary's estimates by not less than \$7,000,000.

But why should the revenue from the public lands be put down at only \$1,400,000 this year, and \$5,000,000 next year? and this in the face of the fact that these lands yielded, even in the year of the crisis, (1857-58,) \$3,500,000? Why should they yield less now? The only reason can be that there are now surveyed and ready for market, but withheld from sale, sixty-two million acres of public lands. Put those lands into market, as they ought to have been long ago, and you will at once see the effect of the revival of trade

there also. Offer these lands for sale, and the revenue from that source, instead of being \$1,400,000 this year, and \$5,000,000 the next, will run up largely above those estimates. I should not be afraid to say, that instead of \$6,400,000 for the two years, you would have at least \$3,400,000—\$3,000,000 over the estimate of the Secretary. I will not enter into the question why these lands have been kept from market. I will only ask the gentleman from Pennsylvania, whether it is just or reasonable to attack the Secretary of the Treasury for his under-estimates, until he has shown why the lands have not been made to yield as large a revenue as possible in aid of the revenue from taxes? If these land sales were stopped because of consideration for the squatters upon them, is not some consideration due also to the people at large, whom he would tax to make up for that willfully-created deficiency in the revenue from public lands?

Then, there is, according to the best calculation I can make, at least \$10,000,000 for this and the next fiscal year of revenue in excess of the Secretary's estimate. If you make the reductions I have before indicated, you will have a surplus of \$8,000,000. Add to that the excess over the Secretary's estimate of \$10,000,000, and you will have a surplus at the commencement of the next fiscal year of over \$18,000,000. I have criticized the expenditures of this Government. I have attempted to show where they could be reduced. The gentleman from Pennsylvania tells us in general terms that he is in favor of some reduction, but he does not believe that much can be made. None can be made, of course, so long as you have votes like those of this morning, and declarations like that made by the gentleman in reference to the Post Office Department.

It is important to the people to know where the fault of these expenditures lies. It is important to them to know to what party to charge them. I am willing, as a member of the Democratic party, to take my full share of responsibility. I say that the records of the country will show that these excessive expenditures, so far as party is concerned, are not to be charged to the Democratic party, for the great majority of its members has voted against them; but they are to be charged to their enemies, combined with a fragment of the Democratic party itself. They have aided to swell the public expenses, whether for the purpose of creating a necessity for increased taxes or not. I will not pretend to say. You have an overland mail route to California. The estimate is that each letter carried over that route, costs the Government sixty dollars.

That, however, is not enough for the tax-consumer's party here. They want another overland mail route from St. Paul to Puget Sound, through the hyperborean snows of our northern frontier. Who voted to strike out that section from the post route bill? Gentlemen on this side or on that? Was it not retained in the bill by gentlemen upon that side, with a small number of the Democrats of this side? Were not the majority of my friend's delegation found voting with the other side?

Mr. FLORENCE. I was not.

Mr. PHILLIPS. Nor I.

Mr. GARNETT. I am happy to hear some of my Pennsylvania friends say that they did not vote for that route; but most of the delegation did. The other day we had another proposition, which I am told represents a combined movement, to continue and revive appropriations for building custom-houses and marine hospitals all over the land. Who voted for it? Who but a small minority of this side uniting with the other side? My friend from Ohio reminds me of the book business. Who carried the order to print Evans's geological survey of Oregon and Washington; a book to cost \$100,000? I do not speak of particular gentlemen, but look at the vote. Again, you will find a small minority here with the bulk of the other side.

Examine the history of the last ten years, and wherever you can trace these extravagant expenditures, these wastings of the public lands, these dilapidations of the public fortunes, these mighty rivers of expenditure to their fountain-heads and originals, you will find the majority of the Democratic party defending the tax-payers and overruled by the growing and organized cohorts of the tax-consumers.

The gentleman from Pennsylvania [Mr. PHILLIPS] says that the founders of the Confederacy did not design the Post Office Department to be self-sustaining. I can see no authority in the Constitution or in history for such an assertion. Our power over the postal service is derived from the power to establish post routes. But is it not a stretch of authority, is it not departing from the uniform practice of the founders of the Government down to a recent period, to pretend that the mere authority to establish post-roads conveyed an authority to place the Post Office establishment upon the tax-paying community?

You have converted your Post Office into a sort of Adams's Express Company for transportation of freight; and recently we were told that it was to be a civilizing agency; that it was not only to carry letters from the Mississippi to the Pacific, but that it had a higher and nobler function, which was, to people the wilderness; to promote the march of civilization! Why should not the Post Office be self-sustaining? There is not a State in this Union—that is, making the proper deductions—which supports the mail service within its limits. The mails are incumbered with a large amount of free matter. The expenses of the Department are swelled, not by the legitimate business of carrying the mails, but the business of carrying passengers. The Post Office Department was burdened with large subsidies to ocean steamers. I rejoice that the law of last session, if we can preserve it, stops that expense, at least.

In the face of all these facts, however, you refuse to raise the postage, and prefer taxing the people. How many of the poor men of the country, how many of the toiling millions, know or remember the amount of the postage? I admit, that to your rich merchant and banker his postage is a matter of some consequence. I admit, that to your editors it is a fine thing to get their newspaper exchanges free, and extend their circulation at very low rates. On the contrary, little do the real laborers of the country care whether it is three cents or five cents a letter. But it is a matter of great consequence to them that the plow with which they till the earth, the hammer with which they strike the anvil, the clothes they wear, and the sugar and salt they consume should not be heavily taxed, and their families thereby stinted in the necessities and luxuries of life. Yet, sir, that is the question. Will you keep down the postage for the benefit of the rich capitalists of Philadelphia and New York, and tax the people to pay the deficit? or will you raise the postage, make the Department self-sustaining, and keep down the taxes?

But the gentleman says he is in favor of having specific duties, and that instead of letting un-informed appraisers estimate the value of goods, he would have that value estimated by Congress. I dislike to meet any argument by the *argumentum ad hominem*; but I appeal to the House and to the gentleman himself, whether an appraiser, selected among the commercial men of the cities of New York, Philadelphia, or Boston, is not likely to be better informed about the value of goods than is the honorable gentleman, or any other honorable gentleman on this floor? He is in favor of revenue duties, and defines a revenue duty to be one which does not absolutely prohibit the importation of the article. Did my friend learn such a notion as that from "the reading and writing" constituency whom he represents? If so, it is clear to me that there are some strange books in that "reading and writing" community.

We have had a great many controversies about protection and free trade; but never, in all the controversies that have resounded here and in Europe; never, among the vast tomes that have been written on political economy, have I before heard that a revenue duty was that which did not absolutely prohibit importation.

No, sir; revenue and protection are diametrically opposite. The object of a revenue tariff is to raise the maximum of revenue. It encourages importation; it encourages the people of the different nations of the world to exchange their surplus commodities. It says to the world: "We Americans are not afraid of the competition of any other nation." We are confident in our own resources—in the fertility of our country, in the natural riches with which Providence has endowed us. We are confident in our own genius, and are willing to stand in competition with the

whole world." But protection says: "No. Government knows what is best for the interests of the people better than do the people themselves." It tells you that your industry should be directed to one branch of production rather than to another. It attempts to diminish importations, and thereby cuts off the very source of revenue.

I have thus attempted to show that, under any scheme of finance, the Treasury notes must be provided for by a loan or a power to reissue; that the deficiency, therefore, in question, is, by the Secretary's estimate, not quite \$8,000,000; that even this does not really exist, for the outstanding balances of appropriations unexpended at the end of the next fiscal year must exceed that sum. I have further shown that the revenues in that period will exceed the estimates of the Secretary by some \$10,000,000; and that we may and ought to reduce the expenditures at once by a still larger sum. I know, sir, that this last proposal is unpopular with the classes who are benefited by these expenditures. The benefit is confined to a few, and is large for each; the burden of payment falls on the many, and is comparatively small to each; therefore, those who attempt to reduce expenditures will ever encounter the bitter hostility of the small but well-drilled party of the tax consumers, and be supported in a lukewarm way by the numerous but disconnected hosts of the tax-payers. Yet, sir, this is a great moral and constitutional battle which we must steadfastly maintain. For I know not whether extravagant expenditures are more ruinous to our simple Constitution, or more corrupting to our Republican morality.

There are but two modes of organizing parties. One is on principles—principles fixed and eternal; the other is by patronage and expenditure and personal combinations. The State-rights Democratic party commenced its career with the foundation of the Government. It began on principle; on the strict construction of the Constitution; that Government should do as little, and that the individual should do as much, as possible. It has been a party of free trade, of low duties, of economy, of retrenchment, and of a strict construction of the Constitution. It is because it has been such a party that it has commanded the affections of the people of the country.

My heart warms to its old banner, inscribed with the names of so many a glorious achievement and soiled with the smoke of many a gallant action; warms to it when I remember that, under the auspices of that party, our country has grown from the few feeble settlements of 1789 to the magnificent Confederacy in which we now live; warms to it when I remember that it laid down, in 1798-99, in my own old State, the chart of constitutional construction, which, amid all aberrations, it has ever returned to since; when I remember that, despite the opposition of its foes, it added to our country the mouths of the Mississippi; that it added Florida and Texas, and gave us the Pacific coast. I thank it when I remember that, under its care, we have been gradually brought from a system of high duties, paper currency, and of Government interference, to a system where we have a sound metallic currency, and comparative free trade; where our trade and commerce, our imports and exports, have outstripped those of any other nation of the world.

I value it for all these things; and let me say to my friends of the Democratic party, that if we once permit ourselves, for the sake of carrying this election or that election, in this State or the other State—ay, even in the old Keystone State itself—to desert our principles, and to become a protectionist party—when we depend for success, not upon principles, but upon expenditure—then the days of the party are numbered, and its *mene, mene, tekel upharsin*, are written on the wall. By adhering to principles, though we may be in the minority for a moment, we will ultimately control and carry the country with us, and command the destinies of the Confederacy and of the western hemisphere, till we shall have fulfilled that high mission on earth for which God designed our race.

Mr. STANTON obtained the floor.

Mr. COMINS. I wish to make a single remark in reply to the statement made by the honorable gentleman from Mississippi, in connection with the speech of the honorable gentleman from Pennsylvania to-day, [Mr. PHILLIPS,] that there

was not a State in the Union in which the Post Office Department supported itself. I thought the gentleman from Mississippi was in error at the time. I have sought the official record, and I find there are several States in which there is a surplus over all expenses.

In Massachusetts there is a surplus of \$178,650; in New York, a surplus of \$433 53. There are several other States with a surplus, but the amount is small. There is a deficit in Mississippi of \$180,340; in Virginia, of \$199,544; and in Louisiana, of \$523,515. This is for the year ending June 30, 1857.

Mr. HATCH. I wish to say that the surplus in New York is very nearly one million dollars; and the Legislature of that State has adopted concurrent resolutions that have been presented to Congress against the increase of postage.

Mr. STANTON. I do not think this matter is worth the powder. I prefer that the House should adjourn.

Mr. CRAWFORD. I move that the Committee do now rise.

The motion was agreed to.

The committee rose; and the Speaker having resumed the chair, Mr. Houstoun reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the bill of the House, No. 664, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860, with the amendments of the Senate thereto, and had come to no resolution thereon.

INCREASE OF DUTIES.

Mr. PHILLIPS. I ask the unanimous consent of the House to introduce a bill to provide for the payment of outstanding Treasury notes, to authorize a loan, to fix the duties on imports, and for other purposes.

Objection was made by several members.

Mr. PHILLIPS. I move to suspend the rules.

Mr. JONES, of Tennessee. I rise to a question of order. There is not a quorum present; and the Chair cannot entertain the motion.

Mr. VALLANDIGHAM. I desire to introduce a resolution, setting apart two days for the consideration of territorial business.

Mr. McQUEEN. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 15, 1859.

Prayer by Rev. F. X. BOYLE.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a copy of the topographical memoir and map of Colonel Wright's late campaign against the Indians in Oregon and Washington; which, on motion of Mr. DAVIS, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

HOUSE BILL REFERRED.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the House had passed a bill (H. R. No. 874) establishing certain post roads; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a memorial of the Legislature of the Territory of New Mexico, praying that appropriations may be made for military roads in that Territory; which, on motion of Mr. DAVIS, was referred to the Committee on Military Affairs and the Militia.

Mr. DAVIS presented a petition of citizens of Mississippi, praying the establishment of a mail route from the Marion station, on the Mobile and Ohio railroad, to Philadelphia, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. GREEN presented resolutions of the Legislature of Missouri, relative to an amount due

that State on account of the two per cent. upon the proceeds of the sales of the public lands within its limits; which were ordered to lie on the table, and be printed.

Mr. HARLAN presented a petition of citizens of Dubuque and Iowa counties, in Iowa, praying the establishment of a mail route from Cascade to Wyoming; which was referred to the Committee on the Post Office and Post Roads.

Mr. FOOT presented a petition of citizens of Orleans county, Vermont, praying the establishment of a mail route from Newport to North Troy, in that county; which was referred to the Committee on the Post Office and Post Roads.

Mr. PUGH presented a petition of citizens of New York, praying the passage of a law to prevent all further traffic in, and monopoly of, the public lands, and that they be laid out in farms or lots for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

ORDER OF BUSINESS.

Mr. HUNTER. I rise to move to suspend the prior orders for the purpose of taking up the consular and diplomatic appropriation bill, in order to ask the Senate to work upon it until one o'clock; at which time the Senator from Kentucky [Mr. CRITTENDEN] will have the floor on the Cuba question.

The VICE PRESIDENT. The Chair thinks that requires unanimous consent, until petitions and reports are through with.

Mr. HUNTER. We can postpone all prior orders by the vote of a majority. I think that has always been the course heretofore.

The VICE PRESIDENT. One of the rules of the Senate requires the Chair, immediately after the reading of the Journal, to call for petitions and reports from committees. The Chair has always acted on that.

Mr. HUNTER. The practice, I think, has been the other way; but, if it requires unanimous consent, I ask that. Certainly, appropriation bills are more important than anything else, and we could probably nearly dispose of the bill by one o'clock.

Mr. SEWARD. I cannot consent to that.

Mr. MALLORY. I object to it, for one. I do not think it is in the power of the majority to suspend the standing rules of the Senate in this way.

Mr. BIGLER. So soon as memorials and reports shall be through with, the motion can be made.

Mr. HUNTER. I only say the result will be that if we debate the Cuba question all day after one o'clock, and will not allow the morning hour for the appropriation bills, we shall adjourn without passing them, or we shall have to pass them all as fast as they can be read, a little before the adjournment, without consideration, or without the least hope of doing anything to improve or amend them.

The VICE PRESIDENT. Reports are in order.

REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the petition of William Collicott, praying remuneration for losses sustained by him in an entry of land, through the errors of Government officers, reported a bill (S. No. 580) authorizing William Collicott, or his legal representatives, to enter a quarter section of the public lands; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 551) legalizing certain entries of lands on Leavenworth Island, in the State of Missouri, reported it without amendment.

Mr. SEBASTIAN, from the Committee on Indian Affairs, submitted a report on the memorial of Peter P. Pitchlynn and others, Choctaw delegates, accompanied by the following resolution:

Whereas, the eleventh article of the treaty of the 22d of June, 1855, with the Choctaw and Chickasaw Indians, provides that the following questions be submitted for decision to the Senate of the United States: "First, whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected;

or, second, whether the Choctaws shall be allowed a gross sum, in further and full satisfaction of all their claims, national and individual, against the United States, and if so, how much?"

Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the day of —, deducting therefrom the cost of survey and sale, and all proper expenditures and payments under said treaty, estimating all the reservations allowed and secured, or the scrip issued in lieu of reservations, at the rate of \$1 25 per acre, and further, that it is the judgment of the Senate, that the lands remaining unsold after said period, are worth nothing after deducting expenses of sale.

Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them, according to the above-prescribed principles of settlement, and report the same to Congress.

Mr. WARD, from the Committee on the Post Office and Post Roads, to whom was referred the bill (S. No. 512) to establish a line of mail steamers from New Orleans or Mobile to sundry ports therein mentioned, on the Gulf of Mexico, reported it with an amendment, and submitted a report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 78) to enable certain railroad companies, in the Territory of Kansas, to procure the right of way; which was read twice by its title, and referred to the Committee on Territories.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 581) to regulate the mileage of the members of the Senate and House of Representatives of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

PAPERS WITHDRAWN.

On motion of Mr. GREEN, it was

Ordered, That the Committee on Military Affairs and the Militia be discharged from the further consideration of the memorial of J. and R. H. Porter, and from the further consideration of the memorial of Joseph C. Irwin & Co.; and that the memorialists have leave to withdraw their memorials and papers.

WILLIAM YEARWOOD.

Mr. HARLAN. I am instructed by the Committee on Public Lands, to whom was referred House bill No. 810, for the relief of William Yearwood, senior, to report it back without amendment, and recommend its passage.

Mr. BELL. I hope that bill will be put on its passage at once. It is a plain case. The bill proposes to give bounty land to a soldier in the Mexican war, who has been omitted by mistake, on account of there being two men in the service by the same name—father and son. One of them has been provided for and the other has been omitted. There is with the papers a letter of the Commissioner of the General Land Office explaining the case; and if any gentleman wants to hear it, it will not take two minutes.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to direct the Secretary of the Interior to issue a warrant for one hundred and sixty acres of land, to be located pursuant to the provisions of an act of Congress approved February 11, 1847, granting bounty land to certain officers and soldiers in the military service of the United States, to William Yearwood, sr., father of William Yearwood, jr., first lieutenant in Captain Lowry's company, second regiment Tennessee volunteers, in the Mexican war, who was wounded at the battle of Cerro Gordo, and died of his wound on the 24th of April, 1847, leaving neither wife nor child.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SENATE LIBRARY.

Mr. MALLORY. I offer the following resolution of inquiry, which I ask may be acted on:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of having a suitable room fitted up for a Senate library, and the appointment of a proper person to take charge of the same.

It has passed the Senate once by unanimous consent. I submit it now, and ask action upon it.

Mr. PUGH. I object to the present consideration of that resolution. I do not want any new officers.

The PRESIDING OFFICER, (Mr. FITZPATRICK in the chair.) Objection being made, the resolution lies over, under the rule.

EVENING SESSIONS.

Mr. SLIDELL. I offer a resolution, and ask for its present consideration:

Resolved, That on Wednesday, the 16th instant, and on Friday, the 18th instant, the Senate will take a recess from four and a half to seven o'clock, p. m.

I will state the object of offering this resolution. There are a number of gentlemen who are desirous of addressing the Senate on the Cuban question, and unless this course be adopted, there will hardly be time for its proper consideration. I have omitted Thursday, because I have been told by several Senators that their engagements on that day will not permit them to be here in the evening. I presume the period has arrived when everybody will admit it has become necessary that we should have evening sessions.

The PRESIDING OFFICER. It requires unanimous consent to consider the resolution to-day.

Several SENATORS objected.

PAY OF THE ARMY.

Mr. DAVIS. I ask the Senate to take up Senate bill No. 560, to regulate the pay of officers in the Army; the object being, if the Senate concur in the bill reported by the Military Committee, to have it passed before the appropriation bill for the Army passes the House of Representatives, as some reduction of the estimates will ensue, and a modification of the appropriation bill will be required as a consequence of passing this bill.

Mr. REID. I dislike very much to come in competition with anything the Senator from Mississippi desires, but there is a bill before the Senate, which was reported at the last session, to amend the several acts now in force in relation to the Patent Office. It is a bill of a good deal of importance, and I should like very much to have it acted upon. I had expected to call it up this morning. I do not know what length of time will be consumed in considering the bill which the Senator from Mississippi proposes to take up.

Mr. DAVIS. None, if I can avoid it.

Mr. REID. I give notice to the Senate that I shall urge them to take up the bill to which I have referred, at the first convenient time.

The motion of Mr. DAVIS was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 460) to fix the pay, and regulate the allowances, of officers of the Army.

The Secretary proceeded to read the bill.

Mr. DAVIS. The bill being printed, and on Senators' desks, unless somebody wishes to have it read, I suppose gentlemen had better refer to the printed bill. I ask that the reading of the bill be suspended, unless some Senator desires it.

Mr. JOHNSON, of Tennessee. I think we had better have it read.

The Secretary read it, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, the number of rations allowed to each grade of commissioned officers of the Army by the acts of March 16, 1803, April 24, 1816, and March 2, 1827, shall be commuted at the price fixed by the act of February 21, 1857, and the amount of such commutation shall be added to the pay of each officer, according to his grade, and that thereafter no other commutation for said rations shall be allowed.

SEC. 2. And be it further enacted, That the additional ration allowed to each commissioned officer of the Army for every five years of his service, by the act of July 5, 1833, and the act supplemental thereto of July 7, 1833, shall in like manner be commuted, and the amount of such commutation shall also be added to the pay of such officer, according to the length of his service: *Provided*, That said additional compensation for length of service shall not further accumulate after the period of forty years.

SEC. 3. And be it further enacted, That so much of the sixth section of the act of August 23, 1842, as allows additional or double rations to the commandant of each permanent or fixed post garrisoned with troops, be, and the same is hereby, repealed.

SEC. 4. And be it further enacted, That officers having brevet commissions shall not be entitled to any increase of pay or emoluments, because of the exercise of command according to their brevet rank.

SEC. 5. And be it further enacted, That officers of the Army while absent from their appropriate duties, either with or without leave, shall not receive the allowances authorized by the existing laws for servants, forage, transportation of baggage, fuel, and quarters, either in kind or in commutation, nor shall any allowance for servants or horses be hereafter made, either in kind or in commutation, unless such servants and horses shall have been mustered and inspected at such times and in such manner as the President may direct.

SEC. 6. And be it further enacted, That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed.

Mr. KING. This bill was reported from the Committee on Military Affairs in response to a resolution asking that the compensation of officers of the Army might be fixed and defined by an amount in money, instead of allowances. The third section provides that so much of the double rations as are allowed to certain officers mentioned in that section shall hereafter be disallowed. That section does not repeal all laws which allow double rations; but in the case of a brigadier general, and perhaps some other officers commanding in the field, those double rations are allowed. I propose to amend that section by striking out all after the enacting clause, and inserting the following in lieu thereof:

That all laws or parts of laws allowing double rations to officers for the exercise of special command or the performance of certain specified duties, be, and the same are hereby, repealed.

The amendment which I offer as a substitute for that section, makes the operation of the bill complete, and abolishes all double rations. I trust there will be no objection to the amendment.

Mr. DAVIS. I concur very much in the amendment offered by the Senator from New York; but there are some considerations against it. There is only one point, however, which I think constitutes a valid objection to the amendment. A general, commanding a special army in the field, or any officer commanding a special army in the field, is subjected, whilst he holds that position, to extraordinary expense; and the double ration allowed to the officer thus commanding, I think, is no more than probably a just provision for the additional expense which he must incur. The motion of the Senator in all other respects, I believe, is just. For reasons which I hope will be appreciated, I rather avoid touching the allowances of the Commanding General. They were made by Congress while I was in the executive department. The amendment will include that allowance which the bill did not touch. It includes the allowances of the Quartermaster General, and Adjutant General, the colonels commanding geographical departments, and also includes any officer commanding a separate army in the field. I rather think it is right in every respect except that; but I make no further opposition to it.

Mr. KING. The object of this bill was to avoid compensation by allowances to officers, which was not a fixed compensation in coin, in money, except their ordinary and regular rations, which they receive in the field. One of the great difficulties in relation to the extra allowances made to officers, and made to individuals, in my judgment, is, that some favored officer, or some peculiar position of an officer, or condition of things, induces an allowance by Congress of some extra allowance to some particular officer; and another one comes, and it is very difficult to make the distinction between them. He comes on the ground that he has as good a right to this allowance as the other party. In my judgment, if the general commanding in the field, the adjutant general, and other officers, ought to have an increased compensation, it would be better to increase their pay than to give them this sort of allowance.

My particular reason for desiring the adoption of this amendment is, that the law may be uniform for all officers of the Army in relation to their compensation, believing that, if this allowance is left to any officers, it will hereafter be made the reason for extending it until we get back to the old system. I would vastly prefer, if an allowance beyond the present compensation is to be made to these officers, or rather if this reduction is not made complete, that the change should be made by repealing the allowance of double rations and giving them so much as they expend, or as the character of their service may require, by the increase of their pay, and that they shall be allowed that increase hereafter, rather than have such an allowance.

Mr. MALLORY. I will ask the Senator, before he takes his seat, whether I am right in the supposition that the Department has a discretion in paying officers of the Army for any special duty performed outside of the regular pay-rule. I wish he would inform me on that point.

Mr. KING. The present law authorizes double rations to a variety of officers, and we have had at this session before the Military Committee applications from commandants of posts, and dif-

ferent officers, asking that this double ration may be extended to them, to whom the present law does not give it. So long as this allowance remains to anybody, it will be made a reason for the grade which comes nearest to the one which is allowed it, to ask that it be extended to them. The object of this bill is to fix a uniform mode for compensation to all the officers of the Army, though there are a few exceptions retained by the Military Committee. But, upon consultation, I offer this amendment, believing it to be proper, and hope that it may meet the acceptance of the Senate.

Mr. SHIELDS. I ask for the reading of the amendment.

Mr. KING. I will ask, so that the Senate may have an opportunity to see the difference, that the section proposed to be stricken out and the amendment be read. That section provides for the repeal of most of those allowances, but not all.

The Secretary read the third section of the bill and the amendment of Mr. KING:

The amendment was agreed to.

Mr. DAVIS. I propose to amend the bill in the second line. It now reads, "that from and after the passage of this act." I move to strike out those words, and insert, "that from and after the 1st of July next," so as to make the operation of the bill begin with the fiscal year.

The amendment was agreed to.

Mr. MALLORY. I desire to ask the chairman of the Committee on Military Affairs, whether an officer of the Army now performing special duty, under the orders of the Department, for example, doing duty combined with a commission from the Navy, receives any extra pay under the orders of the Department, or usage of the Department, other than that stipulated in the law. I do so, because I find that the act of 1842 says:

"Sec. 2. And be it further enacted, That no officer in any branch of the public service, or any other person whose salary, pay, or emoluments, is, or are, fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of the public money, or for any other service, or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation."

Mr. DAVIS. I will answer the Senator from Florida that that act of 1842 has always been considered obligatory in the War Department, and I know of no case where such an allowance as he speaks of has been made from the appropriation for the support of the Army. I do not know officially that it is made anywhere. However, I have been informed that other Departments having the service of officers of the Army, do make certain allowances to them. In the administration of the War Department, so far as I know, from the date of that act down to the present time, there has been no such allowance made to an officer of the Army.

Mr. HALE. I desire to suggest an amendment to the bill. I am not versed in military matters, and do not know exactly how to act. I want to put a proviso on the bill that the total pay and allowances of a Brigadier General shall not in any case exceed \$5,000 in time of peace, except for actual travel and transportation of baggage.

Mr. PUGH. Leave out the baggage.

Mr. HALE. Well, I will leave that out. If that amendment be adopted, I have one or two more of the same beneficial sort.

Mr. KING. What is the present allowance? Mr. HALE. I find that, by the present allowance Brigadier General Wool received \$8,854, General Smith \$8,189.

Mr. DAVIS. I would ask the Senator from New Hampshire to look at the table from which he reads, and see how that sum is made up over and above the sum of \$3,904.

Mr. HALE. Well, there is \$529 for fuel and \$684 for quarters. There is \$1,200 made up from fuel and quarters.

Mr. DAVIS. I would say to the Senator that I have no doubt he and I concur as to the object he has in view; but I want to point out to him that, instead of effecting it, he will achieve exactly the reverse; that instead of those quarters which he there finds commuted, and commuted at eight or nine dollars, according to the locality, if he succeeds in adopting an amendment so as to strike off the commutation for quarters, which he has just read, in the gross sum, the effect will be that the officer will require the number of rooms

allowed by regulation to be rented for him, and in many places it will cost more than the present commutation allowance which the Quartermaster General gives. So of fuel. Those officers are separated from the troops. They have not the power to purchase fuel and supplies as if they were serving with troops; and if you make a purchase for that separate officer, by some one who must be intrusted with it, I think he will find that he will entail a larger expenditure upon the Treasury than the commutation.

Mr. HALE. Well, Mr. President—

Mr. DAVIS. One word more, if the Senator please. These commutation allowances for quarters, and the allowance of quarters, are not a thing which requires legislative action. It is under Executive control. If the Executive meets the wish of Congress, it is perfectly within his power to correct any abuse which exists in relation to quarters; but, as I said on a former occasion, this action must be by the coöperation of the executive and legislative departments or you can never achieve a good result.

Mr. HALE. Well, Mr. President, I withdraw the amendment in the confidence I have in the judgment and knowledge of the chairman of the committee, and we will see how it operates this year.

Mr. DAVIS. I do not say that there is not sometimes abuse in the commutations, but I think if we seek to correct them in this form we shall only make them worse.

Mr. HALE. I withdraw the amendment.

Mr. PUGH. I move to strike out the first section after the enacting clause, and insert what I send to the Chair.

Mr. HALE. I want to offer another amendment, if the Senator from Ohio will allow me.

Mr. PUGH. I give way to the Senator from New Hampshire.

Mr. HALE. I will try one other amendment. I want to put in a proviso that the pay and emoluments of the Lieutenant-General shall not exceed \$10,000 per annum.

Mr. DAVIS. I am sorry always to interpose against the wishes of the Senator from New Hampshire, but I assure him that, instead of securing the very thing which he is attempting to do, he is pursuing the opposite road to effect it. Under the bill there is no allowance for brevet command; there is no brevet pay.

Mr. HALE. Well, I back out again. [Laughter.]

Mr. PUGH. Now I move my amendment to strike out all after the enacting clause of the first section, and insert:

That the act, entitled "An act to increase the pay of the officers of the Army," approved February 21, 1857, be, and the same is hereby, repealed; and from and after the 30th day of June, 1859, the pay and allowances of all officers of the Army, including military storekeepers and chaplains, be that prescribed by the laws formerly in force, except as hereinafter provided.

We increased the pay of the officers of the Army while we had a full Treasury. Now we are asked to equalize the pay of the officers of the Navy by bringing it up to the same standard. I wish to try the experiment of equalizing downwards for once. We have now not only no surplus, but a deficit; and how can we resist the prayer of the naval officers, if we maintain the pay of the Army officers at these rates, to bring them up to the same sum? I believe the pay of our Army is higher than that of any other army—unnecessarily so, especially in the higher grades; and I have never known the day when there were not from ten to twenty applicants for every vacancy in the Army. But, sir, as these are the days of retrenchment, when we have a deficit, I think this is a good place to commence. I admit, that after we reduce the pay of Army officers, it would be a very good proposition to reduce our own pay; and if this amendment carries, I shall bring in a bill to reduce our own pay.

Mr. IVERSON. We increased the pay of officers of the Army a few years ago, not for the reason assigned by the Senator from Ohio, not because we had a surplus Treasury or an overflowing Treasury, but because the expenses of living and maintaining their position had so largely increased; and that is the reason why we increased our own pay. It was not because we had a surplus Treasury, but because the expenses of living had increased with the advance of the Government, and that is the reason why the pay

of the officers of the Army was increased. Sir, if you cut down their pay, you must necessarily drive out of the service all the best officers of the Army, and fill it up with mere trash. That will be the consequence of the amendment if it passes. Before the increase of pay, a number of the most intelligent and useful and honorable officers of the Army were driven out of it, because they could not support their families and themselves for the pay then allowed. The price of living, of everything, had advanced so much that the officers could not maintain themselves, and, therefore, many were driven out of the Army; and that must be the result now, if you diminish their pay. After the increase of their pay, there was a great reduction of the resignations. The officers were content, and staid in the Army, and are willing to stay in the Army, provided you leave the pay as it is at present; but the very moment you cut down the pay to the former standard, the intelligent and useful officers of the Army will resign, and their places will be filled up by men willing to take a mere pittance for the purpose of having employment at all; men wholly unqualified to do credit to the country and honor to themselves. I trust the amendment will not pass.

Mr. PUGH. We had a surplus in the Treasury at that time, and the country was in a general state of prosperity. I suppose that helped to make the price of living much higher than before. Now the country is in a state of embarrassment, and, I take it, the expenses of living have subsided a little. It is very singular that the expenses of living of public officers are the only expenses that never come down. As I heard a very intelligent Representative from Virginia say in the other House, if you take the statement of members of Congress, you would imagine that the prices of living were rising every minute. Our constituents have had to retrench, and I think it is high time for us to retrench, and for all other public officers. The expenses of the Army and the pay of the Army have become such that the people are alarmed, and with reason alarmed. The pay of the lieutenant general exceeds that of any officer of the Government except the President. The pay of a major general is greater than the pay of the Vice President, or any member of the Cabinet. The pay of a brigadier general is greater than that of any Cabinet officer, or of the Chief Justice of the United States. And where are all these officers? There are three corps here, in this city, that ought to be abolished, or reduced into one. They are holding civil employments, many of them; and I tell you, Senators, you will never reduce the expenses of the quartermaster's department until you put Army officers out of it and put it in the hands of civilians. It is a duty to be performed by civilians; and, when they send us enormous estimates for the transportation of the Army, I want power to hold the officer accountable for such acts; but, as long as you leave that department and the commissary's department in the hands of officers with commissions for life, you may talk retrenchment until doomsday afternoon, but you will not accomplish it.

Here is a corps of engineers, and a corps of topographical engineers; and what for? Half the number of officers could do the duties of both. And here is a corps of ordnance, to perform a duty that in nearly every other service, as I am informed, is performed by the artillery. We do not want these regiments; they are unnecessary.

The Senator from Georgia says that Army officers have retired. They will retire whenever they can make more at any other employment; and I do not doubt that a great many of them have been offered employment as civil engineers by railroad companies, and by others, and have resigned. I have no doubt you could keep them all in the service if you increase the pay; but the Senator says we shall have incompetent officers. How will that be? Nine-tenths of them have passed through the Military Academy; and if that does not make them competent, let us abolish the academy. But it is the old story from the first. We can retrench all the time, until we come to the interests of individuals. I think this is the time to begin, and I say again, I acknowledge that we ought to begin at home; and if this amendment carries, I shall bring in a bill to reduce the pay of members of Congress.

Mr. WILSON. I hope that the Senator from

Ohio will withdraw the amendment. This bill has been carefully prepared by the Committee on Military Affairs. It is a bill for retrenchment. It will reduce expenditures. It is a good bill, that ought to receive the sanction and approval of every member of Congress. If we load it down with a proposition of this character, I fear the bill will not become a law at this session. I would suggest to the Senator from Ohio, who takes generally, on questions of expenditure, a position that I can follow and approve, to withdraw his amendment, introduce it as a separate bill, or put it, if he can, on the Army appropriation bill, or somewhere else. This is a bill well prepared, carefully guarded. It will introduce a real reform, and I hope no amendment will be made that will prevent its receiving the sanction of Congress at this session.

Mr. MALLORY. I feel an interest in this subject, because I know that the pay of a sister-service will have to be increased at the next session of Congress, if the country designs to keep up a Navy. I think the Senator from Ohio is entirely mistaken in his statements. I do not know from what table he gets his information of the exorbitant amount of pay given to the officers of the Army; but he is mistaken, and I will assure him of it. If he will consult the table properly made out on this subject, he will find that it is so. There has been a great notion that the officers of the Army are receiving extravagant pay. You had them down to starvation point; you had them in a condition where to live they had to quit your service; and the higher the talent, and the more efficient the officer, the greater the probability was that you would lose him: in other words, the very officers you desired to retain in your service were those who could find better employment out of it; and now, the pay they have barely furnishes them with the means of living. No officer of the Army can save anything for a rainy day. None of them can lay up money.

Mr. PUGH. I will state to the Senator from Florida that I got my information as to their pay from the official sources of the War Department. It is carried out in figures of pay and allowances. I understand that the Navy officers get a fixed salary. The Army officers get their pay in a way that Congress can never understand.

Mr. DAVIS. If the Senator from Florida will allow me, I will say to the Senator from Ohio, he adds in, to make up that gross sum, allowances which are made and which do not equal the expenditure devolved by the act from which the allowances flow. As the officer is required to do a particular thing, a certain sum of money is given to him, and that sum of money does not cover the expense incurred in performing the duty, and yet it is added in making up that report.

Mr. PUGH. It may be; but I take the Senator's report at the time he was Secretary of War, and at that time I find that a brigadier general's pay exceeded \$8,000 a year.

Mr. DAVIS. You took a report which was made under the instructions of Congress, and that does not reach results fit for legislation. Those reports are made every year, and are delusive in their character, because Congress required them to be made in that form.

Mr. MALLORY. A printed paper has been circulated, well calculated to deceive the public as to the amount of pay the officers of the Army receive, by taking the greatest possible amount which an officer of the Army can receive as commutation and as double rations—sums which he has expended before he has received the money, and putting that down as his whole pay.

Mr. DAVIS. I have a table here, which is authentic, and which I would like the Senator from Ohio to read. The little pamphlet he is looking for will not give him the information on which he ought to act. I tell the Senator from Ohio that if he finds the little pamphlet I handed to the Senator from New Hampshire, it will not give him the information on which he could act. He will find there commuted how much an officer received for traveling. If he travels on the remote frontier, the expense entailed by the journey will exceed the allowance of ten cents a mile—exactly what he receives. He will find there stated, in dollars and cents, the amount allowed to him for forage. The Senator knows that if he keeps a pair of horses in this city, it will cost him thirty-six dollars a month; and an officer of the Army,

for keeping two, receives but sixteen dollars. He has then to pay twenty dollars more than he receives; he has to buy the horse and equip him at his own expense, and take all the hazard of his loss. It is not an emolument, and he will find that the aggregate sum on which he relies is made up exactly of such cases as this.

Here is a table in which, even adding the forage, and adding all allowances, except the service ration, fuel and quarters, and traveling allowances, the pay of a brigadier, which the Senator exalts above that of our Presiding Officer, is carried out by the Paymaster General at \$3,904. In this sum are included all allowances commuted, except the occasional allowance for fuel and quarters and traveling allowance. These are allowances for which he gets nothing, unless he travels under orders from superior authority; or unless he is unable to get public quarters, and is compelled to occupy private quarters. As to the service allowance, it is one which comes in the train of long service; and is one of the best modes of compensation which the Government could adopt. It enables them, in time of peace, to retain their most valuable officers, by giving the increased pay due to length of service; and in time of war, when we are compelled to support a large army, it enables us to support it at the low rate of pay which exists when that service allowance is stricken off. It is a wise scheme devised for adequate payment at a time when the high inducements which belong to the glories to be reaped in war do not exist; and which yet leaves the low scale of pay when war comes, and large armies must be supported.

The Senator's criticism in relation to the staff is quite unjust. It is that special training of the staff which has given such efficiency to our Army. The Senator knows from experience how, in a foreign country, destitute of supplies, there was not a marching column that was not followed by a commissariat equal to all its wants. Where, in the history of foreign warfare, does a parallel case exist, and to what is this to be attributed? The efficiency of the commissariat and quartermaster's department. Alike unjust is his criticism on the engineers. That there may be some of them not quite efficient—that some reduction would ensue if all the inefficient officers were stricken off—is true; but that they are not in excess, is shown in the constant employment required of every officer of the corps who is able to do duty.

Still less can he defend his criticism on the ordnance corps; and when he points to other services, where the duties of the ordnance corps are performed by the artillery, let me tell him that the British service came here to learn how to make their small arms, and went into our armories to get the instruction, and carried home the plans of our machines. They sought from our Government, and obtained as a favor, models of our small arms to carry home for the imitation of their Government. Never, in any country, was an ordnance service brought to a higher state of perfection than in our own; not even the French, where they are trained through schools of application, and where their small arms show a very great deficiency compared with those of the United States. That something of this is due to the inventive genius and the mechanical skill of our people, I admit; but it requires the directing mind and practical genius of ordnance officers to apply these, and bring about such results as the United States have attained.

This wild hand of retrenchment, that walks in without examination, and attempts to sweep away imaginary difficulties, will always bring in its train far greater evils than it was possible to remove. It is not by taking a table prepared to satisfy the inquiry of Congress as to whether there be abuses in relation to transportation and the commutation of fuel and quarters, that the pay of the Army is to be learned. The officer on duty with troops gets no commutations of this kind. The officer on the remote frontier, living under canvas, or living under a hut which he helps to erect, has no commutation of fuel and quarters. The troops get their fuel, and they live in such tenements as they can provide for themselves. Here and there an isolated case may be found, few in comparison with the whole body of troops, where there is a large amount of travel by an officer during the year. Remember this is always

done under orders; it is not at the option of the officer; and when he changes his station he loses thereby all the furniture he had collected at the place where he was serving, and is compelled to satisfy himself by the difference between sale there and purchase at the place to which he is ordered. It is not an emolument. It is delusive, I repeat, to take these tables and present them as any measure of the pay which officers of the Army receive. At the service of the Senator, I offer this table, prepared at the office of the Paymaster General, and here he will learn that these extravagant allowances of which he speaks do not exist in fact. There he will see that even when commuted, allowances which entail expenditure, instead of being an emolument, reach no such sum as he has stated.

Mr. PUGH. Mr. President, do I understand the Senator from Mississippi to say that although we pay a brigadier general, as stated in the document read by the Senator from New Hampshire, over eight thousand dollars a year, only \$3,000 is his pay proper?

Mr. DAVIS. There is his pay proper; there are all his rations commuted; all the compensation he receives for service, all the compensation he receives for forage of his horses, commuted and carried out into the last column of this table. There is nothing beyond that, save fuel and quarters, and traveling allowances, and service rations, which a brigadier general does not get at all under the old law, and which, under this, it is proposed to give him.

Mr. PUGH. Now, then, it is perfectly certain, that, according to the warrants paid at the Treasury office, there is paid out, on pretense of compensating a brigadier general, over eight thousand dollars a year.

Mr. DAVIS. Not compensation.

Mr. PUGH. Well, there is paid out, under pretense of keeping a brigadier general in existence, in some shape or form, over eight thousand dollars a year.

Mr. DAVIS. It does not matter whether he is a brigadier general or a second lieutenant, if he travels under orders, he gets ten cents a mile. Transportation does not belong to his grade.

Mr. PUGH. Here are two officers, named General Wool and General Smith, and to keep them in our service, during the fiscal year, over eight thousand dollars was paid; paid on their signature for their expenses or their salaries—I do not care how you put it. They cost us that, they and their services; and yet the Senator says only \$3,904 50 was their pay proper. Thus it appears that the allowances are immensely greater than the pay—like the interest on some of the claims which is much greater than the principal.

Mr. DAVIS. I think the Senator will probably have his errors corrected if he will turn—

Mr. PUGH. I am always happy to be corrected.

Mr. DAVIS. The error will be corrected if you turn to the pamphlet itself. Here are three brigadiers general in commission. The first has \$8,854 52 carried out opposite his name; the second has \$3,433 66 opposite his name; the third \$8,179 89 opposite his name. The difference in these sums ought to have warned the Senator that this is not salary, and ought to have induced him to look for the manner in which it arose. If he had looked he would have found that one got \$500, another \$461 80, and the third \$86 for transportation of baggage; that is, the officer traveling under orders where it may have cost him more, or may have cost him less, got that amount for that specific thing. Then he would have found under the head of quarters, that one had \$684, another \$83 35, another \$144. This results from the fact of one of them always occupying private quarters, for which he got a commutation allowance, sometimes, perhaps, at too high rates—I do not pretend to justify it; the next occupying frequently public quarters, in which he got no commutation; the other sometimes occupying public quarters, for which he got no commutation; and hence the difference. Then for fuel, one had \$521, another \$9 31, another \$234 97. The one who got \$9 31 was generally on duty with troops, and therefore did not get commutation allowance for fuel.

Would not the Senator infer, from all this, that the last column was not salary, and that his attention ought to be turned to the next? When he

reached the next, finding a great difference, what should he have inquired into? Into the items making up the second aggregate. There he would have found forage, and there he would have learned that forage is commuted at eight dollars per month, and that an officer must be stationed in a favorable location if he can support his horse for eight dollars per month; instead of which, he is sometimes stationed at a place—Fort Laramie, for instance—where corn is not unfrequently worth five dollars per bushel. How, then, does he treat this as emolument, and add it up in the gross amount of the officer's pay? There is also the allowance for servants. The Senator knows if he hires servants in this city, he must pay for them more than the allowance of the officer. The rest is composed of rations and pay, and these two together constitute, in fact, the emoluments of the officer, and make no such sum.

Mr. PUGH. I do not design to be led so far astray—not that I impute any such design to the Senator—from the remarks I intended to make, into the question of how, in point of fact, these allowances or emoluments are made up. I consider that my argument is strengthened by the suggestion which the Senator himself has made, that here is one officer of the Army allowed about six hundred dollars a year for house rent or quarters, and another but nine dollars a year; and yet—

Mr. DAVIS. Did the Senator hear me state why that was so?

Mr. PUGH. Yes, sir; the Senator said one of them was allowed public quarters, and the other was paid for house rent. That was the amount of it. The reason the expenditures of the Army have increased to their present enormous proportions is just exactly the fact that their accounts are made up so that no person, except an Army officer, can understand them. The Navy is made up by fixed sums; you abolished all the rations and emoluments of the Navy; you gave them so much on duty, and so much off duty; but when you come to touch the pay of the Army, their pay proper is but a song, and their allowances are like the commentaries of Lord Coke upon Littleton; they are greater than the original itself. When the proposition was made, in 1857, at the time this act was passed, by the Senator from Virginia, [Mr. HUNTER,] to give Army officers salaries, so that Congress could know what they really did receive, it was hooted out of this Chamber altogether. It is immaterial to me whether the officer travels under orders, or without orders. It is perfectly evident that it costs the Government more for a brigadier general than it does for the Chief Justice of the United States. They are very expensive institutions; and I think they require the amending hand—not only the brigadiers, but the majors.

Is there any other officer of the Government whose expenses we pay in addition to his salary? Do we pay the expenses of the Secretary of State, and then his salary besides? Why should we do it with the Army? Why not give them a gross sum for their services and their expenses? Make it anything you please, that is reasonable. It is perfectly certain that the gross amount of these sums is unreasonable.

Mr. DAVIS. If the Senator will allow me, I think I can correct an error into which he certainly falls, or I am more deceived than I ever was on such a question. If his proposition were accepted what would be the result? Either that we adopt the pay which is sufficient for an officer who does not travel, and therefore render it improper to order an officer to travel, as he would not have the means to go; or else we adopt a pay which will cover the traveling expenses, and run up the gross aggregate to a sum we cannot afford to appropriate.

Mr. PUGH. If the Secretary of War chooses to abuse the discretion reposed in him, and keep the officers traveling all the time, I do not know that there is any way to stop it, unless you impeach him.

Mr. DAVIS. How many cases do you find of any large allowance for travel?

Mr. PUGH. I think the sums to these two brigadier generals were very large.

Mr. DAVIS. But those are two cases.

Mr. PUGH. I know they are two cases; but they are two cases out of three, for there are but three brigadiers. But the Senator states that

while the officer is on service in the field, when his expenses are greater and his services are greater, he gets no allowance for fuel and quarters; but when he comes to Washington city, to spend his time here in the arduous campaign duty of attending dinner parties and the like, then he gets fuel and quarters.

Mr. DAVIS. No, sir.

Mr. PUGH. I understood the Senator so.

Mr. DAVIS. No.

Mr. PUGH. The Senator accounted for the difference by saying one officer was in the field. I am sorry to have misunderstood my friend.

Mr. DAVIS. An officer on leave gets no allowance for fuel and quarters, and never did.

Mr. PUGH. Are the officers in Washington city on leave?

Mr. DAVIS. Some of them are; a great many of them are.

Mr. PUGH. Very few of them, judging from the pay table, are.

Mr. DAVIS. But the Senator has not labored the subject, or he would not speak as he does. The pay table contains nothing about fuel and quarters. It is obtained from the Paymaster General; and you do not find in that table anything about fuel and quarters. It is not a part of that sum which they derive from the paymaster, or from the appropriation for the pay of the Army.

Mr. PUGH. I know that.

Mr. DAVIS. It is idle to go there to look for it.

Mr. PUGH. That is just what I complain of, that here the paymaster undertakes to give them a certain gross sum of money; and tables are brought, and we, in our simplicity, might suppose that was all they got; but we find the Quartermaster General paying—

Mr. DAVIS. I am sorry to interrupt the Senator, but he would be exceedingly simple, indeed, if, when it is arranged in columns, with a head to each column, he would infer something not written there.

Mr. PUGH. I would infer this: here it is: "Table shewing the amounts received by the several grades of officers of the United States Army for pay and emoluments; also the allowances to which they are entitled for servants and horses, if actually kept in the service." The Senator with his very great experience, not only in the field, but in the War Department, might understand that; but, I venture to say, that nine Senators out of ten here present, reading that caption, would suppose this table showed all the officers got. The act of 1857 added to the pay, proper, of every officer in the Army; it increased the price of the ration—

Mr. DAVIS. If the Senator will only read this table, I think he will speak differently.

Mr. PUGH. It has a note: "In addition to the above, there is allowed service rations to officers of the Army, which, by commutation, give increase to the pay of officers now on service, as follows, &c." I do not object to the service ration; but that is not all. Fuel and quarters are still to come, and they come from the quartermaster's department.

Mr. DAVIS. And there are the traveling allowances. As the Senator is in pursuit of information, let me tell him the transportation is paid by the Quartermaster General also.

Mr. PUGH. Very well. It makes no difference to me under what name it is paid; that is perfectly immaterial; it is money paid out of the Treasury of the United States; that is certain. The name does not help it. I say that if we are compelled to pay for the institution of a brigadier general, in any shape or form, more money than to the Vice President of the United States, it is high time that the business was overhauled. It is paid, too, in the most objectionable place. These sums are paid through the quartermaster's department; and I say again you will never have the expenses of the Army reduced any calculable sum, while you allow the quartermaster's department to remain in the hands of an Army officer, with a commission for life.

I said that I did not think there was any use for the engineers. I do not. The Senator says they are all employed. Yes, you can employ them all. Here is one of them employed in the Capitol, discharging the duty of an architect or superintendent. There is another one employed at the Treasury building, discharging that duty. Is that what we keep up the Military Academy

for? Is that what we educate officers for, at so great an expense? I thought we were educating them to fight the Indians, or to fight the foreign enemy. Instead of that, it seems we are educating them to take care of the public buildings; and it is my deliberate judgment that the enormous expenses of this Government in extending this Capitol, in constructing the water works, the Treasury extension, the Post Office building, and all the custom-houses throughout the land, come from the fact they are in the hands of Army officers. That is what causes all this extravagance. They might have been built much cheaper and much better; but it is because you have nothing else to do with these engineers that you put them there. You find employment for them, and then they find employment for the public money; and so each helps the other. Now, for the duties of engineers, whether the engineer corps proper or the topographical engineers, I say that if the Senate will look to the engineers of this country, in peace or in war, of the Army service proper, there are more than twice as many of these officers as we have any need for, and they ought to be retrenched.

The Senator from Mississippi admits, as I understand him, that the ordnance service is performed in other armies by the artillery. He says it is not as well performed. Perhaps not; but as we are very poor just now, I think we can afford to stand with the ordnance service as well performed as it is performed in the armies of Great Britain and France. I have seen no compensation equivalent to the expense of keeping up a separate corps, when we already have four regiments of artillery. The Senator if I understand, while he was Secretary of War, proposed to retrench in these particulars himself, proposed to consolidate the regiments of artillery into batteries, turning some of the officers and men into the infantry service. That was not attended to. At that time we had plenty of money and did not care much.

I know very well that it is an ungracious place for a man to stand. I have no enmity to the officers of the Army, none in the world; but I am satisfied that from year to year this system goes on, until, compared with the amount of public money squandered, we have no justification at all for it, and all of it needs retrenchment. There is no place where the knife ought not to be put. It ought to be put to the pay of the officers; it ought to be put to the officers of the Army—I mean the supernumeraries who are about here; it ought to be put into the commissary's department, and the quartermaster general's department, and they ought to be taken from the hands of Army officers and put, like all other departments of this Government, into the hands of civilians. I have no hope that it will be done; but still, as these are the days of retrenchment, and we are all making our propositions, I wish to know how our retrenchment will go into effect.

Mr. DAVIS. I shall not undertake to follow the Senator from Ohio through the very wide range of remark he has taken, but one or two points I think it proper to notice. I tell him, so far from an engineer officer being put in charge of the Capitol extension for want of employment elsewhere, that engineer officer was taken from other and very active duty; and he was put in charge of the Capitol extension because of the examinations of the Committee of the Senate, which found the foundations of the Capitol extension to be so bad as to be pronounced unreliable, and a more skillful constructor was therefore brought to improve the foundations, and to construct the building. That examination did more; it not only showed the construction to be bad, but more than indicated that there was an improper application of the money appropriated.

Now, sir, I will say to the Senator, that if he will look over the accounts of expenditure for the Capitol extension, he may lay his hand, if he pleases, upon places where the building has been made too good or too fine; not where anything has been spent beyond the lowest sum which would effect the end that was reached. He might have been content with a poorer building; he might have been satisfied with brick instead of marble columns; he might have been satisfied with plain wainscoting instead of what is here; but if—and I thought it was a just American pride—we were to have a building as fine as any prince or poten-

tate; if the extension of the American Capitol should mark the progress of American art in our day, then, I hold, we have not gone too far, and the money has been economically expended. I would ask the Senator how he expects to save anything by making military officers perform ordnance duty?

Mr. PUGH. I would dispense with one corps.

Mr. DAVIS. If the Senator reduces the number of artillery regiments, and thus gets officers disposable from their companies, I grant he might use those officers for ordnance purposes, and he would make exactly the same saving that he would have effected if he had stricken an artillery corps from the register of the Army. He then, I say, gains nothing by his proposed change in the form of economy. To take young officers from the artillery who display particular talent for ordnance duty and put them in the corps, instead of taking them from their graduating condition, would, I believe, be an improvement. To convert artillery regiments into batteries would, I believe, be an improvement, but I do not see that it would be a saving of money. Dollar for dollar, I do not see that the expense would not be exactly the same.

Then, the Senator says he will save something by cutting off traveling allowances. I asked him how? He did not tell me.

Mr. PUGH. I said I could not cut them off if the Secretary of War had unlimited discretion to give them an order to travel; but I hope when the appropriation bills come along, we shall put some curb on the Secretary of War in that respect.

Mr. DAVIS. The Secretary of War sometimes gives an order to an officer to travel, but rarely. Those orders are usually given by superior officers elsewhere, who are accountable for the propriety of the order. Two brigadier generals are selected as having traveled a great deal. Why they traveled I do not know; but suppose they traveled without sufficient justification, suppose it to have been unnecessary that they should travel so much, are you therefore to deprive an officer of the allowance which enables him to travel, when it is necessary he should do so, when the public interest requires it? It comes back to my first proposition, that the executive department alone can correct that. They must have the power to send officers; they must have the power to order them to go where the public interests require; and if they order more to go than is proper, or send them where they are not needed, it is beyond the reach of legislation, except as you strike at the officer who has thus violated his trust. There is no other way to reach it. Then, I ask the Senator again, if he adheres to his favorite idea of a salary, whether he proposes to pay the expense actually incurred by traveling?

Mr. PUGH. No, sir.

Mr. DAVIS. He does not propose to pay the expense actually incurred in traveling; and he does not propose to give the officer a commuted allowance for that expense. Then, I ask him, how has he the right to have an officer go? If he is asked to go he answers, "I am on duty here with a dozen others, I have no more pay than suffices to support me; why select me out to perform this duty;" and it is not a sufficient excuse because of your ability.

Mr. PUGH. I say I would give him, as we give other officers, a salary for his whole time and services, here and elsewhere.

Mr. DAVIS. A salary that will cover his expenses?

Mr. PUGH. Yes, sir.

Mr. DAVIS. Then you must raise the salary of every Army officer, and increase your appropriation for the Army some twenty per cent. Instead of the pay now given to the brigadier general, the proposition of the Senator would be to find how much two brigadier generals had traveled, and give them one and the same allowance. It is the only way you can reach it in a salary form. They have got the increased amount by actual travel. You say now they get too much. I ask you if you are going to provide for travel otherwise? You say no; this is the proper manner. Then I say you are to raise the other brigadiers to their standard; you cannot cut them down to his, this being an actual expense incurred, and their pay and allowances otherwise being the same as his. The Senator says ten cents a mile

in certain localities is too high a commutation. It may be reduced in certain localities, but the same equity demands that it shall be increased where the expense of traveling is more than ten cents a mile.

Now, as we are on the subject of retrenchment, I call the Senator's attention to this fact: We receive forty cents a mile, and we receive it by the usually traveled route. An officer of the Army receives ten cents a mile by the shortest mail route, and I once knew the case of an officer of the Army who traveled in company with a Senator from one of the western towns to New York, and the allowance of the Senator while they traveled together was exactly for double the number of miles of the officer of the Army, and four times the commuted allowance per mile. We had better begin at home.

Mr. PUGH. I propose to begin at home and abroad both.

Mr. DAVIS. When you reduce Senators' transportation to ten cents a mile by the shortest mail route, and when the Senator tries that for one or two trips from Washington to Ohio and back again, he will come to the conclusion that officers of the Army receive now little enough for their travel.

Mr. PUGH. The House has abolished mileage, and I think it is a very good amendment.

Mr. DAVIS. That is exactly that sort of economy for which I cannot feel the least respect—striking out the allowance for mileage in the appropriation bill, with a foreknowledge that it comes back, in the form of a deficiency, next year; that every man will get it, dollar for dollar. It is trifling with the subject.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Ohio.

Mr. PUGH. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POLK. I should like to know what the amendment is?

The Secretary read the amendment; which is, to strike out all after the enacting clause of the first section of the bill, and insert:

That the act entitled "An act to increase the pay of the officers of the Army," approved February 21, 1857, be, and the same is hereby, repealed; and, from and after the 3d day of June, 1859, the pay and allowances of the officers of the Army, including military storekeepers and chaplains, be that prescribed by the laws formerly in force, except as hereinafter provided.

Mr. KING. I would willingly vote for this proposition of the Senator from Ohio, if it could be presented by itself; but the bill originally presented from the Committee on Military Affairs is, in my judgment, a good bill. It will save several hundred thousand dollars a year, and, I think, if permitted to stand by itself, it will pass. My reason for refusing to vote for this amendment as an addition to the bill is, that I believe it will override it and defeat the passage of both. I will vote for both of them separately, and let them stand on their separate merits. I prefer to do something rather than talk a great deal and accomplish nothing.

Mr. TOOMBS. I shall vote for this amendment of the Senator from Ohio with a great deal of pleasure. He has struck at the only way that I know of in which we can remedy this evil by legislation. I put it upon the principle that the compensation of the officers of the Army is too great. It is more than the like amount of talent can obtain in any of the employments of life, and, therefore, it is on a wrong basis. You take a boy of sixteen years and send him to West Point and educate him, and when he comes out, you put him into the engineer corps, or into a regiment, and give him \$1,400 a year. In the course of a few years you carry him up to \$2,500, to \$3,000, to \$4,000, to \$5,000, to \$8,000. Take the general employments of the youths of the country who are educated at the different colleges for all civil purposes. You may take the highest amount of intellect, the highest amount of genius, and you get nothing like any such average there. Look throughout all your States, put them in the pursuits of life in the most favorable condition, and you will find that they will not be worth for the first year half that money. It will take them, ordinarily, in more than two thirds of the States of this Union, I warrant you, five years before they can make that much money.

Then, why should we pay these officers so

much? Is there anything requiring any particular genius to go into the military service of the country? We had no use for them for forty years, except to fight the Indians, and in a short war with Mexico; and at the beginning of that war I think we had a little more than six thousand men. You had to call forth my friend from Ohio, and other patriotic citizens throughout the Republic, to carry on that war; and I would not have our battles fought by anybody else, if I could. It is true, I have not been able to get any one here to agree with me; but I would not have one regular soldier in the Army of the United States. I know them to be unnecessary; I know them to be useless; I know them to be hurtful to the public; but if, against my wishes, you will have them, I will put their salaries upon the true basis; and that is, to pay them what the same description of talent in the United States is worth.

The Senator from Mississippi, in answering my friend from Ohio, speaks of our position; and he says he should commence at home. That is a general way to prevent a reformation of all abuses. Probably a great many gentlemen who would go for this would not vote for that. But a brigadier general's compensation is now greater, year by year, than that of a Senator. I think it requires as great qualifications to govern this country, as it does to be a brigadier general and command a brigade, especially in time of peace, which, as I said, existed for forty years, and, in fact, has existed ever since the Revolution, with the exception of five or six years. A man who enters the Army may expect to attain a generality, if he lives long enough, and gets an occasional increase of the force. It has increased far beyond the wants of the country, and, for this reason, you educate them under your vicious system of appointment; it is not the fault of the Army. Members of Congress, from the different districts, appoint them; and they are generally associated in some way, as brothers, sons, or cousins, with the governing power. It is natural and honorable in them to want promotion. Admitting them to be governed by the most patriotic motives, it is a very proper object for their ambition; but I say, when you educate lieutenants at your own expense, a salary of \$600 or \$700 a year would be fully equal to the value of that much character and education and talent in the civil pursuits of life in the United States, on the average. A position in the Army is worth a great deal more. It shackles accidents, and bolts up change. It is for life.

I have not gone into a minute estimate since the new regulations; but I presume, according to the way in which the value of a commission is valued in England, the commission of a lieutenant in the Army, who graduates at West Point and goes into the engineer corps, cannot be worth less than \$50,000. I should suppose it to be worth that much, looking to general principles, and the mode of estimating the value of a commission in the British service, according to the actual prices of things with reference to the value of money, the amount they get as lieutenants, captains, majors, and colonels, and the chances for promotion. That is to say, taking all the elements of what is called the regulation price in England, a commission in our Army cannot be worth a dollar under \$50,000. We can, in my judgment, get men cheaper than to educate them at the public expense, and hand them over a commission whose market value is worth \$50,000.

I have stated that the lieutenant's pay in my opinion is too great. So the pay of the captain is far beyond what the same talent and intellect will get in the ordinary pursuits of life. One half the States of this Union, where they require the highest intellectual ability, the highest integrity, the highest qualities a man can have to sit as a judge—and many of the gentlemen around me have occupied for a large portion of their lives those honorable stations—do not pay them more than fifteen or sixteen hundred dollars a year, with no allowance for traveling expenses. I think \$2,000 for a circuit judge would be the average price in the United States; in fact that sum is rather above it so far as my general observation goes; I have not brought it down to minuteness; I am only giving an approximation according to my general knowledge of the country. Take the other pursuits of life; take medicine, take the learned professions, take scientific pursuits, and I say there is no class of men that I know of in

the United States who are paid anything like the amount paid to our Army officers. I say, then, I will cut down their salaries because they are too high, because they are above the value of that sort of talent. I do this with no opposition to the Army, with no desire not to give its officers every dollar they are fairly entitled to; but for that sort of knowledge, that sort of education, and that sort of ability, the compensation is beyond that of all other pursuits of life, and ought to be diminished. Hence, I say, I will support with pleasure the amendment of my friend from Ohio.

Mr. DAVIS. The Senator from Georgia goes over the same argument with the Senator from Ohio, and is to be answered with the same facts. He takes the position that a brigadier general is better paid than a Senator. The fact is, that the pay is not so much, and the service is twelve months, instead of three this year for a Senator. Then the traveling of a brigadier is under orders to go, not where he pleases, but where he is required, while the traveling of a Senator is to come here because he chooses, and to go home for the same reason; to stay here three months; to have nine months to himself. That puts it on a very different footing, if the comparison is to be made.

Then, as to the relative compensation of the military service and in civil life, I have only to say, that those officers of the Army whom it is most desirous to retain, are constantly tempted by propositions to resign for much larger sums. One who resigned a few years ago is receiving a salary of \$5,000 a year, in charge of a railroad, and would come back to-morrow if he could get in the Army one half, or less than one half that sum. He would come back with the pay of a major to-morrow. It is this attachment for the military service, it is this training for the military service, which renders them so peculiarly valuable to the country. Seldom have I seen one who resigned, whatever his prosperity might be, who did not look back to his old profession and to his having left it, with regret. They are not educated for the service; they are educated in the service; and I would ask the Senator from Georgia somewhat the same form of question I put to the Senator from Ohio: how he is to do it more cheaply? Does he object to their being educated at a school where elementary instruction is given to them with the low pay of a warrant officer? Then, I ask him, will he appoint them in the first instance lieutenants and captains, and will he then instruct them in their duty, or will he have them perform it ignorantly? That is the alternative. We instruct them now in the cheapest possible form; we put them in a school with the low pay of warrant officers, and there instruct them, liable every day for the four years they are there to be ordered to duty on the frontier or elsewhere, in the service as much as they ever will be. It is merely a mode of instruction.

I do not think the mode of appointment vicious, though it is susceptible of some improvement. I think some changes might be made which would better it; but it is to-day free from the great evil of the country. It is free from that partisan selection which would exist unless the appointments were made as they now are, on the recommendation of the members of Congress. We do not have with each change of Administration, a change in the political character of the appointments to the academy; they follow still the political sentiment of the district which each one represents in the academy. They thus carry into the Army every variety of opinion and of feeling which exists in the country; but they carry it there modified by the education they receive in the service, and they justify the hope that in bearing the flag of their country, they will bear it as citizens whose heart is limited by no section, by no political relation, but generalized as broad as the continent itself. These are some of the benefits which I think flow from the present mode of appointment, and with a modification which might be made, and which I admit would be an improvement, I would retain this same feature in the present mode of appointment, that they should be from every locality according to its population; that they should come with the feelings, the sentiments, the political opinions, if you please, of the locality from which they were appointed.

Mr. TOOMBS. I said nothing in reference to the propriety of the education at West Point, though I might do so. I agree with the Senator

from Mississippi, that these officers do not carry into the Army any sectional feeling with them. Sir, in the whole history of the world, standing armies have had but one sentiment, and that is to maintain the Government which supports them. That is their nature, and has been from the beginning of the world. You may find temporary exceptions; they may sometimes sympathize with the people, but the rule is that they reflect no opinions but those of the Government which employs them; and that is the very reason why I do not want them. I desire this Government to rest upon its people, who are able to defend it as long as it is worth defending. I do not want to keep a man in pay to defend it from within or without. So long as you keep up the education of men for this purpose, I believe the present mode is as good a one as you can get, but the mode of appointment is liable to the objections I stated; it produces that sort of influence, and I have observed it for fourteen years, and the great fact stands which I stated, that the young men coming out of West Point, no matter how well educated, at the end of four years receive more money than they could get in any other pursuit of life, and, therefore, it is above what ought to be paid by the Government. I take that to be a sound rule, especially for a pursuit of this kind.

Mr. DAVIS. I understood the Senator to say the present mode of appointment was vicious, and it was to that my reply was directed. I would now, whilst I am up, ask him to consider that the pay which a second lieutenant gets is after four years of service; he does not get it when appointed.

Mr. TOOMBS. There the Senator and myself differ very much. He calls it service to take a young man from home and educate him and pay his expenses. You take him to West Point, give him quarters and fuel and clothes, and maintain him, and you say he has rendered service. When the citizens of this country send their sons to college they pay their expenses, or work their way through; but when a boy is carried to West Point, he is taken care of; a house is provided for him; clothes are provided for him; instructors are provided for him; and that is called being in service. True, he is a warrant officer.

Mr. DAVIS. He enters into a contract, when he goes there, to serve the Government eight years as they may direct. They direct him to stay there until he has sufficient elementary instructions to properly discharge the duties of an officer. He would gladly go away to a post in two weeks, if you would allow him.

Mr. TOOMBS. The Senator and myself do not differ in the facts; but in our deductions, we call things by different names. He calls this the service of the country; I call it educating them. We are both right from our different stand-points. The Government keeps a boy there four years, if he complies with the regulations, and for a little time afterwards, until he can go to his own business, which he rarely does; for, as the Senator says, he sticks to the military service. Of course he does. In all ages of the world it has been attractive. Put a man into it, and if he ever hears the trumpet blow, or the drum beat, he is unfitted for anything else. It is rather a savage pursuit, and seems to enchant those who fall in with it. Send a man among the Indians for five years, and he is good for nothing for civilization afterwards; he will run away, and become a savage himself. Men like this pursuit; courageous and brave men like it. That is not at all singular. I know that we graduate forty, or fifty, or sixty young men every year, and where there is scrutiny put on their qualifications, some of them will be men of ability; and if the scrutiny is great, the majority of them will be above the average ability of young men in college; but that is all. The idea that all of them are men of ability is a mistake; and it is a mistake to suppose that all of them are worth more than the average payment for such talents in the country; but few of them are. But were they more or less able, I lay down the proposition that the true theory of wages, if you employ these people to keep the peace, is exactly the same as a constable's pay—you ought to pay them what they can be had for.

Mr. HALE. I am rather in favor of this amendment; but I do not want to take it as a substitute for the bill.

Mr. PUGH. How will it hurt the bill?

Mr. HALE. I will tell you how it will hurt the bill. I think, if we strike out the bill of the Committee on Military Affairs, and insert this proposition, we shall fail to get anything. If the Senator will go with us and let us pass the bill reported from the Military Committee, this will do very well to come in afterwards on the Army appropriation bill, or somewhere else.

Mr. PUGH. I know it will never pass unless I get it on somebody else's bill.

Mr. HALE. Put it on the appropriation bill. I have always found that the best way to get amendments through is to put them on the appropriation bills. The specific gravity of an appropriation bill has force enough to carry things through.

I am sorry to say that I have sat so near the Senator from Georgia for so long a time, and have been so entirely misunderstood that he should think he is the only man here who is against a standing army? Why, sir, ever since I came into the Senate I have been preaching against it; and I remember having been laughed at on the floor of the Senate because I quoted what the wisdom of my ancestors, who helped to frame the constitution of New Hampshire, put into that constitution, which stands there still, and I stand by it, that standing armies are dangerous to liberty. I have quoted that, and have been laughed at for quoting it. But, sir, I mean to quote it every year. I am opposed utterly to a standing army. I have said, and I repeat, that it is one of the absurd things we have copied from the British constitution; it is utterly unnecessary; but I will be just, and, as I said when the bill increasing the pay of the Army passed, if you will keep these things, if you will have an Army, I would say to you just exactly as I would to a gentleman who insisted on keeping a span of horses, a carriage, and footman, if you will have them, feed them; do not starve them to death. So I say to you, if you will have an Army. I think it is entirely useless, a mere gew-gaw not worth the keeping; it is one of the absurdities that we have retained from our English ancestry and our English education, and I wish we could let it go, and adopt some other very sensible things which we might copy from them instead of it.

Now, sir, while I am up, as I shall not speak again on this subject, I wish to take occasion to correct an impression that was made the other day from a remark which I made on the Navy. What I have said of the Army applies equally to the Navy, and I do not know but more so. I said the other day that two thirds of our Navy were entirely useless, and the other third nearly so; and I find that I was represented as applying this remark to the *personnel* of the Navy, instead of the establishment. I have not said, and never shall say, on this floor, a syllable reflecting upon the character of any officer of the Navy or of the Army. I have nothing to do with them in this respect. From the limited acquaintance which I have had with the officers of the Army and Navy, I have found them to be as respectable, intelligent, high-minded, honorable, and upright gentlemen as I have found in any of the walks of life; but I cannot help feeling that they are unnecessary. Let me here make a remark that was once made to me a good many years ago, at the first session I was ever a member of Congress. I went one evening to the national ball, on the 22d of February, at Carusi's saloon. It was brilliantly illuminated, and the light was reflected from gilded epaulets—I do not know but that they were real gold; they looked like it—all over the room. A sterling, honest Representative, the same man whom I quoted yesterday, Cave Johnson, of Tennessee, said to me: "look here, and find out now what bureau duty is, and find out now what we are keeping up a standing army for." It occasioned some remark, and I have found one improvement in that matter. I do not know but that there are as many officers about the Capitol as there used to be; I think there are; but they do not wear their epaulets.

I am for reform, and reform in this place; and I am willing to follow the Senator from Mississippi. I have a great deal of confidence in his judgment; perfect confidence in his sincerity; and I think that he sincerely means to reform. The fact that, with his education and his prejudices, he is in favor of this degree of reform, I think, should satisfy those who have not those diffi-

culties to contend with, that a great deal more is actually necessary; but I am willing to take this on trial, and I am sorry that the Senator from Ohio deems it necessary to offer this substitute for the first section of the bill. I think, if we can take the bill reported by the Military Committee for the entertainment, this will do very well to come in for a dessert afterwards. I hope the Senator from Ohio will think better of the matter, and, instead of offering it as a substitute for the first section, offer it as a separate proposition. If he insists on it, I must vote against him, though I shall do it with the greatest reluctance in the world.

Mr. COLLAMER. I call for the order of the day—the bill making an appropriation for the acquisition of Cuba, on which the honorable Senator from Kentucky [Mr. CRITTENDEN] has the floor, and expects to be heard at this time.

Mr. DAVIS. I should be glad if we could have a vote on this question. I will only say to the Senate that the usefulness of this bill will be greatly impaired by delaying it until after the appropriation bill for the Army shall have passed the House.

Several SENATORS. Let us vote.

The PRESIDING OFFICER. (Mr. STUART in the chair.) Does the Senator from Vermont withdraw his motion?

Mr. COLLAMER. If gentleman desire to take a vote on this question, and there is to be no more debate, I have no objection to the vote being taken.

The PRESIDING OFFICER. Then the question is on the amendment proposed by the Senator from Ohio, on which the yeas and nays have been ordered.

The yeas and nays were taken; and resulted—yeas 14, nays 41; as follows:

YEAS—Messrs. Chandler, Clay, Douglas, Hamlin, Harlan, Johnson of Tennessee, Jones, Poik, Pugh, Sidel, Stuart, Toombs, Trumbull, and Wade—14.

NAYS—Messrs. Allen, Bates, Bell, Benjamin, Bigler, Bright, Broderick, Cameron, Chesnut, Clark, Clingman, Collamer, Crittenden, Davis, Dixon, Doolittle, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Green, Hale, Hammond, Houston, Iverson, Kennedy, King, Mallory, Mason, Pearce, Reid, Rice, Sebastian, Seward, Shields, Simmons, Thompson of Kentucky, Ward, Wilson, and Yates—41.

So the amendment was rejected.

The bill was reported to the Senate as amended; and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PENSION BILL.

Mr. COLLAMER. I call for the order of the day.

Mr. CLINGMAN. I ask the consent of the Senate to present a resolution calling for some information from the Secretary of the Interior, on an important measure which is now before us, and which I am told is ready to come in. The resolution is:

Resolved, That the Secretary of the Interior be requested to lay before the Senate any estimates that he may have of the probable amount that will be required to satisfy the claims arising from House bill No. 253, now before the Senate, entitled "An act granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period."

Mr. CLAY. I will state to the Senator that the information has been furnished.

Mr. CLINGMAN. Then, I hope it will be printed. My object was to get it in a shape in which it could be presented. I was told we could have a reply in the morning, and it might then be printed for our use.

Mr. CLAY. With the indulgence of the Senate, and of my friend from Kentucky, who is entitled to the floor on another question, I will state that for several days I have been trying to get the floor when the Senate was full, with a view of reporting upon the bill which was referred to the Committee on Pensions, from the House of Representatives, "granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period," and I will state to the Senate that tomorrow, during the morning hour, I will make this report, and test the sense of the Senate upon it when the report is read. I think it is due to the Senate, to the country, and to those who will be the beneficiaries under this bill, if it become a law, that our action should be decisive and prompt. I give this notice in order that those

who do not want to vote upon the old soldiers' bill may stay away. At the same time, I will state that the information which the Senator from North Carolina seeks by the resolution he has offered, will be presented to the Senate in the report which I hold in my hand.

I will also avail myself of the courtesy of the Senator from Kentucky to state that when that is disposed of, I shall ask the Senate to take up a bill, reported by me the week before last, and which has been lying on the table of Senators for some days, to reorganize the collection districts of the United States; and I invoke the attention of Senators to that part of the bill which relates to their own collection districts, that they may come here prepared to vote upon it.

ACQUISITION OF CUBA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 497) making appropriation to facilitate the acquisition of the Island of Cuba by negotiation.

Mr. CRITTENDEN, Mr. HALE, and Mr. BENJAMIN, addressed the Senate until a late hour. [This debate will be found in the Appendix.]

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 15, 1859.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. DICKINS, their Secretary, notifying the House that the President had approved and signed an act for the admission of the State of Oregon into the Union; also, that the Senate had passed, without amendment, a bill of this House for the relief of A. Baudouin and A. D. Robert.

QUALIFICATION OF A MEMBER.

Mr. STEPHENS, of Georgia. I rise to a privileged question. I present the credentials of Hon. LAFAYETTE GROVER, a Representative from the State of Oregon.

Mr. GROVER came forward, and the Speaker administered to him the usual oath to support the Constitution of the United States.

PERSONAL EXPLANATION.

Mr. BONHAM. I rise to a privileged question. I perceive, in yesterday's report of the proceedings of Saturday, in the Globe, the following language:

"Mr. JONES, of Tennessee. The previous question, as I understood, is pending on this bill. The understanding was, that the amendments should come in order, and no other way."

"Mr. BONHAM. There was nothing said about order. I heard not a word about the subject of order."

"The SPEAKER. When the gentleman from Georgia was appealed to, to let the amendments in, he replied that he agreed to let them all be presented and printed, and that then they could come in under the rules."

"Mr. BONHAM. There was nothing said about the rules."

"The SPEAKER. I have the remarks of the gentleman from Georgia before me."

"Mr. STEPHENS, of Georgia. That the gentleman from Kentucky may understand my agreement, it is: that on Saturday, at twelve o'clock, the motions now pending shall come up under the rule just as if the previous question were sustained."

"Mr. BONHAM. That must have been said afterwards, that the gentleman from Kentucky might understand the agreement previously made."

I ask leave to explain to the House how it was that this misapprehension, on my part, occurred. In the opening remarks of the gentleman from Georgia, on this subject, he said he did not intend to call the previous question, as the gentleman from Pennsylvania [Mr. Grow] and the gentleman from Ohio [Mr. BINGHAM] wished to offer amendments; but, said he:

"In order to keep the bill before the House, I move to refer the bill to the Committee of the Whole on the state of the Union. I intend, at an early hour, however, to call the previous question, and bring the House to a vote on the subject."

At a later hour of the day, Mr. MARSHALL, of Kentucky, said:

"I appeal to the gentleman from Georgia to withdraw his motion to commit, and allow amendments to be offered. Then I shall have no objection to the proposition of the gentleman."

"Mr. STEPHENS, of Georgia. I will withdraw the motion to commit on Saturday morning."

"Mr. JONES, of Tennessee. I would suggest to the gentleman from Georgia that by general consent this bill be

made the special order, which will keep it before the House; then he may withdraw his motion to commit, and allow the several motions to amend to be made.

"Mr. STEPHENS, of Georgia. Certainly; I have no objection to that arrangement. I propose, then, by general consent, it shall be understood that the previous question shall be moved on Saturday; and with that understanding, I will withdraw the motion to commit."

Just before the House adjourned, the following dialogue occurred:

"Mr. GROW. I desire to ask the gentleman from Georgia whether I understand that on Saturday, at twelve o'clock, he proposes to have all these amendments voted on?"

"Mr. STEPHENS, of Georgia. The question is to be then taken. I will then withdraw my motion to commit; but there is to be no debate.

"Mr. GROW. And you will allow all these amendments to be then offered? That is satisfactory.

"Mr. MARSHALL, of Kentucky. I desire to propose an amendment for the purpose of having it printed.

"Mr. STEPHENS, of Georgia. That the gentleman from Kentucky may understand my agreement, it is: that on Saturday, at twelve o'clock, the motions now pending shall come up under the rule just as if the previous question were sustained.

"Mr. MARSHALL, of Kentucky. When the gentleman speaks of motions pending, I suppose he means all these amendments.

"Mr. STEPHENS, of Georgia. With the consent of the House they can all be offered.

"Mr. COMINS. I understood the special order to extend till one o'clock.

"The SPEAKER. The Chair propounded the question—twelve o'clock on Saturday.

"Mr. DAVIS, of Indiana. I indicated a proposition which I intend to offer, and desire to have it understood that that proposition is to be considered and decided by the House.

"The SPEAKER. If it be the pleasure of the House, all the amendments offered or indicated by gentlemen will be printed.

"Mr. STEPHENS, of Georgia. I have no objection; but gentlemen are to consider that all these amendments are not to be voted on, except by the consent of the House."

This last portion of the debate, Mr. Speaker, escaped my ear; or, if it fell upon it, I did not attend to it, from the fact that the impression had been made upon my mind from the remarks of the gentleman from Georgia, [Mr. STEPHENS,] in the conversation between him and the gentleman from Kentucky, [Mr. MARSHALL,] earlier in the day, that all amendments were to be voted on. I may not have been in the Hall when the last dialogue occurred, as it was just before the House adjourned; but, at any rate, it did not strike my ear. I have felt it to be due to the Chair, to the gentlemen from Georgia and Tennessee, and to myself, that I should make this explanation, as perhaps I answered them somewhat abruptly the other day. There was, of course, no intention on my part to be disrespectful to the Chair or to the gentlemen. I thank the House for its indulgence.

CONTUMACIOUS WITNESS.

Mr. TAYLOR, of New York. I rise to a question of privilege. I am instructed by the select committee of which I am chairman to submit the following resolution:

Whereas John Cassin, of the city of Philadelphia, was, on the 8th day of February, A. D. 1859, duly summoned to appear and testify before the select committee of this House appointed to investigate the accounts of the late Superintendent of the Public Printing, and has failed and refused to appear before said committee pursuant to said summons: Therefore,

Resolved, That the Speaker issue his warrant, directed to the Sergeant at Arms, commanding him to take into his custody the body of the said John Cassin, wherever to be found, and to have the same forthwith before the bar of this House to answer for a contempt of the authority of the House in thus failing and refusing to appear before said committee.

Mr. KELSEY. Are the subpoena and the return before the House?

The SPEAKER. The summons is in the usual form. Here is the deputation from the Sergeant-at-Arms:

"I hereby depute S. P. Leib, Esq., for me, and in my stead, to execute the within order of the House of Representatives. A. J. GLOSSBRENNER, February 4, 1859. Sergeant-at-Arms."

The deputy Sergeant-at-Arms makes the following return:

"Served personally upon the within named John Cassin, at the Academy of National Sciences, in Philadelphia, on the 8th of February, 1859, between the hours of three and four o'clock, p. m. SAMUEL P. LEIB."

Mr. TAYLOR, of New York. I demand the previous question on the resolution.

The previous question was seconded, and the main question ordered.

Mr. LETCHER. I should like to know how the gentleman knows that this witness is not coming. I think we ought to know something more about it.

Mr. TAYLOR, of New York. We only know that he promised to be here, and has not come; and we cannot get any further information from him.

The resolution was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. RICAUD, leave was granted for the withdrawal from the files of the House of the papers in the case of Samuel T. Harris, on leaving copies of the same.

REDUCTION OF SALARIES.

Mr. CRAWFORD. I ask the unanimous consent of the House to introduce a bill to reduce the salaries of certain officers and persons in the service of the United States.

The bill was read for information, and is as follows:

A bill to reduce the salaries of certain officers and persons in the service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it is hereby enacted by the authority of the same, That all laws and parts of laws increasing the salaries of public officers and others in the service of the United States Government, since the 1st day of July, 1850, be, and the same are hereby, repealed.

Sec. 2. And be it further enacted, That all salaries and payments hereafter to be made to said officers and others in the public service, shall be under and in conformity to the laws regulating and providing for the payment thereof, anterior to the said 1st day of July, 1850.

Sec. 3. And be it further enacted, That this act shall continue of force until the annual receipts into the United States Treasury, from the duties received under the act of March 3, 1857, regulating the duties on imports, and from other sources, shall be equal to the amounts annually appropriated by Congress, and no longer.

Mr. KELSEY. I object.

Mr. CRAWFORD. I desire to give notice of the bill.

ALEXANDER CROSS.

Mr. HORTON submitted the following resolution; which was read, and, by unanimous consent, considered and agreed to:

Resolved, That the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the report of the Court of Claims in the case of Alexander Cross; and that the same, and the accompanying papers, be referred to the Committee of Claims.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill for the relief of A. Baudouin and A. D. Roberts; when the Speaker signed the same.

MEMORIAL OF WISCONSIN.

Mr. WASHBURN, of Wisconsin, by unanimous consent, presented the memorial of the State of Wisconsin, relative to the claim of that State to five per cent. on the net proceeds of the sales of the public lands within its limits; which was laid on the table, and ordered to be printed.

RECAPTURED AFRICANS.

Mr. DOWDELL. I ask the unanimous consent of the House to offer the following resolution, calling for information:

Resolved, That the President of the United States be requested to communicate to this House all the information in his possession going to show the amount of money expended by the Government of the United States, directly or indirectly, on account of recaptured Africans sent to Liberia since the passage of the act of 3d March, 1819, and in pursuance of said act, and what portion of said amount has been applied, if any, in aid of the colony or Republic of Liberia, and in what manner and at what time; also, whether an agent or agents for receiving the recaptured Africans has or have been regularly appointed since the passage of said act, and the amount of the salaries paid them, and whether said agents have been connected with the Colonization Society; also, the quantities and values of all stores, provisions, arms, and munitions of war, or other commodities, furnished to said colony for the benefit of the returned captives, and the cost of military and naval service for the same object; also, the total estimated cost of maintaining the naval power of eighty guns under the treaty of Washington for the suppression of the slave trade on the coast of Africa; the number of deaths of officers and men whilst in said service; and the whole number of Africans recaptured and restored.

Several MEMBERS objected.

DANIEL STAPLES.

On motion of Mr. FENTON, it was

Ordered, That leave be granted for the withdrawal from the files of the Committee on Private Land Claims of a land warrant in favor of Daniel Staples, and that it be returned to the owner.

EXTENSION OF THE BOUNTY LAND LAW.

Mr. VANCE. I ask the unanimous consent

of the House for leave to introduce a bill to extend the provisions of the bounty land act of the 3d March, 1855, to wagon-masters and teamsters. I hope there will be no objection. I have been seeking the floor day after day without avail.

Objection was made.

CLOSE OF DEBATE.

Mr. PHELPS, of Missouri. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. GROW. Is not the regular order the call of committees for reports? I think it is; and I hope that that call will be gone through at least once in a session.

Mr. STEPHENS, of Georgia. If the House proceed to the call of committees, the Committee on Territories has another day. I am willing that the call shall be waived to-day, provided that the call proceed to-morrow.

Mr. GROW. I am willing to that arrangement. I only want the call to be gone through at least once in a session.

Mr. HOUSTON. I ask for a vote on the proposition of the gentleman from Missouri. Let us get along with the public business.

Mr. SEWARD. I rise to a privileged question. I had a motion to reconsider entered some days ago; and I desire to call that motion up at this time.

The SPEAKER. The gentleman cannot call his motion up pending the motion to go into the Committee of the Whole on the state of the Union.

Mr. PHELPS, of Missouri. I move the usual resolution to close debate upon the Senate amendments to the Indian appropriation bill within one hour after their consideration shall be again resumed.

Mr. SEWARD. The motion to suspend the rules is not a privileged question. The gentleman from Missouri gets the floor by the courtesy of the Speaker, as chairman of the Committee of Ways and Means. By the rules of the House it is in order at all times to call up a motion to reconsider.

Mr. MORRILL. I want to move to go to the Speaker's table to call up the amendments of the Senate to the agricultural college bill; and I hope the motion to suspend the rules and go into committee may be voted down.

The SPEAKER. The question pending is the motion of the gentleman from Missouri to go into committee. The gentleman has a right to make that motion under the 136th rule.

Mr. SEWARD. I wish that rule read, and then I shall appeal from the decision of the Chair.

Mr. HOUSTON. I move that the appeal be laid upon the table.

Mr. SEWARD. The gentleman has not the floor to do so.

The Clerk read a part of the 136th rule, as follows:

"The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union."

Mr. SEWARD. I do not dispute with the Chair. The motion to reconsider takes precedence, I think, of the motion to go into the Committee of the Whole on the state of the Union. It takes precedence of all motions except the motion to adjourn. The Speaker will see that it is obvious, that, whenever the chairman of the Committee of Ways and Means chooses, having the ear of the Speaker, he can so arrange it that the motions to reconsider never can be called up. My motion has been postponed for the last five days. I have been prevented from calling it up every morning by the intervening motion of the gentleman from Missouri. Under the courtesy extended to the chairman of the Committee of Ways and Means, at this stage of the session, it promises that all business shall be rendered subservient to his capricious whims, if he has got them; and I do not pretend to say that he has.

The SPEAKER. The motion of the gentleman from Missouri is to suspend the rules—all rules—the rule which gives the gentleman from Georgia the right to call up his motion to reconsider—that the House may resolve itself into the Committee of the Whole on the state of the Union.

With reference to assigning the floor to the chairman of the Committee of Ways and Means, the Chair believes that to be his duty on all occasions if the gentleman from Missouri rises as soon as any other gentleman; and he will give him the floor in preference to any member upon the floor, with a view to advance the public business.

Mr. SEWARD. I do not complain of the Chair's decision on that point; but it makes the chairmen of other committees indolent, because they cannot get the floor.

The SPEAKER. The question is not debatable. The gentleman from Georgia calls up a motion to reconsider pending the motion to suspend the rules to go into the Committee of the Whole on the state of the Union. The Chair rules it out of order; and it is not debatable, for the reason that the rule says: "questions of priority of business shall be decided without debate."

Mr. SEWARD. But without disrespect to the Chair, does not my motion take precedence of the motion of the gentleman from Missouri?

The SPEAKER. It does not; and the question is one of priority of business, and therefore to be decided without debate.

Mr. SEWARD. I withdraw my appeal.

Mr. DICK. I ask the consent of the House to make an adverse report from the Committee of Accounts in the case of John D. Ott and J. McLaughlin.

Mr. VANCE. I object.

The question recurred on the resolution closing debate.

Mr. SPINNER. I suggest two hours.

Mr. PHELPS, of Missouri. I call the previous question on the resolution.

Mr. PETTIT. There are some amendments to the Indian appropriation bill which ought to be discussed, and I trust opportunity may be afforded to do so. The floor is now engaged for an hour, and if the resolution be adopted, discussion of the amendments of the Senate will be precluded.

Mr. PHELPS, of Missouri. Mr. Speaker, the gentleman from Indiana is aware that yesterday, when the committee resumed the consideration of the Senate amendments—

Mr. SEWARD. I object to debate.

Mr. PETTIT. I wish to make an inquiry. Is the resolution to terminate debate at the end of one hour a distinct motion from the one to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is.

Mr. PETTIT. Then I move to lay that resolution on the table.

Mr. PHELPS, of Missouri. I desire to make a proposition to the House.

Mr. SEWARD. I object to debate.

Mr. PHELPS, of Missouri. I call for the yeas and nays on the motion to lay the resolution terminating debate on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 93; as follows:

YEAS—Messrs. Andrews, Bennett, Bingham, Blair, Bliss, Brayton, Buchanan, Burlingame, Burroughs, Case, Ezra Clark, Clawson, Clark B. Cochrane, Coifax, Collins, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Grow, Robert B. Hall, Harlan, Harris, Haskin, Hoard, Horton, Keim, Kell-egg, Kelsey, Knapp, John C. Kunkel, Leiter, Lovejoy, Matteson, Morgan, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Niblack, Olin, Palmer, Parker, Pettit, Pike, Potter, Purviance, Richard, Robbins, Roberts, Seward, Aaron Shaw, Robert Smith, Spinner, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Vallandigham, Vance, Walbridge, Caldwell, C. Washburn, Elisha B. Washburne, Wilson, and Wood—82.

NAYS—Messrs. Abbott, Ahl, Anderson, Atkins, Barksdale, Beacock, Bonham, Bowie, Branch, Bryan, Burns, Caskey, Cavanaugh, Chaffee, Chapman, John B. Clark, Clay, Cobb, John Cochrane, Cocke, Corning, Covode, Cox, Burton Cragg, Crawford, Curry, Davis of Mississippi, Dewar, Dowdell, Edmundson, Farnsworth, Florence, Foley, Garnett, Goode, Granger, Greenwood, Gregg, Grossbeck, Grover, Lawrence W. Hall, Hickman, Hopkins, Houston, Howard, Huyler, Kilgore, Landy, Leach, Leidy, Leichter, Macay, McQueen, McKee, Maynard, Miller, Milson, Moore, Morrill, Nichols, Pendleton, Peyton, John S. Phelps, Phillips, Poole, Ready, Reagan, Reilly, Royce, Ruffin, Seales, Scott, Searing, Henry M. Shaw, Samuel A. Smith, William Smith, Stanton, James A. Stewart, Tabbot, Moses Taylor, Waldron, Ward, Watkins, Whiteley, Wortendyke, John V. Wright, and Zolliecoffer—93.

So the resolution was not laid on the table.

During the vote,

Mr. COCKERILL stated that his colleague,

Mr. LAWRENCE, was confined to his room by indisposition.

The vote having been announced as above,

Mr. PHELPS, of Missouri, said: If the debate shall be confined to the subject-matter of the amendments, I am willing to modify my resolution, so as to give an opportunity for the discussion of the amendments. If the order be made that the debate be confined to the subject-matter of the amendments, I propose to extend the time to two hours.

Mr. STANTON. Let the order be made that, after the first hour, debate shall be confined to the subject-matter under consideration.

The SPEAKER. The Chair hears no objection.

Mr. PHELPS, of Missouri. The gentleman from Ohio [Mr. STANTON] has the floor; and, of course, is unwilling to have the rule applied to him. Let the debate during the other hour be confined to the subject-matter.

Mr. SEWARD. I object to the modification of the resolution.

The SPEAKER. The gentleman from Missouri has a right to modify his proposition.

Mr. HOWARD. He cannot do so while the previous question is pending.

The SPEAKER. The previous question does not control the gentleman from Missouri.

Mr. SEWARD. Well, it controls everybody else. I do not know how it is that the gentleman from Missouri should have no constraints put upon him. I think he ought to have.

The previous question was seconded, and the main question ordered; which was on the resolution as modified.

Mr. SEWARD. I move to lay the resolution on the table.

The motion was not agreed to.

The resolution, as modified, was adopted.

REDUCTION OF SALARIES.

Mr. CRAWFORD. The gentleman who objected to the introduction of the bill for the reduction of the salaries of Government officers is willing to withdraw his objection. I desire that the bill may be referred to the Committee of Ways and Means.

Mr. VANCE. I object.

INDIAN APPROPRIATION BILL.

The question was taken on Mr. PHELPS's motion to suspend the rules.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HORTON in the chair), and resumed the consideration of the Senate's amendments to the bill (H. R. No. 664) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1860; on which the gentleman from Ohio [Mr. STANTON] was entitled to the floor.

Mr. STANTON then addressed the committee on the tariff question. [His speech will be found in the Appendix.]

Mr. PETTIT. I propose, Mr. Chairman, to address and confine myself to a matter involved in the bill now pending before the committee.

By the resolution of the House, only one hour remains for debate; and as I am aware that my colleague from the Fort Wayne district [Mr. CASE] entertains different opinions on the particular subject I shall discuss, it is courtesy and duty to him to divide the time with him. I shall, therefore, put such reins on what I have to say as to give him the same opportunity I have myself.

The third section of this bill, as it passed the House, has been struck out in the Senate, on the recommendation of the Finance Committee. Our Committee of Ways and Means has recommended a concurrence in the action of the Senate. Notwithstanding the prestige and influence of this united action, differing from my first judgment of what was right, I have been led to a more careful examination of the matter, which has confirmed my first opinion, and now venture to oppose the conclusion to which they have come. My sense of duty, under this conviction, indicates unmistakably the course of conduct I should take now. In addition to this, the persons who are the ben-

eficiaries of this third section, struck out by the Senate, are the poor remnant of the Miamis, two hundred and three in number, yet spared to their own hearthstones and hunting-grounds, while our own civilization has beat upon them and surrounded them and swept by them. Almost all of them have their homes in my district; and they have been pleased to come to this body, by memorial, under a sense of injury done them, and ask Congress to give the matter a consideration due, not from its generosity, but from its justice. It is a pleasure to be their advocate, because they ask only what is right.

In order to bring this matter more distinctly before the committee, I ask the Clerk to read the third section of the bill as it passed this body.

The Clerk read, as follows:

"And be it further enacted, That the amounts hereby appropriated for the payment of the Miamis of Kansas, and the Miamis of Indiana, shall be paid, in conformity to the first proviso of the first amendment to the fourth article of the Senate amendments to the treaty with the Miamis, of June 5, 1854, and not otherwise."

Mr. PETTIT. In order to show the force and application of this section, I read now that proviso of the treaty made by the United States with the Miamis, in June, 1854, which this third section is intended to qualify:

"Provided, That no persons other than those embraced in the corrected list agreed upon by the Miamis of Indiana, in the presence of the Commissioner of Indian Affairs, in June, 1854, comprising three hundred and two names, as Miami Indians of Indiana, and the increase of the families of the persons embraced in said corrected list, shall be recipients of the payments, annuities, commutation, moneys, and interest hereby stipulated, to be paid to the Miami Indians of Indiana, unless other persons shall be added to said list, by the consent of the said Miami Indians of Indiana, obtained in council, according to the custom of the Miami tribe of Indians."

This is a treaty stipulation. Its terms cannot be mistaken. It is an agreement of the United States that all beneficial payments to be made to the Miamis of Indiana, shall be made to certain three hundred and two persons, whose names are set forth on a corrected list. That corrected list is the census of the Miamis of Indiana. That list, in order that no mistake might occur, is identified as being in a public repository, the office of the Commissioner of Indian Affairs. It is certain as to whom the payments are to be made. It excludes from payment all persons not embraced in that list. It does more. It engages, by a public treaty stipulation, that no other names shall be added to that list except in one mode, to wit: "by the consent of the Miami Indians of Indiana obtained in council, according to the custom of the tribe." By the terms of the treaty, that right of addition was reserved to the Miamis of Indiana. Congress cannot exercise the power of making additions; because the treaty-making power under the Constitution has, by this distinct and solemn stipulation, denied it. So much is plain.

The object of this third section, then, is to require a compliance with this condition and stipulation of the treaty. It asks nothing more, and proposes no new legislation. It certainly is not necessary to enter into an argument here to show that this treaty obligation is not merely a supreme law under the Constitution, but is so paramount that no action by Congress can disturb it. One might well infer that a treaty would be obeyed without requiring by law that administrative officers should be faithful to their execution. It is necessary, therefore, to explain why, in this instance, this section is necessary.

Notwithstanding this treaty requirement, Congress has attempted to exercise an authority in conflict with it. During the last Congress, during the last days of the last Congress, when, by experience, legislation is less cautious and more accommodating than at other times, at a time of the session when scrutiny was least likely to be detective, a section was added to the supplemental Indian appropriation bill, which, for greater certainty, I now read:

"Sec. 3. And be it further enacted, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe since the removal of the Miamis in 1846, and since the treaty of 1854, and whose names are not included in the supplemental to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is authorized and directed to enroll such persons upon the pay list of said tribe, and cause their annuities to be paid to them in future; Provided, That the foregoing payments shall be in full of all claims for annuities arising out of previous treaties."